TITLE: FEDERAL REGISTER

REEL NO: 10 of 10 PAGES: 56,129 - 58,494

VOLUME: 47 ISSUES: 241 - 251

DATE: December 15 - December 30, 1982

PUBLICATION NO: 2575

NOTES: The paper and ink used in the original material affect the quality of the micro-edition. This reproduction is the best copy available.

THIS PERIODICAL MAY BE COPYRIGHTED, IN WHICH CASE THE CONTENTS REMAIN THE PROPERTY OF THE COPYRIGHT OWNER. THE MICROFORM EDITION IS REPRODUCED BY AGREEMENT WITH THE PUBLISHER. DUPLICATION OR RESALE WITHOUT PERMISSION IS PROHIBITED.

UNIVERSITY MICROFILMS INTERNATIONAL, ANN ARBOR, MICHIGAN

12-15-82
Vol. 47 No. 241
Pages 56129-56308

Federal Register

Wednesday
December 15, 1982

Selected Subjects

Administrative Practice and Procedure
Civil Aeronautics Board
Health Care Financing Administration
National Oceanic and Atmospheric Administration
Treasury Department

Authority Delegations (Government Agencies)
Civil Aeronautics Board
Small Business Administration

Conflict of Interests
Farm Credit Administration

Employee Benefit Plans
Pension Benefit Guaranty Corporation

Environmental Impact Statements
Housing and Urban Development Department

Fisheries
National Oceanic and Atmospheric Administration

Geothermal Energy
Land Management Bureau

Government Procurement
Energy Department

Maritime Carriers
Federal Maritime Commission

Mines
Land Management Bureau

CONTINUED INSIDE

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The **Federal Register** will be furnished by mail to subscribers, free of postage, for $300.00 per year, or $150.00 for six months, payable in advance. The charge for individual copies is $1.50 for each issue, or $1.50 for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the **Federal Register**.

Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

Selected Subjects

Pesticides and Pests
Environmental Protection Agency

Rent Subsidies
Housing and Urban Development Department

Reporting and Recordkeeping Requirements
Interstate Commerce Commission

Contents

Federal Register
Vol. 47, No. 241
Wednesday, December 15, 1982

Agriculture Department
See also Animal and Plant Health Inspection Service.
NOTICES
56158 Agency forms submitted to OMB for review

Animal and Plant Health Inspection Service
NOTICES
Meetings:
56158 Foreign Animal and Poultry Diseases Advisory Committee

Civil Aeronautics Board
RULES
56130 National emergency operation regulations; CAB order of succession
Procedure regulations:
56129 Board proceedings; practice rules; serving of domestic certificate applications
NOTICES
56159 Commuter fitness determinations
Hearings, etc.:
56159 British Caribbean Airways, Ltd.
56159 Transamerica Airlines, Inc.
56160 U.S.-People's Republic of China service proceeding (Phase II)
56241 Meetings; Sunshine Act (2 documents)

Commerce Department
See International Trade Administration; National Oceanic and Atmospheric Administration.

Commodity Futures Trading Commission
NOTICES
56241 Meetings; Sunshine Act

Defense Department
See Engineers Corps.

Economic Regulatory Administration
NOTICES
Consent orders:
56165 Signal Petroleum; correction

Energy Department
See also Economic Regulatory Administration; Federal Energy Regulatory Commission.
PROPOSED RULES
56256 Procurement

Engineers Corps
NOTICES
Environmental statements; availability, etc.:
56165 Fidalgo and Padilla Bay, Anacortes, Wash.; dredging

Environmental Protection Agency
RULES
Pesticide chemicals in or on raw agricultural commodities; tolerances and exemptions, etc.:
56135 Chlorpyrifos
56136 Dimethyl (2,2,2-trichloro-1-hydroxyethyl) phosphonate
56136 Glyphosate
NOTICES
Air quality; prevention of significant deterioration (PSD):
56176 Permit approvals; correction
Grants; State and local assistance:
56177 Municipal wastewater treatment works construction grants; State allotments
Pesticide registration, cancellation, etc.:
56178 Toxaphene; correction
56175 Zoecon RF-210 Hydroprene Concentrate, etc.
Pesticides; temporary tolerances:
56176 Mobay Chemical Corp.
Senior Executive Service:
56177 Bonus awards schedule

Environmental Quality Office, Housing and Urban Development Department
NOTICES
Environmental statements; availability, etc.:
56183 Franklin Farm, Fairfax County, Va.; termination

Farm Credit Administration
PROPOSED RULES
56140 Farm credit system institutions; personnel administration; conflict of interests

Federal Election Commission
NOTICES
56243 Meetings; Sunshine Act

Federal Energy Regulatory Commission
NOTICES
Hearings, etc.:
56166 Alabama-Tennessee Natural Gas Co.
56166 Algonquin Gas Transmission Co.
56166 Columbia Gas Transmission Corp. (2 documents)
56167 Columbia Gulf Transmission Co.
56167 Florida Gas Transmission Co.
56168 Gillette, Wyo.
56168 Grand Bay Co.
56168 Granite State Gas Transmission, Inc.
56169 Gulf States Utilities Co.
56170 Locust Ridge Gas Co.
56170 Michigan Wisconsin Pipe Line Co.
56170 Mid Louisiana Gas Co.
56171 Natural Gas Pipeline Co. of America
56171, 56172 Pacific Gas & Electric Co. (2 documents)
56171 Pacific Gas Transmission Co.
56173 Pacific Power & Light Co.
56173 Sea Robin Pipeline Co. (2 documents)
56173 Southern Natural Gas Co.
56174 Texas Eastern Transmission Corp. (2 documents)
56174 Transcontinental Gas Pipe Line Corp.
56175 Watershed, Inc.
Small power production and cogeneration facilities; qualifying status; certification applications, etc.:
56169 Harriman Paperboard Corp.

Federal Maritime Commission
RULES
Tariffs filed by common carriers in foreign commerce of U.S.:
56138 Time/volume rate contracts; filing regulations; clarification
NOTICES
56242 Meetings; Sunshine Act

Federal Reserve System
NOTICES
56178 Agency forms submitted to OMB for review
Applications, etc.:
56178 Banzano International, N.V., et al.
56178 Central State Bancorporation et al.
56179 Community Bank of South Florida, Inc.; correction
56180 Society Corp. et al.
Banking hold companies; proposed de novo nonbank activities:
56180 Citicorp et al.
56182 Fleet Financial Group, Inc., et al.

Fish and Wildlife Service
NOTICES
56190 Agency forms submitted to OMB for review (2 documents)

Health and Human Services Department
See Health Care Financing Administration.

Health Care Financing Administration
RULES
Medicare:
56282 Comprehensive outpatient rehabilitation facility services

Housing and Urban Development Department
See also Environmental Quality Office, Housing and Urban Development Department.
RULES
Low income housing:
56133 Housing assistance payments (Section 8); fair market rent schedules for existing housing and mobile home spaces; interim
56268 National Environmental Policy Act; implementation; interim rule

Indian Affairs Bureau
NOTICES
56184 Indian tribes, acknowledgment of existence; petitions
Liquor and tobacco sale or distribution ordinance:
56184 San Carlos Apache Reservation, Ariz.
56184 White Mountain Apache Tribe of Fort Apache Indian Reservation, Ariz.

Interior Department
See Fish and Wildlife Service; Indian Affairs Bureau; Land Management Bureau; Minerals Management Service; Reclamation Bureau; Surface Mining Reclamation and Enforcement Office.

International Trade Administration
NOTICES
Countervailing duties:
56160 Cotton yarn from Peru; correction
56160 Float glass from Italy
56162 Non-rubber footwear from Argentina
56164 Sugar content of certain articles from Australia
Meetings:
56164 Importers' and Retailers' Textile Advisory Committee

International Trade Commission
NOTICES
56210 Agency forms submitted to OMB for review
Import investigations:
56211 Drill point screws for drywall construction
56212 Hot-rolled stainless steel bar, cold-formed stainless steel bar, and stainless steel wire rod from Brazil
56213 Plastic-capped decorative emblems
56213 Prestressed concrete steel wire strand from France
56216 Rail passenger cars and parts from Canada
56217 Rayon staple fiber from Sweden; rescheduled hearing
56217 Sneakers with fabric uppers and rubber soles
56218 Stainless steel and alloy tool steel
56219 Textile spinning frames with automatic doffers

Interstate Commerce Commission
PROPOSED RULES
56152 Records preservation
NOTICES
Motor carriers:
56193 Finance applications
56195-56201 Permanent authority applications (3 documents)
56194 Permanent authority applications; restriction removals
56203 Temporary authority applications
Rail carriers; contract tariff exemptions:
56193 Burlington Northern Railroad Co. et al.

Justice Department
See Prisons Bureau.

Land Management Bureau
RULES
56300 Mining claims; recordation and filing of proof of annual assessment work or notice of intention to hold claims, mill or tunnel sites
PROPOSED RULES
56151 Geothermal resources leasing; qualification certification
NOTICES
Meetings:
56189 Powder River Regional Coal Team

Legal Services Corporation
NOTICES
56242 Meetings; Sunshine Act

Management and Budget Office
NOTICES
56220 Uniform requirements for grants to State and local governments (Circular A-102); compliance supplement availability

Minerals Management Service
NOTICES
Environmental statements; availability, etc.:
56191 Outer Continental Shelf; Mid-Atlantic oil and gas lease sale

Outer Continental Shelf; oil, gas, and sulphur operations; development and production plans:
56191 Exxon Co., U.S.A.

National Oceanic and Atmospheric Administration
RULES
56131 Administrative proceedings; financial compensation of participants; revocation
Fishery conservation and management:
56138 Pacific Coast groundfish; effective date extended

Native Hawaiians Study Commission
NOTICES
56220 Hawaiians, native; culture, needs, and concerns; draft report of findings; availability; extension of time

Pension Benefit Guaranty Corporation
RULES
Plan benefits valuation:
56134 Non-multiemployer plans; interest rates and factors

Postal Rate Commission
NOTICES
Mail classification schedules:
56221 ZIP + 4 first-class subclasses
Post office closing; petitions for appeal:
56220 Colon, N.C.

Postal Service
NOTICES
56242 Meetings; Sunshine Act

Prisons Bureau
RULES
Inmate control, custody, care, treatment, and instruction:
56134 Sexually explicit material in incoming publications; specific criteria for rejection; correction
PROPOSED RULES
Inmate control, custody, care, treatment, and instruction:
56144 Business conducted by inmates, prohibition; and emergency signaling devices in inmate housing units; correction

Reclamation Bureau
NOTICES
Environmental statements; availability, etc.:
56190 Yellowtail-Boysen Reservoirs, Mont. and Wyo.; industrial water service (2 documents)

Securities and Exchange Commission
NOTICES
Hearings, etc.:
56222 Boston Co. Fund
56224 Central & South West Services, Inc.
56225 Middle South Utilities, Inc., et al.
56226 Minneapolis Shareholders Co.
56226 Prudential-Bache Securities, Inc., et al.
56228 Public Service Co. of Oklahoma
56229 Southwestern Electric Power Co.
56229 Technology Fund, Inc., et al.
56231 Territorial Money Market Fund
56232 Texaco Capital N.V.
56233 Vantage Money Market Funds
56242 Meetings; Sunshine Act
Self-regulatory organizations; proposed rule changes:
56235 Chicago Board Options Exchange, Inc.
56236 Cincinnati Stock Exchange, Inc.
56238 Philadelphia Stock Exchange, Inc.

Small Business Administration
RULES
Organization, functions, and authority delegations:
56129 Authority delegations to conduct program activities in field offices
NOTICES
Applications, etc.:
56239 Exim Capital Corp.
56239 Lailai Capital Corp.

State Department
NOTICES
Meetings:
56240 International Radio Consultative Committee (2 documents)
56239 Shipping Coordination Committee (2 documents)

Surface Mining Reclamation and Enforcement Office
NOTICES
Coal mining operations, underground; valid existing rights determinations:
56191 Daniel Boone National Forest, Ky.; Greenwood Land & Mining Co.

Synthetic Fuels Corporation
NOTICES
56242 Meetings; Sunshine Act

Treasury Department
PROPOSED RULES
56144 Practice before the Internal Revenue Service; tax shelter offerings

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

12 CFR
Proposed Rules:
612 56140

13 CFR
101 56129

14 CFR
302 56129
387 56130

15 CFR
904 56131

24 CFR
50 56266
888 56133

28 CFR
540 56134
Proposed Rules:
551 56144

29 CFR
2619 56134

31 CFR
Proposed Rules:
10 56144

40 CFR
180 (3 documents) 56135, 56136

41 CFR
Proposed Rules:
Ch. 9 56256

42 CFR
405 56282
488 56282
489 56282

43 CFR
3833 56300
Proposed Rules:
3200 56151

46 CFR
536 56138

49 CFR
Proposed Rules:
1220 56152

50 CFR
663 56138

Rules and Regulations

Federal Register
Vol. 47, No. 241
Wednesday, December 15, 1982

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

SMALL BUSINESS ADMINISTRATION

13 CFR Part 101

[Revision 2—Amdt. 24]

Delegation of Authority To Conduct Program Activities in Field Offices

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: The Regional Administrator in Region III proposed a change increasing the 8(a) contracting authority for the Assistant District Director for Minority Small Business and Capital Ownership Development (ADD/MBS–COD) in the Washington District Office.

This change was approved and, after publication in the **Federal Register**, will provide more efficient treatment of 8(a) contracts in the Washington district.

EFFECTIVE DATE: December 15, 1982.

FOR FURTHER INFORMATION CONTACT: Ronald Allen, Paperwork Management Branch, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416. Telephone No. (202) 653–8538.

SUPPLEMENTARY INFORMATION: Part 101 consists of rules relating to the Agency's organization and procedures; therefore, notice of proposed rulemaking and public participation thereon as prescribed in 5 U.S.C. 553 is not required and this amendment to Part 101 is adopted without resort to those procedures. For the reasons set forth in the preamble and pursuant to authority in Section 5(b)(6) of the Small Business Act, 15 U.S.C. 634, Part 101, 13 CFR 101.3–2 is amended, following the index terms, as set forth below:

List of Subjects in 13 CFR Part 101

Authority delegations (Government agencies), Administrative practice and procedure, Organization and functions (Government agencies).

PART 101—[AMENDED]

13 CFR 101.3–2 is amended as follows:

§101.3–2 [Amended]

1. Part VII, Section B, paragraph 1., subparagraphs i. and j. are revised as follows:

i. Assistant District Director for MSB/COD Columbia and Washington D.O.'s only, 500,000.

j. Assistant District Director for MSB/COD, San Francisco, Los Angeles, Richmond, Philadelphia and Baltimore D.O's only, 100,000.

2. Part VII, Section B, paragraph 2., subparagraphs i. and j. are revised as follows:

i. Assistant District Director for MSB/COD, Columbia and Washington D.O.'s only, 500,000.

j. Assistant District Director for MSB/COD, San Francisco, Los Angeles, Richmond, Philadelphia and Baltimore D.O.'s only, 100,000.

3. Part VII, Section B. paragraph 3., subparagraphs i. and k. are revised as follows:

i. Assistant District Director for MSB/COD, Columbia and Washington D.O.'s only, 500,000.

k. Assistant District Director for MSB/COD, Richmond, Philadelphia and Baltimore D.O.'s only, 100,000

Dated: December 7, 1982

James C. Sanders,

Administrator.

[FR Doc. 82–33846 Filed 12–14–82, 8:45 am]
BILLING CODE 8025–01–M

CIVIL AERONAUTICS BOARD

14 CFR Part 302

[PR–252; Procedural Regs. Amdt. 68 to Part 302]

Rules of Practice in Board Proceedings

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB extends the time period to determine completeness of applications for certificate authority under expedited processing procedures from 14 to 21 days. This additional time is necessary to ensure adequate review of each application.

DATES: Adopted: December 9, 1982. Effective: December 15, 1982.

FOR FURTHER INFORMATION CONTACT: Joanne Yancey Hitchcock, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; (202) 673–5442.

SUPPLEMENTARY INFORMATION: Under the provisions of 14 CFR 302.1713, any application for certificate authority filed under Subpart Q must be reviewed for completeness within 14 days after filing. Incomplete applications may be rejected or their processing deferred until requisite information is submitted to the Board.

There has been a large increase in the number of Subpart Q applications. With its reduced staffing levels, the Board is finding it difficult to meet the 14-day deadline. An extension of the period to 21 days after filing will enable the Board to provide adequate review, without impairing its ability to meet the statutory deadline for final action. If applications are complete when filed, this extension of the preliminary review period will not affect the time of their final processing. Incomplete applications that require further information will be delayed 1 week at most.

Since this amendment involves a rule of agency procedure, and imposes no substantial burden on any person, the Board finds notice and comment unnecessary and finds good cause to make this rule effective upon publication in the **Federal Register.**

List of Subjects in 14 CFR Part 302

Administrative practice and procedures, Air rates and fares, Authority delegations (Government agencies), Postal service.

PART 302—[AMENDED]

Accordingly, in 14 CFR Part 302, *Rules of Practice in Board Proceedings*, the Civil Aeronautics Board amends § 302.1713 as follows:

1. The authority for 14 CFR 302 is:

Authority: Secs. 101, 203, 204, 401, 402, 403, 404, 408, 412, 901, 1001, 1002, 1005, Pub. L. 85–726, as amended, 72 Stat. 737, 742, 743, 754, 757, 758, 760, 763, 770, 783, 788, 794; 49 U.S.C. 1301, 1323, 1324, 1371, 1372, 1373, 1374, 1376, 1382, 1471, 1481, 1482, 1485; Reorganization Plan No. 3, 75 Stat. 837, 26 FR 5989; E.O. 11514, Pub. L. 91–90 (42 U.S.C. 4321); 84 Stat. 772, 39 U.S.C. 5402; unless otherwise noted.

2. Section 302.1713 is amended by changing "14 days" to "21 days", the section is revised to read:

§ 302.1713 Preliminary procedures for rejection or deferral of nonconforming applications.

Within 21 days after the filing of any application under this subpart (including an application which is sought to be consolidated or a conforming application), the Bureau of Domestic Aviation or the Bureau of International Aviation, as appropriate, may, on behalf of the Board, (a) reject any application that does not comply with this subpart, or (b) defer further processing of the application until information necessary to process the application is submitted. Applications will not be processed, and the time periods contained in this subpart shall not begin to run, until the application is complete. In addition, the Bureau of International Aviation may, on behalf of the Board, defer action on a foreign air carrier permit application for foreign policy reasons. Petitions for review of the staff action taken under this section may be filed in accordance with Subpart C of Part 385 of this chapter.

By the Civil Aeronautics Board.

Phyllis T. Kaylor

Secretary.

[FR Doc. 82-34010 Filed 12-14-82 8:45 am]

BILLING CODE 6320-01-M

---

14 CFR Part 387

[Reg. OR-203; Organization Reg. Amdt. 7 to Part 387]

Organization and Operation During Emergency Conditions

AGENCY: Civil Aeronautics Board.

ACTION: Final rule

SUMMARY: The CAB is amending its rule for operation during a time of national emergency. Because of recent staff reorganizations, the order of succession to the Chairman and the Board is changed. This rule is adopted at the Board's own initiative so as to reflect accurately the CAB's order of succession.

DATES: Effective: December 15, 1982. Adopted: December 9, 1982.

FOR FURTHER INFORMATION CONTACT: Joseph A. Brooks, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202-673-5442.

SUPPLEMENTARY INFORMATION: In 14 CFR Part 387, the Board has set forth its plan for organization and operation during a time of national emergency. It states the plan for relocation of the Board if necessary and for the order of succession of Board Members, the Chairman, and the Managing Director. The provisions of Part 387 would take effect upon the declaration of a national emergency by the President in accordance with the National Emergencies Act (Pub. L. 94-412).

Section 387.4 describes the order of succession in the event no Member of the Board is capable of acting. The order of succession up to now has been as follows: the Managing Director, the Director of the Bureau of Domestic Aviation, the General Counsel, and the Director of the Bureau of Consumer Protection.

The Bureau of Consumer Protection was eliminated in a reorganization of the Board's staff this year, and the position of the Director, Bureau of Consumer Protection, was abolished. Its functions were split between the newly created Office of Congressional, Community, and Consumer Affairs, the Bureau of Carrier Audits and Accounts, and the Office of the General Counsel.

The Board has decided not to replace the Director, Bureau of Consumer Protection, in the order with another staff position. It is, however, hereby moving the General Counsel to a position immediatley after the Managing Director, and adding the Director, Bureau of International Aviation, after the General Counsel.

In addition, the Board is removing an obsolete reference to Public Notice PN-15 in § 387.4(a). Originally adopted in 1965, PN-15 is an obsolete statement of organization and staff delegations. In its place, the section now includes a reference to the Board's organization regulations in Title 14, Code of Federal Regulations.

Because this is a rule of the Board's organization and procedure, the Board finds that notice and public comment is unnecessary, and because of the need to have an accurate set of emergency organizational plans in place, finds good cause to make this rule effective immediately upon publication in the Federal Register.

List of Subjects in 14 CFR Part 387

Authority delegations (Government Agencies) and Civil defense.

PART 387—[AMENDED]

Accordingly, the Civil Aeronautics Board amends 14 CFR Part 387, *Organization and Operation During Emergency Conditions*, as follows:

1. The authority for Part 387 is:

Authority: Secs. 204, 1001, Pub. L. 85-726 as amended, 72 Stat. 743, 781; 49 U.S.C. 1324, 1481. Sec 201, Pub L. 94-412, 90 Stat. 1255; 50 U.S.C. 1621, Reorganization Plan No. 3 of 1961, 75 Stat. 837, 26 FR 5989; 49 U.S.C. 1324 (note).

2. All other authority citations are removed.

3. The introductory text and paragraphs (a), (c), and (d) of § 387.4 are revised to read:

§ 387.4 Organization and delegations of authority.

During a national emergency:

(a) The respective functions and responsibilities of the Board, individual Board Members, and Board staff members, and the delegations of authority, shall to the extent possible be as set forth in the several parts of the Board's published regulations in Title 14, Chapter II, Code of Federal Regulations, unless otherwise modified or revoked by authority of the Chairman, Board, or other requirements of law.

* * * * *

(c) In the event no Board Member is capable of acting, actions in the name and authority of the Board shall be taken by the following: The Managing Director; the General Counsel; the Director, Bureau of International Aviation; the Director, Bureau of Domestic Aviation. If one or more of them cannot act, their deputies or staff in line of succession as provided in paragraph (g) of this section shall act. The authority of the above designees, or their successors, shall mean and include the designated authority to act for the Board.

(d) The authority of the Chairman, in the event of inability to act, shall be exercised by the Vice Chairman, and in the event of the Vice Chairman's inability to act, the other Members of the Board in order of seniority. If no Board Member is able to act as Chairman, then members of the Board's staff shall act as Chairman in the following order: the Managing Director; the General Counsel; the Director, Bureau of International Aviation; the Director, Bureau of Domestic Aviation; their respective deputies or staff in line of succession to the preceding staff members.

* * * * *

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-34009 Filed 12-14-82 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 904

[Docket No. 21129-237]

Financial Compensation of Participants in Administrative Proceedings

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule; revocation.

SUMMARY: The National Oceanic and Atmospheric Administration (NOAA) is revoking its regulations which establish criteria and procedures for reimbursing members of the public for the cost of participation in administrative proceedings conducted by NOAA. This action is the result of a recent federal court decision which raises a serious question as to NOAA's authority to implement these regulations. This notice is intended to revoke 15 CFR Part 904 Subpart G—Financial Compensation of Participants in Administrative Proceedings.

EFFECTIVE DATE: January 14, 1983.

FOR FURTHER INFORMATION CONTACT: Phyllis W. Jackson, Staff Attorney, 254-8350.

SUPPLEMENTARY INFORMATION:

Background

On Wednesday, April 26, 1978, the National Oceanic and Atmospheric Administration (NOAA) published a notice of final rulemaking on financial compensation of participants in administrative proceedings. These rules went into effect on May 26, 1978. These rules established criteria and procedures for reimbursing members of the public for the costs of participation in administrative proceedings conducted by NOAA.

On November 27, 1981, the United States Court of Appeals for the Fourth Circuit held a similar regulation of the Food and Drug Administration (FDA) invalid in the case of *Pacific Legal Foundation* v. *Goyan*, 664 F. 2d 1221. The FDA regulation was established to provide "payment from agency funds of reimbursement for reasonable attorneys' fees, expert witness fees, the expenses of clerical service, travel, studies, demonstrations, and other reasonable and necessary costs of participation incurred by a participant * * * in an agency proceeding * * * that results in a hearing * * *" Congress had not authorized the payment program, but the FDA considered that it held implied power to fund the program because it had broad regulatory powers and was required to hold frequent hearings. The court held that in the absence of specific statutory authorization an agency may not disburse funds to participants in its proceedings. In reviewing the FDA regulation, the Court relied on *Green County Planning Board* v. *Federal Power Commission*, 559 F. 2d 1227 (2d Cir. 1976) cert. denied 434 U.S. 986 (1978). In *Green County*, a Comptroller General's finding that the Federal Power Commission had implied authority to reimburse legal fees of intervenors was held to be insufficient without "appropriate Congressional action," 559 F.2d at 1240.

NOAA, like FDA, does not have express congressional authorization to spend funds for various costs incurred by participants in agency proceedings. The *Goyan* decision raises a serious question as to NOAA's authority. Therefore, pursuant to its authority under 31 U.S.C. 628, NOAA issued an interim rule suspending its regulations in 15 CFR Part 904, Subpart G, which govern financial compensation of participants in NOAA's administrative proceedings. This interim rule was published March 8, 1982, at pages 9820-9821 of the **Federal Register.**

Concurrently with the publication of the interim rule suspending 15 CFR Part 904, Subpart G, a Notice of Proposed Rulemaking was published at pages 9861-9862 of the **Federal Register.** That rulemaking proposed to revoke 15 CFR 904, Subpart G. Comments on this proposal were invited for a sixty (60) day period ending May 7, 1982. Comments were received from or on behalf of: (1) The Pacific Legal Foundation (PLF); (2) Conoco, Inc.; (3) Friends of the Earth; and (4) Carl Tobias. The following summarizes the comments, suggestions and actions taken.

Pacific Legal Foundation (PLF) is a nonprofit, tax-exempt corporation organized and existing under the laws of California for the purpose of engaging in matters affecting the broad public interest. PLF supports NOAA's proposal to revoke its rule entitled "Financial Compensation of Participants in Administrative Proceedings," 15 CFR Part 904 Subpart G.

PLF suggests that NOAA, like FDA in the *Goyan* case, lacks the requisite statutory authorization to implement a program to reimburse participants in its proceedings and that NOAA thus properly suspended its reimbursement rule. PLF further cited the Consumer Product Safety Commission (CPSC) as having revoked a similar regulation and the U.S. Department of Agriculture (USDA) as having proceeded to revoke a similar program. Therefore, PLF concludes that until such time as Congress grants NOAA express statutory authorization for a reimbursement regulation it should also comply with the *Goyan* decision and implement a final rule revoking its reimbursement program.

Conoco Inc., North American Production Department, agrees that NOAA was not granted express Congressional authorization to spend funds for various cases incurred by participation in agency proceedings. In brief comments, Conoco endorses the proposal to revoke 15 CFR Part 904, Subpart G.

The Northwest Regional Office of Friends of the Earth opposes the proposed rulemaking to revoke 15 CFR Part 904 Subpart G. Friends of the Earth comments that the *Goyan* case was brought against the Food and Drug Administration and not against NOAA. In the absence of a specific court ruling, Friends of the Earth believes that NOAA should retain and reinstate 15 CFR Part 904, Subpart G. They further cite two Comptroller General Rulings (B-180224 and B-92288) and one court case (*Chamber of Commerce of the U.S.* v. *Department of Agriculture* 459 F. Supp. 216 (D. D.C. 1978)) in support of the concept of agencies funding the costs of participation in their proceedings even in the absence of an explicit authorization from Congress. Friends of the Earth concluded that rulemaking participation funding is a valid and necessary program to insure that NOAA receives a wide range of comments on its proposed rules and that there were no grounds for the revocation of NOAA's program.

NOAA does not believe that a court ruling specifically against it is a prerequisite to the proposed rulemaking. We have carefully analyzed the *Goyan* case and have concluded that the material facts depicting the FDA program and the basis of authority for such a program so closely parallel the NOAA program that a serious question as to NOAA's authority is raised which justifies the suspension of NOAA's regulations. The Comptroller General's decision No. 180224 dated May 10, 1976, cited by Friends of the Earth, is not pertinent. The other Comptroller General's Opinion No. B-92288 is considered below.

Mr. Carl Tobias, Associate Professor of Law at the University of Montana, submitted extensive comments. Mr. Tobias' comments were said not to reflect the views of the University of Montana or the Food and Drug

Administration for which Mr. Tobias is a legal consultant. Mr. Tobias believes that participant reimbursement is a sound administrative practice which better enables NOAA to fulfill its statutory mandates and that NOAA does possess reimbursement authority and should not revoke its regulations. On the general question of agency authority, Mr. Tobias comments that NOAA possesses reimbursement authority based upon its broad substantive statutory mandates as well as its residual appropriations legislation. He states that if NOAA determined that the participation of the public in its proceedings were necessary to performance of agency functions (especially administrative decisionmaking), then NOAA would have the requisite authority to spend money appropriated "for necessary expenses" of public participation. The bases of Mr. Tobias' conclusions are opinions of the Comptroller General in which that official concludes that agencies possess the requisite authority. Mr. Tobias states that the same conclusion was reached by NOAA when NOAA issued its reimbursement regulations and he refers to the argument for agency reimbursement authority contained in NOAA's April 26, 1978, and August 11, 1977, **Federal Register** notices.

Mr. Tobias contends that the *Goyan* case is not dispositive or binding on the issue of NOAA's authority. Mr. Tobias refers to the **Federal Register** notice of April 26, 1978 (43 FR 17807) and claims that NOAA addressed the very question presented by *Goyan* and concluded nonetheless that the agency possessed reimbursement authority. Mr. Tobias further claims that NOAA found that the "Greene County decision" was not a legal obstacle to implementation of its then proposed financial assistance program. He asserts that NOAA based this determination upon an opinion of the Office of Legal Counsel (OLC) of the Department of Justice, dated 1 March 1978; 78–14 Memorandum of Opinion for the General Counsel, Department of Transportation (Vol. 2, Opinions of the Office of Legal Counsel 1978), which stated that Greene County "involved only a construction of the Federal Power Act and that as a result no department or agency [other than FERC] was bound by the decision."

Other distinctions were asserted between the Green County decision and NOAA's rulemaking action. In summary, Mr. Tobias' comments: (1) Distinguish the FPC's actions in the Greene County decision and those of NOAA implementing its participant reimbursement program on the grounds that the FPC had found that public participation *was not necessary* to its decisionmaking whereas NOAA had determined that such participation *was necessary*; (2) interpreted the OLC opinion to have advised that each agency was "required to interpret its own organic statute and any other relevant statutory provisions and determine whether Congress had authorized it, explicitly or implicitly, to provide compensation; (3) assert that opinions of the Second Circuit as to FPC reimbursement authority and of the Fourth Circuit as to FDA authority are not binding upon NOAA (which should look more properly to decisions of Federal courts in the District of Columbia Circuit); (4) propose that the majority opinions in *Greene County* and *Goyan* were poorly reasoned and that the dissenting opinions were more pursuasive; (5) claim that the revocation notice seems to state that 31 U.S.C. 628 mandates revocation and that such an interpretation of this statutory provision is incorrect; (6) claim that NOAA's prior determination that it has authority remains correct and that the *Goyan* case does not compel rescission of its regulation; (7) present policy reasons (e.g. effective means of improving agency decisionmaking) That argue against rescission of NOAA's regulations.

NOAA recognizes that a number of Comptroller General Opinions (among them B–92288) and at least one court case (*Chamber of Commerce of the U.S.* v. *Department of Agriculture* 459 F. Supp. 216 (D. D.C. 1978) support the concept of agencies funding the costs of participation in their proceedings even in the absence of an explicit authorization from Congress. On the other hand, there are a number of recent cases that have held that there can be no authority to reimburse participants in the absence of a specific statutory provision. (*Alyeska Pipeline Service Company* v. *Wilderness Society*, 421 U.S.C. 240 (1975); *Turner* v. *Federal Communications Commission*, 514 F. 2d 1354 (D.C. Cir. 1975); and *Green County Planning Board* v. *Federal Power Commission*, 455 F. 2d 412 (2d Cir. 1972). In view of the recent case of *Pacific Legal Foundation* v. *Goyan* (664 F. 2d 1221) (November 27, 1981), the judicial trend seems to favor a finding of no reimbursement authority. NOAA finds this trend and the *Goyan* case to be persuasive. Other Federal agencies have had similar responses. (See 47 FR 22071 wherein in the U.S. Department of Agriculture published a final rule rescinding similar regulations.)

Of course NOAA agrees that 31 U.S.C. 628 should be interpreted with a degree of flexibility that would allow NOAA to effectively execute its legislative mandates. However, it is questionable that this principle provides authority for the subsidization of individual participation in administrative proceedings even when the same information can be obtained by more efficient means by Agency employees, through a contract or grant to persons best able to provide the information, or through public comment.

NOAA has made a total of eight (8) awards pursuant to its participation reimbursement program. A review of the information and materials gathered pursuant to this program, reveals that in no case was unique and significant information obtained that could not have been otherwise obtained.

In several comments, a Department of Justice/Office of Legal Counsel (DOJ/OLC) opinion is raised in defense of agency authority on this issue. NOAA had relied to some extent on this OLC opinion when first implementing the public participant reimbursement regulations. This March 1, 1978, opinion of the Office of Legal Counsel in part stated in its review of the *Greene County* case as follows:

"The Second Circuit could have based its decision on a broader ground; for example, it could have taken the position that no compensation for expenses such as attorney's fees could be paid absent explicit statutory authority. Had it done so, its decision would have created doubt as to whether other Departments and Agencies could construe their respective organic statutes as providing power to compensate where such authority was not explicit."

This OLC opinion construed the *Green* decision very narrowly and simply stated that no department or agency other than the successor to the Federal Power Commission was bound by the decision because the *Green* case merely construed the Federal Power Act. However, the *Goyan* case *did* base its decision on the broader ground that no compensation for expenses such as those of public participants in administrative proceedings under 15 CFP Part 904, Subpart G could be paid absent explicit statutory authority. NOAA has carefully considered the question of *its* authority to reimburse public participants in administrative proceedings. In view of the recent *Goyan* decision, NOAA concludes that its authority to promulgate these regulations is undermined to such an extent as to require the revocation of its regulations.

E.O. 12291

This notice was determined not to be a major rule as defined in Section 1(b) of E.O. 12291 and as such was not the subject of a Regulatory Impact Analysis.

Regulatory Flexibility Act of 1980

The Regulatory Flexibility Act is designed to relieve small businesses, small organizations and small governmental jurisdictions (collectively "small entities") from burdensome regulatory and recordkeeping requirements which have been imposed uniformly on both large and small entities. This **Federal Register** notice simply revokes regulations that establish criteria and procedures for reimbursing members of the public for the cost of participation in administrative proceedings. Only a small number of persons have participated in the NOAA program to date. Therefore, it has been determined that this action does not have a significant economic impact on a substantial number of small entities.

In accordance with the provisions of Section 605(b) of the Regulatory Flexibility Act, the General Counsel of the Department of Commerce certified in the Notice of Proposed Rulemaking that the proposed action affecting National Oceanic and Atmospheric Administration (NOAA) regulations, 15 CFR Part 904 Subpart G governing "Financial Compensation of Participants in Administrative Proceedings", did not appear to have a significant economic impact on a substantial number of small entities. At that time he provided a certification to that effect to the Chief Counsel for Advocacy of the Small Business Administration. Therefore, it was determined that this proposed action was not subject to the Regulatory Flexibility Analysis requirements of Sections 603 and 604 of the Regulatory Flexibility Act. To avoid duplicative action, pursuant to Section 605(c) of the Regulatory Flexibility Act, NOAA considers the related notice of proposed rulemaking and this final rule as one for the purposes of satisfying Regulatory Flexibility Act requirements. [The text of the Regulatory Flexibility Act Certification may be found at 47 FR 9862 (1982).]

Paperwork Reduction Act of 1980

This suspension action does not generate any information collection request or paperwork burden or otherwise result in activities which are subject to the requirements of the Paperwork Reduction Act of 1980.

National Environmental Policy Act

NOAA has determined that this regulation does not significantly affect the environment. An environmental impact statement is not required under the National Environmental Policy Act of 1969.

List of Subjects in 15 CFR Part 904

Compensation to public participants.

For the reasons set out in the preamble, 15 CFR Part 904 Subpart G is revoked.

PART 904—CIVIL PROCEDURES

Subpart G—Financial Compensation of Participants in Administrative Proceedings [Removed]

15 CFR Part 904, Subpart G is removed as of January 14, 1983.

Anthony J. Calio,
Acting Administrator, NOAA.

[FR Doc. 82-33983 Filed 12-14-82; 8:45 am]
BILLING CODE 3510-12-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 888

[Docket No. R-82-1028]

Section 8 Housing Assistance Payments Program Fair Market Rent Schedules, Existing Housing

AGENCY: Office of the Assistant Secretary for Housing—Federal housing Commissioner, Department of Housing and Urban Development (HUD).

ACTION: Interim rule.

SUMMARY: In compliance with Section 8(c)(1) of the United States Housing Act of 1937, HUD is announcing the Fair Market Rent (FMR) schedules for the Section 8 Existing Housing and Moderate Rehabilitation Programs (24 CFR Part 882) and for space rentals by owners of manufactured (mobile) homes under the Section 8 Existing Housing Program (24 CFR Part 882, Subpart F).

DATE: Comments Due Date: February 14, 1983.

EFFECTIVE DATE: Upon expiration of the first period of 30 calender days of continuous session of Congress after publication, subject to waiver. Further notice of the effective date of this interim rule will be published in the **Federal Register.**

ADDRESS: Interested persons are invited to submit comments to Rules Docket Clerk, Office of the General Counsel, Room 10278, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410. Each comment should include the commentor's name and address and must refer to the docket number indicated in the heading of this rule. A copy of each comment will be available for public inspection during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Gerald J. Benoit, Existing Housing Division, Office of Existing Housing and Moderate Rehabilitation, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410. (202) 755-5433. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The last Fair Market Rents (FMR), which were published in the **Federal Register** on March 18, 1981, 46 FR 17367 were calculated in accordance with the criteria and procedure set forth in the **Federal Register** on July 26, 1979, 44 FR 43902.

In the interest of cost containment, the Department has been considering alternate criteria and procedures for establishing FMRs, and considered publishing new FMRs for 1982 using these new criteria and procedures. The effect of such publication would have been to set the 1982 FMRs for many areas below the FMRs established in 1981. After considering the potential impact, the Department determined that it would be in the public interest to publish and to solicit comments on FMR schedules based on different criteria and procedures in a proposed rule (proposed rule scheduled to be published as Part IV to the December 13 issue of the **Federal Register**). The comments received in response to the new criteria and FMR level will be considered in drafting a final rule which is expected to become effective on March 29, 1983. Accordingly, while the proposed rule is being published and public comments are being solicited, the Department is hereby extending by reference the FMRs schedules that were published in 1981, thereby extending the applicability of the FMRs provided in those schedules. These FMRs will remain in effect until the publication of the above final rule.

The Secretary has determined that prior notice is unnecessary. The Department received and considered public comments on these FMRs at the time of original publication. The Department's decision to extend the same FMRs in effect pending publication of FMRs computed under the new

method represents a policy decision on which additional public comment may be appropriate. However, this does not alter the FMRs which would have been in effect in the absence of such publication.

A Finding of No Significant Impact with respect to the environment is unnecessary since the Section 8 Existing Housing Program is categorically excluded from the National Environmental Policy Act procedures under 24 CFR 50.21(a)(4).

This rule does not constitute a "major rule" as that term is defined in Section 1(b) of Executive Order 12291 on Federal Regulation issued on February 17, 1981. Analysis of the rule indicates that it does not: (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in cost or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Pursuant to 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities because FMRs reflect the rents which are charged for similar quality units in an area. Therefore, FMRs do not change the rent from that which would be charged if the units were not in the Section 8 program.

This rule was listed as item C (24. H–36–81) under the Office of Housing in the Department's Semi-Annual Agenda of Regulations published on August 17, 1981 (46 FR 41719) pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance program number is 14.156. Lower-Income Housing Assistance program (Section 8).

List of Subjects in 24 CFR Part 888

Rent subsidies.

Accordingly, Part 888, Subpart A, Schedule B and Schedule D as published at 46 FR 17367–17524, March 18, 1981, are hereby extended. They shall continue to be in effect until the next publication for effect of revised FMRs.

(Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)), Section 8, United States Housing Act of 1937 (42 U.S.C. 1437f)).

Dated: September 21, 1982.

Philip Abrams,

General Deputy Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 82–34003 Filed 12–14–82; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 540

Control, Custody, Care, Treatment, and Instruction of Inmates

Correction

In FR Doc. 82–33308, beginning on page 55128, on Tuesday, December 7, 1982, make the following changes:

1. On page 55128, in the third column, in the second paragraph, in the fifth line "facilitating activity:" should read "facilitating criminal activity:".

2. On page 55129, in the first column, in the third line from the bottom, "is a threat" should read "is threat".

BILLING CODE 1505–01–M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2619

Valuation of Plan Benefits in Non-Multiemployer Plans; Amendment Adopting Additional PBGC Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This amendment to the regulation on Valuation of Plan Benefits in Non-Multiemployer Plans contains the interest rates and factors for the period beginning January 1, 1983. The interest rates and factors are to be used to value benefits provided under terminating non-multiemployer pension plans covered by Title IV of the Employee Retirement Income Security Act of 1974.

The valuation of plan benefits is necessary because, under section 4041 of the Act, the Pension Benefit Guaranty Corporation and the plan administrator must determine whether a terminating pension plan has sufficient assets to pay all benefits under the plan that are guaranteed by the PBGC under the Title IV plan termination insurance program.

The interest rates and factors set forth in Appendix B to Part 2619 are adjusted periodically to reflect changes in financial and annuity markets. This amendment adopts the rates and factors applicable to plans that terminate on or after January 1, 1983, and will enable the PBGC and plan administrators to value the benefits provided under those plans. These rates and factors will remain in effext until PBGC publishes an amendment revising them.

EFFECTIVE DATE: January 1, 1983.

FOR FURTHER INFORMATION CONTACT: Mrs. Renae R. Hubbard, Special Counsel, Office of the General Counsel, Pension Benefit Guaranty Corporation, 2020 K Street, N.W., Washington, D.C. 20006, 202–254–4895 (not a toll-free number).

SUPPLEMENTARY INFORMATION: On January 28, 1981, the Pension Benefit Guaranty Corporation ("PBGC") issued a final regulation (46 FR 9492) establishing the methods for valuing plan benefits of terminating non-multiemployer plans covered under Title IV of the Employee Retirement Income Security Act of 1974, 29 U.S.C. 1001 *et seq.* (1976), *as amended by* the Multiemployer Pension Plan Amendments Act of 1980, Pub. L. 96–364, 94 Stat. 1208 (the "Act"). That regulation, 29 CFR Part 2610, was recodified as 29 CFR Part 2619 on June 24, 1981, effective June 29, 1981 (46 FR 32574). Appendix B to the regulation, which contains formulas for valuing different types of benefits, sets forth the interest rates and factors that are to be used in the formulas. Because these rates and factors are intended to reflect current conditions in the financial and annuity markets, it is necessary to update the rates and factors periodically.

When published as part of the final regulation, Appendix B contained interest rates and factors for valuing benefits in plans that terminated during the period from September 2, 1974 through April 1, 1981. Subsequently, the PBGC adopted additional rates and factors for valuing benefits in plans that terminated on or after April 1, 1981 and before December 1, 1982 (46 FR 26765, 46 FR 31257, 46 FR 36693, 46 FR 45761, 46 FR 50788, 46 FR 55958, 46 FR 61084, 47 FR 2313, 47 FR 6426, 47 FR 20761, 47 FR 30757, 47 FR 40541, 47 FR 46273).

On November 15, 1982, the PBGC published rates for plans that terminate on or after December 1, 1982 (47 FR 51393). At this time, changes in the financial and annuity markets require a decrease in the rates used for valuing benefits. Accordingly, this amendment adds to Appendix B a new set of interest rates and factors for plans that terminate on or after January 1, 1983. This interest rate and these factors will remain in effect until such time as PBGC

publishes another amendment concerning the rates.

Generally, the rates will be in effect for at least one month. Any change in the rates will be published in the **Federal Register**, normally by the 15th of the month preceding the effective date of the new rates.

The PBGC has determined that notice and public comment on this amendment are impracticable and contrary to the public interest. This determination is based on the need to determine and issue new interest rates and factors promptly so that the rates can reflect, as accurately as possible, current market conditions. The PBGC has found that the public interest is best served by issuing the rates and factors on a prospective basis so that plans may be able to calculate the value of plan benefits before submitting a notice of intent to terminate. Also, plans will be able to predict employer liability more accurately prior to plan termination. Moreover, because of the need to provide immediate guidance for the valuation of benefits under plans that will terminate on or after January 1, 1983, and because no adjustment by ongoing plans is required by this amendment, the PBGC finds that good cause exists for making the rates set forth in this amendment to the final regulation effective less than 30 days after publication.

The PBGC has determined that this is not a "major rule" under the criteria set forth in Executive Order 12291, February 17, 1981, because it will not result in an annual effect on the economy of $100 million or more, a major increase in costs for consumers or individual industries, or significant adverse effects on competition, employment, investment, productivity, or innovation.

List of Subjects in 29 CFR Part 2619

Employee benefit plans, Pension insurance, Pensions.

In consideration of the foregoing, Part 2619 of Chapter XXVI, Title 29, Code of Federal Regulations, is hereby amended as follows:

PART 2619—[AMENDED]

1. The authority citation for Part 2619 reads as follows:

Authority: Secs. 4002(b)(3), 4041(b), 4044, and 4062(b)(1)(A), Pub. L. 93–406, 88 Stat. 1004, 1020, 1025, 1029 (1974) as amended by Secs. 403(1), 403(d), and 402(a)(7), Pub. L. 96–364, 94 Stat. 1302, 1301, and 1299 (1980) (29 U.S.C. 1302, 1341, 1344, 1362).

2. Rate Set 38 of Appendix B is revised and Rate Set 39 of Appendix B is added to read as follows:

Appendix B—Interest Rates and Quantities Used to Value Immediate and Deferred Annuities

In the table that follows, the immediate annuity rate is used to value immediate annuities, to comput the quantity "G_y" for deferred annuities and to value both portions of a refund annuity. An interest rate of 5% shall be used to value death benefits other than the decreasing term insurance portion of a refund annuity. For deferred annuities, k_1, k_2, k_3, n_1, and n_2 are defined in § 2619.45.

Rate set	For plans with a valuation date on or—		Immediate annuity rate	Deferred annuities				
	After	Before		k_1	k_2	k_3	n_1	n_2
[illegible]	12-1-82	1-1-83	10.25	1.0950	1.0825	1.0400	7	[illegible]
39	1-1-83	.....	10.00	1.0925	1.0800	1.0400	7	[illegible]

Edwin M. Jones,
Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 82-33984 Filed 12-14-82; 8:45 am]

BILLING CODE 7708-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 1E2529/R503; PH-FRL 2266-7]

Chlorpyrifos; Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for the combined residues of the insecticide chlorpyrifos and its metabolite in or on the raw agricultural commodity cherries. This regulation to establish a maximum permissible level for residues of chlorpyrifos in or on cherries was submitted, pursuant to a petition, by the Interregional Research Project No. 4 (IR–4).

EFFECTIVE DATE: Effective on December 15, 1982.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A–110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Donald Stubbs, Emergency Response Section, Process Coordination Branch, Registration Division (TS–767C), Environmental Protection Agency, Rm. 716B, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202. (703–557–1192).

SUPPLEMENTARY INFORMATION: EPA issued a notice of proposed rulemaking published in the **Federal Register** of October 27, 1982 (47 FR 47609) which announced that the Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, PO Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted pesticide petition 1E2529 to EPA on behalf of the IR–4 Technical Committee and the Agricultural Experiment Stations of Michigan and Ohio.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmestic Act, propose the establishment of a tolerance for combined residues of the insectide chlorpyrifos [*O,O*-diethyl-*O*(3,5,6-trichloro-2-pyridyl) phosphorothioate] and its metabolite 3,5,6-trichloro-2-pyridinol (TCP) in or on the raw agricultural commodity cherries at 1.5 parts per million (ppm). The petition was later amended to increase the tolerance level to 2.0 ppm combined residues.

There were no comments or requests for referral to an advisory committee received in response to the proposed rule.

The data submitted in the petition and other relevant material have been evaluated and discussed in the notice of proposed rulemaking. The pesticide is considered useful for the purpose for which the tolerance is sought.

In the **Federal Register** issue of July 2, 1981 (46 FR 34586), tolerances for the

commodity group seed and pod vegetables were listed as two tolerances; one for "seed vegetables" and one for "pod vegetables" both at 0.1 ppm. The tolerances should have been for the commodity group "seed and pod vegetables" at 0.1 ppm.

The pesticide is considered useful for the purpose for which the tolerances are sought. It is concluded that the tolerances will protect the public health and are established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

(Sec. 408(d)(2), 68 Stat. 512 (21 U.S.C. 346a(d)(2)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedures, Raw agricultural commodities, Pesticides and pests.

Dated: December 6, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR 180.342 is amended by removing the entries for pod vegetables and seed vegetables and adding the commodities cherries and seed and pod vegetables to read as follows:

§ 180.342 Chlorpyrifos; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Cherries	2.0
* * * * *	
Pod vegetables	0.1 [Removed]
* * * * *	
Seed vegetables	0.1 [Removed]
Seed and pod vegetables	0.1
* * * * *	

[FR Doc. 82-33886 Filed 12-14-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 2E2646/R501; PH-FRL 2264-3]

Dimethyl (2,2,2-Trichloro-1-Hydroxyethyl) Phosphonate; Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues of the insecticide dimethyl (2,2,2-trichloro-1-hydroxyethyl) phosphonate in or on the raw agricultural commodity blueberries. This regulation to establish a maximum permissible level for residues of the insecticide in or on the commodity was submitted, pursuant to a petition, by the Interregional Research Project No. 4 (IR-4).

EFFECTIVE DATE: Effective on December 15, 1982.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Donald Stubbs, Emergency Response Section, Process Coordination Branch, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 716B, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202. (703-557-1192).

SUPPLEMENTARY INFORMATION: EPA issued a notice of proposed rulemaking published in the **Federal Register** of October 20, 1982 (47 FR 46720) which announced that the Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted pesticide petition 2E2646 to EPA on behalf on the IR-4 Technical Committee and the Agricultural Experiment Station of Maine.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for residues of the insecticide dimethyl (2,2,2-trichloro-1-hydroxyethyl) phosphonate in or on the raw agricultural commodity blueberries at 0.1 part per million (ppm).

There were no comments or requests for referral to an advisory committee received in response to the notice of proposed rulemaking.

The data submitted in the petition and other relevant material have been evaluated and discussed in the proposed rulemaking. The pesticide is considered useful for the purpose for which the tolerance is sought. It is concluded that the establishment of the tolerance will protect the public health and is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

(Sec. 408(d)(2), 68 Stat. 512 (21 U.S.C. 346a(d)(2)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedures, Raw agricultural commodities, Pesticides and pests.

Dated: December 1, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR 180.198 is amended by adding and alphabetically inserting the raw agricultural commodity blueberries to read as follows:

§ 180.198 Dimethyl (2,2,2-trichloro-1-hydroxyethyl) phosphonate; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Blueberries	0.1
* * * * *	

[FR Doc. 82-33787 Filed 12-14-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 9F2163/R506; PH-FRL 2262-2]

Glyphosate; Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for the combined residues of the herbicide glyphosate and its metabolite in or on certain commodities. This regulation to establish the maximum permissible level for the combined residues of glyphosate was requested, pursuant to a petition, by Monsanto Company.

DATE: Effective on December 15, 1982.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A–110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Robert Taylor, Product Manager (PM) 25, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 245, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–1800).

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the **Federal Register** of February 28, 1979 (44 FR 11269) that announced that the Monsanto Agricultural Products Company, 800 N. Lindbergh Blvd., St. Louis, MO 63166, had submitted pesticide petition 9F2163 proposing to amend 40 CFR 180.364 by establishing tolerances for the combined residues of the herbicide glyphosate (*N*-phosphonomethylglycine) and its metabolite aminomethylphosphonic acid in or on the crop groupings cucurbits, fruiting vegetables, small fruits, stone fruits, and the individual commodity hops at 0.1 part per million (ppm) resulting from the use of irrigation water following applications of said herbicide on or around aquatic sites; shellfish and crustaceans at 2.0 ppm, and fish at 0.2 ppm.

The petitioner subsequently amended the petition by withdrawing the tolerance of 2.0 ppm on crustaceans and shellfish, and proposing establishment of tolerances for the combined residues of the herbicide glyphosate (*N*-phosphonomethylglycine) and its metabolite aminomethylphosphonic acid in or on the crop groupings citrus, cucurbits, forage grasses, forage legumes, fruiting vegetables, grain crops, leafy vegetables, nuts, pome fruits, root crop vegetables, seed and pod vegetables, small fruit, stone fruit, cottonseed, hops, and avocados at 0.1 ppm resulting from the use of irrigation water following applications on or around aquatic sites and fish at 0.25 ppm. Where tolerances are established at higher levels from other uses of glyphosate on the subject crops, the higher tolerance should also apply to residues from the aquatic uses cited above.

No comments were received in response to this notice of filing.

The data submitted in the petition and other relevant material have been evaluated. The toxicology data evaluated included a rat acute oral toxicity study with LD_{50} greater than 5,000 milligram/kilogram/bodyweight (mg/kg/bw); a rat teratology study negative for teratogenic effects at 3,500 mg/kg/day and a fetotoxic NOEL of 100 mg/kg/day; a rabbit teratology study negative at 350 mg/kg/day with a fetotoxic NOEL of 175 mg/kg/day; a 3-generation rat reproduction study with a NOEL of 10 mg/kg; a 26-month rat feeding study with a NOEL of 31 mg/kg/day and no observed oncogenic effects at 300 ppm (highest dose tested); a rec-assay (*B. subtillis*) which was not mutagenic up to 2,000 micrograms test material/disk, a reverse mutation study (negative for mutagenicity); an Ames test (*Salmonella*-negative for mutagenicity); and a dominant mouse lethal assay which was negative at 2,000 mg/kg.

Data currently lacking are a chronic oral toxicity study in a non-rodent species and an oncogenic study on a second species. The company has been notified of the above deficiencies, and has agreed to perform the above studies and to remove the use from the label should the results of the studies exceed the risk criteria for chronic toxicity as stated in 40 CFR 162.11.

Tolerances have previously been established on a variety of commodities at levels ranging from 0.1 to 30 ppm. The tolerances on the irrigated crop groupings cucurbits (0.1 ppm); fruiting vegetables (0.1 ppm); small fruit (0.1 ppm); the individual irrigated crop hops (0.1 ppm); and fish (0.25 ppm) as well as the residues in potable water (an acceptable residue level of 0.05 ppm) will contribute 1.0425 mg/day (1.5 kg) to the current theoretical maximal residue contribution (TMRC) for a total of 1.3928 mg/day (1.5 kg) or 23.21 percent of the allowable daily intake (ADI). Due to a change in procedures, the Agency is not establishing food additive regulations for pesticides which are directly added to potable water. (47 FR 25746, June 15, 1982.) Rather, the Agency will evaluate the safety of such residues under the authority of the Federal Insecticide, Fungicide and Rodenticide Act, as amended, and the Safe Drinking Water Act (SDWA) assure that an acceptable residue level is not exceeded and that the provisions of the SDWA are met. The residue data support an acceptable residue level of 0.5 ppm in drinking water. An approved, but unpublished tolerance on tea (4.0 ppm), will contribute only 0.00429 mg/day (1.5 kg) to the TMRC or only 0.07 percent of the ADI for a total of 23.28 percent of the ADI. The ADI is based on a NOEL of 10 mg/kg/day (rat reproduction study) and a safety factor of 100. There are currently no regulatory actions pending against the pesticide and no Rebuttable Presumption Against Registration (RPAR) criteria have been exceeded.

The nature of the residues is adequately understood. No detectable residues of *N*-nitrosoglyphosate, a contaminant of glyphosate, are expected to be present in the raw agricultural commodities for which tolerances are being established. Adequate analytical methods for determining residues in water, fish, and crops, gas liquid chromatography using a phosphorous-specific flame photometric detector, are available for enforcement purposes. Residues in meat, milk, poultry, and eggs resulting from the aquatic use will be covered under existing tolerances for these commodities.

The pesticide is considered useful for the purpose for which the tolerances are sought. It is concluded that the tolerances will protect the public health and are established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances are raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

(Sec. 408(d)(2), 68 Stat. 512 (21 U.S.C. 346a(d)(2)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedures, Raw agricultural commodities, Pesticides and pests.

Dated: November 26, 1982.

James M. Conlon,

Acting Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR 180.364 is amended by adding and alphabetically inserting the commodity fish in paragraph (b) and establishing a new paragraph (c) to read as follows:

§180.364 Glyphosate; tolerances for residues.

* * * * *

(b) * * *

Commodity	Parts per million
Fish	0.25

(c) Tolerances are established for the combined residues of glyphosate (*N*-phosphonomethylglycine) and its metabolite aminomethylphosphonic acid, resulting from the use of irrigation water containing residues of 0.5 ppm following applications on or around aquatic sites, at 0.1 ppm on the crop groupings citrus, cucurbits, forage grasses, forage legumes, fruiting vegetables, grain crops, leafy vegetables, nuts, pome fruits, root crop vegetables, seed and pod vegetables, stone fruit, and the individual commodities cottonseed, hops, and avocados. Where no tolerances are established at higher levels from other uses of glyphosate in or on the subject crops, the higher tolerance should also apply to residues from the aquatic uses cited in this paragraph.

[FR Doc. 82-33371 Filed 12-14-82; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL MARITIME COMMISSION

46 CFR Part 536

[General Order 13, Amdt. 12; Docket No. 80-54]

Time/Volume Rate Contracts—Tariff Filing Regulations Applicable to Carriers and Conferences in the Foreign Commerce of the United States

AGENCY: Federal Maritime Commission.

ACTION: Clarification of final rule.

SUMMARY: The Commission's rule authorizing use of time/volume rates is clarified insofar as it pertains to the need for an executed time/volume contract and the effect of filing a specimen time/volume contract. The purpose and effect of the clarification is to remove uncertainty expressed by petitioner in this matter.

DATE: Effective December 15, 1982.

FOR FURTHER INFORMATION CONTACT: Francis C. Hurney, Secretary, Federal Maritime Commission 1100 L Street, N.W., Washington, D.C. 20573, (202) 523-5725.

SUPPLEMENTARY INFORMATION:

On July 8, 1982, the Commission issued a final rule in the above-referenced proceeding which sets forth uniform procedures concerning the use of time-volume rates (47 FR 29671). The rule permits the offering of time-volume rates by common carriers by water in the United States foreign commerce, or conferences of such carriers, subject, however, to several conditions, including the requirements that time/volume rates and related contracts be published in tariffs on file with the Commission and that time/volume contracts contain certain minimum provisions.

Sea-Land Service, Inc. has filed a Petition seeking clarification of certain aspects of the rule. Sea-Land contends that the rule should be clarified to expressly provide that time/volume rates may not be implemented without an executed contract between the parties, which contract must be retained by the designated recordkeeper. In addition, Sea-Land seeks clarification from the Commission that the filing of a specimen time/volume contract complies with the tariff filing requirement contained in the rule (46 CFR 536.7(a)).

The Commission believes that the rule as it presently stands is sufficiently clear on the point that a time/volume rate cannot be implemented without an executed time/volume contract. The definition of a time/volume rate clearly indicates that such a rate can only be implemented "pursuant to the terms of a time/volume contract". 46 CFR 536.2(p). That contract must be one executed between the offeror of the time/volume rate and the individual shipper or consignee accepting the rate and shipping its goods pursuant to it.

The rule does not, however, require that the designated recordkeeper for "time/volume shipment records" also maintain a copy of the executed time/volume contract. While such a requirement has a certain appeal, the Commission believes that this is a matter better left to the parties' discretion. They are, of course, free to stipulate in their contract that the recordkeeper will maintain a copy of it.

The Commission further believes that the fact that the filing of a specimen time/volume contract does comply with the requirement that time/volume contracts be published in tariffs on file with the Commission is reasonably apparent from a reading of the rule. Section 536.7(a) states that "[t]ime/volume rates and related contracts shall be published in tariffs on file with the Commission and made available to all shippers or consignees under the same terms and conditions * * *" 46 CFR 536.7(a). The contract to be published in the tariff and made available to all shippers could only be a specimen contract, and not an executed contract between the offeror and one shipper or consignee. There is no need, therefore, to amend the rule to make this fact clearer.

List of Subjects in 46 CFR Part 536

Rates, Maritime carriers.

Therefore, it is ordered, That the Petition for Clarification filed by Sea-Land Service, Inc. is granted to the extent discussed above and is denied in all other respects.

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 82-33948 Filed 12-14-82; 8:45 am]

BILLING CODE 6730-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 663

[Docket No. 21210-248]

Pacific Coast Groundfish Fishery

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Emergency interim rule; extension of effective date.

SUMMARY: An emergency interim rule which imposes a 3,000 pound limit per vessel per trip on landings of sablefish taken in the Pacific coast groundfish fishery is in effect through December 11, 1982. NOAA extends this rule through December 31, 1982, to avoid complete closure of the fishery. This action is taken under the authority of section 305(e) of the Magnuson Act. The intended effect of this action is to continue allowing fishing of sablefish on

a reduced level, rather than closing the fishery, for economic and social benefits to fishery participants.

DATE: This extended interim rule is effective 0845 EST, December 14, 1982 through 2400 PST, December 31, 1982.

ADDRESSES: H. A. Larkins, Director Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way N.E., BIN C15700, Seattle, Washington 98115.

FOR FURTHER INFORMATION CONTACT: H. A. Larkins, 206–527–6150.

SUPPLEMENTARY INFORMATION:

Background

The Pacific Coast Groundfish Fishery Management Plan (FMP) was approved on January 4, 1982, and implementing regulations were published on October 5, 1982 (47 FR 43964). The regulations at 50 CFR 663.21(b) authorize the Secretary of Commerce (Secretary) to prohibit retention or landing of a species when the optimum yield (OY) of that species is reached. Section 305(e) of the Magnuson Fishery Conservation and Management Act (Magnuson Act) authorizes the Secretary to promulgate emergency regulations to amend regulations implementing an FMP if he finds that an emergency involving a fishery resource exists.

At its September 29–30 meeting, the Pacific Fishery Management Council (Council) heard testimony that the OY for sablefish had been exceeded. However, accuracy of the sablefish OY estimate was questioned by both industry and the Council insofar as no adverse effects to the sablefish stock had been documented. The Secretary may adjust OY only after receiving a recommendation from the Council, but the Council had insufficient information to recommend adjusting OY at its September meeting. Therefore, the Secretary was obligated to close the sablefish fishery according to § 663.21(b).

The Secretary imposed an emergency interim rule under the authority of section 305(e) of the Magnuson Act, prohibiting the catch and retention or landing in excess of 3,000 pounds of sablefish (round weight) per vessel per trip (47 FR 49620, November 1, 1982). This emergency interim rule became effective October 28, 1982, for the 45-day period through December 11, 1982, and could be extended (but not beyond December 31, 1982), modified, or terminated earlier if conditions warranted. The trip limit was considered preferable to complete closure of the sablefish fishery for several reasons: The accuracy of the OY estimate was questionable; stress to the stock was not documented; incidentally caught sablefish would be wasted if they could not be landed; and the industry had had no warning that a potential closure was imminent. A more thorough discussion of the reasons for this trip limit is included in the preamble to the emergency interim rulemaking.

This notice extends the emergency interim rule through 2400 PST, December 31, 1982.

Classification

The NOAA Administrator determined that this rule is not major under Executive Order 12291, but does constitute an emergency situation under section 6(a)(i) of the Executive Order and under section 305(e) of the Magnuson Act. This action does not require a supplement to the FMP's Final Environmental Impact Statement (FEIS), which is on file with the Environmental Protection Agency. The Regulatory Flexibility Act and Paperwork Reduction Act do not apply to this emergency interim rule. A more complete discussion of the classification is included in the preamble to the emergency interim rule.

List of Subjects in 50 CFR Part 663

Fish, Fisheries, Fishing.

(16 U.S.C. 1801 *et seq.*)

Dated: December 13, 1982.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 82-34208 Filed 12-14-82; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 47, No. 241
Wednesday, December 15, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FARM CREDIT ADMINISTRATION

12 CFR Part 612

Personnel Administration

AGENCY: Farm Credit Administration.

ACTION: Proposed rule.

SUMMARY: The Farm Credit Administration, by its Federal Farm Credit Board, publishes for comment proposed amendments to its regulation concerning standards of conduct for directors, officers, and employees of Farm Credit System institutions. These amendments revise and clarify the existing regulations. Existing provisions have been reorganized and consolidated to facilitate understanding by affected parties. Certain prohibitions in existing regulations have been eliminated or revised in recognition of the changing operational circumstances of Farm Credit System institutions. Other areas of concern have been revised to provide Farm Credit banks and service organizations with greater flexibility and responsibility for monitoring employee activities and determining appropriate standards of employee conduct. This decentralization is intended to promote greater efficiency and to ensure that each institution will promote the highest standards of conduct for its directors, officers, and employees.

DATE: Written comments must be received on or before February 14, 1983.

ADDRESSES: Comments or suggestions should be submitted in writing to Donald E. Wilkinson, Governor, Farm Credit Administration, Washington, DC 20578. Copies of all correspondence received will be available for inspection by interested persons in the Office of Director, Congressional and Public Affairs Division, Office of Administration, Farm Credit Administration.

FOR FURTHER INFORMATION CONTACT: Larry H. Bacon, Deputy Governor, Office of Administration, 490 L'Enfant Plaza, SW., Washington, DC 20578. (202–755–2181)

SUPPLEMENTARY INFORMATION: For purposes of this proposed rule, certain terms are designated as follows: Farm Credit Administration (FCA); Federal Farm Credit Board (Federal Board); Farm Credit System (System); farm Credit Act of 1971, as amended, 12 U.S.C. 2001, *et seq.*, (Act).

List of Subject in 12 CFR Part 612

Agriculture, Banks, banking, Conflict of Interest.

For the convenience of the reader, a redesignation table showing the former sections of Part 612, Subpart B, and the new sections is shown below.

PART 612—PERSONNEL ADMINISTRATION

SUBPART B.—STANDARDS OF CONDUCT FOR DIRECTORS, OFFICERS, AND EMPLOYEES

Section	Title	Previous section
612.2130	Definitions	New.
612.2135	Director and employee responsibilities and conduct.	612.2130.
612.2140	Directors—prohibited conduct—disclosure.	612.2240 and 612.2290.
612.2150	Employees—prohibited acts.	612.2210 and 612.2250.
612.2160	Bank and service organization policies and procedures.	New.
612.2170	Reports—Designated officer.	612.2230.
612.2180	Enforcement	612.2300.
612.2190	Devotion of time to official duties.	612.2160.
612.2200	Soliciting support in election polls for association, district, service, organization, or Federal Farm Credit Board membership.	612.2150.
612.2220	Political activity (number change only).	612.2170.
612.2230	Nepotism	612.2190 and 612.2200.
612.2240	Gifts or favors from subordinates or borrowers.	Same.
612.2250	Improper use of official property.	612.2260.
612.2260	Standards of conduct for agents.	New.
612.2270	Prohibited purchase of System obligations.	New.

Therefore, it is proposed to amend 12 CFR, Chapter VI, by revising and recodifying Part 612, Subpart B, to read as follows:

PART 612—PERSONNEL ADMINISTRATION

* * * * *

Subpart B—Standards of Conduct for Directors, Officers, and Employees

Sec.

612.2130 Definitions.
612.2135 Director and employee responsibilities and conduct generally.
612.2140 Directors—prohibited conduct—disclosure.
612.2150 Employees—prohibited acts.
612.2160 Bank and service organization policies and procedures.
612.2170 Reports—designated officer.
612.2180 Enforcement.
612.2190 Devotion of time to official duties.
612.2200 Soliciting support in election polls for association, district, service, organization, or Federal Farm Credit Board membership.
612.2220 Political activity.
612.2230 Nepotism.
612.2240 Gifts or favors.
612.2250 Improper use of official property.
612.2260 Standards of conduct for agents.
612.2270 Prohibited purchase of System obligations.

Authority: Sec. 5.9, 5.12, 5.18, Pub. L. 92–181, 85 Stat. 619, 620, 621 (12 U.S.C. 2243, 2246, and 2252.

Subpart B—Standards of Conduct for Directors, Officers, and Employees

§ 612.2130 Definitions.

For purposes of this subpart, the following terms are defined:

(a) "Agent" means any person, other than a director or employee, who represents the System institution in contacts with third parties or who provides professional services to a system institution, such as legal, accounting, appraisal consulting, and other similar services.

(b) The term "board of directors" applies, within the appropriate context, to the governing body of each System institution.

(c) "Business relationship" or "transacts business" means the relationship of an individual (or an entity controlled by the individual) with another person which involves: the purchase, sale, lease, ownership, or management of real or personal property; services as a real estate agent or broker; the sale or placement of insurance; sales barn activities; appraisal services; the borrowing or lending of money or other things of value; providing or receiving financial, professional, or other services; and any other similar transaction. The term does not include relationships associated

with personal, family, or household matters.

(d) A "conflict of interest" exists when a person has an interest in a transaction, relationship, or activity which:

(1) Actually or potentially affects the person's ability or perceived ability to perform official duties and responsibilities in a totally impartial manner and in the best interest of the employing institution, or

(2) Results in such person being unable to devote required time to official duties.

(e) "Controlled entity" and "entity controlled by" mean an entity in which the individual, directly or indirectly, or acting through or in concert with one or more persons:

(1) Owns 5 percent or more of the equity;

(2) Owns, controls, or has the power to vote 5 percent or more of any class of voting securities; or

(3) Has the power to exercise a controlling influence over the management or policies of such entity.

(f) "Director" means a member of a board of directors.

(g) "Employee" means any salaried officer or part-time, full-time, or temporary salaried employee and, for purposes of section 612.2230 regarding nepotism, includes agents.

(h) "Entity" means a corporation, company, association, firm, joint venture, partnership (general or limited), society, joint stock company, trust (business or otherwise), fund, or other organization or institution, except System institutions.

(i) "Family" means parents, spouse, son, daughter, sibling, stepparents, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, uncle, aunt, nephew, niece, grandparents, grandson, granddaughter, and each person having any such relationship by marriage.

(j) "Interested" bank, service organization, association or institution means, within the appropriate context, the bank, service organization, association, or institution or whose board a director serves or for whom an employee works.

(k) "Mineral interest" means any interest in minerals, oil, or gas, including, but not limited to, any right derived directly or indirectly from a mineral, oil, or gas lease, deed, or royalty conveyance.

(l) "OFI" means other financing institutions which have established an access relationship with a Federal intermediate credit bank under section 2.3(a)(2) of the Act.

(m) "Officer" means the salaried president, vice president, secretary, treasurer, and general counsel of each System institution, and any person not so designated who holds a similar position of authority.

(n) "Person" means individual or entity.

(o) "Relative" means any member of the family.

(p) "Service organization" means the Fiscal Agency, each service corporation authorized by section 4.25 of the Act, and each unincorporated service organization formed pursuant to agreements authorized by section 5.6(a) of the Act.

(q) "Supervised institution" is a term which only applies within the context of a System bank or an employee of a System bank and refers to each association supervised by that bank.

(r) "Supervising institution" is a term which only applies within the context of an association or an employee of an association and refers to the bank which supervises that association.

(s) "System institution" and "institution" mean any bank, association, or service organization in the Farm Credit System, including the Federal land banks, Federal intermediate credit banks, banks for cooperatives, Central Bank for Cooperatives, Federal land bank associations, production credit associations, and the Fiscal Agency and other service organizations.

§ 612.2135 Director and employee responsibilities and conduct—generally.

(a) The maintenance of high standards of industry, honesty, integrity, impartiality, and conduct by directors and employees of all System institutions is essential to ensure the proper performance of System business and continued public confidence in the System and each of its institutions. The avoidance of misconduct and conflicts of interest, real or apparent, is indispensable to the maintenance of these standards.

(b) To achieve these high standards of conduct, directors and employees shall observe, to the best of their abilities, the letter and intent of all applicable laws, regulations, rules, policy statements, instructions, and procedures of the Farm Credit Administration and System institutions and shall exercise diligence and good judgment in carrying out their duties, obligations, and responsibilities.

§ 612.2140 Directors—prohibited conduct—disclosure.

(a) To avoid conflicts of interest, a director shall not:

(1) Divulge or use for personal benefit information acquired as a director.

(2) Participate, directly or indirectly, in deliberations on any question affecting, directly or indirectly, the interest of the director, a relative of the director, or any entity controlled by the director.

(3) Obtain or attempt to obtain special advantage or favoritism in dealing with directors, employees, borrowers of System institutions, or other persons doing business with System institutions, particularly in relation to matters involving any real or personal property in which the director or an entity contolled by the director or any such System institution or person has an interest.

(b) Any director who is or plans to become involved in any relationship, transaction, or activity which is or may be prohibited by paragraph (a) of this section shall promptly disclose such involvement in writing.

(c) Any director who has a financial interest in or is a member of the board of directors of any entity engaged in a commercial enterprise shall disclose such interest or membership in writing.

(d) Disclosures required by paragraphs (b) and (c) of this section shall be made in accordance with § 612.2170.

§ 612.2170 Employees—prohibited acts.

(a) Employees of System institutions shall conduct their official duties in a prudent and professional manner and avoid conflicts of interest with directors, employees, and borrowers or other persons who do business with the institution. These employees shall not engage in activities which might impair their judgment or objectivity or bring discredit upon themselves or the System. Paragraph (b) of this section sets forth those activities, transactions, and relationships which employees are prohibited from entering into or engaging in. Paragraph (c) of this section sets forth additional activities, transactions, and relationships which are prohibited, except to the extent they are permitted pursuant to policies and guidelines issued by the employing institution or supervisory bank, and approved by the Farm Credit Administration pursuant to section 612.2160.

(b) An employee of a System institution:

(1) Shall not participate, directly or indirectly, in the deliberation upon, or the determination of, any matter affecting the interests of the employee, any relative of the employee, or any entity controlled by the employee.

(2) Shall not divulge or make use of, except in the performance of official duties, any fact, information, or document not generally available to the public which is acquired by virtue of employment with a System institution.

(3) Shall not acquire, directly or indirectly, except by inheritance, any interest in any real or personal property, including mineral interests, which was owned by the System institution, within the preceding 12 months, and which had been acquired by such institution as a result of foreclosure or similar action.

(4) Shall not speculate in or purchase futures contracts involving agricultural commodities which are financed by any institution within the district. Normal hedging operations and forward contracting to cover agricultural commodities produced or owned by the employee are not prohibited.

(5) Shall not, directly or indirectly, borrow from, lend to, or become financially obligated with or on behalf of a director or employee of the employing, supervising, or supervised institution or a borrower or loan applicant of the employing insitution. This paragraph shall not apply to transactions between family members and relations with OFIs. Relations with OFIs are prohibited by paragraph (c) of this section, except to the extent permitted by policies and procedures of the employing bank or institution, or supervising bank.

(6) Shall not serve as an officer or director of an entity that transacts business with a System institution in the district or of any financial institution, except employee credit unions. For the purposes of this paragraph, "transacts business" does not include loans by a System institution to a family-owned entity. Those persons approved to serve in such capacity on the effective date of this regulation may continue to serve until their term expires or until 1 year after the effective date of this regulation, whichever occurs first.

(7) Shall not use the employee's position or information acquired as a result of the employee's position to solicit or obtain any fee or gratuity.

(8) Shall not accept any fee or gratutity from any person with reason to believe that such fee or gratuity was given for the purpose of influencing official action or obtaining information which the employee has access to by reason of employment with a System institution.

(9) Shall not act as a real estate agent or broker.

(10) Shall not act as an agent or broker in connection with the sale and placement of insurance; provided that this paragraph shall not apply to the sale or placement of insurance authorized by section 4.29 of the Act.

(c) Except to the extent permitted under bank or service organization policies and procedures which have been approved by the Farm Credit Administration pursuant to § 612.2160, an employee of a System institution:

(1) Shall not have a business relationship, directly or indirectly, except in an official capacity, with:

(i) Any borrower or loan applicant of the employing or supervising institution or any supervised institution.

(ii) Any person who transacts business with any borrower or loan applicant of the employing or supervising institution or any supervised institution.

(iii) Any person who transacts business with the employing or supervising institution or any supervised institution.

(iv) Directors or employees of the employing or supervising institution or any supervised institution.

(v) An OFI which has an access or participation relationship with the employing, supervising, or a supervised institution.

(2) Shall not borrow from the employing, supervising, or a supervised institution.

(3) Shall not acquire, directly or indirectly, except by inheritance, any interest in any real or personal property, including mineral interests, which are mortgaged to any System institution or were thus mortgaged at any time within the preceding 12 months.

(4) Shall not purchase, directly or indirectly, any real or personal property of a System institution acquired by such institution for its operations:

(d) Any employee who is or plans to become involved in any relationship, transaction, or activity which is or may be prohibited by this section shall disclose such involvement in writing in accordance with §§ 612.2170.

§ 612.2160 Bank and service organization policies and procedures.

(a) Each district board, the board of the Central Bank for Cooperatives, and the governing body of each service organization shall adopt and issue policies and guidelines implementing this subpart. Such policies and guidelines may permit employees of the bank, service organization, or supervised associations to enter into business relationships involving activities identified in § 612.2150(c). No such policy or guidelines may permit activities prohibited under section 612.2150(b). The policies and guidelines shall reflect due consideration of any adverse effect the proposed activities may have on the System, and the potential that the activities could affect the impartial judgment of employees, or detract from their performance of official duties. Each bank and service organization shall develop procedures implementing board policies and shall submit the policies, guidelines, and procedures to the Farm Credit Administration for approval.

(b) Bank and service organization policies, guidelines, and procedures shall include at a minimum:

(1) The criteria under which business relationships may be approved.

(2) The relationships involving association employees which may be approved by the association board of directors without the prior approval of the supervising bank.

(3) The criteria (in addition to the approval requirements contained in § 614.4470) under which employees may receive loans from System institutions.

(4) The documentation required to support the decision of an institution.

(5) The appeal procedures available to any employee to whom approval has been denied.

(c) Each bank and service organization shall ensure that all directors and employees of the institution and each supervised association are adequately informed of the provisions and requirements of this subpart.

§ 612.2170 Reports—designated officer.

(a) Each bank and service organization shall designate an officer who shall:

(1) Receive reports required by this subpart;

(2) Record actions taken to resolve each case reported;

(3) Report promptly to the board and Farm Credit Administration all cases where an investigation by the institution results in the dismissal of a director or employee;

(4) Report promptly to the board and Farm Credit Administration all cases where violations may have an adverse impact on continued public confidence in the System or any of its institutions;

(b) Any director or employee of the institution or supervised association who is involved or interested in any activity, transaction, or relationship to which this subpart or any policy issued under this subpart is applicable shall promptly make a written disclosure of such interest.

(1) Reports by directors shall be submitted to the board on which the director serves and to the officer designated under paragraph (a) of this

section through the institution's chief executive officer.

(2) Reports by bank and service organization employees shall be submitted to the officer designated under paragraph (a) of this section through the chief executive officer.

(3) Reports by association employees shall be submitted to the respective board of directors through the association's chief executive officer and then to the officer designated under paragraph (a) of this section with the board's recommended action.

§ 612.2180 Enforcement.

(a) Each bank and service organization is responsible for ensuring compliance with this subpart by its directors and employees and the directors and employees of supervised associations, and shall investigate:

(1) All cases involving possible violations of § 612.2140 and 612.2150, and applicable policies and guidelines approved under § 612.2160.

(2) All complaints received against the directors and employees of such institution, and of each supervised association.

(3) Other conflict-of-interest provisions of this subpart when the activities or suspected activities are of a sensitive nature and could impact on continued public confidence in the Farm Credit System.

(b) The bank or service organization shall promptly notify the Farm Credit Administration of those cases which, after a preliminary investigation by them, indicate that a Federal criminal statute may have been violated (see § 617.7110).

(c) Each bank shall ensure that the associations under its supervision have complied with bank policy and procedure relating to conflicts of interest that have been delegated to such associations.

(d) Each institution shall, with regard to conduct involving conflict of interest of its directors and employees and the directors and employees of supervised associations, take prompt action in a manner that will preserve the integrity of and the public confidence in the System and the institutions concerned.

(e) The Farm Credit Administration may, as it deems appropriate, investigate any case arising under this subpart and other activities involving possible violations of Farm Credit Administration rules and regulations.

§ 612.2190 Devotion of time to official duties.

(a) Employees of a System institution are required to devote the full business time for which they are employed to the effective accomplishment of the duties assigned them by such institution. They shall not accept outside employment or compensation or engage in any other acitivities that could require the use of time that should be devoted to official duties or that might embarrass the System institution or the Farm Credit Administration or reflect adversely upon their ability, or adversely upon their ability, or perceived ability, to perform their official duties and responsibilities in a totally impartial manner.

(b) Each district shall establish policies and procedures for insuring compliance with this section by all employees on a districtwide basis.

§ 612.2200 Soliciting support in election polls for association, district, service organization, or Federal Farm Credit Board membership.

(a) No employee of a System institution shall take any part, directly or indirectly, in the designation of nominees for the Federal Farm Credit Board, or the nomination or election of members of a district, association, or service organization board or make any statement, either orally or in writing, which may be construed as intended to influence any vote in such designations, nominations, or elections. This prohibition shall not apply to information provided by employees regarding biographical and other data and matters relating to a candidate when such information is provided pursuant to the district policies and procedures for nominations and elections.

(b) No System institution property, facilities, or resources shall be used by any candidate for nomination or election or any other person for the benefit of any candidate for nomination or election, unless the same property, facilities, or resources are simultaneously know to and are available for use by all competing candidates.

§ 612.2220 Political activity.

(a) No salaried officer, employee, or agent of a System institution shall hold a public office or be a candidate for such office unless the bank by which he is employed or which supervises his employer has, after investigation and consideration of all facts involved, determined in writing that such candidacy or holding of public office would not bring justified criticism on the grounds of political activities or partialities or in any other manner adversely affect the best interests of the borrowers or the operations and public image of the System or any institutions thereof. All determinations made hereunder shall be reported to the board of directors of the bank concerned.

(b) No salaried employee shall take an active part or issue public statements relating to the nomination or candidacy of any person or participate in partisan political campaigns for national or statewide elective office, in any way that would implicate by support, endorsement, or otherwise, his connection with the System institution by which he is employed. This statement shall not be construed to prohibit an employee from expressing his personal opinion on political affairs or candidates or making voluntary campaign contributions.

(c) No director or employee shall, for the purpose of furthering the interests of any candidate for nomination or election, furnish or make use of System records that are not made available for use by all competing candidates.

§ 612.2230 Nepotism.

(a) To enable management to take an impartial and objective view of its operations and to avoid the appearance of giving special advantage or favoritism in the hiring or promotion of officers and employees of System institutions, the following restrictions shall be observed:

(1) A relative of a director of a System bank or service organization shall not serve as an officer of that institution.

(2) A relative of a System bank director shall not serve as the chief executive officer of an association supervised by that bank.

(3) A relative of an association director shall not serve as an officer or branch manager of that association.

(4) A person shall not serve as an officer or employee of a System institution in a position that is under the direct supervision of a relative, or where the relative by the position held in the institution or supervising institution has authority to take administrative or other action directly affecting such a person.

(b) Notwithstanding the other provisions of this regulation, a person may serve as an officer or employee in a position directly or indirectly supervised by a relative for periods in any calendar year not exceeding a total of 75 workdays provided that positive documented efforts have been made to recruit a qualified nonrelative for the position.

(c) The provisions of this regulation shall not preclude any person involved in a nepotistic relationship allowable under previous regulations from continuing to serve in the position such person held on the effective date of this regulation.

(d) Each System institution shall establish a mechanism by which each nominee for a position as a director is informed of the provisions of this regulation and the consequences that the election of such nominee will have on relatives.

(e) Each System institution in which a person is required to relinquish the position held because of the election of a relative shall take all reasonable steps to secure an alternative position for such person and minimize the impact of this action.

(f) Prior to the employment or promotion of a person, the institution shall determine whether a prohibited relationship would be created by the action.

(g) Upon becoming aware of any violation or prospective violation, related individuals shall immediately notify the employing System institution's chief executive officer or manager. The chief executive officer or manager upon hearing of any violation or prospective violation by this or other means shall take prompt corrective action, or request instructions from the supervising bank or the Farm Credit Administration, as appropriate.

§ 612.2240 Gifts or favors.

(a) No director, employee, or agent of any System institution shall solicit, give, or receive any gift or present from or to any director, employee, or agent of the employing or supervising institution or any supervised institution. This subsection shall not apply to gifts of a nominal value traditionally exchanged as part of acceptable social amenities.

(b) No director, employee, or agent of any Farm Credit institution shall at any time solicit or receive contributions from the institution's borrowers or loan applicants for a gift or present to any director, employee, or agent of a System institution.

§ 612.2250 Improper use of official property.

No director, employee, or agent of a System institution shall use the space, personal property, communication, transportation, or other facilities of a System institution for activities or business in such person's personal interest or the personal interest of another. This provision does not apply to the use of property, facilities, or resources pursuant to a lease or contract with the institution which is based on an agreement arrived at following arm's-length negotiations, and which is evidenced in a writing setting forth the terms and conditions of such use. Official stationery shall be used only in the conduct of official business of the institution, and shall not be used to express opinions which do not represent the official views of the institution.

§ 612.2260 Standards of conduct for agents.

(a) The maintenance of high standards of honesty, integrity, and impartiality by agents of System institutions is essential to ensure the proper performance of System business and continued public confidence in the System and all its institutions. The avoidance of misconduct and conflicts of interest, either real or apparent, by agents is indispensable to the maintenance of these standards.

(b) Agents of System institutions shall not:

(1) Divulge or use for the benefit of the agent or entity controlled by the agent information acquired as an agent.

(2) Participate, directly or indirectly, in the deliberation by the institution on any question affecting, directly or indirectly, interest of the agent, the agent's family, or any entity controlled by the agent.

(3) Obtain or appear to obtain special advantage or favoritism in dealing with directors, employees, or borrowers of System institutions, particularly in relation to matters involving any interest or lien in real or personal property owned or mortgaged by the System institution.

(4) Borrow from, lend to, or become financially obligated with or on behalf of, directly or indirectly, a director or employee of the System institution.

(5) Take any part, directly or indirectly, in the designation of nominees for the Federal Farm Credit Board, or in the nomination or election of members of a district association or service organization board, or make any statement, either orally or in writing, which may be construed as intending to influence any vote in such designation, nominations, or elections. This prohibition shall not apply to information provided by agents regarding biographical and other data and matters relating to a candidate when such information is provided pursuant to the district policies and procedures for nominations and elections.

(c) Districts shall adopt policies to ensure that:

(1) Agents are in compliance with this section at the time of employment;

(2) Agents are periodically informed of the provisions of this section; and

(3) Corrective action is taken when agents are found to be in noncompliance with this section.

§ 612.2270 Prohibited purchase of System obligations.

(a) No president of a System bank may purchase or otherwise acquire, directly or indirectly, except by inheritance, any Systemwide or consolidated obligation of a System institution which was issued while such person was president;

(b) No employee who serves as the representative or designee of a bank president on a System finance committee or subcommittee may purchase any Systemwide or consolidated obligation of a System institution which was issued during such period of service;

(c) No employee of the Fiscal Agency may purchase or otherwise acquire, directly or indirectly, except by inheritance, any Systemwide or consolidated obligation of a System institution.

(Sec. 5.9, 5.12, 5.18, Pub. L. 92-181, 85 Stat. 619, 620, 621, (12 U.S.C. 2243, 2246, and 2252))

Donald E. Wilkinson,

Governor.

[FR Doc. 82-33826 Filed 12-14-82; 8:45 am]

BILLING CODE 6705-01-M

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 551

Control, Custody, Care, Treatment, and Instruction of Inmates

Correction

In FR Doc. 82-33307, beginning on page 55131, on Tuesday, December 7, 1982, make the following changes:

1. On page 55132, in the second column, in the third line from the top, "April 20, and" should read "April 20, July 20, and".

2. On page 55133, in the first column, in the last line "new profit" should read "net profit".

BILLING CODE 1505-01-M

DEPARTMENT OF THE TREASURY

31 CFR Part 10

Tax Shelters; Practice Before the Internal Revenue Service

AGENCY: Treasury Department.

ACTION: Proposed rulemaking.

SUMMARY: This notice contains modified proposed regulations governing practice before the Internal Revenue Service (IRS) to set standards for providing opinions used in the promotion of tax shelter offerings. The regulations reflect

the Treasury Department's concern about the proliferation of abusive tax shelters in recent years and the role of the IRS practitioner's opinion in the promotion of such shelters. The regulations address the problem by imposing duties upon IRS practitioners who furnish opinions for use in connection with tax shelter offerings. In light of public comments on the original proposed regulations and the promulgation of an opinion on the same subject by the American Bar Association, modifications to the proposal have been made and are being published for comment.

DATE: Comments must be in writing and must be received on or before February 14, 1983. The regulations are proposed to be effective with respect to tax shelter opinions provided after 90 days from the date the regulations proposed hereunder are published in final form.

FOR FURTHER INFORMATION CONTACT: Mr. Leslie S. Shapiro, Director of Practice, Department of the Treasury, Washington, D.C. 20220, 202–634–5135.

SUPPLEMENTARY INFORMATION: On September 4, 1980, the **Federal Register** (45 FR 58594) published for public comment a proposed rule that would amend the regulations governing practice before the Internal Revenue Service contained in 31 CFR, Part 10 (Treasury Department Circular 230). Among other things, the proposed rule would have required an IRS practitioner who provides an opinion for a tax shelter offering to exercise due diligence in ascertaining the accuracy of the facts on which the opinion is based, to use due diligence in assuring that each material tax issue is addressed in the opinion, and to assure that the opinion is accurately and clearly described in any discussion of the tax aspects of the transaction which appears in the offering materials. The proposed rule would have allowed a tax practitioner to provide an opinion for a tax shelter offering only if the opinion concluded that it was more likely than not that the bulk of the tax benefits on the basis of which the tax shelter was promoted whould have been allowable if litigated under the tax laws.

Approximately 90 written comments were received from diverse sources, including attorneys, certified public accountants, enrolled agents, organized bar and accounting groups, and public and special interest groups. A public hearing on the proposed rule was held on November 25, 1980, at which 15 persons offered oral comments on the proposal.

In addition, on November 17, 1980, the **Federal Register** (45 FR 75835) published a notice inviting comments from the public on the desirability of establishing an advisory committee to advise the Treasury Department on issues arising out of the standards proposed in the regulations for tax shelter opinions. Comments on the scope of an advisory committee's duties were also invited. Over 30 comments were received.

On June 1, 1981, the American Bar Association (ABA) issued Formal Opinion 346 relating to the obligations of an attorney in issuing a tax shelter opinion. After expressions of concern by tax practitioners, Formal Opinion 346 was withdrawn and reissued in revised form on January 29, 1982. Unless otherwise noted, references herein to "ABA Opinion 346" refer to the Opinion in its revised form. The principles articulated in ABA Opinion 346 appear consistent with the general obligations imposed on accountants by Rule 201 of the Rules of Conduct promulgated by the American Institute of Certified Public Accountants (AICPA).

General Revision of Proposed Regulations

A practitioner's opinion or similar assistance is often critical to the marketing of a tax shelter. The opinion, even if qualified, limited or simply incorrect, may be viewed by the promoter and the investor as providing assurance that penalties will not be assessed, although deductions and credits taken by the taxpayer subsequently are disallowed. Moreover, the practitioner's willingness to provide an opinion, even if the opinion is pessimistic about the tax benefits being sustained by the courts, or does not purport to address key tax aspects, may be construed by prospective investors as an endorsement of the tax aspects of the shelter.

ABA Opinion 346 addresses many of the fundamental concerns of the Treasury Department with respect to tax shelter opinions and appears generally to contain adequate standards for meeting these concerns.[1] Accordingly, the proposed regulation has been substantially modified in order to reflect the principles and ethical considerations delineated in ABA Opinion 346.

ABA Opinion 346 does not, however, address the concern of the Department with respect to negative opinions—*i.e.*, opinions stating that, in the aggregate, the material tax benefits of the offering are not likely, if litigated, to be allowable. Some negative opinions suggest that, while the benefits of the shelter are not likely to be allowable, there is a "reasonable basis" for the reporting position promoted by the shelter.

In large part, the Department's view of negative opinions is influenced by the absence from the commentary on the original Circular 230 proposal of any clearly articulated rationale for why a tax shelter promoter would, for legitimate reasons, engage a practitioner to provide a negative opinion. In the absence of any other explanation, two reasons present themselves. First, the promoter may believe that prospective investors will not read or understand the opinion, or that the presence of a practitioner's opinion will be misconstrued by investors as an endorsement of the shelter, or as insurance against the imposition of penalties to which, absent the opinion, they might otherwise be subject if the tax benefits of the offering are ultimately disallowed. Second, if the opinion states that there is a reasonable basis for the reporting position promoted by the shelter, but that the benefits of the shelter are unlikely to be allowed if litigated, prospective investors may be induced to invest in the tax shelter and to file their returns not in accordance with what they believe the tax law allows, but based upon reporting positions that are sufficient only to avoid fraud or negligence penalties.

If there is no reasonable basis for the reporting position suggested in the shelter offering, the practitioner's assistance to the promoter by furnishing a negative opinion is objectionable, because the opinion's purpose is not to advise potential investors, but to induce or encourage them to adopt a reporting position which, but for the opinion, would subject such investors to penalties for fraud or negligence. If there is a reasonable basis for the reporting position, but no substantial likelihood that the position will be upheld if litigated—the second reason noted above—a negative opinion is also objectionable. The practitioner who places such an opinion in the hands of a promoter, knowing that it will be used in offering materials and to promote the shelter, authorizes use of his opinion for soliciting potentially large numbers of persons to seek tax benefits which the opinion says are not allowable under the tax laws.

The Treasury Department believes that a practitioner should not actively

[1] In particular, by requiring a statement as to whether the putative benefits of the shelter, in the aggregate, are likely to be realized, Opinion 346 effectively prohibits use of opinions in tax shelter promotions which state merely that there is a reasonable basis for the reporting position suggested in the shelter offering materials without predicting the outcome of litigation.

encourage potential tax shelter investors to pursue conduct which the practitioner believes is contrary to the tax laws. Furnishing a negative opinion to a tax shelter promoter is inconsistent with this concept; far from attempting to discourage noncompliance with the laws, the practitioner is actively participating in the solicitation of potential investors to pay only those taxes necessary to avoid a penalty.

Such conduct by a practitioner is inimical to our voluntary self-assessment tax system and its underlying principles. In a self-assessment system, it is assumed that taxpayers can be relied upon to pay those taxes which are required by law. To the extent that a practitioner's opinion actively is used to encourage large numbers of taxpayers to claim tax benefits that the practitioners believes are unavailable, the foundations of the self-assessement system are eroded. Just as a lawyer has a duty to protect the integrity of the legal system as a whole, so the tax practitioner, in the Department's view, has a duty to protect the integrity and effectiveness of the tax system. Conduct which is inconsistent with this standard could be, in the Department's view, "disreputable" within the meaning of 26 U.S.C. 1026.[2]

Nevertheless, because of changes in the Internal Revenue Code effected by the Tax Equity and Fiscal Responsibility Act of 1982 ("TEFRA"), including the enactment of a new penalty for substantial understatements of tax liability (Section 6661 of the Code), the Department now believes that the unsefulnes and viability of negative opinions in tax shelter offerings, may have been substantially undercut.[3]

Accordingly, the modified proposed rule does not attempt to prohit the issuance of a negative opinion in connection with a tax shelter offering, provided that it complies with the remaining rules set forth in the modified proposed rule.

However, practitioners should be aware of the Treasury Department's view that negative opinions, given in connection with publicly marketed tax shelter offerings, are inappropriate in, and ultimately destructive of, a self-assessment tax system. For this reason, while the modified proposed rule does not prohibit negative opinions, the Department may wish to reconsider the issue if in the future such opinions return to common use.

Discussion of Major Comments and Changes

1. *General Comments.* a. The vast majority of comments explicitly endorsed the Treasury Department's concern about the role of practitioners' tax opinions in the promotion of abusive tax shelters. Many believed regulation in this area is appropriate and supported the regulations either as proposed or with modifications. Others rejected the proposal, believing there is no need for Treasury to regulate tax shelter opinions by IRS practitioners.

A number of comments expressed the view that the proposed regulations would unduly interfere with the lawyer-client relationship, and that this relationship should not be regulated.

The proposed rule does not affect or regulate the practitioner's relationship with individual clients. It is drawn, with one exception,[4] to apply to "tax shelter opinions"—defined as advice by a practitioner concerning the Federal tax aspects of a tax shelter either *appearing* in offering materials or *used* in connection with sales promotion efforts directed to persons *other than the client who engaged the practitioner to give the advice.* It is thus the *use* of a tax shelter opinion that the proposed rule would regulate, not the rendering of an opinion by a lawyer to his client.

b. Many comments, particularly those which opposed the proposal, expressed the view that the regulation of practitioners concerning tax shelter opinions is better left to appropriate professional licensing authorities. Other vehicles believed to be more appropriate than the proposal as means of addressing the problem also were suggested, including legislation, enforcement through the securities laws, and enforcement by the IRS through such means as stronger audit programs and implementation of regulations. A number of commenters believed that while control by a licensing authority would be desirable and appropriate, the seriousness of abuses in the tax shelter area justifies some rule-making by the Treasury Department, with perhaps a "sunset" provision.

The Treasury Department recognizes that professional licensing authorities often serve as an important enforcement vehicle. Nevertheless, the Department believes that the variation in enforcement because of the multiplicity of professional licensing authorities justifies the adoption of a rule which provides a basis for uniform, direct action by the Department.

c. Many comments expressed concern that the Treasury Department is not a disinterested party in enforcement actions, and thus should not serve as a tribunal in the enforcement of the proposed rule.

The regulations in Circular 230 are enforced by the Director of Practice, an official of the Treasury Department appointed by the Secretary. By order of the Secretary, the determinations of the Director of Practice may not be modified by the Commissioner of Internal Revenue, and thus by appointment and authority the Director of Practice is independent of the IRS. Further, under applicable regulations, an IRS practitioner cannot be suspended or disbarred from practice before the Department until he or she is accorded a full evidentiary hearing before an administrative law judge in accordance with the provisions of the Administrative Procedure Act, 5 U.S.C. 551–559. Appeals from an administrative law judge's initial decision are taken to a delegate of the Secretary of the Treasury (currently, the General Counsel of the Treasury), and an aggrieved respondent may then bring the matter into the Federal courts. Hence, the Director of Practice implements a program that is not only independent of the IRS but provides administrative due process safeguards and judicial review.

In response to a request for views on the establishment of an advisory committee of IRS practitioners to assist the Director of Practice, many

---

[2] 31 U.S.C. 1026 states: The Secretary of the Treasury may prescribe rules and regulations governing the recognition of agents, attorneys, or other persons representing claimants before his department, and may require of such persons, agents, and attorneys, before being recognized as representatives of claimants, that they shall show that are of good repute, possessed of the necessary qualifications to enable them to render such claimants valuable service, and otherwise competent to advise and assist such claimants the presentation of their cases. And such Secretary *may after due notice and opportunity for hearing suspend, and disbar from further practice before his department and such person, agent, or attorney shown to be incompetent, disreputable, or who refuses to comply with the said rules and regulations,* or who shall with intent to defraud, in any manner willfully and knowingly deceive, mislead, or threaten any claimant or prospective claimant, by word, circular, letter, or by advertisement. (July 7, 1884, ch. 334 § 3,23 Stat. 258). (Emphasis supplied)

[3] As amended by TEFRA, section 6661(b)(2)(C)(i)(II) of the Code now requires that, to avoid an underpayment penalty, the investor in a tax shelter must have "substantial authority" for the position taken in his return with respect to each deduction, credit or other tax item, and must reasonably believe that the tax treatment of each item of deduction, credit, etc., was more likely than not the proper treatment. Under these circumstances, a negative opinion would cast doubt on the tax shelter investor's reasonable belief in the correctness of his reporting position and thus would make the avoidance of underpayment penalities more difficult.

[4] As a clarification of § 10.51, providing an intentionally or recklessly false or grossly negligent opinion, or a pattern of providing incompetent opinions in Federal tax matters (not just in tax shelters), is specifically identified as an instance of disreputable or incompetent conduct.

commentators thought that it would be appropriate to establish such a panel to advise the Director of Practice on whether certain categories of conduct create a cause of action under the regulations. In light of the broad support for this concept, the Treasury Department is proposing to adopt the proposal, and will establish an advisory committee for this purpose under the Federal Advisory Committee Act.

2. *Due diligence as to factual matters.* The original proposed rule required that a tax shelter opinion be based on the actual facts of the transaction, and not on hypothetical facts. It further required that a practitioner exercise "due diligence" in ascertaining the accuracy of facts furnished by the client for purposes of the practitioner's opinion.

Some comments objected to the scope and indefiniteness of a due diligence requirement in rendering a tax shelter opinion. It was felt that a practitioner should not be placed in a position of guaranteeing all facts, particularly if this would require an audit or verification of each relevant fact. Moreover, it was argued that most practitioners are not expert in the subject matter of most tax shelter ventures and should be able to rely on the opinions of clients and third party experts with full disclosure of such reliance. Some comments indicated that the proposal may be in conflict with the due diligence requirements under the Federal securities laws.

The modified proposed regulation reflects the guidelines of ABA Opinion 346 on this subject.

ABA Opinion 346 in turn adopts portions of ABA Formal Opinion 335, dealing with assumed facts opinions in connection with the sale of unregistered securities. Opinion 335 is quoted in Opinion 346 as follows: "The essence of this opinion . . . is that, while a lawyer should make adequate preparation including inquiry into the relevant facts . . . and while he should not accept as true that which he should not reasonably believe to be true, he does not have the responsibility to 'audit' the affairs of his client or to assume, without reasonable cause, that a client's statement on the facts cannot be relied upon."

ABA Opinion 346 goes on to state: "For instance, where essential underlying information, such as an appraisal or financial projection, makes little common sense, or where the reputation or expertise of the person who has prepared the appraisal or projection is dubious, further inquiry clearly is required. Indeed, failure to make further inquiry may result in a false opinion. . . . If further inquiry reveals that the appraisal or projection is reasonably well supported and complete, the lawyer is justified in relying upon the material facts which the underlying information supports."

To these guidelines it is appropriate to add the Treasury Department's views of the application of there tests to several matters involving the fair market value of property. First, if property has been or is to be purchased, and the value of the property is material to the potential tax benefits of the transaction, the practitioner should carefully review the terms and conditions upon which the property is purchased to determine whether the stated purchase price reasonably may be considered to be its fair market value. Second, where the value of property is determined by appraisal, the practitioner must satisfy himself that the appraisal is based upon the definition of fair market value prescribed under the relevant tax provisions and not on some other basis.

3. *"Due diligence" as to critical tax issues.* The original proposed rule required that the practitioner use due diligence to assure that a legal conclusion is drawn with respect to each material tax issue in a proposed tax shelter offering. Such an opinion could not merely provide opposing views or state that there is a "reasonable basis" for a position without predicting its chances of success if challenged.

Some comments disagreed with the requirement that a practitioner be required to provide an opinion on all of the important tax aspects of a transaction. The proponents of this view felt that a practitioner should be able to prepare an opinion on less than all the tax aspects (as defined in the first notice of proposed rulemaking) if the opinion clearly identifies those aspects not covered. Further, a number of comments took exception to the statement in the supplemental information which accompanied the original proposed rule that a practitioner would only rarely be unable to predict the outcome of litigation on a particular tax issue. It was maintained that the complexities and uncertainties of the tax laws are such that diligent tax practitioners may find it impossible to make such predictions in more than just a few rare cases.

The revised proposed rule follows the approach of ABA Opinion 346, which requires that all those material tax issues which reasonably could be challenged by the Internal Revenue Service must be fully and fairly addressed in the offering materials, and that a conclusion as to the likely outcome of each such issue be stated in the opinion or the offering materials. In this connection, it should be noted that, to avoid underpayment penalties, investors in certain tax shelters are required, under Section 6661(b)(2)(C)(i)(II) of the Code, to "reasonably believe" that the treatment of a tax item in their returns is "*more likely than not* the proper treatment." (Emphasis added.)

All of the material tax issues need not be addressed in a formal opinion if they are clearly and fully addressed in the offering materials. In those circumstances where the practitioner has concluded that a judgment as to the outcome of an issue cannot be made, a statement of this position must be made together with supporting reasons. Since the opinion required of the practitioner under this standard is only a prediction as to outcome and not of course a requirement that the practitioner be certain as to the result, the Department continues to believe that a practitioner's inability to predict the outcome of a particular issue will be the exceptional case.

4. *"More likely than not" test.* A great number of comments argued against the wisdom and propriety of the requirement in the original proposed regulation that a tax shelter opinion be provided only if the opinion concludes that it is more likely than not that the "bulk" of the tax benefits on the basis of which the shelter is promoted are allowable under the tax laws.

Several positions were set forth in support of this opposing view. First, it was argued that the standard imposed by the proposal is vague and subjective. In particular, many comments complained about the vagueness of a test which defines "bulk" simply as "substantially more than 51%" and then goes on to say that the term is not a precise directive. This, it was contended, gives little guidance to practitioners.

Second, a number of comments maintained that there is nothing wrong ethically with giving a negative opinion, and that the proposed regulation would deter practitioners from innovative thinking and from good faith challenges to IRS positions. In this connection, some comments stated that a practitioner may urge any permissible construction of the law favorable to a client, without regard to the practitioner's opinion as to the likelihood that the construction will ultimately prevail, provided the position taken has a reasonable basis is law or is supportable by good faith arguments.

There are in fact two issues here. The first issue is whether it is an element of good practice to give an overall

judgment as to the likelihood that, in the aggregate, the material tax issues in the offering would, if litigated, be resolved in favor of the taxpayer. Opinion 346 answers this question in the affirmative, requiring that "the offering materials should include an opinion by the lawyer or by another professional providing an overall evaluation of the extent to which the tax benefits, in the aggregate, which are a significant feature of the investment to the typical investor are likely to be realized as contemplated by the offering materials."

The second issue is whether the practitioner, in giving an over-all evaluation of an offering, may furnish to the promoter for use in the offering materials an opinion which concludes that the tax benefits on the basis of which the offering is promoted are *unlikely* to be realized. On this issue, Opinion 346 as revised states that "the Committee does not accept the view that it is always ethically improper to issue an opinion which concludes that the significant tax benefits in the aggregate probably will not be realized." For reasons expressed at the outset of these supplementary materials, the Treasury Department does not believe it is necessary, at this time, to provide for disciplinary action in the event that a negative opinion is furnished.

Nonetheless, the Department continues to believe that furnishing such a "negative" opinion to a promoter for use in a tax shelter offering is conduct which could be deemed "disreputable" under 31 U.S.C. 1026, the statutory source of the Secretary's authority to discipline practitioners before Treasury agencies.

5. *Specific Concerns of Certified Public Accountants.* Certified public accountants expressed concern about a possible conflict between the "more likely than not" requirement and the prohibition in the AICPA Code of Professional Ethics (Section 201.01E) against permitting a certified public accountant's name to be used in conjunction with any forecast which may lead to the belief that the practitioner vouches for the achievability of the forecast. Whether Rule 201.01E precludes a certified public accountant from giving a predictive tax opinion is a matter for accountants' regulatory bodies. However, if a tax opinion is given, it must comply with proposed section 10.33. Moreover, it is Treasury's understanding that the AICPA prohibition does not apply to an opinion on the effects of the tax law on future transactions. An opinion on the tax outcome of a venture (allowability under the tax laws) is not considered the same as financial achievability. This is particularly true with a disclaimer of financial forecasting, a normally accepted practice of the certified public accounting profession. It is therefore Treasury's understanding that the requirements of the proposed rule are consistent with sound accounting practice.

6. *Definitions.* A great number of comments objected to the definitions of "tax shelter" and "tax shelter opinion." The objections were predicated on the belief that the definitions individually and/or taken together, were too broad, subjective and vague, and go beyond what is necessary to accomplish the purpose of the proposal. It has been claimed that the definitions could subject to sanction perfectly proper actions by tax practitioners. Commenters claimed that it is unreasonable and unworkable to require a practitioner to determine taxpayers' perceptions of an offering. Commenters also stated that the definitions included many offerings that are not inherently abusive. In this regard, some recommended that a clear exception be made for opinions that deal with the tax status of the investment vehicle, *e.g.*, partnership status. Others recommended exceptions for certain types of investments, *e.g.*, those transactions not generally regarded as tax shelters and those for which the investor's tax position is clearly supported by the Internal Revenue Code and regulations thereunder.

The definitions of tax shelter and tax shelter opinion have been modified. The revised definition of tax shelter conforms with the definition in ABA Opinion 346.

The definition of tax shelter opinion also follows the definition in ABA Opinion 346 with certain clarifications. It is clear from both the definitions of the ABA and the Treasury Department that a tax shelter opinion does not include advice rendered solely to a promoter who is a client of the practitioner as long as the advice is not to be used in connection with the sales promotion efforts. Although some have suggested that proposed Circular 230 interfered with the lawyer-client relationship, these definitions make clear that advice to a client is not covered by this rule unless further dissemination of that advice is contemplated.

The proposed rule, again following revised Opinion 346, also makes clear that a tax shelter opinion includes the preparation of the tax aspects or tax risk factors section of the offering circular. However, a tax shelter opinion does not cover advice solely to the promoter, or reviewing parts of the offering materials, as long, *inter alia*, as the name of the practitioner does not appear in the offering materials, and the practitioner's name is not used by the promoter in connection with the offering. As revised, the proposed rule does not require that a practitioner render a formal opinion on the practitioner's letterhead. However, any opinion rendered, together with offering materials used in conjuction with the opinion, must comply with the rule.

As more fully explained in Section 7 of these supplementary materials, *infra*, a practitioner is not subject to discipline under the proposed rule unless his conduct is willful, reckless, grossly negligent, or part of a pattern of providing tax shelter opinions that fail to comply with the proposed rule. This standard will be applied in particular cases to determine whether a practitioner allowed his advice to a client to be used or disseminated in such a manner as to fall within the rule's definition of tax shelter opinion. Under this standard, a practitioner will not be subject to discipline on account of his client's use or dissemination of the practitioner's advice if the practitioner takes reasonable steps to assure that the advice is not used or referred to either in the offering materials or in connection with promotion of the shelter, and that neither the client, nor the offering materials will, in connection with promotion of the shelter, make reference to the practitioner's name, or to the fact that a practitioner has rendered tax advice on the offering.

With respect to the definition of a "material" tax issue, the Treasury Department believes that the potential applicability of penalties (including the "substantial understatement" penalty under section 6661 of the Code) is a material tax issue that should be addressed in a tax shelter opinion. In addition potential application of any other tax principles that could have a significant adverse impact on an investor, such as depreciation or investment tax credit recapture, realization of income in excess of cash flow upon sale or other disposition of a tax shelter investment, or other tax incidents of a so-called "burned-out" shelter, may also be material in the context of a particular tax shelter. The revised proposed rule adopts a definition of a material tax issue that is patterned after the definition in ABA Opinion 346, with modificaitons to take into account potentially negative tax consequences implicit in the tax shelter (including potential penalties).

7. *Willfulness.* Some comments objected to the proposal's omission of the element of willfulness as requirement for violation of the proposed regulations. It was argued that the proposal therefore lacks a penal provision's requirements of clarity, specificity and general acceptance by the practitioners subject thereto. For this reason, it was urged that sanctions under the regulation not be invoked in the absence of willful misbehavior.

The standard of willfulness would make it impossible to discipline the negligent or incompetent practitioner, a possibility Treasury wishes to retain. But in recognition of the need for guidance on the criteria that Treasury will employ in enforcing the rule, section 10.51(j) has been amended and a new section 10.52(b) has been proposed. These changes adopt the disciplinary approach of ABA Opinion 346 and the ABA Code of Professional Responsibility, prohibiting knowing or reckless conduct and conduct involving gross negligence (gross incompetence, indifference to consequences, inadequate preparation under the circumstances and consistent failure to perform obligations to the client). Knowing or reckless conduct is defined to conform to that required for recovery by investors under Rule 10b–5 promulatated under the Securities Exchange Act of 1934. *Ernst & Ernst v. Hochfelder,* 425 U.S. 185 (1976) and *Sharp v. Coopers & Lybrand,* 457 F. Supp. 879 (ED Pa. 1978). In addition, conduct which is part of a pattern of repeated failures to comply with the rules governing tax shelter opinions may subject a practitioner to discipline.

In applying this standard, the Director of Practice will review the opinion and offering materials in light of the practitioner's compliance with rules set out in the regulations under section 10.33 as ultimately adopted in final form.

8. *Reliance on Other Opinions, Providing Partial Opinions.* In giving an overall evaluation of a proposed offering, a practitioner may rely on other tax opinions only if, after reviewing such other opinions and any offering material, the practitioner has no reason to believe that the requirements of the revised proposed rule have not been complied with. If another professional is providing the overall evaluation, a practitioner who is rendering an opinion on less than all tax issues must have no reason to believe that the overall evaluation is incorrect.

9. *Practice.* In response to comments questioning the range of professional services within the ambit of practice before the IRS and in order to clarify the position of the Treasury Department on the subject, the definition of "practice before the Internal Revenue Service" in section 10.2(a) of Circular 230 is being amended. The amendment reflects the position of the Treasury Department that any person regardless of professional status may prepare tax returns and, accordingly, furnish information to the IRS as a witness or at the request of the IRS. However, tax practitioners are required to comply with the provisions of Circular 230 governing those services.

10. *Firms.* Several commenters expressed concern as to whether the regulations would extend to firms or if their application would be limited to individuals within a firm. In order to clarify the matter, the proposed rule addresses the circumstances under which the regulations would apply to a firm.

Executive Order 12291

It has been determined that this rule is not a major rule within the meaning of Executive Order 12291 since it is unlikely that any of the results delineated in the Executive Order will be realized.

Regulatory Flexibility Act

This rule is not subject to the provisions of the Regulatory Flexibility Act since the Notice of Proposed Rulemaking was published before January 1, 1981, the effective date of the Act.

Drafting Information

The principal author of these regulations is Mr. Leslie S. Shapiro, Director of Practice, Department of the Treasury. Other present and former personnel in the Treasury Department participated in the development of the regulations, both as to substance and style.

List of Subjects in 31 CFR Part 10

Administrative practice and procedures, Lawyers, Accountants, Enrolled agents, Enrolled actuaries.

Authority

These proposed rules are issued under authority of Sec. 3, 23 Stat. 258, secs. 2–12, 60 Stat. 237 et seq.; 5 U.S.C. 301; 31 U.S.C. 1026, Reorg. Plan No. 26 of 1950, 15 FR 4935, 65 Stat. 1280, 3 CFR, 1949–53 Comp., p. 1017.

PART 10—[AMENDED]

31 CFR Part 10 is proposed to be amended as follows:

§ 10.2 [Amended]

1. In § 10.2, paragraph (a) is amended by removing the third sentence.

2. Section 10.7 is amended by adding paragraph (c) to read as follows:

§ 10.7 Limited practice without enrollment.

* * * * *

(c) *Preparation of tax return and furnishing information.* Any person may prepare a tax return, may appear as a witness for the taxpayer before the Internal Revenue Service, or furnish information at the request of the Internal Revenue Service or any of its officers or employees.

3. Section 10.33 is added to read as follows:

§ 10.33 Tax shelter opinions.

(a) *Tax shelter opinions and offering materials.* A practitioner who provides a tax shelter opinion analyzing the Federal tax effects of a tax shelter investment shall:

(1) Make inquiry as to all relevant facts, be satisfied the material facts are accurately and completely described in the offering materials, and assure that any representations as to future activities are clearly identified, reasonable and complete;

(2) Relate the law to the actual facts and, when addressing issues based on future activities, clearly identify what facts are assumed;

(3) Ascertain that all material Federal tax issues have been considered, and that all of those issues which involve the reasonable possibility of a challenge by the Internal Revenue Service have been fully and fairly addressed in the offering materials;

(4) Where possible, provide an opinion whether it is more likely than not that an investor will prevail on the merits of each material tax issue presented by the offering; where such an opinion cannot be given with respect to any tax issue, the opinion should fully describe the reasons for the practitioner's inability to opine as to likely outcome;

(5) Provide an overall evaluation of the extent to which the material tax benefits in the aggregate are likely to be realized; and

(6) Assure that the offering materials correctly represent the nature and extent of the tax shelter opinion.

(b) *Reliance on other opinions.* A practitioner may provide an opinion on less than all of the material tax issues if:

(1) At least one other competent practitioner provides an opinion on the likely outcome with respect to the other material tax issues, and an overall evaluation of the extent to which the material tax benefits in the aggregate are likely to be realized, which is

disseminated in the same manner as the practitioner's opinion; and

(2) The practitioner, upon reviewing such other opinions and any offering materials, has no reason to believe that the standards of paragraph (a) of this section have not been complied with.

Notwithstanding the foregoing, a practitioner who has not been retained to provide an overall evaluation of the extent to which the tax benefits in the aggregate are likely to be realized may issue an opinion on less than all the material tax issues only if he has no reason to believe that the conclusion of any other practitioner who furnishes an overall evaluation is incorrect.

(c) *Definition.* For purposes of this section:

(1) "Practitioner" is any person authorized under section 10.3 of this part to practice before the Internal Revenue Service.

(2) A "tax shelter," as the term is used in this section, is an investment which has as a significant feature for Federal income or excise tax purposes either of the following attributes: (i) Deductions in excess of income from the investment being available in any year to reduce income from other sources in that year, or (ii) credits in excess of the tax attributable to the income from the investment being available in any year to offset taxes on income from other sources in that year. Excluded from the term are investments such as, but not limited to the following: Municipal bonds; annuities; family trusts; qualified retirement plans; individual retirement accounts, stock option plans; securities issued in a corporate reorganization; mineral development ventures, if the only tax benefit would be percentage depletion; and real estate where it is anticipated that deductions are unlikely to exceed gross income from the investment in any year, and that any tax credits are unlikely to exceed the tax on the income from that source in any year.

(3) A "tax shelter opinion," as the term is used in this section, is advice by a practitioner concerning the Federal tax aspects of a tax shelter either appearing or referred to in the offering materials, or used or referred to in connection with sales promotion efforts, and directed to persons other than the client who engaged the practitioner to give the advice. The term includes the tax aspects or tax risks portion of the offering materials prepared by a practitioner whether or not a separate opinion letter is issued. The term does not, however, include rendering advice solely to the offeror or reviewing parts of the offering materials, so long as neither the name of the practitioner nor the fact that a practitioner has rendered advice concerning the tax aspects is referred to in the offering materials or in connection with the sales promotion efforts.

(4) A "material" tax issue as the term is used in this section is (i) any Federal income or excise tax issue relating to a tax shelter that would have a significant effect in sheltering from Federal taxes income from other sources by providing deductions in excess of the income from the tax shelter investment in any year, or tax credits available to offset tax liabilities in excess of the tax attributable to the tax shelter investment in any year; (ii) any other Federal income or excise tax issue relating to a tax shelter that could have a significant impact (either beneficial or adverse) on a tax shelter investor under any reasonably foreseeable circumstances (e.g., depreciation or investment tax credit recapture, or realization of taxable income in excess of cash flow, upon sale or other disposition of the tax shelter investment); and (iii) penalties, additions to tax, or interest charges that potentially could be asserted against a tax shelter investor by the Internal Revenue Service with respect to tax shelter. The determination of what is material is to be made in good faith by the practitioner, based on information available at the time the offering materials are circulated.

4. Section 10.51 is amended by adding (j) to read as follows:

§ 10.51 Disreputable conduct.

* * * * *

(j) Giving an intentionally or recklessly false, misleading, or grossly negligent opinion, or a pattern of providing incompetent opinions on questions arising under the Federal tax laws. False or intentionally or recklessly misleading opinions include those which reflect or result from a knowing misstatement of fact or law; from an assertion of a position known to be unwarranted under existing law; from counseling or assisting in conduct known to be illegal or fraudulent; from concealment of matters required by law to be revealed; or from reckless or conscious disregard of information indicating that material facts expressed in the tax opinion or offering material are false or misleading.

For the purpose of this section, reckless conduct is a highly unreasonable omission or misrepresentation, involving not merely simple or inexcusable negligence, but an extreme departure from the standards of ordinary care that is either known or is so obvious that the competent practitioner must or should have been aware of it. Gross negligence is conduct that reflects gross incompetence on the part of a practitioner, or indifference, inadequate preparation under the circumstances, and a consistent failure to perform obligations to the client.

5. In § 10.52 the existing paragraph is designated as paragraph (a), a new heading is added to paragraph (a) and new paragraphs (b), (c), and (d) are added to read as follows:

§ 10.52 Violation of regulations.

(a) *General.* * * *

(b) An attorney, certified public accountant, enrolled agent or enrolled actuary may be disbarred or suspended from practice before the Internal Revenue Service for violation of any part of § 10.33 of this part if such violation is (1) willful; (2) reckless within the meaning of § 10.51(j); (3) grossly negligent within the meaning of § 10.51(j), treating, for this purpose, prospective tax shelter investors as "clients"; or (4) part of a pattern of providing tax shelter opinions that fail to comply with § 10.33 of this part.

(c) Ordinarily a practitioner is subject to disciplinary action for violation of these rules in his or her individual capacity. However, disciplinary action may be taken against a firm if the tax opinion is a firm opinion and if there is an unreasonable absence of procedures within the firm to review firm opinions. Such an unreasonable absence of procedures will be deemed to have occurred when, for example, there has been a pattern of opinions by members of the firm or in the firm's name which the firm knew or reasonably should have known did not meet the standards of § 10.33 of this part.

6. Section 10.76 is added to read as follows:

§ 10.76 Advisory Committee.

For purposes of advising the Director of Practice whether an individual may have violated § 10.33 of this part, the Director of Practice is authorized to establish an Advisory Committee, composed of at least five individuals authorized to practice before the Internal Revenue Service. Under procedures established by the Director of Practice, such Advisory Committee shall review and make recommendations with regard to alleged violations of § 10.33 of this part.

Dated: December 10, 1982.

Peter J. Wallison,

General Counsel, Department of the Treasury.

[FR Doc. 82-34096 Filed 12-14-82; 8:45 am]

BILLING CODE 4810-25-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3200

Geothermal Resources Leasing; General; Amendments to the Geothermal Resources Leasing Program

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rulemaking

SUMMARY: This proposed rulemaking would eliminate a number of redundant regulatory requirements that currently affect parties seeking to acquire interests in Federal geothermal leases. The requirements proposed for deletion involve additional documentary statements concerning acreage holdings, citizenship, corporate qualifications, proof of authority to act, municipality papers, and identification of other parties of interest, where a prospective lessee or holder of an interest in a geothermal lease has already certified to these items.

DATE: Comments by February 14, 1983.

ADDRESS: Comments should be sent to: Director (140) Bureau of Land Management, 1800 C Street, NW., Washington, D.C. 20240.

Comments will be available for public inspection in Room 5555 of the above address during regular working hours (7:45 a.m. to 4:15 p.m.) Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Karl F. Duscher (202) 343-8537.

SUPPLEMENTARY INFORMATION: The existing regulations on geothermal leasing require parties seeking an interest in Federal geothermal leases to provide certain data and collaborating information regarding their qualifications for holding leases. These would be deleted by the proposed rulemaking. Instead, the Bureau would have prospective lesees or prospective holders of interests in geothermal leases certify, under penalty of law, that they meet the qualification requirements by signing a statement to that effect prior to obtaining an interest in a lease. This certified statement would be contained in the forms used to issue the lease or interest in a lease. The authorized officer would retain the authority to require supporting information concerning qualifications to hold a lease or an interest in a lease, should the officer determine it to be necessary. The purpose of this change is to reduce the redundant regulatory burden on those seeking to acquire interests in Federal geothermal leases, while still assuring, by means of certification, that propsective lessees or prospective holders of interests possess the necesary statutory and regulatory qualifications to hold an interest in a geothermal lease. The following specific changes are proposed:

(1) Section 3201.2(e) requiring a statement as to acreage holdings upon a request from the authorized officer would be deleted. This requirement would be incorporated in the revision to § 3202.2.

(2) Section 3202.2 would be rewritten to allow the authorized officer to require applicants to provide specific information concerning their qualifications to hold interests in leases. Previously, these statements were required before issuance of leases.

(3) Section 3210.2-1 would be amended by deleting Paragraphs (a),(b),(d), and (e). These subsections either are unnecessary or will be addressed by the revision to § 3202.2.

(4) Section 3220.2 would be deleted. Nominations for the sale of known geothermal resources areas are not necessary since the Bureau of Land Management's policy is to offer such lands for geothermal lease sale as soon as possible.

(5) Section 3241.1-2 would be deleted because it simply repeats the requirements found at § 3202.2 that apply to all parties seeking to acquire interests in Federal geothermal leases.

(6) Section 3241.2-3(b) is revised to be consistent with the change made to § 3202.2.

(7) Section 3241.7-1(c) is deleted since it repeats the requirements found at § 3202.2 that apply to all parties seeking to acquire interests in Federal geothermal leases.

The principal author of this proposed rulemaking is Karl F. Duscher, Division of Oil, Gas and Geothermal Resources, assisted by the staff of the Office of Legislation and Regulatory Management, Bureau of Land Management.

It is hereby determined that this proposed rulemaking is not a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)C is required.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

The Department of the Interior has further determined that the major effect of this proposed rulemaking would be to reduce the existing regulatory burden on parties involved in applying for interests in Federal geothermal leases. The impact would not be significant under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

The information collection requirements contained in this rulemaking have been previously approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1004-0038. No new information collection requirements are contained in this rulemaking.

List of Subjects in 43 CFR Part 3200

Environmental protection, Geothermal energy, Mineral royalties, Public lands: Classification, Public lands: Mineral resources, Surety bonds.

Under the authority of the Geothermal Steam Act of 1970 (30 U.S.C. 1001-1025), it is proposed to amend Group 3200, Subchapter C, Chapter II of Title 43 of the Code of Federal Regulations as set forth below:

PART 3200—GEOTHERMAL RESOURCES LEASING; GENERAL

§ 3201.2 [Amended]

1. Section 3201.2(e) is removed in its entirety.

2. Section 3202.2 is retitled and revised as follows:

§ 3202.2 Proof of qualifications.

Any party seeking to acquire or already holding a Federal geothermal lease or interest therein may be required by the authorized officer to submit proof that the party is qualified to hold a geothermal lease and is in compliance with the regulations of this part and the provisions of the Geothermal Steam Act of 1970 (84 Stat. 1566). Such proof shall be submitted within 30 days of request.

§ 3202.2-1 Proof which may be required.

The authorized officer may require:

(a) Evidence that the lessee does not hold acreage in excess of that prescribed in § 3201.2 of this title. A lessee may be additionally required to submit the serial numbers and percent interest held in all leases as of a specified date.

(b) Evidence that the lessee or applicant is a citizen of the United States or, if a corporation or association,

that the entity is in compliance with § 3202.1 of this title.

(c) Evidence that the individual executing an application, lease, or transfer of interest on behalf of another party is authorized to act in that capacity. In the case of a guardian or trustee, a copy of the authorizing court order or other legal instrument shall constitute such evidence.

(d) Evidence indicating whether the applicant or lessee is the sole party in interest and, if not, providing the names, addresses, and nature of interests of any other parties.

(e) Evidence showing that the municipality or governmental unit involved is authorized to hold geothermal leases. The evidence shall include a copy of the governing body's resolution authorizing the particular action being taken.

(f) Evidence setting forth the names and addresses of all members or stockholders controlling more than 10 percent of the corporation or association.

§ 3210.2–1 [Amended]

3. Section 3210.2–1 is amended by removing paragraphs (a), (b), (d), and (e) in their entirety, and removing the figure (c) from paragraph (c).

§ 3220.2 [Removed]

4. Section 3220.2 is removed in its entirety.

§§ 3220.2, 3220.3, 3220.4 and 3220.5 [Redesignated from §§ 3220.3, 3200.4, 3200.5 and 3220.6]

5. Sections 3220.3, 3200.4, 3200.5 and 3220.6 are redesignated as 3220.2, 3220.3, 3220.4 and 3220.5 respectively.

§ 3241.1–2 [Removed]

6. Section 3241.1–2 is removed in its entirety.

§ 3241.2–3 [Amended]

7. Section 3241.2–3(b) is amended by adding in the last sentence after the phrase "qualifications of the assignee" the phrase", if requested by the authorized officer,".

§ 3241.7–1 [Amended]

8. Section 3241.7–1(c) is removed in its entirety.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

November 12, 1982.

[FR Doc. 82–34075 Filed 12–14–82; 8:45 am]

BILLING CODE 4310–84–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1220

[No. 38849]

Review of Preservation of Records Rules

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proceeding is being instituted to review and make changes to the currrent Preservation of Records Rules, 49 CFR Part 1220. The objective is to prescribe only those records and recordkeeping periods which are needed for Commission regulatory purposes. This will allow each company's management more autonomy in establishing a recordkeeping program, while reducing costs and burden.

DATE: Comments are due on or before January 24, 1983. The proposed rules would be effective immediately after adoption by the Commission.

ADDRESS: Copies of this rule may be obtained by writing to: Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423, or by calling 202–275–7428.

An original and 10 copies of any comments should also be sent to the above address.

FOR FURTHER INFORMATION CONTACT: Andrew J. Lee, (202) 275–7448.

SUPPLEMENTARY INFORMATION: This proceeding emanates from the Commission's periodic review of the preservation of records regulations. Also, under Section 610 of the Regulatory Flexibility Act (Pub. L. 96–354), the Commission is required to review its rules to consider the effects of the rules on small entities. On November 3, 1981, the Commission published its 10-year plan for the review of its regulations. The preservation of records rules (49 CFR Part 1220) were scheduled for review during this calendar year (46 FR 54614, August 15, 1980). A specific Notice of Review of Regulations was published on December 31, 1981, (46 FR 63358), giving notification that the review was underway.

The objective of this review is to determine the relevance of each record, the appropriateness of the prescribed retention periods, and the purpose for which each record is needed for the Commission's regulatory mission.

The purpose of the preservation of record rules is to assure that carrier's records are secure, readily accessible, and adequately maintained for a prescribed period of time. The regulations instruct carriers to maintain their corporate, treasury, property, personnel, insurance and claims, inventory, transportation, tariff, statistical, and miscellaneous records in hard paper copy, microfiche, or machine-readable form for certain periods.

The Commission completely revised its record retention regulations in 1975. Many burden-reducing steps were undertaken at that time, such as allowing microfilming of records, adopting many shortened retention periods, and combining the separate recordkeeping regulations for various modes into a single set of requirements. Since that review, the agency's needs have changed in some instances, and the effect is that some of the prescribed records and retention periods are obsolete. Also, the importance of periodic review cannot be overlooked because technological improvements and new information must now be considered.

The importance of maintaining records must be emphasized. The information derived from records is a valuable source for financial and statistical reports, historical reviews, litigation, insurance and other claims, government reporting requirements, and tax audits. All businesses must therefore have a records retention program if future business plans and strategies are to have the support and benefit of historical data and trend analyses. Directing this program is one of the financial officers' most important duties. The program can range dramatically in terms of complexity, i.e., type of media used, filing system in effect, security system in force, etc. Moreover, the formal record retention program should address the following questions:

- What information is now being kept?
- How often is the information requested?
- Where are the records stored?
- Are retention guidelines in place and implemented?
- Are the records properly safeguarded?
- Can the information be easily retrieved and used?

The Commission recognizes that the cost of retaining records can be substantial. Besides the Commission, carriers are also required to maintain records for other Federal, State and local agencies. However, it is the intent of the Commission to only require the retention of records that determine compliance with the uniform systems of accounts, facilitate carrier compliance

audits and regular Commission studies, and help to implement and maintain our regulatory functions.

The effect of the proposed regulations is to permit carriers more autonomy in establishing a formal record retention program. It is also intended to greatly reduce the paperwork burden on smaller carriers with less resources for maintaining records. The Commission urges carriers to study and review their needs for records' maintenance, and make appropriate changes in their recordkeeping program. There are many sources of record retention programs and schedules available, including:

- The current Commission regulations, 49 CFR Part 1220.
- Internal Revenue Service guidelines, Reg. § 1.6001, et al.,
- Securities and Exchange Commission regulations, 17 CFR Part 256a, and
- Guide to Record Retention Requirements, 40 FR 11259.

The effect of allowing more carrier autonomy in establishing a records retention program is to reduce regulatory burden. The proposed regulation is not intended to be vague. The proposed prescribed records and retention periods have been tentatively determined to be necessary for maintaining a responsible national transportation system. This should result in substantial cost savings to individual carriers.

In the Appendix, the revised regulations are presented. The major cost and burden-reducing features are:

(1) The use of paperstock, or any form of record micrographics, at the discretion of company management,

(2) The elimination of duplicative records, particularly after paperstock information has been transferred to micrographics,

(3) The elimination of approximately 125 records and retention requirements, leaving their maintenance to the discretion of company management, and

(4) The use of machine-readable media (magnetic tape, punch cards, disks) is acceptable if a printout can be produced, and the media must be maintained for the same prescribed retention period as the other media forms.

Other features include:

(1) Companies may continue to request a waiver of certain records or retention periods under unusual or questionable circumstances. Also, a general guideline for the applicability of records not specifically cited has been incorporated,

(2) The designated supervisor official must assure completeness, and accessibility of records, and

(3) Companies must notify the Commission of substantial changes to the structure of their records program, in addition to records damaged or destroyed by fire, flood or destructive mishaps.

The proposed rule was developed from our study of the many issues relating to records management. We have already received comments, recommendations and inquiries from the industry regarding these issues. During a 1981 study of the incremental cost of ICC accounting provisions and record retention rules, we received some beneficial comments on how these rules could be improved. We anticipate and welcome more constructive comments with this notice.

The proposed revisions shall be effective immediately upon adoption of the Final Rule by this Commission.

This action does not appear to affect significantly the quality of the human environment or the conservation of energy resources.

Regulatory Flexibility Act

As noted above, this proceeding stems from the Commission's review of rules pursuant to 5 U.S.C. 610. We have determined that this NPR will have a significant economic impact upon a substantial number of small entities. The economic impact is beneficial because many cost reducing provisions have been proposed such as eliminating duplicate records, allowing management more autonomy in deciding which records to keep and for how long, and requiring only records and retention periods that would further the Commission's regulatory mission. The effect of these proposed revisions will be a lessening of the expense and burden of recordkeeping.

List of Subjects in 49 CFR Part 1220

Express companies, Freight forwarders, Motor carriers and brokers, Railroads, Ratemaking organization subject to Commission oversight, Water carriers.

This rule is proposed under the authority of 49 U.S.C. 10321 and 11145 and 5 U.S.C. 553.

Decided: December 3, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison. Commissioner Sterrett was absent and did not participate.

Agatha L. Mergenovich,
Secretary.

Appendix

The following changes are proposed:

(1) 49 CFR Part 1220 would be revised to read as follows:

PART 1220—PRESERVATION OF RECORDS

Sec.

1220.0 Applicability.
1220.1 Purpose.
1220.2 Designation of supervisory official.
1220.3 Availability of records.
1220.4 Protection and storage of records.
1220.5 Preservation of records.
1220.6 Destruction of records.
1220.7 Photographic copies.
1220.8 Companies going out of business.
1220.9 Waiver of requirements of these regulations.
1220.10 Schedule of records and periods of retention.

Authority: 49 U.S.C. 10321 and 11145, and 5 U.S.C. 553.

§ 1220.0 Applicability.

Before destroying any operating, accounting, or financial papers, records, books, blanks, tickets, stubs, correspondence, reports, or documents the following companies and persons subject to the provisions of the Interstate Commerce Act shall comply with the regulations in this part:

Railroad companies
Electric railway companies
Express companies
Persons furnishing cars to railroads
Motor carriers and brokers
Water carriers
Freight forwarders
Rate-making organizations

This part applies also to the preservation of accounts, records and memoranda of traffic associations, demurrage and car service bureaus, weighing and inspection bureaus, and other joint activities maintained by or on behalf of companies listed in the above paragraph of this subpart.

§ 1220.1 Purpose.

The regulations in this part prescribe the minimum length of time records shall be preserved, after which they may be destroyed at the discretion of each company's management. Every possible record that could provide valuable information might not be included in § 1220.10. However, it shall be the obligation of the subject company to maintain records that adequately support financial and operational data required by the Commission. The company may request a ruling from the

Commission on any record or retention period not covered in this Part. The general guideline shall be that if the record has a direct applicability to future events, then it should be retained. The provisions of this part shall not be construed as excusing compliance with the lawful requirements of any other governmental body, Federal or State, prescribing longer retention periods for any category of records.

§ 1220.2 Designation of supervisory official.

(a)(1) Each company subject to the provisions of this part shall appoint an officer or other responsible employee to supervise the preservation and authorized destruction of records. Such appointment shall be by formal corporate act of the Board of Directors or its executive committee or, if the company is not incorporated, by formal designation of the owners.

(2) Designation may be made by title only, rather than by name and title, and thus obviate the necessity for a new resolution or order each time a successor is appointed.

(b) If the property of the company is in the hands of a trustee, executor, administrator, or assignee, the officer or other responsible employee supervising the preservation and destruction of records shall be designated by such trustee, executor, administrator, or assignee.

(c) Authority to supervise the destruction of company records maintained by an association, joint bureau, etc. may be delegated to the manager or other chief officer.

(d) A company, at its option, may by a formal act of appointment delegate to a bank, trust company, or similar institution having custody of its records in the normal course of business, the authority to destroy such records upon compliance with the requirements of regulations in this part.

(e) Copies of the resolution or orders of appointment need not be filed with the Commission but shall be available for inspection by the Commission's duly authorized representatives.

§ 1220.3 Availability of records.

At each office where records are kept or stored, such records as are herein required to be preserved shall be so arranged and filed so that they may be readily identified and made available to representatives of the Commission.

§ 1220.4 Protection and storage of records.

(a) The company shall protect records subject to the regulations in this part from fires, floods, and other hazards, and safeguard the records from unnecessary exposure to deterioration from excessive humidity, dryness, or lack of ventilation.

(b) The company shall notify the Commission if prescribed records are substantially destroyed or damaged as specified in § 1220.6(d).

§ 1220.5 Preservation of records.

(a) All records prescribed by § 1220.10 may be preserved on hard-copy paper stock, microfilm or other forms of micrographics. It is not necessary to create paperstock or micrographic media if the records are initially prepared on machine-readable media such as punch cards, magnetic tape, disks and so on. However, these machine-readable media shall be preserved for the prescribed retention periods, if this option is chosen.

(b) Each machine-readable form of media shall be accompanied by a statement clearly indicating the type of data included in the media. This statement shall be executed by a person having personal knowledge of the facts contained in the records. The records shall be indexed and retained in such a manner as will render them readily accessible, and the company shall have facilities available to locate, identify and reproduce the records on paper similar in size to the original without loss of clarity. The designated records supervisory official shall be responsible for implementing safeguards to assure that the information contained on the machine-readable media is complete, accurate, indexed, and accessible.

§ 1220.6 Destruction of records.

(a) *General authority.* Records described in these regulations may be destroyed after having been preserved for the prescribed periods.

(b) *Special authority.* Special authority is required before records described in these regulations may be destroyed prior to the end of the prescribed retention periods. Applications for special authority shall be filed with the Commission's Bureau of Accounts and must describe in detail the nature and purpose of the records in question and the reasons continued retention is no longer considered necessary. (see § 1220.9).

(c) *Method of destruction.* These regulations require that records be preserved for specified periods. Upon expiration of these periods, records may be destroyed in any manner if the company so elects. Precaution should be taken, however, to shred or otherwise destroy the legibility of any records, the content of which is forbidden by law to be divulged to unauthorized persons.

(d) *Premature destruction or loss of records.* When records are destroyed or lost before the expiration of the prescribed retention periods, a statement shall be prepared listing as accurately as possible, the records destroyed or lost and describing the circumstances under which they were destroyed or lost. The statement shall be certified by an officer of the carrier and filed with the officer having supervision over preservation of the records. A copy of the statement shall also be filed with the Secretary's Office of this Commission within ninety (90) days from the discovery of the premature destruction or loss.

(e) Each company shall notify the Commission of substantive changes to the recordkeeping and retention structure. This encompasses only those changes which will significantly revise the filing structure, record format or media. The Commission will issue an interpretation on the effect of the proposed change on regulatory functions.

§ 1220.7 Photographic copies.

(a) Any record may be transferred to micrographics (including microfiche, computer output microfilm, and aperture cards) at any time. Records so maintained shall satisfy the minimum requirements listed in paragraphs (b) through (f) of this section.

(b) The micrographics used shall be of a quality that can be easily read and that reproduction in paperstock can be similar in size of an original without loss of clarity or detail during the periods the records are required to be retained in § 1220.10.

(c) These records shall be indexed and retained in such a manner as will render them readily accessible, and the company shall have facilities available to locate, identify and read the microfilm, and reproduce in paper form.

(d) Any significant characteristic, feature, or other attribute which micrographic media will not preserve shall be clearly indicated at the beginning of the applicable micrographic records as appropriate.

(e) The printed side of forms, such as instructions, need not be preserved for each record as long as the printed matter is common to all such forms and an identified specimen of the form is maintained on the film for reference.

(f) The responsible supervisory record official designated in § 1220.2 shall execute and maintain a certificate stating the micrographics are direct

facsimiles of the original records, and they have been made in accordance with prescribed regulations, and they are accurate and complete.

§ 1220.8 Companies going out of business.

The records referred to in these regulations may be destroyed after business is discontinued and the company is completely liquidated. The records may not be destroyed until dissolution is final and all transactions are completed. When a company is merged with another company under jurisdiction of the Commission, the successor company shall preserve records of the merged company in accordance with these regulations.

§ 1220.9 Waiver of requirements of these regulations.

A waiver from any provision of these regulations may be made to the Commission upon its own initiative or upon submission of a written request by the company. Each request for waiver shall demonstrate that unusual circumstances warrant a departure from prescribed retention periods, procedures, or techniques, or that compliance with such prescribed requirements would impose an unreasonable burden on the company.

§ 1220.10 Schedule of records and periods of retention.

The following schedule shows periods that designated records shall be preserved. The descriptions specified under the various general headings are for convenient reference and the identification, and are intended to apply to the items named regardless of what the records are called in individual companies and regardless of departmental organization. Records other than those listed below may be destroyed at the option of the company, provided they do not have future applicability for Commission regulatory purposes. See § 1220.0 for record obligation of subject companies.

SCHEDULE OF RECORDS AND PERIODS OF RETENTION

Item No. and category of records	Retention period
A. Corporate and General	
1. Incorporation and reorganization:	
(a) Charter or certificate or incorporation and amendments	Until business termination + 3 years.
(b) Legal documents related to mergers, consolidations, reorganization, receiverships and similar actions which affect the identity or organization of the company.	Do
2. Minutes of Directors, Executive Committees, Stockholders and other corporate meetings	Do
3. Titles, franchises and authorities:	
(a) Certificates of public convenience and necessity issued by regulating bodies	Until expiration or cancellation
(b) Operating authorizations and exemptions to operate issued by regulating bodies	Do.
(c) Copies of formal orders of regulatory bodies served upon the company	Until expiration or cancellation + 1 year
(d) Deeds, charters, and other title papers	Until disposition of property + 3 years.
(e) Patents and patent records	Until expiration + 1 year
4. Annual reports or statements to stockholders	4 years.
5. Contracts and agreements:	
(a) Contracts and related papers and documents which contain disclosure and and transactions relating to the provisions of the Clayton Antitrust Act (15 USC 20).	Until expiration + 4 years
(b) Service contracts, such as for operational management, accounting, financial or legal services, and agreements with agents	Until expiration or termination + 3 years
(c) Contracts and other agreements relating to the construction, acquisition or sale of real property and equipment except as otherwise provided in (a) above.	Do
(d) Contracts for the purchase or sale of material and supplies except as provided in (a) above	Until expiration
(e) Shipping contracts for transportation or caretakers of freight	Do
(f) Contracts with employees and employee bargaining groups	Do
(g) Contracts, leases and agreements, not specifically provided for in this section	Until expiration or termination
6. Accountant's, auditor's, and inspector's reports:	
(a) Certifications and reports of examinations and audits conducted by public accountants	3 years
(b) Reports of examinations and audits conducted by internal auditors, time inspectors, and others	Do
7 Other: (See Note A.)	
B. Treasury	
1 Capital stock records:	
(a) Capital stock ledger	4 years
(b) Capital stock certificates, records of or stubs of. Note: If the information shown on the stubs is recorded in item 1(a), the stubs may be retained according to Note A.	Do
(c) Stock transfer register	Do
2. Long-term debt records:	
(a) Bond indentures, underwritings, mortgages, and other long-term credit agreements	Until redemption + 4 years
(b) Registered bonds and debenture ledgers	Do
(c) Stubs or similar records of bonds or other long-term debt issued. Note if the information shown on the stubs is provided in items 2(a) or (b) above, then retention period shall be determined according to Note A.	Do
3. Authorizations from regulatory bodies for issuance of securities including applications, reports, and supporting papers	Until all securities covered are retired
4. Records of securities owned, in treasury, or held by custodians, detailed ledgers and journals, or their equivalent	Until the securities are sold, redeemed or otherwise disposed of + 3 years.
5 Other: (See Note A).	
C. Financial and Accounting	
1 Ledgers:	
(a) General and subsidiary ledgers with indexes	Until discontinuance of use + 4 years.
(b) Balance sheets and trial balance sheets of general and subsidiary ledgers	4 years
2. Journals:	
(a) General journals	Until discontinuance of use + 4 years.
(b) Subsidiary journals and any supporting data, except as otherwise provided for, necessary to explain journal entries	4 years
3. Cash books:	
(a) General cash books	Until discontinuance of use + 4 years.
(b) Subsidiary cash books	4 years.
4. Vouchers:	
(a) Voucher registers, indexes, or equivalent	4 years
(b) Paid and canceled vouchers, expenditure authorizations, detailed distribution sheets and other supporting data including original bills and invoices, if not provided for elsewhere.	Do.
(c) Paid drafts, paid checks, and receipts for cash paid out	4 years.
5. Accounts receivable:	
(a) Record or register of accounts receivable, indexes thereto, and summaries of distribution	3 years after settlement.
(b) Bills issued for collection and supporting data	Do.
(c) Authorizations for writing off receivables	Do.

SCHEDULE OF RECORDS AND PERIODS OF RETENTION—Continued

Item No. and category of records	Retention period
(d) Reports and statements showing age and status of receivables	1 year.
6. Records of accounting codes and instructions	3 years after discontinuance.
7. Other: (Note A).	
D. Property and Equipment	
NOTE—All accounts, records, and memoranda necessary for making a complete analysis of the cost or value of property shall be retained for the periods shown. If any of the records elsewhere provided for in this schedule are of this character, they shall be retained for the periods shown below, regardless of any lesser retention period assigned.	
1. Property records:	
(a) Records which maintain complete information on cost or other value of all real and personal property or equipment	3 years after disposition of property.
(b) Records of additions and betterments made to property and equipment	Do.
(c) Records pertaining to retirements and replacements of property and equipment	Do.
(d) Records pertaining to depreciation	Do.
(e) Records of equipment number changes	Do.
(f) Records of motor and engine changes	Do.
(g) Records of equipment lightweighed and stenciled	Do.
(h) Files of detailed authorizations for expenditures, work or job orders showing estimated costs of additions and betterments, extensions, replacements, major repairs and dismantlements, together with all supporting data.	3 years.
2. Engineering records of property changes actually made	3 years after disposition of property.
3 Other: (Note A).	
E. Personnel and Payroll	
1. Personnel and payroll records (See Note A).	
F. Insurance and Claims	
1. Insurance records:	
(a) Schedules of insurance against fire, storms, and other hazards and records of premium payments	3 years.
(b) Records of losses and recoveries from insurance companies and supporting papers	3 years after settlement.
(c) Insurance policies	Until expiration of coverage.
2. Claims records:	
(a) Claim registers, card or book indexes, and other records which record personal injury, fire and other claims against the company, together with all supporting data.	3 years after settlement.
(b) Claims registers, card or book indexes, and other records which record overcharges, damages, and other claims filed by the company against others, together with all supporting data.	3 years after settlement.
(c) Records giving the details of authorities issued to agents, carriers, and others for participation in freight claims	3 years.
(d) Reports, statements and other data pertaining to personal injuries or damage to property when not necessary to support claims or vouchers.	Do.
(e) Reprots, statements, tracers, and other data pertaining to unclaimed, over, short, damaged, and refused freight, when not necessary to support claims or vouchers.	1 year.
(f) Authorities for disposal of unclaimed, damaged, and refused freight	3 years.
3. Other: (See Note A).	
G. Taxes	
1. Taxes. (Note A).	
H. Purchases and Stores	
1. Purchases and stores. (Note A).	
I. Shipping and Agency Documents	
1. Bills of lading and releases:	
(a) Consignors' shipping orders, consignors' shipping tickets, and copies of bills of lading freight bills from other carriers and other similar documents furnished the carrier for movement of freight.	3 years.
(b) Shippers' order-to-notify bills of lading taken up and cancelled	Do.
2. Freight waybills:	
(a) Local waybills	4 years.
(b) Interline waybills recieved from and made to other carriers	Do.
(c) Company frieght waybills	Do.
(d) Express waybills	Do.
3. Freight bills and settlements:	
(a) Paid copy of freight bill retained to support receipt of freight charges:	
(1) Bus express freight bills provided no claim has been filed	1 year.
(2) All other freight bills	3 years.
(b) Paid copy of freight bill retained to support payment of freight charges to other carriers:	
(1) Bus express freight bills provided no claim has been filed	1 year.
(2) All other freight bills	3 years.
(c) Records of unsettled freight bills and supporting papers	1 year after disposition.
(d) Records and reports of correction notices	3 years.
4. Other freight records:	
(a) Records of freight received, forwarded, and delivered	Do.
(b) Notice to consignees of arrival of freight; tender of delivery	2 years.
5. Agency records (to include conductors, pursers, stewards, and others):	
(a) Cash books	3 years.
(b) Remittance records, bank deposit slips, and supporting papers	Do.
(c) Balance sheets and supporting papers	2 years.
(d) Statements of corrections in agents accounts	Do.
(e) Other records and reports pertaining to ticket sales, baggage handled, miscellaneous collections, refunds, adjustments, etc.	Do.
J. Transportation	
1. Records pertaining to transportation of household goods:	
(a) Estimate of charges	3 years.
(b) Order for service	Do.
(c) Vehicle-load manifest	Do.
(d) Descriptive inventory	Do.
2. Records and reports pertaining to operation of marine and floating equipment:	
(a) Ship log	3 years.
(b) Ship articles	Do.
(c) Passenger and room list	Do.
(d) Floatmen's barge, lighter, and scow captains' reports, demurrage records, towing reports and checks sheets	2 years.
3. Car distribution and movement-railroads only:	
(a) Records of car allotment and distribution	2 years.
(b) Records of cars ordered, furnished and loaded	Do.

SCHEDULE OF RECORDS AND PERIODS OF RETENTION—Continued

Item No. and category of records	Retention period
(c) Records showing dates and numbers of trains, initials and numbers of cars, movement of cars, and mileage of cars and trains.	Do
(d) Report of cars interchanged with connecting lines	Do
(e) Reports of unfilled car orders	1 year
(f) Per diem and mileage reports made and received, including reclaims and discrepancy and adjustment reports	2 years.
(g) Demurrage and storage records	Do
4. Dispatchers' sheets, registers, and other record pertaining to movement of transportation equipment	3 years
5. Import and export records including bonded freight and steamship engagements	2 Years
6. Records, reports, orders and tickets pertaining to weighing fo freight	3 years
7. Records of loading and unloading of transportation equipment	2 years
8. Records pertaining to the diversion or reconsignment of freight, including requests, tracers, and correspondence	Do
9. Other: (See Note A).	
K. Tariffs and Rates	
1. Official file copies of tariffs, classifications, division sheets, and circulars relative to the transportation of persons or property.	3 years after expiration or cancellation
2. All other copies of tariffs, classifications, division sheets, and circular referred to in item 1 above	Do
3. Authorities and supporting papers for transportation of property or passengers free or at reduced rates	3 years.
4. Copies of concurrences and powers of attorney filed with the Interstate Commerce Commission and other regulating bodies.	2 years after expiration or cancellation.
5. Correspondence and working papers in connection with the making of rates and compliance of tariffs, classifications, division sheets, and circulars affecting the transportation of persons or property.	2 years after cancellation of tariff.
6. Contracts and minimum rate schedules of contract motor carriers	3 years after expiration or cancellation.
7. Records and documents required by provisions of sec. 1253.20 to be maintained	2 years
L. Reports and Statistics	
1. Records to Interstate Commerce Commissioon and regulatory bodies:	
(a) Annual financial, operating and statistical reports, file copies of, and supporting data	4 years
(b) Periodical reports of operating revenues, expenses, and income, file copies of, and supporting data	3 years.
(c) Reports detailing use of proceeds from issuance or sale of company securities, file copy of, and supporting data	Do
(d) Valuation inventory reports and records together with related notes and records together with related notes, maps, and sketches; underlying engineering, land, and accounting reports, pricing schedules, summary or collection sheets, yearly reports of changes and other miscellaneous data, all relating to the valuation of the company's property by the Interstate Commerce Commission or other regulatory body.	3 years after disposition of the property
2. Periodical reports of accidents, inspections, tests, hours of service, repairs, freight car locations, etc	3 years
3. Periodical statistical statements of operating results or performance by tonnage, mileage, passengers carried, piggyback traffic, commodities, costs, analysis of increases and decreases, or otherwise.	Do
M. Miscellaneous	
1. Index of records	Until revised as record structure changes
2. Statement listing records prematurely destroyed or lost	For the remainder of the period as prescribed for record destroyed

NOTE A.—Other records under this category shall be maintained as determined by the desginated records supervisory official. Companies should be mindful of the record retention requirements of the Internal Revenue Service, Securities and Exchange Commission, state and local jurisdictions and other regulatory agencies. Companies shall exercise reasonable care in choosing retention periods, and the choice of retention periods shall reflect past experiences, company needs, pending litigation, and regulatory requirements.

The absence of a Commission prescribed retention period shall not relieve the carrier of recordkeeping requirements, considering the circumstances.

[FR. Doc. 82-33725 Filed 12-14-82; 8:45 am]

BILLING CODE 7035-01-M

Notices

Federal Register
Vol. 47, No. 241
Wednesday, December 15, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

December 10, 1982.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96–511 applies; (9) Name and telephone number of the agency contact persons.

Comments and questions about the items in the listing should be directed to the agency person named at the end of each entry. If you anticipate commenting on a form but find that preparation time will prevent you from submitting comments promptly, you should advise the agency person of your intent as early as possible.

Copies of the proposed forms and supporting documents may be obtained from: Richard J. Schrimper, Statistical Clearance Officer, (202) 447–6201.

New

• Agricultural Cooperative Service
Kentucky Farm Women and Agricultural Cooperatives
Nonrecurring
Individuals, farms, businesses or other institutions: 1,826 responses; 1,523 hours; not applicable under 3504(h)
Dr. Thomas Gray (202) 447–9332

Revised

• Agricultural Marketing Service
Avocados Grown in South Florida—Marketing Order 915
On occasion, annually, biennually
Businesses or other institutions: 3,142 responses; 5,210 hours; not applicable under 3504(h)
William J. Doyle (202) 447–5975

• Agricultural Marketing Service
Melons Grown in South Texas—Marketing Order 979
On occasion, annually
Businesses or other institutions: 2,870 responses; 14,124 hours; not applicable under 3504(h)
Charles W. Porter (202) 447–2615

• Agricultural Marketing Service
California Pears, Plums and Peaches—Marketing Order 917
On occasion, monthly, semiannually
Farms, businesses or other institutions: 47,842 responses; 89,864 hours; not applicable under 3504(h)
William J. Doyle (202) 447–5975

Extension

• Agricultural Marketing Service
California Nectarines—Marketing Order 916
On occasion, monthly, semiannually
Farms, businesses or other institutions: 9,029 responses; 36,311 hours; not applicable under 3504(h)
William J. Doyle (202) 447–5975

• Rural Electrification Administration
Tabulation of Materials Furnished by Borrowers
REA 281
On occasion
Businesses or other institutions: 125 responses; 150 hours; not applicable under 3504(h)
John D. Soma (202) 382–8529

Reinstatement

• Farmers Home Administration
Application for Loan Guarantee
FmHA 449–1
On occasion
State and local government, businesses or other institutions: 1,060 responses; 24,380 hours; not applicable under 3504(h)
Darryl H. Evans (202) 447–4150

• Agricultural Cooperative Service
Marketing of Grain by Regional Cooperatives
Annually
Businesses or other institutions: 18 responses; 54 hours; not applicable under 3504(h)
David E. Cummins (202) 382–1762

Richard J. Schrimper,
Statistical Clearance Officer.

[FR Doc. 82–33950 Filed 12–14–82; 8:45 am]
BILLING CODE 3410–01–M

Animal and Plant Health Inspection Service

[Docket No. 82–090]

Advisory Committee on Foreign Animal and Poultry Diseases; Meeting

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of a meeting of the Secretary's Advisory Committee on Foreign Animal and Poultry Diseases.

SUMMARY: The purpose of this document is to give notice that there will be a meeting of the Secretary's Advisory Committee on Foreign Animal and Poultry Diseases.

PLACE, DATES, AND TIME OF MEETING: The meeting will be held in Room 743A, Federal Building, United States Department of Agriculture, Hyattsville, Maryland 20782, February 16, 1983, from 9:00 a.m. to 4:00 p.m., and February 17, 1983, from 9:00 a.m. to 2:00 p.m.

FOR FURTHER INFORMATION CONTACT: Dr. Harless McDaniel, Chief Staff Officer, Technical Support APHIS, VS, Federal Building, Room 757, Hyattsville, Maryland 20782, 301–436–8087.

SUPPLEMENTARY INFORMATION: The purpose of the Committee is to advise the Secretary on means to prevent, suppress, control or eradicate an outbreak of foot-and-mouth disease or other destructive foreign animal or poultry diseases in the event such diseases should enter the United States.

The meeting is open to the public. Written statements concerning these matters may be filed with the Committee before or at the time of the meeting.

Written statements may be forwarded to Dr. Harless McDaniel, Chief Staff Officer, Technical Support, APHIS, VS, Federal Building, Room 757, Hyattsville, Maryland 20782, 301–436–8087.

Dated: December 7, 1982.

Harry C. Mussman,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 82-34013 Filed 12-14-82; 8:45 am]

BILLING CODE 3410-34-M

CIVIL AERONAUTICS BOARD

[Order 82-12-40]

Application of Transamerica Airlines, Inc., for Certificate of Public Convenience and Necessary for Charter Air Transportation; Order To Show Cause

AGENCY: Civil Aeronautics Board.

ACTION: Notice of order to show cause, Order 82-12-40.

SUMMARY: The Board proposes to issue a certificate to Transamerica Airlines, Inc., to provide interstate charter air transportation of person, property, and mail between points within the State of Alaska. All other fit applicants are invited to file applications for the same authority.

OBJECTIONS: All interested persons having objections to the Board's tentative findings and conclusions, as described in the order cited above, shall, no later than January 13, 1983, file a statement of such objections with the Civil Aeronautics Board (20 copies, addressed to Docket 40816, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428) and mail copies to all the persons listed in the Appendix to Order 82-12-40.

A statement of objections must cite the docket numbers and must include a summary of testimony, statistical data, or other such supporting evidence.

If no objections are filed, the Board will issue an order which will make final the Board's tentative findings and conclusions and issue the proposed certificate. To get a copy of the complete order, request it from the CAB Distribution Section, Room 100, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673-5432. Persons outside the Washington metropolitan area may send a postcard request.

FOR FURTHER INFORMATION CONTACT: Contact Thomas Chew, (202) 673-5340, Bureau of Domestic Aviation, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: December 9, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-34029 Filed 12-14-82; 8:45 am]

BILLING CODE 6320-01-M

[Order 82-12-36]

British Caribbean Airways, Limited; Order To Show Cause

AGENCY: Civil Aeronautics Board.

ACTION: Notice of order to show cause: Order 82-12-36.

SUMMARY: The Board proposes to approve the following application:

Applicant: British Caribbean Airways, Limited.

Application Date: Dec. 7, 1981, amended Feb. 18, 1982; Docket: 40288.

Authority Sought: Nonscheduled operations carrying property and mail between the British Virgin Islands; intermediate points in the U.S. Virgin Islands; Turks and Caicos; San Juan; Leeward Islands; Windward Islands; Dominican Republic; Barbados; and the terminal point Miami; and to conduct various cargo charters.

OBJECTIONS: All interested persons having objections to the Board's tentative findings and conclusions that this authority should be granted, as described in the order cited above, shall, no later than January 4, 1983, file a statement of such objections with the Civil Aeronautics Board (20 copies) and mail copies to the applicant, the Department of Transportation, the Department of State, the Government of the British Virgin Islands and the Ambassador of Great Britain and Northern Ireland in Washington, D.C. A statement of objections must cite the docket number and must include a summary of testimony, statistical data, or other such supporting evidence.

If no objections are filed, the Secretary of the Board will enter an order which will, subject to disapproval by the President, make final the Board's tentative findings and conclusions and issue the proposed permit.

ADDRESSES FOR OBJECTIONS:

Docket 40288, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428

Applicant: British Caribbean Airways, c/o Mr. Harry A. Bowen, Bowen & Atkin, 2020 K Street, N.W., Washington, D.C. 20006

To get a copy of the complete order, request it from the CAB Distribution Section, Room 100, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request.

FOR FURTHER INFORMATION CONTACT: Allen Brown, Regulatory Affairs Division, Bureau of International Aviation, Civil Aeronautics Board; (202) 673-5878.

By the Civil Aeronautics Board: December 9, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-34028 Filed 12-14-82; 8:45 am]

BILLING CODE 6320-01-M

[Order 82-12-39]

Fitness Determination of Sundorph Aeronautical Corp.; Order To Show Cause

AGENCY: Civil Aeronautics Board.

ACTION: Notice of commuter air carrier fitness determination—Order 82-12-39, order to show cause.

SUMMARY: The Board is proposing to find that Sundorph Aeronautical Corp. is fit, willing, and able to provide commuter air carrier service under section 419(c)(2) of the Federal Aviation Act, as amended, and that the aircraft used in this service will conform to applicable safety standards. The complete text of this order is available, as noted below.

DATE: Responses: All interested persons wishing to respond to the Board's tentative fitness determination shall serve their responses on all persons listed below no later than December 29, 1982, together with a summary of the testimony, statistical data, and other material relied upon to support the allegations.

ADDRESSES: Responses or additional data should be filed with the Special Authorities Division, Room 915, Civil Aeronautics Board, Washington, D.C. 20428, and with all persons listed in Attachment A to Order 82-12-39.

FOR FURTHER INFORMATION CONTACT: Ms. Anne W. Stockvis, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428 (202) 673-5088.

SUPPLEMENTARY INFORMATION: The complete text of Order 82-12-39, is available from the Distribution Section, Room 100, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 82-12-39, to that address.

By the Civil Aeronautics Board: December 9, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-34027 Filed 12-14-82; 8:45 am]

BILLING CODE 6320-01-M

[Docket 40887]

U.S.-People's Republic of China Service Proceeding (Phase II); Oral Argument

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in this case is assigned to be held before the Board on Monday, January 10, 1983, at 10:00 a.m. (local time), in Room 1027, Universal Building, 1825 Connecticut Avenue, NW, Washington, D.C.

Each party which wishes to participate in the oral argument shall so advise the Secretary, in writing, on or before Wednesday, December 29, 1982, together with the name of the person who will represent it at the argument.

Dated at Washington, D.C., December 10, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-34026 Filed 12-14-82; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Cotton Yarn From Peru; Preliminary Affirmative Countervailing Duty Determination

AGENCY: International Trade Administration, Commerce.

ACTION: Amendment to the preliminary affirmative countervailing duty determination.

SUMMARY: On November 19, 1982, we published a preliminary affirmative countervailing duty determination on cotton yarn from Peru (47 FR 52215). In the "Scope of Investigation" section we stated: " There are fourteen producers, all of which export cotton yarn from Peru * * *". Later, in the "Suspension of Liquidation" section of that notice we stated: "At the present time * * * the only known companies exporting cotton yarn from Peru are: Industrial Textil Piura S. A., Textil Trujillo S.A., Compania Textil 'El Progresso', and Textiles del Sur S.A." These four companies are the only ones we know of located outside the Department of Lima or the Province of Callao. The four companies are not the only cotton yarn exporting companies we know of in Peru. This amendment reconciles the two sections quoted. No other information in the November 19, 1982 determination is affected by this amendment.

EFFECTIVE DATE: December 15, 1982.

FOR FURTHER INFORMATION CONTACT: Vincent P. Kane or Melissa G. Skinner, Office of Investigations Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N W, Washington, D.C. 20230, Telephone: (202) 377-5414 or 3530.

Dated: December 10, 1982.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 82-33863 Filed 12-14-82; 8:45 am]

BILLING CODE 3510-25-M

Float Glass From Italy; Preliminary Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Preliminary Results of Administrative Review of Countervailing Duty Order.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on float glass from Italy. The review covers the two firms currently covered by the order and the period January 1, 1980 through December 31, 1980. As a result of this review, the Department has preliminarily determined the amount of net subsidy for Fabbrica Pisana, S.p.A. to be 0.88 percent of the f.o.b. invoice price of the merchandise, and for Societa Italiano Vetro, S.p.A to be 3.77 percent. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: December 15, 1982.

FOR FURTHER INFORMATION CONTACT: Charles Anderson or Richard Moreland, Office of Compliance, Room B099, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On February 3, 1982, the Department of Commerce ("the Department") published in the **Federal Register** (46 FR 5026) the final results of its first administrative review of the countervailing duty order on float glass from Italy (41 FR 0274, January 7, 1976) and announced its intent to begin immediately the next administrative review. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

The merchandise covered by this review is flat glass manufactured by the float process. Such glass may be either tinted or clear and is produced in a wide variety of sizes ranging from 0.125" to 1" in thickness. Such glass is currently classifiable under items 543.2100 through 543.6900 of the Tariff Schedules of the United States Annotated. Entries of float glass which has been substantially further manufactured or modified (e.g., into tempered glass or laminated glass) are not subject to this countervailing duty order. The review covers the period January 1, 1980 through December 31, 1980, and includes the five programs determined to be countervailable in the final results of the last administrative review, plus three other programs, all with regard to the two companies currently covered by the order, Fabbrica Pisana, S.p.A. ("Pisana") and Societa Italiana Vetro, S.p.A. ("SIV"). Of the eight programs, we preliminarily determine the following four to be countervailable: (1) Exemption from local corporate income taxes, (2) Reductions in social security and health benefits payments, (3) capital grants, and (4) preferential long-term financing. We preliminarily determine that the following programs are not countervailable: (1) Reductions in turnover and value-added taxes (found countervailable in the last administrative review), and (2) accelerated depreciation. In addition, we preliminarily determine that the two producers did not utilize the following two programs on the subject merchandise: (1) Reductions in national corporate income taxes, and (2) preferential loans for applied research.

Analysis of Programs

(1) *Local Corporate Income Tax Reductions.* Presidential Decree number 218 (March 6, 1978) provides industrial plants located in the Mezzogiorno region of Italy with a complete exemption from the 15 percent local corporate income tax ("ILOR") for 10 years after the newly-established plants first show a profit. In the last administrative review, we calculated the net subsidy as the amount of exemption attributable to income earned in the years under review. In the current review, we have calculated the *ad valorem* benefit attributable to this program by looking at the benefit received from the previous tax year, for it is only after a company's books have closed that the magnitude of the benefit, if any, can be known to the firms under review.

For this review, this change in methodology necessitates a transitional reallocation of benefits. In this case, the Department countervailed the tax savings received by SIV and Pisana in 1980 in the administrative review for 1979, as though the benefit from tax

exemptions on income earned in 1979 were received in that year. According to the principle set forth in the notice of "Final Results of Administrative Review of Countervailing Duty Order" on certain castor oil products from Brazil (46 FR 62487), we do not countervail the same benefit twice when changes in methodology create an overlap in the allocation of that particular benefit.

We will allocate tax benefits earned as a result of the company's performance during the current period of review (1980) over total sales for the next period of review (1981). Therefore, for the purpose of this review, the estimated duty deposit rate on future entries will include benefits under this program basd on the new method of calculation.

For deposit purposes, we have calculated the *ad valorem* benefit attributable to this program to be 0 percent for Pisana and 1.20 percent for SIV.

(2) *Reductions in Social Security Payments.* Italian law grants firms located in the Mezzogiorno reduction in social security payments to the Istituto Nazionale Previdenza Sociale ("INPS") ranging from 8.5 to 28.5 percent for each worker, depending on gender, labor classification, date of employment, and size of the workforce. Because these exemptions are known and reported in monthly INPS declarations, we have allocated the benefit received from the exemptions to the year in which the wages and salaries upon which they are based are earned. As these exemptions cover workers from all of the production lines and administrative offices of the companies, we have allocated them over the total value of sales.

During verification, we discovered an additional 2.54 percent reduction in health benefit payments, known as "fiscalizazzione." This program was in effect in July and August of the year under review.

For 1980, we preliminarily determine that the total *ad valorem* benefit attributable to reductions in social security and health benefits payments is 0.63 percent for Pisana and 2.66 percent for SIV.

As part of Italy's earthquake relief program, Pisana received a 100 percent exemption for its Caserta plant from social security payments for the months of November and December 1980. As outlined in the notice of "Final Affirmative Countervailing Duty Determinations on Certain Steel Products from Italy" (47 FR 39356), we do not countervail against disaster relief programs, for eligibility in such programs, unlike regional development schemes, is not predetermined; no part of the country or sector of industry is excluded, in principle, from participation. Therefore, we preliminarily determine that the INPS payments exemption to Pisana because of the earthquake relief program is not countervailable.

(3) *Capital Grants.* Both SIV and Pisana utilized grants awarded by the Cassa per il Mezzogiorno for company-wide construction and expansion programs. These grants were awarded from 1975 through 1980 for major investment programs which encompassed more than just unmodified float glass production facilities. Following our methodology established in Appendix 2, we considered these grants to be untied and allocated them over 10 years, the average useful life of glass production facilities as calculated from the standard depreciation schedules of the Italian tax tables. Because these benefits were provided to all glass production, we allocated them over the value of total glass sales. To calculate the value of these grants over time, we applied the present value methodology, using the risk-free rate of return in Italy, as represented by the yearly average percentage yield on Italian Treasury bills in the secondary market in Italy, as the discount rate.

For 1980, the *ad valorem* benefit attributable to capital grants is preliminarily determined to be 0.13 percent for Pisana and 0.49 percent for SIV.

(4) *Preferential Long-Term Financing.* Both SIV and Pisana received preferential loans from 1973 through 1980. For loans made in those years with principal outstanding in 1980, we have compared a repayment schedule of a comparable commercial loan. For a benchmark, we have used the average unsubsidized long-term interest rate in Italy on loans from the special credit institutions. As we noted in certain steel products from Italy, this rate represents the most comparable commercial interest rate available, since these special credit institutions provide almost all medium- and long-term loans in Italy. Where we found preferential loans, we used the general loan methodology for loans to creditworthy firms set forth in Appendix 2 to calculate the subsidy. Because the loans in question were not expressly tied to costly pieces of capital equipment, we allocated the benefits over the life of the loan and the total value of sales.

Using the methodology described above, we preliminarily determine the *ad valorem* benefit attributable to preferential loans to be 0.12 percent for Pisana and 0.62 for SIV.

(5) *Reductions in Turnover and Value-Added Taxes.* The partial exemption from turnover taxes was eliminated simultaneously with the introduction of the value-added tax on January 1, 1973. From 1977 through 1980, however, a nationwide 4 percent reduction in the value-added tax ("IVA") was in effect in Italy. We preliminarily determine that this program is not countervailable because it was generally available on equal terms to all.

(6) *Accelerated Depreciation.* We also preliminarily determine that accelerated depreciation programs in Italy are not countervailable because they are generally available on equal terms to all.

(7) *Exemption from National Corporate Income Tax.* The law governing the reduction in the rate of national corporate income tax ("IRPEG") (Article 105 of Decreto del Presidente della Repubblica, March 6, 1978, no. 218) states that a company establishing its headquarters within the Mezzogiorno region will receive a 50 percent exemption during the first ten years of its operation. Having started production in 1965, SIV's eligibility for the IRPEG reduction expired in 1975. Pisana has never been eligible for this reduction because its headquarters are located outside of the Mezzogiorno region.

(8) *Preferential Loans for Applied Research.* During verification, we discovered that SIV had received a loan from the Istituto Mobiliare Italiano ("IMI") at a preferential interest rate for applied research. This loan, however, was tied to research on a particular modification process for float glass. As it did not benefit unmodified float glass production nor was it an untied program which benefitted total production, we preliminarily determine the loan in question not to be countervailable in this case, and the program not to be used for products covered by the order.

Verification

We verified the information presented by Pisana and SIV, through examination of Italian government laws and documents, company books and records, and consulation with economic officials of the United States Enbassy in Italy.

Preliminary Results of Review

As a result of our review, we, preliminarily determine that the net subsidy conferred by the four programs cited above during the period of review for Pisana is 0.88 percent *ad valorem*, and for SIV is 3.77 percent *ad valorem*.

Accordingly, the Department intends to instruct the Customs Service to assess countervailing duties of 0.88 percent of

the f.o.b. invoice price on all shipments by Pisana, and 3.77 percent of the f.o.b. invoice price on all shipments by SIV on the merchandise exported on or after January 1, 1980 and on or before April 3, 1980. On April 3, 1980, the International Trade Commission ("the ITC") notified the Department that the Delegation of the Commission of the European Communities had requested an injury determination for this order under section 104(b) of the Trade Agreements Act of 1979 ("the TAA"). Should the ITC find that there is material injury or likelihood of material injury to an industry in the United States, the Department shall instruct the Customs Service to assess countervailing duties at the prevailing deposit rate at the time of entry on all unliquidated entries of float glass manufactured by Pisana and SIV entered, or withdrawn from warehouse, for consumption on or after April 3, 1980 and exported on or before December 31, 1980.

Further, as provided by section 751(a)(1) of the Tariff Act, we intend to instruct the Customs Service to collect a cash deposit of estimated countervailing duties of 0.88 percent of the f.o.b. invoice price on all shipments by Pisana, and 4.97 percent of the f.o.b. price on all shipments by SIV, of unmodified float glass entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 30 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of any issues raised in such written comments or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and section 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated: December 8, 1982.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 82-34012 Filed 12-14-82; 8:45 am]

BILLING CODE 3510-25-M

Non-Rubber Footwear From Argentina; Preliminary Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Preliminary Results of Administrative Review of Countervailing Duty Order.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on non-rubber footwear from Argentina. The review covers the period January 17, 1979 through December 31, 1980. As a result of this review, the Department has preliminarily determined the amount of the net subsidy to be 4.11 percent of the f.o.b. invoice price of the merchandise for 1979 and 3.94 percent for 1980. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: December 15, 1982.

FOR FURTHER INFORMATION CONTACT: Edward F. Haley or Richard Moreland, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202, 377-2786).

SUPPLEMENTARY INFORMATION:

Background

On January 17, 1979 the Department of the Treasury published in the **Federal Register** (T.D. 79-18, 44 FR 3474) an affirmative final countervailing duty determination regarding non-rubber footwear from Argentina. The notice stated that the Government of Argentina had provided bounties or grants on the manufacture, production or exportation of such merchandise within the meaning of section 303 of the Tariff Act of 1930 ("the Tariff Act").

On January 1, 1980 the provisions of title I of the Trade Agreements Act of 1979 became effective. On January 2, 1980 the authority for administering the countervailing duty law was transferred from the Department of the Treasury to the Department of Commerce ("the Department").

The Department published in the **Federal Register** of May 13, 1980 (45 FR 31455) a notice of intent to conduct administrative reviews of all outstanding countervailing duty orders. As required by section 751 of the Tariff Act, the Department has now conducted an administrative review of the order on non-rubber footwear from Argentina.

Scope of Review

Imports covered by the review are footwear described in Part 1A of Schedule 7 of the 1982 Tariff Schedules of the United States Annotated, excluding items 700.5100 through 700.5340 and 700.5700 through 700.7100, and imported directly or indirectly from Argentina.

The review covers the period January 17, 1979 through December 31, 1980. We reviewed benefits available under an income tax reduction plan and the reembolso, an export rebate program, both found countervailable in the original final determination, and a system of preferential financing for exports, found countervailable in the final countervailing duty determination on leather wearing apparel from Argentina (46 FR 23090-93).

Analysis of Programs

(1) *Reembolso.* The reembolso program was established in 1971. For the purpose of promoting exports, it authorized a refund, by cash payment on export, of taxes "that bear directly or indirectly" on exported products and/or their component raw materials. The amount of reimbursement is based on a percentage of the f.o.b. price of export shipments and varies by product. For non-rubber footwear the reimbursement was 20 percent of the f.o.b. value during the Department's review period.

Under U.S. countervailing duty law the non-excessive rebate of indirect taxes borne by an exported product or borne by items physically incorporated in that product is not a subsidy. To determine whether a cash payment on export can be considered an allowable indirect tax rebate, we examine whether: (1) The program involved operates for the purpose of rebating indirect taxes, (2) there is a clear link between eligibility for payments on exports and indirect taxes paid, and (3) the government has reasonably calculated and documented the actual tax incidence borne by the product concerned and has demonstrated a clear link between such tax incidence and the amount paid on export.

The reembolso program is designed to refund taxes that bear directly or indirectly on export products. We are satisfied that the reembolso program therefore meets our first test. The fact that the Government of Argentina has designed the reembolso program to promote exports does not affect our conclusion. We have consistently ruled that the purpose of a cash payment on

export does not determine whether that cash payment operates as an indirect tax rebate.

The Argentine government's Resolution ME N936 of December 23, 1976 set the rate of reembolso on non-rubber footwear at 20 percent. The Government of Argentina analyzed the steps of production and value added at each stage of the production of non-rubber footwear. The reembolso rate was based on the estimated tax incidence (approximately 24 percent for all taxes, including direct taxes and indirect taxes on components not physically incorporated). Detailed reviews of specific taxes levied on non-rubber footwear during the current review period, when considered in conjunction with the study of specific taxes used to set the 1976 reembolso rate, provide the basis for our determination that: the reembolso program does involve a *bona fide* tax rebate, that the linkage exists between eligibility and indirect taxes paid, and that there is a clear link between the actual tax incidence and the rebate paid on export. Our second and third requirements are therefore met.

The Government of Argentina has provided us with analyses of the tax incidence in 1979 and 1980 on non-rubber footwear. These analyses show that the taxes levied on non-rubber footwear and its physically incorporated components total 24.53 percent of the f.o.b. value for 1979 and 23.82 percent for 1980. Included in this calculation is the rebate of salary taxes and taxes on various indirect expenditures of 2.87 percent for 1979 and 2.19 percent for 1980, which we have deducted because they do not meet the physical incorporation standard.

Taxes on raw materials and other inputs, both domestic and imported, constitute the bulk of the claimed tax incidence on non-rubber footwear. Some of these inputs, such as liquid fuels, do not meet our physical incorporation standard, and we have therefore deducted the claimed taxes for those inputs in the amounts of 2.47 percent for 1979 and 1.88 percent for 1980.

Thus, of the total tax incidence claimed by the Government of Argentina on non-rubber footwear and its physically incorporated components, we have allowed 19.19 percent for 1979 and 19.75 percent for 1980. Therefore, we preliminarily find an overrebate of indirect taxes of 0.81 percent *ad valorem* for 1979 and 0.25 percent *ad valorem* for 1980.

(2) *Income Tax Deduction on Export-related Income.* Under this program the Argentine government allowed a deduction from taxable income equal to 10 percent of the f.o.b. value of manufactured exports. The income tax rate is 33 percent. This results in a maximum potential benefit of 3.3 percent of the f.o.b. value of exports. There is no information currently available to the Department on the utilization of this program in 1979; therefore, the Department has assumed full utilization as the best information available, and we preliminary determine the benefit from this program to be 3.3 percent for the period January 17, 1979 through December 31, 1979.

The Government of Argentina has provided information showing that during the first half of 1980 the program was not utilized. Further, the program was terminated in July 1980. Therefore, we preliminarily determine the benefit from this program to be zero percent for calendar year 1980.

(3) *Preferential Financing.* Although the final determination on non-rubber footwear from Argentina stated that preferential financing for exporters had been eliminated by the Government of Argentina, the Department reconsidered this program because it was found countervailable in the countervailing duty order on leather wearing apparel from Argentina.

Circular R.F. 153, issued by the Central Bank of Argentina on December 6, 1977, and effective January 1, 1978, is the basis for the current export financing program. Its expressed purpose is to stimulate the production of goods and services for export, and as such we consider the program an export subsidy.

This program makes available to exporters pre-export funds for individual sales at an interest rate of 1 percent for a period of up to 180 days, to be repaid no later than 60 days after the effective export date. The funds are provided by the Central Bank and disbursed through private commercial banks to individual borrowers. For non-rubber footware during the review period, the Cental Bank limited loan amounts to 55 percent of the contracted f.o.b. values.

The loans, granted in pesos but indexed to U.S. dollars by the banks at the prevailing official exchange rate, must be repaid in pesos, but in an equivalent amount of dollars at the exchange rate in effect on the payment date. We are comparing these loans to interest rates in Argentina for short-term peso loans indexed to time deposit rates in Argentina. The Department has found that peso loans indexed to changes in the banks' cost of money (the rate paid on short-term time deposits), rather than loans indexed to the dollar or another foreign currency, are generally available to Argentine businesses on a commercial basis and are normally used when preferential financing is not available.

Because the Government of Argentina has informed us that this program was not utilized during 1979 for non-rubber footwear exports to the United States, we preliminarily determine that there was no benefit conferred by the Government of Argentina during this period under the preferential financing program.

For 1980 we have no data on actual loans taken by exporters of non-rubber footwear. In the absence of data requested by the Department on the utilization of the loan program, we must assume that the maximum amount was borrowed for the full term on all exports to the United States. Furthermore, we have preliminarily disallowed a claim that certain charges, commissions, and fees for technical inspections totalling 15 percent should be added to the cost of preferential loans, because these claims have not been described, quantified, or documented.

To determine the benefit of this financing program for 1980, we have compared a 14.4 percent annual commercial rate to the 1.0 percent preferential rate. We find an interest differential of 13.4 percent, which when multiplied by the maximum amount of available financing for one-half year results in and ad valorem benefit of 3.69 percent.

Preliminary Results of the Review

As a result of our review, we preliminarily determine the aggragate net subsidy to be 4.11 percent ad valorem for the period January 17, 1979 through December 31, 1979; and 3.94 percent for calendar year 1980.

The provisions of T.D. 79–18 and section 303(a)(5) of the Tariff Act. Prior to the enactment of the TAA, apply to all entries made prior to January 1, 1980. Accordingly, the Department intends to instruct the Customs Service to assess countervailing duties of 0.86 percent of the f.o.b. invoice price on all unliquidated entries on non-rubber footwear from Argentina entered, or withdrawn from warehouse, for consumption during the period January 17, 1979 through December 31, 1979.

The provisions of section 751 of the Tariff Act apply to all entries made on or after January 1, 1980. Accordingly, the Department intends to instruct the Customs Service to assess countervailing duties of 3.94 percent of the f.o.b. invioce price on all unliquidated entries of non-rubber footwear from Argentina entered, or withdrawn from warehouse, for

consumption on or after January 1, 1980 and exported on or before December 31, 1980.

Further, as provided for by section 751(a)(1) of the Tariff Act, we intend to instruct the Customs Service to collect a cash deposit of estimated countervailing duties of 3.94 percent of the f.o.b. invoice price on all shipments entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of the present review. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

(Sec. 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and section 355.41 of the Commerce Regulations (19 CFR 355.41))

Dated: December 8, 1982.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 82-33952 Filed 12-14-82; 8:45 am]

BILLING CODE 3510-25-M

Importers and Retailers' Textile Advisory Committee; Public Meeting

AGENCY: International Trade Administration, Commerce.

SUMMARY: The Importers and Retailers' Textile Advisory Committee was established by the Secretary of Commerce on August 13, 1963 to advise U.S. Government officials of the effects on import markets of cotton, wool, and man-made fiber textile agreements.

TIME AND PLACE: January 18, 1983 at 10:30 a.m. in Room 4830, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

AGENDA: (1) Review of imports trends, (2) Implementation of textile agreements, (3) Report on conditions in the domestic market, and (4) Other business.

PUBLIC PARTICIPATION: The meeting will be open to public participation to the extent time is available. The public may file written statements with the Committee before or after the meeting. Approximately 30 seats will be available for the public on a first-come, first-served basis.

FOR FURTHER INFORMATION CONTACT: Helen L. LeGrande, Office of the Deputy Assistant Secretary for Textiles and Apparel, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: 202/377-3737.

Dated: December 9, 1982.

Walter C. Lenahan,

Deputy Assistant Secretary for Textiles and Apparel.

[FR Doc. 82-33954 Filed 12-14-82; 8:45 am]

BILLING CODE 3510-25-M

Sugar Content of Certain Articles From Australia; Final Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Final Results of Administrative Review of Countervailing Duty Order.

SUMMARY: On October 8, 1982, the Department of Commerce published in the **Federal Register** the preliminary results of its administrative review of the countervailing duty order on the sugar content of certain articles from Australia. The review covered the period July 1, 1979 through December 31, 1979, and calendar years 1980 and 1981.

Interested parties were invited to comment on the preliminary results. We received no comments. Therefore, the final results of the review are the same as those presented in the preliminary results.

EFFECTIVE DATE: December 15, 1982.

FOR FURTHER INFORMATION CONTACT: Josephine Russo or Richard Moreland, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On October 8, 1982, the Department of Commerce ("the Department") published in the **Federal Register** (47 FR 44601) the preliminary results of its administrative review of the countervailing duty order on the sugar content of certain articles from Australia (T.D. 39541, March 24, 1923). The Department has now completed that administrative review.

Scope of the Review

Imports covered by the review are "approved fruit products" and "other approved products" produced in Australia. The current list of "approved fruit products" includes the following items: jams, canned fruits, citrus peel, crystallized (or glace) fruits, certain fruit cordials and fruit juices containing not less than 25 percent pure Australian juice. The list of "other approved products" currently includes: alcoholic beverages, biscuits, cakes, puddings, pastries and similar mixtures and ingredients used to make them, chemicals derived from cane sugar by hydrolysis, chemical preparations used as inhibitors or stabilizers, condiments, confectionary, desserts and ingredients used to make them, drink powders and crystals, essences and flavorings, ice block mixtures, leather, maple syrup, medicines and drugs, mixtures used to make icings, fillings, dressings and other foods, processed cereal foods or vegetables, processed egg products, processed milk products, quick frozen fruits, soft drinks, soups, spreads, sweetened fruit pulp and other fruit products which are not "approved fruit products." Exceptions to the above are pure sugar and pure icing sugar (that is, not mixed with other manufacturing ingredients), golden syrup, treacle and molasses. These are regarded as sugar and sugar syrups.

The review covers the period July 1, 1979 through December 31, 1979, and calendar years 1980 and 1981. It is limited to the program of rebate payments made through the Export Sugar Rebate System.

Final Results of the Review

Interested parties were invited to comment on our preliminary results. We received no comments. Therefore, the final results of our review are the same as those presented in the preliminary results of review.

The Department will instruct the Customs Service to assess countervailing duties in the amount of the net subsidies, as shown in the table below, on all shipments of approved fruit or other approved products exported on or after July 1, 1979 and through December 31, 1981.

Period	Per metric ton of sugar content	
	Approved fruit products	Other approved products
July 1, 1979–December 31, 1979.	Aus. $35.03	Aus. $45.03.
January 1, 1980–December 31, 1980.	Nil	Nil
January 1, 1981–December 31, 1981.	Nil	Aus. $2.58.

Further, as provided for by section 751(a)(1) of the Tariff Act of 1930 ("the Tariff Act"), the Department will

instruct the Customs Service to collect cash deposits of estimated countervailing duties, of Aus. $2.58 per metric ton of sugar content on other approved products and zero on approved fruit products, on all shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

The Department intends to conduct the next administrative review by the end of March 1983. The amount of countervailing duties to be imposed on exports made during 1982 will be determined in that review. Consequently, the suspension of liquidation previously ordered will continue for all entries of this merchandise exported on or after January 1, 1982.

The Department encourages interested parties to review the public record and submit applications for protective orders, if desired, as early as possible after the Department's receipt of the information in the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and section 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated: December 8, 1982.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

DEPARTMENT OF DEFENSE

Corps of Engineers; Department of the Army

Fidalgo Bay et. al., Wash.; Draft Environmental Impact Statement

AGENCY: U.S. Army Corps of Engineers, Seattle District; Defense.

ACTION: Preparation of a draft environmental impact statement (EIS) for dredging with intertidal disposal; construction of commercial marina, levee, and bulkhead; and placement of riprap in Fidalgo Bay, Padilla Bay at Anacortes, Washington.

SUMMARY: Anacortes Fidalgo Marina, Inc. has applied to the Corps of Engineers for a Section 10/404 permit to fill approximately 18 acres of intertidal wetland with material dredged from Fidalgo Bay for the purposed of constructing a commerical marina. In order to assess the potential impacts of the proposed fill and alternatives to the fill, the Corps of Engineers has determined that preparation of an environmental impact statement is necessary. The proposed plan calls for the placement of approximately 680,000 cubic yards of dredged material, riprap, and gravel in and near Fidalgo Bay, Padilla Bay, Anacortes, Washington. Approximately 660,000 cubic yards of material would be generated by hydraulic dredging of a small boat basin and access channel. The remainder of the material, about 20,000 cubic yards, would be riprap and gravel from an upland source to be used for filter blanket slope protection. A breakwater for harbor protection and a levee for retention of dredged material placed on the intertidal site will be constructed. The purpose of the proposed fill is to provide land for parking and marina related facilities.

The Corps of Engineers has three alternative courses of action available:

1. The Section 10/404 permit could be denied. This option would prohibit all disposal and in-water construction activity, as well as prevent environmental impacts associated with the proposed action.

2. The permit could be issued as described in the public notice.

3. The permit could be issued with special conditions that would mitigate adverse impacts resulting from the proposed action.

Alternatives to the proposed action currently being considered by Anacortes Fidalgo Marina, Inc. include: no action, dredged material disposal alternatives, alternative uses for the proposed site, and use of a different site.

a. *No Action.* This alternative would require no further involvement by the Corps of Engineers.

b. *Dredged Material Disposal Alternatives.* Dredged material could be trucked off-site to upland disposal sites or disposed of in open water.

c. *Alternative Uses for Proposed Site.* Alternative uses for the site are limited to small scale retail and tourist recreation facilities due to existing zoning ordinances.

d. *Use of a Different Site.* Numerous potential sites for a marina facility in the vicinity of Anacortes will be examined. The applicant does not own or control land at other sites, but alternatives have been studied to provide a perspective for comparison of impacts.

Criteria for site comparison include size, economic feasibility, public services, access, and environmental and public policy considerations. Sites to be evaluated in addition to proposed site are Ship Harbor and North End Swinomish Channel, Anacortes Urban Renewal Area, Cap Sante, and Skyline Marina.

Significant issues to be addressed in the draft EIS include: the need for the proposed action, fisheries food-web impacts and ecosystem function due to removal of shallow water/intertidal habitat, impacts on eelgrass, water quality impacts due to disposal of dredged material, long-term water quality impacts due to removal of shallow water and wet land areas, and alternatives to the action.

Other environmental review and consultation requirements include preparation of a Section 404(b)(1) analysis by the Corps of Engineers and acquisition by the applicant of Washington State water quality certification.

Public Involvement: A public scoping meeting is scheduled at Anacortes, Washington, 13 December 1982. The purpose of the meeting is to clarify issues of major concern and identify studies that might be needed in order to analyze and evaluate project impacts. Announcement of this scoping meeting has been mailed, along with an information package, to all persons identified as having interests in this or other actions in Fidalgo Bay. Further meetings may be scheduled as needed, although no specific dates for additional public meetings are presently under consideration. It is anticipated that at least one public meeting or workshop will be held during the draft EIS review period.

Draft EIS Availability: The draft EIS for this proposed action should be available by mid 1983.

Address: Questions and/or comments on this proposed action or the draft EIS should be directed to: Mr. Fred Weinmann, Environmental Resources Section, U.S. Army Corps of Engineers, Seattle District, Post Office Box C–3755, Seattle, Washington 98124. Telephone (206) 764–3624 (FTS 399–3624).

Dated: December 3, 1982.

Norman C. Hintz,

Colonel, Corps of Engnieers, District Engineer.

[FR Doc. 82–34001 Filed 12–14–82; 8:45 am]

BILLING CODE 3710–GB–M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[Case No. 640C00390]

Signal Petroleum; Action Taken On Consent Order

Correction

In FR Doc. 82–33337 appearing on page 55267 in the issue of Wednesday,

December 8, 1982, make the following correction:

In the second paragraph under "SUPPLEMENTARY INFORMATION", in the ninth line, "$41,500,000" should have read "$1,500,000".

BILLING CODE 1505-01-M

Federal Energy Regulatory Commission

[Docket No. CP79-473-003]

Alabama-Tennessee Natural Gas Co.; Revised General Service Sales Contracts

December 9, 1982.

Take notice that on November 26, 1982, Alabama-Tennessee Natural Gas Company (Alabama-Tennessee) tendered for filing in accordance with Paragraph (C) of the Commission's order in Alabama-Tennessee Natural Gas Company's Docket No. CP79-473-002, revised General Service Sales Contracts for each of the following customers presently being served by Alabama-Tennessee who requested increases in their contract quantity:

Town of Moulton, Alabama, Lawrence-Colbert Counties Gas District, North Alabama Gas District, Town of Iuka, Mississippi, Hardin County Gas Company, City of Hartselle, Alabama, City of Decatur, Alabama, Town of Selmer, Tennessee, The Gas Board of the City of Russellville, Alabama, City of Tuscumbia, Alabama, City of Florence, Alabama, City of Huntsville, Alabama.

Alabama-Tennessee states that the revised contracts supersede and cancel the existing General Service Gas Sales Contract with each of the above-mentioned customers.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before December 22, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-34042 Filed 12-14-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. TA82-1-20-001]

Algonquin Gas Transmission Co.; Rate Filing Under Rate Schedule STB

December 10, 1982.

Take notice that Algonquin Gas Transmission Company (Algonquin Gas) of December 3, 1982, tendered for filing Seventh Revised Sheet No. 10-C to its FERC Gas Tariff, First Revised Volume No. 1.

Algonquin Gas states that Sheet No. 10-C is being filed to reflect in Algonquin Gas' Rate Schedule STB, an increase in Texas Eastern Transmission Corporation's (Texas Eastern) Rate Schedule SS-II. By Commission orders issued March 20, 1981, July 24, 1981 and May 10, 1982, in Docket Nos. CP-81-4, CP-291 and CP-82-2, respectively, Texas Eastern was granted authorization to render firm daily withdrawal service under Rate Schedule SS-II and to construct and operate pipeline facilities designated as Phases I, II and III Firm Expansions. Texas Eastern's increase in its Rate Schedule SS-II is a result of incorporating in Texas Eastern's tariff the Firm Demand Charge for the composite facilities of Phases I, II and III.

Algonquin Gas requests that the proposed effective date of the filing be November 16, 1982.

Algonquin Gas requests permission to add a surcharge, if necessary, to the next succeeding month's billing to reflect such rates effective November 16, 1982.

Algonquin Gas notes that a copy of this filing is being served upon each affected party and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before December 22, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-34043 Filed 12-14-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP82-427-000]

Columbia Gas Transmission Corp.; Informal Conference

December 9, 1982.

Take notice that on January 4, 1983, an informal conference will be held in the offices of the Commission at 825 North Capitol Street, Washington, D.C. Said conference will commence at 9:30 a.m. and discussions therein will encompass the issues generated by the application and the several motions to intervene filed herein.

All interested persons may attend the informal conference; however, attendance or participation at such conference will not serve to make the attendees parties to the proceeding.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-34045 Filed 12-14-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RP82-120-001]

Columbia Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

December 10, 1982.

Take notice that Columbia Gas Transmission Corporation (Columbia) on December 6, 1982, tendered for filing the following revised tariff sheets to its FERC Gas Tariff:

Original Volume No. 1

Eighty-fifth Revised Sheet No. 16

Original Volume No. 2

Seventh Revised Sheet No. 693

Columbia states that tariff sheet No. 16 to Original Volume No. 1 is necessary in order to place into effect on January 1, 1983, which is the end of the suspension period, rates which comply with the conditions set forth in ordering Paragraphs (D) and (E) of the Commission's suspension order herein of July 30, 1982.

Columbia states that, in addition to changes required by the Commission's suspension order, its revised filing reflects a voluntary reduction in its overall rate of return from 14.60% to 13.36%. More specifically, the revised filing reflects a reduction in the embedded cost of long-term debt from

10.39 percent to 9.44 percent and a reduction in return on common equity from 19.0 percent to 17.5 percent. It is stated that this latter change is being made to render Columbia's rates more competitive with alternative fuels. Columbia requests the Commission to grant the necessary waivers to permit it to reflect this return reduction in its revised filing.

It is also stated that the revised filing reflects the demand/commodity rate structure and rates to be placed into effect by the Trailblazer pipeline system as of January 1, 1983, which is one day subsequent to the end of the test period in this proceeding. Columbia has requested waivers of the applicable Commission regulations to permit it to reflect the above adjustments in its revised filing.

Further, Columbia states that the revised rates are based upon the *United* method of cost classification and rate design. Columbia also states that it intends to implement prospectively in this docket the outcome of the cost classification and rate design hearing in its Docket No. RP81–83, the hearing on which is scheduled to commence on December 14, 1982.

Copies of this filing were served upon the Company's jurisdictional customers, interested state commissions and to each of the parties set forth on the official service list in this proceeding.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, Union Center Plaza Building, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before December 22, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of Columbia's filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–34046 Filed 12–14–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP82–119–001]

Columbia Gulf Transmission Co.; Proposed Changes in FERC Gas Tariff

December 10, 1982

Take notice that Columbia Gulf Transmission Company (Columbia Gulf) on December 6, 1982 tendered for filing the following revised tariff sheets to its FERC Gas tariff to become effective January 1, 1983:

Original Volume No. 1

Substitute Twenty-eighth Revised Sheet No. 7
Substitute First Revised Sheet No. 29

Original Volume No. 2

Substitute Ninth Revised Sheet No. 72
Substitute Ninth Revised Sheet No. 73
Substitute Sixth Revised Sheet No. 92
Substitute Sixth Revised Sheet No. 93
Substitute Sixth Revised Sheet No. 126
Substitute Seventh Revised Sheet No. 145
Substitute Seventh Revised Sheet No. 146
Substitute Sixth Revised Sheet No. 263
Substitute Fifth Revised Sheet No. 320
Substitute Fifth Revised Sheet No. 337
Substitute Fifth Revised Sheet No. 386
Substitute Fifth Revised Sheet No. 387
Substitute Fourth Revised Sheet No. 416
Substitute Fourth Revised Sheet No. 417
Substitute Fifth Revised Sheet No. 440
Substitute Fifth Revised Sheet No. 484
Substitute Fifth Revised Sheet No. 493
Substitute Fifth Revised Sheet No. 567
Substitute Fifth Revised Sheet No. 596
Substitute Fourth Revised Sheet No. 628
Substitute Third Revised Sheet No. 663
Substitute Third Revised Sheet No. 677
Substitute Third Revised Sheet No. 702
Substitute Fourth Revised Sheet No. 750
Substitute Fourth Revised Sheet No. 820
Substitute Fourth Revised Sheet No. 821
Substitute Fourth Revised Sheet No. 848
Substitute Fourth Revised Sheet No. 849
Substitute First Revised Sheet No. 879
Substitute Third Revised Sheet No. 937
Substitute Third Revised Sheet No. 1052
Substitute Third Revised Sheet No. 1097
Substitute Third Revised Sheet No. 1149
Substitute Third Revised Sheet No. 1150
Substitute Second Revised Sheet No. 1194
Substitute Second Revised Sheet No. 1195
Substitute Second Revised Sheet No. 1223
Substitute Second Revised Sheet No. 1253
Substitute First Revised Sheet No. 1268
Substitute First Revised Sheet No. 1302
Substitute First Revised Sheet No. 1303
Substitute First Revised Sheet No. 1338
Substitute First Revised Sheet No. 1339
First Revised Sheet No. 1370
First Revised Sheet No. 1371
First Revised Sheet No. 1438

Columbia Gulf states that such tariff sheets are necessary to place its rates suspended by Commission Order issued July 30, 1982 in this proceeding into effect at the end of the prescribed suspension period and to consolidate proceedings herein with proceedings in Docket No. RP 82–120.

The Tariff sheets encompass Columbia Gulf's rate increase filing herein of July 1, 1982, with adjustments to its cost of service to eliminate all costs associated with facilities which will not be in service by December 31, 1982. In addition, an adjustment has been made to update the valuing of company use gas to reflect the average Southwest gas purchase cost as contained in Columbia Gas Transmission Corporation's (Columbia Transmission) October 28, 1982 PGA filing which became effective October 1, 1982.

An adjustment has also been made to reflect a voluntary reduction in overall rate of return from 14.60 percent to 13.36 percent.

Copies of this filing were served upon all of Columbia Gulf's jurisdictional customers.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, Union Center Plaza Building, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before December 22, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filling are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary

[FR Doc. 82–34047 Filed 12–14–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP83–77–000]

Florida Gas Transmission Co.; Application

December 9, 1982.

Take notice that on November 8, 1982, Florida Gas Transmission Company (FGT), P.O. Box 44, Winter Park, Florida 32790, filed in Docket No. CP83–77–000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Texas Gas Transmission Corporation (Texas Gas) from an

existing point of interconnection between the facilities of FGT and Energy Reserves Group, Inc. (Energy Reserves), in Matagorda County, Texas, to an existing point of interconnection between FGT's and Texas Gas' facilities near Eunice, Acadia Parish, Louisiana, all as more fully set forth in its application which is on file with the Commission and open to public inspection.

It is stated that Energy Reserves has an obligation to repay approximately 321,484 million Btu of gas to Texas Gas pursuant to Commission Opinion No. 1 issued October 26, 1977, in Docket Nos. CP75–295 and CI71–117. In partial fulfillment of its repayment obligation, it is asserted, Energy Reserves would sell 56.25 percent of natural gas to be produced daily from the #2 John L. Camp Well in the North Markham Field Area, Matagorda County, Texas. FGT states that it has agreed pursuant to the terms of a September 13, 1982, transportation agreement to transport up to 250 million Btu per day of said repayment gas for Texas Gas from the existing authorized point of interconnection between FGT's and Energy Reserves' facilities at Mile Post 232.17 on FGT's 20-inch mainline in Matagorda County, Texas, to an existing authorized point of interconnection between FGT's and Texas Gas' facilities near Eunice, Acadia Parish, Louisiana.

In order for FGT to receive the daily quantities of gas which Texas Gas would cause to be delivered at the point of receipt, it is stated, FGT has installed certain new facilities to its existing pipeline including metering facilities, a connecting pipeline and miscellaneous appurtenant facilities. It is further stated that Texas Gas would reimburse FGT for 56.25 percent of all expenses and costs incurred by FGT to accommodate transportation pursuant to the agreement.

FGT states that it would charge Texas Gas a facility charge of 12.1 cents per million Btu redelivered plus a service charge of 0.4 cents per million Btu redelivered.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 3, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–34048 Filed 12–14–82; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 4533–001]

City of Gillette, Wyo.; Surrender of Preliminary Permit

December 9, 1982.

Take notice that the City of Gillette, Wyoming, Permittee for the proposed Pilot Butte Power Project FERC No. 4533, has requested that its preliminary permit be terminated. The permit was issued on September 21, 1982, and would have expired on February 29, 1984. The project would have been located at the U.S. Bureau of Reclamations Pilot Butte facility in Fremont County, Wyoming. The City of Gillette states in its request that the Bureau of Reclamation has restored the Pilot Butte Powerhouse, and that its proposal is no longer feasible.

The Permittee filed its request on November 1, 1982, and the surrender of the preliminary permit for Project No. 4533 is deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–34044 Filed 12–14–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP83–28–000]

Grand Bay Co.; Proposed Changes in FERC Tariff

December 10, 1982.

Take notice that Grand Bay Company, on December 6, 1982, tendered for filing proposed changes in its FERC Gas Tariff for compression service rendered. The proposed changes would increase revenues from jurisdictional service by $60,595 based on the 12-month period ending December 31, 1983.

Grand Bay states that this filing reflects a rate increase in accordance with Article III of the contract between Grand Bay Company and its jurisdictional customers rendered for filing as the Grand Bay Company rate schedule on November 15, 1977.

Grand Bay requests that the Commission waive the regulation requiring 30-day notice, and requests an effective date of January 1, 1983 for the rate change.

Grand Bay further requests a waiver of any of the Commission's rules and regulations as may be required.

Copies of the filing were served on the company's jurisdictional customers.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capital Street N.E., Washington, D.C. 20426, in accordance with Sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before December 22, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–34049 Filed 12–14–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TA83–1–4–001]

Granite State Gas Transmission, Inc.; Proposed Changes in Rates

December 10, 1982.

Take notice that on December 2, 1982, Granite State Gas Transmission, Inc. (Granite State), 120 Royall Street, Canton, Massachusetts 02021, tendered for filing Second Revised Sheet No. 8 in its FERC Gas Tariff, First Revised

Volume No. 1, containing proposed changes in rates for storage service under its Rate Schedule GSS for effectiveness on January 1, 1983.

According to Granite State, its storage service under Rate Schedule GSS is provided to only one customer, Bay State Gas Company (Bay State), an affiliated distributor operating in Massachusetts. Granite State further states that its storage service is provided by contracting for storage capacity in a storage facility owned and operated by Consolidated Gas Supply Corporation (Consolidated) pursuant to certificate authorizations issued January, 11, 1982 in *Tennessee Gas Pipeline Company, et al.,* Docket Nos. CP69–222, *et al.,* 18 FERC ¶61,013 and, in the foregoing order, the Commission authorized Granite State to establish, track and maintain the rates for its Rate Schedule GSS storage service at the same level as the rates in effect for Consolidated's Rate Schedule GSS service because Granite State is merely a billing conduit for the rates charged for the storage service.

According to Granite State, Consolidated filed proposed increases for its Rate Schedule GSS service on June 30, 1982 in Docket No. RP82–115–000 which will become effective, after suspension, subject to refund, on January 1, 1983. The instant filing tracks Consolidated's proposed changes in its Rate Schedule GSS rates and Granite State requests that its rate changes be accepted for effectiveness on January 1, 1983, subject to refund on the outcome of the rates established for Consolidate's Rate Schedule GSS service in Docket No. RP82–115–000.

Granite State further states that copies of its filing were served upon Bay State and the Massachusetts Department of Public Utilities.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before December 22, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–34050 Filed 12–14–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER83–172–000]

Gulf States Utilities Co.; Filing

December 10, 1982.

Take notice that on December 2, 1982, Gulf States Utilities Company (GSU) tendered for filing an Agreement between GSU and the Louisiana Energy and Power Authority (LEPA), together with Service Schedules LESTS, LEITS, LETS, ES, RE and ECON which provide for special transmission, interconnection transmission, transmission, emergency, replacement energy and economy energy service, respectively, between GSU and LEPA.

GSU proposes that the Agreement and related service schedules become effective as of the date LEPA first delivers power and energy to GSU for delivery by GSU in accordance with the Agreement. GSU expects service under the filing to commence in June, 1983. At the request of LEPA, GSU proposes that the initial service schedules be accepted for filing on or before December 22, 1982. LEPA has advised the Applicant that Commission acceptance of the filing is extremely important to LEPA's financing arrangements related to the Rodemacher Coal Unit. GSU expects LEPA to request waiver of the Commission's notice requirements to facilitate LEPA's financing arrangements.

Copies of the filing have been served on LEPA, the Public Utility Commission of Texas and the Louisiana Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before December 17, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–34051 Filed 12–14–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. QF83–36–000]

Harriman Paperboard Corp.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

December 9, 1982.

On November 4, 1982, Harriman Paperboard Corp., 728 Emory Street, Harriman, Tennessee 37748, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules.

The topping-cycle cogeneration facility is located in Roane County, Harriman, Tennessee. The primary energy source to the facility is coal (the boiler has a provision that will allow burning waste papermill sludge and wood refuse at a later date). The electric power production capacity is 4,000 kilowatts. Thermal energy in the form of steam at an annual rate of 756,000,000 lb/yr is used to produce electricity and then to cook pulp and dry paperboard. Installation was completed October 28, 1982. Applicant states no electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb.

Secretary.

[FR Doc. 82–34052 Filed 12–14–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TA83-1-60-000]

Locust Ridge Gas Co.; Change in Rates

December 10, 1982.

Take notice that on December 3, 1982, Locust Ridge Gas Company (Locust Ridge) submitted for filing as part of its FERC Gas Tariff, Original Volume No. 3 and Original Volume No. 1 the following tariff sheets to be effective January 1, 1983:

Eleventh Revised Sheet No. 1A
Fourth Revised Sheet No. 1A

Locust Ridge states the purpose of the filing is to submit, for approval by the Commission, an out-of-period revision in Locust Ridge's rate to recover known changes in the Purchase Gas Adjustment (PGA) component of Locust Ridge's rate for the period of January 1, 1983 through February 28, 1983. The overall effect of the filed for adjustment to Locust Ridge's sales rate is an increase of $0.5921 per MMBtu.

Locust Ridge requests waiver of the Commission's regulations to the extent, if any, required to put the proposed tariff sheets into effect on January 1, 1983.

A copy of this filing has been mailed to Locust Ridge's jurisdictional customers.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before December 22, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-34083 Filed 12-14-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-27-000]

Michigan Wisconsin Pipe Line Co.; Tariff Filing

December 10, 1982.

Take notice that on December 2, 1982, Michigan Wisconsin Pipe Line Company ("Michigan Wisconsin") tendered for filing "Amendment No. 2 to Agreement of August 4, 1977 Between High Island Offshore System and Michigan Wisconsin Pipe Line Company" which further amends Article IV of Michigan Wisconsin's Rate Schedule X-64 included in its F.E.R.C. Gas Tariff, First Revised Volume No. 2, to be effective January 1, 1983, together with Second Revised Sheet No. 666, Seventh Revised Sheet No. 667, and Original Sheet No. 667A, to its Rate Schedule X-64 reflecting such contract amendment.

Michigan Wisconsin states that Amendment No. 2 is designed to assure that its Grand Chenier Facility is placed on the same footing as HIOS in terms of depreciation. In this regard, Michigan Wisconsin states that 66⅔% of the Grand Chenier Facility is dedicated to service to HIOS and has been depreciated to a lesser extent than HIOS' facilities because Michigan Wisconsin has not previously taken into account in the computation of its depreciation charge to HIOS, the supplemental charge for depreciation and concurrent credit to HIOS' reserve for depreciation, which HIOS was required to record by virtue of the Federal Energy Regulatory Commission's ("Commission") order of December 22, 1978 in *High Island Offshore System*, Docket Nos. CP75-104, *et al.*, 5 FERC (CCH) ¶ 61,267, and because the Commission, by its orders of February 12, 1982, 17 FERC (CCH) ¶ 61,086, and April 13, 1982, 19 FERC (CCH) ¶ 61,036, in *Michigan Wisconsin Pipe Line Company*, Docket No. RP81-1-000, held that the language of Article IV restrained Michigan Wisconsin, for the period January 1, 1981 through October 31, 1981, from computing its depreciation charge to HIOS on the basis of the depreciation charge allowed HIOS for such period. Michigan Wisconsin states that Amendment No. 2 would allow it to recover depreciation charges from HIOS associated with these factors and, therefore, place the Grand Chenier Facility on the same footing as HIOS' facilities in terms of depreciation.

Michigan Wisconsin also states that Amendment No. 2 is being filed so as to restate and implement the original intent of the parties to the contract to allow Michigan Wisconsin to compute its depreciation charge to HIOS on the same basis that HIOS is allowed to depreciate its facilities during the annual period Michigan Wisconsin's rate to HIOS is effective.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 211 and 214 of Part 385 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before December 22, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-34054 Filed 12-14-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-26-000]

Mid Louisiana Gas Co.: Proposed Change in Rates

December 9, 1982.

Take notice that Mid Louisiana Gas Company (Mid Louisiana) on November 30, 1982, tendered for filing, as part of First Revised Volume No. 1 of its FERC Gas Tariff, Fourth Revised Sheet No. 26a and Sixth Revised Sheet No. 26b to become effective January 1, 1983.

Mid Louisiana states that the purpose of the filing is to permit Mid Louisiana to charge prospectively the appropriate ceiling prices for its pipeline-owned production under the Natural Gas Policy Act (NGPA). Mid Louisiana states that the purpose of the filing is to terminate the pricing of company-owned production under Commission Order Nos. 58 and 98, which were vacated in *Mid Louisiana Gas Co.* v. *FERC*, 664 F. 2d 530 (Former 5th Cir.). Mid Louisiana further states that, in making the instant filing, it does not waive any rights it may have to make a filing to charge and collect NGPA prices for company-owned production from December 1, 1978, forward to December 31, 1982.

Copies of the filing have been served on all sale-for-resale customers and interested State commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before December 22, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the

Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-34055 Filed 12-14-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-355-000]

Natural Gas Pipeline Company of America; Settlement Conference

December 9, 1982.

Take notice that on January 5, 1983, a conference will be held in the offices of the Commission at 825 North Capitol Street, Washington, D.C. Said conference will commence at 9:30 a.m. and will concern topics raised in a draft settlement proposal circulated informally by Interstate Power Company prior to the meeting to all persons who have filed motions to intervene herein. Parties should also be willing to discuss resolution of the other potential issues raised by the application and the several motions to intervene.

Mere attendance at the conference will not serve to make persons formally parties to the proceeding, but all persons may at their option attend.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-34030 Filed 12-14-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-32-000]

Pacific Gas Transmission Co.; Application

December 13, 1982.

Take notice that on October 21, 1982, Pacific Gas Transmission Company (PGT), 245 Market Street, San Francisco, California 94106, filed in Docket No. CP83-32-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the best-efforts transportation and exchange of up to 15,000 Mcf of natural gas per day for J. R. Simplot Company (Simplot), all as more fully set forth in the application which is on file with the Commission and open for public inspection.

It is stated that Simplot currently owns and operates an anhydrous ammonia plant at its fertilizer complex near Pocatello, Idaho. It is asserted that Simplot has advised PGT that in order to provide a source of natural gas for feedstock in its Pocatello Plant, Simplot and Southern Union Gathering Company (Gathering Company) have entered into a contract for sale and purchase of natural gas dated March 17, 1982, as amended April 22, 1982. It is submitted that since the source of supply to be purchased by Simplot from Gathering Company is located in San Juan County, New Mexico, Simplot has entered into separate transportation agreements with El Paso Natural Gas Company, Northwest Pipeline Corporation (Northwest) and Intermountain Gas Company which collectively provide for the transportation of such gas from its source in New Mexico to Simplot's Pocatello Plant.

Simplot has advised PGT that Northwest is prevented from transporting the gas available to Simplot from Gathering Company in San Juan County, New Mexico, because of capacity constraints on the Northwest system at Kemmerer, Wyoming.

It is submitted that the transportation and exchange proposed by the instant application is designed to make available an alternative arrangement which would allow Simplot to deliver volumes of gas to Northwest at Spokane, Washington, thus circumventing the existing capacity constraint on Northwest's system.

It is asserted that pursuant to a gas transportation and exchange agreement dated October 13, 1982, the subject transportation would be accomplished by means of a backoff of deliveries to Pacific Gas and Electric Company of up to 15,000 Mcf of natural gas per day and the delivery of such gas to Northwest for Simplot's account at an existing point of interconnection between PGT and Northwest at Spokane, Washington.

The transportion and exchange service would be carried out pursuant to PGT's Rate Schedule T-1.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 30, 1982, file with the Federal Engergy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for PGT to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-34031 Filed 12-14-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-36-000]

Pacific Gas & Electric Co.; Application

December 13, 1982.

Take notice that on October 21, 1982, Pacific Gas and Electric Company (PGandE), P.O. Box 7442, San Francisco, California 94120, filed in Docket No. CP83-36-000 an application pursuant to Sections 284.222 and 284.127 of the Commission's Regulations for prior authorization for a transportation service proposed to be rendered on behalf of Northwest Pipeline Corporation (Northwest) and Beker Industries Corporation (Beker), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

PGandE states that it is exempt from the provisions of the Natural Gas Act pursuant to Section 1(c) thereof and has applied for a blanket certificate in Docket No. CP83-23-000 pursuant to Section 284.222 of the Commission's Regulations to engage in the transportation and sales of natural gas in the same manner as an intrastate pipeline under Sections 311 and 312 of the Natural Gas Policy Act of 1978. PGandE, however, indicates that the Commission has not to date acted on the request for blanket authorization. PGandE states that the proposed transportation service to be performed for Northwest and Beker would be carried out pursuant to the requested blanket authorization.

Specifically, PGandE proposes to transport up to 15 billion Btu of gas per day as part of an overall arrangement to effectuate the delivery of gas sold by Southern Union Gathering Company to

Beker. PGandE states that the gas to be delivered to Beker would be used as feedstock in the manufacture of fertilizer, an essential agricultural use within the meaning of Section 7(c)(2) of the Natural Gas Act.

PGandE indicates that pursuant to an order issued September 30, 1982, in Docket Nos. CP82–250, *et al.*, Northwest and Gas Company of New Mexico transport natural gas which Beker purchases from Southern Union Gathering Company in New Mexico for use at Beker's Conda, Idaho, fertilizer plant. It is stated that the gas is to be transported through the facilities of Gas Company of New Mexico or El Paso Natural Gas Company (El Paso) and Northwest. However, PGandE understands that during certain times of the year the directional flow of gas on Northwest's system makes it impossible for Northwest to transport Beker's gas northward through the southern portion of its system. As a convenience to Northwest, PGandE states that it is willing to offer a transportation service, on a best-efforts basis, in conjunction with El Paso and Pacific Gas Transmission Company (PGT), in order to transport the gas for Northwest on behalf of Beker from the southern end of Northwest's system to a more convenient location on the northern portion of Northwest's system. Title to the gas would remain with Beker at all times during transit, it is asserted.

PGandE further states that, although the blanket certificate for which PGandE has applied under Section 284.222 of the Regulations would permit it to engage in transportation arrangements on a self-executing basis, the instant transportation may not qualify as a self-executing transaction by virtue of the fact that the gas to be transported by PGandE would not be for Northwest's system supply. PGandE accordingly requests that the subject service be specifically authorized by the Commission pursuant to § 284.127.

PGandE states that the term of the proposed service would extend for the earlier of a two-year period or October 31, 1984. PGandE indicates it would charge a transportation rate of 14.0¢ plus an allowance of 4 percent of the gas transported for fuel use and line losses which is the same charge and fuel and line loss allowance requested in PGandE's application for blanket authority.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 30, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–34032 Filed 12–14–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP83–37–000]

Pacific Gas & Electric Co.; Application

December 13, 1982.

Take notice that on October 21, 1982, Pacific Gas and Electric Company (PGandE), P.O. Box 7442, San Francisco, California 94120, filed in Docket No. CP83–37–000 an aplication pursuant to Sections 284.222 and 284.127 of the Commission's Regulations for prior authorization for a transportation service proposed to be rendered on behalf of Northwest Pipeline Corporation (Northwest) and Phillips Pacific Chemical Company (Phillips Pacific) all as more fully set forth in the application which is on file with the Commission and open to public inspecton.

PGandE states that it is exempt from the provisions of the Natural Gas Act pursuant to Section 1(c) thereof and has applied for a blanket certificate in Docket No. CP83–23–000 pursuant to Section 284.222 of the Commission's Regulations to engage in the transportation and sales of natural gas in the same manner as an intrastate pipeline under Sections 311 and 312 of the Natural Gas Policy Act of 1978. PGandE, however, indicates that the Commission has not to date acted on the request for blanket authorization. PGandE states that the proposed transportation service to be performed for Northwest and Phillips Pacific would be carried out pursuant to the requested blanket authorization.

Specifically, PGandE proposes to transport up to 15 billion Btu of gas per day as part of an overall arrangement to effecuate the delivery of gas sold by Southern Union Gathering Company to Phillips Pacific. PGandE states that the gas to be delivered to Phillips Pacific would be used as feedstock in the manufacture of fertilizer, an essential agricultural use within the meaning of Section 7(c)(2) of the Natural Gas Act.

PGandE indicafes that pursuant to an order issued September 30, 1982, in Docket Nos. CP82–362 *et al.*, Northwest, El Paso Natural Gas Company (El Paso) and Gas Company of New Mexico transport natural gas which Phillips Pacific purchases from Southern Union Gathering Company in New Mexico for use at Phillips Pacific's Benton County, Washington, fertilizer plant. It is stated that the gas is to be transported through the facilities of Gas Company of New Mexico or El Paso and Northwest. However, PGandE understands that during certain times of the year the directional flow of gas on Northwest's system makes it impossible for Northwest to transport Phillips Pacific's gas northward through the southern portion of its system. As a convenience to Northwest, PGandE states that it is willing to offer a transportation service, on a best-efforts basis, in conjunction with El Paso and Pacific Gas Transmission Company (PGT), in order to transport the gas for Northwest on behalf of Phillips Pacific from the southern end of Northwest's system to a more convenient location on the northern portion of Northwest's system. Title to the gas would remain with Phillips Pacific at all times during transit, it is asserted.

PGandE further states that, although the blanket certificate for which PGandE has applied under § 284.222 of the Regulations would permit it to engage in transportation arrangements on a self-executing basis, the instant transportation may not qualify as a self-executing transaction by virtue of the fact that the gas to be transported by PGandE would not be for Northwest's system supply. PGandE accordingly requests that the subject service be specifically authorized by the Commission pursuant to § 284.127

PGandE states that the term of the proposed service would extend for the earlier of a two-year period or October 31, 1984. PGandE indicates it would charge a transportation rate of 14.0¢ plus an allowance of 4 percent of the gas transported for fuel use and line losses which is the same charge and fuel and line loss allowance requested in PGandE's application for blanket authority.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 30, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the

Commission's Rules of Practice and Procedure (18 CFR 385.214, or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-34033 Filed 12-14-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. E-7796]

Pacific Power & Light Co.; Cancellation

December 10, 1982.

Take notice that on November 26, 1982, Pacific Power & Light Company tendered for filing a notice of Cancellation of the Seven-Party Agreement dated July 20, 1978, between Pacific Power & Light Company, Portland General Electric Company, Puget Sound Power & Light Company, The Washington Water Power Company (collectively, the "Northwest Companies"), Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company (collectively, the "California Companies").

No transactions had taken place under the Agreement since 1975, no transactions in surplus power were expected to take place at the rate then provided in the Agreement, and other Rate Schedules on file with the Commission provided for transactions amongst the Parties.

The cancellation documents were spread on the record of Docket E-7796 on August 22, 1978.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before December 23, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-34034 Filed 12-14-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-1-6-001]

Sea Robin Pipeline Co., Vermilion Block 22 System; Filing of Revised Tariff Sheets

December 9, 1982.

Take notice that on November 30, 1982, Sea Robin Pipeline Company (Sea Robin) tendered for filing as a part of its FERC Gas Tariff, Original Volume No.2, Sixteenth Revised Sheet Nos. 127-D and 135-C to become effective January 1, 1983. These revised tariff sheets are being filed pursuant to Sections 4 and 5 of Sea Robin's Tariff and reflect Sea Robin's cost of gas delivered at Pecan Island, Louisiana, for the six (6) month period beginning January 1, 1983.

Copies of the revised tariff sheets and supporting data are being mailed to Sea Robin's jurisdictional customers and interested state commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before December 22, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretry.

[FR Doc. 82-34035 Filed 12-14-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-1-6-000]

Sea Robin Pipeline Co.; Filing of Revised Tariff Sheets

December 9, 1982.

Take notice that on November 30, 1982, Sea Robin Pipeline Company (Sea Robin) tendered for filing Thirty-Second Revised Sheet No. 4 to its FERC Gas Tariff, Original Volume No. 1. This tariff sheet and supporting information is being filed pursuant to the Purchased Gas Cost Adjustment provisions set out in Sections 1 and 3 of Sea Robin's Tariff with a proposed effective date of January 1, 1983. In addition, Sea Robin submits Thirteenth Revised Sheet No. 4-A to become effective January 1, 1983, in compliance with Federal Energy Regulatory Commission (Commission) orders issued May 11, 1978, and July 12, 1978, at Docket No. RP77-6; and First Revised Sheet No. 4-B which reflects the estimated incremental pricing surcharges for the period January 1, 1983 through June 30, 1983.

Sea Robin states that these revised tariff sheets and supporting data are being mailed to Sea Robin's jurisdictional customers and interested state commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before December 22, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-34036 Filed 12-14-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP82-116-002]

Southern Natural Gas Co.; Proposed Changes in FERC Gas Tariff

December 9, 1982.

Take notice that Southern Natural Gas Company (Southern) on December 2, 1982, tendered for filing proposed changes in its FERC Gas Tariff, Sixth Revised Volume No. 1, Original Volume No. 2 and First Revised Volume No. 2A. The revised tariff sheets would reduce the jurisdictional revenues for gas sales and transportation services by $8,338,078 annually over the rates orginally filed in Southern's Docket No. RP82-116.

Southern states that on July 1, 1982, Southern filed a general rate increase in Docket No. RP82-116 to become effective on August 1, 1982. By its order issued July 30, 1982, the Commission accepted the revised tariff sheets for

filing and suspended their effectiveness until January 1, 1983, subject to certain conditions. In compliance with the Commission's July 30, 1982 order, Southern's filing reflects the elimination of costs associated with facilities that will not be in service as of December 31, 1982, the actual balance of advance payments in Account No. 166 as of December 31, 1982, and the current GRI surcharge adjustment as of December 31, 1982.

The filing also reflects the current level of purchased gas costs as represented in Southern's purchased gas adjustment filing of November 2, 1982 and the terms of a Stipulation and Agreement in Docket Nos. RP80–102 and RP81–86 in which Southern agreed to reduce its main line depreciation rate from 3.85% to 3.30% and to reflect a zero allowance for cash working capital.

Southern requests that the proposed tariff sheets be allowed to be substituted for the tariff sheets previously suspended by the Commission's order of July 30, 1982. Since the proposed tariff sheets contain the same costs included in Southern's rate filing, modified in accordance with the Commission's July 30, 1982 order in this docket, Southern requests the Commission to grant such waivers as may be necessary to allow the proposed tariff sheets to become effective January 1, 1983 as contemplated by the Commission's July 30, 1982 order.

Copies of this filing were served upon Southern's jurisdictional customers, interested state public service commissions and all parties of record.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All such petitions or protests should be filed on or before December 22, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–34037 Filed 12–14–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TA83–1–17–000]

Texas Eastern Transmission Corp.; Proposed Changes in FERC Gas Tariff

December 9, 1982.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on December 1, 1982, tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following sheet:

Revised Substitute Sixty-third Revised Sheet No. 14.

This tariff sheet was filed to reflect a revision to Texas Eastern's SS–II rate pursuant to Section 4.G., Consolidated GSS Adjustments, of the SS–II Rate Schedule and a revision to Texas Eastern's ISS–II rate pursuant to Section 4.F., Consolidated GSS Adjustments, of the ISS–II Rate Schedule.

Consolidated Gas Supply Corporation (Consolidated) filed a major rate increase in Docket No. RP82–115 including a proposed increase in their Rate Schedule GSS rates effective January 1, 1983 after the Commission ordered five month suspension period. Pursuant to Section 4.G. of Texas Eastern's Rate Schedule SS–II and Section 4.F. of Rate Schedule ISS–II, the SS–II rates and ISS–II rates, respectively, are automatically adjusted to flow through any changes in Consolidated's GSS rates. The above substitute tariff sheet reflects the appropriate revision in SS–II rates and ISS–II rates.

The proposed effective date of the above mentioned tariff sheet is January 1, 1983.

Copies of the filing were served on Texas Eastern's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before December 22, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–34039 Filed 12–14–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP81–109–000 and RP82–37–000]

Texas Eastern Transmission Corp.; Informal Conference To Discuss Stipulation of Issues and Other Pre-Trial Matters

December 9, 1982.

Take notice that an informal conference in the above-captioned docket to discuss stipulation of issues and other pre-trial matters will be convened at 10:00 a.m., on December 16, 1982, at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in a Commission meeting room to be announced. Arrangements have been made to extend this conference through December 17, 1982.

All interested parties and Staff will be permitted to attend.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–34038 Filed 12–14–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP83–81–000]

Transcontinental Gas Pipe Line Corp.; Application

December 13, 1982.

Take notice that on November 12, 1982, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP83–81–000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for the account of United Gas Pipe Line Company (United), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that pursuant to a transportation agreement dated March 17, 1982, Applicant proposes to transport on a firm basis up to 15,000 Mcf of natural gas per day on behalf of United, less a 1.2 percent retention for compressor fuel use and line-loss make up. It is stated that such quantities would be made available from a point of receipt at the existing interconnection between the facilities of Applicant and the facilities jointly owned by Southern Natural Gas Company, United and Applicant in the Ship Shoal area Block 232, offshore Louisiana. It is further stated that Applicant would redeliver equivalent quantities to United at an existing point of interconnect between

United and Applicant in Victoria County, Texas, Calcasieu Parish, Louisiana, and other mutually agreeable points of interconnection between United and Applicant.

For such transportation, Applicant proposes to charge United an initial monthly demand charge of $46,800 based on a contract demand quantity of 15,000 Mcf per day.

It is asserted that the subject transportation service would enable United to receive into its system gas which it has purchased in Ship Shoal Block 232.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 4, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-34040 Filed 12-14-82; 8:45 am]

BILLING CODE 6717-01-M

[Projects Nos. 6069-001 and 6070-001]

Watershed, Inc., Surrender of Preliminary Permits

December 9, 1982.

Take notice that Watershed, Inc., Permittee for the proposed Little Falls and Mound Plant Dam Projects Nos. 6069 and 6070, respectively, has requested that its preliminary permits be terminated. The permits were issued in July 1982, and would have expired on December 31, 1983. The projects would have been located on the Willow River in St. Croix County, Wisconsin.

The Permittee filed its request on October 28, 1982, and the surrender of the preliminary permits for Projects Nos. 6069 and 6070 are deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-34041 Filed 12-14-82; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-30223; PH-FRL 2264-5]

Certain Companies; Applications To Conditionally Register Pesticide Products Containing New Active Ingredients

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of applications to conditionally register pesticide products containing active ingredients not included in any previously registered pesticide products pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATE: Comment by January 14, 1983.

ADDRESS: Written comments, identified by the document control number [OPP-30223] and the file or registration number, should be submitted to: Franklin D. R. Gee, Product Manager (PM) 17, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 207, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202. (703-557-2690).

SUPPLEMENTARY INFORMATION: EPA received applications as follows to conditionally register pesticide products containing active ingredients not included in any previously registered pesticide products pursuant to the provisions of section 3(c)(4) of FIFRA. Notice of receipt of these applications does not imply a decision by the Agency on the applications.

Applications Received

1. File Symbol: 2724-GNL. Applicant: Zoecon Industries, 1220 Denton Drive, Dallas, TX 75234. Product name: Zoecon RF-210 Hydroprene Concentrate. Insect Growth Regulator. Active ingredient: Hydroprene [ethyl (2E,4E)-3,7,11-trimethyl-2,4 dodecadienoate] 15%. Proposed classification/Use: General. For formulating use only.

2. File Symbol: 2724-GNU. Applicant: Zoecon Industries. Product name: Zoecon RF-209 Cockroach Growth Regulator. Insect Growth Regulator. Active ingredient: Hydroprene [ethyl (2E,4E)-3,7,11-trimethyl-2,4 dodecadienoate] 65.7%. Proposed classification/Use: General. For the control of cockroaches by inhibiting reproduction.

3. File Symbol: 2724-GNA. Applicant: Zoecon Industries. Product name: Zoecon RF-208 Fogger with Altozar. Insect Growth Regulator. Active ingredient: Hydroprene [ethyl (2E,4E)-3,7,11-trimethyl-2,4 dodecadienoate] 1.20%. Proposed classification/Use: General. For control of cockroaches by inhibiting reproduction.

4. File Symbol: 8730-GL. Applicant: Hercon Division Corp., 1107 Broadway, New York, NY 10010. Product name: Lure N Kill Roach and Ant Killer Insecticidal Baits with Sex Lure. Insecticide. Active ingredient: [1 R-(1R*,2R*,5S*,6E,10R*)]-(+/-)-8-methylene-5-(1-methylethyl)-spiro [11-oxabicyclo[8.1.0]undec-6-ene-2,2'-oxiran]-3-one 10.000%. Proposed classification/Use: General. For indoor use on roaches, waterbugs, and ants and non-food areas of restaurants and food handling establishments.

5. File Symbol: 8730-GI. Applicant: Hercon Division Corp. Product name: Lure N Kill Roach and Ant Killer with Sex Lure. Insecticide. Active ingredient: [1 R-(1R*,2R*,5S*,6E,10R*)]-(+/-)-8-methylene-5-(1-methylethyl)-spiro [11-oxabicyclo[8.1.0]undec-6-ene-2,2'-oxiran]-3-one 0.713%. Proposed classification/Use: General. For control of ants and roaches.

6. File Symbol: 8730-GT. Applicant: Hercon Division Corp. Product name: Lure N Kill American Cockroach Sex Attractant Baits. Insecticide. Active ingredient: [1 R-(1R*,2R*,5S*,6E,10R*)]-(+/-)-8-methylene-5-(1-methylethyl)-spiro [11-oxabicyclo[8.1.0]undec-6-ene-2,2'-oxiran]-3-one 0.001%. Proposed classification/Use: General. For control of American cockroaches, waterbugs, and other periplaneta species.

7. File Symbol: 279–GNEA. Applicant: FMC Corp., 2000 Market St., Philadelphia, PA 19103. Product name: Ammo Technical Insecticide. Insecticide. Active ingredient: (+)Cyano (3-phenoxphenyl) methyl (±) *cis trans* 3-(2, 2-dichloroethenyl)-2, 2 dimethylcyclopropane carboxylate 92.00%. Proposed classification/Use: General. For formulating use only.

8. File Symbol: 279–GNET. Applicant: FMC Corp. Product name: Ammo 2.5 EC Insecticide. Insecticide. Active ingredient: (+)Cyano (3-phenoxyphenyl) methyl (±) *cis trans* 3-(2, 2-dichloroethenyl)-2, 2 dimethylcyclopropane 30.6%. Proposed classification/Use: General. For formulating use only.

Notice of approval or denial of an application to register a pesticide product will be announced in the **Federal Register**. Except for such material protected by section 10 of FIFRA, the test data and other scientific information deemed relevant to the registration decision may be made available after approval under the provisions of the Freedom of Information Act. The procedure for requesting such data will be given in the **Federal Register** if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

Written comments filed pursuant to this notice, will be available in the product manager's office from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays. It is suggested that persons interested in reviewing the application file telephone the product manager's office to ensure that the file is available on the date of intended visit.

(Sec. 3(c)(4) of FIFRA, as amended)

Dated: December 2, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82-33734 Filed 12-14-82; 8:45 am]

BILLING CODE 6560-50-M

[PP 8G2104/T397; PH–FRL 2264–4]

Mobay Chemical Corp.; Establishment of Temporary Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has established temporary tolerances for residues of the miticide 6-methyl-1,3-dithiolo[4,5-*b*] quinoxalin-2-one, in or on the raw agricultural commodities almonds and almond hulls. These temporary tolerances were requested by Mobay Chemical Corporation.

DATE: These temporary tolerances expire October 21, 1983.

FOR FURTHER INFORMATION CONTACT: Jay Ellenberger, Product Manager (PM) 12, Registration Division (TS–767), Office of Pesticide Programs, Environmental Protection Agency, Rm. 202, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–2386).

SUPPLEMENTARY INFORMATION: Mobay Chemical Corporation, Agricultural Chemicals Division, 1025 Vermont Ave., NW., Suite 500, Washington, D.C. 20005, has requested, in pesticide petition PP 8G2104, the establishment of temporary tolerances for residues of the miticide 6-methyl-1,3-dithiolo[4,5-*b*]quinoxalin-2-one, in or on the raw agricultural commodities almonds at 0.05 part per million (ppm) and almond hulls at 0.5 ppm.

These temporary tolerances will permit the marketing of the above raw agricultural commodities when treated in accordance with the provisions of the experimental use permit 3125–EUP–158 which is being issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, (92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that establishment of the temporary tolerances will protect the public health. Therefore, the temporary tolerances have been established on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.

2. Mobay Chemical Corp. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These tolerances expire October 21, 1983. Residues not in excess of these amounts remaining in or on the raw agricultural commodities after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerances. These tolerances may be revoked if the experimental use permit is revoked or if any experience or scientific data with this pesticide indicate that such revocation is necessary to protect the public health.

The Office of Management and Budget has exempted this notice from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub L. 96–534, 94 Stat. 1164, 5 U.S.C. 610–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(j), 68 Stat. 516, (21 U.S.C. 346a(j)))

Dated: December 2, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82-33748 Filed 12-14-82; 8:45 am]

BILLING CODE 6560-50-M

[A-7-FRL 2267-1]

Region 6; Final Agency Action on a PSD Permit for E. I. du Pont de Nemours and Company; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Correction notice.

SUMMARY: In paragraph 2 of the information notice concerning a final agency action for E.I. du Pont de Nemours, published on October 26, 1982, at 47 FR 47461, the name TEX-USS should be replaced with the name E. I. du Pont de Nemours. Also, the permit number PSD-TX–336 should be replaced with the number PSD-LA–335. In addition, in paragraph three, the number PSD-LA–108 should be replaced with PSD-LA–335.

FOR FURTHER INFORMATION CONTACT: William H. Taylor, Air Branch, EPA, First International Building, 1201 Elm Street, Dallas, Texas 75270. (214) 767–1594.

Dated: November 26, 1982.

Frances E. Phillips,

Acting Regional Administrator, Region 6.

[FR Doc. 82-33888 Filed 12-14-82; 8:45 am]

BILLING CODE 6560-50-M

[(OA-FRL 2267-7)]

Schedule for Awarding Senior Executive Service Bonuses

AGENCY: Environmental Protection Agency.

ACTION: Notice of Schedule for Awarding Senior Executive Service Bonuses.

SUMMARY: Under guidelines issued by the Office of Personnel Management, agencies must publish a notice in the Federal Register of their schedule for awarding Senior Executive Service bonuses at least 14 days prior to the date on which the bonuses will be paid. In accordance with these guidelines, the Environmental Protection Agency gives notice of the intention to award Senior Executive Service bonuses for the performance rating cycle of October 1, 1981 through September 30, 1982. Bonuses will be paid not earlier than December 30, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Clarence Hardy, Director, Personnel Management Division, Environmental Protection Agency, Washington, D.C. 20460; telephone (202) 382-3300.

Anne M. Gorsuch,

Administrator.

December 9, 1982.

[FR Doc. 82-33991 Filed 12-14-82; 8:45 am]

BILLING CODE 6560-01-M

[WH-FRL 2255)-1]

State and Local Assistance; Grants for Construction of Treatment Works

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Allotment.

SUMMARY: This notice sets forth the allotments to the States of the $2.4 billion appropriated for fiscal year 1983 on October 1, 1982 by Pub. L. 97-272 for the municipal wastewater treatment works construction grants program.

Section 205(c)(2) of the Clean Water Act (the Act), as amended by Pub. L. 97-117, provides that sums authorized to be appropriated for fiscal year 1983 be allotted to the States in accordance with the table added to section 205(c)(2) by Pub. L. 97-117.

Through promulgation of this notice, the requirements of the Act are fulfilled and the public is notified of the amounts made available to the States for grants for the construction of municipal wastewater treatment works.

DATE: December 15, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Albert Pelmoter, Chief, Program Policy Branch, Municipal Construction Division, Office of Water Program Operations, (202) 382-7359.

SUPPLEMENTARY INFORMATION: Pub. L. 97-272 appropriated $2.43 billion to fund the construction grants program in fiscal year 1983. Of this amount, $2.4 billion was appropriated for allotment to the States under section 205 of the Clean Water Act (the Act), and $30 million was appropriated for combined sewer overflow correction under section 201(n)(2) of the Act.

As required by section 205(c)(2) of the Act, funds appropriated for fiscal year 1983 are hereby allotted on the basis of the percentages listed in the new table added to section 205(c)(2) by Pub. L. 97-117. The percentages were applied to $2.4 billion of the appropriation to determine the actual dollar amount allotted to each State.

The new table of allotments reflects a revised [1] formula and conforms to section 205(e) of the Act, which requires that no State shall receive less than one half of one percent of a total allotment. The table appears at the end of this notice.

Pub. L. 97-117 further amended the Act by adding a subsection (m) to section 201. Paragraph (m)(3) directs the Administrator of EPA to award a grant for a special project in San Diego, California. Pub. L. 97-272 (Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1983) provides that the special project may be funded from the State of California's regular fiscal year 1983 allotment.

Pub. L. 97-272 also contains an allocation of $30 million to address pollution caused by discharges from combined (storm and sanitary) sewers. This amount may be used as deemed appropriate by the Administrator, as provided in section 201(n)(2) of the Act.

The $2.4 billion are allotted as follows:

FISCAL YEAR 1983 STATE ALLOTMENT BASED ON $2.4 BILLION APPROPRIATION

[In thousands]

	Ratio	Dollars
Alabama	.011398	27,355
Alaska	.006101	14,642
Arizona	[illegible]	16,524
Arkansas	.006668	[illegible]
California	.072901	174,964
Colorado	.008154	19,569
Connecticut	.012487	[illegible]
Delaware	[illegible]	11,916
District	[illegible]	11,916
Florida	.034407	82,577
Georgia	.017234	41,362
Hawaii	[illegible]	18,948
Idaho	[illegible]	11,916
Illinois	.046101	110,643
Indiana	.024566	[illegible]
Iowa	.013796	33,110
Kansas	.009201	[illegible]
Kentucky	.012973	31,135
Louisiana	.011205	[illegible]
Maine	.007788	18,691
Maryland	.024653	[illegible]
Massachusetts	[illegible]	[illegible]
Michigan	[illegible]	105,191
Minnesota	.018735	44,964
Mississippi	.009184	22,041
Missouri	.028257	67,817
Montana	[illegible]	11,916
Nebraksa	.005214	12,513
Nevada	[illegible]	11,916
N. Hampshire	.010186	24,446
New Jersey	.041654	[illegible]
New Mexico	[illegible]	11,916
New York	.113097	271,436
North Carolina	.018396	44,151
North Dakota	.004965	11,916
Ohio	[illegible]	137,721
Oklahoma	.008235	19,764
Oregon	.011515	[illegible]
Pennsylvania	.040377	96,906
Rhode Island	.006750	16,200
South Carolina	.010442	25,061
South Dakota	.004965	11,916
Tennessee	.014807	35,537
Texas	.038726	[illegible]
Utah	.005371	12,890
Vermont	[illegible]	11,916
Virginia	[illegible]	50,067
Washington	.017726	42,542
West Virginia	.015890	[illegible]
Wisconsin	.027557	66,137
Wyoming	[illegible]	11,916
Samoa	[illegible]	2,196
Guam	[illegible]	1,588
N. Mananas	[illegible]	1,020
Puerto Rico	.013295	[illegible]
Pac. Tr. Ter.	.001305	3,132
Virgin Islands	[illegible]	1,274
U.S. Totals	.999996	2,400,000

[1] Average of the House formula (1982 formula) and Senate formula (based on 1980 population and needs categories I, II and IV b).

These allotments are available for obligation until September 30, 1984. After that date, unobligated balances will be reallotted under section 205(d) of the Act (40 CFR 35.2010). Grants from the allotments may be awarded as of the date of issuance of advices of allowance to the EPA Regional Administrators by the Comptroller of EPA.

Dated: December 8, 1982.

Anne M. Gorsuch,

Administrator.

[FR Doc. 82-33990 Filed 12-14-82; 8:45 am]

BILLING CODE 6560-50-M

[OPP-30000/13A; PH-FRL 2233-8]

Toxaphene; Intent To Cancel or Restrict Registrations of Pesticide Products Containing Toxaphene; Denial of Applications for Registration of Pesticide Products Containing Toxaphene; Determination Concluding the Rebuttable Presumption Against Registration; Availability of Decision Document

Correction

In FR Doc. 82-32577 beginning on page 53784 in the issue of Monday, November 29, 1982, make the following corrections:

1. On page 53789, first column, line three, "F" should appear as "7."

2. On page 53789, first column, in the paragraph designated as "9." the date should appear as "December 31, 1986."

BILLING CODE 1505-01-M

FEDERAL RESERVE SYSTEM

Agency Forms Under Review

December 8, 1982.

Background

When executive departments and independent agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Paperwork Reduction Act [44 U.S.C. Chapter 35]. Departments and agencies use a number of techniques to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibilities under the act also considers comments on the forms and recordkeeping requirements that will affect the public. Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. OMB's usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the **Federal Register**, but occasionally the public interest requires more rapid action.

List of Forms Under Review

Immediately following the submission of a request by the Federal Reserve for OMB approval of a reporting or recordkeeping requirement, a description of the report is published n the **Federal Register**. This information contains the name and telephone number of the Federal Reserve Board clearance officer (from whom a copy of the form and supporting documents is available). The entries are grouped by type of submission—i.e., new forms, revisions, extensions (burden change), extensions (no change), and reinstatements.

Copies of the proposed forms and supporting documents may be obtained from the Federal Reserve Board clearance officer whose name, address, and telephone number appear below. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF 83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review.

FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Officer—Cynthia Glassman—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202-452-3829).

OMB Reviewer—Richard Sheppard—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503 (202-395-6880).

Request for Extension Without Revision

1. Report title: Report of Claims on Selected Foreign Countries by U.S. Branches and Agencies of Foreign Banks.

Agency form number: FR 2029B.

Frequency: Semiannual.

Reporters: U.S. agencies and branches of foreign banks with total claims on non-G-10 countries exceeding $100 million.

SIC Code: 605.

Small businesses are not affected.

General description of report: Respondent's obligation to respond is voluntary (12 U.S.C. 3105(b)); a pledge of confidentiality is promised (5 U.S.C. 552 (b)(4) and (b)(8)).

Information used for monitoring external debts of developing and other non-G-10 countries when combined with data collected by other central banks. Data are also used for supervisory screening of foreign banks in the United States.

Board of Governors of the Federal Reserve System, December 8, 1982.

William W. Wiles,

Secretary of the Board.

[FR Doc. 82-33982 Filed 12-14-82; 8:45 am]

BILLING CODE 6210-01-M

Banzano; Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares and/or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, indentifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Banzano International, N.V.*, Curacao, Netherland Antilles, and, its direct subsidiary, Banzano, B.V., Amsterdam, Netherlands and its direct subsidiary, Miami National Bancorp, Coral Gables, Florida; to become bank holding companies through the acquisition by the latter of 84.5 percent of the voting shares of Miami National Bank, Miami, Florida. Banco Zaragonzano, S.A., Madrid, Spain, which directly owns 84.5 percent of Miami National Bank, will upon consummation of the proposed transaction, become the parent holding company of these organizations. Comments on this application must be received not later than January 7, 1983.

2. *First Monco Bancshares, Inc.*, Monroeville, Alabama; to become a bank holding company by acquiring 80 percent or more of the voting shares of Monroe County Bank, Monroeville, Alabama. Comments on this application must be received not later than January 7, 1983.

Board of Governors of the Federal Reserve System, December 8, 1982.

William W. Wiles,

Secretary of the Board.

[FR Doc. 82-33987 Filed 12-14-82; 8:45 am]

BILLING CODE 6210-01-M

Central State Bancorporation et al.; Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares and/or assets of a bank. The factors that are considered in acting on the

applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Central State Bancorporation,* Calera, Alabama; to become a bank holding company by acquiring 80 percent of the voting shares of Central State Bank, Calera, Alabama. Comments on this application must be received not later than January 10, 1983.

2. *First National Financial Corporation,* Vicksburg, Mississippi; to become a bank holding company by acquiring 80 percent or more of the voting shares of First National Bank of Vicksburg, Vicksburg, Mississippi. Comments on this application must be received not later than January 10, 1983.

3. *Henry County Bancshares, Inc.,* Stockbridge, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of The First State Bank, Stockbridge, Georgia. Comments on this application must be received not later than January 10, 1983.

4. *Tri-City Bancorp, Inc.,* Blountville, Tennessee; to become a bank holding company by acquiring 100 percent of the voting shares of Tri-City Bank and Trust Company, Blountville, Tennessee. Comments on this application must be received not later than January 10, 1983.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *MWA Bancorporation,* Estherville, Iowa; to become a bank holding company by acquiring at least 80 percent of the voting shares of Emmet County State Bank, Estherville, Iowa, and at least 80 percent of the voting shares of First Bank & Trust, Spirit Lake, Iowa. Comments on this application must be received not later than January 5, 1983.

C. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *InterState Financial Corporation,* Edmond, Oklahoma; to become a bank holding company by acquiring 80.05 percent of the voting shares of First InterState Bank and Trust Company, Edmond, Oklahoma. Comments on this application must be received not later than January 10, 1983.

D. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Lamar Bancshares, Inc.,* Beaumont, Texas; to become a bank holding company by acquiring 80 percent or more of the voting shares of Lamar State Bank, Beaumont, Texas. Comments on this application must be received not later than January 10, 1983.

2. *Woodville Bancshares, Inc.,* Woodville, Texas; to become a bank holding company by acquiring 80 percent or more of the voting shares of Citizens State Bank, Woodville, Texas. Comments on this application must be received not later than January 10, 1983.

Board of Governors of the Federal Reserve System, December 9, 1982.

William W. Wiles,

Secretary of the Board.

[FR Doc. 82-33983 Filed 12-14-82; 8:45 am]

BILLING CODE 6210-01-M

Community Bank of South Florida, Inc., Formation of Bank Holding Company; Correction

This notice corrects a previous Federal Register Document (FR Doc. 82-32892) published at page 54359 of the issue for Thursday, December 2, 1982. This notice includes applicants proposed nonbanking activities and extends the period during which comments will be accepted.

Community Bank of South Florida, Inc., Homestead, Florida, has applied for the Board's approval under 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of Community Bank of Homestead, Homestead, Florida. The factors that are considered in acting on the application are set forth in 3(c) of the Act (12 U.S.C. 1842(c)).

Community Bank of South Florida, Inc., Homestead, Florida, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of CBH Insurance Corporation, Homestead, Florida.

Applicant states that the proposed subsidiary would engage in the activities of agent for the sale of credit life insurance directly related to extensions of credit by Community Bank of Homestead, Homestead, Florida. These activities would be performed from offices of Applicant's subsidiary in Homestead, Florida City, Perrine, and Princeton, Florida, and the geographic area to be served is Dade County, Florida.

In addition, Community Bank of South Florida, Inc., Homestead, Florida, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Financial Processors Inc., Miami, Florida.

Applicant states that the proposed subsidiary would engage in the activity of providing data processing services for financial institutions only. These activities would be performed from offices of Applicant's subsidiary in Coral Gables, Florida, and the grographic area to be served is south Florida. Such activities have been specified by the Board in section 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procdures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unfound banking practices."

Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. not later than December 30, 1982.

Board of Governors of the Federal Reserve System, December 9, 1982.

William W. Wiles,

Secretary of the Board.

[FR Doc. 82-33964 Filed 12-14-82; 8:45 am]

BILLING CODE 6210-01-M

Society Corp. et al.; Acquisition of Bank Shares by Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Society Corporation,* Cleveland, Ohio; to acquire 80 percent of the voting shares or assets of The Wakeman Bank Company, Wakeman, Ohio. Comments on this application must be received not later than January 10, 1983.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Quad Cities First Company,* Rock Island, Illinois; to acquire 50 percent of the voting shares or assets of Midwest National Bank of Moline, Moline, Illinois. Comments on this application must be received not later than January 10, 1983.

Board of Governors of the Federal Reserve System, December 9, 1982.

William W. Wiles,

Secretary of the Board.

[FR Doc. 82-33965 Filed 12-14-82; 8:45 am]

BILLING CODE 6210-01-M

Citicorp et al.; Bank Holding Companies; Proposed de Novo Nonbank Activities

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo,* directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Citicorp,* New York, New York (consumer finance and credit-related insurance activities; Minnesota): To establish a *de novo* office of Citicorp Homeowners, Inc. and a *de novo* subsidiary to be known as Citicorp Person-to-Person Financial Center, Inc. at a shared office location in Brooklyn Center, Minnesota. The activities in which the *de novo* office of CHI proposes to engage are: making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required; the sale of consumer oriented financial management courses; the servicing, for any person, of loans and other extensions of credit; the making, acquiring, and servicing, for its own account and for the account of others, of extensions of credit to individuals secured by liens on residential or non-residential real estate; and the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans. The proposed service area for the *de novo* office of CHI shall be comprised of the entire State of Minnesota for all the aforementioned proposed activities. The *de novo* subsidiary proposes to engage in operating as an industrial loan company in the manner authorized by Minnesota law, including the following activities: the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required; the issuing of thrift certificates and thrift passbook certificates; the sale of consumer oriented financial management courses; the servicing, for any person, of loans and other extensions of credit; the making, acquiring, and servicing, for its own account and for the account of others, of extensions of credit to individuals secured by liens on residential or non-residential real estate; and the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans. The proposed service area for the *de novo* subsidiary shall be comprised of the entire State of Minnesota for all the aforementioned proposed activities. Credit related life, accident, and health insurance may be written by Family Guardian Life Insurance Company, an affiliate of Citicorp Person-to-Person Financial Center, Inc. and Citicorp Homeowners, Inc. Comments on this application must be received not later than January 7, 1983.

2. *Citicorp,* New York, New York (finance company and credit related insurance activities; Minnesota, Wisconsin, Wyoming): To expand the activities and service area of an existing office of Citicorp Acceptance Company, Inc., located in Roseville, Minnesota. The new activities in which the office proposes to engage *de novo* are: the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required; the making of loans to individuals and businesses to finance the purchase of mobile homes, modular units or related manufactured housing, together with the real property to which such housing is or will be permanently affixed, such property being used as security for the loans; and the servicing,

for any person, of loans and other extensions of credit. In addition, the office proposes to broaden its previously approved activities of the extension of loans to mobile home dealers for the financing of inventory (floor planning) and working capital purposes and the purchasing and servicing for its own account of sales finance contracts relating to mobile homes, to engage in such activities with regard to all types of dealers and all types of consumer installment paper. The proposed service area, for all previously approved and proposed activities, shall be comprised of the entire States of Minnesota, Wisconsin and Wyoming. Credit related life, accident, and health insurance may be written by Family Guardian Life Insurance Company, an affiliate of Citicorp Acceptance Company, Inc. Comments on this application must be received not later than January 7, 1983.

3. *Citicorp*, New York, New York (consumer finance and insurance activities; Indiana, Michigan): To expand the service area of an office of its subsidiary, Citicorp Acceptance Company, Inc., located in Schaumberg, Illinois, to include the State of Indiana and Michigan, in addition to the previously approved service area of Illinois, Iowa, Minnesota and Wisconsin, for the following previously approved activities: the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the extension of loans to dealers for the financing of inventory (floor planning) and working capital purposes; the purchasing and servicing for its own account of sales finance contracts; the sale of credit related life and accident and health or decreasing of level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required; and the servicing for any person, of loans and other extensions of credit. Credit related life, accident, and health insurance may be written by Family Guardian Life Insurance Company, an affiliate of Citicorp Acceptance Company, Inc. Comments on this application must be received not later than January 7, 1983.

4. *Citicorp*, New York, New York (consumer finance and credit related insurance activities; California): To expand the activities of three existing offices of its subsidiary, Citicorp Person-to-Person Financial Center, Inc. and to establish three *de novo* offices of Citicorp Homeowners, Inc. at the same locations. The activities in which the *de novo* offices of Citicorp Homeowners, Inc. propose to engage are: the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required; the sale of consumer oriented financial management courses; the servicing, for any person, of loans and other extensions of credit; the making, acquiring, and servicing, for its own account and for the account of others, of extensions of credit to individuals secured by liens on residential or non-residential real estate; and the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans. The proposed service area for each of the *de novo* offices of Citicorp Homeowners, Inc. shall be comprised of the entire State of California for all the aforementioned proposed activities. The new activities in which the offices of Citicorp Person-to-Person Financial Center, Inc. propose to engage *de novo* are: the making, acquiring, and servicing, for its own account and for the account of others, of extensions of credit to individuals secured by liens on residential or non-residential real estate; and the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans. The proposed service area for each office of Citicorp Person-to-Person Financial Center, Inc. for the aforementioned proposed activities shall be comprised of the entire State of California. Credit related life, accident, and health insurance may be underwritten by Family Guardian Life Insurance Company, an affiliate of Citicorp Person-to-Person Financial Center, Inc. and Citicorp Homeowners, Inc. The aforementioned activities will be conducted from offices in Escondido, El Cajon, and San Diego, California. Comments on this application must be received not later than January 7, 1983.

5. *Manufacturers Hanover Corporation*, New York, New York (finance activities; United States and Puerto Rico): To engage through its indirect subsidiary, Finance One Marine, Inc., in the activities of making, acquiring, and servicing marine loans and other extensions of credit, such as could be made, acquired, or serviced by a finance company under state and federal law. These activities would be conducted from an office in Trevose, Pennsylvania, serving the entire United States and Puerto Rico. Comments on this application must be received not later than January 7, 1983.

B. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *First Eastern Corp.*, Wilkes-Barre, Pennsylvania (underwriting insurance activities; Pennsylvania): To engage, through its subsidiary, First Eastern Life Insurance Company, Phoenix, Arizona, in the activities of underwriting, as reinsurer, related to extensions of credit by Applicant's subsidiary bank, First Eastern Bank, N.A. These activities would be performed from offices of Applicant's subsidiary in Phoenix, Arizona, and the geographic area to be served in Northeastern Pennsylvania. Comments on this application must be received not later than January 7, 1983.

C. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Security State Bank Shares*, Polson, Montana, (insurance activities; Montana): To engage in the sale of general insurance in a town with a population not exceeding 5,000. These activities would be conducted from an office in Polson, Montana, serving the City of Polson, Montana and the surrounding rural area. Comments on this application must be received not later than December 29, 1982.

D. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Texas Commerce Bancshares, Inc.*, Houston, Texas (trust company activities; New York and southwestern United States): To engage, through its subsidiary, Texas Commerce Trust Company of New York, in activities that may be lawfully carried on by a trust company in the manner authorized by Federal and New York law, including serving as trustee, providing stock transfer, clearance and registrar services and providing agency and custodial services. These activities would be conducted from an office in New York, New York, serving New York, New York, and the southwestern United States. Comments on this application must be received not later than January 5, 1983.

E. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *Rainier Bancorporation*, Seattle, Washington (insurance activities; California and Arizona): To establish *de novo* offices engaging in the following activities: general mortgage banking, including but not limited to making or acquiring, for its own account or for the account of others, loans and other extensions of credit secured by liens on

residential and non-residential real estate; servicing loans and other extensions of credit for any person; selling mortgage loans in the secondary market and offering mortgage term life insurance, accident, health and disability insurance directly related to such lending and servicing activities and credit related property and casualty insurance, through its subsidiary, Rainier Mortgage Company. These activities will be conducted from offices in Cupertino, Santa Maria and San Diego, California, serving the State of California, and Tucson, Arizona, serving the State of Arizona, except that property and casualty insurance activities will be limited to California. Comments on this application must be received not later than January 5, 1983.

2. *U.S. Bancorp,* Portland, Oregon (finance, insurance; Washington): U.S. Bancorp Mortgage Company ("Bancorp Mortgage"), a wholly-owned subsidiary of Bancorp, will engage in the making, acquiring and servicing of loans and other extensions of credit, either secured or unsecured, for its own account or for the account of others, including, but not limited to loans and other extensions of credit secured by mortgages or deeds of trust on real property, and to act as insurance agent with regard to credit life and disability insurance solely in connection with extensions of credit by Bancorp Mortgage, in conformance with the provision of Section 225.4(a)(1), (3) and (9)(i)(a) of Regulation Y. Bancorp Mortgage's activities will be performed from an office in Vancouver, Washington, serving the city of Vancouver and the surrounding rural area. Comments on this application must be received not later than January 7, 1983.

Board of Governors of the Federal Reserve System, December 8, 1982.

William W. Wiles,

Secretary of the Board.

[FR Doc. 82-33968 Filed 12-14-82; 8:45 am]

BILLING CODE 6210-01-M

Fleet Financial Group, Inc., et al.; Bank Holding Companies, Proposed de Novo Nonbank Activities

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo,* directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearings should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of Boston** (Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Fleet Financial Group, Inc.,* Providence, Rhode Island (consumer finance and insurance agency activities; Colorado): To engage, through its indirect subsidiary, Mortgage Associates, Inc., in consumer finance and insurance agency activities involving the sale of credit life and credit accident and health insurance directly related to an extension of credit. These activities would be conducted from a new office in Denver, Colorado, serving the State of Colorado. Comments on this application must be received not later than January 10, 1983.

2. *Fleet Financial Group, Inc.,* Providence, Rhode Island (consumer finance activities; Oklahoma): To engage, through its indirect subsidiary, Mortgage Associates, Inc., in consumer finance activities. These activities would be conducted from an existing office in Oklahoma City, Oklahoma, serving the State of Oklahoma. Comments on this application must be received not later than January 10, 1983.

3. *Fleet Financial Group, Inc.,* Providence, Rhode Island (consumer finance and insurance agency activities; Wisconsin): To engage, through its indirect subsidiary, Mortgage Associates, Inc., in consumer finance and insurance agency activities involving the sale of credit life and credit accident and health insurance directly related to an extension of credit. These activities would be conducted from a new office to be located in Appleton, Wisconsin, serving northeastern and central Wisconsin. Comments on this application must be received not later than January 10, 1983.

B. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Citicorp,* New York, New York (consumer finance and credit related insurance activities; Utah): To expand the activities of six existing offices of its subsidiary, Citicorp Person-to-Person Financial Center of Utah and to expand the service areas of five of those offices, and to establish six *de novo* offices of Citicorp Homeowners, Inc. at the same locations. The activities in which the *de novo* offices of Citicorp Homeowners, Inc. propose to engage are: the making of acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the sale of credit related life and accident and health of decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required; the sale of consumer oriented financial management courses; the servicing, for any person, of loans and other extensions of credit; the making, acquiring, and servicing, for its own account and for the account of others, of extensions of credit to individuals secured by liens on residential or non-residential real estate; and the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans. The proposed service area for each of the *de novo* offices of Citicorp Homeowners, Inc. shall be comprised of the entire State of Utah for all the aforementioned proposed activities. The new activities in which the offices of Citicorp Person-to-Person Financial Center of Utah propose to engage *de novo* are: the making, acquiring, and servicing, for its own account and for the account of others, of extensions of credit to individuals secured by liens on residential or non-residential real estate; and the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans. The proposed service area of the Orem office of Citicorp Person-to-Person Financial Center of Utah shall be the entire State of Utah for the aforementioned proposed activities. The proposed expanded service areas of the other five offices shall be the entire State of Utah for their proposed activities and for the following previously approved activities: the

making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required; the issuing of thrift certificates and thrift passbook certificates; the sale of consumer oriented financial management courses; and the servicing, for any person, of loans and other extensions of credit. Credit related life insurance, accident, and health insurance may be underwritten by Family Guardian Life Insurance Company, an affiliate of Citicorp Person-to-Person Financial Center of Utah and Citicorp Homeowners, Inc. Comments on this application must be received no later than January 10, 1983.

2. *Citicorp,* New York, New York (consumer finance and credit-related insurance activities; Nebraska): To expand the activities of an existing office of its subsidiary, Citicorp Person-to-Person Financial Center, Inc. located in Omaha, Nebraska, and to establish a *de novo* office of Citicorp Homeowners, Inc. at the same Omaha, Nebraska location. The activities in which the *de novo* office of Citicorp Homeowners, Inc. proposes to engage are: the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required; the sale of consumer oriented financial management courses; the servicing, for any person, of loans and other extensions of credit; the making, acquiring, and servicing, for its own account and for the account of others, of extensions of credit to individuals secured by liens on residential or non-residential real estate; and the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans. The proposed service area for the *de novo* office of Citicorp Homeowners, Inc. shall be comprised of the entire State of Nebraska for all the aforementioned proposed activities. The new activities in which the office of Citicorp Person-to-Person Financial Center, Inc. proposes to engage *de novo* are: the sale of consumer oriented financial management courses; the servicing, for any person, of loans and other extensions of credit; and the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans. The proposed service area for the office of Citicorp Person-to-Person Financial Center, Inc. shall be comprised of the entire State of Nebraska for all the aforementioned proposed activities. Credit related life, accident, and health insurance may be written by Family Guardian Life Insurance Company, an affiliate of Citicorp Person-to-Person Financial Center, Inc., and Citicorp Homeowners, Inc. Comments on this application must be received not later than January 10, 1983.

C. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *The Marine Corporation,* Milwaukee, Wisconsin (trust activities; New London, Wisconsin): To engage through its subsidiary, The Marine Trust Company, N.A., in operating a trust service office to develop and administer trust accounts of all types at The First State Bank of New London, Wisconsin, New London, Wisconsin. This office will serve the Waupaca County and Western Outagamic County, Wisconsin. Comments on this application must be received not later than January 5, 1983.

D. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *Mitsubishi Bank, Limited,* Tokyo, Japan (leasing activities; United States): To engage through its subsidiary, Diamond Lease Company, Ltd., in leasing personal property, acting as agent, broker or adviser in leasing said property, or selling such property through long-term installment sales contracts where such transactions serve as the functional equivalent of an extension of credit to the user of the property pursuant to the conditions contained in Section 225.4(a)(b)(i) of the Board's Regulation Y. These activities will be conducted from the head office of Diamond Lease Company in Tokyo, Japan, and from a representative office in Los Angeles, California, serving the United States. Comments on this application must be received not later than December 29, 1982.

2. *Wells Fargo & Company,* San Francisco, California (finance and leasing activities; United States and abroad): To engage through its subsidiary, Wells Fargo Capital Corporation, in making or acquiring for its own account or for the account of others loans and other extensions of credit; servicing loans for the account of others; making full pay-out leases of personal or real property, or acting as an agent, broker or advisor in leasing such property in accordance with the Board's Regulation Y. These activities would be conducted from an office in San Francisco, California, serving commercial borrowers throughout the United States and abroad. Comments on this application must be received not later than January 10, 1983.

Board of Governors of the Federal Reserve System, December 9, 1983.

William W. Wiles,

Secretary of the Board.

[FR Doc. 82-33966 Filed 12-14-82; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Environment and Energy

[Docket No. NI-105]

Franklin Farm, Va.; Intent To Terminate an Environmental Impact Statement

The Washington, D.C. Area Office of the Department of Housing and Urban Development (HUD) intends to terminate the Environmental Impact Statement process for Franklin Farm. Franklin Farm is a proposed residential development located between Ox Road and Centerville Road in Fairfax County, Virginia.

Description: Franklin Farm is a proposed residential development of 1646 units on a 82 acre tract. The Development is approximately 2 miles north of Chantilly, Fairfax County. Access to the development is from Route 50 and Ox Road.

Reason for Termination: Pursuant to 24 CFR Part 50, Procedures for Protection and Enhancement of Environmental Quality, threshold Environmental Impact Statements are no longer required for localities that HUD approved under the Local Area Certification procedures. Fairfax County was approved under the Local Area Certification process in May 1982. Therefore, no further processing on the Franklin Farm EIS will occur because that EIS was only triggered by threshold considerations.

Pursuant to 24 CFR Part 50 HUD, an Environmental Assessment has been completed and is available at the Washington, D.C. Area Office. The assessment may be reviewed between 9–5 P.M., Monday through Friday at HUD Office, 1875 Connecticut Avenue, NW., Washington, D.C.

Comments on the Draft EIS were received from local, state and Federal agencies. All comments were addressed in an addendum to the Environmental Assessment of November 18, 1982.

HUD intends to issue a subdivision approval in 15 days from the date of this Notice.

Issued at Washington, D.C., November 22, 1982.

Francis G. Haas,

Deputy Director, Office of Environment and Energy.

[FR Doc. 82-33985 Filed 12-14-82; 8:45 am]

BILLING CODE 4210-29-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Receipt of Petition for Federal Acknowledgment of Existence as an Indian Tribe

This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Pursuant to 25 CFR 83.8(a) (formerly 25 CFR 54.8(a)) notice is hereby given that the Juaneno Band of Mission Indians, c/o Mr. Raymond T. Belardes, 325 N. Broadway #205, Santa Ana, California 92701, has filed a petition for acknowledgment by the Secretary of the Interior that the group exists as an Indian tribe. The petition was received by the Bureau of Indian Affairs on August 17, 1982. The petition was forwarded and signed by members of the group's governing body.

This is a notice of receipt of petition and does not constitute notice that the petition is under active consideration. Notice of active consideration will be by mail to the petitioner and other interested parties at the appropriate time.

Under § 83.8(d) (formerly 54.8(d)) of the Federal regulations, interested parties may submit factual or legal arguments in support of or in opposition to the group's petition. Any information submitted will be made available on the same basis as other information in the Bureau of Indian Affairs files.

The petition may be examined by appointment in the Division of Tribal Government Services, Bureau of Indian Affairs, Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20242.

Dated: November 24, 1982.

Kenneth Smith,

Assistant Secretary—Indian Affairs.

[FR Doc. 33986 Filed 12-14-82; 8:45 am]

BILLING CODE 4310-02-M

San Carlos Apache Reservation, Ariz.; Ordinance Amending Maximum Penalties for Liquor Violations

This Notice is published in accordance with the authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8, and in accordance with the Act of August 15, 1953, 67 Stat. 586, 18 U.S.C. 1161. I certify that Ordinance No. 82-2 which relates to the application of the Federal Indian Liquor Laws on the San Carlos Apache Reservation, Arizona, was duly adopted on May 4, 1982, by the San Carlos Apache Tribal Council which has jurisdiction over the area of Indian country included in the ordinance which reads as follows:

Kenneth Smith,

Assistant Secretary—Indian Affairs.

Ordinance No. 82-2

Whereas, the revised Law and Order Code of the San Carlos Apache Tribe contains a liquor ordinance, under Section 6.32 and Ordinance No. 65-3, which makes it illegal for any Indian to knowingly and willfully violate any provision of the liquor ordinance adopted by the San Carlos Apache Tribal Council on May 18, 1965; and

Whereas, the punishment under this law limits the San Carlos Apache Tribal Court to 60 days or $60.00 fine or to both such imprisonment and fine with costs; and

Whereas, the San Carlos Apache Tribe feels that an amendment is necessary to fully curtail the number of violations.

Therefore, Be It Enacted By the San Carlos Tribal Council that Ordinance No. 65-3, pertaining to San Carlos Liquor Ordinance, be amended to read as follows:

"Any Indian who shall knowingly and willfully violate any provision of the San Carlos Liquor Ordinance or manufacture any beer, ale, wine, or any articles which produce alcoholic intoxication, shall be deemed guilty of an offense and upon conviction thereof, shall be sentenced to imprisonment for a period not to exceed 180 days or to a fine not to exceed $500.00 or to both such imprisonment and fine, with costs."

Certification

I, the undersigned, Secretary of the San Carlos Apache Tribal Council, hereby, certify that the San Carlos Tribal Council is composed of 11 members of whom 11, constituting a quorum were present at a regular council meeting, hereto, held on the 4th day of May, 1982, and that the foregoing Ordinance No. 82-2 was duly adopted by a unanimous vote of the Council, pursuant to the provisions of Article V, Section 1(a), Amended Constitution and Bylaws of the San Carlos Apache Tribe, effective February 24, 1954.

Approved: May 6, 1982.

Dated: November 24, 1982.

Valerie Noline,

Secretary San Carlos Tribal Council.

Ernest D. Manuelito,

Superintendent.

[FR Doc. 82-34000 Filed 12-14-82; 8:45 am]

BILLING CODE 4310-02-M

White Mountain Apache Tribe of the Fort Apache Indian Reservation, Arizona; Ordinance Regulating the Introduction, Possession, and Sale of Intoxicating Beverages

This Notice is published in accordance with authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8, and in accordance with the Act of August 15, 1953, 67 Stat. 586, 18 U.S.C. 1161. The instant ordinance repeals Ordinance No. 92, 38 FR 75 (February 7, 1973), and Ordinance No. 115, 46 FR 116, (June 17, 1981), which relate to the application of the Federal Indian Liquor Laws on the Fort Apache Indian Reservation, Arizona. I certify that Ordinance No. 125 was duly adopted on November 4, 1981, by the White Mountain Apache Tribal Council which has jurisdiction over the area of Indian country included in the ordinance. The ordinance reads as follows:

Kenneth Smith,

Assistant Secretary—Indian Affairs.

Resolution No. 81-253 of the White Mountain Apache Tribe of the Fort Apache Indian Reservation

Whereas, the Tribal Council of the White Mountain Apache Tribe by previous resolution required the posting of a proposed liquor ordinance for a period of ten (10) days in conformity with the Constitution and By-Laws of the White Mountain Apache Tribe, and

Whereas, comments have been received in reference to the imposition of a tribal sales tax on the sale of liquor, and

Whereas, the Tribal Council concludes after great discussion with the Tribal Attorney, Apache Enterperise and Tribal citizens that it would be unwise at this time to impose such a tax for reasons of economic necessity.

Be it resolved by the Tribal Council of the White Mountain Apache Tribe that it hereby authorizes the final passage of the Liquor Ordinance without the sales tax, said ordinance to be effective immediately.

Be it further resolved that Kenneth Hart, Manager of the White Mountain Apache Enterprise is appointed Liquor Business Manager to carry out the powers and duties set forth in the White Mountain Apache Tribal Liquor Control Ordinance.

Be it further resolved by the Tribal Council that the Chairman of the Tribal Council is hereby directed to submit this ordinance to the Secretary of the Interior for publication in the **Federal Register** in the most expeditious manner.

The foregoing resolution was on December 3, 1981 duly adopted by a vote of 7 to 2 against 0 abstention by the Tribal Council of the White Mountain Apache Tribe, pursuant to authority vested in it by Article V, Section 1(i) of the Amended Constitution and By-Laws of the Tribe, ratified by the Tribe June 17, 1958 and approved by the Secretary of the Interior on May 29, 1958, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984).

Lynn Cody,

Acting Chairman of the Tribal Council.

Mary C. Endfield,

Secretary of the Tribal Council.

Ordinance No. 125 of the White Mountain Apache Tribe of the Fort Apache Indian Reservation

Be it enacted by the Tribal Council of the White Mountain Apache Tribe, duly assembled: That Ordinance No. 92, dated August 30, 1972, and Ordinance No. 155, dated October 1, 1980, amending Ordinance No. 92, are hereby repealed by this Ordinance which shall be known as the White Mountain Apache Tribal Liquor Control Ordinance.

Section I.—Declaration of Public Policy and Purpose

(a) The introduction, possession, and sale of liquor on the White Mountain Apache Reservation has since executive order time, been clearly recognized as a matter of special concern to the White Mountain Apache Tribe.

(b) Federal Law currently prohibits the introduction of liquor into Indian Country (18 U.S.C. 1154), and expressly delegates to the tribes the decision regarding when and to what extent liquor transactions shall be permitted (18 U.S.C. 1161).

(c) The Tribal Council finds that a complete ban on liquor within the Fort Apache Indian Reservation is ineffective and unrealistic. However, it recognizes a need still exists for strict regulation and control over liquor transactions within the reservation because of the many potential problems associated with the unregulated or inadequately regulated sale, possession, and consumption of liquor. The Tribal Council finds that exclusive tribal control and regulation of liquor is necessary to achieve maximum economic benefit to the tribe, to protect the health and welfare of our tribal members, and to address specific tribal concerns relating to alcohol use on the reservation.

(d) The enactment of a tribal ordinance governing liquor sales on the Fort Apache Indian Reservation and providing for exclusive purchase and sale through a tribally owned and operated establishment will enhance the ability of the tribal government to control reservation liquor distribution and possession, and at the same time, will provide an important source of revenue for the continued operation of the tribal government and the delivery of essential tribal social services.

(e) This ordinance shall be cited as the "White Mountain Apache Tribal Liquor Control Ordinance" and under the inherent sovereignty of the White Mountain Apache Tribe, shall be deemed an exercise of the Tribe's power, for the protection of the welfare, health, peace, morals, and safety of the people of the tribe, and all its provisions shall be liberally construed for the accomplishment of that purpose, and it is declared to be public policy that the traffic in alcoholic beverages if it affects the public interest of the people, should be regulated to the extent of prohibiting all traffic of liquor, except as provided in this ordinance.

Section II.—Definitions

As used in this ordinance, the following words shall have the following meanings unless the context clearly requires otherwise.

(a) "Alcohol" is that substance known as ethyl alcohol, hydrated oxide of ethyl, or spirit of wine, which is commonly produced by the fermentation or distillation of grain, starch, molasses, or sugar, or other substances including all dilutions and mixtures of this substance.

(b) "Alcoholic Beverage" is synonymous with the term liquor as defined in Section 2(o) of this ordinance.

(c) "Application" shall mean a formal written request for the issuance of a license supported by a verified statement of facts.

(d) "Beer" means any beverage obtained by the alcoholic fermentation, infusion or decoction of barley malt, hops, or other ingredients not drinkable, or any combination of them.

(e) "Board" means the White Mountain Apache Liquor Board as constituted under this ordinance.

(f) "Broken Package" means any container of spirituous liquor on which the United States tax seal has been broken or removed, or from which the cap, cork or seal placed thereupon by the manufacturer has been removed.

(g) "Bulk Container" shall mean any package, or any container within which container are one or more packages.

(h) "Club" includes any of the following organizations where the sale of spirituous liquor for consumption on the premises is made to members only:

(1) A post, chapter, camp or other local unit composed solely of veterans and its duly recognized auxiliary and which is a post, chapter, camp or other local unit composed solely of veterans which has been chartered by the Congress of the United States for patriotic, fraternal or benevolent purposes, and which has, as the owner, lessee or occupant, operated an establishment for that purpose in this state.

(2) A chapter, aerie, parlor, or other local unit of an American national fraternal organization which has as the owner, lessee or occupant operated an establishment for fraternal purposes in this state. An American national fraternal organization as used in this subdivision shall actively operate in not less than thirty-six states or have been in active continuous existence for not less than twenty years.

(3) A hall or building association of such a local unit mentioned in subdivision (1) and (2), all of the capital stock of which is owned by the local unit or the members, and which operates the club room facilities of the local unit.

(4) A golf club which has more than fifty bona fide members which owns, maintains or operates a bona fide golf links together with a club house.

(5) A social club with more than one hundred bona fide members who are actual residents of the county in which it is located, which owns, maintains or operates club quarters, and which is authorized and incorporated to operate as a non-profit club under the laws of this state, and has been continuously incorporated and operating for a period of not less than one year, a bona fide membership with regular meetings conducted at least once each month, and the membership shall be and shall have been actively ingaged in carrying out the objects of the club. The club's membership shall consist of bona fide dues paying members paying at least six dollars per year, payble monthly, quarterly or annually, which have been recorded by the secretary of the club and the members at the time of application for a club license shall be in

good standing having for at least one full year paid dues. At least fifty-one percent of the members shall have signified their intention to secure a social club license by personally signing a petition, on a form prescribed by the board, which shall also include the correct mailing address of each signer. The petition shall not have been signed by a member at a date earlier than thirty days prior to the filing of the petition. The club shall qualify for exemption from the payment of state income taxes under the provisions of title 43, it being the intent of this paragraph that a license shall not be granted to a club which is, or has been, primarily formed or activated to obtain a license to sell liquor, but solely to a bona fide club, where the sale of liquor is incidental to the main purpose of the club.

(i) "Company" or "Association" when used in reference to a corporation includes successors or assigns.

(j) "Distillery" "winery" and "brewer" shall mean not only the premises wherein alcohol is distilled, or rectified wine is fermented or beer is brewed, but in addition a person owning, representing, or in charge of such premises and the operations conducted thereon, including the blending and bottling or other handling and preparation of intoxicating liquor or beer in any form.

(k) "Election days" means the biennial primary election for the nomination of United States, state, county and precinct officers, a special election called pursuant to Section 1, Article 21 of the Constitution of the State of Arizona, the biennial general election of the State of Arizona and all White Mountain Apache tribal elections.

(l) "Foreign Corporation" shall mean any corporation not incorporated under the laws of the White Mountain Apache Tribe.

(m) "Legal Age" shall mean the age requirements as defined in this ordinance.

(n) "Liquor Store" shall mean any store, established by Apache Enterprise for the sale of alcoholic beverages.

(o) "Liquor" includes the four varieties of liquor herein defined (alcohol, spirits, wine and beer), and all fermented spirituous, vinous, or malt liquor and combinations thereof, and mixed liquor, a part of which is fermented, spirituous, vinous, or malt liquor, or otherwise intoxicating; and every liquid or solid or semi-solid or other substance, patented or not, containing alcohol, spirits, wine or beer, and all drinks or drinkable liquids and all preparations or mixtures capable of human consumption and any liquid semi-solid, solid, substance, which contains more than one percent of alcohol by weight shall be conclusively deemed to be intoxicating.

(p) "Malt Liquor" means beer, ale, stout, and porter.

(q) "Package" shall mean the the bottle or immediate container of any alcoholic beverage.

(r) "Package Dealer" shall mean the White Mountain Apache Tribe as distinguished from a distiller, manufacturer, or wholesaler, that sells, or keeps for sale, any alcoholic beverage authorized under the ordinance for consumption off the premises where sold.

(s) "Person" includes partnership, association, enterprise, company or corporation, as well as a natural person.

(t) "Public Places" means a place where the public has an interest as effecting the safety, health, welfare and morals of the community.

(u)"Sale" and "Sell" include exchange, barter, and traffic; and also include the selling or supplying or distributing by any means whatsover, of liquor or any liquid known or described as beer or by any name whatsover commonly used to describe malt or brewed liquor, or of wine, by any person to any person.

(v) "Spirituous Liquor" includes alcohol, brandy, whiskey, rum, tequila, mescal, gin, wine, porter, ale, beer, any malt liquor, malt beverage, absinthe or compound or mixture or any of them or of any of them with any vegetable or other substance, alcohol bitters, bitters containing alcohol and any liquid mixture or preparation whether patented or otherwise, which produces intoxication, fruits preserved in ardent spirits, and beverages containing more than one-half of one percent of alcohol by volume.

(w) "Stamp"shall mean the various stamps required by this ordinance to be affixed to the package or bulk container, as the case may be, to evidence payment of the tax prescribed by this ordinance.

(x) "Vehicle" means any means of transportation by land, water or air, and includes everything made use of in any way for such transportation.

(y) "Veteran" means a person who served the United States during war time or in any expedition of the United States armed forces as a member of the United States Army, Airforce, Navy, Marine Corps, Nurse Corps of any branch of the armed services; as a member in any other branch of the United States Armed Services; or as a active nurse in the services of the American Red Cross provided that such person has received a discharge other than a dishonorable one.

(z) "Wholesaler" shall mean any person other than a brewer or bottler of beer, who shall sell, barter, exchange, offer for sale, have in possession with intent to sell, deal or traffic in intoxicating liquor or low-point beer; no wholesaler shall be permitted to sell for consumption upon the premises.

(aa) "Wine" means the obtained by the fermentation of grapes or other agricultural products containing natural or added sugar or any such alcoholic beverage fortified with grape brandy and containing not more than twenty-four percent of alcohol by volume.

Section III.—General Prohibition

It shall be unlawful to manufacture for sale, sell, offer, or keep for sale, possess or transport intoxicating liquor or low-point beer except upon the terms, conditions, limitations, and restrictions specified in this ordinance.

Section IV.—Liquor Agency Created

There is hereby established a branch of White Mountain Apache Tribal Enterprises known as the Liquor Agency. This branch shall be constituted as an agency and department of the White Mountain Apache Tribal Government and be known as Apache Enterprise.

Section V.—White Mountain Apache Liquor Board

(a) *Liquor Board Established—Composition.* There is hereby established a White Mountain Apache Liquor Board. The members of the White Mountain Apache Tribal Council shall serve as the White Mountain Apache Liquor Board. The Board is empowered to:

1. Administer this ordinance by exercising general control, management, and supervision of all liquor sales, places of sale, and sales outlets as well as exercising all powers necessary to accomplish the purposes of this ordinance;

2. Adopt and enforce rules and regulations in furtherance of the purposes of this ordinance and the performance of its administrative functions;

3. Employ managers and such other persons as shall be reasonably necessary to allow the Board to perform its functions. Pursuant to this authority, the board shall appoint a manager who shall have the powers and perform the duties set forth in Section 6;

4. Bring suit in the appropriate court to enforce the provisions of this ordinance with the consent of the White Mountain Apache Tribal Council. The Board shall not, without the specific consent of the

Council, waive the Board's or the Tribal's immunity from suit.

Section VI.—Liquor Business Manager

(a) *Powers and Duties.* The manager appointed by the Board shall have the following powers and duties in regard to the Liquor Agency:

1. To manage the Liquor Agency for the benefit of the White Mountain Apache Tribe.

2. To purchase, in the name of the White Mountain Apache Tribe, liquor products from wholesale distributors, and distribute them to such tribal liquor outlets as he deems appropriate.

3. To establish, with the Board and subject to its approval, such administrative procedures as are necessary to govern the operation of the Liquor Agency.

4. To report and account to the board at least four times a year regarding the operation and financial status of the Liquor Agency. The Board and the manager shall establish the dates on which such accounting shall take place. The Board may require more frèquent accounting if deemed necessary.

5. To hire and set the salaries of additional personnel, subject to Board approval, as he deems necessary to the successful operation of the Liquor Agency.

6.To supervise all persons employed by the Liquor Agency.

7. To purchase, with Board approval, and to maintain the Liquor Agency's real and personal property.

8. To collect the White Mountain Apache Liquor excise tax.

9. To transfer all tax revenues and gross proceeds of the Liquor Agency to the tribal treasurer for disposition in accordance with Section XIII.

10. To set the retail price for liquor in cooperation with and subject to the approval of the Board.

11. To obtain and maintain in full force and effect a policy of general liability insurance covering the premises in an amount set by the Board. The policy shall contain the stipulation that the Tribe shall be given ten days notice of the proposed cancellation or expiration of such policy. The manager shall submit to the Board a certificate of insurance from such policy and shall have available for inspection, a complete copy of such policy.

12. The manager shall be bonded for such additional amount and for such additional purposes as the Board shall determine to be appropriate in managing the Liquor Division.

Section VII.—Sovereign Immunity Preserved

Nothing in this ordinance is intended or shall be construed as a waiver of the sovereign immunity of the White Mountain Apache Tribe.

No manager or employee of the Liquor Agency shall be authorized nor shall he attempt to waive the immunity of the Tribe.

Section VIII.—Sales

(a) *Only Tribal Sales Allowed.* No sales of Alcoholic beverages shall be made within the exterior boundaries of the Fort Apache Indian Reservation except at Tribal Liquor Store Outlets, the Sunrise Ski area, and other locations which from time to time, the Liquor Agency Manager with the Liquor Board's approval may designate.

(b) *All Sales Cash.* All sales at tribal liquor stores shall be on a cash only basis and no credit shall be extended to any person, organization, or entity except by means of recognized bank and other credit cards.

(c) *All Sales for Personal Use.* All sales shall be for the personal use of the purchaser, and resale for profit of any alcoholic beverage purchased at a tribal liquor store is prohibited within the Fort Apache Indian Reservation. The purchase of an alcoholic beverage at a tribal store and subsequent resale of that beverage for profit, whether in the original container or not, shall be a violation of this ordinance and the violator shall be subject to the penalties prescribed in Section XI.

(d) *Tribal Property.* The entire stock of liquor and alcoholic beverages referred to under this ordinance shall remain tribal property, owned and possessed by the White Mountain Apache Tribe until sold.

Section IX.—Taxation

(a) *Tax Imposed.* There is hereby levied and shall be collected, a tax on each retail sale of alcoholic beverages on the Fort Apache Indian Reservation in the amount of five percent (5%) of the retail sales price. The tax imposed by this section shall apply to all retail sales of liquor on the Reservation and shall pre-empt any tax imposed on such liquor sales by the State of Arizona. No municipality, city, town, county, nor the State of Arizona shall have any power to impose an excise tax on liquor or alcholic beverages as defined by this title, or to govern or license the sale or distribution thereof in any manner within the Fort Apache Indian Reservation, not to be effective until ordered by the Tribal Council and the White Mountain Apache Liquor Board.

(b) *Distribution of Taxes.* All taxes from the sale of alcoholic beverages on the Fort Apache Indian Reservation by or through the Board shall be paid over to the tax fund of the White Mountain Apache Tribe and be subject to distribution by the White Mountain Tribal Council in accordance with its usual appropriation procedures for essential governmental and social services. Provided however, that priority in funding shall be given to those tribal programs which demonstrate the greatest need and past successful performance in providing community services to tribal members, with specific consideration to the Detox Program as more fully set forth in Section XIII of this ordinance.

Section X

Illegal Activities

(a) *Violations.* 1. *Liquor Stamp Contraband.* It shall be a violation of this ordinance for any person to sell alcoholic beverages on the Fort Apache Indian Reservation without a stamp of the Board affixed to the package. All alcoholic beverages not so stamped which are sold or held for sale on the Fort Apache Indian Reservation are hereby declared contraband and in addition to any penalties or fines imposed by the court for violation of this section, shall be confiscated and forfeited in accordance with the procedures set out in the White Mountain Tribal Court Rules of Civil Procedure.

2. *Use of Seal.* It shall be a violation of this ordinance for any person, other than an employee of the Board, to willfully keep or have in his possession any legal seal prescribed under this ordinance unless the same is attached to a package which has been purchased from a tribal liquor store, or to willfully keep or have in his possession any design in imitation of any official seal prescribed under this ordinance or calculated to deceive by its resemblance to any official seal, or any paper upon which such design is stamped, engraved, lithographed, printed or otherwise marked.

3. *Illegal Sale of Liquor by Drink or Bottle.* It shall be a violation of this ordinance for any person to sell by the drink or bottle any liquor, except as otherwise provided in this ordinance.

4. *Illegal Transportation, Still, or Sale Without Permit.* It shall be a violation of this ordinance for any person to sell or offer for sale or transport in any manner any liquor in violation of this ordinance, or to operate or have in his possession without a permit, any mash capable of being distilled into liquor.

5. *Illegal Purchase of Liquor.* It shall be a violation of this ordinance for any person within the boundaries of the Fort Apache Indian Reservation to buy liquor from any person other than at a properly authorized tribal liquor store or approved outlet or location.

6. *Illegal Possession of Liquor—Intent to Sell.* It shall be a violation of this ordinance for any person to keep or possess liquor upon his person or in any place or on premises conducted or maintained by him as a principal or agent with the intent to sell it contrary to the provisions in this ordinance.

7. *Sales to Persons Apparently Intoxicated.* It shall be a violation of this ordinance for any person to sell liquor to a person apparently under the influence of liquor.

8. *Possession and Use of Liquor by Minors.* Except in the case of liquor given or permitted to be given to a person under the age of twenty-one (21) years by his parent or guardian, for beverage or medicinal purposes, or administered to him by his physician or dentist for medicinal purposes, it shall be a violation of this ordinance for any person under the age of twenty-one (21) years to consume, acquire, or have in his possession any alcoholic beverage except when such beverage is being used in connection with religious services.

9. *Furnishing Liquor to Minors.* It shall be a violation of this ordinance for any person to permit any other person under the age of twenty-one (21) to consume liquor on his premises under his control, except in those special situations set forth in Section X above.

10. *Sales of Liquor to Minors.* It shall be a violation of this ordinance for any person to sell any liquor to any person under the age of twenty-one (21) years.

11. *Unlawful Transfer of Identification.* It shall be a violation of this ordinance for any person to transfer in any manner an identification of age to a minor for the purpose of permitting such minor to obtain liquor. Provided, that corroborative testimony of a witness other than the minor shall be a requirement for conviction.

12. *Possession of False or Altered Identification.* It shall be a violation of this ordinance for any person to attempt to purchase an alcoholic beverage through the use of false or altered identification which falsely purports to show the individual to be over the age of twenty-one (21) years.

13. *Identification—Proof of Minimum Age.* Where there may be a question of a person's right to purchase liquor by reason of his age, such person shall be required to present any one of the following officially issued cards of identification which shows correct age and bears his signature and photograph:

(1) Liquor Control Authority Card of Identification of any state.

(2) Driver's license of any state or an identification card issued by any State Department of Motor Vehicles.

(3) United States Active Duty Military identification.

(4) Passport.

14. It shall be a violation of this ordinance to employ a person under the age of twenty-one (21) years to manufacture, sell or dispose of spirituous liquors.

15. It shall be a violation of this ordinance to employ a person under the age of twenty-one (21) years in any capacity connected with the handling of spirituous liquors.

16. It shall be a violation of this ordinance to engage in the following: For an employee of a tribally owned outlet, during his working hours or in connection with his employment, to give to or purchase for any other person, accept a gift or purchase for himself or consume spirituous liquors.

17. It shall be a violation of this ordinance for an employee of a tribal liquor outlet to sell, dispose of, deliver or give spirituous liquor to a person, or to allow a person to consume spirituous liquors on the outlet premises, between the hours of one o'clock a.m. and six o'clock a.m. on week days and one o'clock a.m. and twelve o'clock noon on Sundays.

18. It shall be a violation of this ordinance for an employee of a tribal liquor outlet to sell, dispose of, deliver or give away spirituous liquor on the outlet premises on election days during the hours polling places are open for voting.

19. It shall be a violation of this ordinance for an employee of a tribal liquor outlet to sell spirituous liquors except in the original container, to permit spirituous liquor to be consumed on the outlet premises, or to sell spirituous liquor in a container having a capacity of less than eight ounces except as approved by the liquor busniess manager and Board.

20. It shall be a violation of this ordinance for a person to consume spirituous liquor from a broken package in a public place, throughfare or gathering except as approved by the liquor business manager and Board.

21. It shall be a violation of this ordinance for a person to have in his possession or to transport spirituous liquor which is manufactured in a distillery, winery, brewery or rectifying plant contrary to the laws of the United States and the State of Arizona.

22. It shall be a violation of this ordinance for an employee of a tribal liquor outlet, when engaged in waiting on or serving customers, to consume spiritous liquor or remain on or about the premises while in an intoxicated or disorderly condition.

23. It shall be a violation of this ordinance for any person to be in a state of intoxication or to sell, attempt to sell, solicit, consume, possess, acquire or transfer liquor within three hundred (300') feet of a Sunrise Dance or Painting Ceremony.

Section XI

Tribal Court Jurisdiction Enforcement

(a) The White Mountain Apache Tribal Court of the White Mountain Apache Tribe Arizona, shall have jurisdiction over all offenses and unlawful acts enumerated in this ordinance when committed by an Indian, be they members or non-member of the White Mountain Apache Tribe.

(b) *Proof of Unlawful Sale—Intent.* In any proceeding under this ordinance, proof of one unlawful sale of liquor shall suffice to establish prima facie the intent or purpose of unlawfully keeping liquor for sale in violation of this ordinance.

(c) *General Penalties.* Any person adjudged to be in violation of this ordinance shall be subject to a civil penalty of not more than Five Hundred Dollars ($500) for each such violation. The Board may adopt by separate rule or regulation a schedule of fines for each type of violation, taking into account its seriousness and the threat it may pose to the general health and welfare of tribal members. Such a schedule may also provide, in the case of repeated violations, for imposition of monetary penalties great than the Five Hundred Dollars ($500) limitation set forth above.

(d) *Illegal Items Declared Contraband.* Alcoholic beverages which are possessed contrary to the terms of this section are declared to be contraband. Any tribal law enforcement officer who issues a citation under this section shall seize all contraband under this section shall have the authority to seize consistent with the White Mountain Apache Tribal Constitution and the applicable provisions of 25 U.S.C. 1302.

(e) *Preservation and Forfeiture.* Any tribal law enforcement officer seizing contraband shall preserve the contraband by placing it in a secured area provided for storage of impounded property and shall promptly prepare an inventory. Upon entry of judgment, the person adjudged to be in violation of this ordinance shall forfeit all right, title,

and interest in the items sized, which shall be disposed of in accordance with White Mountain Apache Tribal Court Rules of Civil Procedure. Provided, however, that the items so forfeited shall not be sold to any person not entitled to possess them under applicable law.

Section XII

Abatement

(a) *Declaration of Nuisance.* Any room, house, building, boat, vessel, vehicle, structure, or other place where liquor is sold, manufactured, bartered, exchanged, given away, furnished, or otherwise disposed of in violation of the provisions of this ordinance or of any other tribal law relating to the manufacture, importation, transportation, possession, distribution, and sale of liquor, and all property kept in and used in maintaining such place, are hereby declared to be a common nuisance.

(b) *Institution of Action.* The Chairman of the Board shall institute and maintain an action in the Tribal Court in the name of the Tribe to abate and perpetually enjoin any nuisance declared under this title. The plaintiff shall not be required to give bond in the action, and restraining orders, temporary injunctions, and permanent injunctions may be granted in the cause as in other injunction proceedings, and upon final judgment against the defendant, the court may also order the room, house, building, boat, vessel, vehicle, structure, or place closed for a period of one (1) year or until the owner, lessee, tenant, or occupant thereof shall give bond of sufficient surety to be approved by the Court in the sum of not less than One Thousand Dollars ($1,000), payable to the tribe and conditioned that liquor will not be thereafter manufactured, kept, sold, bartered, exchanged, given away, furnished, or otherwise disposed of thereof in violation of the provisions of this ordinance or of any other applicable tribal law, and that he will pay all fines, costs, and damages assessed against him for any violation of this ordinance or of any other applicable tribal law, and that he will pay all fines, costs, and damages assessed against him for any violation of this ordinance or other tribal liquor laws. If any condition of the bond be violated, the whole amount may be recovered as a penalty for the use of the tribe. Any action taken under this section shall be in addition to any other penalties provided for in this ordinance.

(c) In all cases where any person has been adjudged to be in violation of this ordinance or tribal laws relating to the manufacture, importation, transportation, possession, distribution, or sale of liquor, an action may be brought in tribal court to abate as a nuisance any real estate or other property involved in the commission of the offense, and in any such action, a certified copy of the record of such judgment shall be admissible in evidence as prima facie evidence that the room, house, vessel, boat, building, vehicle, structure, or place against which such action is brought is a public nuisance.

Section XIII

Profits

(a) *Distribution of Profits.* The gross proceeds collected by the Board for all sales of alcoholic beverages on the Fort Apache Indian Reservation shall be distributed as follows:

1. For the cost of goods;
2. For the payment of taxes provided in Section IX of this ordinance if authorized by the Tribal Council;
3. For the payment of all necessary personnel, administrative costs of the liquor business management and board;
4. To the White Mountain Apache Tribe's Alcohol and Detox Program in an amount of at least 0% of the total tax received;
5. The remainder of the taxes received shall be turned over to the general fund of the White Mountain Apache Tribe on a monthly or other periodic payment schedule established by the Board and shall be expended by the White Mountain Apache Tribal Council for the general governmental services of the tribe;
6. The remainder of all gross proceeds shall be paid over to Apache Enterprise except for those monies paid over in items 1 through 5 inclusive, and except for the gross proceeds obtained from the sale of alcoholic beverages at Sunrise Ski Complex and hotel.

Section XIV

Severability and Revision

(a) If any section of any chapter of this ordinance or the application thereof to any party or class, or to any circumstances, shall be held to be invalid for any cause whatsoever, the remainder of the chapter or ordinance shall not be affected thereby and shall remain in full force and effect as though no part thereof has been declared to be invalid.

(b) *All Prior Ordinance and Resolutions Repealed.* All prior ordinances and resolutions or provisions thereof that are repugnant or inconsistent to any provision of this ordinance are hereby repealed.

(c) *Application of 18 U.S.C. Sec. 1161.* All acts and transactions under this ordinance shall be in conformity with this ordinance and in conformity with the laws of the State of Arizona as that term is used in 18 U.S.C. Sec. 1161.

Certification

The foregoing Ordinance No. 125 was on November 4, 1981, duly enacted by a vote of 7 for and 2 against by the Tribal Council of the White Mountain Apache Tribe, Pursuant to authority vested in it by Article V, Section 1 (g) and (q) of the Amended Constitution and By-Laws of the Tribe, ratified by the Tribe June 27, 1958 and approved by the Secretary of the Interior on May 29, 1958, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984).

Lynn Cody,

Chairman of the Tribal Council.

Dated: December 21, 1981.

Approved:

Henry A. Dodge,

Superintendent, Fort Apach Agency, Whiteriver, Arizona 85941.

Mary C. Endfield,

Secretary of the Tribal Council.

[FR Doc. 82-34002 Filed 12-14-82; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

Wyoming and Montana; Powder River Regional Coal Team Meeting

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice.

SUMMARY: Pursuant to the responsibilities set forth in 43 CFR 3400.4(b), the Powder River Regional Coal Team (RCT) will meet January 18, 1983, in Sheridan, Wyoming. Items to be discussed by the regional coal team will include: discussion of leasing level paper for the region, review of tracts delineated by Minerals Management Service, and finalization of tract ranking factors. Public attendance at the regional coal team meeting is welcome and encouraged. The opportunity for the public to address the regional coal team will be provided during the meeting.

DATE: The regional coal team meeting will be held January 18, 1983, in Sheridan, Wyoming. The meeting is expected to last one day and will begin at 9 a.m.

ADDRESSES: The meeting will be held at the Holiday Inn, 1809 Sugarland Drive, Sheridan, Wyoming.

FOR FURTHER INFORMATION CONTACT: William G. Leavell, Regional Coal Team Chairperson, 503–231–6251, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208, or J. Stan McKee, Project Manager, 307–772–2295, Bureau of Land Management, P.O. Box 1828, Cheyenne, Wyoming 82001.

Harold G. Stinchcomb,

Chief, Branch of Energy Minerals.

[FR Doc. 82–33999 Filed 12–14–82; 8:45 am]

BILLING CODE 4310–84–M

Bureau of Reclamation

Industrial Water Service; Yellowtail-Boysen Reservoirs; Public Hearings on Draft Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental statement on sale of water from Boysen and Yellowtail Reservoirs. This statement (INT–DES 82–77, dated December 9, 1982) was made available to the public on December 9, 1982.

The draft environmental statement is a programmatic impact statement covering overall water marketing for industrial purposes from Boysen and Yellowtail Reservoirs. The Bureau proposes to make water service contracts for up to 300,000 acre-feet available through the year 2000 for coal-related industrial use in northeastern Wyoming and southeastern Montana.

Public hearings will be held as follows:

January 24, 1983—Worland, Wyoming—Washakie Hotel Hole-in-the-Wall Room, 7:00 p.m.

January 27, 1983—Billings, Montana—Student Union Building, Eastern Montana College, Petro East and West Room, 9:00 a.m.

January 31, 1983—Glendive, Montana—Best Western Holiday Lodge, Holiday Lodge Basement, 7:00 p.m.

Oral statements at the hearing will be limited to a period of 15 minutes. Speakers will not be allowed to trade their time to obtain a longer oral presentation; however, the person authorized to conduct the hearing may allow any speaker to provide additional oral comment after all persons wishing to make comment have been heard. Speakers will be scheduled according to the time preference mentioned in their letter or telephone request, whenever possible, and any scheduled speaker not present when called will lose his or her privilege in the scheduled order and his or her name will be recalled at the end of the scheduled speakers. Deadlines for requests for scheduled presentations should be made prior to 4:30 p.m., January 20, 1983, for the Worland hearing; 4:30 p.m., January 21, 1983, for the Billings hearing; and 4:30 p.m., January 26, 1983, for the Glendive hearing. The final date for submission to the record for all supplemental presentation will be February 15, 1983.

Organizations or individuals desiring to present their statement at the hearing should contact the Regional Director, Bureau of Reclamation, Upper Missouri Region, P.O. Box 2553, Billings, Montana 59103, telephone (406) 657–6605 or (406) 657–6558 and announce their intention to participate.

Comments would be received from other parties present following the presentation of all scheduled testimonies.

If further information is needed, phone (406) 657–6605 or (406) 657–6558.

Dated: December 9, 1982.

Jed D. Christensen,

Acting Commissioner of Reclamation.

[FR Doc. 82–33970 Filed 12–14–82; 8:45 am]

BILLING CODE 4310–09–M

[INT–DES 82–77]

Industrial Water Service; Yellowtail-Boysen Reservoirs; Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, as amended, the Department of the Interior has prepared a draft environmental statement on sale of water from Boysen and Yellowtail Reservoirs. The Bureau proposes to make water service contracts for up to 300,000 acre-feet available through the year 2000 for coal-related industrial use in northeastern Wyoming and southeastern Montana.

Copies are available for inspection at the following locations:

Director, Office of Environmental Affairs, Room 7622, Bureau of Reclamation, Washington, DC 20240, Telephone: (202) 343–4991.

Division of Management Support, General Services, Library Section, Code 950, Engineering and Research Center, Denver Federal Center, Denver, CO 80225, Telephone: (303) 234–3019

Regional Director, Bureau of Reclamation, Federal Building, 316 North 26th, Billings, MT 59103, Telephone: (406) 657–6214

Single copies of the statement may be obtained on request to the Director, Office of Environmental Affairs, Bureau of Reclamation, or the Regional Director, at the above addresses. Copies will also be available for inspection in libraries within the water marketing areas.

Dated: December 9, 1982.

Jed D. Christensen,

Acting Commissioner of Reclamation.

[FR Doc. 82–33989 Filed 12–14–82; 8:45 am]

BILLING CODE 4310–09–M

Fish and Wildlife Service

Information Collection Submitted for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Service's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Service clearance officer and the Office of Management and Budget Interior Desk Officer at 202–395–7340.

Title: Firewood Gathering Permit Application, to allow removal from national wildlife refuges.

Bureau Form Number: N/A.

Frequency: On occasion.

Description of Respondents: Individuals and households.

Annual Responses: 5,000.

Annual Burden Hours: 250.

Service Clearance Officer: Arthur J. Ferguson, 202–653–7499.

Robert E. Gilmore,

Acting Associate Director—Wildlife Resources.

December 8, 1982.

[FR Doc. 82–33960 Filed 12–14–82; 8:45 am]

BILLING CODE 4310–55–M

Information Collection Submitted for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Service's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Service clearance officer and the Office of Management and Budget Interior Desk Officer at 202–395–7340.

Title: Firewood Gathering Permit Application, to allow removal from national wildlife refuges.

Bureau Form Number: N/A.

Frequency: On occasion.

Description of Respondents: Individuals and households.

Annual Responses: 5,000.

Annual Burden Hours: 250.

Service Clearance Officer: Arthur J. Ferguson, 202–653–7499.

Robert E. Gilmore,

Acting Associate Director—Wildlife Resources.

December 8, 1982.

[FR Doc. 82–33961 Filed 12–14–82; 8:45 am]

BILLING CODE 4310–55–M

Minerals Management Service

Exxon Co., U.S.A.; Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: This Notice announces that Exxon Company, U.S.A., Unit Operator of the South Timbalier Block 54 Federal Unit Agreement No. 14–08–001–2931, submitted on October 27, 1982, a proposed supplemental plan of development/production describing the activities it proposes to conduct on the South Timbalier Block 54 Federal Unit.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the plan and that it is available for public review at the offices of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9:00 a.m. to 3:30 p.m., 3301 N. Causeway Blvd., Metairie, Louisiana 70002, phone (504) 837–4720, ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in development and production plans available to affected States, executives of affected local governments, and other interested parties became effective on December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: December 7, 1982.

John L. Rankin,

Acting Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 82–33998 Filed 12–14–82; 8:45 am]

BILLING CODE 4310–31–M

Mid-Atlantic Outer Continental Shelf; Availability of Final Environmental Impact Statement Regarding the Proposed Mid-Atlantic Oil and Gas Lease Sale No. 76

Pursuant to section 102(2)(C) of the National Environment Policy Act of 1969, the Minerals Management Service has prepared a final environmental impact statement (EIS) relating to a proposed Outer Continental Shelf (OCS) oil and gas lease sale of 4,523 tracts consisting of 25.4 million acres of submerged Federal lands off the coasts of Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, Virginia, and North Carolina (OCS Sale No. 76).

Single copies of the final EIS can be obtained from the Minerals Manager, Atlantic OCS Region, 1951 Kidwell Drive, Suite 601, Vienna, Virginia 22180.

Copies of the final EIS will also be available for inspection in the following libraries:

East Albemarle Regional Library, 205 E. Main Street, P.O. Box 303, Elizabeth City, NC 27909
Olivia Raney Public Library, 104 Fayetteville Street, Raleigh, NC 27601
New York Public Library, 5th Avenue & 42nd Street, New York, NY 10018
Suffolk Cooperative Library, 627 N. Sunrise Service Road, P.O. Box 1872, Bellport, NY 11713
New Bern-Craven County Public Library, 400 Johnson Street, New Bern, NC 27909
Wilmington Public Library, 409 Market Street, Wilmington, NC 28401
Nassau Library System, Reference Division, 900 Jerusalem Avenue, Uniondale, NY 11553
Trenton Free Public Library, 120 Academy Street, Trenton, NJ 08608
Atlantic City Free Library, Illinois & Pacific Avenues, Atlantic City, NJ 08401
Newport Public Library, Aquidneck Park, Newport, RI 02840
Christian Science Monitor, 1 Norway Street, Boston, MA 02115
Rehoboth Beach Public Library, Municipal Center, Rehoboth Avenue, Rehoboth Beach, DE 19971
Atlantic County Library, Surrogate Building, Mays Landing, NJ 08330
Public Library, 639 Washington Street, Cape May, NJ 08204
Norfolk Public Library System, 301 S. City Hall Avenue, Norfolk, VA 23510
East Brunswick Public Library, 2 Jean Walling Civic Center, East Brunswick, NJ 08816
Eastern Shore Area Library, 122–126 South Division, Salisbury, MD 21801
Providence Public Library, 150 Empire Street, Providence, RI 02903
Boston Public Library, Copley Square, Boston MA 02117
Free Library of Philadelphia, Logan Circle, Philadelphia, PA 19141
Ocean County Library, 15 Hooper Avenue, Toms River, NJ 08753
Public Library, 105 45th Street, Sea Isle City, NJ 08243
Enbck Pratt Free Library, 400 Catherdral Street, Baltimore, MD 21301
Monmouth County Library, 25 Broad Street, Freehold, NJ 07728
New Jersey State Library, P.O. Box 1898, Trenton, NJ 08625
Wilmington Institute Free Library and Newcastle County Free Library, 10th & Market Streets, Wilmington, DE 19801

Harold E. Doley,

Director, Minerals Management Service.

Approved:

Bruce Blanchard,

Director, Office of Environmental Project Review.

[FR Doc. 82–33988 Filed 12–14–82; 8:45 am]

BILLING CODE 4310–MR–M

Office of Surface Mining Reclamation and Enforcement

Determination of Valid Existing Rights Within Daniel Boone National Forest

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Interim final findings on extent of Greenwood Land and Mining Company's valid existing rights to conduct underground coal mining operations in the Daniel Boone National Forest in Kentucky.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) previously found that the Greenwood Land and Mining Company ("Greenwood") possesses valid existing rights (VER) to coal to be mined by underground methods within the Daniel Boone National Forest and, to that extent, its proposed underground coal mining operations are not prohibited or limited by Section 522(e) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1272(e)). 46 FR 36758 (July 15, 1981) and 46 FR 50422 (October 13, 1981). The notice of that finding did not include a determination of the geographical extent of Greenwood's VER, particularly with respect to the No. 5 mine. This notice defines the geographical extent of Greenwood's VER.

DATES: Effective December 15, 1982. Written comments: Accepted until 5:00 p.m., E.D.T. on January 14, 1983.

ADDRESSES: Written comments must be mailed to: Administrative Record R&I–13L, Office of Surface Mining, Room 5315–L, South Interior Building, 1951 Constitution Avenue, NW., Washington, D.C. 20240.

Written comments may be hand carried to:

Office of Surface Mining, Room 241, South Interior Building, 1951 Constitution Avenue, NW., Washington, D.C. 20240

or

Office of Surface Mining, Room 5315, 1100 L Street, NW., Washington, D.C. 20005

FOR FURTHER INFORMATION CONTACT: William Larkin, Office of the Solicitor, Department of the Interior, 18th and C streets, NW., Washington, D.C. 20240, Phone: (202) 343–4591.

SUPPLEMENTARY INFORMATION:

I. Procedural Matters.
II. Background.
III. Discussion of Decision.

I. Procedural Matters.

A. *Public Meetings.* Representatives of OSM will be available to meet during the comment period at the request of members of the public to receive their recommendations and comments concerning the Director's finding. In order to schedule or attend such meetings, contact the individual listed under "**FOR FURTHER INFORMATION CONTACT.**" OSM representatives will be available for these meetings between 9 a.m. and 4 p.m. local time, Monday through Friday, excluding holidays.

B. *Public Comments.* Written and oral comments should be as specific as possible. Comments not pertaining to those issues proposed here cannot be considered under this rulemaking. OSM appreciates any and all comments, but those most useful and likely to influence decisions on these findings will be those which include citation to legislative history, case law, technical literature or other relevant reasons for any given recommendation.

All written comments must be received by OSM by 5:00 p.m., E.D.T., on the date the comment period closes. OSM cannot ensure that written comments received after that hour, or delivered during the comment period to locations other than those specified above, will be considered and included in the Administrative Record. Notices of meetings, summaries of all meetings and telephone conversations, and all public comments received will be made available for public review in the Office of Surface Mining at the addresses noted above.

II. Background.

On July 15, 1981, OSM published at 46 FR 36758 its preliminary finding that Greenwood has VER, as that term is used in Section 522(e) of the Surface Mining Control and Reclamation Act of 1977 (Act) (30 U.S.C. 1272(e)), at three mines located in the Daniel Boone National Forest in Pulaski and McCreary Counties, Kentucky. In the explanation of that preliminary finding, OSM solicited public comments on the substance of the finding and specifically solicited information on methods of determining the geographical extent of the VER, particularly with respect to Greenwood mine No. 5 which consists of multiple openings *viz* 5, 5a, 5b, 5c, and 5d.

OSM received three letters of comments on the preliminary findings. However, the information received did not provide a sufficient basis for any substantive change in OSM's proposed finding. Therefore, OSM on October 13, 1981 (46 FR 50422), published its decision that Greenwood possesses valid existing rights at its Nos. 1, 5, and 6 mines and reserved the right to define, in supplemental findings, the geographical extent of Greenwood's VER. In the interim, OSM requested that Greenwood submit additional information to assist in reaching a final decision.

On December 8, 1981, Greenwood submitted additional information to OSM to assist in reaching a final decision on the geographical extent of its VER. In this submission Greenwood requested that OSM find that it had VER to conduct underground mining operations with respect to all mineral interests conveyed to it by Kentucky Land Shares Inc., by deed of October 24, 1974. OSM is in the process of evaluating this request for an additional finding of VER for Greenwood's mineral estate in the Daniel Boone National Forest.

The October 13, 1981, decision allowed Greenwood, upon compliance with all permitting requirements of appropriate State, Federal, and local authorities, to commence production at the mines involved without a compatibility determination, as would otherwise have been required under Section 522(e)(2) of the Act for mining in national forests. This notice announces OSM's determination of the geographical extent of Greenwood's VER.

III. Discussion of Decision.

OSM has reached a decision on the geographical extent of the valid existing rights (VER) of the Greenwood Land and Mining Company, under Section 522(e) of the Act, with respect to Greenwood's existing and planned underground mining activities for mine Nos. 1, 5 and 6 in the Daniel Boone National Forest in Pulaski and McCreary Counties, Kentucky. OSM previously found that Greenwood had valid existing rights at three underground mines, but reserved until later any determination of the geographic extent of those rights, particularly as they related to the No. 5 mine. The underground mines found to have VER, Nos. 1, 5 and 6, are all directed into the Stearns No. 3 coal seam.

OSM's finding that Greenwood had VER at the three mines in question was based on a determination that Greenwood had obtained or had made a good faith attempt to obtain all required permits for mining prior to August 3, 1977. "Required permits" included those issued by the State of Kentucky, a National Pollution Discharge Elimination System Permit, and a special use permit issued by the Forest Service, U.S. Department of Agriculture. Although the permits required prior to August 3, 1977, generally did not require that the ultimate geographical extent of proposed mining operations be specified, Greenwood has demonstrated, through the submission of additional information, that it intended to mine the entire coal seam prior to August 3, 1977. Therefore, since the company was not required to precisely define in "required permits" the geographical extent of its ultimate mining operations, or to precisely establish the boundaries of its intended mining operations, it would be unreasonable to now penalize Greenwood for these omissions. OSM believes that Greenwood should be allowed to fully mine the Stearns No. 3 coal seam as initiated through mine Nos. 1, 5, and 6, since VER has been previously determined for these mines. This decision would not permit Greenwood to conduct underground mining operations under the Beaver Creek Wilderness Area, as, according to the materials submitted by Greenwood, only the Stearns No. 2 and No. 1½ coal seams lie under this area.

Of course, OSM's finding in this matter in no way affects Greenwood's obligation to comply with the performance standards and other requirements of the Act and of all applicable laws and regulations

thereunder. OSM's determination that Greenwood has VER for underground mining operations into the Stearns No. 3 coal seam does not supersede the requirements or decisions of other State or Federal agencies. It merely acknowledges that Greenwood is not subject to the Section 522(e) prohibitions with respect to the Stearns No. 3 coal seam inside the Daniel Boone National Forest.

Thus, although finding VER for the Stearns No. 3 coal seam, OSM's decision does not allow Greenwood to operate the No. 5a mine unless and until that, or any other, mine site is approved by the Forest Service, U.S. Department of Agriculture, and by any other appropriate State or Federal agency.

This decision does not restrict the number or location of additional openings from which Greenwood may mine the Stearns No. 3 coal seam, provided that any openings not identified in permit applications submitted prior to August 3, 1977, or currently in operation must be permitted by the regulatory authority. Further, OSM wishes to emphasize that Greenwood, rather than the regulatory authority, must demonstrate that any new opening is in fact intended for mining the Stearns No. 3 coal seam.

This decision does not constitute agreement with, or a favorable decision on, all of the statements and arguments in Greenwood's request, nor does it affect Greenwood's obligation to comply with the permit and performance standards of SMCRA and all regulations. The decision means only that Greenwood need not seek a determination of compatibility pursuant to Section 522(e)(2) of SMCRA and 30 CFR 761.11(b) prior to commencing underground operations into the Stearns No. 3 coal seam within the Daniel Boone National Forest.

Dated: December 10, 1982.

James R. Harris,

Director, Office of Surface Mining.

[FR Doc. 82-34058 Filed 12-14-82; 8:45 am]

BILLING CODE 4310-05-M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 387]

Burlington Northern Railroad Co., et al.; Exemptions for Contract Tariffs

AGENCY: Interstate Commerce Commission.

ACTION: Notices of provisional exemptions.

SUMMARY: Provisional exemptions are granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the below-listed contract tariffs may become effective on one day's notice. These exemptions may be revoked if protests are filed.

DATE: Protests are due within 15 days of publication in the **Federal Register**.

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway, (202) 275-7278, or Tom Smerdon, (202) 275-7277.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in these instances to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption requests meet the requirements of 49 U.S.C. 10505(a) and are granted subject to the following conditions:

These grants neither shall be construed to mean that the Commission has approved the contracts for purposes of 49 U.S.C. 10713(e) not that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review these contracts and to determine their lawfulness.

Sub-No	Name of railroad, contract No., and specifics	Review Board[1]	Decided date
453	Burlington Northern Railroad Co., ICC-BN-C-0211 (Wheat).	3	Dec. 8, 1982
454	Denver and Rio Grande Western Railroad Co., ICC-DRGW-C-0073 (Industrial sand)	2	Do
455	Burlington Northern Railroad Co., ICC-BN-C-0212 (Wheat flour).	2	Do
456	Chicago, Milwaukee, St Paul and Pacific Railroad Co., ICC-MILW-C-0278 (Bituminous coal)	3	Do
457	Chicago, Milwaukee, St Paul and Pacific Railroad Co., ICC-MILW-C-0289 (Sunflower, soybean and linseed meal).	1	Do

[1] Review Board No. 1, Members Parker, Chandler, and Fortier. Review Board No. 2, Members Carleton, Williams, and Ewing. Review Board No 3, Members Krock, Joyce, and Dowell. Member Dowell not participating.

This action will not significantly affect the quality of the human environment or conservation of energy resouces.

(49 U.S.C. 10505)

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-33827 Filed 12-14-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Decision Notice; Finance Applications

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsideration; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1181.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 20 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission, Review Board Number 3. Members Krock, Joyce, and Dowell.

Please direct status inquiries to Team 3 (202) 275-5223.

Volume No. OP3-MC-FC-51

MC-FC-81006. By decision of December 7, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 3 approved the transfer to B.J.T., INC., Stratford, CT, of Certificate No. MC-31564 Subs 1, 5, and 8 issued March 2, 1964, December 4, 1969, and December 17, 1973, respectively, to FRANK CORSO, INC. Hamden, CT, authorizing the transportation of *bananas* from port

facilities in the New York, NY Commercial Zone, to points in CT and to Springfield, MA; from Baltimore, MD, to New Haven and Hartford, CT, and Springfield, MA; from Fall River, MA, to Hartford, New Britain, New London, and Torrington, CT, and Springfield, MA; from Albany, NY, to points in CT, and points in Union, Essex, Hudson, Bergen, Passaic, and Middlesex Counties, NJ, New York, NY, and points in Westchester, Suffolk, and Nassau Counties, NY, and Springfield, MA; and from Baltimore, MD, to Torrington, CT. Representative: Raymond A. Richards, 35 Curtice Park, Webster, NY 14580.

For the following, please direct status inquiries to Team 4 at 202–275–7669.

Volume No. OP4–FC–061

MC–FC–81036. By decision of December 7, 1982 issued under 49 USC 10926 and the transfer rules at 49 CFR 1181, Review Board Number 3 approved the transfer to PHANTOM FREIGHTERS, INC., Omaha, NE, of Certificate No. MC–138627 Sub 122, issued October 28, 1981, to SMITHWAY MOTOR XPRESS, INC., Fort Dodge, IA, authorizing the transportation of general commodities (except classes A and B explosives), between the facilities of Clow Corporation, at points in the U.S. on the one hand, and, on the other, points in the U.S. Transferee is not a carrier.

No application for temporary authority has been filed. Representative: Arlyn L. Westergren, 9202 West Dodge Rd., Omaha, NE, for both parties.

Volume No. OP4–FC–062

MC–FC–81060, filed November 23, 1982. By decision of December 8, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181 Subpart A, Review Board Number 3 approved the transfer to DEPENDABLE TRANSPORTATION, INC., of Ottawa, KS, of Certificate No. MC–5227 (Sub-No. 71), issued January 6, 1981, to ECKLEY TRUCKING, INC., of Mead, NE, authorizing the transportation of (1) *grain dryers, spring tooth harrows, riding power mowers, combine trailers, industrial trailers, wood-burning stoves, pollution control equipment, and iron and steel articles,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above, between points in Reno and McPherson Counties, KS, on the one hand, and, on the other, points in the U.S. (except AK and HI). Representative: William B. Barker, P.O. Box 1979, Topeka, KS 66601 for transferee, and A. J. Swanson, P.O. Box 1103, Sioux Falls, SD 57101 for transferor

For the following, please direct status inquiries to Team 5 at 202–275–7289.

Volume No. OP5–FC–279

MC–FC–81042. By decision of December 6, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 3 approved the transfer to STEPHEN B. LAMPMAN, d.b.a. LAMPMAN TRANSPORTATION, Fresno, CA, of Permit Nos. MC–153758 issued October 2, 1981, MC–153758 Sub 1 issued July 24, 1981, MC–153758 Sub 2 issued January 12, 1982, MC–153758 Sub 3 issued May 28, 1982 and MC–153758 Sub 4 issued November 18, 1982, authorizing the transportation of (1) *furniture and fixtures* and (2) *food and related products,* between points in the U.S., under continuing contract(s) in (1) with Northern Kitchens, Inc., of Rib Lake, WI, and in (2) with Pacific Cheese Company, Inc., of San Francisco, CA and Armour & Company, of Phoenix, AZ, (3) *food and related products,* between points in the U.S., under continuing contract(s) with Calavo Growers of California Inc., of Los Angeles, CA, (4) *ice cream products,* between points in the U.S., under continuing contract(s) with Woodbridge Sweets, Inc., of Woodbridge, NJ, (5) *foodstuffs,* between points in the U.S. (except AK and HI), under continuing contract(s) with Tolibia Cheese, Inc., of Fond du lac, WI and (6) *food and related products,* between points in CA, under continuing contract(s) with Monterrey Cheese Company of San Francisco, CA. Application for temporary authority has been filed. Representative: James A. Spiegel, Olde Towne Office Park, 6333 Odana Road, Madison, WI.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–33972 Filed 12–14–82; 8:45 am]

BILLING CODE 7035–01–M

[Volume No. 315]

Motor Carriers; Permanent Authority Decisions; Restriction Removals; Decision-Notice

Decided: December 9, 1982.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR Part 1137. Part 1137 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with the criteria set forth in 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Shaffer, Williams, and Higgins.

Agatha L. Mergenovich,

Secretary.

MC 74 (Sub-12)X, filed November 19, 1982. Applicant: VALLEY TRANSIT COMPANY, INC., P.O. Box 1870, Harlingen, TX 78551. Representative: Paul D. Angenend, P.O. Box 2207, Austin, TX 78768. Subs 9, 10, and 11 certificates: (A) authorize passenger carrier service at all intermediate points along described regular routes generally between Edinburg and San Antonio, TX (Sub 9) and over routes terminating at Mission, Rom, Harlingen, Houston, and San Antonio, TX and various interstate highway junctions at points in TX (Subs 10 and 11).

MC 146671 (Sub-11)X, filed November 8, 1982. Applicant: REBEL LEASING, INC., P.O. Box 25437, Kansas City, MO 64119–0737. Representative: Larry D. Knox, Myers, Knox & Hart, 600 Hubbell Building, Des Moines, IA 50309. Subs 5F, 6F, 7F, 8F, and 10F certificates, acquired in MC–FC–79671: (1) Eliminate the "except commodities in bulk" restriction, named Subs; (2) authorize radial authority to replace existing one-way authority, named Subs; (3) broaden foodstuffs (Sub 5F) and cider, apple (Sub 10F) to "food and related products", and charcoal, charcoal briquets, fireplace logs, wood chips, and lighter fluid (Subs 6F, 7F, and 8F) to "petroleum and coal products, lumber and wood products and chemicals and related products"; and (4) replace authority to serve named points to countywide authority: Wyandotte, Johnson, and Leavenworth Counties, KS for Bonner Springs, KS

(Sub 6F); Osage County, MO for Meta, MO (Sub 5F); Stark County, ND for Dickinson, ND (Sub 7F); Taney County, MO for Branson, MO (Sub 8F); and Madison County, IL and St. Louis County, MO for Alton, IL and Richland County, IL for Olney, IL (Sub 10F).

[FR Doc. 82-33973 Filed 12-14-82; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Motor Common and Contract Carriers of Property (except fitness-only); Motor Common Carriers of Passengers (public interest); Freight Forwarders; Water Carriers; Household Goods Brokers.

The following applications for motor common or contract carriers of property, water carriage, freight forwarders, and household goods brokers are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common carriage of passengers, filed on or after November 19, 1982, are governed by Subpart D of 49 CFR Part 1160, published in the **Federal Register** on November 24, 1982 at 47 FR 53271. For compliance procedures, see 49 CFR 1160.86. Carriers operating pursuant to an intrastate certificate also must comply with 49 U.S.C. 10922(c)(2)(E). Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E. In addition to fitness grounds, these applications may be opposed on the grounds that the transportation to be authorized is not consistent with the public interest.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations.

We make an additional preliminary finding with respect to each of the following types of applications as indicated: common carrier of property—that the service proposed will serve a useful public purpose, responsive to a public demand or need; water common carrier—that the transportation to be provided under the certificate is or will be required by the public convenience and necessity; water contract carrier, motor contract carrier of property, freight forwarder, and household goods broker—that the transportation will be consistent with the public interest and the transportation policy of section 10101 of chapter 101 of Title 49 of the United States Code.

These presumptions shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note: All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract." Applications filed under 49 U.S.C. 10922(c)(2)(B) to operate in intrastate commerce over regular routes as a motor common carrier of passengers are duly noted. Please direct status inquiries to Team 2, (202) 275-7030.

Volume No. OP2-311

Decided: December 7, 1982.

By the Commission, Review Board No. 2, Members Parker, Chandler, and Fortier.

MC 693 (Sub-4), filed November 29, 1982. Applicant: JOHN L. GRIFFIN, SR., d.b.a. JOHN GRIFFIN & SON, 2659 Mascher St., Philadelphia, PA 19133. Representative: Alan Kahn, 1430 Land Title Bldg., Philadelphia, PA 19110, 215-561-1030. Transporting *chemicals and related products and textile mill products*, between Philadelphia, PA, on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, MO, TN, and AL.

MC 123133 (Sub-13), filed November 26, 1982. Applicant: DENNY TRANSPORT, INC., 3405 Industrial Parkway, Jeffersonville, IN 47130. Representative: John M. Nader, 1600 Citizens Plaza, Louisville, KY 40202, (502) 589-5400. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI).

MC 136202 (Sub-5), filed November 30, 1982. Applicant: REBEL VAN LINES, INC., 2150 South Alameda, Compton, CA 90221. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202, 904-632-2300. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in the U.S. (except AK and HI).

MC 164103, filed November 26, 1982. Applicant: G. D. EASTLICK, INC., 212 South 22nd St., Billings, MT 59101. Representative: G. D. Eastlick (same as applicant), (406) 252-8446. Transporting *such commodities* as are dealt in or used by grocery and food distributor houses (except classes A and B explosives, household goods and commodities in bulk), between points in WA, OR, CA, UT and ID, on the one hand, and, on the other, points in MT.

Volume No. OP2-312

Decided: December 8, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 148023 (Sub-4), filed November 29, 1982. Applicant: HACKE TRUCKING, INC., 13482 West Wadsworth Road, Waukegan, IL 60087. Representative: Joel H. Steiner, 135 South LaSalle St., Suite 2106, Chicago, IL 60603, (312) 236-9375. Transporting *food and related*

products, between points in Lake County, IL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 162663 (Sub-1), filed November 29, 1982. Applicant: J & M TRUCKING INC., Route 3, Long Prairie, MN 56347. Representative: W. E. Seliski, P.O. Box 8255, 2 Commerce St., Missoula, MT 59807, (406) 543–8369. Transporting *food and related products,* between those points in the U.S., in and west of MI, IL, MO, AR and LA (except AK and HI).

Volume No. OP2–314

Decided: December 6, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 99373 (Sub-3), filed November 22, 1982. Applicant: CITY DELIVERY SERVICE, INC., 56 Nashua St., Leominster, MA 01453. Representative: Jeanne M. Hession, 141 Milton Rd., Braintree, MA 02184, 617–722–7486. Transporting *machinery,* between points in Worcester County, MA, and points in ME, NH, VT, CT, RI, MA, NY, and NJ.

CONDITION.—Issuance of this certificate is subject to prior or coincidental cancellation of applicant's written request of Certificate of Registration No. MC–99373 (Sub-2), issued May 18, 1964.

MC 119903 (Sub-15), filed November 23, 1982. Applicant: D. J. WALRAVEN, P.O. Box 1045, Rome, GA 30161. Representative: Archie B. Culbreth, Suite 570, 2200 Century Parkway, Atlanta, GA 30345, (404) 321–1765. Transporting *primary metal products,* between points in Floyd County, GA, and Montgomery County, OH, on the one hand, and, on the other, points in AL, GA, IN, KY, MI, NY, NC, OH, SC, TN, VA, and WV.

MC 128302 (Sub-30), filed November 26, 1982. Applicant: THE MANFREDI MOTOR TRANSIT CO., 14841 Sperry Rd., Newbury OH 44065. Representative: John P. McMahon, 100 E. Broad St., Columbus, OH 43215, 614–228–1541. Transporting *commodities in bulk,* between points in the U.S. (except AK and HI).

MC 138732 (Sub-37), filed November 26, 1982. Applicant: OSTERKAMP TRUCKING INC., P.O. Box 5546, Orange, CA 92667. Representative: Steven K. Kuhlmann, 717 17th St., Suite 2600, Denver, CO 80202–3357, 303–892–6700. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

Note.—This application is filed pursuant to the provisions of 49 U.S.C. 10925(e) and seeks conversion of existing contract-carrier authority to common carriage.

Condition.—Issuance of the authority in this proceeding is subject to prior or coincidental cancellation of applicant's contract-carrier authority under MC 138732 (Sub-P32)X, issued August 21, 1982, and the underlying authority under MC 133928 (Sub-15 and 18), and MC 138732 (Sub-34), issued June 15, 1982.

MC 145042 (Sub-20), filed November 29, 1982. Applicant: ZEELAND FARM SERVICES, INC., 2468 84th Ave., Zeeland, MI 49464. Representative: James R. Neal, 1200 Bank of Lansing Bldg., Lansing, MI 48933, 517–482–2400. Transporting *glass, metal and metal products, and plastic and plastic products,* between points in MI, on the one hand, and, on the other, points in OH, IL, and PA.

MC 159103, filed November 29, 1982. Applicant: KEN GEBERT d.b.a. KEN GEBERT TRUCKING, Mill Creek Rd., Frenchtown, MT 59803. Representative: W. E. Seliski, 2 Commerce St., POB 8255, Missoula, MT 59807, (406) 543–8369. Transporting *such commodities* as are dealt in or used by lumber yards, farm supply stores, and metal product dealers, between points in WA, OR, CA, ID, MT ND, SD, NE, KS, MN, IA, MO, WI, IL, OH, and AL, on the one hand, and, on the other, those points in the U.S. in and west of MI, IL, MO, AR, and TX (except AK and HI).

MC 164072, filed November 23, 1982, 1982. Applicant: WINGS TRANSPORTATION, INC., 717 South 9th, Omaha, NE 68102. Representative: James M. Hodge, 3730 Ingersoll Ave., Des Moines, IA 50312, (515) 274–4985. Transporting *general commodities* (except household goods and classes A and B explosives), between council Bluffs, IA, and points in NE and CO, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 164392, filed November 29, 1982. Applicant: METZGER & SON TRUCKING COMPANY, Box 8, Silver Lake, IN 46982. Representative: Norman R. Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204, 317–638–1301. Transporting *general commodities* (except classes A and B explosives and household goods), between those points in IN on or north of Interstate Hwy 70, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 164753, filed November 15, 1982. Applicant: MERIT TRUCKING, INC., P.O. Box 2851, Grand Junction, CO 81502. Representative: Manuel Andrade, Jr., 770 Grant St., Suite 228 Denver, CO 80203 (303) 861–4273. Transporting *petroleum and petroleum products,* between points in CO, NM, UT, and WY, under continuing contract(s) with Morrison Refining Company, of Grand Junction, CO.

MC 164763, filed November 16, 1982. Applicant: JAMES P. LINN d.b.a. JAMES LINN IMPLEMENT, Box 97, Lane, SD 57358. Representative: Dolores J. Linn, (same address as applicant), (605) 539–1794. Transporting *farm machinery,* between points in the U.S. (except AK and HI).

MC 164792, filed November 15, 1982. Applicant: WILLIAM L. ADKINS AND SANDRA K. ADKINS, d.b.a. K–LEE TRUCK LEASING, 5326 Newcomb Creek Rd., Huntington, WV 25704. Representative: Robert B. Walker, 915 Pennsylvania Bldg., 425 13th Street, NW., Washington, DC 20004, (202) 737–1030. Transporting *building materials, lumber and wood products,* between points in WV, VA, and KY, on the one hand, and, on the other, points in WV, VA, KY, OH, IN, TN, NC, SC, PA, GA, NY, IL, and MD.

For the following, please direct status calls to Team 3 (202) 275–5223.

Volume No. OP3–43

Decided: December 9, 1982.

By the Commission, Review Board No. 2 Members Carleton, Williams, and Ewing.

MC 157375 (Sub-4), filed November 29, 1982. Applicant: WINDY HILL FOLIAGE, INC., P.O. Box 642, Eustis, FL 32726. Representative: Michael J. Wyngaard, 150 East Gilman St., Madison, WI 53703, (608) 256–7444. Transporting *general commodities* (except classes A and B explosives, household good, and commodities in bulk) between points in FL, IL, IN, IA, MI, MN, NE, and WI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 157485 (Sub-1), filed November 23, 1982. Applicant: EVES TRUCKING CO., INC., RT. 724, R.D. 1, Phoenixville, PA 19460. Representative: Raymond A. Thistle, Jr., Five Cottman Court, 426 Cottman Street, Jenkintown, PA 19046, (215) 576–0131. Transporting *petroleum and petroleum products,* between points in the U.S. (except AK and HI), under continuing contract(s) with Herbert R. Imbt, Inc., of State College, PA.

MC 160215, filed November 22, 1982. Applicant: KEN GIBERSON TRANSPORT LTD., 135 Bridge Rd. Chatham Head, New Brunswick, Canada E1V 3J1. Representative: Ken Giberson, P.O. Box 362, Newcastle, New Brunswick, Canada E1V 3M5, (506) 622–2761. Transporting *horticultural products,* between ports of entry on the International Boundary line between the U.S. and Canada, in ME, on the one

hand, and, on the other, points in CT, NY, PA, OH, TN, NC, SC, VA, GA, KY, AL, NJ, ME, NH, MA, and MD, under continuing contract(s) with JPA, of West Chicago, IL.

MC 160304, filed November 26, 1982. Applicant: APPLIED TECHNOLOGY TRANSPORTATION, INC., 25 South Shore Dr., Toms River, NJ 08753. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934, (201) 234–0301. Transporting (1) *hazardous materials,* and (2) *waste or scrap materials not identified by industry producing,* between points in the U.S. (except AK and HI).

Condition.—The authority granted in part (1), to the extent it authorizes the transporting of hazardous materials is limited in point of time to a period of five (5) years from the date of issuance.

MC 161434, filed November 29, 1982. Applicant: ACME LEASING COMPANY, d.b.a. ACME TRANSPORT, 157 Stanford Pkwy., P.O. Box 1026, Findlay, OH 45840. Representative: James Duvall, 220 W. Bridge St., P.O. Box 97, Dublin, OH 43017, (614) 889–2531. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk) between points in OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 162634 (Sub-1), filed November 29, 1982. Applicant: UNITED SUPREME TRANSPORTATION, INC., Hwy 14, Greer, SC 29651. Representative: David L. Capps, P.O. Box 924, Douglasville, GA 30133, (404) 949–7756. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with Package Supply and Equipment Company, Inc. of Greenville, SC, Service Supply Systems, Inc. of Cordele, GA and J. M. Hirsch Office Equipment Corp. of Union City, N.J.

MC 163645, filed November 26, 1982. Applicant: PLASTIPAK PACKAGING, INC., 18015 St. Rt. 65, Jackson Center, OH 45334. Representative: James Duvall, 220 W. Bridge St., P.O. Box 97, Dublin, OH 43017, (614) 889–2531. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 163704, filed December 1, 1982. Applicant: MIKE BAILEY, INC., Rt. 6, Box 202, Alexander City, AL 35010. Representative: Terry P. Wilson, 428 S. Lawrence St., Montgomery, AL 36104, (205) 262–2756. Transporting *pet food,* between points in Fulton County, GA, on the one hand, and, on the other, points in AL, FL, SC, and TN.

MC 164825, filed November 22, 1982. Applicant: BARKLEY TRANSPORTATION, INC., 392 Terrace View Dr., P.O. Box 3535, Stateline, NV 89449. Representative: Michael S. Rubin, 100 Bush St., Suite 410, San Francisco, CA 94104, (415) 421–6743. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in CA, OR, WA, ID, NV, AZ, UT, WY, MT, CO, NM, TX, OK, KS, NE, SD, and ND.

MC 164834, filed November 22, 1982. Applicant: TRIOLI TRUCKING COMPANY, INC., 34 Upham St., Revere, MA 02151. Representative: Wesley S. Chused, 15 Court Square, Boston, MA 02108, (617) 742–3530. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in CT, ME, MA, NH, NJ, NY, RI, and VT.

MC 164844, filed November 23, 1982. Applicant: BARBARA J. BYRD AND STEPHEN C. SMYTHE, d.b.s. PUGET-WILLAMETTE EXPRESS, 22517 N.E. 237th Ave., Battle Ground, WA 98604. Representative: Barbara J. Byrd, (same address as applicant), (206) 687–1234. Transporting *construction material, equipment, and supplies,* between points in OR, WA, CA, ID, NV, and MT.

MC 164864, filed November 24, 1982. Applicant: DIXIE WAREHOUSE & CARTAGE CO., INC., Grade Lane at Fern Valley Rd., Louisville, KY 40223. Representative: Fred F. Bradley, P.O. Box 773, Frankfort, KY 40602, (502) 227–2254.Transporting *general commodities* (except classes A and B explosives, househod goods, and commodities in bulk), between points in Jefferson, Bullitt, Shelby, and Oldham Counties, KY, and Clark and Floyd Counties, IN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 164934, filed November 24, 1982. Applicant: YELTON TRUCKING COMPANY INC., 313 Pemberton Dr., Wilmington, NC 28403. Representative: Herbert Alan Dubin, 818 Connecticut Ave., NW., Washington, DC 20006, (202) 331–3700. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in New Hanover and Carteret Counties, NC, and those in Charleston County, SC, on the one hand, and, on the other, points in NC, SC, GA, VA, and TN.

MC 164945, filed November 29, 1982. Applicant: AERIAL FLIGHT SERVICES, INC., 5801 Magnolia Ave., Pennsauken NJ 08109. Representative: Stephen L. Snyder, (same address as applicant), (609) 663–2234. Transporting *oil,* between points in PA, NJ, and NY.

MC 164954, filed November 29 1982. Applicant: G. L. & B. LEASING CO., INC., 510 Thatcher St., St. Louis, MO 63147. Representative: B. G. Sellers, (same address as applicant), (314) 621–4467. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between St. Louis, MO, points in St. Louis, St. Charles, Franklin, Jefferson, and Warren Counties, MO, and points in Madison, St. Clair, Monroe, and Clinton Counties, IL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

For the following, please direct status calls to Team 4 at (202) 275–7669.

Volume No. OP4–058

Decided: December 8, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 15546 (Sub-7), filed November 22, 1982. Applicant: KIRCHWEHN BROS. CARTAGE CO., INC., 1700 W. Carroll Ave., Chicago, IL 60612. Representative: Ronald C. Kirchwehm, (Same address as applicant), (312) 226–4433. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with (1) Certified Grocers of Illinois, of Chicago, IL, (2) Dart Warehouse Corporation, of Bellwood, IL and its subsidiaries, Dart International, Dart Information Systems, Dart Equipment Corp., Dart Public Warehouses, Inc., all of Los Angeles, CA, and (3) Chicago Manufacturing Company, of Cicero, IL, and its subsidiaries: CMCA of Georgia, Inc., of Winder GA, and Energatic Systems, Inc., of Lisle, IL.

MC 108207 (Sub-567), filed November 29, 1982. Applicant: FFE TRANSPORTATION SERVICES, INC., P.O. Box 225888, Dallas TX 75265. Representative: Makr C. Irvin, (Same address as applicant), (214) 428–7661. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Campbell Soup Company of Camden, NJ and its subsidiaries: Champion Valley Farms, Inc., of Bloomsburg, PA, German Village Products, Inc., of Wauseon, OH, Pepperidge Farm Inc., of Norwalk, CT, and Vlasic Foods, Inc., of W. Bloomfield, MI.

MC 146496 (Sub-17), filed November 29, 1982. Applicant: JOSEPH MOVING & STORAGE CO., d.b.a. ST. JOSEPH MOTOR LINES, 5724 New Peachtree

Rd., Chamblee, GA 30341. Representative: Edward J. Kiley, 1730 M St., NW., Washington, DC 20036, (202) 296–2900. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk) between points in the U.S. (except AK and HI), under continuing contract(s) with Contract Freight Brokers, Inc., of Chamblee, GA.

MC 152156, filed November 26, 1982. Applicant: ATLANTIC COASTAL TRUCKING CO., INC., 515 River Rd., Clifton, NJ 07014. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934, (201) 234–0301. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in ME, VT, NH, MA, CT, RI, NY, PA, NJ, DE, MD, VA, and DC.

MC 163797, filed December 1, 1982. Applicant: HEM EXPRESS CO., 11075 Billmyer Hwy., Clinton, MI 49236. Representative: Harold J. Amstutz, 408 Brown St., Tecumseh, MI 49286, (517) 423–2243. Transporting (1) *farm products,* (2) *lumber and wood products,* (3) *metal products,* and (4) *machinery,* between points in the U.S. (except AK and HI).

MC 164877, filed November 26, 1982. Applicant: KNOXVILLE TRANSPORT, INC., 301 N Line St., Knoxville, IL 61448. Representative: Edward D. McNamara, Jr., P.O. Box 5039, Springfield, IL 62705 (217) 528–8476. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

Volume No. OP4–060

Decided: December 8, 1982.

By the Commission, Review Board No. 2. Members Carleton, Williams, and Ewing.

W–16 (Sub-13), filed November 26, 1982. Applicant: S. C. LOVELAND CO., INC., 520 S. Front St., Philadelphia, PA 19147. Representative: Donald Macleay, 1625 K St., NW, Washington, DC 20006 (202) 393–3390. Transporting by water, by self-propelled vessels and non-self-propelled vessels with the use of separate towing vessels in the transportation of *general commodities,* and by towing vessels in the performance of general towage, (1) between ports and points along all rivers, streams and other waterways constituting the Mississippi River System, including without limitation, in addition to the Mississippi River itself, the Missouri, Ohio, Monongahela, Allegheny, Cumberland, Green, Tennessee, White, Arkansas-Verdigris Waterway, Black, Red, Barkley Canal, Kaskaskia, Rough, Barren, Kanawha, Licking, Clinch, Kentucky, Ouachita, Wolf, Yazoo, Minnesota, St. Croix and their tributaries and the Illinois Waterway to Lake Michigan including the Sag and all other connections; (2) between ports and points on the Great Lakes, its interconnecting waterways, and tributary waterways; (3) between ports and points on the entire New York State Barge Canal System; (4) between ports and points on the Hudson River above the area defined in the Commission's order of March 26, 1941, in Ex Parte 140, *Determination of the Limits of New York Harbor and Harbors Contiguous Thereto;* (5) between ports and points specified in 1 above, on the one hand, and on the other, those specified in 2, 3, and 4 above; (6) between ports and points specified in 2 above, on the one hand, and, on the other, those specified in 3 and 4 above; (7) between ports and points specified in 3 above, on the one hand, and, on the other, those specified in 4 above; and (8) between ports and points specified in 1, 2, 3, and 4 above, on the one hand, and, on the other, ports and points the carrier is presently authorized to serve as a common carrier by water in the transportation of general commodities.

MC 99787 (Sub-2), filed November 24, 1982. Applicant: LONNIE CASE TRUCKING, INC., 3211 S. Sanger Ave., Sanger, CA 93657. Representative: Edward L. Fanucchi, 2409 Merced St., Ste. 3, Fresno, CA 93721 (209) 268–8771. Transporting *frozen fruits and vegetables,* between points in CA, on the one hand, and, on the other, points in OR, WA, and AZ, under continuing contract(s) with Gerawan Foods, Inc., of Sanger, CA.

MC 105656 (Sub-20), filed November 29, 1982. Applicant: PASQUALE TRUCKING COMPANY, INC., P.O. Box 295, Logansport, IN 46947. Representative: Jack H. Blanshan, 205 W. Touhy Ave., Suite 102, Park Ridge, IL 60068 (312) 696–2237. Transporting *food and related products,* between points in Henry County, OH, on the one hand, and, on the other, points in IL, IN, IA, KS, KY, MN, MO, NE, and WI.

MC 136246 (Sub-54), filed November 26, 1982. Applicant: GEORGE BROS., INC., Hwy 6 and Saunders Ave., P.O. Box 492, Sutton, NE 68979. Representative: Arlyn L. Westergren, Suite 201, 9202 W. Dodge Rd., Omaha, NE 68114 (402) 397–7033. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except HI).

MC 136316 (Sub-4), filed November 29, 1982. Applicant: SMITH TRUCKING CO., INC., Route 4, Riverside Rd., Lancaster, SC 29720. Representative: David Popowski, P.O. Box 1064, Charleston, SC 29402 (803) 722–8301. Transporting (1) *metal products,* and *those commodities which because of size or weight require the use of special handling or equipment,* between points in the U.S. (except AK and HI), and (2) *lumber,* and *building materials,* between those points in the U.S. in and east of LA, AR, MO, IA, and MN.

MC 142186 (Sub-11), filed December 1, 1982. Applicant: WHEELS WEST, INC., 11631 Waddell Creek Rd. SW., Olympia, WA 98502. Representative: Kenneth R. Mitchell, 2320A Milwaukee Way, Tacoma, WA 98421 (206) 383–3998. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with T. O. Plastics, Inc., of Minneapolis, MN.

MC 144757 (Sub-26), filed November 26, 1982. Applicant: DAKOTA PACIFIC TRANSPORT, INC., 3104 East St. Patrick, Rapid City, SD 57701. Representative: J. Maurice Andren, 1734 Sheridan Lake Rd., Rapid City, SD 57701 (605) 343–4036. Transporting *building and construction materials,* between points in the U.S., under continuing contract(s) with Reserve Supply Company, of Minneapolis, MN.

MC 164146, filed November 23, 1982. Applicant: SLOW FREIGHT LINES, INC., 7810 Rideout Rd., Tampa, FL 33619. Representative: Archie B. Culbreth, Suite 570, 2200 Century Parkway, Atlanta, GA 30345 (404) 321–1765. Transporting *metal and metal products,* between points in FL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 164876, filed November 26, 1982. Applicant: SIGNODE EXPRESS CORPORATION, 3610 W. Lake Ave., Glenview IL 60025. Representative: Joel H. Steiner, 135 S. LaSalle St., Chicago, IL 60603 (312) 236–9375. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Signode Corporation, of Glenview IL, and its subsidiaries of Angleboard, Inc., of Cincinnati, OH, Dallas, TX, Pittsburgh, CA, and Tomonium, MD, Electrocal Products Identification Corp., of South Windsor, CT, Minigrip, Inc., of Orangeburg, NY, Products Identification Corp., of Chicago, IL, Reichel & Drews, Inc., of Itasca, IL, Geo. T. Schmidt, Products Indentification Corp., of Chicago, IL, Los Angeles, CA, East

Hartford, CT, and Houston, TX, Truswal Systems Corporation, of Colorado Springs, CO, Anaheim, CA, Owing Mills, MD, Madison Heights, MI, and Miami, FL, and Signode Wrapping Systems, of Itasca, IL.

MC 164897, filed November 26, 1982. Applicant: ERICH RAUCHLEITNER dba RAUCHLEITNER TRUCKING, 106 Inverray Lane, Deerfield, IL 60015. Representative: Erich Rauchleitner (same address as applicant) (312) 537–4215. Transporting *steel and steel articles,* between points in MN, on the one hand, and, on the other, points in IL, OH, KY, and IN.

For the following, please direct status calls to Team 5 (202) 275–7289.

Volume No. OP5–275

Decided: December 6, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 35628 (Sub-446), filed November 22, 1982. Applicant: IMFS, INC., d.b.a. INTERSTATE SYSTEM, 110 Ionia Avenue, N.W., Grand Rapids, MI 49503. Representative: Michael P. Zell (same address as applicant) (616) 774–0400. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contracts with CIBA–GEIGY Corporation, of Ardsley, NY, Davidson Rubber Division, of Dover, NH, Ex-Cell-O Corporation, of Troy, MI, and Gulf & Western, of Southfield, MI.

MC 41098 (Sub-89), filed November 24, 1982. Applicant: GLOBAL VAN LINES, INC., One Global Way, Anaheim, CA 92803. Representative: Alan F. Wohlstetter, 1700 K St., N.W., Washington, DC 20006, 202–833–8884. Transporting *machinery,* between points in the U.S. under continuing contract(s) with International Power Machines Corporation of Mesquite, TX.

MC 121469 (Sub-3), filed November 26, 1982. Applicant: A&D Freight Lines, Inc., 319–A Andover St., Wilmington, MA 01887. Representative: Salvatore P. D'Alessandro (same address as applicant) (617) 658–4140. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in MA, ME, NH, and RI.

MC 128878 (Sub-49), filed November 22, 1982. Applicant: SERVICE TRUCK LINE, INC., P.O. Box 5518, Bossier City, LA 71111. Representative: C. Wade Shemwell (same address as applicant) (318) 747–4300. Transporting *lumber, lumber products, and forest products,* between points in the U.S., under continuing contract(s) with Cox Lumber Company, Inc., of Hot Springs, AR.

MC 136228 (Sub-46), filed November 22, 1982. Applicant: LUISI TRUCK LINES, INC., P.O. Box "H", Milton-Freewater, OR 97862. Representative: Philip G. Skofstad, 529 S.E. Grand Avenue, Portland, OR 97214, 503–239–4157. Transporting *food and related products,* between points in Ada County, ID and Walla Walla County, WA on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 151878 (Sub-6), filed November 23, 1982. Applicant: THREE WAY CORPORATION, 1120 Karlstad Dr., Sunnyvale, CA 94086. Representative: Charles H. White, Jr., 1019 19th St., N.W., Suite 800, Washington, D.C. 20036, 202–785–3420. Transporting *general commodities* (except classes A and B explosives, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Synertek, Inc. of Santa Clara, CA.

MC 151118 (Sub-26), filed November 23, 1982. Applicant: M.D.R. CARTAGE, INC., 516 West Johnson St., Jonesboro, AR 72401. Representative: Douglas C. Wynn, P.O. Box 1295, Greenville, MS 38701, 601–335–3576. Transporting *general commodities,* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 152568 (Sub-6), filed November 19, 1982. Applicant: KISTLER AMELING TRANSPORTATION, INC., P.O. Box 460, Kouts, IN 46347. Representative: Norman R. Garvin, 1301 Merchants Plaza, East Tower, Indianapolis, IN 46204, (317) 638–1301. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. in and east of ND, SD, NE, CO, OK, and TX.

MC 152649 (Sub-11), filed November 23, 1982. Applicant: RIVERLAND TRUCKING CO., INC., West 10th Ave., P.O. Drawer BC, Reserve, LA 70084. Representative: Edward A. Winter, 235 Rosewood Dr., Metairie, LA 70004, (504) 835–4724. Transporting *such commodities* as are dealt in or used by a manufacturer of containers and paper and plastic products, between points in the U.S., under continuing contract(s) with The James River Corporation, of Richmond, VA.

MC 152668 (Sub-1), filed November 19, 1982. Applicant: CHEM-NUCLEAR SYSTEMS, INC. TRANSPORTATION DIVISION, P.O. Box 726, Barnwell, SC 29812. Representative: Jerry L. Mason (same address as applicant), (803) 259–1781. Transporting (1) *radioactive materials* and (2) *such commodities* as are dealt with or used by nuclear facilities in the treatment or disposal of radioactive materials between points in the U.S. under continuing contract(s) with Chem-Nuclear Systems, Inc., of Bellevue, WA. Condition: Any permit issued in this proceeding to the extent it authorizes transportation of dangerous commodities shall be limited in point of time to a period expiring 5 years from the date of issuance of the permit.

MC 154048 (Sub-3), filed October 25, 1982. Applicant: LAMAR K. HAAS, INC., RD 2, Box 652, Slatington, PA 18080. Representative: Lamar K. Haas (same address as applicant), (215) 767–5548. Transporting *such commodities* as are dealt in or used by food and feed business houses, between points in PA, NJ, NY, VA, MI, MD, DE, CT, MA, VT, NH, ME, OH, IN, IL, RI, WI, and DC.

MC 160159, filed November 23, 1982. Applicant: SUFFOLK SERVICES, INC., 98 Taylor Street, Boston, MA 02122. Representative: Rick Shaffer (same address as applicant), (617) 825–9043. Transporting *hazardous materials,* between points in the United States on and east of a line beginning at the mouth of the Mississippi River and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, then northward along the western boundaries of Itasca and Koochiching Counties, MN, to the international boundary line between the United States and Canada, and including all points in LA. Condition: Any certificate issued in this proceeding to the extent it authorizes transportation of dangerous commodities shall be limited in point of time to a period expiring 5 years from the date of issuance of the certificate.

MC 163159, filed November 17, 1982. Applicant: MIMCO TRANSPORTATION COMPANY, 3100 Marwin Ave., Bensalem, PA 19020. Representative: Sander M. Bieber, Suite 1100, 1730 Pennsylvania Ave., N.W., Washington, DC 20006, 202–783–0206. Transporting *food and related products,* between points in MI, NJ, NY, OH, and PA.

MC 163238, filed November 22, 1982. Applicant: BUDDY B. SIBOLD, Route 1, Box 261, Lexington, VA 24450. Representative: T.C. Spencer, 31 West Washington St., Lexington, VA 24450, 703–463–7138. Transporting *lumber and wood products,* between those points in the U.S. in and east of MI, IN, IL, KY, TN, and MS, under continuing contract(s) with Owens-Illinois, Inc., of Buena Vista, VA; Bear Paw Timber Co.,

of Fryeburg, ME, and Trussell Export Log and Lumber Co., of Lexington, VA.

MC 164819, filed November 23, 1982. Applicant: METROLINA EXPRESS, INC., P.O. Box 39, U.S. Highway 276 South, Mauldin, SC 29662. Representative: Marvin S. Maltzman, 13400 Riverside Dr., Sherman Oaks, CA 91423, 213–995–7000. Transporting *such commodities* as are used by retail fabric stores in the conduct of their business, between points in Greenville County, SC, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with House of Fabrics, Inc. of Sherman Oaks, CA.

Vol. No. OP5–277

Decided: December 7, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 65019 (Sub-12), filed November 22, 1982. Applicant: BEATRICE MOTOR FREIGHT, INC., 123 Court St., Beatrice, NE 68310. Representative: Jack L. Shultz, P.O. Box 82028, Lincoln, NE 68501, (402) 475–6761. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Douglas County, NE, on the one hand, and, on the other, points in the U.S. (except AK and HI) .

MC 148018 (Sub-11), filed November 24, 1982. Applicant: JAMES S. BATT, d.b.a. BATT TRUCKING, P.O. Box 921, Caldwell, ID 83605. Representative: Kevin M. Clark, 2417 Bank Dr., Ste. 8, Boise, ID 83705, 208–344–7714. Transporting *building materials,* and *construction equipment,* between points in the U.S. (except AK and HI).

MC 148799 (Sub-6), filed November 29, 1982. Applicant: HARDEE'S TRANSPORT, INC., 1314 Eastport Road, P.O. Box 26159, Jacksonville, FL 32217–0159. Representative: Norman J. Bolinger, 3100 University Blvd., S. Suite 225, Jacksonville, FL 32216, (904) 724–7539. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in AL, FL, GA, MS, NC, SC, TN, and VA.

MC 157668 (Sub-1), filed November 26, 1982. Applicant: G & S HAULING COMPANY, Rt. 1, P.O. Box 268, Wapakoneta, OH 45895. Representative: James Duvall, 220 W. Bridge St., Dublin, OH 54017, 614–889–2531. Transporting *general commodities* (except classes A and B explosives, and household goods), between points in the (except AK and HI).

MC 164718, filed November 26, 1982. Applicant: DON C. BURLESON, d.b.a. WJ'S TRUCKING, South Interstate 45, Corsicana, TX 75110. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062, 214–255–6279.: Transporting *clay, concrete, glass or stone products,* between Chattanooga, TN and points in Mount Vernon County, OH, Mineral County, WV, Harrison County, MS and Navarro County, TX, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 164869, filed November 23, 1982. Applicant: J. R. HENLEY, INC., d.b.a. J. R. HENLEY TRUCKING COMPANY, 445 Blackshaw Lane, San Ysidro, CA 92073. Representative: James R. Henley (same address as applicant) (714) 428–2831. Transporting (except AK and HI)(except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with Cascade West Transportation Brokers, of Lake Oswego, OR.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–33974 Filed 12–14–82; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Decided: December 7, 1982.

The following applications are governed by 49 CFR 1160.1–1160.23 of the Commission's Rules of Practice. These rules were published in the **Federal Register** of December 31, 1980, at 45 FR 86771 and redesignated at 47 FR 49583, November 1, 1982. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1160.40–1160.49. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in oppostion.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract."

Please direct status inquiries to Team 3, (202) 275–5223.

Volume No. OP3–46

MC 117465 (Sub-25), filed October 29, 1982. Applicant: BEAVER EXPRESS SERVICE, INC., d.b.a. BEAVER EXPRESS, P.O. Box 1147, Woodward, OK 73802. Representative: Timothy J. Jerman, 522 First Federal Plaza, Austin, TX 78701, (512) 474–7300. Over regular routes, transporting *general commodities* (except classes A and B explosives), between Shamrock, TX and Clinton, OK over U.S. Hwy 66 and Interstate Hwy 40, serving all intermediate points.

Volume No. OP3–50

MC 128235 (Sub-31), filed November 18, 1982. Applicant: AL JOHNSON TRUCKING, INC., 1516 Marshall Street NE, Minneapolis, MN 55413. Representative: Earl Hacking, 1700 New Brighton Blvd., P.O. Box 18300, Minneapolis, MN 55418, (612) 781–6653. Transporting (1) *food and related products,* between points in AR, IA, IL, IN, KY, MN, MO, TN, TX, and WI, (2) *Scrap metal and related products,* between points in AR, MN, NE, and WI, and (3) *general commodities* (except classes A and B explosives, houshold goods, and commodities in bulk), between points in MN, ND, SD, and WI.

[FR Doc. 82–34006 Filed 12–14–82; 8:45 am]

BILLING CODE 7035–10–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

In the matter of Motor Common and Contract Carriers of Property (fitness-only); Motor Common Carriers of Passengers (fitness-only); Motor Contract Carriers of Passengers; Property Brokers (other than household goods).

The following applications for motor common or contract carriage of property and for a broker of property (other than household goods) are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251 published in the **Federal Register** on December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common or contract carriage of passengers filed on or after November 19, 1982, are governed by Subpart D. of the Commission's Rules of Practice. See 49 CFR Part 1160, Subpart D. published in the **Federal Register** on November 24, 1982, at 49 FR 53271. For compliance procedures, see 49 CFR 1160.86. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E.

These applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problemss (e.g., unresolved common control, fitness, or jurisdictional questions) we find, preliminarily that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effectivé notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board No. 1, Members Packer, Chandler, and Fortier.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce, over irregular routes unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract."

Please direct status inquires to Team 2, (202) 275–7030.

Volume No. OP2–313

Decided: December 8, 1982.

MC 161183, filed November 29, 1982. Applicant: ANDRE GUITON, d.b.a. GUITON CHARTER BUS SERVICE, 3421 Hollis St., Oakland, CA 94608. Representative: Eldon M. Johnson, 650 California St., Suite 2808, San Francisco, CA 94108, (415) 986–8696. Transporting *passengers,* in charter and special operations, between points in the U.S. (including AK but excluding HI). NOTE: Applicant seeks to provide privately-funded charter and special transportation.

MC 164813, filed November 23, 1982. Applicant: CLEMONS COACHES, INC., 213 19th Ave. Northeast, Waseca, MN 56093. Representative: Andrew R. Clark, 1600 TCF Tower, Minneapolis, MN 55402, 612–333–1341. Transporting *passengers* in special and charter operations, beginning and ending at points in MN, ND, SD, IA and WI, and extending to points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter or special transportation.

MC 164853, filed November 23, 1982. Applicant: ROBERT C. WILKEN, d.b.a. WILKEN BUS SERVICE, R.R. #1, Onarga, IL 60955. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701, 217–544–5468. Transporting *passengers* in special and charter operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter or special transportation.

MC 164932, filed November 30, 1982. Applicant: TRAFFIX, A DIVISION OF 517653 ONTARIO LIMITED, 6033 Shawson Dr., Unit 30, Mississauga, Ontario, CD L5T 1H8. Representative: Robert D. Gunderman, Can-Am Bldg., 101 Niagara St., Buffalo, NY 14202, 716–854–5870. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 164993, filed December 3, 1982. Applicant: GRANADA TRAVEL, INC., 67—22 Roosevelt Avenue, Woodside, NY 11377. Representative: Robert J. Brooks, 1828 L St. NW., Suite 1111, Washington, DC 20036, (202) 466–3892. Transporting *passengers,* in special and charter operations, between points in the U.S. (including AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165012, filed November 26, 1982. Applicant: R & E, INC., 33 Longview Circle, Council Bluffs, IA 51501. Representative: Arlyn L. Westergren, Suite 201, 9202 W. Dodge Rd., Omaha, NE 68114, (402) 397–7033. Transporting *food and other edible products and by-products intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S.

Volume No. OP2–315

Decided: December 6, 1982.

MC 164913, filed November 29, 1982. Applicant: WILSON R. AND VIRGINIA E. BRANT, d.b.a. VEB COMPANY, 22725 De Soto, Grand Terrace, CA 92324. Representative: Terry E. Morgan, 2131 Almanor St., Oxnard, CA 93030, 805–485–2040. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

For the following, please direct status calls to Team 1 (202) 275–7992.

Volume No. OP1–222

Decided: December 8, 1982.

MC 2661 (Sub-20), filed November 22, 1982. Applicant: INDIAN TRAILS, INC., 109 East Comstock St., Owosso, MI 48867. Representative: Robert J. Brooks, 1828 L St., N.W., Suite 1111, Washington, DC 20036, (202)–466–3892. Transporting *passengers*, in charter and special operations, between points in the U.S. (including AK and HI)

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 3600 (Sub-12), filed November 22, 1982. Applicant: FRANK MARTZ COACH COMPANY, P.O. Box 1007, Wilkes-Barre, PA 18702. Representative: John C. Fudesco, Suite 960, 1333 New Hampshire Ave, NW., Washington, DC 20036, (202)–659–5157. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI). Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. § 11343 or an appropiate petition for exemption or submit an affidavit indicating why such approval is unnecessary to the Secretary's office. In order to expedite issuance of any authority, please submit a copy of the affidavit or proof of filing the application(s) or exemption for common control to Team 1, Room 2379.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 48501 (Sub-21), filed November 30, 1982. Applicant: INDIANNA MOTOR BUS COMPANY, 715 South Michigan St., P.O. Box 958, South Bend, IN 46624. Representative: Robert J. Brooks, 1828 L St., N.W., Suite 1111, Washington, DC 20036, (202)–466–3892. Transporting *passengers*, in special and charter operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 54591 (Sub-11), filed November 29, 1982. Applicant: SOUTHEASTERN TRAILWAYS, INC., P.O. Box 1207, Indianapolis, IN 46206. Representative: Lawrence E. Lindeman, 4660 Kenmore Ave., Suite 1203, Alexandria, VA 22304, (703) 751–2441. Transporting *passengers*, in special and charter operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded special and charter transportation.

MC 80730 (Sub-7), filed December 2, 1982. Applicant: MAGNOLIA TRANSPORTATION CO., INC., P.O. Box 24458, Houston, TX 77013. Representative: Lester R. Gutman, 1919 Pennsylvania Ave., NW., Suite 500, Washington, D.C. 20006, (202) 828–5017. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 111191 (Sub-3), filed November 24, 1982. Applicant: BORTNER BUS COMPANY, 3900 Saranac Drive, Sharpsville, PA 16150. Representative: Robert J. Brooks, 1828 L St., NW., Suite 1111, Washington, D.C. 20036, (202)–466–3892. Transporting *passengers*, in special and charter operations, between points in the U.S. (including AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 139630 (Sub-1), filed November 29, 1982. Applicant: EVERGREEN EQUIPMENT CORP., Box 488, Blairstown, NJ 07825. Representative: Ronald I. Shapes, 450 Seventh Ave., New York, NY 10123, (212)–239–4610. Transporting *passengers*, in special and charter operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 151061 (Sub-2), filed November 29, 1982. Applicant: ROBERTS HOLIDAY LINES, INC., 930 Poinsettia St., Santa Ana, CA 92701. Representative: Donald R. Hedrick, P.O. Box 4334, Santa Ana, CA 92702, (714) 667–8107. Transporting *passengers*, in special and charter operations, beginning and ending at points in CA and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded special or charter transportation.

MC 162901 (Sub-1), filed November 23, 1982. Applicant: ROYAL LIVERY, INC., 101 Merritt 7, Norwalk, CT 06852. Representative: L. C. Major, Jr., Suite 304, Overlook Bldg., 6121 Lincolnia Rd., P.O. Box 11278, Alexandria, VA 22312, (703) 750–1112. Transporting *passengers*, in special and charter operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 164381 (Sub-1), filed December 6, 1982. Applicant: JOHN J. WAGGONER, d.b.a., JOHN WAGGONER TRUCKING, 9300 Fleming Rd., Dexter, MI 48130. Representative: Jack L. Schiller, 111–56 76th Dr., Forest Hills, NY 11375, (212) 263–2078. Transporting *food and other edible products and by-products intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between between points in the U.S. (except AK and HI).

MC 164801, filed November 22, 1982. Applicant: POE-BROAD TRAVEL AGENCY, 2927 Maple Ave., Suite 202, Dallas, TX 75201. Representative: Robert J. Brooks, 1828 L. St., NW., Suite 1111, Washington, D.C. 20036, (202) 466–3892. (1) Privately-funded motor common carrier of passenger charter transportation, and (2) Privately-funded motor common carrier of passengers special transportation. Transporting *passengers*, in special and charter operations, between points in the U.S. (including AK and HI).

MC 164810, filed November 22, 1982. Applicant: SAFEWAY STAGES, INC., 450 Sanford Blvd., Mt. Vernon, NY 10550. Representative: Sidney J. Leshin, 3 East 54th St., New York, NY 10022, (212) 759–3700. (1) Privately-funded motor common carrier of passenger charter transportation; and (2) Privately-funded motor common carrier of

passengers special transportation. Transporting *passengers,* in special and charter operations, between points in the U.S. (including AK, but excluding HI).

MC 164870 filed November 23, 1982. Applicant: COASTAL TOURS, 6608 White Bluff Rd., Savannah, GA 31405. Representative: Nathaniel Carswell, (same adress as applicant), (912) 352–0254. Transporting *passengers,* in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 164881, filed November 26, 1982. Applicant: WARREN H. HIGGINS, Route 1, Box 110–A, Montgomery, LA 71454. Representative: Donald B. Morrison, P.O. Box 22628, Jackson, MS 39205, (601) 948–8820. Transporting *food and other edible products and by-products intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 164931, filed November 30, 1982. Applicant: INTERNATIONAL RELOCATION SERVICES, INC., 14207 Ridgeboro, San Antonio, TX 78232. Representative: David Earl Tinker, 1000 Connecticut Ave., N.W., Suite 1112, Washington, D.C. 20036–5391, (202) 887–5868. As a *broker* of *general commodities* (except household goods), between points in the U.S.

MC 164940, filed December 1, 1982. Applicant: SAMUEL M. DARDEN, d.b.a. D&R BUS LINES, P.O. Box 2515, Washington, DC 20013. Representative: Thomas N. Willess, 5300 Holmes Run Parkway #604, Alexandria, VA 22304, (703) 370–0682. Transporting *passengers,* in special and charter operations, beginning and ending at points in MD, VA, and DC, and extending to points in AL, AR, CO, CT, DE, FL, GA, IL, IN, KY, LA, ME, MA, MI, MN, MS, MO, NH, NJ, NY, NC, OH, PA, RI, SC, TN, TX, VT and WV.

Note.—Applicant seeks to provide privately-funded special and charter transportation.

MC 164991, filed December 3, 1982. Applicant: DELTA SALES COMPANY, 1003 South Main, Fairfield, IA 52556. Representative: Ronald R. Adams, 600 Hubbell Bldg., Des Moines, IA 50309, (515) 244–2329. Transporting *food and other edible products and by-products intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 165000, filed December 3, 1982. Applicant: NEVIN G. STONER, Rt. 1, Box 1183, Jonestown, PA 17038. Representative: Irene Gebe, 635 S.E. 11th, Portland, OR 97214, (503) 233–5766. Transporting *food and other edible products and by-products intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 165011, filed December 3, 1982. Applicant: MID-AMERICA TRANSPORTATION BROKERS, INC., 3045 West 78th St., Tulsa, OK 74132. Representative: Wilburn L. Williamson, Suite 107, 50 Classen Center, 5101 North Classen Blvd., Oklahoma City, OK 73118. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

[FR Doc. 82–34007 Filed 12–14–82; 8:45 am]

BILLING CODE 7035–01–M

Motor Carrier; Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register.** One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F–221

The following applications were filed in region I. Send protest to: Interstate Commerce Commission, Regional Authority Center, 150 Causeway Street, Room 501, Boston, MA 02114.

MC 152291 (Sub-1–6TA), filed November 29, 1982. Applicant: ASSEMBLY SQUARE TRANSPORATION, INC., 20 Sturtevant Street, Somerville, MA 02145. Representative: Frank M. Cushman, 5 Carbrey Avenue, Sharon, MA 02067. *Contract carrier:* irregular routes: *Footwear* between all points in the 48 contiguous U.S. (except AK and HI), under continuing contract(s) with MCF Footwear, New York, NY. Supporting shipper: MCF Footwear, 1 Park Avenue, New York, NY 10016.

MC 30464 (Sub-1–1TA), filed November 24, 1982. Applicant: BESTWAY FREIGHT LINES, INC., 30 Wood Rock Road, Weymouth, MA 02189. Representative: David M. Marshall, Marshall and Marshall, 101 State Street—Suite 304, Springfield, MA 01103. *General commodities (except classes A and B explosives, household good, and commodities in bulk)* between points in Plymouth, Norfolk, Suffolk and Middlesex Counties, MA, NH, and ME. Supporting shipper(s): E. B. Harvey Company, 163 Chestnut Hill Avenue, Brighton, MA 02135; Ben Elfman & Son, 124 Second Street, Chelsea, MA 02150; Recycling Industries, 385 Quincy Avenue, Braintree, MA 02184; Advance Brands Limited, 892 Main Street, Waltham, MA 02154; Aunyx Corporation, 65 Industrial Park Road, Hingham, MA 02043.

MC 164912 (Sub-1–1TA), filed November 30, 1982. Applicant: BEOTHUCK TRANSPORT LIMITED, Donovan's Industrial Park, Pratt Building, Glencoe Drive, St. John's, Newfoundland, CD A1C 586. Representative: Francis E. Barrett, Jr., Esq., 10 Industrial Park Road, Hingham, MA 02043. *Meat and meat products* from Somerville, MA to ports of entry on the U.S./CD Boundary Line located in ME. Supporting shipper: World Meat Exports Corp., 649 Windsor Street, Somerville, MA 02143.

MC 164890 (Sub-1–1TA), filed November 29, 1982. Applicant: CROZIER-DIX, LTD., 1560 Broadway, Room 807, New York, NY 10036. Representative: Richard D. Howe, Myers, Knox & Hart, 600 Hubbell Building, Des Moines, IA 50309. *Unique oil paintings, drawings, and sculptures,* between New York City, NY, on the one hand, and, on the other, Chicago, IL, St. Louis, MO, Minneapolis, MN, Milwaukee, WI, Indianapolis, IN, Pittsburgh, PA, and Boston, MA. Supporting shipper(s): Sperone, Westwater, Fischer, 142 Green Street, New York, NY 10012; Leo Castelli Gallery, 420 W. Broadway, NY 10013.

MC 155370 (Sub-1–3TA), filed November 23, 1982. Applicant: KEM CONTRACT CARRIERS, INC., Kirkwood Industrial Park, P.O. Box 1245, Binghamton, NY 13902–1245. Representative: Donald C. Carmien, Esq., Midtown Mall—Suite 501, 15 Chenango Street, P.O. Box 1922, Binghamton, NY 13902–1922. *Books and related publishers supplies* between Buffalo, NY, Pittston, PA and Kirkwood, NY, under continuing contract(s) with Putnam Publishing Co., Inc., E. Rutherford, NJ. Supporting shipper: Putnam Publishing Co., Inc., 390 Murry Hill Parkway, East Rutherford, NJ 07073.

MC 164711 (Sub-1–1TA), filed November 29, 1982. Applicant: KING ROAD MATERIALS, INC., 145 Cordell Road, Schenectady, NY 12303. Representative: Neil D. Breslin, Esq., 11 North Pearl Street, Albany, NY 12207. *Contract carrier:* irregular routes: *Salt and salt products* between Schenectady County, NY and Berkshire County, MA, under continuing contract(s) with Cargill, Inc., Lansing, NY. Supporting shipper: Cargill, Inc., 191 Portland Point Road, Lansing, NY 14882.

MC 138758 (Sub-1–2TA), filed November 29, 1982. Applicant: SHEFFIELD POTATO CO., INC. d.b.a., NORTHERN GAS TRANSPORT CO., Route 22, Box 106, Lyndonville, VT 05851. Representative: John P. Monte, P.O. Box 686, Barre, VT 05641. *Propane* from Ports of Entry on the U.S./CD Boundary Line of ME, NH, NY and VT, to points in ME. Supporting shipper: Profax Gas Corp., P.O. Box 2521, Houston, TX 77001.

MC 151583 (Sub-1–5TA), filed November 23, 1982. Applicant: UTF CARRIERS, INC., Benson Road, Middlebury, CT 06749. Representative: James M. Burns, 1365 Main Street, Suite 403, Springfield, MA 01103. *Contract carrier:* irregular routes: *Tire, automobile parts and accessories* between points in the U.S. (except AK and HI), under continuing contract(s) with Laramie Tire Distributors, Inc., Norristown, PA. Supporting shipper: Laramie Tire Distributors, Inc., 700 Markley Street, Norristown, PA 19040.

The following applications were filed in region 2. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

WC 1344 (Sub-II–6TA), filed November 22, 1982. Applicant: LOCKWOOD BROTHERS, INC., P.O. Box 564, Hampton, VA 23669. Representative: Keith G. O'Brien, 1729 H Street, NW., Washington, DC 20006. Contract, water; *Articles exceeding 19 ft. in height, or 12 ft. in width, or 90 ft. in length, or 100 net tons in weight, component parts thereof, and related equipment,* between Kingston, NY and Lorton, VA, under continuing contract(s) with Rainwater Concrete Company, Inc., for 180 days. Supporting shipper(s): Rainwater Concrete Company, Inc., 9917 Richmond Hwy., Lorton, VA 22079.

Application was originally published in **Federal Register** November 8, 1982.

MC 40600 (Sub-II–1TA), filed October 25, 1982. Applicant: THE HATHAWAY TRANSFER, INC., 910 S. Belmont St.—Box 518, Bellaire, OH 43906. Representative: F. James Hathaway, P.O. Box 518, Bellaire, OH 43906. *Meats and packing house products,* from points in Belmont County, OH to points in Monongalia, Marion, Harrison, Barbour, Wentzel, Taylor, Tyler, and Preston Counties, WV for 270 days. Applicant intends to tack the authority sought here with authority held under MC 40600. Supporting shipper(s): The Rath Packing Co., 108 Dalmation Drive, Bethel Park, PA 15102. The purpose of this republication is to include tacking.

MC 161496 (Sub-II–1TA), filed November 22, 1982. Applicant: BALTIMORE INTERNATIONAL TRANSPORT, INC., P.O. Box 2757, Baltimore, MD 21225. Representative: ROBERT J. GALLAGHER, ESQ., 1000 Connecticut Ave., NW., Suite 1200, Washington, DC 20036. *Household Goods, as defined by the Commission and General Commodities* (except Class A & B Explosives and Commodities in Bulk) restricted to transportation for the United States Government, between points in AL, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WV, WI, and WY for 270 days. An underlying ETA seeks 120 days authority.

MC 164687 (Sub-II–1TA), filed November 29, 1982. Applicant: COUNTRY LINES, INC., P.O. Box 1717, Salisbury, MD 21801. Representative: James H. Sweeney, P.O. Box 9023, Lester, PA 19113; *Petroleum and petroleum products, chemicals and related products, materials, equipment and supplies used in the manufacture and distribution thereof,* between points in CT, DE, MA, MD, NJ, NY, NC, PA, RI, VA, WV, and DC for 270 days. An underlying eta seeks 120 days authority. Supporting shipper(s): George L. Ralph, Inc., 315 Lake St., Salisbury, MD 21801.

MC 99969 (Sub-II–2TA), filed November 22, 1982. Applicant: HUNTLEY TRUCKING CO., Route 1—Box 66A, New Plymouth, OH 45654. Representative: A. CHARLES TELL, 100 E. Broad St., Columbus, OH 43215. *Coal* from points in Vinton County, OH to Detroit, MI for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Sands Hill Coal Co., Inc., 1203 N. Pennsylvania Ave., Wellston, OH 45692.

MC 114015 (Sub-II–4TA), filed November 22, 1982. Applicant: HUS, INCORPORATED, Highway 47 West, P.O. Box 666, Chase City, VA 23924. Representative: EUGENE M. MALKIN, Suite 1832, Two World Trade Center, New York, NY 10048. Contract, Irregular: *metal products and machinery,* between Chalfont, PA and Chase City, VA, under continuing contract(s) with Asplundh Manufacturing, Div. of Asplundh Tree Expert Co., for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Asplundh Manufacturing, Div. of Asplundh Tree Company, 50 East Hamilton St., Chalfont, PA 18914.

MC 164027 (Sub-II–1TA), filed November 22, 1982. Applicant: LaPORTE TRUCK LINES, INC., 64 LaPorte Dr., Route 3, Mars, PA 16046. Representative: William A Gray, 2310 Grant Bldg., Pittsburgh, PA 15219. Contract irregular: *General commodities (except Classes A & B explosives and household goods)* between the facilities of GroPro, Inc. in Forward Township, Butler County, PA, on the one hand, and, on the other, points in the U.S., under a continuing contract(s) with GroPro, Inc. Supporting shipper(s): GroPro, Inc., 740 Wedge Way, Warrington, PA.

MC 107012 (Sub-II–250TA), filed November 22, 1982. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Margaret S. Vegeler, (same as applicant). Contract irregular: *General commodities* (except household goods, classes A & B explosives and commodities in bulk.) Between points in the U.S. under continuing contract(s)

with Semi Fab Inc. of Hollister, CA for 270 days. Supporting shipper: Semi Fab Inc., 307 Fallon Rd., Hollister, CA 95023.

MC 107012 (Sub-II–251TA), filed November 22, 1982. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Margaret S. Vegeler (same as applicant). Contract irregular: *General commodities* (except classes A & B explosives and commodities in bulk) between points in the United States under continuing contract(s) with Technicare Corporation of Solon, OH for 270 days. Supporting shipper: Technicare Corporation, 29100 Aurora Road, Solon, OH 44139.

MC 107012 (Sub-II–252TA), filed November 29, 1982. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Margaret S. Vegeler (same as applicant). Contract irregular: *General commodities* (except household goods, classes A & B explosives and commodities in bulk) between points in the United States under continuing contract(s) with Raytheon Data Systems Company of Norwood, Massachusetts, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Raytheon Data Systems Company, 115 Norwood Park South, Norwood, MA 02062.

MC 154569 (Sub-2–1 TA), filed November 22, 1982. Applicant: S.T.C. TRUCKING CO., INC., P.O. Box C, Corriganville, MD 20524. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740. *Salt* from points in Washington County, MD to points in WV, VA, PA, DC, DE and NJ, for 270 days. An underlying eta seeks 120 days authority. Supporting shipper: Cargill, Inc., 518 E. 4th St., P.O. Box 150, Watkins Glen, NY 14891

The following applications were filed in Region 3. Send protests to: ICC, Regional Authority Center, Room 300, 1776 Peachtree Street, NE., Atlanta, GA 30309.

MC 104430 (Sub-3–2 TA) filed November 30, 1982. Applicant: CAPITAL TRANSPORT COMPANY, INC., P.O. Box 488, McComb, MS 39468. Representative: Robert L. McArty, P.O. Box 22828, Jackson, MS 39205. *Contract;* irregular *General commodities (except household goods and classes A and B explosives)* between points in the U.S., under continuing contract(s) with U.S. Comex Corporation of Geismar, LA. Supporting shipper: U.S. Comex Corporation, P.O. Box 130, Geismar, LA.

MC 151316 (Sub-3–4 TA), filed November 26, 1982. Applicant: BROOKS INTERNATIONAL, INC., d.b.a. HARPER'S/AERO DISTRIBUTION SERVICE, 60 NW 37th St., Miami, FL 33127. Representative: Richard B. Austin, 320 Rochester Building, 8390 NW 53d St., Miami, FL 33166. *General commodities (except classes A and B explosives, household gooods and commodities in bulk)* between points in FL RESTRICTED to traffic having an immediately prior or subsequent movement in interstate or foreign commerce. Supporting shippers: Modern Wholesale Drugs Southern, Inc., 6601 NW 12th Ave., Ft Lauderdale, FL, 33309; and Fox Electric Supply Co., Front & Girard Aves., Philadelphia, PA, 19123.

MC 119903 (Sub-No. 3–1 TA), filed November 30, 1982. Applicant: D. J. WALRAVEN, P.O. Box 1045, Rome, GA 30161. Representative: Archie B. Culbreth, Suite 570, 2200 Century Parkway, Atlanta, GA 30345. *Sheet-Steel, in coils,* between points in Floyd County, GA, and Montgomery County, OH, on the one hand, and, on the other, points in AL, GA (See Note), IN, KY, MI, NY, NC, OH (See Note), SC, TN, VA and WV. Supporting shipper: Dayton Steel Service, Inc., 1 Sou. Industrial Blvd., Rome, GA 30061.

Note.—Restricted on traffic between Floyd County, GA and points in GA, and between Montgomery County, OH and points in OH, to movements having an immediate prior or subsequent movement from or to a point(s) outside of state.

MC 142181 (Sub-3–8 TA), filed November 30, 1982. Applicant: COBLE EXPRESS, INC., P.O. Box 1104, 214 Hermitage Avenue, Nashville, TN 37202. Representative: Robert L. Baker, Sixth Floor, U.S. Bank Building, Nashville, TN 37219. *Contract,* irregular: *Such commodities as are sold or dealt in by a manufacturer of home appliances* between points in the U.S. (except AK and HI), under a continuing contract(s) with Sunbeam Appliance Company, a division of Sunbeam Corporation of Oakbrook, IL. Supporting shipper: Sunbeam Appliance Company, a division of Sunbeam Corporation, 2001 S. York Rd., Oakbrook, IL 60521.

MC 164845 (Sub-3–1TA), filed November 30, 1982. Applicant: GILCO EXPRESS, INC., 1410 Kerry Drive, Apartment 160, Atlanta, GA 30318. Representative: Clayton R. Byrd, 2870 Briarglen Drive, Doraville, GA 30340. *contract:* Irregular: *Cleaning compounds, weed killers, insecticides, cleaning equipment, chemicals dispensing apparatuses, chemical products, and materials, equipment, and supplies used in the manufacture, sale, or distribution of these commodities,* between the facilities of Oxford Chemicals, Inc. at or near Chamblee and Smyrna, GA, on the one hand, and, on the other, Birmingham, AL, Miami, FL, Charlotte, NC, Camp Hill, PA, Memphis, TN, and Houston, TX and points in the commercial zone of each, under continuing contract with Oxford Chemicals, Inc. of Chamblee, GA. Supporting shipper: Oxford Chemicals, Inc., 5001 Peachtree Industrial Boulevard, Chamblee, GA 30341.

MC 156778 (Sub-3–7TA), filed November 30, 1982. Applicant: 7 HILLS TRANSPORT, INC., P.O. Box 6205, Rome, GA 30161. Representative: Don Moore, P.O. Box 6205, Rome, GA 30161. *Contract carrier:* Irregular *Home Furnishings,* between points in the U.S. excluding AK and HI, under continuing contract(s) with Liken Home Furnishings, d.b.a. Del Mar Window Coverings. Supporting shipper: Liken Home Furnishings, d.b.a. Del Mar Window Coverings, 7130 Fenwick Lane, Westminster, CA 92683.

MC 146377 (Sub-3–3TA), filed November 30, 1982. Applicant: EDWARD McGILL, INC., 3 General Avenue, Rome, GA 30161. Representative: J. L. Fant, P.O. Box 577, Jonesboro, GA 30237. *Contract carrier:* irregular: *General Commodities (except Classes A and B explosives, household goods and commodities in bulk),* between points in the United States, under continuing contract with Dayton Steel Service, Inc., Rome, GA. Supporting shipper: Dayton Steel Service, Inc., No. 1 Southern Industrial Blvd., Rome, GA 30161.

MC 141652 (Sub-3–9TA), filed November 30, 1982. Applicant: ZIP TRUCKING, INC., P.O. Box 6126, Jackson, MS 39208. Representative: Paul M. Daniell, 235 Peachtree Street, NE., Suite 1200, Atlanta, GA 30303. *Food and related products* from Montezuma, GA and Dallas and Garland, TX and points in their commercial zone to Indianola, MS and points in its commercial zone. Supporting shipper: Lewis Grocery Company, P.O. Box 670, Indianola, MS 38751.

MC 140569 (Sub-3–1TA), filed December 1, 1982. Applicant: ROGERS TRUCKING, INC., P.O. Box 271, Columbia, KY 42728. Representative: William L. Willis, Suite 702, McClure Building, Frankfort, KY 40601. *Such commodities as are dealt in or used by manufacturers or distributors of tobacco products,* between Rocky Mount and Winston-Salem, NC, on the one hand, and, on the other, Glasgow and Owensboro, KY. Supporting shipper: Phillip Morris U.S.A., P.O. Box 26603, Richmond, VA 23261.

MC 147886 (Sub-3–12TA), filed December 1, 1982. Applicant: A M & M, INCORPORATED, P.O. Box 1627, Jackson, TN 38301. Representative: R. Connor Wiggins, Jr., 100 N. Main Bldg., Suite 909, Memphis, TN 38103. *Contract* carrier: Irregular: *General commodities (except classes A and B explosives, household goods, and commodities in bulk)* between points in the US (except AK and HI) under continuing contract or contracts with United Freight, Inc. of Morrow, GA. Supporting shipper: United Freight, Inc., 1260 Southern Rd., Morrow, GA 30260.

MC 164948 (Sub-3–1TA), filed December 1, 1982. Applicant: QUALITY OIL COMPANY, INC., Pleasant Valley Road, P.O. Box 63, Owensboro, KY 42302. Representative: William H. Booth (Same address as Applicant). *Contract:* Irregular: *Gasoline and Diesel Fuels* from Evansville, IN, to Owensboro, KY. Supporting shipper: Amoco Oil Company, 5775 Peachtree-Dunwoody Road, Suite 560–F, Atlanta, GA 30342.

MC 156782 (Sub-3–2TA), filed December 1, 1982. Applicant: JACKWIC, INCORPORATED, 1206 Sunset Drive, Thomasville, GA 31792. Representative: John P. Tucker, Jr., Suite 222, Lenox Towers So., 3390 Peachtree Road, NE., Atlanta, GA 30326. *"Meat, meat products, and meat by-products,* between points in Thomas County, GA, on the one hand, and, on the other, points in the U.S. in and east of ND, SD, NE, CO, OK and TX." Supporting shipper: Sunnyland Foods, Inc., P.O. Box 1138, Thomasville, GA 31792.

MC 150193 (Sub-3–4TA), filed December 1, 1982. Applicant: DARCIA TRUCKING CO., INC., 338 South Oliver Street, Elberton, GA 30635. Representative: Roger A. Kirschenbaum, 3390 Peachtree Road, NE., Suite 520, Atlanta, GA 30326. *General commodities (except classes A and B explosives, household goods and commodities in bulk),* between points in GA, on the one hand, and, on the other, points in the US (except AK and HI). Supporting shipper: Georgia Marble Company, 2575 Cumberland Parkway, N.E., Atlanta, GA 30339.

MC 146869 (Sub-3–9TA), filed December 1, 1982. Applicant: CARRIER FREIGHT LINES, INC., P.O. Box 813, Hickory, NC 28601. Representative: William P. Farthing, Jr., 1100 Cameron-Brown Building, Charlotte, NC 28204. *Furniture and fixtures,* from the facilities of Montclair Furniture Company in Catawba County, NC to points in the U.S. under continuing contract with Montclair Furniture Company. Supporting shipper: Montclair Furniture Company, Clairmont, N.C.

MC 135068 (Sub-3–1TA), filed December 1, 1982. Applicant: PAULK'S MOVING & STORAGE CO., INC., 724 North Kraft Avenue, Panama City, FL 32401. Representative: Robert J. Gallagher, Esq., 1000 Connecticut Avenue, NW, Suite 1200, Washington, DC 20036. *Household Goods, as defined by the Commission AND General Commodities (except Class A & B Explosives and Commodities in Bulk)* restricted to transportation for the United States Government, between points in AL, AK, AZ, AR, CA, CO CT, DE, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY, and DC. Supporting shippers: (1) Air Land Forwarders-Suddath, Inc., 5266 Highway Ave., P.O. Box 37977, Jacksonville, FL 32236, (2) American Forwarding Co., Inc., 15052 Springdale, Suite H, Huntington Beach, CA 92647, (3) Delcher Intercontinental Moving Service, Inc., P.O. Box 10880, 4219 Central Avenue, St. Petersburg, FL 33733.

MC 151407 (Sub-3–8TA), filed December 2, 1982. Applicant: T & T TRUCKING, INC., 274 N.W. 37th Street, Miami, FL 33127. Representative: D. Paul. Stafford, P.O. Box 45538, Dallas, TX 75245. *Such commodities as are used by passenger air lines in in-flight service* from Atlanta, GA to Houston, Corpus Christi, San Antonio, Dallas and El Paso, TX; Phoenix, AZ; Las Vegas, NV; Los Angeles and San Francisco, CA; Portland, OR and Seattle, WA. Supporting shipper(s): Eastern Air Lines, Inc., Miami International Airport, Miami, Florida 33148.

MC 164797 (Sub-3–1TA), filed December 2, 1982. Applicant: SUNDANCE ENTERPRISES, INC., P.O. Box 749, Wake Forest, NC 27587. Representative: Archie W. Andrews, P.O. Box 1166, Eden, NC 27288. *General commodities (except Classes A and B explosives, household goods and commodities in bulk),* from Raleigh and Fayetteville, NC, to points in the US, (except AK and HI). Supporting shippers: Kings Point Manufacturing, Inc., 219 Gray Street, Fayetteville, NC 23301; Pine Glo Products, Inc; 310 Hoke Street, Raleigh, NC 27603; Quline Corporation, 5605 Spring Court, Raleigh, NC 27658.

MC 164335 (Sub-3–1TA), filed December 2, 1982. Applicant: G & G TRUCKING, INC., Route 3, Dublin, GA. 31021. Representative: Virgil H. Smith, 74 Highway N., Box 245, Tyrone, GA 30290. *General commodities (usual exception)* between Clayton, AL, Dumas, AR, Adel, Dillions, SC, Memphis, TN, Bassett, VA, and Franklin, VA, on the one hand and Dublin, GA on the other hand. Supporting shipper: Bassett Furniture Industries of North Carolina, Inc., P.O. Box 1267, Dublin, GA 31021.

MC 149283 (Sub-3–1TA), filed December 2, 1982. Applicant: HAYWARD TRUCKING, INC., 6549 Robinson Road, Jacksonville, FL 32217. Representative: Norman J. Bolinger, Esq., 3100 University Blvd., S., Suite 225, Jacksonville, FL 32216. *Salt* and *Salt Products,* from Wilmington, NC to points in FL. Supporting shipper: Cargill, Inc., Salt Division, P.O. Box 5621, Minneapolis, MN 55440.

MC 164972 (Sub-3–1TA), filed December 2, 1982. Applicant: COMMERCIAL HAULING CO., INC., P.O. Box 10061, Birmingham, Alabama 35202. Representative: Donald B. Sweeney, Jr., P.O. Box 2366, Birmingham, Alabama. *Petroleum and chemicals in bulk* between Walker and Jefferson Counties, AL, on the one hand, and, on the other, Helina, AR; Tampa, FL; Atlanta, GA; and Baton Rouge, LA. Supporting shipper: Bell Chemical Co., Inc., Box 22238, Knoxville, TN 37922.

The following applications were filed in Region 4. Send Protests to: Interstate Commerce Commission, Complaint and Authority Branch, P.O. Box 2980, Chicago, IL 60604.

MC 15735 (Sub-4–41TA), filed November 26, 1982. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Avenue, Broadview, IL 60153. Representative: Richard V. Merrill, P.O. Box 4403, Chicago, IL 60680 *Contract* irregular: *Household goods* between points in the U.S. (except AK and HI) under a continuing contract with Anacomp, Inc. and its subsidiaries. Supporting shipper: Anacomp, Inc. of Indianapolis, IN.

MC 15735 (Sub-4–42TA), filed November 29, 1982. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Avenue, Broadview, IL 60153. Representative: Richard V. Merrill, P.O. Box 4403, Chicago, IL 60680. *Contract* irregular: *Such commodities as are dealt in or used by medical facilities and manufacturers of medical equipment* between points in the U.S. (except AK and HI) under a continuing contract with Technicare Corp. Supporting shipper: Technicare Corp. of Solon, Ohio.

MC 87113 (Sub-4–5TA), filed November 24, 1982. Applicant: WHEATON VAN LINES INC., 8010 Castleton Rd., Indianapolis, IN 46250. Representative: Alan F. Wohlstetter, 1700 K Street, NW, Washington, D.C. 20006. Transporting *Household goods*

between points in the U.S., under continuing contract(s) with Computer Sciences Corporation of El Segundo, CA for 270 days. Supporting shipper: Computer Sciences Corporation, 650 N. Sepulveda, El Segundo, CA 90245.

MC 113855 (Sub-4–7TA), filed November 24, 1982. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road S.E., Rochester, MN 55903. Representative: LEONARD L. BENNETT, 2450 Marion Road S.E., Rochester, MN 55903. *General commodities* (except household goods, commodities in bulk and classes A and B explosives), between points in the U.S., under a continuing contract(s) with Hampton Lumber Sales Company, its subsidiaries and affiliates. Supporting shipper: Hampton Lumber Sales Company, 9400 S.W. Barnes Road, 400 Sunset Business Park, Portland, OR 97005.

MC 148257 (Sub-4–1TA), filed November 24, 1982. Applicant: GEORGE J. WEBB JR. AND GEORGE J. WEBB III d.b.a. WEBB TRUCKING COMPANY, Route No. 2, McLeansboro, Il 62859. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062. Contract: Irregular, *General Commodities (except classes A and B explosives, household goods as defined by the Commission and commodities in bulk)* between points in the U.S. (except HI and AK). Restricted to shipments for the account of Mobile Transportation, Inc. Supporting shipper: Mobile Transportation, Inc., P.O. Box 8167, Longview, TX 75607–8167.

MC 157497 (Sub-4–4TA), filed November 30, 1982. Applicant: IVAN HABECK, Route 1, Box M–8, Ipswich, SD 57451. Representative: John T. Wirth, 717, 17th St., Suite 2600, Denver, CO 80202–3357. *Contract carrier,* irregular routes: *Lumber and wood products,* from points in ID, MT, OR and WA to points in AR, IL, IA, KS, MI, MN, MO, NE, ND, OK, SD, and WI, under continuing contract(s) with Chanute Wholesale Company of Ketchum, OK; Idaho Timber Corporation of Boise, ID; Mueth Lumber & Plywood Company of St. Charles, MO; Hearin Forest Industries, Inc. of Portland, OR; Sprenger Midwest, Inc. of Sioux Falls, SD; Morgan Stanley Lumber Co., Inc. of Sherwood, OR; and North Star Forest Materials, Inc. of South St. Paul, MN, for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: There are 7 supporting shippers. Their statements may be examined at ICC Regional Office, San Francisco, CA.

MC 160942 (Sub-4–4TA), filed November 29, 1982. Applicant: DESTINY PARCEL SERVICE, INC., 525 Friendly Road, Pontiac, MI 48053. Representative: Eugene C. Ewald, Esquire, 100 West Long Lake Road, Suite 102, Bloomfield Hills, MI 48013. General commodities (except household goods, Classes A and B explosives and commodities in bulk) between points in IN, MI, OH, Oak Brook, IL, Pittsburgh, PA, and that part of PA on and west of I–79, Louisville, KY and that part of KY north of I–64 and that part of West Virginia west of I–79 and north of I–64. An underlying ETA seeks 30 days plus one 90 day extension. Supporting shippers: Multiple Distribution Services, Inc., 6465 Transit Road, East Amherst, NY 14051 and Polaroid Corporation, 140 Kendrick Street, Needham Heights, MA 02194.

MC 161909 (Sub-4–1TA), filed November 26, 1982. Applicant: JNC ENTERPRISES, INC., 1540–1550 W. 33rd St., Chicago, IL 60608. Representative: Martin J. Kenndey, 120 West Madison Street, Suite 1306, Chicago, IL 60602. *Sand, stone, brick, rubbish, excavated materials, scrap iron and metal* between points in the Chicago, IL Commercial Zone and points in IA, IL, IN, MI, MO and WI. Supporting shippers: Action Iron and Metal; Chicago, IL 60608 and Brandenburg Demolition, Inc., Chicago, IL 60608.

MC 162610 (Sub-4–7TA), filed November 26, 1982. Applicant: JETM DISTRIBUTION SYSTEMS, INC., 8424 W. 47th Street, Lyons, IL 60534. Representative: Thomas M. O'Brien, Sullivan & Associates, Ltd., 180 N. Michigan Avenue, Suite 1700, Chicago, IL 60601. *Contract, irregular; Such commodities* as are dealt in by manufacturers of wires, forms and springs, between Romeoville, IL; St. Paul, MN; Marshalltown, IA; Muskegon, MI; Mentone, IN; and Dallas, TX, on the one hand, and, on the other, points in the U.S. (except AK & HI), under continuing contract(s) with Midwest Spring Manufacturing Company, Inc. of Romeoville, IL. Supporting shipper: Midwest Spring Manufacturing, Company, Inc., 8 Greenwood Avenue, Romeoville, IL 60441.

MC 163591 (Sub-4–1TA), filed November 26, 1982. Applicant: FALGERS, INC., 91 Lee Road, Northbrook, IL 60062. Representative: Martin J. Kennedy, 120 West Madison, Suite 1306, Chicago, IL 60602. *Scrap metals and slag* between Spring Grove, IN and points within the Chicago, IL Commercial Zone and Rockford, IL and Sterling, IL. An underlying ETA seeks 90 days authority. Supporting shipper: Erman-Howell Division; Luria Steel and Trading Corp., Bannockburn, IL 60015.

MC 163844 (Sub-4–1TA), filed November 26, 1982. Applicant: CLOVERLEAF TRANSPORTATION, INC., 6801 S. 78th Ave, Bridgeview, IL 60455. Representative: Richard M. Keltner (same address as applicant). *Contract;* irregular; *paint products as described under that heading in the NMFC; buffing, cleaning and polishing compounds; petroleum distillate; plastic materials, other than expanded; and deodorants or disinfectants, other than medicinal,* between points in the Chicago, IL. Commercial Zone on the one hand, and, on the other, points in IL, IN, IA, MI, OH, and WI. Supporting shipper: Atlas Coatings, Ltd., 1049 Republic Drive, Addison, IL 60101.

MC 164636 (Sub-4–1TA), filed November 24, 1982. Applicant: GEORGE, MABEL, JERRY AND TOM LIEFERT, d.b.a. LIEFERT TRUCKING, P.O. Box 441, Monticello, MN 55362. Representative: Robert D. Gisvold, 121 S. 8th Street, 1600 TCF Tower, Minneapolis, MN 55402. *Metal windows and doors,* between Lake Mills, IA, Monticello, MN and Brookings, SD. Supporting shipper: Larson MFG. Co., Box 127 Oakwood Industrial Park, Monticello, MN 55362.

MC 164888 (Sub-4–1TA), filed November 29, 1982. Applicant: TAX AIRFREIGHT, INC., 4430 South Kansas Avenue, Milwaukee, WI 53207. Representative: James A. Spiegel, Attorney, Olde Towne Office Park, 6333 Odana Road, Madison, WI 53719. *Batteries, flashlights, lamps, and such commodities as are dealt in or used by manufacturers of the afore-mentioned commodities* between West Chicago, IL, and points in WI. Supporting shipper: Ray-O-Vac, A Corporation of Inco Electro-Energy, 1701 Hawthorne Lane, Chicago, IL 60185.

MC 164902 (Sub-4–1TA), filed November 29, 1982. Applicant: ZASTROW TRUCKING CORP., Box 105, Haefford Junction, WI 53542. Representative: James A. Spiegel, Attorney, Olde Towne Office Park, 6333 Odana Road, Madison, WI 53719. *Contract;* irregular; *farm equipment and machinery* from Milwaukee, WI, to points in and east of CO, ND, SD, and TX. RESTRICTION: restricted to transportation performed under continuing contract(s) with Belarus Machinery, Inc. Supporting shipper: Belarus Machinery, Inc. Box 23608, 7075 W. Parkland Court, Milwaukee, WI 53223.

MC 164960 (Sub-4–1TA), filed December 1, 1982. Applicant: ABC TRUCKING CO., 4134 Payne Koehler Road, New Albany, IN 47150. Representative: Charles E. Ross (same as above). Contract; Irregular: *Rock,*

sand, gravel, salt, asphalt, dirt, coal, waste or scrap materials not identified by industry producing between IN, OH, KY, IL. Supporting shipper: A & J Paving Company, Inc., 5101 Shungate Road, Jeffersonville, IN 47130.

MC 163873 (Sub-4–3TA), filed December 1, 1982. Applicant: TIM'S MOTOR SERVICE, INC., P.O. Box 501, Bensenville, IL 60106. Representative: Anthony E. Young, 29 South LaSalle Street, Suite 350, Chicago, IL 60603, 312/782–8880. *General commodities,* (except household goods, commodities in bulk, and Classes A and B explosives), between Chicago, IL and its commercial zone on the one hand, and, on the other, points in IL, WI, MN, MI, and IN. Supporting shippers: L & D Associates, Inc., 201 East Ogden Avenue, Suite 15, Hinsdale, IL 60521. Acme Fast Freight, Inc., 2641 South Leavitt Avenue, Chicago, IL 60608. Midwest Warehouse, 111 West Lake Street, Northlake, IL 60164. L & J Transportation Consultants, Inc., 7667 West 95th Street, Suite 6E, Hickory Hills, IL 60457.

MC 147546 (Sub-4–4TA), filed December 1, 1982. Applicant: DEPENDON, INC., 875 East Rand Rd., Des Plaines, IL 60016. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701. Contract, irregular, *Copy machine parts, copy machine accessories and supplies,* between Des Plaines and Franklin Park, IL on the one hand, and on the other, points in OH and WV. Restricted to traffic moving under continuing contract(s) with Xerox, Inc. Supporting shipper: Xerox, Inc., 300 Des Plaines Ave., Des Plaines, IL 60018.

MC 150716 (Sub-4–3TA), filed December 1, 1982. Applicant: J.R.S. LEASING CHARTER, INC., 9445 South 51st Ave., Oak Lawn, IL 60453. Representative: Joseph Winter, 29 South LaSalle Street, Chicago, IL 60603. *Contract; irregular; Recycled boardmill stock,* from the facilities of Smurfit Diamond Packaging Corporation at or near Middletown and Lockland, OH, to the facilities of Smurfit Diamond Packaging Corporation at or near Morris, IL, under continuing contract(s) with Smurfit Diamond Packaging Corporation, of Alton, IL. Supporting shipper: Smurfit Diamond Packaging Corporation, 1000 East Armstrong Street, Morris, IL 60450.

MC 164654 (Sub-4–1TA), filed December 1, 1982. Applicant: HOCKERSMITH & SONS, INC., P.O. Box 1740, Richmond, IN 47374. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. *General commodities* (except household goods, Classes A and B explosives and commodities in bulk) between Winchester, Richmond and Indianapolis, IN; Cleveland, Columbus, Dayton, Cincinnati, Eaton and Lewisburg, OH; Detroit and Grand Rapids, MI; Port Allegheny, Emporium and Pittsburgh, PA; Parkersburg and Keyser, WV; Chicago, IL; Elizabethtown, Lexington, and Louisville, KY. Supporting shippers: There are (6) six.

MC 164985 (Sub-4–1 TA), filed December 2, 1982. Applicant: KENNETH A. JENNINGS, d.b.a. JENNINGS TRUCKING, 1144 W. Blodgett, Marshfield, WI 54449. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956 (414) 722–2848. *Contact* irregular: *Furniture of fixtures and equipment, materials or supplies used in the manufacture or distribution* between Marshfield, WI on the one hand, and, on the other points in CO, IA, ID, IL, IN, KS, MI, MN, MO, MT, ND, NE, and SD under contract to Modern of Marshfield, Inc., Marshfield, WI. Supporting shipper: Modern of Marshfield, Inc., 137 W. 9th Street, Marshfield, WI 54449.

MC 15735 (Sub-4–43 TA), filed December 2, 1982. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Ave., Broadview, IL 60153. Representative: Richard V. Merrill, P.O. Box 4403, Chicago, IL 60680. *Contract* Irregular: *Household goods* between points in the U.S. (except AK and HI) under a continuing contract with Hills Department Stores of Canton, MA. Supporting shipper: Hills Department Stores, 15 Dan Road, Canton, MA 02021.

MC 146108 (Sub-4–9TA), filed December 2, 1982. Applicant: BIG T TRANSFER, INC., P.O. Box 287, 222 West 4th Street, New Albany, IN 47150. Representative: Harold C. Jolliff, 3242 Beech Drive, Columbus, IN 47201 (812) 379–2556. *Contract* irregular: *Such commodities as dealt in by wholesale and retail chain groceries, drug and food business houses, and any products required in the production of same including plastic containers and other packing materials.* Between Clark and Floyd Counties, IN, on the one hand, and, on the other, Anniston, Birmingham, Mobile, and Montgomery, AL; Bentonville, Little Rock, Mandeville, and Searcy, AR; Los Angeles and San Francisco, CA; Hialeah, Jacksonville, Lake City, Lakeland, Largo, Miami, Orlando, Pompano Beach, St Petersburg, Sarasota, and Tampa, FL; Atlanta, Augusta, Newnan, and Vadalia, GA; Chicago, IL; Bowling Green, East Bernstadt, Greenville, Lexington, Nicholasville, Richmond, and Scottsville, KY; Baton Rouge, Broussard, Lafayette, Monroe, and New Orleans, LA; Detroit, Grand Rapids, Lansing, and Plymouth, MI; St Paul, MN; Indianaola, MS; Bellefontaine, Cincinnati, Cleveland, Columbus, Lima, and Toledo, OH; Portland, OR; Charleston, Greenville, and Spartonburg, SC; Memphis, TN; Houston, TX; and Milwaukee, WI; under continuing contract(s) with the Colgate-Palmolive Co., Jeffersonville, IN. An underlying ETA seeks 120 days authority. Supporting shipper: The Colgate-Palmolive Co., Jeffersonville, IN.

MC 125894 (Sub-4–7TA), filed November 23, 1982. Applicant: J & R SCHUGEL TRUCKING, INC., 2026 North Broadway, New Ulm, MN 56073. Representative: Robert S. Lee, 1600 TCF Tower, 121 So. 8th St., Minneapolis, MN 55402. *Mobile home building materials,* (1) between Elkhart, IN on the one hand, and, on the other, points in CO, MN, SD, and WI; and (2) between points in Marion County , FL; Thomas County, GA; Elkhart and Kosciusko Counties, IN; Reno County, KS; Yamhill County, OR; Lancaster County, PA; Charleston and Greenville Counties, SD; Bell and Galveston Counties, TX and Clark County, WI; and *Home entertainment devices and parts, accessories and supplies thereto,* from Monroe County, IN to Des Moines, IA, Omaha, NE, and Fargo, ND. Two Supporting shippers.

MC 146123 (Sub-4–2TA), filed November 23, 1982. Applicant: MIDWEST CARGO SYSTEMS, INC., 1932 S. Wentworth Ave., Chicago, IL 60616. Representative: Richard A. Kerwin, 180 North La Salle Street, Chicago, IL 60601. *General commodities (except Classes A and B explosives, household goods and commodities in bulk).* Between Mendota, Rochelle, DeKalb, Hoopeston and Danville, IL, on the one hand, and, on the other, Chicago, IL, and points in the Chicago, IL Commercial Zone. Restricted to Traffic having a prior or subsequent movement by rail. Supporting shippers: Genex Terminal Company, 5901 North Cicero, Chicago, IL 60646; Bay Area Piggyback, Inc., 1355 Fifth Street, Oakland, CA 94607.

MC 152015 (Sub-4–1TA), filed November 23, 1982. Applicant: BLACK BEAUTY TRUCKING CO., INC., P.O. Box 312, Evansville, IN 47702. Representative: Andrew K. Light, Scopelitis & Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204. *Commodities in bulk, in dump vehicles,* from Charleston, Danville and Marshall, IL to points in IN. An underlying ETA seeks 120 days authority. Supporting shippers: Potash Corporation of Saskatchewan Sales Ltd., 401 West Center, P.O. Box 606, Catlin, IL 61817

and Quality Lime Company, P.O. Box 39, Rural Route 1, Marshall, IL 62441.

MC 163395 (Sub-4–2TA), filed November 23, 1982. Applicant: DAVID A. McFARLAND d.b.a. BLACK HAWK TRANSPORT, Hereford Route, Box 46, Sturgis, SD 57785. Representative: J. Maurice Andren, 1734 Sheridan Lake Road, Rapid City, SD 57701. Authority sought to operate as a common carrier by motor vehicle over irregular routes for 270 days transporting: *Lumber, wooden posts and rails* from points in ID, MT and OR to CL, CA and NV. An ETA application has been filed for 120 days. Supporting shippers: S. E. Ross, P.O. Box 2146, Kalispell, MT and North Fence Co., P.O. Box 2146, Kalispell, MT 59901.

MC 163455 (Sub-4–1TA), filed November 23, 1982. Applicant: ALL TRUCK TRANSPORTATION CO. INC., 9010 S. Odell, Bridgeview, IL 60455. Representative: Dennis James Stolfo, 189 N. LaSalle St., Suite 2405, Chicago, IL 60601. *Paper products, pulp, paper* and related products, between Chicago, IL and Chicago Commercial Zone, on the one hand, and, points and places in IN, on the other. Supporting shipper: Alton Packaging Corporation, 5025 W. 65th St., Chicago, IL 60638

The following applications were filed in Region 5. Send protest to: Consumer Assistance Center, Interstate Commerce Commission 411 West 7th Street, Suite 500, Fort Worth, TX 76102.

MC 52460 (Sub-5–48TA), filed December 2, 1982. Applicant: ELLEX TRANSPORTATION, INC., P.O. Box 9637, Tulsa, OK 74107. Representative: William L. Tipton (same as above). Stove pipe and accessories, between the facilities of Simpson Dura-Vent at or near Vicksburg, MS, and Redwood City, CA, on the one hand, and, on the other, points in MT, WY, ND, SD, MD, DE, NJ, NY, PA, CT, RI, MA, VT, NH, ME, and DC. Supporting shipper: Simpson Dura-Vent, Redwood City, CA.

MC 105413 (Sub-5–2TA), filed December 2, 1982. Applicant: PETROLEUM TRANSPORT SERVICE, INC., 3908 Richland Drive, Council Bluffs, IA 51501. Representative: Marshall D. Becker, Suite 610, 7171 Mercy Road, Omaha, NE 68106. *Petroleum products,* between points in MN, NE, IA, MO, and KS. Supporting shippers: Jones Oil Co., Inc., Lincoln, NE; Oil Products Co., Omaha, NE; Lauver Oil Co., Council Bluffs, IA and McClure Gas Co., Bradyville, IA.

MC 144413 (Sub-5–1TA), filed December 2, 1982. Applicant: THOMPSON TRUCK TRANSPORTATION, 11281 Elm Street, Omaha, NE 68144. Representative: Marshall D. Becker, Suite 610, 7171 Mercy Road, Omaha, NE 68106. Contract; Irregular. *Foodstuffs,* From the facilities of Victor's Iowa Pack, Inc., Council Bluffs, IA to Commercial zone of Dallas-Fort Worth, TX and Sherman, TX. Supporting shipper: Victor's Iowa Pack, Inc., Council Bluffs, IA.

MC 148152 (Sub-5–17TA), filed December 2, 1982. Applicant: K & H TRUCKING, INC., 3301 So. Lamar St., Dallas, TX 75215. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062. Contract: Irregular, *General Commodities (except classes A and B explosives or hazardous materials)* between points in the U.S. Under continuous contract(s) with Winn-Dixie Texas; R. J. Stern Co., Inc.; NAP Consumer Electronics Corp.; Petro-Chem Drum Corp.; and Wallace International Division of The Wallace Co. Supporting shippers: 5.

MC 158295 (Sub-5–1TA), filed December 2, 1982. Applicant: CHEYENNE TRANSPORTATION, INC., 4094 Summerhill Rd., Texarkana, TX 75503. Representative: William J. Gambucci, 525 Lumber Exchange Bldg., Minneapolis, MN 55402. Contract, irregular; *soft drinks,* from Random Lake, WI and Minneapolis, MN to points in ND, SD and MN. Supporting shippe: Double Cola Bottling Tri-State, Inc., Wyoming, MN.

MC 164412 (Sub-5–1TA), filed December 2, 1982. Applicant: LIBERTY SERVICES, INC., 1700 W. Oakwood, Tyler, TX 75702. Representative: Dale D. Warnasch, 1210 Cardwell, Tyler, TX 75701. Contract: Irregular. *Repossessed Automobiles* from Points in LA to Tyler, TX. Supporting shipper: GMAC, Tyler, TX.

MC 164779 (Sub-5–1TA), filed December 2, 1982. Applicant: YOUSEY TRUCK DRIVERS, INC., Rt. 2, Box 94, Pea Ridge, AR 72751. Representative: Lloyd Burrow, Box 237, Bentonville, AR 72712. *General Commodities as dealt in or used by wholesale, retail discount or variety stores,* between points in the U.S. originating or destined to the facilities of Wal-Mart Stores, Inc. Supporting shipper: Wal-Mart Stores, Inc., Bentonville, AR.

MC 164978 (Sub-5–1TA), filed December 2, 1982. Applicant: FINIS MARTIN d.b.a. RAY'S TRANSFER, P.O. Box 347, Corsicana, TX 75110. Representative: James W. Hightower, Suite 301, Allied Bank-Southwest Bldg., Dallas, TX 75237–2385. *General Commodities (except Class A and B explosives, household goods and commodities in bulk),* between Dallas, Navarro, Smith and McLennan Counties, TX, restricted to shipments having a prior or subsequent movement by rail. Supporting shippers: Southern Pacific Transportation Company, Houston, TX; and Ft. Worth & Denver-Burlington Northern Railroad, Ft. Worth, TX.

MC 164981 (Sub-5–1TA), filed December 2, 1982. Applicant: HOGAN TRANSPORTS, INC., 1000 North 14th Street, St. Louis, MO 63106. Representative: B. W. LaTourette, Jr., 11 South Meramec, Suite 1400, St. Louis, MO 63105. Contract irregular; *General Commodities (except Classes A and B explosives, household goods and commodities in bulk)* between points in the United States (except AK and HI) under continuing contract with Venture Stores, a division of May Department Stores Company. Supporting shipper: Venture Stores, a division of May Department Stores Company, St. Ann, MO.

MC 109780 (Sub-5–2TA), filed November 30, 1982. Applicant: TRAILWAYS, INC., 1500 Jackson Street, Dallas, TX 75201. Representative: Rebecca Patton (same address as applicant). Common; regular; *passengers, their baggage, express and newspapers in the same vehicle with passengers,* between Dewey, AZ and the junction of AZ Highway 169 and Interstate Highway 17, serving all intermediate points as follows: From Dewey over AZ Highway 169 to the junction of Interstate Highway 17 and return over the same route.

MC 115730 (Sub-5–8TA), filed November 30, 1982. Applicant: THE MICKOW CORP., P.O. Box 1774, Des Moines, IA 50306. Representative: Cecil L. Goettsch, 1100 Des Moines Building, Des Moines, IA 50307. Contract; Irregular. *General commodities (except commodities in bulk, household goods and classes A and B explosives),* between points in the U.S. (except AK and HI) under continuing contract(s) with Copperweld Corporation of Pittsburgh, PA. Supporting shipper: Copperweld Corporation, Shelby, Ohio.

MC 146853 (Sub-5–14TA), filed November 29, 1982. Applicant: FRANK F. SLOAN, d.b.a. HAWKEYE WOODSHAVINGS, Route 1, Runnells, IA 50327. Representative: Richard D. Howe, 600 Hubbell Building, Des Moines, IA 50309. *Cabinets and vanities and materials, equipment, and supplies used in the manufacture, sale, and distribution of cabinets and vanities,* between Otter Tail County, MN, on the one hand, and, on the other, points in the U.S. in and west of the states of MI, IN, KY, MO, AR, and LA. Supporting

shipper: Medallion Kitchens, Inc., Hopkins, MN.

MC 160634 (Sub-5–1TA), filed November 30, 1982. Applicant: DALLAS G & G EXPRESS, INC., 14001 Goldmark, Suite 242, Dallas, TX 75240. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062. Contract: Irregular, *General commodities (except classes A and B explosives, or hazardous materials)* between Dallas County, TX and Harris County, TX on the one hand, and, on the other, points in TX. Restricted to shipments for the account of Sunbelt Consolidators, Inc. Supporting shipper: Sunbelt Consolidators, Inc., Dallas, TX.

MC 164686 (Sub-5–2TA), filed November 29, 1982. Applicant: DANNIE GILDER, INC., Route 1, Whitewater, MO 63785. Representative: Georgia Helderman, Route 1, Box 152, Whitewater, MO 63785. *Wooden beverage cases and wooden boxes* between the facilities of Gideon Anderson Lumber Co., Inc., Gideon, MO, on the one hand, and, on the other, points in the U.S. Supporting shipper: Gideon Anderson Lumber. Co., Inc., Gideon, MO.

MC 164886 (Sub-5–1TA), filed November 29, 1982. Applicant: BECHTOLD TRUCKING, 10 Charleroi, Lake St. Louis, MO 63367. Representative: Steven E. Bechtold (address same as above). *(1) Fresh and frozen meats and (2) Alcoholic beverages (beer)* (1) from Omaha, NE and points in KS to Wentzville, MO; (2) from St. Louis, MO to Arkansas City, KS. Supporting shippers: Prestige Packing Co., Wentzville, MO and Ark Valley Distr., Inc., Arkansas City, KS.

The following applications were filed in region 6. Send protests to: Interstate Commerce Commission, Region 6, Motor Carrier Board (RMBC), 211 Main St., Suite 501, San Francisco, CA 94105.

MC 164925 (Sub-6–1TA), filed December 1, 1982. Applicant: ARVIN SWASEY, d.b.a., C & R TRUCKING, 1600 Manzanita Dr., Salt Lake City, UT 84107. Representative: Arvin Swasey, P.O. Box 639, Bountiful, UT 84010. (1) *Lumber, building materials and related products,* (2) *sheet metal products and by-products, air conditioners, furnaces, heating units, and related products, and* (3) *precious metal ores, ore concentrates, mining and milling products and by-products, materials, equipment and supplies used in the manufacture* of these products. Between points in AZ, CA, CO, ID, MT, NV, NM, ND, OR, TX, UT, WA, and WY, for 270 days. An underlying ETA seeks authority for 120 days. Supporting shippers: Moore Sheet Metals, 858 East 100 North, Payson, UT 84651; Gold Dome Mining Co., 819 East 700 South, Orem, UT; Davidson Lumber Sales, Inc., 7902 So. 1410 West, West Jordan, UT 84084; Bio-Way Mining Co., 816 North 970 East, Springville, UT 84663.

MC 164963 (Sub-6–1TA), filed November 30, 1982. Applicant: CASSO TRUCKING, P.O. Box 34, Nevada City, CA. 95959. Representative: Marjil Casso II (same as applicant). *General commodities* (except classes A and B explosives and used household goods) between points CA, AZ, CO, ID, LA, MT, NV, NM, OK, OR, TX, UT, WA, WY, KS, for 270 days. Supporting shippers: Mucso Olive Products, Inc., P.O. Box 368, Orland, CA 95963; Forest Products Marketing Inc., P.O. Box 286, Oroville, CA. 95965; American Forest Products Co., 2740 Hyde Street, San Francisco, CA 94108.

MC 151139 (Sub-6–1TA), filed December 1, 1982. Applicant: CELESTIAL TRANSPORT INC., 1780 55th St., Boulder, CO 80301. Representative: Steven K. Kuhlmann, 717 17th St., Suite 2600, Denver, CO 80202–3357. *Contract carrier,* irregular routes: *Such commodities as are dealt in by manufacturers and distributors of solar products,* between points in the U.S. (except AK and HI), under continuing contract(s) with Terra-Light Division of Butler Manufacturing Company, Inc. of Danvers, MA, for 270 days. Supporting shipper: Terra-Light Division of Butler Manufacturing Co., Inc., 54 Cherry Hill Dr., Danvers, MA 01923.

MC 41098 (Sub-6–12TA), filed December 1, 1982. Applicant: GLOBAL VAN LINES, INC., One Global Way, Anaheim, CA 92803. Representative: Alan F. Wohlstetter, 1700 K Street NW., Washington, D.C. 20006. *Contract carrier,* irregular routes, *machinery* between points in the U.S. under continuing contract(s) with International Power Machines Corporation of Mesquite, TX, for 270 days. Supporting shipper: International Power Machines Corporation, 3328 Executive Blvd., Mesquite, TX 75114.

MC 164975 (Sub-6–1TA), filed December 2, 1982. Applicant: HENERY F. TRAMMELL, d.b.a. T & T TRUCKING, P.O. Box 1146, Mills, WY 82644. Representative: Henery F. Trammell (same as applicant). (1) *Machinery, Equipment, Materials and Supplies* used in and in connection with the Exploration, Development, Extraction, Transportation and Storage of Petroleum, Natural Gas, Their Products, Ores and Minerals, Coal and Coal Products and By-Products except in bulk. (2) *Materials, Equipment and Machinery* used for Building and in General Construction and those Commodities which because of their size and weight require the use of special handling or equipment from, to, or between points in AZ, CA, CO, ID, KS, LA, MT, ND, NE, NM, NV, OK, OR, SD, TX, UT, WA, and WY, for 270 days. Supporting Shippers: Darenco, Inc., P.O. Box 3320, Casper, WY 82602; Ingersoll-Rand Air Center A Corp., 201 N. Wolcott Suite 201, Casper, WY 82601; High Country Fabrication, Inc., P.O. Box 1406, Mills, WY 82644; and Energy Services & Equipment, Inc., P.O. Box 9269, Casper, WY 82609.

MC 136183 (Sub-6–1TA), filed December 1, 1982. Applicant: JOE COSTA, d.b.a. TRINIDAD FREIGHT SERVICE, Santa Fe Yards, Trinidad, CO 81082. Representative: Joe Costa (same as applicant). *General commodities* (except classes A and B explosives, commodities in bulk, those commodities which because of their size or weight require the use of special handling or equipment and household goods), between points in CO and NM, for 270 days. Supporting shippers: Pachorek Tire & Parts, 224 Elm, Trinidad, CO 81082; Frank A. Montera Dist., 205 Nona Ave., Trinidad, CO 81082; H & M Implement Co., 2425 E. Main St., Trinidad, CO 81082; and Morse Chevrolet & Buick, Inc., 709 N. Commercial St., Trinidad, CO 81082.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-33975 Filed 12-14-82; 8:45 am]

BILLING CODE 7035-01-M

INTERNATIONAL TRADE COMMISSION

Agency Forms Submitted for OMB Review

AGENCY: International Trade Commission.

ACTION: In accordance with the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Commission has submitted a proposal for the collection of information to the Office of Management and Budget for review.

Purpose of Information Collections

The proposed information collections are for use by the Commission in connection with the following investigation:

Investigation No. 332–149, Competitive Assessment of the U.S. Metalworking Machine Tool Industry.

Summary of Proposal

The following summarizes the information collection proposal submitted to OMB for investigation No. 332–149:

(1) Number of forms submitted: Three.

(2) Title of forms: Questionnaire for Producers of Metalworking Machine Tools; Questionnaire for Importers of Metalworking Machine Tools; Questionnaire for Purchasers of Metalworking Machine Tools.

(3) Type of request: New.

(4) Frequency of use: Nonrecurring.

(5) Description of respondents: Businesses (U.S. producers, importers, and purchasers of metalworking machine tools).

(6) Estimated number of respondents: 400.

(7) Estimated total numbers of hours to complete the forms: 10,000.

(8) Information obtained from the forms that qualifies as confidential business information will be so treated by the Commission and not disclosed in a manner that would reveal the individual operations of a firm.

(9) Section 350(h) of Pub. L. 96–511 does not apply.

Additional Information of Comments

Copies of the proposed forms and supporting documents may be obtained from Charles Ervin, the USITC agency clearance officer (telephone 202–523–4463). Comments and questions about the proposals should be directed to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Office for U.S. International Trade Commission. If you anticipate commenting on a form but find that time to prepare comments will prevent you from submitting the promptly, you should advise OMB of your intent as soon as possible. Copies of any comments should be provided to Charles Ervin (United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436).

Issued: December 9, 1982.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 82–34021 Filed 12–14–82: 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–116]

Drill Point Screws for Drywall Construction

AGENCY: International Trade Commission.

ACTION: The scheduling of a public hearing and written submission in investigation No. 337–TA–116, Certain Drill Point Screws for Drywall Construction.

In the matter of certain drill point screws for drywall construction; commission hearing on the presiding officer's recommendation and on relief, bonding, and the public interest, and the schedule for filing written submissions.

Notice is hereby given that the presiding officer in this investigation has issued a recommended determination that there is no violation of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, in the unauthorized importation into the United States and in the sale of the drill point screws that are the subject of the investigation. Accordingly, the presiding officer's recommendation and the record have been certified to the Commission for review and a Commission determination. Interested persons may obtain copies of the nonconfidential version of the presiding officer's recommendation (as well as any other public documents on the record of the investigation) by contacting the Office of the Secretary, Docket Section, U.S. International Trade Commission, 701 E Street NW., Room 156, Washington, D.C. 20436, telephone 202–523–0176.

Commission Hearing

The Commission will hold a public hearing on January 18, 1983, in the Commission's Hearing Room, 701 E Street NW., Washington. D.C. 20436, beginning at 10:00 a.m. The hearing will be divided into two parts. First, the Commission will hear oral arguments on the presiding officer's recommended determination that no violation of section 337 of the Tariff Act of 1930 exists. Second, the Commission will hear presentations concerning appropriate relief, the effect that such relief would have upon the public interest, and the proper amount of the bond during the Presidential review period in the event that the Commission determines that there is a violation of section 337 and that relief should be granted. These matters will be heard on the same day in order to facilitate the completion of this investigation within time limits established under law and to minimize the burden upon the parties.

Oral Arguments

Parties to the investigation and interested Government agencies may present oral arguments concerning the presiding officer's recommended determination. That portion of a party's or an agency's total time allocated to oral argument may be used in any way the party or agency making argument sees fit, i.e., a portion of the time may be reserved for rebuttal or devoted to summation. The oral arguments will be held in the following order: complainant, respondents, Government agencies, and the Commission investigative attorney. Any rebuttals will be held in this order: respondents, complainant, Government agencies, and the Commission investigative attorney. Persons making oral argument are reminded that such argument must be based upon the evidentiary record certified to the Commission by the presiding officer.

Oral Presentations on Relief, Bonding, and the Public Interest

Following the oral arguments on the presiding officer's recommendation, parties to the investigation, Government agencies, public-interest groups, and interested members of the public may make oral presentations on the issues of relief, bonding, and the public interest. This portion of the hearing is quasi-legislative in nature; presentations need not be confined to the evidentiary record certified to the Commission by the presiding officer, and may include the testimony of witnesses. Oral presentations on relief, bonding, and the public interest will be heard in this order: complainant, respondents, Government agencies, the Commission investigative attorney, public-interest groups, and interested members of the public.

If the Commission finds that a violation of section 337 has occurred, it may issue (1) an order which could result in the exclusion of the subject articles from entry into the United States and/or (2) an order which could result in one or more respondents' being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in hearing presentations which address the form of relief, if any, which should be ordered.

If the Commission concludes that a violation of section 337 has occurred and contemplates some form of relief, it must consider the effect of that relief upon the public interest. The factors which the Commission will consider include the effect that an exclusion order and/or a cease and desist order would have upon (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) the U.S. production of articles which are like or directly competitive with those which are the subject of the investigation, and (4) U.S. consumers.

If the Commission finds that a violation of section 337 has occurred and orders some form of relief, the President has 60 days to approve or

disapprove the Commission's action. During this period, the subject articles would be entitled to enter the United States under a bond in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in hearing presentations concerning the amount of the bond, if any, which should be imposed.

Time Limit for Oral Argument and Oral Presentation

Complainant, respondents (taken collectively), the Commission investigative attorney, and Government agencies will be limited to a total of 30 minutes (exclusive of time consumed by questions from the Commission or its advisory staff) for making both oral argument on violation and oral presentations on remedy, bonding, and the public interest. Persons making only oral presentations on remedy, bonding, and the public interest will be limited to 10 minutes (exclusive of time consumed by questions from the Commission and its advisory staff). The Commission may in its discretion expand the aforementioned time limits upon receipt of a timely request to do so.

Written Submissions

In order to give greater focus to the hearing, the parties to the investigation and interested Government agencies are encouraged to file briefs on the issues of violation (to the extent they have not already briefed that issue in their written exceptions to the presiding officer's recommended determination), remedy, bonding, and the public interest. The complainant and the Commission investigative attorney are also requested to submit a proposed exclusion order and/or proposed cease and desist orders for the Commission's consideration. Persons other than the parties and Government agencies may file written submissions addressing the issues of remedy, bonding, and the public interest. Written submissions on the question of violation must be filed not later than the close of business on December 30, 1982; written submissions on the questions of remedy, bonding, and the public interest must be filed not later than the close of business on January 6, 1983. During the course of the hearing, the parties may be asked to file posthearing briefs.

Notice of Appearance

Written requests to appear at the Commission hearing must be filed with the Office of the Secretary by January 12, 1983.

Additional Information

Persons submitting briefs and/or written submissions must file the original document and 14 true copies thereof with the Office of the Secretary on or before the deadlines stated above. Any person desiring to discuss confidential information or to submit a document (or a portion thereof) to the Commission in confidence must request confidential treatment unless the information has already been granted such treatment by the presiding officer. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. Documents containing confidential information approved by the Commission for confidential treatment wil be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Secretary's Office.

Notice of this investigation was published in the **Federal Register** of March 3, 1982, 47 FR 9113.

FOR FURTHER INFORMATION CONTACT: Carol McCue Verratti, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–0079.

Issued: December 9, 1982.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 82–34011 Filed 12–14–82; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 701–TA–179 through 181 (Final)]

Hot-Rolled Stainless Steel Bar, Cold-Formed Stainless Steel Bar, and Stainless Steel Wire Rod From Brazil

AGENCY: International Trade Commission.

ACTION: Institution of final countervailing duty investigation and scheduling of a hearing to be held in connection with the investigation.

EFFECTIVE DATE: December 3, 1982.

SUMMARY: As a result of an affirmative preliminary determination by the U.S. Department of Commerce that there is a reasonable basis to believe or suspect that the government of Brazil is providing subsidies to the manufacturers, producers, or exporters of certain stainless steel products within the meaning of section 701 of the Tariff Act of 1930 (19 U.S.C. 1671), the United States International Trade Commission hereby gives notice of the institution of investigations Nos. 701–TA–179 through 181 (Final) under section 705(b) of the Act (19 U.S.C. 1671d(b)) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Brazil of hot-rolled stainless steel bar, cold-formed stainless steel bar, provided for in item 606.90 of the Tariff Schedules of the United States (TSUS) and stainless steel wire rod provided for in items 607.26 and 607.43 of the TSUS. Unless the investigation is extended, the Department of Commerce will make its final subsidy determination in the case on or before January 27, 1983, and the Commission will make its final injury determination by March 18, 1983 (19 CFR 207.25).

FOR FURTHER INFORMATION CONTACT: Mr. Bill Schechter (202–523–0300), Office of Investigations, U.S. International Trade Commission.

SUPPLEMENTARY INFORMATION:

Background

On August 2, 1982, the Commission unanimously determined, on the basis of the information developed during the course of investigations Nos. 701–TA–179 through 181 (Preliminary), that there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, by reason of imports of the above-named products alleged to be subsidized by the government of Brazil. The preliminary investigation was instituted in response to a petition filed on June 16, 1982, by counsel for Al Tech Specialty Steel Corp., Carpenter Technology Corp., Colt Industries, Inc. (Crucible Specialty Metals Division), Cyclops Corp., Guterl Special Steel Corp., Joslyn Stainless Steels, and Republic Steel Corp. all of which manufacture, produce, or wholesale stainless steel bar and/or stainless steel wire rod products in the United States.

Participation in the Investigation

Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11, as amended by 47 FR 6189, Feb. 10, 1982), not later than 21 days after the publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Upon the expiration of the period for filing entries of appearance, the Secretary shall prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation, pursuant to section 201.11(d) of the Commission's rules (19 CFR 201.11(d), as amended by 47 FR 6189, Feb. 10, 1982). Each document filed by a party to this investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service (19 CFR 201.16(c), amended by 47 FR 33682, Aug. 4, 1982).

Staff Report

A public version of the staff report containing preliminary findings of fact in this investigation will be placed in the public record on February 1, 1983, pursuant to § 207.21 of the Commission's rules (19 CFR 207.21).

Hearing

The Commission will hold a hearing in connection with this investigation beginning at 10:00 a.m., e.s.t., on February 14, 1983, at the U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. 20436. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on January 13, 1983. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 10:00 a.m., e.s.t., on February 3, 1983, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is February 9, 1983.

Testimony at the public hearing is governed by section 207.23 of the Commission's rules (19 CFR 207.23, as amended by 47 FR 33682, Aug. 4, 1982). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with section 207.22 (19 CFR 207.22, as amended by 47 FR 33682, Aug. 4, 1982). Posthearing briefs must conform with the provisions of section 207.24 (19 CFR 207.24, as amended by 47 FR 6191, Feb. 10, 1982) and must be submitted not later than the close of business on February 22, 1983.

Written Submissions

As mentioned, parties to this investigation may file prehearing and posthearing briefs by the dates shown above. In addition, any person who has entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before February 22, 1983. A signed original and fourteen (14) true copies of each submission must be filed with the Secretary to the Commission in accordance with section 201.8 of the Commission's rules (19 CFR 201.8, as amended by 47 FR 6188, Feb. 10, 1982, and 47 FR 13791, Apr. 1, 1982). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired shall be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of section 201.6 of the Commission's rules (19 CFR 201.6).

For further information concerning the conduct of the investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and C (19 CFR part 207, as amended by 47 FR 6190, Feb. 10, 1982, and 47 FR 33682, Aug. 4, 1982), and part 201, subparts A through E (19 CFR part 201, as amended by 47 FR 6188, Feb. 10, 1982; 47 FR 13791, Apr. 1, 1982; and 47 FR 33682, Aug. 4, 1982).

This notice is published pursuant to section 207.20 of the Commission's rules (19 CFR 207.20, as amended by 47 FR 6190, Feb. 10, 1982).

By order of the Commission.

Issued: December 3, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-34024 Filed 12-14-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-121]

Plastic-Capped Decorative Emblems; Grant of Suspension of Investigation

AGENCY: International Trade Commission.

ACTION: Suspension of investigation.

SUMMARY: Notice is hereby given that the Commission has granted a joint motion by complainant, the Commission investigative attorney, and all respondents to suspend the above-captioned investigation.

Authority: The authority for the Commission's action is contained in section 337(b)(1) of the Tariff Act of 1930 (19 U.S.C. 1337(b)(1)) and section 210.15 of the Commission's Rules of Practice and Procedure (19 CFR 210.15).

SUPPLEMENTARY INFORMATION: Upon receipt of a complaint filed by D. L. Auld Company, the Commission instituted investigation No. 337-TA-121 to determine whether there is a violation of section 337 of the Tariff Act of 1930 by reason of unfair methods of competition and unfair acts in the importation and sale of certain plastic-capped decorative emblems alleged to infringe claim 1 of U.S. Letters Patent 4,100,010 ('010 patent), claim 1 of U.S. Letters Patent 4,139,654, and claim 1 of U.S. Letters Patent 4,259,388. Notice of the Commission's investigation was published in the **Federal Register** of May 19, 1982 (47 FR 21639).

Complainant Auld, the Commission investigative attorney, and all respondents moved on November 22, 1982, for a suspension of the investigation pending appeal to the Court of Appeals for the Federal Circuit of a U.S. District Court ruling that the '010 patent is invalid. On November, 29, 1982, the presiding officer recommended that the motion for suspension be granted.

FOR FURTHER INFORMATION CONTACT: Clarease Mitchell, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-523-3395.

Issued: December 9, 1982.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-34018 Filed 12-14-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 701-TA-153 (Final)]

Prestressed Concrete Steel Wire Strand From France

Determination

On the basis of the record[1] developed in its countervailing duty investigation on prestressed concrete steel wire strand from France, the Commission unanimously determines, pursuant to section 705(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)), that an industry in

[1] The "record" is defined in sec. 207.2(i) of the Commission's Rules of Practice and Procedure (47 FR 6190, Feb. 10, 1982).

the United States is not materially injured or threatened with material injury, nor is the establishment of an industry in the United States materially retarded, by reason of imports of steel wire strand for prestressing concrete (PC strand), provided for in item 642.11 of the Tariff Schedules of the United States, upon which bounties or grants are being paid.

Background

On August 6, 1982, the Department of Commerce made a preliminary determination that there was reason to believe or suspect that certain benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930 (19 U.S.C. 1671) are being provided to manufacturers, producers, or exporters in France of PC strand.

Accordingly, effective August 25, 1982, the Commission insitituted an investigation under section 705(b) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materialy retarded by reason of imports of PC strand from France.

Notice of the institution of the Commission's investigation and of a hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and by publishing the notice in the **Federal Register** on September 1, 1982 (47 FR 38647). The hearing was held in Washington, D.C. on October 19, 1982, and all persons who requested the opportunity were permitted to appear in person or by counsel.

Views of the Commission

On the basis of the record in this investigation, we find that an industry in the United States is not being materially injured or threatened with material injury, nor is the establishment of an industry in the United States being materially retarded,[2] by reason of subsidized imports of steel wire strand for prestressing concrete (PC strand) from France.

Domestic industry

Under title VII of the Tariff Act of 1930 (the Act), our analysis of the information gathered in this investigation begins with a definition of the scope of the relevant domestic industry. Section 771(4)(A) of the Act defines the domestic industry as consisting of "the domestic producers as a whole of a like product or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product.[3] "Like product" is defined in section 771(10) as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation * * *"[4]

The imported article that is the subject of this investigation is PC strand from France, a product consisting of one center wire and six helically placed outer wires that is used in prestressing concrete. This same product was involved in the recent Commission investigation regarding imports of PC strand from Spain[5] and in recent preliminary investigations regarding imports of PC strand from Brazil, France, and the United Kingdom.[6] In our opinion in those preliminary investigations we noted:

> The U.S. product that is like the imported product is all wire strand of steel for prestressing concrete. The domestic and imported products are made to the same ASTM specifications and are devoted to the same uses.[7]

The Commission found that the domestic industry consisted of the U.S. producers of this like product. We made the same finding in the investigation of PC strand from Spain.[8]

In this investigation, the parties have not suggested, nor does the information that has been developed supported, a revision of this industry definition.[9] We therefore find it appropriate to adopt the same definition of the domestic industry in this case.[10]

No material injury by reason of subsidized imports from France[11]

The record in this investigation reveals that with respect to many of the important economic factors the condition of the U.S. industry is healthy.[12] [13] Domestic production steadily increased from 1979 to 1981, although the period January–June 1982 showed some decline when compared to the same period in 1981.[14] U.S. producers' shipments of PC strand followed the same trend as production.[15] The domestic industry's capacity to produce PC strand has increased steadily and significantly each year from 1979 through June 1982.[16] Further, one domestic producer recently has increased its productive capacity significantly and another has stated that it will increase its productive capacity in the near future.[17] Despite the rapid increase in capacity, capicity utilization has remained at relatively high levels throughout this period, failing only in the first six months of 1982.[18] Employment, when measured by the number of production and related workers and by hours-worked, showed no appreciable change over the period 1979 to June 1982, and hourly wages, total consumption, and worker productivity all increased.[19] The only significant negative trend in this industry is profitability. Although the industry's net sales increased from 1979 to 1981, net profits declined, with a net loss occurring in the first half of 1982.[20] [21]

---

[2] Since there is an established domestic industry, material retardation is not an issue in this investigation and will not be discussed further.

[3] 19 U.S.C. 1677(4)(A).

[4] 19 U.S.C. 1677(10).

[5] Prestressed Concrete Steel Wire Strand from Spain, Inv. No. 701–TA–164 (Final), USITC Pub. 1281 (1982) (PC Strand from Spain).

[6] Prestressed Concrete Steel Wire Strand from Brazil, France, and the United Kingdom, Inv. Nos. 701–TA–152 and 153 (Preliminary) and 731–TA–89 (Preliminary), USITC Pub. 1240 (1982).

[7] *Id.* at 4.

[8] PC strand from Spain, p. 4.

[9] Although there was some discussion at the Commission's hearing that there are quality differences between the domestically-produced and French PC strand, these allegations have not been substantiated.

[10] Two domestic producers—Sumiden and CF&I—were neither petitioners nor interested parties in support of the petitioners in this investigation.

[11] At the Commission's hearing, the petitioners argued for the first time that this case should be considered on a regional basis, pursuant to section 771(4)(C) of the Tariff Act of 1930, 19 U.S.C. 1677(4)(C). Petitioners urged the Commission to divide the United States into two regions—an Eastern Region and a Western Region—but offered no factual basis for delineation between the two in the hearing. Hearing transcript, pp. 12–13, 91. Petitioners did not follow-up on these allegations in their post-hearing brief. The evidence of record reveals that there is not the requisite concentration of imports—either into the East or into the West—to permit us to find a regional industry. Although we do not believe that a regional industry finding is appropriate in this investigation, this does not preclude an examination of competition in certain markets as part of our analysis of the presence of material injury by reason of the subject imports. *See* PC Strand from Spain; *see also* the views of Commissioner Stern in Anhydrous Sodium Metasilicate from France, Inv. No. 731–TA–25 (Preliminary), USITC Pub. No. 1080 (1980).

[12] Most of the statistical data developed by the Commission in this investigation constitute confidential business information. Therefore, the information can be discussed only in general terms.

[13] Petitioner argued that the Commission should consider only the narrow period from January 1981 to the present in this investigation. Under the circumstances of this case, we deem it appropriate to examine the more representative period from 1979 to June 1982.

[14] Report Table 5, p. A–14.

[15] Report, Table 9, p. A–17.

[16] *Id.* Table 5.

[17] Report, p. A–15.

[18] *Id.*, Tables 5 and 9, pp. A–14 and 17.

[19] *Id.*, Table 11, p. A–19.

[20] *Id.*, Table 13, p. A–21.

[21] As noted in the legislative history to the Trade Agreements Act of 1979—

The foregoing economic data suggest that the only period of time in which the domestic industry could have suffered injury is the first half of 1982. Even assuming that this injury meets the statutory standard of "material injury," [22] our analysis of the effects of imports of PC strand from France during that six month period demonstrates that any such injury is not by reason of the subject imports. Our analysis has focused on both the absolute and relative levels of imports, on pricing data, on information regarding allegations of price suppression and depression, and on lost sales.

Imports from France increased irregularly, from 2.0 million pounds in 1978 to a peak of 6.1 million pounds in 1981. However, these imports declined from 3.9 million pounds in January–June 1981 to 1.8 million pounds in January–June 1982.[23] Imports from France as a share of increasing domestic consumption [24] reached their peak in 1981, and decreased significantly in the first half of 1982 compared with the first half of 1981. Thus, during the only period in which there is any evidence of deterioration in the condition of the domestic industry, the quantity of PC strand imported from France has decreased significantly, both in absolute terms and a a percentage of increasing domestic consumption.[25] [26] [27]

Data gathered on the pricing of imports from France do not demonstrate any casual connection between such imports and the condition of the domestic industry. As a part of our analysis, we compared domestic producers' f.o.b. mill price with the importer's f.a.s. duty-paid price. This comparison shows that the range of prices offered by domestic producers on a quarter-by-quarter basis was consistently greater than that offered by the importer. In fact, from 1980 through the third quarter of 1982, with one exception, the lowest price offered by domestic producers was consistently lower than the lowest price offered by the French importer.[28] [29]

The more informative price comparison for this industry is a comparison of delivered prices of French and domestic PC strand to purchasers in selected urban areas.[30] [31] Although the data show that there was some underselling in both markets in 1981, the single instance of underselling in January–June 1982 does not represent a pattern of significant underselling.[32]

Although PC strand prices have remained relatively level since 1979, despite increased production costs, any apparent suppression of domestic prices is not attributable to the effects of imports from France. Information gathered in response to the domestic industry's allegations of price suppression/depression fails to support those allegations. None of the seven allegations of price suppression/depression—three of which involve transactions in the first six months of 1982—were confirmed by the purchaser contacted by the Commission's staff. Three of the purchasers indicated that they did not purchase French PC strand, rather they purchased PC strand from either domestic producers or from other foreign sources. Others indicated that they did not even obtain price quotes from the French. Another purchaser indicated that he had not spoken to the French for six months because their price was too high. Another only indicated that French and domestic prices were in the same range, but this purchaser denied a specific allegation of price suppression in 1982.[33]

Finally, lost sales information supports the conclusion that there has been no significant underselling. Although certain allegations of sales lost to imports from France because of price occurring in 1980 and 1981 were confirmed, only one of four such allegations regarding the period January–June 1982 was confirmed.[34] The information gathered in the process of investigating the allegations of lost sales indicates that price is only one of several factors affecting the decision to purchase PC strand from a specific supplier. Strand purchasers noted other factors, including availability of service, delivery time, proximity of the vending firm, and quality of the product. Of the eight purchasers who responded to this section of the questionnaire, four firms ranked proximity of the vending firm highest, while only one firm ranked price highest.[35] Other available information indicates that in six of eight cases during 1981, factors other than price induced these firms to purchase higher-priced strand, for reasons such as packaging, quality, service, and supplier's inventory levels.[36]

The conditions of trade [37] in this industry suggest a further analysis of the impact of French imports. Generally, U.S. producers tend to ship the major portion of their production to customers located in relatively close proximity to their plants.[38] Similarly, the importer of PC strand from France markets in three geographic areas.[39] Consequently, it is appropriate to consider the impact of French imports on those domestic producers who most directly compete [40] with those imports. This comparison demonstrates that those companies competing most directly with the imported product from France are expanding vigorously.[41] [42] The combined capacity, production, and shipments of these firms have increased steadily during the period covered by this investigation. Further, their capacity utilization compares favorably with the capacity utilization for the rest of the domestic industry. The profits of these firms are generally higher than the profits of other domestic producers. The profitability of U.S. producers has been evaluated in light of the sizable start up and expansion costs for certain of the

---

The Significance of the various factors affecting an industry will depend upon the facts of each particular case. Neither the presence nor the absence of any factor listed in the [statute] can necessarily give decisive guidance with rspect to an injury determination.

H.R. Rep. 96–317, 96th Cong., 1st Sess., 46 (1979). In this investigation, the profitability data alone are not sufficient, when considered with all the other facts in this case, to support a finding of material injury.

[22] 19 U.S.C. 1677(7).

[23] Report, p. A–32.

[24] Consumption has increased steadily throughout the period of this investigation. Domestic consumption of PC strand is expected to grow in the near future. Report, p. A–7.

[25] We also note that at the same time that the market penetration of French PC strand has decreased significantly, imports from "other countries" have substantially increased their share of domestic consumption. Report, Table 22.

[26] We did not reach the issue of cumulation of the impact of imports from inports from France to be a contributing cause of material injury. See our discussion on pricing, price suppression/depression, an lost sales, *infra*. Although we did not cumulate imports from France withimports from other countries, we did consider these imports, to the exten:t information was avaflable, as factos in the market which may have contributed to the overall condition of the domestic industry.

[27] Report, Table 22, p. A–29.

[28] Report, Table 28, p. A–36.

[29] U.S. producers' prices were compared to the importer's prices using weighted average prices calculated from information supplied by domestic producers nationwide, while the average price for the importer was limited to the f.a.s. price at its ports of entry. Report, Table 28. Thus, these figures do not reflect the fact that many, if not most, of the reported sales by U.S. producers were in areas other than those in which the French imports competed. These price comparisons are also of limited value because they do not reflect transportation costs, which can be a significant share of the delivered price of PC strand.

[30] This comparison is based on Tables 28 and 29 of the Report.

[31] Table 27, p. A–37 of the Report, presents a comparison of delivered prices primarily of two domestic producers with the delivered prices of the sole importer of French PC strand. This table is of limited value because the locations of the domestic producers' customers and the importer's customers differ; their respective customers are located in widely dispersed geographic markets.

[32] Tables 28 and 29.

[33] Report, pp. A–38–40.

[34] Report, pp. A–40–41.

[35] Report, p. A–38.

[36] Report, pp. A–37 and 38.

[37] The legislative history make it clear that the Commission is to focus on the conditions of trade and development within the industry under examination. *See, e.g.*, H.R. Rep. 96–317, 96th Cong., 1st Sess., 46 (1979).

[38] Report, Table 1, p. A–8.

[39] Id.

[40] Report, Table 1, p. A–9.

[41] This contrasts markedly with the situation in the carbon steel industries which we have recently examined.

[42] Report, Table 6, p. A–15.

producers, which would normally result in decreased profitability.

Based on the information on the record in this investigation—especially data relating to the condition of the domestic industry during the first six months of 1982 and the impact of imports of PC strand from France during the same period—we determine that an industry in the United States is not being materially injured by reason of subsidized imports of prestressed concrete steel wire strand from France.

Threat of material injury by reason of the subsidized imports

With respect to threat of material injury, the Commission examines, among other factors, demonstrable trends in the following areas: (1) Rate of increase in importation of the dumped merchandise in the United States market; (2) importers's inventories; (3) capacity in the exporting country to generate exports; and (4) the likelihood that such exports will be directed to the United States market taking into account the availability of other export markets.[43] In this case, the imports from France into the United States are decreasing, both in absolute terms, and as a share of total imports and apparent domestic consumption.[44] Importer's inventories have decreased dramatically during the first six months of 1982 when compared with the same period in 1981, and the absolute level of inventories is insignificant.[45] There is no available capacity of the French producer of PC strand to generate additional exports and there are other significant available markets for French PC strand.[46] Therefore, we find that imports of PC strand from France pose no threat of material injury to the domestic industry.

Issued: December 3, 1982.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-34025 Filed 12-14-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 701-TA-182 (Final)]

Rail Passenger Cars and Parts Thereof From Canada

AGENCY: International Trade Commission.

ACTION: Institution of final countervailing duty investigation and scheduling of a hearing to be held in connection with the investigation.

EFFECTIVE DATE: November 29, 1982.

SUMMARY: As a result of a preliminary determination by the United States Department of Commerce that the government of Canada is providing subsidies to the manufacturers, producers, or exporters of rail passenger cars and parts thereof within the meaning of section 701 of the Tariff Act of 1930 (19 U.S.C. 1671), the United States International Trade Commission hereby gives notice of the institution of investigation No. 701-TA-182 (Final) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Canada of rail passengers cars, assembled or unassembled, finished or unfinished, components and parts and accessories thereof and/or to be used therewith. Unless the investigation is extended, the Department of Commerce will make its final subsidy determination in the case on or before February 4, 1983, and the Commission will make its final injury determination by March 28, 1983 (19 CFR 207.25).

FOR FURTHER INFORMATION CONTACT: Mr. Larry Reavis, Office of Investigations, U.S. International Trade Commission, Washington, D.C. 20436; telephone 202-523-0296.

SUPPLEMENTARY INFORMATION:

Background.—On August 3, 1982, the Commission determined, on the basis of the information developed during the course of its preliminary investigation, that there was a reasonable indication that an industry in the United States was materially injured, or was threatened with material injury, by reason of imports of the above-named products alleged to be subsidized by the government of Canada. The preliminary investigation was instituted in response to a petition filed on June 24, 1982, by the Budd Co. of Troy, Michigan.

Participation in the investigation.—Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11, as amended by 47 FR 6189, Feb. 10, 1982), not later than 21 days after the publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Upon the expiration of the period for filing entries of appearance, the Secretary shall prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation, pursuant to section 201.11(d) of the Commission's rules (19 CFR 201.11(d), as amended by 47 FR 6189, Feb. 10, 1982). Each document filed by party to this investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service (19 CFR 201.16(c), amended by 47 FR 33682, Aug. 4, 1982).

Staff report.—A public version of the staff report containing preliminary findings of fact in this investigation will be placed in the public record on January 31, 1983, pursuant to section 207.21 of the Commission's rules (19 CFR 207.21).

Hearing.—The Commission will hold a hearing in connection with this investigation beginning at 10:00 a.m., on February 15, 1983, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. 20436. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on February 1, 1983. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 11:00 a.m., on February 3, 1983, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is February 10, 1983.

Testimony at the public hearing is governed by section 207.23 of the Commission's rules (19 CFR 207.23, as amended by 47 FR 33682, Aug. 4, 1982). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with section 207.22 (19 CFR 207.22, as amended by 47 FR 33682, Aug. 4, 1982). Posthearing briefs must conform with the provisions of section 207.24 (19 CFR 207.24, as amended by 47 FR 6191, Feb. 10, 1982) and must be submitted not later than the close of business on February 22, 1983.

Written submissions.—As mentioned, parties to this investigation may file prehearing and posthearing briefs by the dates shown above. In addition, any person who has not entered an appearance as a party to the investigation may submit a written

---

[43] Section 207.26 of the Commission's Rules (19 CFR 207.26); H.R. Rep. 96-317, 96th Cong., 1st Sess., 46 (1979); Stainless Steel Sheet and Strip from West Germany, Inv. No. 731-TA-62 (Preliminary), USITC Pub. No. 1252, pp. 14-15 (1982).

[44] Report, Tables 21 and 22, pp. A-27 and 29.

[45] Report, p. A-25.

[46] Report, p. A-11 and 12.

statement of information pertinent to the subject of the investigation on or before February 22, 1983. A signed original and fourteen (14) true copies of each submission must be filed with the Secretary to the Commission in accordance with section 201.8 of the Commission's rules (19 CFR 201.8, as amended by 47 FR 6188, Feb. 10, 1982, and 47 FR 13791, Apr. 1, 1982). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired shall be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of section 201.6 of the Commission's rules (19 CFR 201.6).

For further information concerning the conduct of the investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and C (19 CFR part 207, as amended by 47 FR 6190, Feb. 10, 1982, and 47 FR 33682, Aug. 4, 1982), and part 201, subparts A through E (19 CFR part 201, as amended by 47 FR 6188, Feb. 10, 1982; 47 FR 13791, Apr. 1, 1982; and 47 FR 33682, Aug. 4, 1982).

This notice is published pursuant to section 207.20 of the Commission's rules (19 CFR 207.20, as amended by 47 FR 6190, Feb. 10, 1982).

Issued: December 10, 1982.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-34019 Filed 12-14-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 104-TAA-13]

Rayon Staple Fiber From Sweden; Hearing

AGENCY: International Trade Commission.

ACTION: Change of date of public hearing.

SUMMARY: Notice is hereby given that the public hearing to be held in connection with United States International Trade Commission investigation No. 104-TAA-13, Rayon staple fiber from Sweden, will begin at 10:00 a.m., Monday, February 7, 1983, in the Commission's Hearing Room, U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. A hearing date of February 9, 1983, had previously been announced in the Commission's notice of institution of investigation as published in the **Federal Register** of November 24, 1982 (47 FR 53151). Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) January 20, 1983. All persons desiring to appear at the hearing and make oral presentations must file prehearing statements and should attend a prehearing conference to be held at 10:00 a.m., on January 24, 1983, in Room 117 of the U.S. International Trade Commission Building. Prehearing statements must be filed on or before February 1, 1983. A staff report containing preliminary findings of fact in this investigation will be available to all interested parties on January 21, 1983.

Issued December 7, 1982.

By order of the Commission.

Kenneth R. Mason.

Secretary.

[FR Doc. 82-34022 Filed 12-14-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-118]

Sneakers With Fabric Uppers and Rubber Soles; Request for Public Comments on Recommended Termination of Seven Respondents Based on a Settlement Agreement

AGENCY: International Trade Commission.

ACTION: Request for public comments on proposed termination of seven respondents in this investigation on the basis of a settlement agreement.

SUMMARY: On September 24,1982, complainant Van Doren Rubber Co. and respondents Thom McAn Shoe Company, Inc., Melville Corporation, Stride-Rite Footwear, Inc., Stride-Rite International, Ltd., Stride-Rite Corporation, Genesco, Inc., and San Shoe Trading Corporation filed a joint motion to terminate investigation No. 337-TA-118 with respect to the above-mentioned respondents. This motion is based on a settlement agreement entered into between these parties. On November 8, 1982, the presiding officer recommended that the Commission grant the joint motion. Before taking final action on this motion, the Commission seeks written comments from interested members of the public on the proposed termination. A nonconfidential synopsis of the settlement agreement is set forth below.

Synopsis: Each respondent joining the motion agrees not to import "Exluded soles" after August 26, 1982 or sell shoes having an excluded sole which were imported after that date. An excluded sole is defined as a sole which is the same as five specified patterns of confusingly similar to the Van Doren sole pattern. Two sole patterns have been specified as not similar to the Van Doren pattern. In addition, in an addendum to the agreement between complainant and the Stride-Rite respondents, another pattern was specified as not similar to the Van Doren pattern. San Shoe Trading Corp. has the right to import prior to December 31, 1982, a specified number of excluded soles already on order. None of the parties to the agreement waive any right to damages or defenses in a civil action, or do respondents admit liability or the validity of Van Doren's claims. Any aforementioned respondent may terminate the agreement with respect to any area of the country where a final judgement is subsequently entered in litigation between Van Doren and a third party which holds that Van Doren does not have proprietary rights in the sole pattern in that area of the country. Furthermore, after such a holding, any aforementioned respondent may move to modify any exclusion order issued by the Commission.

DATE: Comments will be considered if received within thirty (30) days of the date this notice appears in the **Federal Register.** Comments should conform with Commission rule 201.8 (19 C.F.R. 201.8) and should be addressed to Kenneth R. Mason, Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436.

SUPPLEMENTARY INFORMATION: The Commission is conducting investigation No. 337-TA-118 to determined whether there is a violation of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation and sale of certain sneakers with fabric uppers and rubber soles by reason of (1) unfair competition, (2) false designation of source, (3) common-law trade mark infringement and (4) passing off in the manufacture and sale of these sneakers. The alleged effect or tendency of these unfair acts is to destroy or substantially injured an industry, efficiently and economically operated, in the United States. Notice of the institution of this investigation was published in the **Federal Register** on March 9, 1982. 47 FR 10103.

COMMENTS REQUESTED: In light of the Commission's duty to consider the public interest in this investigation, the

Commission requests written comments from interested persons concerning the effect of the termination of this investigation based upon the settlement agreement upon (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) the prodution of like or directly competitive articles in the United States, and (4) U.S. consumers. Written comments must be filed with the Secretary to the Commission no later than 30 days after publication of this notice in the **Federal Register**. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. The Commission will either accept such submission in confidence or return it. All nonconfidential written submissions will be open for public inspection at the Secretary's office, as is a copy of the settlement agreement.

FOR FURTHER INFORMATION CONTACT: Catherine R. Field, Esq. Office of the General Counsel, U.S. International Trade Commission. 701 E Street N.W., Washington, D. C. 20436, Telephone (202) 523–0143.

Issued: December 7, 1982.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 82–34020 Filed 12–14–82; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. TA–201–48]

Stainless Steel and Alloy Tool Steel

AGENCY: International Trade Commission.

ACTION: Institution of investigation and scheduling of a hearing to be held in connection with the investigation.

EFFECTIVE DATE: December 9, 1982.

SUMMARY: Following receipt of a request by the United States Trade Representative (USTR) for an investigation under section 201 of the Trade Act of 1974 of certain imported stainless steel and alloy tool steel products, the United States International Trade Commission hereby gives notice of the institution of investigation No. TA–201–48 under section 201(b)(1) of the act (19 U.S.C. 2251) to determine whether bars; wire rods; and plates, sheets, and strips, not cut, not pressed, and not stamped to rectangular shape; all the foregoing of stainless steel or certain alloy tool steel; and round wire of high speed tool steel, provided for in items 606.90, 606.93, 606.94, 606.95, 607.26, 607.28, 607.34, 607.43, 607.46, 607.54, 607.72, 607.76, 607.88, 607.90, 608.26, 608.29, 608.34, 608.43, 608.49, 608.57, 608.64, and 609.45 of the Tariff Schedules of the United States, are being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing articles like or directly competitive with the imported articles. The Commission must report its determination to the President by May 23, 1983; however, the Commission intends to expedite this investigation and transmit its report by May 6, 1983.

FOR FURTHER INFORMATION CONTACT: Daniel Leahy, Senior Investigator (202/523–1369) or James McClure, Suprervisory Investigator (202/523–0439), Office of Investigations, U.S. International Trade Commission, Washington, D.C. 20436.

SUPPLEMENTARY INFORMATION:

Background.—In accordance with a determination of the President on November 17, 1982 (47 FR 51717), under section 301(a)(2)(A) of the Trade Act of 1974 (19 U.S.C. 2411(a)(2)(A)), the USTR, in a letter received by the Commission on November 23, 1982 (copy attached), requested that the Commission conduct an expedited investigation under section 201 of the act concerning imports of certain stainless steel and alloy tool steel products. The President's action followed the completion of investigations under section 301 of the act initiated by USTR on February 26, 1982 (47 FR 10107) and on August 9, 1982 (47 FR 36387). These investigations were instituted on the basis of petitions, filed by the Tool and Stainless Steel Industry Committee and the United Steelworkers of America, alleging that the European Community, Belgium, France, Italy, the United Kingdom, Austria, and Sweden had subsidized the production of stainless and alloy tool steel (specialty steel) in a manner inconsistent with their obligations under Articles 8 and 11 of the Agreement on the Interpretation and Application of Articles VI, XVI and XXIII of the General Agreement on Tariffs and Trade (Subsidies Code).

Participation in the investigation.—Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11, as amended by 47 FR 6189, Feb. 10, 1982), not later than 21 days after the publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Upon the expiration of the period for filing entries of appearance, the Secretary shall prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation, pursuant to section 201.11(d) of the Commission's rules (19 CFR 201.11(d), as amended by 47 FR 6189, Feb. 10, 1982). Each document filed by a party to this investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service (19 CFR 201.16(c), amended by 47 FR 33682, Aug. 4, 1982).

Hearing.—The Commission will hold a hearing in connection with this investigation beginning at 10:00 a.m., on February 9, 1983, at the U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. 20436(19 CFR 201.13). Request to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on January 26, 1983.

Prehearing procedures.—To facilitate the hearing process, it is requested that persons wishing to appear at the hearing submit prehearing briefs enumerating and discussing the issues which they wish to raise at the hearing. An original and fourteen copies of such prehearing briefs should be submitted to the Secretary no later than the close of business on February 2, 1983 (19 CFR 201.8). Confidential submissions should be in accordance with the requirements of section 201.6 of the Commission's rules (19 CFR 201.6). Copies of any prehearing briefs submitted will be made available for public inspection in the Office of the Secretary. Any prepared statement submitted will be made a part of the transcript. Oral presentations at the hearing should, to the extent possible, be limited to issues raised in the prehearing briefs.

A prehearing conference will be held on Thursday, January 27, 1983, at 10:00 a.m., in Room 117 of the U.S. International Trade Commission Building.

Written submissions.—As mentioned, parties to this investigation may file prehearing briefs by the date shown above. Posthearing briefs must be submitted no later than close of business on February 18, 1983. In addition, any person who has not entered an appearance as a party to the

investigation may submit a written statement of information pertinent to the subject of the investigation on or before February 18, 1983. A signed original and fourteen copies of each submission must be filed with the Secretary to the Commission. All written submissions, except for confidential business information, will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

November 19, 1982.

The Honorable Alfred Eckes
Chairman, United States International Trade Commission,
Washington, D.C.

Dear Mr. Chairman: In accordance with the determination of the President under Section 301(a)(2)(A) of the Trade Act of 1974 (19 U.S.C. 2411 (a)(2)(A)) of November 17, 1982 (47 FR 51717, November 17, 1982), and pursuant to my authority under Section 201(b)(1) of the Trade Act of 1974 (19 U.S.C. 2251(b)(1)), I am hereby requesting that the U.S. International Trade Commission promptly make an investigation under Section 201 to determine whether the specialty steel articles described in attachment 1 are being imported into the U.S. in such increased quantities as to be a substantial cause of serious injury, or threat thereof, to the domestic industry producing like or directly competitive articles. I further request that the Commission expedite its investigation and submit its report to the President through me as soon as possible.

Representations have been made to USTR to the effect that certain specialty steel products included in the scope of this request are not produced domestically or are produced in small quantities and that restrictive action under Section 201 with respect to these products would be inappropriate. Therefore, in conducting its examination, the Commission is further requested to examine and provide advice on the impact of exempting the products listed in Attachment 2 from any import relief measures which the Commission may recommend.

Very truly yours.

William E. Brock.

Attachment 1

The specialty steel products provided for in the following item numbers of the Tariff Schedules of the United States Annotated (TSUSA) constitute the subject of this request for an investigation under Section 201 of the Trade Act of 1974.

1. Stainless steel sheet and strip

607.7610	[illegible]
607.9010	608.4300
607.9020	608.5700
608.2600	

2. Stainless steel plate

607.7605	607.9005

3. Stainless bar

606.9005	606.9010

4. Stainless steel rod

607.2600	[illegible]

5. Alloy tool steel

[illegible]	[illegible]
606.9400	607.7205
606.9505	[illegible]
[illegible]	[illegible]
606.9520	[illegible]
606.9525	[illegible]
[illegible]	[illegible]
[illegible]	[illegible]
607.2600	[illegible]
607.3405	[illegible]
607.3420	[illegible]
607.4600	609.4520
607.5405	609.4550

Attachment 2

Described below are the articles with respect to which USTR has requested the Commission to examine and provide advice on the impact of exemption from any recommended import relief measures.

1. Razor blade steel provided for in TSUSA item number 608.2600;

2. Chipper knife steel provided for in the following TSUSA item numbers:

606.9300	607.8805
606.9400	[illegible]
607.3405	608.4905
607.5405	608.6405
607.7205	

3. Band saw steel provided for in the following TSUSA item numbers:

606.9520	607.8805
606.9525	608.3405
607.3405	608.4905
607.5405	[illegible]
607.7205	

4. The following stainless steel sheet product, provided for in TSUSA item numbers 607.9020:

Stainless steel sheet not under 0.055 inch and not over 0.065 inch in thickness, not under 25.5 inches and not over 26.25 inches in width, which contains in addition to iron, each of the following elements by weight in the amount specified and which is certified at the time of entry to be imported for use in the manufacture of stainless-steel-clad aluminum automotive trim:

Carbon: none, or not more than 0.12 percent;

Chromium: not less than 16 percent nor more than 18 percent;

Molybdenum: not less than 0.75 percent nor more than 1.25 percent.

Any business information for which confidential treatment is desired shall be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of section 201.6 of the Commission's rules (19 CFR 201.6).

Remedy.—In the event that the Commission makes an affirmative injury determination in this investigation, a public hearing on the subject of remedy recommendations will be held beginning at 10:00 a.m., on April 5, 1983, at the U.S. International Trade Commission Building. A prehearing conference will be held on Friday, March 25, 1983 at 10:00 a.m., in Room 117 of the U.S. International Trade Commission Building. Prehearing briefs will be due to the Secretary no later than the close of business on March 31, 1983, and must conform with the requirements of sections 201.6 and 201.8 of the Commission's rules. Posthearing briefs will be due to the Secretary no later than the close of business on April 8, 1983.

Inspection of request for investigation.—The request for an investigation filed in this case is available for public inspection at the Office of the Secretary, U.S. International Trade Commission.

For further information concerning the conduct of the investigation, hearing process, and rules of general application, consult the Commission's Rules of Practice and Procedure, 19 CFR § 201, as amended by 47 FR 6188, Feb. 10, 1982; 47 FR 13791, Apr. 1, 1982; and 47 FR 33682, Aug. 4, 1982, and part 206, subparts A and B (19 CFR 206 subparts A and B).

Issued: December 10, 1982.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-34016 Filed 12-14-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-124]

Textile Spinning Frames With Automatic Doffers; Proposed Termination of Investigation as to Two Respondents on the Basis of a Settlement Agreement and Request for Public Comments

AGENCY: International Trade Commission.

ACTION: Request for public comments on the proposed termination of two respondents in the above-captioned investigation based on a settlement agreement.

SUMMARY: Notice is hereby given that a joint motion has been filed to terminate the above-captioned investigation with respect to respondents Toyoda Automatic Loom Works, Ltd., and Toyoda Textile Machinery, Inc. ("Toyoda") on the basis of a settlement agreement executed by complainant Platt Saco Lowell Corp. (PSL) and the aforementioned respondents. Before taking final action on the motions, the Commission requests that interested members of the public submit written comments on the proposed termination

of the respondents based on the settlement agreement.

DATES: In order to be considered, comments must be received within 30 days of publication of this notice in the **Federal Register**. Comments should conform with section 201.8 of the Commission's Rules of Practice and Procedure (19 CFR § 201.8), and should be addressed to Kenneth R. Mason, Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436.

FOR FURTHER INFORMATION CONTACT: Sheila J. Landers, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–0421.

SUPPLEMENTARY INFORMATION: This investigation is being conducted under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and concerns alleged unfair trade practices in the importation into and sale in the United States of certain textile spinning frames with automatic doffers. Notice of the institution of the investigation was published in the **Federal Register** of August 4, 1982 (47 FR 33816).

On October 1, 1982, the complainant and Toyoda filed a joint motion (Motion 124–13) to terminate the investigation with respect to Toyoda pursuant to section 210.51(c) of the Commission's Rules of Practice and Procedure on the basis of a settlement agreement.

On October 26, 1982, the presiding officer recommended that Motion 124–13 be granted.

The Settlement Agreement

The settlement agreement provided that Toyoda agrees not to import the allegedly infringing spinning frames during the life of the patent in issue, except under license or if the patent is determined to be invalid or unenforceable. Toyoda agrees not to contest infringement of the patent in this investigation only, but does not admit infringement and reserves the right to contest it in any other proceeding, as well as to assert invalidity or unenforceability.

In an ancillary agreement, Toyoda agrees to pay PSL a certain sum of money for a paid-up license granted by PSL to TNS Mills, Inc., with respect to 10 allegedly infringing spinning frames already imported by Toyoda and sold to TNS Mills. PSL agrees to defend TNS Mills and Toyoda and to indemnify them for any damages and costs in any patent infringement suit instituted by a PSL licensor, or its assignees of licensees.

The complete text of the settlement agreement, except for one provision which contains confidential business information, is available for public inspection during official business hours (8:45 a.m. to 5:15 p.m.) at the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436.

Issued: December 8, 1982.

By order of the Commission.

Kenneth R. Mason.

Secretary.

[FR Doc. 82–34023 Filed 12–14–82; 8:45 am]

BILLING CODE 7020-02-M

NATIVE HAWAIIANS STUDY COMMISSION

Draft Report of Findings; Extension of Comment Period

The Native Hawaiians Study Commission announces its decision to extend the public comment period on the Commission's Draft Report of Findings to January 23, 1983. See 47 FR 42043, Sept. 23, 1982. This is a 60-day extension to the previous deadline of November 23, 1982. Comments should be sent to: Native Hawaiians Study Commission, U.S. Department of the Interior, 18th and C Sts., NW., Room 6220, Washington, D.C. 20240.

The Commission's final report, pursuant to Title III of Public Law 96–565, will be submitted to the U.S. Congress and to the President no later than June 23, 1983.

For further information, call Kina'u Boyd Kamali'i, Chairperson (808–546–3180) or Mary Lyon-Allen, Executive Director (202–343–3107).

Mary M. Lyon-Allen,

Executive Director.

[FR Doc. 82–34005 Filed 12–14–82; 8:45 am]

BILLING CODE 6820-BE-M

OFFICE OF MANAGEMENT AND BUDGET

[Circular A–102]

Uniform Requirements for Grants to State and Local Governments

AGENCY: Office of Management and Budget.

ACTION: Final notice.

EFFECTIVE DATE: Effective immediately.

This announces the availability of a document, entitled *Compliance Supplement*, that revises a similar publication issued previously to supplement the audit provisions of OMB Circular A–102, "Uniform requirements for grants to State and local governments."

The Supplement should be used when performing audits of State and local governments required by the audit provisions of Circular A–102. The use of this document in conjunction with the standard audit guide will facilitate a "single audit" that will encompass the needs of all users and will enable State and local governments to meet the Federal Government's need for assurance of compliance with applicable laws and regulations. It is expected that this will result in a more appropriate sharing of audit responsibilities among the levels of government, and further steamline the intergovernmental grants system. The Compliance Supplement was developed in consultation with the grantmaking agencies and relies on their interpretation of the major features of their programs.

The stock number of the Supplement is 041–001–00262–6; it is available only from the Government Printing Office (address below). The cost is $7.50. Make requests and send checks to: Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

FOR FURTHER INFORMATION CONTACT: Financial Management Division, Office of Management and Budget, Washington, D.C. 20503, Phone (202) 395–3993.

Candice C. Bryant,

Acting Deputy Associate Director for Administration.

[FR Doc. 82–33982 Filed 12–14–82; 8:45 am]

BILLING CODE 3110-01-M

POSTAL RATE COMMISSION

[Docket No. A83–9; Order No. 470]

Colon, North Carolina 27236; Nora Kelly McNeill, et al, Petitioners; Order of Filing of Appeal

December 10, 1982.

On December 6, 1982, the Commission received an appeal letter from Nora Kelly McNeill and others (hereinafter "Petitioners"), concerning the United States Postal Service's decision to close the Colon, North Carolina, post office. The appeal letter appears to request the review provided for by 404(b) of the Postal Reorganization Act (39 U.S.C. 404(b).[1]

The Act requires that the Postal Service provide the affected community with at least 60 days' notice of a proposed post office closing so as to

[1] 39 U.S.C. 404(b) was added to title 39 by Pub. L. 94–421 (September 24, 1976), 90 Stat. 1310–11. Our rules of practice governing these cases appear at 39 CFR 3001.110 *et seq.*

"ensure that such persons will have an opportunity to present their views.[2] The petition requests that the decision to close the Colon post office be reconsidered.

The Postal Reorganization Act states:

> The Postal Service shall provide a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining. No small post office shall be closed solely for operating at a deficit, it being the specific intent of the Congress that effective postal service be insured to residents of both urban and rural communities.[3]

Section 404(b)(2)(C) of the Act specifically includes consideration of this goal in determinations by the Postal Service to close post offices. The effect on the community is also a mandatory consideration under section 404(b)(2)(A) of the Act.

The petition appears to set forth the Postal Service action complained of in sufficient detail to warrant further inquiry to determine whether the Postal Service complied with its regulations for the closing of post offices.[4]

Upon preliminary inspection, this case appears to involve the following issues of law:

1. Whether the Postal Service's actions are consistent with the statutory requirement that the Postal Service provide a maximum degree of effective and regular postal services to rural areas, communities and small towns where post offices are not self-sustaining (39 U.S.C. 404(b)(2)(C)).

Other issues of law may become apparent when the Commission has had the opportunity to examine further the determination made by the Postal Service. The determination may be found to resolve adequately one or more of the issues involved in the case.

In view of the above, and in the interest of expediting this proceeding under the 120-day decisional deadline imposed by section 404(b)(5), the Postal Service is advised that the Commission reserves the right to request a legal memorandum from the Service on the issue described above and/or any further issues of law disclosed by the determination made in this case. In the event that the Commission finds such memorandum necessary to explain or clarify the Service's legal position or interpretation on any such issue, it will make the request therefor by order, specifying the issues to be addressed.

[2] 39 U.S.C. 404(b)(1).

[3] 39 U.S.C. 101(b).

[4] 42 FR 59079–85 (November 17, 1977). The Commission's standard of review is set forth at 39 U.S.C. 404(b)(5).

When such a request is issued, the memorandum shall be filed within 20 days of the issuance, and a copy of the memorandum shall be served on the Petitioners by the Service.

In briefing the case or in filing any motion to dismiss for want of prosecution, in appropriate circumstances the Service may incorporate by reference all or any portion of a legal memorandum filed pursuant to such an order.

The Act does not contemplate appointment of an Officer of the Commission in section 404(b) cases,[5] and none is being appointed.

The Commission orders:

(A) The appeal letter from Nora Kelly McNeill and other users of the Colon post office be accepted as a petition for review pursuant to section 404(b) of the Act (39 U.S.C. 404(b)).

(B) The Secretary of the Commission shall publish this Notice and Order in the **Federal Register**.

By the Commission.

David F. Harris,

Secretary.

December 6, 1982—Filing of Petition
December 10, 1982—Notice and Order of Filing of Appeal
December 21, 1982—Filing of Record by Postal Service [*see* 39 CFR 3001.113(a)].
December 27, 1982—Last day for filing of petitions to intervene [*see* 39 CFR 3001.111(b)].
January 5, 1983—Petitioners' Initial Brief [*see* 39 CFR 3001.115(a)].
January 20, 1983—Postal Service Answering Brief [*see* 39 CFR 3001.115(b)].
February 4, 1983—(1) Petitioners' Reply Brief should petitioners choose to file one [*see* 39 CFR 3001.115(c)].
(2) Deadline for motions by any party requesting oral argument. The Commission will exercise its discretion, as the interest of prompt and just decision may require, in scheduling or dispensing with oral argument.
April 5, 1983—Expiration of 120 day decisional schedule [*see* 39 U.S.C. 404(b)(5)].

[FR Doc. 82-34014 Filed 12-14-82; 8:45 am]
BILLING CODE 7715-01-M

[5] In the Matter of Gresham, S.C., Route #1, Docket No. A78–1 (May 11, 1978).

[Docket No. MC83–2]

Mail Classification Schedule, 1983 ZIP + 4 First-Class Subclasses; U.S. Postal Service's Filing of a Request for a Recommended Decision on Establishing ZIP + 4 Subclasses for First-Class Regular Mail and Cards

December 10, 1982.

Notice is hereby given that on December 8, 1982, the United States Postal Service ("Postal Service"), pursuant to Chapter 36 of Title 39, United States Code, filed a request with the Postal Rate Commission for a recommended decision on establishing subclasses of first-class mail for ZIP + 4 regular mail and ZIP + 4 cards. This filing has been assigned Docket No. MC83–2.[1]

The Postal Service states that its request contains such information and data which explain the nature, scope, significance and impact of the request.[2] The Postal Service proposes that first-class mail which is either nonpresorted or presorted to the 5-digit code be given a discount of ½ cent per piece if it bears a proper ZIP + 4 code and meets other eligibility and preparation requirements. The requirements are that (1) the mailing contains at least 500 pieces, (2) the pieces are machinable, (3) the addresses are readable by the Postal Service's processing equipment, and (4) postage is paid in a manner not requiring cancellation. The Postal Service's filing states further that mailings must be tendered at limited acceptance points, generally post offices, and must be in trays. The Postal Service says that its request will advance the policies of the Postal Reorganization Act generally, and the proposal particularly furthers the policies of providing types of mail service to meet the needs of different categories of mail and mail users, and to provide prompt, reliable and efficient services.

Hearings will be held on the proposal submitted by the Postal Service in Docket No. MC83–2. Any person desiring to be heard with reference thereto and to become a party to the proceeding, or to participate as a party in any hearing thereon, should file a petition for leave to intervene. Petitions for leave to intervene must be filed with the Secretary, Postal Rate Commission, Washington, D.C. 20268 on or before December 30, 1982, and must be in accordance with section 20 of the Commission's rule of practice (39 CFR 3001.20). We direct specific attention to section 20(b) which provides that petitions for leave to intervene shall affirmatively state whether or not the petitioner requests a hearing or, in lieu thereof, a conference; and further, whether or not the petitioner intends to

[1] While this case has both rate and classification elements, we have followed the Postal Service's designation and the case has been docketed using the classification nomenclature of "MC." However, no particular significance should be attached to that nomeclature. The Commission contemplates following a 10-month schedule. 39 U.S.C. 3624(c).

[2] The specific additions to the Domestic Mail Classification Schedule are set out in legislative format in Attachment A of the Postal Service's Request.

participate actively in the hearing.[3] Alternatively, persons seeking limited participation, but who do not wish to become parties may, on or before December 30, 1982, file a written request for leave to be heard as a "limited participator," pursuant to section 19a of the Commission's rules of practice (39 CFR 3001.19a). In addition, persons wishing to express their views informally, and not desiring to become a party or limited participant, may file comments pursuant to section 19b of the Commission's rules, 39 CFR 3001.19b.

At the same time as it filed its Proposal, the Postal Service, pursuant to Commission rules 22 and 64(h)(3), filed a motion for waiver of the requirements of section 54(f) and 54(h), which are applicable through section 64(h)(2), and section 64(d). These sections require various cost analyses. The Postal Service seeks a waiver of these sections, insofar as they require the projection and allocation of costs through fiscal year 1984, the test year. The Postal Service says it should be granted a waiver for these cost analyses because it has quantified the pertinent test year cost consequences on a unit basis, with proposed rates designed to equal cost savings. The Postal Service asserts that the substantial equality of cost and revenue consequences make a Service-wide financial projection superfluous in this proceeding.

The Postal Service also requests waiver of sections 31(k) and 64(g), insofar as they require complete documentation of Postal Service Exhibit 2A, presenting the calculation of national coverage factors for the automated mail processing equipment during the test year. The Postal Service explains that the underlying data are facility-specific Origin Destination Information System (ODIS) data, which the Postal Service has previously held proprietary.

Persons who wish to address the Postal Service's motion should file their answers on or before January 7, 1983.

The request of the Postal Service for a recommended decision on establishing subclasses for ZIP + 4 first-class mail and the motion for waiver of certain filing provisions of the Commission's rules of practice and procedure are on file with the Commission and are available for public inspection during regular business hours.

[3] In this regard, parties who intend to participate actively in this proceeding are encouraged to inform the Postal Service informally and promptly of desired preliminary clarifications of the Postal Service's presentation wherever the participant believes such clarification will expedite this proceeding.

The Officer of the Commission (OOC) designated to represent the interest of the general public in this proceeding will be Stephen A. Gold. During this proceeding, the OOC will direct the activities of Commission personnel assigned to assist him, and neither he nor such personnel will participate in or advise as to any Commission decision in this case. *See* 39 CFR 3001.8. The OOC will supply, for the record, at the appropriate time, the names of all Commission personnel assigned to assist him in this case. In this proceeding, the OOC shall be separately served with three copies of all filings in addition to, and simultaneously with, service on the Commission of the 25 copies required by section 10(c) of the rules of practice. 39 CFR 3001.10(c).

By order of the Commission.

David F. Harris,

Secretary.

[FR Doc. 82-34015 Filed 12-14-82; 8:45 am]

BILLING CODE 7715-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 12872; 812-5321]

Boston Company Fund; Filing of Application

December 6, 1982.

In the matter of The Boston Company Fund, One Boston Place, Boston, Massachusetts 02106 (812-5321). Notice is hereby given that The Boston Company Fund ("Applicant"), a no-load, open-end, diversified management investment company registered under the Investment Company Act of 1940 ("Act"), filed an application on September 20, 1982 and amendment thereto on December 3, 1982 requesting an order of the Commission, pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 thereunder to the extent necessary to permit Applicant to value the portfolio securities of The Boston Company Government Money Fund ("Fund") using the amortized cost method of valuation. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below. Such persons are also referred to the Act for the complete text of those provisions thereof for which an exemption is being sought.

Applicant states that it is a Massachusetts business trust authorized to issue an unlimited number of shares of beneficial interst of separate series. Applicant further states that shares of five series have been authorized, one of which is The Boston Company Government Money Fund, a "money market" fund.

Applicant states that the investment objective of the Fund is to seek a high level of current income, safety of principal and daily liquidity through investments solely in obligations of the United States Government and its agencies and instrumentalities that are supported by the full faith and credit of the United States of America ("Government Obligations"), and repurchase agreements secured only by such Government Obligations. The application states that Government Obligations that are supported by the full faith and credit of the United States include Treasury Bills and Government National Mortgage Association pass-through certificates. Applicant represents that the Fund may not invest in a repurchase agreement maturing in more than seven days if such investment together with other illiquid securities held by the Fund exceed 10% of the value of the Fund's net assets.

Applicant represents that investments by the Fund are presently valued in accordance with Rule 2a-4 under the Act, as that rule was interpreted for money market funds in Investment Company Release No. 9786 (May 31, 1977). Applicant states that it has maintained a constant net asset value of $1.000 per share of the Fund since it began issuing shares of the Fund to the public on May 3, 1982. As of November 19, 1982, the Fund had total shares outstanding of 27,440,450.34, and total net assets of 27,450,192.92, with a dollar-weighted average portfolio maturity of 67 days. Applicant states that the discrepancy of 9,742.58 now existing between the Fund's total net assets and number of outstanding shares is represented by realized gain on the sale of certain of the Fund's portfolio securities. Applicant represents that before December 31, 1982, Applicant will restructure the Fund's portfolio so that, on the date of transition to amortized cost valuation (which will be the earliest possible date after the Commission issues an order of exemption on the application), the Fund will have a dollar-weighted average portfolio maturity of under 60 days, and no instrument in its portfolio will have a maturity of 60 days or more. Applicant states that in the process of restructuring its portfolio, Applicant may dispose of portfolio securities for the Fund, thus realizing gains or losses. Applicant states that it will distribute the Fund's net realized gains for the year, if any, as part of the

dividend to be declared on December 31, 1982, the end of Applicant's fiscal year. Applicant states, conversely, that if the Fund has net realized losses at December 31, 1982 (although Applicant does not anticipate a net realized loss at fiscal year end), Applicant will reduce the number of the Fund's total outstanding shares by December 31, 1982. In view of the fact that, on the date of transition, the Fund will have no portfolio securities with maturities of 60 days or more and will have a dollar-weighted average portfolio maturity of under 60 days, Applicant anticipates that any variation on that date between the Fund's total number of shares outstanding and its total net assets will be due to unrealized appreciation or depreciation of a *de minimis* amount. Applicant therefore believes that no adjustment in the Fund's total number of shares outstanding on the day of conversion to amortized cost valuation for the Fund is warranted. Applicant states that on the day of conversion, because they will all have maturities of under 60 days, instruments in the Fund's portfolio will be valued at amortized cost.

Applicant states that it believes that for the Fund to be in a position to meet the needs and expectations of potential investors and to offer its shareholders relative stability of principal and a relatively smooth stream of income at currently competitive rates, it must be able to price its portfolio at amortized cost. Applicant states that if it is not permitted to price the Fund's portfolio at amortized cost, this could result in artificial yield differentials caused by insignificant changes in the market price of securities in the Fund's portfolio, and the Fund will have difficulty maintaining a constant net asset value per share. Applicant asserts that artificial yield differentials and an unstable net asset value per share would be clearly contrary to the best interests of the Fund's shareholders.

Applicant asserts that the Commission has expressed its view that, among other things, Rule 2a–4 requires that portfolio instruments of money market funds be valued with reference to market factors and that it would be generally inconsistent with the provisions of Rule 2a–4 for a money market fund to value its portfolio instruments having maturities in excess of 60 days on an amortized cost basis. Investment Company Act Release No. 12206 (February 1, 1982); Investment Company Act Release No. 9786 (May 31, 1977).

Applicant also asserts that in Investment Company Act Release No. 10666 (April 18, 1979), the Commission published the position of its Division of Investment Management regarding investment companies entering into repurchase agreements with broker-dealers. Applicant asserts that the Division took the position that it would not recommend that enforcement action under Section 12(d)(3) of the Act be brought against investment companies with respect to repurchase agreements if such a transaction is structured in a manner reasonably designed to collateralize fully the investment company loan, i.e., the value of the security transferred to the investment company is, and during the entire term of the agreement remains, at least equal to the amount of the loan including accrued interest earned thereon. Applicant further asserts that the Division made statements regarding repurchase agreements in the areas of accounting, disclosure, and compliance with the Act. Applicant states that while the statements in Release 10666 are directed to repurchase agreements with broker-dealers, Applicant's board of trustees represents that, in supervising the Fund's operations and delegating special responsibilities to Applicant's investment adviser, they will undertake, as part of the procedure referred to in condition 1 below, to ensure that Applicant will comply with Release No. 10666 when entering into repurchase agreements on behalf of the Fund with banks as well as broker-dealers.

Applicant states that it undertakes to determine the maturity of portfolio instruments for the Fund in accordance with the provisions of proposed Rule 2a–7, set forth in Investment Company Act Release No. 12206, except that if that rule should ultimately be adopted, the maturity of an instrument shall be determined in accordance with the provisions of the Rule as adopted.

Section 6(c) of the Act provides, in pertinent part, that the Commission by order upon application, may conditionally or unconditionally exempt any person, security, or transaction or any class or classes of persons, securities or transactions from any provision of the Act or of any rule or regulation under the Act, if and to the extent that such exemption is necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicant states that it believes an exemption to the extent necessary to permit Applicant to employ the amortized cost method of pricing portfolio instruments of the Fund is consistent with the standards set forth in Section 6(c) of the Act for the following reasons: (1) The amortized cost method of valuation will permit the Fund to provide the stability of principal and steady flow of investment income demanded by investors; (2) The Fund will make investments only in instruments having a remaining maturity of one year or less and its average portfolio maturity will not exceed 120 days; (3) Given the nature of the Fund's policies and operations, only a relatively negligible discrepancy will exist between the market value and the amortized cost value of the Fund's portfolio securities; (4) The possibility of change in the Fund's price per share is largely obviated by the Fund's investment policies; (5) Investors in the Fund will receive a yield related to yields available in the general debt market that otherwise would not be available if the Fund were required to maintain a portfolio having an average maturity of a duration shorter than proposed; and (6) Applicant's trustees have determined in good faith, in light of the Fund's characteristics and the needs of investors that, absent unusual or extraordinary circumstances, the amortized cost method of valuing portfolio securities is appropriate and preferable and will reflect the fair value of the Fund's securities.

Applicant states that in order to enhance investor protection, Applicant consents to issuance of the requested order of exemption subject to the following conditions:

1. In supervising the Fund's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, the Applicant's board of trustees undertakes—as a particular responsibility within the overall duty of care owed to its shareholders—to establish procedures reasonably designed, taking into account current market conditions and the Fund's investment objectives, to stabilize the Fund's net asset value per share, as computed for the purposes of distribution, redemption and repurchase, at $1.00 per share.

2. Included within the procedures to be adopted by the Applicant's trustees shall be the following:

(a) Review by the board of trustees as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from the Fund's $1.00 amortized cost price per

share, and the maintenance of records of such review.[1]

(b) In the event such deviation from the Fund's $1.00 amortized cost price per share exceeds ½ of 1 percent, a requirement that the board of trustees will promptly consider what action, if any, should be initiated by it.

(c) Where the board of trustees believes the extent of any deviation from the Fund's $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which may include: redeeming shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses, or to shorten the average maturity of the Fund; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

3. The Fund will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that the Fund will not (a) purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity which exceeds 120 days.[2]

4. Applicant will record, maintain, and preserve permanently in an easily accessible place a written copy of the procedures (and any modification thereto) described in condition 1 above, and will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of its board of trustees' considerations and actions taken in connection with the discharge of their responsibilities, as set forth above, to be included in the minutes of the trustees' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act, as if such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. The Fund will limit its portfolio investments, including repurchase agreements, to those United States dollar-denominated instruments which the Applicant's board of trustees determines present minimal credit risks, and which are of "high quality" as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by Applicants board of trustees.

6. Applicant will include in each of quarterly report for the Fund, as an attachment to Form N–1Q, a statement as to whether any action pursuant to paragraph 2(c) above was taken during the preceding fiscal quarter and, if any such action was taken, will describe the nature and circumstances of such action.

Notice is further given that any interested person may, not later than December 29, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. An order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon its own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–34086 Filed 12–14–82; 8:45 am]

BILLING CODE 8010–01–M

[1] To fulfill this condition, the Fund intends to use actual quotations or estimates of market value reflecting current market conditions chosen by Applicant's trustees in the exercise of their discretion to be appropriate indicators of value which may include, *inter alia*, (1) quotations or estimates of market value for individual portfolio instruments, or (2) values obtained from yield data relating to classes of money market instruments published by reputable sources.

[2] In fulfilling this condition, if the disposition of a portfolio security results in a dollar-weighted average portfolio maturity in excess of 120 days, the Fund will invest available cash in such a manner as to reduce the dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

[Release No. 22761; 70–6802]

Central and South West Services, Inc.; Proposed Changes in Charges and Billing by Subsidiary Service Company

December 6, 1982.

In the matter of Central and South West Services., Suite 2700, One Main Place, Dallas, Texas 75202 (70–6802).

Central and South West Services, Inc. ("CSWS"), a service company subsidiary of Central and South West Corporation ("CSW"), a registered holding company, has filed a declaration with this Commission pursuant to Section 13 of the Public Utility Holding Company Act of 1935 ("Act") and Rules 86, 87, 88, 90, and 91 thereunder.

By order dated March 30, 1969 (HCAR No. 16317), CSW was authorized to establish CSWS to perform services for CSW and its operating utility subsidiaries. CSWS commenced operations in 1969 and provides a variety of management and administrative services; engineering planning; construction management; tax, accounting, budgeting, and financing services; employee benefit plan supervision and development; employee and public relations services; operations of the corporate data center; shareholder and corporate activities; and other work for the CSW System.

The present declaration is being filed by CSWS for the purpose of: (1) providing for the billing of services rendered to Transok Pipe Line Company ("Transok") and subsidiary companies which may be formed in the future, (2) securing authorization for a change in the cost allocation method previously established, and (3) providing for joint construction project payments made by CSWS on behalf of the operating utility subsidiaries of CSW. Use of the proposed allocation method will commence as of January 1, 1983.

On September 30, 1982, Public Service Company of Oklahoma, a subsidiary of CSW, transferred the ownership of Transok to CSW, and, now that Transok is a first-tier subsidiary, CSWS will provide services to Transok on a regular basis. For this reason, it is proposed to bring Transok into the billing structure. In addition, to the extent CSW is authorized to and does in the future form or otherwise acquire other non-operating company subsidiaries, it is proposed that such subsidiaries also be brought into the billing structure.

It is stated that the three formulas for allocating indirect costs are no longer adequate and that, therefore, it is proposed that the cost allocation

method be amended. Under the proposed allocation method, costs will continue to be captured in work orders in accordance with the Commission's Uniform System of Accounts for Mutual Service Companies and Subsidiary Service Companies. These costs will be billed to System companies as follows: I. Costs incurred in connection with services performed for a specific company (including subsidiary companies formed in the future) will be billed to that company. II. Costs incurred in connection with services performed for two or more companies will be allocated among and billed to those companies. The appropriate method of allocation will be determined by CSWS at the time the work order is initiated, and notice of the allocation method will be given to the companies affected. III. Costs incurred by CSWS which are not directly allocable to one or more of the System companies are known as indirect costs. Indirect costs of each functional area will be allocated among and billed to the System companies based on one or more of the billing methods named below. No substitution or change in the proposed methods of allocation will be made without further approval of the Commission.

The various bases of allocation to be employed by CSWS for billings to CSW System companies are as follows: (1) Total Assets with 20% Allocated to CSW, (2) Total Assets, (3) Peak Load, (4) Average Number of ultimate Customers, (5) KWH Sales, (6) Peak Load/Average Customers/KWH Sales, (7) Average Peak Load for Past Three years, (8) Computer Resource Units, (9) Number of Employees, (10) Total Gross Utility Plant, and (11) Total Common Stock Equity with 20% Allocated to CSW. The above bases of allocation will be used to allocate both direct and indirect costs.

CSWS is proceeding with plans to construct jointly-owned generating units and direct-current interconnections ("joint projects"). It is anticipated that approximately $130 million will be spent on such projects during 1983. CSWS proposes to treat accumulation for billing of expenditures associated with joint projects in accordance with Instruction 01–4 of the Commission's Uniform System of Accounts for Mutual Service Companies and Subsidiary Service Companies. Under this Instruction, CSWS salaries and allocated overheads will be accumulated in CSWS expense accounts and billed monthly as capital items directly to the participating companies. Such amounts will reimbursed monthly by the subsidiary companies through the CSW System Money Pool. Amounts for materials and outside services associated with joint projects will be paid by CSWS from a bank account established for the project. Each project will have a unique bank account dedicated for that project only. Disbursements from the account will be excluded from the CSWS accounting system; the charges will be accumulated in a series of work order accounts and communicated monthly to the participating companies for direct entry to their accounting systems. As disbursements are made, the participating companies will reimburse the project daily through the CSW System Money Pool.

The declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by December 29, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the declaration, as filed or as it may be amended, may be permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-34083 Filed 12-14-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22766; 70-6805]

Middle South Utilities, Inc. et al.; Sale of Common Stock by Subsidiaries to Holding Company and Acquisition by Holding Company

December 9, 1982.

In the matter of Middle South Utilities, Inc., 225 Baronne Street, New Orleans, Louisiana 70112; Mississippi Power & Light Company, Electric Building, Jackson, Mississippi 39205 and Arkansas Power & Light Company, First National Building, Little Rock, Arkansas 72203, (70–6805). Middle South Utilities, Inc. ("Middle South"), a registered holding company, and two utility subsidiaries, Mississippi Power & Light Company ("Mississippi") and Arkansas Power & Light Company ("Arkansas"), have filed an application-declaration with this Commission pursuant to Sections 6, 7, 9(a), 10, and 12(f) of the Public Utility Holding Company Act of 1935 and Rules 43 and 50(a)(3) promulgated thereunder.

Certain of the operating subsidiaries of Middle South, including Arkansas and Mississippi (collectively "Operating Subsidiaries"), were authorized by order dated December 17, 1981 (HCAR No. 22321) to issue and sell to Middle South, from time to time through December 31, 1982, up to 6,400,000 shares and 870,000 shares, respectively, or common stock.

On October 18, 1982, Arkansas issued and sold to Middle South 3,200,000 shares of its previously authorized common stock. It is currently anticipated that Arkansas and Mississippi will have issued and sold to Middle South by the end of 1982, the remaining authorized shares of their common stock.

To meet Arkansas' financing requirements through December 31, 1983, Arkansas proposes to issue and sell to Middle South and Middle South proposes to acquire up to 5,200,000 additional shares of common stock, having a par value and price of $12.50 per share, of Arkansas ("Arkansas Stock") for an aggregate cash consideration of up to $65,000,000. The Arkansas Stock is in addition to the remaining 3,200,000 shares of Arkansas' common stock that are presently authorized to be sold to Middle South during 1982.

To meet Mississippi's financing requirements through December 31, 1983, Mississippi proposes to issue and sell to Middle South and Middle South proposes to acquire up to 2,175,000 additional shares of common stock, without nominal or par value, of Mississippi ("Mississippi Stock") at a price of $23.00 per share or an aggregate cash consideration of up to $50,025,000. The Mississippi Stock is in addition to the 870,000 shares of Mississippi's common stock that are presently authorized to be sold to Middle South during 1982.

The respective net proceeds derived from the issuance and sale of the Arkansas Stock and the Mississippi Stock will be used by the particular subsidiary for the financing in part of (including the retirement of short-term indebtedness incurred in financing) its construction program and for other corporate purposes. Therefore, each of the Operating Subsidiaries and Middle South believe it is preferable for each subsidiary's common stock sales to be timed to coincide with that subsidiary's cash needs, which are primarily determined by the nature and pace of

the construction program of that subsidiary. As of September 30, 1982, the construction program of Arkansas and Mississippi for 1983 were estimated to cost $337.8 million and $76.9 million, respectively.

Upon each issuance and sale of shares of the Arkansas Stock and the Mississippi Stock, Arkansas and Mississippi propose to credit their respective Common Stock Capital Accounts with the amount (in the aggregate of up to $65,000,000 for Arkansas and up to $50,025,000 for Mississippi) received by them for such stock, and Middle South proposes to debit its Investment Account with the amount (in the aggregate of up to $115,025,000) of its cash investment in such stock.

The application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by December 30, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants-declarants at the addresses specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-34070 Filed 12-14-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12885; 811-2779]

Minneapolis Shareholders Co.; Filing of Application

December 8, 1982.

In the matter of Minneapolis Shareholders Company, 1215 Marshall Street N.E., Minneaplois, Minnesota 55440 (811-2779). Minneapolis Shareholders Company ("Applicant"), registered under the Investment Company Act of 1940 ("Act") as a closed-end, non-diversified, management investment company, filed an application for an order of the Commission pursuant to Section 8(f) of the Act declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

On October 13, 1977, Applicant, a Minnesota corporation, filed a notification of registration pursuant to Section 8(a) of the Act and was deemed registered under the Act on that date.

Applicant represents that on January 5, 1979 it transferred substantially all of its funds to a separate bank account entitled "Liquidation Account" for the purpose of making liquidation distributions to its shareholders. Applicant further represents that the first distribution payment was set at $5.38 per share and that a final distribution of $0.56 per share to shareholders of record on December 27, 1978, was paid on February 14, 1980. Applicant states that following the payment of final liquidation expenses, the sum of $113,234.22 was deposited in a non-interest bearing account with the Dakota Bank and Trust Company of Fargo, North Dakota, representing funds held for payment on the 19,063 shares that had not been tendered to the Applicant. Applicant further states that on March 1, 1982, $74,337.02 was still being held in the account, representing 12,163 shares that had not been tendered for payment; $472.80 represented amounts that had been held by Applicant's transfer agent for payment of uncashed dividend checks dating back to 1974; the remaining amount of $1,616.00 represented funds designated to pay legal and accounting fees, mailing and other expenses of liquidation. Applicant further represents that funds held for payment of unclaimed proceeds will be paid to the Minnesota State Treasurer pursuant to chapter 345 of the Minnesota Statutes, the statute dealing with the disposition of unclaimed property.,

Applicant represents that it has no other debts or outstanding liabilities; it has no other assets or securityholders, and is not a party to any litigation or administrative proceedings. Applicant states that it is not now engaged, and does not propose to engage in any business activities other than those necessary for the winding up of its affairs.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission, on its own motion or upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the effectiveness of such order, the registration of such company under the Act shall cease to be in effect.

Notice is hereby given that any interested person may, not later than January 3, 1982, at 5:30 p.m., submit to the Commission, in writing, a request for a hearing on the application accompanied by a statement as to the nature of his/her interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he/she may request that he/she be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit, or in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. An order disposing of the application herein will be issued as a matter of course following said date unless the Commission thereafter orders a hearing upon request or upon its own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82-34084 Filed 12-14-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12883; 812-5315]

Prudential-Bache Securities, Inc. et al.; Filing of Application

December 8, 1982.

In the matter of Prudential-Bache Securities, Inc. (formerly Bache Halsey Stuart Shields Incorporated), Chancellor Cash Fund, Inc., Chancellor Equity Fund, Inc., Chancellor Government Securities Trust, Chancellor High Yield Fund, Inc., Chancellor High Yield Municipals, Inc., Chancellor New Decade Growth Fund, Inc., Chancellor Quality Income Fund, Inc., Chancellor Tax-Free Money Fund, Inc., Chancellor Tax-Managed Utility Fund, Inc., Money Mart Assets, Inc., 100 Gold Street, New York, NY 10292, (812-5315). Notice is hereby given that Chancellor Cash Fund, Inc. ("Cash"), Chancellor Equity Fund, Inc. ("Equity"), Chancellor Government Securities Trust

(Intermediate Term Series ("Intermediate") and Money Market Series ("Money Market"), Chancellor High Yield Fund, Inc. ("High Yield"), Chancellor High Yield Municipals, Inc. ("Municipals"), Chancellor New Decade Growth Fund, Inc. ("New Decade"), Chancellor Quality Income Fund, Inc. ("Quality Income"), Chancellor Tax-Free Money Fund, Inc. ("Tax-Free"), Chancellor Tax-Managed Utility Fund, Inc. ("Utility"), Money Mart Assets, Inc. ("MMA") (collectively, the "Funds") and Prudential-Bache Securities, Inc. ("PrudentialBache," collectively with the Funds, "Applicants") filed an application on September 15, 1982, and an amendment thereto on November 12, 1982, requesting an order of the Commission pursuant to Section 11(a) of the Investment Company Act of 1940 ("Act") approving certain proposed offers of exchange on a basis other than relative net asset values of the shares involved in the exchanges, and pursuant to Section 6(c) of the Act exempting Applicants from the provisions of Section 22(d) of the Act in connection with those exchanges. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant state that each of the Funds, except Intermediate and Money Market, is registered under the Act as an open-end, management investment company. Intermediate and Money Market are series of Chancellor Government Securities Trust, which is registered under the Act as an open-end, management investment company. Prudential-Bache is the principal distributor for, and maintains continuous public offerings of the shares of, each of the Funds. Shares of Cash, Money Market, Tax-Free and MMA (the "No-Load Funds") are offered at net asset value without a sales charge; shares of Equity, High Yield, New Decade, Quality Income and Utility (the "Load Funds"), Intermediate and Municipals are offered at their respective net asset values plus a sales charge, as set forth below.

Size of transaction at offering price	Sales charge as a percentage of offering price		
	Intermediate	Municipals	Load funds
Less than $25,000	1.00	4.50	8.75
$25,000 to $49,999	.75	4.00	8.25
$50,000 to $99,999	.50	3.50	4.25
$100,000 to $249,999	.25	3.00	3.25
$250,000 to $499,999	.125	2.50	2.50
$500,000 to $999,999	.125	2.00	2.00
$1,000,000 or more	.0625	1.25	1.25

Applicants state that exchanges of shares of the Funds at relative net asset values are permitted under Section 11(a) of the Act and are presently available to shareholders of the Funds. Applicants further state that pursuant to an order of the Commission (Investment Company Act Release No. 12139, January 5, 1982), the following additional exchanges of shares of certain of the Funds are available to shareholders of those Funds:

(1) Shares of High Yield, New Decade and Utility, including reinvested shares, may be exchanged for shares of Municipals at their relative net asset values, plus the difference between the sales charges of Municipals and each of High Yield, New Decade and Utility.

(2) Shares of High Yield, New Decade and Utility, including reinvested shares, may be exchanged for shares of Tax-free and MMA, acquired in exchange for shares of Municipals, at their relative net asset value plus the difference between the sales charges of Municipals and each of High Yield, New Decade and Utility.

Applicants state that each of the foregoing exchanges is subject to the condition that the shares to be exchanged must have a net asset value of the minimum initial amount required for investment or the minimum amount required for reinvestment in the shares to be acquired, as the case may be.

Applicants propose to permit the following additional exchanges:

1. The Load Funds and Municipals propose to offer their shares to shareholders of Intermediate in exchange for shares of Intermediate at their relative net asset value per share at the time of the exchange, plus the sales charge described in the prospectus of each Load Fund or Municipals (in the case of each Load Fund, a maximum of 6.75%, and, in the case of Municipals, a maximum of 4.50%), less an amount equal to the sales charge previously paid on the shares of Intermediate. The Load Funds also propose to offer their shares to shareholders of each of the No-Load Funds, in exchange for shares of each of the No-Load Funds acquired in exchange for shares of Intermediate, at their relative net asset value per share at the time of the exchange, plus the sales charge described in the prospectus of each Load Fund or Municipals, less an amount equal to the sales charge previously paid on the shares of Intermediate exchanged for the shares of each of the No-Load Funds.

2. Equity and Quality Income propose to offer their shares to shareholders of Municipals in exchange for shares of Municipals at their relative net asset value per share at the time of the exchange, plus the sales charge described in the prospectus of Equity or Quality Income (in each case, a maximum of 6.75%), less an amount equal to the sales charge previously paid on the shares of Municipals. Equity and Quality Income also propose to offer their shares to shareholders of each of the No-Load Funds, in exchange for shares of each of the No-Load Funds acquired in exchange for shares of Municipals, at their relative net asset value per share at the time of the exchange, plus the sales charge described in the prospectus of Equity or Quality Income, less an amount equal to the sales charge previously paid on the shares of Municipals exchanged for the shares of each of the Funds.

3. High Yield, Utility and New Decade propose to offer their shares to shareholders of Cash and Money Market, in exchange for shares of Cash and Money Market, respectively, acquired in exchange for shares of Municipals, at their relative net asset value per share at the time of the exchange, plus the sales charge described in the prospectus of High Yield, Utility or New Decade (in each case, a maximum of 6.75%), less an amount equal to the sales charge previously paid on the shares of Municipals exchanged for the shares of Cash and Money Market, respectively.

4. Prudential-Bache also proposes to offer to shareholders of any registered investment company primarily distributed by Prudential-Bache, including the Funds, and funds to be created in the future (a "Prudential-Bache Fund"), shares of any of the Load Funds, Municipals, Intermediate or any other Bache Fund having a sales charge in exchange for shares of such first Bache Fund at their relative net asset value per share plus the sales charge described in the prospectus of such Load Fund, Municipals, Intermediate or such other Prudential-Bache Fund, less an amount equal to the sales charge previously paid on the shares of the first Prudential-Bache Fund. Bache also proposes to offer to shareholders of any No-Load Fund or other Prudential-Bache Fund having no sales charge, which shares have been acquired in exchange for shares of such first Prudential-Bache Fund, shares of any of the Load Funds, Municipals, Intermediate or any other Prudential-Bache Fund at their relative net asset value per share at the time of exchange, plus the sales charge described in the prospectus of such Fund, Municipals, Intermediate or such other Prudential-Bache Fund, less an amount equal to the sales charge

previously paid on the shares of the first Prudential-Bache Fund.

Applicants state that a shareholder acquiring shares of any of the Load Funds or Municipals, as the case may be, through any combination of exchanges or purchases of shares of the No-Load Funds and of Intermediate or Municipals, as the case may be, would pay the same overall sales charge as a proportion of net asset value (or of the public offering price) that he would have paid had he directly purchased shares of one of the Load Funds or Municipals, as the case may be, with the same asset value. For any other Prudential-Bache Fund to which this exchange privilege would apply, the same result will occur.

Applicants state that in the event they decide they will no longer provide the proposed exchange privilege, they propose that no notice thereof would be provided to shareholders of the Funds, other than through the next effective prospectus of such companies. However, the Applicants do not currently contemplate that any such termination would occur before the effective date of the post-effective amendment of which such prospectus formed a part.

Applicants propose that, in the event a shareholder desires to make any of the exchanges covered by the application, shares that may be exchanged at relative net asset value without sales charge will be exchanged first. The remaining shares to be exchanged will be selected from those shares which are entitled to be exchanged upon payment of the lowest additional sales charge.

Applicants state that the purpose of the proposed exchange plan is to permit a shareholder of Municipals, Intermediate or of one of the No-Load Funds whose shares were acquired as a result of an exchange for shares of Municipals or Intermediate to change his investment to an investment company with different investment objectives, but within the Prudential-Bache group of funds, without paying the full sales charge otherwise applicable. An exchange offer of one of the Load Funds to such a shareholder of Municipals or of one of the No-Load Funds, or an exchange offer of one of the Load Funds or Municipals to such a shareholder of Intermediate or of one of the No-Load Funds, at the relative net asset value of one of the Load Funds, would inequitably benefit such shareholders who would have paid substantially less sales charges on their initial investment in shares of Municipals or Intermediate than similarly situated investors in one of the Load Funds. Since the proposed offers would allow exchanges that would take place on a basis other than the net asset values of the shares proposed to be exchanged, the proposed offers must be submitted to the Commission for approval pursuant to Section 11(a) of the Act. In addition, since the proposed exchanges might be deemed to involve sales of shares of the Load Funds and Municipals at a sales charge other than that described in those Funds' prospectuses, Applicants request an order of the Commission pursuant to Section 6(c) of the Act exempting them from the provisions of Section 22(d) of the Act to the extent necessary to allow the proposed offers of exchange.

Section 6(c) provides, in part, that the Commission by order upon application, may conditionally or unconditionally exempt any person, security, or transaction or any class of persons, securities, or transactions from any provision or provisions of the Act and the rules promulgated thereunder, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants assert that the proposed exchange plan is fair and equitable to shareholders of all of the Funds while at the same time giving all of then desirable flexibility in their financial planning and that the orders requested hereby are appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than January 3, 1983, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. An order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon its own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82-34065 Filed 12-14-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22764; 70-6822]

Public Service Company of Oklahoma; Proposed Issuance and Sale of First Mortgage Bonds at Competitive Bidding

December 8, 1982.

In the matter of Public Service Company of Oklahoma, 212 East 6th Street, Tulsa, Oklahoma 74119, (70-6822). Public Service Company of Oklahoma ("Public Service"), an electric utility subsidiary of Central and South West Corporation, a registered holding company, has filed a declaration with this Commission pursuant to Sections 6(b) and 7 of the Public Utility Holding Company Act of 1935 and Rules 42 and 50 promulgated thereunder.

Public Service proposes to issue and sell up to $50 million principal amount of its first mortgage bonds, having a maturity of not less than five nor more than thirty years, in one or more transactions from time to time through the period ending December 31, 1983. The price and annual interest rate will be determined by competitive bidding at the time of the sale or sales. Public Service may employ alternative competitive bidding procedures in accordance with the Commission's statement of policy pursuant to Rule 50(a)(5) under the Act (HCAR No. 22623, September 2, 1982). Public Service also indicates, however, that it may eventually request an exception from all competitive bidding requirements under Rule 50(a)(5) so that the bonds may be offered through a negotiated public offering or private placement.

The bonds will be issued under a mortgage indenture, dated July 1, 1945, as supplemented and amended, and as to be further amended by a proposed supplemental indenture. The net proceeds from the issuance and sale of the bonds will be used to repay, in part, amounts of short-term debt outstanding and to finance portions of Public Service's general construction program.

The declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested

persons wishing to comment or request a hearing should submit their views in writing by January 3, 1983, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarant at the address specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified or any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the declaration, as filed or as it may be amended, may be permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82-34072 Filed 12-14-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22767; 70-6819]

Southwestern Electric Power Co.; Proposal To Issue and Sell Preferred Stock at Competitive Bidding

December 8, 1982.

In the matter of Southwestern Electric Power Company, P.O. Box 21106, Shreveport, Louisiana 71156, (70-6819). Southwestern Electric Power Company ("SWEPCO"), an electric utility subsidiary of Central and South West Corporation, a registered holding company, has filed a declaration with this Commission pursuant to Sections 6(a) and 7 of the Public Utility Holding Company Act of 1935 ("Act") and Rules 42 and 50 promulgated thereunder.

SWEPCO proposes to issue and sell at competitive bidding up to 400,000 shares of preferred stock, par value $100 per share, in one or more series from time to time during the period ending December 31, 1983. Each series of preferred stock will be sold at a price to SWEPCO of not less than $100 nor more than $102.75 per share, with dividends to accrue thereon only from the date of issue. The filing also states that, depending upon market conditions, the offering of the preferred stock may provide for periodic redemption through the operation of a cash sinking fund.

SWEPCO has stated to the Commission that it may employ alternative competitive bidding procedures in accordance with the Commission's statement of policy pursuant to Rule 50(a)(5) under the Act (HCAR No. 22623, September 2, 1982). It is also indicated, however, that SWEPCO may eventually request an exception from all competitive bidding requirements under Rule 50(a)(5) so that the preferred stock may be offered through a negotiated public offering or private placement. The net proceeds from the issuance and sale of the preferred stock will be used, in part, to finance SWEPCO's construction and fuel exploration and development program, and to retire certain amounts of outstanding short-term debt.

The declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by January 4, 1983, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarant at the address specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the declaration, as filed or as it may be amended, may be permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-34071 Filed 12-14-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12878; 812-4754]

Technology Fund, Inc.; Filing of an Application

December 7, 1982.

In the matter of Technology Fund, Inc., Kemper Total Return Fund, Inc., Kemper Growth Fund, Inc., Kemper Summit Fund, Inc., Kemper Income and Capital Preservation Fund, Inc., Kemper Municipal Bond Fund, Inc., Kemper Option Income Fund, Inc., Kemper High Yield Fund, Inc., Kemper U.S. Government Securities Fund, Inc., Kemper International Fund, Inc., Investors National Trust Group Multiple Maturity Tax-Exempt, Bond Trust, Ninth Series, Investors National Trust Group, Tax-Exempt Bond Trust, Insured, Tenth Series, Kemper Tax-Exempt Income Trust, Series 11 and Subsequent Series, and Kemper Financial Services, Inc., 120 South LaSalle Street, Chicago, IL 60603, (812-4754).

Notice is hereby given that Technology Fund, Inc., Kemper Total Return Fund, Inc., Kemper Growth Fund, Inc., Kemper Summit Fund, Inc., Kemper Income And Capital Preservation Fund, Inc., Kemper Municipal Bond Fund, Inc., Kemper Option Income Fund, Inc., Kemper High Yield Fund, Inc., Kemper U.S. Government Securities Fund, Inc., and Kemper International Fund, Inc., each registered under the Investment Company Act of 1940 ("Act"), as a diversified, open-end, management investment company (collectively, "Funds"), Investors National Trust Group Multiple Maturity Tax-Exempt Bond Trust, Ninth Series, Investors National Trust Group Tax-Exempt Bond Trust, Ninth Series, Investors National Trust Group Tax-Exempt Bond Trust Insured Tenth Series, and Kemper Tax-Exempt Income Trust, Series 11 and subsequent Series (the "Trusts") and Kemper Financial Services, Inc. ("Kemper Financial") (hereinafter, Funds, Trusts and Kemper Financial are referred to as "Applicants"), filed an application on October 4, 1982, requesting an order of the Commission pursuant to Section 6(c) of the Act amending a previous order dated March 31, 1982 (Investment Company Act Release No. 11709). The prior order, pursuant to Section 6(c) of the Act, exempted the Funds and Kemper Financial from the provisions of Section 22(d) of the Act and Rule 22d-1 thereunder to the extent necessary to permit the sale of shares of the Funds, and shares of such other registered, open-end, management investment companies for which Kemper Financial may serve as principal underwriter in the future, at net asset value, without imposition of normal sales charges and without regard to minimum initial investment requirements, to Kemper Affiliated Employees as described herein. The amended order would further permit Kemper Affiliated Employees to purchase at net asset value without a sales charge, units of the Trusts and any other series of registered unit investment trust sponsored or underwritten by Kemper Financial in the future on the same basis purchases under the Plan are currently being effected with the Funds. The amended order would also expand the definition of Kemper Affiliated Employees to include the employees of Lumbermens Mutual Casualty Company and its various subsidiaries, as well as all of the directors of the Kemper Companies. All interested persons are referred to the application on file with

the Commission for a statement of the representations contained therein, which are summarized below.

According to the application, each of the Funds is organized as a corporation under the laws of the State of Maryland and is currently engaged in a continuous public offering of its shares through Kemper Financial as principal underwriter at public offering prices equal to net asset value plus a sales charge. Applicants state that sales charges on the Funds vary with the size of the purchase and, as set forth in the Funds' prospectuses, range from .40% to 8.50% depending upon the Fund in question. Applicants further state each of the Trusts is a unit investment trust issuing redeemable securities created by Kemper Financial as sponsor, all of which are similar but each of which is separate and is designated by a different series letter or number. Each series is created under the laws of the State of Missouri pursuant to a Trust Indenture and Agreement between Kemper Financial and Investors Fiduciary Trust Company. Applicants represent that Kemper Financial acts as principal underwriter of each Trust at public offering prices based on a pro rata share of the offering prices of the bonds in the protfolio of a series plus a sales charge during the initial offering period and a pro rata share of the bid side prices of the bonds in the portfolio of a series plus a sales charge for secondary market purposes.

Applicants state that Kemper Financial, is the parent and sole stockholder of Kemper Investors Life Insurance Company ("Kemper Life") which underwrites and distributes, through life insurance agents, broker/dealers and others, a line of products including life insurance, individual deferred annuities and tax-sheltered and group annuities. Kemper Financial, in turn, is a wholly-owned subsidiary of Kemper Corporation, a diversified, insurance and financial services holding company. Applicants further represent that Lumbermens Mutual Casualty Company ("Lumbermens Mutual") owns approximately 52% of Kemper Corporation. (Lumbermens Mutual, Kemper Corporation, Kemper Life and Kemper Financial, including any present subsidiaries of Kemper Corporation, and any Kemper Corporation of Kemper financial subsidiaries acquired or formed subsequent to the date of this application, hereinafter are referred to as the "Kemper Companies.")

Pursuant to the earlier order dated March 31, 1981, Kemper Financial currently permits employees of the Kemper Companies, with the exception of Lumbermens Mutual, ("Kemper Affiliated Employees") pursuant to an employee purchase plan (the "Plan") to purchase shares of the Funds at net asset value. Applicants state that participating Kemper Affiliated Employees are able to invest without paying a sale charge, in any of the Funds through the Plan (i) by direct purchases, (ii) through payroll deduction, which will be made available to employees by certain Kemper Companies in the amount of $25.00 or more for each investment, or (iii) through automatic periodic bank checking account plans in the amount of $25.00 or more for each investment; provided that those Kemper Affiliated Employees who do not participate in the Plan either through payroll deduction or automatic periodic bank checking account plans have to meet the appropriate Fund's initial, and subsequent minimum investment requirements. Under the Plan, shares of more than one Fund may be purchased simultaneously, and distributions on shares of the Funds acquired under the Plan may be reinvested at net asset value. Applicants also state that participants must agree not to resell Fund shares acquired through their participation in the Plan except by repurchase or redemption by or for the account of the Fund issuing such shares.

Applicants assert that few, if any, individual or in-person group sales solicitations or presentations concerning the Plan have been made. According to the application, all Kemper Affiliated Employees periodically receive a notice concerning the Plan, furnished at the expense of the Kemper Companies. That notice describes the Funds and their investment objectives, indicates that investments in the Plan are at net asset value and details the methods by which investments can be made. The notices also indicate where additional information concerning the Plan and the Funds, including prospectuses of the Funds, can be obtained. In all cases, a copy of the appropriate prospectus(es) are furnished to the employee prior to the time he is permitted to enroll in the Plan.

Applicants submit that the Plan as permitted pursuant to the Commission's Order or March 31, 1981, provides for the elimination of sales charges on the sale of shares of the Funds to participating Kemper Affiliated Employees based upon the rationale that employment by the Kemper Companies has been selected by the Funds as a criteria relating to the realization of economies of scale in sales effort and sales related expenses. Applicants further submit that features of the Plan which give rise to economies of scale and sales effort in sales related expense are as follows: (i) There is little, if any, personal solicitation of participants by Kemper Financial, its representatives or by any other broker/dealer; (ii) employees purchasing shares of any Fund through payroll deduction have shares purchased for their accounts at each payroll date with payment for such shares being funnelled through Kemper Financial thus relieving the Funds from concerns about check clearance and delays in processing; and (iii) all eligible employees receive periodic notice of the availability of the Plan, at the expense of their employers.

Applicants state that sales to Kemper Affiliated Employees under the Plan have resulted in substantial economies in sales effort and sales-related expense. According to Applicants, employees of the Kemper Companies have a basic understanding of the nature of an investment in an investment company a well as general familiarity with, and a significant degree of loyalty to, the Funds.

Applicants further submit that amendment of the Commission order of March 31, 1981, to permit Kemper Affiliated Employees to purchase at net asset value without a sales charge units of the Trusts and any other series of registered unit investment trust sponsored or underwritten by Kemper Financial in the future, and to expand the definition of Kemper Affiliated Employees to include the employees of Lumbermens Mutual and its present and future subsidiaries, as well as all directors of the Kemper Companies, on the same basis as purchases under the Plan are currently being effected, is consistent with the rationale and purposes underlying the earlier order. In light of the above, Applicants request that an order be entered, pursuant to Section 6(c) of the Act, amending the Commission's earlier order exempting Applicants from the provisions of Section 22(d) of the Act, and Rule 22d–1 thereunder, to include within the terms thereof the Trusts and any other series of registered unit investment trust sponsored or underwritten by Kemper Financial in the future, and expanding the definition of Kemper Affiliated Employees to include those employees cited above.

Section 6(c) of the Act provides, in pertinent part, that the Commission may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions from any provision of the Act if and to the extent that such exemption is necessary or

appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than January 3, 1983, at 5:30 pm., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. An order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon its own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-34061 Filed 12-14-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12886; 812-5338]

Territorial Money Market Fund; Filing of Application

December 9, 1982.

In the matter of The Territorial Money Market Fund, 421 Seventh Avenue, Pittsburgh, PA 15219 (812-5338).

Notice is hereby given that The Territorial Money Market Fund ("Applicant"), registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application on October 14, 1982, requesting an order of the Commission, pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 thereunder, to the extent necessary to permit Applicant to value its assets using the amortized cost method of valuation. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it is a "money market" fund organized as a Massachusetts Business Trust and that Cash Management Services, Inc., a wholly-owned subdidiary of Federated Investors, Inc., serves as its investment adviser. Applicant further states that its investment objective is to seek current income consistent with stability of principal and that it may invest in money market instruments including United States Government obligations, instruments of United States Government agencies, prime commercial paper, repurchase agreements, instruments of domestic and foreign banks and savings and loans, such as certificates of deposit, demand and time deposits, bankers' acceptances and Eurodollar certificates of deposit, maturing in one year or less.

Section 6(c) of the Act provides, in part, that upon application the Commission may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of the Act or of the rules thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant states that experience indicates that in order to attract investors two features are necessary in a "money market" fund: (1) Stability of principal, and (2) steady flow of investment income. Applicant asserts that by maintaining a portfolio of high quality, short-term "money market" instruments valued at amortized cost it can provide these features to investors. Applicant represents that its board of trustees has determined in good faith that, in light of the characteristics of Applicant, the amortized cost method of valuation of portfolio instruments is appropriate and preferable for the Applicant, reflects fair value of such instruments, and is in the best interest of Applicant's shareholders.

Applicant consents to the imposition of the following conditions in an order granting the relief it requests:

1. In supervising Applicant's operations and delegating special responsibilities involving portfolio management to its investment adviser, the board of trustees undertakes—as a particular responsibility within the overall duty of care owed to its shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objective, to stabilize Applicant's net asset value per share, as computed for the purpose of distribution, redemption and repurchase, at $1.00 per share.

2. Included within the procedures to be adopted by the board of trustees shall be the following:

(a) Review by the board of trustees, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from Applicant's $1.00 amortized cost price per share, and the maintenance of records of such review.[1]

(b) In the event such deviation from Applicant's $1.00 amortized cost price per share exceeds ½ of 1 percent, a requirement that the board of trustees will promptly consider what action, if any, should be initiated.

(c) Where the board of trustees believes the extent of any deviation from Applicant's $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which may include: Redemption of shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses, or to shorten Applicant's average portfolio maturity; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

3. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that Applicant will not (a) purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity which exceeds 120 days. In fulfilling this condition, if the disposition of a portfolio security results in a dollar-weighted average portfolio maturity in

---

[1] To fulfill this condition, Applicant intends to use actual quotations or estimates of market value reflecting current market conditions chosen by its board of trustees in the exercise of its discretion to be appropriate indicators of value which may include, *inter alia*, (1) quotations or estimates of market value for individual portfolio instrument, or (2) values obtained from yield data relating to classes of money market instruments published by reputable sources.

excess of 120 days, Applicant will invest its available cash in such a manner as to reduce the dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

4. Applicant will record, maintain, and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in paragraph 1 above, and Applicant will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the board of trustees' considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of its meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act, as if such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit its portfolio investments, including repurchase agreements, to those United States dollar denominated instruments which the board of trustees determines present minimal credit risks, and which are of "high quality" as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by the board of trustees.

6. Applicant will include in each quarterly report, as an attachment to Form N–1Q, a statement as to whether any action pursuant to paragraph 2(c) above was taken during the preceding fiscal quarter and, if any such action was taken, will describe the nature and circumstances of such action.

Applicant submits that the granting of the requested exemptions is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than January 4, 1983, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. An order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon its own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc.82–34060 Filed 12–14–82; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 12879; 812–5349]

Texaco Capital N.V.; Filing of an Application

December 7, 1982.

In the Matter of Texaco Capital N.V., c/o Carl B. Davidson, Texaco Inc., 2000 Westchester Avenue, White Plains, NY 10560 (812–5349).

Notice is hereby given that Texaco Capital N.V. ("Applicant"), a Netherlands Antiles corporation which is a wholly-owned subsidiary of Texaco Inc. ("Texaco"), a Delaware corporation, filed an appliction on October 21, 1982, for an order of the Commission, pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act"), exempting Applicant from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant represents that it was incorporated on April 7, 1982, and that its principal executive offices are located at 15 Pietermaai, Curacao, Netherlands Antilles. Applicant further represents that all of its outstanding stock is owned by Texaco. According to the application, Texaco, is engaged in the worldwide exploration and production, transportation, refining, and marketing of crude oil and its products, including petrochemicals. For the year ended December 31, 1981, Texaco's consolidated net income was $2,310,000,000. Total consolidated revenues for that period were $59,297,000,000 of which $57,628,000,000 were from sales and other services and $1,669,000,000 were from equity and net income of nonsubsidiary companies, dividends, interest, and other income.

Applicant states that its sole business will be the lending of funds derived either from capital contributions or from funds borrowed within or outside of the United States to Texaco and its subsidiaries and, accordingly, substantially all of its assets will consist of amounts receiveable from Texaco or its subsidiaries. To this end, Applicant proposes to undertake, on behalf of Texaco, the issuance and sale of long-term, intermediate-term or short-term debt securities ("Securities") in the United States and worldwide. Payment of principal of and premium, if any, and interest on the Securities would be unconditionally guaranteed by Texaco. Applicant represents that the terms of the Texaco guarantees will be such that in the event of a default with respect to a Security legal proceedings may be instituted directly against Texaco to enforce the guarantee of such Security without first proceeding against the Applicant. Applicant further states that it would advance to, or deposit with, Texaco or subsidiaries of Texaco substantially all of the proceeds of sales of Securities made by the Applicant. The terms of the advances or deposits would allow the Applicant to make timely payments of principal and of premium, if any, and interest on such Securities, Applicant represents that, at the times of issuance and sale of Securities and so long as any Securities are outstanding, Applicant will remain a wholly-owned subsidiary of Texaco or one of Texaco's subsidiaries and Applicant will own or hold no equity securities other than equity securities of Texaco and subsidiaries of Texaco.

Applicant represents that its offerings of Securities would be limited to offerings of long-term, intermediate-term or short-term debt securities. Such offerings would either take the form of a public offering of securities registered under the Securities Act of 1933 (the "1933 Act") or a sale of securities by means of transactions exempt from the registration requirements of the 1933 Act.

The Applicant represents that Applicant and Texaco would, prior to any public offering of Securities in the United States not exempt from the registration requirements of the 1933 Act, file a registration statement under the 1933 Act with the Commission and would not sell such Securities until the registration statement was declared effective by the Commission and the related indenture was qualified under the Trust Indenture Act of 1939. Applicant and Texaco would also comply with the prospectus delivery requirements of the 1933 Act in

connection with the offering and sale of such Securities.

Applicant further represents that, in the case of an offering of Securities in the United State not requiring registration under the 1933 Act, Applicant and Texaco would undertake to provide to any offeree to whom they offer such Securities in the United States a memorandum at least as comprehensive as memoranda customarily used in such offerings of such Securities in the United States. In the event of subsequent offerings, the memorandum would be updated at the time thereof, as necessary, to reflect material changes in the financial position of Texaco. Applicant consents to having any order granting the relief requested under Section 6(c) of the 1940 Act expressly conditioned upon its compliance with its undertakings regarding disclosure memoranda.

Applicant also undertakes that, in connection with any issuance of Securities, Applicant would appoint an agent to accept service of process in any action based on such Securities and instituted in any state or Federal court located in New York City by any holder thereof, and Applicant would accept jurisdiction in any state or Federal court located in the City of New York in any action based on any Securities instituted by any holder. Such appointment and consent would be irrevocable until the amounts due of to become due on such Securities have been paid. No authorized agent for service of process would be a trustee for the holders of Securities or have any responsibilities or duty to act for such holders as would a trustee.

Applicant further represents that prior to any issuance of the Securities, the Securities shall have received one of the three highest investment grade ratings from at least one nationally recognized statistical rating organization and that Applicant shall have certified to its United States counsel that such rating has been received. No such rating shall be required to be obtained, however, if, in the opinion of United States counsel for Applicant, an exemption from registration is available with respect to such issue under Section 4(2) of the 1933 Act.

Applicant states that it may be deemed an investment company under Section 3(a)(3) of the Act on the ground that its proposed advances to, or deposits with, Texaco may be deemed "investment securities" and would constitute more than 40% of its total assets. However, having been organized solely for the purpose of financing operations of Texaco, Applicant does not view itself as an investment company. Accordingly, in order to eliminate any doubt that it would be entitled, without registration under the Act, to issue and sell the Securities, Applicant requests an exemption from all provisions of the Act.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions from any provision or provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

In view of the Texaco guarantees and the fact that Applicant will derive all of the funds needed to repay the purchasers of its Securities from Texaco, Applicant asserts that it is appropriate that, as a subsidiary financing company of Texaco, it should be exempted from the requiremnents of the Act for the same reasons that Texaco itself would be exempt from the provisions of the Act. Therefore, Applicant requests that the Commission enter an order pursuant to Section 6(c) of the Act exempting it from all provisions of the Act.

Notice is further given that any interested person may, not later than January 3, 1983, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. An order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon its own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof..

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc 82-34062 Filed 12-14-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12887; 812-5284]

Vantage Money Market Funds; Filing of Application

December 9, 1982.

In the Matter of Vantage Money Market Funds, 1345 Avenue of the America, New York, New York 10105 (812-5284). Notice is hereby given that Vantage Money Market Funds ("Applicant"), registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application on August 23, 1982, and an amendment thereto on November 3, 1982, requesting an order of the Commission pursuant to Section 6(c) of the Act exempting Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 thereunder to the extent necessary to permit Applicant to compute its net asset value per share using the amortized cost method of valuing portfolio securities. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below. Such persons are also referred to the Act and the rules thereunder for the complete text of the provisions thereof from which an exemption is being sought.

According to the application, Applicant was organized as a business trust under the laws of the Commonwealth of Massachusetts on June 23, 1982. Applicant states that it is a "money market fund", having as its investment objective high current income consistent with preservation of capital and maintenance of liquidity. Smith Barney, Harris Upham & Co. Incorporated ("Smith Barney") is Applicant's manager and distributor. Applicant's shares will be offered at net asset value without a sale change initially in two portfolios, i.e. the Vantage Cash Portfolio and the Vantage Government Portfolio, and Applicant's trustees may in the future create additional series to be managed as separate portfolios (the "Portfolios"). Applicant states that its shares will be offered exclusively to participants in the Vantage Account, an integrated financial services program which will be offered by Smith Barney.

According to Applicant, the Vantage Government Portfolio may be invested in obligations issued or guaranteed by the United States, its agencies and instrumentalities, may enter into repurchase and reverse repurchase agreements with respect to such obligations, and may lend such obligations on a fully collateralized basis to recognized financial institutions. The Vantage Cash Portfolio may, in addition to United States Government obligations and the other investments and portfolio management techniques permitted for the Vantage Government Portfolio, invest in a variety of other money market instruments, including obligations of banks having assets of $1 billion or more and subject to regulation by the United States Government (including obligations of foreign branches of such banks) and obligations of domestic branches of foreign banks having assets of $10 billion or more, commercial paper, corporate obligations maturing in one year or less, and variable amount demand master notes. Although Applicant will generally not seek profits through short-term trading, it states that it may dispose of any portfolio security prior to its maturity if it believes such disposition advisable.

Applicant states that the investments of each Portfolio will consist of obligations maturing within one year and the average maturity per Portfolio of all the investments (on a dollar-weighted basis) will be 120 days or less. Applicant also states that each Portfolio may also invest in such obligations which were originally issued with maturities in exces of one year if, at the time of purchase, the remaining time to maturity is less than one year. It is further stated, however, that underlying securities used as collateral for repurchase agreements are not subject to these restrictions.

Applicant asserts that it may enter into repurchase agreements, but that repurchase agreements maturing in more than seven days are limited to 10% of a Portfolio's total assets, computed together with any other illiquid asset it may hold. Applicant represents that it will comply with the restrictions set forth in Investment Company Act Release No. 10666 regarding broker/dealers and other financial institutions that are parties to repurchase agreements. Applicant states that it may also invest in reverse repurchase agreements with brokers, dealers and other financial institutions, so long as its obligations with respect to such agreements would not exceed one third of its net assets, at market value. With respect to lending portfolio securities, Applicant states that it will require that the borrower of the securities will at all times maintain cash or equivalent collateral or secure a letter of credit in favor of Applicant equal in value to at least 100% of the value of securities loaned. In addition, Applicant represents that, in determining to which broker-dealers, banks or other recognized financial institutions securities will be loaned, Applicant's investment manager will consider all relevant facts and circumstances, including the creditworthiness of such financial institutions and/or creditworthiness of the bank issuing any letter of credit; Applicant will not enter into any portfolio lending agreement of more than one year's duration; any letter of credit securing a borrower's obligation to return borrowed securities will remain in effect at least as long as the securities remain on loan; and any securities with maturities in excess of one year that Applicant may receive as collateral for a particular loan will not become part of its portfolio either at the time of the loan or in the event that the borrower defaults on its obligation to return the borrowed securities.

According to Applicant, it has been the experience of its investment manager and distributor in distributing other funds, including two other "money market" type funds, that in order to attract investors and retain shareholder, each Portfolio should possess the two attributes of stability of principal, *i.e.*, a stable net asset value, and a steady flow of investment income. It is asserted that Applicant's management believes that Applicant's above-stated investment policies will provide both of these attributes and that it has been its management's experience with respect to securities within the investment policies of each Portfolio that with respect to instruments maturing in 120 days or less there is normally a negligible discrepancy between market value and the amortized cost value of such securities. Thus, Applicant states that it believes that valuation of its assets on the amortized cost basis, by enabling the maintenance of a stable price per share and allowing a flow of investment income less subject to fluctuation than under procedures whereby its dividend would be adjusted by all realized and unrealized gains and losses, will benefit its shareholders.

Applicant represents that its trustees have determined in good faith that, in light of the characteristics of Applicant, and each of its Portfolios, absent unusual or extraordinary circumstances, the amortized cost method of valuing portfolio securities is appropriate and preferable for Applicant and each of its Portfolios, and reflects fair value of such securities.

Section 6(c) of the Act provides, in part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any provision or provisions of the Act or of the rules or regulations thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant submits that the requested exemption is consistent with the standards expressed in Section 6(c) of the Act. Accordingly, Applicant requests that the Commission issue an order pursuant to Section 6(c) of the Act exempting Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder to the extent necessary to permit Applicant to compute its net asset value per share by using the amortized cost method of valuing its portfolio securities. Applicant agrees that the following conditions may be imposed in any order granting the exemptions requested.

1. The trustees in supervising the Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's manager, undertake—as a particular responsibility within the overall duty of care owed to Applicant's shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objectives, to stabilize the net asset value per share of each Portfolio as computed for the purpose of purchases and redemptions at $1.00 per share.

2. Included within the procedures to be adopted by the trustees shall be the following:

(a) Periodic review by the trustees, as they deem appropriate and at such intervals as are reasonable in light of current market conditions, of the relationship for each Portfolio between the net asset value per share using amortized cost to value portfolio securities and net asset value per share based upon available indications of market value with respect to such portolio securities, and the maintenance or records of such review.[1]

[1] To fulfill this obligation, Applicant intends to use actual quotations or estimates of market value

(b) In the event of a difference of more than one-half of one percent between the two methods of valuation for either or both Portfolios, a requirement that the trustees will promptly consider what action, if any, should be initiated.

(c) Where the trustees believe the differences between the two methods of valuation may result in any material dilution or other unfair results to investors or existing shareholders, they shall take such action as they deem appropriate on a Portfolio-by-Portfolio basis to reduce or eliminate, to the extent reasonably practicable, such dilution or unfair results which may include: Selling portfolio instruments prior to maturity to realize capital gains (to be declared as dividends) or losses or to shorten the average portfolio maturity of a Portfolio; suspending dividends; and utilizing a net asset value per share as determined by using available market quotations.

3. Each Portfolio will maintain a dollar-weighted average maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that neither Portfolio will (a) purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity which exceeds 120 days. In fulfilling this condition, if the disposition of a portfolio instrument results in a dollar-weighted average portfolio maturity in excess of 120 days, such Portfolio will invest its cash in such a manner as to reduce such maturity to 120 days or less as soon as reasonably practicable.

4. Applicant will record, maintain, and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in paragraph 1 above; and, it will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the trustees' considerations and actions taken in connection with the discharge of their responsibilities, as set forth above, to be included in the minutes of the trustees' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act, as if such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit the investments of each Portfolio, including repurchase agreements and securities subject to repurchase agreements, to those United States dollar denominated instruments which the trustees determine present minimal credit risks, and which are of "high quality" as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by the trustees.

6. If any action were taken pursuant to paragraph 2(c) above, Applicant will file a statement describing with specificity the nature and circumstances of such action within 30 days after the close of each calendar quarter during which such action was taken.

Notice is further given that any interested person may, not later than January 4, 1983, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. An order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon its own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-34059 Filed 12-14-82; 8:45 am]

BILLING CODE 8010-01-M

reflecting current market conditions chosen by its trustees in the exercise of their discretion to be appropriate indicators of value, which may include, among other things, (i) quotations or estimates of market value for individual portfolio instruments, or (ii) values obtained from yield data relating to classes of money market instruments published by reputable sources.

[Release No. 19309; SR-CBOE-82-9]

Chicago Board Options Exchange, Inc.; Filing and Order Granting Accelerated Approval of Proposed Rule Change

December 8, 1982.

In the matter of Chicago Board Options Exchange, Incorporated, La Salle at Jackson, Chicago, Illinois 60604 (SR-CBOE-82-9).

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on October 25, 1982, the Chicago Board Options Exchange, Incorporated ("CBOE") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change modifies CBOE Rule 9.21 so as to conform to Rule 134a under the Securities Act of 1933, which was adopted together with the revised disclosure system for standardized options recently established by the Commission.[1] In general, the revised disclosure system provides for the furnishing to options investors of options disclosure documents, rather than the Options Clearing Corporation prospectus. Under the new disclosure system, the disclosure document rather than the prospectus will be the primary source of information to investors about standarized options. Rule 134a provides that written materials relating to standarized options shall not be deemed a prospectus under Section 2(10) of the Securities Act of 1933 provided that certain prescriptive requirements are met and provided that the materials are limited to explanatory information describing the general nature of the standarized options market or one or more options strategies, as well as the correlative risks involved.

The proposed rule change adds the term "educational material" to Rule 9.21, which sets forth Exchange requirements pertaining to member communications to options investors, and provides that such material must meet the requirements of Rule 134a. It specifies that, along with advertisements and sales literature, all educational material of a member organization must be approved in advance by the Compliance

[1] The revised disclosure system was proposed in Securities Exchange Act Release No. 18838 (June 24, 1982), 47 FR 28688 (July 1, 1982) and adopted in Securities Exchange Act Release No. 19055 (September 16, 1982), 47 FR 41950 (September 23, 1982).

Registered Options Principal or his designee. It also specifies that, along with every advertisement, educational material of a member organization must be submitted to the Department of Compliance of the Exchange ten days prior to use and must be approved by the Exchange prior to circulation. Further, the proposed rule change provides that all written material relating to options other than educational material or sales literature may not be disseminated to any person unless the relevant option disclosure documents have been or are concurrently supplied to that person.

Interested persons are invited to submit written data, views, and arguments concerning the proposed rule change within 21 days after the date of publication in the **Federal Register.** Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington DC 20549. Reference should be made to File No. SR–CBOE–82–9.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6 of the Act and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof, in that the rule change simply implements the immediate use of the new disclosure system for standarized options which was subject to extensive notice prior to its adoption by the Commission.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change reference above be, and it hereby is approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82–34066 Filed 12–14–82; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 19315; File No. SR–CSE–82–1]

Cincinnati Stock Exchange, Inc.; Order Approving Rule Change

December 9, 1982.

In the matter of Cincinnati Stock Exchange, Inc., 205 Dixie Terminal Building, Cincinnati, Ohio 45202 (File No. SR–CSE–82–1).

I. Introduction

On July 19, 1982, the Cincinnati Stock Exchange, Inc. ("CSE") filed with the Commission a proposed rule change, pursuant to Section 19(b) under the Securities Exchange Act of 1934 ("Act") and Rule 19b–4 thereunder, to terminate the status of the National Securities Trading System ("NSTS") as an experimental program by extending its duration for an indefinite period and by eliminating the existing 200 issue limit on the permissible number of issues which may be traded in the NSTS. Notice of the proposed rule change was given by issuance of a Commission release[1] and by publication in the **Federal Register.**[2] After carefully reviewing the submission, as well as taking into account the sole comment letter received thereon[3] and the findings of the Commission's monitoring program regarding the operation of the NSTS,[4] the Commission has determined to approve the proposed rule change.

II. Background of the NSTS

The NSTS is a fully automated electronic trading system which permits CSE members, without the necessity of maintaining a physical presence on the floor of the CSE or any other exchange, to enter agency or principal orders into the System. Once entered, orders are stored, queued and executed by the System's computer according to price and time priorities.[5] The markets reflected in the System are updated and displayed instantaneously upon the entry of new or revised orders, the cancellation of orders or the execution of orders entered into the System.

The NSTS is based on several predecessor systems. In 1976, Weeden & Company developed the Weeden Holding Automated Market ("WHAM"). In 1977, WHAM was renamed the Regional Market System ("RMS") and was employed by several regional exchanges as a supplementary trading mechanism which permitted a regional specialist to expose an order to buying or selling interest on another regional exchange.[6] Subsequently, the RMS was acquired by the CSE and was expanded to include greater participation by "upstairs" market makers.[7] In addition, the System was renamed the Multiple Dealer Trading System ("MDTS"), and the System's software was redesigned so that approved dealers and specialists could hit each other's principal quotations. In 1979, Control Data Corporation ("CDC") purchased the System's hardware and software from Weeden & Company and contracted with the CSE to become the facilities manager for the System which was renamed the "National Securities Trading System."

On April 18, 1978, the Commission, pursuant to Sections 11A and 19(b)(2) of the Act, issued an order approving a proposed rule change of the CSE to establish the System on a nine-month pilot basis.[8] On December 15, 1978, the Commission approved an extension of the pilot program for an additional year.[9] Subsequently, on September 21, 1979, the Commission approved the extension of the NSTS through January 31, 1983.[10] In the latter order extending

---

[1] Securities Exchange Act Release No. 18985 (August 19, 1982).

[2] 47 FR 37728 (August 26, 1982).

[3] *See* comments of the U.S. Dep't of Justice in regard to File No. SR–CSE–82–1, dated October 25, 1982.

[4] *See* Securities and Exchange Commission, *A Report on the Operation of the Cincinnati Stock Exchange National Securities Trading System 1978—1982,* September 1982 (*"1982 Monitoring Report"*); and Securities and Exchange Commission, *A Monitoring Report on the Operation of the Cincinnati Stock Exchange National Securities Trading System,* May 1981.

[5] Public agency orders are granted priority over other orders at the same price, regardless of time of entry.

[6] In addition, pursuant to an agreement between the participating exchanges, two CSE members were permitted to maintain terminals in their "upstairs" offices.

[7] "Approved dealers" in the NSTS may participate in the System by entering agency and dealer quotations through terminals located in their respective trading rooms. Approved dealers include CSE members who undertake certain market making responsibilities and meet certain minimum capital requirements and specialists on national securities exchanges who enter bids and offers in NSTS securities for which they are registered as specialists. *See* CSE Rule 11.9 (a)(1).

[8] Securities Exchange Act Release No. 14674 (April 18, 1978), 43 FR 17894.

[9] Securities Exchange Act Release No. 15413 (December 15, 1978), 44 FR 129.

[10] Securities Exchange Act Release No. 16215 (September 21, 1979), 44 FR 56074 ("September 1979 Extension Order").

the NSTS as a pilot program, the Commission indicated that it intended to closely monitor the operation of the NSTS and people using the System to ensure that the NSTS developed in a manner consistent with the objectives of the evolving national market system ("NMS").

Prior to 1981, the CSE was not a participant in the Intermarket Trading System ("ITS") [11] and thus CSE members often experienced difficulty in routing orders to other market centers and members of ITS participants could not route orders to the CSE through ITS. On February 10, 1981, the Commission approved amendments to the plan governing the operation of the ITS and the CSE's rules which provided for a manual interface between ITS and NSTS.[12] Currently, ITS terminals are located on the CSE floor and staffed by exchange employees. A NSTS participant desiring to send a commitment to trade to another ITS market center must notify the CSE floor through the NSTS. Commitments to trade received by the CSE from other ITS market centers are entered manually into the NSTS by CSE employees.

Since the System began operating in June 1978, the Commission has received, compiled and analyzed a substantial volume of data relating to the NSTS as part of the Commission's program to monitor the operations of the System. The monitoring program, to date, has not found any adverse impacts and, while trading has not been substantial, the findings suggest that the NSTS has provided its users, particularly NSTS market makers, an effective mechanism for executing orders and attracting order flow. During 1981, NSTS trading volume averaged 37 thousand trades per quarter, representing 11.4 million shares. This compares to a quarterly average of 26 thousand trades totalling 8.1 million share in the previous year. During the third quarter of 1982, NSTS share volume reached an all-time high, 13.7 million shares. NSTS volume has been small, however, relative to composite volume in NSTS securities.

A comparison of NSTS executions with NYSE quotations indicates that less than one-Half of one percent of the trades involving agency orders have taken place at prices inferior to primary market quotations. Furthermore, it appears that ITS participants have been able to take advantage of the linkage to reach the published quotations in the NSTS in order to obtain a price better than the published quotations in the primary market. For the initial period that the NSTS has been interfaced with ITS, the CSE has been a net importer of ITS share volume. During September 1982, for example, the CSE executed orders for 2.3 million share received from other ITS market centers and sent orders for 1.6 million share to other ITS market centers. In addition, the results of a spread analysis of NSTS securities indicates that, to date, the NSTS has not affected the primary market spread of NSTS securities. Finally, NSTS secruities are characterized by a higher average quote size in the primary market relative to non-NSTS securities.

III. The CSE Proposed Rule Change

In proposing to make the NSTS approval indefinite, the CSE contends that the NSTS's experimental status to date has hurt the Exchange in competing on an equal basis with other market centers.[13] Specifically, the CSE indicated that new users of the NSTS must incur certain start-up costs (including employee training costs and equipment installation charges), and that in view of the NSTS's temporary status, these costs may have discouraged prospective users from participating in the System.

In addition, the CSE has indicated that CDC, the facilities manager and owner of the System's hardware and software, is finding it difficult to plan, implement and justify the cost of further System enhancements absent the assurance that the NSTS will be allowed to operate on an indefinite basis. Moreover, the Exchange itself has stated that it cannot effectively plan for long-term system enhancements such as expansion of System capacity and an automated interface between the NSTS and ITS [14] so long as the NSTS is cast as an experimental system. As a result of these planning uncertainties, the CSE finds itself at a competitive disadvantage with other market centers in attacting new participants, designating new issues, and increasing access to order flow.

As previously noted, the Commission received one comment letter, from the United States Department of Justice ("DOJ") on the CSE's proposed rule change. In DOJ's view, the "continued regulatory characterization of the NSTS as an 'experimental' or 'pilot' program, after four years of operation, can only place NSTS at a competitive disadvantage vis-a-vis other exchanges." In addition, DOJ believed that "[t]he continued usefulness and viability of the NSTS as a securities trading mechanism should be determined by market forces, not regulatory action." Accordingly, DOJ supported the CSE's proposed rule change which, if adopted, would make the NSTS permanent and eliminate any limitation as to the number of securities that the System could trade.

IV. Discussion

In mandating the development of a NMS, Congress expressly stated that "[n]ew data processing and communications techniques create the opportunity for more efficient market operations." [15] Congress then set forth a number of objectives to guide the Commission in facilitating the development of a NMS (*e.g.*, efficient execution, fair competition, dissemination of trade and quotation information, and best execution).[16] In carrying out Congress' mandate, the Commission has taken an evolutionary approach by encouraging the securities industry to take the primary initiative in fashioning trading mechanisms which are consistent with the goals of a NMS. The Commission believes that, as a general matter, the industry has responded well to changing economic and technological demands by attempting to integrate state of the art data processing and communications technology to develop many new trading systems which have advanced the objectives of a NMS. In this respect, the Commission believes that ITS, the NASD's Computer Assisted Execution System ("CAES") [17] and the NSTS

---

[11] The ITS is an intermarket communications system, authorized by the Commission, on a provisional basis as a NMS facility pursuant to Section 11A(a)(3)(B) of the Act, operated jointly by certain national secuities exchanges and one national securities association. The current participants in ITS are the American, Boston, Cincinnati, Midwest, New York, Pacific and Philadelphia Stock Exchanges, and the National Association of Securities Dealers, Inc. ("NASD"). Presently, the ITS also is operating on a provisional basis. The Commission encourages and expects the ITS participants to submit a proposal in the near future seeking Commission approval of the ITS on an indefinite basis.

[12] Securities Exchange Act Release No. 17532 (February 10, 1982), 46 FR 12819.

[13] The CSE also stated that it is: hampered by the arbitrary limit of 200 on the number of Designated Issues which may be traded in the System. The Exchange's technological capacity currently exceeds this artificially imposed limitation. Only by removing this barrier to expansion can the Exchange operate to its fullest potential and compete fairly with other market centers.

[14] The Commission understands that in connection with certain ongoing enhancements to the ITS, the participants are implementing four standard ITS interfaces, any of which may be utilized by any participant.

[15] Section 11A(a)(1)(B) of the Act.

[16] Section 11A(a)(1) of the Act.

[17] CAES is a computerized order routing and execution facility operated by the NASD for NASD members. On May 17, 1982, CAES was interfaced with ITS, and is presently being operated on a pilot

represent constructive approaches to integrating trading in physically dispersed locations. Accordingly, the Commission believes that it is now appropriate to terminate the experimental nature of the NSTS by granting that System indefinite status.

In the Commission's September 1979 Extension Order, the Commission stated that the NSTS possessed many basic features that were consistent with the statutory objective of an NMS including increased speed and efficiency in trading, the ability to generate a complete audit trail for surveillance purposes, and an automated mechanism for linking upstairs market makers with one another as well as with exchange specialists. Nevertheless, the Commission also noted that indefinite approval of the NSTS, would require that the CSE "continue to make improvements, changes and adaptations to meet the needs of various market centers and to accommodate Commission regulatory requirements designed to improve order interaction and price protection between and among markets." [18] In this respect, the Commission indicated that at a minimum, the CSE should become a participant in the Consolidated Quotation Plan ("CQ Plan"), the joint industry plan for collecting and disseminating quotation information from all market centers participating in the CQ Plan. The Commission also stated that the CSE should take immediate steps in implementing a linkage between the NSTS and ITS so that the NSTS could have access to other market centers and other market centers could have access to the NSTS.

As encouraged by the Commission, the CSE became a participant in the CQ Plan on November 15, 1979,[19] and as previously noted, the CSE became an ITS participant in February 1981 via a manual interface between the NSTS and ITS. In addition, the CSE notes that the System's equipment has been upgraded to expand the capacity and improve the efficiency of the NSTS. The Exchange also has improved operating procedures and documentation in connection with the System's trading and order execution functions, and CDC has increased its programmer staffing. Finally, the CSE has implemented an automatic interface between the NSTS and the National Securities Clearing Corporation for the efficient clearing of all System trades.

The Commission believes system enhancements have been positive and constructive developments by CSE and CDC. In this regard, the recent empirical data relating to NSTS trading appears to indicate that the NSTS has provided its users, particularly NSTS market makers, an effective mechanism for executing orders and attracting order flow.[20] For instance, as previously mentioned, the NSTS is a net importer of ITS share volume which tends to indicate that the NSTS' displayed quotations often are competitive in price and/or quote size with other market centers' displayed quotations.

V. Conclusion

In view of the above discussion, the Commission believes that the NSTS has demonstrated its ability to operate in a manner consistent with the purposes of the Act. At this time, however, the Commission realizes that the full potential of the NSTS cannot be attained as long as the System is cast in an experimental mode with limitations as to the number of securities which can be traded through the System. Accordingly, so that market forces can judge the NSTS in an environment free of these particular regulatory constraints, the Commission has determined to approve the CSE proposed rule change and thus terminate the NSTS as an experimental program by extending its duration for an indefinite period and by eliminating the 200 issue limit on the permissible number of securities which may traded in the NSTS. In so doing, the Commission has determined that approval of the CSE's rule change is consistent with the requirements of the Act, particularly the requirements of Sections 6(b) and 11A thereunder.[21]

* * * * * *

It is hereby ordered, pursuant to the Commission's authority under the Act, and particularly Sections 11A and 19(b) thereof and Rule 19b–4 thereunder, that the CSE's proposed rule change be, and it hereby is, approved.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–34089 Filed 12–14–82; 8:45 am]

BILLING CODE 8010–01–M

---

basis to facilitate concurrent over-the-counter ("OTC") and exchange trading in 30 securities which are not subject to exchange off-board trading restrictions. *See* Securities Exchange Act Release No. 17744 (April 21, 1981), 46 FR 23856; and Securities Exchange Act Release No. 18713 (May 6, 1982), 47 FR 20413.

[18] September 1979 Extension Order, *esupra* note 10, at 11, 44 FR at 56077.

[19] *See* Letter, and accompanying attachments, to George A. Fitzsimmons, Secretary, SEC, from K. Richard B. Niehoff, President, CSE, dated November 16, 1979.

[20] In this regard, the Commission would note that, in the past, some commentators had raised concerns with respect to the ability of NSTS market makers to trade with their customers as principal. *See* September 1979 Extension Order, *supra* note 10, 44 FR at 56075 n.12.

Since that time, however, the Commission's monitoring program indicates that the NSTS has not had an adverse effect on the primary market and the degree to which NSTS firms execute orders on an intra-firm basis has declined. *See 1982 Monitoring Report, supra* note 4, at 18–20. In addition, despite the initial expression of concern by some commentators, no commentator in the current proceeding raised this issue. Moreover, to the extent this issue continues to be a source of concern, the Commission believes that these questions should be addressed in a broad and generic context rather than in connection with a proposed rule change by a single self-regulatory organization. *See generally* Securities Exchange Act Release No. 18738 (May 13, 1982), 47 FR 22376.

[21] It should be noted, however, that the Commission will, of course, continue to collect data on the NSTS as part of its ongoing program to monitor the evolving NMS.

[Release No. 19310; SR–Phlx–82–8 and SR–Phlx–82–14]

Philadelphia Stock Exchange, Inc.; Filing and Order Approving Proposed Rule Changes

December 8, 1982.

In the matter of Philadelphia Stock Exchange, Inc., 1900 Market Street, Philadelphia, PA 19103 (SR–Phlx–82–8 and SR–Phlx–82–14).

The Philadelphia Stock Exchange, Inc. ("Phlx") submitted on September 10, 1982, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b–4 thereunder, to provide the specifications for the Foreign Currency Options Qualification Examination to be required of registered principals and registered representatives who will be engaged in accepting orders for, supervising or engaging in transactions in foreign currency options (SR–Phlx–82–8). On November 22, 1982, Phlx submitted a like proposed rule change providing the specifications for the Foreign Currency Qualification Examination for specialists, registered options traders and floor brokers (SR–Phlx–82–14). Confidential treatment for those specifications has been requested pursuant to Rule 24b–2(b) under the Act.

Notice of the proposed rule change in SR–Phlx–82–8 was given by the issuance of a Commission Release (Securities Exchange Act Release No. 19116, October 6, 1982) and by publication in the **Federal Register** (47 FR 46950 (October 21, 1982)). Comments were solicited on the proposed rule change in SR–Phlx–82–8 but none were received. The proposed rule change in SR–Phlx–82–14 has not been separately published for notice. Since the subject matter covered in SR–Phlx–82–14, however, is

substantially similar to SR–Phlx–82–8, for which comment was solicited, the Commission believes there is good cause for taking action on SR–Phlx–82–14 prior to the thirtieth day after publication of notice thereof.

The Commission finds that the proposed rule changes are consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6, and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule changes be, and hereby are, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82–34067 Filed 12–14–82; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[License No. 02/02–5351]

Exim Capital Corp.; Filing of Application for Transfer of Control of a Licensed Small Business Investment Company (SBIC)

Notice is hereby given that an Application has been filed with the Small Business Administration (SBA) pursuant to § 107.701 of the SBA regulations governing small business investment companies for the transfer of control of Exim Capital Corporation (ECC) (13 CFR 107.701 (1982)), 290 Madison Avenue, New York, New York 10017, a Federal Licensee under the Small Business Investment Act of 1958, as amended (the Act).

ECC was licensed on January 5, 1979. Its present combined paid-in capital and surplus is in excess of $500,000. The proposed transfer of control is subject to, and contingent upon, the approval of SBA.

The applicant, Mr. Victor K. Chun currently owns ⅓ of the issued and outstanding shares of the licensee. The balance of the outstanding stock is owned by Mr. Austin C. Oh who has agreed to sell all of his shares to Mr. Chun.

The officers and directors will remain the same.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed new management, and the probability of a successful operations under his control, including adequate profitability and financial soundness, in accordance with the Act and Regulations.

Notice is hereby given that any person may, (not later than (15) days after the date of publication submit to SBA, in writing, comments on the transfer of control. Any such communication should be addressed to the Deputy Associate Administrator for Investment, 1441 "L" Street, NW., Washington, D.C. 20416.

A copy of the Notice shall be published in a newspaper of general circulation in the New York City area.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: December 8, 1982.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 82–34073 Filed 12–14–82; 8:45 am]

BILLING CODE 8025–01–M

[License No. 09/09–5285]

Lailai Capital Corp.; Issuance of License To Operate as a Small Business Investment Company

On June 18, 1981, a notice was published in the **Federal Register** (FR 38739), stating that Lailai Capital Corporation, 400 South Atlantic Boulevard, Suite 308, Monterey Park, California 91754 had filed an application with the Small Business Administration (SBA), pursuant to 13 CFR 107.102 (1982), for a license to operate as a small business investment company under the provisions of the Small Business Investment Act of 1958, as amended.

Interested parties were given until the close of business July 3, 1982, to submit their comments to SBA. No comments were received.

Notice is hereby given that having considered the application and all other pertinent information, SBA issued License No. 09/09–5285 to Lailai Capital Corporation on November 24, 1982, to operate as a small business investment company, pursuant to Section 301(d) of the Act.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: December 7, 1982.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 82–34074 Filed 12–14–82; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF STATE

[Public Notice CM–8/580]

Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea; Meeting

The Panel on Containers under the SOLAS Subcommittee Working Group on Containers and Cargoes will conduct an open meeting on January 12, 1983, at 10:00 a.m., in room 3201 of the U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. 20593.

The purpose of this meeting is to discuss the following items relating to containers:

1. The results of the 23rd Session of the IMO Subcommittee on Containers and Cargoes which was held in London from February 8–12, 1982.

2. The U.S. position for the upcoming 24th Session of IMO Subcommittee on Containers and Cargoes to be held in London from February 21–25, 1983.

3. Matters relating to the ECE Group of Experts on custom questions affecting transport.

Members of the public may attend up to the seating capacity of the room.

For further information contact Mr. Joseph J. Angelo, U.S. Coast Guard (G–MVI–5), Washington, D.C. 20593. Telephone: (202) 426–4431.

Dated: November 29, 1982.

Gordon S. Brown,

Chairman, Shipping Coordinating Committee.

[FR Doc. 82–33956 Filed 12–14–82; 8:45 am]

BILLING CODE 4710–07–M

[Public Notice CM–8/581]

Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea; Meeting

The SOLAS Working Group on the Carriage of Dangerous Goods will conduct an open meeting on January 11, 1983, at 10:00 a.m., in room 3201 of the U.S. Coast Guard Headquarters, 2100 Second Street, SW, Washington, D.C. 20593.

The purpose of this meeting will be to discuss the following:

1. United States positions on matters to be considered at the 35th Session of the IMO Subcommittee on the Carriage of Dangerous Goods to be held June 27 to July 1, 1983.

2. The report of the 34th Session of the IMO Subcommittee on the Carriage of Dangerous Goods held September 6–10, 1982.

3. IMO activities of a continuing nature. Members of the public may attend up to the seating capacity of the room.

For further information contact Lieutenant John P. Aherne, U.S. Coast Guard (G–MTH–3), 2100 Second Street. SW, Washington, D.C. 20593. Telephone: (202) 426–1577.

Dated: November 29, 1982.

Gordon S. Brown,

Chairman, Shipping Coordinating Committee.

[FR Doc. 82–33957 Filed 12–14–82; 8:45 am]

BILLING CODE 4710–07–M

[Public Notice CM–8/582]

Study Group 5 of the U.S. Organization for the International Radio Consultative Committee (CCIR), Meeting

The Department of State announces that Study Group 5 of the U.S. Organization for the International Radio Consultative Committee (CCIR) will meet on January 6, 1983 from 1:30 p.m. to 5:00 p.m. in Room OT8 in the Engineering Building, University of Colorado, Boulder Campus, Boulder, Colorado.

Study Group 5 deals with propagation of radio waves (including radio noise) at the surface of the earth, through the non-ionized regions of the earth's atmosphere, and in space where the effect of ionization is negligible. The purpose of the meeting will be a review of the work program in preparation for the international meeting of Study Group 5 in November, 1983.

Members of the general public may attend the meeting and join in the discussion subject to instructions of the Chairman. Admittance of public members will be limited to the seating available.

Requests for further information should be directed to Mr. Gordon Huffcutt, State Department, Washington, D.C. 20520, telephine (202) 632–2592.

Dated: December 6, 1982.

Gordon L. Huffcutt,

Chairman, U.S. CCIR National Committee.

[FR Doc. 82–33958 Filed 12–14–82; 8:45 am]

BILLING CODE 4710–07–M

[Public Notice CM–8/579]

Study Group 6 of the U.S. Organization for the International Radio Consultative Committee (CCIR); Meeting

The Department of State announces that Study Group 6 of the U.S. Organization for the International Radio Consultative Committee (CCIR) will meet January 10 and 11, 1983, at Boulder, Colorado. The meeting will open on January 10 at 1:00 p.m. in Room 3012 of the Department of Commerce, Boulder Laboratories Building, 325 Broadway.

Study Group 6 deals with matters relating to the propagation of radio waves in and through the ionosphere. The purpose of the meeting will be to consider documents for submission to the international meeting of Study Group 6 scheduled for August 1983.

Members of the general public may attend the meeting and join in the discussions subject to instructions of the Chairman. Admittance of public members will be limited to the seating available.

Requests for further information should be directed to Mr. Gordon Huffcutt, State Department, Washington, D.C. 20520, telephone (202) 632–2592.

Dated: December 1, 1982.

Gordon L. Huffcutt,

Chairman, U.S. CCIR National Committee.

[FR Doc. 82–33955 Filed 12–14–82; 8:45 am]

BILLING CODE 4710–07–M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 241
Wednesday, December 15, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Civil Aeronautics Board	1, 2
Commodity Futures Trading Commission	3
Federal Election Commission	4
Federal Maritime Commission	5
Legal Services Corporation	6
Postal Service	7
Securities and Exchange Commission	8
Synthetic Fuels Corporation	9

1

CIVIL AERONAUTICS BOARD

Addition to the December 9, 1982 Meeting

December 7, 1982.

TIME AND DATE: 10 a.m., December 9, 1982.

PLACE: Room 1027 (open), room 1012 (closed), 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT:

25a. Bilateral Aviation Negotiations—Representation of Civic Parties. (BIA)

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673-5068.

[S-1815-82 Filed 12-10-82; 4:05 pm]

BILING CODE 6320-01-M

2

CIVIL AERONAUTICS BOARD

December 9, 1982.

TIME AND DATE: 9 a.m. (closed), 10 a.m. (open), December 16, 1982.

PLACE: Room 1012 (closed), Room 1027 (open), 1825 Connecticut Avenue, N.W., Washington, d.c. 20428.

SUBJECT:

1. Discussion on Lebanon. (BIA)
2. Discussion on Peru. (BIA)
3. Discussion on ECAC. (BIA)
4. Ratification of Items Adopted by Notation.
5. Conforming amendments to rules related to domestic baggage liability. (OGC)
6. Conforming changes to Part 250 to prepare for the end of the board's domestic tariff authority. (OGC, BDA, OCCCA)
7. Discussion paper on the board's voluntary submission of rulemakings to OMB.
8. Docket 37531, Insurance requirements for U.S. on-demand and Canadian Charter air taxi operators. (OGC, BDA, BIA, OEA, OCCCA)
9. Docket 30586, 30816, Revision of filing fee schedule. (Memo 1016-B, OGC, OC)
10. Proposal to eliminate cargo and other reporting requirements. (Memo 1609, OCG, OC)
11. Exemptions from section 401(o) for all-cargo carriers and DOD. (Memo 1603, OGC)
12. Docket 40916, Bumping of subsidized carriers under section 419 of the Act. (Memo 1408-B, OGC, BDA, OCCCA)
13. Dockets 39974 and 40033, Petition by IAM and Teamsters for arbitration in *Pan American-Acquisition of Control of and Merger with National*. (OGC)
14. Docket 40470, Essential air service for Greenwood and University/Oxford, Mississippi. (BDA, OCCCA)
15. Docket EAS-791, Appeal of Moab, Utah concerning eligibility for inclusion in the small communities program. (BDA, OCCCA, OGC)
16. Dockets 41031 and 41029, Kodiak Western Alaska's 90-day notice to suspend service at 39 bush communities in Alaska and Wein Air Alaska's 90-day notice to suspend service at 13 mainline communities in Alaska. (BDA)
17. Dockets 41020, 41036 and EAS-491, Notice of Pioneer Airways to suspend service at Columbus, Nebraska, effective December 31, 1982, and application for an exemption to suspend service on November 6, 1982. (Memo 1600, BDA, OCCCA)
18. Fitness Determination for Pioneer Airways, Inc. (Memo 1555-A, BDA)
19. Docket 41030, Notice of Air Midwest to suspend service at Lamar, Colorado, and seven Kansas points including Garden City, Dodge City, Hutchinson, Parsons/Independence/Coffeyville, Goodland, Great Bend, and Hays. (Memo 1582-A, BDA, OCCCA)
20. Commuter carrier fitness determination of North American Helicopter Services, Inc. d.b.a. Grand Canyon Helicopters. (1608, BDA)
21. Docket 40993, Application of Ellis Air Taxi, Inc. for interstate and overseas certificate authority filed under Subpart Q. (Memo 1606, BDA)
22. Establishment of Special Subsidy Program for Fiscal Year 1983 Required by Congresss in the Continuing Resolution adopted October 1, 1982. (Memo 1594, BDA, OCCCA, OC, OGC)
23. Docket EAS-480, Establishment of rate of compensation for Green Hills Aviation, Ltd., for providing essential air service to Kirksville, Missouri. (Memo 1607, BDA, OCCCA, OC)
24. Docket 40957, *Agreement of the Air Traffic Conference of America relating to Automated Ticketing Services*. (BDA)
25. Dockets 41105 and 41108, Petitions of Northern Air Cargo, Inc. and Artic Circle Air Service, Inc. for temporary service mail rates. (BIA)
26. Dockets 37982 and 40584, Domestic Passenger Fare Flexibility. (Memo 1601, BIA)
27. Docket 38703, Carrier Practices on Ticket Transferability. (Memo 1602, BIA)
28. Docket 40767, Application of German carrier Hapag-Lloyd Fluggesellschaft mbH for an initial foreign air carrier permit to conduct Third, Fourth and Fifth Freedom passenger and cargo charter operations. (BIA, OGC, BALJ)
29. Docket 41109, Japan Airlines' cabotage exemption request to carrry holiday-season military mail on a standy basis between Guam and certain U.S. points. (BIA, OGC)
30. Docket 41010, Application of Ozark Air Lines, Inc., for amendment of its certificate of public convience and necessity authorizing foreign air transportation (Orlando-Nassau). (BIA, OGC)
31. Docket 40306, Application of two Americas Trading Company, Inc. d.b.a. ICB International Airlines for the issuance of a certificate of Public convenience and necessitry under section 401 of the federal Aviation Act of 1958, as amended. (BIA, OGC)
32. Bilateral Aviation Negotiations—Representation of Civic Parties. (BIA)
33. Docket 36595, *Investigation into the Competitive Marketing of Air Transportation—Agreements Phases*. Request for Board Instructions. (Memo 1599, OGC)

STATUS:

1-3 (closed)
4-34 (open)

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary. (202) 673-5068.

[S-1816-82 Filed 12-10-82; 4:06 pm]

BILLING CODE 6320-01-M

3

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10 a.m., Tuesday, December 16, 1982.

PLACE: 2033 K Street, N.W., Washington, D.C., fifth floor hearing room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

New York Futures Exchange—New York Stock Exchange, Equity Index Options
Chicago Mercantile Exchange—Standard and Poor's, 500 Stock Price Index Options

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-1821-82 Filed 12-13-82; 12:43 pm].

BILLING CODE 6351-01-M

4

FEDERAL ELECTION COMMISSION

[Federal Register No. 1789]

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, December 16, 1982 at 10 a.m.

CHANGE IN MEETING: The following matter has been added to the open meeting scheduled for this date:

Classification Action—Position Description for Newly Established Position (Editorial Clerk—Information Division)

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Public Information Officer, telephone 202–523–4065.

Marjorie W. Emmons,

Secretary of the Commission.

[S–1820–82 Filed 12–13–82; 11:53 am]

BILLING CODE 6715–01–M

5

FEDERAL MARITIME COMMISSION

TIME AND DATE: 9 a.m., December 14, 1982.

PLACE: Hearing Room One, 1100 L Street, N.W., Washington, D.C. 20573.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Docket No. 82–1: California Cartage Company, Inc. v. Pacific Maritime Association; and Docket No. 82–10: Containerfreight Terminals Company, et al v. Pacific Maritime Association—Consideration of the record.

2. Docket No. 81–28: Transportation Maritima Mexicana, S.A. v. Board of Commissioners of the Port of New Orleans—Consideration of the record.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary (202) 523–5725.

[S–1822–82 Filed 12–13–82; 3:49 pm]

BILLING CODE 6730–10–M

6

LEGAL SERVICES CORPORATION

Meeting of the Board of Directors

PREVIOUS DATE ISSUED: November 24, 1982.

TIME AND DATE:

2 p.m.–5 p.m., Thursday, December 16, 1982
9 a.m.–5 p.m., Friday, December 17, 1982

PLACE: Hyatt Regency Washington, Columbia "B" Room, 400 New Jersey Avenue, NW., Washington, D.C.

PREVIOUSLY ANNOUNCED STATUS OF MEETING: Open.

AMENDMENTS TO NOTICE:

(1) Status of Meeting: Open (Portion of meeting may be closed to discuss a personnel matter under 45 CFR 1622.5 (a) and 1622.5(e).

(2) Additions to Agenda: *Committee on Audit and Appropriations*—

(i) Acceptance of FY 1982 Audit Report of the Legal Services Corporation;

(ii) Recommendations on Consolidated Operating Budget for FY 1983;

(iii) Recommendations on FY 1984 Budget Request;

(iv) Management Report on Legal Services Corporation.

DATE ISSUED: December 9, 1982.

Clinton Lyons,

Acting President.

[S–1814–82 Filed 12–10–82; 4:05 pm]

BILLING CODE 6820–35–M

7

POSTAL SERVICE

Board of Governors

The Board of Governors of the United States Postal Service, pursuant to its Bylaws (39 CFR 7.5) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice that it intends to hold a meeting at noon on December 20, 1982, in the Benjamin Franklin Room, 11th Floor, Postal Service Headquarters, 475 L'Enfant Plaza, S.W., Washington, D.C. Requests for information about the meeting should be addressed to the Secretary of the Board, Louis A. Cox, at (202) 245–4632.

There are two items on the agenda for this meeting. The first item is a continuation of the discussion of the July 9, 1982, decision of the U.S. Court of Appeals for the Second Circuit in *Time, Inc. et al.* v. *United States Postal Service* concerning the most recent general ratemaking proceeding (Docket No. R80–1). This item will be discussed in closed session, the Board having duly determined to close its discussion of this agenda item to public observation, in accordance with the provisions of the Sunshine Act.

The only other item on the agenda is the possible adjustment of rates for preferred rate mailers in view of anticipated Congressional appropriations action in regard to "revenue forgone" appropriations following the expiration of the current Continuing Resolution, Pub. L. 97–276. Discussion of this agenda item is open to the public.

Louis A. Cox,

Secretary.

[S–1819–82 Filed 12–13–82; 11:45 am]

BILLING CODE 7710–12–M

8

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: (To be published).

STATUS: Closed meeting.

PLACE: 450 Fifth Street, N.W., Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Friday, December 3, 1982.

CHANGES IN THE MEETING: Additional items. The following additional items were considered at a closed meeting held on Thursday, December 9, 1982, following the 10:00 a.m. open meeting.

Settlement of injunctive action.
Institution of injunctive action and Formal order of investigation.

Chairman Shad and Commissioners Evans, Thomas, Longstreth and Treadway determined by vote that Commission Business required the above changes and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any matters have been added, deleted or postponed, please contact: Jerry Marlatt at (202) 272–2092.

December 10, 1982.

[S–1818–82 Filed 12–13–82; 11:45 am]

BILLING CODE 8010–01–M

9

SYNTHETIC FUELS CORPORATION

Meeting of the Board of Directors

ACTION: Notice of meeting.

SUMMARY: Interested members of the public are advised that a meeting of the Board of Directors of the United States Synthetic Fuels Corporation will be held on the date and at the time and place specified below by telephone conference call. This public announcement is made pursuant to the open meeting requirements of Section 116(f)(1) of the Energy Security Act (9 Stat. 611, 637; 42 U.S.C. 8701, 8712(f)(1) and Section 4 of the Corporation's Statement of Policy on Public Access to Board Meetings. During the meeting, the Board of Directors may consider a resolution to close the meeting pursuant to Article II Section 4 of the Corporation's By-laws, Section 116(f) of the said Act and sections 4 and 5 of the said policy.

MEETING AGENDA:

Consideration of a solicitation for synthetic fuel project proposals.

Consideration of other matters that may properly come before the Meeting.

DATE AND TIME: December 20, 1982 at 3 p.m.

PLACE: Room 403, 2121 K Street, N.W., Washington, D.C. 20586.

PERSON TO CONTACT FOR MORE INFORMATION: If you have any questions regarding this meeting, please contact Mr. Owen J. Malone, Office of General Counsel, (202) 822–6336.

U.S. Synthetic Fuels Corporation.

Jimmie R. Bowden,

Executive Vice President.

December 10, 1982.

S–1817–82 Filed 12–13–82; 10:11 am]

BILLING CODE [illegible]

federal register

Wednesday
December 15, 1982

Part II

Department of Energy

Proposed Amendments to Procurement Regulations

DEPARTMENT OF ENERGY

41 CFR Ch. 9

Proposed Amendments to Procurement Regulations

AGENCY: Department of Energy.

ACTION: Proposed rule.

SUMMARY: This proposed rule is to amend the DOE Procurement Regulations. A listing of revisions is given below under the section entitled "Supplementary Information." The revisions are intended to update the Regulations as a result of changes in the Federal Procurement Regulations and to simplify operations by providing standard clauses and eliminating a duplicative recordkeeping requirement.

DATE: Written comments should be submitted not later than January 14, 1983 to be considered.

ADDRESS: Comments should be addressed to the Department of Energy, Procurement Policy Branch, MA931.1, Forrestal Building, Washington, D.C. 20585.

FOR INFORMATION CONTACT:
Richard Langston, Procurement Policy Branch, MA931.1, Procurement and Assistance Management Directorate, Department of Energy, (202) 252–8188
Mary Ann Masterson, Office of General Counsel, AGC for Procurement and Financial Incentives, GC44, Department of Energy, (202) 252–6902

SUPPLEMENTARY INFORMATION:

I. Background
II. Statutory and Regulatory Requirements
III. Public Comments

I. Background

Under Section 644 of the Department of Energy Organization Act Pub. L. 95–91, 91 Stat. 565 (41 U.S.C. 7254), the Secretary of the Department is authorized to prescribe such procedural rules and regulations as may be deemed necessary or appropriate to accomplish the functions vested in that position. Accordingly, the Department of Energy Procurement Regulations (DOE–PR) were promulgated with an effective date of June 30, 1979 (44 FR 34434, June 14, 1979), 41 CFR Chapter 9.

The specific revisions being proposed are too numerous to discuss in detail in this preamble. The topics are as follows: Change 9.1 is a listing of changes to the Table of Contents. Change 9.2 involves corrections and deletions to Subpart 1–1.7, "Small Business Concerns." The changes are not significant and, in part, are the result of Amendment 222 of the Federal Procurement Regulations which negates the need for part of the DOE–PR coverage. Change 9.3 revises Subpart 9–1.8, "Labor Surplus Area Concerns," to delete a requirement to manually maintain information which is readily available on DOE's automated information system. Change 9.4 revises Subpart 9–1.10, "Publicizing Procurement Actions," to indicate types of awards for which Congressional notification should be made. Change 9.5 adds a new Subpart 9–1.52, "Women-Owned Business Concerns," and gives guidance regarding circumstances under which use of a subcontracting program clause is required. Change 9.6 revises Subpart 9–1.54, "Organizational Conflicts of Interest." Change 9.7 deletes § 9–2.406–4, "Disclosure of mistakes after award," as Amendment 204 of the Federal Procurement Regulations negates the need for this guidance. Change 9.8 revises § 9–5.5203–1, "Regulations," to provide further guidance on printing. Change 9.9 corrects an erroneous mailing address at Section 9–5.5205–3. Changes 9.10 and 9.11 revise Sections 9–7.302–57, and 9–15.205–61 to furnish further guidance on printing. Change 9.12 revises existing policy regarding negotiation of profit or fee for cost type Architect-Engineer, construction, or construction management contracts. Change 9.13 revises existing policy regarding profits and fee for management and operating, and on-site contracts. Change 9.14 revises the printing guidance at 9–50.704–49.

II. Statutory and Regulatory Requirements

A. *Review Under Executive Order 12291.* Inasmuch as this proposed rule relates to agency management of the procurement function, the OMB clearance procedures set forth in Executive Order 12291 (February 17, 1981) are not applicable.

B. *Review Under the Regulatory Flexibility Act.* This proposed rule was reviewed under the Regulatory Flexibility Act of 1980, Pub. L. 96–354, which requires preparation of a regulatory flexibility analysis for any rule which is likely to have significant economic impact on a substantial number of small entities. DOE certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities and, therefore, no regulatory flexibility analysis has been prepared.

C. *Review Under the National Environmental Policy Act.* DOE has concluded that promulgation of this rule clearly would not represent a major Federal action having significant impact on the human environment under the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.* 1970)), the Council on Environmental Quality Regulations (40 CFR Parts 150 through 1508), and the DOE guidelines at 10 CFR Part 1021 and therefore does not require an environmental impact statement pursuant to NEPA.

notice. All written comments received will be carefully assessed and fully considered prior to publication of the proposed amendment as a final regulation.

List of Subjects in 41 CFR Ch. 9

Government procurement.

For the reasons set out in the preamble, Chapter 9 of Title 41 of the Code of Federal Regulations is proposed to be amended as set forth below.

Issued in Washington, D.C., December 6, 1982.

Hilary J. Rauch,

Director, Procurement and Assistance Management Directorate.

The regulations in 41 CFR Chapter 9 are proposed to be amended as set forth below.

Authority: Section 644 of the Department of Energy Organization Act, Pub. L. 95–91, 91 Stat. 599 (42 U.S.C. 7254).

Note.—As an aid in identifying specific proposed changes to the DOE Procurement Regulations, a two-digit identification number is assigned to each specific change. The first digit represents the numerical sequence of proposed changes; thus, this is Change 9 to indicate that this is the ninth time that DOE has issued a notice of proposed rulemaking for the purpose of amending 41 CFR Chapter 9. The second digit is the numerical sequence of specific changes proposed within a particular notice; thus, the first change within the ninth notice is identified as Change 9.1.

Change 9.1

Subpart 9–1.7, "Small Business Concerns," is amended at § 9–1.703–1 to clarify the text and to correct a statutory citation by substituting "15 U.S.C. 632" for the erroneous references "15 U.S.C. 832" at paragraph (a) and "15 U.S.C. 637," at paragraph (c)(2); at § 9–1.706–1 by removing and reserving paragraph (e) which has been superseded by Amendment 222 of the Federal Procurement Regulations, and at § 9–1.710–3 by abbreviating the title of the clause to read "Small and Disadvantaged Business Subcontracting Plan", and by placing a "(b)" before the second paragraph, by removing the word "quarterly" from paragraph (c), by capitalizing the first word of paragraph (a) of the clause, by substituting "$100,000" for "$10,000" in paragraph (a)(6) of the clause, and by removing the word "quarterly" from paragraph (a)(9) of the clause, and by adding a new paragraph (d) following the text of the

clause to emphasize that a prime contractor may be relieved of the duty of monitoring subcontracting plans under certain circumstances. The revised text will read:

Subpart 9-1.7—Small Business Concerns

* * * * *

§ 9-1.703-1 Certification.

The following certifications are to be used in procurements exceeding $10,000:

(a) The offeror certifies that its organization is ( ) is not ( ) a small business concern as defined in accordance with Section 3 of the Small Business Act (15 U.S.C. 632 and SBA's rules and regulations set forth at 13 CFR 121.3-8). If an affirmative certification is made, the offeror shall complete the certifications at paragraphs (b) and (c) of this section.

(b) The offeror certifies that its organization is a small business as set forth in paragraph (a) of this section and that it is (/) or is not (/) owned and controlled by socially and economically disadvantaged individuals. Such a firm is defined as one:

(1) Which is at least 51 per centum owned by one or more such individuals or, in the case of a publicly owned business, at least 51 per centum of the stock is owned by such individuals.

(2) Whose management and daily business operations are controlled by one or more such individuals; and

(3) Which certifies said ownership and control is by the following: (i) United States citizens who are Black Americans, Hispanic Americans, Native Americans, Asian Pacific Americans or other specified minorities; or (ii) Any other individual found to be disadvantaged pursuant to section 8(a) of the Small Business Act (15 U.S.C. 632).

Failure to execute all parts of the representation will be deemed a minor informality and the bidder or offeror shall be permitted to satisfy the requirement prior to award.

* * * * *

§ 9-1.710-3 Required clauses

* * * * * *

(c) The following contract clause is to be included in formally advertised and negotiated procurements when there is a requirement for a small and small disadvantaged business subcontracting plan. Contracting Officers may modify this clause to specify the forms on which reports are to be submitted.

"Small and Disadvantaged Business Subcontracting Plan."

(a) The contractor agrees to comply in good faith with the Small and Disadvantaged Business Subcontracting Plan which is hereby incorporated in and made a part of this contract. In this connection, the contractor shall:

* * * * *

(6) Notify the Contracting Officer before soliciting bids, quotations, or proposals on any subcontract (including purchase orders) in excess of $100,000 if:

* * * * *

(9) Submit reports of subcontracting to small and disadvantaged business concerns on such forms as may be specified elsewhere in this contract.

* * * * *

(d) In accordance with Supplement Number 1 of OFPP Policy Letter 80-2, Contracting Officers are authorized to relieve a prime contractor from his obligation to monitor subcontracting plans when deemed appropriate.

* * * * *

Change 9.2

Subpart 9-1.8 "Labor Surplus Area Concerns," is amended by removing and reserving § 9-1.802-1, "General Policy," as it is duplicative of FPR 1-1.802-1, and by removing and reserving § 9-1.805, "Subcontracting with labor surplus concerns," which requires manual maintenance of information at the local level which is now available from the Department's automated Procurement and Assistance Data System. The revised text will read:

Subpart 9-1.8—Labor Surplus Area Concerns

* * * * *

§ 9-1.802-1 [Removed and reserved]

* * * * *

§ 9-1.805 [Removed and reserved]

* * * * *

Change 9.3

Subpart 9-1.10, "Publicizing Procurement Actions" is amended by removing and reserving § 9-1.1004, "Synopses of Contract Awards." The material previously at § 9-1.1004 concerned classified procurements and Congressional notification. Adequate guidance regarding synopsis of classified procurements is provided at FPR 1-1.1003-2(a)(1). Guidance regarding Congressional notification will be the topic of a new § 9-1.1050, "Congressional Notification," added by this change. The revised text will read:

Subpart 9-1.10—Publicizing Procurement Actions

* * * * *

§ 9-1.1004 [Removed and reserved]

§ 9-1.1050 Congressional notification.

(a) *Individual requests.* In addition to having access to the information available to the general public, Members of Congress shall, upon their request, be given full and detailed information regarding any particular Departmental procurement. The information provided shall be fully responsive to the member's request unless such a response would disclose classified matter, information not to be released pursuant to law, business confidential information or information which would be prejudicial to the competitive process. The Contracting Officer shall promptly consult with appropriate specialists such as security analysts or legal counsel and the Office of Congressional Affairs to determine whether circumstances exist which will allow the release of additional information. In such instances, the Congressional requestor shall be furnished an interim reply furnishing the information which is readily releasable. The interim reply shall describe the problem which precludes release of any requested material and describe generally what steps, if any, are being taken to make such information available.

(b) *Required Notices of Award.* The Office of Congressional Affairs, Headquarters, is responsible for advising Members of Congress regarding Departmental activities likely to have an impact on their constituents. To facilitate this advise, Contracting Officers shall notify the Office of Congressional Affairs regarding pending awards for significant new starts or modifications significantly expanding the previous scope of a contract. The transmittal of such notices to the Office of Congressional Affairs shall be as follows:

(i) Notice of awards of $500,000 or greater, but less than $1,000,000 shall be forwarded 48 hours prior to the time of contract execution.

(ii) Notice of awards of $1,000,000 or greater shall be forwarded 48 hours prior to the public announcement of source selection.

* * * * *

Change 9.4

A new Subpart 9-1.52, "Women-Owned Business Concerns," is added to provide that the related subcontracting program clause need not be used in contracts not having subcontracting opportunities. Currently, all contracts exceeding $500,000 (a higher threshold of $1,000,000 exists for public facility construction contracts) must contain the Women-Owned Business Concerns Subcontracting Program clause. This action will eliminate the burden and expense of operating such a program when subcontracting opportunities do not exist since there are no benefits to be realized. The contracts will still contain the "Utilization of Women-Owned Business Concerns" clause to

assure that all contractors are aware of the Federal policy in this regard and that women-owned business concerns are considered in any subcontracting done thereunder. The revised text will read:

Subpart 9–1.52—Women-Owned Business Concerns

§ 9–1.5200 Scope of subpart.

This subpart implements and supplements the policies set forth in FPR Temporary Regulation 54.

§ 9–1.5201 Subcontracting program clause.

The Women-Owned Business Concerns Subcontracting Program clause is to be included in DOE procurements meeting the dollar thresholds established by FPR Temporary Regulation 54 only when subcontracting opportunities exist.

Change 9.5

Subpart 9–1.54, "Organizational Conflicts of Interest," is amended at § 9–1.5408–1 to add a new paragraph (e) to the "Organizational Conflicts of Interest-General" clause, at § 9–1.5408–2 to add a new paragraph (g) to the "Organizational Conflicts of Interest-Special" clause, at § 9–1.5411 to substitute a new second sentence, and at Appendix A to add a new section titled "Example 12." The changes at § 9–1.5408–1 and § 9–1.5408–2 are to alert contractors to the requirement to update disclosure statements if additional work is added to an existing contract. The change at § 9–1.5411 emphasizes the importance of including appropriate coverage in existing contracts during renewal negotiations. The new Example is added to describe a means of avoiding organizational conflicts of interest during competitive evaluations. The revised text will read:

Subpart 9–1.54—Organizational Conflicts of Interest

* * * * *

§ 9–1.5408–1 General contract clause.

* * * * *

(e) Prior to a contract modification when the statement of work is modified to add new work; the period of performance is significantly increased, or the parties to the contract are changed, the Department will request and the contractor is required to submit either an organizational conflict of interest disclosure or representation (see 41 CFR 9–1.5407), or an update of the previously submitted disclosure or representation.

§ 9–1.5408–2 Special contract clause.

* * * * *

(g) *Modifications.* Prior to a contract modification when the statement of work is modified to add new work; the period of performance is significantly increased, or the parties to the contract are changed, the Department will request and the contractor is required to submit either an organizational conflict of interest disclosure or representation (see 41 CFR 9–1.5407), or an update of the previously submitted disclosure or representation.

§ 9–1.5411 DOE management contractors, subcontractors and consultants.

The missions and functions of the Department require the use of contractors to operate and manage the Department's facilities on a long-term basis pursuant to Part 9–50. When the annual fee or work of such an operating contract is negotiated, the Contracting Officer shall exercise special care in incorporating an appropriate organizational conflict of interest provision therein. Whenever an operating contract is not to be renewed, but a new selection is to be made, the disclosure or representation requirement of § 9–1.5407 and an appropriate clause should be included in the solicitation and resulting contract. In preparing such clause, the Contracting Officer shall consider provisions which assure appropriate restraints on intercorporate relations between the contractor's organization and personnel operating the Department's facility and its parent corporate body and affiliates, including personnel access to the facility, technical transfer of information from the facility, and the availability from the facility of other advantages flowing from performance of the contract. The subcontractors and consultants of Department Operating Contractors should be, to the extent feasible, made subject to the requirements of this subpart as if they were performing the work as prime contractors to the Department.

Appendix A—Examples of Contractual Situations or Relationships—Organizational Conflicts of Interest

* * * * *

Example 12

Firm A, because of its unique technical expertise, has been requested to assist the Department in the evaluation of proposals which will result from a competitive solicitation. Firm A also plans to submit a proposal in response to this same solicitation.

Guidance. Normally this would constitute a conflict and Firm A should be precluded from participating in the solicitation. In a particular case, it may be desirable (e.g., when the competitive field is narrow) to allow a separate division or affiliate of Firm A to submit a proposal; but in such a case, of course, Firm A would not itself participate in the evaluation of this proposal, which would be undertaken by DOE personnel or another firm.

Change 9.6

Section 9–2.406–4, "Disclosure of mistakes after award," is removed as the need for this guidance was eliminated by FPR Amendment 204. The text will read:

§ 9–2.406–4 [Reserved]

* * * * *

Change 9.7

Section 9–5.5203–1, "Regulations," is amended to provide that printing may be included in contracts for other services provided it is not practical to separate this activity from the other work and provided that the contractor acquires such printing from the Government Printing Office (GPO) or a GPO designated source. The following additional text is added to the existing text of § 9–5.5203–1:

§ 9.5.5203–1 Regulations.

* * * This general prohibition is not applicable to situations in which practicality requires that the contractor obtain the printing on DOE's behalf provided the contractor obtains the printing from the Government Printing Office (GPO), a contract source designated for that purpose by the GPO or a Joint Committee on Printing authorized federal printing plant. Contracting Officers should obtain the concurrence of their facility printing office prior to including such work in any contract and shall provide the Contractor with specific ordering instructions.

Change 9.8

Section 9–5.5205, "Helium," is amended at § 9–5.5205–3(a) to indicate a change of mailing address and at 9–5.5205–3(c) to delete the phrase "as defined by Parts 601 and 602, Subchapter A, Chapter VI, Title 30, Code of Federal Regulations," and to place a period after the word "helium" to indicate the new end of the sentence resulting from the text deletion. The revised text will read:

§ 9–5.5205 Helium.

* * * * *

§ 9–5.5205–3 Methods of purchase.

(a) Purchase may be made from the Secretary of the Interior for either DOE or cost-type contractors' requirements for helium by forwarding a purchase order in duplicate (Form DOE–103 or the cost-type contractor's purchase order

properly identified in accordance with the Use of Government Sources of Supply) to: Bureau of Mines, Division of Helium Operations, 1100 S. Fillmore, Amarillo, Texas 79101.

* * * * *

(c) In all cases, except where purchase is made from the Bureau of Mines directly, the purchase orders shall contain the following statement: Helium furnished under this contract shall be Bureau of Mines helium.

* * * * *

Change 9.9

The present § 9–7.302–57, "Printing," is partially removed and partially replaced with new coverage of the same topic. The change is to provide that contractors may be authorized to obtain printing on DOE's behalf directly from the Government Printing Office. The revised text will read:

§ 9–7.302–57 Printing

Insert the following clause:

Printing

The contractor shall not engage in, nor subcontract for, any printing (as that term is defined in Title I of the U.S. Government Printing and Binding Regulations in effect on the effective date of this contract) in connection with the performance of work under this contract. Provided, however, that performance of a requirement under this contract involving the duplication of less than 5,000 copies of a single page, or no more than 25,000 units in the aggregate of multiple pages, will not be deemed to be printing. A unit is defined as one sheet, size 8½ by 11 inches one side only, one color.

(1) The term "printing" includes the following processes: composition, platemaking, presswork, binding, microform publishing, or the end items produced by such processes.

(2) If fulfillment of the contract will necessitate reproduction in excess of the limits set forth above, the contractor shall notify the Contracting Officer in writing and obtain the Contracting Officer's approval prior to acquiring on DOE's behalf production, acquisition, and dissemination of printed matter. Such printing must be obtained from the Government Printing Office (GPO), a contract source designated by GPO or a Joint Committee on Printing authorized federal printing plant.

(3) Printing services not obtained in compliance with this guidance will result in the cost of such printing being disallowed.

(4) The Contractor will include in each of his subcontracts hereunder a provision substantially the same as this clause including this paragraph (4).

Change 9.10

Section 9–15.205–61, "Printing costs," is amended by adding the following new second sentence to allow the costs of printing in certain circumstances.

§ 9–15.205–61 Printing costs.

* * * But, such costs may be allowed if the Contracting Officer has authorizecd the contractor to obtain printing on DOE's behalf from the Government Printing Office (GPO), a contract source designated by GPO, or a Joint Committee on Printing authorized federal printing plant.

Change 9.11

The existing text of § 9–18.307–2, "Negotiations," is being replaced by new text to further implement § 1–18.307–2 of the Federal Procurement Regulations by adding profit and fee to the Department's negotiation procedures. Sections 9–18.307–50 through 9–18.307–56 are added to state the Department's profit and fee policy. The test will read:

§ 9–18.307–2 Cost reimbursement type contracts.

The fee for a cost reimbursement type contract shall be negotiated in accordance with § 9–18.307–50. See § 9–3.805 for other negotiation aspects.

§ 9–18.307–50 Profit and fees.

(a) Policy. (1) Business concerns awarded a DOE architect-engineer, construction, or construction management contract shall be paid a profit or fee if requested or solicited. The profit or fee objective for an architect-engineer, construction, or construction management contract shall be an amount appropriate for the type of effort contained therein. It is the intent of DOE to (i) reward contractors based on the complexity of work, (ii) reward contractors who demonstrate and establish excellent records of performance and (iii) reward contractors who contribute their own facilities and investment of capital.

(2) Standard fees or across the board agreements will not be made. Profit or fee objectives are to be determined for each contract according to the standard effort or task contracted for thereunder.

(3) Profit or fees payable on construction or construction management contracts shall be established in accordance with the appropriate procedures and schedules set forth in this subpart.

(4) Profit or fees for architect-engineer contracts shall be established in accordance with the weighted guidelines techniques discussed in Subpart 9–3.808.

(b) *Limitations.* Amounts payable under construction and construction management contracts shall not exceed the amounts derived from the schedules established for this purpose. Request to pay fees in excess of these levels will be sent to the Senior Procurement Official, Headquarters, for review and approval.

(c) *Considerations for Determining Fees.* (1) The profit policy stated in § 9–50.306–1(a) reflects, in a broad sense, recognition that profit is compensation to contractors for the entrepreneurial function of organizing and managing resources, the use of contractor resources, (including capital resources), and the assumption of risk that all costs of performance (operating and capital) may not be reimbursable.

(2) Instead of being only cost-based, the best approach calls for a structure that allows judgmental evaluation and determination of fee dollars for significant factors, such as the following (listing in no particular order of importance) which impacts the need for and the rewards associated with fee.

(i) Management risk relating to performance, including the (*a*) quantity and diversity of principal work task required to do the job, (*b*) labor intensity of the job, (*c*) special control problems, and (*d*) advance planning, forecasting and other such requirements;

(ii) The presence or absence of financial risk, including the type and terms of the contract;

(iii) The relative difficulty of work, including consideration of technical and administrative knowledge, skill, experience and clarity of technical specifications;

(iv) Degree and amount of contract work required to be performed by and with the contractor's own resources;

(v) Duration of project;

(vi) Size of operation;

(vii) The extent to which the contractor contributes plant, equipment, computers, or working capital;

(viii) Benefits which may accure to the contractor from gaining experience and know-how, from establishing or enhancing a reputation, or from being enabled to hold or expand a staff whose loyalties are primarily to the contractor; and

(ix) Other special considerations, including support of Government programs such as those relating to small and minority business in subcontracting, conservation, etc.

(3) The total fee objective and amount for a particular procurement is established by judgmental considerations of the above factors, assigning profit values as deemed appropriate for each factor, and totaling the resulting profit amounts.

(4) In recognition of the complexity of this process and to assist in promoting a reasonable degree of consistency and uniformity in its application, the fee schedules set forth in this subpart set

forth fee amounts based on this approach (related for use of application, to a total fee base, (cost) as defined) that contracting activities are allowed to negotiate for a particular transaction without obtaining prior approval of the Senior Procurement Official, Headquarters. These schedules provide maximum fee levels for what is otherwise defined as normal requirements of a construction contract.

(5) Other than normal efforts should be adjusted as defined in § 9–18.307–50.

(d) *Construction/Construction Management.* (1) The schedules included in this paragraph provide fee levels for CPFF construction/construction management contracts. The fees are based on the estimated cost (fee base) for the construction work and services to be performed. In addition to a basic fee, a separate schedule has been developed for determining additional fee applicable to special equipment purchases and the additional fees applicable to construction managers for oversight and control of the actual construction work performed by subcontractors. Such costs are excluded from the basic fee determination, but represent effort that warrants fee considerations.

(2) The schedule of base fees for construction/construction management:

CONSTRUCTION CONTRACTS

Fee base	Fee	Fee percent	Increment percent
$100,000	5,400	5.40	5.25
300,000	15,900	5.30	5.00
500,000	25,900	5.18	4.72
1,000,000	49,500	4.95	3.33
3,000,000	116,100	3.87	2.82
5,000,000	172,500	3.45	2.53
10,000,000	299,000	2.99	2.18
15,000,000	408,000	2.72	1.90
25,000,000	598,000	2.39	1.68
40,000,000	850,000	2.13	1.46
60,000,000	1,142,000	1.90	1.28
80,000,000	1,398,000	1.75	1.24
100,000,000	1,646,000	1.65	1.03
150,000,000	2,161,000	1.44	.80
200,000,000	2,561,000	1.28	.65
300,000,000	3,211,000	1.07	.50
400,000,000	3,711,000	.93	.35
500,000,000	4,061,000	.81	

(3) The schedule of additional fees for equipment purchases and/or the management effort of the subcontract program under a construction management contract.

PROCUREMENT OF SPECIAL EQUIPMENT

Fee base	Fee	Fee percent	Increment percent
$100,000	$1,500	1.50	1.50
200,000	3,000	1.50	1.47
400,000	5,940	1.48	1.39
600,000	8,720	1.45	1.28
800,000	11,300	1.41	1.15
1,000,000	13,600	1.36	1.00
2,000,000	23,600	1.18	.90

PROCUREMENT OF SPECIAL EQUIPMENT—Continued

Fee base	Fee	Fee percent	Increment percent
4,000,000	32,600	.82	.82
5,000,000	52,000	.87	.52
6,000,000	54,400	.81	.57
10,000,000	75,800	.76	.53
15,000,000	102,300	.68	.45
25,000,000	147,300	.59	.42
40,000,000	210,300	.53	.36
60,000,000	282,300	.47	.33
80,000,000	348,300	.44	.28
100,000,000	408,300	.41	.22
150,000,000	514,300	.34	.15
200,000,000	589,300	.29	.09
300,000,000	679,300	.23	

(e) *Fee Base.* (1) The fee base represents that estimate of cost to which a percentage factor is applied to calculate fee allowances. The fee base is the estimated necessary allowable cost of the construction or other services which are to be performed. It shall include the estimated cost for, but is not limited to the following:

(i) Site preparation and utilities.

(ii) Construction (labor-materials-supplies) of buildings and auxilary facilities.

(iii) Construction (labor-materials-supplies) to complete/construct temporary buildings.

(iv) Design services to support the foregoing.

(v) General management and job planning cost.

(vi) Labor supervision.

(vii) Procurement and acquisition administration.

(viii) Construction performed by subcontractors.

(ix) Installation of government furnished or contractor acquired special equipment.

(x) Special equipment.

(2) The basic fee base for a construction contract shall include all necessary and allowable cost cited in paragraph (a). The fee base shall exclude:

(i) Cost of land.

(ii) Cost of engineering (A&E work).

(iii) Contingency estimate.

(iv) Equipment rentals or use charges.

(v) Cost of government furnished equipment or materials.

(3) In addition to the above, the basic fee base for a construction contract shall exclude the estimated purchase cost of special equipment which is deemed to be of such magnitude, when compared to its installation cost, as to distort the amount of technical direction and management efforts required by the contractor. A separate fee base shall be established for such special equipment. The fee base for determination of applicable fees on special equipment shall be based on the estimated purchase price of the equipment.

(4) In the case of construction management contracts, the actual construction work will be performed by subcontractors. In most cases the subcontract awards for the construction work will be made by the management contractor. Occasionally the contract may involve management of construction performed under a contract awarded by the Department or by one of the Department's operating contractors. In either case, the actual cost of the construction work shall be excluded from the fee base used to determine the basic fee applicable to a construction management contract. The fee base for a basic fee determination shall be comprised of only the construction managers own efforts. A separate fee base for additional allowances shall be established comprised of the subcontract construction cost, equipment purchases, and other items cost that are contracted for or purchased by construction manager. The fee base shall exclude all subcontract construction separately awarded by the DOE or an operating contractor.

(f) *Factors Affecting Fee Amounts.* (1) In selecting final fee amounts for the various considerations in paragraph (c) of this section, several factors shall be analyzed/and judgments applied.

(2) Complexity of a construction project shall be considered by analysis of its major parts. For a project which includes items of work of different degrees of complexity, a single average classification should be considered, or the work should be divided into separate classifications. The following class identifications are appropriate for proper fee determinations. The target fee amounts, set forth in the fee schedule, shall not be adjusted for a class A, which is maximum complexity. A class B project requires a 5% reduction in target amounts. Class C and D complexities required a 10% and 15% reduction respectively. The various classes are defined as follows.

Class A—Manufacturing plants involving continuous closed processes or other complicated operations requiring a high degree of design layout or process control; nuclear reactors; atomic particle accelerators; complex laboratories or industrial units especially designed for handling radioactive materials.

Class B—Normal manufacturing processes and assembly operations such as ore dressing, metal working plants and simple processing plants; power plants and accessory switching and transformer stations, water treatment plants, sewage disposal plants, hospitals and ordinary laboratories.

Class C—Permanent administrative and general service buildings, permanent housing, roads, railroads, grading, sewers, storm drains and water and power distribution systems.

Class D—Construction camps and facilities and other construction of a temporary nature.

(3) Normal management elements of principal task relating to a construction contract covers several categories of task with differing rates of application throughout the construction period. The principal elements of management effort are as outlined herein. Although each project has a total management value equal to 100% for all elements, the distribution of effort among the differing elements is different for each project due to differences in project character or size. The basic management elements and the normal range of effort expected to apply for a normal sized project are as follows. The basic elements are those considered as normal requirements and are reflected in fee levels shown in the target fee schedule. When normal efforts, which would be otherwise expected for a project, will not be performed by a contractor, the target fee amounts should be adjusted by some pertinent percentage factor. The normal effort ranges and management tasks are:

Management elements	Element minimum	Range Maximum
I. *Broad project planning.* Overall project planning and scheduling, establishment of key project organization and consultation with the A–E and DOE. Performed by highest level of contractor's officers, technical personnel and project manager	15	III
II. *Field planning.* Mobilization and demobilization of top field organization from the contractor's existing organization and from other sources as necessary. Detailed project planning and scheduling for construction of facilities. Performed by the project manager and top field professional staff	III	28
III. *Labor supervision.* Direct supervision of manual employees. Performed by contractor's subprofessional staff, such as superintendents and foremen (some salaried and some hourly rate). This includes the contractor's personnel to coordinate and expedite the work of subcontractors	12	16
IV. *Procurement and subcontracting.* Procurement of other than special equipment Selection of subcontractors and execution and administration of subcontracts. Performed by contractor's staff under supervision and direction of elements 1 and 2	12	16
V. *Labor relations and recruitment (manual).* Performed by the contractor's staff under supervision and direction of elements I, II and III. This includes demobilization of work forces	7	11
VI. *Recruitment of supervisory staff.* Staffing required to supplement the organization under elements I and II, and demobilization during completion of the project. Performed by contractor's permanent staff and recruited personnel under supervision and direction of management elements 1 and 2	4	6
VII. *Expediting.* Expediting procurement performed by contractor's staff and by subcontractors. Performed by contractor's staff under supervision and direction of elements I and II	X	II
VIII. *Construction equipment operations.* This includes mobilization and demobilization. Performed by contractor's staff under supervision, direction and coordination of elements I, II, III, IV	X	6
IX. *Other services.* Timekeeping, cost accounting, estimating, reporting, security, etc., by the contractor's staff under supervision and direction of elements 1 and 2	X	6

(4) Fee considerations dealing with the duration of a project are usually provided by the consideration given to the degree of complexity and magnitude of the work. In only very unusual circumstances should it be necessary to award more fees or adjust downward the target fee levels because of the period of services or length of time involved in the project.

(5) The size of the operation is to a considerable degree a continuation of the complexity factor, and the degree and amount of work required to be performed by and with the contractor's own resources. No separate adjustments are required for consideration of those factors.

(6) The degree and amount of work required to be performed by and with the contractor's own resources affect the level of fees. The target amounts are based on expectations of complete construction services normally associated with a construction or construction management contract. In the case of a construction contract reduced services can be in the form of excessive subcontracting or supporting procurement actions and labor relation interfaces being made by the government. If an unusual amount of such work is performed by other than the contractor, it will be necessary to reflect downward adjustments in the target fee levels to provide for the reduction in services required. The following shall be considered.

(i) The target fee schedule provides for 45% of the contract work to be subcontracted for such things as electrical and other specialties. Excessive contracting results when such efforts exceed 45% of the total contract work. To establish appropriate fee reductions for excessive subcontracting first determine the amount of subcontracting as a percentage of the total contract work. Next, determine a percentage by which the prime contractor's normal requirement (based on requirement for doing work with its own forces) is reduced due to the excessive subcontracting. Multiply the two percentages to determine a fee reduction factor.

(ii) If procurement or other services normally expected of the contractor are performed by the government, or another DOE prime or operating contractor a target fee reduction may also be required. First determine what percentage of the total procurement or other required services is performed by others. (Ref subparagraph (f)(3) above). Next apply this percentage reduction to the normally assigned weightings for the management services or effort as discussed in subparagraph (f)(3) to arrive at the appropriate reduction factor.

Change 9.12

A new § 9–50.305 is added and designated "Reserved". A new § 9–50.306, "Profit and Fees," is added to establish policy and procedures regarding profit and fees under management and operating, and on-site services contracts. The text will read:

§ 9–50.305 [Reserved]

§ 9–50.306 Profit and fees.

§ 9–50.306–1 Policy.

(a) Organizations awarded a DOE management and operating contract, and/or an on-site service contract as defined in this subpart, except those contractors who are educational institutions, may be paid a fee, if requested or solicited. The profit objective for a management and operating contract and/or on-site service contract subject to this subpart, shall be an amount which is appropriate for the type of effort contracted for. It is the intent of the DOE to (1) reward operating and management contractors based on the difficulty of work and the level of required skills, (2) reward those contractors who demonstrate and have excellent records of performance, and (3) where applicable, recognize contractors who contribute or utilize their own facilities or other investment capital.

(b) Profit objectives and amounts are to be determined for each contract according to the standard effort or task contracted for thereunder. Standard fees or across the board agreements will not be made. Due to the nature of funding operating contracts, it is anticipated that fees shall be established in accordance with the annual (or as otherwise established) funding cycle, however, a longer period may be used, particularly for production efforts.

(c) Fee amounts payable on contracts for administration, management,

operation, and on-site support of Government-owned facilities shall be established in accordance with appropriate procedures and fee schedules. Amounts payable shall not exceed maximum amounts derived from the appropriate fee schedule established for this purpose. Requests to pay fees in excess of the maximum will be sent to the Senior Procurement Official, Headquarters, for review and approval.

(d) Maximum fees for on-site service contracts shall be determined using the schedule(s) most closely related to the service(s) to be performed. This may be either the production or R&D schedules or the target fee schedule for construction or construction management cited in Subpart 9–18. If architect-engineer services are involved the weighted guideline profit-fee technique cited in Subpart 9–3.808 shall be applied.

§ 9–50.306–2 Special considerations—Educational organizations.

(a) DOE policy is generally to not pay fees under contracts with educational institutions.

(b) Notwithstanding paragraph (a) of this section it may be, under special circumstances, permissible to reimburse or pay a management allowance to an educational institution provided such allowances can be justified and have the approval of the Head of the Procuring Activity.

(c) It is the basic DOE objective to negotiate settlements of amounts for payment under an operating contract that represent educational institution indirect expenses allocable to, or reimbursable under, the contract. These amounts are normally considered a contract cost item. In the event the parties cannot agree as to a proper amount, a management allowance may be paid. Such payments shall not exceed the DOE estimate of the anticipated central indirect expenses or the institution's estimate of properly allocable indirect expenses.

§ 9–50.306–3 Considerations and techniques for determining fees.

(a) The intent of the profit policy stated in 9–50.306–1 reflects, in a broad sense, recognition that profit is remuneration to contractors for the entreprenurial function of organizing and managing resources, the use of contractor resources (including capital resources), and the assumption of risk that all incurred costs (operating and capital) may not be reimbursable.

(b) Use of a purely cost-based structured approach for determining profit objectives and amounts for typical DOE management and operating contracts is inappropriate considering the level of contractor cost, capital goods, and operating capital outlays for performance of such contracts. Instead of being solely cost-based, the desirable approach calls for a structure that allows judgmental evaluation of significant factors and selection of fee values therefor for considerations, such as the following (listed in no particular order of importance):

(1) Management risk relating to performance, including the (i) quantity and diversity of principal work tasks required to do the job, (ii) labor intensity of the job, (iii) special control problems, and (iv) advance planning, forecasting and other such requirements;

(2) The presence or absence of financial risk, including the type and terms of the contract;

(3) The relative difficulty of work, including consideration of technical and administrative knowledge, skill, experience and calrity of technical specifications;

(4) Degree and amount of contract work required to be performed by and with the contractor's own resources;

(5) Duration of project;

(6) Size of operation;

(7) The extent to which the contractor contributes plant, equipment, computers, or working capital;

(8) Influence of alternate investment opportunities available to the controactor (i.e., the extent to which undertaking a task for the Government displaces a contractor's opportunity to make a profit with the same staff and equipment in some other field of activity);

(9) The relationship of a proposed fee to fees being paid for similar work;

(10) The extent to which the activity contemplated is fundamentally a service being furnished to the Government or is an activity in which the contractor has substantial independent interest, a factor especially pertinent to research work which is closely allied to a contractor's own program and to operations which involve furnishing research facilities which would otherwise not be available because of their large cost;

(11) Benefits which may accrue to the contractor from gaining experience and know-how, from establishing or enhancing a reputation, or from being enabled to hold or expand a staff whose loyalties are primarily to the contractor; and

(12) Other special considerations, including support of Government programs such as those relating to small and minority business in subcontracting, conservation, etc.

(c) The fee objective and amount for a particular negotiation is established by judgmental consideations of the above factors, assigning profit values as deemed appropriate for each factor, and totaling the resulting profit amounts.

(d) In recognition of the complexities of this profit determination process and to assist in promoting a reasonable degree of consistency and uniformity in its application, the fee schedules in section 9–50.306–4 set forth the maximum amounts of fees (related for use of application, to a total cost base, defined as the fee base) contracting activities are allowed to award for a particular transaction without obtaining prior approval of the Senior Procurement Official, Headquarters.

§ 9–50.306–4 Limitations.

(a) Fee schedules representing the maximum allowable fee to be paid under operating and management contracts have been established for the following management and operating contracts task or efforts.

(1) *Production/Manufacturing.*—

(2) *Research and Development.*

(b) The applicable schedules and maximum fees are:

PRODUCTION EFFORTS

Fee base	Fee	Fee percent	Increment precent
Up to $1 million	.....	7.00	7.00
$1,000,000	$70,000	7.00	6.05
3,000,000	191,000	6.37	5.25
5,000,000	296,000	5.92	4.18
10,000,000	505,000	5.05	3.50
15,000,000	680,000	4.53	3.30
25,000,000	1,010,000	4.04	2.86
40,000,000	1,439,000	3.60	2.41
60,000,000	1,921,000	3.20	2.07
80,000,000	2,335,000	2.92	1.50
100,000,000	2,635,000	2.64	1.10
150,000,000	3,185,000	2.12	.60
200,000,000	3,485,000	1.74	.50
300,000,000	3,985,000	1.33	.40
400,000,000	4,385,000	1.10	.30
500,000,000	4,685,000	.94	.....

RESEARCH AND DEVELOPMENT EFFORTS

Fee base	Fee	Fee percent	Increment percent
$25,000	$2,500	10.00	9.74
50,000	4,935	9.87	8.97
100,000	9,420	9.42	8.22
200,000	17,640	8.82	7.64
400,000	32,920	8.23	7.28
600,000	47,480	7.91	6.92
800,000	61,320	7.67	6.49
1,000,000	74,700	7.47	6.38
3,000,000	202,300	6.74	6.11
5,000,000	324,500	6.49	5.53
10,000,000	501,000	5.01	4.52
15,000,000	842,000	5.61	4.15
25,000,000	1,257,000	5.03	3.60
40,000,000	1,797,000	4.49	3.10
60,000,000	2,417,000	4.03	2.40
80,000,000	2,897,000	3.62	1.88
100,000,000	3,273,000	3.27	1.12
150,000,000	3,833,000	2.56	.66
200,000,000	4,158,000	2.08	.55
300,000,000	4,708,000	1.57	.45
400,000,000	5,158,000	1.29	.35
500,000,000	5,508,000	1.10	.....

§ 9-50.306-5 Fee base.

(a) The fee base is that estimate of necessary allowable cost to which a fee percentage is applicable to calculate fee/profit allowances. It is the cost of the production or R&D work to be performed, as adjusted to exclude the cost of source and special nuclear materials; estimated costs of land, buildings and facilities whether to be leased, purchased or constructed; depreciation of Government facilities; the fixed fee; and any estimate of effort for which a separate fee is to be negotiated.

(b) The fee base, in addition to the above adjustments, shall exclude:

(1) Estimated cost of capital equipment procured by subcontract;

(2) Estimated cost of Government-furnished materials, services and equipment;

(3) Estimated cost or price of subcontract(s) and other major procurements that distort the management efforts of the contractor.

(4) Other similar costs which are of such a magnitude or nature as to distort the technical directions and management effort actually required of the contractor;

(5) All estimates of costs not directly incurred by or reimbursed to the operating contractor;

(6) Estimates of company general and administrative expenses that shall be reimbursed through the operating contract;

(7) Estimates of any independent research and development cost or bid and proposal expenses that may be approved under the operating contrract.

(c) In claculating the fee base for application of the production schedule, the estimated cost of R&D work and of process development work which goes beyond normal technical support required to insure continuity of operation shall be excluded. Fee for such R&D and process development work is calculated separately, starting at the beginning of the R&D schedule.

(d) The schedules are not intended to compensate for unusual architect-engineer or construction management assignments given operating contractors. Such services generally are covered by special agreements based on the policies applying to architect-engineer or construction contracts. Fees paid for such services are in addition to the operating fees and are calculated using the provisions ot that subpart relating to architect-engineer or construction fees.

(e) The fee schedules provide maximum fees payable assuring satisfactory contract performance. There may be times, for differing reasons, when it is deemed the applicable fee schedule does not adequately compensate the contractor. In such situations, if the circumstances should arise, consideration should be given to fees in excess of the fee schedules.

(f) Proposals to compensate a contractor in excess of the maximum fee schedules should be submitted to the Senior Procurement Official, Headquarters, Washington, D.C. Proposals should contain documentation and state specifically why the contractor is entitled to additional fees.

§ 9-50.306-6 Special equipment purchases.

(a) Special equipment is sometimes procured in conjunction with operating or on-site service contracts. When an operating contractor is required to procure special equipment, additional fees shall be provided. The maximum allowable fee for such services shall not exceed the fee schedule set forth in Subpart 9-18.307-53 for such services as performed by construction contractors. The fee is based on the estimated price of the equipment being purchased.

(b) In determining appropriate fees to be paid, judgment should be used, with consideration to such factors as complexity of equipment, ratio of procurement transactions to volume of equipment to be purchased and completeness of services. Where possible, the reasonableness of the fees should be checked by their relationship to actual costs of comparable procurement services.

§ 9-50.306-7 Special considerations—award fee.

(a) If a management and operating contract is to be awarded on a cost-plus-award-fee basis, several special considerations are appropriate.

(b) In management and operating contracts, the base fee portion of the fee objective should not normally exceed 50% of the otherwise applicable fixed fee. However, the base amount may range from 0 up to the 50% level of the fixed fee amount. In the event 50% is exceeded, appropriate documentation shall be entered into the contract file. In no event shall the base fee exceed 70% of the fixed fee amount.

(c) The base fee plus the amount included in award fee pool should normally not exceed the fixed fee (as subjectively determined or as developed from the fee schedule) by more than 50%. However, in the event the base fee is to be less than 50% of the fixed fee, the maximum potential award fee may be increased commensurate with the decreases in base fee amounts.

(d) The following maximum potential award fees shall apply in award fee contracts: (percent is stated as percent of fee schedule amounts)

Base fee percent	Award fee percent	Maximum total percentage
50	100	[illegible]
40	120	[illegible]
[illegible]	140	[illegible]
20	160	[illegible]
10	[illegible]	[illegible]
0	[illegible]	[illegible]

(e) Prior approval of the Senior Procurement Official, Headquarters, is required for total fees (base plus award fee pool) exceeding the guidelines in § 9-50.306-7(d).

§ 9-50.306-8 Special considerations—Nonprofit organizations (other than educational institutions).

(a) Unless there is reason to do otherwise, it is general policy to pay fees for a management and operating contract with a nonprofit organization; however, it is a matter of negotiation whether a fee will be paid in a given case.

(b) Where fees are to be paid nonprofit organizations, the appropriate fee schedule shall apply. However, in computing the amounts to be paid, the tax status of the nonprofit organization should be considered. While it is difficult to establish the degree to which a fee under any given contract contributes to an organization's overall net profit, since the DOE compensates through its fee allowances certain general and administrative expenses and other unallowable costs, it should be assumed there is an element of profit in the fees paid under management and operating contracts.

(c) In order to assure consideration of the tax posture of nonprofit organizations, any fixed fee arrived at using the appropriate fee schedules should be reduced by at least 25%. However, depending upon the circumstances, and with appropriate justification, fees may be paid between this reduced amount and the fee amount established by the fee schedule.

§ 9-50.306-9 [Reserved]

Change 9.13

Section 9-50.704-49, "Printing," is amended to define printing and give further guidance. The present text is retained as an introductory paragraph and the following is added:

§ 9-50.704-49 Printing.

* * * * *

(a) The term "printing" includes the following processes: composition,

platemaking, presswork, binding, microform publishing, or the end items produced by such processes.

(b) Printing services not obtained in compliance with this guidance will result in the cost of such printing being disallowed.

(c) The Contractor will include in each of his subcontracts hereunder a provision substantially the same as this clause including this paragraph (c).

[FR Doc. 82-33690 Filed 12-14-82; 8:45 am]
BILLING CODE 6450-01-M

federal register

Wednesday
December 15, 1982

Part III

Department of Housing and Urban Development

Office of the Secretary

Protection and Enhancement of Environmental Quality

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 50

[Docket No. R-82-744]

Protection and Enhancement of Environmental Quality

AGENCY: Office of the Secretary, HUD.

ACTION: Interim rule.

SUMMARY: This interim rule identifies the environmental review procedures that apply to all HUD programs (except those authorized by Title I of the Housing and Community Development Act of 1974, as amended) and complies with the NEPA Regulations issued by the Council on Environmental Quality. This interim rule will enable the Department to meet its responsibilities for implementing the National Environmental Policy Act of 1969, as amended (NEPA), and the other provisions of law which further the purposes of NEPA. These changes also represent corrections and revisions to the existing regulations in 24 CFR Part 50. In addition, this interim rule meets the deregulatory objectives of the Department under Executive Order 12291.

EFFECTIVE DATE: Upon expiration of the first period of 30 calendar days of continuous session of Congress after publication, subject to waiver, but not before further notice of the effective date is published in the **Federal Register.**

Comments due: February 14, 1983.

ADDRESS: Interested persons are invited to submit comments regarding this rule to the Rules Docket Clerk, Office of General Counsel, Room 10278, Department of Housing and Urban Development, 451 Seventh Street, SW, Washinghton, D.C. 20410. Comments should refer to the above docket number and title. A copy of each comment submitted will be available for public inspection during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Richard H. Broun, Director, Office of Environment and Energy, Room 5136, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, D.C. 20410. Telephone: 202/755-7894. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: This interim rule will enable the Department to meet its responsibilities for implementing the National Environmental Policy Act of 1969, as amended (NEPA), and the other provisions of law which further the purposes of NEPA. The changes represent corrections and revisions to the existing regulations in 24 CFR Part 50. This interim rule makes the NEPA Regulations of the Council on Enviromental Quality (CEQ), published on November 29, 1978 (43 FR 55978), applicable to all HUD actions, activities and programs, except those authorized by Title I of the Housing and Community Development Act of 1974, as amended (which are covered by the environmental regulations in 24 CFR Part 58).

The following summarizes the significant changes that have been made.

Changes To Reduce the Regulatory Burden

The changes take into account the deregulation objectives of the Department and will reduce many of the procedural details specified in the existing regulations. The significant changes achieve the following:

1. Substantially reducing the text of the existing regulations through: (a) The deletion of advisory provisions and operational guidance information; (b) elimination of regulatory material previously quoted from the CEQ Regulations and guidance information contained in HUD program handbooks; and (c) elimination of several of the appendices to the existing regulations and other repetitious program material.

2. Limiting the regulations to those requirements necessary for implementing HUD program objectives and to ensure that the environmental responsibilities of the Secretary under NEPA and related laws are fully met.

3. Emphasizing the mechanisms and procedures designed in the NEPA regulations to reduce paper work, eliminate duplication and otherwise simplify the environmental review process (e.g. adoption and re-use of prior environmental impact statements, and aggregation of functionally and geographically related activities into one environmental review document).

4. Describing conditions for HUD acceptance of environmental reviews prepared by the Veterans Administration.

5. Revising the thresholds for an Environmental Impact Statement (EIS) to provide a single EIS threshold of 2,500 dwelling units or lots, and increasing reliance on Environmental Assessments for determining when an EIS is required.

6. Eliminating the automatic EIS requirement for proposals that exceed 2,500 units when an Environmental Assessment or the Draft EIS indicates that the proposed action will not have a significant impact on the human environment.

7. Reclassifying activities HUD categorically excludes from NEPA.

8. Expanding the maximum size project allowed under the "early start" principle (new § 50.43) from 200 units or lots to 10% of the units or lots in the total development, up to a maximum of 500 units or lots.

9. Increasing the cost threshold for Demonstration Projects from $500,000 to $1,000,000, to reflect inflation and program changes since 1973.

Changes in Response to Comments Received on the 1972 Interim Rule

The interim rule adopting the existing regulations in Part 50, which was published on November 27, 1979 (44 FR 67906), solicited comments from the public for a period of 60 days. The rule consolidated all previous HUD environmental review procedures, including the NEPA regulations which were published by CEQ on November 29, 1978.

The Department received formal comments from seven public agency or public interest groups and five from private groups and individuals. In addition, a number of informal comments were made and suggestions discussed in individual phone conversations over the past two years. In addition to the deregulation changes identified above, all of these comments and suggestions have been taken into account in developing this interim rule. The following summarizes these comments and identifies the changes that have been made.

1. *Subpart A—General.* This Subpart identifies the authority for these regulations and incorporates, by reference, the CEQ regulations which are used to implement the intent of NEPA. We have also adopted the suggestions of many commenters that we clearly identify, in this Subpart, the specific areas of responsibility for different policy actions and not spread statements on purpose and authority into other parts of this rule. This Subpart also identifies, in a condensed form, an updated list of NEPA related statutes and Executive Orders with which HUD must establish compliance, including the WRC Guidelines as the procedures for meeting the intent and objectives of Executive Order 11988 and Executive Order 11990.

2. *Subpart B—Responsibilities.* We received many comments and suggestions from the Regional and Area Office Environmental Officers to identify and clarify the responsibility for the Department's environmental

function. In response to these comments, and in an attempt to be more declarative, we have identified specific responsibilities at each office level consistent with the duties and responsibilities identified in the Department's organizational handbooks. A suggestion was made from a private developer that responsibility for policy development should rest with each of the Assistant Secretaries whose programs are directly impacted. Section 1507.3 of the CEQ Regulations says that major subunits in an agency may adopt their own procedures if the Federal agency consents to this approach for overall agency compliance. We feel that the Department's responsibility for rulemaking for compliance should rest with the Secretary (which is subsequently assigned to the Assistant Secretary for CPD), and that specific administrative responsibilities should be designated at each program and/or field office level.

3. *Subpart D—Environmental Review.* This Subpart identifies the environmental review procedures that apply to both the Environmental Assessment and the Environmental Impact Statement levels. Many commenters requested that the first paragraph of § 50.21(a) be rewritten to clarify the conditions under which HUD actions listed as "categorical exclusions" would not be excluded from NEPA. The term "extraordinary circumstances" has been used as defined in accordance with § 1508.4 of the CEQ Regulations. In addition, we are aware of the potential cumulative impacts that may occur as a result of the combined or additive effect of these activities. We intend to take appropriate action if the effect of these actions has the potential for, individually or cumulatively, having a significant effect on the human environment.

The November 27, 1979 interim rule received many comments and criticisms on § 50.23, which involves the use of contractors. Although most commenters discussed a number of issues, two letters were received that only discussed this subject. Many developers felt that their use of contractors in the preparation of EIS's should be unrestricted, that applicant contractors would be less wordy and less likely to have 'boiler plate' language. There was considerable opposition to the requirement that a developer's contractor must be selected from an approved HUD list. The comment was made that HUD had the option of reviewing and not accepting the contractor's product, and therefore was responsible in accordance with § 1506.5(c) of the CEQ Regulation. Section 50.23 has been rewritten giving the developer considerable latitude in contractor nominations and expanding the coverage to include using contractors for Environmental Assessments as well as EIS's. HUD must in all cases make its own evaluation of the product and take responsibility for its scope and content.

4. *Subpart E—Environmental Assessment.* A number of comments and criticisms were received questioning the Department's ability to fully comply with the CEQ regulations and the intent of NEPA with the regulations adopted by the interim rule published on November 27, 1979. The Department's first procedures for implementing NEPA were printed in the **Federal Register** on July 18, 1973 (38 FR 19182) and subsequently amended on November 4, 1974 (39 FR 38922), June 11, 1976 (41 FR 23978), March 9, 1977 (42 FR 13208), July 22, 1977 (42 FR 37605), January 4, 1978 (43 FR 797), and March 8, 1979 (44 FR 12856). The Council on Environmental Quality has been consulted on each of these changes and we believe that this rule represents a conscientious effort to be responsive to the technical changes and refinements in the art of achieving a healthier human environment. A large part of the comments and criticism centered around the ability of the Department to meet its historic preservation responsibilities and to adequately consider cultural resources. We believe that the cultural and historic preservation concerns will be adequately addressed in HUD's counterpart regulations (24 CFR Part 59), and that there will be ample opportunity for public review and comment before they become final.

5. *Subpart F—Environmental Impact Statement.* This Subpart identifies the circumstances in which a proposal is determined to have, either individually or cumulatively, a significant impact on the human environment, requiring an Environmental Impact Statement to be prepared.

The 1979 interim rule solicited comments on the desirability of applying the flexible threshold principle to the "early start" procedures. Eight of the twelve commenters felt that since the new flexible EIS thresholds were designed to vary with population size and density, it would be logical to also extend that principle to "early starts". All commenters felt that HUD still had adequate discretionary authority to protect environmental concerns in the process of approving "early starts" and the EIS preparation procedures. We have made several additions and clarifications to this principle and some of the views of the commenters have been incorporated into these regulations without changing the basic intent of the "early start" principle. An additional safeguard has been incorporated into this rule which will not allow the "early start" segment or segments to exceed ten percent of the total project for which the EIS is being prepared.

The 1979 interim rule required 8 factors that should be considered when assessing the effect that a project would have on the community where it is located and the possible affects it may have on adjacent urban centers. Considerable comment was received questioning the concept of applying Executive Order 12074 and OMB Circular A-116 to individual projects. The comment was made that the Executive Order only applied to policy proposals and that likely indirect impacts are a normal part of all EIS's. Since Executive Order 12074 was rescinded by Executive Order 12350 on March 9, 1982, the general subject will now be addressed, when applicable, as part of the EIS in accordance with the intent of Section 101(a) of the National Environmental Policy Act.

Other Changes

1. The requirements to comply with other environmental statutes, Executive Orders and HUD standards for categorically excluded activities remain the same as in the interim rule now in effect. It is expected, however, that in actual practice most of these related authorities will not apply to activities categorically excluded from NEPA in view of the nature of those activities and the compliance requirements of the NEPA-related authorities. Appendix B to this rule is to be used by HUD to identify those related authorities which are most likely to be affected by the activities identified in § 50.20 and provides additional space to note any other authorities which might apply in extraordinary circumstances.

2. For cases under the Title I Community Development Block Grant program in which HUD (and not a State) exercises environmental review responsibility under this Part for the grant recipient which lacks legal capacity to do so under 24 CFR Part 58, the decision point by which the HUD review is to be completed has been changed. The new decision point is "HUD's execution of a grant agreement" instead of the present "approval of an

application or amendment". The change reflects legal changes in Title I, including the introduction of the term "grant recipients" and the elimination of applications for some "grant recipients".

Determinations

This interim rule does not constitute a "major rule" as that term is defined in Section 1(b) of Executive Order 12291 of Federal Regulation issued by the President on February 17, 1981. Analysis of the rule indicates that it does not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This Rule was listed as item B) 14.CPD–29–78 and D) 28.CPD–29–78 under the Office of Community Planning and Development in the Department's Semi-annual Agenda of Regulations published August 17, 1981 (46 FR 41708), pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

The regulations contained in 24 CFR Part 50, together with those in Part 58 (Environmental Procedures under the Community Development Block Grant Program), comprise a cohesive regulatory system for implementing the National Environmental Policy Act of 1969 and related authorities. Both have been named by the Presidential Task Force on Regulatory Relief as candidates for deregulation review. Recently, the Department adopted, and is now reviewing comments on, an interim rule that simplifies and improves Part 58 (published on April 12, 1982 at 47 FR 15750). The Secretary has determined that it is in the public interest to coordinate the rulemaking for Part 50 with that underway in Part 58, and to give the earliest possible effect to the President's mandate to deregulate. Accordingly, the Secretary has found that affording an opportunity for public comment on this amendment of Part 50 prior to its effective date would be contrary to the public interest, and that there is good cause for publishing this amendment as an interim rule, without a prior public comment period. However, the Department is providing a 60-day period for public comment following this publication. All relevant comments and suggestions will be considered by this Department in the development of a final rule for Part 50.

Section 7(o)(3) of the Department of HUD Act (42 U.S.C. 3535(o)(3)) provides for a delay in effectiveness of this rule for a period of 30 calendar days of continuous session of Congress after publication, unless waived by the Chairmen and Ranking Minority Members of the Senate Committee on Banking, Housing, and Urban Affairs, and the House Committee on Banking, Finance and Urban Affairs.

The Secretary has requested the appropriate waivers by the Chairmen and Ranking Minority Members, but, at the time of publication of this interim rule, it is not known whether or when such waivers will be granted. Therefore, notice of the effective date of this interim rule will have to be published in a future issue of the **Federal Register**.

A Finding of No Significant Impact (FONSI) with respect to the environment has been made in accordance with 24 CFR Part 50 which implements Section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The FONSI is available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Room 10278, 451 Seventh Street SW, Washington, D.C. 10410.

Pursuant to the provisions of 5 U.S.C. 605(b) (The Regulatory Flexibility Act), the undersigned hereby certifies that this rule would not have a significant economic impact on a substantial number of small entities. The rule, in fully meeting requirements of environmental law, incorporates the several changes described above which reduce the regulatory burden. The changes are expected to improve the quality of HUD environmental assessments while improving HUD's ability to identify proposals that lack significant impact to justify the preparation of environmental impact statements. The several changes will result in the avoidance of unnecessary delays and reduction of HUD's overall processing time. The rule therefore will permit reduction in the cost of delay to developers, builders, home purchasers, housing occupants, and other parties involved in HUD programs subject to this rule.

The programs affected by this rule are listed in the Catalog of Federal Domestic Assistance under program numbers 14.103 through 14.803.

List of Subjects in 24 CFR Part 50

Environmental impact statements.

Accordingly, this rule revises 24 CFR Part 50 to read as follows:

PART 50—PROTECTION AND ENHANCEMENT OF ENVIRONMENTAL QUALITY

Subpart A—General

Sec.
50.1 Purpose and Authority.
50.2 Terms and abbreviations.
50.3 Environmental policy.
50.4 Other Environmental Statutes, Executive Orders and HUD Standards.
50.5–50.9 [Reserved]

Subpart B—General Policy: Responsibilities and Program Coverage

50.10 Basic environmental responsibility.
50.11 Assistant Secretary for Community Planning and Development (AS/CPD).
50.12 Other Assistant Secretaries, Administrators and the General Counsel.
50.13 Regional Administrators.
50.14 Area Managers.
50.15 [Reserved]

Subpart C—General Policy: Decision Points

50.16 Policies.
50.17 Projects.
50.18–50.19 [Reserved]

Subpart D—General Policy: Environmental Review Procedures

50.20 Categorical Exclusions.
50.21 Aggregation.
50.22 Local Area Certification.
50.23 Use of Contractors.
50.24 Environmental management and monitoring.
50.25 Public participation.
50.26 Review of Other Agencies' EIS's.
50.27–50.30 [Reserved]

Subpart E—Environmental Assessments

50.31 Environmental assessments.
50.32 Responsibility for the assessment.
50.33 Action resulting from the assessment.
50.34 Time delays for exceptional circumstances.
50.35 Use of prior environmental assessments.
50.36 Acceptance of environmental assessments prepared by the Veterans Administration.
50.37 Updating of environmental assessments.
50.38 Policy level environmental assessments.
50.39–50.40 [Reserved]

Subpart F—Environmental Impact Statements

50.41 Policy.
50.42 Cases when Environmental Impact Statements are required.
50.43 "Early Start" procedures.
50.44 Notice of intent to prepare an EIS.
50.45 Scoping, Lead Agencies and Cooperating Agencies.
50.46 Tiering.
50.47 Procedural requirements.
50.48 Adoption of other Agencies' Environmental Impact Statements.
50.49 Use of prior environmental impact statements.
50.50 Emergencies.
50.51–50.60 [Reserved]

Appendix A.—Format for Environmental Assessments
Appendix B—Format for Compliance with Environmental Laws and Requirements for Categorically Excluded Projects and for Certified and Conditionally Certified Jurisdictions

Authority: Sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)).

Subpart A—General

§50.1 Purpose and authority.

(a) The National Environmental Policy Act (NEPA), 42 U.S.C. 4321 et seq., establishes national policy, goals and procedures for protecting, restoring and enhancing environmental quality. NEPA is implemented by Executive Order 11514 of March 5, 1970, as amended by Executive Order 11991 of May 24, 1977, and by the CEQ Regulations, 40 CFR Parts 1500–1508 (43 FR 55978–56007, November 29, 1978).

(b) The regulations issued by CEQ at 40 CFR Parts 1500–1508 establish the basic procedural requirements for compliance with NEPA. These procedures are to be followed by all Federal agencies and are incorporated by reference into this Part. This Part, therefore, provides supplemental instructions to reflect the particular nature of HUD programs, and is to be used in tandem with 40 CFR Parts 1500–1508. These procedures provide for compliance with NEPA and the other authorities cited in §50.4.

(c) These regulations apply to all HUD policy level actions (as defined in §50.16), and to all HUD project level actions, unless categorically excluded under § 50.20. For programs, activities or actions not specifically identified or when there are questions regarding the applicability of this Part, the Assistant Secretary for Community Planning and Development shall be consulted.

(d) Although HUD may use or reference environmental reviews completed by localities under Title I of the Housing and Community Development Act of 1974, these regulations do not apply to projects carried out by grant recipients under Title I unless lack of legal capacity was claimed and approved by HUD pursuant to 24 CFR Part 58.

§50.2 Terms and abbreviations.

The definitions for most of the key terms or phrases contained in this Part appear in 40 CFR Part 1508. The following abbreviations are used throughout this Part:

NEPA—National Environmental Policy Act
CEQ—Council on Environmental Quality
EA—Environmental Assessment
EIS—Environmental Impact Statement
FONSI—Finding of No Significant Impact
NOI/EIS—Notice of Intent to Prepare an Environmental Impact Statement
HUD—Department of Housing and Urban Development
CO—HUD Headquarters (Central Office)
AO—HUD Area Office
SO—HUD Service Office
EO—Environmental Officer
ECO—Environmental Clearance Officer
AS/CPD—Assistant Secretary for Community Planning and Development
CDBG—Community Development Block Grant

§50.3 Environmental policy.

(a) It is the policy of the Department to reject proposals which have significant adverse environmental impacts and to encourage the modification of projects in order to enhance environmental quality and minimize environmental harm.

(b) The approving official is responsible for the final decision on any program or policy proposal. It is the duty of the responsible approving official to consider environmental and other Departmental objectives in the decisionmaking process.

(c) When EA's or EIS's reveal conditions or safeguards which should be implemented once a proposal is approved in order to protect and enhance environmental quality or minimize adverse environmental impacts, such conditions or safeguards must be included in agreements or other relevant documents.

(d) A systematic, interdisciplinary approach shall be used to assure the integrated use of the natural and social sciences and the environmental design arts in making decisions.

(e) Environmental impacts shall be evaluated on as comprehensive a scale as is practicable.

(f) HUD offices shall begin the environmental review process at the earliest possible time so that conflicts between program missions and environmental standards are identified at an early stage.

(g) Environmental documents for a given policy or project level action shall be considered by the responsible HUD official prior to the decision.

(h) Applicants for HUD assistance shall be advised of environmental requirements and consultation with governmental agencies and individuals shall take place at the earliest time feasible.

§ 50.4 Other environmental statutes, Executive orders and HUD standards.

HUD and/or applicants must comply, where applicable, with all environmental requirements, guidelines and statutory obligations under the following authorities and HUD standards:

(a) *Historic Properties* (1) The National Historic Preservation Act of 1966 as amended (16 U.S.C. 470 *et seq.*).

(2) Executive Order 11593, Protection and Enhancement of the Cultural Environment, May 13, 1971 (36 FR 8921 *et seq.*).

(3) The Archeological and Historic Preservation Act of 1974, which amends the Reservoir Salvage Act of 1960 (16 U.S.C. 469 *et seq.*).

(4) Procedures for the Protection of Historic and Cultural Properties (Advisory Council on Historic Preservation—36 CFR Part 800).

(b) *Floodplain Management and Wetlant Protection.* (1) Flood Disaster Protection Act of 1973 (42 U.S.C. 4001, *et seq.*), as amended.

(2) Executive Order 11988, Floodplain Management, May 24, 1977 (42 FR 26951 *et seq.*) and Executive Order 11990, Protection of Wetlands, May 24, 1977 (42 FR 26961 *et seq.*) in accordance with the procedures set forth in Part II—Decision-Making Process, Floodplain Management Guidelines, U.S. Water Resources Council (43 FR 6030, February 10, 1978).

(3) HUD General Statement of Policy: Implementation of Executive Orders 11988 and 11990 (44 FR 47623, August 14, 1979).

(c) *Coastal Zone Management.* The Coastal Zone Management Act of 1972 (16 U.S.C. 1451 *et seq.*), as amended.

(d) *Sole Source Aquifers.* The Safe Drinking Water Act of 1974 (42 U.S.C. 201, 300 *et seq.*, and 21 U.S.C. 349), as amended.

(e) *Wildlife.* The Fish and Wildlife Coordination Act of 1958 (16 U.S.C. 661 *et seq.*), as amended.

(f) *Endangered Species.* The Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*), as amended.

(g) *Wild and Scenic Rivers.* The Wild and Scenic Rivers Act (16 U.S.C 1271 *et seq.*), as amended.

(h) *Water Quality.* The Federal Water Pollution Control Act as amended by the Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1251 *et seq.*), and later enactments.

(i) *Air Quality.* The Clean Air Act (42 U.S.C. 7401, *et seq.*), as amended.

(j) *Solid Waste Management.* The Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901, *et seq.*), and later enactments.

(k) *Farmlands Protection.* Farmland Protection Policy Act of 1981 (7 U.S.C. 4201 *et seq.*).

(l) *HUD Environmental Standards.* Applicable criteria and standards

specified in HUD environmental regulations (24 CFR Part 51), and HUD Notice 79–33, Policy Guidance to Address the Problems Posed by Toxic Chemicals and Radioactive Material, September 10, 1979.

§ 50.5–50.9 [Reserved]

Subpart B—General Policy: Responsibilities and Program Coverage

§ 50.10 Basic environmental responsibility.

It is the responsibility of all Assistant Secretaries, administrators, the General Counsel, Regional Administrators, Area Managers and Service Office Supervisors to make sure that the requirements of this Part are implemented. Under the principle that the HUD official responsible for approval decisions on a given action is responsible for environmental review of that action, most environmental reviews will be made at the Area Office and Service Office levels as most HUD actions are decided at these levels. Specific responsibilities are assigned in this Subpart.

§ 50.11 Assistant Secretary for Community Planning and Development (AS/CPD).

The Assistant Secretary for Community Planning and Development (AS/CPD), represented by the Office of Environment and Energy whose Director shall serve as the Department's Environmental Clearance Officer, is assigned the overall Departmental responsibility for environmental policies and procedures for compliance with NEPA and related laws and authorities, and shall:

(a) Issue additional advice and guidance as necessary;

(b) Interpret environmental policies and procedures contained in this Part;

(c) Concur in program regulations and guidance information for compliance with HUD's environmental policies and procedures;

(d) Monitor, evaluate and audit Headquarters and field office compliance with all environmental requirements;

(e) Review and approve EA's and FONSI's or EIS's prepared for Headquarters actions covered in this Part;

(f) To the extent permitted by applicable laws and the CEQ regulations, approve waivers and exceptions or establish criteria for exceptions from the requirements of this Part; and

(g) Provide liaison with CEQ and other Federal agencies on environmental matters.

§ 50.12 Other Assistant Secretaries, Administrators, and the General Counsel.

Other Assistant Secretaries, administrators and the General counsel shall assist the AS/CPD in carrying out the Departmental responsibilities and shall:

(a) Designate a senior official as program ECO who will be the principal environmental advisor. The ECO shall advise staff and program officials on compliance with NEPA and related laws, and shall review and concur on EA's and FONSI's or EIS's prepared for Headquarters actions identified in this Part.

(b) Assign qualified personnel and other resources to implement environmental policies and procedures.

(c) Ensure that program policies and procedures are carried out in a manner consistent with these policies.

(d) Issue additional advice and guidance as may be necessary with the concurrence of the AS/CPD.

(e) In addition, the General Counsel shall:

(1) Require the preparation of an EA and FONSI or an EIS for legislation, regulations, standards and handbooks not specifically excluded;

(2) Be given the opportunity to review the Draft and Final EIS's prepared for Headquarters actions.

§ 50.13 Regional Administrators.

Each Regional Administrator shall:

(a) Designate the Regional Director of CPD as regional ECO (RO/ECO) who will be the principal advisor on environmental matters and in carrying out the Regional responsibilities describd in this Part. When approved by the AS/CPD another RO official may be designated to act as the Regional ECO.

(b) Assure that there will be a Regional Environmental Officer (REO) who shall assist the ECO and act for the ECO when authorized.

(c) Monitor and review field office performance to ensure that AO and SO staff implement HUD's environmental responsibilities.

§ 50.14 Area Managers

Each Area Manager shall:

(a) Assure that there will be an Area Environmental Officer (AEO), reporting to the Area Manager, who shall be the principal environmental advisor for the AO and SO's, and act as the Area ECO (AO/ECO). The AEO shall be responsible for ensuring compliance with NEPA and related laws identified in § 50.4 for all programs, and shall monitor environmental assessments and evaluate the adequacy of program staff performance regarding such assessments.

(b) Designate the Service Office Supervisor as the Environmental Clearance Officer (SO/ECO) who shall be responsible for ensuring compliance with NEPA and related authorities cited in § 50.4 for all programs, and shall have the lead responsibility for all environmental functions assigned to the Service Office for single family programs.

§ 50.15 [Reserved]

Subpart C—General Policy: Decision Points

§ 50.16 Policies.

An EA and FONSI or EIS on all policy level actions not categorically excluded shall be completed prior to the approved action. Policy level actions include all legislative proposals, regulations, Handbooks, HUD standards, policy guidance documents and program issuances.

§ 50.17 Projects.

An EA and FONSI or EIS for individual projects shall be completed before the applicable program decision points below for projects not meeting the criteria of § 50.20 and shall be re-evaluated and updated as required by § 50.37.

(a) *New Construction.* (1) Subdivisions:' Issuance of HUD Form 92255;

(2) Multifamily project mortgage insurance, including Title X, nursing homes, hospitals, group practice facilities, manufactured and mobile homes and parks: Issuance of SAMA Letter or equivalent indication of HUD approval, whichever comes first;

(3) Public Housing: Notification of tentative site approval;

(4) Section 8HAP Program: Notification of selection of preliminary proposal.

(b) *Rehabilitation* (other than 312 Program). Rehabilitation Projects: Use the decision points under "new construction."

(c) *Public Housing Modernization. Modernization Projects:* Approval of the modernization program.

(d) *Property Disposition Program.* (1) Vacant land and one to four family structures: Approval of the Disposition Program or Planned Program Approach (PPA).

(2) Multifamily structures, college housing, nursing homes, hospitals, manufactured and mobile homes and

parks, group practice facilities: Approval of the Disposition Program.

(e) *Community Development Block Grant Program (CDBG).* For cases in which HUD (and not a State) must exercise environmental review responsibility under this part for a CDBG recipient which lacks legal capacity to do so under 24 CFR Part 58, the decision point is: HUD's execution of a grant agreement.

(f) *Urban Renewal Program.* HUD approval of major amendment to urban renewal plan.

(g) *New Community Development Corporation.* Approval by the Secretary or the NCDC Board of Directors of a development plan, plan amendment, termination of a development plan, or plan of disposition of HUD interest.

(h) *312 Program.* Approval of loan application.

(i) *Programs not Specifically Covered Above.* Consult with the AS/CPD for decision points.

§§ 50.18–50.19 [Reserved]

Subpart D—General Policy: Environmental Review Procedures

§50.20 Categorical Exclusions.

The following actions, activities and programs are categorically excluded from the NEPA requirements of this Part. These actions, activities and programs, however, are not excluded from individual compliance requirements of other environmental statutes, Executive Orders and HUD standards listed in § 50.4. The format to be used by HUD in documenting compliance is contained in Appendix B of this Part. Where the responsible official determines that any action, activity or program identified in this section may have an environmental effect because of extraordinary circumstances, the requirements of NEPA shall apply.

(a) An individual action on a one-to-four family dwelling or an individual action on a project of five-or-more units developed on scattered sites when the sites are more than 2,000 feet apart and there are not more than four units on any one site;

(b) Training grants and technical assistance;

(c) Acquisition, property disposition (including Homesteading), rehabilitation and/or modernization projects when all of the following conditions are met:

(1) Unit density is not increased more than 20 percent;

(2) The project does not involve changes in land use from residential to nonresidential or from nonresidential to residential;

(3) the estimated cost of rehabilitation is less than 75 percent of the total estimated cost of replacement after rehabilitation; and

(4) The proposal does not involve the demolition of one or more buildings, or parts of a building, containing the primary use served by the project.

(d) The Existing Housing Program under Section 8 of the U.S. Housing Act of 1937, as amended.

(e) Interstate Land Sales Registration Actions.

(f) Mortgage purchase commitments and mortgage purchases by the Government National Mortgage Association pursuant to the Emergency Home Purchase Assistance Act of 1974, 12 U.S.C. 1723e, as amended.

(g) Demonstration projects costing less than $1 million which do not result in physical change.

(h) Interest reduction assistance and rent supplement payments on existing contruction.

(i) Acquisition of an existing structure, provided that the property to be acquired is in place and will be retained in the same use.

(j) Purchased or refinanced housing and medical facilities under Section 223(f).

(k) Internal administrative procedures whose content does not constitute a development decision nor affect the physical condition of project areas or building sites but which relate only to the performance of accounting, auditing and fiscal functions or the preparation of reports, personnel practices, designations of officials, delegations of authority, public information issuances, or similar HUD management activities which may be excluded by the Assistant Secretary, CPD.

(l) Statutorily required establishment and review of interest rates, loan limits, building cost limits, prototype costs, fair market rent schedules, HUD-determined prevailing wage rates, and similar rate and cost determinations which do not constitute a development decision that affects the physical condition of specific project areas or building sites.

(m) Activities supported by the Neighborhood Self-Help Development Program which are primarily financial or administrative.

§ 50.21 Aggregation.

(a) Individual actions which are geographically related and are logical parts of a composite of contemplated actions shall be evaluated together. For example, under the following conditions, a single review shall be done:

(1) When an applicant's project is part of an uncompleted portion of a development plan prepared for a private entity and approved by the locality, the evaluation shall include the number of units in the uncompleted portion; or

(2) When an applicant's project is a portion of a larger site over which private land use control is centralized, the evaluation shall include the uncompleted portion of the total site.

(b) When an EIS is required as a result of applying subsection (a) of this section, the AO Manager may allow each project to be processed as an "early start" in accordance with § 50.43, provided the total number of all "early starts" in the aggregated area does not exceed ten percent of the units or lots in the total project for which the EIS is being prepared or a total of 500 units/lots.

§ 50.22 Local area certification.

(a) The Local Area Certification (LAC) procedures identified in HUD Handbook 4135.1, Rev., apply only to single family proposed housing construction applications under Section 203(b) of the National Housing Act, as amended.

(b) In fully certified communities an EA and/or an EIS is not required. In conditionally certified communities (or portions of communities not receiving full certification status) HUD shall prepare an EA and/or an EIS if required by the regulation or the guidelines pertaining to the conditioned factor or combination of factors cited as the basis for conditioning the certification.

(c) In fully and conditionally certified jurisdictions, Appendix B shall be used by HUD to meet the requirements of § 50.4 and any conditioned factors.

§ 50.23 Use of contractors.

Contractors may be used either to prepare specialized elements of an EA or EIS or to prepare the entire EIS. Where a contractor is to be used to prepare an EIS, the selecting official shall be the Area Manager. The selection process shall be consistent with the requirements of 40 CFR 1506.5(c) and the contactor shall execute the disclosure statement required therein. In all cases, however, HUD must independently or as a lead agency, make its own evaluation of the product and take responsibility for its scope, content and distribution as a HUD document, and, in the case of an EIS, furnish guidance and participate in its preparation.

§ 50.24 Environmental management and monitoring.

An Environmental Management and Monitoring Program shall be established prior to project approval when it is deemed necessary by the HUD

approving official. The program shall be part of the approval document and must:

(a) Be concurred in by the AO/ECO and any cooperating agencies;

(b) Contain specific standards, safeguards and commitments to be completed during project implementation;

(c) Identify the staff who will be responsible for the post-approval inspection; and

(d) Specify the time periods for conducting the evaluation and monitoring the applicant's compliance with the project agreements.

§ 50.25 Public participation.

HUD shall inform the affected public about NEPA-related hearings and public meetings and environmental documents. Project actions which result in a FONSI normally require only notification to the A–95 clearinghouses. In all cases HUD shall mail notices to those who have requested them. Additional efforts for involving the public in specific notice or compliance requirements shall be made in accord with the NEPA-related statutes and Executive Orders and their implementing procedures identified in § 50.4.

(a) A NOI/EIS shall be forwarded to the AS/CPD to the attention of the ECO for publication in the **Federal Register.**

(b) Notices will be bilingual if the affected public is largely non-English speaking and will identify a date when the official public involvement element of the proposed action is completed and HUD internal processing will continue.

(c) All notices shall be published in an appropriate local printed news medium, and sent to individuals and groups known to be interested in the proposed action.

(d) All notices shall inform the public where additional information may be obtained.

§ 50.26 Review of other agencies' EIS's.

Where EIS's on project level actions initiated outside HUD are referred to the HUD RO in whose jurisdiction the project falls, the RO/ECO shall determine whether HUD has an interest in the EIS and, if so, will assign the EIS to the appropriate AO for review and comments. EIS's from other Federal agencies on legislative proposals, regulations, or other policy level documents shall be sent to the AS/CPD for comment, and the AS/CPD shall provide the General Counsel the opportunity for comment.

§§ 50.27–50.30 [Reserved]

Subpart E—Environmental Assessments

§ 50.31 Environmental assessments.

(a) The EA format to be used by HUD is contained in Appendix A. If the format does not meet specific program needs, the AS/CPD shall provide assistance and guidance in the development of an acceptable format. The introduction of new formats requires the approval of the AS/CPD.

(b) The program representative shall obtain interdisciplinary assistance from professional experts and other HUD staff as needed. Additional information may also be requested of the sponsor/applicant. HUD is responsible for assessing and documenting the extent of the environmental impact.

(c) Comments received from clearinghouses, or from States and local environmental agencies through clearinghouses, shall be considered in the preparation of the EA and be reported in any Draft EIS when it is circulated for review.

§ 50.32 Responsibility for the assessment.

The program staff in the HUD Office responsible for processing the project application or recommending a policy level action is responsible for conducting the EA. The collection of the data and studies as part of the information contained in the EA may be done by an applicant, or the applicant's contractor, provided HUD makes its own evaluation of the environmental issues, responsibility for its scope and content, and prepares the environmental finding. Assessments for projects over 200 lots/dwelling units or beds require the review and concurrence of the ECO.

§ 50.33 Action resulting from the assessment.

(a) A proposal may be accepted without modifications if the EA indicates that the proposal will not significantly affect the quality of the human environment and a FONSI is prepared.

(b) A proposal may be accepted with modifications provided that:

(1) Changes have been made that would reduce adverse environmental impact to acceptable and insignificant levels, and

(2) An Environmental Management and Monitoring Program is developed in accordance with § 50.24.

(c) A proposal should be rejected if significant and unavoidable adverse environmental impacts would still exist after modifications have been made to the proposal and an EIS is not prepared.

(d) A proposal (if not rejected) shall require an EIS if the EA indicates that it has significant environmental impacts.

§ 50.34 Time delays for exceptional circumstances.

Under the circumstances described below, the FONSI must be made available for public review for 30 calendar days before a final decision is made whether to publish an EIS and before the HUD action is taken. The circumstances are:

(a) When the proposed action is, or is closely similar to, one which normally requires the preparation of an EIS pursuant to § 50.42(b) but it is determined, as a result of an EA or in the course of preparation of a draft EIS, that the proposed action will not have a significant impact on the human environment; or

(b) When the nature of the proposed action is without precedent and does not appear to require more than an assessment.

In such case, the FONSI must be concurred in by the AS/CPD and the CO Program Lead, and for field actions, also by the Regional Administrator and the AO/ECO. Notice of the availability of the FONSI shall be given to the public in accordance with subsections (a)–(d) of § 50.25 and to any Federal agency described in 40 CFR 1502.19(a).

§ 50.35 Use of prior environmental assessments.

When other Federal, State, or local agencies have prepared EA's or other environmental analyses for a proposed HUD project, these documents should be requested and used to the extent possible. HUD must, however, conduct the environmental analysis and prepare the EA and be responsible for the required environmental finding except as provided in § 50.36.

§ 50.36 Acceptance of environmental assessments prepared by the Veterans Administration.

A subdivision project for which HUD has received a FONSI issued by the Veterans Administration (VA) pursuant to 38 CFR Part 26 and 40 CFR 1501.4(c) or equivalent confirmation of VA environmental assessment resulting in a finding of no significant impact on the human environment will be deemed to meet the requirements of NEPA. Such FONSI or equivalent confirmation will be deemed to meet the requirements of NEPA in the absence of independent evidence known to HUD or presented to HUD which tends to challenge in a substantial manner the assessment made by VA. A copy of the FONSI or other confirmation should be inserted in

the project file prior to approval by HUD. HUD shall use Appendix B of this Part to document compliance with the related laws and Executive Orders identified in § 50.4.

§ 50.37 Updating of environmental assessments.

The EA must be re-evaluated and updated when the basis for the original environmental finding is affected by a major change requiring HUD approval in the nature, magnitude or extent of a project and the project is not yet complete. A change only in the amount of financing or mortgage insurance involved does not normally require the Envrionmental Assessment (EA) to be re-evaluated or updated.

§ 50.38 Policy level environmental assessments.

Policy level actions are subject to an EA and FONSI or EIS, unless excluded under § 50.20 (k) and (l). If it is not readily determined that an EIS is needed because of the proposed action, an EA shall be prepared to determine whether an EIS is required. The decision as to whether a policy level action is categorically excluded from an EA shall be made by the program ECO as early as possible. Where the program ECO has any doubt as to whether a proposed action qualifies for exclusion, the ECO shall request a determination by the AS/CPD.

§ 50.39–50.40 [Reserved]

Subpart F—Environmental Impact Statements

§ 50.41 Policy.

EIS's will be prepared and considered in program determinations pursuant to the general environmental policy stated in § 50.3 and 40 CFR 1505.2 (b) and (c).

§ 50.42 Cases when environmental impact statements (EIS's) are required.

(a) An Environmental Impact Statement (EIS) is required if the proposal is determined to have a significant impact on the human environment pursuant to Subpart E.

(b) An EIS will normally be required if the proposal:

(1) is an Amendment to the Development Plan of a New Community pursuant to 24 CFR 720.65 which results in a change of land use or population by 30% or more; or

(2) would provide a site or sites for hospitals or nursing homes containing a total of 2,500 or more beds; or

(3) would remove, demolish, convert, or substantially rehabilitate 2,500 or more existing housing units (but not including rehabilitation projects categorically excluded under § 50.20), or which would result in the construction or installation of 2,500 or more housing units, or which would provide sites for 2,500 or more housing units.

(c) When the environmental concerns of one or more Federal authorities cited in § 50.4 will be affected by the proposal, the cumulative impact of all such effects should be assessed to determine whether an EIS is required. However, where all of the affected authorities provide alternative procedures for resolution, those procedures should be used in lieu of an EIS.

(d) Notwithstanding subsections (a)–(c) above, an EIS is not required where § 50.49 is applicable.

§ 50.43 "Early Start" procedures.

The following procedures apply to developments involving single family subdivisions, Title X, or multifamily projects when an EIS is required solely because of the number of units/lots being proposed for the total development.

(a) Construction may be started on the first segment of a larger development prior to the completion of the EIS if such first segment would form a project which would be financially and functionally separate and complete without regard to whether the total development is ever completed; and the "early start" portion:

(1) Does not exceed ten percent of the units/lots in the total development with a maximum total of 500 units/lots and with no more than 200 units/lots for a single sponsor/applicant;

(2) Is in an area with a population density of 1,000 or more persons per square mile or within two miles of such areas;

(3) Can be served with existing roads, sewers and water, and other utilities located off-site; and

(4) Will have no significant impact on the human environment, as documented by an EA and a FONSI prepared in accordance with paragraph (b) of this section.

(b) An EA shall be documented to show its compliance with (a) of this section and a FONSI must be prepared for the "early start" portion and receive concurrence by the AO/ECO. In addition:

(1) The EA must include information on the entire development and its consistency with areawide plans;

(2) The "early start" portion and the larger development must not have received any significant unresolved comments from State, Regional, or local governments related to environmental impacts;

(3) The "early start" portion must be in compliance with the procedural requirements under the laws and authorities cited in § 50.4;

(4) A NOI/EIS shall be prepared and published in accordance with § 50.44 and § 50.25; and

(5) A letter shall be written from the AO Manager or the SO Supervisor informing all sponsors/applicants receiving "early starts" under § 50.43 that there will be no further application approvals until the Final EIS for the total development has been satisfactorily completed, and any actions by the developer foreclosing options to be explored in the EIS may jeopardize approval of the larger development.

(c) A copy of the "early start" request and the supporting documentation identified in (a) and (b) of this section shall be sent to the RO for comment, along with the management schedule for the preparation of the EIS. Comments and recommendations by the RO/EO shall be provided to the reviewing office within ten working days from receipt.

§ 50.44 Notice of intent to prepare an EIS

(a) Immediately after a determination is made that an EIS will be prepared, a NOI/EIS shall be published in accordance with § 50.25.

(b) If, subsequent to the publication and dissemination of a NOI/EIS, a determination is made that an EIS is not required, a Notice of Intent Not To Prepare an EIS shall be prepared. This Notice shall contain the reasons for the determination and shall be published in the same manner as the NOI/EIS.

§ 50.45 Scoping, lead agencies and cooperating agencies.

Scoping shall be conducted in accord with 40 CFR 1501.7 and 1508.25. HUD may serve as a Cooperating Agency when asked to do so by the Lead Agency and as the Lead Agency when other Federal agencies are involved in a HUD action or related actions that require the preparation of an EIS (see 40 CFR 1501.5, 1501.6, 1508.5 and 1508.16).

§ 50.46 Tiering.

Tiering may be conducted in accord with 40 CFR 1502.20 and 1508.28. This concept is used when broader EIS's are referenced in the evaluation of subsequent site-specific action by the use of an EIS Supplement or an EA. The tiering concept can also be used in referencing or accepting State and local findings when such State or local procedures have been certified by CEQ as being substantially equivalent to Federal procedures.

§ 50.47 Procedural requirements.

(a) The minimum review period for the Draft EIS is 45 calendar days and runs from the date of the **Federal register** publication of EPA's notice of EIS filing. The Draft must be on file with EPA at least 90 calendar days prior to HUD's approval of, or commitment to, the proposed action. The Final EIS must be filed with EPA at least 30 calendar days prior to HUD's approval of, or commitment to, the proposed action.

(b) Draft and Final EIS's shall be circulated pursuant to 40 CFR 1502.19. Five copies each of the Draft and Final EIS are to be transmitted to the appropriate Regional EPA Office and Headquarters. One copy of the Draft and Final EIS are sent to HUD CO Library and the applicable Regional ECO.

(c) The Draft and Final EIS shall be prepared and distributed by the initiating program office or appropriate field office having program review responsibility. For EIS's prepared by the field office, the Draft and Final EIS shall be concurred in by the Area and Regional Office ECO and the Area Counsel shall be given the opportunity to review concurrently with the AO/ECO. For EIS's prepared by a CO unit, the Draft and Final EIS shall have the concurrence of the CO ECO and the General Counsel shall be given the opportunity to review prior to issuance.

(d) In connection with any project, legislative proposal, or policy issuance for which an EIS is prepared, HUD offices shall prepare a Record of Decision in accordance with 40 CFR 1505.2(a), (b) and (c).

§ 50.48 Adoption of other agencies' environmental impact statements.

A Draft or Final EIS prepared by another agency may be adopted by HUD provided that the EIS was prepared in accordance with 40 CFR Parts 1500–1508. If an EIS prepared by another Federal agency is adopted, the procedure in 40 CFR 1506.3 shall be followed.

An adopted EIS may have to be revised to adapt it to the particular environmental conditions and circumstances of the HUD project. In such cases HUD must prepare, circulate and file a Supplemental draft and Supplemental Final EIS and otherwise comply with the clearance and time requirement of the EIS process except that scoping requirements shall not apply. The agency which prepared the original EIS should be informed that HUD intends to amend and adopt the EIS.

HUD may adopt an EIS when acting as a Cooperating Agency in its preparation pursuant to 40 CFR 1506.3. HUD is not required to re-circulate or file the EIS but must complete the clearance process. The decision to adopt a prior EIS shall be made a part of the Record of Decision.

§ 50.49 Use of prior environmental impact statements.

Where any Final HUD EIS has been listed in the **Federal Register** for a project pursuant to this Part, or where an areawide or similar broad scale Final EIS has been issued and the EIS anticipated a further project which would otherwise require an EIS, then no new EIS is required for the subsequent project if all the conditions set forth below are met.

(a) An EA is prepared and a finding is made that the proposed project is not a new major Fedeal action significantly affecting the quality of the human environment. The EA shall include:

(1) References to the prior EIS and its evaluation of the environmental factors affecting the proposed subsequent action subject to NEPA:

(2) An evaluation of any environmental factors which may not have been previously assessed, or which may have significantly changed;

(3) A determination that the proposed project is consistent with the location, use, and density assumptions for the site and with the timing and capacity of the circulation, utility, and other supporting infrastructure assumptions in the prior EIS; and

(4) Documentation showing that where the previous EIS called for mitigating measures or other corrective action, these are completed to the extent reasonable given the current state of development.

(b) The prior final EIS was filed or updated within five (5) years, and:

(1) the EIS has been updated to reflect any significant revisions made to the assumptions under which the original EIS was prepared;

(2) the EIS has been updated to reflect new environmental issues and data or legislation and implementing regulations which have significant environmental impact on the project area covered by the pior EIS.

(c) There is no litigation pending in connection with the prior EIS, and no final judicial finding of inadequacy of the prior EIS has been made.

§ 50.50 Emergencies.

In cases of national emergency and disasters or cases of imminent threat to health and safety which require the taking of an action with significant environmental impact, the provisions of 40 CFR 1506.11 shall apply.

§ 50.51–50.60 [Reserved]

BILLING CODE 4210-29-M

Appendix A

U. S. Department of Housing and Urban Development

ENVIRONMENTAL ASSESSMENT FOR SUBDIVISION AND MULTIFAMILY PROJECTS

PROJECT NAME:_____ APPLICANT:_____

LOCATION:_____ (street) ADDRESS:_____ (street)

_____ (city) _____ (county) _____ (state) _____ (city) _____ (state) _____ (zip) _____ (phone)

PROJECT NO._____ DATE REC'D_____ ACRES_____ LOTS/UNITS_____

FINDINGS AND RECOMMENDATIONS (to be prepared AFTER analysis is completed)

1. ENVIRONMENTAL FINDING

• ____ Finding of No Significant Impact (FONSI) is made OR ____ Environmental Impact Statement (EIS) is required

2. COMMENTS AND RECOMMENDATIONS

• ____ Recommended for approval subject to the following conditions (if any, specify):

• ____ Project should be rejected (explain):

_____ (Preparer) _____ (date) _____ (Supervisor) _____ (date)

3. COMMENTS BY ENVIRONMENTAL CLEARANCE OFFICER:

____ Concur OR ____ Non-concur
(Required for projects over 200 lots/units) _____ (Environmental Clearance Officer) _____ (date)

4. APPROVAL AND SPECIAL INSTRUCTIONS:

_____ (Housing Division Director or Service Office Supervisor) _____ (date)

A. PROJECT DATA

Project No.: _____

1. PROJECT TYPE (check applicable items)

- ___ Family
- ___ Elderly
- ___ Special Program (specify)
- ___ Market Rate
- ___ Assisted/Subsidized

- ___ New construction
- ___ Rehabilitation
- ___ Land development
- ___ Other (specify)

- ___ Detached
- ___ Semi-detached
- ___ Walk-up
- ___ Townhouse
- ___ Elevator
  ___ No. of stories

If required, in compliance with Section 213? Yes___ No___ and/or Housing Assistance Plan? Yes___ No___

2. STATUS AND MARKETABILITY (for subdivision projects ONLY)

- Marketability is acceptable: Yes___ No___ (If "No", indicate in FINDINGS on page 1 and discontinue processing)
- Has construction started? Yes___ No___

If "Yes", _____ number of units completed
_____ number of units under construction
_____ percent grading completed
_____ percent water/sewer completed
_____ percent streets completed

- Most marketable price or rental range is $_____ to $_____
- Most marketable units are: ___ 0-2 bedrooms ___ 3 bedrooms ___ 4 or more bedrooms
- Estimated market price of lot is $_____
- Typical lot size is _____ ft. by _____ ft.

B. APPROVALS AND COORDINATION

- Has locality approved the project? Yes___ No___
- Identify other Federal agency approvals: _____
- Has an environmental assessment (EA) for the project been prepared by that agency? Yes___ No___ and/or Has an EA been prepared under State or local law? Yes___ No___
- Does the file contain the EA? Yes___ No___
- Has the A-95 process been completed? Yes___ No___
- If "Yes", when? _____ (Areawide) _____ (State)

C. CUMULATIVE IMPACTS AND ALTERNATIVES

- Are there any conditions which require the assessment of cumulative impacts? Yes___ No___ If "Yes", explain:

- Does project involve unresolved conflicts concerning alternative uses of available resources under Section 102(2)(E) of NEPA? Yes___ No___ If "Yes", reasonable alternatives are:

D. PLANNING FINDINGS

- Is the project in compliance or conformance with the following plans? LOCAL: Yes___ No___ Not available___
  AREAWIDE: Yes___ No___ Not available___ AIR QUALITY (SIP): Yes___ No___ Not applicable___
  COASTAL ZONE: Yes___ No___ Not applicable___ WATER QUALITY (208): Yes___ No___ Not applicable___
  If the answer to any is "No", explain:

Project No.: _____

E. COMPLIANCE FINDINGS

COMPLIANCE FACTOR	Actions Taken to Achieve compliance: Is in compliance	Consultation	Mitigation and/or modification	Special study	Is not in compliance	NOTE CONDITIONS and/or SOURCE DOCUMENTATION THAT SUPPORTS FINDING REFERENCE NOTES
1. Noise (24 CFR Part 51B)						
2. Historic preservation (36 CFR Part 800)						
3. Floodplain management (E. O. 11988)						
4. Wetlands protection (E. O. 11990)						
5. Hazards (24 CFR Part 51 and HUD Notice 79-33)						
Other:						

F. UNDERWRITING/ENVIRONMENTAL FINDINGS

UNDERWRITING/ENVIRONMENTAL FACTOR	Deficiencies/Impact: None	Minor	Major	Requires mitigation or modification	NOTE CONDITIONS and/or SOURCE DOCUMENTATION THAT SUPPORTS FINDING REFERENCE NOTES
1. Compatibility with surrounding development					
2. Site accessability					
3. Demographic/neighborhood character					
4. Schools					
5. Parks and recreation					
6. Social services					
7. Emergency health care					
8. Public safety-fire					
9. Public safety-police					
10. Commercial/retail					
11. Transportation					

Project No.: _____

G. ENVIRONMENTAL FINDINGS

ENVIRONMENTAL FACTOR	Impact Anticipated: None	Minor	Major	Requires mitigation or modification	NOTE CONDITIONS and/or SOURCE DOCUMENTATION THAT SUPPORTS FINDING REFERENCE NOTES
1. LAND USE AND DEVELOPMENT FACTOR					
1.1 Physical site suitability					
1.2 Soil stability and erodability					
1.3 Natural hazards					
1.4 Man-made hazards and nuisances					
1.5 Air quality					
1.6 Displacement					
1.7 Energy consumption					
2. INFASTRUCTURE AND FACILITIES (*See 24 CFR §50.4 for other relevant authorities)					
2.1 Water supply*					
2.2 Waste water					
2.3 Storm water					
2.4 Solid waste*					
3. NATURAL FEATURES AND AREAS (*See 24 CFR §50.4 for other relevant authorities)					
3.1 Water resources*					
3.2 Unique natural features and areas					
3.3 Important and productive farmlands*					
3.4 Vegetative and animal life*					

H. PARTICIPATING STAFF

Environmental assessment conducted by: (in addition to Preparer) _____ _____ _____

_____ _____ _____

Field inspection conducted by: (if different from Preparer) _____ _____ _____

_____ _____ _____

Additional technical analysis by: _____ _____ _____

(name) (title) (date)

Appendix B Project No.: _____

COMPLIANCE AND LAC CONDITIONS RECORD

(Appendix B is to be used for analysis and documentation of projects and activities under §50.20 and §50.36 and for jurisdictions under the LAC process and placed in the project file.)

Project/activity_____ Location_____

COMPLIANCE FINDINGS

COMPLIANCE FACTOR	Is in compliance	Actions Taken to Achieve compliance: Consultation	Mitigation and/or modification	Special study	Is not in compliance	NOTE CONDITIONS and/or SOURCE DOCUMENTATION THAT SUPPORTS FINDING REFERENCE NOTES
1. Noise (24 CFR Part 51B)						
2. Historic preservation (36 CFR Part 800)						
3. Floodplain management (E. O. 11988)						
4. Wetlands protection (E. O. 11990)						
5. Hazards (24 CFR Part 51 and HUD Notice 79-33)						
Others:						

ENVIRONMENTAL FINDINGS FOR CONDITIONED FACTORS

CONDITIONED FACTOR (List Factors)	Impact Anticipated: None	Minor	Major	Requires mitigation or modification	NOTE CONDITIONS and/or SOURCE DOCUMENTATION THAT SUPPORTS FINDING REFERENCE NOTES

_____ (Preparer) _____ (date) _____ (Supervisor) _____ (date)

BILLING CODE 4210-29-C

(Sec. 7(d) Department of HUD Act (42 U.S.C. 3535(d)))

Dated: September 20, 1982.

Samuel R. Pierce, Jr.,

Secretary.

[FR Doc. 82-34004 Filed 12-14-82; 8:45 am]

BILLING CODE 4210-29-M

federal register

Wednesday
December 15, 1982

Part IV

Department of Health and Human Services

Health Care Financing Administration

Medicare Program; Comprehensive Outpatient Rehabilitation Facility Services; Final Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 405, 488 and 489

Medicare Program; Comprehensive Outpatient Rehabilitation Facility Services

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule.

SUMMARY: These regulations expand the scope of benefits under Medicare-Part B to include services furnished by comprehensive outpatient rehabilitation facilities (CORFs).

They establish the conditions these facilities must meet to participate in Medicare, define CORF services, specify the conditions under which those services will be covered, and establish CORF reimbursement on a reasonable cost basis.

The regulations are necessary to implement section 933 of the Omnibus Reconciliation Act of 1980 (Pub. L. 96–499). The purpose is to enable beneficiaries to receive coordinated comprehensive rehabilitation services at one location, rather than having to go to different sources.

DATE: These regulations are effective December 15, 1982.

FOR FURTHER INFORMATION CONTACT:
John Clegg (Coverage of Services), (301) 594–9372
Stefan Miller (Conditions of Participation), (301) 597–5138
John Callahan (Reimbursement), (301) 594–8480

SUPPLEMENTARY INFORMATION:

I. Background

Section 933 of Pub. L. 96–499 amended several sections of the Social Security Act to define "comprehensive outpatient rehabilitation facility" (CORF) as a distinct type of Medicare provider, and CORF services as a new benefit under Medicare Part B. Under current law, Supplementary Medical Insurance (Medicare Part B) covers certain rehabilitation services in a variety of settings. For example, such services are covered when furnished "incident to" a physician's service. Outpatient physical therapy and speech pathology services are covered when furnished by a hospital, clinic, or other health facility. Physical therapy is covered when furnished by a physical therapist in independent practice. Section 933 provides Medicare coverage for a broad range of items and services when they are provided by a physician or other qualified personnel to a beneficiary who is an outpatient of the CORF.

The statutory amendments specify certain conditions that a facility must meet to be eligible for participation in Medicare. Those include, for example, the requirement that the facility provide at least physician services, physical therapy, and social or psychological services, maintain patient clinical records, and have policies established by a group of professional personnel. The amendments also authorize the Secretary to impose any other conditions necessary for the health and safety of the patient, including personnel qualifications, and require that the services be furnished under a plan of treatment and that a physician certify that (1) the beneficiary needs skilled rehabilitation services; (2) a plan of treatment was established and periodically reviewed by a physician; and (3) the services were furnished while the beneficiary was under the care of a physician. In addition, the amendments also require (1) that the services be furnished on an outpatient basis, by a physician or other qualified personnel, in a CORF approved for participation in Medicare, and (2) that reimbursement be on a cost basis.

A notice of proposed rulemaking (NPRM) to implement section 933 was published in the **Federal Register** on May 10, 1982 (47 FR 20092). The notice elicited numerous comments from over 200 sources, representing a broad sector of the public. The provisions of the proposal, the comments received, and any changes in response to those comments are discussed below.

II. Discussion of Comments and Changes

A. The Proposal in General

Comments: The National Council of Community Health Centers and 40 other commenters, most of them local health centers, concurred with the proposal as written. Nine commenters opposed the proposal on the grounds that it constitutes unnecessary duplication of existing coverage of rehabilitation services and will be unnecessarily costly. They considered it would be preferable to expand existing coverage of rehabilitation services, and recommended that the proposal be withdrawn.

Response: The proposal cannot be withdrawn because the provisions are required by Section 933 of Pub. L. 96–499.

B. Effective Date of Final Regulations

Comment: Eight commenters recommended that the regulations be effective on July 1, 1981, the statutory effective date.

Response: The regulations are effective on publication. However, facilities cannot be reimbursed for CORF services until they apply for participation, are surveyed and are found to be in compliance with the conditions of participation. It would be impossible for a survey to determine that a facility would have been in compliance on July 1, 1981 with the conditions established by these final regulations. Payment, therefore, cannot be made retroactive to July 1, 1981. The regulations at 42 CFR Part 489 provide that the earliest effective date for a provider agreement is the date of the on-site survey, and then only when a provider is found to meet all conditions of participation. Under these rules, CORFs will be reimbursed for services furnished on or after the date they are certified.

C. Requirements for Coverage

(Section 405.260 of the NPRM; § 405.262 of the final regulation.)

Proposal: The preamble stated that the services must be furnished to individuals who have significant potential for improvement and who require a rehabilitation program aimed at achieving specific goals in a predictable period of time.

Comments: Sixteen commenters considered this preamble language to be vague, confusing, and potentially misleading. They recommended clarification. Two others suggested that the statement be revised to indicate that services may be continued as long as "meaningful" or "observable and measurable" improvement takes place.

Response: The preamble merely attempts to describe the regulatory provisions. The phrase "achieving specific goals within a predictable period of time" is consistent with the existing Medicare statutory requirement that services be "reasonable and necessary for the diagnosis or treatment of illness or injury" and with the plan of treatment provisions (§ 405.262(c)) which require a plan that—

1. Prescribes the type, amount, frequency, and duration of the services to be furnished, and indicates the diagnosis and anticipated rehabilitation goals; and

2. Is reviewed at least every 60 days by a physician who certifies or recertifies that the plan is being followed, the patient is making progress in attaining the rehabilitation goals, and the treatment is having no harmful effects on the patient. (This language has been revised to require that a CORF physician be responsible for review of the plan of treatment.)

Proposal: The proposed regulations required the referring physician to make available to the CORF the patient's medical history, current medical findings, diagnosis, rehabilitation goals if determined, and any treatment contraindications.

Comments: There were only three comments. Two suggested that provision be made for obtaining the information from the patient if the referring physician did not provide it. One recommended that professionals other than physicians be permitted to refer cases to a CORF.

Response: We have not changed the regulations (§ 405.262(a)) because

- The referral of medical information is essential for patient health and safety, and in developing the goals for CORF services and is required from other Medicare providers and suppliers;
- We have no reason to believe that a physician would be unwilling to furnish the needed information; and
- Since the statute requires that services must be furnished while the individual is under the care of a physician, it is clearly that physician who is best qualified to refer the patient and furnish the specified information.

Proposal: All services must be furnished on the premises of the CORF.

Comments: This provision elicited negative comments from 33 writers. They objected on the grounds that—

- Neither the language of the amendment nor the legislative history supports this provision.
- It contravenes congressional intent to increase access to less costly outpatient care.
- It may reduce the efficacy of CORF by depriving homebound and rural beneficiaries of needed rehabilitation services.

Response: Although the statute does not specifically require that all CORF services be provided on site, there are several indications that this was Congress' intent:

- The House Committee on the Budget Report on the 1980 Omnibus Reconciliation Act (H.R. Rep. No. 96–1167, 96th Congress, 2nd Session, p. 375) recounted the various disjointed settings in which the Medicare program covers rehabilitation services, thus requiring beneficiaries in need of multiple services to seek them at various locations. The report emphasized that the provisions of section 933 of that Act were intended to remedy this situation by recognizing a CORF as a new type of provider under Medicare capable of furnishing a broad array of rehabilitation services in a coordinated fashion. The provision of routine services at off-site locations would dispel the very reason for a CORF's existence.
- If Congress had not intended onsite provision of CORF services, it could simply have expanded the coverage of home health services and outpatient physical therapy and speech pathology services. Instead it chose to identify a new provider capable of furnishing several services at one location.
- There is no reason to believe that a CORF service furnished off-site will be less costly than a comparable service on site.
- Services to beneficiaries who are homebound or living in rural areas are currently made available through existing Medicare providers and suppliers.

However, because of comments received from a number of professionals that the home environment can directly affect the rehabilitation potential of the patient, we have revised the final regulations (§ 405.260(m)) to permit one offsite service—a single home visit to evaluate the potential impact of the home environment on the rehabilitation goals. This exception is also included in the conditions of participation (§ 488.58(e)).

Comment: A question was raised whether laboratory services must also be furnished on the CORF premises.

Response: We did not intend to require CORFs to set up laboratories. Any tests performed in offsite laboratories would be covered as laboratory services, rather than CORF services.

Proposal: Services must be furnished under a plan of treatment established by a physician.

Comments: Twenty-nine of the commenters concurred with this provision.

Eight indicated that individual therapists are qualified to write the plan.

Six pointed out that, under section 944 of Pub. L. 96–499, a speech pathologist is authorized to establish a plan for speech pathology services.

Response:

- Section 933 of Pub. L. 96–499 specified that, for CORF services, the plan must be established by a physician. This is appropriate since it is expected that a CORF plan will be for several kinds of services. However, these regulations also contain the provision that, if appropriate, the plan of treatment be developed in consultation with CORF professional personnel.
- Section 944 authorizes a speech pathologist to establish the initial plan of treatment but only with respect to services furnished by an outpatient physical therapy/speech pathology provider. While we expect the physician to rely heavily on advice from the speech pathologist (and on advice from other professionals in their areas of expertise), we have retained this provision as required by the statute.

Comment: One commenter suggested that the facility physician be responsible for the plan, with input from the referring physician. Another recommended that the referring physician be responsible without duplication by the CORF physician.

Response: We have not changed the regulation (§405.262(c)) because we believe it is preferable to retain the flexibility provided by permitting either the referring physician or the facility physician to establish the plan.

Comment: One hospital considered that the plan of treatment and specific rehabilitation goals ought not to be written until after an evaluation period.

Response: An initial assessment (during an evaluation period) would presumably be made by the physician who would use this information in establishing the plan. Subsequently, care would begin. Under the law, only care furnished under a plan of treatment qualifies for Medicare coverage. It is expected that the plan will be refined and revised as further experience is gained with the patient and the patient's needs change.

Proposal: The plan of treatment must be reviewed by a physician at least once every 30 days.

Comments: Three commenters concurred. One pointed out an inconsistency between the coverage provision which requires review by "a physician" and the condition of participation which specifies review by "the facility physician". Others recommended that other professionals be allowed to review the plan or that the regulations specify that other professionals must be involved.

Response: We have conformed the coverage provision (§ 405.262(c)) to the condition of participation (§ 488.58(a)(4)). We believe that the coordination of services intended by the CORF legislation can be ensured by requiring that a facility physician review the plan of treatment, in consultation, when appropriate, with the staff providing the services.

Comment: Review every 30 days is inappropriate because rehabilitation patients progress very gradually. Suggest every 60 or 90 days.

Response: We agree and have revised the regulations to require review every 60 days.

Comment: Permit review and recertification by a physician assistant.

Response: The statute requires that periodic review be by a physician.

D. Services That May Be Reimbursed as CORF Services

(Section 405.261 of the NPRM; §405.260 of the final regulations.)

Proposal: The NPRM listed 12 services that could be covered as CORF services:

1. Physicians' service.
2. Physical therapy.
3. Occupational therapy.
4. Speech pathology services.
5. Respiratory therapy.
6. Prosthetic devices.
7. Orthotic devices.
8. Social services.
9. Psychological services.
10. Nursing care.
11. Drugs and biologicals.
12. Supplies, appliances, and equipment for use in the facility.

It also specified that any of the listed services would be excluded from coverage as CORF services if—

- It would not be covered as an inpatient hospital service if furnished to a hospital patient;
- It is provided to an individual who is experiencing a temporary loss or reduction of function that is expected to improve spontaneously; or
- It is part of a maintenance program of repetitive activities that do not require the skilled services of nurses or therapists.

1. Physicians' services.

Comments: Twenty-nine of the commenters fully agreed with the definition. One recommended a change from "include" to "may include", on the grounds that a physician ought not to be required to provide administrative services.

Response: Since the statute requires the physician to perform certain administrative functions, this specific change was not made. However, other changes were made in this section and are discussed below in the section on reimbursement.

2. Services numbered 2 through 7.

Comment: Several national organizations and many institutions and individuals objected to the proposed definitions of these services as services furnished only by specified practitioners. They believed that this would preclude other personnel from providing services that they have been providing with full acceptance throughout the medical community and which are already covered by Medicare in other settings. For example, it was stated that registered nurses currently provide some aspects of care identified in the proposed regulations as respiratory therapy; and that occupational and physical therapists engage in the design and development of orthotic and prosthetic devices, a function that the proposed regulation reserved to orthotists and prosthetists. We also received numerous comments from physical therapists and respiratory therapists and their respective organizations concerning the qualifications we should require with respect to the provision of respiratory therapy.

Response: We accept the premise that particular aspects of care cannot be automatically and consistently classified as falling within the purview of a particular profession. We have revised the regulations to require that services be furnished by qualified personnel. To be qualified, the practitioner must meet at least the qualification requirements specified in § 488.70. In addition, by the application of provisions contained in the NPRM, we would hold the CORF responsible for ensuring that a practitioner performing a particular service is qualified to do so under State law and accepted professional standards and practices. We believe that this change will not adversely affect patient care and safety for several reasons. First, the regulations now specify that all personnel must comply with State laws for licensure, certification, or registration (§ 488.54). These personnel presumably would be subject to administrative or legal actions, or both, regarding charges of malpractice. Second, since the regulations require that all services be provided consistent with accepted professional standards and practice (§ 488.58(d)(7)), the CORF as well as the practitioners would be held accountable for action that failed to meet those standards. Noncompliance with this rule would raise serious questions concerning the CORF's ability to ensure patient safety and could lead the State survey agency to recommend that the facility be terminated from Medicare.

3. Physical and occupational therapy.

Comment: Include in the definitions all of the services identified in the HCFA operating manual.

Response: Inclusion in regulations of specific items contained in the HCFA operating guidelines is neither necessary nor desirable. The preamble indicated that the existing guides would be applicable to CORF services, and will be included in the operating instructions for CORFs. In response to a specific concern expressed by physical therapists and occupational therapists, we note that under the revision described in the preceding response, those practitioners (if qualified) may provide services related to orthotics and prosthetics.

Comment: Specify in the regulations (as is stated in the preamble) that physical therapy services "are for the purpose of restoring" (rather than "to restore"). Otherwise, services that did not result in complete restoration of function would not be covered.

Response: We agree and have revised § 405.260(b) to refer to services "aimed at storing".

Comment: Object to provision that services relating solely to vocational rehabilitation would not be covered as CORF services.

Response: We have not changed this provision (§ 405.260(c)(4)) because services related solely to vocational rehabilitation would not meet the basic Medicare requirement that, to be covered, services must be reasonable and necessary for the diagnosis or treatment of illness or injury. Accordingly, while general assessment of the beneficiary's vocational potential would be a covered service, activities related to specific job training do not meet Medicare's basic coverage requirements.

4. Speech pathology services.

Comment: Speech pathology should be a required service for a "comprehensive" facility.

Response: The statute provides that a facility may qualify as a CORF if it provides three specified services: physicians' services, physical therapy, and social or psychological services. We do not have the authority to require a CORF to provide services not specified in the statute.

5. Psychological services.

Comment: Suggestions for revising the definition of psychological services to list specific services.

Response: The definition was revised to include specific services, for consistency with other definitions.

Comment: Object to preamble language that excludes counselling of family members.

Response: The preamble of the NPRM made clear that counselling of family members is covered only when it is a necessary part of the beneficiary's treatment. Accordingly, counselling solely for the benefit of another family member would not be covered unless that individual is eligible for services in his or her own right, i.e. is a Medicare beneficiary and an outpatient of the CORF.

Comment: Object to regulation language requiring that a physician certify that the patient exhibits a "special need" for these services. The statute imposes no such requirement.

Response: We have deleted the requirement for a special physician

certification. We believe that the plan of treatment requirement, and the provision that services are covered only if they are medically reasonable and necessary, provide sufficient safeguard to ensure the proper utilization of psychological services.

6. Nursing services.

Comment: Suggest that services furnished by other nursing staff be covered if performed under the supervision of an RN or LPN.

Response: The introductory statement of § 405.260 now specifies that CORF services are services furnished "by qualified personnel" and the definition of nursing care services (§ 405.260(j)) no longer specifies practitioners.

7. Appliances and equipment.

Comment: Object to excluding appliances and equipment for use outside the facility. Since the statute refers to "purchase or rental", it must mean that the equipment may be used outside the facility.

Response: The final rule (§ 405.260(l)) provides that durable medical equipment may be rented or purchased for use by the beneficiary at home. However, to be covered outside the CORF, the equipment must be of the type specified in Section 405.231(g), (excluding renal dialysis systems), and must meet HCFA policy guidelines with respect to such equipment. Under these guidelines durable medical equipment is equipment that is primarily and customarily used to serve a medical purpose. Exercise appliances and other self-help devices that can be used for general conditioning would be covered only if furnished for use at the facility.

E. Exclusions From Coverage

(Section 405.262 of the NPRM; § 405.261 of the final regulations.)

1. Exclusion of an item or service that would not be included as a covered service if furnished to an inpatient of a hospital.

Comments: Questioned the legality and rationale of this exclusion, and requested clarification as to whether Medicare will pay for services when equipment used is not normally found in acute care hospitals.

Response: This exclusion is contained in the CORF legislation and is identical to language that provides the basis for coverage for outpatient physical therapy and speech pathology services. This exclusion does not require a finding that specific hospitals use specific rehabilitation equipment. It merely limits CORF coverage to items and services that would be covered as inpatient hospital services if furnished by a hospital to an inpatient.

2. Exclusion of treatment for temporary loss of function expected to improve spontaneously.

Comments: a. CORF services may speed up recovery of function.

b. Who would make the determination, when, and on the basis of what information?

Response: We have deleted this limitation as a specific exclusion and have substituted the basic principle that to be covered by Medicare, an item or service must be medically reasonable and necessary for the diagnosis or treatment of illness or injury or to improve the function of a malformed body member. This provision permits some flexibility that would not be possible under the NPRM language, while at the same time prohibiting reimbursement for services from which the beneficiary would derive little or no meaningful benefit.

3. Exclusion of maintenance therapy.

Comment: Object to exclusion because maintenance therapy could be the factor that prevents a patient from deteriorating to the point of requiring more expensive care.

Response: We agree that maintenance therapy is important. However, maintenance therapy cannot be covered as a CORF service for two reasons:

- Section 1835(a)(2)(E) of the Act requires that a physician certify the patient's need for "skilled rehabilitation services".

Maintenance services are not considered "skilled" services. Once a condition reaches the maintenance level, the kinds of services necessary to stabilize the patient and to prevent deterioration or retard further loss of function do not require skilled therapists. They can be performed, for instance, by members of the patient's family. Skilled services needed to establish a maintenance program and to train others to carry out that program would be covered as CORF services.

- As discussed above, section 1861(cc) of the Act excludes any service that would not be covered as an inpatient hospital service. If a CORF patient had to be hospitalized for an acute condition, maintenance therapy would be covered because the patient would be completely dependent on the institution for a full range of services, including nonskilled routine care. However, even in a hospital, maintenance care is not identified and reimbursed as skilled therapy. Like meals and baths, maintenance therapy would be covered as part of routine care for inpatients, but excluded as not reasonable and necessary if furnished to outpatients.

F. Other Services To Be Included as CORF Services

(The preamble of the NPRM requested suggestions of other services that could be included as medically necessary for the rehabilitation of the patient and ordinarily furnished by CORFs.)

Comments: The following were suggested:

1. Routine hearing and vision examinations.
2. Hearing aids and eyeglasses.
3. Self-help counseling.
4. Patient education.
5. Dietary training.
6. Adult socialization programs, adult day care, and miscellaneous social and recreational activities.
7. Work education and work activity programs.
8. Transportation.
9. Podiatry and dentistry.
10. Substance abuse therapy and counseling.
11. Early intervention services.
12. Cardiac rehabilitation.

Response: The first 2 items are excluded from Medicare coverage by statute. Those numbered 3 through 5 are already included as elements of other covered services. Items 6 and 7 would not meet the basic criterion of "reasonable and necessary for the diagnosis or treatment of illness or injury". Items 8 through 10 are covered under Medicare only under certain limited circumstances. (For instance, transportation is covered only when it is by ambulance and does not include ambulance service to a CORF.) Item 11 is usually represented by preventive measures which are generally excluded from Medicare. Item 12, cardiac rehabilitation, does not appear to be a single service. Almost any of the listed services (e.g., respiratory, physical, and occupational therapy, social or psychological services) might be appropriate for a heart patient and would be covered, if included in the plan of treatment.

G. Conditions of Participation

(Part 481 in the NPRM; Part 488 in the final regulations.)

Proposal: Definition of CORF.

We proposed to define CORF as a freestanding facility, that is, one not affiliated with or currently certified as a Medicare provider or supplier.

Comment: Commenters objected because, under this definition, any facility currently participating in Medicare would be precluded from—

- Participating as a CORF;
- Establishing a CORF on its premises; or

• Owning or operating a CORF.

Response: The proposed definition reflected our belief that—

• A CORF should be a special type of provider, distinct from all currently participating entities.

• "Dual" participation (that is, a single facility participating as a CORF and as some other type of provider or supplier) might lead to furnishing duplicative or excessive services.

• Certain facility alignments might lead to duplicate billing.

Although our beliefs have not changed, we have, in response to the comments, revised the regulation to accomplish our objectives in a manner that does not categorically preclude participation by an entity owned or affiliated with an existing provider or supplier. In particular, we have revised the definition to delete the "freestanding" language and specify instead that the facility must be nonresidential and must be established and operated exclusively for the purpose of furnishing CORF services. However, the principals of an existing Medicare certified facility may establish or operate an additional entity that could be certified as a CORF. This entity may be contained within the physical structure housing the already certified facility, but must be certified separately and be functionally and operationally independent.

Proposal: Specific conditions.

The NRPM proposed that, in order to participate in the Medicare program as a CORF, a facility must—

• Comply with State and local laws;

• Meet specified conditions pertaining to its governing body and administration;

• Provide a coordinated rehabilitation program that includes at least physicians' services, physical therapy, and social or psychological services, furnished by staff that meet specified qualifications;

• Maintain clinical records on all patients;

• Provide a physical environment that protects the health and safety of patients, personnel, and the public;

• Have written procedures for handling of patients, personnel, records, and the public in disaster situations; and

• Have in effect a written utilization review plan to assess the need for services and promote the most efficient use of the services furnished by the facility.

1. Three required services.

Comments:

• A rehabilitation program consisting solely of physicians' services, physical therapy, and social/psychological services is not a comprehensive program.

• Should add others such as occupational therapy and speech pathology services.

• Physicians' services are unnecessary. Requiring them would effectively preclude certain facilities from being certified as CORFs.

Response: As indicated under D. 4 above, the statute specifies that the CORF must provide, at a minimum these 3 services. We do not have the authority to require CORFs to provide services not specified in the statute. Conversely, we cannot eliminate any of the three that are specified.

Comments:

• Permit Centers for Independent Living and Geriatric Centers to qualify as CORFs.

• Permit a one-specialty facility such as a respiratory therapy clinic or a cardiac rehabilitation facility to qualify.

Response: The statute specifies the three services that a facility must provide in order to qualify as a CORF. Acceptance of either of these comments would violate the statute because, so far as we know, neither type of facility would provide those three services. For example, although physical therapy includes services related to cardiopulmonary function, the provision of cardiac rehabilitation services does not constitute physical therapy. Thus, facilities of the types indicated in the comments cannot qualify as CORFs unless they expand the range of services they provide to include the three mandatory services and meet the other conditions of participation.

2. To accept or retain a patient, the CORF must have available on its premises all of the services required by the patient, as established in the plan of treatment.

Comment: This rule is unrealistic; some of the services included as CORF services may seldom be needed and a CORF may experience difficulty in securing needed personnel. A CORF ought to be able to accept a patient even if it cannot provide all the services.

Response: The intent of this rule is clearly consistent with the legislative purpose—to make needed comprehensive services available at a single location. We believe that facilities will be able to furnish, on site, on an "as needed" basis, those services that are required infrequently or by few of the CORF's patients.

In the final regulation, the content of § 461.25(b) has been modified and the revised content incorporated into §§ 488.58(d)(2) and 488.58(e). Section 488.58(d)(2) makes clear that services may be furnished either by facility employees or by others under arrangements. Services for which other types of providers (such as hospitals and SNFs) make arrangements are usually furnished at locations other than the hospital or SNF. However, in the case of a CORF, the rule that all services must be furnished "on site" applies also to services furnished under arrangements. This is made clear by the new standard (§ 488.58(e)—Scope and site of services) which carries over the intent of the proposed rule. However, although the facility must provide all the services required in the plan of treatment and furnish them "on site", personnel who furnish services other than the required three, need to be available only when those other services are actually required by a patient under the plan of treatment. This new standard reiterates the need that, except for the single home visit to evaluate the impact of the home environment on the rehabilitation goals, all services be provided on the premises of the CORF.

Since all the services included in the plan of treatment must be furnished by the CORF, a conforming change was needed in the standard for patient care policies. Section 488.56(e)(7) was revised to delete the requirement for a procedure to assist the referring physician to locate a source for services needed by the patient but not available in the CORF.

3. Definitions of practitioners.

(The proposed "definitions" appear in the final regulations under § 488.70—Personnel qualifications.)

• Facility physician.

Comment: Many commenters expressed concern that the definition did not require enough specialized training and experience to enable the physician to furnish the services needed in a facility providing a broad array of comprehensive rehabilitation services. They suggested that the facility physician have at least 2 years of specialized training in rehabilitation medicine.

Response: We did not accept this recommendation because we believe it would be extremely difficult for many prospective CORFs to obtain the services of a physician meeting those qualifications. However, as a result of these comments, we have revised the proposal to require that a facility physician have one of the following:

• At least one year of training (obtained after completion of one year of hospital internship) in the medical management of patients requiring rehabilitation services.

• At least one year of full-time or part-time experience in a rehabilitation setting providing physician services of the type required by these regulations. We believe that these requirements are sufficient to ensure quality physician care.

• Social Worker.

Comments: Require a master's degree in place of a bachelor's degree.

Response: We did not accept this recommendation because we believe that, (1) an individual holding a bachelor's degree who has had one year of experience as a social worker in a health care setting is sufficiently prepared to provide services to CORF patients and (2) it would be difficult for many CORFs to obtain the services of a social worker meeting the suggested qualifications.

• Psychologist.

Comments:

• Require a doctoral degree (instead of a master's) and experience in health services.

• Delete the requirement that the psychologist be eligible for membership in the American Psychological Association.

Response:

• We did not change to requiring a doctoral degree because we believe that a master's degree qualifies a psychologist to provide the kinds of services needed by CORF patients.

• We deleted the other requirement because membership for credentialling purposes is contrary to the Association's policy.

4. Compliance with State and local laws.

Comment: One commenter questioned the clarity of this standard.

Response: This standard has been revised to conform more closely with the statutory language and to require that practitioners meet the requirements of State or local law for licensure, certification, or registration.

5. Governing body and administration.

Comment: Several commenters requested clarification on whether the proposed delegation of authority language precluded—

• The delegation of clinical supervision to professional personnel who are not employees of the facility; and

• Ownership or administration of more than one CORF by one individual, corporation, organization, or agency.

Response: This requirement was not intended to preclude either of the above, but rather to ensure that the facility itself retains responsibility for overall administration, management, and operation. We have revised the regulations to clarify this intent (§ 488.56(f)). The definition of a CORF has been revised to allow the principals of any existing Medicare certified provider or supplier to establish and operate a CORF.

6. Plan of treatment and onsite provision of services. Plan of treatment and onsite provision of services are also requirements for coverage of CORF services and were discussed above under that topic.

7. Patient reassessment.

Comments:

• Assessment is a continuous process.

• Reassessment should be performed at least every 30 days.

• Reassessments should not be required every 60 days because reassessment is not always appropriate at 60 day intervals. Professionals in the course of treating patients monitor and document patients' progress.

Response: We deleted the requirement for patient reassessments every 60 days in order to be less prescriptive and to provide the professionals more flexibility in reassessing patients when in their professional judgement reassessment is needed.

8. Utilization review plan.

Comment: Specify time intervals (every 30, 60, or 90 days) in order to ensure the effectiveness of the program.

Response: We have amended the regulation to require that the utilization review plan be implemented at least every quarter.

Comment: Allow facilities more flexibility in determining the membership of the review committee.

Response: We revised the regulations to provide such flexibility by allowing that the review committee be composed of professional personnel not associated with the facility.

Comment: Require that a physician trained in rehabilitation medicine oversee utilization review.

Response: We did not accept this suggestion because we consider that such a requirement would be too prescriptive.

H. Reimbursement

(Sections 405.243, 405.401, 405.455, and 405.502)

Proposal: Basic rule.

The preamble to the NPRM specified that CORF services would be reimbursed on a reasonable cost basis and gave the rationale. Section 942 of Pub. L. 96-499 (the same law that established CORF services under section 933) authorized Medicare payment for those services based on "the costs which are reasonable and related to the cost of furnishing such services or which are based on such other tests of reasonableness as the Secretary may prescribe in regulations, including those authorized under section 1861(v)(1)(A)..." less applicable Part B deductible and coinsurance amounts. Section 1861(v)(1)(A) defines reasonable cost as the cost actually incurred, excluding any cost found unnecessary for efficient delivery of needed health services, and authorizes the Secretary to prescribe in regulations how reasonable cost is to be determined. The regulations that implement section 1861(v)(1)(A) appear in 42 CFR Part 405, Subpart D. With one exception and two additional limitations, the Subpart D provisions will apply to reimbursement for CORF services. The final regulations amend § 405.401 to make this clear.

Exception. Since the amended statute did not specify for CORFs, as it does for other providers, payment of the lower of reasonable cost and customary charges, we proposed to amend § 405.455 to make clear that this provision does not apply to CORFs.

CORF services are subject to the Medicare Part B deductible. In addition a CORF may charge a beneficiary an additional amount that does not exceed 20 percent of its customary charges.

Payment will be based on the reasonable cost that remains after subtracting any applicable deductible amount and will be the lesser of the following:

1. 80 percent of the remaining reasonable cost.

2. The remaining reasonable cost minus 20 percent of reasonable charges.

Limitation on outpatient psychiatric services. As discussed in the preamble of the NPRM, section 1833(c) of the statute imposes a limitation on reimbursement under Part B for outpatient psychiatric services. This provision limits the amount of a beneficiary's incurred expenses that will be recognized, in any calendar year, to $312.50 or 62½ percent of incurred expenses, whichever is less.

Under regulation § 405.243, the limitation previously applied only to expenses incurred for services and supplies furnished by psychiatric or nonpsychiatric physicians for the treatment of psychiatric disorders, and exempted all other services from the limitation.

The justification for the previous regulation, developed in the late 1960's, was our belief that—

• The intent of the law would be adequately achieved because physicians' services constituted the greatest part of the cost of outpatient psychiatric care.

• Applying the limitation to other services would create administrative

difficulties, i.e., the need to determine how and when to apply the limit to different types of services and to keep track of when the overall limit was reached.

The first rationale is no longer valid because, as a result of changes in the practice of medicine, physicians' services are not always the most costly component of psychiatric care. As an example, many of the psychiatric services covered as CORF services will be furnished by nonphysicians.

We also realized that tracking the limitation would be no more difficult than tracking the Part B deductible. Accordingly, we proposed to apply the limit to CORF services as well as physicians' services.

Comments: Six comments dealt with the limitation on psychiatric services. Three expressed concern that application to CORF services, while other Part B outpatient psychiatric services furnished by nonphysician practitioners are not capped, will restrict use of CORF services and thus require more costly alternatives.

One considered that applying to CORF a limit based on charge reimbursement was inconsistent with the fact that CORF services are reimbursed on a cost basis.

One requested reassurance that the full range of occupational therapy services furnished to a patient with a psychiatric diagnosis is reimbursable up to the limit. Others requested a clarification as to how the limit will be applied.

Response: As explained in the preamble to the proposed rules, the regulation did not conform literally to the language of the statute, which does not restrict the psychiatric limit to physician services. As further discussed, we do not believe it would be in the best interest of the public and the program to extend the limitation to other benefits that have long been available to beneficiaries. Accordingly, we proposed to amend the regulation by applying the psychiatric limit to CORF services (whether furnished by physicians or nonphysicians) as required by law. This is not a limit separate from the limit on physician's services. Under § 405.243, as revised, the beneficiary will be entitled to no more than $250 (i.e. 80 percent of § 312.50) in program reimbursement per year for outpatient physician services and CORF services furnished for the treatment of a mental, psychoneurotic or personality disorder. Note, however, that the limitation does not apply to initial diagnostic testing. In applying the limitation to CORF services, intermediaries will use the "customary charges" determined for the CORF services as the beneficiary's "incurred expenses".

Occupational therapy services (as defined in § 405.260), if furnished to a CORF patient with a psychiatric diagnosis, are reimbursable within the limitation that applies to expenses incurred by that patient during the calendar year for physicians' services and CORF services.

Comment: A question was raised as to whether a CORF could qualify for interim reimbursement under the periodic interim payment (PIP) method.

Response: Current regulations at § 405.454(j) limit the availability of the PIP method of reimbursement to hospital and SNF inpatient services and home health agency services. We are not amending this regulation section at the present time to include CORFs because the PIP method is generally inappropriate in situations where an intermediary does not have an accurate basis for computing program payments. Since CORFs are a new provider class, we have no cost and utilization experience to use in determining appropriate PIP amounts. Once sufficient experience is gained, we will consider amending the regulations to extend the availability of PIP to CORFs.

Comment: A question was raised as to whether a proprietary CORF would receive a return on equity capital.

Response: The NPRM indicated that with the specific exception of the lower of cost or charges provision, the reimbursement regulations generally applicable to providers would be equally applicable to CORFs. Accordingly, proprietary CORFs will be entitled to a return on equity capital under § 405.429.

Limitation on Reimbursement for Services Furnished Under Arrangements

We proposed to add a new § 405.431(a) that would limit, to 60 percent of reasonable charges, the aggregate reimbursement for physicians' services furnished under arrangement and paid by the CORF on a fee-for-service basis. For this purpose, reasonable charges would be the amount that Medicare would pay for physician services furnished to beneficiaries who are not CORF patients.

Comments: Commenters objected to the 60 percent limitation. They argued that this limit was inequitable because physicians who furnish services to CORF patients and bill those patients (instead of accepting payment from the CORF) would not be subject to the 60 percent limitation. They also pointed out that the proposed payment method appeared to limit the physician's right to bill directly, even though the CORF legislation did not amend section 1832(a)(1) of the Act under which a beneficiary is entitled to "have payment made to him or on his behalf for medical and other health services". Related to this issue is the CORF provision that excludes from CORF coverage any service that would not be covered as a hospital service if provided to a hospital inpatient. Since the Medicare law precludes payment to a hospital for physician's services (with the exception of those furnished by interns and residents and, in certain circumstances, by physicians in teaching hospitals), this provision appears to prohibit payment to the CORF for those physician services that may be covered under section 1832(a)(1) and reimbursed on a reasonable charge basis. Commenters also suggested that CORF physicians not be subject to greater payment limitations than other physicians in similar outpatient provider settings.

Response: In response to these comments, we have revised the regulation to provide that all medical services furnished to individual CORF patients will be billed as physicians' services, not CORF services, and reimbursed by the carrier on a reasonable basis. In addition, although we have retained the 60 percent limitation on Medicare payment for physician services furnished to an individual CORF patient, we have made it applicable on the same basis that it is applicable to physician services furnished in other outpatient settings.

That limitation is imposed by § 405.502(f) and will apply to physicians' services furnished in the CORF if those services do not constitute CORF physician services as redefined in the final regulations. Under the revised definition (§ 405.260(a)), CORF physicians' services are services other than direct individual treatment, such as the establishment and review of a plan of treatment for services furnished by other practitioners, consultation to and supervision of nonphysician personnel, and other medical-administrative functions that benefit CORF patients in general.

The costs incurred by the CORF for these services will be reimbursable to the CORF under the reasonable cost reimbursement principles. Proposed limits on the amount of physician compensation (for services to providers) that may be recognized as "reasonable cost" of the provider, will, if published in final, apply to CORF physician

services.[1] It should be noted that any limitations on reasonable charge payments established under the authority of Subpart E apply to the physician services furnished to an individual CORF patient. We believe these changes are necessary to properly implement the CORF amendments without contravening the provisions of section 1832(a)(1), and to simplify administration of CORF benefits. They also reflect our belief that individual medical services will usually be furnished to CORF patients in the physician's office and not at the CORF.

Several organizational, technical, and conforming changes are made in the final regulations:

- A new Subchapter E—STANDARDS AND CERTIFICATION is established and the conditions of participation are redesignated under a new Part 488. (Part 481, under which the NPRM placed these provisions, deals with conditions of certification for certain health facilities.)
- Section 489.2 is amended to include CORFs in the list of providers subject to the requirements of the part.
- Centered headings are added in Subpart B in order to highlight the new CORF provisions.
- Sections 405.230 and 405.243 are revised, the first to clarify to whom Medicare payment is made in different situations, the second to clarify the content in general.
- The proposed revision of § 405.250 was changed because final regulations published on October 28, 1982 (47 FR 47388) to implement other statutory amendments (regarding physician certification of need for services), completely revised § 405.250. That revision also made it necessary to add a new § 405.1635, to set forth the certification requirements that apply to CORF services.
- "Physical therapy assistant" is changed to "physical therapist assistant".
- "Speech pathology" and "speech pathologist" are changed to "speech-language pathology" and "speech-language pathologist."
- The qualifications for a speech-language pathologist are made the same as those that were already set forth in the conditions of participation for facilities that are certified as providers of outpatient speech-language pathology services.

[1] See notice of proposed rulemaking published in the **Federal Register** on October 1, 1982 at page 43578.

III. Impact Analysis

A. Executive Order 12291

This order requires us to develop and publish a regulatory impact analysis for any "major" regulation, that is, a regulation that will result in an economic impact of $100 million or more or meet other related criteria specified in section 1(b) of the Order. We have determined that a regulatory impact analysis is not required because this is not a "major" regulation.

It is not possible to determine accurately how much Medicare expenditures will be increased, because we do not know how many facilities will seek to participate as CORFs.

We believe the increase will be small because, with one exception, CORF services were already covered under Medicare Part B. The only expansion of coverage applies to occupational therapy, previously covered only as a hospital outpatient or home health service and now also covered as an outpatient service furnished at a CORF. We estimate that Medicare expenditures may increase by $10 to $20 million for fiscal year 1983; $15 to $25 million for 1984, and $20 to $30 million for 1985.

B. Regulatory Flexibility Act

The Secretary certifies under 5 U.S.C., 605(b), enacted by the Regulatory Flexibility Act (Pub. L. 96–354), that these final regulations will not result in a significant impact on a substantial number of small entities.

After review of the provisions of these final regulations, we find that no substantive changes have been made, to the provisions noted in the NPRM published May 10, 1982, that will affect the impact of these provisions. Therefore, the regulatory flexibility analysis detailed in that publication will still apply and no further analysis will be required for these final regulations.

IV. Information Collection Requirements

Sections 405.262(c), 488.56(e), 488.58(b), 488.60, 488.64(a), and 488.66 contain information collection requirements subject to the provisions of the Paperwork Reduction Act 1980. As required by the Act, HCFA requested Office of Management and Budget (OMB) approval of these requirements along with the paperwork burden associated with the certification of CORFs to participate in Medicare. OMB has approved this information collection under OMB approval number 09380267. For billing purposes, CORFs will use HCFA-Form 1487 under OMB approval number 0938–0012.

V. Waiver of Delayed Effective Date

By court order issued September 21, 1982 in *National Association of Rehabilitation Facilities, Inc., et al.* v. *Schweiker, et al.*, U.S.D.C. D.C., Civil Action No. 82–0494, unless the Department publishes final regulations effective by December 15, 1982, the NPRM would become final and effective as of that date. We believe that the public interest is best served by these final regulations which have been revised consistent with comments from a broad sector of the public. The version published as an NPRM did not have the benefit of public comment. We also believe that the public has had sufficient notice and time to prepare for implementation, so that making the regulations effective without the usual 30-day delay will not be prejudicial. Accordingly, we find "good cause" for waiving delayed effective date.

VI. List of Subjects

42 CFR Part 405

Administrative practice and procedure. Certification of compliance, Clinics, Comprehensive outpatient rehabilitation facilities, Contracts (Agreements), End-Stage Renal Disease (ESRD), Health care, Health facilities, Health maintenance organizations (HMO), Health professions, Health suppliers, Home health agencies, Hospitals, Inpatients, Kidney diseases, Laboratories, Medicare, Nursing homes, Onsite surveys, Outpatient provider, Reporting requirements, Rural areas, X-rays.

42 CFR Part 488

Administrative practice and procedure, Clinics, Comprehensive outpatient rehabilitation facilities, Health Facilities, Medicaid, Medicare, Nurse practitioner, Rural areas.

42 CFR Chapter IV is amended as set forth below:

A. The table of contents of Chapter IV is amended by establishing a Subchapter E, composed of Parts 480 through 499, to read as follows:

CHAPTER IV—HEALTH CARE FINANCING ADMINISTRATION, DEPARTMENT OF HEALTH AND HUMAN SERVICES

* * * * *

SUBCHAPTER E—STANDARDS AND CERTIFICATION

Part
480—[Reserved]
481—Certification of Certain Health Facilities
482–487—[Reserved]

Part
488—Conditions of Participation: Specialized Providers
489—Provider Agreements Under Medicare
490–499—[Reserved]

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

B. Part 405 is amended as set forth below:

1. The table of contents of Part 405, Subpart B is amended to insert undesignated centered headings, revise the titles of §§ 405.243 and 405.250, reflect the addition of §§ 405.260 through 405.262, and revise the authority statement, to read as follows:

Subpart B—Supplementary Medical Insurance Benefits; Enrollment, Coverage, Exclusions, and Payment

General Provisions

405.201 Supplementary medical insurance; general
405.202 Enrollment; general.

Enrollment and Coverage

405.205 Eligibility requirements for enrollment.
405.206 Persons ineligible to enroll.
405.210 Individual enrollment; enrollment procedures.
405.211 Individual enrollment; enrollment periods; general.
405.212 Individual enrollment; initial enrollment period.
405.213 Individual enrollment; general enrollment periods.
405.214 Individual enrollment; limitation on enrollment and reenrollment.
405.215 Individual enrollment; enrollment periods ending on a nonworkday.
405.217 Enrollment pursuant to a State agreement.
405.220 Coverage period; general.
405.221 Individual enrollment; coverage period beginning date.
405.222 Enrollment pursuant to a State agreement; coverage period beginning date.
405.223 Individual enrollments; State enrollments; manner and time of termination of enrollment and coverage period.
405.226 Equitable relief for individual whose enrollment rights have been prejudiced by government misrepresentation, inaction or error.

Benefits—General

405.230 Supplementary medical insurance benefits.

Medical and Other Health Services

405.231 Medical and other health services; included items and services.
405.232 Medical and other health services; conditions, limitations, and exclusions.
405.232a Physician defined.
405.232b Chiropractors.
405.232c Optometrists.

Home Health Services

405.233 Home health services; general.
405.234 Home health services; conditions.
405.235 Home health services; place where items and services must be furnished.
405.236 Home health services; items and services included.
405.237 Home health services; items and services not included.
405.238 Home health services; "visits" defined.
405.239 Option available to patients under a home health plan who require physical therapy or speech therapy services.

Payment of Benefits

405.240 Payment of supplementary medical insurance benefits; amounts payable.
405.241 Payment of supplementary medical insurance benefits; election by group-practice prepayment plan as to method of determining amount of payment.
405.243 Psychiatric services limitation; expenses incurred for physician services and comprehensive outpatient rehabilitation facility services.
405.244 Incurred expenses; expenses excluded from total expenses or not considered for purposes of the deductibles.
405.244–1 Payment of supplementary medical insurance benefits; kidney donor services.
405.245 The supplementary medical insurance benefits deductible.
405.246 Supplementary medical insurance blood deductible.
405.249 Payment to a nonparticipating hospital furnishing emergency outpatient services.
405.250 Procedures for payment; medical and other health services furnished by participating provider or ESRD facility; home health services; comprehensive outpatient rehabilitation facility services.
405.250–1 Outpatient physical therapy and speech pathology services furnished by participating provider; plan of treatment requirements.
405.250–2 Procedures for payment; rural health clinic services furnished by a rural health clinic.
405.251 Procedures for payment; medical and other health services furnished by other than a participating provider or ESRD facility.
405.252 Conditions prohibiting payment of benefits.

Comprehensive Outpatient Rehabilitation Facility (CORF) Services

405.260 Included services.
405.261 Excluded services.
405.262 Requirements for coverage of CORF services.

Authority: Sec. 1102, 1831–1833, 1835–1843, 1861, 1862, 1866, and 1871 of the Social Security Act; 42 U.S.C. 1302, 1395j–1395l, 1395n–1395v, 1395x, 1395y, 1395cc, and 1395hh.

2. Undesignated centered headings are inserted in the text of Subpart B as follows:

"General Provisions" is inserted immediately before § 405.201.
"Enrollment and Coverage" is inserted immediately before § 405.205.
"Benefits—General" is inserted immediately before § 405.230.
"Medical and Other Health Services" is inserted immediately before § 405.231.
"Home Health Services" is inserted immediately before § 405.233.
"Payment of Benefits" is inserted immediately before § 405.240.

3. Section 405.230 is revised to clarify content, remove outdated material correct technical errors, and include CORF services. As revised, § 405.230 reads as follows:

§ 405.230 Supplementary medical insurance benefits.

(a) *Basic rules.* (1) Any individual who is enrolled under the supplementary medical insurance program established by Part B of title XVIII of the Act is subject to the conditions, limitations, and exclusions set forth in this Part 405 and in Part 416 of this chapter, entitled to have payment made for the services specified in paragraph (b) of this section.

(2) In order to be reimbursable under Medicare Part B, the services specified in paragraph (b) of this section must—

(i) Except in the case of the services specified in paragraphs (b)(1) through (b)(4) of this section, be furnished by entities that have in effect agreements to participate in Medicare; and

(ii) Be furnished to an individual during a coverage period. (The rules for determination of coverage periods are set forth in §§ 405.220 through 405.223.)

(b) *Benefits provided.* If the conditions of paragraph (a) of this section are met, Medicare Part B payment will be made as follows:

(1) To the individual, or to a physician or other supplier on the individual's behalf, for medical and other health services furnished by the physician or other supplier.

(2) To a nonparticipating hospital on the individual's behalf for emergency outpatient services furnished by the hospital, in accordance with § 405.249.

(3) To the individual, for emergency outpatient services furnished by a nonparticipating hospital, in accordance with § 405.1672(b).

(4) To the individual, for physicians' services and ambulance services furnished outside the United States in accordance with § 405.1672(b).

(5) To a provider on the individual's behalf for medical and other health services furnished by the provider (or by others under arrangements made with them by the provider).

(6) To a home health agency on the individual's behalf for home health services furnished by the home health agency.

(7) To a clinic, rehabilitation agency, or public health agency on the individual's behalf for outpatient physical therapy or speech pathology services furnished by the clinic or agency (or by others under arrangements made with them by the clinic or agency).

(8) To a rural health clinic on the individual's behalf for rural health clinic services furnished by the rural health clinic.

(9) To an ambulatory surgical center (ASC) on the individual's behalf for covered ambulatory surgical center facility services that are furnished in connection with surgical procedures performed in an ASC, as provided in Part 416 of this chapter.

(10) To a comprehensive outpatient rehabilitation facility (CORF) on the individual's behalf for comprehensive outpatient rehabilitation facility services furnished by the CORF.

4. Section 405.243 is revised to read as follows:

§ 405.243 Psychiatric services limitation; expenses incurred for physician services and comprehensive outpatient rehabilitation facility services.

(a) *Definitions.* As used in this section, unless the context indicates otherwise, "*Mental, psychoneurotic, or personality disorder*" means the specific psychiatric conditions described in the American Psychiatric Association's Diagnostic and Statistical Manual—Mental Disorders. "*Hospital*" means any hospital that is primarily engaged in providing, by or under the supervision of physicians, diagnostic and therapeutic services for the medical diagnosis, treatment, and care of injured, disabled or sick persons, or rehabilitation services for the rehabilitation of injured, disabled or sick persons; or psychiatric services for the diagnosis and treatment of mentally ill persons; and medical services for the diagnosis and treatment of tuberculosis.

(b) *Services subject to limitation.* The psychiatric services limitation applies to physician services and CORF services (furnished by physicians or nonphysicians) for the treatment of a mental, psychoneurotic, or personality disorder, when the services are furnished to an individual who is not an inpatient in a hospital.

(c) *Limitation.* Of the expenses incurred during any calendar year for services specified in paragraph (b) of this section, only $312.50 or 62½ percent of the expenses (whichever is less) will be considered reimbursable under Medicare Part B, subject to the amount of payment and deductible provisions set forth in §§ 405.240 and 405.245.

(d) *Example.*

As a private patient, Mr. X's only medical expenses during the calendar year 1982 amounted to $750 for physicians' services in connection with the treatment of a mental disorder which did not require inpatient hospitalization. The statutory limit for any calendar year on the amount of these expenses that is covered under this Subpart B is $312.50 ($312.50 being lesser in amount than 62½ percent of $750). Mr. X is required to meet the first $75 as a deductible, and 20 percent of the balance. The remaining 80 percent is payable under this Subpart B.

Total covered expenses	Mr. X's payment	Payment under subpart B
$312.50	[2] $437.50	
−75.00 [1]	[1] 75.00	
$37.50	[3] 47.50	[4] 190.00

[1] Deductible, (see § 405.245).
[2] In excess of $312.50.
[3] 20 percent of total covered expenses less deductible.
[4] 80 percent of total covered expenses less deductible.

If Mr. X had incurred $350 of the above expenses while an inpatient of an institution (see paragraph (b) of this section), and the remaining $400 while not an inpatient of an institution, payment would be computed as follows:

Total covered expenses	Mr. X's payment	Payment under subpart B
$250 [1]	[2] $150	
+350 [3]		
600	[4] 75	
−75		
525	[5] 105	[6] 420

[1] 62½ Percent of $400.
[2] In excess of 62½ percent of $400.
[3] 100 percent of expenses incurred while an inpatient.
[4] Deductible.
[5] 20 percent of total covered expenses less deductible.
[6] 80 percent of total covered expenses less deductible.

5. In § 405.250, the title, the introductory statement, paragraph (a) and paragraph (b) are revised to read as follows:

§ 405.250 Payment for home health services, for medical and other health services furnished by a participating provider or an ESRD facility, and for comprehensive outpatient rehabilitation facility (CORF) services: Conditions.

Payment under Medicare Part B, for home health services, for medical and other health services, or for CORF services, may be made to the provider or facility only if the following conditions are met:

(a) *Request for payment.* A written request for payment is filed by or on behalf of the individual to whom the services were furnished.

(b) *Physician certification.* (1) For home health services, a physician provides certification and recertification in accordance with § 405.1633.

(2) For medical and other health services, a physician provides certification and recertification in accordance with § 405.1634.

(3) For CORF services, a physician provides certification and recertification in accordance with § 405.1635.

* * * * *

6. An undesignated centered heading and §§ 405.260 through 405.262 are added, to read as follows:

Comprehensive Outpatient Rehabilitation Facility (CORF) Services

§ 405.260 Included services.

Subject to the conditions and limitations set forth in §§ 405.261 and 405.262, CORF services means the following services furnished to an outpatient of the CORF by personnel that meet the qualifications set forth in §488.70 of this chapter.

(a) *Physicians' services.* The following services of the facility physician constitute CORF services: consultation with and medical supervision of non-physician staff, esablishment and review of the plan of treatment, and other medical and facility administration activities. Those services are reimbursed on a reasonable cost basis under Subpart D. Diagnostic and therapeutic services furnished to an individual patient are not CORF physician's services. If covered, payment for these services would be made by the carrier on a reasonable charge basis subject to the provisions of Subpart E.

(b) *Physical therapy services.* (1) These services include—

(i) Testing and measurement of the function or dysfunction of the neuromuscular, musculoskeletal, cardiovascular and respiratory systems; and

(ii) Assessment and treatment related to dysfunction caused by illness or injury, and aimed at preventing or reducing disability or pain and restoring lost function.

(2) The establishment of a maintenance therapy program for an individual whose restoration potential has been reached is a physical therapy service; however, maintenance therapy itself is not covered as part of these services.

(c) *Occupational therapy services.* These services include—

(1) Teaching of compensatory techniques to permit an individual with a physical impairment or limitation to engage in daily activities.

(2) Evaluation of an individual's level of independent functioning.

(3) Selection and teaching of task-oriented therapeutic activities to restore sensory-integrative function; and

(4) Assessment of an individual's vocational potential, except when the assessment is related solely to vocational rehabilitation.

(d) *Speech-language pathology services.* These are services for the diagnosis and treatment of speech and language disorders that create difficulties in communication.

(e) *Respiratory therapy services.* (1) These are services for the assessment, diagnostic evaluation, treatment, management, and monitoring of patients with deficiencies or abnormalities of cardiopulmonary function.

(2) These services include—

(i) Application of techniques for support of oxygenation and ventilation of the patient and for pulmonary rehabilitation.

(ii) Therapeutic use and monitoring of gases, mists, and aerosols and related equipment;

(iii) Bronchial hygiene therapy;

(iv) Pulmonary rehabilitation techniques such as exercise conditioning, breathing retraining and patient education in the management of respiratory problems.

(v) Diagnostic tests to be evaluated by a physician, such as pulmonary function tests, spirometry and blood gas analysis; and

(vi) Periodic assessment of chronically ill patients and their need for respiratory therapy.

(f) *Prosthetic device services.* These services include—

(1) Prosthetic devices (excluding dental devices and renal dialysis machines), that replace all or part of an internal body organ or external body member (including contiguous tissue) or replace all or part of the function of a permanently inoperative or malfunctioning external body member or internal body organ; and

(2) Services necessary to design the device, select materials and components, measure, fit, and align the device, and instruct the patient in its use.

(g) *Orthotic device services.* These services include—

(1) Orthopedic devices that support or align movable parts of the body, prevent or correct deformities, or improve functioning; and

(2) Services necessary to design the device, select the materials and components, measure, fit, and align the device, and instruct the patient in its use.

(h) *Social services.* These services include—

(1) Assessment of the social and emotional factors related to the individual's illness, need for care, response to treatment, and adjustment to care furnished by the facility;

(2) Casework services to assist in resolving social or emotional problems that may have an adverse effect on the beneficiary's ability to respond to treatment; and

(3) Assessment of the relationship of the individual's medical and nursing requirements to his or her home situation, financial resources, and the community resources available upon discharge from facility care.

(i) *Psychological services.* These services include—

(1) Assessment, diagnosis and treatment of an individual's mental and emotional functioning as it relates to the individual's rehabilitation;

(2) Psychological evaluations of the individual's response to and rate of progress under the treatment plan; and

(3) Assessment of those aspects of an individual's family and home situation that affect the individual's rehabilitation treatment.

(j) *Nursing care services.* These services include nursing services specified in the plan of treatment and any other nursing services necessary for the attainment of the rehabilitation goals.

(k) *Drugs and biologicals.* These are drugs and biologicals that are—

(1) Prescribed by a physician and administered by or under the supervision of a physician or a registered professional nurse; and

(2) Not excluded from Medicare Part B payment for reasons specified in § 405.232(c).

(l) *Supplies, appliances, and equipment.* These include—

(1) Non-reusable supplies such as oxygen and bandages;

(2) Medical equipment and appliances; and

(3) Durable medical equipment of the type specified in § 405.231(g), (except renal dialysis systems) for use outside the CORF, whether purchased or rented.

(m) *Home environment evaluation.* This is a single home visit to evaluate the potential impact of the home situation on the rehabilitation goals.

§ 405.261 Excluded services.

None of the services specified in § 405.260 is covered as a CORF service if the service—

(a) Would not be covered as an inpatient hospital service if furnished to a hospital inpatient;

(b) Is not reasonable and necessary for the diagnosis or treatment of illness or injury or to improve the functioning of a malformed body member. An example would be services furnished as part of a maintenance program involving repetitive activities that do not require the skilled services of nurses or therapists.

§ 405.262 Requirements for coverage of CORF services.

Services specified in § 405.260 and not excluded under § 405.261 are covered as CORF services if the following requirements are met:

(a) *Referral and medical history.* The services must be furnished to an individual who is referred by a physician who certifies that the individual needs skilled rehabilitation services, and makes the following information available to the CORF before or at the time treatment is begun:

(1) The individual's significant medical history.

(2) Current medical findings.

(3) Diagnosis(es) and contraindications to any treatment modality.

(4) Rehabilitation goals, if determined.

(b) *When and where services are furnished.* (1) All services must be furnished while the individual is under the care of a physician; and

(2) Except for the home evaluation visit (§ 405.260(m)), the services must be furnished onsite at a participating CORF. (The conditions for CORF participation in Medicare are set forth in Part 488, Subpart B, of this chapter.)

(c) *Plan of treatment.* (1) The services must be furnished under a written plan of treatment that—

(i) Is established and signed by a physician before treatment is begun; and

(ii) Prescribes the type, amount, frequency, and duration of the services to be furnished, and indicates the diagnosis and anticipated rehabilitation goals.

(2) The plan must be reviewed at least every 60 days by a facility physician who, when appropriate, consults with the professional personnel providing the services.

(3) The reviewing physician must certify or recertify that the plan is being followed, the patient is making progress in attaining the rehabilitation goals, and the treatment is having no harmful effects on the patient.

Subpart D—Principles of Reimbursement for Provider Costs and for Services by Hospital-Based Physicians

7. The authority statement of subpart D is amended to read as follows:

Authority: Secs. 1102, 1814(b), 1833(a), 1861(v), 1871, 1881, and 1886 of the Social Security Act; 42 U.S.C. 1302, 1395f(b), 1395l(a), 1395x(v), 1395hh, 1395rr, and 1395ww, unless otherwise noted.

8. Section 405.401(a) is revised to read as follows:

§ 405.401 Introduction.

(a) Under Medicare, the amount paid to a hospital, skilled nursing facility (SNF), home health agency (HHA), or comprehensive outpatient rehabilitation facility (CORF), or to a provider of outpatient physical therapy or speech pathology services, will be the reasonable cost of the services, subject to the provisions of §§ 405.455 and 405.460.

* * * * *

9. In § 405.455, paragraph (a) is revised to specify that it does not apply to comprehensive outpatient rehabilitation facility services. As revised, paragraph (a) reads as follows:

§ 405.455 Amount of payments where customary charges for services furnished are less than reasonable cost.

(a) *Principle.* Providers of services, other than comprehensive outpatient rehabilitation facilities, will be paid the lesser of the reasonable cost of services furnished to beneficiaries or the customary charges made by the provider for the same services. (Payment to comprehensive outpatient rehabilitation facilities is based on the reasonable cost of services.) Public providers of service furnishing services free of charge or at a nominal charge will be paid fair compensation for services furnished to beneficiaries. This principle is applicable to services furnished by providers in cost reporting periods beginning after December 31, 1973. For special rules concerning HMO's and providers of services and other health care facilities that are owned or operated by an HMO, or related to an HMO by common ownership or control, see §§ 405.2042(b)(14) and 405.2050(c).

* * * * *

Subpart E—Criteria for Determination of Reasonable Charges; Reimbursement for Services of Hospital Interns, Residents, and Supervising Physicians

10. The authority statement for Subpart E is revised to read as follows:

Authority: Secs. 1102, 1814(b), 1833(a), 1842(b), 1861(v)(1)(k), and 1871 of the Social Security Act; (42 U.S.C. 1302, 1395f(b), 1395l(a), 1395u(b), 1395x(v)(1)(k), 1395hh, unless otherwise noted.

11. Section 405.502 is amended by revising paragraph (f)(1) to read as follows:

§ 405.502 Criteria for determining reasonable charges.

* * * * *

(f) *Determining charge payments for certain physicians' services furnished in outpatient settings.*—(1) *General rule.* When physician services of the type routinely furnished in physicians' offices are furnished in outpatient settings, carriers will determine the reasonable charge for those services by applying the limits described in paragraph (f)(4) of this section. As used in this paragraph (f), "outpatient settings" means hospital outpatient departments, clinics and emergency rooms, and comprehensive outpatient rehabilitation facilities (CORFs).

* * * * *

12. Subpart P is amended by adding a new § 405.1635 to read as follows:

§ 405.1635 Comprehensive outpatient rehabilitation facility (CORF) services.

As a condition for Medicare Part B payment for CORF services, the following requirements must be met:

(a) *Certification.* A physician must certify that—

(1) The services were required because the individual needed skilled rehabilitation services;

(2) A written plan for furnishing the services has been established and is reviewed by a physician; and

(3) The services were furnished while the individual was under the care of a physician.

(b) *Recertification.* (1) Recertification is required at least every 60 days, based on review by a facility physician who, when appropriate, consults with the professional personnel providing the services.

(2) The facility physician must certify that the plan is being followed, the patient is making progress in attaining the rehabilitation goals, and the treatment is having no harmful effect on the patient.

C. A new Part 488 is added to read as follows:

PART 488—CONDITIONS OF PARTICIPATION: SPECIALIZED PROVIDERS

Subpart A—[Reserved]

Subpart B—Conditions of Participation: Comprehensive Outpatient Rehabilitation Facilities

Sec.
488.50 Basis and scope.
488.51 Definition.
488.54 Condition of participation: Compliance with State and local laws.
488.56 Condition of participation: Governing body and administration.
488.58 Condition of participation: Comprehensive rehabilitation program.
488.60 Condition of participation: Clinical records.
488.62 Condition of participation: Physical environment.
488.64 Condition of participation: Disaster procedures.
488.66 Condition of participation: Utilization review plan.
488.70 Personnel qualifications.
488.74 Appeal rights.

Authority: Secs. 1102, 1861(aa), and (cc) and 1871 of the Social Security Act; 42 U.S.C. 1302, 1395x and 1395hh.

Subpart A—[Reserved]

Subpart B—Conditions of Participation: Comprehensive Outpatient Rehabilitation Facilities

§ 488.50 Basis and scope.

This subpart sets forth the conditions that facilities must meet to be certified as comprehensive outpatient rehabilitation facilities (CORFs) under section 1861(cc)(2) of the Social Security Act and be accepted for participation in Medicare in accordance with Part 489 of this chapter.

§ 488.51 Definition.

As used in this subpart, unless the context indicates otherwise, *"comprehensive outpatient rehabilitation facility", "CORF",* or *"facility"* means a nonresidential facility that—

(a) Is established and operated exclusively for the purpose of providing diagnostic, therapeutic, and restorative services to outpatients for the rehabilitation of injured, disabled, or sick persons, at a single fixed location, by or under the supervision of a physician; and

(b) Meets all the requirements of this subpart.

§ 488.54 Condition of participation: Compliance with State and local laws.

The facility and all personnel who provide services must be in compliance with applicable State and local laws and regulations.

(a) *Standard: Licensure of facility.* If State or local law provides for licensing, the facility must be currently licensed or approved as meeting the standards established for licensure.

(b) *Standard: Licensure of personnel.* Personnel that provide service must be licensed, certified, or registered in accordance with applicable State and local laws.

§ 488.56 Condition of participation: Governing body and administration.

The facility must have a governing body that assumes full legal responsibility for establishing and implementing policies regarding the management and operation of the facility.

(a) *Standard: Disclosure of ownership.* The facility must comply with the provisions of Part 420, Subpart C of this chapter that require health care providers and fiscal agents to disclose certain information about ownership and control.

(b) *Standard: Administrator.* The governing body must appoint an administrator who—

(1) Is responsible for the overall management of the facility under the authority delegated by the governing body;

(2) Implements and enforces the facility's policies and procedures;

(3) Designates, in writing, an individual who, in the absence of the administrator, acts on behalf of the administrator; and

(4) Retains professional and administrative responsibility for all personnel providing facility services.

(c) *Standard: Group of professional personnel.* The facility must have a group of professional personnel associated with the facility that—

(1) Develops and periodically reviews policies to govern the services provided by the facility; and

(2) Consists of at least one physician and one professional representing each of the services provided by the facility.

(d) *Standard: Institutional budget plan.* The facility must have an institutional budget plan that meets the following conditions:

(1) It is prepared, under the direction of the governing body, by a committee consisting of representatives of the governing body and the administrative staff.

(2) It provides for—(i) An annual operating budget prepared according to generally accepted accounting principles; (ii) A 3-year capital expenditure plan if expenditures in excess of $100,000 are anticipated, for that period, for the acquisition of land; the improvement of land, buildings, and equipment; and the replacement, modernization, and expansion of buildings and equipment; and (iii) Annual review and updating by the governing body.

(e) *Standard: Patient care policies.* The facility must have written patient care policies that govern the services it furnishes. The patient care policies must include the following:

(1) A description of the services the facility furnishes through employees and those furnished under arrangements.

(2) Rules for and personnel responsibilities in handling medical emergencies.

(3) Rules for the storage, handling, and administration of drugs and biologicals.

(4) Criteria for patient admission, continuing care, and discharge.

(5) Procedures for preparing and maintaining clinical records on all patients.

(6) A procedure for explaining to the patient and the patient's family the extent and purpose of the services to be provided.

(7) A procedure to assist the referring physician in locating another level of care for—patients whose treatment has terminated and who are discharged.

(8) A requirement that patients accepted by the facility must be under the care of a physician.

(9) A requirement that there be a plan of treatment established by a physician for each patient.

(10) A procedure to ensure that the group of professional personnel reviews and takes appropriate action on recommendations from the utilization review committee regarding patient care policies.

(f) *Standard: Delegation of authority.* The responsibility for overall administration, management, and operation must be retained by the facility itself and not delegated to others.

(1) The facility may enter into a contract for purposes of assistance in financial management and may delegate to others the following and similar services:

(i) Bookkeeping.

(ii) Assistance in the development of procedures for billing and accounting systems.

(iii) Assistance in the development of an operating budget.

(iv) Purchase of supplies in bulk form.

(v) The preparation of financial statements.

(2) When the services listed in paragraph (f)(1) of this section are delegated, a contract must be in effect and:

(i) May not be for a term of more than 5 years;

(ii) Must be subject to termination within 60 days of written notice by either party;

(iii) Must contain a clause requiring renegotiation of any provision that HCFA finds to be in contravention to any new, revised or amended Federal regulation or law;

(iv) Must state that only the facility may bill the Medicare program; and

(v) May not include clauses that state or imply that the contractor has power and authority to act on behalf of the facility, or clauses that give the contractor rights, duties, discretions, or responsibilities that enable it to dictate the administration, mangement, or operations of the facility.

§ 488.58 Condition of participation: Comprehensive rehabilitation program.

The facility must provide a coordinated rehabilitation program that includes, at a minimum, physicians' services, physical therapy services, and social or psychological services. The services must be furnished by personnel that meet the qualifications set forth in § 488.70 and must be consistent with the plan of treatment and the results of comprehensive patient assessments.

(a) *Standard: Physician services.*

(1) A facility physician must be present in the facility for a sufficient time to—

(i) Provide, in accordance with accepted principles of medical practice, medical direction, medical care services, and consultation;

(ii) Establish the plan of treatment in cases where a plan has not been established by the referring physician;

(iii) Assist in establishing and implementing the facility's patient care policies; and

(iv) Participate in plan of treatment reviews, patient case review conferences, comprehensive patient assessment and reassessments, and utilization review.

(2) The facility must provide for emergency physician services during the facility operating hours.

(b) *Standard: Plan of treatment.* For each patient, a physician must establish a plan of treatment before the facility initiates treatment. The plan of treatment must meet the following requirements:

(1) It must delineate anticipated goals and specify the type, amount, frequency and duration of services to be provided.

(2) It must be promptly evaluated after changes in the patient's condition and revised when necessary.

(3) It must, if appropriate, be developed in consultation with the facility physician and the appropriate facility professional personnel.

(4) It must be reviewed at least every 60 days by a facility physician who, when appropriate, consults with the professional personnel providing services. The results of this review must be communicated to the patient's referring physician for concurrence before treatment is continued or discontinued.

(5) It must be revised if the comprehensive reassessment of the patient's status or the results of the patient case review conference indicate the need for revision.

(c) *Standard: Coordination of services.* The facility must designate, in writing, a qualified professional to ensure that professional personnel coordinate their related activities and exchange information about each patient under their care. Mechanisms to assist in the coordination of services must include—

(1) Providing to all personnel associated with the facility, a schedule indicating the frequency and type of services provided at the facility;

(2) A procedure for communicating to all patient care personnel pertinent information concerning significant changes in the patient's status;

(3) Periodic clinical record entries, noting at least the patient's status in relationship to goal attainment; and

(4) Scheduling patient case review conferences for purposes of determining appropriateness of treatment, when indicated by the results of the initial comprehensive patient assessment, reassessment(s), the recommendation of the facility physician (or other physician who established the plan of treatment), or upon the recommendation of one of the professionals providing services.

(d) *Standard: Provision of services.*

(1) All patients must be referred to the facility by a physician who provides the following information to the facility before treatment is initiated:

(i) The patient's significant medical history.

(ii) Current medical findings.

(iii) Diagnosis(es) and contraindications to any treatment modality.

(iv) Rehabilitation goals, if determined.

(2) Services may be provided by facility employees or by others under arrangements made by the facility.

(3) The facility must have on its premises the necessary equipment to implement the plan of treatment and sufficient space to allow adequate care.

(4) The services must be furnished by personnel that meet the qualifications of § 488.70 and the number of qualified personnel must be adequate for the volume and diversity of services offered. Personnel that do not meet the qualifications specified in § 488.70 may be used by the facility in assisting qualified staff. When a qualified individual is assisted by these personnel, the qualified individual must be on the premises, and must instruct these personnel in appropriate patient care service techniques and retain responsibility for their activities.

(5) A qualified professional must initiate and coordinate the appropriate portions of the plan of treatment, monitor the patient's progress, and recommend changes, in the plan, if necessary.

(6) A qualified professional representing each service made available at the facility must be either on the premises of the facility or must be available through direct telecommunication for consultation and assistance during the facility's operating hours. At least one qualified professional must be on the premises during the facility's operating hours.

(7) All services must be provided consistent with accepted professional standards and practice.

(e) *Standard: Scope and site of services.* The facility must provide all the CORF services required in the plan of treatment, with the exception of one home visit to evaluate the potential impact of the home environment on the rehabilitation goals, must provide the services on its premises.

(f) *Standard: Patient assessment.* Each qualified professional involved in the patient's care, as specified in the plan of treatment, must—

(1) Carry out an initial patient assessment; and

(2) In order to identify whether or not the current plan of treatment is appropriate, perform a patient reassessment after significant changes in the patient's status.

§ 488.60 Condition of participation: Clinical records.

The facility must maintain clinical records on all patients in accordance with accepted professional standards and practice. The clinical records must be completely, promptly, and accurately documented, readily accessible, and systematically organized to facilitate retrieval and compilation of information.

(a) *Standard: Content.* Each clinical record must contain sufficient information to identify the patient clearly and to justify the diagnosis and treatment. Entries in the clinical record must be made as frequently as is necessary to insure effective treatment and must be signed by personnel providing services. All entries made by assistant level personnel must be countersigned by the corresponding professional. Documentation on each patient must be consolidated into one clinical record that must contain—

(1) The initial assessment and subsequent reassessments of the patient's needs;

(2) Current plan of treatment;

(3) Identification data and consent or authorization forms;

(4) Pertinent medical history, past and present;

(5) A report of pertinent physical examinations if any;

(6) Progress notes or other documentation that reflect patient reaction to treatment, tests, or injury, or the need to change the established plan of treatment; and

(7) Upon discharge, a discharge summary including patient status relative to goal achievement, prognosis, and future treatment considerations.

(b) *Standard: Protection of clinical record information.* The facility must safeguard clinical record information against loss, destruction, or unauthorized use. The facility must have procedures that govern the use and removal of records and the conditions for release of information. The facility must obtain the patient's written consent before releasing information not required to be released by law.

(c) *Standard: Retention and preservation.* The facility must retain clinical record information for 5 years after patient discharge and must make provision for the maintenance of such records in the event that it is no longer able to treat patients.

§ 488.62 Condition of participation: Physical environment.

The facility must provide a physical environment that protects the health and safety or patients, personnel, and the public.

(a) *Standard: Safety and comfort of patients.* The physical premises of the facility and those areas of its surrounding physical structure that are used by the patients (including at least all stairwells, corridors and passageways) must meet the following requirements:

(1) Applicable Federal, State, and local building, fire, and safety codes must be met.

(2) Fire extinguishers must be easily accessible and fire regulations must be prominently posted.

(3) A fire alarm system with local (in-house) capability must be functional, and where power is generated by electricity, an alternate power source with automatic triggering must be present.

(4) Lights, supported by an emergency power source, must be placed at exits.

(5) A sufficient number of staff to evacuate patients during a disaster must be on the premises of the facility whenever patients are being treated.

(6) Lighting must be sufficient to carry out services safely; room temperature

must be maintained at comfortable levels; and ventilation through windows, mechanical means, or a combination of both must be provided.

(7) Safe and sufficient space must be available for the scope of services offered.

(b) *Standard: Sanitary environment.* The facility must maintain a sanitary environment and establish a program to identify, investigate, prevent, and control the cause of patient infections.

(1) The facility must establish written policies and procedures designed to control and prevent infection in the facility and to investigate and identify possible causes of infection.

(2) The facility must monitor the infection control program to ensure that the staff implement the policies and procedures and that the policies and procedures are consistent with current practices in the field.

(3) The facility must make available at all times a quantity of laundered linen adequate for proper care and comfort of patients. Linens must be handled, stored, and processed in a mannner that prevents the spread of infection.

(4) Provisions must be in effect to ensure that the facility's premises are maintained free of rodent and insect infestation.

(c) *Standard: Maintenance of equipment, physical location, and grounds.* The facility must establish a written preventive maintenance program to ensure that—

(1) All equipment is properly maintained and equipment needing periodic calibration is calibrated consistent with the manufacturer's recommendations; and

(2) The interior of the facility, the exterior of the physical structure housing the facility, and the exterior walkways and parking areas are clean and orderly and maintained free of any defects that are a hazard to patients, personnel, and the public.

(d) *Standard: Access for the physically impaired.* The facility must ensure the following:

(1) Doorways, stairwells, corridors, and passageways used by patients are—

(i) Of adequate width to allow for easy movement of all patients (including those on stretchers or in wheelchairs); and

(ii) In the case of stairwells, equipped with firmly attached handrails on at least one side.

(2) At least one toilet facility is accessible and constructed to allow utilization by ambulatory and nonambulatory individuals.

(3) At least one entrance is usable by individuals in wheelchairs.

(4) In multi-story buildings, elevators are accessible to and usable by the physically impaired on the level that they use to enter the building and all levels normally used by the patients of the facility.

(5) Parking spaces are large enough and close enough to the facility to allow safe access by the physically impaired.

§ 488.64 Condition of participation: Disaster procedures

The facility must have written policies and procedures that specifically define the handling of patients, personnel, records, and the public during disasters. All personnel associated with the facility must be knowledgeable with respect to these procedures, be trained in their application, and be assigned specific responsibilities.

(a) *Standard: Disaster plan.* The facility's written disaster plan must be developed and maintained with assistance of qualified fire, safety, and other appropriate experts. The plan must include—

(1) Procedures for prompt transfer of casualties and records;

(2) Procedures for notifying community emergency personnel (for example, fire department, ambulance, etc.);

(3) Instructions regarding the location and use of alarm systems and signals and fire fighting equipment; and

(4) Specification of evacuation routes and procedures for leaving the facility.

(b) *Standard: Drills and staff training.*

(1) The facility must provide ongoing training and drills for all personnel associated with the facility in all aspects of disaster preparedness.

(2) All new personnel must be oriented and assigned specific responsibilities regarding the facility's disaster plan within two weeks of their first workday.

§ 488.66 Condition of participation: Utilization review plan.

The facility must have in effect a written utilization review plan that is implemented at least each quarter, to assess the necessity of services and promotes the most efficient use of services provided by the facility.

(a) *Standard: Utilization review committee.* The utilization review committee, consisting of the group of professional personnel specified in §488.56(c), a committee of this group, or a group of similar composition, comprised by professional personnel not associated with the facility, must carry out the utilization review plan.

(b) *Standard: Utilization review plan.* The utilization review plan must contain written procedures for evaluating—

(1) Admissions, continued care, and discharges using, at a minimum, the criteria established in the patient care policies;

(2) The applicability of the plan of treatment to established goals; and

(3) The adequacy of clinical records with regard to—(i) Assessing the quality of services provided; and

(ii) Determining whether the facility's policies and clinical practices are compatible and promote appropriate and efficient utilization of services.

§ 488.70 Personnel qualifications.

This section sets forth the qualifications that must be met, as a condition of participation, under § 488.58, and as a condition of coverage of services under § 405.260 of this chapter.

(a) A facility physician must be a doctor of medicine or osteopathy who—

(1) Is licensed under State law to practice medicine or surgery; and

(2) Has had, subsequent to completing a 1-year hospital internship, at least 1 year of training in the medical management of patients requiring rehabilitation services; or

(3) Has had at least 1 year of full-time or part-time experience in a rehabilitation setting providing physicians' services similar to those required in this subpart.

(b) A licensed practical nurse must be licensed as a practical or vocational nurse by the State in which practicing, if applicable.

(c) An occupational therapist and an occupational therapist assistant must meet the qualifications set forth in § 405.1202(f) and (g) of this chapter.

(d) An orthotist must—

(1) Be licensed by the State in which practicing, if applicable;

(2) Have successfully completed a training program in orthotics that is jointly recognized by the American Council on Education and the American Board for Certification in Orthotics and Prosthetics; and

(3) Be eligible to take that Board's certification examination in orthotics.

(e) A *physical therapist* and a *physical therapist assistant* must meet the qualifications set forth in § 405.1702 (d) and (e) of this chapter.

(f) A *prosthetist* must—

(1) Be licensed by the State in which practicing, if applicable;

(2) Have successfully completed a training program in prosthetics that is jointly recognized by the American Council on Education and the American Board for Certification in Orthotics and Prosthetics; and

(3) Be eligible to take that Board's certification examination in prosthetics.

(g) A *psychologist* must be certified or licensed by the State in which practicing, if applicable, and must hold a master's degree from a training program approved by the State.

(h) A *registered nurse* must be a graduate of an approved school of nursing and be licensed as a registered nurse by the State in which practicing, if applicable.

(i) A *rehabilitation counselor* must—

(1) Be licensed by the State in which practicing, if applicable;

(2) Hold at least a bachelor's degree; and

(3) Be eligible to take the certification examination administered by the Commission on Rehabilitation Counselor Certification.

(j) A *respiratory therapist* must—

(1) Be licensed by the State in which practicing, if applicable;

(2) Have successfully completed a training program accredited by the Committee on Allied Health Education and Accreditation (CAHEA) in collaboration with the Joint Review Committee for Respiratory Therapy Education; and

(3) Either—

(i) Be eligible to take the registry examination for respiratory therapists administered by the National Board for Respiratory Therapy, Inc.; or

(ii) Have equivalent training and experience as determined by the National Board for Respiratory Therapy, Inc.

(k) A *respiratory therapy technician* must—

(1) Be licensed by the State in which practicing, if applicable;

(2) Have successfully completed a training program accredited by the Committees on Allied Health Education and Accreditation (CAHEA) in collaboration with the Joint Review Committee for Respiratory Therapy Education; and

(3) Either—

(i) Be eligible to take the certification examination for respiratory therapy technicians administered by the National Board for Respiratory Therapy, Inc.; or

(ii) Have equivalent training and experience as determined by the National Board for Respiratory Therapy, Inc.

(l) A *social worker* must—

(1) Be licensed by the State in which practicing, if applicable;

(2) Hold at least a bachelor's degree from a school accredited or approved by the Council on Social Work Education; and

(3) Have 1 year of social work experience in a health care setting.

(m) A *speech-language pathologist* must meet the qualifications set forth in §405.1702(j) of this chapter.

§ 488.74 Appeal rights.

The appeal provisions set forth in Part 405, Subpart O of this chapter, for providers, are applicable to any entity that is participating or seeks to participate in the Medicare program as a CORF.

PART 489—PROVIDER AGREEMENTS UNDER MEDICARE

The authority citation for Part 489 reads as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

D. In Part 489, § 489.2 is amended by adding a new paragraph (b)(5) to read as follows:

§ 489.2 Scope of part.

* * * * *

(b) The following providers are subject to the provisions of this part:

* * *

(5) Comprehensive outpatient rehabilitation facilities (CORFs).

* * * * *

(Catalog of Federal Domestic Assistance Program No. 13.774, Medicare—Supplementary Medical Insurance)

Dated: November 4, 1982.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: December 8, 1982.

Richard S. Schweiker,

Secretary.

[FR Doc. 82-34109 Filed 12-14-82; 8:45 am]

BILLING CODE 4120-03-M

federal register

Wednesday
December 15, 1982

Part V

Department of the Interior

Bureau of Land Management

Recordation of Mining Claims and Filing of Annual Assessment Work or Notice of Intention To Hold Mining Claims, Mill Sites, or Tunnel Sites; Final Rule

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3833

[Circular No. 2516]

Recordation of Mining Claims and Filing of Annual Assessment Work or Notice of Intention To Hold Mining Claims, Mill Sites, or Tunnel Sites

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: This final rulemaking amends the existing regulations for the recordation of mining claims and the annual filing of evidence of assessment work and notices of intention to hold mining claims, mill sites, or tunnel sites. The amendment eliminates obsolete and unnecessary provisions, clarifies previous ambiguities in the filing requirements, and generally streamlines the overall administration of the mining claim recordation program.

In order to reduce the burden of regulatory compliance for the current year, these regulations must become effective on or before December 30, 1982. Making the regulations effective on December 30, 1982. is appropriate because the regulations impose no new compliance burden, but instead reduce the existing burdens upon the industry.

EFFECTIVE DATE: December 30, 1982.

ADDRESS: Any suggestions or inquiries should be addressed to: Director (570), Bureau of Land Mangement, 1800 "C" Street, NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:
Roger A. Haskins, (202) 343–8537,
or
Robert C. Bruce, (202) 343–8735.

SUPPLEMENTARY INFORMATION: The proposed rulemaking amending the existing recordation regulations was published in the **Federal Register** on May 4, 1982, (47 FR 19298) with comments invited for 30 days. The comment period was later extended to July 6, 1982.

The discussion of the comments is divided into two sections. The general comments are discussed first, then the specific comments are addressed in relation to the section to which they refer.

General Comments

In response to the proposed rulemaking amending the Mining Claim Recordation regulations, forty-two comments were received: six were from individuals, four from legal firms, thirteen from mining companies, three from mining associations, and sixteen from various Federal and State agencies. These comments contained discussions of 189 specific items in the proposed rulemaking and also a number of general statements.

Most of the comments were very supportive of the objective of updating and streamlining the regulations. Many comments reflected the last six years of experience with the existing regulations and identified those procedures which were felt to make recordation of a mining claim unnecessarily difficult. A number of comments contained legal arguments questioning the Department of the Interior's interpretation of its authority for promulgating various sections of the existing regulations. Many comments were critical of several sections of the proposed rulemaking especially §§ 3833.0–5 (Definitions), 3833.1–3 (Fees), 3833.2–3 (Notice of Intent to Hold), 3833.4 (Failure to File), and 3833.5 (Effect of Recordation).

Most of the comments also objected to the inclusion in the proposed rulemaking of the intention to apply these regulations retroactively whenever possible. While the Bureau of Land Management recognizes that all the provisions cannot be applied retroactively, the new provisions can be applied in specific instances to cases pending before the Bureau on which a decision has not been issued. In such cases, the pending action can be adjudicated under the changes made by this final rulemaking if they take effect prior to the Bureau's taking action on the pending case, and do not adversely affect either the filing claimants or an adverse claimant's rights. (See 45 IBLA 386, 388.)

Based on the public comments, the proposed rulemaking has been revised. Obsolete, redundant, and unnecessary language has been removed from various sections of the existing regulations. Several additions have been made by the final rulemaking to the sections on definitions and policy to clarify the regulations, and to more clearly define the Department of the Interior's policy for the recordation process.

This final rulemaking will significantly reduce the burden of compliance with the requirements for the recordation of mining claims. The change made by the final rulemaking in the definition of the term "timely filed" will save a large number of mining claimants from the loss of their claims due to delays in the mails over the holiday season.

The specific comments, changes made, and reasons for adopting or not adopting suggested changes are provided below, on a section by section basis.

Specific Comments

Purpose—§ 3833.0–1—Two comments expressed the view that these regulations should be restricted to a strict implementation of section 314 of the Federal Land Policy and Management Act (43 U.S.C. 1744) and suggested that the last sentence of this section, which requires notification to the Bureau of Land Management of transfers of interest in mining claims, should be removed because there is no specific authority for it in section 314. The Department's authority to make this requirement was affirmed in *Topaz Beryllium Company v. United States*, 649 F. 2d 775, (1981). The proper management of the public lands and the maintenance of records require that the Bureau be informed of transfers of interest in mining claims, leases, permits and related matters. Due process requires that all parties in interest be notified if a parcel of land is to be sold, exchanged, or conveyed. The owner of an unpatented mining claim or site is a party in interest in those lands and is entitled to an opportunity to respond to such proposed sales, exchanges, or conveyances. Because of this responsibility, the final rulemaking keeps the requirement in the statement of purpose. However, the section has been subdivided in the final rulemaking to make it easier to read and understand.

Objectives—§ 3833.0–2—Seven comments were received. One comment recommended combining the "Purpose" and "Objectives" sections into one comprehensive statement. The current format requirements of the Code of Federal Regulations call for separate sections for purpose and objectives, if, as in this case, both are used. This recommendation was not adopted in the final rulemaking.

Four comments objected to references to the term "status of mining claims" in the proposed rulemaking because it is undefined and open to varying interpretation. After careful consideration of the comments, the reference to "status of mining claims" has been removed from the final rulemaking. The final rulemaking also restructures this section to make it easier to read and understand.

Authority—§ 3833.0–3—Five comments were received. One comment had no objection. Three comments suggested editorial changes which were adopted by the final rulemaking. One comment suggested that the Bureau of Land Management's authority should be limited only to that provided in the Federal Land Policy and Management Act. The statutory authority of the Department of the Interior for management of the public lands and the mineral resources therein is found in the General Mining Law of May 10, 1872 (30

U.S.C. 22), the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), and the Secretarial authority to issue regulations and regulate matters pertaining to the public lands granted by R.S. 453 (43 U.S.C. 2) and R.S. 2478 (43 U.S.C. 1201).

One comment suggested that the reference to 31 U.S.C. 483(a) be removed from the proposed rulemaking as it repeats the Secretary of the Interior's authority for setting fees under section 304 of the Federal Land Policy and Management Act (43 U.S.C. 1734). This suggestion was not adopted because the Department's fee collection and budget authorization process are derived by statute from 31 U.S.C. 483(a). Therefore, the citation is retained in the final rulemaking. Another change made to this section of the existing regulation by the final rulemaking is the deletion of paragraph (b) because it is obsolete since the schedule for compliance with those provisions expired on September 28, 1977. Deletion of paragraph (b) is not intended to relieve claimants of any obligations claimants they had under the prior rules. Paragraph (d) of this section was deleted and its provisions incorporated into the new paragraphs (a) and (b).

Definitions—§ 3833.0–5—Twenty-one comments were received on this section of the proposed rulemaking. The term "unpatented mining claims" was the subject of three comments. One comment had no objection to the language of the proposed rulemaking, and two suggested deleting that portion of the sentence following the phrase "(30 U.S.C. 21–54)." Other comments expressed the view that a claimant should know whether a claim has or has not been patented. The Bureau of Land Management has concluded that while it is reasonable to expect a claim owner to know whether a claim has or has not been patented, it is also useful for the public to have a complete definition of what constitutes an unpatented mining claim. Because of this, the suggestion was not adopted in the final rulemaking.

The term "mill site" has been modified by the final rulemaking to conform to the definition of "unpatented mining claim" contained in paragraph (b) of this section as mill sites are also patentable.

Two comments suggested deleting the term "Federal lands" as it appears in the proposed rulemaking and replacing it with the term "public lands" as it appears in section 103(e) of the Federal Land Policy and Management Act (43 U.S.C. 1702). The term "public lands" as defined in that Act restricts jurisdiction to those lands administered by the Bureau of Land Management. Since the Secretary of the Interior is authorized to promulgate regulations regarding recordation of mining claims and since section 314 of Federal Land Policy and Management Act applies to all mining claims, these regulations apply to all lands on which mining claims may be located under the general mining laws and not just lands administered by the Bureau of Land Management. Therefore, the definition of the term "Federal lands" is retained in the final rulemaking.

The term "proper BLM office" contained in paragraph (g) of the existing regulations received eight comments. Three of the comments expressed the view that the proposed rulemaking was adequate, two suggested retaining the language found in the existing regulations, and three felt that a corridor should be established along the Alaska District boundary line so that individuals having claims within the corridor could file in either office. This suggestion was considered and not adopted in the final rulemaking because of the cost and difficulty of locating the boundaries of such a corridor on lands which are unsurveyed.

The term "copy of the official record" found in paragraph (i) of § 3833.0–5 of the proposed rulemaking received seven comments. Two comments expressed the view that language of the proposed rulemaking was adequate as written. One comment suggested an editorial revision of this section. Four comments objected to two points in the proposed rulemaking. The first objection was to the use of the phrase "or will be filed" in existing regulations and the proposed rulemaking because it is contrary to a strict interpretation of section 314 of the Federal Land Policy and Management Act which requires that a "copy of the official record" of the instruments filed for record with the local jurisdiction be filed with the Bureau of Land Management.

The Bureau of Land Management recognized in 1976 that most local jurisdictions cannot record and return a claimant's notice or certificate of location in time for the claimant to file a copy of the official record with the proper BLM office within the 90-day time limit imposed by section 314 of the Federal Land Policy and Management Act. Because of this, the Bureau has adopted a policy of accepting an exact copy of the location instrument as an initial filing with the Bureau, with the expectation that when the claimant receives the stamped original document back from the local jurisdiction, it will be filed with the proper BLM office to complete the recordation process. The final rulemaking continues this policy so as not to impose an additional burden upon the mining community.

The second objection focused on the language of the proposed rulemaking pertaining to "other evidence acceptable to the proper BLM office." The comment expressed the view that this phrase was too vague and ambiguous and could vary in interpretation among the Bureau of Land Management's various State offices. This phrase was included in the original regulations to assist in recording claims located prior to October 21, 1976, which were being held by right of possession under 30 U.S.C. 38 (R.S. 2332). As the deadline for recordation of these claims has passed, this provision is no longer necessary. This change will not affect prior recordations. In response to this comment, the final rulemaking removes the above phrase and replaces it with language that states that the Bureau will accept what was or will be filed for record if it is consistent with State law. This will provide for consistency in interpretation, both for the Bureau and for the public.

The definition of the term "affidavit of assessment work" contained in the proposed rulemaking was the subject of eleven comments. Two comments had no objection. Five comments objected to requiring sworn statements in connection with the filing of evidence of annual assessment work because many State mining laws do not require sworn statements, and oaths are not generally required for public land matters. Because of these comments and for the reasons stated, the heading of this section has been changed to "evidence of assessment work". The language of the section has been changed by the final rulemaking to reflect that the Bureau will accept those instruments required under the State mining laws as being sufficient to satisfy the filing requirements of section 314 of the Federal Land Policy and Management Act, provided that they contain the information required in § 3833.2–2 of this title.

The reference to the time for filing evidence of annual assessment work has been moved by the final rulemaking to § 3833.2–1 (When to File) to provide better organization. Three comments proposed editorial changes for this section, some of which were adopted by this final rulemaking.

The term "notice of intention to hold a mining claim" received three comments. One comment urged a strict interpretation of section 314 of the Federal Land Policy and Management Act for filing requirements. The rationale for keeping the phrase "or will be" was discussed earlier in this

preamble. The other two comments questioned the format of the notice of intent to hold as set out in the proposed rulemaking. They pointed out that some local jurisdictions will not accept a letter for purposes of recordation. Therefore, the language in this section has been modified by the final rulemaking to require an "instrument" which is recordable rather than a "letter" or an undefined notice. Thus, a mining claimant can tailor the document to meet the requirement of State law, and the Bureau of Land Management will accept that document, provided that it contains the information specified in section 3833.2–3 of this title.

The term "notice of intention to hold a mill site or tunnel site" received two comments supporting the language of the proposed rulemaking. The term itself has been modified by the final rulemaking to be consistent with the revisions made in the definition of the term "notice of intention to hold a mining claim".

The term "filed or file" as defined in the proposed rulemaking received nineteen comments. Three comments favored the language of the proposed rulemaking. The remaining sixteen comments objected to the changes made by the proposed rulemaking on two points. One major objection was that the definition of the term "timely filed" contained in the final rulemaking allowed "a grace period of twenty days" for filing evidence of annual assessment work. As stated earlier in the preamble, the change made by the final rulemaking in the definition of the term "timely filed" will save a large number of mining claimants from the loss of their claims due to delays in the mails over the holiday season. The experience of the Bureau of Land Management has been that many of the late filings have resulted from the heavy volume of holiday mail and unusual delays in delivery times. As an example, annual proofs of labor and notices of intention to hold postmarked two or three weeks prior to the statutory December 30th deadlines, have often been delivered to the proper BLM office in January, which is after the filing deadline. Under the existing regulations, the late delivery of the required documents by the Postal System, although for reasons beyond the control of the claimants, gives the Bureau no alternative but to declare the affected claims null and void for failure to comply with the requirements of the regulations. The change made by the final rulemaking will provide a solution to this problem. It does not change the required date of filing of the evidence of annual assessment work, but makes it clear that the Bureau of Land Management will accept, for a period of twenty days from the due date, December 30, any document postmarked by the U.S. Postal Service on or before the due date. This means that the claimant must have completed all annual assessment work and mailed the document evidencing that work to the proper BLM office on or before December 30. Thus, the change in the regulations does not provide a "grace period" for late filing. Filing must still be made on or before December 30th. For the purposes of annual filing, the postmark will constitute evidence of filing. Such filing is conditioned upon subsequent receipt by the Bureau of Land Management. It should be noted that the envelope containing the required documents must be postmarked on or before the December 30 date in order for it to be accepted. Any later date will cause the documents in the envelope to be rejected and the claim covered by them to be declared null and void.

This provision allowing acceptance of a properly postmarked submission within 20 days after the due date does not apply to copies of notices or certificates of location. Notices or certificates of location are still required to be filed with the proper BLM office within the 90 day period prescribed by section 314 of the Federal Land Policy and Management Act.

Parenthetically, we note that most State mining laws require that a claimant's annual proof of labor be filed from 30 to 90 days after the end of the assessment year, which ends on September 1st of each year. This difference is confusing to many people and adds to the confusion that this final rulemaking is intended to reduce. In accordance with R.S. 2324 as amended (30 U.S.C. 28), whether or not possessory rights are lost by failure to file evidence of annual assessment work with the State is determined by State mining laws and deadlines for filing an annual proof of labor. The provision in the final rulemaking allowing acceptance of documents postmarked on or before December 30 to be accepted twenty days after the due date will not adversely affect the possessory rights. The Department of the Interior has determined that a claimant who has in good faith complied with the requirements of the statutes should not be penalized if the documents are postmarked on or before December 30th and received within twenty days of December 30th.

Comments suggested that the term "previous assessment year" should be specifically defined. As presently used it is difficult to determine whether the term refers to the assessment year ending in the same year as the filing year, or the assessment year which ended in the year preceding the current filing year.

In final rulemaking, the term "assessment year" is defined to specify that for the purposes of complying with the filing requirements of the Federal Land Policy and Management Act, the calendar year in which the assessment year ends is the year for which a claimant must file either a notice of intention to hold a claim or evidence of annual assessment work.

The term the "filing year" has been defined in the final rulemaking to clarify when the filing year actually begins and ends under section 314 of the Federal Land Policy and Management Act. This change will help to eliminate the current problem of claimants thinking that the filing year ends on December 31st, instead of on December 30th.

Section 3833.1–1—Recordation of Mining Claims and Sites Located Prior to October 21, 1976—Eleven comments were received on this section of the proposed rulemaking. Three comments either had no objections or were in favor of the changes made by the proposed rulemaking. The remaining eight comments offered various editorial suggestions, several of which have been incorporated into the final rulemaking.

Section 3833.1–2—Manner of Recordation of Mining Claims Located After October 21, 1976—Fifteen comments were received regarding this section of the proposed rulemaking. Three comments had no objection to the language of the proposed rulemaking, while five comments recommended various editiorial changes, several of which were incorporated into the final rulemaking. Seven comments took exception to the Bureau of Land Management's acceptance of exact copies of documents that will be filed with the local jurisdiction as opposed to only accepting copies of documents that had already been filed with the local jurisdiction. The reasons for this policy are discussed earlier in this preamble in connection with the term "copy of the official record".

Section 3833.1–3—Recordation Fee—Fourteen comments were received on this section of the proposed rulemaking. All of the comments expressed the view that filing fees are necessary to complete a recordation and that failure to submit the proper fees at the time of filing should not be excused, as that appeared to be contrary to the historical practices of public land law

administration. Establishing a filing fee for the Department of the Interior's recordation system is a discretionary action by the Secretary of the Interior. Recordation fees were established through issuance of regulations and through regulations the Department of the Interior has the authority to modify fee collection procedures and requirements to ensure equity and minimize compliance burdens on the public.

It is the policy of the Department of the Interior to accept for recordation mining claims or sites that are accompanied by insufficient recordation fees, subject to the claimant presenting the proper amount for recording the claim within thirty calendar days of receiving notification of a deficiency from the Bureau of Land Management. Claimants failing to correct this deficiency within the thirty day time period will have their recordation cancelled and the claims declared abandoned for failure to complete the recordation of the claims in question.

Section 3833.1–4—When Recordation Is Not Required—Eleven comments were received concerning this section of the proposed rulemaking. One comment favored the language of the proposed rulemaking and the other ten felt that paragraph (a) of the proposed rulemaking was no longer necessary as the time limits required by statute expired on October 22, 1979. This section has been removed in the final rulemaking. The deletion of this paragraph is not intended to affect the prior recordation of mining claims included in patent applications which were covered by the provisions in this paragraph. Regarding paragraph (b) of this section of the proposed final rulemaking, it is normally not feasible to complete a recordation and file for a mineral survey in 90 days. Because of this fact, this section has been deleted by the final rulemaking as being impractical to implement.

Section 3833.2–1—When a Filing is Required—Twenty-seven comments were received on the proposed rulemaking. Two comments had no objections, one objected to any change, preferring the existing regulations. Four comments suggested various editorial changes. Those were considered in the final rulemaking process. The remaining twenty comments discussed at length deficiencies in this section of the proposed rulemaking because of a conflict between the requirement concerning the assessment year found in the Federal Land Policy and Management Act and those in State mining laws, as that term applies to filing an affidavit of annual assessment work or a notice of intention to hold.

Based on the suggestions submitted in the comments, this section has been revised extensively in the final rulemaking to clarify the requirements and procedures to be followed in order to avoid the loss of a mining claim that may have resulted from the different filing requirements of the several statutes involved (30 U.S.C. 28 and 43 U.S.C. 1744).

Section 3833.2–2—Contents for Evidence of Assessment Work—Eight comments were received. All of the comments recommended various editorial revisions to clarify ambiguities in the language of this section. These suggestions were considered and several have been incorporated in the final rulemaking.

Section 3833.2–3—Contents for a Notice of Intention To Hold a Claim or Site—Twenty-one comments were received on this section of the proposed rulemaking. Two comments approved of the language of the proposed rulemaking and seven comments suggested editorial changes and clarifications. Five comments expressed the view that paragraphs (b)(1)(iii) and (iv), and (d)(3) and (4), in the proposed rulemaking are unnecessary in the context of this section. After consideration of these comments, these subparagraphs have been deleted by the final rulemaking.

Seven comments discussed at length issues of: annual filings for mill sites and tunnel sites being curable defects, the problem or treating defective assessment filings as notices of intent to hold, the lack of a definition for the term "year", and the problems concerning loss of possessory rights that may be incurred by filing a notice of intent to hold mining claims in lieu of annual evidence of assessment work. After careful consideration of these comments concerning the problems associated with a defective annual assessment document being treated by BLM as if it were a notice of intent to hold, it has been determined that it is impractical to treat evidence of assessment work as if it were a notice of intent to hold. The Interior Board of Land Appeals has found a defective annual assessment to be a curable defect. In conformance with those decisions, the final rulemaking inserts a statement to that effect in § 3833.4(b).

The ambiguities surrounding the term "year" have been eliminated in the final rulemaking at § 3833.0–5(o) and in paragraph (a) of § 3833.2–3. The final rulemaking adds a statement to part (a) of § 3833.2–3 to make it clear that a claimant's election to file a notice of intention to hold a mining claim does not excuse the claimant from complying with 30 U.S.C. 28 or State laws pertaining to the performance of the required annual assessment work. Failure to perform the required assessment work will leave the claimant's mining claims open to adverse locations. Since there is no requirement for assessment work to be conducted on mill sites or tunnel sites under the Federal Land Policy and Management Act, this provision does not apply to such sites. However, a notice of intention to hold a mill site or tunnel site must still be filed each calendar year with both the local jurisdiction and the proper BLM office.

Paragraph (a) of this section of the proposed and final regulations requires that if a claimant elects to file a notice of intention to hold a mining claim for a given year with the Bureau of Land Management, the notice of intention must also be recorded with the local jurisdiction. Otherwise the claimant will be subject to the penalty prescribed in § 3833.4(d) of the regulations.

Section 3833.2–4—When Evidence or Notice Is Not Required—Fifteen comments were received concerning this section of the proposed rulemaking. Three comments suggested editorial changes which were considered in the final rulemaking. The other twelve comments focused on a potential problem in the proposed rulemaking that a mining claimant who has filed for patent is still required to comply with annual assessment requirements under 30 U.S.C. 28 and State mining laws. Based on the comments received and an analysis of the requirements of 30 U.S.C. 28, the Department has decided to retain the language in the existing regulations, as the language of the existing regulation offers the claimant greater protection from adverse claims than the proposed rulemaking.

Section 3833.4—Failure To File—Nineteen comments were received on this section of the proposed rulemaking. All comments discussed the apparent conflicts between paragraphs (a) and (b) of the proposed rulemaking regarding the issue of curable defects. This has been corrected in the final rulemaking by inserting the appropriate section cross references so that the applicable limits of each paragraph, (a) and (b), are clear. A number of editorial changes were recommended to clarify the section and remove unnecessary language. Many of these suggestions were incorporated in the final rulemaking. The Interior Board of Land Appeals has ruled that compliance with section 314 of the Federal Land Policy and

Management Act requires that the claimant meet State filing requirements as well as the Federal requirements in order to maintain a claim. Paragraph (d) has been added to this section by the final rulemaking to clarify this requirement.

Section 3833.5—Effect of Recording and Filing—Seven comments were received on this section of the proposed rulemaking. Four comments offered editorial suggestions, some of which were adopted in the final rulemaking. Three comments focused on two concerns. One concern was that this section of the proposed rulemaking addressed only claims located after October 21, 1976. This was an error in the provision and has been corrected by the final rulemaking. These regulations apply to all mining claims located on Federal lands. The other concern related to the actions or contests "initiated by the United States". The comments were of the view that the United States should not be imposing itself into an area traditionally reserved for private party disputes with respect to performance of annual assessment work and the right of possession of locators under the mining laws. Paragraph (d) is not a policy statement regarding the types of contest or other administrative actions the United States will initiate. It does set forth the Government's position that in providing notice to potential parties in such actions, the United States will rely upon these records to determine who should receive notice of those actions. The final rulemaking revises this section to more clearly state the intention and effects of this subpart.

The information collection requirements contained in 43 CFR Part 3833 have been submitted to the Office of Management and Budget for approval as required by 44 U.S.C. 3507 and have received OMB approval number 1004–0114.

The Department of the Interior has determined that this document is not a major rule under the terms of Executive Order 12291 and will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

This final rulemaking will have equal impact on all persons that possess unpatented mining claims located on the public lands. The changes made by this final rulemaking will reduce the regulatory burden imposed on all such individuals.

The principal author of these final regulations is Roger Haskins, Division of Mineral Resources, Bureau of Land Management, assisted by the staff of the Office of Legislation and Regulatory Management.

List of Subjects in 43 CFR Part 3830

Mines, Public lands—mineral resources.

Under the authority of section 314 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744), and the general mining laws (R.S. 2319 *et seq.*, 30 U.S.C. 22 *et seq.*), Subpart 3833, Part 3830, Group 3800, Subchapter II of Title 43 of the Code of Federal Regulations is amended as follows:

Garrey E. Carruthers,

Assistant Secretary of the Interior.

November 30, 1980.

PART 3830—[AMENDED]

Subpart 3833—Recordation of Mining Claims and Filing Proof of Annual Assessment Work or Notice of Intention to Hold Mining Claims, Mill or Tunnel Sites

Note.—The information collection requirements contained in Subpart 3833 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1004–0114. The information is being collected to meet the requirements of section 314 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744) to allow the Bureau of Land Management to record mining claims and annual filings (evidence of annual assessment work or notice of intent to hold) properly. This information will be used to verify that the claimant continued to have an interest in the mining claims or sites as provided for in the statute. The obligation to respond is mandatory.

1. Section 3833.0–1 *Purpose* is revised to read as follows:

§ 3833.0–1 Purpose.

The purpose of the regulations is to establish procedures for:

(a) The recordation in the proper BLM office of unpatented mining claims, mill sites, or tunnel sites on federal lands;

(b) The filing in the same office of evidence of performance of annual assessment work or of a notice of intention to hold an unpatented mining claim;

(c) Notifying the proper BLM office of the transfer of an interest in unpatented mining claims, mill sites, or tunnel sites.

(d) These regulations are not intended to supersede or replace existing recording requirements under state law except when specifically changed by the provisions of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701), and are not intended to make the Bureau office the official recording office for all ancillary documents (wills, liens, judgments, etc.) involving an unpatented mining claim, mill site or tunnel site.

2. Section 3833.0–2 *Objectives* is revised as follows:

§ 3833.0–2 Objectives.

The objectives of these regulations are:

(a) To determine the number and location of unpatented mining claims, mill sites, or tunnel sites located on Federal lands in order to assist in the surface management of those lands and the mineral resources therein;

(b) To remove any cloud on the title to those lands that may exist because they are subject to mining claims that may have been abandoned;

(c) To provide the BLM with information as to the location of active mining claims;

(d) To keep the BLM informed of transfers of interest in unpatented mining claims, mill sites, or tunnel sites.

§ 3833.0–3 [Amended]

3. Section 3833.0–3 is amended by:

A. Revising paragraph (a) to read:

(a) Section 314 (a) and (b) of the Act (43 U.S.C. 1744) require the recordation of unpatented mining claims, mill sites, and tunnel sites and the filing of information concerning annual assessment work performed or a notice of intention to hold mining claims in the proper BLM office within specified time periods. Section 314(c) of the Act sets forth the consequences of the failure to file such information or documents within the time limits prescribed.

B. Revising paragraph (b) to read:

(b) The Secretary has the general responsibility and authority for the management of Federal lands under 43 U.S.C. 2 and section 310 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1740).

C. Amending paragraph (c) by adding the words "The General Mining Law of May 10, 1872" to the beginning of the first sentence and changing the word "Section" to "section".

D. Removing paragraph (d) in its entirety.

E. Redesignating paragraph (e) as paragraph (d)

§ 3833.0–5 Amended]

4. Section 3833.0–5 is amended as follows:

A. Paragraph (a) is amended by revision the parenthetical expression to read as follows:

(43 U.S.C. 1701 et seq.)

B. Paragraph (b) is amended by inserting the words "and held" after the word "located" and removing the phrase

"34 CFR" and replacing it with the phrase "43 CFR Part".

C. Paragraph (c) is amended by removing the period at the end of the sentence and adding the phrase "for which patent under 30 U.S.C. 42 and 43 CFR 3860 has not been issued".

D. Amending paragraph (g) by adding at the end thereof the sentence "Notwithstanding the requirements of § 1821.2–1(d) of this title, filings made under this subpart in Alaska may be filed in either office in that State".

E. Revising paragraph (i) to read as follows:

(i) "Copy of the official record" means a legible reproduction or duplicate, except microfilm, of the instrument which was or will be filed under state law in the local jurisdiction where the claim or site is located. It also includes and exact reproduction, duplicate, except microfilm, of an amended instrument which may change or alter the description of the claim or site.

F. Adding new paragraphs (j), (k), (l), (m), (n) and (o) as follows:

* * * * *

(j) "Affidavit of assessment work" means the instrument required to be filed under state law for the purpose of evidencing that labor or improvements, valued at not less than $100, have been made upon or for the benefit of the mining claim as required by 30 U.S.C. 28 or, if state law does not require the filing of such an instrument, an affidavit evidencing the performance of such assessment work.

(k) "Notice of intention to hold a mining claim" means an instrument containing the information required in § 3833.2–3 of this title which has been or will be filed under state law in the local jurisdiction indicating that the owner continues to have an interest in the claim.

(l) "Notice of intention to hold a mill or tunnel site" means an instrument containing the information in the form required in § 3833.2–3 of this title indicating that the owner continues to hold an interest in the site.

(m) "Filed or file" means being received and date stamped by the proper BLM office. For the purpose of complying with § 3833.2–1 of this title, "timely filed" means being file within the time period prescribed by law, or received by January 19th after the period prescribed by law in an envelope bearing a clearly dated postmark affixed by the United States Postal Service within the period prescribed by law. This 20 day period does not apply to a notice of location filed pursuant to § 3833.2–1(a) of this title. (See § 1821.2–2(e) of this title where the last day falls on a date the office is closed.)

(n) "Assessment year" is defined in 30 U.S.C. 28 and commences at 12 o'clock noon on September 1st of each year. For the purpose of complying with the requirements of section 314(a) of the Act, the calendar year in which the assessment year ends is the year for which the evidence of annual assessment work shall be filed.

(o) "Filing year" for the purposes of complying with the Act begins on December 31st of each year and continues through December 30th of the following year.

5. Section 3833.1–1 is revised to read as follows:

§ 3833.1–1 Recordation of mining claims and mill sites located on or before October 21, 1976.

Mining claims and sites which were located prior to October 21, 1976, the effective date of the Act, but which had not been recorded in the proper BLM office on or before October 22, 1979, as required by the Act, are by law conclusively deemed abandoned and void. There is no statutory provision for accepting a notice or certificate of location for such an abandoned and void claim or site.

§ 3833.1–2 [Amended]

6. Section 3833.1–2 is amended by:

A. Revising the title to read:

§ 3833.1–2 Recordation of mining claims, mill sites and tunnel sites located after October 21, 1976.

B. Revising paragraph (a) to read:

"(a) The owner of an unpatented mining claim, mill site or tunnel site located after October 21, 1976, on Federal lands, excluding lands within units of the National Park System shall file within 90 days after the date of location of that claim or site in the proper BLM office, a copy of the official record of the notice or certificate of location of that claim or site that was or will be filed under state law. If state law does not require the recordation of a notice or certificate of location of a claim or site, a notice or certificate of location containing the information in paragraph (b) of this section shall be filed.

C. Removing paragraph (b) in its entirety;

D. Redesignating paragraph (c) as paragraph (b) and revising paragraph (b)(5) to read:

(b)(5) For all claims or sites a description shall be furnished.

(i) This description shall recite, to the extent possible, the section(s), the approximate location of all or any part of the claim to within a 160 acre quadrant of the section (quarter section), or sections, if more than one is involved, and the township, range, meridian and State obtained from an official survey plat or other U.S. Government map showing either the surveyed or protracted U.S. Government grid, whichever is applicable.

(ii) The location of the claims or sites shall be depicted on either a topographic map published by the U.S. Geological Survey or by a narrative or a sketch describing the claim or site with reference by appropriate tie to some topographic, hydrographic, or man-made feature. Such map, narrative description, or sketch shall set forth the boundaries and position of the individual claim or site with such accuracy as will permit the authorized officer of the agency administering the lands or mineral interests in such lands to identify and locate the claims or sites on the ground.

(iii) More than one claim or site may be shown on a single map or described in a single narrative or sketch if they are located in the same general area, so long as the individual claims or sites are clearly identified;

E. Removing paragraph (b)(6) and redesignating paragraphs (b)(7) and (b)(8) as paragraphs (b)(6) and (b)(7) respectively, and revising (b)(6) to read:

(b)(6) In place of the requirements of (b)(5) of this section, an aproved mineral survey may be supplied. A mining claim described by legal subdivisions, section, town, range, meridian and State fulfills the requirements of paragraph (b)(5) of this section.

F. Removing paragraph (d) in its entirety.

7. Section 3833.1–3 is revised to read as follows:

§ 38.33.1–3 Recordation fee.

Each claim or site filed shall be accompained by a one time nonrefundable recordation fee of $5. A Certificate of Location not accompained by the appropriate recordation fee will be noted as being recorded on the date received if, upon notification by the authorized offficer, the claimant submits the fee within 30 days from the receipt of the certified notification to submit the proper fee. Failue to submit the proper fee shall cause the recordation to be rejected and returned to the owner.

§ 3833.2–1 [Amended]

3. Section 3833.2–1 is amended as follows:

A. By adding the words "is" after the word "filing" in the title;

B. By revising paragraph (a) to read as follows:

(a) The owner of an unpatented mining claim located within the boundary unit of the National Park System shall comply with the requirements of 36 CFR 9.5. Evidence of annual assessment work or notice of intent to hold shall be filed yearly with the proper BLM office as provided for in this subpart. The BLM will forward copies of such annual filings to the proper office of the National Park Service.

C. By redesignating paragraphs (b)(1) and (b)(2) as paragraphs (a)(1) and (a)(2) and revising them to read as follows:

(a)(1) Except as provided in subparagraph (2) of this section, the owner of an unpatented mining claim, mill site or tunnel site located within any unit of the National Park System shall file before October 22, 1979, and on or before December 30 of each calendar year after the year of recording (See 30 CFR 9.5), a notice of intention to hold the mining claim, mill site or tunnel site. Such notice shall be in the form prescribed by § 3833.2–3 of this title and shall be filed with the proper BLM office.

(a)(2) Where a claimant has received a permit under 36 CFR 9.5 to do assessment work on a claim in a unit of the National Park System, the claimant may file with the Bureau of Land Management in lieu of the notice required by paragraph (1) of this section, evidence of assessment work in the form prescribed in § 3833.2–2 of this title.

D. Redesignate paragpaph (c) as paragraph "(b)".

E. Newly redesignated paragraph (b) is further amended by inserting immediately after "(b)", the figure "(1)", by removing the words "but including lands within a national monument administered by the United States Fish and Wildlife Service or the United States Forest Service" following the words "National Park System" and inserting in lieu thereof the words "established on or before September 28, 1976, shall have filed or caused to have been filed", and by adding a new paragraph (b)(2) to read as follows:

(b) * * *

(2) Evidence of assessment work performed which is filed under these regulations at any time during the interval of January 1 to September 1 shall be deemed to have been filed on or before December 30, of that calendar year; and

F. Redesignate paragraph (d) as paragraph "(c)";

G. Paragraph (c) is amended by adding immediately after the phrase "National Park System" the phrase "established on or before September 28, 1976," and immediately after the phrase "United States Forest Service" the phrase "shall have filed or caused to have been filed"; and

H. Adding a new paragraph (d) to read:

(d) Section 314 of the Act (43 CFR 1744) requires that the owner of an unpatented mining claim shall file, prior to December 31st of each year following the calendar year in which the claim was located, either a notice of intent to hold the claim, or evidence of annual assessment work. The General Mining laws (30 U.S.C. 28) allow the required annual assessment work to be initiated in the assessment year following the assessment year in which the claim was located. Therefore, in order to comply with the filing requirements of section 314 of the Act, claimants of mining claims located after 12 o'clock noon on September 1st of that same year, shall file with the proper BLM office, a notice of intent to hold the mining claim in the first calendar year following its location. This does not apply to the claimant who elects to perform his assessment work early and wishes to record the assessment work.

§ 3833.2–2 [Amended]

9. Section 3833.2–2 is amended by:

A. Removing the word "Form—" in the title and replacing it with the words "Contents for";

B. Revising paragraph (a), introductory text, as follows;

(a) An exact legible reproduction or duplicate, except microfilm of the evidence of assessment work which was performed under state law and was or will be filed for record pursuant to section 314(a) of the Act in the local jurisdiction of the state where the claim or group of claims is located and recorded setting forth the additional information:

C. Amending the first sentence of paragraph (a)(1) by inserting the phrase "Bureau of Land Management" after "The"; removing the words "by the authorized officer" after the word "claim"; removing the word "or" after "notice" and replacing it with ","; removing "or patent application" after the word "location";

D. Amending paragraph (b), introductory text, by removing the word "and" where it appears immediately after the phrase "30 U.S.C. 28–1" and replacing it with the phrase "which has been or will be"; and

E. Amending paragraph (b)(1) by removing the phrase "The serial number" and replacing it with the phrase "The Bureau of Land Management serial number" and by removing the phrase "by the authorized officer".

10. Section 3833.2–3 is revised as follows:

§ 3833.2–3 Contents for a notice of intention to hold claim or site.

(a) A notice of intention to hold a mining claim or group of mining claims may be filed at the election of the owner, regardless of whether the assessment has been suspended, deferred or not yet accrued. However, the claimant shall file with the Bureau of Land Management the same documents which have been or will be recorded with the county or local office of recordation. A notice of intention to hold a mining claim shall be effective only to satisfy the filing requirement for the year (as specified in § 3833.0–5 of this title), in which the notice is filed. The filing of a notice with the Bureau of Land Management shall not relieve the owner of complying with Federal and state laws pertaining to the performance of annual assessment work.

(b) A notice of intention to hold a mining claim or group of mining claims shall be in the form of either:

(1) An exact legible reproduction or duplicate, except microfilm, of an instrument, signed by the owner of the claim of his/her agent, which was or will be filed for record pursuant to section 314(a)(1) of the Act in the local jurisdiction of the State where the claim is located and recorded setting forth the following information:

(i) The Bureau of Land Management serial number assigned to each claim upon filing in the proper BLM office of a copy of the notice or certificate of location. Citing the serial number shall comply with the requirement in the Act to file an additional description of the claim;

(ii) Any change in the mailing address, if known, of the owner or owners of the claim;

(2) A reference to the decision on file in the proper BLM office by date and serial number which granted a deferment of the annual assessment work.

(3) A reference to a pending petition for deferment of the annual assessment work required by 30 U.S.C. 28 by date of filing and serial number and with the proper BLM office.

(c) A notice of intention to hold a mill or tunnel site or group of mill or tunnel sites shall be in the form of a letter or other notice signed by the owner(s) of such sites or their agent(s) setting forth the following information:

(1) The Bureau of Land Management serial number assigned to each site upon filing in the proper BLM office of a copy

of the official record of the notice or certification of location;

(2) Any change in the mailing address, if known, of the owner(s) of the site(s);

(3) In the case of a tunnel site, a statement that the owner(s) will continue to prosecute work on the tunnel with reasonable diligence for the discovery or development of a vein or lode.

§ 3833.2–4 When evidence or notice is not required.

12. The title to § 3833.2–4 is revised as set forth above.

13. Section 3833.4 is amended by redesignating paragraph (b) as paragraph (c) and revising it to read as set forth below and by adding new paragraphs (b) and (d) as follows:

§3833.4 Failure to file.

* * * * *

(b) The failure to file the information required in §§ 3833.1–2(b), 3833.2–1(c), 3833.2–2 (a) and (b) or 3833.2–3 (b) and (c) shall not be deemed conclusively to constitute an abandonment of the claim or site, but such information shall be filed within 30 days of receipt of a decision from the authorized officer calling for such information. Failure to file such information within the time allowed by decision shall cause the filing to be rejected by a decision appealable under the procedures of Part 4 of this title. Final affirmance of such rejection for failure to file such information shall be deemed conclusive evidence of abandonment of the mining claim, mill or tunnel site and such mining claim, mill or tunnel site shall be void.

(c) The fact that an instrument is filed in accordance with other laws permitting filing for record thereof and is defective or not timely filed for record under those laws shall not be considered failure to file under this subpart. The fact that an instrument is filed for record under this subpart by or on behalf of some, but not all of the owners of the mining claim, mill or tunnel site shall not affect the validity of this filing.

(d) Any mining claim deemed abandoned under section 314(c) of the Act for failure to file an instrument in the local jurisdiction of the State where the claim is located pursuant to section 314 (a)(1) and (b) of the Act, shall not be validated by filing the instrument with the BLM in accordance with § 3833.2–1 of this title, and such instrument is ineffective even though the claim may currently be shown to exist in the BLM records.

§ 3833.5 [Amended]

14. Section 3833.5 is amended as follows:

A. Amend paragraph (b) by removing the words "of section 2324 of the Revised Statutes as amended" in the first sentence and placing a period after the word "requirements";

B. Paragraph (d) is revised to read as follows:

(d) In the case of any action or contest initiated by the United States affecting an unpatented mining claim, mill or tunnel site, only those owners who have recorded their claim or site pursuant to § 3833.1–2 of this title and filed a notice of transfer of interest pursuant to § 3833.3 of this title or owners whose names show on annual filings shall be considered by the United States as parties whose rights are affected by such action or contest and shall be personally notified and served by certified mail sent to their last address of record. All methods reasonably calculated to ensure that those parties receive actual notice of the action or contest shall be employed. If those methods are not successful, the interested parties shall be notified by publication in accordance with 43 CFR 4.450. Owners who have not recorded a claim or site or filed a notice of transfer shall not be personally served and will be bound by any contest proceeding even though they have not been personally served. This subpart shall not apply to procedures for public notice listed at Subpart 3860 of this title with respect to mineral patents.

[FR Doc. 82–34097 Filed 12–14–82; 8:45 am]

BILLING CODE 4310–84–M

Reader Aids

Federal Register

Vol. 47, No. 241

Wednesday, December 15, 1982

INFORMATION AND ASSISTANCE

PUBLICATIONS

Code of Federal Regulations

CFR Unit	202-523-3419 523-3517
General information, index, and finding aids	523-5227
Incorporation by reference	523-4534
Printing schedules and pricing information	523-3419

Federal Register

Corrections	523-5237
Daily Issue Unit	523-5237
General information, index, and finding aids	523-5227
Privacy Act	523-5237
Public Inspection Desk	523-5215
Scheduling of documents	523-3187

Laws

Indexes	523-5282
Law numbers and dates	523-5282 523-5266
Slip law orders (GPO)	275-3030

Presidential Documents

Executive orders and proclamations	523-5233
Public Papers of the President	523-5235
Weekly Compilation of Presidential Documents	523-5235
United States Government Manual	523-5230

SERVICES

Agency services	523-5237
Automation	523-3408
Library	523-4986
Magnetic tapes of FR issues and CFR volumes (GPO)	275-2867
Public Inspection Desk	523-5215
Special Projects	523-4534
Subscription orders (GPO)	783-3238
Subscription problems (GPO)	275-3054
TTY for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, DECEMBER

54053-54268.....1
54269-54418.....2
54419-54758.....3
54759-54924.....6
54925-55198.....7
55199-55378.....8
55379-55454.....9
55455-55626.....10
55627-55902.....13
55903-56128.....14
56129-56308.....15

CFR PARTS AFFECTED DURING DECEMBER

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Administrative Orders:

Memorandums:
November 29, 1982..... 54053

Executive Orders:
10621 (Amended by EO 12396)..... 55897
11390 (Amended by EO 12396)..... 55897
12239 (Revoked by EO 12396)..... 55897
12396..... 55897

Proclamations:
4941 (Amended by Proc. 5002)..... 54269
5002..... 54269
5003..... 55899
5004..... 55901

4 CFR

Proposed Rules:
28..... 54972

5 CFR

1201..... 54419
2429..... 55379, 55903

Proposed Rules:
213..... 54974
890..... 54974

7 CFR

52..... 55455
53..... 54925
55..... 54420
56..... 54420
59..... 54420
68..... 54271
70..... 54420
271..... 55903
272..... 55463, 55903
273..... 55463, 55903
319..... 54273, 55199
400..... 55886, 55888
800..... 54055, 54275, 55469
905..... 54926, 55199
907..... 54281, 55379
910..... 54421, 55469
926..... 55910
1065..... 55200
1126..... 54421
1132..... 54421
1139..... 55201
1421..... 54281
1497..... 54284
1822..... 55627
1901..... 54422
1922..... 55380
1942..... 54422
1944..... 54422, 55627
1948..... 54422

Proposed Rules:
52..... 54086
967..... 54975
987..... 54307
1106..... 54977
1124..... 55490
1135..... 54978
1207..... 55245

8 CFR

214..... 55202
235..... 55388

9 CFR

71..... 55636
78..... 55636
92..... 54285, 55388
317..... 54286
381..... 54286

Proposed Rules:
113..... 54090, 54307, 55246

10 CFR

50..... 55203

Proposed Rules:
70..... 55951

12 CFR

29..... 55911
201..... 54424
204..... 55204-55209
211..... 54057
217..... 54759
220..... 55912
545..... 55656
614..... 54760
701..... 54424
745..... 54424

Proposed Rules:
207..... 54980
220..... 54980
221..... 54980
224..... 54980
612..... 56140

13 CFR

101..... 56129

14 CFR

21..... 54287, 54288
39..... 54289-54291, 54760, 54761, 55657, 55658
71..... 54291, 54762, 54763 55389, 55659
73..... 54763, 55390
75..... 54763
97..... 54292, 55659
253..... 54764
302..... 56129
387..... 56130

Proposed Rules:
Ch. I..... 54829
39..... 54830
61..... 54414

71.....54308, 54309, 54831, 55687
75.....54309, 55688

15 CFR

904.....54429, 56131

16 CFR

13.....55210, 55211
1000.....54927

Proposed Rules:

13.....54452, 55398

17 CFR

200.....54764, 55211
210.....54764
229.....54764, 55661
230.....54764
239.....54764, 55661
240.....54057, 54764, 55661
249.....54764, 55661
260.....54764

Proposed Rules:

240.....55491

18 CFR

271.....54928
274.....54063

Proposed Rules:

271.....55246
385.....54981

19 CFR

4.....54064
10.....55470
18.....55470
19.....55470
22.....55470
24.....55470
101.....55913
113.....55470
125.....55470
127.....55470
132.....55470
142.....55470
144.....55470

Proposed Rules:

4.....54092
148.....54092
177.....55400

20 CFR

416.....55212
609.....54686
614.....54696

21 CFR

5.....54750, 55470
74.....54429
81.....54429
82.....54429
145.....55471
172.....55475
175.....54430
193.....55214
201.....54750
330.....54750
520.....55472
522.....55472
558.....54929

Proposed Rules:

145.....55496
182.....54454
184.....54454, 54456
186.....54454
310.....55497
333.....54981
348.....54982
357.....55076, 55497
358.....54646
886.....55497

22 CFR

9.....55594

24 CFR

15.....55669
50.....56266
200.....54790
203.....54790
204.....54790
213.....54790
220.....54790
221.....54790
222.....54790
226.....54790
227.....54790
233.....54790
235.....54430, 54790
237.....54790
240.....54790
300.....55669
804.....54293, 54790
805.....54293, 54790, 55136
812.....54790
841.....54790, 55136
860.....54293
880.....54293
881.....54293
882.....54293
883.....54293
884.....54293
886.....54293
888.....56133
890.....54431

Proposed Rules:

571.....55868
860.....55689
866.....55689
888.....55764

26 CFR

1.....54296, 54791, 54803, 55477
35.....54065, 55215

Proposed Rules:

1.....54093, 55247, 55696, 55697
11.....54093
31.....55248
54.....54093
601.....54459, 54461

27 CFR

9.....55915

Proposed Rules:

9.....55492, 55954–55961

28 CFR

540.....55128, 56134

Proposed Rules:

2.....54982
540.....55131
551.....55131, 56144

29 CFR

102.....54432
1903.....55478
1910.....54433
2610.....55670
2619.....56134
2621.....55672
2622.....55670

30 CFR

944.....55672
946.....55675

Proposed Rules:

55.....55499
56.....55499
57.....55499
75.....55499
77.....55499
221.....54462
903.....55249
934.....55499
936.....54472
942.....54474

31 CFR

535.....55481

Proposed Rules:

1.....54475
10.....56144

32 CFR

1285.....54929

Proposed Rules:

701.....54104

33 CFR

1.....54298
2.....54298
114.....54298
115.....54298
117.....54298–54301
165.....54301, 55391
209.....55916

Proposed Rules:

110.....54310
117.....55400
207.....54832

34 CFR

Proposed Rules:

201.....54718
202.....54718
203.....54718
204.....54718
300.....54311
302.....54718

35 CFR

103.....54071
105.....54071
107.....54071
109.....54071
111.....54071
113.....54071
119.....54071
123.....54071

Proposed Rules:

103.....54105
113.....54105
119.....54105
123.....54105

36 CFR

7.....54930–54932, 55391, 55917

38 CFR

3.....54435
17.....55482

39 CFR

3001.....55392

Proposed Rules:

3001.....55698

40 CFR

50.....54896
52.....54072, 54312, 54808, 54933–54936, 55393, 55678, 55919
60.....54073, 54258, 54259
81.....54080
123.....55680
180.....55221–55225, 56135, 56136
300.....55488
415.....55226
440.....54598
465.....54232
716.....54642
761.....54436

Proposed Rules:

Ch. I.....55880
52.....54476, 54984, 55400, 55500, 55964, 55965
60.....55966, 56118
86.....54250
162.....55967
180.....54106, 55249, 55699
201.....54107, 54313
202.....54313
204.....54108
205.....54108–54111
228.....54834
403.....54477
461.....55502
464.....55502
468.....55502

41 CFR

101–36.....54810, 54937

Proposed Rules:

Ch. 9.....56256

42 CFR

52d.....55227
55a.....55227
57.....54437
58.....54437
86.....55227
401.....54939
405.....54302, 54811, 54939, 56282
488.....56282
489.....56282

Proposed Rules:

124.....54314
405.....54113
447.....54113

43 CFR

3833.....56300

Proposed Rules:

3200.....56151
4100.....55402

44 CFR

6.....54815
64.....54816, 55921, 55922
65.....54941
67.....54941, 55228, 55241
70.....54440–54444

205 55756

Proposed Rules:

59 55752
60 55752
67 ..... 54477, 54478, 54835, 55251

45 CFR

74 55227
600 54081
612 54943
680 54081
681 54081
682 54081
683 54081
684 54081
1336 55227
1601 54943

46 CFR

67 54305
536 56138

Proposed Rules:

507 55969

47 CFR

0 55924
2 55241
63 54944
67 55681
73 ..... 54444, 54446, 55242, 55243, 55681–55683, 55924
74 ..... 54446, 55931
87 54449
90 54450
97 55241

Proposed Rules:

15 55251
34 55974
35 55974
67 ..... 54479, 55699
73 ..... 54519–54522, 55256, 55974
76 54523
81 54836

49 CFR

Ch. X 54081, 55686
7 55683
171 ..... 54817, 54824
172 ..... 54817, 54824
173 ..... 54817, 54824
175 ..... 54817, 54824
177 54824
178 54824
195 55396
531 55684
601 55683
1003 55939
1011 55950
1043 55939
1057 54083
1306 54083

Proposed Rules:

Ch. X 54985, 55975
29 55700
571 54839
1003 55976
1039 55257
1043 ..... 55976, 55980
1084 ..... 55976, 55980
1220 56152

50 CFR

20 55397
23 54966
540 55488
663 56138
671 54451

Proposed Rules:

29 54840
611 54841
652 54985
671 54125
675 54841

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

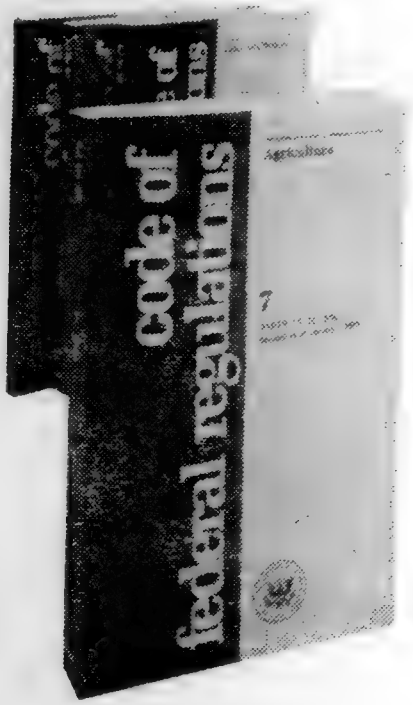
The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.) Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/MA	LABOR		DOT/MA	LABOR
DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
DOT/RSPA			DOT/RSPA	
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last Listing October 28, 1982



Just Released

Code of Federal Regulations

Revised as of July 1, 1982

Quantity	Volume	Price	Amount
_____	Title 28—Judicial Administration	$8.00	$_____
_____	Title 32—National Defense (Part 1000 to End)	7.00	_____
_____	Title 37—Patents, Trademarks, and Copyrights	7.00	_____
		Total Order	**$**_____

A Cumulative checklist of CFR issuances for 1981–82 appears in the back of the first issue of the Federal Register each month in the Reader Aids section. In addition, a checklist of current CFR volumes, comprising a complete CFR set, appears each month in the LSA (List of CFR Sections Affected).

Please do not detach

Order Form

Mail to: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402

Enclosed find $_____. Make check or money order payable to Superintendent of Documents. (Please do not send cash or stamps). Include an additional 25% for foreign mailing.

Charge to my Deposit Account No.

☐☐☐☐☐☐–☐

Order No._____

VISA* MasterCard

Credit Card Orders Only

Total charges $_____ Fill in the boxes below.

Credit Card No. ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

Expiration Date Month/Year ☐☐☐☐

Please send me the **Code of Federal Regulations** publications I have selected above.

Name—First, Last

Street address

Company name or additional address line

City State ZIP Code

(or Country)

PLEASE PRINT OR TYPE

For Office Use Only.

	Quantity	Charges
Enclosed		
To be mailed		
Subscriptions		
Postage		
Foreign handling		
MMOB		
OPNR		
UPNS		
Discount		
Refund		

12-16-82
Vol. 47 No. 242
Pages 56309-56468

Federal Register

Thursday
December 16, 1982

Selected Subjects

Air Carriers
Federal Aviation Administration

Air Traffic Control
Federal Aviation Administration

Air Transportation
Federal Aviation Administration

Anchorage Grounds
Coast Guard

Aviation Safety
Federal Aviation Administration

Banks, Banking
Depository Institutions Deregulation Committee

Classified Information
Nuclear Regulatory Commission

Coal Mining
Surface Mining Reclamation and Enforcement Office

Federal Home Loan Banks
Federal Home Loan Bank Board

Foreign Service
State Department

Grant Programs—Social Programs
Health and Human Services Department

Income Taxes
Internal Revenue Service

CONTINUED INSIDE

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The **Federal Register** will be furnished by mail to subscribers, free of postage, for $300.00 per year, or $150.00 for six months, payable in advance. The charge for individual copies is $1.50 for each issue, or $1.50 for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the **Federal Register**.

Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

Selected Subjects

Marketing Agreements
Agricultural Marketing Service

Navigation (Water)
Coast Guard

Passports and Visas
State Department

Prisoners
Parole Commission

Radio Broadcasting
Federal Communications Commission

Reporting and Recordkeeping Requirements
Federal Railroad Administration
Interstate Commerce Commission

Savings and Loan Associations
Federal Home Loan Bank Board

Wildlife
Fish and Wildlife Service

Contents

Federal Register

Vol. 47, No. 242

Thursday, December 16, 1982

The President

PROCLAMATIONS

56309 Drunk and Drugged Driving Awareness Week, National (Proc. 5005)

Executive Agencies

Agricultural Marketing Service

RULES

56312 Filberts/hazelnuts grown in Oreg. and Wash.
56311 Oranges and grapefruit grown in Tex.
56312 Oranges (navel) grown in Ariz. and Calif.

Agriculture Department

See Agricultural Marketing Service; Commodity Credit Corporation; Forest Service.

Alcohol, Tobacco and Firearms Bureau

PROPOSED RULES

Alcohol; viticultural area designations:
56369 Madera, Calif.; hearing

Army Department

See also Engineers Corps.

NOTICES

Meetings:
56383 Science Board

Centers for Disease Control

NOTICES

Meetings:
56400 Mine Health Research Advisory Committee (NIOSH)

Coast Guard

RULES

Anchorage regulations:
56354 California

PROPOSED RULES

Navigation areas:
56370 Chesapeake Bay and tributaries, Md.

Commerce Department

See also International Trade Administration; National Bureau of Standards; National Oceanic and Atmospheric Administration.

NOTICES

56381 Agency forms submitted to OMB for review
Senior Executive Service:
56382 Bonus awards schedule

Commodity Credit Corporation

NOTICES

56434 Meetings; Sunshine Act

Commodity Futures Trading Commission

NOTICES

56434 Meetings; Sunshine Act

Defense Department

See Army Department; Engineers Corps.

Depository Institutions Deregulation Committee

RULES

Interest on deposits:
56319 Money market deposit account
56320 NOW accounts of $2,500 or more
56323 Short-term time deposit accounts

PROPOSED RULES

Interest on deposits:
56364 Money market deposit account; unlimited transfer of funds for depositor not eligible to maintain NOW account

Economic Regulatory Administration

NOTICES

Organization and functions:
56385 Natural Gas Division; relocation of offices
Powerplant and industrial fuel use; electric utility conservation:
56385 Plan receipts (3 documents)

Education Department

NOTICES

56385–56387 Accrediting agencies and associations, national recognized; list; correction

Energy Department

See Economic Regulatory Administration; Federal Energy Regulatory Commission; Hearings and Appeals Office, Energy Department.

Engineers Corps

NOTICES

Environmental statements; availability, etc.:
56384 Magnesia Spring Canyon Creek, Rancho Mirage, Riverside County, Calif.; proposed flood control project
56384 Tennessee-Tombigbee Waterway wildlife mitigation feasibility study, Ala. and Miss.

Environmental Protection Agency

PROPOSED RULES

Water pollution; effluent guidelines for point source categories:
56373 Aluminum forming, pharmaceuticals, and pesticides manufacturing; hearing
56372 Water quality planning and management; extension of time

NOTICES

Meetings:
56394 Science Advisory Board
Toxic and hazardous substances control:
56391 Toluene; response to Interagency Testing Committee
56392 Xylenes; response to Interagency Testing Committee

Equal Employment Opportunity Commission

NOTICES

56394 Agency forms submitted to OMB for review

Federal Aviation Administration
RULES
Air carriers certification and operations:
56460 Flight attendants; number required during intermediate stops
56327 Foreign air transportation; compensation for security measures
Air traffic operating and flight rules:
56324 Air traffic control system; interim operations plan; allocation of arrival slots previously allocated; final rule and request for comments
PROPOSED RULES
Air carriers certification and operations:
56366 Air transportation; aviation safety regulations (Regulation by Objective); extension of time
Airworthiness standards:
56456 Oxygen dispensing units; equipment standards
56365 Jet routes
NOTICES
Advisory circulars; availability, etc.:
56430 Fuel drain valves, positive locking in closed position
Meetings:
56429 Aeronautics Radio Technical Commission
56430 National Airspace Review Advisory Committee (2 documents)

Federal Communications Commission
RULES
Radio stations; table of assignments:
56355 Kansas
56356 Oregon
NOTICES
Hearings, etc.:
56395 Ortiz, Carlos, et al.
Meetings:
56396 Telecommunications Industry Advisory Group (2 documents)

Federal Deposit Insurance Corporation
NOTICES
56434, 56435 Meetings; Sunshine Act (5 documents)

Federal Energy Regulatory Commission
NOTICES
Hearings, etc.:
56388 Alabama-Tennessee Natural Gas Co.
56389 Kentucky Utilities Co.
56389 Southern California Edison Co.
56389 Southwestern Electric Power Co.
56390 Union Electric Co.
56436 Meetings; Sunshine Act

Federal Home Loan Bank Board
RULES
Federal home loan bank system:
56316 Advances to members; policy statement
56314 Interstate institution membership determination standard
Federal Savings and Loan Insurance Corporation:
56318 Loan payments held by loan servicers; insurance coverage
PROPOSED RULES
Federal savings and loan system:
56363 Institutions converting to federal charters; grandfathering of state authority
NOTICES
Applications, etc.:
56397 First Federal Savings & Loan Association of Petersburg, Va.
56397 Germania Federal Savings & Loan Association
56436 Meetings; Sunshine Act

Federal Railroad Administration
RULES
56357 Accidents/incidents, reports; adjustment of monetary threshold

Federal Reserve System
NOTICES
56397 Agency forms submitted to OMB for review
Applications, etc.:
56398 Conifer Group
56398 South Central Bancshares, Inc.
56399 Steel City Bancorporation, Inc., et al.
56399 Winchester Bancorp, Inc., et al.
Bank holding companies; proposed de novo nonbank activities:
56398 BankAmerica Corp.

Fiscal Service
NOTICES
Surety companies acceptable on Federal bonds:
56433 Imperial Casualty & Indemnity Co.
56433 Tri-State Insurance Co. of Minnesota

Fish and Wildlife Service
RULES
Importation, exportation, and transportation of wildlife:
56360 Raccoon dog; importation of injurious wildlife

Forest Service
NOTICES
Meetings:
56374 Coronado National Forest Grazing Advisory Board
56374 Inyo National Forest Grazing Advisory Board
56374 Lincoln National Forest Grazing Advisory Board
56374 Pacific Crest National Scenic Trail Advisory Council (2 documents)

General Services Administration
NOTICES
Senior Executive Service:
56400 Bonus awards schedule

Health and Human Services Department
See also Centers for Disease Control; Human Development Services Office.
RULES
56466 Block grant programs; consolidation of grants to insular areas
NOTICES
56401 Aid to families with dependent children and needy aged, blind, or disabled persons and medicaid; determination of Federal matching funds to States; Federal percentages

Hearings and Appeals Office, Energy Department
NOTICES
Applications for exception:
56390 Cases filed (2 documents)

Human Development Services Office
NOTICES
Grant applications and proposals; closing dates:
56400 Child welfare services State grants; allotment percentages for 1984–85 FY

Interior Department
See Fish and Wildlife Service; Land Management Bureau; National Park Service; Surface Mining Reclamation and Enforcement Office.

Internal Revenue Service
RULES
Income taxes:
56330 Residential energy credit; Secretarial authority to add to list of eligible items
PROPOSED RULES
Income taxes:
56367 Employee awards; deductibility

International Trade Administration
NOTICES
Antidumping:
56375 Carbon steel bars and structural shapes from Canada
56376 Greige polyester/cotton printcloth from China; postponement
56376 Perchlorethylene from Belgium
56377 Shop towels of cotton from China; postponement
Countervailing duties:
56377 Carbon steel pipe and tube products from South Africa; postponement
56377 Iron-metal construction castings from Mexico

International Trade Commission
NOTICES
Import investigations:
56426 Cube puzzles

Interstate Commerce Commission
RULES
Reports:
56359 Motor carriers of household goods; annual report (Form M–H); schedules
NOTICES
56422 Long and short haul applications for relief
Motor carriers:
56424 Exemption petitions filed by carriers of property; proposed handling procedures
56416 Finance applications
56416, 56422 Permanent authority applications (2 documents)
Rail carriers; contract tariff exemptions:
56426 Southern Pacific Transportation Co. et al.
Railroad services abandonment:
56425 Canadian Pacific Limited
56425 New York Dock Railway
56425 Seaboard Coast Line Railroad Co.
Rerouting of traffic:
56424 All railroads

Justice Department
See Parole Commission.

Land Management Bureau
NOTICES
Classification of public lands:
56406 Idaho
56403 Montana
56407, 45408 Utah (3 documents)
Coal leases, exploration licenses, etc.:
56409 Colorado
Environmental statements; availability, etc.:
56412 California Desert Plan and Eastern San Diego County management framework plan, Calif.; inquiry and hearings; extension of time
56413 Henry Mountain Planning Area, Wayne, Garfield, and Kane Counties, Utah; grazing management program; hearing; extension of time
Exchange of public lands for private land:
56402 Idaho
56409 New Mexico
Management framework plans, review and supplement, etc.:
56402 Oregon
Meetings:
56413 Ely District Advisory Council
56402 Idaho Falls District Advisory Council
56403 Lewistown District Advisory Council
56406 Rock Springs District Grazing Advisory Board
56413 Uinta-Southwestern Utah Regional Coal Team
Organization, functions, and authority delegations:
56401 Alaska State Office; public hours
Recreation use permit systems:
56404 Upper Missouri National Wild and Scenic River, Mont.; open season for commercial permit applications
Sale of public lands:
56405 Nevada
56413 Wind energy development applications; Tehachapi Pass, Calif.
Withdrawal and reservation of lands, proposed, etc.:
56405 Montana

Maritime Administration
NOTICES
Applications, etc.:
56431 United States Lines, Inc., et al.

National Bureau of Standards
NOTICES
Laboratory Accreditation Program, National Voluntary:
56381 Fuel room heaters, solid

National Highway Traffic Safety Administration
NOTICES
Meetings:
56432 Rulemaking, research and enforcement programs; date change
Motor vehicle safety standards; exemption petitions, etc.:
56431 Dunlop Tire & Rubber Corp.

National Oceanic and Atmospheric Administration
NOTICES
Meetings:
56381 Pacific Fishery Management Council

National Park Service
NOTICES
Concession contract negotiations:
56416 Northwest Trading Post, Inc.; Blue Ridge Parkway
56415 TWA Services, Inc.; Bryce Canyon National Park, Utah, et al.

Environmental statements; availability, etc.:
56416 Kanektok and Squirrel Rivers, Alaska; addition to National Wild and Scenic River System
Meetings:
56415 Midwest Regional Advisory Committee; cancellation

Nuclear Regulatory Commission
RULES
56314 National security information program; implementation; nomenclature changes
NOTICES
Applications, etc.:
56427 Alabama Power Co.
56427 Commonwealth Edison Co.
56427 Consolidated Edison Co. of New York et al.
56427 Philadelphia Electric Co.
56428 Philadelphia Electric Co. et al.
56428 Vermont Yankee Nuclear Power Corp.

Occupational Safety and Health Review Commission
NOTICES
56436 Meetings; Sunshine Act (2 documents)

Parole Commission
RULES
Federal prisoners; paroling, releasing, recommitting, and supervising:
56334 Offense severity scale; policy guidelines
56334 Prisoners paroled with outstanding state or local detainer, conditions for release to community
56334 Reparole consideration guidelines for rating administrative violations

Securities and Exchange Commission
NOTICES
56429 Agency forms submitted to OMB for review

State Department
RULES
56328 Consular services; schedule of passport fees
56329 Passport; validity period, fees, etc.
NOTICES
Senior Executive Service:
56429 Performance Review Board; membership

Surface Mining Reclamation and Enforcement Office
RULES
Permanent program submissions; various States:
56342 Colorado

Trade Representative, Office of United States
NOTICES
Unfair trade practices, petitions, etc.:
56428 Footwear Industries of America, Inc., et al.; non-rubber footwear from European Communities et al.

Transportation Department
See also Coast Guard; Federal Aviation Administration; Federal Railroad Administration; Maritime Administration; National Highway Traffic Safety Administration; Urban Mass Transportation Administration.
NOTICES
Meetings:
56432 Minority Business Resource Center Advisory Committee

Treasury Department
See also Alcohol, Tobacco and Firearms Bureau; Fiscal Service; Internal Revenue Service.
RULES
56351 Bureau of the Mint operations and procedures revision, and removal of obsolete regulation

Urban Mass Transportation Administration
NOTICES
56432 Transit industry human resources development activities, Federal assistance in Labor involvement; policy statement

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR
Proclamations:
5005 56309

7 CFR
906 56311
907 56312
982 56312

10 CFR
2 56314
9 56314

12 CFR
523 56314
531 56316
564 56318
1204 (3 documents) 56319-56323
Proposed Rules:
543 56363
1204 56364

14 CFR
91 56324
121 (2 documents) 56327, 56480
Proposed Rules:
23 56456
75 56365
120 56366
121 56366
135 56366

22 CFR
22 56328
51 56329

26 CFR
1 56330
601 56330
Proposed Rules:
1 56367

27 CFR
Proposed Rules:
9 56369

49 CFR
225 56357
1249 56359

50 CFR
16 56360

28 CFR
2 (3 documents) 56334

30 CFR
906 56342

31 CFR
53 56351
55 56351
81 56351
90 56351
92 56351
93 56351
120 56351
121 56351
122 56351
127 56351

33 CFR
110 56354
Proposed Rules:
165 56370

40 CFR
Proposed Rules:
35 56372
130 56372
439 56373
455 56373
457 56373

45 CFR
97 56466

47 CFR
73 (2 documents) 56355, 56356

Federal Register
Vol. 47, No. 242
Thursday, December 16, 1982

Presidential Documents

Title 3—

The President

Proclamation 5005 of December 13, 1982

National Drunk and Drugged Driving Awareness Week

By the President of the United States of America

A Proclamation

Nothing is more devastating to a parent than the call from a police officer that a son or daughter has been injured or killed in an auto accident. Nothing is more tragic than to learn that a drunken or drugged driver was at fault.

Each year, more than 25,000 of our citizens, a large number of them young people, are killed as a result of alcohol- or drug-related highway accidents. Seventy times a day—every 23 minutes—a life is taken somewhere on our streets and highways because driving skills and judgment were impaired by alcohol or drugs. Too often, a repeat offender is involved and, too often, society has looked the other way.

Today, thanks to a growing public outcry and the efforts of concerned citizens and safety leaders, the problem of drunken and drugged drivers is gaining national attention. State legislatures are enacting tougher laws and courts are imposing stiffer penalties. The Presidential Commission I appointed last April is reinforcing these efforts and encouraging greater preventive and corrective programs. Congress recently passed legislation setting Federal standards and providing incentive funds to assist in the crusade against the human and economic waste which results from drunken driving.

The holiday season, traditionally a high fatality period, affords us the opportunity to join even more emphatically in a concerted national commitment to reduce the threat of drunken and drugged drivers on our highways.

Collisions involving drunken drivers are the nation's single greatest killer of young people. This holiday season we can give our children a great gift by doing everything we can to keep the drinking driver and the drug-user off our roads. Let us all observe *safety* and celebrate *safely*, and let us remember that the safety belt in our car can be our best defense against drunken and drugged drivers.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, in accordance with Senate Joint Resolution 241 (Public Law 97–343), do hereby proclaim the week beginning December 12, 1982, as National Drunk and Drugged Driving Awareness Week. I call upon each of you to observe this week with appropriate activities in your homes, offices, schools, and communities. I ask all Americans to join in a national campaign to eliminate drunken and drugged driving and to prevent tragedy from intruding on our joyful holiday season.

IN WITNESS WHEREOF, I have hereunto set my hand this 13th day of December, in the year of our Lord nineteen hundred and eighty-two, and of the Independence of the United States of America the two hundred and seventh.

Ronald Reagan

Editorial Note: The President's remarks of December 13 on signing Proclamation 5005 are printed in the *Weekly Compilation of Presidential Documents* (vol. 18, no. 50).

[FR Doc. 82-34273
Filed 12-14-82; 1:16 pm]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 47, No. 242
Thursday, December 16, 1982

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 906

Oranges and Grapefruit Grown in Texas; Amendment to Container Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends container regulations issued under the marketing order by removing the 1⅔-bushel carton, while providing handlers an opportunity to deplete their current inventories of this container by permitting such inventories to be used through July 31, 1983. Such action is necessary to remove a container, which is no longer needed or considered desirable for the shipment of fresh oranges and grapefruit.

EFFECTIVE DATE: January 1, 1983.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291, and has been designated a "non-major" rule. The Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This action is designed to promote orderly marketing of the Texas orange and grapefruit crops for the benefit of producers, and will not substantially affect costs for the directly regulated handlers.

This final rule is issued under the marketing agreement, as amended, and Order No. 906, as amended (7 CFR Part 906), regulating the handling of oranges and grapefruit grown in the Lower Rio Grande Valley in Texas. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Texas Valley Citrus Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

The final rule would on January 1, 1983, extend indefinitely provisions currently in effect under an interim rule which removed the 1⅔-bushel carton (inside dimensions of 19¾×11 3/16×13 inches) as an authorized container, except for such containers in inventory which may be used through July 31, 1983. Section 906.340 would be further amended to continue the provisions now in effect under this interim rule published in the **Federal Register** (47 FR 46487) on October 19, 1982, to be effective through December 31, 1982. The interim rule provided a 30-day period for filing comments. No such comments were submitted.

The committee recommended that this container be removed because it is reportedly difficult to pack and load due to its shape and relatively large size, and as it does not adequately protect the fruit from bruising when stacked several layers high in trailers for shipment to market. In addition, removal of the container will reduce the number of types of containers which handlers need maintain in inventory, and should simplify their packing operations. The committee also recommended that handlers be provided an opportunity to use any supplies of this container which they currently have in their inventories, and it estimates that such inventories will be exhausted by the end of the 1982–83 season. The committee unanimously recommended removal of the container at its meeting of August 31, 1982.

The final rule also revises CFR numerical designations relating to the United States grade standards for oranges and grapefruit consistent with redesignations appearing in **Federal Register** (46 FR 63203), while not changing the grade standards themselves; makes minor nonsubstantive changes relating to definitions; and removes obsolete language pertaining to a container for which authorization has expired.

It is found that it is impracticable and contrary to the public interest to postpone the effective date of this final rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553), and good cause exists for making these regulatory provisions effective as specified in that the time intervening between the date when certain information upon which this final rule is based became available and the time when this final rule must become effective in order to effectuate the declared policy of the act is insufficient. To effectuate the declared purposes of the act it is necessary to make this final rule effective as specified. Handlers have been apprised of the provisions in the final rule and its effective date, and this action would continue regulatory provisions currently in effect.

List of Subjects in 7 CFR Part 906

Marketing agreements and orders, Oranges, Grapefruit, Texas.

PART 906—[AMENDED]

Therefore, § 906.340, under *Subpart—Containers and Pack Requirements*, is amended by revising the introductory text in paragraph (a); by revising paragraphs (a)(1)(iii), (a)(2)(i)(*a*), (a)(2)(ii), and (c); and by removing paragraph (a)(1)(ix), to read as follows:

§ 906.340 Container, pack, and container marking regulations.

(a) On and after January 1, 1983, no handler shall handle any variety of oranges of grapefruit grown in the production area unless such fruit is in one of the following containers, and the fruit is packed and the containers are marked as specified in this section.

* * * * *

(1) * * *

(iii) Closed fully telescopic fiberboard carton with inside dimensions of 19¾ x 13 3/16 x 13 inches: *Provided,* That the cover section and bottom section each has a Mullen or Cady test of at least 250 pounds: *Provided further,* That such containers are from inventories on hand, and used prior to July 31, 1983;

* * * * *

(2) Pack regulation (i) *Oranges. (a)* Oranges, except Navel oranges and Valencia and similar late-type oranges; when packed in any box, bag, or carton

shall, except as otherwise provided by regulations issued pursuant to this part, be within the diameter limits specified for the various pack sizes in § 51.691(c) of the United States Standards for Grades of Oranges (Texas and States other than Florida, California, and Arizona);

* * * * *

(ii) *Grapefruit.* Grapefruit, when packed in any box, bag or carton, shall be within the diameter limits specified for the various pack sizes § 51.630(c) of the United States Standards for Grades of Grapefruit (Texas and States other than Florida, California, and Arizona): *Provided,* That the minimum diameter limit for pack size 96 grapefruit shall be 3$^{9}/_{16}$ inches and for pack size 112 grapefruit shall be 3$^{5}/_{16}$ inches, and *Provided further,* That any grapefruit in boxes or cartons shall be packed in accordance with the requirements of standard pack.

* * * * *

(c) As used herein, terms relating to grade, pack, standard pack, and diameter mean the same as defined in the United States Standards for Grades of Oranges (Texas and States other than Florida, California, and Arizona), (7 CFR 51.680–51.714), or in the United States Standards for Grades of Grapefruit (Texas and States other than Florida, California, and Arizona), (7 CFR 51.620–51.652); and "closed" means closed in accordance with good commercial practices.

(Secs. 1–19, 48 Stat. 31, as amended: 7 U.S.C. 601–674)

Dated: December 10, 1982.

D. S. Kuryloski

Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 82–34112 Filed 12–15–82; 8:45 am]

BILLING CODE 3410–02–M

---

7 CFR Part 907

[Navel Orange Reg. 556; Navel Orange Reg. 555, Amdt. 1]

Navel Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period December 17–23, 1982, and increases the quantity of such oranges that may be so shipped during the period December 10–16, 1982. Such action is needed to provide for orderly marketing of fresh navel oranges for the periods specified due to the marketing situation confronting the orange industry.

DATES: This regulation becomes effective December 17, 1982, and the amendment is effective for the period December 10–16, 1982.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, 202–447–5975.

SUPPLEMENTARY INFORMATION:

Findings

This rule has been reviewed under USDA procedures and Executive Order 12291 and has been designated a "non-major" rule. The Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This action is designed to promote orderly marketing of the California-Arizona navel orange crop for the benefit of producers and will not substantially affect costs for the directly regulated handlers.

This regulation and amendment are issued under the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. The agreement and order are effective under the Argricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendation and information submitted by the Navel Orange Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

This action is consistent with the marketing policy for 1982–83. The marketing policy was recommended by the committee following discussion at a public meeting on September 21, 1982. The committee met again publicly on December 14, 1982 at Redlands, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of navel oranges deemed advisable to be handled during the specified weeks. The committee reports the demand for navel oranges is good.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of navel oranges. It is necessary to effectuate the declared purposes of the Act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 907

Marketing agreements and orders, California, Arizona, Oranges (navel).

PART 907—[AMENDED]

1. Section 907.856 is added as follows:

§ 907.856 Navel orange regulation 556.

The quantities of navel oranges grown in Arizona and California which may be handled during the period December 17, 1982, through December 23, 1982, are established as follows:

(a) District 1: 950,000 cartons;
(b) District 2: Unlimited cartons;
(c) District 3: Unlimited cartons;
(d) District 4: Unlimited cartons.

2. Section 907.855 Navel Orange Regulation 555 (47 FR 55379), is hereby amended by revising paragraphs (a), (b), (c), and (d) to read:

§ 907.855 Navel orange regulation 555.

* * * * *

(a) District 1: 1,700,000 cartons;
(b) District 2: Unlimited cartons;
(c) District 3: Unlimited cartons;
(d) District 4: Unlimited cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: December 15, 1982.

D. S. Kuryloski,

Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 82–34418 Filed 12–15–82; 12:09 pm]

BILLING CODE 3410–02–M

---

7 CFR Part 982

Filberts/Hazelnuts Grown in Oregon and Washington; Final Free and Restricted Percentages for the 1982–83 Marketing Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule establishes marketing percentages for inshell filberts for the marketing year which began May 1, 1982. The action is taken to promote orderly marketing conditions for the

1982 crop. It was recommended by the Filbert/Hazelnut Marketing Board which works with the USDA in administering the program.

EFFECTIVE DATES: May 1, 1982 through June 30, 1983.

FOR FURTHER INFORMATION CONTACT: J. S. Miller, Chief, Specialty Crops Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250 (202) 447–5697.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA guidelines implementing Executive Order 12291 and Secretary's Memorandum 1512–1 and has been classified a "non-major" rule under criteria contained therein.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it would result in only minimal costs being incurred by the regulated nine handlers.

It is found that an emergency situation exists which makes it impractical, unnecessary, and contrary to the public interest to: (a) Allow an opportunity for written public comment on this final rules; and (b) postpone the effective time of this action until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because: (1) The percentages established herein for the 1982–83 marketing year apply to all merchantable filberts handled during that year; (2) currently handlers are shipping 1982 crop filberts in volume and this action must be taken promptly to achieve its purpose of releasing the full inshell trade demand quantity established November 19, 1982 (47 FR 52980); (3) handlers are aware of this action as recommended by the Board at an open meeting held November 12, 1982, and require no additional time to comply; and (4) this action relieves restrictions on handlers in that the final free percentage is greater than the preliminary free computed percentage currently effective.

This rule establishes final free and restricted percentages of 29 percent and 71 percent, respectively, for the 1982–83 marketing year. The establishment is pursuant to § 982.40 of the marketing agreement and Order No. 982, as amended (7 CFR Part 982), regulating the handling of filberts/hazelnuts grown in Oregon and Washington, and collectively referred to as the "order". The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

Section 982.40(b) of the order prescribes that prior to August 1 of a marketing year, the Filbert/Hazelnut Marketing Board shall recommend establishment of an inshell trade demand for that year to the Secretary. If the Secretary finds, on the basis of the Board's recommendation or other information, that volume regulation for that marketing year would tend to effectuate the declared policy of the act, the Secretary shall establish the trade demand. On November 19, 1982, a trade demand of 5,500 tons was established because anticipated inshell supplies were expected to be far in excess of inshell needs, and volume regulation appeared appropriate for the 1982–83 marketing year.

Section 982.40(c)(1) of the order requires the Board to compute and announce prior to September 20 preliminary computed free and restricted percentages to release 70 percent of the established trade demand for a marketing year. The difference between 100 percent and the preliminary computed free percentage shall be the preliminary computed restricted percentage. Accordingly, the Board computed and announced preliminary computed free and restricted percentages of 22 percent and 78 percent on September 16, 1982.

Upon determining that a firm field price has been established between growers and handlers, § 982.40(c)(2) requires the Board to compute and announce final computed free and restricted percentages to release 80 percent of the established trade demand. The difference between 100 percent and the final computed free percentage shall be the final computed restricted percentage. However, since a field price was never established until about the time of the Board's November 12 meeting, it never computed and announced any computed final percentages for the 1982–83 marketing year.

Under § 982.40(c)(3) of the order, the Board, on or before November 15, shall meet to recommend to the Secretary the final free and restricted percentages to release 100 percent, or up to 110 percent if market conditions justify, of the inshell trade demand previously established by the Secretary for the marketing year. On November 12, 1982, the Board met and recommended final free and restricted percentages of 29 percent and 71 percent to release 100 percent of the trade demand of 5,500 tons.

In calculating the percentages, the Board considered the following supply and demand information for the 1982–83 marketing year:

	Tons
Inshell supply:	
(1) Total production	18,500
(2) Less substandard, farm use, etc	1,535
(3) Merchantable production	16,965
(4) Plus carryover May 1, 1982 subject to regulation	622
(5) Supply to subject to regulation (Item 3 plus Item 4)	17,587
Inshell requirements:	
(6) Trade demand	5,500
(7) Less carryover May 1, 1982, not subject to regulation	396
(8) Adjusted trade demand	5,104
Percentages:	
(9) Free percentage (Item 8 divided by Item 5)	29
(10) Restricted percentage (100 percent minus 29 percent)	71

The free percentage prescribes that portion of the total merchantable supply subject to regulation which may be handled as inshell filberts. The restricted percentage prescribes that portion which must be withheld from such handling. Restricted filberts may be shelled (for domestic or foreign consumption) exported, or disposed of in outlets determined by the Board to be non-competitive with normal market outlets for inshell filberts.

List of Subjects in 7 CFR Part 982

Marketing Agreements and Orders, Filberts, Hazelnuts, Oregon, and Washington.

After consideration of all relevant matter presented, the information and recommendation submitted by the Board, and other available information, it is further found that the establishment under § 982.40, of final free and restricted percentages for the 1982–83 marketing year will tend to effectuate the declared policy of the act.

PART 982—[AMENDED]

Therefore, a new paragraph (b) is added to § 982.231 (46 FR 52087) to read as follows: (The following section will not be published in the Code of Federal Regulations).

§ 982.231 Trade demand and final free and restricted percentages—1982–83 marketing year.

* * * * *

(b) The final free and restricted percentages for merchantable filberts/hazelnuts for the 1982–83 marketing year shall be 29 percent and 71 percent, respectively.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: December 13, 1982.

D. S. Kuryloski,

Acting Director, Fruit and Vegetable Division.

[FR Doc. 82-34239 Filed 12-15-82; 8:45 am]
BILLING CODE 3410-02-M

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 2 and 9

Nomenclature Changes To Implement Executive Order 12356

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission is amending its regulations to incorporate references to Executive Order 12356, "National Security Information," and its Implementing Directive that were issued by the Information Security Oversight Office (ISOO). E.O. 12356 supersedes E.O. 12065.

EFFECTIVE DATE: December 16, 1982.

FOR FURTHER INFORMATION CONTACT: Richard A. Dopp, Security Policy Branch, Division of Security, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone (301) 427–4415.

SUPPLEMENTARY INFORMATION: On April 2, 1982, the President issued E.O. 12356, "National Security Information," that supersedes E.O. 12065. This new E.O. 12356 and its Implementing Directive, published by ISOO, became effective August 1, 1982.

The Nuclear Regulatory Commission is amending portions of 10 CFR Parts 2 and 9 to substitute references to E.O. 12356 and its Implementing Directive for previous E.O. 12065 (and in the case of Part 2, its antecedent, E.O. 11652, "Classification and Declassification of National Security Information and Material") and its Implementing Directive. All other aspects and procedures of Part 2, Subpart I, and Part 9, Appendix A, remain unchanged.

Because these amendments relate solely to minor reference matters and do not impose obligations on the public, good cause exists for omitting notice of proposed rulemaking and public procedure thereon, as unnecessary, and for making the amendments effective on December 16, 1982 without the customary 30 days notice.

Paperwork Reduction Act Statement

This final rule contains no new or amended requirements for recordkeeping, reporting, plans, applications, or any other types of information collection subject to the Paperwork Reduction Act of 1980, Pub. L. 96–511 (44 U.S.C. 3501, et seq.).

List of Subjects

10 CFR Part 2

Administrative practice and procedure, Antitrust, Byproduct material, Classified information, Environmental protection, Nuclear materials, Nuclear power plants and reactors, Penalty, Sex discrimination, Source material, Special nuclear material, Waste treatment and disposal.

10 CFR Part 9

Freedom of information, Penalty, Privacy, Reporting requirements, Sunshine Act.

(Sec. 161, Pub. L. 83–703, 68 Stat. 948, as amended (42 U.S.C. 2201), and Sec. 201, Pub. L. 93–438, 88 Stat. 1242 (42 U.S.C. 5841))

Under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 552 and 553, the following amendments to 10 CFR Parts 2 and 9 are published as a document subject to codification.

PART 2—RULES OF PRACTICE FOR DOMESTIC LICENSING PROCEEDINGS

1. In § 2.902, paragraph (d) is revised to read as follows:

§ 2.902 Definitions

* * * * *

(d) "National Security Information" means information that has been classified pursuant to Executive Order 12356.

* * * * *

PART 9—PUBLIC RECORDS

2. In Appendix A, all references to Executive Order 12065 in paragraphs 1.a., 2.b., and 3. are changed to Executive Order 12356, and the introductory text is revised to read as follows:

Appendix A—Request for Declassification Review

The following guidance is provided for members of the public desiring a classification review of a document of the Nuclear Regulatory Commission pursuant to section 3.4 of Executive Order 12356 (47 FR 14874, April 6, 1982) and sections 2001.32 and 2001.34 of the Information Security Oversight Office Directive No. 1 covering the original and derivative classification, downgrading, declassification, and safeguarding of National Security Information (47 FR 27836, June 25, 1982). A Freedom of Information Act or Privacy Act request for a classified document may also be made in accordance with the procedures set forth in §§ 9.8 and 9.53 through 9.55 of this part.

Dated at Washington, DC, this 10th day of December 1982.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 82–34220 Filed 12–15–82; 8:45 am]

BILLING CODE 7590–01–M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 523

[No. 82–790]

Interstate Institution Membership in Federal Home Loan Banks

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: The Federal Home Loan Bank Board ("Board") has amended its Federal Home Loan Bank System Regulations to provide a standard for determining appropriate Federal Home Loan Bank district membership for institutions, eligible to become Bank members, with offices in more than one state. Under the amendment, an interstate institution having substantial business in more than one state could become a member of the Bank district in which it has its principal place of business, as designated by the institution. A clarification of this issue is necessary in light of the increasing number of interstate institutions.

EFFECTIVE DATE: December 15, 1982.

FOR FURTHER INFORMATION CONTACT: David Permut, Attorney, Office of General Counsel, (202) 377–6962, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION: Section 4(b) of the Federal Home Loan Bank Act ("Bank Act") provides, in relevant part, that "An institution eligible to become a member or nonmember borrower under this section may become a member only of, or secure advances from, the Federal Home Loan Bank of the district in which is located the institution's principal place of business * * *." 12 U.S.C. 1424 (1932). Similarly, Section 5(f) of the Home Owners' Loan Act ("HOLA") provides, in relevant part, that Bank membership will be in "the district in which it [the institution] is located * * *." 12 U.S.C. 1464 (1933).

For the 49 years following passage of the Bank Act, with minor exceptions, the location (*i.e.*, the offices), and consequently the principal place of business, of most institutions could be only in one state and therefore, the institution could be eligible to be a member of only one Federal Home Loan Bank, "or of the bank of a district

adjoining such district, if demanded by convenience and then only with the approval of the [B]oard." 12 U.S.C. 1424(b).

In September 1981, the Board, as operating head of the Federal Savings and Loan Insurance Corporation ("FSLIC"), approved the first interstate acquisition and merger creating a single federal association with offices in three Federal Home Loan Bank districts. Since that time the number of interstate federal associations has increased, necessitating a reevaluation of the standards to be used by associations in determining their appropriate Federal Home Loan Bank membership. This is particularly true because the statutory term "principal place of business" is not defined in the Bank Act or by Board regulation.

On October 6, 1982, the Board proposed to amend Part 523 of the Bank System Regulations to allow an institution to choose its principal place of business pursuant to certain acceptable standards and settled rules of law, when it does substantial business in more than one state; this choice in turn would often also result in the choice of a Bank district. (Board Resolution No. 82–675, 47 FR 46292, published on October 18, 1982.) The Board set forth a proposed standard and specifically solicited comments as to other appropriate definitional standards including the definition of principal place of business in a choice-of-law or conflict-of-law context.

The Board received five comments in response to its proposal, which provided for a 30-day comment period. Three commenters were federal savings and loan associations; the other two were savings and loan trade associations. Three of the commenters recommended adoption of the regulation as proposed. Of the two remaining commenters, one generally supported the proposed amendment; the other asserted that the term "headquarters" indicates the principal place of business and a physical and legal move should be necessary to establish membership in a different Federal Home Loan Bank district. Both of the latter commenters had reservations about one or more aspects of the proposal. One felt it did not go far enough, the other that it would lead to standardization in the various Bank districts. The comments are reviewed in detail below in the discussion of the proposed amendment.

Principal Place of Business

Since the term "principal place of business" is not defined in the Bank Act, the Board has looked to other statutory and judicial interpretations to define the term. To determine where an entity is a citizen for purposes of court jurisdiction, interstate corporations look to Title 28 of the United States Code, Section 1332(c). That Section states, in relevant part, that "a corporation shall be deemed a citizen of any state by which it has been incorporated and of the state where it has its principal place of business * * *." 28 U.S.C. 1332(c). A review of the cases indicates that Section 1332(c) allows a determination of the principal place of business on a case-by-case basis through review of the institution's total activity. For example, it has been held that the principal place of business of a corporation is the "nerve center" from which it radiates out to its constituent parts and from which its officers direct, control, and coordinate all activities without regard to locale, in the furtherance of the corporate objective. *Scot Typewriter Co.* v. *Underwood Corp.*, 170 F. Supp. 862 (S.D.N.Y. 1959). Similarly, a court in interpreting Section 1332(c) has found that the principal place of business is the headquarters of day-to-day corporate activity and management, rather than the meeting place of policy-making directors. *Kelly* v. *United States Steel Corp.*, 284 F.2d 850 (3d Cir. 1960); *Knee* v. *Chemical Leamen Tank Lines, Inc.*, 294 F. Supp. 1094 (E.D. Pa. 1968).

Four of the commenters felt that 28 U.S.C. 1332(c) was an appropriate standard for determining principal place of business for interstate institutions. One institution was pleased that the standard adopted would allow institutions with substantial activity in more than one district to exercise business discretion in its choice of membership in a district Bank. That commenter further recommended that the Board consider seeking a revision to Section 4(b) of the Federal Home Loan Bank Act, 12 U.S.C. 1424(b), to allow multiple district bank membership, based upon the proportion of an institution's assets and liabilities in that district. The Board notes that multiple district bank membership was considered as a possible alternative to the present proposal, but it was preliminarily determined that supervision of an interstate institution with multiple district bank membership would become administratively cumbersome.

The fifth commenter suggested that interstate institutions retain their membership in the Federal Home Loan Bank with which they were affiliated prior to their achieving interstate status, unless they legally and physically moved their principal place of business or "headquarters." That commenter suggested that substantial business in more than one state was a nebulous criterion. The Board notes that in the *Kelly v. United States Steel Corp.* case referred to above, the "headquarters" was found to be the principal place of business under 12 U.S.C. 1332(c). The Board believes it should be the institution's business decision, based upon an acceptable standard and settled rule of law, to determine where its principal place of business is located when it does substantial business in more than one state. The determination of substantiality must be made in accordance with the same standards.

The fifth commenter also felt this regulation could lead to standardization of interest rates and terms in bank advances of the Federal Home Loan Banks, which the commenter said would not be in the best interest of the majority of savings and loan associations. While the Board contemplates that the positive effects of competition could produce some standardization of terms, it believes that this regulation will not affect the majority of institutions which are now eligible for Bank membership and that the several Banks will continue to accommodate the specific needs of the members in their districts.

The Board also considered the possible potential for abuse in "Bank shopping," due to differing policies on advances, personalities or administrative procedures of the various Banks, and the possibility of making the decision on membership changes in consultation with the member's current district Bank. Upon reviewing this issue, however, the Board does not believe that an institution would make a material change in its principal place of business solely because of more favorable advance rates or a less harsh supervisory attitude. The Board believes any such decision will be motivated by long-term economic benefits rather than short-term considerations. Consequently, the Board believes applications should be made by the institution directly to the district Bank where it desires membership, as already provided for in the Bank System Regulations of Part 523. To effectuate this the Board is also making technical amendments to sections 532.1 and 523.3–2 as proposed.

The Board also considered a limitation on redesignations for some period of time, but determined that a change of Bank districts should be a business decision of the institution and would not be lightly made. Any change in Bank membership would of necessity include negotiations with both district Banks involved as to stock holdings, membership charges, contractual

obligations regarding advances, and dividend policies. In the Board's view, these considerations will discourage frequent changes unless mandated by long-term economic benefits to the institution, again as a matter of business discretion.

Finally, the Board determined that there was no necessity to limit this regulation to federally-chartered interstate institutions. There are a number of state-chartered interstate institutions, such as insurance companies, which are Bank members, and which do substantial business in more than one state. Therefore, the final regulation has been amended to apply to all institutions eligible to become Bank members.

Final Regulatory Flexibility Analysis

Pursuant to Section 3 of the Regulatory Flexibility Act, Pub. L. No. 96–354, 94 Stat 1164 (September 13, 1980), the Board is providing the following regulatory flexibility analysis:

1. *Reason, objective and legal basis underlying the final rule.* These elements are incorporated above in the supplementary information and definitional sections regarding the regulation.

2. *Small entities to which the final rule would apply.* The final rule would apply equally to all institutions eligible to become Bank members.

3. *Overlapping or conflicting Federal rules.* There are no known federal rules that may duplicate, overlap or conflict with the final regulation.

4. *Alternatives to the final rule.* The final regulation will not have a significant economic impact on a substantial number of small entities, and there is no alternative action that would resolve satisfactorily the issue addressed.

List of Subjects in 12 CFR Part 523

Savings and loan associations, Principal place of business, Bank membership.

The Board finds that delay of the effective date of this regulatory action for 30 days after publication pursuant to 5 U.S.C. 553(d) and 12 CFR 508.14 is unnecessary because (1) It is a technical change that would have no substantial substantive effect on regulatory requirements, and (2) there is a present need for clarification in order to provide for orderly processing of Bank membership applications.

Accordingly, the Board hereby amends Part 523 of Subchapter B, Chapter V of Title 12, Code of Federal Regulations, as set forth below.

SUBCHAPTER B—FEDERAL HOME LOAN BANK SYSTEM

PART 523—MEMBERS OF BANKS

1. Revise § 523.1, as follows:

§ 523.1 Application form.

An applicant for membership in a Bank shall submit Board-approved forms in triplicate to that Bank.

2. Add a new § 523.3–2, as follows:

§ 523.3–2 Membership at principal place of business.

(a) *Eligibility.* An institution eligible to become a member of a Federal Home Loan Bank under the Federal Home Loan Bank Act may become a member only of, or secure advances from, the Federal Home Loan Bank of the district in which the institution's principal place of business is located, or of the Bank of a district adjoining such district if demanded by convenience and then only with the approval of the Board.

(b) *Principal place of business.* If an institution is localized in one state, or primarily in one state, its principal place of business is that state. If an institution does substantial business in more than one state, that institution may designate as its principal place of business a state in which it could be deemed to have its principal place of business under the provisions of 28 U.S.C. 1332(c).

(Sec. 17, 47 Stat. 736, as amended; 12 U.S.C. 1437, Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR 1947 Supp.)

Dated: December 8, 1982.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 82–34194 Filed 12–15–82; 8:45 am]

BILLING CODE 6720–01–M

---

12 CFR Part 531

[No. 82–789]

Policy Statement on Advances to Members

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: The Federal Home Loan Bank Board has revised its current policy statement governing Federal Home Loan Bank advances to provide a unified and cohesive framework for the Banks' advances policies, to clarify the financial principles to which the Banks adhere in making advances, and to enhance the usefulness of the Bank System to its members. The financial principles to be utilized by the Banks in making advances provide that (1) Advances with maturities up to ten years generally will be offered, (2) advances will be priced above the current replacement cost of Bank obligations of comparable maturities, and (3) commitment and prepayment fees which protect the Banks from undue interest-rate risk generally will be required. The new policy statement broadens the purposes for which advances may be used by members and delineates the circumstances under which a member's application may be limited or denied.

EFFECTIVE DATE: January 1, 1983.

FOR FURTHER INFORMATION CONTACT: Susan C. Evans, Senior Financial Analyst, Office of District Banks (202–377–6658), or Deborah Jenkins, Attorney, Office of General Counsel (202–377–6464), Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION: The current policy statement on advances, codified in section 531.1 of the Board's Regulations for the Federal Home Loan Bank System (12 CFR 531.1), has existed substantially in its present form since the early 1960s. The current policy was designed for a thrift industry that was restricted generally to home finance, and for an economic environment in which interest rates remained stable and deposits were strictly regulated as to terms and rates. Given the broad range of powers now available to thrift institutions, the new competitive, deregulated environment for financial institutions, the volatility of interest rates, and the hedging opportunities available to reduce interest-rate risk, the Board undertook an intensive study of the Banks' advances policies in order to develop a new policy statement on advances that recognizes these fundamental changes.

Currently, § 531.1 addresses the credit standards to be utilized by the Banks in making advances and the purposes for which advances may be used by members. The policy statement authorizes the Banks to make advances to enable members to meet savings withdrawals, cover seasonal requirements, and expand residential mortgage portfolios. The policy restricts the use of Bank advances for increasing cash positions, purchasing securities, funding withdrawals requested or encouraged by a member, engaging in arbitrage, or for taking advantage of interest-rate differentials. The Banks are required to scrutinize the purposes for which the advances are requested, the member's loan commitments, credit practices, reserve levels, expense ratios, and the local housing market.

In view of the changes in the legal and economic environment, the Board believes that the current policy statement should be modernized and should be replaced by a statement of policy that will facilitate the Banks' advances programs and foster sound asset/liability management by members in the future. The Board believes that such changes will enhance the usefulness of advances to members throughout the Bank System.

The revised policy statement sets forth the terms and conditions of Bank advances, broadens the uses of such advances by borrowing members, delineates the circumstances under which a member's application may be limited or denied, and enunciates general Board limitations on the Banks' advances programs. The specific revisions adopted by the Board as well as the reasons underlying their adoption are discussed below.

Section 531.1(a) (General). This paragraph sets forth the primary credit mission of the Banks and states that the Banks have a responsibility to preserve their financial integrity and long-term viability and to offer advances programs that are prudent and profitable. It is implicit in this provision that advances should not be priced to provide a subsidy to members except as explicitly authorized under special programs such as the Community Investment Fund. The Board has clarified that the limitations on the Banks' advances policy are those which protect the financial integrity of the Banks and accommodate the practical constraints of the Banks.

Section 531.1(b) (Terms and conditions). This paragraph requires that the Banks generally offer a range of advances maturities up to ten years. The Board believes that in light of the available means to hedge, the ability to raise longer term debt, and the pricing flexibility permitted, the Banks generally should be able to offer a broad maturity range without undue financial risk. To foster the financial integrity and long-term viability of the Banks, this paragraph provides that pricing for advances will be above the replacement cost of Bank obligations and that the use of prepayment and commitment fees generally will be required to protect the Banks from undue interest-rate risk.

Section 531.1(c) (Use of advances). This paragraph clarifies the requirement of the Banks to consider the creditworthiness of borrowers in granting advances. Incorporating relevant portions of paragraphs (a) and (e) of the current policy statement, the new policy statement also broadens the purposes for which advances can be used by members. The Board recognizes that the Bank Act does not restrict the use of advances specifically to home financing, and that the Garn-St Germain Depository Institutions Act of 1982 has expanded significantly the powers of federal associations. Accordingly, because the Banks' primary credit mission is to provide a reliable source of credit to creditworthy members, the Board has provided that members may use the funds borrowed from the Banks for any sound business purpose in which members are authorized to engage. The Board has not established a hierarchy of uses for advances, although the Banks may ration available funds.

Further, for the reasons already stated and in light of increasing deregulation of interest rates, the Board believes it is no longer appropriate to restrict the use of advances to cover savings withdrawals on the basis of the reasons for the withdrawals. The limitation on advances for arbitrage purposes, contained in paragraph (c) of the current policy statement, also has been eliminated because the Board believes that all advances are in fact arbitraged and the Banks can adequately discourage inappropriate arbitraging by rationing advances through pricing.

Section 531.1(d) (Credit consideration). This paragraph compiles and simplifies the credit standards described in portions of paragraphs (a), (b), (d) and (e) of the current policy statement. Consideration of the level of a member's loan commitments is implicit in these standards.

The Board has determined that the notice and public comment procedure prescribed by 12 CFR 508.9 and 5 U.S.C. 553(b) is not necessary because the Board's action is interpretive and an amendment of a statement of policy, and because it is in the public interest to implement these changes without delay to clarify the Board's policy on advances to member institutions of the Federal Home Loan Bank System and to relieve certain restrictions contained in the current policy statement. The Board also finds that the 30-day delay of the effective date following publication as prescribed in 5 U.S.C. 553(d) and 12 CFR 508.14 is unnecessary for the same reasons.

List of Subjects in 12 CFR Part 531

Federal home loan banks.

Accordingly, the Federal Home Loan Bank Board hereby amends Part 531, Subchapter B, Chapter V of Title 12, Code of Federal Regulations, as set forth below.

SUBCHAPTER B—FEDERAL HOME LOAN BANK SYSTEM

PART 531—STATEMENTS OF POLICY

Revise § 531.1 as follows:

§ 531.1 Policy on advances to members.

(a) *General.* The primary credit mission of the Federal Home Loan Banks is to provide a reliable source of credit for member institutions as defined in the Federal Home Loan Bank Act. The Banks are principally financial intermediaries and, as such, must preserve their financial integrity and long-term viability by maintaining adequate net worth to support borrowings and liquidity sufficient to meet members' needs. Within these constraints, the Banks should offer to all members as wide a range of advances programs as is prudent and profitable. The Banks may make advances to members subject to regulations and limitations which the Board may from time to time prescribe. Limitations on advances should be those which protect the financial integrity of the Banks and accommodate the practical constraints of the Banks.

(b) *Terms and conditions.* The Banks generally shall offer a range of advances maturities up to ten years. Advances shall be offered within a range of rates established by the Board that is above the current replacement cost of Federal Home Loan Bank obligations of comparable maturities. Prepayment and commitment fees which protect the Banks from undue interest-rate risk generally shall be required.

(c) *Use of advances.* Advances generally shall be made to creditworthy members, upon application for any sound business purpose in which members are authorized to engage. Such purposes include, but are not limited to, making residential mortgage, consumer, and commercial loans, covering savings withdrawals, accommodating seasonal cash needs, restructuring liabilities, and maintaining adequate liquidity.

(d) *Credit consideration.* Advances may be limited or denied if a member engages in unsafe or unsound practices, has inadequate net worth, is sustaining operating losses, or has other financial or managerial deficiencies, as determined by the board of directors of its Federal Home Loan Bank, that bear upon its creditworthiness.

(Sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1437); Sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); Secs. 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended (12 U.S.C. 1725, 1726, 1730); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR 1943–48 Comp., p. 1071)

Dated: December 8, 1982.

By the Federal Home Loan Bank Board.
J. J. Finn,
Secretary.

[FR Doc. 82-34193 Filed 12-15-82; 8:45 am]
BILLING CODE 6720-01-M

12 CFR Part 564

FSLIC Insurance Coverage of Loan Payments Held by Loan Servicers

Dated: December 8, 1982.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: This document clarifies the text of the Board's recent final regulations relating to insurance coverage of loan-servicing accounts of savings and loan associations whose accounts are insured by the Federal Savings and Loan Insurance Corporation ("insured institutions"), and also makes several technical corrections to these regulations and related provisions. These amendments will facilitate participation of insured institutions in secondary markets as servicers and depositories.

EFFECTIVE DATE: September 9, 1982.

FOR FURTHER INFORMATION CONTACT: Lee Lassiter (202-377-6456), Attorney, or Cynthia D. Farmer (202-377-472), Legal Assistant, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION: On September 9, 1982, the Federal Home Loan Bank Board adopted amendments to its regulations with respect to insurance coverage for loan payments placed by a servicer in an institution the accounts of which are insured by the Federal Savings and Loan Insurance Corporation, to provide the loan payments are insured as if the servicer placing the funds in the institution is acting as agent for each borrower. FHLBB Resolution No. 82-614; 47 FR 41099 (September 17, 1982). A public comment period was also offered through October 11, 1982.

The Board received a total of six comment letters in response to Resolution No. 82-614. Three were from federally-chartered savings and loan associations, and one each from a state-chartered savings and loan, a savings and loan trade association, and a law firm. Of these, three commenters favored the rule as drafted and the remaining three commenters supported the rule but desired further language clarification. Specifically, two letters suggested that loan-servicing accounts be insured separately from other accounts of the borrower in the same institution, but did not cite any authority for providing insurance on this basis. A suggestion that the status of special loan payments be clarified is believed by the Board to be unnecessary since the preamble of the adopted regulation specifically stated that the insurance coverage applied to all components of loan payments, including principal, interest, tax and insurance escrow payments, penalties and late charges. A commenter's recommendation to the effect that the regulation should accommodate changes resulting from sales of loans in the secondary market was not accepted by the Board because such changes do not affect the insurance coverage provided.

The comment letters and the Board's experience under the current regulation have, however, raised two technical points that the Board believes is necessary to address in modifications to the regulations. First, § 564.3(b)(2) is being revised to state simply that loan servicer accounts will be insured as agency accounts. Accordingly, the existing recordkeeping requirements for agency accounts generally are to be applied in determining the amount of insurance coverage for loan servicer accounts. Thus, the account records of the institution must disclose that the servicer has established the account as agent for borrower payments. In addition, either the account records of the institution or the loan records of the servicer maintained in good faith and in the regular course of business must disclose the amount of each borrower's payment, and the account into which each payment is deposited.

Second, the final rule also amended the Appendix to Part 564 by deleting Example 9 of Part G (Trust Accounts); however, Example 10 following the deleted Example refers to Example 9 expressly. The Board is taking this opportunity to conform this reference by designating Example 10 as Example 9 and removing a now unnecessary sentence therein.

The amendments provide that FSLIC insurance coverage for loan payments placed by a servicer in accounts of an insured institution is provided as if the servicer is acting as agent for each borrower. This coverage is provided regardless of characterization of the actual legal relationship of the servicer to the borrower, investors or the institution. Further, the amendments do not preclude insurance on some other basis, such as a trust relationship, if all applicable requirements are met. Lastly, the Board is taking this opportunity to restate the amendments, as revised, in their entirety.

The Board has determined that the notice and public comment procedures of 5 U.S.C. 553(b) and 12 CFR 508.11 are unnecessary and not in the public interest. The public interest is served by immediate implementation of these amendments because they clarify and expand insurance coverage. The Board also finds that the requirement for a 30-day delayed effective day under 5 U.S.C. 553(d) and 12 CFR 508.14 is not applicable in this case. The Board finds that it is in the public interest to amend the regulation and make the needed clarifications without delay. The amendment also relieves restrictions that savings and loans may have experienced in fully participating in the secondary mortgage market as both servicers and depositories for all components of loan payments by removing any ambiguities concerning insurance coverage of such payments.

List of Subjects in 12 CFR Part 564

Savings and loan associations, Insurance.

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 564—SETTLEMENT OF INSURANCE

Accordingly, the Board is hereby amending Part 564 and the Appendix following Part 564 of Subchapter D, Chapter V of Title 12, Code of Federal Regulations, as set forth below.

1. Revise paragraph (b) of § 564.3 as follows:

§ 564.3 Single ownership accounts.

* * * * *

(b) *Accounts held by agents or nominees.* (1) Funds owned by a principal and invested in one or more accounts in the name or names of agents or nominees shall be added to any individual accounts of the principal and insured up to $100,000 in the aggregate.

(2) A loan servicer who receives loan payments and places or maintains such payments in an insured institution prior to remittance to the lender or other parties entitled to the funds shall, for insurance-of-accounts purposes, be considered an agent of each borrower.

* * * * *

2. Amend the Appendix to Part 564 by adding Example 7 to Part A (Single Ownership Accounts), as follows:

Appendix—Examples of Insurance Coverage Afforded Accounts in Institutions Insured by the Federal Savings and Loan Insurance Corporation

* * * * *

Example 7

Question: X Corporation acts as a servicer of FHA, VA, and conventional mortgage loans. Each month X Corporation receives and keeps records of principal, interest, late charge, and other payments from approximately 2,000 mortgagors. The servicer commingles these funds, places the funds in an insured institution, identifies the borrower, the amount of each borrower's payment and the account into which each payment is deposited and denominates the account with the name "X Corporation as Agent for Mortgagor Payments." The monies received and deposited total $1,000,000. What is the insurance coverage?

Answer: X Corporation, the servicer, acts as agent for the 2,000 individual mortgagors. The interest of each mortgagor-principal is separately insured as his individual account (but added to any other individual accounts which the principal holds in the same institution). (§ 564.3(b)).

* * * * *

3. Amend the Appendix to Part 564 by redesignating Example 10 as Example 9, and removing the first sentence of the answer to the redesignated example.

(Sec. 308, Pub. L. No. 96–221; Secs. 401, 402, 403, 405, 48 Stat. 1225, 1256, 1257, 1259, as amended; 12 U.S.C. 1724, 1725, 1726, 1728. Reorg. Plan. No. 3 of 1947, 12 FR 4981, 3 CFR. 1943–48 comp., p. 1071)

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 82–34192 Filed 12–15–82; 8:45 am]

BILLING CODE 6720–01–M

DEPOSITORY INSTITUTIONS DEREGULATION COMMITTEE

12 CFR Part 1204

[Docket No. D–0026]

Money Market Deposit Account

AGENCY: Depository Institutions Deregulation Committee.

ACTION: Final rule.

SUMMARY: The Depository Institutions Deregulation Committee ("Committee") authorized the Money Market Deposit Account ("MMDA") effective December 14, 1982. See 47 FR 53710 (November 29, 1982). As originally authorized, the Committee restricted the MMDA to a maximum of six preauthorized, automatic or other third-party transfers per month. The Committee also determined at that time to permit unlimited telephone transfers from the MMDA to another account of the same depositor at the same depository institution. At its December 6, 1982 meeting, the Committee reconsidered this question and decided that, in order to reduce the potential for the MMDA to be a transaction account, telephone transfers from the MMDA to another account of the same depositor at the same depository institution will be counted in determining compliance with the limit of six transfers per month.

In a separate action, the Committee amended the definition of "month," for purposes of determining compliance with the transaction limitations, the minimum average balance requirements and the interest rate guarantee limitations. The new definition provides that a "month" may be (at the depository institution's option) a calendar month or statement cycle; with a statement cycle normally being 28 to 31 days, but occasionally being as long as 35 days. The Committee took this action because a number of depository institutions indicated that they had statement cycles that occasionally exceeded the 31-day maximum of the Committee's previous rule.

EFFECTIVE DATE: December 14, 1982.

FOR FURTHER INFORMATION CONTACT: Alan Priest, Attorney, Office of the Comptroller of the Currency (202/447–1880); F. Douglas Birdzell, Counsel, and Joseph A. DiNuzzo, Attorney, Federal Deposit Insurance Corporation (202/389–4147); Rebecca Laird, Senior Associate General Counsel, Federal Home Loan Bank Board (202/377–6446); Paul S. Pilecki, Senior Attorney, Board of Governors of the Federal Reserve System (202/452–3281); or Elaine Boutilier, Attorney-Adviser, Treasury Department (202/566–8737).

SUPPLEMENTARY INFORMATION: Section 327 of the Garn-St Germain Depository Institutions Act of 1982, Pub. L. No. 97–320, directed the Committee to establish a new account (now designated the MMDA) effective December 14, 1982. On October 19, 1982, the Committee published a request for comments regarding characteristics of the MMDA (47 FR 45630). That request noted that, in the staff's view, a telephone transfer from the MMDA to another account of the same depositor at the same depository institution should be considered a preauthorized or automatic transfer for purposes of any numerical restriction on the number of preauthorized or automatic transfers from the MMDA. Many of the comments received by the Committee expressed disagreement with this staff position.

At its November 15, 1982 meeting, the Committee adopted the MMDA regulation effective December 14, 1982, which establishes a limit of six preauthorized or automatic transfers of funds from an MMDA per month no more than three of which may be by check or draft drawn by the depositor. However, the Committee determined that, for purposes of this numerical limitation, a telephone transfer from the MMDA to another account of the same depositor at the same institution would not be considered a preauthorized or automatic transfer. In its publication of the MMDA regulations, the Committee noted that it would reconsider this issue at its next meeting (47 FR 53715).

At its December 6, 1982 meeting, the Committee reconsidered the telephone transfer issue in the context of two decisions made at that time. The first was the Committee's determination, effective January 5, 1983, to establish a new rule for the payment of interest on NOW accounts with a minimum balance of $2500. A depository institution may pay any rate of interest on such accounts that also meet certain conditions that apply to MMDAs. NOW accounts permit unlimited transactions (including unlimited telephone transfers), and eligibility is limited by statute to individuals, certain nonprofit organizations and governmental entities. The second relevant decision was the determination to request comments on amending the MMDA regulation to allow depository institutions to offer an unlimited transactions version of the MMDA to those customers (primarily for-profit corporations) that are not eligible to have NOW accounts. The Committee noted that allowing unlimited telephone transfers from the MMDA to other accounts of the same depositor at the same depository institution made it possible to utilize the MMDA much like a transaction account. This potential use for MMDA funds made more problematic the Federal Reserve Board's definition and use of monetary aggregates. The Committee also noted the Federal Reserve Board's recent decision to impose transaction account reserves on MMDAs where a depository institution did not count a telephone transfer as a preauthorized or automatic transfer for purposes of the six transfers per month limitation (*See* 47 FR 55207 (December 8, 1982)).

Given the above summarized facts and decisions, the Committee determined that a telephone transfer from the MMDA to another account of the same depositor at the same depository institution will be considered a preauthorized or automatic transfer for purposes of the MMDA regulation's limit of six transfers per month.

In so doing, the Committee noted that telephone transfers from the MMDA effecting payment to third parties continue to be subject to the limit of six transfers per month. However, the Committee also noted that withdrawals

made by telephone from the MMDA and paid to the depositor are not subject to the limitation on preauthorized or automatic transfers. In this regard, unlimited withdrawals are permitted where the depository institution sends a check to its MMDA customer in response to a telephonic instruction from that customer.

At its November 15, 1982 meeting, the Committee defined the term "month" as either (at the depository institution's option) a calendar month or statement cycle of at least four weeks, but not longer than 31 days. This definition applied for purposes of determining compliance requirements stated in monthly terms, *i.e.*, the six-transaction limitations, the minimum average balance requirements, and the interest rate guarantee limitations. A number of institutions brought to the Committee's attention the fact that the 31-day maximum creates occasional difficulties for depository institutions that utilize statement cycles keyed to working days rather than calendar days. For example, if an institution utilized a statement cycle that ends on the fourth working day of each month, the statement cycle covering the August 1982 period would have been 33 days long; if the statement cycle ended on the first Tuesday of each month, in August 1982, the statement cycle would have been 35 days long. Although these "longer" statement cycles occur infrequently, such as two or three times a year, following the rule would cause institutions to be in technical violation of the rule or create unnecessary operational burdens on depository institutions.

In response to this problem, the Committee, in a separate action, made a technical amendment to the MMDA regulation by defining a "month" to be either a calendar month or a statement cycle, with a statement cycle normally being 28–31 days, but occasionally being as long as 35 days. This action would provide depository institutions with maximum flexibility in designing MMDAs within their existing operational structures or with minimal adjustments. A depository institution, at its option, may use either a calendar month or statement cycle, provided it does so consistently.

As discussed above, the Committee requested and received public comments on whether telephone transfers from the MMDA to other accounts of the same customer should be considered automatic or preauthorized transfers for purposes of the Committee's MMDA regulations. In addition, in its November 29, 1982 publication of its MMDA regulations, the Committee advised that the telephone transfer issue would be reconsidered at its next meeting. With respect to the new definition of a month, it is noted that this is a technical amendment providing greater flexibility to depository institutions and, as such, relieves a restriction. Because the MMDA regulations have a statutorily mandated effective date of December 14, 1982, the Committee's action must be effective on that date. In light of the foregoing, good cause exists for not following the prior notice, opportunity for comment and deferred effective date provisions of 5 U.S.C. § 553. In view of the Committee's findings, sections 603 and 604 of the Regulatory Flexibility Act (5 U.S.C. 603 and 604) are not applicable. Furthermore, because of the nature of this action, the Committee finds that good cause exists under section 1201.6(e) of the Committee's regulations for making this action effective less than 30 days from the date of publication in the **Federal Register.**

List of Subjects in 12 CFR Part 1204

Banks, banking.

PART 1204—[AMENDED]

Pursuant to its authority under Title II of Pub. L. No. 96–221 (94 Stat. 142; 12 U.S.C. 3501 *et seq.*) to prescribe rules governing the payment of interest and dividends on deposits and accounts of federally insured commercial banks, savings and loan associations, and mutual savings banks, and pursuant to the authority granted by Section 327 of the Garn-St Germain Depository Institutions Act of 1982, Pub. L. No. 97–320 (to be codified at 12 U.S.C. 3503), the Committee amends Part 1204 (Interest on Deposits) by revising paragraphs (b) and (e)(1) of § 1204.122, effective December 14, 1982, to read as follows:

§ 1204.122 Money Market Deposit Account.

* * * * *

(b) The average balance for this account may be calculated on the basis of the average daily balance over any computation period selected by an institution, which is not longer than one month. (For purposes of this paragraph and paragraphs (c) and (e) of this section, a "month" shall mean, at a depository institution's option, either a calendar month or a statement cycle. A statement cycle is normally 28 to 31 days, but may occasionally be as long as 35 days.)

* * * * *

(e)(1) Depository institutions are not required to limit the number of transfers of funds from this account to another account of the same depositor when made by mail, messenger, automated teller machine or in person. Depository institutions are not required to limit the number of withdrawals (*i.e.*, payments directly to the depositor) from this account when made by mail, telephone (via check mailed to the depositor), messenger, automated teller machine or in person. Depository institutions must restrict all preauthorized (including automatic) transfers of funds from this account to a maximum of six per month. Three of such transfers may be by check, draft or similar device drawn by the depositor to third parties. Telephone transfers to third parties or to another account of the same depositor are regarded as preauthorized transfers. There is no required minimum denomination for the transfers allowed by this section.

* * * * *

By order of the Committee, December 14, 1982.

Mark Bender,

Acting Executive Secretary.

[FR Doc. 82–34288 Filed 12–15–82; 8:45 am]

BILLING CODE 4810–25–M

---

12 CFR Part 1204

[Docket No. D–0028]

NOW Accounts of $2,500 or More

AGENCY: Depository Institutions Deregulation Committee.

ACTION: Final rule.

SUMMARY: The Depository Institutions Deregulation Committee ("Committee") has established a new rule for the payment of interest on NOW accounts with a minimum initial and average balance requirement of $2,500. A depository institution may pay any rate of interest on such accounts if it meets the following conditions that also apply to the Money Market Deposit Account (12 CFR 1204.122) ("MMDA"): (1) An institution must reserve the right to require seven days' notice prior to withdrawal; (2) compliance with the average balance requirement may be computed over a period no longer than one month; (3) the existing NOW account ceiling rate (5¼ percent) applies to accounts that do not meet the average balance requirement; (4) an interest rate may not be guaranteed for longer than one month; and (5) loans are not permitted to meet the $2,500 initial or average balance requirement. These rules apply to accounts that are authorized under 12 U.S.C. 1832(a).

Accordingly, such accounts are available *only* to individuals, nonprofit organizations operated primarily for religious, philanthropic, charitable, educational, fraternal and other similar purposes, and to governmental units. This action was taken by the Committee in connection with its responsibility under the Depository Institutions Deregulation Act to phase out deposit interest rate ceilings as rapidly as economic conditions warrant.

EFFECTIVE DATE: January 5, 1983.

FOR FURTHER INFORMATION CONTACT: Paul S. Pilecki, Senior Attorney, Board of Governors of the Federal Reserve System (202/452–3281); Rebecca Laird, Senior Associate General Counsel, Federal Home Loan Bank Board (202/377–6446); Joseph A. DiNuzzo, Attorney, Federal Deposit Insurance Corporation (202/389–4147); Alan Priest, Attorney, Office of the Comptroller of the Currency (202/447–1880); or Elaine Boutilier, Attorney-Adviser, Treasury Department (202/566–8737).

SUPPLEMENTARY INFORMATION: The Depository Institutions Deregulation Act of 1980 (Title II of Pub. L. 96–221; 12 U.S.C. 3501 *et seq.*) ("DIDA") was enacted to provide for the orderly phase out and ultimate elimination of the limitations on the maximum rates of interest and dividends that may be paid on deposit accounts by depository institutions as rapidly as economic conditions warrant. Under DIDA, the Committee is authorized to phase out interest rate ceilings by any one of a number of methods, including the elimination of limitations applicable to particular categories of accounts, the creation of new account categories not subject to interest rate ceilings or with interest rate ceilings set at market rates of interest.

The Committee has considered the issue of short-term time deposits at each of its meetings since June 25, 1981. At that meeting, the Committee determined to request public comment on the desirability of authorizing a new deposit instrument having characteristics similar to money market mutual funds ("MMFs") (46 FR 36712, July 15, 1981). Over 400 comments were received in response to the Committee's request.

The Committee considered these comments at its September 22, 1981 meeting and determined to solicit additional public comment (46 FR 50804, October 15, 1981) on several specific proposals for a short-term deposit designed to compete with money market instruments that are available in denominations of less than $100,000. The three specific proposals were: (1) A ceilingless, $5,000 minimum denomination account with a transactions feature; (2) a time deposit with an initial maturity of 91 days, and a 14-day notice period thereafter, with a ceiling rate tied to the 13-week Treasury bill rate; and (3) a ceilingless $25,000 minimum denomination 1-day notice account. Comment was requested on several specific account characteristics as well. On December 16, 1981, the Committee postponed consideration of the matter until its next meeting.

At its March 22, 1982 meeting, the Committee considered the comments received and authorized, effective May 1, 1982, a new category of time deposit with a minimum denomination of $7,500, a maturity of 91 days, and a fixed interest rate ceiling based on the most recent rate (auction average on a discount basis) established and announced for U.S. Treasury bills with maturities of 91 days. At that time, the Committee recognized that the new deposit category would not be fully competitive with instruments being offered by non-depository institutions. Therefore, the Committee directed its staff to continue efforts to design additional short-term deposit categories to enable depository institutions to compete more effectively with MMFs.

After consideration of the comments received and the analysis and discussions from previous meetings, as summarized above, the Committee determined to authorize, effective September 1, 1982, a new category of short-term time deposit with the following principal characteristics: (1) A minimum denomination of $20,000; (2) a maturity or required notice period of no less than seven days and no more than 31 days as agreed to by the depositor and the institution; and (3) a ceiling rate for all depository institutions based on the 91-day Treasury bill rate (auction average on a discount basis) at the most recent auction.

Of all the instruments put forth for comment in October 1981, the $5,000 minimum denomination transaction account was clearly the most popular because it was generally perceived to be the most competitive vis-a-vis MMFs. Nevertheless, the Committee declined to authorize such an instrument, principally because of the large increase in the interest costs of depository institutions—particularly thrifts—that could have resulted from massive shifting of funds out of low-yielding passbook accounts. Indeed, the two accounts subsequently created by the Committee were structured expressly to limit the extent of such shifting. More recently, at its September meeting the Committee considered petitions by four state regulatory agencies to permit federally-insured depository institutions in those states to offer "Super NOW accounts" or similar accounts. These petitions were denied partly because of the probable impact on earnings of thrift institutions and the potential for disruptions in regional flows of funds; the Committee also wanted to delay action on a selective state-by-state basis until after Congress had authorized expanded asset powers for the thrift institutions, after which the Committee wanted to consider creating a new account that would be available nationwide.

In October 1982, Congress directed the Committee to establish a category of account "directly equivalent to and competitive with money market mutual funds." The Committee established the Money Market Deposit Account ("MMDA"), effective December 14, 1982, with a $2,500 minimum balance, no interest rate ceiling and limited transactions capability (47 FR 53710, November 29, 1982).

When the Committee requested comment on the MMDA in October, numerous respondents expressed a desire to have the option of offering the account with unlimited transfers and drafts. Many others simply assumed that institutions would have the choice of limiting third-party transfers or structuring the account without such limits, recognizing that the latter option would entail transaction account reserve requirements. Institutions who favored unlimited transfers cited the liquidity and access features of MMFs as key ingredients to their success, and felt that any account intended to compete effectively with MMFs must allow institutions similar flexibility to provide full transactions capabilities.

In light of the authorization of the congressionally mandated MMDA, the Committee believes that it is now appropriate to authorize a transaction account not subject to a rate ceiling. In this regard, the MMDA will likely attract a substantial amount of funds from passbook accounts. Consequently, the Committee believes that the additional effects on shifts of funds from passbook accounts caused by a market-rate transaction account will be minimal and that the earnings effects associated with such an account, therefore, will be diminished considerably.

Accordingly, effective January 5, 1983, the Committee has established a new rule for the payment of interest on NOW accounts that are offered with the following features, many of which also have been established in connection with the MMDA:

(1) $2,500 minimum initial and average balance requirement;

(2) No interest rate ceiling when the average balance is equal to or in excess of $2,500;

(3) The existing NOW account ceiling (5¼ percent) applies when the average balance is less than the minimum average balance;

(4) Compliance with the average balance requirement may be determined over a period of one month;

(5) Institutions must reserve the right to require at least seven days' notice prior to withdrawal;

(6) Loans are not permitted to meet the $2,500 minimum amount;

(7) Unlimited deposit and withdrawal capability; and

(8) Availability to depositors currently eligible to maintain NOW accounts under Federal law.

Minimum balance requirement. The Committee determined to impose an initial balance requirement of $2,500 on NOW accounts that are exempt from rate ceilings. In addition, there will be a minimum balance requirement of $2,500. Depository institutions are free to establish higher balance requirements if they wish.

Compliance with minimum balance requirement. As with the MMDA, a depository institution may determine compliance with the minimum balance requirement (but not the minimum initial balance requirement) by using an average daily balance calculated over any computation period it chooses, such as one day, one week or one month, provided that such a computation period is no longer than a month. A "month" is defined to be either a calendar month or statement cycle (or similar period) of at least 28 days but no longer than 31 days, except that a statement cycle occasionally may be as long as 35 days. Thus, for example, an institution could choose to determine compliance with the minimum balance requirement through the use of a one-week computation period. A depositor will have met the requirement if the average daily balance in the account during the one week computation period is equal to or above $2,500. In order to ensure compliance with the account's minimum initial deposit and balance requirements, the Committee prohibited loans for the purpose of meeting those requirements.

The current ceiling on NOW accounts (5¼ percent) will continue to apply to NOW accounts that have balances of less than $2,500 and to other NOW accounts that are not subject to the conditions under which a NOW account may be offered without regard to a ceiling rate. The 5¼ percent NOW account ceiling rate will apply for the entire computation period in which the average balance in the account is less than $2,500. For example, an institution which uses an average balance computed over a seven-day period may pay a depositor a rate not in excess of 5¼ percent for the entire seven-day period if the depositor's average daily balance during that seven-day period is less than $2,500. Depending on the computation period chosen and the interest crediting practices of the institution, the lower rate may have to be imposed on an *ex post* basis.

Guarantee of rate. The Committee determined to impose a maximum limitation of one month (as defined above) on the length of time a depository institution may commit itself to pay any rate of interest or commit itself to employ any method of calculation of the rate of interest on the new account. The Committee also determined to prohibit an institution from conditioning the rate of interest paid or the method of calculation of the rate of interest paid on the new account on the length of time a deposit is maintained, if that length of time is longer than a month (as defined above). For example, a depository institution may not obligate itself to pay the 91-day Treasury bill rate for a period of six months. Nor may a depository institution, in effect, guarantee a specified or indexed rate of interest for over one month by agreeing to pay a rate (*e.g.*, 30%) for one month on the condition that the deposit will be maintained for over one month (*e.g.*, 180 days).

Reservation of notice. The Committee imposed a requirement that institutions reserve the right to require at least seven days' prior notice of withdrawals or transfers from NOW accounts not subject to a ceiling rate. The Committee determined that if an institution chooses to exercise its right to require notice, it must apply that requirement equally to all depositors that maintain accounts subject to the new interest payment rules.

Additions to the account. The Committee determined to impose no restrictions on the size or frequency of additions to the new account, including additions effected by sweeps from other accounts into the new account.

Transactions and withdrawals. As with existing NOW accounts, depository institutions may permit withdrawals to be made from ceiling-free NOW accounts by any means and without limit as to size or frequency.

Eligible depositors. The class of depositors eligible to maintain NOW accounts is specified in the Consumer Checking Account Equity Act of 1980 (12 U.S.C. 1832(a)), section 706 of the Garn-St Germain Act (96 Stat. 1540), and regulations of the Federal Reserve Board (12 CFR 217.157), the Federal Deposit Insurance Corporation (12 CFR 329.103) and the Federal Home Loan Bank Board (12 CFR 532.2). Under the Consumer Checking Account Equity Act, NOW accounts may consist of "funds in which the entire beneficial interest is held by one or more individuals or by an organization which is operated primarily for religious, philanthropic, charitable, educational or other similar purposes and which is not operated for profit." The Garn-St Germain Act extends NOW account eligibility to funds of "the United States, any State, county municipality or political subdivision thereof, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, any territory or possession of the United States, or any political subdivision thereof." These are the only depositors that are permitted to have NOW accounts. Deposits in which any beneficial interest is held by a corporation, partnership, association, or other organization that is operated for profit or is not operated primarily for religious, philanthropic, charitable, educational, fraternal or other similar purposes, or that is not a governmental unit may not be classified as NOW accounts.

Reserve requirements. Currently, under the Federal Reserve Board's Regulation D—Reserve Requirements of Depository Institutions (12 CFR Part 204), all NOW accounts are subject to the same reserve requirements. In this regard, a depository institution is subject to a full reserve requirement of 3 percent on the first $26.3 million tranche of its NOW accounts and to a 12 percent reserve requirement on amounts above $26.3 million. Depository institutions in the New England states, New York, and New Jersey are subject to a phase-in of reserve requirements on such accounts.

Depository institutions will have the option of modifying the rate of interest paid on existing NOW accounts or of offering a new account not subject to a rate ceiling. Where the interest rate is changed on an existing account, other specified conditions applicable to the MMDA also must be met.

The Committee believes that this action will assist depository institutions in competing with other financial instruments that offer market rates of return on short-term investments, such as MMFs. The ability to offer $2,500 minimum balance NOW accounts not subject to a rate ceiling should assist depository institutions to attract new

funds by competing with other investment alternatives, help stem deposit outflows, and enhance the ability of institutions to attract and retain valuable customer relationships.

The Committee considered the potential effect on small entities of removing the interest rate ceiling on NOW accounts of $2,500 or more, as required by the Regulatory Flexibility Act (5 U.S.C. 603 *et seq.*). In this regard, the Committee's action would not impose any new reporting or recordkeeping requirements. Small entities that are depositors generally should benefit from the Committee's action since removing the interest rate ceiling on NOW accounts above $2,500 will provide them a market rate of return on short-term deposits. The competitive position of small depository institutions vis-a-vis nondepository competitors should be enhanced by their ability to offer a more competitive short-term instrument with unlimited transactions capability at market rates. The new funds that will be attracted as a result of this action (or the retention of deposits that might otherwise have left the institution) could be invested at a positive spread and would therefore at least partially offset the higher cost associated with the shifting of low-yielding accounts.

List of Subjects in 12 CFR Part 1208

Banks, banking.

PART 1204—[AMENDED]

Pursuant to its authority under Title II of Pub. L. 96–221 (94 Stat. 142; 12 U.S.C. 3501 *et seq.*) to prescribe rules governing the payment of interest and dividends on deposits and accounts of federally insured commercial banks, savings and loan associations, and mutual savings banks, the Committee amends Part 1204 (Interest on Deposits), effective January 5, 1982, as follows:

1. By revising § 1204.108 to read as follows:

§ 1204.108 Maximum rates of interest payable by depository institutions on deposits subject to negotiable orders of withdrawal.

Commercial banks, savings and loan associations, and mutual savings banks ("depository institutions") may pay interest on any deposit or account subject to negotiable or transferable orders of withdrawal that is authorized pursuant to 12 U.S.C. 1832(a).

(a) At a rate not to exceed 5¼ percent per annum, or

(b)(1) At any rate on an account subject to the conditions of this paragraph with an initial balance of no less than $2,500 and an average deposit balance (as computed in paragraph (b)(2) of this section) of no less than $2,500. However, for an account with an average balance of less than $2,500, a depository institution shall not pay interest in excess of the rate specified in paragraph (a) of this section for the entire computation period, as described in paragraph (b)(2) of this section.

(2) The average balance in paragraph (b)(1) of this section may be calculated on the basis of the average daily balance over any computation period selected by an institution which is not longer than one month. (For purposes of this paragraph (b) of this section, "month" shall mean, at a depository institution's option, a calendar month or statement cycle. A statement cycle is normally 28 to 31 days, but may occasionally be as long as 35 days.)

(3) A depository institution may not obligate itself to pay any interest rate or obligate itself to employ any method of calculation of an interest rate on this account for a period longer than one month. A depository institution may not condition the interest rate paid upon the period of time the funds remain on deposit in this account, if that period is longer than one month.

(4) Depository institutions must reserve the right to require at least seven days' notice prior to withdrawal or transfer of any funds in this account. If such a requirement for a notice period is imposed by a depository institution on one depositor, it must be applied equally to all other depositors holding an account subject to this paragraph at the same institution.

(5) A depository institution is not permitted to lend funds to a depositor to meet the $2,500 balance requirements of this paragraph.

2. In § 1204.122, by revising paragraph (a), to read as follows:

§ 1204.122 Money market deposit account.

(a) Commercial banks, mutual savings banks, and savings and loan associations ("depository institutions") may pay interest at any rate on a deposit account as described in this section with an initial balance of no less than $2,500 and an average deposit balance (as computed in paragraph (b) of this section) of no less than $2,500. However, for an account with an average balance of less than $2,500, a depository institution shall not pay interest in excess of the ceiling rate for NOW accounts (12 CFR 1204.108(a)) for the entire computation period, as described in paragraph (b) of this section.

* * * * *

By order of the Committee, December 14, 1982.

Mark Bender,

Acting Executive Secretary.

[FR Doc. 82–34289 Filed 12–15–82; 8:45 am]

BILLING CODE [illegible]

---

12 CFR Part 1204

[Docket No. D–0029]

Short-Term Time Deposit Accounts

AGENCY: Depository Institutions Deregulation Committee.

ACTION: Final rule.

SUMMARY: The Depository Institutions Deregulation Committee ("Committee") has amended its rules to remove the ceiling on the rate of interest payable on 7- to 31-day time deposits and to lower the minimum denomination requirement on this account, as well as the 91-day time deposit and 26-week money market time deposit ("MMC"), to $2,500. The existing minimum denomination requirements on these deposits are $20,000, $7,500, and $10,000, respectively. The Committee's actions were taken to conform the minimum denominations of these accounts with the Money Market Deposit Account ("MMDA") and because the interest rate ceiling on the 7- to 31-day account is not necessary in light of the establishment of the MMDA, which may be offered for similar time periods.

EFFECTIVE DATE: January 5, 1983.

FOR FURTHER INFORMATION CONTACT: Paul S. Pilecki, Senior Attorney, Board of Governors of the Federal Reserve System (202/452–3281); Alan Priest, Attorney, Office of the Comptroller of the Currency (202/447–1880); F. Douglas Birdzell, Counsel, and Joseph A. DiNuzzo, Attorney, Federal Deposit Insurance Corporation (202/389–4147); Rebecca Laird, Senior Associate General Counsel, Federal Home Loan Bank Board (202/377–6446); or Elaine Boutilier, Attorney-Adviser, Treasury Department (202/566–8737).

SUPPLEMENTARY INFORMATION: The Depository Institutions Deregulation Act of 1980 (Title II of Pub. L. No. 96–221; 12 U.S.C. 3501 et seq.) ("DIDA") was enacted to provide for the orderly phaseout and ultimate elimination of the limitations on the maximum rates of interest and dividends that may be paid on deposit accounts by depository institutions as rapidly as economic conditions warrant. Under DIDA, the Committee is authorized to phase out interest rate ceilings by any one of a number of methods including the creation of new account categories not

subject to interest rate limitations or with interest rate ceilings set at market rates of interest.

Pursuant to this statutory authorization, the Committee's rules set forth a number of deposit categories bearing market rates of interest. Among these are 7- to 31-day time deposits (12 CFR 1204.121), 91-day time deposits (12 CFR 1204.120) and MMCs (12 CFR 1204.104). These accounts have minimum denomination requirements of $20,000, $7,500 and $10,000, respectively, and ceiling rates of interest on these accounts generally are based on the 91-day U.S. Treasury bill rate (auction average on a discount basis) for the 7- to 31-day and 91-day accounts, and the 26-week U.S. Treasury bill rate (auction average on a discount basis) for MMCs.

The Committee has established a new deposit account ("MMDA"), as required by the Garn-St Germain Depository Institutions Act of 1982, Pub. L. No. 97-320 ("Garn-St Germain Act"). The new deposit account has the following principal characteristics: (1) An initial and average balance requirement of no less than $2,500; (2) a requirement that depository institutions reserve the right to require at least seven days' notice prior to withdrawal or transfer of funds; (3) no interest rate ceiling on deposits which satisfy the initial and average balance requirements; (4) no more than six preauthorized, automatic or other third party transfers per month, of which no more than three can be checks; and (5) availability to all depositors. In addition, at its December 6, 1982 meeting, the Committee established a new rule for the payment of interest on NOW accounts that have balances of not less than $2,500 and are subject to certain of the restrictions that apply to the MMDA.

Under existing regulations, depository institutions may guarantee for up to one month the offering rate on MMDAs. Therefore, institutions can structure the new account to substitute for the existing 7- to 31-day account, rendering the ceiling on the latter account meaningless. Thus, the Committee has amended its regulations to remove that ceiling. The interest rate ceiling on this account is currently suspended because the 91-day bill rate has been below 9 percent and under existing regulations is scheduled to be removed on May 1, 1983.

In designing these and other short-term deposit instruments, the Committee traditionally has attempted to strike a balance between enabling institutions to compete effectively with market instruments and minimizing the potential for shifts from lower-yielding savings deposits. In addition to establishing fixed maturities, the Committee has sought to accomplish this objective through large minimum denomination requirements on the 7- to 31-day, 91-day, and 26-week accounts. Now that the Committee has implemented Section 327 of the Garn-St Germain Act by authorizing a money market deposit account with a minimum denomination of $2,500, the potential for shifts from lower-yielding savings deposits is reduced in importance in establishing the terms on short-term deposit instruments. Since the MMDA dominates the other short-term deposits as a substitute for savings deposits, altering the minimum denomination on the other deposit categories is unlikely to result in any significant further shifting from lower-yielding accounts. Consequently, the Committee has determined that it is appropriate to reduce to $2,500 the minimum denomination requirements for the 7- to 31-day account, 91-day account, and MMC.

The provisions of 5 U.S.C. 553(b) relating to notice and public participation have not been followed in connection with adoption of these amendments because such actions involve conforming amendments to existing regulations that are considered appropriate in light of the Committee's action in establishing the MMDA and ceilingless NOW account. These accounts have, as a practical matter, rendered the ceiling on the 7- to 31-day account and the minimum denomination requirements of all three short-term time deposits meaningless. Thus, the Committee has determined that notice and public participation is unnecessary in connection with this action. In addition, the Committee has not deferred the effective date of these amendments in accordance with 5 U.S.C. 553(d) since these actions relieve restrictions.

List of Subjects in 12 CFR Part 1204

Banks, banking.

PART 1204—[AMENDED]

Pursuant to its authority under Title II of Pub. L. 96-221 (94 Stat. 142; 12 U.S.C. 3501 *et seq.*) to prescribe rules governing the payment of interest and dividends on deposits and accounts of federally insured commercial banks, savings and loan associations, and mutual savings banks, the Committee amends Part 1204—Interest on Deposits, effective January 5, 1983, to read as follows:

1. By revising the first sentence in § 1204.104 to read as follows:

§ 1204.104 26 week money market time deposits of less than $100,000.

Commercial banks, mutual savings banks, and savings and loan associations may pay interest on any nonnegotiable time deposit of $2,500 or more, with a maturity of 26 weeks, at a rate not to exceed the ceiling rates set forth below. * * *

2. In § 1204.120, by revising paragraph (a) to read as follows:

§ 1204.120 91-day time deposits of less than $100,000.

(a) Commercial banks, mutual savings banks, and savings and loan associations may pay interest on any negotiable or nonnegotiable time deposit of $2,500 or more, with a maturity of 91 days, at a rate not to exceed the ceiling rates set forth below. Rounding any rate upward is not permitted, and interest may not be compounded during the term of this deposit.

* * * * *

3. In § 1204.121, by removing paragraph (b), by redesignating paragraph (c) as (b), and by revising the section heading and paragraph (a) to read as follows:

§ 1204.121 7- to 31-day time deposits of $2,500 or more.

(a) Commercial banks, mutual savings banks, and savings and loan associations may pay interest at any rate as agreed to by the depositor on any nonnegotiable time deposit of $2,500 or more, with a maturity or required notice period of not less than 7 days nor more than 31 days. However, a depository institution shall not pay interest in excess of the ceiling rate for regular savings deposits or accounts on any day the balance in a time deposit issued under this section is less than $2,500.

* * * * *

By order of the Committee, December 14, 1982.

Mark Bender,

Acting Executive Secretary.

[FR Doc. 82-34267 Filed 12-15-82; 8:45 am]

BILLING CODE 4810-25-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 91

[Docket No. 22050; SFAR No. 44-6]

Air Traffic Control System; Interim Operations Plan

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This Special Federal Aviation Regulation (SFAR) sets forth the procedures for allocation of arrival slots previously allocated which have been returned to the FAA for distribution. Some of these slots were allocated to Altair Airlines. This amendment provides for a distribution in accordance with priority order established under SFAR 44–5 for allocation of available capacity at various airports within the contiguous United States. This amendment is necessary to assure the efficient utilization of the navigable airspace in light of the availability of these slots.

EFFECTIVE DATE: December 10, 1982.

FOR FURTHER INFORMATION CONTACT:
Edward P. Faberman, Deputy Chief Counsel, Telephone: (202) 426–3773, or
Thomas P. Messier, Deputy Director, Office of Aviation Policy and Plans, Telephone: (202) 426–0583,
Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591.

Comments are invited on this SFAR.

ADDRESSES: Send comments on the rule in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC–204), Docket No. 22050, 800 Independence Avenue SW., Washington, D.C. 20591.

Comments may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m.

SUPPLEMENTARY INFORMATION:

Comments Invited

Although this amendment is in the form of an emergency final rule which concerns the safe and efficient use of airspace throughout the United States and, thus, is not preceded by a notice of proposed rulemaking, comments are invited on this Special Federal Aviation Regulation.

The FAA invites comments on the procedures contained in this regulation. Comments are specifically invited on any aspects of the operation of the Air Traffic Control system under this amendment that suggest a need to modify the regulation, or which should be considered should additional procedures be necessary. Comments received will be reviewed on a continuing basis and this amendment may be changed in the light of comments received. Commenters wishing the FAA to acknowledge receipt of their comments in response to this rule must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 22050." The postcard will be date/time stamped and returned to the commenter.

Background

During approximately the last 15 months, the FAA has allocated arrival slots at all airports within the contiguous United States in accordance with promulgated regulations. Under these regulations, an air carrier may not schedule or operate arrival operations in excess of its approved level.

The rules contain a Use or Lose Provision. The provision is based upon operation of 57 percent of the schedule period. Slots not utilized for this period of time are revoked.

During the past several weeks, a number of slots have been revoked under this provision. In addition, Altair Airlines has ceased operation. Finally, some slots have been returned by carriers which have not been able to utilize them.

As a result of this, there is a number of slots which are currently not being utilized. Some of these slots are at congested airports. The next regularly scheduled slot allocation session will not be held until around February 1–2, 1983, for the April 24–May 30 schedule period. The FAA recognizes that a number of carriers could use these slots immediately and that delaying allocation of them for 60 days could deprive carriers of needed authority and could deprive the public of necessary service.

For these reasons, the FAA is creating a mechanism for immediate allocation of these slots.

The special allocation will take place on December 22, 1982, at 9:00 a.m. in the FAA Auditorium, Third Floor, at 800 Independence Avenue SW., Washington, D.C. A carrier wishing to obtain any of the available slots (as listed in the attachment to this SFAR) may select slots at this special session.

All parties are advised that the listing of available slots in the attachment to this SFAR may be modified on the day of the slot session to include additional slots if they become available.

The order in which this additional capacity will be allocated will be as follows:

(1) Carriers that "passed" in the previous slot selection session in the order they passed.

(2) The carrier following the last carrier to make a slot selection in the previous session.

On December 22, carriers will be called in this order. Carriers which are present at the session and decide to select slots will be allocated slots. Carriers will be eligible to select slots in accordance with paragraph 2(e) of the Appendix to SFAR 44–5. A carrier selecting slots on December 22 will be treated as though it had made those selections at the next scheduled slot allocation session.

As to the arrival slots previously allocated to Altair Airlines, Inc., those slots are allocated on a temporary basis only subject to revocation. The slots are for up to a 120-day period only. During that time, Altair's Chapter 11 proceedings will be closely monitored.

If Altair does again operate, then the slots necessary for continued Altair operations will be returned to Altair. The carriers should be able to use these slots for 120 days, but all parties are put on notice that the award of these slots may be revoked upon 24-hour notice. Carriers should not apply for these slots unless they will be in a position to operate under these conditions. At no later than the end of that 120-day period, this temporary approval may be extended or a longer term allocation procedure for the particular slots may be promulgated.

Carriers may utilize slots allocated under this SFAR immediately. They are reminded that all slots allocated under this SFAR must be used at least 57 percent of the period from February 15 to April 23 or they will be automatically revoked. After April 23, they must be used in accordance with paragraph 2(a) of the Appendix to SFAR 44–5.

All carriers are reminded that slots are temporary creations of FAA emergency regulations and do not confer on any carrier a long-term right. Slots can be taken away from any carrier in accordance with the terms of any applicable regulation.

All future submissions made to the FAA shall separately identify Altair slots by the designator "PH."

The following demonstrates how the allocation on December 22, 1982 will work:

(a) *Carriers*

	Slot eligibility
F (passed in previous session)	2
L (new entrant)	4
A (operates at 12 controlled airports)	4

(b) On December 22, carriers select as follows:

Carriers	Passing	1st	2d	
F	2	2	2	
L		4		
A		4	2	2

(c) At next sequence—
Carrier F = Lost status as "passing" carrier and will not be able to select slots until 3rd sequence.
Carrier L = Will not be able to select slots until 2nd sequence.
Carrier A = Will not be able to select slots until 3rd sequence.

A carrier which selects slots on December 22 cannot "pass" at the next slot selection session.

Only carriers which were eligible to select slots at the last session are eligible to select slots on December 22.

The basic rules and orders necessary for operation under the Interim Operations Plan will continue to be disseminated, in accordance with Section 91.100 of the Federal Aviation Regulations, by Notice to Airmen (NOTAM).

This SFAR does not change the procedures contained in SFAR 44–5 for the allocation of slots during the allocation periods set forth in that SFAR.

The continued operation of the National Air Traffic System in a safe and efficient manner requires the immediate adoption of this regulation in the public interest. Therefore, I find that further notice and public procedure thereon are impracticable and contrary to the public interest. I further find that good cause exists for making this regulation effective in less than 30 days after its publication in the **Federal Register.**

List of Subjects in 14 CFR Part 91

Air traffic control.

Adoption of the Rule

Accordingly, 14 CFR Part 91 is amended by issuing Special Federal Aviation Regulation No. 44–6 to read as follows, effective December 10, 1982:

Special Federal Aviation Regulation No. 44–6

1. For arrival slots to be allocated on December 22, 1982: (a) Each air carrier seeking authority for slots available in this special allocation as identified in the Appendix to this SFAR shall have its representative (as designated in accordance with paragraph 1(b) of the Appendix to SFAR 44–5) attend a special slot allocation session in the FAA Auditorium, Third Floor, at 800 Independence Avenue SW., Washington, D.C., on December 22, 1982.

2. On December 22, a special slot allocation session will be held. The order of slot selection at this special session will be as follows:

(a) Carriers that "passed" in the previous slot selection session in the order they passed.

(b) The carrier following the last carrier to make a slot selection in the previous session.

3. As a carrier's name is called in accordance with the priority set forth in paragraph 2, a carrier will be entitled to select slots in accordance with paragraph 2(e) of the Appendix to SFAR 44–5. If a carrier representative appears at the session, it may select slots available. A carrier will only be called for selection if it has registered at the session. A carrier must answer "present" or make its selection within 1 minute or it will lose its turn. If it answers "present," the carrier must make its selection within 5 minutes total after its turn is called or it will lose its turn. If capacity still remains after each air carrier on the selection list has had an opportunity to select slots, the allocation sequence will be repeated in the same order.

4. A carrier selecting slots under this SFAR shall be determined to "defer" an identical number of selections at the next slot allocation session. A carrier selecting slots under this SFAR cannot "pass" at the next slot selection session.

5. The slots allocated under this SFAR which were previously allocated to Altair Airlines will be for a period of up to 120 days from December 22, 1982, and may be cancelled by the FAA at the end of that 120-day period or during that period upon 24-hour notice. The temporary approval for these slots may be extended at the discretion of the Administrator. In all future submissions to the FAA, these slots shall be designated by the letters "PH".

6. All arrival slots allocated in accordance with this SFAR may be used immediately but must be used at least 57 percent of the period February 15 to April 23 or they will be automatically revoked.

7. No new/additional flight requests for changes will be accepted by the FAA in a submittal made in accordance with this SFAR.

8. No person shall operate an air carrier flight unless approval for the operation has been received in writing prior to the flight by the Associate Administrator for Policy and International Aviation (API–1) as part of the particular air carrier's approved schedule, under SFAR 44–5, or in accordance with this Appendix.

(Secs. 307 (a) and (c), 313(a), and 601(a), Federal Aviation Act of 1958, as amended (49 U.S.C. Sections 1348 (a) and (c), 1354(a), and 1421(a)); Section 6(c), Department of Transportation Act (49 U.S.C. Section 1655(c)))

Note.—The FAA has determined that this rule is an emergency regulation under the provisions of Section 8 of Executive Order 12291 and the Department's Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). It is impracticable for the FAA to follow the procedures of Executive Order 12291 applicable to regulations not issued in response to emergency situations because the safety and efficiency of the national air transportation system and the public interest require immediate implementation of the rule. Voluntary compliance with this regulation is expected. If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the persons identified under the caption "**FOR FURTHER INFORMATION CONTACT**."

Issued in Washington, D.C., on December 10, 1982.

Michael J. Fenello,
Deputy Administrator.

Attachment to SFAR–44–6

Note: This attachment will not be published in the Code of Federal Regulations.

ARRIVAL SLOTS AVAILABLE WITHIN FAA CENTERS EFFECTIVE DECEMBER 22, 1982

ARTCC	Slots [1]
Albuquerque [2]	17
Atlanta [2]	12 (8)
Boston	11 (5)
Chicago	8
Cleveland	16 (8)
Denver	5
Ft. Worth	14
Houston	7
Indianapolis	11
Jacksonville	13 (10) [4]
Kansas City [2]	7
Los Angeles [2]	23
Memphis [2]	7 (3)
Miami	18 (6)
Minneapolis	11
New York	52
Oakland	13
Salt Lake City [2]	0
Seattle [2]	5
Washington [2]	26 (10)
Total	273

[1] Numbers shown in parenthesis are Altair slots subject to return to FAA in accordance with provisions in SFAR 44–6.

[2] Flights between two airports each of which are located within this center no longer require slots. Flights from outside the center to an airport within the center still requires a slot. Please note that flights between any airports within either the Seattle or Salt Lake City centers no longer require slots.

Example:
PDX–SEA—no slot required.
SEA–SLC—no slot required.
ORD–SEA—Seattle Center slot required.

Note 1: Flights into ATL/LAS/LAX or STL still require a slot.

Note 2: Kansas City International Airport (MCI) is no longer capacity controlled for flights from airports within Kansas City Center. Flights to MCI from outside Kansas City Center require a Center slot.

Note 3: Flights into and out of DCA must be accomplished in accordance with the High Density Rule (14 CFR, Part 93, Subpart K).

Note 4: FAA/API–1 approval of flights between airports within the Los Angeles Center will no longer be required effective 0001 PST January 16, 1982.

ARRIVAL SLOTS AVAILABLE AT CAPACITY CONTROLLED AIRPORTS, EFFECTIVE DEC. 22, 1982

Airport	Available slots
Atlanta (ATL)	(15 slots)
	0200-0259Z—1
	0500-0559Z—5
	0600-0659Z—1
	0700-0759Z—3
	0800-0859Z—1
	0900-0959Z—1
	1700-1759Z—1
	2000-2059Z—1
	2200-2259Z—1
Boston (BOS)	(17 slots)
	'0200-0259Z—1
	0500-0559Z—3
	0800-0859Z—1
	1000-1059Z—2
	1100-1159Z—2
	1200-1259Z—1
	'1200-1259Z—1
	1500-1559Z—1
	1600-1659Z—1
	'1600-1659Z—1
	1800-1859Z—1
	'2100-2159Z—1
	2200-2259Z—1
Cleveland (CLE)	(2 slots)
	2000-2059Z—1
	2100-2159Z—1
Denver (DEN)	(6 slots)
	0500-0559Z—1
	0700-0759Z—2
	1200-1259Z—1
	1900-1959Z—1
	2100-2159Z—1
Dallas/Ft. Worth (DFW) (including DAL)	(18 slots)
	0000-0059Z—1
	0100-0159Z—1
	02000-0259Z—2
	0600-0659Z—3
	1100-1159Z—1
	1300-1359Z—1
	1400-1459Z—2
	1500-1559Z—3
	1900-1959Z—1
	200-2059Z—1
	2200-2259Z—1
	2300-2359Z—1
Detroit (DTW)	(3 slots)
	1100-1159Z—2
	1400-1459Z—1
Newark (EWR)	(11 slots)
	0100-0159Z—1
	0200-0259Z—1
	0500-0559Z—4
	1000-1059Z—2
	1100-1159Z—2
	1600-1659Z—1
Ft. Lauderdale (FLL)	(4 slots)
	0500-0559Z—1
	0700-0759Z—1
	2100-2159Z—1
	2300-2359Z—1
Houston (IAH) (including HOU)	(4 slots)
	0600-0659Z—2
	1500-1559Z—1
	1600-1659Z—1
John F. Kennedy (JFK)	(14 slots)
	0000-0059Z—1
	0100-0159Z—1
	0200-0259Z—1
	0600-0659Z—3
	0700-0759Z—2
	0900-0959Z—1
	1100-1159Z—1
	1700-1759Z—2
	1800-1859Z—1
	1900-1959Z—1
Las Vegas (LAS)	(23 slots)
	0000-0059Z—3
	0100-0159Z—3
	0200-0259Z—2
	0400-0459Z—1
	0500-0599Z—1
	0800-0859Z—1
	1400-1459Z—1
	1700-1759Z—1
	1800-1859Z—4
	1900-1959Z—1
	2000-2059Z—1
	2100-2159Z—3

ARRIVAL SLOTS AVAILABLE AT CAPACITY CONTROLLED AIRPORTS, EFFECTIVE DEC. 22, 1982—Continued

Airport	Available slots
	2200-2258Z—1
Los Angeles (LAX)	(7 plus 2 tower en route slots)
	0500-0559Z—1
	0800-0859Z—2
	1200-1259Z—3
	1700-1759Z—1
	(Tower en route)
	0100-0159Z—1
	2200-2259Z—1
LaGuardia (LGA)	(2 slots)
	0200-0259Z—1
	1700-1759Z—1
Miami (MIA)	(14 slots)
	0000-0059Z—1
	0100-0159Z—1
	'0500-0559Z—1
	0600-0659Z—1
	0800-0859Z—1
	1000-1059Z—1
	1200-1259Z—1
	1300-1359Z—1
	1400-1459Z—1
	1600-1659Z—1
	1800-1859Z—1
	2200-2259Z—2
	2300-2359Z—1
Minneapolis (MSP)	(11 slots)
	0200-0259Z—2
	0700-0759Z—1
	1100-1159Z—1
	1200-1259Z—1
	1500-1559Z—2
	1700-1759Z—2
	1800-1859Z—1
	2100-2159Z—1
Chicago (ORD) (including MDW)	(18 slots)
	0500-0559Z—2
	0600-0659Z—3
	0700-0759Z—2
	0900-0959Z—1
	1000-1059Z—4
	1300-1359Z—1
	1400-1459Z—1
	1500-1559Z—2
	1600-1659Z—1
	1700-1759Z—1
Philadelphia (PHL)	(45 slots)
	0000-0059Z—1
	'0000-0059Z—3
	0100-0159Z—1
	0300-0359Z—2
	0300-0359Z—1
	0500-0559Z—2
	0500-0559Z—1
	0800-0859Z—1
	1000-1059Z—2
	1200-1259Z—1
	1300-1359Z—1
	'1300-1359Z—4
	'1400-1459Z—3
	1500-1559Z—1
	'1500-1559Z—3
	'1600-1659Z—1
	'1700-1759Z—3
	'1800-1859Z—2
	'1900-1959Z—1
	'2000-2059Z—4
	2300-2359Z—1
	'2300-2359Z—6
Pittsburgh (PIT)	(7 slots)
	0000-0059Z—1
	0300-0359Z—1
	0500-0559Z—1
	1000-1059Z—1
	1100-1159Z—1
	1200-1259Z—1
	1300-1359Z—1
San Francisco (SFO)	(9 slots)
	0000-0159Z—1
	[illegible]Z—3
	1100-1159Z—1
	1400-1459Z—1
	1500-1559Z—1
	2100-2159Z—1
	2200-2259Z—1
St. Louis (STL)	(10 slots)
	0400-0459Z—1
	0500-0559Z—1

ARRIVAL SLOTS AVAILABLE AT CAPACITY CONTROLLED AIRPORTS, EFFECTIVE DEC. 22, 1982—Continued

Airport	Available slots
	0600-0659Z—1
	0700-0759Z—2
	1000-1059Z—2
	1100-1159Z—2
	1300-1359Z—1

'Altar slot subject to return to FAA in accordance with provisions in SFAR 44-6.

[FR Doc. 82-34080 Filed 12-15-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 121

[Docket No. 17326; SFAR No. 34-1]

Certification and Operations: Domestic, Flag, and Supplemental Air Carriers and Commercial Operators of Large Aircraft; Compensation for Required Security Measures in Foreign Air Transportation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment reinstates Special Federal Aviation Regulation No. 34 which provides procedures for compensating air carriers who have incurred unreimbursed costs for screening passengers, and their carry-on baggage, moving in foreign air transportation. The purpose of this regulation is to implement the extension by Congress of the eligibility period for these expenditures.

EFFECTIVE DATE: January 3, 1983.

FOR FURTHER INFORMATION CONTACT: James E. Parker, Air Operations Security Division, Office of Civil Aviation Security, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591. Telephone (202) 426-8798.

SUPPLEMENTARY INFORMATION:

Section 24 of Public Law 94-353 (90 Stat. 871, 885, 49 U.S.C. 1356a; approved July 12, 1976, effective as of July 1, 1978) directs the Secretary of Transportation to compensate any air carrier certificated under section 401 of the Federal Aviation Act of 1958 (49 U.S.C. 1371) for the cost of screening passengers moving in foreign air transportation. Section 24 provides, in pertinent part, as follows:

(a) The Secretary of Transportation shall compensate any air carrier certificated by the Civil Aeronautics Board under section 401 of the Federal Aviation Act of 1958 which requests such compensation for that portion of the amount expended by such air carrier for security screening facilities and

procedures as required by section 315(a) of such Act, and any regulation issued pursuant thereto, which is attributable to the screening of passengers moving in foreign air transportation.

Section 315(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1356) provides, in pertinent part, that "[t]he Administrator shall prescribe or continue in effect reasonable regulations requiring that all passengers and all property intended to be carried in the aircraft cabin in air transportation or intrastate air transportation be screened by weapon-detecting procedures or facilities . . . prior to boarding the aircraft for such transportation."

In order to implement section 24, the FAA issued Special Federal Aviation Regulation No. 34 (SFAR No. 34; 45 FR 49913; July 28, 1980) providing a procedure for compensating air carriers for this cost. SFAR No. 34 provided that all applications for compensation were to be submitted to the FAA no later than July 1, 1981, and the regulation terminated, by its own terms, on July 1, 1982.

Section 524(d) of the Airport and Airway Improvement Act of 1982 (Title V of Pub. L. 97–248, September 3, 1982, 96 Stat. 671, 697) amended section 24 of Pub. L. 94–353 by revising paragraph (c) thereof to read, in pertinent part, as follows:

(2) No compensation shall be paid by the Secretary of Transportation under this section for amounts expended after the date which is 180 days after the date of enactment of the International Air Transportation Competition Act of 1979.

The date referred to is August 13, 1980. That is the one hundred eightieth day after February 15, 1980, the date of approval of the International Air Transportation Competition Act of 1979, Pub. L. 96–192, 94 Stat. 35. Thus, Congress expanded the eligibility period to include the period from October 1, 1978, to and including August 13, 1980.

To implement this expansion, this amendment reinstates SFAR No. 34. Application for compensation under that regulation must be filed by November 1, 1983, unless otherwise authorized by the Director of Civil Aviation Security for good cause shown. No compensation will be paid for amounts expended after August 13, 1980.

Because of the limited number of applications expected to be filed under SFAR No. 34, as amended, it has not been necessary to obtain approval from the Office of Management and Budget of the reporting requirements contained in the rule.

Since it would not be in the public interest to delay the economic relief provided by Congress' extension of the eligibility period, and the procedures of SFAR No. 34 are needed to expedite processing of applications for this compensation, good cause exists for adopting this amendment without notice and public procedure and for making it effective less than 30 days after publication.

List of Subjects in 14 CFR Part 121

Air carriers, Aircraft, Airmen, Aviation safety, Charter flights.

Adoption of the Amendment

PART 121—[AMENDED]

Accordingly, the Special Federal Aviation Regulation No. 34 (45 FR 49913; July 28, 1980) is reinstated and the temination date therein deleted, effective January 3, 1983; and section 3 thereof is amended by removing the phrase "July 1, 1981" and inserting, in its place, the phrase "November 1, 1983, unless otherwise authorized by the Director of Civil Aviation Security for good cause shown".

(Sec. 524(d), Public Law 97–248 (96 Stat. 671, 697); Sec. 24, Public Law 94–353 (90 Stat. 871, 885, 49 U.S.C. 1356a); Sec. 1.47(f)(3), Regulations of the Office of the Secretary of Transportation (49 CFR 1.47(f)(3)))

Note.—Since SFAR No. 34, as amended, requires only that a claimant submit an application and make supporting evidence available, it does not impose a significant burden on any member of the public. Accordingly, the FAA has determined that this document involves a final rule which is not considered major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (14 FR 11034; February 26, 1979). For the same reason, and because the FAA has determined that the number of small entities eligible for compensation under SFAR No. 34, as amended, is so small as to be insubstantial, it is certified that, under the criteria of the Regulatory Flexibility Act (Pub. L. 96–354, Sept. 19, 1980, 94 Stat. 1164, 5 U.S.C. 601, 605(b)), this final rule will not have a significant economic impact on a substantial number of small entities. The expected impact of the reinstatement of these procedural regulations is so minimal that it does not require a regulatory evaluation.

Issued in Washington, D.C., on November 23, 1982.

J. Lynn Helms,

Administrator.

[FR Doc. 82–33848 Filed 12–15–82; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF STATE

22 CFR Part 22

[Departmental Reg. #108.827]

Schedule of Fees for Consular Services—Department of State; Passport Fees

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: Public Law 97–241, enacted on August 24, 1982, delegates to the Secretary of State the authority to prescribe by regulation the passport fee to be collected for the issuance of each passport. On September 30, 1982, the Department of State published proposed rules to set the passport fee at $35.00 for adults and $20.00 for minors; and to increase the passport execution fee and the related fee for examination of a passport application executed before a foreign official to $7.00.

EFFECTIVE DATE: January 1, 1983.

FOR FURTHER INFORMATION CONTACT: William B. Wharton on (202) 632–0801.

SUPPLEMENTARY INFORMATION: The Department of State published a notice of proposed rulemaking for public comments on September 30, 1982. Fifteen comments were received, five from clerks of court who believe that the increase in the execution fee from $5.00 to $7.00 is too small, and ten from people who believe that the increase in the passport fee from $10.00 to $35.00 is too large. The Department has made the following replies to these comments:

1. The execution fee has been set by the Secretary since 1974 in accordance with periodic sample surveys of the cost of accepting passport applications at the acceptance facilities throughout the country. It is set at a level designed to recover those costs, and has been adjusted periodically since 1974 to reflect change in those costs. The $7.00 level was established in accord with the latest survey.

2. The passport fee was set by Congress until the recent enactment of Pub. L. 97–241 when the Secretary of State was given that authority. Congress last reviewed and set the fee at $10.00 in 1968. The fee of $35.00 now set by the Secretary was established as necessary to recover the costs of issuance of passports to United States citizens and consular services rendered to them abroad.

The Department has concluded that none of the comments received warrant

a change in the regulations as proposed. Therefore the regulations will go into effect as initially published on September 30, 1982, with two typographic corrections.

List of Subjects in 22 CFR Part 22

Foreign Service.

Accordingly, Part 22 of 22 CFR is amended as follows:

PART 22—SCHEDULE OF FEES FOR CONSULAR SERVICES—DEPARTMENT OF STATE AND FOREIGN SERVICE

Section 22.1 of Part 22, Chapter I is amended by revising 1–4 to read as follows:

§ 22.1 Schedule of fees.

Item No. and passport and citizenship services	Fee
1. Execution of application for passport	$7.00
2. Examination of passport application executed before a foreign official	7.00
3. Issuance of 10 year validity passport (22 U.S.C. 214)	35.00
4. Issuance of 5 year validity passport (22 U.S.C. 214)	20.00
* * * * * *	

(Sec. 1, 44 Stat. 887; Sec. 1, 41 Stat. 750; Sec. 4, 63 Stat. 111, as amended (22 U.S.C. 211a, 214, 2658); E.O. 11295, 36 FR 10603; 3 CFR 1966–70 Comp., p. 507)

Dated: December 6, 1982.

Diego C. Asencio,

Assistant Secretary for Consular Affairs.

[FR Doc. 82-34090 Filed 12-15-82; 8:45 am]

BILLING CODE 4710-06-M

22 CFR Part 51

[Departmental Reg. 108.828]

Validity Period of Passports; Passport Fees; Passport Execution Fee

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: Pub. L. 97–241, enacted on August 24, 1982, establishes the validity period of the passport at ten years, except where limited to a shorter period by the Secretary of State; and delegates to the Secretary of State the authority to prescribe by regulation the fee to be collected for the issuance of each passport. On September 30, 1982, the Department of State published proposed rules to establish the validity period of the passport for adults eighteen years of age and over at ten years and for minors under eighteen years of age at five years; to set the passport fee at $35.00 for adults and $20.00 for minors; and to increase the passport execution fee and the related fee for examination of a passport application executed before a foreign official to $7.00.

EFFECTIVE DATE: January 1, 1983.

FOR FURTHER INFORMATION CONTACT: William B. Wharton on (202) 632–0801.

SUPPLEMENTARY INFORMATION: The Department of State published a notice of proposed rulemaking for public comments on September 30, 1982. Fifteen comments were received, five from clerks of court who believe that the increase in the execution fee from $5.00 to $7.00 is too small, and ten from people who believe that the increase in the passport fee from $10.00 to $35.00 is too large. Four of the people objecting to the fee increase also felt that the statutory ten year validity period and the corresponding fee should be reduced for senior citizens. The Department has made the following replies to these comments:

1. The execution fee has been set by the Secretary since 1974 in accordance with periodic sample surveys of the cost of accepting passport applications at the acceptance facilities throughout the country. It is set at a level designed to recover those costs, and has been adjusted periodically since 1974 to reflect changes in those costs. The $7.00 level was established in accord with the latest survey.

2. The passport fee was set by Congress until the recent enactment of Pub. L. 97–241 when the Secretary of State was given that authority. Congress last reviewed and set the fee at $10.00 in 1968. The fee of $35.00 now set by the Secretary was established as necessary to recover the costs of issuance of passports to United States citizens and consular services rendered to them abroad.

3. The Secretary determined that he should exercise the authority granted to him under the recent statute and establish the normal passport validity period for minors at five years instead of ten years. This was done because the great changes in appearance of minors under the age of eighteen years could defeat one of the purposes of a passport, i.e., its use as a document of identity. Such changes are not as pronounced for people in their senior years.

The Department has concluded that none of the comments received warrant a change in the regulations as proposed. Therefore the regulations will go into effect as initially published on September 30, 1982, with two typographic corrections.

List of Subjects in 22 CFR Part 51

Administrative practice and procedure, Passports and visas.

Accordingly, Part 51 of 22 CFR is amended as follows:

PART 51—PASSPORTS

1. Section 51.4 of Part 51, Chapter I is amended by revising paragraphs (b) and (e) and by adding paragraph (f) to read as follows:

§ 51.4 Validity of passports.

* * * * *

(b) *Period of validity of a regular passport.* A regular passport issued on or after January 1, 1983 to an applicant 18 years of age or older is valid for 10 years from date of issue unless limited by the Secretary to a shorter period. A regular passport issued on or after January 1, 1983 to an applicant under the age of 18 years is valid for 5 years from date of issue unless limited by the Secretary to a shorter period. An outstanding passport issued before January 1, 1983 remains valid for 5 years from date of issue unless limited by the Secretary to a shorter period.

* * * * *

(e) *Period of a Regular Passport issued for no fee:* A regular passport for which payment of the fee has been excused is valid for a period of 5 years from the date of issue unless limited by the Secretary to a shorter period.

(f) *Limitation and extension of validity.* The validity period of any passport may be limited by the Secretary to less than the normal validity period. Applications for extension of passports limited to less than the normal full validity period must be made in writing and must be submitted, with the passport, to a passport issuing Office. In no event may a passport be extended beyond the normal period of validity prescribed for such passport by paragraphs (b) through (e) of this section.

2. Section 51.61 of Part 51, Chapter I is revised to read as follows:

§ 51.61 Statutory fees.

(a) *Passport fee.* The fee for a U.S. passport is (1) $35.00 when the passport issued will be valid or potentially valid for a period of 10 years from date of issue; or (2) $20.00 when the passport issued will be valid or potentially valid for a period of 5 years from date of issue; and (3) the passport fee shall be paid by all applicants except as provided by § 51.63(a).

(b) *Execution fee.* Except as provided in § 51.63(b), the fee for execution of an application for a U.S. passport is $7.00, which shall be remitted to the U.S. Treasury when an application is executed before a Federal official, but which may be collected and retained by any State official before whom an application is executed. The execution

fee shall be paid only when an application must be executed under oath or affirmation as prescribed by § 51.21(a).

(Sec. 1, 44 Stat. 887; Sec. 1, 41 Stat. 750; Sec. 2, 44 Stat. 887; Sec. 4, 63 Stat. 111, as amended (22 U.S.C. 211a, 214, 217a, 2658); E.O. 11295, 36 FR 10603; 3 CFR 1966–70 Comp. p. 507)

Dated: December 6, 1982.

Diego C. Asencio,

Assistant Secretary for Consular Affairs.

[FR Doc. 82-34091 Filed 12-15-82; 8:45 am]

BILLING CODE 4710-06-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 601

[T.D. 7861]

Income Taxes; Secretarial Authority To Add Items to the List of Items Eligible for the Residential Energy Credit; Treasury Decision and Amendment of Statement of Procedural Rules

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to Secretarial authority to add items to the list of items eligible for the residential energy credit. Changes to the applicable tax law were made by the Energy Tax Act of 1978 and the Crude Oil Windfall Profit Tax Act of 1980. These regulations provide the manufacturer with guidance on the procedure and criteria applicable for addition to the list of energy-conserving components or renewable energy sources.

DATE: The amendments are effective on December 16, 1982.

FOR FURTHER INFORMATION CONTACT: Walter H. Woo of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (Attention: CC:LR:T) (202–566–3297).

SUPPLEMENTARY INFORMATION:

Background

On October 15, 1980, the **Federal Register** published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 44C(c) (6) and (9) of the Internal Revenue Code of 1954 and to the Statement of Procedural Rules (26 CFR Part 601). These amendments were proposed to conform the regulations to section 101 of the Energy Tax Act of 1978 (92 Stat. 3175) and section 201(b) of the Crude Oil Windfall Profit Tax Act of 1980 (94 Stat. 256). A public hearing was held on April 30, 1981. After consideration of all comments regarding the proposed amendments, those amendments are adopted as revised by this Treasury decision.

The effectiveness of these regulations will be evaluated on the basis of comments and information received from the public, other Government agencies, and offices within the Treasury Department and Internal Revenue Service. Under the regulations, no additional reporting or filing requirements have been imposed on taxpayers.

Explanation of Provisions

The Energy Tax Act of 1978 grants the Secretary of the Treasury the discretion to add additional items to the lists of energy conserving items and renewable energy sources eligible for the residential energy credit. The Secretary is also directed to establish a procedure under which a manufacturer may request the Secretary to consider the addition of an item to a qualifying list. In addition, the Crude Oil Windfall Profit Tax Act of 1980 sets forth criteria the item must satisfy before the Secretary can add that item to the list.

The proposed regulations outlined the procedure to be followed by a manufacturer (or a group of manufacturers) of an item seeking approval for addition of an item to the list of approved energy-conserving components or renewable energy sources. Several comments indicated that the procedure for approval of an item is lengthy and should be streamlined. The procedure proposed has been retained because it approximates the approval process of a regulation which is the means specified by the Code by which an item is to be added to the approved list.

One comment received on the proposed regulations indicated that the procedure outlined should not be the sole means whereby an item may be added to the qualifying list. It was suggested that items under the Residential Conservation Program which have already met Department of Energy's criteria for conservation should qualify automatically. This suggestion was not adopted because the Secretary of the Treasury may not add and an item to the qualifying list unless the Secretary determines that certain statutory criteria have been met. The Department of Energy criteria under the Residential Conservation Program do not correspond to the findings which the Code requires to be made by the Secretary. The procedure provides the means whereby information relevant to the Secretarial determination may be obtained.

The regulations have been revised to allow the applicant a conference where an adverse recommendation or decision is contemplated. However, the applicant is entitled to only one conference.

Several comments indicated that the 1-year time frame for processing an application is too long and should be shortened. The 1-year time period is prescribed by statute. That period is the maximum time allowed for decisionmaking. It does not mean that applications will necessarily require a year of review. The entire process may in fact take less than a year in many cases.

In response to a comment, the term "manufacturer" has been clarified to include a person who assembles an item or a system from components manufactured by other persons.

The proposed regulations also specified the information that is to be included in an application for addition to the list of approved energy-conserving components or renewable energy sources. Several comments suggested deleting the requirement to submit information pertaining to projected industry sales of the item in question and information on industry-wide capacity to manufacture the item. This suggestion was not adopted because the industry-wide data requested in the regulations is necessary for evaluating whether the standards for Secretarial determination prescribed in the statute relating to total energy savings are met.

However in response to a comment, the requirement in the proposed regulations that the applicant provide the locations of manufacturing sites of major manufacturers of the item has been deleted.

One comment suggested that the requirement in the regulations for the applicant to state the composition and weight of components of the item be deleted. This suggestion was not adopted because the information requested is necessary to determine the amount of oil and natural gas used in the manufacture of the item. The amount of oil and natural gas so used is a factor required by statute to be taken into account for purposes of determining whether the addition of the item will reduce oil and natural gas consumption. However, the regulations have been revised to provide that only information with respect to major components of the item must be provided.

Several comments suggested that certification by independent laboratories or a professional engineer should be sufficient to establish that the item offers no safety or fire hazard. Although certification of an item's safety by an independent third party may be submitted as evidence of the item's safety and may be given great weight, the statute requires the Secretary to make that determination. Thus, the underlying data upon which the certification is based must also be provided.

Several comments objected to the criterion which precludes wood and agricultural energy sources from qualifying as renewable energy sources. Since wood and agricultural materials are in themselves exhaustible sources of energy, the regulations have not been revised to allow such items to qualify as renewable energy sources.

Special Analyses

The Commissioner of Internal Revenue has determined that this final rule is not a major rule as defined in Executive Order 12291. Accordingly, a Regulatory Impact Analysis is not required. Because the notice of proposed rulemaking relating to this final rule was published prior to January 1, 1981, the provisions of the Regulatory Flexibility Act do not apply to this final rule.

Drafting Information

The principal author of this regulation is Walter H. Woo of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

List of Subjects

26 CFR Part 1.0–1—1.58–8

Income taxes, Tax liability, Tax rates, Credits.

26 CFR Part 601

Administrative practice and procedure, Aged, Alcohol and alcoholic beverages, Arms and munitions, Cigars and cigarettes, Claims, Freedom of information, Taxes.

Adoption of Amendments to the Regulations

Accordingly, the amendments to 26 CFR Parts 1 and 601, published as a notice of proposed rulemaking in the **Federal Register** for October 15, 1980 (45 FR 68399), are hereby adopted as proposed, except that section 1.44C–6, as set forth in paragraph 1 of the notice, is amended by revising paragraphs (a) and (b) as set forth below.

Because this Treasury decision merely prescribes a procedure whereby the residential energy credit may be made available to taxpayers not entitled to it under existing regulations, it is found unnecessary to issue it subject to the effective date limitation of subsection (d) of section 553 of Title 5 of the United States Code.

(This Treasury decision is issued under the authority contained in sections 44C and 7805 of the Internal Revenue Code of 1954 (92 Stat. 3175, 26 U.S.C. 44C; 68A Stat. 917, 26 U.S.C. 7805). The amendments to the Statement of Procedural Rules are issued under the authority contained in 5 U.S.C. 301 and 552)

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Treasury decision approved: April 20, 1982.

John E. Chapoton,

Assistant Secretary of the Treasury.

Amendments to the regulations

The amendments to the Income Tax Regulations (26 CFR Part 1) and the Statement of Procedural Rules (26 CFR Part 601) are as follows:

PART 1—[AMENDED]

1. **Paragraph 1.** The text of § 1.44C–6 is added to read as follows:

§ 1.44C–6 Procedure and criteria for additions to the approved list of energy-conserving components or renewable energy sources.

(a) *Procedures for additions to the list of energy-conserving components or renewable energy sources*—(1) *In general.* A manufacturer of an item (or a group of manufacturers) desiring to apply for addition to the approved list of energy-conserving components or renewable energy sources pursuant to paragraph (d)(4)(viii) or (e)(2) of § 1.44C–2 shall submit an application to the Internal Revenue Service, Attention: Associate Chief Counsel (Technical), CC:C:E, 1111 Constitution Avenue, N.W., Washington, D.C. 20224. The term "manufacturer" includes a person who assembles an item or a system from components manufactured by other persons. The application shall provide the information required under paragraph (b) of this section. An application may request that more than one item be added to the approved list. It will be the responsibility of the Office of the Associate Chief Counsel (Technical) upon receipt of the application to determine whether all the information required under paragraph (b) of this section has been furnished with the application. If an application lacks essential information, the applicant will be advised of the additional information required. If the information (or a reasonable explanation of the reason why the information cannot be made available) is not forthcoming within 30 days of the date of that advice, the application will be closed and the applicant will be so informed. Any resubmission of information beyond the 30-day period will be treated as a new application. If the Office of the Associate Chief Counsel (Technical) already is considering an application with respect to the same or a similar item, it may consolidate applications. The Office of the Associate Chief Counsel will make a report and recommendation to the ad hoc advisory board as to whether each item that is the subject to an application should be added in accordance with the manufacturer's request to the approved list of energy-conserving components or renewable energy sources in light of the applicable criteria provided in paragraph (c) and the standards for Secretarial determination provided in paragraph (d) of this section. In making this recommendation, the Office of the Associate Chief Counsel shall consult with the Secretary of Energy and the Secretary of Housing and Urban Development (or their delegates) and any other appropriate Federal officers to obtain their views concerning the item in question. In addition, the Office of the Associate Chief Counsel may request from the manufacturer clarification of information submitted with the application. The Office of the Associate Chief Counsel shall report its recommendation and forward the application to the ad hoc advisory board for further consideration.

(2) *Ad hoc advisory board.* The Commissioner of Internal Revenue and the Assistant Secretary (Tax Policy) shall establish an ad hoc advisory board to consider applications and recommendations forwarded by the Office of the Associate Chief Counsel (Technical). If a finding in favor of addition of any item is made, the board shall report its recommendation and forward the application to the Commissioner for further consideration. If the item is approved by the Commissioner, the application will be forwarded to the Secretary (or his delegate) for further consideration. The application will be closed with respect to an item if the board, the Commissioner, or the Secretary (or his delegate) determines that, under the applicable criteria or the standards for Secretarial determination, the item should not be added to the list of energy-conserving components or renewable energy sources.

(3) *Action on application.* (i) A final decision to grant or deny any application filed under paragraph (a)(1) shall be made within 1 year after the application and all information required to be filed with such request under paragraph (b) have been received by the Office of the Associate Chief Counsel (Technical). The applicant manufacturer shall be notified in writing of the final decision. In the event of a favorable determination, a regulation will be issued in accordance with the procedures contained in § 601.601 to include the item as an energy-conserving component or as a renewable energy source. A final decision to grant approval of an application is made when a Treasury decision adding the item (that is subject of the application) as an energy-conserving component or as a renewable energy source is published in the **Federal Register**.

(ii) The applicant manufacturer shall be entitled to a conference and be so notified anytime an adverse action is contemplated by the Office of the Associate Chief Counsel, the ad hoc advisory board, the Commissioner of Internal Revenue, or the Secretary (or his delegate) and no conference was previously conducted. Upon being advised in writing that an adverse recommendation or decision as to any item is the subject of an application is contemplated, a manufacturer may request a conference. The conference must be held within 21 calendar days from the mailing of that advice. Procedures for requesting an extension of the 21-day period and notifying the manufacturer of the recommendation or decision with respect to that request are the same as those applicable to conferences on ruling requests by taxpayers. The applicant is entitled to only one conference. There is no right to another conference when a favorable recommendation or decision is reversed at a higher level.

(iii) A report of any application which has been denied during the preceding month and the reasons for the denial shall be published each month.

(b) *Contents of application.* The application by the manufacturer shall include the following information:

(1) A description of the item and the generic class to which it belongs, including any features relating to safe installation and use of the item. This discription shall include appropriate design drawings and technical specifications (or representative drawings and specifications when application by a group of manufacturers).

(2) An explanation of the purpose, function, and each recommended use of the item.

(3) An estimate (and explanation of the estimation methods employed and the assumptions made) of the total number of units that would be sold for each recommended use during the first 4 years following the addition of the item to the approved list and of the total number that would be sold for each recommended use during that period in the absence of addition. If the item is sold in more than one size, the estimate shall indicate the projected sales for each size. This estimate shall reflect total industry sales of the item. Past industry sales information for each recommended use for the previous two years shall also be provided.

(4) Whether sufficient capacity is available to increase production to meet any increase in demand for the item, or for associated fuels and materials, caused by such addition. This determination shall be based on industry-wide data and not just the manufacturing capability of the applicant. If the applicant has the exclusive right to manufacture the item, this information shall also be provided in the application.

(5) An estimate (including estimation methods and assumptions) of the energy in Btu's of oil and natural gas used directly or indirectly per unit by the applicant in the manufacture of the item and other items necessary for its use, the type of energy source (*e.g.*, oil, natural gas, coal, electricity), and the extent of its use in the manufacturing process of the item. The applicant must also provide a list of the major components of the item and their composition and weight.

(6) Test data and experience data (where experience data is available) to substantiate for each recommended use the energy savings in Btu's that are claimed will be achieved by one unit during a period of one year. The data shall be obtained by controlled tests in which, if possible, the addition of the item is the only variable. If the item may be sold in various configurations, data shall be provided with respect to energy savings from each configuration with significantly different energy use characteristics. Test methods are to conform to recognized industry or government standards. This determination shall take into account the seasonal use of the item. If the energy savings of the item varies with climatic conditions, data shall be provided with respect to each climate zone. The applicant may use the Department of Energy's climate zones for heating and cooling (see § 450.35 of 10 CFR Part 450 (1980)).

(7) The impact of increased demand on the price of the item and the energy source used by the item.

(8) The energy source which will be replaced or conserved by the item, and, in the case of a request for addition to the approved list of renewable energy sources, data establishing that the energy source is inexhaustible.

(9) Data to show the total estimated savings of energy in Btu's attributable to reduced consumption of oil or natural gas whether directly or indirectly from use of the item, including assumptions underlying this estimate. If the consumption of both oil and natural gas will be reduced, data to show the energy savings in Btu's attributable to each shall be provided. The estimate is to be based on energy savings in Btu's per unit determined under paragraph (b)(6) of this section for the first four years of the useful life of the item and is to take into account only the additional units of the item estimated to be placed in service as a result of the addition using data obtained under paragraph (b)(3) of this section. If the item will result in reduction of oil or natural gas consumption by replacing an item which uses such an energy source, the application shall indicate the item replaced and the extent to which this reduction will occur.

(10) Geographical information if required under paragraph (b)(6) of this section to show the climatic zones of the country where the item is expected to be used, including an estimate of the total number of additional units to be placed in service during the first 4 years following the addition of the item in the area as a result of the addition of the item to the list of qualifying items.

(11) The retail cost of the item (or items if the item is sold in more than one size) including all installation costs necessary for safe and effective use.

(12) Whether the item is designed for residential use.

(13) The estimated useful life of the item and associated equipment necessary for its use.

(14) The type and amount of waste and emissions in weight per unit of energy saved resulting from use of the item.

(15) If the item might reasonably be suspected of presenting any health or safety hazard, test data to show that the item does not present such hazard.

With respect to applications for addition to the approved list of renewable energy sources, the term "item" as used in this paragraph refers to the property which uses the energy source and not the

energy source itself. The application should clearly indicate whether the request is for addition to the approved list of energy-conserving components or renewable energy sources, identify the provisions for which data is being submitted, and present the data in the order requested. The tests required under this paragraph may be conducted by independent laboratories but the underlying data must be submitted along with the test results. There shall accompany the request a declaration in the following form: "Under penalties of perjury, I declare that I have examined this application, including accompanying documents, and, to the best of my knowledge and belief, the facts presented in support of the application are true, correct and complete." The statement must be signed by the person or persons making the application. The declaration shall not be made by the taxpayer's representative.

(c) *Criteria for additions.*—(1) *Additions to the approved list of energy-conserving components.* For an item to be considered for addition to the approved list of energy-conserving components, the manufacturer must show that the item increases the energy efficiency of a dwelling. For an item to be considered as increasing the energy efficiency of a dwelling, all of the following criteria must be met:

(i) The use of the item must improve the energy efficiency of the dwelling structure, structural components of the dwelling, hot water heating, or heating or cooling systems.

(ii) The use of the item must result, directly or indirectly, in a significant reduction in the consumption of oil or natural gas.

(iii) The increase in energy efficiency must be established by test data and in accordance with accepted testing standards.

(iv) The item must not present a safety, fire, environmental, or health hazard when properly installed.

(2) *Additions to the approved list of renewable energy sources.* For an energy source to be considered for addition to the approved list of renewable energy sources, the manufacturer must show that the following criteria are met:

(i) As in the case of solar, wind, and geothermal energy, the energy source must be an inexhaustible energy supply. Accordingly, wood and agricultural products and by-products are not considered renewable energy sources. Similarly, no exhaustible or depletable energy source (such as sources that are depletable under 611) will be considered.

(ii) The energy source must be capable of being used for heating or cooling a residential dwelling or providing hot water or electricity for use in such a dwelling.

(iii) A practical working device, machine, or mechanism, etc., must exist and be commercially available to use such renewable energy source.

(iv) The use of the renewable energy source must not present a significant safety, fire, environmental, or health hazard.

(d) *Standards for Secretarial determination*—(1) *In general.* The Secretary will not make any addition to the approved list of energy-conserving components or renewable energy sources unless the Secretary determines that—

(i) There will be a reduction in the total consumption of oil or natural gas as a result of the addition, and that reduction is sufficient to justify any resulting decrease in Federal revenues.

(ii) The addition will not result in an increased use of any item which is known to be, or reasonably suspected to be, environmentally hazardous or a threat to public health or safety, and

(iii) Available Federal subsidies do not make the addition unnecessary or inappropriate (in the light of the most advantageous allocation of economic resources).

(2) *Factors taken into account.* In making any determination under paragraph (d)(1)(i), the Secretary will—

(i) Make an estimate of the amount by which the addition will reduce oil and natural gas consumption, and

(ii) Determine whether the addition compares favorably, on the basis of the reduction in oil and natural gas consumption per dollar of cost to the Federal Government (including revenue loss), with other Federal programs in existence or being proposed.

(3) *Factors taken into account in making estimates.* In making any estimate under subparagraph (2)(i), the Secretary will take into account (among other factors)—

(i) The extent to which the use of any item will be increased as a result of the addition,

(ii) Whether sufficient capacity is available to increase production to meet any increase in demand for the item or associated fuels and materials caused by the addition,

(iii) The amount of oil and natural gas used directly or indirectly in the manufacture of the item and other items necessary for its use,

(iv) The estimated useful life of the item, and

(v) The extent additional use of the item leads, directly or indirectly, to the reduced use of oil or natural gas. Indirect uses of oil or natural gas include use of electricity derived from oil or natural gas.

(e) *Effective date of addition to approved lists.* In the case of additions to the approved list of energy-conserving components or renewable energy sources, the credit allowable by § 1.44C–1 shall apply with respect to expenditures which are made on or after the date a Treasury decision amending the regulations pursuant to the application is published in the **Federal Register.** However, the Secretary may prescribe by regulations that expenditures for additions made on or after the date referred to in the preceding sentence and before the close of the taxable year in which such date occurs shall be taken into account in the following taxable year. Additions to the list will be subject to the performance and quality standards (if any) provided under § 1.44C–4 which are in effect at the time of the addition. Furthermore, any addition made to the approved list will be subject to reevaluation by the Secretary for the purpose of determining whether the item still meets the requisite criteria and standards for addition to the list. If it is determined by the Secretary that an item no longer meets the requisite criteria, the Secretary will amend the regulations to delete the item from the approved list. Removal of an item from the list will be prospective from the date a Treasury decision amending the regulations is published in the **Federal Register.**

PART 601—[AMENDED]

Par. 2. Paragraph (c) of § 601.601 is amended by adding a new sentence at the end thereof to read as follows:

§ 601.601 Rules and regulations.

* * * * *

(c) *Petition to change rules.* * * * However, in the case of petitions to amend the regulations pursuant to section 44C(c)(4)(A)(viii) or (5)(A)(i), follow the procedure outlined in paragraph (a) of § 1.44C–6.

* * * * *

[FR Doc. 82–34056 Filed 12–15–82; 8:45 am]
BILLING CODE 4830–01–M

DEPARTMENT OF JUSTICE

Parole Commission

28 CFR Part 2

Paroling, Recommitting and Supervising Federal Prisoners

AGENCY: Parole Commission, Justice.

ACTION: Final rule.

SUMMARY: The U.S. Parole Commission has adopted as a final rule its proposed amendments to 28 CFR 2.21 concerning the reparole guidelines used in rating administrative violations (violations not involving new criminal conduct). The rule change will consolidate the two current ranges (<6 months; 6–9 months) into a combined range (<=9 months). This amendment resolves an inconsistency and provides guidance for the exercise of discretion.

EFFECTIVE DATE: January 31, 1983.

FOR FURTHER INFORMATION CONTACT: Peter B. Hoffman, Research Director, U.S. Parole Commission, 5550 Friendship Boulevard, Chevy Chase, Maryland 20815, telephone (301) 492–5980.

SUPPLEMENTARY INFORMATION: On August 23, 1982, the Commission published at 47 FR 36657 a proposal to amend its reparole guidelines to remove an inconsistency in 28 CFR 2.21(a) between example (c) for "positive supervision history" and example (c) in "negative supervision history." The Commission found that a violation which is the "first instance" of violation but is "persistent" (e.g., absconding) might arguably be classified in either the positive or negative supervision category. Furthermore, the current classification contains the undefined term "serious" in relation to drug/alcohol violations. Since the effective difference in the ranges is small and the examples in the current rule are not meant as exhaustive of the relevant factors to be considered, the Commission is combining the ranges to resolve this inconsistency while still providing guidance for the exercise of discretion. The Commission's preference for dealing with minor or isolated administrative violations by sanctions short of revocation (e.g., reprimand, increasing supervision level, amending the conditions of parole) remains unchanged.

No public comment was received on the proposal. The only modification of the proposal in the final rule is an editorial change substituting disorderly conduct for vagrancy as an example of a minor offense.

List of Subjects in 28 CFR Part 2

Administrative practice and procedure, Prisoners—probation and parole.

PART 2—[AMENDED]

Accordingly, pursuant to 18 U.S.C. 4203(a)(1) and 4204(a)(6), 28 CFR 2.21 is amended by revising paragraphs (a) and (c) as follows:

§ 2.21 Reparole consideration guidelines.

(a) If revocation is based upon administrative violation(s) only (i.e., violations other than new criminal conduct) the customary time to be served before release shall be <=9 months. Minor offenses (e.g., disorderly conduct, traffic infractions, public intoxication) shall be treated under administrative violations.

* * * * *

(c) The above are merely guidelines. A decision outside these guidelines (either above or below) may be made when circumstances warrant. For example, violations of an assaultive nature or by a person with a history of repeated parole failure may warrant a decision above the guidelines.

Note.—I certify that this rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Dated: November 29, 1982.

Benjamin F. Baer,

Chairman, United States Parole Commission.

[FR Doc. 82–33880 Filed 12–15–82; 8:45 am]

BILLING CODE 4410–01–M

28 CFR Part 2

Paroling, Recommitting, and Supervising Federal Prisoners

AGENCY: Parole Commission, Justice.

ACTION: Confirmation of interim rule as final rule.

SUMMARY: The U.S. Parole Commission is confirming as a final rule its interim rule, 28 CFR section 2.30, False Information or New Criminal Conduct; Discovery After Release, published on August 23, 1982 at 47 FR 36635. This rule expands the scope of the rule governing the circumstances under which the Commission may rescind a parole grant after a prisoner has been released. The former rule permitted the Commission to cancel a parole grant and recommit a prisoner without finding a violation of parole only if the prisoner was found to have concealed or misrepresented information. The new rule also permits the Commission to rescind the parole grant if it discovers, following the release of a prisoner, that the prisoner had committed a crime or crimes during his sentence, and prior to his release, of which the Commission was unaware when release was granted. The new rule is intended to avoid certain Fifth Amendment problems and to protect the public.

The only comment received from the public on the interim rule was from the Washington Legal Foundation which strongly endorsed the new rule because it "* * * would prevent any possible Constitutional difficulties from arising while allowing the Commission to protect the public by revoking the criminal's parole."

EFFECTIVE DATE: January 17, 1983.

FOR FURTHER INFORMATION CONTACT: Toby D. Slawsky, Office of General Counsel, 5550 Friendship Boulevard, Chevy Chase, Maryland 20815, telephone (301) 492–5959.

List of Subjects in 28 CFR Part 2

Administrative practice and procedure, Prisoners—probation and parole.

Accordingly, pursuant to 18 U.S.C. sections 4203(a)(1) and 4204(a)(6), Title 28 CFR 2.30 published as an interim rule at 47 FR 36635 is made a final rule.

Note.—I certify that this rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Dated: November 29, 1982.

Benjamin F. Baer,

Chairman, United States Parole Commission.

[FR Doc. 82–33879 Filed 12–15–82; 8:45 am]

BILLING CODE 4410–01–M

28 CFR Part 2

Paroling, Recommitting and Supervising Federal Prisoners

AGENCY: Parole Commission, Justice.

ACTION: Final rule.

SUMMARY: The Commission has adopted a number of substantive revisions to its Paroling Policy Guidelines, 28 CFR 2.20. These include revisions to its offense severity classification system, and the subdivision and establishment of time ranges for what formerly was the Greatest II offense classification. These revisions are being made to make the offense severity class system more comprehensive, clearer, better organized and also to reflect changes in the Commission policy.

EFFECTIVE DATE: January 31, 1983 (see Implementation section).

FOR FURTHER INFORMATION CONTACT:
Peter B. Hoffman, Research Director, United States Parole Commission, 5550 Friendship Blvd., Chevy Chase, MD 20815, Tel. (301) 492–5980.

SUPPLEMENTARY INFORMATION:

The Proposal and Its Purpose

On June 25, 1982, the U.S. Parole Commission published in the **Federal Register** (47 FR 27567) a proposal to revise and refine its offense severity classification system and policy instructions contained in the Commission's Paroling Policy Guidelines at 28 CFR 2.20. The Commission also requested public comment on the desirability of subdividing the offense category containing Greatest II severity offenses.

The purpose of the proposal was fourfold. First, there were unlisted offense behavior examples which needed to be added to the table to make it more comprehensive.

Second, there were certain listed offenses which needed to be defined more specifically. These modifications reflected a clarification of existing Commission policy.

Third, there were modifications that represented an actual change of Commission policy. In response to continuing feedback from both Commission personnel and others, certain offense behaviors were moved from one severity category to another because the behavior in question was considered to be either more or less serious than the other offenses with which it was grouped. In some instances, an offense behavior example was simply transferred to a new category. In other cases, an already existing example was divided into two examples to distinguish certain aggravating or mitigating circumstances. Furthermore, the category containing the most serious offenses was considered for subdivision and the establishment of more specific time ranges for this category.

Fourth, the offense severity classification system was reformatted for better organization and ease of use.

Public Comment

Twenty-four letters from the public commenting on the proposal were received. These comments included: three from federal judges; one from a chief probation officer; two from public defenders; two from the Legal Assistance to Institutionalized Persons Program (affiliated with the University of Wisconsin Law School); one from the Administrative Law Section of the American Bar Association (ABA); two from prisoners; one from a private attorney; and twelve from individuals and organizations concerned with the Classification of selective service offenses.

Comments on the proposed rule generally concerned: (1) The reformatting of the severity scale; (2) subdivision of the Greatest II severity category; and (3) the grading of specific offense behaviors.

Comments from one Chief United States District Judge and one Chief United States Probation Officer expressed concurrence with the proposal. Comments from two United States District Judges recommended that the severity rating for several offenses be raised. The ABA's Administrative Law Section strongly endorsed the proposal for the reformatting of the offense severity scale, and the subdivision of Greatest II severity offenses. This comment also suggested developing instructions for the grading of multiple separate offenses. (In June 1982, the Commission issued instructions in its Procedure Manual to assist in the grading of multiple separate offenses.) One comment from the Legal Assistance to Institutionalized Persons Program supported subdivision of the Greatest II severity category. Another comment from this organization provided a summary of scientific literature on the potency of marihuana versus hashish and hash oil, and recommended that the weight ratio used by the Commission for determining the scale of hashish and hash oil offenses be revised. One Assistant Federal Public Defender supported the reformatting of the guidelines but disagreed with a number of offense classifications in both the current and proposed scale. He also objected to the reformatting of the guidelines being done concurrently with making substantive additions or amendments. Another Assistant Federal Public Defender expressed concern with the reformatting of the severity scale, and recommended lowering the severity rating for a number of specific offense behaviors. Two prisoners commented. One recommended that the Commission "not make arbitrary decisions above the guidelines for reasons that are computed within the guidelines." Another recommended that "a black be a member of each hearing panel" to prevent racial disparity. A private attorney recommended that the method for equating raw drugs with dosage units be revised, and suggested a number of procedural changes on issues separate from the proposed rule. In addition, twelve individuals and representatives of organizations concerned with selective service violators commented on the proposal concerning classification of selective service violations.

Changes From the Proposal

Changes from the proposal include: (1) The subdivision of the Greatest II severity category into Categories Seven and Eight, the establishment of specific ranges for Category Seven, and the provision of additional guidance for decisions concerning offenses in Category Eight. The Commission specifically solicited public comment on the desirability of the subdivision of the Greatest II category. Favorable comment was received from the ABA's Administrative Law Section and from the Legal Assistance to Institutionalized Persons Program.

(2) Revision of the proposed grading of weapons violations by adding offense behaviors involving silencers and assassination kits in Category Six.

(3) Revision of the proposed grading of gambling offenses by adding offense behaviors involving dice and card game operations.

(4) Revision of the proposed grading of sexual exploitation of children from Category Five to Category Six (recommended in a comment from a federal judge).

(5) Revision of the proposed grading of enticing desertion during wartime from Category Three to Category Four (recommended in a comment from a federal judge). Also distinguished and revised was the offense behavior aiding or harboring a deserter.

(6) Revision of the proposed grading of selective service offenses when persons are not being inducted into the armed forces from Category Two to Category One (recommended in public comments received from twelve individuals and organizations including Covenant Presbyterian Church, American Friends Service Committee, Associated Students, and Central Committee for Conscientious Objectors, and Ecumenical Christian Ministries). While the Commission believes that this grading is sufficient for punishment and deterrence of such offenses when persons are not being inducted into the armed forces, the Commission rejected suggestions that the ratings proposed for such offenses when persons are being drafted (Category Three) or in time of war or national defense emergency (Category Four) be lowered.

(7) Revision of the formula used to compare the scale of hashish and hash oil offenses to marihuana offenses (revision of this provision was recommended in a comment and supporting documents received from the

Legal Assistance to Institutionalized Persons Program).

(8) Revision of the proposed grading of cases in which the offender provokes the firing of a weapon by law-enforcement officials by removing it from the assault category, expanding it to include high-speed chases, and including it as a general note concerning aggravating factors (revision of this provision was recommended in a comment received from a public defender).

(9) Revision of the proposed grading of extremely large scale heroin offenses without proprietary or managerial interest from Category Five to Category Six.

In addition, the final rule contains corrections of several unintended changes from current policy, plus a number of clarifications, expanded definitions, and editorial improvements.

Implementation

The revised severity scale will apply to all prisoners who have their initial parole hearing on or after January 31, 1983. The revised severity scale will also apply to rescission or revocation hearings involving new criminal conduct to be conducted on or after January 31, 1983. Workload considerations prohibit the Commission from providing full retroactivity by examining each case previously given an initial hearing prior to the next regularly scheduled hearing or record review. However, the revised severity scale will be calculated at all subsequent hearings (e.g., interim hearings) and pre-release record reviews held on or after January 31, 1983. Any prisoner receiving a more favorable severity rating at that time will have the revised rating retroactively applied. If the new rating is not more favorable, the previous rating will stand.

Conforming Amendments

The Rescission Guidelines at 28 CFR 2.36(a)(2)(ii) are amended to conform to the relabeling and expansion of the offense severity categories in the paroling policy guidelines.

List of Subjects in 28 CFR Part 2

Administrative practice and procedure, Prisoners—probation and parole.

PART 2—[AMENDED]

Accordingly, pursuant to 18 U.S.C. 4203(a)(1) and 4204(a)(6), Title 28, Code of Federal Regulations, § 2.20 and § 2.36(a)(2)(ii) are revised as set forth below:

§ 2.20 Paroling policy guidelines; statement of general policy.

(a) To establish a national paroling policy, promote a more consistent exercise of discretion, and enable fairer and more equitable decision-making without removing individual case consideration, the United States Parole Commission has adopted guidelines for parole release consideration.

(b) These guidelines indicate the customary range of time to be served before release for various combinations of offense (severity) and offender (parole prognosis) characteristics. The time ranges specified by the guidelines are established specifically for cases with good institutional adjustment and program progress.

(c) These time ranges are merely guidelines. Where the circumstances warrant, decisions outside of the guidelines (either above or below) may be rendered.

(d) The guidelines contain examples of offense behaviors for each severity level. However, especially mitigating or aggravating circumstances in a particular case may justify a decision or a severity rating different from that listed.

(e) An evaluation sheet containing a "salient factor score" serves as an aid in determining the parole prognosis (potential risk of parole violation). However, where circumstances warrant, clinical evaluation of risk may override this predictive aid.

(f) Guidelines for reparole consideration are set forth at § 2.21.

(g) The Commission shall review the guidelines, including the salient factor score, periodically and may revise or modify them at any time as deemed appropriate.

(h)(1) The Adult Guidelines shall apply to all offenders except as specified in paragraph (2) of this section.

(2) The Youth/NARA Guidelines will apply to any offender sentenced under the Youth Corrections Act, the Narcotic Rehabilitation Act, or the Juvenile Justice Act, and to any other offender who was less than 22 years of age at the time the current offense was committed, regardless of sentence type. If an offender was less than 18 years of age at the time of the current offense, such youthfulness shall, in itself, be considered as a mitigating factor.

(i) For criminal behavior committed while in confinement see § 2.36 (Rescission Guidelines).

GUIDELINES FOR DECISION-MAKING

[Guidelines for decision-making, customary total time to be served before release (including jail time)]

Offense characteristics: Severity of offense behavior	Offender characteristics: Parole prognosis (salient factor score 1981)			
	Very Good	Good	Fair	Poor
	(10–8)	(7–6)	(5–4)	(3–0)
	Months	Months	Months	Months
Category 1 (formerly "low severity"):				
Adult range	<=6	6–9	9–12	12–16
(Youth range)	(<=6)	(6–9)	(9–12)	(12–16)
Category 2 (formerly "low moderate severity"):				
Adult range	<=8	8–12	12–16	16–22
(Youth range)	(<=8)	(8–12)	(12–16)	(16–20)
Category 3 (formerly "moderate severity"):				
Adult range	10–14	14–18	18–24	24–32
(Youth range)	(8–12)	(12–16)	(16–20)	(20–26)
Category 4 (formerly "high severity"):				
Adult range	14–20	20–26	26–34	34–44
(Youth range)	(12–16)	(16–20)	(20–26)	(26–32)
Category 5 (formerly "very high severity"):				
Adult range	24–36	36–48	48–60	60–72
(Youth range)	(20–26)	(26–32)	(32–40)	(40–48)
Category 6 (formerly "Greatest I severity"):				
Adult range	40–52	52–64	64–78	78–100
(Youth range)	(30–40)	(40–50)	(50–60)	(60–76)
Category 7 (formerly included in "Greatest II severity"):				
Adult range	52–80	64–92	78–110	100–148
(Youth range)	(40–64)	(50–74)	(60–86)	(76–110)
Category 8 [1] (formerly included in "Greatest II severity"):				
Adult range	100+	120+	150+	180+
(Youth range)	(80+)	(100+)	(120+)	(150+)

[1] NOTE: For Category Eight, no upper limits are specified due to the extreme variability of the cases within this category. For decisions exceeding the lower limit of the applicable guideline category by more than 48 months, the pertinent aggravating case factors considered are to be specified in the reasons given (e.g., that a homicide was premeditated or committed during the course of another felony; or that extreme cruelty or brutality was demonstrated).

U.S. Parole Commission Offense Behavior Severity Index

Chapter One Offenses of General Applicability
Chapter Two Offenses Involving the Person
Subchapter A—Homicide Offenses
Subchapter B—Assault Offenses
Subchapter C—Kidnaping and Related Offenses
Subchapter D—Sexual Offenses

Subchapter E—Offenses Involving Aircraft
Subchapter F—Communication of Threats
Chapter Three Offenses Involving Property
Subchapter A—Arson and Property Destruction Offenses
Subchapter B—Criminal Entry Offenses
Subchapter C—Robbery, Extortion, and Blackmail
Subchapter D—Theft and Related Offenses
Subchapter E—Counterfeiting and Related Offenses
Subchapter F—Bankruptcy Offenses
Subchapter G—Violations of Securities or Investment Regulations and Antitrust Offenses
Chapter Four Offenses Involving Immigration, Naturalization, and Passports
Chapter Five Offenses Involving Revenue
Subchapter A—Internal Revenue Offenses
Subchapter B—Customs Offenses
Subchapter C—Contraband Cigarettes
Chapter Six Offenses Involving Governmental Process
Subchapter A—Impersonation of Officials
Subchapter B—Obstructing Justice
Subchapter C—Official Corruption
Chapter Seven Offenses Involving Individual Rights
Subchapter A—Offenses Involving Civil Rights
Subchapter B—Offenses Involving Privacy
Subchapter Eight Offenses Involving Explosives and Weapons
Subchapter A—Explosives and Other Dangerous Articles
Subchapter B—Firearms
Chapter Nine Offenses Involving Illicit Drugs
Subchapter A—Heroin and Opiate Offenses
Subchapter B—Marihuana and Hashish Offenses
Subchapter C—Cocaine Offenses
Subchapter D—Other Illicit Drug Offenses
Chapter Ten Offenses Involving National Defense
Subchapter A—Treason and Related Offenses
Subchapter B—Sabotage and Related Offenses
Subchapter C—Espionage and Related Offenses
Subchapter D—Selective Service Offenses
Subchapter E—Other National Defense Offenses
Chapter Eleven Offenses Involving Organized Criminal Activity, Gambling, Obscenity, Sexual Exploitation of Children, Prostitution, and Non-Governmental Bribery
Subchapter A—Organized Crime Offenses
Subchapter B—Gambling Offenses
Subchapter C—Obscenity
Subchapter D—Sexual Exploitation of Children
Subchapter E—Prostitution and White Slave Traffic
Subchapter F—Non-Governmental Bribery
Chapter Twelve Miscellaneous Offenses
Chapter Thirteen General Notes and Definitions
Subchapter A—General Notes
Subchapter B—Definitions

Chapter One Offenses of General Applicability

101 *Conspiracy*

Grade conspiracy in the same category as the underlying offense.

102 *Attempt*

Grade attempt in the same category as the offense attempted.

103 *Aiding and Abetting*

Grade aiding and abetting in the same category as the underlying offense.

104 *Accessory After the Fact*

Grade accessory after the fact as two categories below the underlying offense, but not less than Category One.

Note to Chapter One.—The reasons for a conspiracy or attempt not being completed may, where the circumstances warrant, be considered as a mitigating factor (e.g., where there is voluntary withdrawal by the offender prior to completion of the offense).

Chapter Two Offenses Involving the Person

Subchapter A—Homicide Offenses

201 *Murder*

Murder, or a forcible felony* resulting in the death of a person other than a participating offender, shall be graded as Category Eight.

202 *Voluntary Manslaughter*

Category Seven.

203 *Involuntary Manslaughter*

Category Four.

Subchapter B—Assault Offenses

211 *Assault During Commission of Another Offense*

(a) If serious bodily injury* results or if "serious bodily injury is clearly intended" *, grade as Category Seven;

(b) If bodily injury* results, or a weapon is fired by any offender, grade as Category Six;

(c) Otherwise, grade as Category Five.

212 *Assault*

(a) If serious bodily unjury* results or if "serious bodily injury is clearly intended" *, grade as Category Seven;

(b) If bodily injury* results or a dangerous weapon is used by any offender, grade as Category Five;

(c) Otherwise, grade as Category Two;

(d) *Exception:* If the victim was known to be a "protected person" * or criminal justice official, grade conduct under (a) as Category Seven, (b) as Category six, and (c) as Category Three.

Subchapter C—Kidnaping and Related Offenses

221 *Kidnaping*

(a) If the purpose of the kidnaping is for ransom or terrorism, grade as Category Eight;

(b) If a person is held hostage in a known place for purposes of extortion (e.g., forcing a bank manager to drive to a bank to retrieve money by holding a family member hostage at home), grade as Category Seven;

(c) If a victim is used as a shield or hostage in a confrontation with law enforcement authorities, grade as Category Seven;

(d) Otherwise, grade as Category Seven.

(e) *Exception:* If not for ransom or terrorism, and no bodily injury to victim, and limited duration (e.g., abducting the driver of a truck during a hijacking and releasing him unharmed an hour later), grade as Category Six.

222 *Demand for Ransom; or Receiving, Possessing, or Disposing of Ransom Money*

(a) If a kidnaping has, in fact, occurred, grade as Category Seven;

(b) Otherwise, grade as Category Five.

Subchapter D—Sexual Offenses

231 *Forcible Rape or Forcible Sodomy*

(a) Category Seven.

(b) *Exception:* If a significant prior consensual relationship is present, grade as Category Six.

232 *Carnal Knowledge*

(a) Category Four.

(b) *Exception:* If the relationship is clearly consensual, and the victim is at least 14 years old, and the age difference between victim and offender is less than four years, grade as Category One.

Subchapter E—Offenses Involving Aircraft

241 *Aircraft Piracy*

Category Eight.

242 *Interference with a Flight Crew*

(a) If the conduct or attempted conduct has potential for creating a significant safety risk to an aircraft or passengers, grade as Category Seven.

(b) Otherwise, grade as Category Two.

Subchapter F—Communication of Threats

251 *Communicating a Threat [to kill, assault, or kidnap]*

(a) Category Four;

(b) *Notes:*

(1) Any overt act committed for the purposes of carrying out a threat in this subchapter may be considered as an aggravating factor.

(2) If for purposes of extortion or obstruction of justice, grade according to Chapter Three, Subchapter C, or Chapter Six, Subchapter B, as applicable.

Chapter Three Offenses Involving Property

Subchapter A—Arson and Other Property Destruction Offenses

301 *Property Destruction by Arson or Explosives*

(a) If the conduct results in serious bodily injury* or if "serious bodily injury is clearly intended"*, grade as Category Seven;

(b) If the conduct involves any premises where persons are present or likely to be present or a residence, building, or other structure, or results in bodily injury*, grade as Category Six;

(c) Otherwise, grade as "property destruction other than listed above" but not less than Category Five.

302 *Wrecking a Train*

Category Seven.

303 *Property Destruction Other Than Listed Above*

(a) If the conduct results in bodily injury* or serious bodily injury*, or if "serious bodily injury is clearly intended"*, grade as if "assault during commission of another offense";

(b) If damage of more than $500,000 is caused, grade as Category Six;

(c) If damage of more than $100,000 but not more than $500,000 is caused, grade as Category Five;

---

* Terms marked by an asterisk are defined in Chapter Thirteen.

(d) If damage of at least $20,000 but not more than $100,000 is caused, grade as Category Four;

(e) If damage of at least $2,000 but less than $20,000 is caused, grade as Category Three;

(f) If damage of less than $2,000 is caused, grade as Category One.

(g) *Exception:* If a significant interruption of a government or public utility function is caused, grade as not less than Category Three.

Subchapter B—Criminal Entry Offenses

311 *Burglary or Unlawful Entry*

(a) If the conduct involves an armory (or facility where weapons or explosives are stored) for the purpose of theft or destruction of weapons or explosives, grade as Category Six;

(b) If the conduct involves an inhabited dwelling (whether or not a victim is present), or any premises with a hostile confrontation with a victim, grade as Category Five;

(c) If the conduct involves use of explosives or safecracking, grade as Category Five;

(d) Otherwise, grade as "theft" offense, but not less than Category Two.

(e) *Exception:* If the grade of the applicable "theft" offense exceeds the grade under this subchapter, grade as a "theft" offense.

Subchapter C—Robbery, Extortion, and Blackmail

321 *Robbery*

(a) Category Five.

(b) *Exceptions:*

(1) If the grade of the applicable "theft" offense exceeds the grade for robbery, grade as a "theft" offense.

(2) If any offender forces a victim to accompany any offender to a different location, or if a victim is forcibly detained for a significant period, grade as Category Six.

(3) Pickpocketing (stealth—no force or fear), see Subchapter D.

322 *Extortion*

(a) If by threat of physical injury to person or property, or extortionate extension of credit (loansharking), grade as Category Five;

(b) If by use of official governmental position, grade according to Chapter Six, Subchapter C.

(c) *Exceptions:*

(1) If the grade of the applicable "theft" offense exceeds the grade under this subchapter, grade as a "theft" offense;

(2) If a victim is physically held hostage for purposes of extortion, grade according to Chapter Two, Subchapter C.

323 *Blackmail [threat to injure reputation or accuse of crime]*

Grade as a "theft" offense according to the value of the property demanded, but not less than Category Three. Actual damage to reputation may be considered as an aggravating factor.

Subchapter D—Theft and Related Offenses

331 *Theft, Forgery, Fraud, Trafficking in Stolen Property*, Interstate Transportation of Stolen Property, Receiving Stolen Property, Embezzlement, and Related Offenses*

(a) If the value of the property* is more than $500,000, grade as Category Six;

(b) If the value of the property* is more than $100,000 but not more than $500,000, grade as Category Five;

(c) If the value of the property* is at least $20,000 but not more than $100,000, grade as Category Four;

(d) If the value of the property* is at least $2000 but less than $20,000, grade as Category Three;

(e) If the value of the property* is less than $2000, grade as Category One.

(f) *Exceptions:*

(1) Offenses involving stolen checks or mail, forgery, fraud, interstate transportation of stolen or forged securities, trafficking in stolen property*, or embezzlement shall be graded as not less than Category Two;

(2) Theft of an automobile shall be graded as no less than Category Three; unless the vehicle was recovered within 72 hours with no significant damage (e.g., no damage more than $100), and there is no indication that the theft was intended for resale. In such case, grade as Category One.

(g) *Note:* In "theft" offenses, the total amount of the theft committed or attempted by the offender, or others acting in concert with the offender, is to be used.

332 *Pickpocketing [stealth-no force or fear]*

Grade as a "theft" offense, but not less than Category Three.

333 *Fraudulent Loan Applications*

Grade as a "fraud" offense according to the amount of the loan.

334 *Preparation or Possession of Fraudulent Documents*

(a) If for purposes of committing another offense, grade according to the offense intended;

(b) Otherwise, grade as Category Two.

Subchapter E—Counterfeiting and Related Offenses

341 *Passing or Possession of Counterfeit Currency or Other Medium of Exchange**

(a) If the face value of the currency or other medium of exchange is more than $500,000, grade as Category Six;

(b) If the face value is more than $100,000 but not more than $500,000, grade as Category Five;

(c) If the face value is at least $20,000 but not more than $100,000, grade as Category Four;

(d) If the face value is at least $2000 but less than $20,000, grade as Category Three;

(e) If the face value is less than $2000, grade as Category Two.

342 *Manufacture of Counterfeit Currency or Other Medium of Exchange* or Possession of Instruments for Manufacture*

Grade manufacture or possession of instruments for manufacture (e.g., a printing press or plates) according to the quantity printed (see passing or possession)), but not less than Category Five. The term "manufacture" refers to the capacity to print or generate multiple copies; it does not apply to pasting together parts of different notes.

Subchapter F—Bankruptcy Offenses

351 *Fraud in Bankruptcy or Concealing Property*

Grade as a "fraud" offense.

Subchapter G—Violation of Securities or Investment Regulations and Antitrust Offenses

361 *Violation of Securities or Investment Regulations* (8 U.S.C. 77ff, 80)

(a) If for purposes of fraud, grade according to the underlying offense;

(b) Otherwise, grade as Category Two.

362 *Antitrust Offenses*

(a) If estimated economic impact is more than one million dollars, grade as Category Four;

(b) If the estimated economic impact is more than $100,000 but not more than one million dollars, grade as Category Three;

(c) Otherwise, grade as Category Two.

Chapter Four Offenses Involving Immigration, Naturalization, and Passports

401 *Unlawfully Entering the United States as an Alien*

Category Two.

402 *Smuggling of Alien(s) into the United States*

Category Three.

403 *Offenses Involving Passports*

(a) If making an unlawful passport for distribution to another, possession with intent to distribute, or distribution of an unlawful passport, grade as Category Three;

(b) If fraudulently acquiring or improperly using a passport, grade as Category Two.

404 *Offenses Involving Naturalization or Citizenship Papers*

(a) If forging or falsifying naturalization or citizenship papers for distribution to another, possession with intent to distribute, or distribution, grade as Category Three;

(b) If acquiring fraudulent naturalization or citizenship papers for own use or improper use of such papers, grade as Category Two;

(c) If failure to surrender canceled naturalization or citizenship certificate(s), grade as Category One.

Chapter Five Offenses Involving Revenue

Subchapter A—Internal Revenue Offenses

501 *Tax Evasion [income tax or other taxes]*

(a) If the amount of tax evaded or evasion attempted is more than $500,000, grade as Category Six;

(b) If the amount of tax evaded or evasion attempted is more than $100,000 but not more than $500,000, grade as Category Five;

(c) If the amount of tax evaded or evasion attempted is at least $20,000 but not more than $100,000, grade as Category Four;

(d) If the amount of tax evaded or evasion attempted is at least $2000 but less than $20,000, grade as Category Three;

(e) If the amount of tax evaded or evasion attempted is less than $2000, grade as Category One.

(f) *Notes:*

(1) Grade according to the amount of tax evaded or evasion attempted, not the gross amount of income.

(2) Tax evasion refers to failure to pay applicable taxes. Grade a false claim for a tax refund (where tax has not been withheld) as a "fraud" offense.

502 *Operation of an Unregistered Still*

Grade as a "tax evasion" offense.

Subchapter B—Customs Offenses

511 *Smuggling Goods into the United States*

(a) If the conduct is for the purpose of tax evasion, grade as a 'tax evasion' offense.

(b) If the article is prohibited from entry to the country absolutely (e.g., illicit drugs or weapons), use the grading applicable to

possession with intent to distribute of such articles, or the grading applicable to tax evasion, whichever is higher, but not less than Category Two;

(c) If the conduct involves breaking seals, or altering or defacing customs marks, or concealing invoices, grade according to (a) or (b), as applicable, but not less than Category Two.

512 *Smuggling Goods into Foreign Countries in Violation of Foreign Law* (re: 18 U.S.C. 546)

Category Two.

Subchapter C—Contraband Cigarettes

521 *Trafficking in Contraband Cigarettes* (re: 18 U.S.C. 2342)

Grade as a tax evasion offense.

Chapter Six Offenses Involving Governmental Process

Subchapter A—Impersonation of Officials

601 *Impersonation of Official*

(a) If for purposes of commission of another offense, grade according to the offense attempted, but not less than Category Two;

(b) Otherwise, grade as Category Two.

Subchapter B—Obstructing Justice

611 *Perjury*

(a) If the perjured testimony concerns another offense, grade according to the underlying offense, but not less than Category Three;

(b) *Otherwise,* grade as Cateogry Three.

(c) Suborning perjury, grade as perjury.

612 *Unlawful False Statements Not Under Oath*

Category Two.

613 *Tampering With Evidence or Witness*

(a) If the underlying purpose concerns another offense, grade according to the offense involved, but not less than Category Three;

(b) *Otherwise,* grade as Category Three.

(c) Exception: Intimidating witnesses by threat of physical harm, grade as not less than Category Five.

614 *Misprision of a Felony*

(a) Grade as two categories below the underlying offense, but not higher than Category Three;

(b) If the underlying offense is graded as Category Three or less, grade as Category One.

615 *Harboring a Fugitive*

Grade as misprison of a felony using the category of the offense for which the fugitive is wanted as the underlying offense.

616 *Escape or Failure to Appear*

If while in custody on another federal offense for which a severity rating can be assessed, grade the underlying offense and apply the rescission guidelines to determine an additional penalty. Otherwise, grade as Category Three.

Subchapter C—Official Corruption

621 *Bribery or Extortion [use of official position—no physical threat]*

(a) Grade as a "theft offense" according to value of the bribe, demand, or the favor received (whichever is greater), but not less than Category Three.

(b) If the above conduct involves a pattern of corruption (e.g., multiple instances over a period exceeding six months), grade as not less than Category Four.

(c) If the purpose of the conduct is the obstruction of justice, grade as if "perjury".

(d) *Notes:*

(1) The grading in this subchapter applies to each party to a bribe.

(2) The extent to which the criminal conduct involves a breach of public trust, causing injury beyond that describable by monetary gain, may be considered as an aggravating factor.

622 *Other Unlawful Use of Governmental Position*

Category Two.

Chapter Seven Offenses Involving Individual Rights

Subchapter A—Offenses Involving Civil Rights

701 *Conspiracy Against Rights of Citizens* (re: 18 U.S.C. 241)

(a) If death results, grade as Category Eight;

(b) Otherwise, grade as if "assault".

702 *Deprivation of Rights Under Color of Law* (re: 18 U.S.C. 242)

(a) If death results, grade as Category Eight;

(b) Otherwise, grade as if "assault".

703 *Federally Protected Activity* (re: 18 U.S.C. 245)

(a) If death results, grade as Category Eight;

(b) Otherwise, grade as if "assault".

704 *Intimidation of Persons in Real Estate Transactions Based on Racial Discrimination* (re: 42 U.S.C. 3631)

(a) If death results, grade as Category Eight;

(b) Otherwise, grade as if "assault".

705 *Transportation of Strikebreakers* (re: 18 U.S.C. 1231)

Category Two.

Subchapter B—Offenses Involving Privacy

711 *Interception and Disclosure of Wire or Oral Communications* (re: 18 U.S.C. 2511)

Category Two.

712 *Manufacture, Distribution, Possession, and Advertising of Wire or Oral Communication Intercepting Devices* (re: 18 U.S.C. 2512)

(a) *Category* Three.

(b) *Exception:* If simple possession, grade as Category Two.

713 *Unauthorized Opening of Mail*

Category Two.

Chapter Eight Offenses Involving Explosives and Weapons

Subchapter A—Explosives Offenses and Other Dangerous Articles

801 *Unlawful Possession of Explosives; or Use of Explosives During a Felony*

Grade according to offense intended, but not less than Category Five.

802 *Mailing Explosives or Other Injurious Articles With Intent To Commit a Crime*

Grade according to offense intended, but not less than Category Five.

803 *Improper Transportation or Marking* (re: 18 U.S.C. 832, 833, 834)

(a) If resulting in death or serious bodily injury, grade as Category Four;

(b) Otherwise, grade as Category Three.

Subchapter B—Firearms

811 *Possession by Prohibited Person* (e.g., ex-felon)

Category Three.

812 *Unlawful Possession or Manufacture of Sawed-off Shotgun, Machine Gun, Silencer, or "Assassination kit"*

(a) If silencer or "assassination kit", grade as Category Six;

(b) If sawed-off shotgun or machine gun, grade as Category Five.

813 *Unlawful Distribution of Weapons or Possession With Intent To Distribute*

(a) If silencer(s) or "assassination kit(s)", grade as Category Six;

(b) If sawed-off shotgun(s) or machine gun(s), grade as Category Five;

(c) If multiple weapons (rifles, shotguns, or handguns), grade as Category Four;

(d) If single weapon (rifle, shotgun, handgun), grade as Category Three.

Chapter Nine Offenses Involving Illicit Drugs

Subchapter A—Heroin and Opiate* Offenses

901 *Distribution or Possession With Intent To Distribute*

(a) If extremely large scale (e.g., involving 3 kilograms or more of 100% pure heroin, or equivalent amount), and a proprietary or managerial role, grade as Category Eight;

(b) If very large scale (e.g., involving 1 kilogram but less than 3 kilograms of 100% pure heroin, or equivalent amount), and a proprietary or managerial role, grade as Category Seven;

(c) If extremely large scale [see paragraph (a)] or very large scale [see paragraph (b)], and no proprietary or managerial role, grade as Category Six;

(d) If large scale (e.g., involving 50–999 grams of 100% pure heroin, or equivalent amount), and a proprietary or managerial role, grade as Category Six;

(e) If large scale [see paragraph (c)], and no proprietary or managerial role, grade as Category Five;

(f) If medium scale (e.g., involving 5–49 grams of 100% pure heroin, or equivalent amount), grade as Category Five;

(g) If small scale (e.g., involving less than 5 grams of 100% pure heroin, or equivalent amount), grade as Category Four, except as listed under (h);

(h) If evidence of opiate dependence and very small scale (e.g., involving less than 1.0 grams of 100% pure heroin, or equivalent amount), grade as Category Three.

(i) *Note:* The term "proprietary or managerial role" refers to offenders who import, manufacture, distribute, or negotiate to distribute illicit drugs or who plan, supervise, or finance such operations. Where it is established that the offender had peripheral involvement without decision-making authority (e.g., a person hired merely as a courier), grade as "no proprietary or managerial role".

902 *Simple Possession*

Category One.

Subchapter B—Marihuana and Hashish Offenses

911 *Distribution or Possession With Intent To Distribute*

(a) If extremely large scale (e.g., involving 20,000 pounds or more of marihuana/6,000 pounds or more of hashish/600 pounds or more of hash oil), and a proprietary or managerial role, grade as Category Six;

(b) If extremely large scale [see paragraph (a)], and no proprietary or managerial role, grade as Category Five;

(c) If very large scale (e.g., involving 2,000–19,999 pounds of marihuana/600–5,999 pounds of hashish/60–599 pounds of hash oil), grade as Category Five;

(d) If large scale (e.g., involving 200–1,999 pounds of marihuana/60–599 pounds of hashish/ 6–59.9 pounds of hash oil), grade as Category Four;

(e) If medium scale (e.g., involving 50–199 pounds of marihuana/15–59.9 pounds of hashish/1.5–5.9 pounds of hash oil), grade as Category Three;

(f) If small scale (e.g., involving 10–49 pounds of marihuana/3–14.9 pounds of hashish/.3–1.4 pounds of hash oil), grade as Category Two;

(g) If very small scale (e.g., involving less than 10 pounds of marihuana/less than 3 pounds of hashish/less than .3 pounds of hash oil), grade as Category One.

(h) *Note:* The term "proprietary or managerial role" refers to offenders who import, manufacture, distribute, or negotiate to distribute illicit drugs or who plan, supervise, or finance such operations. Where it is established that the offender had peripheral involvement without decision-making authority (e.g., a person hired merely as a courier), grade as "no proprietary or managerial role".

912 *Simple Possession*

Category One.

Subchapter C—Cocaine Offenses

921 *Distribution or Possession With Intent To Distribute*

(a) If very large scale (e.g., involving more than 1 kilogram of 100% purity, or equivalent amount), and a proprietary or managerial role, grade as Category Six;

(b) If very large scale [see paragraph (a)], and no proprietary or managerial role, grade as Category Five;

(c) If large scale (e.g., involving 100 grams-1 kilogram of 100% purity, or equivalent amount), grade as Category Five;

(d) If medium scale (e.g., involving 5–99 grams of 100% purity, or equivalent amount), grade as Category Four;

(e) If small scale (e.g., involving 1.0–4.9 grams of 100% purity, or equivalent amount), grade as Category Three;

(f) If very small scale (e.g., involving less than 1 gram of 100% purity, or equivalent amount), grade as Category Two.

(g) *Note:* The term "proprietary or managerial role" refers to offenders who import, manufacture, distribute, or negotiate to distribute illicit drugs or who plan, supervise, or finance such operations. Where it is established that the offender had peripheral involvement without decision-making authority (e.g., a person hired merely as a courier), grade as "no proprietary or managerial role".

922 *Simple Possession*

Category One.

Subchapter D—Other Illicit Drug Offenses

931 *Distribution or Possession With Intent To Distribute*

(a) If very large scale (e.g., involving more than 200,000 doses), and a proprietary or managerial role, grade as Category Six;

(b) If very large scale [see paragraph (a)], and no proprietary or managerial role, grade as Category Five;

(c) If large scale (e.g., involving 20,000–199,999 doses), grade as Category Five;

(d) If medium scale (e.g., involving 1,000–199,999 doses), grade as Category Four;

(e) If small scale (e.g., involving 200–999 doses), grade as Category Three;

(f) If very small scale (e.g., involving less than 200 doses), grade as Category Two.

(g) *Note:* The term "proprietary or managerial role" refers to offenders who import, manufacture, distribute, or negotiate to distribute illicit drugs or who plan, supervise, or finance such operations. Where it is established that the offender had peripheral involvement without decision-making authority (e.g., a person hired merely as a courier), grade as "no proprietary or managerial role".

932 *Simple Possession*

Category One.

Notes to Chapter Nine.—

(1) Grade manufacture of synthetic illicit drugs as listed above, but not less than Category Five.

(2) "Equivalent amounts" for the cocaine and opiate categories may be computed as follows: 1 gram of 100% pure is equivalent to 2 grams of 50% pure and 10 grams of 10% pure, etc.

Chapter Ten Offenses Involving National Defense

Subchapter A—Treason and Related Offenses

1001 *Treason*

Category Eight.

1002 *Rebellion or Insurrection*

Category Seven.

Subchapter B—Sabotage and Related Offenses

1011 *Sabotage*

Category Eight.

1012 *Enticing Desertion*

(a) In time of war or during a national defense emergency, grade as Category Four;

(b) Otherwise, grade as Category Three.

1013 *Harboring or Aiding a Deserter*

Category One.

Subchapter C—Espionage and Related Offenses

1021 *Espionage*

Category Eight.

Subchapter D—Selective Service Offenses

1031 *Failure to Register, Report for Examination or Induction*

(a) If committed during time of war or during a national defense emergency, grade as Category Four;

(b) If committed when draftees are being inducted into the armed services, grade as Category Three;

(c) Otherwise, grade as Category One.

Subchapter E—Other National Defense Offenses

1041 *Offenses Involving Nuclear Energy*

Unauthorized production, possession, or transfer of nuclear weapons or special nuclear material or receipt of or tampering with restricted data on nuclear weapons or special nuclear material, grade as Category Eight.

Chapter Eleven Offenses Involving Organized Crime Activity, Gambling, Obscenity, Sexual Exploitation of Children, Prostitution, and Non-Governmental Bribery

Subchapter A—Organized Crime Offenses

1101 *Racketeer Influence and Corrupt Organizations* (re: 18 U.S.C. 1963)

Grade according to the underlying offense attempted, but not less than Category Five.

1102 *Interstate or Foreign Travel or Transportation in Aid of Racketeering Enterprise* (re: 18 U.S.C. 1952)

Grade according to the underlying offense attempted, but not less than Category Three.

Subchapter B—Gambling Offenses

1111 *Gambling Law Violations—Operating or Employment in an Unlawful Business* (re: 18 U.S.C. 1955)

(a) If large scale operation [e.g., Sports books (estimated daily gross more than $15,000); Horse books (estimated daily gross more than $4,000); Numbers bankers (estimated daily gross more than $2,000); Dice or card games (estimated daily "house cut" more than $1,000)]; grade as Category Four;

(b) If medium scale operation [e.g., Sports books (estimated daily gross $5,000–$15,000); Horse books (estimated daily gross $1,500–$4,000); Numbers bankers (estimated daily gross $750–$2,000); Dice or card games (estimated daily "house cut" $400–$1,000)]; grade as Category Three.

(c) If small scale operation [e.g., Sports books (estimated daily gross less than $5,000); Horse books (estimated daily gross less than $1,500); Numbers bankers (estimated daily gross less than $750); Dice or card games (estimated daily "house cut" less than $400)]; grade as Category Two;

(d) *Exception:* Where it is established that the offender had no proprietary interest or managerial role, grade as Category One.

1112 *Interstate Transportation of Wagering Paraphernalia* (re: 18 U.S.C. 1953)

Category Three.

1113 *Wire Transmission of Wagering Information* (re: 18 U.S.C. 1084)

Grade as if "operating a gambling business".

1114 *Operating or Owning a Gambling Ship* (re: 18 U.S.C. 1082)

Category Three.

1115 *Importing or Transporting Lottery Tickets; Mailing Lottery Tickets or Related Matter* (re: 18 U.S.C. 1301, 1302)

(a) Grade as if "operating a gambling business";

(b) *Exception:* If non-commercial, grade as Category One.

Subchapter C—Obscenity

1121 *Mailing, Importing, or Transporting Obscene Matter*

(a) If for commercial purposes, grade as Category Three;

(b) Otherwise, Category One.

1122 *Broadcasting Obscene Language*

Category One.

Subchapter D—Sexual Exploitation of Children

1131 *Sexual Exploitation of Children* (re: 18 U.S.C. 2251, 2252)

Category Six.

Subchapter E—Prostitution and White Slave Traffic

1141 *Interstate Transportation for Commercial Purposes*

(a) If physical coercion, or involving person(s) of age less than 16, grade as Category Six;

(b) If involving person(s) of ages 16–17, grade as Category Five;

(c) Otherwise, grade as Category Four.

1142 *Prostitution*

Category One.

Subchapter F—Non-Governmental Bribery

1151 *Bribery not Involving Federal, State, or Local Government Officials*

(a) If the value of the bribe or of the favor received (whichever is greater) is $20,000 or more, grade as Category Three; otherwise, grade as Category Two.

(b) If the conduct involves bribery in a sporting contest, grade as Category Three.

Chapter Twelve Miscellaneous Offenses

If an offense behavior is not listed, the proper category may be obtained by comparing the severity of the offense behavior with those of similar offense behaviors listed in Chapters One–Eleven. If, and only if, an offense behavior cannot be graded by reference to Chapters One–Eleven, the following formula may be used as a guide.

Maximum sentence authorized by statute (not necessarily the sentence imposed)	Grading (category)
< 2 years	1
2 to 3 years	2
4 to 5 years	3
6 to 10 years	4
11 to 20 years	5
21 to 29 years	6
30 years to life	7

Chapter Thirteen General Notes and Definitions

Subchapter A—General Notes

1. If an offense behavior can be classified under more than one category, the most serious applicable category is to be used.

2. If an offense behavior involved multiple separate offenses, the severity level may be increased; except in cases graded as Category Seven, a decision above the guidelines may be considered.

3. In cases where multiple sentences have been imposed (whether consecutive or concurrent, and whether aggregated or not) an offense severity rating shall be established to reflect the overall severity of the underlying criminal behavior. This rating shall apply whether or not any of the component sentences have expired.

4. The prisoner is to be held accountable for his own actions and actions done in concert with others; however, the prisoner is not to be held accountable for activities committed by associates over which the prisoner has no control and could not have been reasonably expected to foresee.

5. The following are examples of circumstances that may be considered as aggravating factors: extreme cruelty or brutality to a victim; the degree of permanence or likely permanence of serious bodily injury resulting from the offender's conduct; an offender's conduct while attempting to evade arrest that causes circumstances creating a significant risk of harm to other persons (e.g., causing a high speed chase or provoking the legitimate firing of a weapon by law enforcement officers).

6. The phrase "may be considered an aggravating/mitigating factor" is used in this index to provide guidance concerning certain circumstances which may warrant a decision above or below the guidelines. This does not restrict consideration of above or below guidelines decisions only to these circumstances, nor does it mean that a decision above or below the guidelines is mandated in every such case.

Subchapter B—Definitions

1. "Bodily injury" refers to injury of a type normally requiring medical attention [e.g., broken bone(s), laceration(s) requiring stitches, severe bruises].

2. "Forcible felony" includes, but shall not be limited to, kidnaping, rape or sodomy, aircraft piracy or interference with a flight crew, arson or property destruction offenses, escape, robbery, extortion, or criminal entry offenses, and attempts to commit such offenses.

3. "Opiate" includes heroin, morphine, opiate derivatives, and synthetic opiate substitutes.

4. "Other illicit drug offenses" include, but are not limited to, offenses involving the following: amphetamines, hallucinogens, barbiturates, methamphetamines, and phencyclidine (PCP).

5. "Other medium of exchange" includes, but is not limited to, postage stamps, governmental money orders, or governmental coupons redeemable for cash or goods.

6. "Protected person" refers to a person listed in 18 U.S.C. 351 (relating to Members of Congress), 1114 (relating to certain officers and employees of the United States), 1116 (relating to foreign officials, official guests, and internationally protected persons), or 1751 (relating to presidential assassination and officials in line of succession).

7. "Serious bodily injury" refers to injury creating a substantial risk of death, major disability or loss of a bodily function, or disfigurement.

8. "Serious bodily injury clearly intended" refers to a limited category of offense behaviors where the circumstances indicate that the bodily injury intended was serious (e.g., throwing acid in a person's face, or firing a weapon at a person) but where it is not established that murder was the intended object. Where the circumstances establish that murder was the intended object, grade as an "attempt to murder".

9. "Value of the property" refers to the estimated replacement cost to the victim.

10. "Trafficking in stolen property" refers to receiving stolen property with intent to sell.

SALIENT FACTOR SCORE (SFS 81)

Item A: Prior Convictions/Adjudications (Adult or Juvenile)	☐
None	=2 ☐
One or two	=1
Three or more	=0
Four or more	=0
Item B: Prior Commitment(s) of More Than 30 Days (Adult or Juvenile)	☐
None	=3
One or two	=2
Three or more	=1
Item C: Age at Current Offense/Prior Commitments	☐
Age at commencement of the current offense:	
26 years of age or more	= [1]2
20–25 years of age	=1
19 years of age or less	=0
Item D: Recent Commitment Free Period (3 years)	☐
No prior commitment of more than thirty days (adult or juvenile) or released to the community from last such commitment at least three years prior to the commencement of the current offense	=1
Otherwise	=0
Item E: Probation/Parole/Confinement/Escape Status Violator This Time	☐
Neither on probation, parole, confinement, or escape status at the time of the current offense; nor committed as a probation, parole, confinement, or escape status violator this time	=1
Otherwise	=0
Item F: Heroin/Opiate Dependence	☐
No history of heroin/opiate dependence	=1
Otherwise	=0
Total Score	☐

[1] EXCEPTION: If five or more prior commitments of more than thirty days (adult or juvenile), place an "x" here ——— and score this item =0

NOTE.—For purposes of the Salient Factor Score, an instance of criminal behavior resulting in a judicial determination of guilt or an admission of guilt before a judicial body shall be treated as a conviction, even if a conviction is not formally entered.

2.39 Rescission guidelines.

(a) * * *

(2) * * *

(ii) *Other New Criminal Behavior in a Prison Facility.*

Severity rating of the new criminal behavior (from § 2.20)	Adult cases (months)	Youth/ NARA cases (months)
Category 1	< = 6	< = 6
Category 2	< = 8	< = 8
Category 3	10–14	8–12
Category 4	14–20	12–16
Category 5	24–36	20–26
Category 6	40–52	30–40
Category 7	52–80	40–64
Category 8	100 +	80 +

* * * * *

Note.—I certify that this rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory flexibility Act.

Dated: November 29, 1982.

Benjamin F. Baer,

Chairman, U.S. Parole Commission.

[FR Doc. 82-33881 Filed 12-15-82; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 906

Removal of Certain Conditions of Approval of Colorado Permanent Program Under Surface Mining Control and Reclamation Act of 1977 and Consideration of Additional Amendments Thereto

AGENCY: Surface Mining Reclamation and Enforcement Office (OSM), Interior.

ACTION: Final rule.

SUMMARY: This document amends 30 CFR Part 906 by (1) removing certain conditions of approval of the Colorado permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA), and (2) approving certain additional amendments to the Colorado program. Colorado has submitted material to OSM which satisfies some of the conditions of the Secretary's approval of December 15, 1980 (45 FR 82173–82214).

DATE: The removal of these conditions and the approval of these program amendments are effective on December 16, 1982.

FOR FURTHER INFORMATION CONTACT: Robert H. Hagen, Director, New Mexico Field Office, Office of Surface Mining, Suite 216, 219 Central Avenue, N.W., Albuquerque, New Mexico 87102, Telephone (505) 766–1486.

SUPPLEMENTARY INFORMATION:

Background on the Colorado Program Submission

On February 29, 1980, OSM received a proposed regulatory program from the State of Colorado. On December 15, 1980, following a review of the proposed program as outlined in 30 CFR Part 732, the Secretary approved the program subject to the correction of 45 minor deficiencies. The approval was effective upon publication of the notice of conditional approval in the December 15, 1980, **Federal Register** (45 FR 82173–82214).

Information pertinent to the general background, revisions, modifications, and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Colorado program can be found in the December 15, 1980, **Federal Register** (45 FR 82173–82214).

Background on the Secretary's Conditional Approval

The Secretary of the Interior determined that the Colorado program contained 45 minor deficiencies as follows:

a. Colorado's rules did not incorporate the large structure criteria of 30 CFR 780.25(f)/745.16(f); 30 CFR 816.46(q)/817.46(q); 30 CFR 816.46(t)/817.46(t); 30 CFR 816.49(a)(5)/817.49(a)(5), and 30 CFR 816.49(f)/817.49(f).

b. Colorado Rule 4.14.6 did not require stabilization and reseeding of rills and gullies deeper than nine inches when they occur in regraded areas.

c. Colorado Rule 4.15.7(2)(d)(ii) did not contain provisions to obtain the approval of the Director of OSM in the selection of alternative technical guidance documents for revegetation success as required in 30 CFR 816.116(b) and 817.116(b).

d. Colorado Rule 4.15.7(2)(d)(vi) did not provide that revegetation success standards on small mines shall be approved by the Director of OSM.

e. Colorado Rule 2.06.8(4)(c)(iii)(A) did not include the term "sinuosity" in the characteristics to be considered in the evaluation of an alluvial valley floor.

f. Colorado's program contained unacceptable provisions in rules 4.09.1(3), 4.26.2(5) and 4.27.3(8), which relate to alternative methods for excess spoil fills and the placement of materials related to mountain top removal and steep slope mining operations.

g. Colorado Rule 4.08.4(8) provided for an unacceptable waiver to the limitation on casting fly rock beyond the property line of a permittee.

h. Colorado's program did not contain rules which require plans for sedimentation ponds, coal processing, waste dams and embankments to comply with the requirements of the Mine Safety and Health Administration (MSHA).

i. Colorado Rule 2.06.6(2)(h) did not include the term "adjacent area" and instead, contained the unacceptable term "immediate vicinity" in the consideration of prime farmlands and revegetation success.

j. Colorado's definition of "willful violation" found in Rule 1.04(145) did not include violations of SMCRA and 30 CFR Chapter VII.

k. Colorado Rule 2.07.6(2)(h) did not contain provisions which require, as a permit condition, that an applicant submit proof that all reclamation fees required by 30 CFR VII Subchapter R have been paid.

l. Colorado's program did not contain a provision consistent with 30 CFR 786.27(b), requiring that each permit issued by the State insure that the permittee shall allow right of entry to authorized representatives of the Secretary.

m. Colorado Rule 2.07.4(3)(b) did not provide for notice of a formal hearing on a permit to be given to all interested parties.

n. Colorado's definitions of the term "operator" found in CRS 34–33–103(14) and Rule 1.04(80) required modification to mean, "any person engaged in surface coal mining and reclamation operations who removes or intends to remove more than 250 tons of coal from the earth within 12 consecutive calendar months in any one location."

o. Colorado's definitions of "surface coal mining operations," found in CRS 34–33–103(26) and Rule 1.04(127) did not include the phrase, "or other processing or preparation, loading of coal for interstate commerce at or near the mine site."

p. Colorado's statute, CRS 34–33–109(7)(f), and Rule 2.08.5 did not require that the holder of a valid permit may continue surface coal mining operations under said permit subject to CRS 34–33–123 beyond the expiration date until a final administrative decision on renewal is rendered if a renewal application is received by the Division at least 1 year prior to the expiration date of the permit.

q. Colorado's statute, CRS 34–33–114(3), did not contain provisions requiring consideration in the application process of an applicant's violation of any applicable rule or regulation of the United States, Colorado, or any other State.

r. Colorado's statute, CRS 34–33–122(4)(b), and Rule 5.02.2(3) did not provide for inspections on an "irregular basis."

s. Colorado Rule 5.02.3(2) did not implement the requirement of 30 CFR 840.12(a) that a search warrant is not required to conduct an inspection (except that Colorado may provide for its use with respect to entry into a building).

t. Colorado Rule 5.02.6(2) did not contain provisions requiring the Administrator to "furnish the complainant with a written statement of the reasons for such determinations and actions if any, taken to remedy the noncompliance", regarding a citizen complaint of noncompliance.

u. Colorado Rule 2.07.3(6)(b)(i), relating to informal conferences.

contained the unacceptable phrase, "unless this requirement is waived by all parties interested in the conference."

v. Colorado Rule 3.03.2(6)(a), relating to filing a request for a hearing on a bond decision, did not specify that issuance of the Division's proposed decision be dated from the time the written notification to the permittee and other interested parties, required in Rule 3.03.2(5), is mailed.

w. Colorado rules 3.02.1(4) and 3.04.2(3), which apply to bond liability, contained the unacceptable phrase, "unless otherwise provided in the bond", and did not provide an exception to providing liability under any bond to all lands disturbed when (a) two or more bonds apply in combination to the permit area although a particular bond may apply to less than all lands disturbed or to lands disturbed prior to a date specified in the bond, and (b) the Division or Board determines that, in combination, the liability under such bonds extends to all lands disturbed.

x. Colorado Rule 3.02.2(4) did not require the Division to review each outstanding performance bond at the time permit renewals are processed under Rule 2.08.3.

y. Colorado Rule 3.03.1(2) was not consistent with the percentages for bond release provided for in 30 CFR 807.12(a).

z. Colorado Rule 3.03.1(4) did not have a provision requiring that no acreage shall be released from the permit area until the bond liability applicable to the permit area has been fully released under Rule 3.03.1(2)(c).

aa. Colorado Rule 3.03.1(3)(d) did not specify that in no case shall the total bond amount applicable to a permit area be less than $10,000.

bb–1. Colorado Rule 3.02.3(2) did not provide qualifications for determining whether or not selective husbandry practices that are consistent with 30 CFR 805.13(b), as amended, should be allowed.

bb–2. Colorado Rule 3.06 did not provide for bond forfeiture, form of the bond, bonding for subsidence, and other provisions consistent with 30 CFR Part 801.

bb–3. Colorado rules 3.02.4(2)(d)(vi)(c) and 3.02.4(2)(b)(v)(c) contained unacceptable language concerning amending the permit area in lieu of issuance of a cessation order for unbonded areas, and were not consistent with 30 CFR 806.12(g)(7)(iii) and 30 CFR 806.12(e)(6)(iii).

cc. Colorado Rule 3.03.1(3)(e) did not provide that the amount of bond retained be sufficient for the Division to complete the reclamation.

dd. Colorado Rule 3.04.1(1) was not consistent with the bond forfeiture criteria of 30 CFR 808.13(a).

ee. Colorado's statute, CRS 34–33–135(2) (a) and (b), was not in accordance with Section 520(b)(2) of SMCRA in not requiring a showing that a violation or order would "immediately affect a legal interest of the plaintiff" as a condition precedent to commencement of a citizen suit without 60 days prior notice.

ff. Colorado Rule 5.04.3(5) did not include a requirement that, if the Board review results in an order increasing a penalty, the person to whom the notice or order was issued shall forward the amount of the difference to the Division within 15 days after the order increasing the penalty is mailed.

gg. Colorado's statute, CRS 34–33–135(3)(b), was not in accordance with Section 520(a) of SMCRA by not allowing the Division or Board, if not a party, to intervene as a matter of right in citizen suits.

hh. Colorado's statute, CRS 34–33–123(4), and Colorado Rule 5.03.4 did not require that each notice of violation or cessation order shall be served on the operator or his designated agent in person, or by certified mail, return receipt requested. Instead, they contained an unacceptable provision allowing service no later than 24 hours after issuance.

ii. Colorado's statute, CRS 34–33–123(8)(d), did not specify that a notice of violation or cessation order shall be served on the operator or his designated agent no later than 120 days (rather than 60 days now provided for) after the notice or order describing the violation was originally issued.

jj. Colorado's statute, CRS 34–33–125(3), which relates to requests for temporary relief prior to decisions by the Board, did not specify that pending completion of investigation and hearing, any person with an interest which is, or may be adversely affected (rather than only the "operator" as is now provided) may file with the Board for temporary relief from any notice or order.

kk. Colorado Rule 5.03.3(2)(a) included an unacceptable paragraph, which provided an additional criterion for determining the existence of a pattern of violations based on the degree of fault versus negligence.

ll. Colorado's statute, CRS 34–33–126(2), and Rule 7.06.2 contained an unacceptable requirement for a good faith effort by petitioners to identify surface and mineral owners.

mm. Colorado Rule 5.03.6, which relates to attorneys' fees, was not consistent with 43 CFR 4.1290–4.1296.

nn. Colorado's program did not contain a provision for protection of State employees equivalent to the protection afforded Federal employees by Section 704 of SMCRA.

oo. Colorado's statute, CRS 34–48–102, contained an unacceptable provision allowing a priority of right exception to the restriction of mining under any building or other improvements without securing the owner against damages.

pp. Colorado's definition of "permittee" found in Rule 1.04(90) did not include a "person required to have a permit."

qq. Colorado Rule 4.05.6(8) did not specify minimum top widths for embankments less than 10 feet in height consistent with the formula found in 30 CFR 816.46(1) and 817.46(1).

rr. Colorado's statute, CRS 34–33–124, did not provide for notice to all interested persons of hearings on show cause orders or hearings to review citations issued for violations.

ss. Colorado Rule 5.02.2(4) was not consistent with 30 CFR 840.11(d)(3) because the former did not require that inspection reports be adequate to enforce the requirements of and carry out the terms and purposes of the State program.

Submission of Revisions and Program Amendments

On January 11 and February 25, 1982, OSM received from the State of Colorado material intended to satisfy all 45 program conditions. Pursuant to the 30 CFR 732.17 state program amendment procedures, OSM also received certain revisions to the State regulations.

OSM published a notice in the **Federal Register** on February 25, 1982, announcing receipt of these provisions and inviting public comment on whether the proposed program amendments corrected the deficiencies, and whether the Secretary should approve the additional amendments to the State program (47 FR 8207–8212). The public comment period ended March 29, 1982. A public hearing scheduled March 23, 1982, was not held because no one expressed a desire to present testimony. OSM reopened the public comment period on June 16, 1982, to invite further public comment on program amendments not described in the February 25, 1982, notice (47 FR 25979–25981).

Secretary's Findings

1. The Secretary finds the material submitted by Colorado on January 11 and February 25, 1982, corrects the deficiencies in the Colorado program as follows:

(a) In Colorado Rule 2.05.3(8)(a)(iii) the State requires, for structures meeting

or exceeding the size criteria of 30 CFR 77.216(a), that the permittee comply with the applicable requirements of the MSHA, 30 CFR 77.216 (1) and (2). These requirements include provisions for the computed minimum factor of safety range for the slope stability of the impounding structure, including methods and calculations used to determine each factor of safety. Therefore, the State provisions are no less effective than 30 CFR 780.25(f) and 784.25(f).

In Colorado Rule 4.05.6(10) the State requires, for sedimentation ponds with embankments greater than 20 feet in height or with a storage volume of 20 acre-feet or more, that the permittee meet the criteria of MSHA at 30 CFR 77.216. Colorado regulations do not specify the design requirements contained in 30 CFR 816.46(q), pertaining to spillways, embankment safety factor, and seepage barriers. However, the State's requirement for compliance with 30 CFR 77.216 specifies that the plan include a certification by a registered engineer that the design of the structure is in accordance with current, prudent engineering practices for the maximum volume of water, sediment, or slurry which can be impounded therein and for the passage of runoff from design storms which exceed the capacity of the impoundment. The State provisions therefore will result in design of structures no less effective than structures designed under the standards of 30 CFR 816.46(q).

In Colorado Rule 4.05.6(11)(b) the State requires that sediment ponds or impoundments with embankments greater than 20 feet in height, or with storage volumes greater than 20 acre-feet be examined in accordance with 30 CFR 77.216(3). Colorado Rule 4.05.6(11)(c) requires examination of sedimentation ponds not meeting the above size criteria, and quarterly reports to the Division or at such other interval as approved by the Division. The State provisions are, therefore, no less effective than 30 CFR 816.46(t) and 817.46(t) regarding examination of sediment ponds.

In Colorado Rule 4.05.9(1)(e), the State requires the design, construction, and maintenance of structures to meet requirements consistent with 30 CFR 816.49(a)(5) and 817.49(a)(5). These requirements include compliance with the minimum design requirements applicable to structures constructed and maintained under The Watershed Protection and Flood Prevention Act. The State rule also requires compliance with U.S. Soil Conservation Service Technical Release No. 60, "Earth Dams and Reservoirs", for impoundments meeting or exceeding the size requirements in 30 CFR 77.216(a). Other impoundments must comply with criteria contained in U.S. Soil Conservation Service Public Standard 378, "Ponds." Therefore, the Colorado requirements are no less effective than 30 CFR 816.49(a)(5).

In Colorado Rule 4.05.6(11)(b) the State requires an examination in accordance with 30 CFR 77.216(3) for sedimentation ponds or impoundments with embankments greater than 20 feet in height or having a storage volume of 20 acre-feet or more. Therefore, this requirement regarding examination of large sediment ponds and impoundments is no less effective than 30 CFR 816.49(f) and 817.49(f).

The amendments submitted by Colorado and discussed above correct the deficiencies and satisfy condition (a).

(b) Colorado Rule 4.16.6 amends the State program to require that, when rilling and gullying deeper than nine inches occur in areas that have been regraded and top-soiled, the rills and gullies shall be filled, graded, or otherwise stabilized and the area reseeded or replanted in accordance with Rule 4.15, unless the permittee demonstrates to the satisfaction of the Division that such rilling and gullying is not excessive and is consistent with post-mining land use. Rule 4.16.6 corrects the deficiency and satisfies condition (b).

(e) Colorado Rule 2.06.8(4)(c)(iii)(A) includes the term "sinuosity" as a characteristic to be considered in the evaluation of alluvial valley floors. This corrects the deficiency and satisfies condition (e).

(f) As part of Colorado's program submission the State requested approval for alternative provisions to the requirements of the Federal regulations relative to design standards for excess spoil fills, mountaintop removal operations and steep slope operations. Condition (f) required that Colorado delete the more flexible design standards and adopt standards consistent with 30 CFR Chapter VII. Colorado has not amended the State regulatory program to satisfy Condition (f). Instead the State presented additional reasoning for acceptance of the original proposal.

The Secretary agrees there is a need for flexibility in high altitude and semi-arid climates. The State's alternative methods can provide environmentally sound and structurally stable excess spoil fills, mountain top removal operations, and steep slope mining operations. Under the State's provisions the regulatory authority is required to thoroughly analyze a certified professional engineer's design for stability and environmental soundness in these circumstances.

Since the date of the Secretary's conditional approval of the Colorado program, the Federal regulations establishing the standard for approval of State programs at 30 CFR 730.5 were amended. The amended standard gave increased flexibility to States in the development of regulations to implement Federal requirements for State programs. Under the new standard, Colorado rules 4.091.1(3), 4.262.2(5) and 4.27.3(8) are no less effective than 30 CFR 816.71/817.71, Part 824 and Part 826, respectively, since the State's alternative methods can provide environmentally sound and structurally stable designs. Thus the State has corrected the deficiency and satisfied condition (f).

(g) The State of Colorado submitted amended Rule 4.084.4(8), which provides that flyrock, including blasted material traveling along the ground, shall not be cast from the blasting vicinity more than half the distance to the nearest dwelling or other occupied structure and in no case beyond the line of the property owned or leased by the permittee. The amended rule also deleted the waiver to the limitation. These amendments correct deficiencies in the State program and satisfy condition (g).

(h) The State of Colorado submitted amended Rule 2.05.3(4)(a)(iii), which requires that plans for sediment ponds and impoundments comply with the applicable requirements of 30 CFR 77.216 (1) and (2). In addition Rule 4.11.3 has been added which incorporates MSHA requirements pertaining to underground mine workings. These amendments correct deficiencies in the State program and satisfy condition (h).

(i) Colorado Rule 2.06.6(2)(g) includes the term "adjacent area" in place of "immediate vicinity," and thus satisfies condition (i).

(j) Condition (j) required Colorado to modify its definition of "willful violation" to incorporate all violations covered by 30 CFR 786.5. This Federal regulation refers to violations of "the Act, State or Federal laws or regulations" as "willful violation(s)." The State has amended Rule 1.04(152) containing its definition of "willful violation" to include violations of SMCRA and OSM regulations at 30 CFR Chapter VII, and thus has satisfied condition (j).

(k) Condition (k) required Colorado to include as a condition of permit approval a requirement that the

applicant submit proof that he/she paid all reclamation fees mandated by 30 CFR Chapter VII. The State has promulgated Rule 2.07.6(2)(o) which requires a permit applicant to submit proof that all reclamation fees required by Subchapter R of the Federal rules have been paid for all coal mining operations, and has thus satisfied condition (k).

(m) Colorado Rule 2.07.4(3)(b) contains a provision requiring that notice of a formal hearing on a permit application decision be given to all interested parties. This amendment to the State regulatory program satisfies condition (m).

(n) Colorado statute 34–33–103(14) has been amended to define "operator" to mean, "any person engaged in surface mining and reclamation operations who removes or intends to remove more than 250 tons of coal from the earth within 12 consecutive calendar months in any one location." In addition, Colorado Rule 1.04(80) defines "operator" to mean "any person engaged in surface coal mining and reclamation operations who removes or intends to remove more than 250 tons of coal from the earth or from any coal refuse piles within 12 consecutive calendar months in any one location." These provisions satisfy condition (n).

(o) Colorado statute 34–33–103(26)(a) and Rule 1.04(132) have been amended to define "surface coal mining operations" to include the phrase, "or other processing or preparation, loading of coal for interstate commerce at or near the mine site." These provisions satisfy condition (o).

(q) Colorado statute 34–33–114(3) has been amended to require a permit applicant to "file a schedule listing any and all notices of violations of this article and any applicable law of the United States or of this State, or any applicable rule or regulation of any department or agency of the United States, other States, and this State, * * *" and thus satisfies condition (q).

(s) Colorado adopted Rule 5.02.3(2) to give its representatives a right of entry to, upon, and through any coal exploration or surface coal mining operation "without a search warrant." This provision satisfies condition (s).

(t) Colorado adopted Rule 5.02.6(2) to require the Administrator to "furnish the complainant with a written statement of the reasons for such determinations and actions, if any, taken to remedy the non-compliance," regarding citizen complaints of noncompliance. This satisfies condition (t).

(u) The State of Colorado submitted an amendment to Rule 2.07.3(6)(b)(i), which provides for informal conferences on applications for bond release. The amendment deletes the provision for waiving the requirement that the conference be held in the locality of the subject mine site. This amendment satisfies condition (u).

(v) The State of Colorado has amended Rule 3.03.2(6)(a) pertaining to filing requests for a hearing based on a bond release decision. The amendment specifies that issuance of the Division's proposed decision be dated from the time the written notification to the permittee and other interested parties is mailed. The amendment satisfies condition (v).

(w) Colorado submitted an amendment to Rule 3.02.1(4), which deletes the phrase, "unless otherwise provided in the bond." Rule 3.02.1(4) has also been amended to provide for liability under bonds for all disturbed lands. The amendments correct the first part of deficiency (w) pertaining to deletion of the phrase "unless otherwise provided in the bond."

The second part of condition (w) was based on 30 CFR 808.12(c) which has since been suspended. The Federal rule required that liability on a bonded increment extend to the entire permit area, and was suspended because it was inconsistent with the incremental bonding system. Colorado has preserved its incremental system of bonding while assuring that bond liability extends to all lands disturbed. The second part of the condition based on suspended 30 CFR 808.12(c) is therefore removed as a condition of approval. Should OSM adopt a new regulation to replace the suspended 30 CFR 808.12(c) the State would be given sufficient time to adopt State regulations consistent with the new Federal provision.

The amendments to the State program discussed above, therefore, satisfy condition (w).

(x) Colorado submitted amended Rule 3.02.2(4), which requires the Division to review the amount of bond required for a permit area and the terms of acceptance of the bond at the time permit reviews are conducted under Rule 2.08.3 or every two and one-half years, whichever is more frequent. This provision provides for a bond review schedule adequate to ensure proper review of bond amounts, and thus satisfies condition (x).

(y) Instead of amending program regulations to address condition (y), Colorado has supplied cost figures and sound rational to support the conclusion that bond release percentages in 30 CFR 807.12(a) are inconsistent with the actual costs of reclamation in the State. Colorado regulations would allow release of up to 60 percent of the bond after backfilling, regrading and drainage control, without topsoiling, and up to 85 percent release of the bond after successful revegetation. The State's rationale for allowing up to 60 percent release of the bond prior to resoiling is accepted and the bond release percentages are found to be no less effective than the Federal release percentages.

Colorado submitted an amendment to Rule 3.03.1(2)(b), stating that up to 85 percent of the total bond amount applicable to an increment on a permit area shall be released upon the successful establishment of revegetation in accordance with the approved reclamation plan. Such release shall be based on the costs of reclamation activities including, but not limited to, replacement of topsoil, seeding, irrigating and fertilizing. The amendment to Rule 3.03.1(2)(b) along with the above finding that the State's bond release percentages are no less effective than 30 CFR 807.12(a) percentages satisfies condition (y).

(z) Colorado submitted amended Rule 3.03.1(4), providing that no bond shall be fully released until all reclamation requirements are fully met, and in no case shall the total amount applicable to a permit area be less than $10,000, in accordance with Rule 3.02.2(3), until bond for the entire permit area is fully released. No acreage shall be released from the permit area until all surface coal mining and reclamation operations on that areage have been completed in accordance with the approved reclamation plan. Amended rule 3.30.1(4) is no less effective than 30 CFR 807.12(c), and thus satisfies condition (z).

(aa) The State has adopted Rule 3.03.1(4), see condition (z) above, which requires that in no case shall the total bond amount applicable to a permit area be less than $10,000. This Rule 3.03.1(4) satisfies condition (aa).

(bb)(1) Colorado has established as program policy that the use of selective husbandry practices must be approved by the State. The evaluation performed by the State for its use will include those qualifications in 30 CFR 805.13(b). The policy provides that in evaluating the use of selective husbandry practices, the Division will, at a minimum, consider: (1) The probability of permanent revegetation success following the discontinuance of such practices, and (2) the compatibility of the use of such practices with the approved post-mining land use of the area covered by the bond. The Secretary finds this policy satisfies condition (bb)(1).

(bb)(2) Colorado states that Rule 3 of the Regulations of the Colorado Mined Land Reclamation Board for Coal Mining provides for: specific liability for activities conducted as a result of surface coal mining and reclamation operations including all categories listed under 30 CFR 801.11; specific procedures for determining the amount of bond as required by 30 CFR 801.12; procedures for bond forfeitures as required by 30 CFR 801.13; the requirements of the form of such bonds as required by 30 CFR 801.14; and bonding procedures sufficient to initiate bonding for subsidence, construction of planned impoundments, conveying systems and treatment facilities for mine drainage as necessary to administer and enforce the purposes and provision of the State Act. These provisions satisfy condition (bb)(2).

(cc) Colorado Rule 3.03.1(3)(e) has been modified to provide that the amount of bond retained shall be sufficient for the Division to complete the reclamation required under an alternative postmining land use plan, and thus satisfies condition (cc).

(dd) Colorado has adopted criteria for bond forfeiture under Rule 3.04.1 which are the same as the forfeiture criteria found in 30 CFR 808.13(a), and has thus satisfied condition (dd).

(ff) Colorado Rule 5.04.4(3)(b) provides that where Board review results in an order increasing the amount of the assessed civil penalty, the person so assessed shall forward the amount of the difference to the Division within 30 days. 30 CFR 845.20(d) requires that the person to whom the notice or order was issued shall pay the difference to OSM within 15 days after the order is mailed to the person. The difference between the State's provision and the Federal provision in the number of days to pay the increased assessed civil penalty does not affect the State's ability to administer and enforce the penalty provisions of the program. Therefore, the State's provision is no less effective than the Federal rule. Accordingly, Colorado's amended rule satisfies condition (ff).

(gg) Colorado statute 34–33–135(2.5) includes a provision allowing, "the board or the division to intervene as a matter of right in any action commenced pursuant to paragraph (a) of subsection (1) of this section to which they are not otherwise a party", and thus satisfies condition (gg).

(hh) Colorado statute 34–33–123(4) and Rule 5.03.4(1) have been amended to require that each notice of violation or cessation order shall be served on the operator or his designated agent in person or by certified mail, return receipt requested, to the mine or the designated agent (deleting the requirement of service no later than 24 hours after issuance), and thus satisfies condition (hh).

(ii) Colorado statute 34–33–123(8)(d) and Rule 5.04.3(5)(c) have been amended to specify that a notice or order shall be served on the operator or his designated agent no later than 120 days after the notice or order describing the violation was orginally issued, and thus satisfies condition (ii).

(jj) Colorado statute 34–33–124(3) and Rule 5.03.5(5)(a) have been modified to allow any person with an interest which is or may be adversely affected by a pending investigation or outcome of a hearing contesting Division actions on a notice of violation or cessation order, to file a written request with the Board for temporary relief, and thus satisfies condition (jj).

(kk) Colorado statute 5.04.5(2)(a) has been modified by deleting the additional criterion for determining the existence of a pattern of violations based on degree of fault versus negligence, and thus satisfies condition (kk).

(ll) Section 522(c) of SMCRA creates a right to petition the regulatory authority for a designation of land as unsuitable for surface coal mining. This provision also requires that the designation petition allege facts and contain supporting evidence which would tend to establish its allegations. 30 CFR 764.13(b) specifies minimum informational requirements for the designation petition. With respect to designation petitions, Colorado Rule 7.06.2 imposes minimum requirements identical to those in the Federal rule, but also requires the petitioner to make a "good faith effort" to identify the surface and mineral owners of properties which may be included in the land area proposed for the unsuitability designation.

The State has not amended its regulation to eliminate the requirement for such good faith effort. Colorado maintains that its requirement is intended only to provide the State regulatory authority with information of record which may have been discovered during the preparation of the petition. In support of its position, the State points to the footnote in the sample form attached to its resubmission, which provides that the absence of such information "will not adversely effect the administrative processing of this petition or the validity of the allegation and supporting evidence." According to Colorado, a "good faith effort" does not require the petitioner to do a title search, and in no way affects the obligation of the State regulatory authority to notify all owners of land included in the area covered by the petition.

The Secretary finds that Colorado's explanation and use of the term "good faith effort" gives clear indication to prospective petitioners that information on surface and minerals owners of lands within the petition areas is optional. The Secretary finds the State provisions to be consistent with 30 CFR 764.13(b). The State's provisions satisfy condition (ll).

(nn) On June 17, 1982, OSM published final rules which, *inter alia*, eliminated the requirement that State programs contain a provision comparable to SMCRA Section 704 (47 FR 26356–26367). Condition (nn) is therefore, removed as a condition of approval.

(pp) Pursuant to condition (pp), the Secretary required Colorado to modify its regulations to include within the definition of "permittee" a person required to have a permit. Colorado states that Section 34–33–103(14) of the State Act defines the term "operator" as meaning any person engaged in surface coal mining and reclamation operations. Colorado further states that the use of the term "operator" in the State program parallels the use of the term "permittee" in the Federal regulations. This explanation that the State's definition covers persons required to have a permit satisfies conditions (pp).

(qq) Colorado submitted Rule 4.05.6(8)(h), specifying minimum top widths for embankments of structures that do not meet the size criteria of Rule 4.05.6(10). This Rule satisfies condition (qq).

(rr) Section 521(a)(4) of SMCRA requires advance notice to "all interested parties" of the time and place of any hearing concerning a show cause order, and Section 525(a) provides that written notice of a hearing to review citations for violations of the Act's requirements shall be given to the permittee and "any (other) person having an interest which is or may be adversely affected." CRS 34–33–124(1)(b), as amended, and Rule 5.03.5(3)(b) require that written notice of the time and place of any enforcement hearing shall be given to "the operator, and any other persons requesting a hearing, and *all other persons expressing an interest.*" (Emphasis supplied). OSM practice reveals that, for hearings conducted pursuant to SMCRA sections 521(a)(4) and 525(a), notice is provided to persons who have expressed an interest in the proceeding. Colorado's statute and rule do not differ from OSM's interpretation of SMCRA. Therefore, the amendments satisfy condition (rr).

2. The Secretary has not completed his review of the material submitted by Colorado on January 11 and February 25, 1982, to correct the remaining deficiencies in the Colorado program. The Secretary will announce his decision on these State program amendments at a later date. These deficiencies are conditions (c), (d), (l), (p), (r), (bb)(3), (ee), (mm), (oo) and (ss).

3. The Secretary finds the following program amendments submitted by Colorado on January 11 and February 25, 1982, pursuant to the 30 CFR 732.17 procedures, in accordance with the provisions of SMCRA and consistent with the requirements of 30 CFR Chapter VII and hereby approves them:

a. Colorado Rule 1.03.3(2), as amended, provides for a monthly agenda of the Board to be published with a brief description of any affected land and the name of the applicant.

b. A revision to Rule 1.03.4(2)(a) to delete the phase, "any person in this State," and to replace it with the phrase, "any person contemplating opening a surface coal mining operation in this State."

c. The amendment to Rule 2.02.2(3) pertaining to notice of intent for coal exploration, to include the following: "The determination of substantial disturbance shall be made with reference to 1.04(127)."

d. A revision to Rule 2.03.4(3) to change the spelling of "principles" to "principals."

e. An addition to Rule 2.05.3(6) to include the following: "Permanent excess spoil and underground development waste disposal structures shall comply with 2.05.3(6)(b). Temporary overburden and underground development disposal (storage) structures shall comply with the applicable performance standards of Rule 4; information to demonstrate such compliance shall include, if applicable, location, geometry, and method of material placement."

f. A revision to Rule 2.05.4(2)(c) pertaining to the backfilling information required in the reclamation plan to require a plan for stream channel reconstruction in accordance with Rule 4.05.4 which establishes standards for stream channel diversions.

g. The title of Colorado Rule 2.05.6 is amended to read: "Mitigation of the Impacts of Mining Operations."

h. A revision to Rule 2.05.6(3)(a) to change the word "plan" to "application."

i. A revision to Rule 2.05.6(3)(c) to delete the phrase, "Each underground mine plan," and replace it with, "For underground mining activities, the application * * *."

j. Revisions to Rule 2.05.6(4) as follows:

(1) Delete the phrase, "each plan shall" and replace it with the phrase, "each application shall * * *."

(2) Delete the reference to Rule 2.07.4(2)(e)(ii) and replace it with a reference to Rule 2.07.6(2)(e).

k. A revision to Rule 2.05.6(6)(f)(iii) to delete "4.19.3" and replace it with "4.20.3."

l. The addition of Rule 2.06.12 which provides the requirements for surface coal mining and reclamation operations involving the removal of coal from coal refuse piles.

m. A revision to rule 2.06.5(1) clarifying the title of the section and including the following phrase: "non-mountaintop removal, steep slope surface."

n. A revision to Rule 2.06(2)(j) changing it to 2.06(2)(h).

o. A revision to Rule 2.06.8(3)(b) to change the word "application" to "applicant" in the last sentence of the rule.

p. A revision to Rule 2.06.8(5) to provide guidance for submission of applications for areas that include alluvial valley floors.

q. A revision to Colorado Rule 2.08.4(1)(f) to delete the reference to "1.04(72)" and replace it with "1.04(73)."

r. Revisions to Rule 2.08.4(5)(b)(ii) pertaining to permit hearings as follows:

(1) Replace the word "revised" with the word "raised" in the fourth sentence.

(2) Delete the phrase, "and state whether the requestor desires to have the hearing conducted in the locality of the proposed surface coal mining operations," in the fourth sentence.

(3) Replace "2.08.4(3)" with the phrase, "under the provisions of this subsection," in the fifth sentence.

(4) Replace the phrase, "within 10 days of said request," with the phrase, "at the next regularly scheduled Board meeting," in the fifth sentence.

s. A revision to Rule 2.08.4(5)(c)(i), relieving the Division of the requirement of publishing minor revisions in a local newspaper, and providing guidance for posting notice of minor revisions for public inspection. The Federal regulations at 30 CFR 788.12 do not require that public notice be made for the filing of a permit revision involving less than significant alterations in the approved permit.

t. A revision to Rule 2.08.4(5)(c)(ii) to delete the phrase, "30 days" and to replace it with the phrase, "10 days." The revision also relieves the Division of the requirement of publishing minor revisions in a local newspaper, and provides guidance for posting notice of minor revisions for public inspection. The revisions are not inconsistent with Federal regulations.

u. A revision to delete Rule 2.08.4(5)(c)(iii) which established opportunity for the filing of public comments and the holding of a public hearing regarding minor permit revisions. 30 CFR 788.12 does not require public notice and opportunity for a public hearing or comment for permit revisions that are minor in nature.

v. A revision to Rule 3.02.1(5)(b) to require bonding information and schedules for each incremental area to be covered by bond including sequences of anticipated release phases, and also to require that bond for the first increment shall include the full reclamation cost of the initial area being affected. The revision is consistent with 30 CFR Subchapter J.

w. A revision to Rule 3.05.1(1)(a) to delete "1.04(21)" and replace it with "1.04(22)."

x. A revision to Rule 3.05.1(7) to delete "60 days" and replace it with "180 days." The approved Colorado program provides for the filing of a "Statewide bond" for coal exploration. Rule 3.05.1(7) requires the filing of activity reports by those conducting exploration activities. The revision being approved requires the activity reports to be filed for each 180 day period instead of each 60 day period. The revision is not inconsistent with Federal regulations covering coal exploration.

y. A revision to Rule 4.05.2(2), requiring that sedimentation ponds and treatment facilities for surface drainage be maintained until the herbaceous cover of the revegetated area is at least 90% of the cover of the reference area or other standard approved pursuant to 4.15.7(2), and the untreated drainage from the disturbed area ceases to contribute additional suspended solids above the natural conditions. The untreated drainage must meet applicable State and Federal water quality standards, if any, for receiving streams. The revision to Rule 4.05.2(2) is consistent with 30 CFR 816.46(u) governing removal of sedimentation ponds.

z. A revision to Rule 4.05.3(6)(a) to delete the requirement that riprap be designed so that 90 percent of the rock size would be greater than 12 inches in diameter and no single rock larger than 25 percent of the width of the ditch. The revised Rule 4.05.3(6)(a) requires that channel linings, including channel riprap, shall be designed using standard engineering practices to pass safely the design velocities. By policy, riprap may be sized based upon an applicable riprap equation. Revised Rule

4.05.3(6)(a) is consistent with 30 CFR 816.43(f).

aa. A revision to Rule 4.05.4, clarifying the title and including the following phrase: "and stream channel reconstruction."

bb. An addition to Rule 4.05.6(3)(c) to include the word "maximum" in the sentence, "The dewatering device shall not be located at a lower elevation than the maximum sediment storage volume." This provision is consistent with 30 CFR 816.46(d).

cc. The addition of Rule 4.05.6(9) establishing requirements to be met before sedimentation ponds can be removed during the reclamation process. These requirements are consistent with 30 CFR 816.46(u).

dd. A revision to Rule 4.06.5, deleting the word "redistributed" in the second sentence. Under the revision soil tests conducted to determine necessary nutrients or other soil amendments may be conducted on topsoil prior to redistribution over the reclaimed area. 30 CFR 816.25 does not specify when soil tests are to be performed and the revision is therefore consistent with the Federal requirement for soil tests.

ee. A revision to Rule 4.15.7(2)(d) to delete the word "plan" and replace it with the word "plant".

ff. A revision to Rule 4.15.8(7) to require that methods for substantial mitigation of adverse impacts approved by the Division in consultation with the U.S. Fish and Wildlife Service and Colorado Division of Wildlife must be included in the reclamation plan whenever predominantly woody vegetation is to be replaced with herbaceous vegetation.

gg. A revision to Rule 4.15.8(8) to delete the word "annual" and thereby require that the permittee only demonstrate that increases in woody plant cover and/or height have occurred.

hh. A revision to Rule 4.16.2(1) to clarify the basis for determination of the post mining land use for land that has been previously mined. The revision is consistent with 30 CFR 816.133(b) requiring comparison to land uses if the land had not been previously mined and had been properly managed.

ii. A revision to Rule 4.21.2(1) to delete the phrase: "250 tons or more," and to replace it with the phrase, "250 tons or less." This revision renders the provision consistent with 30 CFR Part 815 which establishes performance standards for coal exploration.

jj. A revision to Rule 4.21.2(2) to delete the phrase: "250 tons or more," and to replace it with the phrase: "more than 250 tons." This revision is consistent with 30 CFR Part 815.

kk. Colorado adopted amendments to Rule 4.05.3(5) to add specific provisions for reestablishing ephemeral streams that had been temporarily diverted. The new language requires the channel to be reestablished to functionally blend with the undisturbed drainage above and below the area to be reclaimed. The amendment is consistent with 30 CFR 816.44(d) pertaining to restoration of stream channels after temporary diversion and is therefore approved.

ll. Colorado adopted amendments to Rule 5.03.6 to accomplish the result by condition (mm), regarding the award of costs and expenses in administrative proceedings. The amendments are consistent with 43 CFR Part 4 as far as they go and are approved.

However, the amendments do not include provisions for:

(1) Costs and expenses regarding discrimination acts, pursuant to 30 CFR Part 830, as in 43 CFR 4.1294(a)(2);

(2) Costs and expenses from the State to a citizen as in 43 CFR 4.1294(b);

(3) Expert witness fees, and costs and expenses in seeking the award as in 43 CFR 4.1295; and

(4) The administrative appeal of a decision as in 43 CFR 4.1296.

As to the second omission, Colorado is presently one of the parties to a petition to OSM seeking to eliminate the requirement for the award of all such costs and expenses from the State and the Secretary is therefore granting Colorado an extension of time until May 20, 1983, to meet this portion of condition (mm). As indicated in Finding 2, the Secretary is deferring a decision on the other portions of condition (mm).

4. The Secretary has not completed his review of the remaining proposed regulation revisions, submitted by Colorado on January 11 and February 25, 1982. the Secretary will announce his decision on these State program amendments at a later date. These revisions involve the Colorado rules 2.07.6(3) and 4.05.2(7).

Public Comments

The Citizens Mining Project, Environmental Policy Institute; Colorado Open Space Council; National Audubon Society; Public Lands Institute of the Natural Resources Defense Council; Rocky Mountain Chapter of the Sierra Club; and the Western Colorado Congress made the following comments on the material submitted by Colorado:

1. A commenter stated that the approval of the Colorado program has automatically terminated pursuant to 30 CFR 732.13(i)(4) because the State has failed to correct certain deficiencies in its program, as enumerated in comments below, by the date required, June 1, 1982.

The Secretary disagrees with this conclusion. First, the State has submitted material in good faith to satisfy all 45 conditions of program approval well in advance of the applicable date. Second, the Secretary has not concluded that any of the material so submitted does not correct any deficiency. Third, Colorado still has the opportunity to submit additional material regarding the above-listed conditions, which the Secretary is still reviewing. Finally, the Secretary may extend the date by which any condition must be met if he finds the material submitted is inadequate to satisfy that condition.

2. A commenter stated that Colorado has failed to comply with condition (a). Many of the Federal rules involved, 30 CFR 780.25(f), 784.25(f), 816.46 (q) and (t), 817.46 (q) and (t), 816.49 (a)(5) and (f), and 817.49 (a)(5) and (f), set standards for plans or performance for ponds that are 20 feet or higher or impound 20 acre-feet of water. Colorado changes these criteria so that the standards for plans and performance apply only to reservoirs with a capacity of 1,000 acre-feet or a dam or embankment in excess of 10 feet measured from the bottom of the channel to the bottom of the spillway. Thus, Colorado sets a pond capacity 50 times that provided in the Federal Rule. Further, Colorado fails to require a stability analysis for ponds, consistent with 30 CFR 780.25 and 784.25; fails to set performance standards for ponds consistent with 30 CFR 816.46(q); and fails to require inspection of ponds four times per year as required by 30 CFR 816.46(t).

The Secretary notes that Colorado Rule 2.05.3(8)(a)(iii) requires, for structures meeting or exceeding the size criteria of 30 CFR 77.216(a), that the permittee comply with the applicable requirements of MSHA provisions at 30 CFR 77.216 (1) and (2). The MSHA size criteria are a storage volume of 20 acre-feet or more, and a height of 20 feet or more. Requiring compliance with the requirements of MSHA therefore brings the same size structures covered by Federal regulations into compliance under the Colorado program. Coverage by the MSHA requirements also ensures conformity with Federal regulations pertaining to stability analysis, performance standards and pond inspection. See finding 1(a).

3. A commenter stated that in condition (f), OSM invited Colorado to develop specific design criteria for fills for submission to and evaluation by OSM. The State has failed to do so, merely repeating the argument previously rejected by OSM.

The Secretary has reevaluated the State's original alternative provisions relative to design standards for certain operations and found them acceptable under terms of the revised standard for approval of State programs. See Finding 1(f).

4. A commenter stated that Colorado has not amended its permitting standards pursuant to condition (h); rather, the State has amended only the performance standards for returning coal processing wastes to underground mines. Further, other performance standards for which OSM requires compliance with MSHA standards were not changed by the State.

The Secretary notes that Colorado submitted amended Rule 2.05.3(4)(a)(iii) which requires that plans for sediment ponds and impoundments comply with the applicable requirements of 30 CFR 77.216 (1) and (2). In addition, Rule 4.11.3 has been added which incorporates MSHA requirements pertaining to underground mine workings. See Finding 1(h) above noting that these amendments correct deficiencies in the State program and satisfy condition (h).

5. A commenter noted that Colorado has failed to promulgate rules to define the terms "operator" and "surface mining operations," and has failed to satisfy conditions (n) and (o).

The Secretary refers the commenter to Findings 1(n) and (o) above, noting that Colorado has promulgated Rules 1.04(80) and 1.04(132), defining these terms and has, therefore, corrected these deficiencies.

6. A commenter stated that Colorado has added a provision to its rules that provides an exception from the requirement of 30 CFR 808.12(c) that liability under a bond extend to the entire permit area, and has thus failed to comply with condition (w).

The Secretary notes that 30 CFR 808.12(c) has been suspended because it required that liability on a bond increment extend to the entire permit area and was thus ruled inconsistent with the incremental bonding system. Colorado has preserved its incremental system of bonding while assuring that bond liability extends to all lands disturbed. The Secretary is removing the second part of condition (w) related to 30 CFR 808.12(c) as a condition of approval. See Finding 1(w) above.

7. A commenter stated that while Colorado amended its rules to provide bond forfeiture criteria as required by condition (dd), it has added certain conditions on bond forfeiture where the permittee has violated the terms of the bond or has failed to conduct its operation in accordance with the program. These additional conditions are inconsistent with 30 CFR 808.13(a) (1) and (2), and Colorado has thus failed to comply with condition (dd).

The Secretary refers the commenter to Finding 1(dd) above. Colorado has adopted criteria for bond forfeiture under Rule 3.04.1 which are the same as the forfeiture criteria found in 30 CFR 808.13(a).

8. A commenter noted that as a condition on approval of its program, Colorado was required to amend its program to provide protection for government employees in accordance with Section 704 of SMCRA. Rather than complying with this requirement, Colorado has noted that current Colorado law imposes sanctions against persons who obstruct government operations. Colorado has made no showing, however, that the sanctions imposed by Colorado law are as stringent as those imposed under Section 704 of the Federal Act. Colorado has thus failed to comply with the requirements of condition (nn).

The Secretary points out that, as noted above, on June 17, 1982, OSM published final rules which eliminated the requirement that State programs contain a provision comparable to SMCRA Section 704 (47 FR 26356–26367). The Secretary is therefore removing condition (nn) as a condition of approval.

9. A commenter stated that pursuant to condition (qq), Colorado was required to amend Rule 4.05.6(8)(h), which sets a minimum top width for embankments, so that it would be consistent with 30 CFR 816.46(1) and 817.46(1). Colorado has adopted the standards of the Federal rules, but provides a wide-open exemption for embankments that meet the size criteria of Rule 4.05.6(10). Aside from the fact that Rule 4.05.6(10) establishes no size criteria, the exception essentially swallows the rule.

The Secretary notes that Colorado Rule 4.05.6(8)(h) establishes minimum top width criteria for embankments of structures that do not meet the size criteria of Rule 4.05.6(10). The size criteria are a pond capacity of more than 1000 acre feet, or an embankment in excess of 10 feet. The State's criteria for top width for embankments is the same as that established by 30 CFR 816.46(1) and 817.47(1). For these reasons, the Secretary finds that Colorado has satisfied condition (gg).

10. A commenter stated that pursuant to condition (ff), Colorado was required to amend its rules to require that where Board review results in a penalty increase, the additional amount will be forwarded to the Division within 15 days as is required by 30 CFR 845.20(d). Colorado has refused to comply with this condition, claiming that Rule 5.04.4(5) already requires such action.

The Secretary notes that Rule 5.04.4(3)(b) provides that where Board review results in a penalty increase, the additional amount will be forwarded within 30 days. For the reasons set forth in Finding 1(ff) above, Rules 5.04.4(5) and 5.04.4(3)(6) are consistent with 30 CFR 845.20(d), including the same or similar procedural requirements. The Colorado rule, therefore, corrects deficiency (ff).

11. A commenter stated that pursuant to condition (rr), Colorado was required to amend its statute to provide for notice to all interested persons of hearings on various enforcement actions as required by Section 521(a)(4) and 525(a) of SMCRA. Colorado has amended its statute to provide for such notice only to those persons expressing an interest. Colorado's law thereby insures that those persons who are affected by the hearing but unaware of its occurrence will be deprived of notice.

For the reasons set forth above, the Secretary finds the Colorado statute to be consistent with SMCRA and, therefore, corrects deficiency (rr).

12. A commenter stated that it is entirely unclear from the materials Colorado has submitted exactly what changes to its program the State proposes to make other than those necessary to meet the conditions of approval.

The Secretary also had some difficulty and, for this reason, reopened the public comment period on June 16, 1982, to insure that the public would have ample opportunity to comment on all proposed changes to the Colorado program (47 FR 25979–25981). The State has been advised that no amendments can be approved that do not appear in either the February 25 or June 16, 1982, **Federal Register** notices.

13. A commenter noted that pursuant to condition (i), OSM required the State to amend Rule 2.16.6(2)(h) to provide for a description of the area of prime farmland adjacent to the area proposed for mining. The State proposed to amend this rule in its July 16, 1980, resubmission but failed to do so. The State has noted, however, that its approved program contains a requirement at Rule 2.06.6(2)(g) for current estimated or actual yields of adjacent areas of unmined prime farmland for each soil map unit from the U.S. Department of Agriculture for each crop to be used in determining revegetation success. The commenter continued that rather than correct the defect in its program, Colorado has created another one. The use of the term

"adjacent area" in Rule 2.06.6(2)(g) is confusing and inappropriate, and appears to make the rule inconsistent with 30 CFR 785.17(b)(8). The current estimated yield requirement under the Federal rule is based on soil map units for crops to be used in determining revegetation success. Thus, while OSM appears to have acquiesced in Colorado's use of the "adjacent area" concept (45 FR 82183), its relevance is unclear.

The Secretary believes that the commenter fails to understand the use of the term "adjacent area." As noted above, the Secretary found that Colorado substituted the term "adjacent area" for the term "immediate vicinity" in Rule 2.06(2) as required under the terms of condition (i). For this reason, the Secretary has found that Colorado meets the terms of condition (i).

30 CFR 785.17(b) establishes application contents for permit applications which include prime farmlands. 30 CFR 785.17(b)(5) requires, where applicable, data that supports the use of other suitable materials, instead of the A, B, or C soil horizon, to obtain, on the restored area, equivalent or higher levels of yield as non-mined prime farmlands in the "surrounding area." 30 CFR 785.17(b) also uses the term "surrounding area" in establishing requirements for soil productivity. The Secretary finds the use of the term "adjacent area" for similar provisions in the Colorado program to be no less effective than 30 CFR 785.17.

With regard to the commenter's concern that Colorado has limited the permit information on yields for each soil map unit to adjacent areas, the Secretary believes it is the adjacent area that is of major concern.

14. A commenter noted that pursuant to condition (y), Colorado was required to amend the bond release percentages of Rule 3.03.1(4) so that they were consistent with 30 CFR 807.12. Colorado has refused to comply with this condition because of its unsubstantiated claim that the Federal bond release percentages fail to reflect reclamation costs in Colorado.

For the reasons stated in Finding 1(y) above, the Secretary finds the Colorado Rule to be no less effective than the Federal rule and, therefore, corrects deficiency (y).

15. A commenter observed that condition (mm) required Colorado to amend its regulations to provide for awards of costs and expenses, including attorneys' fees, consistent with 43 CFR Part 4. This commenter argued that Colorado had refused to comply with condition (mm) and acknowledged that its rules, in certain respects, were inconsistent with the Federal rules.

For the reasons stated in finding (ll) above, the Secretary finds Colorado's Rule 5.03.6 to be no less effective than the Federal rules with the four exceptions noted in that finding. In addition, the Secretary grants Colorado an extension of time until May 20, 1983 to comply with the remainder of condition (mm).

Approval of Amendments To Satisfy Conditions and Additional Program Amendments

Accordingly, conditions a, b, e, f, g, h, i, j, k, m, n, o, q, s, t, u, v, w, x, y, z, aa, bb(1), bb(2), cc, dd, ff, gg, hh, ii, jj, kk, ll, nn, pp, qq, and rr are hereby removed, and Colorado is granted an extension of time until May 20, 1983, to meet the portion of condition (mm) pertaining to costs and expenses from the State to a citizen. In addition, revisions to the following Colorado rules are approved pursuant to 30 CFR 732.17: Rules 1.03.3(2), 1.03.4(2)(a), 2.02.2(3), 2.03.4(3), 2.05.3(6), 2.05.4(2)(c), 2.05.6, 2.05.6(3)(a), 2.05.6(3)(c), 2.05.6(4), 2.05.6(6)(f)(iii), 2.06.12, 2.06.5(l), 2.06.6(2)(j), 2.06.8(3)(b), 2.06.8(5), 2.08.4(1)(f), 2.08.4(5)(b)(ii), 2.08.4(5)(c), 3.02.1(5)(b), 3.05.1(1)(a), 3.05.1(7), 4.05.2(2), 4.05.3(6)(a), 4.05.4, 4.05.6(3)(c), 4.05.6(9), 4.06.5, 4.15.7(2)(d), 4.15.8(7), 4.15.8(8), 4.16.2(1), 4.21.2(1), 4.21.2(2), 4.05.3(5) and 5.03.6. 30 CFR 906 is amended to indicate removal of the conditions and approval of the program amendments. The removal of the conditions of approval of the Colorado permanent program and the approval of the additional amendments to the program are effective December 16, 1982.

Additional Findings

Pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared for this approval. On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from sections 3, 4, 6, and 8 of Executive Order 12291 for all actions taken to approve or conditionally approve state regulatory programs, actions, or amendments. Therefore, these program amendments are exempt from the preparation of a Regulatory Impact Analysis and regulatory review by OMB.

Section 702(d) of SMCRA, 30 U.S.C. 1292(d), provides that approval of State programs, pursuant to Section 503(b), 30 U.S.C. 1253(b), shall not constitute a major action within the meaning of Section 102(2)(c) of the National Environmental Policy Act (NEPA), 42 U.S.C. 4332(2)(c). OMB has designated this rulemaking as a categorical exclusion from the NEPA process. Thus, OSM is exempt from the requirement of preparing an Environment Assessment (EA), Environmental Impact Statement (EIS), or FONSI for this rule.

Pursuant to the Regulatory Flexibility Act, Pub. L. 96-354, I certify that this rule will not have a significant economic impact on a substantial number of small entities.

On April 22, 1982, the Environmental Protection Agency transmitted its written concurrence on the Colorado program amendments.

List of Subjects in 30 CFR Part 906

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: November 24, 1982.

Daniel N. Miller, Jr.,

Assistant Secretary, Energy and Minerals.

PART 906—COLORADO

Accordingly, Part 906 of Title 30 is amended as follows:

1. 30 CFR 906.10 is revised to read as follows:

§ 906.10 State regulatory program approval.

The Colorado State program as submitted on February 29, 1980, and amended and clarified on June 11, 1980, was conditionally approved, effective December 15, 1980. Beginning on that date, the Colorado Department of Natural Resources was deemed the regulatory authority in Colorado for surface coal mining and reclamation operations and for coal exploration operations on non-Federal and non-Indian lands. Copies of the approved program are available for review at:

(a) Department of Natural Resources, 1313 Sherman Street, Denver, Colorado 80203.

(b) Office of Surface Mining, 219 Central Avenue, N.W., Albuquerque, New Mexico 87102.

(c) Office of Surface Mining, Administrative Record Room, 1100 L Street, N.W., Washington, D.C. 20240.

§ 906.11 [Amended]

2. 30 CFR 906.11 is amended as follows:

a. By removing and reserving paragraphs (a), (b), (e), (f), (g), (h), (i), (j), (k), (m), (n), (o), (q), (s), (t), (u), (v), (w), (x), (y), (z), (aa), (bb 1), (bb 2), (cc), (dd), (ff), (gg), (hh), (ii), (jj), (kk), (ll), (mm), (pp), (qq), and (rr);

b. By revising paragraph (mm) to read as follows:

* * * * *

(mm)(1) The Secretary will initiate steps to terminate the approval found in § 906.10 on June 1, 1982, unless Colorado submits to the Secretary by that date copies of fully implemented regulations containing provisions for:

(i) Costs and expenses regarding discriminatory acts, pursuant to 30 CFR Part 830, as in 43 CFR 4.1294(a)(2);

(ii) Expert witness fees, and costs and expenses in seeking the award as in 43 CFR 4.1295; and

(iii) The administrative appeal of a decision as in 43 CFR 4.1296.

The Secretary will initiate steps to terminate the approval found in § 906.10 on May 20, 1983, unless Colorado submits to the Secretary by that date copies of fully implemented regulations containing provisions for costs and expenses from the State to a citizen as in 43 CFR 4.1294(b).

3. 30 CFR Part 906 is amended by adding a new § 906.15 to read as follows:

§ 906.15 Approval of amendments to state regulatory programs.

The following amendments are approved effective December 16, 1982:

Revisions submitted on January 11, 1982, and February 25, 1982, to Colorado Rules 1.03.3(2), 1.03.4(2)(a), 2.02.2(3), 2.03.4(3), 2.05.3(6), 2.05.4(2)(c), 2.05.6, 2.05.6(3)(a), 2.05.6(3)(c), 2.05.6(4), 2.05.6(6)(f)(iii), 2.06.12, 2.06.5(1), 2.06.6(2)(j), 2.06.8(3)(b), 2.06.8(5), 2.08.4(1)(f), 2.08.4(5)(b)(ii), 2.08.4(5)(c), 3.02.1(5)(b), 3.05.1(1)(a), 3.05.1(7), 4.05.2(2), 4.05.3(6)(a), 4.05.4, 4.05.6(3)(c), 4.05.6(9), 4.06.5, 4.15.7(2)(d), 4.15.8(7), 4.158(8), 4.16.2(1), 4.21.2(1), 4.21.2(2), 4.05.3(5), and 5.03.6.

[FR Doc. 82-34057 Filed 12-15-82; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

31 CFR Parts 53, 55, 81, 90, 92, 93, 120, 121, 122, and 127

Amendment or Removal of Obsolete Regulations

AGENCY: Treasury Department.

ACTION: Final rule.

SUMMARY: The Department of the Treasury is revoking or amending certain regulations which are now obsolete because of changed statutory requirements or because of changed conditions. The regulations to be revoked pertain to gold and silver and emergency banking regulations. These regulations are out of date and their revocation will reflect current practice.

EFFECTIVE DATE: January 17, 1983.

FOR FURTHER INFORMATION CONTACT: Jordan A. Luke, Assistant General Counsel (Enforcement and Operations), Department of the Treasury, Room 2310, 1500 Pennsylvania Ave., N.W., Washington, D.C. 20220, (202) 566-5404.

SUPPLEMENTARY INFORMATION: The amendments to Title 31 of the CFR are intended to eliminate regulations which have become obsolete because of changes in the underlying statutory authority. The reasons for the changes are explained in greater detail as follows:

Part 53 implements the order of the Secretary of the Treasury dated January 15, 1934, as amended, concerning the delivery of wrongfully withheld gold coins and bullion. The January 15, 1934 order required the delivery of gold coin and gold bullion to the Treasurer of the United States by January 17, 1934.

Part 53.1 provides that with respect to gold delivered after the January 17, 1934 deadline, the Treasury shall pay for gold coins at their face amount and for gold bullion at the price of $20.67 an ounce.

Public Law 93-110, as amended by Public Law 93-373, removed all restrictions of U.S. citizens purchasing, holding, selling or otherwise dealing in gold, thereby superseding the January 15, 1934 order requiring delivery of privately held gold to the Treasury and rendering obsolete Part 53, which implemented the order.

Part 55 contains President Roosevelt's Proclamation 2072, January 31, 1934, 48 Stat. 1730, which fixed the weight of the gold dollar at 15 21/32 grains nine-tenths fine, corresponding to a price of $35 per ounce. The proclamation was issued pursuant to authority granted the President by section 43(b)(2) of the Act of May 12, 1933 (48 Stat. 52). The President's authority to change the gold content of the dollar expired on June 30, 1943 (55 Stat. 396), after which time only Congress, by statute, could establish the value of the dollar in terms of gold.

On March 31, 1972, Pub. L. 92-268 (86 Stat. 116), the Par Value Modification Act, established a new par value for the dollar equal to one thirty-eighth of a fine troy ounce of gold, thereby superseding Proc. 2072. On September 21, 1973, Pub. L. 93-110 (87 Stat. 352), amending the Par Value Modification Act, changed the par value of the dollar to equal "0.828948 Special Drawing Right or, the equivalent in terms of gold, of forty-two and two-ninths dollar per fine troy ounce of gold".

The par value of the dollar, established by section 2 of the Par Value Modification Act, was repealed by section 6 of Pub. L. 94-564 (90 Stat. 2660). Under section 9 of that Act, the repeal became effective "upon entry into force of the amendments to the Articles of Agreement of the International Monetary Fund approved in resolution numbered 31-4 of the Board of Governors of the Fund" i.e., adoption by the IMF of the proposed Second Amendment to the Articles of Agreement of the IMF. Under the amended IMF Articles of Agreement, which became effective April 1, 1978, the United States has no legal obligation to establish and maintain a par value for the dollar.

Part 81 establishes procedures for the receipt of newly-mined silver by the Treasury Department and related record keeping requirements, pursuant to sections 104 and 107 of the Act of July 23, 1965. That Act requires the Secretary to purchase at a price of $1.25 an ounce any silver mined after July 23, 1965, from natural deposits in the United States or any place subject to the jurisdiction thereof. Inasmuch as the current market price of silver is considerably in excess of $1.25 an ounce, there presently does not exist sufficient interest on the part of potential sellers of silver to warrant the continued maintenance of formal procedures to effect purchases of newly-mined silver at the statutory price. In light of the above, Part 81 is being repealed.

Part 90 prescribes policies regulations and charges of the Mints and assay offices for the acceptance and treatment of silver deposited for purchase under the provisions of the Newly-Mined Domestic Silver Regulations of 1965, the regulations of the (defunct) Office of Domestic Gold and Silver Operations (Parts 81 and 93 of 31 CFR) and title 31 of the United States Code. This part also provides a table of charges for special assays of gold or silver bullion samples and assays of ores. Those sections relating to the acceptance of silver are being repealed. Section 104 of the Act of July 23, 1965, requires the Secretary to purchase at a price of $1.25 an ounce, any silver mined after 1965, from natural deposits in the United States or any place subject to the jurisdiction thereof. Inasmuch as the current market price of silver is considerably in excess of $1.25 an ounce, there presently does not exist sufficient interest on the part of potential sellers of silver to warrant the continued maintenance of formal procedures to effect purchases of newly mined silver at the statutory price. In regard to the remainder of Part 90, which deals with the assaying of bullion, metals and ores, it has been determined that this function can be adequately performed by the private sector. The provision of this service is a

relic of times when U.S. coinage contained precious metals and citizens were authorized to present bullion to the Mint for exchange into bars. Currently, with the administrative termination of the exchange activity in 1970 (See 35 FR 15922 (1970)), no governmental purpose is served by continuing the special assays. The private assaying function of the Mint is in competition with commercial firms offering the same service and diverts Mint employees and facilities from the Mint's primary missions. Acordingly, all of Part 90 is being repealed.

Part 92 prescribes procedures for the receipt of "newly mined domestic silver" as provided by Parts 81 and 93 and for the redemption of U.S. coin. Part 92 also enumerates Mint practices in regard to the manufacture and sale of medals, and proof and uncirculated coins. Finally, this part details the practice governing disclosure of Mint records, pursuant to 5 U.S.C. 301 and 552.

Sections 92.1 and 92.2 are being repealed, inasmuch as there does not presently exist sufficient interest on the part of potential silver sellers to warrant continuation of the procedures detailed therein. (For detailed explanation, see discussion on Part 81). Section 92.3(a) is being repealed as there is little interest in the present or expected market, for redeeming gold coin at face value, or if the gold coin is worn or mutilated, at $20.67+ per ounce of fine gold. Section 92.3(b) is also being repealed as it merely refers to Part 100 for rules governing redemption of silver and minor coins. (We note further that redemption of silver and silver coins at face value is still authorized pursuant to 31 CFR 100.3). Section 92.4, "Sale of Silver" merely cross references the reader to Part 56, and accordingly is being deleted. The last sentence of section 92.5, dealing with application to the Director of the Mint for the manufacture of national medals designated by Congress, should be deleted as it is obsolete and meaningless. Congressional approval is necessary for the minting of national medals and application to the Director of the Mint cannot replace such approval.

The subsections of section 92 are renumbered appropriately in light of these revisions.

Part 93 establishes procedures for the purchase of newly-mined silver by the Treasury Department, pursuant to section 104 of the Act of July 23, 1965. That Act requires the Secretary to purchase at a price of $1.25 an ounce any silver mined after July 23, 1965, from natural deposits in the United States or any place subject to the jurisdiction thereof. Inasmuch as the current market price of silver is considerably in excess of $1.25 an ounce, there does not presently exist sufficient interest on the part of potential sellers of silver to warrant the continued maintenance of formal procedures to effect purchases of newly-mined silver at the statutory price.

Part 120 consists of Presidential Proclamations and Executive Orders concerning the 1933 bank holiday. These enactments have been obsolete for many years, but have never been specifically repealed. Part of the authority under which they were issued was the Trading With the Enemy Act of 1917, which empowered the President to declare national emergencies in periods other than wartime. The 1977 amendments to the Trading With the Enemy Act provided that the President can declare national emergencies under the Trading With the Enemy Act only in time of war. (The International Emergency Economic Powers Act, 50 U.S.C. App. 1701–1706, provides that the President can declare national emergencies with respect to threats which have their sources in whole or substantial part outside the United States.) The 1977 amendments also provided that all declared national emergencies in effect at the time of their enactment (1977) terminated in two years, unless extended. Because these emergencies were not extended, they lapsed in 1979.

Authority to issue these enactments was also derived from the Emergency Banking Act, 12 U.S.C. 95, which remains in effect. However, the Emergency Banking Act only states what powers the President may invoke during a national emergency with respect to banks which are members of the Federal Reserve System—it does not give the President authority to declare a national emergency for purely domestic reasons.

Because the President's powers to declare national emergencies in peacetime have been restricted by the 1977 amendments to the Trading With the Enemy Act and the International Emergency Economic Powers Act, enactments promulgated under the national emergencies which have terminated pursuant to the 1977 amendments have also terminated.

Part 121 contains the Emergency Banking Regulations issued under the Trading With the Enemy Act, the Emergency Banking Act and Procs. 2039 and 2049. This Part, like Part 120, became inapplicable when the 1977 amendments to the Trading With the Enemy Act were enacted and is being revoked.

Part 122 contains the general license to transact normal banking business for banks which are members of the Federal Reserve System. The general license was issued under Executive Order 6073, as amended. Proclamation 2725 (1947) excluded Federal Reserve member banks from the application of E.O. 6073, except with respect to gold transactions, and E.O. 11825 removed from E.O. 6073 the provisions pertaining to gold. The 1977 amendments to the Trading With the Enemy Act eliminated the statutory authority for E.O. 6073. Therefore, Part 122 is being eliminated.

Part 127 consists of the text of Executive Order 6560 of 1934 (§§ 127.0 to 127.7), regulating transactions of foreign exchange, transfers of credit and export of coin and currency, and specific prohibitions relating to countries occupied by axis forces during World War II (§§ 127.9–127.17). The authority for the Executive Order is based upon the Trading With the Enemy Act, 12 U.S.C. 95a, and E.O. 6260. The 1977 amendments restricted the scope of the President's authority to invoke the extraordinary powers contained therein, and eliminated the existing national emergencies. E.O. 6260 was revoked by E.O. 11825 (1974). Thus the statutory authority for E.O. 6560 and Part 127 no longer exists. The prohibitions contained in Sec. 127.9–127.17 are no longer applicable since they refer only to the World War II era. For these reasons, Part 127 is being revoked.

On June 14, 1982, the Treasury Department published its notice of proposed amendment or removal of regulations in the **Federal Register** (47 FR 25543). Interested parties were given sixty days to submit comments on the proposal. No comments were received. Accordingly, the Treasury Department is adopting the regulatory amendments as initially proposed.

List of Subjects

31 CFR Parts 53 and 55

Currency, Gold.

31 CFR Part 81

Silver.

31 CFR Parts 90 and 93

Gold, Silver.

31 CFR Part 92

Currency, Gold, Silver.

31 CFR Parts 120, 121 and 122

Banks, banking.

31 CFR Part 127

Banks, banking, Currency.

Executive Order 12291

It has been determined that this final rule does not meet the criteria for "major rules", set forth in Executive Order 12291 (February 17, 1981) in that it will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this final rule because it will not have a significant economic impact on a substantial number of small entities. The final rule is not expected to: have significant secondary or incidental effects on a substantial number of small entities; or impose or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities. Accordingly, the Secretary of the Treasury has certified under the provisions of Section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this final rule will not have a significant economic impact on a substantial number of small entities.

Drafting Information

The principal authors of this document were:

John G. Murphy, Jr., Attorney/Adviser, Office of the General Counsel, Department of the Treasury, Room 2014, 1500 Pennsylvania Avenue, N.W., Washington, D.C. 20220 (202) 566–8184.

Kenneth B. Gubin, Counsel, Bureau of the Mint, Room 1033, 501 13th Street, N.W., Washington, D.C. 20220 (202) 376–0564

However, personnel from other Treasury offices participated in its development.

Amendment of Regulations

Parts 53, 55, 81, 90, 92, 93, 120, 121, 122, and 127, Treasury Regulations (31 CFR Parts 53, 55, 81, 90, 92, 93, 120, 121, 122, and 127) are amended or removed as set forth below.

Dated: December 10, 1982.

Peter J. Wallison,

General Counsel.

The text of the amendments is as follows:

PART 53—[REMOVED]

1. Part 53 is removed.

PART 55—[REMOVED]

2. Part 55 is removed.

PART 81—[REMOVED]

3. Part 81 is removed.

PART 90—[REMOVED]

4. Part 90 is removed.

5. Part 92 is revised to read as follows:

PART 92—BUREAU OF THE MINT OPERATIONS AND PROCEDURES

Sec.

92.1 Manufacture of medals.
92.2 Sale of "list" medals.
92.3 Manufacture and sale of "proof" coins.
92.4 Uncirculated Mint Sets.
92.5 Procedure governing availability of Bureau of the Mint records.
92.6 Appeal.

Authority: 5 U.S.C. 301.

§ 92.1 Manufacture of medals.

With the approval of the Director of the Mint, dies for medals of a national character designated by Congress may be executed at the Philadelphia Mint, and struck in such field office of the Mints and Assay Offices as the Director shall designate.

§ 92.2 Sale of "list" medals.

Medals on the regular Mint list, when available, are sold to the public at a charge sufficient to cover their cost, and to include mailing cost when mailed. Copies of the list of medals available for sale and their selling prices may be obtained from the Director of the Mint, Washington, D.C.

§ 92.3 Manufacture and sale of "proof" coins.

"Proof" coins, i.e., coins prepared from blanks specially polished and struck, are made as authorized by the Director of the Mint and are sold at a price sufficient to cover their face value plus the additional expense of their manufacture and sale. Their manufacture and issuance are contingent upon the demands of regular operations. Information concerning availability and price may be obtained from the Director of the Mint, Treasury Department, Washington, D.C. 20220.

§ 92.4 Uncirculated Mint Sets.

Uncirculated Mint Sets, i.e., specially packaged coin sets containing one coin of each denomination struck at the Mints at Philadelphia and Denver, and the Assay Office at San Francisco, will be made as authorized by the Director of the Mint and will be sold at a price sufficient to cover their face value plus the additional expense of their processing and sale. Their manufacture and issuance are contingent upon demands of regular operations. Information concerning availability and price may be obtained from the Director of the Mint, Treasury Department, Washington, D.C. 20220.

§ 92.5 Procedure governing availability of Bureau of the Mint records.

(a) *Regulations of the Office of the Secretary adopted.* The regulations on the Disclosure of Records of the Office of the Secretary and other bureaus and offices of the Department issued under 5 U.S.C. 301 and 552 and published as Part 1 of this title, 32 FR No. 127, July 1, 1967, except for § 1.7 of this title entitled "Appeal," shall govern the availability of Bureau of the Mint records.

(b) *Determination of availability.* The Director of the Mint delegates authority to the following Mint officials to determine, in accordance with Part 1 of this title, which of the records or information requested is available, subject to the appeal provided in § 92.6: The Deputy Director of the Mint, Division Heads in the Office of the Director, and the Superintendent or Officer in Charge of the field office where the record is located.

(c) *Requests for identifiable records.* A written request for an identifiable record shall be addressed to the Director of the Mint, Washington, D.C. 20220. A request presented in person shall be made in the public reading room of the Treasury Department, 15th Street and Pennsylvania Avenue, NW, Washington, D.C., or in such other office designated by the Director of the Mint.

§ 92.6 Appeal.

Any person denied access to records requested under § 92.5 may file an appeal to the Director of the Mint within 30 days after notification of such denial. The appeal shall provide the name and address of the appellant, the identification of the record denied, and the date of the original request and its denial.

PART 93—[REMOVED]

6. Part 93 is removed.

PART 120—[REMOVED]

7. Part 120 is removed.

PART 121—[REMOVED]

8. Part 121 is removed.

PART 122—[REMOVED]

9. Part 122 is removed.

PART 127—[REMOVED]

10. Part 127 is removed.

[FR Doc. 82-34163 Filed 12-15-82; 8:45 am]
BILLING CODE 4810-25-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 110

[CGD 11 82-01]

Anchorage Grounds, Los Angeles and Long Beach Harbors, Calif.

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: These regulations revise the anchorage regulations for Los Angeles and Long Beach Harbors, California. The affected area lies along the Terminal Island shoreline between Fish Harbor light number "4" and the Naval Base Mole light number "2". The construction of a rock dike to contain dredged spoils from the Los Angeles Harbor Deepening Project has created the need to reflect the shoreline changes in the anchorage regulations. The associated extension of a sewer outfall from the Terminal Island Sewage Treatment Plant has produced a need to create a new nonanchorage area to protect the sewer line. Also, to improve administration of General Anchorage "O" (33 CFR 110.214), the Coast Guard is placing a portion of the anchorage under the jurisdiction of the city of Los Angeles and incorporating the remainder into Commercial Anchorage "B" (33 CFR 110.214).

EFFECTIVE DATE: The amendments are effective January 17, 1983.

FOR FURTHER INFORMATION CONTACT: Lieutenant Louis S. Stanton, Marine Safety Division, Eleventh Coast Guard District, 400 Oceangate, Long Beach, CA 90822. Phone Number: 213-590-2301.

SUPPLEMENTARY INFORMATION: On August 30, 1982 the Coast Guard published a notice of proposed rulemaking in the **Federal Register** (47 FR 38152). Interested persons were requested to submit comments and two comments were received.

Drafting Information

The principal persons involved in drafting the proposal are: LTJG Jeffrey A. Gabrielson, Vessel Management Officer, Coast Guard Marine Safety Office LA-LB and LT Catherine M. McNally, Project Attorney, District Legal Office, Eleventh Coast Guard District.

Discussion of Comments

One comment endorsed the proposed rulemaking. The other comment from NOAA pointed out an apparent typographical error in a longitude coordinate in the General Anchorage "O" designation. The final rule reflects the proper coordinate.

Economic Assessment and Certification

These regulations are considered to be nonsignificant in accordance with DOT Policies and Procedures for Simplification, Analysis and Review of Regulations (DOT Order 2100.5). Their economic impact is expected to be minimal. The rules revise the boundaries of anchorages to reflect shoreline changes and place administration of an anchorage under the jurisdiction of a local agency desiring to control the anchorage. Based upon this assessment, it is certified in accordance with section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that these rules will not have a significant economic impact on a substantial number of small entities. Also, the regulations have been reviewed in accordance with Executive Order 12291 of February 17, 1981, on Federal Regulation and have been determined not to be major rules under the terms of that order.

List of Subjects in 33 CFR Part 110

Anchorage grounds.

Final Regulations

In consideration of the foregoing, Part 110 of Title 33, Code of Federal Regulations is amended as follows:

PART 110—[AMENDED]

§ 110.214 [Amended]

1. By revising § 110.214(a)(2) to read as follows:

(a) * * *

(2) *Commercial Anchorage B (Los Angeles and Long Beach Harbors).* An area enclosed by a line beginning at the southwestern corner of Reservation Point at latitude 33°43'18.0" N., longitude 118°16'00.2" W.; thence east southeasterly to latitude 33°43'13.8" N., longitude 118°15'51.4" W.; thence northeasterly to latitude 33°44'00.9" N., longitude 118°13'11.2" W.; thence northwesterly to the southern edge of the eastern extension of the Naval Base Mole at latitude 33°44'32.3" N., longitude 118°13'24.3" W.; thence southwesterly along the Naval Base Mole to Naval Base Mole Light 2 at latitude 33°44'25.5" N., longitude 118°13'49.0" W.; thence northwesterly along the Naval Base Mole to latitude 33°44'37.1" N., longitude 118°14'34.0" W.; thence southeasterly to latitude 33°44'14.2" N., longitude 118°14'25.0" W.; thence southwesterly to the east end of breakwater extension of the south containment dike, latitude 33°44'07.8" N., longitude 118°14'45.7" W.; thence southwesterly along the southern edge of the south containment dike to Fish Harbor Channel Light #3 at latitude 33°43'48.8" N., longitude 118°15'52.7" W.; thence west southwesterly along the southern edge of Fish Harbor west jetty until it intersects Reservation Point; thence along the eastern and southern shoreline of Reservation Point to the beginning point.

* * * * *

2. By revising § 110.214(a)(11) to read as follows:

(a) * * *

(11) *General Anchorage O (Los Angeles Harbor).* An area enclosed by a line beginning at the east end of the south containment dike breakwater extension, latitude 33°44'07.8" N., longitude 118°14'45.7" W.; thence southwesterly to the intersection of the south and east containment dikes, latitude 33°44'04.6" N., longitude 118°14'56.9" W.; thence northwesterly along the east containment dike to the Terminal Island shoreline, latitude 33°44'37.9" N., longitude 118°15'10.9" W.; thence along the Terminal Island shoreline to latitude 33°44'37.1" N., longitude 118°14'34.0" W.; thence southeasterly to latitude 33°44'14.2" N., longitude 118°14'25.0" W.; thence southwesterly to the beginning point.

(i) In this anchorage the requirements of recreational and other small craft shall predominate.

(ii) Anchorage, mooring, and boating activities conforming to applicable City of Los Angeles ordinances and regulations adopted pursuant thereto are allowed in this anchorage.

* * * * *

3. By revising § 110.214(a)(14) to read as follows:

(a) * * *

(14) *Nonanchorage U (Los Angeles Harbor).* An area enclosed by a line beginning at latitude 33°44'00.0" N., longitude 118°15'12.2" W.; thence southerly to latitude 33°43'48.7" N., longitude 118°15'06.4" W.; thence easterly to latitude 33°43'49.7" N., longitude 118°15'03.9" W.; thence northerly to latitude 33°44'01.1" N.,

longitude 118°15'09.2" W.; thence along the south containment dike to the beginning point.

* * * * *

(Sec. 7, 38 Stat. 1053, as amended (33 U.S.C. 471); Sec. 6(g)(1)(A), 80 Stat 937 (49 U.S.C. 1655(g)(1)(A)); 49 CFR 1.46(c)(1); 33 CFR 1.05–1(g) (1) and (2))

A. P. Manning,

Rear Admiral, U.S. Coast Guard, Commander, Eleventh Coast Guard District.

[FR Doc. 82–34224 Filed 12–15–82; 8:45 am]

BILLING CODE 4910–14–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 81–783; RM–3939; RM–4069]

FM Broadcast Stations in McPherson and Lindsborg, Kansas; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns FM Channel 240A to Lindsborg, Kansas, as its first FM assignment in response to a request from Bethany College. A conflicting proposal filed by Dean Curfman for a second FM assignment to McPherson, Kansas, was denied.

DATE: Effective February 11, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: D. David Weston, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order (Proceeding Terminated)

Adopted: November 30, 1982.

Released: December 13, 1982.

1. The Commission has before it for consideration the Further Notice of Proposed Rule Making, 47 FR 20158, published May 11, 1982, proposing the assignment of FM Channel 240A to either McPherson or Lindsborg, Kansas. The Commission initially proposed the assignment to McPherson, Kansas,[1] in response to a petition filed by Dean Curfman ("Curfman"). In response, McPherson Broadcasting, Inc. filed a counterproposal on behalf of Bethany College ("Bethany") proposing the assignment of 240A to Lindsborg, Kansas. The proposals are jointly considered here since the spacing restrictions of § 73.207 [2] of the Commission's Rules preclude the assignment of Channel 240A to both communities. Curfman and Bethany have filed comments in which each reaffirmed its intention to apply for the channel, if assigned to their respective community.

2. McPherson, a community of 11,753 [3] is located in McPherson County (population 26,855), approximately 80 kilometers (50 miles) north of Wichita, Kansas. It is presently served by two aural broadcast services, daytime only AM Station KNEX and Station KNEX–FM (Channel 244A). Curfman submitted additional supporting comments stating that its proposal for a second FM assignment could provide the citizens of McPherson with an alternate source of news/public affairs and could be a competitive influence for the continued growth of McPherson County.

3. Lindsborg, a community of 3,155 is also located in McPherson County, approximately 96 kilometers (60 miles) north of Wichita, Kansas. It is currently devoid of any local aural broadcast service. In response to the Further Notice, Bethany College, the proponent of the Lindsborg assignment, has submitted comments clarifying its intention to seek a commercial channel for its proposed FM operation.

4. Curfman submitted preclusion information regarding the McPherson proposal. However, in view of the Commission's adoption of the *Second Report and Order* in BC Docket No. 80–130, *Revisions of FM Assignment Policies and Procedures*, 90 F.C.C. 2d 88 (1982), this information is no longer needed. That proceeding established new priorities to be used in making FM channel assignments. We have, therefore, evaluated the proposals using these priorities as set forth below:

(1) First full-time aural service.
(2) Second full-time aural service.
(3) First local service.
Other public interest matters.

McPherson is currently served by two aural broadcast services whereas Lindsborg is devoid of local aural broadcast service. Thus the priorities provide a clear choice—the assignment of Channel 240A to Lindsborg. Further, we do not believe that Curfman has demonstrated an overriding need for a second FM assignment and a third aural service in the community of McPherson. This determination is consistent with the mandate of section 307(b) of the Communications Act, as amended, to provide a fair, efficient and equitable distribution of radio services among the various communities and is in accord with our assignment priorities as set forth in the *Second Report and Order*, as well as our traditional assignment principles.[4]

5. In this decision, the Commission has also taken into account the other arguments raised by petitioner, including its assertion that Channel 256 and 294 could be assigned to Lindsborg under the rules proposed in BC Docket No. 80–90.[5] The Commission believes that it would be inappropriate to base present actions on future speculative possibilities. We must make our decisions on the basis of the regulatory scheme as it exists today. At this time, there is no other channel which could be assigned to Lindsborg. However, if the BC Docket No. 80–90 proposals are ultimately adopted, petitioner could then assess what assignment options are available at Lindsborg and McPherson.

6. In view of the foregoing, the Commission believes that the public interest would be served by assigning Channel 240A to Lindsborg, Kansas, since it would provide the community with its first FM assignment and first local aural broadcast service. The channel can be assigned in compliance with the minimum distance separation requirements of § 73.207 of the rules.

7. Accordingly, pursuant to the authority contained in §§ 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.281 and 0.204(b) of the Commission's rules, it is ordered, that effective February 11, 1983, the FM Table of Assignments (§ 73.202(b) of the Rules) is amended with respect to the community listed below:

City	Channel No
Lindsborg, Kansas	240A

8. It is further ordered, that this proceeding is terminated.

[1] *Notice of Proposed Rule Making*, 46 FR 58715, published December 3, 1981.

[2] Section 73.207 requires a 104 kilometer (65 mile) separation between co-channel Class A assignments. The communities are only 23 kilometers (14 miles) apart.

[3] All population figures taken from the 1980 U.S. Census, Advance Reports.

[4] See also *Wiggins and Lumberton, North Carolina*, 50 R.R. 2d 32 (1981); *South Pittsburg, Tennessee and Stevenson, Alabama*, 35 R.R. 2d 605 (1975), *recons. den.* 37 R.R. 2d 121 (1976); *Anamosa and Iowa City, Iowa*, 46 F.C.C. 2d 520, 524 (1974); *Third Report, Memorandum Opinion and Order in Docket 14185*, 40 F.C.C. 747 (1963).

[5] *Modification of FM Broadcast Station Rules to Increase the Availability of Commercial FM Broadcast Assignments*, 78 F.C.C. 2d 1235 (1980). Proposals made in that docket would also permit the use of Class A facilities on Class B/C channels.

9. For further information concerning the above, contact D. David Weston, Broadcast Bureau (202) 632–7792.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-34110 Filed 12-15-82; 8:45 am]

BILLING CODE 6712-01-M

---

47 CFR Part 73

[BC Docket No. 81-155; RM-3660; RM-3708; RM-3858; RM-4073; RM-4074]

FM Broadcast Stations in Bend, Coos Bay, North Bend, Coquille, Oregon; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action substitutes Class C FM Channel 293 for Channel 288A and Channel 254 for Channel 252A at Coos Bay, Oregon; Channel 235 for Channel 265A at North Bend, Oregon, and Channel 247 for Channel 272A at Coquille, Oregon, and modifies the licenses of Stations KYNG–FM, KICR, KOOS and KSHR–FM to specify operation thereon in response to separate requests from Southwest Broadcasters, Inc., Bay Radio Corporation, and SGB Broadcasting, Inc.

DATE: Effective February 11, 1983.

ADDRESS: Federal Communications Commission, Washington D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Philip S. Cross, Broadcast Bureau, (202) 632–5414.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

In the matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Bend, *Coos Bay, North Bend,*[1] *Coquille, Oregon*) [1]; BC Docket No. 81–155, RM–3660, RM–3708, RM–3858, RM–4073, RM–4074.

Second Report and Order (Proceeding Terminated)

Adopted: November 30, 1982.

Released: December 13, 1982.

1. A Further Notice of Proposed Rule Making and Order to Show Cause in this proceeding was published in the Federal Register on December 29, 1981 (46 FR 62878). The *Notice* proposed to substitute Class C FM Channels 239 and 247 for Class A Channels 252A and 288A at Coos Bay, Oregon. The licensees of Stations KYNG–FM (Channel 288A) and KICR (Channel 252A) were ordered to show cause why their licenses should not be modified to specify operation on Channel 247 and Channel 239, respectively.[2]

2. Comments were filed by SGB Broadcasting, Inc. ("KYNG"), the original petitioner and licensee of Station KYNG–FM, Coos Bay, Oregon (Channel 288A) (RM–3858); and by Intercontinental Ministries ("KICR"), licensee of Station KICR, Coos Bay, Oregon (Channel 252A). Comments and counterproposals were filed by Bay Radio Corporation ("KOOS"), licensee of FM Station KOOS, North Bend, Oregon (Channel 265A) (RM–4073), and by Southwest Broadcasting, Inc. ("KSHR"), licensee of Station KSHR–FM, Coquille, Oregon (Channel 272A) (RM–4074). Reply comments were filed by KOOS and KSHR.

3. Basically this case involves four stations each of which seeks to upgrade their operation from a Class A to a Class C channel in three separate communities. The stations argue that it is necessary for each to expand coverage in order to remain competitive in what they describe as a comnmon market.

4. The cities and stations involved are Coos Bay (KYNG–FM and KICR); North Bend (KOOS); and Coquille (KSHR–FM). North Bend is located approximately 2.5 miles north of Coos Bay. Coquille is located approximately 15 miles south of Coos Bay. KOOS states that North Bend and Coos Bay are closely integrated as a common market and Stations KOOS and KICR use the same transmitter tower location. The required 3.16 mV/m city of license coverage contour is provided by Station KOOS to Coos Bay and by the Coos Bay stations to North Bend. KSHR states that Coquille and Coos Bay also form a unified market, with stations in each providing service to the other and relying to a great extent upon the same source of advertiser revenues.

5. We conclude on the basis of the showings submitted that there is a need for upgraded service so that each of the four Class A stations can provide coverage to a significantly wider area. The basic problem here is finding a combination of four Class C channels which could be used in those communities in compliance with the requirements of our rules. Parties herein have proposed various combinations, each of which has defects. We also note that in another proceeding involving Medford, Oregon, BC Docket No. 82–308, we have proposed to modify the license of Station KBOY–FM from Channel 237A to Class C Channel 239. Thus, Channel 239 which has been suggested by some of the parties as a possible new assignment here is no longer available. Rather we have determined that the best arrangement of channel assignments is as follows:

City	Channel No.	
	Present	Proposed
Coos Bay (KYNG)	288A	293
Coos Bay (KICR)	252A	254
North Bend (KOOS)	265A	235
Coquille (KSHR)	272A	247

6. Each of the parties has commented on, and therefore is aware of these possible new channels for its respective community. While each licensee seems to have a preference, none voiced an objection to any of the specified channels which we have set forth above. Thus we perceive no obstacles to the modifications to these channels. Specifically the substitution of Channel 254 for Channel 252A for Station KICR will require minimum transmitter and antenna changes. The substitution of Channel 293 for Channel 288A for Station KYNG–FM will allow relocation to Station KICR's antenna site. There appears to be no adverse impact for the other channel substitutions.

7. Since no other parties have come forward to express an interest in the Class C channels in response to the Further Notice of Proposed Rule Making, the licensee of each of the stations herein can be modified to specify operation on a Class C channel pursuant to policy set forth in *Cheyenne, Wyoming*, 62 F.C.C. 2d 63 (1976).

8. The matter of reimbursement is also at issue. KYNG states that it would, if required, pay the cost of converting Station KICR's operating frequency inasmuch as both stations are in the same community. KOOS states that the cost of converting its operating frequency should also be reimbursed by KYNG, since upgrading KYNG and KICR, and not KOOS, would leave KOOS at a competitive disadvantage in North Bend. KYNG opposes reimbursement to KOOS on the ground that it is not in the same community as KYNG.

---

[1] These communities have been added to the caption. Previously in a *First Report and Order*, two other rule making petitions (RM–3660 and RM–3708) to assign Class C channels to Bend, Oregon, were granted.

[2] The licensee of Station KYNG has requested the assignment of Class C Channel 289. To avoid the conflict with channel assignments at Bend, Oregon, (fn. 1, *supra*), we proposed the assignment of Channel 247.

9. Since the date these comments were received, we have taken action in BC Docket 80–130, *Second Report and Order, Revision of FM Policies and Procedures*, 90 F.C.C. 2d 88 (1982). That action eliminates the issue of intermixture in these rule making cases. As a result, we no longer have policy objectives in proposing to upgrade other Class A stations in a given community in order to avoid intermixture and therefore we see no need for reimbursement in order to fairly treat stations affected by this former policy.

10. Accordingly, pursuant to authority contained in §§ 4(i), (5)(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.204(b) and 0.281 of the Commission's Rules, it is ordered, That effective February 11, 1983, the FM Table of Assignments, § 73.202(b) of the Rules is amended with respect to Coos Bay, North Bend, and Coquille, Oregon, as follows:

City	Channel No
Coos Bay, Oregon	254, 293
Coquille, Oregon	247
North Bend, Oregon	235

11. It is further ordered, That pursuant to the authority contained in § 316 of the Communications Act of 1934, as amended, the license for each of the following stations is modified to specify operation on the channel indicated: Station KYNG–FM, Coos Bay, Oregon, Channel 293: Station KICR, Coos Bay, Oregon, Channel 254; Station KOOS, North Bend, Oregon, Channel 235; and Station KSHR–FM, Coquille, Oregon, Channel 247

12. It is further ordered, That the modification of each of the said licensees is subject to the following:

(a) At least 30 days before operating on the channel specified the licensee shall submit to the Commission a minor change application for a construction permit (Form 301).

(b) Within 10 days after commencing operation on the channel specified, the licensee shall submit a license application (Form 302) for the new channel.

(c) Nothing contained herein shall be construed to authorize a major change in transmitter location or to avoid the necessity of filing an environmental impact statement pursuant to § 1.1201 of the Commission's rules.

13. It is further ordered, That this proceeding it terminated.

14. It is further ordered, That the Secretary of the Commission SHALL SEND a copy of this *Report and Order* to the following parties:

1. SGB Broadcasting, Inc., P.O. Box 1009, Ross, California 94958.

2. Intercontinental Ministeries c/o 5600 N.E. Hassalo, Portland, Oregon 97213.

3. Bay Radio, Inc., P.O. Box 180, Coos Bay, Oregon 97420.

4. Southwest Broadcasting, Inc., P.O. Box 250, Coquille, Oregon 97423.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82–34111 Filed 12–15–82; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 225

[Docket No. RAR–2, Notice No. 6]

Adjustment of Monetary Threshold for Reporting Accidents/Incidents

AGENCY: Federal Railroad Administration (FRA), Transportation (DOT).

ACTION: Final rule.

SUMMARY: This rule increases the reporting threshold from $3,700 to $4,500 for railroad accidents/incidents involving property damage that occur during the calendar year 1983. This action is needed to insure that the FRA reporting requirements reflect cost increases that have occurred since the reporting threshold was last computed in 1980.

EFFECTIVE DATE: This rule becomes effective on January 1, 1983.

FOR FURTHER INFORMATION CONTACT: (1) *Principal Program Person*: Frank V. Fanelli, Office of Safety, (RRS–24), FRA, Washington, D.C. 20590. Phone (202) 426–9178.

(2) *Principal Attorney*: Lawrence I. Wagner, Office of Chief Counsel, (RCC–30), FRA, Washington, D.C. 20590. Phone (202) 426–8836.

SUPPLEMENTARY INFORMATION:

Background

Section 225.19(c) of 49 CFR provides that the dollar figure that constitutes the reporting threshold for railroad accidents will be adjusted every two years, in accordance with the procedures outlined in Appendix A to Part 225, to reflect cost increases.

New Reporting Threshold

Two years have passed since the accident/incident reporting threshold was last revised. Consequently, the FRA has recomputed the threshold as required by § 225.19(c) based on increased costs for labor and material. The FRA has determined that the current reporting threshold of $3,700 should be increased to $4,500. Accordingly, §§ 225.5 and 225.19 are being amended to require railroads to report accidents/incidents resulting in more than $4,500 in damages.

Appendix A has also been amended to reflect the most recent calculations used to determine the new threshold. In addition, the FRA has substituted a new source document for fringe benefit surcharges.

The existing regulation makes reference in paragraph (3) of Appendix A to an agreement concerning fringe benefit surcharges between the Federal Highway Administration (FHWA) and the Association of American Railroads (AAR). The agreement prescribed procedures under which FHWA would reimburse a State government for costs incurred for railroad work on Federal-aid highway projects.

This agreement was terminated by a final rule issued by FHWA on August 5, 1982 (47 FR 33953). FRA has, therefore, utilized another source to obtain the data previously obtained from FHWA. The new source is the Railroad Cost Index prepared annually by the Interstate Commerce Commission (ICC) under the provisions of 49 CFR Part 1102.

Regulatory Impact

This proposal has been evaluated in accordance with existing regulatory policies. It will not have an adverse or significant economic impact on any entity, including small entities, because it does not place any new requirements or burdens on the public. Accordingly, it is certified that the proposal will not have a significant economic impact on a substantial number of small entities under the provisions of the Regulatory Flexibility Act (Pub. L. 95–354, Stat. 1164, September 13, 1980). It does not constitute a major Federal action significantly affecting the quality of the human environment and, therefore, an Environmental Impact Statement is not required. The proposal does not constitute a major rule under the terms of Executive Order 12291 and does not constitute a significant rule under the Department of Transportation regulatory policies and procedures. Moreover, costs associated with the rule are

minimal and do not warrant a regulatory evalation.

Notice and Public Procedure

Since the amendment merely adjusts the reporting threshold for accidents/incidents in accordance with procedures specified in a long standing regulation (49 CFR 225.19(c)) and imposes no additional burden on any person, the FRA finds in accordance with the Administrative Procedure Act that notice and public procedure are not necessary and are impractical due to time constraints.

Additionally, to assure the uniformity and comparability of accident/incident data reported to and compiled by FRA for calendar year 1983, this amendment shall become effective in less than 30 days on January 1, 1983.

List of Subjects in 49 CFR Part 225

Investigations, Railroad safety, Reporting and recordkeeping requirements.

The Final Rule

For reasons set out in the preamble, Part 225 of Chapter II of Title 49 of the Code of Federal Regulations is amended, effective January 1, 1983, as follows:

PART 225—[AMENDED]

1. By amending § 225.5 by revising paragraph (b)(2) to read as follows:

§ 225.5 Definitions.

As used in this part—

* * * * *

(b) "Accident/Incident" means:

* * * * *

(2) Any collision, derailment, fire, explosion, act of God, or other event involving operation of railroad on-track equipment (standing or moving) that results in more than $4,500 in damages to railroad on-track equipment, signals, track, track structures, and roadbed;

* * * * *

2. By amending § 225.19 by revising the second sentence of paragraph (b) and by revising the first, third and fifth sentences of paragraph (c) to read as follows:

§ 225.19 [Amended]

* * * * *

(b) *Group I—Rail—Highway Grade Crossing.* * * * In addition, whenever a rail-highway grade crossing accident/incident results in more than $4,500 damages to railroad on-track equipment, signals, track, track structures, and roadbed, that accident/incident must be reported to the FRA on Form FRA F6180.54. * * *

(c) *Group II—Rail Equipment.* Rail equipment accident/incidents are collisions, derailments, fires, explosions, acts of God, and other events involving the operation of railroad on-track equipment (standing or moving) that result in more than $4,500 in damages to railroad on-track equipment, signals, track, track structures, and roadbed, including labor costs and all other costs for repair or replacement in kind. * * * If the property of more than one railroad is involved in an accident/incident, the $4,500 threshold is calculated by including the damages suffered by all of the railroads involved. * * * The $4,500 reporting threshold will be reviewed periodically and will be adjusted in increments of $100 every 2 years in accordance with the procedures outlined in Appendix A of this part.

* * * * *

3. By revising Appendix A to read as follows:

Appendix A—Procedure for Determining Reporting Threshold

1. Wage figures used for track direct labor rates will be based on the "Average straight time rate" shown in the "Recapitulation by Group of Employees," for Group III Maintenance of Way Structures Employees. This information appears in the most recent annual edition (Year 1981) of "Statement A300 of the Interstate Commerce Commission, Bureau of Accounts, Wage Statistics of Class 1 Railroads in the United States."

2. Wage figures used for mechanical direct labor rates will be based on the "Average straight time rate" shown in the "Recapitulation by Group of Employees" for Group IV Maintenance of Equipment and Stores Employees. This information appears in the most recent annual edition (Year 1981) of "Statement A300 of the Interstate Commerce Commission, Bureau of Accounts, Wage Statistics of Class 1 Railroads in the United States."

3. Fringe benefit surcharges will be added to the average straight time rates for mechanical and track employees based on the Railroad Cost Index of the Interstate Commerce Commission developed under the provisions of 49 CFR Part 1102. This information was published in summarized form in the September 29, 1982 edition of the Federal Register (47 FR 42186).

4. To calculate the index number for mechanical labor, divide the present (1982) mechanical wage rate of $16.34 by the previous (1980) mechanical wage rate of $12.75. The result is a mechanical labor index number of 1.28 for 1982.

5. The track labor index number is calculated by dividing the present (1982) track wage rate of $15.24 by the previous (1980) track wage rate of $11.83. The result is a track labor index number of 1.29 for 1982.

6. Calculation of the labor index number is as follows: (track labor index number) 1.29×.20+(mechanical labor index number) 1.28×.80=labor index number of 1.28 for 1982.

7. The mechanical material index number is calculated by first totaling the present (1982) cost of the following mechanical materials:

Quantity	Description	1980	1982
8	33" CS wheels	$2,176	$1,950
6	6 by 11" roller bearings	1,240	1,488
4	Roller bearing axles	1,968	2,160
4	6 by 11" roller bearing truck sides (750 lbs).	3,308	3,568
2	6 by 11" truck bolsters (1,060 lbs).	2,456	2,567
2	E couplers	706	812
4	Brake beams	324	324
1	AB cylinder	96	96
1	AB reservoir	240	340
1	ABD control valve	1,010	1,323
500 lbs	Steel bar	345	450
1,000 lbs	Steel sheets	690	900
1,000 lbs	Steel plates	690	900
8	Brake shoes	56	56
8	Roller bearing adapters	168	168
24	Outer coil springs	264	240
800	Board feet hardwood lumber	200	200
1	Traction motor	25,250	32,150
80 ft	1¼" brake pipe	81	74
1	Hand brake	197	196
Total mechanical material		$41,550	$49,869

The mechanical material index number is determined by dividing the present (1982) total cost for these mechanical materials ($49,869) by the previous (1980) total cost for mechanical materials ($41,550). The result is 1.20.

8. The track material index number is calculated by first totaling the present (1982) cost of the following track materials:

Quantity	Description	1980	1982
4,500	Ties, wooden	$77,940	$73,755
250 tons	Rail	104,707	119,375
90 tons	Tie plates	41,685	44,764
27,000	Spikes (5.8 tons)	3,856	4,002
800	Joint bars (25.4 tons)	19,479	20,569
2,000	Track bolts	995	1,164
1	Frog	5,260	4,080
1	Switch	3,504	3,704
Total track material		$256,026	$271,433

The track material index number is determined by dividing the present (1982) total cost for these track materials ($271,433) by the previous (1980) total cost for track materials ($256,026). The result is 1.06.

9. Calculation of the material index number is as follows: (track material index number) 1.06×.20+(mechanical material index number) 1.20×.80=material index number of 1.17 for 1982.

10. Calculation of the threshold index number is as follows: (labor index number) 1.28×.40+(material index number) 1.17×.60=threshold index number of 1.22 for 1982.

11. In order to calculate the new reporting threshold, multiply the existing reporting threshold ($3,700) by the threshold index number of 1.22. The result is $4,514. This result, when rounded to the nearest $100.00, is the new accident/incident reporting threshold figure of $4,500.

(Secs. 11144 and 11145, subtitle IV of Title 49 (49 U.S.C. 11144 and 11145); Secs. 1 and 6,

Accident Reports Act (45 U.S.C. 431 and 437); Sec. 6(e) and (f), Department of Transportation Act (49 U.S.C. 1655(e) and (f)); Sec. 1.49(g) and (m), Regulations of the Office of the Secretary of Transportation (49 CFR 1.49(g) and (m))

Issued in Washington, D.C. on December 2, 1982.

Robert W. Blanchette,

Administrator.

[FR Doc. 82-34217 Filed 12-15-82; 8:45 am]

BILLING CODE 4910-06-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1249

[No. 38858]

Revision to the Annual Report of Motor Carriers of Household Goods, Form M-H

AGENCY: Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY: The Interstate Commerce Commission is reducing the reporting burden presently required of Class I and II motor carriers of household goods by eliminating certain schedules in Annual Report Form M-H. The Commission has concluded that a number of supporting schedules contained in Form M-H are no longer used on a regular basis. Similar schedules were previously eliminated from the annual report of motor carriers of property. Elimination of these annual report schedules will result in a significant reduction in reporting burden for the carriers involved.

DATES: This action is to be effective for the reporting year beginning January 1, 1982.

ADDRESS: Copies of this rule may be purchased by contacting: TS Infosystems, Inc., Room 2227, 12th & Constitution Ave., NW., Washington, D.C. 20423, (202) 289-4357—D.C. Metropolitan Area, (800) 424-5403—toll free for outside D.C. area.

Comments are due 45 days from the date of publication in the Federal Register. An original and 10 copies, if possible, should be sent to: Bureau of Accounts, Room 3148, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Charles S. Thomason, (202) 275-7448.

SUPPLEMENTARY INFORMATION: The Interstate Commerce Act authorizes the Commission to require and prescribe the form of annual, periodic, and special reports filed by carriers subject to its regulation. The information reported by these carriers is needed to fulfill the regulatory responsibilities of the Commission in the areas of rate regulation, valuation of transportation property, mergers, acquisitions, abandonments and discontinued service.

Based on a review of its annual reporting requirements, the Commission has determined that certain supporting schedules contained in Form M-H are no longer used on a regular basis. In keeping with our policy to require only information that is used on a regular basis in fulfilling our regulatory responsibilities (May 7, 1979, 44 FR 27537), we are eliminating these schedules from Form M-H (See Appendix).

The reduction in reporting burden for Household Goods Carriers is substantial. There are presently about 188 Class I and II household goods carriers filing Form M-H. The provisions of this final rule will relieve these carriers from approximately 4,000 hours of reporting burden.

The Commission recognizes that a number of supporting schedules contained in the Form M-H are used by parties outside of the Commission. However, the Commission has the responsibility to require only information necessary to regulate properly the motor carrier industry. In addition, because of recent budget cuts, the Commission can no longer afford to act as a data collection agent for various private interests.

On March 5, 1982, the Commission published a final rule which eliminated a number of supporting schedules from Form M, (Docket No. 38568, Revision to Annual Motor Carrier Reporting Requirements, 44 FR 9468). This reduction in reporting was implemented after receiving unanimous support from the industry in a notice of proposed rulemaking. We expect that the reduction in Form M-H will be supported by the household goods carrier industry.

The Commission finds that a notice of proposed rulemaking, as defined under the Administrative Procedure Act, 5 U.S.C. 553(b), is not required to adopt this revision because it involves a reduction in accounting and reporting burden. However, in keeping with our belief that this rule can benefit from public scrutiny, we are requesting that the public study the rule and report, within 45 days, any suggested changes. If the Commission concludes, after reviewing the comments, that it is necessary to reconsider this rule, a further notice will be published in the Federal Register. Otherwise, the provisions of this final rule will be in effect for the reporting year ending December 31, 1982.

Regulatory Flexibility Act Analysis

This final rule will have a significant economic impact on a substantial number of small entities. It directly affects 188 Household Goods Carriers. Although no Class III carriers will be affected by this rule, it reduces accounting and reporting burden by approximately 4,000 hours annually for carrier's affected. No new accounting and reporting requirements for these or other regulated carriers are introduced in this proceeding. The effect of this final rule will be to reduce the expense and burden of filing annual reports with the Commission.

This action does not significantly affect the quality of the human environment or the conservation of energy resources.

List of Subjects in 49 CFR Part 1249

Motor carriers, Reporting requirements.

Accordingly, we adopt the changes to annual report Form M-H described in Appendix A for the reporting year ending December 31, 1982.

(49 U.S.C. 10321 and 5 U.S.C. 553)

Decided: December 9, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison.

Agatha L. Mergenovich,

Secretary.

Appendix A

The Commission is eliminating the following items from the annual reporting requirements for motor carriers of household goods, under 49 CFR 1249—Reports of Motor Carriers.

(1) The following schedules are eliminated from Form M-H:

Schedule 300—Compensating Balances and Short-Term Borrowing Arrangements.

Schedule 310—Receivables From Affiliates.

Schedule 320—Transactions With Officers, Stockholders, and Employees.

Schedule 400—Leases:

(A) Rental Expense of Lessee.

(B) Minimum Rental Commitments.

(C) Lessee Disclosure.

(D) Lease Commitments—Present Value.

Schedule 500—Other Intangible Property and Accumulated Amortization.

Schedule 510—Investments and Advances—Affiliated Companies.

Schedule 520—Undistributed Earnings From Certain Investments in Affiliated Companies.

Schedule 530—Other Investments and Advances.

Schedule 540—Payables to Affiliated Companies—Current and Long Term.

Schedule 610 C—Transactions Between Noncarrier Subsidiaries of Respondent and Other Affiliated Companies or Persons for Services Received or Provided.

Schedule 610 D—Other Transactions Between Noncarrier Subsidiaries of Respondent and Other Affiliated Companies or Persons.

Schedule 710—Commodities Transported in Intercity Service by Tank or Hopper Type Vehicles.

Schedule 800—Compensation of Officers, Directors etc.

Schedule 900—Competitive Bidding—Clayton Antitrust Act.

(2) The Annual Report Supplement on Corporate Disclosure.

[FR Doc. 82-34149 Filed 12-15-82; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 16

Importation or Shipment of Injurious Wildlife: Raccoon Dog

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service amends 50 CFR Part 16 by adding the raccoon dog (*Nyctereutes procyonoides*), a nonindigenous predatory mammal of the Family Canidae, to the list of injurious mammals, thereby prohibiting import into, acquisition and transportation between the continental United States, the District of Columbia, Hawaii, the Commonwealth of Puerto Rico, or any territory or possession of the United States. This action is necessary to protect native fish and wildlife resources from potential adverse effects which may result from introduction into and subsequent establishment of the raccoon dog in the United States.

EFFECTIVE DATE: January 17, 1983.

ADDRESS: Division of Wildlife Management; U.S. Fish and Wildlife Service; Mail Code 355, 1717 H Street, NW., Room 512; Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Chief, Division of Wildlife Management; Telephone: (202) 632-7463; Address: see above.

SUPPLEMENTARY INFORMATION: On May 20, 1982 (47 FR 21892), under authority of the Lacey Act (18 U.S.C. 42), the Service proposed to amend 50 CFR Part 16 to add the raccoon dog (*Nyctereutes procyonoides*) to the list of injurious wildlife as the means to prohibit importation of live animals. Reasons for the apparent need to list the species as injurious and background on initial Service involvement with the raccoon dog were provided in the proposed rule along with information on natural history of the species.

Summary and Analysis of Comments and Action Taken: The proposed rule invited comments for 45 days ending July 6, 1982. Copies of the notice were sent to all State wildlife conservation agencies and to over 65 individuals, organizations, and Federal agencies which were considered to have knowledge of raccoon dogs or a vested interest in the proposed rule. The mailing included zoos having raccoon dogs, a zoo association, fur industry associations, professional wildlife management associations, universities, and the U.S. Departments of Health and Human Resources, Agriculture, and Interior. Written comments were received from 52 respondents as follows: State Governments—25 (all support); Provincial Governments—1 (support); Fur Industry—3 (1 support, 1 oppose, 1 no comment); Zoological Parks and Associations—9 (2 support, 7 oppose); Universities—4 (all support); Professional Wildlife Associations—6 (all support); Other Organizations—1 (support); Indian Nation—1 (support); Individuals—2 (both support). Of all respondents, 43 supported the rule, 8 opposed it, and 1 offered no opinion. After reviewing the comments along with the best available information, the Service has determined that the rule is warranted. The basis for such decision and a discussion of the comments received are given below:

Natural History Factors: Several characteristics of the raccoon dog indicate that it would readily adapt to most habitats within the United States. From 1929 to 1955, nearly 9,000 raccoon dogs were introduced into temperate forests of the western and central Soviet Union and Siberia in efforts to establish the species for fur harvest. These introductions were successful and the species migrated extensively into neighboring countries. Much of North America is temperate forest where average temperatures and precipitation are similar to those in areas where the raccoon dog is already well established and thriving. Raccoon dogs favor protected waterways, forest patches with ponds, and areas occupied by man. These areas occur in large expanses in the United States including the Great Lakes region, where some animals presently exist on fur farms. Raccoon dogs are capable of surviving at fairly high altitudes, and are the only canids known to hibernate during harsh winters.

As emphasized in the proposed rule, studies have shown this animal to be capable of eating a wide variety of foods. In fact, one authority believes it is the most omnivorous of all canids. Raccoon dogs have a high reproductive rate which acts to maintain large numbers that lead to range expansion through emigration. Additionally, both sexes protect young pups thus enhancing survival. Like many canids, adult animals occupy dens during the breeding season and harsh winters. They frequently use dens of other animals even though they are able to dig their own.

When out in the open, the slow moving raccoon dog is relatively easy prey to predators. However, the species usually hides along river vegetation, rocky outcroppings, brush, and the like, and is largely nocturnal.

All factors considered, the raccoon dog is adaptable to a wide variety of habitats and climates and many parts of North America include areas where this animal could survive.

Competition with Native Wildlife: Some respondents to the proposed rule felt there was no sound biological data indicating that raccoon dogs pose a threat to native wildlife. Reasons for this view include: (1) The raccoon dog's niche is already filled by several native species, (2) North American predators would likely prevent or eliminate any firm establishment or spread, and (3) experience in Russia has shown that the potential of establishment in the U.S. is slight because thousands of animals purposely released over an extended period of time were necessary for the species to become incorporated into the temperate regions of central and western Russia.

Although some respondents to the rule emphasized that the raccoon dog's niche is presently filled in North America, this does not preclude released or escaped animals from competing successfully for that niche. The raccoon dog is known to be aggressive and can readily compete for survival in a variety of habitat and climatic types. Raccoon dogs in Russia and eastern Europe compete with foxes (*Vulpes* spp.), badgers (*Meles meles*), mink (*Mustela vison*), muskrats (*Ondatra zibethica*), and some birds for territory, breeding sites, or food. From 1958–1962, raccoon dogs displaced 60%

of known badger den sites in the Latvian Republic of the U.S.S.R. In this same region, raccoon dogs increased from 100 in 1948 to 10,000 in 1963. One respondent pointed out that the northern raccoon (*Procyon lotar*), a would-be competitor in North America against raccoon dogs, is considerably larger than the exotic canid. Competition between species does not necessarily imply direct physical competition between individual animals for contested resources. Instead differences in fecundity, survival, and mobility determine the nature of the competition involved. For example, early in U.S. history, the opossum (*Didelphis marsupialis*) occurred only in the southern and central eastern United States but has since expanded its range northward into southeastern Canada. It has also been successfully introduced west of the Great Plains and Rocky Mountains where it previously never occurred. The expansion of the opossum, which, like the raccoon dog, is omnivorous, extremely prolific, tolerant of man, and prefers riparian habitat and hollow trees for dens, occurred in regions where northern raccoons have historically lived. This indicates that the northern raccoon did not offer much ecological resistance to the smaller opossum's spread. Similar analogies of exotic species filling occupied native niches can be drawn from review of the introductions of house sparrows (*Passer domesticus*), starlings (*Sturnus vulgaris*), and nutria (*Myocastor coypus*). All of these species are aggressive and adapt readily to a variety of habitat and climatic conditions.

Some respondents contended that North American predators such as bobcats (*Lynx rufus,*), coyotes (*Canis latrans*), and great horned owls (*Bubo virginianus*) would prevent the establishment of raccoon dogs. Raccoon dogs released into Russia were exposed to predation but it did not prevent them from becoming firmly established throughout central and western Russia. Neither did it prevent their expansion into Finland, Sweden, Romania, Hungary, Czechoslovakia, Poland, East and West Germany, Austria, Bulgaria, and Greece, a substantial area of diverse habitats, numerous predators and a wide range of climatic conditions.

Contrary to one respondent's view, the existence of only a small number (50 minimum on fur farms and zoos) of these animals in the U.S. has little bearing on the rule. The purpose now is to prevent future importations. Otherwise, greater numbers probably would be brought to the U.S. thereby increasing the likelihood of escape and introduction. The danger in this potential is illustrated by the Russian experience. The Russian introductions were widespread covering 40 regions, territories, and autonomous republics encompassing millions of square miles of territory. The species apparently had little difficulty becoming established there and began expanding its range except in Siberia where it was limited by cold temperature. The introductions extended over a 25 year period because there was great interest in the raccoon dog as a harvestable fur resource, not because there were difficulties in establishment. The multiple introductions simply accelerated its population growth and expansion. This is what this rule seeks to prevent.

In a similar vein, one respondent mentioned that European ferrets (*Mustela putorius*) have been sold as pets in the U.S. and over the years numerous animals have been released or escaped without establishing a wild self-sustaining population. This point was intended to illustrate that the Service and rule proponents are probably overly concerned about dangers of the raccoon dog. In response however, it must be noted that the occasional release/escape of a pet ferret, an animal that when domesticated is quite tame and unaggressive, at widely scattered places and times cannot be expected to result in a viable wild population. On the other hand, the release or escape of a number of breeding pairs of aggressive raccoon dogs from a fur farm into one area poses a definite threat of fixing a small breeding nucleus potentially capable of expansion. The probability of escape of some fur farm raccoon dogs to some extent is proportional to their abundance in captivity. It can occur, as was shown by an animal that escaped recently in northern Minnesota and lived several weeks in the wild until struck by a car.

Other Potential Impacts of Introduction and Establishment: Several other factors bear on the potential release or escape of raccoon dogs into the U.S. The species reportedly feeds on muskrats and other small rodents, and is particularly fond of, and destructive to, ground nesting birds and their eggs. This would be expected to have a great effect on regions such as the prairie pothole area of North Dakota where large numbers of waterfowl and other migratory birds breed. Additionally, the muskrat, which is an important furbearer, and other small rodents form a prey base for native predators. In the absence of this, native wildlife would suffer. Raccoon dogs might also become urban pests because of their affinity to areas of human habitation. The potential of the species to act as a disease vector is clearly pronounced, based on accounts of the animals in Europe.

Raccoon dogs are known to carry rabies and preserve the rabies virus during winter hibernation. Wolves, foxes, and raccoon dogs in Europe are direct carriers of parasitic worms which can cause appreciable damage to livestock, and which may lead to human infection. For example, the nematode parasite *Trichinella psuedospiralis*, found in Russian raccoon dogs and capable of infecting laboratory primates, is very similar to *T. spiralis* which infects humans. The overall disease threat is even more evident in the raccoon dog because of its tolerance of humans. Reports from Finland show that once the animal is well established, it is impossible to significantly reduce or eliminate. Several respondents favoring the rule also felt that all animals now in fur farms in the U.S. should be eliminated to preclude any chance for establishment.

Economic Consideration: The impact that an established population of raccoon dogs might have on the U.S. economy could be significant. The value of potential establishment of this species must be weighed against the income or other values that might be lost through detrimental impacts to native furbearers, prey species, game species, and habitat quality. Previous experience with inadvertent but successful introductions of unwanted exotic wildlife clearly demonstrates that man is economically stressed by the destruction or reduction in livelihoods, industries, and recreational opportunities (e.g., trapping, crop damage, and sport fishing, respectively).

Other Considerations: Some respondents suggested that this rule was being considered largely to satisfy a request from the Canadian Government for cooperative efforts to prevent introduction of this species into North America.

Although initially approached by the Canadian Government, we subsequently analyzed the potential problem and fully agreed to cooperate. We are convinced that our joint efforts are essential to prevent this species from potentially damaging native North American wildlife species. All State wildlife conservation agencies commenting on this rule are opposed to this species being introduced. Control of this species in one State will be difficult if it becomes fixed in adjacent States or Provinces. Without Federal assistance from both the U.S. and Canada, State or

Provincial restrictions on raccoon dogs would be in vain.

One respondent remarked that the raccoon dog should not be singled out because there are numerous other animals that probably would qualify as injurious that should also be considered. Notwithstanding the veracity of this argument, The Service is attempting to fulfill the intent of the Lacey Act by acting swiftly in restricting import and movements of raccoon dogs because there appears to be some demand for them and the threat of accumulating greater numbers is pressing. An effort to consider all potential injurious wildlife would significantly delay necessary action on the raccoon dog, thereby compromising necessary protection for certain native species.

Conclusion: The need for the rule is based on currently available biological evidence which suggests that importation and introduction of the raccoon dog into the natural ecosystems of the United States or any territory or possession of the United States would pose a threat to migratory waterfowl, upland game birds, and other native wildlife species. This threat results from potential predation, interspecific competition for food and den sites, and introduction of exotic diseases and parasites. Adverse impacts from raccoon dog introductions would transcend State lines and become regional or national in scope. The extent to which introduced raccoon dogs could or would supplant native wildlife cannot be demonstrated except through examples from Europe and Asia. Nonetheless, these data seem adequate to support the Service's determination that importation and subsequent release of raccoon dogs into ecosystems of the United States, whether accidental or intentional, would be injurious or potentially injurious to the welfare and survival of some species of native wildlife. Addition of the raccoon dog to the list of injurious mammals in 50 CFR Part 16 is the only means to provide long-term protection to native wildlife from raccoon dog competition.

Required Determinations: An assessment of the environmental effects of this rule has been prepared as required by the National Environmental Policy Act of 1969. A determination has been made that this rulemaking action is not a major Federal action significantly affecting the quality of the human environment.

The Department of the Interior has determined that this document is not a major rule under E.O. 12291 and certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The basis for the determination was presented in the proposed rule.

The Environmental Assessment and the Determination of Effects of Rule are available for public inspection, as are all supporting documents, during regular business hours (7:45 am to 4:15 pm) at the address presented above.

Information Collection: This rule does not contain information collection requirements which require approval from the Office of Management and Budget (OMB) under 44 U.S.C. 3501 *et seq.* Once the raccoon dog is listed, any person that proposes to import, acquire, or transport raccoon dogs may not do so except for educational, zoological, scientific, or medical research purposes provided one obtains a permit under 50 CFR Part 16, Subpart C, which has been approved by OMB and assigned clearance number 1018–0022 under 44 U.S.C. 3501 *et seq.* Service experience indicates that probably no more than two permits may be annually applied for representing a paperwork burden of about 20 minutes per applicant.

This rule was prepared by Steve Funderburk, Wildlife Biologist, Division of Wildlife Management, U.S. Fish and Wildlife Service, Washington, D.C. 20240.

List of Subjects in 50 CFR Part 16

Import, Transportation, Wildlife, Animal diseases, Fish, Freight.

PART 16—INJURIOUS WILDLIFE

In consideration of the foregoing, Part 16, Subpart B, Chapter I of Title 50, Code of Federal Regulations is amended as follows:

In § 16.11, paragraph (a) is revised to read as follows:

§ 16.11 Importation of live wild mammals.

(a) The importation, transportation, or acquisition is prohibited of live specimens of: (1) Any species of so-called "flying fox" or fruit bat of the genus *Pteropus;* (2) any species of mongoose or meerkat of the genera *Atilax, Cynictis, Helogale, Herpestes, Ichneumia, Mungos,* and *Suricata;* (3) any species of European rabbit of the genus *Oryctolagus;* (4) any species of Indian wild dog, red dog, or dhole of the genus *Cuon;* (5) any species of multimammate rat or mouse of the genus *Mastomys;* and (6) any raccoon dog, *Nyctereutes procyonoides:* Provided, that the Director shall issue permits authorizing the importation, transportation, and possession of such mammals under the terms and conditions set forth in § 16.22.

* * * * *

Dated: November 1, 1982.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 82–34092 Filed 12–15–82; 8:45 am]

BILLING CODE 4310–55–M

Proposed Rules

Federal Register
Vol. 47, No. 242
Thursday, December 16, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 543

[No. 82-792]

Amendments Relating to Grandfathering of State Authority by Institutions Converting to Federal Charters

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed rule.

SUMMARY: The Federal Home Loan Bank Board ("Board") proposes to issue a new regulation applicable to the grandfathering of rights enjoyed as state mutual savings banks by institutions converting to federal charter, whether those institutions retain their Federal Deposit Insurance Corporation ("FEIC") insurance coverage, or obtain insurance of accounts from the Federal Savings and Loan Insurance Corporation. Any converting institution would be allowed to retain its state mutual savings bank authority, and any federal association subsequently acquiring that converted institution by merger or consolidation would likewise be able to enjoy those grandfathered rights. Grandfathered rights could be transmitted through merger on an indefinite basis, as long as the disappearing institution had converted to a federal savings bank, and could not be defeated by the non-occurrence of a statutory condition precedent to their use at the time of conversion. This regulation is proposed pursuant to statutory changes made to section 5(i) of the Home Owners' Loan Act of 1933 by Public Law 97-320, the Garn-St Germain Depository Institutions Act of 1982.

DATE: Comments must be received by January 17, 1983.

ADDRESS: Send comments to Director, Information Services Section, Office of Communications, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20952. Comments will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: Randall H. McFarlane, Legislative Counsel, Office of General Counsel (202/377-6449) Federal Home Loan Bank Board, at the above address.

SUPPLEMENTARY INFORMATION: The Financial Institutions Regulatory and Interest Rate Control Act of 1978, Public Law 95-630, amended section 5(a) of the Home Owners' Loan Act of 1933 ("HOLA") (12 U.S.C. 1464(a)) to authorize the Board, on a limited basis, to grant federal mutual savings bank charters. These charters were available only to institutions converting from the state mutual savings bank ("MSB") form. Because state-chartered MSBs often had powers exceeding those allowable to federal associations under the HOLA, the amendments to section 5(a) contained authorization for limited "grandfathering" of state authority. A federal MSB was permitted to carry on any activities it was engaged in on December 31, 1977, and to retain or make any investment of a type it held on that date, except that its equity, corporate bond, and consumer loan investments could not exceed the average ratio of such investments to total assets for the five-year period immediately preceding the filing of its application for conversion. Regulations regarding section 5(a) grandfathering authority were issued August 22, 1980 *45 FR 56033), and may be found at 12 CFR 578.2 (1982).

As part of its substantial enhancement of the investment and other authority available to federal thrift institutions, the Garn-St Germain Depository Institutions Act of 1982, Public Law 97-320, has substantially broadened the grandfathering possibilities available to federal associations which formerly were state MSBs. These rights are available whether the conversion to federal charter took place under old section 5(a) of the HOLA, or under new sections 5(i) or 5(o). Under new section 5(i)(5)(A) of the HOLA, any activity or investment available under state law at the time of conversion from a state MSB may continue to be made by that institution as a federal association, to the extent authorized by the Board. In addition, under new section 5(i)(5)(B), any federal association that merges with a federal savings bank enjoying grandfathered rights acquires those rights itself and, provided it first converts to a federal savings bank, if it does not already enjoy that status, may pass them on in turn to a federal association that absorbs it.

The 1980 regulations are clearly inadquate to address the new authorization. The Board therefore is proposing a new regulation setting forth in detail its interpretation of the appropriate extent of authority provided by section 5(i)(5). However, in order to allow current processing of charter conversions pursuant to final regulations promulgated by the Board today in companion Resolution No. 82-791, applicants otherwise eligible for approval will be permitted to apply for grandfather rights consistent with the Board's proposed regulation upon the condition that newly-chartered institutions so approved will be required to conform with the Board's final rule, if any, or other Board action in further consideration of this area.

Proposed section 543.11-1 sets forth in paragraph (a) the general standard applicable to grandfathering. As proposed, federal association that at one time was a state MSB may exercise as a federal association any authority it had under state law at the time it ceased to be a state MSB. Such grandfathered authority may be exercised, however, only to the degree permitted under state law, except to the extent that such authority may be enjoyed by federal associations not enjoying grandfathered rights. Thus, in a hypothetical situation where state law allowed up to 20 percent of an institution's assets to be invested in commercial loans, subject to a more restrictive single-borrower limit than that applicable under federal law, a converted federal association could make commercial loans up to the 10-percent-of-assets limit applicable to federal associations in accordance with the more liberal federal loans-to-one-borrower statute, and comply with the state law requirement only for commercial loans made in excess of the federal percentage-of-assets ceiling. In addition, explicit authorization is provided in paragraph (a) to allow converted institutions to continue to follow state law and regulation regarding grandfathered authority, except as otherwise provided by the Board.

Proposed paragraph (b) deals with the passing on of grandfathered rights through merger or consolidation. Any federal association that acquires, by merger or consolidation, a federal savings bank enjoying grandfathered rights also acquires those grandfathered rights. Those rights may be transmitted and retransmitted indefinitely to other federal associations in the same manner, assuming the disappearing association was a federal savings bank at the time of the merger or consolidation.

Proposed paragraph (c) clarifies that grandfathering does extend to authority under state law that may be exercised only in accordance with the occurrence of a condition precedent, such as the occurrence of a future date, or the attainment of a specified level of net worth. Thus, if a savings bank under state law is allowed to make particular investments as long as it has 10 percent net worth, it is permitted to make those investments as a federal association, provided it meets that net-worth requirement. The fact that the condition precedent has not yet occurred at the time of conversion does not defeat grandfathering.

Finally, proposed paragraph (d) clarifies that grandfathering is not to be construed as a device for allowing institutions more liberal authority than is allowed under the most liberal construction of state or federal law. For instance, if a state allows 20 percent of assets to be invested in a particular category and the HOLA allows 10 percent, a converted institution may not, as a result of grandfathering, be allowed to invest 30 percent of its assets in that category. Such a construction would be an overly generous interpretation of the statute.

Initial Regulatory Flexibility Analysis

Pursuant to section 3 of the Regulatory Flexibility Act (5 U.S.C. ch. 6) the Board is providing the following regulatory flexibility analysis:

1. *Reasons, objective, and legal basis underlying the proposed rule.* These elements have been incorporated elsewhere into the supplementary information regarding the proposal.

2. *Small entities to which the proposed rule will apply.* The proposed rule would apply only to FSLIC-insured or federally-chartered institutions.

3. *Overlapping or conflicting Federal rules.* There are no known federal rules that may duplicate, overlap, or conflict with the proposal.

4. *Alternatives to the proposed rule.* The proposal would allow certain institutions converting to federal charters to retain attractive state investment and other authority, and for that authority to be passed to other federal associations through merger. Small associations would be able to enjoy this right to the same extent as large institutions, and the proposal would thus be beneficial to them, by providing more organizational, investment and other flexibility. There is no disproportionate negative effect on small institutions. Because the proposal would authorize use of what currently appears to be the most liberal grandfathering interpretation available under the statute, it would not be possible to modify the proposal to increase the benefits available under it to small institutions.

Regulatory Analysis

The elements of regulatory analysis for major proposed regulations required by Board Resolution No. 80–584 (September 11, 1980) have been incorporated into the supplementary information regarding the proposal.

Because there is a present need to allow thrift institutions greater flexibility in their investment, organizational and other decision-making, the Board has limited the comment period to 30 days.

List of Subjects in 12 CFR Part 543

Savings and loan associations.

Accordingly, the Board proposes to amend Part 543, Subchapter C, Chapter V of Title 12, *Code of Federal Regulations*, as set forth below.

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

PART 545—OPERATIONS

Add a new § 543.11–1, as follows:

§ 543.11–1 Grandfathered authority.

(a) To the extent authorized by the Board, a Federal savings bank formerly chartered or designated as a mutual savings bank under state law may exercise any authority it was authorized to exercise as a mutual savings bank under state law at the time of its conversion from a state mutual savings bank to a Federal or other state charter. Except to the extent such authority may be exercised by Federal associations not enjoying grandfathered rights hereunder, such authority may be exercised only to the degree authorized under state law at the time of such conversion, as determined by the Board. Unless otherwise determined by the Board, an association, in the exercise of grandfathered authority, may continue to follow applicable state laws and regulations in effect at the time of such conversion.

(b) To the extent authorized by the Board, a Federal association that acquires a Federal savings bank by merger or consolidation may itself exercise any grandfathered rights enjoyed by the disappearing institution, whether such rights were obtained directly through conversion or through merger or consolidation.

(c) This section shall not be construed to prevent the exercise by a Federal association enjoying grandfathered rights hereunder of authority that is available under the applicable state law only upon the occurrence of specific preconditions, such as the attainment of a particular future date or specified level of net worth, which have not occurred at the time of conversion from a state mutual savings bank, provided they occur thereafter, as determined by the Board.

(d) This section shall not be construed to permit the exercise of any particular authority on a more liberal basis than is allowable under the most liberal construction of either state or federal law or regulation, as determined by the Board.

(Sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); Reorg. Plan No. 3 of 1947; 3 CFR 1943–1948 Comp., p. 1071)

Dated: December 8, 1982.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 82–34195 Filed 12–15–82; 8:45 am]

BILLING CODE 6720–01–M

DEPOSITORY INSTITUTIONS DEREGULATION COMMITTEE

12 CFR Part 1204

[Docket No. 0030]

Money Market Deposit Account With Unlimited Transfers for Those Not Eligible To Maintain NOW Accounts

AGENCY: Depository Institutions Deregulation Committee.

ACTION: Proposed rulemaking.

SUMMARY: The Committee is requesting comment on an amendment to the Money Market Deposit Account authorized by the Committee, effective December 14, 1982, at 12 CFR § 1204.122, that would remove the restrictions on the number of transfers of funds for those accounts held by depositors that are not eligible to maintain NOW accounts.

DATE: Comments must be received by February 1, 1983.

ADDRESS: Interested parties are invited to submit written data, views, or arguments concerning the proposed amendment to Gordon Eastburn, Acting Executive Secretary, Depository Institutions Deregulation Committee, Room 1058, Department of the Treasury, 15th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20220. All material submitted should include the Docket Number 0030 and will be available for inspection and copying upon request, except as provided in § 1202.5 of the Committee's Rules Regarding Availability of Information (12 CFR 1202.5).

FOR FURTHER INFORMATION CONTACT: Alan Priest, Attorney, Office of the Comptroller of the Currency (202/447–1880); Joseph DiNuzzo, Attorney, Federal Deposit Insurance Corporation (202/389–4147); Rebecca Laird, Senior Associate General Counsel, Federal Home Loan Bank Board (202/377–6446); Robert G. Ballen, Attorney, Board of Governors of the Federal Reserve System (202/452–3265); or Elaine Boutilier, Attorney-Adviser, Treasury Department (202/566–8737).

SUPPLEMENTARY INFORMATION: The Depository Institutions Deregulation Act of 1980 ("DIDA") (Title II of Pub. L. 96–221, 12 U.S.C. 3501 *et seq.*) established the Committee to provide for the orderly phaseout and ultimate elimination of the limitations on the maximum rates of interest and dividends that may be paid on deposit accounts by depository institutions as rapidly as economic conditions warrant. Section 327 of the Garn-St Germain Depository Institutions Act of 1982 requires the Committee to authorize a new insured deposit account that "shall be directly equivalent to and competitive with money market funds."

The Committee established this new account, the Money Market Deposit Account ("MMDA"), effective December 14, 1982 (12 CFR 1204.122). The MMDA is an insured deposit account with the following principal characteristics: (1) An initial balance and average balance requirement of no less than $2,500; (2) no minimum maturity; (3) no interest rate ceiling on deposits satisfying the initial and average balance requirements; and (4) a maximum of six preauthorized, automatic or third party transfers per month, of which no more than three can be checkd. Any depositor is eligible for the MMDA account.

The Committee subsequently, pursuant to its authority under the DIDA, established a new rule for the payment of interest on NOW accounts that have a minimum initial and average balance of $2,500. A depository institution may pay any rate of interest on such accounts if it also meets certain conditions that apply to the MMDA (12 CFR 1204.108(b)). NOW accounts generally are available only to individuals, certain nonprofit organizations operated primarily for religious, philanthropic, charitable, educational, or other similar purposes and governmnental units (12 U.S.C. 1832(a)(2).

The Committee requests comment on a proposed modification to the MMDA that would permit commercial banks, mutual savings banks, and savings and loan associations to offer the MMDA to depositors that are not eligible to maintain NOW accounts with no restriction as to the number of transfers of funds from the account. In this regard, the General Counsel to the Committee has concluded that the Committee may modify the MMDA to provide for unlimited transfers for all categories of depositors given that Congress did not restrict the Committee's authority to add other characteristics that would make the account "directly equivalent to and competitive with money market mutual funds" and provided that the account be available to all customers. The Committee is particularly interested in comments on the impact of this proposed modification to the MMDA account on: (1) The flow of funds into and out of, and between accounts within, institutions; (2) the earnings of institutions; and (3) the funding of institutions in light of the differing degree of regulation on accounts with different maturities.

The Committee has considered the potential effect on small entities of the proposal to modify the MMDA, as required by the Regulatory Flexibility Act (5 U.S.C. 603 *et seq.*). In this regard, the Committee's action, in and of itself, would not impose any new reporting or recordkeeping requirements. Consistent with the Committee's statutory mandate to eliminate deposit interest rate ceiling, this proposal would enable all depository institutions to compete more effectively in the marketplace for short-term funds. Depositors that are not eligible to maintain NOW accounts generally should benefit from the Committee's proposal, since the new instrument would provide them with another investment alternative that pays a market rate of return. If low-yielding deposits shift into the new account, depository institutions might experience increased costs as a result of this action. However, their competitive position vis-a-vis nondepository competitors would be enhanced by their ability to offer a potentially more attractive competitive short-term instrument at market rates. The new funds attracted (or the retention of deposits that might otherwise have left the institution) could be invested at a positive spread and would therefore at least partially offset the higher costs associated with the shifting of low-yielding accounts.

List of Subjects in 12 CFR Part 1204

Banks, banking.

By order of the Committee, December 14, 1982.

Mark Bender,

Acting Executive Secretary.

[FR Doc. 82–34270 Filed 12–15–82; 8:45 am]

BILLING CODE 4810–25–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 75

[Airspace Docket No. 82–ANM–19]

Proposed Alteration of Jet Route

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to extend Jet Route No. 12 from its current beginning at Salt Lake City, UT, to Seattle, WA. This extension would provide an arrival route to Seattle via Ephrata, WA, in order to improve traffic flow in the terminal area for aircraft inbound from the east and southeast. This action would aid flight planning, reduce en route delays, and decrease controller workload.

DATE: Comments must be received on or before January 17, 1983.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Northwest Mountain Region, Attention: Manager, Air Traffic Division, Docket No. 82–ANM–19, Federal Aviation Administration, FAA Building, Boeing Field, Seattle, WA 98108.

The official docket may be examined in the Rules Docket, weekdays, except federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, D.C.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Regulations and Obstructions Branch (AAT–230), Airspace and Air Traffic Rules Division,

Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426–8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 82–ANM–19." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426–8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 75.100 of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) to extend J–12 from Salt Lake City, UT, to Seattle, WA, via Ephrata, WA. A preferred en route arrival route is required to manage jet aircraft inbound from Salt Lake City to destinations in the Seattle terminal area. The Ephrata VORTAC would be the feeder fix for arrival aircraft from the east and southeast. This action would improve traffic flow in the Salt Lake City and Seattle terminal areas, aid flight planning, and reduce controller workload. Section 75.100 of Part 75 of the Federal Aviation Regulations was republished in Advisory Circular AC 70–3 dated January 29, 1982.

List of Subjects in 14 CFR Part 75

Jet routes, Aviation safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 75.100 of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) as follows:

J–12 [Revised]

Jet Route No. 12 From Seattle, WA, via Ephrata, WA; McCall, ID; Twin Falls, ID; Salt Lake City, UT; Fairfield, UT; to Grand Junction, CO.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

Note.—The FAA has determined that this proposed regulations only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant enonomic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on December 8, 1982.

B. Keith Potts,

Manager, Airspace and Air Traffic Rules Division.

[FR Doc. 34076 Filed 12–15–82 8:45 am]

BILLING CODE 4910–13–M

---

14 CFR Parts 120, 121, and 135

[Docket No. 22480; Notice No. 82–13B; SFAR 38]

Air Transportation Regulation; Extension of Comment Period

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of extension of comment period.

SUMMARY: This notice extends the comment period for Notice of Proposed Rulemaking (NPRM) No. 82–13 (47 FR 41486; September 20, 1982). That notice proposes to remove Parts 121 and 135 from the Federal Aviation Regulations and to add a new Part 120 which would implement a new concept in aviation safety regulations entitled "Regulation By Objective" (RBO). A preliminary review of public comments indicates that the scope of the concept is such that the public and aviation industry should be afforded additional time to review the proposals to determine its impact on operations. Additionally, this extension will allow the FAA time to develop advisory circulars detailing acceptable methods of complying with the safety objectives and outlining procedures for using the RBO system and to make these advisory circulars available to the public for review and comment concurrent with the NPRM comment period.

DATE: Comments must be received on or before May 20, 1983.

ADDRESS: Comments on the proposals contained in Notice No. 82–13 may be mailed in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC–204), Docket No. 22480, 800 Independence Avenue SW., Washington, D.C. 20591 or delivered in duplicate to: Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591. Comments delivered must be marked: Docket No. 22480. Comments may be inspected at Room 916 between 8:30 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT: Dan Beaudette, Assistant Manager, Air Transportation Division (AFO–201), Office of Flight Operations, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426–8166.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rules by submitting such written data, views, or arguments as they may desire. Comments relating to the environmental, energy, or economic impact that might result from adopting the proposals contained in Notice 82–13 are invited. All comments received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposals may be changed in

the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerned with the rulemaking will be filed in the docket. Persons wishing the FAA to acknowledge receipt of their comments must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 22480." The postcard will be date/time stamped and returned to the commenter.

Availability of NPRM

Any person may obtain a copy of Notice No. 82–13 by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW, Washington, D.C. 20591, or by calling (202) 426–8058. Communications must identify the notice number of the NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2, Notice of Proposed Rulemaking Distribution System, which describes the application procedures.

Background

Because of the ever-changing operating environment, the proposals contained in Notice No. 82–13 consider replacing traditional "how to" regulations with the safety objectives they are intended to achieve. This will allow each affected operator to assess its operations and seek more effective and efficient methods of complying with safety objectives while maintaining the highest level of safety.

Regulation by objective has three major goals:

(1) To continue the high level of safety that has made United States aviation regulatory standards a model for almost every aviation regulatory body in the world;

(2) To provide regulatory flexibility so that the aviation industry will not be impeded in developing innovative methods for achieving the level of safety thus far maintained under Federally established safety objectives; and

(3) To comply with the requirements of Executive Order 12291 and the Regulatory Flexibility Act of 1980 for reviewing existing regulations.

Numerous public comments submitted in response to Notice No. 82–13 indicated that the scope and complexity of these proposals is compounded by the absence of proposed advisory circulars (AC's) pertaining to the acceptable methods of complying with the safety objectives of Part 120. These AC's will contain an administrative section that will explain the procedures for using the RBO system. They also will outline the process for changing methods of compliance, either on an individual basis for a particular operator or on a general basis for all operators. The FAA is developing these AC's and will make them available to the public for review and comment.

The FAA recognizes that this proposal contains some significant changes to the method under which air carriers have been regulated historically. The agency also understands that there may be questions about this proposal. To that end, the agency has scheduled two public meetings to provide this information and to obtain comments on the proposal. However, a large public meeting may not be the best forum for questions which may exist concerning the concept or the practical means by which a proposal of this magnitude will be implemented or how it will affect an individual party. Accordingly, the agency would be receptive to requests from industry and other interested groups or individuals to discuss the proposal. Therefore, to afford such groups the maximum opportunity to understand fully the impact of the proposal, the FAA will schedule meetings based upon availability of agency resources, upon request. The FAA is prepared to hold these meetings between January 10, and April 20, 1983. Any interested person who wishes to arrange a mutually agreeable time for such a meeting should write or call the person identified under "FOR FURTHER INFORMATION CONTACT." A record of each meeting will be placed in the public docket and will be considered before promulgating any future rulemaking. Any suggestions about such meetings should be submitted to the docket by January 5, 1983.

Extension of comment period

The FAA has determined it is in the public interest to extend the comment period for Notice No. 82–13 to allow the agency time to develop appropriate advisory material and to afford the public and aviation industry the opportunity to review this material concurrent with proposed Part 120.

Accordingly, the comment period for Notice No. 82–13 is extended to close on May 20, 1983.

List of Subjects in 14 CFR Part 120

Acceptable method of compliance, Air carriers, Air taxi, Air transportation, Air traffic control, Aircraft, Airmen, Airplanes, Airports, Airspace, Airworthiness directives and standards, Airworthiness, Alcohol, Aviation safety, Baggage, Beverages, Cargo, Chemicals, Children, Common carriers, Drugs, Flammable materials, Flight operations personnel, Handicapped, Hazardous materials, Helicopters, Hours of work, Mail, Narcotics, Operating document, Pilots, Safety, Smoking, Transportation, Weapons.

(Sec. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1355(a), 1421 through 1430, and 1502); Section 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—This document extends the comment period on a notice of proposed rulemaking to afford the public maximum opportunity to review and respond to a proposed new regulatory concept. Therefore, this document imposes no regulatory or economic burden on the public or industry. For these reasons, I certify that this document will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. The FAA has determined that this notice involves an action which is not a major rule under Executive Order 12291. However, because of the new regulatory concept proposed in Notice No. 82–13, that notice is considered a significant rule under Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the draft evaluation prepared for Notice No. 82–13 is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Washington, D.C. on December 8, 1982.

Kenneth S. Hunt,

Director of Flight Operations.

[FR Doc. 82–33844 Filed 12–9–82; 1:36 pm]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR–252–81]

Deductibility of Employee Awards

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations that provide rules governing the deductibility by employers of expenses for awards to employees. Changes to the applicable tax law were made by the Economic Recovery Tax Act of 1981.

DATES: Written comments and requests for a public hearing must be delivered or mailed by February 14, 1983. The amendments relating to the Economic Recovery Tax Act of 1981 are proposed to be effective for taxable years ending on or after August 13, 1981. The clarifying changes contained in this notice are proposed to be effective for taxable years ending after December 31, 1982, but only in respect of periods after such date.

ADDRESS: Send comments and requests for public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR–252–81), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Robert H. Ginsburgh of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (Attention: CC:LR:T) (202–566–3297).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 274 (b) of the Internal Revenue Code of 1954. These amendments are proposed to conform the Income Tax Regulations to section 265 of the Economic Recovery Tax Act of 1981 (95 Stat. 265). The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

General Information

Section 274 (b) was added to the Code by the Revenue Act of 1962. Basically, section 274 (b) provides that a deduction for business gifts is disallowed to the extent that the total expense for gifts given during the taxable year exceeds $25 with respect to any person. The term "gift," for purposes of section 274 (b), has, in general, the same meaning as that term has under section 102 of the Code. In addition, three exceptions to the term "gift' are provided in section 274 (b) (*i.e.*, although an item is a gift under section 102, that item, for purposes of section 274 (b), is not treated as a gift and hence may be deductible).

Explanation of Proposed Regulations

The proposed regulations reflect the modification by the Economic Recovery Tax Act of 1981 of the third exception to the term "gift" (*i.e.*, the exception within certain dollar limitations for awards of tangible personal property). The 1981 Act expanded the purposes for which excepted awards may be given to include productivity awards, and it provided more generous dollar limitations on the deduction for "qualified plan awards." In addition, the 1981 Act raised from $100 to $400 the maximum amount deductible for an award other than a qualified plan award and provided for the deduction of the maximum amount in cases in which the maximum is exceeded.

A qualified plan was an item of tangible personal property that is awarded by an employer to an employee by reason of the employee's length of service, productivity, or safety achievement. Furthermore, that item must be awarded as part of a permanent, written award plan or program that does not discriminate as to eligibility or benefits in favor of employees who are officers, shareholders, or highly compensated employees. However, for purposes of section 274(b), an item that qualifies as a qualified plan award is not treated as a qualified plan award to the extent that its cost exceeds $1,600. In addition, if the average cost of all items awarded by a taxpayer during a taxable year under any plan described in section 274(b)(3)(A) exceeds $400 then none of those items is treated as a qualified plan award.

In addition, the proposed regulations clarify the existing regulations under section 274(b) by excluding from the term "tangible personal property" any award of cash, of a gift certificate, or of a right to choose among 5 or more different items, and by providing that an award from an employer to an employee must be given by reason of the employee's achievement.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably seven copies) to the Commissioner of Internal Revenue. All comments will be made available for public inspection and copying. A public hearing will be held upon written request of any person who has submitted written comments.

Special Analyses

The Commissioner of Internal Revenue has determined that this proposed regulation is not subject to review under Executive Order 12291 or the Treasury and OMB implementation of the Order dated April 28, 1980. Accordingly, a Regulatory Impact Analysis is not required.

Although this document is a notice of proposed rulemaking which solicits public comment, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Drafting Information

The principal author of these proposed regulations is Robert H. Ginsburgh of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing these regulations, both on matters of substance and style.

List of Subjects in 26 CFR 1.61–1 Through 1.281–4

Income taxes, Taxable income, Deductions, Exemptions.

Proposed Amendments to the Regulations

PART 1—[AMENDED]

The proposed amendments to 26 CFR Part 1 amend § 1.274–3 as follows:

(1) Paragraph (b)(2) is amended by revising subdivision (iii), by inserting immediately thereafter a new subdivision (iv), and by inserting three new sentences at the beginning of the flush material that follows new subdivision (iv), to read as set forth below.

(2) Paragraphs (d), (e), and (f) are redesignated as paragraphs (e), (f), and (g) respectively.

(3) New paragraph (d) is inserted to read as set forth below.

§ 1.274–3 Disallowance of deduction for gifts.

* * * * *

(b) *Gift defined.* * * *

(2) *Items not treated as gifts.* The term "gift," for purposes of this section, does not include the following:

* * * * *

(iii) In the case of a taxable year of a taxpayer ending on or after August 13, 1981, an item of tangible personal property which is awarded to an employee of the taxpayer by reason of the employee's length of service (including an award upon retirement), productivity, or safety achievement, but only to the extent that—

(A) The cost of the item to the taxpayer does not exceed $400; or

(B) The item is a qualified plan award (as defined in paragraph (d) of this section); or

(iv) In the case of a taxable year of a taxpayer ending before August 13, 1981, an item of tangible personal property having a cost to the taxpayer not in excess of $100 which is awarded to an employee of the taxpayer by reason of the employee's length of service or safety achievement.

For purposes of subdivision (iii) and (iv) of this subparagraph, the term "tangible personal property" does not include cash, any gift certificate, or any award of a right to choose among 5 or more different items. For this purpose, minor differences in items do not make them different items. For example, the right to choose among various television sets is not a right to choose among different items whereas a right to choose between a diamond ring and a diamond pin is such a right. * * *

* * * * *

(d) *Qualified plan award.*—(1) *In general.* Except as provided in subparagraph (2) of this paragraph the term "qualified plan award," for purposes of this section, means an item of tangible personal property that is awarded to an employee by reason of the employee's length of service (including retirement), productivity, or safety achievement, and that is awarded pursuant to a permanent, written award plan or program of the taxpayer that does not discriminate as to eligibility or benefits in favor of employees who are officers, shareholders, or highly compensated employees. The "permanency" of an award plan shall be determined from all the facts and circumstances of the particular case, including the taxpayer's ability to continue to make the awards as required by the award plan. Although the taxpayer may reserve the right to change or to terminate an award plan, the actual termination of the award plan for any reason other than business necessity within a few years after it has taken effect may be evidence that the award plan from its inception was not a "permanent" award plan. In the event that a written award plan is terminated, the taxpayer should promptly notify the district director, stating the circumstances that led to its termination. Whether or not an award plan is discriminatory shall be determined from all the facts and circumstances of the particular case. An award plan may fail to qualify because it is discriminatory in its actual operation even though the written provisions of the award plan are not discriminatory.

(2) *Items not treated as qualified plan awards.* The term "qualified plan award," for purposes of this section, does not include an item qualifying under paragraph (d)(1) of this section to the extent that the cost of the item exceeds $1,600. In addition, that term does not include any items qualifying under paragraph (d)(1) of this section if the average cost of all items (whether or not tangible personal property) awarded during the taxable year by the taxpayer under any plan described in paragraph (d)(1) of this section exceeds $400. The average cost of those items shall be computed by dividing (i) the sum of the costs for those items (including amounts in excess of the $1,600 limitation) by (ii) the total number of those items.

(e) *Gifts made indirectly to an individual.* * * *

(f) *Special rules.* * * *

(g) *Cross references.* * * *

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 82-34103 Filed 12-13-82; 11:57 am]

BILLING CODE 4830-01-M

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[Notice No. 443; Re: Notice No. 405]

Madera Viticultural Area; Public Hearing

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Treasury.

ACTION: Notice of hearing.

SUMMARY: This notice announces the time and location the Bureau of Alcohol, Tobacco and Firearms (ATF) will hold a public hearing to gather additional information and testimony on the proposed Madera viticultural area. Notice No. 405 was published in the **Federal Register** on January 26, 1982 (47 FR 3564) wherein ATF proposed the establishment of a viticultural area in the Central San Joaquin Valley of California to be known as "Madera." The proposal was issued as a result of a petition submitted by Mr. David B. Ficklin, president, Ficklin Vineyards, for the establishment of Madera as a viticultural area.

DATES: Hearing Date: January 18, 1983, at 9:30 a.m. (an evening session will be held if necessary at 7:00 p.m.).

Requests to Testify: Requests to testify must be received on or before January 12, 1983. If individuals are unable to appear and present oral testimony, they may submit written testimony which will be read and entered into the hearing record.

ADDRESSES: Requests to testify or written testimony submitted in lieu of a personal appearance must be submitted to: Chief, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, D.C. 20044-0385. (ATTN: Notice No. 443).

Hearing Location: Madera County Library, Blanche Galloway Room, 121 N. "G" Street, Madera, California.

FOR FURTHER INFORMATION CONTACT: Norman P. Blake, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, Washington, D.C. (202-566-7626).

SUPPLEMENTARY INFORMATION

Background

On January 26, 1982, ATF published a notice of proposed rulemaking, No. 405, in the **Federal Register** (47 FR 3564) proposing the "Madera" viticultural area. The 45-day comment period ended on March 12, 1982. However, written comments and supplementing comments submitted after this date were accepted since final consideration on the notice had not been initiated.

Seven comments were submitted regarding the Madera proposal. Five of the comments fully supported the Proposed name and boundaries. A comment submitted by Mr. Robert L. Smith, representing Vina del Rio, Vina del Oso and Banducci Vineyards objected to the proposed boundaries, stating that the boundaries should be expanded to encompass the remaining western portion of Madera County. The amended area would extend the southern and western boundaries approximately 15 miles west to the Madera/Fresno County line along the San Joaquin River. The northern boundary would be extended west along the Madera/Merced county line to the intersection of Madera/Fresno County line. The amended area includes approximately 250-300 square miles which would nearly double the size of the proposed area. The amended area contains approximately 5,000 acres of new and proposed plantings of wine grapes, primarily located in the southwestern corner of the county, east of the City of Firebaugh. This area has only recently cultivated wine grapes, having been reclaimed by leaching out alkaline from the soil through irrigation. Mr. Smith claimed that the amended area exhibits the same viticultural and climatic conditions as the proposed area.

Another comment submitted by the Portuguese Government, through their Washington, D.C., Embassy, objected to the proposed name "Madera." The Portuguese Government stated that ATF

already recognizes "Madeira" and "Port" as semi-generic foreign designations of geographic significance, which are also the designations for specific classes and types of wines (§ 4.24(b)(2) of 27 CFR). As such, any American winery producing either of these wines is required to label the wine with an American appellation disclosing the true place of origin. As applied to the proposed viticultural name, examples of labels would read: Madera-Madeira or Madera-Port, The Portuguese Government claimed that approval of Madera as an appellation of origin would be confusing and misleading to the consumer and unfair to the Portuguese wine industry.

Public Hearing and Requests To Testify

ATF believes that a public hearing on the proposed Madera viticultural area is essential in order to obtain and evaluate additional information and allow all interested parties an opportunity to give oral testimony. Persons desiring to testify should submit a written request containing the name, address, and telephone number of the individual who will testify. The request should also contain the time of day which would be most convenient to testify. To the extent possible, ATF will honor preferences. Persons asking to testify should include an outline of the topics on which they will speak. Oral comment will be limited to 10 minutes per speaker, but additional time may be granted for answering questions. Persons asking to comment should be prepared to respond to questions concerning their comments, their topic outlines, or any matter relating to written comments they may have submitted.

Persons not scheduled to comment may be allowed to comment at the conclusion of the hearing, if time permits.

ATF will notify all persons asking to comment and will confirm their scheduled time of presentation. An agenda listing the speakers will be available at the hearing.

Copies of the petition and all written comments will be available at the hearing for public inspection. This public hearing is open to the public and will be conducted under the procedural rules contained in 27 CFR 71.41(a)(3).

ATF specifically request comments concerning:

(a) Alternative names for the proposed viticultural area, in particular, the name "Madera of California" or derivations thereof.

(b) Whether use of the name "Madera" as an approved viticultural area appellation would be misleading or confusing to the consumer since the name may also be used in wine labeling and advertising as a county appellation, "Madera County", indicating that 75 percent of the grapes came from the designated county appellation as opposed to 85 percent for viticultural appellations?

(c) Whether use of the name "Madera" as an approved American appellation of origin would be misleading or confusing to the consumer when used on a label in conjunction with a distinctive name of foreign geographic significance; such as, Madera-Madeira or Madera-Port? and

(d) Alternative boundaries:

(1) Should the proposed boundaries be amended to encompass the remaining western portion of Madera County? or

(2) Should the proposed boundaries be amended to encompass only areas currently cultivating wine grapes in the western portion of Madera County? If so, identify the amended boundary lines; or

(3) Should the proposed boundaries be approved, as petitioned, on the basis that: (i) They define a delimited grape-growing area which is distinguishable from surrounding areas, and (ii) amendments would define an area with dissimilar geographical characteristics and historical evidence?

Evidence obtained at the hearing along with all written comments previously submitted will be used to determine whether final regulations should be issued approving the petition as proposed, or as amended.

Drafting Information: The author of this document is Norman P. Blake, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms.

Authority—This notice of hearing is issued under the authority of 27 U.S.C. 205.

Signed: November 17, 1982.

W. T. Drake,

Acting Director.

Approved: December 6, 1982.

David Q. Bates,

Deputy Assistant Secretary (Operations).

[FR Doc. 82-34122 Filed 12-15-82; 8:45 am]

BILLING CODE 4810-31-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD 81-067]

Chesapeake Bay and Tributaries, Maryland; Regulated Navigation Area

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: The Coast Guard is proposing to amend the Regulated Navigation Area Regulations to establish an "Ice Navigation Season" Regulated Navigation Area (RNA) on the northern portion of Chesapeake Bay and its tributaries, including the Chesapeake and Delaware Canal. The regulations for this Regulated Navigation Area would be placed in effect and terminated at the direction of the Captain of the Port, Baltimore. The purpose of this Regulated Navigation Area is to enhance the safety of navigation in the affected waters. It would require operators of certain vessels to be aware, during the duration of their vessel's transit of the Regulated Navigation Area, of currently effective Ice Navigation Season Captain of the Port Orders issued by the Captain of the Port, Baltimore, Maryland.

DATE: Comments must be received on or before January 31, 1983.

ADDRESSES: Comments should be submitted to Commandant (G-CMC/44), U.S. Coast Guard, Washington, DC 20593. Comments may be delivered to and will be available for inspections and copying at the Office of the Executive Secretary, Marine Safety Council, Room 4402, U.S. Coast Guard Headquarters, 2100 Second Street, S.W., Washington, DC 20593 between the hours of 8 A.M. and 4 P.M. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Ensign Randy Strobridge, Project manager, Office of Marine Environment and Systems, Room 1606, U.S. Coast Guard Headquarters, 2100 Second Street S.W., Washington, DC 20593 (202) 426-4958.

SUPPLEMENTARY INFORMATION: The public is invited to participate in this rulemaking by submitting written views, data or arguments. Each person submitting a comment should include his or her name and address, identify this notice as CGD 81-067, give the specific section of the proposal to which the comment applies, and give the reasons for the comment. Persons desiring acknowledgement that their comment has been received should enclose a stamped, self-addressed postcard or envelope. This proposed rule may be changed in view of the comments received. All comments received before the expiration of the comment period will be considered before the final action is taken on this proposal. No public hearing is planned, but one may be held at a time and place to be set in a subsequent notice if written requests for a hearing are received and it is determined that the opportunity to make

oral presentations will be beneficial to this rulemaking.

DRAFTING INFORMATION: The principal persons involved in drafting this rulemaking are Lieutenant Commander J. G. KOTECKI, Port Safety Branch, Fifth Coast Guard District, Portsmouth, VA, Ensign Randy Strobridge, Office of Marine Environment and Systems, Coast Guard Headquarters and Lieutenant Walter J. Brudzinski, Project Counsel, Office of Chief Counsel, U.S. Coast Guard Headquarters Washington, DC 20593.

DISCUSSION OF THE PROPOSED REGULATION: This proposed rule would establish a Regulated Navigation Area (RNA) for those navigable waters of the United States which are part of the Chesapeake Bay, its tributaries, and the Chesapeake and Delaware Canal, which are within the Baltimore Marine Inspection Zone and Captain of the Port (COTP) Zone as established by 33 CFR 3.25–15. The regulations for this RNA would become effective at the direction of the Captain of the Port (COTP) Baltimore, usually in December of each year to the following March (Ice Navigation Season) when ice presents a hazard to navigation on these waters.

The purpose of this proposed RNA would be to enhance the safety of navigation on these waters during this Ice Navigation Season by requiring operators of certain vessels to contact the Coast Guard and request the latest COTP Ice Orders. These COTP Orders are issued as the need arises, and are based upon information available concerning the ice and weather conditions at hand, or likely to be present in the near future. They also contain an assessment of the hazard that this ice may present to vesssel traffic.

Currently, COTP Orders issued during the Ice Navigation Season have been publicized through issuance in a Broadcast Notice to Mariners and, when possible, through local radio and television announcements. A recorded telephone message containing information regarding current COTP Orders is also provided by the COTP Baltimore through the Marine Safety Office, Baltimore, Maryland. Also, other Coast Guard units in the area may have information regarding currently effective orders. However, dissemination of COTP Orders through these various means does not ensure that vessel operators will have knowledge of up-to-date orders prior to commencing, or at any time during their transit. Further, while the requirment exists (33 CFR 160.121) for each person who has notice of an order to comply with that order, the circumstances associated with the issuance of COTP Orders for the Ice Navigation Season render it virtually impossible to provide either individual notice to each person likely to be affected by that order, or even to provide effective local distribution to the various reaches of the affected waters. Therefore, transits over the affected waters have been made irrespective of, or contrary to, the restrictions imposed by currently effective COTP Orders.

It is the problem of lack of notice and failure to comply with COTP Orders issued during the Ice Navigation Season that this proposed rule is intended to correct.

Specifically, the vessels which have been claiming lack of notice and have been failing to comply with COTP Orders have been commercial vessels and vessels carrying certain cargoes in bulk. Therefore, this proposal would apply only to those vessels defined under subpargraph (3) of section 5 of the Port and Tanker Safety Act, 92 Stat 1482 (46 U.S.C. 391a) and section 4(1) through (3) of the Vessel Bridge-to-Bridge Radiotelephone Act, 80 Stat. 164. (33 U.S.C. 1203(A) (1) through (3). Under the applicable section of the Port and Tanker Safety Act these regulations would apply to any vessel regardless of tonnage, size, or whether self-propelled or not; which operates on or enters the navigable waters of the United States within the RNA, and which carries oil or any hazardous materials in bulk as cargo or in residue.

The section of the Vessel Bridge-to-Bridge Radiotelephone Act to which this proposal would apply encompasses every power-driven vessel of three hundred gross tons and upward; every vessel of one hundred gross tons and upward carrying one or more passengers for hire; and every towing vessel of twenty-six feet or over in length.

This proposal would require specifically that, during the time the regulations for the Regulated Navigation Area are in effect, operators of vessels described above check with COTP Baltimore upon entering or getting underway in the Baltimore COTP Zone and request the current COTP Orders issued for this RNA. The method of checking shall be by the most rapid means available. Navigation in compliance with these orders is required by 33 CFR 160.121. A vessel whose operator cannot meet this requirement shall not be navigated in this RNA. Once the regulations for this RNA are placed in effect, affected vessel operators can comply by calling the COTP Baltimore recorded telephone announcement containing the latest COTP Orders. The Marine Safety Office telephone number in use for recorded announcements concerning effective COTP Orders, and the schedule for broadcast of the orders is published in the Fifth Coast Guard District's Local Notice to Mariners prior to the outset of the Ice Navigation Season, and periodically throughout the season.

Although by its own terms, the regulations for this RNA will be in effect at the direction of the COTP, usually in intervals from December of each year to the following March, notice of the establishment of the RNA regulations will be published in the **Federal Register** and the Fifth Coast Guard District Local Notice to Mariners (LNM). It will be republished periodically in the LNM throughout the Ice Navigation Season. Additionally, local notice of the establishment of the RNA regulations will be made available through other public notice methods such as the COTP newsletters and news broadcasts.

Paragraph (a) of the proposed rule describes the boundaries and the general time period in which COTP Baltimore will establish the regulations for the Regulated Navigation Area. It will also describe how notice of the RNA's regulations will be made. Paragraph (b) specifies the requirement for operators of certain vessels to inform themselves of currently effective COTP Orders affecting their vessel's transit of this Regulated Navigation Area. Paragraph (d) establishes requirements for vessel operators unable to comply with currently effective Ice Season COTP Orders.

Regulated Navigation Areas were formerly in Part 128. These regulations have been recodified and published as a new Part 165 entitled Regulated Navigation Areas and Limited Access Areas. (CGD 79–034 July 8, 1982, 47 FR 29659).

Evaluation

These proposed regulations have been reviewed under the provisions of Executive Order 12291 and have been determined to be nonmajor. In addition, these proposed regulations are considered to be nonsignificant in accordance with the guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5–22–80).

A draft economic evaluation has not been prepared since the impact of this proposed regulation is expected to be minimal. The costs of complying with this proposal are not quantifiable to any extent practicable. Some vessel operators may opt to use their radios to contact the Captain of the Port, Baltimore. This method will not result in

additional costs. However, other vessel operators may use the telephone to contact the COTP and request the current COTP Orders. The costs of placing a brief long distance telephone call compared with the overall operational costs of the vessel's transit through the Regulated Navigation Area are insignificant. Further, these costs will be incurred only in those instances where the vessel's operation requires transit through the Regulated Navigation Area during the Ice Navigation Season. These insignificant costs are outweighed substantially by the benefits of having up-to-date information on ice conditions, the avoidance of ice concentrations, the lessened risk of becoming ice bound, and the lessened risk of vessel damage.

In accordance with Section 605(b) of the Regulatory Flexibility Act (94 Stat. 1164), it is also certified that these rules, if promulgated, will not have a significant economic impact on a substantial number of small entities, for the reasons set forth above.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Waterways, Security measures, Navigation (water), Barges, Vessels.

PART 165—[AMENDED]

In consideration of the foregoing, the Coast Guard proposes to amend Part 165 of Title 33, Code of Federal Regulations, by adding new § 165.503 to read as follows:

§ 165.503 Chesapeake Bay Ice Navigation Season.

(a) The following is a Regulated Navigation Area (RNA)—the waters within the boundary of a line which starts at the intersection of the Delaware-Maryland boundary and the coastline and follows the Delaware-Maryland boundary west and north to the Pennsylvania boundary but includes the Chesapeake and Delaware Canal and the reaches of the Nanticoke River; then due west along the Pennsylvania-Maryland boundary to the West Virginia boundary; thence south and eastward along the Maryland-West Virginia boundary to the Virginia boundary; thence southwestward along the Virginia-West Virginia boundary to a point 39°06′N. latitude, 78°30′W. longitude; thence to a point 38° 19.5′N. latitude, 77°25.2′W. longitude; thence to a point 37°55′N. latitude, 76°28.2′W. longitude; thence to a point 37°55′N. latitude 76°16.8′W. longitude; thence to a point 37°56.5′N. latitude, 76°10.5′W. longitude; thence to a point 37°57.2′N. latitude, 76°03′W. longitude on Chesapeake Bay; thence along the Maryland-Virginia boundary to the sea.

The regulations in paragraphs (b) and (c) for this Regulated Navigation Area will be placed in effect and terminated by the Captain of the Port, Baltimore by notice in the **Federal Register.** Notice will also be given in the Fifth Coast Guard District Local Notice to Mariners, and other available public notice means such as COTP newsletters and news broadcasts. This Regulated Navigation Area will normally be placed in effect and terminated between December and March of the following year.

(b) This Regulated Navigation Area applies to:

(1) Operators of those vessels defined under subparagraph (3) of section 5 of the Port and Tanker Safety Act, 92 Stat. 1482 (46 U.S.C. 391a), which includes any vessel—

(i) Regardless of tonnage, size, or manner of propulsion;

(ii) Whether self-propelled or not; and

(iii) Which carries oil or any hazardous materials in bulk as cargo or in residue;

(2) Operators of those vessels defined under section 4, subparagraphs (1) through (3) of the Vessel Bridge-to-Bridge Radio-telephone Act, 85 Stat. 164 (33 U.S.C. 1203(a)(1)–(3)), which includes—

(i) Every power-driven vessel of three hundred gross tons and upward;

(ii) Every vessel of one hundred gross tons and upward carrying one or more passengers for hire; and

(iii) Every towing vessel of twenty-six feet or over in length.

(c) Upon entering or getting underway in this Regulated Navigation Area when the regulations in this section are in effect, operators of vessels described in paragraph (b) shall check with the Captain of the Port, Baltimore, by the most rapid means available, and request the current COTP Orders issued for this Regulated Navigation Area. Operators of affected vessels that cannot meet this requirement shall not navigate their vessels in the RNA described in (a) above.

(d) If unable to comply with a currently effective COTP Order, operators of vessels described in paragraph (b) above shall not navigate their vessels in the RNA and shall notify COTP Baltimore by the most rapid means available. Such notification shall include:

(1) The name of the vessel;

(2) The vessel's location; and

(3) That provision of the currently effective order with which the vessel cannot comply.

(Sec. 2, 92 Stat. 1472, 1477 (33 U.S.C. 1223, 1231); 49 CFR 1.46(n)(4))

Dated: December 3, 1982.

B. F. Hollingsworth,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc. 82-34225 Filed 12-15-82; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 35 and 130

[WH-FR 2268-T]

Water Quality Planning and Management; Extension of Comment Period

AGENCY: Environmental Protection Agency.

ACTION: Extension of comment period.

SUMMARY: On Tuesday, October 19, 1982, at 47 FR 46668, the Environmental Protection Agency published a proposed revision to the regulation governing the water quality planning and management activities outlined in sections 106, 205(g), 208, 303 and 305 of the Clean Water Act. The original comment period closed on November 18, 1982. The comment period on this proposed regulation is being extended until January 27, 1983.

DATE: Comments must be submitted on or before January 27, 1983.

ADDRESS: Comments may be mailed to Carl F. Myers, Environmental Protection Agency, WH–554, Room 811E, Washington, D.C. 20460. Copies of the proposed regulation may be obtained by writing Mr. Myers at the above address or telephoning him at (202) 382–7080.

FOR FURTHER INFORMATION CONTACT: Carl F. Myers (202) 382–7080.

SUPPLEMENTARY INFORMATION: In response to numerous requests, the comment period is being extended until January 27, 1982, to allow commenters to comment simultaneously on both the proposed Water Quality Planning and Management regulation and the proposed Water Quality Standards regulation published earlier at 47 FR 49234. The extension will allow additional comments and result in increased coordination of water quality activities in the final regulations.

Dated: December 3, 1982.

Rebecca W. Hammer,

Assistant Administrator for Water (WH-556).

[FR Doc. 82-34221 Filed 12-15-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Parts 439, 455, and 467

[WH-FRL 2268-2]

Effluent Guidelines and Standards; Aluminum Forming, Pharmaceuticals, Pesticides Manufacturing Point Source Categories; Hearing

AGENCY: Environmental Protection Agency.

ACTION: Public hearing.

SUMMARY: Notice is hereby given of hearings open to the public to discuss and receive comments on pretreatment standards recently proposed in the Federal Register. These hearings will be to elicit additional comments on the regulations. These comments will be used to further assist the Agency in finalizing technically sound and cost effective final regulations.

Anyone wishing to make an oral statement or submit written testimony at the hearings should contact Mr. Harold B. Coughlin and indicate which session of the hearing they plan to attend.

The proposal dates are as follows:

Proposal date	Category
Nov. 22, 1982 (47 FR 52626)	Aluminum forming.
Nov. 26, 1982 (47 FR 53584)	Pharmaceuticals.
Nov. 30, 1982 (47 FR 53994)	Pesticides manufacturing.

DATE: The public hearings have been scheduled for January 17, 1983.

ADDRESS: The public hearings will be held at the following address: Skyline Inn, South Capitol and I Street, S.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Harold Coughlin, Project Officer for Public Participation, Effluent Guidelines Division (WH-552), (202) 382-7115, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460

SUPPLEMENTARY INFORMATION: This public hearing is being held in accordance with Section 307(b) of the Clean Water Act, 33 U.S.C. 1317(b). Registration for the hearing will be held from 8:00 to 8:30 a.m. Oral testimony will be presented as follows: 9:00 to 11:00 a.m.—Pesticides Manufacturing; 11:00 a.m. to 1:00 p.m.—Aluminum Forming; and 2:00 to 4:00 p.m.—Pharmaceuticals. Following the registration period there will be a brief presentation by an EPA offical on the development of these pretreatment standards. Also, opportunity will be given throughout the day for audience participants to submit written questions to the Presiding Officer. These questions will be addressed during the question and answer session which will conclude the presentations of oral testimony for each category. A court recorder will be present at the public hearing. Official transcripts will be available upon request.

Dated: December 7, 1982.

Rebecca W. Hammer,

Assistant Administrator for Water.

[FR Doc. 82-34222 Filed 12-15-82; 8:45 am]

BILLING CODE [illegible]

Notices

Federal Register
Vol. 47, No. 242
Thursday, December 16, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Coronado National Forest Grazing Advisory Board; Meeting

The Coronado National Forest Grazing Advisory Board will meet at 10:00 a.m., January 18, 1983, at the Federal Building, 301 West Congress, Room 7X, Tucson, Arizona. The purpose of this meeting is to discuss allotment management planning including the Coronado National Forest Plan and EIS, and the use of range betterment funds.

The meeting will be open to the public. Persons who wish to attend should notify Larry Allen, Coronado Supervisor's Office, telephone 602–629–6418. Written statements will be filed with the board before or after the meeting.

The board has established the following rule for public participation: Nonmembers are asked to withhold comments until the close of business.

Larry S. Allen,

Acting Forest Supervisor.

December 9, 1982.

[FR Doc. 82-34206 Filed 12-15-82; 8:45 am]

BILLING CODE 3410-11-M

Inyo National Forest Grazing Advisory Board; Meeting

The Inyo National Forest Grazing Advisory Board will meet at 10 a.m. on January 11, 1982, in the Inyo National Forest Conference Room in Bishop, California. The purpose of the meeting is:

Introduction of Elected Board Members
Discussion of purpose of Grazing Advisory Board
FY 83 and 84 Range Management Budgets
Grazing Advisory Board recommendations
Establishment of sub-committees
Establishment next meeting date.

The meeting will be open to the public. Persons who wish to attend may notify Inyo National Forest—telephone (619) 873–5841. Written statements may be filed with the committee before or after the meeting. Members of the public wishing to speak at the meeting will be recognized by the committee chairman at the appropriate time.

Dated: December 8, 1982.

James L. Cooper,

Acting Forest Supervisor.

[FR Doc. 82-34208 Filed 12-15-82; 8:45 am]

BILLING CODE 3410-11-M

Lincoln National Forest Grazing Advisory Board; Meeting

The Lincoln National Forest Grazing Advisory Board will meet at 9:30 a.m., January 27, 1983, at the New Mexico School for the Visually Handicapped, 1900 North White Sands Boulevard, Alamogordo, New Mexico. The purpose of the meeting is to provide grazing permittees of the Lincoln National Forest means for offering advice and recommendations concerning:

- Management Plans
- Range Improvements
  (a) Range Betterment Funds
  (b) Permit Modifications.

Another item to be discussed is Land Management Planning.

The meeting will be open to the public. Persons who wish to attend should notify Don Cunico, Lincoln National Forest Supervisor's Office, Federal Building, 11th & New York, Alamogordo, New Mexico (Telephone: 505–437–6030). Written statements may be filed with the Board before or after the meeting.

Rules for public participation will be established at the meeting.

James R. Abbott,

Forest Supervisor.

December 10, 1982.

[FR Doc. 82-34207 Filed 12-15-82; 8:45 am]

BILLING CODE 3410-11-M

Northern California Subcommittee of the Pacific Crest National Scenic Trail Advisory Council; Meeting

The Northern California subcommittee of the Pacific Crest National Scenic Trail Advisory Council will meet at 11:00 a.m. on Friday, January 14, 1983. The meeting will be held in the conference room, Shasta-Trinity National Forests Headquarters. 2400 Washington Avenue, Redding, California.

The purpose of the meeting is to discuss organized volunteerism for the Pacific Crest Trail, support facilities for the Trail, water needs for the Trail users, and compatibility of uses on the Trail. other policy matters concerning the Trail may also be considered.

The meeting will be open to the public. Persons who wish additional information should contact Dick Benjamin, Recreation Staff. Pacific Southwest Region, Forest Service, 630 Sansome Street, San Francisco. California 94111. Phone (415) 556–6983.

Dated: December 7, 1982.

Richard E. Montague,

Acting Regional Forester, Pacific Southwest Region.

[FR Doc. 82-34204 Filed 12-15-82; 8:45 am]

BILLING CODE 3410-11-M

Southern California Subcommittee of the Pacific Crest National Scenic Trail Advisory Council; Meeting

The Southern California Subcommittee of the Pacific Crest National Scenic Trail Advisory Council will meet at 9:30 a.m. on Thursday, January 27, 1983. The meeting location will be the 2nd floor conference room, Angeles National Forest Headquarters, 150 South Los Robles Street, Pasadena, California.

The purpose of the meeting is to discuss organized volunteerism for the Pacific Crest Trail, compatibility of uses on the trail, and other matters relating to completion of the trail.

The meeting will be open to the public. Persons who wish additional information should contact Dick Benjamin, Recreation Staff, Pacific Southwest Region, Forest Service, 630 Sansome Street, San Francisco, California 94111. Telephone number (415) 556–6986.

Dated: December 8, 1982.

Zane G. Smith, Jr.,

Regional Forester, Pacific Southwest Region.

[FR Doc. 82-34203 Filed 12-15-82; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

International Trade Administration

[A-122-005]

Carbon Steel Bars and Structural Shapes From Canada; Preliminary Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary results of administrative review of antidumping finding.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping finding on carbon steel bars and structural shapes from Canada. The review covers the only manufacturer covered by the finding, Western Canada Steel Limited, for the period September 1, 1980 through August 31, 1981, and three 1978 shipments by Western Canada Steel excluded from the last administrative review. It also covers the five other known exporters of bars and structural shapes manufactured by Western Canada Steel for consecutive periods from October 1, 1972 through August 31, 1981. The review indicates the existence of dumping margins for certain firms in certain periods.

As a result of the review, the Department has preliminarily determined to assess dumping duties for individual exporters equal to the calculated difference between United States price and foreign market value on each of their shipments during the periods of review. Where no information was received, the Department used the best information available.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: December 16, 1982.

FOR FURTHER INFORMATION CONTACT: Joseph A. Fargo or Robert J. Marenick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377-5255.

SUPPLEMENTARY INFORMATION:

Background

On April 22, 1982, the Department of Commerce ("the Department") published in the **Federal Register** (47 FR 17318) the final results of its last administrative review of the antidumping finding on carbon steel bars and structural shapes from Canada (29 FR 13319, September 25, 1964) and announced its intent to conduct the next administrative review by the end of September 1982. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are shipments of carbon steel bars, bars-shapes under 3 inches, and structural shapes 3 inches and over, currently classifiable under item numbers 606.8300 and 609.8000 of the Tariff Schedules of the United States Annotated (TSUSA), manufactured by Western Canada Steel Limited and/or its subsidiary, the Vancouver Rolling Mills Limited of Vancouver, Canada. The review covers Western Canada Steel for the period September 1, 1980 through August 31, 1981 and three 1978 shipments by Western Canada Steel excluded from the last review. The review also covers the five other known exporters of this merchandise for consecutive periods from October 1, 1972 through August 31, 1981. Western Canada Steel failed to respond to our questionnaire. Therefore, we used the best information available to determine the assessment and estimated antidumping duty cash deposit rates for that firm. The best information available is a combination of the rate on the 1978 entries covered in our last review and the rate on the three 1978 shipments covered by the current review. All five of the other exporters provided adequate responses. One of the five, Tudor Sales Ltd., sold in both markets and therefore could be reviewed independently of Western Canada Steel. However, for the four others, since they only sold to the U.S. and their supplier, Western Canada Steel, was non-responsive for the last year reviewed, we used the best information available to determine their estimated duty cash deposit rates. The best information available for three of the four is the most recent rate for Tudor Sales. For the fourth firm, Cam Chain, we used its most recent rate.

United States Price

In calculating United States price the Department used purchase price, as defined in section 772 of the Tariff Act or section 203 of the 1921 Act, since all sales were made to unrelated purchasers in the United States, or to unrelated exporters to the United States, prior to the date of exportation or importation, as appropriate. Purchase price was based on delivered prices with deductions, where applicable, for foreign and U.S. inland freight, insurance, U.S. customs duties, and commissions to unrelated parties. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used home market price, as defined in section 773 of the Tariff Act or section 205 of the 1921 Act, as appropriate, since sufficient quantities of such or similar merchandise were sold in the home market to provide a basis of comparison. Adjustments were made, where applicable, for inland freight and commissions to unrelated parties, in accordance with § 353.15 of the Commerce Regulations. No other adjustments were claimed or allowed.

Preliminary Results of the Review

As a result of our comparison of Untied States price to foreign market value, we preliminarily determine that the following margins exist:

Manufacturer/exporter	Time period	Margin (percent)
Western Canada Steel Ltd	09/01/80-08/31/81	40.64
Western Canada/A.J. Forsyth Co., Ltd	10/01/72-08/31/77	[1]0.00
	09/01/77-08/31/80	[1]0.00
	09/01/80-08/31/81	[1]0.00
Western Canada/Mitsubishi	10/01/72-08/31/78	[1]0.00
	09/01/78-08/31/80	[1]0.00
	09/01/80-08/31/81	[1]0.01
Western Canada/Mitsui & Co. (Canada) Ltd	10/01/72-08/31/78	[1]0.00
	09/01/78-08/31/80	[1]0.00
	09/01/80-08/31/81	[1]0.01
Western Canada/Tudor Sales Ltd	10/01/72-08/31/76	[illegible]
	09/01/76-08/31/78	[illegible]
	09/01/78-08/31/79	0.02
	09/01/79-08/31/80	0.02
	09/01/80-08/31/81	0.01
Western Canada/Cam Chain Co., Ltd	10/01/72-08/31/79	[1]0.00
	09/01/79-08/31/80	1.33
	09/01/80-08/31/81	1.33

[1]No shipments during the period.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 30 days after the date of publication of the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

The Department shall determine, and the U.S. Customs Service shall assess, dumping duties on all appropriate entries made with purchase dates during the time periods involved. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue assessment

instructions directly to the Customs Service.

Further, as provided for by § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties based upon the most recent of the above margins shall be required on all shipments of Canadian carbon steel bars and structural shapes from these firms entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results. Since the most recent margins for A.J. Forsythe Co., Ltd., Mitsubishi Canada, Ltd., Mitsui & Co. (Canada) Ltd., and Tudor Sales Ltd. are less than 0.5 percent, and therefore *de minimis*, the Department shall waive the deposit requirement for these firms. These deposit requirements and waivers shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Dated: December 10, 1982.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 82-34167 Filed 12-15-82]

BILLING CODE 3510-25-M

Greige Polyester/Cotton Printcloth From the People's Republic of China; Postponement of Antidumping Preliminary Determination

AGENCY: International Trade Administration, Commerce.

ACTION: Postponement of Preliminary Antidumping Determination.

SUMMARY: The preliminary determination of greige polyester/cotton printcloth from the People's Republic of China is being postponed, until not later than March 3, 1982.

EFFECTIVE DATE: December 16, 1982

FOR FURTHER INFORMATION CONTACT: Michael Ready, Office of Investigations, Import Administration, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230 (202) 377-2613.

SUPPLEMENTARY INFORMATION: On August 25, 1982, we announced the initiation of an antidumping investigation to determine whether greige polyester/cotton printcloth from the People's Republic of China (PRC) is being, or is likely to be, sold in the United States at less than fair value. The notice of initiation stated that if the investigation proceeded normally we would issue a preliminary determination on or before January 12, 1983.

Section 733(c) of the Tariff Act of 1930, as amended (the Act), provides that the Department of Commerce may postpone its preliminary determination if it concludes that the parties involved are cooperating in the investigation, if it determines that the case is extraordinarily complicated, and if additional time is necessary to make the preliminary determination. We find these factors to exist for this case. We have determined the PRC to be a state-controlled economy country under section 773(c) of the Act with respect to printcloth. We have also determined this case to be extraordinarily complicated under section 733(c)(1)(B) of the Act. Specifically, a novel issue is presented in that we must select and secure the cooperation of a non-state-controlled economy country to act as a surrogate for the PRC with respect to printcloth. We intend to issue a preliminary determination not later than March 3, 1983.

This notice is published pursuant to section 733(c)(2) of the Act.

Dated: December 9, 1982.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 82-34157 Filed 12-15-82; 8:45 am]

BILLING CODE 3510-25-M

[A-423-074]

Perchlorethylene From Belgium; Final Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of final results of administrative review of antidumping finding.

SUMMARY: On October 5, 1982, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on perchlorethylene from Belgium. The review covers the only known exporter of this merchandise to the United States and the period May 1, 1981 through April 30, 1982. There were no known shipments of this merchandise to the United States and there are no known unliquidated entries.

Interested parties were given an opportunity to submit oral or written comments on the preliminary results. We received no comments.

EFFECTIVE DATE: December 16, 1982.

FOR FURTHER INFORMATION CONTACT: Arthur N. DuBois or Susan Crawford, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377-3601.

SUPPLEMENTARY INFORMATION:

Background

On May 18, 1979, the Treasury Department published in the **Federal Register** a dumping finding with respect to perchlorethylene from Belgium (T.D. 79-150, 44 FR 29045-6). On October 5, 1982, the Department of Commerce ("the Department") published in the **Federal Register** (47 FR 43991) the preliminary results of its last administrative review of the finding. The Department has now completed that administrative review.

Scope of the Review

The imports covered by the review are shipments of perchlorethylene , including technical grade and purified grade perchlorethylene. Perchlorethylene is a clear water-white liquid at ordinary temperature with a sweet odor and is completely capable of being mixed with most organic liquids. It is a chlorinated solvent used mainly for dry cleaning of clothing, but is also used in other applications such as vapor degreasing of metals. Perchlorethylene is currently classifiable under item 429.3400 of the Tariff Schedules of the United States Annotated (TSUSA).

The review covers the one known exporter of Belgian perchlorethylene to the United States, Solvay & CIE, and the period May 1, 1981 through April 30, 1982. There were no known shipments to the United States during the period and there are no known unliquidated entries.

Final Results of the Review

Interested parties were invited to comment on the preliminary results. The Department received no written comments or requests for disclosure or a hearing. Therefore, the final results of our review are the same as those presented in the preliminary results of review.

As provided for in § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties of 150 percent shall be required on all shipments of Belgian perchlorethylene entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit requirement shall remain in effect until publication of the final results of the next administative review. The Department intends to conduct the next administrative review by the end of May 1984. The Department encourages interested parties to review the public record and submit applications for protective orders, if desired, as early as

possible after the Department's receipt of the information during the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Dated: December 9, 1982.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 82-34166 Filed 12-15-82; 8:45 am]

BILLING CODE 3510-25-M

Shop Towels of Cotton From the People's Republic of China; Postponement of Antidumping Preliminary Determination

AGENCY: International Trade Administration, Commerce

ACTION: Postponement of preliminary antidumping determination

SUMMARY: The preliminary determination of shop towels of cotton from the People's Republic of China is being postponed, until not later than March 2, 1982.

EFFECTIVE DATE: December 16, 1982.

FOR FURTHER INFORMATION CONTACT: Michael Ready, Office of Investigations, Import Administration, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230 (202) 377-2613.

SUPPLEMENTARY INFORMATION: On September 13, 1982, we announced the initiation of an antidumping investigation to determine whether shop towels of cotton from the People's Republic of China (PRC) are being, or are likely to be, sold in the United States at less than fair value. The notice of initiation stated that if the investigation proceeded normally we would issue a preliminary determination on or before January 31, 1983.

Section 733(c) of the Tariff Act of 1930, as amended (the Act), provides that the Department of Commerce may postpone its preliminary determination if it concludes that the parties involved are cooperating in the investigation, if it determines that the case is extraordinarily complicated, and if additional time is necessary to make the preliminary determination. We find these factors to exist for this case. We have determined the PRC to be a state-controlled economy country under section 773(c)(1)(B) of the Act. Specifically, a novel issue is presented in that we must select and secure the cooperation of a non-state-controlled economy country to act as a surrogate for the PRC with respect to shop towels. We intend to issue a preliminary determination not later than March 22, 1983.

This notice is published pursuant to section 733(c)(2) of the Act.

Dated: December 9, 1982.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 82-34158 Filed 12-15-82; 8:45 am]

BILLING CODE 3510-25-M

Certain Carbon Steel Pipe and Tube Products From South Africa; Postponement of Countervailing Duty Preliminary Determination

AGENCY: International Trade Administration, Commerce.

ACTION: Postponement of Countervailing Duty Preliminary Determination.

SUMMARY: The countervailing duty preliminary determination involving certain carbon steel pipe and tube products from South Africa is being postponed because the investigation has been determined to be extraordinarily complicated. We intend to issue the countervailing duty preliminary determination no later than March 7, 1983.

EFFECTIVE DATE: December 16, 1982.

FOR FURTHER INFORMATION CONTACT: Steven Morrison, Office of Investigations, Import Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, N.W., Washington, D.C. 20230 (202) 377-3965.

Postponement

On October 29, 1982, we published the initiation of a countervailing duty investigation to determine whether producers, manufacturers or exporters of certain pipe and tube products from South Africa receive benefits which constitute bounties or grants within the meaning of the countervailing duty law (47 FR 49057). The notice of initiation of countervailing duty investigation states that if the investigation proceeds normally we will issue a preliminary determination on or before December 30, 1982.

On November 26, 1982, we amended the scope of the investigation adding new products not covered by our notice of initiation (47 FR 53440). Because this required responses to the questionnaire which we sent out to be amended, and because new parties are likely to be identified, we have extended the time for responding to the Department's questionnaire to January 21, 1983. We need to determine the extent to which particular subsidies are used by individual manufacturers, producers and exporters and to know the number and identity of firms whose activities must be investigated. The government of South Africa and the South African firms involved in this investigation need more time to develop this information due to the fact that we amended the scope of investigation. We have determined that the parties concerned are cooperating, and that additional time will be necessary to make the countervailing preliminary determination. For these reasons we find that these cases are extraordinarily complicated in accordance with section 703(c)(1)(B) of the Tariff Act of 1930, as amended (the "Act"), and we have postponed the countervailing duty preliminary determination to not later than March 7, 1983. We have granted the 65 day period extension because we think that the inclusion of these additional products, firms and utilization of benefits may require the full time for us to obtain and analyze a complete response. We will try to issue the preliminary determination prior to March 7, 1983.

This notice is published pursuant to section 733(c)(2) of the Act.

Dated: December 10, 1982.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 82-34159 Filed 12-15-82; 8:45 am]

BILLING CODE 3510-25-M

Preliminary Affirmative Countervailing Duty Detrmination; Certain Iron-Metal Construction Castings From Mexico

AGENCY: International Trade Administration, Commerce.

ACTION: Preliminary affirmative countervailing duty determination.

SUMMARY: We preliminarily determine that certain benefits which constitute bounties or grants within the meaning of the countervailing duty law are being provided to manufactures, producers, or exporters in Mexico of certain iron-metal construction castings, as described in the "Scope of Investigation" section of this notice. The estimated net bounty or grant is 40.53 percent ad valorem. This rate is based on the use of the petitioners allegations as best information available because the Mexican government was unable because of technical difficulties to reply to our questionnaire in time for this preliminary determination. Therefore, we are directing the U.S. Customs Service to suspend liquidation of all entries of the subject merchandise

which are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice and to require a cash deposit or bond for each such entry in an amount equal to the estimated net bounty or grant. If this investigation proceeds normally, we will make our final determination by February 17, 1982.

EFFECTIVE DATE: December 16, 1982.

FOR FURTHER INFORMATION CONTACT: G. Leon McNeill or Julia E. Hathcox, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. telephone (202) 377–1273 or 377–0184.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

Based upon our investigation, we preliminarily determine that there is reason to believe or suspect that certain benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act), are being provided to manufactures, producers, or exporters in Mexico of certain iron-metal construction castings, as described in the "Scope of Investigation" section of this notice.

Case History

On September 10, 1982, we received a petition from counsel on behalf of 11 domestic manufacturers of certain iron-metal construction castings. Those manufacturers are: Alhambra Foundry, Allegheny Foundry Company, Campbell Foundry Company, E.B. Moritz Foundry, East Jordan Iron Works, Inc., LeBaron Foundry Company, Memphis Machine Works, Neenah Foundry Company, Pinkerton Foundry Company, U.S. Foundry and Manufacturing Corporation, and Vulcan Foundry, Inc. The petition alleged that certain benefits which constitute bounties or grants within the meaning of section 303 of the Act are being provided, directly or indirectly, to the manufacturers, producers, or exporters in Mexico of certain iron-metal construction castings.

We found the petition to contain sufficient grounds upon which to initiate a countervailing duty investigation, and on September 30, 1982, we initiated a countervailing duty investigation. We stated that we expected to issue a preliminary determination on or before December 6, 1982.

Since Mexico is not a "country under the Agreement" within the meaning of section 701(b) of the Act, section 303 of the Act applies to this investigation. Because the subject merchandise is nondutiable and there is no "international obligation" within the meaning of section 303(a)(2) of the Act which requires an injury determination for nondutiable merchandise from Mexico, the domestic industry is not required to allege that, and the U.S. International Trade Commission is not required to determine whether, imports of this product cause or threaten to cause material injury to a U.S. industry.

On October 8, 1982, we presented a questionnaire concerning the allegations to the government of Mexico in Washington, D.C. To date, we have received no response to this questionnaire, and, therefore, our preliminary determination must be made on the basis of the best available information.

Scope of Investigation

The merchandise covered by this investigation is certain iron-metal construction castings, including manhole covers, rings and frames, catch basin frames and grates, cleanout covers and grates, meter boxes, and value boxes. These castings are called municipal or public works castings and are used for access and/or drainage for public utility, water and sanitary systems. Manhole covers, rings and frames currently are classifiable under item number 657.0950 of the *Tariff Schedules of the United States Annotated* (TSUSA) and catch basin frames and grates, cleanout covers and grates, and meter boxes and value boxes currently are classifiable under TSUSA item number 657.0990. These products enter the United States duty-free. The period for which we are measuring subsidization is from January 1, 1982 to September 30, 1982.

Analysis of Programs

The government of Mexico has not yet provided a response to our countervailing duty questionnaire. On November 22, we received a letter from the Mexican government stating that the lack of a response was due to technical difficulties in gathering the required information and not due to a lack of cooperation. Our preliminary determination, therefore, must be made on the basis of the best information available pursuant to section 776(b) of the Act and § 355.39 of Commerce Regulations (19 CFR 355.39). In this case, the best information available is information from the petition, information from a November 29, 1982 submission from the petitioners' counsel relating to the alleged benefits received through the programs under investigation, and the benefit rates set in other countervailing duty cases involving products from Mexico. Based on this information, we preliminarily determine the following:

I. Programs Preliminarily Determined To Confer Bounties Or Grants

We preliminarily determine that bounties or grants are being provided to manufacturers, producers, or exporters in Mexico of certain iron-metal construction castings covered by this investigation under the programs discussed below.

A. *Fund for the Promotion of Exports of Mexican Manufactured Products (FOMEX).* The Fund for the Promotion of Exports of Mexican Manufactured Products (FOMEX) is a trust established by the government of Mexico to promote the manufacture and sale of exported products. The fund is administered by the Mexican Treasury department with the Bank of Mexico acting as the trustee. The Bank of Mexico administers the financing of FOMEX loans through financial institutions which establish contracts for lines of credit with manufacturers and exporters.

In order for a company to be eligible for FOMEX financing for exports, the following requirements must be met: (1) The product to be manufactured must be included on a list made public by FOMEX; (2) the articles to be exported must have a minimum of 30 percent national content in direct production costs; (3) loans granted for pre-export must be in Mexican currency, while loans for export sales are established in U.S. dollars or any other foreign currency acceptable to the Bank of Mexico; and (4) the exporter must carry insurance against commercial risks to the extent of the loans. Using best information available, we preliminarily determine the net amount of the benefit for FOMEX loans granted for pre-export financing to be 4.76 percent *ad valorem* and the net amount of the benefit for export financing to be 11.16 percent *ad valorem*, for a total bounty or grant of 15.92 percent *ad valorem*. This rate reflects the highest rate found by the Department for the FOMEX program in any countervailing duty case involving products from Mexico and was taken from the preliminary affirmative countervailing duty determination on toy balloons (including punchballs) and playballs (47 FR 46874).

B. *Certificados de Promocion Fiscal (CEPROFI).* In 1979 the government of Mexico introduced a four-year National Industrial Development Plan (NIDP) which spells out broad economic goals for the country. Tax credits, which are called Certificates of Fiscal Promotion (CEPROFI), are used to promote the NIDP goals, which include increased

employment, regional decentralization, industrial development, and the promotion of small and medium-sized firms.

CEPROFI certificates are non-transferable tax certificates of a set value which may be used for a five-year period to pay federal taxes. CEPROFI certificates are granted for carrying out investments in "priority" industrial activities. The amount of the CEPROFI is based upon the location of the activity, the number of jobs generated, the value of the investment in new plants and equipment, or the value of the purchase of capital goods produced in Mexico.

The Department preliminarily determines that the government of Mexico is providing bounties or grants to its manufacturers, producers, and exporters of certain iron-metal construction castings under this program. Using the best information available, we preliminarily determine the estimated net amount of the benefit provided under the CEPROFI program to be 4.91 percent *ad valorem*. This represents the highest rate found by the Department for the CEPROFI program in any countervailing duty case involving products from Mexico and was taken from the preliminary affirmative countervailing duty determination on polypropylene film (47 FR 42015).

C. *Mexican Credit Insurance Company (COMESEC).* Petitioners allege that Mexican manufacturers receive through COMESEC commercial risk insurance at preferential rates for exports. The Department preliminarily determines that the government of Mexico is providing bounties or grants to exporters of certain iron-metal construction castings under this program. Using as best information available the benefit rate contained in the petitioners' November 29, 1982 submission, we preliminarily determine the net amount of the bounty or grant provided under the COMESEC program to be 1 percent *ad valorem*.

D. *Fund for Industrial Development (FONEI).* Petitioners allege that Mexican manufacturers receive through FONEI, a specialized financial development fund, long-term preferential credit for the creation, expansion, or modernization of businesses capable of exporting or providing substitutions for imports. Using best information, the Department preliminarily determines that the government of Mexico is providing bounties or grants to manufacturers, producers or exporters of certain iron-metal construction castings under this program. Using the benefit rate contained in the petitioners' November 29, 1982 submission, we preliminarily determine the net amount of the bounty or grant provided under the FONEI program to be 7.1 percent *ad valorem*.

E. *Mexican Foreign Trade Institute (IMCE).* Petitioners allege that IMCE promotes the exportation of Mexican products by organizing trade fairs, providing market information to buyers and exporters, and providing free technical assistance to exporters. In the absence of information that the Mexican exporters benefiting from these activities reimburse the government for expenses incurred, the Department preliminarily determines that this program does provide bounties or grants to manufacturers, producers or exporters of certain iron-metal castings. Using as best available information the benefit rate contained in the petitioners' November 29, 1982 submission, we preliminarily determine the net amount of the bounty or grant provided under the IMCE program to be 1 percent ad valorem.

F. Further, the Department preliminarily determines, based on the allegations in the petition and in the absence of a response to the questionnaire, the manufacturers, producers or exporters of certain iron-metal construction castings from Mexico have received bounties or grants under the following programs at the respective net benefits as alleged in the petitioners' November 29, 1982 submission:

- Import duty reductions on machinery and equipment for companies demonstrating the likelihood of an increase in volume and value of exports, and exemptions from import duties on temporary imports of machinery and equipment, and spare parts and tools if such items are not available in Mexico and are used in the production of exports (0.6 percent ad valorem)
- Discounts on industrial energy supplies and basic petrochemicals for firms constructing new industrial installations (9 percent ad valorem) (We are assuming this is a countervailable program since we have no information as to whether this program is non-selective or selective in its availability.)
- Land provided on favorable terms to companies locating in industrial parks (1 percent ad valorem)

II. Programs Preliminarily Determined Not To Confer Bounties Or Grants

We preliminarily determine that the following programs do not provide bounties or grants, as alleged by the petitioners, to manufacturers, producers, or exporters of certain iron-metal construction castings from Mexico:

A. *Government-Financed Facilities.* Petitioners allege that government-financed facilities developed to attract labor to the United States-Mexican border area provides a benefit to industries located in this area. In the absence of any information indicating that government-financed facilities provided to certain laborers decrease wage demands and thus indirectly benefit the employing industries, we preliminarily determine that no bounty or grant is conferred by such a program.

B. *Import Duty Exemptions.* Petitioners allege that exemptions from import duties on temporary imports of raw materials and auxiliary materials not available in Mexico and used in the production of exports provide a benefit to Mexican companies. We preliminarily determine that no bounty or grant is conferred by such import duty exemptions as the materials involved are used or consumed in the production of exported products.

C. *Dual Level Currency Exchange System.* Although a dual exchange rate could provide a bounty or grant for products benefitting from a more beneficial exchange rate, it is our understanding that certain iron-metal construction castings and the imported products used to produce such merchandise do not benefit from a more favorable exchange rate. We understand that only foodstuffs currently are imported into Mexico at the more beneficial exchange rate, and that the regular exchange rate applicable to exports is generally available. Therefore, we preliminarily determine the dual level currency exchange system does not currently constitute a bounty or grant to manufacturers, producers, or exporters of iron-metal construction castings in Mexico.

III. Programs Preliminarily Determined To Be Suspended And Not Used Recently

Certificado de Devolucion de Impuestos Indirectos (CEDI)

The CEDI is a tax certificate issued by the government of Mexico in an amount equal to a percentage of the f.o.b. value of the exported merchandise or, if national insurance and transportation are used, a percentage of the c.i.f. value of the exported product. The Secretary of Commerce of Mexico is responsible for setting the CEDI rate, which is not published. Exporters are required to apply for each CEDI by providing to the Ministry of Commerce (SECOM) documentation with respect to each individual shipment of qualifying exports. SECOM processes the application and, instructs the Ministry of Treasury to issue the CEDIs in the amount specified. The CEDIs are non-

transferable and may be applied against a wide range of federal tax liabilities (including payroll taxes, value added taxes, federal income taxes, and import duties) over a period of five years from the date of issuance.

We preliminarily determine that the CEDI program is countervailable. The government of Mexico notified us that as of August 25, 1982, it has discontinued the eligibility of all products for the CEDI program. Because the CEDI program has been suspended, the Department preliminarily determines that it is not being used. If this program is reactivated, the Department would review its application in any annual review under section 751 of the Act, should this investigation result in the issuance of a countervailing duty order.

IV. Programs For Which Additional Information Is Needed

We preliminarily determine that additional information is needed for the following programs alleged by petitioners to provide bounties or grants to manufacturers, producers, or exporters in Mexico of the products subject to this investigation. The petitioners' did not provide quantitative information on these programs. If the respondents do not provide information as to whether manufacturers, producers, or exporters of certain iron-metal construction castings received benefits under these programs, we will, for our final determination, seek information on these programs and calculate a benefit rate for each program determined to be countervailable.

A. *FOMEX Loan Guarantees.* Petitioners allege the FOMEX program provides for protection against political risk of up to 90 percent on export loans.

B. *Industry Specific Incentives.* Petitioners allege that specific Mexican industires receive special incentives, such as favorable tax treatment.

C. *State Tax Incentives.* Petitioners allege that business entities may receive partial or total exemption from state taxes, or free or low-priced land as incentives for establishing or expanding industry.

D. *Trust for Industrial Parks, Cities, and Commercial Centers (FIDEIN)*

Operating under the Nacional Financiera, this program is aimed at the development of industrial parks and cities. Under FIDEIN, manufacturers may purchase land, rent or lease machinery or choose other options.

E. *Guarantee and Development Fund for Medium and Small Industries (FOGAIN).* Administered by the Nacional Financiera, FOGAIN attempts to meet the loan and guarantee requirements of small and medium-sized businesses. Under this program, certain businesses may receive preferential loans with the rates being dependent upon the type of industrial activity and the location of such activity.

F. *National Fund For Industrial Development (FOMIN).* Operating as a trust fund, FOMIN provides funding to certain companies through either stock acquisition or the provision of convertible loans granted at rates below those of commercial lending institutions.

G. *National Preinvestment Fund for Studies and Projects (FONEP).* Administered by the Nacional Financiera, S.A., FONEP, among other activities, provides loans at interest rates lower than those commercially available and conducts industry feasibility studies.

H. *Benefits to In-Bond Processing Companies.* Petitioners allege that 100 percent foreign-owned companies located in the free zones of Baja California and Sonora may move merchandise or equipment into and from these zones without the payment of import duties. Petitioners further alleged that such companies located outside these border area may temporarily import machinery, equipment, materials, and parts duty-free so long as these items are re-exported or used in the production of exports. Petitioners provided no quantification for benefits which might be received under this program. We will continue to seek information on this program.

I. *Government Control of Mexican Iron and Steel Industries.* Petitioners claim that all benefits or grants provided by the government to the iron and steel industry of Mexico confer a benefit to the iron-metal construction castings industry as the iron and steel industry may produce such castings or provide material input into the merchandise under investigation. We will continue to seek information regarding this allegation.

J. *Benefits Provided By National Financiera, S.A.* Petitioners allege Mexican manufacturers may receive benefits from the National Financiera, S.A., a government-owned development bank. Petitioners allege these benefits include the operation of service and trust funds providing such forms of assistance as feasibility studies, direct investment in capital stock, and long-term financing.

Follow-Up Request To Respond To Questionnaire

We will once again request the government of Mexico to respond to our questionnaire. If the respondent does not submit information in response to our questionnaire by December 27, 1982, we will be unable to verify any information submitted after that date. Where information is not furnished, or is furnished too late to verify, we may use the best information available for our final determination. The analysis and verification of the Mexican government's response could substantially change the *ad valorem* benefit as calculated for our preliminary determination for certain iron-metal construction castings from Mexico.

Verification

In accordance with section 776 (a) of the Act, we will verify all data used in making our final determination, unless, in the absence of a response, we continue to use best information available.

Suspension of Liquidation

In accordance with section 703 of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of certain iron-metal construction castings. This suspension of liquidation applies to all merchandise subject to this investigation entered or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register.** The Customs Service shall require a cash deposit or the posting of a bond equal to the estimated bounty or grant of 40.53 percent ad valorem.

This suspension will remain in effect until further notice.

Public Comment

In accordance with § 355.35 of the Commerce Department Regulations, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 10 a.m., January 12, 1983, at the U.S. Department of Commerce, Room 6802, 14th and Constitution Avenue, N.W., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room 3099B, at the above address within 10 days of this notice's publication. Requests should contain: (1) The party's name, address and telephone number; (2) The number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs must be submitted to the Deputy Assistant Seretary by January 5, 1982. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 C.F.R. 355.43, within 30 days of

this notice's publication, at the above address and in at least 10 copies.

Dated: December 6, 1982.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 82-34180 Filed 12-15-82; 8:45 am]

BILLING CODE 3510-25-M

National Bureau of Standards

National Voluntary Laboratory Accreditation Program (NVLAP); Report of Laboratory Accreditation Actions for November 1982

AGENCY: National Bureau of Standards, Commerce.

ACTION: Announcement of Laboratory Accreditation Actions.

SUMMARY: The National Bureau of Standards (NBS) announces the accreditation of laboratories competent to perform specific tests on solid fuel room heaters, under the National Voluntary Laboratory Accreditation Program (NVLAP). The accreditations are effective through December 1983.

FOR FURTHER INFORMATION CONTACT: Mr. John W. Locke, Manager, Laboratory Accreditation, TECH B141, National Bureau of Standards, Washington, DC 20234, (301) 921-3431.

SUPPLEMENTARY INFORMATION: The laboratories identified below conform to the general and specific criteria described in the NVLAP Procedures (15 CFR 7a.19-7a.30).

New Accreditation Actions for November 1982

Six laboratories were accredited in November 1982 in the Solid Fuel Room Heaters Laboratory Accreditation Program (Stove LAP). The name and address of each laboratory for which accreditation has been granted is listed below. The test methods for which accreditation was granted are listed in Table 1. In each case accreditation expires on December 31, 1983, except that the accreditation may be revoked before the expiration date in the event of violation of the criteria or other conditions of the laboratory's accreditation, or otherwise terminated at the request of the laboratory.

Accredited for the Physical/Fire Test Group, the Mobile Home Test Group and the Electrical Test Group:

Arnold Greene Testing Laboratories, Inc., Attn: Robert J. Halliday, 2 Millbury Street, Auburn, MA 01501, (617) 235-7330

Energy Systems, Inc., Attn: Neil Tyson, 1705 Pumphrey Avenue, Auburn, AL 36830, (205) 821-9400

Energy Testing Laboratory of Maine [1] Attn: J. Douglas Brownrigg, Southern Maine Vocational Technical Institute, Fort Road, South Portland, ME 04106, (207) 799-7303

PFS Corporation, Attn: Ed Starostovic, 2402 Daniels Street, Madison, WI 53704, (608) 221-3361

Underwriters Laboratories, Inc., Attn: Steve Mazzoni, 333 Pfingsten Road, Northbrook, IL 60062, (312) 372-8800

Underwriters Laboratories, Inc.—Santa Clara, CA, Attn: Steven Roll, 1655 Scott Boulevard, Santa Clara, CA 95050, (408) 985-2400

Underwriters Laboratories is also accredited for thermal insulation materials and carpet testing.

Accredited Laboratories

Including the laboratories identified in this notice, a total of ninety-nine laboratories are currently accredited under NVLAP. NVLAP accreditation does not relieve the laboratories from the necessity of observing and being in compliance with existing Federal, State, and local statutes, ordinances, and regulations that may be applicable to the operations of the laboratory, including consumer protection and antitrust laws. For a list of NVLAP accredited laboratories, contact the NVLAP Manager at the address shown above.

Dated: December 13, 1982.

Ernest Ambler,

Director, National Bureau of Standards.

TABLE 1

NVLAP code	Short title	Section [1]	Section [2]
	Physical/Fire Test Group		
04/F01	Test Installation	8	8
04/F02	Temperature Measurement	9	9
04/F03	Smoke Spillage (visual observation).		11.
04/F04	Radiant Fire Test	11	12 & 12A
04/F05	Coal Fire Test		11A.
04/F06	Brand Fire Test	12	13 & 13A
04/F07	Flash Fire Test	13	14.
04/F08	Strength Tests	15	15
04/F09	Stability Test	16	16
04/F10	Glazing Test	14	17
	Mobile Home Test Group		
04/M01	Test Installation	17	18
04/M02	Toxic Gas	17	18
04/M03	Drop Test	17	18.
	Electrical Test Group		
04/E01	Test Voltages	33	35
04/E02	Temperature Measurements, Electrical Components.	34	36
04/E03	Input Test	35	37
04/E04	Temperature Test, Electrical Components.	[illegible]	[illegible]
04/E05	Leakage Current	[illegible]	40
04/E06	Dielectric Withstand	37	[illegible]
04/E07	Locked rotor (Stalled Motor) temperature.	[illegible]	41.

[1] Accredited only for the Physical/Fire Test Group.

TABLE 1—Continued

NVLAP code	Short title	Section [1]	Section [2]
04/E08	Power Cord Strain Relief	#0	25.4.

[1] Section of UL 737 5th Edition (Mar. 1, 1982).
[2] Section of UL 1482 1st Edition (Aug. 9, 1979) with revision pages through Aug. 31, 1981.

[FR Doc. 82-34169 Filed 12-15-82; 8:45 am]

BILLING CODE 3510-13-M

National Oceanic and Atmospheric Administration

Pacific Fishery Management Council's Anchovy Subpanel; Meeting

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

SUMMARY: The Pacific Fishery Management Council, established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94-265), has established an Anchovy subpanel which will meet to discuss a proposed amendment to the Northern Anchovy Fishery Management Plan (FMP). The proposed amendment would change current methods for annually estimating the anchovy spawning biomass and deriving optimum yield and harvest quotas based on the biomass estimate. Information developed at this meeting will enable the Subpanel to formulate a recommendation to the Council preparatory to releasing the proposal for public review.

DATES: The public meeting will take place on Friday, January 7, 1983, at 10 a.m., at the Federal Customs Building, Main Conference Room, Room 2032, 300 South Ferry Street, Terminal Island, California.

FOR FURTHER INFORMATION CONTACT: Pacific Fishery Management Council, 526 SW. Mill Street, Portland, Oregon 97201, telephone (503) 221-6352.

Dated: December 13, 1982.

Joe P. Clem,

Chief, Operations Coordination Group, National Marine Fisheries Service.

[FR Doc. 82-34210 Filed 12-15-82; 8:45 am]

BILLING CODE 3510-22-M

Office of the Secretary

Agency Forms Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposals for the collection of information under the

provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Economic Development Administration
Title: Special Adjustment Assistance Application
Form number: Agency—ED–540; OMB—1610–0058
Type of request: Extension
Burden: 60 respondents; 315 reporting hours
Needs and uses: Special adjustment assistance is provided under EDA's Sudden and Severe Dislocation (SSED) Program. Because the SSED's Program responds to sudden and severe disruptions to a local economy, specific new information is needed to identify the problem to be addressed. Data collected is designed to assess the problem.
Affected public: State, city, non-profit organizations, a consortium of political subdivisions (e.g., cities, counties), and Indian tribes.
Frequency: On occasion
Respondent's obligation: Required to obtain or retain benefit
OMB desk officer: Timothy Sprehe, 395–4814

Agency: Economic Development Administration
Title: Midland Steelworkers
Type of request: New
Burden: 200 respondents; 100 reporting hours
Needs and uses: The information collected will be used to evaluate the impact of a private-sector job search club set up to assist displaced steelworkers. The Department of Commerce is exploring the policy potential of such clubs.
Affected public: Workers who were permanently laid off by a major steel plant in Midland, Pennsylvania
Frequency: Nonrecurring
Respondent's obligation: Voluntary
OMB desk officer: Timothy Sprehe, 395–4814

Agency: Economic Development Administration
Title: Public Works Application, Including Employment Plan
Form number: Agency—ED–101A; OMB—0610–0011
Type of request: Reinstatement
Burden: 200 respondents; 18,000 reporting hours
Needs and uses: Used by state and local governments to apply for public works grants under the Public Works and Economic Development Act of 1965, as amended. Needed to assure that applicants meet statutory and program requirements, and for program administration.
Affected public: State and local governments, public authorities, non-profit organizations
Frequency: On occasion
Respondent's obligation: Required to obtain or retain benefit
OMB desk officer: Timothy Sprehe, 395–4814

Agency: Minority Business Development Agency (MBDA)
Title: Technology Commercialization/ Growth Industry Report
Form Number: Agency—MBE 134; OMB—None
Type of Request: New
Burden: 10 respondents; 960 reporting hours
Needs and uses: The Technology Commercialization Report is used by MBDA Technology Centers to collect information, exchange data and monitor the project development of new technological innovations and opportunities that can be commercialized by a minority business enterprise into a new business acquisition.
Affected public: Currently ten technology centers identify specific applications or processes and monitor its development to the point of application and commercialization for business
Frequency: Monthly
Respondent's obligation: Required to obtain or retain benefit
OMB desk officer: Timothy Sprehe, 395–4814

Agency: Minority Business Development Agency
Title: WHO'S WHO Resource File
Form number: Agency—None; OMB—None
Type of Request: New
Burden: 100 respondents; 2,400 reporting hours
Needs and uses: The WHO'S WHO Resource File identifies individuals with the local Standard Metropolitan Statistical Area (SMSA) of the reporting Minority Business Development Centers that are actively involved in minority business enterprise and that promote and advocate the needs and concerns of minority business enterprise.
Affected public: Minority Business Development Centers conduct quarterly advocacy conferences within their SMSA and identify WHO'S WHO candidates
Frequency: Quarterly
Respondent's obligation: Required to obtain or retain benefit
OMB desk officer: Timothy Sprehe, 395–4814

Agency: National Oceanic and Atmospheric Administration
Title: Interview Log, Atlantic Bluefin Tuna Sport Fishing Survey
Form number: Agency—NOAA 88–917; OMB—0648–0048
Type of request: Extension
Burden: 1,000 respondents; 160 reporting hours
Needs and uses: The data are used in statistical analyses to explain and quantify changes in current biological abundance. The resulting information, submitted by the National Marine Fisheries Service annually to the International Commission for the Conservation of Atlantic Tunas, is the basis of stock management strategies promulgated by the Commission.
Affected public: Recreational fishermen
Frequency: Annually
Respondent's obligation: Voluntary
OMB desk officer: Ken Allen, 395–3785

Copies of the above information collection proposals can be obtained by calling or writing DOC Clearance Officer, Edward Michals (202) 377–4217, Department of Commerce, Room 6622, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Written comments and recommendations for the proposed information collections should be sent to the respective OMB Desk Officer, Room 3235, New Executive Office Building, Washington, D.C. 20503.

Edward Michals,
Departmental Clearance Officer.

[FR Doc. 82–34168 Filed 12–15–82; 8:45 am]
BILLING CODE 3510–CW–M

Senior Executive Service Performance Awards

Pursuant to Section 5 U.S.C. 5384, the Department of Commerce announces that the following career members of the Senior Executive Service are recipients of SES performance awards (bonuses) for individual and organizational accomplishments during FY 1982. Bonus percentages and amounts are listed after each recipient's name.

Payment Date: Dec. 22, 1982

National Bureau of Standards

Robert Mehrabian, Director, Center for Materials Science, (19%) $11,115
Edward O. Pfrang, Chief, Structures and Materials Division, (16%) $9,360
Curt W. Reimann, Director, Center for Analytical Chemistry, (15%) $8,775
Peter L. Heydemann, Associate Director, for Programs, Budget and Finance, (14%) $8,190
John W. Lyons, Director, National Engineering Laboratory, (11%) $6,435
Donald R. Johnson, Deputy Director for Resources and Operations, NML, (11%) $6,435
John A. Simpson, Director, Center for Mechanical Engineering and Process Technology, (11%) $6,435
Guy W. Chamberlin, Jr., Director of Administration, (11%) $6,435

Glenn R. Ingram, Associate Director for Computing, Center for Applied Mathematics, (11%) $6,435
Robert J. Hocken, Chief, Automated Production Technology Division (ES–1), (11%) $6,264
Judson C. French, Director, Center for Electronics and Electrical Engineering (11%) $6,435
Stanley I. Warshaw, Director, Office of Product Standards Policy, (11%) $6,435
Robert P. Blanc, Director for Computer Systems Engineering, (11%) $6,435
Edward L. Brady, Associate Director for International Affairs, (11%) $6,435
Richard N. Wright III, Director, Center for Building Technology (11%) $6,435

National Oceanic and Atmospheric Administration

John McElroy, Assistant Administrator for Satellites, (16%) $9,360
Jay Johnson, Assistant General Counsel for Fisheries, (16%) $9,360
C. Gordon Little, Director, Wave Propagation Laboratory, ERL, (11%) $6,435
Alexander Malahoff, Chief Scientist, National Ocean Survey, (11%) $6,435
Jerry C. McCall, Director, NOAA Data Buoy Office, (11%) $6,435
Neil L. Frank, Director, National Hurricane Center, (9%) $5,265
Hazen H. Bedke, Director, Western Region, National Weather Service, (9%) $5,265
Izadore Barrett, Director, SW Center National Marine Fisheries Service, (7%) $4,095
Ned A. Ostenso, Deputy Assistant Administrator, Research and Development, (5%) $2,925

Office of Economic Affairs

Frederick Knickerbocker, Executive Director, Economic Affairs, (18%) $10,540
C. Louis Kincannon, Deputy Director, Bureau of the Census, (16%) $9,360
Shirley Kallek, Associate Director for Economic Fields, Census, (11%) $6,435
Stanley D. Matchett, Chief, Geography Division, Bureau of the Census, (11%) $6,435
Roger A. Herriot, Chief, Population Division, Bureau of the Census, (11%) $6,435
Carol S. Carson, Chief, Current Business Analysis Division, BEA, (11%) $6,435
O. Bryant Benton, Assistant Director for Administration, Bureau of the Census, (9%) $5,265

Patent and Trademark Office

Bradford R. Huther, Assistant Commissioner for Finance and Planning, (20%) $11,130
James O. Thomas, Examining Group Director, Group 140, (16%) $9,360
Robert F. White, Examining Group Director, Group 170, (11%) $6,435
Kenneth L. Cage, Examining Group, Director, Group 220, (10%) $5,850
Samith N. Zaharna, Examining Group Director, Group 160, (10%) $5,580

International Trade Administration

Allen J. Lenz, Director, Office of Trade and Investment Analysis, (12%) $7,020
Majory E. Searling, Director, Office of International Sector Policy, (10%) $5,850
John B. Roose, Deputy to the Deputy Assistant Secretary for Export Development, (10%) $5,850

Assistant Secretary for Administration

Hugh Brennan, Director, Office of Organization and Management Systems, (18%) $10,530
Charles F. Treat, Director, Office of Program Planning and Evaluation, (11%) $6,435

National Telecommunications and Information Administration

William F. Utlant, Director for Institute for Telecommunications Science, (11%) $6,435
Donald M. Jansky, Associate Administrator for Spectrum Management, (7%) $4,095

Office of Inspector General

John Szpanka, Assistant Inspector General for Planning and Evaluation, (11%) $6,435

Payment Date: Jan. 5, 1983

National Bureau of Standards

Jesse Hord, Director, Center for Chemical Engineering, (11%) $6,435

National Oceanic and Atmospheric Administration

Joseph Smagorinsky, Director, Geophysical Fluid Dynamics Laboratory, (20%) $11,130
Eldon E. Ferguson, Director Aeronomy Laboratory, (16%) $9,360
William Fox, Jr., Director SE Center, National Marine Fisheries Service, (16%) $9,360
Mirco P. Snidero, Deputy Assistant Administrator, Management and Budget, (11%) $6,435
John Carey, Director, Office of Budget and Resource Management, (11%) $6,435
Frederick P. Ostby, Director, National Severe Storms Forecast Center, (11%) $6,435
Allen E. Peterson, Director NE Region, National Marine Fisheries Service, (9%) $5,265
Walter J. Chappas, Associate Director for Aeronautical Charting, (9%) $5,265
Syukuro Manabe, Supervisory Research Meteorologist, (7%) $4,095
Carmen Blondin, Director, Office of International Fisheries Affairs, (7%) $4,095
Margaret E. Courain, Deputy Director Environmental Data and Information Service, (5%) $2,925

Office of Economic Affairs

Kenneth M. Brown, Deputy Director, Bureau of Industrial Economics, (11%) $6,435
Joseph F. Caponio, Acting Director, National Technical Information Service, (11%) $6,435
Robert P. Parker, Chief, National Income and Health Division, BEA, (11%) $6,435
Jeffrey L. Mayer, Deputy Director Office of Economic Policy, (9%) $5,265
Joel Richardson, Chief, Economic Surveys Division, Census, (9%) $5,265
Daniel H. Garnick, Associate Director for Regional Economics, BEA, (7%) $4,095
John E. Cremeans, Director, Office of Research, Analysis and Statistics, BIE, (7%) $4,095

Assistant Secretary for Administration

Dennis Boyd, Executive Director Information Resources Management, (20%) $11,130
Nancy A. Richards, Director, Office of Budget, (11%) $6,435
Richard M. Hadsell, Executive Director for Operations, (11%) $6,435
Jimmie D. Brown, Director, Office of Information Systems, (10%) $5,850
Leo E. Palensky, Director, Office of Financial Management, (10%) $5,850

Patent and Trademark Office

Charles Van Horn, Examining Group Director, Group 120, (19%) $11,115
Michael K. Kirk, Assistant Commissioner for External Affairs, (10%) $5,850

International Trade Administration

William V. Skidmore, Director, Office of Anti-Boycott Compliance, (20%) $11,130
Michael Doyle, Director of Administration, (11%) $6,435

Economic Development Administration

Edward G. Jeep, Director, Chicago Regional Office, (11%) $6,435
Craig Smith, Director, Philadelphia Regional Office, (11%) $6,435

Office of General Counsel

Marilyn Wagner, Assistant General Counsel for Administration, (16%) $9,360

Persons desiring any further information concerning these performance awards may contact John Golden, Director of Personnel, Herbert C. Hoover Building, Room 5102, Washington, D.C. 20230, (202) 377–4807.

Dated: December 7, 1982.

John Golden,

Director of Personnel, Department of Commerce.

[FR Doc. 82–33882 Filed 12–15–82; 8:45 am]

BILLING CODE 3510–25–M

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the committee: Army Science Board (ASB).

Date of meeting: Wednesday, 5 January 1983.

Time: 0800–1700 hours (Open).

Place: The Pentagon, Washington, D.C.

Agenda: The Army Science Board Functional Subgroup on Planning, Concepts, and Management Support will have select members meet to plan the agenda for a meeting of the entire group on 1 and 2 February 1983 to receive briefings and hold discussions on the present Army planning system. This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. In order to be able to accommodate prospective attendees, the Army Science Board Administrative Officer, Helen M. Bowen, must be notified no later

than 3 January 1983. For further information, call the ASB at (202) 695-3039 or 697-9703.

Helen M. Bowen,

Administrative Officer.

[FR Doc. 82-34174 Filed 12-15-82; 8:45 am]

BILLING CODE 3710-08-M

Corps of Engineers, Department of the Army

Draft Environmental Impact Statement (DEIS) for Proposed Flood Control Project on Magnesia Spring Canyon Creek, Rancho Mirage, Riverside County, California.

AGENCY: U.S. Army Corps of Engineers, Department of Defense.

ACTION: Notice of intent to prepare a draft environmental impact statement.

SUMMARY:

1. *Proposed Action.* The preferred plan for flood control along Magnesia Spring Canyon Creek consists of: a 12.5-acre excavated debris basin; an earthfill embankment for the debris basin that would be 800 feet long, 250 feet wide, and 37 feet high; a 190-foot-wide concrete spillway; a 1.4-mile-long rectangular concrete channel that would be 20 feet wide and 10 feet deep and would generally follow the alinement of the existing earthen channel from the proposed debris basin to the Whitewater River; excavation of approximately 300,000 cubic yards of soil for the debris basin and channel (all of which would be used for construction of the embankment, backfill along the channel, and miscellaneous fill adjacent to the construction area); and mitigation measures entailing preservation and enhancement of wildlife habitat values on 20 acres of alluvial cone, enhanced water source(s) for bighorn sheep in the vicinity of Magnesia Spring Canyon, and provision of legal public access to the Magnesia Springs State Ecological Reserve for bighorn sheep. The proposed project would provide standard project flood protection to existing development in the city of Rancho Mirage and to 150 acres of undeveloped lands on the upper portion of the creek's alluvial cone.

2. *Alternatives.* Alternatives considered during preliminary planning include variations of a debris basin and channel concept, a single levee with an unrevetted low-flow channel, an earthfill dam, a concrete channel, floodproofing, and floodplain management. Many of these were found to be engineeringly infeasible and/or economically unjustified and were eliminated from further consideration.

The preferred plan, two variations of the preferred plan, and a flood plain management plan identified as the environmental quality plan were carried forward for detailed study. One variation of the preferred plan proposes to provide 100-year rather than standard project flood protection. This variation features a debris basin and embankment identical to that proposed by the preferred plan and a rectangular concrete channel that would be 15 feet wide and 9 feet deep and would extend 1.4 miles from the debris basin to the Whitewater River along the alinement of the existing earthen channel.

The second variation also features a debris basin and embankment identical to that proposed by the preferred plan. The channel length and alinement would be the same as that proposed by the preferred plan but would feature a combination of trapezoidal and rectangular design. The uptream .85 mile of the channel would be trapezoidal, 20 feet wide at the bottom, and 8 feet deep. The downstream .55 mile of the channel would be rectangular, 30 feet wide, and 8 feet deep.

The flood plain management plan consists of a warning system, flood plain regulation, and flood insurance. The flood warning system includes a flood detection and prediction system and flood warning process.

3. *Scoping Process.* The West Magnesia Spring Canyon Creek project was originally a part of a larger study on the Whitewater River. At a 17 January 1980 public meeting held in Rancho Mirage, the public was informed that the flood problem on this creek warranted restudy. A public workshop held on 16 June 1980 provided a forum for the public to express their views and concerns regarding types of solutions and environmental impacts. Numerous meetings were held with public agencies to discuss environmental issues associated with the proposed project and to formulate a reasonable environmental mitigation plan acceptable to those involved. Agencies involved in this coordination effort with the Corps of Engineers were the Coachella Valley Water District (the local sponsor), City of Rancho Mirage (the affected local municipality), U.S. Fish and Wildlife Service, and the California Department of Fish and Game. A Fish and Wildlife Coordination Act Report was prepared by the U.S. Fish and Wildlife Service (USFWS) in September 1982 in accordance with the Fish and Wildlife Coordination Act, as amended. Coordination with the USFWS also addressed the Endangered Species Act of 1973. Coordination with the State Historic Preservation Office and the U.S. Soil Conservation Service has been conducted pursuant to the National Historic Preservation Act and Executive memorandum, Analysis of Impacts on Prime and Unique Farmlands, respectively.

Significant issues to be analyzed in the draft EIS include potential impacts to vegetation and wildlife including numerous raptor species and peninsular bighorn sheep, cultural resources, changes in land use, and esthetics.

The draft EIS is expected to be available to concerned agencies and the interested public for review and comment in January 1983.

ADDRESS: Questions concerning the proposed action and draft EIS can be answered by: Mr. Chris Kronick, Planning Section A, U.S. Army Engineer District, Los Angeles, P.O. Box 2711, Los Angeles, California 90053, Commercial Telephone: (213) 688-5462, FTS Telephone: 798-5462.

Dated: December 8, 1982.

Paul W. Taylor,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 82-33995 Filed 12-15-82; 8:45 am]

BILLING CODE 3710-KF-M

Draft Environmental Impact Statement (DEIS) for the Tennessee-Tombigbee Waterway (TTW) Wildlife Mitigation Feasibility Study, Alabama and Mississippi; Intent To Prepare

AGENCY: Army Corps of Engineers, DOD.

ACTION: Amended notice to intent to prepare a DEIS.

SUMMARY: On 26 March 1981, a "Notice of Intent" to prepare a Draft Environmental Impact Statement (DEIS) for potential alternatives formulated to mitigate the wildlife habitat losses resulting from construction and operation of the Tennessee-Tombigbee Waterway (TTW) in Alabama and Mississippi was published in the Federal Register (46 FR 18756). The stated purpose of the DEIS was to address the findings and recommendations that would result from an ongoing Wildlife Mitigation Feasibility Study (WMFS). Subsequent events have altered the schedule, as well as other aspects, presented in that "Notice of Intent." On 13 July 1981, the US Court of Appeals for the Fifth Circut directed the Corps to prepare a Supplement to the 1971 EIS (SEIS) for the TTW to address changes that had occurred since 1971. The Court orderd SEIS, which was completed and

filed in April 1982, interrupted the WMFS schedule (former completion date of March 1982) and delayed most of the work on the study until April 1982. The WMFS efforts were then resumed in an intense manner under a revised schedule. This amended Notice of Intent provides an update on the alternatives currently being considered and presents the revised schedule for the DEIS. The poposed DEIS will specifically address the wildlife mitigation issue and will be included as an integral part of the WMFS report.

1. *Proposed Action:* The proposed action is to provide justifiable mitigation for wildlife losses resulting from construction and operation of the TTW. The WMFS under preparation will identify the wildlife losses and develop and evaluate alternatives to mitigate these losses. The WMFS report will recommend a mitigation plan for the TTW. The DEIS will include an evaluation of the environmental, social, economic, and engineering impacts associated with the potential mitigation alternatives.

2. *Alternatives:* The wildlife habitat mitigation alternatives include plans developed in the following categories:

a. No action.

b. Incorporation of additional design features.

c. Incorporation of intensive wildlife management practices on TTW lands.

d. Incorporation of intensive wildlife management practices on other public lands.

e. Land acquisition and management.

f. Combination of measures and various levels of implementation.

3. *Scoping Process:*

a. The scoping effort, accomplished since the 26 March 1981 Notice of Intent, will serve as a basis for preparation of the DEIS. In addition, this Amended Notice of Intent shall serve as further notification to concerned Federal, State, and local agencies and other interested persons that may wish to provide input.

b. Coordination with the US Fish and Wildlife Service, as required by the Fish and Wildlife Coordination Act and the Endangered Species Act, has been accomplished and continues to be ongoing. Coordination required by other laws and regulations will also be accomplished.

c. Three workshops were held in the upper Tombigbee River basin to obtain views of the concerned public over which alternatives should be considered and to identify potentially significant impact for further analysis. The workshops were conducted on 6, 7, and 9 April 1981 at Fulton, Mississippi, Livingston, Alabama, and Columbus, Mississippi, respectively. A public information fact sheet was mailed to the individuals on the project mailing list announcing the workshops and summarizing the status of the study. Following the workshops, another fact sheet was mailed to the public who participated in the workshops, summarizing their input into the study and requesting additional comments.

d. In addition to these workshops, a public meeting will be held in early 1983, after filing of the DEIS, to solicit further public involvement. Notification will be provided as to the exact time and location of that meeting.

4. *DEIS Preparation:* It is estimated that the DEIS will be available to the public in January 1983.

ADDRESS: Questions about the proposed action and DEIS can be answered by: Mr. Michael J. Eubanks, US Army Engineer District, Mobile, PO Box 2288, Mobile, AL 36628.

Any additional information for consideration in the WMFS or DEIS should also be furnished to the above address.

Dated: December 6, 1982.

Patrick J. Kelly,

Colonel, CE, District Engineer.

[FR Doc. 82-34162 Filed 12-15-82; 8:45 am]

BILLING CODE 3710-CR-M

DEPARTMENT OF EDUCATION

Nationally Recognized Accrediting Agencies and Associations; List

AGENCY: Department of Education.

ACTION: Notice; Revisions to the list of nationally recognized accrediting agencies and associations; correction.

SUMMARY: This document makes a technical correction in the Notice of the Secretary's List of Nationally Recognized Accrediting Agencies and Associations.

FOR FURTHER INFORMATION CONTACT: Barbara Binker, Agency Evaluation Section, Eligibility and Agency Evaluation Staff, Office of Postsecondary Education, 400 Maryland Avenue, S.W. (Room 3522, ROB-3), U.S. Department of Education, Washington, D.C. 20202. Telephone: (202) 245-2810.

SUPPLEMENTARY INFORMATION: On November 2, 1982, the Secretary published a notice of revisions to the list of nationally recognized accrediting agencies and associations in the **Federal Register** at 47 FR 59699. This document corrects an error that was made in that notice.

On page 49699, in the third column, under the heading "National Institutional and Specialized Accrediting Agencies and Associations," "Change in Scope of Recognition," the paragraph "Clinical Pastoral Education" is revised and a new paragraph "Continuing Education" is added to read as follows:

Clinical Pastoral Education

Association for Clinical Pastoral Education, Inc. (basic, advanced, and supervisory clinical pastoral education).

Continuing Education

Council for Non-Collegiate Continuing Education, Accrediting Commission (noncollegiate continuing education institutions and programs).

Daniel Oliver,

General Counsel.

[FR Doc. 82-34215 Filed 12-15-82; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Notification of Relocation of the Economic Regulatory Administration, Natural Gas Division

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notification of relocation of offices.

Notice is hereby given of the relocation of offices and the Docket Room of the Natural Gas Division, Economic Regulatory Administration, DOE. The new location and phone numbers are: Forrestal Building, Room GA-007, 1000 Independence Avenue SW., Washington, D.C. 20585, Main Office (202) 252-9482, Docket Room (202) 252-9478.

Issued in Washington, D.C. on December 9, 1982.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 82-34084 Filed 12-15-82; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-FC-82-031]

Powerplant and Industrial Fuel Use Act of 1978; Electric Utility Conservation Plans

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of approval of conservation plans.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) has received a number of electric utility conservation plans

developed and submitted for DOE approval pursuant to section 808 of the Powerplant and Industrial Fuel Use Act of 1978, as amended, 42 U.S.C. 8301 et seq. ("FUA" or "the Act"). Pursuant to 10 CFR 508.5(b), DOE hereby gives Notice of Approval of Conservation Plans submitted by the electric utility owners or operators listed in the **SUPPLEMENTARY INFORMATION** section below.

The public file for each of the listed electric utility owners or operators containing this Notice of Approval of Conservation Plans and all other pertinent documents is available for inspection at the Department of Energy, Freedom of Information Reading Room, 1000 Independence Avenue SW., Room 1E–190, Washington, D.C. 20585, telephone (202) 252–6020. Approval of each conservation plan is based on ERA's consideration of the entire record of the proceeding, including any comments received during the public comment period for each plan.

DATE: In accordance with 10 CFR 508.5(b), this Notice shall take effect on December 16, 1982.

FOR FURTHER INFORMATION CONTACT:

Clifford Tomaszewski, Office of Fuels Programs, Economic Regulatory Administration, Forrestal Building, Room GA–073 F, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252–2201.

Henry Garson, Esq., Acting Assistant General Counsel for Coal Regulations, Office of the General Counsel, Forrestal Building, Room 6D–033, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252–6947.

SUPPLEMENTARY INFORMATION: Section 1023 of the Omnibus Budget Reconciliation Act of 1981, Pub. L. 97–35 (OBRA) amended FUA by adding a new section 808, entitled "Electric Utility Conservation Plan."

Section 808 requires utilities which own or operate any existing electric powerplant which used natural gas as a primary energy source between August 14, 1980 and August 13, 1981, and which also plan to use natural gas in any electric powerplant, to develop and submit to DOE for approval a conservation plan to conserve electric energy. The plan must set forth the means to achieve the conservation of electric energy at a level equal to 10 percent of the electric energy output of the utility sold within its own system which was attributable to natural gas during the four calendar quarters ending on June 30, 1981. Approved plans must be fully implemented during the five year period following DOE approval.

Notices of Receipt of the proposed conservation plans described below, providing for a thirty (30) day public comment period during which interested persons were invited to submit written comments concerning the content of any such proposed conservation plan, were published in the **Federal Register** on August 12 and 27, 1982 and September 17, 1982 (47 FR 35033, 37952 and 41163, respectively). No comments on these proposed plans were received.

Based upon the entire record of this proceeding, ERA has determined that the conservation plans of each of the following utilities meet the requirements for approval contained in 10 CFR § 508.8. ERA is restricted by the 120 day time limitation imposed by the Act on the plan approval process as to the amount of information which can be analyzed in order to ascertain the environmental significance of approval of these plans. However, based on the information contained in each utility's submittal, ERA has determined pursuant to 10 CFR 508.5, that the conservation programs contained in the plan of each utility listed below should not produce environmental consequences significant enough to warrant detailed documentation pursuant to the National Environmental Policy Act or its implementing regulations (40 CFR 1500 et seq.). Thus this action clearly does not represent a major Federal action significantly affecting the quality of the human environment. Pursuant to 10 CFR 508.5 and section 808(d)(1) of FUA, DOE hereby approves the electric utility conservation plans submitted by the utilities listed below.

Each of the electric utilities whose plans are approved herein shall annually submit a report to ERA pursuant to 10 CFR 508.7 identifying the steps taken during the preceding year to implement its approved plan. Each such report shall be submitted within thirty (30) days after the close of a calendar year, beginning with the close of a calendar year 1983. The report shall be sent to: Robert L. Davis, Director, Fuels Conversion Division, Office of Fuels Programs, Economic Regulatory Administration, Forrestal Building, Room GA–093, 1000 Independence Avenue SW., Washington, D.C. 20585.

The following utilities' conservation plans are approved:

Utilities	FC Case No.
Arizona Public Service Co., Phoenix, Ariz.	50101-9999-99-49
Arkansas Power & Light Co., Little Rock, Ark.	50105-9999-99-49
Brazos Electric Power Cooperative, Inc., Waco, Tex.	50318-9999-99-49
Central Hudson Gas & Electric Corp., Poughkeepsie, N.Y.	50464-9999-99-49
Central Louisiana Electric Co., Pineville, La.	50490-9999-99-49
City of Clarksdale, Clarksdale, Miss.	50575-9999-99-49
City of Glendale, Glendale, Calif.	51121-9999-99-49
City of Grand Island, Grand Island, Nebr.	51150-9999-99-49
City of Tallahassee, Tallahassee, Fla.	52875-9999-99-49
City of Vero Beach, Vero Beach, Fla.	53132-9999-99-49
COM Electric, Wareham, Mass.	50412-9999-99-49
Consolidated Edison Co. of New York, Inc., New York, N.Y.	50653-9999-99-49
Consumers Power Co., Jackson, Mich.	50658-9999-99-49
Detroit Edison Co., Detroit, Mich.	50782-9999-99-49
Florida Power & Light Co., Miami, Fla.	51081-9999-99-49
Gainsville Regional Utilities, Gainsville, Fla.	51070-9999-99-49
Long Island Lighting Co., Mineola, N.Y.	51685-9999-99-49
Louisiana Power & Light Co., New Orleans, La.	51694-9999-99-49
Mt. Carmel Public Utility Co., Mt. Carmel, Ill.	51945-9999-99-49
Municipal Light & Power, Anachorage, Alaska	50076-9999-99-49
Savannah Electric & Power Co., Savannah, Ga.	52585-9999-99-49
Southern Company Services, Inc., Birmingham, Ala.	52042-9999-99-49
Union Electric Co., St. Louis, Mo.	52997-9999-99-49
Utah Power & Light Co., Salt Lake City, Utah	53107-9999-99-49
Virginia Electric & Power Co., Richmond, VA.	53146-9999-99-49

Issued in Washington, D.C. on December 10, 1982.

Robert L. Davis,

Director, Fuels Conversion Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 82–34085 Filed 12–15–82; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. ERA–FC–82–034]

Powerplant and Industrial Fuel Use Act of 1978; Electric Utility Conservation Plans

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of receipt of proposed electric utility conservation plans.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) has received a number of electric utility conservation plans developed and submitted for DOE approval pursuant to Section 808 of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.*, as amended (FUA or the Act).

Pursuant to 10 CFR 508.4(b), DOE hereby gives Notice of Receipt of Proposed Conservation Plans from the electric utility owners or operators listed in the **SUPPLEMENTARY INFORMATION** section below. The publication of this notice commences a thirty (30) day public comment period during which interested persons are invited to submit written comments concerning the

content of any such proposed conservation plan.

The public file for each of the listed electric utility owners or operators containing the proposed conservation plan and any other pertinent documents is available at the Department of Energy, Freedom of Information Reading Room, 1000 Independence Avenue, S.W., Room 1E–190, Washington, D.C. 20585, telephone (202) 252–6020. ERA will approve or non-approve the proposed plan of each electric utility within 120 days of the receipt of each plan. Approval or non-approval of a conservation plan will be based on the entire record of the proceeding, including any comments received during the public comment period provided herein. Notice of Approval or Non-approval of each conservation plan will be published in the Federal Register.

DATE: Written comments on any proposed conservation plan identified in the **SUPPLEMENTARY INFORMATION** section of this notice are due on or before January 17, 1983.

ADDRESS: Five copies of written comments shall be submitted to: Case Control Unit Fuels Conversion Division, Forrestal Building, Room GA–093, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

The name of the subject utility and the identifying case number should be printed on the outside of the envelope and on the documents contained therein.

FOR FURTHER INFORMATION CONTACT:

Clifford Tomaszewski, Office of Fuels Programs, Economic Regulatory Administration, Forrestal Building, Room GA–073 A, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252–2201.

Allan J. Stein, Esq., Office of the General Counsel, Forrestal Building, Room 6B–222, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252–2967.

SUPPLEMENTARY INFORMATION: Section 1023 of the Omnibus Budget Reconciliation Act of 1981, Pub. L. 97–35 (OBRA) amended the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* (FUA or the Act) by adding a new section 808, entitled "Electric Utility Conservation Plan."

Section 808 requires utilities which own or operate any existing electric powerplant which used natural gas as a primary energy source between August 14, 1980 and August 13, 1981, and which also plan to use natural gas in any electric powerplant, to develop and submit to DOE for approval a conservation plan to conserve electric energy. The plan must set forth the means to achieve the conservation of electric energy at a level equal to 10 percent of the electric energy output of the utility sold within its own system which was attributable to natural gas during the four calendar quarters ending on June 30, 1981. The plan must be fully implemented during the 5 year period following DOE approval.

DOE will, within 120 days of the receipt of a proposed plan, approve each plan meeting the requirements of 10 CFR § 508.8. If a proposed plan, as originally submitted, fails to meet the requirements for approval, DOE will notify the utility submitting the plan by letter, setting forth the reasons therefor, and provide a reasonable time for the submission of a modified conservation plan. If an acceptable modified plan is not submitted within the specified time period, a Notice of Non-approval will be published in the Federal Register together with the basis for the determination that the proposed plan fails to meet the requirements of 10 CFR 508.8. The following list of utilities have submitted proposed conservation plans to DOE for approval. Publication of this notice does not constitute approval of such plans.

Utilities	FC case No.	Date filed
Western Farmers Electric Cooperative, Anadarko, Okla	53262–9999–99–49	11/2/82
City of Larned, Larned, Kans	[illegible]	11/9/82
City of Ruston, Ruston, La	52542–9999–99–49	11/9/82

Issued in Washington, D.C., on December 10, 1982.

Robert L. Davies,

Director, Fuels Conversion Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 82–34066 Filed 12–13–82; 8:45 am]

BILLING CODE 6455–01–M

[Docket No. ERA–FC–82–030]

Powerplant and Industrial Fuel Use Act of 1978; Electric Utility Conservation Plans

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of Approval of Conservation Plans.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) has received a number of electric utility conservation plans developed and submitted for DOE approval pursuant to section 808 of the Powerplant and Industrial Fuel Use Act of 1978, as amended, 42 U.S.C. 8301 *et seq.* ("FUA" or "the Act"). Pursuant to 10 CFR 508.5(b), DOE hereby gives Notice of Approval of Conservation Plans submitted by the electric utility owners or operators listed in the **SUPPLEMENTARY INFORMATION** section below.

The public file for each of the listed electric utility owners or operators containing this Notice of Approval of Conservation Plans and all other pertinent documents is available for inspection at the Department of Energy, Freedom of Information Reading Room, 1000 Independence Avenue, S.W., Room 1E–190, Washington, D.C. 20585, telephone (202) 252–6020. Approval of each conservation plan is based on ERA's consideration of the entire record of the proceeding, including any comments received during the public comment period for each plan.

DATE: In accordance with 10 CFR 508.5(b), this Notice shall take effect on December 16, 1982.

FOR FURTHER INFORMATION CONTACT:

Clifford Tomaszewski, Office of Fuels Programs, Economic Regulatory Administration, Forrestal Building, Room GA–073 F, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252–2201

Henry Garson, Esq., Acting Assistant General Counsel for Coal Regulations, Office of the General Counsel, Forrestal Building, Room 6D–033, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252–6947

SUPPLEMENTARY INFORMATION: Section 1023 of the Omnibus Budget Reconciliation Act of 1981, Pub. L. 97–35 (OBRA) amended FUA by adding a new section 808, entitled "Electric Utility Conservation Plan."

Section 808 requires utilities which own or operate any existing electric powerplant which used natural gas as a primary energy source between August 14, 1980 and August 13, 1981, and which also plan to use natural gas in any electric powerplant, to develop and submit to DOE for approval a conservation plan to conserve electric energy. The plan must set forth the means to achieve the conservation of electric energy at a level equal to 10 percent of the electric energy output of the utility sold within its own system which was attributable to natural gas during the four calendar quarters ending on June 30, 1981. Approved plans must be fully implemented during the 5 year

period following DOE approval.

Notices of Receipt of the proposed conservation plans described below, providing for a thirty (30) day public comment period during which interested persons were invited to submit written comments concerning the content of any such proposed conservation plan, were published in the **Federal Register** on August 12 and 27, 1982 and September 17, 1982 (47 FR 35033, 37952 and 41163, respectively). No comments on these proposed plans were received.

Based upon the entire record of this proceeding, ERA has determined that the conservation plans of each of the following utilities meet the requirements for approval contained in 10 CFR 508.8. ERA is restricted by the 120 day time limitation imposed by the Act on the plan approval process as to the amount of information which can be analyzed in order to ascertain the environmental significance of approval of these plans. However, based on the information contained in each utility's submittal, ERA has determined, pursuant to 10 CFR 508.5, that the conservation programs contained in the plan of each utility listed below should not produce environmental consequences significant enough to warrant detailed documentation pursuant to the National Environmental Policy Act or its implementing regulations (40 CFR 1500 *et seq.)*. Thus this action clearly does not represent a major Federal action significantly affecting the quality of the human environment. Pursuant to 10 CFR 508.5 and section 808 (d)(1) of FUA, DOE herby approves the electric utility conservation plans submitted by the utilities listed below.

Each of the electric utilities whose plan is approved herein shall annually submit a report to ERA pursuant to 10 CFR 508.7 identifying the steps taken during the preceding year to implement its approved plan. Each such report shall be submitted within thirty (30) days after the close of a calendar year, beginning with the close of calendar year 1983. The report shall be sent to: Robert L. Davies, Director, Fuels Conversion Division, Office of Fuels Programs, Economic Regulatory Administration, Forrestal Building, Room GA–093, 1000 Independence Avenue, S.W., Washington D.C. 20585.

The following utilities' conservation plans are approved:

Utilities	FC case No.
City of Lakeland, Lakeland, Fla.	51575–9999–99–49
City of Pasadena, Pasadena, Calif.	52255–9999–99–49
City Power & Light Department, Independence, Mo.	51392–9999–99–49
General Public Utilities Corp., Parsippany, N.J.	53020–9999–99–49
Houston Lighting and Power Company, Houston, Tex.	51352–9999–99–49
Iowa Power and Light Co., Des Moines, Iowa	51407–9999–99–49
Lake Worth Utilities Authority, Lake Worth, Fla.	51573–9999–99–49
Lamar Utilities Board, Lamar, Colo.	51582–9999–99–49
Los Angeles Department of Water and Power, Los Angeles, Calif.	51691–9999–99–49
Lower Colorado River Authority, Austin, Tex.	51702–9999–99–49
Medina Electric Cooperative, Inc., Hondo, Tex.	51825–9999–99–49
Mississippi Power & Light Co., Jackson, Miss.	51887–9999–99–49
New England Power Service, Westborough, Mass.	52007–9999–99–49
Niagara Mohawk Power Corp., Syracuse, N.Y.	52053–9999–99–49
Northeast Utilities, Hartford, Conn.	53266–9999–99–49
Orlando Utilities Commission, Orlando, Fla.	52159–9999–99–49
Pacific Gas & Electric Co., San Francisco, Calif.	52224–9999–99–49
Public Service Co. of Colorado, Denver, Colo.	52400–9999–99–49
Public Service Co. of Oklahoma, Tulsa, Okla.	52413–9999–99–49
Public Service Electric & Gas Co., Newark, N.J.	52414–9999–99–49
South Texas Electric Cooperative, Inc., Nursery, Tex.	52712–9999–99–49
Southern Colorado Power, Pueblo, Colo.	67027–9999–99–49
Texas Power and Light Co., Dallas, Tex.	52902–9999–99–49
Texas-New Mexico Power Co., Ft. Worth, Tex.	67041–9999–99–49
West Texas Utilities Co., Abilene, Tex.	53256–9999–99–49
Wisconsin Electric Power Co., Milwaukee, Wis.	53330–9999–99–49

Issued in Washington, D.C. on December 10, 1982.

Robert L. Davies,

Director, Fuels Conversion Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 82-34087 Filed 12-15-82; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. TA83–1–1–001]

Alabama-Tennessee Natural Gas Co.; Proposed PGA Rate Adjustment

December 8, 1982.

Take notice that on December 1, 1982, Alabama-Tennessee Natural Gas Company (Alabama-Tennessee), P.O. Box 918, Florence, Alabama 35631, tendered for filing as part of its FPC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets:

Thirty-Eighth Revised Sheet No. 3–A
Fifth Revised Sheet No. 3–B, and
Alternate Thirty-Eighth Revised Sheet No. 3–A.

These tariff sheets are proposed to become effective January 1, 1983. Alabama-Tennessee states that the purpose of this filing is to adjust its rates to conform to the rates of its suppliers, Tennessee Gas Pipeline Company (Tennessee), a Division of Tenneco Inc., and Sun Exploration and Production Company. The enclosed rate filing also provides for recoupment of minimum bill charges made to Tennessee in May and June, 1982. Tennessee on November 30, 1982, filed with this Commission a PGA filing providing for adjustments in its rates which are also proposed to become effective January 1, 1983. Alabama-Tennessee states that the changes in its rates have been made in conformity with the PGA and related provisions of its tariff.

The filing states that Alabama-Tennessee made a general rate increase filing on November 30, 1982, which is proposed to be made effective December 31, 1982. The Alternate Thirty-Eighth Revised Sheet No. 3–A is submitted in the event that the Commission does not suspend the general rate increase beyond its proposed effective date of December 31, 1982.

The tariff sheets submitted herewith provide for the following rates:

Rate schedule	Rates after current adjustment
G–1:	
Demand	$6.05
Commodity	430.88
SG–1:	
Commodity	374.88
I–1:	
Commodity	360.55
Alternate Thirty-Eighth Revised Sheet No. 3-A provides for the following rates:	
G–1:	
Demand	$7.35
Commodity	496.88

Rate schedule	Rates after current adjustment
SG-1:	
Commodity	490.56
I-1:	
Commodity	461.02

Alabama-Tennessee states that copies of the tariff filing have been mailed to all of its jurisdictional customers and affected States Regulatory Commissions.

Any person desiring to be heard or to protest such filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before December 22, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-34184 Filed 12-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EC83-2-000]

Kentucky Utilities Co.; Application

December 8, 1982.

Take notice that on November 26, 1982, Kentucky Utilities Company ("KU") filed an application pursuant to Section 203 of the Federal Power Act for authorization to acquire from Old Dominion Power Company ("Old Dominion") certain of the latter's securities. Old Dominion is the wholly-owned subsidiary of KU.

KU states that it is applying for authority to acquire from Old Dominion unsecured promissory notes of Old Dominion from time to time.

KU states that the proposed transaction will enable Old Dominion to obtain needed funds at a cost which it is believed will be not greater than the cost of money which would be incurred by Old Dominion were it to seek to obtain such funds through the issuance of its securities otherwise than to KU.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before December 30, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-34185 Filed 12-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-169-000]

Southern California Edison Co.; Proposed Tariff Change

December 8, 1982.

The filing Company submits the following:

Take notice that, on December 1, 1982, Southern California Edison Company (Edison) tendered for filing the Edison-Pasadena Interruptible Transmission Service Agreement (Agreement), which has been executed by Edison and City of Pasadena (Pasadena), California, on November 2, 1982.

Edison states that the Agreement supersedes Edison's Rate Schedules FERC Nos. 88 and 115 and provides for the establishment of two additional Points of Receipt/Delivery for interruptible transmission service and eliminates two existing Points of Receipt/Delivery under the superseded Rate Schedules.

Copies of this filing were served upon the City of Pasadena and the Public Utilities Commission of the State of California.

Any person desiring to be heard or to protest this filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before December 23, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-34186 Filed 12-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-167-000]

Southwestern Electric Power Co.; Filing

December 8, 1982.

The filing company submits the following:

Take notice that Southwestern Electric Power Company ("SWEPCO") on December 1, 1982, tendered for filing an Agreement for Purchase and Sale of Electric Power and Energy (the "Electric Contract") between Southwestern Electric Power Company ("SWEPCO") and the City of Hope, Arkansas ("Hope"), dated January 4, 1982, as supplemented and amended by the First Amendment (the "Amendment") to the Agreement for Purchase and Sale of Electric Power and Energy between SWEPCO and Hope, dated October 15, 1982, ("Agreement"). The Agreement provides for a formulaic method of determining periodic changes in rates and charges applicable to services rendered Hope by SWEPCO. SWEPCO requests that the Agreement and rates determined thereunder be made effective as of January 1, 1983 and, accordingly, requests waiver of the notice requirements under the Federal Power Act.

Copies of the filing have been served on Hope and upon the Arkansas Public Service Commission.

Any person desiring to be heard or to protest said application should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington D.C. 20426, in accordance with Rule 214 or 211 or the Commission's Revised Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All such motions or protests should be filed on or before December

23, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-34187 Filed 12-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-168-000]

Union Electric Co.; Filing

December 8, 1982.

The filing Company submits the following:

Take notice that on December 1, 1982, Union Electric Company (UE) tendered for filing Second Amendment dated October 6, 1982, to the Electric Service Agreement dated May 14, 1975, between Missouri Edison Company and UE. Said Amendment primarily provides for a new delivery point and revision and cancellation of existing delivery points.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before December 23, 1982. Protest will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-34188 Filed 12-15-82; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearing and Appeals

Cases Filed; Week of October 29 Through November 5, 1982

During the week of October 29 through November 5, 1982, the application listed in the Appendix to this Notice was filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in this case may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

Dated: December 8, 1982.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 82-34068 Filed 12-15-82; 8:45 am]

BILLING CODE 6450-01-M

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of October 29 Through November 5, 1982]

Date	Name and location of applicant	Case No.	Type of submission
November 3, 1982.	Office of Special Counsel/Atlantic Richfield Company, Washington, D.C.	HRZ-0110	Interlocutory Order. If granted: The Office of Hearings and Appeals would impose sanctions on Atlantic Richfield Company for its refusal to comply with the July 16, 1982 Decision and Order (Case No. HRZ-0034) and the September 29, 1982, Decision and Order (Case No. HRR-0032).

[FR Doc. 82-34068 Filed 12-15-82; 8:45 am]

BILLING CODE 6450-01-M

Cases Filed Week of November 19 Through November 26, 1982

During the week of November 19 through November 26, 1982, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy. Submissions inadvertently omitted from earlier lists have also been included.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

Dated: December 8, 1982.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of November 19 Through November 26, 1982]

Date	Name and location of applicant	Case No.	Type of submission
November 17, 1982.	Bassett Oil and Equipment Company, Inc., Alexandria, Virginia.	HRR-0044	Request for Modification/Rescission. If granted: The April 3, 1980, Decision and Order (Case No. BRR-0006) issued to Bassett Oil and Equipment Company, Inc. by the Office of Hearings and Appeals would be rescinded in connection with an agreement entered into between the Economic Regulatory Administration and the firm.
November 18, 1982.	Caribou Four Corners, Inc.	HEE-0053	Exception from the Entitlements Program. If granted: The Office of Hearings and Appeals would review the entitlements sales obligations of Caribou Four Corners, Inc. for the period of October, 1979.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS—Continued

[Week of November 19 Through November 26, 1982]

Date	Name and location of applicant	Case No.	Type of submission
November 19, 1982.	Exxon Company, U.S.A., Washington, D.C.	HED-0091, HEJ-0027	Motion for Discovery/Request for Protective Order. If granted: Discovery would be granted to Exxon Company, U.S.A. in connection with its Statement of Objections in response to the Proposed Decision & Order (Case No. HYX-0008 and HYX-0014) issued to Little America Refining Company. Exxon Company, U.S.A. would enter into a Protective Order with Little America Refining Company regarding the release of proprietary information to Exxon Company, U.S.A. in connection with Little America Refining Company's year end entitlements review proceeding (Case Nos. HYX-0008 and HYX-0014).
November 22, 1982.	Bill Forney, Inc., Washington, D.C.	HEG-0025, HRS-0020	Petition for Special Redress and Request for Stay. If granted: The Office of Hearings and Appeals would review the policy of operator liability and determine if it should apply in the Proposed Remedial Order issued Bill Forney, Inc. (Case No. BRO-1450). Bill Forney, Inc. would receive a stay of the Proposed Remedial Order proceeding (Case No. BRO-1450) pending the disposition of the Petition for Special Redress.
November 22, 1982.	Robert K. Wilcox, Coconut Grove, Florida	HFA-0101	Appeal of an Information Request Denial. If granted: The November 9, 1982 Information Request Denial issued by the Director of the DOE Office of Executive Secretariat would be rescinded, and Mr. Robert K. Wilcox would receive access to information regarding a uranium plant in North Korea.
November 24, 1982.	Appalachian Observers, Clinton, Tennessee	HFA-0102	Appeal of an Information Request Denial. If granted: The November 10, 1982 Information Request Denial issued by Oak Ridge Operations would be rescinded and the Appalachian Observer would receive access to documents relating to subsidies of the Oak Ridger newspaper by the Atomic Energy Commission.

[FR Doc. 82-34089 Filed 12-15-82; 8:45 am]
BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-42024; FRL 2224-3]

Toxic Substances; Toluene; Response to the Interagency Testing Committee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Interagency Testing Committee (ITC) established under Section 4(e) of the Toxic Substances Control Act, designated toluene for health effects testing as published in the **Federal Resister** of October 12, 1977 (42 FR 55059). EPA has decided not to develop a test rule under Section 4(a) for toluene at this time because results from completed testing and planned testing programs will supply sufficient information to characterize or reasonably predict the health effects recommended for consideration by the ITC.

FOR FURTHER INFORMATION CONTACT: Douglas G. Bannerman, Acting director Industry Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Room E-511, 401 M St., SW., Washington, D.C. 20460, toll free: (800-544-1404), in Washington, D.C.: (202-554-1404), outside the USA: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION:

I. Background

Section 4(a) of the Toxic Substances Control Act (TSCA) authorizes the Administrator of EPA to promulgate regulations requiring testing of chemical substances and mixtures in order to develop data relevant to determining the risks that such chemicals may present to health and the environment.

Section 4(e) of TSCA established an Interagency Testing Committee (ITC) to recommend to EPA a list of chemicals to be considered for the promulgation of testing rules under section 4(a) of the Act. The ITC may designate up to 50 of its recommendations at any one time for priority consideration by EPA.

In October, 1977, the Interagency Testing Committee (ITC) designated toluene for priority consideration and recommended that it be tested for carcinogenicity, teratogenicity, other chronic effects, and epidemiology (42 FR 55059). The ITC did not recommend any environmental effects testing for toluene. The primary basis for the ITC testing recommendations was the belief that these effects could not be adequately characterized from the information available at that time. According to the ITC the carcinogenicity studies were limited in design, while other chronic effects were difficult to identify at lower dose levels. In addition, the ITC felt that there was not enough information to characterize adequately the potential teratogenic effects of toluene nor was there sufficient epidemiologic information. The ITC recognized that there were substantial negative mutagenicity data and did not recommended any further mutagenicity testing for toluene.

Additional reasons for the ITC recommendations were the large production volume and exposures associated with toluene. Toluene is produced primarily from petroleum with an annual production rate in excess of five billion pounds. Toluene is used primarily as a solvent, a component of gasoline, and as a chemical intermediate in the manufacture of a variety of different products. Because toluene is used in a large number of consumer products, a large number of consumers are exposed to toluene. In addition to consumer exposure, more than four million workers are occupationally exposed to toluene.

This notice provides EPA's response to the ITC's designation of toluene for health effects testing consideration.

II. Decision Not To Initiate Rulemaking

EPA has decided that testing under section 4 is not warranted because the ongoing and planned health effects testing is expected to provide information from which the effects recommended for consideration by the ITC can reasonably be determined or predicted. The health effects tests by the American Petroleum Institute, National Cancer Institute, the National Toxicology Program, and the National Institute for Occupational Safety and Health will address the ITC's testing recommendations.

The National Cancer Institute/ National Toxicology Program Carcinogenesis Testing Program is beginning chronic studies to determine the carcinogenic potential of toluene in Fischer 344 rats and B6C3F1 mice (Ref. 8). The chronic studies are designed to investigate the carcinogenicity and other chronic effects of toluene using inhalation as the route of exposure. Subchronic inhalation studies have been completed in which Fischer-344 rats and B6C3F1 mice were exposed to toluene by inhalation at concentrations of 0, 100, 625, 1250, 2500, and 3,000 ppm for 6 hrs/

day, 5 days/wk for 15 weeks. Clinical observations in the mice, which were shown to be more sensitive to toluene toxicity, indicated reduced body weights, a dose-related dragging of the abdomen (low carriage), dyspnea, ataxia and tremors at the two highest dose levels. No gross lesions could be detected and no definitive chemical-related microscopic lesions were noted. Also, the National Toxicology Program completed a subchronic oral study with toluene on October 26, 1981 (Ref. 6). The adverse health effects observed in male and female mice receiving 2,500 and 5,000 mg/kg/day (the two highest doses administered) for 13 weeks, 5 days per week included subconvulsive jerking, prostration, impaired grasping reflex, bradypnea, hypothermia, ataxia, hypoactivity, and a decreased body weight. No clinical pathologic changes were detected in this study. The chronic inhalation studies for toluene are scheduled to begin on September 29, 1982. In light of these studies, EPA believes that further carcinogenic or chronic studies are not necessary at this time.

In 1978, subsequent to the ITC's recommendation, the American Petroleum Institute submitted to EPA a teratology study on toluene (Ref. 1). There have been several other studies which characterize the teratologic potential of toluene (Refs. 3, 4, and 7). Toluene exposure produced a dose-related decrease in fetal weight and increases in incidence of fetal death. EPA believes that these studies are adequate to reasonably predict the teratologic potential of toluene. Therefore, no further teratologic studies are necessary at this time.

The National Institute for Occupational Safety and Health (NIOSH) is conducting a retrospective cohort mortality study of workers exposed to toluene employed in the shoe manufacturing industry (Ref. 5). Because this study is being performed by NIOSH, an additional epidemiologic study would be unnecessary. EPA is, therefore, not requiring any further epidemiologic studies be done on toluene.

In addition to the studies noted above, the American Petroleum Institute (API) intends to perform a two-generation reproductive test on toluene in order to characterize any potential reproductive hazards that might be associated with toluene (Ref. 2). This two-generation reproduction study on toluene will be part of API's 1982–1983 research program.

III. References

(1) American Petroleum Institute—8(d) Submission—Toluene—Teratology Study, August 30, 1978.

(2) Correspondence from William F. O'Keefe, American Petroleum Institute, to Steven D. Newburg-Rinn, EPA, June 29, 1982 on an API Two Generation Reproductive Study.

(3) Hudak A, Rodics K, Stuber I, et al. 1977. The effects of toluene inhalation on pregnant CFY rats and their offspring. Munkavedelem, 23:25–30.

(4) Hudak A, Ungvary G., 1978. Embryotoxic effects of benzene and its methyl derivatives: toluene and xylene. Toxicology, 11:55–63.

(5) National Institute for Occupational Safety and Health. Mortality and industrial hygiene study of workers exposed to toluene. September, 1981.

(6) International Research and Development Corporation. 1981. Subchronic oral toxicity test with toluene in mice; Subchronic inhalation toxicity test with toluene in rats and mice. Bethesda, Maryland: National Toxicology Program, U.S. Department of Health and Human Services. Report numbers 5701–103 and 5701–113B.

(7) Nawrot PS, Staples RE. 1979. Embryofetal toxicity and teratogenicity of benzene and toluene in the mouse. Teratology. 19/2:41A.

(8) National Toxicology Program. 1982. Outline of the protocol for the NCI carcinogenesis bioassay of toluene.

IV. Public Record

EPA has established a public record for this testing decision (docket number OPTS–42024). The record includes:

(1) **Federal Register** notice containing the designation of toluene to Priority List.

(2) Letters.

(3) Contact reports of telephone conversations and meeting summaries.

(4) Published and unpublished data.

The records, which include basic information considered by the Agency in developing this decision, are available for inspection in the OTS Reading Room from 8:00 am. to 4:00 pm. on working days in Rm. E–107, 401 M St., SW., Washington, D.C. 20460. The Agency will supplement the record with additional relevant information as it is received.

(Sec. 4, 90 Stat. 2003 (15 U.S.C. 2601))

Dated: December 8, 1982.

Anne M. Gorsuch,

Administrator.

[FR Doc. 82–34155 Filed 12–15–82; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–42025; FRL 2224–4]

Toxic Substances; Xylenes; Response to the Interagency Testing Committee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice constitutes EPA's response to the Interagency Testing Committee's designation of xylenes for priority consideration for mutagenicity and teratogenicity testing and for an epidemiological study under section 4(a) of the Toxic Substances Control Act. With respect to mutagenicity and teratogenicity, EPA does not plan to initiate rulemaking under section 4(a) to require health effects testing of xylenes at this time because the Agency finds that there are sufficient data now available to reasonably predict any potential effects of this nature from xylenes. Although epidemiological data are highly desirable, a study is not now being required because the mixed exposure pattern associated with these chemicals makes conducting such a study infeasible.

FOR FURTHER INFORMATION CONTACT: Douglas G. Bannerman, Acting Director, Industry Assistance Office (TS–799), Office of Toxic Substances, Environmental Protection Agency, Rm. E–511, 401 M St., SW., Washington, D.C. 20460, toll free: (800–554–1404), in Washington, D.C.: (554–1404), outside the USA: (Operator–202–554–1404).

SUPPLEMENTARY INFORMATION:

I. Background

Section 4(a) of the Toxic Substances Control Act (TSCA) authorizes the Administrator of EPA to promulgate regulations requiring testing of chemical substances and mixtures in order to develop data relevant to determining the risks that such chemicals may present to health and the environment.

Section 4(e) of TSCA established an Interagency Testing Committee (ITC) to recommended to EPA a list of chemicals to be considered for the promulgation of testing rules under section 4(a) of the Act.

In October, 1977, the ITC designated xylenes for mutagenic and teratogenic effects testing and an epidemiological study (42 FR 55026). Xylenes are a category consisting of the three isomers of dimethyl benezene: *ortho*-xylene, *meta*-xylene and *para*-xylene. The composition of commercial "mixed xylenes" varies depending on feedstock source and refinery conditions. However, the main components are

ortho-, *meta-* and *para*-xylene and ethylbenzene.

The individual isomers are used primarily as feedstocks for various chemical processes in the plasticizer, fiber, and resin industries. Mixed xylenes are used primarily in blending gasoline and as solvents.

The ITC's recommendations were based on annual xylenes production of 8 billion pounds, annual release to the environment of 900 million pounds, National Occupational Hazard Survey rank of 13 out of approximately 7,000 agents ranked in terms of number of workers exposed, and a wide variety of consumer uses resulting in general population exposure. The ITC found that mutagenicity tests had not been reported for any of the xylenes. The ITC believed that mutagenicity testing should be conducted because of widespread exposure to xylenes and the evidence of toxic effects to several organ systems. The ITC also found information suggesting that xylenes cross the placenta and were embryotoxic. For these reasons, the ITC believed xylenes should be tested for teratogenic effects. Because of their long-term use, the large number of people exposed and demonstrated effects in animals, the ITC felt an epidemiological study would be particularly important in assessing the human health effects of xylenes and should be conducted.

This notice provides EPA's response to the ITC's designation of xylenes for testing.

II. Decision Not To Initiate Rulemaking

EPA has decided that a section 4 rule requiring testing of xylenes for mutagenic and teratogenic effects is not warranted because sufficient data have been identified to characterize those effects adequately.

In evaluating the health effects of xylenes, the EPA has accepted as sufficient the results of adequately performed tests on commercial mixed xylenes, as well as tests on the individual isomers. The opportunity for exposure occurs predominantly with mixed xylenes rather than with the pure isomers (Ref. 15). It has been shown that toxicological testing under standardized conditions on mixed xylenes and the individual isomers of xylene showed no major differences in biological activity (Refs. 2, 4, 5, 6, 10, 11, 14). The National Toxicology Program (NTP) is currently conducting cancer bioassay in rats and mice using a xylene mixture containing 9.1 percent *o*-xylene, 60.2 percent *m*-xylene, 13.6 percent *p*-xylene 17.0 percent ethylbenzene and 0.1 percent water (Ref. 7).

There is reason to believe that ethylbenzene has biological activity similar to the isomers of xylene based on acute toxicity, mutagenicity (Ames) and teratogenicity tests (Refs. 8, 16, 17). In addition to other testing already completed, ethylbenzene has been selected for an NTP bioassay (Ref. 7).

Xylenes have been assayed for mutagenic activity by several methods: *Salmonella* assays on the individual isomers and the mixture (Refs. 2, 11, 12, 13), a yeast assay (Ref. 2), a mouse lymphoma cell assay (Ref. 2), an assay on human cells in culture (Ref. 9), and a dominant lethal assay on the mixture (Ref. 1). None of these assays detected any mutagenic activity associated with xylenes.

Teratogenic activity has been demonstrated in several studies on xylenes. An NTP teratogenicity study on mixed xylenes (same mixture as listed above for cancer bioassay) administered by gavage to mice produced malformed fetuses, with cleft palate being the major malformation at doses of 2.4 and 3.0 ml/kg (Ref. 10). This study confirms the positive indications found with the individual isomers in another gavage study in mice (Ref. 14).

A teratogenicity study by inhalation exposure to individual isomers in the rat yielded at the highest dose (3000 mg/m ^{3}) fetal growth retardations, skeletal retardation, increases in fetal loss pre- and post-implantation), and a decrease in the activity of several kidney enxymes which are characteristic of functional maturity of the nephrom (Ref. 18). These adverse biological effects were identified for all three isomers while the intensity of the biological responses varied with the different isomers of xylene (Ref. 18). EPA believes that these studies are adequate to reasonably predict the teratogenic potential of xylenes and will use them to evaluate the need for and priority of any EPA actions to further control exposure to xylenes.

Although reproductive effects testing was not recommended by the ITC, the American Petroleum Institute is performing a one-generation reproductive effects study on rats exposed to mixed xylenes by inhalation in order to asssist in characterizing any potential reproductive effects hazard that might be associated with xylenes (Ref 3).

The Agency knows of no epidemiological studies that were specific for xylenes. The EPA has decided not to require an epidemiological study at this time, as occupational and consumer exposure to xylenes occur in combination with many other chemicals. The Agency has reviewed the criteria for conducting a valid epidemiological study and has determined that it would be extremely difficult to conduct such a study because the effects of xylenes could not be isolated from the effects of other chemicals to which concurrent exposure occurs.

III. References

(1) American Petroleum Institute. 1973. Mutagenicity study of thirteen petroleum fractions. Submitted to API by the Hine Laboratories, Inc. Project No. U–150–14 (EA–1). Unpublished report.

(2) American Petroleum Institute. 1978. Mutagenicity evaluation of xylene-final report. Submitted to API by Litton Bionetics, Inc. LBI Project No. 20847. Unpublished report.

(3) American Petroleum Institute. 1982 Parental and fetal reproduction and inhalation toxicity study in rats—draft report. Submitted to API by Bio/dynamics Inc. Project No. 80–2520. Unpublished.

(4) Bonnet P, Raoult G, Gradiski D. 1979. LC_{50} of main aromatic hydrocarbons. Arch. Mal. Prof. Med. Trav. Sec. Soc. 40(8–9): 809–810.

(5) Cameron GR, Paterson JLH, de Saram GSW, Thomas JC. 1938. The toxicity of some methyl derivatives of benzenes with special reference to pseudocumene and heavy coal tar naphtha. J. Pathol. Bacteriol. 46:95–107.

(6) Carpenter CP, Kinkead ER, Geary DL, Sullivan LJ, King JM. 1975. Petroleum hydrocarbon toxicity studies. V. Animal and human response to vapors of mixed xylenes. Toxicol. Appl. Pharmacol. 33:543–558.

(7) DHHS. 1982. Department of Health and Human Services. U.S. Public Health Service. National Toxicology Program Fiscal Year 1982 Annual Plan. Research Triangle Park, NC: National Toxicology Program. NTP–81–94.

(8) Gerarde HW. 1959. Toxicological studies on hydrocarbons. III. The biochemorphology of the phenylalkanes and phenylalkenes. Arch. Ind. Health 19(4): 403–418.

(9) Gerner-Smidt P, Friedrich U. 1978. The mutagenic effect of benzene, toluene and xylene studied by the SCE technique. Mutat. Res. 58:313–316.

(10) Marks TA, Ledoux TA, Moore JA. 1982. Teratogenicity of a commercial xylene mixture in the mouse. J. Tox. Env. Health. 9:97–105.

(11) Monsanto. 1977. Mutagenicity plate assay: *m*-xylene, *o*-xylene, *p*-xylene. Medical Project No. LF–77–84. Unpublished data.

(12) Monsanto. 1978a. *Salmonella* mutagenicity assay of *o*-xylene (reagent). Test No. LF–78–162. Unpublished data.

(13) Monsanto. 1978b. *Salmonella* mutagenicity assay of *o*-xylene (product). Test No. LF–78–142. Unpublished data.

(14) Nawrot PS, Staples, RE. 1981. Embryofetal toxicity and teratogenicity of isomers of xylene in the mouse. (Abstract). The Toxicologist 1(1):A22.

(15) NIOSH. 1979. National Institute for Occupational Safety and Health. Computer print-out: National Occupational Hazard Survey-Xylenes. Cincinnati, OH.

(16) NIOSH. 1981. National Institute for Occupational Safety and Health. Teratologic assessment of ethylbenzene and 2-ethoxyethanol. Submitted by Battelle Pacific NW Laboratory, Richland, Washington. NIOSH Contract 210–79–0037.

(17) Price B. 1982 (June 10). American Petroleum Institute, Washington, DC 20037. Letter and attachments to S. Newburg-Rinn, Assessment Div., Office of Pesticides and Toxic Substances, U.S. Environmental Protection Agency, Washington, DC 20460.

(18) Ungvary G, Tatrai E, Hudak A, Barcza , Lorincz M. 1980. Studies on the embryotoxic effects of *ortho-, meta,* and *para*-xylene. Toxicology 18:61–74.

IV. Public Record

EPA has established a public record for this testing decision (docket number OPTS–42025). The record includes:

1. **Federal Register** notice containing the designation of xylenes to the Priority List.
2. Letters.
3. Contact reports of telephone conversations and meeting summaries.
4. Published and unpublished data.

The record, which includes basic information considered by the Agency in developing this decision, is available for inspection in the OTS Reading Room from 8 a.m. to 4 p.m. on working days in Rm. E–107, 401 M St., SW., Washington, D.C., 20460. The Agency will supplement the record with additional relevant information as it is received.

(Sec. 4, 90 Stat. 2003 (15 U.S.C. 2601))

Dated: December 3, 1982.

Anne M. Gorsuch,

Administrator.

[FR Doc. 82–34154 Filed 10–15–82; 8:45 am]

BILLING CODE 6560–50–M

Science Advisory Board; Environmental Effects, Transport & Fate Committee, Open Meeting

[SAB–FRL 2267–8]

Under Pub. L. 92–463, notice is hereby given that a one-day meeting of the Environmental Effects, Transport and Fate Committee of the Science Advisory Board will be held on January 3, 1983 in Conference Room 3906–8, Waterside Mall, U.S. Environmental Protection Agency, 401 M Street, Southwest, Washington, D.C. The meeting will start at 9:30 a.m. on January 3, and will adjourn not later than 4:30 p.m.

A principal purpose of the meeting is to allow the Committee to review and provide its scientific advice to EPA on the scientific adequacy of the Water Quality Standards Handbook, Chapter 3, "Guidelines for Deriving Site-Specific Water Quality Criteria for the Protection of Aquatic Life and its Uses." Included in the Committee's review will be the following topics: the scientific rationale for the development of site specific criteria; the definition of site; assumptions associated with the site-specific criteria; and four procedures utilized for developing site-specific criteria. These procedures include: (1) The *recalculation procedure* to account for differences in resident species sensitivity to a chemical. (2) The *indicator species procedure* to account for differences in bioavailability, and therefore toxicity, of a chemical due to water quality variability. (3) The *resident species procedure* to account for differences in resident species sensitivity and differences in the bioavailability, and therefore toxicity, of a chemical due to water quality variability. (4) The *heavy metal speciation procedure* to allow the comparison of ambient soluble or biologically available metal concentrations to criteria in State water quality standards.

For information on how to obtain copies of the documents that will be discussed, please call or write to The Criteria and Standards Division (WH–585), c/o David Sabock, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460 (Telephone: 202–245–3042).

The meeting will be open to the public. Any member of the public wishing to attend, participate, submit a paper, or wishing further information should contact the Executive Secretary, Environmental Effects, Transport and Fate Committee, Science Advisory Board (A–101M), U.S. Environmental Protection Agency, Washington, D.C. 20460 by c.o.b. December 27, 1982. Please ask for Mrs. Joanna Foellmer or Dr. Douglas Seba. The telephone number is (202) 382–2552.

Dated: December 3, 1982.

Terry F. Yosie,

Acting Staff Director, Science Advisory Board.

[FR Doc. 82–34175 Filed 12–15–82; 8:45 am]

BILLING CODE 6560–50–M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Agency Report Forms Under OMB Review

AGENCY: Equal Employment Opportunity Commission.

ACTION: Request for comments.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed information collection requests to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission. The proposed report forms under review are listed below.

DATE: Comments must be received on or before January 31, 1983. If you anticipate commenting on a report form but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB Reviewer and the Agency Clearance Officer of your intent as early as possible.

ADDRESS: Copies of the proposed report form, the request for clearance (S.F. 83), supporting statement, instructions, transmittal letters, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Comments on the item listed should be submitted to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

EEOC Agency Clearance Officer: Thomas P. Goggin, Office of Administration, Room 3230, 2401 E Street, NW., Washington, DC 20506; Telephone (202) 634–6983.

OMB Reviewer: Richard Eisinger, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503; Telephone (202) 395–7316.

Type of Request—Extension (No Change)

Title: Recordkeeping Requirements of Guidelines on Employee Selection Procedures
Form Number: None
Frequency of Report: On Occasion
Type of Respondent: Businesses/other institutions, State or local governments, farms
Standard industrial Classification (SIC) Code: Multiple
Description of Affected Public: Any employer, labor organization, employment agency, covered by Federal equal employment opportunity laws
Responses: 666,000
Reporting Hours: 1,910,000
Federal Cost: $53,735
Applicable under Section 3504(h) of Public Law 96–511: Not applicable
Number of Forms: None

Abstract—Needs/Uses: Data used by the EEOC and the co-signatories in investigating, conciliating, and litigating, charges of employment discrimination, by complainants in establishing violations of Federal equal employment laws, and by respondents in defending

against allegations of employment discrimination.

Dated: December 9, 1982.

For the Commission.

Clarence Thomas,

Chairman, Equal Employment Opportunity Commission.

[FR Doc. 82-33959 Filed 12-15-82; 8:45 am]

BILLING CODE 6570-06-M

FEDERAL COMMUNICATIONS COMMISSION

[BC Docket No. 82-785; File No. BPCT-811229KF; BC Docket No. 82-786; File No. BPCT-820315KE; BC Docket No. 82-787; File No. BPCT-820315KG; BC Docket No. 82-788; File No. BPCT-820315KI; BC Docket No. 82-789; File No. BPCT-820315KJ]

Carlos Ortiz et al.; Designating Applications for Consolidated Hearing on Stated Issues

Adopted: November 17, 1982.

Released: November 24, 1982.

By the Chief, Broadcast Bureau.

In re applications of; Carlos Ortiz, McAllen, Texas; B. Sylvia Gonzalez DBA/Tele Imagen, McAllen, Texas; Rio Grande Family Television, Ltd., McAllen, Texas; Hispanic Tele-Media Network, Inc.,[1] McAllen, Texas; Hidalgo Communications Corp., McAllen, Texas; for construction permit; hearing designation order.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has before it the above mutually exclusive applications of Carlos Ortiz (Ortiz), Tele Imagen (Tele), Rio Grande Family Television, Ltd. (Rio), Hispanic Tele-Media Network, Inc. (Hispanic) and Hidalgo Communications Corp. (Hidalgo) for a new commercial television station to operate on Channel 48, McAllen, Texas; petitions to deny [2] filed by Hispanic against Rio and Hidalgo against Hispanic; and related pleadings.

2. No determination has been reached that the tower heights and locations proposed by Tele [3] and Hispanic would not constitute a hazard to air navigation. Accordingly, an issue regarding this matter will be specified.

3. There is a discrepancy in the latitude shown on Section V–C and Section V–G on Tele's application. Tele will be required to file the correct coordinates with the presiding Administrative Law Judge within 20 days after this Order appears in the **Federal Register.**

4. Rio proposes to mount its antenna on the same structure as proposed by World Radio Missionary Fellowship—U.S.A., Inc. at Pharr, Texas (ARN–811015AD). In the event of a grant of Rio's application, and in the event that the facilities proposed by the AM station are constructed and operating at the time Rio is ready to commence construction of its facilities, Rio's construction permit will be conditioned to ensure that the AM station's radiation pattern is not adversely affected by the construction of the proposed television station.

5. *Carlos Ortiz.* The Ortiz application was filed on December 29, 1981. In support of its showing as to its financial qualifications, Ortiz submitted, as part of his application, a letter, dated December 29, 1980, from Amvest Leasing and Capital Corp. (Amvest). The letter provided for financing of $99,000 for broadcasting equipment.

6. During the course of the processing of other Ortiz applications for new television stations, it was discovered that the Amvest Leasing and Capital Corp. (Amvest) letter had been duplicated and used in each of at least three other Ortiz applications, apparently without the knowledge or consent of Amvest. Amvest, by Wayne C. Coates, its credit analyst, has submitted an affidavit, as requested by the Commission, stating that Amvest issued the letter only in connection with Ortiz's McAllen application. By using the credit letter in at least three other applications,[4] Ortiz has represented to the Commission that he has at least $396,000 available to him from Amvest whereas, in fact, only $99,000 is available. This conduct by Ortiz raises questions as to whether he has attempted to deceive or mislead the Commission and whether he has the requisite character qualifications to be a Commission licensee.[5] An appropriate issue will be specified as to Ortiz's basic qualifications.

7. The material submitted in the Ortiz application does not demonstrate the applicant's financial qualifications.[6] Although the financial standards are unchanged, the Commission has changed the application form to require only certification as to financial qualifications. Accordingly, the applicant will be given 30 days from the date of mailing of this Order to review his financial proposal in light of Commission requirements, to make any changes that may be necessary, and, if appropriate, to submit a certification [7] to the Administrative Law Judge in the manner called for in revised Section III, Form 301, as to his financial qualifications. If Ortiz cannot make the required certification, he shall so advise the Administrative Law Judge who shall then specify an appropriate issue. *Minority Broadcasters of East St. Louis, Inc.,* BC Docket No. 82–578 (released July 15, 1982).

8. The effective radiated visual power, antenna height above average terrain and other technical data submitted by Ortiz indicates that there would be a significant difference in the size of the area and population that he proposes to serve and the size of the areas and populations that the other four applicants propose to serve. Consequently, for the purpose of comparison, the areas and populations which would be within the predicted 64 dBu (Grade B) contour, together with the availability of other television service of 64 dBu (Grade B) or greater intensity, will be considered under the standard comparative issue, for the purpose of determining whether comparative preferences should accrue to one or more of the applicants.

9. Hispanic requests a waiver of Section 73.685(c) of the Commission's Rules which requires a maximum-to-minimum ration of no more than 15 dB. Hispanic proposes a directional antenna with a maximum-to-minimum ratio of 16 dB. Accordingly an appropriate issue will be specified to determine whether waiver of § 73.685(c) is warranted.

10. Except as indicated by the issues specified below, the applicants are

---

[1] By amendment, filed May 21, 1982, the applicant's name was changed from Valley Broadcasters, Inc.

[2] The petitions to deny are, in essence, pre-designation petitions to specify issues. Such petitions are no longer permitted; therefore, they will be dismissed. *Processing of Contested Broadcasting Applications,* 72 F.C.C. 2d 202 (1979). Rio filed a motion for acceptance of an executed copy of an amendment that was timely filed 3 months earlier. Since all of the facts contained in the amendment, as well as Rio's comparative position were available to Hispanic, and all other interested parties, by the cut-off date, Rio's amendment will be accepted and considered as timely filed. *Ford County Broadcasters, Inc.,* FCC 82–158, released March 26, 1982.

[3] The Commission is not in receipt of FAA's determination for the tower proposed by Tele.

[4] BPCT–820312KE, Channel 52, Carolina, Puerto Rico; BPCT–820319KH, Channel 27, Laredo, Texas; BPCT–820415KF, Channel 16, Mayaguez, Puerto Rico, D82–651.

[5] Ortiz's application for Mayaguez, Puerto Rico (BPCT–820312KE) was designated for hearing in Docket No. 82–651 prior to the discovery of this problem. Therefore, no character qualifications issue was raised in that designation order.

[6] Ortiz indicates that Amvest will provide the money it needs to construct and operate. However, the Amvest letter pertains only to equipment. Therefore, Ortiz has not shown any funds to operate the proposed facility.

[7] Since the Amvest letter was issued in connection with the McAllen application, Ortiz may certify as to his financial qualifications in this proceeding.

qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

11. Accordingly, it is ordered, that, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine, with respect to Tele Imagen and Hispanic Tele-Media Network, Inc., whether there is a reasonable possibility that the tower height and location proposed by each would constitute a hazard to air navigation.

2. To determine with respect to Carlos Ortiz:

(a) All of the facts and circumstances surrounding the filing of copies of the letter of credit from Amvest Leasing and Capital Corp. In connection with other applications filed by him;

(b) whether the applicant attempted to deceive or mislead the Commission or was lacking in candor or made misrepresentations to the Commission;

(c) whether, in light of the evidence adduced pursuant to the foregoing issues, the applicant has the requisite qualifications to be a Commission licensee.

3. To determine with respect to Hispanic Tele-Media Network, Inc.:

(a) whether circumstances exist to warrant waiver of § 73.685(c) of the Commission's Rules;

(b) whether, in light of the evidence adduced pursuant to issue (a), applicant is technically qualified.

4. To determine which of the proposals would, on a comparative basis, best serve the public interest.

5. To determine, in light of the foregoing issues, which of the applications should be granted.

12. It is further ordered, that the Federal Aviation Administration is made a party respondent to this proceeding with respect to issue 1.

13. It is further ordered, that, within 20 days after this Order appears in the **Federal Register**, Tele Imagen shall submit the required latitude, to correct the discrepancy noted in paragraph three, above, to the presiding Administrative Law Judge.

14. It is further ordered, that in the event that the AM facilities proposed in pending construction permit application ARN–811015AD are constructed and operating, and if Rio Grande Family Television, Ltd is granted a construction permit, the following condition will apply:

During installation of the TV antenna, AM station authorized by construction permit File No. BP–811015AD shall determine operating power by the indirect method and, if necessary, request temporary authority from the Commission to operate with parameters at variance in order to maintain monitoring point values within authorized limits. Upon completion of the installation, common point impedance measurements of the AM array shall be made and a partial proof of performance, as defined by Section 73.154(a) of the Commission's Rules, shall be conducted to establish that the AM array has not been adversely affected. The results shall be submitted to the Commission, along with a tower sketch of the installation, in an application for the AM station to return to the direct method of power determination. Thereafter, the TV station may commence *Limited Program Tests.*

15. It is further ordered, that Ortiz shall submit a financial certification in the form required by Section III, F.C.C. Form 301, or advise the Administrative Law Judge that the certification cannot be made, as may be appropriate.

16. It is further ordered, That Rio Grande Family Television, Ltd.'s motion for leave to amend is granted.

17. It is further ordered, that the petition to deny filed by Hispanic Tele-Media Network, Inc. against Rio Grande Family Television, Ltd. IS DISMISSED.

18. It is further ordered, that the peitition to deny filed by Rio Grande Family Television, Ltd. against Hidalgo Communications Corp. is dismissed.

19. It is further ordered, that, to avail themselves of the opportunity to be heard, the applicants and the party respondent herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

20. It is further ordered, that the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Larry D. Eads,

Chief, Broadcast Facilities Division, Broadcast Bureau.

[FR Doc. 82–34171 Filed 12–15–82; 8:45 am]

BILLING CODE 6712–01–M

Telecommunications Industry Advisory Group; Auditing and Regulatory Subcommittee

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a two day meeting of the Telecommunications Industry Advisory Group's Auditing and Regulatory Subcommittee. The meeting is scheduled for Monday, January 17, 1983, at 10:00 a.m., in Room 330 of the Commission's offices at 1200 19th Street, N.W., Washington, D.C., and Tuesday, January 18, 1983, at 9:00 a.m., in Conference Room A (10th Floor) of the AT&T's offices located at 1120 20th Street, N.W., Washington, D.C. The meetings will be open to the public. The agenda is as follows:

I. General Administration Matters
II. Continued Analysis of GAAP as it applies to USOA
III. Continued analysis of impact of ERTA of 1981 on regulated industries
IV. Further assignment of Tasks
V. Other Business
VI. Presentation of Oral Statements
VII. Adjournment

With prior approval of Subcommittee Chairman Hugh A. Gower, oral statements, while not favored or encouraged, may be allowed if time permits and if the Chairman determines that an oral presentation is conducive to the effective attainment of Subcommittee objectives. Anyone not a member of the Subcommittee and wishing to make an oral presentation should contact Mr. Gower (404/658–1776) at least five days prior to the meeting date.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 82–34142 Filed 12–15–82; 8:45 am]

BILLING CODE 6712–01–M

Telecommunications Industry Advisory Group; Definitions and Rules Subcommittee Meetings

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of meetings of the Telecommunications Industry Advisory Group (TIAG) Definitions and Rules Subcommittee scheduled to meet on Tuesday, January 11, 1983, and Tuesday, January 25, 1983. Both meetings will be held at 9:30 a.m. in the offices of MCI Telecommunications Corporation (1st Floor Meeting Room) at 1133 19th Street, N.W., Washington, D.C. and will be open to the public. The agenda for both meetings is as follows:

I. General Administrative Matters

II. Review of Minutes of Previous Meeting
III. Discussion of Individual Assignments
IV. Other Business
V. Presentation of Oral Statements
VI. Adjournment

With prior approval of Subcommittee Chairman John Utzinger, oral statements, while not favored or encouraged may be allowed if time permits and if the Chairman determines that an oral presentation is conducive to the effective attainment of Subcommittee objectives. Anyone not a member of the Subcommittee and wishing to make an oral presentation should contact Mr. Utzinger (203/965–2830) at least five days prior to the meeting date.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 82–34143 Filed 12–15–82; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL HOME LOAN BANK BOARD

[No. AC–204]

First Federal Savings and Loan Association of Petersburg, Petersburg, Virginia; Notice of Final Action; Approval of Post-Approval Amendments to Mutual-to-Stock Conversion Application

Dated: December 13, 1982.

Notice is hereby given that on December 8, 1982, the General Counsel of the Federal Home Loan Bank Board ("Board"), acting pursuant to authority delegated to him by the Board, approved Post-Approval Amendment No. 1 to the mutual-to-stock conversion application of First Federal Savings and Loan Association of Petersburg, Petersburg, Virginia ("Association"). The application had been approved by the Board by Resolution No. 81–529, dated September 9, 1981. Copies of the application and all amendments thereto are available for inspection at the Secretariat of the Board, 1700 G Street, NW., Washington, D.C. 20552, and at the Office of the Supervisory Agent, Federal Home Loan Bank of Atlanta, P.O. Box 56527, Peachtree Center Station, Atlanta, Georgia 30343.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 82–34190 Filed 12–15–82; 8:45 am]

BILLING CODE 6720–01–M

[No. AC–205]

Germania Federal Savings and Loan Association, Alton, Illinois; Notice of Final Action; Approval of Post-Approval Amendments to Mutual-to-Stock Conversion Application

Dated: December 13, 1982.

Notice is hereby given that on December 7, 1982, the General Counsel of the Federal Home Loan Bank Board ("Board"), acting pursuant to authority delegated to him by the Board, approved Post-Approval Amendment No. 1 to the mutual-to-stock conversion application of Germania Federal Savings and Loan Association, Alton, Illinois ("Association"). The application had been approved by the Board by Resolution No. 80–53, dated January 23, 1980. Copies of the application and all amendments thereto are available for inspection at the Secretariat of the Board, 1700 G Street, NW., Washington, D.C. 20552, and at the Office of the Supervisory Agent, Federal Home Loan Bank of Chicago, 111 East Wacker Drive, Suite 800, Chicago, Illinois 60601.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 82–34189 Filed 12–15–82; 8:45 am]

BILLING CODE 6720–01–M

FEDERAL RESERVE SYSTEM

Agency Forms Under Review

December 9, 1982.

Background

When executive departments and independent agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Paperwork Reduction Act (44 U.S.C. Chapter 35). Departments and agencies use a number of techniques to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibilities under the act also considers comments on the forms and recordkeeping requirements that will affect the public. Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. OMB's usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the **Federal Register**, but occasionally the public interest requires more rapid action.

List of Forms Under Review

Immediately following the submission of a request by the Federal Reserve for OMB approval of a reporting or recordkeeping requirement, a description of the report is published in the **Federal Register**. This information contains the name and telephone number of the Federal Reserve Board clearance officer (from whom a copy of the form and supporting documents is available). The entries are grouped by type of submission—i.e., new forms, revisions, extensions (burden change), extensions (no change), and reinstatements.

Copies of the proposed forms and supporting documents may be obtained from the Federal Reserve Board clearance officer whose name, address, and telephone number appear below. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF 83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review.

For Further Information Contact

Federal Reserve Board Clearance Officer—Cynthia Glassman—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202–452–3829).

OMB Reviewer—Richard Sheppard—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503 (202–395–6880).

Request for Revision

1. Report title: Allocation of Low Reserve Tranche and Reservable Liabilities Exemption:

Agency form number: FR 2930.

Frequency: Annually, on occasion.

Reporters: U.S. branches and agencies of foreign banks and Edge Act and Agreement corporations that have offices located in more than one state and/or Federal Reserve District.

SIC Code: 605.

Small businesses are not affected.

General description of report: Respondent's obligation to respond is mandatory [12 U.S.C. 248 (a) and § 461]; a pledge of confidentiality is promised [5 U.S.C. 552 (b)(4) and (b)(8)].

In calculating reserve requirements for transaction accounts which are reported on the FR 2900, the first $26.3 million of such deposits (the low reserve tranche) are reserved at a lower ratio than amounts in excess of $26.3 million. Under, the Garn-St Germain Depository Institutions Act of 1982, the first $2.1

million in reservable liabilities are exempt from reserve requirements. This report collects information on the allocation of this tranche and exemption for certain institutions with offices located in more than one state and/or Federal Reserve District.

Board of Governors of the Federal Reserve System, December 9, 1982

William W. Wiles,

Secretary of the Board.

[FR Doc. 82-34116 Filed 12-15-82; 8:45 am]

BILLING CODE 6210-01-M

BankAmerica Corp et. al.; Bank Holding Companies; Proposed de Novo Nonbank Activities

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1))), for permission to engage de novo, directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *BankAmerica Corporation,* San Francisco, California (financing, servicing, and insurance activities; expansion of geographic scope; Idaho): To continue to engage, through its indirect subsidiary, FinanceAmerica Corporation, an Oregon corporation, in the activities of making or acquiring for its own account loans and other extensions of credit such as would be made or acquired by a finance company; servicing loans and other extensions of credit; and offering credit-related life insurance and credit-related accident and health insurance. Credit-related property insurance will not be offered by FinanceAmerica Corporation. Such activities will include, but not be limited to, making consumer installment loans, purchasing installment sales finance contracts, making loans and other extensions of credit to businesses, making loans and other extensions of credit secured by real and personal property, servicing loans and other extensions of credit, and offering credit-related life and credit-related accident and health insurance directly related to extensions of credit made or acquired by FinanceAmerica Corporation. Credit-related life and credit-related accident and health insurance may be reinsured by BA Insurance Company, Inc., an affiliate of FinanceAmerica Corporation. These activities will be conducted from an existing office located in Portland, Oregon, serving the entire State of Idaho. Comments on this application must be received not later than January 10, 1083.

2. *BankAmerica Corporation,* San Francisco, California (travelers check sales activities; fifty (50) states, the District of Columbia, the Commonwealth of Puerto Rico, the territories and dependencies of the United States, and Canada): To engage, through its direct subsidiary, BA Cheque Corporation, a Delaware Corporation, in the activity of selling travelers checks. This activity will be conducted from an existing office located in San Francisco, California, serving the fifty (50) states, the District of Columbia, the Commonwealth of Puerto Rico, the territories and dependencies of the United States, and Canada. Comments on this application must be received not later than January 10, 1982.

Board of Governors of the Federal Reserve System, December 10, 1983.

William W. Wiles,

Secretary of the Board.

[FR Doc. 82-34117 Filed 12-15-82; 8:45 am]

BILLING CODE 6210-01-M

Conifer Group; Acquisition of Bank

The Conifer Group, Worcester, Massachusetts, has applied for the Board's approval under section 3(a)(5) of the Bank Holding Company Act (12 U.S.C. 1842(a)(5)) to merge with Essex Bancorp, Inc., Peabody, Massachusetts. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Boston. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than January 9, 1982. Any comments on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 10, 1982.

William W. Wiles,

Secretary of the Board.

[FR Doc. 82-34115 Filed 12-15-82; 8:45 am]

BILLING CODE 6210-01-M

South Central Bancshares, Inc., Formation of Bank Holding Company

South Central Bancshares, Inc., Russellville, Kentucky, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of Citizens National Bank of Russellville, Kentucky. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

South Central Bancshares, Inc., Russellville, Kentucky, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Wilbur and Salb Insurance Company, Russellville, Kentucky.

Applicant states that the proposed subsidiary would engage in the sale, as agent or broker, of credit life and credit accident and health insurance, and property insurance, such as "vendor's single interest" insurance and insurance of the interest of a real property mortgagee in mortgaged property (other than title insurance), all of which will directly relate to an extension of credit by Applicant and any affiliate of Applicant. These activities would be performed from offices of Applicant's subsidiary in Russellville, Kentucky, and the geographic area to be served is

primarily Logan County, Kentucky. Such activities have been specified by the Board in section 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis.

Any views or requests for hearing should be submitted in writing and received by the Reserve Bank not later than January 10, 1983.

Board of Governors of the Federal Reserve System, December 10, 1983.

William W. Wiles,

Secretary of the Board.

[FR Doc. 82-34113 Filed 12-15-82; 8:45 am]

BILLING CODE 6210-01-M

Steel City Bancorporation, Inc., et al.; Acquisition of Bank Shares by Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Steel City Bancorporation, Inc.*, Chicago, Illinois; to acquire 80 percent of the voting shares of Tinley Park Bank, Tinley Park, Illinois. Comments on this application must be received not later than January 10, 1983.

B. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *American Bank Corporation*, Denver, Colorado; to acquire 99.9 percent of the voting shares or assets of First Wyoming Bank, N.A.—Laramie, Laramie, Wyoming. Comments on this application must be received not later than January 10, 1983.

Board of Governors of the Federal Reserve System, December 10, 1982.

William W. Wiles,

Secretary of the Board.

[FR Doc. 82-34114 Filed 12-15-82; 8:45 am]

BILLING CODE 6210-01-M

Winchester Bancorp, Inc., et al.; Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section (3)(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares and/or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Winchester Bancorp. Inc.*, Winchester, Kentucky; to become a bank holding company by acquiring 100 percent of the voting shares of The Winchester Bank, Winchester, Kentucky. Comments on this application must be received not later than January 10, 1983.

B. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Allegheny Bankshares Corporation*, Lewisburg, West Virginia; to become a bank holding company by acquiring 100 percent of the voting shares of The Allegheny Bank, and interim bank that would be the successor by merger to Greenbrier Valley Bank, Lewisburg, West Virginia, and would operate under the charter of the former and with the title of the latter. Comments on this application must be received not later than January 10, 1983.

C. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Cohutta Bancshares, Inc.*, Chatsworth, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of Cohutta Banking Company, Chatsworth, Georgia. Comments on this application must be received not later than January 10, 1983.

2. *First Gonzales Bancshares, Inc.*, Gonzales Louisiana; to become a bank holding company by acquiring at least 80 percent of the voting shares of First Gonzales Corporation, Gonzales, Louisiana, a company owning 98.7 percent of the voting shares of the First National Bank of Gonzales, Gonzales, Louisiana. Comments on this application must be received not later than January 10, 1983.

D. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *First Blevins Bancshares, Inc.*, Hope, Arkansas; to become a bank holding company by acquiring at least 80 percent of the voting shares of Bank of Blevins, Blevins, Arkansas. Comments on this application must be received not later than January 10, 1983.

E. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *First Sharon Holding Company, Inc.*, Sharon, North Dakota; to become a bank holding company by acquiring 94 percent of the voting shares of First State Bank of Sharon, Sharon, North Dakota. Comments on this application must be received not later than January 5, 1983.

2. *Flathead Holding Company of Bigfork*, Bigfork, Montana; to become a bank holding company by acquiring 84 percent of the voting shares of Flathead Bank of Bigfork, Bigfork, Montana.

Comments on this application must be received not later than January 10, 1983.

F. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri; 64198:

1. *Farmers State Investment Co.*, Dodge, Nebraska; to become a bank holding company by acquiring 80 percent of the voting shares of Farmers State Bank, Dodge, Nebraska. Comments on this application must be received not later than January 10, 1983.

2. *Metro Bancshares, Inc.*, Broken Arrow, Oklahoma; to become a bank holding company by acquiring 100 percent of the voting shares of Metro Bank of Broken Arrow, Broken Arrow, Oklahoma. Comments on this application must be received not later than January 10, 1983.

G. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Plains Bancorp, Inc.*, Dimmitt, Texas; to become a bank holding company by acquiring 80 percent or more of the voting shares of First State Bancorp, Inc., Dimmitt, Texas, and thereby to acquire The First State Bank of Dimmitt, Dimmitt, Texas. Comments on this application must be received not later than January 10, 1983.

Board of Governors of the Federal Reserve System, December 10, 1982.

William W. Wiles,

Secretary of the Board.

[FR Doc. 82-34116 Filed 12-15-82; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

Schedule for Awarding Senior Executive Service Bonuses

The General Services Administration plans to award bonuses to Senior Executive Service members on or about December 30, 1982.

For further information, contact Gregory Knott, Director, Executive Resources Division (202-566-1207). Mailing address: General Services Administration (HPX), Washington, DC 20405.

Dated: December 14, 1982.

Ray Kline,

Deputy Administrator of General Services.

[FR Doc. 82-34356 Filed 12-15-82; 9:41 am]

BILLING CODE 6820-34-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Mine Health Research Advisory Committee Coal Study Subcommittee; Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Centers for Disease Control announces the following National Institute for Occupational Safety and Health (NIOSH) Committee meeting:

Name: Coal Study Subcommittee of the Mine Health Research Advisory Committee.
Date: January 10-11, 1983.
Time: 8:30 a.m. to 4:30 p.m.
Place: National Institute for Occupational Safety and Health, 944 Chestnut Ridge Road, Room 203, Morgantown, WV 26505
Type of Meeting: Open.
Contact Person: Robert B. Reger, Ph.D., Chief, Epidemiological Investigations Branch, Division of Respiratory Disease Studies, National Institute for Occupational Safety and Health, Centers for Disease Control, 944 Chestnut Ridge Road, Room 223, Morgantown, WV 26505, Telephone: (304) 291-4476.
Purpose: To discuss measures to increase participation in the fourth round of the National Coal Study (NCS) and to consider optional approaches for expanding the usefulness of the NCS results. To evaluate pulmonary function criteria for coal miners transfer rights.

The Mine Health Research Advisory Committee (MHRAC) was established by the Federal Mine Safety and Health Act of 1977. The subcommittee, composed of members of the MHRAC, will provide to the MHRAC, recommendations appropriate to the NCS and to criteria that could be used to establish coal miner transfer rights based on pulmonary function tests. The subcommittee will present its report to the MHRAC at their next meeting, currently scheduled for February 7-8, 1983. An approved MHRAC report would be available subsequent to the February meeting.

Viewpoints and suggestions from industry, organized labor, academia, other government agencies, and any other interested parties are invited. Interested parties wishing to participate in the meeting are requested to contact Dr. Robert B. Reger at the address above in order to be assured appropriate time for presentation. Presentations by interested parties need to be accompanied by five copies of the text of the presentation to be made before the subcommittee. Such copies should be provided to the subcommittee chairperson, Dr. Donald L. Rasmussen, 306½ Stanaford Road, Beckley, West Virginia 25801, 304/255-0031, prior to or at the subcommittee meeting.

Dated: December 10, 1982.

William H. Foege,

Director, Centers for Disease Control.

[FR Doc. 82-34202 Filed 12-15-82; 8:45 am]

BILLING CODE 4160-19-M

Office of Human Development Services

Administration for Children, Youth and Families; Allotment Percentages; Child Welfare Services State Grants

AGENCY: Office of Human Development Services, DHHS.

ACTION: Bi-annual publication of allotment percentages for States under the Child Welfare Services State Grants Program.

PURPOSE: Section 421(c) of the Social Security Act (42 U.S.C. 621(c)) requires that the Secretary publish the allotment percentage for each State under the Child Welfare Services State Grant Program every two years. This percentage is used in the computation of the Federal grants awarded under the Program.

DATES: The table indicates the allotment percentages to be used for fiscal years 1984 and 1985.

FOR FURTHER INFORMATION CONTACT: Mrs. Ellen Fagins, Children's Bureau, Administration for Children, Youth and Families, P.O. Box 1182, Washington, D.C. 20013, 202-755-7800.

SUPPLEMENTARY INFORMATION: The allotment percentage for each State is determined on the basis of the complement of the three year average per capita income in each State compared to the national three year average per capita income. The allotment percentage for each State is as follows:

State	Allotment percentage
Alabama	60.35
Alaska	34.10
Arizona	51.05
Arkansas	61.75
California	42.95
Colorado	47.15
Connecticut	39.55
Delaware	47.20
District of Columbia	36.25
Florida	51.95
Georgia	57.45
Guam	70.00
Hawaii	46.90
Idaho	57.35
Illinois	44.40
Indiana	52.80
Iowa	50.15
Kansas	47.65
Kentucky	59.85
Louisiana	55.85

State	Allotment percentage
Maine	[illegible]
Maryland	45.50
Massachusetts	47.35
Michigan	47.65
Minnesota	48.70
Mississippi	64.75
Missouri	53.70
Montana	[illegible]
Nebraska	51.20
Nevada	[illegible]
New Hampshire	[illegible]
New Jersey	42.65
New Mexico	58.75
New York	45.95
North Carolina	[illegible]
North Dakota	[illegible]
Northern Marianas	70.00
Ohio	50.25
Oklahoma	[illegible]
Oregon	51.20
Pennsylvania	50.60
Puerto Rico	[illegible]
Rhode Island	[illegible]
South Carolina	61.65
South Dakota	[illegible]
Tennessee	59.65
Texas	[illegible]
Utah	58.75
Vermont	58.75
Virgin Islands	70.00
Virginia	50.85
Washington	[illegible]
West Virginia	59.55
Wisconsin	51.05
Wyoming	[illegible]

Dated: November 19, 1982.

Warren Master

Acting Commissioner for Children.

Approved: December 13, 1982.

Dorcas R. Hardy,

Assistant Secretary for Human Development Services.

[FR Doc. 82-34212 Filed 12-15-82; 8:45 am]

BILLING CODE 4130-01-M

Office of the Secretary

Federal Financial Participation in State Assistance Expenditures

AGENCY: Office of the Secretary, HHS.

ACTION: Notice of Federal Matching Shares for Aid to Families with Dependent Children, Medicaid, and Aid to Needy Aged, Blind, or Disabled Persons for October 1, 1983—September 30, 1985

SUMMARY: This notice announces the "Federal percentages" and "Federal medical assistance percentages" that we will use in determining the amount of Federal matching in State welfare amd medical expenditures. The table gives figures for each of the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands. These programs are under titles I, IV–A, X. XIV, XVI (AABD), and XIX of the Social Security Act (the Act), except for American Samoa whose programs are only under title XIX. The percentages in this notice apply to State expenditures for assistance payments and medical services (except family planning which is subject to a higher matching rate). The statute provides separately for Federal matching of administrative costs.

Sections 1101(a)(8) and 1905(b) of the Social Security Act require the Secretary of Health and Human Services to publish these percentages each even-numbered year. The Secretary is to figure the percentages, by formulas in those sections of the Act, from the Department of Commerce's statistics of average income per person in each State and in the nation as a whole. The percentages are within upper and lower limits given in those two sections of the Act.

The "Federal percentages" are for Aid to Families with Dependent Children (AFDC) and aid to needy aged, blind, or disabled persons, and the "Federal medical assistance percentages" are for Medicaid. However, under section 1118 of the Act, States with approved Medicaid plans may claim Federal matching funds for expenditures under approved State plans for these other programs using either the Federal percentage or the Federal medical assistance percentage. These States may claim at the Federal medical assistance percentage without regard to any maximum on the dollar amounts per recipient which may be counted under paragraphs (1) and (2) of sections 3(a), 403(a), 1003(a), 1403(a), and 1603(a) of the Act.

DATES: The percentages listed will be effective for each of the eight quarter-year periods in the period beginning October 1, 1983 and ending September 30, 1985.

FOR FURTHER INFORMATION CONTACT: Mr. Emmett Dye, Office of Research and Statistics, Social Security Administration, Room 2227, Switzer Building, 330 C Street SW., Washington, D.C. 20201, Telephone (202) 245–9234.

(Catalog of Federal Demestic Assistance Program Nos. 13.808—Assistance Payments—Maintenance Assistance (State Aid); 13.714—Medical Assistance Program)

Dated: December 13, 1982.

Richard S. Schweiker,

Secretary of Health and Human Services.

FEDERAL PERCENTAGES AND FEDERAL MEDICAL ASSISTANCE PERCENTAGES, EFFECTIVE OCT. 1, 1983–SEPT. 30, 1985

[Fiscal years 1984 and 1985]

State	Federal percentages	Federal medical assistance percentages
Alabama	[illegible]	72.14
Alaska	50.00	[illegible]
American Samoa	50.00	50.00
Arizona	[illegible]	[illegible]
Arkansas	65.00	[illegible]
California	[illegible]	[illegible]
Colorado	50.00	[illegible]
Connecticut	50.00	[illegible]
Delaware	[illegible]	[illegible]
Distrct of Columbia	[illegible]	[illegible]
Florida	53.79	[illegible]
Georgia	[illegible]	[illegible]
Guam	50.00	[illegible]
Hawaii	[illegible]	50.00
Idaho	[illegible]	[illegible]
Illinois	50.00	50.00
Indiana	[illegible]	[illegible]
Iowa	50.27	[illegible]
Kansas	50.00	[illegible]
Kentucky	[illegible]	70.72
Louisiana	[illegible]	[illegible]
Maine	[illegible]	[illegible]
Maryland	[illegible]	[illegible]
Massachusetts	[illegible]	50.13
Michigan	50.00	[illegible]
Minnesota	[illegible]	[illegible]
Mississippi	[illegible]	77.63
Missouri	57.12	61.40
Montana	[illegible]	[illegible]
Nebraska	52.37	57.13
Nevada	[illegible]	[illegible]
New Hampshire	[illegible]	59.45
New Jersey	[illegible]	[illegible]
New Mexico	[illegible]	69.39
New York	[illegible]	[illegible]
North Carolina	[illegible]	[illegible]
North Dakota	57.02	61.32
Northern Manana Islands	50.00	[1]50.00
Ohio	[illegible]	55.44
Oklahoma	[illegible]	58.47
Oregon	[illegible]	57.12
Pennsylvania	51.16	[illegible]
Puerto Rico	50.00	[1]50.00
Rhode Island	53.52	58.17
South Carolina	[illegible]	73.51
South Dakota	[illegible]	68.31
Tennessee	[illegible]	[illegible]
Texas	50.00	54.37
Utah	[illegible]	[illegible]
Vermont	[illegible]	[illegible]
Virgin Islands	[illegible]	[illegible]
Virginia	51.70	56.53
Washington	50.00	[illegible]
West Virginia	[illegible]	70.57
Wisconsin	52.07	56.87
Wyoming	50.00	[illegible]

[1] For purposes of section 1118 of the Social Security Act, the percentage used under titles I, X, XIV, and XVI and Part A of title IV will be 75 per centum.

[FR Doc. 82-34213 Filed 12-1-82; 8:45 am]

BILLING CODE 4190-11-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Public Service Room, Alaska State Office; Notice of Office Hours

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Office Hours: Public Service Room, Alaska State Office.

SUMMARY: The Public Service Room, Alaska State Office, will be open to the public for the filing of applications and other documents and inspection of the

records on Monday through Friday from 7:30 a.m. to 3:45 p.m., with the exception of those days when the office may be closed because of a national holiday or by Presidential or other administrative order.

EFFECTIVE DATE: January 1, 1983.

LOCATION: Alaska State Office, Public Service Room, 701 "C" Street, Anchorage, Alaska 99513.

FOR FURTHER INFORMATION CONTACT: Gail Ozmina (907) 271–5960.

Curtis V. McVee,

State Director.

[FR Doc. 82–34183 Filed 12–15–82; 8:45 am]

BILLING CODE 4310–84–M

Idaho Falls District Advisory Council; Meeting

Notice is hereby given in accordance with Pub. L. 91–463, Pub. L. 94–579, Pub. L. 95–514 and 43 CFR Part 1780, that a meeting of the Idaho Falls District Advisory Council will be held on Thursday, February 3, 1983, at 9 a.m. at the Peppertree Restaurant in the Teton Room, 888 North Holmes Ave., Idaho Falls, Idaho 83401.

Agenda for the meeting will include the following:

1. Introductions and Opening Comments
2. State Director's Comments
3. District Overview and Program Highlights
4. Council Function and Involvement
5. Asset Management Program
6. Environmental Impact Statement Update
7. Resource Management Planning in the Medicine Lodge Resource Area
8. Election of Officers
9. Arrangements for next Meeting

The meeting is open to the public. Interested persons may make oral statements to the Council between 11:30 a.m. and 12 noon, or file written statements for the Council's consideration. Anyone wishing to make an oral statement must notify the District Manager at the Idaho Falls BLM District Office, 940 Lincoln Rd., Idaho Falls, Idaho 83401 by January 28, 1983. Depending on the number of persons wanting to make oral statements, a per-person time limit may be established.

Summary minutes of the meeting will be maintained in the District Office and will be available for public inspection and reproduction during business hours (7:45 a.m. to 4:30 p.m.) 30 days after the meeting.

Dated: December 9, 1982.

O'dell A. Frandsen,

District Manager.

[FR Doc. 82–34139 Filed 12–15–82; 8:45 am]

BILLING CODE 4310–84–M

[Exchange—I–16999]

Public Land in Caribou County, Idaho, Idaho Falls District; Notice of Realty Action

The following described lands have been determined to be suitable for disposal by exchange under Section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

Boise Meridian, Idaho

T. 7 S., R. 41 E.,
Sec. 34, NW¼SE¼.

T. 8 S., R. 41 E.,
Sec. 17, SW¼SW¼NE¼NW¼, NW¼NW¼NW¼NW¼, S½NW¼NW¼NW¼, S½NW¼NW¼, N½NW¼SW¼NW¼, NE¼SW¼NW¼, E½SE¼SW¼NW¼, W½SE¼NW¼, S½SE¼SE¼NW¼, NW¼NE¼SW¼, E½NE¼SE¼, S½NW¼SW¼NW¼, N½SW¼SW¼NW¼, W½SE¼SW¼NW¼, E½NE¼NW¼SW¼, N½SW¼NE¼SW¼, SE¼SW¼NE¼SW¼.

172.5 acres.

In Exchange for these lands the Federal Government will acquire 240 acres of non-Federal land in Caribou County from Harry Dean Ozburn described as follows:

Boise Meridian, Idaho

T. 7 S., R. 40 E.,
Sec. 34, E½SE¼, SE¼NE¼;
Sec. 35, SW¼NW¼.

T. 8 S., R. 40 E.,
Sec. 3, SE¼NW¼, NE¼SW¼.

240 acres.

The purpose of the exchange is to:

1. Consolidate the public land in order to better manage it.

2. Allow authorized farming of the public land by transferring the subject parcel to a private party.

3. Provide long term benefits to the government, i.e., livestock forage, wildlife habitat.

This exchange is consistent with the Bureau's planning for the land involved and has been discussed with the Caribou County Commissioners. The public interest will be well served by making the exchange.

The value of the lands to be exchanged are approximately equal and money will be used to equalize the values upon completion of the final appraisal of the lands.

The terms and conditions applicable to the exchange are:

1. Both parties will reserve all minerals; only surface ownership will be exchanged.

Detailed information concerning the exchange, including the environmental analysis, is available for review at the Soda Springs Resource Area Office, 490 East 2nd South, Soda Springs, Idaho 83276.

For a period of 45 days from the date of this notice, interested parties may submit comments to the Bureau of Land Management, Idaho Falls District Manager, 940 Lincoln Road, Idaho Falls, Idaho 83401. Any adverse comments will be evaluated by the Idaho State Director, Bureau of Land Management, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director this realty action will become the final determination of the Department of Interior.

Dated: December 10, 1982.

O'dell A. Frandsen,

District Manager.

[FR Doc. 82–34135 Filed 12–15–82; 8:45 am]

BILLING CODE 4310–84–M

John Day Resource Area Management Framework Plan Amendment; Revised Notice of Intent

December 7, 1982.

The Bureau of Land Management, Burns District, provided a Notice of Intent to begin Resource Management Planning on Bureau lands in the John Day Resource Area in local newspapers and the January 28, 1981 **Federal Register** (Vol. 46, No. 18, pages 9214–9215). The John Day Resource Area lies primarily within the John Day River Basin and Grant County and part of Harney County in eastern Oregon. The planning area is bounded by Wheeler County to the west, Umatilla County to the north and by the Malheur National Forest to the south and east.

Based on staff review of the publicly identified issues and known resource conflicts, I have concluded that an amendment of the existing Management Framework Plan is more appropriate than a complete new Resource Management Plan. The Management Framework Plan (MFP) amendment will be prepared in compliance with the 43 CFR Part 1600) Bureau regulations for land-use planning. Based on the proposed plan, a John Day Grazing Management Environmental Assessment will be prepared in compliance with the Council on Environmental Quality 40 CFR Part 1501 regulations. If this analysis results in a finding of significant impact an Environmental Impact Statement will be prepared.

The factors that led to the decision to prepare an MFP amendment in lieu of a Resource Management Plan included:

1. The lack of significant resource issues within the planning area.

2. The limited amount of BLM surface ownership.

3. The advantage of combining plan amendments addressing wilderness with amendments addressing range, timber, lands, wildlife and recreation.

4. Department and Bureau policy changes designed to streamline the planning process.

5. Significant budget and personnel limitations.

6. Budget directives designed to eliminate the use of the RMP process when significant issues or concerns do not appear to exist, and use other forms of analysis of alternatives to provide management with a basis for decision-making.

Wilderness Study Area Status

The proposed alternatives for the four Wilderness Study Areas in the John Day Resource Area are analyzed and displayed in a multi-district summary document which is currently available from the Burns District Office. This portion of the John Day plan amendment was accelerated to provide timely input to the BLM Statewide Wilderness EIS. A series of 14 public meetings have been scheduled to provide an opportunity for public imput and scoping of the statewide Wilderness EIS. Local meetings will be in Canyon City on January 5, and Burns on January 12. The draft Wilderness EIS will be completed in 1984.

Planning Criteria Review Opportunity

The John Day Resource Area Manager has developed criteria for the development of three land-use plan alternatives. The criteria are based on public input and staff recommendations and will address all relevent management issues. One plan alternative emphasizes production of commodity resources to enhance economic benefits. Another alternative emphasizes maximum protection and enhancement of natural values, such as wildlife habitat, water quality, undeveloped recreation opportunities and visual resources. A third alternative will balance economic uses with natural and cultural values. The draft goals and objectives of the proposed land-use alternatives are in the John Day Planning Report No. 3 which is available from the District Office. I encourage you to review and comment on these criteria by January 31, 1983, so we may, if necessary, revise the criteria and proceed with the formulation of alternatives.

A public meeting will be held in John Day, Oregon in the spring of 1983 to provide public comment opportunities on the development of the preferred alternative and scoping of the John Day Grazing Management Environmental Analysis. Anyone who wishes to add his name to the planning mailing list or who wishes to discuss the BLM planning effort and availability of information and planning documents, may contact the John Day Resource Area Manager, Bureau of Land Management, 74 South Alvord, Burns, Oregon 97720 or call (503) 573–2071. The exact dates, times, and locations of public meetings will be announced in future planning reports and local newspapers. Planning documents will continue to be available for public review at the Burns District Office, Burns, Oregon.

Thomas R. Thompson, Jr.,

Associate District Manager.

[FR Doc. 82–34132 Filed 12–15–82; 8:45 am]

BILLING CODE 4310–84–M

Lewistown District Advisory Council, Montana; Meeting

AGENCY: Bureau of Land Management, Lewistown District Advisory Council, Interior.

ACTION: Notice of meeting.

SUMMARY: The Lewistown District Advisory Council will meet January 20, 1983. The agenda will be:

9:00 a.m., Orientation to BLM for new council members
12:00 p.m., Recess
1:00 p.m., Organizational meeting and 1983 issues
5:00 p.m., Adjournment

Public comment will be sought at the end of each agenda item.

DATES: January 20, 1983, 9:00 a.m. to 5:00 p.m.

ADDRESS: Lewistown District Office, Airport Road, Lewistown, Montana.

FOR FURTHER INFORMATION CONTACT: Glenn W. Freeman, District Manager, Bureau of Land Management, Lewistown, Montana 59457.

SUPPLEMENTARY INFORMATION: The Lewistown District Advisory Council is authorized under Section 309 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1739). The Council advises the District Manager concerning the planning for and management of the public lands administered within the Lewistown District.

Dated: December 9, 1982.

Glenn W. Freeman,

District Manager.

[FR Doc. 82–34136 Filed 12–15–82; 8:45 am]

BILLING CODE 4310–84–M

[M 068063, et al.]

Montana; Classifications Terminated

December 7, 1982.

1. Pursuant to authority delegated by Bureau Order No. 701, dated July 23, 1964 (29 FR 10526), classification orders initiated for exchange under the authority of Section 8 of the Taylor Grazing Act of June 28, 1934, for Public Sales under Revised Statute 2455, for Homestead Entries under Revised Statute 2289, and for Small Tract under the Act of June 1, 1938, are hereby terminated as to the following described lands:

Principal Meridian

Public Sale Classification (RS 2455)

(M 068063)

T. 8 N., R. 17 E.,
Sec. 4, NW¼SE¼.
T. 10 N., R. 17 E.,
Sec. 34, SE¼SW¼.
T. 9 N., R. 18 E.,
Sec. 22, NW¼;
Sec. 26, W½W½, SE¼NW¼, and NE¼SW¼.

(M 5000A)

T. 4 S., R. 45 E.,
Sec. 20, lot 1, N½NE¼ and NE¼NW¼;
Sec. 24, lots 2, 3, 6, and 7, E½W½.

Unsuitable for Public Sale (2455)

(M 072341)

T. 3 N., R. 26 E.,
Sec. 32, S½SE¼.

(M 073078)

T. 3 N., R. 11 W.,
Sec. 31, HES 1190.
T. 2 N., R. 12 W.,
Sec. 1, NW¼SW¼ and SE¼SW¼;
Sec. 6, lots 2, 3, 4, 5, and 6, E½SE¼, and SE¼NW¼;
Sec. 8, W½SW¼, and SE¼SW¼;
Sec. 10, lots 1 and 2, SW¼SE¼;
Sec. 18, lots 5 and 6, NE¼SW¼ and SE¼.
T. 3. N., R. 12 W.,
Sec. 26, lot 3, SE¼NE¼, SE¼SW¼, NW¼SE¼, and SE¼SE¼;
Sec. 28, N½SE¼.
T. 2 N., R. 13 W.,
Sec. 12, lots 1 and 2, NW¼SE¼.

(M 169)

T. 27 N., R. 54 E.,
Sec. 1, lot 10.

(M 558)

T. 13 N., R. 21 E.,
Sec. 20, SE¼NE¼ and SE¼;
Sec. 21, SW¼NE¼, NE¼NW¼, S½NW¼, and SE¼SE¼;
Sec. 22, W½SW¼;
Sec. 28, NW¼NE¼ and NW¼NW¼;
Sec. 29, N½NE¼.

(M 923)

T. 1 S., R. 13 E.,
Sec. 18, lot 1.

(M 1420)

T. 4 S., R. 17 E.,

Sec. 8, SE¼SW¼;
Sec. 17, NE¼NW¼ and S½NW¼.

(M 1762)

T. 8 S., R. 48 E.,
Sec. 29, lot 1.

(M 1780)

T. 6 S., R. 47 E.,
Sec. 13, N½SW¼ and NW¼SE¼.

(M 2149)

T. 2 N., R. 26 E.,
Sec. 14, N½NE¼.

(M 6153)

T. 9 N., R. 3 W.,
Sec. 25, E½SW¼ and SE¼.

(M 8339)

T. 26 N., R. 30 E.,
Sec. 3, N½SE¼SW¼;
Sec. 4, lots 3 and 4, SE¼NW¼ and E½SE¼;
Sec. 6, lots 2 and 7, SW¼NE¼, SE¼NW¼, E½SW¼, and SE¼;
Sec. 7, lot 1, NW¼NE¼ and E½NW¼;
Sec. 9, N½NE¼.

(M 9150)

T. 7 N., R. 27 E.,
Sec. 18, lot 4.

(M 9291)

T. 6 N., R. 26 E.,
Sec. 2, lots 1, 2, 5, 8, 9, and 12, NW¼SW¼.
T. 7 N., R. 26 E.,
Sec. 34, N½NW¼ and S½SW¼.

(M 9735)

T. 31 N., R. 29 E.,
Sec. 9, NW¼NE¼ and NW¼NW¼;
Sec. 10, N½SW¼.

(M 10402)

T. 7 S., R. 20 E.,
Sec. 29, SW¼SW¼.

(M 10415A)

T. 21 N., R. 9 E.,
Sec. 13, lots 1, 3, and 4, SE¼NE¼ and SE¼SW¼;
Sec. 24, lots 1 and 2, SW¼NE¼ and W½SE¼;
Sec. 25, lots 2, 6, and 7, NE¼SW¼.
T. 20 N., R. 10 E.,
Sec. 22, NE¼NE¼.

(M 10455)

T. 8 N., R. 3 E.,
Sec. 5, lots 14, 15, and 16.
T. 9 N., R. 3 E.,
Sec. 32, lots 1 and 2.

(M 10805)

T. 25 N., R. 44 E.,
Sec. 30, W½ and SW¼;
Sec. 31, W½.
T. 24 N., R. 44 E.,
Sec. 5, lots 1, 2, and 3.
T. 25 N., R. 43 E.,
Sec. 25, SW¼NW¼, SE¼SW¼, and SE¼.

(M 10806)

T. 25 N., R. 44 E.,
Sec. 29, NE¼SW¼, S½SW¼, and SE¼;
Sec. 30, SW¼NE¼;
Sec. 32, W½.

(M 10807)

T. 25 N., R. 44 E.,
Sec. 3, S½NW¼ and SW¼;
Sec. 4, NE¼NE¼.
T. 26 N., R. 44 E.,
Sec. 32, SE¼;
Sec. 33, SE¼SW¼ and SW¼SE¼.

(M 11486)

T. 7 S., R. 36 E.,
Sec. 25, lots 1, 2, 3, and 4.
T. 7 S., R. 39 E.,
Sec. 30, lot 1;
Sec. 31, lots 3 and 4, SE¼SE¼;
Sec. 32, SW¼NW¼.
T. 8 S., R. 39 E.,
Sec. 1, lots 1 and 19;
Sec. 2, lot 2;
Sec. 3, lot 4.

(M 14782)

T. 6 N., R. 26 E.,
Sec. 34, E½E½.

(M 15079)

T. 6 N., R. 44 E.,
Sec. 4, NE¼SE¼ and S½SE¼.

(M 15383)

T. 8 N., R. 3 W.,
Sec. 5, lot 21.

(M 16280)

T. 10 N., R. 9 E.,
Sec. 4, E½NE¼.
T. 11 N., R. 9 E.,
Sec. 33, E½SE¼.

(M 18409)

T. 26 N., R. 47 E.,
Sec. 30, lot 2, NW¼NE¼ and E½NW¼.

(M 23118)

T. 19 N., R. 35 E.,
Sec. 2, SW¼SW¼;
Sec. 3, E½SE¼.

(M 30121)

T. 19 N., R. 25 E.,
Sec. 5, SW¼NW¼;
Sec. 6, lots 5 and 6, S½NE¼ and SE¼NW¼.

(M 30361)

T. 2 N., R. 59 E.,
Sec. 2, S½SW¼.

(M 33017)

T. 14 N., R. 11 E.,
Sec. 27, lot 3, NE¼SW¼.

Public Sale Classification (Unintentional Trespass)

(M 14280)

T. 3 S., R. 44 E.,
Sec. 22, lot 6.

Exchange Classification

(M 19914)

T. 8 S., R. 49 E.,
Sec. 27, S½S½;
Sec. 29, SW¼NW¼ and SW¼SE¼;
Sec. 32, SW¼NW¼, SE¼NW¼, and NW¼SW¼;
Sec. 33, NW¼SW¼ and SE¼SW¼;
Sec. 34, SE¼NE¼, SE¼SW¼, and S½SE¼;
Sec. 35, NW¼ and S½SW¼.
T. 9 S., R. 49 E.,
Sec. 2, S½NE¼, NW¼, N½S½, and SE¼SE¼;
Sec. 4, SW¼NW¼, W½SW¼, and SE¼SE¼;
Sec. 5, SE¼NE¼, SW¼NW¼, E½SW¼, NW¼SW¼, and SE¼;
Sec. 8, NE¼, NE¼NW¼, and NE¼SE¼;
Sec. 9, W½W½;
Sec. 10, NE¼SE¼;
Sec. 11, NE¼NE¼;
Sec. 21, E½;
Sec. 22, NE¼SW¼, S½SW¼, and SW¼SE¼;
Sec. 25, SE¼NE¼, W½SE¼, and SE¼SE¼;
Sec. 27, W½NW¼;
Sec. 28, SW¼NE¼ and N½NE¼;
Sec. 32, NW¼SE¼;
Sec. 35, NE¼, E½NW¼, NE¼SW¼, and N½SE¼.
T. 9 S., R. 50 E.,
Sec. 19, lots 10 and 11;
Sec. 30, lots 1, 2, 6, 9, 10, and 11, SW¼NE¼, N½SE¼, and SE¼SE¼;
Sec. 31, lots 1 through 14, inclusive, S½NE¼ and N½SE¼.

(M 33013)

T. 9 S., R. 27 E.,
Sec. 25, SW¼SW¼NW¼, W½NW¼SW¼, and NW¼SW¼SW¼.

(M 20350)

T. 11 N., R. 26 E.,
Sec. 17, N½.

(M 073616)

T. 33 N., R. 27 E.,
Sec. 26, SE¼SE¼;
Sec. 27, NE¼SE¼.
T. 32 N., R. 28 E.,
Sec. 35, N½SW¼.
T. 32 N., R. 29 E.,
Sec. 30, SE¼SW¼ and SW¼SE¼.

Small Tract Classification

(M 032620)

T. 8 N., R. 13 W.,
Sec. 16, lot 1 (M and B).

Unsuitable for Homestead Entry (RS 2289)

(M 13030)

T. 4 N., R. 2 W.,
Sec. 18, E½SW¼ and S½SE¼.

The areas described aggregate approximately 15,151 acres located in Lewis and Clark, Wheatland, Yellowstone, Deer Lodge, Phillips, Richland, Fergus, Sweet Grass, Stillwater, Powder River, Musselshell, Carbon County, Chouteau, Broadwater, McCone, Big Horn, Jefferson, Rosebud, Meagher, Carter, Judith Basin, and Garfield Counties.

2. The above described classifications have been reviewed and found to serve no useful purpose. The laws relating to these classifications have been repealed by Pub. L. 94–579 of October 21, 1976.

Bill D. Noble,

Acting State Director.

[FR Doc. 82–34140 Filed 12–15–82; 8:45 am]

BILLING CODE 4310–84–M

Montana; Open Season for Commercial Permit Applications on the Upper Missouri National Wild and Scenic River

AGENCY: Bureau of Land Management, Interior.

ACTION: Open Season for Commercial Permit Applications on the Upper Missouri National Wild and Scenic River.

SUMMARY: This notice establishes an "open season" for applying for Special Recreation Use Permits on the Upper Missouri National Wild and Scenic River in Montana required of all commercial float boating operations. Other requirements of commercial outfitting and guiding operations remain as outlined in the **Federal Register**, Vol. 44, No. 62, Thursday, March 29, 1979, entitled "Establishment of Recreation Use Permit System for the Upper Missouri National Wild and Scenic River."

ADDRESS AND DATES: Applications must be sent to the Lewistown District, Bureau of Land Management, Airport Road, Lewistown, Montana 59457 between February 7 and March 14, 1983.

FOR FURTHER INFORMATION CONTACT: Carl Lind, River Manager, Airport Road, Lewistown, Montana 59457.

Dated: December 8, 1982.

Glenn W. Freeman,

District Manager.

[FR Doc. 82-34137 Filed 12-15-82; 8:45 am]

BILLING CODE 4310-84-M

[M 56312]

Montana; Proposed Withdrawal and Opportunity for Public Hearing

On September 3, 1982, the Forest Service filed an application to withdraw public lands acquired for Forest Service purposes by the Bureau of Land Management through exchange. On October 19, 1982, the Butte District Manager, Bureau of Land Management, concurred with the proposed action. The Forest Service application proposes to withdraw the following described public lands from location and entry under the mining laws, subject to valid existing rights:

Principal Meridian

Beaverhead National Forest

T. 2 S., R. 15 W.,
Sec. 34, a parcel of land located in the NW¼SW¼ and SW¼SW¼.

T. 3 S., R. 15 W.,
Sec. 3, a parcel of land located in lot 4.

The above lands are described as Tracts A and B of Certificate Survey No. 369 as recorded in the Beaverhead County Records. The area described aggregates 59.99 acres, more or less, in Beaverhead County.

The purpose of the withdrawal is to establish an administrative site for Wisdom Ranger District, Beaverhead National Forest at a location adjacent to the town of Wisdom, Montana.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management.

In accordance with section 204(h) of the Federal Land Policy and Management Act of 1976, notice is given that an opportunity for a public hearing is afforded in connection with the proposed withdrawal. All persons who desire to be heard on the proposed withdrawal must submit a written request for a hearing to the undersigned at the address shown below.

Upon the determination by the authorized officer that a public hearing will be held, a notice of the time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

This application will be processed in accordance with the regulations set forth in 43 CFR Part 2300.

For a period of 2 years from the date of publication of this notice in the **Federal Register**, the lands will be segregated from settlement, sale, location and entry under the general public land laws including the mining laws as specified above unless the application is denied or cancelled, or the withdrawal is approved prior to that date. The temporary uses which will be permitted during this segregation period are grazing and non-occupancy oil and gas leasing.

The temporary segregation of the lands in connection with a withdrawal application or proposal shall not affect administrative jurisdiction over the lands, and the segregation shall not have the effect of authorizing any use of the lands by the U.S. Forest Service.

All communications in connection with this proposed withdrawal should be addressed to the Chief, Branch of Land Resources, Bureau of Land Management, Department of the Interior, P.O. Box 30157, Billings, Montana 59107.

Roland F. Lee,

Chief, Branch of Land Resources.

[FR Doc. 82-34139 Filed 12-15-82; 8:45 am]

BILLING CODE 4310-84-M

[N-36696]

Nevada: Realty Action Non-Competitive Sale of Public Land in Douglas County

December 10, 1982.

The following described land has been examined and identified as suitable for disposal by sale under Section 203 of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2750), 43 U.S.C. 1713, at no less than the appraised fair market value.

Mount Diablo Meridian, Nevada,

T. 13 N., R. 20 E.,
Sec. 11, S½NW¼SW¼NE¼NE¼, N½SW¼SW¼NE¼NE¼.

The land described aggregates 2.5 acres in Douglas County.

The land is being offered at direct sale to Cecil Reed at the appraised fair market value ($23,500).

The sale of this land is consistent with the Bureau of Land Management's planning system. The land is being offered to Mr. Reed to accommodate major improvements resulting from an unsuccessful homestead entry. The public interest would best be served by offering this land for direct sale. The land will not be offered for sale until 60 days after the date of this notice.

The terms and conditions applicable to the sale are:

1. The patent will contain a reservation for ditches and canals.

2. All minerals will be reserved to the United States. (Under 43 CFR 2720, however, the mineral estate can be conveyed to the surface estate owner upon application.)

3. The patent will be subject to all valid existing rights.

For a period of 45 days from the date of this notice, interested parties may submit comments to the Carson City District Manager, 1050 E. William Street, Suite 335, Carson City, NV 89701. Any adverse comments will be evaluated by the District Manager and forwarded to the Nevada State Director, Bureau of Land Management, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department of the Interior.

J. Matthiessen,

Acting District Manager, Carson City District.

December 10, 1982.

[FR Doc. 82-34141 Filed 12-15-82; 8:45 am]

BILLING CODE 4310-84-M

Rock Springs District Grazing Advisory Board, Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting of the Rock Springs District Grazing Advisory Board.

SUMMARY: This notice sets forth the schedule and proposed agenda of a meeting of the Rock Springs District Grazing Advisory Board. Notice of this meeting is required under P. L. 92–463.

DATE: February 10, 1983, 9:30 a.m. until 3:30 p.m.

ADDRESS: Rock Springs District Office, Highway 191 North, Rock Springs, Wyoming.

FOR FURTHER INFORMATION CONTACT: Donald H. Sweep, District Manager, Rock Springs District, Bureau of Land Management, P.O. Box 1869, Rock Springs, Wyoming 82901; (307) 382–5350.

SUPPLEMENTARY INFORMATION: The agenda for the meeting will include:

1. Review and approval of the transcript of the August 12, 1982 meeting.

2. An update of projects to be constructed with Range Betterment funds.

3. A review of the Proposed Action and Alternatives of the Salt Wells-Pilot Butte Grazing Environmental Impact Statement.

4. An update on wild horse operations and removals.

5. A review of Stock Driveway Withdrawals and a recommendation from the Board.

6. A briefing on weed control activities on rights-of-way across Federal lands.

7. Public comment period.

8. Arrangements for the next meeting.

The meeting is open to the public. Interested persons may make oral statements to the Board between 3:00—3:30 p.m., or file written statements for the Board's consideration. Anyone wishing to make an oral statement should notify the District Manager, Bureau of Land Management, Highway 191 North, P.O. Box 1869, Rock Springs, Wyoming 82901, by February 9, 1983. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

A transcript of the meeting will be maintained in the District Office and be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Jerry K. Ostrom,

Assistant District Manager.

[FR Doc. 82-34124 Filed 12-15-82; 8:45 am]

BILLING CODE 4310-84-M

[Serial Number I-18729]

Idaho; Classification of Public Lands for State Indemnity Selection

1. The State of Idaho Department of Lands has filed application to acquire the lands described in Paragraph 5 below, under the provisions of the Act of July 3, 1890 (26 Stat. 215, 217), as amended, in lieu of certain school lands that were encumbered by other rights or reservations before the State's title could attach. This application has been assigned serial number I–18729.

2. The Bureau of Land Management will examine these lands for evidence of prior valid rights or other statutory constraints that would bar transfer. Those lands found suitable for transfer will be held to be classified 60 days from the date of publication of this notice in the **Federal Register.** Classification is pursuant to Title 43 Code of Federal Regulations, Subpart 2400 and Section 7 of the Act of June 28, 1934.

3. Information concerning these lands and the proposed transfer to the State of Idaho may be obtained from the District Manager, Coeur d'Alene District Office, Bureau of Land Management, 1808 North Third, Coeur d'Alene, Idaho 83814, (208) 765–7356.

4. For a period of 60 days from the date of publication of this notice in the **Federal Register,** any persons who wish to submit comments on the above classification may present their views in writing for consideration to the Coeur d'Alene District Manger, Bureau of Land Management, 1808 North Third, Coeur d'Alene, Idaho 83814. Any adverse comments will be evaluated by the authorized officer who will issue a notice of determination to proceed with, modify, or cancel the action. In the absence of any action by the authorized officer, this classification action will become the final determination of the Department of the Interior. As provided by Title 43 Code of Federal Regulations, Subpart 2462.1, a public hearing will be scheduled by the District Manager if he determines that sufficient public interest exists to warrant the time and expense of a hearing.

5. The lands included in this classification are located in Benewah, Bonner, Boundary, Clearwater, Kootenai, and Latah Counties, Idaho, and are described as follows (footnotes correspond to numbered authorized users, applicants, or claimants listed in Paragraph 6):

Boise Meridian, Idaho

I–18729

T. 37 N., R. 6 E., (Clearwater County)
Sec. 1, S½NW¼SW¼, NE¼SW¼SW¼, NW¼SE¼SW¼, S½SE¼SW¼;[4]
Sec. 2, S½NE¼SE¼;[4]
Sec. 11, NW¼NE¼NE¼, NE¼NW¼NE¼, S½NW¼NE¼, N½SW¼NE¼, SW¼SW¼NE¼.
T. 40 N., R. 1 E., (Latah County)
Sec. 9, N½NE¼, NE¼NW¼.[2]
T. 62 N., R. 3 E., (Boundary County)
Sec. 10, lots 1, 2, and 3, SW¼NE¼, SE¼NW¼, NE¼SW¼, NW¼SE¼.[2]
T. 44 N., R. 2 W., (Benewah County)
Sec. 10, NE¼SE¼;
Sec. 14, lot 1.
T. 48 N., R. 1 W., (Kootenai County)
Sec. 10, lots 3 and 4, SW¼NE¼, S½NW¼;
Sec. 11, lots 1, 2, and 3.[1]
T. 49 N., R. 3 W., (Kootenai County)
Sec. 15, SE¼NE¼.[2]
T. 53 N., R. 5 W., (Kootenai County)
Sec. 28, S½NE¼, NW¼SE¼.
T. 55 N., R. 3 W., (Bonner County)
Sec. 9, W½SE¼, SE¼SE¼;
Sec. 10, SW¼SW¼
Sec. 20, W½NE¼, NE¼SW¼, N½SE¼.[2,3]
T. 56 N., R. 2 W., (Bonner County)
Sec. 7, lots 2, 3, and 4, SE¼NW¼, E½SW¼, W½SE¼;
Sec. 18, lots 1 to 4 incl., E½W½.
T. 56 N., R. 3 W., (Bonner County)
Sec. 13, N½NE¼, SE¼NE¼.
T. 59 N., R. 1 W., (Bonner County)
Sec. 2, lot 2, SW¼NE¼, S½NW¼, SW¼.
T. 60 N., R. 1 W., (Boundary County)
Sec. 18, N½NE¼, SE¼NE¼, NE¼SE¼;
Sec. 20, NE¼NE¼, S½NW¼, SW¼, NW¼SE¼.
T. 63 N., R. 4 W., (Boundary County)
Sec. 27, SW¼NW¼.

The total area aggregates 3,048.78 acres.

6. The following listed corporations, agencies, and individuals are holders of claims and/or rights-of-way on the public lands described in Paragraph 5 above:

Rights-of-Way and Mining Claimant

[1]Washington Water Power, P.O. Box 3727, Spokane, Washington 99220.

[2]Department of Agriculture, U.S. Forest Service, Panhandle National Forests, 1201 Ironwood Drive, Coeur d'Alene, Idaho 83814, and Clearwater National Forest, Orofino, Idaho 83544.

[3]Diamond International, Inc., P.O. Box 1119, Coeur d'Alene, Idaho 83814.

[4]William Collette, P.O. Box 149, Pierce, Idaho 83546.

7. Rights-of-way granted by the BLM to corporations, individuals, or State agencies will transfer with the land. Rights-of-way granted to the U.S. Forest Service will be reserved to the United States under the jurisdiction of the U.S. Forest Service.

8. Those lands in sections 1 and 2, T. 37 N., R. 6 E., B.M., which are encumbered by mining claims, cannot be transferred to the State of Idaho unless and until the mining claim conflicts can be cleared. The Bureau of Land Management will conduct examinations of these claims to determine their validity.

Dated: December 8, 1982.

Clair M. Whitlock,

State Director.

[FR. Doc. 82-34127 Filed 12-15-82; 8:45 am]

BILLING CODE 4310-84-M

[U-5338, U-5496, U-6047, U-8742]

Utah; Land Classifications

Under the authority delegated to me by Bureau Order No. 701, dated July 23, 1964 (29 FR 10526) and pursuant to 43 CFR 2070, it is ordered as follows:

1. The identification as Natural Areas and Outstanding Natural Areas as listed below are and will remain in effect:

a. Bookcliffs Natural Area as published in Notice of Classification for Multiple Use U-5338 in **Federal Register** October 29, 1968.

b. Link Flats Natural Area as published in Notice of Classification for Multiple Use U-5496 in **Federal Register** October 29, 1968.

c. Joshua Tree Natural Area as published in Notice of Classification for Multiple Use U-6047 in **Federal Register** June 16, 1970.

d. Escalante Canyons Outstanding Natural Area, Devils Garden Outstanding Natural Area, North Escalante Canyon Outstanding Natural Area, Phipps—Death Hollow Outstanding Natural Area, and the Gulch Outstanding Natural Area, as published in Notice of Classification for Multiple Use U-8742 in **Federal Register** December 23, 1970.

2. Publication of this Notice is intended to retain identification only, and will not serve to segregate the lands.

Dated: December 7, 1982.

Roland G. Robison,

State Director.

[FR Doc. 82-34124 Filed 12-15-82; 8:45 am]

BILLING CODE 4310-84-M

[U-8131]

Utah; Termination of Classification for Multiple Use

1. Pursuant to the authority delegated by Bureau Order No. 701 dated July 23, 1964 (29 FR 10526), the classification for multiple use U-8131, **Federal Register** September 24, 1970, Vol. 35, No. 186, Pages 14858-60 and modified December 16, 1970, Vol. 35, No. 24, Page 19931 as it affects the following listed lands is hereby terminated:

Salt Lake Meridian, Utah

Tps. 40, 40½, 41, 42 S., R. 9 E., all.
T. 40 S., R. 9½ E., all.
Tps. 39, 40, 41, 42 S., R. 10 E., all.
Tps. 37 thru 41 S., R. 11 E., all.
Tps. 36 thru 41 S., R. 12 E., all.
Tps. 34 thru 41 S., R. 13 E., all.
Tps. 33 thru 40 S., R. 14 E., all.
Tps. 33 thru 38 S., R. 15 E., all.
T. 39 S., R. 15 E.,
  Secs. 1 thru 35, all.
T. 40 S., R. 15 E.,
  Secs. 2 thru 10, all;
  Sec. 11, W½;
  Secs. 14 thru 22, 29, all.
T. 33 S., R. 16 E.,
  Secs. 1, 3 thru 35, all.
T. 34 S., R. 16 E.,
  Secs. 1, 3 thru 15, 17 thru 36, all.
Tps. 35 thru 37 S., R. 16 E., all.
T. 38 S., R. 16 E.,
  Secs. 1 thru 12, all;
  Sec. 13, N½, N½S½;
  Secs. 14 thru 22, all;
  Sec. 23, N½NE¼, W½;
  Sec. 26, SE¼;
  Sec. 27, N½, SW¼;
  Secs. 28 thru 31, all;
  Sec. 32, N½, SW¼;
  Sec. 33, all;
  Sec. 34, W½.
T. 39 S., R. 16 E.,
  Secs. 1, 2, all;
  Sec. 5, W½;
  Secs. 6, 7, all;
  Sec. 11, NE¼, S½;
  Secs. 12, 13, 14, 15, all;
  Secs. 22 thru 27, 34, 35, all.
T. 40 S., R. 16 E.,
  Secs. 1, 2, 3, 10 thru 16, 22, 23, 24, 25, 36, all.
T. 41 S., R. 16 E.,
  Sec. 1, all.
T. 34 S., R. 17 E.,
  Secs. 1, 3 thru 36, all.
Tps. 35 thru 37 S., R. 17 E., all.
T. 38 S., R. 17 E.,
  Secs. 1 thru 12, all;
  Sec. 13, N½;
  Sec. 14, N½, N½SW¼;
  Sec. 15, N½, N½S½;
  Sec. 17, N½, N½S½;
  Sec. 18, N½, N½S½.
T. 39 S., R. 17 E.,
  Sec. 1, S½;
  Sec. 3, W½, SE¼;
  Sec. 4, all;
  Sec. 5, NE¼, S½;
  Sec. 6, W½, SE¼;
  Secs. 7 thru 36, all.
Tps. 40, 41 S., R. 17 E., all.
Tps. 35, 36 S., R. 18 E., all.
T. 37 S., R. 18 E.,
  Secs. 1 thru 34, all;
  Sec. 35, W½NE¼, W½, SE¼.
T. 38 S., R. 18 E.,
  Sec. 1, all;
  Sec. 3, E½;
  Sec. 5, W½;
  Secs. 6, 7, all;
  Secs. 10 thru 15, all;
  Sec. 17, NE¼SE¼, S½S½;
  Secs. 20 thru 36, all.
Tps. 39 thru 42 S., R. 18 E., all.
Tps. 37 thru 42 S., R. 19 E., all.
Tps. 35, 36 S., R. 20 E., all.
T. 37 S., R. 20 E.,
  Secs. 1 thru 23, all;
  Sec. 24, N½, N½SW¼, N½SW¼SW¼, SE¼SW¼, SE¼;
  Sec. 25, E½, S½NW¼NW¼, S½NW¼, NE¼NW¼, SW¼;
  Secs. 26 thru 36, all.
Tps. 38 thru 41 S., R. 20 E., all.
Tps. 35, 36 S., R. 21 E., all.
Tps. 37 S., R. 21 E.,
  Secs. 1 thru 30, all;
  Sec. 31, N½, SW¼, W½SE¼, SE¼SE¼;
  Secs. 33 thru 36, all.
Tps. 38, 39 S., R. 21 E., all.
T. 40 S., R. 21 E.,
  Secs. 1 thru 32, all;
  Sec. 33, N½;
  Secs. 34 thru 36, all.
T. 41 S., R. 21 E., all.
Tps. 35 thru 40 S., R. 22 E., all.
T. 35 S., R. 23 E., all.
T. 36 S., R. 23 E.,
  Secs. 1 thru 22, all;
  Sec. 23, N½NE¼, E½SE¼NE¼, W½, E½SE¼, S½NW¼SE¼, SW¼SE¼;
  Secs. 24 thru 36, all.
Tps. 37 thru 40 S., R. 23 E., all.
Tps. 34 thru 38 S., R. 24 E., all.
Tps. 35 thru 39 S., Rgs. 25, 26 E., all.

a. Excepting all public lands within 50 feet of the centerline of the Mormon Trail as shown on official maps on file in the Bureau of Land Management, Utah State Office.

2. At 10:00 a.m., on January 14, 1983 the lands described in paragraph 1 above, will be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10:00 a.m., on January 14, 1983 shall be considered as simultaneously filed at that time. Those received thereafter will be considered in the order of filing.

3. At 10:00 a.m., on January 14, 1983 the following described lands, subject to the provisions of existing withdrawals, will be open to location under the United States Mining Laws:

Salt Lake Meridian, Utah

T. 39 S., R. 14 E.,
  Sec. 2, SE¼NW¼;
  Sec. 3, SE¼SW¼;
  Sec. 10, W½NW¼.
T. 36 S., R. 16 E.,
  Sec. 21, N½NE¼NW¼.
T. 35 S., R. 18 E.,
  Sec. 31, N½SW¼.
T. 36 S., R. 18 E.,
  Sec. 7, W½ of lot 1.
T. 38 S., R. 18 E.,
  Sec. 27, W½SW¼;
  Sec. 28, E½SE¼.
T. 37 S., R. 19 E.,
  Sec. 15, W½SW¼SW¼;
  Sec. 22, NE¼NW¼;

Sec. 23, S½SW¼SW¼;
Sec. 26, N½NW¼NW¼;
T. 38 S., R. 19 E.,
Sec. 26, NE¼NE¼, N½SE¼NE¼;
Sec. 35, SE¼SW¼, SW¼SE¼.
T. 39 S., R. 19 E.,
Sec. 1, SW¼NE¼, N½SW¼;
Sec. 22, W½NE¼NE¼, NW¼NE¼.
T. 40 S., R. 19 E.,
Sec. 23, NE¼NE¼.
T. 37 S., R. 20 E.,
Sec. 17, S½SE¼;
Sec. 20, N½NE¼.
T. 37 S., R. 21 E.,
Sec. 10, W½NW¼SE¼.
T. 38 S., R. 21 E.,
Sec. 7, SE¼SE¼.
T. 39 S., R. 21 E.,
Sec. 6, SW¼NE¼;
Sec. 17, SW¼SW¼SE¼;
Sec. 18, lot 1, SE¼SE¼SE¼;
Sec. 20, SW¼NW¼, NW¼,SE¼;
Sec. 31, NE¼NE¼.
T. 40 S., R. 21 E.,
Sec. 6, lot 2, NW¼SE¼, SE¼SE¼;
Sec. 8, SW¼SW¼, NW¼SE¼;
Sec. 18, S½SE¼.
T. 37 S., R. 22 E.,
Sec. 4, S½SW¼SE¼;
Sec. 9, NW¼NE¼;
Sec. 22, S½SE¼;
Sec. 23, S½SW¼;
Sec. 26, NW¼;
Sec. 27, NE¼.
T. 40 S., R. 22 E.,
Sec. 10, SE¼SE¼;
Sec. 11, S½SW¼.
T. 36 S., R. 23 E.,
Sec. 30, SE¼SW¼;
Sec. 31, SW¼SE¼.
T. 37 S., R. 23 E.,
Sec. 5, SE¼SW¼;
Sec. 6, E½SW¼.
T. 37 S., R. 24 E.,
Sec. 10, SW¼SW¼NE¼, S½SE¼NW¼, S½SE¼SW¼.
T. 38 S., R. 26 E.,
Sec. 9, SE¼SW¼SE¼, SE¼SE¼SE¼.

Inquiries concerning these lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, 136 East South Temple, Salt Lake City, Utah 84111.

Dated: December 7, 1982.

Roland G. Robison,

State Director.

[FR Doc. 82-34125 Filed 12-15-82; 8:45 a.m.]

BILLING CODE 4310-84-M

[U-12307]

Utah; Termination of Classification for Multiple Use

1. Pursuant to the authority delegated by Bureau Order No. 701 dated July 23, 1964 (29 FR 10526), the classification for multiple use U-12307, **Federal Register** December 2, 1970, Vol. 35, No. 233, Pages 18337-8, as corrected in **Federal Register** Vol. 35, No. 249, Page 19582 dated December 24, 1970, as it affects the following listed lands is hereby terminated:

Salt Lake Meridian, Utah

T. 32., R. 16 E.,
Secs. 34 and 35 (part).
T. 33 S., R. 16 E.,
Secs. 1, 3, 10 (part);
Secs. 12, 13, all;
Secs. 14, 15, 22, 23, 24, 26, 27 (part).
T. 31 S., R. 17 E.,
Secs. 33, 34, 35, 36 (part).
T. 32 S., R. 17 E.,
Secs. 1, 2, 3, all;
Secs. 4, 9 and 10 (part);
Secs. 11, 12, all;
Secs. 13, 14, 15, 35 (part).
T. 33 S., R. 17 E.,
Secs. 1, 6, 7, 9, 10, 11, 13, 14, 15, 17, 18, 19, 20, 21, 22 (part);
Secs. 23, 24, 25, all;
Secs. 26, 27, 28, 29, 30, 31, 33, 35 (part).
T. 34 S., R. 17 E.,
Secs. 1, 3, 4, 5 (part).
T. 31 S., R. 18 E.,
Secs. 25, 26, 27, 28, all;
Secs. 29, 30, 31 (part);
Secs. 33, 34, 35, all.
T. 32 S., R. 18 E.,
Secs. 1, 2 thru 15, all;
Secs. 17, 18, 20, 21 (part);
Secs. 22 thru 27, all;
Secs. 28, 29, 31 (part);
Secs. 33 thru 36, all.
T. 33 S., R. 18 E.,
Secs. 1, 3, 4, 5, all;
Secs. 6 and 7 (part);
Secs. 8 thru 16, all;
Secs. 17 thru 22 (part);
Secs. 23 thru 26, all;
Secs. 27 thru 30 (part);
Secs. 31, all;
Secs. 33 and 34 (part);
Secs. 35, all.
T. 34 S., R. 18 E.,
Secs. 1 thru 6, 9, all;
Tps. 29, 30, 31, 32, 33 S., R. 19 E., all.
T. 27 S., R. 20 E.,
Secs. 13 thru 33, all;
Secs. 34, N½, N½S½, SW¼SW¼, NE¼SW¼ SE¼, S½SW¼SE¼, SE¼SE¼:
Sec. 35, all.
T. 28 S., R. 20 E., all.
T. 29 S., R. 20 E.,
Secs. 1 thru 21, all;
Sec. 22, N½, N½S½, S½SW¼, SW¼SE¼, W½SE¼SE¼;
Sec. 23, N½, N½S½, S½SW¼SW¼, SE¼SW¼, SE¼SE¼;
Secs. 24 thru 35, all.
Tps. 30, 31 S., R. 20 E., all.
T. 32 S., R. 20 E.,
Secs. 1 thru 20, all;
Sec. 21, N½, SW¼;
Sec. 22, N½, E½SW¼, SE¼;
Secs. 23 thru 35, all.
T. 33 S., R. 20 E.,
Secs. 1 thru 6, all.
T. 27 S., R. 21 E.,
Sec. 8, SW¼, S½SE¼SE¼;
Secs. 15 thru 36, all.
T. 28 S., R. 21 E.,
Secs. 1 thru 8, all;
Sec. 9, N½, NW¼SW¼, NE¼SE¼, S½S½;
Secs. 10 thru 36, all.
Tps. 29 thru 33S., R. 21 E., all.
Tps. 28, 29 S., R. 22 E., all.
T. 30 S., R. 22 E.,
Secs. 1 thru 12, all;
Sec. 13, N½, NE¼NW¼SW¼, W½NW¼ SW¼, NW¼SW¼SW¼, S½SW¼SW¼, S½SE¼SW¼, E½NW¼SE¼, NE¼SW¼ SE¼, S½SW¼SE¼, E½SE¼;
Secs. 14 thru 35, all.
Tps. 31, 32 S., R. 22 E., all.
T. 28 S., R. 23 E., all.
T. 29 S., R. 23 E.,
Secs. 1 thru 14, all;
Sec. 15, N½, N½S½, S½SW¼, SW¼SE¼;
Secs. 17, N½, SW¼, NE¼NE¼SE¼, W½NE¼SE¼, W½SE¼SE¼, SE¼SE¼SE¼, W½SE¼;
Secs. 18 thru 35, all.
Tps. 28 thru 32 S., Rgs. 24, 25, 26 E., all.

Aggregating approximately 597,000 acres.

2. At 10:00 a.m., on January 14, 1983 the public lands described in paragraph 1 above, will be open to operation of the public land laws generally, subject to valid existing rights, the provision of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10:00 a.m., on January 14, 1983 shall be considered as simultaneously filed at that time. Those received thereafter will be considered in the order of filing.

3. At 10:00 a.m., on January 14, 1983 the following described lands will be open to location under the United States Mining Laws, subject to the provisions of existing withdrawals:

Salt Lake Meridian, Utah

T. 30 S., R. 24 E.,
Sec. 24, SE¼SE¼SW¼, SW¼SW¼SE¼.
T. 29 S., R. 20 E.,
Sec. 22, W½SE¼SE¼;
Sec. 23, S½NW¼, N½SW¼, S½SW¼SW¼.
T. 30 S., R. 22 E.,
Sec. 13, SW¼NE¼, S½SE¼SW¼, E½NW¼ SE¼, NE¼SW¼SE¼, S½SW¼SE¼.
T. 28 S., R. 21 E.,
Sec. 9, SW¼NE¼, SE¼NW¼.
T. 27 S., R. 21 E.,
Sec. 8, S½SE¼SE¼.
T. 30 S., R. 21 E.,
Sec. 31, S½NW¼NW¼, N½SW¼NW¼.
T. 31 S., R. 21 E.,
Sec. 6, lots 7 and 8.
T. 27 S., R. 20 E.,
Sec. 34, NW¼SE¼, NE¼SW¼SE¼, S½SW¼SE¼, SE¼SE¼.
T. 28 S., R. 20 E.,
Sec. 3, NW¼NE¼, NE¼NW¼.
T. 32 S., R. 24 E.,
Sec. 6, NW¼SE¼.
T. 32 S., R. 19 E.,
Sec. 8, S½SW¼;
Sec. 17, N½NW¼.
T. 31 S., R. 18 E.,
Sec. 35, W½NW¼SW¼.
T. 32 S., R. 18 E.,
Sec. 10, SW¼NE¼SW¼;
Sec. 11, NW¼NW¼SW¼, SE¼SE¼SW¼, SW¼SW¼SE¼;
Sec. 13, N½NE¼SW¼.
T. 33 S., R. 18 E.,
Sec. 12, NW¼SW¼;

Sec. 24, SE¼SE¼NE¼.
T. 33 S., R. 19 E.,
Sec. 7, SE¼SW¼SW¼.

Those portions of the following listed sections which lie above the main Bridger Jack Mesa rim:

T. 31 S., R. 21 E.,
Secs. 15, 22, 23, 26, 27, 33 and 34.
T. 32 S., R. 20 E.,
Sec. 25.
T. 32 S., R. 21 E.,
Secs. 3, 4, 5, 8, 9, 10, 15–21, 29, 30, 31.
Aggregating 7,370.00 acres.

Inquiries concerning these lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, 136 East South Temple, Salt Lake City, Utah 84111.

Dated: December 7, 1982.

Roland G. Robison,

State Director.

[FR Doc. 82-34128 Filed 12-15-82; 8:45 am]

BILLING CODE 4310-84-M

[Coal Lease Application C-34886]

Colorado Coal Lease; Public Hearing, Availability of Environmental Assessment, and Request for Public Comment

The Department of the Interior, Bureau of Land Management, Colorado State Office, Denver, Colorado hereby gives notice that a public hearing will be held on January 25, 1983, at 7:00 p.m. in the Archuleta County Extension Building, Red Ryder Grounds, South of Pagosa Springs on Highway 84, Pagosa Springs, Colorado. Application has been made by Chimney Rock Coal Company to the United States that it offer for lease certain coal resources in the lands hereinafter described. The purpose of the hearing is to obtain public comments on the Environmental Assessment and on the following items: (1) The method of mining to be employed to obtain maximum economic recovery of the coal; (2) the impact that mining the coal in the proposed leasehold may have on the area, including, but not limited to, impacts on the environment; and (3) methods of determining the fair market value of the coal to be offered. Written requests to testify orally at the January 25, 1983, public hearing should be received at the San Juan Resource Area Headquarters, Bureau of Land Management, Federal Building, 701 Camino Del Rio, Durango, Colorado 81301, prior to the close of business January 24, 1983. People who indicate they wish to testify when they check in at the hearing may have an opportunity if time is available.

Both oral and written comments will be received at the public hearing, but speakers will be limited to a maximum of three or five minutes each depending on the number of persons desiring to comment. The time limitation will be strictly enforced, but the complete text of prepared speeches may be filed with the presiding officer at the hearing, whether or not the speaker has been able to finish oral delivery in the allotted minutes. Written comments regarding the Environmental Assessment may also be submitted to San Juan Resource Area Headquarters at the above address, prior to close of business on January 31, 1983.

In addition, the public is invited to submit written comments concerning the fair market value and maximum economic recovery of the coal resource to the Bureau of Land Management and the Minerals Management Service. Public comments will be utilized in establishing fair market value for the coal resources in the described lands. Comments should address specific factors related to fair market value including, but not limited to: the extent and quality of the coal resource, the price that the mined coal would bring in the market place, the cost of producing the coal, the interest rate at which anticipated income streams would be discounted, depreciation and other accounting factors, the value of the surface estate (if private surface), and the mining method or methods which would achieve maximum economic recovery of the coal. Documentation of similar market transactions, including location, terms, and conditions, may also be submitted. These comments will be considered in the final determination of fair market value as determined in accordance with 30 CFR 211.63 Should any information submitted as comments be considered to be proprietary by the commenter, the information should be labeled as such and stated in the first page of the submission. Comments should be sent to both the State Director (CO–943A), Bureau of Land Management, 1037 20th Street, Denver, Colorado 80202 and to the District Supervisor, Minerals Management Service, Resource Evaluation, P.O. Box 580, Grand Junction, Colorado 81502 to arrive no later than January 31, 1983.

Substantive Comments, whether written or oral, will receive equal consideration prior to any lease offering.

The coal resource to be offered is limited to 2,100,000 tons of coal recoverable by surface mining methods from Seams A, B, and C and any overlying coal seams in the following lands located approximately 25 miles southwest of the town of Pagosa Springs, Colorado:

T. 34 N., R. 4 W., NMPM (south of the Ute Line),
Sec. 29, N½SW¼,
Sec. 30, NW¼NE¼, E½NW¼, NE¼SW¼, and NW¼SE¼.

The land described contains 280 acres within the San Juan National Forest. The Forest Service has jurisdiction over 120 acres described as Sec. 30: NW¼NE¼ and E½NW¼, and the balance is privately owned.

The coal quality is as follows: Btu 12,714; Sulfur 0.59%; Ash 13.18%

The draft Environmental Assessment is available for review in the San Juan Resource Area Headquarters. Single copies are available for distribution upon request from that office.

A copy of the Environment Assessment, the case file and the comments submitted by the public on fair market value, except those portions identified as proprietary by the commenter and meeting exemptions stated in the Freedom of Information Act, will be available for public inspection at the Colorado State Office, Bureau of Land Management.

Rodney A. Roberts,

Chief, Mineral Leasing Section.

[FR Doc. 82-34129 Filed 12-15-82; 8:45 am]

BILLING CODE 4310-84-M

New Mexico; Proposed Land Exchange Between Navajo Indian Nation and Bureau of Land Management

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action on proposed land exchange.

SUMMARY: This notice is to advise the public that the Albuquerque District of the Bureau of Land Management (BLM) is proposing a land exchange with the Navajo Indian Nation.

SUPPLEMENTARY INFORMATION: The BLM has determined that the public lands described in Exhibits "A", "B", "C" and "D" of this notice are suitable for disposal by exchange under authority of Section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716). A portion of the public lands described in Exhibit "E" that are free of valid mining claims will also be included in the exchange. Approximately 57,200 acres of public lands will be involved.

In exchange for the public lands, the United States will receive the private lands described in Exhibit "F" of this notice from the Navajo Tribe. The total amount of Indian lands is 79,863.37 acres.

The fair market value of the lands to be exchanged is relatively equal and was established as of February 12, 1979. After the clearance of mining claims, the differences in value will be compensated for by acreage adjustments, the payment of money or by other arrangements that would be in the public interest.

The purpose of this exchange is to acquire Navajo fee lands for inclusion in the Bureau's multiple use management programs in Valencia County. Disposal of the public lands in McKinley, Sandoval, San Juan and Rio Arriba Counties will almost completely eliminate the unauthorized occupancy of public lands by members of the Navajo Tribe.

This exhange is consistent with recommendation L–2–3 in the San Juan Management Framework Plan (MFP) and L–2–6 in the Chaco MFP that call for resolution of the unauthorized occupancy on public lands. On the private lands to be conveyed to the U.S., the El Malpais MFP recommendation R–2–2 calls for acquisition of the lands involved to enhance the natural area characteristics and protect significant cultural values. In addition, the Ladron MFP recommendation WL–2 and RM–4.1 suggest that acquisition will improve the wildlife habitat and range management respectively.

All the public lands were withdrawn from appropriation under the general land laws including the mining laws by Public Land Order 5721, published on May 2, 1980. The duration of the withdrawal is from 20 years or until conveyance of title. Public Law 97–287, signed by the President on October 6, 1982, authorized the United States to convey these public lands to the Tribe to remain in trust status under jurisdiction of the Bureau of Indian Affairs.

A summary of the environmental impacts of exchange indicates that the only threatened or endangered species which could be affected is the black-footed ferret. None of the parcels will be affected by a 100-year flood.

The terms and conditions applicable to this exchange are as follows:

1. All minerals on the public lands will be reserved to the United States, with the right to prospect for, mine and remove the minerals under applicable law and such regulations as the Secretary of the Interior may prescribe.

2. Reserved to the U.S. is the right to enforce all or any of the terms and conditions of any existing right-of-way, including the right to renew it or extend it upon its termination and to collect rental payments.

3. Access is reserved by the U.S. over the public lands for BLM administration of surrounding public lands (that will not be conveyed) and for the general public to use and enjoy said lands.

4. The lands described in Exhibit "B" of this report were once thought to encroach on wilderness study areas, but the determination has since been made that they do not conflict with wilderness areas and are suitable for exchange.

5. On the lands described in Exhibit "C" of this report, the U.S. shall reserve all waters and the right of access to such waters. With this reservation, the lands themselves are suitable for exchange.

6. The lands described in Exhibit "D" of this report will be suitable for exchange when the conflicting Indian exchange and allotment applications that encumber the parcels are relinquished.

7. A majority of the lands described in Exhibit "E" of this report should be found suitable for exchange pending a determination by the BLM if the mining claims are valid with respect to BLM mineral policy. Those lands free of valid claims will be included in the exchange.

8. The cultural resource on all the public lands to be exchanged shall be protected by the Bureau of Indian Affairs who have the same responsibilities as the BLM with regard to 36 CFR 800.

9. The existing grazing operators on the private lands will be allowed to continue grazing under permit from the BLM when the lands are conveyed to the U.S. No non-Indian grazing privileges will be lost upon transfer of the public lands to the Tribe.

10. Those tracts that are conveyed to the Navajos but not presently encumbered by an occupant shall be reserved for the future relocation of Indian occupants that are presently located on the strippable coal areas.

Detailed information on the exchange, including the environmental assessment, record of public discussion and land report is available for review at the BLM, Albuquerque District Office, 3550 Pan American Freeway, NE, Albuquerque, New Mexico 87107.

For a period of 45 days after publication of this notice, interested parties may submit comments to the Albuquerque District Manager at the above address. Any adverse comments will be evaluated by the BLM State Director in Santa Fe, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become a final determination of the Department of the Interior.

L. Paul Applegate,

District Manager.

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

EXHIBIT A

Legal description	Parcel acreage
T. 11 N., R. 20 W.: Sec. 2, lots 1, 2, 3, 4, S½N½, N½SE¼	400.40
T. 14 N., R. 13 W.:	
Sec. 20, NW¼	160
Sec. 20, S½SW¼SE¼	20
T. 14 N., R. 14 W.: NMPN: Sec. 14; NE¼	160
T. 14 N., R. 18 W.: Sec. 26; SE¼	160
T. 15 N., R. 11 W.: Sec. 8; NW¼	160
T. 15 N., R. 15 W.: Sec. 2; lots 1, 2, 3, 4, S½N½	320.60
T. 15N., R. 20 W.:	
Sec. 12; SE¼	160
Sec. 20; E½	320
Sec. 22; SW¼	160
T. 16 N., R. 16 W.: Sec. 20; N½	320
T. 17 N., R. 4 W.:	
Sec. 2; SW¼	160
Sec. 2; SE¼	160
T. 17 N., R. 5 W.: Sec. 24; SW¼	160
T. 17 N., R. 6 W.: Sec. 16; SE¼	160
T. 18 N., R. 5 W.: Sec. 1; lots 1, 2, S½NE¼	147.37
T. 18 N., R. 6 W.: Sec. 20; NE¼	160
T. 18 N., R. 7 W.:	
Sec. 14; SW¼	160
Sec. 16; NE¼	160
T. 19 N., R. 5 W.: Sec. 22; SE¼	160
T. 19 N., R. 13 W.: Sec. 18; NE¼	160
T. 20 N., R. 4 W.:	
Sec. 6, lots 1, 2, S½NE¼, SE¼	293.34
Sec. 8, NW¼	160
Sec. 8, SE¼	160
Sec. 18, SE¼	160
T. 20 N., R. 5 W.:	
Sec. 8, SW¼	160
Sec. 14, SE¼	160
T. 20 N., R. 6 W.: Sec. 15; NE¼	160
T. 21 N., R. 5 W.:	
Sec. 2, SE¼	160
Sec. 3, lots 1,2, S½NE¼	160.09
Sec. 3, lots 3, 4, S½NW¼, SW¼	321.31
Sec. 4, S½	320
Sec. 4, lots 3, 4, S½NW¼	159.93
Sec. 5, lots 3, 4, S½NW¼	159.66
Sec. 6, lots 1, 2, S½NE¼	159.78
Sec. 7, NE¼	160
Sec. 7, lots 1, 2, E½NW¼	160.37
Sec. 7, lots 3, 4, E½SW¼, SE¼	320.87
Sec. 8, NW¼	160
Sec. 16, NE¼	160
Sec. 16, SE¼	160
Sec. 21, NE¼	160
Sec. 21, SE¼	160
T. 21 N., R. 6 W.:	
Sec. 5, lots 1, 2, 3, 4, S½N½	322.24
Sec. 6, lots 6, 7, E½SW¼	159.66
Sec. 24, W½	320
T. 21 N., R. 7 W.:	
Sec. 1, S½	320
Sec. 2, lots 1, 2, S½NE¼	162.45
Sec. 10, NE¼	160
Sec. 11, NE¼, SE¼	320
Sec. 14, SE¼	160
Sec. 16, SE¼	160
Sec. 22, SE¼	160
Sec. 28, W½	320
Sec. 36, SW¼	160
T. 21 N., R. 8 W.: Sec. 13, NW¼	160
T. 22 N., R. 6 W.:	
Sec. 4, SE¼	160
Sec. 5, SW¼	160
Sec. 6, lots 6, 7, E½SW¼	161.16
Sec. 7, SW¼	160
Sec. 8, NE¼ 160	
Sec. 8, NW¼	160
Sec. 8, SE¼	160
Sec. 9, N½	320
Sec. 9, SW¼	160
Sec. 10 NW¼	160
Sec. 15, SE¼	160
Sec. 22, NE¼NE¼	40
Sec. 23, NE¼	160

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO—Continued

Legal description	Parcel acreage
Sec. 23, SE¼	160
Sec. 24, NW¼	160
Sec. 25, W½	320
Sec. 26, SW¼	160
Sec. 26, E½	320
Sec. 29, E½	320
Sec. 32, SW¼	160
Sec. 32, E½	320
Sec. 34, NE¼	160
Sec. 35, E½	320
Sec. 36, N½	320
Sec. 36, SE¼	160
T. 22 N., R. 7 W.:	
Sec. 7, NE¼	160
Sec. 7, lots 1, 2, E½NW¼	161.66
Sec. 10, NE¼	160
Sec. 13, SW¼	160
Sec. 24, SE¼	160
Sec. 25, SE¼	160
Sec. 26, SW¼	160
Sec. 34, SE¼	160
T. 22 N., R. 8 W.:	
Sec. 17, N½	320
Sec. 18, lots 3, 4, E½SW¼	159.58
Sec. 18, SE¼	160
Sec. 21, NW¼	160
T. 23 N., R. W.:	
Sec. 6, lots 3, 4, 5, SE¼NW¼	160.72
Sec. 6, lots 6, 7, E½SW¼, SE¼	321.20
Sec. 7, NE¼	160
Sec. 35, NE¼	160
T. 23 N., R. 8 W.:	
Sec. 17, NE¼	160
Sec. 17, SE¼	160
Sec. 21, NE¼	160
Sec. 23, SW¼	160
Sec. 26, NW¼	160
Sec. 27, N½	320
Sec. 30, lots 1, 2, E½NW¼, NE¼	250.07
Sec. 30, lots 3, 4, E½SW¼	162.15
Sec. 31, SE¼	160
Sec. 34, SW¼	160
T. 24 N., R. 7 W.:	
Sec. 30, lots 3, 4, E½SW¼	161.40
T. 24 N., R. 8 W.:	
Sec. 6, lot 6, NE¼SW¼	79.60
Sec. 7, lots 3, 4, E½SW¼	160.51
Sec. 19, NE¼	160
Sec. 21, E½	320
Sec. 29, NW¼	160
Sec. 35, SE¼	160
T. 24 N., R. 9 W.:	
Sec. 3, lots 3, 4, S½NW¼, SW¼	320.04
Sec. 4, lots 1, 2, S½NE¼	160.09
Sec. 4, SE¼	160
Sec. 9, SW¼	160
Sec. 14, W½	320
Sec. 15, NE¼	160
Sec. 22, E½	320
Sec. 23, NW¼	160
Sec. 25, NW¼	160
Sec. 26, SE¼	160
Sec. 27, NW¼	160
T. 24 N., R. 10 W.:	
Sec. 4, SW¼	160
Sec. 8, SE¼	160
Sec. 10, E½	320
Sec. 11, SE¼	160
Sec. 17, NE¼	160
Sec. 18, NE¼	160
Sec. 21, SW¼	160
Sec. 23, SW¼	160
Sec. 30, SE¼	160
Sec. 33, SE¼	160
Sec. 36, NW¼	160
T. 24 N., R. 11 W., NMPM:	
Sec. 7, SE¼	160
Sec. 14, SE¼	160
Sec. 15, SE¼	160
Sec. 24, E½	320
Sec. 26, N½	320
T. 25 N., R. 8 W.:	
Sec. 6, lots 8, 9, 10, 11	123.87
T. 25 N., R. 9 W.:	
Sec. 7, N½SE¼, SW¼SE¼	120
Sec. 8, NW¼	160
Sec. 13, N½	320
Sec. 18, lots 1, 2, 3, 4, E½W½, NE¼	484.34
Sec. 33, SE¼	160

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO—Continued

Legal description	Parcel acreage
T. 25 N., R. 10 W.:	
Sec. 6, Lots 1, 2, S½NE¼	159.58
Sec. 7, NE¼	160
Sec. 10, SW¼	160
Sec. 14, NW¼	160
Sec. 25, NW¼	160
Sec. 29, NW¼	160
Sec. 29, SW¼	160
Sec. 34, NW¼	160
T. 25 N., R. 11 W.:	
Sec. 1, lots 3, 4, S½NW¼	161.36
Sec. 2, lots 1, 2, SW¼NE¼	120.64
Sec. 8, NW¼	160
Sec. 9, SW¼	160
Sec. 11, SE¼	160
Sec. 14, SE¼	160
Sec. 19, lots 1, 2, E½NW¼	161.06
Sec. 20, W½	320
Sec. 30, E½	321
Sec. 31, NE¼	160
Sec. 32, SE¼	160
Sec. 34, NW¼	160
T. 25 N., R. 12 W.:	
Sec. 12, S½	320
Sec. 13, NW¼	160
Sec. 13, S½	320
Sec. 14, SE¼	160
Sec. 23, NE¼	160
Sec. 25, SE¼	160
Sec. 26, SE¼	160
Sec. 28, NW¼	160
Sec. 35, W½	320
Sec. 36, SW¼	160
T. 26 N., R. 11 W.:	
Sec. 23, SW¼	160
T. 27 N., R. 9 W.:	
Sec. 11, N½	320
Sec. 15, NE¼	160
T. 28 N., R. 9 W.:	
Sec. 24, NE¼	160
Sec 36, NW¼	160
Total acres	35,167.44

EXHIBIT B

T. 18 N., R. 4 W.:	
Sec. 19, SE¼	160
T. 18 N., R. 5 W.:	
Sec. 10, SE¼	160
Sec. 15, SE¼	160
Sec. 22, NE¼	160
T. 19 N., R. 4 W.:	
Sec. 20, NE¼	160
Sec. 21, NW¼	160
Sec. 23, SW¼	160
Sec. 24, SW¼	160
Sec. 25, SE¼	160
Sec. 26, NW¼	160
Sec. 27, SW¼	160
Sec. 28, NW¼	160
Sec. 28, SE¼	160
T. 24 N., R. 11 W.:	
Sec. 14, SE¼	160
Sec. 15, SE¼	160
Sec. 26, N½	320
T. 25 N., R. 11 W.:	
Sec. 31, NE¼	160
Sec. 32, SE¼	160
T. 25 N., R. 12 W.:	
Sec. 36, SW¼	160
Total Acres	3,200

EXHIBIT C

T. 21 N., R. 7 W.:	
Sec. 18, SE¼	160
Sec. 28, W½	320
T. 23 N., R. 8 W.: Sec. 27, N½	320
T. 25 N., R. 8 W.: Sec. 4, SW¼	160
Total Acres	960

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO—Continued

Legal description	Parcel acreage
EXHIBIT D	
T. 14 N., R. 18 W.: Sec. 4, SE¼	160
T. 16 N., R. 12 W.: Sec. 8, NE¼	160
T. 18 N., R. 3 W.: Sec. 18, SE¼	160
T. 21 N., R. 5 W.:	
Sec. 2, lots 1, 2, 3, 4, S½N½	320.17
Total Acres	800.17
EXHIBIT E	
T. 13 N., R. 19 W.:	
Sec. 8, NW¼	160
Sec. 12, S½	320
T. 14 N., R. 17 W.: Sec. 30, NE¼	160
T. 14 N., R. 18 W.:	
Sec. 26, NE¼	160
Sec. 32, S½	320
T. 14 N., R. 19 W.:	
Sec. 8, N½	320
Sec 26, NW¼	160
T. 15 N., R. 11 W.: Sec. 26, SE¼	160
T. 15 N., R. 12 W.: Sec. 36, SE¼	160
T. 15 N., R. 17 W.:	
Sec. 6, lots 1, 2, 3, 4, 5, SE¼NW¼, S½NE¼	321.07
Sec. 28, NE¼	160
T. 15 N., R. 19 W.: Sec. 18, lots 1, 2, E½NW¼	159.90
T. 15 N., R. 20 W.:	
Sec. 18, lots 3, 4, E½SW¼	159.48
Sec. 26, NW¼	160
T. 16 N., R. 11 W.: Sec. 14, SW¼	160
T. 16 N., R. 14 W.: Sec. 20, S½	320
T. 16 N., R. 15 W.:	
Sec. 8, NE¼, N½S½	320
Sec. 14, SE¼	160
Sec. 22, N½SW¼, SW¼SW¼, N½SE¼SW¼, SW¼SE¼SW¼, SE¼	310
Sec. 24, SE¼	160
T. 16 N., R. 16 W.:	
Sec. 18, lot 1, NE¼NW¼	80.03
Sec. 18, SE¼	160
T. 16 N., R. 17 W.: Sec. 14, NE¼	160
T. 17 N., R. 4 W.:	
Sec. 3, SW¼	160
Sec. 5, lots 3, 4, S½NW¼	159.78
Sec. 7, SE¼	160
Sec. 11, NW¼	160
Sec. 18, SE¼	160
Sec. 19, NE¼	160
Sec. 20, W½	320
T. 17 N., R. 5 W.:	
Sec. 4, SE¼	160
Sec. 6, lots 1, 2, S½NE¼	159.76
T. 17 N., R. 6 W.:	
Sec. 15, SW¼	160
Sec. 15, E½	320
Sec. 21, NE¼	160
Sec. 23, NE¼	160
Sec. 28, SE¼	160
Sec. 33, NE¼	160
T. 18 N., R. 3 W.:	
Sec. 4, lots 3, 4, S½NW¼	145.75
Sec. 5, SW¼	160
Sec. 7, E½	320
Sec. 8, N½, N½SW¼, N½SW¼SW¼, SW¼SW¼SW¼, E½SE¼SW¼SW¼	435
Sec. 16, SW¼	160
Sec. 18, lots 3, 4, E½SW¼	161.06
Sec. 18, SE¼	160
Sec. 20, SW¼	160
T. 18 N., R. 4 W.:	
Sec. 7, lots 1, 2, E½NW¼	153.13
Sec. 7, SE¼	160
Sec. 15, NW¼	160
Sec. 18, E½NE¼, N½NW¼NE¼, SW¼NW¼NE¼, W½SE¼NW¼NE¼, SW¼NE¼	155
Sec. 19, SE¼	160
Sec. 20, NE¼	160
Sec. 27, N½	320
Sec. 29, N½	320
Sec. 35, SE¼	160
T. 18 N., R. 5 W.:	
Sec. 3, lots 3, 4, S½NW¼	149.18
Sec. 3, S½	320
Sec. 10, SE¼	160
Sec. 12, NE¼	160
Sec. 22, NE¼	160

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO—Continued

Legal description	Parcel acreage
T. 18 N., R. 12 W.: Sec. 20, N½, SW¼	480
T. 19 N., R. 4 W.:	
Sec. 19, lots 1, 2, E½NW¼	157.05
Sec. 21, NW¼	160
Sec. 23, SW¼	160
Sec. 25, SE¼	160
Sec. 26, NW¼	160
Sec. 27, SW¼	160
Sec. 28, NW¼	160
Sec. 31, lots 3, 4, E½SW¼	157.60
T. 19 N., R. 5 W.:	
Sec. 11, SE¼	160
Sec. 20, NE¼	160
Sec. 21, NW¼	160
Sec. 25, SW¼	160
Sec. 26, NW¼	160
Sec. 28, NW¼, S½	480
Sec. 34, NW¼	160
T. 19 N., R. 7 W.:	
Sec. 1, lot 5	38.45
Sec. 6, lots 1, 2, S½NE¼	138.94
Sec. 7, lots 3, 4, E½SW¼	160.72
T. 20 N., R. 5 W.: Sec 10, SE¼	160
T. 20 N., R. 8 W.: Sec. 10, SE¼	160
T. 22 N., R. 8 W.:	
Sec. 5, SW¼	160
Sec. 6, lots 3, 4, 5, SE¼NW¼	160.21
Sec. 7, lots 3, 4, E½SW¼	160.40
Sec. 9, SW¼	160
Sec. 17, SE¼	160
Sec. 32, SE¼	160
T. 22 N., R. 9 W.:	
Sec. 3, lots 1, 2, 3, 4, S½N½	329.37
Sec. 13, SW¼	160
Sec. 14, SW¼	160
T. 23 N., R. 8 W.:	
Sec. 1, SW¼	160
Sec. 2, lots 3, 4, S½NW¼	162.27
T. 23 N., R. 9 W.:	
Sec. 1, SE¼	160
Sec. 15, NW¼	160
Sec. 27, NE¼	160
Sec. 34, SW¼	160
Sec. 35, SE¼	160
T. 23 N., R. 10 W.:	
Sec. 8, S½	320
Sec. 10, W½	320
Sec. 11, NW¼	160
Sec. 13, NE¼	160
Sec. 24, SE¼	160
T. 25 N., R. 8 W.: Sec. 4, SW¼	160
T. 29 N., R. 13 W.:	
Sec. 19, SE¼	160
Sec. 28, E½SW¼SW¼, W½SE¼SW¼	80
Total Acres	19,876.69

EXHIBIT F

T. 6 N., R. 3 W.:	
Sec. 1, lots 1, 2, 3, 4, S½N½, S½	637.68
Sec. 3, lots 1, 2, 3, 4, S½N½, S½	635.60
Sec. 5, lots 1, 2, 3, 4, S½N½, S½	636.32
Sec. 7, lots 1, 2, 3, 4, E½W½, E½	639.92
Sec. 9, W½	320.00
Sec. 19, lots 1, 2, 3, 4, E½W½, E½	640.08
T. 7 N., R. 3 W.: Sec 35, lots 1, 2, 3, 4, S½N½, S½	622.56
T. 6 N., R. 4 W.:	
Sec. 1, lots 1, 2, 3, 4, S½N½, S½	636.80
Sec. 3, lots 1, 2, 3, 4, S½N½, S½	634.56
Sec. 5, lots 1, 2, 3, 4, S½N½, S½	629.52
Sec. 7, lots 1, 2, 3, 4, E½W½, E½	622.64
Sec. 9, all	640.00
Sec. 11, all	640.00
Sec. 13, all	640.00
Sec. 15, all	640.00
Sec. 17, all	640.00
Sec. 19, lots 1, 2, 3, 4, E½W½, E½	619.20
Sec. 21, all	640.00
Sec. 23, all	640.00
Sec. 25, all	640.00
Sec. 27, all	640.00
Sec. 29, all	640.00
Sec. 31, lots 1, 2, 3, 4, E½W½, E½	622.80
Sec. 33, all	640.00
Sec. 35, all	640.00
T. 6 N., R. 5 W.:	
Sec. 1, lots 1, 2, 3, 4, S½N½, S½	646.00

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO—Continued

Legal description	Parcel acreage
Sec. 3, lots 1, 2, 3, 4, S½N½, S½	651.84
Sec. 5, lots 1, 2, 3, 4, S½N½, S½	645.60
Sec. 7, lots 1, 2, 3, 4, E½W½, E½	641.60
Sec. 9, all	640.00
Sec. 13, all	640.00
Sec. 17, all	640.00
Sec. 19, lots 1, 2, 3, 4, E½W½, E½	639.60
Sec. 23, all	640.00
Sec. 25, all	640.00
Sec. 29, all	640.00
Sec. 31, lots 1, 2, 3, 4, E½W½, E½	647.92
T. 7 N., R. 5 W.:	
Sec. 1, lots 1, 2, 3, 4, S½N½, S½	644.00
Sec. 3, lots 1, 2, 3, 4, S½N½, S½	644.00
Sec. 5, lots 1, 2, 3, 4, S½N½, S½	646.40
Sec. 7, lots 1, 2, 3, 4, E½W½, E½	627.20
Sec. 9, all	640.00
Sec. 11, all	640.00
Sec. 13, all	640.00
Sec. 15, all	640.00
Sec. 17, all	640.00
Sec. 19, lots 1, 2, 3, 4, E½W½, E½	626.40
Sec. 21, all	640.00
Sec. 23, all	640.00
Sec. 25, all	640.00
Sec. 27, all	640.00
Sec. 29, all	640.00
Sec. 31, lots 1, 2, 3, 4, E½W½, E½	631.20
Sec. 33, all	640.00
Sec. 35, all	640.00
T. 7 N., R. 11 W.:	
Sec. 1, lots 1, 2, 3, 4, S½N½, S½	640.90
Sec. 3, lots 3, 4, S½NW¼, SW¼	319.76
Sec. 5, lots 1, 2, 3, 4, S½N½, S½	641.44
Sec. 7, lots 1, 2, 3, 4, E½W½, E½	634.00
Sec. 9, all	640.00
Sec. 11, all	640.00
Sec. 13, all	640.00
Sec. 15, all	640.00
Sec. 17, all	640.00
Sec. 19, lots 1, 2, 3, 4, E½W½, E½	631.20
Sec. 21, all	640.00
Sec. 23, all	640.00
Sec. 25, all	640.00
Sec. 27, all	640.00
Sec. 29, all	640.00
Sec. 31, lots 1, 2, 3, 4, E½W½, E½	632.48
Sec. 33, all	640.00
Sec. 35, all	640.00
T. 8 N., R. 11 W.:	
Sec. 11, all	640.00
Sec. 13, all	640.00
Sec. 15, all	640.00
Sec. 19, lots 1, 2, 3, 4, E½W½, E½	636.16
Sec. 21, NE¼, S½	480.00
Sec. 23, all	640.00
Sec. 25, all	640.00
Sec. 27, all	640.00
Sec. 29, all	640.00
Sec. 31, lots 1, 2, 3, 4, E½W½, E½	634.48
Sec. 33, all	640.00
Sec. 35, all	640.00
T. 6 N., R. 12 W.:	
Sec. 1, lots 1, 2, S½NE¼, SE¼	320.10
Sec. 3, lots 1, 2, 3, 4, S½N½, S½	638.00
Sec. 5, lots 1, 2, 3, 4, S½N½, S½	639.52
Sec. 7, lots 1, 2, 3, 4, E½W½, E½	626.80
Sec. 9, all	640.00
Sec. 11, all	640.00
Sec. 13, W½	320.00
Sec. 15, all	640.00
Sec. 17, all	640.00
Sec. 19, lots 1, 2, 3, 4, E½W½, E½	631.28
Sec. 21, all	640.00
Sec. 23, all	640.00
Sec. 25, all	640.00
Sec. 27, all	640.00
Sec. 29, all	640.00
Sec. 31, lots 1, 2, 3, 4, E½W½, E½	633.36
Sec. 33, all	640.00
T. 7 N., R. 12 W.:	
Sec. 1, lots 1, 2, 3, 4, S½N½, S½	639.82
Sec. 3, lots 1, 2, 3, 4, S½N½, S½	640.96
Sec. 5, lots 1, 2, 3, 4, S½N½, S½	640.24
Sec. 7, lots 1, 2, 3, 4, E½W½, E½	622.60
Sec. 9, all	640.00
Sec. 11, all	640.00
Sec. 15, all	640.00
Sec. 17, all	640.00
Sec. 19, lots 2, 3, 4, E½, E½W½	587.89
Sec. 21, N½	320.00
Sec. 23, N½	320.00
Sec. 25, all	640.00
Sec. 27, all	640.00
Sec. 31, lots 1, 2, 3, 4, E½W½, E½	622.92
Sec. 33, all	640.00
Sec. 35, all	640.00
T. 8 N., R. 12 W.:	
Sec. 1, lots 1, 2, 3, 4, S½N½, S½	623.84
Sec. 3, lots 1, 2, 3, 4, S½N½, S½	622.92
Sec. 11, all	640.00
Sec. 13, all	640.00
Sec. 15, N½	320.00
Sec. 23, all	640.00
Sec. 25, all	640.00
Sec. 27, S½	320.00
Sec. 29, S½	320.00
Sec. 31, lots 1, 2, 3, 4, E½W½, E½	626.72
Sec. 33, all	640.00
Sec. 35, all	640.00
Total acres	79,863.37

[FR Doc. 82-34130 Filed 12-15-82; 8:45 am]

BILLING CODE 4310-84-M

Environmental Impact Statement; Extension of Public Review Period; 1982 Amendments to California Desert Plan and Eastern San Diego Management Framework Plan

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of extension.

SUMMARY: Notice is hereby given that the public review period for the Environmental Impact Statement prepared for the 1982 Amendments to the California Desert Plan and the Eastern San Diego County Management Framework Plan is extended.

DATE: Comments are being accepted from the public until 24 days after the publication of this notice.

FOR FURTHER INFORMATION CONTACT: Gerald E. Hillier, District Manager, California Desert District, 1695 Spruce Street, Riverside, California 92507.

SUPPLEMENTARY INFORMATION: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, the Bureau of Land Management prepared a Draft Environmental Impact Statement (DEIS) concerning the 1982 Amendment Review of the California Desert Plan and the Eastern San Diego County Management Framework Plan. The EIS was published on September 10, 1982; a 66-day public review period followed. Public interest in the EIS was high, and over 600 letters of comment were received. Several comments arrived after the formal closing of the public review on November 15. In light of the strong interest in the amendments, the Bureau feels that an extension of the

comment period is necessary to ensure that the public has been provided with ample time for review, and to ensure that those comments which arrived late receive full consideration in the final EIS. Accordingly, the public review period is being extended.

Gerald E. Hillier,

District Manager.

[FR Doc. 82-34145 Filed 12-15-82; 8:45 am]

BILLING CODE 4310-84-M

Extension on Henry Mountain Draft Grazing Environmental Impact Statement (EIS) 43 CFR 4100

Notice is hereby given that the comment period for the Henry Mountain Draft Grazing EIS which were accepted on December 1, 1982 (October 29, 1982; 47 FR 49094) and cited in the draft EIS as closing on December 30, 1982, is extended to February 28, 1983.

Comments are to be mailed to the Richfield District BLM Office at 150 East 900 North, Richfield, Utah 84701, attention Donald L. Pendleton, District Manager.

Dated: December 10, 1982.

Larry R. Oldroyd,

Associate District Manager.

[FR Doc. 82-34128 Filed 12-15-82; 8:45 am]

BILLING CODE 4310-84-M

Ely District Advisory Council; Meeting

AGENCY: Ely District Advisory Council.

ACTION: Notice of Meeting.

SUMMARY: The Ely District Advisory Council will conduct a meeting on Wednesday, January 26, 1983. The meeting will convene at 9:00 a.m. in the Conference Room of the Ely District BLM Office, Pioche Highway, Ely, Nevada. The following events and topics will be included on the agenda for the meeting:

(1) Council Member introductions.
(2) BLM District Organization and Responsibilities briefing.
(3) Role and functions of District Advisory Council.
(4) Briefing of major District programs by Resource Area.
(5) Public comment period.
(6) Election of Council Officers.
(7) Determination of next meeting date, place and agenda items.

The meeting is open to the public. Written comments may be filed with the District Manager for the Council's consideration, and oral statements will be heard at 1:00 p.m. Depending upon the number of persons wishing to make statements, a per person time limit may be established by the District Manager.

Summary minutes of the meeting will be available for public inspection at the Ely District Office within 30 days following the meeting.

Date: January 26, 1983.

Address: Bureau of Land Management, Star Route 5, Box 1, Ely, Nevada 89301.

For further information contact: Ms. Cleone McDonald, 702-289-4865.

Dated: December 9, 1982.

George W. Cropper,

Acting District Manager.

[FR Doc. 82-34131 Filed 12-15-82; 8:45 am]

BILLING CODE 4310-84-M

[UT-910-4310-84]

Uinta-Southwestern Utah Regional Coal Leasing; Regional Coal Team Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Regional Coal Team Meeting.

SUMMARY: This notice is to advise the public that the Regional Coal Team (RCT) for the Uinta-Southwestern Utah Federal Coal Production Region will meet to: (1) Make the RCT recommendation on public body setaside leasing for Round II; (2) review and confirm alternatives to be considered in preparation of the Draft EIS.

DATES: The Regional Coal Team will meet on January 14, 1983, starting at 10:00 a.m.

ADDRESSES: Comments on the possible agenda items should be addressed to Edward F. Spang, Chairman, Regional Coal Team, Nevada State Director, Bureau of Land Management, Federal Building, 300 Booth Street, P.O. Box 12000, Reno, Nevada 89520

The Regional Coal Team Meeting will be in the Hotel Utah, Bonneville II Room, Main at South Temple, Salt Lake City, Utah.

FOR FURTHER INFORMATION CONTACT: Max Nielson, Coal Project Manager, Uinta-Southwest Utah Region, Bureau of Land Management, 136 East South Temple, Salt Lake City, Utah, telephone (801) 524-5326.

SUPPLEMENTARY INFORMATION: The Regional Coal Team will meet on January 14, 1983, at 10:00 a.m. in the Hotel Utah. The Regional Coal Team will primarily be meeting to discuss leasing alternatives and possible designation of public body setaside tracts that will be considered for Round II of potential leasing in the Uinta-Southwestern Utah Coal Production Region. Regular business of the team concerning the Round II activity planning effort in the Uinta-Southwestern Utah Coal Region may also be conducted.

Material concerning the potential lease tracts and the EIS which is being prepared, can be obtained by contacting the Coal Project Manager, at the Bureau of Land Management's Utah State Office, 15th floor, University Club Building, 136 East South Temple, Salt Lake City, Utah.

Dated: December 10, 1982.

Roland G. Robison,

State Director, Utah

[FR Doc. 82-34123 Filed 12-15-82; 8:45 am]

BILLING CODE 4310-84-M

State of California; Call for Applications for Wind Energy Development in the Tehachapi Pass

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice. State of California; Call for Applications for Wind Energy Development in the Tehachapi Pass.

SUMMARY: The Tehachapi Pass area located in Southern California approximately three (3) miles northwest of Mojave has been identified as one of the most promising wind energy development locations in California. In response to applications filed by private interests to develop the wind resource, the Bureau of Land Management (BLM) will prepare an environmental document assessing the impacts of development within the 400 square mile area.

The objectives of the Bureau are to:

1. Ensure timely and orderly development of this important resource in a manner compatible with the use of the public lands for other purposes;
2. Assure that wind exploration, development, and production is conducted with maximum protection of the environment, and;
3. Assure the public a fair return for the use of public lands and the use of its renewable resources

To assist the Director of the BLM in carring out these objectives and pursuant to Pub. L. 94-579, Title V of the Federal Land Policy and Management Act of 1976 (FLPMA), ad 43 CFR Part 2800, requests for applications in addition to those already filed, are now being solicited from interested individuals for the next 60 days for possible granting of rights-of-way for power generating facilities on public lands.

Description of the Area

Applications will be considered within the area shown on the Tehachapi Pass Wind Study Map available at the BLM California Desert District, Riverside, California; Ridgecrest Resource Area Office, Ridgecrest; Caliente Resource Area Office, Bakersfield District, California. Public lands contained with the study area include: All or portions of Sections 2, 12, 26, 32, 34, and 36, T. 30 S., R. 34 E., Mount Diablo Meridian (MDM); Sections 2, 10, 14, 18, 24, 26, 28, 30, 31, and 32 T. 30 S., R. 35 E., MDM; Sections 18, 20, 30, 31, and 32, T. 30 S., R. 36 E., MDM; Sections 1, 2, 3, 4, 5, 6, 8, 12, 14, 18, 20, 24, 26, and 34, T. 31 S., R. 34 E., MDM; Sections 6, 30, 31, 32, 33, 34, 35, and 36, T. 31 S., R. 35 E., MDM; Sections 4, 5, 6, 8, 9, 14, 22, 24, 26, 28, 32, and 34, T. 31 S., R. 36 E., MDM; Lots 1 through 4 located east of Section 13, and Lots 1 through 4 located east of Section 24, T. 31 S., R. 36 1/2 E., MDM; Section 24, T. 32 S., R. 34 E., MDM; Sections 1–12 inclusive, 14, 17, 18, 19, 20, 24, 26, 28, 30, 32, and 34, T. 32 S., R. 35 E., MDM; Sections 4, 6, 8, and 18, T. 32 S., R. 36 E., MDM; Sections 32 and 34, T. 12 N., R. 13 W., SBM; Section 32, T. 12 N., R. 12 W., SBM; Sections 22, 24, 32, and 34, T. 11 N., R. 15 W., SBM; Sections 22, 26, 28, 30, 32, and 34, T. 11 N., R. 14 W., SBM; Section 6, T. 11 N., R. 13 W., SBM. The following public lands are closed to vehicle use without permit: Section 6, T. 30 S., R. 34 E., MDM; Sections 2, 10, 14, 18, 24, 26, 28, 30, 31, and 32, T. 30 S., R. 35 E., MDM; Sections 18, 20, 30, 31, and 32, T. 30 S., R. 36 E., MDM.

Permits to enter public lands in this area may be obtained by contacting the BLM, Ridgecrest Resource Area Office, 1415A No. Norma Street, Ridgecrest, California.

Right-of-Way

Applications must be submitted no later than 60 days from the date of this notice. No other applications will be accepted after this date for inclusion in the environmental document. In accordance with 43 CFR Part 2800, Rights-of-Way Principles and Procedures, applicants will furnish BLM a project description detailing what is being proposed and the time period involved; a legal description of lands you wish to apply for with a map showing their location; a non-refundable check to cover processing fees as explained in § 2803.1–1; and a copy of the company's charter or articles of incorporation certified by the State. The project description shall be in sufficient detail to enable the authorized officer to determine:

1. Its impact to the environment
2. Any benefits provided to the public
3. Safety of the proposal, and
4. The specific public lands proposed to the occupied

The environmental document will be funded in accordance with 43 CFR 2803.1(a)(1) by the Bureau through appropriated funds.

To accomplish the above and to ensure that applications will be properly analyzed on a site-specific basis for the environmental document, the project description accompanying the application must include all of the information provided below:

Project Description

1. Applicant
2. Contact—include phone number of project coordinator and engineer:
3. Manufacture:
4. Location—include a legal description, acreage compilation, and map for all public lands under application
5. Wind Machine Model—if more than one machine is under consideration for deployment, include specifications for all types. Describe under what conditions one type of machine would be used over another
6. Physical Specifications:
   - Total height
   - Tower height
   - Rotor diameter
   - Total weight
   - Weight of blades
   - Foundation construction (width, depth and height)
   - Material specifications including weight of foundation
   - Tower construction—materials and components
   - Blade construction—materials and components
   - Photograph of wind turbine generator model (8×10, Black & White)
   - Structure designs for the tower and foundation should be supplied
7. Performance Specifications:
   - Rotation speed (rotor RPM)
   - Speed of blade tips
   - Power output
   - Cut-in speed
   - Noise generation
   - Cut-out speed
   - Rated wind speed
   - Rotor orientation
   - Generator RPM
   - Generator type
   - Gear box step-up ratio
   - Gear box type
8. Projected Annual Production:
   - Output based on annual average wind speed
9. Additional information:
   - Rotor, hardware specification, i.e., type, size
   - Alternator, hardware specification, i.e., type, size
10. Brake System:
    - Type
11. Control Functions:
    - Automatic yaw
    - Failsafe brake application and release
    - Alternator voltage and phasing
    - Circuit breakers for overcurrent control
12. Variables Monitored—described your plans for monitoring the following items:
    - Alternator output
    - Rotor speed
    - Wind speed
    - Wind direction
13. Safety Features:
    - Electrical systems designed to comply with National Electrical Code
    - Lightning protection on all circuits
    - Blade throw probability of occurrence
14. Wind Machine Construction Activities:
    - Site preparation (both temporary and permanent)
    - Temporary use areas. Construction yards for material storage and equipment maintenance stations. Provide security arrangements. Equipment pads or leveled areas at each tower site to facilitate equipment operation should be identified. A table similar to that shown below can be used to summarize land areas occupied.

SUMMARY OF LAND AREAS TEMPORARILY AND PERMANENTLY OCCUPIED

Units	Acres temporarily occupied	Acres permanently occupied

WTG.
Roads.
New main roads.
New spur roads.
Existing roads.
Work areas.
Construction yards.
Other.

Wind turbine installation. Describe installation procedures. Diagrams if available should be submitted. Construction equipment. Provide specifications of equipment (i.e., pickup, 4 x 4, crane, 5-ton, etc., including fuel use requirements and length of service over construction material.
Clean up.

Technical and construction personnel—describe workforce requirements for construction and maintenance activities. Snow workforce schedule for construction period and source of labor supply (local or regional).
Construction schedule.

15. Operation and Maintenance:

Patrols.
Routine maintenance requirements.
Equipment needs.
Access roads.
Other. .
16. Abandonment (plans for).
17. Transmission System and Substation:
Design.
Construction.
Operation and maintenance.
Abandonment.
18. Security of Facilities and Equipment:

This information must be received no later than 60 days from the date of this notice in order to facilitate prompt initiation of site-specific analysis in the environmental document.

The authorized officer shall acknowledge in writing receipt of the application. The authorized officer may require the applicant for a right-of-way grant to submit such additional information as he deems necessary for review of the application. All requests for additional information will be in writing.

Where the authorized officer determines that information supplied by an applicant is incomplete or does not conform to FLPMA or 43 CFR Part 2800 regulations the authorized officer shall notify the applicant of these deficiencies and afford the applicant an opportunity to file a correction. Where a deficiency notice has not been adequately compiled with, the authorized officer may reject the application. All applications must be submitted to the Bureau of Land Management, Ridgecrest Resource Area Office, 1415A No. Norma Street, Ridgecrest, California.

Environmental Analysis and Decision Process

Applications will be evaluated and used along with all applicable resource data pursuant to the National Environmental Policy Act of 1969 to determine what public lands may be available for wide development. The environmental analysis process, through the evaluation of alternatives and their effects (environmental, social, and economic) will be used as a decision tool to sort out competing uses and potential uses of the public lands. In the event two or more applications for wide power facilities are received for the same site modified competitive bid procedure will be utilized. Under this procedure, applicants will only be able to bid for areas applied for under the call for applications. Award of rights-of-way will be granted subject to the terms and conditions found in the Record of Decision, to the qualified responsible bidder of the highest cash amount per acre per year. A notice of any tracts selected for competitive bidding will be published in the **Federal Register** following the Record of Decision stating the conditions and terms for the sale in compliance with established Departmental procedures.

FOR FURTHER INFORMATION CONTACT: Questions regarding submittal of applications should be directed to Barbara Jackson, Realty Specialist, at (619) 446–4526.

Wesley Chambers,
Acting District Manager.

[FR Doc. 82–34144 Filed 12–15–82; 8:45 am]
BILLING CODE 4310–84–M

National Park Service

Midwest Regional Advisory Committee; Cancellation of Meeting

Notice is hereby given, in accordance with the Federal Advisory Committee Act, 86 Stat. 770, 5 U.S.C. App. 1, as amended by the Act of September 13, 1976, 90 Stat. 1247, that a meeting of the Midwest Regional Advisory Committee originally scheduled to be held on December 6–7 at the Midwest Regional Office, 1709 Jackson Street, Omaha, Nebraska, as was published in Volume 47, No. 222, of the **Federal Register** dated Wednesday, November 17, 1982, has been postponed. The meeting will be rescheduled, and when plans are finalized, notice will be published in accordance with the Federal Advisory Committee Act, as stated above.

Dated: December 7, 1982.

J. L. Dunning,
Regional Director, Midwest Region.

[FR Doc. 82–34120 Filed 12–15–82; 8:45 am]
BILLING CODE 4310–70–M

National Parks of Bryce Canyon, Zion, and Grand Canyon-North Rim; Intention To Renew Concession Contracts

Pursuant to the provisions of Section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20 et seq.), public notice is hereby given that forty-five (45) days after the date of publication of this notice, the Department of the Interior, through the Regional Directors for Rocky Mountain and Western Regions of the National Park Service, proposes to negotiate concession contracts with TWA Service, Inc., authorizing it to continue to provide lodging, food, retail merchandising, automobile and camper services, transportation facilities and services for the public at Bryce Canyon National Park, Utah, Zion National Park, Utah, and Grand Canyon National Park-North Rim, Arizona, for a period of twenty (20) years from January 1, 1983, through December 31, 2002.

These proposed contracts require construction and improvement programs. The construction and improvement programs required were previously addressed in the following documents:

- Addendum to Environmental Review, Assessment of Alternatives, prepared in conjunction with the General Management Plan, Bryce Canyon National Park, October 19, 1981.
- Environmental Assessment, December 1980, as amended, prepared in conjunction with the Development Concept Plan, Zion Canyon, Zion National Park.
- Comprehensive Design Plan and Environmental Assessment, North Rim Development, Grand Canyon, prepared July 1982 and approved August 10, 1982.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing contract which expires by limitation of time on December 31, 1982, and therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given perference in the renewal of the contract and in the negotiation of new contracts. This provision, in effect, grants TWA Services, Inc., the opportunity to meet the terms and conditions of any other proposals submitted in response to this notice which the Secretary may consider better than the proposal submitted by TWA Services, Inc. If TWA Services, Inc., amends its proposal and the amended proposal is substantially equal to the better offer, then the proposed new contracts will be negotiated with TWA Services, Inc.

The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposals, including that of the existing concessioner, must be postmarked or hand-delivered on or before the forty-fifth (45) day following publication of this notice to be considered and evaluated.

Interested parties should contact the Regional Director, Rocky Mountain Regional Office, National Park Service, 655 Parfet Street, Denver, Colorado 80225, for information as to the requirements of the proposed contracts.

Dated: November 29, 1982.

Lorraine Mintzmyer,
Regional Director, Rocky Moutain Region.

Dated: December 2, 1982.

John D. Cherry,
Acting Regional Director, Western Region.

[FR Doc. 82–34119 Filed 12–15–82; 8:45 am]
BILLING CODE 4310–70–M

Intent To Prepare Reports/ Environmental Impact Statements and To Hold Public Meetings for the Study of Potential Additions to the National Wild and Scenic Rivers System

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The National Park Service is currently leading multi-agency study teams which are evaluating the eligibility and suitability of two Alaska rivers as possible additions to the National Wild and Scenic Rivers System pursuant to Section 5(a) of the Wild and Scenic Rivers Act, Pub. L. 90–542, as amended (16 U.S.C. 1276(a)). The National Park Service intends to prepare a combination report/environmental impact statement for each of these rivers which will identify alternatives and evaluate the impact of each of the alternatives. At least one alternative calling for national designation will be prepared for all river segments found eligible for the National Wild and Scenic Rivers System. The two rivers are:

a. Kanektok River: The entire river from headwaters to its mouth on Kuskokwim Bay at Quinhagak.

b. Squirrel River: The entire river from headwaters to its confluence with the Kobuk River at Kiana.

This notice is to announce that the National Park Service, in cooperation with other agencies on the study teams, will hold public meetings during early 1983 for the purpose of identifying issues and receiving input in the identification of alternatives as well as a preferred action for each river. The intent is to hold meetings in:

a. Quinhagak, Bethel, Dillingham, and Anchorage for the Kanektok River study.

b. Kiana, Kotzebue, and Fairbanks for the Squirrel River study.

Actual meeting times and locations will be publicized in local newspapers and other local notices.

Comments may be submitted orally or in writing. Written comments may be submitted to the Regional Director, Alaska Regional Office, National Park Service, 540 West Fifth Avenue, Anchorage, Alaska 99501.

Further public comments will be sought on the draft report/ environmental impact statements through a later **Federal Register** notice.

FOR FURTHER INFORMATION CONTACT: Jim Morris or Jack Mosby, National Park Service, USDI, 540 West Fifth Avenue, Anchorage, Alaska 99501; (907) 271–4638.

Dated: December 1, 1982.

James J. Berens,

Acting Regional Director, Alaska Region.

[FR Doc. 82–34198 Filed 12–15–82; 8:45 am]

BILLING CODE 4310–70–M

Intention to Negotiate Concession Contract

Pursuant to the provisions of Section 5 of the Act of October 9, 1965, (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that sixty (60) days after the date of publication of this notice, the Department of the Interior, through the Regional Director, Southeast Region, National Park Service, proposes to negotiate a concession contract with Northwest Trading Post, Inc., authorizing it to continue the operation of a country store sales outlet at Milepost 258.6 on the Blue Ridge Parkway for a period of ten (10) years from January 1, 1983, through December 31, 1992.

This contract renewal has been determined to be categorically excluded from the procedural provisions of the National Environmental Policy Act and no environmental document will be prepared.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing contract which expires by limitation of time on December 31, 1982, and, therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the negotiation of a new contract. This provision, in effect, grants Northwest Trading Post, Inc., the opportunity to meet the terms and conditions of any other proposal submitted in response to this Notice which the Secretary may consider better than the proposal submitted by Northwest Trading Post, Inc. If Northwest Trading Post, Inc., amends its proposal and the amended proposal is substantially equal to the better offer, then the proposed new contract will be negotiated with Northwest Trading Post, Inc.

The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be postmarked or hand delivered on or before the sixtieth (60th) day following publication of this notice to be considered and evaluated.

Interested parties should contact the Regional Director, Southeast Region, National Park Service, 75 Spring Street, SW., Atlanta, Georgia 30303, for information as to the requirements of the proposed contract.

Dated: December 6, 1982.

Neal G. Guse,

Acting Regional Director, Southeast Region.

[FR Doc. 82–34197 Filed 12–15–82; 8:45 am]

BILLING CODE 4310–70–M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Finance Applications; Decision-Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We Find

Each transaction is exempt from section 11343 (formerly section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will indicate that consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the transfer will not be consummated or that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 30 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It Is Ordered

The following applications are approved, subject to the conditions stated in the publication, and further

subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC–FC–80004. By decision of December 3, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, Review Board Number 3, approved the transfer to GREAT NORTHERN FREIGHT LINES, INC. of Uniontown, OH of Certificate No. MC–206 (Sub-2) issued January 12, 1982 to ALBERT E. WARD, INC. d.b.a. WARD MOVING & STORAGE, of Bedford, OH, authorizing: The transportation by irregular routes, of *general commodities* (with exceptions), between points in OH, on the one hand, and, on the other, points in the United States (except AK and HI). Applicants Representative: Robert McNamara, 906 Contran Building, Akron, OH 44308.

MC–FC–80073. By decision of November 18, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board No. 3, approved the transfer to ROGERS TRUCKING, INC., of Kirksville, MO of Certificate No. MC–123604 and (Sub-5) issued April 16, and September 14, 1964, respectively, to DUSABLON TRUCKING SERVICE, INC., of Centerville, IA authorizing the transportation of (1) *haydite,* in bulk (not in tank-type equipment), from Centerville, IA and points within 5 miles of Centerville, IA to Macomb and Quincy, IL, (2) *haydite,* in bulk (in hopper-type trailers), from points within 5 miles of Centerville, IA, including Centerville, IA to Davenport, IA, and points in a described part of MO; (3) *soybean meal,* in bulk (not in tank-type equipment), from Quincy and Decatur, IL to Centerville, IA, and (4) *haydite,* in bulk, from Centerville, IA, and points within 5 miles thereof, to points in a described portion of MN. Applicants' Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. Transferee holds no authority. No TA filed.

MC–FC–80097 (Correction) (Published in the **Federal Register** Issue of November 16, 1982 and corrected this issue) JAMES A. CORMAN & MARGARET ARTHUR d.b.a. IRISH REFRIGERATED SERVICE of Shelton, WA, Transferee, and CECIL T. McLAIN, d.b.a. C.T.M. REFRIGERATED SERVICE of Shelton, WA, Transferor. Applicant's representative: Jim Pitzer, 15 S. Grady Way, Suite 321, Renton, WA 98055. The purpose of this republication is to correctly identify the domicile of contracting shipper Reser's Fine Foods, Inc., as Beaverton, OR, in lieu of Beanerton, OH.

MC–FC–80110. (Republication) By decision of October 26, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to Majic Transport Inc., of Syracuse, NY of Certificate No. MC–10955 (Sub-16) issued to Renner Motor Lines, Inc., of Akron, OH authorizing the transportation of *general commodities* (except commodities in bulk, household goods as defined by the Commission, and Classes A and B explosives), between points in CT, DE, IL, IN, KY, MA, MD, ME, MI, MO, NJ, NH, NY, OH, PA, RI, VT, VA, WV, and WI; subject to coincidental cancellation at the written request of Renner Motor Lines, Inc., of Certificate No. MC–10955 (Sub-15X) and the Certificate which it supersedes in No. MC–10955 and Sub-Nos. 2, 3, 6, 7, 10, 11, 12, 13 and 14. Applicant's Representative: Hebert M. Canter, 305 Montgomery St., Syracuse, NY 13202. TA lease is not sought. Transferee is not a carrier.

MC–FC–80178. By decision of November 22, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181 Review Board Number 3 approved the transfer to Mo-Tran Bus Lines, Inc., of Moberly, MO of Certificate No. MC–36524 and 36524 (Sub-Nos. 9, 11, 12, 13, and 14) issued to Missouri Transit Lines, Inc., I.I. Ozar Trustee in Bankruptcy of Moberly, MO authorizing passengers and their baggage and express and newspapers, in the same vehicle with passengers, from to or between various named points in IA and MO. Applicant's Representative is: Stephen G. Newman, P.O. Box 456, Jefferson City, MO 65102. TA lease sought. Transferee is not a carrier.

MC–FC–80186. By decision of November 22, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181 Review Board Number 3 approved the transfer to M. T. TRUCKING, INC., of Zimmerman, MN, of Permit No. MC–151966, issued to KARAS & SONS, INC., of Prineceton, MN, which authorizes the transportation of (1) *tonics and cosmetics;* and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in the U.S., under continuing contract(s) with Sasco, of Dallas, TX. Applicant's Representative is: John B. Van de North, Jr., 2200 First National Bank Building, St. Paul, MN 55101.

Note.—Transferee holds motor common and contract carrier authority under MC–148064.

MC–FC–80188. By decision of December 1, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181 Subpart A, Review Board Number 3 approved the transfer to NATIONAL FREIGHT TRUCK LINES, INC., of Vineland, NJ, of Certificate Nos. MC–2860 (Sub-Nos. 208, 213, and 214), issued to NATIONAL FREIGHT, INC., also of Vineland, NJ, which authorize the transportation of *general commodities* (with exceptions), (a) bewteen points in LA, AR, GA, IL, IN, KY, LA, MA, ME, MI, MN, MS, NH, OH, OK, PA, TN, TX, VT, WI, and WV, (b) between points in CT, DE, FL, GA, MD, MA, NJ, NY, NC, PA, RI, SC, VA, and DC, and (c) between points in AZ, CA, CO, IA, ID, KS, MO, MT, ND, NE, NM, NV, OR, SD, UT, WA, and WY. Applicants' representative: Peter J. Nickles, 120 Pennsylvania Ave, NW., Washington, DC 20044.

Note.—Transferee is not a carrier but is affiliated with the transferor.

Decision-Notice

The following applications, filed on or after July 3, 1980, seek approval to consolidate, purchase, merge lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C 11343 and 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR 1100.240). See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349,* 363 ICC 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register.** Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.241. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00 in accordance with 49 CFR 1100.241(d).

Amendments to the request for authority will not be accepted after the

date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Dated: December 8, 1982.

By the Commission, Review Board Number 3, Members Krock, Joyce and Dowell.

MC 140096 (Sub-2), filed September 8, 1982. Applicant: ROBERTS DELIVERY SERVICE, INC., 28 Spencer Street, Agawam, MA 01001. Representative: James M. Burns, 1383 Main Street, Suite 413, Springfield, MA 01103. To operate as a common carrier by motor vehicle, over irregular routes, transporting general commodities, between points in Massachusetts.

Note.—This application is directly-related to No. MC–FC–80014 published concurrently herewith wherein Roberts Delivery Service, Inc., seeks to acquire by transfer the operating rights of F & H Transportation Co., Inc., contained in Certificate of Registration No. MC–2406 (Sub-3). The purpose of this application is to convert said Certificate of Registration to a Certificate of Public Convenience and Necessity.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–34104 Filed 12–15–82; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Motor Common and Contracts Carriers of Property (fitness-only); Motor Common Carriers of Passengers; (fitness only); Motor Contract Carriers of Passengers; Property Brokers (other than household goods).

The following applications for motor common or contract carriage of property and for a broker of property (other than household goods) are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** on December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common or contract carriage of passengers filed on or after November 19, 1982, are governed by Subpart D of the Commission's Rules of Practice. See 49 CFR Part 1160, Subpart D, published in the **Federal Register** on November 24, 1982, at 49 FR 53271. For compliance procedures, see 49 CFR 1160.86. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E.

These applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later becomes unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce, over irregular routes unless noted otherwise. Applications for motor contract carrier authority are those where service in for a named shipper "under contract."

Please direct status inquiries to Team 1, (202) 275–7992.

Volume No. OP1–224

Decided: December 9, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 150900 (Sub-3), filed December 6, 1982. Applicant: CREATIVE TOURS AND CHARTER SERVICE CORPORATION, 13615 Victory Blvd., #103, Van Nuys, CA 91401. Representative: Willian C. Robinson, 16133 Ventura Blvd., Penthouse Suite B, Encino, CA 91436; (213) 784–9993/872–0285. Transporting *passengers,* in charter and special operations, beginning and ending at points in CA,

and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special tansportation.

MC 165041, filed December 6, 1982. Applicant: RALEIGH TRANSPORTATION SERVICES, INC., 723 W. Hargett St., Raleigh, NC 27603. Representative: Lawrence E. Lindeman, 4660 Kenmore Ave., Suite 1203, Alexandria, VA 22304; (703) 751–2441. Transporting *passengers,* in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

For the following, please direct status calls to Team 3 (202) 275–5223.

Volume No. OP3–42

Decided: December 9, 1982.

By the Commission, Review Board No. 2, members Carleton, Williams, and Ewing.

MC 159524, (Sub-1), filed November 24, 1982. Applicant: T. G. SWARB d.b.a. SWARB TRUCKING COMPANY, 10409 O'Donnell Dr., Houston, TX 77076. Representative: T. G. Swarb (same address as applicant) (713) 695–7483. Transporting *shipments weighing 100 pounds* or less if transported in a major vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except HI).

MC 164865, filed November 26, 1982. Applicant: DANIEL J. McCRAW d.b.a. McCRAW ENTERPRISES, 2790 Moana Lane, Reno, NV 89509. Representative: Daniel J. McCraw (same address as applicant) (702) 825–7949. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners,* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 164875, filed November 26, 1982. Applicant: SAKAHIRA TRADING CORP. d.b.a. SAKARHIRA TRANSPORTATION CONSULTATIONS, 200 E. 64th St., Suite 14A, New York, NY 10021. Representative: Robert J. Gallagher, 1000 Connecticut Ave., NW., Suite 1200, Washington, D.C. 20036, (202) 785–0024. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 164894, filed November 26, 1982. Applicant: C. F. LEE, 408 E. Eleventh St., Stuttgart, AR 72160. Representative: C. F. Lee (same address as applicant) (501) 673–3850. As a *broker* of *general commodities* (except household goods), between points in the U.S.

For the following, please direct status inquiries to Team 4 at 202–275–7669.

Volume No. OP4–059

Decided: December 8, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 85526 (Sub-8), filed November 19, 1982. Applicant: ARROW COACH LINES, d.b.a. ARROW TRAILWAYS OF TEXAS, P.O. Box 1058, Killeen, TX 76541. Representative: Paul D. Angenend, P.O. Box 2207, Austin, TX 78768, (512) 476–6391. Over regular-routes, transporting *passengers,* between Austin and Houston, TX; over U.S. Hwy 290, serving all intermediate points. NOTE: Applicant seeks to provide regular-route service in interstate or foreign commerce and in intrastate commerce under 49 U.S.C. 10922 (c)(2)(B) over the same route.

Note.—Applicant states it intends to tack the authority herein with its presently authorized operations.

MC 106207 (Sub-18), filed November 22, 1982. Applicant: NEW YORK KEANSBURG LONG, BRANCH BUS CO., INC., 50 Hwy N. 36, Leonardo, NJ 07737. Representative: Sidney J. Leshin, 3 E. 54th St., New York, NY 10022, (212) 759–3700. Over regular routes, transporting *passengers,* between New York, NY, and Atlantic City, NJ: from New York through the Lincoln Tunnel, to NJ Hwy 3, then west on NJ Hwy 3 to the NJ Turnpike, then south on the NJ Turnpike to Garden State Parkway, NJ, then south on Garden State Parkway to U.S. Hwy 30, then east on U.S. 30 to Atlantic City, serving all intermediate points.

Note.—Applicant seeks to provide regular-route service in interstate or foreign commerce.

MC 141657 (Sub-1), filed November 29, 1982. Applicant: J. BRADLEY SCHONECK, d.b.a. AMBOY BUS SERVICE, Box 124, Amboy, MN 56010. Representative: Ronald I. Shapps, 450 Seventh Ave., New York, NY 10123, (212) 239–4610. Privately funded motor common carrier of passengers charter and special transportation. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *passengers,* in charter and special operations, between points in the U.S. (except AK and HI).

MC 164867, filed November 29, 1982. Applicant: JOSEPH R. VINGI, d.b.a. S.O. TRUCKING INC., 16 King St., N Providence, RI 02911. Representative: William F. Poole, 22 Knollwood Circle, N Kingstown, RI 02852, (401) 885–0474. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners,* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 164937, filed November 29, 1982. Applicant: NENITA CARVAJAL, d.b.a. ACE TRAVELS, 165 O'Farrell St., Suite 214, San Francisco, CA 94102. Representative: Eldon M. Johnson, 650 California St., Suite 2808, San Francisco, CA 94108, (415) 986–8696. Privately funded motor common carrier of passengers charter and special transportaion. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *passengers,* in charter and special operations, between points in the U.S. (except HI).

Volume No. OP4–063

Decided: December 9, 1982.

By the Commission, Review Board No. 2, members Carleton, Williams, and Ewing.

MC 28457 (Sub-8), filed November 29, 1982. Applicant: DELAWARE VALLEY TRANSPORTATION CO., d.b.a. POCONO MOUNTAIN TRAILS, Box 488, Blairstown, NJ 07825. Representative: Ronald I. Shapss, 450 Seventh Ave., New York, NY 10123, (212) 239–4610. Transporting *passengers,* in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 109897 (Sub-3), filed November 23, 1982. Applicant: GRAY LINE NEW YORK TOURS CORPORATION, 254 West 54th St., New York, NY 10019. Representative: L. C. Major, Jr., Suite 304, Overlook Bldg., 6121 Lincolnia Rd., P.O. Box 11278, Alexandria, VA 22312, (703) 750–1112. Transporting *passengers,* in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter or special transportation.

MC 116677 (Sub-4), filed November 24, 1982. Applicant: NIAGARA FALLS SIGHTSEEING BY SHERIDAN, INC., 3466 Niagara Falls Blvd., N. Tonawanda, NY 14120. Representative: William J. Hirsch, 65 Niagara St., Buffalo, NY 14202, (716) 853–0200. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

MC 123126 (Sub-6), filed November 29, 1982. Applicant: FRANKLIN BUS SERVICE, INC., 309 Roosevelt St., Franklin, VA 23851. Representative: Lawrence E. Lindeman, 4660 Kenmore Ave., Suite 1203, Alexandria, VA 22304, (703) 751–2441. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded special and charter transportation.

MC 134166 (Sub-2), filed November 29, 1982. Applicant: DUNN'S BUS SERVICE, INC., R.D. 6, Box 140, Sussex, NJ 07461. Representative: Ronald I. Shapss, 450 Seventh Ave., New York, NY 10123, (212) 239–4610. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 139807 (Sub-6), filed November 29, 1982. Applicant: ALL WEST TOURS, 1851 Soscal Ave., Napa, CA 94558. Representative: Edon M. Johnson, 650 California St., Suite 2808, San Francisco, CA 94108, (415) 986–8696. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *passengers*, in charter and special operations between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 143336 (Sub-2), filed November 23, 1982. Applicant: BAY RAPID TRANSIT CO., INC., d.b.a. GRAY LINE P.O. Box 3258, Salinas, CA 93912. Representative: L. C. Major, Jr., Suite 304, Overlook Bldg., 6121 Lincolnia Rd., P.O. 11278, Alexandria, VA 22312, (703) 750–1112. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and Special transportation.

MC 147726 (Sub-2), filed November 22, 1982. Applicant: O'CONNELL ENTERPRISES, INC., 1405 Loranee Hwy., Eugene, OR 97405. Representative: John A. Anderson, Suite 801, The 1515 Bldg., 1515 SW Fifth Ave., Portland, OR 97201, (503) 227–4586. Transporting *passengers*, in charter and special operations, beginning and ending at points in WA, OR, CA and NV, and extending to points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 149576 (Sub-26), filed November 26, 1982. Applicant: TRANS AMERICAN TRUCKING SERVICE, INC., P. O. Box 1247, Nixon Station, Edison, NJ 08818. Representative: R. M. McGraw (same address as applicant), (201) 985–2182. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 160796 (Sub-1), filed November 29, 1982. Applicant: TOUR MASTERS TRANSPORTATION CO., INC., 1054 Wilshire Blvd., Los Angeles, CA 90017. Representative: Donald R. Hedrick, P.O. Box 4334, Santa Ana, CA 92702, (714) 667–8107. Transporting *passengers*, in charter and special operations, beginning and ending at points in CA, and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter or special transportation.

MC 164697, filed November 10, 1982. Applicant: ELIZABETH HALL JOHNSON, d.b.a. HALL's CHARTER SERVICE, 7360 Furnace Branch Rd., Glen Burnie, MD 21061. Representative: Walter T. Evans, 4304 East-West Highway, Bethesda, MD 20814, (301) 657–2636. Transporting *passengers*, in charter and special operations, beginning and ending at points in DC, and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 164896, filed November 29, 1982. Applicant: KEEPORT AUTOBODY SHOP, INC., d.b.a. SHAMROCK STAGE COACH, Keanesburg, NJ 07734. Representative: James M. Burns, 1365 Main St., Suite 403, Springfield, MA 01103, (413) 781–8205. Transporting *passengers*, in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 164907, filed November 29, 1982. Applicant: TOTAL NATIONAL TRANSPORTATION, 5824 So. 93rd St., Omaha, NE 68127. Representative: Richard Orr (same address as applicant); (402) 331–3419. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 164916, filed November 29, 1982. Applicant: SILVANO G. GONZALEZ, d.b.a. HAPPY TOURS, 875 Ridge Ct., South San Francisco, CA 94080. Representative: Eldon M. Johnson, 650 California St., Suite 2808, San Francisco, CA 94108, (415) 986–8696. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately funded charter transportation.

MC 164957, filed December 1, 1982. Applicant: DENVER-CHICAGO EXPRESS, INC., P.O. Box 37102, Omaha, NE 68137. Representative: James F. Crosby, 7363 Pacific St., Suite 210B, Omaha, NE 68114, (402) 397–9900. Transporting (1) for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), (2) *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, (3) *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, and (3) *used household goods* for the account of the United States Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S. (except AK and HI).

For the following, please direct status calls to Team 5 (202) 275–7289.

Volume No. OP5–276

Decided: December 6, 1982.

By the Commission, Review Board No. 3, members Krock, Joyce, and Dowell.

MC 30608, (Sub-11), filed November 22, 1982. Applicant: K. G. LINES, INC., 124 North Cheyenne Avenue, Tulsa, OK 74103. Representative: Joel N. Akers (same address as applicant), (918) 587–4121. Transporting *passengers*, in special and charter operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 58719 (Sub-10), filed November 22, 1982. Applicant: INGRAM BUS LINES, INC., 313 Jordan Avenue, Tallassee, AL 36078. Representative: Andrew J. Carraway, Suite 1301, 1600 Wilson Blvd., Arlington, VA 22209, (703) 522–0900. Transporting *passengers*, in special and charter operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 85819 (Sub-7), filed November 23, 1982. Applicant: GULF COAST MOTOR

LINE, INC., 921 Third St., So., P.O. Box 145, St. Petersburg, FL 33731. Representative: Harold E. Slaughter, (same address as applicant), (813) 822–3577. Transporting *passengers,* in special and charter operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 146119 (Sub-3), filed November 24, 1982. Applicant: WINSTON COACH CORP., 1650 Sycamore Avenue, Bohemia, NY 11716. Representative: Sidney J. Leshin, 3 East 54th Street, New York, NY 10022, (212) 759–3700. Transporting *passengers,* in special and charter operations, between points in the U.S. (except HI). Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 R.S.C. § 11343(A) or submit an affidavit indicating why such approval is unnecessary to the Secretary's office. In order to expedite issuance of any authority please submit a copy of the affidavit or proof of filing the application(s) for common control to Team 5, Room 2416.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 159459 (Sub-1), filed November 22, 1982. Applicant: JEFFERSON CHARTERS AND TOURS, INC., 1206 Currie Avenue, Minneapolis, MN 55403. Representative: Elvin S. Douglas, Jr., P.O. Box 280, Harrisonville, MO 64701, (816) 884–3238. Transporting *passengers,* in special and charter operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 164798, filed November 22, 1982. Applicant: MCA TRANSPORTATION SERVICES, 2 Charlestown Court, Medford, NJ 08055. Representative: Jerome J. Bondanza (same address as applicant), (609) 234–8800. To operate as a *broker* of *general commodities* (except household goods), between points in the U.S.

Volume No. OP5–278

Decided: December 7, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 28339 (Sub-10), filed November 29, 1982. Applicant: BREMERTON-TACOMA STAGES, INC., 2209 Pacific Ave., Tacoma, WA 98402. Representative: Lawrence E. Lindeman, 4660 Kenmore Ave., Suite 1203, Alexandria, VA 22304, (703) 751–2441. Transporting *passengers,* in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 37958 (Sub-5), filed November 19, 1982. Applicant: TRENTON LAMBERTVILLE BUS LINE, INC., d.b.a. ONKA'S CHARTER BUS SERVICE, Amwell Road, P.O. Box 191, East Millstone, NJ 08873. Representative: L. C. Major, Jr., Suite 304, Overlook Bldg., 6121 Lincolnia Road, P.O. Box 11278, Alexandria, VA 22312, (703) 750–1112. Transporting *passengers,* in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 89968 (Sub-1), filed November 29, 1982. Applicant: NIAGARA FALLS COACH LINES, INC., 120 13th St., Niagara Falls, NY 14303. Representative: James M. Burns, 1365 Main St., Suite 403, Springfield, MA 01103, (413) 781–8205. Transporting *passengers,* in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 121798 (Sub-1), filed November 19, 1982. Applicant: MUSIC CITY SERVICE, INC., d.b.a. SIGHTSEEING TENNESSEE, 501 Broadway, Nashville, TN 37203. Representative: L. C. Major, Jr., Suite 304, Overlook Bldg., 6121 Lincolnia Rd., P.O. Box 11278, Alexandria, VA 22312, 703–750–1112. Transporting *passengers in charter and special operations,* between points in the U.S. (except AK).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 141869 (Sub-4), filed November 23, 1982. Applicant: ROYAL COACH LINES, INC., 1600 Junction Ave., Racine, WI 53403. Representative: Andrew R. Clark, 1600 TCF Tower, Minneapolis, MN 55402, 612–333–1341. Transporting *passengers,* in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 146988 (Sub-4), filed November 23, 1982. Applicant: TARA LINES, INC., 27 C Beaver Lodge, Stafford, VA 22554. Representative: L. C. Major, Jr., Suite 304, Overlook Bldg., 621 Lincolnia Road, P.O. Box 11278, Alexandria, VA 22312, (703) 750–1112. Transporting *passengers,* in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 148088 (Sub-1), filed November 22, 1982. Applicant: COUNTRY TRAILS BUS CO., INC., R.D. # 3, Box 152, Clarion, PA 16214. Representative: James M. Burns, 1365 Main St., Suite 403, Springfield, MA 01103, 413–781–8205. Transporting *passengers, in charter and special operations,* between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 159498 (Sub-1), filed November 22, 1982. Applicant: SUMRELL BUS SERVICE, INC., 200 Westbury Blvd., Hempstead, NY 11550. Representative: Sidney J. Leshin, 3 West 54th St., New York, NY 10022, 212–759–3700. Transporting *passengers,* in special and charter operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 161678 (Sub-2), filed November 22, 1982. Applicant: CAPE TRANSIT CORP., 5501 Ocean Ave., Wildwood Crest, NJ 08260. Representative: Andrew J. Carraway, Suite 1301, 1600 Wilson Blvd., Arlington, VA 22209, (703) 522–0900. Transporting *passengers,* in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 164038 (Sub-1), filed November 19, 1982. Applicant: JOHN O. DULANEY, d.b.a. DULANEYS BUS SERVICE, 760 East Green St., Waynesburg, PA 15370. Representative: Robert J. Brooks, 1828 L St., NW, Suite 1111, Washington, DC 20036, (202) 466–3892. Transporting *passengers,* in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 164839, filed November 23, 1982. Applicant: CORTEZ TRUCKING, INC., 9244 E. Washington Blvd., Pico Rivera, CA 90660. Representative: Frederick J. Coffman, P.O. Box 1455, Upland, CA 91786, 714–981–9981. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 164858, filed November 23, 1982. Applicant: TOP GRADE

TRANSPORTATION CO., INC., 25-50 Borden Ave., Long Island City, NY 11101. Representative: Sidney J. Leshin, 3 East 54th St., New York, NY 10022, (212) 759-3700. Transporting *passengers*, in special and charter operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 164898, filed November 26, 1982. Applicant: CHARLES W. GIDES AND PHYLLIS J. GIDES, d.b.a. CHUCK GIDES TOURS, 1605 Freeport Road, Natrona Heights, PA 15065. Representative: Arthur J. Diskin, 402 Law & Finance Bldg., Pittsburgh, PA 15219, (412) 281-9494. Transporting *passengers*, in special and charter operations, beginning and ending at points in PA, OH, and WV, and extending to points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-34106 Filed 12-15-82; 8:45 am]

BILLING CODE 7035-01-M

[Formerly Fourth Section Application]

Long- and Short-Haul Application for Relief

This application for long- and-short-haul relief has been filed with the I.C.C.

Protests are due at the I.C.C. within 15 days from the date of publication of the notice.

No. 43984, Southwestern Freight Bureau No. B-166, reduced rates on grain, grain products and related articles for export, from points in Illinois, Southern, Southwestern and Western Trunk Line Territories to Helvetia, La. published in tariffs listed in Appendix A, effective December 25, 1982. Grounds for relief to meet competition.

Dated: December 10, 1982.

Agatha L. Mergenovich,

Secretary.

APPENDIX A

Supplement No.	Tariff No.	Carrier
128	4000	The Atchison, Topeka & Santa Fe.
119	4013	Burlington Northern Railroad.
84	4021-V	Do.
32	4087-Q	Do.
13	4014-B	Chicago Northwestern.
17	4004-B	Chicago Milwaukee, St. Paul & Pacific.
1	4013-A	The Denver & Rio Grande Western.
36	4010-B	The Kansas City Southern Railway.
67	4123-J	Missouri-Kansas & Texas.
4	4155-K	Do.

APPENDIX A—Continued

Supplement No.	Tariff No.	Carrier
5	4050-J	Missouri Pacific Railroad.
105	4057-G	Do.
14	4065-K	Do.
33	4650-H	Do.
57	4023-F	Norfolk & Western Railroad.
50	4915	Do.
15	4459-B	Soo Line Railroad Co.
12	4917-D	St. Louis Southwestern Railway.
11	4918-A	Do.
58	4010-A	Union Pacific Railroad.
34	4026-D	Chicago Northwestern.
8	4007-B	Chicago Milwaukee, St. Paul & Pacific.

[FR Doc. 82-33971 Filed 12-15-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Motor Common and Contract Carriers of Property (except fitness-only); Motor Common Carriers of Passengers (public interest); Freight Forwarders; Water Carriers; Household Goods Brokers.

The following applications for motor common or contract carriers of property, water carriage, freight forwarders, and household goods brokers are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common carriage of passengers, filed on or after November 19, 1982, are governed by Subpart D of 49 CFR Part 1160, published in the **Federal Register** on November 24, 1982 at 47 FR 53271. For compliance procedures, see 49 CFR 1160.86. Carriers operating pursuant to an intrastate certificate also must comply with 49 U.S.C. 10922(c)(2)(E). Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E. In addition to fitness grounds, these applications may be opposed on the grounds that the transportation to be authorized is not consistent with the public interest.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, an to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations.

We make an additional preliminary finding with respect to each of the following types of applications as indicated: common carrier of property—that the service proposed will serve a useful public purpose, responsive to a public demand or need; water common carrier—that the transportation to be provided under the certificate is or will be required by the public convenience and necessity; water contract carrier, motor contract carrier of property, freight forwarder, and household goods broker—that the transportation will be consistent with the public interest and the transportation policy of section 10101 of chapter 101 of Title 49 of the United States Code.

These presumptions shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be

construed as conferring only a single operating right.

By the Commission, Review Board No. 1, Members Chandler, Parker, and Fortier.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract." Applications filed under 49 U.S.C. 10922(c)(2)(B) to operate in intrastate commerce over regular routes as a motor common carrier of passengers are duly noted.

Please direct status inquiries to Team One at (202) 275–7992.

Volume No. OP1–223

Decided: December 8, 1982.

MC 118130 (Sub-127), December 1, 1982. Applicant: SOUTH EASTERN XPRESS, INC., P.O. BOX 6459, Crowley & Sycamore Rds., Fort Worth, TX 76115. Representative: Billy R. Reid, 1721 Carl St., Ft. Worth, TX 76103, (817) 332–4718. Transporting *general commodities* (except classes A and B explosives, household commodities and commodities in bulk), between points in the U.S. (except AK and HI).

MC 133480 (Sub-5), filed November 26, 1982. Applicant: A. VIZZI, INC., 13 Heyward Hills Drive, Holmel, NJ 07733. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934, (201)–234–0301. Transporting (1) *rubber and plastic products,* and (2) *pulp, paper, and related products,* between points in CT, MA, RI, NJ, NY, PA, DE, MD, VA and DC.

MC 139170 (Sub-7), filed November 22, 1982. Applicant: FRANK W. MADDEN COMPANY, 2070 Wright Rd., Akron, OH 44320. Representative: James E. Davis, 611 West Market St., Akron, OH 44303, (216) 376–8111. Transporting *machinery,* between points in Summit, Lucas, Ottawa, Sandusky, Seneca, Erie, Huron, Richland, Lorain, Ashland, Holmes, Wayne, Medina, Cuyahoga, Lake, Geauga, Portage, Stark, Tuscarawas, Carroll, Jefferson, Columbia, Mahoning, Trumbull and Ashtabula Counties, OH, on the one hand, and, on the other, points in AL, AR, CT, DE, FL, GA, IA, IL, IN, KY, LA, ME, MD, MA, MI, MN, MS, NH, NJ, NY, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV and WI.

MC 142620 (Sub-4), filed November 29, 1982. Applicant: NORTH BAY TRUCKING, INC., Route 1, P.O. Box 8, Northport, MI 49670. Representative: Martin J. Leavitt, 22375 Haggerty Rd., P.O. Box 400, Northville, MI 48167, (313)–349–3980. Transporting *foodstuffs,* between points in the Lower Peninsula of MI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 143801 (Sub-1), filed November 22, 1982. Applicant: M & C TRUCKING CO., R.D. 1, Box 266, Johnstown, PA 15906. Representative: Arthur J. Diskin, 402 Law & Finance Bldg., Pittsburgh, PA 15219, (412)–281–9494. Transporting *refractories, refractory products, slidegates and tapvalves,* between points in the U.S. (except AK and HI).

MC 145701 (Sub-21), filed November 29, 1982. Applicant: D.C. TRANSPORT, INC., 916 South Riverside, St. Clair, MI 48079. Representative: John W. Bryant, 900 Gardian Bldg., Detroit, MI 48226, (3713)–963–3650. Transporting (1) *chemicals and related products,* (2) *clay, concrete, glass or stone products,* (3) *food and related products,* (4) *leather and leather products,* (5) *lumber and wood products,* (6) *machinery,* (7) *metal products,* (8) *ores and minerals,* (9) *petroleum, natural gas and their products,* (10) *pulp, paper and related products,* (11) *rubber and plastic products.* (12) *textile mill products.* and (13) *waste and scrap materials,* between points in the U.S. (except AK and HI).

MC 148150 (Sub-3), filed November 29, 1982. Applicant: BROTHERS TRUCKING CO., INC., R. D. #2; Manchester, PA 17345. Representative: J. Bruce Walter, P.O. Box 1146, Harrisburg, PA 17108, (717) 233–5731. Transporting *bananas,* between points in DE, NY, MD, VA, and SC, on the one hand, and, on the other, points in ME, VT, MA, RI, CT, NY, NJ, PA, DE, IA, WV, NC, SC, GA, FL, AL, MS, TN, KY, OH, NH, IL, MI, WI and DC.

MC 149440 (Sub-9), filed November 29, 1982. Applicant: JOHN CHEESEMAN TRUCKING, INC., 501 North First St., Fort Recovery, OH 45846. Representative: Earl N. Merwin, 85 East Gay St., Columbus, OH 43215, (614)–224–3161. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Sta-Rite Industries, Inc., Division of Wicor and its subsidiaries, of Delavan, WI.

MC 151401 (Sub-5), filed November 1, 1982. Applicant: TRI–SERVICE, INC., P.O. Box 1419, West Chester, PA 19380. Representative: Daniel B. Johnson, 4304 East-West Highway, Bethesda, MD 20814, (301)–654–2240. Transporting *such commodities* as are used or dealt in by chemical manfactureres, between points in and east of MN, IA, MO, AR and TX.

MC 152010 (Sub-2), filed November 29, 1982. Applicant: FORT ANN EXPRESS, INC., R. D. #2, Smith Basin Road, Fort Ann, NY 12827. Representative: James M. Burns, 1365 Main St., Suite 403, Springfield, MA 01103. Transporting *general commodities* (except classes A and B explosives and household goods), between points in CT, ME, MA, NH, NJ, NY, PA, RI and VT, on the one hand, and, on the other, those points in the U.S. on and east of a line beginning at the mouth of the Mississippi River to its junction with the western boundary of Itasca County, MN, then northward along the western boundaries of Itasca and Koochiching Counties, MN, to the international boundary line between the U.S. and Canada.

MC 154621 (Sub-4), filed November 24, 1982. Applicant: MONROE WAREHOUSE COMPANY, INC., P.O. Box 2525, Monroe, LA 71207. Representative: Donald B. Morrison, P.O. Box 22828, Jackson, MS 39205, (601)–948–8820. Transporting *pulp, paper and related products,* between points in the U.S., under continuing contract(s) with Manville Forest Products Corporation, of West Monroe, LA.

MC 158651 (Sub-5), filed November 26, 1982. Applicant: GRAEBEL VAN LINES, INC., 719 North Third Ave., Wausau, WI 54401. Representative: Roger Will (same address as applicant), (715) 675–9481. Transporting *household goods,* between points in the U.S., under continuing contract(s) with Dart & Kraft, Inc., of Northbrook, IL.

MC 159731, filed December 6, 1982. Applicant: KENNETH D. PRUETT, d.b.a. STATEWIDE MOBILE HOMES MOVERS, 732 Briarcliff Rd., Rock Hill, SC 29730. Representative: John C. Hayes III, 122 S. Confederate, Rock Hill, SC 29730, (803) 327–7171. Transporting *mobile homes,* between points in SC, NC, VA, TN and GA.

MC 159831, filed November 29, 1982. Applicant: ROLAND I. NISEWANDER, JR., d.b.a. R&E TRUCKING, 1906 W. Oak, P.O. Box 2214, Fullerton, CA 92633. Representative: Donald R. Hedrick, P.O. Box 4334, Santa Ana, CA 92702, (714) 667–8107. Transporting (1) *paper and paper products,* and (2) *printed matter,* between points in the U.S. (except AK and HI), under continuing contract(s) in (1) above with International Paper Company, of Carson, CA, and Georgia Pacific Corporation, of Buena Park, CA, and in (1) and (2) above with S.C.M. Walton Printing, Inc., of Buena Park, CA.

MC 161990 (Sub-1), filed November 29, 1982. Applicant: C&G TRUCKING CORPORATION, Box 39142, Chicago, IL 60639. Representative: Anthony E. Young, 29 South LaSalle St., Suite 350, Chicago, IL 60603, (312) 782–8880.

Transporting *food and related products*, between Chicago, IL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 164711, filed November 23, 1982. Applicant: KING ROAD MATERIALS, INC., 145 Cordell Rd., Schenectady, NY 12303. Representative: Neil D. Breslin, 11 North Pearl St., Albany, NY 12207, (518) 434–1136. Transporting *salt and salt products*, between points in the U.S. (except AK and HI).

MC 164860, filed November 22, 1982. Applicant: MEL T. COWART AND BILLY R. COWART, d.b.a COWARTS DRIVE AWAY SERVICE, 3750 Beach Blvd., Jacksonville, FL 32207. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202, (904) 632–2300. Transporting *transportation equipment*, between points in FL, GA, AL, SC and TN.

MC 164900, filed November 30, 1982. Applicant: LELAND & VIRGINIA COULTER, d.b.a. LEE'S BOAT YARD, Rt. 1, Box 118, Clarksburg, CA 95612. Representative Harold O. Orlofske, P.O. Box 368, Neenah, WI 54956, (414) 722–2848. Transporting *boats, yachts and accessories*, between points in CA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 164901, filed November 29, 1982. Applicant: MIKE'S SUPERIOR MOBILE HOME SALES, Rt. 3, Box 128M, Milton-Freewater, OR 97862. Representative: Mike Brunbach (same address as applicant), (503) 938–3347. Transporting *mobile homes*, between points in Umatilla County, OR on the one hand, and, on the other, points in Walla Walla and Columbia Counties, WA.

Volume No. OPI–225

Decided: December 9, 1982.

MC 56640 (Sub-69), filed November 29, 1982. Applicant: DELTA LINES, INC., P.O. Box 2081, Oakland, CA 94604. Representative: Kirk Wm. Horton, Delta California Industries, Inc., 333 Hegenberger Road, Suite 406, Oakland, CA 94621, (415) 577–7000 X7226. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with MDCI Corporation, d/b/a Transtop United, of Los Angeles, CA.

MC 74681 (Sub-19), filed December 1, 1982. Applicant: STEVENS VAN LINES, INC., 121 South Niagara Street, Saginaw, MI 48602. Representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Suite 1200, Washington, DC 20036, (202) 785–0024. Transporting *household goods*, between points in the U.S. under continuing contract(s) with Information Industries, Inc., of Kansas City, MO.

MC 141440 (Sub-3), filed November 24, 1982. Applicant: LEONARD-WHERLEY MOVING SYSTEMS, INC., RD 22, Box 54A, York PA 17402–9733. Representative: Michael L. Wherley (same address as applicant), (717) 767–6502. Transporting *general commodities* (except classes A and B explosives), between points in the U.S. (except AK and HI).

MC 150211 (Sub-20), filed December 6, 1982. Applicant: ASAP EXPRESS, INC., P.O. Box 3250, Jackson, TN 38301. Representative: Jerry Ross (same address as applicant), (901) 423–4300. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 151961 (Sub-1), filed December 3, 1982. Applicant: SIRCAP TRANSPORTATION, INC., Route 8, Box 568, Franklinton, LA 70438. Representative: Fred W. Johnson, Jr., P.O. Box 1291, Jackson, MS 39205, (601) 355–3543. Transporting *coal, lumber and wood products, and pulp, paper and related products*, between points in the U.S., under continuing contract(s) with Crown-Zellerbach Corporation, of Bogalusa, LA.

MC 161700, filed November 29, 1982. Applicant: CANYON COUNTRY MEAT CO., 19114 Drycliff Street, Canyon County, CA 91351. Representative: Nicola Rocco Odio (same address as applicant), (805) 251–3321. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in CA, OR, WA, ID, UT, NV, AZ, TX, NM, CO, OK, NE, MT, WY, and KS.

MC 162831, filed December 6, 1982. Applicant: POINTER CARRIER, INC., 5906 Driftwood Avenue, Madison, WI 53605. Representative: James A. Spiegel, Olde Towne Office Park, 6333 Odana Road, Madison, WI 53719, (608) 273–1003. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in WI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

[FR Doc. 82–34106 Filed 12–15–82; 8:45 am]

BILLING CODE 7035–01–M

[ICC Order No. 83–A, Under Service Order No. 1344]

Rerouting Traffic

To All Railroads: Upon further consideration of Revised ICC Order No. 83 and good cause appearing therefor:

It is ordered, That ICC Order No. 83 is vacated.

This order shall become effective at 9:00 a.m., December 9, 1982, and shall be served upon the Association of American Railroads, Transportation Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. A copy shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., December 9, 1982.

Interstate Commerce Commission.

J. Warren McFarland,

Agent.

[FR Doc. 82–34147 Filed 12–15–82; 8:45 am]

BILLING CODE 7035–01–M

[No. 38998]

Allied Van Lines, Inc., Petition for Exemption From Tariff Filing Requirements

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: In response to a petition filed by Allied Van Lines, Inc., a motor contract carrier, the Commission has decided provisionally to exempt Allied from the tariff filing requirements of 49 U.S.C. 10702, 10761, and 10762.

DATES: Comments are due by December 31, 1982. The sought relief will become effective 15 days after the close of the comment period unless, in response to adverse comments filed, the Commission issues a further decision withdrawing this relief.

ADDRESS: Send an original and, if possible, 15 copies of comments to: Room 2144, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Jane Morris, (202) 275–1757,

or

Howell I. Sporn, (202) 275–7691.

SUPPLEMENTARY INFORMATION: Allied Van Lines, Inc., (Allied or petitioner), is a motor contract carrier of household goods, serving numerous shippers virtually nationwide. As pertinent here, it provides contract service for: (1) Burroughs Corporation under a

temporary authority permit issued November 12, 1982, in Docket MC–15735 (Sub-No. 4–33 TA); (2) Advanced Health Systems under a temporary authority permit issued November 22, 1982, in Docket MC–15735 (Sub-No. 4–35 TA); (3) Colt Industries under a temporary authority permit issued November 22, 1982, in Docket MC–15735 (Sub-No. 4–36 TA); and (4) Rockwell International under a temporary authority permit issued November 26, 1982, in Docket MC–15735 (Sub-No. 4–37 TA). Allied has petitioned for an exemption from tariff filing requirements for these contract operations [1] or, the alternative, for all of its existing contract operations.

Section 10702(b) of the Interstate Commerce Act requires contract carriers to file with the Commission actual and minimum rates for the transportation they provide. Section 10761 prohibits transportation without a tariff on file with the Commission, and section 10762 sets forth general tariff requirements including contract carrier authority to file only minimum rates. Each of these sections authorizes the Commission to grant exemptions to contract carriers when relief is consistent with the public interest and the transportation policy of section 10101. 49 U.S.C. §§ 10702(b), 10761(b) and 10762(f).

Allied seeks exemption from these requirements to avoid unnecessary expenses which may hamper its efforts to provide economical and efficient service. Petitioner also desires to circumvent the administrative burden of preparing schedules of rates and charges for each contract carrier permit it is granted. It further seeks to avoid the delay that occurs when tariff filings must precede new rates. In this regard, Allied notes that frequently, in order to meet individual shipper needs, it must file special permission applications requesting that tariffs be permitted to become effective on less than statutory notice. Finally, it emphasizes that granting the requested exemptiom is in keeping with the dictates of the National Transportation Policy.

Normally, in the absence of compelling circumstances, we do not believe it is in the public interest to consider exemptions which are restricted in time or breadth, such as the exemption requested here in connection with a temporary grant of authority. However, petitioner has alternatively requested an exemption for all of its contract carrier operations, and we will consider the petition on this basis.

[1] Under 49 CFR 1131.3(c) carriers granted temporary authority permits are required to file their schedules of rates within 30 days.

We see no reason to deny Allied the savings to be realized from a tariff filing exemption for existing contracts. It appears that the requirement that this carrier file tariffs covering its contract operations is not in the public interest and that relief will promote the transportation policies of 49 U.S.C. 10101.

We provisionally grant the sought exemption. If we receive timely filed adverse comments, we will issue a further decision addressing them and deciding whether this tentative approval ought to be modified.

This action does not significantly affect the quality of the human environment or conservation of energy resources. However, comments may be submitted on these issues.

(49 U.S.C. 10702(b), 10761(b), and 10762(f))

Decided: December 10, 1982.

By the Commission, Division 2, Commissioners Andre, Gilliam, and Taylor. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–34102 Filed 12–15–82; 8:45 am]

BILLING CODE 7035–01–M

[AB 213 SDM]

Canadian Pacific Limited; Amended System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.23, that the Canadian Pacific Limited has filed with the Commission its amended color-coded system diagram map in docket No. AB 213 SDM. The Commission on November 18, 1982, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

Color coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 213 SDM.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–34099 Filed 12–15–82; 8:45 am]

BILLING CODE 7035–01–M

[AB 219 SDM]

New York Dock Railway; Amended System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.23, that the New York Dock Railway has filed with the Commission its amended color-coded system diagram map in docket No. AB 213 SDM. The Commission on November 5, 1982, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 219 SDM.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–34100 Filed 12–15–82; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB 55 SDM]

Seaboard Coast Line Railroad Co.; Amended System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.23, that the Seaboard Coast Line Railroad Company has filed with the Commission its amended color-coded system diagram map in docket No. AB 55 SDM. The Commission on November 19, 1982, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 55 SDM.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–34101 Filed 12–15–82; 8:45 am]

BILLING CODE 7035–01–M

[Ex Parte No. 387]

Rail Carriers; Exemptions for Contract Tariffs

AGENCY: Interstate Commerce Commission.

ACTION: Notices of provisional exemptions.

SUMMARY: Provisional exemptions are granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the below-listed contract tariffs may become effective on one day's notice. These exemptions may be revoked if protests are filed.

DATE: Protests are due within 15 days of publication in the **Federal Register.**

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway, (202) 275–7278

or

Tom Smerdon, (202) 275–7277.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in these instances to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption requests meet the requirements of 49 U.S.C. 10505(a) and are granted subject to the following conditions:

These grants neither shall be construed to mean that the Commission has approved the contracts for purposes of 49 U.S.C. 10713(e) not that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaints, to review these contracts and to determine their lawfulness.

Sub-No.	Name of railroad, contract number and specifics	Review board [1]	Decided date
466	Missouri Pacific Railroad Co. Exemption for Contract Tariff ICC–MP–C–0113, Supplement 2, (wheat grain and whole grain products)	3	12–09–82
467	Norfolk and Western Railway Co. Exemption for Contract Tariff ICC–NW–C–0036, supplement 1, (soybean meal)	1	12–10–82
475	Norfolk and Western Railway Co. Exemption for Contract Tariff ICC–NW–C–0037, Supplement 1, (soybeans)	[2]1	12–10–82

[1] Review Board No. 1, Members Parker, Chandler, and Fortier.
[2] Member Parker not participating.
Review Board No. 2, Members Carleton, Williams, and Ewing.
Review Board No. 3, Members Krock, Joyce, and Dowell.

Sub-No.	Name of railroad, contract number and specifics	Review board [1]	Decided date
456	Southern Pacific Transportation Co. Exemption for Contract Tariff ICC–SP–C–0266 (raw cotton)	2	12–10–82
459	Kansas City Southern Railway Co. Exemption for Contract Tariff ICC–KCS–C–0036 (sunflower seeds)	3	12–09–82
460	Soo Line Railroad Co. Exemption for Contract Tariff ICC–SOO–C–0111 (printing paper, woodpulp, and chemical products)	3	12–09–82
461	Chicago, Milwaukee, St. Paul and Pacific Railroad Co. Exemption for Contract Tariff ICC–MILW–C–0269 (sodium carbonate)	1	12–09–82
462	Chicago, Milwaukee, St. Paul and Pacific RR Co. Exemption for Contract Tariff ICC–MILW–C–0131, Supplement 1 (liquefied petroleum gas)	2	12–10–82

This action will not significantly affect the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–34146 Filed 12–15–82; 8:45 am]

BILLING CODE 7035–01–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–112]

Certain Cube Puzzles; Termination of Four Respondents Based on Settlement Agreements

AGENCY: International Trade Commission.

ACTION: Termination of investigation as to respondents Henry Wedemeyer, Inc., Chinese Arts and Crafts, Inc., Imperial Merchandise, Co., Inc., and Mark Metzner, Inc., based on settlement agreements.

SUMMARY: On August 18, 1982, omplainant Ideal Toy Corporation (Ideal) and respondent Henry Wedemeyer, Inc. (Wedemeyer), and Chinese Arts and Crafts, Inc. (Chinese Arts and Crafts), moved in separate joint motions (Motions Nos. 112–28 and 112–29) to terminate the above-named firms as party respondents in the investigation on the basis of settlement agreements. On September 22, 1982, the presiding officer recommended that Motions Nos. 112–28 and 112–29 be granted. A **Federal Register** notice soliciting comments on the proposed termination of Wedemeyer and Chinese Arts and Crafts was published (47 FR 47704, Oct. 27, 1982), and letters soliciting comments were sent to the Department of Justice, the Department of Health and Human Services, the Federal Trade Commission, and the U.S. Customs Service. No comments wer received.

On September 28, 1982, complainant Ideal and respondent Imperial Merchandise Co., Inc. (Imperial), jointly moved (Motion No. 112–30) to terminate the investigation as to Imperial on the basis of a settlement agreement. On October 1, 1982, complainant Ideal and respondent Mark Metzner, Inc. (Metzner), jointly moved (Motion No. 112–31) to terminate the Investigation as to Metzner on the basis of a settlement agreement. The Commission published a **Federal Register** notice on November 10, 1982, seeking comments from interested members of the public and other Government agencies on the proposed terminations of Imperial and Metzner based on settlement agreements (47 FR 51021). No comments were received.

On December 7, 1982, the Commission granted the joint motions to terminate the investigation as to respondents Wedemeyer, Chinese Arts and Crafts, Imperial, and Metzner on the basis of settlement agreements.

SUPPLEMENTARY INFORMATION: This investigation is being conducted under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and concerns alleged unfair trade practices in the importation into and sale in the United States of certain cube puzzles. Notice of the institution of the investigation was published in the **Federal Register** of December 29, 1981 (46 FR 62964).

Copies of the Commission's action and order and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m) inthe Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

FOR FURTHER INFORMATION CONTACT: William E. Perry, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436; telephone 202–523–0499.

By order of the Commission.

Issued: December 10, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82–34216 Filed 12–15–82; 8:45 am]

BILLING CODE 7020–02–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-364]

Alabama Power Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 21 to Facility Operating License No. NPF-8 issued to Alabama Power Company (the licensee), which revised the license for operation of Joseph M. Farley Nuclear Plant, Unit No. 2 (the facility) located in Houston County, Alabama. The amendment is effective as of the date of issuance.

The amendment extends the time scheduled to complete a modification to one safety-related masonry wall until the second refueling outage or until the NRC staff has accepted the energy balance technique which shows no modification is needed.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated October 19, 1982, as supplemented November 19, 1982, (2) Amendment No. 21 to License No. NPF-8, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the George S. Houston Memorial Library, 212 W. Burdeshaw Street, Dothan, Alabama 36303. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

Dated at Bethesda, Maryland, this 2nd day of December, 1982.

[FR Doc. 82-34178 Filed 12-15-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-373]

Commonwealth Edison Co.; Issuance of Amendment of Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 10 to Facility Operating License No. NPF-11, issued to Commonwealth Edison Company, which deleted License Condition 2.C.(17) and revised Technical Specifications for operation of the La Salle County Station, Unit No. 1 (the facility) located in Brookfield Township, La Salle County, Illinois.

The Amendment consists of a deletion of License Condition 2.C.(17) and changes the Technical Specifications as a result of hardware modifications to satisfy License Condition 2.C.(17). The Amendment is effective as of the date of issuance.

The application for amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior pubic notice of this Amendment was not required since the Amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this Amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this Amendment.

For further details with respect to this action, see (1) The application for amendment dated August 19, 1982 and October 22, 1982 and (2) Amendment No. 10 to License No. NPF-11 dated December 9, 1982. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555, and the Public Library of Illinois Valley Community College, Rural Route No. 1, Ogelsby, Illinois 61348. A copy of items (1) and (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 9th day of December 1982.

For the Nuclear Regulatory Commission.

A. Schwencer,

Chief, Licensing Branch No. 2, Division of Licensing.

[FR Doc. 82-34179 Filed 12-15-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-247-SP, 50-286-SP]

Consolidated Edison Company of New York, et al.; Noticing Hearing

Order

December 10, 1982.

In the matter of Consolidated Edison Company of New York, (Indian Point, Unit No. 2) and Power Authority of the State of New York (Indian Point, Unit No. 3).

The evidentiary hearing on testimony offered by witnesses of Westchester County, scheduled by our Memorandum and Order dated December 2, 1982, will begin at 9:30 a.m. on January 10, 1983, in the Ceremonial Courtroom of the Westchester County Courthouse, 111 Grove Street, White Plains, New York.

It is so ordered.

For the Atomic Safety and Licensing Board.

James P. Gleason,

Chairman, Administrative Judge.

[FR Doc. 82-34183 Filed 12-15-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-352 and 50-353]

Philadelphia Electric Co.; Limerick Generating Station, Units 1 and 2

Notice is hereby given that the Director, Office of Nuclear Reactor Regulation, has denied the Petition and supplementing documents filed under 10 CFR 2.206 by Del-Aware Unlimited regarding the Limerick Generating Station, Units 1 and 2.

The Petitioner requested that actions be taken to compel submission of an alternative to the supplemental cooling water supply system planned at Point Pleasant, Pennsylvania and to prevent construction of the planned system. The planned system would, in part, serve to supplement the cooling water supply for the Limerick Generating Station. Various allegations related to the environmental impacts of the planned system were raised by the Petitioner. The Director concluded that a number of these allegations were not appropriate for consideration by the NRC. The

allegations which were considered did not warrant any action with respect to continued construction of the facility.

The reasons for the above conclusions are fully described in a "Director's Decision Under 10 CFR 2.206," dated December 7, 1982 which is available for public inspection in the Commission's Public Document Room located at 1717 H Street, N.W., Washington, D.C. 20555, and at the Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania.

A copy of the decision will be filed with the Secretary for the Commission's review in accordance with 10 CFR 2.206(c).

Dated at Bethesda, Maryland this 7th day of December, 1982

For the Nuclear Regulatory Commission.

Edson G. Case,

Deputy Director, Office of Nuclear Reactor Regulation.

[FR Doc. 82-34180 Filed 12-15-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-278]

Philadelphia Electric Co., et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 86 to Facility Operating License No. DPR-56, issued to Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, which revised Technical Specifications for operation of the Peach Bottom Atomic Power Station, Unit No. 3 (the facility) located in York County, Pennsylvania. The amendment is effective as of its date of issuance.

The revised Technical Specifications temporarily extend the inspection interval applicable to two inaccessible hydraulic snubbers.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see: (1) The application for amendment dated October 19, 1982, as supplemented December 3, 1982, (2) Amendment No. 86 to License No. DPR-56, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 7th day of December 1982.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 82-34181 Filed 12-15-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-271]

Vermont Yankee Nuclear Power Corp.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 73 to Facility Operating License No. DPR-28, issued to Vermont Yankee Nuclear Power Corporation which revised Technical Specifications for operation of the Vermont Yankee Nuclear Power Station (the facility) located near Vernon, Vermont. The amendment is effective as of its date of issuance.

The amendment modifies the Technical Specifications to provide surveillance requirements for the Scram Discharge Volume vent and drain valves.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see: (1) The application for amendment dated October 5, 1981 (2) Amendment No. 73 to License No. PDR-28, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Brooks Memorial Library, 224 Main Street, Brattleboro, Vermont 05301. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 29th day of November, 1982.

For the Nuclear Regulatory Commission.

Domenic B. Vassallo,

Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 82-34182 Filed 12-15-82; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. 301-35-38]

Footwear Industries of America, Inc. et al.; Initiation of Investigation

On October 25, 1982, the Chairman of the Section 301 Committee received a petition filed under Section 301 of the Trade Act of 1974 (19 U.S.C. 2411 et seq.) from the Footwear Industries of America, Inc., the Amalgamated Clothing and Textile Workers Union, AFL-CIO and the United Food & Commercial Workers International Union, AFL-CIO alleging that the European Communities (EC) and the governments of France, Italy, the United Kingdom (UK), Spain, Brazil, Japan, Taiwan and Korea engage in a number of restrictive practices which cause a diversion of non-rubber footwear exports to the U.S. market and deny access to U.S. exports of such footwear in foreign markets. The restrictive practices listed in the petition include quantitative restrictions, restrictive licensing, bilateral restraint agreements, excessive tariffs, and subsidies. Petitioners allege that these practices are inconsistent with provisions of the General Agreement on Tariffs and Trade, the Agreement on Import

Licensing Procedures, the Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade and the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade. It is further alleged that these practices are unreasonable and/or discriminatory and a burdern on U.S. commerce. A copy of the petition is available for public inspection at the address listed below.

On December 8, 1982, the United States Trade Representative made the following decisions regarding the initiation of an investigation under Section 301 on the basis of the petition:

(1) The United States Trade Representative decided to initiate four investigations with respect to allegations of restrictive practices (other than allegations that GATT-bound tariffs are excessive) which cause a denial of market access that have been made against Brazil (Docket No. 301–35), Japan (301–36), Korea (301–37) and Taiwan (301–38).

(2) The USTR decided not to initiate investigations concerning petitioners' allegations of trade diversion with respect to any country named in the petition. The information supplied in the petition was considered insufficient to initiate an investigation based on a claim of trade diversion. However, USTR and the Department of Commerce will work with petitioners in an effort to gather additional information on this matter.

(3) The USTR decided not to initiate investigations concerning the allegations of restrictive practices against the EC, France, Italy, the U.K., and Spain. With the exception of the alleged restrictive practices described in item (4) below, this decision was based on a determination that the information supplied in the petition was considered insufficient to serve as a basis for initiation of an investigation. Therefore, USTR is seeking additional information regarding these practices from the foreign governments concerned.

(4) The USTR decided not to initiate an investigation with respect to the following restrictive practices on the grounds that petitioners' allegations with respect to these practices were determined to be unfounded:

EC Import Surveillance System: USTR has learned that this system is limited to a requirement of expeditious reporting of statistics on footwear imports and does not restrict imports.

UK Quotas for Certain State Trading Countries: USTR has learned that the U.K. does not maintain quantitative restrictions against imports from Romania, Czechoslovakia and Poland outside the context of EC-mandated quotas.

Italian Subsidies: USTR has learned that footwear producers are not eligible for four of the six subsidy programs described by petitioners: Law No. 675 of 12 August 1977, Law No. 227 of 24 May 1977, Law No. 639 of 5 July 1964, and Law No. 773 of 8 November 1973.

Korean and Taiwanese Subsidies: USTR has learned that the subsidy programs alleged by petitioners were previously examined in two countervailing duty actions and the subsidy levels in each case were found to be *de minimis*.

The decision noted in items (2) and (3) are without prejudice to the right of petitioners to file a petition with respect to those allegations at such time as sufficient information about the alleged foreign practices and their effects is developed.

Interested parties are invited to submit comments on the petition and rebuttals to those comments. Submission should conform to the requirements outlined in 15 CFR 2006.8 and should be submitted no later than January 14, 1983, in the case of comments, and January 28, in the case of rebuttals. Submissions should be sent to the Chairman, Section 301 Committee, Office of the United States Trade Representative, 600 17th Street, N.W., Room 223, Washington, D.C. 20506.

Jeanne S. Archibald,

Chairman, Section 301 Committee.

[FR Doc. 82–34146 Filed 12–15–82; 8:45 am]

BILLING CODE 3190–01–M

SECURITIES AND EXCHANGE COMMISSION

Forms Under Review by Office of Management and Budget

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for clearance a proposed amendment to Regulation 14A under the Securities Exchange Act of 1934, the regulation relating to solicitations of proxies. The proposed amendment to Regulation 14A is designed to facilitate the proxy distribution system. Notice also is hereby given that the Securities and Exchange Commission has submitted for clearance a proposed amendment to Rule 17a–3 under the Securities Exchange Act of 1934, the rule which imposes recordkeeping requirements on certain broker-dealers. The proposed amendment to Rule 17a–3 is designed to facilitate communications between issuers and consenting beneficial owners of securities registered in nominee name. A copy of this submission is available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. 20549. Submit comments to OMB Desk Officer: Robert Veeder (202) 395–4814.

Agency Clearance Officer: Kenneth A. Fogash, Deputy Executive Director (202) 272–2142.

Upon written request copy available from: Securities and Exchange Commission, Office of Consumer Affairs and Information Services, Washington, D.C. 20549.

Revision:

Regulation 14A
File No. 270–56
Rule 17a–3
File No. 270–26

Dated: December 6, 1982.

Shirley F. Hollis,

Assistant Secretary.

[FR Doc. 82–33798 Filed 12–15–82; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF STATE

[Public Notice 836]

State Department Performance Review Board Members

In accordance with Section 4314(c)(1) through (5) of the Civil Service Reform Act of 1978 (Pub. L. 95–454), the Executive Resources Board of the Department of State has appointed the following additional persons to the State Department Performance Review Board Register, and in so doing amends accordingly Department of State Public Notice No. 703 (45 FR 6877–6878, January 30, 1980), effective December 6, 1982.

K. Scott Gudgeon, Assistant Legal Adviser, Office of the Legal Adviser;
Barry J. Kefauver, Executive Director, Bureau of Oceans and International Environmental and Scientific Affairs;
William T. Lake, Attorney, Wilmer, Cutler & Pickering; and John T. Sprott, Director, Foreign Service Institute, Department of State.

December 2, 1982.

Joan M. Clark,

Director General of the Foreign Service and Director of Personnel.

[FR Doc. 82–34161 Filed 12–15–82; 8:45 am]

BILLING CODE 4710–15–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Radio Technical Commission for Aeronautics (RTCA); Special Committee 150—Minimum system Performance Standards for Vertical Separation Above Flight Level 290; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. I) notice is hereby given of a meeting of RTCA Special Committee 150 on Minimum

System Performance Standards for Vertical Separation above Flight Level 290 to be head on January 12–13, 1983 in the RTCA Conference Room, Suite 500, 1425 K Street, N.W., Washington, D.C. commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Approval of Minutes of the Second Meeting Held on October 6–7, 1982; (3) Discussion of Methodology Used in Society of Automotive Engineers (SAE) Document AIR–1606 for Summing Altimetry System Errors; (4) Review and Discussion of Working Group Activities on System Performance Requirements, Altimetry System Errors, and Flight Technical Errors; (5) Assignmant of Tasks; and (6) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, Suite 500, 1425 K Street, NW., Washington, D.C. 20005; (202) 682–0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C., on December 13, 1982.

Karl F. Bierach,

Designated Officer.

[FR Doc. 82-34277 Filed 12-15-82; 8:45 am]

BILLING CODE 4910-13-M

National Airspace Review; Meeting

AGENCY: Federal Aviation Administration.

ACTION: Notice of Meeting.

SUMMARY: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. 1) notice is hereby given of a meeting of Task Group 1–6 of the Federal Aviation Administration (FAA) National Airspace Review Advisory Committee. The agenda for this meeting is as follows: A review of the charting aspects of instrument approach procedures and charted visual approaches.

DATE: Beginning January 3, 1983, at 11 a.m., continuing daily, except Saturdays, Sundays, and holidays, not to exceed two weeks.

ADDRESS: The meeting will be held at the Federal Aviation Administration, conference room 7 A/B, 800 Independence Avenue, S.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: National Airspace Review Program Management Staff, room 1005, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591, (202) 426–3560. Attendance is open to the interested public, but limited to the space available. To insure consideration, persons desiring to make statements at the meeting should submit them in writing to the Executive Director, National Airspace Review Advisory Committee, Air Traffic Service, AAT–1,800 Independence Avenue, S.W., Washington, D.C. 20591, by December 30, 1982. Time permitting and subject to the approval of the chairman, these individuals may make oral presentations of their previously submitted statements.

Issued in Washington, D.C. on December 9, 1982.

Karl D. Trautmann,

Manager, Special Projects Staff.

[FR Doc. 82-34078 Filed 12-15-82; 8:45 am]

BILLING CODE 4910-13-M

National Airspace Review; Meeting

AGENCY: Federal Aviation Administration.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. 1) notice is hereby given of a meeting of Task Group 1–7 of the Federal Aviation Administration (FAA) National Airspace Review Advisory Committee. The agenda for this meeting is as follows: A review of current airspace designations, including a strawman proposal for a U.S. Airspace Classification which is similar to a Canadian Airspace Proposal.

DATE: Beginning January 3, 1983, at 11 a.m., continuing daily, except Saturdays, Sundays, and holidays, not to exceed two weeks.

ADDRESS: The meeting will be held at the Federal Aviation Administration, conference room 9 A/B, 800 Independence Avenue, SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: National Airspace Review Program Management Staff, room 1005, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, (202) 426–3560. Attendance is open to the interested public, but limited to the space available. To insure consideration, persons desiring to make statements at the meeting should submit them in writing to the Executive Director, National Airspace Review Advisory Committee, Air Traffic Service, AAT–1, 800 Independence Avenue, SW., Washington, D.C. 20591, by December 30, 1982. Time permitting and subject to the approval of the chairman, these individuals may make oral presentations of their previously submitted statements.

Issued in Washington, D.C. on December 9, 1982.

Karl D. Trautmann,

Manager, Special Projects Staff.

[FR Doc. 82-34079 Filed 12-15-82; 8:45 am]

BILLING CODE 4910-13-M

[AC No. 20–XX]

Advisory Circular; Fuel Drain Valves and Positive Locking Fuel Drain Valves

AGENCY: Federal Aviation Administration (FAA).

ACTION: Request for comments on proposed advisory circular (AC) 20–XX establishing an acceptable design for positive locking fuel drain valves in the closed position.

SUMMARY: The proposed AC would establish a spring loaded positive locking fuel drain valve design as an acceptable means of compliance with Federal Aviation Regulations (FAR) Sections 23.999(b), 25.999(b), 27.999(b), and 29.999(b).

DATE: Comments must be received on or before December 30, 1982.

ADDRESS: Please submit your comments in duplicate to: Federal Aviation Administration, Office of Airworthiness, Aircraft Engineering Division, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Mr. J. Zahringer, Federal Aviation Administration, Aircraft Engineering Division, 800 Independence Avenue, SW., Washington, D.C. 20591, telephone 202–426–8323.

Dated: December 9, 1982.

M. C. Beard,

Director of Airworthiness.

Subject: Fuel Drain Valves

FAR Guidance Material

1. *PURPOSE:* This advisory circular provides an acceptable means, but not the only means, of compliance with the requirements of the Federal Aviation Regulations (FAR) for positive locking of fuel drain valves in the closed position.

2. *BACKGROUND.* FAR Sections 23.999(b), 25.999(b), 27.999(b), and 29.999(b) require, in part: "Each drain . . . must have manual or automatic means for positive locking in the closed position . . . ." This requirement

refers to the required drain valves. The purpose of this advisory circular is to respond to the question as to whether a spring loaded valve in the closed position could be considered a "positive locking valve."

3. *GUIDANCE.* Spring loaded fuel drain valves conforming to MIL–V–25023B or TSO–C76 or equivalent may be approved for those installations where the valve operator can visually confirm that the valve is closed, provided the applicant has shown that the valve will not open inadvertently under any foreseeable operating condition.

Director of Airworthiness.

[FR Doc. 82–34077 Filed 12–15–82; 8:45 am]
BILLING CODE 4910–13–M

Maritime Administration

[Docket No. S–728]

United States Lines, Inc./Moore-McCormack Lines, Incorporated/ Moore-McCormack Bulk Transport, Inc.; Application

Notice is hereby given that in letter applications dated December 8 and 9, 1982, United States Lines, Inc. (U.S. Lines) and Moore McCormack Resources Inc. (MMR) have requested authority for U.S. Lines' parent company, McLean Securities, Inc. to acquire all the capital stock of Moore-McCormack Lines, Incorporated (MML). U.S. Lines is a party to Operating-Differential Subsidy Agreement MA/MSB–483 and MML is a party to Operating-Differential Subsidy Agreement MA/MSB–338. MML parent company, MMR is also the parent company of Moore-McCormack Bulk Transport, Inc. (MMBT). MMBT is a party to Operating-Differential Subsidy Agreement MA/MSB–295.

U.S. Lines currently provides approximately twice weekly service on a subsidized basis on TRs 5–7–8–9/11 (U.S. Atlantic/United Kingdom and Continent) and approximately weekly service on a subsidized basis on TR 12/29 (U.S. Atlantic and Pacific/Far East). U.S. lines operates eight container vessels in transatlantic service and eleven vessels in Far East service.

Moore-McCormack Lines is required to provide a minimum of 40 sailings annually in subsidized service between U.S. Atlantic ports and the east coast South America (TR–1) and approximately twice-monthly service Between U.S. Atlantic ports and South and East Africa (TR 15–A), with thirteen general cargo vessels.

Moore-McCormack Bulk Transport, Inc. operates three tankers in subsidized worldwide trading.

U.S. Lines has written permission under section 805(a) of the Merchant Marine Act, 1936, as amended, to engage in domestic intercoastal or coastwise service as a common carrier by water with its vessels as follows:

1. Intercoastal service between the U.S. east coast and the U.S. west coast on a weekly service via the Panama Canal as part of its service on a round voyage from the Atlantic coast of the United States to the Orient.

2. Between the U.S. east coast and/or the U.S. west coast and the State of Hawaii as a part of its service on a foreign trade voyage on a weekly service westbound only.

The current application contemplates no change or additional operating rights under section 805(a) than as described above.

U.S. Lines has indicated that it is now and plans to continue (1) chartering and operating the German-flag vessel NAUTILUS between certain ports in the United Kingdom, France, the Netherlands, and West Germany, as a feeder vessel transshipping cargo to and from its vessels operating on TRs 5–7–8–9/11, (2) owning and chartering out to a Taiwan corporation the Liberian-flag vessels Formosa Container and Strait Container for operation between Hong Kong and Taiwan. U.S. Lines has a waiver pursuant to section 804 for the above described foreign-flag operations.

In the event of approval of the sale of stock above described, MML will require waiver pursuant to section 804 and written permission pursuant to section 805(a) of the Act for the activities of U.S. Lines described above.

In addition, at the closing of the stock purchase/sale, MMR will receive certain preferred stock of McLean Securities, Inc. MMR will continue to own the stock of MMBT, therefore MMBT will also require section 804 waiver and section 805(a) written permission for the activities of U.S. Lines described above.

Interested parties may inspect the foregoing letter applications in the Office of the Secretary, Maritime Subsidy Board/Maritime Administration, Room 7300, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590.

Any person, firm, or corporation having any interest in such letter applications and desiring to submit comments thereon must file comments in triplicate with the Secretary, Maritime subsidy Board/Maritime Administration by close of business on December 27, 1982. The Maritime Subsidy Board/ Maritime Administration will consider such comments and take such action with respect thereto as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 20.804 Operating-Differential subsidies (ODS))

By Order of the Maritime Subsidy Board/ Maritime Administrator.

Dated: December 13, 1982.

Georgia P. Stamas,
Assistant Secretary.

[FR Doc. 82–34211 Filed 12–15–82; 8:45 am]
BILLING CODE 4910–81–M

National Highway Traffic Safety Administration

[Docket No. IP82–9; Notice 2]

Dunlop Tire & Rubber Corp.; Grant of Petition for Determination of Inconsequential Noncompliance

This notice grants the petition by Dunlop Tire and Rubber Corp. of buffalo, New York to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.)* for an apparent noncompliance with 49 CFR 571.119, Motor Vehicle Safety Standard No. 119, *New Pneumatic Tires for Vehicles Other Than Passenger Cars.* The basis of the petition was that the noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of receipt of the petition was published on May 6, 1982, and an opportunity afforded for comment (47 FR 19611).

Paragraph S6.5 of Standard No. 119 requires tires to be marked with certain information on each sidewall. Dunlop has produced 562 tires with incorrect or missing information on both sidewalls. The tire in question is the 10–15LT Centennial Canyon Climber Nylon Bias Traction with raised white letters. The Tires were produced in Buffalo in the 40th, 47th, and 48th weeks of 1981, and the first week of 1982.

The correct sidewall making for the tire is: 10–15LY, Load Range B, 4 PR, Nylon Tread: 4 Plies/Sidewall: 4 Plies Max Load 1760 lbs. at 30 PSI Cold.

On the raised white letters side the word "POLYESTER" appears instead of the word "NYLON". On the black side or serial side, "Load Range C, 6 PR, Max. Load 2230 lbs. at 45 PSI Cold" appears.

Upon discovery, Dunlop impounded and corrected 345 tires in its possession, so that this petition covers only the remaining 217 tires shipped to the field.

It also "began a test program to determine the tires' capability to endure testing to the higher Load Range C requirements of FMVSS 119". In the endurance test (S7.2), the company extended the test at 131% of scheduled load (2921 lbs.) and ran a total of 10,000 machine miles. One tire "showed looseness at the ply turnup afterwards". In the strength test (S7.3), the tire registered 3795 inch-pounds, exceeding "the DOT minimum of 3200 inch-pounds by 18%". The company also conducted hydrostatic burst testing. In summary, Dunlop argues that if the tires are loaded to Range C limits, they will perform "very adequately" but that since the correct load and pressure appear on the raised letter side, "the likelihood of excess loading is diminished".

No comments were received on the petition.

With respect to the mislabeling of ply cord material on the raised white letter side of the tire, the agency has concluded that there is no adverse effect on safety as the tire test conditions for these two cord materials are identical. The incorrect load and pressure markings are on the black sidewall portion of the tire. Because the purchaser will have paid a premium for the white raised markings appearing on the other side of the tire with the correct pressure and load information, the agency has concluded that there is little likelihood that the tires will be mounted with the black sidewall outward. Were this to occur, Dunlop has shown that the tires will operate satisfactorily since they surpass the minimim requirements for Load Range C tires. The likelihood of mounting with the black sidewall outwards is diminished by the company's agreement of August 24, 1982, to supply each purchaser at the point of purchase with a letter about the mistake, and to notify owners of any of the 217 tires in the field as well.

Accordingly, petitioner has met its burden of persuasion that the noncompliance herein described is inconsequential as it relates to motor vehicle safety, and its petition is hereby granted.

The engineer and attorney primarily responsible for this notice are Art Neill and and Taylor Vinson, respectively.

(Sec. 102, Pub L. 93–492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on December 8, 1982.

Ralph J. Hitchcock,

Acting Associate Administrator for Rulemaking.

[FR Doc. 82-33840 Filed 12-15-82; 8:45 am]

BILLING CODE 4910-59-M

Rulemaking, Research and Enforcement Programs; Public Meeting; Change

The NHTSA/Industry Public meeting previously scheduled for January 18, 1983, has been changed to January 19, 1983. The meeting will begin at 2:00 p.m., run until 4:30 p.m. It will be held in the Conference Room of the Environmental Protection Agency's Laboratory Facility, 2565 Plymouth Road, Ann Arbor, Michigan.

Issued in Washington, D.C. on December 8, 1982.

Ralph J. Hitchcock,

Acting Associate Administrator for Rulemaking.

[FR Doc. 33841 Filed 12-15-82; 8:45 am]

BILLING CODE 4910-59-M

Office of the Secretary

Minority Business Resource Center Advisory Committee; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. 1), notice is hereby given of a meeting of the Minority Business Resource Center Advisory Committee to be held January 24, 1983, at 10:00 a.m. in the Board Room, Rapid Transit District Building, 425 South Maine Street, Los Angeles, California. The agenda for the meeting is as follows:

—Report on surety bonding program
—Report on short term financial assistance program

Attendance is open to the interested public but limited to the space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to attend and persons wishing to present oral statements should notify the Minority Business Resource Center not later than the day before the meeting. Information pertaining to the meeting may be obtained from Ms. Betty Chandler, Minority Business Resource Center, 400 7th Street, SW., Washington, D.C. 20590, telephone (202) 426–2852. Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, D.C. on December 9, 1982.

Melvin Humphrey,

Director, Office of Small and Disadvantaged Business Utilization.

[FR Doc. 82-34170 Filed 12-15-82; 8:45 am]

BILLING CODE 4910-62-M

Urban Mass Transportation Administration

Policy Statement Regarding Involvement of Labor in Federally Assisted Transit Industry Human Resources Development Activities

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: Notice of policy.

SUMMARY: The Urban Mass Transportation Administration (UMTA) announces in this Notice its policy regarding the willingness of grantees to encourage more active participation by transit labor in projects aimed at human resources devolpment activities sponsored under Federal assistance. Whenever human resources development activities are involved in funded projects, it shall be the position of UMTA to encourage the meaningful cooperation of labor representatives where there is an opportunity for labor and management to work together as a means of increasing performance and productivity. This Notice is being published in order to inform all interested and affected parties about UMTA's policy regarding support for transit labor's interest in participating in human resources development related programs and activities in the mass transit industry.

DATE: This policy takes effect on November 9, 1982.

FOR FURTHER INFORMATION CONTACT: James A. O'Connor, Office of Service and Management Demonstrations, UMTA, Room 6100, 400 Seventh Street, S.W., Washington, D.C. 20590, 202/426–4995.

Issued on: November 9, 1982.

Arthur E. Teele, Jr.,

Administrator.

The text of the policy statement is reprinted in full below:

Labor Involvement in Federally Assisted Human Resources Development Programs and Activities

1. *Purpose.* To provide policy guidance and to clarify the position of the Urban Mass Transportation Administration (UMTA) regarding labor-management cooperation in the planning and design of federally assisted human resources development related transit industry programs and projects.

2. *Scope.* This policy applies to all human resources development related programs and projects funded by UMTA.

3. *Background.* In view of the nature of the service which it performs, public

transit is a labor-intensive industry with total personnel compensation (including fringe benefits) accounting for up to eighty (80) percent of total operating expenditures in some cases. Inasmuch as effective utilization of industry personnel is essential to any efforts to improve transit system productivty and performance, special attention needs to be given to labor's perspectives and concerns during the planning and preparation of human resources development related projects and activities for which Federal funding will be sought.

The participation of labor leadership and consideration of its perspective during the planning phases of human resources development related projects can immeasurably enhance prospects for the successful attainment of local organizational goals and objectives. In demonstration of this concept, UMTA has sponsored several activities which are intended to foster a cooperative relationship between transit industry labor and management officials. National conferences on labor-management relations, to be held under UMTA auspices, will continue to explore ways in which the industry can better address issues of common interest confronting both management and labor in the 1980's.

Definition

Human Resources Development programs and activities are defined as personnel and other skills upgrading practices and procedures designed to improve the effectiveness and efficiency of transit system operations. Such actions would include, but not be limited to: employee assistance programs, employee safety programs, occupational health measures, personnel management and training, job reclassification, career mobility opportunities, quality circles, employee recognition and quality of worklife programs.

4. *Policy.* It is UMTA's policy to further encourage cooperative efforts between labor and management on all UMTA projects which relate to transit industry human resources development.

Priority consideration for available funds will be given to those grantees which provide for a labor perspective in the planning and design of human resources development related projects to be funded by UMTA.

[FR Doc. 82-33914 Filed 12-15-82; 8:45 am]
BILLING CODE 4910-57-M

DEPARTMENT OF THE TREASURY

Fiscal Service

[Dept. Circ. 570, 1982 Rev., Supp. No. 13]

Surety Companies Acceptable on Federal Bonds

A certificate of authority as an acceptable surety on Federal bonds is hereby issued to the following company under Sections 9304 to 9308 of Title 31 of the United States Code (formerly 6 U.S.C. Sections 6 to 13). An underwriting limitation of $2,308,000 has been established for the company.

Name of Company:
IMPERIAL CASUALTY AND INDEMNITY COMPANY
Business Address:
700 Barker Building
306 South 15th Street
Omaha, Nebraska 68012
State of Incorporation:
Nebraska

Certificates of authority expire on June 30 each year, unless renewed prior to that date or sooner revoked. The certificates are subject to subsequent annual renewal so long as the companies remain qualified (31 CFR Part 223). A list of qualified companies is published annually as of July 1 in Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information. Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570, 1982 Revision, at page 28877 to reflect this addition. Copies of the circular, when issued, may be obtained from the Operations Staff (Surety), Banking and Cash Management, Bureau of Government Financial Operations, Department of the Treasury, Washington, D.C. 20226.

Dated: December 9, 1982.

W. E. Douglas,

Commissioner, Bureau of Government Financial Operations.

[FR Doc. 82-34200 Filed 12-15-82; 8:45 am]
BILLING CODE 4810-35-M

[Dept. Circ. 570, 1982 Rev., Supp. No. 14]

Surety Companies Acceptable on Federal Bonds

A certificate of authority as an acceptable surety on Federal bonds is hereby issued to the following company under Sections 9304 to 9308 of Title 31 of the United States Code (formerly 6 U.S.C. 6 to 13). An underwriting limitation of $830,000 has been established for the company.

Name of Company:
Tri-State Insurance Company of Minnesota
Business Address:
One Roundwind Road
Luverne, Minnesota 56156
State of Incorporation:
Minnesota

Certificates of authority expire on June 30 each year, unless renewed prior to that date or sooner revoked. The certificates are subject to subsequent annual renewal so long as the companies remain qualified (31 CFR, Part 223). A list of qualified companies is published annually as of July 1 in Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information. Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570, 1982 Revision, at page 28883 to reflect this addition. Copies of the circular, when issued, may be obtained from the Operations Staff (Surety), Banking and Cash Management, Bureau of Government Financial Operations, Department of the Treasury, Washington, D.C. 20226.

Dated: December 9, 1982.

W. E. Douglas,

Commissioner, Bureau of Government Financial Operations.

[FR Doc. 82-34199 Filed 12-15-82; 8:45 am]
BILLING CODE 4810-35-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 242
Thursday, December 16, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Commodity Credit Corporation	1
Commodity Futures Trading Commission	2
Federal Deposit Insurance Corporation	3-7
Federal Energy Regulatory Commission	8
Federal Home Loan Bank Board	9
Occupational Safety and Health Review Commission	10, 11

1

COMMODITY CREDIT CORPORATION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Published December 8, 1982, 47 FR 55359.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9 a.m., December 15, 1982.

CHANGE IN MEETING: Canceled. The date and agenda for the next meeting will be announced later.

CONTACT PERSON FOR MORE INFORMATION: Edward D. Hews, Secretary, Commodity Credit Corporation, Room 3090, South Building, P.O. Box 2415, Washington, D.C. 20013; telephone (202) 447-7583.

[S-1824-82 Filed 12-14-82; 10:58 am]

BILLING CODE 3410-05-M

2

COMMODITY FUTURES TRADING COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT:

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Thursday, December 16, 1982.

CHANGES IN THE MEETING: 10 a.m., Tuesday, December 21, 1982:

New York Futures Exchange—New York Stock Exchange Equity Index Options.
Chicago Mercantile Exchange—Standard and Poor's 500 Stock Price Index Options.

[S-1823-82 Filed 12-14-82; 10:30 am]

BILLING CODE 6351-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION:

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, December 20, 1982, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors pursuant to sections 552b(c)(2), (c)(6), (c)(8), and (c)(9)(A)(ii) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from diclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda:

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W. Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation at (202) 389-4425.

Dated: December 13, 1982.

Federal Deposit Insurance Corporation.
Hoyle L. Robinson,
Executive Secretary.

[S-1831-82 Filed 12-14-82; 1:04 pm]

BILLING CODE 6714-01-M

4

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Monday, December 20, 1982, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of the minutes of previous meetings.

Application for consent to merge and establish four branches.

Portland Savings Bank, Portland, Maine, an insured mutual savings bank, for consent to merge, under its charter and with the title "People's Savings Bank," with People's Savings Bank, Lewiston, Maine, and to establish the four offices of People's Savings Bank as branches of the resultant bank.

Application for consent to merge and establish two branches and for consent to redesignate the main office:

Melrose Savings Bank, Melrose, Massachusetts, an insured mutual savings bank, for consent to merge, under its charter and with the title "Northeast Bank for Savings," with Reading Savings Bank, Reading, Massachusetts, and to establish the two offices of Reading Savings Bank as branches of the resultant bank, and for consent to redesignate the main office of Reading Savings Bank as the main office of the resultant bank.

Application for consent to purchase assets and assume liabilities:

Application of United Virginia Bank, Richmond, Virginia, for consent to purchase certain assets of and assume the liability to pay certain deposits made in the Courthouse Road & Hull Street Branch, Midlothian, Virginia, of First Colonial Savings and Loan Association, Hopewell, Virginia.

Application for consent to purchase assets and assume liabilities and to establish one branch:

Hampton County Bank, Varnville, South Carolina, for consent to purchase certain assets of and assume the liability to pay certain deposits made in the Yemassee Branch of the South Carolina National Bank, Charleston, South Carolina, and to establish the Yemassee Branch as a branch of Hampton County Bank.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 45,523–L—The Mission State Bank & Trust Company, Mission, Kansas
Case No. 45,525–NR (Amended)—United States National Bank, San Diego, California

Reports of committees and officers:

Minutes of actions approved by the standing committees of the Corporation pursuant to authority delegated by the Board of Directors.
Reports of the Division of Bank Supervision with respect to applications or requests approved by the Director or Associate Director of the Division and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Discussion Agenda:

Memorandum and Resolution re: Final amendments to Part 329 of the Corporation's rules and regulations, entitled "Interest on Deposits," which would remove existing provisions that (1) prevent insured nonmember commercial banks from accepting savings deposits in excess of $150,000 from businesses and certain other organizations, and (2) bar insured mutual and nonmember commercial banks from maintaining NOW account for public units.

Memorandum re: Budget of Administrative Expenses for Budget Year 1983.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: December 13, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–1830–82 Filed 12–14–82; 12:48 pm]

BILLING CODE 6714–01–M

5

FEDERAL DEPOSIT INSURANCE CORPORATION

Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 9:30 a.m. on Monday, December 13, 1982, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required the withdrawal from the agenda for consideration at the meeting, on less than seven days' notice to the public, of a request by Suburban Bank, Bethesda, Maryland, for an exemption pursuant to § 348.4(b)(2) of the Corporation's rules and regulations entitled "Management Official Interlocks."

By the same majority vote, the Board further determined that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:
Case No. 45,520–NR First National Bank of Carrington, Carrington, North Dakota
Amended Resolution re: Delegations of Authority relating to the FDIC Capital Assistance Plan.

By the same majority vote, the Board further determined that no earlier notice of these changes in the subject matter of the meeting was practicable.

Dated: December 13, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–1829–82 Filed 12–14–82; 12:48 pm]

BILLING CODE 6714–01–M

6

FEDERAL DEPOSIT INSURANCE CORPORATION

Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 10:00 a.m. on Monday, December 13, 1982, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Application of Elizabeth Savings Bank, Elizabeth, New Jersey, an insured state mutual savings bank, for consent to merge, upon its conversion to a state-chartered stock savings bank, with The Trust Company of New Jersey, Jersey City, New Jersey, under the charter of Elizabeth Savings Bank and with the title "The Trust Company of New Jersey for Savings"; to establish the twenty offices of The Trust Company of New Jersey as branches of the resultant bank; to designate the main office of The Trust Company of New Jersey as the main office of the resultant bank; and to exercise full trust powers.
Notice of acquisition of control of Lincoln State Bank, East Orange, New Jersey, by The Dreyfus Corporation, New York, New York.
Recommendations regarding Assistance Agreements entered into between the Corporation and two insured banks pursuant to section 13(e) of the Federal Deposit Insurance Corporation.

The Board further determined, by the same majority vote, that no earlier notice of the changes in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(6), (c)(8) and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8) and (c)(9)(A)(ii)).

Dated: December 13, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

S–1828–82 Filed 12–14–82; 12:48 pm]

BILLING CODE 6714–01–M

7

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 6:40 p.m. on Friday, December 10, 1982, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to (1) receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in The Bollinger County Bank, Lutesville, Missouri, which was closed by the Commissioner of Finance of the State of Missouri on December 10, 1982; (2) accept the bid for the

transaction submitted by Security Bank of Bollinger County, Lutesville, Missouri; (3) approve the applications of Security Bank of Bollinger County, Lutesville, Missouri, for Federal deposit insurance, for consent to purchane the assets of and assume the liability to pay deposits made in The Bollinger County Bank, Lutesville, Missouri, and for consent to establish the two offices of The Bollinger County Bank as branches of the resultant bank; and (4) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to effect the purchase and assumption transaction.

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: December 13, 1982

Federal Deposit Insurance Corporation.

Hoyle L. Robinson

Executive Secretary.

[S–1827–82 12–14–82; 12:47 pm]

BILLING CODE 6714–01–M

8

FEDERAL ENERGY REGULATORY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 55746, December 13, 1982.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: December 15, 1982.

CHANGE IN THE MEETING: The following item has been added:

Item No., Docket No., and Company

M–14—PL83– , Statement of Policy: take-or-Pay provisions in Gas Purchase Contracts

Kenneth F. Plumb,

Secretary.

[S–1832–82 Filed 12–14–82; 3:20 pm]

BILLING CODE 6717–01–M

9

FEDERAL HOME LOAN BANK BOARD

TIME AND DATE: 10 a.m., Thursday, December 16, 1982.

PLACE: Board Room, sixth floor, 1700 G Street, NW., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Lockwood (202–377–6679).

MATTERS TO BE CONSIDERED:

Implementation of New Powers; Limitations on Loans to One Borrower
Amortization Methods for Loan Discounts; State Concurrence In Use of Deferral Accounting
Examination Fees
Pricing of Payment Instrument Services
Management Official Interlocks

[No. 88, December 14, 1982]

[S–1833–82 Filed 12–14–82; 3:58 pm]

BILLING CODE 6720–01–M

10

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION:

TIME AND DATE: 10 a.m. on January 20, 1983.

PLACE: Suite 316, 1825 K Street, N.W., Washington, D.C.

STATUS: It is likely that, pursuant to 29 CFR 2203.3(b), the portion of the meeting dealing with specific cases will be closed upon a proper vote taken.

MATTERS TO BE CONSIDERED: The comments received on the Commission's Interim Rules implementing the Equal Access to Justice Act at 29 CFR Part 2204 and the adoption of final rules. Discussion of specific cases in the Commission adjudicative process.

CONTACT PERSON FOR MORE INFORMATION: Mrs. Patricia Bausell (202) 634–4015.

Dated: December 13, 1982.

[S–1826–82 Filed 12–14–82; 11:06 am]

BILLING CODE 7600–01–M

11

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION:

TIME AND DATE: 10 a.m. on January 13, 1983.

PLACE: Suite 316, 1825 K Street, N.W., Washington, D.C.

STATUS: Because of the subject matter, it is likely that this meeting will be closed.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudicative process.

CONTACT PERSON FOR MORE INFORMATION: Mrs. Patricia Bausell (202) 634–4015.

Dated: December 13, 1982.

[S–1825–82 Filed 12–14–82; 11:06 am]

BILLING CODE 7600–01–M

federal register

Thursday
December 16, 1982

Part II

Department of Transportation

Federal Aviation Administration

Equipment Standards for Oxygen Dispensing Units; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 23

[Docket No. 21571; Notice No. 82-16]

Equipment Standards for Oxygen Dispensing Units

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to revise the equipment standards for oxygen dispensing units. This proposal results from a petition for rulemaking submitted by the White Diamond Corporation to permit the use of nasal cannulas by pilots and passengers instead of an oxygen dispensing unit (mask) covering the nose and mouth of the user. The nasal cannula is a device frequently used in a hospital environment to supply supplemental oxygen to patients by fitting the device into the nose. This proposal provides relief from a specific equipment standard when oxygen dispensing units are installed in small airplanes.

DATE: Comments must be received on or before February 16, 1983.

ADDRESS: Comments on the proposal may be mailed in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, ATTN: Rules Docket (AGC-204), Docket No. 21571, 800 Independence Avenue, S.W., Washington, D.C. 20591, or delivered in duplicate to: Room 916, 800 Independence Avenue, S.W., Washington, D.C. 20591. Comments delivered must be marked: Docket No. 21571. Comments may be inspected at Room 916 between 8:30 a.m. and 5:00 p.m. on weekdays except Federal holidays.

FOR FURTHER INFORMATION CONTACT: J. Robert Ball, Regulations and Policy Office (ACE-110), Aircraft Certification Division, Central Region, Federal Aviation Administration, 601 E. 12th Street, Kansas City, MO 64106; Telephone (816) 374-5688.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Comments relating to the environmental, energy, or economic impact that might result from the adoption of the proposal in this notice are invited. All initial comments received on or before the closing date for these comments will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed or withdrawn in the light of comments received. All comments received will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each substantive contact with FAA personnel concerned with this rulemaking will be filed in the docket. Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 21571." The postcard will be date/time stamped and returned to the commenter.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, ATTN: Public Information Center, APA-430, 800 Independence Avenue, S.W., Washington, D.C. 20591, or by calling (202) 426-8058. Requests must identify the notice number of the NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

Background

Airworthiness standards for oxygen dispensing units in small airplanes have been in effect since June 17, 1970, and are applicable only if certification with supplementary oxygen equipment is desired. This proposal concerns an additional method, with limitations, of complying with the minimum safety requirements for small airplanes when oxygen dispensing units are installed.

The FAA, to obtain public awareness and early participation in this rulemaking action, published the White Diamond Corporation's recommended change to § 23.1447 of the Federal Aviation Regulations in the **Federal Register** (46 FR 30352) on June 8, 1981. Comments to the proposed change were requested with a closing date for these comments of August 10, 1981.

Numerous comments were received in response to the **Federal Register** publication and all comments received supported the proposal. Most comments cited the convenience and comfort of the nasal cannula and ease of communications when compared to a conventional oxygen mask covering both the nose and mouth. However, none of the comments spoke specifically to the physiological aspects nor presented physiological data on the effectiveness of a nasal cannula to supply supplemental oxygen.

The primary purpose of supplying supplemental oxygen is to prevent hypoxia and hypoxia's consequences. When a blood oxygen saturation level of 90 percent or less is present, a state of hypoxia, a term meaning deficiency of oxygen in the body, develops. Hypoxia has an insidious beginning. Most pilots who are trained to understand and recognize the subjective effects of hypoxia will notice that fatigue, sleepiness, or headaches develop in the early stages. As the symptoms progress, breathlessness and an abnormal feeling of well-being appear plus adverse effects on vision, mental processes, and body motor functions. Unfortunately, occasionally there are no subjective indications of hypoxia up to the time of unconsciousness. All persons begin to deteriorate in alertness and mental efficiency when exposed to high altitudes and when one ascends above 14,000 feet, a distinct impairment of mental functions occurs without supplemental oxygen.

In support of their petition, the White Diamond Corporation submitted a copy of an information report prepared by the Armed Forces Institute of Pathology (AFIP). This report cited the results of tests performed with test subjects using a nasal cannula at various pressure altitudes from ground level to 25,000 feet. These tests were conducted using only six test subjects and failed to provide a correlation between the test subjects and the general aviation population that might use a nasal cannula to provide adequate supplemental oxygen.

After an analysis of the results of the tests performed by the AFIP, and other physiological informaton obtained, the FAA has concluded that a nasal cannula is an effective oxygen dispensing device with certain limitations. The FAA is not persuaded that a nasal cannula will provide for effective utilization of the oxygen being supplied to persons at the maximum altitudes requested in the petition; i.e., 20,000 feet for pilots and 22,000 feet for passengers. The analysis of the AFIP test data and other information obtained indicates that a limitation of 18,000 feet should be imposed for approved use of nasal cannulas in lieu of the currently required unit covering both the nose and mouth to maintain a minimum level of safety.

There are two precautions which should be taken when the nasal cannula is installed. First, because the nasal cannula does not obstruct or cover the mouth, smoking is possible and each cannula or its connected tubing should have permanently affixed, a clearly visible warning against smoking while the nasal cannula is in use; and secondly, each nasal cannula should clearly illustrate to the user the correct method of wearing and securing it.

Discussion of the Proposed Amendment

The FAA concluded that the petitioner's proposal has merit. The proposed amendment permitting the use of nasal cannulas with limitations would serve as an optional method of complying with the minimum safety requirements for small airplanes when oxygen dispensing units are installed. The amendment, if adopted, would reduce a burden to use a specific type of oxygen dispensing unit when an alternate unit could be used and maintain the minimum level of safety to 18,000 feet with limitations and correct donning instructions. The proposed amendment is permissive; therefore, no economic burden is imposed on the industry, the government, or the private sector by this action. However, some of the comments received indicated that a fuel savings may be realized by flying at a higher altitude with a nasal cannula. It was stated that the inconvenience of having to remove the oxygen dispensing unit in order to communicate precluded the commenters from using the higher altitudes at the present time.

List of Subjects in 14 CFR Part 23

Aircraft, Aviation safety, Safety, Air transportation.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend Part 23 of the Federal Aviation Regulations (14 CFR Part 23) as follows:

PART 23—AIRWORTHINESS STANDARDS: NORMAL, UTILITY, AND ACROBATIC CATEGORY AIRPLANES

1. By amending § 23.1447 to remove paragraph (a)(2) and to redesignate paragraphs (a)(3) and (a)(4) as paragraphs (a)(2) and (a)(3), respectively; by redesignating paragraphs (b), (c) and (d) as paragraphs (d), (e) and (f), respectively; and by adding new paragraphs (b) and (c) to read as follows:

§ 23.1447 Equipment standards for oxygen dispensing units.

* * * * *

(a) * * *

(b) If certification for operation up to and including 18,000 feet (MSL) is requested, each oxygen dispensing unit must:

(1) Cover the nose and mouth of the user; or

(2) Be a nasal cannula. In addition, each nasal cannula or its connecting tubing must have permanently affixed—

(i) A visible warning against smoking while in use; and

(ii) An illustration of the correct method of donning.

(c) If certification for operation above 18,000 feet (MSL) is requested, each oxygen dispensing unit must cover the nose and mouth of the user.

* * * * *

(Secs. 313(a) and 601 of the Federal Aviation Act of 1958, as amended (14 U.S.C. 1354(a) and 1421), Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)), and § 11.45 of the Federal Aviation Regulations (14 CFR 11.45))

Note.—This proposal would provide more flexibility for approval of oxygen dispensing units when type certification with supplemental oxygen equipment is requested by permitting optional use of an economical alternative. Accordingly, the FAA has determined that: (1) The proposal does not involve a major proposal under Executive Order 12291; (2) the proposal is not significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) it is certified under the criteria of the Regulatory Flexibility Act that the proposed amendment will not have a significant economic impact on a substantial number of small entities. A regulatory evaluation has been prepared and has been placed in the public docket.

Issued in Kansas City, Missouri on September 30, 1982.

Murray E. Smith,

Director, Central Region.

[FR Doc. 82-33942 Filed 12-15-82; 8:45 am]

[illegible] CODE 4910-13-M

federal register

Thursday
December 16, 1982

Part III

Department of Transportation

Federal Aviation Administration

Number of Flight Attendants Required During Intermediate Stops; Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 121

[Docket No. 20843; Amdt. No. 121-180]

Number of Flight Attendants Required During Intermediate Stops

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment allows an air carrier certificate holder to reduce by one-half (rounded to the next lower number in the case of a fraction) the number of flight attendants required to remain on board an aircraft during intermediate stops when passengers remain on board. This amendment allows added operational flexibility while still maintaining a high level of safety in air transportation. In addition, it reduces burdens on air carrier certificate holders and, therefore, is consistent with Executive Order 12291 and the Regulatory Flexibility Act.

EFFECTIVE DATE: January 16, 1983.

FOR FURTHER INFORMATION CONTACT: Roger E. Riviere, Project Development Branch, (AFO-240), Air Transportation Division, Office of Flight Operations, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-8096.

SUPPLEMENTARY INFORMATION:

Background

On October 9, 1980, the Air Transport Association of America (ATA) submitted a petition for rulemaking in accordance with the provisions of § 11.25 of the Federal Aviation Regulations (FAR). A summary of this petition was published in the **Federal Register** on February 19, 1981 (46 FR 12981). No comments were received. This petition requested clarification of Section 121.391(a) in regard to the number of flight attendants required to be on board airline passenger-carrying aircraft other than during flight. The current regulation states that each certificate holder shall provide at least the following flight attendants on each passenger-carrying aircraft used:

1. For airplanes having a seating capacity of more than 9 but fewer than 51 passengers—1 flight attendant.
2. For airplanes having a seating capacity of more than 50 but fewer than 101 passengers—2 flight attendants.
3. For airplanes having a seating capacity of more than 100 passengers—2 flight attendants plus 1 additional flight attendant for each unit (or part of a unit) of 50 passenger seats above a seating capacity of 100 passengers.

ATA stated in its petition that by memorandum of June 2, 1980, from the FAA's Acting Chief, Air Transportation Division, FAA regions were advised of a new interpretation from the Office of the Chief Counsel in regard to section 121.391. This interpretation stated that the minimum complement of flight attendants required by section 121.391 must be on board the aircraft whenever passengers are on the aircraft. This includes the periods of time during the boarding process and during intermediate stops. The interpretation also stated that if an individual (e.g., a gate agent) replaced a flight attendant and that flight attendant was part of the minimum crew complement, then the individual replacing the flight attendant would have to have received crewmember emergency training on that aircraft in accordance with section 121.417.

ATA further stated in its petition that its member airlines strongly disagreed with this interpretation and difficulties associated with the application of the June 2, 1980, FAA interpretation would adversely affect the airlines operationally and economically and could well create unnecessary hardship on the traveling public.

After review and analysis of the ATA petition, the FAA concurred with the ATA that the current regulation as intepreted by FAA contains unnecessary requirements. As already noted, the current regulation provides that all required flight attendants not only must be on board the aircraft during flight time but also must remain on board during intermediate stops. Analysis of the safety issues involved reveals that this is not necessary and precludes such personnel from performing other related duties. Such duties include aiding elderly or handicapped passengers, accompanying minors, and coordinating with ground personnel.

Section 25.803 and Appendix D to Part 121 of the FAR require that during a demonstration of emergency evacuation procedures, not more than 50 percent of the emergency exits in the sides of the fuselage of an airplane may be used for the demonstration. The 50 percent figure accounts for the possibility that some of the emergency exits may be rendered inoperative in a crash situation due to fuselage damage or fire. At an intermediate stop, however, at least one floor-level exit will remain open, and time will not be lost in preparing that exit for evacuation during an emergency situation. In addition, most other exits should normally be operable.

Therefore, the FAA issued Notice of Proposed Rulemaking No. 82-1, which was published in the **Federal Register** on January 21, 1982 (47 FR 3068). In the notice, the FAA proposed to reduce the number of required flight attendants who must remain on board during intermediate stops. Intermediate stops are stops where passengers remain on board and proceed on that aircraft to another destination. They are usually of short duration. The FAA proposed that during such stops each certificate holder shall provide and maintain on board the aircraft at least one-half (rounded to the next higher figure) the required number of flight attendants. During such stops, the aircraft is in a static mode, in a level attitude, with the engines stopped. This is in contrast with a crash situation in which the aircraft often comes to rest in an unusual attitude with cabin contents dislodged and with exits blocked or inoperable because of impact damage.

Additionally, the FAA proposed that the certificate holder must ensure that at least one floor-level exit on that aircraft remains open during that stop and that such exit provides for the rapid deplaning of passengers. One or more additional exits may be open for servicing the galleys and lavatories. As part of their emergency evacuation duties, the required flight attendants on board are required to open, if necessary, additional emergency exits to provide for the rapid deplaning of passengers. Also, at most intermediate stops, flight crewmembers, mechanics, baggage handlers, security personnel, and other ground personnel are nearby to assist in the event of an emergency. Furthermore, the aircraft's engines are shut down while the aircraft is at the gate. This factor should mitigate the chances of an emergency arising from engine torching or overheating.

That proposal would also allow the substitution for required flight attendants of other personnel qualified in the emergency evacuation procedures for that aircraft required in § 121.417 of the FAR as long as they are identified to the passengers.

This provision will allow personnel such as passenger agents, customer service representatives, and ticket agents who have been trained in accordance with § 121.417 of the FAR to perform safety-related flight attendant duties in the absence of the required flight attendants at intermediate stops. These normally required flight attendants may be performing other related duties such as aiding unaccompanied children or ill passengers.

Finally, during many intermediate stops only a small number of passengers remain on board the aircraft. In most cases, passengers have the opportunity to proceed to a lounge or to other appropriate places instead of remaining on board the aircraft during any prolonged intermediate stop. Therefore, if the airplane is stationary, the engines are not operating, and one or more exits are open, allowing one-half of those flight attendants required by § 121.391 to remain on board the airplane at an intermediate stop would provide a necessary level of safety for all passengers and crewmembers.

Discussion of Comments

Nine persons submitted written views on this proposal. Four of these persons represent various flight attendant unions. Two persons represent airline associations, while another person represents an airline. One person represents an airline pilot union, with the remaining individual commenting as a member of the traveling public.

A majority of the commenters express approval of the intent of the proposal. All parties agree that at least a minimum number of flight attendants must be on board the aircraft at intermediate stops when passengers remain on board to ensure a safe evacuation. A majority of these commenters also agree that there may be a need for flight attendants to deplane to perform ancillary duties. However, several of the commenters suggest changes which would tailor the proposal to specific situations or specific operators. Where practical, these suggestions have been adopted.

Several commenters state that the required complement of flight attendants should be on board the aircraft if fueling occurs during the intermediate stop due to the increased hazard of a ramp fire.

Refueling of aircraft with passengers on board appears to have little impact on the safety of on-board passengers. An examination of accident and incident records of U.S. air carrier worldwide operations for the past 20 years revealed only two incidents resulting in fires associated with jet fueling operations at the gate. One incident occurred when passengers were on board, the other did not. These 2 incidents resulted in injury to 11 persons. Four of the injured were ground service personnel either involved in the fueling operation or injured because of their nearby location. Seven passengers received injuries from the ensuing evacuation. During the same period of time, it is estimated that over 22 million fueling operations (with and without passengers on board) were accomplished without fuel spill accidents or incidents. The accident history concerning fueling operations does not indicate a need for having the required complement of flight attendants on board the aircraft during aircraft fueling operations when passengers are on board. The most common parking procedure worldwide is nosed-in to the terminal building. The parking ramps slope away from the building. In the event of a fuel spill, the ramp slope would direct the spilled fuel towards the aft portion of the aircraft in most cases. The safer escape avenue could very well be to use the protection of the unruptured aircraft body tube to the forward portion of the aircraft.

Present and future transport aircraft and ground equipment have been and continue to be designed so as virtually to eliminate the potential of significant fuel spills and fires.

Several commenters oppose the use of personnel other than flight attendants during intermediate stops. Most of these commenters question whether the airline personnel would be properly trained in emergency procedures in each particular aircraft. These commenters also express concern that a brief training program for other airline employees does not compare with the experience and training continually gained by flight attendants in flight.

At most intermediate stops, flight crewmembers, mechanics, baggage handlers, security personnel, passenger agents, and other personnel are nearby to assist in any emergency. Passenger agents, customer service representatives, and ticket agents may perform the safety duties of a flight attendant on the ground at an intermediate stop if they are properly trained in emergency evacuation procedures for that type of aircraft in accordance with § 121.417 as long as they are identified to the passengers.

Those people who have completed the training in accordance with § 121.417 of the FAR have been trained under the same sections as a new flight attendant and have generally the same level of experience in this area as those flight attendants who are initially assigned duties with the air carrier. Those individuals being utilized as replacements for flight attendants must meet the same initial and recurrent training requirements of § 121.417 just as all flight attendants.

One commenter states that reducing the required number of flight attendants on board is dangerous and can affect the number of lives saved in an emergency. This commenter goes on to point out that all exits during boarding and at intermediate stops are unarmed to prevent inadvertent activation of the emergency slides, and passengers are not instructed on how to arm/activate the emergency evacuation equipment that could save their lives. This commenter contends that one floor-level exit remaining open at an intermediate stop does not justify reducing the number of flight attendants required to be on board.

The front door of the airplane is already opened and connected with a jetway or stairs, which allows the passengers an egress route without the delay required when opening the exit during an emergency. Most of the passengers will exit through this door which provides the necessary egress in the event of an emergency.

One commenter specifies that the flight attendants should be evenly distributed throughout the cabin in the vicinity of floor-level exits.

During intermediate stops, flight attendants are generally on board and evenly distributed since they are in the process of exercising their respective duties. However, the FAA agrees that the comment regarding an even distribution of flight attendants has merit, and the requirement for the even distribution of flight attendants to deal more effectively with a critical emergency evacuation, should one arise, is added to the rule. If there is only one flight attendant on board the aircraft, that person will be located in accordance with the airline's FAA-approved operating procedures.

Two flight attendant unions suggest that the provisions of § 121.391(a) should not be changed. One union contends that the minimum crew complement represents an adequate number of flight attendants required in an emergency to evacuate a fully boarded aircraft with only half of the available number of exits operable.

The FAA Office of Aviation Safety recently conducted a search of data of air carrier incidents at the gate before engine startup resulting in emergency evacuation. This survey covered 6 years and revealed four evacuations resulting from a bomb threat, smoke in the cabin, auxiliary power unit (APU) torching, and engine torching. This record indicates that there is no significant safety problem connected with reducing the number of flight attendants at the gate during intermediate stops. This reduction is acceptable since the aircraft is parked at the gate in a static mode in a level attitude with engines stopped and no structural damage evident. At least one floor-level exit is already open and available for immediate evacuation use. This exit is usually connected to a

jetway which furnishes additional protection from possible dangers outside the airplane. Crewmembers, mechanics, baggage, security personnel, and other ground personnel are nearby to assist in the event of an emergency.

On most intermediate stops, many passengers deplane the airplane. Therefore, it is reasonable to allow certain reductions in the number of flight attendants. When boarding begins, the full contingent of flight attendants has generally returned to their duties on the airplane.

Another commenter expresses concern that if a passenger on board becomes ill and requires emergency first aid, the number of required flight attendants proposed by the FAA may not be adequate to respond quickly enough to render timely assistance. Furthermore, flight attendants perform many important flight safety duties during passenger boarding and at en route stops.

As stated previously, from a recent search of data of air carrier incidents, there is no significant safety problem connected with reducing the number of flight attendants at the gate during intermediate stops. The very fact that the flight attendants may be allowed to leave the aircraft demonstrates that these flight attendants may aid the ill passenger in deplaning. The fact that the airplane is at the gate and connected to a jetway or stairs with the door open demonstrates that the airplane is prepared for evacuation prior to any emergency arising. The remaining flight attendants may then prepare other exits for evacuation should the need arise.

One commenter suggests that the air carriers should be allowed to tailor their procedures to suit their particular method of operation and to have these procedures approved and enforced by the FAA.

This comment in effect is asking that standards not be established for this type of operation. This amendment will continue the high level of safety that is required of each air carrier in the public interest.

One commenter raises the question of contractual agreements between some airlines and their unions that would preclude substitution of ground personnel for flight attendants.

Substitution of flight attendants by persons trained in accordance with § 121.417 of the FAR is appropriate and may be utilized by those air carriers wishing to avail themselves of this alternative. Those companies that have restrictions or contractual agreements prohibiting such substitution must resolve these differences by any means deemed appropriate by each party involved. The FAA is merely offering an alternative method by which aircraft at intermediate stops may be manned by appropriate personnel to provide for proper evacuation in case of any emergency that might rise.

Three commenters express concern that the FAA is proposing that all engines must be shut down and at least one floor-level exit must remain open during any stop where passengers remain on board the aircraft, regardless of the number of flight attendants on board the aircraft.

The FAA did not intend to require that all engines be shut down with the one floor-level exit open with passengers on board during intermediate stops when all flight attendants are on board. This provision was only meant for situations where certain flight attendants are away from the airplane when changing flights or where ancillary duties require them to be off the airplane. To clarify this, the rule is changed to provide that these provisions are only applied when the flight attendant complement is fewer than required by § 121.391(a) of the FAR.

Two commenters contend that cold or inclement weather operations would negate the practicality of having at least one floor-level exit remain open during a passenger stop.

In areas where inclement weather may make it impractical for the airplane door to be left open, the flight attendant complement may not be reduced. However, on board flight attendants may be replaced by the same number of other personnel qualified in the emergency evacuation procedures for the airplane as required in § 121.417 and the replacement personnel are identified to the passengers remaining on board at the intermediate stop.

For all the reasons previously mentioned, safety would not be jeopardized by changing the number of flight attendants from one-half of those required in flight rounded to the next higher figure as put forth in NPRM 82–1 to one-half of the number of flight attendants required for flight rounded to the next lower number in the case of a fraction. This change is made in response to the views presented by one commenter who represents numerous large air carriers. This commenter states that its major concern is with aircraft requiring an odd number of flight attendants in flight when that number is halved and rounded to the next higher figure when on the ground during an intermediate stop. The commenter further states that the notice did not provide the operational flexibility the airlines require and would impose substantial economic penalties.

This economic penalty may be illustrated when an airplane has a seating capacity of more than 100 passengers but fewer than 151 passengers which would require 3 flight attendants while in flight. In the notice, it was proposed to allow one-half of the flight attendants (rounded to the next higher number in the case of a fraction) to be on board the aircraft while on the ground during intermediate stops. In this case, it would require two flight attendants to remain on board. In this amendment, the requirement is changed to allow the number of flight attendants on the ground to be reduced to one-half of the flight attendants required in flight, rounded to the next lower number in the case of a fraction. In the previous example, which requires three flight attendants in flight, the number of flight attendants required on the ground at intermediate stops would now be one instead of two. The requirement for at least one flight attendant to be on board the aircraft was added to ensure that an aircraft which normally requires only one flight attendant while in flight is always attended while passengers are on board at intermidiate stops. This rule is in concert with the current procedures practiced by most of the carriers at this time. An appropriate level of safety is provided for by this amendment, and there is no reason to penalize the carrier and prevent other flight attendants from performing ancillary duties which may require them to be off the airplane. This rule has been changed accordingly.

Economic comments and responses are considered in the economic analysis which follows.

Economic Analysis

The economic impact of the amendment is clearly positive. The rule prior to amendment has been interpreted to require that the full complement of flight attendants must be on board at all times when passengers are on board. The amended rule requires only half, rounded to the next lower number in the case of a fraction, of the full complement for intermediate stops in a flight itinerary.

A number of commenters indicate that certain airline practices did not follow the rule as interpreted and argue against the FAA proposal. One commenter expresses concern that the economic and operational penalties of the FAA's proposed rule would overshadow the safety benefits gained. Examples were supplied of the operational and economic penalties that the airlines would incur if the FAA's proposed rule is implemented in its present form.

The proposal was modified with respect to the method used to determine the number of flight attendants required at intermediate stops, and the amendment eliminates the costs to which commenters point. The proposal would have required one-half of the flight attendants, rounded to the next higher number in the case of a fraction. Thus, for example, some makes and models of a B–727, a DC–9, or a B–737, may have between 101 and 150 seats, and would require 2 flight attendants at all times for intermediate stops on a flight itinerary. The amendment as adopted requires only one flight attendant at such points for these aircraft types.

The only other comment of substance received concerning any economic questions relates to the proposal which required that at intermediate stops the engines must be shut down and the doors must remain open. The proposal has been modified to make it clear that this part of the rule only applies when the flight attendant complement is reduced at an intermediate stop.

In view of the clarification in the amendment, this aspect of the rule should not create a cost for air carriers. Also, there is no derogation of safety, and thus no public cost.

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure, among other things, that small entities are not disproportionately affected by Government regulations. The RFA requires agencies to review rules which may have a "significant economic impact on a substantial number of small entities." As discussed above, there is no negative economic impact associated with the amendment as it relates to operators covered by the rule.

List of Subjects in 14 CFR Part 121

Aviation safety, Safety, Air carriers, Air transportation, Aircraft pilots, Airplanes, Airports, Children, Handicapped, Hours of work, Infants, Pilots, Smoking, Transportation, Common carriers.

Adoption of the Amendment

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

Accordingly, § 121.391 of the Federal Aviation Regulations (14 CFR 121.391) is amended by adding a new paragraph (e) as follows, effective January 16, 1983.

§ 121.391 Flight attendants.

* * * * *

(e) At stops where passengers remain on board the aircraft and proceed on that aircraft to another destination, each certificate holder shall provide and maintain on board the aircraft during that stop at least one-half (rounded to the next lower figure in the case of a fraction) of the flight attendants as provided in paragraph (a) of this section or the same number of other personnel qualified in the emergency evacuation procedures for that aircraft as required in § 121.417 provided those personnel are identified to the passengers, but never fewer than one such person. These persons shall be uniformly distributed throughout the airplane to provide the most effective egress of passengers in the event of an emergency evacuation. Should there be only one flight attendant on board the aircraft, that person will be located in accordance with the airline's FAA–approved operating procedures. During such stops when the flight attendant complement is fewer than required by § 121.391(a), the certificate holder must ensure that the aircraft engines are shut down and at least one floor-level exit on that aircraft remains open during the stop and that such exit provides for the deplaning of passengers.

(Sec. 313, 314, and 601 through 610, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354, 1355, 1421 through 1430); Section 6(c), Department of Transportation Act (49 U.S.C. 1655(c))

Note.—The FAA has determined that this amendment relaxes requirements and allows more flexibility to affected Part 121 operators as it reduces by one-half the number of flight attendants required to remain on board the aircraft during intermediate stops when passengers remain on board. There are no apparent direct or indirect (nonindustry) costs associated with granting the requested relief, and the benefits far outweigh any direct costs associated with changing the present regulation. Therefore, it has been determined that this is not a major regulation under Executive Order 12291 or significant under the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). The evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

In addition, I certify that under the criteria of the Regulatory Flexibility Act, the amendment will not have a significant economic impact on a substantial number of small entities. This amendment applies to certificated air carriers, few of which are considered to be small entities. It allows all carriers to reduce the number of employees which must be on aircraft during certain parts of the operations, thus reducing overall costs.

Issued in Washington, D.C., on November 17, 1982.

J. Lynn Helms,
Administrator.

[FR Doc. 82-33943 Filed 12-15-82; 8:45 am]
BILLING CODE 4910-13-M

federal register

Thursday
December 16, 1982

Part IV

Department of Health and Human Services

Office of the Secretary

Consolidation of Grants to the Insular Areas

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

45 CFR Part 97

Consolidation of Grants to the Insular Areas

AGENCY: Office of the Secretary, HHS.

ACTION: Final rule.

SUMMARY: These rules authorize the consolidation of certain formula and block grants to the Virgin Islands, Guam, American Samoa, and Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands. This rule also waives all requirements for matching that are imposed upon an insular area under any of the grant programs that are included in a consolidated grant. Previous regulations allowing for consolidations of grants of the Public Health Service (42 CFR Part 50, Subpart F) and the Office of Human Development Services (45 CFR Part 1300) are repealed. The rule is based on the premise that it is in the public and insular area interest to provide the insular areas with the maximum flexibility allowed by the statute in order to minimize their administrative burden and ensure that federal funds are available for use in a manner determined most appropriate by the insular area.

DATE: The rule is effective December 16, 1982.

FOR FURTHER INFORMATION CONTACT: Catherine Carver, Special Assistant to the Deputy Under Secretary for Intergovernmental Affairs, Room 640F, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, D.C. 20201, Phone: (202) 245–6156.

SUPPLEMENTARY INFORMATION: Section 501 of Pub. L. 95–134, the Omnibus Territories Act, as amended, 48 U.S.C. 1468a, authorizes federal agencies to consolidate grants to the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands and the Commonwealth of the Northern Mariana Islands ("insular areas"). Specifically, section 501 permits:

(a) A federal agency to consolidate any or all grants to each of these insular areas except those grants used to make direct payments to individuals;

(b) A federal agency to waive requirements for matching funds, applications, and reports with respect to the consolidated grants;

(c) An insular area to use the consolidated grant funds for any purpose or purposes authorized under any of the grant programs that have been consolidated; and

(d) An insular area to determine the amount of funds to allocate to each program or purpose authorized under the consolidated grant.

The rule has two purposes: (1) To set out rules permitting consolidation of grants; and (2) to waive matching requirements for the programs included in a consolidation.

A notice of proposed rulemaking was published in the **Federal Register** on June 16, 1982. Twelve comments were received and all were supportive of the proposed rule. Based on our evaluation of the comments received, the rule is being made final. The provisions of the regulation are discussed below.

Consolidation

The Department previously issued regulations allowing insular areas to consolidate certain formula grant programs of the Public Health Service (42 CFR Part 50, Subpart F) and certain programs of the Office of Human Development Services (45 CFR Part 1300). The Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35) replaced many of those programs with block grant programs. Therefore, for the insular areas to take advantage of the consolidation authority of the Omnibus Territories Act, the Department is issuing this rule providing for consolidation of these newly authorized programs as well as of other formula and State grant programs.

The rule would allow consolidation of grants authorized by the following programs: the Preventive Health and Health Services Block Grant, the Alcohol and Drug Abuse and Mental Health Services Block Grant, the Primary Care Block Grant, the Maternal and Child Health Services Block Grant, the Social Services Block Grant, the Community Services Block Grant, the Low-income Home Energy Assistance Program, Child Welfare Services, Developmental Disabilities, Aging Supportive Services and Senior Centers, Congregate Meals for the Elderly, Home Delivered Meals for the Elderly, State Agency Administration (Aging) and Child Abuse and Neglect State Grants.

In the notice of proposed rulemaking, the Department asked for comments on whether other programs should be eligible for grant consolidation. Several commenters suggested including Head Start as an eligible program. We have not changed the rule in this regard because, under the Omnibus Territories Act, only programs which fund territorial governments are eligible for consolidation. Head Start funds are awarded to community organizations and local governments and not territorial governments.

An insular area may apply for a consolidated grant to allow the insular area to use any of the funds to which the insular area is entitled under one or more of the eligible programs for any purpose(s) authorized by any of these programs. (American Samoa and the Trust Territory of the Pacific Islands at the present time are not eligible for the Social Services block grant or the Child Welfare Services program.) Submit an application that indicates the amount of funds to be consolidated, the program authorities that are the sources of those funds, and the program authorities under which it will expend the funds made available under the consolidated grant. The insular area must comply with the application, reporting and other administrative requirements applicable to the program(s) under which it will expend the funds.

An insular area may choose to receive funds separately under each of the above programs or it may apply for a grant consolidating two or more of these programs. This decision is entirely at the discretion of the insular area. Some examples may help to illustrate the principle of consolidation:

- An insular area wants to provide for the activities and services authorized under each of the four health block grant programs, but it wishes to spend the funds in amounts that differ from those prescribed by the statutory formulas for each of those programs.

In this instance, the insular area should submit an application to consolidate the four health block grants. The application should contain the assurances and certifications required by each of the four block grant programs and a description of the intended use of the funds. It should include the amount of funds to be consolidated and the amount of funds that the territorial government will spend under each of the four programs.

- An insular area decides to spend all funds from the primary care block grant and from the low-income energy assistance program on the alcohol, drug abuse and mental health services block grant and on the maternal and child health services block grant.

In this instance, the insular area should submit an application consolidating: the primary care; low-income energy assistance; alcohol, drug abuse and mental health services; and maternal and child health services block grants. The application should contain the assurances and certifications—and meet other statutory requirements—applicable to the latter two programs.

• An insular area decides to consolidate the social services block grant with the other State grant programs administered by the Office of Human Development Services (i.e., child welfare services, services to the aging, to the developmentally disabled and to abused and neglected children) and to spend all funds under the social services block grant program rather than under the specific State grant authorities.

In this instance, the insular area should submit an application consolidating all of the programs administered by the Office of Human Development Services. The application should indicate the insular area's intention to spend funds from these programs under the social services block grant only and provide a pre-expenditure report which meets the requirements of the social services block grant statute and regulation.

Waiver of Matching Requirements

A second purpose of this rule is to waive all matching requirements imposed upon an insular area government by any of the statutes authorizing the programs eligible for consolidation when these programs are included in a consolidated grant.

Under Pub. L. 95–134, a federal agency may waive matching requirements with respect to a consolidated grant. The Department has determined that it is in the public interest to waive these requirements. Matching requirements are included in programs to ensure that State governments commit a portion of their own resources to federally supported services. In the case of the insular areas, the local tax bases are extremely limited and therefore matching requirements may not be effective ways to increase aggregate spending. Under the rules, the matching requirements for any program included in a consolidated grant would be waived automatically.

Applications for a Consolidated Grant

Applications for a consolidated grant should be submitted to the Deputy Under Secretary for Intergovernmental Affairs, 200 Independence Avenue, SW., Washington, D.C. 20201.

There is no prescribed format for a consolidated grant application. The content of the application is determined by the decisions the insular area makes regarding the programs to be carried out and how the funds will be used. However, the application must indicate the amount of funds to be consolidated, the program authorities that are the sources of those funds, and the program authorities under which the insular area will expend the funds included in the consolidated grant. It must also contain the submission information required by statute and regulation for the programs under which the consolidated grant funds will be expended.

Where statutory assurances or certifications in several programs are substantially the same, one assurance or certification will be sufficient.

As indicated in the regulation, an application may be submitted at any time during the fiscal year. However, a consolidated grant cannot included any funds already expended by the insular area.

State Plan Requirements

Territorial officials should be aware that in addition to these rules, Executive Order 12372 provides territories with further opportunity to reduce or simplify applications for Federal programs. The Executive Order, in the main, institutes a new policy providing elected officials of State, territorial and local governments the opportunity to establish their own process for review of Federal financial assistance. In addition, however, section 2(d) of the order directs Federal agencies to: "(a)llow the States to simplify and consolidate existing Federally required State Plan submissions. Where State planning and budgeting systems are sufficient and where permitted by law, the substitution of State plans for Federally required State plans shall be encouraged by the agencies".

An application under for a consolidated grant under Pub. L. 95–134 removes the need for submission of a State plan for each program included in a consolidated application. For programs eligible for consolidation, but which the Insular Area has chosen not to include in a consolidated grant application, a simplified, consolidated or substitute State plan may be submitted. Regulations governing simplification, consolidation or substitution of State plans will be published in the Spring of 1983. Territorial officials may contact Catherine Carver for more information. (See above for address.)

Further Assistance

An insular area requiring further information or assistance in matters relating to consolidated funding and Pub. L. 95–134 should contact Catherine Carver, Special Assistant to the Deputy Under Secretary for Intergovernmental Affairs (202) 245–6156.

Repeal of Existing Regulations

The Office of Human Development Services and the Public Health Service previously issued regulations allowing for consolidation of certain grants to the insular areas (45 CFR Part 1300 and 42 CFR Part 50, Subpart F, respectively). The Public Health Service regulations were removed effective October 1, 1982, by a notice in the **Federal Register** of October 1, 1981 (46 FR 48592). This rule removes the previous regulations of the Office of Human Development Services.

Reporting requirements are normally subject to approval by OMB under Pub. L. 96–511. However, this requirement is not subject to OMB approval because it applies to less than ten persons.

Regulatory Flexibility Act of 1980

This rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, Pub. L. 96–354, because the rule applies to a limited number of recipients of federal financial assistance which are not within the statutory definition of "small entities".

Executive Order 12291

This rule is not a "major rule" under Executive Order 12291 and thus a regulatory impact analysis is not required. This determination is based on our assessment that the rule will not:

(1) Have an annual effect on the economy of $100 million or more;

(2) Impose a major increase in costs or prices for consumers, individual industries, federal, state or local government agencies, or geographic regions; or

(3) Result in significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Effective Date

Because these regulations relieve restrictions on the use of grant funds, and in order to allow the insular areas to apply for a consolidated grant as early in the Federal fiscal year as possible, we are not using the customary 30-day delayed effective date, but are making these rules effective immediately.

List of Subjects in 45 CFR Part 97

Administrative practice and procedure, Aged, Alcoholism, Child welfare, Community action programs, Drug abuse, Energy, Grant programs-energy, Grant programs-health, Grant programs-social programs, Health care, Maternal and child health, Mental health programs, Public health.

For the reasons set forth in the preamble, Title 45 of the Code of Federal Regulations is amended as follows:

PART 1300—GENERAL REGULATIONS [REMOVED]

1. 45 CFR Part 1300 is removed.

2. Part 97 is added to Title 45 to read as follows:

PART 97—CONSOLIDATION OF GRANTS TO THE INSULAR AREAS

Sec.

97.10 What is a consolidated grant?
97.11 Which jurisdictions may apply for a consolidated grant?
97.12 Which grants may be consolidated?
97.13 How does an insular area apply for a consolidated grant?
97.14 How will grant awards be made?
97.15 For what purposes can grant funds be used?
97.16 What fiscal, matching and administrative requirements apply to grantees?

Authority: Sec. 501, Pub. L. 95–134, 91 Stat. 1164, amended, Sec. 9, Pub. L. 95–348, 92 Stat. 495, Sec. 601, Pub. L. 96–205, 94 Stat. 90 (48 U.S.C. 1469a).

§ 97.10 What is a consolidated grant?

As used in this Part, a "consolidated grant" means a grant award to an insular area, the funds of which are derived from the allocations under two or more of the programs specified in section 97.12.

§ 97.11 Which jurisdictions may apply for a consolidated grant?

The Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands ("insular areas") may apply for a consolidated grant under this Part.

§ 97.12 Which grants may be consolidated?

These regulations apply to the consolidation of grants under the following programs:

Title and Statutory Citation

Block Grants

(a) Preventive Health and Health Services, 42 U.S.C. 300w–300w–8.

(b) Alcohol and Drug Abuse and Mental Health Services, 42 U.S.C. 300x–300x–9.

(c) Primary Care, 42 U.S.C. 300y–300y–11.

(d) Maternal and Child Health Services, 42 U.S.C. 701–709.

(e) Social Services, 42 U.S.C. 1397–1397f.

(f) Community Services, 42 U.S.C. 9901–9912.

(8) Low-Income Home Energy Assistance, 42 U.S.C. 8621–8629.

Other Grants

(h) Child Welfare Services, 42 U.S.C. 620, et seq.

(i) Developmental Disabilities, 42 U.S.C. 6061–6068.

(j) Aging Supportive Services and Senior Centers, 42 U.S.C. 3030d.

(k) Congregate Meals for the Elderly, 42 U.S.C. 3030e.

(l) Home Delivered Meals for the Elderly, 42 U.S.C. 3030f.

(m) State Agency Administration (Aging), 42 U.S.C. 3028.

(n) Child Abuse and Neglect State Grants, 42 U.S.C. 5103(b).

§ 97.13 How does an insular area apply for a consolidated grant?

(a) An insular area may apply for a consolidated grant in lieu of filing an individual application for any of the programs listed in § 97.12 for which the insular area is eligible.

(b) The chief executive officer or his designee may submit a consolidated grant application at any time prior to expenditure of the funds proposed for consolidation. The application must specify the amount of funds proposed for consolidation, the titles of the programs that are the sources of funds that are to be consolidated and the titles of the programs under whose statutory authority the funds are to be expended.

(c) The application must contain the assurances, certifications, and other information required by the statutes and regulations applicable to those programs under which funds will be expended. If any of the requirements for these latter programs are substantially the same, they may be met by a single assurance, certification, or narrative, as appropriate. The application need not meet the application or other requirements for programs which are sources of funds for the consolidated grant but under whose authority no funds will be expended.

(d) If after receiving a consolidated grant, an insular area wishes to use funds for a purpose authorized by an eligible program that is not included in the consolidated grant, or by an eligible program that was included in the grant but was not intended as a program under which funds would be expended, the insular area must submit an amended application indicating the proposed change and containing the assurances, certifications and other information applicable to that program.

§ 97.14 How will grant awards be made?

The Secretary, or his designee, will award a consolidated grant to each insular area that applies for a consolidated grant and meets the requirements of this Part and of the statutes and regulations applicable to the programs under whose authority the consolidated grant funds will be expended. As long as the amount requested does not exceed the amount for which the insular area is eligible under the programs that are being consolidated, the amount of the award will equal the amount requested in the application.

§ 97.15 For what purposes can funds be used?

Funds awarded under a consolidated grant must be used for purposes authorized by the statutes and regulations of the programs included in the consolidated grant. In its application for a consolidated grant the insular area is to indicate the amount of funds that will be allocated to the eligible programs.

§ 97.16 What fiscal, matching, and administrative requirements apply to grantees?

(a) An insular area receiving a consolidated grant must comply with the statutes and regulations applicable to the programs under which the funds are to be used, except as otherwise provided in this Part.

(b) In regard to programs included in a consolidated grant, an insular area need not comply with any of the statutory or regulatory provisions requiring recipients to match federal funds with their own or other funds.

(c) A single report may be submitted in lieu of any individual reports that may be required under the programs included in a consolidated grant.

Dated: November 4, 1982.

Richard S. Schweiker,

Secretary.

[FR Doc. 82–26108 Filed 12–15–82; 8:45 am]

BILLING CODE 4150–04–M

Reader Aids

Federal Register

Vol. 47, No. 242

Thursday, December 16, 1982

INFORMATION AND ASSISTANCE

PUBLICATIONS

Code of Federal Regulations

CFR Unit	202-523-3419 523-3517
General information, index, and finding aids	523-5227
Incorporation by reference	523-4534
Printing schedules and pricing information	523-3419

Federal Register

Corrections	523-5237
Daily Issue Unit	523-5237
General information, index, and finding aids	523-5227
Privacy Act	523-5237
Public Inspection Desk	523-5215
Scheduling of documents	523-3187

Laws

Indexes	523-5282
Law numbers and dates	523-5282 523-5266
Slip law orders (GPO)	275-3030

Presidential Documents

Executive orders and proclamations	523-5233
Public Papers of the President	523-5235
Weekly Compilation of Presidential Documents	523-5235

United States Government Manual 523-5230

SERVICES

Agency services	523-5237
Automation	523-3408
Library	523-4986
Magnetic tapes of FR issues and CFR volumes (GPO)	275-2867
Public Inspection Desk	523-5215
Special Projects	523-4534
Subscription orders (GPO)	783-3238
Subscription problems (GPO)	275-3054
TTY for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, DECEMBER

54053-54268.....1
54269-54418.....2
54419-54758.....3
54759-54924.....6
54925-55198.....7
55199-55378.....8
55379-55454.....9
55455-55626.....10
55627-55902.....13
55903-56128.....14
56129-56308.....15
56309-56468.....16

CFR PARTS AFFECTED DURING DECEMBER

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Administrative Orders:

Memorandums:
November 29, 1982.....54053

Executive Orders:
10621 (Amended by EO 12396).....55897
11390 (Amended by EO 12396).....55897
12239 (Revoked by EO 12396).....55897
12396.....55897

Proclamations:
4941 (Amended by Proc. 5002).....54269
5002.....54269
5003.....55899
5004.....55901
5005.....56309

4 CFR

Proposed Rules:
28.....54972

5 CFR

1201.....54419
2429.....55379, 55903

Proposed Rules:
213.....54974
890.....54974

7 CFR

52.....55455
53.....54925
56.....54420
56.....54420
59.....54420
68.....54271
70.....54420
271.....55903
272.....55463, 55903
273.....55463, 55903
319.....54273, 55199
400.....55886, 55888
800.....54055, 54275, 55469
905.....54926, 55199
906.....56311
907.....54281, 55379, 56312
910.....54421, 55469
926.....55910
982.....56312
1065.....55200
1126.....54421
1132.....54421
1139.....55201
1421.....54281
1497.....54284
1822.....55627
1901.....54422
1922.....55380
1942.....54422
1944.....54422, 55627
1945.....54422

Proposed Rules:
52.....54086
967.....54975
987.....54307
1106.....54977
1124.....55490
1135.....54978
1207.....55245

8 CFR

214.....55202
238.....55388

9 CFR

71.....55636
78.....55636
92.....54285, 55388
317.....54286
381.....54286

Proposed Rules:
113.....54090, 54307, 55246

10 CFR

2.....56314
9.....56314
50.....55203

Proposed Rules:
70.....55951

12 CFR

29.....55911
201.....54424
204.....55204-55209
211.....54057
217.....54759
220.....55912
523.....56314
531.....56316
545.....55656
564.....56318
614.....54760
701.....54424
745.....54424
1204.....56319-56323

Proposed Rules:
207.....54980
220.....54980
221.....54980
224.....54980
543.....56363
612.....56140
1204.....56364

13 CFR

101.....56129

14 CFR

21.....54287, 54288
39.....54289-54291, 54760, 54761, 55657, 55658

71.....54291, 54762, 54763, 55389, 55659
73.....54763, 55390
75.....54763
91.....56324
97.....54292, 55659
121.....56327, 56460
253.....54764
302.....56129
387.....56130

Proposed Rules:
Ch. I.....54829
23.....56456
39.....54830
61.....54414
71.....54308, 54309, 54831, 55687
75.....54309, 55688, 56365
120.....56365
121.....56366
135.....56366

15 CFR

904.....54429, 56131

16 CFR

13.....55210, 55211
1000.....54927

Proposed Rules:
13.....54452, 55398

17 CFR

200.....54764, 55211
210.....54764
229.....54764, 55661
230.....54764
239.....54764, 55661
240.....54057, 54764, 55661
249.....54764, 55661
260.....54764

Proposed Rules:
240.....55491

18 CFR

271.....54928
274.....54063

Proposed Rules:
271.....55246
385.....54981

19 CFR

4.....54064
10.....55470
18.....55470
19.....55470
22.....55470
24.....55470
101.....55913
113.....55470
125.....55470
127.....55470
132.....55470
142.....55470
144.....55470

Proposed Rules:
4.....54092
148.....54092
177.....55400

20 CFR

416.....55212
609.....54686
614.....54695

21 CFR

5.....54750, 55470
74.....54428
81.....54429
82.....54429
145.....55471
172.....55475
175.....54430
193.....55214
201.....54750
330.....54750
520.....55472
522.....55472
558.....54929

Proposed Rules:
145.....55496
182.....54454
184.....54454, 54456
186.....54454
310.....55497
333.....54981
348.....54982
357.....55076, 55497
358.....54646
886.....55497

22 CFR

9.....55594
22.....56328
51.....56329

24 CFR

15.....55669
50.....56266
200.....54790
203.....54790
204.....54790
213.....54790
220.....54790
221.....54790
222.....54790
226.....54790
227.....54790
233.....54790
235.....54430, 54790
237.....54790
240.....54790
300.....55669
804.....54293, 54790
805.....54293, 54790, 55136
812.....54790
841.....54790, 55136
860.....54293
880.....54293
881.....54293
882.....54293
883.....54293
884.....54293
886.....54293
888.....56133
890.....54431

Proposed Rules:
571.....55868
860.....55689
866.....55689
888.....55764

26 CFR

1.....54296, 54791, 54803, 55477, 56330
35.....54065, 55215
601.....56330

Proposed Rules:
1.....54093, 55247, 55696, 55697, 56367
11.....54093
31.....55248
54.....54093
601.....54459, 54461

27 CFR

9.....55915

Proposed Rules:
9.....55492, 55954–55961, 56369

28 CFR

2.....56334
540.....55128, 56134

Proposed Rules:
2.....54982
540.....55131
551.....55131, 56144

29 CFR

102.....54432
1903.....55478
1910.....54433
2610.....55670
2619.....56134
2621.....55672
2622.....55670

30 CFR

906.....56342
944.....55672
946.....55675

Proposed Rules:
55.....55499
56.....55499
57.....55499
75.....55499
77.....55499
221.....54462
903.....55249
934.....55499
936.....54472
942.....54474

31 CFR

53.....55481, 56351
55.....56351
81.....56351
90.....56351
92.....56351
93.....56351
120.....56351
121.....56351
122.....56351
127.....56351

Proposed Rules:
1.....54475
10.....56144

32 CFR

1285.....54929

Proposed Rules:
701.....54104

33 CFR

1.....54298
2.....54298
110.....56354
114.....54298
115.....54298
117.....54298–54301
165.....54301, 55391
209.....55916

Proposed Rules:
110.....54310
117.....55400
165.....56370
207.....54832

34 CFR

Proposed Rules:
201.....54718
202.....54718
203.....54718
204.....54718
300.....54311
302.....54718

35 CFR

103.....54071
105.....54071
107.....54071
109.....54071
111.....54071
113.....54071
119.....54071
123.....54071

Proposed Rules:
103.....54105
113.....54105
119.....54105
123.....54105

36 CFR

7.....54930–54932, 55391, 55917

38 CFR

3.....54435
17.....55482

39 CFR

3001.....55392

Proposed Rules:
3001.....55698

40 CFR

50.....54896
52.....54072, 54312, 54808, 54933–54936, 55393, 55678, 55919
60.....54073, 54258, 54259
81.....54080
123.....55680
180.....55221–55225, 56135, 56136
300.....55488
415.....55226
440.....54598
465.....54232
716.....54642
761.....54436

Proposed Rules:
Ch. I.....55880
35.....56372
52.....54476, 54984, 55400, 55500, 55964, 55965
60.....55966, 56118
86.....54250
130.....56372
162.....55967
180.....54106, 55249, 55699
201.....54107, 54313
202.....54313
204.....54108
205.....54108–54111
228.....54834
403.....54477

439.....56373
455.....56373
461.....55502
464.....55502
467.....56373
468.....55502

41 CFR

101-36.....54810, 54937

Proposed Rules:

Ch. 9.....56256

42 CFR

52d.....55227
55a.....55227
57.....54437
58.....54437
86.....55227
401.....54939
405.....54302, 54811, 54939, 56282
488.....56282
489.....56282

Proposed Rules:

124.....54314
405.....54113
447.....54113

43 CFR

3833.....56300

Proposed Rules:

3200.....56151
4100.....55402

44 CFR

6.....54815
64.....54816, 55921, 55922
65.....54941
67.....54941, 55228, 55241
70.....54440-54444
205.....55756

Proposed Rules:

59.....55752
60.....55752
67.....54477, 54478, 54835, 55251

45 CFR

74.....55227
97.....56466
600.....54081
612.....54943
680.....54081
681.....54081
682.....54081
683.....54081
684.....54081
1336.....55227
1601.....54943

46 CFR

67.....54305
536.....56138

Proposed Rules:

507.....55969

47 CFR

0.....55924
2.....55241
63.....54944
67.....55681
73.....54444, 54446, 55242, 55243, 55681-55683, 55924, 56355, 56356
74.....54446, 55931,
87.....54449
90.....54450
97.....55241

Proposed Rules:

15.....55251
34.....55974
35.....55974
67.....54479, 55699
73.....54519-54522, 55256, 55974
76.....54523
81.....54836

49 CFR

Ch. X.....54081, 55686
7.....55683
171.....54817, 54824
172.....54817, 54824
173.....54817, 54824
175.....54817, 54824
177.....54824
178.....54824
195.....55396
225.....56357
531.....55684
601.....55683
1003.....55939
1011.....55950
1043.....55939
1057.....54083
1249.....56359
1306.....54083

Proposed Rules:

Ch. X.....54985, 55975
29.....55700
571.....54839
1003.....55976
1039.....55257
1043.....55976, 55980
1084.....55976, 55980
1220.....56152

50 CFR

16.....56360
20.....55397
23.....54968
540.....55488
663.....56138
671.....54451

Proposed Rules:

29.....54840
611.....54841
652.....54985
671.....54125
675.....54841

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.) Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/MA	LABOR		DOT/MA	LABOR
DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
DOT/RSPA			DOT/RSPA	
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last Listing October 28, 1982

12-17-82
Vol. 47 No. 243
Pages 56469-56616

federal register

Friday
December 17, 1982

Selected Subjects

Air Pollution Control
Environmental Protection Agency

Antibiotics
Food and Drug Administration

Coal Mining
Surface Mining Reclamation and Enforcement Office

Employment
Immigration and Naturalization Service

Food Ingredients
Food and Drug Administration

Food Stamps
Food and Nutrition Service

Freedom of Information
Selective Service System

Government Property Management
General Services Administration

Income Taxes
Internal Revenue Service

Investment Companies
Securities and Exchange Commission

Marine Resources
National Oceanic and Atmospheric Administration

Marketing Agreements
Agricultural Marketing Service

CONTINUED INSIDE

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The **Federal Register** will be furnished by mail to subscribers, free of postage, for $300.00 per year, or $150.00 for six months, payable in advance. The charge for individual copies is $1.50 for each issue, or $1.50 for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the **Federal Register**.

Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

Selected Subjects

Milk
Commodity Credit Corporation

Milk Marketing Orders
Agricultural Marketing Service

Organization and Functions (Government Agencies)
Postal Service

Soil Conservation
Soil Conservation Service

Tobacco
Agricultural Stabilization and Conservation Service

Water Pollution Control
Environmental Protection Agency

Contents

Federal Register
Vol. 47, No. 243
Friday, December 17, 1982

Agricultural Marketing Service
RULES
56473 Lemons grown in Ariz. and Calif.
Milk marketing orders:
56488 Louisville-Lexington-Evansville and Nashville, Tenn.
PROPOSED RULES
56500 Avocados grown in Fla.

Agricultural Stabilization and Conservation Service
RULES
Marketing quotas and acreage allotments:
56473 Tobacco (flue-cured); interim
NOTICES
Marketing quotas and acreage allotments:
56522 Tobacco (fired-cured, etc.)

Agriculture Department
See Agricultural Marketing Service; Agricultural Stabilization and Conservation Service; Commodity Credit Corporation; Food and Nutrition Service; Forest Service; Rural Electrification Administration; Soil Conservation Service.

Army Department
NOTICES
56540 Discharge Review and Correction Boards; composite index
56540 Discharge Review Board Standard Operating Procedures; rescission

Civil Aeronautics Board
NOTICES
Hearings, etc.:
56526 Western Air Lines, Inc., et al.
Mail rates:
56526 Intra-Alaska service

Commerce Department
See Foreign-Trade Zones Board; International Trade Administration; National Oceanic and Atmospheric Administration.

Commodity Credit Corporation
PROPOSED RULES
Loan and purchase programs:
56500 Dairy products; deductions on milk marketings of producers

Commodity Futures Trading Commission
NOTICES
Contract market proposals:
56536 Chicago Board of Trade; silver in 5,000 troy ounce units
56537 New York Futures Exchange; exchange speculative position limits

Defense Department
See Army Department.

Education Department
NOTICES
Meetings:
56540 Adult Education National Advisory Council

Employment Standards Administration
NOTICES
56598 Minimum wages for Federal and federally-assisted construction; general wage determination decisions, modifications, and supersedeas decisions (Conn., Idaho, Iowa, Ill., La., Mass., Mo., N.Y., Tex., Wash., and Wis.)

Energy Department
See also Federal Energy Regulatory Commission.
NOTICES
56547 Energy emergency preparedness programs; reports availability
International atomic energy agreements; civil uses; subsequent arrangements:
56549 European Atomic Energy Community
56549 European Atomic Energy Community and Austria
56549 Norway and Sweden
56550 Sweden

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States, etc.:
56497 New Hampshire
56497 Washington
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States, etc.:
56516 Illinois
56518 Michigan
Water pollution control; State underground injection control program, primacy applications:
56520 New Jersey
NOTICES
Air quality; prevention of significant deterioration (PSD):
56550 Permit extensions
Environmental statements; availability, etc.:
56551 Agency statements; weekly receipts
Meetings:
56551 Lead; air quality criteria workshops
56552 Science Advisory Board
Toxic and hazardous substances control:
56550 Premanufacture notification requirements; test marketing exemption applications

Federal Communications Commission
NOTICES
56552 Rulemaking proceedings filed, granted, denied, etc.; petitions by various companies

Federal Election Commission
NOTICES
56595 Meetings; Sunshine Act

Federal Energy Regulatory Commission
NOTICES
Hearings, etc.:
56541 Utah Power & Light Co.

Federal Home Loan Bank Board
NOTICES
Conservator appointments:
56552 Community Federal Savings & Loan Association, Hialeah, Fla.

Federal Maritime Commission
NOTICES
Complaints filed:
56553 Clark International Marketing S.A.
56553 General Electric Co.

Federal Reserve System
NOTICES
56595 Meetings; Sunshine Act (2 documents)

Food and Drug Administration
RULES
Color additives:
56489 FD&C Green No. 3; use except in area of eye; permanent listing; correction
Human drugs:
56489 Antibiotic drugs; gentamicin sulfate injection
PROPOSED RULES
GRAS or prior-sanctioned ingredients:
56513 Manganese salts
NOTICES
Biological products, human drugs, and medical devices:
56556 Clinical research with investigational new drugs and devices; memorandum of understanding with Veterans Administration
Food additives, petitions filed or withdrawn:
56556 Calgon Corp.
56556 Ciba-Geigy Corp.
Medical devices; premarket approval:
56555 Bausch & Lomb Optics Center; SOFLENS (polymacon) Bifocal Contact Lens P.A. 1 Lens Series
Meetings:
56553 Advisory committees, panels, etc.
56556 Consumer information exchange

Food and Nutrition Service
RULES
Food stamp program:
56469 House-to-house trade routes authorization and tougher penalties for violations; interim

Foreign-Trade Zones Board
NOTICES
Applications, etc.:
56527 California

Forest Service
NOTICES
Environmental statements; availability, etc.:
56524 Salmon National Forest, Idaho; land and resource management plan

General Services Administration
RULES
Property management:
56499 Utilization and disposal of real property; reimbursement for excess property transfers
NOTICES
Organization and functions:
56553 Transportation Office et al.; change in office names and addresses

Health and Human Services Department
See also Food and Drug Administration; Health Resources and Services Administration.
NOTICES
56561 Agency forms submitted to OMB for review

Health Resources and Services Administration
NOTICES
Grants; availability, etc.:
56557 Community health center grants; consultation with State and local officials

Hearings and Appeals Office, Interior Department
PROPOSED RULES
56521 Hearings and appeals procedures; withdrawn

Housing and Urban Development Department
RULES
Low income housing:
56490 Elderly or handicapped housing; eligibility of acquired existing housing for non-elderly handicapped; "development cost" definition; interim; correction

Immigration and Naturalization Service
RULES
56488 Nonimmigrant classes; employment authorization for dependents of foreign government officials; special reciprocal agreements

Interior Department
See Hearings and Appeals Office, Interior Department; Land Management Bureau; Minerals Management Service; National Park Service; Surface Mining Reclamation and Enforcement Office.

Internal Revenue Service
RULES
Income taxes:
56490 Foreign bribes and international boycotts

International Trade Administration
NOTICES
Countervailing duties:
56528 Orange juice, frozen concentrated, from Brazil
56532 Railcars from Canada
56527 Stainless steel products from United Kingdom
56529 Stainless steel sheet and strip products from West Germany
56532 Wool from Argentina
Scientific articles; duty free entry:
56533 University of Arizona et al.
56532 University of California; correction

Interstate Commerce Commission
NOTICES
Motor carriers:
56565 Agricultural cooperative transportation; filing notices

56566 Compensated intercorporate hauling operations; intent to engage in
56566, 56567 Finance applications (2 documents)
56569-56573 Permanent authority applications (3 documents)
56567 Permanent authority applications; operating rights republication
Rail carriers; contract tariff exemptions:
56574 Illinois Central Gulf Railroad Co. et al.
Railroad services abandonment:
56574 Illinois Central Gulf Railroad Co.

Justice Department
See Immigration and Naturalization Service.

Labor Department
See also Employment Standards Administration; Mine Safety and Health Administration; Pension and Welfare Benefit Programs Office.
NOTICES
56580 Agency forms submitted to OMB for review

Land Management Bureau
NOTICES
Classification of public lands:
56563 Montana
56562 Nevada (3 documents)

Management and Budget Office
NOTICES
56612 Budget rescissions and deferrals

Mine Safety and Health Administration
NOTICES
Petitions for mandatory safety standard modifications:
56575 Consolidation Coal Co. et al.

Minerals Management Service
NOTICES
Outer Continental Shelf; oil, gas, and sulphur operations; development and production plans:
56565 ODECO Oil & Gas Co.

National Oceanic and Atmospheric Administration
PROPOSED RULES
Marine sanctuaries:
56506 Key Largo National Marine Sanctuary, Fla.
NOTICES
Meetings:
56535 Caribbean Fishery Management Council

National Park Service
NOTICES
Meetings:
56563 Santa Monica Mountains National Recreation Area Advisory Commission

Nuclear Regulatory Commission
PROPOSED RULES
56505 License fee schedules; revision; correction
NOTICES
Applications, etc.:
56581 Battelle Columbus Laboratories
56580 Edlow International et al.
56581 Northern States Power Co.
56583 Toledo Edison Co. et al.
56583 Virginia Electric & Power Co.
56583 Virginia Electric & Power Co.; correction
56595 Meetings; Sunshine Act

Pension and Welfare Benefit Programs Office
NOTICES
Employee benefit plans; prohibited transaction exemptions:
56576 Ely, Guess & Rudd
56578 Vern Sims Ford, Inc.

Postal Service
RULES
56495 Bylaws; miscellaneous changes

Rural Electrification Administration
PROPOSED RULES
56505 Bulletins, codification; advance notice
NOTICES
Environmental statements; availability, etc.:
56524 Oglethorpe Power Corp.

Securities and Exchange Commission
PROPOSED RULES
Investment companies:
56509 Mutual fund governance; advance notice
NOTICES
Hearings, etc.:
56584 Drexel Burnham Lambert Group, Inc.
56584 Paine Webber RMA Money Fund, Inc.
56589 Philadelphia Stock Exchange, Inc.
56586 T. Rowe Price New Horizons Fund, Inc., et al.
56588 Territorial Government Fund
56589 Verex Corp.
56596 Meetings; Sunshine Act
Self-regulatory organizations; proposed rule changes:
56590, 56591 American Stock Exchange, Inc. (2 documents)
56591 Philadelphia Stock Exchange, Inc.
Self-regulatory organizations; unlisted trading privileges:
56593 Pacific Stock Exchange, Inc.

Selective Service System
RULES
56494 Freedom of Information Act; implementation

Small Business Administration
NOTICES
56594 Agency forms submitted to OMB for review

Soil Conservation Service
RULES
56472 Conservation operations; technical assistance; editorial and nomenclature changes
NOTICES
Environmental statements; availability, etc.:
56525 Pt. Mugu Outlet, Revolon Watershed, Calif.
Watershed projects; deauthorization of funds:
56525 North Concordia Watershed, La.
56525 Sandy Creek Watershed, Tex.

Surface Mining Reclamation and Enforcement Office
RULES
Permanent program submission; various States:
56492 Alabama
56493 Indiana

Textile Agreements Implementation Committee
NOTICES
Cotton, wool, or man-made textiles:
56535 Malaysia
56536 Pakistan

Treasury Department
See Internal Revenue Service.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

7 CFR
271..... 56469
278..... 56469
279..... 56469
610..... 56469
725..... 56473
910..... 56473
1046..... 56486
1098..... 56486

Proposed Rules:
915..... 56500
1430..... 56500
1700..... 56505

8 CFR
214..... 56488

10 CFR

Proposed Rules:
170..... 56505

15 CFR

Proposed Rules:
929..... 56506

17 CFR

Proposed Rules:
270..... 56509

21 CFR
74..... 56489
81..... 56489
82..... 56489
444..... 56489

Proposed Rules:
182..... 56513
184..... 56513

24 CFR
885..... 56490

26 CFR
1..... 56490

30 CFR
901..... 56492
914..... 56493

32 CFR
1662..... 56494

39 CFR
3..... 56495
4..... 56495
6..... 56495
8..... 56495

40 CFR
52 (2 documents)..... 56497

Proposed Rules:
52 (2 documents)..... 56516, 56518
123..... 56520

41 CFR
101–47..... 56499

43 CFR

Proposed Rules:
4..... 56521

Rules and Regulations

Federal Register
Vol. 47, No. 243
Friday, December 17, 1982

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 271, 278, and 279

[Amdt. No. 236]

Food Stamp Program: Authorizing House-to-House Trade Routes and Tougher Penalties for Firms Which Break the Rules

AGENCY: Food and Nutrition Service, USDA.

ACTION: Interim rule.

SUMMARY: This rule amends Food Stamp Program Regulations to implement the Food Stamp Act Amendments of 1982. These Amendments tighten the rules for authorization of house-to-house trade routes where necessary to prevent fraud and abuse, and specify a scale of penalities for authorized firms which violate the regulations.

EFFECTIVE DATES: This interim rule is effective on December 17, 1982. To be assured of consideration in the development of the final rule, comments must be received by March 17, 1983.

ADDRESS: Comments should be submitted to Virgil Conrad, Deputy Administrator for Family Nutrition Programs, Food and Nutrition Service, USDA, Alexandria, Virginia 22302. All written comments will be open for public inspection at the office of the Food and Nutrition Service during regular business hours (8:30 a.m. to 5:00 p.m., Monday through Friday), at 3101 Park Center Drive, Alexandria, Virginia, Room 706.

FOR FURTHER INFORMATION CONTACT: Herbert A. Scurlock, Director, Federal Operations Division, Family Nutrition Programs, Food and Nutrition Service, USDA, Alexandria, Virginia 22302; (703) 756–3487.

SUPPLEMENTARY INFORMATION:

Classification

Executive Order 12291. The Department has reviewed this rule under Executive Order 12291 and Secretary's Memorandum No. 1512–1. The rule will affect the economy by less than $100 million a year. The rule will not significantly raise costs or prices for consumers, industries, government agencies or geographic regions. There will not be significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Therefore, the Department has classified the rule as "not major".

Justification for Publishing as Interim Rule, Effective on Publication. This rulemaking is being published as an interim rule, effective on publication, consistent with the mandate of Section 193 of the Omnibus Budget Reconciliation Act of 1982 (Pub. L. 97–253, enacted on September 8, 1982). Section 193 mandates that the provisions of Pub. L. 97–253 addressed in this rule are effective as of the date of enactment. For this reason Samuel J. Cornelius, Administrator of the Food and Nutrition Service, pursuant to 5 U.S.C. 553, has determined that prior public comment on this rule is impracticable and contrary to the public interest and that good cause exists for making this rule effective less than 30 days after publication. Public comment is solicited on this rule for 90 days. All comments received will be analyzed and any appropriate changes in the rule will be incorporated in a subsequent publication.

Regulatory Flexibility Act. This rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act, Pub. L. 96–354. The Administrator of the Food and Nutrition Service has certified that this action will not have a significant economic impact on a substantial number of small entities. Only a small number of small entities (trade routes, and firms which violate program regulations) will be affected.

Recordkeeping Requirements. This rule does not contain reporting or recordkeeping requirements subject to approval by the Office of Management and Budget (OMB).

Amendments

House-to-house trade routes. Section 165 of Pub. L. 97–253 requires the Department to limit the participation of house-to-house trade routes to those that are "reasonably necessary to provide adequate access to households" in those areas in which the Secretary, in consultation with the Inspector General, finds evidence that route operations damage the program's integrity.

In the Senate Committee report accompanying the 1982 legislation (S.R. No. 97–504, dated July 26, 1982), the Committee stated that because of two cases in Dade County, Florida, in which fictitious mobile fish markets became authorized to serve as outlets for illegally obtained food stamps, the Department should tighten its application review process for "rolling stores". Since reports of abuse tend to center in urban areas, the Committee thought the Department should concentrate its efforts on those areas. However, the Committee cautioned the Department that it should consider the needs of recipients in areas where restrictions are contemplated, and use caution in limiting house-to-house trade routes which serve housebound recipients and those, such as residents of high crime areas, who have difficulty leaving their homes to buy food. The Committee also directed the Department to reexamine its regulations on "rolling stores" to determine if further verification is needed and if the regulations need further tightening. The Department has tightened its monitoring of "rolling store" through nonregulatory policy changes. We have decided to specify those changes in this rulemaking. (§ 278.1(h)). The Department will also conduct a nationwide study of the effect "rolling stores" have on program integrity.

The term "house-to-house trade route" includes milk routes, bread routes, and mobile markets or "rolling stores". All of these entities have the ability to move easily from place to place. As a result, they are hard to monitor. Therefore, the Department has applied the restriction specified in the Act to all firms which fit the definition of "house-to-house trade route."

Disqualification of retail food stores and wholesale food concerns, and imposition of civil money penalities in lieu of disqualifications. Section 175 of

Pub. L. 97–253 prescribes minimum disqualification periods for firms which violate the Food Stamp Act or the regulations. It mandates that firms be disqualified for 6 months to 5 years for the first sanction; for 12 months to 10 years for a second sanction; and permanently for a third sanction or one based on the purchase of coupons or trafficking in coupons or authorization to participate (ATP) cards. The regulations (§ 278.6(e)) list the new periods of disqualification and the criteria which will be used to determine which period of disqualification should be used. The sliding scale of disqualification is designed to more heavily punish serious violators who were previously advised by FNS that violations were occurring, firms whose practice is to violate, and firms which were previously sanctioned.

Traditionally, the length of the period of disqualification has been based, in part, on whether it was the firm's policy to violate. Because of the difficulty in defining, and confusion surrounding the concept of firm policy, the Department has replaced the "firm's policy" with the new term "firm's practice". This change is intended to render a firm liable for the violative actions of its employees regardless of whether a policy to violate is announced or advocated by firm management.

On September 3, 1982, the Department published in the **Federal Register** a proposed regulation which specified penalties for violations by wholesale food concerns. However, the proposed rule was developed prior to the 1982 Amendments and the penalties it specified conformed to the old set of penalities. The longer periods of disqualification mandated in the 1982 Amendments apply to wholesale food concerns as well as to retail food stores. Accordingly, the Department has changed the penalties that were originally proposed September 3, 1982, in order to bring them into line with the new penalties specified by the amended Act. All comments received on the proposed rule will be considered along with all comments received on this rule.

The new penalties will be applied to any violations which occur after the effective date of these regulations. Firms disqualified or assessed a civil money penalty under the old set of penalties are subject to the escalation provisions in the new penalties for any new sanction based on violations which occur after the effective date of these regulations. Sanctions in effect will not be changed.

The House Committee report specifies that a third sanction "Would result in permanent disqualification * * * regardless of whether earlier violations had resulted in civil money penalties or disqualification periods." Accordingly, the regulations specify that a civil money penalty may not be imposed in lieu of a permanent disqualification. The House Committee Report also notes that the Department is not precluded from disqualifying stores for repeated violations even though the store may meet the criteria for a civil money penalty. To assure an effective penalty and to prevent continued abuse when a firm is inclined to violate, the Department has reserved the right to disqualify a repeat violator and not offer such a firm a civil money penalty.

The regulations implement the maximum civil money penalty of $10,000 per violation as specified in Section 175 of Pub. L. 97–253. The Department has increased the penalty multiplier in the civil money penalty formula from 5 percent to 10 percent of the firm's monthly coupon redemptions. This change in the penalty multiplier will increase the fiscal burden of a civil money penalty and is being made as a result of concern that for many firms the 5 precent penalty on redemptions is a lesser financial penalty than disqualification. The Department believes a 10 percent penalty on redemptons would more nearly maintain comparability between the fine and disqualification.

Administrative review—retail food stores and wholesale food concerns. Currently, the Act and regulations provide that the sanction of disqualification shall be subject to administrative review. Current regulations automatically stay administrative action pending administrative review of that action. The Department believes that when the violations warrant a permanent disqualification, the firm should not be entitled to an automatic stay of the disqualification action during an administrative review of the disqualification action. As the administrative penalty for trafficking or for a third occasion of disqualification is specified in the Act, the penalty is not a matter of discretion. To protect the program from further abuse, the regulations specify that a permanent disqualification may not be automatically stayed. (§ 278.8(a)).

List of Subjects

7 CFR Part 271

Administrative practice and procedure, Food stamps, Grant programs-social programs.

7 CFR Part 278

Administative practice and procedure, Banks, Banking, Claims, Food stamps, Groceries-retail, Groceries, General line-wholesaler, Penalties.

7 CFR Part 279

Administrative practice and procedure, Food stamps, Groceries-retail, Groceries, General line-wholesaler.

For the reasons set out in the preamble, 7 CFR Parts 271, 278 and 279 are amended as follows:

PART 271—GENERAL INFORMATION AND REGULATIONS

1. In § 271.2, definitions of "Firm's practice", "House-to-house trade route", and "Trafficking" are added in alphabetical order, to read as follows:

§ 271.2 Definitions.

* * * * *

"Firm's practice" means the usual manner in which personnel of a firm or store accept food coupons as shown by the actions of the personnel at the time of the investigation.

* * * * *

"House-to-house trade route" means any retail food business operated from a truck, bus, pushcart, or other vehicle which can move easily from place to place.

* * * * *

"Trafficking" means the buying or selling of coupons or ATP cards for cash.

* * * * *

PART 278—PARTICIPATION OF RETAIL FOOD STORES, WHOLESALE FOOD CONCERNS AND INSURED FINANCIAL INSTITUTIONS

2. Section 278.1 is amended by redesignating paragraphs (h) through (n) as (i) through (o). A new paragraph (h) is added, and newly designated paragraph (k) is revised. The new and revised paragraphs read as follows:

§ 278.1 Approval of retail food stores and wholesale food concerns.

* * * * *

(h) *House-to-house trade routes.* FNS may limit the authorization of house-to-house trade routes to those trade routes whose services are needed by participating households in the area in order to obtain food. FNS shall, in consultation with the Department's Office of Inspector General, determine those locations where the operation of trade routes damages the program's integrity. In such areas, the FNS Officer in Charge, in deciding whether

households need a trade route's services, shall consider the volume of food business the trade route does and the availability of alternate sources of comparable food. An FNS official shall inspect any applicant trade route's vehicle to ensure that the trade route is a bonal fide retail food store before authorizing it to accept coupons. An FNS official may require, as a condition of continuing authorization, that the vehicle be reinspected semiannually thereafter to ensure that it continues to qualify to accept coupons.

* * * * *

(k) *Withdrawing authorization.* FNS shall withdraw the authorization of any firm authorized to participate in the program if it determines that the firm's continued participation will not further the purposes of the program, or the firm fails to meet the specifications of paragraph (b), (c), (d), or (e) of this section, or that the firm has been found to be circumventing a period of disqualification or a civil money penalty through a purported transfer of ownership. The FNS officer in charge shall issue a notice to the firm by certified mail or personal service to inform the firm of the determination and of the review procedure. FNS shall remove the firm from the program if the firm does not request review within the period specified in § 279.5.

* * * * *

3. In § 278.6, paragraph (f) is removed, paragraphs (g) through (k) are redesignated as (f) through (j) respectively, and paragraphs (a), (e), and newly designated paragraphs (f) and (g) are revised to read as follows:

§ 278.6 Disqualification of retail food stores and wholesale food concerns, and imposition of civil money penalties in lieu of disqualifications.

(a) *Authority to disqualify or subject to a civil money penalty.* FNS may disqualify any authorized retail food store or authorized wholesale food concern from further participation in the program if the firm fails to comply with the Food Stamp Act or this part. Disqualification shall be for 6 months to 5 years for the firm's first sanction; from 12 months to 10 years for a firm's second sanction; and disqualification shall be permanent for a firm's third sanction or a disqualification based on trafficking in coupons or ATP cards. Any firm which has been disqualified and which wishes to be reinstated at the end of the period of disqualification or at any later time shall file a new application under § 278.1 of this part so that FNS may determine whether reinstatement is appropriate. The application may be filed no earlier than 10 days before the end of the period of disqualification. Except in the case of a permanent disqualification, FNS may, in lieu of a disqualification, subject the firm to a civil money penalty of up to $10,000 for each violation if FNS determines that a disqualification would cause hardship to participating households.

* * * * *

(e) *Penalties.* FNS shall take action as follows against any firm determined to have violated the Act or regulations. For the purposes of assigning a period of disqualification, a warning letter shall not be considered to be a sanction. A civil money penalty and a disqualification shall be considered a sanction for such purposes. The FNS regional office shall:

(1) Disqualify the firm permanently if:

(i) Personnel of the firm have purchased coupons or trafficked in coupons or ATP cards; or

(ii) Violations such as, but not limited to, the sale of ineligible items occurred and the firm had twice before been sanctioned.

(2) Disqualify the firm for 5 years if it is to be the firm's first sanction, the firm had been previously advised of the possibility that violations were occurring and of the possible consequences of violating the regulations, and the evidence shows that:

(i) It is the firm's practice to sell expensive or conspicuous nonfood items, cartons of cigarettes, or alcoholic beverages in exchange for food coupons; or

(ii) The firm's coupon redemptions for a specified period of time exceed its food sales for the same period of time; or

(iii) A wholesale food concern's redemptions of coupons for a specified period of time exceed the redemptions of all the specified authorized retail food stores, nonprofit cooperative food-purchasing ventures, group living arrangements, drug addict and alcoholic treatment programs, and shelters for battered women and children which the wholesale food concern was authorized to serve during that time; or

(iv) A wholesale food concern's stated redemptions of coupons for a particular retail food store, nonprofit cooperative food-purchasing venture, group living arrangement, drug addict and alcoholic treatment program, or shelter for battered women and children exceeded the actual amount of coupons which that firm or organization redeemed through the wholesaler; or

(v) Personnel of the firm knowingly accepted coupons from an unauthorized firm or an individual known not to be legally entitled to possess coupons.

(3) Disqualify the firm for 3 years if it is to be the first sanction for the firm and the evidence shows that:

(i) It is the firm's practice to commit violations such as the sale of common nonfood items in amounts normally found in a shopping basket and the firm was previously advised of the possibility that violations were occurring and of the possible consequences of violating the regulations; or

(ii) Any of the situations described in paragraph (e)(2) of this section occurred and FNS has not previously advised the firm of the possibility that violations were occurring and of the possible consequences of violating the regulations; or

(iii) The firm is an authorized communal dining facility, drug addiction or alcoholic treatment and rehabilitation program, group living arrangement, meal delivery service, or shelter for battered women and children and it is the firm's practice to sell meals in exchange for food coupons to persons not eligible to purchase meals with food coupons and the firm had been previously advised of the possibility that violations were occurring and of the possible consequences of violating the regulations; or

(iv) A wholesale food concern accepted coupons from an authorized firm which it was not authorized to serve and the wholesale food concern had been previously advised of the possibility that violations were occurring and of the possible consequences of violating the regulations; or

(v) The firm is an authorized retail food store and personnel of the firm have engaged in food coupon transactions with other authorized retail stores, not including treatment programs, group living arrangements or shelters for battered women and children, and the firm had been previously advised of the possibility that violations were occurring and of the possible consequences of violating the regulations.

(4) Disqualify the firm for 1 year if it is to be the first sanction for the firm and the ownership or management personnel of the firm have committed violations such as the sale of common nonfood items in amounts normally found in a shopping basket, and FNS has not previously advised the firm of the possibility that violations were occurring and of the possible consequences of violating the regulations.

(5) Disqualify the firm for 6 months if it is to be the first sanction for the firm and the evidence shows that personnel of the firm have committed violations such as but not limited to the sale of common nonfood items due to carelessness or poor supervision by the firm's ownership or management.

(6) Double the appropriate period of disqualification prescribed in paragraphs (e) (2) through (5) of this section as warranted by the evidence of violations if the same firm has once before been assigned a sanction.

(7) Send the firm a warning letter if violations are too limited to warrant a disqualification.

(f) *Criteria for civil money penalty.* FNS may impose a civil money penalty as a sanction in lieu of disqualification only when the firm subject to a disqualification is selling a substantial variety of staple food items, and the firm's disqualification would cause hardship to food stamp households because there is no other authorized retail food store in the area selling as large a variety of staple food items at comparable prices. FNS may disqualify a store which meets the criteria for a civil money penalty if the store had previously been assigned a sanction. A civil money penalty may not be imposed in lieu of a permanent disqualification.

(g) *Amount of civil money penalty.* FNS shall determine the amount of the civil money penalty as follows:

(1) Determine the firm's average monthly redemptions of coupons for the 12-month period ending with the month immediately preceding that month during which the firm was charged with violations.

(2) Multiply the average monthly redemption figure by 10 percent.

(3) Multiply the product arrived at in paragraph (g)(2) of this section by the number of months for which the firm would have been disqualified under paragraph (e) of this section. In any event, the civil money penalty may not exceed $10,000 for each violation.

* * * * *

5. In § 278.8, paragraph (a) is revised to read as follows:

§ 278.8 Administrative review—retail food stores and wholesale food concerns.

(a) *Requesting review.* A food retailer or food wholesaler aggrieved by administrative action under § 278.1, § 278.6 or § 278.7 may, within the period stated in § 279.5, file a written request for review of the administrative action with the review officer. On receipt of the request for review, the questioned administrative action shall be stayed pending disposition of the request for review by the review officer except that a permanent disqualification will not be subject to an automatic stay. An administrative stay of a permanent disqualification may be available upon a showing by the appellant that there is a substantial likelihood that no disqualification is warranted. A disqualification for failing to pay a civil money penalty shall not be subject to an administrative review.

* * * * *

PART 279—ADMINISTRATIVE AND JUDICIAL REVIEW—FOOD RETAILERS AND FOOD WHOLESALERS

6. In § 279.6, paragraph (b) is revised to read as follows:

§ 279.6 Content of request for review.

* * * * * *

(b) *Supporting the request.* The request shall include information in support of the request showing the grounds on which review is being sought, or shall state that supporting information will be filed in writing at a later date. In the latter case, the review officer shall notify the firm of the date by which the information must be filed. The firm requesting review may ask for an opportunity to appear before the review officer in person. However, any information submitted in person shall, if directed by the review officer, be put in writing by the firm and filed with the review officer within a period which the review officer shall specify. Any request for a stay of a permanent disqualification must be submitted with the initial request for review and must include information in support of the request for a stay.

7. In § 279.7, paragraph (a) is revised to read as follows:

§ 279.7 Action upon receipt of a request for review.

(a) *Holding action.* Upon receipt of a request for review of administrative action, the review officer shall notify the appropriate FNS regional office, in writing, of the action under review and, except where a stay is not granted, shall direct that the administrative action shall be held in abeyance until the review officer has made a determination. The review officer may grant a stay of a permanent disqualification only upon a showing by the appellant that there is a substantial likelihood that no disqualification is warranted. The review officer shall, within 15 working days of the receipt of the request for a stay, inform the firm in writing of the review officer's determination as to whether or not to grant a stay. If the questioned administrative action involved a denial of an application to participate in the program or a denial of a claim, the review officer shall direct that the firm shall not be approved for participation or paid any part of the disputed claim until the review officer has made a determination. In any case, notice to the appropriate FNS regional office shall be accompanied by a copy of the request filed by the firm.

* * * * *

(91 Stat. 958 (7 U.S.C. 2011–2029))

(Catalog of Federal Domestic Assistance Programs, No. 10.551, Food Stamps)

Dated: December 14, 1982.

Robert E. Leard,

Associate Administrator, Food and Nutrition Service.

[FR Doc. 82-34332 Filed 12-16-82; 8:45 am]

BILLING CODE 3410-30-M

Soil Conservation Service

7 CFR Part 610

Technical Assistance

AGENCY: Soil Conservation Service (SCS), USDA.

ACTION: Final rule amendment.

SUMMARY: This document makes editorial and nomenclature changes in 7 CFR 610.4 for the purpose of clarity and ease of understanding. These changes will have no effect on the public.

EFFECTIVE DATE: December 17, 1982.

FOR FURTHER INFORMATION CONTACT: Frances E. Robinson, Soil Conservation Service, USDA, P.O. Box 2890, Washington, D.C. 20013, (202) 447-9157.

SUPPLEMENTARY INFORMATION: This action has been determined to be exempt from the requirements of Executive Order 12291, as the action is an internal agency practice to clarify the rule. This action is administrative in nature, and publication for comment is unnecessary.

The unnumbered paragraph of § 610.4 contains paragraph designations (a), (b), (c), and (d) which are unnecessary and confusing. Also, there is a nomenclature change needed in paragraph (a)(5), as the Department of Health, Education, and Welfare is now the Department of Health and Human Services.

List of Subjects in 7 CFR Part 610

Technical assistance, Soil conservation, Water resources.

PART 610—TECHNICAL ASSISTANCE

§ 610.4 [Amended]

For reasons set out in the preamble, § 610.4 of 7 CFR is amended as follows:

1. By removing the paragraph designations (a), (b), (c), and (d) in the introductory paragraph.

2. By changing the words "Health, Education, and Welfare" to "Health and Human Services" in paragraph (a)(5).

Dated: December 9, 1982.

Peter C. Myers,

Chief, Soil Conservation Service.

[FR Doc. 82-33983 Filed 12-16-82; 8:45 am]

BILLING CODE 3410-16-M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 390; Lemon Reg. 389, Amdt. 1]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of California-Arizona lemons that may be shipped to the fresh market during the period December 19–25, 1982, and increases the quantity of lemons that may be shipped during the period December 12–18, 1982. Such action is needed to provide for orderly marketing of fresh lemons for the periods specified due to the marketing situation confronting the lemon industry.

EFFECTIVE DATES: The regulation becomes effective December 19, 1982 and the amendment is effective for the period December 12–18, 1982.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291, and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This action is designed to promote orderly marketing of the California-Arizona lemon crop for the benefit of producers, and will not substantially affect costs for the directly regulated handlers.

This final rule is issued under Marketing Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1981–82. The marketing policy was recommended by the committee following discussion at a public meeting on July 6, 1982. The committee met again publicly on December 14, 1982, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified weeks. The committee reports the demand for lemons is good.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of lemons. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective times.

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

PART 910—[AMENDED]

1. Section 910.690 is added as follows:

§ 910.690 Lemon Regulation 390.

The quantity of lemons grown in California and Arizona which may be handled during the period December 19, 1982, through December 25, 1982, is established at 240,000 cartons.

2. Section 910.689 Lemon Regulation 389 (47 FR 55469) is revised to read as follows:

§ 910.689 Lemon Regulation 389.

The quantity of lemons grown in California and Arizona which may be handled during the period December 12, 1982, through December 18, 1982, is established at 270,000 cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: December 15, 1982.

D. S. Kuryloski,

Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 82-34520 Filed 12-16-82; 11:33 am]

BILLING CODE 3410-02-M

Agricultural Stabilization and Conservation Service

7 CFR Part 725

[Amdt. 4]

Tobacco Acreage Allotment and Marketing Quota Regulations

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Interim rule.

SUMMARY: This interim rule amends the regulations at 7 CFR Part 725 to implement the provisions of the No Net Cost Tobacco Program Act of 1982 (Pub. L. 97–218, 96 Stat. 197, approved July 20, 1982) with respect to the flue-cured tobacco acreage allotment and marketing quota program. The rule provides for the sale of flue-cured tobacco allotments and quotas, generally places restrictions on lease and transfer of allotments and quotas, and provides for adjustment of farm yields and acreage allotments. In addition, this rule provides for restrictions with respect to the marketing of tobacco by producers, warehousemen and dealers. The rule provides for forfeiture of flue-cured tobacco allotments and quotas under certain conditions. A Notice of Proposed Rulemaking will be published in the **Federal Register** requesting comments with respect to the forfeiture of flue-cured tobacco acreage allotments and marketing quotas by persons other than individuals.

DATES: Effective December 13, 1982. Comments must be received before February 15, 1983 in order to be assured of consideration.

ADDRESS: Send comments to the Director, Tobacco and Peanuts Division, ASCS, Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013. All written submissions made pursuant to this notice will be made available for public inspection in Room 5750 South Building, USDA, between the hours of 8:15 a.m. and 4:45 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Jack S. Forlines, Agricultural Program Specialist, Tobacco and Peanuts Division, USDA–ASCS, P.O. Box 2415, Washington, D.C. 20013; (202) 382–0200. The Final Regulatory Impact Analysis

covering this rule will be available on request from Jack S. Forlines.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Secretary's Memorandum 1512–1 and has been classified as "not major." It has been determined that this rule will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State of local governments, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal Assistance Program to which this rule applies are: Commodity Loan and Purchases; 10.051, as found in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this rule since the Agricultural Stabilization and Conservation Service (ASCS) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

This interim rule is necessary to implement the provisions of the No Net Cost Tobacco Program Act of 1982 (hereinafter referred to as the "Act"). The 1982–83 marketing year for flue-cured tobacco began on July 1, 1982. Since producers, warehousemen, tobacco dealers and buying companies need to be informed of the provisions of this rule as soon as possible, it has been determined that this interim rule shall become effective upon the date of filing with the Director, Office of the Federal Register without prior opportunity for public comment. However, the public is invited to comment on this interim rule for a period of 60 days after the date of publication in the Federal Register. A final document discussing comments received and any amendments to this interim rule which may be deemed necessary will be published in the Federal Register as soon as possible.

The Act amends the Agricultural Act of 1949 and the Agricultural Adjustment Act of 1938 to provide for the operation of the tobacco price support and production adjustment program in such a manner as to result in "no net cost" to taxpayers, except for administrative expenses. The Act makes other changes to strengthen the operation of the program. The major provisions of this interim rule are as follows:

(1) *Leasing of flue-cured tobacco allotments and quotas.* Unlike prior tobacco programs, this interim rule provides for the elimination of fall leasing, except in the case of natural disasters. Fall leasing of flue-cured allotments and quotas has been the subject of much criticism as the result of the opportunity for speculation and the increase in the cost of leasing allotments and quotas when middlemen are involved in leasing transactions. The involvement of middlemen in spring leasing is also addressed by requiring that any agreement for the leasing of a flue-cured tobacco allotment and quota must be exclusively between the lessor and lessee or an agent who regularly represents the lessor or the lessee in business transactions unrelated to tobacco. The lessor and the lessee of a flue-cured tobacco allotment and quota must certify compliance with all leasing requirements which are specified in this interim rule. If, after a notice and an opportunity for a hearing, it is determined that a lessee or lessor knowingly made a false statement, the lessee will be ineligible for price support or the lessor's allotment and quota will be reduced, as applicable. The total flue-cured tobacco allotment for any farm is limited, after transfer of allotment by either lease or sale, to 50 percent of the tillable cropland on the farm. Subleasing of allotments and quotas is prohibited.

(2) *Sale of tobacco allotments and quotas.* The sale of flue-cured tobacco allotments and quotas is permitted but such sales may only be made to persons who are or will become active tobacco producers within the same county. At the time a transfer agreement is filed with the county ASCS office to transfer allotment and quota by sale, the agreement must specify the farm to which the allotment and quota shall be assigned. This procedure is designed to prevent "hip-pocket" allotments and quotas (i.e., allotments and quotas assigned to persons rather than to farms). It is the responsibility of a purchaser of an allotment and quota who is not the owner of the farm to which the allotment and quota is assigned to take whatever measures are deemed to be necessary to protect the investment in such purchase should the producer fail to remain an active producer on the farm to which the assignment has been made. An allotment and quota which is purchased may not be sold for a period of 5 years, except as may be required to prevent forfeiture. In addition, the owner of the farm to which allotment and quota is assigned is the only person who is authorized to sell such allotment and quota.

(3) *Forfeiture of tobacco allotments and quotas.* Any person owning a farm having a flue-cured tobacco allotment that exceeds 50 percent of the tillable cropland on the person's farm must sell or forfeit the excess allotment. Tillable cropland is land which has been cleared and is capable of cultivation without unusual preparation. Tillable cropland does not include orchards, vineyards and land which has been devoted to trees. A person currently having an allotment that exceeds 50 percent of the farm's tillable cropland may prevent forfeiture by: (a) The acquisition of additional tillable cropland; (b) the sale of excess allotment; or (c) the conversion of nontillable land to tillable cropland status.

Section 201 of the Act amends section 316 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b) to provide that if a person purchases a flue-cured tobacco acreage allotment and disposes of an acreage of tillable cropland which results in the total acreage of flue-cured tobacco allotted to such person's farm exceeding 50 percent of the tillable cropland owned by such person, such person will take steps to assure that the total acreage of flue-cured tobacco allotted to such farm does not exceed 50 percent of the tillable cropland owned by such person. Failure of the person to take such action will result in forfeiture of such excess allotment and quota. In addition, if any person owns a farm on or after December 1, 1983, for which the total acreage allotted for the production of flue-cured tobacco exceeds 50 percent of such farm's tillable cropland, such person shall forfeit any acreage allotment representing the excess.

As used in section 201 of the Act, the phrase "owned by such person" indicates that ownership of land is a significant factor in determining allotment which must be forfeited under certain conditions. Accordingly, this interim rule provides that the phrase "owns a farm" means the ownership of: (a) A farm as constituted in accordance with the provisions of 7 CFR Part 719 if the entire farm shares a common ownership; or (b) a tract of land within a farm as constituted in accordance with the provisions of 7 CFR Part 719 if the farm, as constituted, consists of separate ownership tracts.

Thus, when determining the amount of allotment subject to forfeiture because of inadequate tillable cropland, the county ASC committee will consider each ownership tract as though it were a separate farm in those cases where a

farm consists of tracts of land under separate ownership.

Once a flue-cured allotment and quota is purchased, the purchaser must share, for a period of five years, in the risk of production of tobacco produced under the allotment and quota or the allotment and quota shall be sold or forfeited.

(4) *Forfeiture pools.* In each county, a forfeiture pool will be established for forfeited allotments and quotas. Allotments and quotas will be reallocated by the county committee to eligible persons taking into consideration such factors as the size of the current allotment on the farm, the length of time the applicant has been farming tobacco, and the extent to which the applicant has leased allotment and quota. Forfeited allotments and quotas may be reallocated to farms which currently do not have a tobacco allotment and quota.

(5) *Forfeiture of reallocated allotment and quota.* If an applicant fails to share in the risk of production of tobacco during any of the five years beginning with the crop year in which the allotment and quota is reallocated, the allotment and quota shall be forfeited. Mere failure to utilize the allotment and quota will not result in forfeiture but will extend the five-year period one year for each year the allotment and quota is not utilized.

(6) *Periodic adjustment of flue-cured tobacco yields.* In 1983 and at 5-year intervals thereafter, the Secretary of Agriculture shall adjust: (a) The national average yield goal for flue-cured tobacco to the past 5 years' moving national average yield; and (b) the farm acreage allotments and preliminary farm yields for flue-cured tobacco farms to reflect the past 5 years' moving county average yield in order that the expected production from the allotted acres will more accurately reflect the production capability.

Due to advances in agricultural research and technology, producers of flue-cured tobacco are able to obtain larger yields on an acre of tobacco. Therefore, maintaining a constant allotment may result in the production of a quantity of tobacco that exceeds the marketing quota. This provision updates the acreage-poundage ratio with respect to current yields.

(7) *Limitation on the sale of tobacco floor sweepings.* Effective for the 1982 and subsequent crops of flue-cured tobacco, the allowable floor sweepings of flue-cured tobacco which may be marketed without penalty by warehousemen has been reduced to 0.24 percent times the total first sales of tobacco at auction for the season for the warehouse involved. Previously the allowance of flue-cured tobacco was 0.5 percent. Marketing floor sweepings in excess of the allowable amount will result in a penalty of 150 percent of the average market price for flue-cured tobacco for the immediately preceding marketing year.

(8) *Lien for payment of penalty.* This provision authorizing a lien on tobacco sets forth a more efficient mechanism for collecting marketing penalties. If a marketing quota penalty is assessed, there shall be a lien in favor of the United States on the tobacco with respect to which the penalty is to be assessed and on any other tobacco subject to marketing quotas in which the person has an interest until the penalty is paid. Currently, penalties which are reduced to a claim in favor of the United States are deductible only from the proceeds of tobacco which is pledged as collateral for a price support loan.

(9) *False identification of tobacco.* The regulations which are currently applicable for flue-cured tobacco provide for the correction of farm production records when actual marketings are determined to be incorrect because of false identification. In many cases, this actually results in an increase in quota for the producer who falsely identifies tobacco.

This interim rule provides that if a producer falsely identifies tobacco, the quantity of tobacco falsely identified shall be considered for purposes of establishing future farm marketing quotas as having been produced both on the farm for which it was identified as having been produced and on the farm of actual production.

(10) *Warehouseman's records and reports.* This interim rule provides for minor changes in the flue-cured tobacco regulations with respect to the records and reports of warehousemen. The most significant change is the requirement that a notation of "No Price Support" must be entered by the warehouseman on the basket ticket for each lot of tobacco which is identified with a marketing card bearing the same notation.

(11) *Dealer's records and reports.* This interim rule also provides for minor changes in the flue-cured regulations with respect to the records and reports of dealers. The dealer shall make deductions for producer contributions to the No Net Cost Tobacco Fund as provided in 7 CFR Part 1464. For the 1982–83 marketing year, the dealer shall deduct three cents per pound from the price paid to the producer in nonauction purchases, unless the purchase is identified with a marketing card bearing the notation "No Price Support." The amount of such deductions in subsequent marketing years will be announced by the Secretary.

(12) *Limitation on the size of new farm allotments.* The regulations for flue-cured tobacco currently provide that a new farm allotment shall not exceed 50 percent of the average of the acreage allotments established for similar farms in the community. In many cases, this provision would permit flue-cured tobacco acreage allotments to be established for new farms that would be unreasonably high when compared to the average county or national acreage allotment. This interim rule provides that the maximum flue-cured acreage allotment which may be established for any new farm shall be limited to one acre.

(13) *Penalties for marketing certain tobacco that is ineligible for price support.* Effective for any of the 1983 and subsequent crops of flue-cured tobacco for which marketing quotas are in effect, producers shall be subject to a penalty with respect to any marketings of flue-cured tobacco produced on a farm which is ineligible for price support because the farm operator or other producer on the farm has not agreed to contribute to the No Net Cost Tobacco Fund. The penalty per pound will be equal to 75 percent of the preceding marketing year's average market price per pound for flue-cured tobacco.

(14) *Contributions to the No Net Cost Tobacco Fund by the lessor.* Effective with respect to the 1983 and subsequent crops of flue-cured tobacco, a farm owner must, as a condition of eligibility to lease and transfer marketing quota from the farm, contribute to the No Net Cost Tobacco Fund for each pound of quota leased. The lessor's contribution per pound will be equal to that of other producers who qualify for price support with respect to flue-cured tobacco produced.

(15) *Processing and storing 1982 crop carryover tobacco.* Section 201 of the Act amended section 316(a) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b(a)) to eliminate fall leasing (i.e., leasing during the marketing season) for flue-cured tobacco. Prior to enactment of section 201, producers had planted their crops with the expectation of being able to lease quota to their farm if the production exceeded 110 percent of the effective farm marketing quota. In the absence of a carryover program, many producers would be required to store the excess tobacco on their farms until the next marketing season.

This interim rule authorizes Flue-Cured Tobacco Cooperative Stabilization Corporation to process and store 1982 crop producer carryover

tobacco and to act as the producer's marketing agent in marketing the tobacco in the 1983–84 marketing year. The handling of 1982 crop carryover tobacco is limited to the producer-owned and operated Flue-Cured Tobacco Cooperative Stabilization Corporation to assure that the tobacco will be insulated from commercial trade channels and will not be marketed until the subsequent marketing year.

(16) *Approval of transfers of allotment and quota by lease or sale.* This interim rule provides that if a claim for marketing quota penalty has been filed by ASCS against a lessor or seller, a lease or sale of allotment and quota by such lessor or seller will not be approved by the county committee until such time as the claim is satisfied or the proceeds from the lease or sale are applied against such claim.

List of Subjects in 7 CFR Part 725

Acreage allotment, Marketing quota, Penalties, Report requirements, Tobacco.

Interim Rule

PART 725—[AMENDED]

Accordingly, 7 CFR Part 725 is amended as follows:

1. The table of contents is amended by revising or adding the following entries:

* * * * *

725.72 Transfer of tobacco marketing quotas by lease or by sale.

* * * * *

725.74 Forfeiture of allotment and quota.

* * * * *

725.85 Identification of tobacco subject to quota.

725.86 Lien for penalty.

* * * * *

725.109 Duties of Kansas City ASCS Field Office.

* * * * *

725.110 [Reserved]

2. The authority citation is revised to read:

Authority: Sec. 301, 313, 314, 316, 316A, 317, 363, 372–375, 377, 378, 52 Stat. 38, as amended, 47, as amended, 48, as amended, 75 Stat. 469, as amended, 96 Stat. 205, 79 Stat. 66, as amended, 52 Stat. 63, as amended, 65–66, as amended, 70 Stat. 206, as amended, 72 Stat. 995, as amended, 7 U.S.C. 1301, 1313, 1314, 1314b, 1314b–1, 1314c, 1363, 1372–75, 1377, 1378, Sec. 401, 63 Stat. 1054, as amended, 7 U.S.C. 1421.

3. In § 725.51, the introductory paragraph is revised; paragraphs (a–1), (a–2), (jj–1), and (ll–1) are added; and paragraphs (e–1), (h), (m), (p), (s), and (dd) are revised to read as follows:

§ 725.51 Definitions.

In determining the meaning of the provisions of this subpart, unless the context indicates otherwise, words importing the singular include and apply to several persons or things, words importing the plural include the singular, words importing the masculine gender include the feminine as well, and words used in the present tense include the future as well as the present. As used in this subpart and in all instructions, forms, and documents in connection therewith, the words and phrases defined in this section shall have the meanings herein assigned to them unless the context or subject matter otherwise requires. References contained herein to other parts of this title or chapter shall include current and later amendments to the referenced parts. Unless defined in this section the words or phrases defined in § 719.2 of this chapter shall have the same meaning when used in this part.

* * * * *

(a–1) *Active flue-cured tobacco producer.* (1) Any person who shared in the risk of producing a crop of flue-cured tobacco in at least one of the three years preceding the current year, or

(2) Any person who intends to become a flue-cured tobacco producer in the current year by sharing in the risk of producing the crop and who provides a certification of such intention on a form approved by the Deputy Administrator.

(a–2) *Allowable floor sweepings.* The quantity of floor sweepings determined by multiplying 0.0024 times the total producer first sales of flue-cured tobacco at auction for the season for the warehouse involved.

* * * * *

(e–1) *Considered planted credit.* Credit assigned in the current year for an old farm as follows:

* * * * *

(h) *Director.* The Director, or Acting Director, Tobacco and Peanuts Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture.

* * * * *

(m) *Farm acreage allotment.* The allotment determined in accordance with § 725.58.

* * * * *

(p) *Floor sweepings.* The scraps or leaves of tobacco which accumulate on the warehouse floor in the regular course of business.

* * * * *

(s) *Leaf account tobacco.* The quantity of tobacco purchased or otherwise acquired by or for the account of a warehouse (except floor sweepings which accumulate on the warehouse floor), as adjusted by the debits and credits to the buyers corrections account, and including floor sweepings purchased from another warehouse or dealer.

* * * * *

(dd) *Preliminary farm acreage allotment.* The allotment determined in accordance with § 725.58.

* * * * *

(jj–1) *Shared in risk of production.* Involvement in the production of flue-cured tobacco by a person who meets all of the conditions as set forth in either paragraph (jj–1) (1) or (2) of this section:

(1) *Investing producer.* A person who:

(i) Invests in the production of a crop of flue-cured tobacco in an amount which is not less than 20 percent of the proceeds of the sale of the crop;

(ii) Depends solely on a share of the proceeds from the marketing of the tobacco for the return on the investment;

(iii) Waits until such crop of flue-cured tobacco is marketed to receive any return on the investment; and

(iv) Maintains records, for a period of three years after the end of the marketing year in which the tobacco is sold, which may be used to verify that the provisions of paragraph (jj–1)(1) of this section have been met.

(2) *Lessor.* A person who:

(i) Owns a farm having a flue-cured tobacco allotment and quota;

(ii) Leases such allotment and quota to another person for use in producing a crop of flue-cured tobacco (the tobacco may be produced on the lessor's farm or on a farm operated by the lessee);

(iii) Depends solely on a specified share of the proceeds from the marketing of such crop of flue-cured tobacco (the tobacco which is produced using the leased allotment and quota) for payment of the rental for such allotment and quota;

(iv) Waits until such crop of flue-cured tobacco is marketed to receive any payment of the rental for such allotment and quota; and

(v) Maintains records, for a period of three years after the end of the marketing year in which the tobacco is sold, which may be used to verify that the provisions of paragraph (jj–1)(2) of this section have been met.

* * * * *

(ll–1) *Tillable cropland.* Cropland (excluding orchards, vineyards, land devoted to trees, and land being prepared for non-agricultural uses) which the county committee determines can be planted to crops without unusual preparation or cultivation.

* * * * *

4. Section 725.56 is revised to read as follows:

§ 725.56 Determination of preliminary farm acreage allotments.

(a) *Farms requiring a determination.* A preliminary farm acreage allotment shall be determined for the current year for each farm which has tobacco history acreage for the base period as determined in accordance with the provisions of § 725.73.

(b) *Preliminary farm acreage allotment.* The preliminary farm acreage allotment shall be the same as the farm acreage allotment established for the preceding year: *Provided,* That in 1983 and at five-year intervals thereafter, the preliminary farm acreage allotment shall be the farm acreage allotment for the preceding year divided by a factor determined by averaging the yields for the county, as determined by the Deputy Administrator, Program Planning and Development, for the most recent five-year period and dividing the result by the average of the yields for the county as determined by the Deputy Administrator, Program Planning and Development, for the five years 1959 through 1963. If the computed factor is outside the range of 1.0000 to 1.3500, the factor shall be increased to 1.0000 or decreased to 1.3500, as applicable: *Provided further,* That in the fifth year of any five-year period beginning with 1983 the factor shall be divided by the factor which resulted from the computation made in accordance with the first proviso of this paragraph for the previous five-year period.

5. In § 725.57, paragraph (a) is revised to read as follows:

§ 725.57 Determination of preliminary farm yields.

(a) *Old farms.* The preliminary farm yield for an old farm for the current year shall be determined as follows:

(1) *Farm having preliminary farm acreage allotment.* The preliminary farm yield established for the farm shall be the same preliminary farm yield as was in effect for the preceding year. However, for 1983 and at five-year intervals thereafter, the preliminary farm yield shall be the yield determined by multiplying the preliminary farm yield for the farm for the preceding year by the factor which is used in determining preliminary farm acreage allotments, as provided for in § 725.56.

(2) *Farm not having preliminary farm acreage allotment.* The preliminary farm yield shall be determined by dividing the farm yield which is determined in accordance with the provisions of § 725.59 by the national yield factor for the current year.

* * * * *

6. Section 725.58 is revised to read as follows:

§ 725.58 Determination of farm acreage allotments and effective farm acreage allotments.

(a) *Farm acreage allotments.* The farm acreage allotment shall be determined by multiplying the national acreage factor as determined by the Secretary for the current year by the preliminary farm acreage allotment for the current year and adjusting the result as follows:

(1) *Upward adjustment.* Add the:

(i) Acreage approved in accordance with the provisions of § 725.66 in order to adjust for an inequity or to correct an error;

(ii) Acreage determined by dividing the pounds of quota which are purchased in the current year by the farm yield; and

(iii) Acreage determined by dividing the pounds of forfeited quota which are approved for adjustment from the forfeiture pool by the farm yield.

(2) *Downward adjustment.* Subtract the:

(i) Acreage determined by dividing the pounds of quota sold in the current year by the farm yield; and

(ii) Acreage of forfeited allotment.

(b) *Effective farm acreage allotment.* The effective farm acreage allotment for the current year shall be determined by dividing the effective farm marketing quota by the farm yield.

7. In § 725.59, paragraph (a) is revised to read as follows:

§ 725.59 Determination of farm yields.

(a) *Old farms.* The farm yield for an old farm shall be:

(1) *Farm with preliminary farm yield.* Determined by multiplying the preliminary farm yield by the national yield factor for the current year.

(2) *Farm without preliminary farm yield.* Determined in the same manner as the farm yield for a new farm as provided in paragraph (b) of this section.

* * * * *

8. Section 725.60 is revised to read as follows:

§ 725.60 Determination of effective farm marketing quotas.

The effective farm marketing quota shall be the farm marketing quota adjusted as follows:

(a) *Upward adjustment.* Add:

(1) The smaller of (i) the undermarketings from the preceding marketing year, or (ii) farm marketing quota for the preceding year plus the pounds of quota which are transferred to the farm by lease in the preceding year; and

(2) The pounds of quota which are transferred to the farm by lease in the current year.

(b) *Downward adjustment.* Subtract:

(1) The pounds of quota which are overmarketed from the preceding marketing year;

(2) The pounds of quota which are overmarketed from any year before the preceding year which have not been subtracted when determining the effective farm marketing quota in a prior year;

(3) The pounds of quota which are transferred from the farm by lease in the current year; and

(4) The pounds of quota which are reduced in the current year as a result of a violation in a prior year as provided for in § 725.98.

9. In § 725.63 paragraph (b) is revised to read as follows:

§ 725.63 Determination of allotments and yields for divided farms.

* * * * *

(b) *Preliminary farm yields.* The preliminary farm yields for the tracts resulting from a division of a parent farm shall be the same as the preliminary farm yield established for the parent farm: *Provided,* That if the contribution method of division is used and a preliminary farm yield was established for a tract before the tract become a part of the parent farm, the preliminary farm yield shall be the preliminary farm yield established for the tract, as adjusted by the factor(s) applied to the preliminary farm yield of the parent farm, which is determined in accordance with the provisions of § 725.57, after the tract became a part of the parent farm.

* * * * *

10. In § 725.69, the introductory paragraph and paragraph (c)(3) are revised and paragraph (b)(6) is added to read as follows:

§ 725.69 Determination of acreage allotments for new farms.

The acreage allotment for a new farm shall be that acreage which the county committee, with approval of the State committee, determines is fair and reasonable for the farm, taking into consideration the past tobacco experience of the farm operator; the land, labor, and equipment available for the production of tobacco; crop rotation practices; and the soil and other physical factors affecting the production of tobacco: *Provided,* That the acreage allotment so determined shall not exceed the smaller of one acre or 50

percent of the average of the acreage allotments established for not less than two nor more than five old farms which are similar with respect to land, labor, and equipment available for the production of tobacco, crop rotation practices, and the soil and other physical factors affecting the production of tobacco.

* * * * *

(b) * * *

(6) *Operator has not sold or forfeited allotment.* During the current or the four preceding years the operator has not sold or forfeited any flue-cured tobacco allotment from any farm.

(c) * * *

(3) *Farm includes land formerly having tobacco allotment.* A farm shall not be eligible for a new farm tobacco allotment if, during the current year or the four preceding years: (i) The farm had a tobacco allotment and the owner sold all of the allotment, or (ii) some of the land which comprises the farm was part of an old farm prior to a reconstitution and the owner of the old farm retained no tobacco allotment for such land when the tobacco allotment for the old farm was reconstituted by the designation method of division.

* * * * *

11. Section 725.72 is revised to read as follows:

§ 725.72 Transfer of tobacco marketing quotas by lease or by sale.

(a) *General.* Effective with respect to the 1982 crop year for a lease and to the 1983 crop year for a sale, a flue-cured tobacco marketing quota (including quota which has been pooled in accordance with the provisions of part 719 of this chapter) may be transferred between farms within a county by sale or by lease. A flue-cured marketing quota also may be transferred by lease to a farm in an adjoining county within the same State when the State committee authorizes the county committee to approve the transfer of quota after June 15 if the lessor has suffered a loss of flue-cured tobacco as a result of a flood, hail, wind, tornado, or other natural disaster.

(b) *Sale.* If the transfer is by sale, the transfer shall be based on part or all of the farm poundage quota. The maximum quota that may be transferred is the farm poundage quota.

(c) *Lease.* If the transfer is by lease, the transfer shall be based on a portion or all of the effective farm poundage quota. The maximum quota that may be transferred is the effective farm poundage quota.

(d) *Transfer provisions.* (1) *Accumulation of quota.* A transfer shall not be approved if the county committee determines that the primary purpose of the transfer is to accumulate the quota on the farm (i.e., alternately leasing to and from the farm for two or more years to maintain the quota without satisfactory evidence of plans for producing the quota on the receiving farm).

(2) *Subleasing.* In order to determine whether there is any subleasing of an allotment and quota, the current year is divided into two periods, the period up to and including June 15 and the period after June 15. The county committee shall not appprove a transfer during either period if the effect would be both a transfer to and from the farm during the same period: *Provided,* That a transfer may be approved within any such period if an allotment and quota is transferred from a farm for one or more years and the farm subsequently is combined with another farm that otherwise is eligible to receive allotment and quota by lease.

(3) *Lessor farm.* A transfer of quota from a farm by lease shall not be approved:

(i) *Purchased and/or reallocated quota.* If the pounds of quota being transferred exceed the difference obtained by subtracting from the effective farm marketing quota the total pounds of quota purchased and/or reallocated from forfeited quota in the current and two preceding years, as adjusted to reflect both changes in county farm yields as provided in § 725.56 and changes in national acreage factors which have occurred since each respective purchase and/or reallocation of quota: *Provided,* That this provision shall not apply to a transfer which is filed after June 15 under the natural disaster provisions of this section.

(ii) *New farm.* If the farm is a new farm.

(iii) *Reduction pending.* If consideration of an indicated violation is pending which may result in an allotment and quota reduction for the farm for the current year. However, if the county committee determines that a decision will not be made on the pending case on or before April 1, a 1-year transfer may be approved.

(iv) *Filed after June 15.* If the transfer agreement is filed after June 15 unless the county committee in the county in which the farm is located for administrative purposes is authorized to permit leasing after June 15 in accordance with the natural disaster provisions of this section and the county committee determines that the:

(a) Farm has suffered a loss of 10 percent or more of the expected production from the acreage of flue-cured tobacco planted for harvest in the current year.

(b) Producer made reasonable and customary efforts to produce the effective farm marketing quota.

(c) Producers on the farm qualify for price support in accordance with the provisions of Part 1464 of this title.

(v) *Consent of lienholder.* For a multiple year lease if the farm is subject to a lien, unless the lienholder agrees in writing to the transfer.

(vi) *No Net Cost Tobacco Fund contribution.* Unless the contribution required by § 1464.10 of this title is made to the No Net Cost Tobacco Fund, in accordance with instructions issued by the Deputy Administrator.

(vii) *Claim for tobacco marketing quota penalty.* If a claim has been filed against the lessor for a tobacco marketing quota penalty and the claim remains unpaid: *Provided,* That this provision shall not apply if the claim is paid or the entire proceeds of the lease of the allotment and quota are applied against the claim and the county committee determines that the amount paid for the lease represents a reasonable price for the pounds of quota being leased.

(viii) *Forfeiture pending.* To the extent that forfeiture of such allotment and quota is expected to become final before April 15.

(4) *Lessee farm.* A transfer of quota to a farm by lease shall not be approved:

(i) *Tillable cropland limitation.* If the pounds of quota being transferred plus the pounds of quota previously transferred to the farm by lease exceed the difference between the farm marketing quota and one-half the result obtained by multiplying the acres of tillable cropland by the farm yield: *Provided,* That this provision shall not be applicable to a transfer of quota which is filed after June 15 in accordance with the natural disaster provisions of this section.

(ii) *Current allotment.* Unless the farm has a current flue-cured tobacco farm acreage allotment (i.e., old farm or new farm allotment). The effective quota on the farm may be zero pounds before the transfer of quota to the farm.

(iii) *Filed after June 15.* If the transfer agreement is filed after June 15:

(a) Unless the producers on the farm qualify for price support under the provisions of Part 1464 of this title; and

(b) The pounds of quota to be transferred to the lessee farm exceed the difference obtained by subtracting the effective farm marketing quota (before the filing of the transfer agreement) for the lessee farm from the total pounds of tobacco marketed and/or available for

marketing (based on estimated pounds of tobacco on hand and/or in the process of being produced) from the farm in the current year.

(5) *Selling farm.* A transfer of quota from a farm by sale shall not be approved:

(i) *Previous purchases and/or reallocated quota.* If the farm marketing quota includes quota that was bought, and/or reallocated from quota which has been forfeited and the purchase and/or reallocation became effective during the current year or in the four preceding years: *Provided,* That this provision shall not be applicable if the quota being sold was purchased in such period, if forfeiture of such quota may be required by § 725.74, and if the pounds of quota being transferred do not exceed the pounds of quota for which forfeiture otherwise is required in accordance with the provisions of § 725.74 (c) and (d).

(ii) *Reduction pending.* If consideration of an indicated violation is pending which may result in an allotment and quota reduction for the farm for the current year. However, if the county committee determines that a decision will not be made on the pending case on or before April 1, a transfer may be approved.

(iii) *Forfeiture pending.* If the agreement for transfer by sale is filed subsequent to the final date which is permitted for the sale of the allotment and quota in order to prevent forfeiture.

(iv) *Consent of lienholder.* If the farm is subject to a lien unless the lienholder agrees in writing to the transfer: *Provided,* That consent of a lienholder is not required for a transfer of the pounds of quota for which forfeiture otherwise is required in accordance with the provisions of § 725.74 (c) and (d).

(v) *Claim for tobacco marketing quota penalty.* If a claim has been filed against the seller for a tobacco marketing quota penalty and the claim remains unpaid: *Provided,* That this provision shall not be applicable if the claim for such penalty is paid or the entire proceeds of the sale of the allotment and quota are applied against the claim and the county committee determines that the amount paid represents a reasonable selling price for the pounds of quota being sold.

(6) *Buying farm.* A transfer of quota to a farm by purchase shall not be approved:

(i) *Active producer.* Unless the buyer is an active flue-cured tobacco producer.

(ii) *Tillable cropland limitation.* If the sum of the pounds of quota being transferred, plus the pounds of quota previously transferred to the farm in the current year by lease, exceeds the difference between the farm marketing quota and one-half the result obtained by multiplying the acres of tillable cropland by the farm yield.

(iii) *Quota previously sold.* If the farm owner sold quota from the farm during the current or any of the four preceding years or two years if such sale was to prevent a forfeiture of the quota.

(e) *Transfer agreement.* In order for a transfer of allotment and quota by lease or sale to be approved in the current year the transfer must be:

(1) *Form.* Recorded on Form ASCS–375.

(2) *Signatures.* Agreed upon and signed by:

(i) *Lease.* The owner of the transferring farm and the owner or operator of the receiving farm.

(ii) *Sale.* The owner of the selling farm and an active flue-cured tobacco producer who is the buyer. If the buyer is neither owner or operator of the farm to which the allotment and quota will be assigned, the owner or operator of the farm must give written consent for the allotment and quota to be assigned to the farm.

(3) *Where to file.* Filed in the county ASCS office which serves the county in which the transferring farm is located for administrative purposes.

(4) *When to file.* Filed on or before:

(i) *Lease.* April 15: *Provided,* That a transfer agreement filed on or before June 15 may be considered to have been filed on April 15 if the county committee, with concurrence of the State committee, determines that on or before April 15 the lessee and lessor agreed to transfer the quota but the transfer agreement was not filed timely as the result of conditions beyond the control of either the lessee or lessor: *Provided further,* That a transfer may be approved if the transfer agreement is filed on or before November 15 in accordance with the natural disaster provisions of this section.

(ii) *Sale.* June 15.

(f) *Period of lease.* A transfer by lease may be for a period of one to five years: *Provided,* That the lease shall be limited to one year if the transfer agreement is filed after June 15 in accordance with the natural disaster provisions of this section.

(g) *Compliance statement for lease.* Only the lessor and lessee (or the lessor or lessee and any attorney, trustee, bank, or other agent or representative, who regularly represents either the lessor or lessee in business transactions unrelated to the production or marketing of tobacco) may be parties to, or involved in the arrangements for, a transfer of flue-cured tobacco allotment and quota. In order for a transfer of allotment and quota by lease to be valid, both the lessor and the lessee shall file a statement, on a form approved by the Deputy Administrator, in the county ASCS office of the county in which the lease is filed certifying that the lease is in compliance with the provisions in this section. If, after the lease agreement is approved, information is brought to the attention of the county committee which indicates that either the lessor or the lessee, or both, knowingly filed a false certification, the county committee shall schedule a hearing and notify such person of the time and place of the hearing, and afford such person an opportunity to be present and present evidence at the hearing with respect to the allegation of a false certification. If, as a result of the evidence presented, the county committee determines that such person knowingly made a false certification, the county committee shall notify the person of the determination and afford such person 15 days after mailing of the notice to request a review of the determination by a review committee as provided by Part 711 of this chapter. If it is determined that a lessor knowingly made a false certification, the following shall occur:

(1) *Lessor.* The next flue-cured tobacco allotment established for the lessor farm shall be reduced by thatpercentage which the leased quota was of the flue-cured tobacco farm marketing quota for the farm in the year of the lease.

(2) *Lessee.* The lessee shall be ineligible for price support and a "No Price Support" marketing card shall be issued for the farm for marketing the current year crop of flue-cured tobacco which is marketed after the determination is made: *Provided,* That a "No Price Support" marketing card shall be issued in a year subsequent to the first year such card is issued if the cumulative pounds of tobacco marketed with the "No Price Support" marketing card are less than the pounds leased as the result of a false certification: *Provided further,* That after the cumulative marketings identified with the "No Price Support" marketing card issued for the farm are equal to or greater than the pounds leased as a result of a false certification, the marketing card may be exchanged at the county ASCS office for a marketing card without such notation if the farm and producer are otherwise eligible for price support.

(h) *Approval or disapproval of a transfer agreement.* The county committee shall approve or disapprove each transfer agreement. The county committee shall approve each transfer agreement which meets the eligibility

conditions as set forth in this section: *Provided,* That the county committee may delegate authority to the county executive director or other county office employee to act on behalf of the county committee and approve a transfer agreement which meets the eligibility conditions as set forth in this section. Such delegation of authority may authorize the county executive director or county office employee to approve any transfer agreement or the delegation of authority may be limited to approval of either transfers by lease or transfers by sale. Only the county committee shall disapprove a transfer agreement.

(1) *Time for determination.* Any approval or disapproval by the county committee of a transfer agreement should be made within 30 days after the transfer agreement is filed with the county committee unless additional time is required as the result of conditions beyond the control of the county committee. However, if an agreement is filed after June 15 which provides for the sale of an allotment and quota, a transfer agreement shall not be approved until the next year's allotment and quota is computed for the selling farm. In addition, if a marketing quota referendum will be conducted to determine whether or not quotas will be in effect for the crop, a transfer agreement shall not be approved until the Secretary announces that quotas have been approved by referendum.

(2) *Effective date.* An approved transfer agreement shall become effective during the current crop year, except that if an agreement to sell an allotment and quota is filed after June 15 of the current year, such agreement shall become effective for the next crop year.

(i) *Allotment and quota after transfer by lease.* The effective farm marketing quota and the effective farm acreage allotment shall be determined for both the lessee farm and the lessor farm in accordance with the provisions of §§ 725.58 and 725.60.

(j) *Apportionment of data and determination of allotment and quota after transfer of quota by sale.*—(1) *Apportionment of data for the selling farm.* The pounds of farm marketing quota retained on the selling farm after the sale of quota shall be divided by the farm marketing quota established for the selling farm before the sale to determine a factor for apportioning farm data for the current year and for the base period. The data to be retained on the selling farm shall be determined by multiplying the factor by the following data:

(i) The planted and considered planted acres for the base period;

(ii) The history acres for the base period;

(iii) The farm acreage allotment for the current year and for the base period;

(iv) The amount of any overmarketings which have not been subtracted when a determination is made of the effective farm marketing quota of the selling farm;

(v) The pounds of quota which have been transferred from the selling farm by lease in the current year;

(vi) The acres of allotment which have been reduced in the current year as the result of a marketing quota violation in a prior year;

(vii) The pounds of quota transferred to the farm by lease in the previous year;

(viii) The previous year's farm marketing quota;

(ix) The previous year's effective farm marketing quota; and

(x) The previous year's marketings.

(2) *Apportionment of data for the buying farm.* The pounds of farm marketing quota which have been purchased shall be divided by the farm yield for the buying farm in order to determine the farm acreage allotment for the buying farm. The buying farm's share of other farm data shall be determined by subtracting the acres or pounds, as applicable, which are retained on the selling farm from the acres or pounds which were established for the selling farm before the current sale of quota: *Provided,* That the acres computed for the acres of reduction resulting from a marketing quota violation for the buying farm shall be multiplied by a factor determined by dividing the farm yield of the selling farm by the farm yield of the buying farm in order to determine the acres of reduction from the buying farm for the current year: *Provided further,* That the pounds of quota transferred from the selling farm by lease and/or the acres of allotment reduction resulting from a marketing quota violation on the selling farm may be apportioned between the farms in accordance with a written agreement between the buyer and the seller if the farm marketing quota retained on the selling farm is sufficient to satisfy the pounds of quota which are leased, the pounds of quota which have been reduced as the result of a marketing quota violation, and the overmarketings for the farm, if any. The data determined in accordance with this paragraph shall be added to any previous data for the buying farm.

(3) *Allotment and quota.* After adjusting the data in accordance with the provisions of this section, the farm acreage allotment, the effective farm acreage allotment, and the effective farm marketing quota shall be determined in accordance with §§ 725.58 and 725.60 for both the buying farm and the selling farm.

(k) *Effect on price support eligibility.* If a lease agreement is filed after the farm operator reports the acreage of tobacco on the farm in the current year, the effective farm acreage allotment which has been determined prior to the approval of the transfer will be used in determining price support eligibility for the farm.

(l) *Natural disaster.*—(1) *State committee authorization.* Notwithstanding any other provision of this section, the State committee may authorize the county committee to approve a transfer of quota by lease which is filed after June 15 if:

(i) *County committee determination.* The county committee of the county in which the lessor farm is located determines that as a result of drought, hail, wind, excessive rain, tornado, or other natural disaster, the county has suffered a loss of 10 percent or more of the expected yield from the acreage of flue-cured tobacco planted for harvest in the current year and the State committee concurs in such determination.

(ii) *County committee recommendation.* The county committee of the county in which a natural disaster loss occurred recommends to the State committee that the county committee be authorized to approve a transfer of a quota by lease when filed after June 15, if the agreement otherwise complies with the provisions of this section.

(iii) *Tobacco program not impaired by transfer.* The State committee determines that transfer of quota after June 15 will not impair the effective operation of the tobacco marketing quota or price support program.

(2) *Eligible farms.* In any county for which a transfer of quota is authorized after June 15 because of disaster conditions, a lessor farm may transfer quota by lease after June 15 to a lessee farm in the same county or in an adjoining county within the State if such farms otherwise meet the eligibility requirements specified in this section.

(3) *Adjoining county.* As used in this section, the phrase "adjoining county" means a county having a common border with another county in the same State if such common border is more than the point at which intersecting lines meet.

(m) *Carryover tobacco.* If tobacco is marketed after the entire farm marketing quota of the producing farm has been transferred by sale, the tobacco shall be considered as having been marketed on each farm to which farm marketing quota was transferred by sale in accordance with a transfer agreement

filed after June 15 of the last year in which a farm marketing quota was established for the producing farm. Such marketing shall be prorated to each farm in proportion to the pounds of farm poundage quota purchased by each farm. If there was more than one farm to which a farm marketing quota was transferred by sale, the marketing quota may be assigned to the farms in the manner agreed to in writing by each of the buyers of such farm marketing quota.

(n) *Farm division after transfer by lease.* If a farm is divided after there has been a transfer of a marketing quota to the farm by lease, the transferred quota shall be divided in the manner which is designated in writing by the lessee. In the absence of a written designation, the leased quota shall be apportioned in the same manner as the farm acreage allotment of the parent farm.

(o) *Multiple year lease.* (1) The acreage allotment and/or marketing quota on the lessee farm having a multiple-year lease shall be adjusted for each year for which a transfer agreement is in effect to reflect any change in the farm yield or to reflect any decrease in the national acreage factor which causes the farm marketing quota established for the lessor farm to be less than the pounds of quota which have been transferred to the lessee farm.

(2) Notwithstanding any other provisions of this section, a previously approved multiple-year lease shall not be effective in the current year unless the contribution required by § 1464.10 of this title to the No Net Cost Tobacco Fund is made for the current year in accordance with instructions issued by the Deputy Administrator.

(p) *Cancellation of transfer.* (1) A transfer of allotment and quota under this section which was approved in error or on the basis of incorrect information furnished by the parties to the agreement shall be canceled by the county committee. For the purpose of determining any overmarketings and undermarketings from the farms, and for the purpose of determining eligibility for price support and marketing quota penalties, the cancellation shall be effective as of the date of approval. However, such cancellation shall not be effective for the current marketing year for price support and marketing quota penalties purposes if: (i) The transfer approval was made in error or on the basis of incorrect information which had been unknowingly furnished by the parties to the agreement; and (ii) the parties to the transfer agreement were not notified of the cancellation before the marketing for the receiving farm exceeded the correct effective farm marketing quota. The provisions of this paragraph shall not preclude any application of the provisions with respect to erroneous notice which are set forth in § 725.70.

(2) If a transfer of an allotment and quota is canceled because of fraud on the part of the owner of the transferring farm but no fraud is attributable to either the owner or operator of the receiving farm, such cancellation shall be effective as of the date of approval of the transfer except for purposes of determining eligibility for price support and marketing quota penalties for the receiving farm. In such case, the overmarketings shall be charged against the farm from which the transfer of allotment and quota was made if the farm, after any reconstitution which may be necessary as a result of the fraud, is assigned an allotment and quota against which the overmarketings could be charged. Otherwise, the overmarketings shall be charged against any other farm involved in the fraud having an allotment and quota after any reconstitution required by such fraud. Notwithstanding the foregoing, any overmarketings on the receiving farm which are in excess of the amount of quota involved in the canceled transfer shall be charged against the receiving farm.

(q) *Dissolution or revision of a transfer agreement.* A transfer agreement may be dissolved or minor revisions made with respect to such agreement if a written request by all parties to the agreement is made to the county committee by November 15 of the current crop year. After any such dissolution or revision of a transfer agreement, an official notice of the acreage allotment and marketing quota shall be issued by the county committee to each of the operators involved in the transfer agreement. If a request to dissolve or revise a multiple-year lease is made after November 15 of the current crop year, but before the last crop year for which the transfer agreement is effective, the next allotments and quotas established for the farms shall reflect the dissolution or revision.

(r) *Considered planted credit—lessor farm.* Considered planted credit shall be given to the lessor farm for the tobacco acreage allotment which is deducted as the result of the transfer of quota from the farm by lease.

12. In § 725.73, paragraph (c) is added to read as follows:

§ 725.73 Determining tobacco history acreages.

* * * * *

(c) *History acreage reduced to zero.* Notwithstanding any other provisions of this section, the history acres for the current year and for each year of the base period shall be reduced to zero if:

(1) A new farm allotment was canceled;

(2) The allotment was in a pool established in accordance with the eminent domain provisions of Part 719 of this chapter and the period of eligibility to transfer the allotment from the pool has expired; or

(3) The county committee determines that the farm has been retired from agricultural production and the allotment is not eligible for pooling in accordance with the eminent domain provisions of Part 719 of this chapter.

13. Section 725.74 is revised to read as follows:

§ 725.74 Forfeiture of allotment and quota.

(a) *Determination of allotment and quota subject to forfeiture.* (1) For purposes of paragraphs (b) and (c) of this section, the phrase "owns a farm" means ownership of:

(i) A farm as constituted under Part 719 of this chapter if the entire farm shares a common ownership; or

(ii) All of the land within a farm which shares common ownership (commonly referred to as a "tract") if the parent farm consists of separate ownership tracts of land.

(2) For purposes of paragraphs (b) and (c) of this section, the county committee shall apportion, in accordance with the provisions of Part 719 of this chapter, the flue-cured tobacco allotment and quota assigned to a farm between the various tracts of land which are separately owned by:

(i) A person which is not significantly involved in the management or use of land for agricultural purposes, as may be described in paragraph (b) of this section.

(ii) An individual, or owned by a person which is significantly involved in the management or use of land for agricultural purposes.

(3) An allotment and quota shall be determined for a tract under paragraph (a)(2)(ii) of this section only to the extent that records are available to show the contribution which the tract made to the flue-cured tobacco allotment of the parent farm.

(4) The farm acreage allotment and farm marketing quota determined under this section for each farm or tract, as applicable, will be the amount of allotment and quota subject to forfeiture under this section.

(b) [Reserved.]

(c) *Flue-cured tobacco farm acreage allotment exceeds 50 percent of tillable cropland.* If any person owns a farm for which the flue-cured tobacco farm acreage allotment assigned to the land owned by the person exceeds 50 percent of the tillable cropland on such farm, the person shall take steps, such as the sale of allotment, the purchase of tillable cropland, or conversion of land to tillable cropland status, which will result in elimination of the excess or the person shall forfeit flue-cured tobacco farm acreage allotment equal to the amount of such excess that remains on or after:

(1) *Farm owned on or before December 1, 1983.* December 1, 1983: *Provided,* That if the farm is acquired after September 1, 1983 the date may be extended by the county committee to July 1, 1984 if before December 1, 1983 the owner requests such extension in writing.

(2) *Farm acquired after December 1, 1983.* July 1 of the year after the year of acquisition.

(3) *Farm includes purchased allotment.* Notwithstanding the provisions of paragraphs (c) (1) and (2) of this section, if the flue-cured tobacco farm acreage allotment includes acreage of purchased allotment and the flue-cured tobacco farm acreage allotment exceeds 50 percent of the tillable cropland because the owner disposed of an acreage of tillable cropland after purchasing the allotment, the forfeiture shall not take place until July 1 of the year after the year of such disposal.

(4) *Increase in allotment resulting from changes in county yields or change in national acreage factor.* July 1 of the year after the crop year for which the change(s) become effective.

(d) *Buyer of allotment fails to share in risk of production.*—(1) *Forfeiture required.* If any person buys a flue-cured acreage allotment and quota under the provisions of § 725.72 and such person fails to share in the risk of producing the tobacco which was planted under such allotment and quota during any of the five crop years beginning with the crop year for which the purchase became effective, such person shall forfeit the purchased allotment and quota which is not sold on or before December 31 of the year after the crop year in which such crop was planted.

(2) *Failure to utilize purchased allotment and quota.* Failure to utilize purchased allotment and quota shall not subject such allotment and quota to forfeiture, but the five year period of paragraph (d)(1) of this section shall be extended one year for each year in which the allotment and quota is not utilized.

(3) *Reduction for failure to share in risk of production.* The effective allotment and quota shall be reduced, but not below zero acres or pounds, for planting, leasing, and marketing quota purposes only, to the extent of purchased allotment and quota for each crop year after the crop year in which the buyer of such allotment and quota fails to share in the risk of producing a crop of tobacco planted under such allotment and quota.

(4) *Determining forfeited amount.* If only part of the allotment and quota on a farm resulted from purchased allotment and quota, the amount of farm marketing quota which must be forfeited under paragraph (d) of this section shall be determined by:

(i) Increasing or decreasing each respective purchase of farm acreage allotment for the farm to reflect changes in county farm yields as provided in § 725.56 and changes in national acreage factors.

(ii) Adding the amounts determined in paragraph (d)(4)(i) of this section, multiplying the result by the farm yield for the farm, and subtracting the pounds of quota which have been sold to prevent forfeiture.

(e) *Hearing.* Before any forfeiture of allotment and quota becomes effective under the provisions of this section, the county committee shall:

(1) Schedule a hearing for the affected person.

(2) Notify the affected person of the hearing at least 10 days in advance of the hearing.

(3) Make a determination, on the basis of the evidence presented at the hearing, as to whether or not the affected person knowingly failed to take steps to prevent forfeiture of allotment and quota.

(4) Notify the affected person of the county committee determination and, if forfeiture of allotment and quota is to be required, afford such person an opportunity to appeal to a review committee under the provision of Part 711 of this chapter.

(5) Wait until the period has passed for the affected person to appeal the county committee or review committee determination that allotment and quota must be forfeited under the provisions of this section.

(f) *Apportionment of data and determination of allotment and quota after forfeiture.*—(1) *Apportionment of data.* The pounds of farm marketing quota retained on the forfeiting farm after the forfeiture shall be divided by the farm marketing quota established for the forfeiting farm before the forfeiture to determine a factor for apportioning farm data for the current year and for the base period. The data to be retained on the forfeiting farm shall be determined by multiplying the factor by the following data of the forfeiting farm:

(i) The planted and considered planted acres for the base period.

(ii) The history acres for the base period.

(iii) The farm acreage allotment for the base period.

(iv) The overmarketings which have not been subtracted when determining the effective farm marketing quota of the forfeiting farm.

(v) The pounds of quota transferred from the forfeiting farm by lease in the current year.

(vi) The acres of allotment reduced in the current year for a marketing quota violation in a prior year.

(vii) The previous year's effective farm marketing quota.

(viii) The previous year's marketings.

(ix) The previous year's farm marketing quota.

(x) The pounds of quota transferred to the farm by lease in the previous year.

The portion of the forfeiting farm data which shall be included in a forfeiture pool for the county shall be determined by subtracting the acres of pounds which are retained on the forfeiting farm from the acres or pounds established for the forfeiting farm before the forfeiture.

(2) *Forfeiture pool data.* The data for the forfeiture pool shall be added to any previous data in the forfeiture pool.

(3) *Allotment and quota after forfeiture.* After adjustment of data, the farm acreage allotment, the effective farm acreage allotment and the effective farm marketing quota shall be determined according to §§ 725.58 and 725.60 for the forfeiting farm.

(g) *Forfeiture pool.* (1) *Forfeiture pool required.* A forfeiture pool shall be established in each county in which a forfeiture of allotment and quota occurs. The forfeiture pool shall be increased to include data for each forfeiture and shall be decreased for each reallocation so as to reflect forfeiture or reallocated amounts of:

(i) The farm acreage allotment for the current year and for the base period.

(ii) The farm marketing quota for the current year and for the base period.

(iii) The acres reduced for violation.

(iv) The quota transferred from the forfeiting farm by lease.

(v) The planted and considered planted acres for the base period.

(vi) The history acres for base period.

(vii) The previous year's effective farm marketing quota.

(viii) The previous year's marketings.

(2) *Farm yield for forfeiture pool.* For each year, the farm yield for the forfeiture pool shall be determined by

dividing the farm marketing quota in the forfeiture pool by the farm acreage allotment in the forfeiture pool. The preliminary farm yield for the forfeiture pool shall be determined by dividing the farm yield by the national yield factor.

(3) *Adjustment of data in forfeiture pool.* At the beginning of the current year, the data in the forfeiture pool shall be adjusted by the factors used in determining yields, allotments, and quotas for old farms. Acreage and quota data in the forfeiture pool shall be decreased each time quota is reallocated from the forfeiture pool, such decrease to be made in the same proportion as the pounds of quota reallocated from the pool are to the pounds of quota in the pool before the reallocation.

(h) *Reallocation of allotment and quota from forfeiture pool.*—(1) *Application.* In order to establish eligibility to receive allotment and quota from the forfeiture pool in the current year, an application must be made on a form approved by the Deputy Administrator. Such application must be filed:

(i) *Who may file.* By an active producer.

(ii) *When to file.* On or before March 31: *Provided,* That the State committee may establish an earlier date if notice is given to such earlier date in time for interested applicants to file by such date.

(iii) *Where to file.* At the county ASCS office which serves the farm for which the application is filed.

(2) *Eligibility of applicant.* In order for an applicant to be eligible for allotment and quota from the forfeiture pool the county committee must determine that:

(i) The application was filed timely.

(ii) The applicant is an active producer.

(iii) During the current year or during the four years preceding the current year the applicant has not:

(*a*) Sold or forfeited allotment and quota from any farm.

(*b*) Used the designation method of division to retain less allotment than the farm would have retained by another method of division.

(3) *Time to reallocate.* The county committee shall:

(i) Not reallocate any allotment and quota from the forfeiture pool until the time has passed for filing an application for forfeited allotment and quota for the current year.

(ii) Reallocate any allotment and quota from the forfeiture pool only during the 30-day period beginning on the day after the final date for filing an application for allotment and quota from the forfeiture pool.

(4) *Reallocation by county committee.* Reallocation of any allotment and quota shall be by the county committee. In making its determination of the amounts to reallocate, the county committee may consider the size of the current allotments on the farms of the eligible applicants, the length of time the applicants have been farming tobacco, the type of farming done by the applicants, (i.e., livestock, grain, or other commodities), previous leasing history of applicant, and other factors which in the judgment of the county committee should be considered. Allotment and quota may be reallocated to a farm which currently does not have a flue-cured tobacco allotment. A factor shall not be used to reallocate allotment and quota between all eligible applicants.

(5) *Basis for reallocation from forfeiture pool.* Reallocation from the forfeiture pool shall be on the basis of pounds of farm marketing quota.

(6) *Amount of quota to reallocate.* The county committee may reallocate all or part of the quota in the forfeiture pool. The minimum and maximum amounts of quota which may be reallocated to an eligible applicant are:

(i) *Minimum.* The total amount of quota in the pool or 200 pounds, whichever is less.

(ii) *Maximum.* 1,000 pounds; *Provided,* That with State committee approval up to 2,500 pounds may be reallocated.

(7) *Data for receiving farm.* All quota data for the forfeiture pool shall be apportioned to the receiving farm in the proportion that the reallocated farm marketing quota is to the total farm marketing quota in the forfeiture pool before the reallocation. The pounds of farm marketing quota reallocated to a farm shall be divided by the farm yield for the farm to determine the amount of reallocated farm acreage allotment. The data determined for the receiving farm in accordance with the provisions in this paragraph shall be added to any previous data for the receiving farm.

(8) *Allotment and quota for receiving farm.* After any adjustments which are made in accordance with the provisions of this section, the farm acreage allotment, the effective farm acreage allotment, and the effective farm marketing quota shall be determined for the receiving farm in accordance with §§ 725.58 and 725.60.

(i) *Forfeiture of reallocated allotment and quota.* Allotment and quota which is reallocated to a farm under the provisions of this section shall be forfeited if the applicant to whom the allotment and quota is reallocated fails to share in the risk of production of tobacco produced under such allotment and quota during any of the five years beginning with the crop year during which the allotment and quota is reallocated. The amount of farm marketing quota which must be forfeited shall be determined in the same manner as is provided in paragraph (d)(4) of this section for forfeiture of purchased quota. Forfeiture shall occur on December 1 of the year in which the applicant fails to share in the risk of production of tobacco produced under such allotment and quota: *Provided,* That while the failure to utilize such allotment and quota shall not subject such allotment and quota to forfeiture, the five year period, as provided for in this paragraph, shall be extended by a year for each year in which the allotment and quota is not utilized.

(j) *Successor-in-interest.* The successor-in-interest shall be subject to the provisions in this section in the same manner and to the same extent as would be applicable to the person whose interest was assumed.

(1) *New owner of farm.* The new owner of a farm on which a portion or all of the farm acreage allotment and farm marketing quota was purchased shall become the successor-in-interest to the buyer of the allotment and quota.

(2) *Buyer no longer shares in risk of production.* The owner of a farm shall become the successor-in-interest to the buyer of allotment and quota which was transferred to a farm which was not owned by such buyer if the buyer ceases to share in the risk of production of tobacco produced on the farm.

14. Section 725.86 is added to read as follows:

§ 725.86 Lien for penalty.

(a) *Lien on tobacco.* Until the amount of any penalty which is imposed in accordance with section 314 of the Act (7 U.S.C. 1314) is paid, a lien on the tobacco with respect to which such penalty is incurred, and on any other tobacco which is marketed in the same or a subsequent marketing year which is subject to marketing quotas in which the person liable for payment of the penalty has an interest, shall exist in favor of the United States for the amount of the penalty.

(b) *Lien precedence.* The lien on any other tobacco attaches at the time the debt is entered on a debt record in:

(1) *Indebted producers.* The county ASCS office for the county in which a subsequent crop of tobacco is grown.

(2) *Indebted warehouseman.* The State ASCS office for the State in which the warehouse is located.

(3) *Indebted dealer.* The State ASCS Office for the State to which the dealer is required to file reports.

(c) *List of tobacco marketing penalty debts.* Each county and State ASCS office shall maintain a list of tobacco marketing penalty debts which have been entered on the debt record for the respective office. The list shall be available for examination upon written request by any interested person.

15. In § 725.87, paragraph (d) is revised to read as follows:

§ 725.87 Issuance of marketing cards.

* * * * *

(d) *"No Price Support."* The notation "No Price Support" shall be entered on each marketing card issued for the use of:

(1) *Farm.* Any producer on the farm if the producers on the farm are ineligible for price support under the provisions of Part 1464 of this title.

(2) *Producer.* A producer on a farm if the producer is ineligible for price support under the provisions of Part 1464 of this title.

* * * * *

16. In § 725.88, paragraph (a) is revised to read as follows:

§ 725.88 Claim stamping and replacing marketing cards.

(a) *Claim stamping.* If a person is indebted to the United States and such indebtedness has been recorded on the county debt record, any marketing card issued for the farm on which the person has a producer interest shall bear the notation "U.S. Claim" followed by the amount of the indebtedness. The name of the debtor-producer, if different from the farm operator, shall be recorded directly under the claim notation. The notation "TMQ" indicating tobacco marketing quota as the type of indebtedness shall constitute notice to any buyer that until the amount of penalty is paid, the United States has a lien with respect to any crop of tobacco in which the debtor-producer has an interest. A claim notation other than "TMQ" shall constitute notice to any buyer that subject to prior liens, the net proceeds from any tobacco placed under price support loan shall be paid to the "Agricultural Stabilization and Conservation Service, USDA" to the extent of the indebtedness shown. The acceptance and use of a marketing card bearing a notation and information concerning an indebtedness to the United States shall not constitute a waiver by the debtor-producer of any right to contest the validity of such indebtedness by appropriate appeal. As claim collections are made, the amount of the claim shown on the card shall be revised to show the claim balance. If requested by the producer, the county executive director who issued the marketing card shall issue a claim-free marketing card when the claim has been paid.

* * * * *

17. In § 725.94, paragraph (c) is amended by removing the second sentence and a new paragraph (h) is added to read as follows:

§ 725.94 Penalties considered to be due from warehousemen, dealers, buyers, and others excluding producers.

* * * * *

(h) *Floor sweepings.* Effective for the 1982 and subsequent crops of tobacco, any person who markets floor sweepings in excess of allowable floor sweepings shall be subject to a civil penalty of 150 percent of the average market price, as specified in § 725.92, for the immediately preceding marketing year. The calculated penalty rate shall be rounded to the nearest whole cent. Any floor sweepings on hand more than 15 days after the warehouse closes for the auction season shall be considered as marketed. The floor sweepings on hand shall be weighed by the warehouseman and the weight shall be certified by the warehouseman, such weighing to be done in the presence of a representative of either the county committee or the State committee. Floor sweepings which are destroyed in the presence of a representative of the county committee within 15 days after the warehouse closes for the season shall not be considered as marketed when determining the quantity of floor sweepings marketed. If the county committee determines, after the warehouse has been closed for the auction season for more than 15 days, that the cumulative quantity of floor sweepings marketed and considered marketed in the current marketing year is in excess of the allowable floor sweepings, the person responsible for such marketings shall be given notice of the determination and shall be afforded an opportunity to request reconsideration of such determination in accordance with the provisions of Part 780 of this chapter. A determination that a civil penalty is due for marketing floor sweepings in excess of the allowable floor sweepings shall not become final and shall not be assessed until such person has been afforded an opportunity to a hearing and such person has exhausted the applicable administrative remedies. The notice of assessment shall require such person to pay the civil penalty to the "Agricultural Stabilization and Conservation Service, USDA" within 15 days after the date of mailing of the notice.

18. In § 725.95, paragraph (d) is corrected by removing "(c)" in the first sentence after the proviso and inserting "(d)" in its place, and paragraph (f) is added ro read as follows:

§ 725.95 Producer penalties; false identification; failure to account; canceled allotments; overmarketing proportionate share.

* * * * *

(f) *Ineligible for price support.* Effective for the 1983 and subsequent crops, a penalty at the basic rate as specified in § 725.92 for the current marketing year shall be assessed on any marketings of flue-cured tobacco by any producer on a farm if such producer is ineligible for price support because the farm operator or other producer on the farm has not agreed to make contribution to the No Net Cost Fund as provided in Part 1464 of this title.

19. In § 725.98, paragraph(g) is amended by removing the word "effective" from the first sentence, paragraph (n) is revised, and paragraph (p) is added to read as follows:

§ 725.98 Producer's records and reports.

* * * * *

(n) *Correction of farm records.* If the farm marketing records for a farm are determined to be incorrect, the records shall be corrected.

* * * * *

(p) *Effect of false identification on establishing future farm marketing quotas.* Notwithstanding any other provision of this section, if a producer falsely identifies tobacco as having been produced on or marketed from a farm, the quantity of the tobacco which is falsely identified shall be considered, for the purpose of establishing future farm marketing quotas, as having been produced on both the farm for which it was identified as having been produced and the farm of actual production, if known, or, as the case may be, such quantity of tobacco shall be considered as actually marketed from the farm.

20. In § 725.99, paragraph (a)(4)(xvii) is amended by removing the words "Data Systems Field Office (DSFO)" and inserting, in their place, the words "Kansas City Field Office (KCFO)"; paragraph (d)(2) is amended by removing "DSFO" and inserting, in its place, "KCFO"; and paragraphs (g)(12) and (k) are revised to read as follows:

§ 725.99 Warehouseman's records and reports.

* * * * *

(g) * * *

(12) The totals of the resales column on Form MQ–79 representing the nonauction resales (including floor

sweepings nonauction sales) by the warehouse.

* * * * *

(k) *Basket ticket and bill-out invoice.* At the time tobacco is weighed for marketing, the warehouseman shall record the weight of the basket or sheet of tobacco on the tobacco sale bill and on the basket ticket. The sale bill number on which the basket or sheet of tobacco is recorded shall be recorded on the basket ticket. If the marketing card which is presented to identify the tobacco at weigh-in bears the notation "No Price Support", the same notation shall be entered by the warehouseman on the basket ticket for each basket or sheet of tobacco which is identified with the same marketing card. When the tobacco has been sold at auction, the bill-out invoice to the buyer shall include the warehouse registration number (warehouse code), sale bill number, and line number on which the basket or sheet of tobacco was recorded on the sale bill.

* * * * *

21. In § 725.100, paragraphs (a), (b), (c)(1), (c)(2) and (c)(3) are revised and paragraph (c)(7) is added to read as follows:

§ 725.100 Dealer's records and reports.

* * * * *

(a) *Record of marketings.* A dealer shall keep records which provide the following information for each lot of tobacco, including scrap tobacco, purchased or sold by the dealer:

(1) *Purchases.* (i) The name of:

(*a*) The warehouse through which the tobacco was purchased, if purchased at a warehouse auction; or

(*b*) The operator of the farm on which the tobacco was produced, if purchased from a producer as a nonauction purchase, and the name of the producer of the tobacco, if different from the operator; or

(*c*) The seller if purchased as a nonauction purchase from a warehouseman or dealer.

(ii) The identification number of the warehouse, farm, or dealer, as applicable, at/from which the tobacco was purchased.

(iii) The address, FC number if known, and percentage share of the proceeds of the farm operator and any other producer from whom tobacco was purchased as a nonauction purchase.

(iv) The date of purchase.

(v) The pounds of tobacco purchased.

(vi) The gross purchase price.

(vii) The amount of penalty.

(viii) The amount deducted for the "No Net Cost Tobacco Fund".

(ix) The quantity of tobacco purchased from a prior crop and carried over for marketing in a subsequent crop year.

(2) *Sales.* (i) The name and identification number of:

(*a*) The warehouse through which the tobacco was sold, if sold at a warehouse auction, or

(*b*) The buyer if the tobacco was sold as a nonauction sale.

(ii) The date of sale.

(iii) The pounds of tobacco sold.

(iv) The gross sale price.

(b) *Nonauction purchase.* Each purchase of tobacco from a flue-cured tobacco producing area shall be identified by a marketing card issued for the farm on which the tobacco was produced unless an AMS inspection certificate is obtained prior to purchase which shows that the tobacco being offered for sale is a kind of tobacco which is not subject to marketing quotas.

(1) After each nonauction purchase, the dealer shall enter a declining balance of "110 percent of quota" on the reverse side of the marketing card. The declining balance shall be determined by reducing the previous "110 percent of quota" entry on the marketing card by the number of pounds of tobacco purchased. The date the tobacco was purchased also shall be entered on the marketing card at the time each lot of tobacco is purchased.

(2) After each nonauction purchase, the dealer shall prepare a Form MQ–72–2 which shall set forth the following:

(i) The date of the purchase.

(ii) The registration number of the dealer.

(iii) The name and address of the person selling the tobacco.

(iv) The identification number (farm number, warehouse code, or dealer number, as applicable) of the person selling the tobacco.

(v) The pounds of tobacco purchased.

(vi) The amount of penalty collected.

(vii) The method (estimating or weighing) of determining the pounds of tobacco marketed.

(viii) The signature of the seller and the date signed.

(3) The dealer shall make deductions for producer contributions to the No Net Cost Tobacco Fund as provided for in Part 1464 of this title. For nonauction purchases during the 1982–83 marketing year, the dealer shall deduct three cents per pound from the price paid to the producer for the tobacco, except for a purchase which is identified with a marketing card bearing the notation "No Price Support." For nonauction purchases from producers during the 1983–84 and subsequent marketing years, the dealer shall make a deduction in accordance with Part 1464 of this title from the price paid to the producer for the tobacco; however, a deduction shall not be made if the original "110 percent of quota" entry on the marketing card used to identify the tobacco was zero pounds. The amount of the deduction which is applicable to flue-cured tobacco marketed during each marketing year will be that amount per pound which is approved and announced by the Secretary as the producer contribution to the No Net Cost Tobacco Fund for each such marketing year.

(c) *Record and report of purchases and resales.* (1) Each dealer shall keep a record and make reports on Form MQ–79 showing all purchases and resales of tobacco made by or for the dealer and, in the event of a purchase or resale of tobacco which is purchased by the dealer from a crop of tobacco produced prior to the current crop, the fact that such tobacco was so purchased and carried over from a crop produced prior to the current crop.

(2) Form MQ–79 shall be prepared and a copy, together with executed copies of Form MQ–72–2 for all nonauction purchases, shall be forwarded to the State ASCS office not later than the end of the calendar week in which such tobacco was purchased or resold. However, if tobacco is purchased prior to the opening of the local auction market, a Form MQ–79 shall be prepared and a copy, together with executed copies of Form MQ–72–2 for all nonauction purchases, shall be forwarded to the State ASCS office not later than the end of the calendar week which would include the first sale date of the local auction markets. In addition, if tobacco is resold in a State other than where the tobacco is produced and the auction markets at such location open earlier than the auction market where the tobacco normally would be sold at auction by farmers, reports together with executed copies of Form MQ–72–2 for all nonauction purchases shall be prepared and forwarded to the State ASCS office not later than the end of the calendar week which would include the first sale day of the local auction market where the resale takes place.

(3) The data to be entered on Form MQ–72 for nonauction purchases from a producer shall be the data which is enumerated in accordance with the provisions of paragraph (b)(2) of this section.

* * * * *

(7) In addition to Form MQ–79 and MQ–72–2, a Form MQ–79 (Supplemental) shall be executed to record information relating to each

purchase of tobacco for which a contribution to the No Net Cost Tobacco Fund is deducted from the price paid to the producer for the tobacco. The Form MQ–79 (Supplemental) shall be forwarded to the State ASCS office at the same time the Form MQ–79 on which the purchase is recorded is forwarded. A check, draft, or money order in the amount of the deduction recorded on Form MQ–79 (Supplemental) and drawn payable to Flue-Cured Stabilization Corporatio shall be forwarded to the State ASCS office at the same time as Forms MQ–79 and MQ–79 (Supplemental).

* * * * *

§ 725.102 [Amended]

22. Section 725.102 is amended by removing, in paragraphs (a) and (b), the words "Director, Production Adjustment Division" and inserting, in their place, the word "Director."

23. In § 725.103, the first sentence in paragraph (a) is revised to read as follows:

§ 725.103 Recordkeeping and reporting requirements for processed producer carryover tobacco.

(a) *General.* This section shall not be applicable to 1979 and subsequent crops of tobacco, except for the 1982 crop for which the Flue-Cured Tobacco Cooperative Stabilization Corporation may process and store producer carryover tobacco and may act as the producer's marketing agent in marketing the producer's tobacco during the 1983–84 marketing year.

* * * * *

24. Section 725.109 is revised to read as follows:

§ 725.109 Duties of Kansas City ASCS Field Office.

The Kansas City ASCS Field Office (KCFO) has responsibility for processing certain data and making such reports as may be required by the Deputy Administrator.

§ 725.110 [Amended]

25. Section 725.110 is amended by removing the words "Program Operations, Division and".

26. Section 725.112 is revised to read as follows:

§ 725.112 Information confidential.

All data reported to or acquired by the Secretary pursuant to the provisions of this subpart shall be kept confidential by all officers and employees of the U.S. Department of Agriculture, by all members of county and community committees, and all county office employees. Only such data so reported or acquired as the Deputy Administrator deems relevant shall be disclosed by them, and then only in a suit or administrative hearing under title III of the Act. Nothing in this section shall be deemed to prohibit the issuance of general statements based upon the report of a number of parties which statements do not identify the information furnished by any person.

§ 725.116 [Removed]

27. Part 725 is amended by removing § 725.116.

Signed at Washington, D.C., on December 3, 1982.

Everett Rank,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 82–34209 Filed 12–13–82; 4:52 pm]

BILLING CODE 3410–05–M

Agricultural Marketing Service

7 CFR Parts 1046 and 1098

[Docket Nos. AO–123–A48, and AO–184–A43]

Milk in the Louisville-Lexington-Evansville and Nashville, Tenn., Marketing Areas; Order Amending Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action amends the Louisville-Lexington-Evansville Federal milk order to permit operators of country supply plants to count shipments directly from farms to pool city distributing plants toward meeting up to one-half of the shipments required to maintain pool status for country plants. Also, the Nashville, Tennessee, order is amended to allow diversions of milk between pool plants and to provide a procedure whereby proprietary handlers can make payments to independent producers rather than having such payments made by the market administrator.

These changes, which are based on the record of a public hearing held at Louisville, Kentucky, October 21–23, 1981, are necessary to maintain orderly conditions for the marketing of milk in these areas.

EFFECTIVE DATE: January 1, 1983.

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, Dairy Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C. 20250, (202/447–4829).

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of Sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

Prior documents in this proceeding:

Notice of Hearing: Issued September 4, 1981; published September 11, 1981 (46 FR 45354).

Correction: Published September 22, 1981 (46 FR 46813).

Notice of Rescheduled Hearing: Issued September 24, 1981; published September 29, 1981 (46 FR 47588).

Suspension of Rule: Issued November 24, 1981; published November 30, 1981 (46 FR 58064).

Emergency Partial Final Decision: Issued January 15, 1982; published January 21, 1982 (47 FR 2999).

Final Order: Issued January 26, 1982, published January 29, 1982 (47 FR 4228).

Recommended Decision: Issued June 14, 1982; published June 21, 1982 (47 FR 26656).

Extension of Time: Issued July 6, 1982; published July 12, 1982 (47 FR 30080).

Final Decision: Issued November 5, 1982; published November 10, 1982 (47 FR 50888).

Findings and Determinations

The findings and determinations hereinafter set forth supplement those that were made when the orders were first issued and when they were amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth below.

The following findings are hereby made with respect to each of the aforesaid orders:

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the respective marketing areas.

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand

for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Additional findings.* It is necessary in the public interest to make this order amending each of the aforesaid orders effective not later the January 1, 1983. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

The provisions of this order are known to handlers. The recommended decision of the Acting Deputy Administrator, Agricultural Marketing Service, was issued June 14, 1982 (47 FR 26656), and the decision of the Assistant Secretary containing all amendment provisions of this order was issued November 5, 1982 (47 FR 50888). The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending each of the aforesaid orders effective January 1, 1983, and that it would be contrary to the public interest to delay the effective date of this order for 30 days after its publication in the Federal Register. (Sec. 553(d), Administrative Procedure Act, 5 U.S.C. 551–559).

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within each of the respective marketing areas, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending each of the specified orders, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the respective orders;

(3) The issuance of the order, amending the order, regulating the handling of milk in the Nashville, Tennessee, marketing area is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area; and

(4) The issuance of the order, amending the order, regulating the handling of milk in the Louisville-Lexington-Evansville marketing area is approved or favored by at least two-thirds of the producers who participated in a referendum and who during the determined representative period were engaged in the production of milk for sale in the Louisville-Lexington-Evansville marketing area.

List of Subjects in 7 CFR Parts 1046 and 1098

Milk marketing orders, Milk, Dairy products.

Order Relative to Handling

It is therefore ordered, That on and after the effective date hereof, the handling of milk in the Louisville-Lexington-Evansville and Nashville, Tennessee, marketings areas shall be in conformity to and in compliance with the following terms and conditions of each of the aforesaid orders, as amended, and as hereby further amended, as follows:

PART 1046—MILK IN LOUISVILLE-LEXINGTON-EVANSVILLE MARKETING AREA

1. Section 1046.7(b) is revised to read as follows:

§ 1046.7 Pool plant.

* * * * *

(b) A country plant during any of the months of September through February from which not less than 50 percent, and during other months not less than 40 percent, of milk from persons described in § 1046.12(a)(1) and from handlers described in § 1046.9(c) that is physically received at such plant (except by diversion from other plants), or diverted therefrom pursuant to § 1046.13, is shipped to and received at a city plant(s) in the form of milk or skim milk. The operator of a country plant may include milk diverted pursuant to § 1046.13(b) from such plant to a city plant as qualifying shipments in meeting up to one-half of the shipping percentage(s) specified in this paragraph.

* * * * *

§ 1046.13 [Amended]

2. In paragraph (b) of § 1046.13, the section reference "1046.7(a)" is changed to "1046.7(a), (b), or (c)".

PART 1098—MILK IN NASHVILLE, TENNESSEE, MARKETING AREA

§ 1098.7 [Amended]

1. In § 1098.7(a), add the words "pool or" before the word "nonpool".

2. In § 1098.7(b), add the words "pool or" before the words "nonpool plant pursuant to § 1098.12".

§ 1098.13 [Amended]

3. In § 1098.13(a), insert the parenthetical phrase "(excluding such milk that is diverted from another pool plant)" after the words "dairy farmer".

4. In § 1098.13, the introductory text of paragraph (b) and paragraph (b)(1) are revised to read as follows:

§ 1098.13 Producer milk.

* * * * *

(b) Diverted by the operator of a pool plant or a cooperative association from a pool plant to another pool plant without limit during the month, or to a nonpool plant that is not a producer-handler plant, subject to the following conditions:

(1) Such milk shall be accounted for as received by the diverting handler at the location of the plant to which diverted;

* * * * *

§ 1098.31 [Amended]

5. In § 1098.31, paragraph (c) is redesignated as paragraph (d) and a new paragraph (c) is added to read as follows:

§ 1098.31 Payroll reports.

* * * * *

(c) On or before the 21st day after the end of each month, each handler who elects pursuant to § 1098.73(d) to pay producers shall report to the market administrator the following information with respect to the handler's partial and final payments for producer milk received during the month:

(1) The name and address of each producer;

(2) The amounts paid each producer; and

(3) The dates such payments were made.

* * * * *

§ 1098.41 [Amended]

6. In § 1098.41(b)(2), insert the words "and in milk diverted to such plant from another pool plant" after the phrase "a handler described in § 1098.9(c)".

7. Section 1098.42(a) is revised to read as follows:

§ 1098.42 Classification of transfers and diversions.

(a) *Transfers and diversions to pool plants.* Skim milk or butterfat

transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless the operators of both plants request the same classification in another class. In either case, the classsification of such transfers or diversions shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant or divertee-plant after the computations pursuant to § 1098.44(a)(12) and the corresponding step of § 1098.44(b);

(2) If the transferor-plant or divertor-plant received during the month other source milk to be allocated pursuant to § 1098.44(a)(7) or the corresponding step of § 1098.44(b), the skim milk or butterfat so transferred or diverted shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler or divertor-handler received during the month other source milk to be allocated pursuant to § 1098.44(a) (11) or (12) or the corresponding steps of § 1098.44(b), the skim milk or butterfat so transferred or diverted, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant or divertee-plant.

* * * * *

§ 1098.73 [Amended]

8. In § 1098.73, paragraph (d) is redesignated as paragraph (e) and a new paragraph (d) is added to read as follows:

§ 1098.73 Payments to producers and to cooperative associations.

* * * * *

(d) In making payments to producers pursuant to paragraphs (a) and (b) of this section, the market administrator, on or before the second day prior to the dates specified in such paragraphs, shall pay to each handler who so requests for milk received by the handler from producers for whom a cooperative association is not collecting payments pursuant to paragraph (c) of this section an amount equal to the sum of the individual payments otherwise due such producers pursuant to paragraphs (a) and (b) of this section. The handler then shall pay the individual producers the amounts due them by the respective dates specified in paragraphs (a) and (b) of this section. Any handler who the market administrator determines is or was delinquent with respect to any payment obligation under this order shall not be eligible to participate in this payment arrangement until the handler has met all prescribed payment obligations for three consecutive months. In making payments to producers pursuant to this paragraph, the handler shall furnish each producer the following information:

(1) The identity of the handler and the producer and the month to which the payment applies;

(2) The total pounds and the average butterfat content of milk for which payment is being made, including for the months in which base and excess prices apply, the pounds of base and excess milk;

(3) The minimum rate(s) at which payment to the producer is required by the order and the rate(s) of payment used if such rate(s) is other than the applicable minimum rate(s);

(4) The amount and nature of any deductions from the amount otherwise due to the producer, including the amount and rate per hundredweight of deductions made pursuant to § 1098.86; and

(5) The net amount of payment to the producer.

* * * * *

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Effective date: January 1, 1983.

Signed at Washington, D.C., on December 13, 1982.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services

[FR Doc. 82-34284 Filed 12-16-82; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 214

Nonimmigrant Classes; Employment Authorization for Dependents of Foreign Government Officials; Special Agreements

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule expands the employment opportunities for dependents of foreign government personnel assigned to duties within the United States. The rule recognizes the special reciprocal agreements entered into between the United States and certain foreign states which allow for these employment opportunities. In addition, the rule provides a clearer understanding of the NATO classifications of nonimmigrants and describes which NATO dependents are eligible for employment authorization.

EFFECTIVE DATE: January 17, 1983.

FOR FURTHER INFORMATION CONTACT:

For General Information: Stanley J. Kieszkiel, Acting Instructions Officer, Immigration and Naturalization Service, 425 I Street NW., Washington, D.C. 20536, Telephone: (202) 633–3048.

For Specific Information: Bert C. Rizzo, Immigration Examiner, Immigration and Naturalization Service, 425 I Street NW., Washington, D.C. 20536, Telephone: (202) 633–3946.

SUPPLEMENTARY INFORMATION: This final rule revises 8 CFR 214.2(a)(3) to improve readability and to implement new agreements between the United States and other foreign states on reciprocal employment opportunities for nationals of each country. The regulation formerly provided special employment opportunities only for dependents of employees of the government of Canada who are stationed within the United States; this special provision resulted from an agreement entered into between the United States and Canada to provide employment opportunities on a reciprocal basis. The United States has since entered into similar agreements with several other foreign states and is in the process of negotiating with others. A list of all foreign states which are party to reciprocal employment agreements with the United States will be available at all times from the Department of State, Office of Consular Affairs, and the District Offices of the Service. Changes in the list will be announced. Currently the United States has reciprocal employment agreements with Bolivia, Canada, France, New Zealand, Norway, Sweden, and the United Kingdom.

8 CFR 214.2(m) is revised to clarify the various classifications of NATO aliens and to clearly state which dependents of NATO countries are eligible for employment authorization in the United States.

Compliance with 5 U.S.C. 553 as to notice of proposed rule making is not required because the rule deals with agency practice and procedure dictated by international agreement.

In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration and Naturalization certifies that the rule will not have significant impact on a substantial number of small entities.

This rule is not a major rule as defined in section 1(b) of E.O. 12291.

List of Subjects in 8 CFR Part 214

Administrative practice and procedure, Aliens, Crime, Employment, Passports and visas.

PART 214—NONIMMIGRANT CLASSES

Accordingly, Title 8, Chapter I, of the Code of Federal Regulations is amended as follows:

In § 214.2, paragraphs (a)(3) and (m) are revised to read as follows:

§ 214.2 Special requirements for admission, extension, and maintenance of status.

* * * * *

(a)* * *

(3) *Special requirements.* (i) Notwithstanding the provisions of paragraph (a)(2) of this section, dependents of employees assigned to official duty in the United States may accept unrestricted employment based on agreements entered into between the Department of State and foreign states if the following conditions are met:

(A) The embassy of the foreign state in Washington, D.C. has made an official request to the Office of Protocol of the Department of State;

(B) The Office of Protocol recognizes the person as a dependent of an official employee; and

(C) The Office of Protocol has informed the embassy of the state that the dependent has permission to accept employment.

(ii) Dependents who obtain employment under this paragraph are responsible for payment of income taxes and Social Security contributions on any remuneration received. Further, immunity from civil or administrative jurisdiction in accordance with Article 37 of the Vienna Convention on Diplomatic Relations is waived for these dependents with respect to all matters arising out of their employment. The term "dependents" in this paragraph means the employee's:

(A) Spouse;

(B) Unmarried dependent children under 21 years of age;

(C) Unmarried dependent children under 25 years of age who are in full-time attendance at postsecondary educational institutions; or

(D) Unmarried children who are physically or mentally disabled.

* * * * *

(m) *NATO aliens.*—(1) *General.* Aliens classified as NATO–1 through NATO–4 are members of the armed forces of a country signatory to Article III of the Status of Forces Agreement (NATO). They are normally exempt from inspection under 8 CFR 235.1(c). Aliens classified as NATO–5 or –6 are civilian employees of the armed forces of a NATO member and may be authorized admission not to exceed one year. Aliens classified as NATO–7 are employed by NATO–1 through NATO–4 aliens and may be admitted for duration of status; if employed by NATO–5 or –6 aliens, admission may be authorized not to exceed one year.

(2) *Extension of Stay.* Any alien classified as a NATO–5 through NATO–7 may be granted extensions of stay in increments not to exceed one year.

(3) *Employment.* The dependents of an alien classified NATO–1 through NATO–7 may request authorization for employment if the state of their nationality has a reciprocal employment agreement with the Department of State. The names of the foreign states which have reciprocal employment agreements are available from the Department of State, Office of Consular Affairs, and the District Offices of the Service.

(Secs. 103, 214 of the Immigration and Nationality Act, as amended; 8 U.S.C. 1103, 8 U.S.C. 1184)

Dated: December 1, 1982.

Andrew J. Carmichael, Jr.,

Associate Commissioner, Examinations, Immigration and Naturalization Service.

[FR Doc. 82-34223 Filed 12-16-82; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 74, 81 and 82

[Docket No. 82N-0299]

FD&C Green No. 3

Correction

In FR Doc. 82–31700 beginning on page 52140 of the issue for Friday, November 19, 1982, make the following changes to § 74.203 on page 52143.

1. The seventh line, the "4" should read "3".

2. The sixteenth line, after the semi-colon, add the word "of".

3. The twentieth line, the "3" should read "4".

BILLING CODE 1505-01-M

---

21 CFR Part 444

[Docket No. 82N-0355]

Antibiotic Drugs; Gentamicin Sulfate Injection

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the antibiotic drug regulations to provide for the inclusion of accepted standards for several new strengths of gentamicin sulfate injection. The manufacturer has supplied sufficient data and information to establish its safety and efficacy.

DATES: Effective December 17, 1982; comments, notice of participation, and request for hearing by January 17, 1983; data, information, and analyses to justify a hearing by February 15, 1983.

ADDRESS: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Joan M. Eckert, National Center for Drugs and Biologics (HFN–140), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4290.

SUPPLEMENTARY INFORMATION: FDA has evaluated data submitted in accordance with regulations promulgated under section 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357), as amended, with respect to a request for approval of several new strengths (0.4, 0.6, 0.8, 1.2, 1.6, and 2.4 milligrams per milliliter) of gentamicin sulfate injection. The agency has concluded that the data supplied by the manufacturer concerning this antibiotic drug are adequate to establish its safety and efficacy when the drug is used as directed in the labeling and that the regulations should be amended in Part 444 (21 CFR Part 444) to provide for the inclusion of accepted standards for the product.

The agency has determined pursuant to 21 CFR 25.24(b)(22) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Lists of Subjects in 21 CFR Part 444

Antibiotics, Oligosaccharide.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 507, 701(f) and (g), 52 Stat. 1055–1056 as amended, 59 Stat. 463 as amended (21 U.S.C. 357, 371 (f) and (g))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), § 444.220 is amended by revising the second

sentence in paragraph (a)(1) to read as follows:

PART 444—OLIGOSACCHARIDE ANTIBIOTIC DRUGS

§444.220 Gentamicin sulfate injection.

(a) * * *

(1) * * * Each milliliter contains gentamicin sulfate equivalent to either 0.4, 0.6, 0.8, 1.0, 1.2, 1.6, 2.0, 2.4, 10.0, or 40 milligrams of gentamicin. * * *

* * * * * *

This regulation announces standards that FDA has accepted in a request for approval of an antibiotic drug. Because this regulation is not controversial and because when effective it provides notice of accepted standards, notice and comment procedure and delayed effective date are found to be unnecessary and not in the public interest. The amendment, therefore, is effective December 17, 1982. However, interested persons may, on or before January 17, 1983, submit written comments on this rule to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this regulation may file objections to it and request a hearing. Reasonable grounds for the hearing must be shown. Any person who decides to seek a hearing must file (1) on or before January 17, 1983, a written notice of participation and request for hearing, and (2) on or before February 15, 1983, the data, information, and analyses on which the person relies to justify a hearing, as specified in 21 CFR 430.20. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for hearing that no genuine and substantial issue of fact precludes the action taken by this order, or if a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who request(s) the hearing, making findings and conclusions and denying a hearing. All submissions must be filed in three copies, identified with the docket number appearing in the heading of this order and filed with the Dockets Management Branch.

The procedures and requirements governing this order, a notice of participation and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and grant or denial of a hearing are contained in 21 CFR 430.20.

All submissions under this order, except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall be effective December 17, 1982.

(Secs. 507, 701 (f) and (g), 52 Stat. 1055–1056 as amended, 59 Stat. 463 as amended (21 U.S.C. 357, 371 (f) and (g)))

Dated: December 10, 1982.

James C. Morrison,

Acting Assistant Director for Regulatory Affairs.

[FR Doc. 82-34255 Filed 12-16-82; 8:45 a.m.]

BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 885

[Docket No. R-82-1014]

Loans for Housing for the Elderly or Handicapped; Eligibility of Acquired Existing Housing for the Non-Elderly Handicapped

Correction

In FR Doc. 82-31288 beginning on page 51565 in the issue for Tuesday, November 16, 1982, on page 51566, first column, the COMMENT DUE DATE should read "January 3, 1983".

BILLING CODE 1505-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 7862]

Income Tax; Taxable Years Beginning After December 31, 1953; Foreign Bribes and International Boycotts

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations relating to foreign bribes and international boycotts. Changes to the applicable tax law were made by the Tax Reform Act of 1976 and the Tax Equity and Fiscal Responsibility Act of 1982. These regulations affect controlled foreign corporations and Domestic International Sales Corporations paying bribes or making other illegal payments, or participating in or cooperating with certain international boycotts, and the shareholders of those corporations. These regulations also provide guidance to officers and employees of the Internal Revenue Service with respect to the treatment of those payments or that participation.

EFFECTIVE DATE: The regulations are effective for illegal payments paid after November 3, 1976, and for participation in or co-operation with an international boycott after November 3, 1976.

FOR FURTHER INFORMATION CONTACT: Charles C. Saverude of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3289).

SUPPLEMENTARY INFORMATION:

Background

On February 3, 1981, the Federal Register published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under sections 952, 964, and 995 of the Internal Revenue Code of 1954 (46 FR 10510). The amendments were proposed to conform the regulations to sections 1062, 1063, and 1065 of the Tax Reform Act of 1976 (90 Stat. 1650, 1653-4). A public hearing was not held. After consideration of all comments regarding the proposed amendments, the amendments are adopted as revised by this Treasury decision.

Summary of Changes and Public Comments

Minor revisions of the proposed regulations have been made by the final regulations in response to public comments. A number of revisions have also been made to conform the regulations to a portion of section 288 of the Tax Equity and Fiscal Responsibility Act of 1982, relating to the new standard for determining the legality of payments to government officials or employees. Several commentators requested that the sentence appearing in the proposed regulations under sections 952 and 995 describing those persons having some relation to the corporation (officers, directors, employees, shareholders,

agents) whose payment of a bribe would be deemed to be payment by the corporation should be more limited in its application. Specifically, the commentators suggested that the sentence state that such payments by such persons must be made for the benefit of the corporation in order to be imputed to the corporation. That sentence has been revised accordingly.

A commentator suggested that the proposed regulations should reflect the additions to the Code of section 995(b)(1)(D) and (E). The changes in the regulations under section 995 relating to the above new statutory provisions are expected to be made in a separate regulation project and it is for this reason that final regulation § 1.995–2(a) has reserved subparagraphs (4) and (5).

A commentator was concerned that the proposed regulations under sections 952 and 995 provided only for the international boycott factor method of section 999(c)(1) for computing subpart F income and a deemed distribution from a DISC resulting from international boycott operations. The commentator requested that the proposed regulations under sections 952 and 995 clarify that the specifically attributable calculation of section 999(c)(2) was an alternative method of computation of international boycott income if certain conditions were met. The regulations referred to have been so revised.

Special Analyses

The Commissioner of Internal Revenue has determined that this final rule is not a major rule as defined in Executive Order 12291 and that a Regulatory Impact Analysis is, therefore, not required. Although a notice of proposed rulemaking which solicited public comments was issued, the Internal Revenue Service concluded when the notice was issued that the regulations are interpretative and that the notice and public procedure requirement of 5 U.S.C. 553 did not apply. Accordingly, the final regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Drafting Information

The principal author of these regulations is Charles C. Saverude of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing these regulations both on matters of substance and style.

List of Subjects in 26 CFR 1.861–1 through 1.997–1

Income taxes, Aliens, Exports, DISC, Foreign investments in U.S., Foreign tax credit, Sources of income, United States investments abroad.

Adoption of Amendments to the Regulations

PART 1—[AMENDED]

Accordingly, the amendments to 26 CFR Part 1 are as follows:

Paragraph 1. Section 1.952–1 is amended as follows:

1. Paragraph (a)(1) is amended by removing the word "and".

2. Paragraph (a)(2) is amended by removing the period at the end of the subparagraph and inserting in lieu thereof a comma.

3. Paragraphs (a)(3) and (a)(4) are added immediately after subparagraph (2). The new subparagraphs read as follows:

§ 1.952–1 Subpart F income defined.

(a) *In general.* * * *

(3)(i) An amount equal to the product of—

(A) The income of such corporation other than income which—

(*1*) Is attributable to earnings and profits of the foreign corporation included in the gross income of a United States person under section 951 (other than by reason of this paragraph) (determined in accordance with the provisions of section 951 and § 1.951–1), or

(*2*) Is described in section 952(b), multiplied by

(B) The international boycott factor determined in accordance with the provisions of section 999(c)(1), or

(ii) In lieu of the amount determined under paragraph (a)(3)(i) of this section, the amount described under section 999(c)(2) of such international boycott income, and

(4) The sum of the amount of any illegal bribes, kickbacks, or other payments paid after November 3, 1976, by or on behalf of the corporation during the taxable year of the corporation directly or indirectly to an official, employee, or agent in fact of a government. An amount is paid by a controlled foreign corporation where it is paid by an officer, director, employee, shareholder or agent of such corporation for the benefit of such corporation. For purposes of this section, the principles of section 162(c) and the regulations thereunder shall apply. In the case of payments made after September 3, 1982, a payment is illegal if the payment would be unlawful under the Foreign Corrupt Practices Act of 1977 if the payor were a United States person. The fair market value of an illegal payment made in the form of property or services shall be considered the amount of such illegal payment.

* * * * * * *

Par. 2. Section 1.964–1 is amended by revising the flush language in paragraph (a) and revising paragraph (f) to read as follows:

§ 1.964–1 Determination of the earnings and profits of a foreign corporation.

(a) *In general.* * * *

The computation described in the preceding sentence may be made by following the procedures described in paragraphs (a) (1) through (5) of this section in an order other than the one listed, as long as the result so obtained would be the same. In determining earnings and profits, or the deficit in earnings and profits, of a foreign corporation under section 964, the amount of any illegal bribe, kickback, or other payment (within the meaning of section 162(c), as amended by section 288 of the Tax Equity and Fiscal Responsibility Act of 1982 in the case of payments made after September 3, 1982, and the regulations thereunder) paid after November 3, 1976, by or on behalf of the corporation during the taxable year of the corporation directly or indirectly to an official, employee, or agent in fact of a government shall not be taken into account to decrease such earnings and profits or to increase such deficit. No adjustment shall be required under subparagraph (2) or (3) of this paragraph unless it is material. Whether an adjustment is material depends on the facts and circumstances of the particular case, including the amount of the adjustment, its size relative to the general level of the corporation's total assets and annual profit or loss, the consistency with which the practice has been applied, and whether the item to which the adjustment relates is of a recurring or merely a nonrecurring nature. For the treatment of earnings and profits whose distribution is prevented by restrictions and limitations imposed by a foreign government, see section 964(b) and the regulations thereunder.

* * * * *

(f) *Determination of earnings and profits as if a domestic corporation*—(1) *In general.* If the books of account regularly maintained by a foreign corporation for the purpose of accounting to its shareholders are kept in U.S. dollars and in accordance with accounting principles generally accepted

in the United States, and if it is so elected by or on behalf of such corporation, the earnings and profits of the foreign corporation for a taxable year shall, except as otherwise provided in paragraph (f)(2) of this section, be determined in every respect as if it were a domestic corporation. Such election shall be effective only for the taxable year with respect to which the election is made. Once made, such election shall be irrevocable. See paragraph (c)(3) of this section for the time and manner in which an election may be made on behalf of a foreign corporation.

(2) *Illegal payments.* The amount of any illegal bribe, kickback, or other payment (within the meaning of section 162(c), as amended by section 288 of the Tax Equity and Fiscal Responsibility Act of 1982 in the case of payments made after September 3, 1982, and the regulations thereunder) paid after November 3, 1976, by or on behalf of the corporation during the taxable year of the corporation directly or indirectly to an official, employee, or agent in fact of a government shall not be taken into account to decrease earnings and profits or increase the deficit in earnings and profits otherwise determined under paragraph (f)(1) of this section.

Par. 3. Section 1.995–2 is amended as follows:

1. The introductory text of paragraph (a) is revised.

2. Paragraph (a)(4) is removed.

3. Paragraph (a)(5) of the current regulations is redesignated as paragraph (a)(7).

4. Paragraph (a)(4) and (a)(5) are reserved.

5. A new paragraph (a)(6) is added.

6. Paragraph (b) is amended as follows:

a. The words "paragraph (a) (1) through (a) (4)" are removed from paragraph (b)(1), paragraph (b)(2) (i), the flush material following paragraph (b)(2) (ii) and paragraph (b)(3) each time they appear and the words "paragraph (a) (1) through (a) (6)" are inserted in lieu thereof.

b. The words "paragraph (a) (5) are removed from that portion of paragraph (b)(2) which precedes paragraph (b)(2)(i) and from the flush material following paragraph (b)(2) (ii) each time they appear and the words "paragraph (a) (7)" are inserted in lieu thereof.

c. By striking out all that follows the final semicolon in paragraph (b)(3) and adding in lieu thereof "and so forth, and finally to the amount described in paragraph (b)(6) of this paragraph."

These revised and added provisions read as follows:

§ 1.995–2 Deemed distributions in qualified years.

(a) *General rule.* Under section 995 (b) (1), each shareholder of a DISC shall be treated as having received a distribution taxable as a dividend with respect to his stock on the last day of each taxable year of the DISC, in an amount which is equal to his pro rata share of the sum (as limited by paragraph (b) of this section), of the following seven items:

* * * * *

(4) [Reserved].

(5) [Reserved].

(6) The sum of—

(i) An amount equal to one-half of the excess (if any) of the taxable income of the DISC for such year (computed as provided in § 1.991–1 (b) (1)) over the sum of the amounts deemed distributed for the taxable year in accordance with paragraphs (a)(1), (2), (3), (4) and (5) of this section,

(ii) (A) An amount equal to the amount under subdivision (i) of paragraph (a) (6) of this section multiplied by the international boycott factor as determined under section 999 (c) (1) , or

(B) In lieu of the amount determined under subdivision (ii) (A) of paragraph (a) (6) of this section, the amount described under section 999 (c) (2) of such international boycott income, and

(iii) An amount equal to the sum of any illegal bribes, kickbacks, or other payments paid by or on behalf of the DISC directly or indirectly to an official, employee, or agent in fact of a government. An amount is paid by a DISC where it is paid by any officer, director, employee, shareholder, or agent of the DISC for the benefit of such DISC. For purposes of this section, the principles of section 162 (c) and the regulations thereunder shall apply. The fair market value of an illegal payment made in the form of property or services shall be considered the amount of such illegal payment.

(7) * * *

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: December 7, 1982.

John E. Chapoton,

Assistant Secretary of the Treasury.

[FR Doc. 82–34333 Filed 12–16–82; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 901

Permanent State Regulatory Program of Alabama

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule.

SUMMARY: The Secretary of the Interior is extending the deadline for the State of Alabama to meet certain conditions of approval of its State permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

On October 7, 1982, the Alabama Surface Mining Commission requested an extension for meeting those conditions necessitating amendments to Alabama's regulations. The conditions affected by Alabama's request are those found at 30 CFR 901.11(b)–(m) and are set forth at 47 FR 22057–22058, (May 20, 1982).

OSM proposed a rule on November 1, 1982 (47 FR 49411–49412), that would extend the deadline to September 1, 1983. After considering all the information contained in the Administrative Record, including public comments, the Secretary has decided to grant Alabama's request. The Secretary hereby publishes amendments to the Federal rules contained in 30 CFR 901.11 to effect this action.

EFFECTIVE DATE: December 17, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. John T. Davis, Director, Alabama Field Office, Office of Surface Mining, 228 West Valley Avenue, 3rd Floor, Homewood, Alabama 35209, Telephone: (205) 254–0890.

SUPPLEMENTARY INFORMATION:

I. Background on the Alabama State Program

Information regarding the general background on the Alabama State program, including the Secretary's Findings, the disposition of comments and a detailed explanation of the conditions of approval of the Alabama program can be found in the May 20, 1982 **Federal Register** (47 FR 22030–22058).

II. Background on Conditional Approval

Under 30 CFR 732.13(j), the Secretary may conditionally approve a State permanent regulatory program which contains minor deficiencies where the

deficiencies are of such a size and nature as to render no part of the program incomplete, the State is actively proceeding with the steps to correct the deficiencies, and the State agrees to correct the deficiencies according to a schedule set in the notice of conditional approval.

III. Discussion of the Extension Request

The Alabama program was conditionally approved on May 20, 1982 (47 FR 22030–22058). In the notice of approval, the Secretary published the schedule for Alabama to resolve each of the 13 conditions on the approval of that State's regulatory program. In a letter to the Director, OSM, dated October 7, 1982, the Alabama Surface Mining Commission requested an extension for meeting those conditions necessitating amendments to Alabama's regulations. The State requested that the deadline be extended to September 1, 1983. The conditions affected by Alabama's request are those found at 30 CFR 901.11(b)–(m) and are set forth at 47 FR 23057–23058 (May 20, 1982).

The State indicated that it needed additional time to comply with new requirements of the Alabama Administrative Procedures Act (AAPA), including providing an opportunity for the Alabama Legislature to review the proposed changes to the State's rules during the next session of the Alabama Legislature in 1983.

On November 1, 1982 (47 FR 49411–49412), the Secretary announced that he was seeking public comment on the proposed extensions of the deadline for Alabama to meet the conditions found at 30 CFR 901.11(b)–(m). The comment period closed on December 1, 1982.

IV. Secretary's Findings

The Secretary has carefully reviewed Alabama's extension request. Based on the information contained in the administrative record, including the public comments, the Secretary makes the following findings:

1. Alabama's request for an extension of the deadline to meet those conditions necessitating changes to the State's rules is premised on the need for additional time to complete new rulemaking procedures prescribed by the AAPA.

2. One of the requirements of the AAPA is that the Alabama Legislature have an opportunity to review the proposed changes to Alabama's surface and underground coal mining rules. This cannot occur until the 1983 session of the Alabama Legislature.

3. Based on the above information, the Secretary is satisfied that Alabama is proceeding to act in good faith and that the granting of an additional extension of time will not change the classification of any of the affected conditions from being minor.

V. Disposition of Comments

Although public comments were requested, no substantive comments were received.

VI. Secretary's Decision

Based on the above findings, the Secretary hereby grants Alabama's request for an extension to September 1, 1983, of the deadline for Alabama to meet the conditions found at 30 CFR 901.11(b)–(m).

VII. Procedural Matters

Paperwork Reduction Act. There are no information collection requirements in 30 CFR 901.11 requiring approval by the Office of Management and Budget under 44 U.S.C. 3507.

National Environmental Policy Act. The Secretary has determined that pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no Environmental Impact Statement need be prepared on this rulemaking.

Executive Order 12291. On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

Regulatory Flexibility Act. Pursuant to the Regulatory Flexibility Act, Pub. L. 96–354, I have certified that this proposed rule will not have a significant economic impact on a substantial number of small entities.

EPA Concurrence

On May 13, 1982, the Administrator of the Environmental Protection Agency transmitted a written concurrence on the Alabama permanent program. The deadline extension approved in this document is not an aspect of the Alabama program which relates to air or water quality standards promulgated under the authority of the Federal Clean Water Act, as amended (33 U.S.C. 1151–1175), and the Clean Air Act, as amended (42 U.S.C. 1857) *et seq.*

List of Subjects in 30 CFR Part 901

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: December 10, 1982.

Daniel N. Miller, Jr.,

Assistant Secretary for Energy and Minerals.

PART 901—ALABAMA

Accordingly, 30 CFR Part 901 is amended as set forth herein.

1. The authority citation for Part 901 is:

Authority: Sec. 503, Pub. L. 95–87, 91 Stat. 407 (30 U.S.C. 1253).

§ 901.11 [Nomenclature change]

2. In Part 901, § 901.11, paragraphs (b) through (m) are amended by substituting "September 1, 1983" for "December 1, 1982," each time the latter date appears.

[FR Doc. 82–34324 Filed 12–16–82; 8:45 am]

BILLING CODE 4310-05-M

---

30 CFR Part 914

Removal of One of the Conditions of Approval of the Indiana Permanent Program Under the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule.

SUMMARY: This document amends 30 CFR Part 914 by removing one of the conditions of approval of the Indiana permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The specific condition concerned in this rulemaking is 30 CFR 914.11(b)(2), which required Indiana to amend its permit application forms to require the applicant to certify that all reclamation fees due under 30 CFR 870.12 have been paid.

On September 1, 1982, Indiana submitted its revised permit application forms to satisfy this condition. After providing the public an opportunity to review and comment on the State's amended permit application forms, the Secretary has decided that Indiana has now met the requirements of 30 CFR 914.11(b)(2). Accordingly, the Secretary hereby publishes amendments to the Federal rules contained in 30 CFR Part 914 to effect this action.

EFFECTIVE DATE: December 17, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Richard D. McNabb, Director, Indiana Field Office, Office of Surface Mining Reclamation and Enforcement, Federal Building and U.S. Courthouse, Room 522, 46 East Ohio Street, Indianapolis, Indiana 46204, Telephone: (317) 269–2600.

SUPPLEMENTARY INFORMATION:

I. Background on the Indiana Program

Information pertinent to the general background on the Indiana State program, including the Secretary's Findings, the disposition of comments and a detailed explanation of the conditions of approval of the Indiana program can be found in the July 26, 1982, **Federal Register** (47 FR 32071–32108).

II. Background on the Secretary's Conditional Approval and Indiana's Program Amendment

One of the conditions of the Secretary's approval, 30 CFR 914.11(b)(2), stated that Indiana must amend its permit application forms to require the applicant to certify that all reclamation fees due under 30 CFR 870.12 have been paid.

On September 1, 1982, Indiana submitted its revised permit application forms to satisfy the condition set forth in 30 CFR 914.11(b)(2). *See* IN–0290.

OSM published a notice in the **Federal Register** on October 29, 1982, announcing receipt of these modified permit application forms and inviting public comment on whether the proposed program amendment corrected the deficiency (47 FR 49301–49032). The comment period closed on November 29, 1982. A public hearing scheduled November 19, 1982, was not held because no one expressed a desire to present testimony.

III. Secretary's Findings

The Secretary finds that the amended permit application forms submitted by Indiana on September 1, 1982, address the requirements of the condition set forth at 30 CFR 914.11(b)(2). The Secretary finds further that the revised permit application forms coupled with the permit approval requirements of Indiana rule 310 IAC 12–3–112(m) provide for the assurance that the applicant submit proof that all reclamation fees have been paid. Therefore, the Secretary finds that Indiana's program is now no less effective than 30 CFR 786.19(h). The modified permit application forms require the applicant to affirm that all reclamation fees due as required by 30 CFR 870.12 have been paid to the U.S. Department of the Interior, Office of Surface Mining.

IV. Public Comments

While public comments were requested, no substantive comments were received.

V. Secretary's Decision

Accordingly, the Secretary hereby approves Indiana's amended permit application forms and the condition set forth at 30 CFR 914.11(b)(2) is removed.

VI. Procedural Matters

Paperwork Reduction Act. There are no information collection requirements in 30 CFR 914.11(b) requiring approval by the Office of management and Budget under 44 U.S.C. 3507.

National Environmental Policy Act. The Secretary has determined that pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no Environmental Impact Statement need be prepared on this rulemaking.

Executive Order 12291. On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

Regulatory Flexibility Act. Pursuant to the Regulatory Flexibility Act, Pub. L. 96–354, I have certified that this proposed rule will not have a significant economic impact on a substantial number of small entities.

EPA Concurrence. On July 9, 1982, the Administrator of the Environmental Protection Agency transmitted a written concurrence on the Indiana program. The condition being addressed in this document is not an aspect of the Indiana program which relates to air or water quality standards promulgated under the authority of the Federal Clean Water Act, as amended (33 U.S.C. 1151–1175), and the Clean Air Act, as amended (42 U.S.C. 1857, *et seq.*).

List of Subjects in 30 CFR Part 914

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Accordingly, Part 914 of Title 30 is amended as set forth herein.

Dated: December 10, 1982.

Daniel N. Miller, Jr.,

Assistant Secretary for Energy and Minerals.

PART 914—INDIANA

Accordingly, Part 914 of Title 30 is amended as follows:

1. The authority citation for Part 914 is:

Authority: Pub. L. 95–87; Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*).

2. 30 CFR 914.10 is revised to read as follows:

§ 914.10 State regulatory program approval

The Indiana State program, as submitted on March 3, 1980, as amended and clarified on June 4, 1980, as resubmitted on September 28, 1981, and clarified on December 8, 1981, April 8, 1982, May 18–19, 1982, and May 26, 1982, is conditionally approved, effective July 29, 1982. Beginning on that date, the Indiana Department of Natural Resources shall be deemed the regulatory authority in Indiana for all surface coal mining and reclamation operations and all coal exploration operations on non-Federal and non-Indian lands. Only surface coal mining and reclamation operations on Non-Federal and non-Indian lands shall be subject to the provisions of the Indiana permanent regulatory program. Beginning on December 17, 1982, the program includes program amendments submitted on September 1, 1982.

Copies of the approved program, together with copies of the letter of the Department of Natural Resources agreeing to the conditions of 30 CFR 914.11, are available at:

Office of Surface Mining, Room 5315, 1100 L Street, NW., Washington, D.C. 20240

Office of Surface Mining, 46 East Ohio Street Indianapolis, Indiana 46204

Indiana Department of Natural Resources, Suite 202, 309 W. Washington Street, Indianapolis, Indiana 46204

3. Section 914.11 is amended by removing and reserving paragraph (b)(2).

§ 914.11 Conditions of State regulatory approval.

* * * * *

(b) * * *

(2) [Reserved]

[FR Doc. 82–34323 Filed 12–16–82; 8:45 am]

BILLING CODE 4310–05–M

SELECTIVE SERVICE SYSTEM

32 CFR Part 1662

Selective Service Regulations; Freedom of Information Act Procedures

AGENCY: Selective Service System.

ACTION: Final rule.

SUMMARY: Fees for the processing of Freedom of Information Act requests are revised to assure the recovery of costs of such processing.

EFFECTIVE DATE: December 20, 1982.

FOR FURTHER INFORMATION CONTACT: Henry N. Williams, General Counsel, Selective Service System, Washington, D.C. 20435 Phone: (202) 724–1167.

SUPPLEMENTARY INFORMATION: This amendment to Selective Service Regulations was published for comment pursuant to 5 U.S.C. 552 on November 5, 1982 at 47 FR 50310. We received comments from three persons, and, in light of these comments, we have clarified the text of the rule.

As required by Executive Order 12291, I have determined that this proposed rule is not a "Major" rule and therefore does not require a Regulatory Impact Analysis.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub.L. 96–354, 94 Stat. 1164, 5 U.S.C. 601–612). I have determined that these regulations do not have significant economic impact on a substantial number of small entities.

List of Subjects in 32 CFR Part 1662

Freedom of Information.

Dated: December 13, 1982.

Thomas K. Turnage,

Director.

PART 1662—[AMENDED]

32 CFR 1662.6 is revised to read:

§ 1662.6 Fees.

(a) Following is the fees schedule for the search and reproduction of information available under the Freedom of Information Act (5 U.S.C. 552), as amended.

(1) Search for records—the product of the time used in the search, in units of ¼ hour (a fraction thereof to be counted a ¼ hour) X the hourly pay of the employee making the search. $5.00 of the cost of each search will be waived.

(2) Duplication of records. The charge for office copy reproduction is 25 cents per page. The charge for shelf stock is 10 cent per page.

(3) Other—When no specific fee has been established for a service, or the request for a service does not fall under one of the above categories due to the amount or type thereof, the Associate Director for Administration is authorized to establish an appropriate fee based on "direct costs" as provided in the Freedom of Information Act and in accordance with Office of Management and Budget Circular No. A–25, "User Charges." Examples of services covered by this provision include searches involving computer time or special travel, transportation, or communications costs.

(b) If records requested under this part are stored elsewhere than the headquarters of the Selective Service System (SSS) at Washington, D.C., the special costs of retrieving and returning such records to the headquarters for review will be added to the search costs.

(c) A search will not be undertaken until the requester pays the estimated cost thereof in excess of $5.00. No other service will be rendered until the requester pays the estimated cost thereof.

(d) Fees must be paid in full prior to issuance of requested copies. In the event the requester is in arrears for previous requests, copies of records will not be provided for any subsequent request until the arrears have been paid in full.

(e) Remittances shall be in the form either of a personal check or bank draft drawn on a bank in the United States, or a postal money order. Remittances shall be made payable to the order of the Selective Service System and mailed or delivered to the Records Manager, Selective Service System, Washington, D.C. 20435.

(f) A receipt for fees paid will be given upon request. Refund of fees paid for services actually rendered will not be made. Payments of estimated costs in excess of actual costs will be refunded when the excess payment exceeds 99 cents.

(g) The Associate Director for Administration or an officer designated by the Associate Director for Administration shall, in accordance with the Freedom of Information Act, waive all or part of any fee provided for in this section when the Associate Director for Administration or the designated officer "* * * determines that waiver or reduction of the fee is in the public interest because furnishing the information can be considered as primarily benefiting the general public."

[FR Doc. 82–34237 Filed 12–16–82; 8:45 am]

BILLING CODE 8015–01–M

POSTAL SERVICE

39 CFR Parts 3, 4, 6, and 8

Bylaws of Board of Governors; Miscellaneous Changes

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The bylaws of the Board of Governors are revised to reorganize the Board's administrative staff function and to clarify matters requiring notification to, or approval by, the Board.

EFFECTIVE DATE: December 7, 1982.

FOR FURTHER INFORMATION CONTACT: Louis A. Cox, (202) 245–4632.

SUPPLEMENTARY INFORMATION: Staff administration for the Board is reorganized: to establish an Office of the Board of Governors; to require the Chairman of the Board to set the agenda for meetings; to provide that the Secretary of the Board is appointed by the Board, serves at its pleasure, and is responsible for carrying out the functions of the Office of the Board of Governors; and to make it clear that regular meetings may be held outside of Washington, D.C. The list of decisions reserved to the Board is revised to include approval of official statements concerning major policy changes, positions concerning Postal Service petitions to the Supreme Court, the annual financial statements, and the annual comprehensive statement to Congress on postal operations. Advance notice is required concerning the candidates which the Postmaster General is considering for appointment to fill vacancies in the officer positions within postal management. Information is required concerning Equal Employment Opportunity performance, major litigation activities, significant accounting changes, and other matters with important policy implications.

List of Subjects in 39 CFR Parts 3, 4, 6 and 8

Organization and functions (Government agencies), Administrative practice and procedure, Reporting and recordkeeping requirements, Postal Service.

Accordingly, 39 CFR is amended as follows:

PART 3—BOARD OF GOVERNORS [ARTICLE III]

1. In § 3.4 redesignate paragraphs (f) through (q) as paragraphs (g) through (r); redesignate paragraphs (r) through (u) as paragraphs (u) through (x); revise paragraph (c) and add new paragraphs (f), (s), and (t) to read as follows:

§ 3.4 Matters reserved for decision by the Board.

* * * * *

(c) Election of the Chairman of the Board of Governors (by the Governors, 39 U.S.C. 202 (a)), the Vice Chairman of the Board, and the appointment of the Secretary of the Board.

* * * * *

(f) Approval of the annual financial statements of the Postal Service following receipt of the annual report of

the Postal Service's independent, certified public accounting firm.

* * * * *

(s) Approval of official statements adopting major policy positions or departing from established major policy positions, and of official positions on legislative proposals having a major impact on the Postal Service.

(t) Approval of all positions taken with the Department of Justice on petitioning the Supreme Court of the United States for writs of certiorari.

2. In § 3.7 redesignate paragraph (b) as paragraph (d) and add new paragraphs (b) and (c) to read as follows:

§ 3.7 Information furnished to Board—Program review.

* * * * *

(b) To enable the Board to review the effectiveness of the Postal Service's equal employment opportunity program, performance data relating to this program shall be furnished to the Board at least quarterly. This data shall be categorized in such manner as the Board, from time to time, specifies.

(c) To enable the Board to consider candidates before the fact, the Postmaster General shall furnish information to the Board in advance of each calendar quarter of any vacancies that are anticipated during that quarter in the positions of:

Senior Assistant Postmasters General
Assistant Postmasters General
Regional Postmasters General
General Counsel
Chief Inspector
Controller
Treasurer
Consumer Advocate
Executive Assistant to the Postmaster General
Judicial Officer

The Postmaster General shall also furnish written information on the candidates for such appointments. In the event of unanticipated vacancies, the Postmaster General shall furnish similar candidate information to the Board, not less than thirty days prior to any appointment action.

* * * * *

3. Section 3.8 is revised, and new § 3.9 is added to read as follows:

§ 3.8 Information furnished to Board—Special reports.

To insure that the Board receives significant information of developments meriting its attention, postal management shall bring to the Board's attention the following matters:

(a) Major developments in personnel areas, including but not limited to equal employment opportunity, career development and training, and grade and salary structures.

(b) Major litigation activities. Postal management shall also notify the Board in a timely manner whenever it proposes to seek review by any United States Court of Appeals of an adverse judicial decision.

(c) Any significant changes proposed in the Postal Service's system of accounts or methods of accounting.

(d) Matters of special importance, including but not limited to important research and development initiatives, major changes in Postal Service organization or structure, major law enforcement activities, and other matters having a significant impact upon the relationship of the Postal Service with its employees, with any major branch of Government, or with the general public.

(e) Other matters having important policy implications.

§ 3.9 Office of the Board of Governors.

There shall be located in Washington, D.C. an Office of the Board of Governors of the United States Postal Service. It shall be the function of this Office to provide staff support for the Board, as directed by the Chairman of the Board, to enable the Board to carry out effectively its duties under the Reorganization Act. To further assist the Board in discharging its responsibilities, the Office of the Board, upon the request of any Governor, shall provide for staff support at that Governor's place of work. Such on-site support shall be limited to those services directly relating to a Governor's duties under the Reorganization Act that cannot reasonably be performed at postal headquarters and shall be provided in the most efficient manner possible.

PART 4—OFFICERS [ARTICLE IV]

4. In § 4.1 paragraph (a) is revised to read as follows:

§ 4.1 Chairman.

* * * * *

(a) Shall preside at all regular and special meetings of the Board, and shall set the agenda for such meetings;

* * * * *

5. Section 4.6 is revised to read as follows:

§ 4.6 Secretary of the Board.

The Secretary of the Board of Governors is appointed by the Board and serves at the pleasure of the Board. The Secretary shall be responsible for carrying out the functions of the Office of the Board of Governors, under the direction of the Chairman of the Board. The Secretary shall also issue notices of meetings of the Board and its committees, keep minutes of these meetings, and monitor compliance with all statutes and regulations dealing with public observation of meetings. The Secretary shall perform all those duties incident to this office, including those duties assigned by the Board or by the Chairman of the Board. The Chairman may designate such assistant secretaries as may be necessary to perform any of the duties of the Secretary.

PART 6—MEETINGS [ARTICLE VI]

6. Section 6.1 is revised to read as follows:

§ 6.1 Regular meetings, annual meeting.

The Board shall neet regularly on the first Tuesday of each month. The first regular meeting of each calendar year is designated as the annual meeting. Consistent with the provisions of § 7.5 of these bylaws, the time or place of a regular or annual meeting may be varied by action of the Chairman, or by a recorded vote of a majority of the members of the Board, with the earliest practicable notice to the other members of the Board and to the Secretary. If the Chairman varies the time or place of a meeting, he shall give not less than 8 days' notice to the other members of the Board and to the Secretary. The Secretary shall distribute to the members an agenda setting forth the proposed subject matter for any regular or annual meeting in advance of the meeting.

PART 8—REPORTS AND RECORDS [ARTICLE VIII]

7. Section 8.2 is revised to read as follows:

§ 8.2 Reports to the executive and legislative branches.

(a) No later than the annual meeting of the Board, the Postmaster General shall give to the Board an annual report concerning the operations of the Postal Service, as required by 39 U.S.C. 2402. Upon approval of this report, or after making any changes it considers appropriate, the Board shall transmit this report to the President and the Congress. The Postmaster General shall make the necessary arrangements for the printing of the report and its sale to the public.

(b) Prior to the submission of the annual budget to the Congress, the Postmaster General shall submit to the Bord a comprehensive statement on postal operations containing the information required under 39 U.S.C.

2401(g). Upon approval of this statement, or after making any changes the Board considers appropriate, the statement shall be transmitted to the Congress, as required by 39 U.S.C. 2401(g).

(39 U.S.C. 202, 205, 401)

Louis A. Cox,

General Counsel.

[FR Doc. 82-34107 Filed 12-16-82; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Docket No. NH-543; A-1-FRL 2246-4]

Approval and Promulgation of Implementation Plans—New Hampshire; Group I VOC Compliance Schedules

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving, in part, State implementation plan (SIP) revisions submitted by the State of New Hampshire. These revisions will ensure reduced emissions from major sources of volatile organic compounds (VOC). The intended effect of this action is to satisfy conditions for Part D plan requirements for nonattainment areas under Section 172(b)(2) of the Clean Air Act.

EFFECTIVE DATE: January 17, 1983.

FOR FURTHER INFORMATION CONTACT: Alan E. Dion, (617) 223-5130.

SUPPLEMENTARY INFORMATION: EPA conditionally approved New Hampshires' VOC regulations in the April 11, 1980 **Federal Register** (45 FR 24869) and required submittal of permits with compliance schedules for 9 major sources of VOC. Region I gave Immediate Final approval to 6 of these sources in the June 7, 1982 **Federal Register** (47 FR 24552). No action was taken on the other three sources since we felt their permits were still not complete, and there was some question whether they were in compliance. EPA decided to utilize an Immediate Final Notice for the six permits because we did not anticipate that the rulemaking would generate any comments or controversy. In that rulemaking we stated that we would withdraw our approval and publish a Notice of proposed Rulemaking (NPR) if anyone commented on the action. We received comments form the Conservation Law Foundation (CLF) regarding approval of the permits for Oak Materials Group and Markem Corporation, and therefore withdrew our approval on August 31, 1982 (47 FR 38321). We then proposed approval of these 6 schedules in the same day's **Federal Register** (47 FR 38364). No additional public comments were received on the NPR.

The State has notified EPA that Oak Materials and Markem have altered their compliance schedules and requested revisions to their permits. Since the state Air Resources Agency has not yet issued revised permits for these sources, it would not be appropriate for us to take final action on the existing schedules at this time. Once we receive the revised compliance schedules for Markem and Oak materials we will evaluate them, and if appropriate, repropose approval. Since the issues raised by CLF deal only with these two sources, EPA will defer any evaluation and response to CLF's comments until after we have received and reviewed the revised schedules.

Action

EPA is approving compliance schedules for Mobil Oil Corporation; ATC Petroleum, Inc.; Velcro USA, Inc.; and Nashua Corporation's facility at Nashua, EPA is taking no action on Ideal Tape, Essex Group, Nashua Corporation's Merrimack Facility, Oak Materials Group and Markem Corporation.

Under Executive Order 12291, today's action is not "Major". It has been submitted to the Office of Management and Budget (OMB) for review. Any comments from OMB to EPA, and any EPA response, are available for public inspection at Room 2111, JFK Federal Building, Boston, MA 02203.

Under Section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 15, 1983. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

(Sec. 110(a) and Sec. 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410(a) and 7601(a)).)

Note.—Incorporation by reference of the State Implementation Plan for the State of New Hampshire was approved by the Director of the Federal Register on July 1, 1982.

Dated: December 10, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—[AMENDED]

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart EE—New Hampshire

1. Section 52.1520 is amended by adding paragraph (c)(21) as follows:

§ 52.1520 Identification of plan.

* * * * *

(c) * * *

(21) Operating permits with compliance schedules for VOC sources were submitted May 2, 1980, May 16, 1980, November 20, 1981 and January 8, 1982. Approved are operating permits for Mobil Oil Corporation; ATC Petroleum, Inc.; Velcro USA, Inc.; and Nashua Corporation's facility at Nashua.

2. Section 52.1527 is amended by adding paragraphs (c)(4)–(8) as follows:

§ 52.1527 Rules and regulations.

* * * * *

(c) Part D—No Action—EPA is neither approving nor disapproving the following elements of the revisions:

(4) Markem Corporation, submitted May 2, 1980.

(5) Oak Materials Group, submitted May 2, 1980.

(6) Ideal Tape, submitted May 16, 1980.

(7) Essex Group, submitted May 16, 1980.

(8) Nashua Corporation's Merrimack facility, submitted May 16, 1980.

[FR Doc. 82-34297 Filed 12-16-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 52

[A-10-FRL-2248-6]

Revision to Washington State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rulemaking addresses State Implementation Plan (SIP) revisions submitted by the State of Washington Department of Ecology (DOE) pursuant to the requirements of Part D of the 1977 Clean Air Act (hereafter referred to as the Act). In today's action, EPA is approving revisions to the ozone (O_3) attainment plan for the Vancouver portion of the

Portland, Oregon-Vancouver, Washington nonattainment area.

EFFECTIVE DATE: February 15, 1983.

ADDRESSES: Copies of the materials relevant to the SIP may be examined during normal business hours at:

Central Docket Section (10A–82–10), West Tower Lobby, Gallery I, Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460

Air Programs Branch, M/S 532, Environmental Protection Agency Region 10, 1200 Sixth Avenue, Seattle, Washington 98101

State of Washington, Department of Ecology, PV–11, 4224 Sixth Avenue, Southeast, Rowe Six, Building #4, Lacey, Washington 98504

Copy of the State's submittal may be examined at: The Office of Federal Register, 1100 L Street, NW, Room 8401, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Richard F. White, Air Programs Branch, M/S 532, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, WA 98101, Telephone No. (206) 442–4016; FTS: 399–4016.

SUPPLEMENTARY INFORMATION:

I. Background

The Clean Air Act requires any area which has requested and received an attainment date extension for O_3 or carbon monoxide to submit by July 1, 1982 a revised SIP containing all measures needed to provide for attainment by 1987. Section 172(c), 42 U.S.C. 7502(c), and Section 129(c) (uncodified), Pub. L. 95–95.

On July 16, 1982, the State of Washington DOE officially submitted the 1982 Vancouver O_3 SIP revisions to EPA. On September 30, 1982 (47 FR 43083) EPA proposed to approve the revisions. Today's action gives final approval to the Vancouver O_3 SIP revisions, including DOE revisions to WAC 173–490 (Control of Volatile Organic Compounds). Additional background information on today's action can be found in the September 30, 1982 proposed rulemaking.

II. Response to Comments

A 30-day public comment period was provided on the proposed rulemaking. No comments were received.

III. Plan Review

Requirements for SIP revisions for areas with attainment date extensions are described in a policy notice published on January 22, 1981 (46 FR 7182). EPA reviewed the revised Vancouver O_3 SIP for conformity with these requirements. The results of EPA's review are contained in a technical support document which is available at the offices listed under "Addresses" above.

Briefly, EPA found that the Vancouver O_3 SIP revisions provide for attainment of the O_3 standard by December 31, 1987 and require "reasonable further progress" (RFP) in the period before attainment. The SIP includes a contingency plan to be implemented in the event that RFP is jeopardized. The principal control measure in the SIP is DOE regulation WAC 173–490 (Control of Volatile Organic Compounds). This regulation will reduce emissions of O_3 precursors from stationary sources. The plan also provides for emission reductions from transportation sources.

IV. Summary of Rulemaking Action

EPA approves the revised Vancouver O_3 attainment plan as meeting the requirements for areas with attainment date extensions.

Under Executive Order 12291, today's action is not "major". It has been exempted from review by the Office of Management and Budget.

Under Section 307(b)(1) of the Clean Air Act, judicial review of this section must be filed in the United States Court of Appeals for the appropriate circuit by February 15, 1983. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2)).

(Secs. 171 through 173 of the Clean Air Act, as amended (42 U.S.C. 7407(d), 7410(a), 7501 through 7503, and 7601(a)))

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Carbon monoxide, Nitrogen dioxide, Lead, Particulate matter, Hydrocarbons, Intergovernmental relations.

Note.—Incorporation by reference of the Implementation Plan for the State of Washington was approved by the Director of the Office of Federal Register in November 1982.

Dated: December 10, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—[AMENDED]

Part 52 of Chapter I, Title 40 Code of Federal Regulations is amended as follows:

Subpart WW—Washington

1. In § 52.2470, paragraph (c)(32) is added as follows:

§ 52.2470 Identification of plan.

* * * * *

(c) * * *

(32) On July 16, 1982 the State of Washington Department of Ecology submitted implementation plan revisions which build upon those submitted in May 1979. The revisions include of the following elements:

(i) An ozone attainment plan for the Vancouver, Washington, nonattainment area.

(ii) Amendments to WAC 173–490—Volatile Organic Compounds (VOC). On December 17, 1982 EPA published final rulemaking action on the Washington SIP as described below:

(A) Approval

(1) Vancouver Ozone SIP

(2) Amendments to WAC 173–490

2. Section 52.2472 is amended by revising paragraph (d) to read as follows:

§ 52.2472 Extension.

* * * * *

(d) The Administrator hereby extends the attainment date for ozone in the Vancouver portion of the Portland, Oregon-Vancouver, Washington nonattainment area to December 31, 1987.

3. Section 52.2478 is amended by revising the Portland Interstate AQCR (Washington portion) part of the Table and adding footnote "n."

§ 52.2478 Attainment dates for national standards.

Air quality control region and nonattainment area	Pollutant						
	TSP		SO_2		NO_2	CO	O_3
	1st	2d	1st	2d			
Portland Interstate AQCR: (Washington Portion)							
1. Vancouver, WA TSP area	f	h	c	e	b	b	
2. Vancouver, WA O_3 area							n.
3. Longview, WA TSP area	e	h	e	e	b	b	b.
4. Remainder of AQCR	e	e	e	e	e	b	b

n. December 31, 1987.

[FR Doc. 82-34296 Filed 12-16-82; 8:45 am]

BILLING CODE 6560-50-M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101-47

[FPMR Amdt. H-135]

Utilization of Excess Real Property; Reimbursement for Excess Real Property Transfers

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This regulation requires that Federal agencies be charged 100 percent of estimated fair market value for excess real property transferred to them. In keeping with the Administration's policy of reducing Federal spending and encouraging the optimum use of Federal real property, this regulation imposes a 100 percent reimbursement requirement, with very limited exceptions. This requirement is intended to encourage Federal agencies to scrutinize their real property needs more thoroughly and to develop more meaningful utilization plans, to aid in accomplishing the Administration's objectives.

DATE: Effective December 17, 1982.

FOR FURTHER INFORMATION CONTACT: James H. Pitts, Office of Real Property (202-535-7067).

SUPPLEMENTARY INFORMATION: GSA has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

Current regulations require that Federal agencies be charged 50 percent of the appraised fair market value of excess real property transferred to them, but provide for an exception to that requirement under certain circumstances. In keeping with the Adminstration's policy of reducing Federal spending and encouraging the optimum use of Federal real property, this regulation imposes a 100 percent reimbursement requirement, with very limited exceptions. This requirement is intended to encourage Federal agencies to scrutinize their real property needs more thoroughly and to develop more meaningful utilization plans, to aid in accomplishing the Administration's objectives.

List of Subjects in 41 CFR Part 101-47

Surplus Government property, Government property management.

Accordingly, 41 CFR Part 101-47 is amended as follows:

Subpart 101-47.2—Utilization of Excess Real Property

Paragraphs (f)(1) and (f)(2) of § 101-47.203-7 are revised to read as follows:

§ 101-47.203-7 Transfers.

* * * * *

(f) * * *

(1) Where the transferor agency has requested the net proceeds of the transfer pursuant to section 204 (c) of the Act, or where either the transferor or transferee agency (or organizational unit affected) is subject to the Government Corporation Control Act (31 U.S.C. 841) or is a mixed-ownership Government corporation, or the municipal government of the District of Columbia, reimbursement for the transfer shall be in an amount equal to the estimated fair market value of the property requested as determined by the Administrator: *Provided,* That where the transferor agency is a wholly owned Government corporation, the reimbursement shall be either in an amount equal to the estimated fair market value of the property requested, or the corporation's book value thereof, as may be agreed upon by GSA and the corporation.

(2) Reimbursement for all other transfers of excess real property shall be:

(i) In an amount equal to 100 percent of the estimated fair market value of the property requested, as determined by the Administrator, or if the transfer is for the purpose of upgrading facilities (i.e., for the purpose of replacing other property of the transferee agency which because of the location, nature, or condition thereof, is less efficient for use), the reimbursement shall be in an amount equal to the difference between the estimated fair market value of the property to be replaced and the estimated fair market value of the property requested, as determined by the Administrator.

(ii) Without reimbursement when the transfer is to be made under either of the following conditions:

(A) Congress has specifically authorized the transfer without reimbursement, or

(B) The Administrator with the approval of the Director, Office of Management and Budget, has approved a request for an exception from the 100 percent reimbursement requirement.

(1) A request for exception from the 100 percent reimbursement requirement shall be endorsed by the head of the executive department or agency requesting the exception.

(2) A request for exception from the 100 percent reimbursement requirement will be submitted to GSA for referral to the Director, Office of Management and Budget, and shall include an explanation of how granting the exception would further essential agency program objectives and at the same time be consistent with Executive Order 12348, dated February 25, 1982. The unavailability of funds alone is not sufficient to justify an exception. The above required data and documentation shall be attached to GSA Form 1334 by the transferee agency on submission of that form to GSA.

(3) If the Administrator with the approval of the Director, Office of Management and Budget, approves the request for an exception, the Administrator may then complete the transfer. A copy of the Office of Managment and Budget approval will be sent to the Property Review Board.

(4) The agency requesting the exception will assume responsibility for protection and maintenance costs where the disposal of the property is deferred for more than 30 days because of the consideration of the request for an exception to the 100 percent reimbursement requirement.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Dated: November 24, 1982.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 82-34286 Filed 12-16-82; 8:45 am]

BILLING CODE 6820-RR-M

Proposed Rules

Federal Register
Vol. 47, No. 243
Friday, December 17, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 915

Avocados Grown in South Florida; Proposed Amendment to Subpart—Rules and Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule invites written comment on a proposal to modify voting procedures at grower nomination meetings to limit proxy voting to growers residing outside the production area. Such action is designed to encourage more active grower participation at meetings held to nominate grower members of the Avocado Administrative Committee.

DATE: Comments must be submitted on or before January 3, 1983.

ADDRESS: Sent two copies of comments to Hearing Clerk, U.S. Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291, and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities; and will not substantially affect costs for the directly regulated handlers.

This proposed rule is issued under the marketing agreement, as amended, and Order No. 915, as amended (7 CFR Part 915), regulating the handling of avocados grown in South Florida. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Avocado Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

The proposed rule would modify voting procedures by limiting proxy voting at grower nomination meetings to those growers who reside outside the production area. Currently, all growers are permitted to vote by proxy at such nomination meetings, including growers residing in the production area. The committee is of the opinion that it is not necessary to extend the privilege of proxy voting to growers residing in the production area. Such growers live relatively close to the place where nomination meetings are held, and should not find it difficult or burdensome to attend such meetings in person. The proposed rule is designed to encourage more active participation at such meetings where growers nominate fellow growers to serve on the committee.

Under the proposal, § 915.115 *Nomination procedure*, would be amended in accordance with § 915.22 *Nomination*, which provides for the establishment of procedural rules for the conduct of nominations.

List of Subjects in 7 CFR Part 915

Marketing agreements and orders, Avocados, Florida.

The proposal would revise paragraph (a) of § 915.115 *Nomination procedure*, under Subpart-Rules and Regulations, to read as follows:

§ 915.115 Nomination procedure.

(a) Any grower who resides outside the production area and desires to be represented in a nomination meeting by a duly authorized agent and to have such grower's vote cast by such agent in the nomination and election of nominees for grower members and alternate members to fill positions on the Avocado Administrative Committee, as provided in § 915.22(b)(2), shall submit to the committee, not later than January 20, a written statement containing the following:

(1) Name of grower;

(2) Mailing address;

(3) Location of each avocado grove (either legal or from established landmarks);

(4) Number of avocado trees owned;

(5) Number of 55-pound units of avocados marketed to date during the current season;

(6) Name of the handler of the fruit marketed;

(7) Authorization, including the name and address, of the person who is to represent said grower at the nomination meeting.

* * * * *

Dated: December 13, 1982.

D. S. Kuryloski,

Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 82-34228 Filed 12-16-82; 8:45 am]

BILLING CODE 3410-02-M

Commodity Credit Corporation

7 CFR Part 1430

Dairy Price Support Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule sets forth additional procedures for implementing recent changes in the dairy price support program. These changes are authorized by amendments to the Agricultural Act of 1949 by section 101 of the Omnibus Budget Reconciliation Act of 1982 (Pub. L. 97–253, 96 Stat. 763, approved September 8, 1982). The provisions which have already been implemented on December 1, 1982, provide that during the period of October 1, 1982, through September 30, 1985, the Secretary of Agriculture may provide for the deduction of 50 cents per hundredweight from the proceeds of the sale of all milk marketed commercially by producers. Deductions are to be remitted to the Commodity Credit Corporation (CCC) to offset a portion of the cost of the price support program. The deductions also are intended to encourage a reduction in milk production. Because of the substantial purchases of dairy products by the CCC under the price support program, the Secretary determined that the deductions should become effective on December 1, 1982, and regulations implementing this phase of the dairy collection plan were published in the

Federal Register on November 30, 1982 (47 FR 53831).

The amendments made to the 1949 Act by the Omnibus Budget Reconciliation Act of 1982 also provide that an additional deduction of 50 cents per hundredweight from the proceeds of all milk marketed by producers may be made during the period of April 1, 1983, through September 30, 1985. However, this additional deduction must be coupled with a program for refunding to producers who reduce their milk marketings the money collected under the second 50-cent deduction. To prepare for the possible implementation of this second phase of the dairy collection plan, proposed regulations to carry out this phase of the plan have been developed by the Department. The proposed regulations are a modification of the regulations already in effect. Comments are invited on the operation of this second phase in the manner set forth in this proposed rule.

DATE: Comments should be received by the Department by February 15, 1983, to be assured of consideration.

ADDRESS: Written comments should be sent to the Director, Analysis Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Charles N. Shaw, Leader, Dairy and Sweeteners Group, Analysis Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013, (202) 447-7601. The Final Regulatory Impact Analysis describing the action to be taken in this proposed rule and its impact is available from Charles N. Shaw.

SUPPLEMENTARY INFORMATION:

This proposed rule has been reviewed in accordance with Executive Order 12291 and Secretary's Memorandum No. 1512-1 and has been classified as a "major" action since the rule would result in an annual effect on the economy of $100 million more.

The title and number of the federal assistance program to which this proposed rule applies are: Title—Commodity Loans and Purchases; Number—10.051, as found in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this proposed rule since the Commodity Credit Corporation (CCC) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this proposed rule.

Statutory Authority for Proposed Rule

Section 201 of the Agricultural Act of 1949 was amended by section 101 of the Omnibus Budget Reconciliation Act of 1982 to specify that during the period of October 1, 1982, through September 30, 1985, the Secretary of Agriculture may provide for a deduction of 50 cents per hundredweight from the proceeds of the sale of all milk marketed commercially by producers. These deductions are to be remitted to the Commodity Credit Corporation to offset a portion of the cost of the price support program. This authority does not apply for any fiscal year for which the Secretary projects that the annual price support purchases will be less than 5 billion pounds milk equivalent. If at any time during a fiscal year the Secretary estimates that the net price support purchases during that year will be less than 5 billion pounds, the authority for making deductions does not apply for the balance of the year.

Section 201 of the 1949 Act was also amended by the Omnibus Budget Reconciliation Act of 1982 to specify that during the period of April 1, 1983, through September 30, 1985, the Secretary may provide for an additional deduction of 50 cents per hundredweight from the proceeds of the sale of all milk marketed commercially by producers if (1) a program is established whereby the money collected under this second 50-cent deduction would be refunded to producers who reduce their milk marketings by a specified amount, and (2) the Secretary estimated that price support purchases of dairy products will be at least 7.5 billion pounds milk equivalent during the fiscal year. If at any time during a fiscal year the Secretary estimates that the net price support purchases during that year will be less than 7.5 billion pounds, the authority for making the additional deduction does not apply for the balance of such year.

Summary of Proposed Rule

The proposed rule sets forth the administrative procedures for collecting an additional deduction of 50 cents per hundredweight on all milk sold commercially by producers, which is authorized to begin on April 1, 1983. The collections would be made in the same manner, and in addition to, the initial 50-cent deduction which became applicable on December 1, 1982.

The proposed rule also sets forth the administrative procedures for refunding the second 50-cent deduction to those producers who reduce their marketing of milk by a specified amount. The refund program would be administered by the Agricultural Stabilization and Conservation Service county committees.

Under the provisions of the 1949 Act, the base period for determining the amount of any reduction which is specified may be either the fiscal year beginning October 1, 1981, or the average of the two fiscal years beginning October 1, 1980. In order to present a more balanced picture of milk marketings and to reduce the effects on total marketings with respect to those producers who may have increased their milk marketings in order to obtain the highest base possible, it is proposed that the base period for determining the amount of any specified reduction shall be the average of the producer's marketings for the two marketing years beginning October 1, 1980. Producers would have to furnish evidence of their monthly marketings of milk to the ASCS county committees in order to establish a producer base. A producer's marketings would be averaged by calendar months and the monthly averages would be totaled for an annual average so that if a refund program is to be in effect for less than a year, the required reduction can be based on the comparable months of the producer's base period. Refunds would be made only to those producers who reduce their marketings from the established base by the percentage reduction specified by the Secretary. There would be no partial refunds for any reduction in marketings by producers relative to the established base for less than the specified percentage reduction.

Under the proposed rule, a transfer of producer base would be permitted with respect to dairy farm operations only where there has been a change of ownership and operation of the entire farm since the beginning of the base period and where a continuity of the enterprise can be traced by the county committee, such as those situations where a farm is inherited or a complete dairy operation is sold. While this proposal would allow a transfer of producer bases under limited circumstances, the calculation of a producer base for a producer who has acquired only a portion of a dairy farm operation since the beginning of the base period would not take into consideration the history of the marketings from that portion of the dairy operation which the producer has acquired.

The provisions of the 1949 Act specify that the Secretary may not require that producers, as a condition for receiving refunds, reduce their marketings in excess of a reduction equivalent to the ratio that the total amount of surplus

milk production, as estimated by the Secretary for the fiscal year, bears to the total milk production estimated for such period.

Any accounting and refund resulting from a reduction by a producer in milk marketings would be made after the end of the fiscal year (i.e., the concurrent marketing year) when evidence is submitted to the ASCS county office of the milk which is marketed by the producer, and the deductions made from those marketings during the year. During any period when the refund program is in effect for less than a fiscal year, producers would have to submit evidence of milk marketings and the deductions from the sales proceeds for such period to the county office after the last month during which the refund program is in effect in order to be eligible to receive a refund for such period.

List of Subjects in 7 CFR Part 1430

Milk, Agriculture, Price support programs, Dairy products.

Proposed Rule

Accordingly, it is proposed that in 7 CFR Part 1430, the subpart titled "Regulations Governing Certain Deductions on Milk Marketings of Producers" be revised to read as follows:

Subpart—Regulations Governing Certain Deductions on Milk Marketings of Producers

Sec.

1430.291 General statement.
1430.292 Definitions
1430.293 Period of applicability.
1430.294 Responsibility for administration of regulations.
1430.295 Remittance of producer deductions to CCC.
1430.296 Procedures for establishing producer bases.
1430.297 Determination of required reduction.
1430.298 Refund procedure
1430.299 Responsibility for records and facilities.
1430.300 Adjustment of accounts for responsible persons.
1430.301 Charges and penalties.
1430.302 Continuing obligations.
1430.303 Limitation of authority.
1430.304 Estates and trusts; minors.
1430.305 Appeals.
1430.306 Setoffs.
1430.307 Overdisbursement.
1430.308 Death, incompetency, or disappearance.
1430.309 Assignment.
1430.310 Instructions and forms.

Authority: Sec. 201(d) Agricultural Act of 1949, as amended, (7 U.S.C. 1446); Commodity Credit Corporation Charter Act, as amended (15 U.S.C. 714 et seq.).

Subpart—Regulations Governing Certain Deductions on Milk Marketings of Producers

§ 1430.291 General statement.

This subpart provides for the implementation of the following provisions of the dairy price support program as authorized by section 201 of the Agricultural Act of 1949, as amended (referred to hereafter as the "Act"):

(a) Section 201(d)(2) of the Act provides that during the period of October 1, 1982, through September 30, 1985, the Secretary may provide for a deduction of 50 cents per hundredweight from the proceeds of the sale of all milk marketed commercially by producers, including producers who market milk of their own production directly to consumers. The deductions are to be remitted to the Commodity Credit Corporation to offset a portion of the cost of the dairy price support program. The Act also provides that the Secretary's authority for requiring such deductions shall not apply for any fiscal year for which the Secretary estimates that the net price support purchases of milk or the products of milk will be less than 5 billion pounds milk equivalent. In addition, if at any time during a fiscal year the Secretary should estimate that such net price support purchases during the fiscal year will be less than 5 billion pounds milk equivalent, the Secretary's authority for requiring such deductions shall not apply for the balance of the fiscal year.

(b) Section 201(d)(3) of the Act provides that during the period of April 1, 1983, through September 30, 1985, the Secretary may provide for an additional deduction of 50 cents per hundredweight from the proceeds of the sale of all milk marketed commercially by producers, including producers who market milk of their own production directly to consumers. The deductions are to be remitted to the Commodity Credit Corporation to offset a portion of the cost of the dairy price support program. The Act provides, however, that such deductions shall be implemented only if the Secretary establishes a program whereby the funds resulting from such deductions are refunded to producers who reduce their commercial marketings from such marketings during a base period, and if the Secretary estimates that the net price support purchases of milk or the products of milk will be at least 7.5 billion pounds milk equivalent during the applicable fiscal year. The Act also provides that if at any time during a fiscal year the Secretary should estimate that such net price support purchases during the fiscal year will be less than 7.5 billion pounds milk equivalent, the Secretary's authority for requiring such deductions shall not apply for the balance of the fiscal year.

§ 1430.292 Definitions.

For purposes of this subpart, the terms listed below shall have the following meanings:

(a) *"United States"* means the 50 states of the United States of America, the District of Columbia, Puerto Rico, and the affected territories of the United States of America.

(b) *"Department"* means the United States Department of Agriculture.

(c) *"Secretary"* means the Secretary of Agriculture of the United States or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated to act in his stead.

(d) *"CCC"* means the Commodity Credit Corporation.

(e) *"ASCS"* means the Department's Agricultural Stabilization and Conservation Service.

(f) *"State committee"* means an ASCS State committee.

(g) *"County committee"* means an ASCS county committee.

(h) *"Dairy Division"* means the Dairy Division of the Department's Agricultural Marketing Service.

(i) *"Person"* means any individual, partnership, corporation, association, or other business or governmental unit.

(j) *"Responsible person"* means:

(1) Any person who pays a producer for milk marketed commercially by the producer. This shall include a handler regulated under a Federal milk order to the extent of any payments for milk that are transmitted by the handler to the market administrator for transmittal by the market administrator to individual producers.

(2) Any producer with respect to milk of his own production that he markets commercially in the form of milk or milk products to consumers, either directly or through retail or wholesale outlets.

(k) *"Producer"* means any person within the United States who produces milk from cows.

(l) *"Participating producer"* means a producer who reduces his milk marketings and claims a refund.

(m) *"Deduction"* means that amount which is deducted in accordance with §1430.291 from the proceeds of the sale of all milk marketed commercially by producers.

(n) *"Marketing year"* means the 12-month period beginning October 1 and ending September 30.

(o) *"Base period"* means the 24–month period beginning October 1, 1980, and ending September 30, 1982.

(p) *"Producer base"* means the 2–year average of the amount of milk marketed during the months of the base period which are comparable to the months for which a producer is requesting a refund.

(q) *"Surplus"* means the milk equivalent of the dairy products which the Secretary estimates will be purchased by the CCC during the applicable marketing year.

(r) *"Required reduction"* means the amount of reduction in the milk marketed commercially by a producer in order for the producer to be eligible to receive a refund of the deductions described in §1430.291(b).

(s) *"Refund"* means the money that is returned to a producer who reduces his marketings by the required reduction announced by the Secretary.

§1430.293 Period of applicability.

The provisions of this subpart shall apply only to the milk that is marketed commercially by producers in the United States during those months for which the Secretary has announced that the deductions described in §1430.291 are required.

§1430.294 Responsibility for administration of regulations.

(a) The Dairy Division shall have the responsibility for administering the provisions of this subpart which relate to the collection of the deductions described in §1430.291.

(b) The county committees shall have the responsibility for administering the provisions of this subpart which relate to the establishment of bases and the refund of the deductions described in §1430.291(b).

§1430.295 Remittance of producer deductions to CCC.

The following procedures shall apply with respect to remitting to the CCC the deductions described in §1430.291:

(a) Each responsible person who pays a producer for milk marketed commercially during the month shall remit to the CCC by the last day of the following month, or at the time of making final payment to the producer for such milk, whichever is earlier, an amount equal to the quantity of milk for which payment to the producer is being made times the following amount:

(1) 50 cents per hundredweight if only the deductions described in §1430.291(a) are applicable.

(2) $1.00 per hundredweight if the deductions described in both paragraphs (a) and (b) of §1430.291 are applicable.

(b) Each responsible person who markets milk of his own production to consumers (either directly or through retail or wholesale outlets) in the form of milk or milk products during the month shall remit to the CCC by the last day of the following month an amount equal to the quantity of such person's own production used in such marketings times the following amount:

(1) 50 cents per hundredweight if only the deductions described in §1430.291(a) are applicable.

(2) $1.00 per hundredweight if the deductions described in both paragraphs (a) and (b) of § 1430.291 are applicable.

(c) When remitting money to the CCC in accordance with paragraphs (a) and (b) of this section, each responsible person shall file a report prescribed by the Dairy Division showing:

(1) The identity of the responsible person, including such person's business address;

(2) The month in which the applicable producer marketings occurred; and

(3) The total pounds of milk to which the remittance applies.

(d) Money remitted to the CCC shall be in the form of a check made payable to "Commodity Credit Corporation."

(e) Checks and reports required under this section shall be mailed to the location designated by the Dairy Division.

§ 1430.296 Procedures for establishing producer bases.

(a) Each producer who desires a refund shall be responsible for establishing his monthly marketings of milk during the base period with the county committee for the county where the producer's dairy farm is headquartered. From the producer's marketing records, the county committee shall determine 2-year monthly averages and a 2-year 12-month average of the producer's marketings during the base period.

(b) In an marketing year in which the deductions described in § 1430.291(b) are in effect for a period of less than 12 months, only the comparable months of the base period shall be used to determine the producer's base.

(c) If a producer has acquired a complete dairy operation (i.e., land, equipment, and dairy cattle) from another producer, the producer base of the acquiring producer may be increased by the producer base of the former owner. Such a transfer of producer base will be reviewed by the county committee in the county where the acquiring producer's dairy farm is located and will be approved by the committee only if there are adequate records to establish the base of the former owner.

§ 1430.297 Determination of required reduction.

The required reduction for any marketing year shall be the milk equivalent of the estimated CCC net removals of dairy products compared with the estimated production of milk in the United States for the marketing year, or portion thereof, in which the deductions described in § 1430.291(b) are in effect. The required reduction percentage shall be announced by the Secretary in a notice published in the **Federal Register** prior to the beginning of any marketing year, or portion thereof, in which the deductions described in § 1430.291(b) are in effect. The required reduction shall not be larger than the ratio that the estimated surplus milk production bears to the estimated milk production for the applicable marketing year, or portion thereof.

§ 1430.298 Refund procedure.

(a) A refund of the amount deducted from a producer's proceeds in accordance with § 1430.291(b) shall be made only if the producer has reduced his milk marketings relative to his producer base by the required reduction which is determined and announced in accordance with § 1430.297.

(b) A refund may be requested only after the end of the applicable marketing year, or portion thereof, in which the deductions described in § 1430.291(b) are in effect.

(c) A refund shall be made only if a producer provides the county committee with records that adequately show (1) the producer's milk marketings during the applicable marketing year, or portion thereof, in which the deductions described in § 1430.291(b) are in effect and (2) the amount of the deduction actually withheld during the period for which he is applying for a refund.

§ 1430.299 Responsibility for records and facilities.

(a) *Records to be maintained.* Each responsible person, as well as each producer who is granted a refund, shall maintain records in a manner that will demonstrate compliance with the provisions of this subpart.

(b) *Availability of records and facilities.* Each responsible person, as well as each producer who is granted a refund, shall make available all records and facilities pertaining to such person's or producer's operations that are necessary to determine compliance with the provisions of this subpart.

(c) *Retention of records.* All records required under this subpart shall be retained by each responsible person, as

well as each producer who was granted a refund, for a period of three years that shall begin at the end of the month to which such records pertain, unless the Department notifies the responsible person or producer that such records are necessary in connection with litigation for a longer period. In such case, the records shall be retained until the litigation is terminated or a waiver is granted by the Department.

§ 1430.300 Adjustment of accounts for responsible persons.

Whenever the Department determines through an audit of a responsible person's reports, records, books or accounts or through some other means that additional money is due the CCC or that money is due such person from the CCC, the responsible person shall be notified of the amount due. The responsible person shall then remit any amount due the CCC by the next date for remitting deductions as provided in § 1430.295. Overpayments shall be credited to the account of the responsible person remitting the overpayment and shall be applied against amounts due in succeeding months or refunded if this subpart is not applicable in succeeding months.

§ 1430.301 Charges and penalties.

(a) *Charge for dishonored checks.* Each responsible person who issues a check to the CCC that is not honored because of insufficient funds shall be assesssed a charge of $25.00.

(b) *Late-payment charge.* Any unpaid obligation of a responsible person that is due the CCC in accordance with § 1430.295 shall be increased by a late-payment charge which shall be applied on the first day after the date such obligation was due and on the same day of each succeeding month until such obligation is paid. The total obligation due from such person shall include any unpaid charges computed previously under this paragraph. The charge shall be an amount equal to one-twelfth (rounded to the nearest one-hundredth of one percent) of the annual rate of interest announced by the CCC under 7 CFR 1403.5. The timeliness of a payment to the CCC shall be based on the applicable postmark date.

(c) *Penalties.* Any responsible person who willfully violates any provision of this subpart, including the willful failure or refusal to remit any amounts due the CCC, shall be liable, in addition to payment of the full amount due plus the applicable late-payment charge, for a penalty to be assessed by the Secretary of not more than $1,000 for each such violation and also remedies otherwise provided by law or in equity.

§ 1430.302 Continuing obligations.

Obligations of any responsible person, as well as any producer who was granted a refund, that arise under this subpart shall continue in effect until the final disposition of such obligations even though the deductions described in § 1430.291 may no longer be required.

§ 1430.303 Limitation of authority.

(a) State and county committees or their designees do not have authority to modify or waive any of the provisions of the regulations in this subpart.

(b) A State committee may take any action authorized or required by the regulations in this subpart to be taken by a county committee when such action has not been taken by the county committee. A State committee may also: (1) Correct, or require a county committee to correct, any action taken by such county committee which is not in accordance with the regulations in this subpart, or (2) require a county committee to withold taking any action which is not in accordance with the regulations in this subpart.

(c) No delegation herein to a State or county committee shall preclude the ASCS Deputy Administrator, State and County Operations, or his designee from determining any question arising under the regulations in this subpart or from reversing or modifying any determination made by a State or county committee.

§ 1430.304 Estates and trusts; minors.

(a) A receiver of an insolvent debtor's estate and the trustee of a trust estate shall, for the purpose of this subpart, be considered to represent an insolvent participating producer and the beneficiaries of a trust, respectively, and the production of the receiver or trustee shall be considered to be the production of the producer such receiver or trustee represents. Program documents executed by the receiver or trustee will be accepted only if they are legally valid and such person has the authority to sign the applicable documents.

(b) A participating producer who is a minor shall be eligible for a refund pursuant to the regulations in this subpart only if he meets one of the following requirements: (1) The right of majority has been conferred on him by court proceedings or by statute; (2) a guardian has been appointed to manage his property and the applicable program documents are signed by the guardian; or (3) a bond is furnished under which the surety guarantees any loss incurred for which the minor would be liable had he been an adult.

§ 1430.305 Appeals.

The appeal regulations found at 7 CFR Part 780 shall be applicable to appeals by participating producers from determinations made pursuant to the regulations in this subpart.

§ 1430.306 Setoffs.

(a) If a participating producer is indebted to any agency of the United States and such indebtedness is listed on the county debt record, any refund which is due such producer under the regulations in this subpart shall be applied to such indebtedness in accordance with the provisions of 7 CFR Part 713, Setoff and Withholdings.

(b) Compliance with the provisions of this section shall not deprive a participating producer of any right which such participating producer would otherwise have to contest the indebtedness involved in the setoff action, either by administrative appeal or by legal action.

§ 1430.307 Overdisbursement.

If a refund is disbursed to a participating producer which exceeds the amount of such refund which is authorized to be disbursed to the participating producer under the regulations in this subpart, the participating producer shall be personally liable for repayment of the amount of such excess.

§ 1430.308 Death, incompetency, or disappearance.

In the case of the death, incompetency, or disappearance of any participating producer who is entitled to a refund, such refund may be made to the person or persons who are specified in the regulations which are found at 7 CFR Part 707. The person requesting such refund shall file Form ASCS–325, "Application for Payment of Amounts Due Persons Who Have Died, Disappeared, or Have Been Declared Incompetent," as provided in that part.

§ 1430.309 Assignment.

Any producer who may be entitled to a refund may assign his rights to such refund in accordance with the regulations governing assignment of payment as set forth in 7 CFR Part 709.

§ 1430.310 Instructions and forms.

The ASCS Deputy Administrator, State and County Operations, shall cause to be prepared such forms and instructions as are necessary for establishing bases and making refunds as described in § 1430.291(b). Participating producers may obtain from the county ASCS office the information which is necessary to make application

for a refund in accordance with the provisions of this subpart.

Signed at Washington, D.C, on: December 14, 1982.

Everett Rank,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 82-34290 Filed 12-16-82; 8:45 am]

BILLING CODE 3410-05-M

Rural Electrification Administration

7 CFR Part 1700

REA Bulletins; Proposed Codification

AGENCY: Rural Electrification Administration, USDA.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Rural Electrification Administration (REA) proposes to add material to 7 CFR Part 1700. The material to be added represents the codification of the agency's existing bulletins which have been issued to implement the procedures set forth in Part 1700 and the loan and security instruments which provide for and secure REA loans. These bulletins are currently approved for "incorporation by reference" and are listed in Appendix A—REA Bulletins to 7 CFR Part 1700.

DATE: Comments by January 3, 1983.

FOR FURTHER INFORMATION CONTACT: Blaine D. Stockton, Jr., Assistant Administrator, Management, Room 4063, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone number (202) 382-9552.

SUPPLEMENTARY INFORMATION: REA currently issues a series of publications entitled "bulletins" which serve to implement the policy, procedures and requirements for administering its loans and loan guarantee programs and the security instruments which provide for and secure REA financing. At the present time, these bulletins have been approved by the Director, Office of the Federal Register, for incorporation by reference (IBR) to 7 CFR Part 1700 and are listed in Appendix A—REA Bulletins to Part 1700. Upon review, the Director, Office of the Federal Register, has notified REA that several of its bulletins are no longer appropriate material for incorporation by reference. REA has decided to review its bulletins and codify those bulletins which are the Agency's "* * * statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy or describing the organization, procedure, or practice requirements * * *" REA anticipates that this review and codification process will take approximately 12 months. Therefore, REA will be initiating the process as soon as possible.

REA intends to solicit comments on any proposed substantive changes to any bulletin and encourages public participation in all proposals published in the **Federal Register.** However, it should be noted that some bulletins will only be reformatted for publication in the **Federal Register** and will be published as final rules.

Interested persons are invited to submit comments concerning this notice to the address shown in **"FOR FURTHER INFORMATION CONTACT."**

Dated: December 10, 1982.

Jack Van Mark,

Acting Administrator.

[FR Doc. 82-34176 Filed 12-16-82; 8:45 am]

BILLING CODE 3410-15-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 170

Proposed Revision of License Fee Schedules; Correction

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a proposed rule published in the Federal Register on November 22, 1982 (47 FR 52454), that would revise license fee schedules. The action is necessary to correct typographical errors and omissions.

FOR FURTHER INFORMATION CONTACT: William O. Miller, License Fee Management Branch, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: (301) 492-7225.

SUPPLEMENTARY INFORMATION: The proposed rule entitled "Proposed Revisions of License Fee Schedules" that would amend 10 CFR Part 170 was published on pages 52454 through 52466 of the **Federal Register** on November 22, 1982. The following corrections to this proposed rule are listed, by page, table number, category, and item as applicable:

1. Page 52456, Table 5, an "x" should appear in the "Excluded" column for the Offices of Inspector and Auditor, etc.

2. Page 52458, Table 9—

(a) The description of the second item under Category 1A is corrected to read ">5 Kg U-235 for fuel fabrication (<20 pct)."

(b) The description of the third item under Category 1A is corrected to read ">2 Kg Pu for fuel fabrication."

(c) The description of the fourth item under Category 1A is corrected to read ">5 Kg U-235 or >2 Kg U-233 other than fuel fabrication."

(d) For the seventh item under Category 1A, "Safety," the amount shown in the third column under routine inspection should read "$3,600" rather than "$360."

3. Page 52458, Materials Licenses—In the first paragraph, the last sentence beginning with "Fees for applications" should be replaced with the following sentence: Fees for applications for new licenses and approvals which are not currently based on actual costs and fees for applications for renewals and amendments which are on file with the Commission and pending review at the time the proposed rule becomes effective will be limited to the maximum fees prescribed in the March 23, 1978 schedule.

4. Page 52459, Table 10—

(a) The description of the third item under Category 1A should read ">2 Kg Pu for fuel fabrication" rather than "1>2 Kg for fuel fabrication."

(b) The description of item 6 under Category 1A is corrected to read "200 grams to <2 Kg of Pu."

(c) For item 2 under Category 4A—"Low level waste storage at power reactor sites," the footnote designator shown in the column under the heading "Renewals—Current March 1978 schedule" should read footnote "2" rather than footnote "3".

(d) The first sentence in footnote 2 at the end of Table 10 should read "Special Projects based on actual cost" rather than "Special project on actual cost."

5. Page 52464, 10 CFR 170.31—

(a) Category 3F—The application fee should read "$580" rather than "$580. P$350. P$230.". The renewal fee should be added to read "$350"; the amendment fee should be added to read "$230."

(b) Category 3G—The application fee should read "$2,300" rather than "$930"; the renewal fee should read "$930" rather than "$230"; and the amendment fee should be added to read "$230."

(c) Category 3I—The amendment fee should read "$80" rather than "$30."

6. Pages 52465 and 52466, 10 CFR 170.32—

(a) Category 2A—In the second line the word "or-buying" should be corrected to read "ore-buying," and the word "ource" should be corrected to read "source."

(b) Category 3B—Footnote designator "3" should be added to the nonroutine inspection fee of $900.

(c) Category 4A—Footnote designator "2" rather than footnote "1" should appear after the words "Actual Cost" for both routine and nonroutine inspections.

(d) Category 7—The second "of" in the heading should be corrected to read "or."

(3) Category 7A—The nonroutine inspection fee should read "$850" rather than "$830."

Dated at Washington, D.C., this 8th day of December 1982.

For the Nuclear Regulatory Commission.

William J. Dircks,

Executive Director for Operations.

[FR Doc. 82-34316 Filed 12-16-82; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 929

[Docket No. 21116-229]

Key Largo National Marine Sanctuary

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Proposed rule.

SUMMARY: These regulations make minor revisions and clarifications to the present interim-final regulations defining which activities are allowed and which are prohibited within the Key Largo National Marine Sanctuary, the procedures by which persons may obtain permits for research or activities normally prohibited, and the penalties for committing prohibited acts without a permit. The regulations also revise the format of the existing regulations to make them more consistent with regulations in more recently designated national marine sanctuaries.

DATE: Comments will be accepted until January 1983. After the close of the comment period and review of comments received, final regulations will be published in the Federal Register.

ADDRESS: Send comments to: Dr. Nancy Foster, Deputy Director, Sanctuary Programs Office, Office of Coastal Zone Management, NOAA, 3300 Whitehaven Street, NW., Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT: Franklin D. Christhilf (202) 634-4236.

SUPPLEMENTARY INFORMATION: Title III of the Marine Protection, Research, and Sanctuaries Act of 1972, 16 U.S.C. 1431-1434 (the Act) authorizes the Secretary of Commerce, with Presidential approval, to designate ocean waters as far seaward as the outer edge of the continental shelf as marine sanctuaries to preserve or restore distinctive conservation, recreational, ecological, or aesthetic values. Section 302(f)(1) of the Act directs the Secretary to issue necessary and reasonable regulations to control any activities permitted within a designated marine sanctuary. The authority of the Secretary to administer the provisions of the Act has been delegated to the Assistant Administrator for Coastal Zone Management within the National Oceanic and Atmospheric Administration, U.S. Department of Commerce (the Assistant Administrator).

On December 18, 1975, the Key Largo National Marine Sanctuary (the Sanctuary) was designated, and on January 13, 1976, NOAA published interim-final regulations (41 FR 2379) pursuant to the authorities of Sections 302(f), 302(g) and 303 of the Act. Since NOAA never issued final rules, these regulations are being published as proposed rules to allow interested parties the opportunity to comment. These regulations respond to comments received on certain sections of the interim-final regulations and certain issues that have arisen since designation. Following the 60 day comment period, these proposed rules may be amended at the Assistant Administrator's discretion to reflect comments received. The Assistant Administrator shall then publish final regulations in the Federal Register.

Discussion of Issues

(a) *Boundaries:* One reviewer of the interim-final regulations called attention to an apparent error in the description of the boundaries of the Sanctuary. The apparent discrepancy results from an error on NOAA chart 11462 (formerly C&GS 1249) and has been corrected in the 14th Edition, August 1977, NOAA Chart 11462, to be consistent with the boundary description as published in the rules and regulations for the Sanctuary.

(b) *Removal or Damaging of Natural Features and Marine Life—Taking of Spiny Lobster:* Although NOAA has not received formal comments, it understands that many recreational divers believe that the existing interim regulation which prohibits taking spiny lobster by hand is unfair and discriminatory. There is concern among resource managers that lobster stocks in the Sanctuary are low and may not withstand additional harvest pressure. NOAA does not have enough scientific evidence to support either claim and therefore proposes to conduct a baseline population study to gather information on stock abundance and natural fluctuation. Until adequate data are available, NOAA intends to rely upon regulations implemented pursuant to the Spiny Lobster Fishery Management Plan in the Gulf of Mexico and South Atlantic.

(c) *Use of Harmful Fishing Methods—Wire Fish Traps:* NOAA has been requested by the Superintendent of the adjacent John Pennekamp Coral Reef State Park and others to clarify that the taking of fish by means of wire traps is prohibited, a prohibition that is consistent with State park regulations and Federal regulations at the nearby Biscayne National Park. NOAA has rewritten § 929.7 to clarify that taking by this method is prohibited. It should be noted that the new language merely clarifies the prohibition under the existing regulations and does not add any new restriction.

(d) *Use of Harmful Fishing Methods—Nets:* NOAA also has been requested to clarify the prohibition on taking of fish by means of nets. NOAA has rewritten § 929.7 to clarify that taking of fish by bottom trawls, dredges, fish sleds, or other similar vessel-towed or anchored fishing gear or net that comes in contact with the seafloor is prohibited. A prohibition on the use of the hand-held nets to collect tropical fish is covered under § 929.7(1)(c). It should be noted that the new language merely clarifies what is a prohibition under the existing regulations and does not add new restrictions.

(e) *Utilization of Certain Living Resources for Scientific and Educational Purposes:* The principal comment on the interim-final regulations, submitted by six commentors, was that taking of tropical fish and certain invertebrates except "for the purpose of research related to the resources of the Sanctuary" was precluded, thus preventing taking for public display or educational purposes at public aquaria or universities. These commentors agreed that commercial taking of large numbers of these resources should be prohibited, but agreed that the wording of the regulations was too restrictive. NOAA appreciates these concerns and has rewritten § 929.10 to make the language consistent with regulations for other established sanctuaries where taking for scientific and educational purposes includes taking for legitimate public display and other related purposes and is allowed by permit.

(f) *Appeals of Administrative Actions:* Section 929.11 has been rewritten to provide that any interested party can

appeal a permit decision to the Administrator of NOAA, also to establish that a hearing is discretionary. These changes are in line with the permit appeals procedure established for the sanctuary program generally.

(g) *Format;* The regulations have been revised for purposes of clarity by using separate sections to define permitted and prohibited uses and by adding a purpose section (929.2).

Other Matters

Executive Order 12291 (E.O. 12291) defines a "major rule" as "any regulation that is likely to result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in cost or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete in domestic or export markets." The economic activity supported by the area within the Sanctuary consists of a diversity of commercial and recreational activities.

The economic impacts on affected activities in the Sanctuary are minor and regulations do not restrict recreational activities. Fishing with traps, spearfishing, and "tropical fish" taking are already prohibited by regulation.

Because the majority of the activities are already regulated by other authorities, not regulated at all, or regulated by Sanctuary authority consistent with those proposed to take effect, the Acting Assistant Administrator has determined that this is not a "major rule" under Executive Order 12291. For the same reasons, the Acting Assistant Administrator has determined that the proposed rules will not have a significant economic impact on small entities in the Sanctuary under the Regulatory Flexibility Act. These regulations will impose no information collection requirements of the type covered by Pub. L. 96–511 on affected State governments. Publication does not constitute a major Federal action significantly affecting the quality of the human environment. Therefore, an environmental impact statement is not required.

List of Subjects in 15 CFR Part 929

Administrative practice and procedure, Environmental protection, Marine resources, and Natural resources.

(Federal Domestic Assistance Catalog Number 11.419 Coastal Zone Management Program Administration)

Dated: November 1, 1982

William Matuszeski,

Acting Assistant Administrator for Coastal Zone Management.

Accordingly, it is proposed to revise Part 929 to read as follows:

PART 929—KEY LARGO NATIONAL MARINE SANCTUARY PROPOSED REGULATIONS

Sec.

929.1 Authority
929.2 Purpose.
929.3 Boundaries.
929.4 Definitions.
929.4 Management and enforcement.
929.6 Allowed activities.
929.7 Activities prohibited or controlled.
929.8 Other authorities.
929.9 Penalties for commission of prohibited acts.
929.10 Permit procedures and criteria.
929.11 Appeals of administrative action.

Authority: Secs. 302f, 302g, 303, Pub. L. 92–532, 86 Stat. 1061, 1062 (16 U.S.C. 1431–1434).

§ 929.1 Authority.

The Sanctuary has been designated by the Secretary of Commerce pursuant to the authority of Section 302(a) of the Marine Protection, Research and Sanctuaries Act of 1972 as amended (the Act). The following regulations are issued pursuant to the authorities of Sections 302(f), 302(g) and 303 of the Act.

§ 929.2 Purpose.

The purpose of designating the Key Largo National Marine Sanctuary is to protect and preserve the coral reef ecosystem in its natural state and to regulate uses within the Sanctuary to insure the health and well-being of the coral and associated flora and fauna.

§ 929.3 Boundaries.

The Sanctuary consists of a portion of the Atlantic Ocean beginning at approximately three miles east of Key Largo, Florida adjacent to the John Pennekamp Coral Reef State Park. The coordinates for the Sanctuary are: the point of beginning (POB) is at geographic coordinates 25° (degrees), 19.45′ (minutes) north latitude, 80°, 12.0′ west longitude, said point being the northeast boundary corner of John Pennekamp Coral Reef State Park. From said POB run thence southeasterly to geographic coordinates 25°, 16.2′ north latitude 80°, 8.7′ west longitude, said point also being on the 300 foot isobath, thence in a southwesterly direction to geographic coordinates 25°, 07.5′ north latitude, 80°, 12.5′ west longitude, thence again run in a southwesterly direction to geographic coordinates 24°, 58.3′ north latitude 80°, 19.8′ west longitude, thence leaving said 300 foot isobath run northwesterly to geographic coordinates 25°, 2.2′ north latitude 80°, 25.25′ west longitude, said point being the southeast boundary corner of John Pennekamp Coral Reef State Park, thence in a northeasterly direction along said easterly boundary of said State Park to the POB.

§ 929.4 Definitions.

(a) "Administrator" means the Administrator of the National Oceanic and Atmospheric Administration (NOAA).

(b) "Assistant Administrator" means the Assistant Administrator for Coastal Zone Management (OCZM), National Oceanic and Atmospheric Administration or his/her successor, or designee.

(c) "Persons" means any private individual, partnership, corporation, or other entity; or any officer, employee, agent, department, agency or instrumentality of the Federal government, or any State or local unit of the government.

(d) "The Sanctuary" means the Key Largo National Marine Sanctuary.

(e) "Tropical fish" means fish and invertebrates of minimal sport and food value, usually brightly colored, often used for aquaria purposes and which live in a close interrelationship with corals and coral reef substrates.

§ 929.5 Management and enforcement.

The National Oceanic and Atmospheric Administration (NOAA) has primary responsibility for the management of the Sanctuary pursuant to the Act. The Florida Department of Natural Resources (FDNR), Division of Recreation and Parks, assists NOAA in the administration of the Sanctuary, and acts as the onsite manager, in conformance with a cooperative agreement between the State of Florida and NOAA. The U.S. Coast Guard and Division of Recreation and Parks (FDNR) shall conduct surveillance and enforcement of these regulations pursuant to 14 U.S.C. 89, 16 U.S.C. 1432(f)(4), 16 U.S.C. 7421(b), 16 U.S.C. 3375(a), or other appropriate legal authority.

§ 929.6 Allowed activities.

All activities except those specifically prohibited by § 929.7 may be carried on within the Sanctuary subject to all prohibitions, restrictions, and conditions imposed by other authorities.

§ 929.7 Activities prohibited or controlled.

(a) Unless permitted by the Assistant Administrator in accordance with § 929.10, or as may be necessary for the national defense, or to respond to an

emergency threatening life, property or the environment, the following activities are prohibited or controlled within the Sanctuary. All prohibitions and controls must be applied consistently with international law. Refer to § 929.9 for penalties for commission of prohibited acts.

(i) *Removal or damaging of natural features and marine life.* (A) No person shall destroy, injure, harmfully disturb, break, cut or similarly damage or remove any coral or other marine invertebrate, or any plant, soil, rock, or other material. Divers are prohibited from handling coral formations, standing on coral formations, or otherwise disturbing the corals.

(ii) Commercial taking of stone crab, crawfish, and spiny lobster by trap and recreational taking of spiny lobster by hand which is consistent with both the applicable regulations under the appropriate Fishery Management Plan and these regulations is allowed.

(iii) No person shall catch or collect any tropical fish.

(iv) There shall be a rebuttable presumption that any items listed in these paragraphs found in the possession of a person within the Sanctuary have been collected or removed from within the Sanctuary.

(2) *Dredging, filling, excavating and building activities.* No person shall dredge, excavate, fill or otherwise alter the seabed in any way nor construct any structure of any kind, whether permanent or temporary, with the exception of navigation aids.

(3) *Discharges.* No person shall deposit or discharge any materials or substance of any kind into the waters of the Sanctuary. The only exceptions are:

(i) Indigenous fish or fish parts and chumming materials;

(ii) Cooling waters from vessels; and

(iii) Effluent from marine sanitation devices approved by the United States Coast Guard.

(4) *Removal or damage of archaeological and historical resources.* No person shall remove, deface, damage, or tamper with archaeological or historical resources or the cargo of any submerged wrecks or other historical resources within the boundaries of the Sanctuary.

(5) *Tampering with markers.* No person shall mark, deface or damage in any way whatsoever, or displace, remove or tamper with any signs, notices or placards, whether temporary or permanent, or with any monuments, stakes, posts or other boundary markers installed by the Sanctuary Manager, or trap floats placed for the purpose of lobster fishing.

(6) *Use of harmful fishing methods.* No person shall carry or possess, except while passing through the Sanctuary or for law enforcement purposes, the following firearms or weapons: pole spears, air rifles, bows and arrows, slings, Hawaiian slings, rubber-powered arbalists, pneumatic and spring loaded guns, explosive powered guns or similar devices known as spearguns. No person shall use within the Sanctuary:

(i) Wire fish traps;

(ii) Bottom trawls, dredges, fish sleds, or similar vessel-towed or anchored bottom fishing gear or net; or

(iii) Poisons, electric charges, explosives or similar devices.

(7) *Operation of watercraft and anchoring.* All watercraft shall be operated in accordance with applicable Federal rules and regulations. The following additional regulations apply within the boundaries of the Sanctuary.

(i) Watercraft shall be operated to avoid striking or otherwise causing damage to the natural features of the Sanctuary.

(ii) No anchor shall be cast or dragged in such a way as to damage any coral reef formations. Anchors shall be dropped on sand flats off the reefs and placed to avoid dragging into the coral formations.

(iii) Watercraft must use mooring buoys, stations or anchoring arms when such facilities and areas have been designated and are available.

(iv) Within 100 yards of divers, sightseeing boats or fishermen, no watercraft shall be operated at greater than 4 knots or in any manner to create a wake, except by law enforcement officials while in the performance of their official duties.

(v) All watercraft from which diving operations are being conducted shall fly in a conspicuous manner, the red and white "divers down" flag. Divers shall stay withing 100 yards of their diving flag.

(8) *Use of dangerous weapons.* Except for law enforcement purposes, no person shall use or discharge explosives or weapons of any description within the Sanctuary boundaries. Distress signaling devices, necessary and proper for safe vessel operation, and knives generally used by fishermen and swimmers are not considered weapons for purposes of this Subsection.

(b) The Sanctuary may be closed to public use in the event of emergency conditions endangering life or property. The Assistant Administrator or his/her representative may also close certain areas in order to: (i) Permit recovery of the living resources from overuse, or (ii) provide for scientific research relating to protection and management. However, the total closed area shall not exceed a size necessary to accomplish these purposes. Public notice of closures will be through the local news media and posting of placards at the John Pennekamp Coral Reef State Park, if deemed necessary.

(c) The regulation of activities within the Sanctuary shall not prohibit any activity conducted by the Department of Defense that is essential for national defense or because of emergency. Such activities shall be conducted consistently with all regulations to the maximum extent possible.

(d) The prohibitions in this Section are not based on any claim of territoriality and will be applied to foreign persons and vessels only in accordance with recognized principles of international law, including treaties, conventions and other international agreements to which the United States is signatory.

§ 929.8 Other authorities.

No license, permit or other authorization issued pursuant to any other authority may validly authorize any activity prohibited by § 929.7 unless such activity meets the criteria stated in § 929.10 (c) and (d), and is specifically authorized by the Assistant Administrator.

§ 929.9 Penalties for commission of prohibited acts.

Section 303 of the Act authorizes the assessment of a civil penalty of not more than $50,000 for each violation of any regulation issued pursuant to the Act, and further authorizes a proceeding *in rem* against any vessel used in violation of any such regulation. Procedures are set out in Subpart D of Chapter 15 CFR Part 922. Subpart D is applicable to any instance of a violation of these regulations.

§ 929.10 Permit procedures and criteria.

(a) Any person in possession of a valid permit issued by the Assistant Administrator in accordance with this section may conduct the specific activity in the Sanctuary including any activity specifically prohibited under § 929.7, if such activity is: (1) Research related to the resources of the Sanctuary, (2) to further the educational value of the Sanctuary, or (3) for salvage or recovery operations.

(b) Permit applications shall be addressed to the Assistant Administrator, Attn: Sanctuary Programs Office, National Oceanic and Atmospheric Administration, 3300 Whitehaven Street, NW., Washington, D.C. 20235. An application shall include a description of all activities proposed,

the equipment, methods, and personnel (particularly describing relevant experience) involved, and a timetable for completion of the proposed activity. Copies of all other required licenses or permits shall be attached.

(c) In considering whether to grant a permit, the Assistant Administrator shall evaluate such matters as: (1) The general professional and financial responsibility of the applicant; (2) the appropriateness of the methods being proposed to the purpose(s) of the activity; (3) the extent to which the conduct of any permitted activity may diminish or enhance the value of the Sanctuary as a source of recreation, education, or scientific information; and (4) the end value of the activity.

(d) Permits may be issued by the Assistant Administrator for activities otherwise prohibited under § 929.7. In addition to meeting the criteria in 929.10 (c), the applicant must also satisfactorily demonstrate to the Assistant Administrator: (1) That the activity shall be conducted with adequate safeguards for the environment, and (2) that the environment shall be returned to the condition which existed before the activity occurred. A permit issued according to the provisions for an otherwise prohibited activity shall be appropriately conditioned, and the activity monitored to ensure compliance.

(e) In considering an application submitted pursuant to this section, the Assistant Administrator may seek and consider the views of Fishery Management Councils and any other person or entity, within or outside of the Federal Government, and may hold a public hearing, as he/she deems appropriate.

(f) The Assistant Administrator may, at his/her discretion, grant a permit which has been applied for pursuant to this section, in whole or in part, and subject to such condition(s) as deemed necessary, and shall attach to any permit granted for research related to the Sanctuary stipulations to the effect that: (1) The Assistant Administrator or a designated representative may observe any activity permitted by this section; and (2) any information obtained in the research site shall be made available to the public; and/or the submission of one or more reports of the status of progress of such activity may be required.

(g) A permit granted pursuant to this section is nontransferrable.

(h) The Assistant Administrator may amend, suspend or revoke a permit granted pursuant to this Section, in whole or in part, temporarily or indefinitely if, in his/her view, the permit holder (the Holder) had acted in violation of the terms of the permit or of the applicable regulations; or the Assistant Administrator may do so for other good cause shown. Any such action shall be communicated in writing to the Holder, and shall set forth the reason(s) for the action taken. The Holder in relation to whom such action has been taken may appeal the action as provided for in § 929.11.

§ 929.11 Appeals of Administrative Action.

(a) The applicant for a permit, the Holder, or any other interested person (hereafter Appellant) may appeal the granting, denial, conditioning or suspension of any permit under § 929.10 to the Administrator of NOAA. In order to be considered by the Administrator, such appeal shall be in writing, shall state the action(s) appealed and the reason(s) therefor, and shall be submitted within 30 days of the action(s) by the Assistant Administrator. The Appellant may request an informal hearing on the appeal.

(b) Upon receipt of an appeal authorized by this Section, the Administrator may request the Appellant, and the permit applicant or Holder if other than the Appellant, to submit such additional information and in such form as will allow action upon the appeal. The Administrator shall decide the appeal using the criteria set out in § 929.10(c), any information relative to the application of file, any information provided by the Appellant, and such other consideration as is deemed appropriate. The Appellant shall notify the Appellant of the final decision and the reason(s) therefor, in writing normally within 30 days of the date of the receipt of adequate information required to make the decision.

(c) If a hearing is requested or, if the Appellant determines that one is appropriate, the Administrator may grant an informal hearing before a Hearing Officer designated for that purpose, after first giving notice of the time, place, and subject matter of the hearing in the **Federal Register**. Such hearing shall normally be held no later than 30 days following publication of the notice in the **Federal Register** unless the Hearing Officer extends the time for reasons deemed equitable. The Appellant, the applicant or permit holder, if different, and, other interested persons may appear personally or by counsel at the hearing and submit such material and present such arguments as determined appropriate by the Hearing Officer. Within 30 days of the last day of the hearing, the Hearing Officer shall recommend a decision in writing to the Administrator.

(d) The Administrator may adopt the Hearing Officer's recommended decision, in whole or in part, or may reject or modify it. In any event, the Administrator shall notify the interested persons of his/her decision, and the reason(s) therefor in writing within 30 days of receipt of the recommended decision of the Hearing Officer. The Administrator's decision shall constitute final action for the Agency for the purposes of the Administrative Procedures Act.

(e) Any time limit prescribed in this Section may be extended by the Administrator for good cause for a period not to exceed 30 days, either upon his/her own motion or upon written request from the Appellant, permit applicant or Holder, stating the reason(s) therefor.

[FR Doc. 82-34191 Filed 12-16-82; 8:45 am]
BILLING CODE 3510-08-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 270

[Release No. IC-12888; S7-955]

Advance Notice and Request for Comment on Mutual Fund Governance

AGENCY: Securities and Exchange Commission.

ACTION: Advance notice and requests for comments on mutual fund governance.

SUMMARY: The Commission is considering whether to propose rules or recommend legislation to enable all or certain types of registered open-end investment companies to be organized and operated without shareholder voting, or without either shareholder voting or boards of directors. The major goal of such action would be to reduce the expenses of fund operations without sacrificing investor protections. In addition to seeking guidance generally on the advisability of such action, the Commission is also requesting commentators to focus on certain specified questions. The comments received will be considered in connection with the development of any rulemaking proposals or legislative recommendations.

DATE: Comments must be received on or before March 10, 1983.

ADDRESS: Persons wishing to submit written comments on the matters discussed in the release should file five copies thereof with George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549.

Comments should refer to File No. S7–955 and will be available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: Bruce Mendelsohn, Chief (202–272–2048) or Elizabeth Norsworthy, Special Counsel (202–272–2048), Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20539.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission today announced that it is considering the advisability of proposing rules or recommending legislation to enable all or certain types of registered open-end investment companies to be organized and operated without shareholder voting, or without shareholder voting and boards of directors. Both shareholder voting and boards of directors are presently required under the Investment Company Act of 1940 ("Act") (15 U.S.C. 80a–1 *et seq.*). This release summarizes two alternatives to the existing regulatory system which have been proposed by industry observers, as well as certain issues involved in the implementation of those alternatives. After a short discussion of the historical development of a corporate model for investment companies, the release discusses the possibility that the corporate model, or certain of its components, might be unnecessary, and requests general comment as to whether the existing regulatory system for open-end investment companies should be modified. The appendix to this release discusses in detail the historical development, the two alternatives to the existing regulatory system which have been proposed, requests general comment with respect to whether either of those approaches, or some other alternativie, should be pursued further, and asks for specific comment with respect to the implementation of those approaches. A copy of the appendix may be obtained directly from the Commission by contacting the above-mentioned contact persons. All comments and suggestions received will be considered by the Commission in determining whether to develop rulemaking proposals or legislative recommendations in this area.

I. Background

In recent years, some commentators have expressed skepticism about the effectiveness of shareholder voting and boards of directors in a mutual fund context, especially in view of dramatic changes in the investment company industry over the past decade. Open-end or mutual funds, a relatively new phenomenon in 1940, have dominated the industry for many years. In contrast to investors in other types of companies who must sell their shares at a market price which may not, in their opinion, reflect the value of their investment, mutual fund shareholders may sell their shares back to the fund at net asset value. While the predominance of mutual funds over closed-end companies prompted the Commission and Congress to re-examine the regulatory framework of investment companies in the 1960's, the 1970 amendments to the Investment Company Act of 1940 ("Act") (15 U.S.C. 80a–1 *et seq.*) which resulted from that re-examination were designed to buttress, not dismantle, the existing framework. In deciding to adhere to the same regulatory scheme, Congress relied on finding of the Wharton School and the Commission that, although a mutual fund shareholder could redeem shares at net asset value, that shareholder was still reluctant to do so because mutual funds charged redemption fees or sales loads considerably higher than customary brokerage commissions and because shareholders incurred tax liability whenever the redemption of their share resulted in a capital gain.

Over the past decade, however, industry changes have removed these financial disincentives for the majority of mutual fund shareholders. Most mutual funds are now no-load, and do not have redemption fees. Moreover, the preponderant portion of the industry's assets is now in money market funds which seek to maintain a stable net asset value, thereby enabling investors to redeem their shares without incurring tax consequences. In view of the ease with which investors in no-load funds, particularly money market funds, may now redeem their shares, it seems appropriate to invite public comment on the continuing necessity for approval of management decisions by shareholders and directors.[1] Comment is requested as to whether alternative regulatory approaches should be pursued and on related issues discussed below.

[1] The Commission does not mean to imply in any way that it contemplates that shareholders of companies other than open-end investment companies could be adequately protected if their ability to elect directors or otherwise exercise voting rights were eliminated. Investors in other types of companies do not have the freedom to redeem their investment at current net asset value. Moreover, other types of companies usually have unique assets. Thus, even assuming that a market is available in which such companies' securities could be easily sold, such investors must sell at a market price which may not, in their opinion, reflect the value their investment might have if the company's management were different.

II. Discussion

A. Adoption of Rules Exempting Mutual Funds From the Act's Shareholder Voting Requirements

Recent commentators have suggested that the Commission should exercise its rulemaking authority under section 6(c) to extend exemptive relief from the Act's shareholder voting requirements. Proponents of adopting such exemptions argue that the costs which companies incur in complying with those provisions now outweigh any benefits which shareholders may derive from voting their shares. Mutual fund shareholders appear to be passive participants in the management process, rarely attending shareholder meetings and infrequently returning proxies. In fact, because of such shareholder apathy, companies often incur re-solicitation expenses in order to achieve a quorum.

On the other hand, it can be argued, as was the case when similar objections were raised to shareholder voting requirements in the 1960's, that shareholder voting gives shareholders a means of communicating with management without litigation. Since material information concerning a fund's management and operations must be disclosed in proxy material distributed to shareholders, management is often deterred from effecting changes which will adversely affect the fund and its shareholders.

A further objection which has been voiced with respect to adopting an approach which would exempt funds from the shareholder voting provisions is that such exemptions would create a self-perpetuating board of directors, thereby disrupting the delicate system of checks and balances created by the Act to deter both internal and external managers from acting in their own best interests.

However, conditions to affording funds exemptive relief from the Act's shareholder voting requirements could be fashioned which would, at least in part, answer some of the objections which have been raised. In particular, such conditions could require adequate notice to shareholders, ease of redeemability, maintenance of a higher ratio of disinterested directors to interested directors on the board and some type of shareholder referendum procedure.

As a condition to obtaining exemptive relief, it appears that, at a minimum, management should furnish

shareholders with adequate notice of any action on which they would otherwise be entitled to vote. A number of issues are involved, of course, in exactly what would constitute adequate notice. Should shareholders receive notice before or after action is taken? If advance notice is required, how much in advance should the notice be sent? If subsequent notice is required, how soon after the action is taken should the notice be sent? Could the notice be incorporated in periodic reports with respect to certain types of changes, such as the election of a new director or the selection of independent public accountants? How much information should be contained in a notice to shareholders—the equivalent of the present proxy disclosure requirements or something more or something less?

Similarly, it appears that shareholders should be in a position to react ot management actions which they dislike by readily redeeming their holdings. The question becomes, then, what conditions would create sufficient ease of redeemability. Should exemptions be made available only: To money market funds? to no-load funds? to no-load funds which do not charge redemption fees? to funds which would permit shareholders to recapture a portion of the sales load paid, depending upon the length of time they have held their shares?

A condition which could at least mitigate the dangers inherent in a self-perpetuating board would be a requirement that a higher ratio of disinterested to interested directors on the board be maintained, for example, a majority or 75%. The question is, however, how would those disinterested directors be selected: by committing their selection shareholders at three-to-five-year intervals? by committing their selection to other disinterested directors? by requiring that the nominating committee be composed exclusively of disinterested directors?

Finally, a means of permitting shareholders to communicate with management without litigation could be preserved if shareholders were given referendum rights comparable to the rights conferred upon shareholders of pre-existing common law trusts by section 16(c) [15 U.S.C. 80a–16(c)].

Even if commentator concerns with respect to preserving adequate shareholder recourse and avoiding a self-perpetuating board can be resolved, it has been suggested that exempting mutual funds from federal shareholder voting provisions would effect only a cosmetic change because most funds are organized in corporate form and would therefore still be subject to state law requirements that the shareholders annually elect members of the board of directors. However, adoption of exemptions from federal shareholder voting requirements would give such funds the flexibility of reorganizing in non-corporate form, such as common law trust or limited partnership or taking other steps, such as the creation of a class of non-voting stock to be issued to public shareholders. The question is, then, whether funds would use such exemptive rules, given the costs of re-organization and the costs of complying with the conditions outlined above.

B. Creation of an Alternative Type of Investment Company—the Unitary Investment Fund

Another school of thought would create by legislation an alternative type of investment company—a unitary investment fund ("UIF"). This legislative approach, premised upon a view that directors are as superfluous as voting shareholders in a mutual fund context, would create a UIF having neither voting shareholders nor a board of directors. Proponents of this approach believe that an open-end investment company should be permitted to reorganize as a unitary investment fund sponsored and managed by an investment manager.

Draft legislation which has been submitted to the staff for consideration provides that each investment manager, including a bank acting in that capacity, would be required to register under the Investment Advisers Act of 1940 (15 U.S.C. 80b–1 *et seq.)*. A management contract between the investment manager and the fund would set forth, among other things, the fund's investment objectives, management fees and charges to shareholder accounts. The investment manager would not be permitted to amend those provisions during an initial start-up period (probably five years) and thereafter only upon adequate notice to investors. A new subsection of section 36 (15 U.S.C. 801a–35) would declare that a UIF investment manager has no fiduciary duty regarding the receipt of compensation by such manager and its affiliates.

As contemplated, the Commission would play a far more active role in regulating UIFs. A UIF's registration statements under both the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) and the Investment Company would have to be declared effective by the Commission before shares could be sold, thereby giving the staff the opportunity to comment on the investment management contract as well as the disclosure to be furnished to investors in the fund's prospectus. To the extent that exemptive rules would not be available, a UIF investment manager would have to file an application for relief from the Act's prohibitions on an individual basis. To the extent that a UIF investment manager needed to amend the management contract during the initial start-up period, an application would have to be filed for an order permitting such amendment. The Commission would also be empowered to seek the liquidation of a UIF in a U.S. District Court in the event of the insolvency or bankruptcy of the investment manager.

In evaluating the unitary investment fund contemplated, the same considerations described above with respect to affording shareholders with adequate notice, ease of redeemability and some form of referendum procedure would be applicable. In addition, the following difficult question is presented: Should directors as well as voting shareholders be dispensed with?

In support of this approach, some proponents might question the utility of the independent directors, arguing that these directors are unwilling to spend significant time or energy on functions for which they are paid only a minimal amount; having been nominated by the adviser in virtually every case, they are unlikely to exercise any degree of control over the adviser; and, since they rarely have an independent staff, they must rely on the inside directors, officers, and investment adviser's staff for information and analysis. According to some commentators, court and Commission cases show that the independent directors have not challenged successfully, or even attempted to challenge, management abuses. Similarly, commentators contend that reported cases show that the independent directors have rarely persuaded, or even attempted to persuade, the other directors to maintain shareholder derivative suits alleging management abuses. Commentators have also speculated that, where the adviser is paying increased directors' fees to compensate for the increased responsibilities assigned to the independent directors by the recent series of exemptive rules adopted by the Commission, those directors have become even more susceptible to control by the adviser.

On the other hand, it has been observed that to an increasing extent the independent directors serve as a meaningful counterweight to the entrepreneurial spirit of investment advisers. The presence of independent directors has caused investment

advisers to temper fee proposals and to rectify administrative problems and investment strategies in anticipation of board disapproval. Moreover, albeit infrequently, there have been cases where a mutual fund has severed its advisory relationship at the instigation of its independent directors.

It should also be noted that the initiatives taken by the Commission over the past four years have been premised on a belief that exemptive relief from the Act's prohibitions is appropriate where the directors (and in cases where there is a potential conflict of interest, the independent directors) are willing to assume responsibility for finding a contemplated action to be in the best interests of the fund. If directors are eliminated from a UIF, a dilemma is posed as to whether such funds would be eligible to rely on the exemptive rules. Where an exemptive rule (or section of the Act) addresses a potential conflict of interest situation, a UIF would either have to apply on an individual basis for an exemptive order or the role played by the independent directors would have to be assigned to an appropriate third party, such as the fund's independent public accountants. One issue is then where the Commission should focus its efforts in the investment company area. Would it be more beneficial to mutual funds and their shareholders if the Commission continues its exemptive rulemaking program, pursuing perhaps even more aggressively the goal of transferring oversight responsibilities to the independent directors where this can be done consistent with investor protection? Or, would mutual funds and their investors benefit more from the creation of an alternative type of investment company which would be subject to greater Commission scrutiny?

Some proponents of the UIF concept argue that section 36(b) should not be applicable to UIFs primarily because the advisory fee and shareholder charges payable to the UIF investment manager would be set in advance in the investment contract and could be readily compared to the fees charged by other UIFs. Instead of filing suit under section 36(b) to protest fees which they believe to be excesssive, investors would have the option of simply redeeming their shares and, in any event, market competition should induce managers to keep their fees reasonable. In general criticism of section 36(b), commentators contend that litigation under the section has only generated substantial litigation expenses which are ultimately passed on to shareholders, without resulting in any significant modification of fee structures. It might also be argued that section 36(b) imposes an unrealistic fiduciary duty on an adviser for, in negotiating its compensation, the adviser must necessarily be acting in its own self-interest.

It is the Commission's preliminary judgment, however, that section 36(b) should be applicable to UIFs. Reliance on the market in a UIF context could be misplaced. Since mutual fund investors have not appeared to be expense conscious in the past, it is doubtful that they would focus upon one element of expenses, the management fee, in comparing UIFs with other funds. Even assuming that investor "comparison shopping" would make UIF investment managers sensitive to market signals, those managers would not be free to lower fees in response to market conditions during the fund's initial start-up period.

It can also be argued that, because investment advisers or investment managers are obviously acting in their own interests in negotiating management fees, that is all the more reason to retain a shareholder cause of action in section 36(b). If anything, because the UIF structure would eliminate director and shareholder approval of the advisory contract, the danger is greater that the investment manager may act in its own best interests by establishing an excessively high fee structure.

Finally, while it is true that plaintiffs in section 36(b) have suffered recent setbacks, litigation under that section is still basically a new phenomenon, and the decisions which have been handed down stress the importance of the role played by the independent directors in evaluating adviser compensation. Further, far from exposing funds to limitless liability, section 36(b) was carefully drafted to circumscribe that liability. If UIF shareholders were forced to challenge management fees in state court, it would appear difficult to attack even an unusually high management fee which has been set forth in the trust instrument.

III. Conclusion

These approaches to restructuring investment companies can of course be modified. For example, exemptions from shareholder voting requirements or UIF legislation could be limited to money market funds, at least initially, until the Commission and the industry gain more experience with a new regulatory framework. Alternatively, the UIF concept could be modified to provide, not for a new category of investment company, but rather for procedures whereby any open-end fund could dispense with shareholder voting, boards of directors, or both, if appropriate conditions were met.

A significant issue to be considered in evaluating these alternatives is whether, if any of these changes is considered desirable, it should be effected by administrative action or by legislation. At the present time, the Commission is predisposed to believe that changes of this magnitude should be effected legislatively. It can be argued that the administrative approach, unlike the legislative approach, has the advantage of allowing initiatives to be implemented as they are developed, rather than requiring the development of a complete "package" of amendments for legislative consideration. Moreover, the administrative approach gives the Commission more flexibility to "fine-tune" changes. However, the legislative approach has the advantage of adopting all contemplated changes simultaneously, not in piecemeal fashion, and eliminates any risk of possible challenges to those changes as an over-extension of the Commission's exemptive authority under section 6(c) of the Act (15 U.S.C. 80a–6(c)).

Another significant issue involved in evaluating these alternatives, and possible modifications thereof, is the extent to which adoption of one of these approaches would reduce mutual fund operating expenses. The Commission, extrapolating from published cost data,[2] has been able to estimate only roughly the aggregate current costs which mutual funds appear to incur in complying with the Act's corporate governance requirements. These estimates indicate that, for fiscal years ended in 1982, funds may have incurred costs as high as $13.5 million to conduct proxy solicitations[3] and costs as high as $28 million to pay directors' fees and expenses (including the cost of hiring outside counsel for the directors). The Commission currently has no basis for estimating costs which might be incurred by funds in re-organizing or operating under either contemplated regulatory framework, such as the cost of complying with shareholder notice conditions if a fund were to rely on shareholder voting exemptions or the cost of assigning certain director responsibilities to other independent parties if a fund were to become a UIF. Request is made, therefore, for commentators to furnish the

[2] Lipper Directors' Analytical Data (Aug. 1982).

[3] These costs may be marginal, however, insofar as funds may already be obligated to hold an annual meeting of shareholders to elect directors under state law.

Commission with as much concrete cost information as possible, both with respect to costs which are presently incurred in complying with the Act's corporate governance requirements and costs which could be incurred if regulatory alternatives were implemented.

The approaches outlined above, as well as possible modifications thereof, are discussed in more detail in the appendix. The Commission wishes to emphasize that, by asking for public comment and setting forth arguments, pro and con, with respect to the questions addressed in this release and appendix, it has not taken any firm position on those questions or on the broader issues of whether these changes are desirable.

List of Subjects in 17 CFR Part 270

Investment companies, Reporting requirements, Securities.

By the Commission.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82-34330 Filed 12-16-82 8:45 am]
BILLING CODE 8010-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 182 and 184

[Docket No. 81N-0381]

Manganese Salts; Proposed Affirmation and Removal of GRAS Status as Direct Human Food Ingredients

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to affirm that manganese chloride and manganese sulfate are generally recognized as safe (GRAS) as direct human food ingredients. In addition, FDA is proposing not to affirm manganese citrate, manganese gluconate, and manganous oxide as GRAS as direct human food ingredients and to remove them from the list of substances that are GRAS. The safety of these ingredients has been evaluated under the comprehensive safety review conducted by the agency. The proposal would take no action on the listing of these ingredients as GRAS substances for use in dietary supplements.

DATE: Comments by February 15, 1983.

ADDRESS: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: John W. Gordon, Bureau of Foods (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, D.C. 20204, 202-426-5487.

SUPPLEMENTARY INFORMATION: FDA is conducting a comprehensive review of human food ingredients classified as GRAS or subject to a prior sanction. The agency has issued several notices and proposals (see the **Federal Register** of July 26, 1973 (38 FR 20040)) initiating this review, under which the safety of certain manganese salts has been evaluated. In accordance with the provisions of § 170.35 (21 CFR 170.35), the agency proposes to affirm the GRAS status of manganese chloride for use in infant formula and manganese sulfate for use as a nutrient supplement in conventional foods [1] and infant formula, and to remove manganese citrate, manganese gluconate, and manganous oxide from GRAS status.[2]

The GRAS status of the use of manganese chloride, manganese citrate, manganese gluconate, manganese sulfate, and manganous oxide in dietary supplements (i.e., over-the-counter vitamin preparations in forms such as capsules, tablets, liquids, wafers, etc.) is not affected by this proposal. The agency did not request consumer exposure data on dietary supplement uses when it initiated this review. Without exposure data, the agency cannot evaluate the safety of the uses of these ingredients in dietary supplements. The use of these ingredients in dietary supplements will continue to be permissible under Subpart F of Part 182 (21 CFR Part 182).

Manganese is an essential nutrient. It occurs naturally in many foods of both plant and animal origin. However, manganese reportedly is added to food in the form of manganese chloride and manganese sulfate. These salts are generally prepared as follows:

Manganese chloride (tetrahydrate) is prepared by leaching selected grades of reduced manganese ore with hydrochloric acid. The manganese chloride solution is treated to remove impurities, then filtered. Anhydrous manganese chloride is made by the action of dry HCl gas on the metal (manganese), manganese carbonate, or manganous oxide. Pink translucent crystals, produced by these reactions, are isolated by filtering the recrystallization.

Manganese sulfate (monohydrate) is prepared by treating finely ground manganese dioxide with sulfuric acid in the presence of a reducing agent. It is also obtained as a byproduct in the manufacture of hydroquinone. It is isolated as a pale pink, granular, odorless powder.

Manganous oxide is prepared by the reduction of a higher manganese oxide with a reducing gas such as carbon monoxide or hydrogen with carbonaceous matter followed by quenching in an inert atmosphere. It can also be prepared by thermal decomposition of manganese carbonate or oxalate in the absence of air.

FDA has not been able to obtain manufacturing information for manganese citrate amd manganese gluconate. If these ingredients are used in food, interested persons should submit such information to the agency as comments on this proposal.

Manganese chloride, manganese citrate, manganese gluconate, manganese sulfate, and manganous oxide were listed as GRAS for use as nutrients and dietary supplements in a regulation published in the **Federal Register** of January 31, 1961 (26 FR 938). However, in recodification published in the **Federal Register** of September 5, 1980 (45 FR 58837), FDA divided the nutrient and dietary supplement category into separate listings for GRAS dietary supplements and GRAS nutrients. As a consequence, manganese chloride, manganese citrate, manganese gluconate, manganese sulfate, and manganous oxide, respectively, are currently listed as GRAS in §§ 182.5446, 182.5449, 182.5452, 182.5461, and 182.5464 as dietary supplements. Nutrient uses of these ingredients are covered under §§ 182.8446, 182.8449, 182.8452, 182.8461,

---

[1] FDA is using the term "conventional food" to refer to food that would fall within any of the 43 categories listed in § 170.3(n) (21 CFR 170.3(n)).

[2] The manganese ion can exist in a variety of oxidation states. Technically the term "manganous" refers to the divalent form of the manganese cation. Traditionally, however, the terms manganese and manganous have been used interchangeably. (See "The Condensed Chemical Dictionary," 9th Ed. by Gessner G. Hawley (1977) pp. 534-536.) Moreover, the Food Chemicals Codex uses the term manganese but unequivocally defines the salts as the divalent manganese salts, as is evident from the empirical formulas listed in the monographs. Further, the Select Committee on GRAS Substances (the Select Committee) used the terms manganous and manganese interchangeably in their report to FDA but reviewed only the safety of divalent salts because this was the only form of the salts reported to be used in food. To minimize confusion and to be consistent with current listings in the Code of Federal Regulations and the Food Chemicals Codex, the agency will continue to use the terms manganese chloride, manganese gluconate, and manganese sulfate. The citrate and oxide salts are not defined in the Food Chemicals Codex, and to be consistent with current listings in the Code of Federal Regulations, the agency will continue to list them as manganese citrate and manganous oxide.

and 182.8464, respectively. Section 412(g) of the Federal Food, Drug, and Cosmetic Act (the act) lists manganese as a required nutrient in infant formula, subject to level restrictions. FDA is reviewing all nutrient levels in infant formulas under a contract with the American Academy of Pediatrics. Any necessary modifications in the nutrient level of manganese in infant formula regulations will be proposed by a separate rulemaking under section 412(a)(2) of the act. The agency has addressed the GRAS status of two other manganese salts, manganese glycerophosphate (21 CFR 182.5455) and manganese hypophosphite (21 CFR 182.5458) in proposed regulations on glycerophosphates and hypophosphites, respectively, and FDA will not discuss these substances in this proposal.

In 1971, the National Academy of Sciences/National Research Council (NAS/NRC) surveyed a representative cross-section of food manufacturers to determine the specific foods in which manganese salts were used and the levels of usage. NAS/NRC combined this manufacturing information with information on consumer consumption of foods to obtain an estimate of consumer exposure to these ingredients. The NAS/NRC survey information indicates that manganese sulfate is used as a nutrient in a variety of foods including infant formulas, baked goods, alcoholic beverages, dairy product analogs, fish products, meat products, milk products, and poultry products. The survey found that manganese chloride is used only in infant formulas. FDA estimates from the NAS/NRC survey that, in 1970, the total amount of manganese chloride added to food was 17 pounds and the total amount of manganese sulfate added to food was 5,717 pounds. The NAS/NRC survey did not report any poundage data for manganese citrate, manganese gluconate, or manganous oxide.

Manganese salts were the subject of a search of the scientific literature from 1920 to the present. The criteria used in the search were chosen to discover any articles that considered (1) chemical toxicity, (2) occupational hazardss, (3) metabolism, (4) reaction products, (5) degradation products, (6) carcinogenicity, teratogenicity, or mutagenicity, (7) dose response, (8) reproductive effects, (9) Histology, (10) embryology, (11) behavorial effeects, (12) detection, and (13) processing. A total of 280 abstracts on manganese salts was reviewed, and 108 particularly pertinent reports from the literature survey have been summarized in a scientific literature review.

Information from the scientific literature review and other sources has been summarized in a report to FDA by the Select Committee on GRAS Substances, which is composed of qualified scientists chosen by the Life Sciences Research Office of the Federation of American Societies for Experimental Biology (FASEB). The members of the Select Committee have evaluated all the available safety information on manganese salts.[3] In the Select Committee's opinion:

> The available information indicates that a wide margin exists between present intake levels of manganese as manganous salts and those levels that have been reported to produce harmful effects. Manganese is an essential nutrient that is required for the optimal functioning of several metabolic systems largely through its role as a prosthetic group or as an essential cofactor. Divalent manganese is among the least toxic of the trace elements. As was indicated in the review of the experiments involving manganous chloride and manganous sulfate, the oral toxicity of manganese is low largely because of restricted absorption and the existence of a relatively efficient mechanism regulating intestinal excretion.
>
> Manganese interacts metabolically with several other minerals including calcium, phosphorus, iron, and copper. Under most dietary conditions, however, it is unlikely that the ratio of manganese to these elements is distorted enough to produce an adverse effect.
>
> The only manganese salts known by the Select Committee to be in use as ingredients of foods for human consumption are the chloride and the sulfate. Despite the nearly complete lack of scientific reports on the biologic effects of manganous citrate and gluconate, the relatively low toxicity of the manganous ion and the innocuous nature of citrates and gluconates when used as food ingredients suggest that no health hazard would result from similar uses of manganous citrate and gluconate.
>
> While there is good evidence of the short-term tolerance of manganous oxide as an added feed ingredient for poultry and livestock, no acute oral toxicity studies or long-term feeding studies of manganous oxide have been reported. In addition, the Select Committee has no information on the amounts of manganous oxide, if any, that may be used in foods for human consumption in this country.[4]

The Select Committee concludes that no evidence in the available information on manganese citrate, manganese chloride, manganese gluconate, and manganese sulfate demonstrates, or presents reasonable grounds to suspect, a hazard to the public when these substances are used at levels that are now current or that might reasonably be expected in the future. However, in view of the lack of relevant biological studies and the lack of information on consumer exposure, the Select Committee states that it has insufficient data upon which to base an evaluation of manganous oxide when it is used in food for human consumption.[5]

FDA has undertaken its own evaluation of the available information on manganese salts and concurs with the conclusions of the Select Committee. FDA therefore is proposing to take the following actions as justified below:

1. There is sufficient usage and toxicological information to affirm the GRAS status of manganese chloride and manganese sulfate as nutrients. Therefore, the agency proposes to affirm the GRAS status of manganese chloride for use in infant formula and manganese sulfate for use in conventional foods and in infant formula.

2. In the absence of sufficient safety data on manganous oxide, the agency proposes to remove it from the list of nutrients that are GRAS for use in food.

3. In the absence of data on consumer exposure or current use, the agency is proposing not to affirm manganese citrate and manganese gluconate as GRAS and to remove them from the list of nutrients that are GRAS for use in food. However, if FDA receives appropriate usage and manufacturing information in response to this proposal, the agency will reconsider this action before issuing a final rule.

4. Because the 1971 NAS/NRC industry use survey did not request data on dietary supplement uses, there are insufficient data to assess exposure from these uses. Without such exposure data, the agency cannot evaluate the safety of the use of these substances as dietary supplements. These uses of manganese salts will continue to be permissible under Subpart F of Part 182 consistent with the policy expressed in the **Federal Register** of September 5, 1980 (45 FR 58857).

Additionally, FDA is proposing not to include in the GRAS affirmation regulations for manganese chloride and manganese sulfate the levels of use reported in the NAS/NRC 1971 survey for these ingredients. Both FASEB and

---

[3] "Evaluation of the Health Aspects of Manganous Salts As Food Ingredients," Life Sciences Research Office, Federation of American Societies For Experimental Biology, 1979, pp. 8–18. In the past, the agency presented verbatim the Select Committee's discussion of the biological data it reviewed. However, because the Select Committee's report is available at the Dockets Management Branch and from the National Technical Information Service, and because it represents a significant savings to the agency in publication costs, FDA has decided to discontinue presenting that discussion in the preamble to proposals that affirm GRAS status in accordance with current good manufacturing practice.

[4] *Ibid.*, p. 19.

[5] *Ibid.*, pp. 19–20.

the agency have concluded that a large margin of safety exists for the use of these substances, and that any reasonably foreseeable increase in the level of consumption of manganese chloride and manganese sulfate will not adversely affect human health. Therefore, the agency is proposing to affirm the GRAS status of manganese chloride and manganese sulfate when they are use under current good manufacturing practice (CGMP) conditions of use in accordance with § 184.1(b)(1) (21 CFR 184.1(b)(1)). To make clear, however, that the affirmation of the GRAS status of manganese chloride and manganese sulfate is based on the evaluation of limited uses, the proposed regulations set forth the technical effects and food categories that FDA evaluated.

In the **Federal Register** of September 7, 1982 (47 FR 39199), FDA proposed to adopt a general policy restricting the circumstances in which it will specifically describe conditions of use in regulations affirming substances as GRAS under 21 CFR 184.1(b)(1) or 186.1(b)(1). The agency proposed to amend its regulations to indicate clearly that it will specify one or more of the CGMP conditions of use in regulations for substances affirmed as GRAS with no limitations other than CGMP only when the agency determines that it is appropriate to do so.

Copies of the scientific literature review, a report on the teratogenic evaluation of manganese sulfate, and the report of the Select Committee on manganous salts are available for review at the Dockets Management Branch (address above), and may be purchased from the National Technical Information Service, 5285 Port Royal Rd., Springfield, VA 22161, as follows:

Title	Order No.	Price code	Price [1]
Manganese salts (scientific literature review).	PB 228-553/AS..	A08	$11.00
Manganous salts (Select Committee report).	PB 301-404/AS..	A03	[illegible]00
Manganous sulfate (teratogenic evaluation).	PB 223-813/AS..	A04	7.00

[1] Price subject to change.

The format of the proposed regulations is different from those in previous GRAS affirmation regulations. FDA has modified paragraph (c) of §§ 184.1446 and 184.1461 to make clear the agency's determination that GRAS affirmation is based upon CGMP conditions of use, including the technical effects and food categories listed. This change has no substantive effect but is made merely for clarity.

This proposed action does not affect the current use of manganous salts in pet food or in animal feed.

The agency has determined under 21 CFR 25.24(d)(6) (proposed December 11, 1979; 44 FR 71742) that this proposed action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

FDA, in accordance with the Regulatory Flexibility Act, has considered the effect that this proposal would have on small entities including small businesses and has determined that the effect of this proposal is to maintain current known uses of the substances covered by this proposal by both large and small businesses. Therefore, FDA certifies in accordance with section 605(b) of the Regulatory Flexibility Act that no significant economic impact on a substantial number of small entities will derive from this action.

In accordance with Executive Order 12291, FDA has carefully analyzed the economic effects of this proposal, and the agency has determined that the final rule, if promulgated, will not be a major rule as defined by the Order.

List of Subjects

21 CFR Part 182

Generally recognized as safe (GRAS) food ingredients, Spices and flavorings.

21 CFR Part 184

Direct food ingredients, Food ingredients, Generally recognized as safe (GRAS) food ingredients.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), it is proposed that Parts 182 and 184 be amended as follows:

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

§§ 182.8446, 182.8449, 182.8452, 182.8461, and 182.8464 [Removed]

1. Part 182 is amended by removing § 182.8446 *Manganese chloride,* § 182.8449 *Manganese citrate,* § 182.8452 *Manganese gluconate,* § 182.8461 *Manganese sulfate,* and § 182.8464 *Manganous oxide.*

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

2. Part 184 is amended:

a. By adding new § 184.1446, to read as follows:

§184.1446 Manganese chloride.

(a) Manganese chloride ($MnCl_2 \cdot 4H_2O$, CAS Reg. No. 7773-01-5), also referred to as manganese dichloride, is a pink, translucent, crystalline product. It is prepared by dissolving manganous oxide, pyrolusite ore (MnO_2), or reduced manganese ore in hydrochloric acid. The resulting solution is neutralized to precipitate heavy metals, filtered, concentrated, and crystallized.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 186, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used a nutrient supplement as defined in § 170.3(o)(20) of this chapter.

(2) The ingredient may be used in infant formulas in accordance with section 412(g) of the Federal Food, Drug, and Cosmetic Act (the act) or with regulations promulgated under section 412(a)(2) of the act.

b. By adding new § 184.1461, to read as follows:

§ 184.1461 Manganese sulfate.

(a) Manganese sulfate ($MnSO_4 \cdot H_2O$, CAS Reg. No. 7785-87-7) is a pale pink, granular, odorless powder. It is obtained by reacting manganese compounds with sulfuric acid. It is also obtained as a byproduct in the manufacture of hydroquinone. Other manufacturing processes include the action of sulfur dioxide, on a slurry of manganese dioxide in sulfuric acid, and the roasting of pyrolusite (MnO_2) ore, with solid ferrous sulfate and coal, followed by leaching and crystallization.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 188, which is incorporated by reference. Copies are available from the National Academy

Press, 2101 Constitution Ave. NW., Washington, DC. 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as a nutrient supplement as defined in § 170.3(o)(20) of this chapter.

(2) The ingredient is used in the following foods at levels not to exceed current good manufacturing practice: baked goods as defined in § 170.3(n)(1) of this chapter; alcoholic beverages as defined in § 170.3(n)(2) of this chapter; dairy product analogs as defined in § 170.3(n)(10) of this chapter; fish products as defined in § 170.3(n)(13) of this chapter; meat products as defined in § 170.3(n)(29) of this chapter; milk products as defined in § 170.3(n)(31) of this chapter; and poultry as defined in § 170.3(n)(34) of this chapter. The ingredient may be used in infant formulas in accordance with section 412 (g) of the Federal Food, Drug, and Cosmetic Act (the act) or with regulations promulgated under section 412(a)(2) of the act.

The agency is unaware of any prior sanction for the use of these ingredients in foods under conditions different from those identified in this document. Any person who intends to assert or rely on such a sanction shall submit proof of its existence in response to this proposal. The action proposed above will constitute a determination that excluded uses would result in adulteration of the food in violation of section 402 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342), and the failure of any person to come forward with proof of an applicable prior sanction in response to this proposal constitutes a waiver of the right to assert or rely on it later. Should any person submit proof of the existence of a prior sanction, the agency hereby proposes to recognize such use by issuing an appropiate final rule under Part 181 (21 CFR Part 181) or affirming it as GRAS under Part 184 or 186 (21 CFR Part 184 or 186), as appropriate.

Interested persons may, on or before February 15, 1983, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy.

Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 19, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-34257 Filed 12-16-82; 8:45 am]

BILLING CODE 4160-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL 2228-3]

Approval and Promulgation of Implementation Plans; Illinois

AGENCY: Environmental Protection Agency.

ACTION: Proposed Rulemaking.

SUMMARY: This notice proposes rulemaking and solicits public comment on the incorporation of an alternate control strategy (ACS) or "bubble" into the Illinois State Implementation Plan (SIP). This proposed revision, if approved, will allow the Granite City Steel Division of National Steel, located in Granite City, Illinois, to use an ACS to control open dust fugitive sources such as parking lots and roadways in lieu of controlling its blast furnace casthouse. This proposed SIP revision was submitted to the Environmental Protection Agency (EPA) by the State of Illinois on September 30, 1982, pursuant to Section 110 of the Clean Air Act (Act).

DATE: Comments on this revision and on the proposed EPA action must be received by January 17, 1983.

ADDRESSES: Copies of the SIP revision are available at the following addresses for review: (It is recommended that you telephone Randolph O. Cano, at (312) 886-6035, before visiting the Region V office).

Environmental Protection Agency, Region V, Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604

Illinois Environmental Protection Agency, Division of Air Pollution Control, 2200 Churchill Road, Springfield, Illinois 62706

Comments on this proposed rule should be addressed to: Gary Gulezian, Chief, Regulatory Analysis Section, Air Programs Branch, USEPA, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Randolph O. Cano, Air Programs Branch, Region V Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6035.

SUPPLEMENTARY INFORMATION: On April 7, 1982 (47 FR 15076), the Environmental Protection Agency issued a proposed Emissions Trading Policy Statement which sets forth general principles for the creation, banking and use of emission reduction credits. This statement indicated that it is the policy of EPA to encourage use of emissions trades to achieve more flexible, rapid and efficient attainment of national ambient air quality standards (NAAQS). It describes emissions trading, sets out general principles EPA will use to evaluate emissions trades under the Act, and expands opportunities for States and industry to use these less costly control approaches. The April 7, 1982, notice noted that, until EPA takes final action on its policy statement, State actions involving emission trades would be evaluated under the provisions set forth in the proposed statement.

On September 30, 1982, the Illinois Environmental Protection Agency (IEPA) submitted a proposed revision to the Illinois SIP in the form of an approved ACS permit.

This ACS would, if finally adopted, give credit to the Granite City Steel Division of National Steel Corporation (GCS) for providing greater control of fugitive particulate emissions from the facility's unpaved roadways and parking lots than is required by State regulations. This extra reduction in emissions from the roads and parking lots will be substituted for control of emissions from the blast furnace casthouse. This SIP revision, if approved, would waive installation of casthouse control equipment until 1986 and would require implementation of the ACS by December 31, 1982.

After EPA takes final action to approve the SIP, the March 18, 1981, Consent Decree among EPA, IEPA and GCS will be modified to reflect the requirements of the ACS. This Consent Decree was entered after negotiations among the parties in order to resolve continuing violations by GCS of Illinois Pollution Control Board (IPCB) Rules 202 and 203 which are part of the existing federally approved Illinois SIP. An amendment to this Consent Decree has been drafted and was submitted to EPA. In this amendment, the section requiring control of casthous emissions has been revised; and a new section has been added which sets forth specific open dust control requirements.

Background

According to the State, without air pollution controls, particulate emissions from unpaved roads, parking lots, and the blast furnace casthouse at GCS are estimated to total 3,281 tons per year (tpy): (a) Unpaved roads (2,662 tpy), (b) parking lots (322 tpy), and (c) blast furnace casthouse (307 tpy). Existing State compliance programs require that these emissions be reduced to 1,671 tpy by December 31, 1982.

Fugitive particulate emissions from the unpaved roads and parking lots are governed by IPCB Rules and Regulations, Chapter 2: Air Pollution. Rule 203(f)(3)(C) states that all normal traffic pattern roads must be paved or treated on a regular basis with water, oil or chemicals. Rule 203(f)(3)(F) requires submission of a plant-specific operating program designed to significantly reduce fugitive particulate emissions. Granite City Steel's program, as required by that rule, is estimated to control particulate emissions with 50 percent efficiency and would, accordingly, reduce particulate emissions by 1,487 tpy by December 31, 1982. This reflects a 50 percent reduction from the uncontrolled rate of 2,974 tpy for these sources.

Particulate emissions from the blast furnance casthouse are regulated by the State of Illinois under IPCB Rule 203(d)(5)(D)(i) or (ii). Rule (i) requires a quantitative evaluation of emissions against a numerical limit. Rule (ii) requires installation of air pollution control equipment on the casthouse. According to the IEPA, installation and operation of control equipment required by Rule 203(d) at the casthouse would reduce particulate emissions by 123 tpy from the uncontrolled rate of 307 tpy.

To summarize, IEPA believes that compliance with existing State regulatory requirements for GCS would reduce particulate emission by 1,610 tpy: (1,487 tpy from roads and parking lots and 123 tpy from the casthouse).

Comparison Between Granite City Steel's Alternative Control Strategy (ACS) Proposal and Existing State Requirements.

According to IEPA, the State's existing regulatory requirements provide for: (a) Control of fugitive particulate emissions from roadways and parking lots at 50 percent effectiveness, and (b) control of particulate emissions from the blast furnace casthouse. In the ACS, GCS is proposing to increase control of emissions from roadways and parking lots to 75 percent effectiveness in exchange for not installing casthouse control equipment. Under the State's requirement, this trade must produce environmentally equivalent reductions in particulate emissions to be an acceptable ACS.

GCS claims that fugitive particulate emissions can be reduced by 75 percent by using a chemical dust suppressant (Coherex or equal). This would amount to a 25 percent increase in control for these sources or 744 tpy in addition to the 1,487 tpy provided by the existing compliance programs.

According to IEPA, the required frequency of application to achieve a 75 percent reduction in particulate emissions was determined using information from other steel mills which use chemical applications and from an in-plant traffic survey. Some areas of the plant will have the chemical dust suppressant applied once a month, while the more traveled routes will have four applications per month. An additional 290 tpy of reduction in particulate emissions will be achieved by paving 1.57 miles of roadways and two of the larger parking lots. While the paving program will not be completed until December 1983, those areas to be paved will be controlled with a chemical dust suppressant until the paving is completed. Coupled with the 744 tpy from using a chemical dust suppressant, total additional reductions in open dust emission from the ACS proposal amount to 1,034 tpy.

According to IEPA, the net reduction in particulate emissions gained from the ACS proposal is 911 tpy or approximately a 7 to 1 reduction ratio when compared with reducing emissions at the casthouse by 123 tpy.

The State's analysis to determine the acceptability of the emissions trade used IPCB Rule 203(d)(5)(D) to determine the emissions baseline for the casthouse. Since this rule has been disapproved by EPA, EPA found it necessary to perform an independent analysis of the emissions reductions required under RACT and the proposed emission reductions in the ACS. The April 7, 1982, proposed Emission Trading Policy Statement requires a RACT baseline to be used as the basis for such an analysis. EPA's analysis is consistent with the proposed policy statement.

The differences between EPA's independent analysis and IEPA's analysis, as summarized above, involve the following: uncontrolled emission factor for casthouse; controlled, RACT-level emission factor for casthouse; open dust control efficiency for use of dust suppressant chemical; and control efficiency for paving plus cleaning. The EPA regional office has determined for this specific facility that RACT is 50 percent control effectiveness. The differences are discussed in detail in the technical support document which is available for inspection at the Region V office listed in the front of this notice. The accompanying Table summarizes the results of EPA's analysis. Despite the use of different assumptions, EPA agrees with IEPA's conclusion that the ACS provides for an emissions trade (i.e., open dust emission reductions below the RACT level for casthouse emissions above the RACT level) that results in greater reduction of TSP than would occur under Illinois current SIP limitations. Therefore, EPA agrees with IEPA's conclusion that the emissions trade is acceptable, although it does not accept certain assumptions used by IEPA in the latter's analysis of this bubble proposal.

COMPARISON OF EMISSION LEVELS REQUIRED BY RACT AND THE ACS

[illegible]	RACT (tpy)	Alternative control strategy (tpy)
Open Dust Fugitive Sources:		
BOF Roads	[illegible]	49.1
Steel Works Roads	[illegible]	79.1
Blast Furnance Roads	223.7	44.7
North Plant Roads	336.2	53.8
South Plant Roads	54.5	10.9
Wastewater Treatment Plant Roads	9.4	6.6
Parking Lots	158.2	29.3
Subtotal From Open Dust Fugitive Sources	1484.2	261.4
Casthouse	51	511
Total emissions	1535.2	784.5
Net Difference: (ACS Emissions Reduction Benefit)		750.7

In developing the comparison of emission levels required by RACT and the ACS, U.S. EPA has determined 50% control to represent the RACT baseline for unpaved roads at this plant.

As explained in EPA's Emission Trading Policy Statement, EPA will pursue a post approval monitoring network with the state agency which can be used to evaluate the impact of the ACS. Monitoring data from additional sites, if determined to be necessary, will supplement post approval data from existing monitoring sites. If the results of monitoring indicate that the ACS does not produce the predicted air quality impact, further enforceable emission reductions will be required.

EPA's proposed Emissions Trading Policy Statement also requires that each "bubble" application make a demonstration of ambient "equivalence." Because the ACS would not result in an increase in applicable baseline emissions and the ACS emission levels were not expected to significantly degrade air quality in the area of highest impact, only a screening

modeling analysis (limited to the specific sources involved in the trade) was required. GCS provided an air quality analysis (using the Industrial Source Complex-Long Term Model) which shows a net air quality improvement due to the ACS at the model receptor of highest impact.

However, the Granite City Steel modeling analysis did not directly address the 24-hour averaging period. Consequently, EPA is requiring that a short term ambient equivalence demonstration be performed which, per the EPA emission trading policy statement, must show that the ACS will not result in a significant air quality impact (i.e., 10 $\mu g./m^3$, 24-hour average). The modeling analysis is scheduled to be completed during the public comment period for this proposed rulemaking. There will be adequate opportunity for the public to review the results of the short-term modeling prior to EPA's final rulemaking on the GCS AECP. Anyone who wishes to be notified of the availability of the short-term modeling analysis should call the contact person listed at the beginning of this notice. Based on results of the annual air quality analysis, EPA has preliminarily determined that the ACS will not interfere with measures in the Illinois TSP SIP which are designed to lead to attainment and maintenance of the annual TSP NAAQS in the Granite City primary nonattainment area.

EPA believes that the proposed ACS is consistent with EPA's proposed Emission Trading Policy Statement. EPA is proposing to approve GCS's ACS since it should lead to a reducion in particulate levels and will not interfere with measures in the Illinois TSP SIP which are designed to lead to attainment and maintenance of the TSP NAAQS in the Granite City primary TSP nonattainment area. According to EPA's analysis, the ACS provides an emissions offset greater than 1 to 1 in relation to the level of emissions reduction required by RACT-level controls. The ACS will, according to EPA's analysis, provide an emissions reduction of nearly 763 tons per year below the RACT baseline.

EPA's final action on this proposal will consider the results of the short-term ambient equivalence demonstration and all public comments. The September 7, 1982, technical support document contains a description of the required short-term modeling procedures.

EPA, therefore, proposes approval of this ACS. Public comment is invited on this proposed SIP revision, on the issues discussed in the technical support document, and on EPA's proposed approval.

Comments should be submitted to the address listed in the front of this notice. Public comments received on or before January 17, 1983, will be considered in EPA's final rulemaking action. All comments received will be available for inspection at Region V: Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604.

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709)

Under Executive Order 12291, today's action is not "Major". The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

(Sec. 110 of the Act, as amended)

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

Dated: October 6, 1982.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 82-34285 Filed 12-16-82; 8:45 am]

BILLING CODE 3560-50-M

---

40 CFR Part 52

[A-5-FRL 2219-6]

Michigan; Approval and Promulgation of Implementation Plans

AGENCY: U.S. Environmental Protection Agency.

ACTION: Proposed rulemaking.

SUMMARY: On June 24, 1982, the State of Michigan submitted Consent Order No. 16-1982 for Great Lakes Steel (GLS), a Division of National Steel Corporation (National Steel), as a revision to the Michigan State Implementation Plan (SIP). The Consent Order provides an alternate emissions control plan (AECP) or "bubble" which will result in reductions of particulate emissions in the Detroit (Wayne County) primary nonattainment area. The Consent Order requires that all controls be implemented by December 31, 1982. At the request of the State of Michigan, EPA is today proposing approval of this action and soliciting public comment on this revision.

DATE: Comments must be submitted on or before January 17, 1983.

ADDRESSES: Copies of this SIP revision are available for review during normal business hours at the following addresses:

U.S. Environmental Protection Agency, Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604

Michigan Department of Natural Resources, Air Quality Divsion, State Secondary Government Complex, General Office Building, 7150 Harris Drive, Lansing, Michigan 48917

Written Comments Should Be Sent To: Gary Gulezian, Chief, Regulatory Analysis Section, Air Programs Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Toni Lesser, Regulatory Analysis Section, Air Programs Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604 (312) 886-6037.

SUPPLEMENTARY INFORMATION: In the May 22, 1981, **Federal Register** (46 FR 27923), EPA published a notice of final rulemaking on Michigan's Part D SIP revision for iron and steel sources in the Detroit primary total suspended particulates (TSP) nonattainment area. This final rule approved, conditionally approved, and disapproved various provisions in Michigan's SIP and conditionally approved the State's overall control strategy for the Detroit primary TSP nonattainment area. The State of Michigan has committed itself to satisfy all conditions promulgated in the May 22, 1981, notice by December 31, 1982.

GLS, a Division of National Steel, operates integrated iron and steel making facilities in Ecorse and Zug Island, River Rouge, Michigan. These plants are located in the Detroit TSP nonattainment area.

The Ecorse facilities consist of:

- Two basic oxygen process (BOP) shops
- An electric are furnace (EAF) shop
- Steel rolling facilities

The Zug Island facilities consist of:

- Three coke oven batteries
- Four blast furnaces
- A sinter plant and associated support facilities
- Raw material storage and handling operations

In order to bring these facilities into compliance with all applicable State and County air pollution control regulations, abatement programs were developed and incorporated into two consent judgments: "U.S. v. National Steel Corporation, Civil Action No. 79-73214, U.S. District Court, Eastern District of Michigan," entered March 31, 1981, and

"Wayne County Department of Health v. National Steel Corporation, Civil Action No. 71–187905–CE, Wayne County Circuit Court," originally entered October 2, 1972, with the latest revision entered September 8, 1978. In part, the abatement programs included in these judgments require the company to cease operation of the DAF shop and to install secondary particulate emission capture and control systems at the No. 2 BOP shop and theblas furnace casthouse operations. Consent Judgement No. 71–187905–CE includes an industrial fugitive dust (i.e., open dust) control program which the Michigan Department of Natural Resources (MDNR) has indicated will fulfill the requirements of Michigan's Rule 336.1371. EPA proposed approval of this rule as requiring reasonably available control technology (RACT) on June 29, 1982 (47 FR 28112).

In August, 1981, National Steel proposed its AECP or "bubble," to the Wayne County Air Pollution Control Division. Under the AECP, GLS would pave and clean certain plant roadways beyond the RACT level of control reflected in Michigan's SIP for TSP and control the EAF shop to the New Source Performance Standards (NSPS) level. Greater than RACT-level control on the roadways and EAF shop would be traded for less than RACT-level control at the No. 2 BOP shop and the blast furnace casthouses.

On April 7, 1982, USEPA proposed an "Emissions Trading Policy Statement" (47 FR 15076). In that notice, EPA stated its intention to use the principles of the proposed policy to evaluate trading activities which become ripe for decision prior to the policy's final promulgation. The policy requires the use of a RACT baseline to determine the quantities of emissions to be traded in a bubble in areas that do not have a modeled demonstration of attainment of the TSP primary standard by December 31, 1982 (47 FR 15080). For the Detroit area, MDNR did not demonstrate attainment of the TSP national ambient air quality standards (NAAQS) through dispersion modeling. However, the approved Michigan TSP SIP for that area will include, when finalized, RACT-based requirements for industrial process fugitive and open dust emissions. The Emissions Trading Policy requires use of this RACT baseline in reviewing and approving bubbles for Michigan's primary TSP nonattainment areas. In addition, the Emissions Trading Policy also requires that a demonstration of ambient "equivalence" be made prior to approval.

At Region V's request, Wayne County reviewed specific portions of its open dust control requirements. Wayne County and the MDNR in June, 1982, obtained commitments from National Steel to pave additional road footage under a revised AECP in order to obtain reduced open dust emissions below the RACT baseline.

On June 24, 1982, the State of Michigan submitted Consent Order No. 16–1982 for GLS, National Steel Corporation, as a revision to the Michigan SIP. On July 19, 1982; July 27, 1982; and July 28, 1982, National Steel sent results of an air quality modeling analysis intended to meet the requirements of an equivalency demonstration for a "bubble."

Consent Order No. 16–1982 for National Steel establishes alternative emission limitations and contains TSP emission limitation changes for the following sources:

(1) Electric Arc Furnace Shop,

(2) Roadways,

(3) No. 2 Basic Oxygen Process Shop, and

(4) Blast Furnaces A, B, C, and D (Zug Island).

Specifically, additional control will not be required for the blast furnace casthouses. However, National Steel may operate only two of its four casthouses at GLS at any time (except during the period for startup of a replacement blast furnace; not to exceed two weeks). For the No. 2 BOP shop, capture and cleaning of secondary emissions presently required by the Federal Consent Judgment would be replaced by changes in operating practices affecting hot metal charging. In addition, the No. 1 BOP shop will close down.

Increased emissions, over a RACT baseline for the No. 2 BOP shop and blast furnace casthouses will be more than offset by controls beyond RACT requirements at the EAF Shop and from roadway open dust sources. That is, secondary emissions from the GLS EAF Shop will be controlled to the level required by the NSPS. Currently, charging and tapping emissions are uncontrolled and the direct shell evacuation system for melting and refining has a low capture efficiency. In addition, 90 percent control will be achieved by paving and sweeping 1400 feet of unpaved roads (sections of the Raw Materials Storage Road and the No. 5 Coke Battery Road) and 50 percent control will be achieved by vacuum sweeping 1200 feet of the paved Zug Island Road. In developing the comparison of the emission levels required by RACT and the AECP, U.S. EPA has determined 50% control to represent the RACT baseline for unpaved roads at this plant.

To calculate uncontrolled secondary emissions for charging and tapping from the No. 2 BOF shop, the U.S. EPA used emission factors based on an average of recent test data from two other BOF facilities. A control credit of 50% was given for charging based on operating practices which would be required under the AECP. In addition a control credit of 67% was given to reflect existing tapping controls. EPA solicits comments on this calculation as presented in more detail in the associated Technical Support Document.

In summary, the AECP provides over 262 tons per year greater emission reduction at the GLS plant than would be required by RACT for the sources covered by the AECP.

EPA's proposed Emissions Trading Policy Statement requires that each "bubble" application make a demonstration of ambient "equivalence." Because the AECP will not result in an increase in applicable baseline emissions and the AECP emission levels were not expected to significantly degrade air quality in the area of highest impact, only a screening modeling analysis (including only the specific sources involved in the trade) was required. GLS provided an air quality analysis (using the Industrial Source Complex—Long Term Model) which shows a net air quality *improvement* due to the AECP at the model receptor of highest impact.

As explained in EPA's Emission Trading Policy Statement, EPA will pursue a post approval monitoring network with the state and local agencies which can be used to evaluate the impact of the AECPs. Monitoring data from additional sites, if determined to be necessary, will supplement post approval data from existing monitoring sites. If the results of monitoring indicate that the AECP does not produce the predicted air quality impact, further enforceable emission reductions will be required.

However, GLS's modeling analysis did not directly address the 24-hour averaging period. Consequently, EPA is requiring that a short term ambient equivalence demonstration be performed which, per EPA's Emission Trading Policy Statement, must show that the AECP will not result in a significant air quality impact (i.e. 10 μg./m^3, 24-hour average). The modeling analysis is scheduled to be completed during the public comment period for this proposed rulemaking.

There will be adequate opportunity for the public to review the results of the short-term modeling prior to EPA's final rulemaking on the GLS AECP. Anyone who wishes to be notified of the availability of the short-term modeling analysis should call the contact person listed at the beginning of this notice.

Based on results of the annual air quality analysis, EPA has preliminarily determined that the AECP will not interfere with measures in the Michigan TSP SIP which are designed to lead to attainment and maintenance of the annual TSP NAAQS in the Detroit primary nonattainment area.

EPA believes that National Steel's Consent Order No. 16–1982, which incorporates the "bubble" concept, is consistent with EPA's proposed Emission Trading Policy Statement. EPA is proposing to approve National Steel's AECP since it should lead to a reduction in particulate levels and will not interfere will measures in the Michigan TSP SIP which will lead to attainment and maintenance of the TSP NAAQS in the Detroit primary TSP nonattainment area. EPA's final action on this proposal will consider the results of the short term ambient equivalence demonstration and all public comments. The Consent Order requires all controls to be implemented by December 31, 1982. EPA's rationale for approval, dated September 10, 1981, contains a further analysis of National Steel's AECP and a description of the required short-term modeling procedures. EPA is providing a thirty-day comment period on this notice of proposed rule-making. Public comment received on or before January 17, 1983, will be considered in EPA's final rulemaking. When possible, comments should be submitted in triplicate. All comments will be available for inspection during normal business hours at the Region V office listed at the beginning of this notice. Please call the contact person listed at the beginning of this notice, before visiting the Region V office.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709)

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

(Sec. 110 of the Clean Air Act, as amended)

Dated: September 16, 1982.

Valdas Adamkus,

Regional Administrator.

[FR Doc. 82–34298 Filed 12–16–82; 8:45 am]

BILLING CODE 6560–50–M

---

40 CFR Part 123

[W–2–FRL 2269–5]

New Jersey Department of Environmental Protection; Underground Injection Control; Primacy Application

AGENCY: Environmental Protection Agency.

ACTION: Notice of public comment period and of public hearing.

SUMMARY: The purpose of this notice is to announce that: (1) The Environmental Protection Agency (EPA) has received a complete application from the New Jersey Department of Environmental Protection requesting approval of its Underground Injection Control Program; (2) the application is available for inspection and copying; (3) public comments are requested; and (4) a public hearing will be held.

This notice is required by the Safe Drinking Water Act as a part of the response to the States complying with the statutory requirement that there be an Underground Injection Control program in designated States.

The proposed comment period and public hearing will provide EPA the breadth of information and public opinion necessary either to approve, disapprove, or approve in part and disapprove in part the application from the New Jersey Department of Environmental Protection to regulate Classes I, II, III, IV, and V injection wells.

DATES: Requests to present oral testimony should be filed by January 10, 1983. A public hearing will be held January 19, 1983, at 10:00 a.m. and will continue until the end of testimony. Written comments must be received by February 2, 1983. EPA reserves the right to cancel the hearing should there be no significant public interest. Those informing EPA of their intention to testify will be notified of the cancellation.

ADDRESSES: Comments and requests to testify may be mailed to Leon Lazarus, Water Supply Branch, Environmental Protection Agency, Region II, 26 Federal Plaza, New York, New York 10278. Copies of the application and pertinent material are available at the following locations:

Environmental Protection Agency, Water Supply Branch, Room 824, 26 Federal Plaza, New York, New York 10278, (212) 264–1800

New Jersey Department of Environmental Protection, Division of Water Resources, Bureau of Ground Water Management, 1474 Prospect Street, Trenton, New Jersey 08625, (609) 292–5262.

The hearing will be held in the Archives Room, first floor State Library, 185 West State Street, Trenton, New Jersey.

FOR FURTHER INFORMATION CONTACT: Peter Acker, Water Supply Branch, Environmental Protection Agency, Region II, 26 Federal Plaza, New York, New York 10278, (212) 264–3279. Comments should also be sent to this address.

SUPPLEMENTARY INFORMATION: The application from the New Jersey Department of Environmental Protection is for the regulation of all injection wells in the State. The main goal of the New Jersey program is to protect underground sources of drinking water. To this end the State program includes elements for permitting, inspection, monitoring and enforcement of underground injection control activities. Twenty-five Class V wells that are used for gas storage will be permitted. The remaining one thousand two hundred and twenty-four Class V wells that have been identified will be authorized by rule. The State regulations are being changed to allow for both authorization by permit and rule. All permitted wells must demonstrate mechanical integrity at least once every five years. New Jersey is not proposing to exempt any aquifer at this time.

This application includes a description of the State Underground Injection Control program, copies of all applicable regulations and forms, a statement of legal authority, and the memorandum of agreement between the new Jersey Department of Environmental Protection and the Region II office of the Environmental Protection Agency.

List of Subjects in 40 CFR Part 123

Hazardous materials, Indians-lands, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control, Water supply, Intergovernmental relations, Penalties, Confidential business information.

Dated: December 9, 1982.

Frederic A. Eidsness, Jr.,

Assistant Administrator for Water

[FR Doc. 82-34299 Filed 12-16-82; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Office of Hearings and Appeals

43 CFR Part 4

Department Hearings and Appeals Procedures

AGENCY: Office of Hearings and Appeals, Interior.

ACTION: Withdrawal of proposed rules.

SUMMARY: This Office had proposed revisions to certain of its procedural regulations governing administrative hearings and appeals within the Department of the Interior. Further consideration of the proposed changes has resulted in the conclusion that they are unnecessary and should be withdrawn.

EFFECTIVE DATE: December 16, 1982.

FOR FURTHER INFORMATION CONTACT: F. Christopher Bockmon (703) 235-3750.

SUPPLEMENTARY INFORMATION: On May 27, 1980 (45 FR 35351), this Office proposed revisions to 43 CFR Part 4, Subpart A. The minor changes proposed to these regulations have been determined to be unnecessary and are being withdrawn. For a document withdrawing proposed revisions to 43 CFR Part 4, Subpart I (published at 45 FR 35351, May 27, 1980), see 47 FR 27067, June 23, 1982, and for a document removing 43 CFR Part 4, Subpart H (proposed at 45 FR 35351, May 27, 1980), see 47 FR 42574, September 28, 1982.

Dated: December 9, 1982.

John N. Stafford,

Director, Office of Hearings and Appeals.

PART 4—DEPARTMENT HEARINGS AND APPEALS PROCEDURES

The revisions to 43 CFR Part 4, Subpart A, proposed on May 27, 1980 (45 FR 35351), are withdrawn.

[FR Doc. 82-34177 Filed 12-16-82; 8:45 am]

BILLING CODE 4310-10-M

Notices

Federal Register
Vol. 47, No. 243
Friday, December 17, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

Proposed Determination of Marketing Quotas for the 1983–84 Marketing Year for Fire-Cured (Types 22–23), and Dark Air-Cured (Types 35–36), Tobaccos

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Notice of Proposed Determinations.

SUMMARY: The Secretary of Agriculture is required by the Agricultural Adjustment Act of 1938, as amended, to determine and announce by February 1, 1983, the amounts of the national marketing quotas for fire-cured (types 22–23) and dark air-cured tobacco for the 1983–84 marketing year. In addition, the Secretary is required to conduct referenda to determine whether producers prefer marketing quotas on an acreage basis or a poundage basis. The public is invited to submit written comments, views and recommendations concerning the determination of the national marketing quotas for such kinds of tobacco, the referenda to be held, and other related matters.

DATE: Comments must be received on or before January 17, 1983 in order to be assured of consideration.

ADDRESSES: Send comments to the Director, Analysis Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013. All written submissions made pursuant to the notice will be made available for public inspection from 8:15 a.m. to 4:45 p.m. Monday through Friday, in room 3741-South Building, 14th and Independence Avenue, SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Robert L. Tarczy, Economist, Analysis Division, ASCS, Room 3736 South Building, P.O. 2415, Washington, D.C. 20013, (202) 447–5187. The Preliminary Regulatory Impact Analysis describing the options considered in developing this notice and the impact of implementing each option is available on request from Robert L. Tarczy.

SUPPLEMENTARY INFORMATION: This notice has been reviewed in conformity with Executive Order 12291 and Secretary's Memorandum 1512–1 and has been classified as "not major." It has been determined that the implementation of these determinations will not result in: (1) An annual effect on the economy of $100 million or more; (2) major increases in costs for consumers, individual industries, Federal, State and local government agencies or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal Assistance Program that this notice applies to are: Title—Commodity Loan and Purchases, Number—10.051, as set forth in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to the notice since the Agricultural Stabilization and Conservation Service (ASCS) is not required by 5 U.S.C. 553 or any provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this notice.

Since the national marketing quotas for dark air-cured tobacco and fire-cured tobacco are required by statute to be proclaimed by February 1, 1983, comments with respect to this notice of proposed determination must be received not later than 30 days after publication of this notice in the **Federal Register** in order to be assured of consideration.

The Agricultural Adjustment Act of 1938, as amended by the No Net Cost Tobacco Program Act of 1982 (hereinafter referred to as the "Act"), requires that with respect to fire-cured (types 22–23) and dark air-cured (types 35–36) tobacco, the Secretary of Agriculture must, by February 1, 1983, proclaim national marketing quotas for such kinds of tobacco for the three marketing years beginning October 1, 1983, and determine and announce the amount of the marketing quota for such kinds of tobacco for the marketing year beginning October 1, 1983. In addition, the Secretary is required to conduct within 30 days after the announcement of such national marketing quotas, a referendum of producers engaged in the 1982 production of each of such kinds of tobacco to determine whether they favor farm marketing quotas on a poundage basis for the three marketing years beginning October 1, 1983, instead of quotas on an acreage basis for the two marketing years beginning October 1, 1983. If 50 percent or more of the producers voting in such referenda approve marketing quotas on a poundage basis, such quotas will be in effect for the three marketing years beginning October 1, 1983. If poundage quotas are not approved by at least 50 percent of the producers voting in such referenda, quotas on an acreage basis will be in effect for the two marketing years beginning October 1, 1983.

If marketing quotas on an acreage basis are in effect for any such kind of tobacco, and a referendum to determine whether producers favor marketing quotas on a poundage basis has not been held for at least three marketing years and if the Secretary, after conducting public hearings, determines that producers and other interested persons favor marketing quotas on a poundage basis for such kind of tobacco, the Secretary shall, at the time of the next announcement of the amount of the national marketing quota, announce national marketing quotas for the next three succeeding marketing years. Within 30 days of such proclamation, the Secretary will conduct a referendum to determine whether producers favor marketing quotas on a poundage basis for the next three succeeding marketing years. If more than 50 percent of the producers voting in such referendum approve marketing quotas on a poundage basis, such quotas shall be in effect for the next three succeeding marketing years and the marketing quotas on an acreage basis shall cease to be in effect at the beginning of such three-year period. If marketing quotas on a poundage basis are not approved by more than 50 percent of the producers voting in the referendum, then marketing quotas on an acreage basis will continue.

If marketing quotas on a poundage basis are in effect for any such kind of

tobacco for three consecutive marketing years, the Secretary shall determine and announce, not later than February 1 preceding the second and third marketing years, the amount of the national marketing quota for such kind of tobacco for each of such years. If marketing quotas on a poundage basis have been in effect for such kind of tobacco, the Secretary shall, not later than February 1 of the last of three consecutive marketing years for which such quotas are in effect for such kind of tobacco, proclaim a national marketing quota for such kind of tobacco for the next three succeeding marketing years. In addition, the Secretary shall conduct public hearings to determine whether producers favor national marketing quotas on an acreage basis or on a poundage basis and shall proclaim the quota on the basis he determines most producers of such kind of tobacco favor. Within 30 days of the proclamation, the Secretary shall conduct a referendum of producers engaged in the production of such kind of tobacco harvested immediately prior to the holding of the referendum to determine if such quotas are favored for the next three succeeding marketing years. If more than 50 percent of the producers voting in such referendum oppose the national marketing quotas, then the Secretary shall announce the results and no marketing quotas or price support will be in effect for such kind of tobacco and the national marketing quotas so proclaimed will not be in effect for the next three succeeding marketing years. If at least 50 percent of the producers voting in such referendum favor the national marketing quotas, such quotas will be in effect and price support will be available to eligible producers.

Marketing quotas on an acreage or poundage basis, less any reserves, shall be apportioned among old farms. Reserves shall be apportioned for use in (1) Establishing acreage allotments or poundage quotas for new farms, and (2) making corrections and adjusting inequities in old farm allotments or poundage quotas.

Quotas were previously proclaimed, marketing quota referenda conducted, and quotas approved by growers for fire-cured (types 22–23) and dark air-cured (types 35–36) tobacco for the 1982–83, 1983–84, and 1984–85 marketing years (47 FR 20167). Producers of such kinds of tobacco will be entitled to participate in the tobacco price support program.

Section 301(b)(15) of the Act (7 U.S.C. 1301(b)(15)) defines "tobacco" as each one of the kinds of tobacco listed below comprising the types specified as classified in Service and Regulatory Announcement Number 118 (7 CFR Part 30) of the former Bureau of Agricultural Economics of the Department:

Flue-cured tobacco, comprising types 11, 12, 13 & 14;
Fire-cured tobacco, comprising type 21;
Fire-cured tobacco, comprising types 22, 23, & 24;
Dark air-cured tobacco, comprising types 35 & 36;
Virginia sun-cured tobacco, comprising type 37;
Burley tobacco, comprising type 31;
Maryland tobacco, comprising type 32;
Cigar-filler and cigar-binder tobacco, comprising types 42, 43, 44, 45, 46, 51, 52, 53, 54 & 55; and
Cigar-filler tobacco, comprising type 41.

Section 301(b)(15) of the Act also provides that any one or more of the types comprising any such kind of tobacco shall be treated as a "kind of tobacco" for the purposes of the Act if the Secretary finds that there is a difference in supply and demand conditions among such types of tobacco which results in a difference in the adjustments needed in the marketings thereof in order to maintain supplies in line with demand. Pursuant to this authority, the Secretary has issued a determination (15 FR 8214) that type 46 tobacco shall be treated as a separate kind of tobacco for purposes of marketing quotas and price support. Also pursuant to such authority, the Secretary has issued a determination (22 FR 367) that beginning with the 1957–58 marketing year, cigar-binder (types 51–52) shall be treated as a separate kind of tobacco for purposes of marketing quotas and price support. Type 45 tobacco is no longer grown. No further action under this section is contemplated at this time.

Since producers have a choice between marketing quotas on an acreage basis or a poundage basis, and because acreage allotment determinations differ slightly from poundage quota determinations, both methods of determinations are discussed below.

Acreage Determination

Section 312(b) of the Act (7 U.S.C. 1312(b)) provides that the Secretary shall determine and announce, not later than the first day of February 1983, with respect to kinds of tobacco other than flue-cured tobacco, the amount of the national marketing quota which will be in effect for the 1983–84 marketing year in terms of the total quantity of tobacco which may be marketed which will make available during such marketing year a supply of each kind of tobacco equal to the reserve supply level. Section 312(b) provides further that the amount of the 1983–84 national marketing quota so announced may, not later than March 1, 1983, be increased by not more than 20 percent if the Secretary determines that such increase is necessary in order to meet market demands or to avoid undue restrictions of marketings in adjusting the total supply to the reserve supply level.

Section 313(g) of the Act (7 U.S.C. 1313(g)) authorizes the Secretary to convert the national marketing quota into a national acreage allotment by dividing the national marketing quota by the national average yield for the five years immediately preceding the year in which the national marketing quota is proclaimed and to apportion through local committees the national acreage allotment to tobaco producing farms (less a reserve not to exceed 1 percent thereof for new farms and for making corrections and adjusting inequities in old farm allotments) among old farms.

Poundage Determination

Section 319(c) of the Act (7 U.S.C. 1314e(c)) defines "national marketing quota" for various kinds of tobacco including fire-cured (types 22–23) and dark air-cured (types 35–36) for a marketing year as the amount of that kind of tobacco produced in the United States which the Secretary estimates will be used domestically and will be exported during the marketing year, adjusted upward or downward in such amount as the Secretary, in his discretion, determines is desirable for the purpose of maintaining an adequate supply or for effecting an orderly reduction of supplies to the reserve supply level. The maximum downward adjustment is 5 percent of estimated domestic use and exports.

For the 1983–84 marketing year, total use for fire-cured (types 22–23) and dark air-cured (types 35–36) tobaccos is estimated to be 34 million pounds and 16 million pounds, respectively.

National Average Yield Goal

The Act provides that when a marketing quota program for these kinds of tobacco is first established under section 319(c), such farm yields determined with respect to fire-cured (types 22–23) and dark air-cured (types 35–36) tobaccos shall be adjusted proportionately so that the weighted average of the farm yield is equal to the national average yield goal of each respective tobacco.

Since different methods are used to determine marketing restrictions and different determinations are made with respect to marketing quotas on an

acreage basis or on a poundage basis, the amount of such quotas would normally be different. However, in order to avoid influencing the outcome of the referenda with regard to an election by producers between marketing quotas on an acreage or poundage basis, the national average yield goal will be used to adjust yields with respect to the marketing quotas on a poundage basis so that the amount of tobacco which could be marketed without penalty under either an acreage or poundage basis would be similar. Such calculations do not take into consideration the 10 percent which could be marketed under a poundage basis and which would otherwise be excluded from the succeeding year's quota.

Section 319(e) of the Act (7 U.S.C. 1314e(e)) provides, in part, that each farm marketing quota shall be determined by miltiplying the previous year's farm marketing quota by a national factor. The national factor is obtained by dividing the national marketing quota determined under subsection 319(c) (7 U.S.C. 1314e(c)) (less the national reserve) by the sum of the farm marketing quotas for the immediately preceding year for all farms for which tobacco marketing quotas will be determined for such succeeding marketing year: *Provided,* that such national factor shall not be less than 95 percent.

A national reserve of 65 acres bas been established for fire-cured (types 22–23) tobacco for the 1982–83 marketing year. A national reserve of 40 acres has been established for dark air-cured (types 35–36) tobacco for the 1982–83 marketing year (47 FR 5916). It is proposed that a national reserve be established for the 1983–84 marketing year.

Section 301(b)(14)(B) of the Act defines "reserve supply level" as the normal supply, plus 5 percent thereof, to insure a supply adequate to meet domestic consumption and export needs in years of drought, flood, or other adverse conditions, as well as in years of plenty. The term "normal supply" is defined in section 301(b)(10)(B) of the Act as a normal year's domestic consumption and exports, plus 175 percent of a normal year's domestic consumption and 65 percent of a normal year's exports as an allowance for a normal year's carryover. A "normal year's domestic consumption" is defined in section 301(b)(11)(B) of the Act as the yearly average quantity of such tobaccos that was produced and consumed in the United States during the 10 marketing years immediately preceding the marketing year in which such consumption is determined (1982–83), adjusted for current trends in such consumption.

A "normal year's exports" is defined in section 301(b)(12) of the Act as the yearly average quantity produced in and exported from the United States during the 10 marketing years immediately preceding the marketing year in which such exports are determined (1982–83), adjusted for current trends in such exports.

Section 301(b)(16)(B) of the Act defines "total supply" as the carryover at the beginning of the marketing year (October 1) plus the estimated production in the United States during the calendar year in which the marketing year begins. The total supply for fire-cured (types 22–23) tobacco for the 1982–83 marketing year is 103.5 million pounds, based on 1982 marketings of 41.0 million pounds and carryover stocks of 62.5 million pounds. The total supply for dark air-cured (types 35–36) tobacco for the 1982–83 marketing year is 55.7 million pounds, based on 1982 marketings of 17.8 million pounds and carryover stocks of 37.9 million pounds.

Proposed Determinations

Accordingly, the Secretary proposes to make the following determinations for fire-cured (types 22–23) and dark air-cured (types 35–36) tobaccos for the 1983–84 marketing year:

1. With respect to fire-cured (types 22–23) tobacco.

a. A national marketing quota on a poundage basis within the range of 38 to 48 million pounds, and a national acreage allotment within the range of 21,000 to 27,000 acres;

b. A reserve supply level within the range of 80 million to 105 million pounds;

c. A national reserve within the range of 50,000 to 150,000 pounds and 25 to 100 acres.

2. With respect to dark air-cured (types 35–36) tobacco.

a. A national marketing quota on a poundage basis within the range of 18 to 22 million pounds and a national acreage allotment within the range 9,600 to 12,000 acres;

b. A reserve supply level within the range of 40 million to 55 million pounds.

c. A national reserve within the range of 50,000 to 100,000 pounds and 25 to 50 acres.

The Secretary of Agriculture also proposes to announce the dates or periods of the referenda on the type of marketing restrictions for these tobaccos and whether the referenda should be conducted at polling places rather than by mail ballot as prescribed in 7 CFR Part 717.

Signed at Washington, D.C., on December 15, 1982.

Everett Rank,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 82-34399 Filed 12-16-82; 8:45 am]

BILLING CODE 3410-05-M

Forest Service

Salmon National Forest; Idaho, Lemhi, and Valley Counties, Idaho; Revised Notice of Intent To Prepare an Environmental Impact Statement for Proposed Forest Land and Resource Management Plan

A Notice of Intent to Prepare an Environmental Impact Statement for the Salmon National Forest Land Resource Management Plan was published in the **Federal Register,** Volume 45, No. 198, Thursday, October 9, 1980 which was later amended as published in the **Federal Register,** Volume 46, No. 91 Tuesday, May 12, 1981 and Volume 47, No. 42, Wednesday, March 3, 1982.

The estimated dates for filing the Draft and Final Environmental Impact Statements with the Environmental Protection Agency and release to the public have been further postponed. The Draft Environmental Impact Statement is now expected in August 1983, and the Final Environmental Impact Statement is proposed for release in March 1984.

All other conditions of the original Notice of Intent remain the same.

Dated: December 7, 1982.

George H. Robinson,

Regional Forester.

[FR Doc. 82-33997 Filed 12-16-82; 8:45 am]

BILLING CODE 3410-11-M

Rural Electrification Administration

Oglethorpe Power Corp.; Environmental Impact

AGENCY: Rural Electrification Administration, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: Notice is hereby given that the Rural Electrification Administration (REA) pursuant to the National Environmental Policy Act of 1969, the Council on Environmental quality guidelines (40 CFR Parts 1500–1508), and REA's Bulletin 20–21:320–21, Environmental Policies and Procedures, has made a Finding of No Significant Impact with respect to proposed financing assistance to Oglethorpe

Power Corporation (OPC) of Atlanta, Georgia, for construction of a 230/25 kV substation at Deshong and 3.75 miles of 230 kV transmission line from this substation to Snellville, all in Ginnett County, Georgia.

FOR INFORMATION CONTACT: REA's Finding of No Significant Impact and Environmental Assessment (EA) along with OPC's Borrower's Environmental Report (BER) and other related material can be reviewed in or requested from the Office of the Director, Southeast Area-Electric, Room 0268, South Agriculture Building, REA, Washington, D.C. 20250, telephone (202) 382–8437, or the offices of OPC, (Mr. F. F. Stacy, Jr., Manager) 2888 Woodcock Boulevard, Tuland Building, Atlanta, Georgia 30348, telephone (404) 455–1121.

SUPPLEMENTARY INFORMATION: REA reviewed the BER submitted by OPC and determined that it represents an accurate evaluation of the environmental impacts of the proposed project.

REA has determined that the proposed project will have no affect on cultural resources or threatened or endangered species and no significant adverse affect to prime farmland, floodplains or wetlands. A small portion of the transmission right-of-way crosses prime farmland which is now in woodland use. In addition, the right-of-way crosses approximately 1.1 km (.68 mi) of the floodplains and 0.06 km (0.035 mi) of wetlands. To the extent practicable these areas will be spanned. Most impacts will be restricted to the construction phase of the project and, overall, the construction and operation will have no unacceptable impacts to the environment.

A number of alternatives were considered, including no action, conservation, and various transmission line routes and substation sites. REA finds that the proposed alternative is acceptable since it meets the needs of consumer members with a minimum of adverse impact.

Based upon the BER and other related data, REA prepared an EA and Finding of No Significant Impact concerning the proposed construction. It is REA's view that the proposed financing assistance will not be a major Federal action that will affect significantly the quality of the human environment.

In accordance with REA's Bulletin 20–21:320–21, dated January 21, 1980, OPC advertised the availability of the BER in the Gwinnett Daily News and the Atlanta Journal. Comments were solicited and the public was given 30 days to reply. No comments were received.

This program is listed in the Catalog of Federal Domestic assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated: December 10, 1982.

Jack Van Mark,

Acting Administrator.

[FR Doc. 82–34121 Filed 12–16–82; 8:45 am]

BILLING CODE 3410–15–M

Soil Conservation Service

Pt. Mugu Outlet, Revolon Watershed, Calif; Environmental Statement

AGENCY: Soil Conservation Service.

ACTION: Withdrawal of notice of intent to prepare an environmental impact statement.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement will not be prepared for the Pt. Mugu Outlet, Revolon Watershed, Ventura County, California.

FOR FURTHER INFORMATION CONTACT: Eugene Andreuccetti, State Conservationist, Soil Conservation Service, 2828 Chiles Road, Davis, California 95616, telephone (916) 758–2200.

SUPPLEMENTARY INFORMATION: The preliminary environmental assessment of this federally assisted action had indicated that the project may cause significant local, regional, or national impacts on the environment. Therefore, a Notice of Intent to prepare an Environmental Impact Statement was published in the **Federal Register** on April 17, 1981. However, later studies have indicated that project purposes can be served without causing adverse damages to the environment. As a result of these findings, Eugene Andreuccetti, State Conservationist, has determined that the preparation and review of an environmental impact statement is not needed for this project.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Eugene, E. Andreuccetti,

State Conservationist.

[FR Doc. 82–34201 Filed 12–16–82; 8:45 am]

BILLING CODE 3410–16–M

North Concordia Watershed, La.; Deauthorize Federal Funding

AGENCY: Soil Conservation Service.

ACTION: Notice of intent to deauthorize federal funding.

SUMMARY: Pursuant to the Watershed Protection and Flood Prevention Act, Pub. L. 83–566, and the Soil Conservation Service Guidelines (7 CFR 622), and the Soil Conservation Service gives notice of intent to deauthorize Federal funding for the North Concordia Watershed project, Concordia and Catahoula Parishes, Louisiana.

FOR FURTHER INFORMATION CONTACT: Harry S. Rucker, State Conservationist, Soil Conservation Service, 3737 Government Street, Alexandria, Louisiana 71301, telephone (318) 473–7751.

SUPPLEMENTARY INFORMATION: A determination has been made by Harry S. Rucker that the proposed works of improvement for the North Concordia Watershed project will not be installed. The sponsoring organizations have concurred in this determination and agree that Federal funding should be deauthorized for the project. Information regarding this determination may be obtained from Harry S. Rucker, State Conservationist, at the above address and telephone number.

No administrative action on implementation of the proposed deauthorization will be taken until 60 days after the date of this publication in the **Federal Register.**

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Harry S. Rucker,

State Conservationist.

[FR Doc. 82–33994 Filed 12–16–82; 8:45 am]

BILLING CODE 3410–16–M

Sandy Creek Watershed, Tex.; Deauthorize Federal Funding

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of intent to deauthorize federal funding.

SUMMARY: Pursuant to the Watershed Protection and Flood Prevention Act, Pub. L. 83–566, and the Soil Conservation Service Guidelines (7 CFR 622), the Soil Conservation Service gives notice of the intent to deauthorize Federal funding for the Sandy Creek

Watershed project, Jasper County, Texas.

FOR FURTHER INFORMATION CONTACT: George C. Marks, State Conservationist, Soil Conservation Service, W. R. Poage Federal Building, 101 South Main, Temple, Texas 76503, telephone 817/774–1214.

SUPPLEMENTARY INFORMATION: A determination has been made by George C. Marks that the proposed works of improvement for the Sandy Creek Watershed project will not be installed. The sponsoring local organizations have concurred in this determination and agree that Federal funding should be deauthorized for the project. Information regarding this determination may be obtained from George C. Marks, State Conservationist, at the above address and telephone number. No administrative action on implementation of the proposed deauthorization will be taken until 60 days after the date of this publication in the **Federal Register.**

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention. Office of Management and Budget Circular A–95 regarding State and local clearing house review of Federal and federally assisted programs and projects is applicable)

Dated: December 3, 1982.

Carl B. Fountain,

Deputy State Conservationist.

[FR Doc. 82–33951 Filed 12–16–82; 8:45 am]

BILLING CODE 3410–16–M

CIVIL AERONAUTICS BOARD

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed under Subpart Q of the Board's Procedural Regulations; Week Ended December 10, 1982

Subpart Q Applications

The due date for answers conforming application, or motions to modify scope are set forth below for each application. Following the answer period the board may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases final order without further proceedings (See, 14 CFR 302.1701 et seq.).

Date filed	Docket No.	Description
Dec. 6, 1982	41128	Western Air Lines, Inc., P.O. Box 92005, World Way Postal Center Los Angeles, California 90009. Application of Western Air Lines, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests an amendment of its certificate of public convenience and necessity for Route 52 authorizing it to engage in foreign air transportation with respect to persons, property and mail: Between the terminal point Los Angeles, California, the intermediate point Salt Lake City, Utah, and the coterminal points Calgary and Edmonton, Alberta, Canada. Western requests it be authorized to integrate this new authority with its other Canada authority on Route 52 subject, of course, to such route authority integration being consistent with applicable local regulations and bilateral agreements. Conforming Applications, Motions to Modify Scope, and Answers may be filed by January 3, 1983.
Dec. 6, 1982	41129	Western Air Lines, Inc., P.O. Box 92005, World Way Postal Center Los Angeles, California 90009. Application of Western Air Lines, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests for an amendment of its certificate of public convenience and necessity for Route 52 authorizing it to engage in foreign air transportation with respect to persons, property and mail. Between the terminal point San Francisco, California, the intermediate point Salt Lake City, Utah, and the coterminal points Toronto, Ontario and Montreal, Quebec, Canada Western requests it be authorized to integrate this new authority with its other Canada authority on Route 52 subject of course, to such route authority integration being consistent with applicable local regulations and bilateral agreements. Conforming Applications, Motions to Modify Scope, and Answers may be filed by January 3, 1982.
Dec. 6, 1982	41132	Guy-America Airways, Inc. c/o Michael Goldman, Verner, Liipfert, Bernhard and McPherson, Suite 1100, 1660 L Street, N.W., Washington, D.C. 20036. Application of Guy-America Airways, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests issuance of an amended certificate of public convenience and necessity for Route 290 authorizing it to engage in foreign air transportation of persons, property and mail between all points in the United States and points in Costa Rico as follows: "1. Between a point on points in the United States (except Miami, Fla., and New Orleans, La.) and a point or points in Costa Rica." Conforming Applications, Motions to Modify Scope, and Answers may be filed by January 3, 1983.
Dec. 6, 1982	41139	Global International Airways Corp., c/o James M. Burger, Shaw, Pittman, Potts & Trowbridge, 1800 M Street, N.W., Suite 900 South, Washington, D.C. 20036. Application of Global International Airways Corp. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests authority to provide scheduled foreign air transportation of persons, property, and mail as follow: Between Los Angeles, California and Toronto/Montreal, Ontario. Between San Francisco, California and Toronto/Montreal, Ontario. Between Honolulu, Hawaii and Vancouver, Canada. Conforming Applications, Motions, to Modify Scope, and Answers may be filed by January 5,1983.
Dec. 10, 1982	41142	Ceskoslovenske Aerolinie, c/o Allan I, Mendelsohn, Ward & Mendelsohn, 1725 Eye Street, N.W., Suite 310, Washington, D.C. 20006. Application of Ceskoslovenske Aerolinie pursuant to Section 402 of the Act and Subpart Q of the Board's Procedural Regulations applies for the amendment and/or renewal of its Foreign Air Carrier Permit so as to permit it to continue its on-going operations in scheduled foreign air transportation between the United States of America and the Czechoslovak Socialist Republic. Answers may be filed by January 7, 1983.
Dec. 10, 1982	41032	Jet USA Airlines, Inc., c/o Edwin O. Bailey, Kirkland & Ellis, 1776 K Street, N.W., Washington, D.C. 20006. Second Amendment to Applications of Jet USA Airlines, Inc. containing additional information to be considered in the record of this proceeding. Answer may be filed by January 6, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82–34301 Filed 12–16–82; 8:45 am]

BILLING CODE 6320–01–M

Orders Concerning Subsidy and Mail Rates

Order 82–12–28, December 1982, Docket 40817, proposing subsidy rates for Alaskan Airlines, Inc. for the provision of essential air service at Cordova, Yakutat, Petersburg, Wrangler, Gustavus, Bosewell Bay, Cape Yakataga, Chisana, Chitina, Gulkana, Iay Bay, May Creck and McCarthy Alaska.

Order 82–12–29, December 9, 1982, Dockets 40807 and 35351, proposing subsidy rates for Wien Air Alaska, Inc. for the provision of essential air service at 36 Alaskan Bush points.

Order 82–12–33, December 9, 1982, proposes new intra-Hawaii final service mail rates for the first half of calendar year 1983.

Order 82–12–34, December 9, 1982, Docket 37294, proposes new final

domestic service mail rates for the first half of calendar year 1983.

Order 82–12–35, December 9, 1982, Docket 37392, proposes new final international service mail rates for the first half of calendar year 1983.

FOR FURTHER INFORMATION CONTACT: Concerning Orders 82–12–34 and 35, James E. Gardner, Bureau of International Aviation, (202) 673–5391, and for orders 82–12–28 and 29, James M. Craun, Bureau of Domestic Aviation, (202) 673–5428.

Copies of the orders are available from the C.A.B. Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request.

By the Civil Aeronautics Board: December 9, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82–34300 Filed 12–16–82; 8:45 am]

BILLING CODE 6320–01–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket No. 23–82; Foreign-Trade Zone 50]

Long Beach, California; Application for Subzone at Toyota Truck Cargo Body Plant, Long Beach

The period for comments on the above case involving a special-purpose subzone for the truck cargo body manufacturing plant of Toyota in Long Beach, California (47 FR 44128, October 6, 1982) is extended until February 4, 1983.

Further general comments are invited until January 5, 1983. Because there has been no public hearing on the proposal, interested parties may include questions involving nonproprietary information, which after review by the FTZ Staff might be posed to the applicant.

The period after January 5 and until February 4 shall be used only for rebuttal comments. Answers to any questions asked of the applicant will be expected by January 25. The answers will be available for inspection together with other record material.

Submissions shall include 5 copies. The material submitted will be available to the public at the: Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 1872, 14th and Pennsylvania, NW., Washington, D.C. 20230.

Dated: December 13, 1982.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 82–34309 Filed 12–16–82; 8:45 am]

BILLING CODE 3510–25–M

International Trade Administration

Certain Stainless Steel Products From the United Kingdom; Postponement of Countervailing Duty Preliminary Determinations

AGENCY: International Trade Administration, Commerce.

ACTION: Postponement of Countervailing Duty Preliminary Determinations.

SUMMARY: The countervailing duty preliminary determinations involving certain stainless steel products (see Appendix A) from the United Kingdom are being postponed as the investigations have been determined to be extraordinarily complicated. We intend to issue the countervailing duty preliminary determinations not later than February 4, 1983.

EFFECTIVE DATE: December 17, 1982.

FOR FURTHER INFORMATION CONTACT: Vincent P. Kane, Office of Investigations, Import Administration, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230, telephone (202) 377–5414.

SUPPLEMENTARY INFORMATION: On November 2, 1982, we announced our initiation of countervailing duty investigations to determine whether producers, manufacturers, or exporters of certain stainless steel products from the United Kingdom receive any benefits from the government of the United Kingdom or the European Community, as appropriate, that constitute subsidies (47 FR 49692). The notice stated that we would issue preliminary determinations by December 31, 1982.

As detailed in the notice of initiation of the countervailing duty investigations, the petition alleges that the government of the United Kingdom and the European Community provide various programs which constitute subsidies to producers, manufacturers, or exporters of certain stainless steel products. The alleged subsidy practices are numerous amd raise complex issues. These cases are further complicated because of the need to determine the extent to which particular subsidies are used by individual manufacturers, producers, or exporters. We have determined that the government of the United Kingdom and the other parties concerned are cooperating and that additional time is necessary to make the countervailing duty preliminary determinations. For these reasons we determine that these cases are extraordinarily complicated in accordance with section 703(c)(1)(B) of the Tariff Act of 1930, as amended ("the Act"), and we intend to issue countervailing duty preliminary determinations not later than February 4, 1983.

This notice is published pursuant to section 703(c)(2) of the Act.

Dated: December 10, 1982.

Leonard M. Shambon,

Director, Office of Compliance.

Appendix A—Description of Products

For purposes of these investigations:

(1) The term "*stainless steel sheet, and strip*" covers hot or cold-rolled stainless steel sheet or strip products, excluding hot or cold-rolled stainless steel strip not over 0.01 inch in thickness, as currently provided for in items 607.7610, 607.9010, 607.9020, 608.4300, and 608.5700 of the *Tariff Schedules of the United States Annotated* (TSUSA).

Hot-rolled stainless steel sheet covers hot-rolled stainless steel sheet whether or not corrugated or crimped and whether or not pickled; not cold-rolled; not cut, not pressed and not stamped to non-rectangular shape; not coated or plated with metal; and under 0.1875 inch in thickness and over 12 inches in width.

Hot-rolled stainless steel strip is a flat-rolled stainless steel product, whether or not corrugated or crimped, and whether or not pickled; not cold-rolled; not cut, not pressed, and not stamped to non-rectangular shape; and under 0.1875 inch in thickness and not over 12 inches in width. Hot-rolled stainless steel strip, including razor blade strip, not over 0.01 inch in thickness is not included.

Cold-rolled stainless steel sheet covers cold-rolled stainless steel sheet products whether or not corrugated or crimped and whether or not pickled; not cut, not pressed and not stamped to non-rectangular shape; not coated or plated with metal; and under 0.1875 inch in thickness and over 12 inches in width.

Cold-rolled stainless steel strip is a flat-rolled stainless steel product, whether or not corrugated or crimped, and whether or not pickled; not cut, not pressed, and not stamped to non-rectangular shape; and under 0.1875 inch in thickness and over 0.50 inch but not over 12 inches in width. Cold-rolled stainless steel strip, including razor blade strip, not over 0.01 inch in thickness is not included.

(2) The term "stainless steel plate" covers stainless steel plate products as provided for in items 607.7605 and 607.9005 of the TSUSA. Stainless steel plate is a flat-rolled product, whether or not corrugated or crimped, in coils or cut to length, 0.1875 inches or more in thickness and over 8 inches in width or if cold-rolled over 12 inches in width.

[FR Doc. 82–34310 Filed 12–16–82; 8:45 am]

BILLING CODE 3510–25–M

Preliminary Affirmative Countervailing Duty Determination: Frozen Concentrated Orange Juice From Brazil

AGENCY: International Trade Administration, Commerce.

ACTION: Preliminary Affirmative Countervailing Duty Determination.

SUMMARY: We preliminarily determine that certain benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Brazil of frozen concentrated orange juice. The estimated net subsidy is 2.655 percent *ad valorem*. Therefore, we are directing the U.S. Customs Service to suspend liquidation of all entries of frozen concentrated orange juice from Brazil which are entered, or withdrawn from warehouse, for consumption, and to require a cash deposit or bond on these products in the amount equal to the estimated net subsidy.

If this investigation proceeds normally, we will make our final determination by February 24, 1983.

EFFECTIVE DATE: December 17, 1982.

FOR FURTHER INFORMATION CONTACT: Francis R. Crowe, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, telephone: (202) 377–3003.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

Based upon our investigation, we preliminarily determine that there is reason to believe or suspect that certain benefits which constitute subsidies within the meaning of section 701 of the Tariff Act, of 1930, as amended (the Act), are being provided to manufacturers, Producers, or exporters in Brazil of frozen concentrated orange juice. For purposes of this investigations, the following programs are preliminarily found to confer subsidies:

- Preferential working capital financing for exports.
- Income tax exemption for export earnings.

We estimate the net subsidy to be 2.655 percent ad valorem.

Case History

On July 14, 1982, we received a petition from Florida Citrus Mutual, filed on behalf of the U.S. growers of oranges for processing into frozen concentrated oranges juice. The petition alleged that certain benefits which constitute subsidies within the meaning of section 701 of the Act are being provided, directly or indirectly, to the manufacturers, producers, or exporters in Brazil of frozen concentrated orange juice.

We found the petition to contain sufficient grounds upon which to initiate a countervailing duty investigation, and on August 2, 1982, we initiated a countervailing duty investigation (47 FR 37172). We stated that we expected to issue a preliminary determination by October 7, 1982. We subsequently determined that the investigation is "extraordinarily complicated," as defined in section 703(c) of the Act, and postponed our preliminary determination for 65 days until December 13, 1982 (47 FR 45896).

Since Brazil is a "country under the Agreement" within the meaning of section 701(b) of the Act, an injury determination is required for this investigation. Therefore, we notified the U.S. International Trade Commission (ITC) of our initiation. On September 9, 1982, the ITC preliminarily determined that there is a reasonable indication that these imports are materially injuring, or threatening to materially injure, a U.S. industry (47 FR 39740).

We presented a questionnaire concerning the allegations to the government of Brazil in Washington, D.C. On December 1, 1982, we received the response to that questionnaire.

Scope of the Investigation

The product covered by this investigation is frozen concentrated orange juice as provided for in item 165.3500 of the *Tariff Schedules of the United States Annotated*. This amends the product description contained in the notice of initiation which stated that the product under investigation was "oranges used for production into frozen concentrated orange juice." The tariff classification was correct in that notice.

There are nine known producers and exporters in Brazil of frozen concentrated orange juice to the United States. We have received information from the government regarding three of these companies, Cargill Industrial Ltda. (CARGILL), Citrosuco Paulista S.A. (CITROSUCO) and Sucocitrico Cutrale S.A. (CUTRALE), which represented over 85 percent of exports of this product to the United States during a recent, representative period—calendar year 1981. The period for which we are measuring subsidization is the most recently completed fiscal year for each company. CARGILL operates on a fiscal year which runs from March 1 to February 28. The fiscal years for CITROSUCO and CUTRALE run from May 1 to April 30. Therefore, the period for which we are measuring subsidization for CARGILL is March 1, 1981 to February 28, 1982; for CITROSUCO and CUTRALE the period is May 1, 1981 to April 30, 1982. This period corresponds to the 1981 fiscal year for all three companies.

Analysis of Programs

In its response, the government of Brazil provided data for the applicable periods. Based upon our analysis to date of the petition and the response to our questionnaire, we preliminarily determine the following.

I. Programs Preliminarily Determined To Confer Subsidies

We preliminarily determine that subsidies are being provided to manufacturers, producers, or exporters in Brazil of frozen concentrated orange juice under the following programs.

A. *Preferential working capital financing for exports: Resolution 674.* Under this program, companies are declared eligible to receive working capital loans by the Department of Foreign Commerce of the Banco Central do Brasil (CACEX). These loans may have a duration of up to one year. Firms in the frozen concentrated orange juice industry can obtain this financing at preferential rates for up to 12 percent of the net f.o.b. value of the previous year's exports. The maximum dollar eligibility under this program is established by CACEX and is stated on the "Certificado de Habilitacao" issued to recipients. We preliminarily determine that such financing is an export subsidy.

The net export value is calculated by taking numerous deductions from the export value of the merchandise, including agent commissions, contractual penalties or refunds, exports denominated in cruzeiros, imported imputs over 20 percent of the export value, and a deduction for the company's trade deficit as a percentage of the value of its exports.

To determine the value of loans in existence under this program during the 1981 fiscal year, we prorated any loans that straddled other fiscal years. For loans taken out in fiscal year 1980, only that portion extending into fiscal year 1981 was included in our calculation. Any fiscal year 1981 loans extending into fiscal year 1982 were similarly adjusted. We then divided the total value of these loans by the total value of exports of the three companies under investigation to calculate the amount of preferential financing they received.

As in previous Brazilian countervailing duty cases, we are using

the rate established by the Banco do Brasil for discounting sales of accounts receivable as the commercial rate for the acquisition of short-term working capital. We have used this comparison because information provided by the government of Brazil indicates that, within the Brazilian financial system, working capital is normally raised through the sale of accounts receivable. Currently, the annual rate for discounting sales of accounts receivable is 59.6 percent plus a 6.9 percent tax on financial transactions (IOF).

The interest rate on loan under Resolution 674 is 40 percent, with interest payable semiannually and the principal fully payable on the due date of the loan. The effective rate of interest for these loans is 44 percent. These loans are also exempt from the IOF. Therefore, the differential between these two types of financing is 22.5 percent. When multiplying this differential by the amounty of preferential financing received as a percent of exports, we calculated an *ad valorem* export subsidy of 1.527 percent.

B. *Income tax exemption for export earnings.* Exporters of frozen concentrated orange juice are eligible to participate in this program, under which the percentage of their profit attributable to export revenue is exempt from income tax. To arrive at this percentage, export revenue is divided by total revenue. The amount of profit exempt from the income tax is then multiplied by the 35 percent corporate income tax rate to determine the amount of the benefit.

In a program of this kind, benefits cannot be determined with finality until the books are closed sometime in the following year. Therefore, we must look at fiscal year 1980 income tax returns to determine if any benefit was received in fiscal year 1981. All three companies received benefits under this program in fiscal year 1981. By dividing the benefit received by the value of exports of the companies under investigation, we calculated an *ad valorem* export subsidy of 1.128 percent.

II. Programs Preliminarily Determined Not To Confer Subsidies

We preliminarily determine subsidies are not being provided to manufacturers, producers, or exporters in Brazil of frozen concentrated orange juice under the following programs:

A. *Exemption from State value-added tax (ICM).* The State value-added tax (ICM) is applicable only to domestic sales of frozen concentrated orange juice. Export transactions are exempt from such taxation. The exemption of indirect taxes on exported goods does not constitute a countervailable benefit under either section 303 or section 701 of the Tariff Act of 1930, as amended.

B. *Exemption from Federal industrialized products tax (IPI).* The Federal IPI value-added tax is applicable only to domestic sales of frozen concentrated orange juice. Export transactions are exempt from such taxation. The exemption of indirect taxes on exported goods does not constitute a countervailable benefit under either section 303 or section 701 of the Tariff Act of 1930, as amended.

III. Program Preliminarily Determined Not To Be Used

We preliminarily determine that the following program was not used by the manufacturers, producers, or exporters in Brazil of frozen concentrated orange juice.

A. *Federal industrialized products tax (IPI) export credit premium.* The IPI export credit premium program was suspended on December 7, 1979. When the IPI export credit premium was reinstated on April 1, 1981, the orange-concentrate industry was specifically excluded from receiving the benefits of this program (Ministry of Finance Ordinance No. 78).

Program Preliminarily Determined To Be No Longer in Existence

We preliminarily determine that the following program is no longer in existence.

A. *State value-added tax (ICM) export credit premium.* This program, which provided Brazilian companies an overrebate of a state value-added tax on goods destined for export, was eliminated by Convention 01–79, published January 12, 1979.

Verification

In accordance with section 776(a) of the Act, we will verify data used in making our final determination.

Suspension of Liquidation

In accordance with section 703(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of frozen concentrated orange juice from Brazil which are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register** and to require a cash deposit or bond for each such entry of this merchandise in the amount of 2.655 percent *ad valorem.* This suspension will remain in effect until further notice.

ITC Notification

In accordance with section 703(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

Public Comment

In accordance with section 355.35 of the Commerce Department Regulations, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 10:00 a.m. on January 20, 1983, at the U.S. Department of Commerce, Room 3080, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room 3099B, at the above address within ten days of this notice's publication.

Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs in at least ten copies must be submitted to the Deputy Assistant Secretary by January 13, 1983. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 355.34, within thirty days of this notice's publication, at the above address and in at least ten copies.

Dated: December 13, 1982.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 82-34308 Filed 12-16-82; 8:45 am]

BILLING CODE 3510-25-M

Preliminary Determination of Sales at Less Than Fair Value; Certain Stainless Steel Sheet and Strip Products From the Federal Republic of Germany

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Preliminary Determination of Sales at Less than Fair value: Certain Stainless Steel Sheet and Strip Products from the Federal Republic of Germany.

SUMMARY: We have preliminarily determined that certain stainless steel

sheet and strip products from the Federal Republic of Germany (FRG) are being sold, or are likely to be sold, in the United States at less than fair value. Therefore, we have notified the U.S. International Trade Commission (ITC) of our determination, and we have directed the U.S. Customs Service to suspend liquidation of all entries of the subject merchandise which are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice and to require a cash deposit or bond for each such entry in an amount equal to the estimated dumping margins as described in the "Suspension of Liquidation" section of this notice.

If this investigation proceeds normally, we will make a final determination within 75 days of the publication of this notice in the **Federal Register.**

EFFECTIVE DATE: December 17, 1982.

FOR FURTHER INFORMATION CONTACT: Mary S. Clapp, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone (202) 377–2438.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

As provided in section 733 of the Tariff Act of 1930, as amended (the Act), we have preliminarily determined that there is a reasonable basis to believe or suspect that certain stainless steel sheet and strip products from the FRG are being sold, or are likely to be sold, in the United States at less than fair value.

The estimated margins for individual products investigated are given in the "Suspension of Liquidation" section of this notice.

The estimated margins for Thyssen AG (Thyssen), Krupp Stahl AG (Krupp) and Vereinigte Deutsche Metallwerke AG (VDM) are based on the best information available as explained in the section of this notice which describes our fair value comparisons. These margins could change substantially in the final determination if verifiable information is furnished in a timely fashion.

If this investigation proceeds normally, we will make a final determination within 75 days of the publication of this notice in the **Federal Register.**

Case History

On April 26, 1982, we received a petition filed by counsel on behalf of eleven U.S. specialty steel producers and on behalf of the United Steelworkers of America. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports from the Federal Republic of Germany of certain stainless steel sheet and strip products are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act and that these imports are materially injuring, or are threatening to materially injure, a U.S. industry.

After reviewing the petition, we determined it contained sufficient grounds to initiate an antidumping investigation. We notified the ITC of our action and initiated such investigation on May 17, 1982 (47 FR 22132). On June 10, 1982, the ITC found that there is a reasonable indication imports of stainless steel sheet and strip products are materially injuring, or are threatening to materially injure, a U.S. industry. We determined this case to be "extraordinarily complicated", as defined in section 733(c) of the Act. Therefore, we extended the period for making a preliminary determination by 50 days until November 22, 1982 (47 FR 41800).

Questionnaires were presented to Krupp and Thyssen on June 3, 1982. Their responses were received on August 9, 1982 and August 13, 1982. VDM requested a questionnaire on June 25, 1982 and submitted its response on August 13, 1982. Our review of the responses revealed numerous deficiencies and we requested additional information and non-confidential summaries which were submitted in part on various dates from October 4 through November 18, 1982. Some deficiencies have not been corrected. The deficiencies and submission of additional information are described in detail in the "Supplemental Information Required" section of this notice.

Scope of Investigation

The certain stainless steel sheet and strip products covered by this investigation are:

- Hot-rolled stainless steel sheet
- Hot-rolled stainless steel strip
- Cold-rolled stainless steel sheet
- Cold-rolled stainless steel strip.

For a further description of these products see the appendix appearing with this notice.

Since Krupp, Thyssen and VDM manufacture and export virtually all of the certain stainless steel sheet and strip products exported from the FRG to the United States, we limited our investigation to them.

This investigation covers the period from July 1 to December 31, 1981, for purchase price sales and from October 1, 1981 to March 31, 1982, for exporter's sales price transactions.

Fair Value Comparison

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we used the best information available as required by section 776(b) of the Act to make fair value comparisons. We used the best information available for each manufacturer because adequate responses were not submitted in time to allow analysis of the information and/or the respondents failed to provide adequate non-confidential summaries of confidential information or permission for release under administrative protective order (APO). A full discussion of the reasons for using the best information available is contained in the "Supplemental Information Requested" section of this notice. The best information available for purposes of this preliminary determination was the information on fair value margins, based on alleged selling prices in the United States and the FRG, contained in the petition. We used the simple average of the margins contained in the petition.

Supplemental Information Requested

Section 776(b) of the Act states that whenever any party refuses or is unable to produce information requested, the Commerce Department may use the best information otherwise available for determining the existence of sales at less than fair value. We did so with respect to the following companies for purposes of this preliminary determination for the reasons indicated below:

1. *Thyssen.* Thyssen submitted a response to our questionnaire on August 9, 1982. Our review of that response revealed numerous deficiencies. By letter dated September 21, 1982, we requested additional information, concerning a large portion of Thyssen's home market sales, extensive further information on various aspects of the data on home market and U.S. sales in its response, and a non-confidential summary or permission for release under an APO of its confidential sales data. The letter stated that failure to provide data and summaries by October 1, 1982, would require us to use the best information otherwise available, according to section 776(b) of the Act.

Some additional information was filed on October 5 and 18, 1982. The additional essential sales information and a non-confidential summary,

however, were filed only on November 3, 1982. The summary was incomplete. Thyssen gave permission for release of its confidential price data only on November 15, 1982. At this time we have not determined whether the additional sales data are adequate. The information is currently being reviewed.

In addition, on August 9, 1982, Thyssen submitted computer tapes with overlapping data bases. A new tape was submitted only on November 12, 1982. We found further deficiencies in the data contained on that computer tape. These deficiencies related to a substantial number of home market sales which were deleted from the tape. We requested a further tape which was submitted only on November 18, 1982, which did not allow sufficient time for our analysis prior to this preliminary determination.

If the above information is not adequate, we will ask Thyssen once again to provide additional information before verification. If this information is not submitted by December 30, 1982, we will be unable to verify it. Where information is not furnished, or is furnished too late to verify, we may use the best information available for our final determination. The analysis and verification of Thyssen's response could substantially change the sales at less than fair value margins calculated for our preliminary determination for Thyssen.

2. *Krupp.* Krupp submitted a response to our questionnaire on August 9, 1982. Our review of that response revealed numerous deficiencies. By letter dated September 14, 1982, we requested that Krupp provide us with a non-confidential summary of its sales data and additional information on its home market and U.S. sales. The letter stated that failure to provide this information by October 1, 1982, would require us to use the best information otherwise available, according to section 776(b) of the Act. The additional information requested was submitted in usable form, in part on October 4, 1982, and in part on October 28, 1982, which did not allow sufficient time for proper analysis prior to this preliminary determination. This information is currently being reviewed for possible use for our final determination.

The verification of Krupp's response could subtantially change the sales at less than fair value margins calculated for our preliminary determination for Krupp.

3. *VDM.* VDM submitted a partial response to our questionnaire on August 13, 1982. Our review of the response revealed numerous deficiencies. By letter dated September 22, 1982, we requested that VDM provide us with additional sales data including exporter's sales price information, and a non-confidential summary or permission to release confidential information under APO by October 1, 1982 (19 CFR 353.28). The letter stated that failure to provide this information by October 1, 1982, would require us to use the best information otherwise available, according to section 776(b) of the Act. The corrected information, including the original exporter's sales price response, was furnished on October 28, 1982 and November 5, 1982. The non-confidential summary, however, was not submitted until November 8, 1982. Therefore, we have not had sufficient time to analyze the above information for purposes of this preliminary determination. We are currently reviewing this information.

If the above information is not adequate, we will ask VDM once again to provide additional information before verification. If this information is not furnished by December 30, 1982, we will be unable to verify it. Where the information is not furnished, or furnished too late to verify, we may use best information available for our final determination. The analysis and verification of VDM's response could substantially change the sales at less than fair value margins calculated for our preliminary determination for VDM.

Verification

We will verify all data used in reaching the final determination in this investigation, as provided in section 776(a) of the Act.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the U.S Customs Service to suspend liquidation of all entries of stainless steel sheet and strip products. This suspension of liquidation applies to all merchandise entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the Federal Register. the Customs Service shall require a cash deposit or the posting of a bond equal to the estimated margin amount by which the foreign market value of the merchandise subject to this investigation exceeds the United States price. The suspension of liquidation will remain in effect until further notice. The estimated antidumping duty margins are as follows:

Product	Margin (percent)
Hot-rolled stainless steel sheet and strip	11
Cold-rolled stainless steel sheet	27
Cold-rolled stainless steel strip	43

ITC Notification

In accordance with section 733(f) of the Act, we will notify the ITC or our determination. In addition, we are making available to the ITC all non-privileged and non-confidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Scretary for Import Administration.

The ITC will determine whether these imports are materially injuring or threatening to materially injure a U.S. industry, before the latter of 120 days after the Department made its preliminary affirmative determination or 45 days after the Department made its final affirmative determination.

Public Comment

In accordance with § 353.47 of the Commerce Department Regulations, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 10:00 a.m. on January 13, 1983, at the U.S. Department of Commerce, Room B841, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room 3099B, at the above address within ten days of this notice's publication. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs in at least ten copies must be submitted to the Deputy Assistant Secretary by January 6, 1983. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 353.46, within thirty days of this notice's publication,

at the above address and in at least ten copies.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

December 14, 1982.

Appendix—Product Description: Certain Stainless Steel Sheet and Strip Products

For the purpose of this investigation, the term "certain stainless steel sheet and strip products" covers hot or cold-rolled stainless steel sheet or strip, excluding hot or cold-rolled stainless steel strip not over 0.01 inch in thickness, as currently provided for in items 607.7610, 607.9010, 607.9020, 608.4300, and 608.5700 of the *Tariff Schedules of the United States Annotated.*

Hot-rolled stainless steel sheet covers hot-rolled stainless steel sheet products whether or not corrugated or crimped and whether or not pickled; not cold-rolled; not cut, not pressed, and not stamped to non-rectangular shape; and under 0.1875 inch in thickness and over 12 inches in width.

Hot-rolled stainless steel strip is a flat-rolled stainless steel product whether or not corrugated or crimped and whether or not pickled; not cold-rolled; not cut, not pressed, and not stamped to non-rectangular shape; and under 0.1875 inch in thickness and not over 12 inches in width. Hot-rolled stainless steel strip, including razor blade strip, not over 0.01 inch in thickness is not included.

Cold-rolled stainless steel sheet covers cold-rolled stainless steel sheet products whether or not corrugated or crimped and whether or not pickled; not cut, not pressed, and not stamped to non-rectangular shape; not coated or plated with metal; and under 0.1875 inch in thickness and over 12 inches in width.

Cold-rolled stainless strip is flat-rolled stainless steel strip product whether or not corrugated or crimped and whether or not pickled; not cut, not pressed, and not stamped to non-rectangular shape; under 0.1875 inch in thickness and over 0.50 inch in width but not over 12 inches in width. Cold-rolled stainless steel strip, including razor blade strip, not over 0.01 inch in thickness is not included in this investigation.

[FR Doc. 82-34334 Filed 12-16-82; 8:45 am]

BILLING CODE 3510-25-M

Railcars From Canada; Amendments to Notice of Preliminary Affirmative Countervailing Duty Determination

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Amendment to Notice of Preliminary Affirmative Countervailing Duty Determination.

SUMMARY: On November 22, 1982, the Department of Commerce signed the preliminary countervailing duty determination on railcars from Canada.

Since the publication of that notice the information in the public comment section has changed. The public hearing was scheduled for 10:00 a.m. on January 3, 1983 at the U.S. Department of Commerce, Room 3080, 14th and Constitution Avenue, NW., Washington, D.C. 20230. The prehearing briefs were due to be submitted to the Deputy Assistant Secretary by December 27, 1982.

The hearing for railcars from Canada is now scheduled for 10:00 a.m. on January 6, 1983 at the U.S. Department of Commerce, Room 6802, 14th and Constitution Avenue, NW., Washington, D.C. 20230. The prehearing briefs are due to be submitted to the Deputy Assistant Secretary by December 30, 1982.

FOR FURTHER INFORMATION CONTACT: Michael J. Altier, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230, telephone (202) 377-1276.

December 14, 1982.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 82-34319 Filed 12-16-82; 8:45 am]

BILLING CODE 3510-25-M

Wool From Argentina; Postponement of Preliminary Countervailing Duty Determination

AGENCY: International Trade Administration, Commerce.

ACTION: Postponement of Preliminary Countervailing Duty Determination.

SUMMARY: The preliminary countervailing duty determination involving wool from Argentina is being postponed as the investigation has been determined to be extraordinarily complicated. We intend to issue the preliminary determination not later than January 14, 1983.

EFFECTIVE DATE: December 17, 1982.

FOR FURTHER INFORMATION CONTACT: G. Leon McNeill, Office of Investigations, Import Administration, U.S. Department of Commerce, 14th & Constitution Avenue, NW., Washington, D.C. 20230, telephone (202) 377-1273.

SUPPLEMENTARY INFORMATION: On October 18, 1982, we initiated a countervailing duty investigation to determine whether producers, manufacturers or exporters of wool from Argentina receive any benefits that constitute bounties or grants (47 FR 46349). The notice stated that we would issue a preliminary determination by December 15, 1982.

The product covered by this investigation is wool, finer than 44s, not on the skin, from Argentina. The imported merchandise is currently provided for in items 306.3132, 306.3152, 306.3172, 306.3253, 306.3273, 306.3334, 306.3354, and 306.3374 of the *Tariff Schedules of the United States Annotated* (TSUSA).

As detailed in the notice of initiation of the countervailing duty investigation, the petition alleges that the government of Argentina provides various programs which constitute bounties or grants to producers, manufacturers, or exporters of wool. The alleged subsidy practices are numerous and raise complex issues. Moreover, it is difficult to determine the extent of utilization of the programs by the manufacturers, producers or exporters. We have determined that the government of Argentina and the other parties concerned are cooperating and that additional time is necessary to make the preliminary countervailing duty determination. For these reasons we determine that this case is extraordinarily complicated in accordance with section 703(c)(1)(B)(i) and that additional time is necessary to make the preliminary determination in accordance with section 703(c)(1)(B)(ii) of the Tariff Act of 1930, as amended ("the Act"). We intend to issue the preliminary determination not later than January 14, 1983.

This notice is published pursuant to section 703(c)(2) of the Act.

Dated: December 13, 1982.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 82-34317 Filed 12-16-82; 8:45 am]

BILLING CODE 3510-25-M

University of California; Decision for Duty-Free Entry of Scientific Article: Correction

In FR Doc. 82-32833 appearing at page 54134 in the **Federal Register** of December 1, 1982, Docket Number 82-00122 is corrected to include complete description of instrument. Notice should read Instrument: Echovar Pulsed Doppler Instrument, Type U4 with Accessories.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 82-34307 Filed 12-16-82; 8:45 am]

BILLING CODE 3510-25-M

University of Arizona et al.; Applications for Duty-Free Entry of Scientific Instruments

The following are notices of the receipt of applications for duty-free entry of scientific instruments published pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the instrument is intended to be used is being manufactured in the United States.

Comments must be filed in accordance with sections 301.5(a)(3) and (4) of the regulations. They are to be filed in triplicate with the Director, Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the **Federal Register.**

A copy of each application is on file in the Department of Commerce, and may be examined between 8:30 a.m. and 5:00 p.m., Monday through Friday, Room 2097, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket No. 83–41. Applicant: University of Arizona, College of Medicine, Department of Physiology, Arizona Health Sciences Center, Tucson, AZ 85724. Instrument: Puller, Glass Micro-Electrode, Model PD–5 and Micro Forge with Stereo Microscope, Model MF–79. Manufacturer: Narishige Scientific Products, Japan. Intended use of instrument: The instrument is intended to be used for the investigation of the single-channel properties of the acetylocholine receptor of nerve or muscle cell in culture. The experiment will consist of filling the glass micro-electrode, after pulling by the puller and shaping with microforge, with a dilute solution of acetylcholine. The electrode is then placed on a nerve or muscle cell surface. The electrode is connected to a special custom-built circuit and the single channel receptor properties are then electronically monitored. In addition, the instrument will be used to teach medical/graduate students principles of cell and organ functions. Application received by Commissioner of Customs: November 8, 1982.

Docket No. 83–45. Applicant: National Hansen's Disease Center, Carville, LA 70721. Instrument: Electron Microscope, Model EM 410. Manufacturer: Philips Electronic Instruments, The Netherlands. Intended use of instrument: The instrument is intended to be used for leprosy research. Application received by Commissioner of Customs: November 8, 1982.

Docket No. 83–55. Applicant: Texas A & M University, Department of Chemistry, College Station, TX 77843. Instrument: High Resolution Mass Spectrometer, MS–50. Manufacturer: Kratos Scientific Instruments, United Kingdom. Intended use of instrument: The instrument is intended to be used by a large number of faculty members for research projects. These research projects include:

(1) High resolution mass spectrometry of biologically important molecules.
(2) Mass spectrometry studies of organometallics.
(3) Autoxidation of cobalt dioxygen complexes.
(4) Reaction pathways in polynuclear metal carbonyls.
(5) Stereoselective synthesis of polyfunctional Amines.
(6) Synthetic and biosynthetic studies of *B*-Lactam antibiotics.
(7) Applications of high resolution mass spectroscopy. (Chemical characterization of Texas Lignites and characterization of organoarsenic and orgnoselenium compounds in nature).

The instrument will also be used as an educational tool in a number of graduate and undergraduate laboratory classes including Chemistry 691, Chemistry 685, Chemistry 617, Chemistry 491. Application received by Commissioner of Customs: November 9, 1982.

Docket No. 83–57. Applicant: University of Rochester, School of Medicine, Box 605, Strong Memorial Hospital, 601 Elmwood Avenue, Rochester, NY 14642. Instrument: EM Micro-Dosage Focusing System. Manufacturer: Carl Zeiss, West Germany. Intended use of instrument: The instrument is an accessory to an existing microscope that is intended to be used as an aid in the study of the ultrastructure of antigen-antibody complexes. The instrument will allow critical focusing without concommitant specimen degradation, thereby improving the ultrastructural characterization of the antigen-antibody complexes. Application received by Commissioner of Customs: November 9, 1982.

Docket No. 83–64. Applicant: St. Mary's Medical Center, 3700 Washington Avenue, Evansville, IN 47750. Instrument: #7809 III Gamma Med III Afterloading Irradiation Device for Interstitial Therapy and 2 #7809 SC Source Containers. Manufacturer: Isotopen Technik, GmbH, West Germany. Intended use of instrument: The instrument is intended to be used for research and clinical objectives in the treatment of human cancer. The objectives of this research effort will be to optimize the irradiation delivery technique and dose distribution for the treatment of malignant tumors. Application received by Commissioner of Customs: November 9, 1982.

Docket No. 83–66. Applicant: University of Southern California, Department of Electrical Engineering, Mail Code 0484, University Park, Los Angeles, CA 90089. Instrument: Excimer Laser, EMG 50E with Extended Gas Lifetime Option Complete with Optics. Manufacturer: Lambda Physik, West Germany. Intended use of instrument: The instrument is intended to be used to photolytically prepare small polyatomic free radicals in low lying excited states. These species will then be monitored via their IR emissions using a sensitive InSb detector, thereby enabling the measurement of their removal rates in the environments of concern. These rate coefficient measurements are one of the experimental methods which will be used in determining the mechanistic metals of the kinetic processes of concern. The instrument will be used by two graduate students working toward the Ph.D degree. Application received by Commissioner of Customs: November 9, 1982.

Docket No. 83–67. Applicant: SRI International, 333 Ravenswood Avenue, Menlo Park, CA 94025. Instrument: Excimer Pumped Dye Laser FL 2002 complete with Accessories. Manufacturer: Lambda Physik Incorporated, West Germany. Intended use of instrument: The instrument is intended to be used for studies of variable wavelength photolysis of stratospherically important molecules at low pressures. Application received by Commissioner of Customs: November 19, 1982.

Docket No. 83–69. Applicant: University of Wisconsin-Madison, 1115 Engineering Research Building, 1500 Johnson Drive, Madison, WI 53706. Instrument: Electron Microscope, Model HB501. Manufacturer: VG Microscopes, United Kingdom. Intented use of instrument: The instrument is intended to be used for the following research areas:

(1) Metallurgical, physical, superconducting, and potential industrial applications of Nb-Ti and other alloys.
(2) Radiation damage—candidate alloys for possible fusion reactor applications include stainless steels and other complex high-temperature alloys which swell as a result of irradiation.

(3) Interaction of platinum and iridium with graphite in hydrogen and criteria for stable nickel particle size under methanation conditions.

Substantial use of the new microscope will be made by faculty in polymer science, physical metallurgy, and surface science. Application received by Commissioner of Customs: November 18, 1982.

Docket No. 83–70. Applicant: North Carolina State University, P.O. Box 5935, Raleigh, NC 27650. Instrument: Electron Microscope, Model H–800 and Accessories. Manufacturer: Hitachi, Japan. Intended use of instrument: The instrument is intended to be used to study microstructure and chemical composition of crystalline materials, interfaces and inclusions in a variety of metals, ceramics and electronic materials. Application received by Commissioner of Customs: November 18, 1982.

Docket No. 83–73. Applicant: Maine Department of Environmental Protection, State House, #17, Augusta, ME 04333. Instrument: Two Man-Variable Depth Non-Earth Contact Resistivity Meter, Model EM 34–3. Manufacturer: Geonics Limited, Canada. Intended use of instrument: The instrument is intended to be used for hydrogeologic investigations which will include a mapping program to delineate high yield sand and gravel aquifers in the state, and emergency spill responses, when a quick assessment of the direction of contaminant flow within the ground water system is needed. Application received by Commissioner of Customs: November 9, 1982.

Docket No. 83–75. Applicant: University of California at Los Angeles, Laboratory of Biomedical & Environmental Sciences, 900 Veteran Avenue, Los Angeles, CA 90024. Instrument: Medical Cyclotron, Orbit Pert Cyclotron System, Model 270. Manufacturer: ANAC, Limited, New Zealand. Intended use of instrument: The instrument is intended to be used to produce short-lived radio-active isotopes for basic and clinical research in Nuclear medicine. The principal raw products will be carbon-11, nitrogen-13, oxygen-15, and fluorine-18. These radioisotopes can be incorporated into chemical compounds. When these compounds are administered to a human they distribute to various organs and tissues. Their specific locations and movements can be determined with positron-emission tomographic techniques. Abnormal distributions and movements indicate locations and nature of pathologic conditions and thereby support diagnosis of disease states. The basic objective is to develop the smallest, most economical system for rapid, reliable production of compounds labeled with short-lived positron-emitting radionuclides for medical research and clincial diagnostic applications. Application received by Commissioner of Customs: November 19, 1982.

Docket No. 83–83. Applicant: University of California, Lawrence Livermore National Laboratory, P.O. Box 5012, Livermore, CA 94550. Instrument: Camera, X-Ray, Ultra-Fast Streak, Model IMACON 500/X-Ray with Accessories. Manufacturer: John Hadland, Limited, United Kingdom. Intended use of instrument: The instrument is intended to be used for studies of such gases as neon, fluorine and kryptron to demonstrate lasing at higher energies then ever before achieved. Application received by Commissioner of Customs: November 19, 1982.

Docket No. 83–84. Applicant: University of Utah, Department of Materials Science & Engineering, Salt Lake City, UT 84112. Instrument: Electron Microscope, Model JEM–200CX with Accessories. Manufacturer: JEOL Limited, Japan. Intended use of instrument: The instrument is intended to be used by approximately 25 academic and research faculty (as well as their associated post-doctoral and graduate students) primary from the Materials Science and Engineering Department and faculty in the Departments of Mechanical and Industrial Engineering, Civil Engineering, Bioengineering, Electrical Engineering, Chemical Engineering, Metallurgical Engineering, Mining Engineering, and Chemistry while conducting various research projects. Application received by Commissioner of Customs: November 24, 1982.

Docket No. 83–86. Applicant: University of Florida, J. Hillis Miller Health Center, Division of Urology, Box J–247, Room No. N2–11, Gainesville, FL 32610. Instrument: Rotating Prism. Manufacturer: Rank Brothers, United Kingdom. Intended use of instrument: The instruments are components to electrophoresis apparatus which will be used to study the electrophoretic behavior of calcium oxalate (mono and di-hydrate) in the presence of chemical inhibitors to calcium oxalate nucleation and growth as a means of understanding urinary stone disease. Application received by Commissioner of Customs: November 9, 1982.

Docket No. 82–00147R. Applicant: Children's Hospital of Los Angeles, 4650 Sunset Boulevard, Los Angeles, CA 90007. Instrument: 6 MeV Linear Accelerator, G280F and Accessories. Application is a resubmission, notice of which was published in the **Federal Register** of May 14, 1982.

Docket No. 83–88. Applicant: University of California at Davis, School of Medicine, Department of Human Anatomy, Davis, CA 95616. Instrument: Electron Microscope, Model EM 410 and Accessories. Manufacturer: N.V. Philips, Gloeilampenfabrieken, The Netherlands. Intended use of instrument: The instrument is intended to be used for studies of cells, bacteria and viruses and the phenomena of cell/cell interactions in pregnancy, immunology, carcinogenesis, and infection. Investigations will be conducted to understand the mechanisms of both normal and abnormal cell growth and development; to interrelate cell structure with function in normal and dysfunctional situations and in cases of carcinogenesis and infection; to elucidate the cellular mechanisms of normal cell function. Application received by Commissioner of Customs: November 18, 1982.

Docket No. 83–76. Applicant: Veterans Administration Medical Center, University of Utah, Department of Pathology, 500 Foothill Road, Salt Lake City, UT 84148. Instrument: Electron Microscope JEM–100CX/SEG/SQH, 100KV with Accessories. Manufacturer: JEOL Limited, Japan. Intended use of instrument: The instrument is intended to be used for the examination of very thin sections of biological materials for high resolution TEM to demonstrate the ultrastructure features as well as changes under different experimental conditions. Experiments will be conducted in order to identify ultrastructural components of cells and/or morphological correlation to experimental treatments. The objectives of these investigations is to study the ultrastructural features for diagnostic purposes and investigation of the role(s) of the metallic elements in induction of the diseases and immunity (role of beryllium). Application received by Commissioner of Customs: November 19, 1982.

Docket No. 83–78. Applicant: University of California at Los Angeles, CBS 12; Room 200, UCLA, 405 Hilgard Avenue, Los Angeles, CA 90024. Instrument: Radiotherapy Simulator. Instrument: Oldelft Corporation, The Netherlands. Intended use of instrument: The instrument is intended to be used in support of research in the radiotherapy treatment of cancer. Its specific use is in the localization of the tumor within the body and the planning of the treatment. The instrument will also be used in the courses Radiation Science 202C and

Radiation Therapy Resident Training to train individuals in the optimum use of radiation in the treatment of cancer. Application received by Commissioner of Customs: November 23, 1982.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Richard N. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 82-34308 Filed 12-16-82; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Caribbean Fishery Management Council and its Administrative Subcommittee; Public Meetings

AGENCY: National Oceanic and Atmosphere Administration, Commerce.

SUMMARY: The Caribbean Fishery Management Council, established by section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94-265), has established an Administrative Subcommittee. The Council and its Administrative Subcommittee will hold separate meetings. The Council will hold its 44th regular public meeting to consider status reports on fishery management plans (FMP's) under development, specifically the draft FMP for the Fishery Resources of the Puerto Rican and St. Croix Geological Platforms and also discuss other Council and administrative matters. The Administrative Subcommittee will meet to consider matters related to the Council's budget and to discuss regular administrative operations.

DATES: The Council's public meeting will convene on Wednesday, February 16, 1983, at approximately 1:30 p.m., adjourn at approximately 5 p.m.; reconvene on Thursday, February 17, 1983, at approximately 9 a.m.; adjourn at approximately noon. All meetings will take place at the Conference Room of the Hotel Pierre, 105 de Diego Avenue, Santurce, Puerto Rico.

FOR FURTHER INFORMATION CONTACT: Caribbean Fishery Management Council, Suite 1108, Banco de Ponce Building, Hato Rey, Puerto Rico 00198, Telephone: (809) 753-4926.

Dated: December 14, 1982.

Joe P. Clem,

Acting Chief, Operations Coordination Group, National Marine Fisheries Service.

[FR Doc. 82-34329 Filed 12-16-82; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing Import Restraint Levels for Certain Cotton, Wool, and Man-Made Fiber Textile Products From Malaysia Effective on January 1, 1983

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Establishing import restraint levels for certain cotton, wool, and man-made fiber textile products, produced or manufactured in Malaysia and exported during the twelve-month period beginning on January 1, 1983.

SUMMARY: The Governments of the United States and Malaysia exchanged notes dated December 5, 1980 and February 27, 1981 establishing a new Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement for the four-year period beginning on January 1, 1981 and extending through December 31, 1984. The agreement provides among other things, specific levels of restraint for Categories 331, 333/334/335, 338/339, 340, 347/348, 445/446, and 604 during the agreement year beginning on January 1, 1983. Accordingly, in the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to limit imports for consumption, or withdrawals from warehouse for consumption, of cotton, wool, and man-made fiber textile products in the foregoing categories to the designated amounts. The level for Category 445/446 has been reduced by 2,322 dozen as a result of a negotiated settlement regarding previous overshipments and by 1,489 dozen representing carryforward used during the 1982 agreement year.

A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709).

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

EFFECTIVE DATE: January 1, 1983.

FOR FURTHER INFORMATION CONTACT: Gordana Slijepcevic, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-4212).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

December 14, 1982.

Commissioner of Customs,

Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of December 5, 1980 and February 27, 1981, between the Governments of the United States and Malaysia; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on January 1, 1983 and for the twelve-month period extending through December 31, 1983, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool, and man-made fiber textile products in Categories 331, 333/334/335, 338/339, 340, 347/348, 445/446, and 604, produced or manufactured in Malaysia, in excess of the following levels of restraint:

Category	12-month level of restraint
331	576,413 dozen pairs.
333/334/335	75,333 dozen of which not more than 37,666 dozen shall be in Cat. 333; not more than 37,666 dozen shall be in Cat 334; and not more than 37,666 dozen shall be in Cat. 335.
338/339	440,398 dozen of which not more than 175,605 dozen shall be in Cat. 339.
340	306,961 dozen.
347/348	173,536 dozen of which not more than 90,738 dozen shall be in Cat. 348.
445/446	21,250 dozen.
604	1,244,881 pounds.

In carrying out this directive, entries of cotton, wool, and man-made fiber textile products in the foregoing categories, produced or manufactured in Malaysia, which have been exported to the United States on and after January 1, 1982 and extending through December 31, 1982, shall, to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during that twelve-month period. In the event the levels of restraint established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter.

The levels set forth above are subject to adjustment in the future according to the provisions of the bilateral agreement of December 5, 1980 and February 27, 1981 between the Governments of the United States and Malaysia which provide, in part, that: (1) Specific limits or sublimits may be exceeded by not more than 5 percent, if a corresponding reduction is made in one or more other specific limits in the same group during the same agreement year; (2) specific levels may be adjusted for carryover and carryforward up to 11 percent of the applicable category limits; and (3) administrative arrangements or adjustments may be made to resolve problems arising in the implementation of the agreement. Any appropriate adjustments under the provisions

of the bilateral agreement, referred to above, will be made to you by letter.

A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Malaysia and with respect to imports of cotton, wool, and man-made fiber textile products from Malaysia have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 82-34320 Filed 12-16-82; 8:45 am]

BILLING CODE 3510-25-M

Announcing Levels of Restraint for Certain Cotton Textile Products From Pakistan Effective on January 1, 1983

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Establishing import restraint levels for certain cotton textile products produced or manufactured in Pakistan and exported during the twelve-month period which began on January 1, 1983.

SUMMARY: On March 9 and 11, 1982, the Governments of the United States and Pakistan signed a Bilateral Cotton Textile Agreement which establishes an aggregate limit for Categories 300–369 and within the aggregate limit, specific ceilings for Categories 313, 315, 331, 338, 339, 347/348, and 363, among others, during the agreement year which begins on January 1, 1983. It also provides consultation levels for categories, such as Categories 317, 320, and 369pt., which are not subject to specific ceilings and which may be adjusted during the agreement year. In the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs, in accordance with the terms of the bilateral agreement, to prohibit entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Categories 300–369, as a group, and in individual Categories 313, 315, 317, 320, 331, 338, 339, 347/348, 363, and 369pt., produced or manufactured in Pakistan and exported during the twelve-month period which begins on January 1 1983 and extends through December 31, 1983, in excess of the designated levels of restraint. The level for Category 363 has been reduced by 1,130,412 dozen to account for carryforward used during the 1982 agreement year.

A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709).

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

EFFECTIVE DATE: January 1, 1983.

FOR FURTHER INFORMATION CONTACT: Gordana Slijepcevic, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–4212).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

December 14, 1982.

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Comissioner: Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton Textile Agreement of March 9 and March 11, 1982, between the Governments of the United States and Pakistan; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on January 1, 1983 and for the twelve-month period extending through December 31, 1983, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Categories 300–369, as a group, and individual Categories 313, 315, 317, 320, 331, 338, 339, 347/348, 363, and 369pt. in excess of the following levels of restraint:

Category	12-month level of restraint [1]
300–369	215,285,136 square yards equivalent.
313	76,950,459 square yards.
315	44,934,904 square yards.
317	6,512,000 square yards.
320	6,000,000 square yards.
331	523,383 dozen pairs.
338	1,292,388 dozen.
339	456,345 dozen.
347/348	240,750 dozen.
363	19,028,593 numbers.
369pt. [2]	5,869,565 pounds.

[1] The level of restraint has not been adjusted to reflect any imports after December 31, 1982.
[2] In Category 369, all T.S.U.S.A. numbers except 366.1855.

In carrying out this directive, entries of textile products in the foregoing categories, produced or manufactured in Pakistan, which have been exported to the United States on and after January 1, 1982 shall, to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during the twelve-month period which began on January 1, 1982 and extends through December 31, 1982. In the event the levels of restraint established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter.

The levels set forth above are subject to adjustment in the future according to the provisions of the bilateral agreement of March 9 and 11, 1982 between the Governments of the United States and Pakistan which provide, in part, that: (1) Within the aggregate and group limits, specific levels of restraint may be exceeded by designated percentages; (2) specific levels may be increased for carryover and carryforward; and, (3) administrative arrangements or adjustment may be made to resolve problems arising in the implementation of the agreement. Any appropriate adjustments under the provisions of the bilateral agreement, referred to above, will be made to you by letter.

A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Pakistan and with respect to imports of cotton textile products from Pakistan have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 82-32321 Filed 12-16-82; 8:45 am]

BILLING CODE 3510-25-M

COMMODITY FUTURES TRADING COMMISSION

Chicago Board of Trade Proposed Futures Contract for Silver in 5,000 Troy Ounce Units

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of the terms and conditions of proposed commodity futures contracts.

SUMMARY: The Chicago Board of Trade ("CBOT" or "Exchange") has applied for approval of a silver contract in 5,000

troy ounce units. The Commodity Futures Trading Commission (the "Commission") has determined that the terms and conditions of the proposed futures contract are of major economic significance and that, accordingly, making available the proposed contract for public inspection and comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATE: Comments must be received on or before January 17, 1983.

ADDRESS: Interested persons should submit their views and comments to Jane K. Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Reference should be made to the CBOT 5,000-ounce silver futures contract.

FOR FURTHER INFORMATION CONTACT: Richard Shilts, Division of Economics and Education, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C., (202) 254–7303.

SUPPLEMENTARY INFORMATION: The CBOT currently is designated as a contract market in silver for trading in units of 1,000 troy ounces. Trading in 5,000-ounce units, as a result of the Exchange's March 1981 amendments to its silver contract, is permissible only as an interim measure while the new 1,000-ounce delivery unit contract is phased in.[1]

By letter dated October 14, 1982, the CBOT submitted for Commission approval, pursuant to Section 5a(12) of the Commodity Exchange Act (the "Act"), a proposed amendment to Regulation 1404.01 regarding the unit of trading for its silver contract. The proposal would allow the Exchange to trade two separate contracts in silver: a contract trading in units of 1,000 troy ounces, and a contract trading in units of 5,000 troy ounces.

The Exchange proposes to accomplish this by amending Regulation 1404.01 so that new trading months can be added to the 5,000-ounce contract beyond the period specified in the contract market rule while continuing to list trading months in the 1,000-ounce contract.

The Commission has determined to treat the current submission as an application for a new contract market designation, pursuant to Section 5 of the Act, 7 U.S.C. 7, and Guideline No. 1, 47 FR 49832 (November 3, 1982). The new designation would be for silver traded in units of 5,000 troy ounces and would be in addition to the currently designated 1,000 troy ounce silver contract.

A copy of the terms and conditions of the CBOT's proposed 5,000-ounce silver futures contract will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Copies can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 254–6314.

Other materials submitted by the CBOT in support of its application may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1981)). Requests for inspection of such materials should be made to the FOIA, Privacy and Sunshine Acts Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views or arguments on the terms and conditions of the proposed futures contract, or with respect to other materials submitted by the CBOT in support of its application, should send such comments to Jane K. Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, by January 17, 1983. Such comment letters will be publicly available except to the extent that they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9.

Issued in Washington, D.C., on December 13, 1982.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 82-34252 Filed 12-16-82; 8:45 am]

BILLING CODE 6351-01-M

[1] On March 5, 1981, the Commission approved an amendment to the CBOT's silver contract to reduce the size of the unit of trading from 5,000 to 1,000 troy ounces. This amendment allows trading in the 5,000-ounce unit to continue concurrently with trading in the new 1,000-ounce unit, but only for a limited period specified in the contract's rules.

New York Futures Exchange; Proposed Rules Relating to Exchange Speculative Position Limits

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of Proposed Adoption of Contract Market Rules.

SUMMARY: The New York Futures Exchange ("NYFE") has submitted to the Commission proposed rules setting speculative position limits for currently designated contract markets pursuant to Commission Rules 1.61 and 1.41, 17 CFR 1.61 and 1.41 (1982), and Section 5a(12) of the Commodity Exchange Act, as amended, 7 U.S.C. 7a(12) (Supp. V 1981). The Commodity Futures Trading Commission ("Commission") has determined that for currently designated contracts, initial exchange proposals to set speculative limits are potentially of major economic significance. Accordingly, the Commission has determined that publication of this proposal is in the public interest, that receipt of public comment will assist the Commission in its consideration of the exchange submissions, and that publication is consistent with the purposes of the Commodity Exchange Act.

SUPPLEMENTARY INFORMATION: The NYFE has submitted to the Commission pursuant to Commission Rules 1.61 and 1.41, 17 CFR 1.61 and 1.41 (1982) and Section 5a(12) of the Commodity Exchange Act, as amended, 7 U.S.C. 7a(12) (Supp. V 1981) proposed exchange rules setting speculative position limits in nine designated contract markets. They are: British pound, Swiss franc, Deutsche mark, Canadian dollar, Japanese yen, 90-Day U.S. Treasury bills, U.S. Treasury bonds, Eurodollars and Domestic CDs.[1]

The Commission, in accordance with Section 5a(12) of the Act, has determined that the proposed rules setting exchange speculative position limits on currently designated contracts are potentially of major economic significance.[2] Accordingly, the Commission seeks to receive comments from interested persons with respect to these proposed exchange rules. The text of the proposed exchange rules submitted by NYFE appear below. In addition, NYFE Rule 307, which is referenced in, or is otherwise applicable to, the speculative position limit rules is also printed below:

[1] In addition, five other domestic boards of trade have submitted for Commission approval speculative position limits for currently designated contract markets. The proposed rules submitted by the Chicago Mercantile Exchange and by the Commodity Exchange, Inc., were published in the Federal Register on July 20, 1982 (47 FR 31417); correction, 47 FR 34615 (August 10, 1982). The staff of the Commission will be reviewing the remaining four proposals following its consideration of this proposal.

[2] This determination is based upon a finding that the initial imposition of speculative position limits for designated contract markets which currently do not have such limits may be of economic significance to those currently trading in a contract which has no existing speculative limits. However, the Commission believes that the subsequent adjustment of existing exchange speculative limits generally would not be of major economic significance.

Rules Submitted by the New York Futures Exchange

Rule 706

The position limit for any British Pound Futures Contract shall be a net long or net short position of 1,000 contracts for any person in all delivery months combined, computed in accordance with the following rules:

(i) All contracts carried in accounts in which trading is directly or indirectly controlled, by power of attorney or otherwise, by any person or by two or more persons acting pursuant to an expressed or implied agreement or understanding with respect to such trading shall be aggregated.

(ii) In computing the position limit for all delivery months combined, the net long or net short position shall be the difference, if any, between the number of open long contracts in all delivery months and the number of open short contracts in all delivery months.

(iii) All contracts which are part of hedge positions, intercommodity spread positions or arbitrage positions under Rule 307 shall be excluded in computing the net long or net short position of the person or persons with respect to which the Exchange made its hedge, intercommodity spread or arbitrage determination.

Rule 726

The position limit for any Swiss Franc Futures Contract shall be a net long or net short position of 1,000 contracts for any person in all delivery months combined, computed in accordance with the following rules:

(i) All contracts carried in accounts in which trading is directly or indirectly controlled, by power of attorney or otherwise, by any person or by two or more persons acting pursuant to an expressed or implied agreement or understanding with respect to such trading shall be aggregated.

(ii) In computing the position limit for all delivery months combined, the net long or net short position shall be the difference, if any, between the number of open long contracts in all delivery months and the number of open short contracts in all delivery months.

(iii) All contracts which are part of hedge positions, intercommodity spread positions or arbitrage positions under Rule 307 shall be excluded in computing the net long or net short position of the person or persons with respect to which the Exchange made its hedge, intercommodity spread or arbitrage determination.

Rule 746

The position limit for any Deutsche Mark Futures Contract shall be a net long or net short position of 1,000 contracts for any person in all delivery months combined, computed in accordance with the following rules:

(i) All contracts carried in accounts in which trading is directly or indirectly controlled, by power of attorney or otherwise, by any person or by two or more persons acting pursuant to an expressed or implied agreement or understanding with respect to such trading shall be aggregated.

(ii) In computing the position limit for all delivery months combined, the net long or net short position shall be the difference, if any, between the number of open long contracts in all delivery months and the number of open short contracts in all delivery months.

(iii) All contracts which are part of hedge positions, intercommodity spread positions or arbitrage positions under Rule 307 shall be excluded in computing the net long or net short position of the person or persons with respect to which the Exchange made its hedge, intercommodity spread or arbitrage determination.

Rule 766

The position limit for any Canadian Dollar Futures Contract shall be a net long or net short position of 1,000 contracts for any person in all delivery months combined, computed in accordance with the following rules:

(i) All contracts carried in accounts in which trading is directly or indirectly controlled, by power of attorney or otherwise, by any person or by two or more persons acting pursuant to an expressed or implied agreement or understanding with respect to such trading shall be aggregated.

(ii) In computing the position limit for all delivery months combined, the net long or net short position shall be the difference, if any, between the number of open long contracts in all delivery months and the number of open short contracts in all delivery months.

(iii) All contracts which are part of hedge positions, intercommodity spread positions or arbitrage positions under Rule 307 shall be excluded in computing the net long or net short position of the person or persons with respect to which the Exchange made its hedge, intercommodity spread or arbitrage determination.

Rule 786

The position limit for any Japanese Yen Futures Contract shall be a net long or net short position of 1,000 contracts for any person in all delivery months combined, computed in accordance with the following rules:

(i) All contracts carried in accounts in which trading is directly or indirectly controlled, by power of attorney or otherwise, by any person or by two or more persons acting pursuant to an expressed or implied agreement or understanding with respect to such trading shall be aggregated.

(ii) In computing the position limit for all delivery months combined, the net long or net short position shall be the difference, if any, between the number of open long contracts in all delivery months and the number of open short contracts in all delivery months.

(iii) All contracts which are part of hedge positions, intercommodity spread positions or arbitrage positions under Rule 307 shall be excluded in computing the net long or net short position of the person or persons with respect to which the Exchange made its hedge, intercommodity spread or arbitrage determination.

Rule 807

The position limit for 90-Day Treasury Bill Futures Contract shall be a net long or net short position of 5,000 contracts for any person in all delivery months combined, except that 21 days prior to the last trading day of any contract month the maximum long or short position which any person may hold or control in such contract month is 2,500 contracts and seven days prior to the last trading day of any contract month the maximum long or short position which any person may hold or control in such contract months is 500 contracts, computed in accordance with the following rules:

(i) All contracts carried in accounts in which trading is directly or indirectly controlled, by power of attorney or otherwise, by any person or by two or more persons acting pursuant to an expressed or implied agreement or understanding with respect to such trading shall be aggregated.

(ii) In computing the position limit for all delivery months combined, the net long or net short position shall be the difference, if any, between the number of open long contracts in all delivery months and the number of open short contracts in all delivery months.

(iii) All contracts which are part of hedge positions, intercommodity spread positions or arbitrage positions under Rule 307 shall be excluded in computing the net long or net short position of the person or persons with respect to which the Exchange made its hedge, intercommodity spread or arbitrage determination.

Rule 827

The position limit for any Treasury Bond Futures Contract shall be a net long or net short position of 5,000 contracts for any person in all delivery months combined, computed in accordance with the following rules:

(i) All contracts carried in accounts in which trading is directly or indirectly controlled, by power of attorney or otherwise, by any person or by two or more persons acting pursuant to an expressed or implied agreement or understanding with respect to such trading shall be aggregated.

(ii) In computing the position limit for all delivery months combined, the net long or net short position shall be the difference, if any, between the number of open long contracts in all delivery months and the number of open short contracts in all delivery months.

(iii) All contracts which are part of hedge positions, intercommodity spread positions or arbitrage positions under Rule 307 shall be excluded in computing the net long or net short position of the person or persons with respect to which the Exchange made its hedge, intercommodity spread or arbitrage determination.

Rule 887

The position limit for any Eurodollar Futures Contract shall be a net long or net short position of 5,000 contracts for any person in all delivery months combined, computed in accordance with the following rules:

(i) All contracts carried in accounts in which trading is directly or indirectly controlled, by power of attorney or otherwise, by any person or by two or more persons acting pursuant to an expressed or implied agreement or understanding with respect to such trading shall be aggregated.

(ii) In computing the position limit for all delivery months combined, the net long or net short position shall be the difference, if any, between the number of open long contracts in all delivery months and the number of open short contracts in all delivery months.

(iii) All contracts which are part of hedge positions, intercommodity spread positions or arbitrage positions under Rule 307 shall be excluded in computing the net long or net short position of the person or persons with respect to which the Exchange made its hedge, intercommodity spread or arbitrage determination.

Rule 1007

The position limit for any CD Futures Contract shall be a net long or net short position of 5,000 contracts for any person in all delivery half-months combined, except that 14 days prior to the first notice day of any delivery half-month the maximum long or short position which any person may hold or control in such delivery half-month is 4,000 contracts and on the first notice day of any delivery half-month the maximum long or short position which any person may hold or control in such delivery half-month is 500 contracts, computed in accordance with the following rules:

(i) All contracts carried in accounts in which trading is directly or indirectly controlled, by power of attorney or otherwise, by any person or by two or more persons acting pursuant to an expressed or implied agreement or understanding with respect to such trading shall be aggregated.

(ii) In computing the position limit for all delivery half-months combined, the net long or net short position shall be the difference, if any, between the number of open long contracts in all delivery half-months and the number of open short contracts in all delivery half-months.

(iii) All contracts which are part of hedge positions, intercommodity spread positions or arbitrage positions under Rule 307 shall be excluded in computing the net long or net short position of the person or persons with respect to which the Exchange made its hedge, intercommodity spread or arbitrage determination.

Position Limit Rule

Rule 307

(a) No member or member organization shall permit any customer or customers to hold or control any positions in excess of the position limit set forth under Rules of the Exchange relating to position limits in any account or accounts which such member or member organization carries for such customer or customers.

(b) Any person that desires to have certain futures contracts excluded in computing the net long or net short position such person may hold or control under Rules of the Exchange relating to position limits, may file with the Exchange an application, in such form and accompanied by such information as the Exchange may prescribe, requesting that the Exchange treat such futures contracts as hedge positions, intercommodity spread positions or arbitrage positions, as the case may be. Such application must include:

(i) Potential size of the futures transactions.

(ii) In the case of proposed hedge positions, a description of the intended futures transactions(s), a description of the offsetting cash position, and information demonstrating that such positions can be expected to meet the requirements of Commission Regulation 1.3(z)(1).

(iiii) In the case of proposed arbitrage and intercommodity spread positions, a description of the type of intended futures transactions for which the exclusion is requested, and a statement explaining the appropriateness of the proposed position.

(iv) A statement that the intended futures transactions(s) will be bona fide hedges, arbitrage positions or intercommodity spread positions.

(c) The Exchange will give the applicant, and any member or member organization carrying accounts for the applicant, written notice indicating to what extent, if any, the applicant's positions may be treated as hedge positions, intercommodity spread positions or arbitrage positions for purposes of the Rules governing position limits. In the case or arbitrage and intercommodity spread positions, the Exchange may impose such limitations as are commensurate with the liquidity of the markets involved, or with the applicant's financial ability or business circumstances, or with the appropriateness of the arbitrage or intercommodity spread positions. The Exchange may at any time and from time to time review determination made hereunder; require any applicant to submit such additional information as the Exchange may consider necessary or appropriate for purposes of this Rule; and revoke, modify, condition or otherwise limit any determination made hereunder with respect to the positions that may be treated as hedge positions, intercommodity spread positions or arbitrage positions for any person.

(d) Any member or member organization which carries any account or accounts for any person or persons that violate any Rules of the Exchange relating to position limits shall liquidate any futures contracts in excess of the limits promptly and in any event within such time as the Exchange may prescribe and shall report to the Exchange when such excess has been reduced. If a member or member organization fails to liquidate any excess futures contracts within the time prescribed by the Exchange, the Exchange may liquidate such excess. Any such liquidation of futures contracts may be effected in such manner as the Exchange, in its discretion, may determine. Without limiting the generality of the foregoing, any such liquidation may be effected by placing with one or more members or member organizations chosen at the discretion of the Exchange, orders for the purchase or sale of futures contracts on the Floor. The member or member organization for whose account such futures contracts are to be liquidated shall be liable to the Exchange for any commissions or other expenses incurred in liquidating such account. The Exchange shall not be liable in any way to a member or member organization, or to any other person, whose accounts have been liquidated pursuant to this Rule, including without limitation claims for losses arising out of the liquidation or the time and manner or the prices at which liquidation was effected.

(e) Any member or member organization which has, or carries an account for any customer which has hedge, intercommodity spread or arbitrage positions, must carry such positions in a special account.

Other materials submitted by the NYFE in support of these proposed rules may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1981)). Requests for copies of such materials should be made to the FOIA, Privacy and Sunshine Acts Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views or arguments on the

proposed exchange rules should send such comments to Jane K. Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, by (30 days). Such comment letters will be publicly available except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9.

Issued in Washington, D.C., on December 13, 1982.

Jane K. Stuckey,

Secretary to the Commission.

[FR Doc. 82-34251 Filed 12-16-82; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Department of the Army

Discharge Review Boards; Army Discharge Review Board Standard Operating Procedures

Notice is hereby given that the Army Discharge Review Board Standard Operating Procedures published in the **Federal Register** (44 FR 25046) on April 27, 1979 are rescinded. At that time it was stated that while the SOP was designed for internal use by members and support personnel of the review board, it was published with the anticipation that applicants before the board may also find guidance contained in the document helpful in preparing for discharge review. Since then there has been an extensive modification to and expansion of the rules relating to discharge review in Department of Defense Directive 1332.28. This detailed guidance was published in the **Federal Register** (47 FR 37770) on August 26, 1982, and it provides the essential information concerning procedures, standards, forms and policies needed for the guidance of the public interested in functions of the Army Discharge Review Board. Further guidance will be provided in the Army's implementation (Army Regulation 15-180) of DOD Directive 1332.28, which will be published in the **Federal Register.**

(5 U.S.C. 552, 10 U.S.C. 133, 10 U.S.C. 136, 10 U.S.C. 1553, and delegations of authority from the Secretary of Defense and Assistant Secretary of Defense for Manpower, Reserve Affairs and Logistics)

Francis X. Plant,

Deputy Assistant Secretary (DA Review Boards and Personnel Security).

[FR Doc. 82-34283 Filed 12-16-82; 8:45 am]

BILLING CODE 3710-08-M

Discharge Review Boards; Discharge Review Composite Index

The Armed Forces Discharge Review/Correction Board Reading Room will provide a composite index for April, July and October 1982, and January 1983 which will be distributed on or about February 1, 1983. Applicants to the Army, Navy, and Air Force Discharge Review Boards and Board for Correction of Military (or Naval) Records may request a postponement or continuation of a review in order to make use of the composite index, and a person who requests a postponement or continuance for the express purpose of using the composite index will be rescheduled for a new review at the earliest possible date, subject to traveling schedule for hearings outside the National Capital Region. This policy will remain in effect for continuances and postponements requested before March 15, 1983.

Additionally, applicants may request reconsideration of final decisions issued in their particular case by the Discharge Review Boards and Correction Boards. An applicant shall receive reconsideration of such a decision in the following circumstances: (1) The reconsideration must pertain to a case in which, between April 15, 1982 and January 31, 1983, the applicant (or his counsel) submitted an application, participated in a hearing, or otherwise presented an issue to the Board; (2) the applicant must certify that he attempted to use the index between April 15, 1982 and January 31, 1983 to prepare materials for submission to the Board prior to the Board's final decision; (3) the applicant must request reconsideration expressly on the grounds that a cited case listed in the composite index was not listed in the index which the applicant attempted to use; (4) the applicant must submit an issue that sets forth principles and facts from the cited case that are relevant to his case and the applicant must cite such principles and facts as basis for relief; (5) the cited case must have been decided at least 30 days prior to the date of decision in the applicant's case; and (6) the request for reconsideration must be received on or before January 31, 1984. (5 U.S.C. 552, 10 U.S.C. 133, 10 U.S.C. 136, 10 U.S.C. 1553, and delegations of authority from the Secretary of Defense and Assistant Secretary of Defense for Manpower, Reserve Affairs and Logistics.)

Dated: December 8, 1982.

Francis X. Plant,

Deputy Assistant Secretary (DA Review Boards and Personnel Security).

[FR Doc. 82-34262 Filed 12-16-82; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF EDUCATION

National Advisory Council on Adult Education

AGENCY: National Advisory Council on Adult Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Governmental Relations and Legislation Committee of the National Advisory Council on Adult Education. This notice also describes the functions of the Council. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act.

DATES: January 10-11, 1983, 9:00 a.m. to 5:00 p.m.

ADDRESS: Sun City Center, Sun City, Florida.

FOR FURTHER INFORMATION CONTACT: Helen Banks, Administrative Assistant, National Advisory Council on Adult Education, 425 13th St., NW., Washington, D.C. 20004 (202/376-8892).

SUPPLEMENTARY INFORMATION: The National Advisory Council on Adult Education is established under Section 313 of the Adult Education Act (20 U.S.C. 1201). The Council is established to:

Advise the Secretary in the preparation of general regulations and with respect to policy matters arising in the administration of this title, including policies and procedures governing the approval of State plans under section 306 and policies to eliminate duplication, and to effectuate the coordination of programs under this title and other programs offering adult education activities and services.

The Council shall review the administration and effectiveness of programs under this title, make recommendations with respect thereto, and make annual reports to the President of its findings and recommendations (including recommendations for changes in this title and other Federal laws relating to adult education activities and services). The President shall transmit each such report to the Congress together with his comments and recommendations.

The meeting of the Committee is open to the public. The proposed agenda includes:

Consolidation and Block Grants
Adult Education Reauthorization

Preparation of Report to Council on Legislative Recommendations

Records are kept of all Council proceedings, and are available for public inspection at the office of the National Advisory Council on Adult Education, 425 13th St., NW., Suite 323, Washington, D.C. 20004, from the hours of 8:00 a.m. to 4:30 p.m.

Signed at Washington, D.C. on December 13, 1982.

Rick Ventura,

Executive Director, National Advisory Council on Adult Education.

[FR Doc. 82-34249 Filed 12-16-82; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project Nos. 703-000 et al.]

Utah Power & Light Co.; Applications Filed With the Commission

Take notice that the following hydroelectric applications have been filed with the Federal Energy Regulatory Commission and are available for public inspection:

1a. Type of Application: Exemption for Small Conduit Hydroelectric Facility.

b. Project No. P-703-000.

c. Date Filed: October 28, 1982.

d. Applicant: Utah Power & Light Company.

e. Name of Project: Paris Project.

f. Location: Paris Creek in Bear Lake County, Idaho.

g. Filed Pursuant to: Section 30 of the Federal Power Act [16 U.S.C. 823(a)].

h. Contact Person: Jody L. Williams, Attorney, 1407 West North Temple, P.O. Box 899, Salt Lake City, Utah 84110.

i. Comment Date: January 31, 1983.

j. Description of Project: The Paris Hydroelectric Project is currently operating under FERC License 703, issued November 11, 1975, and no new construction is planned. The project consists of: (1) A 0.61-acre forebay with a timber and concrete spillway; (2) a concrete intake structure; (3) a 1,366-foot-long, 22 to 30-inch-diameter steel penstock; (4) a powerhouse containing one turbine/generator unit with a capacity of 715 kW; (5) a 60-foot-long, 30-inch-diameter steel discharge pipe; and (6) a tailwater basin. The average annual generation is 2,450 MWh.

k. Purpose of Project: Project energy is utilized in Utah Power & Light Company's electric distribution system and is sold to the public utility customers in its service area.

l. This notice also consists of the following standard paragraphs: B, C and D3b.

2a. Type of Application: Amendment of License.

b. Project No: 803-006.

c. Date Filed: November 8, 1982.

d. Applicant: Pacific Gas and Electric Company.

e. Name of Project: DeSabla-Centerville.

f. Location: West Branch Feather River and Butte Creek, in Butte County, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. § 791(a)-825(r).

h. Contact Person: Mr. W. M. Gallavan, Vice President, Rates and Valuation, Pacific Gas and Electric Company, 77 Beale Street, Room 1087A, San Francisco, California 94106.

i. Comment Date: January 26, 1983.

j. Description of Project: Licensee proposes to improve its existing DeSabla-Centerville Project by adding the Toadtown Development which would consist of: (1) A 7-foot-high intake structure; (2) the existing Rapid Pipe; (3) a 1,552-foot-long, 54-inch-diameter steel penstock; (4) a powerhouse containing oné generating unit rated at 1,660 kW; (5) a tailrace; and (6) a 1,500-foot-long transmission line. The average annual energy generation would be 8.43 million kWh.

Licensee has also requested that the term of license for Project No. 803 be extended.

k. Purpose of Project: The energy generated by the project would be utilized to meet demands in Licensee's service area.

l. This notice also consists of the following standard paragraphs: B, C. D1.

3a. Type of Application: Major License (more than 5 MW).

b. Project No: 3239-001.

c. Date Filed: June 1, 1982.

d. Applicant: Puget Sound Power & Light Company.

e. Name of Project: Sandy Creek Project.

f. Location: on Rocky, Sulphur and Sandy Creeks within Mt. Baker National Forest in Whatcom County, Washington.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. § 791(a)-825(r).

h. Contact Person: Mr. Robert V. Myers, Vice President, Generation Resources, Puget Sound Power & Light Company, Puget Power Building, Bellevue, Washington 98009.

i. Comment Date: January 7, 1983.

j. Competing Application: Projects No. 6373-000 and No. 6374-000 (Due Date: December 10, 1982).

k. Description of Project: The proposed project would consist of: (1) A 15-foot-high concrete gravity diversion structure with crest elevation of 3,205 feet (m.s.l.) on Upper Sulphur Creek; (2) a 42-inch-diameter, 11,500-foot-long concrete pipeline; (3) a 36-inch-diameter, 4,000-foot-long penstock; (4) a powerhouse of Sulphur Creek (Powerhouse No. 1) containing a single generating unit with a rated capacity of 5,600 kW; (5) a second 15-foot-high concrete gravity diversion structure with crest elevation of 2,025 feet on Rocky Creek; (6) a 42-inch-diameter 2,500-foot-long concrete pipeline diverting waters of Rocky Creek into Sulphur Creek; (7) a third 15-foot-high concrete gravity diversion structure on Sulphur Creek immediately downstream of discharge point from Powerhouse No. 1 and Rocky Creek diversion pipeline; (8) a 54-inch-diameter, 9,000-foot-long concrete pipeline; (9) a 48-inch-diameter, 6,000-foot-long penstock, leading to Powerhouse No. 2; (10) a fourth 15-foot-high concrete gravity diversion structure with crest elevation of 1,455 feet on Sandy Creek; (11) a 48-inch-diameter, 4,300-foot-long concrete pipeline; (12) a 40-inch-diameter, 4,000-foot-long penstock also leading to Powerhouse No. 2; (13) a powerhouse on Sandy Creek (Powerhouse No. 2) containing two generating units with rated capacities of 9,000 and 3,000 kW; and (14) a 34.5-kV, 5.7-mile-long transmission line connecting the two proposed powerhouses with the Applicant's existing substation adjacent to the Upper Baker River Development southeast of the project. Project energy would be utilized by the Applicant to serve its customers.

m. This notice also consists of the following standard paragraphs: A3, B, & C.

4a. Type of Application: Exemption from Licensing.

b. Project No.: P-3412-002.

c. Date Filed: October 25, 1982.

d. Applicant: The City of Oxford, Kansas.

e. Name of Project: Oxford Mill Project.

f. Location: Arkansas River in Sumner County, Kansas.

g. Filed Pursuant to: Section 408 of the Energy Security Act (1980) (16 U.S.C. 2705 and 2708 as amended).

h. Contact Person: Charles Webb, Mayor, City of Oxford, City Hall, Oxford, Kansas 67119.

i. Comment Date: January 31, 1983.

j. Description of Project: The project would consist of the reconstruction and restoration of existing facilities which include: (1) A main rockfill diversion dam about 750 feet long and 3 feet high; (2) a natural channel three-quarters of a mile long; (3) a secondary earth and

rockfill diversion dam 210 feet long and 6 feet high; (4) a 1-mile-long millrace; (5) a powerhouse with an installed capacity of 300 kW; and (6) other appurtenances. Applicant estimates average annual generation would vary from 1,300,000 kWh to 2,010,000 kWh.

k. Purpose of Project: Project energy would be sold to the Kansas Gas and Electric Company.

l. This notice also consists of the following standard paragraphs: A1, B, C and D3a.

m. Purpose of Exemption: An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

5a. Type of Application: Major License (over 5 MW).

b. Project No. 3571–001.

c. Date Filed: November 17, 1982.

d. Applicant: Central Oregon Irrigation District.

e. Name of Project: Central Oregon Siphon Power Project.

f. Location: On Deschutes River in Deschutes County, Oregon.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Ron Nelson, Central Oregon Irrigation District, 847 South Sixth Street, P.O. Box 548, Redmond, Oregon 97756.

i. Comment Date: February 16, 1983.

j. Description of Project: The proposed run-of-the-river project would consist of: (1) Two new 2.5-foot-high by 18-foot-long concrete weirs on the Deschuts River; (2) an existing 150-foot-long flume; (3) an existing siphon, approximately 6,000 feet long; (4) a 1,146-foot-long section of the existing Central Oregon Canal; (5) a new check structure to divert water from the canal to; (6) two 84-inch-diameter penstocks leading to; (7) a powerhouse to contain two turbine-generating units with a total rated capacity of 6.5 MW under a head of 130 feet; (8) a switchyard; and (9) appurtenant facilities. The project would generate 35.26 million kWhs. No transmission line is included in this project. The line would be constructed by others for which a separate license application will be filed. The license application for the Central Oregon Siphon Power Project was filed as the result of a preliminary permit issued for the project.

k. This notice also consists of the following standard paragraphs: A2, B and C.

6a. Type of Application: Application for License (5 MW or Less).

b. Project No: 3572–001.

c. Date Filed: September 30, 1982.

d. Applicant: North Stratford Equipment Corporation.

e. Name of Project: Livermore Falls Hydro Project.

f. Location: Grafton County, New Hampshire.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)—825(r).

h. Contact Person: Mr. George K. Lagassa, Mill Pond Hydro Corporation, P.O. Box 4461, Portsmouth, New Hampshire 03801.

i. Comment Date: February 11, 1983.

j. Description of Project: The proposed project would be run-of-the-river and would consist of: (1) A breached dam, with the 83-foot long concrete spillway section remaining, to be repaired and reconstructed with a 258-foot long rock-filled timber crib section (or possibly a concrete gravity section if economically feasible) resulting in a dam, 341 feet long and 20 feet high, with spillway crest at 514 feet m.s.l.; (2) a reservoir having minimal pondage; (3) a gated intake structure with trashracks and two rectangular pressure flumes, each 10½ feet by 9 feet, integral with (4) a powerhouse to be rehabilitated and equipped with two rebuilt turbine-generator units having rated capacities of 750 kW each for a total rated capacity of 1,500 kW; (5) a tailrace returning flow to the Pemigewasset River approximately 100 feet downstream of the dam; (6) a new transmission line, approximately 500 feet long through an underground conduit, and a switchyard; and (7) appurtenant facilities. The Applicant estimates that the average annual energy output would be 9,500,000 kWh. Project energy will be sold to the utility serving the area. Applicant states that a possible 2,000 kW capacity may be added in a future project expansion if this becomes feasible. This application was filed during the term of the Applicant's preliminary permit for Project No. 3572–000.

k. This notice also consists of the following standard paragraphs: A2, B, C, and D1.

7a. Type of Application: Amendment of License.

b. Project No: P–3706–002.

c. Date Filed: November 12, 1982.

d. Applicant: American Hydro Power Company.

e. Name of Project: Mussers Dam.

f. Location: Middle Creek, Snyder County, Pennsylvania.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)—825(r).

h. Contact Person: Peter A. McGrath, American Hydro Power Company, Two Aldwyn Center, Villanova, Pennsylvania 19085.

i. Comment Date: January 28, 1983.

j. Description of Project: Under the license, Licensee is authorized to rehabilitate an existing turbine and install a 350-kW generator. Licensee now proposes to install a 300-kW generator, in combination with the existing turbine, and in addition, install a new 40-kW turbine-generator unit.

k. This notice also consists of the following standard paragraphs: B, C.

8a. Type of Application: Exemption From Licensing.

b. Project No: 6616–000.

c. Date Filed: August 19, 1982.

d. Applicant: Olympus Energy Corporation.

e. Name of Project: Sky Creek.

f. Location: On Sky Creek, within the Ross Lake Recreation Area, near Marblemount, in Skagit County, Washington.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980 (Act), 16 U.S.C. 2705, and 2708 *as amended.*

h. Contact Person: Mr. Jerome E. Livingston, President, Olympus Energy Corporation, 201–215th Street, SE., Bothell, Washington 98011.

i. Comment Date: January 24, 1983.

j. Description of Project: The proposed project would consist of: (1) A 5-foot-high, 35-foot-long concrete diversion structure; (2) a 1,670-foot-long, 30-inch-diameter steel pipeline; (3) a 1,500-foot-long, 30-inch-diameter steel penstock; (4) a powerhouse containing two generating units with a total installed capacity of 1.9 MW; and (5) a 200-foot-long transmission line. The Applicant estimates that the average annual energy production would be 12.5 million kWh.

k. Purpose of Project: Project power would be sold to a local public utility.

l. This notice also consists of the following standard paragraphs: A1, B, C, D3a.

9a. Type of Application: Preliminary Permit.

b. Project No: 6666–000.

c. Date Filed: September 1, 1982.

d. Applicant: Lawrence J. McMurtrey.

e. Name of Project: Pressentin Creek Waterpower Project.

f. Location: Pressentin Creek, near Hamilton, within Snoqualmie—Mt. Baker National Forest, in Skagit County, Washington.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Lawrence J. McMurtrey, 12122—196th N.E. Redmond, Washington 98052.

i. Comment Date: February 22, 1983.

j. Description of Project: The proposed project would consist of: (1) Five 2-foot-high, 10-foot-long diversion structures on Pressentin Creek; (2) a 12,000-foot-long,

36-inch-diameter diversion pipeline; (3) a powerhouse with a total installed capacity of 3.19 MW; and (4) a 115-kV transmission line. The Applicant estimates that the average annual energy production would be 13.98 GWh.

k. This notice also consists of the following standard paragraphs: A4a, A4c, B, C, & D2.

10a. Type of Application: Preliminary Permit.

b. Project No: 6727–000.

c. Date Filed: September 29, 1982.

d. Applicant: Northwest Power Company, Incorporated.

e. Name of Project: Miner's Tunnel Hydroelectric Project.

f. Location: On South Yuba River, near Nevada City, in Nevada County, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. J. Ward MacDonald, President, Northwest Power Company, Incorporated, 1250 Pine Street, Suite 100, Walnut Creek, California 94596.

i. Comment Date: February 18, 1983.

j. Description of Project: The proposed project would consist of: (1) A 5-foot-High, 60-foot-long concrete diversion structure; (2) a 12-foot-high, 18-foot-wide, and 950-foot-long existing tunnel; (3) a 10-foot-diameter, 75-foot-long penstock; (4) a powerhouse containing one generating unit with a rated capacity of 2,000 kW; and (5) a 1.5-mile-long transmission line to connect to an existing Pacific Gas and Electric Company's transmission line. The Applicant estimates the average annual energy production at 8.7 million kWh.

k. This notice also consists of the following standard paragraphs: A4a, A4c, B, C, & D2.

11a. Type of Application: Preliminary Permit.

b. Project No. 6732–000.

c. Date filed: October 1, 1982.

d. Applicant: Modesto Irrigation District.

e. Name of Project: Big Grizzly Canyon Creek.

f. Location: On Big Grizzly Canyon Creek, within the El Dorado National Forest, near Georgetown, Placer County, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. A. Lee DeLano, Modesto Irrigation District, 1231–11th Street, Modesto, California 95352.

i. Comment Date: February 14, 1983.

j. Competing Application: Project No. 6487. Date Filed: July 6, 1982.

k. Description of Project: The proposed project would consist of: (1) A 5-foot-high, 30-foot-long concrete diversion structure; (2) a 6,100-foot-long, 20-inch-diameter conduit; (3) a 1,920-foot-long, 12-inch-diameter penstock; (4) a powerhouse containing a single generating unit with an installed capacity of 952 kW; and (5) a 14,460-foot-long, 12-kV transmission line interconnecting to an existing PG&E transmission line. The Applicant estimates that the average annual energy production would be 4.1 million kWh. A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 24 months during which time it would conduct technical, environmental and economic studies; and prepare an FERC license application. No new roads would be needed for conducting these studies. The Applicant estimates that the cost of undertaking these studies would be $25,000.

l. Purpose of Project: Project power would be utilized by the Applicant for its customers.

m. This notice also consists of the following standard paragraphs: A3, B, C.

n. Agency Comments: D2.

12a. Type of Application: Preliminary Permit.

b. Project No. 6733–000.

c. Date filed: October 1, 1982.

d. Applicant: Modesto Irrigation District.

e. Name of Project: Long Canyon Creek.

f. Location: On Long Canyon Creek, within the Eldorado National Forest, near Georgetown, Placer County, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. A. Lee DeLano, Modesto Irrigation District, 1231–11th Street, Modesto, California 95352.

i. Comment Date: January 6, 1983.

j. Competing Application: Project No. 6485. Date Filed: July 6, 1982.

k. Description of Project: The proposed project would consist of: (1) A 5-foot-high, 30-foot-long concrete diversion structure; (2) an 11,700-foot-long, 36-inch-diameter conduit; (3) a 1,500-foot-long, 30-inch-diameter penstock; (4) a powerhouse containing a single generating unit with an installed capacity of 1,360 kW; and (5) a 10,500-foot-long, 12-kV transmission line interconnecting to an existing PG&E transmission line. The Applicant estimates that the average annual energy production would be 5.8 million kWh.

A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 24 months during which time it would conduct technical, environmental and economic studies; and prepare and FERC license application. No new roads would be needed for conducting these studies. The Applicant estimates that the cost of undertaking these studies would be $45,000.

l. Purpose of Project: Project power would be utilized by the Applicant for its customers.

m. This notice also consists of the following standard paragraphs: A3, B, C, D2.

13a. Type of Application: Preliminary Permit.

b. Project No. 6735–000.

c. Date Filed: October 1, 1982.

d. Applicant: Modesto Irrigation District.

e. Name of Project: Duncan Canyon Creek.

f. Location: On Duncan Canyon Creek, within the El Dorado National Forest, near Georgetown, Placer County, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. A. Lee DeLano, Modesto Irrigation District, 1231–11th Street, Modesto, California 95352.

i. Comment Date: January 6, 1983.

j. Competing Application: Project No. 6486 Date Filed: July 6, 1982.

k. Description of Project: The proposed project would consist of: (1) A 5-foot-high, 30-foot-long concrete diversion structure; (2) a 25,800-foot-long, 48-inch-diameter conduit; (3) a 1,600-foot-long, 36-inch-diameter penstock; (4) a powerhouse containing a single generating unit with an installed capacity of 4,760 kW; and (5) a 2,100-foot-long, 12-kV transmission line interconnecting to an existing PG&E transmission line. The Applicant estimates that the average annual energy production would be 20.6 million kWh. A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 24 months during which time it would conduct technical, environmental and economic studies; and prepare an FERC license application. No new roads would be needed for conducting these studies. The Applicant estimates that the cost of undertaking these studies would be $45,000.

l. Purpose of Project: Project power would be utilized by the Applicant for its customers.

m. This notice also consists of the following standard paragraphs: A3, B, C.

n. Agency Comments: D2.

14a. Type of Application: Exemption from Licensing.

b. Project No: 6775–000.

c. Date Filed: October 18, 1982.

d. Applicant: The Winchester Water Control District & Elektra Power Corporation.

e. Name of Project: Winchester Dam Hydroelectric Project.

f. Location: North Umpqua River, near Winchester, Douglas County, Orgeon.

g. Filed Pursuant to: Section 408 of the Energy Security Act, 16 U.S.C. 2705 and 2708 as amended.

h. Contact Person: Mr. D. Dixon Collins, 744 San Antonio Road, Palo Alto, California 94304.

i. Comment Date: January 21, 1983.

j. Description of Project: The proposed project would consist of: (1) The Applicant's existing 17-foot-high, 450-foot-long Winchester Dam; (2) an intake structure within the northwest abutment of the dam; (3) a 25-foot-wide, 59-foot-long concrete channel; (4) a powerhouse at the foot of the dam containing two generating units with a total installed capacity of 1,300 kW; (5) a 40-foot-wide, 300-foot-long tailrace channel; and (6) a 120-foot-long transmission line to connect to an existing Pacific Power and Light Company's (PP&LC) transmission line. The estimated average annual energy generation of 8,863,000 kWh would be sold to PP&LC.

k. This notice also consists of the following standard paragraphs: A1, B, C and D3a.

15a. Type of Application: Preliminary Permit.

b. Project No.: 6829–000.

c. Date Filed: November 4, 1982.

d. Applicant: Power Resources Development Corporation.

e. Name of Project: Sandy Creek Project.

f. Location: Sandy Creek, Jefferson County, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Roger P. Swanson, 49 Onondaga Street, Skaneateles, New York 13152.

i. Comment Date: February 16, 1983.

j. Description of Project: The proposed project would consist of: (1) An existing masonry gravity dam, 12 feet high and 130 feet long; (2) a reservoir with a surface area of 2.6 acres, a storage capacity of 6 acre-feet, and a normal water surface elevation of 628 m.s.l.; (3) an existing 5-foot diameter steel penstock 40 feet long; (4) a new powerhouse containing one 420 kW generating unit; (5) a new tailrace; (6) a new switchyard; (7) a new transmission line; and (8) appurtenant facilities. The Applicant estimates the annual average energy production would be 2,200,000 kWh. The existing project facilities are owned by Lawrence R. Taft.

k. Purpose of Project: Project power would be sold to Niagara Mohawk Power Corporation.

l. This notice also consists of the following standard paragraphs: A4a, A4c, B and C.

m. Agency Comments: D2.

n. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months, during which time the Applicant would perform studies to determine the feasibility of the project. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates the cost of the studies under the permit would be $27,500.

16a. Type of Application: Exemption from licensing (5MW or less).

b. Project No.: 6830–000.

c. Date Filed: November 4, 1982.

d. Applicant: Woods Creek, Inc. and Burlington Northern Railroad Company.

e. Name of Project: Proctor Creek Hydroelectric.

f. Location: On Proctor Creek in Snohomish County, Washington; partially within Snoqualmie National Forest.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980 (16 U.S.C. 2705 and 2708 as amended).

h. Contact Person: Mr. Neil H. Macdonald, Woods Creek, Inc., 14 South Idaho Street, Seattle, Washington 98134.

i. Comment Date: January 12, 1983.

j. Competing Application: Project No. 6176. Date Filed: April 7, 1982 and Project No. 6532, filed July 16, 1982.

k. Description of Project: The proposed project would consist of: (1) A 6-foot-high timber diversion weir with crest at elevation 1606 feet; (2) a 36-inch-diameter, 15,300-foot-long steel penstock; (3) a powerhouse at elevation 320 feet containing a turbine-generating unit rated at 2.4 MW and an average annual energy output of 10.2 GWh; (4) a 75-foot-long tailrace; (5) a 1,000-foot-long transmission line; and (6) a new 500-foot-long roadway.

l. This notice also consists of the following standard paragraphs: A1, B, C, and D3a.

17a. Type of Application: Preliminary Permit.

b. Project No. 6843–000.

c. Date Filed: November 15, 1982.

d. Applicant: City of Ithaca.

e. Name of Project: 30-Foot Dam Project.

f. Location: Six Mile Creek, Tompkins County, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Jay Ryder, Halliwell Associates, Inc., 865 Waterman Avenue, East Providence, Rhode Island 02914.

i. Comment Date: January 11, 1983.

j. Competing Application: Project No. 6519–000 Date Filed: July 15, 1982.

k. Description of Project: The proposed project would consist of: (1) The existing concrete arch 30-Foot Dam, 30 feet high and 65 feet long; (2) a reservoir having a surface area of 20 acres, storage capacity of 287 acre-feet, and an normal water surface elevation of 583.5 feet m.s.l.; (3) an existing 2–foot diameter pipeline 4900 feet long extending to; (4) a new powerhouse containing one new generating unit with a capacity of 810 kW; and (5) appurtenant facilities. Applicant owns all of the existing facilities. Applicant estimates that the average annual energy production would be 2,838,240 kWh.

l. Purpose of Project: All project power would be sold to New York State Electric and Gas Company.

m. This notice also consists of the following standard paragraphs: A3, B, C, D2.

n. Proposed Scope of Studies Under Permit: A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 18 months, during which time the Applicant would perform studies to determine the feasibility of the project. Depending upon the outcome of the Studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates the cost of the studies under permit would be $25,400.

18a. Type of Application: Preliminary Permit.

b. Project No: 6848–000.

c. Date Filed: November 12, 1982.

d. Applicant: Dixfield Power Company.

e. Name of Project: Dixfield.

f. Location: Near the town of Dixfield, Oxford County, Maine.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Harry S. D. Adams, Manager, Hydroelectric Resources, P.O. Box 50, One Jefferson Square, Boise, Idaho 83728.

i. Comment Date: February 22, 1983.

j. Description of Project: The proposed project would consist of: (1) A new 25-foot high, 550-foot long earthen dam with a concrete spillway section; (2) an 183-acre reservoir with a total storage capacity of 1,830 acre-feet at elevation 410 feet M.S.L.; (3) a new powerhouse built integrally with the dam containing

turbine-generators with a total rated capacity of 5,325 kW; (4) a 200-foot long tailrace channel with a tailwater elevation of 390 feet M.S.L.; (5) a 300-foot long transmission line; and (6) appurtenant facilities. The project would generate up to 32,000,000 kWh annually.

k. Purpose of Project: Energy produced at the project would be sold to the local utility.

l. This notice also consists of the following standard paragraphs: A4b, A4c, A4d, B and C.

m. Agency Comments: D2.

n. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorized construction. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, geotechnical tests including test pits and borings in the vicinity of the proposed dam, and a study of environmental impacts. Disturbed areas would be restored upon completion of geotechnical tests. Based on results of these studies, Applicant would decide whether to proceed with more detailed studies and the preparation of a application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be up to $300.000.

19a. Type of Application: Preliminary Permit.

b. Project No: 6854–000.

c. Date Filed: November 15, 1982.

d. Applicant: Brown's Industries, Inc.

e. Name of Project: Brown's Pond Hydroelectric Project.

f. Location: On Lake Fork, Payette River, in Valley County, near McCall, Idaho.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a) — 825(r).

h. Contact Person: Mr. Judd W. DeBoer, President, Brown's Industries, Inc., P.O. Box 100, Eagle, Idaho 83616; with a copy to: Mr. Eric Schultz, CH2M Hill, 700 Clearwater Lane, P.O. Box 8748, Boise, Idaho 83707.

i. Comment Date: February 22, 1983.

j. Description of Project: The proposed project would consist of: (1) The existing 1,200-acre-foot Brown's Pond created by an existing earthfill embankment, 45 feet high and 400 feet long belonging to Edward A. Cruzen, Warren H. Brown, and Jayne J. Brown; (2) a new intake structure; (3) a new penstock 42 inches in diameter and 4,250 feet in length; (4) a powerhouse to contain a reaction-type, turbine-generating unit with a rated capacity of 750 kW operating under a head of 92 feet and producing 2.5 million kWhs of energy annually; (5) a 3.5-mile-long, 12.5-kV transmission line to connect to an existing Idaho Power Company line; and (6) appurtenant facilities.

A preliminary permit, if issued, does not authorize construction. The Applicant seeks a 36-month permit to study the feasibility of constructing and operating the project. No new roads would be required to conduct the feasibility studies.

k. Purpose of Project: The project energy would be sold to Idaho Power Company.

l. This notice also consists of the following standard paragraphs: A4a, A4c, B, C and D2.

20a. Type of Application: Preliminary Permit.

b. Project No. 6855–000.

c. Date Filed: November 15, 1982.

d. Applicant: Mendocino County.

e. Name of Project: McKee Park Water Power Project.

f. Location: On East Fork Russian River, Mendocino County, near Potter Valley, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a) — 825(r).

h. Contact Person: Mr. Albert P. Beltrami, County Administrative Officer, County of Mendocino, Courthouse — Room 110, Ukiah, California 95482.

i. Comment Date: February 22, 1983.

j. Description of Project: The proposed project would consist of: (1) An approximately 10-foot-high by 120-foot-long diversion dam; (2) a 350-foot-long flume; (3) a powerhouse with an installed capacity of 450 kW operating under a head of 17 feet and producing 2.5 million kWhs of energy annually; and (4) a 660-foot-long, 12-kV transmission line to connect to an existing Pacific Gas and Electric Company line. A preliminary permit, if issued, does not authorize construction. The Applicant seeks a 36-month permit to study the feasibility of constructing and operating the project. No new road would be required to conduct the studies.

k. Purpose of Project: The project energy is proposed to be sold to Pacific Gas and Electric Company.

l. This notice also consists of the following standard paragraphs: A4b, A4c, A4d, B, C and D2.

21a. Type of Application: Preliminary Permit.

b. Project No. 6857–000.

c. Date Filed: November 17, 1982.

d. Applicant: City of Yakima.

e. Name of Project: Yakima Diversion Dam Hydroelectric Project.

f. Location: On Naches River, in Yakima County, Washington.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)—825(r).

h. Contact Person: Mr. Richard A. Zais, Jr., City Manager, City of Yakima, 129 North Second Steet, Yakima, Washington 98902, with a copy to: Mr. John Mayo, CH2M Hill, P.O. Box 9249, Yakima, Washington 98909.

i. Comment Date: February 16, 1983.

j. Description of Project: The proposed project would consist of: (1) The existing City of Yakima's 8-foot-high by 190-foot-long diversion dam; (2) a new intake structure; (3) a new forebay canal; (4) a powerhouse with an installed capacity of 650 kW; (5) a tailrace channel; (6) a 4.1 kV, 0.4-mile-long transmission line to connect to an existing Pacific Power and Light Company and; (7) a new substation. The powerhouse would operate under a net head of 6 feet with a design flow of 1,500 cfs producing 3.5 million kWhs of energy annually. A permit, if issued, does not allow construction. The Applicant seeks a 24-month permit to study the feasibility of constructing and operating the proposed project. No new road would be required to conduct the studies.

k. Purpose of Project: The project energy would be sold to a private or a public utility.

l. This notice also consists of the following standard paragraphs: A4a, A4c, B, C and D2.

22a. Type of Application: Preliminary Permit.

b. Project No. P–6862–000.

c. Date Filed: November 18, 1982.

d. Applicant: City of Lewiston, Maine.

e. Name of Project: Lewiston Falls.

f. Location: City of Lewiston, Androscoggin County, Maine.

g. Filed Pursuant to: FPA, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Anthony W. Buxton, Preti, Flaherty and Beliveua, One Memorial Circle, Augusta, Maine 04330.

i. Comment Date: February 11, 1983.

j. Description of Project: The proposed project would utilize water from the existing canal system currently licensed as Project No. 2302 to Union Water Power Company. The Applicant proposes to study the feasibility of 7 alternative schemes of development basically comprised of: (1) Renovation of existing unlicensed turbine-generators along the canal system with a total rated capacity of up to 13.7 MW; or (2) construction of an entirely new powerhouse containing turbine-generators with a total rated capacity of up to 30.0 MW located in the vicinity of the Applicant's existing pumping station and the east abutment of dam #4; or (3) various combinations of refurbished existing facilities and construction of new facilities with a total rated capacity of up to 34.5 MW. Energy would be transmitted to the existing Central

Maine Power Company substation located in the immediate vicinity of the project on Mill Street. The project would generate up to 147,660,000 kWh annually. The existing facilities are owned by Union Water Power Company, Central Maine Power Company, W.S. Libbey Company and the Applicant.

k. Purpose of the Project: Energy produced at the project would be sold to the local utility.

l. This notice also consists of the following standard paragraphs: A4a, A4c, B, C and D2.

Competing Applications

A1. Exemptions for Small Hydroelectric Power Project under 5MW Capacity—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing license application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1982). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d).

A2. Applications for License—Anyone desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either the competing application itself (see 18 CFR 4.33 (a) and (d), and Part 16, where applicable) or a notice of intent (see 18 CFR 4.33 (b) and (c)) to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c) or §§ 4.101 to 4.104 (1982).

A3. Public notice of the filing of the initial application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, no competing application for license, exemption or preliminary permit, or notices of intent to file competing applications, will be accepted for filing in response to this notice (see 18 CFR 4.30 to 4.33 or §§ 4.101 to 4.104 (1982), as appropriate). Any application for license or exemption from licensing, or notice of intent to file a license or an exemption application, must be filed in accordance with the Commission's regulations (see 18 CFR 4.30 to 4.33 or §§4.104 (1982), as appropriate).

Preliminary Permits

A4a. Existing Dam or Natural Water Features Project—Anyone desiring to file a competing application for preliminary permit for a proposed project at an existing dam or natural water feature project, must submit the competing application to the Commission on or before 30-days after the specified comment date for the particular application (see 18 CFR 4.30 to 4.33 (1982)). A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

A4b. No Existing Dam—Anyone desiring to file a competing application for preliminary permit for a proposed project where no dam exists or there are proposed to be major modifications, must submit to the Commission on or before the specified comment date for the particular application, the competing application itself, or a notice of intent to file such an application (see 18 CFR 4.30 to 4.33 (1982)).

A4c. The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before the specified comment date for the particular application. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations (see 18 CFR 4.30 to 4.33 or §§ 4.101 to 4.104 (1982), as appropriate).

A4d. submission of a timely notice of intent to file an application for preliminary permit allows an interest person to file an acceptable competing application for preliminary permit no later than 60 days after the specified comment date for the particular application.

B. *Comments, Protests, or Motions To Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, .211, .214 (1982). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST" or "MOTION TO INTERVENE", as applicable and the Project Number of the particular application to which the filing is in response. Any of the above named documents must be filed by providing the original and the number of copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room, 208RB at the above address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments

D1. License applications (5 MW or less capacity)—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, The National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88–29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments with the Commission within the time set for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D2. Preliminary permit applications—Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must

also be sent to the Applicant's representatives.

D3a. Exemption applications (5 MW or less capacity)—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the State Fish and Game agency(ies) are requested, for the purposes set forth in Section 408 of the Act, to file within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substative issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3b. Exemption applications (Conduit)—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the State Fish and Game agency(ies) are requested, for the purposes set forth in Section 30 of the Act, to file within 45 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substative issues relevant to the granting of an exemption. If an agency does not file comments within 45 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Dated: December 13, 1982.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-34291 Filed 12-16-82; 8:45 am]

BILLING CODE 6717-01-M

Office of the Secretary

[Docket No. EP-40-82-1]

Energy Emergency Preparedness

AGENCY: Office of Environmental Protection, Safety, and Emergency Preparedness, DOE.

ACTION: Notice of Availability of Reports.

SUMMARY: On August 3, 1982, the President signed into law the Energy Emergency Preparedness Act of 1982 (EEPA, the Act) (Pub. L. 97-229) (42 U.S.C. 6202-6245). The Act, among other provisions, adopted a series of amendments to certain available legal authorities related to the International Energy Program, the Strategic Petroleum Reserve (SPR), and other emergency preparedness programs. It further prescribed a variety of actions to be pursued to include the preparation and submission to Congress of an SPR Drawdown Plan, an SPR Drawdown and Distribution Report, a Regional Petroleum Reserve Report, a Strategic Alcohol Fuel Reserve Report, and a report setting forth Comprehensive Energy Emergency Response Procedures. The latter three reports are due to the Congress on December 31, 1982, and are being prepared.

The SPR Drawdown Plan and the SPR Drawdown and Distribution Report were due to the Congress on December 1, 1982. The purpose of this Notice of Availability is to advise that the President has approved the documents, and forwarded them to the Congress on the prescribed date. Two other items were also made available on December 1. President Reagan transmitted to Congress the finding required by section 4(a) of EEPA concerning the fill rate for the SPR. In addition, the DOE released a report entitled "Issues and Analysis on the Use of the SPR: Staff Paper on Department of Energy Approaches and Current Status of Studies" (DOE/EP-0075).

This Notice also summarizes the principal comments offered by the public in response to a Notice of Inquiry published in the **Federal Register** on September 29, 1982 (47 FR 42801). That Notice solicited advice and comment from the public with regard to each of the requirements set forth in the Act.

FOR FURTHER INFORMATION CONTACT: Ronald L. Winkler, U.S. Department of Energy, Deputy Assistant Secretary for Energy Emergencies, Forrestal Building, Room 3G-072 (Mail Stop EP-40), 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-2443.

SUPPLEMENTARY INFORMATION: I. *Summary of the SPR Drawdown Plan.* Section 4(c) of the EEPA required that a new SPR Drawdown Plan be supplied to the Congress as a substitute for a Plan which has been in effect since November 15, 1979. Under a provision of the Act, the new Plan (Amendment No. 4) took immediate effect on the date it was transmitted to Congress.

The revised SPR Drawdown Plan (Amendment No. 4 to the SPR Plan) establishes new procedures for the drawdown, sale, and distribution of SPR oil in the event of a severe energy supply disruption, or to fullfill the obligations of the United States under the International Energy Program. The Plan is premised on the Administration's commitment to unencumbered free market adjustments to an energy shortage as the most reliable means of rapidly and efficiently distributing SPR oil in the event of an energy emergency. Accordingly, SPR oil will be sold wherever practicable to the widest range of buyers through price competitive sales.

Key features of SPR Plan Amendment No. 4 include the following departures from the Plan it supplants:

(1) References to potential Federal allocation of petroleum resources have been excised to reflect the President's rescission of petroleum allocation and price controls in January 1981, and the expiration of the Emergency Petroleum Allocation Act of 1974. This serves to buttress and underscore the Administration's belief in the reliability and efficacy of free market adjustments to energy disruptions.

(2) The sale for those quantities of SPR oil which the President releases will be made at market prices. At least 90 percent of the quantity sold in a given month will be sold on a price competitive basis, with awards going to the highest bidders.

(3) To further enhance the competitive character of SPR sales, the universe of buyers eligible to bid for SPR oil has been expanded to include all responsible buyers. The previous Plan had restricted the universe of eligible buyers to include only domestic refiners. The expansion of the buyer universe will be as large as possible to ensure the

maximum efficient distribution of SPR oil. Nonetheless, an important consideration in the process of selling SPR oil will be an assurance that sale and delivery schedules can be met, and a standard sales agreement which must be signed by all bidders will include measures which will guarantee the financial and performance responsibility of successful bidders to pay for and take timely delivery of SPR oil.

(4) As a measure of last resort, the new Plan permits the distribution of up to 10 percent of the volume of SPR oil released in any calendar month to specified buyers. Such directed distributions will be made in a manner determined by the Secretary of Energy. The price for such SPR oil will be the average price of SPR oil sold at the contemporaneous competitive sale, or at the most recent competitive sale, if no contemporaneous competitive sale is held. The Plan also provides for the temporary storage of SPR oil at SPR sites, where the Secretary of Energy deems this to be in the national interest.

II. *Summary of the SPR Drawdown and Distribution Report.* Section 6(b) of the EEPA required that an SPR Drawdown and Distribution Report which addresses the basic procedures and policies governing the use of the SPR be supplied to the Congress. The Report serves as a companion document and supplement to the SPR Drawdown Plan.

The Report underscores the Administration's policy of reliance on market mechanisms to distribute and price available petroleum supplies, including the SPR, during periods of disruption. It includes a summary of the legal authorities governing a SPR drawdown, a discussion of the objectives of SPR oil deployment, and a review of those factors which must be considered in making a SPR drawdown decision. Several illustrative scenarios are presented to indicate how various market factors may combine to influence a decision to deploy the SPR.

The Report also stresses the impracticability of establishing in advance any specific "trigger" or formula for a decision to use the SPR because of the wide and unpredictable range of conditions which may occur, and can only be known with clarity at the time of a supply disruption. The effects of such uncertainties on the decisionmaking process are addressed, as is an overview of contracting procedures for the sale of SPR oil.

Because of substantial changes in policies established by SPR Plan Amendment No. 4, current sales procedures are now being revised.

III. *Summary of Public Comments.* As a consequence of the Notice of Inquiry published in the **Federal Register** on September 29, 1982, 62 responses were received by the Department of Energy as of November 15, 1982. The majority of comments were provided by the petroleum industry and State governments, with the balance of comments having been provided by various associations and private sector groups. Most of the comments related to the Strategic Petroleum Reserve and the conditions of its use, and these are summarized below. Although a summary of comments related to the Regional Petroleum Reserve, the Strategic Alcohol Fuel Reserve, and the Comprehensive Energy Emergency Response Procedures will be provided after these reports have been transmitted to the Congress, they are occasionally referenced below to afford an improved perspective on commentor views. The principal comments provided were as follows:

(1) Among the larger companies of the oil industry, only Ashland, Arco, and Sun cited the desirability for allocation and price controls for SPR sales during severe energy emergencies. The remainder, including the American Petroleum Institute (API), which represented an industry viewpoint, were in favor of maximum competitive free market operations. All would limit buyers to bona fide refiners except Getty, which called for inclusion of "all domestic enterprises." All cited the need for flexibility in the timing and rate of a SPR drawdown except Getty, which recommended a 1 million barrel per day (MMBD) import shortfall trigger. The API also provided recommendations for greater Government and industry cooperation through the establishment of advisory groups, which may require additional antitrust and/or conflict-of-interest protection, and for the Federal preemption of State emergency plans which may conflict with those of the Federal Government.

(2) Independent refiners called for some form of special treatment in the distribution of SPR oil, including SPR oil allocations or preferred access provisions for their use. They believe that the Federal Government should preempt conflicting State emergency plans, and that the SPR buyer universe of eligible bidders should be limited to refiners alone.

(3) Distributors, marketers, and importers called for the expansion of the buyer universe to include importers, special access to SPR oil for independents and importers, the preemption of conflicting State plans, the early use of SPR oil in an energy emergency, and Government intervention to assure the equitable distribution of SPR oil to those in need.

(4) Most Government-related entities, including the States, the National Governors' Association, and the Commonwealth of Puerto Rico, supported the establishment of Regional Petroleum Reserves. Most questioned the efficacy and equity of the free market in providing energy supplies to regions and certain individuals in the event of a severe energy supply shortage. Many recommended Federal intervention of some type in the marketplace in an emergency, and called for the establishment of such procedures as the standby allocation of SPR oil and, in some cases, even rationing. Puerto Rico was especially concerned about its unique and extreme dependency on foreign imports, and asserted that reliance on a free market approach to dealing with energy emergencies would result in shortages and shutdowns in the oil and petrochemical industries of the Commonwealth.

(5) Unrestrained free-market response in the event of an energy disruption was supported by petrochemical companies, the American Iron and Steel Institute (AISI), the U.S. Chamber of Commerce, and the Industrial Oil Consumers Group (IOCG), which includes, among others, ALCOA, General Motors, Bethlehem Steel, ARMCO, and U.S. Steel. Some emphasized the advantages of maintaining Presidential flexibility in selecting the rate and timing of a SPR drawdown during a shortage. The petrochemical respondents recommended expanding the SPR buyer universe to include all domestic buyers who are willing and able to process the oil received.

(6) To help assure that SPR oil reaches the marketplace rapidly in an emergency, the IOCG, supported by AISI, recommended monthly precrisis sales of rights to SPR oil. Actual distribution would occur only after a Presidential finding of a severe supply shortage, and would include up to 10 percent of the SPR oil in storage. Only domestic refiners with operating capacity would be eligible, competitive bidding with no set-asides would prevail, and a defense override would be provided. The AISI would also set a price floor at the spot price plus a premium. In this way, the IOCG believes use of the SPR oil would result in rapid national supply enhancement, price containment, and increased public confidence in actions being undertaken by the Government to deal with a shortage.

(7) The need for allocation priorities was strongly supported by the agriculture and food industry, the Vehicular Highway Transportation Industry, and Southern California Edison (SCE). Transportation companies were concerned with the confusion that might arise from differing State energy emergency plans, while the SCE supported the need for Regional Petroleum Reserves. The food industry respondents strongly pressed the argument that the food chain's vulnerability and criticality made some sort of allocation for their purposes essential. They noted that they may be forced to seek Congressional legislation to ensure SPR supplies for the food industry if this guarantee were not forthcoming in the SPR Drawdown Plan.

(8) In general, the expansion of the buyer universe was supported by those advocating free market approaches to the sale of SPR oil, while most of those who advocated the allocation of SPR oil for specific buyers or purposes called for the restriction of buyer eligibility. Concerning the timing and drawdown rate of the SPR oil during an emergency, there appeared to be general agreement that a SPR oil drawdown should occur in the early stages of a disruption to have the maximum beneficial effect on supply enhancement, prices, and public confidence in the remedial measures being pursued by the Government and the private sector.

IV. All comments received with regard to the Notice of Inquiry from the public are available for public inspection in the DOE Reading Room, room IE–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, between 8:00 a.m and 4:00 p.m., Monday through Friday. The docket number designation is "Energy Emergency Preparedness, Docket No. EP–40–82–1"

Copies of the SPR Drawdown Plan (DOE/EP–0073) and the SPR Drawdown and Distribution Report (DOE/EP–0074), as well as the Staff Paper (DOE/EP–0075) and the Presidential Finding, may be obtained by writing or contacting the DOE office of Public Affairs, Room 1E–218 Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585; (202) 252–5568.

Dated: December 10, 1982.

William A. Vaughan,

Assistant Secretary, Environmental Protection, Safety and Emergency Preparedness.

[FR Doc. 82–34250 Filed 12–16–82; 8:45 am]

BILLING CODE 6450–01–M

European Atomic Energy Community; Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation Between the Government of the United States of America and the Government of Austria Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreements involves approval of the following retransfer:

RTD/AT(EU)–59, from the Federal Republic of Germany to Austria, coated particles containing 2.80 grams of uranium, enriched to 90% in U–235, for post-irradiation examination. It is planned to return this material to the Federal Republic of Germany for disposal following conclusion of these tests.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: December 14, 1982.

George Bradley,

Principal Deputy Assistant Secretary for International Affairs.

[FR Doc. 82–34302 Filed 12–16–82; 8:45 am]

BILLING CODE 6450–01–M

European Atomic Energy Community; Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of proposed "subsequent arrangements" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended.

The subsequent arrangements to be carried out under the above mentioned agreement involve approval of the following sales:

Contract Number S–EU–756, to Kernforschungsanlage Julich, the Federal Republic of Germany, 25 grams of natural uranium, for use as standard reference material.

Contract Number S–EU–757, to the Central Bureau for Nuclear Measurements, Belgium, 0.002 grams of plutonium-244, 9.997 grams of plutonium-239, and 0.005 grams of uranium-233, for use as standard reference materials.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of these nuclear materials will not be inimical to the common defense and security.

These subsequent arrangements will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: December 14, 1982.

George Bradley,

Principal Deputy Assistant Secretary for International Affairs.

[FR Doc. 82–34303 Filed 12–16–82; 8:45 am]

BILLING CODE 6450–01–M

Norway and Sweden; Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreements for Cooperation Between the Government of the United States of America and the Governments of Norway and Sweden Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreements involves approval of the following retransfer:

RTD/NO (SW)–13, from Sweden to Norway, uranium samples containing 8,000 grams of uranium, enriched to an average of 3.5% in U-235, for analysis of uranium content, enrichment, and rare earth metals. After completion of analyses, the material will be disposed of as waste.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: December 14, 1982.

George Bradley,

Principal Deputy Assistant Secretary for International Affairs.

[FR Doc. 82–34304 Filed 12–16–82; 8:45 am]

BILLING CODE 6450–01–M

Sweden; Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Sweden Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval of the following sale: Contract Number S–SW–60, to the Lunds Universitet, Lund, Sweden, 0.5 micrograms of thorium-229, to be used as a radiochemical determinant to measure thorium-230, thorium-228, and thorium-232 in environmental samples.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: December 14, 1982.

George Bradley,

Principal Deputy Assistant Secretary for International Affairs.

[FR Doc. 82–34305 Filed 12–16–82; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS–59111; TSH–FRL–2271–4]

Certain Chemicals; Premanufacture Exemption Applications

AGENCY: Environmental protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA may upon application exempt any person from the premanufacturing notification requirements of section 5(a) or (b) of the Toxic Substances Control Act (TSCA) to permit the person to manufacture or process a chemical for test marketing purposes under section 5(h)(1) of TSCA. Requirements for test marketing exemption (TME) applications, which must either be approved or denied within 45 days of receipt, are discussed in EPA's revised statement of interim policy published in the **Federal Register** of November 7, 1980 (45 FR 74378). This notice, issued under section 5(h)(6) of TSCA, announces receipt of two applications for exemptions, provides a summary, and requests comments on the appropriateness of granting each of the exemptions.

DATE: Written comments by: December 30, 1982.

ADDRESS: Written comments, identified by the document control number "[OPTS–59111]" and the specific TME number should be sent to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Management Support Division, Environmental Protection Agency, Rm. E–401, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Margaret Stasikowski, Acting Chief, Notice Review Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–216, 401 M Street SW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the TME received by EPA. The complete non-confidential document is available in the Public Reading Room E–107.

TME 83–14

Close of Review Period. January 19, 1983.

Manufacturer. Confidential.

Chemical. (G) Chlorinated, oleated, hydrocarbon polymer.

Use. Confidential. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Clean out and disposal: dermal.

Environmental Release/Disposal. Release only by accidental spill. Disposal by RCRA (Resource Conservation and Recovery Act) approved methods.

TME 83–15

Close of Review Period. January 22, 1983.

Importer. Confidential.

Chemical. (G) (Substituted) anthracenylimino-(substituted) carbomonocyclic acid alkyl amine salt.

Use/Import. Confidential. The test marketing substance will be used in an open use that will release < 2 kg of the substance to the environment. Import range: Confidential.

Toxicity Data. Acute oral: > 8,000 mg/kg; Irritation: Skin—Non-irritating, Eye—Non-irritating.

Exposure. Use: dermal, a maximum of 5 workers, up to 2 hrs/da, up to 2 da/yr.

Environmental Release/Disposal. Less than 2 kg/yr released to air.

Dated: December 10, 1982.

Woodson W. Bercaw,

Acting Director, Management Support Division.

[FR Doc. 82–34287 Filed 12–16–82; 8:45 am]

BILLING CODE 6560–50–M

[A–9–FRL 2269–4]

Extension of Prevention of Significant Deterioration Permit for Arizona Public Services Company, Cholla Generating Station Unit No. 5.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Final Action on PSD Permit Extension.

SUMMARY: On April 23, 1981, the Arizona Public Services Company (APS) requested an extension until December 31, 1984 for the date by which construction must recommence for Cholla Unit No. 5 at the Cholla Generating Station, Navajo County, Arizona. In the August 11, 1982 **Federal Register** (47 FR 34854) EPA proposed to approve this extension request for Unit No. 5.

FOR FURTHER INFORMATION CONTACT: David Solomon, New Source Section (A–3–1), Air Operations Branch, Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105, telephone (415) 974–8240.

DATE: This action is effective February 15, 1983.

SUPPLEMENTARY INFORMATION: On February 15, 1978, the EPA granted APS a Prevention of Significant Deterioration (PSD) Approval to Construct (NSR 4–1–2, AZP 78–01) for Cholla Unit No. 5, a 350 MW coal-fired steam-electric generating unit, at the Cholla Generating Station near Joseph City, Navajo County, Arizona. The Cholla Generating Station currently consists of one (1) 115 MW unit, two (2) 250 MW units and one (1) 350 MW unit. All four units are coal fired and in operation. APS commenced construction pursuant to 40 CFR 52.21(b)(8) on Cholla No. 5 on July 31, 1978. The information provided to EPA by APS indicated that APS had entered into site-specific contracts, which could not be cancelled or modified without substantial loss, to undertake a program of construction of Cholla No. 5 to be completed within a reasonable time. APS temporarily suspended construction of Cholla No. 5 on August 2, 1978, and on December 12, 1980 a termination notice was sent to the construction contractor. On April 23, 1981 APS requested from EPA an

extension of the period of time for which construction may be discontinued. The PSD regulations provide for a period of discontinued construction not to exceed eighteen months. A longer period of time would invalidate the PSD permit. The company requested that the permit remain valid until December 31, 1984, by which time construction is scheduled to continue.

In its request to EPA the company stated that since the issuance of the PSD permit, due to unforeseen circumstances, peak load forecasts underwent some major revisions. The letter cites customer initiated reduction in electric consumption, economic uncertainties, reduced growth predictions for the state, a company initiated load management and energy conservation program and other factors relating to reduce demand. In support of it request the company noted adverse financial, environmental, scheduling and other impacts that would result from APS having to submit a new permit application for Cholla Unit No. 5.

EPA reviewed APS's request and in the August 11, 1982 **Federal Register** proposed to approve the extension provided prior to commencing construction APS (1) submits to EPA for approval a new Best Available Control Technology (BACT) analysis for Cholla No. 5 at least as stringent as the existing permit and NSPS Subpart Da, and (2) reaffirm its commitment to begin construction by December 31, 1984 should any other major source express an interest in constructing in the impact area, but would be limited by the available increment. In that **Federal Register** Notice EPA states that the unforseen reduction in consumer demand is sufficient justification for an extension of the construction discontinuance period. EPA believed it would be unwise to require the company to proceed with construction absent the need for additional electrical capacity. At the same time, EPA believes that as long as APS remains committed to proceeding with the construction, it would be wasteful of both the company's and the Agency's resources to invalidate the company's present PSD permit and require another PSD review of the project prior to December 31, 1984. This is especially true since APS must update Cholla No. 5 BACT to conform with the most current standards and will be held accountable should increment consumption in the area become a problem.

A thirty day public comment period was provided for interested parties to comment on EPA's proposed approval. Comments were specifically solicited from the State of Arizona as to the appropriateness of the proposed extension since it affects the use of the PSD increment. EPA received one comment on its proposed approval submitted by the Arizona Department of Health Services (ADHS). ADHS agreed with the extension until December 31, 1984 provided they are furnished a copy of the new BACT analysis for comment and approval, and are also furnished a copy of APS's reaffirmed commitment to begin construction by December 31, 1984.

EPA has reviewed the comments received and has determined that the extension requested by APS for construction of Unit No. 5 is acceptable. Therefore, EPA approves the extension request. Construction of APS's Cholla Unit No. 5 must commence by December 31, 1984. Furthermore, prior to commencement of construction, APS must (1) submit to EPA and ADHS for approval a new BACT analysis for Cholla No. 5 at least as stringent as the existing permit and NSPS subpart Da, and (2) reaffirm its commitment to begin construction by December 31, 1984 should any other major source express an interest in constructing in the impact area, but would be limited by the available increment.

Today's action may be considered final agency action on the extension request submitted by APS. Under Section 307(b)(1) of the Clean Air Act, judicial review of this action is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit on or before February 15, 1983. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Dated: December 7, 1982.

Sonia F. Crow,

Regional Administrator.

[FR Doc. 82-34288 Filed 12-16-82; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-2271-5]

Agency Statements

Availability of Environmental Impact Statements Filed Dec. 6 Through Dec. 10, 1982 Pursuant to 40 CFR Part 1506.9

RESPONSIBLE AGENCY: Office of Federal Activities, General Information, 382-5075 or 382-5076

Corps of Engineers:
- EIS No. 820788, Draft, COE, LA, PRO, Terrebonne Parish Forced Drainage System, Construction, Permit, Due: Jan. 31, 1983.
- EIS No. 820789, Final, COE, OH, Fairfield/Pleasant Run Water Resources Development Hamilton/Butler Co., Due: Jan. 17, 1983.

Department of Interior:
- EIS No. 820792, Draft, IBR, SEV, MT, WY, PRO, Yellowtail-Boysen Reservoirs Industrial Water Service Plan, Due: Feb. 7, 1983.
- EIS No. 820794, Final, MMS, SEV, ATL, 1983 OCS, Oil and Gas Lease Sale #76, Mid-Atlantic, Due: Jan. 17, 1983.

Department of Transportation:
- EIS No. 820793, Draft, FHW, IL, Windsor Rd., Construction, Mattis Ave. to Phila Rd., Champaign County, Due: Feb. 1, 1983.
- EIS No. 820790, Draft, FHW, PA, Vine Street Improvement, 17th Street to I-95, Philadelphia County, Due: Feb. 15, 1983.
- EIS No. 820786, Final, FHW, SEV, ND, MT, Mondak Bridge Construction, ND-1804 to ND-58, Missouri River, Due: Jan. 17, 1983.
- EIS No. 820785, Final, FHW, OR, Coalbank Slough Bridge/Oregon Coast Hwy./OR-101 Replacement, Coos Co., Due: Jan. 17, 1983.
- EIS No. 820787, Final, FHW, WI, WI-29 Improvement, CTS-S to Deerbrook Lane, Marathon County, Due: Jan. 17, 1983.
- EIS No. 820784, DSuppl, FHW, MD, I-83 Corridor Improvements, Gay Street to I-95, Baltimore County, Due: Jan. 31, 1983.
- EIS No. 820791, DSuppl, FHW, PA, I-279, Ft. Duquesne Bridge to I-79 & I-579, Crosstown Blvd. to I-279, Due: Feb. 13, 1983.

Environmental Protection Agency:
- EIS No. 820782, Draft, EPA, REG, Synthetic Fiber Production Facilities, Emissions, Standards, Due: Feb. 11, 1983.

Department of Agriculture:
- EIS No. 820783, Draft, AFS, SEV, NM, AZ, Coronado National Forest, Land and Resource Management Plan, Due: Mar. 11, 1983.

Amended Notices:
- EIS No. 820758, Draft, SCS, AR, Larkin Creek Watershed Flood Protection Plan, Lee & St. Francis Cos. *Published FR 12/03/83—Review period reestablished due to noncompletion of distribution, Due: Jan. 31, 1983.*
- EIS No. 820772, Final, FHW, OR, SW 185th Ave./Tualatin Valley Highway Intersection Improvement. *Published FR 12/10/82—Incorrect due date, Due: Jan. 7, 1983.*

Dated: December 14, 1982.

Louis J. Cordia,

Acting Director Office of Federal Activities.

[FR Doc. 82-34289 Filed 12-16-82; 8:45 am]

BILLING CODE 6560-50-M

[Docket No. ECAO-CD-81-2; ORD-FRL 2269-8]

Air Quality Criteria Document for Lead; Public Meeting

AGENCY: Environmental Protection Agency.

ACTION: Notice of public meeting.

SUMMARY: A series of preliminary peer-review workshops will be held in Research Triangle Park, North Carolina on January 18–19–20, 1983 to facilitate scientific and technical evaluation of some of the working draft chapters of the Air Quality Criteria Document for Lead. These workshops, which will be held in the main auditorium of the National Institute of Environmental Health Sciences (South Campus) in Research Triangle Park, N.C., will begin at 8:30 a.m. on Tuesday, January 18, with discussions of the effects of lead on the nervous, hematopoetic, renal, and other organ systems. This workshop is expected to end at 5:30 p.m., as are all the others. The workshop convening at 8:30 a.m. on Wednesday, January 19, will cover environmental concentrations and potential exposures and the epidemiological assessment of such exposures. The workshop beginning at 8:30 a.m. on Thursday, January 20, will complete discussions of the epidemiological assessment of the effects of lead exposure and take up the subject of risk evaluation based on these assessments. The public is invited to attend as observers.

FOR FURTHER INFORMATION CONTACT: Dr. David Weil, Project Manager, Environmental Criteria and Assessment Office, MD–52, U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711, telephone: 919/541–4163.

SUPPLEMENTARY INFORMATION: The existing Air Quality Criteria Document for Lead (EPA–600/8–77–017) is being updated and revised pursuant to Sections 108 and 109 of the Clean Air Act, as amended, 42 U.S.C. §§ 7408 and 7409, and will be used as a basis for the review and, as appropriate, revision of the National Ambient Air Quality Standard (NAAQS) for lead. As part of this process, EPA is assembling a panel consisting of its consulting authors and contributors, EPA personnel and other scientific and technically qualified persons selected by EPA to discuss the proposed revisions and suggest ways of resolving outstanding issues.

Subsequent to these workshops, revisions of the draft Air Quality Criteria Document for Lead will be made and the document released as an External Review Draft sometime in March or April, 1983. This External Review draft will be available for public comment during a 90-day period immediately following that release. In order to obtain a single copy of the External Review Draft as soon as it is available, interested parties should write to ORD Publications (Lead Doc), P.O. Box 14189, Cincinnati, Ohio 45214 at this time and provide their mailing addresses. Further instructions regarding the External Review Draft and its subsequent public comment period will be forthcoming in a **Federal Register** announcement of its release.

Persons wishing to attend the upcoming January 18–20, 1983, workshops as observers should contact David Weil (see "Further Information" above). Copies of the draft chapters to be discussed will be provided at the meeting to such observers, who will have an opportunity to make brief oral statements should they so desire. Ample opportunity for public review of the revised chapters and submission of written comments will be provided when the first external review draft of the entire document is submitted for EPA Science Advisory Board review.

Detailed notes of the meeting will be kept by EPA, containing an accurate summary of key matters discussed and conclusions reached. These notes, preliminary chapter drafts discussed at the meeting, and other materials provided for or produced collectively at the meeting will be included in the docket established for the review of the lead document (Docket No. ECAO–CD–81–2). The docket is available for inspection and copying between the hours of 8:00 a.m. and 4:00 p.m. at EPA headquarters in the Central Docket Section (A–130), Gallery 1, West Tower, Waterside Mall, 401 "M" Street, SW., Washington, D.C. 20460.

Dated: December 3, 1982.

Courtney Riordan,

Acting Assistant Administrator for Research and Development (RD–672).

[FR Doc. 82–34286 Filed 12–16–82; 8:45 am]

BILLING CODE 6560–50–M

[SAB–FRL 2269–7]

Science Advisory Board Executive Committee, Open Meeting

Under Pub. L. 92–463, notice if hereby given of a meeting of the Executive Committee of the Science Advisory Board. The meeting will be held January 5–6, 1983 starting at 9:15 a.m. in Room 1101 West Tower, EPA Headquarters, 401 M Street, SW, Washington, D.C.

The major purpose of the meeting is to enable the Committee to provide its advice and comment to EPA on Research Outlook 1983, the annual update of the Agency's five-year research and development plan. The Committee will also discuss plans for the review of the Agency's Program Integration Project, hear reports of standing committees of the Board, as well as other issues of member interest.

The meeting is open to the public. Any member of the public wishing to obtain information or participate should contract Terry F. Yosie (202) 382–4126 by close of business December 29, 1982.

Terry F. Yosie,

Acting Staff Director, Science Advisory Board.

December 10, 1982.

[FR Doc. 82–34294 Filed 12–16–82; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

Reconsideration Sought on Amendment of § 61.38 of The Rules

Notice is hereby given of the receipt of a petition for reconsideration of an October 6, 1982, Memorandum Opinion and Order (FCC 82–436, mimeo 32190) amending § 61.38 of the rules.

The petition for reconsideration was filed by Satellite Business Systems and is available for inspection at the Commission's Offices, Room 520 at 1919 M Street, NW., Washington, D.C. 20554, (202) 632–6917.

Federal Communications Commission.

William J. Tricarico,

Secretary.

December 9, 1982.

[FR Doc. 82–34172 Filed 12–16–82; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL HOME LOAN BANK BOARD

Community Federal Savings and Loan Association (Hialeah, Fla.); Reappointment of Conservator

Notice is hereby given that, pursuant to the authority contained in section 5(d)(6)(A) of the Home Owners' Loan Act of 1933, as amended (12 U.S.C. 1464(d)(6)(A) (1976)), the Federal Home Loan Bank Board reappointed William F. Andrews as conservator of Community Federal Savings and Loan Association, Hialeah, Florida, effective as of December 14, 1982.

Dated: December 14, 1982.

By the Federal Home Loan Bank Board.

Gregory B. Smith,

Acting Secretary.

[FR Doc. 82–34328 Filed 12–16–82; 8:45 am]

BILLING CODE 6720–01–M

FEDERAL MARITIME COMMISSION

[Docket No. 82-57]

Clark International Marketing S.A., a Division of Clark Equipment Co. v. Venezuelan Line; Filing of Complaint and Assignment

Notice is given that a complaint filed by Clark International Marketing S.A., a division of Clark Equipment Company against Venezuelan Line was served December 7, 1982. Complainant alleges that respondent has subjected it to an overcharge of rates for ocean transportation in violation of section 18(b)(3) of the Shipping Act, 1916.

This proceeding has been assigned to Administrative Law Judge Charles E. Morgan. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

Francis C. Hurney,

Secretary.

[FR Doc. 82-34228 Filed 12-16-82; 8:45 am]

BILLING CODE 6730-01-M

[Docket No. 82-59]

General Electric Co. v. Moller Steamship Co., Inc.; Filing of Complaint and Assignment

Notice is given that a complaint filed by General Electric Company against Moller Steamship Company, Inc. was served December 10, 1982. Complainant alleges that respondent has subjected it to excessive charges for ocean freight.

This proceeding has been assigned to Administrative Law Judge Charles E. Morgan. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions or other documents or that the nature of the matter in issue is such that on oral hearing and cross-examination are necessary for the development of an adequate record.

Francis C. Hurney,

Secretary.

[FR Doc. 82-34229 Filed 12-16-82; 8:45 am]

BILLING CODE 6730-01-M

GENERAL SERVICES ADMINISTRATION

Change in Office Names and Addresses

In furtherance of GSA's continuing program to reduce office space and to consolidate related functions, on September 28, 1982, the Transportation and Public Utilities Service (TPUS) and the Office of Personal Property (DP), Federal Property Resources Service (FPRS), were abolished. The TPUS functions of freight transportation, traffic management, travel services, fleet management, interagency motor pools and automotive contracting and the FPRS functions of personal property utilization and disposal, together with their respective staffs, were transferred to the new Office of Personal Property (OPP), General Services Administration.

These offices were moved to Crystal Mall Building 4, 1941 Jefferson Davis Highway, Arlington, Va.

The old office names and the corresponding new OPP office names and room and telephone numbers are as follows:

Old office names	New OPP office names, room and telephone numbers
Office of Transportation and Travel Management and Office of Motor Equipment.	Office of Transportation (YT), Room 412, Telephone: (703) 557-1273.
Office of Automotive Management.	Automotive Commodity Center (YA), Room 420, Telephone: (703) 557-0473.
Office of Personal Property.....	Office of Property Management (YM), Room 1019, Telephone: (703) 557-1240.

Dated: December 3, 1982.

L. L. Mitchell,

Assistant Administrator for Personal Property.

[FR Doc. 82-34285 Filed 12-16-82; 8:45 am]

BILLING CODE 6820-AM-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Advisory Committee; Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), and FDA regulations (21 CFR Part 14) relating to advisory committees. The following advisory committee meeting is announced:

Vaccines and Related Biological Products Advisory Committee

Date, time, and place. January 20 and 21, 9 a.m., Rm. 121, Bldg. 29, 8800 Rockville Pike, Bethesda, MD.

Type of meeting and contact person. Open public hearing, January 20, 9:05 a.m. to 10:05 a.m., unless public participation does not occur or last that long; open committee discussion, 10:05 a.m. to 11:30 a.m.; closed committee deliberations, 11:30 a.m. to 4:30 p.m.; open committee discussion, January 21, 9 a.m. to 4 p.m.; closed committee deliberations, 4 p.m. to 4:45 p.m.; Jack Gertzog, Office of Biologics, National Center for Drugs and Biologics (HFN-6), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5455.

General function of the committee. The committee reviews and evaluates data on the safety and effectiveness of vaccines and related biological products intended for use in the diagnosis, prevention, or treatment of human diseases.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing on issues pending before the committee.

Open committee discussion. The committee will discuss procedures for review of the Office of Biologics research program and will review a number of Category IIIA products which are to be reclassified in accordance with the final rule published in the **Federal Register** of October 5, 1982 (47 FR 44062).

Closed committee deliberations. The committee will discuss trade secret or confidential commercial information relevant to pending license applications. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Ophthalmic Device Section of the Ophthalmic; Ear, Nose, Throat; and Dental Devices Panel

Date, time, and place. January 27 and 28, 9 a.m., Auditorium, 200 Independence Ave. SW., Washington, DC.

Type of meeting and contact person. Open public hearing, January 27, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 1 p.m.; closed committee deliberations, 2 p.m. to 5 p.m.; open public hearing, January 28, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 1 p.m.; closed committee deliberations, 2 p.m. to 3 p.m.; open committee discussion, 3 p.m. to 5 p.m.; Dr. George C. Murray, National Center for Devices and Radiological Health (HFK–460), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7940.

General function of committee. The Committee reviews and evaluates available data on the safety and effectiveness of devices currently in use and makes recommendations for their regulation. The Committee also reviews data on new devices and makes recommendations regarding their safety and effectiveness and their suitability for marketing.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee. Those desiring to make formal presentations should notify the executive secretary before January 12, 1983, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. On January 27, the Committee will discuss general issues relating to approvals of premarket approval applications (PMA's) for intraocular lenses (IOL's) and specific PMA's for IOL's. If discussion of all pertinent IOL issues is not completed, discussion will be continued the following day. On January 28, the Committee may discuss PMA's or general issues relating to contact lenses or other ophthalmic products.

Closed committee deliberations. On January 27 and 28, the Committee will conduct reviews of PMA's for IOL applications. On January 28, the Committee may also discuss trade secret or confidential commercial information relevant to PMA's for contact lens products. These portions of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be requested from the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA), as amended by the Government in the Sunshine Act (Pub. L. 94–409), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, notably deliberative sessions to formulate advice and recommendations to the agency on matters that do not independently justify closing.

Dated: December 9, 1982.

Arthur Hull Hayes, Jr.,

Commissioner of Food and Drugs.

[FR Doc. 82-34093 Filed 12-16-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 82M-0366]

Bausch & Lomb Optics Center; Premarket Approval of SOFLENS® (Polymacon) Bifocal Contact Lens P.A.1™ Lens Series

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing approval of the supplemental application for premarket approval under the Medical Device Amendments of 1976 of the SOFLENS® (polymacon) Bifocal Contact Lens P.A.1™ Lens Series, sponsored by Bausch & Lomb Optics Center, Rochester, NY. After reviewing the recommendation of the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, FDA notified the sponsor that the application was approved because the device had been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by January 17, 1983.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Charles Kyper, National Center for Devices and Radiological Health (HFK-402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910; 301-427-7445.

SUPPLEMENTARY INFORMATION: On January 26, 1982, Bausch & Lomb Optics Center, Rochester, NY, submitted to FDA a supplemental application for premarket approval of the SOFLENS® (polymacon) Bifocal Contact Lens P.A.1™ Lens Series for daily wear by not-aphakic hyperopic and myopic presbyopic persons with nondiseased eyes who require up to 2.00 diopters (D) of refractive add. The lens is available in the power range of −4.00 D to +2.00 D and provides a nominal 1.50 D of refractive add. The application was reviewed by the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, an FDA advisory committee, which recommended approval of the application. On November 16, 1982, FDA approved the application by a letter to the sponsor from the Associate Director for Device Evaluation of the Office of Medical Devices.

Before enactment of the medical Device Amendments of 1976 (the amendments) (Pub. L. 94-295, 90 Stat. 539-583), soft contact lenses and solutions were regulated as new drugs. Because the amendments broadened the definition of the term "device" in section 201(h) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321(h)), soft contact lenses and solutions are now regulated as class III devices (premarket approval). As FDA explained in a notice published in the **Federal Register** of December 16, 1977 (42 FR 63472), the amendments provide transitional provisions to ensure continuation of premarket approval requirements for class III devices formerly regulated as new drugs. Furthermore, FDA requires, as a condition to approval, that sponsors of applications and supplemental applications for premarket approval of soft contact lenses or solutions comply with the records and reports provisions of Part 310 (21 CFR Part 310), Subpart D, until these provisions are replaced by similar requirements under the amendments.

A summary of the safety and effectiveness data on which FDA's approval is based is on file with the Dockets Management Branch (address above), and is available upon request from that office. A copy of all approved final labeling is available for public inspection at the Office of Medical Devices—contact Charles Kyper (HFK-402), address above. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

The labeling of approved soft contact lenses states that the lenses are to be used only with certain solutions for disinfection and other purposes. The restrictive labeling informs new users that they must avoid using certain products, such as solutions intended for use with hard contact lenses. However, the restrictive labeling needs to be updated periodically to refer to new lens solutions that FDA approves for use with approved contact lenses. A sponsor who fails to update the restrictive labeling may violate the misbranding provisions of section 502 of the act (21 U.S.C. 352) as well as the Federal Trade Commission Act (15 U.S.C. 41-58), as amended by the Magnuson-Moss Warranty-Federal Trade Commission Improvement Act (Pub. L. 93-637). Furthermore, failure to update restrictive labeling to refer to new solutions that may be used with an approved lens may be grounds for withdrawing approval of the application for the lens under section 515(e)(1)(F) of the act (21 U.S.C. 360e(e)(1)(F)). Accordingly, whenever FDA publishes a notice in the **Federal Register** of the agency's approval of a new solution for use with an approved lens, the sponsor of the lens shall correct its labeling to refer to the new solution at the next printing or at any other time FDA prescribes by letter to the sponsor.

Opportunity for Administrative Review

Section 515(d)(3) of the act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of FDA's decision to approve this supplemental application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issues to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before January 17, 1983, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: December 9, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-34094 Filed 12-16-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 82F-0349

Calgon Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Calgon Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of copolymers of diallyldimethylammonium chloride and acrylamide as a retention and/or drainage aid employed in the manufacture of paper and paperboard intended to contact food.

FOR FURTHER INFORMATION CONTACT: Vir Anand, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 3B3677) has been filed by Calgon Corp., Calgon Center, Box 1346, Pittsburgh, PA 15230, proposing that § 176.170(a)(5) (21 CFR 176.170(a)(5)) be amended by broadening the weight ratio specification of the monomers in the substance "Diallyldimethylammonium chloride with acrylamide," listed therein, from a fixed 50-50 ratio to a range of ratios where the maximum weight percent of either diallyldimethylammonium chloride or acrylamide does not exceed 85 percent.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: December 12, 1982.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 82-34096 Filed 12-16-82; 8:45 am]

BILLING CODE 4160-01-M

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following consumer exchange meeting: Dallas District Office, chaired by James E. Anderson, District Director.

DATE: Tuesday, January 11, 1983, 5:30 p.m. to 7:30 p.m.

ADDRESS: Downstairs Meeting Room, Ramada Inn, Texarkana, TX.

FOR FURTHER INFORMATION CONTACT: Hazel L. Wallace, Consumer Affairs Officer, Food and Drug Administration, Dallas District, 1200 Main Tower, Rm. 1545, Dallas, TX 75202; 214-767-5433.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance understanding and exchange information between local consumers and FDA's District Offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: December 10, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-34095 Filed 12-16-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 82F-0347]

Ciba-Geigy Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the Ciba-Geigy Corp. has filed a petition proposing that the food additive regulations be amended to provide for the expanded use of calcium bis[monoethyl(3,5-di-*tert*-butyl-4-hydroxybenzyl)phosphonate] as an antioxidant and stabilizer for polypropylene, high-density polyethylene and other olefin polymers intended for food-contact applications without use temperature limitations.

FOR FURTHER INFORMATION CONTACT: Julia L. Ho, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St., SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 2B3668) has been filed by Ciba-Geigy Corp., Three Skyline Dr., Hawthorne, NY 10532, proposing that Part 178 (21 CFR Part 178) of the food additive regulations be amended to provide for the expanded use of calcium bis[monoethyl(3,5-di-*tert*-butyl-4-hydroxybenzyl)phosphonate] as an antioxidant and stabilizer for polypropylene, high-density polyethylene complying with § 177.1520(c) items 2.1, 2.2 and 2.3 and olefin copolymers complying with § 177.1520(c) items 3.1 and 3.2, intended for food-contact applications without use temperature limitations.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: December 6, 1982.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 82-34256 Filed 12-16-82; 8:45 am]

BILLING CODE 4160-01-M

[FDA-225-82-8400]

Memorandum of Understanding With the Veterans Administration

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has executed a memorandum of understanding with the Veterans Administration. The purpose of the understanding is to facilitate communication and encourage effective cooperation in the area of clinical research with investigational new drugs and medical devices, including biologicals.

EFFECTIVE DATE: August 20, 1982.

FOR FURTHER INFORMATION CONTACT: Walter J. Kustka, Intergovernmental and Industry Affairs Staff (HFC-50), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1580.

SUPPLEMENTARY INFORMATION: In accordance with § 20.108(c) (21 CFR 20.108(c)) stating that all agreements and memoranda of understanding between FDA and others shall be published in the **Federal Register**, the agency is publishing the following memorandum of understanding:

Memorandum of Understanding Between Veterans Administration and the U.S. Department of Health and Human Services, Food and Drug Administration

I. Purpose

The purpose of this Memorandum of Understanding is to identify specific responsibilities of the Veterans

Administration (VA) and the Food and Drug Administration (FDA) to facilitate communication and encourage effective cooperation between the agencies in the area of clinical research with investigational new drugs and medical devices, including biologicals.

II. Background

In 1977, in response to a congressional directive, FDA developed a program to assure the quality of bioresearch data intended to support the approval of new drugs, biologicals, and medical devices. Regulations were subsequently proposed, clarifying existing regulations and elucidating the responsibilities of investigators in conducting clinical trials.

The main objectives of the clinical investigator program are to assure protection of investigational subjects; to assess through audit procedures, whether data submitted to FDA in specific studies are valid; and to determine the state of compliance of clinical investigators with the regulations. The FDA has applied the same standards of performance to Federal institutions and Government employees as has been applied to private industry.

III. FDA's Responsibilities

A. FDA will provide the VA project officer with a list of VA clinical investigators FDA intends to inspect during a given fiscal quarter.

B. FDA will notify the Medical Center Director at the VA Medical Center employing the investigator to be inspected to make suitable arrangements for the inspection.

C. Following the inspection, FDA will make available to the VA project officer and the VA Medical Center Director a copy of any correspondence to the clinical investigator and, upon request, will make available to the VA project officer specific inspection reports and bureau reviews pertaining to VA clinical investigators.

D. FDA will advise the VA, through the project officer, of any violative findings resulting from investigations into the performance of clinical investigtors employed by the VA, and will provide copies of any correspondence associated with a regulatory action.

IV. VA's Responsibilities

A. VA Central Office Research and Development will notify VA medical center directors of scheduled visits by FDA investigators in order to facilitate audits of studies of investigational new drugs and medical devices being conducted at VA facilities by VA investigators.

B. The VA will facilitate access to administrative records and patient medical records associated with any investigational new drug and device research subject to FDA regulations and will also provide copies of those records upon the official request of an FDA investigator. Access to these records is authorized under the Privacy Act of 1974 (5 U.S.C. 552a(b) (3) and (7)) and the VA confidentiality statutes (38 U.S.C. 3301(b)(3)), 38 U.S.C. 3305(b)(1)(C) and 38 U.S.C. 4132(b)(2)(B)). FDA personnel accessing drug, alcohol and sickle cell anemia treatment records subject to the confidentiality provisions of 38 U.S.C. 4132 are not permitted to redisclose patient identities, directly or indirectly, in any manner in any report or audit documents which are created in accordance with this MOU. Violations of 38 U.S.C. 4132 may result in the imposition of fines and other adverse consequences.

C. VA will review internal guidelines for clinical research with investigational new drugs and medical devices to assure that VA guidelines are consistent with FDA regulations for the conduct and reporting of investigational studies.

V. Duration of Agreement

This agreement shall become effective on the date of the last signature and shall continue in effect unless modified by mutual written consent or terminated by either party upon a ninety (90) day advance written notice to the other.

VI. Project Officers

Veterans Administration, Earl X. Freed, PH.D., Deputy Assistant Chief Medical Director for Research and Development (15A), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420, 389–2616

Food and Drug Administration, Ernest L. Brisson, Director, Bioresearch Monitoring Staff, HFC–30, Food and Drug Administration, 5600 Fishers Lane, Rockville, Maryland 20857, 443–2390

VII. Authority

The authority for this agreement is contained in 21 U.S.C. 355 (i), (j); 357 (d), (e); 360j(g); 372; 374; 379; 823(f); and 42 U.S.C. 241, 242a, 262–264; and 38 U.S.C. 4101(c)(1) implemented by 38 CFR 2.6(a)(1).

Approved and Accepted for the Veterans Administration.

By: s/ Donald L. Custis, M.D.,

Title: Chief Medical Director.

Dated: August 20, 1982.

Approved and Accepted for the Food and Drug Administration.—

By: s/ Joseph P. Hile,

Title: *Associate Commissioner for Regulatory Affairs.*

Dated: July 28, 1982.

Effective date. This Memorandum of Understanding became effective August 20, 1982.

Dated: November 23, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82–34254 Filed 12–16–82; 8:45 am]

BILLING CODE 4160–01–M

Health Resources and Services Administration

Consultation With State and Local Officials Prior to Awarding Community Health Center Grants

AGENCY: PHS, Health Resources and Services Administration.

ACTION: Notice.

SUMMARY: Section 1923 of the Public Health Service (PHS) Act (42 U.S.C. 300y–2) requires that if a State does not apply for a Primary Care Block Grant under section 1924 of the PHS Act (42 U.S.C. 300y–3), or does not qualify for such a grant, the Secretary of Health and Human Services will use those funds not allotted to States participating in the block grant to make grants under section 330 of the PHS Act (42 U.S.C. 254c) to individual community health centers (CHCs). Section 1923 also requires that the Secretary consult with the chief executive officer of the State and with appropriate local officials before making such grants for community health centers in a State. This notice describes the manner in which the Health Resources and Services Administration (HRSA) will fulfill the requirement for consultation. In addition, it solicits comments from local officials regarding CHCs in their areas.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Bohrer, Acting Director, Division of Primary Care, Bureau of Health Care Delivery and Assistance, HRSA, Room 7A–55, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. Telephone number 301–443–2260.

DATE: To be considered as part of the review process, comments must be received 45 days prior to the month of the CHC's anniversary date (the expiration date of the CHC's previous award). However, in the case of CHCs whose grants expire within 60 days of the date of the publication of this notice, the 45 day limit will not apply. Comments regarding such CHCs should be submitted as soon as possible in order to be considered in the grant review process.

ADDRESS: Comments should be mailed to the appropriate Department of Health and Human Services Regional Office (see Appendix A).

SUPPLEMENTARY INFORMATION: In order to fulfill the statutory requirement discussed in the "Summary" section above, the Secretary, before making a grant to a CHC in a State, will consult by letter with the governor. In addition, through the publication of this notice, the Secretary invites written comments from local officials such as, but not limited to, mayors, county commissioners, State legislators, local health department officials, and health systems agencies regarding CHCs in their local areas. Comments, whether supportive or critical, should focus on the operation of and the need for the

particular CHC within the local area. Local officials who wish to discuss their written comments with HRSA staff should address such requests for consultation to the appropriate Department of Health and Human Services Regional Office (see Appendix A).

A list of all currently funded CHCs which will be considered for funding in fiscal year 1983 is attached as Appendix B to this notice. Under the CHC program, grants are generally made for a one-year period. The names, anniversary dates, and locations of the centers are listed in Appendix B. It should be noted that the name of a CHC grantee in the Department's records is not always the name by which its health delivery component is known in the community. Inclusion of CHCs' names on the attached list does not imply availability of funds for grants to such centers or imply that any of the centers will actually be funded after a review of their application and performance.

Before applying for fiscal year 1983 CHC funding, individual CHCs should solicit letters concerning comments on the center's operation from State and local officials. Any such letters should be included in their applications for continued funding.

Dated: December 10, 1982.

Robert Graham,

Administrator, Assistant Surgeon General.

Appendix A

PUBLIC HEALTH SERVICE

Regional Health Administrators

Regional Health Administrator, PHS—Region I, John F. Kennedy Federal Building, Boston, Massachusetts 02203; (617) 223–5827

Regional Health Administrator, PHS—Region II, 26 Federal Plaza, New York, New York 10007; (212) 264–2560

Regional Health Administrator, PHS—Region III, P.O. Box 13716, Philadelphia, Pennsylvania 19101; (215) 596–6637

Regional Health Administrator, PHS—Region IV, 101 Marietta Tower, Suite 1007, Atlanta, Georgia 30323; (404) 221–2316

Regional Health Administrator, PHS—Region V, 300 South Wacker Drive, Chicago, Illinois 60606; (312) 353–1385

Regional Health Administrator, PHS—Region VI, 1200 Main Tower Building, Dallas, Texas 75202; (214) 655–3870

Regional Health Administrator, PHS—Region VII, 601 East 12th Street, Kansas City, Missouri 64106; (816) 374–3291

Regional Health Administrator, PHS—Region VIII, 19th and Stout Streets, Denver, Colorado 80294; (303) 837–4461

Regional Health Administrator, PHS—Region IX, 50 United Nations Plaza, San Francisco, California 94102; (415) 556–5810

Regional Health Administrator, PHS—Region X, 2901 Third Avenue, Seattle, Washington 98121; (206) 442–0430

The health centers are listed below by an Identification Number, Anniversary Date, Health Center Name and City.

Identification No.	Anniversary date	Health center name and city
		Region I
		CONNECTICUT
011270	0383	Bridgeport Comm HC, Bridgeport.
010810	0883	SW End Comm HC, Inc, Bridgeport.
011830	0183	Charter Oak-Rice Hts Hlth Ctr, Hartford.
011280	0383	Comm Hlth Svcs, Inc, Hartford.
010050	0183	Fair Haven Comm Hlth Clinic, New Haven.
010070	0683	Hill Health Corp, New Haven.
		MAINE
010060	0783	Rural Comm HC in Maine, Med Care Dev, Augusta.
012030	0283	Bethel Area HC, Bethel.
010400	0783	Rural Hlth Associates, Farmington.
011290	0683	Sacopee Valley Hlth Ctr, Kezar Falls.
010420	0783	Northern ME Rural Health Program, Presque Isle.
010440	0483	Penobscot Bay Med Assoc, Rockland.
010480	0783	Kennebec Valley Comm HC Proj Con, Waterville.
		MASSACHUSETTS
011890	0183	Joseph Smith Comm Hlth Ctr, Allston-Brighton.
010160	0783	North End Community Health Committee, Boston.
011950	0183	Peninsula Hlth Committee, Inc, Boston.
010710	0783	South Cove Comm HC, Boston.
010170	0783	Neponset HC, Dorchester.
011560	0183	Hull Med Ctr, Hull.
011460	0783	Lowell Gen Hosp, Lowell.
011430	0983	Lynn Comm HC, Lynn.
012010	0183	Mattapan Comm Hlth Ctr, Mattapan.
011930	0883	Greater New Bedford Com Health Center, New Bedford.
011190	0983	Hlth Associates of Provincetown, Provincetown.
011640	0183	Manet Comm Hlth (in Quincy), Quincy.
010290	0883	Roxbury Comp Comm HC, Roxbury.
011240	0183	Mohawk Valley Med Ctr in Shelbourne Falls, Shelbourne.
010800	0883	Fam Hlth & Social Svc Ctr, Worcester.
010330	0183	Worthington Hlth Assn, Worthington.
		NEW HAMPSHIRE
011580	1083	New Market Regional HC, New Market.
		RHODE ISLAND
012240	0183	Blackstone Valley Comm.-Action, Central Falls.
012230	0783	Wood River Hlth Svcs, Inc, Hope Valley.
010500	0783	Providence Ambulatory Helath Care, Providence.
		VERMONT
010610	0783	Champlain Islands Hlth Center, Grand Isle.
011250	0583	Mountain Valley Hlth Ctr, Londonderry.
010640	0783	Northern Counties Hlth Centers, Inc, St Johnsbury.
		Region II
		NEW JERSEY
021810	0183	Atlantic Human Resources, Atlantic City.
020020	0783	Memorial Park Fam, Belcoville.
021270	0183	Bridgeton Hosp Assn, Bridgeton.
021290	0783	Camcare Hlth Corp, Camden.
021300	0183	East Orange Gen Hosp, East Orange.
020060	1083	Sa-Lantic Hlth Svcs, Hammonton.
020050	1182	North Jersey Comm Union, Newark.
021290	0183	Calvary Baptist Comm Hlth Ctr, Paterson.
021300	1083	CHC of Paterson Hlth Advocates (Ecumenical Assoc for Urban Cons), Paterson.
021230	0783	Plainfield Hlth Svcs Corp, Plainfield.
020070	0483	Henry J. Austin Hlth Ctr, Trenton.
020080	0783	Cumberland Reg Hlth Plan, Vineland.
		NEW YORK
020110	0183	Whitney M. Young Hlth Ctr, Albany.
020190	0183	Oak Orchard Comm HC, Brockport.
021880	1282	Bronx Lebanon Hosp Network, Bronx.
021950	0883	Soundview Hlth Ctr, Bronx.
020240	0183	Martin Luther King, Jr HC, Bronx.
020450	0783	Hunts Point Multi-Service HC, Bronx.
021360	0183	Massive East Bronx Comprehensive, Bronx.
021780	0183	Montefiore Network, Bronx.
021810	0583	Morris Heights Hlth Ctr, Bronx.
021840	0483	Segundo Ruiz-Belvis Family Care Center, Bronx.
021980	0183	Hire Comprehensive Family Care Facility, Brooklyn.
022050	1282	L B Johnson Hlth Complex, Inc, Brooklyn.
021210	0783	ODA Primary Care Hlth Ctr, Brooklyn.
021070	0783	Church Charity Foundation of Long Is., Inc (Ralph Ave. Med. Care Ctr), Brooklyn.
020290	0183	South Brooklyn HC, Brooklyn.
021970	0783	St Mary's Hosp, Brooklyn.
020270	0183	Sunset Park Neighborhood HC, Brooklyn.
021310	1083	North Jefferson Hlth, Clayton.
021340	0483	Cortland Co Rural Hlth Sys, Cortland.
020360	0783	The Deposit Foundation, Inc, Deposit.
020370	0783	Schuyler Hosp Primary Care Program, Montour Falls.
020640	0683	Neighborhood Hlth Assoc of Mt. Vernon, Mt. Vernon.
021390	0783	Chinatown Hlth Clinic, New York.
021730	0483	Council's Ambulatory Care Center, New York.
020390	0783	East Harlem Council for Human Svcs, New York.
021850	0183	Harlem Hosp Primary Care Network, New York.
020490	1182	William F. Ryan Hlth Center, New York.
020470	0183	NENA Comprehensive Hlth Svcs, New York.
021060	1083	Settlement Health and Medical Services, New York.
020370	0183	Northern Oswego Hlth Svcs, Pulaski.
020560	0483	Rochester Hlth Network, Rochester.
022070	0483	Anthony L. Jordan Hlth Ctr, Rochester.
021830	0183	Carver Community Hlth Ctr, Schenectady.
020160	0183	Syracuse Community Hlth Ctr, Syracuse.
021730	0183	Hudson Headwaters Hlth Network, Warrensburg.
020620	0183	Fam HC of Orange & Ulster Counties, Inc, Warwick.
		PUERTO RICO
021870	0883	Barceloneta RH Prog, Barceloneta.
020810	1083	Camuy RHI, Camuy.
020560	1083	Hosp Gen de Castaner, Castaner.
021250	0983	Ciales Hlth Ctr, Ciales.
021400	0183	Florida RHI, Florida.
021260	0983	Hatillo RHI, Hatillo.
020670	0783	Loiza Comp Hlth Svcs, Loiza.
020650	0183	Central Areawide Hlth Svcs, Naranjito.
020890	0183	Patillas RHI, Patillas.
020580	0783	Ponce Diagnostic & Treatment Ctr, Playa Ponce.
021030	1083	Rincon RH Project, Rincon.
020700	0783	Dr. J. S. Belaual Comm HC, Rio Piedras.
		Region III
		DELAWARE
031250	0783	Southbridge Med Advisory Council, Wilmington.
		WASHINGTON, D.C.
031080	0483	East of the River Health Assoc, Washington.
030050	0683	National Health Plan Shaw CHC, Washington.
		MARYLAND
030180	0783	Baltimore City Hlth Dept, Municipal Hlth Svcs, Baltimore.
032810	0783	Chesapeake Hlth Plan, Baltimore.
030110	0183	Constant Care CHC, Baltimore.

Identification No.	Anniversary date	Health center name and city
030120	0783	North Central Baltimore Health, Baltimore.
030130	0783	Parkwest Health Serv, Baltimore.
031270	0883	South Baltimore Fam Hlth Baltimore.
030150	0783	West Baltimore Fam Hlth, Baltimore.
032750	0783	Caroline Hlth Serv, Goldsboro.
032520	0783	Potomac Bend Med Ctr, Hancock.
032860	0683	North Dorchester Hlth Serv, Hurlock.
031200	0683	Pocomoke City Area Hlth, Pocomoke City.
030170	0683	Somerset Co for Progressive Ent, Princess Anne.
032590	0181	Queen Anne Co Hlth Care, Queenstown.
		PENNSYLVANIA
030210	0683	Big Valley Area Med Ctr, Belleville.
031220	0683	North Penn Comp Hlth Svcs, Blossburg.
030220	0383	Broadtop Area Med Ctr, Broad Top City.
030230	0983	Comm Med Ctr of Wash Co, Burgettstown.
032420	0983	Glendale Area Med Assoc, Coalport.
030250	0783	The Valleys Comm Med Ctr, Dry Run.
032300	1282	Cameron Co Hlth Care Ctr, Emporium.
031700	0483	Centerville Clinics, Fredericktown.
030290	0483	Hamilton Hlth Ctr, Harrisburg.
032440	0983	Hyndman Area Med Ctr, Hyndman.
033620	0683	SE Lancaster Prim Care, Lancaster.
032230	0683	F.O.R. Sto-Rox NHC, McKees Rocks.
032400	0783	Miners Clinic, Inc, New Kensington.
031510	0783	North Cambria Hlth Scvs, Patton.
030800	0683	Northeast Butler, Petrolia.
030360	1083	Comp Hlth Serv Plan, Philadelphia.
032220	0783	Covenant House Health, Philadelphia.
033780	0683	Health Care Corp (2501), Philadelphia.
033200	0183	SE Phila Hlth Ctr, Philadelphia.
032900	0683	Spring Garden Hlth Assoc, Philadelphia.
030440	1182	Primary Care Hlth Svcs, Pittsburgh.
033480	0683	Shannock Valley Area Med Facility, Kittaning.
032580	0983	Scranton Primary Hlth Ctr, Scranton.
030480	0983	Barnes Kasson Hosp, Susquehanna.
030560	0983	Rural Hlth Corp of NE Pa, Wilkes Barre.
031160	0483	York Health Care, York.
		VIRGINIA
030720	0683	Eastern Shore Rural Hlth Systems, Accomac.
031070	0382	Brunswick Health, Alberta.
032360	1282	King Wm Comm Hlth Ctr, Aylett.
032650	0983	Bland Co. Med Ctr, Bastian.
033220	0383	Dawn Progressive Assoc, Dawn.
031230	0683	Clinch River Hlth Svcc, Dungannon.
033230	0983	Laurel Fork Hlth Commission, Laurel Fork.
032640	0536	Ivor CHC, Ivor.
030700	0583	Central Virginia CHC, New Canton.
032240	0683	Peninsula Institute for Comm. Health, Newport News.
031810	0983	Saltville Med Center, Saltville.
030740	0683	St Charles Council, St Charles.

Region IV

		ALABAMA
042210	0183	Billingsley Med Clinic, Autaugaville.
044700	0383	Bayou La Batre Area Hlth Dev. Mostellar Medical Clinic, Bayou La Batre.
042190	0983	Sardis City Med Clinic, Boaz.
047930	0683	Cleveland Med Center, Cleveland.
044280	0183	The Med Clinic Board of the Town of Eclectric Eclectric.
045480	0183	Elkmont Rural Hlth Ct., Inc, Elkmont.
045070	0780	West Alabama Neighborhood Hlth Ctr, Eutaw.
042830	0283	Conecuh Med Ctr, Inc, Evergreen.
044120	0480	Etowah Quality of Life Council, Inc, Gadsden.
040090	0383	Lowndes Co. Hlth Svcs, Haynesville.
040120	0783	Town of Hurtsboro, Town Council, Hurtsboro.
048290	0983	Central North Alabama Hlth Svcs Inc, Madison.
045470	0683	West El Hlth Svcs, Inc, Millbrook.
047090	0683	Mobile Co Hlth Dept (Fam Oriented Pr Hlth Care), Mobile.
044710	0883	Franklin Mem Primary Hlth Ctr, Mobile.
040130	0283	Montgomery Hlth Services, Inc, Montgomery.
042180	0783	Southern Rural Hlth Care Consortium, Red Bay.
045710	0683	Jackson Co Primary Hlth Care Bd. Scottsboro.
042850	0783	Rural Hlth Med Prog, Inc, Selma.
048270	0683	The Sipsey Community Hlth Care Ctr, Inc, Sipsey.
045720	1282	Snead Med Board, Snead.
040040	0883	Hlth Development Corp. Tuscaloosa.
042450	1183	West Tuscaloosa Comm Hlth Ctr. Tuscaloosa.
040160	0183	Central Ala Comprehensive Hlth, Inc, Tuskegee.
044690	1282	Waterloo Med Board, Waterloo.
		FLORIDA
041660	0283	West Orange Farmworker Hlth Assn, Inc. Apopka
040290	0783	Fam Med Practice, Inc, Cross City.
045500	0383	East Pasco Hlth Ctr, Inc, Dade City.
040210	0783	Fla Rural Hlth Svcs, Frostproof.
041680	0183	Lee Co Migrant Hlth Council, Inc, Ft Myers.
041700	0183	Collier Hlth Svcs, Inc, Immokalee.
048820	1083	University Hospital, Jacksonville.
041710	0383	Henry Glades Co Hlth Svc, Inc, Labelle.
040290	0583	Lafayette Co Public Hlth Trust, Mayo.
040310	0783	Borinquen Hlth Care Center, Inc, Miami.
048320	0788	Community Hlth South Dade, Inc, Miami.
048330	0983	Economic Opportunity Fam Health Center, Inc, Miami.
044130	0483	Miami Beach Community Health, Inc, Miami Beach.
040340	0783	Rural Health Care, Inc, Palatka.
044310	0883	Manatee Co Rural Hlth Services, Parrish.
041670	0781	Sunshine Hlth Ctr, Inc, Pompano Beach.
041750	0483	Hillsborough Co. Ruskin Migrant and Hlth Ctr, Inc, Ruskin.
041720	0283	Central Fla Migrant and Community Hlth Ctr, Inc, Sanford.
040250	0181	Project Health, Inc, Sumterville.
042710	0582	Gilchrist Co Med Bd, Trenton.
040370	0483	Fla Community Hlth Center, Inc, West Palm Beach.
045290	0883	Mid Co Med Ctr, Inc, West Palm Beach.
041740	0183	Bd of Co Commissioners Palm Beach Co, West Palm Beach.
040280	0583	Wewahitchka Med Ctr, Inc, Wewahitchka.
		GEORGIA
044150	0683	Albany Area Prim Care Ctr, Inc, Albany
040400	0188	Atlanta Southside Comm Health Ctr, Inc, Atlanta.
040410	0783	West End Med Ctr, Atlanta.
047890	0483	Oconee Ogelthrope, Crawford.
047430	0983	George E Wilson Mem, Cumming.
046900	0188	Oakhurst Community Hlth, Decatur.
046860	0983	Village Hlth Clinic, Inc, Helen.
043870	0083	Lincoln Co PC Center, Lincolnton.
048340	0483	Eastside Health Center, Morgantown.
045260	0683	Palmetto Hlth Council, Inc, Palmetto.
042120	0382	Plains Primary Hlth Care Center, Plains.
043540	0981	Stewart-Webster Rural Hlth Board, Inc, Richland.
040480	0883	Westside-Urban Health Centers, Inc, Savannah.
040160	0482	Hancock Co Primary Care Center, Inc, Sparta.
042110	0983	Suches Community Med Center, Inc, Suches.
044790	0283	Primary Hlth Care Ctr of Dade, Trenton.
042290	0583	Tri-Co Hlth Sys, Inc, Warrenton.
047870	1282	Bartow Health Center, White.
048380	0883	Pike Co Primary Hlth Care Center, Inc, Zebulon.
		KENTUCKY
040550	0483	Buckhorn Lake Area Hlth Council, Inc, Buckhorn.
044090	0983	Covington Fam Hlth Ctr, Covington.
040640	0683	Louisville-Jefferson Co Bd of Health, Louisville.
040650	0783	Park Duvalle Hlth Ctr, Louisville.
044830	0883	Health Help, Inc, McKee.
040670	0283	Big Sandy Hlth Care, Inc, Prestonsburg.
040600	0583	Mountain Comp Hlth Corp, Whitesburg.
		MISSISSIPPI
042400	0183	Coastal Fam Hlth Ctr, Inc, Biloxi.
042440	0382	Rankin Urban Hlth Inovations Proj, Inc, Brandon.
043000	0583	Northeast Mississippi Hlth Care, Inc, Byhalia.
040760	0188	Madison Yazoo Leake Fam Hlth Ctr, Canton.
046150	1282	Aaron E Henry Comm Hlth Services Ctr, Inc, Clarksdale.
046870	0182	The Urgent Rural Needs, Inc, Fulton.
045770	0885	Southeast MS RHI, Inc, Hattiesburg.
040750	0888	Central MS Civic Improvement Assn, Jackson.
045780	0383	Amite County Medical Services, Inc, Liberty.
044470	0881	George Area Medical Extenders, Inc, Lucedale.
042070	0783	Matty Hersee Hosp, Meridian.
040780	0382	Mound Bayou Comm Hosp Delta Hlth Ctr, Inc, Mound Bayou.
040770	0783	South Central Ms Rural Hlth Assn, Inc, New Hebron.
048420	0883	Claiborne Co Community Health Ctr, Port Gibson.
045860	0382	Three Rivers Area Hlth, Smithville.
048290	0283	Noxubee Co Hlth Care, Inc, Shuqualak.
047330	0783	Mtel, Inc, S. W. Hlth Agency for Rural People, Tylertown.
040640	0782	Kuhn Mem State Hosp, Vicksburg.
		NORTH CAROLINA
041940	0782	Tri-Co Hlth Svcs, Inc, Aurora.
042300	0783	Appalachian District Health Dept, Boone.
042280	0283	Bunn Comm Hlth Ctr, Inc, Bunn.
040890	1182	Orange Chatham Comp Hlth, Carrboro.
047770	0583	Metrolina Comp Hlth Ctr, Charlotte.
045430	0981	West Caldwell Health Council, Inc, Colonial.
040910	0782	Durham Co Hosp Corp (Lincoln CHC), Durham.
045800	0182	Goshen Med Ctr, Inc, Faison.
048510	0183	Twin Co Rural Hlth, Hollister.
046940	0182	South Cumberland Hlth Care Ctr, Inc, Hope Mills.
042240	0582	Hot Springs Hlth Prog, Hot Springs.
045200	1282	Boone Trail Med Ctr, Mamers.
042270	0182	White Oak Hlth Svcs, Inc, Maysville.
045810	0583	Morven Area Med Ctr, Inc, Morven.
041000	0782	Wake Hlth Svcs, Inc, Raleigh.
042290	1282	Plain View Hlth Svcs, Inc, Rose Hill.
046800	0982	Person Fam Med Ctr, Roxboro.
041080	0282	Vance Warren Comprehensive Hlth Plan, Inc, Soul City.
041040	0182	The Community Med Fdn, Tarboro.
046910	0382	Stedman Wade Hlth Svcs, Wade.
044920	0883	Caswell Fam Med Ctr, Yanceyville.
042260	0783	Andrews Med Bd, Inc, Andrews.
042210	0283	Calhoun Falls Area Med Svcs, Calhoun Falls.
041110	0583	Franklin C. Fetter, Charleston.
045220	0982	Rural Hlth Svcs, Inc, Clearwater.
048490	1083	New Lower Richland Hlth Ctr, Eastover.
043770	0583	Allendale County, Fairfax.
046830	0782	Greeleyville Med Ctr, Inc, Greeleyville.
047000	0183	Britton's Neck Hlth Care Corp., Gresham.
047090	0183	Little River Med Ctr, Inc, Little River.
045090	0783	Sandhills Med Fdn, Inc, McBee.
048430	0583	St. James-Sandel, McClellanville.
046930	0983	Olanta Med Ctr, Inc, Olanta.
041180	0782	Orangeburg Co Consumer Hlth Council (RHI), Orangeburg.
041190	0981	Beaufort Jasper Comp Hlth, Ridgeland.
045480	0283	Upper Broadriver, Sharon.
045230	0982	Society Hill Fam Hlth Clinic, Inc, Society Hill.
042780	0983	Megals Rural Hlth Assoc, Inc, Trenton.
		TENNESSEE
041230	0681	Benton Med Comm Corp, Benton.
041260	0783	Chattanooga Hamilton (Alton Park CHC), Chattanooga.
041260	0783	Laurel Fork-Clear Fork Hlth Ctrs, Inc, Clairfield.
041780	0483	Upper Cumberland, Cookville.
041440	0782	Mountain Peoples Hlth Council, Inc, Huntsville.
046890	0188	Knox Co Hlth Dept, Knoxville.

Identification No.	Anniversary date	Health center name and city
042400	0983	Cumberland Fam Hlth Care, Inc, Lebanon.
041370	0583	Perry Co Med Ctr, Inc, Linden.
047830	0483	Union Grainger Primary Care, Inc, Maynardville.
041410	0783	Memphis Hlth Ctr, Inc, Memphis.
04179H	1183	Carter Co., TN Dept of Public Hlth, Nashville
041420	0283	Matthew Walker Hlth Ctr., Nashville.
041790	0983	Southeastern Region, TN Dept of Public Health, Nashville.
044110	0283	United Neighborhood Hlth Services, Nashville
046810	0483	Rural Comm Hlth Svcs, Inc, Parrotsville.
045130	0383	Shiloh Pickwick Hlth Services, Inc, Pickwick Dam.
041470	0783	Poor People's Health Council, Rossville.
041490	0983	Hancock Co Hlth Dept, Sneedville.
044560	0783	Douglas Comm Hlth & Recreation Council Stanton.
045420	0383	Citizens of Lake County for Hlth Care, Inc Tiptonville
041290	0983	Morgan Co Hlth Council Warburg.

Region V

ILLINOIS

052180	0983	Rural Hlth, Inc, Anna.
050030	0783	Comm Hlth Svcs, Cairo.
050040	0483	Shawnee Hlth Svcs & Development Corp, Carbondale.
051870	1282	Francis Nelson Hlth Ctr, Champaign.
051050	0183	Claretian Med Ctr, Chicago.
050080	0279	Komed Health Ctr, Chicago.
050090	0183	Mile Square Hlth Ctr, Chicago.
052130	0483	Christopher Gr. Area Rural Plan. Corp., Christopher.
052170	0183	Pembroke Area Family HC, Hopkins Park.
052140	1083	Henderson Co Rural Hc, Oquawka.
052760	1282	Crusaders Central Clinic Assoc., Rockford.

INDIANA

053200	1282	Methodist Hosp of Indiana Inc (Barrington), Indianapolis.
051020	0183	Peoples Hlth Ctr, Indianapolis.
051110	1083	Rural Health Activities of SE Ind., Lawrenceburg.
053100	1083	Gary CHC, Gary.

MICHIGAN

052200	0183	Downriver Comm Services, Algonac.
050210	0783	Regional Hlth Care, Baldwin.
052190	0483	Brown City Area HC, Brown City.
052820	1282	Monway Citzns Hlth Council, Carleton.
051090	1083	Bruce Douglas (Detroit HD), Detroit.
051960	1083	Herman Kiefer Hlth Ctr, Detroit.
052900	1282	Sisters of Mercy Hlth Corp, Detroit.
050250	0483	Dowagiac Hlth Systems, Dowagiac.
051680	0483	East Jordan Fam HC, East Jordan.
050290	1083	Northern Mich Hlth Servs, Houghton Lake.
051980	1083	Alcona Medical Clinic, Lincoln.
052510	0483	Pullman Hlth Clinic, Pullman.
052250	0480	Sterling Area Hlth Proj, Sterling.
052910	0483	Citizens Hlth Council, Temperance.

MINNESOTA

052710	0683	Cook Area Hlth Svcs, Inc, Cook.
052700	0683	Cook Co Comm Clinic, Inc, Grand Marais.
051770	0483	Indian Hlth Board of Minnesota, Inc, Minneapolis.
052730	1282	Model Cities Hlth Ctr, St. Paul.
051340	0183	Border Area Hlth Svcs, Inc, Warroad.

OHIO

050560	0983	Barnesville Hlth Svcs Asc, Barnesville.
052270	0483	Ross Co Ambul Clinic, Chillicothe.
050570	1282	Cincinnati Hlth Dept, Cincinnati.
050990	0783	Southern Ohio Hlth Svcs, Cincinnati.
050580	0183	Hough Norwood Fam Health Care Ctr, Cleveland.
050960	0483	Clinicas Migrants Regional, Fremont.
050640	0483	Family Hlth Service of Darke Co, Greenville.
051060	1083	Ironton-Lawrence Co Community Action, Ironton.
050920	0783	Farm Developmt Programs, Nelsonville.
052900	0283	Community Action Committee of Pike Co, Piketon.
051700	0783	Neighborhood Assoc of Toledo, Toledo.

WISCONSIN

050840	0783	Marshfield Medical Fdn, Marshfield.
052240	1282	Inner City Development Project, Milwaukee.
052670	0783	Indian Hlth Ctr of Milwaukee, Milwaukee.
052810	0783	North Woods Med Coop, Minong.
051560	1082	Community Memorial Hosp, Oconto Falls.

Region VI

ARKANSAS

060020	1082	N. Arkansas Human Svcs System, Inc, Batesville.
052140	1083	CABUN Rural Health Services, Inc, Hampton.
062090	0983	Mid-Delta Comm Svcs, Inc, Helena.
060060	1282	Lee Co Cooperative Clinic, Mananna.
060360	0683	Rural Hlth, Inc, Paragold.
060110	0183	Jefferson Comp Care Center, Inc, Pine Bluff.
062700	0983	Portland Hlth Care Center, Inc, Portland.
062140	0783	E. Ark. Family Hlth Center, Inc, West Memphis.

LOUISIANA

060180	0183	Teche Action Board, Franklin.
060230	1282	De Soto Comp Health Service, Inc, Logansport.
063220	0683	Southern LA CH Care Corporation, Marrou.
060100	1083	Natchitoches Area Action Assoc., Natchitoches.
062480	0183	Catahoula Parish Hosp District #2, Sicily Island.

NEW MEXICO

060240	0783	Albuquerque Fam Hlth Centers, Inc, Albuquerque.
060440	1082	Presbyterian Med Svcs/Checker Board, Farmington.
060330	0783	Centro Campesino de Salud, Espanola.
052060	0783	Centro Rural de Salud, Inc, Loving.
061290	0983	La Casa de Bueno Salud, Inc, Portales.
063450	0783	Questa Health Center, Questa.
053010	0783	La Clinica de Familia, Inc, San Miguel.

OKLAHOMA

060530	0783	Community Health Centers, Inc, Spencer.
060540	1182	MOTON Health Systems, Inc, Tulsa.

TEXAS

062650	0283	Panhandle Rural Hlth Corp, Amarillo.
061510	0883	City of Brownsville, Brownsville.
061300	0283	San Jacinto Co Hlth Services, Inc, Coldspring.
060650	0683	South Texas F/P and Health Corp, Corpus Christi.
062120	0480	South Texas Rural Health Service, Inc, Cotulla.
060670	0583	Vida y Salud—Health System, Inc, Crystal City.
060060	0783	Los Barrios Unidos Community Clinic, Dallas.
060710	1282	De Leon Hosp Board (Cross Timbers), De Leon.
062740	0783	Maverick Co Out Patient Clinic, Eagle Pass.
061220	1282	Centro de Salud Familiar La Fe, Inc, El Paso.
060810	0883	Gonzales County Hlth Agency, Inc, Gonzales.
060820	1083	Comm Hlth Svc Agency, Inc, of Hunt Co, Greenville.
060130	0783	South Limestone Comm Health Ctr, Inc, Groesbeck.
060140	0583	Catholic Charities, Inc, Harlingen.
062380	0483	Fourth Ward Clinic, Houston.
060870	0583	Galveston Co Coordinated, La Marque.
060900	0483	Laredo-Webb Co Hlth Dept, Laredo.
060910	0683	South Plains Comm Action Assoc., Levelland.

Identification No.	Anniversary date	Health center name and city
060750	0183	Hidalgo Co. H.C. Corp, Pharr.
060950	0683	South Plains Hlth Provider Organization, Inc, Plainview.
062390	1083	Atascosu RHI Hlth Clinic, Inc, Pleasanton.
063190	0483	City of Port Arthur Health Dept., Port Arthur.
060970	0183	Comm Action Council of South Texas, Rio Grande City.
062360	0983	Barrio Comp Fam Hlth Care Ctr, Inc, San Antonio.
063250	0980	Centro Del Barrio Comm Health Ctr, Inc, San Antonio.
061090	0583	Ella Austin Comm Ctr, San Antonio.

REGION VII

IOWA

070020	0983	Rathbun Hlth Svcs, Inc, Centerville.
071170	0983	Community Hlth Care, Inc, Davenport.
070070	1083	Hlth Initative Corp of Tama, Toledo.
071410	0983	Peoples Comm Hlth Clinic, Waterloo.

KANSAS

070110	1282	Chase Co Hlth Svcs, Inc, Cottonwood Falls.
071390	1182	Washington Co Horizons Health Service, Washington.

MISSOURI

071660	1282	Caldwell Co Med Aid Corp, Hamilton.
070270	0583	Swope Pkwy Comp and Mental HC, Kansas City.
070390	0983	Wayne Miner NHC, Kansas City.
070090	1282	NE Missouri Hlth & Welfare Cncl, Kirksville.
071370	0983	New Madrid Co Group Practice, New Madrid.
071090	0283	Citizens for Imp of Med Svcs, Pilot Knob.
071670	1282	Central Ozark Med Ctr, Richland.
070370	0183	St Louis Comp NHC, St Louis.
071700	0283	Family Care Ctr at Carondelet, St Louis.
071190	0383	Neighborhood Hlth Ctr, Inc, St Louis.
070360	0583	Yeatman-Union Sarah Joint Comm Hlth Care, St Louis.
070480	0683	Big Springs Med Assoc, Van Buren.

NEBRASKA

070470	0783	Sandhills Develop Corp, Mullen.
071710	0283	Southeast Nebraska Rural Hlth Ctr, Weeping Water.

Region VIII

COLORADO

060020	0783	San Luis Valley HMO, Alamosa.
060020	0783	Valley Wide Hlth Svcs, Alamosa.
061480	0183	Comm Hlth of Colorado Springs, Colorado Springs.
060050	0183	Denver Hlth & Hospitals, Denver.
060100	0783	Dolores Co Hlth Assoc, Dove Creek.
060130	0783	Plan de Salud del Valle, Inc, Fort Lupton.
061260	0583	Gilpin Co Chapter Red Cross, Golden.
060140	0483	Sunrise CHC, Greeley.
061070	0983	Elbert EMS Council, Inc, Kiowa.
061650	0183	La Clinica Campesina, Lafayette.
061740	1083	Wright's Mesa Med Svc, Norwood.

NORTH DAKOTA

063060	1282	Dunn Comm Hlth Ctr, Killdeer.
062110	0183	Mercer-Oliver Hlth Svcs, Center.

SOUTH DAKOTA

063090	0183	Eagle Butte Comm Clinic, Eagle Butte.
060500	0983	NW South Dakota Rural Health, Faith.
061030	0783	Miner-Hamlin Hlth Care, Howard.
063100	0183	Isabel Community RHI Clinic, Isabel.
061610	1282	Indian Hlth Mgmt, Inc, Rosebud.
061800	0683	McCook/Hansen Health Care, Inc, Salem.
061450	0183	City of Sioux Falls, Sioux Falls.
060890	1083	Clay-Union Hlth Foundation, Vermillion.

Identification No.	Anniversary date	Health center name and city
081690	0883	Tri-County Hlth Care, Inc, Wessington Springs.
		UTAH
083240	0783	Wayne Co Med Clinic Board, Bicknell.
083050	0583	Weber County CHC, Ogden.
080550	1282	Univ of Utah—Dept of Fam/Comm Med, Salt Lake City.
		Region IX
		ARIZONA
090030	0183	West Pinal Family Health Center, Casa Grande.
093030	1282	Clinica Adelante, El Mirage.
090080	0783	Marana Comm Clinic, Marana.
090090	1282	Santa Cruz City Hlth Dept, Nogales.
091300	0783	Lake Powell Fam Hlth Services Corp, Page.
093070	0783	Memorial Fam Hlth Ctr, Phoenix.
090130	0883	Valley Hlth Ctr, Inc, Somerton.
090150	0183	El Rio Santa Cruz, Tucson.
093380	0183	Shiprock Community Health Center, Shiprock, NM (Four Corners Area).
		CALIFORNIA
090660	0883	Mojave Desert Hlth Services, Inc, Barstow.
090250	0183	Clinicas de Salud del Pueblo, Brawley.
091500	0483	Buttonwillow Hlth Ctr, Inc, Buttonwillow.
092150	1282	El Progresso de Desierto #1, Coachella.
091590	0483	Ten Comm. Hlth Ctr, Earlimart.
090290	0483	Drew Med-Dental Ctr, Inc, East Palo Alto.
090420	0983	Kaiser Fdn Hlth Plan, Inc, Fontana.
093080	0783	County of Orange Community HC, Garden Grove.
090380	0183	Rural Hlth Proj, Inc, King City.
090390	0483	Clinica Sierra Vista, Lamont.
090490	0183	Community Hlth Fdn of East L.A., Los Angeles.
093110	1282	La Clinica Familia del Barrio, Los Angeles.
093160	0483	The East Los Angeles Comm Hlth Union (TELACU), Los Angeles.
090440	1182	Watts Hlth Foundation, Los Angeles.
093210	1282	El Concilio de Madera, Madera.
090470	0483	Merced Family Hlth Ctr, Merced.
090710	0783	Nipomo Hlth Clinic, Nipomo.
091230	0583	La Clinica de la Raza, Inc, Oakland.
090540	0483	West Oakland Hlth Ctr, Oakland.
091000	0183	Northeast Valley Hlth Corp, Pacoima.
090560	0183	United Health Ctr of San Joaquin Parlier.
091240	0783	West Contra Costa Community Hlth Care, Richmond.
093120	0183	Logan Heights Family Health Center, San Diego.
090670	0283	North East Med Services, San Francisco.
090530	0483	San Francisco Med Ctr, San Francisco.
090720	0183	North County Hlth Proj, San Marcos.
091060	0183	Centro de Salud de la Communidad, San Ysidro.
090780	0783	Agricultural Workers Health Center, Stockton.
093190	0183	Tiburcio Vasquez Hlth Center, Union City.
		HAWAII
090990	0583	Waianae Coast Comp Health Center, Waianae.
		NEVADA
093190	0183	Operation Life Community Medical Center, Las Vegas.
091570	0483	Central Nevada Rural Health Centers, Reno.
		Region X
		ALASKA
100020	0763	Anchorange Neighborhood Health Center, Anchorage.
		IDAHO
101610	1083	Glenns Ferry Rural Hlth Clinic, Glenns Ferry.
100150	0483	Comm Hlth Clinics, Inc, Nampa.
101630	1083	Payette Health Care, Payette.
100180	0783	Health West, Inc, Pocatello.
		OREGON
101120	0783	Multnomah Co Dept of Human Services, Portland.
100760	0783	Cry of Love, Inc, Salem.
100340	0483	North West Human Resources, Woodburn.
		WASHINGTON
101670	1083	Lake Quinault Med Clinic, Amanda Park.
100360	1083	New Health Programs, Chewelah.
101660	1083	North Beach Hlth Care Clinics, Copalis Beach.
100390	0483	Clallam Co Hosp Dist, Forks.
100460	0783	Columbia Basin Hlth Assoc, Othello.
101520	1083	La Clinica So. Columbia Rural Health, Pasco.
100631	1083	Central Seattle Comm Hlth, Seattle.
101020	0483	Sea Mar CHC, Seattle.
101490	0483	Tacoma-Pierce Co Hlth Dept, Tacoma.
101030	0483	Yakima Valley Farm Workers Clinic, Toppenish.
100570	0483	North Central Washington Migrant Health, Wenatchee.
100400	0783	Grand Coulee Area Hlth, Wilbur.

[FR Doc. 82-34253 Filed 12-16-82; 8:45 am]

BILLING CODE 4160-15-M

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the list was last published on December 10.

Public Health Service

Food and Drug Administration
- Subject: License Applications for the Manufacture of Allergenics and Plasma Derivative Products and General Establishment Application (0910-0124)—Extension
- Respondents: Drug manufacturers of biological products
- OMB Desk Officer: Fay S. Iudicello

Health Resources and Services Administration
- Subject: Primary Care Block Grant Reporting Requirements (0915-0023)—Reinstatement
- Respondents: State governments
- OMB Desk Officer: Richard Eisinger

Alcohol, Drug Abuse, and Mental Health Administration
- Subject: Final Report Guidelines (0930-0005)—Reinstatement
- Respondents: Researchers
- OMB Desk Officer: Richard Eisinger

National Institutes of Health
- Subject: Small Business Innovative Research: Announcement and Application Instructions—NEW
- Respondents: Small business with expertise to contribute to agency research and development mission
- OMB Desk Officer: Richard Eisinger

Social Security Administration
- Subject: Letter to Employer Requesting Earnings Information for Supplemental Security Income (SSA-*LA*201 (1-83))—Revision
- Respondents: Businesses or other institutions
- OMB Desk Officer: Milo Sunderhauf

Health Care Financing Administration
- Subject: Independent Rural Health Clinic and Urban Clinic (Demonstration) Cost Report (HCFA-222)—Revision
- Respondents: Rural health clinics participating in Medicare and urban clinics participating in the Urban Clinics Demonstration
- Subject: Paperwork Associated with the Certification of Outpatient Physical Therapy and Speech Pathology Providers for Medicare and Medicaid (HCFA-1596 and R-10)—Extension/No Changes
- Respondents: Outpatient physical therapy and speech pathology providers participating in Medicare and Medicaid
- Subject: Identification of Extension Units of Outpatient Physical Therapy and Speech Pathology Providers (HCFA-381)—New
- Respondents: Outpatient physical therapy and speech pathology providers participating in Medicare and Medicaid
- OMB Desk Officer: Fay S. Iudicello

Copies of the above information collection clearance packages can be obtained by calling the HHS Reports Clearance Officer on 202-245-6511.

Written comments and recommendations for the proposed information collections should be sent directly to both the HHS Reports Clearance Officer and the appropriate OMB Desk Officer designated above at the following addresses:

J. J. Strnad, HHS Reports Clearance Officer, Hubert H. Humphrey Building, Room 524-F, Washington, D.C. 20201;

OT

OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, D.C. 20503, Attn: (name of OMB Desk Officer).

Dated: December 10, 1982.

Dale W. Sopper,

Assistant Secretary for Management and Budget.

[FR Doc. 82-34214 Filed 12-16-82; 8:45 am]

BILLING CODE 4150-04-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[N-2711]

Nevada; Classification Vacated

1. Pursuant to the authority delegated by Bureau Order 701 and amendment thereto, the Bureau of Land Management multiple use classification N-2711 was published in the **Federal Register** on December 11, 1969 (FR Doc 69-14690). Pursuant to the Classification and Multiple Use Act of September 19, 1964 (43 U.S.C. 1411-18) and the 43 CFR Part 2460 regulations, this action classified approximately 1,340 acres of public land in Esmeralda County, Nevada, for multiple use management. The land was segregated from appropriation under all the public land laws except recreation and public purposes. The area was further segregated from the mining laws, but not the mineral leasing and material sale laws.

2. Pursuant to 43 CFR 2461.5(c)(2), the classification is hereby vacated.

Mount Diablo Meridian, Nevada

T. 35 N., R. 37 E.,
Sec. 16, E½, S½NW¼, SW¼.
T. 36 N., R. 38 E.,
Sec. 15, all except S½SE¼SE¼;
Sec. 16, N½NE¼NE¼;
Sec. 32, NE¼SW¼, E½NW¼SW¼, S½SW¼.

The area described above comprises approximately 1,340 acres.

3. At 9:00 a.m. on January 17, 1983, all the land except 217.5 acres (within the E½ of sec. 16, T. 35N., R. 37 E.,) patented to the City of Winnemucca under an airport conveyance is hereby open to the operation of all the public land laws, subject to valid existing rights.

4. At 9:00 a.m. on January 17, 1983, the land will also be open to the operation of the mining laws. The land remains open to the mineral leasing and material sale laws.

5. All valid applications received prior to or at 9:00 a.m. on jaunary 17, 1983, will be considered as simultaneously filed. All other applications received will be considered in the order of filing.

Inquiries concerning this land should be addressed to the Chief, Division of Operations, Bureau of Land Mangement, P.O. Box 12000, Reno, Nevada 89520.

Dated: December 8, 1982.

Edward F. Spang,

State Director, Nevada.

[FR Doc. 82-34239 Filed 12-16-82; 8:45 am]

BILLING CODE 4310-84-M

[N-1559]

Nevada; Classification Vacated

1. Pursuant to the authority delegated by Bureau Order 701 and amendments thereto, the Bureau of Land Management multiple use classification N-1559 was published in the **Federal Register** on November 13, 1968 (FR Doc 68-13599.) Pursuant to the Classification and Multiple Use Act of September 19, 1964 (43 U.S.C. 1411-18) and the 43 CFR Part 2460 regulations, this action classified approximately 3,112,986 acres of public land in Pershing and Humboldt Counties, Nevada, for multiple use management. The land was segregated from appropriation under the agricultural land laws and from sales under Section 2455 of the Revised Statutes. One area (Thomas Canyon) was further segregated from all forms of appropriation including the mining laws, but not the Recreation and Public Purposes Act (44 Stat. 741) as amended, nor the mineral leasing and material sale laws.

2. Pursuant to 43 CFR 2461.5(c)(2), the classification is hereby vacated in its entirety and described as follows:

Mount Diablo Meridian, Nevada

Commencing at northeastern corner of Pershing County common to Pershing County, Humboldt County and Lander County;
Thence northerly along the county boundary between Humboldt County and Lander County to the Humboldt River;
Thence generally along the Humboldt River westerly to about Mill City;
Thence northwesterly to a point on the Western Pacific Railroad about 4 miles west of Jungo;
Thence westerly along the railroad to a point on the Western Pacific Railroad about 10 miles west of Sulphur;
Thence northerly within R. 28 and 27 E. to a point on Pershing County line between T. 35 and 36 N.;
Thence westerly along the township line between T. 35 and 36 N. to a point on the township line between R. 23 and 24 E.;
Thence southerly along the township line between R. 23 and 24 E. to a point of intersection with the south boundary of Pershing County within T. 24 N.;
Thence easterly along the south boundary of Pershing County within T. 24 N. to its intersection with the west boundary of Lander County in T. 24 N., R. 39 E.;
Thence northeasterly along the County line between Pershing and Lander County to a point of beginning.

The area described above aggregates approximately 3,112,986 acres of of public land.

3. At 9:00 a.m. on January 17, 1983, the land is hereby open to the operation of the agricultural land laws, subject to valid existing rights.

4. At 9:00 a.m. on January 17, 1983, the following described land known as Thomas Canyon will also be open to the operation of the mining laws:

Mount Diablo Meridian, Nevada

T. 35 N., R. 38 E.,
Sec. 16, NE¼, NE¼SE¼, SW¼SW¼, S½NW¼, NW¼NW¼.

This area comprises approximately 360 acres.

5. All the land described in the classification remains open to the mineral leasing and material sale laws.

6. All valid applications received prior to or at 9:00 a.m. on January 17, 1983, will be considered as simultaneously filed. All other applications received will be considered in the order of filing.

Inquiries concerning this land should be addressed to the Chief, Division of Operations, Bureau of Land Management, P.O. Box 12000, Reno, Nevada 89520.

Edward F. Spang,

State Director, Nevada.

[FR Doc. 82-34280 Filed 12-16-82; 8:45 am]

BILLING CODE 4310-84-M

[N-1279]

Nevada; Classification Vacated

1. Pursuant to the authority delegated by Bureau Order 701 and amendments thereto, the Bureau of Land Management multiple use classification N-1279 was published in the **Federal Register** on May 25, 1968 (FR Doc 68-6235) and amended by a correction published June 28, 1968 (FR Doc 68-7620). Pursuant to the Classification and Multiple Use Act of September 19, 1964 (43 U.S.C. 1411-18) and the 43 CFR Part 2460 regulations, this action classified approximately 409,351 acres of public land in Esmeralda County, Nevada, for multiple use management. The land was segregated from appropriation under the agricultural land laws and from sale under Section 2455 of the Revised Statutes. The Lahontan Cutthroat Natural Area was further segregated from all forms of appropriation including the mining laws, but not the Recreation and Public Purposes Act (44 Stat. 741) as amended, nor the mineral leasing and material sale laws.

2. Pursuant to 43 CFR 2461.5(c)(2), the classification is hereby vacated with the exception of the following described area known as the Lahontan Cutthroat Area:

Mount Diablo Meridian, Nevada

T. 41 N., R. 26 E.,
Sec. 1, Lots 1, 2, 3, 6, SE¼NW¼, SW¼SW¼, NE¼SW¼, SW¼SE¼;

Sec. 2, Lots 1, 4, S½NE¼, SW¼NW¼, W½SW¼, SE¼;
Sec. 3, All;
Sec. 4, Lots 1, 7, 16, SE¼NE¼;
Sec. 11, All;
Sec. 12, Lots 1–4, inclusive, N½NE¼, SE¼NE¼, SE¼NW¼, W½NW¼, SW¼, SW¼SE¼.
T. 42 N., R. 26 E.,
Sec. 14, Lots 5 thru 8, inclusive, SW¼;
Sec. 15, Lots 7 thru 12, inclusive;
Sec. 22, N½, NE¼SW¼, NW¼SE¼;
Sec. 23, All;
Sec. 24, All;
Sec. 25, All;
Sec. 26, All;
Sec. 27, W½NE¼; SE¼NW¼, W½NW¼, S½;
Sec. 28, E½;
Sec. 33, E½E½;
Sec. 34, All;
Sec. 35, Lots 5 thru 20, inclusive;
Sec. 36, All.
T. 41 N., R. 27 E., unsurveyed,
Sec. 6, N½, SW¼.
T. 42 N., R. 27 E., unsurveyed,
Sec. 19, W½;
Sec. 29, W½SW¼;
Sec. 30, W½, SE¼;
Sec. 31, All;
Sec. 32, W½W½.

The area described above comprises approximately 12,316 acres. This area has high fisheries habitat value and will remain classified for a period of 5 years from the date of this publication at which time the classification will again be reviewed.

3. At 9:00 a.m. on January 17, 1983, all the land except that described in paragraph 2 above is hereby open to the operation of the agricultural land laws, subject to valid existing rights.

4. All the land described in the classification remains open to the mineral leasing and material sale laws.

5. All valid applications received prior to or at 9:00 a.m. on January 17, 1983, will be considered as simultaneously filed. All other applications received will be considered in the order of filing.

Inquiries concerning this land should be addressed to the Chief, Division of Operations, Bureau of Land Management, P.O. Box 12000, Reno, Nevada 89520.

Edward F. Spang,

State Director, Nevada.

December 8, 1982.

[FR Doc. 82-34281 Filed 12-16-82; 8:45 am]

BILLING CODE 4310-84-M

National Park Service

Santa Monica Mountains National Recreation Area Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Santa Monica Mountains National Recreation Area Advisory Commission will be held on Tuesday, January 11, 1982 at 7:30 p.m. in the Nygreen 1 Hall at California Lutheran College, 60 West Olsen Road, Thousand Oaks, California.

The Advisory Commission was established by Pub. L. 95-625 to provide for free exchange of ideas between the National Park Service and the public to facilitate the solicitation of advice or other counsel from members of the public on problems pertinent to the National Park Service in Los Angeles and Ventura Counties.

Members of the Commission are as follows:

Dr. Norman P. Miller, Chairperson
Hon. Marvin Braude
Ms. Sarah Dixon
Ms. Margot Feuer
Dr. Henry David Gray
Mr. Edward Heidig
Mr. Frank Hendler
Ms. Mary C. Hernandez
Mr. Peter Ireland
Mr. Bob Lovellette
Ms. Susan Barr Nelson
Mr. Carey Peck
Mr. Donald Wallace

The major agenda items include the following:

Superintendent's Status Report of the SMMNRA
Election of the Vice Chairperson
Advisory Commission Recommendation on the Development Concept Plan for Cross Mountain Parks
Resource Management Committee Report and Public Hearing on Draft Natural Resource Management Plan
Other Committee Reports.

The meeting is open to the public. Any member of the public may file with the Commission a written statement concerning issues to be discussed.

Persons wishing to receive further information on this meeting or who wish to submit written statements may contact the Superintendent, Santa Monica Mountains National Recreation Area, 22900 Ventura Boulevard, Suite 140, Woodland Hills, California 91364.

Minutes of the meeting will be available for public inspection by February 28, 1983 at the above address.

Dated: December 10, 1982.

John J. Reynolds,

Acting Superintendent, Santa Monica Mountains National Recreation Area.

[FR Doc. 82-34272 Filed 12-16-82; 8:45 am]

BILLING CODE 4310-70-M

[M-56230, M-56231 and M-56230-A]

Montana; Classification of Public Lands for State Indemnity Selection

December 7, 1982.

1. The Montana Commissioner, Department of State Lands, has filed a petition for classification and application to acquire the public lands described in paragraph 5 below, under the provisions of Sections 2275 and 2276 of the Revised Statutes, as amended (43 U.S.C. 851, 852 (1976)), in lieu of certain school lands granted to the State under the Act of February 22, 1889, 25 Stat. 676, that were encumbered by other rights or reservations before the State's title could attach. The application has been assigned serial numbers M-56230, M-56231, and M-56230-A.

2. The Bureau of Land Management will examine these lands for evidence of prior valid rights or other statutory constraints that would bar transfer. Those lands found suitable for transfer will be held to be classified on February 11, 1983. Classification is pursuant to Title 43, Code of Federal Regulations, Subpart 2400 and Section 7 of the Act of June 28, 1934.

3. Information concerning these lands and the proposed transfer to the State of Montana may be obtained from the District Manager, Miles City District Office, Bureau of Land Management P.O. Box 940, Miles City, Montana 59301, (406) 232-4331, or the District Manager, Butte District Office, Bureau of Land Management, P.O. Box 3388, Butte, Montana 59701, (406) 494-5059.

4. For a period of 60 days from the date of publication of this notice in the **Federal Register**, all persons who wish to submit comments or objections on the above classification may present their views in writing to the State Director, Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107. Any adverse comments will be evaluated by the State Director who will issue a notice of determination to proceed with, modify, or cancel the action. In the absence of any action by the State Director, this classification action will become the final determination of the Department of the Interior. As provided by Title 43, Code of Federal Regulations, Subpart 2462.1, a public hearing will be scheduled by the State Director if he determines that sufficient public interest exists to warrant the time and expense of a hearing.

5. The lands included in this classification are located in Broadwater, Cascade, Meagher, Powell, Missoula, Granite, Dawson, and Big Horn counties, Montana, and are described as follows: (footnotes correspond to numbered

authorized users or applicants listed in Paragraph 6).

Application M–56230, Principal Meridian

T. 4 N., R. 2 E.,
Sec. 2, Lot 5; and [1, 2, 67]
Sec. 12, Lots 2, 3, and 6, and SW¼NW¼.[2, 66]
T. 15 N., R. 3 E.,
Sec. 24, Lot 1, E½NE¼ and NW¼SE¼.[3, 69]
T. 16 N., R. 3 E.,
Sec. 12, Lots 1 thru 16, and NE¼SW¼.[4, 70]
T. 12 N., R. 4 E.,
Sec. 24, E½NE¼.[5, 71]
T. 13 N., R. 4 E.,
Sec. 28, NW¼SW¼; and [6, 72]
Sec. 34, Lots 2, 3, and 4, and SW¼NW¼.[6, 72]
T. 15 N., R. 4 E.,
Sec. 6, Lot 5;[7, 75]
Sec. 7, Lots 5 and 11;[8, 75]
Sec. 18, Lots 5 and 17; and [73, 75]
Sec. 19, Lots, 1, 5, 6, 7, and 8.[3, 73, 74]
T. 16 N., R. 4 E.,
Sec. 30, Lots 9 thru 12; and [9, 76]
Sec. 31, Lots 12 and 13.[9, 75]
T. 10 N., R. 9 W.,
Sec. 4, Lots 3 and 4, SW¼NW¼, NE¼SE¼ and S½S½;[10, 11, 13, 76]
Sec. 9, Lot 2;[12, 13, 76]
Sec. 14, Lots 3 and 4, S½NW¼ and SW¼; and [10, 13, 14, 77]
Sec. 20, Lot 1 and NE¼NW¼.[15, 78]
T. 11 N., R. 11 W.,
Sec. 14, Lots 1 thru 4, N½ and N½S½.[16, 17, 18, 79]
T. 13 N., R. 14 W.,
Sec. 24, Lots 5, 6, and 12, and NE¼; and [19, 80]
Sec. 27, SE¼NE¼ and E½SE¼.[20, 21, 80]
T. 11 N., R. 15 W.,
Sec. 2, Lots 1 thru 4, S½N½, SW¼, and NE¼SE¼;[22, 81]
Sec. 4, Lots 1 thru 4, S½N½, N½SW¼, SW¼SW¼, and SE¼SE¼; and [22, 23, 81]
Sec. 8, E½NE¼.[22, 23, 81]
T. 11 N., R. 16 W.,
Sec. 2, S½NE¼, E½SW¼, and SE¼; and [24, 25, 26, 27, 81]
Sec. 4, SW¼.[26, 27, 28, 81]
T. 12 N., R. 16 W.,
Sec. 6, Lots 3 thru 6, 11 thru 14, E½SW¼ and S½SE¼;[29, 81]
Sec. 26, N½ and E½SE¼;[30, 31, 32, 33, 81]
Sec. 27, SW¼ and SW¼SE¼;[34]
Sec. 28, NE¼, E½NW¼, SW¼NW¼, SW¼, and S½SE¼; and [30, 35, 81]
Sec. 34, S½NW¼, SW¼, and W½SE¼.[35, 36, 37, 81]
T. 12 N., R. 17 W.,
Sec. 2, S½NW¼, NE¼SW¼, and SE¼SE¼;[38]
Sec. 4, SE¼SE¼;[38]
Sec. 8, Lot 9 and N½SE¼;[38]
Sec. 10, N½; and [39, 40]
Sec. 12, Lots 1 thru 4, W½E½ and W½.[38, 81]

Total acreage for M–56230 is approximately 7,407.92 acres.

Application M–56231, Principal Meridian

T. 15 N., R. 55 E.,
Sec. 12, W½; and [41, 42, 84]
Sec. 24, All. [41, 42, 83, 83]
T. 15 N., R. 56 E.,
Sec. 8, All; [41, 84]
Sec. 20, N½ and SE¼; [41, 42]
Sec. 28, All; and [41, 42]
Sec. 30, Lots 1 and 2, E½ and E½NW¼.[44, 88, 88]
T. 8 S., R. 40 E.,
Sec. 24, NW¼SW¼; [45, 86]
Sec. 26, N½SW¼; [46]
Sec. 27, N½SE¼; and [45, 47, 48, 86]
Sec. 34, SE¼SW¼. [45, 48, 48, 50, 85]
T. 9 S., R. 40 E.,
Sec. 3, N½SW¼ and NW¼SE¼; and [48, 49, 49, 50, 51, 86]
Sec. 4, NE¼SE¼. [51, 86]

Total acreage for M–56231 is approximately 3,583.35 acres.

Application M56230–A, Principal Meridian, Montana

T. 12 N., R. 6 W.,
Sec. 18, Lots 1, 2, and 3, N½NE¼, and E½NW¼. [52, 87, 88]
T. 16 N., R. 6 W.,
Sec. 34, N½NE¼, SW¼NE¼ and W½. [53, 54, 55, 89]
T. 12 N., R. 7 W.,
Sec. 1, Lots 1, 2, 7, 8, 9, 10, 13, and 14, W½SE¼; [56, 58, 87, 88]
Sec. 12, Lots 1, 3, and 4, W½E½. [56, 87]
Sec. 13, All. [56, 57, 87, 88]
T. 12 N., R. 11 W.,
Sec. 12, NE¼SW¼, W½SE¼ and SE¼SE¼; [59, 90]
Sec. 14, W½SW¼, SE¼SW¼, and E½SE¼; [58, 60, 64, 90]
Sec. 22, Lot 1; [62, 63, 91]
Sec. 26, N½, SW¼, and W½SE¼. [61, 66, 90]
T. 13 N., R. 14 W.,
Sec. 2, S½SE¼. [65]

Total acreage for M–56230–A is approximately 3,090.23 acres.

The total acres for all the above-described lands is approximately 14,091.50 acres.

6. The following listed corporations and individuals are holders of or applicants for leases, permits, withdrawals, and/or rights-of-way on the public lands described in paragraph 5 above:

Oil and Gas Leases

[2] Home Petroleum Corp., 2600 N. Loop W., Houston, TX 77092, M–35981.
[3] Texas Oil & Gas Corp., 2700 Fidelity Union Tower, Dallas, TX 75201, M–40110.
[4] Petrolic Corporation, P.O. Box 2248, Roswell, NM 88201, M–52535.
[5] Skyline Oil Company, 2000 University Club Bldg., Salt Lake City, UT 84111, M–37580.
[6] Cherry Creek Oil Co., P.O. Box 20522, Billings, MT 59104, M–37591.
[7] James M. Chudnow, 1516 W. Bryn Mawr, Chicago, IL 60660, M–51320.
[8] James M. Chudnow, M–51899.
[9] Tom Wheatley, Jr., 444–17th St. No. 618, Denver, CO 80202, M–51263.
[10] Sanchez-O'Brien Oil & Gas Corp., P.O. Box 2986, Laredo, TX 78041, M–45448.
[11] Thomas H. Connelly, 810 Midland Savings Bldg., Denver, CO 80202, M–45387.
[12] James M. Chudnow, 1516 W. Bryn Mawr, Chicago, IL 60660, and Laurent A. Giesbert, Cidex 47–12, 27670, Bosc-Rober-En-Roumois, France, M–54301.
[13] TXO Production Corp., Fidelity Union Tower, Dallas, TX 75201, M–39809.
[14] TXO Production Corp., M–39812.
[17] Thomas H. Connelly, M–45394.
[18] Virginia S. Rutter, P.O. Box 3186, Midland, TX 79702, M–45574.
[19] J. L. Davis, et al, 300 Blanks Bldg., Midland, TX 79701, M–46653.
[20] Virginia S. Rutter, M–46986.
[21] Credo Petroleum Corp., 1905 Sherman Street, Suite 700, Denver, CO 80203, M–55918.
[22] Leon Jeffcoat, et al, 301 S. Main, Suite C, Midland, TX 79701, M–47191.
[27] William E. Jeffers, Box 65, Artesia, NM 88210, M–55670.
[29] Pioneer Production Corp., P.O. Box 2542, Amarillo, TX 78189, M–46501.
[30] William E. Jeffers, M–47958.
[34] Thomas H. Connelly, M–48496.
[35] Credo Petroleum Corp., M–55813.
[36] William E. Jeffers, M–54597.
[37] Thomas H. Connelly, 810 Midland Savings Bldg., Denver, CO 80202 and Robert W. David, P.O. Box 1497, Cheyenne, WY 82001, M–53680.
[38] J. L. David, et al, M–46719.
[39] Virginia S. Rutter, M–48102.
[42] Southland Royalty Co., 410–17th Street, Suite 1000, Denver, CO 80202, M–42638.
[43] Harry Ptasynski, P.O. Box 43, Casper, WY 82601, M–31682.
[44] MTS Limited Partnership, P.O Box 2009, Amarillo, TX 79189, M–27932.
[46] Raymond Chorney, 401 Lincoln Tower Bldg., 1860 LIncoln St., Denver, CO 80203; American Petrofina Co. of Texas, 1100 First City East Bldg., Houston, TX 77002; Terra Resources, Inc., 900 Security Life Bldg., Denver, CO 80202; Brascan Resource, Inc., Box 9540 Station R, Suite 1200 Bow Valley Square 1, 202 Sixth Avenue, S.W. Calgary, Alberta, Canada, T2P 2W6, M–29750.
[51] Energy Resources Group, Inc., Suite 3200, First of Denver Plaza, 633–17th Street, Denver, CO 80202, M–29751.
[52] Viginia S. Rutter, M–46676.
[53] Tom Hunt, 2500 First Nat'l Bank Bldg., Dallas, TX 75202, M–33470.
[56] A.W. Rutter, Jr., P.O. Box 3186, Midland, TX 79702, M–45502.
[59] Sanchex-O'Brien Oil & Gas Corp., M–45766.
[60] TXO Production Corp., M–39817.
[61] A.W. Rutter, Jr., M–45484.
[62] Wm. E. Jeffers, M–49192.
[63] Thomas H. Connelly, M–51806.
[66] J.L. Davis, et al, M–46853.

Rights-of-Way

[1] State of Montana, State Water Conservation Board, Helena, MT 59601, BIL 028445.
[13] Bureau of Land Management, M–069792.
[14] Blackfoot Telephone Coop., Inc., P.O. Box 1474, Missoula, MT 59801, M–025617.
[23] Champion International Corp., P.O. Box 8, Milltown, MT 59851, M–51849.
[24] Champion International Corp., M–51848.
[25] Bureau of Land Management, M–073051.
[26] Bonneville Power Administration, P.O. Box 3537, Portland, OR 97208, M–056345.
[28] The Montana Power Company, 40 E. Broadway, Butte, MT 59701, M–36416.
[31] Missoula Electric Coop., Inc., P.O. Drawer 1486, Missoula, MT 59801, M–31877.
[32] Blackfoot Telephone Coop., Inc., M–33711.
[33] Champion Timberlands, P.O. Box 434, Bonner, MT 59823, M–34966.
[40] Champion International Corp., M–51846.

[41] State of Montana, Dept. of Fish, Wildlife, and Parks, Helena, MT 59601, M–33676.
[45] State of Montana, State Water Conservation Board, Helena, MT 59601, BIL 037880.
[47] Tongue River Electric Coop, Ashland, MT 59003, M–055660.
[48] State of Montana, Dept. of Highways, Helena, MT 59601, M–42817.
[49] Pacific Power & Light Co., 920 S.W. Sixth Avenue, Portland, OR 97204, M–42519.
[50] Spring Creek Coal Co., 529 S.W. Third Avenue, Portland, OR 97204, M–42398.
[54] State of Montana, Highway Comm., Helena, MT 59601, GF–085854.
[55] The Montana Power Company, M–30226.
[57] Forest Service, Helena National Forest, Helena, MT 59626, M–037311.
[58] The Lincoln & Helena Telephone Co., P.O. Box 175, Lincoln, MT 59639, M–33884.
[64] Bureau of Land Management, M–056870.
[65] Bureau of Land Management, M–056871.

Grazing Lessees

[67] Maurice J. Ferrat, RR1, Box 61, Toston, MT 59643.
[68] William P. Carr, 6700 Forest Lane, Dallas, TX 75230.
[69] Carol Anderson & Sons, Milligan Route, Great Falls, MT 59401.
[70] Kenneth E. Staigmiller, Box 4433, Great Falls, MT 59401.
[71] Walter L. Johnston, Route 1, White Sulphur Springs, MT 59645.
[72] Geo. A & Janet Zieg, Jr., RR1, White Sulphur Springs, MT 59645.
[73] Everett Carlson, Milligan Route, Great Falls, MT 59401.
[74] Elizabeth Carlson, Milligan Route, Great Falls, MT 59401.
[75] Walter Gruel & Sons, Inc., Milligan Route, Great Falls, MT 59401.
[76] Benson Brothers, Box 328, Avon, MT 59713.
[77] Gimlet Creek Ranch, c/o Luella Tavenner, 916 Missouri Avenue, Deer Lodge, MT 59722.
[78] Andrew Beck, Box 110, Deer Lodge, MT 59722.
[79] Dutton Hereford Ranch, Gold Creek MT 59733.
[80] Lindbergh Cattle Co., Star Route, Box 337, Greenough, MT 59836.
[81] Bonita-Clinton-Potomac Cattle Assoc., Star Route 1, Box 945, Clinton, MT 59825.
[82] J.I. Engle, Marsh Road, Glendive, MT 59330.
[83] Martin Nemitz, Marsh Road, Glendive, MT 59330.
[84] Jack Eaton, Hot Bar Land & Cattle Co., P.O. Box 123, Glendive, MT 59330.
[85] Niles Veal, Decker Coal Co., P.O. Box 3049, Sheridan, WY 82801.
[86] Montaylor Corp., c/o Walter J. Taylor, Busby, MT 59016.
[87] Herbert E. Eskildsen, Canyon Creek, MT 59633.
[88] Edward S. Grady, Canyon Creek, MT 59633.
[89] Steinbeck Cattle Co., c/o Marvin Steinbeck, Wolf Creek MT 59648.
[90] C. N. Mannix Ranch, c/o Bert Mannix, Helmville, MT 59843.
[91] Adele C. Coughlin, Helmville, MT 59843.

Range Improvemens and Cooperative Agreements

[69] Fence 7740 Carol Anderson & Sons.
[73] Fence 7748 Everett Carlson.
[74] Fence 7749 Elizebeth Carlson.
[76] Fence 7205 Benson Brothers.
[87] Fence Herbert E. Eskildsen.
[88] Fence Edward S. Grady.
[90] Fence C. N. Mannix Ranch.
[91] Fence Adele C. Coughlin.

7. Rights-of-way granted by the Bureau of Land Management on the above lands will transfer with the land or may be reserved to the United States. Where mineral rights will transfer to the State, existing oil and gas leases will remain in effect under the terms and conditions of the leases. This classification constitutes official notice to grazing lessees that their Bureau of Land Management leases will be terminated in whole or in part upon transfer of the land to the State of Montana. The State Commissioner has agreed to give BLM's grazing permittees a preference right for grazing privileges on lands transferred to the State. The State leases will contain the same terms and conditions included in the present leases to the fullest extent allowed by State laws. However, the State and the lessees may agree to enter into other tenure arrangements.

For a period of 45 days from the date of fist publication indicated below, persons asserting a claim to or interest in the described lands, other than holders of leases, permits or rights-of-way listed above, may file such claim with the State Director, Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107, together with evidence that a copy thereof has been served on the Board of Land Commissioners, State of Montana, Capitol Building, Helena, Montana 59601.

Bill D. Noble,

Acting State Director.

[FR Doc. 82–34196 Filed 12–16–82; 8:45 am]

BILLING CODE 4310-84-M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that ODECO Oil and Gas Company has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 3164, Block 135, Ship Shoal Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: December 9, 1982.

John L. Rankin,

Acting Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 82–34258 Filed 12–16–82; 8:45 am]

BILLING CODE 4310-31-M

INTERSTATE COMMERCE COMMISSION

Agricultural Cooperative; Notice to the Commission of Intent To Perform Interstate Transportation for Certain Nonmembers

December 14, 1982.

The following Notices were filed in accordance with section 10526 (a)(5) of the Interstate Commerce Act. These rules provide that agricultural cooperatives intending to perform nonmember, nonexempt, interstate transportation must file the Notice, Form BOP 102, with the Commission within 30 days of its annual meetings each year. Any subsequent change concerning officers, directors, and location of transportation records shall require the filing of a supplemental Notice within 30 days of such change.

The name and address of the agricultural cooperative (1) and (2), the location of the records (3), and the name and address of the person to whom inquiries and correspondence should be addressed (4), are published here for interested persons. Submission of

information which could have bearing upon the propriety of a filing should be directed to the Commission's Office of Compliance and Consumer Assistance, Washington, D.C. 20423. The Notices are in a central file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C.

(1) Farmers Union Cooperative Transport, Inc.
(2) Route 2, Box 300 Stetsonville, WI 54480
(3) Rt. 2, Box 300, Stetsonville, Wisconsin 54480
(4) Michael J. Wyngaard, 150 East Gilman St., Madison, WI 53703

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-34240 Filed 12-16-82; 8:45 am]

BILLING CODE 7035-01-M

Intent To Engage In Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation and address of principal office: Hannaford Bros. Co., 54 Hannaford St., South Portland, Maine 04106.

2. Wholly owned subsidiary which will participate in the operations and State of incorporation: Hannaford Trucking Company (Maine).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-34239 Filed 12-16-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Finance Applications; Decision-Notice

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by 49 CFR 1182.1 of the Commission's Rules of Practice. See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349*, 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register**. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1182.2. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1182.2(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Agatha L. Mergenovich,

Secretary.

Please direct status inquiries to Team 3 (202) 275-5223.

Volume OP3-MC-F-45

Decided: December 10, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC-F 15020, filed December 2, 1982. RICHARD L. LOFTUS, (LOFTUS) (7925 Nevada Avenue, Hammond, IN)—continuance in control—RAINBOW TRANSPORT, INC. (RAINBOW) (7925 Nevada Avenue, Hammond, IN). Representative: Carl L. Steiner, 135 South LaSalle Street, Chicago, IL. Loftus seeks authority to continue in control of Rainbow upon the institution by RAINBOW of operations in interstate or foreign commerce, as a motor common carrier. Rainbow has filed an application in No. MC-164965 seeking authority to transport, over irregular routes, general commodities (with exceptions), between points in the U.S. (except AK and HI). Loftus presently holds no permanent authority from the Commission, however, Loftus also controls through stock ownership, Sawyer Eastern Inc., a motor common carrier pursuant to Certificate issued in MC-149582 and subs thereunder.

Note.—Rainbow has filed a directly related application in its initial common carrier permanent application. This application, docketed No. MC-164965 is published in this same **Federal Register** issue.

For the following, please direct status inquiries to Team 2 at 202-275-7030.

Volume No. OP2-316

Decided: December 9, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC-F-15015, filed November 26, 1982. U.S. TRUCK LINES, INC., OF DELAWARE, (applicant), 785 Union Commerce Bldg., Cleveland, OH, 44115—continuance in control—MOTOR EXPRESS RENTALS CORPORATION, 6501 West 65th St., Chicago, IL 60638. Representative: Joel H. Steiner, 135 South LaSalle St., Chicago, IL 60603. Applicant seeks authority to continue in control of Motor Express Rentals Corporation, upon the institution by Motor Express Rentals Corporation of operations, in interstate or foreign commerce, as a motor common carrier. Applicant seeks to acquire control of said rights and property through the transaction. Applicant, a non carrier controls through stock ownership (1) Be Mac Transport Company, Inc., MC-

10872 and subs thereto, (2) Brown Express, Inc., MC–46054 and subs thereto, (3) Central Truck Lines, Inc., MC–38473 and subs thereto, (4) The Cleveland, Columbus & Cincinnati Highway, Inc., MC–3419 and MC–3420 and subs thereto, (5) Kanawha Cartage Company, MC–150148 and subs thereto, (6) Mercury Freight Lines, Inc., MC–113528 and subs thereto, (7) Motor Express Inc. of Indiana, MC–28813 and subs thereto, (8) Motor Express, Inc. (NJ), MC–1778 and subs thereto, (9) National Tank Truck Delivery, Inc., MC–116132 and subs thereto, and (10) Ohio Delivery, Inc., MC–142758 and subs thereto.

Note.—Motor Express Rentals Corporation has filed as a directly related application its initial common carrier application, docketed MC–164862, published in the same **Federal Register** issue.

[FR Doc. 82–34245 Filed 12–16–82; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Finance Applications; Decision-Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsideration; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 C.F.R. 1181.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 20 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is order:

The following application are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission, Review Board Number 3, Members Krock, Joyce, and Dowell.

Agatha L. Mergenovich,

Secretary.

Please direct status inquiries to Team 3, (202) 275–5223.

Volume No. OP3–MC–FC–55

MC-FC-81031. By decision of December 9, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1181, Review Board Number 3 approved the transfer to ALASKA FREIGHT LINES, INC., Valdez. AK, of Certificate No. MC-118444 Sub 2, issued February 4, 1963, to BILL UNFER AND VIC UNFER, d.b.a. UNFER BROS., Valdez, AK, authorizing the transportation of *general commodities* (except classes A and B explosives, commodities in bulk in tank-type equipment, and household goods as defined by the Commission), between Haines and Valdez, AK, on the one hand, and, on the other, Fairbanks, AK, and points in AK on AK Hwy 2 between Fairbanks and the United States-Canada Boundary line: points on AK Hwy 4 between Valdez, AK, and the junction of AK Hwys 4 and 2 at or near Delta Junction, AK; and points within 50 miles of the described portions of said highways (including points on AK Hwy 1 between Tok Junction and Gulkana, AK). Representative: George Hillar, P.O. Box 1769, Valdez, AK 99686.

For the following, please direct status inquires to Team 5 (202) 275–7289.

Volume No. OP5–FC–282

MC-FC-81019. By decision of December 6, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, Review Board Number 3 approved the transfer to THE MIAMI MARGARINE COMPANY, d.b.a. DELMAR TRANSPORTATION COMPANY, of Cincinnati, OH, of Certificate No. MC 162668, issued November 2, 1982, to OLD DUTCH DISTRIBUTORS. INC., of Blasdell, NY, authorizing the transportation of *food and related products*, between Cleveland and Cincinnati, OH, Philadelphia, PA, Buffalo, NY, Detroit, MI, and points in Chautauqua County, NY, Kent County, MI, Middlesex County, NJ, Greenville County, SC, and Summit County, OH, on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, KS, MO, AR, and LA. Representative: William J. Hirsch, 64 Niagara St., Buffalo, NY 14202.

[FR Doc. 82–34244 Filed 12–16–82; 8:45 am]

BILLING CODE 7035–01–M

[Decision Volume No. 065]

Republication of Grants of Operating Rights Prior to Certification

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the **Federal Register**.

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission within 30 days after the date of this **Federal Register** notice. Such pleading shall address specifically the issue(s) indicated as the purpose for republication. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

Agatha L. Mergenovich,

Secretary.

MC 144757 (Sub-19) (republication) filed March 16, 1982; published in the **Federal Register** issue of May 10, 1982; and republished this issue. Applicant: DAKOTA PACIFIC TRANSPORT, INC., 3104 East St. Patrick, Rapid City, SD 57701. Representative: J. Maurice Andren, 1734 Sheridan Lake Road, Rapid City, SD 57701, Phone: (605) 343–4036. In a decision by the Entire Commission, decided October 20, 1982, and finds that performance by applicant: To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities*, between Readers, AL, Bell and McNary, AZ, Villa Park, CA, Alfords and Gorday, GA, Bloomfield, Carbon, Evanston, Orange City, South Ottumwa, and West Grove, IA, Allendale, Beecher City, Berry, Breckenridge, Broughton, Converse Branch, Dales, Edinburg, Equality, Flanagan, Graymont, Havoline, Iola, Lakewood, Louis, Millersville, Oweneco, Rochester, Rook's Creek, Sharpsburg, and Tower Hill, IL, Ashley, Benton, Clarksville, Eddy, Foraker, Hamilton, Helmer, Hudson, Paoli, South Milford, Stoney Creek, Topeka, and Wolcottville, IN, Maxine, KS, Benton, Blackford, Camp Breckenridge, Clay, Corydon, Crayne, Crider, Deanfield, DeKoven, Dexter, Edgoten, Fluornoy, Fordsville, Fredonia, Grove Center, Hardin, Henshaw, Marion, Masonville, Mexico, Morganfield, Narrows, Oakridge, Philpot, PI Junction, Repton,

St. Vincent, Sturgis, Sullivan, Thompsonville, Uniontown, Waverly, Wheatcroft, and Whitesville, KY, Jacobs, Pauls, and Rands, ME, Alden, Arnheim, Barker Creek, Bellaire, Bendon, Central Lake, Chassel, Chief Lake, Douglas, Ellsworth, Hancock, Harpers, Interlochen, Keweenaw, Norwalk, Pilgrim, State Hospital, Rapid City, and Wealthy, MI, Empire, Mo, Abbeville, College Hill, Cumberland, Dancy, Gibbons, Hudsonville, Lamar, Lexington, Mantee, McClary, Michigan City, Owens Wells, Oxford, Reform, Sherwood, Spraggins, Taylor, Waterford, Water Valley, and Woodland, MS, Boyd, Fox, Joliet, Red Lodge, Roberts, and Sherryl Spur, MT, Caroleen and Henrietta, NC, Dunseith and Thorne, ND, Irvington, NE, Chatsworth, Winslow Junction, and Woodmansie, NJ, Mottville, Rosendale, and Skaneateles Falls, NY, Edon and Westminister, OH, Carlon, Cromby, Forest, Garrett Road, Grassland, Honey Brook, Light Street, Llanerch, Napier, Newton Square Branch, Parker Ford, Pennhurst, Spring City, Starrucca, Thompson, Transfer, and Uniondale, PA, Barton, Furman, Kline, Lena, Seigling, and Valentine, SC, Ashland City, Beech Bluff, Big Sandy, Bolivar, Chapmansboro, Congor, Deanburg, Doddsville, Fox Bluff, Hickory Point, Hickory Valley, Hornsby, Jordonia, Kenwood, Lacy, Lexington, Luray, Malesus, Medon, Middleburg, Parksburg, Ralston, Riverside, Scottsboro, Serles, Silerton, Steel City, Terrell, and Toone, TN., DeWalt, Herbert, and Smada, TX, on the one hand, and, on the other, points in the United States.

Conditions: This certificate, to the extent it authorizes the transportation of classes A and B explosives, will expire 5 years from its date of issuance. Applicant must certify to the Commission, prior to initiating operations, that all rail service has actually terminated at the involved points. Applicant must send an affidavit marked "Certification of Rail Service Termination" to the Deputy Director, Motor Section, Office of Proceedings, Interstate Commerce Commission, Washington, DC 20423.

Note.—The purpose of this republication is to delete all commodity and territorial exclusions.

MC 144757 (Sub-21) (republication), filed May 21, 1982; published in the **Federal Register** issue of September 30, 1982; and republished this issue. Applicant: DAKOTA PACIFIC TRANSPORT, INC., 3104 East St. Patrick, Rapid City, SD 57701. Representative: J. Maurice Andren, 1734 Sheridan Lake Road, Rapid City, SD 57701, Phone: (605) 343–4036. In a decision, by the Commission, Division 1, decided November 10, 1982, and finds that performance by applicant: To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities,* between Arnaudville, Bryant, Bushville, Cecelia, Coteau Holmes, Gondron, Grand Point, Isle Labbe, Jefferson Island, Loreauville, New Iberia Conection, Oubre, Parks, Patin, Pecaniere, Summerall, Ulysse, Vida, and Walet, LA; Fairfax and Tarkio, MO; Burckley and Enumclaw, WA; Huntley and Ragan, NE; Bender, Breckenridge, Eddy, Erie, Grainville, Hunter, Lamont, Middleton, Peckham, Salt Fork Steen, and Simpson, OK; Weir City, KS; Bartlett, Cartago, Coso, Inyokern, Linnie, Little Lake, Olancha, and Sykes, CA; Corral and Hill City, ID; Cipsco Park, Carbon Lake, Leo Rock and Sand Ridge, IL; Viola, KS; Edgar, Johnson, Keuka, Newby and Oak Crest, FL; Pactolus, Stokes and Whitchard, NC; Ehrhardt, SC; Dundee, Lake Hamilton and Waverly, FL; Greenwood, Loyal and Spokeville, WI; Oakdale, MN; Pencilwood, CA; Berwick, OH; Mt. Hope, NJ; Buchanan, Carlton, Cochranton and Utica, PA; Dimeling, Madera, and Lilly, PA; Lansdown, NJ; Aqueduct, NY; Alexandria, Atlasburg, and St. Clair, PA; Kentmere, DE; La Otto and Huntertown, IN; Picatinny Arsenal, and Hudson, NJ; Whitehall, OH; Levans Mill, and Hepburnville, PA; Randolph, MA; Hughesville and Warren Glen, NJ; Gadsden, IN; Newton Highlands, MA; Toms River, NJ; East View, Elmsford, and Woodbine, NY; Cadiz, Grants, McVittys and Patterson, OH; Bowersville, Little Virginia, and New Providence, PA; Milton, DE; Olivers, San Pierre, Rupel, Tefft, Toto and Wheatfield, IN; Colon, Concord, Haires, Homer, Spring Arbor, Union City and Tekonsha, MI; Merchantville, Pavonia, Branchport, East Longbranch and Ft. Monmouth, NJ; Frankfort, Harbor, Ilion, McConnellsville, Pittsford, Cheming Junction, Elmira Heights and Horseheads, NY; Coleman, Columbiana Mine, Lisbon, De Cliff, Hepburn, Swan Creek, W. Marion, and N. Cherokee, OH; Ironsides, Glasgow and Irvona, PA; Ludlow, MA; Heilwood, PA; Honeoye Falls and Lima, NY; Ft. George G. Meade, MD; Charlettesville, Cumberland, Gem and Greenfield, IN; Garrettsville, Hiram, Leavittsburg, Phalanx, Amsterdam, Ann Mine, Bergholz, Hopedale, Industrial Mine, K & R 1 Mine, Mechanicstown, Piney Fork and Route 43 Washer, OH; Durbin, Aylesworth, Hebron, Kouts, Le Roy, North Judson and Winamac, IN; Bayard and Fairhope, OH; Betzwood, Port Indian, and Spring Mill, PA; Harding, Ontario, and Harrods, OH; Malden, NJ; Greason, Lees Cross Roads, Longsdorf, Newville, and Eclipse, PA; Arlington Siding, Fishkill Plains and Manchester Bridge, NY; Centerville and Germantown, IN; Eldorado, New Paris and Stillwater, OH; Clintondale, East Walden and Modena, NY; Amo, Clayton, Coatesville and Plainfield, IN; Cornwall, PA; Highstown, NJ; Covington, Hillsboro, Range Road and Waynetown, IN; Mt. Carmel, PA; Birmingham, Ft. Dix and Pemberton, NJ; Cunningham, Milton, and Semora, NC; Baskerville, Boydton, Buffalo Jct., Finchley, Mayo, Nelson, Union Level and Virgilina, VA; Carthage and Key West, MN; and Lake Kapowsin, WA, on the one hand, and, on the other, points in the United States.

Note.—To the extent that the certificate granted here authorizes the transportation of classes A and B explosives, it will expire 5 years from the date it is issued.

Note.—The purpose of this republication is to include "Alaska and Hawaii" in the territorial description.

MC 148036 (Sub-4) (republication) filed July 19, 1982; published in the **Federal Register** issue of August 9, 1982; and epublished this issue. Applicant: RED WING TRANSPORTATION CORPORATION, Box 87, Highway 63, Hager City, WI 54104. Representative: Harry P. Strong, Jr., 201 Security Bldg., 2395 University Avenue., St. Paul, MN 55115 (612–645–0511). In a decision, by the Commission, Review Board #3, decided October 14, 1982; and finds that performance by applicant: To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *food and related products,* between points in the United States (except Alaska and Hawaii), and (2) *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Minnesota and Pepin County, WI, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), will serve a useful public purpose responsive to a public demand or need. Applicant is fit, willing, and able properly to perform the granted service and to conform to statutory and administrative requirements.

Note.—The purpose of this republication is to include "food and elated products in bulk" in the commodity description.

MC 161637 (republication) filed May 6, 1982; published in the **Federal Register** issue of May 26, 1982; and republished

this issue. Applicant: ROGERT SAMAC, d.b.a. S.S.T., 905 S. 209th, Seattle, WA 98148. Representative: Boyd Hartman, P.O. Box 3641, Bellevue, WA 98009, Phone: (206) 453–0312. In a decision, by the Commission, Division 1, decided October 27, 1982, and finds that performance by applicant: To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *salt,* between points in Washington, on the one hand, and, on the other, points in Utah; (2) *building materials,* between points in Arizona, California, Colorado, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming; and (3) *iron and steel articles,* between points in California, Idaho, Nevada Oregon, Utah, Washington, and Wyoming, will serve a useful public purpose responsive to a public demand or need. Applicant is fit, willing and able properly to perform the granted service and to conform to statutory and administrative requirements.

Note.—The purpose of this republication is to include "California, Idaho, and Montana" in Part 2 of the grant of authority.

[FR Doc. 82-34241 Filed 12-16-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

In the matter of Motor Common and Contract Carriers of Property (fitness-only); Motor Common Carriers of Passengers (fitness-only); Motor Contract Carriers of Passengers; Property Brokers (other than household goods).

The following applications for motor common or contract carriage of property and for a broker of property (other than household goods) are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** on December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common or contract carriage of passengers filed on or after November 19, 1982, are governed by Subpart D of the Commission's Rules of Practice. See 49 CFR Part 1160, Subpart D, published in the **Federal Register** on November 24, 1982, at 49 FR 53271. For compliance procedures, see 49 CFR 1160.86. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E.

These applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operation (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

Agatha L. Mergenovich,

Secretary.

Note.–All applications are for authority to operate as a motor common carrier in interstate or foreign commerce, over irregular routes unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract."

Please direct status inquiries to Team Three at (202) 275–5223.

Volume No. OP3–47

Decided: December 10, 1982.

MC 1515 (Sub-318), filed November 19, 1982. Applicant: GREYHOUND LINES, INC., Greyhound Tower, Phoenix, AZ 85077. Representative: R. L. Wilson (same address as applicant) (602) 248–5016. Transporting *passengers,* in special and charter operations, between points in the U.S. (except HI).

Note.—Applicant seek to provide privately-funded special and charter transportation.

MC 1934 (Sub-51), filed November 22, 1982. Applicant: THE ARROW LINE, INC., P.O. Box 387, East Hartford, CT 06108. Representative: Robert J. Brooks, 1828 L St., NW., Suite 1111, Washington, DC 20036 (202) 466–3892. Transporting *passengers,* in special and charter operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 107815 (Sub-12), filed November 29, 1982. Applicant: IOWA COACHES, INCORPORATED, 1180 E. Rossevelt Ext., Dubuque, IA 52001. Representative: Steven C. Schoenebaum, 1100 Carriers Bldg., 601 Locust, Des Moines, IA 50309 (515) 283–2076. Transporting *passengers,* in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 109014 (Sub-7), filed November 23, 1982. Applicant: GREAT SOUTHERN COACHES, INC., 900 Burke Ave., Jonesboro, AR 72401. Representative: Patsy Gerber (Same address as applicant), (501) 935–5569. Transporting *passengers,* in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 120515 (Sub-2), filed November 19, 1982. Applicant: ARROW BUS LINE, INC., P.O. Box 842, Tillson, NY 12486. Representative: James M. Burns, 1365 Main St., Suite 403, Springfield, MA

01103 (413) 781–8205. Transporting *passengers*, in special and charter operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 121684 (Sub-4), filed November 19, 1982. Applicant: ORLANDO TRANSIT COMPANY, 4950 L. B. McLeod Rd., Orlando, FL 32802. Representative: Jeremy Kahn, Suite 733 Investment Bldg., 1511 K St., NW, Washington, DC 20005, (202) 783–3535. Transporting *passengers*, in special and charter operations, beginning and ending at points in FL, and extending to points in the U.S. (except HI).

Note.— Applicant seeks to provide privately-funded charter and special transportation.

MC 133305 (Sub-4), filed November 19, 1982. Applicant: DAVIS TOURS, INC., 711 12th St., No., Canton, OH 44704. Representative: Jeremy Kahn, Suite 733 Investment Bldg., 1511 K St., N.W., Washington, D.C. 20005, (202) 783–3525. Transporting *passengers*, in charter and special operations, beginning and ending at points in OH, and extending to points in the U.S. (except HI).

Note.— Applicant seeks to provide privately-funded charter and special transportation.

MC 134845 (Sub-5), filed November 22, 1982. Applicant: AMERICAN TRAVELINE COACH COMPANY, 4991 Factory Dr., Fairfield, OH 45014. Representative: Robert J. Brooks, 1828 L St., NW., Suite 1111, Washington, DC 20036, (202) 466–3892. Transporting *passengers*, in special and charter operations, between points in the U.S.

Note.— Applicant seeks to provide privately-funded special and charter transportation.

MC 143065 (Sub-6), filed November 23, 1982. Applicant: WEATHERFORD TRANSIT, INC., Highway 15 N., P.O. Box 1764, Hartsville, SC 29550. Representative: L.C. Major, Jr., Suite 304 Overlook Bldg., 6121 Lincolnia Rd., P.O. Box 11278, Alexandria, VA 22312, (703) 750–1112. Transporting *passengers*, in special charter operations, between points in the U.S. (except HI).

Note.— Applicant seeks to provide privately-funded charter and special transportation.

MC 145784 (Sub-1), filed November 23, 1982. Applicant: ATLANTIC COAST TOURS, INC., 284 Main St., Butler, NJ 07405. Representative: L.C. Major, Jr., Suite 304 Overlook Bldg., 6121 Lincolnia Rd., P.O. Box 11278, Alexandria, VA 22312, (703) 750–1112. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.— Applicant seeks to provide privately-funded charter and special transportation.

MC 146675 (Sub-3), filed November 19, 1982. Applicant: KINCAID COACH LINES, INC., 9207 Woodend Rd., Edwardsville, KS 66111. Representative: Michael T. Kincaid (same address as applicant) (913) 441–6200. Transporting *passengers*, in special and charter operations, beginning and ending at points in MO, and extending to points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 148425 (Sub-5), filed November 19, 1982. Applicant: SUNDANCE STAGE LINES, INC., 3762 Main St., San Diego, CA 92113. Representative: Roger Curtis McKee, 5030 Camino de la Siesta, Suite 305, San Diego, CA 92108 (714) 296–5051. Transporting *passengers*, in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 151475 (Sub-2), filed November 19, 1982. Applicant: HUDSON GENERAL COACH LINES, INC., P.O. Box 880, Huntington Park, CA 90255. Representative: L. C. Major, Jr., Suite 304 Overlook Building, 6121 Lincolnia Road, P.O. Box 11278, Alexandria, VA 22312 (703) 750–1112. Transporting *passengers*, in charter and special operation, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation

MC 154135 (Sub-2), filed November 23, 1982. Applicant: ELLISON TRANSPORTATION CO., P.O. Box 636, Roseburg, OR 97470. Representative: Jerry R. Woods, Rm 104 Flavia Hall, P.O. Box 28, Marylhurst, OR 97036 (505) 635–5600. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 156384 (Sub-2), filed November 23, 1982. Applicant: TRANSPO, INCORPORATED, 9 Mill Plain Rd., Danbury, CT 06810. Representative: Sidney J. Leshin, 3 E. 54th St., New York, NY 10022 (212) 759–3700. Transporting *passengers*, in special and charter operations, between points in the U.S. (except HI).

Note.—Applicant seeds to provide privately-funded charter and special transportation.

MC 164674, filed November 23, 1982. Applicant: QUADRA BUS CORP., 145–42 180th Street, Springfield Gardens, NY 11434. Representative: Sidney J. Leshin, 3 East 54th Street, New York, NY 10022 (212) 759–3700. Transporting *passengers*, in special and charter operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 164815, filed November 22, 1982. Applicant: DELY TRAVEL SERVICE, INC., 20223 Mack Avenue, Grosse Pointe Woods, MI 48236. Representative: Robert J. Brooks, 1828 L Street, NW., Suite 1111, Washington, DC 20036 (202) 466–3892. Transporting *passengers*, in special and charter operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 164824, filed November 22, 1982. Applicant: CUMBERLAND COACH SERVICE, LTD., 295 Skidmore Road, Deer Park, NY 11729. Representative: Sidney J. Leshin, 3 East 54th Street, New York, NY 10022 (212) 759–3700. Transporting *passengers*, in special and charter operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded special and charter transportation.

MC 164835, filed November 22, 1982. Applicant: THOMAS COACH LINES, INC., 740 Sylviawood Ave., Park Ridge, IL 60068. Representative: Robert A. Thomas (same address as applicant) (312) 823–6794. Transporting *passengers*, in special and charter operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 164855, filed November 22, 1982. Applicant: McCLARY TOURS, INC., 20 Courtney Drive, Farmingville, NY 11738. Representative: Sidney J. Leshin, 3 East 54th Street, New York, NY 10022 (212) 759–3700. Transporting *passengers* in special and charter operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 164895, filed November 26, 1982. Applicant: CENTURY MOVING & STORAGE, INC., P.O. Box 923, Long Beach, CA 90801. Representative: Robert J. Gallagher, 1000 Connecticut Ave., NW., Suite 1200, Washington, DC 20036, (202) 785–0024. Transporting (1) for or on behalf of the U.S. Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI), (2) *shipments weighing 100*

pounds or less if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI), and (3) *used household goods* for the account of the U.S. Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S. (except AK and HI).

MC 164914, filed November 29, 1982. Applicant: DENNIS L. JACKSON d.b.a. MOONBEAM EXPRESS, 6714 Summitview Ave., Yakima, WA 98908. Representative: Dennis L. Jackson (same address as applicant) (509) 965–4178. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except HI).

MC 164974, filed December 2, 1982. Applicant: PETER D. THORNBURG d.b.a. THORNBURG TRANSFER, 6405 Bridge Rd. #201, Madison, WI 53713. Representative: Ann M. Thornburg (Same address as applicant) (608) 221–8187. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers and other soil conditioners,* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

Volume No. OP3–52

Decided: December 13, 1982.

MC 142765 (Sub-15), filed December 1, 1982. Applicant: AMERICAN TRANSPORTATION, INC., 797 Amity Rd., Bethany, CT 06525. Representative: Mel P. Booker, Jr., P.O. Box 1281, Old Town Station, Alexandria, VA 22313, (703) 836–6115. Transporting, for or on behalf of the U.S. Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

For the following, please direct status inquiries to Team 4 at 202–275–7669.

Volume No. OP4–067

Decided: December 13, 1982.

MC 126526 (Sub-2), filed November 29, 1982. Applicant: FAIRBANKS MIDWEST TRUCK LINES, INC., 1721 Thorne Rd., Tacoma, WA 98421. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101, (703) 893–3050. Transporting (1) for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons amd munitions), and (2) *used household goods,* for the account of the United Stated Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S.

Volume No. OP4–069

Decided: December 13, 1982.

MC 111347 (Sub-4), filed December 8, 1982. Applicant: PRIGGE'S CHARTERED BUSES, INC., d.b.a. PRIGGE'S DISCOVERY COACH LINES, 305 S. Commerce St., Sheboygan, WI 53081. Representative: Richard A. Westley, 4506 Regent St., Suite 100, P.O. Box 5086, Madison, WI 53705–0086, (608) 238–3119. Transporting *passengers,* in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 129596 (Sub-2), filed December 3, 1982. Applicant: ABC BONDED WAREHOUSES, INC., 5000 Pan American Freeway, N.E., Albuquerque, NM 87109. Representative: Norris R. Penny, Sr. (same address as applicant), (505) 881–1414. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 138297 (Sub-12), filed December 3, 1982. Applicant: CENTRAL FLORIDA COACH LINES, INC., P.O. Box 127, Mountaintop, PA 18707. Representative: Raymond Talipski, 121 S. Main St., Taylor, PA 18517, (717) 344–8030. Transporting *passengers,* in charter and special operations, beginning and ending at points in PA, and extending to points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 144237 (Sub-2), filed December 2, 1982. Applicant: EUGENE T. FALBO, d.b.a. MOUNTAIN VIEW TOURWAYS, R.D. #6, Box 401, Latrobe, PA 15650. Representative: John A. Pillar, 1500 Bank Tower, 307 4th Ave., Pittsburgh, PA 15222, (412) 471–3300. Transporting *passengers,* in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 164906, filed November 29, 1982. Applicant: MAE BUS SERVICE, 501 Riddick Circle, Suffolk, VA 23434. Representative: Edward L. Mae (same address as applicant), (804) 539–8174. Transporting *passengers,* in special and charter operations, beginning and ending at points in VA and NC, and extending to points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 164967, filed November 29, 1982. Applicant: POCONO MOUNTAIN TRAILS, INC., Box 488, Blairstown, NJ 07825. Representative: Ronald I. Shapss, 450 Seventh Ave., New York, NY 10123, (212) 239–4610. Transporting *passengers,* in special and charter operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 164986, filed December 28, 1982. Applicant: DAVID C. McCOY, d.b.a. McCOY'S CHARTER SERVICE, 3040 E. Olive, Unit 106A, Fresno, CA 93701. Representative: Eldon M. Johnson, 650 California St., Suite 2808, San Francisco, CA 94108, (415) 986–8696. Transporting *passengers,* in charter and special operations, between points in the U.S. (except HI).

Note.—Applicants seeks to provide privately-funded charter and special transportation.

Volume No. OP4–071

Decided: December 13, 1982.

MC 162316, filed November 23, 1982. Applicant: SOUTHERN CHARTERWAYS LTD., P.O. Box 1115, Swift Current, Saskatchewan, Canada S9H 3X3. Representative: Kenneth Donaldson (same address as applicant), (306) 773–4891. Transporting *passengers,* in charter or special operations, beginning and ending at points on the International Boundary Line between the U.S. and Canada at points in WA, ID, MT, ND and AK, and extending to points in AK, AR, AZ, CA, CO, FL, GA, IA, ID, IL, KS, KY, MI, MN, ND, NE, NV, OK, SD, TN, TX, UT, WA, MT and WY.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 164717, filed November 17, 1982. Applicant: FISCHBACH LIMOUSINE SERVICE, INC., 160 Cabrini Blvd,. Apt 31, New York, NY 10033. Representative: Marilyn Mauler, 445 Park Ave., New York, NY 10022, (212) 980–3200. Transporting *passengers,* in charter and special operations, beginning and ending at points in NY, and extending to points in NJ, PA, CT, MA, NH and VT.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 164866, filed November 26, 1982. Applicant: KEITH D. SNYDER, d.b.a., PUNXSUTAWNEY BUS CO., 106 Pine St., Punxsutawney, PA 15767. Representative: Keith D. Snyder (same

address as applicant), (814) 938–7630. Transporting *passengers*, in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 164936, filed December 1, 1982. Applicant: NORTH CENTRAL LABORATORIES, INC., 510—25th Ave. North, P.O. Box 1417, St. Cloud, MN 56302. Representative: James E. Ballenthin, 1016 Conwed Tower, 444 Cedar St., St. Paul, MN 55101, (612) 227–7731. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

MC 164956, filed November 29, 1982. Applicant: GARY J. PADRTA, d.b.a. WESTERN TRUCK BROKERS, 6422 E. Mallon, Spokane, WA 99206. Representative: Gary J. Padrta (same address as applicant), (509) 534–9363. As a *broker of general commodities* (except household goods) between points in the U.S. (except AK and HI).

[FR Doc. 82-34248 Filed 12-16-82; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

In the matter of Motor Common and Contract Carriers of Property (except fitness-only); Motor Common Carriers of Passengers (public interest); Freight Forwarders; Water Carriers; Household Goods Brokers.

The following applications for motor common or contract carriers of property, water carriage, freight forwarders, and household goods brokers are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common carriage of passengers, filed on or after November 19, 1982, are governed by Subpart D of 49 CFR Part 1160, published in the **Federal Register** on November 24, 1982 at 47 FR 53271. For compliance procedures, see 49 CFR 1160.86. Carriers operating pursuant to an intrastate certificate also must comply with 49 U.S.C. 10922(c)(2)(E). Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E. In addition to fitness grounds, these applications may be opposed on the grounds that the transportation to be authorized is not consistent with the public interest.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations.

We make an additional preliminary finding with respect to each of the following types of applications as indicated: common carrier of property—that the service proposed will serve a useful public purpose, responsive to a pubic demand or need; water common carrier—that the transportation to be provided under the certificate is or will be required by the public convenience and necessity; water contract carrier, motor contract carrier of property, freight forwarder, and household goods broker—that the transportation will be consistent with the public interest and the transportation policy of section 10101 of chapter 101 of Title 49 of the United States Code.

These presumptions shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements, which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract." Applications filed under 49 U.S.C. 10922(c)(2)(B) to operate in intrastate commerce over regular routes as a motor common carrier of passengers are duly noted.

Please direct status inquiries to Team Three at (202) 275–5223.

Volume No. OP3–45A

Decided: December 10, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 164965, filed December 2, 1982. Applicant: RAINBOW TRANSPORT, INC., 7925 Nevada Avenue, Hammond, IN 46323. Representative: Carl L. Steiner, 135 South LaSalle Street, Chicago, Il 60603, (312) 236–9375. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

Note.—This application is directly related to MC–F 15026, published in this same **Federal Register** issue.

For the following, please direct status inquiries to Team 5 at 202–275–7289.

Volume No. OP5–280.

Decided: December 8, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 43038 (Sub-501), filed November 30, 1982. Applicant: COMMERCIAL CARRIERS, INC., 20300 Civic Center Drive, Fourth Floor, Box CS 5027, Southfield, MI 48037. Representative: Paul H. Jones, 29725 Shacket Avenue, Madison Heights, MI 48071, (315) 352–9200. Transporting *motor vehicles*, between points in the U.S. (except AK and HI), under continuing contract(s) with persons, who are engaged in business as manufacturers, distributors or dealers of motor vehicles.

MC 74169 (Sub-10), filed December 1, 1982. Applicant: CHIEFTAIN VAN LINES, INC., 7201 Main St., Ralston, NE 68127. Representative: Robert J. Gallagher, 1000 Connecticut Ave., NW., Suite 1200, Washington, DC 20036, (202) 785–0024. Transporting *household goods,* between points in the U.S. (except VT, AK and HI).

MC 75138 (Sub-5), filed December 1, 1982. Applicant: OGDEN TRANSFER AND STORAGE COMPANY, 2105 Wall Avenue, Ogden, UT 84401. Representative: Thomas R. Kingsley, 10614 Amherst Avenue, Silver Spring, MD 20902, (301) 649–5074. Transporting (1) *household goods,* (2) *furniture and fixtures,* and (3) *office and store equipment,* (a) between points in the U.S. in and west of MN, WI, IL, MO, AR, and LA (except AK and HI), and (b) between points in the U.S. in and west of MN, WI, IL, MO, AR, and LA (except AK and HI), on the one hand, and, on the other, points in the U.S. east of MN, WI, IL, MO, AR, and LA (except VT).

MC 104758 (Sub-4), filed November 29, 1982. Applicant: PAT'S VAN LINES, INC., 3616 Indiana, Kansas City, MO 64128. Representative: Donald J. Quinn, Commerce Bank Building, 8901 State Line—Suite 232, Kansas City, MO 64114, (816) 444–7474. Transporting *household goods,* between points in AL, AR, CO, DE, FL, GA, IL, IN, IA, KS, KY, LA, MD, MS, MO, NE, NJ, NY, NC, OH, OK, PA, SC, TN, TX, VA and WV.

MC 128648 (Sub-35), filed December 2, 1982. Applicant: TRANS-UNITED, INC., P.O. Box 2081, East Chicago, IN 46312. Representative: Joseph Winter, 29 South LaSalle Street, Chicago, IL 60603, (312) 263–2306. Transporting *such commodities* as are dealt in or used by dealers and distributors of building materials and lumber and wood products, between points in the U.S. (except AK and HI).

MC 154739 (Sub-5), filed November 22, 1982. Applicant: JEBCO LEASING, INC., 515 El Camino Road, Greenwood, IN 46142. Representative: Walter F. Jones, Jr., 1111 East 54th St., Suite 155, Indianapolis, IN 46220, (317) 257–4066. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI). Condition: Prior or coincidental cancellation, at applicant's written request, of Permits No. MC 154739 (Subs 1, 2, 3 & 4).

Note.—The purpose of application is to convert applicant's authority from contract to common.

MC 163778 (Sub-1), filed November 26, 1982. Applicant: J. H. TRANSPORT, INC., 105 Lakeside Drive, Stanton, MI 48888. Representative: William B. Elmer, P.O. Box 801, Traverse City, MI 49685–0801, (616) 941–5313. Transporting *food and related products,* between points in Scott County, MS; and MI; on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 164189, filed November 29, 1982. Applicant: YELLOWHEAD TRANSPORT, LTD., Box 386, Yorkton, Saskatchewan, Canada S3N 2W1. Representative: Charles E. Johnson, P.O. Box 2056, Bismarck, ND 58502–2056. Transporting *fertilizer and feed and feed ingredients,* between ports of entry on the international boundary line between the United States and Canada; in MT, ND, ID, WA and MN, on the one hand, and on the other, those points in the U.S. in and west of WI, IA, MO, AR and LA, (except AK and HI).

Volume No. OP5–283

Decided: December 9, 1982

By the Commission, Review Board No. 3, members Krock, Joyce, and Dowell.

MC 76818 (Sub-2), filed November 29, 1982. Applicant: WM. PERRY TRUCKING, INC., One Warren Ave., Braintree, MA 02184. Representative: Francis E. Barrett, Jr., 10 Industrial Park Rd., Hingham, MA 02043, 617–749–6500. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in ME, NH, VT, MA, RI, CT, NY and NJ.

MC 140928 (Sub-4), filed November 24, 1982. Applicant: VULCAN FREIGHT LINES, INC., P.O. Box 6223–A, Birmingham, AL 35217. Representative: John R. Frawley, Suite 200, 120 Summit Pkwy., Birmingham, AL 35209–4786, 205–942–9116. Transporting *general commodities* (except classes A and B explosives, and household goods), between points in AL, FL, GA, KY, LA, MO, MS, OK, SC, and TN, on the one hand, and, on the other, those points in the U.S. in and east of TX, OK, KS, MO, IA and MN.

MC 151989 (Sub-2), filed November 23, 1982. Applicant: TODD TRANSPORTATION COMPANY, 421 Garrard Street, Covington, KY 41011. Representative: Stephen D. Strauss, 2510 Carew Tower, Cincinnati, OH 45202, (513) 621–4807. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 164578, filed November 29, 1982. Applicant: TRUCK CONTROL SERVICE, INC., 7017 N. 56th Avenue, Glendale, AZ 85301. Representative: Phil B. Hammond, 3003 N. Central, Suite 2201, Phoenix, AZ 85012, (602) 266–2224. Transporting *wire and cable,* between points in the U.S., under continuing contract(s) with Times Fiber Communications, Inc., of Wallingford, CT.

MC 164648, filed November 8, 1982. Applicant: HUQ'S EXPRESS, INC., 34 Mason Rd., Dudley, MA 01570. Representative: Michael R. Werner, 241 Cedar Lane, Teaneck, NJ 07666, 201–836–1144. Transporting *chemicals and related products,* and *furniture and fixtures,* between points in MA, on the one hand, and, on the other, points in CT, MA, ME, NH, NJ, NY, PA, RI, and VT.

MC 164848, filed November 17, 1982. Applicant: MAGRA, INC., 1720 Dove St., P.O. Box 152, Port Huron, MI 48060. Representative: Ronald J. Mastej, 900 Guardian Bldg., Detroit, MI 48226, 313–963–3750. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in MI and OH, on the one hand, and, on the other, points in IL, IN, KY, MI, OH, PA and WI. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either (1) state that a petition has been filed under 49 U.S.C. 11343(e) seeking an exemption from the requirements of 49 U.S.C. 11343, (2) file an application under 49 U.S.C. 11343(A), or (3) submit an affidavit indicating why such approval is unnecessary, to the Secretary's office. In order to expedite issuance of any authority please submit a copy of this filing to Team 5, Room 2414.

MC 164879, filed November 23, 1982. Applicant: WAYNE L. BARNEY, d.b.a. PRESCOTT DELIVERY SERVICE, 206 E. Sheldon, Prescott, AZ 86301. Representative: Andrew V. Baylor, 337 E. Elm Street, Phoenix, AZ 85012, (602) 274–5146. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in Cocohino, Maricopa and Yavapai Counties, AZ.

[FR Doc. 82-34347 Filed 12-16-82; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. OP–2–316]

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following operating rights applications, filed on or after July 3, 1980, are filed in connection with pending finance applications under 49 U.S.C. 10926, 11343 or 11344. The

applications are governed by Special Rule 252 of the Commission's General Rules of Practice (49 CFR 1100.252).

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Persons submitting protests to applications filed in connection with pending finance applications are requested to indicate across the front page of all documents and letters submitted that the involved proceeding is directly related to a finance application and the finance docket number should be provided. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. However, the Commission may have modified the application to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements as to the finance application *or* to the following operating rights applications directly related thereto filed within 45 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except where the application involves duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice by effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Decided: December 9, 1982.

By the Commission, Review Board Number 1, Members Parker, Chandler, and Fortier.

Agatha L. Mergenovich,

Secretary.

MC 164862, filed November 26, 1982. Applicant: MOTOR EXPRESS RENTALS CORP., 6501 West 65th St., Chicago, IL 60638. Representative: Joel H. Steiner, 135 S. LaSalle St., Suite 2106, Chicago, IL 60603, 312–236–9375. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in AZ, CO, NE, NM, OK, UT and WY.

Note.— This application is directly related to MC–F–15015, published in the same **Federal Register** issue.

[FR Doc. 82–34246 Filed 12–16–82; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–43 (Sub–95)]

Illinois Central Gulf Railroad Co.; Abandonment in Sharkey and Washington Counties, MS; Findings

The Commission has issued a certificate authorizing Illinois Central Gulf Railroad Company to abandon its 17.49 mile rail line from milepost 158.44 south of Hollandale, Washington County, MS, to mile post 175.93 north of Rolling Fork, Sharkey County, MS. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to Louis E. Gitomer, Room 5417, Interstate Commerce Commission, Washington, D.C. 20423, no later than 10 days from publication of this Notice. Any offer previously made must be remade within this 10 day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1121.38.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–34242 Filed 12–16–82; 8:45 am]

BILLING CODE 7035–01–M

[Ex Parte No. 387]

Exemptions for Contract Tariffs

AGENCY: Interstate Commerce Commission.

ACTION: Notices of provisional exemptions.

SUMMARY: Provisional exemptions are granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the below-listed contract tariffs may become effective on one day's notice. These exemptions may be revoked if protests are filed.

DATE: Protests are due within 15 days of publication in the **Federal Register.**

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway, (202) 275–7278, or Tom Smerdon, (202) 275–7277.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in these instance to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuses of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption requests meet the requirements of 49 U.S.C. 10505(a) and are granted subject to the following conditions:

These grants neither shall be construed to mean that the Commission has approved the contracts for purposes of 49 U.S.C. 10713(e) nor that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review these contracts and to determine their lawfullness.

Sub-No.	Name of railroad, contract No., and specifics	Review Board [1]	Decided date
464	Illinois Central Gulf Railroad Co., ICC–ICG–C–0038, Supplement 1, (Creosoted railroad ties)	1	12–13–82
466	Missouri Pacific Railroad Co., ICC–MP–C–0050, Supplement 3, (Corn syrup)	II	12–13–82

Sub-No.	Name of railroad, contract No., and specifics	Review Board [1]	Decided date
469	Burlington Northern Railroad Co., ICC-BN-C-0201, (Canned and preserved foodstuffs)	3	12-13-82
470	Burlington Northern Railroad Co., ICC-BN-C-0027-A, (Soda ash)	1	12-13-82
471	Union Pacific Railroad Co., ICC-UP-C-0083, Supplement 1, (Canned goods)	1	12-13-82
473	Southern Pacific Transportation Co., ICC-SP-C-0182, Supplement 1, (Grain sorghums)	II	12-13-82
474	Missouri Pacific Railroad Co., ICC-MP-C-0208, (Silica sand and limestone)	1	12-13-82
476	The Texas Mexican Railway Co., ICC-TM-C-33, Supplement 1, (Sunflower seed)	3	12-13-82

[1] Review Board No. 1, Members Parker, Chandler, and Fortier. Member Parker not participating. Review Board No. 3, Members Krock, Joyce, and Dowell.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-34243 Filed 12-16-82; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Summary of Decisions Granting in Whole or in Part Petitions for Modification

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Notice of affirmative decisions issued by the administrators for coal mine safety and health and metal and nonmetal mine safety and health on petitions for modification of the application of mandatory safety standards.

SUMMARY: Under Section 101(c) ofthe Federal Mine Safety and Health Act of 1977, the Secretary of Labor may modify the application of a mandatory safety standard to a mine if the Secretary determines either or both of the following: That an alternative method exists at the petitioner's mine that will guarantee no less protection for the miners affected than that provided by the standard, or that the application of the standard to the petitioner's mine will result in a diminution of safety to the affected miners.

Summaries of petitions received by the Secretary appear periodically in the **Federal Register.** Final decisions on these petitions are based upon the petitioner's statement, comments and information submitted by interested persons and a field investigation of the conditions at the petitioner's mine. The Secretary has granted or partially granted the requests for modification submitted by the petitioners listed below. In some instances the decisions are conditioned upon the petitioner's compliance with stipulations stated in the decision.

FOR FURTHER INFORMATION: The petitions and copies of the final decisions are available for examination by the public in the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203.

Dated: December 1, 1982.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

AFFIRMATIVE DECISIONS ON PETITIONS FOR MODIFICATION

Docket No.	FR Notice	Petitioner	Regulations affected	Summary of findings
M-81-117-C	46 FR 39243	Consolidation Coal Co	30 CFR 75.1303	Underground storage of explosives in excess of forty-eight hours with specified safeguards and precautions considered acceptable alternative method. Granted with conditions.
M-81-163-C	47 FR 11344	T.A.G. Coal Co	30 CFR 75.301	Proposed airflow reduction in petitioner's mine which would maintain a safe and healthful atmosphere considered acceptable alternative method of compliance. Granted with conditions.
M-81-173-C	47 FR 7897	K. and D. Coal Co	30 CFR 75.301	Proposed airflow reduction in petitioner's mine which would maintain a safe and healthful atmosphere considered acceptable alternative method of compliance. Granted with conditions.
M-81-201-C	46 FR 58385	Peabody Coal Co	30 CFR 75.503	Metal, spring-loaded, self-locking harness snaps considered acceptable alternative to padlocks for securing battery plugs to battery-tray receptacles on permissible mobile battery-powered machines. Granted with conditions.
M-81-207-C	46 FR 52446	Peabody Coal Co	30 CFR 75.503	Bolt- and nut-locking devices considered acceptable alternative to padlocks for securing battery plugs to battery-tray receptacles on permissible mobile battery-powered machines. Granted with conditions.
M-81-211-C	46 FR 62201	Zeiger Coal Co	30 CFR 75.503	Metal, spring-loaded, self-locking harness snaps considered acceptable alternative to padlocks for securing battery plugs to battery-tray receptacles on permissible mobile battery-powered machines. Granted with conditions.
M-81-230-C	47 FR 1354	Carbon Fuel Co	30 CFR 75.305	Due to deteriorating roof conditions, petitioner's proposal to danger off specified entries in Section 7 and the return airways in their entirety and to establish specified checkpoints considered acceptable alternative method. Granted with conditions.
M-81-252-C	47 FR 5493	Freeman United Coal Mining Co	30 CFR 75.503	Metal, spring-loaded, self-locking harness snaps or bolt- and nut-locking devices considered acceptable alternative to padlocks for securing battery plugs to battery-tray receptacles on permissible mobile battery-powered machines. Granted with conditions.
M-81-265-C	47 FR 12403	Coal Valley Mining, Inc	30 CFR 75.1710	Use of cabs or canopies in specified low mining heights on specified equipment would result in a diminution of safety for the miners affected. Granted with conditions.
M-81-271-C	47 FR 8895	AMAX Coal Co	30 CFR 75.503	Metal, hook-type locking devices considered acceptable alternative to padlocks for securing battery plugs to machine-mounted battery receptacles on permissible mobile battery-powered machines. Granted with conditions.
M-81-274-C	47 FR 8504	Kanawha Coal Co	30 CFR 49.6(a)(1)	Equipping the mine rescue station with seven self-contained oxygen breathing apparatus and maintaining an agreement with a fully eqipped backup team located within 2 hours ground travel time from the mine considered acceptable alternative method. Granted with conditions.
M-81-275-C	47 FR 7548	McDaniel Mining Co., Inc	30 CFR 75.305	Due to deteriorating roof conditions, petitioner's proposal to establish and maintain three air measuring stations at specified locations considered acceptable alternative method. Granted with conditions.
M-82-6-C	47 FR 8896	Imann Coal Co	30 CFR 75.519	Relocation of disconnecting switch for a main power circuit 1260 feet from shaft in lieu of locating the switch within 500 feet of shaft which is subject to water accumulation considered acceptable alternative method. Granted with conditions.

AFFIRMATIVE DECISIONS ON PETITIONS FOR MODIFICATION—Continued

Docket No.	FR Notice	Petitioner	Regulations affected	Summary of findings
M-82-16-C	47 FR 13432	Barrett Coal Co	30 CFR 75.301	Proposed airflow reduction in petitioner's mine which would maintain a safe and healthful atmosphere considered acceptable alternative method of compliance. Granted with conditions.
M-82-17-C	47 FR 13433	Little Egypt Coal Co	30 CFR 75.1710	Use of cabs or canopies in specified low mining heights on specified equipment would result in a diminution of safety for the miners affected. Granted in part with conditions.
M-82-27-C	47 FR 18079	Quality Coal Co	30 CFR 75.1710	Use of cabs or canopies in specified low mining heights on specified equipment would result in a diminution of safety for the miners affected. Granted in part with conditions.
M-82-37-C	47 FR 18077	Beckley Lick Run Co	30 CFR 75.326	Petitioner's proposal to use belt and haulage entries for ventilation with specified safeguards considered acceptable alternative method. Granted with conditions.
M-80-20-M	45 FR 30735	St. Joe Minerals Corp	30 CFR 57.4-61A	Installation of ventilation doors would result in a diminution of safety for the miners affected. Granted with specified conditions.
M-80-44-M	45 FR 32440	Cotter Corp	30 CFR 57.19-83	Petitioner's proposal to operate a hoist without a motor drive torque device but instead with specified safeguards considered acceptable alternative method of compliance. Granted with conditions.
M-80-91-M	45 FR 61396	ASARCO, Inc	30 CFR 57.4-27	Petitioner's proposal to strategically place 20-lb. fire extinguishers throughout the stope considered acceptable alternative method of compliance. Granted with conditions.
M-80-100-M	45 FR 74094	Noranda Mining, Inc	30 CFR 57.11-41	A fall prevention system consisting of a notched carrier rail on ladder, and two snaps on the sleeve that fasten to the safety belt considered acceptable alternative method to providing landings every 30 feet in the vertical borehole. Granted with conditions.
M-81-16-M	46 FR 32102	Scolite International Corp	30 CFR 56.9-88	Proposed use of a tractor on level surfaces equipped with seatbelts and a completely enclosed, windowed cab with a metal roof considered acceptable alternative to installing a roll-over protective structure. Granted with conditions.
M-81-53-M	46 FR 49233	The New Jersey Zinc Co	30 CFR 57.19-83	Petitioner's proposal to use a hoist "back out" procedure to correct overtravel occurrences with specific safeguards considered acceptable alternative method of compliance. Granted with conditions.

[FR Doc. 82-33810 Filed 12-16-82; 8:45 am]
BILLING CODE 4510-43-M

Office of Pension and Welfare Benefit Programs

[Application Nos. D-3437, D-3438]

Proposed Exemption for Certain Transactions Involving Ely, Guess & Rudd, A Professional Corp.; Pension Plan and Ely, Guess & Rudd, A Professional Corporation Profit Sharing Plan Located in Anchorage, Alaska

AGENCY: Department of Labor.

ACTION: Notice of Proposed Exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the loan of $86,250 by the Ely, Guess & Rudd, A Professional Corporation Pension Plan (the Pension Plan) and a loan of $63,750 (collectively, the Loans) by Ely, Guess & Rudd, A Professional Corporation Profit Sharing Plan (the Profit Sharing Plan collectively, the Plans) to Ely, Guess & Rudd, A Professional Corporation (the Employer), a party in interest with respect to the Plans. The proposed exemption, if granted, would affect the participants and beneficiaries of the Plans and the Employer.

DATE: Written comments and requests for a public hearing must be received by the Department on or before January 31, 1983.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216. Attention: Application Nos. D-3437, D-3438. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Horace C. Green of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed by the Employer, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Employer, a law firm in Anchorage, Alaska, established the Pension Plan as a non-contributory money purchase pension plan and the Profit Sharing Plan as a non-contributory profit sharing plan on November 24, 1970. As of January 31, 1982, the Pension Plan had total assets of $1,470,620 and approximately 53 participants and the Profit Sharing Plan had total assets of $1,086,402 and approximately 53 participants. The assets of both Plans have been commingled into one common fund. The Ely, Guess & Rudd Trust Committee (the Committee) directs all investments for

the Plans. The individuals who comprise the Committee and make the investment decisions for the Plans are all officers and/or shareholders of the Employer.

2. The applicant is requesting an exemption which would permit the Plans to make the Loans to the Employer. The proceeds from the Loans would be used to assist the Employer in financing the purchase of computer equipment and software (the Computer System) which will cost approximately $152,755. The Loans will have a floating interest rate of 1 percent over the prime rate of the Seattle First National Bank (the Bank) of Seattle, Washington, adjusted quarterly with a floor of 12½ percent and a term of 5 years. Repayment will be made in equal monthly installments of principal and interest. The Loans will be secured by certain assets (the Collateral) of the Employer. The Collateral will include the Computer System, certain office equipment and fixtures (the Office Equipment) and an unencumbered NEAX–12 EPABX telephone system (the Telephone System) of the Employer. In addition, the Employer will pledge approximately $300,000 of unencumbered accounts receivables (the Accounts Receivable) of less than 30 days as security for the Loans. an appraisal performed on May 4, 1982 by Bill Borchardt, manager of Arctic Office Machine and Furniture Company of Anchorage, Alaska, valued the Office Equipment between $35,000 and $40,000. An appraisal performed on June 24, 1982 by Richard B. Wells, a communications consultant of Executone of Alaska, Inc., Anchorage, Alaska, valued the Telephone System at between $35,000 and $40,000. The Plans will maintain perfected first security interests in the collateral through the execution and filing by the Employer of security agreements on behalf of the Plans. The Employer will incur all costs necessary to obtain and preserve the Collateral, including, but not limited to, paying all taxes, assessments, insurance premiums, etc. The Employer will warrant to own, throughout the term of the Loans, all Collateral free from any adverse claims, security interests or encumbrances. The Collateral will be fully insured and the Plans will be the named insured.

3. Peoples Bank and Trust (Peoples) of Anchorage, Alaska, an unrelated party, has agreed to serve as an independent fiduciary with respect to the transactions. It is represented that Peoples, after reviewing the proposed transactions and the accompanying security arrangement, believes that the Loans are in the best interest of the Plans, their participants and beneficiaries and protective of their rights. Peoples will monitor all terms and conditions of the Loans, enforce collection of the Loans in the event of default and will require annual appraisals of the Collateral. Peoples will require the Employer to provide additional collateral within 30 days when, in its opinion, the market value of the Collateral is less than 200 percent of the remaining unpaid balance of the Loans. In such instance, Peoples will be provided with additional collateral so that the outstanding balance of the Loans will always be 200 percent secured.

4. In summary, the applicant represents that the Loans satisfy the statutory criteria of section 408(a) of the Act because: (a) the Committee represents that the Loans would provide an investment opportunity more attractive than others currently available to the Plans; (b) Peoples, an independent fiduciary, has determined that the Loans are in the best interests of the Plans' participants and beneficiaries and protective of their rights; (c) the Loans will at all times be secured by the Accounts Receivable and the Collateral which would represent at least 200 percent of the outstanding balance of the Loans; and (d) Peoples will monitor all terms and conditions of the Loans.

Notice to Interested Persons

Notice of the proposed exemption will be provided to all of the Plans' participants and beneficiaries. Within 14 days of the publication of the notice of pendency in the **Federal Register**, notice to active employees will be given by posting the notice on the employee bulletin boards located in each of the three offices of the Employer. In addition, notice will be given to each former employee or beneficiary by mailing such notice to his last known personal residence by first class mail. Such notice will contain a copy of the notice of pendency of such exemption published in the **Federal Register** and will inform such interested persons of their right to comment or request a hearing within the period set forth in the notice of pendency of exemption.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the

exemption is granted, the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the Loans by the Plans to the Employer provided the terms and conditions of the Loans will be and remain at least as favorable to the Plans as those which the Plans could receive in an arm's-length transaction with an unrelated party. The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 9th day of December, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-34337 Filed 12-16-82; 8:45 am]
BILLING CODE 4510-29-M

[Application No. D-300]

Proposed Exemption for Certain Transactions Involving the Vern Sims Ford Profit Sharing Plan Located in Sedro Wooley, Washington

AGENCY: Department of Labor.

ACTION: Notice of Proposed Exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt: (1) The past sales of leases (the Lease(s)) of automobiles to the Vern Sims Ford Profit Sharing Plan (the Plan) by Vern Sims Ford, Inc. (the Employer), the sponsor of the Plan; and (2) the guarantee by the Employer in the event of default of the obligations of the lessees under the Leases. The proposed exemption, if granted, would affect the Employer, the participants and beneficiaries of the Plan and other persons participating in the transactions.

EFFECTIVE DATE: This exemption is effective January 1, 1975.

DATE: Written comments and requests for a public hearing must be received by the Department on or before January 27, 1983.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, Attention: Application No. D-300. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Louis Campagna of the Department, telephone (202) 523-8883. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed by the Employer, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Preamble

On March 23, 1979, the Department published a class exemption (Prohibited Transaction Exemption 79-9 (PTE 79-9), 44 FR 17819), which permits employee benefit plans to purchase certain notes from employers any of whose employees are covered by the plan where the employers receive such notes from their customers in the ordinary course of their business and the notes are collateralized by security agreements on the property purchased by the customers.

In PTE 79-9 the Department defined a customer note for purposes of the exemption as "* * * a two party instrument executed along with a security agreement for tangible personal property, which is accepted in connection with, and in the normal course of the employer's primary business activity as a seller of such property * * *"

The transactions which are the subject of this exemption involve automobile Leases originated by the Employer and sold to the Plan and therefore do not fall within the definition of customer notes. However, because the Leases and attendant arrangements appear to parallel those transactions contemplated by PTE 79-9 in that the Leases were accepted by the Employer in connection with, and in the normal course of, the Employer's primary business activity as a seller and lessor of automobiles and are executed along with a security agreement for the automobile, the Department has determined that relief comparable to that afforded by PTE 79-9 would be appropriate.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan is a profit sharing plan with approximately six participants. The trustees (the Trustees) of the Plan are employees and officers of the Employer. While the Trustees are responsible for the investments of the Plan, all investments of the Plan are subject to a majority vote of all participants and any participant may direct that his particular account may be withheld from a particular investment.

2. The Employer is an automobile dealership engaged in the leasing and retail sale of automobiles. Since November of 1973, the Employer has been selling a number of the Leases it has originated to the Plan and to other local investors including the Rainier National Bank of Sedro Wooley, Washington (the Bank). The Bank is independent of the Employer. Approximately 25% of all Leases originated by the Employer have been sold to the Plan. The terms and conditions of the Leases offered by the Employer to the Bank and other investors have been identical to those offered the Plan. The Bank represents that it has actively solicited the purchase of the Leases from the Employer as such Leases have provided the Bank with an average rate of return of 2.25% above its prime interest rate. The lessees under the Leases sold to the Plan have all been unrelated to the Employer.

3. The applicant represents that the sale of a Lease is essentially the sale of

an automobile subject to a Lease whereby in exchange for the purchase price of the Lease, the purchaser, in this case the Plan, receives from the Employer title and ownership of the automobile, a promissory note (the Note) based on the price of the Lease and an assignment of rentals under the Lease. The price of the Lease is based upon the wholesale cost (the Principal Amount) of the automobile to the Employer plus the residual value (the Residual Value) of the automobile at the end of the Lease. The Residual Value is calculated at the inception of the Lease based upon the "blue book" value of the automobile at the expiration of the Lease. The duration of the Leases sold to the Plan by the Employer ranged from twelve to forty-eight months, with the average being thirty-six months. The lessee under the Lease typically made monthly rental payments which varied between 1.67% and 2% of the Principal Amount of the Lease. In the case of a Lease sold by the Employer to the Plan, the Employer collected the rentals from the lessee each month and remitted the rentals immediately to the Plan. The Employer retained none of the rentals as fees for this service. The monthly rentals thus received by the Plan were applied to the monthy payment due by the Employer and the Note. If no rental payment was received by the lessee under the Lease, the Employer would still remit its monthly payment on the Note. The applicant represents that the Note served to obtain the Employer as guarantor of the rentals to be received under the Lease. Further, the Employer guaranteed the immediate repayment of the balance due on the Lease in the event of a default. The rental payments essentially repaid the Plan the Principal Amount of the Lease plus a specified rate of return. At the termination of the Lease, possession of the automobile reverted to the Plan at which time the Plan had the option of selling the automobile to the lessee at its Residual Value or to the Employer at the Residual Value.

4. The Plan, through the Employer's credit department, investigated the credit rating of all lessees under Leases which have been sold to the plan. The applicant represents that customers with good credit standing, records of repayment and long satisfactory association with the Employer were preferred and chosen as lessees under Leases which were sold to the Plan. In the event of a default under a Lease the Plan at its option could: (1) Terminate the Lease; (2) collect on the Employer's guarantee of the immediate repayment of the balance owing the Plan by the lessee under the Lease; and (3) instruct the Employer, at the Employer's expense, to repossess the automobile subject to the Lease and return it to the Plan. The Employer represents that the Plan has experienced no defaults on any Lease sold to the Plan by the Employer. Full insurance coverage was required to be maintained by the lessee on an automobile under a Lease. If the lessee did not maintain such insurance, the Plan could declare a default, so notify the Employer and the Employer would repossess the automobile.

5. The applicant represents that no more than ½ of 1% of the total assets of the Plan, at any one time, have been invested in a Lease to any one lessee. The applicant also represents that, at times, the total percentage of Plan assets invested in the Leases exceeded 50%. The Department proposes that this exemption extend only to those past sales of Leases to the Plan by the Employer whereby as a result of such sales the Plan had 50% or less of its assets invested in such Leases.[1] Whereby as the result of the past sales of the Leases the Plan had in excess of 50% of its assets invested in the Leases, the Employer represents that it will pay all applicable excise taxes on the excess within 90 days of the grant of this exemption.

6. The applicant represents that the past sales of Leases by the Employer to the Plan satisfied the statutory criteria of section 408(a) of the Act because: (1) The Leases were originated by the Employer in the ordinary course of its business; (2) the terms and conditions of the Leases sold to the Plan were identical to those of Leases sold to the Bank, an unrelated party; (3) the employer guaranteed the repayment of the balance remaining on the Leases in the event of default by a lessee; (4) the terms of the Leases were for relatively short periods of time; (5) insurance against any loss or damage had been procured and maintained by the lessee as a condition of the Lease; (6) the Plan has experienced no defaults with respect to the Leases sold the Plan by the Employer; (7) a relatively small percentage of the Leases originated by the Employer were sold to the Plan and no more than ½ of 1% of the assets of the Plan were, at any one time, invested in a Lease with any one lessee; and (8) the sale of the Leases to the Plan parallel those transactions contemplated by PTE 79–9.

[1] This restriction parallels Section II, D of PTE 79–9 which states that the acquisition of a customer note from the employer shall not cause a plan to hold more than 50% of the current value of plan assets in customer notes of the employer.

Notice to Interested Persons

Notice will be provided to all participants and beneficiaries of the Plan within 10 days after the publication of the notice of pendency in the **Federal Register**. Notice will be by mailing or posting at locations within the premises of the Employer which are customarily used for employee notices. Notice will consist of a copy of the notice of pendency as published in the **Federal Register** and a statement informing interested persons of their right to comment or request a hearing on the proposed exemption within the period set forth in the notice of pendency.

General Information

The attention of interested persons is directed to the following: (1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of

whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writers's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to: (1) The past sales of the Leases by the Employer to the Plan whereby as a result of such sales the Plan had 50% or less of its assets invested in such Leases, provided that the sales of the Leases and the terms and conditions of the Leases were at least as favorable to the Plan as arms-length transactions with unrelated parties; and (2) the guarantee of the Employer of the obligations of the lessees under the Leases in the event of a default by the lessees under the Leases.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions that are the subject of this exemption.

Signed at Washington, D.C., this 9th day of December 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-34328 Filed 12-16-82; 8:45 am]

BILLING CODE 4510-29-M

Office of the Secretary

Agency Forms Under Review by the Office of Management and Budget (OMB)

Background

The Department of Labor, in carrying out its responsibility under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the proposed forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

On each Tuesday and/or Friday, as necessary, the Department of Labor will publish a list of the Agency forms under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new forms, revisions, extensions (burden change), extensions (no change), or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of any particular revision they are interested in. Each entry will contain the following information:

The Agency of the Department issuing this form.
The title of the form.
The Agency form number, if applicable.
How often the form must be filled out.
Who will be required to or asked to report.
Whether small business or organizations are affected.
The standard industrial classification (SIC) codes, referring to specific respondent groups that are affected.
An estimate of the number of responses.
An estimate of the total number of hours needed to fill out the form.
The number of forms in the request for approval.
An abstract describing the need for and uses of the information collection.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, Telephone 202–523–6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, NW, Room S–5526, Washington, D.C. 20210. Comments should also be sent to the OMB reviewer, Norman Frumkin, Telephone 202–395–6880, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, NEOB, Washington, D.C. 20503.

Any member of the public who wants to comment on a form which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

New

Employment Standards Administration
Overpayment Recovery Questionnaire
ESA/BL CM–1167
On occasion
Federal Black Lung recipients
2200 responses; 733 hours; one form.

The information is needed to determine whether or not an overpaid individual is able to pay a claim for recovery of an overpayment, consideration must be given to the individual's present and potential income, possible concealment or improper transfer of assets, and assets of the individual which may be available in enforced collection proceedings.

Extension (Burden Change)

Bureau of Labor Statistics
Hours at Work Survey
BLS 2000N, 2000P
Annual
Businesses or other institutions
Small businesses
SIC: All except 001 and 002
2925 responses; 731 hours; two forms.

Hours at work information is needed to more correctly measure labor input for productivity measures. Presently, labor input is measured using hours paid. The collection of information on-hours at work began in March 1982 and must be collected annually. Ratios of hours at work to hours paid will be calculated to adjust present measures.

Signed in Washington, D.C., this 14th day of December, 1982.

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 82-34322 Filed 12-16-82; 8:45 am]

BILLING CODE 4510-27; 4510-24-M

NUCLEAR REGULATORY COMMISSION

Applications for Licenses To Export Nuclear Facilities or Materials

Pursuant to 10 CFR 110.70(b) "Public notice of receipt of an application," please take notice that the Nuclear Regulatory Commission has received the following applications for export licenses. A copy of each application is on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H Street, NW., Washington, D.C.

A request for a hearing or a petition for leave to intervene may be filed within 30 days after publication of this notice in the **Federal Register.** Any

request for hearing or petition for leave to intervene shall be served by the requester or petitioner upon the applicant, the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, the Secretary, U.S. Nuclear Regulatory Commission and the Executive Secretary, Department of State, Washington, D.C. 20520.

In its review of applications for licenses to export production or utilization facilities, special nuclear material or source material, noticed herein, the Commission does not evaluate the health, safety or environmental effects in the recipient nation of the facility or material to be exported. The table below lists all new major applications.

Dated this 13th day of November, at Bethesda, Md.

For the Nuclear Regulatory Commission.

James V. Zimmerman,

Assistant Director, Export/Import and International Safeguards, Office of International Programs.

FEDERAL REGISTER (EXPORT)

Name of applicant, date of application, date received, and application number	Material type	Material in kilograms		End-use	Country of destination
		Total element	Total isotope		
Edlow Int'l, 11/09/82, 11/09/82, XSNMO1997	4.06 pct enriched uranium	517,513.816	19,044.086	Consolidation of 13 export licenses into one for Sweden.	Sweden.
Transnuclear, 12/06/82, 12/06/82, 12/06/82, XSNMO1996	3.35 pct enriched uranium	70,005.300	2,647.170	5 reloads of fuel for Borssell Power Reactor	Netherlands.

[FR Doc. 82-34310 Filed 2-10-82; 8:45 am]

BILLING CODE 7590-01

Applications for Licenses To Import Nuclear Materials

Pursuant to 10 CFR 110.70(b) "Public notice of receipt of an application," notice is made that the Nuclear Regulatory Commission has received an application from Battelle Columbus Laboratories, Columbus, Ohio, for a license authorizing the import of 3.298 kilograms of uranium and .7 gram of plutonium, contained in irradiated fuel elements, from McMaster University, Hamilton, Ontario, for reprocessing at Department of Energy facilities at Scoville, Idaho. A copy of the application is on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H Street, NW., Washington, D.C.

Battelle Columbus Laboratories requested that the normal 30-day period between the notification of the receipt of an application in the **Federal Register** and the issuance of the license be waived in this instance in order that the shipment might be completed in December, 1982. The firm's request was based on (1) the contract between McMaster University and the Department of Energy for the return and reprocessing of these fuel elements expires December 31, 1982; (2) the shipping casks to be used for this shipment are available for only a limited time period; (3) the uranium which would be recovered is required to meet a contractual timetable for feed material for use in procurement of new fuel to which the Canadians are committed and (4) the shipper desires to minimize anticipated travel problems and delays due to severe weather conditions during the winter months.

This request is essentially the same as many previous requests to import irradiated fuel from Canada, as well as from a number of other foreign countries, which have taken place over a considerable period of time without incident. This import, in the judgment of the NRC staff, poses no unreasonable risk to the public health and safety and will not be inimical to the common defense and security. In light of the urgency expressed by the applicant and for the reasons given above, under the provisions of 10 CFR 110.10(a), this license application was exempted from the normal 30-day waiting period between the date of notice of receipt in the **Federal Register** and issuance of the license and the license has been granted to Battelle Columbus Laboratories.

Dated this 13th day of December, at Bethesda, Md.

For the Nuclear Regulatory Commission.

James V. Zimmerman,

Assistant Director, Export/Import and International Safeguards Office of International Programs.

[FR Doc. 82-34311 Filed 12-16-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-282 and 50-306]

Northern States Power Co. (Prairie Island Nuclear Generating Plant, Unit Nos. 1 and 2); Exemption

I

The Northern States Power Company (the licensee) is the holder of Facility Operating License Nos. DPR-42 and DPR-60 which authorize operation of the Prairie Island Nuclear Generating Plant, Unit Nos. 1 and 2. These licenses provide, among other things, that they are subject to all rules, regulations and Orders of the Commission now or hereafter in effect.

The facility comprises two pressurized water reactors at the licensee's site located in Goodhue, Minnesota.

II

On Novembr 19, 1980, the Commission published a revised Section 10 CFR 50.48 and a new Appendix R to 10 CFR 50 regarding fire protection features of nuclear power plants (45 FR 76602). The revised § 50.48 and Appendix R became effective on February 17, 1981. Section 50.48(c) established the schedules for satisfying the provisions of Appendix R. Section III of Appendix R contains fifteen subsections, lettered A through O, each of which specifies requirements for a particular aspect of the fire protection features at a nuclear power plant. One of these fifteen subsections, III.J, is the subject of this exemption request.

Subsection III.J specifies that emergency lighting units with at least an 8-hour battery power supply shall be provided in all areas needed for operation of safe shutdown equipment and in access and egress routes thereto.

Section 50.48(c) requires completion of all modifications to meet the provisions of Appendix R within a specified time from the effective date of this fire protection rule, February 17, 1981, except for modifications to provide alternative safe shutdown capability.

By letters dated November 16 and December 1, 1981, Northern States Power Company requested exemptions

from 10 CFR 50.48(c) with respect to the requirements of Subsection III.J of Appendix R as follows:

Extend the implementation date in paragraph (c)(3) for modifications required by Appendix R Subsection III.J that do not require prior NRC approval but require plant shutdown, from the first refueling shutdown or extended outage commencing after 180 days from the effective date of Appendix R for each unit to the refueling outage scheduled for autumn of 1982 for Unit 1 and scheduled for spring of 1982 for Unit 2.

Section 50.48(c)(3) specifies the installation schedule of those fire protection features such as emergency lighting (III.J) that require a plant shutdown to complete the installation. The installation schedule in § 50.48(c)(3) requires the completion of the installation of such fire protection features during the first refueling outage commencing after 180 days from the effective date of Appendix R (February 17, 1981). Hence, § 350.48(c)(3) requires the licensee to complete the installation of the emergency lighting (III.J) during the first refueling outage commencing after August 17, 1981 for each unit.

On May 4, 1982, the Commission granted Northern States Power Company an extension from the schedular requirements of 10 CFR 50.48(c)(3) for Unit 1 until the end of autum 1982 outage based on facts that had been presented by that date. An exemption was not granted for Unit 2 since the licensee's commitment date by which installation would be completed complied with the schedule specified in § 50.48(c)(3).

By letter dated May 20, 1982, the licensee requested further schedular relief from 10 CFR 50.48(c) in regard to the installation of emergency lighting. Specifically, the request would extend the deadline for completing the installation for both units to the end of December 1982.

The licensee by the same letter also stated that a plant shutdown is no longer considered necessary at either unit in order to implement the Subsection III.J requirements. Because of these changed circumstances, the exemption from the schedular requirements of 10 CFR 50.48(c)(3) granted on May 4, 1982 for Unit 1 is no longer valid. Under conditions described by the licensee's letter dated May 20, 1982 the schedular requirement for Subsection III.J is established in 10 CFR 50.48(c)(2). This subsection requires that the installation of emergency lighting be completed by November 17, 1981, nine months from the effective date of the rule.

The staff informed the licensee by letter dated July 29, 1982 that in order to consider the exemption request, the licensee would be required to submit a complete and detailed chronology of the efforts to implement Subsection III.J commencing with the publication of the fire protection rule on November 19, 1980 to the present and justify in detail the proposed schedule to complete the installation for both units by January 1, 1983. The licensee by letter dated August 23, 1982 provided additional information supporting the exemption request including a detailed chronology of the efforts to implement Subsection III.J.

III

The licensee stated that for several months following the publication of Appendix R the licensee believed that the existing emergency lighting system, with minor modifications, would satisfy the requirements of Subsection III.J The existing power source for emergency lighting is automatically transferred to the DC power system which provides power well in excess of the required eight-hour capability. In addition the existing emergency lighting system had been reviewed and found acceptable by the NRC staff based on established positions prior to the issuance of Appendix R. It was not until July 13, 1981 that additional information related to the staff's interpretation of the requirements of Subsection III.J was made known to the licensee. Specifically, using a central power source was found unacceptable unless it could be shown that a postulated fire in one area of the plant could not cause the loss of lighting in another area.[1] This interpretation of Subsection III.J requirements makes it impractical for any permanently wired emergency lighting system, such as that which now exists at the Prairie Island Nuclear Generating Plant, to meet the requirements of the regulation. Efforts to comply with Subsection III.J were redirected on July 13, 1981 to procure and install satisfactory local battery powered lighting units.

When the licensee prepared the exemption requested by letter dated November 16, 1981, the safe shutdown analysis had not progressed sufficiently to identify the exact locations for operation of safe shutdown equipment under Subsection III.G of Appendix R. It appeared at this point in the design that several areas requiring emergency lighting would be in parts of the plant where radiation levels made it imprudent to perform the modifications during plant operations. One this basis the licensee requested an exemption from the schedular requirements of 10 CFR 50.48(c)(3). It was not until May 1982 that the safe shutdown analysis of Subsection III.G was completed to a point where all areas of the plant needing emergency lighting could be identified. The plant staff determined that emergency lighting could be installed in all of these identified areas during plant operation without disrupting the operation of critical plant equipment or exposing plant personnel to excessive radiation levels. Once these circumstances were known, the licensee, by letter dated May 20, 1982, submitted a second request for a schedule exemption, asking for an extension in the time allowed for completing Subsection III.J modification to January 1, 1983 for both units. As noted above, the appropriate section for the exemption was now stated to be C–2 rather than C–3.

Delays developed when the licensee sought to purchase seismically qualified equipment—a design feature that exceeds the requirements of Subsection III.J. This delay occurred when the foreign battery supplier was no longer a reliable source which lead to further delays in the licensee's efforts to purchase suitable lighting units. The purchasing of the lighting units also thwarted by a contract dispute between the lighting unit vendor and the manufacturer of the batteries. In addition, the engineering analysis for emergency lighting resulted in unforeseen delays associated with properly identifying all of the areas where lighting units would be needed until the safe shutdown analysis under Subsection III was nearly completed, which affected the total number of lighting units needed to be purchased.

Based on our consideration of these circumstances, we conclude that the licensee made proper application of available resources in a best effort to provide seismically qualified lighting. However, the time allowed proved to be insufficient to permit full implementation. In addition, we have determined that as an interim compensatory measure the existing emergency lighting, although not fully in compliance with III. J, and in conjunction with the portable lighting units that are available for use by the Operators and members of the fire brigade can provide emergency lighting as needed until the installation of the III. J. units is achieved. On this basis the staff has judged that the request for exemption to allow additional time to complete the installation of the

[1] This finding was contained in our letter to the licensee in regard to an exemption request for the Monticello Plant dated July 13, 1982.

emergency lighting for both units until January 1, 1983 should be granted.

IV

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, an exemption is authorized by law and will endanger life or property or the common defense and security and is otherwise in the public interest and hereby grants the following exemptions with respect to the requirements of Subsection III.J of Appendix R. to 10 CFR Part 50:

Extend the implementation date in paragraph (c)(2) for installation of modifications required by Appendix R, Subsection III.J for both units, that do not require prior NRC approval or plant shutdown, from nine months after February 17, 1981 to January 1, 1983.

The NRC staff had determined that the granting of this Exemption will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action

Dated at Bethesda, Md., this 8th day of December 1982.

For the Nuclear Regulatory Commission.

Edson G. Case,

Acting Director, Office of Nuclear Reactor Regulation.

[FR Doc. 82-34312 Filed 12-16-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-346]

The Toledo Edison Co. and the Cleveland Electric Illuminating Co.; Issuance of Amendment to Facility Operating License

The Nuclear Regulatory Commission (the Commission) has issued Amendment No. 51 to Facility Operating License No. NPF-3, issued to The Toledo Edison Company and The Cleveland Electric Illuminating Company (the licensees), which revised Technical Specifications (TSs) for operation of the Davis-Besse Nuclear Power Station, Unit No. 1 (the facility) located in Ottawa County, Ohio. The amendment is effective as of its date of issuance.

This amendment adds TSs for a Systems Integrity Measurements Program and an Improved Iodine Monitoring Program.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated November 25, 1981, (2) Amendment No. 51 to License No. NPF-3, and (3) the Commission's letter to The Toledo Edison Company dated December 10, 1982. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the William Carlson Library, University of Toledo, 2801 Bancroft Avenue, Toledo, Ohio 43606. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 10th day of December 1982.

For The Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 82-34313 Filed 12-16-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 72-2]

Virginia Electric and Power Co.; Consideration of a Materials License for the Storage of Spent Fuel; Correction

The notice that appeared in the Thursday, December 9, 1982 **Federal Register** (47 FR 55441) contains a typographical error. On page 55442, third paragraph, second line, reads:

"Pursuant to 10 CFR 2.105 by January 10, 1083 * * *", should read "Pursuant to 10 CFR 2.105 by January 10, 1983 * * *".

Dated at Silver Spring, Maryland, this 10th day of December 1982.

For the Nuclear Regulatory Commission.

Leland C. Rouse,

Chief, Advanced Fuel and Spent Fuel Licensing Branch, Division of Fuel Cycle and Material Safety.

[FR Doc. 82-34315 Filed 12-16-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-281]

Virginia Electric and Power Co.; Granting of Relief From ASME Code Requirements, Inservice Inspection Requirements

The U.S. Nuclear Regulatory Commission (the Commission) has granted relief from certain requirements of the ASME Code, Section XI, "Rules for Inservice Inspection of Nuclear Power Plant Components," to Virginia Electric and Power Company (the licensee) for the Surry Power Station, Unit No. 2 located in Surry County, Virginia. The ASME Code requirements are incorporated by reference into the Commission's rules and regulations in 10 CFR Part 50.

This relief allows the licensee to replace 1½ inch drain valves upstream of the main steam trip valve without performing hydrostatic test for the entire steam generators and a considerable portion of the main steam piping. A leakage test will bbe performed instead. This relief is the same as that provided in NRC letter dated October 1, 1982, for Unit 1 and the Evaluation of Relief Request with that letter applies to this relief request. In this instance, two steam generators are affected instead of one previously.

The request for this granting of relief complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the Evaluation of Relief Request dated October 1, 1982.

The Commission has determined that the granting of this relief will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

For further details with respect to this action, see (1) the request for relief dated December 9, 1982; (2) the letter to the licensee dated December 9, 1982; and (3) the letter to the licensee dated October 1, 1982 transmitting the Commission's related Evaluation of Relief Request. These items are

available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555, and at the Swem Library, Collee of William and Mary, Williamsburg, Virginia 23185. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland this 10th day of December, 1982.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 82-34314 Filed 12-16-82; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[File No. 81-676]

Drexel Burnham Lambert Group, Inc.; Application and Opportunity for Hearing

December 7, 1982.

Notice is hereby given that The Drexel Burnham Lambert Group, Inc. ("Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended, (the "1934 Act"), for an order exempting Applicant from the registration provisions of Section 12(g) of the 1934 Act.

The Applicant states, in part:

1. In the absence of an exemption, Applicant would be required to register its securities under Section 12(g) of the 1934 Act, and would be required to comply with all reporting requirements thereunder.

2. Applicant believes that the exemptive order it requests is appropriate in view of the fact that there are no public stockholders of the Applicant and that there is no trading interest in its stock.

For a more detailed statement of the information presented all persons are referred to said application which is on file in the Office of the Commission at the Public Reference Room, 450 Fifth Street, N.W., Washington, DC 20549.

Notice is further given that any interested person not later than January 3, 1983 may submit to the Commission in writing his views on any substantial facts bearing on the application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, DC 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert.

Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82-34278 Filed 12-16-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12882; 812-5305]

Paine Webber RMA Money Fund, Inc.; Application

December 8, 1982.

In the matter of Paine Webber RMA Money Fund, Inc.; 140 Broadway, New York, N.Y. 10005, (812-5305), filing of application.

Notice is hereby given that Paine Webber RMA Money Fund, Inc. ("Applicant"), registered under the Investment Company Act of 1940 (the "Act") as an open-end, diversified management investment company, filed an application on September 3, 1982, and amendments thereto on November 19 and December 2, 1982, requesting an order of the Commission, pursuant to Section 6(c) of the Act, exempting the Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 thereunder, to the extent necessary to permit the Applicant to compute its net asset value per share using the amortized cost method of valuation. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below. Such persons are also referred to the Act for the complete text of those provisions thereof for which an exemption is being sought.

The application states that Applicant's shares will be offered only to customers of the Paine Webber Resource Management Account Program ("RMA"), an integrated financial services programs. Applicant's investment objective is to provide investors with the maximum current income consistent with liquidity and preservation of capital. Applicant states in the application that it provides the opportunity for RMA customers to invest in one of two series, each of which is a professionally managed, diversified portfolio of short-term, high qualify obligations, and further that it has authority to create and offer shares in additional portfolios from time to time in the future. The Money Market Portfolio will invest in U.S. Government securities; obligations of U.S. banks, including certificates of deposit and bankers' acceptances; commercial paper, including variable rate master notes; and repurchase agreements on such instruments with financial institutions believed by Applicant's board of directors to present minimal credit risks. The U.S. Government Portfolio will invest in government securities which are issued or guaranteed by the U.S. Government, various agencies and instrumentalities of the U.S. Government, certain interests in the foregoing, and repurchase agreements onsuch U.S. Government securities with financial institutions believed by Applicant's board of directors to present minimal credit risks.

Applicant further states that both portfolios may purchase variable rate securities with maturities in excess of one year, which are guaranteed by the full faith and credit of the U.S. Government. Applicant states that the yields on such securities are adjusted at least semi-annually, in relation to specific money market rates, which is expected to substantially reduce the wide fluctuation possible in the market value of long-tern securities. Applicant also states that both portfolios may enter into reverse repurchase agreements with banks.

The application states that investments by the Applicant will be limited to obligations with remaining maturities of one year or less. It is further stated that Applicant will maintain a dollar-weighted average portfolio maturity of 120 days or less. For these purposes, the maturities of variable rate obligations will be determined in accordance with the procedures set forth in proposed Rule 2a-7, or if the rule should ultimately be adopted, in accordance with the procedures set forth in the rule as adopted.

Applicant states that each of its portfolios intends to declare as dividends payable on each business day all of its net investment income to shareholders of record as of 12:00 noon New York time of the preceding business day. Net investment income

will consist of the interest income earned on the Applicants investment's (adjusted for amortization of original issue or market discounts or premiums), less estimated expenses, plus or minus any gains or losses realized upon the sale of any portfolio securities. Dividends are automatically reinvested at net asset value in additional shares. Applicant states that its net asset value per share, the price at which shares are issued and redeemed, will be computed by dividing the value of the Applicant's total assets, less its liabilities, by the total number of shares outstanding. Net asset value of the Applicant will be determined every business day at 12:00 noon, New York City time.

The application states that the Commission expressed the view that, among other things, it would be inconsistent with the provisions of Rule 2a–4 for a "money market" fund to value its portfolio instruments with over 60-day maturities on an amortized cost basis and that the valuation of such securities by such a fund should be made with reference to market factors (Investment Company Act Release No. 9786, May 31, 1977).

Section 6(c) of the Act provides, in part, that upon application the Commission may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

In support of the relief requested, Applicant states that it understands that to attract investors to a short term money market investment vehicle, it must have a stable capital value and a constant and steady flow of investment income. Applicant states that it believes, in order to attract such investors and retain them as shareholders, the Applicant must have a stable net asset value per share and must be able to pay dividends that do not fluctuate as a consequence of changes in the values of its portfolio securities. Applicant asserts that by investing in high quality, short-term money market obligations and valuing such securities on the basis of their amortized cost, the Applicant will benefit such investors by providing an investment vehicle less subject to fluctuation than under alternative procedures whereby its daily dividend would be adjusted by all realized and unrealized gains and losses on its portfolio securities. Management of the Applicant believes that, with respect to a portfolio of money market obligations with a dollar-weighted average maturity of 120 days or less, the discrepancy between market value and amortized cost is negligible. Applicant also states that a number of money market funds with which applicant will be in direct competition now effect sales, redemptions and repurchases of their shares at prices calculated using the amortized cost method of valuation. Applicant states that its board of directors has determined in good faith that in light of the characteristics of the Applicant, absent unusual or extraordinary circumstances, the amortized cost method of calculating the net asset value per share of the Applicant is appropriate and in the best interests of shareholders of the Applicant and reflects fair value of such securities.

Accordingly, Applicant submits that the standards of fairness expressed in of Section 6(c) of the Act are consistent with granting the requested exemption. Applicant agrees, as a condition to the granting of the exemption for each portfolio of Applicant, that the following may be made conditions of the order applicable to each of its present portfolios as well as any portfolios created in the future.

1. In supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, the board of directors of Applicant undertakes—as a particular responsibility within the overall duty of care owed to its shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objectives, to stabilize Applicant's net asset value per share, as computed for the purpose of distribution, redemption and repurchase, at $1.00 per share.

2. Included within the procedures to be adopted by the board of directors of Applicant shall be the following:

(a) Review by the board of directors, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from the Applicant's $1.00 amortized cost price per share, and the maintenance of records of such review.[1]

(b) In the event such deviation from the $1.00 amortized cost price per share exceeds ½ of 1 percent, the board of directors will promptly consider what action, if any, should be initiated.

(c) Where the board of directors believes the extent of any deviation from the Applicant's $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which may include: redeeming shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses, or to shorten the average maturity of portfolio instruments; reducing or withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

3. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that applicant will not (a) purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity which exceeds 120 days.[2]

4. Applicant will record, maintain, and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in condition 1 above, and will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of its board of directors' considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of the board of directors' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act as if such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit its portfolio investments, including repurchase agreements, if any, to those United States dollar-denominated instruments which its board of directors determines

---

[1] To fulfill this condition, Applicant intends to use actual quotations or estimates of market value reflecting current market conditions chosen by its board of directors in the exercise of its discretion to be appropriate indicators of value which may include, *inter alia*, (1) quotations or estimates of market value for individual portfolio instruments, or (2) values obtained from yield data relating to classes of money market instruments published by reputable sources.

[2] In fulfilling this condition, if the disposition of a portfolio security results in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant will invest its available cash in such a manner as to reduce its dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

present minimal credit risks, and which are of "high quality" as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by its board of directors.

6. If any action pursuant to condition 2(c) was taken during the preceding calendar quarter, the Applicant will file, as an attachment to Form N–1Q, a statement which describes the nature and circumstances of such action.

Notice is further given that any interested person may, not later than January 3, 1983, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. An order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon its own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82-34274 Filed 12-16-82; 9:45 am]
BILLING CODE 8010-01-M

[Release No. 12864; 812-5065]

T. Rowe Price New Horizons Fund, Inc., et al.; Application

In the matter of; T. Rowe Price New Horizons Fund, Inc., 100 East Pratt Street, Baltimore, MD 21202; Hambrecht & Quist, 235 Montgomery Street, San Francisco, California 94104; (812–5065); filing of application.

December 1, 1982.

T. Rowe Price New Horizons Fund, Inc. (the "Fund"), registered under the Investment Company Act of 1940 ("Act"), and Hambrecht & Quist, a California limited partnership organized as a broker-dealer under the Securities Exchange Act of 1934, (together, "Applicants") have filed an application and amendments thereto for an order of the Commission pursuant to Section 17(b) of the Act exempting the Fund from the provisions of Section 17(a) of the Act to the extent necessary to enable the Fund to effect principal transactions with Hambrecht & Quist, and pursuant to Section 10(f) of the Act exempting the Fund from that section to the extent necessary to enable it to purchase securities from Hambrecht & Quist in underwritings to the extent set forth in the application. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants state that the Fund is a Maryland corporation. The investment objective of the Fund is long-term growth of capital through investment primarily in the securities of small growth companies which management believes have the potential to become major companies in the future. Hambrecht & Quist is particularly noted for its interest in and its relationship to such companies, and it is both a market maker and underwriter for their securities. In the years 1979, 1980 and 1981, Hambrecht & Quist participated as manager in initial public offerings of an aggregate of 73 companies, including 38 that were at one time or from time to time held by the Fund, and in those years it participated as syndicate member in initial public offerings of 38 companies, including 10 that were at one time or from time to time held by the Fund. In the opinion of T. Rowe Price Associates, Inc. ("Price Associates"), the investment adviser to the Fund, Hambrecht & Quist is one of the most knowledgeable firms in the United States in terms of its ability to find and evaluate small, high technology companies of the type that might be suitable for investment by the Fund, and it is an important source of information with respect to the securities of such companies.

Applicants state that Paul M. Wythes, a director of the Fund, is a limited partner of Hambrecht & Quist. Mr. Wythes' interest in the profits and losses of Hambrecht & Quist is less than 1%, and his income from other sources constitutes the major portion of his total income. Applicants state that for the year 1980, Mr. Wythes' share of the profits of Hambrecht & Quist was less than 15 percent of his total income. The Commission has issued an order declaring that Mr. Wythes shall not be considered an "interested person" of the Fund or of Price Associates by reason of his status as a limited partner of Hambrecht & Quist (Investment Company Act Release No. 11487 (December 11, 1980)).

Applicants state that because Mr. Wythes is a director of the Fund, as well as a limited partner of Hambrecht & Quist, Hambrecht & Quist is an affiliate of an affiliate of the Fund for purposes of the Act and, accordingly, the Fund is precluded from effecting principal transactions with Hambrecht & Quist by virtue of Section 17(a) of the Act and from purchasing securities from Hambrecht & Quist in an underwriting by virtue of Section 10(f) of the Act.

The Fund states that decisions with respect to the purchase and sale of portfolio securities on behalf of the Fund are made by officers of the fund pursuant to recommendations of Price Associates. All of such officers are also officers of Price Associates. The board of directors of the Fund does not participate in the allocation of the Fund's brokerage, but reviews such allocations on the basis of quarterly and other periodic reports furnished to it by Price Associates. In the years 1981, 1980 and 1979, the Fund paid brokerage commissions (including discounts received by securities dealers in connection with underwritings) amounting to $1,511,701, $1,418,803 and $703,601, respectively, of which Hambrecht & Quist received from the Fund brokerage commissions, including underwriting discounts, of $28,430, $33,027 and $17,296, respectively. All transactions with Hambrecht & Quist after April 23, 1981 (the date Mr. Wythes was first elected to the board of directors of the Fund) have been on an agency basis.

Applicants state that Price Associates has advised the Fund that in many instances Hambrecht & Quist provides the best market in which the Fund can accumulate or dispose of positions in the size appropriate to the Fund. Applicants further state that Price Associates has also advised the Fund that it recognizes that there may be situtations in which another dealer may offer a better price in any particular case (*e.g.*, where it has a buyer or seller for a block), but in the opinion of Price Associates Hambrecht & Quist has been, and is expected to continue to be, able to effect many security transactions at prices and in quantities more favorable than those available through other brokers. Therefore, Applicants assert, to preclude trading with Hambrecht & Quist is to deprive the Fund of the opportunity to get the best prices in

many cases. Applicants state that they recognize these difficulties would not exist if the Fund dealt with Hambrecht & Quist on an agency basis, as it may lawfully do. They further state, however, that this is not a realistic option because the market for the types of stock in which the Fund trades is typically over-the-counter, where principal transactions dominate the market; of 136 stocks held in the Fund's portfolio on June 7, 1982, 70 were only traded over the counter. As a result, in the opinion of Price Associates, agency transactions are not a meaningful or realistic alternative in a majority of the Fund's portfolio transactions.

Section 17(b) of the Act provides that the Commission, upon application, may exempt transactions from the provisions of Section 17(a) if evidence establishes that the terms of the proposed transactions, including the consideration to be paid, are reasonable and fair and do not involve overreaching on the part of any person concerned, and that the proposed transactions are consistent with the policy of the registered investment company concerned and with the general purposes of the Act. Applicants represent that, in order to comply with Section 17(b) of the Act, the board of directors of the Fund proposes to adopt written procedures designed to insure that principal transactions with Hambrecht & Quist are consistent with the investment objectives and policies of the Fund, are effected on a basis which is fair and reasonable to the Fund and do not involve overreaching by Hambrecht & Quist which would disadvantage the Fund in relation to other potential buyers and sellers from Hambrecht & Quist. Applicants further represent that these procedures would include the review by the Fund's board of directors of such transactions with Hambrecht & Quist no less frequently than quarterly, and that records of such transactions would be maintained in the files of the Fund for not less than six years. Applicants represent that in order to facilitate such reviews, Price Associates would furnish the Fund's board of directors with information relating to such transactions, including, but not limited to, the reasons for the selection of Hambrecht & Quist, the purchase or sale price involved, the market price on the day before and the day after such transaction as reported on the National Association of Securities Dealers Automated Quotations System, and other information deemed necessary by the board of directors for the purpose of its evaluation. Applicants state that the Fund believes that these safeguards will provide the necessary mechanism to ensure that such transactions are fair and reasonable to the Fund and do not involve overreaching, and that such transactions comply with Section 17(b) of the Act.

The Applicants state that the application of Section 10(f) works to the disadvantage of the Fund in a number of ways. First, insofar as Hambrecht & Quist typically takes down the largest share of most underwritings which it manages, in many cases the Fund is prevented from dealing with the largest source of the particular securities it desires to purchase. Moreover, Applicants state that because of Hambrecht & Quist's standing and reputation, the securities in an offering managed by Hambrecht & Quist are usually enthusiastically received by the public (so that the offering qualifies as a "hot issue" within the Rules of the National Association of Securities Dealers, Inc.), with the result that not only is the Fund prevented from dealing with the primary source (*i.e.*, Hambrecht & Quist), but is competing with public customers for the residual supply in the hands of smaller firms. Thus, Applicants state, in many cases the Fund may find itself in the position of being able to acquire a smaller position than it would otherwise prefer, unless it is willing to go into the potentially higher-priced aftermarket.

Applicants state that the final sentence of Section 10(f) provides, in effect, that the Commission may by order upon application conditionally or unconditionally exempt any transaction or class of transactions from any of the provisions of Section 10(f), if and to the extent such exemption is consistent with the protection of investors. The Fund is seeking an order exempting it from the provisions of Section 10(f) which would otherwise prohibit it from purchasing securities from Hambrecht & Quist in underwritings. Applicants represent that the Fund will comply with all provisions of Rule 10f-3 except, to the extent necessary to effectuate the transactions described above, paragraph (f) thereof.

The Fund states that its board of directors, having considered all of the facts cited in the application, has concluded that it is not in the interest of the shareholders of the Fund that it be precluded from dealing with Hambrecht & Quist in principal and underwriting transactions. The Fund states that its board of directors has also concluded that, if and to the extent there is any potential for abuse in such transactions, that potential is minimized or eliminated by the role of the non-interested directors of the Fund in the periodic review of portfolio transactions of the Fund. The Fund states that its board of directors also notes that, as provided in the Fund's representations in connection with the prior order of the Commission with respect to Mr. Wythes, Mr. Wythes does not vote on any matters relating to the allocation of portfolio brokerage by the Fund to Hambrecht & Quist, or the selection of brokers or dealers with which the Fund effects portfolio transactions as agent or principal (including but not limited to transactions as to which Sections 17(a) or 10(f) of the Act on Rules 17e–1 or 10f–3 thereunder apply). Moreover, Applicants represent that if the relief requested herein is granted, Mr. Wythes will not participate in any reviews by the board of directors of any principal transactions with Hambrecht & Quist or of any purchase from Hambrecht & Quist in underwritings.

According to the application, in considering these matters the board of directors of the Fund has noted that if Hambrecht & Quist were a corporation, the interest of Mr. Wythes in its profits and losses would be less than the minimum amount necessary to constitute him an affiliated person of that firm under the definition of affiliate in Section 2(a)(3) of the Act, and in that event, *a fortiori*, Hambrecht & Quist would not be an affiliate of an affiliate of the Fund and the problems giving rise to the filing of this application would not exist. Moreover, in the opinion of the Applicants, because a limited partnership interest is a non-voting one, a person whose sole relationship to the broker-dealer is a limited partnership interest of less than 1%, is necessarily further removed from management than he would be if he held voting stock of a corporation and was in a position to participate in the selection of management. Applicants state that, as a limited partner, Mr. Wythes does not participate in the management or operation of Hambrecht & Quist and, indeed, is precluded from such involvement. Since Mr. Wythes would not be deemed to be an interested person of Hambrecht & Quist if he held voting stock with commensurate participation in profits and losses, the board of directors of the Fund states that it has concluded that Mr. Wythes' relationship to Hambrecht & Quist is not the type of relationship intended to bring into play the restrictions of Sections 17(a) or 10(f). Moreover, Applicants state, if the relief sought by the application is granted, Mr. Wythes' benefit in the resulting business relationship between the Fund and Hambrecht & Quist by virtue of his

limited partnership interest in Hambrecht & Quist will be minimal; the Fund does not believe that Mr. Wythes' ability to serve the Fund independently and in the interests of the Fund's shareholders will be impaired.

Applicants also request that the relief sought be extended to other investment companies for which Price Associates acts as investment adviser ("Price Funds") for which Mr. Wythes may, from time to time, serve as director. Applicants state that Mr. Wythes does not currently serve as director of any other Price Funds, but it is conceivable that he may be asked to serve on the board of one or more of the Price Funds in the future. Applicants represent that they understand that the relief requested with respect to possible future transactions between the Price Funds and Hambrecht & Quist will apply to the other Price Funds for which Mr. Wythes may serve as director only if (a) the de minimis nature and extent of the relationship between Mr. Wythes and Hambrecht & Quist remains in effect as described in the application (e.g. a less than one percent limited partnership interest), and (b) any of the Price Funds for which Mr. Wythes may serve as a director complies with all the conditions and representations set forth in the instant application and the order issued by the Commission thereon.

Notice is hereby given that any interested person may, not later than December 27, 1982, at 5:30 p.m., submit to the Commission, in writing, a request for a hearing on the application accompanied by a statement as to the nature of his/her interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or such person may request to be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit, or in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. An order disposing of the application herein will be issued as a matter of course following said date unless the Commission thereafter orders a hearing upon request or upon its own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82-34282 Filed 12-16-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12881; 812-5339]

Territorial Government Fund; Application

December 8, 1982.

In the matter of: The Territorial Government Fund; 421 Seventh Avenue; Pittsburgh, PA 15219; (812-5339); Filing of Application.

Notice is hereby given that The Territorial Government Fund ("Applicant") registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application on October 14, 1982, requesting an order of the Commission, pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 thereunder, to the extent necessary to permit Applicant to value its assets using the amortized cost method of valuation. All interested persons are referred to the Application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it is a "money market" fund organized as a Massachusetts Business Trust and that Cash Management Services, Inc., a wholly-owned subsidiary of Federated Investors, Inc., serves as its investment adviser. Applicant further states that its investment objective is to seek current income consistent with stability of principal and that it may invest in the United States Government obligations (whether or not subject ot repurchase agreements); further, Applicant states that it may invest up to 20% of its assets in short term instruments of banks and savings and loan associations insured, to the extent of the principal amount, by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, all maturing in one year or less.

Section 6(c) of the Act provides, in part, that upon application the Commission may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes or persons, securities, or transactions, from any provision or provisions of the Act or of the rules thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant states that experience indicates that in order to attract investors two features are necessary in a "money market" fund: (1) Stability of principal, and (2) steady flow of investment income. Applicant asserts that by maintaining a portfolio of high quality, short-term "money market" instruments valued at amortized cost it can provide these features to investors. Applicant represents that its board of trustees has properly determined in good faith that, in light of the characteristics of Applicant, the amortized cost method of valuation of portfolio instruments is appropriate and preferable for the Applicant, reflects fair value of such instruments, and is in the best interest of Applicant's shareholders.

Applicant consents to the imposition of the following conditions in an order granting the relief it requests:

1. In supervising Applicant's operations and delegating special responsibilities involving portfolio management to its investment adviser, the board of trustees undertakes—as a particular responsibility within the overall duty of care owed to its shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objective, to stabilize Applicant's net asset value per share, as computed for the purpose of distribution, redemption and repurchase, at $1.00 per share.

2. Included within the procedures to be adopted by the board of trustees shall be the following:

(a) Review by the board of trustees, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from Applicant's $1.00 amortized cost price per share, and the maintenance of records of such review.[1]

(b) In the event such deviation from Applicant's $1.00 amortized cost price per share exceeds ½ of 1 percent, a requirement that the board of trustees

[1] To fulfill this condition, Applicant intends to use actual quotations or estimates of market value reflecting current market conditions chosen by its board of trustees in the exercise of its discretion to by appropriate indicators of value which may include, *inter alia*, (1) quotations or estimates of market value for individual portfolio instruments, or (2) values obtained from yield data relating to classes of money market instruments published by reputable sources.

will promptly consider what action, if any, should be initiated.

(c) Where the board of trustees believes the extent of any deviation from Applicant's $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which may include: redemption of shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses, or to shorten Applicant's average portfolio maturity; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

3. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that Applicant will not (a) purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity which exceeds 120 days. In fulfilling this condition, if the disposition of a portfolio security results in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant will invest its available cash in such a manner as to reduce the dollar-weighted average portfolio maturity to 120 days or less as soon a reasonably practicable.

4. Applicant will record, maintain, and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in paragraph 1 above, and Applicant will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the board of trustees' considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of its meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act, as if such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit its portfolio investments, including repurchase agreements, to those United States dollar denominated instruments which the board of trustees determines present minimal credit risks, and which are of "high quality" as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by the board of trustees.

6. Applicant will include in each quarterly report, as an attachment to Form N–1Q, a statement as to whether any action pursuant to paragraph 2(c) above was taken during the preceding fiscal quarter and, if any such action was taken, will describe the nature and circumstances of such action.

Applicant submits that the granting of the requested exemptions is appropriate in the public interest and consistent with the protection of investors and purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than January 3, 1983, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. An order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon its own motion. Persons who request a hearing, or advise as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82-34870 Filed 12-16-82; 8:45 am]

BILLING CODE 8010-01-M

[File No. 1-7837]

Verex Corp.; Application To Withdraw From Listing and Registration

December 10, 1982.

In the matter of; Verex Corp.; 4¾% Convertible Subordinated Debentures (due 9–1–92); File No. 1–7837; Securities Exchange Act of 1934, Section 12(d).

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2–2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the New York Stock Exchange, Inc. ("NYSE").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

Verex Corporation ("Company") has determined to remove its debentures from listing and registration on the NYSE because as of January 1, 1981, the average monthly trading volume has been low and trading has been sporadic. In addition, as of October 1, 1982, there was $5,998,000 of the debentures outstanding and held by approximately 265 holders of record. In this regard, the Company believes that the cost and expenses of continued listing on the NYSE is not justified. The NYSE has no objection to the delisting.

Any interested person may, on or before January 4, 1983, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82-34281 Filed 12-16-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 19312; File No. ODD–82–3]

Philadelphia Stock Exchange, Inc.; Listed Options on Foreign Currencies

December 8, 1982.

In the matter of; Philadelphia Stock Exchange, Inc.; 1900 Market Street, Philadelphia, PA 19103, File No. ODD–82–3, Listed Options on Foreign Currencies.

On October 4, 1982, the Philadelphia Stock Exchange, Inc. ("Phlx"), pursuant to Rule 9b–1 under the Securities Exchange Act of 1934 (the "Act"), supplied to the Commission preliminary copies of an options disclosure document with respect to standardized

options on foreign currencies ("Foreign Currency Options Disclosure Document"). On November 5, 1982, Phlx filed a revised Foreign Currency Options Disclosure Document with the Commission. The Foreign Currency Options Disclosure Document is a supplement to the basic options disclosure document, which was prepared by the American Stock Exchange, Inc. ("Amex"), Chicago Board Options Exchange, Incorporated ("CBOE"), the Pacific Stock Exchange, Incorporated ("PSE") and the Phlx. On October 18, 1982, the Commission issued an order allowing distribution of the basic options disclosure document to investors.[1]

Rule 9b–1 provides that an options market must file five preliminary copies of an options disclosure document with the Commission at least 60 days prior to the date definitive copies are furnished to customers unless the Commission determines otherwise having due regard to the adequacy of the information disclosed and the protection of investors. This provision is intended to permit the Commission either to accelerate or extend the time period before definitive copies of a disclosure document may be distributed to the public.

The Commission staff has reviewed the Foreign Currency Options Disclosure Document and finds that it is consistent with the protection of investors and in the public interest to allow the distribution of the disclosure document as of the date of this order.[2]

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82-34277 Filed 12-16-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-19317; File No. SR-Amex-82-11]

American Stock Exchange, Inc.; Self-Regulatory Organization

Proposed Rule Change by; American Stock Exchange, Inc.; relating to membership rule amendments;

[1] *See* Securities Exchange Act Release No. 19153.

[2] Rule 9b–1 provides that the use of an options disclosure document shall not be permitted unless the options class to which the document relates is the subject of an effective registration statement on Form S–20 under the Securities Act of 1933. In this regard, on December 8, 1982, the Commission, pursuant to delegated authority, declared effective Options Clearing Corporation's Form S–20 registration statement with respect to the options described in the Foreign Currency Options Disclosure Document. *See* File No. 2–79558.

comments requested within 21 days after the date of this publication.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on August 3, 1982, the American Stock Exchange filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The American Stock Exchange is proposing certain Constitutional and rule amendments relating to minimum compensation for ABC seatholders (Rule 319), outside business activities (Rule 342(b)), salaried market employees (Article IV, Section 3(a)), and the Gratuity Fund (Article IX, Section 6).

II. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for the Proposed Rule Change

(a) *Purpose.* The Exchange is proposing a number of Constitutional and rule amendments relating to membership matters as part of its program to ensure that the Exchange's rules remain up to date, and that where appropriate, they conform to similar rules in effect at the New York Stock Exchange. Each of the proposed changes is reviewed separately below.

Minimum Compensation for ABC Seatholders. Amex Rule 319 requires that a member organization guarantee a regular member ABC seatholder associated with the firm at least $16,000 a year in salary and/or participation in profits and provides that the member may be charged with his share of losses or be guaranteed against loss. When the rule was originally adopted in 1967, it was intended to maintain the status of regular memberships by providing a minimum salary. Rule amendments have gradually removed similar outdated requirements as the Exchange has sought to leave such business determinations to the discretion of individual member organizations.

It is proposed that Rule 319 now be rescinded. The New York Stock Exchange has recently deleted its comparable rule (Rule 314).

Outside Business Activities. Amex Rule 342(b) requires that persons associated with member organizations obtain the member organization's prior written consent with respect to all outside business activities and interests in which they are involved. The provision is intended to insure that such activities and interests do not create conflicts of interest and/or potential organizational liabilities or affect the supervisory capabilities of member firms.

Currently, oral requests for member firm approval are permitted under the rule. However, requiring that the request be made in writing would enhance a firm's ability to study the specifics of a particular request and facilitate recordkeeping of such requests. It is therefore proposed that Paragraph (b) of the rule be amended to require written requests for member firm approval. An additional non-substantive amendment is proposed to Paragraph (e) of the rule regarding association with persons subject to statutory disqualifications to clarify the intent of the provision.

The amendments conform the rule to recent amendments to the comparable New York Stock Exchange rule (Rule 346).

Salaried Market Employees. Article IV, Section 3(a) of the Constitution provides that the Exchange may permit a regular member elected to membership prior to June 1, 1923 to designate in his absence a representative, known as a salaried market employee, to execute orders on the Floor for the account of the regular member or his member organization. This privilege has not been exercised since the 1940s, and with the death last year of the last regular member eligible to exercise the privilege, it is proposed that the provision be rescinded. Conforming amendments are proposed to Rule 14 and Rule 181.

Gratuity Fund Beneficiaries. Article IX, Section 6 of the Constitution sets forth the beneficiaries of the Gratuity Fund benefit, which includes the "widow" of a deceased member. Since there are now many women members of

the Exchange, it is proposed that Section 6 be amended to substitute the phrase "surviving spouse" wherever reference is made to the term "widow". This amendment is purely technical in nature and in no way alters any rights with respect to the Gratuity Fund.

(b) *Basis.* The proposed amendments are consistent with Section 6(b) of the Exchange Act in general, being designed to ensure that the Exchange's rules remain up to date, and that where appropriate, they conform to similar rules in effect at the New York Stock Exchange.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will have no impact on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section 450 5th Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: December 9, 1982.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82-34279 Filed 12-16-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 19316; SR-Amex-82-16]

American Stock Exchange, Inc; Proposed Rule Change

December 9, 1982.

In the matter of; American Stock Exchange, Inc.; 86 Trinity Place, New York, N.Y. 10006; (SR-Amex-82-16); order approving proposed rule change.

On October 18, 1982, the American Stock Exchange, Inc. ("Amex") filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and rule 19b-4 thereunder to amend Amex Rule 300 to provide the capital contribution of any partner of an Amex member firm cannot be withdrawn sooner than twelve months after it is made. Under present Rule 300(b), only a member firm subject to Amex Rule 470 (relating to capital requirements for members and member organizations) is prohibited from withdrawing its capital contribution prior to twelve months from the date the contribution is contributed. Under the proposed rule change, Rule 300 would encompass all Amex partnerships, not only those subject to Rule 470.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 34-19189, October 28, 1982) and by publication in the **Federal Register** (47 FR 50151, November 4, 1982). No comments were received with respect to the proposed rule change.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and in particular, the requirements of Section 6, and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-34283 filed 12-16-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 19313; File No. SR-Phlx-81-4]

Philadelphia Stock Exchange, Inc.; Proposed Rule Change

December 8, 1982.

In the matter of; Philadelphia Stock Exchange, Inc.; 1900 Market Street, Philadelphia, PA 19103; File No. SR-Phl-81-4; amendment and order approving proposed rule change.

I. *Introduction.* Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) (the "Act"), and Rule 19b-4 thereunder, the Philadelphia Stock Exchange, Inc. ("Phlx") filed with the Commission proposed rule changes to authorize the listing and trading of standardized put and call options contracts on foreign currencies ("Foreign Currency Options").[1] Included as part of those rules were provisions governing customer margin requirements applicable to Foreign Currency Options. The proposed rule changes, with the exception of those portions concerning margin, have been approved by the Commission.[2] The margin rules proposed by the Phlx were not approved at that time because of the absence of necessary volatility information for foreign currencies underlying the proposed options contracts and the absence of a provision specifying the time period within which margin would have to be posted. Phlx subsequently provided the staff with the needed volatility information and filed an

---

[1] Phlx's proposal was originally filed on February 28, 1981 and amendments were filed on March 2, 1982 and May 28, 1982. Notices of the proposed rule change and amendments were given by the Commission in Securities Exchange Act Release Nos. 17666 (March 27, 1981) and 18825 (June 21, 1982) and by publication in the **Federal Register** (46 FR 20348 (April 3, 1981) and 47 FR 27652 (June 25, 1981), respectively). *See* File No. SR-Phlx-8-4. Phlx subsequently filed two additional amendments regarding its margin formula: a proposal to establish a seven-day posting rule (Amendment No. 4) (*see* note 3, *infra*) and a proposal to delete all provisions that would authorize use of letters of credit as "cover" in lieu of margin (Amendment No. 5). Interested persons are invited to submit written data, views and arguments concerning Amendment No. 5 within 21 days from the date of publication of this notice in the **Federal Register.**

[2] *See* Securities Exchange Release No. 19133 (October 14, 1982) 47 FR 46946 (October 21, 1982).

amendment setting forth a seven day posting requirement.[3]

II. *Terms of the Proposed Rule Changes.* The amended proposed rule change as it relates to margin for Foreign Currency Options is similar to other margin provisions for new options products. With respect to long positions in Foreign Currency Options, current exchange rules applicable to options on equity securities are unaltered. Specifically, no put or call option carried in a customer account is permitted to have loan value for the purpose of calculating margin; therefore, the options premium or purchase price must be paid in full.[4]

The proposed rules provide that, with respect to exchange-traded options on foreign currency issued, guaranteed or carried short in a customer's account, the minimum margin would be 130 percent of the current market value of the option, plus $750, minus the amount, if any, that the options contract is "out-of-the-money".[5] The proposed formula is subject to a minimum margin of 130 percent of the premium plus $250; maximum margin would be set at 130 percent of the option premium plus $2,500.[6]

An exemption from the foregoing margin requirements would be provided for short positions that are fully covered and reduced margins would apply to paritally covered and reduced margins would apply to partially covered positions. Phlx has proposed that options writing be premitted on an unmargined basis when certain forms of "cover" exist (*e.g.*, transferring the requisite units of foreign currency to a bank account designated by the broker, so that a type of "depository receipt" could be given to the Options Clearing Corporation ("OCC"); furnishing of an "escrow receipt" to the broker certifying that a custodian is holding the underlying foreign currency and will deliver it to OCC against payment of the aggregate exercise price; or furnishing an "option guarantee letter" guaranteeing delivery of the foreign currency to the broker).[7]

Phlx also is proposing to extend its current margin requirements for spread and straddle stock option positions to spreads and straddles on Foreign Currency Options. In the case of Foreign Currency Option spreads, Phlx is proposing that customers be required to post margin equal to the lesser of: (a) the margin required for the short position, or (b) the amount by which the exercise price of the long call (or short put) exceeds the exercise price of the short call (or long put).[8] In the case of Foreign Currency Options straddles, Phlx is proposing that customers be required to post margin equal to: (at) the margin required for the put or the call, whichever is greater, plus (b) any unrealized loss on the other options position.[9]

Finally, Phlx proposal sets forth the period of time within which margin payments must be made by Foreign Currency Options customers.[10] In this regard, Phlx has determined to incorporate the seven business day posting rule utilized in Regulation T and in effect for other securities options (as well as all other marginable securities) and has submitted an amendment to the proposed rule change to establish a seven business day posting requirement.[11]

III. *Discussion.* Section 7 of the Act authorizes the Federal Reserve Board ("FRB") to prescribe rules and regulations with respect to the amount of credit that may initially be extended and subsequently maintained on any security (other than an exempted security). Pursuant to that grant of authority, the FRB has adopted Regulation T, which includes provisions establishing margin requirements for options on securities. While foreign currency in not a "security," options on foreign currencies traded on a national securities exchange are securities under the Act. At this time, however, the FRB has not promulgated rules under Regulation T expressly applicable to options on foreign currency.[12] Therefore, margin regulation on Foreign Currency Options currently is vested with the self-regulatory organizations subject to Commission oversight.[13]

The Commission has carefully examined the margin rules submitted by the Phlx. The extension to options on foreign currency of the prohibition against long options positions having loan value in a margin account is fully consistent with the original application of the prohibition to options on equity securities. In particular, because an options represents a contractual right of limited duration, an options contract constitutes a wasting asset whose value diminishes as the expiration date approaches. In addition, because of the leverage involved, the prices of options, and therefore their intrinsic values, are subject to significant volatility. These features, which dictated a proscription against the purchase of equity options on margin as well as rendered such

---

[3] The amendment was filed on November 10, 1982, and notice was given by Securities Exchange Act Release No. 19248 (November 17, 1982) and by publication in the **Federal Register** 47 FR 53554 (November 26, 1982)). *See* File No. SR–Phlx–81–4 (Amendment No. 4).

[4] Phlx Rule 722(d) 2.

[5] *See* Phlx Rule 772(d)2(B)(iii). A call options contract is "out-of-the-money" to the extent that the exercise price of the option exceeds the current spot market price of the underlying foreign currency. A put option is "out-of-the-money" to the extent that current spot market price of the underlying foreign currency exceeds the exercise price of the option.

[6] *Id.* Phlx members could, of course, require larger margin deposits than required by Phlx's proposed rule. In addition, Phlx itself could increase its Foreign Currency Options margin requirements from time to time. *See* Proposed Rule 722(d)2(K).

The New York Stock Exchange, Inc. ("NYSE") has stated that, until April 1, 1983, it will not institute enforcement proceedings with regard to its Rule 431(d)(2), which imposes a margin maintenance requirement for uncovered short positions in exchange-traded puts and calls of at least 30 percent, provided NYSE members and member organizations adhere to the margin requirements established by Phlx Rule 722 for Foreign Currency Options. *See* NYSE Information Memo No. 82–62 (December 8, 1982).

[7] *See* proposed Rule 722(d)2(H). These three methods of "cover" are predicated on the deposit of the underlying foreign currency and accordingly are analogous to the methods of cover available to writers of call options on stock. A fourth method of cover, furnishing an irrevocable letter of credit to pay to the member broker the requisite units of foreign currency, also was previously proposed by the Exchange. Phlx subsequently filed an amendment, however, deleting from its proposed rules for the time being any references to this possible form of cover. *See* File No. SR–Phlx–81–4 (Amendment No. 5).

[8] *See* proposed Rule 722(d)2(F). Phlx had originally proposed that the short side of spread positions be fully margined during the last two business days prior to expiration to guard against the possibility that a substantial adverse price movement might occur subsequent to expiration of the spreader's long position but prior to assignment of an exercise notice for the short position. Phlx's amended proposal deleted this margin requirement on the basis that it was "unnecessary" to "codify" this "precautionary measure."

[9] *See* proposed Rule 722(d)2(E).

[10] The rules of the exchanges setting forth margin requirements on other kinds of options do not contain provisions establishing margin posting periods. Rather, the posting of margin for other options is governed by the provisions of Regulation T. Because of questions regarding the applicability of Regulation T, as currently formulated, to Foreign Currency Options, it was determined that for clarity a posting period should be included in Phlx's rules.

[11] *See* note 3, *supra*. Phlx also has provided empirical information concerning the historical level of protection its margin formula would provide over that period of time. *See* note 15, *infra*.

[12] *See* Regulation T, 12 CFR 220.6. To the extent that the FRB might determine to regulate foreign currency options margin, the Phlx has requested the FRB to accord the same treatment to options on foreign currency that the FRB has accorded options on exempt securities [*i.e.*, initial margin requirements and the specification of appropriate cover for options would be determined by the rules of the exchange, provided those rules were approved by the Commission). *See* letter from Nicholas A. Giordano, President, Phlx, to Robert S. Plotkin, Assistant Director, FRB, dated August 18, 1982. The staff of the FRB has indicated that Foreign Currency Options can be written utilizing the Phlx's proposed margin provisions, provided they have been approved by the Commission. *See* letter from Laura Homer, Securities Credit Officer, FRB, to Richard Ketchum, Associate Director SEC, dated December 7, 1982.

[13] *Id. See also* 12 CFR 220.8(j)(2).

options unsuitable as collateral for the purchase of other securities, are equally applicable to options on foreign currency.

For margin on uncovered short positions, the Phlx has developed a formula which it believes will yield margin deposits providing adequate credit protection for member firms. The exchange has reached this conclusion by comparing the margin levels calculated pursuant to the proposed formula with the historic volatility of the various underlying foreign currencies over seven day periods.[14] While, in some cases, the proposed margin formula yields an amount that covers less than 100 percent of the historic seven day price movements examined by the exchange,[15] the exchange has contended that the formula nevertheless is appropriate. In particular, the exchange believes that a formula designed to produce margin levels sufficient to cover 100 percent of historic price movements is both excessive and unnecessary. In support of this contention, the exchange indicates that in periods of significant price volatility, member firms can, and in fact would, require that margin deficiencies be eliminated in periods of less than seven days,[16] and in response to a customer's failure to do so, can liquidate the customer's options position. Moreover, the exchange points to existing margin rules or currently proposed modifications to its margin rules that would enable the exchange at any time to impose higher margin requirements than are prescribed by its rules when it deems that higher margin requirements would be appropriate.[17]

In light of these considerations, the Commission believes that the proposed margin formula for uncovered short positions is appropriate. Given the degree of financial leverage made possible by the proposed margin formula, however, the Commission remains concerned that unsophisticated and under-capitalized investors should not be subjected to unreasonable risks of loss through transactions in Foreign Currency Options. In this regard, the Commission wishes to emphasize to both the exchange and its member firms the need for rigorous application of exchange rules governing opening of accounts [18] and suitability [19] to ensure that market participants understand and are financially able to bear the risks of Foreign Currency Options trading.[20]

IV. *Findings and Conclusion.* Under Section 19(b)(2) of the Act, the Commission must approve a proposed rule change if it determines that it is consistent with the requirements of the Act and the rules thereunder applicable to national securities exchanges. Among other things, the Commission must find that a proposed rule is designed to protect investors and the public interest and does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

On the basis of the foregoing discussion, the Commission finds that the proposed rule changes are consistent with the requirements of the Act and the rules and regulations thereunder and, in particular, with the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change as amended be, and it hereby is, approved.[21]

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary

[FD Doc. 82-34275 Filed 12-16-82; 8:45 am]

BILLING CODE 8010-01-M

Pacific Stock Exchange, Inc.; Application for Unlisted Trading Privileges and of Opportunity for Hearing

December 10, 1982.

In the matter of application of the Pacific Stock Exchange, Inc.; for unlisted trading privileges in certain securities.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(C) of the Securities and Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the following stock:

Xonics, Incorporated
Common Stock, $.10 Par Value

This security has been removed from listing and registration on the Pacific Stock Exchange, Incorporated ("PSE") pursuant to the issuer's delisting application which became effective November 30, 1982. The security is currently traded over-the-counter. While this security is not included in the consolidated transaction and quotation reporting system, the PSE has indicated in its application that last sale and quotation information for the security would be provided by the exchange to vendors of securities information and would be available on the PSE floor. In addition, the PSE has stated in its application that it would exempt such security from any applicable off-board trading restrictions.

Interested persons are invited to submit on or before January 4, 1983, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. In order to approve the application, the Commission must find, after notice and opportunity for hearing, that the extension of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors. In considering an application for the extension of unlisted

---

[14] Seven days is the maximum period of time permitted a customer under Phlx's proposed rules to satisfy a deficiency in a margin account. Member firms, of course, are free to prescribe a shorter period of time.

[15] Statistics provided by the exchange indicate that, during the twelve month period from October 1981 through September 1982, the volatility rate of daily spot prices for the Swiss franc, the most volatile currency on which Phlx proposes to trade options, was 0.86 percent (*i.e.*, a change of less than one percent per day relative to the U.S. dollar). Using that volatility rate, the minimum margin requirement for out-of-the-money Swiss franc options would be insufficient one out of every eight or nine days (or stated conversely, margin protection for about 90 percent of all seven day spot market price movements would be provided by the formula). The volatility rate for the other currencies were: Japanese yen—.78; deutsche mark—67; British pound—.65; and Canadian dollar—.34. Because volatilities may change over time, the Phlx intends to monitor closely the volatility of each currency upon which options are traded; if necessary, Phlx. can increase the margin requirement. Phlx has established a Foreign Currency Options Margin Subcommitte for this purpose. *See* Phlx Rule 722, commentary .02 (Amendment No. 4).

[16] *See* note 14, *supra*.

[17] *See* note 6, *supra*.

[18] Phlx Rule 1024(b).

[19] Phlx Rule 1026.

[20] The proposed modifications to exchange rules with respect to the margining of spreads and straddle positions in Foreign Currency Options generally consist of changes necessary to extend existing equity options rules to Foreign Currency Options.

[21] Since Amendment No. 4 (concerning the seven day margin posting period) is for clarification and would merely extend to Foreign Currency Options the same posting requirements applicable to all other securities, the Commission finds that additional notice is unnecessary. Accordingly, the Commission finds good cause for approving that proposal prior to the thirtieth day after notice of publication thereof.

trading privileges to the security not listed and registered on a national securities exchange, the Commission shall, among other matters, take account of the public trading activity in such security, the character of such trading, the impact of such extension on the existing markets for such securities, and the desirability of removing impediments to and the progress that has been made toward the development of a national market system.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82-34220 Filed 12-16-82; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirement Under OMB Review

ACTION: Notice of Reporting Requirement Submitted for OMB Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATE: Comments must be received on or before January 17, 1983. If you anticipate commenting on a submission but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB reviewer and the agency clearance officer of your intent as early as possible.

COPIES: Copies of the proposed form, the request for clearance (S.F. 83), supporting statement, instructions, transmittal letters, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Comments on the item listed should be submitted to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

Agency clearance officer: Elizabeth M. Zaic, Small Business Administration, 1441 L St., NW., Room 200, Washington, D.C. 20416, Telephone: (202) 653-8538.

OMB reviewer: J. Timothy Sprehe, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3235, New Executive Office Building, Washington, D.C. 20503, Telephone: (202) 395-4814.

Title: Small Business Institute Evaluation Questionnaire

Form No.: SBA 24

Frequency: Nonrecurring

Description of Respondents: Clients receiving management assistance from SBA's Small Business Institutes

Annual Responses: 1,000

Annual Burden Hours: 500.

Type of Request: Extension (Burden Adjustment)

Dated: December 14, 1982.

Elizabeth M. Zaic,

Chief, Paperwork Management Branch, Small Business Administration.

[FR Doc. 82-34231 Filed 12-16-82; 8:45 am]

BILLING CODE 8025-01-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 243
Friday, December 17, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Federal Election Commission	1
Federal Reserve System	2, 3
Nuclear Regulatory Commission	4
Securities and Exchange Commission	5

1

FEDERAL ELECTION COMMISSION

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, December 16, 1982 at 10 a.m.

CHANGE IN MEETING: The following matters have been added for the open meeting scheduled for this date pursuant to 11 CFR 3.5 (d) (1) and (2) of the Commission's Sunshine Regulations:

Final Repayment Determination and Statement of Reasons for Citizens for LaRouche, Inc.
Agency Operations in the Absence of Appropriations

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Public Information Officer, telephone 202–523–4065.

Marjorie W. Emmons,
Secretary of the Commission.

[S–1836–82 Filed 12–15–82; 11:27 am]
BILLING CODE 6715–01–M

2

FEDERAL RESERVE SYSTEM
(Board of Governors)

TIME AND DATE: 9:30 a.m., Wednesday, December 22, 1982.

PLACE: Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED: *Summary Agenda:* Because of their routine nature, no substantive discussion of the following items is anticipated. These matters will be voted on without discussion unless a member of the Board requests that an item be moved to the discussion agenda.

1. Proposed amendment to Regulation L (Management Official Interlocks). (Proposed earlier for public comment; Docket No. R–0430).
2. Proposed technical amendments to Regulation Q (Interest on Deposits) to conform with actions of the Depository Institutions Deregulation Committee.

Discussion Agenda:

3. Reserve requirement and time deposit definition issues under Regulations D (Reserve Requirements of Depository Institutions) and Q (Interest on Deposits). (Includes issues proposed earlier for public comment; Docket Nos. R–0417 and R–0424).
4. Publication for comment of a proposed book-entry securities fee structure.
5. Proposed amendments to Regulation K (International Banking Operations) regarding bank holding company investment in export trading companies.
6. Any items carried forward from a previously announced meeting.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452–3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated: December 15, 1982.

James McAfee,
Associate Secretary of the Board.

[S–1837–82; Filed 12–15–82; 11:50 am]
BILLING CODE 6210–01–M

3

FEDERAL RESERVE SYSTEM
(Board of Governors)

TIME AND DATE: Approximately 12 noon, Wednesday, December 22, 1982, following a recess at the conclusion of the open meeting.

PLACE: 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed acquisition of computer equipment within the Federal Reserve System.
2. Personnel actions (appointments, promotions, assignments, reassign a17ments, and salary actions) involving individual Federal Reserve System employees.
3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board, (202) 452–3204.

Dated: December 15, 1982.

James McAfee,
Associate Secretary of the Board.

[S–1838–82 Filed 12–15–82; 11:50 am]
BILLING CODE 6210–01–M

4

NUCLEAR REGULATORY COMMISSION

DATE: Friday, December 17, 1982 and Week of December 20, 1982.

PLACE: Commissioners' Conference Room, 1717 H Street, N.W., Washington, D.C.

STATUS: Open and closed.

MATTERS TO BE DISCUSSED: *Friday, December 17:*

1:30 p.m.:
Discussion of Immediate Effectiveness Issues in TMI–1 Restart Proceeding (Closed—Exemption 10)

Monday, December 20:

10:00 a.m.:
Discussion of Management-Organization and Internal Personnel Matters (Closed—Exemptions 2 and 6)
2:00 p.m.:
Briefing by Regulatory Reform Task Force (Legislative Proposals) (Public Meeting)

Tuesday, December 21:

10:00 a.m.:
Possible Vote on Immediate Effectiveness Issues in TMI–1 Restart Proceeding (Public Meeting)
2:00 p.m.:
Actions in Regard to Indian Point (Public Meeting)

Wednesday, December 22:

10:00 a.m.:
Briefing by Ad Hoc Committee on Regulatory Reform (Public Meeting)
2:00 p.m.:
Discussion of Proposed Safety Goals and Implementation Plan (Public Meeting)
3:30 p.m.: Affirmation/Discussion and Vote (Public Meeting):
a. 10 CFR Part 50—General Revision of Appendices G and H (Tent.)
b. Indian Point Special Proceeding
c. Review of ALAB–691 (Consumers Power Company)
d. San Onofre Memorandum and Order re Medical Services
4:00 p.m.:
Actions in Regard to Indian Point (Public Meeting)

ADDITIONAL INFORMATION:

Discussion/Possible Vote on Contested Issues in Fermi Full Power Proceeding *moved* from December 17 to December 16.

Briefing on SEP Program—Phase II Results (Tentative) scheduled for December 15, *postponed.*

Discussion of Order in Waste Confidence Proceeding scheduled for December 8, *postponed.* On December 8 the Commission voted 5–0 to hold Discussion of Order in Clinch River, held that day.

On December 9 the Commission voted 4–0 (Commissioner Gilinsky not present) to hold Affirmation of Clinch River Order, held that day. Possible Vote on Immediate Effectiveness Issues in TMI–1 Restart Proceeding scheduled for December 10, *postponed.*

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634–1498. Those planning to attend a meeting should reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634–1410.

December 10, 1982.

Walter Magee,

Office of the Secretary.

[S–1634–82 Filed 12–14–82; 4:29 pm]

BILLING CODE 7590–01–M

5

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of December 21, 1982, at 450 5th Street, NW, Washington, D.C.

An open meeting will be held on Tuesday, December 21, 1982, at 10:00 a.m. followed by a closed meeting.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10).

Chairman Shad and Commissioners Evans, Thomas, Longstreth and Treadway voted to consider the items listed for the closed meeting in closed session.

The subject matter of the open meeting scheduled for Tuesday, December 21, 1982, at 10:00 a.m., will be:

1. Consideration of whether to propose for public comment new Form N–1A and certain related guidelines and rule amendments. The new form, which would be used by open-end management investment companies for registration under the Investment Company Act of 1940 and the Securities Act of 1933, would use a simplified prospectus. For further information, please contact Larry L. Greene at (202) 272–7320.

2. Consideration of whether to amend 17 CFR 201.22(e), 230.403(a), 240.12b–12 (a) and (b) , 250.22(d), 260.7a–17, 260.7a–18, 270.0–2(b), 270.8b–12 (a) and (b), and 275.0–4(b), which would require the use of paper measuring no larger than 8½ x 11 inches in size for documents filed with the Commission. For further information, please contact Douglas J. Scheidt at (202) 272–2454.

3. Consideration of whether to propose for comment two alternative sets of amendments to its rules for application of the full cost method of accounting by oil and gas producers. The proposed amendments are intended to clarify the criteria for determining which capitalized costs may be excluded from immediate amortization. They would thereby narrow the diversity of practice resulting from varying interpretations of the Commission's existing rules which permit the exclusion from amortization of "unusually significant" costs of unproved properties and major development projects. The Commission will also consider proposing amendments to clarify its rules on the recognition of gain or loss on sales of oil and gas producing properties. For further information, please contact M. Elizabeth Rader or John W. Albert at (202) 272–2130.

4. Consideration of whether to repropose a revised order exposure rule, Rule 11A–1 under the Securities Exchange Act of 1934, reflecting proposals and comments concerning previously proposed order exposure rules. For further information, please contact Robert Colby at (202) 272–2413.

The subject matter of the closed meeting scheduled for Tuesday, December 21, 1982, following the 10 a.m. open meeting:

Freedom of Information Act appeal.
Settlement of administrative proceeding of an enforcement nature.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Bob Zutz at (202) 272–2091.

December 14, 1982.

[S–1635–82 Filed 12–15–82; 11:06 am]

BILLING CODE 8010–01–M

federal register

Friday
December 17, 1982

Part II

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Government Contract Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

Iowa:	
IA82–4030	June 18, 1982.
IA82–4048	Oct. 1, 1982.
IA82–4049	Oct. 8, 1982.
Illinois: IL82–2003	March 5, 1982.
Louisiana: LA82–4053	Nov. 5, 1982.
Massachusetts:	
MA81–3054	Sept. 4, 1981.
MA82–3005	April 30, 1982.
MA81–3050	Aug. 28, 1981.
Idaho: ID82–5128	Nov. 26, 1982.
Washington: WA82–5117	Aug. 13, 1982.
New York: NY81–3018	March 27, 1981.
Texas:	
TX82–4042	Aug. 20, 1982.
TX82–4046	Oct. 1, 1982.
TX82–4054	Nov. 5, 1982.
Connecticut: CT81–3032	May 15, 1981.

Supersedeas Decisions To General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

Illinois: IL82–2031 (IL82–2068)	May 7, 1982.
Missouri: MO81–4056 (MO82–4069)	July 24, 1981.
Texas: TX82–4029 (TX82–4065)	June 18, 1982.
Wisconsin: WI82–2043 (WI82–2062)	Aug. 27, 1982.

Special Notice

Inasmuch as Friday December 24 and 31, 1982 falls on Federal holidays, the Davis-Bacon wage determinations will be published the next work days, i.e., Monday, December 27, 1982, and Monday, January 3, 1983, respectively.

Signed at Washington, D.C. this 10th Day of December 1982.

Dorothy P. Come

Assistant Administrator, Wage and Hour Division.

BILLING CODE 4510-27-M

MODIFICATION PAGE 1

DECISION NO. IA82-4030 - MOD. #10 (47 FR 26537 - 6/18/82) Black Hawk, Cerro Gordo, Clinton, Des Moines, Dubuque, Johnson, Linn & Polk Cos., Iowa	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Bricklayers & stonemasons:		
Zone 3	$14.28	1.22
Zone 5	13.84	.57
Zones 6 & 7	15.54	.57
Cement masons - Zone 3	13.7[illegible]	1.22
Electricians:		
Zone 5	14.95	1.80+ 3-3/4%
Zone [illegible]	15.68	2.70+ 3-3/4%
Marble, tile & terrazzo workers:		
Zone 3 - Marble setter	14.28	1.22
Zone 5 - Marble setter	13.84	.57
Painters:		
Zone [illegible]:		
Brush, roller, drywall finisher	14.02	.85
Spray; structural steel, sandblasting; swing stage	14.52	.85
Paperhangers	14.27	.85
Stack; tower work over 100 ft.	15.12	.85
Plasterers - Zone 3	13.78	1.22
Plumbers & pipefitters:		
Zone 3	16.95	2.50
Sheet metal workers:		
Zones 3, 4 & 5	15.80	2.86
Zone 8	15.56	2.98
OMIT:		
Marble, tile & terrazzo workers:		
Zone 3 - Tile & terrazzo workers	11.50	1.80
Zone 5 - Tile & terrazzo workers	10.59	.97

DECISION NO. IA82-404[illegible] - MOD. #3 (47 FR 43517 - 10/1/[illegible]2) Woodbury Co., Iowa	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Electricians	[illegible]15.4[illegible]	1.98+ 3-3/4%
Elevator constructors:		
Mechanics	14.31	2.69+a
Helpers	70%JR	2.69+a
Helpers (Prob.)	50%JR	

DECISION NO. IA82-40[illegible] - MOD. #3 (47 FR 44667 - 10/[illegible]/82[illegible]) Scott County, Iowa	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Elevator constructors:		
Mechanics	15.43	2.69+a
Helpers	70%JR	2.69+a
Helpers (Prob.)	50%JR	
Ironworkers	16.45	2.875
Marble, tile & terrazzo workers	14.45	2.10
Plumbers & pipefitters	16.95	2.50
Sheet metal workers	15.80	2.86

DECISION NO. IL82-2003 - MOD. #5 (47 FR 9659 - March 5, 1982) Adams, Bond, ... Winnebago, & Woodford Cos., Illinois	Basic Hourly Rates	Fringe Benefits
Change:		
Roofers:		
Area 1	$15.13	$3.75
Area 2:		
Composition, Slate, Tile, & Waterproofing	14.85	2.05
Kettlemen	12.65	2.05
Area 3	16.67	1.43
Area 5	14.70	1.96
Area 6	16.63	2.65
Area 8	14.25	.60
Area 9	15.60	2.66
Area 10	12.16	.50

DECISION NO. LA[illegible]2-[illegible]053 - MOD. #4 (47 FR 50421 - 11/5/[illegible]2) Statewide Louisiana	Basic Hourly Rates	Fringe Benefits
Power Equipment Ops. modified in MOD. #1 dated 11/26/82 on page 53608 should apply to ZONE 1		

MODIFICATION PAGE 2

DECISION NO. MA81-3054 - MOD. #7 (46 FR 44631 - Sept. 4, 1981) BARNSTABLE, BRISTOL, DUKES, ESSEX, MIDDLESEX, NANTUCKET, NORFOLK, PLYMOUTH & SUFFOLK COUNTIES, MASSACHUSETTS	Basic Hourly Rates	Fringe Benefits
CHANGE:		
ELECTRICIANS:		
Middlesex (Bedford, Billerica, Boxboro, Burlington, Carlisle, Chelmsford, Dracut, Dunstable, Littleton, Lowell, Tewksbury, Tyngsboro, Westford, Wilmington)	15.15	3.53+ 3%
LABORERS (Building)		
Class I	12.70	2.35
Class II	12.95	2.35
Class III	13.45	2.35
Class IV	13.70	2.35
Class V	13.[illegible]	2.35
LABORERS (Heavy & Highway)		
Class I	12.45	2.35
Class II	12.70	2.35
Class III	13.20	2.35
Class IV	13.45	2.35
PLASTERERS TENDERS	12.95	2.35
PLUMBERS AND STEAMFITTERS:		
Middlesex (Ashland, Belmont, Concord, Framingham, Holliston, Lexington, Lincoln, Marlboro, Maynard, Natick, Sherborn, Sudboro, Stow, Waltham, Wayland, Weston, Hudson) NORFOLK (Medway, Medfield, Dover, Wellsley)	15.50	5.88

DECISION NO. MA82-3005 - MOD. #4 (47 FR 18737 - April 30, 1982) BERKSHIRE, FRANKLIN, HAMPDEN, HAMPSHIRE, MASSACHUSETTS	Basic Hourly Rates	Fringe Benefits
CHANGE:		
PLUMBERS AND STEAMFITTERS: Hampden County; Hampshire County; Berkshire County (Otis, Becket, Sandisfield); Franklin County (Remainder of County)	15.82	3.61+a

DECISION NO. MA81-3050 - MOD. #4 (46 FR 43625 - August 28, 1981) WORCESTER COUNTY, MASS.	Basic Hourly Rates	Fringe Benefits
CHANGE:		
LABORERS (BUILDING):		
Laborers, Carpenter Tenders and Wrecking	12.70	2.35
Jackhammer Operators, Pavement Breakers, Asphalt Rakers, Carbide Core Drilling Machine, Chain Saw Operators, Pipelayers, Barco-type Jumping Tampers, Laser Beam, Concrete Pump, Masons Tenders, Mortar Mixers, Ride-on Motorized Buggies, and Fence and beam Rail Erectors	12.95	2.35
Air Track, Block Pavers, R[illegible]ers and Curb Setters	13.45	2.35
[illegible]lasters and Powdermen	13.70	2.35
Pre-Cast Floor and Roof Plank Erectors	13.20	2.35
LABOR[illegible]S (HEAVY AND HIGHWAY)		
Class I	12.45	2.35
Class II	12.70	2.35
Class III	13.20	2.35
Class IV	13.45	2.35

DECISION NO. ID82-5128 - Mod #1 (47 FR 53612 - Nov. 26, 1982) Statewide Idaho	Basic Hourly Rates	Fringe Benefits
ADD:		
Line Construction (Area 2):		
Area Description:		
Remaining Counties		
Truck Drivers (Area 2):		
Zone Differential (add to Zone 1 rate):		
Zone 2: $1.50		
Zone 3: $1.75		
CHANGE:		
Carpenters (Area 2):		
Zone 1:		
Group 1	$12.97	$4.40
Group 2	13.14	4.40
Group 3	13.26	4.40
Zone 2:		
Group 1	14.47	4.40
Group 2	14.64	4.40
Group 3	14.76	4.40
Zone 3:		
Group 1	14.72	4.40
Group 2	14.89	4.40
Group 3	15.01	4.40

DECISION NO. WA82-5117 - Mod 45 (47 FR 35433 - Aug. 13, 1982) Statewide Washington		
Change:		
Roofers:		
Area 3:		
Roofers; Waterproofers	$18.85	$2.27
Slate and Tile Roofers	19.10	2.27
Sheet Metal Workers:		
Area 1	17.46	3%+3.08
Soft Floor Layers:		
Area 5	17.03	3.10
Area 7	14.51	3.09

DECISION NO. NY81-3018 - MOD. #4 (46 FR 19174 - March 27, 1981) ALBANY, RENSSELAER, SARATOGA & SCHENECTADY COUNTIES, NEW YORK		
CHANGE:		
BRICKLAYERS:		
Schedules #1, #2, #3 & #4		
Class A	14.00	2.41
Class B	10.50	2.41

DECISION NO. TX82-3542 - MOD. #2 (47 FR 36522 - 8/20/82) Bowie County, Texas	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Boilermakers	$16.60	2.41
Ironworkers	14.25	2.36
Power equipment ops.:		
Group 1	7.26	2.30
Group 2	15.17	2.30
Group 3	15.57	2.30

DECISION NO. TX82-3045 - MOD. #3 (47 FR 43528 - 10/1/82) Jefferson & Orange Cos., Texas		
CHANGE:		
Asbestos workers:		
Orange County	17.255	2.215
Boilermakers	16.60	2.415
Carpenters:		
Carpenters-Commercial	15.72	2.065
Millwrights	15.975	2.05
Piledrivermen	15.86	2.00
Lathers	15.72	2.065

DECISION NO. TX82-3054 - MOD. #3 (47 FR 50430 - 11/5/82) Collin, Dallas, Denton, Ellis, Grayson, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Rockwall, Tarrant & Wise Cos., Texas		
CHANGE:		
Boilermakers	16.60	2.415
Ironworkers - Zone 1	15.15	2.92

DECISION NO. CT81-3032 - MOD. #23 (46 FR 20740 - May 15, 1981) HARTFORD, MIDDLESEX, NEW HAVEN, NEW LONDON AND TOLLAND COUNTIES, CONN.	Basic Hourly Rates	Fringe Benefits
CHANGE:		
BRICKLAYERS, CEMENT MASONS, FINISHERS, MARBLE MASONS, PLASTERERS, STONE MASONS, TERRAZZO WORKER AND TILE SETTERS:		
Building Construction:		
Areas 1,3,4,5&6	14.75	2.10
Areas 2,7&8	15.15	2.10
PAINTERS		
Area 2		
Brush, tapers	14.60	2.48
Paperhangers	15.10	2.48
Riding steel; steam-cleaning; sandblasting; tank; towers and hazardous work	15.18	2.48
Spray	17.60	2.48

	Basic Hourly Rates	Fringe Benefits

SUPERSEDEAS DECISION

STATE: ILLINOIS
DECISION NUMBER: IL82-2068
Supersedes Decision No. IL82-2031, dated May 7, 1982 in 47 FR 19873
DESCRIPTION OF WORK: Building (Including Residential) Construction Projects

COUNTIES: MADISON & ST. CLAIR
DATE: Date of Publication

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	[illegible]	$2.76
BOILERMAKERS	[illegible]	3.3[illegible]
BRICKLAYERS; Caulkers; Cleaners; Pointers; & Stonemasons:		
Madison County	[illegible]	1.6[illegible]
St. Clair County	[illegible]	1.65
CARPENTERS:		
Madison County:		
Carpenters; Lathers; Millwrights; Piledrivermen; & Soft Floor Layers:		
Commercial Building	[illegible]	2.65
Residential:		
Madison (Southern part bounded by Rte #4 on East, #143 on North, #111 on West & to the Place Where #111 & Madison Co. Line Intersect (excluding Bethalto & Godfrey) Co.	14.[illegible]	2.65
Madison (Rem. of Co.) Co.	[illegible]	2.65
St. Clair County:		
Carpenters; Millwrights; Piledrivermen; & Soft Floor Layers:		
Commercial Building	[illegible]	2.65
Residential:		
Freeburg	15.[illegible]	[illegible].30
Chester	[illegible]	[illegible].30
CEMENT MASONS	16.[illegible]	[illegible].[illegible]2
ELECTRICIANS:		
Madison (Alton & Vic.) Co.	[illegible]	3.41
Madison (Rem. of Co.) & St. Clair Counties	18.42	[illegible].72
ELEVATOR CONSTRUCTORS:		
Mechanics	14.[illegible]	2.89+a
Helpers	[illegible].93	[illegible].76+a
Helpers (Prob.)	[illegible]07JR	
GLAZIERS	14.79	[illegible].08
IRONWORKERS	16.[illegible]0	2.[illegible]0
LABORERS:		
Madison Co.:		
Alton:		
Common	14.8[illegible]	1.35
Layin, Sewer & Sewer Work	14.[illegible]	1.35
Well Digging; Gunnite Machine; Gunnite Nozzle Operator; & Rip-Rapping	15.0[illegible]	1.35
LABORERS (CONT'D):		
Wood River:		
Common	$14.30	$1.85
Laying Sewer & Sewer Work	14.40	1.85
Well Digging; Gunnite Machine & Nozzle Operator	14.[illegible]5	1.8[illegible]
Granite City, Madison, Venice, Nameoki & Mitchell:		
Common	14.00	2.15
Cutting, Burning & Welding	14.275	2.15
Plasterers' & Brick Masons' Tenders	14.50	2.15
Dynamite & Powdermen	15.525	2.15
Dynamite & Powdermen Tenders	14.[illegible]25	2.15
Collinsville:		
Common	14.55	1.60
Mason & Plasterers' Tenders	15.05	1.60
Dynamite Men	15.85	1.60
Dynamite Men Tenders	15.10	1.60
Edwardsville:		
Common	[illegible].1[illegible]	[illegible].05
Men Working on Sewer Work From Building to Main Sewer	15.2[illegible]	1.[illegible]
Men Working in Main Sewer Ditch & Cutting w/a Torch	15.35	[illegible].05
Plasterers' & Masons' Tenders	15.60	1.05
Glen Carbon:		
Common	15.10	1.05
Mason & Plasterers' Tenders	15.60	1.05
Dynamite Men	16.70	1.05
Highland & St. Jacob:		
Common	15.40	.65
Mason & Plasterers' Tenders	15.90	.65
Workmen Cutting & Burning w/a Torch	15.65	.65
Dynamite Men	17.00	.65
Livingston:		
Common	15.[illegible]	.[illegible]5
Working on the Bottom of Sewer	15.75	.55
Mason & Plasterers' Tenders	16.00	.55
Dynamite Men	17.10	.55

DECISION NO. IL82-2068 PAGE 2

	Basic Hourly Rates	Fringe Benefits
LABORERS (CONT'D):		
Marine:		
Common	$15.80	$.25
Mason & Plasterers' Tenders	16.30	.25
Working on the Bottom of Sewer	16.05	.25
Dynamite Men	17.40	.25
Troy & Vicinity:		
Common	15.00	1.05
Mason & Plasterers' Tenders	15.50	1.05
Working on the Bottom of Sewer	15.25	1.05
Dynamite Men	16.60	1.05
St. Clair County:		
E. St. Louis & Viminity:		
Common	14.00	2.15
Plasterers' Hod Carriers	14.50	2.15
Dynamite Men & Powder Men	15.525	2.15
Belleville & Vicinity:		
Common	14.25	1.90
Dynamite Men & Powder Men	15.75	1.90
Working w/a Torch at Bottom of Sewer	14.50	1.90
O'Fallon, Mascoutah, Scott AFB, Shiloh, Lebanon & Vicinity:		
Common	14.70	1.45
Bottom Men on Sewer Work	14.95	1.45
Dynamite Men	15.55	1.45
Mason & Plasterers' Tenders	15.20	1.45
Freeburg & Vicinity:		
Common	12.40	1.135
Sewer Work	12.65	1.135
Mason & Plasterers' Tenders	12.90	1.135
Dynamite Men	14.00	1.135
New Athens & Vicinity:		
Common	13.85	2.20
Bottom Men on Sewer Work	14.10	2.20
Mason & Plasterers' Tenders	14.35	2.20
Dynamite Men	15.45	2.20
LATHERS: St. Clair County	14.735	.66

	Basic Hourly Rates	Fringe Benefits
PAINTERS:		
Residential Repaint:		
Brush	[illegible]13.39	$1.30
Blast & Spray	14.39	1.30
Commercial Building & Residential (New) Construction:		
Brush	[illegible].72	1.30
Blast & Spray	15.7[illegible]	1.30
Industrial:		
Brush & Taping	[illegible].97	1.30
Blast & Spray	15.97	1.30
PLASTERERS	17.775	
PLUMBERS & STEAMFITTERS:		
Madison (Alton & Portion N. of Mitchell) Co.	[illegible].90	1.89+b
Madison (Granite City & Southern ½ of Co.), & St. Clair (E. St. Louis & Vic.) Cos.	14.2[illegible]	3.4[illegible]
St. Clair (Belleville & Vic.) Co.	17.4[illegible]	[illegible].1[illegible]
ROOFERS:		
Kettlemen	[illegible].65	[illegible].05
Composition, Slate, Tile, & Waterproofing	14.85	2.05
SHEET METAL WORKERS	14.78	[illegible].[illegible]5
SPRINKLER FITTERS	16.67	2.83
TERRAZZO WORKERS	17.55	
TILE SETTERS	13.98	[illegible].[illegible]1
TILE SETTERS' FINISHERS	11.70	[illegible].60[illegible]
POWER EQUIPMENT OPERATORS:		
Master Mechanic	17.17	2.48
Group I	16.67	2.48
Group II	13.[illegible]9	2.[illegible]8
Group III	13.24	2.48
Group IV	13.14	2.48
Group V	12.89	2.[illegible]8
Group VI:		
a	18.82	[illegible].48
b	19.12	[illegible].[illegible]8
c	14.[illegible]9	[illegible].48
d	15.49	2.48
TRUCK DRIVERS:		
Group I	14.32[illegible]	1.15+c
Group II	14.725	1.15+c
Group III	14.925	1.15+c
Group IV	15.[illegible]75	1.15+c

POWER EQUIPMENT OPERATORS CLASSIFICATIONS:

GROUP I Cranes, Draglines, Shovels, Skimmer Scoops, Clamshells or Derrick Boats, Pile Drivers, Crane-Type Backhoes, Asphalt Plant Opers. Plant Opers., Ditching Machines or Backfillers, Dredges, Asphalt Spreading Machines, Heavy Duty Mechanic, Ass't. Master Mechanic, All Locomotives, Cableways or Tower Machines, Hoists 2 drum or more , Hoists-2 Drum or more, Hydraulic Backhoes, Ditching Machines or Backfiller Cherry Pickers, Overhead Cranes, Roller (Steam or Gas) Concrete Pavers, Excavators, Concrete Breakers, Concrete Pumps, Bulk Cement Plants, Cement Pumps, Derrick-Type Drills, Mixers (over 3 bags) and Boat Oprs., (25' & over), Motor Graders or Pushcats, Scoops or Tournapulls, Bulldozers, Endloaders or Fork-Lifts, Power Blade or Elevating Graders, Winch Cats, Boom Tractors, and Pipe Wrapping or Painting Machines, Drills (other than derrick type) 1-drum-hoists, Mud Jacks, Mixers (2 or 3 bags), Conveyors (2), Air Compressors (2), Water Pumps regardless of size (2), Welding Machines (2) Siphons or Jets (2), Winch Heads or Apparatus (2) and Light Plants (2), Mixers (under 2 bags), all Tractors regardless of size (Straight Tractor Only), Firemen on Stationary Boilers, Automatic Elevators, Form Grading Machines, Finishing Machines, Power-Sub-Grader or Ribbon Machine, Longitudinal Floats, Boat Oprs., (under 25 ft., conveyors (1), Distribution Oprs., On Trucks, Siphons or Jets (1) Winch Heads or Apperatuses (1), Light Plant (1) Mixers (under 2 bags)

GROUP II Air Compressor (1), Water Pumps regardless of size (1) Welding Machines (1)

GROUP III Firemen and Asphalt Spreader Oilers

GROUP IV Heavy Equipment Oilers (truck cranes, dredges, monigans, large Cranes, etc.)

GROUP V Oilers

GROUP VI

a. Engineers Operating under air pressure
b. Engineers Operating in air over 10 lbs. pressure
c. Oilers operating under air pressure
d. Oilers operating in air over 10 lbs. pressure

TRUCK DRIVERS CLASSIFICATIONS:

GROUP I: Drivers on 2 Axles hauling less than 9 tons; Air Compressor & Welding Machine incl. those pulled by separate units; Fork Lifts up to 6,000 lbs. cap.; Mechanic Tenders; Pick-ups when hauling materials, tools, or men to and from and on the job site; & Truck Driver Tenders

GROUP II: 2 or 3 Axles hauling more than 9 tons, but hauling less than 16 tons; A-Frame Winches; Fork Lifts over 6,000 lbs. cap.; 4-Axle Combination units; Hydrolifts or similar equipment when used for transportation purposes; & Winches

GROUP III: 2, 3 or 4 Axles hauling 16 tons or more; Dispatcher; 5-Axles or more combination units; Mechanics & Working Foreman; & Water Pulls

GROUP IV: Drivers on Oil Distributors; & Drivers on Semi-Lowboys when moving equipment

FOOTNOTES:

a. Employer contributes 6% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years and 6% of regular hourly rate for employee who has worked in business less than 5 years; 7 paid holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Day After Thanksgiving; & Christmas Day
b. Paid Holiday: 4 Hours for Christmas Eve if holiday falls on Monday through Friday.
c. $51.00 per week per employee

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).

SUPERSEDEAS DECISION

STATE: MISSOURI — COUNTIES: PETTIS AND SALINE
DECISION NO.: MO82-4069 — DATE: DATE OF PUBLICATION
Supersedes Decision No. MO81-4058 dated July 24, 1981 in 46 FR 38266
DESCRIPTION OF WORK: Building projects, (excluding single family homes and apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	16.49	2.60
BOILERMAKERS	16.12	2.825
BRICKLAYERS, STONEMASONS, TILE LAYERS	13.90	.35
CARPENTERS (PETTIS COUNTY):		
Carpenters & lathers	12.75	1.11
Millwrights	13.25	1.11
Piledrivers	12.875	1.11
CARPENTERS (SALINE COUNTY):		
Carpenters & Lathers	13.55	2.07
Millwrights & Piledrivermen	15.05	2.07
CEMENT MASONS	13.98	
ELECTRICIANS (PETTIS CO.):		
Contracts not exceeding 2000 man hours	15.18	1.81+ 10%
Contracts exceeding 2000 man hours	16.18	1.81+ 10%
ELECTRICIANS (SALINE CO.):		
Contracts not exceeding 2000 man hours	14.58	1.81+ 10%
Contracts exceeding 2000 man hours	16.18	1.81+ 10%
ELEVATOR CONSTRUCTORS:		
Elevator Constructors	15.425	2.465+ a
Elevator Constructors' helpers	70%JR	2.465+ a
Elevator Constructors' Helpers (Prob.)	50%JR	
GLAZIERS	14.72	2.66+ 15.48%
IRONWORKERS	13.18	3.75
PAINTERS:		
Brush	13.25	
Spray; Sandblasting	14.25	
Machine taping; outside work on swing stages, window jacks, with belts or boatswain's chair	13.75	
PIPEFITTERS	17.44	3.22
PLASTERERS	13.66	
PLUMBERS	17.96	2.70
ROOFERS	15.23	2.36
SHEET METAL WORKERS	16.65	2.63
SOFT FLOOR LAYERS	11.21	1.95+ 11%
MARBLE & TILE SETTERS	16.55	10%
TILE SETTERS FINISHERS	14.40	
TERRAZZO WORKERS	15.31	9.25%
TERRAZZO FINISHERS	13.58	
TERRAZZO BASE MACHINE OP.	13.93	
LABORERS (PETTIS COUNTY):		
GROUP 1	9.575	2.55
GROUP 2	9.675	2.55
GROUP 3	9.90	2.55
LABORERS (SALINE COUNTY):		
GROUP 1	10.95	1.85
GROUP 2	11.10	1.85
GROUP 3	11.25	1.85
POWER EQUIPMENT OPERATORS:		
Building Construction		
GROUP I	15.46	3.75
GROUP II	15.11	3.75
GROUP III:		
(a)	10.05	3.75
(b)	13.21	3.75
(c)	10.85	3.75
(d)	13.46	3.75
GROUP IV	15.71	3.75
GROUP V	15.36	3.75
GROUP VI	15.96	3.75
GROUP VII:		
(a)	15.21	3.75
(b)	14.96	3.75
(c)	12.96	3.75
GROUP VIII	16.46	3.75
GROUP IX	15.96	3.75

DECISION NO. MO82-4069

LABORERS CLASSIFICATION DEFINITIONS PETTIS COUNTY

GROUP 1 - Carpenter tenders; track men; wreckers (alterations or entire project); reinforcing rod carriers; all other general laborers
GROUP 2 - Plumber laborers; stonemasons tenders; air tool operators; sewer work; water lines; conduit pipe; drain tile & duct lines; batter board man or pipe & ditch work; pier hole men working below ground; vibrator man; scaleman; jackhammer; chipping hammer operators; material batch hopper man; spreader or screed man on asphalt machine; brush feeders on pulverizers; swinging scaffold; cement handlers (bulk or sack); laser beam man; chain or concrete saw
GROUP 3 - Plaster tenders; hod carriers; brick tenders; cutting torch & burner men; asphalt rakers; barco tamper; jackson or any similar tamps; power buggy operator; powderman; mastic kettlemen; sandblasting & gunnite nozzleman; head pipe layer on sewer work; men working in tunnels; head formsetters & stringline men; hot tar applicator

LABORES CLASSIFICATION DFFINTIONS SALINE COUNTY

GROUP 1 - Common labor; wire mesh handlers or setters, carpenter tender; trackmen; signalmen; salamander tenders; floor cleaners; landscape men; sod layers; wreckers (for alteration or entire projects)
GROUP 2 - Plumber laborers (conduit pipe, sewer work, drain tile & duct lines, digging & back filling); power tool operators; pier hole diggers (over 10 ft.); vibrator, jackhammer & chipping hammer operators; chain saw operators, concrete saw operators; brush feeders on pulverizers; reinforcing steel handlers; air tamp operators; ditch witch operators; swinging scaffolds; cutting torch or burner men; georgia buggies (self-propelled); fork lift, hoseman; insulation men
Group 3 - Fork lift (masonry); brick tenders; plasterer tenders; stone mason tenders; barco, Jackson or similar tamp operators; asphalt raker; powdermen; mastic hot kettlemen; sandblasting & gunite nozzle men; wagon & churn drill operators

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS

GROUP I - Asphalt paver and spreader; asphalt plant mixer operator; asphalt plant operator; back fillers; backhoe; barber-greene loader; blade-power; boats-power; boilers (2); boring machines; cableways; cherry pickers; chip spreader; concrete ready-mixed plant, portable (job site); concrete mixer paver; crane-overhead; crusher, rock; derricks and derricks cars (power operated); ditching machines; dozers; dredges - any type power; grade-all - similar type; hoist, endless chain-power operated with power travel; loaders; mechanic and welder; mucking machine; orange peels; pumps - material; push cats; scoops; self-propelled rotary drill; shovel, power; side boom; skimmer scoop; testhole machine; throttle man

GROUP II - Boilers (1); Brooms - power operated; chip spreader (front man); clef plane operator; compressors (1) 125' or over; concrete saws, self-propelled); crab - power operated; curb finishing machine; firemen on rigs; flex plane; floating machine; form grader; greaser; hoist, endless chain - power operated; hopper - power operated; hydra hammer; lad-a-vator - similar type; rollers; siphons, jets, and jennies; sub-grader; tractors over 50 h.p.; compressors (2) 125' ft. or over not more than 20' apart; compressors-tandem; compressors single, truck mounted; elevator; finishing machine

GROUP III:
(a) Oilers
(b) Fork lift-masonry
(c) Oiler driver
(d) A-frame trucks; fork lift-all types (except masonry); mixers (w/side loaders); pumps (w/well points) dewatering systems, test or pressure pumps; tractors (except when hauling material) less than 50 h. p.

GROUP IV
Clamshells, 80 ft. of boom or over (inc. jib); crane or rigs, 80 ft. of boom or over (inc. jib); draglines, 80 ft. of boom or over (inc. jib); pile drivers, 80 ft. of boom or over (incl. jib)

GROUP V
Hoists-each additional drum over 1 drum

GROUP VI
Crane or rigs, over 200 ft. of boom

GROUP VII
Ready Mixed Concrete Plants:
(a) Crane operator
(b) Loader operator & plant man
(c) Conveyor operator

GROUP VIII
Master Mechanic

GROUP IX
Crane-tower or climbing

"Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii))"

SUPERSEDEAS DECISION

STATE: Texas

COUNTIES: Bell, Bosque, Coryell, Falls, Hill & McLennan

DECISION NO.: TX82-4065

DATE: Date of Publication

Supersedes Decision No. TX82-4029 dated 6/18/82, in 47 FR 26552.

DESCRIPTION OF WORK: Building Projects (does not include single family homes & apartments up to & including 4 stories).

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS:		
ZONE 1-Bell,Coryell,Falls	$15.20	2.94
ZONE 2-Bosque,Hill, McLennan	16.29	2.885
BOILERMAKERS	16.60	2.415
BRICKLAYERS	13.45	1.80
CARPENTERS:		
ZONE 1 - Bell & Coryell:		
Carpenters	12.80	
Millwrights	12.25	
ZONE 2 - Remaining Cos.:		
Carpenters	11.43	.82
Millwrights	12.45	.82
CEMENT MASONS	13.94	1.30
ELECTRICIANS:		
ZONE 1-Bell(that part which is nearer to Waco than Austin but excl. that part of Ft. Hood, the boundary which presently is located approx. 2 miles inside the Bell Co. line & City of Killeen), Bosque,Coryell (except that part of Ft. Hood south of Cowhouse Creek),Falls,Hill & McLennan:		
Electricians	13.45	.80+8¼%
Cable splicers	14.45	.80+8¼%
ZONE 2-Bell(that part which is nearer to Austin than Waco & not to exceed more than 2 miles into Bell Co. from the SE boundary line of Coryell Co., Gray Field & City of Killeen) & Coryell(that part south of Cowhouse Creek):		
Electricians & cable splicers	15.60	.80+8-8/10%
ELEVATOR CONSTRUCTORS:		
Mechanics	14.99	2.46+a
Helpers	70%JR	2.46+a
Helpers (Prob.)	50%JR	

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits
GLAZIERS	$ 7.50	
IRONWORKERS	13.60	2.97
LABORERS:		
Unskilled	3.35	
Mason tender,mortar mix	3.55	
LINE CONSTRUCTION:		
ZONE 1-Bell(that part which is nearer to Waco than Austin but excl. that part of Ft. Hood boundary which presently located approx. 2 miles inside the Bell Co. line & City of Killeen),Bosque,Coryell (except part of Ft.Hood south of Cowhouse Creek),Falls,Hill & McLennan:		
Linemen	13.66	60+8¼%
Cable splicers	15.03	60+8¼%
Groundman	9.56	60+8¼%
Operators	14.34	60+8¼%
ZONE 2-Bell(that part which is nearer to Austin that Waco), & Coryell (south of Cowhouse Creek):		
Linemen	15.60	60+8¼%
Cable splicers	17.16	60+8¼%
Groundman	10.92	60+8¼%
Operators	16.38	60+8¼%
PAINTERS:		
GROUP 1 - Brush	11.50	.04
GROUP 2-Boiler pipe & steel,structural steel window jacks,roofs, stage work,smoke stack water towers,boatswain chair	12.00	.04
GROUP 3-Ames tools for drywall	12.10	.04
GROUP 4-Spray work & self-feeding rollers	12.25	.04
GROUP 5-Steam cleaning sandblasting & hazardous work	12.60	.04
PLASTERERS	14.09	1.61

DECISION NO. TX82-4065 PAGE 2

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits
PLUMBERS & PIPEFITTERS:		
ZONE 1-McLennan Co. basic rate	$12.80	1.09
ZONE 2-20 to 45 miles from McLennan Courthouse incl. towns of Temple, Marlin,Clifton,Hillsboro & Belton	13.30	1.09
ZONE 3-All other areas	14.30	1.09
ROOFERS:		
GROUP 1-Slate,tile,asbestos roofing & siding	6.93	.03
GROUP 2-Composition,built up,damp & waterproofing	6.80	.03
GROUP 3 - Kettlemen	5.10	.03
SHEET METAL WORKERS:		
ZONE 1-Within a radius of 20 miles from the McLennan Courthouse	12.13	1.58+3%
ZONE 2-Over 20 miles up to & incl. 45 miles	12.61	1.58+3%
ZONE 3-Over 45 miles	13.58	1.58+3%
SPRINKLER FITTERS	16.17	2.83
TRUCK DRIVERS	3.35	
POWER EQUIPMENT OPERATORS		
GROUP 1	14.75	.95
GROUP 2	13.50	.95
GROUP 3	12.15	.95
GROUP 4	12.05	.95

WELDERS-receive rate prescribed for craft performing operation to which welding is incidental.

PAID HOLIDAYS FOR ELEVATOR CONSTRUCTORS
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day;E-Thanksgiving Day;F-the Friday after Thanksgiving Day; G-Christmas Day

FOOTNOTE FOR ELEVATOR CONSTRUCTORS
a - 1st 6 mos.-none; 6 mos. to 5 yrs.-6%; over 5 yrs. - 8% of basic hourly rate; Also seven paid holidays A thru G

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR 5.5(a)(1)(ii)).

INCIDENTAL PAVING & UTILITIES	Basic Hourly Rates	Fringe Benefits
Air Tool Man	$ 5.40	
Asphalt Raker	5.65	
Carpenter	6.50	
Carpenter Helper	5.50	
Conc.Finisher(Structures)	5.90	
Conc.Finisher Helper (Structures)	5.45	
Concrete Rubber	5.25	
Form Builder(Structures)	5.50	
Form Bldr Hlpr(Structure)	5.00	
Form Setter(Paving & Curb)	5.25	
Form Setter (Structures)	6.00	
Form Str Hlpr(Structures)	4.85	
Laborer, Common	4.00	
Laborer, Utility Man	4.65	
Mechanic	7.00	
Mechanic Helper	5.50	
Serviceman	4.75	
Pipelayer-Bosque,Falls, Hill & McLennan Co.	5.00	
Pipelayer Helper-Bosque, Falls,Hill & McLennan	4.25	
Pipelayer (Conc. & clay) Bell & Coryell Cos.	5.00	
Pipelayer Helper(Conc. & clay) - Bell & Coryell	4.25	
Plumbers(Bell & Coryell):		
Zone 1-20 to 45 miles from McLennan Court House including towns of Temple & Belton	13.30	1.09
Zone 2-all area not included in Zone 1	14.30	1.09
Reinforcing Steel Setter (Structures)	5.50	
Reinforcing Steel Setter Helper	4.65	
Power Equipment Operators:		
Asphalt Distributor	6.00	
Asphalt Paving Machine	5.65	
Broom or Sweeper Op.	5.40	
Bulldozer 150 HP & Less	5.70	
Bulldozer over 150 HP	6.00	
Crane,Clamshell,Backhoe, Derrick,Dragline,Shovel (less than 1¼ CY)	6.15	
Crane,Clamshell,Backhoe, Derrick,Dragline,Shovel (1¼ CY & Over)	7.50	

DECISION NO. TX82-4065 PAGE 3

INCIDENTAL PAVING & UTILITIES	Basic Hourly Rates	Fringe Benefits
Power Equipment Ops.(Cont'd):		
Foundation Drill Op. (Truck Mounted)	$ 8.00	
Foundation Drill Op.Hlpr	7.50	
Front End Loader (2½ CY & Less)	5.50	
Front End Loader(Over 2½ CY)	6.50	
Motor Grader Op.,Fine Grade	8.00	
Motor Grader Operator	6.10	
Roller,Steel Wheel(Plant-Mix Pavements)	5.00	
Roller,Steel Wheel(Other-Flat Wheel or Tamping)	5.00	
Roller,Pneumatic(Self-Propelled)	4.75	
Scrapers(17 CY & Less)	5.40	
Scrapers(Over 17 CY)	5.60	
Tractor(Crawler Type) Over 150 HP	6.00	
Tractor(Pneumatic) over 80 HP	5.05	
Traveling Mixer	4.25	
Truck Drivers:		
Single Axle, Light	5.00	
Single Axle, Heavy	5.35	
Tandem Axle or Semi-trailer	5.00	

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS (BUILDING CONSTRUCTION)
GROUP 1 - Heavy duty mechanic; Blade grader, self-propelled; Crawler dozers or loaders; Derricks, power operated (all types); Dragline, Cableway; Backhoe; Cranes, power operated (all types); Elevating grader, self-propelled; Hoist, motor driven two drums or more; Mixmobile; High-lifts and loaders, over 1/3 cu. yd. capacity; Winch truck; Locomotive; Mixer, 14 cu. ft. or over; Paving mixer (all sizes); Scraper; Trenching machine (all sizes); Gradall; Foundation boring machine; Scoopmobile; Shovel, power operated; Pump crete machine; Rock crusher operated on job; Well points including installations; Riding compactor; Forklift over 1500 lbs. capacity; Flat wheel rollers (60" & over); Pneumatic rollers (10 tons & above)
GROUP 2 - Blade grador, towed; Flex plane; Form grader; Mixer, less than 14 cu ft ; Pulsometer; Conventional truck crane driver and oiler; Combination man; Hoist, single drum; Pneumatic roller; High-lift and loaders, 1/3 cu. yd. or less; Forklift, 1500 lbs. capacity or less
GROUP 3 - Fireman
GROUP 4 - Oiler

SUPERSEDEAS DECISION

STATE: Wisconsin
DECISION NUMBER: WI82-2062
COUNTIES: Statewide
DATE: Date of Publication
Supersedes Decision Number WI82-2043 dated August 27, 1982, in 47 FR 38035
DESCRIPTION OF WORK: Highway and Airport Runway and Taxiway Construction (does not include bridges over navigable waters; tunnels; buildings in highway rest areas; and railroad construction)

	Basic Hourly Rates	Fringe Benefits
BRICKLAYERS; STONEMASONS:		
Zone 1	$14.35	$1.50
Zone 2	12.07	1.84
Zone 3	12.75	2.09
Zone 4	13.28	2.10
Zone 5	13.85	1.60
Zone 6	14.77	1.97
Zone 7	14.59	1.90
Zone 8	14.47	3.70
Zone 9	12.99	1.90
Zone 10	15.53	1.56
Zone 11	13.45	1.95
CARPENTERS; PILEDRIVERMEN:		
Zone 1:		
Carpenters	12.20	2.10
Piledrivermen	12.40	2.10
Zone 2:		
Carpenters	12.37	1.65
Piledrivermen	12.67	1.65
Zone 3:		
Carpenters	13.26	1.91
Piledrivermen	13.66	1.91
Zone 4:		
Carpenters	15.84	1.96
Piledrivermen	15.99	1.96
Zone 5:		
Carpenters	14.26	1.61
Piledrivermen	14.35	1.61
Zone 6:		
Carpenters	12.27	1.65
Piledrivermen	12.67	1.65
Zone 7:		
Carpenters	12.27	1.65
Piledrivermen	12.67	1.65
Zone 8:		
Carpenters; Piledrivermen	13.35	1.90
Zone 9:		
Carpenters	14.12	3.58
Piledrivermen	15.02	3.58
Zone 10:		
Carpenters	14.36	1.51
Piledrivermen	14.45	1.51

	Basic Hourly Rates	Fringe Benefits
CARPENTERS; PILEDRIVERMEN: (Cont'd)		
Zone 11:		
Carpenters	$14.80	$2.00
Piledrivers	14.25	2.00
Zone 12:		
Carpenters	12.27	1.65
Piledrivermen	12.67	1.65
CEMENT MASONS:		
Zone 1	15.93	.70
Zone 2	14.35	1.50
Zone 3	11.57	1.84
Zone 4	12.81	1.54
Zone 5	11.60	1.75
Zone 6	13.18	1.50
Zone 7	12.70	2.65
Zone 8	12.95	1.95
Zone 9	13.20	1.50
Zone 10	12.38	3.36
Zone 11	14.00	2.10
Zone 12	13.93	
Zone 13	12.18	2.90
Zone 14	14.71	1.55
ELECTRICIANS:		
Zone 1	14.88	6%+.85
Zone 2	15.66	12½%
Zone 3	14.50	1.40+ 3½%
Zone 4	13.94	.75+ 11½%
Zone 5	16.20	.96+ 3-3/4%
Zone 6	15.14	3%+.70
Zone 7	15.71	.58+ 13½%
Zone 8	14.37	.84+ 11-3/4%
Zone 9	13.81	1.88+ 14½%
Zone 10	15.75	28%
Zone 11	16.45	.70+ 3½%
Zone 12	15.49	1.88+ 14½%

DECISION NO. WI82-2062 Page 2

	Basic Hourly Rates	Fringe Benefits
IRONWORKERS:		
Zone 1	$12.83	$1.90
Zone 2	15.82	2.60
Zone 3	13.11	2.32
Zone 4	15.56	4.21
Zone 5	16.75	1.89
LINE CONSTRUCTION:		
Statewide:		
Linemen	14.40	9%+.45
Heavy Equipment Operators	12.90	9%+.45
Light Equipment Operators	11.52	9%+.45
Heavy Truck Drivers and Groundman	10.00	9%+.45
Light Truck Drivers and Groundman	9.35	9%+.45
Groundman	7.92	9%+.45
PAINTERS:		
Zone 1:		
Brush	12.50	.50
Spray and Sandblasting	14.00	.50
Zone 2:		
Brush	14.00	5%+.15
Spray and Sandblasting	13.50	5%+.15
Zone 3:		
Brush; Spray and Sandblasting	14.43	1.00
Zone 4:		
Brush	12.375	1.75
Spray and Sandblasting	12.875	1.75
Zone 5:		
Brush	11.80	1.00
Spray and Sandblasting	11.22	1.00
Zone 6:		
Brush; Spray and Sandblasting	14.21	1.53
Zone 7:		
Brush	13.20	1.65
Spray	14.20	1.65
Sandblasting	13.45	1.65
Zone 8:		
Brush and Spray	11.80	
Sandblasting	12.30	
Zone 9:		
Brush	11.85	
Spray and Sandblasting	12.25	

	Basic Hourly Rates	Fringe Benefits
PAINTERS: (Cont'd)		
Zone 10:		
Brush	$13.20	$3.11
Spray	13.35	3.11
Sandblasting	13.60	3.11
Zone 11:		
Brush	13.50	1.40
Spray and Sandblasting	14.00	1.40
Zone 12:		
Brush	12.85	1.90
Spray and Sandblasting	13.45	1.90
Zone 13:		
Brush and Sandblasting	10.40	1.10
Spray	10.90	1.10
LABORERS:		
Zone 1:		
Group 1	10.63	3.49
Group 2	10.73	3.49
Group 3	10.78	3.49
Group 4	10.83	3.49
Group 5	10.88	3.49
Group 6	10.98	3.49
Group 7	11.03	3.49
Group 8	11.28	3.49
Zone 2:		
Group 1	10.75	2.43
Group 2	10.85	2.43
Group 3	10.90	2.43
Group 4	10.95	2.43
Group 5	11.00	2.43
Group 6	11.10	2.43
Group 7	11.15	2.43
Group 8	11.40	2.43
Zone 3:		
Group 1	10.15	3.03
Group 2	10.25	3.03
Group 3	10.30	3.03
Group 4	10.35	3.03
Group 5	10.40	3.03
Group 6	10.50	3.03
Group 7	10.55	3.03
Group 8	10.90	3.03
Zone 4:		
Group 1	10.80	1.53
Group 2	10.85	1.53
Group 3	10.90	1.53

	Basic Hourly Rates	Fringe Benefits
LABORERS: (Cont'd)		
Zone 4: (Cont'd)		
Group 4	$10.95	$1.53
Group 5	11.00	1.53
Group 6	11.05	1.53
Zone 5:		
Group 1	9.88	3.49
Group 2	9.93	3.49
Group 3	9.98	3.49
Group 4	10.03	3.49
Group 5	10.08	3.49
Group 6	10.13	3.49
Group 7	10.08	3.49
Zone 6:		
Group 1	10.52	1.53
Group 2	10.57	1.53
Group 3	10.62	1.53
Group 4	10.67	1.53
Group 5	10.72	1.53
Group 6	11.05	1.53
POWER EQUIPMENT OPERATORS:		
Group 1	14.02	2.60
Group 2	13.76	2.60
Group 3	13.67	2.60
Group 4	13.59	2.60
Group 5	13.51	2.60
Group 6	13.47	2.60
Group 7	13.38	2.60
Group 8	13.26	2.60

	Basic Hourly Rates	Fringe Benefits
TRUCK DRIVERS:		
Zone 1:		
Group 1	$11.25	.35+a
Group 2	11.40	.35+a
Zone 2:		
Group 1	11.25	.35+b
Group 2	11.40	.35+b
Zone 3:		
Group 1	11.25	.35+c
Group 2	11.40	.35+c

FOOTNOTES:
a. Per week per employee on payroll 30 days or longer, $91.25 Per week - Health, Welfare and Pension
b. Per week per employee on payroll 30 days or longer, $100.50 per week - Health, Welfare and Pension
c. Per week per employee on payroll 30 days or longer, $92.88 per week - Health, Welfare and Pension

ZONE DESCRIPTIONS

BRICKLAYERS; STONEMASONS:
Zone 1: Barron, Burnett, Chippewa, Dunn, Eau Claire, Pepin, Pierce, Polk, Rusk, St. Croix, Sawyer, and Washburn Counties
Zone 2: Adams, Clark, Forest, Langlade, Lincoln, Marathon, Menominee, Oneida, Portage, Price, Taylor, Vilas, and Wood Counties
Zone 3: Brown, Calumet, Door, Florence, Fond Du Lac, Green Lake, Kewaunee, Manitowoc, Marinette, Marquette, Oconto, Outagamie, Shawano, Sheboygan, Waupaca, Washara, and Winnebago Counties
Zone 4: Green, Lafayette, and Rock Counties
Zone 5: Buffalo, Crawford, Jackson, Juneau, La Crosse, Monroe, Trempealeau, and Vernon Counties
Zone 6: Kenosha, Racine, and Walworth Counties
Zone 7: Dane, Grant, Iowa, and Richland Counties
Zone 8: Milwaukee, Ozaukee, Washington, and Waukesha Counties
Zone 9: Columbia and Sauk Counties
Zone 10: Ashland, Bayfield, Douglas, and Iron Counties
Zone 11: Dodge and Jefferson Counties

CARPENTERS; PILEDRIVERMEN:
Zone 1: Ashland, Bayfield, and Iron Counties
Zone 2: Barron, Burnett, Buffalo, Chippewa, Clark, Dunn, Eau Claire, Pepin, Pierce, Polk, Rusk, St. Croix, Sawyer, Taylor, and Washburn Counties
Zone 3: Brown, Calumet, Door, Fond Du Lac, Green Lake, Kewaunee, Manitowoc, Marinette, Marquette, Menominee, Oconto, Outagamie, Shawano, Sheboygan, Waupaca, Waushara, and Winnebago Counties
Zone 4: Green, Rock, and Walworth Counties
Zone 5: Kenosha County
Zone 6: Jackson, La Crosse, Monroe, Trempealeau, and Vernon Counties
Zone 7: Adams, Columbia, Crawford, Dane, Dodge, Grant, Iowa, Jefferson, Juneau, Lafayette, Richland, and Sauk Counties
Zone 8: Florence County
Zone 9: Milwaukee, Ozaukee, Washington, and Waukesha Counties
Zone 10: Racine County
Zone 11: Douglas County
Zone 12: Forest, Langlade, Lincoln, Marathon, Oneida, Portage, Price, Vilas, and Wood Counties

ZONE DESCRIPTIONS (Cont'd)

CEMENT MASONS:
Zone 1: Bayfield, Douglas, Price, Sawyer, and Washburn Counties
Zone 2: Barron, Burnett, Chippewa, Dunn, Polk, Rusk, and St. Croix Counties
Zone 3: Adams, Clark, Forest, Langlade, Lincoln, Marathon, Menominee, Oneida, Portage, Taylor, Vilas, and Wood Counties
Zone 4: Eau Claire, Pepin, and Pierce Counties
Zone 5: Brown, Calumet, Door, Florence, Fond Du Lac, Green Lake, Kewaunee, Manitowoc, Marinette, Marquette, Oconto, Outagamie, Shawano, Sheboygan, Waupaca, Waushara, and Winnebago Counties
Zone 6: Buffalo, Crawford, Jackson, Juneau, La Crosse, Monroe, Richland, Trempealeau, and Vernon Counties
Zone 7: Racine and Kenosha Counties
Zone 8: Dodge and Jefferson Counties
Zone 9: Columbia and Sauk Counties
Zone 10: Milwaukee, Ozaukee, Washington, and Waukesha Counties
Zone 11: Dane, Green, Iowa, Lafayette, and Rock Counties
Zone 12: Grant County
Zone 13: Walworth County
Zone 14: Ashland and Iron Counties

ELECTRICIANS:
Zone 1: Calumet, Green Lake, Marquette, Outagamie, Waupaca, Waushara, and Winnebago Counties
Zone 2: Barron, Buffalo, Burnett, Chippewa, Clark, Dunn, Eau Claire, Jackson, Pepin, Pierce, Polk, Price, Rusk, St. Croix, Sawyer, Taylor, Trempealeau, and Washburn Counties
Zone 3: Brown, Door, Kewaunee, Manitowoc, and Oconto Counties
Zone 4: Adams, Florence, Forest, Juneau, Langlade, Lincoln, Marathon, Marinette, Menominee, Oneida, Portage, Shawano, Vilas, and Wood Counties
Zone 5: Kenosha County
Zone 6: Crawford, Grant, La Crosse, Monroe, Richland, and Vernon Counties
Zone 7: Green, Jefferson, Lafayette, Rock, and Walworth Counties
Zone 8: Columbia, Dane, Dodge, Iowa, and Sauk Counties
Zone 9: Fond Du Lac and Sheboygan Counties
Zone 10: Ashland, Bayfield, Douglas, and Iron Counties
Zone 11: Racine County
Zone 12: Milwaukee, Ozaukee, Washington, and Waukesha Counties

IRONWORKERS:
Zone 1: Grant County
Zone 2: Ashland, Barron, Bayfield, Burnett, Douglas, Iron, Price, Rusk, Sawyer, Vilas, and Washburn Counties
Zone 3: Adams, Clark, Columbia, Crawford, Dane, Dodge, Florence, Fond Du Lac, Forest, Green, Green Lake, Iowa, Jackson, Jefferson, Juneau, La Crosse, Lafayette, Langlade, Lincoln, Marquette, Marathon, Menominee, Monroe, Oconto, Oneida, Outagamie, Portage, Richland, Rock, Sauk, Shawano, Taylor, Vernon, Walworth, Waupaca, Waushara, Winnebago, and Wood Counties
Zone 4: Brown, Calumet, Door, Kenosha, Kewaunee, Marinette, Manitowoc, Milwaukee, Ozaukee, Racine, Sheboygan, Washington, and Waukesha Counties
Zone 5: Buffalo, Chippewa, Dunn, Eau Claire, Pepin, Pierce, Polk, St. Croix, and Trempealeau Counties

ZONE DESCRIPTIONS (Cont'd)

PAINTERS:
Zone 1: Florence, Forest, Iron, Langlade, Lincoln, Marathon, Menominee, Oneida, and Vilas Counties
Zone 2: Barron, Buffalo, Chippewa, Dunn, Eau Claire, Pepin, Pierce, Polk, Price, Rusk, St. Croix, Sawyer, Trempealeau, and Washburn Counties
Zone 3: Brown, Door, Kewaunee, and Oconto Counties
Zone 4: Kenosha and Walworth Counties
Zone 5: Adams, Clark, Crawford, Jackson, Juneau, La Crosse, Monroe, Portage, Vernon, Taylor, and Wood Counties
Zone 6: Ashland, Bayfield, Burnett, and Douglas Counties
Zone 7: Columbia, Dane, Dodge, Grant, Green, Iowa, Layafette, Richland, Rock, and Sauk Counties
Zone 8: Calumet and Manitowoc Counties
Zone 9: Marinette County
Zone 10: Jefferson, Milwaukee, Ozaukee, Washington, and Waukesha Counties
Zone 11: Fond Du Lac, Green Lake, Marquette, Outagamie, Shawano, Waushara, Waupaca, and Winnebago Counties
Zone 12: Racine County
Zone 13: Sheboygan County

LABORERS:
Zone 1: Milwaukee and Waukesha Counties
Zone 2: Racine County
Zone 3: Kenosha County
Zone 4: Dane County
Zone 5: Washington and Ozaukee Counties
Zone 6: Remainder of State

TRUCK DRIVERS:
Zone 1: Entire State except those Counties in Zones 2 and 3
Zone 2: Milwaukee, Ozaukee, Washington, and Waukesha Counties
Zone 3: Racine and Kenosha Counties

LABORERS CLASSIFICATIONS
ZONES 1, 2, and 3

Group 1: Bituminous Workers (Shoveler, Loader, Utility Man); Demolition and Wrecking Laborer; Guard Rail Builder; Reinforcing Steel Setter (pavement); Stone Handler; Tree Trimmer; Landscaper; Multiplate Culvert Assembler; Conduit Layer; Unskilled Laborer

Group 2: Bituminous Workers (Dumper, Ironer, Smoother, Tamper); Batch Truck Dumper; Cement Handler; Concrete Handler

Group 3: Chain Saw Operator; Demolition Burning Torch Laborer; Joint Sawyer and Filler (pavement); Vibrator or Tamper Operator (mechanical, hand operated)

LABORERS CLASSIFICATIONS - ZONES 1, 2, and 3 (Cont'd)

Group 4: Air Tool Operator (hand operated)

Group 5: Strike Off Man

Group 6: Form Setter (curb, walk and pavement)

Group 7: Bituminous Worker (Raker and Luteman)

Group 8: Powderman, Blaster

ZONES 4 and 6

Group 1: Bituminous Workers (Dumper, Ironer, Smoother, Tamper, Shoveler, Loader, Utility Man); Strike Off Man; Joint Sawer or Filler (pavement); Concrete Handler; Demolition and Wrecking Laborer; Guard Rail Builder; Reinforcing Steel Setter (pavement); Stone Handler; Landscaper; Multiplate Culvert Assembler; Conduit Layer; Unskilled Laborer

Group 2: Tree Trimmer

Group 3: Air Tool Operator; Vibrator or Tamper Operator; Batch Truck Dump; Cement Handler; Form Setter (curb, walk and pavement)

Group 4: Bituminous Worker (Raker, Luteman); Chain Saw Operator; Demolition Burning Torch Laborer

Group 5: Powderman, Blaster

Group 6: Bituminous Worker (Raker, Luteman)

ZONE 5

Group 1: Bituminous Workers (Dumper, Ironer, Smoother, Tamper, Shoveler, Loader, Utility Man); Concrete Handler; Conduit Layer; Demolition and Wrecking Laborer; Guard Rail Builder; Joint Saw and Filler (pavement); Landscaper; Multiplate Culvert Assembler; Reinforcing Steel Setter (pavement); Stone Handler; Strike Off Man; Unskilled Laborer

Group 2: Tree Trimmer

Group 3: Air Tool Operator (hand operated); Batch Truck Dumper or Cement Handler; Vibrator or Tamper Operator, mechanical (hand operated)

Group 4: Chain Saw Operator; Demolition Burning Torch Laborer; Formsetter (curb, walk and pavement)

Group 5: Blaster, Powderman

Group 6: Bituminous Workers (Raker, Luteman)

[FR Doc. 82-34006 Filed 12-16-82; 8:45 am]
BILLING CODE 4510-27-C

POWER EQUIPMENT OPERATORS

Group 1: Automatic Subgrader; Bituminous Paver or Plant; Central Concrete Plant; Concrete Breaker (heavy); Concrete Mixer-Paver; Crane; Derrick; Dragline; Dredge; Excavator (Side Boom); Grader; Loading Machine (Conveyor); Mechanic or Welder (heavy duty equipment); Milling Machine; Percussion or Rotary Drilling Machine; Pile Driver; Placer-Spreader; Power Shovel; Screed (Bituminous Paver); Slipform Paver; Stabilizing Mixer (self-propelled); Steel Roller (over 5 tons); Tractor (Scraper, Dozer, Pusher, Loader, Endloader, Backhoe); Trench Machine Tube Finisher

Group 2: Concrete Mixer (less than 21 C.F.); Concrete Pump; Steel Roller (5 tons or less)

Group 3: Shouldering Machine

Group 4: Concrete Breaker (light); Concrete Spreader; Curing Machine; Finishing Machine; Launch; Mechanical Float; Roller (Pneumatic tired self-propelled); Subgrader (Form Paving); Tractor (light equipment); Tractor (towing Compactors and light equipment)

Group 5: Fireman; Environmental Burner

Group 6: Air Compressor; Curb Machine; Drilling or Boring Machine (heavy); Generator; Greaser (heavy equipment); Stump Chipper; Tank Car Heater

Group 7: Crusher or Screening Plant; Screed (Milling Machine)

Group 8: Oiler; Percussion or Rotary Drilling Machine Helper; Pump (over 3 inches)

TRUCK DRIVERS

Group 1: Truck Drivers, 2 axle - Mechanic Helper, Truck

Group 2: 3 or more axles, Euclids or Dumpster units

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii))

federal register

Friday
December 17, 1982

Part III

Office of Management and Budget

Cumulative Report on Rescissions and Deferrals

OFFICE OF MANAGEMENT AND BUDGET

Cumulative Report on Rescissions and Deferrals

December 1, 1982.

This report is submitted in fulfillment of the requirements of Section 1014(e) of the Impoundment Control Act of 1974 (Public Law 93–344). Section 1014(e) provides for a monthly report listing all budget authority for this fiscal year with respect to which, as of the first day of the month, a special message has been transmitted to the Congress.

This report gives the status as of December 1, 1982 of 20 deferrals contained in the first special message of FY 1983 transmitted to the Congress on October 1, 1982.

Deferrals (Attachment)

As of December 1, 1982, $584.3 million in 1983 budget authority was being deferred from obligation and another $7.9 million in 1983 obligations was being deferred from expenditure. The Attachment shows the history and status of each deferral reported during FY 1983.

Information From Special Message

The special message containing information on the deferrals covered by the cumulative report is printed in the **Federal Register** of:

Thursday, October 7, 1982 (Part V, Vol. 47, No. 195)

David A. Stockman,

Director.

BILLING CODE 3110-01-M

STATUS OF 1983 DEFERRALS

	Amount (In millions of dollars) *	
Deferrals proposed by the President	$ 598.8	
Routine Executive releases through December 1, 1982	-6.5	
Overturned by the Congress	0	
Currently before the Congress	$ 592.2	a

* Totals do not add due to rounding.

a This amount includes $7.9 million in outlays for a Department of the Treasury deferral (D83-16).

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1983 AS OF 12/01/82 18:48

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 12-1-82
FUNDS APPROPRIATED TO THE PRESIDENT								
International Development Assistance								
Functional development assistance program	BA D83- 1	8,129		10 1 82				8,129
FUNDS APPROPRIATED TO THE PRESIDENT TOTAL	BA	8,129						8,129
DEPARTMENT OF AGRICULTURE								
Forest Service								
Timber salvage sales	BA D83- 2	10,000		10 1 82				10,000
Expenses, brush disposal	BA D83- 3	44,575		10 1 82				44,575
DEPARTMENT OF AGRICULTURE TOTAL	BA	54,577						54,577
DEPARTMENT OF COMMERCE								
International Trade Administration								
Participation in U.S. expositions	BA D83- 4	3,356		10 1 82				3,356
National Oceanic and Atmospheric Administration								
Promote and develop fishery products and research	BA D83- 5	30,619		10 1 82	-6,534			24,085

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1983 AS OF 12/01/82 15:46

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 12-1-82
DEPARTMENT OF COMMERCE								
TOTAL BA		33,975			-6,534			27,441
DEPARTMENT OF DEFENSE-MILITARY								
Military Construction								
Military construction, all services								
BA	D83- 6	64,063		10 1 82				64,063
DEPARTMENT OF DEFENSE-MILITARY								
TOTAL BA		64,063						64,063
DEPARTMENT OF DEFENSE-CIVIL								
Wildlife Conservation, Military Reservations								
Wildlife conservation								
BA	D83- 7	1,061		10 1 82				1,061
DEPARTMENT OF DEFENSE-CIVIL								
TOTAL BA		1,061						1,061
DEPARTMENT OF ENERGY								
Energy Programs								
Fossil energy R&D								
BA	D83- 8	20,136		10 1 82				20,136
DEPARTMENT OF ENERGY								
TOTAL BA		20,136						20,136
DEPARTMENT OF HEALTH AND HUMAN SERVICES								
Alcohol, Drug Abuse & Mental Health Administration								
Construction & renovation, St. Elizabeths Hospital								
BA	D83- 9	9,714		10 1 82				9,714
Office of Assistant Secretary for Health								
Special foreign currency program								
BA	D83- 10	6,420		10 1 82				6,420
DEPARTMENT OF HEALTH AND HUMAN SERVICES								
TOTAL BA		16,134						16,134
DEPARTMENT OF THE INTERIOR								
National Park Service								
Land and water conservation fund								
BA	D83- 11	30,000		10 1 82				30,000
DEPARTMENT OF THE INTERIOR								
TOTAL BA		30,000						30,000
DEPARTMENT OF STATE								
Other								
Emergency refugee and migration assistance fund								
BA	D83- 12	37,692		10 1 82				37,692

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1983 AS OF 12/01/82 15:46

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 12-1-82
DEPARTMENT OF STATE									
TOTAL	BA		37,682						37,682
DEPARTMENT OF TRANSPORTATION									
Federal Aviation Administration									
Civil supersonic aircraft development termination	BA	D83- 13	46		10 1 82				46
Facilities & equip. (Airport & airway trust fund)	BA	D83- 14	158,485		10 1 82				158,485
DEPARTMENT OF TRANSPORTATION TOTAL	BA		158,531						158,531
DEPARTMENT OF THE TREASURY									
Office of Revenue Sharing									
State and local government fiscal assistance fund	BA	D83- 15	106,474		10 1 82				106,474
	O	D83- 16	7,909		10 1 82				7,909
Federal Law Enforcement Training Center									
Construction	BA	D83- 17	3,078		10 1 82				3,078
DEPARTMENT OF THE TREASURY TOTAL	BA		109,552						109,552
TOTAL	O		7,909						7,909
OTHER INDEPENDENT AGENCIES									
District of Columbia									
Loans to DC for capital investment	BA	D83- 18	36,833		10 1 82				36,833
Pennsylvania Avenue Development Corporation									
Land acquisition and development fund	BA	D83- 19	17,949		10 1 82				17,949
Railroad Retirement Board									
Milwaukee railroad restructuring, administration	BA	D83- 20	240		10 1 82				240
OTHER INDEPENDENT AGENCIES TOTAL	BA		57,021						57,021
TOTAL	BA		590,871			-6,534			584,337
TOTAL	O		7,909						7,909

END OF REPORT

[FR Doc. 82-34289 Filed 12-16-82; 8:45 am]

BILLING CODE 3110-01-C

Reader Aids

Federal Register

Vol. 47, No. 243

Wednesday, December 17, 1982

INFORMATION AND ASSISTANCE

PUBLICATIONS

Code of Federal Regulations

CFR Unit	202–523–3419 523–3517
General information, index, and finding aids	523–5227
Incorporation by reference	523–4534
Printing schedules and pricing information	523–3419

Federal Register

Corrections	523–5237
Daily Issue Unit	523–5237
General information, index, and finding aids	523–5227
Privacy Act	523–5237
Public Inspection Desk	523–5215
Scheduling of documents	523–3187

Laws

Indexes	523–5282
Law numbers and dates	523–5282 523–5266
Slip law orders (GPO)	275–3030

Presidential Documents

Executive orders and proclamations	523–5233
Public Papers of the President	523–5235
Weekly Compilation of Presidential Documents	523–5235

United States Government Manual 523–5230

SERVICES

Agency services	523–5237
Automation	523–3408
Library	523–4986
Magnetic tapes of FR issues and CFR volumes (GPO)	275–2867
Public Inspection Desk	523–5215
Special Projects	523–4534
Subscription orders (GPO)	783–3238
Subscription problems (GPO)	275–3054
TTY for the deaf	523–5229

FEDERAL REGISTER PAGES AND DATES, DECEMBER

54053–54268.....1
54269–54418.....2
54419–54758.....3
54759–54924.....6
54925–55198.....7
55199–55378.....8
55379–55454.....9
55455–55626.....10
55627–55902.....13
55903–56128.....14
56129–56308.....15
56309–56468.....16
56469–56616.....17

CFR PARTS AFFECTED DURING DECEMBER

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Administrative Orders:

Memorandums:
November 29, 1982.....54053

Executive Orders:
10621 (Amended by EO 12396).....55897
11390 (Amended by EO 12396).....55897
12239 (Revoked by EO 12396).....55897
12396.....55897

Proclamations:
4941 (Amended by Proc. 5002).....54269
5002.....54269
5003.....55899
5004.....55901
5005.....56309

4 CFR

Proposed Rules:
28.....54972

5 CFR

1201.....54419
2429.....55379, 55903

Proposed Rules:
213.....54974
890.....54974

7 CFR

52.....55455
53.....54925
55.....54420
56.....54420
59.....54420
68.....54271
70.....54420
271.....55903, 56469
272.....55463, 55903
273.....55463, 55903
278.....56469
279.....56469
319.....54273, 55199
400.....55886, 55888
610.....56472
725.....56473
800.....54055, 54275, 55469
905.....54926, 55199
906.....56311
907.....54281, 55379, 56312
910.....54421, 55469, 56473
926.....55910
982.....56312
1046.....56486
1065.....55200
1098.....56486
1126.....54421
1132.....54421
1139.....55201
1421.....54281
1497.....54284
1822.....55627
1901.....54422
1922.....55380
1942.....54422
1944.....54422, 55627
1948.....54422

Proposed Rules:
52.....54086
915.....56500
967.....54975
987.....54307
1106.....54977
1124.....55490
1135.....54978
1207.....55245
1430.....56505
1700.....56505

8 CFR

214.....55202, 56488
238.....55388

9 CFR

71.....55838
78.....55838
92.....54285, 55388
317.....54286
381.....54286

Proposed Rules:
113.....54090, 54307, 55246

10 CFR

2.....56314
9.....56314
50.....55203

Proposed Rules:
70.....55951
170.....56505

12 CFR

29.....55911
201.....54424
204.....55204–55209
211.....54057
217.....54759
220.....55912
523.....56314
531.....56316
545.....55656
564.....56318
614.....54760
701.....54424
745.....54424
1204.....56319–56323

Proposed Rules:
207.....54980
220.....54980
221.....54980
224.....54980
543.....56363

612.....56140
1204.....56364

13 CFR

101.....56129

14 CFR

21.....54287, 54288
39.....54289–54291, 54760, 54761, 55657, 55658
71.....54291, 54762, 54763 55389, 55659
73.....54763, 55390
75.....54763
91.....56324
97.....54292, 55659
121.....56327, 56460
253.....54764
302.....56129
387.....56130

Proposed Rules:

Ch. I.....54829
23.....56456
39.....54830
61.....54414
71.....54308, 54309, 54831, 55887
75.....54309, 55688, 56365
120.....56386
121.....56366
135.....56366

15 CFR

904.....54429, 56131

Proposed Rules:

929.....56506

16 CFR

13.....55210, 55211
1000.....54927

Proposed Rules:

13.....54452, 55398

17 CFR

200.....54764, 55211
210.....54764
229.....54764, 55661
230.....54764
239.....54764, 55661
240.....54057, 54764, 55661
249.....54764, 55661
260.....54764

Proposed Rules:

240.....55491
270.....56509

18 CFR

271.....54928
274.....54063

Proposed Rules:

271.....55248
385.....54981

19 CFR

4.....54064
10.....55470
18.....55470
19.....55470
22.....55470
24.....55470
101.....55913
113.....55470
125.....55470
127.....55470
132.....55470
142.....55470
144.....55470

Proposed Rules:

4.....54092
148.....54092
177.....55400

20 CFR

416.....55212
609.....54686
614.....54696

21 CFR

5.....54750, 55470
74.....54429, 56489
81.....54429, 56489
82.....54429, 56489
145.....55471
172.....55475
175.....54430
193.....55214
201.....54750
330.....54750
444.....56489
520.....55472
522.....55472
558.....54929

Proposed Rules:

145.....55496
182.....54454, 56513
184.....54454, 54456, 56513
186.....54454
310.....55497
333.....54981
348.....54982
357.....55076, 55497
358.....54646
886.....55497

22 CFR

9.....55594
22.....56328
51.....56329

24 CFR

15.....55669
50.....56266
200.....54790
203.....54790
204.....54790
213.....54790
220.....54790
221.....54790
222.....54790
226.....54790
227.....54790
233.....54790
235.....54430, 54790
237.....54790
240.....54790
300.....55669
804.....54293, 54790
805.....54293, 54790, 55136
812.....54790
841.....54790, 55136
860.....54293
880.....54293
881.....54293
882.....54293
883.....54293
884.....54293
885.....56490
886.....54293
888.....56133
890.....54431

Proposed Rules:

571.....55868
860.....55689
866.....55689
888.....55764

26 CFR

1.....54296, 54791, 54803, 55477, 56330, 56490
35.....54065, 55215
601.....56330

Proposed Rules:

1.....54093, 55247, 55696, 55697, 56367
11.....54093
31.....55248
54.....54093
601.....54459, 54461

27 CFR

9.....55915

Proposed Rules:

9.....55492, 55954–55961, 56369

28 CFR

2.....56334
540.....55128, 56134

Proposed Rules:

2.....54982
540.....55131
551.....55131, 56144

29 CFR

102.....54432
1903.....55478
1910.....54433
2610.....55670
2619.....56134
2621.....55672
2622.....55670

30 CFR

901.....56492
906.....56342
914.....56493
944.....55672
946.....55675

Proposed Rules:

55.....55499
56.....55499
57.....55499
75.....55499
77.....55499
221.....54462
903.....55249
934.....55499
936.....54472
942.....54474

31 CFR

53.....55481, 56351
55.....56351
81.....56351
90.....56351
92.....56351
93.....56351
120.....56351
121.....56351
122.....56351
127.....56351

Proposed Rules:

1.....54475
10.....56144

32 CFR

1285.....54929
1662.....56494

Proposed Rules:

701.....54104

33 CFR

1.....54298
2.....54298
110.....56354
114.....54298
115.....54298
117.....54298–54301
165.....54301, 55391
209.....55916

Proposed Rules:

110.....54310
117.....55400
165.....56370
207.....54832

34 CFR

Proposed Rules:

201.....54718
202.....54718
203.....54718
204.....54718
300.....54311
302.....54718

35 CFR

103.....54071
105.....54071
107.....54071
109.....54071
111.....54071
113.....54071
119.....54071
123.....54071

Proposed Rules:

103.....54105
113.....54105
119.....54105
123.....54105

36 CFR

7.....54930–54932, 55391, 55917

38 CFR

3.....54435
17.....55482

39 CFR

3.....56495
4.....56495
6.....56495
8.....56495
3001.....55392

Proposed Rules:

3001.....55698

40 CFR

50.....54896
52.....54072, 54312, 54808, 54933–54936, 55393, 55678, 55919, 56497
60.....54073, 54258, 54259
81.....54080
123.....55680
180.....55221–55225, 56135, 56136

300.....55488
415.....55226
440.....54598
465.....54232
716.....54642
761.....54436

Proposed Rules:
Ch. I.....55880
35.....56372
52.....54476, 54984, 55400, 55500, 55964, 55965, 56516, 56518
60.....55966, 56118
86.....54250
123.....56520
130.....56372
162.....55967
180.....54106, 55249, 55699
201.....54107, 54313
202.....54313
204.....54108
205.....54108–54111
228.....54834
403.....54477
439.....56373
455.....56373
461.....55502
464.....55502
467.....56373
468.....55502

41 CFR

101–36.....54810, 54937
101–47.....56499

Proposed Rules:
Ch. 9.....56256

42 CFR

52d.....55227
55a.....55227
57.....54437
58.....54437
86.....55227
401.....54939
405.....54302, 54811, 54939, 55282
488.....56282
489.....56282

Proposed Rules:
124.....54314
405.....54113
447.....54113

43 CFR

3833.....56300

Proposed Rules:
4.....56521
3200.....56151
4100.....55402

44 CFR

6.....54815
64.....54816, 55921, 55922
65.....54941
67.....54941, 55228, 55241
70.....54440–54444
205.....55756

Proposed Rules:
59.....55752
60.....55752
67.....54477, 54478, 54835, 55251

45 CFR

74.....55227
97.....56466
600.....54081
612.....54943
680.....54081
681.....54081
682.....54081
683.....54081
684.....54081
1336.....55227
1601.....54943

46 CFR

67.....54305
536.....56138

Proposed Rules:
507.....55969

47 CFR

0.....55924
2.....55241
63.....54944
67.....55681
73.....54444, 54446, 55242, 55243, 55681–55683, 55924, 56355, 56356
74.....54446, 55931,
87.....54449
90.....54450
97.....55241

Proposed Rules:
15.....55251
34.....55974
35.....55974
67.....54479, 55699
73.....54519–54522, 55256, 55974
76.....54523
81.....54836

49 CFR

Ch. X.....54081, 55686
7.....55683
171.....54817, 54824
172.....54817, 54824
173.....54817, 54824
175.....54817, 54824
177.....54824
178.....54824
195.....55396
225.....56357
531.....55684
601.....55683
1003.....55939
1011.....55950
1043.....55939
1057.....54083
1249.....56359
1306.....54083

Proposed Rules:
Ch. X.....54985, 55975
29.....55700
571.....54839
1003.....55976
1039.....55257
1043.....55976, 55980
1084.....55976, 55980
1220.....56152

50 CFR

16.....56360
20.....55397
23.....54968
540.....55488
663.....56138
671.....54451

Proposed Rules:
29.....54840
611.....54841
652.....54985
671.....54125
675.....54841

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.) Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/MA	LABOR		DOT/MA	LABOR
DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
DOT/RSPA			DOT/RSPA	
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last Listing October 28, 1982

12-20-82
Vol. 47 No. 244
Pages 56617-56810

federal register

Monday
December 20, 1982

Selected Subjects

Administrative Practice and Procedure
Housing and Urban Development Department
Air Pollution Control
Environmental Protection Agency
Anchorage Grounds
Coast Guard
Authority Delegations (Government Agencies)
Agriculture Department
Aviation Safety
Federal Aviation Administration
Coal Mining
Surface Mining Reclamation and Enforcement Office
Fisheries
National Oceanic and Atmospheric Administration
Flood Insurance
Federal Emergency Management Agency
Marketing Agreements
Agricultural Marketing Service
Motor Vehicle Safety
National Highway Traffic Safety Administration
National Banks
Comptroller of Currency
Oil Pollution
Coast Guard
Privacy
Housing and Urban Development Department
CONTINUED INSIDE

Selected Subjects

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The **Federal Register** will be furnished by mail to subscribers, free of postage, for $300.00 per year, or $150.00 for six months, payable in advance. The charge for individual copies is $1.50 for each issue, or $1.50 for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the **Federal Register**.

Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

Radio
Federal Communications Commission

Radio Broadcasting
Federal Communications Commission

Reporting and Recordkeeping Requirements
Federal Communications Commission

Television Broadcasting
Federal Communications Commission

Water Pollution Control
Environmental Protection Agency

Contents

Federal Register
Vol. 47, No. 244
Monday, December 20, 1982

The President
PROCLAMATIONS
56617 Communications Year 1983, World (Proc. 5006)

Executive Agencies

Agency for International Development
NOTICES
Authority delegations:
56725 Government Property Resources Division, Chief, et al.; contracting functions

Agricultural Marketing Service
RULES
56619 Oranges, grapefruit, tangerines, and tangelos grown in Fla.

Agriculture Department
See also Agricultural Marketing Service.
RULES
Authority delegations by Secretary and General Officers:
56619 Small Community and Rural Development Under Secretary et al.; corrected authority citations
NOTICES
Senior Executive Service:
56688 Bonus award schedules

Air Force Department
NOTICES
56693 Privacy Act; systems of records

Civil Rights Commission
NOTICES
Senior Executive Service:
56688 Performance Review Board; membership

Coast Guard
PROPOSED RULES
Anchorage regulations:
56661 Delaware Bay and River
Pollution:
56786 Tank vessels carrying oil in bulk; cargo monitors installation and use; supplemental notice

Commerce Department
See International Trade Administration; National Oceanic and Atmospheric Administration.

Comptroller of Currency
PROPOSED RULES
National and District of Columbia banks:
56652 Assessment of fees

Defense Department
See Air Force Department.

Drug Enforcement Administration
NOTICES
Registration applications, etc.; controlled substances:
56744 Andrews, Ronald Wardell, M.D.
56744 Fendler, Eleanor J.

Economic Regulatory Administration
NOTICES
Powerplant and industrial fuel use; electric utility conservation:
56696 Plan receipts; approvals
Remedial orders:
56695 Amcole Energy Corp.
56695 Anshutz Petroleum Marketing Corp.
56696 Consolidated Materials, Inc., et al.
56696 Cumberland Farms Dairy, Inc.
56696 Reinauer Petroleum Co.

Energy Department
See also Economic Regulatory Administration; Energy Information Administration; Hearings and Appeals Office, Energy Department.
NOTICES
Contract suspension and debarment:
56694 Postell, Earl R.
Meetings:
56695 Dose Assessment Advisory Group

Energy Information Adminstration
NOTICES
56699 Natural gas, high cost; alternative fuel price ceilings and incremental price threshold

Environmental Protection Agency
RULES
Air pollutants, hazardous; national emission standards:
56626 Pennsylvania
Air quality implementation plans; approval and promulgation; various States, etc.:
56625 Missouri
PROPOSED RULES
Air pollution control; new motor vehicles and engines:
56662 High-altitude locations; designation; hearing
Water pollution control:
56663 Ocean dumping; Atlantic Ocean off Delaware Bay; site designation
56665 Ocean dumping; New York Bight sewage sludge dump sites; redesignation petition
NOTICES
56700 Agency forms submitted to OMB for review

Federal Aviation Administration
RULES
Airworthiness directives:
56622 Cessna
56620 DeHavilland
56621 Dornier
56623 Control zones and transition areas
56624 Transition areas
PROPOSED RULES
Airmen certification:
56654 Medical certificates, third-class; extended duration; correction

Airworthiness directives:
56653 Piper
56659 Jet routes
56656 Restricted areas
56654 Transition areas
56655 VOR Federal airways
NOTICES
56765 Exemption petitions; summary and disposition

Federal Communications Commission
RULES
Radio services, special:
56636 Aviation services; aircraft radio stations temporary operating authorization procedure
Television stations; table of assignments:
56638 California
56638 Maryland
PROPOSED RULES
Radio services, special:
56673 Maritime services; removal of unnecessary reporting and recordkeeping requirements
56677 Radio control and citizens band services; elimination of individual station licenses
Radio stations; table of assignments:
56672 Alaska
NOTICES
Common carrier services:
56707 Telephone companies; prescription of revised percentages of depreciation; Bell Telephone Co. of Nevada et al.
56717 Telephone companies; prescription of revised percentages of depreciation; Continental Telephone Co. of California et al.
56714 Telephone companies; prescription of revised percentages of depreciation; General Telephone Co. of the Northwest Inc., et al.
Hearings, etc.:
56703 Advanced Mobile Phone Service, Inc., et al.
56701 Dennis Mobilfone et al.
56775 Meetings; Sunshine Act (2 documents)

Federal Emergency Management Agency
RULES
56627 Flood elevation determinations; change in format and content of newspaper notices and final rules
Flood insurance; special hazard areas; map corrections:
56629, 56630 Florida (4 documents)
56631, 56632 Maryland (2 documents)
56634 Michigan
56632, 56635, 56636 New Jersey (3 documents)
56633 South Carolina
56633, 56634 Texas (2 documents)
PROPOSED RULES
Flood elevation determinations:
56668, 56669 California (2 documents)
56669 Colorado
56670 Nevada
56671 Oregon
56671 Texas; correction
NOTICES
Disaster and emergency areas:
56720 Arkansas
56720 Missouri

Federal Home Loan Bank Board
NOTICES
Applications, etc.:
56721 City Federal Savings & Loan Association
56776 Meetings; Sunshine Act (2 documents)

Federal Maritime Commission
NOTICES
56722 Agreements filed, etc.
Freight forwarder licenses:
56721 Alas Cargo Service, Inc.
56721 Commercial Shipping Corp. et al.
56722 Falabella, Oswald A.
56722 Mia Forwarders, Inc.

Fiscal Service
NOTICES
Surety companies acceptable on Federal bonds:
56771 Voyager Casualty Insurance Co.

General Services Administration
See National Archives and Records Service.

Health and Human Services Department
NOTICES
Medicare:
56723 Social Security Advisory Council review of program; hearings

Hearings and Appeals Office, Energy Department
NOTICES
Applications for exception:
56697, 56698 Cases filed (2 documents)

Housing and Urban Development Department
RULES
56624 Rulemaking, policy and procedures; removal of references to final report on improving government regulations
PROPOSED RULES
56660 Privacy Act; implementation
NOTICES
56723 Agency forms submitted to OMB for review

Indian Affairs Bureau
NOTICES
Grant applications and proposals; closing dates:
56724 Child and family service programs
56723 Grants, child and family service program; grant fund distribution formula

Interior Department
See Indian Affairs Bureau; Land Management Bureau; Surface Mining Reclamation and Enforcement Office.

International Development Cooperation Agency
See Agency for International Development.

International Trade Administration
NOTICES
Antidumping:
56690 Prestressed concrete steel wire strand from United Kingdom
Countervailing duties:
56688 Softwood products from Canada
Meetings:
56689, 56690 Computer Systems Technical Advisory Committee (4 documents)

Interstate Commerce Commission
NOTICES
Motor carriers:
56741 Finance applications
56732-56741 Permanent authority applications (3 documents)
56742 Permanent authority applications; restriction removals
56726 Temporary authority applications
Railroad service abandonment:
56743 Burlington Northern Railroad Co.

Justice Assistance, Research, and Statistics Office
NOTICES
Grants; availability, etc.:
56745 Regional information sharing system (RISS) projects; inquiry

Justice Department
See also Drug Enforcement Administration; Justice Assistance, Research, and Statistics Office.
NOTICES
56743 Agency forms submitted to OMB for review

Land Management Bureau
NOTICES
Alaska native claims selection; applications, etc.:
56724 Napaskiak Inc. et al.; correction

Legal Services Corporations
NOTICES
56775 Meetings; Sunshine Act

National Archives and Records Service
NOTICES
Meetings:
56722 Preservation Advisory Committee

National Highway Traffic Safety Administration
RULES
Bumper standards:
56640 Test impact speeds reduction and damage resistance criteria modification; petitions for reconsideration denied

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
56650 Foreign fishing; 1983 poundage fee schedule, discounted fees, and competitive bidding; extension of time
NOTICES
Meetings:
56692 North Pacific Fishery Management Council

National Science Foundation
NOTICES
Meetings:
56751 Behavioral and Neural Sciences Advisory Panel
56751 Biotic Systems and Resources Advisory Panel (3 documents)
56750 Physics Advisory Committee
56752 Physiology, Cellular and Molecular Biology Advisory Panel

Postal Rate Commission
NOTICES
Post office closing; petitions for appeal:
56752 Liberty Farms, Calif.

Research and Special Programs Administration, Transportation Department
NOTICES
Hazardous materials:
56766 Applications; exemptions, renewals, etc.
Hazardous materials; inconsistency rulings:
56766 Ritter Transportation Inc. et al.; correction

Securities and Exchange Commission
NOTICES
Hearings, etc.:
56753 Chicago Partners I et al.
56754 Merchants Bancorporation
56757 Prime Cash Fund
56758 Trinity Liquid Assets Trust
Self-regulatory organizations; proposed rule changes:
56760 Midwest Clearing Corp.
56760 Options Clearing Corp.
56761 Pacific Clearing Corp.
56762 Pacific Securities Depository Trust Co.
56762 Philadelphia Stock Exchange, Inc. (2 documents)

Small Business Administration
NOTICES
Applications, etc.:
56763 Doan Resources Corp.
56764 Sunwestern Capital Corp.

State Department
NOTICES
Meetings:
56764 Private International Law Advisory Committee (2 documents)
56764, 56765 Shipping Coordinating Committee (2 documents)

Surface Mining Reclamation and Enforcement Office
RULES
Coal mining; Federal/State cooperative agreements:
56800 New Mexico
NOTICES
Environmental statements; availability, etc.:
56725 North Dakota abandoned mine lands reclamation plan

Transportation Department
See Coast Guard; Federal Aviation Administration; National Highway Traffic Safety Administration; Research and Special Programs Administration, Transportation Department.

Treasury Department
See also Comptroller of Currency; Fiscal Service.
NOTICES
56770 Agency forms submitted to OMB for review
Bonds, Treasury:
56771 2003 series
Notes, Treasury:
56773 C–1990 series

United States Information Agency
NOTICES
Meetings:
56774 Public Diplomacy, U.S. Advisory Commission

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR
Proclamations:
5006..... 56617

7 CFR
2..... 56619
905..... 56619

12 CFR
Proposed Rules:
8..... 56652

14 CFR
39 (3 documents)..... 56620–56622
71 (2 documents)..... 56623, 56624
Proposed Rules:
39..... 56653
61..... 56654
71 (3 documents)..... 56654–56656
73..... 56656
75..... 56659

24 CFR
10..... 56624
Proposed Rules:
16..... 56660

30 CFR
931..... 56800

33 CFR
Proposed Rules:
110..... 56661
157..... 56786

40 CFR
52..... 56625
61..... 56626
81..... 56625
Proposed Rules:
86..... 56662
228 (2 documents)..... 56663, 56665

44 CFR
67..... 56627
70 (13 documents)..... 56629–56636
Proposed Rules:
67 (6 documents)..... 56668–56671

47 CFR
1..... 56636
73 (2 documents)..... 56638
87..... 56636
Proposed Rules:
73..... 56672
81..... 56673
83..... 56673
95..... 56677

49 CFR
581..... 56640

50 CFR
611..... 56650

Federal Register
Vol. 47, No. 244
Monday, December 20, 1982

Presidential Documents

Title 3—

The President

Proclamation 5006 of December 16, 1982

World Communications Year 1983: Development of Communications Infrastructures

By the President of the United States of America

A Proclamation

The United Nations' General Assembly has proclaimed 1983 World Communications Year: Development of Communications Infrastructures. Its purpose is to stimulate accelerated worldwide development of communications infrastructures and to provide an opportunity for all countries to undertake an in-depth review and analysis of their policies on communications development.

Communications systems have taken on an increasingly vital role in every facet of economic, political, and social progress. While there have been remarkable advances in both this technology and its applications—ranging from health care, education, and banking transactions to weather observations and earth resource location—many nations have not been able to benefit appreciably from these capabilities.

Through partnership of United States private businesses, in cooperation with the International Telecommunication Union, we have an opportunity to promote the well-being of people around the globe. I encourage the United States communications industry—with its position of world leadership in this technology—to actively and voluntarily support this effort to stimulate the development of communications infrastructures in all nations.

NOW, THEREFORE, in keeping with the goals of the World Communications Year, I, RONALD REAGAN, President of the United States of America, do hereby proclaim 1983 as World Communications Year: Development of Communications Infrastructures, in the United States.

IN WITNESS WHEREOF, I have hereunto set my hand this 16th day of Dec., in the year of our Lord nineteen hundred and eighty-two, and of the Independence of the United States of America the two hundred and seventh.

Ronald Reagan

[FR Doc. 82-34617
Filed 12-17-82; 11:43 am]
Billing code 3195-01-M

Editorial Note: The President's remarks of December 16 on signing Proclamation 5006 are printed in the *Weekly Compilation of Presidential Documents* (vol. 18, no. 50).

Rules and Regulations

Federal Register
Vol. 47, No. 244
Monday, December 20, 1982

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 2

Revision of Delegations of Authority

AGENCY: Office of the Secretary, USDA.

ACTION: Final rule.

SUMMARY: This document revises the delegations of authority from the Secretary of Agriculture and General Officers to correct citations of authority.

EFFECTIVE DATE: December 20, 1982.

FOR FURTHER INFORMATION CONTACT: Robert L. Siegler, Deputy Assistant General Counsel, Office of the General Counsel, USDA, Washington, D.C., 20250, (202) 447-6035.

SUPPLEMENTARY INFORMATION: Section 1444(b) of the Agriculture and Food Act of 1981, Pub. L. 97–98 redesignated section 509 of the Rural Development Act of 1972, as amended, as section 508. The redesignated section, administered by the Commodity Credit Corporation, with the assistance of the Farmers Home Administration, provides for pilot projects for the production and marketing of industrial hydrocarbons and alcohols from agricultural commodities and forest projects. Accordingly, the delegations of authority to the Under Secretary for Small Community and Rural Development and the Administrator, Farmers Home Administration are revised to reflect the new citation.

In addition, Pub. L. 97–258 enacted into positive law title 31, United States Code. The Military Personnel and Civilian Employees Claims Act of 1964, as amended, formerly cited as 31 U.S.C. 240–243 is now cited as 31 U.S.C. 3721. Accordingly, the delegations of authority to the General Counsel, who is authorized to settle claims on behalf of the Department under the Act are revised to reflect the new citation.

This rule relates to internal agency management. Therefore, pursuant to 5 U.S.C. 553, it is found upon good cause that notice and other public procedures with respect thereto are impractical and contrary to the public interest, and good cause is found for making this rule effective less than 30 days after publication in the **Federal Register**. Further, since this rule relates to internal agency management it is exempt from the provisions of Executive Order 12291. Finally, this action is not a rule as defined by Pub. L. 96–354, the Regulatory Flexibility Act, and thus is exempt from the provisions of the Act.

List of Subjects in 7 CFR Part 2

Authority delegations (Government agencies).

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

Accordingly, Part 2, Subtitle A, Title 7, Code of Federal Regulations is amended as follows:

1. The authority citation for Part 2 reads as follows:

Authority: 5 U.S.C. 301 and Reorganization Plan No. 2 of 1953, unless otherwise noted.

Subpart C—Delegations of Authority to the Deputy Secretary, the Under Secretary for International Affairs and Commodity Programs, the Under Secretary for Small Community and Rural Development, and Assistant Secretaries

2. Section 2.23 is amended by revising paragraph (a)(15) to read as follows:

§ 2.23 Delegations of authority to the Under Secretary for Small Community and Rural Development.

(a) * * *

(15) Assist the Commodity Credit Corporation in administering section 508 of the Rural Development Act of 1972, as amended (7 U.S.C. 2668).

* * * * *

Subpart D—Delegations of Authority to Other General Officers and Agency Heads

3. Section 2.31 is amended by revising paragraph (b) to read as follows:

§ 2.31 Delegations of authority to the General Counsel.

* * * * *

(b) Determine, settle, and pay claims submitted by employees of the Department under the Military Personnel and Civilian Employees Claims Act of 1964, as amended (31 U.S.C. 3721).

* * * * *

Subpart I—Delegations of Authority by the Under Secretary for Small Community and Rural Development

4. Section 2.70 is amended by revising paragraph (a)(30) to read as follows:

§ 2.70 Administrator, Farmers Home Administration.

(a) * * *

(30) Assist the Commodity Credit Corporation in administering section 508 of the Rural Development Act of 1972, as amended (7 U.S.C. 2668).

* * * * *

Dated: December 13, 1982.

John R. Block,
Secretary of Agriculture.

Dated: December 15, 1982.

Frank W. Naylor, Jr.,
Under Secretary for Small Community and Rural Development.

[FR Doc. 82-34446 Filed 12-17-82; 8:45 am]
BILLING CODE 3410-01-M

Agricultural Marketing Service

7 CFR Part 905

[Orange, Grapefruit, Tangerine and Tangelo Reg. 6, Amdt. 18]

Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Limitation of Shipments

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to final rule.

SUMMARY: This amendment establishes a total limitation of shipment regulation for fresh Florida oranges, grapefruit, tangerines, and tangelos during the period beginning at 6:00 p.m., e.s.t., December 22, 1982, and ending 12:01 a.m., e.s.t., December 28, 1982. The regulation is needed to assist in preventing the accumulation of excessive market supplies of the specified fruits during the Christmas

Holiday period specified, in which it is anticipated there will be a greatly reduced market demand.

EFFECTIVE DATE: 6:00 p.m., e.s.t., December 22, 1982.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it would not measurably affect costs for the directly regulated handlers.

This rule is issued under the marketing agreement, as amended, and marketing Order No. 905, as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines and tangelos grown in Florida, hereinafter referred to collectively as the order. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendations and information submitted by the Citrus Administrative Committee established under the order and other available information. It is found that this action will tend to effectuate the declared policy of the act.

This amendment reflects the Department's appraisal of the marketing situation during the period immediately prior to the week in which Chrismas Day occurs and for the period immediately following. It is anticipated that shipments of fresh oranges, grapefruit, tangerines, and tangelos prior to Christmas Day will result in market supplies in excess of market needs. An accumulation of excessive quantities of any variety of citrus fruit in the markets during the period immediately prior to and following Christmas contributes to unstable marketing conditions. It is reported that, absent the shipping holiday, excessive shipments of the specified fruits would occur, causing an accumulation of these varieties of fruit in the market prior to and during the post-holiday period, a period in which there is a drop in consumer demand. Hence the curtailment of orange, grapefruit, tangerine and tangelo shipments, as hereinafter specified, would contribute to a better-managed supply situation and in turn to the establishment of orderly marketing.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this amendment until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this amendment is based and the effective date necessary to effectuate the declared purposes of the act. A reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions of this amendment effective at the time specified. Determination as to the need for, and extent of, regulation under § 905.52(a)(3) must await the development of the crop and the availability of information about market supplies and the demand for such fruits. The recommendation and supporting information for such regulation were promptly submitted to the Department after an open meeting of the committee, after notice to growers, shippers, and interested persons had been given, and all present were afforded an opportunity to submit information and views. Information regarding specifications of the regulation has been provided to shippers, and the regulation is identical with the recommendations of the committee. Compliance with the regulation will not require any special preparation on the part of persons subject thereto which cannot be completed on or before the effective time.

List of Subjects in 7 CFR Part 905

Marketing agreements and orders, Florida, Grapefruit, Oranges, Tangelos, Tangerines.

PART 905—[AMENDED]

Accordingly, § 905.306 is amended by redesignating paragraph (d) as paragraph (e) and a new paragraph (d) is added to read as follows:

§ 905.306 Orange, grapefruit, tangerine and tangelo regulation 6.

* * * * *

(d) Notwithstanding the provisions of Table 1 in paragraph (a) of this section during the period beginning at 6:00 p.m., e.s.t., December 22, 1982, and ending at 12:01 a.m., e.s.t., December 28, 1982, no handler shall ship between the production area and any point outside thereof in the continental U.S., Canada, or Mexico, any oranges, grapefruit, tangerines, or tangelos, of the varieties or types, specified in paragraph (a) Table I of this section, grown in the production area.

* * * * *

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: December 14, 1982.

D. S. Kuryloski,

Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 82-34447 Filed 12-17-82; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 82-CEF-9-AD; Amdt. 39-4547]

Airworthiness Directives; DeHavilland Model DHC-6 Airplane

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) which requires inspection and repair, as necessary, of the windscreen washer/deicer system and installation of a heated windscreen in DeHavilland Model DHC-6 airplanes certificated for flight into icing conditions. There have been a number of reported incidents of alcohol leakage in the crew compartment due to defective components of the windscreen washer/deicing system. In one such incident, an inflight fire occurred in the crew compartment. Installation of the heated windscreen eliminates the need for alcohol deicing of the windscreen. The required inspections of the windscreen washer/deicing system minimize the probability of alcohol leakage and resulting crew compartment fire until airplanes are modified.

EFFECTIVE DATE: December 27, 1982. Compliance: As prescribed in the body of the AD.

ADDRESSES: DeHavilland Service Bulletin No. 6/422, Revision A dated June 18, 1982, and DeHavilland Modification No. S.O.O. 6007, Issue 7, dated May 17, 1982, applicable to this AD may be obtained from DeHavilland Aircraft of Canada Limited, Garratt Blvd., Downsview, Ontario, Canada M3K 185. A copy of both the Service Bulletin and the Modification is contained in Rules Docket, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Peter Cuneo, Federal Aviation

Administration, Systems and Equipment Section, ANE–173, New York Aircraft Certification Office, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581. Telephone (516) 791–6427; or Paul Cormaci, Federal Aviation Administration, ACE–109, 601 E. 12th Street, Kansas City, Missouri 64106; Telephone (816) 374–6932.

SUPPLEMENTARY INFORMATION: There has been an incident of an inflight fire in the crew compartment and forward passenger area of a DeHavilland DHC–6 airplane. The fire occurred after the copilot had activated the windscreen washer/deicing switch and apparently resulted from ignition of isopropyl alcohol which leaked from windscreen washer/deicing system components located in the crew compartment. There have been a number of incidents of such leakage in U.S. registered DHC–6 airplanes.

To preclude recurrence the Canadian Minister of Transport issued an Airworthiness Directive, AD No. CF–82–20 dated July 7, 1982, which prohibits use of isopropyl alcohol in the windscreen/deicing system and requires installation of an electrically heated windscreen in accordance with DeHavilland Modification S.O.O. 6007. The Canadian AD allows until April 1, 1983, for accomplishment of the installation, during which time the airplanes may be operated with isopropyl alcohol as a deicing fluid with periodic washer/deicing system inspection, and if necessary repair in accordance with DeHavilland Service Bulletin No. 6/422, Revison A dated June 18, 1982.

Since the condition described herein is likely to exist or develop on other airplanes of the same type design, the FAA is issuing an AD applicable to DeHavilland Model DHC–6 airplanes. This AD will prohibit use of isopropyl alcohol in the windscreen washer/deicing system after November 30, 1983. It requires installation of an electrically heated windscreen in DHC–6 airplanes certificated for flight into icing conditions by this date and periodic inspection of the windscreen washer/deicing system in these airplanes until this installation is accomplished.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aircraft, Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new AD.

DeHavilland: Applies to Model DHC–6 (serial numbers 1 through 709, 711 through 735, 737 through 753, 755 through 761, 763 through 779, and 791) airplanes which incorporate a windscreen washer/deicing system certificated in any category.

Compliance: Required as indicated unless already accomplished. To prevent leakage of isopropyl alcohol in the crew compartment and a possible crew compartment fire, accomplish the following:

(a) Within the next 25 hours time-in-service after the effective date of this AD, and each 200 hours time-in-service thereafter inspect the windscreen washer/deicing system for evidence of leaks in accordance with the Accomplishment Instructions of DeHavilland Service Bulletin S/B No. 6/422, Revision A dated June 18, 1982.

(1) Replace any defective components which could cause leaks and ensure that all tubing is secured in accordance with Accomplishment Instructions Step 3 and Step 6.

(b) On or before November 30, 1983

(1) Install a permanent placard having letters of ⅛-inch minimum height on or near the washer/deicing fluid tank filler which states "DO NOT USE ISOPROPYL ALCOHOL OR ISOPROPYL ALCOHOL MIXTURES."

(2) Install a placard having letters of ⅛-inch minimum height adjacent to the windscreen washer/deicing system switch which states "WASHER ONLY."

and operate the airplane in accordance with these placard limitations.

(3) On airplanes certificated for flight into icing conditions, install an electrically heated windscreen in accordance with DeHavilland Modification S.O.O. 6007, Issue 7 dated May 17, 1982.

(c) The inspections per paragraph (a) of this AD need not be accomplished when the placards required by paragraph (b) are installed.

(d) The airplane may be flown in accordance with Federal Aviation Regulation 21.197 to a location where this AD can be accomplished.

(e) An equivalent method of compliance with this AD may be used if approved by the Manager, New York Aircraft Certification Office, ANE–170, Federal Aviation Administration, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581, Telephone: (516) 791–6680.

This amendment becomes effective on December 27, 1982.

(Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Section 11.89 of the Federal Aviation Regulations (14 CFR 11.89))

Note: The FAA has determined that this regulation involves an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impractical for the Agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the Rules Docket identified under the caption "**ADDRESSES.**"

Issued in Kansas City, Missouri on December 9, 1982.

Murray E. Smith,

Director, Central Region.

[FR Doc. 82–34386 Filed 12–17–82; 8:45 am]

BILLING CODE 4910–13–M

---

14 CFR Part 39

[Docket No. 82–CEF–11–AD; Amdt. 39–4518]

Airworthiness Directives; Dornier Model DO28D–1 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), which requires repetitive inspections and modification of the ARC PA–500A autopilot actuator assembly installed in certain Dornier Model DO28D–1 airplanes. The PA–500A autopilot has demonstrated a gear box jamming problem which can result in restriction of control movement. The inspections or modification required by this AD will prevent limitation of control movement due to this condition.

DATES: December 27, 1982.

Compliance: As indicated in the body of the AD.

ADDRESSES: Dornier Service Bulletin 1069–2820, dated May 27, 1980, applicable to this AD may be obtained from Dornier GMBH, Sales and Service Department, D–8000 Munchen 66, POB 2160, Federal Republic of Germany. A copy of this information is also contained in the Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: C. Christie, Manager, Aircraft Certification Staff, AEU–100, Europe, Africa and Middle East Office, FAA, c/o American Embassy, Brussels, Belgium or P. Cormaci, Manager, Foreign FAR 23

Section, ACE-109, Central Region, FAA, 601 East 12th Street, Kansas City, Missouri 64106; Telephone (816) 374-6932.

SUPPLEMENTARY INFORMATION: The FAA issued AD 76-04-03 applicable to certain Cessna model airplanes which incorporated the ARC PA-500A autopilot actuator because gear box jamming had been encountered on actuators installed in those airplanes. At that time the FAA was unaware that the ARC PA-500A actuators were also installed on Dornier Model DO228D-1 airplanes. The FAA has now found that the cited jamming problem may also occur on these components when installed on the Dornier DO28D-1 airplanes.

Since the FAA has determined that the unsafe condition described herein is likely to exist or develop in other airplanes of the same type design, an AD is being issued requiring modification of the ARC PA-500A autopilot actuators and an initial and repetitive inspection of the actuators until this modification is accomplished on Dornier DO28D-1 airplanes. Because an emergency condition exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and contrary to the public interest, and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new AD.

Dornier: Applies to Model DO28D-1 (Serial Nos. 4036, 4037, 4050, 4055 through 4058, 4303, 4306 through 4318, 4321 through 4325, 4331 and 4332) airplanes, certificated in any category, when equipped with ARC PA-500A autopilot actuators.

Compliance: Required as indicated, unless already accomplished.

To prevent restriction of control movement due to jamming of the ARC PA-500A actuator gear train, accomplish the following:

(a) Within the next 100 hours time-in-service after the effective date of this AD and thereafter at intervals not to exceed 100 hours time-in-service, inspect the ARC PA-500A actuator in accordance with Dornier Service Bulletin No. 1069-2820, dated May 27, 1980, which incorporates ARC Field Engineering Service Bulletin No. 181. Prior to further flight correct any unsafe condition noted by adjustment or replacement of parts as necessary.

(b) Within 12 months after the effective date of this AD, modify the ARC Model PA-500A actuator(s) in accordance with Dornier Service Bulletin No. 1069-2820, dated May 27, 1980, which incorporates ARC Field Engineering Service Bulletin No. 181.

(c) The inspections required by paragraph (a) of this AD may be discontinued when the modifications required in paragraph (b) of this AD have been accomplished.

(d) Airplanes may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished.

(e) The intervals between repetitive inspections required by this AD may be adjusted up to 10 hours time-in-service to allow them to be accomplished concurrent with other scheduled maintenance on the airplane.

(f) An equivalent method of compliance with this AD may be used if approved by the Manager, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Office, FAA, c/o American Embassy, Brussels, Belgium.

This amendment becomes effective on December 27, 1982.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.89 of the Federal Aviation Regulations (14 CFR 11.89).

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the Rules Docket under the caption "**ADDRESSES**" at the location identified.

Issued in Kansas City, Missouri, on December 9, 1982.

Murray E. Smith,

Director, Central Region.

[FR Doc. 82-34367 Filed 12-17-82; 8:45 am]
BILLING CODE 4910-13-M

---

14 CFR Part 39

[Docket No. 82-CE-35-AD; Amdt. 39-4519]

Airworthiness Directives; Cessna Models 335, 340 and 340A Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to certain Cessna Models 335, 340 and 340A airplanes which requires initial and repetitive inspections of the rudder balance weight rib for cracks and replacement if cracks are found. Reports of cracked rudder balance weight attachment ribs have been received. Should these cracks progress to failure of the rib and loss of the rudder balance weight during flight, flutter of this control surface may occur. This action will assure detection of these cracks prior to failure of the rudder balance weight rib and loss of the rudder balance weight.

DATE: Effective date: December 27, 1982.

Compliance: As prescribed in the body of the AD.

ADDRESSES: Cessna Multi-engine Customer Care Service Information Letter ME 82-8, dated April 2, 1982, applicable to this AD, may be obtained from Cessna Aircraft Company, Marketing Division, Attention: Customer Service Department, Wichita, Kansas 67201; telephone (316) 685-9111. A copy of this Service Information Letter is also contained in the Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Lawrence S. Abbott, Aerospace Engineer, Aircraft Certification Office, Room 238, Terminal Building 2299, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 269-7005.

SUPPLEMENTARY INFORMATION: Rudder balance weights on Cessna Models 335, 340 and 340A airplanes are secured to the rudder by a rib that is cantilevered forward from the rudder tip. There have been reports that cracks have developed in the weight attach rib which could, if allowed to propagate, result in separation of the balance weight from the airplane during flight and rudder flutter may result. Cessna issued Service Information Letter ME 82-8 dated April 2, 1982, which specifies initial and repetitive inspections of the rudder balance weight rib for cracks. If rib cracking is found, this Service Information Letter recommends installation of a new rib, Cessna P/N 5331004-2 before further flight. This modification improves the overall strength of the rudder balance weight attachment and will eliminate the cracking problem described above. Accordingly, since the unsafe condition described above is likely to exist or develop in rudder balance weight ribs

installed on other airplanes of the same type design, an AD is being issued applicable to certain Cessna Models 335, 340 and 340A airplanes making compliance mandatory with those provisions of Cessna Service Information Letter ME 82–8, which specify initial and repetitive inspections and modification if cracks are found.

The FAA has determined that there is an immediate need for a regulation to assure safe operation of the affected airplanes. Therefore, notice and public procedure thereon is impracticable and contrary to the public interest and good cause exists for making the amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new AD.

Cessna: Applies to Models 335 (S/N 335–0001 through 335–0065), 340 (S/N 340–0001 through 340–0555), and 340A (S/N 340A0001 through 340A1521) airplanes certificated in any category.

Compliance: Required as indicated, unless already accomplished.

To ensure structural integrity of the rudder balance weight rib, accomplish the following:

(a) Within the next 100 hours time-in-service after the effective date of this AD and each 100 hours time-in-service thereafter, remove the fiberglass rudder tip cap and visually inspect the original rudder balance weight rib, Cessna P/N 0831311–1, for cracks. If cracks are found, before further flight, install a new rudder balance weight rib Cessna P/N 5331004–2.

(b) After Cessna P/N 5331004–2 rudder balance weight rib has been installed, the inspections required by paragraph (a) of this AD may be discontinued.

(c) Aircraft may be flown, in accordance with Federal Aviation Regulation 21.197, to a location where the provisions of this AD can be accomplished.

(d) Any equivalent method of compliance with this AD must be approved by the Manager, Aircraft Certification Office, Federal Aviation Administration, Room 238, Terminal Building 2299, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 269–7000.

Cessna Service Information Letter, ME 82–8 dated April 2, 1982, pertains to this subject.

This amendment becomes effective December 27, 1982.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.89 of the Federal Aviation Regulations (14 CFR 11.89).)

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the Rules Docket under the caption, "**ADDRESSES**" at the location identified therein.

Issued in Kansas City, Missouri, on December 10, 1982.

Murray E. Smith,

Director, Central Region.

[FR Doc. 82–34381 Filed 12–17–82; 8:45 am]

BILLING CODE 4910–13–M

---

14 CFR Part 71

[Airspace Docket No. 82–ANM–10]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the description of the Astoria, OR, transition area. A Standard Instrument Approach Procedure (SIAP) with Distance Measuring Equipment (DME) has been designated for Runway 13 at Astoria Airport. In order to provide controlled airspace for the approach, the current 700-foot transition area has been extended to provide adequate controlled airspace. Also, this alteration permits considerable reduction to the northwest extension of the control zone.

EFFECTIVE DATE: February 17, 1983.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Regulations and Obstructions Branch (AAT–230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426–8783.

SUPPLEMENTARY INFORMATION:

History

On October 4, 1982, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the description of the Astoria control zone (47 FR 43714). A new DME has been commissioned at Astoria. A VOR/DME instrument approach procedure is being designated for Runway 13. The new procedure requires extension of the present 700-foot Astoria transition area. This action permits more efficient use of that airspace, lowers the minimum altitudes, and aids flight planning. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Sections 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations were republished in Advisory Circular AC 70–3 dated January 29, 1982.

Rule

This amendment to Part 71 of the Federal Aviation Regulations amends the current 700-foot transition at Astoria Airport, OR, in order to provide controlled airspace for the approach to Runway 13. This alteration permits considerable reduiction to the northwest extension of the control zone.

List of Subjects in 14 CFR Part 71

Transition areas, Control zones, Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) are amended, effective 0901 G.m.t., February 17, 1983, as follows:

§ 71.171 [Amended]

Astoria, OR [Revised]

Within a 5-mile radius of the Clatsop County Airport, Astoria, OR, (lat. 46°09'31" N., long. 123°52'42" W.); and within 2 miles each side of the Astoria VOR 268° radial, extending from the 5-mile radius zone to 8 miles west of the VOR.

§ 71.181 [Amended]

Astoria, OR [Revised]

That airspace extending from 700 feet above the surface within a 5-mile radius of the Clatsop County Airport, Astoria, OR, (lat. 46°09'31" N., long. 123°52'42" W.); within 4.5 miles north and 9.5 miles south of the Astoria VOR 268° radial, extending from the 5-mile radius area to 18.5 miles west of the VOR, excluding the portion within a 2-mile radius of the Seaside State Airport (lat. 46°01'00" N., long. 123°54'15" W.); within 4.5 miles northeast and 9.5 miles southwest of the Astoria VOR 326° radial, extending from the 5-mile radius area to 24.5 miles northwest of the VOR; and within an 18.5-mile radius arc of the Astoria VOR/DME extending clockwise from the 326° radial to the 039° radial.

(Secs. 307(a), 313(a), and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a), and 1510); Executive Order 10854 (24 FR 9565); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on December 10, 1982.

B. Keith Potts,

Manager, Airspace and Air Traffic Rules Division.

[FR Doc. 82-34234 Filed 12-17-82; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 71

[Airspace Docket No. 82-ASW-66]

Designation of Transition Area; Covington, LA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment will designate a transition area at Covington, LA. The intended effect of the amendment is to provide controlled airspace for aircraft executing a new instrument approach procedure to the Richard Privette Airport. This amendment is necessary since there is a proposed standard instrument approach procedure (SIAP) to the Richard Privette Airport using the Picayune VORTAC. Coincident with this action, the airport is changed from visual flight rules (VFR) to instrument flight rules (IFR).

EFFECTIVE DATE: February 17, 1983.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch (ASW-535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101, telephone (817) 624-4911, extension 302.

SUPPLEMENTARY INFORMATION:

History

On October 18, 1982, a notice of proposed rulemaking was published in the **Federal Register** (47 FR 46296) stating that the Federal Aviation Administration proposed to designate the Covington, LA, transition area. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the Federal Aviation Administration. Comments were received without objections. Except for editorial changes, this amendment is that proposed in the notice.

List of Subjects in 14 CFR Part 71

Control zones, Transition areas, Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71, § 71.181, of the Federal Aviation Regulations (14 CFR Part 71) as republished in Advisory Circular AC 70-3 dated January 29, 1982, is amended, effective 0901 G.m.t., February 17, 1983, as follows:

Covington, LA New

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Richard Privette Airport (latitude 30°26'40" N., longitude 89°59'20" W.) and within 2 miles each side of the 243° radial of the Picayune VORTAC extending from the 5-mile radius area to 7 miles northeast of the airport.

(Sec. 307(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.61(c).)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Excutive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procadures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Fort Worth, TX, on December 8, 1982.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 82-34236 Filed 12-17-82; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 10

[Docket No. R-82-1064]

Rulemaking: Policy and Procedures

AGENCY: Office of the Secretary, HUD.

ACTION: Final rule.

SUMMARY: This final rule removes from the Code of Federal Regulations references to the Final Report on Improving Government Regulations. This report was instituted pursuant to Executive Order 12044, which has been revoked.

EFFECTIVE DATE: Upon expiration of the first period of 30 calendar days of continuous session of Congress after publication, but not before further notice of the effective date is published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Grady J. Norris, Assistant General Counsel for Regulations, Room 10278, Department of Housing and Urban Development, 451 7th Street, SW, Washington, D.C. 20410, telephone (202) 755-7055. [This is not a toll-free number.]

SUPPLEMENTARY INFORMATION: Pursuant to Executive Order 12044, March 24, 1978, each Executive Agency was required to publish in the **Federal Register** a Report on Improving Government Regulations. Executive Order 12044 was revoked on February 19, 1981, by Executive Order 12291 "Federal Regulation". The Report sets forth the former procedures for processing regulations which are outdated under the present system. Because the Report on Improving Government Regulations is no longer required, reference to it should be removed from the Code of Federal Regulations.

The subject matter of this rulemaking action relates to departmental procedure and is therefore exempt from the notice and public comment requirements of Section 553 of the Administrative Procedure Act.

This rule does not constitute a "major rule" as that term is defined in Section 1(b) of the Executive Order on Federal Regulation issued by the President on February 17, 1981. The rule does not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3)

have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

An environmental assessment, which is made routinely in accordance with HUD regulations in 24 CFR Part 50, pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, is unnecessary because this rule is clearly unrelated to environmental concerns and is considered to have no potential for significantly affecting the quality of the human environment.

Pursuant to the provisions of 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities because it pertains only to administrative Departmental procedure.

This rule is listed at 47 FR 48431 as item S–6–82 in the Department's Semiannual Agenda of Regulations published on October 28, 1982, pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

List of Subjects in 24 CFR Part 10

Policy and procedures.

PART 10—[AMENDED]

§ 10.1 [Amended]

Accordingly, 24 CFR Part 10 is amended by removing from § 10.1 the last two sentences which refer to the Final Report on Improving Government Regulations.

(Sec. 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d))

Dated: December 14, 1982.

Samuel R. Pierce, Jr.,

Secretary, Housing and Urban Development.

[FR Doc. 82–34428 Filed 12–17–82; 8:45 am]

BILLING CODE 4210–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA Action 941; A–7–FRL 2216–4]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes: State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: Section 107(d) of the Clean Air Act, as amended, provides for the designation of areas as either attainment, nonattainment, or unclassified with respect to the national ambient air quality standards. In today's action, EPA is redesignating Columbia, Missouri, from nonattainment to attainment with regard to the secondary standard for total suspended particulates (TSP).

DATE: This action will be effective February 18, 1983, unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

ADDRESSES: Copies of EPA's technical evaluation are available for inspection during normal business hours at the following locations: Air Branch, Environmental Protection Agency, 324 East 11th Street, Kansas City, Missouri 64106; Public Information Reference Unit, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460; Missouri Department of Natural Resources, 1101 Rear Southwest Boulevard, Jefferson City, Missouri 65102.

FOR FURTHER INFORMATION CONTACT: Wayne G. Leidwanger at (816) 374–3791 (FTS 758–3791).

SUPPLEMENTARY INFORMATION: In response to Section 107(d) of the Clean Air Act, as amended, EPA and the State of Missouri have designated all areas of the state as attaining the national ambient air quality standards, not attaining the standards, or having insufficent data to make a determination. An attainment area is one in which the air quality does not exceed the standards. A nonattainment area is one in which the air quality is worse than the standards. An unclassified area is one for which there are insufficient data to determine whether the area is attainment or nonattainment. At 40 CFR Part 81, Subpart C, the areas of the state which are nonattainment for one or more pollutants are identified.

On March 3, 1978, at 43 FR 8962, Columbia, Missouri, was designated nonattainment with respect to the secondary TSP standard. In order for EPA to redesignate an area from nonattainment to attainment for TSP, there must be at least eight consecutive quarters of valid air quality data showing that the air quality does not exceed the standard. (If there is an emission control strategy which demonstrates that legally enforceable emission reductions have contributed to improved air quality, less than eight consecutive quarters of air quality data may be used for redesignating an area from nonattainment to attainment. However, the state did not agree with the original designation of Columbia and did not develop a plan to attain the standard. Therefore, this provision does not apply.)

EPA now has ambient air quality data which show that Columbia is in attainment of the secondary TSP standard. There have been no violations of the standard within the past eight consecutive quarters. Therefore, EPA is redesignating Columbia as attainment with respect to total suspended particulates.

In today's action, EPA is also clarifying the applicability of the state's permitting rules to Columbia. On June 22, 1982, at 47 FR 26833, EPA generally approved Missouri's rules involving the prevention of significant deterioration (PSD) and new source review in nonattainment areas. Because the state had not designated Columbia nonattainment, EPA took no action on the state's permitting rules insofar as they pertained to Columbia. With this redesignation, the attainment area (PSD) new source review regulations of the state will be applicable in Columbia.

The public is advised that this action will be effective 60 days from the date of the Federal Register notice. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by sixty days from today. This action may not be challenged later in proceedings to enforce its requirements [See sec. 307(b)(2)].

Under 5 U.S.C. 605(b), the Administrator has certified that redesignations do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709).

List of Subjects in 40 CFR Parts 52 and 81

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, National parks, Wilderness areas.

(Sec. 107 of the Clean Air Act, as amended)

Dated: December 1, 1982.

Anne M. Gorsuch,

Administrator.

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

1. Title 40, Part 81, Subpart C, of the Code of Federal Regulations is amended as follows:

§ 81.326 [Amended]

In § 81.326 in the table Missouri—TSP under Northern AQCR (137), remove the entire entry for Columbia:

* * * * *

Columbia city limits . . . 'X . . .

* * * * *

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

2. In § 52.1320, paragraph (c)(37) is revised to read as follows:

§ 52.1320 Identification of plan.

* * * * *

(c) * * *

(37) On April 15, 1982, the State of Missouri submitted a new Rule 10 CSR 10–6.060, Permits Required, and amendments to Rule 10 CSR 10–6.020, Definitions, involving the review and permitting of new sources of air pollution. Included in the plan are provisions relating to the attainment area (PSD) new source review. No action is taken on the rules insofar as they pertain to the New Madrid TSP nonattainment area. Also included in the plan are provisions relating to new source review in the other nonattainment areas in the state.

[FR Doc. 82-34420 Filed 12-17-82; 8:45 a.m.]

BILLING CODE 6560-50-M

---

40 CFR Part 61

[A-3-FRL 2267-3]

National Emission Standards for Hazardous Air Pollutants; Delegation of Authority to Allegheny County, Pennsylvania

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: The Allegheny County Health Department has requested the delegation of authority to implement and enforce the National Emission Standards for Hazardous Air Pollutants (NESHAP) program for asbestos and mercury only. Section 112(d)(1) of the Clean Air Act requires the Administrator to delegate this authority to any agency which submits an adequate procedure. Therefore, on September 27, 1982, authority for the NESHAP program for asbestos and mercury in Allegheny County was delegated. This rulemaking provides notice of this action and amends 40 CFR 61.04, Address, to reflect this delegation. This Section is also being amended to reflect a new address for Philadelphia's Air Management Services, which has already been delegated NESHAP authority.

EFFECTIVE DATE: December 20, 1982.

FOR FURTHER INFORMATION CONTACT: Gregory Ham, (215) 597–2745, EPA Region III, Curtis Building, 6th and Walnut Streets, Philadelphia, PA 19106.

SUPPLEMENTARY INFORMATION: National Emission Standards for Hazardous Air Pollutants (NESHAP) have been promulgated by the Administrator under 40 CFR Part 61 for four pollutants: Beryllium, Asbestos, Mercury, and Vinyl Chloride. Section 112(d)(1) directs the Administrator to delegate authority to implement and enforce the standards to any agency which submits an adequate procedure. Nevertheless, the Administrator retains concurrent authority to implement and enforce the standards following delegation of authority to a State or local agency.

On September 24, 1982, the Director of the Allegheny County Health Department (ACHD), and the Allegheny County Commissions jointly requested the delegation of authority for the NESHAP program for asbestos and mercury only. ACHD has determined that standards for Beryllium and Vinyl Chloride would not currently apply to any sources in the County, and therefore did not request delegation at this time.

The Director of the Air and Waste Management Division has determined that the ACHD procedure for implementing and enforcing the standards is adequate. Pursuant to authority delegated to him by the Administrator, the Air and Waste Management Division Director notified the Director of the Health Department on September 27, 1982 that authority to implement and enforce the standards for asbestos and mercury was delegated to the Allegheny County Health Department. The letter approved the delegation and outlined the conditions of it. A ten day response period was provided during which the Director of the Health Department or any other representative could present objections to the conditions of the delegation. No responses were received during this period. Therefore, this delegation is final.

Copies of the request for delegation of authority are available for public inspection at the Environmental Protection Agency, Region III, Curtis Building, 6th & Walnut Streets, Philadelphia, Pennsylvania, 19106.

Effective immediately, all reports required pursuant to the emission standards for hazardous air pollutants (asbestos and mercury only) should be submitted to the Allegheny County Health Department, Bureau of Air Pollution Control, 301 Thirty-ninth Street, Pittsburgh, Pa., 15201, with copies to the Director, Air and Waste Management Division, at the EPA address above. The amended *§ 61.04, Address,* which adds the address of the Bureau (to which all reports, requests, applications, submittals, and communications to the Administrator pursuant to this part must be addressed), is set forth below.

In addition, § 61.04 is being amended to reflect a new address for Philadelphia's Air Management Services (AMS). AMS has moved to a new address since delegation of authority for NESHAP occurred.

The Administrator finds good cause for foregoing prior public notice and for making this rulemaking effective immediately because it is an administrative change and not one of substantive content. No additional burdens are imposed on the parties affected. The delegation which is reflected by the Administrative amendment was effective on September 27, 1982, and it serves no purpose to delay this change of address in the Code of Federal Regulations.

(Sec. 112 of the Clean Air Act, as amended, 42 U.S.C. 7412.)

The Office of Management and Budget has exempted this rulemaking from requirements of Executive Order 12291.

List of Subjects in 40 CFR Part 61

Air pollution control, Asbestos, Beryllium, Hazardous materials, Mercury, Vinyl chloride.

Dated: November 23, 1982.

Stanley L. Laskowski,

Acting Regional Administrator.

PART 61—[AMENDED]

Part 61 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

1. In § 61.04 paragraph (b) (NN) is revised to read as follows:

§ 61.04 Address

* * * * *

(b) * * *

(NN) (i) City of Philadelphia: Philadelphia Department of Public Health, Air Management Services, 500 S. Broad Street, Philadelphia, Pennsylvania 19146.

(ii) Commonwealth of Pennsylvania: Department of Environmental Resources, Post Office Box 2063, Harrisburg, Pennsylvania, 17120

(iii) Allegheny County: Allegheny County Health Department, Bureau of Air Pollution Control, 301 Thirty-ninth Street, Pittsburgh, Pennsylvania, 15201.

* * * * *

[FR Doc. 82-34389 Filed 12-17-82; 8:45 am]
BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. 6461]

National Flood Insurance Program; Change in Format of Newspaper Notices and Final Rules

AGENCY: Federal Emergency Management Agency.

ACTION: Rule related notice.

SUMMARY: The Federal Emergency Management Agency (FEMA) gives notice that the format and content of information in newspaper notices and final rules of base flood elevation determinations is changed.

This action is precipitated by the basic informational context, the duplicative nature, and the ever-increasing cost of these publications for the National Flood Insurance Program (NFIP). Proposed rules for base flood elevation determinations remain unchanged. These publications are made under 44 CFR Part 67.

EFFECTIVE DATE: On December 20, 1982, and there after, all part 67 newspaper notices and final rules sent for publication will be in the changed format.

FOR FURTHER INFORMATION CONTACT: Mr. Richard E. Sanderson, Chief, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0270.

SUPPLEMENTARY INFORMATION: On August 4, 1982, at 47 FR 33721-33722, FEMA gave notice of its intent to reduce the size of or eliminate identified notices and regulations of the National Flood Insurance Program under 44 CFR Parts 64, 65, 67 and 70. A proposed rule for the elimination of **Federal Register** publications under 44 CFR Parts 64, 65 and 70 will be published separately with a discussion of comments received during the comment period. No comments were received on the format and content changes intended for Part 67 newspaper notices and final rules. The format and content of Part 67 publications in local newspaper and the **Federal Register** do not require a proposed rule to effect changes. After allowing a suitable period for comments and having received none, FEMA is providing this notice that the change in format and contents of Part 67 newspaper notices and final rules is in effect.

Under Part 67 a notice of proposed flood elevation determination for a community is published in the community's local newspaper. In the past, this notice has contained a "table of elevations" which lists the proposed base flood elevation at selected locations along flood sources. However, this table of elevations can only give a very restricted view of the flood hazard determination. The clearest view is given by the preliminary Flood Insurance Study and Flood Insurance Rate Map which are provided to the community for citizen review and inspection prior to the newspaper publications. In order to encourage more meaningful review of these materials, the table of elevations will be deleted and in its place FEMA will list the community's flood sources studied in detail, the range of the base flood elevations within the community for each flood source and will provide the address in the community where the study and maps can be reviewed. The table of elevations will continue to be published for each community in the **Federal Register** publication of the proposed flood elevation determinations and copies of it will be provided to the community and State.

The table of elevations will also be deleted from the format of the final flood elevation determination rules published in the **Federal Register** under Part 67 when no appeal of the proposed base flood elevations has been made. The final rule will list those communities whose proposed determinations are being finalized and will list the address in each community where proof copies of the Flood Insurance Study and Flood Insurance Rate Map are available for review. Final rules under Part 67 will be published in the **Federal Register** at least monthly showing all communities whose elevations have been finalized since the previous publication. Communities' final rules will contain the table of elevations when an appeal under Part 67 of the proposed determinations has been filed.

The formats which will be used for the newspaper notice and final rules under Part 67 are as follows:

Newspaper Notice

National Flood Insurance Program; Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations shown in your community's preliminary Flood Insurance Study and Flood Insurance Rate Map. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the community.

ADDRESSES: Study and maps showing the proposed base flood elevations and their delineation are available for review at

Send comments to

FOR FURTHER INFORMATION CONTACT: Dr. Brian Mrazik, Federal Emergency Management Agency, National Flood Insurance Program, (202) 287-027, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the proposed determinations of base (100-year) flood elevations, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a).

These elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood

elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

Lessees and owners of real property in (community name) are encouraged to review the preliminary Flood Insurance Study and Flood Insurance Rate Map available at the address cited above. Proposed base flood elevations along flood sources studied in detail are shown on the flood profiles in the Study. The flood sources studied in detail are:

Source of flooding	Range of base flood elevations, # depth in feet above ground. * Elevation in feet (NGVD)

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

National Flood Insurance Program; Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: Base (100-year) flood elevations are finalized for the communities listed below.

The base 100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM) showing base (100-year) flood elevations, for the community. This date may be obtained by contacting the office where the maps are available for inspection indicated on the table below.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik; Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the final determinations of flood elevations for each community listed. Proposed base flood elevations or proposed modified base flood elevations have been published in the Federal Register for each community listed.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR Part 67. An opportunity for the community or individuals to appeal the proposed determination to or through the community for a period of ninety (90) days has been provided.

The Agency has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies for reasons set out in the proposed rule that the final flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. Also, this rule is not a major rule under terms of Executive Order 12291, so no regulatory analyses have been prepared. It does not involve any collection of information for purposes of The Paperwork Reduction Act.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and Flood Insurance Rate Map available at the address cited below for each community.

The base (100-year) flood elevations are finalized in the communities listed below. Appeals of the proposed base flood elevations were received and have been resolved by the agency.

State	City town/county	Map repository address	Date of publication of proposed rule

The base (100-year) flood elevations are finalized in the communities listed below. Appeals of the proposed base flood elevations were received and have been resolved by the Agency.

State	City/town/county	Source of Flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: November 30, 1982.

Dave McLoughlin,

Acting Associate Director, State and Local Programs and Support.

[FR Doc. 82-34378 Filed 12-17-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for Dade County, Fla.; Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included Dade County, Florida. It has been determined by the Associate Director, State and Local Programs and Support after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for Dade County, Florida, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: December 20, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b):

Map Number H & I 125098, Panel 0375 D published on October 6, 1980 in 45 FR 66058 indicates that the property at 24040 S.W. 142 Avenue in Section 22, Township 56 South, Range 39 East, in Dade County, Florida, recorded in Deed Book 259 at Page 239 of the Public Records of Dade County, is located within the Special Flood Hazard Area.

Map Number H & I 125098, Panel 0375 D is hereby corrected to reflect that the above-mentioned property is not within the Special Flood Hazard Area identified on November 14, 1980. The existing structure is located in Zone C.

The map amendments listed below are in accordance with § 70.7(b):

Map Number H & I 125098, Panel 0275 D published on October 6, 1980 in 45 FR 66058 indicates that 10221 S.W. 88th Avenue in Dade County, Florida, also known as Lot 16 of Block 1 in Galloway Glen, recorded in Plat Book 108, Page 54 of the Public Records of Dade County, is located within the Special Flood Hazard Area.

Map Number H & I 125098, Panel 0275 D is hereby corrected to reflect that the structure on the above-mentioned property is not within the Special Flood inundated by a flood having a one-percent chance of occurrence in any given year.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance—flood plains.

(National Flood Insurance Act of 1968 (title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: November 29, 1982.

Dave McLoughlin,

Acting Associate Director, State and Local Programs, and Support.

[FR Doc. 82-34365 Filed 12-17-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 70

[Docket No. FEMA-6116]

Letter of Map Amendment for Martin County, Fla.; Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included Martin County, Florida. It has been determined by the Associate Director, State and Local Programs and Support after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for Martin County, Florida, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: December 20, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethedsda, Maryland 20034, Phone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b):

Map Number H & I 120161, Panel 0170 B published on July 22, 1981 in 46 FR 37654 indicates that portions of the Plat Numbers 1, and 4 of Sailfish Point Subdivision, as recorded in Plat Book 8,

Pages 10, and 88, respectively, Public Records of Martin County, Florida, are located within the Special Flood Hazard Area.

Map Number H & I 120161, Panel 0170 B is hereby corrected to reflect that Lots 1, 2, 4, 6, 10 through 13, 17, 19, 20, 22 through 35 of Plat No. 1, and Lots 1 through 38 of Plat No. 4, are not within the Special Flood Hazard Area identified on June 15, 1981. The lots are located in Zone B.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance—flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: November 29, 1982.

Dave McLoughlin,

Acting Associate Director State and Local Programs and Support.

[FR Doc. 82-34367 Filed 12-17-82; 8:45 am]

BILLING CODE 6718-03-M

---

44 CFR Part 70

[Docket No. FEMA-6237]

Letter of Map Amendment for Pasco County, Fla.; Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included Pasco County, Florida. It has been determined by the Associate Director, State and Local Programs and Support after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for Pasco County, Florida, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: December 20, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Brian R. Mrazik, Acting Chief, Engineering Branch, National Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638-6620.

Map amendments listed below are in accordance with § 70.7(b):

Map Number H & I 120230, Panel 0195 B published on January 25, 1982 in 47 FR 3355 indicates that Lot Number 10, Crane's Roost Unit One, in Pasco County, Florida, as recorded in Plat Book 20, Pages 86 and 87 of the Public Records of Pasco County, Florida, is located within the Special Flood Hazard Area.

Map Number H & I 120230, Panel 0195 B is hereby corrected to reflect that those portions at or above 20 feet National Geodetic Vertical Datum (NGVD) are not within the Special Flood Hazard Area identified on November 18, 1981. Those portions of the property are located in Zone C. However, portions of the lot would still be partially inundated by the base flood.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance—flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: November 29, 1982.

Dave McLoughlin,

Acting Associate Director, State and Local Programs and Support.

[FR Doc. 82-34368 Filed 12-17-82; 8:45 am]

BILLING CODE 6718-03-M

---

44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for Pinellas County, Fla.; Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included Pinellas County, Florida. It has been determined by the Associate Director, State and Local Programs and Support after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for Pinellas County, Florida, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: December 20, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to

purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b):

Map Number H & I 125139 B, Panel 09 published on October 6, 1980 in 45 FR 66060 indicates that Cypress Trace-Phase 1, a subdivision of a part of the Southeast ¼ of the Southwest ¼ of Section 33, Township 28 South, Range 16 East, Safety Harbor, Florida, recorded in Plat Book 73, Pages 95 through 97 in the Pinellas County Circuit Court Clerk's Office, is located within the Special Flood Hazard Area.

Map Number H & I 125139 B, Panel 09 is hereby corrected to reflect that the above-mentioned property is not within the Special Flood Hazard Area identified on July 8, 1977. The property is located in Zone C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance—flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, state and Local Programs and Support)

Issued: November 29, 1982.

Dave McLoughlin,

Acting Associate Director, State and Local Programs and Support.

[FR Doc. 82–34366 Filed 12–17–82; 8:45 am]

BILLING CODE 6718–03–M

---

44 CFR Part 70

[Docket No. FEMA–5909]

Letter of Map Amendment for the Unincorporated Area of Prince Georges County, Md.; Under National Flood Insurance Program; Map Correction

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule, map correction.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps were published identifying Special Flood Hazard Areas. This list included the Unincorporated Area of Prince Georges County, Maryland. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the Unincorporated Area of Prince Georges County, Maryland, that a certain structure is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject structure is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that structure as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: December 20, 1982.

FOR FURTHER INFORMATION CONTACT: Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620 toll free.

The Map amendments listed below are in accordance with § 70.7(b):

Map No. 245208, Panel No. 0205B, published on October 6, 1980, in 45 FR 66039, indicates that the existing structure located on Lot No. 21, Block N, Section Six, Rosecroft Park, Unincorporated Area of Prince Georges County, Maryland, as recorded in Plat Book 50, Page 43, in the Office of the Clerk of the Circuit Court of Prince Georges County, Maryland, is located within the Special Flood Hazard Area.

Map No. 245208, Panel No. 0205B, is hereby corrected to reflect that the existing structure located on the above-mentioned property is not within the Special Flood Hazard Area identified on July 19, 1982. The structure is in Zone C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated Special Flood Hazard Areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance—flood plains.

(National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968); effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Associate Director, State and Local Programs and Support)

Issued: November 30, 1982.

Dave McLoughlin,

Acting Associate Director, State and Local Programs and Support.

[FR Doc. 82–34370 Filed 12–17–82; 8:45 am]

BILLING CODE 6718–03–M

44 CFR Part 70

[Docket No. FEMA-6116]

Letter of Map Amendment for the Unincorporated Area of Somerset County, Maryland; Under National Flood Insurance Program; Map Correction

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule, map correction.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps were published identifying Special Flood Hazard Areas. This list included the Unincorporated Area of Somerset County, Maryland. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the Unincorporated Area of Somerset County, Maryland, that a certain structure is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject structure is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that structure as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: December 20, 1982.

FOR FURTHER INFORMATION CONTACT: Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638-6620 toll free.

The Map amendments listed below are in accordance wit § 70.7(b):

Map No. 240061, Panel No. 0275A, published on July 22, 1981, in 46 FR 37654, indicates that the existing structure located on Lot No. 29, Annemessex Ridge, Block 2, Unincorporated Area of Somerset Courty, Maryland, as recorded in Liber ITP 8, Folio 5, in the Office of the Clerk of the Circuit Count of Somerset County, Maryland, is located within the Special Flood Hazard Area.

Map No. 240061, Panel No. 0275A, is hereby corrected to reflect that the existing structure located on the above-mentioned property is not within the Special Flood Hazard Area identified on June 15, 1981. The structure is in Zone B.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated Special Flood Hazard Areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood Insurance—flood plains.

(National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968); effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Associate Director, State and Local Programs and Support)

Issued: November 30, 1982.

Dave McLoughlin,

Acting Associate Director, State and Local Programs and Support.

[FR Doc. 82-34369 Filed 12-17-82; 8:45 am]

BILLING CODE 6718-03-M

---

44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for the Township of Woodbridge, New Jersey; Under National Flood Insurance Program; Map Correction

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule, map correction.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the Township of Woodbridge, New Jersey. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the Township of Woodbridge, New Jersey that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: December 20, 1982.

FOR FURTHER INFORMATION CONTACT: Frank Petrone, Federal Emergency Management Agency, 26 Federal Plaza, New York, New York 10278, 212-264-8980.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone; (800) 638-6620.

The map amendments listed below are in accordance with § 70.7(b):

Map No. H&I 345331 Panel 01B, published on October 6, 1980 in 45 FR 66031, indicates, that the existing structure located on the property commonly known as Lot 2, Block 498-A, recorded in Book 2021 of Deeds at page 569, located in the Surrogate's office of Middlesex County, New Jersey, is located within the Special Flood Hazard Area.

Map No. H&I 345331 Panel 01B, is hereby corrected to reflect that the above mentioned structure is not within the Special Flood Hazard Area identified on April 30, 1976. This structure is in Zone B.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the

Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance—flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: November 29, 1982.

Dave McLoughlin,

Acting Associate Director, State and Local Programs and Support.

[FR Doc. 82-34374 Filed 12-17-82; 8:45 am]

BILLING CODE 6718-03-M

---

44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for Beaufort County, South Carolina; Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included Beaufort County, South Carolina. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for Beaufort County, South Carolina, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: December 20, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP). P.O. Box 34294, Bethesda, Maryland 20034, phone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b):

Map Number H & I 450025, Panel 05 published on October 6, 1980 in 45 FR 66070 indicates that Lots 46, 47 and a portion of Lot 48, W.D. Walsh Subdivision, in Beaufort County, South Carolina, as shown on a plat by R.D. Trogdon, Sr., dated February 27, 1956 and recorded in the Office of the Clerk of Court for Beaufort County in Plat Book 10 at Page 37, are located within the Special Flood Hazard Area.

Map Number H & I 450025, Panel 05 is hereby corrected to reflect that the existing structure on Lot 46 of the above-mentioned property is not within the Special Flood Hazard Area identified on September 30, 1977. The structure is located in Zone B. However, portions of the subdivision would still be inundated by a flood having a one-percent chance of occurrence in any given year.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance—flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: November 29, 1982.

Dave McLoughlin,

Acting Associate Director, State and Local Programs and Support.

[FR Doc. 82-34371 Filed 12-17-82; 8:45 am]

BILLING CODE 6718-03-M

---

44 CFR Part 70

[Docket No. FEMA-6116]

Letter of Map Amendment for the City of Converse, Texas; Under National Flood Insurance Program; Map Correction

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule, map correction.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Converse, Texas. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Converse, Texas, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: December 20, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be

obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b):

Map No. H & I 480038 Panel 0001B, published on July 22, 1981, in 46 FR 37655, indicates that Lots 14, 15, and 29 through 33, Block 2, Cimarron Valley, Unit 6, Converse, Texas, as recorded in Book 9100, Page 215 of Deeds and Plats, in the Office of the Clerk, Bexar County, Texas, are located within the Special Flood Hazard Area.

Map No. H & I 480038 Panel 0001B is hereby corrected to reflect that the existing structures located on the above-mentioned property are not within the Special Flood Hazard Area identified on June 15, 1981. These structures are in Zone C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance—flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: November 22, 1982.

Dave McLoughlin,

Acting Associate Director, State and Local Programs and Support.

[FR Doc. 82-34373 Filed 12-17-82; 8:45 am]

BILLING CODE 6718-03-M

---

44 CFR Part 70

[Docket No. FEMA-6452]

Letter of Map Amendment for the City of El Paso, Texas, Under National Flood Insurance Program; Map Correction

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule, map correction.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of El Paso, Texas. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of El Paso, Texas, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: December 20, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b):

Map No. 480214 Panel 0021B, published on November 9, 1982, in 47 FR 52160, indicates that the North 33 feet of Lot 31, Block 4, Willowlane and the North 33 feet of the West 10 feet of Lot 32, Block 4, Willowlane, Unit Two, El Paso, Texas, as recorded in Volume 51, Page 22 and Volume 55, Page 40, of Plat Records, in the Office of the Clerk, El Paso County, Texas are located within the Special Flood Hazard Area.

Map No. 480214 Panel 0021B is hereby corrected to reflect that the existing structure located on the above-mentioned property is not within the Special Flood Hazard Area identified on October 15, 1982. This structure is in Zone B.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance—flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: November 24, 1982.

Dave McLoughlin,

Acting Associate Director, State and Local Programs and Support.

[FR Doc. 82-34372 Filed 12-17-82; 8:45 a.m.]

BILLING CODE 6718-03-M

---

44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for the Township of Clinton, Mich., Under National Flood Insurance Program; Map Correction

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule, map correction.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps were published identifying Special Flood Hazard Areas. This list included the Township of Clinton, Michigan. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the Township of Clinton, Michigan, that certain structures are not within the Special Flood Hazard Area, removes

the requirement to purchase flood insurance for those structures as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: December 20, 1980.

FOR FURTHER INFORMATION CONTACT: Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620 toll free.

The Map amendments listed below are in accordance with § 70.7(b):

Map No. 260121, Panel No. 0015B, published on October 6, 1980, in 45 FR 66079, indicates that Building Nos. 2, 5 and 6, Crosswinds East Condominium, located on a parcel of land in and being a part of the North one-half of Section 20, Town 2 North, Range 13 East, Township of Clinton, Macomb County, Michigan, as recorded in Liber 3234, Pages 802 and 803, in the Office of the Register of Deeds of Macomb County, Michigan, are located within the Special Flood Hazard Area.

Map No. 260121, Panel No. 0015B, is hereby corrected to reflect that the above-mentioned structures are not within the Special Flood Hazard Area identified on August 1, 1979. The structures are in Zone B.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated Special Flood Hazard Areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; E.O. 12127, 47 FR 19367; and delegation of authority to Associate Director, State and Local Programs and Support)

Issued: November 17, 1982.

Dave McLoughlin,

Acting Associate Director, State and Local Programs and Support.

[FR Doc. 82–34377 Filed 12–17–82; 8:45 am]

BILLING CODE 6718–03–M

---

44 CFR Part 70

[Docket No. FEMA–5909]

Letter of Map Amendment for the Township of Pequannock, N.J., Under National Flood Insurance Program; Map Correction

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule; map correction.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the Borough of Pequannock, New Jersey. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the Township of Pequannock, New Jersey that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: December 20, 1982.

FOR FURTHER INFORMATION CONTACT: Frank Petrone, Federal Emergency Management Agency, 26 Federal Plaza, New York, New York 10278, 212–264–8980.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b):

Map No. H&I 345311 Panel 04A, published on October 26, 1981 in 46 FR 52112, indicates, that the existing structure located on the property commonly known as Lot 18, Block 306, recorded on map No. 3978, located in the Clerk's office of Morris County, New Jersey, is located within the Special Flood Hazard Area.

Map No. H&I 345311 Panel 04A, is hereby corrected to reflect that the above mentioned structure is not within the Special Flood Hazard Area identified on September 3, 1976. This structure is in Zone B.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; E.O. 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: November 29, 1982.

Dave McLoughlin,

Acting Associate Director, State and Local Programs and Support.

[FR Doc. 82–34378 Filed 12–17–82; 8:45 am]

BILLING CODE 6718–03–M

44 CFR Part 70

[Docket No. FEMA-6173]

Letter of Map Amendment for the Borough of Ramsey, N.J., Under National Floor Insurance Program; Map Correction

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule; map correction.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the Borough of Ramsey, New Jersey. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the Borough of Ramsey, New Jersey that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: December 20, 1982.

FOR FURTHER INFORMATION CONTACT: Frank Petrone, Federal Emergency Management Agency, 26 Federal Plaza, New York, New York 10278, 212–264–8980.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related finanical assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–8620.

The map amendments listed below are in accordance with § 70.7(b):

Map No. 340064 Panel 001B, published on October 26, 1981 in 46 FR 52112, indicates, that the existing structure located on the property commonly known as Lot 14–A, Block 32, recorded on map No. 7287, located in the Clerk's office of Bergen County, New Jersey, is located within the Special Flood Hazard Area.

Map No. 340064 Panel 0001B, is hereby corrected to reflect that the above mentioned structure is not within the Special Flood Hazard Area identified on September 2, 1981. This structure is in Zone C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; E.O. 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: November 29, 1982.

Dave McLoughlin,

Acting Associate Director, State and Local Programs and Support.

[FR Doc. 82-34375 Filed 12-17-82; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1 and 87

[FCC 82-525]

Amendment To Provide a Temporary Operating Authorization Procedure for Aircraft Stations in the Aviation Services

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document provides a new procedure for the temporary licensing of aircraft radio stations. This action was initiated by the FCC in order to allow new aircraft operators to utilize their radios sooner than now possible and to reduce the number of Special Temporary Authority requests required to be processed by the agency's staff.

EFFECTIVE DATE: June 1, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Robert H. McNamara, Private Radio Bureau, (202) 632–7175.

SUPPLEMENTARY INFORMATION:

List of Subjects

47 CFR Part 1

Administrative practice and procedure, Radio.

47 CFR Part 87

General aviation, Radio.

Order

Adopted: December 2, 1982.

Released: December 9, 1982.

In the matter of amendment of Parts 1 and 87 of the rules to provide a temporary operating authorization procedure for aircraft stations in the Aviation Services, FCC 82–525.

1. This Order amends the Commission's rules to provide an improved procedure for the temporary licensing of aircraft stations in the Aviation Services.

Background

2. The Commission has adopted temporary licensing procedures in a number of radio services.[1] Such temporary licensing procedures have benefited the public by allowing applicants to begin radio operations sooner, without lessening the Commission's ability to determine if the applicant is qualified to be a permanent licensee. In some instances the Commission has also benefited from the implementation of temporary licensing procedures due to a marked reduction in the number of special temporary authority (STA) requests which are handled on a case-by-case basis.

3. Under existing licensing procedures in the Aviation Service, there is a limited device available for the temporary licensing of certain aircraft stations. Radio stations on new aircraft or aircraft with new radio installations may operate for 60 days when an FCC Form 453–B is executed by the manufacturer or dealer and mailed to

[1] See: Personal Radio Service—Order, FCC 76–320, released April 13, 1976, 41 FR 15849. Maritime Radio Service—Order, 70 FCC 2d 863, released January 11, 1979, 44 FR 5288, Errata, 44 FR 8878. Restricted Radiotelephone Operator Permit—Order, 71 FCC 2d 1214, Released May 10, 1979, 44 FR 29067. Business Radio Service—Report and Order, PR Docket No. 79–338, 81 FCC 2d 373 released September 4, 1980, 45 FR 59881, aff'd *Sub nom. Telocator Network of America* v. *FCC*, No. 80–2182 (D.C. Cir., August 19, 1981). Specialized Mobile Radio Systems—Report and Order, PR Docket No. 79–335, released April 6, 1982, 47 FR 17830.

the Commission with the application for a new aircraft station license (FCC Form 404). However, many applicants for a new aircraft radio station license are not eligible to utilize the Form 453–B. Therefore, the advantages of temporary licensing are not available to many aircraft operators.

New Procedure

4. We believe that a temporary licensing procedure similar to such procedures available in other radio services would benefit the aviation public by allowing all aircraft operators an opportunity to begin radio operations sooner than now possible. Additionally, the Commission will benefit from a reduction of staff hours necessary to process STA requests (which should be nearly eliminated for aircraft stations). These benefits can be achieved without lessening the Commission's ability to determine whether an applicant is qualified to be a permanent licensee. Therefore, we are amending the rules to adopt the temporary licensing procedure for aircraft stations, described below. We are also eliminating FCC Form 453–B and adding new Form 404–A[2] (Temporary Aircraft Radio Station Operating Authority) which will be attached to Form 404 (Application for Aircraft Radio Station License) for the convenience of the public.

5. The procedure to be used in obtaining a temporary aircraft station authorization will be as follows:

(a) The applicant completes and mails to the Commission an application for an aircraft radio station license (FCC Form 404).

(b) At the same time, the applicant may complete an FCC Form 404–A (attached to the Form 404) certifying that the applicant:

—Is not the representative of a foreign government;

—Has not been denied a license or hass not had the license revoked by the Commission;

—Is not the subject of any legal action concerning the operation of a radio station; and

—Will insure that the aircraft radio station will be operated by an individual holding the proper class of license or permit issued by the Commission.

(c) The applicant posts the executed FCC Form 404–A on board the aircraft and may use this document as a temporary aircraft station license for a period of 90 days from the date the Form 404 was mailed to the Commission.

(d) The applicant utilizes the FAA aircraft registration number as the temporary call sign.

[2] See Appendix B.

6. Accordingly, the new FCC Form 404–A and posting requirement is adopted subject to clearance by the Office of Management and Budget. Additionally, sufficient supplies of the new forms must be obtained to provide for the initial public demand. Therefore, unless the public is advised to the contrary by a Public Notice, the rules adopted herein to implement the new procedure will be effective June 1, 1983.

7. Regarding questions or matter covered in this document contact Robert McNamara, (202) 632–7175.

8. Authority for the amendments adopted herein is contained in Sections 4(i), 303, 307, 308 and 309 of the Communications Act of 1934, as amended.[3] The prior notice and public procedure provisions of the Administrative Procedure Act, 5 U.S.C. 553, are unnecessary in this proceeding; since, in view of similar actions in other radio services as referenced above, significant public participation would be highly unlikely if the subject prior notice and public provisions were utilized in this proceeding.

9. Accordingly, it is ordered, That Parts 1 and 87 of the Commission's rules are amended as set forth in the attached Appendix A, effective June 1, 1983.

10. It is further ordered, That this proceeding is terminated.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A

Parts 1 and 87 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

PART 1—PRACTICE AND PROCEDURE

1. Section 1.922 is amended by removing FCC Form 453–B and its title, and adding FCC Form 404–A after Form 404 to read as follows:

§ 1.922 Forms to be used.

* * * * *

404–A Temporary Aircraft Radio Station Operating Authority.

* * * * *

2. In § 1.925, paragraph (c) is revised to read as follows:

§ 1.925 Application for special temporary authorization, temporary permit, temporary operating authority, or interim amateur permit.

* * * * *

(c) An applicant for an Aircraft Radio Station License may operate the radio station pending issuance of an Aircraft Radio Station License by the Commission for a period of 90 days under a temporary operating authority, evidenced by a properly executed certification made on FCC Form 404–A.

* * * * *

[3] 47 U.S.C. 154(i), 303, 307, 308 and 309.

PART 87—AVIATION SERVICES

1. In § 87.29, paragraph "(a)(1)" is renumbered "(a)" a new introductory paragraph (a) and (a)(1) are added, and paragraph (c) is removed as follows:

§ 87.29 Application for aircraft radio station license.

(a) An application for new or modified aircraft radio station licenses shall be made on FCC Form 404. The purchaser or assignee of a radio-equipped aircraft shall apply for a new aircraft radio station license on FCC Form 404.

(1) An applicant for a new aircraft radio station license may operate the aircraft radio station pending issuance of a station license for a period of 90 days under a temporary operating authority evidenced by a properly executed certification made on FCC Form 404–A. Such temporary authority is not available to applicants for a fleet license. The applicant shall use the aircraft FAA registration number as a temporary call sign.

* * * * *

§ 87.35 [Amended]

2. In § 87.35, paragraph (c) is removed.

APPENDIX B

United States of America

Federal Communications Commission

TEMPORARY AIRCRAFT RADIO STATION OPERATING AUTHORITY

1 Instructions

Use this form if you want a temporary operating authority while your regular application FCC Form 404 is being processed by the FCC. This authority authorizes the use of transmitters operating on the frequencies listed in section 87.183 of the Commission's Rules.

Do not use this Form if you already have a valid aircraft station license.

Do not use this Form when renewing your aircraft license.

Do not use this Form if you are applying for a fleet license.

Do not use this Form if you do not have an FAA Registration Number.

ALL APPLICANTS MUST CERTIFY:

1) I am not a representative of a foreign government.

2) I have applied for an Aircraft Station License by mailing a completed FCC Form 404 to the Federal

Communications Commission, P.O. 1030, Gettysburg, PA 17325.

3) I have not been denied a license or had my license revoked by the FCC.

4) I am not the subject of any adverse legal action concerning the operation of a radio station.

5) I will ensure that the Aircraft Radio Station will be operated by an individual holding the proper class of license or permit required by the Commission's Rules.

2 Certification, Read and Sign

WILLFUL FALSE STATEMENTS VOID THIS PERMIT AND ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT

Name of Applicant

Signature of Applicant

FAA Registration Number

(Use as Temporary Call Sign)

Date Form 404 Mailed to FCC

3 Limitations

Your authority to operate your Aircraft Radio Station is subject to all applicable laws, treaties and regulations and is subject to the right of control of the Government of the United States.

This authority is valid for 90 days from the date the Form 404 is mailed to the FCC.

You must post this temporary authority on board your aircraft.

(Do Not Mail this Page)

FCC Form 404–A

[FR Doc.82-34164 Filed 12-17-82; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 81-505; RM-3800]

Radio Broadcast Services, TV Broadcast Station in Barstow, Calif.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns UHF television Channel 64 to Barstow, California, in response to a petition filed by Victorville TV, Inc. The assignment will provide Barstow with a first local commercial television allocation.

DATE: Effective February 14, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television.

Report and Order; Proceeding Terminated

Adopted: December 6, 1982.

Released: December 14, 1982.

In the matter of amendment of § 73.606(b), table of assignments, Television Broadcast Stations (Barstow, California), MM Docket No. 81–505, RM–3800.

1. Before the Commission for consideration is a Notice of Proposed Rule Making, 46 FR 41534, published August 17, 1981, proposing the assignment of UHF television Channel 64 to Barstow, California, as that community's first commercial assignment, in response to a petition filed by Victorville TV, Inc. ("Petitioner"). Petitioner filed supporting comments reaffirming its intention to apply for authority to construct and operate a station on Channel 64 at Barstow, if assigned.

2. Barstow (population 17,690),[1] located in San Bernardino County (population 893,157), is currently served by one daytime-only AM Station (KIOT), one full-time AM Station (KWTC), and co-owned Station KWTC–FM (Channel 232A). Additionally, it has one unoccupied and unapplied for noncommercial educational television channel (Channel *35) assigned to it.

3. Petitioner initially proposed the assignment of Channel 64 on a hyphenated basis to the communities of Barstow and Victorville, California. However, the *Notice* stated that sufficient information had not been submitted to support a hyphenated assignment. Barstow was preferred since an assignment there is consistent with the minimum distance separation requirements, whereas an assignment to Victorville would require a site restriction 10.2 kilometers (6.4 miles) northeast of the community to avoid short-spacing to Station KOCE–TV (Channel 50), licensed to Huntington Beach, California. The assignment to Barstow bars the use of the channel at Victorville under the 15-mile rule § 73.607(b), since the two communities are separated by a distance of approximately 46.9 kilometers (29.3 miles). However, service to Victorville, as well as an auxiliary studio there, as suggested by petitioner, is possible.

4. In view of the fact that the assignment could provide Barstow with a first commercial television station, the Commission believes that the public interest would be served by assigning UHF television Channel 64 to Barstow.

5. Mexican concurrence in the proposal has been obtained.

6. Accordingly, pursuant to authority contained in Sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.204(b) and 0.281 of the Commission's Rules, it is ordered, that effective February 14, 1983 the Television Table of Assignments, § 73.606(b) of the Commission's Rules, is amended as follows for the community listed:

City	Channel No.
Barstow, Calif	*35+, 64

7. It is further ordered, That this proceeding is terminated.

8. For further information concerning the above, contact Nancy V. Joyner, Mass Media Bureau, (202) 632–7792.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 82-34346 Filed 12-17-82; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 80–123; RM–3460]

Radio Broadcast Services, TV Broadcast Station in Hagerstown, Md.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns television Channel 68 to Hagerstown, Maryland, as its second commercial television channel in response to a request from James Resh.

DATE: Effective February 11, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Broadcast Bureau, (202) 632–7792.

[1] Population figures are extracted from the 1980 U.S. Census, Advance Reports.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television.

In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations (Hagerstown, Maryland), BC Docket No. 80–123, RM–3460.

Report and Order; Proceeding Terminated

Adopted: November 30, 1982.

Released: December 13, 1982.

1. The Commission has before it for consideration the Notice of Proposed Rule Making, 45 FR 23480, published April 7, 1980, which proposed the assignment of UHF television Channel 68 to Hagerstown, Maryland, as that community's second commercial television assignment, in response to a petition filed by James Resh ("petitioner"). Supporting comments were filed by petitioner reiterating its intention to apply for authority to construct and operate a station on Channel 68 at Hagerstown, Maryland, if assigned. Comments were also filed by the Maryland Center for Public Broadcasting ("MCPB"), licensee of television Station WMPB (Channel *67), Baltimore.[1] Opposition comments were filed by Henson Aviation ("Henson"), then licensee of Station WHAG–TV (Channel 25), Hagerstown. Responsive comments were filed by the petitioner.

2. The Notice set forth the background of this proceeding and therefore it will not be repeated in detail here. Briefly, the Notice proposed the assignment of UHF televisions Channel 68 to Hagerstown, Maryland, based upon the petitioner's assertion that there is a need for additional local commercial television service to the community which could provide viewers with a choice of programs from a new, independent and community-oriented facility. Therein, we stated that the proposal required a site restriction 3.2 miles northwest of Hagerstown to avoid short-spacing to Station WMPB (Channel 67), in Baltimore. Additionally, a further site restriction was noted to comply with the mileage separation to a proposed assignment on the co-channel at Seaford, Delaware, in the New Jersey UHF-TV rule making proceeding (BC Docket No 79–269). Petitioner asserted that adequate site flexibility in the Hagerstown area would enable it to comply with the minimum distance separation requirements while simultaneously providing the requisite city grade coverage as required by § 73.685(a) of the Commission's Rules.

3. In its comments MCPB states that it has no objection to the proposed assignment of Channel 68 to Hagerstown provided it is conditioned upon compliance with the minimum spacing requirements to its Station WMBP-TV (Channel *67) in Baltimore.

4. Henson's opposition comments reiterate its earlier argument, which we rejected, regarding the viability of an additional commercial assignment at Hagerstown. It claims that postponing the question of viability to the application stage is counterproductive since market size, other television services and economic conditions of the area are all an integral part of the overall factors to be considered at the rule making level. Otherwise, it claims, it would be wasteful to proceed to the application stage only to discover upon review of an application, that financial qualifications could not be met, or that the community could not support a second commercial television station. Moreover, it adds that petitioner failed to provide data regarding the preclusive effect of its proposal, and the availability of other channels to communities so affected thereby.

5. In response to the opposition comments, petitioner remarks that Henson presents no valid argument, but merely rehashes its earlier position. In any event, it claims, Henson's arguments appear to be directed not to the petition, *per se*, but rather to the Commission's policies, and consequently they are not relevant here.

6. As for Henson's allegation that market size and economic conditions of the area should be addressed at the rule making level, we have traditionally treated this issue as one more appropriate for the application stage. *Grand Junction, Colorado*, 28 RR 2d 513 (1973).

7. Secondly, in response to Henson's assertion that Hagerstown is well served by numerous cable systems as well as area television stations, we stress that such availability of reception services has been cited by the Commission as justification for denying a channel assignment in comparative cases. However, we are not aware of any situation in which a channel assignment was denied to a community solely on the basis of the availability of other services received in that community from other area stations. A channel is assigned to a specific community to broadcast programs designed to meet that community's special needs and interests. No station having a primary obligation to another locality is expected to provide the equivalent of such service. See *Clinton, Louisiana*, 45 RR 2d 1587–88 (1979). Consequently, the signals received in Hagerstown from stations licensed to other communities cannot be deemed as substitutes for local service, and the reception of such signals does not provide a basis for denying the assignment herein.

8. Moreover, Henson's allegation that petitioner failed to provide information with regard to preclusion is also without merit since a preclusion study is not generally required in proceedings to amend the Television Table of Assignments.

9. We previously indicated that the proposed assignment of UHF television Channel 68 to Hagerstown conflicted with a proposal in BC Docket No. 79–269 to assign the same frequency allocation to Seaford, Delaware, thereby necessitating a site restriction beyond that specified in the Notice. However, the Seaford, Delaware and related channel substitutions at Dover, Delaware were dismissed by a *First Report and Order*, 47 FR 47893, published October 28, 1982. Therefore, the only site restriction applicable to this proposal requires that the transmitter be located 3.2 miles northwest of Hagerstown to avoid short spacing to Station WMPB (Channel *67) in Baltimore, Maryland. According to petitioner, such site restriction will not hinder its ability to implement its proposal since adequate site flexibility exists in the area.

10. In light of the above, and having found no policy objections to the proposal, we believe that the assignment of UHF television Channel 68 to Hagerstown, Maryland, would serve the public interest.

11. Canadian concurrence has been obtained.

12. Accordingly, pursuant to the authority contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.204(b) and 0.281 of the Commission's Rules, it is ordered, That effective February 11, 1983, the Television Table of Assignments, § 73.606(b) of the Rules, IS AMENDED with regard to Hagerstown, Maryland, as follows:

City	Channel No.
Hagerstown, Md.	25–, *31, and 68+.

13. It is further ordered, That this proceeding is terminated.

[1] MCPB is also the licensee of educational television stations located in Annapolis (Channel *22), Salisbury (Channel *28), and Hagerstown, Maryland (Channel *31).

14. For further information concerning the above, contact Nancy V. Joyner, Broadcast Bureau, (202) 632-7792.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Martin Blumenthal,

Assistant Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-34345 Filed 12-17-82; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 581

[Docket No. 73-19; Notice 31]

Bumper Standard; Denial of Petitions for Reconsideration

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Denial of petitions for reconsideration.

SUMMARY: This notice responds to petitions for reconsideration of a final rule amending the Bumper Standard. The final rule amended the Bumper Standard to reduce the test impact speeds specified in that standard to 2.5 mph for longitudinal front and rear barrier impacts and for longitudinal pendulum impacts and 1.5 mph for corner pendulum impacts. The notice also amended the damage resistance criteria of the standard to eliminate limitations on the damage which may be incurred by the bumper face bar and associated components and fasteners in bumper impact testing. No change was made in the requirements prohibiting damage in such testing to specified safety-related components and all exterior vehicle surfaces other than the bumper face bar and related components and fasteners.

The petitioners requested that the agency reverse its action and reinstate the previous impact speeds and damage resistance criteria. This notice denies the petitions.

FOR FURTHER INFORMATION CONTACT:

William Boehly, Office of Market Incentives, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590, 202-426-1740.

SUPPLEMENTARY INFORMATION: On October 1, 1981, NHTSA published in the **Federal Register** (46 FR 48262) a notice of proposed rulemaking (NPRM) seeking comments on nine different alternatives for amending the Bumper Standard. The purpose of the action was to increase and seek to maximize the net consumer and public benefits of the standard, in accordance with the Motor Vehicle Information and Cost Savings Act (Cost Savings Act). At that time, the Bumper Standard required that Phase II damage resistance criteria be met in a series of 5 mph longitudinal front and rear barrier impacts and of longitudinal pendulum impacts and of 3.0 mph corner pendulum impacts. The Phase II criteria prohibited damage to safety components and to all exterior vehicle surfaces, e.g., sheet metal, other than the bumper face bar and related components and fasteners. While damage to the bumper and related components and fasteners was permitted, it was strictly limited. The proposals ranged from one reducing the longitudinal barrier and pendulum test impact speed for rear bumpers only to 2.5 mph to one eliminating all test impact requirements for front and rear bumpers except as necessary to maintain a height requirement.

The basis for initiating the rulemaking action was the agency's April 1981 Evaluation of the Bumper Standard. That report addressed in detail the costs and benefits of the agency's bumper requirements. The report found that the standard might not be providing net benefits for consumers.

After considering the best available data, public comments submitted in response to the NPRM, and comments presented at two public meetings, NHTSA published (May 20, 1982; 47 FR 21820) a final rule amending the Bumper Standard (49 CFR Part 581). The notice reduced the test impact speeds required by that standard to 2.5 mph for longitudinal front and rear barrier and pendulum impacts and 1.5 mph for corner pendulum impacts. The notice also amended the damage resistance criteria by reducing them to the level that had been effective in model year 1979. Those criteria, known as Phase I criteria, are identical to Phase II criteria except that the Phase I criteria do not contain the stringent limitations set by Phase II on the permissible test damage which may be sustained by the bumper face bar and associated components and fasteners in bumper testing. The effective date of these changes was July 6, 1982.

The agency stated that the changes in damage resistance criteria and the compliance test speed were dictated by the requirements of the Cost Savings Act. The statute requires the issuance of a bumper standard and provides that any such standard "seek to obtain the maximum reduction in costs to the public and to the consumer," taking into account the costs and benefits of implementation, effects on insurance and legal costs, savings in consumer time and inconvenience and considerations of health and safety (15 U.S.C. 1912(b)(1)). Stated simply, the previous standard failed to provide the maximum feasible reductions in cost. Therefore, the agency determined that the previous standard could no longer be retained in accordance with the Cost Savings Act.

The agency concluded that the statutory criterion regarding maximum feasible reduction in cost was best attainable through the changes made. The agency also concluded that reducing the impact speed to 2.5 mph and eliminating the Phase II damage criteria would not have an adverse effect on safety. The agency found that such amendments would not have any discernible effect on the number of accidents, deaths or injuries that occur annually.

The agency received several timely petitions for reconsideration of its decision, one from the Insurance Institute for Highway Safety (IIHS) and the others from private individuals. The agency later received additional submissions from IIHS concerning its petition, as well as several comments relevant to the IIHS petition from other parties. All materials received have been reviewed and taken into account.

The petitioners and some commenters raised a wide range of issues about the final rule and urged that it be rescinded. These issues include virtually all of the questions previously addressed by the agency in this proceeding, and some new or expanded arguments as well. The questions involve the agency's authority under the Cost Savings Act to issue a standard specifying a test impact speed of less than 5 mph, the degree of certainty concerning agency assumptions that must be attained to justify a change in the standard, the relevance of the results of a new public opinion poll which was conducted for proponents of the prior bumper standard and which purports to show a willingness on the public's part to pay increased costs (i.e., not bounded by the limitation of the "maximum feasible reduction" language) for bumpers, the sufficiency of the agency's consideration of alternatives, the effect of the rule on safety, the accuracy of the agency's assumptions about how insurance companies and auto companies are likely to adjust their rates or prices, the basis for the agency's decision to drop the standard's Phase II damage criteria in favor of Phase I, and the appropriateness of the numerical assumptions made by the agency in its

Final Regulatory Impact Analysis (FRIA).

After careful consideration of the petitions for reconsideration and other documents, the agency denies the petitions for the reasons set forth below. Therefore, no changes will be made at this time to the amended standard.

As will be apparent throughout this notice, many of the issues raised in the petitions for reconsideration were previously raised in the comments on the NPRM. These issues were fully considered by the agency and discussed in the preamble to the May 1982 final rule and in the FRIA. In a number of instances, the petitioners for reconsideration did not acknowledge the agency's discussions in reraising old issues. To avoid repetition, the agency has not repeated here all of its discussion in its May 1982 documents.

Agency Mandate

In adopting the final rule, the agency explained in detail the origin and nature of its mandate under the Cost Savings Act, and addressed as well the issue of whether a bumper standard specifying a test impact speed of at least 5 mph could be construed as required under that statute in view of the varying statements of expectation voiced in the succession of Congresses which have addressed the question. Stated another way, the issue as so discussed was whether those statements could be construed to add up to an expressed intent on the part of Congress, recognizable by the agency, which would deprive the agency of the discretion otherwise given it in the plain words of the statute to make its own determination of that standard which best satisfies the statutory criteria. The agency noted the relevant congressional discussions in the final rule preamble, and then concluded that:

> (W)hile these expectations are relevant, the determinative fact in all instances must be what the Congress in fact did through legislative action. In the Act, the Congress did not set a particular standard, but instead adopted the maximum feasible cost reduction criterion, and required that bumper standards be set in accordance with it. The criterion is a deliberately flexible one which permits and even requires that bumper standards be adjusted based on available information. 47 FR at 21830.

Both IIHS in its petition and some of the commenters on that petition questioned the degree of certainty concerning agency assumptions that would be necessary to justify a change in the standard by the agency. IIHS alleged, for example, that under certain assumptions NHTSA's analysis could be used to show that net benefits of the present 5 mph standard are $40 greater than those of the 2.5 mph alternative. One commenter questioned whether, based on an allegedly weak record, the agency should "reduce consumer protection" to save only $28 over the life of a car. That commenter also alleged that NHTSA's analysis shows that a 5 mph standard cannot be ruled out as being more cost effective than the 2.5 mph standard.

The agency believes that the record supporting the rulemaking is a strong one. In reaching its decision, the agency was required to resolve two key issues. The first was whether, in light of congressional directives to act in accordance with the results of its multi-year analysis and relevant Executive Orders of the President, the agency could justify retention of the then existing standard, which specified 5 mph front and rear test impact speeds and Phase II damage criteria (more simply, the 5/5, Phase II standard.) If not, the agency then had to address the second issue of that level of standard which could best satisfy the applicable requirements of law.

As the agency indicated in the final rule, the record is most clear on the issue of the former standard's insufficiency to satisfy the criteria in the Act. That standard provided significantly less net reductions in costs to the public and consumers than would several of the alternatives that were considered during the rulemaking.

In addressing the second issue, the agency dealt with each of the principal uncertainties and resolved them to the degree possible. As the agency noted, in some cases the requisite decisions were necessarily based on imperfect data, and were thus inherently judgmental or predictive in part. The obligation to make such decisions, and resolve such uncertainties by the exercise of such judgment, is clearly an integral part of the agency's mandate under the Act to set a bumper standard at a level which "seeks to provide the maximum feasible reduction of costs to the public and to the consumer," taking into account the statutorily specified elements of cost and benefit. It goes without saying, of course, that even greater uncertainty, and an even greater element of judgment and predictive discretion, was involved in the original setting of the 5/5, Phase II standard itself.

The agency dealt with the issue of uncertainty in the preamble to the final rule, stating:

> The agency believes that sufficient information exists to make all determinations required by applicable statutory criteria. The uncertainties confronting the agency now are significantly less than those which existed when the current standard [the 5 mph standard] was promulgated. The agency knows far more now about the benefits and costs of bumper standards with various levels of performance requirements than it did then. In the agency's judgment, there is no reasonable prospect of obtaining more definitive data under the continued application of the existing Part 581 standard.
>
> The record is most clear on the issue of the present standard's noncompliance with the criteria in the Act. If the agency were now setting a bumper standard for the first time, it could not justify establishing a 5.0-mph/5.0-mph standard. The existing 5.0-mph standard provides significantly less net benefit to the public and consumers than would several of the proposed alternatives with less stringent performance requirements. 47 FR at 21825.

The agency cannot agree with the inference by petitioners herein that a saving $28 per car is not sufficient to justify a change in the standard. First, the statute clearly would not permit the agency to retain a standard which it has found would result in any fewer net benefits than an alternative standard. That is the case here. Second, due to the large volume of automobiles sold in the United States, even what might appear to be the relatively small saving of $28 per car will in fact result in hundreds of millions of dollars of savings, to consumers and the public, annually.[1] Third, $28 is the average savings, and millions of consumers would in fact experience savings several times higher than that amount.

The agency also believes that IIHS has misread the FRIA in alleging that the agency's analysis itself could be used to conclude that a 5/5 standard cannot be ruled out as being more cost effective than the 2.5/2.5 standard, or to show that the net benefits of such a standard would be $40 greater than those of a 2.5/2.5 standard. The FRIA merely indicated, as part of the agency's consideration of the degree to which extreme assumptions could affect its conclusions, that one combination of such extreme assumptions could show a 5/5 standard to yield more benefits than a 2.5/2.5 standard. However, the agency in the same discussion pointed out that it was virtually impossible that the factual elements of that combination of assumptions could in fact occur at the same time, under real world conditions.

Public Opinion

Similarly, the agency fully discussed in the preamble to the final rule the

[1] It might be noted that in its ongoing efforts to identify the costs of the various safety regulations to consumers, the agency has concluded that only four of its standards (FMVSS 105, Hydraulic brakes, FMVSS 202, Head restraints, FMVSS 208, Occupant crash protection—manual safety belts, and FMVSS 214, Side impact protection) involve imposition of costs equal to or greater than $28.

limited role which public opinion, in and of itself, can be accorded in agency deliberations, even under the consumer directed mandate of the Act. As part of its comments on the NPRM, IIHS had submitted the results of a public opinion poll alleging that the public favored a 5/5 bumper standard. In discussing that poll in the final rule preamble, the agency stated:

> * * * The level of bumper standards established by the agency under the Act cannot be determined merely on the basis of what members of the public understand to be the relevant facts and issues, or what they themselves would prefer. The Congress has determined the public policy which must be applied by the agency, and the agency's decision must be reached in accordance with the statutory criteria. Those criteria do not include public preferences as such, although as noted in the FRIA, adequately demonstrated public preference may be relevant to assessments of future market demand and the response options available to the auto manufacturing and insurance industries. 47 FR at 21829.

The agency noted further that many of the specific questions asked in the cited poll may have inadvertently induced responses based on inflated estimates of the value of the 5/5 bumper standard. For that and other reasons, the agency stated that it regarded the survey as an inconclusive indicator of informed public opinion.

While IIHS stated in its petition that it did not accept the agency's characterizations of the original survey, it submitted as part of that petition the results of a new poll that was apparently undertaken to address some of the observations advanced by the agency in its final rule. Specifically, the new poll informed respondents of reductions in new car prices that would be associated with 2.5/2.5 bumpers, and of stated effects on fuel economy. Based on the results of the new poll, IIHS has reraised the issue that public opinion favors a 5/5 standard.

The agency has carefully examined the new poll. As before, however, the data presented are not considered to be directly relevant to the agency's decision. The statutory criteria simply do not include public preferences. Further, even if they did, the agency knows of no way to quantify the results of the poll in such a way as to make them part of the net benefit calculations made by the agency to determine which standard would provide maximum feasible cost reduction. At most, if valid, the data would represent only an individually relevant factor in agency judgment as to the relative effectiveness of programs to encourage the offering of optional levels of protection greater than would otherwise be justified as mandatory under the terms of the Act.

Moreover, quite apart from the limitations of its statutory mandate, the agency does not concur with IIHS that issues as complex as those associated with the bumper rulemaking are appropriately amenable to resolution by major recourse to public opinion as discerned by polls. For example, while the current IIHS effort did attempt to make respondents aware of some limited cost issues, the survey instrument is still highly conclusionary, and greatly oversimplifies the important issues involved. It did not attempt to introduce as relevant considerations even the existence of the wide range of other complex issues required to be considered by the agency in its decision-making. These include such things as the estimated number of low speed accidents a vehicle is likely to be involved in, how much damage such accidents will cause, the value that should be placed on delay and inconvenience, and the value of unrepaired damage.

With respect to these and a number of other complex issues, the agency was required to sift through and make informed judgments about enormous amounts of competing data, utilizing the services of engineers, economists and other professionals. This very complexity explains why Congress chose to delegate the setting of bumper standards to the agency instead of either legislating specific standards, or suggesting that public opinion be considered a determinative or significant factor.

Alternatives

The IIHS petition alleged that the only alternatives considered by the agency were weaker versions of the former standard. The petitioner argued that the agency should have considered, in addition to different compliance test impact speeds, regulatory options designed to lead to lighter weight bumpers, capable of meeting the then current 5/5 standard. The petitioner stated that NHTSA's analysis showed that such requirements would move bumper systems toward even greater reductions in costs to the public. The only example given by the petitioner of such a requirement, however, was maximum weight requirements for bumper systems. The petitioner also argued that NHTSA's failure to consider such requirements occurred despite the agency's explicit acknowledgment that the standard's compliance tests were chosen with the knowledge that they were imperfect surrogates from which to predict on-road experience.

In the first place, the agency did in fact consider more than just the nine proposed alternative versions of the former standard. As the preamble to the final rule noted, in preparing the Preliminary Regulatory Impact Analysis (PRIA), the agency considered the possibility of raising as well as lowering the required test impact speeds. The data on possible net benefits for higher speed standards was very limited and conjectural, however, and the agency was forced to consider them to be not even marginally reliable for decision-making. The agency did determine that any standard with a higher impact speed would under present or foreseeable technology result in greater costs, i.e., more complex bumper designs, greater primary and secondary weight and impacts on fuel economy. Further, the agency also was able to conclude that such a standard would have little or no effect on the majority of low speed accidents, since such a large number of low speed accidents occur at speeds of 3 mph or less.

In an attempt to seek additional information on this subject, the agency asked in the Preliminary Regulatory Impact Analysis (PRIA) whether speeds other than 5 mph, 2.5 mph and unregulated speed should be considered. None of the comments provided the type or amount of information that would have enabled the agency responsibly to consider other impact speeds.

The agency does not agree with IIHS's contention that maximum weight requirements would necessarily lead to the maximum feasible reduction in costs to the public, and thus did not propose such an alternative standard. As a general rule, lighter bumpers are more expensive than heavier bumpers, since they utilize more costly materials. Such bumpers may also require more complex designs. Thus, any cost saving resulting from the increased fuel economy of vehicles with lighter bumpers would be offset in whole or in large part by the bumpers' higher initial and replacement cost. Moreover, any type of requirement for lightweight bumpers would significantly restrict the design flexibility of the manufacturers.

For these reasons, the agency does not believe that it is appropriate to consider establishing requirements along these lines. Moreover, even if the agency were to consider such action, there would in the agency's judgment be serious question as to whether the agency has the authority to do so. The agency has considerable doubt whether such a requirement would constitute a "bumper standard" within the meaning of the Act. See 15 U.S.C. 1901(6).

It is not certain what point the petitioner seeks to make by pointing out that the agency declined to adopt or consider adopting requirements that would encourage the use of lightweight bumper designs "despite" the agency's explicit acknowledgement that present compliance test have been set with the knowledge that they are imperfect surrogates from which to predict on-road experience. To the extent that the agency acknowledges that point, it simply recognizes that no compliance test procedure could ever represent the complexities of the full range of real world accidents. That is, no known format of compliance test could be expected to reflect all such variables as the impact speeds, angles of crash, extent and frequency of bumper mismatch, and the rigidity, density and shapes of objects impacted which occur in actual driving situations. If the petitioner suggests that the agency should adopt additional tests such as barrier offset tests, angle tests, pole tests, and car-to-car tests, in the belief that those tests would lead to lighter bumpers, the agency simply disagrees. In fact, the agency believes that such different or expanded test protocols would merely force the installation of heavier bumpers, and further increase the costs to consumers and the public of the standard.

Safety Issues

Several issues were raised by petitioners concerning safety. IIHS alleged that the agency did not offer "convincing evidence" for its conclusion that there was not any safety based justification for the 5/5 bumper standard. IIHS also alleged that the agency did not properly address the contribution of 5/5 bumpers to crash energy management, particularly at speeds less than 30 mph. The individual petitioners also raised safety as an issue, expressing concern that the change would result in a loss of lives in accidents.

The agency thoroughly addressed the issue of safety in the FRIA and the preamble to the final rule. (See especially chapter IV of the FRIA.) The petitioners have raised no new arguments or submitted any new data concerning the contribution made by 5/5 bumpers to safety by virtue of enhanced protection of safety-related items such as lights and turn signals, a subject which was specifically addressed in the FRIA. Further, IIHS did not provide any rationale as to why it thinks that the FRIA's handling of that particular issue may have been deficient.

Based on the analysis provided in the FRIA, outside studies, and comments on the NPRM, the agency concluded that reduction of the 5/5 bumper standard would not have any significant effect on safety. The agency specifically noted in the FRIA the comment by one major domestic manufacturer, which cited studies conducted by Westat and Indiana University's Institute for Research in Public Safety in support of its assertion that only one percent of accidents are caused by safety component malfunctions which could have resulted from low speed collision damage. That commenter also contended, moreover, that the nature of these malfunctions, (e.g., lamps not working) would not permit the inference that even this low incidence of contribution to accident causation can be attributable to prior collisions, but must be considered instead to be more commonly experienced as a result of maintenance neglect, e.g., failure to replace burned out lamps. As a result, the commenter argued, low speed collision damage would necessarily have to be considered a miniscule factor in motor vehicle safety. Other commenters argued that the bumper standard's connection to safety is tenuous, that there is no evidence that safety would be compromised by amendment of the bumper standard, and that a 2.5/2.5 bumper standard would be adequate in any event to protect vehicle safety components.

On the specific question of the contribution of 5 mph bumpers to crash energy management, the agency fully considered that issue as it related to all speeds, notwithstanding the fact that certain of the illustrations cited by the agency involved 30 mph crashes. As IIHS pointed out, it is true that severe injuries can and do occur in crashes at speeds as low as 10–15 mph. However, at those speeds as well as at higher speeds, 5 mph bumpers contribute insignificantly to changes in the management of the crash energies to which vehicle occupants are subjected.

In a crash, an unrestrained occupant will impact the vehicle interior either after it has fully stopped or while it is still moving forward, i.e., while the vehicle itself is still in the process of absorbing energy. In order for a 5 mph bumper to have a superior beneficial effect on safety through contribution to crash energy management, it would have to cause the velocity of the vehicle to decrease at a significantly slower rate than would a 2.5 mph bumper. In such a case, the occupant would impact the vehicle interior at a point in time at which the vehicle itself still had a higher forward velocity than it would have had if equipped with the alternative bumper. The difference between the forward velocity of the vehicle interior and that of the occupant would in such a case be less, and as a result the occupant would absorb less energy or force in the impact. (This same analysis is of course applicable to restrained occupants as well, though they are much less likely to impact any point within the interior of the vehicle.)

The agency has determined, however, that 5 mph bumpers do not in fact cause the velocity of a vehicle to decrease at a significantly slower rate than would 2.5 mph bumpers in collisions at speeds of 10 to 15 mph or higher. There are several reasons for this. First, that difference between the two bumper systems which is relevant to safety in this context is the difference between the total energy absorption capability of the two systems, not the difference between energy absorption capability without damage. The energy that can be absorbed without damage to the vehicle is a small part of the total energy absorbed in collisions at 10–15 mph and above. Regardless of the type of bumper, the vehicle will already be stopped or almost stopped, in collisions at 10 mph or less, when the occupant impacts the vehicle interior. Thus, neither bumper system would have any significant opportunity to alter the speed at which the vehicle interior is traveling when the interior is struck by the occupant.

At speeds of 10–15 mph and higher, the small difference between 2.5 and 5 mph bumpers in energy absorption capability, primarily related to system weight, would have a negligible effect on the rate a vehicle slows in a crash. Other parts of the vehicle, e.g., the sheet metal and framing, are primarily responsible for the absorption of energy at such higher speeds. Further, as was noted in one of the comments on the notice of proposed rulemaking, the extra weight and rigidity of more damage resistant bumpers could in fact be expected to adversely affect crash deformation characteristics and rates of crush and energy absorption. Thus, more damage resistant bumpers may reduce, rather than increase, the potential levels of occupant protection in higher speed collisions.

Changes in Insurance Rates and Auto Prices

One commenter on the IIHS petition, the National Association of Independent Insurers (NAII), has alleged that the agency underestimated the impact the change in the Bumper Standard will have on automobile insurance rates. NAII argued that although the insurers had stated that the level of collision insurance premium increases would be

10 to 20 percent, the preamble to the final rule said that insurers had agreed that the appropriate figure would be 10 percent.

The agency fully considered the effect that the reduction in the bumper standard would have on insurance rates. As in any rulemaking proceeding, the agency based its cost estimates on the reasonably foreseeable consequences of its action. As was fully discussed in the FRIA, the agency carefully considered increases in collision and liability claims, as well as such factors as taxes and sales commissions. The increases in collision and liability claims were based on the agency's estimates of increased vehicle damage that may occur as a result of auto manufacturers meeting a 2.5 mph bumper standard instead of a 5 mph standard. The values used for taxes, sales commissions, profits, etc. were based on insurance industry data.

In cases of variance among asserted values for such cost components, the agency must necessarily adopt those figures whose derivation is known and which appear to be the most accurate. As indicated above, the agency fully supported its cost estimates in the FRIA. Therefore, it was appropriate to assign diminished probative value to estimates submitted by insurance industry commenters to the extent that those estimates were unsupported and in conflict with agency estimates based on known and documentable values.

In reaching its decisions on this factual point, the agency considered the estimates higher than 10 percent. The 10 to 20 percent range referred to by NAII was presented in one of the hearings conducted by the agency on the rulemaking. That range was stated to have been based on the discounts provided by insurance companies during the early 1970's, after state and Federal bumper standards took effect. It apparently represented those discounting companies' judgment as to the economic value of the difference in damage susceptibility between vehicles produced before any bumper standard, and vehicles produced under the 5 mph standard.

The relevance of that range, particularly at its upper end, seems questionable. Bumpers produced under the 2.5/2.5 standard are expected to provide significantly greater damage protection than those produced in the unregulated environment which preceded the bumper standard and which were the basis for the cited discounts. The unregulated bumper produced just prior to the early 1970's when bumpers standards came into existence have been estimated to have been the equivalent of 1.5 mph bumpers, rather than 2.5 mph bumpers. Further, those unregulated bumpers were not subject to height requirements and thus resulted much more often in underride or override.

Therefore, there does not appear to be any basis for anticipating that costs will increase under the action taken to the same extent they decreased when the standard first came into effect. Finally, the agency pointed out in the FRIA that one major company's estimate of a 15 percent increase in collision rates was, when appropriately adjusted, not incompatible with the agency's own range of estimates.

NAII also objected to one of the specific reasons stated by the agency for not agreeing with the predictions of the rate increases by the insurance industry. That reason was the agency's assumption that only actual cost increases would be approved by State regulatory bodies for pass through and recovery in the form of rate increases. The commenter argued that this assumption demonstrates a total misunderstanding of the insurance industry's regulatory ratemaking procedure.

According to the commenter, many states do not require any approval before raising rates. The commenter stated that when new, improved bumpers were first produced under the government's bumper program, many insurers offered "judgmental discounts" on rates, assuming the lower rates would be justified by later experience in the form of fewer claims and lower payouts. The commenter stated that it had every reason to believe those judgmental discounts and lowered collision costs will be rescinded and rates raised as a result of the change in the Bumper Standard. The apparent implication of NAII's comment is that if insurance companies think rate increases of 10 to 20 percent are needed, those are the increases they will adopt even if states requiring pre-approval of rate increases based on estimates of increased costs would in fact only be able to find, and approve, a lesser amount.

The agency does not agree that it mischaracterized the insurance industry's regulatory ratemaking procedure. While some states may not require approval before raising rates, many states do. Moreover, approval for rate increases is ordinarily more difficult to obtain than approval for rate decreases.

The agency believes that even in those states not requiring prior approval, rates will ultimately reflect actual cost increases as a result of competition in the market place. This will certainly be true in the long run, if not fully realizable in the short run. In any event, the principle that insurance companies will, and should, be able to recover from their insured customers only actual increased costs (including normal profit) is the only assumption which in the agency's view is consistent with the intent of the Act that this element of cost be taken into account in setting the standard. To conclude otherwise would require the agency to infer that the Congress intended the Act to create a windfall and objectively unsupportable level of increased profit for insurance companies, at the expense of consumers and the public. This the agency declines to do.

On a somewhat related point, NAII argued that there is no reason to believe that car manufacturers will pass on cost savings to consumers The answer to this point is similar to the answer to the arguments concerning insurance rate increases. The agency believes that cost savings will be passed through to consumers as a result of competition. Moreover, as the agency noted in the FRIA, several car manufacturers specifically indicated that they would pass cost reductions on to consumers. The agency believes that its reliance on the manufacturers' statements is reasonable since neither petitioners here nor commenters on the NPRM have put forth any basis for assuming otherwise.

Phase I vs. Phase II

IIHS noted the agency had concluded that "any attribution of benefits to the Phase II requirements would be too speculative as a basis for agency decision." IIHS therefore alleged that the agency dropped the Phase II requirements simply because it could not find any data on the Phase I vs. Phase II issue.

It is true, as the agency pointed out, that empirical performance data on Phase I bumpers are not available owing to the uncertainty about which model year 1979 cars may be considered to have had only Phase I bumpers. The requirements for Phase I bumpers were in effect for that model year only. Commenters indicated that some car manufacturers immediately began compliance with the Phase II requirements, which became effective in model year 1980, without ever producing Phase I (only) bumpers. Evidence of the lack of any significant difference, however, among bumper systems for these two years is found in the teardown studies on 1979 and 1980 bumpers. Those studies showed no differences in the weights of those bumpers and only insignificant changes ($2) in costs.

The agency's decision to reduce the damage criteria was not based on the fact that data were unavailable for Phase I vs. Phase II. Instead, it was based on data showing no difference in lifetime net benefits between the original FMVSS 215 bumpers and Phase II bumpers. Therefore, in accordance with the Act, the agency determined that the Phase II requirements should be eliminated. As pointed out, the agency did not consider it consistent with the statute's direction to seek the maximum feasible "reduction in costs" to maintain requirements which result in higher known costs to achieve only essentially the same expected net benefit.

The preamble to the final rule and FRIA explain more fully the decision on Phase I vs. Phase II, including additional considerations bearing on the decision. Among other things, the agency noted that the Phase I requirements will permit use of new technology, prevented by the Phase II criteria, that may result in even greater consumer benefits.

Assumptions in the FRIA

IIHS raised a number of issues concerning numerical assumptions made in the FRIA. Most of the issues related to assumptions about primary and secondary weight savings and estimates concerning the relative effectiveness of 5 and 2.5 mph bumpers. It was alleged that a significant portion of the FRIA's projected cost decreases for 2.5 mph bumpers is derived from projected primary and secondary weight savings which are largely illusory. It was also argued that the agency's estimate of fuel savings attributable to weight reduction is incorrect.

Primary Weight Savings

IIHS argued that both the lower and upper ends of the FRIA's range of estimated primary weight savings—15 to 33 pounds—are too high. This range affected the arithmetic average of weight savings used in some of the comparisons of alternative bumper standards but not the weighted average used in one of the comparisons.

The petitioner stated that the agency had ignored some manufacturer comments which state that their primary weight savings will be less than 15 pounds. The petitioner argued that the upper end of the range was too high because it appears to be based on differences between U.S. versions of cars complying with the former U.S. 5 mph standard and European versions of the same cars complying with the European 2.5 mph standard. The petitioner stated that these design differences are irrelevant because the provisions of the European standard are less stringent than those of the recently adopted U.S. 2.5 mph standard.

NHTSA does not believe that any significant change to the bounds of its range is necessary or would be appropriate. The effects of any even arguably relevant changes on the overall results of the agency's analysis would be minimal, and in no event outcome determinative.

In response to the NPRM, three manufacturers (Chrysler, Volkswagen and Mitsubishi) did give estimates lower than 15 pounds. However, Chrysler and Volkswagen, whose U.S. sales substantially exceed those of Mitsubishi, have indicated that those figures represented only initial savings and that additional savings could be expected. The figure initially given by Chrysler was 10 pounds. However, it should be noted that Chrysler emphasized that this was a minimum figure. Further, Chrysler's estimate of 10 pounds was for Phase II bumpers. Weight savings somewhat above 10 pounds are likely for that company as a result of the agency's decision to adopt the Phase I requirements. Based on projections from detailed weight data submitted by GM and Volvo, additional weight savings of from one to two pounds would be expected in altering plans for complying with a 2.5/2.5 Phase II standard to plans for compliance with a 2.5/2.5 Phase I standard. In addition, Chrysler was cited in a September 23, 1982, *Christian Science Monitor* article as having stated that it would eliminate about 10 pounds for the 1983 model year and still more weight for the next model year.

Similarly, Volkswagen has indicated that the 8 pound figure attributed to it represents the initial weight savings only. In a July 29, 1982, letter to IIHS, Volkswagen stated that the weight of its Rabbits and Jettas would be reduced by 8 pounds by substituting the energy absorbing components with rigid brackets. Volkswagen emphasized that it never suggested that there would not be additional weight savings for the Rabbit, such as those that might result from redesigning the face bar. It noted further that it had specifically stated at the October 22, 1982, public hearing that the weight savings for the Jetta would significantly exceed 8 pounds.

As to the upper end of the range, Volvo supplied a higher number, 39 pounds. It was not dependent on estimates involving the European bumper but was excluded because of the particular nature of the Volvo cars and their low U.S. sales volume. The 33 pound figure that was used was based on estimates provided by Renault and BMW. The petitioner argues that since the Renault and BMW weight estimates appear to be based on differences between a European version of a car built to a 2.5 mph European standard and an American version of the same car built to the former Part 581 standard, they may be too high since the European 2.5 mph standard is less stringent than the amended Part 581 standard. This point appears to be confirmed by a later submission of one of those manufacturers, which reports lower weight savings than it originally projected.

The outcome of the agency's comparison of alternative bumper standards is not significantly affected by the choice between using a range of reasonable values which excludes high and low outlying values and one which uses the most extreme values submitted by the manufacturers. The results of the analysis in the FRIA are insensitive to the choice between a 15–30 pound range (30 pounds being the Ford average figure) or 15–33 pound range. Use of the former instead of the latter range reduces the net benefits of the 2.5 mph/2.5 mph standard by only $3–4. If a range of extreme values, 8–39 pounds, had been used, there would have been no change in the net benefits calculated in the FRIA. Finally, even if NHTSA had adopted IIHS's apparent suggestion of an 8–30 pound range primary weight savings, the agency's decision would not have changed. The lifetime net benefits of 2.5 mph bumpers would still have yielded more than $20 per car as compared to 5.0 mph bumpers.

Similarly, the sales weighted average computed in the FRIA would not be affected if the agency used lower estimates of weight savings for Renault and BMW. This results from the relatively low United States sales of those two companies.

IIHS also argued that NHTSA's teardown studies, used as an independent check on manufacturer weight reduction estimates, included an unrepresentative sample of vehicles. According to the petitioner, the agency's review did not include a large number of newer front-wheel drive vehicles and thereby biased the results in a way that would be expected to produce higher bumper weights. The petitioner alleged that the studies could therefore not be expected to produce an independent check on manufacturer estimates of weight savings for mid-1980's model cars. Further, the petitioner alleged that NHTSA's analysis ignores the fact that 5 mph bumpers have been getting lighter with each successive design cycle. The apparent implication of this argument is that the weight savings estimated by the

agency may not be the same as would be realized in the mid-1980's.

The agency does not agree that the sample of vehicles used for teardown studies was unrepresentative for the purpose of determining the validity of the manufacturers' submissions. Due to cost constraints, the agency was not able to study every model type. The agency believes the sample of vehicles studied was sufficiently large and representative to serve its limited purpose, a check on manufacturer estimates.

The agency did not ignore the fact that 5 mph bumpers have been getting lighter when compared to the initial FMVSS 215 bumpers. The agency believes, however, that the few examples cited by IIHS do not establish that there would have been significant additional reductions in average bumper weight had the standard remained at 5 mph. Manufacturers have been producing 5 mph bumpers since 1973. Thus, there has been sufficient time for manufacturers to have optimized weight savings from successive design cycles. By way of contrast, the agency's weight estimates for 2.5 mph bumpers represented initial designs. Thus, additional weight savings will be possible for 2.5 mph bumpers as manufacturers learn from successive design cycles.

On a related point, this petitioner took exception to the agency's statement that even if it based its analysis on bumpers utilizing the latest technology, the effect of this change on the analysis would largely be negated by the necessary parallel assumption that bumper systems offering lower levels of protection would also be designed at the most efficient levels possible. Petitioner argued that this statement obscured the fact that efficient bumper designs such as those already on some cars cannot possibly yield the weight savings projected by the agency even if the most efficient 2.5 mph designs were used. The petitioner cited three specific vehicles, the Plymouth Horizon, Volkswagen Rabbit, and Ford Escort.

The agency does not agree with the possible implication that manufacturers cannot achieve significant weight savings by replacing efficient 5 mph bumper designs with efficient 2.5 mph designs. The three vehicles cited by IIHS are all considerably smaller than the fleet average. While the weight savings of a particular vehicle depends on many factors, it may be stated as a general rule that larger cars are likely to experience higher weight savings than smaller cars. This is true because larger cars have larger and heavier bumpers and therefore more potential for weight savings. NHTSA projects that weight reduction will be proportionate to total bumper weight. Thus, the three vehicles cited by IIHS would be expected to have weight reductions less than the averages projected by the agency.

Nevertheless, for current new small cars with light weight 5.0 mph bumpers, significant weight reduction appears possible. Although the ECE 2.5 and U.S. 2.5 mph bumper standards are different, those differences do not explain a substantial portion of the 41 pound difference between the 13 pound bumper system on the European Ford Escort and the 54 pound system on the US counterpart. Thus, a primary weight savings well within the 15 to 33 pound range is not unreasonable, even for a very small car.

Also on the subject of primary weight savings, IIHS argued that unless a vehicle could be moved into a lighter EPA weight class, manufacturers do not appear to be interested in seeking to reduce bumper weights to achieve small improvements in fuel efficiency for consumers. As an example, the petitioner noted that two of GM's X-cars have virtually interchangeable bumpers with weights differing by 33 pounds. According to the petitioner, this makes it clear that possible small consumer savings in fuel are not an overriding consideration when bumper design decisions are made and that there is no evidence that any theoretically possible weight savings will ever be realized in practice. It was also argued that there is no evidence to suggest that manufacturers will seek to produce 2.5 mph bumpers that are significantly lighter than lightweight 5 mph bumpers.

The agency's estimates of weight savings are those expected to be achieved in the real world, instead of those which are theoretically possible. Those expectations were based on the changes that the auto manufacturers indicated they actually intended to make in their bumper systems in response to a 2.5 mph standard. The petitioner has not offered any evidence calling those intentions about future weight reductions into question. Similarly, the agency's evaluation of the teardown studies was based upon the agency's own assessment of the changes that a manufacturer would actually make. Those studies, which were discussed in the 1981 Evaluation and in the FRIA, were used by the agency as a check on manufacturer comments in reaching its final decision.

While the agency is not privy to all of the reasons that the manufacturers have in mind for achieving their projected weight savings, the agency can identify several incentives which the manufacturers have. For whatever material is used in a given bumper, a lighter version of that bumper will cost less since less material will be used. In switching from a 5 mph bumper to a 2.5 mph bumper and removing the relatively expensive energy absorbers, manufacturers will save money while obtaining a weight savings. Further, each pound of primary weight saved will enable the manufacturers to achieve secondary weight savings elsewhere, thereby saving the money associated with secondary weight. Since the manufacturers have an overall incentive to meet consumer demand for fuel economy, the agency believes that they will take advantage of the opportunities to reduce weight.

As to the particular example cited by IIHS, the agency does not believe any firm conclusions can be drawn regarding the reasons for the weight differences in the bumper systems of two models of General Motors X body cars. The single example certainly does not prove that General Motors or any other manufacturer considers vehicle weight to be an unimportant factor except for the purposes of EPA weight classes. While a number of explanations are possible for the differences in the bumper systems, the agency does not believe it appropriate or useful to speculate on why a company made particular design decisions.

Secondary Weight Savings

IIHS argued that because secondary weight reductions cannot occur until a vehicle is completely redesigned, any vehicle whose bumper system performance is reduced to 2.5 mph in the next few model years, i.e., without accompanying overall vehicle redesign and secondary weight reductions, will generate net consumer losses over its lifetime. This petitioner also argued that there is considerable uncertainty as to whether any secondary weight savings will actually occur when vehicle redesign is ultimately undertaken. On the subject of secondary weight, the petitioner noted and submitted certain statements made in a recent paper published by C. L. Magee, a Ford employee, under the auspices of the Society of Automotive Engineers (SAE). In that paper, the author ("Magee") indicated that secondary weight benefits are probably only practically realizable over a period of 10 or more years. Also, Magee noted that a complicating factor limiting the achievement of secondary weight reduction is the practice of deriving a variety of vehicles from a common base.

The issue of short run, transitional effects of the reduction in the bumper standard was discussed in the final rule. The agency noted therein that it expects manufacturers to continue to produce bumper systems exhibiting at least some characteristics of 5 mph, Phase I bumpers. Production requirements and market pressures will constrain any move immediately to 2.5 mph bumpers only. The agency noted that, as indicated by several manufacturers, bumper face bars and reinforcements designed for 5.0 mph impacts will undoubtedly continue to be used on at least some new cars, in the short or intermediate term. As IIHS and its survey data have noted, this is fully consistent with some levels of consumer expectation and desire about bumper performance and thus subject to predictable market demand support. Agency experience and testing indicate that such components are capable of affording protection at somewhat higher impact speeds than those previously required, in probable large part as a result of intentional over-design to ensure compliance in NHTSA testing. Thus, contrary to IIHS's contention, a significant portion of the performance of current bumpers would in any event be retained in the short run.

Of perhaps greater significance, however, some reduction in secondary weight is possible without complete redesign of a vehicle. As manufacturer comments and the FRIA recognized, weight-reducing changes can be made and are expected in such vehicle components as tires, brakes, and drivetrains.

Thus, the agency does not expect many vehicles to be produced with 2.5 mph bumpers that do not have some corresponding changes in secondary weight. To the extent that any such vehicles are produced in the short term, the associated costs are normal transition costs associated with any change in requirements. The possibility that the rulemaking may have such short-term costs is outweighed by the significant benefits that owners of future cars will experience as a result of the new standard.

The agency does not agree with the petitioner that there is uncertainty that secondary weight savings will occur when vehicles are redesigned. Based on generally recognized and accepted design theory, the incentives facing manufacturers and manufacturer comments, the agency concludes that secondary weight savings will actually occur. The petitioner provided no information supporting its assertion to the contrary but simply concluded that such savings were uncertain. Petitioner's assumptions are contradicted by the very SAE paper it submitted, which expressly assumed that primary weight reduction will be accompanied by significant secondary weight reduction. Indeed, the paper uses a secondary weight factor very close to the one used by the agency. The agency assumed a secondary weight reduction of .7 to 1.0 pound for each pound of primary weight reduction while the SAE paper assumed a secondary weight reduction of .6 to .9 pound.

Finally, even if the practice of deriving a variety of vehicles from a common base were to limit the achievement of secondary weight reduction for any particular vehicles, it would not *ipso facto* call into question the agency's range of .7 to 1.0 pounds. Both the agency's .7 to 1.0 pound range for the fleet average, based on reviewed manufacturer estimates, and the SAE paper's range of .6 to .9 pounds, which explicitly noted that complicating factor, took into account the effect of deriving different vehicles from a common base.

Fuel Savings

IIHS challenged the agency's estimate that 1.0 gallon of gasoline would be saved over the lifetime of a car for each pound of weight removed from a car. It noted that Magee's SAE paper suggested that the estimate should be 0.49 to 0.79 gallon per car for cars appearing in the market place five to ten years or more from now.

A supplementary memorandum prepared by the same author and submitted by Ford to the agency docket in connection with the agency's consideration of the reconsideration petition emphasizes the real uncertainties in estimating weight effects of fuel consumption and concludes that his "long-term estimates—depending on other assumptions—are in 'reasonable' or 'fairly-close' agreement with that given by NHTSA * * *."

Bearing in mind the probative weight properly to be assigned to such assertions by interested parties, the agency concludes that to the extent that there are any differences or inconsistencies between the estimates of Magee and those of the agency, the agency will not elect to rely exclusively upon the estimate of this author as opposed to its technical experts. There are a variety of reasons for this decision. First, while estimates concerning the amount of gasoline that will be saved over the lifetime of a car for each pound of weight removed vary significantly, Magee's estimate is lower than those set forth in most other similar studies reviewed. With one exception, the studies cited by Magee's report itself conclude that the figure for long run fuel savings should be in the range of 1.09 to 1.4 gallon, values significantly higher than the agency's own estimate of 1.0 gallon. IIHS did not explain why the agency's judgment on this point should now be considered incorrect, or why the value set forth in the Magee study should be accepted as superior to virtually all other studies or comments by manufacturers. While the agency has considered and assessed the report, it is unable to conclude that it must be considered uniquely superior to other studies.

Second, Magee's cited low estimate is based on at least one highly questionable assumption. He assumes that powertrain efficiencies will be significantly improved in the future and that those improvements would reduce by 15–30 percent the effect on fuel economy currently attributed to any weight changes. This assumption is unsupported by data or analysis and could not serve as the basis for agency judgment on the issue.

Relative Effectiveness Estimates

IIHS challenged the agency's overall estimate of the relative effectiveness of 5 mph and 2.5 mph bumpers. First, IIHS alleged that the agency ignored the results of that organization's own crash tests, which directly compared the performance of bumpers on three pairs of vehicles, the Subaru four-wheel drive compared to the Subaru two-door hatchback, the four-wheel drive AMC Eagle compared to the AMC Spirit, and the VW Rabbit pickup truck compared to the VW Rabbit. IIHS noted that one vehicle in each pair was required to meet the 5 mph standard, while the other vehicle was not, and asserted that the vehicles not meeting the 5 mph standard in fact had bumpers equivalent to 2.5 mph bumpers. IIHS argued as a result that comparison of performance could effectively serve as empirical comparison of the relative effectiveness of 5 mph versus 2.5 mph bumpers.

The agency fully considered the data presented by IIHS. As explained in the FRIA, the agency determined that its use as suggested by IIHS was wholly inappropriate and unsupportable from a scientific standpoint. The bumpers on those vehicles alleged to have 2.5 mph bumpers were not in fact or by design intended to meet a 2.5 mph standard. Further, the data presented by IIHS did not in any way demonstrate that the vehicles in fact *had* bumpers that could meet a 2.5 mph standard. Although the petitioner subjected the vehicles to

barrier tests at 2.5 mph, it did not subject them to the more critical *pendulum* test required by NHTSA's 2.5 mph standard. In terms of local loads to which a bumper system is subjected, the pendulum test is far more stringent than a barrier test. Therefore, the vehicles were not shown to have had bumpers meeting Part 581 requirements, and the entire basis for comparison as asserted by IIHS is undermined. If the vehicles asserted to have 2.5 mph bumpers had actually had bumpers that were the equivalent of 1.5 mph or 2.0 mph bumpers, comparison of the resulting test data with those for the 5.0 mph bumper vehicles would have substantially exaggerated the difference between 2.5 mph and 5 mph bumpers.

In addition, there are several other reasons which were set forth in the FRIA for the agency's inability to rely on IIHS data. For example, the vehicles in question are not sufficiently representative of the vehicle fleet for the agency to draw significant conclusions about the differences between 2.5 mph and 5 mph bumpers. Even if that were not the case, the data submitted by IIHS were inadequate to draw any conclusions about *overall* 2.5 mph and 5 mph bumper effectiveness in low speed collisions. Over the lifetime of an average car, the fractional number of crashes that occur at speeds near or above 5 mph is small. A much larger number occur at 0–3 mph. Yet IIHS conducted all of the tests which it submitted to the record at an impact speed of 5 mph only. No tests are known by the agency to have been conductd by IIHS at lower speeds, other than the above noted limited tests demonstrating that the unregulated bumpers could pass the less stringent barrier test at an impact speed of 2.5 mph.[2]

In its petition, IIHS noted the agency's statement that there were no data from which to conclude that the bumper systems tested by that organization were designed to, or would in fact comply with, the Part 581 requirements in 2.5 mph barrier and pendulum impacts. The petitioner alleged that the agency apparently ignored the fact that, at the November 1981 hearings on the rulemaking, the witness on behalf of IIHS explained that the VW Rabbit pickup truck's front bumper was essentially the bumper that Volkswagen *itself* had said it would install in compliance with a 2.5 mph standard.

The agency does not agree that the petitioner has demonstrated the necessary properties of the bumper in question or even the understanding or intention of VW in this regard. In fact, the IIHS witness stated at the hearing that IIHS itself "presumed" that the design on the VW pickup truck's front bumper was the one that VW would choose for the Rabbit passenger car, based upon IIHS' reading of the estimated weight savings allegedly indicated by that manufacturer in its comments, a perceived similarity between the VW pickup truck and passenger car bumpers (except for the energy absorbers included on passenger car bumpers), and the fact that manufacturers in general have indicated they will remove energy absorbers in going to 2.5 mph bumpers. VW itself has not stated to the record or as known to the agency anywhere else that it would use the pickup truck bumper design on its passenger cars in the event of an impact change from 5 to 2.5 mph. Moreover, the July 29, 1982, letter written by VW to IIHS and submitted to the record asserts that the weight savings figure used by IIHS in this regard was taken out of context. VW indicates in its letter that it may in fact redesign the bumpers, including the face bars, of its passenger cars under the new standard.

More important, even if IIHS were correct that the bumper design in question is the one VW will use under a 2.5 mph standard, the issue is still not resolved. As noted above, IIHS data for the three pairs of cars are too limited to draw conclusions about overall 2.5 mph and 5 mph bumper effectiveness, and do not take account of the small number of crashes occurring at speeds near or above 5 mph. The data for the pair of VW cars alone are still more limited, and commensurately less suitable for drawing reliable conclusions.

The agency notes that even as so limited in value, the resulting IIHS data comparing the combined damage of three types of 5 mph collisions for 2.5 mph and 5 mph bumpers, do not directly conflict with the agency's conclusions about the overall relative effectiveness of 2.5 mph and 5 mph bumpers. The agency's 1979 Assessment, which was used by the agency in comparing 2.5 mph an 5 mph bumper effectiveness, assumed that 5 mph bumpers were much more effective in 5 mph collisions than 2.5 mph bumpers. Moreover, the determination in the 1979 Assessment that 2.5 mph bumpers were 67 percent as effective as 5 mph bumpers was, in significant part, a reflection of the above noted fact that a very small number of crashes occur at speeds near 5 mph and above, as compared to the number which occur at speeds of 0 to 3 mph.

The agency believes that the best available evidence concerning the relative effectiveness of 2.5 and 5 mph bumpers is the theoretical relationship developed in the PRIA and FRIA through use of the agency's 1979 Assessment. Based on a combination of real world data and engineering estimates regarding effectiveness, the 1979 Assessment concluded that 2.5 mph bumpers were 67 percent as effective as 5 mph bumpers, i.e., that 2.5 mph bumpers prevent 67 percent of the damage prevented by 5 mph bumpers, relative to pre-standard bumpers. (The 67 percent figure is in part a function of the value of unrepaired damage and thus varies according to the value selected.)

After reviewing the challenge set forth in IIHS's petition, the agency continues to believe that it was appropriate to use the 1979 Assessment for purposes of the 67 percent ratio. As the agency explained in the PRIA and FRIA, there are very few empirical data concerning the effectiveness of 2.5 mph bumpers. The reason for this is that the only 2.5 mph bumpers ever installed on cars were those on the rear of 1973 cars. The PRIA did attempt to use the limited data available from those vehicles to estimate the effectiveness of front and rear 2.5 mph bumpers. However, commenters on all sides agreed that the 1973 rear bumpers were not representative of 2.5 mph bumpers.

As an alternative to using the data on 1973 rear 2.5 mph bumpers, the agency used the 1979 Assessment to estimate 2.5 mph bumper effectiveness. The agency applied the Assessment's 67 percent ratio to its real world estimate of 5 mph bumper effectiveness to derive an estimate of 2.5 bumper effectivness. None of the commenters on the proposal opposed this use of the ratio.

In its petition submitted after the final rule, IIHS did allege that certain of the assumptions underlying the 1979 Assessment are rebutted by IIHS crash test data. It further asserted that some of

[2] The agency notes that the results of IIHS's testing, as announced and displayed in films submitted to the docket and widely distributed to the press and public, are seriously misleading in another respect. IIHS compared the total amount of damage sustained by similar vehicles with alleged 5 mph and 2.5 mph bumpers in a series of crashes. Quite apart from the fact that the series of tests were extremely unrepresentative in terms of the number of crashes that a vehicle is likely to be involved in at speeds as high as 5 mph, the front into angle barrier and rear into pole tests included by IIHS were far more severe than any test required by Part 581. A very large portion of the differences in dollar damage between the vehicles alleged to have 5 mph and 2.5 mph bumpers is attributable to those severe tests. Presentation of test results in the manner used by IIHS could mislead the uninformed observer as to either NHTSA's test protocol or the relative ability of these undocumented "2.5" bumpers to withstand damage as compared to 5 mph systems in the type of crash situations likely to be experienced by a typical car in the real world.

the data were never validated and that the data and assumptions do not take Phase I and Phase II requirements into account.

With respect to these allegations, it should be noted that the agency did not use the 1979 Assessment for purposes other than developing the 67 percent ratio. The agency believes that data regarding on-the-road experience, such as the data used to estimate the benefits produced by 5 mph bumpers, are superior to engineering estimates. However, as the problem of estimating 2.5 mph bumper effectiveness illustrates, such data are often unavailable. Since the agency only used the 1979 Assessment for purposes of the 67 percent ratio, the only inquiry into its underlying assumptions which is relevant at this point is whether they could be incorrect in such a way as to significantly reduce that ratio.

The IIHS petition alleged that one of the underlying assumptions of the 1979 Assessment, that a bumper system loses all of its effectiveness in impacts that are twice the design speed, is rebutted by IIHS crash test data. According to that organization, even the FMVSS 215 bumper resulted in substantial reductions in damage in barrier impacts of 10 and 15 mph.

The agency does not believe that the data presented by IIHS establish any invalidity of the 1979 Assessment's assumption that a bumper system loses its effectiveness in impacts that are twice the design speed. This conclusion is based on several factors. First, the IIHS data come from front barrrier crashes which overstate the effectiveness that bumpers would have in the real world. The reason for this is that front barrier tests do not reflect collisions with objects, varying angles of collision, or the dynamic mismatch and override which occur in a significant portion of on-the-road collisions. Before using such test results to estimate bumper effectiveness in real world crashes, the agency would have to reduce the values substantially to account for those factors. If this were done, estimates of overall effectiveness at twice the design speed would only be a fraction of the values derived by IIHS test data.

Second, IIHS's conclusions are based upon a very small number of vehicles. Third, there was a great deal or year-to-year scatter in the data for individual vehicle types.

In any event, even if the 1979 Assessment had assumed some level of effectiveness at speeds more than double the design speed, the 67 percent ratio would not have been substantially changed. The reason for this is that while 5 mph bumpers would have been assumed to have some effectiveness at speeds above 10 mph, it would have been necessary to assume also that 2.5 mph bumpers would have some such effectiveness above the doubled value for that speed, i.e., above 5 mph.

IIHS also argued that the 1979 Assessment's figures on the frequency of crashes at different impact speeds, derived from a Ford study, have never been validated. The agency disagrees. The frequency values were based on extensive data. That data included the results of a survey taken of approximately 18,000 damaged vehicles that had been involved in accidents.

The agency believes that the Ford frequency of crash information was the best available when the 1979 Assessment was completed. The agency is unaware of any later data which are either superior to the Ford data or which indicate that the limited conclusions derived from such frequency of crash information are invalid. The petitioner neither identified nor submitted such data.

Finally, IIHS argued that these agency effectiveness estimates did not take account of the Phase I/Phase II requirements. The petitioner suggested that in making such estimates the agency assumed that designs which would allow damage to the bumper and attachments (Phase I) would be as effective as designs that permit no damage at all (Phase II).

Petitioner's arguments on this point are incorrect. As discussed above, the agency made no such assumption. The 67 percent effectiveness ratio was derived from the estimate in the 1979 Assessment that 2.5 mph Phase I bumpers would prevent 67 percent of the damage prevented by 5 mph Phase I bumpers. The agency believes that use of the same ratio is appropriate for comparing 2.5 mph Phase II bumpers with 5 mph Phase II bumpers or 2.5 mph FMVSS 215 bumpers with 5 mph FMVSS 215 bumpers.

Alleged Discrepancies

IIHS alleged that there are discrepancies in the various calculations used in NHTSA's analysis to estimate the differences in net benefits between 5 mph and 2.5 mph bumpers. For example, the petitioner noted that the press release announcing the agency's decision indicated that the new standard will yield an additional $28 in net benefits to consumers over the life of the vehicle, when compared to the current 5 mph bumpers. The net $28 in benefits were stated to have been based on vehicle price and fuel savings of $93 offset by an increase of $65 in higher repair, insurance and other costs.

IIHS argued that the $93 and $65 figures never appeared in the analysis and that the net benefit of $28 mentioned in the press release is the average result obtained from three different methods. This petitioner also argued that the agency's own most probable set of values for the various components of costs and benefits produced a net benefit result of $18.

The agency has examined the examples alleged by IIHS to be discrepant figures, and has determined that they represent nothing more than the different possible estimates of benefits which might result from the alternate methods of calculation used by the agency. As noted extensively in the preamble to the final rule, the comparable assessment of costs and benefits by alternative methods was one means by which the agency addressed and to the degree possible reduced the problems of uncertainty inherently associated with this type of rulemaking.

The specific figures of $93 in gross benefits and $65 in gross costs appear on page ii of the FRIA summary. Those figures were derived using the assumptions underlying each of three methods by which the agency calculated the most probable outcomes of net benefits. The figures are indeed averages of the three methods, just as the $28 is an average.

Contrary to the assertions of IIHS, the agency has never concluded, much less stated, that the most probable values for the various components of costs and benefits would yield a net benefit of $18. Instead, the set of assumptions used to derive the $18 figure (which appears at line 3, Table XI–4, FRIA) was one of several combinations of assumptions which the agency evaluated on pages XI–17 to 19 of the FRIA in an attempt to arrive at the respective, more probable outcomes for each such set of assumptions. Table XI–4 of the FRIA presents three such outcomes, with net benefits of $42, $23 and $18, respectively, which the agency considers to have an equal probability of occurrence. These benefit figures are the ones mentioned above as having been averaged to produce the $28 figure.

The IIHS petition alleged that, in calculating one of those three net benefit outcomes, the agency derived four net benefit figures, arbitrarily decided that one of them was not plausible, and then averaged the other three to obtain the net benefit outcome.

The agency disputes that construction of its assessment process. As part of its sensitivity analysis of this complicated

economic structure, the agency calculated net benefits using four combinations of extreme assumptions: high benefit range/low cost range, high benefit range/high cost range, low benefit range/low cost range, and low benefit range/high cost range. In one attempt to estimate and set forth the probable net benefits for the alternative standards, the agency calculated the average of the results of those combinations of extreme assumptions. The agency determined, however, that it was virtually impossible for one of the four combinations of extremes assumptions, the low benefit range with high cost range, to occur in reality. This conclusion was not arbitrary, but based on the recognition that for this particular combination of factural predicates to occur, inherently contradictory operations of market or price behavior would have to occur and diametrically opposed assumptions as to cause and effect would have to be made simultaneously. Therefore, the agency excluded that combination from the averaging process.

The agency fully discussed in the FRIA its reasons for rejecting the possibility that low benefit/high cost combination of assumptions could occur in reality. The IIHS petition did not address the agency's statements or suggest why they might be incorrect. The agency believes its conclusion was correct and, therefore, that it was appropriate not to use that combination for purposes of determining this one estimate of net benefits of the alternative standards.

Further, the particular methodology challenged by IIHS (averaging the three figures to obtain a likely outcome) is only one of three used by the agency to determine likely outcomes. The agency's ultimate decision was based on the entire analysis and is not dependent on the methodology as challenged by the petitioner. The outcome (the agency's decision) would not be changed by dropping the methodology entirely, or even by averaging in the set of extreme assumptions which the agency determined was inappropriate to use in the averaging process. The reason for this is that in any such case the agency would still: (1) find it necessary to reject the 5 mph/5 mph alternative since it was less cost effective than other standards, and (2) choose the 2.5 mph/2.5 mph standarad over the other alternatives. While the choice between the 5 mph/2.5 mph and 2.5 mph/2.5 mph standards would be very close in that situation, the agency would, under the rationale set forth in the preamble to the final rule, be forced to choose the 2.5 mph/2.5 mph standard since it best serves the agency's understanding of the Congressional intent in enacting the statute in the first place. It would result in the fewest known costs to achieve essentially the same expected net benefit, would allow manufacturers the greatest design freedom in attaining the same net benefit, and avoids a differential front and rear standard which would increase design costs and affect the amount of damage inflicted.

For all of these reasons, the results of the rulemaking are not affected by the issues raised by IIHS' challenge to the exclusion of the net benefit figures for the fourth combination of assumptions from the averaging process in determining one of the likely outcomes.

Late Submission

Late in the agency's review of the petitions for reconsideration, Allstate submitted a new analysis of insurance data for 1980 model year cars as compared to 1971–1972 and 1973–1974 model year cars. That company concluded that the 1980 systems produced substantial cost reductions. Moreover, Allstate argued that its data are not unique, since analyes of State Farm submitted to the docket demonstrate similar results.

The agency was unable to fully analyze or draw reliable conclusions from Allstate's data for two reasons. First, the data were presented in a summary format which did not enable the agency to evaluate the methodology employed by Allstate or compare the data with data of a similar type analyzed by the agency. Second, the analysis was submitted so late (almost five months after publication of the final rule) that efforts by the agency to obtain the type of information needed for a full evaluation and then to conduct such an evaluation would have resulted in a substantial delay in responding to the timely filed petitions for reconsideration.

However, the agency has no reason to believe that such an evaluation would in any way affect its various estimates provided in the FRIA or its decision to deny the petitions for reconsideration. The reductions in accident and insurance costs resulting from 5 mph bumpers were fully considered by the agency during the rulemaking. While the agency is unable to assess Allstate's arguments that its data are not unique and that analyses of State Farm submitted to the docket demonstrate similar results, the agency did fully consider data submitted by State Farm that were of a similar nature to those used by Allstate. See PRIA, chapter V; FRIA, chapter III (D) and VI. If Allstate submits its data in a more complete and useable format, the agency will consider them as part of its ongoing review of the Bumper Standard.

List of Subjects in 49 CFR Part 581

Motor vehicle safety, Motor vehicles.

(Sec. 102, Pub. L. 92–513, 86 Stat. 947 (15 U.S.C. 1912); Secs. 103, 119, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegation of authority at 49 CFR 1.50)

Issued on December 13, 1982.

Raymond A. Peck, Jr.,

Administrator.

[FR Doc. 82–34238 Filed 12–14–82; 11:32 am]

BILLING CODE 4910–59–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 611

[Docket No. 21213–250]

Foreign Fishing

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Interim rule; extension of comment period.

SUMMARY: NOAA issues an interim rule to establish a 1983 poundage fee schedule for foreign vessels fishing in the fishery conservation zone until a final schedule is made effective. NOAA also provide 30 days for comments on the rule. This action is necessary because interested parties claim not to have had sufficient time to comment on a rule proposed on November 12, 1982. This interim rule is identical to the proposed rule and the extension of the comment period will allow interested parties more time to prepare comments and ensure that foreign fishing may continue beyond December 31, 1982.

DATES: This interim rule is effective on January 1, 1983. Comments must be received on or before January 19, 1983.

FOR FURTHER INFORMATION CONTACT: Susan E. Jelley, National Marine Fisheries Service, 202–634–7432.

SUPPLEMENTARY INFORMATION: On November 12, 1982, NOAA published the proposed poundage fee schedule for 1983 at 47 FR 51336. A 30-day comment period on the proposed rule closed on December 13, 1982. NOAA wishes to provide sufficient time for comments and to give full and careful consideration to all comments received. Comments received to date, principally comments received from Governments

of foreign fishing nations, state that more time is needed to develop meaningful responses on the issues contained in the proposed rule published at 47 FR 51336. Translation problems have been cited in some instances. Drafters of such comments have stated that they do not wish to delay the implementation of a 1983 poundage fee schedule.

NOAA has considered these requests and believes legitimate reasons exist for granting an extension. Therefore, NOAA has decided to adopt the rule proposed at 47 FR 51336 as a interim final rule effective on January 1, 1983, and to provide 30 days from the date of publication of this notice for comments on the interim rule. Comments on the proposed rule, as well as additional comments received on the interim rule, will be considered prior to publication of a final rule.

Payments for foreign poundage fishing fees are made by letter of credit (L/C). NOAA provides annual estimates of levels at which L/C's must be maintained. Initially, the 1983 levels will be based on the interim fee schedule adopted here. However, because the first actual billings against L/C's will not occur until after April 15, 1983, and NOAA expects the final schedule to be effective well before that date, the actual billings for fish harvested on and after January 1, 1983, will be calculated on the basis of the final fee schedule.

Classification

This interim final rule is identical to the proposed rule, which was reviewed under the provisions of E.O. 12291. This action is taken under the emergency provisions of section 8(a)(1) of E.O. 12291. It is impracticable for NOAA to follow the procedures of the Executive Order in this action and concurrently provide additional time for comment while implementing a fee schedule on January 1, 1983. The previous findings that the fee schedule will not have a significant economic impact upon the environment, still apply.

The Administrator, NOAA, has determined that to delay implementation of this interim final rule for the 30 days required by 5 U.S.C. 553 would be contrary to the public interest, since it could disrupt foreign fishing and result in lost poundage fee revenues to the United States. Therefore, part of the 30-day delay in implementation is waived.

List of Subjects in 50 CFR Part 611

Fish, Fisheries, Foreign relations, Reporting requirements.

Dated: December 16, 1982.

William G. Gordon,

Assistant Administrator of Fisheries, National Marine Fisheries Service.

PART 611—[AMENDED]

For the reasons set out in the preamble, 50 CFR Part 611 is amended as follows:

1. The authority citation for Part 611 is:

Authority: 16 U.S.C. 1801 *et seq.*; 22 U.S.C. 1980.

2. The title of § 611.22 and Table I of § 611.22 are revised to read as follows:

§ 611.22 Fee schedule for foreign fishing.

* * * * *

TABLE 1. SPECIES AND POUNDAGE FEE

[Dollars per metric ton, unless otherwise noted]

Species	Poundage fee
1. Butterfish	[illegible]
2. Hake, red	15
3. Hake, silver	[illegible]
4. Herring, river	177
5. Mackerel, Atlantic	[illegible]
6. Other finfish (Atlantic)	106
7. Sharks (Atlantic)	67
8. Squid, *Illex*	31
9. Squid, *Loligo*	114
10. Shrimp, royal red	[illegible]
11. Atka mackerel	17
12. Cod, Pacific	[illegible]
13. Flatfish (Alaska)	[illegible]
14. Flounders (Pacific)	573
15. Jack Mackerel	[illegible]
16. Pacific ocean perch	[illegible]
17. Other groundfish (Alaska)	[illegible]
18. Other fish (Pacific)	[illegible]
19. Pollock, Alaska	[illegible]
20. Sablefish (Alaska)	145
21. Sablefish (Pacific)	573
22. Rockfish	[illegible]
23. Snails	41
24. Squid (Pacific)	[illegible]
25. Whiting, Pacific	10
26. Western Pacific corals (per kilogram)	70
27. Seamount groundfish	31
28. Dolphinfish (mahi mahi)	114
29. Wahoo	17
30. Sharks (Pacific)	19
31. Swordfish (Pacific)	355
32. Striped marlin (Pacific)	570
33. Other Pacific billfish	[illegible]

[FR Doc. 82-34561 Filed 12-16-82; 4:34 pm]
BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 47, No. 244
Monday, December 20, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

12 CFR Part 8

[Docket No. 82-26]

Assessment of Fees; National Banks; District of Columbia Banks

AGENCY: Comptroller of the Currency, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: OCC proposes to amend Part 8 of Title 12, Code of Federal Regulations, to require that interest be paid to OCC in cases of delinquent payment of semiannual assessments or trust examination fees. The purpose of this amendment is to encourage banks to avoid delinquent payments, and to compensate OCC for income lost as the result of delinquent payments. Semiannual assessments will be considered deliquent if not received by January 31 or July 31 of each year. Trust examination fees will be considered delinquent if not received within 15 calendar days from the date of OCC's invoice. The amount of interest to be paid will be determined by applying the Treasury Department's current value of funds rate to unpaid balances. Interest charges will be computed daily on principal amounts only.

DATES: Comments should be received no later than January 19, 1983.

ADDRESSES: Comments should be directed to Docket No. 82-26 Communications Division, Office of the Comproller of the Currency, 490 L'Enfant Plaza East, SW., 3rd Floor, Washington, D.C. 20219, Attn: Christine Jones. Telephone (202) 447-1768. Comments will be available for inspection and photocopying.

FOR FURTHER INFORMATION CONTACT: Dennis Arczynski, Project Manager, Finance and Planning (202) 447-1878; or Duff Jordan, Attorney, Legal Advisory Service Division (202) 447-1880, Office of the Comptroller of the Currency, Washington, D.C. 20219

SUPPLEMENTARY INFORMATION: The Comptroller of the Currency is authorized by 12 U.S.C. 481 and 482 to make examinations of national banks and affilitates thereof, of district banks, and of certain other entities exercising fiduciary powers. These statutes also authorize the Comptroller to make assessments against these institutions to recover the expenses of these examinations. Pursuant to this authority, OCC has required that national banks and district banks make semiannual assessment payments in proportion to their total assets. 12 CFR 8.2. In addition, OCC has established procedures for making assessments for the expense of each trust examination. 12 CFR 8.7. In a significant proportion of instances, assessment payments are not received by OCC when due. To date, no regulatory provisions has been made to enforce prompt payment of these assessments.

The proposed regulation will enable OCC to collect interest on delinquent payments of semiannual assessments and trust examination fees. Interest will also be charged if a bank computes its assessment incorrectly and pays less than the amount required.

OCC wishes to adopt this regulation because certain banks subject to its jurisdiction have failed to make timely assessment payments in accordance with the requirements of 12 CFR Part 8. For example, 1,095 of 4,465 respondents (24.5%) were delinquent in making the semiannual assessment payment due January 31, 1982. Late payments totaled more than $10.1 million, or approximately 17% of all assessments received. During the time assessments are delinquent, OCC does not have use of these funds and loses interest revenue. Correspondingly, the delinquent banks effectively reduce the burden of their assessments by the amount of interest income derived from these funds. By allowing the imposition of interest charges, the proposed regulation will compensate OCC for this lost income, and will eliminate the advantage obtained by the delinquent banks.

The proposed interest charges will be based on the United States Treasury Department's rate for delinquent payments to all departments of the Federal Government. The Treasury Department publishes this rate on a quarterly basis. For the first three quarters in 1982, this rate was 14.39%, 13.22%, and 14.26%. This rate was chosen (1) because it is the government-wide standard used for delinquent payments to Federal departments and (2) because it changes on a quarterly basis, which simplifies necessary interest computations.

Interest will be charged for each calendar day that payment is delinquent. The amount of interest payable will be determined for each day by multiplying the total amount delinquent by the daily equivalent of the rate published at the end of the preceding quarter. If this proposal had been in effect for the January 1982 assessment, OCC would have received approximately $13,600 in interest for delinquent payments.

OCC proposes to adopt this regulation as a means to encourage banks to avoid delinquent payments. Alternative methods of ensuring prompt payment, such as providing banks with additional notice of the dates payments are due, were determined by the OCC staff to be ineffective. The proposed interest charges will not impose penalties upon delinquent banks, but will simply eliminate the cost advantage to banks of making delinquent payments. The interest rate assessed will be the same for large and small banks, because the interest income foregone by OCC is the same percentage of the delinquent assessment regardless of the source of funds.

The proposed regulation does not impose additional requirements on banks subject to OCC jurisdiction, but instead attempts to ensure that existing requirements are met. Banks may completely avoid the effects of this regulation by making payments as required by regulation. This proposal makes clear that payments are to be received by OCC on designated dates, rather than that payments are to be sent on those dates. Banks which can transfer funds quickly will consequently be at an advantage, since interest lost by these banks during the period of transfer will be minimized. OCC anticipates that banks will use electronic funds transfer (EFT) systems where this is possible, so as to minimize transfer times. Because OCC anticipates that banks subject to its jurisdiction will be using EFT systems by June 1983, any

disadvantage to banks presently without such systems should be only temporary.

The public comment period on this proposed regulation is limited to 30 days so that a final regulation may be issued before the first 1983 semiannual assessments, which are due January 31, 1983.

Special Studies

The Secretary of the Treasury certified that this regulation will not have a "significant impact on a substantial number of small businesses," as that phrase is used in the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis has been prepared. The proposed regulation will not impose additional reporting or recordkeeping requirements on any banks subject to the jurisdiction of the Comptroller, nor will the regulation have any other significant impact on those banks. The interest charges imposed will ordinarily be insubstantial, and will be offset in large part by interest obtained by the delinquent banks from the use of overdue funds.

A Regulatory Impact Analysis is not required because the OCC has determined that the proposal is not a "major rule" as defined by Executive Order 12291. The proposal will not have an annual effect on the economy of $100 million or more, will not result in a major increase in costs or prices to consumers, individual industries, Federal, State or local government agencies, or geographic regions, nor will it have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises.

List of Subjects in 12 CFR Part 8

National banks, Assessment fees.

PART 8—[AMENDED]

For the reasons set forth in the preamble, 12 CFR Part 8 is proposed to be amended as follows:

(1) By revising the authority citation to read as follows:

Authority: R.S. 5240, as amended, 12 U.S.C. 481, 482, 12 U.S.C. 3102, and in Sec. 3, 47 Stat. 1566, 26 D.C. Code 102.

(2) By adding a new § 8.8 to read as follows:

§ 8.8 Payment of Interest on Delinquent Assessments and Trust Examination Fees.

Each national bank and each district bank shall pay to the Comptroller of the Currency interest on its delinquent payments of semiannual assessments. In addition, each national bank and each entity with a trust department examined by the OCC shall pay to the Comptroller of the Currency interest on its delinquent payments of trust examination fees. Semiannual assessment payments will be considered delinquent if they are received after the time for payment specified in § 8.2. Trust examination fees will be considered delinquent if not received by the Office within 15 calendar days from the OCC invoice date. The interest to be paid will be simple interest, calculated for each day payment is delinquent by multiplying the applicable interest rate by the amount delinquent. The rate of interest charged by OCC will be the United States Treasury Department's current value of funds rate (the "TFRM rate"); that rate is issued under the Treasury Fiscal Requirements Manual and is published quarterly in the **Federal Register.** The interest rates applicable to a delinquent payment will be determined as follows:

(a) For delinquent days occurring from January 1 to March 31, the rate will be the TFRM rate that is published the preceding December for the first quarter of the ensuing year.

(b) For delinquent days occurring from April 1 to June 30, the rate will be the TFRM rate that is published the preceding March for the second quarter of the year.

(c) For delinquent days occurring from July 1 to September 30, the rate will be the TFRM rate that is published the preceding June for the third quarter.

(d) For delinquent days occuring from October 1 to December 31, the rate will be the TFRM rate that is published the preceding September for the fourth quarter.

Dated: November 15, 1982.

C. T. Conover,

Comptroller of the Currency.

[FR Doc. 82-34578 Filed 12-17-82; 8:45 am]

BILLING CODE 4810-33-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 82-CE-36-AD]

Airworthiness Directives; Piper Models PA-23-235 and PA-23-250 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to adopt a new Airworthiness Directive (AD) which would require installation of a revised Airplane Flight Manual (AFM) containing zero fuel weight limitations in certain Piper Models PA-23-235 and PA-23-250 airplanes. The manufacturer and FAA have determined that the zero fuel weights anticipated during the design, analysis and tests of the airplanes structure may be exceeded by some operators who use the airplane to haul high fuselage loads for short distances. Because such operations may exceed the structural limitations of the wings, the manufacturer published in applicable AFM revisions of the zero fuel weight limitation for these airplanes. This proposed AD would make incorporation of these revisions in the affected AFMs and compliance with these zero fuel weights mandatory.

DATES: Comments must be received on or before February 23, 1983. Compliance: As prescribed in the body of the AD.

ADDRESSES: Airplane Flight Manuals (Piper Reports) applicable to this AD may be obtained from Piper Aircraft Corporation, 820 East Bald Eagle Street, Lock Haven, Pennsylvania 17745 or the Rules Docket at the address set forth herein. Send comments on the proposal in duplicate to Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 82-CE-36-AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION: C. Kallis, Airframe Section, ANE-172, New York Aircraft Certification Office, Federal Building, JFK International Airport, Jamaica, New York 11430; Telephone 212-995-2875.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All Communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in light of comments received. All comments submitted will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 82–CE–36–AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Discussion

Piper Aircraft Corporation and the FAA have become aware that some operators are using their Piper Models PA–23–235 and PA–23–250 airplanes to haul heavy parts, cargo, mail, checks and similar material for relatively short distances. This usage of airplanes which incorporate substantial quantities of electronics or other fuselage installed equipment may cause the structural capability of the wings to be exceeded under maximum design gust conditions as the wing carried fuel load approaches zero or minimum allowed quantities.

To eliminate the possibility of structural damage to the wings and/or operation of the airplanes with reduced margins of safety under these conditions, the manufacturer has established zero fuel weight limitations for these airplanes and published them in revisions to the applicable AFMs. The FAA has determined that adherence to these zero fuel weights is necessary to assure that the design level of safety of these airplanes is realized during normal operation.

When incorporated into the Limitations Section of the AFM as Operating Limitations, FAR 91.31 requires that zero fuel weights be observed by the operator. The FAA finds that to assure the continued safe operation of these airplanes the incorporation of the applicable current AFMs in the affected airplanes and adherence to the zero fuel weight limitations therein is necessary. Since the condition described herein is likely to exist or develop in other Piper Models PA–23–235 and PA–23–250 airplanes of the same design, the AD would make the aforementioned incorporation and adherence mandatory.

There are approximately 6,334 airplanes affected by the proposed AD. The cost of the AD is estimated to be $31,650 to the private sector.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new AD:

Piper: Applies to Models PA–23–235 (S/N 27–505 through S/N 27–622) and PA–23–250 (S/N 27–1 and up) airplaines certificated in any category.

Compliance: Required as indicated unless already accomplished.

To prevent possible wing structure damage:

(a) Within 30 days after the effective date of this AD, attach a copy of this AD to the Airplane Flight Manual in the Limitations Section and operate the airplane in accordance with the Zero Fuel Limitations specified herein:

Zero Fuel Weight Limitations

Models PA–23–235 and PA–23–250 (S/Ns 27–1 thru 27–1999), Zero Fule Weight—4,000 lb.

Models PA–23–250 (S /Ns 27–2000 and up).

*Zero Fuel Weight—4400 lbs.

*Except Turbocharged.

Zero Fuel Weight 4,500 lbs.

(b) Within 12 months after the effective date of this AD, install the appropriate Airplane Flight Manuals as indicated below in the airplane:

Airplane Flight Manuals (Piper Reports)

PA–23–235, S/Ns 27–505 thru 27–622—Report 1207 Rev. B.

PA–23–250, S/Ns 27–1 thru 27–1999—Report 1036 Rev. B.

PA–23–250, S/Ns 27–2000 thru 27–2504—Report 1204 Rev. C.

PA–23–250, S/Ns 27–2505 thru 27–3836—Report 1308 Rev. B. (4800 lbs. Gross Weight).

PA–23–250, S/Ns 27–3838 thru 27–3943—Report 1360 Rev. B. (5200 lbs. Gross Weight).

PA–23–250, S/Ns 27–3837, 27–3944 thru 27–4425, 27–4427 thru 27–4573—Report 1520 Rev. D.

PA–23–250, S/Ns 27–4426, 27–4574 thru 27–7554168—Report 1630 Rev. 16.

PA–23–250, S/Ns 27–7654001 and up—Report 1948 Rev. 2.

(c) The installation of this AD in the Airplane Flight Manual and/or installation of the appropriate Airplane Flight Manual in the airplane may be accomplished by the owner/operator of the airplane. This person must make the prescribed entry indicating compliance with this AD in the Airplane Maintenance Records.

(d) An equivalent method of compliance with this AD may be used if approved by the Chief, New York Aircraft Certification Office, FAA, Federal Building, JFK International Airport, Jamaica, New York 11430.

Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a) 1421 and 1423); sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655 (c)); and § 11.85 of the Federal Aviation Regulations (14 CFR 11.85)

Note.—For reasons discussed earlier in the preamble, the FAA has determined that this document: (1) Involves a proposed regulation that is not major under the provisions of Executive Order 12291, (2) is not significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) in addition, I certify under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. A draft regulatory evaluation has been prepared and has been placed in the public docket.

Issued in Kansas City, Missouri, on December 6, 1982.

Murray E. Smith,

Director, Central Region.

[FR Doc. 82–34231 Filed 12–17–82; 8:45 am]

BILLING CODE 4910–13–M

---

14 CFR Part 61

[Docket No. 19176; Notice No. 82–15]

Duration of Airman Medical Certificates

Correction

In FR Doc. 82–32933 beginning on page 54414 in the issue for Thursday, December 2, 1982, on page 54416, third column, § 61.29(c)(1), third line, insert "not" after "has".

BILLING CODE 1505–01–M

---

14 CFR Part 71

[Airspace Docket No. 82–ASW–60]

Proposed Revocation of Transition Area: Seymour, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Aviation Administration proposes to revoke the transition area at Seymour, TX. The intended effect of the proposed action is to eliminate controlled airspace no longer needed for protection of aircraft. This action is necessary since the transition area is no longer required and the instrument flight procedure based on this airspace has been canceled.

DATE: Comments must be received on or before January 20, 1983.

ADDRESS: Send comments on the proposal in triplicate to: Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8 a.m. and 4:30 p.m. The FAA Rules Docket is located in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch, ASW–535, Air Traffic Division, Southwest Region,

Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101; telephone (817) 624–4911, extension 302.

SUPPLEMENTARY INFORMATION:

History

Federal Aviation Regulation Part 71, Subpart G § 71.181, as republished in Advisory Circular AC 70–3 dated January 29, 1982, contains the description of transition areas designated to provide controlled airspace for the benefit of aircraft conducting instrument flight rules (IFR) activity. Revocation of the transition area at Seymour, TX, will necessitate an amendment to this subpart. This amendment will be required at Seymour, TX, since the instrument flight procedure requiring this airspace has been canceled

Comments Invited

Interested persons are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposals. (Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposals.) Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 82–ASW–80." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101, or by calling (817) 624–4911, extension 302. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should contact the office listed above.

List of Subjects in 14 CFR Part 71

Control zones, Transition areas, Aviation safety.

Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Seymour, TX, Revoked

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.61(c))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Fort Worth, TX, on December 8, 1982.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 82–34232 Filed 12–17–82; 8:45 am]

BILLING CODE 4910–13–M

---

14 CFR Part 71

[Airspace Docket No. 82–ASO–29]

Proposed Alteration of VOR Federal Airways V–3, V–35, V–51, V–157, V–267, V–295, and V–492

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter VOR Federal Airways V–3, V–35, V–51, V–157, V–267, V–295, and V–492 in Central and South Florida. This action would renumber certain alternate airway segments in support of International Civil Aviation Organization (ICAO) agreement to phase out alternate airway descriptions from the National Airspace System, revoke segments that are no longer needed for flight planning or Air Traffic Control (ATC) to help reduce chart clutter, and realign other airways to accommodate recent traffic flow changes in South Florida.

DATE: Comments must be received on or before January 19, 1983.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Southern Region, Attention: Manager, Air Traffic Division, Docket No. 82–ASO–29, Federal Aviation Administration, P.O. Box 20636, Atlanta, GA 30320.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, D.C.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: George Hussey, Airspace Regulations and Obstructions Branch (ATT–230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426–8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 82–ASO–29." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All

comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426–8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to revoke V–35 west alternate between Biscayne Bay, FL, and the DEEDS intersection; V–267 east alternate between Biscayne Bay FL, and Palm Beach, FL; V–51 east alternate between Biscayne Bay, FL, and Pahokee, FL; V–157 west alternate between the VEGIE intersection and LaBelle, FL; and V–157 west alternate Between LaBelle, FL, and Lakeland, FL; renumber V–267 east alternate between Palm Beach, FL; realign V–492 between LaBelle, FL, and Palm Beach, FL; V–295 Between Orlando, FL, and Cross City, FL; and establish new VOR Airways V–531 from Biscayne Bay, FL, Intersection Biscayne Bay 262°T(262°M) and Fort Myers, FL, 137°T(136°M) radials to LaBelle, FL, and V–529 from Biscayne Bay, FL, to LaBelle, FL. Alternate airways segments that are no longer needed for flight planning or ATC are being revoked to help reduce chart clutter. Certain segments that are retained have been renumbered in support of the ICAO agreement to phase out alternate descriptions from the National Airspace System. Other airways are realigned or established to accommodate arrival/departure transition areas in South Florida and conform with recent traffic flow changes. Alternate airway segments not addressed will be amended in subsequent dockets. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70–3 dated January 29, 1982.

List of Subjects in 14 CFR Part 71

VOR federal airways, Aviation safety.

Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

1. *V–3 [amended]*
   By deleting the words ", including an E alternate via INT Biscayne Bay 021° and Palm Beach 166° radials"
2. *V–35 [Amended]*
   By deleting the words ", including a west alternate from Biscayne Bay via INT Biscayne Bay 262° and Fort Myers 137° radials to the INT of Biscayne Bay 288° and Fort Myers 137° radials"
3. *V–51 [Amended]*
   By deleting the words ", including an east alternate from Biscayne Bay, Fort Lauderdale, FL, INT Fort Lauderdale 339° and Pahokee 124° radials"
4. *V–157 [Amended]*
   By deleting the words ", including a W alternate from INT Miami 222°and Fort Myers, FL, 137° radials to LaBelle via INT Fort Myers 137° and LaBelle 162° radials" "and ", including an E alternate via INT LaBelle 004° and Lakeland 132° radials"
5. *V–267 [Amended]*
   By deleting the words ", including an east alternate from Biscayne Bay, INT Biscayne Bay 40° and Palm Beach, FL, 201° radials; Palm Beach: INT Palm Beach 326° and Orlando 162° radials"
6. *V–531 [New]*
   By adding "V–531 From Palm Beach, FL; INT Palm Beach 326°T(326°M) and Orlando, FL, 162°T(162°M) radials; to Orlando."
7. *V–492 [Amended]*
   By deleting the words "INT LaBelle 101° and Palm Beach, FL, 272° radials; Palm Beach, including a north alternate from LaBelle to Palm Beach via INT La Belle 043° and Palm Beach 298° radials" and substituting for them the words "Pahokee, FL; Palm Beach, FL"
8. *V–295 [Amended]*
   By deleting the words "INT Orlando 283° and Ocala, FL, 156° radials;"
9. *V–529 [New]*
   By adding "V–529 From Biscayne Bay, FL; INT Biscayne Bay 262°T(262°M) and La Belle, FL, 158°T (157°M) radials; to La Belle."

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); and 14 CFR 11.65)

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore— (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on December 9, 1982.

B. Keith Potts,

Manager, Airspace and Air Traffic Rules Division.

[FR Doc. 82–34235 Filed 12–17–82: 8:45 am]

BILLING CODE 4910–13–M

---

14 CFR Parts 71 and 73

[Airspace Docket No. 82–ASO–55]

Proposed Establishment of Temporary Restricted Areas; Camp LeJeune, NC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to designate temporary restricted areas in the vicinity of Camp LeJeune, NC, to contain hazardous air activity associated with a major joint military exercise. Applicable areas would be included in the Continental Control Area. This action would prohibit unauthorized flight operations by nonparticipating aircraft within the proposed restricted areas during their designated times of use. This notice is also intended to inform aviation interests of associated nonrulemaking action to establish temporary military operations areas in support of the subject exercise.

DATE: Comments must be received on or before February 3, 1983.

ADDRESS: Send comments on the proposal in triplicate to: Director, FAA Southern Region, Attention: Manager, Air Traffic Division, Docket No. 82–ASO–55, Federal Aviation Administration, P.O. Box 20636, Atlanta, GA 30320.

Send comments on environmental aspects to: Captain C. M. Zucker, USN, CINCLANT N37, Norfolk, VA 23511; telephone: Autovon—690–6575.

Send comments on land use aspects to: Mr. Roy S. Futrell or Mr. C. M. Wash, Maneuver Real Estate Office, Army Corps of Engineers, P.O. Box 99, Cory, NC 27511; Telephone: Commercial—919–755–4071.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is

located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, D.C.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: George Hussey, Airspace Regulations and Obstructions Branch (AAT–230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426–8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposals. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposals. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 82–ASO–55." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426–8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

Proposals

The FAA is considering amendments to § 71.151 of Part 71 and § 73.53 of Part 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) that would designate temporary restricted areas identified as R–5505A through G, Camp LeJeune, NC, to contain hazardous air activity associated with a major joint military exercise. Applicable areas would be included in the Continental Control Area. This exercise will provide necessary training for several military commands operating under the sponsorship of the United States Atlantic Command, Norfolk, VA. The air activities associated with the exercise will be such that simultaneous flight by nonparticipating aircraft cannot be safely conducted within the proposed temporary restricted areas when they are in use by the military. These activities will consist of high performance military aircraft and helicopters engaged in fast tempo air-to-air and air-to-ground air operations where pilots may be restricted from properly clearing themselves from nonparticipating aircraft. This situation creates a hazard and requires designation of temporary restricted areas. Approximately 237 aircraft would be used to conduct approximately 291 fixed wing and 150 helicopter daily sorties. Participating aircraft operating outside the exercise areas will file individual flight plans to the maximum extent practicable. The boundary abutments to existing special use airspace areas are necessary to accommodate inter-area transition into and out of adjacent areas which will also be utilized extensively during the exercise. Communications equipment would be installed and maintained between appropriate military and FAA facilities to coordinate movement of nonparticipating aircraft through the exercise areas when military activity permits. Additionally, a reverse charge telephone number and VHF radio communications frequency would be established and published for pilots of nonparticipating aircraft to coordinate directly with the military if desired. The proposed temporary restricted areas would be designated as joint use to permit utilization of the airspace by the controlling agency for authorized transit by nonparticipating VFR and IFR traffic when military activity permits. The military would provide reasonable access to private or public use land within the proposed temporary restricted areas. The United States Atlantic Command, Norfolk, VA, will serve as lead agency for purposes of compliance with Environmental Policy Act (NEPA). Additionally, this notice is intended to inform interested persons of nonrulemaking proposal 82–ASO–484NR, which would establish temporary military operations areas (MOA's) in support of the subject military exercise wherein high performance military jet aircraft are engaged in unusual maneuvers prior to providing air support for exercise activities within the temporary restricted areas. The temporary MOA's are described as follows:

1. Byrd Corridor Temporary MOA

Boundaries. Beginning at lat. 35°04'30" N., long. 76°04'30" W., to lat. 35°00'30" N., long. 76°01'20" W., thence southwest along W–122A and W–122D to lat. 34°43'30" N., long. 76°22'00" W., to lat. 34°47'00" N., long. 76°24'30" W., thence to point of beginning.
Designated altitudes. 3,000 feet MSL to, but not including, FL 180.
Time of designation. Intermittent, April 27 through May 11, 1983.
Controlling agency. Federal Aviation Administration, ARTC Center (Washington), Leesburg, VA.
Using agency. United States Atlantic Command, Norfolk, VA.

2. LeJeune A Temporary MOA

Boundaries. Beginning at lat. 35°19'20" N., long. 79°07'20" W.; to lat. 35°19'20" N., long. 78°37'30" W.; to lat. 35°16'30" N., long. 78°12'00", W.; to lat. 35°11'00" N., long. 78°00'00" W.;to lat. 35°05'30" N., long. 77°17'00" W.; to lat. 34°55'00" N., long. 77°28'00" W.; thence counterclockwise along an 8.4 NM radius ARC centered at lat. 34°50'00" N., long. 77°36'30" W.; to lat. 34°58'00" N., long. 77°40'00".W.; to lat. 35°02'55" N., long. 79°05'40". W.; thence counterclockwise along the eastern boundary of R–5311 to lat. 35°10'10" N., long. 79°07'30" W.; to point of beginning
Designated altitudes. 12,000 feet MSL to, but not including, FL 180.
Time of designation. Intermittent, April 27 through May 6, 1983.
Controlling agency. Federal Aviation Administration, ARTC Center (Washington), Leesburg, VA.
Using agency. United States Atlantic Command, Norfolk, VA.

3. LeJeune B Temporary MOA

Boundaries. Beginning at lat. 35°19'10" N., long. 79°16'45" W.;to lat. 35°19'10" N., long. 79°07'30" W.; to lat. 35°10'10" N., long. 79°07'30" W.; thence counterclockwise along the northern boundary of R–5311 to lat. 35°07'05" N., long. 79°22'50" W.; to lat. 35°15'30" N., long. 79°16'45" W.; thence point of beginning.
Designated altitudes. 100 feet AGL to, but not including, FL 180.
Time of designation. Intermittent, April 27 through May 6, 1983.

Controlling agency. Federal Aviation Administration, ARTC Center (Washington), Leesburg, VA.
Using agency. United States Atlantic Command, Norfolk, VA.

4. Lejeune C Temporary MOA

Boundaries. Beginning at lat. 35°02'55"N., long 79°05'40"W.; to lat. 34°55'20"N., long. 79°08'15"W.; to lat. 34°55'20"N., long. 79°20'30"W.; to lat. 35°07'05"N., long. 79°22'50"W.; thence counterclockwise along the southern boundary of R–5311 to point of beginning (excluding that airspace within a 1½ NM radius of Readord, NC, and the Raeford, NC, Airport).
Designated altitudes. 100 feet AGL to, but not including, FL 180
Time of designation. Intermittent April 27 through May 6, 1983.
Controlling agency. Federal Aviation Administration, ARTC Center (Washington), Leesburg, VA.
Using agency. United States Atlantic Command, Norfolk, VA.

5. Kingstree Temporary MOA

Boundaries. Beginning at lat. 33°30'00"N., long. 78°52'50"W.; thence southwest along the boudary of W–177A to lat. 33°10'00"N., long. 79°06'45"W.; to lat. 33°24'00"N., long. 79°37'00"W.; to lat. 33°25'00"N., long. 79°55'00"W.; to lat. 33°30'00"N., long. 80°09'30"W.; to lat. 33°52'30"N., long. 79°53'30"W.; to lat. 33°49'30"N., long. 79°48'00"W.; to lat. 33°48'30"N., long. 79°38'00"W.; to lat. 33°50'30"N., long. 79°25'00"W.; to lat. 33°49'00"N., long. 79°19'00"W.; to lat. 33°37'50"N., long. 79°07'20"W.; thence to point of beginning.
Designated altitudes. 14,000 feet MSL up to and incuding 17,000 feet MSL.
Time of designation. Intermittent April 27, through May 11, 1983.
Controlling agency. Federal Aviation Administration, ARTC Center (Washington), Leesburg, VA.
Using agency. United States Atlantic Command, Norfolk, VA.

Section 71.151 of Part 71 and § 73.53 of Part 73 of the Federal Aviation Regulations were republished in Advisory Circular AC 70–3 dated January 29, 1982.

List of Subjects in 14 CFR Parts 71 and 73

Restricted areas, Continental control areas.

Proposed Amendments

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.151 of Part 71 and § 73.53 of Part 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) as follows:

§ 71.151 [Amended]

1. In § 71.151 by adding:

R–5505A through G, Camp LeJeune, NC
Continous from April 27 through May 6, 1983; Intermittent, May 7–11, 1983.

§ 73.53 [Amended]

2. In § 73.53 by adding:

R–5505A Camp LeJeune, NC [New]

Boundaries. Beginning at lat. 35°05'30"N., long. 77°17'00"W.; to lat. 34°57'30"N., long. 77°02'30"W.; thence counterclockwise along the boundaries of A–530, R–5306C, R–5306D and R–5306E to lat. 34°30'20"N., long. 77°15'55"W.; thence southwest 3 NM from and parallel to the shoreline to lat. 34°23'30"N., long. 77°30'00"W.; to lat. 34°16'00"N., long. 77°30'00"W.; to lat. 34°27'00"N., long. 77°41'00"W.; to lat. 34°46'00"N., long. 77°17'00"W.; to lat. 34°55'00"N., long. 77°28'00"W.; thence to point of beginning.
Designated altitudes. Surface to, but not including, FL 180.
Time of designation. Continuous, April 27 through May 6, 1983; Intermittent, May 7–11, 1983.
Contolling agency. Federal Aviation Administration, ARTC Center (Washington), Leesburg, VA.
Using agency. United States Atlantic Command, Norfolk, VA.

R–5505B Camp LeJeune, NC [New]

Boundaries. Beginning at lat. 34°51'00"N., long. 77°05'30"W.; to lat. 34°42'00"N., long. 76°54'45"W.; to lat. 34°41'50"N., long. 76°56'20"W.; to lat. 34°37'30"N., long. 76°56'20"W.; thence southwest 3 NM from and parallel to the shoreline to lat. 34°34'30"N., long. 77°09'00"W.; to lat. 34°44'50"N., long. 77°14'40"W.; to lat. 34°49'30"N., long. 77°10'00"W.; thence to point of beginning.
Designated altitudes. Surface to 1,200 feet MSL.
Time of designation. Continuous, April 27 through May 6, 1983; Intermittent, May 7–11, 1983.
Controlling agency. Federal Aviation Administration, ARTC Center (Washington), Leesburg, VA.
Using agency. United States Atlantic Command, Norfolk, VA.

R–5505C Camp LeJeune, NC [New]

Boundaries. Beginning at lat. 34°57'00"N., long. 77°02'50"W.; to lat. 34°38'45"N., long. 76°43'00"W.; thence southwest 3 NM from and parallel to the shoreline to lat. 34°37'30"N., long. 76°56'20"W.; thence counterclockwise along the boundary of R–5306C to lat. 34°49'30"N., long. 77°10'00"W.; thence to point of beginning.
Designated altitudes. 4,000 feet MSL to, but not including, FL 180.
Time of designation. Continuous, April 27 through May 6, 1983; Intermittent, May 7–11, 1983.
Controlling agency. Federal Aviation Administration, ARTC Center (Washington), Leesburg, VA,
Using agency. United States Atlantic Command, Norfolk, VA.

R–5505D Camp LeJeune, NC [New]

Boundaries. Beginning at lat. 35°05'30"N., long. 77°17'00"W.; to lat. 35°43'50"N., long. 76°35'30"W., thence counterclockwise along the boundaries of R–5314J–G to lat. 35°38'55"N., long. 76°01'00"W.; to lat. 35°36'45"N., long. 76°01'20"W.; to lat 35°18'15"N., long. 76°16'40"W.; to lat. 35°23'15"N., long. 76°34'40"W.; thence southwest along the boundary of R–5306A and A–530 to lat. 34°57'30"N., long. 77°02'30"W.; thence to point of beginning.
Designated altitudes. 8,000 feet MSL to, but not including, FL 180.
Time of designation. Continuous, April 27 through May 6, 1983; Intermittent, May 7–11, 1983.
Controlling agency. Federal Aviation Administration, ARTC Center (Washington), Leesburg, VA.
Using agency. United States Atlantic Command, Norfolk, VA.

R–5505E Camp LeJeune, NC [New]

Boundaries. Beginning at lat. 35°52'22"N., long. 76°09'53"W.; to lat. 35°40'25"N., long. 76°12'25"W.; to lat. 35°43'50"N., long. 76°35'30"W.; to lat. 35°53'50"N., long. 76°33'10"W.;thence to point of beginning.
Designated altitudes. 6,000 feet MSL up to and including 14,000 feet.
Time of designation. Continuous, April 27 through May 6, 1983; Intermittent, May 7–11, 1983.
Controlling agency. Federal Aviation Administration, ARTC Center (Washington), Leesburg, VA.
Using agency. United States Atlantic Command, Norfolk, VA.

R–5505F Camp LeJeune, NC [New]

Boundaries. Beginning at lat. 35°51'52"N., long. 76°02'09"W.; to lat. 35°39'20"N., long. 76°05'00"W.; toi lat. 35°40'25"N., long. 76°12'25"W.; to lat. 35°52'22"N., long. 76°09'53"W.; thence to point of beginning.
Designated altitudes. 10,000 feet MSL up to and including 14,000 feet MSL.
Time of designation. Continuous, April 27 through May 6, 1983; Intermittent, May 7–11, 1983.
Controlling agency. Federal Aviation Administration, ARTC Center (Washington), Leesburg, VA.
Using agency. United States Atlantic Command, Norfolk, VA.

R–5505G Camp LeJeune, NC [New]

Boundaries. Beginning at lat. 35°51'35"N., long. 75°57'55"W.; to lat. 35°38'55"N., long. 76°01'00"W.; to lat. 35°39'20"N., long. 76°05'00"W.; to lat. 35°51'52"N., long. 76°02'09"W.; thence to point of beginning.
Designated altitudes. 15,000 feet MSL to, but not including, FL 180.
*Time of designation.*Continuous, April 27 through May 6, 1983; Intermittent. May 7–11, 1983.
Controlling agency. Federal Aviation Administration, ARTC Center (Washington), Leesburg, VA.
Using agency. United States Atlantic Command. Norfolk, VA.

(Secs. 307(a) and 313(a), Federal Aviation act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65))

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are

necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on December 14, 1982.

B. Keith Potts,

Manager, Airspace and Air Traffic Rules Division.

[FR Doc. 82-34385 Filed 12-17-82; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 75

[Airspace Docket No. 82-AWA-22]

Proposed Establishment of Jet Route

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish Jet Route/High Level J/HL-542 from Brandon, Manitoba, Canada, to Dickinson, ND. The Canadian Government has requested this jet route so that an additional point of entry into Canadian airspace would be available to international air carriers proceeding overseas. This action would facilitate flight planning and save fuel by providing a direct route into Canadian airspace.

DATE: Comments must be received on or before February 3, 1983.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Great Lakes Region, Attention: Manager, Air Traffic Division, Docket No. 82-AWA-22, Federal Aviation Administration, 2300 East Devon Street, Des Plaines, IL 60018.

The Official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, D.C.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Regulations and Obstructions Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; Telephone (202) 426-8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 82-AWA-22." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

Proposals

The FAA is considering an amendment to § 75.100 of Part 75 of the Federal Aviation Regulation (14 CFR Part 75) to establish new Jet Route/High Level J/HL-542 between Brandon, Manitoba, Canada, and Dickinson, ND. The Canadian Government has requested this proposal to establish a route into Canada in order to permit an additional point of entry into Canadian airspace for the international air carriers proceeding overseas, and this action supports that proposal. Section 75.100 of Part 75 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3 dated January 29, 1982.

List of Subjects in 14 CFR Part 75

Jet routes, Aviation safety.

Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 75.100 of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) as follows:

J-542 [New]

Jet Route No. J-542 From Dickinson, ND; to Brandon, Manitoba, Canada. The airspace within Canada is excluded.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on December 10, 1982.

B. Keith Potts,

Manager, Airspace and Air Traffic Rules Division.

[FR Doc. 82-34286 Filed 12-17-82; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 16

[Docket No. R-82-1042]

Implementation of the Privacy Act of 1974

AGENCY: Office of the Secretary, HUD.

ACTION: Proposed rule.

SUMMARY: This rule exempts HUD's "Investigation Files," a system of records maintained by the Department's Office of Inspector General, from compliance with the applicable provisions of the Privacy Act. The Secretary has determined that, because the "Investigation Files" pertain principally to the enforcement of criminal laws, this system of records may be excepted from the Privacy Act under the general exemption authority of the Privacy Act.

DATE: Comment due date: February 18, 1983.

ADDRESS: Interested persons are invited to submit comments regarding this rule to the Office of General Counsel, Rules Docket Clerk, Room 10278, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Robert E. English, Privacy Act Officer, Room 4178, 451 Seventh Street, SW., Washington, D.C. 20410, Telephone Number (202) 755-5320. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: The Privacy Act of 1974 (5 U.S.C. 552(a)) was enacted "to assure that personal information about individuals collected by Federal agencies is limited to that which is legally authorized and necessary and is maintained in a manner which precludes unwarranted intrusions upon individual privacy," section 32.100, Paragraph 1 of the OMB Privacy Guidelines, as published on July 9, 1975 at 40 F.R. 28948. The OMB Privacy Guidelines also require each agency to publish rules implementing the Privacy Act for that agency, section 32.100, Paragraph 5(a)(10).

The Department's implementation of the Privacy Act is set forth in Part 16 of Title 24, Code of Federal Regulations. The purpose of this Part is to "establish policies and procedures" for the implementation of the Privacy Act, 24 CFR 16.1 Part of that implementation includes the publication of systems of records which are exempt from certain requirements of the Privacy Act, as determined by the Secretary, pursuant to either the general of specific exemption authority of the Act, 5 U.S.C. 552a(j) or (k). A general exemption is set forth at 24 CFR 16.14 and specific exemptions at 24 CFR 16.15.

The specific exemption provision of the Privacy Act authorizes exemption for systems of records from many of the notice and access requirements of the Act but does not affect the applicability of the remaining Privacy Act requirements. HUD's Office of Inspector General, as part of the Department's compliance with the privacy Act, maintains a system of records identified as "Investigation files, HUD/DEPT. 24." A description of the system was last published on November 4, 1981 at 46 FR 54878 at 54885. HUD's specific exemptions listed in 24 CFR 16.15 identify this system of records as exempt from certain Privacy Act requirements pursuant to 5 U.S.C. 552a(k) (2) and (5). These two specific exemption categories cover investigative material compiled: (1) For law enforcement purposes (other than material within the scope of the general exemption provision); and (2) for the purpose of determining suitability, eligibility or qualification for Federal civilian employment or Federal contracts.

The general exemption provision authorizes exemption from all of the Privacy Act's requirements except for certain recordkeeping and publication requirements, 5 U.S.C. 552a(j). It is applicable to any system of records maintained by an agency or component thereof which performs as its principal function activity pertaining to the enforcement of criminal laws. In addition, such records must consist of one of three categories of criminal records. One such category, applicable to HUD's OIG system of records, involves information compiled for the purpose of a criminal investigation and associated with an identifiable individual.

HUD's Office of Inspector General—in particular, the Assistant Inspector General for Investigation—performs, as its principal function, activities pertaining to enforcement of criminal laws, including efforts to prevent, control or reduce crime. The "Investigation Files" system of records consists primarily of information compiled for the purpose of criminal investigations, including reports of informants and investigators, that are associated with identifiable individuals. The Secretary has determined, therefore, that a general exemption under section 552a(j)(2) of the Privacy Act, is applicable to this system of records. Accordingly, the proposed rule would amend 24 C.F.R. 16.14 by adding a new general exemption (in a new paragraph (b)).

This rule does not constitute a "major rule" as that term is defined in section 1(b) of the Executive Order 12291 on Federal Regulations. An analysis of the rule indicates that it does not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, state or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD Regulations in 24 CFR Part 50, which implement section 102(2)(c) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The finding of No Significant Impact is available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Room 10278, 451 Seventh Street, SW., Washington, D.C. 20410.

Pursuant to the provisions of 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. This finding is based upon the fact that the Privacy Act is hot applicable to corporate and most partnership records unless retrievable by the name of a natural person in which case the business entity itself would not be directly affected. Moreover, the effect of the rule is not to substantively alter existing procedures.

This rule was not listed in the Department's Semi-Annual Agenda of Regulations published in the **Federal Register** on August 7, 1981 (46 FR 41708) pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

List of Subjects in 24 CFR Part 16

Privacy.

PART 16—[AMENDED]

Accordingly, the Department would amend 24 CFR Part 16 by adding a new paragraph (b) to § 16.14 to read as follows:

§ 16.14 General exemptions.

* * * * *

(b) The Secretary of Housing and Urban Development has determined that the Office of the Assistant Inspector General for Investigation performs, as its principal function, activities pertaining to the enforcement of criminal laws. The records maintained by that office in a system identified as "HUD/DEPT-24, Investigation Files," primarily consist of information compiled for the purpose of criminal investigations and are associated with identifiable individuals. Therefore, the Secretary has determined that this system of record shall be exempt, pursuant to 5 U.S.C. 552a(j)(2), from all requirements of the Privacy Act except 5 U.S.C. 552a(b), (c)(1) and (2), (e)(4)(A) through (F), (e)(6), (7), (9), (10), and (11), and (i) unless elsewhere exempted.

(Privacy Act of 1974; 5 U.S.C. 552a(j)(2); Sec. 7(d), Department of Housing and Urban Development Act; 42 U.S.C. 3535(d).

Dated: November 17, 1982.

Samuel R. Pierce, Jr.,

Secretary.

[FR Doc. 82-34425 Filed 12-17-82; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 110

[CGD3-82-31]

Anchorage Grounds; Delaware Bay and River

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: At the request of the Delaware River Port Authority, the U.S. Coast Guard is proposing a change to the existing regulation governing Anchorage A (Big Stone Anchorage) in the Delaware Bay off the entrance to the Mispillion River. At present this regulation states that the anchorage is for the specific purpose of allowing deep draft tankers to anchor and lighter their cargo. This proposal, if adopted, would eliminate all references to tanker lightering in the regulation and designate Anchorage A as a general anchorage. This action would identify the intent that shippers transporting commodities other than oil may utilize Anchorage A as both a holding anchorage and an anchorage for lightering operations.

DATE: Comments must be received on or before February 18, 1983.

ADDRESS: Comments may be mailed to: Captain Daniel B. Charter Jr., Captain of the Port, Philadelphia, U.S. Coast Guard Base, Gloucester City, New Jersey, 08030.

FOR FURTHER INFORMATION CONTACT: Captain Daniel B. Charter Jr., Captain of the Port, Philadelphia, U.S. Coast Guard Base, Gloucester City, NJ 08030 (Tel. 609-456-1370 or 215-923-4320) between 7:00 A.M. and 4:30 P.M. Monday through Friday, except holidays.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting views, data, or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD3-82-31), identify the specific section of the proposal to which their comments apply, and give the reasons for each comment. Persons wishing acknowledgment of their comments should include a stamped, self-addressed postcard. All comments received before expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rule making process.

Drafting Information: The principal persons involved in drafting this rule are LTJG George Arbutina, Project Manager, COTP Philadelphia and LCDR James J. D'Alessandro, Project Attorney, Legal Office, Third Coast Guard District.

Discussion of Proposed Regulations: At present, Anchorage A as described in 33 CFR 110.157(a)(1) serves a much broader function than the tanker lightering referred to in the regulation. Coast Guard statistics indicate that less than 22 percent of the vessels in the anchorage at any given time are actually in the process of conducting oil transfer operations. Vessels not conducting transfer operations include vessels waiting to lighter, lightered vessels awaiting a berth at a facility upriver, fully offloaded vessels awaiting sailing orders, and both loaded and fully offloaded Oil/Bulk/Ore ("OBO") vessels carrying various cargoes.

In the 1970's, it appeared there would be increased demands for oil lightering due to continued increases in petroleum usage in this area. Tank vessels frequently had to obtain waivers to anchor outside the established anchorage due to congestion within the anchorage. A notice of proposed rulemaking was issued, a public hearing held and a final rule published in May 1982 to enlarge the anchorage. The language regarding tankship lightering was unchanged in the amendment.

Statistics provided to the Delaware River Port Authority by the Philadelphia Maritime Exchange indicate that Anchorage A was utilized by an average of only two vessels at any given time during the July–December 1981 period. This statistic and the May 1982 enlargement of Anchorage A to approximately three times its previous size suggest that overutilization of Anchorage A is presently not a concern. The President of the Pilots Association for the Delaware Bay and River has suggested that the enlarged anchorage is suitable for at least twelve large vessels. Only six times during the period of the Philadelphia Maritime Exchange survey were there four or more vessels at anchor in the anchorage. There is also some additional safe holding ground adjacent to the current anchorage which could be utilized if required. Expanded operations involving cargoes other than oil will not create space management problems in the anchorage and oil tanker lightering operations in the anchorage will continue unimpeded. If space management is required due to increased future operations, adequate authority exists to control utilization of the area. Coast Guard observations indicate the Maritime Exchange survey may understate the actual utilization of Anchorage A. However, these observations also confirm the assumption that congestion is not a problem.

This proposed regulation is nonsignificant in accordance with guidelines set forth in "Policies and Procedures for Simplification, Analysis and Review of Regulations" (DOT Order 2100.5 of May 22, 1980). An economic evaluation of the proposal has not been conducted as its impact will be minimal. An assessment of the probable environmental impacts of removing the specific designation for this anchorage is being prepared. The redesignation of Anchorage A as a general anchorage does not impact on business competition, State or local government, or the regulations of other programs or agencies. Moreover, this proposal is not a major rule as defined by Executive Order 12291 of February 17, 1981. This proposal once enacted, will not adversely affect the economy, result in any increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions, or result in any adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States based enterprises to compete with foreign enterprises in domestic or export markets.

In accordance with Section 605(b) of the Regulatory Flexibility Act (94 Stat. 1164) it is certified that these proposed rules would not have a significant impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 110

Anchorage grounds.

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend Part 110 of Title 33, Code of Federal Regulations, as set forth below.

PART 110—ANCHORAGE REGULATIONS

By revising 33 CFR 110.157(a)(1) to read as follows:

§ 110.157 Delaware Bay and River.

(a) *The anchorage grounds.*—(1) *Anchorage A off the entrance to the Mispillion River.* In Delaware Bay southwest of Brandywine Channel beginning at latitude 38°53'57" N., longitude 75°06'00" W.; thence northwesterly to latitude 39°01'22" N., longitude 75°13'25" W., thence southwesterly to latitude 39°00'49" N., longitude 75°14'57" W., thence southeasterly to latitude 38°53'22" N., longitude 75°09'26" W. thence northeasterly to the point of beginning. Supervision over the anchoring of vessels and over all cargo transfer operations in Anchorage A is exercised by the Captain of the Port, Philadelphia. The regulations in paragraph (b)(1) and (b)(2) of this section do not apply to this anchorage.

* * * * *

(Sec. 7, 38 Stat. 1053 as amended (33 U.S.C. 471); sec. 6(g)(1), 80 Stat. 940 (49 U.S.C. 1655(g)(1) 49 CFR 1.28(c)(1))

Dated: December 9, 1982.

J. L. Fear,

Captain, United States Coast Guard, Deputy Commander, Third Coast Guard District.

[FR Doc. 82-34354 Filed 12-17-82; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 86

[AMS-FRL-2271-6]

Control of Air Pollution From New Motor Vehicles and New Motor Vehicle Engines; Designation of High-Altitude Locations

AGENCY: Environmental Protection Agency.

ACTION: Notice of public hearing.

SUMMARY: EPA will hold a public hearing on the Notice of Proposed Rulemaking (NPRM) for the designation of high-altitude locations published on November 10, 1982 (47 FR 50929). That proposed action would revise the present designation of high-altitude locations to exclude those counties in states which do not have an auto-related air quality problem.

DATES: The hearing will be held on January 11, 1983 and will convene at 9:00 a.m. and adjourn at such time as is necessary to complete the testimony. Written comments on the proposal will be accepted until February 10, 1983.

ADDRESSES: The hearing will be held at the Federal Court of Appeals, Division Two, Fourth Floor, U.S. Courthouse, 1921 Stout Street, Denver, Colorado. Written comments should be submitted (preferaby 4 copies) to: Central Docket Section (A-130), Environmental Protection Agency, Docket No. A-82-31, 401 M Street, SW., Washington, D.C. 20460. Docket No. A-82-31 is located at the U.S. EPA, Central Docket Section, West Tower Lobby, Gallery 1, 401 M Street, SW., Washington, D.C. 20460. The docket may be inspected between 8:00 a.m. and 4:00 p.m. on weekdays. As provided in 40 CFR Part 2, a reasonable fee may be charged for photocopying.

FOR FURTHER INFORMATION CONTACT: Mr. Daniel P. Heiser, Emission Control Technology Division, U.S. Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, MI 48105, (313) 668-4274.

SUPPLEMENTARY INFORMATION:

I. Background

The proposed rulemaking action would revise the present designation of counties in which high-altitude vehicles are required to be sold. The new designation criteria would exclude all current high-altitude counties in a given state, when no such county in that state is projected to be in violation of the NAAQS for CO and ozone by the end of 1982. As a result of the new criteria, vehicles complying with high-altitude emission standards would only be required to be sold in portions of four states (Colorado, Nevada, New Mexico, and Utah).

In the NPRM (47 FR 50929), EPA stated that it would hold a hearing only if it was requested to do so by November 22, 1982. A request for a hearing was received by the Agency from the Nevada franchised Auto Dealers Association. EPA is therefore responding to that request and will hold a hearing on the date and at the place described above.

II. Participation

Any person desiring to make a statement at the hearing should provide written notice of such intention to the contact person indicated above by January 6, 1983. This notice should include an estimate of the length of the testimony and any need for audio-visual equipment. If possible, we request that an advance copy of the proposed statement or material be included.

The record of the hearing will be left open for 30 days (through February 10, 1983) following the close of the hearing to allow submission of rebuttal and supplementary information. Any documents submitted during this period of time should be sent to the EPA Central Docket Section at the address shown above. It is also requested, but not required, that a copy of this submittal be sent directly to the contact person indicated above.

Commenters desiring to submit proprietary information should separate it from the other comments to the greatest extent possible, and label it "Confidential Business Information." Submissions containing such proprietary information should be sent directly to the appropriate Agency contact indicated above, and not to the Docket, to ensure that proprietary information is not inadvertently placed in the public docket.

Information covered by such a claim will be disclosed by EPA only to the extent, and by means of the procedures, set forth in 40 CFR Part 2. If no claim of confidentiality accompanies the information when it is received by EPA, it may be made available to the public without further notice to the commenter.

Mr. Charles L. Gray is hereby designated as the Presiding Officer of the hearing. He will be responsible for maintaining order, excluding irrelevant or repetitious material, scheduling presentations and notifying participants of the time at which they may appear.

The hearing will be conducted informally. Technical rules of evidence will not apply. A written transcript of the hearing will be taken. Anyone desiring to purchase a copy of this transcript should make arrangements individually with the court reporter recording the hearing.

Dated: December 10, 1982.

Kathleen M. Bennett,

Assistant Administrator for Air, Noise and Radiation.

[FR DOC. 82-34419 Filed 12-17-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 228

[WH-FRL 1990-6]

Ocean Dumping; Proposed Site Designation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA today proposes to designate the existing 106 Mile Ocean Dump Site, located in an area in the Atlantic Ocean about 100 nautical miles off Delaware Bay, as an approved ocean dumping site for the authorized disposal of aqueous industrial materials. EPA also proposes to designate this site as an approved ocean dumping site for the authorized disposal of municipal sewage treatment sludges ("municipal sludge") for a period of five years during which time studies on the environmental effects of dumping the sludge will be conducted.

EPA also today announces in a separate notice that it is considering petitions for commencement of rulemaking to amend 40 CFR 228.12(b)(4) to redesignate the Sewage Sludge Dump Site in the New York Bight Apex (the 12 Mile Site) and is also considering redesignation of the Alternate Sewage Sludge Dump Site in the New York Bight (the 60 Mile Site). The designation of both sites expired on December 31, 1981.

DATE: Comments on this action must be received on or before February 18, 1983.

ADDRESSES: Send comments to: Mr. T. A. Wastler, Chief, Marine Protection Branch (WH-585), EPA, Washington, D.C. 20460.

The Environmental Impact Statement and the Assessment Report are available for public inspection at the following locations:

EPA Public Information Reference Unit (PIRU), Room 2404 (rear), 401 M Street Southwest, Washington, DC

EPA Region II Library, Room 1002, 26 Federal Plaza, New York, New York

FOR FURTHER INFORMATION CONTACT: Mr. T. A. Wastler, 202/755-0356.

SUPPLEMENTARY INFORMATION:

I. Background

A. Statute

Title I of the Marine Protection, Research, and Sanctuaries Act, as amended ("MPRSA" or "the Act"), 33 U.S.C. 1401 et seq., provides that "no person shall transport from the United States * * * any material for the purpose of dumping it into ocean waters" without an ocean dumping permit. 33 U.S.C. 1411. Additionally, the Act specifically prohibits the dumping after December 31, 1981, of "sewage sludge" and, with limited exceptions, "industrial waste." In this context "sewage sludge" is defined as wastes from municipal treatment plants, the ocean dumping of which "may unreasonably degrade or endanger human health or welfare, or amenities, or the marine environment, ecological systems, and economic potentialities." 33 U.S.C. 1412a(d). Similarly, "industrial waste" is defined as the waste generated by a manufacturing or processing plant, the ocean dumping of which "may unreasonably degrade or endanger human health or welfare, or amenities, or the marine environment, ecological systems, and economic potentialities." 33 U.S.C. 1412a(d).

Section 102(a) of the MPRSA provides that "the Administrator may issue permits * * * for the transportation * * * of material for the purpose of dumping it into ocean waters, or for the dumping of material into [ocean] waters * * * where the Administrator determines that such dumping will not unreasonably degrade or endanger human health, welfare, or amenities or the marine environment, ecological systems, or economic potentialities." Section 102(a) requires the Administrator to promulgate criteria to be used in evaluating all such permit applications.

Section 102(c) of the MPRSA provides that the "Administrator may, considering the criteria established pursuant to subsection (a) of this section, designate recommended sites or times for dumping and, when he finds it necessary to protect critical areas, shall, after consultation with the Secretary [of the Army], also designate sites or times within which certain materials may not be dumped."

B. Regulations

Pursuant to provisions of the Act, EPA has promulgated implementing regulations which provide criteria both for the issuance of ocean dumping permits (Part 227) and for the designation and management of approved sites (Part 228) for the disposal of wastes.

40 CFR Part 228 establishes criteria to be applied in the designation of ocean dumping sites for use in permitted activities. Section 228.5 of these criteria requires that a site be chosen so that its use will not significantly interfere with other activities in the ocean; that areas of fisheries, shellfisheries, and heavy commercial or recreational navigation be avoided; that the dumping not adversely affect any beach, shoreline, or marine sanctuary; that sites be defined so as to localize any adverse impacts of the dumping and to permit adequate monitoring; and that sites beyond the Continental Shelf be selected, where feasible. Section 228.6 of the criteria specifies in greater detail the factors to be considered, such as the location of the site in relation to breeding or feeding areas of aquatic species, beaches, or areas of scientific or historical importance; the potential for disposal to interfere with navigation, fishing, or mineral extraction; and other factors relating to the geologic and hydrologic condition of the site.

The regulations provide that such sites will be designated by publication of a list of approved sites in 40 CFR 228.12. A list of Approved Interim and Final Ocean Dumping Sites was published on January 11, 1977, 42 FR 2461 et seq. and updated as new sites were designated or designations extended. The latest update was made on December 9, 1980, 45 FR 81042 et seq. Even after designation, the use of a site for dumping must be authorized by a permit issued pursuant to Part 227.

C. Proposed Action

By this action EPA is proposing to designate as an "Approved Ocean Dumping Site" for continuing use the Ocean Waste Dump Site (106 Mile Site) in the Atlantic Ocean located about 100 nautical miles due east of Delaware Bay. The proposed rulemaking regarding the 106 Mile Site is another in the series of ocean disposal site designations performed in compliance with a consent agreement entered in "National Wildlife Federation v. Costle," No. 80-0405, D.D.C.

D. Available Information

Descriptions and analyses of waste disposal at the 106 Mile Site are contained in the "Final Environmental Impact Statement for 106-Mile Ocean Waste Disposal Site Designation" ("the EIS"), which was published in February 1980. The National Oceanic and Atmospheric Administration (NOAA) has conducted several studies on the effects of ocean dumping, including municipal sludge, at this site. Most of this work was included in "Assessment Report on the effects of Waste Dumping in 106-Mile Ocean Waste Disposal Site: Dumpsite Evaluation Report 81-1" (May 1981). The results of some of the monitoring conducted at the 106 Mile Site are included in "Ocean Dumping of

Industrial Wastes," (B. H. Ketchum, D. R. Kester, and P. K. Park, eds., 1981). These studies have shown no significant adverse impacts resulting from the dumping of aqueous industrial wastes which comply with the Part 227 Criteria at the 106 Mile Site. Although studies of municipal sludge dumping to date have been limited in scope, they present no data that municipal sludge dumping would be harmful at that site.

II. The 106 Mile Site

A. Site Location and Characteristics

The 106 Mile Site is located off the Continental Shelf approximately 196 kilometers southeast of Ambrose Light, New York, and 167 kilometers east of Cape Henlopen, Delaware. The site occupies an area of approximately 1,648 square kilometers with coordinates of 38d 40' to 39d 00' N latitude and 72d 00' to 72d 30' W longitude. The depth of the site ranges from 1,440 to 2,750 meters. There is significant dispersion and a permanent thermocline (temperature gradient) at this site.

B. History of Dumping at the Site

Since 1961 the 106 Mile Site generally has been used for the disposal of aqueous industrial wastes and digester cleanout sludges. In 1973, EPA designated this area as an "interim" site to be used primarily for the disposal of such industrial wastes. A site is designated as "interim" when the environmental studies to designate it for continuing use have not been completed. As part of the studies necessary to designate this site, EPA initiated the preparation of a draft EIS to evaluate the use of this site for continued disposal of industrial wastes.

Although the 106 Mile Site was initially considered primarily as a site for industrial wastes, the possibility of its use for the dumping of municipal sludges generated by a number of treatment plants in New Jersey and New York created significant interest. These plants now dump their municipal sludges at the 12 Mile Site.

C. Public Hearing

On May 31 and June 1, 1977, EPA conducted a public hearing in Toms River, New Jersey (Toms River Hearing), to gather information and obtain public comment on the possible relocation of municipal sludge dumping farther offshore. The hearing included discussion of whether such dumping should occur at sites such as the 106 Mile Site which are off the Continental Shelf. Testimony on this issue was inconclusive, and the final decision of the hearing directed that the 106 Mile Site EIS include an assessment of municipal sludge disposal at the site.

As a result of the Toms River Hearing and a subsequent settlement agreement in "American Littoral Society v. Costle, " Civil Action No. 77–11073 (D.N.J.), the EIS contained an evaluation of the feasibility of dumping municipal sludges generated in the New York-New Jersey Metropolitan area at the 106 Mile Site. The EIS recommended designation of the 106 Mile Site as an ocean dumping site for receipt of both aqueous industrial wastes and municipal sludge. (EIS at xxii to xxiv.)

D. Application of Regulatory Criteria

This site has been evaluated in light of the factors listed in §§ 228.5 and 288.6 of the Ocean Dumping Regulations and Criteria. These criteria require, first, that a site be chosen so that its use will only minimally, if at all, interfere with other activities in the ocean, and that areas of fisheries, shellfisheries, and heavy commercial or recreational navigation be avoided. Section 228.5(a). The 106 Mile Site is not near significant shellfish beds, fish habitat, breeding, spawning, or nursery grounds, public recreation areas, or sites of major commercial fishing or navigation. (EIS at 3–8 to 3–11.) Further, the existence of significant dispersive currents and a permanent thermocline at the 106 Mile Site permits rapid dilution or dispersion of toxic suspended or dissolved materials, which should minimize adverse impacts to marine life at that site. (EIS at 2–37.)

The criteria also require that the dumping not adversely affect any beach, shoreline, marine sanctuary or shellfishery. Section 228.5(b). The 106 Mile Site is not in close proximity to any such areas and therefore would not be expected to adversely affect them. The expected rapid dilution and dispersion of materials dumped at this site should render the materials harmless before they reach any areas of environmental or economic significance. (EIS at 2–36.)

Sites are to be defined so as to localize impacts of the dumping and to permit adequate monitoring. Section 228.5(d). Although the dispersive nature of the 106 Mile Site may not localize impacts, it is expected to minimize impacts to the marine environment. Monitoring is feasible at the 106 Mile Site (EIS at 2–36) although more costly than at shallower, nearshore sites.

The criteria also require the selection of sites beyond the Continental Shelf where feasible. Section 228.5(e). The 106 Mile Site is located off the Shelf.

Thus, EPA believes that the 106 Mile Site satisfies the site designation criteria for an approved ocean dumping site. However, there are some differences between the aqueous wastes currently dumped at this site, which have been throughly studied, and municipal sludges. Therefore, EPA believes that the designation of the site should be treated differently for each of these types of wastes.

The wastes presently permitted to be dumped at the 106 Mile Site are primarily aqueous solutions and are discharged slowly over a large area, permitting extensive dilution and dispersion. Monitoring by acoustic means has shown that pycnoclines (density gradients) act as barriers to downward movement of these liquid waste materials and of some suspended particulate waste materials. Therefore, EPA is proposing to designate the 106 Mile Site to allow the continued disposal of aqueous industrial materials at that site. Aqueous industrial materials are those that are miscible with seawater and will not form or do not include a significant solid phase and which have been determined to comply with the Part 227 criteria. EPA will not propose to designate this site for the disposal of other industrial materials until adequate studies of the probable impacts of those materials on the site have been completed.

Unlike the aqueous industrial materials, however, municipal sludge has solid components which can be expected to settle out. Since materials with solid components have not been dumped in significant amounts at the 106 Mile Site and only limited research has been conducted to date on their impacts, the fate of such settleable materials cannot be predicted with absolute certainty. While the high level of dispersion, great depths, and thermocline at this site make it unlikely that there would be significant deposition on the seabed, the presence of southwesterly currents may result in some settling on the Outer Continental Shelf.

In light of the knowledge that any deposition would occur at a very slow rate (EIS at 5–9 to 5–12), EPA is proposing to designate this site for the disposal of municipal sludges for five years to permit further studies of the site and careful monitoring of the impacts of any municipal sludge disposal at the site.

III. Request for Comments on the Proposed Action

Comments are sought on a *proposal to designate the existing 106 Mile Site for the receipt of aqueous industrial wastes and municipal sewage treatment sludges,* including restricting the

disposal of municipal treatment sludges to a period of five years.

All comments and any relevant information or studies which EPA should consider should be submitted to the addressee identified at the beginning of this notice by February 18, 1983.

IV. Review Under the Regulatory Flexibility Act and Executive Order 12291

Under the Regulatory Flexibility Act, EPA is required to perform a Regulatory Flexibility Analysis for all rules which may have a significant impact on a substantial number of small entities. Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis.

EPA has determined that this proposal will not have a significant impact on small entities and it is not a "major" regulation under Executive Order 12291, since the proposed actions will not result in an annual effect on the economy of $100 million or more, a major increase in costs or prices for consumers, industries, Federal, State, or local government agencies or geographic regions, or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. The proposal will have the effect of providing additional disposal options to a limited number of industrial and municipal sources, but does not impose any additional regulatory requirements on those sources. Consequently, this proposal does not trigger the requirements for a Regulatory Flexibility Analysis or Regulatory Impact Analysis.

This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

List of Subjects in 40 CFR Part 228

Water pollution control.

(33 U.S.C. 1412 and 1418.).

Frederic A. Eidsness, Jr.,

Assistant Administrator for Water.

PART 228—[AMENDED]

In consideration of the foregoing, Subchapter H of Chapter I of Title 40 is proposed to be amended by adding to § 228.12 a paragraph (b)(16) for an ocean dumping site under the management of the EPA Region II Regional Office as follows:

§ 228.12 Delegation of management authority for interim ocean dumping sites.

* * * * *

(b) * * *

(16) 106 Mile Ocean Waste Site—Region II. Location: Latitude—38d 40′ to 39d 00′ N; Longitude—72d 00′ to 72d 30′ W. Size: 1,648 square kilometers. Depth: Ranges from 1,440 to 2,750 meters. Primary Use: Aqueous industrial materials and municipal sewage treatment sludges (note restriction below). Period of Use: Continuing use for aqueous industrial materials; five years for municipal sewage treatment sludges. Restriction: Aqueous industrial materials are those that are miscible with seawater and will not form or include a significant solid phase, the ocean dumping of which will not unreasonably degrade or endanger human health or welfare, or amenities, or the marine environment, ecological systems, and economic potentialities. Municipal sewage treatment sludges are sludges generated in a publicly owned treatment works, the ocean dumping of which will not unreasonably degrade or endanger human health or welfare, or amenities, or the marine environment, ecological systems, and economic potentialities. This site may not be used for the disposal of other materials (except for the purpose of research or under emergency conditions) until adequate studies of their probable impacts at the site have been completed.

[FR Doc. 82-34081 Filed 12-17-82; 8:45 am]

BILLING CODE 6560-50-M

---

40 CFR Part 228

[WH-FRL 1990-6a]

Ocean Dumping; Receipt of Petitions To Redesignate a Site and Request for Comments on the Possible Redesignation of Another Site

AGENCY: Environemental Protection Agency (EPA).

ACTION: Notice of petitions for rulemaking and announcement of consideration of commencement of rulemaking.

SUMMARY: EPA today requests comments on petitions for commencement of rulemaking to amend 40 CFR 228.12(b)(4) to redesignate the Sewage Sludge Dump Site in the New York Bight Apex (the 12 Mile Site) for continuing use. EPA is also considering redesignating the Alternate Sewage Sludge Dump Site in the New York Bight (the 60 Mile Site). The designation of both sites expired on December 31, 1981.

In a separate action, EPA today also proposes to designate for continuing use the existing interim-designated 106 Mile Ocean Waste Dump Site located in the Atlantic Ocean about 100 nautical miles off Delaware Bay (the "106 Mile Site) as an approved ocean dumping site for the authorized disposal of aqueous industrial materials. EPA also proposes to designate that site as an approved ocean dumping site for the authorized disposal of municipal sewage treatment sludges ("municipal sludge") for a period of five years, during which time studies on the environmental effects of dumping sludge will be conducted.

DATE: Comments on these actions must be received on or before February 18, 1983.

ADDRESSES: Send comments to: Mr. T. A. Wastler, Chief, Marine Protection Branch (WH-585), EPA, Washington, DC 20460.

The Environmental Impact Statement and petitions are available for public inspection at the following locations:

EPA Public information Reference Unit (PIRU), Room 2404 (rear), 401 M Street Southwest, Washington, DC; or

EPA Region II Library, Room 1002, 26 Federal Plaza, New York, New York.

FOR FURTHER INFORMATION CONTACT: Mr. T. A. Wastler, 202/755-0356.

SUPPLEMENTARY INFORMATION:

I. Background

A. Statute

Title I of the Marine Protection, Research, and Sanctuaries Act, as amended ("MPRSA" or " the Act"), 33 U.S.C. 1401 et seq., provides that "no person shall transport from the United States * * * any material for the purpose of dumping it into ocean waters" without an ocean dumping permit. 33 U.S.C. 1411. Additionally, the Act specifically prohibits the dumping after December 31, 1981, of "sewage sludge." In this context "sewage sludge" is defined as wastes from municipal treatment plants, the ocean dumping of which "may unreasonably degrade or endanger human health or welfare, or amenities, or the marine environment ecological systems, and economic potentialities." 33 U.S.C. 1412a(d).

Section 102(a) of the MPRSA provides that "the Administrator may issue permits * * * for the transportation * * * of material for the purpose of dumping it into ocean waters, or for the dumping of material into (ocean) waters * * * where the Administrator determines that such dumping will not unreasonably degrade or endanger human health, welfare, or amenities or the marine environment, ecological systems, or economic potentialities."

Section 102(a) also requires the Administrator to promulgate criteria to be used in evaluating all such permit applications.

Section 102(c) of the MPRSA provides that the "Administrator may, considering the criteria established pursuant to subsection (a) of this section, designate recommended sites or times for dumping and, when he finds it necessary to protect critical areas, shall, after consultation with the Secretary (of the Army), also designate sites or times within which certain materials may not be dumped."

B. Regulations

Pursuant to provisions of the Act, EPA has promulgated implementing regulations which provide criteria both for the issuance of ocean dumping permits (Part 227) and for the designation and management of approved sites (Part 228) for the disposal of wastes.

40 CFR Part 228 establishes criteria to be applied in the designation of ocean dumping sites for use in permitted activities. Section 228.5 of these criteria requires that a site be chosen so that its use will not significantly interfere with other activities in the ocean; that areas of fisheries, shellfisheries, and heavy commercial or recreational navigation be avoided; that the dumping not adversely affect any beach, shoreline, or marine sanctuary; that sites be defined so as to localize any adverse impacts of the dumping and to permit adequate monitoring; and that sites beyond the Continental Shelf be selected, where feasible. Section 228.6 of the criteria specifies in greater detail the factors to be considered, such as the location of the site in relation to breeding or feeding areas of aquatic species, beaches, or areas of scientific or historical importance; the potential for disposal to interfere with navigation, fishing, or mineral extraction; and other factors relating to the geologic and hydrologic condition of the site.

The regulations provide that such sites will be designated by publication of a list of approved sites in 40 CFR 228.12. A list of Approved Interim and Final Ocean Dumping Sites was published in January 11, 1977, 42 FR 2461 et seq., and updated as new sites were designated or designations extended. The latest update was made on December 9, 1980, 45 FR 81042 et seq. Even after designation, the use of a site for dumping must be authorized by a permit issued pursuant to Part 227.

C. Actions Under Consideration

EPA is considering whether to redesignate the Sewage Sludge Dump Site in the New York Bight Apex (the 12 Mile Site) and the Alternate Sewage Sludge Dump Site in the New York Bight (the 60 Mile Site). Consideration of the proposal to redesignate the 12 Mile Site is based on petitions submitted by New York City and six New Jersey sewerage authorities (the Bergen County Utilities Authority, the Joint Meeting of Essex and Union Counties, the Linden Roselle Sewerage Authority, the Middlesex County Utilities Authority, the Passaic Valley Sewerage Commissioners, and the Rahway Valley Sewerage Authority) to commence rulemaking proceedings to extend that designation. Since the 60 Mile Site was designated as an alternate to the 12 Mile Site and since both designations expired December 31, 1981, EPA is requesting public comment on the possible redesignation of one or both sites.

D. Available Information

Descriptions of the 12 Mile Site and the 60 Mile Site and analyses of the effects of waste disposal at the 12 Mile Site are contained in the "Final Environmental Impact Statement on the Ocean Dumping of Sewage Sludge in the New York Bight" ("the EIS"), which was issued in September 1978. Since then, the 12 Mile Site has been carefully studied and monitored by both EPA and the National Oceanic and Atmospheric Administration (NOAA). These studies have shown that the 12 Mile Site is seriously degraded, as is the entire New York Bight Apex area.

The 60 Mile Site has not been the focus of any monitoring programs since no ocean dumping has occurred at that site to date. Therefore, the available information on the 60 Mile Site is primarily that contained or referred to in the EIS.

II. Sites

A. 12 Mile Site

1. *Site location and characteristics.* The 12 Mile Site is located in the New York Bight Apex on the Continental Shelf approximately 20 kilometers south of Long Island and east of New Jersey. The site occupies an area of approximately 22.7 square kilometers with coordinates of 40d 22′ 30″ to 40d 25′ 00″N latitudes and 73d 41′ 30″ to 73d 45′ 00″W longitudes. The depth of the site is about 27 meters. Currents are variable, with a general onshore bottom drift, and surface currents driven by wind and river flow.

As described in more detail in EIS, the Bight Apex is subject to contamination from many sources, such as the open water disposal of dredged materials and municipal sludges and estuarine discharges of municipal and industrial wastes. Municipal sludge ocean dumping is estimated to account for only one to ten percent of the total contaminant input to the New York Bight Apex. However, it may account for significantly more of the PCB's and mercury in that area.

2. *History of dumping at the site.* Municipal sludge has been dumped at the 12 Mile Site since 1924 by communities in New York and New Jersey. Under EPA's regulations implementing the Act, over 200 communities have ceased the ocean dumping of municipal sludges at the 12 Mile Site and implemented land-based disposal methods. Less than a dozen authorities (30 treatment plants) are now dumping at the site.

Although the number of municipal sludge dumpers has decreased since passage of the Act, the volume of sludge dumped at the 12 Mile Site has increased from 4.6 million tons in 1973 to 6.7 million tons in 1981. This increase is primarily due to the upgrading of plants from primary to secondary treatment and the resultant increase in production of municipal sludge in the New York-New Jersey Metropolitan area for which disposal was required.

On May 18, 1979, the 12 Mile Site was designated as an approved municipal sludge disposal site. (45 FR 29052.) At the same time, an alternate site, the 60 Mile Site, was designated in case dumping at the nearshore site became unacceptable for environmental or public health reasons. Both designations expired December 31, 1981. These designations were based on the information and analysis presented in the EIS, including the assumption that ocean dumping at either site would end on December 31, 1981. Since that date the ocean dumping of municipal sludge has been permitted as a direct result of a court order in which the judge allowed continued ocean dumping under specific conditions while EPA takes action on petitions that the designation of the 12 Mile Site be extended and evaluates applications for continued dumping of municipal sludges.

3. *Petitions.* The petitions filed by New York City and six New Jersey authorities for commencement of rulemaking to extend the designation of the 12 Mile Site cite the lack of degradation outside the dumpsite, the unlikelihood of improvement if dumping were stopped there, and the additional cost of moving to a new dumpsite as reasons for extending the designation of the 12 Mile Site. No additional factual information on the site was presented. EPA has requested that the petitioners

provide technical information to support their petition and has allowed 90 days for its submission. EPA will provide an opportunity for public review and comment, including a possible public hearing on that information when it is available.

4. *Environmental issues.* Those opposed to the continued use of the 12 Mile Site fear that sludge is responsible for high levels of toxicants in fish and shellfish, repetive algal blooms, fish kills, fin rot, and beach washups which adversely affect recreational use of the shore and adjacent waters. Those in favor of continued use of the site claim that continued use would not further degrade the area and that cessation of municipal sludge dumping at the site will not significantly improve the environment of the area around the site. Further, they argue that moving the dumping farther offshore would result in additional costs and the degradation of a less degraded, or undegraded, site.

The major issues to be considered regarding redesignation of the 12 Mile Site are highlighted below, and comments are solicited on these issues.

a. *Shellfish contamination.* There is serious bacterial contamination of edible commercial and sport shellfish in the New York Bight Apex, to the extent that shellfishing has been prohibited by the Food and Drug Administration (FDA) in most of the area. (EIS at 45.) This contamination may be due to the large volume of inadequately treated sewage being discharged to the Hudson-Raritan estuary, runoff, dredged material dumping, and municipal sludge dumping. Sludge dumping is not a major contributor to the bacterial contamination of the Apex as a whole. (EIS at 34, Table 10, and 36–40.) However, it is believed that shellfishing may be reopened in the eastern third of the Apex if dumping at the 12 Mile Site were discontinued.

b. *Benthic impacts.* Studies by EPA, NOAA, and FDA indicate that the benthic community at and near the 12 Mile Site has been adversely impacted by heavy metal and organic contaminants (EIS at 145 and 151.) This is due, at least in part, to the fact that the 12 Mile Site is located in busy navigation channels which restricts the permissible dumping rate, resulting in less immediate dispersion than would be possible if a slower dumping rate could be used. Consequently, the solid components of the sludge settle at and around this site to a greater extent than they otherwise would. More importantly, the site is small in area, shallow, and receives a significant amount of sludge each year. Since the area of impact (in excess of 15 square nautical miles) is more than twice the size of the site and includes portions of the sensitive Hudson Shelf Valley, the assimilative capacity of the site has been exceeded. Other sources of contamination in the area may also contribute to this degradation.

c. *Public health hazard.* Despite public concern, studies by EPA, NOAA, and FDA do not demonstrate that continued use of the site poses a current health hazard other than through contamination of shellfish. These studies show that there is only a slight potential for these wastes from the 12 Mile Site to reach nearshore waters and that no bacterial (coliform) contamination of coastal beaches can be shown to result from the dumping. Little or no data are available in the EIS on the potential for bioaccumulation of heavy metals and synthetic organics or their impact on health risks.

d. *The effects of cessation of dumping.* Municipal sludge may be the source of most of the pollutants at and near the 12 Mile Site, but of less than 10 percent of most of the pollutants in the New York Bight Apex. (EIS at 38, Figure 4.) The quality of the existing site and its surrounding area could not be expected to improve significantly even if sludge dumping were terminated. (EIS at 4.) New York City and other petitioners argue that the cessation of dumping municipal sludge will not alleviate any of the above conditions in the Apex as a whole, although there might be some improvement at the immediate area of the site. Further, the petitioners argue that there is no evidence that the sludge is responsible for bacterial contamination at the beaches, or has any relationship to the regularly occurring algal blooms or large fish kills which have occurred in the area, such as in 1976. They also argue that, until the numerous other sources of pollution in this area are eliminated, there is reason to believe that the continued use of this site for the dumping of municipal sludge will not further degrade the New York Bight Apex or the site. New York City's petition states that, "while the dumping * * * is currently harmless in the manner and location in which it is practiced, there is no justification for shifting the dumpsite and causing possible contamination of currently unaffected areas." There is concern, however, about the potential effects of the expected dumping of greatly increased volumes of sludge at this site. The City of New York is currently constructing two new treatment plants, North River and Red Hook, which are estimated to produce 300,000 tons of sludge annually when completed.

B. 60 Mile Site

1. Site location and characteristics. The 60 Mile Site is located in the northern area of the New York Bight on the Continental Shelf approximately 46 kilometers south of Long Island. The site occupies an area of approximately 676 square kilometers with coordinates of 40d 10' 30" to 40d 13' 30"N latitudes and 72d 40' 30" to 72d 43' 30"W longitudes. The depth of the site is 40 to 60 meters.

The area of the site, as currently defined, is not large enough to provide rapid dilution of multiple sludge discharges to acceptable concentrations. Therefore, dumping activities would have to be spaced several hours apart in order to avoid violation of EPA's environmental standards. This problem might be avoided by enlarging the site. An area much larger than the defined site has been studied (EIS at 87–139), so that the information needed to redefine the boundaries of the site is available. Therefore, EPA is considering redefining the boundaries of the 60 Mile Site to enlarge it if it is redesignated.

2. History of dumping at the Site. On May 18, 1979, the 60 Mile site was designated as an alternate to the 12 Mile Site for municipal sludge disposal. This designation, like the designation for the 12 Mile Site, expired December 31, 1981.

Since the 60 Mile Site was designated in 1979 as an alternate site only, and since the need for its use has not arisen, no ocean dumping has occurred at the site to date. However, in considering the petitions to redesignate the 12 Mile Site, EPA is considering whether the 60 Mile Site is also an appropriate site for the disposal of municipal sludge.

3. Environmental issues. Environmental conditions at the 60 Mile Site are described in detail in the EIS.

The major issues to be considered regarding redesignation of the 60 Mile Site are highlighted below, and comments are solicited on these issues.

a. *Public health hazard.* At the time of EIS preparation, there was no significant commercial fishing of bottom-dwelling species or recreational use at this site; this would have minimized the potential for adverse impacts of ocean dumping to the public health or welfare. However, since 1978, significant commercial harvesting of scallops, black bass, flounder, lobster, and tilefish has been noted in the area of the site.

b. *The potential effects of dumping.* The 60 Mile Site is in an undegraded area with highly dispersive currents. The use of the 60 Mile Site would adversely affect the benthos at and near the site by adding heavy metals, bacteria, and organic matter. As the benthic community adapted, it would become less diverse. Effects on the benthos would be severe, but localized. Only a small percentage of the sludge would be expected to actually reach the bottom.

Sludge dumping would cause bacterial and viral contamination of shellfish at and near the site. Shellfish (and other benthic organisms) would also concentrate heavy metals in their tissues. To prevent the use of contaminated shellfish, it would be necessary to prohibit shellfishing in the vicinity of the site.

Sludge particles that settled on the bottom could be resuspended under stormy conditions and transported to adjacent areas. However, sensitive marine resources such as the Hudson Shelf Valley are probably far enough from the area to remain uncontaminated by such transported sludge.

Sludge dumping would release materials which would remain in suspension, but none of these materials would be expected to reach any beach in other than trace amounts.

III. Request for Comments on the Proposed Actions

Comments are sought on the petitions of New York City and six New Jersey municipal authorities for *commencement of rulemaking to redesignate the 12 Mile Site* for the disposal of municipal sludges and on EPA's *consideration of redesignating an enlarged 60 Mile Site* for the disposal of municipal sludges.

All comments and any relevant information or studies which EPA should consider should be submitted to the addressee identified at the beginning of this notice by February 18, 1982.

List of Subjects in 40 CFR Part 228

Water pollution control.

(33 U.S.C. 1412 and 1418)

Frederic A. Eidsness, Jr.,

Assistant Administrator for Water.

[FR Doc. 82-34082 Filed 12-17-82; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-6465]

Proposed Base Flood Elevation and Zone Designation Determinations for City of Sunnyvale, Santa Clara County, Calif.; Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited in the proposed base flood elevations and zone designations as described below.

The proposed base flood elevations and zone designations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the floodprone area and the proposed base flood elevations and zone designations are available for review at the Public Library, 665 West Olive Avenue, Sunnyvale, California.

Send comments to: Honorable Dianne McKenna, Mayor, City of Sunnyvale, 456 West Olive Avenue, P.O. Box 60607, Sunnyvale, California 94088.

FOR FURTHER INFORMATION CONTACT: Mr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Office of Natural and Technological Hazards, Federal Emergency Management Agency, Washington, DC 20472, (202) 287-0230.

SUPPLEMENTARY INFORMATION: The Associate Director, State and Local Programs and Support, gives notice of the proposed base flood elevations and zone designations for Butler County, Kansas, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR Part 67.

These base flood elevations and zone designations together with the flood plain management measures required by Section 60.3 of the program regulations, are the minimum that are required. It should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. The proposed base flood elevations and zone designations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed special flood hazard area for Calabazas Creek and Guadalupe Slough are contained in the respective channels and have been identified as Zone A. Along the San Francisco Bay, the proposed base flood elevation has been revised from 8 feet National Geodetic Vertical Datum (NGVD) to 7 feet NGVD, and the zone designations remain Zones V1 and A1. In the area located east of Calabazas Creek and south of Kifer Road, the proposed zone designations identified as Zone AO with a depth of 1 foot, and Zone AH with a base flood elevation of 50 feet NGVD, have been added. In the area located between Wildwood Avenue and Route 237 and between Lawrence Expressway and the levee, the proposed zone designation has been revised to Zone B.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, herby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

(National Flood Insurance Act 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: November 30, 1982.

Dave McLoughlin,

Acting Associate Director, State and Local Programs, and Support.

[FR Doc. 82-34358 Filed 12-17-82; 8:45 am]

BILLING CODE 6718-05-M

44 CFR Part 67

[Docket No. FEMA-6464]

Proposed Base Flood Elevation and Zone Designation Determinations for City of Imperial Beach, San Diego County, Calif.; Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations and zone designations as described below.

The proposed base flood elevations and zone designations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations and zone designations are available for review at the Planning Department, Imperial Beach City Hall, 825 Imperial Beach Boulevard, Imperial Beach, California.

Send comments to: Honorable Brian P. Bilbray, Mayor, City of Imperial Beach, 825 Imperial Beach Boulevard, Imperial Beach, California 92032.

FOR FURTHER INFORMATION CONTACT: Mr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: The Associate Director, State and Local Programs and Support, gives notice of the proposed base flood elevations and zone designations for the City of Imperial Beach, California, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.

These base flood elevations and zone designations, together with the flood plain management measures required by Section 60.3 of the program regulations, are the minimum that are required. It should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. The proposed base flood elevations and zone designations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

Along the Tijuana River, the proposed base flood elevations range from 6 feet National Geodetic Vertical Datum (NGVD) to 17 feet NGVD, and the zone designation remains Zone A4. Along Oneonta Slough, in the area generally located south of Coronado Avenue and between First Street and Fifth Street, the proposed zone designation is Zone AH, with a proposed elevation of 6 feet NGVD. Along the Pacific Ocean, the proposed zone designations and base flood elevations are as follows: Zone V1 (el 6), Zone A3 (el 7), Zone A2 (el 7), Zone A2 (el 8), Zone A2 (el 9), Zone A4 (el 10), Zone A4 (el 9), Zone A4 (el 8) and Zone A4 (el 7).

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Associate Director, State and Local Programs and Support)

Issued: November 29, 1982.

Dave McLoughlin,

Acting Associate Director, State and Local Programs and Support.

[FR Doc. 82-34359 Filed 12-17-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-6466]

Proposed Base Flood Elevation and Zone Designation Determination for Town of Gypsum, Eagle County, Colo.; Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations and zone designations as described below.

The proposed base flood elevations and zone designations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations and zone designations are available for review at the Gypsum Town Hall, 300 First Street, Gypsum, Colorado.

Send comments to: Honorable Eldon L. Bindley, Mayor, Town of Gypsum, P.O. Box 237, Gypsum, Colorado 81631.

FOR FURTHER INFORMATION CONTACT: Mr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Wahington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: The Associate Director, State and Local Programs and Support, gives notice of the proposed base flood elevations and zone designations for the Town of Gypsum, Colorado in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.

These base flood elevations and zone designations, together with the flood plain management measures required by Section 60.3 of the program regulations, are the minimum that are required. It should not be construed to mean the

community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. The proposed base flood elevations and zone designations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base flood elevations and zone designations, in the recently annexed area located in the northwesternmost portion of the Town, are as follows;

Source of flooding and location	Elevation, national geodetic vertical datum (feet)	Zone designation
Eagle River:		
At the western corporate limits	[illegible]	A2.
At a point located approximately 225 feet downstream of Price Lane extended.	[illegible]	A2.
At a point located approximately 975 feet upstream of Price Lane extended.	[illegible]	A2.

The remaining portion of the annexed area has been identified as Zones B and C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: November 28, 1982.

Dave McLoughlin,

Acting Associate Director, State and Local Programs and Support.

[FR Doc. 82-34384 Filed 12-17-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

Docket No. FEMA-6467]

Proposed Special Flood Hazard Area Determinations for City of Las Vegas, Clark County, Nevada; Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed special flood hazard areas as described below.

The proposed special flood hazard areas are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed special flood hazard areas are available for review at the Land Development and Flood Control Division of the Department of Public Service, 400 East Stewart Avenue, Las Vegas, Nevada.

Send comments to: Honorable William H. Briare, Mayor, City of Las Vegas, 400 East Stewart Avenue, Las Vegas, Nevada 89101.

FOR FURTHER INFORMTION CONTACT: Mr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287–0230.

SUPPLEMENTARY INFORMATION: The Associate Director, State and Local Programs and Support, gives notice of the proposed special flood hazard areas for the City of Las Vegas, Nevada in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.

These special flood hazard areas, together with the flood plain management measures required by Section 60.3 of the program regulations, are the minimum that are required. It should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. The proposed special flood hazard areas will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed special flood hazard areas, identified as Zones A, AO with a depth of 1 foot, and AO with a depth of 2 feet, have been added throughout the City, on Panels 15, 20 and 25 of 35. Additional annexed areas have been identified as Zone C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support.)

Issued: November 30, 1982.

Dave McLoughlin,

Acting Associate Director, State and Local Programs and Support.

[FR Doc. 82-34363 Filed 12-17-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-6468]

Proposed Zone Designation and Flood Depth Determinations for Tillamook County, Oregon; Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed zone designation and flood depth as described below.

The proposed zone designation and flood depth are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the floodprone areas and the proposed zone designation and flood depth are available for review at the Office of the County Commissioners, Tillamook County Courthouse, 201 Laurel Avenue, Tillamook, Oregon.

Send comments to: Mr. Franklin E. Knight, Chairman, Board of County Commissioners, Tillamook County Courthouse, 201 Laurel Avenue, Tillamook, Oregon 97141.

FOR FURTHER INFORMATION CONTACT: Mr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287–0230.

SUPPLEMENTARY INFORMATION: The Associate Director, State and Local Programs and Support, gives notice of the proposed zone designation and flood depth for Tillamook County, Oregon in Accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.

The zone designation and flood depth, together with the flood plain management measures required by Section 60.3 of the program regulations, are the minimum that are required. It should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. The proposed zone designation and flood depth will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed zone designation of Zone A0, with a depth of 2 feet, has been added on Panels 160 and 170, along the Wilson River, in the area generally located between Makinster Road, the Wilson River and Wilson River Loop Road. This new designation would replace the existing Zone C and Zone A1, elevation 10 feet National Geodetic Vertical Datum (NGVD), designation for the above mentioned area. In addition, the corporate limits for the City of Bay City and City of Tillamook have been adjusted to resolve any inconsistencies.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support.)

Issued: November 29, 1982.

Dave McLoughlin,

Acting Associate Director, State and Local Programs and Support.

[FR Doc. 82–34362 Filed 12–17–82; 8:45 am]

BILLING CODE 6718–03–M

44 CFR Part 67

[Docket No. FEMA-6431]

Harris County, Texas; National Flood Insurance Program; Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a Notice of Proposed Determinations of base (100-year) flood elevations previously published at 47 FR 47890 on October 28, 1982. This correction notice provides a more accurate representation of the Flood Insurance Study and Flood Insurance Rate Map for the City of Seabrook, Harris County, Texas.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287–0230.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the correction to the Notice of Proposed Determinations of base (100-year) flood elevations for selected location in the City of Seabrook, Harris County, Texas, previously published at 47 FR 47890 on October 28, 1982, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a).

Pursuant to the provisions of 5 USC 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new

requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

Under the Source of Flooding of Galveston Bay, the location description "Entire shoreline of Pine Gully within community" has been amended to read as follows. The remainder of the Notice of Proposed Based Flood Elevations remains unchanged.

Source of flooding	Location	Elevation in feet national geodetic vertical datum
Galveston Bay	Entire shoreline of Pine Gully upstream from Todville Road.	* 12
	Confluence of Pine Gully with Galveston Bay.	* 18

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director).

Issued: December 2, 1982.

Dave McLoughlin,

Acting Associate Director, State and Local Programs and Support.

[FR Doc. 82-34300 Filed 12-17-82; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 82-811; RM-4207; RM-4233]

FM Broadcast Station in Anchorage, Alaska; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to assign Class C FM Channels 251 and 255 to Anchorage, Alaska, in response to petitions by KENI Associates and Borealis Broadcasting, Inc.

DATES: Comments must be filed on or before January 24, 1983, and reply comments on or before February 8, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Philip S. Cross, Broadcast Bureau (202) 632–5414.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Adopted: November 29, 1982.

Released: December 13, 1982.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Anchorage, Alaska), BC Docket No. 82–811, RM–4207, RM–4233.

1. The Commission has before it two separate petitions to add FM Class C Channel 256 to Anchorage, Alaska, filed by KENI Associates and by Borealis Broadcasting, Inc. Channel 256 is not available for the assignment to Anchorage inasmuch as it would be mutually exclusive with Channel 259 which has been recently assigned to Wasilla, Alaska (BC Docket No. 82–358), released November 16, 1982. Our engineering staff has determined that two other Class C channels are available for assignment to Anchorage, *i.e.*, Channels 251 and 255.

2. The two proposed assignments could provide a ninth and tenth FM broadcast service to Anchorage. Both petitioners have stated they would apply for an Anchorage channel.

3. These assignments would be contingent on avoiding interference to the FCC monitoring station at Anchorage.

4. The proposed amendments to the Table of Assignments, *infra*, also reflect a pending proceeding to substitute Channel 287 for Channel 288A (BC Docket 82–709).

5. In view of the above, we believe that it is appropriate to solicit comments on the proposed amendment of the FM Table of Assignments, § 73.202(b) of the Commission's Rules as follows:

City	Channel No.	
	Present	Proposed
Anchorage, Alaska	263, 267, 271, 276A, 281, 288A, 293, 298	251, 255, 263, 267, 271, 276A, 281, 287, 293, 298

6. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

7. Interested parties may file comments on or before January 24, 1983, and reply comments on or before February 8, 1983, and are advised to read the Appendix for the proper procedures.

8. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification That Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making To Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

9. For further information concerning this proceeding, contact Philip S. Cross, Broadcast Bureau, (202) 632–5414. However, members of the public should note that from the times a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(1), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.281(b)(6) and 0.204(b) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the Notice of proposed Rule Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assigment is also expected to

file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d)of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in the Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in § 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 82-34347 Filed 12-17-82; 8:45 am]
BILLING CODE 6712-10-M

---

47 CFR Parts 81 and 83

[PR Docket No. 82-798; FCC 82-526]

Removal of Unnecessary Reporting and Recordkeeping Requirements

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This Notice proposes to eliminate certain reporting and record keeping requirements in the Maritime Services. These proposals result from the FCC's program to reduce paperwork requirements. The proposed amendments are intended to eliminate unnecessary regulations.

DATES: Comments must be received on or before January 13, 1983, and reply comments must be received on or before January 28, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Robert H. McNamara, Private Radio Bureau (202) 632-7175.

SUPPLEMENTARY INFORMATON:

List of Subjects

47 CFR Part 81

Coast stations, Radio, Telegraph, Telephone.

47 CFR Part 83

Reporting and recordkeeping requirements, Vessels.

Adopted: December 2, 1982.

Released: December 14, 1982.

In the matter of amendment of Parts 81 and 83 of the rules to eliminate unnecessary reporting, recordkeeping and record retention requirements. PR Docket No. 82-798, FCC 82-526.

1. In this Notice of Proposed Rule Making we are proposing to eliminate reporting, recordkeeping and record retention requirements in the Maritime Services (Parts 81 and 83 of the Commission's rules) which we believe impose unnecessary burdens on the maritime community.

Part 81

2. In Part 81 (Stations on Land in the Maritime Services and Alaska-Public Fixed Stations) we are proposing to amend 29 rule sections.[1] In regard to recordkeeping and record retention requirements, we are proposing to delete the necessity to maintain logs and reduce the mandated documentation for all maritime stations other than public coast stations. These records are seldom if ever utilized for any regulatory purpose. Under this proposal, licensees of limited coast stations, marine utility stations, marine fixed stations, marine receiver stations and shipyard stations would no longer be required to maintain logs. Additionally, the list of documents required to be available at such stations would be reduced or deleted entirely. For example, the requirement to have on hand Parts 81 and 83 of the rules is being eliminated for these stations as well as Alaska-public fixed stations. We are also proposing to simplify the log and documentation requirements affecting public coast telephone and public coast telegraph stations. However, since these stations are common carriers providing a public correspondence service for the maritime industry, we are not proposing such major changes as indicated for other maritime stations. Further, certain record retention requirements are imposed on these common carriers by Part 42 of the rules.

2. We are proposing to eliminate or simplify notification requirements concerning: certain changes in station location, station operations during emergencies, discontinuance of station operations (other than public coast stations), and the cooperative use of limited coast station facilities. No use has been made of the subject information. Accordingly, we feel these notification requirements are unnecessary.

4. In addition, we are proposing to simplify a number of rule sections relating to the filing of applications for stations licensed under Part 81 and to clarify and edit various rule sections which reference or relate to other sections proposed to be amended.

Part 83

5. In Part 83 (Stations on Shipboard in the Maritime Services) we are proposing to amend 18 rule sections [2] which relate to record keeping or reporting requirements imposed on licensees of ship radio stations. In essence, we are seeking to eliminate the requirement for ships to maintain radio logs and specified documents except where the

---

[1] The specific sections of Part 821 proposed to be amended are: 81.24, 81.26, 81.31, 81.41, 81.49, 81.70, 81.73, 81.74, 81.75, 81.76, 81.115, 81.194, 81.224, 81.314, 81.352, 81.369, 81.370, 81.457, 81.458, 81.477, 81.521, 81.522, 81.523, 81.524, 81.525, 81.535, 81.536, 81.552, and 81.703.

[2] The specific sections of Part 83 proposed to be amended are: 83.2, 83.70, 83.115, 83.157, 83.164, 83.331, 83.340, 83.367, 83.368, 83.369, 83.405, 83.406, 83.436, 83.550, 83.819, 83.1015, 83.1016, and 83.1017.

requirement is contained in a treaty or statute.[3] Also, simplification of a number of notification and record keeping requirements for vessels compelled to be equipped with radio are proposed.

6. The proposed changes will delete the necessity for recreational boaters to maintain a radio station log and have Part 83 of the rules. Specified documentation relating to emergency position indicating radiobeacons (EPIRB's) and auto alarms are proposed to be deleted. We are also proposing to simplify a number of log, documentation and notification requirements pertaining to compulsory radio-equipped ships as well as survival craft stations and on-board stations.[4] Like similar requirements under Part 81, the subject information is seldom utilized and, therefore, we consider these rules to be an unnecessary burden on the maritime public. In addition, we have included editorial amendments where appropriate.

7. The proposed amendments to the Commission's rules as set forth in the attached Appendix are issued under the authority contained in sections 4(i) and 300(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r).

8. Under procedures set out in § 1.415 of the Rules and Regulations, 47 CFR 1.415, interested persons may file comments on or before January 13, 1983, and reply comments on or before January 28, 1983. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commision may take into consideration information and ideas not contained in the comments provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the

9. In accordance with the provisions of § 1.419 of the Rules and Regulations, 47 CFR 1.419, formal participants shall file an original and 5 copies of their comments and other materials. Participants wishing each Commissioner to have a personal copy of their comments should file an original and 11 copies. Members of the general public who wish to express their interest by participating informally may do so by submitting one copy. All comments are given the same consideration, regardless of the number of copies submitted. All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

10. For purposes of this non-restricted notice and comment rulemaking proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed rulemaking until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally Section 1.1231 of the Commission's rules, 47 CFR 1.1231.

11. The rule amendments proposed in this proceeding, while expected to benefit the maritime public by eliminating unnecessary reporting and record keeping requirements will not result in a significant economic impact on any person or entity. Therefore, the Commission has determined that Sections 603 and 604 of the Regulatory Flexibility Act of 1980 (Pub. L. 96–354) do not apply to this rule making proceeding, because the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.

12. Regarding questions on matters covered in this document contact Robert H. McNamara (202) 632–7175.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Parts 81 and 83 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

PART 81—STATIONS ON LAND IN THE MARITIME SERVICES AND ALASKA-PUBLIC FIXED STATIONS

1. Section 81.24 is revised to read as follows:

§ 81.24 Applications made on prescribed forms.

Applications for authorizations for stations on land in the maritime services shall be submitted on the prescribed forms which may be obtained from the Commission at Washington, D.C. 20554 or from any of its field offices. Applications should be filed at least 60 days prior to the date the grant of an authorization is desired.

§ 81.26 [Removed]

2. Part 81 is amended by removing § 81.26.

3. Section 81.31 is amended by adding a new paragraph (d) to read as follows:

§ 81.31 Supplemental information required.

* * * * *

(d) Each application for a new public coast station operating on frequencies in the band 156–162 MHz shall include as supplementary information a chart, with supporting data, showing the service area contour computed in accordance with Subpart R of this part.

4. Section 81.41 is revised to read as follows:

§ 81.41 Application for special temporary authority.

(a) Applications for special temporary authority may be filed either formally (by submission of an FCC Form 503) or informally (by letter or telegram) to operate new facilities, or to operate existing facilities in a manner beyond that authorized in the current authorization. The nature of the emergency, equipment failure or other circumstances which, in the opinion of the applicant justifies issuance of a special temporary authorization, must be fully described in the request.

---

[3] The International Radio Regulations, the International Convention for the Safety of Life at Sea, the Great Lakes Agreement, the Cummunications Act and the Bridge-to-Bridge Radiotelephone Act all impose certain radio requirements on specific classes of vessels.

[4] Survival craft stations are located on lifeboats, liferafts or other survival equipment and are used solely for safety purposes. On-board stations include mobile units and repeaters used for intraship communications primarily on large ships.

(b) Informal requests for special temporary authority shall contain the following information:

(1) Name, address, and citizenship status of applicant;

(2) Statement of facts on which the request is based, including estimated duration of proposed use;

(3) Class of station and nature of service;

(4) Location of station including, when appropriate, geographical coordinates;

(5) Equipment to be used, specifying manufacturer and model number, frequencies desired, types of emission, power, and other pertinent information; and

(6) Description of proposed antenna structure, if any.

(c) Information presently on file with the Commission may be included by reference.

§ 81.49 [Removed]

5. Part 81 is amended by removing § 81.49

§ 81.70 [Amended]

6. In § 81.70 paragraphs (c), (d) and (e) are removed.

7. Section 81.73 is revised to read as follows:

§ 81.73 Operation during emergency.

The licensee of any station subject to this part may, during a period of emergency in which the normal communication facilities are disrupted as a result of hurricane, flood, earthquake, or similar disaster, utilize such station for emergency communication service in a manner other than that specified in the instrument of authorization or in the rules and regulations governing the operation of such stations. As soon as possible after the beginning of such emergency use, notice shall be sent to the Commission's Engineer in Charge of the radio district in which the station is located, stating the nature of the emergency and the emergency use made of the station. The Commission may, at any time, order the discontinuance of any such emergency communication undertaken under this section.

8. Section 81.74 is revised to read as follows:

§ 81.74 Notice of discontinuance, reduction, or impairment of service.

(a) Applications by public coast stations for authority to discontinue, reduce or impair service shall comply with the provisions of Part 63 of the Commission's rules. If such changes in station operation include discontinuance, reduction or suspension of a watch required to be maintained on 500 kHz. 2182 KHz, or 156.8 MHz, notification thereof shall be given by the licensee to the nearest district office of the U.S. Coast Guard as soon as practicable. Where applicable, such notification shall include the estimated or known time of resumption of the subject watch.

(b) In the event that a limited coast station reduces or suspends a watch required to be kept on 500 kHz, 2182 kHz or 156.8 MHz, notification thereof shall be given by the licensee to the nearest district office of the U.S. Coast Guard as soon as practicable.

§ 81.76 [Removed]

9. Part 81 is amended by removing § 81.75.

10. Section 81.76 is revised to read as followed:

§ 81.76 Cancellation of license.

When stations subject to this part permanently discontinue operation, the licensee shall send the station license to the Commission's office at P.O. Box 1040 Gettysburg, Pennsylvania 17325.

11. Section 81.115(a) is revised to read as follows:

§ 81.115 Retention and availability of radio station logs.

(a) Station logs required by this part shall be retained by the licensee for a period of one year from the date of entry, and when applicable for such additional periods as required by the following subparagraphs:

(1) Station logs relating to a distress situation or disaster shall be retained for 3 years from the date of entry:

(2) Station logs relating to an investigation by the Commission, of which the licensee has been notified shall be retained until the licensee is specifically authorized in writing to destroy them.

(3) Station logs relating to any claim or complaint of which the station licensee has notice shall be retained until the claim or complaint has been satisfied or barred by statute limiting the time for filing suits upon such claims.

* * * * *

12. Section 81.194 is revised to read as follows:

§ 81.194 Maintenance of station log.

(a) Where a radio station log is required, the log shall be kept in an orderly manner, and in such detail that the information required for particular class of station concerned is readily available. Key letters or abbreviations may be used if their proper meaning or explanation is contained elsewhere in the same log. The log or any portion thereof shall not be erased, obliterated, or wilfully destroyed within the period of retention required by § 81.115. Corrections may be made by the person originating the entry by striking out the erroneous portion, initialing the correction made, and indicating the date of correction.

(b) For each station whose antenna structure is required to the illuminated, appropriate entries shall be made in the station log in conformity with the requirements of Part 17 of this chapter.

(c) The station licensee and the licensed radio operator in charge of the station shall be responsible for compliance with this section

13. Section 81.224 is revised to read as follows:

§ 81.224 Station logs.

Public coast stations using telegraphy shall maintain an accurate radiotelegraph log during their hours of service as specified below:

(a) The entry "on duty" shall be made by the operator beginning a duty period, followed by his signature. The entry "off duty" shall be made by the operator being relieved or terminating a duty period, followed by his signature. All log entries shall be currently completed and all entries shall, unless otherwise stated, be made by a licensed operator on duty.

(b) The date and time of making an entry shall be shown opposite the entry.

(c) Coast stations which are required under Subpart G to maintain a watch on the designated radiotelegraph distress and calling frequency (500 kHz) shall enter the time this watch is begun, suspended or ended.

(d) All distress or safety related calls transmitted or received shall be entered, together with the frequency used and the position if available, of any vessel in need of assistance.

(e) Failure of apparatus to operate as required, failure of power supply, and incidents tending to unduly delay communication shall be entered.

(f) All measurements of the transmitter frequency(s) shall be entered, including such deviations from the assigned frequency(s) as may be observed, and a statement of any corrective action taken.

(g) Entries shall be made giving pertinent details of all installation, service, or maintenance work performed which may affect the proper operation of the station. The entry shall be made, signed and dated by the responsible licensed operator who supervised or performed the work, and unless he is regularly employed on a full-time basis at the station and has his operator license properly posted, shall also include his mail address and the class.

serial number, and expiration date of his license.

(h) Entries shall be made concerning the operation of the antenna tower lights when such entries are required by § 81.193.

14. Section 81.314 is revised to read as follows:

§ 81.314 Station logs.

Public coast stations using telephony shall maintain an accurate radiotelephone log during their hours of service as specified below:

(a) the entry "on duty" shall be made by the operator beginning a duty period, followed by his signature. The entry "off duty" shall be made by the operator being relieved of or terminating a duty period, followed by his signature. All log entries shall be currently completed and all entries shall, unless otherwise stated, be made by a licensed operator on duty.

(b)The date and time of making an entry shall be shown opposite the entry.

(c) Failure of apparatus to operate as required, failure of power supply, and incidents tending to unduly delay communication shall be entered.

(d) All measurements of the transmitter frequency(s) shall be entered, including such deviations from the authorized carrier frequency(s) as may be observed, and a statement of any corrective action taken.

(e) An entry shall be made giving pertinent details of all installation, service, or maintenance work performed which may affect the proper operation of the station. The entry shall be made, signed and dated by the responsible licensed operator who supervised or performed the work, and unless he is regularly employed on a full-time basis at the station and has his operator licensed properly posted, shall also include his mail address and the class, serial number, and expiration date of his license.

(f) Entries shall be made concerning the operation of the antenna tower lights when such entries are required by § 81.193.

§ 81.352 [Amended]

15. Section 81.352 is amended by: (A) in paragraph (a) (1) removing the proviso clause; (B) removing paragraph (a)(3); and (C) in paragraph (b)(2) removing the last sentence.

§ 81.369 [Removed]

16. Part 81 is amended by removing § 81.369.

§ 81.370 [Removed]

17. Part 81 is amended by removing § 81.370.

§ 81.457 [Removed]

18. Part 81 is amended by removing § 81.457.

§ 81.458 [Removed]

19. Part 81 is amended by removing § 81.458.

§ 81.477 [Removed]

20. Part 81 is amended by removing § 81.477.

21. Section 81.521 is revised to read as follows:

§ 81.521 Eligibility for shipyard base stations.

A license to operate a shipyard base station will be issued only as a secondary use for licensed limited coast stations serving a shipyard regularly engaged in construction or repair of commercial transport vessels and/or Government vessels.

22. Section 81.522 is revised to read as follows:

§ 81.522 Eligibility for shipyard mobile stations.

A license to operate shipyard mobile stations will be issued only to the licensee of a shipyard base station.

§ 81.523 [Removed]

23. Part 81 is amended by removing § 81.523.

§ 81.524 [Amended]

24. Part 81 is amended by removing § 81.524.

§ 81.525 [Removed]

25. Section 81.525 is amended by removing the words "pursuant to the provisions of §§ 81.522 and 81.524" from paragraph (a).

§ 81.535 [Removed]

26. Part 81 is amended by removing § 81.535.

§ 81.536 [Removed]

27. Part 81 is amended by removing § 81.536.

§ 81.552 [Removed]

28. Part 81 is amended by removing § 81.522.

§ 81.703 [Removed]

29. Part 81 is amended by removing § 81.703.

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

§ 83.2 [Amended]

1. Section 83.2 is amended by removing paragraph (z).

§ 83.70 [Amended]

2. Section 83.70 is amended by removing paragraph (f).

§ 83.115 [Amended]

3. Section 83.115 is amended by removing and reserving paragraph (c) and the "note" at the end of the section.

§ 83.157 [Amended]

4. Section 83.157 is amended by removing paragraph (b)(3).

5. Section 83.184 is revised to read as follows:

§ 83.184 Maintenance of station log.

(a) The log shall be kept in an orderly manner, and in such detail that the information required for the particular class of station concerned is readily available. Key letters or abbreviations may be used if their proper meaning or explanation is contained elsewhere in the same log.

(b) The log or any portion thereof shall not be erased, obliterated, or wilfully destroyed within the period of retention required by § 83.115. Correction may be made of such log but only by the person originating the entry by striking out the erroneous portion, initialing the correction made, and indicating the date of correction.

(c) The station licensee and the licensed radio operator in charge of the station shall be responsible for compliance with this section.

§ 83.331 [Removed]

6. Part 83 is amended by removing § 83.331.

7. Section 83.340 is amended by removing paragraphs (d) and (e) by adding the words "subject to Title III, Part II of the Communications Act or the radio provisions of the Safety of Life at Sea Convention, which is" after the third word "station" in paragraph (a)(1), and by adding new paragraph (a)(13) to read as follows:

§ 83.340 Station logs.

(a) * * *

(13) Ship stations authorized to transmit on frequencies within the band 405–535 kHz, shall maintain a written record of the adjustments to the transmitting and receiving equipment used for operation on the assigned frequencies 410 kHz and 500 kHz and at least two authorized working frequencies within this band.

* * * * *

8. Section 83.367 is amended by removing footnote 1 and revising paragraph (b) to read as follows:

§ 83.367 Station documents.

* * * * *

(b) Ship radiotelephone stations not subject to the Safety Convention shall be provided with documents listed in

paragraphs (a)(1), (2), (3), and (6) of this section. However, ship radiotelephone stations not subject to compulsory equipment requirements of the Communications Act, Great Lakes Agreement, or other applicable statute or treaty, need only be provided with the documents listed in paragraphs (a)(1) and (2) of this section.

9. Section 83.368 is amended by removing paragraphs (f) and (g), and by revising paragraph (a) and the introductory text of paragraph (b) to read as follows:

§ 83.368 Radiotelephone station log.

(a) Ship radiotelephone stations subject to Title III, Part II of the Communications Act or the radio provisions of the Safety of Life at Sea Convention shall maintain a station log. Pages of the log shall be numbered in sequence and each page shall include the name of the vessel and the radio call sign of the station. All entries which show transmitter operation shall be made and signed by the licensed operator. Watch entries, and signature of each person keeping the required watch, shall be so related that they constitute a certification by each such person as to when he began and ended each period of his watch during the voyage. The date and time of each occurrence or incident required to be entered in the log shall be shown opposite the entry, and the time shall be counted from 0000 to 2400, beginning at midnight. Stations on board vessels engaged on international voyages, other than on the Great Lakes or inland waters, shall use Greenwich mean time (G.m.t.); stations on board vessels navigated on the Great Lakes and subject to the Great Lakes Agreement shall use eastern standard time (e.s.t.); other stations may use G.m.t. or local standard time. The appropriate symbol, G.m.t., e.s.t., c.s.t., P.s.t., etc., shall be entered at the head of the column in which time is entered.

(b) The ship radiotelephone station log shall include the following entries:

* * * * *

§ 83.369 [Removed]

10. Part 83 is amended by removing § 83.369.

11. Section 83.405 is amended by removing paragraph (f) and revising the introductory text of paragraph (d) to read as follows:

§ 83.405 Special provisions applicable to ship-radar stations.

* * * * *

(d) The following requirements apply to ship-radar stations provided for compliance with the Safety of Life at Sea Convention:

* * * * *

§ 83.406 [Removed]

12. Part 83 is amended by removing § 83.406.

§ 83.456 [Removed]

13. Part 83 is amended by removing § 83.456.

14. In § 83.556 paragraph (e) is revised to read as follows:

§ 83.556 General requirements for survival craft radio equipment.

* * * * *

(e) Simple instructions for the operation of the equipment shall be prominently and permanently attached to it. These instructions shall include information concerning the erection of the antenna(s), automatic transmission and manual transmission of the international distress and alarm signals on the frequency 500 kHz.

* * * * *

§ 83.819 [Amended]

15. Section 83.819 is amended by removing paragraphs (a)(4), (a)(5) and (a)(6), and paragraph (b) and renumbering paragraph (c) as (b).

16. Section 83.1015 is revised to read as follows:

§ 83.1015 (VHF Marine Rule 15) Do I have to keep a radio log?

You do not have to keep a radio log.

17. In § 83.1016 paragraph (a) is revised to read as follows:

§ 83.1016 (VHF Marine Rule 16) Do I need a copy of the FCC's rules?

(a) You do not need to keep a copy of the FCC's rules. However, you are responsible for compliance with the FCC's rules.

* * * * *

§ 83.1017 [Amended]

18. In § 83.1017 the words "radio log," are removed.

[FR Doc. 82-34165 Filed 12-17-82; 8:45 am]
BILLING CODE 6712-01-M

---

47 CFR Part 95

[PR Docket No. 82-799; FCC 82-527]

Amendment To Eliminate Individual Station Licenses in the Radio Control (R/C) Radio Service and the Citizens Band (CB) Radio Service

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This notice of Proposed Rule Making proposes to amend the Radio Control (R/C) Radio Service Rules and the Citizens Band (CB) Radio Service Rules to discontinue the issuance of individual station licenses. These amendments are proposed to relieve applicants of an unnecessary paperwork burden and would substantially decrease the Commission's administrative costs.

DATES: Comments are due by January 19, 1983, and replies by February 3, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: John Borkowski, Private Radio Bureau, Washington, D.C. 20554.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 95

Radio.

Adopted: December 2, 1982.
Released: December 14, 1982.

In the matter of amendment of Part 95 of the Commission's Rules to Eliminate Individual Station Licenses in the Radio Control (R/C) Radio Service and the Citizens Band (CB) Radio Service. Pr Docket No. 82-799, FCC 82-527.

I. Introduction

1. The Federal Communications Commission proposes to eliminate individual licensing of stations in the Radio Control (R/C) Radio Service and the Citizens Band (CB) Radio Service and, instead, to permit operation of these radio stations without individual licenses.[1]

II. Background

2. The CB Radio Service was created to make available to the public a low-cost, short-range, two-way voice radio service for both personal and business communications.[2] The R/C Radio Service was created to make available to the public a private, one-way short-distance, non-voice communications service for the remote operation of devices. Its primary use has been for the control of model aircraft, model boats, and model cars.

3. Although there have been some modifications to the technical and operational rules governing both the R/C and CB services, they have remained essentially unchanged in purpose since

[1] Individual station licenses, in this context, refer to R/C or CB radio station licenses now issued to eligible persons, including individuals, corporations, partnerships, associations or governmental entities other than those specifically prohibited by statute from holding such licenses. See Footnote 3, *infra*.

[2] *See California Citizens Band Assn., Inc.* v. *United States*, 375 F2d. 43, 9 RR2d 2037 (9th Cir. 1967), *cert. denied*, 389 U.S. 844. (1967).

their inception. These services have attracted millions of users. There are approximately 6 million R/C and CB licensees. The Commission expects to receive some 600,000 applications in FY 1983 for new, renewed, and modified licenses in both the R/C and CB Radio Services.

4. Licensing of R/C and CB stations has always differed from licensing of other private radio stations because of the broad eligibility and operational provisions of these services. Individualized R/C and CB licensing is not used to assign specific frequencies, output power or hours of operation. All R/C and CB licensees are authorized to operate on legal R/C or CB frequencies with legal power at any time of the day. Applicants are not required to show financial or technical qualifications, and need only meet minimal eligibility requirements (12 years of age for R/C, 18 years of age for CB, and not a foreign government or a representative thereof or a federal government agency).[3] Each application in these services is computer processed with minimal review.

5. Spectrum management in the R/C and CB radio services is accomplished by way of type acceptance and operating rules, rather than by licensing. R/C and CB transmitters are type accepted to assure that they can only be operated on legal frequencies with legal power. Frequency assignments, power limitations and antenna height restrictions are determined by rule making, not by licensing.

6. We have estimated that in Fiscal Year (FY) 1983 we will spend approximately $361,000 for R/C and CB radio station licensing. This includes costs for ten full time permanent positions within the Private Radio Bureau, two computer-related positions within the Managing Director's Office, and additional miscellaneous expenses for forms, postage, computer operation and microfiche licensing records.

III. Discussion

7. Recognizing that the high costs for licensing individual stations in the R/C and CB radio Services may not justify the limited public interest benefits of such licensing, Congress recently amended the Communications Act of 1934 to permit us to grant authority to operate R/C and CB radio stations without individual licenses. *See* Public Law (Pub. L.) 97–259, Section 113(a), enacted September 13, 1982. *See also* 47 U.S.C. 307(e)

8. It appears that licensing individual stations in the R/C and CB Radio Services provides only a minimal public interest benefit, at best. Spectrum management in both services is assured by type acceptance and operating standards. Yet individual station licensing in these services costs us about $361,000 a year, and requires user preparation and submission of, literally, hundreds of thousands of applications for new, modified and renewed licenses, all of which receive, necessarily, only cursory review. Elimination of individual station licensing in the R/C and CB Radio Services will reduce the associated paperwork burden on the public for filling out temporary permits, application forms, and change of name and address forms by 68,000 burden hours in FY 1983 and each fiscal year thereafter.

9. Thus, we believe it would be in the public interest to eliminate licensing of individual R/C and CB radio stations, and have proposed to do this in the Notice.

IV. Proposal

10. We propose to eliminate all individual station licenses in the R/C and CB Radio Services.[4] Instead, we would, by rule, authorize operation of these stations without individual licenses. As of the day an *Order* adopting these rules would be issued, all existing R/C and CB licenses would be void. All pending applications for such licenses, and all applications for such licenses subsequently received, would result in no official Commission action.[5]

11. We also propose to eliminate all individual station call signs in the R/C and CB Radio Services. In the Citizens Band Radio Service, in lieu of call sign identification, we would instead require identification by the license plate number of any truck, automobile or motorcycle registered in the CB operator's name. If the operator does not have a registered truck, automobile or motorcycle we would require identification by the operator's residence street address. We recognize that international regulations require identification and we believe this proposal complies with that requirement.[6] However, we seek comment on whether it is desirable to require identification of CB radio communications. We also seek comment on whether rules regarding identification of CB communications would assist in the resolution of interference problems without Commission intervention, and on whether identification would facilitate the effective utilization of voluntary and uncompensated Citizens Band radio operators under new paragraph 4 of 47 U.S.C. 154(f). Additionally, if CB identification is desirable, we seek comment on whether license plate numbers are the most appropriate unique identifiers, and, if not, what alternative identifier is preferable. In the Radio Control Radio Service, we would retain rules not requiring identification of communications (*see* 47 CFR 95.227).[7]

12. Eliminating individual R/C and CB station licenses should not seriously affect our international treaty agreements. International Telecommunication Union Regulations require federal licensing of radio stations. However, Pub. L. 97–259 exempted R/C and CB radio stations from the individual licensing provisions of the Act. This enables the Commission to proposed to broadly authorized the general operation of R/C and CB radios without the necessity of processing individual licenses. We believe this satisfies ITU licensing regulations. See Footnote, 4, *infra.* International requirements for unique station identification can also be satisfied. The Commission herein proposes a method to comply with alternative means of station identification without assigning individual call signs. The removal of individually assigned station identifiers (call signs), however, would make it impossible to meet with International Frequency Registration Board (IFRB) notification requirements. To place this

[3] 47 U.S.C. 310(a) prohibits the issuance of a license to a foreign government or a representative thereof. 47 U.S.C. 305 prohibits the issuance of a license to stations "belonging to and operated by" the United States.

[4] Although not yet ratified by the United States, Radio Regulation No. 2020 (Article 24), was amended in 1979, effective January 1, 1982, to permit licenses issued "in an appropriate form." It is our view that this permits other than individual station licenses.

[5] In this regard, during the pendency of this proceeding, all R/C and CB stations must be licensed. However, we intend to strictly adhere to the time constraints for filing of renewal applications set forth at 47 CFR 1.928(c): "within 90 days but not later than 30 days prior to the end of the license term."

[6] ITU Radio Regulation No. 737, Mar 2 (Article 19) states: "A station shall be identified by a call sign or other recognized means of identification. Such recognized means of identification may be one or more of the following necessary for complete identification: name of station, location of station, operating agency, official registration mark, flight identification number, selective call number or signal, selective call identification number or signal, characteristic of emission or other clearly distinguishing features recognized internationally." This provision survives in substance as Radio Regulation No. 2069, Geneva, 1979.

[7] While Article 19 of the ITU Radio Regulations requires identification of stations, Footnote 1 to Radio Regulation 735 of Article 19 recognizes that "identifying signals for certain radio systems (e.g., radiodetermination, radio relay systems and space systems) is not always possible." We believe that systems used in the Radio Control Service, which are typically designed to transmit signals to control mechanical devices, fall within this exception.

concern in perspective, the United States has never given notification of CB call signs to the IFRB. Because of the large number of CB licensees, the task is impossible without automated techniques that are not now available. This has not caused any significant problems *per se,* however, because violators rarely identify by call sign and cross-checking of IFRB data would not generally be helpful. The actual reaction of the international community to a proposal to eliminate individual R/C and CB station licenses, however, is not known.

13. We would retain, with appropriate modifications, the requirement that manufacturers pack a copy of the CB rules with each transmitter. *See* 47 CFR 95.645(f). This should tend to insure that the public will continue to be apprised of the substance of our Rules and the necessity to abide by them.

14. Finally, we propose to delete minimum age requirements for operating in the R/C and CB Radio Services. In the past, when we have proposed reductions of the age requirement for CB licenses, we have, notwithstanding comments largely in support thereof, refrained from changing the minimum age due to inability to absorb the likely additional resource impact from the projected number of additional license applications. *See Citizens Radio Service,* 60 FCC2d 762, 767 (July 29, 1976). With the elimination of individual station licenses in these services, Commission resource impact no longer stands in the way of deleting minimum age requirements.

15. We emphasize that the elimination of individual station licenses would result in no diminution of the operating privileges or responsibilities of R/C and CB users. An operator of an R/C and CB radio station would still be required to comply with the Act and with the rules of each service. *See* 47 U.S.C. 307(e)(2). While we "would no longer have the ability to revoke" and R/C or CB license, *Congressional Record—House,* H 6539, August 19, 1982, forfeitures and cease and desist orders would be used as enforcement tools. Congress has mandated that if we choose to eliminate individual station licenses in "the (CB) service, forfeiture authority should be exercised in a way that demonstrates a commitment to preserving the integrity of the CB service through enforcement." *Id.* Upon eliminating individual R/C and CB station licenses, we would continue to exercise our forfeiture authority in these services in exactly the same manner as we have in the past.

16. We would, for compliance purposes, treat persons violating R/C or CB rules while using non-modified, type accepted equipment as persons operating in either of the respective services but in violation of Commission rules. Conversely, a person violating R/C or CB rules which could be violated only by alteration of equipment, will, if using modified or non-type-accepted equipment, be considered as operating without proper authorization in violation of sections 301 and 302 of the Act.

17. We recognize that this proposal would necessarily impact upon Canadian, Mexican and United States CB'ers travelling between countries. During the course of this proceeding we intend to coordinate the proposed elimination of R/C and CB station licenses in the United States with Canada and Mexico.

V. Conclusion

18. Notice is hereby given that it is proposed to amend 47 CFR Part 95 of the Commission's Rules as set forth in the attached appendix.[8]

VI. Procedural Matters

19. For purposes of this non-restricted notice and comment rule making proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a Notice of Proposed Rule Making until the time a Public Notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final Order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation; on the day of the oral presentation, that written summary must be served on the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the secretary has been served, and must also state by docket number the proceeding to which it relates. *See generally* Section 1.1231 of the Commission's Rules, 47 CFR 1.1231. A summary of the Commission's procedures governing *ex parte* contacts in informal rule makings is available from the Commission's Consumer Assistance Office, FCC, Washington, D.C. 20554, (202) 632–7000.

20. Authority for issuance of this Notice is contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r). Pursuant to applicable procedure set forth in § 1.415 of the Commission's Rules, interested persons may file comments on or before January 19, 1983 and reply comments on or before February 3, 1983.[9] All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information is placed in the public file and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

21. In accordance with Section 1.419 of the Commission's Rules, 47 CFR 1.419, formal participants must file an original and five copies of their comments and other materials. Participants who wish each Commissioner to have a personal copy of their commens should file an original and eleven copies. Members of the general public who wish to express their interest by participating informally may do so by submitting one copy. All comments are given the same consideration, regardless of the number of copies submitted. All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

22. The Commission hereby certifies the rules proposed would not, if promulgated, have a significant economic impact on a substantial number of small entities, since they merely eliminate a licensing requirement that imposed little economic burden on individual applicants. Accordingly, pursuant to Section 605 of the Regulatory Flexibility Act of 1980, 5 U.S.C. 605, we have determined that sections 603 and 604 of the Regulatory Flexibility Act, 5 U.S.C. 603 and 604, do not apply to this rule making proceeding.

[8] In the interest of clarity, we have set forth new Subparts C and D of Part 95 in the Appendix in their entirety.

[9] Extensions of time for mailing difficulties over the forthcoming holiday seasons will not be granted. Commenters are encouraged to plan ahead to avoid such difficulties.

23. It is ordered that the Secretary shall cause a copy of this Notice to be served upon the Chief Counsel for Advocacy of the Small Business Administration, and that the Secretary shall also cause a copy of this Notice to be published in the **Federal Register.**

24. For further information about this proceeding contact John Borkowski, Personal Radio Branch, Special Services Division, FCC, Washington, D.C. 20554, (202) 632-7197 or (202) 632-4964.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communication Commission.

William J. Tricarico,

Secretary.

Appendix

The FCC proposes to amend Part 95 of its Rules, Subpart C (47 CFR 95.210 and following), Subpart D (47 CFR 95.401 and following), and 47 CFR 95.645(f) in Subpart E, as set forth below:

1. Subpart C. Radio Control (R/C) Radio Service is completely revised to read as follows:

PART 95—PERSONAL RADIO SERVICES

* * * * *

Subpart C—Radio Control (R/C) Radio Service

General Provisions

Sec.

95.201 (R/C Rule 1) What is the Radio Control (R/C) Radio Service?
95.202 (R/C Rule 2) How do I use these rules?
95.203 (R/C Rule 3) Do I need a license?
95.204 (R/C Rule 4) Am I eligible to operate an R/C station?
95.205 (R/C Rule 5) Are there any special restrictions on the location of my R/C station?

How To Operate an R/C Station

95.206 (R/C Rule 6) On what channels may I operate?
95.207 (R/C Rule 7) How high may I put my antenna?
95.208 (R/C Rule 8) What equipment may I use at my R/C station?
95.209 (R/C Rule 9) How much power may I use?
95.210 (R/C Rule 10) What communications may be transmitted?
95.211 (R/C Rule 11) What communications are prohibited?
95.212 (R/C Rule 12) May I be paid to use my R/C station?
95.213 (R/C Rule 13) Who is responsible for R/C communications I make?
95.214 (R/C Rule 14) Do I have to limit the length of my communications?
95.215 (R/C Rule 15) Do I identify my R/C communications?
95.216 (R/C Rule 16) May I operate My R/C station transmitter by remote control?

Other Things You Need To Know

95.217 (R/C Rule 17) What are the penalties for violating these rules?
95.218 (R/C Rule 18) How do I answer a discrepancy notice?
95.219 (R/C Rule 19) What must I do if the FCC tells me that my R/C station is causing interference?
95.220 (R/C Rule 20) How do I have my R/C station transmitter serviced?
95.221 (R/C Rule 21) May I make any changes to my R/C station transmitter?
95.222 (R/C Rule 22) Do I have to make my R/C station available for inspection?
95.223 (R/C Rule 23) What are my station records?
95.224 (R/C Rule 24) How do I contact the FCC?

Authority: Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.

Subpart C—Radio Control (R/C) Radio Service

General Provisions

§ 95.201 (R/C Rule 1) What is the Radio Control (R/C) Radio Service?

The R/C Service is a private, one-way, short distance non-voice communications service for the operation of devices at remote locations.

§ 95.202 (R/C Rule 2) How do I use these rules?

(a) You must comply with rules (see R/C Rule 17 for the penalties for violations) when you operate a station in the R/C service from:

(1) Within or over the territorial limits of places where radio services are regulated by the FCC (see R/C Rule 3);

(2) Aboard any vessel or aircraft registered in the United States; *OR*

(3) Aboard any unregistered vessel or aircraft owned or operated by a United States citizen or company.

(b) Your R/C station must comply with technical rules found in Subpart E of Part 95.

(c) Where the rules use the word "you", "you" means a person operating an R/C station.

(d) Where the rules use the word "person," the rules are concerned with an individual, a corporation, a partnership, an association, a joint stock company, a trust, a state, territorial or local government unit, or other legal entity.

(e) Where the rules use the term "FCC," that means the Federal Communications Commission.

(f) Where the rules use the term "R/C station," that means a radio station transmitting in the R/C Radio Service.

§ 95.203 (R/C Rule 3) Do I need a license?

You do not need an individual license to operate an R/C station.

You are authorized to operate your R/C station from:

(a) Within or over any area of the world where radio services are regulated by the FCC. Those areas are within the territorial limits of:

(1) The fifty United States.

(2) The District of Columbia.

Caribbean Insular Areas

(3) Commonwealth of Puerto Rico.

(4) Navassa Island.

(5) United States Virgin Islands (50 islets and cays).

Pacific Insular Areas

(6) American Samoa (seven islands).

(7) Baker Island.

(8) Commonwealth of Northern Mariannas Islands.

(9) Guam Island.

(10) Howland Island

(11) Jarvis Island.

(12) Johnston Island (Islets East, Johnston, North and Sand).

(13) Kingman Reef.

(14) Midway Island (Islets Eastern and Sand).

(15) Palmyra Island (more than 50 islets).

(16) Wake Island (Islets Peale, Wake and Wilkes).

(b) Any other area of the world, except within the territorial limits of areas where radio services are regulated by—

(1) An agency of the United States other than the FCC. (You are subject to its rules.)

(2) Any foreign government. (You are subject to its rules.)

(c) An aircraft or ship, with the permission of the captain, within or over any area of the world where radio services are regulated by the FCC or upon or over international waters. You must operate your R/C station according to any applicable treaty to which the United States is a party.

§ 95.204 (R/C Rule 4) Am I eligible to operate an R/C station?

You may operate an R/C station unless:

(a) You are a foreign government, a representative of a foreign government, or a federal government agency; *OR*

(b) The FCC has issued a cease and desist order to you, and the order is still in effect.

§ 95.205 (R/C Rule 5) Are there any special restrictions on the location of my R/C stations?

(a) If your R/C station is located on premises controlled by the Department of Defense, you may be required to comply with additional regulations imposed by the commanding officer of the installation.

(b) If your R/C station will be constructed on land of environmental or historical importance (such as a location significant in American history, architecture or culture), you may be required to provide information and to comply with §§ 1.1305–1.1319 of the FCC's Rules.

How To Operate an R/C Station

§ 95.206 (R/C Rule 6) On what channels may I operate?

(a) Your R/C station may transmit only on the following channels (frequencies):

Frequencies (MHz)	To operate—
26.995	Any kind of device (any object or apparatus, except an R/C transmitter).
27.045	
27.095	
27.145	
27.195	
27.255	
26.995	A model aircraft device (any small imitation of an aircraft).
27.045	
27.095	
27.145	
27.195	
27.255	
72.01	
72.03	
72.05	
72.07	
72.08	See paragraph (e).
72.09	
72.11	
72.13	
72.15	
72.16	See paragraph (e).
72.17	
72.19	
72.21	
72.23	
72.24	See paragraph (e).
72.25	
72.27	
72.29	
72.31	
72.32	See paragraph (e).
72.33	
72.35	
72.37	
72.39	
72.40	See paragraph (e).
72.41	
72.43	
72.45	
72.47	
72.49	
72.51	
72.53	
72.55	
72.57	
72.59	
72.61	
72.63	
72.65	
72.67	
72.69	
72.71	
72.73	
72.75	
72.77	
72.79	
72.81	
72.83	
72.85	
72.87	
72.89	
72.91	
72.93	
72.95	
72.96	See paragraph (e).
72.97	
72.99	
75.64	See paragraph (e).
26.995	A model surface craft device (any small imitation of a boat, car or vehicle except aircraft, for carrying people or objects).
27.045	
27.095	
27.145	
27.195	
27.255	
72.16	See paragraph (e).
72.32	See paragraph (e).
72.96	See paragraph (e).
75.41	
75.43	
75.45	
75.47	
75.49	
75.51	
75.53	
75.55	
75.57	
75.59	
75.61	
75.63	
75.65	
75.67	
75.69	
75.71	
75.73	
75.75	
75.77	
75.79	
75.81	
75.83	
75.85	
75.87	
75.89	
75.91	
75.93	
75.95	
75.97	
75.99	

(b) You must share the channels with other R/C stations. You must cooperate in the selection and use of the channels. You must share the channel 27.255 MHz with stations in other radio services. There is no protection from interference on any of these channels.

(c) Your R/C station may not transmit simultaneously on more than one channel in the 72–76 MHz band when your operation would cause harmful interference to the operation of other R/C stations.

(d) Your R/C station must stop transmitting if it interferes with:

(1) Authorized radio operations in the 72–76 MHz band; *OR*

(2) Televison reception on TV channels 4 or 5.

(e) Authorization for the use of the following frequencies is withdrawn effective December 20, 1982: 72.08, 72.16, 72.24, 72.32, 72.40, 72.96 and 75.64 MHz.

§ 95.207 (R/C Rule 70 How high may I put my antenna?

(a) "Antenna" means the radiating system (for transmitting, receiving or both) and the structure holding it up (tower, pole or mast). It also means everything else attached to the radiating system and the structure.

(b) If your antenna is mounted on a hand-held portable unit, none of the following limitations apply.

(c) If your antenna is installed at a fixed location, it (whether receiving, transmitting or both) must comply with either one of the following:

(1) The highest point must not be more than 6.10 meters (20 feet) higher than the higest point of the building or tree on which it is mounted; *OR*

(2) The highest point must not be more than 18.3 meters (60 feet) above the ground.

(d) If your R/C station is located near an airport, and if your antenna structure is more than 6.1 meters (20 feet) high, you may have to obey additional restrictions. The highest point of your antenna must not exceed one meter above the airport elevation for every hundred meters of distance from the nearest point of the nearest airport runway. Differences in ground elevation between your antenna and the airport runway may complicate this formula. If your R/C station is near an airport, you may contact the nearest FCC filed office, listed in Section 0.121 of the Commission's Rules for a worksheet to help you figure the maximum allowable height of your antenna. Consult Part 17 of the FCC's Rules for more information.

Warning: Installation and removal of R/C station antennas near powerlines is dangerous. For your safety, follow the installation directions included with your antenna.

§ 95.208 (R/C Rule 8) What equipment may I use at my R/C station?

(a) Your R/C station may transmit only with:

(1) An FCC type accepted (or type approved) R/C transmitter (Type accepted means the FCC has determined that certain radio equipment is capable of meeting recommended standards for operation); *OR*

(2) A non-type accepted R/C transmitter on channels 26.995–27.255 MHz, *IF*;

(i) It is "crystal controlled", *AND*

(ii) It complies with the technical standards (See Part 95, Subpart E).

(3) Use of a transmitter outside of the band 26.995–27.255 MHz which is not type accepted (or type approved) voids your authority to operate the station. Use of a transmitter in the band 26.995–27.255Mhz which is not crystal controlled or which does not comply with the technical standards voids your authority to operate the station.

(b) You mau examine a list of type accepted transmitters at any FCC field office.

(c) Your R/C station may transmit with a transmitter assembled from a kit.

(d) You must not make, or have made, any internal modification to a type-accepted transmitter. (See R/C Rule 21.) Any internal modification to a type-accepted transmitter cancels the type-acceptance, and use of such a transmitter voids your authority to operate the station.

§ 95.209 (R/C Rule 9) How much power may I use?

(a) Your R/C station transmitter power output must not exceed the following value under any conditions:

Channel	Transmitter power (carrier power)
27.255 MHz	25 watts.
26.995–27.195 MHz	4 watts.
72–76 MHz	0.75 watts.

(b) Use of a transmitter which has power output in excess of that authorized voids your authority to operate the station.

§ 95.210 (R/C Rule 10) What communications may be transmitted?

(a) You may only use your R/C station to transmit one-way communications. (One-way communications are transmissions which are not entended to establish communication with another station.)

(b) You may only use your R/C station for the following purposes:

(1) The operator turns on and/or off a device at a remote location (Refer to Diagram 1); *OR*

(2) A sensor at a remote location turns on and/or off an indicating device for the operator. (Refer to Diagram 2.) Only channels 26.995 to 27.255 MHz (see R/C Rule 16) may be used for this purpose. (A remote location means a place distant from the operator.)

(c) Your R/C station may only transmit non-voice:

(1) Amplitude modulated emissions (A9);

(2) Unmodulated on-off emissions (A9); *OR*

(3) Frequency (or phase) modulated emissions (F9) on the 72–76 MHz channels only.

§ 95.211 (R/C Rule 11) What communications are prohibited?

You must not use an R/C station—

(a) In connection with any activity which is against federal, state or local law;

(b) To transmit any message other than for operation of devices at remote locations (no voice, telegraphy, etc.);

(c) To intentionally interfere with another station's transmissions;

(d) To operate another R/C transmitter by remote control (See R/C Rule 16); *OR*

(e) To transmit two-way communications.

§95.212 (R/C Rule 12) May I be paid to use my R/C station?

(a) You may not accept direct or indirect payment for transmitting with an R/C station.

(b) You may use an R/C station to help you provide a service, and be paid for that service, as long as you are paid only for the service and not for the actual use of the R/C station.

§95.213 (R/C Rule 13) Who is responsible for R/C communications I make?

You are responsible for all communications which are made by you from an R/C station.

§ 95.214 (R/C Rule 14) Do I have to limit the length of my communications?

(a) You must limit your R/C communications to the minimum practical time.

(b) The only time your R/C communications may be a continuous signal for more than 3 minutes is when operation of the device requires at least one or more changes during each minute of the communications.

(c) Your R/C station may transmit a continuous signal without modulation only if:

(1) You are using it to operate a model aircraft device; *AND*

(2) The presence or absence of the signal operates the device.

(d) If you show that you need a continous signal to insure the immediate safety of life or property, the FCC may make an exception to the limitations in this rule.

§ 95.215 (R/C Rule 15) Do I identify my R/C communications?

You need not identify your R/C communications.

§ 95.216 (R/C Rule 16) May I operate my R/C station transmitter by remote control?

(a) You may not operate an R/C transmitter by radio remote control. (See R/C Rule 11.)

(b) You may operate an R/C transmitter by wireline remote control if you obtain specific approval in writing from the FCC. To obtain FCC approval, you must show why you need to operate your station by wireline remote control. Send your request and justification to FCC, Gettysburg, Pa. 17325. If you receive FCC approval, you must keep the approval as part of your station records. (See R/C Rule 23.)

(c) Remote control means operation of an R/C transmitter from any place other than the location of the R/C transmitter. Direct mechanical control or direct electrical control by wire from some point on the same premises, craft or vehicles as the R/C transmitter is not considered remote control.

Other Things You Need to Know

§ 95.217 (R/C Rule 17) What are the penalties for violating these rules?

(a) If the FCC finds that you have willfully or repeatedly violated the Communications Act or the FCC Rules, you may have to pay as much as $2,000 for each violation, up to a total of $5,000. (See section 503(b) of the Communications Act.)

(b) If the FCC finds that you have violated the Communications Act or the FCC Rules, you may be ordered to stop whatever action caused the violation. (See section 312(b) of the Communications Act.)

(c) If the federal court finds that you have willfully and knowingly violated any FCC Rule, you may be fined up to $500 for each day you committed the violation. (See section 6502 of the Communications Act.)

(d) If a federal court finds that you have willfully and knowingly violated any provision of the Communications Act, you may be fined up to $10,000, or you may be imprisoned for one year, or both. (See section 501 of the Communications Act.)

§ 95.218 (R/C Rule 18) How do I answer discrepancy notices?

(a) If it appears to the FCC that you have violated the Communications Act or FCC rules, the FCC may send you a discrepancy notice.

(b) Within the time period stated in the notice, you must answer with:

(1) A complete written statement about the apparent discrepancy;

(2) A complete written statement about any action you have taken to correct the apparent violation and to prevent it from happening again; *AND*

(3) The name of the person operating at the time of the apparent violation.

(c) You must not shorten your answer by references to other communications or notices.

(d) You must send your answer to the FCC office which sent you the notice.

(e) You must keep a copy of your answer in your station records (See R/C Rule 23).

§ 95.219 (R/C Rule 19) What must I do if the FCC tells me that my R/C station is causing interference?

(a) If the FCC tells you that your R/C station is causing interference for technical reasons, you must follow all

instructions in the official FCC notice. (This notice may require you to have technical adjustments made to your equipment.)

(b) You must comply with any restricted hours of R/C station operation which may be included in the official FCC notice.

§ 95.220 (R/C Rule 20) How do I have my R/C station transmitter serviced?

(a) You may adjust an antenna to your R/C transmitter and you may make radio checks. (A radio check means a one-way transmission for a short time in order to test the transmitter.)

(b) Each internal repair and each internal adjustment to your FCC type accepted R/C transmitter (see R/C Rule 8) must be made by or under the direct supervision of a person licensed by the FCC as a General Radiotelephone Operator.

(c) Except as provided in paragraph (d) of this section, each internal repair and each internal adjustment of an R/C transmitter in which signals are transmitted must be made using a nonradiating ("dummy") antenna.

(d) Brief test signals (signals not longer than one minute during any five minute period) using a radiating antenna may be transmitted in order to:

(1) Adjust a transmitter to an antenna;

(2) Detect or measure radiation of energy other than the intended signal; *OR*

(3) Tune a receiver to your R/C transmitter.

§ 95.221 (R/C Rule 21) May I make any changes to my R/C station transmitter?

(a) You must not make or have anyone else make any internal modification to your R/C transmitter.

(b) Internal modification does not include:

(1) Repair or servicing of an R/C station transmitter (see R/C Rule 20); *OR*

(2) Changing plug-in modules which were type-accepted as part of your R/C transmitter.

(c) You must not operate an R/C transmitter which has been modified by anyone in any way, including modification to operate on unauthorized frequencies or with illegal power. (See R/C Rules 8 and 9.)

§ 95.222 (R/C Rule 22) Do I have to make my R/C station available for inspection?

(a) If an authorized FCC representative requests to inspect your R/C station, you must make your R/C station and records available for inspection.

(b) An R/C station includes all of the radio equipment you use.

§ 95.223 (R/C Rule 23) What are my station records?

Your station records include the following documents, as applicable:

(a) A copy of each response to an FCC violation notice. (See R/C Rule 18.)

(b) Each written permission received from the FCC. (See R/C Rule 16.)

§ 95.224 (R/C Rule 24) How do I contact the FCC?

(a) Write to your nearest FCC Field Office listed in Section 0.121 of the Commission's Rules if you:

(1) Want to report an interference complaint; *OR*

(2) Want to know if the FCC has type-aocepted a transmitter for R/C.

(b) Write to the FCC, Private Radio Bureau, Personal Radio Branch, Washington, D.C. 20554 if you have questions about the R/C Rules.

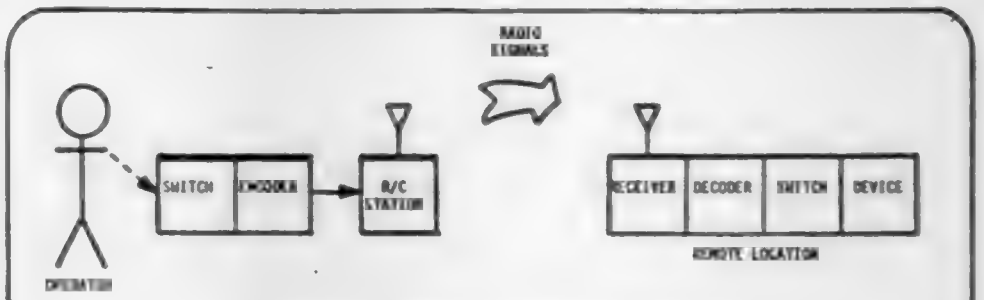


Diagram 1 (Refer to R/C Rule 10(b)(1))

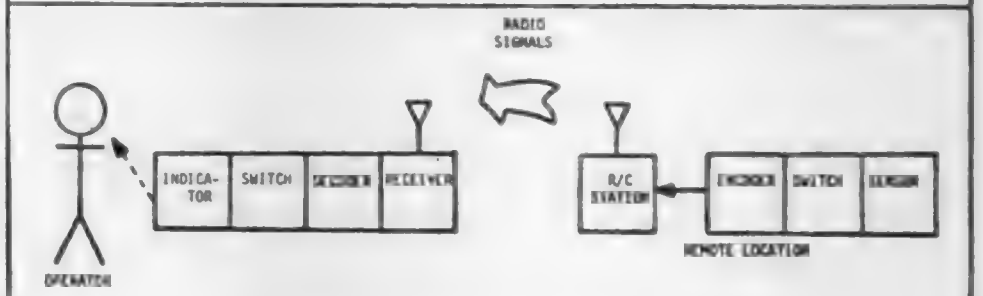


Diagram 2 (Refer to R/C Rule 10(b)(2))

---

2. Subpart D, Citizens Band (CB) Radio Service is completely revised to read as follows:

Subpart D—Citizens Band (CB) Radio Service

General Provisions

Sec.

95.401 (CB Rule 1) What is the Citizens Band (CB) Radio Service?
95.402 (CB Rule 2) How do I use these rules?
95.403 (CB Rule 3) Do I need a license?
95.404 (CB Rule 4) Am I eligible to operate a CB station?
95.405 (CB Rule 5) Are there any special restrictions on the location of my CB station?

How To Operate a CB Station

95.406 (CB Rule 6) On what channels may I operate?
95.407 (CB Rule 7) How high may I put my antenna?
95.408 (CB Rule 8) What equipment may I use at my CB station?
95.409 (CB Rule 9) How much power may I use?
95.410 (CB Rule 10) May I use power amplifiers?
95.411 (CB Rule 11) What communications may be transmitted?
95.412 (CB Rule 12) What communications are prohibited?
95.413 (CB Rule 13) May I be paid to use my CB station?
95.414 (CB Rule 14) Who is responsible for CB communications I make?
95.415 (CB Rule 15) Do I have to limit the length of my communications?
95.416 (CB Rule 16) How do I identify my CB communications?
95.417 (CB Rule 17) How do I use my CB station in an emergency or to assist a traveler?
95.418 (CB Rule 18) May I operate my CB station transmitter by remote control?
95.419 (CB Rule 19) May I connect my CB station transmitter to a telephone?

Other Things You Need To Know

95.420 (CB Rule 20) What are the penalties for violating these rules?

Sec.
95.421 (CB Rule 21) How do I answer a discrepancy notice?
95.422 (CB Rule 22) What must I do if the FCC tells me that my CB station is causing interference?
95.423 (CB Rule 23) How do I have my CB station transmitter serviced?
95.424 (CB Rule 24) May I make changes to my CB station transmitter?
95.425 (CB Rule 25) Do I have to make my CB station available for inspection?
95.426 (CB Rule 26) What are my station records?
95.427 (CB Rule 27) How do I contact the FCC?

Authority: Secs. 4,303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154,303.

Subpart D—Citizens Band (CB) Radio Service

General Provisions

§ 95.401 (CB Rule 1) What is the Citizens Band (CB) Radio Service?

The CB Radio Service is a private, two-way, short-distance voice communications service for personal or business activities. The CB Radio Service may also be used for voice paging.

§ 95.402 (CB Rule 2) How do I use these rules?

(a) You must comply with these rules (See CB Rule 20 for the penalties for violations) when you operate a station in the CB Service from:

(1) Within or over the territorial limits of places where radio services are regulated by the FCC (see CB Rule 3);

(2) Aboard any vessel or aircraft registered in the United States; *OR*

(3) Aboard any unregistered vessel or aircraft owned or operated by a United States citizen or company.

(b) Your CB station must comply with technical rules found in Subpart E of Part 95.

(c) Where the rules use the word "you", "you" means a person operating a CB station.

(d) Where the rules use the word "person," the rules are concerned with an individual, a corporation, a partnership, an association, a joint stock company, a trust, a state, territorial or local government unit, or other legal entity.

(e) Where the rules use the term "FCC", that means the Federal Communications Commission.

(f) Where the rules use the term "CB station", that means a radio station transmitting in the CB Radio Service.

§ 95.403 (CB Rule 3) Do I need a license?

You do not need an individual license to operate a CB station. You are authorized to operate your CB station from:

(a) Within or over any area of the world where radio services are regulated by the FCC. Those areas are within the territorial limits of:

(1) The fifty United States.

(2) The District of Columbia.

Caribbean Insular Areas

(3) Commonwealth of Puerto Rico.

(4) Navassa Island.

(5) United States Virgin Islands (50 islets and cays).

Pacific Insular Areas

(6) American Samoa (seven islands).

(7) Baker Island.

(8) Commonwealth of Northern Mariannas Islands.

(9) Guam Island.

(10) Howland Island

(11) Jarvis Island.

(12) Johnston Island (Islets East, Johnston, North and Sand).

(13) Kingman Reef.

(14) Midway Island (Islets Eastern and Sand).

(15) Palmyra Island (more than 50 islets).

(16) Wake Island (Islets Peale, Wake and Wilkes).

(b) Any other area of the world, except within the territorial limits of areas where radio services are regulated by—

(1) An agency of the United States other than the FCC. (You are subject to its rules.)

(2) Any foreign government. (You are subject to its rules.)

(c) An aircraft or ship, with the permission of the captain, within or over any area of the world where radio services are regulated by the FCC or upon or over international waters. You must operate your CB station according to any applicable treaty to which the United States is a party.

§ 95.404 (CB Rule 4) Am I eligible to operate a CB station?

You may operate a CB station unless:

(a) You are a foreign government, a representative of a foreign government, or a federal government agency; *OR*

(b) The FCC has issued a cease and desist order to you, and the order is still in effect.

§ 95.405 (CB Rule 5) Are there any special restrictions on the location of my CB station?

(a) If your CB station is located on premises controlled by the Department of Defense you may be required to comply with additional regulations imposed by the commanding officer of the installation.

(b) If your CB station will be constructed on land of environmental or historical importance (such as a location significant in American history, architecture or culture), you may be required to provide information and to comply with §§ 1.1305–1.1319 of the FCC's Rules.

How to Operate a CB Station

§ 95.406 (CB Rule 6) On what channels may I operate?

(a) Your CB station may transmit only on the following channels (frequencies):

Channel	Frequency (megahertz-MHz)
1	[illegible]
2	[illegible]
3	[illegible]
4	27.005
5	27.015
6	[illegible]
7	27.035
8	[illegible]
9	[illegible]
10	27.075
11	[illegible]
12	27.105
13	27.115
14	27.125
15	27.135
16	27.155
17	27.165
18	27.175
19	27.185
20	27.205
21	27.215
22	27.225
23	[illegible]
24	27.235
25	27.245
26	[illegible]
27	27.275
28	[illegible]
29	27.295
30	27.305
31	27.315
32	27.325
33	[illegible]
34	27.345
35	27.355
36	[illegible]
37	27.375
38	[illegible]
39	27.395
40	27.405

[1] See paragraph (b).

(b) Channel 9 may be used only for emergency communications or for traveler assistance.

(c) You must, at all times and on all channels, give priority to emergency communication messages concerning the immediate safety of life or the immediate protection of property.

(d) You may use any channel for emergency communications or for traveler assistance.

(e) You must share each channel with other users.

(f) The FCC will not assign any channel for the private or exclusive use of any particular CB station or group of stations.

(g) The FCC will not assign any channel for the private or exclusive use

of CB stations transmitting single sideband or AM.

§ 95.407 (CB Rule 7) How high may I put my antenna?

(a) "Antenna" means the radiating system (for transmitting, receiving or both) and the structure holding it up (tower, pole or mast). It also means everything else attached to the radiating system and the structure.

(b) If your antenna is mounted on a hand-held portable unit, none of the following limitations apply.

(c) If your antenna is installed at a fixed location, it (whether receiving, transmitting or both) must comply with either one of the following:

(1) The highest point must not be more than 6.10 meters (20 feet) higher than the highest point of the building or tree on which it is mounted; *OR*

(2) The highest point must not be more than 18.3 meters (60 feet) above the ground.

(d) If your CB station is located near an airport, and if your antenna structure is more than 6.1 meters (20 feet) high, you may have to obey additional restrictions. The highest point of your antenna must not exceed one meter above the airport elevation for every hundred meters of distance from the nearest point of the nearest airport runway. Differences in ground elevation between your antenna and the airport runway may complicate this formula. If your CB station is near an airport, you may contact the nearest FCC field office listed in Section 0.121 of the Commission's Rules for a worksheet to help you figure the maximum allowable height for your antenna. Consult Part 17 of the FCC's Rules for more information.

Warning: Installation and removal of CB station antennas near powerlines is dangerous. For your safety follow the installation directions included with your antenna.

§ 95.408 (CB Rule 8) What equipment may I use at my CB station?

(a) You must use an FCC type-accepted CB transmitter at your CB station. You can identify an FCC type-accepted transmitter by the type-acceptance label placed on it by the manufacturer. You may examine a list of type-accepted equipment of any FCC Field Office or at FCC Headquarters. Use of a transmitter which is not FCC type-accepted voids your authority to operate the station.

(b) You must not make, or have made, any internal modification to a type-accepted CB transmitter. (See CB Rule 24.) Any internal modification to a type-accepted CB transmitter cancels the type-acceptance, and use of such a transmitter voids your authority to operate the station.

§ 95.409 (CB Rule 9) How much power may I use?

(a) Your CB station transmitter power output must not exceed the following values under any conditions:

AM (A3)—4 watts (carrier power).

SSB—12 watts (peak envelope power).

(b) If you need more information about the power rule, see the technical rules in Subpart E of Part 95.

(c) Use of a transmitter which has carrier or peak envelope power in excess of that authorized voids your authority to operate the station.

§ 95.410 (CB Rule 10) May I use power amplifiers?

(a) You may not attach the following items (power amplifiers) to your type-accepted CB transmitter in any way:

(1) External radio frequency (RF) power amplifiers (sometimes called linears or linear amplifiers); *OR*

(2) Any other devices which, when used with a radio transmitter as a signal source, are capable of amplifying the signal.

(b) There are no exceptions to this rule and use of a power amplifier voids your authority to operate the station.

(c) The FCC will presume you have used a linear or other external RF power amplifier if—

(1) It is in your possession or on your premises; *AND*

(2) There is other evidence that you have operated your CB station with more power than allowed by CB Rule 9.

(d) Paragraph (c) of this section does not apply if you hold a license in another radio service which allows you to operate an external RF power amplifier.

§ 95.411 (CB Rule 11) What communications may be transmitted?

(a) You may use your CB station to transmit two-way plain language communications. Two-way plain language communications are communications without codes or coded messages. Operating signals such as "ten codes" are not considered codes or coded messages. You may transmit two-way plain language communications only to other CB stations, to units of your own CB station or to authorized government stations on CB frequencies about—

(1) Your personal or business activities or those of members of your immediate family living in your household;

(2) Emergencies (see CB Rule 17);

(3) Traveler assistance (see CB Rule 17); *or*

(4) Civil defense activities in connection with official tests or drills conducted by, or actual emergencies announced by, the civil defense agency with authority over the area in which your station is located.

(b) You may use your CB station to transmit a tone signal only when the signal is used to make contact or to continue communications. (Examples of circuits using these signals are tone operated squelch and selective calling circuits.) If the signal is an audible tone, it must last no longer than 15 seconds at one time. If the signal is a subaudible tone, it may be transmitted continuously only as long as you are talking.

(c) You may use your CB station to transmit *one-way communications* (messages which are not intended to establish communications between two or more particular CB stations) only for emergency communications, traveler assistance, brief tests (radio checks) or voice paging.

(d) You may use your CB station to transmit in a foreign language, as long as you identify your CB station in the English language.

§ 95.412 (CB Rule 12) What communications are prohibited?

(a) You must not use a CB station—

(1) In connection with any activity which is against federal, state or local law;

(2) To transmit obscene, indecent or profane words, language or meaning;

(3) To interfere intentionally with the communications, of another CB station;

(4) To transmit one-way communications, except for emergency communications traveler assistance, brief tests (radio checks), or voice paging;

(5) To advertise or solicit the sale of any goods or services;

(6) To transmit music, whistling, sound effects or any material to amuse or entertain;

(7) To transmit any sound effect solely to attract attention;

(8) To transmit the word "MAYDAY" or any other international distress signal, except when your station is located in a ship, aircraft or other vehicle which is threatened by grave and imminent danger and you are requesting immediate assistance;

(9) To communicate with, or attempt to communicate with, any CB station more than 250 kilometers (155.3 miles) away;

(10) To advertise a political candidate or political campaign; (you may use your CB radio for the business or organizational aspects of a campaign, if you follow all other applicable rules);

(11) To communicate with stations in other countries, except General Radio Service stations in Canada; *or*

(12) To transmit a false or deceptive communication.

(b) You must not use a CB station to transmit communications for live or delayed rebroadcast on a radio or television broadcast station. You may use your CB station to gather news items or to prepare programs.

§ 95.413 (CB Rule 13) May I be paid to use my CB station?

(a) You may not accept direct or indirect payment for transmitting with a CB station.

(b) You may use a CB station to help you provide a service, and be paid for that service, as long as you are paid only for the service and not for the actual use of the CB station.

§ 95.414 (CB Rule 14) Who is responsible for CB communications I make?

You are responsible for all communications which are made by you from a CB station.

§ 95.415 (CB Rule 15) Do I have to limit the length of my communications?

(a) You must limit your CB communications to the minimum practical time.

(b) If you are communicating with another CB station or stations, you, and the stations communicating with you, must limit each of your conversations to no more than five continuous minutes.

(c) At the end of your conversation, you, and the stations communicating with you, must not transmit again for at least one minute.

§ 95.416 (CB Rule 16) How do I identify my CB communications?

(a) You must identify your CB communications by the license plate number of any truck, automobile or motorcycle registered in your name. If you do not have a truck, automobile or motorcycle registered in your name, you must use your residence street address for identification instead.

(b) You must identify your CB transmissions at the end of each communication.

(c) Your identification must be clearly given in the English language. A phonetic alphabet may be used as an aid for identification. A "handle," unit designator or special identifier may be used in addition to, but not instead of, your required identification.

§ 95.417 (CB Rule 17) How do I use my CB station in an emergency or to assist a traveler?

(a) You must at all times and on all channels, give priority to emergency communications.

(b) When you are directly participating in emergency communications, you do not have to comply with the rule about length of transmissions (CB Rule 15). You must obey all other rules.

(c) You may use your CB station for communications necessary to assist a traveler to reach a destination or to receive necessary services. When you are using your CB station to assist a traveler, you do not have to obey the rule about length of transmissions (CB Rule 15). You must obey all other rules.

§ 95.418 (CB Rule 18) May I operate my CB station transmitter by remote control?

(a) You may not operate a CB station transmitter by radio remote control.

(b) You may operate a CB transmitter by wireline remote control if you obtain specific approval in writing from the FCC. To obtain FCC approval, you must show why you need to operate your station by wireline remote control. Send your request and justification to FCC, Gettysburg, Pa. 17325. If you receive FCC approval, you must keep the approval as part of your station records. (See CB Rule 26.)

(c) Remote control means operation of a CB transmitter from any place other that the location of the CB transmitter. Direct mechanical control or direct electrical control by wire from some point on the same premises, craft or vehicle as the CB transmitter is not considered remote control.

§ 95.419 (CB Rule 19) May I connect my CB station transmitter to a telephone?

(a) You may connect your CB station transmitter to a telephone if you comply with all of the following:

(1) You or someone else must be present at your CB station and must—

(i) Manually make the connection (the connection must not be made by remote control);

(ii) Supervise the operation of the transmitter during the connection;

(iii) Listen to each communication during the connection; *and*

(iv) Stop all communications if there are operations in violation of these rules.

(2) Each communication during the telephone connection must comply with all of these rules.

(3) You must obey any restriction that the telephone company places on the connection of a CB transmitter to a telephone.

(b) The CB transmitter you connect to a telephone must not be shared with any other CB station.

(c) If you connect your CB transmitter to a telephone, you must use a phone patch device which has been registered with the FCC.

Other Things You Need To Know

§ 95.420 (CB Rule 20) What are the penalties for violating these rules?

(a) If the FCC finds that you have willfully or repeatedly violated the Communications Act or the FCC Rules, you may have to pay as much as $2,000 for each violation, up to a total of $5,000. (See section 503(b) of the Communications Act.)

(b) If the FCC finds that you have violated any section of the Communications Act or the FCC Rules, you may be ordered to stop whatever action caused the violation. (See section 312(b) of the Communications Act.)

(c) If a federal court finds that you have willfully and knowingly violated any FCC Rule, you may be fined up to $500 for each day you committed the violation. (See section 502 of the Communications Act.)

(d) If a federal court finds that you have willfully and knowingly violated any provision of the Communications Act, you may be fined up to $10,000, or you may be imprisoned for one year, or both. (See section 501 of the Communications Act.)

§ 95.421 (CB Rule 21) How do I answer a discrepancy notice?

(a) If it appears to the FCC that you have violated the Communications Act or these rules, the FCC may send you a discrepancy notice.

(b) Within the time period stated in the notice, you must answer with:

(1) A complete written statement about the apparent discrepancy;

(2) A complete written statement about any action you have taken to correct the apparent violation and to prevent if from happening again; *AND*

(3) The name of the person operating at the time of the apparent violation.

(c) You must not shorten your answer by references to other communications or notices.

(d) You must send your answer to the FCC office which sent you the notice.

(e) You must keep a copy of your answer in your station records. (See CB Rule 26.)

§ 95.422 (CB Rule 22) What must I do if the FCC tells me that my CB station is causing interference?

(a) If the FCC tells you that your CB station is causing interference for technical reasons you must follow all instructions in the official FCC notice. (This notice may require you to have technical adjustments made to your equipment.)

(b) You must comply with any restricted hours of CB station operation which may be included in the official notice.

§ 95.423 (CB Rule 23) How do I have my CB station transmitter serviced?

(a) You may adjust an antenna to your CB transmitter and you may make radio checks. (A radio check means a one way transmission for a short time in order to test the transmitter.)

(b) Each internal repair and each internal adjustment to your FCC type-accepted CB transmitter (See CB Rule 8) must be made by or under the direct supervision of a person licensed by the FCC as a General Radiotelephone Operator.

(c) Except as provided in paragraph (d) of this section, each internal repair and each internal adjustment of a CB transmitter in which signals are transmitted must be made using a nonradiating ("Dummy") antenna.

(d) Brief test signals (signals not longer than one minute during any five minute period) using a radiating antenna may be transmitted in order to:

(1) Adjust an antenna to a transmitter;

(2) Detect or measure radiation of energy other than the intended signal; *OR*

(3) Tune a receiver to your CB transmitter.

§ 95.424 (CB Rule 24) May I make any changes to my CB station transmitter?

(a) You must not make or have any one else make any internal modification to your CB transmitter.

(b) Internal modification does not include:

(1) Repair or servicing of a CB station transmitter (see CB Rule 23); *OR*

(2) Changing plug-in modules which were type accepted as part of your CB transmitter.

(c) You must not operate a CB transmitter which has been modified by anyone in any way, including modification to operate on unauthorized frequencies or with illegal power. (See CB Rules 8 and 10.)

§ 95.425 (CB Rule 25) Do I have to make my CB station available for inspection?

(a) If an authorized FCC representative requests to inspect your CB station, you must make your CB station and records available for inspection.

(b) A CB station includes all of the radio equipment you use.

§ 95.426 (CB Rule 26) What are my station records?

Your station records include the following documents, as applicable.

(a) A copy of each response to an FCC violation notice. (See CB Rule 21.)

(b) Each written permission received from the FCC. (See CB Rule 18.)

§ 95.427 (CB Rule 27) How do I contact the FCC?

(a) Write to your nearest FCC Field Office listed in Section 0.121 of the Commission's Rules if you:

(1) Want to report an interference complaint; *OR*

(2) Want to know if the FCC has type-accepted a transmitter for CB.

(b) Write to the FCC, Private Radio Bureau, Personal Radio Branch, Washington, D.C. 20554 if you have questions about the CB Rules.

3. Paragraph (f) of § 95.645 of the Rules is revised to read:

§ 95.645 Additional requirements for type acceptance.

* * * * *

(f) A copy of Subpart D of Part 95 of the Commission's Rules, to be current at the time of packing of the transmitter, shall be furnished with each transmitter.

* * * * *

[FR Doc. 82-34344 filed 12-17-82; 8:45 am]
BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 47, No. 244
Monday, December 20, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Senior Executive Service Bonuses

AGENCY: Agriculture Department.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. Department of Agriculture will be paying Senior Executive Service bonuses no earlier than December 20, 1982, and no later than December 31, 1982.

FOR FURTHER INFORMATION CONTACT: Earl C. Hadlock, Chief, Executive Resources, Performance Appraisal and Merit Pay Staff, Office of Personnel, Department of Agriculture, 14th Street and Independence Avenue, SW., Washington, D.C. 20250 (202/447-2830).

John R. Block,

Secretary of Agriculture.

December 15, 1982.

[FR Doc. 82-34451 Filed 12-17-82; 8:45 am]
BILLING CODE 3410-01-M

COMMISSION ON CIVIL RIGHTS

Appointments of Individuals To Serve as Members of the Performance Review Board; Senior Executive Service

The Civil Service Reform Act of 1978, 5 U.S.C. 4314(c)(4) requires that notice of the appointments of individuals to serve as members of performance review boards be published in the **Federal Register.** Therefore, in compliance with this requirement, notice is hereby given that the individuals whose names and position titles appear below have been appointed to serve as members of the performance review board for the U.S. Commission on Civil Rights for the rating year beginning October 1, 1981, and ending September 30, 1982.

Caroline Gleiter, Assistant Staff Director for Program and Policy Review, USCCR
Lawrence B. Glick, Solicitor, USCCR
John Hope III, Acting Staff Director, USCCR (Chair)
Anthony W. Hudson, Staff Director, Personnel, Headquarters, Defense Logistics Agency
Harriett Jenkins, Assistant Administrator for Equal Opportunity Programs, NASA

John Hope III,

Acting Staff Director.

[FR Doc. 82-34356 Filed 12-17-82; 8:45 am]
BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Certain Softwood Products From Canada; Postponement of Countervailing Duty Preliminary Determinations

AGENCY: Department of Commerce.

ACTION: Postponement of Countervailing Duty Preliminary Determinations.

SUMMARY: The countervailing duty preliminary determinations involving certain softwood products (see Appendix A) from Canada are being postponed as the investigations have been determined to be extraordinarily complicated. We intend to issue the countervailing duty preliminary determinations not later than March 7, 1983.

EFFECTIVE DATE: December 20, 1982.

FOR FURTHER INFORMATION CONTACT: Roland MacDonald, Office of Investigations, Import Administration, U.S. Department of Commerce, 14th & Constitution Avenue, NW., Washington, DC 20230/(202) 377-4087.

SUPPLEMENTARY INFORMATION: On November 3, 1982, we announced our initiation of countervailing duty investigations to determine whether producers, manufacturers, or exporters of certain softwood products from Canada receive any benefits from the federal and provincial governments of Canada that are subsidies (47 FR 49878). The notice stated that we would issue preliminary determinations by December 31, 1982.

As detailed in the notices of initiation of the countervailing duty investigations, the petition alleges that the federal and provincial governments of Canada provide various programs which constitute subsidies to producers, manufacturers, or exporters of certain softwood products. The alleged subsidy practices are numerous and raise complex and novel issues. For these reasons we determine that these investigations are extraordinarily complicated in accordance with section 703(c)(1)(B)(i) and that additional time is necessary to make these preliminary determinations in accordance with section 703(c)(1)(B)(ii) of the Tariff Act of 1930, as amended ("the Act"). We intend to issue these preliminary determinations not later than March 7, 1983.

(Sec. 703(c)(2) of the Act)

Dated: December 9, 1982.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

Appendix A—Description of Products

For purposes of these investigations:

1. The term *"softwood lumber"* covers those products included in the *Tariff Schedules of the United States Annotated (1982) (TSUSA)* in items 202.03–202.30 (rough, dressed, or worked softwood lumber) specifically excluded are drilled and treated lumber, wood siding, and edge-glued or end-glued wood not over 6 feet in length or over 15 inches in width. "Rough lumber" is "lumber just as it comes from the saw; whether in its original sawed size or edged, resawn, crosscut, or trimmed to smaller sizes." "Dressed lumber" is "lumber which has been dressed or surfaced by planing on at least one edge or face." "Worked lumber" is "lumber which has been matched (tongue-and-grooved), shiplapped (rabbeted or lapped joint), or patterned on a matching machine, sticker, or molder."

2. The term *"softwood shakes and shingles"* "refers to wood products most frequently made from red cedar, that are used for roofing or siding." Softwood shakes, "approved durable wood of random widths ranging from 4 inches to 14 inches come in four types: Hand-split and resawn, taper split, straight-split and taper sawn. "Softwood shingles are tapered pieces of approved durable wood, sawed both sides, of random widths ranging from 3 inches to 14 inches and in lengths of 16 inches, 18 inches or 24 inches: for purposes of this investigation, the term softwood shakes and shingles refers only to those products designated in *Tariff Schedules of the United States Annotated (1982) (TSUSA)* as item 200.85.

3. The term *"software fence"* refers to three types of fences: picket, stockade, and rail. Picket fences are made of wood pickets

nailed to horizontal back rails which are fastened to the supporting posts. The pickets vary in length and thickness, lengths range from 24" to 92", and thickness varies from ½" to 3". The species of wood fences is usually cedar for the post and conifers or softwoods for the backrails and pickets. Rail fences consist of line post and horizontal rails. Cedar is generally used for the line posts and cedar or conifers or northern softwoods are used for the rails. Stockade fences vary in height from 3 feet to 10 feet. Widths are usually 7 feet or 8 feet. Line posts are generally cedar, and stockade sections are made from northern softwoods. This investigation covers softwood fences both assembled and unassembled, which fall under *TSUSA* item 200.75.

[FR Doc. 82-34427 Filed 12-17-82; 8:45 am]

BILLING CODE 3510-25-M

Computer Systems Technical Advisory Committee; Partially Closed Meeting

AGENCY: International Trade Administration, Commerce.

SUMMARY: The Computer Systems Technical Advisory Committee was initially established on January 3, 1973, and rechartered on September 18, 1981, in accordance with the Export Administration Act of 1979 and the Federal Advisory Committee Act. The Committee advises the Office of Export Administration with respect to questions involving (A) Technical specifications and policy issues relating to those specifications which are of concern to the Department, (B) worldwide availability of products and systems, including quantity and quality, and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to computer systems or technology, and (D) exports of the aforementioned commodities subject to unilateral and multilateral controls which the United States establishes or in which it participates including proposed revisions of any such controls.

TIME AND PLACE: January 12, 1983, at 1:00 p.m. The meeting will take place at the Main Commerce Building, Room 3708, 14th Street and Constitution Ave., NW., Washington, D.C.

AGENDA:

General Session

(1) Opening remarks by the Acting Chairman.

(2) Presentation of papers or comments by the public.

(3) Nomination and election of a chairman.

(4) Report on the current work program of the subcommittees:

(a) Foreign Availability;

(b) Hardware; and

(c) Licensing Procedures.

(5) New business.

Executive Session

(6) Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

PUBLIC PARTICIPATION: The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 29, 1981, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government In The Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executrive Order 12356.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, Telephone: 202-377-4217.

FOR FURTHER INFORMATION OR COPIES OF THE MINUTES CONTACT: Mrs. Margaret A. Cornejo, Committee Control Officer, Office of Export Administration, Room 2613, U.S. Department of Commerce, Washington, D.C. 20230, telephone: 202-377-2583.

Dated: December 14, 1982.

John K. Boidock,

Director, Office of Export Administration.

[FR Doc. 82-34429 Filed 12-17-82; 8:45 am]

BILLING CODE 3510-25-M

Foreign Availability Subcommittee of the Computer Systems Technical Advisory Committee; Open Meeting

AGENCY: International Trade Administration, Commerce.

SUMMARY: The Computer Systems Technical Advisory Committee was initially established on January 3, 1973, and rechartered on September 18, 1981 in accordance with the Export Administration Act of 1979 and the Federal Advisory Committee Act. The Subcommittee was approved for continuation on October 5, 1981 pursuant to the charter of the Committee. The Foreign Availability Subcommittee was formed to ascertain if certain kinds of equipment are available in non-COCOM and Communist countries, and if such equipment is available, then to ascertain if it is technically the same or similar to that available elesewhere.

TIME AND PLACE: January 11, 1983, at 1:30 p.m. The meeting will take place at the Main Commerce Building, Room 3708, 14th Street and Constitution Ave., NW., Washington, D.C.

AGENDA:

General Session

(1) Opening remarks by the Subcommittee Chairman.

(2) Presentation of papers or comments by the public.

(3) Discussion of proposed changes to the Export Administration Act.

(4) Status of the Department of Commerce foreign availability implementation plan.

(5) Discussion of the agenda for 1983.

PUBLIC PARTICIPATION: The meeting will be open for public observation and a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Subcommittee. Written Statements may be submitted at any time before or after the meeting.

FOR FURTHER INFORMATION OR COPIES OF THE MINUTES CONTACT: Mrs. Margaret A. Cornejo, Committee Control Officer, Office of Export Administration, Room 2613, U.S. Department of Commerce, Washington, D.C. 20230, telephone: 202-377-2583.

Dated: December 14, 1982.

John K. Boidock,

Director, Office of Export Administration.

[FR Doc. 82-34431 Filed 12-17-82; 8:45 am]

BILLING CODE 3510-25-M

Hardware Subcommittee of the Computer Systems Technical Advisory Committee; Closed Meeting

AGENCY: International Trade Administration, Commerce.

SUMMARY: The Computer Systems Technical Advisory Committee was initially established on January 3, 1973, and rechartered on September 18, 1981 in accordance with the Export Administration Act of 1979 and the Federal Advisory Committee Act. The Subcommittee was approved for continuation on October 5, 1981

pursuant to the charter of the Committee.

The Hardware Subcommittee was formed to continue the work of the Performance Characteristics and Performance Measurements Subcommittee, pertaining to (1) Maintenance of the processor performance tables and further investigation of total systems performance; and (2) investigation of array processors in terms of establishing the significance of these devices and determining the differences in characteristics of various types of these devices.

TIME AND PLACE: January 12, 1983, at 9:00 a.m. The meeting will take place at the Main Commerce Building, Room 3708, 14th Street and Constitution Avenue, NW., Washington, D.C.

The Subcommittee will meet only in Executive Session to discuss matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 29, 1981, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government in the Sunshine Act, Pub. L. 94–409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the meeting will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and properly classified under Executive Order 12356. A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, Telephone: 202–377–4217.

FOR FURTHER INFORMATION CONTACT: Mrs. Margaret A. Cornejo, Committee Control Officer, Office of Export Administration, Room 2613, U.S. Department of Commerce, Washington, D.C. 20230, telephone: 202–377–2583.

Dated: December 14, 1982.

John K. Boidock,

Director, Office of Export Administration.

[FR Doc. 82-34432 Filed 12-17-82; 8:45 am]

BILLING CODE 3510-25-M

Licensing Procedures Subcommittee of the Computer Systems Technical Advisory Committee; Open Meeting

AGENCY: International Trade Administration, Commerce.

SUMMARY: The Computer Systems Technical Advisory Committee was initially established on January 3, 1973, and rechartered on September 18, 1981 in accordance with the Export Administration Act of 1979 and the Federal Advisory Committee Act. The Subcommittee was approved for continuation on October 5, 1981 pursuant to the charter of the Committee. The Licensing Procedures Subcommittee was formed to review the procedural aspects of export licensing and recommend areas where improvements can be made.

TIME AND PLACE: January 11, 1983, at 10:00 a.m. The meeting will take place at the Main Commerce Building, Room 3708, 14th Street and Constitution Ave., NW., Washington, D.C.

AGENDA:

General Session

1. Opening remarks by the Subcommittee Chairman.
2. Presentation of papers or comments by the public.
3. Review the minutes of the previous meeting.
4. Outstanding communications to OEA:
   a. Procedures on licences for exhibits.
   b. Acceleration of post-COCOM procedures.
5. Report on the re-write of the Export Administration Regulations.
6. Report on processing time for front-door licensing.
7. Report on the study of the Distribution License.
8. New business.

PUBLIC PARTICIPATION: The meeting will be open for public observation and a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Subcommittee. Written statements may be submitted at any time before or after the meeting.

FOR FURTHER INFORMATION OR COPIES OF THE MINUTES CONTACT: Mrs. Margaret A. Cornejo, Committee Control Officer, Office of Export Administration, Room 2613, U.S. Department of Commerce, Washington, D.C. 20230, telephone: 202–377–2583.

Dated: December 14, 1982.

John K. Boidock,

Director, Office of Export Administration.

[FR Doc. 82-34430 Filed 12-17-82; 8:45 am]

BILLING CODE 3510-25-M

Prestressed Concrete Steel Wire Strand From the United Kingdom; Final Determination of Sales at Less Than Fair Value

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Final Determination of Sales at Less Than Fair Value.

SUMMARY: We have determined that prestressed concrete steel wire strand ("PC strand") from the United Kingdom is being, or is likely to be, sold in the United States at less than fair value. The U.S. International Trade Commission ("ITC") will determine within 45 days of publication of this notice whether these imports are materially injuring, or are threatening to materially injure, a U.S. industry.

EFFECTIVE DATE: December 20, 1982.

FOR FURTHER INFORMATION CONTACT: Brian Kelly, Office of Compliance, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D,.C. 20230 (202–377–2923).

SUPPLEMENTARY INFORMATION:

Case History

On March 4, 1982, we received a petition in proper form from counsel on behalf of American Spring Wire Corporation of Bedford Heights, Ohio; Armco Inc., of Middletown, Ohio; Florida Wire and Cable Company of Jacksonville, Florida; Bethlehem Steel Corporation of Bethlehem, Pennsylvania; Pan American Ropes, Inc., of Houston, Texas; and Shinko Wire America, Inc., of Houston, Texas; filed on the behalf of the U.S. industry producing PC strand. The petitioners alleged that PC strand from the United Kingdom is being or is likely to be sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930 ("the Act") (19 U.S.C. 1673), and that such sales are materially injuring, or are threatening to materially injure, a U.S. industry.

On October 6, 1982, we preliminarily determined that PC strand from the United Kindom is being, or is likely to be, sold in the United States at less than fair value (47 FR 44132–33). Our preliminary notice gave interested parties an opportunity to submit views in writing and orally, and on November 17, 1982, we held a public hearing.

Scope of the Investigation

For the purpose of this investigation, the term "prestressed concrete steel wire strand" covers wire strand of steel, other then stainless steel, for prestressing concrete, as currently

provided for in item 642.1120 of the *Tariff Schedules of the United States Annotated.*

To the best of our knowledge a single British firm, Bridon Wire, Ltd., produced all of the PC strand exported from the United Kingdom to the United States during the review period, and we limited our investigation to that firm.

This investigation covers the period from July 1 to December 31, 1981, for purchase price sales, and from October 1, 1981 to March 31, 1982, for exporter's sales price transactions.

Methodology of Fair Value Comparisons

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price with the foreign market value.

United States Price

We used purchase price, as defined in section 772(b) of the Act, to represent the United States price for a portion of the sales by Bridon Wire in which the merchandise was sold to unrelated purchasers prior to its importation into the United States. For the remainder of Bridon's sales we used exporter's sales price, because the merchandise was sold to unrelated purchasers in the United States after the date of importation.

We calculated both purchase price and exporter's sales price, as appropriate, on the basis of the ex-warehouse U.S. price; c.i.f. landed, duty paid price; or the delivered customer's works, packed price to unrelated purchasers in the United States. We made deductions, where applicable, for foreign inland freight, ocean freight and insurance, U.S. duty, brokerage charges, and U.S. inland freight and insurance. Where we used exporter's sales price, we made additional deductions for credit expenses and other selling expenses.

Foreign Market Value

There were sufficient sales in the home market to allow the use of home market prices as the basis for foreign market value. For the purposes of determining such or similar merchandise under section 771 of the Act, we made comparisons using strand of the same grade as that sold in the United States, and used the dimensions closest to those of the product sold in the United States.

The home market prices for Bridon Wire were based on delivered or ex-works packed prices to unrelated purchasers. From these prices we deducted, where appropriate, discounts and U.K. inland freight and insurance. We made adjustments, where appropriate, for differences between home market and U.S. credit costs, recoiling charges, and packing charges.

Where we compared exporter's sales price with foreign market value, we deducted credit expenses and recoiling charges, instead of adjusting for the differences. We subtracted an amount for indirect selling expenses equal to that found for United States sales.

Verification

We verified, to the extent possible, all information used in making this final determination. We were granted access to the books and records of the British manufacturer and the related U.S. company. We used standard verification procedures, including on-site inspection of the manufacturer's operations and examination of accounting records and randomly selected documents containing relevant information.

Results of Investigation

We made fair value comparisons on all of the sales to the United States made by Bridon Wire, Ltd. We found margins on all of the sales compared. The margins range from 15.37 to 150.49 percent. The overall weighted average margin on all sales compared is 33.89 percent.

Petitioner's Comments

Comment 1

The Department cannot adjust home market price for differences in circumstances of sale without a causal link between the differences in the cost of selling the merchandise in the home and U.S. markets and the differences in home and U.S. prices. In its preliminary analysis, the Department failed to establish this causal link, and no evidence has subsequently been presented to justify it. The Department therefore should not make the adjustment.

DOC Position

In accord with past practice, we adjusted for circumstances of sale based on our conclusion that differences in cost constitute a reasonable indication of the differences in price. Section 353.15(d) of the Commerce Regulations states that reasonable allowances will be made for the differences in cost to the seller of differences in circumstances of sale. The regulation is consistent with section 773(a)(4) of the Act, which states that any allowance will be made for any price difference "wholly or partly" due to differences in circumstances of sale. See *Brother Industries, Ltd., et al. v. United States,* 3 C.I.T. ——, Slip Op. 82–34 (April 30, 1982).

Comment 2

To the extent that the ITA made deductions for inland freight and discounts in the computation of foreign market value without establishing that such adjustments were directly related to the sales under consideration, petitioners object to the deductions.

DOC Position

Where necessary, the Department has, in accordance with longstanding administrative practice, relied on averaged figures for home market adjustments, including freight and some discounts. The Department has the authority to use averaged figures for establishing foreign market value during an investigation. For both freight and discounts the figures used were directly traceable to the product under investigation, though not to particular sales.

Comment 3

Average U.S. credit costs should not be used. The Department should obtain and use sale-specific credit costs.

DOC Position

The Department received a sale by sale breakdown of U.S. credit expenses during the verification of Bridon's American affiliate, Springfield Industries, Inc., and applied it in computing these final results.

Comment 4

The Department erred in deducting credit expenses and recoiling charges from both the U.S. and home market prices in exporter's sales price situations. The law only allows adjustments for the differences in circumstances of sale.

DOC Position

Section 772(e) of the Act gives the Department the authority to make deductions for direct expenses on the U.S. side. See *Brother Industries, Ltd., et al. v. United States,* 3 C.I.T. ——, Slip Op. 82–34 (April 30, 1982).

Comment 5

The Department did not have the authority to investigate the classification of selling expenses during verification. This constitutes gathering new information, which is not the purpose of verification.

DOC Position

The Department is under an obligation to verify as much information as possible in an investigation. This

includes verifying claims of no expenses as well as those of positive figures. Therefore, if either direct or indirect expenses are reported as zero, we verify the figure as we would any other.

Comment 6

The Department underestimated U.S. interest expenses incurred by Springfield by failing to account for the time the goods spent in transit to the United States, and ignoring in general the inventory interest expense associated with selling the goods from warehouse.

DOC Position

The Department uses actual credit expenses in making any difference in credit expense adjustments. We did not impute credit charges to a period in which the firm was not actually covering the sale of goods directly with short-term debt. Any interest expenses incurred for inventory prior to sale of the goods were captured through the inclusion of Springfield's overhead within U.S. selling expenses. These are properly categorized as indirect selling—not credit—expenses.

Comment 7

The Department should adjust U.S. price for any commission paid by Bridon to Springfield.

DOC Position

The commission was simply an intra-corporate transfer of funds. In determining the costs of bringing the merchandise to the U.S. customer, we are interested in actual costs incurred by the corporate entity as a whole, not in simple funds transfers.

Comment 8

The Department should not accept the additional information submitted on November 30, 1982.

DOC Position

We did not use the supplemental submission of November 30 because it was untimely.

Comment 9

The Department should further investigate to ascertain whether it has covered all manufacturers exporting PC Strand to the U.S.

DOC Position

We have referred to both British sources and our own import statistics. We have found no evidence that firms other than Bridon actually sold PC strand in the United States during the review period.

Final Determination

Based on our investigation and in accordance with section 735(a) of the Act, we have reached a final determination that prestressed concrete steel wire strand from the United Kingdom is being, or is likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act.

Continuation of Suspension of Liquidation

Liquidation will continue to be suspended on all entries of PC strand that are entered into the United States, or withdrawn from warehouse, for consumption. The U.S. Customs Service will continue to require the posting of a cash deposit, bond, or other security in the amount of the weighted average margin of the FOB price for the listed firm and 33.69 percent of the FOB price for all other British producers. The security amounts established in our preliminary determination of October 6, 1982, are no longer in effect.

ITC Notification

We are notifying the ITC and making available to it all nonprivileged and nonconfidential information relating to this determination. We will allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information, either publicly or under and administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration. If the ITC determines that material injury or threat of material injury does not exist, this proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. If the ITC determines that such injury does exist, we will issue an antidumping order, directing Customs officers to assess an antidumping duty on prestressed concrete steel wire strand from the United Kingdom entered, or withdrawn from warehouse, for consumption after the suspension of liquidation, equal to the amount by which the foreign market value exceeds the United States price. This determination is being published pursuant to section 735(d) of the Act (19 U.S.C. 1673(d)).

Dated: December 14, 1982.

Lawrence J. Brady,

Assistant Secretary for Trade Administration.

[FR Doc. 82-34928 Filed 12-17-82; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

North Pacific Fishery Management Council, its Scientific and Statistical Committee and its Advisory Panel; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The North Pacific Fishery Management Council, established by section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94-265), has established a Scientific and Statistical Committee (SSC) and Advisory Panel (AP) to assist the Council in carrying out its responsibilities under the Act. The Council, its SSC and AP will hold separate public meetings, but the Council will also meet in joint public session with the Alaska Board of Fisheries.

DATES: The Council and Alaska Board of Fisheries meeting will convene on Tuesday, January 4, 1983, at 9 a.m., in the Gold Room of the Baranof Hotel, Juneau, Alaska, to hear technical reports on the status of the salmon resource. On Wednesday, January 5, and Thursday, January 6, 1983, the Council and the Board will reconvene to hear public testimony on proposed 1983 amendments to the Troll Salmon Fishery Management Plan (FMP), discuss regulations for 1983, and select preferred options for public review. This joint session is expected to adjourn at approximately 5 p.m., on January 6. The Council will meet in separate public session on Friday, January 7, 1983, from 9 a.m. to noon, in the Gastineau Room of the Baranof Hotel, to conclude Council business.

The SSC meeting will convene on Monday, January 3, 1983, at approximately 1:30 p.m., in the Capitol Room of the Baranof Hotel and will adjourn at approximately 5 p.m., on Tuesday, January 4, 1983. The AP will meet on Monday, January 3, 1983, at approximately 1 p.m., in the Gastineau Room of the Baranof Hotel, adjourning at approximately 5 p.m.; reconvene on Tuesday, January 4, 1983, at approximately 9 a.m., and adjourn at approximately 5 p.m. The meetings may be lengthened or shortened depending upon progress on the agenda items.

PROPOSED AGENDA: *Council*—A detailed agenda will be sent to the public around December 17, 1982. The Council will consider the 1983 amendment package for the troll salmon fishery off Alaska, which includes alternatives regarding optimum yield, time and area closures and gear restrictions. The Council will

select its preferred options for the 1983 amendment package, and will also review and possibly give final approval for Secretarial review of Amendment #9 to the Tanner Crab FMP. The proposed amendment would increase the National Marine Fisheries Service's Regional Director's flexibility in setting seasons. The Council may also give the plan development team direction on frameworking the FMP. Time permitting, the Council may also consider FMP's and amendments for herring, king crab, Gulf of Alaska groundfish and Bering Sea/Aleutian Islands groundfish, applications from ships of foreign nations to fish in the fishery conservation zone off Alaska, as well as various contracts. All or parts of this meeting may be conducted in joint session with the Alaska Board of Fisheries.

SSC and AP—Same as Council.

FOR FURTHER INFORMATION CONTACT: North Pacific Fishery Management Council, P.O. Box 3136DT, Anchorage, Alaska 99510, Telephone: (907) 274–4563.

Dated: December 15, 1982.

Joe P. Clem,

Acting Chief, Operations Coordination Group. National Marine Fisheries Service.

[FR Doc. 82–34464 Filed 12–17–82; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Department of the Air Force

Privacy Act of 1974; System of Records Amendment

AGENCY: Department of the Air Force (AF), DoD.

ACTION: Amendment of Air Force System of Record Notice.

SUMMARY: The Air Force is amending one system of records notice to conform to the requirements of the "Debt Collection Act of 1982" to permit use of that Act to collect debts owed the government. The notice is also being substantially rewritten in the interest of clarity, accuracy and readability.

EFFECTIVE DATE: The amendments will be effective on January 19, 1983 unless public comments are received which result in a contrary determination.

FOR FURTHER INFORMATION CONTACT: Mr. Jon Updike, HQ USAF/DAD(S), The Pentagon, Washington, D.C. 20330, telephone 202/694–3431.

SUPPLEMENTARY INFORMATION: These amendments are necessary to conform to the requirements of the "Debt Collection Act of 1982" (Pub. L. 97–365; 96 Stat. 1749 *et seq.*).

The Air Force systems of records inventory subject to the Privacy Act of 1974, Title 5, United States Code, Section 552a (Pub. L. 93–579; 44 Stat. 1896 *et seq.*), has been published in the **Federal Register** as follows:

FR Doc. 81–897 (47 FR 6443) January 21, 1981
FR Doc. 82–674 (47 FR 2544) January 18, 1982
FR Doc. 82–2886 (47 FR 5285) February 4, 1982
FR Doc. 82–4481 (47 FR 7478) February 19, 1982
FR Doc. 82–9886 (47 FR 14936) April 7, 1982
FR Doc. 82–10539 (47 FR 16827) April 20, 1982
FR Doc. 82–3029 (47 FR 5004) November 4, 1982

None of these amendments require a new or altered system report under the provisions of 5 U.S.C. 552a(o).

M. S. Healy,

OSD Federal Register Liaison Officer. Department of Defense.

December 13, 1982.

Amendments

F17708 OEACYVD

System Name:

Indebtedness and Claims (46 FR 6580).

Changes:

System Identification:

Change to, "F177 AFAFC G."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

In addition to the previous provisions, which have been completely rewritten, the following new uses are added: "Data necessary to identify an individual involved in a claim is disclosed to a consumer reporting agency whenever a financial status report is requested for use in pursuing collection under the Federal Claims Collection Act. Whenever AFAFC has exhausted its internal collection actions, the debt may be forwarded to a private collection agency for collection servicing."

F177 AFAFC G

SYSTEM NAME:

Indebtedness and Claims.

SYSTEM LOCATION:

Air Force Accounting and Finance Center, Lowry Air Force Base, Denver, CO 80279. Denver Federal Archives and Record Center, Bldg 48, Denver Federal Center, Denver, CO 80225.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty and retired military personnel, Air Force civilian employees and former employees, Air Force Reserve and Air National Guard personnel, Air Force Academy cadets, dependents of military personnel, exchange officers and foreign nationals.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records of current and former military members and civilian employees pay accounts showing entitlements, deductions, payments made, and any indebtedness resulting from deductions and payments exceeding entitlements. These records include, but are not limited to: individual military pay records, substantiating documents such as military pay orders, pay adjustment authorizations, military master pay account print out from Joint Uniform Military Pay System (JUMPS), records of travel payments, financial record data folders, miscellaneous vouchers, personal financial records, credit reports, promissory notes, individual financial statements, and correspondence. Applications for waiver of erroneous payments or for remission of indebtedness with supporting documents, including but not limited to, statements of financial status (personal income and expenses), statements of commanders, statements of Accounting and Finance Officers, correspondence with members and employees. Claims of individuals requesting additional payments for service rendered with supporting documents including, but not limited to, time and attendance reports, leave and earnings statements, travel orders, travel vouchers, statements of non-availability of quarters and mess, paid receipts, and correspondence with members and employees. Delinquent accounts receivable from base Accounting and Finance Officers including, but not limited to, returned checks, medical services billings, collection records, and summaries of the Air Force Office of Special Investigation and Federal Bureau of Investigation reports. Reports from probate courts regarding estates of deceased debtors. Reports from bankruptcy courts regarding claims of the US against debtors.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. Chapter 18—Compromise and Collection of Federal claims; 10 U.S.C. 2774, Claims for overpayment of pay and allowances, other than travel and transportation allowances, 9837 (d), settlement of accounts: deductions from pay; 5 U.S.C. 5584 Claims for overpayment of pay and allowances, other than travel and transportation expenses and allowances and relocation expenses; 12 U.S.C. 1715, Mortgage insurance for servicemen; Pub. L. 97–365, Debt Collection Act of 1982.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Used to determine eligibility for: (1) Waiver of erroneous payments, (2) remission of indebtedness, or (3) payments for services rendered. Also, information is required to attempt collection of all claims from individuals on claims of the United States, for money or property arising out of the activities of the United States Air Force. Claims may be compromised, terminated, or suspended when warranted by information collected. Data necessary to identify an individual involved in a claim is disclosed to a consumer reporting agency whenever a financial status report is requested for use in pursuing collection under the Federal Collection Act. Whenever AFAFC has exhausted its internal collection actions, the debt may be forwarded to a private collection agency for collection servicing. The debt may be referred to the Department of Justice under 31 U.S.C. 952, Federal Claims Collection Act of 1966, for investigation or civil or criminal litigation as appropriate. Information is used to establish debts and respond to letters received from individuals. After action is completed, files are closed and filed in individual records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders and in machine-readable form.

RETRIEVABILITY:

Filed by name and Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets, protected by guards and controlled by personnel screening and visitor registers.

RETENTION AND DISPOSAL:

Retained in office files for one year after annual cut-off, transferred to the Denver Federal Archives and Record Center for nine additional years, and then sold to salvage paper companies to be destroyed by shredding, tearing, mascerating, pulping or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Comptroller of the Air Force, Headquarters United States Air Force. Director, Accounting and Finance, United States Air Force. (USAF).

NOTIFICATION PROCEDURE:

Information as to whether the record system contains information on an individual may be obtained from AFAFC/DAD, Denver, CO 80279, telephone (303) 370–7553. Requester should be able to provide sufficient proof of identity, such as name, Social Security Number, military status, duty station or place of employment, or other information verifiable from the record itself.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to AFAFC/DAD, Denver, CO 80279, telephone (303) 370–7553. Requester should be able to provide sufficient proof of identity, such as name, Social Security Number, military status, duty station or place of employment, or other information verifiable from the record itself.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information obtained from financial and medical institutions; automated system interfaces; police and investigating officers; the public media; a state or local government; and source documents such as reports; credit bureaus; Bureau of Employees Compensation, Veterans Administration; Social Security Administration; Internal Revenue Service; Federal Housing Administration; health insurance companies; U.S. Army Finance and Accounting Center; Navy Finance Center; Base Accounting and Finance Officers, Major Comands; Comptroller General; and correspondence with individual concerned or his representative.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 82–34292 Filed 12–17–82; 8:45 am]
BILLING CODE 3910–01–M

DEPARTMENT OF ENERGY

Procurement and Assistance Management Directorate

AGENCY: Department of Energy.

ACTION: Notice of suspension and proposed debarment.

SUMMARY: This notice announces that the Department of Energy (DOE) has suspended Earl R. Postell and all organizations with which he is or may become affiliated, from participating in any new DOE contract or subcontract. In addition, Mr. Postell has been advised that DOE proposes to debar him and all such affiliated organizations for a period not to exceed three years beginning on January 22, 1983.

DATE: The suspension became effective on December 13, 1982, and shall last until the proposed debarment becomes effective or for 12 months, whichever occurs earlier.

FOR FURTHER INFORMATION CONTACT: James Nelson, Procurement and Assistance Management Directorate, Room 1I–018, Forrestal Building, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, telephone 202/252–1150

SUPPLEMENTARY INFORMATION: The suspension and proposed debarment actions are being taken in accordance with the procedures set forth in Federal Procurement Regulations (FPR) Temporary Regulation No. 65, 41 CFR Subpart 1–1.6, 47 FR 43692 (October 4, 1982), and the DOE Procurement Regulations (DOE–PR), 41 CFR Subpart 9–1.6. In addition to Earl R. Postell, the known affiliated organizations affected by the suspension and proposed debarment actions are E&P Associates, Inc., and Alexandria Graphics and Reproduction Service. Mr. Postell's address is 418 Hume Avenue, Alexandria, Virginia 22301. The address of all the known affiliates is the same: 418 Hume Avenue, Alexandria, Virginia 22301.

During the period of suspension and subsequent debarment, DOE will neither accept nor consider a bid or proposal submitted by Mr. Postell or by any organization with which he is affiliated. In addition, DOE will not approve any new contract between him or any such affiliated organization and a DOE contractor.

The suspension and proposed debarment are based on Mr. Postell's November 2, 1982, indictment by a Federal Grand Jury in the United States Disrtrict Court for the Eastern District of Virginia for violation of Title 18 of the United States Code, sections 201(c) and 2. The Federal indictment charges Mr. Postell with 18 counts of mail fraud and bribery. Mr. Postell has been advised that he has right to submit, by no later then January 12, 1983, a written request for a hearing and a reply to the notice of proposed debarment.

As required under DOE–PR 9–1.602, Mr. Postell and the above named affiliated organizations have been placed on the DOE Consolidated List of Debarred, Suspended, and Ineligible Contractors which is distributed periodically to DOE Contracting Officers. DOE has also notified the General Services Administration (GSA) of this suspension action. When the proposed debarment becomes effective, GSA shall be notified in accordance with FPR Temporary Regulation No. 65, 41 CFR Subpart 1–1.6, 47 FR 43692 (October 4, 1982).

Issued in Washington, D.C., on December 13, 1982.

Hilary J. Rauch,

Director, Procurement and Assistance, Management Directorate.

[FR Doc. 82–34482 Filed 12–17–82; 8:45 am]

BILLING CODE 6450–01–M

Dose Assessment Advisory Group; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the following advisory committee meeting.

NAME: Dose Assessment Advisory Group (DAAG).

DATE AND TIME: Thursday, January 6, 1983—8:30 a.m.—5:00 p.m.; Friday, January 7, 1983—8:30 a.m.—4:30 p.m.

PLACE: U.S. Department of Energy, Nevada Operations Office Auditorium, 2753 South Highland Drive, Las Vegas, Nevada.

CONTACT: Marshall Page, Jr., Deputy Project Manager, Off-Site Radiation Exposure Review Project, Nevada Operations Office, U.S. Department of Energy, Box 14100, Las Vegas, Nevada 89114, Telephone: 702–734–3194.

PURPOSE OF GROUP: To provide the Secretary of Energy and the Manager, Nevada Operations Office, (NV) with advice and recommendations pertaining to the Off-Site Radiation Exposure Review Project (ORERP). This project concerns the evaluation and assessment of the amount of radiation received by members of the offsite population surrounding the Nevada Test Site (NTS) as a result of the nuclear test operations conducted at the NTS.

TENTATIVE AGENDA:

January 6, 1983:

- Welcome and Introduction.
- DAAG Recommendations from May meeting.
- Overview of work since meeting of May 6–7, 1982.
- Review of Aerial Surveys of Fallout Fields—1951 through 1958.
- Review of all "Hotspots".
- Evaluation of ANNIE Fallout Pattern.
- Extension of Lifestyle Survey.
- H+12 Hour mR/hr and Time of Arrival Estimates for Dose Modeling.
- ORERP Data Base Update.
- CIC Status.
- Update on NURE and Sticky Paper Data Analyses.
- Progress on External Dose Assessment Model.
- Status on Milk Distribution Study.
- Sensitivity Uncertainty and Accuracy of the PATHWAY Model.
- Progress on Internal Dose Assessment Model.
- Discussion and Comments by DAAG Members.
- Public Comments and Questions (5 minute rule).

January 7, 1983:

- Review of Soil Sampling Sites.
- Site Selection: *in situ* Gamma Measurement Results, Methodology, Grading, and Criteria for Sites Selected for Soil Sampling.
- Review of Soil Collection Efforts—Sampling Techniques and Grading Criteria.
- Review of Soil Preparation Techniques and Results to Date.
- Laboratory Procedures Review.
- Description of Quality Assurance Program.
- Evaluation and Assessment of ORERP Soil Sampling Program.
- Selection Progress of 100 Soil Sampling Sites.
- Discussion of Future Activities and Time Scales.
- Discussion and Recommendations by DAAG to ORERP.
- Public Comments and Questions (5 minute rule).

PUBLIC PARTICIPATION: The meeting is open to the public. The Chairperson of the Group is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Marshall Page at the address or telephone number listed above.

TRANSCRIPTS: Available for public review and copying at the Public Reading Room, Room 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC, between 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, on December 15, 1982.

Howard H. Raiken,

Deputy Advisory Committee, Management Officer.

[FR Doc. 82–34407 Filed 12–17–82; 8:45 am]

BILLING CODE 6450–01–M

Economic Regulatory Administration

Amcole Energy Corp.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order (PRO) which was issued to Amcole Energy Corporation (Amcole) of Dallas, Texas, and several working interest owners (the owners) of a crude oil producing property operated by Amcole. This PRO charges Amcole and the owners with pricing violations in the amount of $207,221.10 connected with the sale of crude oil at prices in excess of those permitted by 10 CFR 212, Subpart D during the same period March 1, 1975 through October 31, 1977.

This PRO supersedes a PRO that was issued to Amcole on August 13, 1982 and subsequently withdrawn by ERA. Notice of the earlier PRO was published in the **Federal Register** at 47 FR 36885 on August 24, 1982.

A copy of the PRO, with confidential information deleted, may be obtained from James A. Martin, Deputy Director, Crude and NGL & Litigation Support Group, Economic Regulatory Administration, Department of Energy, P.O. Box 35228, Dallas, Texas 75235, or by calling (214) 767–7407. Within fifteen (15) days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 12th & Pennsylvania Ave., N.W., Room 3426, Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Dallas, Texas, on the 1st day of December, 1982.

Ben L. Lemoe,

Director, Dallas Field Office, Economic Regulatory Administration.

[FR Doc. 82–34402 Filed 12–17–82; 8:45 am]

BILLING CODE 6450–01–M

Anshutz Petroleum Marketing Corp., Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Office of Special Counsel (OSC) of the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to

Anshutz Petroleum Marketing Corporation of New York, New York. This Proposed Remedial Order charges Anshutz with pricing violations in the amount of $1,030,174.00 plus interest, connected with the sale of regular and unleaded motor gasoline during the period May through July 31, 1979.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Robert J. McKee, Jr. Director, Philadelphia Field Office, ERA (215)597–2633. Within 15 days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 12th & Pennsylvania Avenue, N.W., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Philadelphia, Pennsylvania, on the 7th day of December, 1982.

Robert J. McKee, Jr.

Director, Philadelphia Field Office, ERA.

[FR Doc. 82–34406 Filed 12–17–82; 8:45 am]

BILLING CODE 6450–01–M

Consolidated Materials, Inc., et al.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Office of Special Counsel (OSC) of the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Consolidated Materials, Inc. of New Orleans, Louisiana. This Proposed Remedial Order charges Consolidated with pricing violations in the amount of $259,848 plus interest, connected with the sale of regular motor gasoline on April 19, 1974 and No. 2 diesel fuel on November 15, 1973.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Robert J. McKee, Jr., Director, Philadelphia Field Office, ERA, (215) 597–2633. Within 15 days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 1200 Pennsylvania Ave., NW, Washington, DC 20461, in accordance with 10 CFR 205.193.

Issued in Philadelphia, Pennsylvania, on the 7th day of December, 1982.

Robert J McKee, Jr.,

Director, Philadelphia Field Office, Economic Regulatory Administration.

[FR Doc. 82–34403 Filed 12–17–82; 8:45 am]

BILLING CODE 6450–01–M

Cumberland Farms Dairy, Inc.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Office of Special Counsel (OSC) of the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Cumberland Farms Dairy, Inc., of Canton, Massachusetts, Fireline Petroleum, Inc. and Fireline Petroleum Supply Distribution Company, Inc. (collectively "Cumberland"). This Proposed Remedial Order charges Cumberland with pricing violations in the amount of $1,319,715.58 plus interest, connected with the sale of regular and unleaded motor gasoline at its company operated retail stations during the period January 1, 1979 through July 14, 1979.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Robert J. McKee, Jr., Director, Philadelphia Field Office, ERA, (215) 597–2633. Within 15 days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Philadelphia, Pennsylvania, on the 7th day of December, 1982.

Robert J. McKee Jr.,

Director, Philadelphia Field Office, ERA.

[FR Doc. 82–34405 Filed 12–17–82; 8:45 am]

BILLING CODE 6450–01–M

Reinauer Petroleum Co.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Office of Special Counsel (OSC) of the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Reinauer Petroleum Company of Hackensack, New Jersey. This Proposed Remedial Order charges Reinauer with pricing violations in the amount of $269,891.00 plus interest, for the period April 1, 1979 through September 30, 1979. The alleged violations arise from the sales of regular and unleaded motor gasoline at Reinauer's company operated retail stations, as well as its sales to branded, unbranded Quik-stop and commercial customers during the violation period.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Robert J. McKee, Jr., Director, Philadelphia Field Office, ERA (215) 597–2633. Within 15 days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 12th and Pennsylvania Ave., NW., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Philadelphia, Pennsylvania, on the 7th day of December, 1982.

Robert J. McKee, Jr.,

Director, Philadelphia Field Office, ERA.

[FR Doc. 82–34404 Filed 12–17–82; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. ERA–FC–82–032]

Powerplant and Industrial Fuel Use Act of 1978; Electric Utility Conservation Plans

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of Approval of Conservation Plans.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) has received a number of electric utility conservation plans developed and submitted for DOE approval pursuant to section 808 of the Powerplant and Industrial Fuel Use Act of 1978, as amended, 42 U.S.C. 8301 *et seq.* ("FUA" or "the Act"). Pursuant to 10 CFR 508.5(b), DOE hereby gives Notice of Approval of Conservation Plans submitted by the electric utility owners or operators listed in the SUPPLEMENTARY INFORMATION section below.

The public file for each of the listed electric utility owners or operators containing this Notice of Approval of Conservation Plans and all other pertinent documents is available for inspection at the Department of Energy, Freedom of Information Reading Room, 1000 Independence Avenue, SW., Room 1E–190, Washington, D.C. 20585, telephone (202) 252–6020. Approval of each conservation plan is based on ERA's consideration of the entire record of the proceeding, including any comments received during the public comment period for each plan.

DATE: In accordance with 10 CFR 508.5(b), this Notice shall take effect on December 20, 1982.

FOR FURTHER INFORMATION CONTACT:

Clifford Tomaszewski, Office of Fuels Programs, Economic Regulatory Administration, Forrestal Building, Room GA–073 F, 1000 Independence Avenue, SW., Washington, D.C. 20585 (202) 252–2201

Henry Garson, Esq., Acting Assistant General, Counsel for Coal Regulations, Office of the General Counsel, Forrestal Building, Room 6D–033, 1000 Independence Avenue, SW., Washington, D.C. 20585 (202) 252–6947

SUPPLEMENTARY INFORMATION: Section 1023 of the Omnibus Budget Reconciliation Act of 1981, Pub. L. 97–35

(OBRA) amended FUA by adding a new section 808, entitled "Electric Utility Conservation Plan."

Section 808 requires utilities which own or operate any existing electric powerplant which used natural gas as a primary energy source between August 14, 1980 and August 13, 1981, and which also plan to use natural gas in any electric powerplant, to develop and submit to DOE for approval a conservation plan to conserve electric energy. The plan must set forth the means to achieve the conservation of electric energy at a level equal to 10 percent of the electric energy output of the utility sold within its own system which was attributable to natural gas during the four calendar quarters ending on June 30, 1981. Approved plans must be fully implemented during the five year period following DOE approval.

Notices of Receipt of the proposed conservation plans described below, providing for a thirty (30) day public comment period during which interested persons were invited to submit written comments concerning the content of any such proposed conservation plan, were published in the **Federal Register** on August 12 and 27, 1982 and September 17, 1982 (47 FR 35033, 37952 and 41163, respectively). No comments on these proposed plans were received.

Based upon the entire record of this proceeding, ERA has determined that the conservation plans of each of the following utilities meet the requirements for approval contained in 10 CFR 508.8. ERA is restricted by the 120 day time limitation imposed by the Act on the plan approval process as to the amount of information which can be analyzed in order to ascertain the environmental significance of approval of these plans. However, based on the information contained in each utility's submittal, ERA has determined, pursuant to 10 CFR 508.5, that the conservation programs contained in the plan of each utility listed below should not produce environmental consequences significant enough to warrant detailed documentation pursuant to the National Environmental Policy Act or its implementing regulations (40 CFR § 1500 *et seq.*). Thus this action clearly does not represent a major Federal action significantly affecting the quality of the human environment. Pursuant to CFR 508.5 and section 808(d)(1) of FUA, DOE hereby approves the electric utility conservation plans submitted by the utilities listed below.

Each of the electric utilities whose plans approved herein shall annually submit a report to ERA pursuant to 10 CFR 508.7 identifying the steps taken during the preceding year to implement its approved plan. Each such report shall be submitted within thirty (30) days after the close of a calendar year, beginning with the close of calendar year 1983. The report shall be sent to: Robert L. Davies, Director, Fuels Conversion Division, Office of Fuels Programs, Economic Regulatory Administration, Forrestal Building, Room GA-093, 1000 Independence Avenue, SW., Washington D.C. 20585.

The following utilities' conservation plans are approved:

Utilities and FC Case No.

Carolina Power and Light Company, Raleigh, N.C., 50441-9999-99-49
City of Coffeyville, Coffeyville, Kans., 50610-9999-99-49
City of Farmington, Farmington, N. Mex., 50960-9999-99-49
City Public Service of San Antonio, San Antonio, Tex., 52567-9999-99-49
Commonwealth Edison Company, Chicago, Ill., 50643-9999-99-49
Delmarva Power and Light Company, Wilmington, Del., 54008-9999-99-49
Duke Power Company, Charlotte, N.C., 50816-9999-99-49
El Paso Electric Company, El Paso, Tex., 50868-9999-99-49
Fort Pierce Utilities Authority, Fort Pierce, Fla., 51025-9999-99-49
Iowa-Illinois Gas and Electric Company, Davenport, Iowa, 51406-9999-99-49
Lake Superior District Power Company, Ashland, Wis., 51570-9999-99-49
Missouri Public Service Company, Kansas City, Mo., 51892-9999-99-49
Nevada Power Company, Las Vegas, Nev., 51906-9999-99-49
Oklahoma Gas and Electric Company, Oklahoma City, Okla., 52164-9999-99-49
Orange and Rockland Utilities, Inc., Pearl River N.Y., 52161-9999-99-49
Power Authority of the State of New York New York, N.Y., 52375-9999-99-49
Public Service Company of New Mexico, Albuquerque, N. Mex., 52412-9999-99-49
San Diego Gas and Electric, San Diego, Calif., 52570-9999-99-49
South Mississippi Electric Power Association, Hattiesburg, Miss., 52703-9999-99-49
Southern Indiana Gas and Electric Company, Evansville, Ind., 52727-9999-99-49
Southwestern Public Service Company, Amarillo, Tex., 52748-9999-99-49
Sunflower Electric Cooperative, Inc., Hays, Kans. 52855-9999-99-49
Wolverine Electric Cooperative, Inc., Big Rapids, Mich., 53341-9999-99-49

Issued in Washington, D.C. on December 10, 1982.

Robert L. Davies,

Director, Fuels Conversion Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 82-34483 Filed 12-17-82; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals

Cases Filed Week of November 12 Through November 19, 1982

During the Week of November 12 through November 19, 1982, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy. Submissions inadvertently omitted from earlier lists have also been included.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

Dated: December 14, 1982.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of Nov. 12 through Nov. 19, 1982]

Date	Name and Location of Applicant	Case No.	Type of Submission
Jan. 26, 1982	M&M Minerals Corporation, et al., Jackson, Mississippi	HRZ-0112	Interlocutory Order. If Granted: The Proposed Remedial Order issued by the Southeast District Office of the Economic Regulatory Administration to M&M Minerals Corporation, et al. (Case No. HRO-0016) would be dismissed.
Apr. 2, 1982	M&M Minerals Corporation, et al., Jackson, Mississippi	HRD-0085	Motion for Discovery. If Granted: Discovery would be granted to M&M Minerals Corporation, et al. regarding information on certain other cases pending with the Office of Hearings and Appeals.
May 7, 1982	M&M Minerals Corporation, et al., Jackson, Mississippi	HRD-0087	Motion for Discovery. If granted: Discovery would be granted to M&M Minerals Corporation, et al. regarding information obtained from Traders Oil & Royalty Company (Case No. BRO-1312).

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS—Continued

[Week of Nov. 12 through Nov. 19, 1982]

Date	Name and Location of Applicant	Case No.	Type of Submission
May 26, 1982	M&M Minerals Corporation, et al., Jackson, Mississippi	HRD-0088	Motion for Discovery. If granted: Discovery would be granted to M&M Minerals Corporation, et al. regarding new information contained in the Economic Regulatory Administration's Response to the firm's Statement of Objections in Case No. HRO-0018.
Sept. 10, 1982	M&M Minerals Corporation, et al., Jackson, Mississippi	HRD-0089	Motion for Discovery. If granted: Discovery would be granted to M&M Minerals Corporation, et al. regarding information contained in the Economic Regulatory Administration's supplement to its Response to the firm's Statement of Objections in Case No. HRO-0018.
Nov. 12, 1982	Crown Central Petroleum Corporation, Baltimore, Maryland	HRS-0019	Request for Stay. If granted: Crown Central Petroleum Corporation would receive a stay of its obligation to respond to a Proposed Remedial Order (Case No. HRO-0072) pending the resolution of a request for a preliminary injunction in a related judicial proceeding before the U.S. District Court for the District of Maryland.
Nov. 12, 1982	State of Mississippi, Jackson, Mississippi	HFA-0097	Appeal of an Information Request Denial. If granted: The October 22, 1982 Information Request Denial issued by the Chicago Office would be rescinded and the State of Mississippi would receive access to the remaining part of the document entitled *Proposed Siting Program For An Exploratory Shaft.*
Nov. 15, 1982	Office of Special Counsel/Texaco, Inc., Washington, D.C.	HRZ-0111	Interlocutory Order. If granted: Texaco, Inc. would be directed to produce to the Office of Special Counsel documents indentified in its privilege indices of September 3, 1982, September 22, 1982, and September 30, 1982.
Nov. 15, 1982	Sage Creek Refining Company, Cowley, Wyoming	HYX-0058	Request for Supplemental Order. If granted: The DOE would review the entitlements exception relief granted to Sage Creek during its fiscal year ending in 1981 to determine whether the level of relief accorded the firm was appropriate.
Nov. 15, 1982	Siler Oil Company, Washington, Indiana	HEE-0049	Exception to the Reporting Requirements. If granted: Siler Oil Company would not be required to file Form EIA-9A, "Monthly No. 2 Distillate Sales Report".
Nov. 16, 1982	Central Louisiana Electric Company, Inc., Pineville, Louisiana.	HEE-0050	Exception to the Reporting Requirements. If granted: Central Louisiana Electric Company would not be required to file Form EIA-782A, "Monthly Petroleum Product Sales Report".
Nov. 16, 1982	Jerry L. Peterson, Arvada, Colorado	HFA-0098	Appeal of an Information Request Denial. If granted: The October 15, 1982, Information Request Denial issued by the Albuquerque Operations Office would be rescinded, and Mr. Jerry L. Peterson would receive access to a copy of the file concerning his clearance at Rockwell International's Rock Flats Plant.
Nov. 16, 1982	Nuclear Fuel, New York, New York	HFA-0099	Appeal of an Information Request Denial. If granted: The October 14, 1982, Information Request Denial issued by the Oak Ridge Operations Office would be rescinded, and Nuclear Fuel would receive access to the names of U.S. utilities that have purchased uranium "constructively delivered" to the Electricity Supply Company Commission (Escom), of South Africa and to the names of utilities that have delivered uranium feedstock to Escom's account along with amounts involved.
Nov. 17, 1982	Department of Interior, Washington, D.C.	HEE-0051	Price Exception. If granted: The Department of Interior would be permitted to recertify the crude oil produced from offshore leases in the Gulf of Mexico to market prices for sales to Laketon Asphalt Refining, Inc.
Nov. 18, 1982	Kreshtool, Wier & Wasterstein, Wilmington, Delaware	HFA-0100	Appeal of an Information Request Denial. If granted: The Information Request Denial would be rescinded, and Kreshtool, Wier & Wasterstein would receive access to the EIA Report entitled *Gasoline Prices.*
Nov. 18, 1982	West Coast Oil Company, Los Angeles, California	HRD-0090	Motion for Discovery. If granted: Discovery would be granted to West Coast Oil Company in connection with the firm's Statement of Objection submitted in response to the July 30, 1982, Proposed Remedial Order (Case No. HRO-0087) issued to it.
Nov. 19, 1982	Borg-Warner Central Environmental Systems, York, Pennsylvania.	HXE-0052	Exception from the Energy Conservation Program for Consumer Products. If granted: Borg-Warner Central Environmental Systems would receive an exception from the provisions of 10 CFR 430 which would permit the firm to modify the energy efficiency test procedures applicable to its Enmond heat pump.

[FR Doc. 82-34400 Filed 12-17-82; 8:45am]

BILLING CODE 6450-01-M

Cases Filed; Week of November 26 Through December 3, 1982

During the week of November 26 through December 3, 1982, the appeals and applications for other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

Dated: December 14, 1982.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of Nov. 26 through Dec. 3, 1982]

Date	Name and location of applicant	Case No.	Type of submission
Nov. 30, 1982	P&R Trading Co., Washington, D.C.	HRD-0092	Motion for Discovery. If granted: Discovery would be granted to P&R Trading Company in connection with the Statement of Objections submitted in response to the September 9, 1982 Proposed Remedial Order (Case No. HRO-0091) issued to P&R Trading Company.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS—Continued

[Week of Nov. 26 through Dec. 3, 1982]

Date	Name and location of applicant	Case No.	Type of submission
Dec. 1, 1982	Indian Wells Oil Co., Kansas City, Mo.	HRD–0093, HRH–0093	Motion for Discovery and Evidentiary Hearing. If granted: Discovery would be granted and an evidentiary hearing would be convened in connection with the Statement of Objections submitted by Indian Wells Oil Company in response to the June 4, 1982 Proposed Remedial Order (Case No. HRO–0075) issued to Indian Wells Oil Company.
Dec. 3, 1982	State of Illinois, Chicago, Ill.	HEG–0026	Petition for Special Redress. If granted: The Office of Hearings and Appeals would modify the U.S. Treasury refund remedy for alleged crude oil price violations in the CONOCO, INC. consent order.
Dec. 3, 1982	State of Illinois, Chicago, Ill.	HEG–0027	Petition for Special Redress. If granted: The Office of Hearings and Appeals would modify the U.S. Treasury refund remedy for alleged crude oil price violations in the Standard Oil Company of Ohio consent order.

[FR Doc. 82-34401 Filed 12-17-82; 8:45 am]

BILLING CODE 6450-01-M

Energy Information Administration

Alternative Fuel Price Ceilings and Incremental Price Threshold for High Cost Natural Gas

The Natural Gas Policy Act of 1978 (NGPA) (Pub. L. 95–621) signed into law on November 9, 1978, mandated a new framework for the regulation of most facets of the natural gas industry. In general, under Title II of the NGPA, interstate natural gas pipeline companies are required to pass through certain portions of their acquisition costs for natural gas to industrial users in the form of a surcharge. The statute requires that the ultimate cost of gas to the industrial facility should not exceed the cost of the fuel oil which the facility could use as an alternative.

Pursuant to Title II of the NGPA, Section 204(e), the Energy Information Administration (EIA) herewith publishes for the Federal Energy Regulatory Commission (FERC) computed natural gas ceiling prices and the high cost gas incremental pricing threshold which are to be effective January 1, 1983. These prices are based on the prices of alternative fuels.

FOR FURTHER INFORMATION CONTACT: Leroy Brown, Jr., Energy Information Administration, 1000 Independence Avenue SW., Room BE–034, Washington, D.C. 20585, Telephone: (202) 252–6077.

Section I

As required by FERC Order No. 50, computed prices are shown for the 48 contiguous States. The District of Columbia's ceiling is included with the ceiling for the State of Maryland. FERC, by an Interim Rule issued on March 2, 1981, in Docket No. RM79–21, revised the methodology for calculating the monthly alternative fuel price ceilings for State regions. Under the revised methodology, the applicable alternative fuel price ceiling published for each of the contiguous States shall be the lower of the alternative fuel price ceiling for the State or the alternative fuel price ceiling for the multistate region in which the State is located.

The price ceiling is expressed in dollars per million British Thermal Units (BTU's). The method used to determine the price ceilings is described in Section III.

State	Dollars per million BTU's
Alabama	3.99
Arizona [1]	4.07
Arkansas [1]	3.82
California	4.04
Colorado [2]	3.99
Connecticut [1]	4.11
Delaware [1]	4.02
Florida	3.90
Georgia [1]	[illegible]
Idaho [2]	3.99
Illinois	3.88
Indiana	[illegible]
Iowa [1]	3.95
Kansas [1]	3.95
Kentucky [1]	[illegible]
Louisiana [1]	3.82
Maine [1]	4.11
Maryland [1]	4.02
Massachusetts	[illegible]
Michigan	3.64
Minnesota [1]	3.70
Mississippi [1]	4.04
Missouri [1]	3.95
Montana [2]	[illegible]
Nebraska [1]	3.95
Nevada [1]	4.07
New Hampshire [1]	4.11
New Jersey	3.93
New Mexico	[illegible]
New YorkD3.99	
North Carolina [1]	4.04
North Dakota [1]	[illegible]
Ohio	3.77
Oklahoma [1]	[illegible]
Oregon [1]	4.07
Pennsylvania [1]	[illegible]
Rhode Island [1]	4.11
South Carolina [1]	4.04
South Dakota [1]	3.95
Tennessee [1]	4.04
Texas	[illegible]
Utah [2]	[illegible]
Vermont [1]	4.11
Virginia [1]	4.04
Washington [2]	4.07
West Virginia [1]	3.90
Wisconsin	3.77
Wyoming [2]	[illegible]

[1] Region based price as required by FERC Interim Rule, issued on March 2, 1981, in Docket No. RM79–21.

[2] Region based price computed as the weighted average price of Regions E, F, and H.

Section II. Incremental Pricing Threshold for High Cost Natural Gas

The EIA has determined that the volume-weighted average price for No. 2 distillate fuel oil landed in the greater New York City Metropolitan area during October 1982 was $43.04 per barrel. In order to establish the incremental pricing threshold for high cost natural gas, as identified in the NGPA, Title II, Section 203(a)(7), this price was multiplied by 1.3 and converted to its equivalent in millions of BTU's by dividing by 5.8. Therefore, the incremental pricing threshold for high cost natural gas, effective January 1, 1983, is $9.42 per milion BTU's.

Sectiion III. Method Used To Compute Price Ceilings

The FERC, by Order No. 50, issued on September 29, 1979, in Docket No. RM79–21, established the basis for determining the price ceilings required by the NGPA. FECR also, by Order No. 167, issued in Docket No. RM81–27 on July 24, 1981, made permanent the rule that established that only the price paid for No. 6 high sulfur content residual fuel oil would be used to determine the price ceilings. In addition, the FECR, by Order No. 181, issued on October 6, 1981, in Docket No. RM81–28, established that price ceilings should be published for only the 48 contiguous States on a permanent basis.

A. Data Collected

The following data were required from all companies identified by the EIA as sellers of No. 6 high sulfur content (greater than 1 percent sulfur content by weight) residual fuel oil: For each selling price, the number of gallons sold to large industrial users in the months of August 1982, September 1982, and October

1982.[3] All reports of volume sold and price were identified by the State into which the oil was sold.

. B. Method Used To Determine Alternative Price Ceilings

(1) *Calculation of Volume-Weighted Average Price.* The prices which will become effective January 1, 1983, (shown in Section I) are based on the reported price of No. 6 high sulfur content residual fuel oil, for each of the 48 contiguous States, for each of the 3 months, August 1982, September 1982, and October 1982. Reported prices for sales in August 1982 were adjusted by the percent change in the nationwide volume-weighted average price from August 1982 to October 1982. Prices for September 1982 were similarly adjusted by the percent change in the nationwide volume-weighted average price from September 1982 to October 1982. The volume-weighted 3-month average of the adjusted August 1982 and September 1982, and the reported October 1982 prices were then computed for each State.

(2) *Adjusted for Price Variation.* States were grouped into the regions identified by the FERC (see Section III.C.). Using the adjusted prices and associated volumes reported in a region during the 3-month period, the volume-weighted standard deviation of prices was calculated for each region. The volume-weighted 3-month average price (as calculated in Section III.B.(1) above) for each State was adjusted downward by two times this standard deviation for the region to form the adjusted weighted average price for the State.

(3) *Calculation of Ceiling Price.* The lowest selling price within the State was determined for each month of the 3-month period (after adjusting up or down by the percent change in oil prices at the national level as discussed in Section III.B.(1) above). The products of the adjusted low price for each month times the State's total reported sales volume for each month were summed over the 3-month period for each State and divided by the State's total sales volume during the 3 months to determine the State's average low price. The adjusted weighted average price (as calculated in Section III.B.(2)) was compared to this average low price, and the higher of the values was selected as the base for determining the alternative fuel price ceiling for each State. For those States which had no reported sales during one or more months of the 3-month period, the appropriate regional volume-weighted alternative fuel price was computed and used in combination with the available State data to calculate the State's alternative fuel price ceiling base. The State's alternative fuel price ceiling base was compared to the alternative fuel price ceiling base for the multistate region in which the State is located and the lower of these two prices was selected as the final alternative fuel price ceiling base for the State. The appropriate lag adjustment factor (as discussed in Section III.B.4) was then applied to the alternative fuel price ceiling base. The alternative fule price (expressed in dollars per gallon) was multiplied by 42 and divided by 6.3 to estimate the alternative fuel price ceiling for the State (expressed in dollars per million BTU's).

There were no reported sales in Region G for the months of August, September, and October 1982. The alternative fuel price ceilings for the States in Reigon G were determined by calculating the volume-weighted average price ceilings for Region E, Region F, and Region H.

(4) *Lag Adjustment.* The EIA has implemented a procedure to partially compensate for the two-month lag between the end of the month for which data are collected and the beginning of the month for which ceiling prices become effective. It was determined that *Platt's Oilgram Price Report* publication provides timely information relative to the subject. The prices found in *Platt's Oilgram Price Report* publication are given for each trading day in the form of high and low prices for No. 6 residual oil in 21 cities thorughout the United States. The low posted prices for No. 6 residual oil in these cities were used to calculate a national and a regional lag adjustment factor. The national lag adjustment factor was obtained by calculating a weighted average price for No. 6 sulfur residual fuel oil for the ten trading days ending December 14, 1982, and dividing that price by the corresponding weighted average price computed from prices published by Platt's for the month of October 1982. A regional lag adjustment factor was similarly calculated for four regions. These are: one for FERC Regions A and B combined; one for FERC Region C; one for FERC Regions D, E, and G combined; and one for FERC Regions F and H combined. The lower of the national or regional lag factor was then applied to the alternative fuel price ceiling for each State in a given region as calculated in Section III.B.(3).

Listing of States by Region

States were grouped by the FERC to form eight distinct regions as follows:

Region A	*Region B*
Connecticut	Delaware
Maine	Maryland
Massachusetts	New Jersey
New Hampshire	New York
Rhode Island	Pennsylvania
Vermont	

Region C	*Region D*
Alabama	Illinois
Florida	Indiana
Georgia	Kentucky
Mississippi	Michigan
North Carolina	Ohio
South Carolina	West Virginia
Tennessee	Wisconsin
Virginia	

Region E	*Region F*
Iowa	Arkansas
Kansas	Louisiana
Missouri	New Mexico
Minnesota	Oklahoma
Nebraska	Texas
North Dakota	
South Dakota	

Region G	*Region H*
Colorado	Arizona
Idaho	California
Montana	Nevada
Utah	Oregon
Wyoming	Washington

Issued in Washington, D.C., December 17, 1982.

Albert H. Linden, Jr.,

Deputy Administrator, Energy Information Administration.

[FR Doc. 82-34608 Filed 12-17-82; 10:35 am]

BILLING CODE 6450-01-M

[3] Large Industrial User—A person/firm which purchases No. 6 fuel oil in quantities of 4,000 gallons or greater for cosumption in a business, including the space heating of the business premises. Electric utilities, governmental bodies (Federal, State, or Local), and the military are excluded.

ENVIRONMENTAL PROTECTION AGENCY

[OPRM-FRL 2270-2]

Agency Forms Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 3507(a)(2)(B) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.) requires the Agency to publish in the **Federal Register** a notice of proposed information collection requests that have been forwarded to the Office of Management and Budget (OMB) for review. The information collection requests listed are available to the public for review and comment.

FOR FURTHER INFORMATION CONTACT: David Bowers, Office of Standards and Regulations, Information Management Section, (PM-223), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, telephone (202) 382-2742 or FTS 382-2742.

SUPPLEMENTARY INFORMATION:

Solid Waste Programs

• Title: RCRA C Compliance Survey (EPA ID 0944).

Abstract: This is a study by EPA's Office of Policy Analysis of businesses and other nongovernmental institutions that generate hazardous wastes. It is a voluntary, one-time effort that will allow EPA to measure the level of regulatory compliance of the Resource Conservation Recovery Act (RCRA) Phase I hazardous waste program. The results will be used in formulating future RCRA programs.

Respondents: Business and other nongovernment institutions that generate hazardous wastes.

* * * * *

Agency Forms Cleared by OMB Between September 1 and November 15, 1982

—EPA ID 0076, NPDES Permittee Report of Extra Monitoring Data, was cleared on September 20 (OMB #2040–0007).

—EPA ID 0095, Precertification Exemption, Test Exemption, was cleared on October 7 (OMB #2060–0007).

—EPA ID 0097, Stage I Vapor Recovery Inspection Forms, was cleared on October 7 (OMB #2060–0008).

—EPA ID 0101, Vehicle Owners Manuals and Warranty Statements, was cleared on October 8 (OMB #2000–0167).

—EPA ID 0114, Motor Vehicle Tampering Survey, was cleared on October 7 (OMB #2060–0010).

—EPA ID 0115, Request for Testing Exemption, was cleared on October 7 (OMB #2060–0011).

—EPA ID 0163, TSCA Inspection Related Forms, was cleared on October 4 (OMB #2070–0007).

—EPA ID 0182, Unleaded Gasoline Field Inspection, was cleared on October 7 (OMB #2060–0009).

—EPA ID 0229, NDPES Discharge Monitoring Report, was cleared on September 15 (OMB #2040–0004).

—EPA ID 0234, Laboratory Performance Evaluation (Water Samples), was cleared on September 20 (OMB #2000–0044).

—EPA ID 0327, Development and Submission of State Contingency Plans, was cleared on October 8 (OMB #2050–0003).

—EPA ID 0368, Underground Injection Control Federal Reporting, was cleared on October 8 (OMB #2040–0002).

—EPA ID 0553, Exposure Assessment for Mobile Source Pollutants, was cleared on September 9 (OMB #2060–0003).

—EPA ID 0565, Environmental Assessment Data Systems, was cleared on October 7 (OMB #2000–0413).

—EPA ID 0686, Permit Application Requirement—All Major Modifications and Sources in Attainment Areas, was cleared on September 20 (OMB #2060–0003).

—EPA ID 0824, Ocean Dumping—Consolidated Report, was cleared on September 15 (OMB #2040–0008).

—EPA ID 0827, Construction Grants Consolidated Request, was cleared on November 15 (OMB #2040–0027).

—EPA ID 0844, Municipal Wastewater Treatment Facility Construction Grant State Project Priority Lists, was cleared on October 1 (OMB #2000–0414).

—EPA ID 0861, NPDES—Compliance Inspection Report Forms, was cleared on September 15 (OMB #2040–0003).

—EPA ID 0943, Cooperative Agreement with States for Removal, was cleared on October 13 (OMB #2050–0004).

—EPA ID 0976, Annual Reports by Hazardous Waste Management Facilities, was cleared on September 20 (OMB #2050–0005).

—EPA ID 1001, PCB Exemptions for Closed and Controlled Waste Manufacturing Processes, was cleared on October 13 (OMB #2070–0008).

—EPA ID 1007, Notice of Purges for New Coal Preparation Plants, was cleared on October 15 (OMB #2040–0026).

* * * * *

Comments on all parts of this notice should be sent to:

David Bowers, U.S. Environmental Protection Agency, Office of Standards and Regulations (PM–223), 401 M Street, SW., Washington, D.C. 20460, and

Anita Ducca, Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building (Room 3228), 726 Jackson Place, NW., Washington, D.C. 20503.

Dated: December 7, 1982.

C. Ronald Smith,

Director, Office of Standards and Regulations.

[FR Doc. 82–34158 Filed 12–17–82; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 82–814, File No. 20844–CD–P(3)–81 et al.]

Rogers L. Dennis d.b.a. Dennis Mobilfone, et al.; Order Designating Applications for Hearing

Adopted: December 7, 1982.

Released: December 16, 1982.

In re applications of Rogers L. Dennis d.b.a. Dennis Mobilfone, for a construction permit for a new station to operate on frequencies 454.100, 454.1750, 454.200, 454.2500, 454.275, and 454.300 MHz in the Domestic Public Land Mobile Radio Service (DPLMRS) at Abilene, Texas, CC Docket No. 82–814, File No. 20844–CD–P–(3)–81; for a construction permit for a new station for to operate on frequencies 454.025, 454.075 and 454.150 MHz in the DPLMRS at Trent, Texas, CC Docket No. 82–815, File No. 20847–CD–P–(3)–81; Mobile Phone of Texas, Inc., for a construction permit to add a new location for Station KKX709 to operate on frequencies 454.025, 454.075, 454.150 and 454.325 MHz in the DPLMRS at Abilene, Texas, CC Docket No. 82–816, File No. 21234–CD–P–(4)–81; for a construction permit to add a new location for Station KWT985 to operate on frequencies 454.100 and 454.200 MHz in the DPLMRS at Albany, Texas, CC Docket No. 82–817, File No. 21217–CD–P–(6)–81; for a construction permit to add a new location for Station KFL902 to operate on frequencies 454.225, 454.250 and 454.300 MHz for in the DPLMRS at Breckenridge, Texas, CC Docket No. 82–818, File No. 21582–CD–P–(3)–81; for a construction permit to add a new station to operate on frequencies 454.175 and 454.275 MHz in the DPLMRS at Coleman, Texas, CC Docket No. 82–819, File No. 21238–CD–P–(2)–82; for a construction permit to add a new station on frequencies 454.300 and 454.350 MHz in the DPLMRS at Hamlin, Texas, CC Docket No. 82–820, File No. 21236–CD–P–(2)–81; for a construction permit to add a new station on frequencies 454.175 and 454.275 MHz in the DPLMRS at Stamford, Texas, CC Docket No. 82–821, File No. 21237–CD–P–(2)–81; for a construction permit to add a new station to operate on frequencies 454.225 and 454.250 MHz in the DPLMRS at Winters, Texas, CC Docket No. 82–822, File No 21215–CD–P–(2)–81; and Wilbur, Inc. d.b.a. Western Communication Service for a construction permit to add a new location for Station KKG416 to operate on frequencies 454.225 and 454.300 MHz in the DPLMRS at San Angelo, Texas, CC Docket No. 82–823, File No. 21395–CD–P–(2)–81; designating applications for consolidated hearing on stated issues.

Adopted December 7, 1982.

Released December 16, 1982.

1. Presently before the Chief, Mobile Services Division, pursuant to delegated authority are the captioned applications of Western Communication Service (WCS), Rogers L. Dennis d.b.a. Dennis

Mobilfone (DM) and Mobile Phone of Texas, Inc. (MPT). In various combinations these applications are electrically mutually exclusive.[1] Therefore, a comparative hearing will be held to determine which application or applicants would better serve the public interest. Except to the extent indicated below, we find that WCS, DM and MPT are legally, technically and otherwise qualified to construct and operate the proposed facilities.

2. DM filed a Petition to Deny (PTD) MPT's applications at Abilene, Coleman, Hamlin and Stamford. Responsive pleadings have been filed. In its petition, DM alleges that all captioned MPT applications fail to comply with § 22.15(i)(2) of FCC Rules,[2] since they do not reflect the existence of other facilities in and around Abilene, or the application filed simultaneously for additional facilities in Merkel, Texas, some 15 miles from Abilene.[3] In its opposition, MPT states that its other facilities are all licensed as Mobile Phone of Texas, Inc., so that there is no question as to who the real party in interest is; that the other facilities are not in the same general geographic area; and that "simultaneous applications" (filed on the same day as the captioned application) are not "pending" applications. MPT also filed an amendment showing its existing call signs and locations.

3. Contrary to MPT's contention; § 22.15(i)(2) requires a DPLMRS applicant to identify all applications including simultaneously filed ones for facilities in the same geographic area. It is undisputed that Merkel and Abilene are nearby communities. We find therefore that MPT's proposed facilities are in the same general geographic area and that MPT was required to list those stations under § 22.15(i)(2). Since MPT has now provided the required information, we will not return MPT's application.

4. *DM Need Showing.* The DM Abilene application requests 3 channels each at location 1 and 2. Our staff has determined that the reliable service area contours of locations 1 and 2 overlap by over 50%. In accordance with Mobile Services Division (MSD) practice prior to and at the time of receipt of DM's application,[4] because of the 50% or greater overlap all six channels are considered as one trunk group. The application indicates that 178 two-way mobile units have indicated that they need and would subscribe to fully automatic radiotelephone service. Again, the practice of the MSD at the time of receipt of the captioned applications was to discount expressions of interest by 50%. This indicates a need for 89 units. Data sampled from loading studies submitted with DPLMRS applications indicate that, on the average, the busy-hour occupancy per two-way unit is about 0.9 minutes. The expected occupancy of the proposed facilities will be therefore $0.9 \times 89 = 80.1$ minutes. Occupied time is customarily converted to erlangs [5], for purposes of projecting expected channel blocking. Eighty point one (80.1) minutes equals 1.34 erlangs. From the Erlang C tables this figure would indicate a need for 3, not 6, channels, with 18% of calls blocked during the busy hour.[6] DM's Trent application shows expressions of interest from 132 mobile units, or 66 units after 50% discounting. The expected occupancy is therefore $66 \times 09 = 59.4$ minutes or 0.99 erlangs. This indicates a need for 2, not 3, channels, with 33% of the calls being blocked during the busy hour. In view of the foregoing, we will designate as an issue whether DM's Trent and Abilene applications have demonstrated a need for the three and six frequencies requested.

5. Accordingly, it is ordered, that the captioned applications of Rogers L. Dennis d.b.a. Dennis Mobilfone, File Nos. 20844–CD–P–(4)–81 and 20847–CD–P–(3)–81, Mobile Phone of Texas, Inc., File Nos. 21234–CD–P–(2)–81, 21217–CD–P–(6)–81, 21582–CD–P–(3)–81, 21238–CD–P–(2)–81, 21236–CD–P–(2)–81, 21237–CD–P–(2)–81, and 21215–CD–P–(2)–81, and Wilbur, Inc., d.b.a. Western Communication Service, File No. 21395–CD–P–(2)–81, are designated for hearing in a consolidated proceeding pursuant to Section 309(e) of the Communications Act of 1934, as amended, upon the following issues:

(a) To determine whether Rogers L. Dennis d.b.a. Dennis Mobilfone has demonstrated a need for more than 2 channels at Trent and more than 3 channels at Abilene.

(b) To determine on a comparative basis, the nature and extent of service proposed by each applicant, including the rates, charges, maintenance, personnel, practices, classifications, regulations, and facilities pertaining thereto;

(c) To determine on a comparative basis, the areas and populations that each applicant will serve within the prospective interference-free area within the 39 dBu contours,[7] based upon the standards set forth in § 22.504(a) of the Commission's Rules,[8] and to determine and compare the relative demand for the proposed services in said areas; and

(d) To determine, in light of the evidence adduced pursuant to the foregoing issues, what disposition of the referenced applications would best serve the public interest, convenience and necessity.

6. It is further ordered, that with respect to issue (a) the burden of proof and the burden of proceeding with the introduction of evidence is placed upon Rogers L. Dennis d/b/a Dennis Mobilfone and that with respect to issues (b), (c) and (d) the ultimate burden of proof is placed on each of the applicants as the issue affects them.

7. It is further ordered, that the hearing shall be held at a time and place and before an Administrative Law Judge to be specified in a subsequent Order.

---

[1] WCS's application for frequency 454.225 MHz is electrically mutually exclusive (MX'd) with the MPT application at Winters. WSC's application for frequency 454.300 MHz is MX'd with the DM application at Abilene. DM's application for 454.300 MHz at Abilene is MX'd with MPT applications at Hamlin and at Breckenridge. DM's application for 454.025, 454.75 and 454.150 MHz at Trent is MX'd with MPT's application at Abilene. DM's application for 454.100 and 454.200 MHz at Abilene is MX'd with MPT's application at Albany. DM's application for 454.174 and 454.275 MHz at Abilene is MX's with MPT's application at Stamford. DM's application for 454.250 MHz at Abilene is MX'd with MPT's application at Winters.

[2] Section 22.15(i)(2) reads in pertinent part: All applications for new or additional facilities shall identify any other pending applications in this service for new or additional facilities for the same general geographic area that applicant, or any principal thereof, may be a party to or have an interest in, either directly or indirectly.

[3] In File No. 21239–CD–P–2–81, MPT applied for authority to add frequencies 454.050 and 454.125 MHz to station KWH316.

[4] These practices were subsequently enunciated in Public Notice, Mimeo 002411, dated July 27, 1981.

[5] An erlang is the amount of traffic carried by one channel busy 100 percent of the time.

[6] MSD practice has been to withhold authorization of additional channels when the blocking ratio is less than 50%. This standard was adopted by the Commission on an interim basis in its Further Notice of Proposed Rulemaking, Docket No. 20870, 84 FCC 2d 857 (1981). The Erland C tables, used to determine the probability of blocking for a given number of channels and traffic load in erlangs, were made available to the public in a Public Notice, Mimeo No. 0411, dated December 31, 1980.

[7] For the purpose of this proceeding, the interference-free area is defined as the area within the 39 dBu contour as calculated from § 22.504, in which the ratio of desired-to-undesired signal is equal to or greater than R in FCC Report No. R–6404, equation 8.

[8] Section 22.504(a) of the Commission's Rules and Regulations describes a field strength contour of 39 decibels above one microvolt per meter as the limit of the reliable service area for base stations engaged in two-way communications service on frequencies in the 450 MHz band. Propagation data set forth in § 22.504(b) are the proper bases for establishing the location of service contours F(50,50) for the facilities involved in this proceeding. (The applicants should consult with the Bureau counsel with the goal of reaching joint technical exhibits.)

8. It is further ordered, that the Chief, Common Carrier Bureau, is made a party to the proceeding.

9. It is further ordered, that the applicants shall file written notices of appearances under § 1.221 of the Commission's Rules within 20 days of the release of this Order.

10. The Secretary shall cause a copy of this order to be published in the **Federal Register.**

William F. Adler,

Chief, Mobile Services Division, Common Carrier Bureau.

[FR Doc. 82-34350 Filed 12-17-82; 8:45 am]

BILLING CODE 6712-01-M

[File No. 26103-CL-P-(5)-82; et al.]

Advanced Mobile Phone Service, Inc., et al.; Designating Applications for Consolidated Hearing on Stated Issues

Memorandum Opinion and Order Granting Application and Designating Applications for Hearing

Adopted: December 8, 1982.

Released: December 14, 1982.

In re application of Advanced Mobile Phone Service, Inc., for a Construction Permit to establish a cellular system operating on frequency block B in the Domestic Public Cellular Radio Telecommunications Service to serve the Buffalo, New York, modified Standard Metropolitan Statistical Area; File No. 26103-CL-P-(5)-82.

In re Applications of Western Union Telegraph Company, Celcom Communications Corporation of Buffalo, and Cellular Mobile Corp., for a Construction Permit to establish a cellular system operating on frequency block A in the Domestic Public Cellular Radio Telecommunications Service to serve the Buffalo, New York, Modified Standard Metropolitan Statistical Area; CC Docket No. 82-824, File No. 26070-CL-P-(7)-82, File No. 26156-CL-P-(8)-82, and File No. 26167-CL-P-(8)-82.

1. Presently before the Chief, Common Carrier Bureau, under delegated authority, are the captioned applications, filed by Advanced Mobile Phone Service, Inc. (AMPS), Western Union Telegraph Company (WU), Celcom Communications Corporation of Buffalo (Celcom), and Cellular Mobile Corporation (CMC), for cellular radio systems to serve the Buffalo, New York,[1] Standard Metropolitan Statistical Area (SMSA). WU filed a Petition to Deny AMPS' application.[2] Each of the nonwireline applicants filed Petitions to Deny the other nonwireline applications. Responsive pleadings have been filed.

2. Because we find that the public interest would be served thereby, we are granting the AMPS application.[3] As discussed below, we find that the petitions fail to raise any substantial and material issues requiring designation for hearing. However, the CMC, Celcom and WU applications are electrically mutually exclusive, and accordingly, we are designating those applications for a comparative hearing in accordance with the Commission's Report and Order in CC Docket No. 79-318, 86 FCC 2d 469 (1981), *modified, Memorandum Opinion and Order on Reconsideration,* 89 FCC 2d 58 (1982), and *further modified, Memorandum Opinion and Order on Further Reconsideration,* 90 FCC 2d 571 (1982). We are also requiring that WU modify its application as set forth below.

AMPS Application

3. A petition to defer Commission action on the AMPS application was filed by CMC. We find that it is premature to rule on the petition at this time, for the reasons stated by the Commission in deferring action on identical petitions in the Chicago market. *See Memorandum Opinion and Order Granting Application and Designating Applications for Hearing (Chicago Order),* FCC 82-452, released November 1, 1982, at para. 16.

4. WU argues that AMPS has failed to supply an adequately detailed schedule of proposed charges in its response to item 41 of FCC Form 401 and that AMPS' response is deficient and evasive. WU further alleges that AMPS had the advantage of reviewing the rate structure of its future competitors before specifying its own rates and that AMPS' failure to project its schedule of proposed charges is anticompetitive. We find that Exhibit 8 of AMPS' application, which provides an estimated range of proposed rates, is sufficient to enable us to find that AMPS' proposal will be in the public interest. WU's allegation that AMPS' action is anticompetitive is without merit. To the extent that the allegation refers to the proposed rates, it is premature. These are proposed rates, and the actual rates to be charged by any licensed cellular carrier for the Buffalo market are, in the first instance, within the jurisdiction of New York State regulatory authorities, *NR Recording and Communications, Inc.,* 87 FCC 2d 469 (1981); *Commonwealth Telephone Company,* 61 FCC 2d 246 (1976). If, after AMPS' rates have been considered by the New York Public Service Commission, specific allegations are raised that those rates are anticompetitive, we will then consider the issue. *Id.* See also *Memorandum Opinion and Order on Reconsideration,* 89 FCC 2d 58 at para. 84.

5. WU also argues that AMPS' interconnection arrangements in Exhibit 18 of its application are too vague to allow a potential nonwireline competitor to design a compatible system in accordance with § 22.913(a)(9) of the Rules.[4] We find that this argument is also without merit. Exhibit 18 of AMPS' application and the documents made available by American Telephone and Telegraph Company and described in our May 19, 1982, *Public Notice,* "Cellular Radio System Interconnection Information," Mimeo 4146, provide sufficient information to satisfy Section 22.913(a)(9) at present. WU has not identified any specific deficiency in AMPS' interconnection showing that impairs the potential interconnection rights of WU or the other nonwireline applicants in Buffalo. *See* the Commission's *Report and Order, supra,* at paras. 53-57, and the *Reconsideration Order, supra,* at paras. 47-51.[5] Furthermore, as stated in its *Memorandum Opinion and Order on Further Reconsideration,* 90 FCC 2d 571 (1982), at para. 16, the Commission has not yet adopted a firm policy as to what form of interconnection may be reasonable in any particular situation. Rather, subject to the wireline carrier's duty to provide reasonable and technically suitable interconnection, the Commission has left the particular arrangements to be negotiated among the carriers involved and to be the subject of an intercarrier agreement. *Report and Order, supra,* at para. 56. In addition, many interconnection issues common to all prospective cellular

---

[1] As noted in the caption, AMPS, a wholly-owned subsidiary of the American Telephone and Telegraph Company (AT&T), is requesting the wireline allocation (frequency block B) and WU, Celcom, and CMC are requesting the non-wireline allocation (frequency block A) in the Buffalo Market.

[2] A petition to defer Commission action on the AMPS application was filed by CMC. *See* paragraph 3, *infra*

[3] Section 22.901 of our Rules requires that cellular service be provided by an AT&T affiliate only through a separate subsidiary. AMPS has demonstrated in its application that it has met this requirement. Our Rules also require that AMPS submit a cellular capitalization plan for Commission approval. AMPS did submit its plan on May 25, 1982. Our decision here is subject to, and conditioned on, action on the capitalization plan. *See* para. 18, *infra.* We recognize that further approval may be required when ownership in AMPS in Buffalo is changed pursuant to the impending AT&T reorganization.

[4] 47 CFR 22.913(a)(9).

[5] Other arguments raised here by WU regarding interconnection have been addressed in the above Commission decisions and will not be repeated here.

applicants and licensees are presently the subject of discussion among the cellular radio interconnection working groups.[6] Therefore, we conclude that AMPS has satisfied the requirements of our Rules with respect to interconnection.

Celcom Application

6. WU and CMC argue that Celcom has not provided reasonable assurance of the availability of its proposed transmitter sites and has not demonstrated its financial qualifications. WU also argues that Celcom's application does not conform with the Commission's cellular design concepts.

7. *Site availability.* Celcom has attached copies of its site agreements to its reply pleading which adequately demonstrate site availability. To the extent that ambiguity in the application itself prompted WU and CMC to raise objections, that ambiguity is now resolved, and we will not designate an issue based on site availability. *See Alabama Citizens for Responsive Public Television, Inc.*, 59 FCC 2d 1 (1976).

8. *Financial qualifications.* WU advances a number of objections to Celcom's financial qualifications. First, WU argues that Celcom failed to itemize the cost of construction for each cell, and that it failed to furnish a total figure for projected costs of constructing the Buffalo system in compliance with the standards for demonstrating financial qualifications. Second, WU argues that Celcom cannot rely on a letter of commitment for $8.2 million from the Michigan National Bank because the letter refers to the Michigan National Bank as the lead bank in a consortium of banks consisting of holding company affiliates of Michigan National Bank, Mellon Bank and Pittsburgh National Bank. Absent evidence of commitments by the latter two banks, WU alleges that the letter does not provide reasonable assurance of the availability of the loan. Third, WU asserts that Michigan National Bank cannot lend Associated Communications Corp. (Associated), Celcom's parent, and its other cellular subsidiaries $113.5 million because this amount exceeds the bank's lending limit to one customer under federal law. Fourth, WU argues that, since Associated's subsidiaries are relying on the financing package from Michigan National Bank for all of Associated's cellular commitments, Celcom will not have unimpaired or otherwise uncommitted funds of $8.2 million available in Buffalo. Fifth, WU alleges that the Michigan National Bank loan is contingent on collateral that already has been encumbered (Associated's agreement to hypothecate all of its shares of Telecommunications, Inc. common stock to the bank); thus, the loan cannot be relied on to support Celcom's financial capabilities. Sixth, WU alleges that Celcom cannot rely on its parent corporation for its financial showing because Associated is in a precarious financial condition, and it is questionable whether it can meet its own needs for capital. Finally, WU alleges that Celcom's high debt-to-equity ratio and the fact that it is deferring substantial repayments of loan principal beyond its first year of operation make its proposal deficient in that Celcom lacks sufficient funds to survive its second year of operation. Consequently, WU urges the Commission to look beyond one year. As for the second year of operations, WU contends that the failure of Celcom to conduct a viable need survey precludes it from relying upon projected revenues as a source of financing. CMC, in more abbreviated objections, alleges that Celcom has not adequately demonstrated its costs, and failed to demonstrate it has funds to meet these costs.

9. First, in its reply Celcom clarifies its construction costs and operating expenses for one year. Celcom's construction costs for Buffalo are estimated at $4,482,500; this figure is contained in Appendix A to Exhibit 5 of the affirmative case. Celcom also states that initial and operating expenses for the first of operations will total $2,805,727. This figure is contained in Appendix A to Exhibit 5 of the application.[7] Showings of estimated total construction costs and operating expenses for one year satisfy the requirements of our rules, and Celcom is not required to demonstrate the itemized costs for each cell.

10. Second, to finance its system Celcom relies on an $8.2 million loan from the Michigan National Bank. This loan is evidenced by a letter of commitment from the bank dated June 2, 1982, which states that this bank is the lead bank in a consortium of banks consisting of holding company affiliates of Michigan National Bank, Mellon Bank and Pittsburgh National Bank. The letter describes the terms and conditions of the loan, including security provisions, and provides for prior written notice to the FCC before any radio facilities may be repossessed. As additional collateral, Associated is to secure its guarantee by pledging all of its shares of Telecommunications Inc. common stock. Under applicable precedent this letter is acceptable as reasonable assurance that $8.2 million will be available to Celcom for its Buffalo system. *Multi-State Communications, Inc.* v. *FCC*, 59 F. 2d 1117 (D.C. Cir. 1978); *Chicago Order, supra, Merrimack Valley Broadcasting Inc.* 82 FCC 2d 166 (1980).

11. Third, there is a letter from Robert I. Hart, Vice-President, Michigan National Bank dated August 11, 1982, as Attachment F to Celcom's reply. This letter states that Michigan National Corporation may lend up to $42 million to a single borrower (Associated) by apportioning such loan among the bank's various subsidiaries and holding company affiliates of Michigan National Bank, Lansing. It is their intent so to apportion loans to Associated's cellular subsidiaries among Michigan National Bank, Lansing, and its holding company affiliates. In the reply Celcom asserts that the other members of the consortium, Mellon and Pittsburgh National and their holding company affiliates, will pick up the other shares. Thus the $113.5 million loan commitment does not exceed the consortium's lending authority.

12. We address the fourth, fifth and sixth points, which are interrelated, together. Attachment A to Celcom's reply consists of a letter from the Michigan National Bank dated July 30, 1982. The letter states that Michigan National Bank, Mellon Bank and Pittsburgh National are prepared to make all the loans to Associated's cellular subsidiaries, the combined amount of the loans totaling $113.5 million. The letter also states that Mellon and Pittsburgh Banks were

[6] *See* our Public Notices of May 20, 1982, Mimeo 4164, and August 4, 1982, Mimeo 5587, regarding these groups.

[7] Attachment A to Exhibit 5 of the application contained a projected income statement for the Buffalo system for four years after grant of construction permit ("this time period extends approximately one year beyond the completion of the construction of the the initial system"). Attachment B to this Exhibit contained a month by month breakdown of capital requirements for the four-year period, taking into account projected revenues, construction, and other initial and operating expenses. To facilitate review of the application, separate statements of construction costs and operating expenses such as Celcom provided in its reply are preferred. WU also alleges that Celcom's costs estimates are not reasonable. We find that WU and CMC have failed to raise any serious questions that have not been adequately explained by Celcom in its reply. The general allegation that one applicant's estimated costs are lower than another's is insufficient to warrant the addition of a financial issue in hearing. Moreover, Celcom's estimates do not appear unreasonable on their face. *E.g.*, Salem Broadcasting Co., Inc., 37 FCC 2d 115 (Rev. Bd. 1972), and Chicago Order, *supra*.

contacted and agreed to participate.[8] The letter goes on to state that the three banks were aware of: (a) Associated's existing revolving credit agreement with Mellon Bank effective October 29, 1981, (b) Associated's plans to increase the revolving credit amount and (c) Associated's agreement with Mellon Bank to apply the proceeds from any future sales of Telecommunications stock towards the payment of the outstanding balance on the revolving credit agreement. The letter also states that the banks believe that the loans are adequately secured by the commitments of Associated, including its pledge of Tele-Comm, Inc. stock. This pledge, or hypothecation, is not inconsistent with the revolving credit agreement, and the increase in the revolving credit agreement does not detract from the banks' willingness to lend to the Associated subsidiaries the specified amounts. Finally the letter states that all the banks are aware that Associated has filed other noncellular applications with the FCC; that Associated has reported operating losses in recent quarters; that Associated has received authority to purchase an additional radio common carrier business; and that these facts do not detract in any respect from the willingness of the banks to lend to Associated's subisdiaries the amounts specified.[9]

13. Finally, Celcom's application, Appendix D to Exhibit No. 5, contained a statement from Associated agreeing to guarantee the loan made to Celcom and if necessary to pledge its stock in TCI. It further stated that the bank is aware of Associated's similar undertakings in support of the applications of Celcom's sister subsidiaries for cellular mobile telephone systems in other markets. The letter stated that the bank has assured Associated that these undertakings will be sufficient to support all of the commitments it has made to finance each of these proposals. The exhibit also contained Associated's quarterly Securities and Exchange Commission Form 10–Q for the quarter ended March 31, 1982. Associated's net liquid assets pursuant to this report total about $2.8 million. See *Chicago Order, supra* at para. 8.

14. We find that Celcom has provided reasonable assurance that the loan will be available to it. We also find that the financial institutions have expressly acknowledged their awareness of Associated's organization and their satisfaction with the collateral provided. Given these circumstances, there is no basis to second guess the lending institutions' judgment, as WU would have us do, and we need not inquire further into the availability of the loans. In addition, we find Associated and its subsidiaries have demonstrated reasonable assurance of $113.5 million to finance their cellular commitments in the eight markets in which they have applied. To the extent that issues against Associated or any of its subsidiaries in other markets are similar to the ones raised here, these findings will control the disposition of those issues. Any financial issues relevant to specific markets will, of course, be resolved in subsequent orders. Accordingly, we find that no financial issues will be designated against Associated or any of its subsidiaries based on the availability of these loans.

15. Turning to WU's final point, WU asks us to inquire into whether Celcom can operate beyond one year based on a series of broadcast decisions beginning with *Ultravision Broadcasting Co., et al.*, 1 FCC 2d 544 (1965), *A–C Broadcasters, et. al.*, 10 FCC 2d 256 (1967); *Robert Cowan Wagner*, 38 FCC 2d 1187 (1973) and *Midwest St. Louis, Inc.*, 65 FCC 2d 673 (1977). In *Ultravision* the Commission adopted a requirement that applicants for commercial broadcast facilities demonstrate financial ability to operate for one year after completion of construction. In *A–C Broadcasters, et al., supra*, the Commission decided to inquire into an applicant's *second-year* financial qualifications where the applicant did not plan to begin making any repayments of principal and interest on its loans until the second year of operation. In *Midwest, supra*, the Commission said that the "presumption of financial survival after one-year's operation may be rebutted if an applicant's financial proposal is characterized by a high debt-to-equity ratio and deferrals of substantial debt payments outside the first year." *Id.* at 675.

16. The Commission requires cellular applicants to demonstrate financial ability to operate for one year. See 47 CFR 22.917. Celcom has satisfied this requirement. The Commission did not invoke *Ultravision* and its progency for its consideration of cellular applications. In addition, for the following reasons, we do not find it appropriate to inquire into whether an applicant will be able to operate beyond one year, in our consideration of cellular applications.

17. Ultravision and its progency were premised on a broadcast applicant's completing all construction of the station before service could begin. Cellular licensees, in contrast, must complete construction within three years but may begin providing service when the system is partially complete. Thus, they may generate revenue from operations to offset capital costs and operating expenses even as construction progresses. They do not have to complete an expensive system and then try to sell air time or wait until advertising revenues begin to accrue, as do broadcasters. In this regard § 22.917 provides that applicants shall submit additional information (e.g., for the period of proposed construction plus one year operation, a statement of projected revenues and expenses). A forecast of operating revenues based on demand projections where (1) there will be only two systems per market rather than a multitude of entrenched competitors, and (2) there is a recognized pent-up demand for service, clearly distinguishes the cellular service from the cited broadcast cases' underlying rationale.

18. The cellular environment is so different from the broadcast environment that the Commission's concerns about thin capitalization and high debt-to-equity ratios are not particularly relevant here. Given the number of nonwireline applicants in most markets, the high cost of cellular systems, and the competitiveness of the licensing process, if not the marketplace, we could not reasonably apply the same debt-to-equity ratios and other financing standards that were applied in broadcast license cases years ago. Moreover, the Commission has abandoned the *Ultravision* test. *See* Financial Qualifications Standard for Aural Broadcasting Applicants, 69 FCC 2d 407 (1978), and New Financial Qualifications Standard for Broadcast Television Applicants, 72 FCC 2d 784 (1981). In the Public Notice for Aural Broadcast Applicants the Commission stated: "we have been unable to

---

[8] Associated subsidiaries referred to above are: Celcom Communications Corp. of Georgia, $8.5 million; Celcom Communications Corp. of Pennsylvania, $15.6 million; California Celcom Communications Corp., $15 million; Celcom Communications Corp. of Pittsburgh, $14.5 million; Celcom Communications Corp., $23.4 million (NY); Celcom of Florida, $9 million; and Celcom of Michigan, $18.3 million, including the $8.2 million for Buffalo. All of these loans were evidenced by a letter of commitment from the bank for each individual market.

[9] On September 13, 1982 Associated's President submitted a letter under § 1.65 of the Rules which states that the October 29, 1981, revolving credit agreement was terminated on August 26, 1982, and Associated has entered into a new revolving credit agreement secured by an interest in the stock of Associated subsidiaries which are FCC licenses of certain radio stations and a security interest in the stock of another subsidiary, Associated American Artists, Inc. In addition, the amounts advanced under the agreement are not to exceed 50 percent of the market value of TCI stock owned by Associated.

conclude that the failure rate of AM or FM radio stations has been substantially affected by Ultravision." *See also, Merrimack Valley Broadcasting, Inc.*, 82 FCC 2d 166 (1980), where the Commission stated that there is no longer a place for our traditional second year financial issue.

19. We conclude that Celcom has adequately demonstrated its financial qualifications to construct its proposed system and operate it for one year as required by § 22.917 of the Rules.[10]

20. *Cellular design concept.* WU argues that Celcom's alleged failure to furnish a statistically valid need survey raises serious questions about the validity of its cellular system design and its projected method of expansion, rendering the application deficient under Rules § 22.913(a) (4) and (5).[11] Our rules do not require submission of a need survey. Celcom has submitted exhibits describing its system design and expansion plans which meet our requirements. System design and proposed system expansion are issues to be examined in the comparative portion of this proceeding. *Report and Order, supra,* at 502–03. Accordingly, we decline to designate a basic qualifying issue with respect to this matter.

WU Application

21. Celcom argues that WU's application must be dismissed because its proposed cellular Geographic Service Area (CGSA) extends into the Rochester, New York, SMSA, which is a central SMSA, in violation of Rules § 22.903(a).[12] CMC claims that WU has failed to demonstrate site availability[13] and has improperly proposed to provide cellular mobile equipment to customers under tariff.

22. *Extension of CGSA.* WU's proposed Cellular Geographic Service Area (CGSA) for Cell Site F (Lockport) extends into the central Rochester SMSA.[14] Pursuant to Rule 22.903(a), a CGSA may not extend into another central SMSA. In the *Chicago Order, supra,* the Commission allowed an applicant to cure this defect with a conforming amendment. Therefore, we will require here that WU file a conforming amendment to bring the nonconforming CGSA and 39 dBu contour for Cell F (Lockport) into compliance with the rules. the amended 39 dBu contour and CGSA shall not cover any area in the SMSA not previously covered by the nonconforming 39 dBu contour. This amendment should consider the effects, if any, that this change may have on other parts of the application. Due to this circumstance, brief extensions of time may be granted at the discretion of the administrative law judge.

23. *Tariff Issue.* CMC's argument that WU improperly proposes to provide mobile equipment under tariff is without merit. In its reply, WU states that the schedule of equipment charges, which was attached to its model tariff, was not intended to be part of the tariff. Further, WU unequivocably states that it has no intention to offer mobile equipment under tariff.[15] Accordingly, we find nothing improper in WU's listing cellular mobile equipment charges in its application.

CMC Application

24. *Financial qualifications.* Celcom and WU argue that CMC has not demonstrated its financial qualifications to construct and operate its proposed system. We find this argument to be without merit. Graphic Scanning Corp. (Graphic), CMC's parent company, has committed itself to fund $5,300,000 for the Buffalo CMC Cellular system. The Graphic commitment letter covers the projected costs of construction and operation for one year and specifically states that none of these funds have been committed to other cellular system applications or to other projects.[16] We find that this satisfies the requirement of Rules § 22.917(b) that resources used to demonstrate financial ability regarding one cellular system may not include funds committed elsewhere. In the *Chicago Order,* FCC 82–452, the Commission found that Graphic and its cellular subsidiaries have provided reasonable assurance that they will have sufficient funds available to cover construction of 30 cellular systems in the top 30 markets. The Commission further concluded that no financial issues should be designate for hearing against any Graphic subsidiary based on the ability of Graphic to finance the construction and operation for one year of 30 cellular systems. Those findings control the disposition of the arguments here.

25. We have also considered the other objections made against CMC's application and we find that they raise no substantial issues. These allegations involve (a) site availability, which we find CMC has adequately demonstrated; (b) lack of technical qualifications or ineptness in preparing the application, which either fail to raise a substantial issue[17] or (with respect to the technical proposals) will be examined in the comparative portion of this proceeding; and (c) character allegations against Graphic, which will be examined as stated at note 21 and para. 35, *infra.*

Conclusions

26. Based on our analysis of the applications and our resolution of the contested issues in this order, we find the applicants to be legally, technically, financially and otherwise qualified to construct and operate their proposed cellular systems. As indicated in our previous discussions, the captioned WU application does not comply with one of the cellular rules. In the *Chicago Order,* at para. 17, the Commission determined that inflexible application of the rules to applications in the 30 largest markets would not be in the public interest. Accordingly, we are requiring WU to bring its application into conformance with the rules as specified in this order. We emphasize that the amendment ordered here may not be used to give WU a comparative advantage in the hearing proceeding. As the Commission stated in the *Chicago Order,* in markets for which applications have not yet been filed, strict conformance with the rules will be required, and absent unusual circumstances, the applicants will not be allowed to amend nonconforming applications. We further find that the grant of the AMPS application as

[10] Assuming, *arguendo,* that we followed the broadcast cases as urged by WU, we would not have designated a second year financial issue against Celcom. This is not a case where the applicant established its financial qualifications only because it deferred fixed charges; Celcom did not defer substantial debt payments outside the first year, and it's estimates show it would be paying interest on its loan and all other fixed costs in its first year of operations.

[11] 47 CFR 22.913(a)(4)(5).

[12] 47CFR 22.903(a).

[13] Like Celcom, *see* para. 7, *supra,* WU adequately answered all questions about site availability in its reply pleading. Accordingly, we will not address this objection further.

[14] *See* Public Notice, "Cellular Application Filing Procedures,:: Mimeo 2973, March 24, 1982, Mimeo 567, November 1, 1982.

[15] The Commission has prohibited tariffing of cellular mobile equipment as part of a common carrier communication service. *See* Reconsideration Order, *supra,* at para. 59.

[16] WU also filed a Motion to strike two letters attached to CMC's reply pleading concerning CMC's financial showing. The information submitted was appropriate for responding to the Petitions to Deny the application and will not prejudice any other party. Both letters merely clarified letters submitted in the application. Accordingly, the Motion to Strike is denied.

[17] One technical point raised by WU was the identification of CMC's proposed control point location in the engineering exhibits attached to CMC's FCC Form 401. The control point was not identified directly in response to items 10 and 11 of the Form 401. While CMC's engineering exhibits do demonstrate that CMC has selected a control point location, applicants are expected to complete items 10 and 11, instead of cross-referencing the engineering exhibits, to facilitate review of the application.

conditioned below, will serve the public interest, convenience and necessity.

27. Accordingly, it is ordered that the application of Advanced Mobile Phone Service, Inc., File No. 26103–CL–P–(5)–82, IS GRANTED, conditioned upon the Commission's action on the AT&T Cellular Capitalization Plan submitted on May 25, 1982, as provided by § 22.901(d)(3) of the Commission's Rules.[18]

28. It is further ordered, pursuant to Section 309 of the Communications Act of 1934, as amended, that the applications of Western Union Telegraph Company, file No. 26070–CL–P–(7)–82, Celcom communications corporation of Buffalo, file No. 26156–CL–P–(8)–82, and Cellular Mobile Corp., file No. 26167–CL–P–(8)–82, are designated for hearing in a consolidated proceeding upon the following issues:[19]

(a) to determine on a comparative basis the geographic area and population that each applicant proposes to serve;[20] to determine and compare the relative demand for the services proposed in said areas; and to determine and compare the ability of each applicant's cellular system to accomodate the anticipated demand for both local and roamer service;

(b) To determine on a comparative basis each applicant's proposal for expanding its system capacity in a coordinated manner within its proposed CGSA in order to meet anticipated increasing demand for local and roamer service; [21]

(c) To determine on a comparative basis the nature and extent of the service proposed by each applicant, including each applicant's proposed rates, charges, maintenance, personnel, practices, classifications, regulations and facilities (including switching capabilities); [22] and

(d) To determine, in light of the evidence adduced under the foregoing issues, what disposition of the referenced applications would best serve the public interest, convenience and necessity.

29. It is further ordered that the Separated Trial Staff (the Hearing Division and other individuals specifically designated) of the Common Carrier Bureau is made a party to the proceeding.[23]

30. It is further ordered, that the applicants shall file written notices of appearances under §22.916(b)(3) of the Commission's Rules within 10 days after publication of this order in the **Federal Register.**

31. It is further ordered, that the hearing shall be held according to the procedures specified in §22.916 of the Rules, except as otherwise noted herein, at a time and place and before an Administrative Law Judge to be specified in a later order.

32. It is further ordered, that exceptions to the initial decision of the Administrative Law Judge under §1.276 of the Commission's Rules shall be taken directly to the Commission.

33. It is further ordered, that Western Union Telegraph Company is directed to file the conforming amendment specified in this order within 15 days after publication of this order in the **Federal Register** and that all applicants are directed to file rebuttal cases under §22.916(b)(4) of the Rules within 45 days rather than 30 days after publication of this order in the **Federal Register.**

34. It is further ordered that, the Petitions to Deny filed by Western Union Telegraph Company, Celcom Communications Corporation of Buffalo and Cellular Mobile Corporation and Western Union Telegraph Company's Motion to Strike are denied.

35. It is further ordered, that any authorization granted to CMC as a result of the comparative hearing shall be conditioned on, and without prejudice to, reexamination and reconsideration of that company's qualifications to hold a cellular license following a decision in the hearing designated in *A.S.D. Answering Service, Inc., et al.*, FCC 82–391, released August 24, 1982, and shall be specifically conditioned upon the outcome of that proceeding.

36. It is further ordered, that any authorization granted as a result of this proceeding shall be conditioned upon obtaining the appropriate antenna structure clearances and Canadian coordination where needed.

37. This Order is issued under §0.291 of the Commission's Rules and *Order Delegating Authority*, FCC 82–435, released October 6, 1982, and is effective on its release date. Petitions for reconsideration under Section 1.106 or applications for review under §1.115 of the Rules may be filed within the time limits specified in those sections. See also Rule 1.4(b)(2).

38. The Secretary shall cause a copy of this order to be published in the **Federal Register.**

Gary M. Epstein,

Chief, Common Carrier Bureau.

[FR Doc. 82–34349 Filed 12–17–82; 8:45 am]

BILLING CODE 6712–01–M

---

[18] The authorization also will be conditioned upon AMPS obtaining the appropriate antenna structure clearances. AMPS will not be authorized to render service to the public during service tests even after it files FCC Form 403 for a license to cover. Service to the public cannot commence until the covering license becomes effective. Equipment tests, however, may be conducted. AMPS' authorization (FCC form 403) will reflect these conditions.

[19] There are two issues that are not to be considered in the comparative hearing. The first is the financial qualifications of the applicants. Financial ability is a basic rather than a comparative qualification for cellular licensing. Cellular Communications Systems, 86 FCC2d 469, 501–02 (1981). We have found the applicants included in the comparative hearing to be financially qualified. The second issue not to be considered is the qualifications of Cellular Mobile corporation or its parent Graphic, to the extent that such qualifications may be affected by the issues included in the Commission' s order designating certain 35 and 43 MHz paging applications for hering. A.S.D. Answer Service, Inc., *et al. (ASD)*, FCC 82–391, released August 24, 1982. Those issues will be thoroughly reviewed in that separate proceeding and should not be reargued in the context of a cellular hearing. As set forth in para. 32, *infra*, the Commission reserves the right to reexamine and reconsider the qualifications of Cellular Mobile Corporation to hold a cellular license should *ASD* be resolved adversely to any of CMC's affiliate or parent companies or to any of their principals. *See Chicago Order*, at n. 19.

[20] For purposes of comparison, the geographic area that an applicant proposes to serve includes that area within the proposed 39 dBu contours which, in turn, falls within the proposed Cellular Geographic Service Area and the relevant Standard Metropolitan statistical Area. Consideration should be given to the presence of densely populated regions, highways and areas likely to have high mobile usage characteristics as well as indications of a substantial public need for the services proposed. *See* 86 FCC 2d at 502.

[21] In making this comparison, preference should be given to designs entailing efficent frequency use, including not only the applicant's plans with regard to cell-splitting and additional channels, but also the degree of frequency reuse the system will be capable of, and the applicant's ability to coordinate the use of channels with adjacent or nearby cellular systems. *See* 86 FCC 2d at 502-03.

[22] *See* 86 FCC 2d at 503 for a discussion of the relative importance of the evidence submitted under this issue.

[23] Members of the Separated Trial Staff are non-decision making personnel and they will not participate in decision making or agency review on an *ex parte* basis in this case, either directly or through contact with other Common Carrier Bureau personnel. Any investigative or prosecuting functions will be performed by the Separated Trial Staff in connection with its role as a party to the adjudication of these cellular radio applications. All other personnel of the Common Carrier Bureau, unless identified in a subsequent order as required to be separated, are designated as decision-making and they may advise the Commission as to the ultimate disposition of any appeal of an Initial Decision in this proceeding. *See* Communications Act of 1934 as amended section 409(c) (47 U.S.C. 409(c); Administrative Procedure Act section 554(d) (5 U.S.C. 554(d)); §1.1221 of the Commission Rules.

[FCC 82–542]

Prescription of Revised Percentages of Depreciation Pursuant to the Communications Act, as Amended, for Bell Telephone Co. of Nevada, et al.

AGENCY: Federal Communications Commission.

ACTION: Depreciation Rate Prescription Order.

SUMMARY: Pursuant to Section 4(i) and 220(b) of the Communications Act of 1934, as amended, 47 U.S.C. 4(i) and 220(b), Federal Communications Commission has ordered the Bell system operating companies to apply the percentages of depreciation which are set forth in Appendices 1 and 2 [1] of the Order. The nine Bell companies filed for revised depreciation rates for various accounts and submitted studies and data to substantiate their request. The intended effect of this action is to charge, as accurately as circumstances will allow, the cost of the consumption of depreciable assets to the periods in which the assets are useful in the production of revenues.

EFFECTIVE DATE: The Companies are to apply the depreciation rates as of the date or dates set forth in Appendices 1 and 2 of the Order. In no case is an effective date prior to January 1, 1982.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Kenneth P. Moran, Chief, Depreciation Rates Branch, (202) 634–1730.

SUPPLEMENTARY INFORMATION:

In the matter of the Prescription of Revised Percentages of Depreciation pursuant to Section 220(b) of the Communications Act of 1934, as amended for: Bell Telephone Company of Nevada, The Bell Telephone Company of Pennsylvania, Cincinnati Bell, Incorporated, The Diamond State Telephone Company, The Mountain States Telephone and Telegraph Company, New England Telephone and Telegraph Company, New Jersey Bell Telephone Company, Pacific Northwest Bell Telephone Company, The Pacific Telephone and Telegraph Company.

Order

Adopted: December 8, 1982.

Released: December 1, 1982.

I. Introduction

1. Section 220(b) of the Communications Act of 1934, as amended, 47 U.S.C. 220(b), states that the Commission shall, as soon as practicable, prescribe classes of property for which depreciation charges may be included in operating expenses and the percentages of depreciation which shall be charged to each of the classes. It also states that the Commission may, when it deems necessary, modify the classes and percentages so prescribed.

2. By this order we prescribe revised percentages of depreciation (depreciation rates) for the nine Bell Operating Telephone Companies (BOTC's) listed on page 1 using both the straight line vintage group remaining-life (remaining-life) and straight line equal life group (SLELG) methods.

II. Background

A. *Remaining-Life Method.* 3. Prior to 1981, we had only used the straight line vintage group whole-life (whole-life) depreciation method in prescribing depreciation rates for telephone companies' plant. Using this method, we had attempted to determine the appropriate depreciation accruals applicable to each year's operations using current estimates of life and net salvage. As estimates of life and net salvage changed over time, the whole-life rates were changed in accordance with these changes in estimates. However, using whole-life concepts, no attempt was made to adjust the rates to allow for reserve surpluses or deficits resulting from the cumulative over- or under-estimation of life and net salvage factors. This changed with our final decision in FCC Docket No. 20188, 83 FCC 2d 267 (1980), *reconsideration,* 87 FCC 2d 916 (1981), where we revised Part 31 of the Rules and Regulations, the "Uniform System of Accounts for Class A and B Telephone Companies," to allow the use of the remaining-life depreciation method. The remaining-life method is designed to distribute the unrecovered cost (original cost less the sum of the depreciation reserve and future net salvage) of a group of assets over its estimated average life expectancy; thus, this procedure includes an adjustment which allocates any reserve deficit or surplus over the estimated average remaining life.

4. As noted in Docket No. 20188, prior to 1981 the BOTC's did not maintain depreciation reserves by plant account, but rather as one overall reserve balance. Therefore, remaining-life rates could not be determined for the BOTC's until their overall depreciation reserves were allocated to the various plant accounts. In our Supplemental Opinion and Order in Docket No. 20188, 87 FCC 2d 1112 (1981), we concluded that the historical recordation of debits and credits is the method by which the accumulated depreciation reserve should be allocated to individual plant accounts and thereafter maintained. We stated that carriers should disaggregate the overall reserve and that henceforth each carrier should maintain depreciation reserves for each category of property for which we prescribe depreciation rates.

5. We directed the staff to phase in the implementation of remaining-life depreciation rates in conjunction with the normal triennial represcription cycle (see paragraph 11). Implementation began with the companies that were regularly schedules for review in 1981. Those companies submitted studies requesting revised depreciation rates using remaining-life method. After a complete review, we adopted remaining-life depreciation rates for those companies in January. *See* FCC 82–39, 88 FCC 2d 1223 (1982). Remaining-life rates for the carriers normally scheduled for review in 1982 (see the list on page 1 of this order) were reviewed in detail this year. Our findings and conclusions regarding these rates are discussed beginning in paragraph 27.

B. *Straight Line Equal Life Group Method.* 6. In Docket No. 20188, we also amended our rules to permit the use of the SLELG depreciation method for new additions to plant as an alternative to the straight line vintage group (SLVG) method, provided that adequate data is available for the proper application of the method.

7. The primary differences between the SLELG and SLVG methods lie in the definition of the basic depreciation groups and in the approach each takes in spreading the original cost of assets comprising the basic groups over their estimated average service lives. While SLVG forms its basic groups by combining all units placed in one year (i.e., a vintage group), SLELG creates its basic groups by combining all units within each vintage group which share an equal life expectancy (i.e., an equal life group). While the SLVG method is designed to depreciate 100% of the original cost of a vintage, on average, over the life cycle of each vintage, the SLELG method is designed to depreciate 100% of the original cost of each plant unit over its life. As a consequence, if projections are accurate, the SLELG method should allow for depreciation at a rate more representative of the actual consumption of units of property than SLVG. We concluded in Docket No. 20188 that the proper application and monitoring of this method would not only enhance the carriers' cash flow and present to all interested parties a more accurate and objective financial picture of the carriers' operations and capital requirements, but would also benefit their customers by encouraging innovation and the introduction of new technology.

8. Under both the SLVG and SLELG methods, retirement projections, service life estimates, and depreciation rates are normally determined, in part, through

[1] Appendices 1 and 2 are filed as a part of the original document.

the use of survivor curves. These survivor curves define the relationship between the age of plant investment and the relative percentage expected to remain in service. Under the SLELG methodology, the survivor curves assume an added significance—that of defining the basic (equal life) groups. Under the SLVG method, most surviror curves have been selected only after the staff has completed detailed statistical analysis of historical retirement data. With the added significance of the survivor curves in the SLELG method, the availability and analysis of historical retirement data become even more important.

9. We recognized the importance of adequate data in Docket No. 20188 where we found that the SLELG method is acceptable, provided that:

> * * * It is assured that adequate data is available for proper application of the method; that record keeping and reporting practices will enable monitoring of the reasonableness of the rate of allocation of both original cost and provisions for salvage and removal; that such allocation of original cost will achieve allocation over the service life of the property neither more nor less than 100% of the investment net of salvage value.

Accordingly, we directed the staff to take such measures as may be necessary to insure the measurability and accountability of the results under the SLELG method.

10. We further directed the staff to phase in the implementation of SLELG depreciation rates beginning with the outside plant accounts, followed by the central office equipment accounts, and concluding with all other plant accounts. In accordance with this directive, the staff reviewed SLELG rates for the outside plant accounts for four GTE companies last year, and in January of this year we adopted SLELG rates for new additions to most of the outside plant accounts for those carriers. *See* FCC 82–53, 88 FCC 2d 1567 (1982). In addition, SLELG rate proposals were reviewed for the outside plant accounts for most of the remaining companies not scheduled to undergo a complete review of depreciation rates in 1982. As a result of that review, we adopted SLELG rates for most of the outside plant accounts for those companies in July. *See* FCC 82–353, 90 FCC 2d 964 (1982) and FCC 82–354, 90 FCC 2d 997 (1982). SLELG rates for the central office equipment and outside plant accounts of the carriers listed on page 1 of this order were also reviewed in detail this year. Our findings and conclusions regarding these rates are discussed below beginning in paragraph 28.

C. *Companies Scheduled for Review During 1982.*

11. Since the late 1940's, the Commission has reviewed and prescribed the depreciation rates of approximately one-third of the larger FCC-subject telephone companies each year. In most cases we have prescribed rates for a carrier only after the following actions have been completed:

(1) Submittal of depreciation studies by the carrier.

(2) Staff review of the carrier's filings and studies in support of its proposed life and salvage factors.

(3) Independent staff analysis of such information as the carrier's plant mortality data and equipment retirement plans.

(4) Preparation of preliminary staff recommendations.

(5) Discussion of the carrier's filings and the preliminary Commission staff proposals at a conference in which representatives of the carrier and the staffs of the respective state commissions and the FCC participate (i.e., a three-way meeting).

12. In conjunction with the normal triennial represcription cycle, the nine companies whose rates are under consideration here submitted studies proposing new depreciation rates based upon revised life and salvage estimates, using the remaining-life method for all plant accounts and the SLELG method for new additions to the outside plant and central office equipment accounts. These studies were reviewed in detail by the staff, which then prepared its own preliminary life, net salvage, and rate proposals and forwarded them to the companies and the respective state commissions. Some of the state commissions prepared similar studies and recommendations. Three-way meetings were held at which the life, net salvage, and rate proposals of all three parties were thoroughly discussed.

13. Because this was the first time SLELG rates were being proposed for the central office equipment accounts, considerable analysis was required. As a result, in certain instances, the staff was unable to submit its SLELG recommendations prior to the three-way meeting. After completing its analysis and arriving at recommendations, the staff, on October 4, 1982, issued a public notice (Report No. 2967)[2] entitled, "Depreciation Rate Prescriptions Proposed For Domestic Telephone Companies." This public notice summarized the FCC staff's proposals for new or revised depreciation rates and the change in depreciation expense that would result if those proposed depreciation rates were approved. On October 5, 1982, the staff transmitted to each company and respective state commission a copy of the October 4 public notice, schedules containing the proposed remaining-life and SLELG rates, and a discussion of the staff analysis underlying the proposed SLELG depreciation rates. After further analysis and discussion (primarily through telephone conversations and correspondence) the staff revised its SLELG proposals for certain of the central office equipment accounts. In an October 19, 1982 letter to the companies and the respective state commissions, the staff discussed these changes and the underlying reasons for the changes.

14. For most of the companies under review, agreements regarding the life, and net salvage estimates were reached between our staff, the companies, and the respective state commission staffs. There were a few instances in which three-way agreement was not reached and those instances are discussed below, beginning in paragraph 27.

III. Summary of Comments

15. Comments in response to the October 4 public notice were received from the state regulatory commissions of California, Maine, New Mexico, Oregon, Washington and Wyoming. American Telephone and Telegraph Company (AT&T) filed comments on behalf of itself and the BOTC's. Pacific Northwest Bell (PNB) and Cincinnati Bell (CBI) filed separate comments.

16. All respondents who commented on effective dates supported the prescription of depreciation rates on the effective dates requested by the companies. AT&T noted that in the past the BOTC's usually opted for revised rates effective retroactively to the first of the year in which they had been filed. AT&T now believes that it has become necessary to allow for alternative effective dates, depending on the circumstances of each company, in order to provide a better opportunity for each company to match its revenues with its depreciation expenses. AT&T noted that the Commission has already recognized the need to allow depreciation rates effective at various times throughout the year of filing in its Order on Reconsideration in Docket No. 20188, *supra*. PNB, CBI, and the California Commission generally concurred with the AT&T opinion on effective dates. CBI noted that it believes the choice of effective date is its own under § 43.43(e) of our rules. It also commented that if a January 1, 1982, retroactive effective date were adopted, CBI would have to charge an extra five

[2] The public notice was erroneously dated October 1, 1982; however, October 4, 1982 is the correct issue date.

months of depreciation expense against its 1982 operations. CBI further stated that it had not budgeted for this extra expense and has no possibility of matching this expense with actual revenues approved by the state commissions. PNB commented along the same lines emphasizing the need to prevent a substantial mismatch of revenues and depreciation expense. The California Commission stated that it was concerned that the FCC's adoption of retroactive effective dates could have an adverse impact on Pacific Telephone & Telegraph's (PT&T's) earnings level, equity value, and bond rating and that it would not be in the interest of either the company or the ratepayer. California stated that, if the proposed changes in depreciation expense were approved retroactively, PT&T would show a large, unrecovered depreciation expense with no corresponding revenues until new revenue rates were approved by California in 1983. California commented that it has, in the past, allowed concurrent booking of depreciation rate changes and the resulting revenue rate changes. The Oregon Commission recommended the approval of the effective dates proposed by PNB.

17. The proposed use of the remaining-life and SLELG depreciation methods was questioned in comments from the Maine, New Mexico and Wyoming commissions. These commissions asserted that it is their right to rule on the use of these methods for their intrastate jurisdictions. The California Commission noted that it supports the use of the remaining-life method, but that it objects to the use of the SLELG method because its adoption would increase subscriber rates and impose an added administrative burden. AT&T and the Oregon Commission supported the use of both the remaining-life and SLELG methods.

18. AT&T and PNB agreed with the FCC staff on most of the SLELG rates proposed; however, they disagreed with the FCC staff position that SLELG treatment should not be allowed for the COE-Step-by-Step and COE-Crossbar accounts on the grounds that they are "dying" accounts that will be almost fully retired within a few years. AT&T stated that, although these are "dying" accounts, investment of significant size will be added to these accounts over the next several years and that remaining-life rates would provide first year accruals of only one-half those provided by SLELG rates. AT&T also asserted that its detailed retirement plans for these accounts provide a sound basis on which to determine SLELG depreciation rates. Additionally, it stated that the FCC, in approving the SLELG method, left room for judgment as to what constitutes adequate data, and that in the exercise of this judgment weight should be given to the Commission's decision that SLELG is a preferred method. AT&T contended that the use of the SLELG method for "dying" accounts is important in that it helps prevent the deferral of capital recovery beyond the physical life of the property.

19. AT&T and PNB stated that it is appropriate to use SLELG rates for accounts, such as aerial wire, in which aged retirements are not maintained by most carriers. They stated that failure to do so would be tantamount to continuing to tolerate the infirmities of SLVG. They further stated that the records currently maintained by the BOTC's are adequate to support SLELG depreciation rates for these accounts.

20. AT&T, PNB, and the Oregon and Washington commissions stated that PNB's proposed depreciation rates for the COE-Electronic account are appropriate. AT&T and PNB stated that the life estimates for the COE-Electronic account were developed using the life cycle approach and were supported by PNB's planning engineers. They argued that the Commission should prescribe the rates proposed by PNB and not rely on "narrow, technical" factors to reject this company-specific estimate in favor of the FCC staff's proposal.

IV. Discussion of Issues

A. *Effective Dates.* 21. With few exceptions, prior to 1981, depreciation rates were prescribed retroactively to the beginning of the year in which they were filed. This appeared to be a reasonable practice inasmuch as the rates were based on depreciation studies as of that date (i.e., January 1). In 1981, with the initial implementation of the remaining-life and SLELG depreciation methods, many companies requested effective dates other than January 1, 1981. The companies maintained that, because of the controversy surrounding the Commission's approval of the new methods, it would be difficult to get approval of revenue rate increases from state commissions until the FCC had actually ordered new depreciation rates. The companies were also concerned that the states would not allow any retroactive revenue rates to match retroactive prescription of depreciation rates. After considering the regulatory and financial reporting aspects of this issue, we determined that, during this transitional period from whole-life to remaining-life and SLELG methods, we would allow the booking of the new rates on the various effective dates proposed by the companies. *See* FCC 82-39, *supra*.

22. This year the companies filed for effective dates ranging from January 1, 1982 to January 1, 1983. They argued that Section 43.43(e) of our rules and our Order on Reconsideration in Docket No. 20188, supra, allow—at the discretion of the company—the booking of new depreciation rates retroactively to a date no earlier than the first of the year in which they were filed. Section 43.43(e) of our rules states:

> Unless otherwise directed . . . proposed changes in depreciation rates shall be filed at least ninety (90) days prior to the last day of the month with respect to which the revised rates are first to be applied . . . and such rates *may be made retroactive* to a date not prior to the beginning of the year in which the filing is made. [Emphasis added.]

The companies also cited the Order on Reconsideration in Docket No. 20188, 87 FCC 2d 916 at paragraph 16, where we stated:

> * * * Retroactive application of the depreciation rates to the beginning of the year is permissive, not mandatory.

23. We maintain our belief that as a matter of sound accounting, depreciation rates should be applied on dates corresponding as closely as possible to the date of the underlying depreciation study. In Docket No. 20188, we determined that proper capital recovery is predicated, in large measure, upon the timely application of the correct depreciation rates. We also noted that, if inaccurate depreciation rates are applied, the resulting misstatement of operating expenses could harm present and potential investors and, ultimately, ratepayers by denying them and the regulators an accurate, objective financial picture of the companies' operations and capital requirements.

24. Nevertheless, we agree with the companies that, during this period of continuing transition to the new methods, retroactive booking of depreciation rates would create uncertainties which, contrary to our intent, may deny some companies a reasonable opportunity to achieve capital recovery. The use of these new methods has resulted in both significant depreciation expense changes and in the requirement for additional company studies to support prescriptions. There has also been resistance on the part of some states to accept remaining-life and SLELG rates at all, and there may be a concomitant reluctance by certain state commissions to grant intrastate revenue rate increases until we actually

prescribe depreciation rates using the new methods. We shall, therefore, accept the effective dates as filed by the companies.

B. *Use of SLELG.* 25. In our decision in Docket No. 20188 we considered the arguments expressed by the parties for and against the use of the SLELG method and determined that, provided adequate data is available, the use of SLELG rates is appropriate. In the discussion in the Final Report and Order we found that the use of SLELG comports with the mandate of Section 1 of the Communications Act, "to make available . . . a rapid, efficient, nation-wide, and world-wide wire and radio communication service with adequate facilities at reasonable charges . . ." 47 U.S.C. § 151. We reaffirmed our decision allowing the use of SLELG in the Order on Reconsideration as well as in three prescription orders approved this year (i.e., FCC Nos. 82–53, 82–353, and 82–354). Nevertheless, several states have again questioned whether the use of SLELG rates is warranted. Inasmuch as these states have not raised any new arguments or evidence regarding the use of SLELG rates, we have no basis to reverse our decision on this matter. Our rules, as amended in Docket No. 20188, clearly allow the use of SLELG for accounts in which adequate data is available to properly apply and monitor it. Therefore, we will allow its use.

C. *Preemption of States.* 26. Several state commissions stated that they have not approved remaining-life and SLELG procedures for their jurisdictions. The presence or absence of state commission approval of remaining-life and SLELG rates does not control the prescription of remaining-life or SLELG rates in this order. The prescription of depreciation rates is plainly a matter within the Commission's jurisdiction under Section 220(b) of the Communications Act. We do not decide in this order the effect of our prescribing these rates for intrastate ratemaking purposes. Rather, the preemptive effect of this Commission's accounting and/or depreciation determinations is before us in a separate proceeding initiated by a further *Petition for Reconsideration* filed by AT&T in Docket No. CC 79–105, 85 FCC 2d 818 (1981), *recon.*, 89 FCC 2d 1094 (1982), and a *Petition for Declaratory Ruling* filed by the General Telephone Company of Ohio.

D. *Life and Net Salvage Factors.* 27. Three-way agreement at the staff level (i.e., the staffs of the FCC, the companies, and the state commissions) as to life and salvage factors was reached in nearly all accounts and jurisdictions, with the following exceptions: Mountain Bell in Wyoming for COE-Crossbar, New England Telephone in Maine for various central office equipment, terminal equipment and outside plant accounts, and Pacific Northwest Bell in Idaho, Oregon, and Washington for COE-Electronic. After the three-way meetings, the companies filed for revised depreciation rates proposing their own recommendations where three-way agreement was not reached. The October 4, 1982, public notice on which comments were requested, reflected the FCC staff's proposals for these accounts. In certain instances the company and FCC staff positions were identical.

28. At the three-way meeting and in subsequent correspondence, the Wyoming Commission voiced its objections to the COE-Crossbar depreciation rate proposed by Mountain Bell. It stated that it is not economically sound to dispose of modern equipment (i.e., crossbar) that is providing adequate service. On the other hand, Mountain Bell has analyzed its central offices and determined an equipment modernization program that it believes will minimize overall revenue requirements to its customers. The FCC staff reviewed the company's proposed retirement program for Wyoming and found that it was not unusual or accelerated compared with other jurisdictions. In fact, retirements in Wyoming are planned at a slower rate than in most jurisdictions. We do not decide here whether the company's retirement program is sound or otherwise in the public interest. This issue is a matter which can be resolved in state and Federal rate proceedings when the carrier seeks to recover its depreciation expenses. Our purpose here, in the depreciation process, is to forecast if Mountain Bell's retirement program is attainable and if it is likely to be carried out. In other words, the effort here is to estimate the life and salvage characteristics and not to decide upon the propriety of company policy. The retirement program in Wyoming is more conservative than retirement programs for most BOTC jurisdictions; as a result, we believe it is not unreasonable to expect that the program will be carried out. Consequently, we agree with the carrier's filing in this instance.

29. At the three-way conference the Maine Commission expressed its concern that New England Telephone and Telegraph Company's (NET's) proposed life estimates for many accounts were too short. Maine stated that NET's planned crossbar retirements were not considered to be in the best interests of the rate-paying public. NET disagreed. It stated that replacing crossbar switching offices with electronic switching offices is in the best interest of both the company and its customers. Among the reasons NET offered in support of crossbar replacement are projected savings in maintenance expense and floor space requirements and benefits derived from increased revenues from new vertical services. Again, we do not decide here whether the company's crossbar replacement program is in the public interest, but rather, if the program is attainable and is likely to be carried out. Staff analysis shows that, to date, the COE-Crossbar retirements forecast by NET have been on target. Furthermore, NET's overall retirement program is somewhat conservative in comparison with other jurisdictions. As a result, at this time we have very little reason to doubt that the replacement of COE-Crossbar will take place in accordance with the timetable described by the company. We, therefore, believe that NET's life estimates for COE-Crossbar are credible.

30. The Maine Commission also stated that lives proposed by NET for several terminal equipment accounts were also too short. Maine stated that life indications for the Telephone and Miscellaneous account remained high despite competition. The company stated its belief that changes in customer demand, equipment obsolescence, competition and regulation will cause an acceleration of retirements in the future, thus causing life indications to decline. We agree with the Maine Commission that an increase in life over that underlying the currently prescribed rate is justified. However, NET has proposed an increase in life of over two years. We believe that, in the next several years, the factors cited by NET will likely pull the life indications down; therefore, the two year increase already proposed by the company appears to be believable. Our staff has found that recent PBX retirement levels in Maine support NET's life estimates for the PBX accounts. We, therefore, agree with the company's proposals in these accounts.

31. For several outside plant accounts, the Maine Commission stated that life indications are high and that there is no justification for the short lives proposed by NET. In contrast, NET argued that if it were to limit its long term plans to the use of its present copper cable plant, it would be unnecessarily limiting the services that it could provide its future customers. NET believes that technological improvements, competition and customer demand will

cause significant increases in retirements and decreases in lives of the outside plant facilities. We believe that, although life indications have not shown significant decreases yet, the deployment of fiber optic technology will likely impact the lives of the existing outside plant facilities. In addition, it is clear that the company has firm plans for implementing fiber optic cable routes which will likely increase retirements of the copper cable plant in the next few years. The staff also notes that the lives proposed for Maine are comparable to the lives which were agreed to for the other states in which NET operates. We, therefore, find the company's proposals in the attached appendices to be appropriate.

32. No agreement regarding the life estimate for COE-Electronic was reached at the three-way meeting for any of the three states in which PNB operates. The staff of the Idaho Commission stated that it believed PNB's life proposal for that state was unreasonably low. The FCC staff did not disagree with PNB's life proposal for Idaho, but found that its life proposals for Oregon and Washington were too low and were largely unsupported. Inasmuch as the investment in this account is the most modern, technologically advanced equipment available, PNB could not base its proposals on well-defined equipment replacement studies. Instead it based its proposals on product life cycle studies similar to those used by other BOTC's. The results of such studies for technologically advanced equipment (i.e., electronic switching equipment) are extremely questionable, because without knowing when a succeeding technology will be available—or even what that technology is likely to be—it is virtually impossible to define the timing of the product life cycle. Nevertheless, based upon such studies, PNB proposed reductions in equipment lives of 49% in Oregon and 45% in Washington, and, in both cases, it proposed lives several years shorter than those found to be appropriate in any other BOTC jurisdiction.

33. The staff reviewed PNB's studies in detail and became convinced that a significant reduction in life was appropriate; however, it could find no valid reason why PNB's lives should be expected to be shorter than those of all other BOTC's. In fact, a review of PNB's records indicates that, since the late 1960's, its rate of deployment of electronic switching has been virtually identical to that of the entire Bell System. Contrary to PNB's claim for Oregon and Washington, we believe that its lives should be comparable to those used by other BOTC's. We therefore agree with the lives proposed by the staff for Oregon and Washington. We note that PNB's proposal for Idaho is, in fact, in line with other BOTC jurisdictions and we agree with its proposal.

34. In FCC 82–353, 90 FCC 2d 964 (1982), we pointed out that, when there is a strong relationship between the age of retirements and net salvage, future net salvage estimates for embedded plant do not apply to future additions of plant. In the companies' most recent depreciation studies for the COE/Circuit and COE-Radio accounts, net salvage percentages and the age of retirements were demonstrated to be highly correlated. As a result, the future net salvage estimates used in determining the remaining-life rates for embedded plant are not appropriate for use in determining SLELG rates for new additions to plant. The staff analyzed these accounts and made the necessary adjustments to convert future net salvage factors originally derived for embedded plant to future net salvage factors for use with new additions to plant. The adjustments were provided to the carriers and state commissions in October, and no objections were raised. As a result, we support the staff's proposals for SLELG future net salvage percentages in these accounts.

E. *Accounts for which SLELG Rates are not Recommended.* 35. In our final decision in Docket No. 20188 we found that the SLELG method is acceptable if adequate data is available for the proper application of the method and if the carriers' record keeping practices will allow for the monitoring of the reasonableness of the rates. In each of the three SLELG prescription orders that we have approved to date (i.e., FCC No. 82–53,, 88 FCC 2d 1567 (1982), FCC No. 82–353, 90 FCC 2d 964 (1982) and FCC No. 82–354, 90 FCC 2d 997 (1982)), we concluded that aged retirement data is a minimum requirement for the proper application and monitoring of SLELG rates. In this proceeding AT&T and PNB commented that they believe SLELG rates should be allowed for all accounts regardless of whether aged retirement data is maintained. Neither AT&T nor PNB offered any new argument or evidence to support their contention. Thus, there is no basis on which to rescind the reporting requirements established in Docket No. 20188, and we conclude that it is inappropriate to prescribe SLELG rates for accounts in which vintage retirement data is not maintained.

36. The staff proposes that new additions to the COE-Step-by-Step and COE-Crossbar accounts not be depreciated using the SLELG method. They argue that it is impractical to determine reasonable future survivor curves for these additions because these accounts consist of classes of equipment which are being rapidly retired from service. The staff proposes that new additions, as well as embedded plant, in these accounts be depreciated using the remaining-life method, and asserts that the remaining-life method will assure timely and complete recovery of capital. AT&T and the Oregon Commission disagreed and argued that the interest of the FCC in Docket No. 20188 would be frustrated by not applying SLELG rates to these accounts.

37. The staff notes that estimated survivor curves for COE-Step-by-Step and COE-Crossbar have *not* been deterimned in previous depreciation studies and that it is impractical to do so at this time. This is because it has not been demonstrated that the companies can accurately estimate future additions or retirements for individual switching units. With the majority of remaining lives for electromechanical equipment in the three to seven year range, the error of these estimates will likely be significant. New additions to these accounts will clearly have very short and volatile estimated remaining lives, making the development of reliable survivor curves virtually impossible. Without reliable survivor curves the development of an SLELG depreciation rate is illusory. This is because the remaining life "corrections" and curve shape changes would rapidly alter the overall depreciation rate for the account. We previously stated that SLELG rates should be used if adequate data exists to properly apply the method. Inasmuch as the future survivor curves cannot be practically determined, we do not believe that the proper application of the method can be accomplished for these accounts.

38. Additionally, as noted by AT&T, the current Bell System investment in the electromechanical accounts is approximately $13 billion, virtually all of which will be retired over the next ten years. The current annual additions to central equipment are nearly $7 billion. In this context we find that the $600 million being added annually to the electromechanical accounts, which consists largely of reused (i.e., previously installed) equipment and associated labor, is not significant.

39. AT&T is probably correct that the current remaining-life rates may be ony one-half the first year SLELG rates.

However, an examination of this by the staff revealed that, if remaining lives were updated annually, the resultant remaining-life rates would be comparable to the first year SLELG rates for COE-Step-by-Step and would average one-third lower for COE-Crossbar. In most cases remaining-life rates are *higher* than SLELG rates by the end of the second year. Considering the aforementioned volatility of the life and curve shape estimates underlying the SLELG method, we find that the additional accruals provided by the SLELG method are insignificant over the first two years of application.

40. We do not agree with AT&T that the use of the remaining-life method risks any deferral of capital recovery beyond the remaining-lives of the assets. Remaining-life rates are designed to completely depreciate invested capital over the remaining life of a group of assets. This feature was the primary reason that we changed our rules in Docket No. 20188 to allow the use of the remaining-life method. We concur with the staff's reasoning and find that the remaining-life method should be used for depreciation of the COE-Step-by-Step and COE-Crossbar accounts.

41. While we agree with the staff's reasoning on the use of the remaining-life method for the electromechanical accounts, we also believe that to assure full and timely capital recovery on these short remaining-life assets, some special measure is required. We, therefore, direct the staff to update remaining-life depreciation rates for these accounts on an annual basis as requested by the companies or as is deemed necessary by the staff. These updates will assure that capital recovery is not unnecessarily deferred.

F. *Original Cost and Net Salvage Rates for SLELG.* 42. We are only prescribing SLELG rates for the original cost portion for the first four years of new additions to most central office and outside plant accounts. These rates will be applied until the next triennial review of depreciation for these companies. At that time the actual results of the use of the SLELG method will be evaluated, and methods and rates will be modified as necessary.

43. Present carrier accounting practices do not allow carriers to accumulate net salvage data by vintage for all classes of plant. For example, retirement of a complete line of poles may involve removal of poles of several different vintages, but would normally result in a single aggregate cost of removal and salvage from reuse or sale. In this situation it is not feasible to allocate that cost of removal or salvage among the different vintages in a meaningful manner. For this reason, instead of prescribing net salvage depreciation rates for each vintage, we are prescribing a single net salvage depreciation rate which is to be applied to all new vintages until the next regular review. *See* FCC 82-53, FCC 82-353, and FCC 82-354.

G. *Accounts for which Remaining-Life Rates are not Recommended.* 44. In FCC Docket No. 79-105, *supra*, we amended the accounting rules for station connections and ordered that all FCC-subject carriers identify an assign the investment in Account 232, Station Connections, to at least two subclasses of plant—Station Connections—Inside Wire and Station Connections—Other. Our order required carriers to expense future costs associated with the Station Connections—Inside Wire subclass on a phase-in or flash-cut basis and to continue to capitalize future costs associated with the Station Connections—Other subclass. Because the retirement ratios and mortality dispersion patterns of the Station Connections—Other subclass are not similar to those for the account as a whole, the depreciation rates prescribed in the past for the entire Station Connections account could not be applied to the Station Connections—Other subclass. Instead, new rates had to be developed. The staff and AT&T held discussions and concluded that, in most cases, a 5% depreciation rate should be used until there was sufficient data to ascertain specific mortality characteristics which could then be used to prescribe more precise depreciation rates for this subclass. Consequently, in 1981, all AT&T companies filed requested for permission to adopt a 5% depreciation rate for the Station Connections—Other subclass. And, in January, in FCC Order No. 82-39, *supra*, we prescribed a 5% rate for all of the carriers whose rates are under consideration here.

45. In a separate proceeding initiated by an AT&T petition for rulemaking, (see our notice of proposed rulemaking in FCC Docket No. 82-679, 47 FR 44767) significant changes in the accounting rules for Station Connections—Other are under consideration. This proceeding will likely be concluded early in 1983. In the interim, we do not believe it prudent to change the existing 5% depreciation rate for this account.

46. In a few accounts with minimal plant balances, the use of the remaining-life method would result in negative depreciation rates because the reserve balances were in excess of service values (i.e., original cost less net salvage). The staff reviewed several of these instances and found that the primary cause was the transfer of plant from one account to another without a corresponding transfer of reserve amounts. The prescription of a negative depreciation rate is not consistent with generally accepted accounting principles. Therefore, we will adopt the use of a 0% depreciation rate for all accounts where the calcuation of remaining-life depreciation rates would result in a negative rate. We recognize that this action does ot totally resolve the problem (i.e., reserves greater than service values). However, the problem is technical in nature and can probably best be resolved at the staff level. We direct the staff to work with the carriers to determine what reserve transfers, if any, are required.

H. *Conclusion.* 47. Having considered the positions set forth by the companies are respective state commissions at the three-way meetings, the responses to the staff's review letters and public notice, the recommendations to the staff, and the proposals of the companies, we find the remaining-life and SLELG rates listed in the appendices to be appropriate.

V. Ordering Clauses

48. Pursuant to Sections 4(i) and 220(b) of the Communications Act of 1934, as amended, 47 U.S.C. 4(i) and 220(b), it is ordered, That the percentages of depreciation set forth in the Appendices to this order are prescribed effective on the dates listed. Appendix 1 contains remaining-life rates and Appendix 2 contains SLELG rates.

49. It is further ordered, That the companies shall submit to the Commission whole-life as well as remaining-life depreciation studies during the next represcription period.

50. It is further ordered, That the companies shall notify this Commission within 10 days of any deviation from the depreciation percentages and practices prescribed in this order.

Note.—Because of the continuing effort to minimize publishing costs, Appendices 1 and 2 (Schedules of Annual Percentages of Depreciation) will not be printed herein. However, copies of this document in its entirety are available through the distribution centers listed in the FCC Office of Public Affairs, Room 202, 1919 M St., N.W., Washington, D.C. 20554. A copy is also available for inspection in the FCC Dockets Branch, Room 239, and the FCC Library, Room 639, both located at 1919 M St., N.W., Washington, D.C.

Federal Communications Commission.
William J. Tricarico,
Secretary.

[FR Doc. 82-34351 Filed 12-17-82; 8:45 am]
BILLING CODE 6712-01-M

[FCC 82-543]

Prescription of Revised Percentages of Depreciation Pursuant to Communications Act, as Amended, for General Telephone Co. of Northwest, Inc., et al.

AGENCY: Federal Communications Commission.

ACTION: Depreciation Rate Prescription Order.

SUMMARY: Pursuant to the Communications Act of 1934, as amended, Federal Communications Commission has ordered the named General Telephone Companies to apply the percentages of depreciation which are set forth in Appendices 1 and 2 [1] of the Order. The three named companies filed for revised depreciation rates for various accounts and submitted studies and data to substantiate their request. The intended effect of this action is to charge, as accurately as circumstances will allow, the cost of consumption of depreciable assets to the periods in which the assets are useful in the production of revenues.

EFFECTIVE DATE: The Companies are to apply the depreciation rates as of the date or dates set forth in Appendices 1 and 2 of the Order. In no case is an effective date prior to January 1, 1982.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554

FOR FURTHER INFORMATION CONTACT: Kenneth P. Moran, Chief, Depreciation Rates Branch, (202) 634-1730.

SUPPLEMENTARY INFORMATION:

In the Matter of The Prescription of Revised Percentages of Depreciation pursuant to Section 220(b) of the Communications Act of 1934, as amended for: General Telephone Company of the Northwest, Inc., General Telephone Company of the Southeast, Hawaiian Telephone Company.

Adopted December 8, 1982.

Released December 14, 1982.

I. Introduction

1. Section 220(b) of the Communications Act of 1934, as amended, 47 U.S.C. 220(b), states that the Commission shall, as soon as practicable, prescribe classes of property for which depreciation charges may be included in operating expenses and the percentages of depreciation which shall be charged to each of the classes. It also states that the Commission may, when it deems necessary, modify the classes and percentages so prescribed.

2. By this order we prescribe revised percentages of depreciation (depreciation rates) for the three GTE companies listed above using both the straight line vintage group remaining-life (remaining-life) and straight line equal life group (SLELG) methods.

II. Background

A. *Remaining-Life Method.* 3. Prior to 1981, we had only used the straight line vintage group whole-life (whole-life) depreciation method in prescribing depreciation rates for telephone companies' plant. Using this method, we had attempted to determine the appropriate depreciation accruals applicable to each year's operations using current estimates of life and net salvage. As estimates of life and net salvage changed over time, the whole-life rates were changed in accordance with these changes in estimates. However, using whole-life concepts, no attempt was made to adjust the rates to allow for reserve surpluses or deficits resulting from the cumulative over- or under-estimation of life and net salvage factors. This changed with our final decision in FCC Docket No. 20188, 83 FCC 2d 267 (1980), *reconsideration,* 87 FCC 2d 916 (1981), where we revised Part 31 of the Rules and Regulations, the "Uniform System of Accounts for Class A and B Telephone Companies," to allow the use of the remaining-life depreciation method. The remaining-life method is designed to distribute the unrecovered cost (original cost less the sum of the depreciation reserve and future net salvage) of a group of assets over its estimated average life expectancy; thus, this procedure includes an adjustment which allocates any reserve deficit or surplus over the estimated average remaining life.

4. We directed the staff to phase in the implementation of remaining-life depreciation rates in conjunction with the normal triennial represcription cycle (see paragraph 10). For GTE, implementation began with the companies that were regularly scheduled for review in 1981. Those companies submitted studies requesting revised depreciation rates using the remaining-life method. After a complete review, we adopted remaining-life depreciation rates for those companies in January. *See* FCC 82-40, 88 FCC 2d 1354 (1982). Remaining-life rates for the carriers normally scheduled for review in 1982 (see the list on page 1 of this order) were reviewed in detail this year. Our findings and conclusions regarding these rates are discussed beginning in paragraph 16.

B. *Straight Line Equal Life Group Method.* 5. In Docket No. 20188, we also amended our rules to permit the use of the SLELG depreciation method for new additions to plant as an alternative to the straight line vintage group (SLVG) method, provided that adequate data is available for the proper application of the method.

6. The primary differences between the SLELG and SLVG methods lie in the definition of the basic depreciation groups and in the approach each takes in spreading the original cost of assets comprising the basic groups over their estimated average service lives. While SLVG forms its basic groups by combining all units placed in one year (i.e., a vintage group), SLELG creates its basic groups by combining all units within each vintage group which share an equal life expectancy (i.e., an equal life group). While the SLVG method is designed to depreciate 100% of the original cost of a vintage, on average, over the life cycle of each vintage, the SLELG method is designed to depreciate 100% of the original cost of each plant unit over its life. As a consequence, if projections are accurate, the SLELG method should allow for depreciation at a rate more representative of the actual consumption of units of property than SLVG. We concluded in Docket No. 20188 that the proper application and monitoring of this method would not only enhance the carriers' cash flow and present to all interested parties a more accurate and objective financial picture of the carriers' operations and capital requirements, but would also benefit their customers by encouraging innovation and the introduction of new technology.

7. Under both the SLVG and SLELG methods, retirement projections, service life estimates, and depreciation rates are normally determined, in part, through the use of survivor curves. These survivor curves define the relationship between the age of plant investment and the relative percentage expected to remain in service. Under the SLELG methodology, the survivor curves assume an added significance—that of defining the basic (equal life) groups. Under the SLVG method, most survivor curves have been selected only after the staff has completed detailed statistical analysis of historical retirement data. With the added significance of the survivor curves in the SLELG method,

[1] Appendices 1 and 2 are filed as a part of the original document.

the availability and analysis of historical retirement data becomes even more important.

8. We recognized the importance of adequate data in Docket No. 20188 where we found that the SLELG method is acceptable, provided that:

> * * * it is assured that adequate data is available for proper application of the method; that record keeping and reporting practices will enable monitoring of the reasonableness of the rate of allocation of both original cost and provisions for salvage and removal; that such allocation of original cost will achieve allocation over the service life of the property neither more nor less than 100% of the investment net of salvage value.

Accordingly, we directed the staff to take such measures as may be necessary to insure the measurability and accountability of the results under the SLELG method.

9. We further directed the staff to phase in the implementation of SLELG depreciation rates beginning with the outside plant accounts, followed by the central office equipment accounts, and concluding with all other plant accounts. In accordance with this directive, the staff received SLELG rates for the outside plant accounts for four GTE companies last year, and in January of this year we adopted SLELG rates for new additions to most of the outside plant accounts for those carriers. *See* FCC 82–53, 88 FCC 2d 1567 (1982). In addition, SLELG rate proposals were reviewed for the outside plant accounts for most of the remaining GTE companies not scheduled to undergo a complete review of depreciation rates in 1982. As a result of that review, we adopted SLELG rates for most of the outside plant accounts for those companies in July. *See* FCC 82–354, 90 FCC 2d 997 (1982). SLELG rates for the central office equipment and outside plant accounts for the carriers listed on page 1 of this order were also reviewed in detail this year. Our findings and conclusions regarding these rates are discussed beginning in paragraph 16.

C. *Companies Scheduled for Review During 1982.* 10. Since the late 1940's, the Commission has reviewed and prescribed the depreciation rates of approximately one-third of the larger FCC-subject telephone companies each year. In most cases we have prescribed rates for a carrier only after the following actions have been completed:

(1) Submittal of depreciation studies by the carrier.

(2) Staff review of the carrier's filings and studies in support of its proposed life and salvage factors.

(3) Independent staff analysis of such information as the carrier's plant mortality data and equipment retirement plans.

(4) Preparation of preliminary staff recommendations.

(5) Discussion of the carrier's filings and the preliminary Commission staff proposals at a conference in which representatives of the carrier and the staffs of the respective state commissions and the FCC participate (i.e., a three-way meeting).

11. In conjunction with the normal triennial represcription cycle, the three GTE companies whose rates are under consideration here submitted studies proposing new depreciation rates based upon revised life and salvage estimates, using the remaining-life method for all plant accounts and the SLELG method for new additions to the outside plant and central office equipment accounts. These studies were reviewed in detail by the staff, which then prepared its own preliminary life, net salvage, and rate proposals and forwarded them to the companies and the respective state commissions. Some of the state commissions prepared similar studies and recommendations. Three-way meetings were held at which the life, net salvage, and rate proposals of all three parties were thoroughly discussed.

12. Because this was the first time SLELG rates were being proposed for the central office equipment accounts, considerable analysis was required. As a result, in certain instances, the staff was unable to submit its SLELG recommendations prior to the three-way meeting. After completing its analysis and arriving at recommendations, the staff on October 4, 1982, issued a public notice (Report No. 2967) [2] entitled, "Depreciation Rate Prescriptions Proposed For Domestic Telephone Companies." This public notice summarized the FCC staff's proposals for new or revised depreciation rates and the change in depreciation expense that would result if those proposed depreciation rates were approved. The staff transmitted to each company and respective state commission a copy of the October 4 public notice, schedules containing the proposed remaining-life and SLELG rates, and a discussion of the staff analysis underlying the proposed SLELG depreciation rates. For all of the companies under review, agreements regarding the life and net salvage estimates were reached between our staff, the companies, and the respective state commission staffs.

[2] The public notice was erroneously dated October 1, 1982; however, October 4, 1982 is the correct issue date.

III. Summary of Comments

13. Comments in response to the October 4 public notice were received from the North Carolina Utilities Commission and General Telephone Company of the Northwest.

14. General of the Northwest concurred with most of the staff's depreciation rate proposals; however, it took exception to the staff's failure to apply the SLELG method to the Automatic Switching (Analog) account in the states of Oregon and Washington.

15. The North Carolina Commission also concurred with the proposed remaining-life rates and noted that these rates were based on agreements reached between the FCC staff, and staff of the North Carolina Commission, and the General Telephone Company of the Southeast at the three-way meeting. North Carolina expressed its objection to the use of the SLELG method and noted that SLELG rates were not discussed at the three-way meeting.

IV. Discussion of Issues

A. *Effective Dates.* 16. With few exceptions, prior to 1981 depreciation rates were prescribed retroactively to the beginning of the year in which they were filed. This appeared to be a reasonable practice inasmuch as the rates were based on depreciation studies as of that date (i.e., January 1). In 1981, with the initial implementation of the remaining-life and SLELG depreciation methods, many companies requested effective dates other than January 1, 1981. The companies maintained that, because of the controversy surrounding the Commission's approval of the new methods, it would be difficult to get approval of revenue rate increases from state commissions until the FCC had actually ordered new depreciation rates. The companies were also concerned that the states would not allow any retroactive revenue rates to match retroactive prescription of depreciation rates. After considering the regulatory and financial reporting aspects of this issue, we determined that, during this transitional period from whole-life to remaining-life and SLELG methods, we would allow the booking of the new rates on the various effective dates proposed by the companies. *See* FCC 82–40, *supra.*

17. This year the companies filed for effective dates ranging from January 1, 1982 to January 1, 1983. They argued that Section 43.43(e) of our rules and our Order on Reconsideration in Docket No. 20188, *supra,* allow—at the discretion of the company—the booking of new

depreciation rates retroactively to a date no earlier than the first of the year in which they were filed. Section 43.43(e) of our rules states:

> Unless otherwise directed . . . proposed changes in depreciation rates shall be filed at least ninety (90) days prior to the last day of the month with respect to which the revised rates are first to be applied . . . and such rates *may be made retroactive* to a date not prior to the beginning of the year in which the filing is made." [Emphasis added.]

The companies also cited the Order on Reconsideration in Docket No. 20188, 87 FCC 2d 916 at paragraph 16, where we stated:

> * * * retroactive application of the depreciation rates to the beginning of the year is permissive, not mandatory.

18. We maintain our belief that as a matter of sound accounting, depreciation rates should be applied on dates corresponding as closely as possible to the date of the underlying depreciation study. In Docket No. 20188, we determined that proper capital recovery is predicated, in large measure, upon the timely application of the correct depreciation rates. We also noted that, if inaccurate depreciation rates are applied, the resulting misstatement of operating expenses could harm present and potential investors and, ultimately, ratepayers by denying them and the regulators an accurate, objective financial picture of the companies' operations and capital requirements.

19. Nevertheless, during this period of continuing transition to the new methods, retroactive booking of depreciation rates would create uncertainties which, contrary to our intent, may deny some companies a reasonable opportunity to achieve capital recovery. The use of these new methods has resulted in both significant depreciation expense changes and in the requirement for additional company studies to support prescriptions. There has also been resistance on the part of some states to accept remaining-life and SLELG rates at all, and there may be a concomitant reluctance by certain state commissions to grant intrastate revenue rate increases until we actually prescribe depreciation rates using the new methods. We shall, therefore, accept the effective dates as filed by the companies.

B. *Use of SLELG.* 20. In our decision in Docket No. 20188 we considered the arguments expressed by the parties for and against the use of the SLELG method and determined that, provided adequate data is available, the use of SLELG rates is appropriate. In the discussion in the Final Report and Order we found that the use of SLELG comports with the mandate of Section 1 of the Communications Act, "to make available . . . a rapid, efficient, nation-wide, and world-wide wire and radio communication service with adequate facilities at reasonable charges . . ." 47 U.S.C. § 151. We reaffirmed our decision allowing the use of SLELG in the Order on Reconsideration as well as in three prescription orders approved this year (i.e., FCC No. 82–53, 82–353, and 82–354). Nevertheless, the North Carolina Commission has again questioned whether the use of SLELG rates is warranted. Inasmuch as this state has not raised any new arguments or evidence regarding the use of SLELG rates, we have no basis to reverse our decision on this matter. Our rules, as amended in Docket No. 20188, clearly allow the use of SLELG for accounts in which adequate data is available to properly apply and monitor it. Therefore, we will allow its use.

C. *SLELG rates for Automatic Switching (Analog).* 21. General Telephone Company of the Northwest commented that, although the October 4 public notice did not reflect SLELG rates for new additions of analog electronic switching equipment in the states of Oregon and Washington, SLELG rates should be used. Our staff supports the use of SLELG rates for analog electronic switching equipment and although it inadvertantly excluded these rates from the public notice, it supported the use of such rates at the three-way conference. Because these matters were discussed at the three-way meeting, and because the public notice clearly stated that SLELG rates were under consideration for central office equipment, the states had a reasonable opportunity to review the company and FCC staff's SLELG proposals and submit their views for our consideration. We note that no comments objecting to the use of SLELG rates for central office equipment have been received from either state. We agree with the staff and the company that SLELG rates should be used for this account.

D. *Accounts for which SLELG Rates are not Recommended.* 22. In our final decision in Docket No. 20188 we found that the SLELG method is acceptable if adequate data is available for the proper application of the method and if the carriers' record keeping practices will allow for the monitoring of the reasonableness of the rates. In each of the three SLELG prescription orders that we have approved to date (i.e., FCC No. 82–53, 88 FCC 2d 1567 (1982), FCC No. 82–353, 90 FCC 2d 964 (1982) and FCC No. 82–354, 90 FCC 2d 997 (1982)), we concluded that aged retirement data is a minimum requirement for the proper application and monitoring of SLELG rates. We reaffirm our opinion that it is inappropriate to prescribe SLELG rates for accounts in which vintage retirement data is not maintained.

23. The staff proposes that new additions to the electromechanical switching accounts not be depreciated using the SLELG method. They argue that is impractical to determine reasonable future survivor curves for these additions because these accounts consist of classes of equipment which are being rapidly retired from service. The staff proposes that new additions, as well as embedded plant, in these accounts be depreciated using the remaining-life method, and asserts that the remaining-life method will assure timely and complete recovery of capital. In its comments General of the Northwest concurred with the staff's depreciation proposals.

24. While we agree with the staff that the remaining-life method should be used for new additions to the electromechanical accounts, we also believe that to assure full and timely capital recovery on these short remaining life assets, some special measure is required. We, therefore, direct the staff to update remaining-life depreciation rates for these accounts on an annual basis as requested by the companies or as is deemed necessary by the staff. These updates will assure that capital recovery is not unnecessarily deferred.

E. *Original Cost and Net Salvage Rates for SLELG.* 25. We are only prescribing SLELG rates for the original cost portion for the first four years of new additions to most central office and outside plant accounts. These rates will be applied until the next triennial review of depreciation for these companies. At that time the actual results of the use of the SLELG method will be evaluated, and methods and rates will be modified as necessary.

26. Present carrier accounting practices do not allow carries to accumlate net salvage data by vintage for all classes of plant. For example, retirement of a complete line of poles may involve removal of poles of several different vintages, but would normally result in a single aggregate cost of removal and salvage from reuse or sale. In this situation it is not feasible to allocate that cost of removal or salvage among the different vintages in a meaningful manner. For this reason, instead of prescribing net salvage depreciation rates for each vintage, we are prescribing a single net salvage depreciation rate which is to be applied

to all new vintages until the next regular review. *See* FCC 82–53, FCC 82–353, and FCC 82–354.

F. *Accounts for which Remaining-Life Rates are not Recommeded.* 27. In FCC Docket No. 79–105, *supra* we amended the accounting rules for station connections and ordered that all FCC-subject carriers identify and assign the investment in Account 232, Station Connections, to at least two subclasses of plant—Station Connections-Inside Wire and Station Connections-Other. Our order required carriers to expense future costs associated with the Station Connections-Inside Wire subclass on a phase-in or flash-cut basis and to continue to capitalize future costs associated with the Station Connections-Other subclass. Because the retirement ratios and mortality dispersion patterns of the Station Connections-Other subclass are not similar to those for the account as a whole, the depreciation rates prescribed in the past for the entire Station Connections account could not be applied to the Station Connections-Other subclass. Instead, new rates had to be developed. The staff and GTE held discussions and concluded that, in most cases, a 5% depreciation rate should be used until there was sufficient data to ascertain specific mortality characteristics which could then be used to prescribe more precise depreciation rates for this subclass. Consequently, in 1981, the GTE companies filed requests for permission to adopt a 5% depreciation rate for the Station Connections-Other subclass. And, in January, in FCC Order No. 82–40, *supra*, we prescribed a 5% rate for all of the carriers whose rates are under consideration here.

28. In a separate proceeding initiated by an AT&T petition for rulemaking, (see our notice of proposed rulemaking in FCC Docket No. 82–679, 47 FR 44767) significant changes in the accounting rules for Station Connections-Other are under consideration. This proceeding will likely be concluded early in 1983. In the interim, we do not believe it prudent to change the existing 5% depreciation rate for this account.

29. In a few accounts with minimal plant balances, the use of the remaining-life method would result in negative depreciation rates because the reserve balances were in excess of service values (i.e., original cost less net salvage). The staff reviewed several of these instances and found that the primary cause was the transfer of plant from one account to another without a corresponding transfer of reserve amounts. The prescription of a negative depreciation rate is not consistent with generally accepted accounting principles. Therefore, we will adopt the use of a 0% depreciation rate for all accounts where the calculation of remaining-life depreciation rates would result in a negative rate. We recognize that this action does not totally resolve the problem (i.e., reserves greater than in service values). However, the problem is technical in nature and can probably best be resolved at the staff level. We direct the staff to work with the carriers to determine what reserve transfers, if any, are required.

G. *Conclusion.* 30. Having considered the positions set forth by the companies and respective state commissions at the three-way meetings, the responses to the staff's review letters and public notice, the recommendations of the staff, and the proposals of the companies, we find the remaining-life and SLELG rates listed in the appendices to be appropriate.[3]

V. Ordering Clauses

31. Pursuant to Sections 4(i) and 220(b) of the Communications Act of 1934, as amended, 47 U.S.C. 4(i) and 220 (b), It is ordered, That the percentages of depreciation set forth in the Appendices to this order are prescribed effective on the dates listed. Appendix 1 contains remaining-life rates and Appendix 2 contains SLELG rates.

32. It is further ordered, That the companies shall submit to the Commission whole-life as well as remaining-life depreciation studies during the next represcription period.

33. It is further ordered, That the companies shall notify this Commission within 10 days of any deviation from the depreciation percentages and practices prescribed in this order.

Note.— Because of the continuing effort to minimize publishing costs, Appendices 1 & 2 (Schedules of Annual Percentages of Depreciation) will not be printed herein. However, copies of this document in its entirety are available through the distribution centers listed in the FCC Office of Public Affairs, Room 202, 1919 M St., N.W., Washington, D.C. 20554. A copy is also available for inspection in the FCC Dockets Branch, Room 239, and the FCC Library, Room 639, both located at 1919 M St., N.W., Washington, D.C.

[3] We do not decide in this order the effect of our prescribing these rates for intrastate ratemaking purposes. Rather, the preemptive effect of this Commission's accounting and/or depreciation determinations is before us in a separate proceeding initiated by a further *Petition for Reconsideration* filed by AT&T in Docket No. CC 79–105, 85 FCC 2d 818 (1981), *recon.*, 89 FCC 2d 1094 (1982), and a *Petition for Declaratory Ruling* filed by the General Telephone Company of Ohio.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 82–34352 Filed 12–17–82; 8:45 am]

BILLING CODE 6712–01–M

[FCC 82–544]

Prescription of Revised Percentages of Depreciation Pursuant to Communications Act, as Amended, for Continental Telephone Co. of California and Continental Telephone Co. of Upstate New York, Inc.

AGENCY: Federal Communications Commission.

ACTION: Depreciation Rate Prescription Order.

SUMMARY: Pursuant to the Communications Act of 1934, as amended, Federal Communications Commission has ordered the named Continental Telephone Companies to apply the percentages of depreciation which are set forth in the Appendix [1] to the Order. The two named companies filed for revised depreciation rates for various accounts and submitted studies and data to substantiate their request. The intended effect of this action is to charge, is accurately as circumstances will allow, the cost of consumption of depreciable assets to the periods in which the assets are useful in the production of revenues.

EFFECTIVE DATE: The Companies are to apply the depreciation rates as of the date or dates set forth in the Appendix to the Order. In no case is an effective date prior to January 1, 1982.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Kenneth P. Moran, Chief Depreciation Rates Branch, (202) 634–1730.

SUPPLEMENTARY INFORMATION:

In the matter of The Prescription of Revised Percentages of Depreciation pursuant to Section 220(b) of the Communication Act of 1934, as amended for: Continental Telephone Company of California, Continental Telephone Company of Upstate New York, Inc.

Order

Adopted December 8, 1982.

Released December 13, 1982.

I. Introduction

1. Section 220(b) of the Communications Act of 1934, as amended, 47 U.S.C. 220(b), states that

[1] The appendix is filed as a part of the original document.

the Commission shall, as soon as practicable, prescribe classes of property for which depreciation charges may be included in operating expenses and the percentages of depreciation which shall be charged to each of the classes. It also states that the Commission may, when it deems necessary, modify the classes and percentages so prescribed.

2. By this order we prescribe revised percentages of depreciation (depreciation rates) for the two Continental Telephone Corporation companies listed above using the straight line vintage group remaining-life (remaining-life) method. This order is the first depreciation prescription order for Continental Telephone Company of California (Continental-California). Depreciation rates were previously prescribed for Continental Telephone Company of Upstate New York (Continental-Upstate New York).

II. Background

A. *Remaining-Life Method.* 3. Prior to 1981, we had only used the straight line vintage group whole-life (whole-life) depreciation method in prescribing depreciation rates for telephone companies' plant. Using this method, we had attempted to determine the appropriate depreciation accruals applicable to each year's operations using current estimates of life and net salvage. As estimates of life and net salvage changed over time, the whole-life rates were changed in accordance with these changes in estimates. However, using whole-life concepts, no attempt was made to adjust the rates to allow for reserve surpluses or deficits resulting from the cumulative over- or under-estimation of life and net salvage factors. This changed with our final decision in FCC Docket No. 20188, 83 FCC 2d 267 (1980), *reconsideration,* 87 FCC 2d 916 (1981), where we revised Part 31 of the Rules and Regulations, the "Uniform System of Accounts for Class A and B Telephone Companies," to allow the use of the remaining-life depreciation method. The remaining-life method is designed to distribute the unrecovered cost (original cost less the sum of the depreciation reserve and future net salvage) of a group of assets over its estimated average life expectancy; thus, this procedure includes an adjustment which allocates any reserve deficit or surplus over the estimated average remaining life.

4. We directed the staff to phase in the implementation of remaining-life depreciation rates in conjuction with the normal triennial represcription cycle (see paragraph 5). For Continental, implementation began with the Continental Telephone Company of Virginia which was regularly scheduled for review in 1981. This company submitted a study requesting revised depreciation rates using the remaining-life method. After a complete review, we adopted remaining-life depreciation rates for Continental-Virginia in January. *See* FCC 82-41, 88 FCC 2d 1344 (1982). Remaining-life rates or the two carriers normally scheduled for review in 1982 (i.e., Continental-California and Continental-Upstate New York) were reviewed in detail this year. Our findings and conclusions regarding these rates are discussed beginning in paragraph 12.

B. *Companies Scheduled for Review During 1982.* 5. Since the late 1940's, the Commission has reviewed and prescribed the depreciation rates of approximately one-third of the larger FCC-subject telephone companies each year. In most cases we have prescribed rates for a carrier only after the following actions have been completed:

(1) Submittal of depreciation studies by the carrier.

(2) Staff review of the carrier's filings and studies in support of its proposed life and salvage factors.

(3) Independent staff analysis of such information as the carrier's plant mortality data and equipment retirement plans.

(4) Preparation of preliminary staff recommendations.

(5) Discussion of the carrier's filings and the preliminary Commission staff proposals at a conference in which representatives of the carrier and the staffs of the respective state commission and the FCC participate (i.e., a three-way meeting).

6. In conjunction with the normal triennial represcription cycle, Continental-California and Continental-Upstate New York submitted studies proposing new depreciation rates based upon revised life and salvage estimates, using the remaining-life method for all plant accounts. These studies were reviewed in detail by the staff, which then prepared its own preliminary life, net salvage, and rate proposals and forwarded them to the companies and the respective state commissions. Three-way meetings were held at which the life, net salvage, and rate proposals of all three parties were thoroughly discussed. For all accounts of both companies, agreements regarding life and net salvage estimates were reached between our staff, the companies, and the respective state commission staffs.

7. As a result of the review discussed above, on October 4, 1982, the staff issued a public notice (Report No. 2967) [1] entitled, "Depreciation Rate Prescriptions Proposed for Domestic Telephone Companies." This public notice summarized the FCC staff's new or revised depreciation rates for Continental-Upstate New York and the change in depreciation expense that would result if these proposed depreciation rates were approved. The staff transmitted to the company and the New York Public Service Commission a copy of this public notice together with a schedule of the proposed remaining-life rates. On October 12, 1982, the staff issued an additional public notice (Report No. 2969), entitled as the first, summarizing the staff's new or revised depreciation rates for Continental-California and the change in depreciation expense that would result if these proposed rates were approved. The staff transmitted to the company and the California Public Utilities Commission a copy of this public notice together with a schedule of the proposed remaining-life rates. The following section summarizes the issues raised by the respondents to these public notices.

III. Summary of Comments

8. Continental-Upstate New York responded to the October 4 public notice, and the California Commission responded to the October 12 public notice.

9. Continental-Upstate New York noted that this prescription is not a routine review of prior whole-life rates, but rather the initial move into full remaining-life rates. It stated that remaining-life rates will produce a substantial increase in depreciation expense. In Continental's view, the approval of rates retroactively would not ". . . represent recovery of capital but, rather, an erosion of earnings." Continental urged that the FCC approve the requested effective date.

10. Continental-Upstate New York also stated that it is now seeking represcription of depreciation rates for Continental Telephone Company of Upstate New York, instead of Continental Telephone Company of New York as originally requested. When it filed its depreciation studies, it expected to complete a merger with five smaller Continental companies prior to the FCC prescription of new depreciation rates. Since Continental now expects the merger to take place in 1983, it requested that the FCC prescribe depreciation rates under the company's

[1] The public notice was erroneously dated October 1, 1982; however, October 4, 1982 is the correct issue date.

present name. Continental also stated that the five smaller Continental companies will adopt the prescribed depreciation rates, as if the merger had taken place prior to FCC prescription.

11. The California Commission urged that the January 1, 1983, effective date for Continental-California be approved as requested by the company. California has adopted the policy of making depreciation changes effective concurrent with the effective date of the resulting revenue rate changes. They stated that this policy eliminates the negative effects of a retroactive change. California alleged that the company would show a large unrecovered expense in the year that the depreciation rates were made effective if there was no corresponding revenue recovery. The possible negative effects on bond rating and equity value generated by a lack of coordination at the state and federal regulatory levels would not, in California's view, be in the best interest of Continental-California or its ratepayers.

IV. Discussion of Issues

A. *Rates for Continental-Upstate New York.* 12. The staff analyzed a depreciation study for Continental Telephone Company of New York, a new entity to be formed from the proposed merger of Continental-Upstate New York with five smaller Continental companies. This merger, which had been expected to be consummated in 1982, is now scheduled for early 1983. Accordingly, Continental has requested that we prescribe depreciation rates for the company under its current name, Continental Telephone Company of Upstate New York.

13. The depreciation study which Continental-Upstate New York submitted to the staff was based upon plant owned by Continental-Upstate New York and the five smaller companies. The company stated that the rates prescribed would be applied to both Continental-Upstate New York and the five smaller companies, as if the merger had already taken place. Continental-Upstate New York is the largest portion of the prospective merged company. The staff believes that depreciation rates determined solely for Continental-Upstate New York's facilities would approximate those determined from the study of the merged company. Therefore, we approve the prescription of depreciation rates for Continental-Upstate New York, and expect that the rates prescribed by this order will be applied to the accounts of the new company, Continental Telephone Company of New York, upon completion of the merger in 1983.

B. *Effective Dates.* 14. With few exceptions, prior to 1981 depreciation rates were prescribed retroactively to the beginning of the year in which they were filed. This appeared to be a reasonable practice inasmuch as the rates were based on depreciation studies as of that date (i.e., January 1). In 1981, with the initial implementation of the remaining-life and SLELG depreciation methods, many companies requested effective dates other than January 1, 1981. The companies maintained that, because of the controversy surrounding the Commission's approval of the new method, it would be difficult to get approval of revenue rate increases from State commissions until the FCC had actually ordered new depreciation rates. The companies were also concerned that the states would not allow any retroactive revenue rates to match retroactive prescription of depreciation rates. After considering the regulatory and financial reporting aspects of this issue, we determined that, during this transitional period from the whole-life to the remaining-life method, we would allow the booking of the new rates on the various effective dates proposed by the companies. *See* FCC 82–41, *supra.*

15. This year Continental-California filed for a January 1, 1983, effective date. Continental-Upstate New York filed for a December 1, 1982, effective date. The companies argued that Section 43.43(e) of our rules allow—at the discretion of the company—the booking of new depreciation rates retroactively to a date no earlier than the first of the year in which they were filed. Section 43.43(e) of our rules states:

> Unless otherwise directed * * * proposed changes in depreciation rates shall be filed at least ninety (90) days prior to the last day of the month with respect to which the revised rates are first to be applied * * * and such rates *may be made retroactive* to a date not prior to the beginning of the year in which the filing is made." [Emphasis added.]

16. We maintain our belief that as a matter of sound accounting, depreciation rates should be applied on dates corresponding as closely as possible to the date of the underlying depreciation study. In Docket No. 20188, we determined that proper capital recovery is predicated, in large measure, upon the timely application of the correct depreciation rates. We also noted that, if inaccurate depreciation rates are applied, the resulting misstatement of operating expenses could harm present and potential investors and, ultimately, ratepayers by denying them and the regulators an accurate, objective financial picture of the companies' operations and capital requirements.

17. Nevertheless, we agree with the California Commission that, during this period of continuing transition to the new method, retroactive booking of depreciation rates would create uncertainties which, contrary to our intent, may deny some companies a reasonable opportunity to achieve capital recovery. The use of the new method has resulted in both significant depreciation expense changes and in the requirement for additional company studies to support prescriptions. There has also been resistance on the part of some states to accept remaining-life rates at all, and there maybe a concomitant reluctance by certain state commissions to grant intrastate revenue rate increases until we actually prescribe depreciation rates using the new method. We shall, therefore, accept the effective dates as filed by the companies.

C. *Accounts for which Remaining-Life Rates are not Recommended.* 18. In FCC Docket No. 79–105, 85 FCC 2d 818 (1981), we amended the accounting rules for station connections and ordered that all FCC-subject carriers identify and assign the investment in Account 232, Station Connections, to at least two subclasses of plant—Station Connections-Inside Wire and Station Connections-Other. Our order required carriers to expense future costs associated with the Station Connections-Inside Wire subclass on a phase-in or flash-cut basis and to continue to capitalize future costs associated with the Station Connections-Other subclass. Because the retirement ratios and mortality dispersion patterns of the Station Connections-Other subclass are not similar to those for the account as a whole, the depreciation rates prescribed in the past for the entire Station Connections account could not be applied to the Station Connections-Other subclass. Instead, new rates had to be developed. The staff and the companies held discussions and determined that a 5% rate would be used for Continental-California and a 2.5% rate would be used for Continental-Upstate New York until there was sufficient data to ascertain specific mortality characteristics which could then be used to prescribe more precise depreciation rates. In January, in FCC Order No. 82–41, *supra*, we prescribed a 2.5% rate for Continental-Upstate New York.[3]

[3] Continental-California is having depreciation rates prescribed for the first time in this order.

10. In a separate proceeding initiated by an AT&T petition for rulemaking (see our notice of proposed rulemaking in FCC Docket No. 82–679, 47 FR 44767), significant changes in the accounting for Station Connections-Other are under consideration. This proceeding will likely be concluded early in 1983. In the interim, we do not believe it prudent to change the existing depreciation rates for this account.

20. In a few accounts with minimal plant balances, the use of the remaining-life method would result in negative depreciation rates because the reserve balances were in excess of service values (i.e., original cost less net salvage). The staff reviewed several similar instances and found that the primary cause was the transfer of plant from one account to another without a corresponding transfer of reserve amounts. The prescription of a negative depreciation rate is not consistent with generally accepted accounting principles. Therefore, we will adopt the use of a 0% depreciation rate for all accounts where the calculation of remaining-life depreciation rates would result in a negative rate. We recognize that this action does not totally resolve the problem (i.e., reserves greater than service values). However, the problem is technical in nature and can probably best be resolved at the staff level. We direct the staff to work with the carriers to determine what reserve transfers, if any, are required.

D. *Conclusion.* 21. Having considered the positions set forth by the companies and respective state commissions at the three-way meetings, the responses to the staff's review letters and public notices, the recommendations of the staff, and the proposals of the companies, we find the remaining-life rates listed in the Appendix to be appropriate.[4]

V. Ordering Clauses

22. Pursuant to Sections 4(i) and 220(B) of the Communications Act of 1934, as amended, 47 U.S.C. 4(i) and 220(b), IT IS ORDERED, That the percentages of depreciation set forth in the Appendix to this order are prescribed effective on the dates listed.

23. It is further ordered, that the companies shall submit to the Commission whole-life depreciation studies during the next as well as remaining-life represcription period.

24. It is further ordered, that the companies shall notify this Commission within 10 days of any deviation from the depreciation percentages and practices prescribed in this order.

Note: Because of the continuing effort to minimize publishing costs, the Appendix of this document will not be printed herein. However, copies of this document in its entirety may be obtained from the distribution centers listed in the FCC Office of Public Affairs, Room 202, 1919 M St., N.W., Washington, D.C. 20554. A copy is also available for inspection in the FCC Dockets Branch, Room 239, and the FCC Library, Room 639, both located at 1919 M St., N.W., Washington, D.C.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 82-34358 Filed 12-17-82; 8:45 am]

BILLING CODE 6712-01-M

[4] We do not decide in this order the effect of our prescribing these rates for intrastate ratemaking purposes. Rather, the preemptive effect of this Commission's accounting and/or depreciation determinations is before us in a separate proceeding initiated by a further *Petition for Reconsideration* filed by AT&T in Docket No. CC 79–105, 85 FCC 2d 818 (1981), *recon.*, 89 FCC 2d 1094 (1982), and a *Petition for Declaratory Ruling* filed by the General Telephone Company of Ohio.

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–673–DR]

Arkansas; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management agency.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Arkansas (FEMA–673–DR), dated December 13, 1982, and related determinations.

DATE: December 13, 1982.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0501.

SUPPLEMENTARY INFORMATION: Pursuant to the authority vested in the Director of the Federal Emergency Management Agency by the President under Executive Order 12148, effective July 15, 1979, and delegated to me by the Director under Federal Emergency Management Agency Delegation of Authority, and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that, in a letter of December 13, 1982, the President declared a major disaster as follows:

I have determined that the damage in certain areas of the State of Arkansas resulting from severe storms, tornadoes, and flooding beginning on or about December 2, 1982, is of sufficient severity and magnitude to warrant a major-disaster declaration under Pub. L. 93–288. I, therefore, declare that such a major disaster exists in the State of Arkansas.

In order to provide Federal asistance, you are hereby authorized to allocate, from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance in the affected areas. You also are authorized to provide necessary Public Assistance in the affected areas, except that an acceptable State commitment shall be provided. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under Pub. L. 93–288 for public assistance will be limited to 75 percent of total eligible costs in the designated area.

The time period prescribed for the implementation of section 313(a), priority to certain applications for public facility and public housing assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of Federal Emergency Management Agency under Executive Order 12148, and delegated to me by the Director under the Federal Emergency Management Agency Delegation of Authority, I hereby appoint Mr. Alton S. Ray, Jr. of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared major disaster.

I do hereby determine the following area of the State of Arkansas to have been affected adversely by this declared major disaster:

For Individual Assistance only, the Counties of:

Conway	Pope
Faulkner	Pulaski
Garland	Randolph
Independence	Saline
Jackson	Sharp
Lawrence	Van Buren
Ouachita	White

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Dave McLoughlin,

Acting Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 82-34379 Filed 12-17-82; 8:45 am]

BILLING CODE 6718-02-M

[FEMA–672–DR]

Missouri; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Missouri

(FEMA–672–DE), dated December 10, 1982, and related determinations.

DATED: December 10, 1982.

FOR FURTHER INFORMATION CONTACT:
Sewall H. E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0501.

Notice: Pursuant to the authority vested in the Director of the Federal Emergency Management Agency by the President under Executive Order 12148, effective July 15, 1979, and delegated to me by the Director under Federal Emergency Management Agency Delegation of Authority, and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that, in a letter of December 10, 1982, the President declared a major disaster as follows:

I have determined that the damage in certain areas of the State of Missouri resulting from severe storms, tornadoes, and flooding beginning on or about December 1, 1982, is of sufficient severity and magnitude to warrant a major-disaster declaration under Pub. L. 93–288. I, therefore, declare that such a major disaster exists in the State of Missouri.

In order to provide Federal assistance, you are hereby authorized to allocate, from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance in the affected areas. You also are authorized to provide necessary Public Assistance in the affected areas, except that an acceptable State commitment shall be provided. Consistent with the requirement that Federal assistance by supplemental, any Federal funds provided under Pub. L. 93–288 for public assistance will be limited to 75 percent of total eligible costs in the designated area.

The time period prescribed for the implementation of Section 313(a), priority to certain applications for public facility and public housing assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of Federal Emergency Management Agency under Executive Order 12148, and delegated to me by the Director under the Federal Emergency Management Agency Declaration of Authority, I hereby appoint Mr. David R. Ruby of the Federal Emergency Management Agency to act as the as the Federal Coordinating Officer for this declared major disaster.

I do hereby determine the following area of the State of Missouri to have been affected adversely by this declared major disaster:

For Individual Assistance only, the Counties of:

Bolinger	Phelps
Cape Girardeau	Pulaski
Carter	Ripley
Franklin	St. Charles
Iron	Ste. Genevieve
Jefferson	St. Louis
Lincoln	Wayne
Perry	

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Dave McLoughlin,

Acting Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 82–34380 Filed 12–17–82; 8:45 am]

BILLING CODE 6718–02–M

FEDERAL HOME LOAN BANK BOARD

[No. AC–206]

City Federal Savings & Loan Association, Elizabeth, N.J.; Final Action Approval of Post-Approval Amendments to Mutual-to-Stock Conversion Application

Dated: December 15, 1982.

Notice is hereby given that on December 15, 1982, the General Counsel of the Federal Home Loan Bank Board ("Board"), acting pursuant to authority delegated to him by the Board, approved Post-Approval Amendment No. 1 to the mutual-to-stock conversion application of City Federal Savings and Loan Association, Elizabeth, New Jersey ("Association"). The application had been approved by the Board by Resolution No. 80–72, dated February 14, 1980. Copies of the application and all amendments thereto are available for inspection at the Secretariat of the Board, 1700 G Street, NW., Washington, D.C. 20552, and at the Office of the Supervisory Agent, Federal Home Loan Bank of New York, One World Trade Center, Floor 103, New York, New York 10048.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 82–34452 Filed 12–17–82; 8:45 am]

BILLING CODE 6720–01–M

FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder License No. 1508]

Alas Cargo Service, Inc.; Order of Revocation

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.15(d) of Federal Maritime Commission General Order 4 further provides that a license shall be automatically revoked for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of Alas Cargo Service, Inc., 7489 N.W. 7th Street, Miami, FL 33126 was cancelled effective December 5, 1982.

By letter dated November 9, 1982, Alas Cargo Service, Inc. was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 1508 would be automatically revoked unless a valid surety bond was filed with the Commission.

Alas Cargo Service, Inc. has failed to furnish a valid bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), § 10.01(f) dated November 12, 1981;

Notice if hereby given, that Independent Ocean Freight Forwarder License No. 1508 be and is hereby revoked effective December 5, 1982.

It is ordered, that Independent Ocean Freight Forwarder License No. 1508 issued to Alas Cargo Service, Inc. be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon Alas Cargo Service, Inc.

Albert J. Klingel, Jr.,

Director, Bureau of Certification and Licensing.

[FR Doc. 82–34435 Filed 12–17–82; 8:45 am]

BILLING CODE 6730–01–M

Independent Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916 (75 Stat. 522 and 46 U.S.C. 841(c)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

Commercial Shipping Corporation, 13881 N.E. 2d Court, No. 10, N. Miami, FL 33161; Officers: George H. Gold, President/Director/Stockholder; Carmen Gold, Director/Stockholder/Secretary; Arleen S. Avariano, Treasurer; Mario E. Luque, Vice President

Empire Freight Forwarding, Inc., 129 Dover Green, Staten Island, NY 10312; Officers: Rolando M. Francisco, President/Treasurer/Director; William H. Woodruff, Secretary; Neftali Delgado, Vice President

Societe Commerciale de Transports Transatlantiques Overseas U.S.A., Inc., d.b.a. S.C.T.T. Overseas U.S.A. Inc., 8401 Westheimer, Suite 209, Houston, TX 77063; Officers: Patrick Edward Murray, President/Director; James C. Smith, Secretary/Director; R. Curtis Hamilton, Director

Pioneer International Forwarding Co., Inc., c/o Lillick, McHose & Charles, Two Embarcadero Center, San Francisco, CA 94111; Officer: Huang Akila Chen, President/Director

Traveria's Cargo, Inc., 1621 S.W. 15th Street, Miami, FL 33145; Officers: Luis F. Traveria, President/Treasurer; Caridad Traveria, Vice President/Secretary.

By the Federal Maritime Commission.

Dated: December 15, 1982.

Francis C. Hurney,

Secretary.

[FR Doc. 82-34433 Filed 12-17-82; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 2329]

Mia Forwarders, Inc.; Order of Revocation

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.15(d) of Federal Maritime Commission General Order 4 further provides that a license shall be automatically revoked for a failure of a licensee to maintain a valid bond on file.

The bond issued in favor of Mia Forwarders, Inc., 4733 N.W. 72nd Avenue, Miami, FL 33166 was cancelled effective December 1, 1982.

By letter dated November 12, 1982, Mia Forwarders, Inc. was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 2329 would be automatically revoked unless a valid surety bond was filed with the Commission.

Mia Forwarders, Inc. has failed to furnish a valid bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), § 10.01(f) dated November 12, 1981;

Notice is hereby given, that Independent Ocean Freight Forwarder License No. 2329 be and is hereby revoked effective December 1, 1982.

It is ordered, that Independent Ocean Freight Forwarder License No. 2329 issued to Mia Forwarders, Inc. be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon Mia Forwarders, Inc.

Albert J. Klingel, Jr.,

Director, Bureau of Certification and Licensing.

[FR Doc. 82-34437 Filed 12-17-82; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 2209]

Oswald A. Falabella; Order of Revocation

On December 9, 1982, Oswald A. Falabella, 701 Garibaldi Avenue, Roseto, PA 19013 surrendered his Independent Ocean Freight Forwarder License No. 2209 for revocation.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), § 10.01(e) dated November 12, 1981;

It is ordered, that Independent Ocean Freight Forwarder License No. 2209 issued to Oswald A. Falabella be revoked effective December 9, 1982, without prejudice to reapplication for a license in the future.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon Oswald A. Falabella.

Albert J. Klingel, Jr.,

Director, Bureau of Certification and Licensing.

[FR Doc. 82-34436 Filed 12-17-82; 8:45 am]

BILLING CODE 6730-01-M

[Agreement No. 10461]

United States/Republic of the Philippines Ocean Liner Trade; Availability of Finding of No Significant Impact

Upon completion of an environmental assessment, the Federal Maritime Commission's Office of Energy and Environmental Impact has determined that the Commission's decision on Agreement No. 10461 will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 et seq., and that preparation of an environmental impact statement is not required.

The agreement is an equal access agreement in the United States/Republic of the Philippines Ocean Liner Trade. The parties include American President Lines, Ltd., Lykes Bros. Steamship Company, Inc., Sea-Land Service, Inc. and Waterman Steamship Corporation, Galleon Shipping Corporation, and Maritime Co. of the Philippines. Under the terms of the agreement, the parties agree to petition their respective governments to grant national flag vessels access to cargo covered by each nation's cargo reservation laws.

This Finding of No Significant Impact (FONSI) will become final within 20 days of publication of this notice in the **Federal Register** unless a petition for review is filed pursuant to 46 CFR 547.6(b).

The FONSI and related environmental assessment are available for inspection on request from the Office of the Secretary, Room 11101, Federal Maritime Commission, Washington, D.C. 20573, telephone (202) 523-5725.

Francis C. Hurney,

Secretary.

[FR Doc. 82-34434 Filed 12-17-82; 8:45 am]

BILLING CODE 6730-01-M

GENERAL SERVICES ADMINISTRATION

National Archives and Records Service

Advisory Committee on Preservation; Meeting

Notice is hereby given that the Executive Committee of the National Archives and Records Service Advisory Committee on Preservation will meet on January 19, 1983 from 9:00 a.m. to 4:00 p.m. in Room 410, National Archives Building, Washington, D.C. This meeting will be devoted to plans for a full committee meeting later in the year.

The meeting will be open to the public. For further information call Alan Calmes, 202-523-3159.

Dated: December 10, 1982.

Robert M. Warner,

Archivist of the United States.

[FR Doc. 82-34440 Filed 12-17-82; 8:45 am]

BILLING CODE 6820-26-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Advisory Council on Social Security; Public Hearings

AGENCY: Health and Human Services Department.

ACTION: Notice of public hearings.

SUMMARY: The Secretary of Health and Human Services announced on September 16, 1982, the establishment of the Advisory Council on Social Security. The Council is charged to place particular emphasis on a review of the Medicare program, and to prepare and submit reports on its findings and recommendations.

In an effort to obtain the views of interested organizations and individuals, within the constraints of available time, the Council decided to conduct three public hearings in designated locations around the country. Notice is hereby given that one-day hearings will be held in Atlanta, on February 1, 1983, and in San Francisco on February 24, 1983. A hearing will also be held in Chicago on a date to be announced later.

ADDRESS: The Atlanta hearing will be held in the Strom Auditorium, Richard B. Russell Building, 75 Spring Street, Atlanta, Ga. 30303. The San Francisco hearing will be held in the Auditorium, Room 300, San Francisco Department of Public Health, 101 Grove Street, San Francisco, CA 94102.

FOR FURTHER INFORMATION CONTACT: Thomas R. Burke, Executive Director, 200 Independence Avenue, SW., Washington, D.C. 20201; telephone 202–755–8670 or 755–8671.

SUPPLEMENTARY INFORMATION: The hearings are open to the public. Attendance will be limited to the space available. Interested parties are invited to present testimony on Medicare issues; however, only those requesting in advance, preferably in writing, to appear will be permitted to present oral statements. Presenters should submit, five days in advance, 20 copies of their presentation, and should bring an additional 50 copies to the hearing to be made available to the public. Oral presentation should summarize the written statement, and will be limited to a maximum of 5 minutes. Other written material can be submitted for the record. Submit written requests specifying at which hearing location testimony is desired to be given to the Advisory Council on Social Security, Attn: Public Hearing, 200 Independence Avenue, SW., Washington, D.C. 20201, or telephone 202–755–8670 or 755–8671. The designated Chairperson or the Executive Director reserves the right to determine order of presentation, but will make every effort, within available time, to hear all who wish to be heard.

Sign language interpreting services will be provided if requested in advance.

Records will be kept of all public hearings and will be available for public inspection at the Office of the Administrative Officer, Advisory Council on Social Security, Room 317–H, HHH Building, 200 Independence Avenue, SW., Washington, D.C. 20201.

Thomas R. Burke,

Executive Director.

[FR Doc. 82–34455 Filed 12–17–82; 8:45 am]

BILLING CODE 4120–03–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. N–82–1191]

Submission of Proposed Information Collection To OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirements described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Robert Neal, OMB Desk Officer, Office of Management and Budget, New Executive Office and Building, Washington, D.C. 20503

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Acting Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, telephone (202) 755–5310. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Acting Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposal should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirement is described as follows:

Notice of Submission of Proposed Information Collection to OMB

PROPOSAL: Preliminary Site Report by Indian Housing Authority.
OFFICE: Housing.
FORM NUMBER: HUD-3188.
FREQUENCY OF SUBMISSION: On Occasion.
AFFECTED PUBLIC: State or Local Governments.
ESTIMATED BURDEN HOURS: 2600.
STATUS: Extension;
CONTACT: Patricia Arnaudo, HUD, (202) 755–6522 Robert Neal, OMB, (202) 395–6880.

(Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).)

Dated: November 29, 1982.

Judith L. Tardy,

Assistant Secretary for Administration.

[FR Doc. 82–34424 Filed 12–17–82; 8:45 am]

BILLING CODE 4210–25–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Child Welfare Act; Grant Funds Distribution Formula

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Title II of the Indian Child Welfare Act of 1978 authorized the Secretary of the Interior to make grants to Indian tribes and Indian organizations for establishment and operation of Indian child and family service programs.

In order to ensure insofar as possible that all applicants approved for funding

receive a proportionate share of available grant funds under the provisions of 25 CFR part 23, "Application and selection criteria", established by the Bureau of Indian Affairs, the distribution of these funds will be accomplished in accordance with the following formula.

Grants will be awarded to individual tribes or organizations, or to consortia of tribes and organizations within the following categories:

A. A maximum of up to $50,000 for eligible applicants with a total service area population of less than 2,500;

B. A maximum of up to $150,000 for eligible applicants with a total service area population of more than 2,500 but less than 7,500;

C. A maximum of up to $300,000 for eligible applicants with a total service area population greater than 7,500.

Service area population means the total number of Indians eligible for service under 25 CFR 23.2(b)(2) and/or 23.2(d)(3) in the geographical area to which the tribe or organization can realistically provide the services proposed in the application.

These population figures will be based on identifiable statistical resources and the tribe's or organization's prior service records. Applicants will not be funded for more than their demonstrated need, as specifically addressed in 25 CFR 23.24 and 23.25.

A consortium, which is an agreement or association of two or more eligible applicants, may apply for the level of grant above the level which they would be eligible for due to their total service population. However, at no time may any Indian tribe or organization which is either an eligible individual applicant in accordance with 25 CFR 23.21 or a member of a consortium receive Indian Child Welfare Act grant funds greater than a maximum grant of $300,000 through a direct grant of through subgranting procedures with approved applicants.

An appropriation for this program has not been decided upon at this time. However, in anticipation of an appropriation a preliminary projection of percentage of funds which will be allocated to each of the Bureau of Indian Affairs' area offices follows:

	Percent
Aberdeen	7.1
Albuquerque	6.4
Anadarko	7.3
Billings	8.2
Juneau	10.8
Minneapolis	11.8
Muskogee	8.0
Navajo	3.0
Phoenix	8.1
Portland	11.0
Sacramento	12.7
Eastern	8.2

These preliminary allocations are meant for information purposes to the public. They were determined by averaging the following factors for each area office: the total Indian population based on the 1980 census figures and the 1981 estimates of Indian population and labor force statistics compiled by the Bureau of Indian Affairs. Adjustments were made considering number of grantees by area in previous years, and the structure of the grant program. Further adjustments may be made pending a final budget authorization.

Final allocations to the area offices for funding applications will be made at the Central Office.

Kenneth Smith,

Assistant Secretary, Indian Affairs.

December 13, 1982.

[FR Doc. 82-34335 Filed 12-17-82; 8:45 am]

BILLING CODE 4310-02-M

Indian Child Welfare Act; Title II Grant Applications

The period for submitting grant applications is effective on the date of publication in the **Federal Register** and will end January 28, 1983. It is necessary that specific timeframes be established for submission of applications so that all applicants approved for funding under the provisions of 25 CFR Part 23 may be included in a competitive review and ranking process, and can receive a proportionate share of available grant funds.

Application materials and related information may be obtained from Bureau of Indian Affairs offices nearest the applicant. Applications are being accepted in anticipation of an appropriation. All grant application approvals will be subject to the availability of funds. Grant awards will be for a one-year period.

Grant applications will be accepted for the purpose of:

(a) Establishment and operation of Indian child and family service programs which promote the stability of Indian families; and

(b) Providing non-Federal matching shares for other Federal financial assistance programs for "on or near" reservation programs which contribute to the purpose stated in (a) above.

Applications must be received in the appropriate Bureau of Indian Affairs, Social Services Office, on or before 4:15 p.m. on the closing date of the application period. Applications sent by registered or certified mail not later than the closing date as evidenced by the U.S. Postal Service postmark or the original receipt from the U.S. Postal Service, will be considered.

Kenneth Smith,

Assistant Secretary—Indian Affairs.

December 13, 1982.

[FR Doc. 82-34336 Filed 12-17-82; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

[F-14902-A]

Alaska Native Claims Selection

The purpose of this decision is to modify page 13902 of the **Federal Register**, April 1, 1982 and item 2 of page 4 of the decision dated March 31, 1982, to include the following Sec. 17(b) easement reservation.

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, and small all-terrain vehicles (less than 3,000 lbs. Gross Vehicle Weight (GVW)).

(EIN 2 C3, D1) An easement for an existing access trail twenty-five (25) feet in width from a point in Sec. 26, T. 6 N., R. 73 W., Seward Meridian, southerly to the village of Eek. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement. This trail is limited to winter use only.

On October 15, 1982 the State Director Memo concerning navigability was amended to include an unnamed slough from its mouth on the Kuskokwim River in Sec. 1, T. 6 N., R. 73 W., Seward Meridian, easterly to a point on the easterly boundary of Sec. 25, T. 7 N., R. 71 W., Seward Meridian, as a navigable water body.

The submerged lands underlying the above unnamed slough are hereby excluded from the lands approved for conveyance to Napaskiak Incorporated.

Except as modified by this decision, the decision of March 31, 1982 stands as written.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in *The Tundra Drums*.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the attached regulations in Title 43 *Code of Federal Regulations* (CFR), Part 4, Subpart E, as revised. However, pursuant to Pub. L. 96-487, this decision constitutes the final administrative

determination of the Bureau of Land Management concerning navigability of water bodies.

If an appeal is taken the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of this decision by personal service or certified mail, return receipt requested, shall have 30 days from receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who failed or refused to sign the return receipt and parties who received a copy of this decision by regular mail which is not certified, return receipt requested, shall have until January 19, 1983, to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Napaskiak Incorporated, Via Bethel, Alaska 99557.

Calista Corporation, 516 Denali Street, Anchorage, Alaska 99501.

Ann Johnson,

Chief, Branch of ANCSA Adjudication.

[FR Doc. 82-34423 Filed 12-17-82; 8:45 am]

BILLING CODE 4310-84-M

Office of Surface Mining Reclamation and Enforcement

Abandoned Mine Lands Reclamation Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Notice of availability of Findings of No Significant Impact (FONSI) addressing Environmental Assessments (EAs) for development of 4 abandoned mine land projects under the State of North Dakota Reclamation Plan.

SUMMARY: OSM has prepared EAs on projects submitted in the Federal Grant Application from the State of North Dakota to the Office of Surface Mining.

A FONSI has been made on the 4 reclamation projects indicated below and included in the grant application developed under Title IV of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), 30 U.S.C. 1231–1234.

ADDRESS: Copies of the EAs and FONSI are available for inspection or may be obtained at the following location between the hours of 8:00 a.m. and 4:00 p.m.: Office of Surface Mining Reclamation and Enforcement, Wyoming Field Office, P.O. Box 1420, 935 Pendell Boulevard, Mills, Wyoming 82644.

FOR FURTHER INFORMATION CONTACT: William Thomas, Director, Wyoming Field Office, (307) 328–5830. Same address as above.

Reclamation Projects included in the FONSI location and description:

1. Buechler Mine Site, Ward County, Underground tunnels and active subsidence.

2. Beulah Mine Site, Mercer County, Vertical openings and active subsidence.

3. Garrison Mine Site, McLean County, Active subsidence.

4. New Leipzig Mine Site, Grant County, Vertical openings and active subsidence.

Dated: December 12, 1982.

William B. Schmidt,

Assistant Director, Program Operation and Inspection.

[FR Doc. 82-34461 Filed 12-17-82; 8:45 am]

BILLING CODE 4310-05-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

[Redelegation of Authority No. 99.1.3]

Chief, Government Property Resources Division, et al.; Redelegation of Authority Regarding Contracting Functions

Pursuant to the authority delegated to me under Redelegation of Authority No. 99.1, from the Assistant to the Administrator for Management, dated May 1, 1973 (38 FR 12836), as amended, I hereby redelegate to certain offices the following authorities:

1. To the Chief, Government Property Resources Division, and to the Chiefs, Field Offices of the Government Property Resources Division:

a. With respect to the reconditioning by a contractor listed in the General Services Administration regional term contract price schedules or the Department of the Army National maintenance contracts of property acquired by the Agency for International Development pursuant to section 608(a) of the Foreign Assistance Act, the authority to:

(1) Execute purchase orders for services and supplies for reconditioning and spare parts support required in relation to an item being reconditioned;

(2) Approve the contractor's invoices for direct payment to the contractor; and

(3) Inspect and accept each item completed by the contractor.

2. To the Chief, Government Property Resources Division: the authority to execute purchase orders for small purchases as defined in § 1–3.6 of the Federal Procurement Regulations for services and supplies required to carry on the operations of the Government property resources programs.

The authorities delegated herein are to be exercised in accordance with the Federal Property Management Regulations (FPMR) promulgated by the General Services Administration and in accordance with regulations, procedures and policies established, modified, and promulgated within A.I.D.; and are not in derogation of the authority of the Director of the Office of Contract Management to exercise any of the functions herein redelegated.

The authorities redelegated herein may not be redelegated but may be

exercised by duly authorized persons performing the functions of the Chief(s) of offices named above in an acting capacity.

Any official actions taken prior to the effective date hereof by officers duly authorized pursuant to the delegation revoked hereunder are hereby continued in effect, according to their terms until modified, revoked, or superseded by action of the officer(s) to whom I have delegated relevant authority in this redelegation.

Redelegation of Authority No. 99.1.3 dated January 21, 1975 (40 FR 4160), as amended, is hereby revoked.

This redelegation of authority is effective on date of signature.

Dated: December 6, 1982.

Hugh L. Dwelley,

Director, Office of Contract Management.

[FR Doc. 82-34458 12-17-82; 8:45 am]

BILLING CODE 6116-01-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Motor Carrier Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F-222

The following applications were filed in region I: Send protests to: Interstate Commerce Commission, Regional Authority Center, 150 Causeway Street, Room 501, Boston, MA 02114.

MC 140349 (Sub-1-3 TA), filed December 3, 1982. Applicant: COPE/BESTWAY EXPRESS, INC., 2024 Harvey Road, Grand Island, NY 14072. Representative: D. Thomas Cope (same as applicant). *Contract carrier:* irregular routes: *Brake drums and disc brakes, rotors, new unfinished brake shoes and disc brake pads* between Erie County in the State of NY and States in the U.S. east of the Mississippi River, under continuing contract(s) with Aimco Div., International Telephone & Telegraph, Tonawanda, NY. Supporting shipper: Aimco Div., International Telephone & Telegraph Corp., 435 Creekside Drive, Tonawanda, NY 14150.

MC 164998 (Sub-1-1TA), filed December 3, 1982. Applicant: GENCARELLI OIL CO., INC., 110 Oak Street, Westerly, RI 02891. Representative: Charles R. Reilly, 391 Davisville Road, North Kingstown, RI 02852. *Gasoline* between East Providence, RI, and Mystic, Preston and Stonington, CT. Supporting shipper: Carlisle Oil Company, Inc., 141 Lowell Road, Concord, MA 01742.

MC 165030 (Sub-1-1TA), filed December 6, 1982. Applicant: LOBOSCO TRADING COMPANY, INC., 121 McBride Avenue, Patterson, NY 07501. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. *Plastic and paper products, textile products, foodstuffs, and recycling materials, except in bulk* between New York, NY Commercial Zone, on the one hand, and, on the other points in CT, DE, MA, NH, NJ, NY, PA, RI and VT. Supporting shipper(s): There are six statements in support of this application which may be examined at the Regional Office of the I.C.C. in Boston, MA.

MC 165046 (Sub-1-1TA), filed December 7, 1982. Applicant: NORTHEAST CARRIERS, INC., 2418 Main Street, Rocky Hill, CT 06067. Representative: Gerald A. Joseloff, 410 Asylum Street, Hartford, CT 06103. *Contract carrier:* irregular routes: *Such commodities as are dealt in and used by home improvement centers and department stores* between points in DE, ME, IN, OH, MD, MA, NH, NJ, NY, PA, VT, and DC under continuing contract(s) with Ames Department Stores, Inc., its divisions and its wholly owned subsidiary Eastern Retailers Corporation, all of Rocky Hill, CT. Supporting shipper: Ames Department Stores, Inc., 248 Main Street, Rocky Hill, CT 06067; Eastern Retailers Service Corporation, 2418 Main Street, Rocky Hill, CT 06067.

MC 156423 (Sub-1-2TA), filed December 6, 1982. Applicant: J.R.J. INC., t/a RAIL HEAD TRANSFER, 275 Distribution Street, Port Newark, NJ 07114. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. *Household goods* between New York, NY Commercial Zone, on the one hand, and, on the other, Norfolk, VA. Supporting shipper: Aramco Services, P.O. Box 4313, Houston, TX 77210.

MC 52022 (Sub-1-1TA), filed December 7, 1982. Applicant: SANTINI BROTHERS INC., d.b.a. THE SEVEN BROTHERS, THE SEVEN SANTINI BROTHERS, 449 West 49th Street, New York, NY 10019. Representative: B.W. LaTourette, Jr., 11 South Meramec, Suite 1400, St. Louis, MO 63105. *Contract carrier:* irregular routes: *General commodities* (except Classes A and B explosives and commodities in bulk) between points and places in the U.S. including AK and HI) under continuing contract(s) with American Airlines, Inc., Dallas, TX. Supporting shipper: American Airlines, Inc., P.O. Box 61616, DFW Airport, Dallas, TX 75261.

The following applications were filed in region 2. Send protests to: ICC,Fed. Res. Bank Bldg., 101 North 7th St., Rm. 620, Philadelphia, PA 19106.

MC 150511 (Sub-II-13TA), filed December 1, 1982. Applicant: BETTER HOME DELIVERIES, INC., 3700 Park East Drive, Cleveland, OH 44122. Representative: Thomas B. Hill, 1101 31st Street, Downers Grove, IL. 60515. *Mattresses, equipment, materials and supplies used in the manufacture and distribution of mattresses,* from Hayward, CA to points in NV and OR, under continuing contract(s) with Fisher Mattress. An underlying ETA seeks 120 days' authority. Supporting shipper: Fisher Mattress, 27279 Industrial Boulevard, Hayward, CA 94540.

MC 157485 (Sub-II-3TA), filed November 29, 1982. Applicant: EVES TRUCKING CO., INC., Rt. 724, R.D.1, Phoenixville, PA 19460. Representative: Raymond A. Thistle, Jr., Five Cottman Court, 426 Cottman Street, Jenkintown, PA 19046. *Contract,* irregular: *asphalt* in bulk, in tank vehicles, from Baltimore, MD to Centre County, PA, under continuing contract(s) with Herbert R. Imbt, Inc. of State College, PA. An underlying ETA seeks 120 days authority. Supporting shipper: Herbert R.

Imbt, Inc., P.O. Box 155, State College, PA 16801.

MC 164749 (Sub-II–1TA), filed November 18, 1982. Applicant: GOLD STAR LINES, INC., 560 Berwick Rd., Bloomsburgh, PA 17815. Representative: Raymond Talipski, 121 S. Main St., Taylor, PA 18517. *Bakery goods and related products,* between Philadelphia and Northhampton Counties, PA, on the one hand, and, on the other Broome County, NY. An underlying ETA seeks 120 days authority. Supporting shipper: Tasty Baking Co., 2801 Hunting Park Ave., Philadelphia, PA 19129.

MC 109448 (Sub-II–24–TA), filed December 2, 1982. Applicant: PARKER TRANSFER CO., P.O. Box 256, Elyria, OH 44036. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215. *Such commodities as are dealt in or used by manufacturers and distributors of building materials* (except commodities in bulk) between Bartow County, GA. on the one hand, and, on the other, points in the U.S. (except AK and HI) for 270 days. Supporting shipper: DONN CORP., 1000 Crocker Rd., Westlake, OH 44145.

MC 152640 (Sub-II–14TA), filed November 29, 1982. Applicant: RAPID DISTRIBUTION SERVICE, INC., 2392 N. Dupont Hwy., Dover, DE 19901. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 15th Street, NW., Washington, DC 20005. *Such merchandise as is dealt in and distributed by retail department stores, discount houses and chain stores, and materials and supplies* used in connection therewith, between points in TN, KY, AL and FL, on the one hand, and, on the other, points in the U.S. (except AK and HI), for 270 days. Supporting shipper: Colonial Corporation of America, 507 Adam St., Woodbury, TN 37190.

MC 152672 (Sub-II–12TA), filed November 29, 1982. Applicant: A. ROGER LEASING, LTD., P.O. Box 836, Coraopolis, PA 15108. Representative: Barry Weintraub, Suite 510, 8133 Leesburg Pike, Vienna, VA 22180. Contract, irregular: *charcoal lighter fluid and materials, equipment and supplies used in the manufacture and distribution thereof,* between Valley Park, MS, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with Fusol, Inc. and Arcofuels, Inc. An underlying ETA seeks 120 days authority. Supporting shipper: Fusol, Inc., Arcofuels, Inc., P.O. Box 126, Vicksburg, MS 39180.

MC 110683 (Sub-II–4TA), filed November 29, 1982. Applicant: SMITH'S TRANSFER CORPORATION, P.O. Box 1000, U.S. Hwy. 11, Staunton, VA 24401. Representative: Francis W. McInerny, Suite 502, Solar Bldg., 1000 16th Street NW., Washington, DC 20036. Contract, irregular: *Chemicals, resin compounds, liquid and dry, and amines,* between points in Middlesex, Dayton and Paulsboro, NJ; Elkton, MD; Calvert City, KY; Cleveland, OH; and Harvey, LA, on the one hand, and, on the other, points in the U.S. (except AK & HI), under continuing contract(s) with Air Products and Chemicals, Inc. Supporting shipper(s): Air Products & Chemicals, Inc., P.O. Box 538, Allentown, PA 18105.

MC 164958 (Sub-II–1TA), filed December 2, 1982. Applicant: WALKER TRUCKING CO., 258 North 6th St., Columbus, OH 43215. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215. *General commodities* (except Classes A and B explosives, commodities in bulk and household goods) between Columbus, OH, including points in its Commercial Zone, on the one hand, and, on the other, points in OH for 270 days, restricted to traffic having a prior or subsequent movement in interstate or foreign commerce. Supporting Shippers: Central Ohio Shippers Coordinated Corp., P.O. Box 2622, Columbus, OH 43216; Ancon, Inc., 2201 Westbelt Dr., Columbus, OH 43228.

The following applications were filed in region 3. Send protests to: ICC, Regional Authority Center, Room 300, 1776 Peachtree NE., Atlanta, GA 30309.

MC 144218 (Sub-3–3TA), filed December 6, 1982. Applicant: FELDSPAR TRUCKING COMPANY, INC., P.O. Box 858, Spruce Pine, NC 28777. Representative: Joseph L. Steinfeld, Jr., 915 Pennsylvania Building, 425 13th Street NW., Washington, DC 20004. *Contract,* irregular: *general commodities (except classes A and B explosives, household goods, and commodities in bulk),* between points in the US (except AK and HI), under continuing contract(s) with Charlotte Freight Association, Inc., of Charlotte, NC. Supporting shipper: Charlotte Freight Association, Inc., 2508 Starita Road, Charlotte, NC 28213.

MC 165038, (Sub-3–1TA), filed December 7, 1982. Applicant: JOHNSON TRUCK LINES, INC., P.O. Box 7387, High Point, NC 46304. Representative: Alexander L Johnson (same address as applicant). *Modular wall units,* from the facilities of Doxey Furniture Corporation at or near Aberdeen, NC to points in the United States (except AK and HI). Supporting shipper: Doxey Furniture Corporation, Rt. 1, Hwy 211 East Aberdeen, NC 28317.

MC 165039 (Sub-3–1TA), filed December 7, 1982. Applicant: CFI TRANSPORT, INC., P.O. Box 40, Valdese, NC 28690. Representative: William P. Farthing, Jr., 1100 Cameron-Brown Building, Charlotte, NC 28204. Contract: Irregular: *Automotive parts and accessories,* from Decatur, IL; Mayfield, KY; Birminghan, AL; and Atlanta, GA to Winston-Salem, Mt. Airy, High Point, Durham, Yadkinville, Hickory and King, NC. Supporting shippers: Parrish Tire Co., P.O. Box 3137, Winston-Salem, NC 27102 and Catawba Valley Tire Company, Inc., P.O. Box 2352, Hickory, NC 28601.

MC 116254 (Sub-3–32TA), filed December 7, 1982. Applicant: CHEM-HAULERS, INC., 118 East Mobile Plaza, Florence, AL 35631. Representative: P. K. Hubbert (same address as applicant). *Contract:* Irregular—*Furniture and Fixtures and materials, equipment and supplies used in the manufacture, sale or distribution of furniture* and *fixtures,* between points in U.S. (except AK and HI), and Milan, TN. Restriction: Transportation under such permit to be under continuing contract with Worboys Furniture Division of Milan Products Corporation, P.O. Box 659 Milan, TN 38358.

MC 165098 (Sub-3–1TA), filed December 9, 1982. Applicant: BOWLING GREEN FREIGHT, INC., Graham St., Route 14, Box 68C, Bowling Green, Ky. 42101. Representative: Victor Grant (same address as applicant). *Petroleum and electric heaters; powder actuated tools; pins; loads for powder actuated tools; electric chain saws; screws and fasteners and commodities used in connection with the above named items; and materials, supplies and equipment used in connection with the manufacture of the above named items:* Between the facilities of AMCA International, Inc. located at or near Bowling Green, KY, Park Forest, IL, Detroit, MI; Sparks, NV; Chicago. IL; New Bedford, CT and Cleveland, OH on the one hand, and, on the other, points in the U.S. Supporting shipper: AMCA International, Inc., 2701 Industrial Dr., Bowling Green, KY 42101.

MC 164944 (Sub-3–1TA), filed December 9, 1982. Applicant: SOUTHERN FREIGHT, INC., P.O. Box 6862, Atlanta, GA 30303. Representative: Mark S. Gray, Suite 1006, 225 Peachtree St., N.E. Atlanta, GA 30315. *General Commodities (except Class A or B explosives, household goods or commodities in bulk),* between Atlanta, GA and its commercial zone, on the one hand, and, on the other, points in FL. Supporting shippers: Cedartown-Atlanta

Freight Lines, Inc., 140 Milton Ave., S.E., Atlanta, GA 30315; Reliable Express, Inc., P.O. Box 6952, Atlanta, GA 30315.

MC 140800 (Sub-3-3TA), filed December 9, 1982. Applicant: COLONIAL TRANSPORTATION, INC., P.O. Box 448, McMinnville, TN 37110. Representative: Robert L. Baker, Sixth Floor, U.S. Bank Bldg., Nashville, TN 37219. *General commodities (except Classes A and B explosives, commodities in bulk, in tank vehicles and household goods),* between points in GA, IL and OH on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shippers: Gould, Inc., 10 Gould Center, Rolling Meadows, IL, Co-Operative Shippers, Inc., 4410 Dane Avenue, Cincinnati, OH 45223, Sunwise Products, Inc., 2206 S. Linda Drive, Bellbrok, OH 45305. Their statements may be examined at the Regional Office listed above.

The following applications were filed in Region 4: Send protests to: ICC, Complaint and Authority Branch, P.O. Box 2980, Chicago, IL 60604.

MC 15735 (Sub-4-44TA), filed December 3, 1982. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Avenue, Broadview, IL 60153 Representative: Richard V. Merrill, P.O. Box 4403 Chicago, IL 60680. *Contract* irregular: *Household goods* between points in the U.S. (except AK and HI) under a continuing contract with Barber-Colman Company in Rockford, IL and its subsidiaries. Supporting shipper: Barber-Colman Company.

MC 15735 (Sub-4-45TA), filed December 3, 1982. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Avenue, Broadview, IL 60153. Representative: Richard V. Merrill, P.O. Box 4403, Chicago, IL 60680. *Contract* irregular: *Household goods* between points in the U.S. (except AK and HI) under a continuing contract with Honeywell, Inc. of Minneapolis, MN and its subsidiaries. Supporting shipper: Honeywell, Inc.

MC 15735 (Sub-4-46TA), filed December 6, 1982. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Avenue, Broadview, IL 60153. Representative: Martin T. Boratyn, P.O. Box 4403, Chicago, IL 60680. *Contract irregular: Terminal control units, printers, cathode ray tubes, components and parts thereof and related data processing equipment* between points in the U.S. (except AK and HI) under a continuing contract with Northern Telecom, Inc. Supporting shipper: Northern Telecom, Inc., 9701 Data Center, Minnetonka, Minnesota 55343.

MC 117165 (Sub-4-7TA), filed December 3, 1982. Applicant: ST. LOUIS FREIGHT LINES INC., 1111 U.S. Highway 20 West, Michigan City, IN 46360. Representative: James M. Hodge, 3730 Ingersoll Avenue, Des Moines, IA 50309. *Lumber, plywood and particleboard,* From points in AL, AR, GA, LA, MS, NC, SC, and TX to points in IN, MI and OH. Supporting shipper(s): Erb Lumber Company, Inc., 375 South Eton Road, Birmingham, MI 48012.

MC 117165 (Sub-4-8TA), filed December 6, 1982. Applicant: ST. LOUIS FREIGHT LINES, INC., 1111 U.S. Highway 20 West, Michigan City, IN 46360. Representative: James M. Hodge, 3730 Ingersoll Ave., Des Moines, IA 50309. *Gypsum products,* from the facilities of Georgia Pacific Corporation at or near Fort Dodge, IA to points in IL, IN, KY, MI, MN, MO, OH, PA and WI. An underlying ETA seeks 30 days authority. Supporting shipper(s): Georgia Pacific Corporation, Gypsum Division, 1062 Lancaster Ave., Rosemont, PA 19010.

MC 125894 (Sub-4-8TA), filed December 6, 1982. Applicant: J&R SCHUGEL TRUCKING, INC., 2026 North Broadway, New Ulm, MN 56073. Representative: Robert S. Lee, 1600 TCF Tower, 121 South 8th Street, Minneapolis, MN 55402. *Frozen boneless beef* from Philadelphia, PA to points in the United States in and east of ND, SD, NE, KS, OK, and TX. Supporting shipper: Butler Beef, Inc., 4700 North 132nd Street, Butler, WI 53007.

MC 144030 (Sub-4-6TA), filed December 7, 1982. Applicant: DRUE CHRISMAN, INC., P.O. Box 264, U.S. 50 West, Lawrenceburg, IN 47025. Representative: P. J. (Jerry) Snodgrass (same as above). Common; irregular; *General commodities,* between points in the U.S. There are 8 supporting shippers.

MC 144201 (Sub-4-6), filed December 7, 1982. Applicant: V.M.P. ENTERPRISES, INC., 933 North Mayfair, Suite 108, Milwaukee, WI 53226. Representative: Daniel R. Dineen, 710 North Plankinton Avenue, Milwaukee, WI 53203. *Buses, in driveaway service,* between the facilities of Neoplan U.S.A. Corporation at Montgomeryville, PA, on the one hand, and, on the other, Atlanta, GA. An underlying ETA seeks 120 days authority. Supporting shipper: Neoplan U.S.A. Corporation, 700 Gottlob Auwaeter Drive, Lamar, Colorado 81052.

MC 151432 (Sub-4-3TA), filed December 3, 1982. Applicant: VERNON MARTELL, 2434 Hillview Avenue, Bismarck, ND 58501. Representative: Charles E. Johnson, Box 2056, Bismarck, ND 58502. *Lumber, plywood and fiberboard* from the facilities of Plum Creek, Inc., at Belgrade, Fortine, Kalispell, Pablo and Columbia Falls, MT, and Arden and Kettle Falls, WA, to points in ND, SD, NB, MN, IA, MO, WI, MI, IL, IN, OH and PA. Underlying ETA seeks 180-day authority. Supporting shipper: Plum Creek, Inc., Columbia Falls, MT.

MC 156133 (Sub-4-9TA), filed December 6, 1982. Applicant: TANDEM TRANSPORT CORP., 322 U.S. Highway 20 West, Michigan City, IN 46360. Representative: James M. Hodge, 3730 Ingersoll Avenue, Des Moines, IA 50309. *Lumber, plywood and particleboard,* From points in AL, AR, GA, LA, MS, NC, SC and TX to points in IN, MI and OH. Supporting Shipper(s): Erb Lumber Company, Inc., 375 South Eton Road, Burmingham, MI 48012.

MC 160706 (Sub-4-2), filed December 7, 1982. Applicant: CHARLES FOLKENS, Rural Route #1, Big Lake, MN 55309. Representative: Samuel Rubenstein, Post Office Box 5, Minneapolis, MN 55440. *Contract,* irregular route, *Plumbing and Heating Supplies,* between points in the U.S. (except Ak and HI) under continuing contract(s) with Roberts Hamilton Co., Golden Valley, MN. (Hearing site: Minneapolis or St. Paul, MN.)

MC 164884 (Sub-4-1TA), filed December 3, 1982. Applicant: G.N.C. TRUCKING, INC., 1490 Lakeshore Drive, Menasha, Wisconsin 54952. Representative: James A. Spiegel, Attorney, Olde Towne Office Park, 6333 Odana Road, Madison, WI 53719. Contract; irregular; *corrugated paper containers and products, thermo/styrofoam containers and products, and plastic containers and products* between points in Outagamie and Racine Counties, WI, on the one hand, and on the other hand, points in IL. Restriction: restricted to transportation performed under a continuing contract(s) with Great Northern Corporation. Supporting shipper: Great Northern Corporation, Box 939, Appleton, WI 54912.

MC 165007 (Sub-4-1TA), filed December 3, 1982. Applicant: VIRGIL LaVANWAY, Route 3, Bailey Road, Box 571, East Jordan, MI 49727. Representative: William B. Elmer, P.O. Box 801, Traverse City, MI 49685-0801, (616) 941-5313. Metals and metal products and materials and supplies used in connection with the manufacture and distribution of metal and metal products between points in Charlevoix County, MI on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: East Jordan Ironworks, P.O. Box 439, East Jordan, MI 49727.

MC 165040 (Sub-4-1), filed December 7, 1982. Applicant: OCS, INC., 6100

Linsdale, Detroit, MI 48204. Representative: Alex J. Miller, 555 South Woodward Avenue, Suite 512, Birmingham, MI 48011. *Contract* irregular *General commodities* (except household goods, commodities in bulk and Classes A and B explosives) between points in MI, IL, IA, IN, WI, MO, OH, NB and KY, under continuing contract with ECT Shipping (USA), Inc., 6100 Linsdale, Detroit, MI 48204.

MC 15735 (Sub-4–47TA), filed December 9, 1982. Applicant: ALLIED VAN LINES, INC.,2120 S. 25th Ave., Broadview, IL 60153. Representative: Richard V. Merrill, P.O. Box 4403, Chicago, IL 60680. *Contract,* irregular: *Household goods* between points in the U.S. (including AK but excluding HI) under a continuing contract with Motorola, Inc. and its subsidiaries of Schaumburg, IL.

MC 146642 (Sub-4–2TA), filed December 8, 1982. Applicant: BEST TRANSPORT COMPANY, INC., 132 West 154th Street, South Holland, IL 60473. Representative: Martin J. Kennedy, 120 West Madison Street, Suite 1306, Chicago, IL 60602. *Cement* from Chicago, IL, LaSalle, IL, Hartland, WI and Milwaukee, WI to points in IA, IL, IN, MO and WI. An underlying ETA seeks 90 days authority. Supporting shipper: Illinois Cement Company, PO Box 442, LaSalle, IL 61301.

MC 149308 (Sub-4–11), filed December 9, 1982. Applicant: VICTORY FREIGHTWAY SYSTEMS, INC., P.O. Box P, Sellersburg, IN 47172. Representative: John M. Nader, 1600 Citizens Plaza, Louisville, KY 40202. Contract carrier, irregular routes, transporting *such commodities as are dealt in by supermarkets and drugstores* between Xenia, OH, on the one hand, and, on the other, points in AL, AR, FL, GA, IL, IN, LA, KS, KY, MD, MI, MN, NE, NJ, NY, PA, TN, WI, IA, and MO, under contract to Super Valu Stores, Inc. of Xenia, OH. Supporting shipper: Super Valu Stores, 1003 Bellbrook Avenue, Xenia, OH 45385.

MC 150105 (Sub-4–5TA), filed December 9, 1982. Applicant: KING ASSOCIATED ENTERPRISES, LTD., P.O. Box 253, Butler, WI 53007. Representative: David V. Purcell, Purtell, Purcell, Wilmot & Burroughs, S.C., 111 East Wisconsin Avenue, Milwaukee, WI 53202. Temporary authority sought to operate as a *contract* carrier, by motor vehicle, over *irregular* routes, transporting: *Malt beverages and materials and supplies used in the sale, manufacture, and distribution of such commodities* from Milwaukee, WI to points in MI. Supporting shipper: Pabst Brewing Company, 1000 N. Market St., Milwaukee, WI 53202.

MC 165051 (Sub-4–1), filed December 8, 1982. Applicant: LONA TRUCKING CO., 7339 Lemont Road, Downers Grove, IL 60515. Representative: James R. Madler, 120 W. Madison Street, Chicago, IL 60602. *Building materials and supplies* (except in bulk) between Itasca, IL, on the one hand, and, on the other, points in WI, on and south of State Hwy. 33. Supporting shipper: Masonite-Central Hardboard, 1000 Hollywood Ave., Itasca, IL 60143.

MC 164822 (Sub-4–1TA), filed December 8, 1982. Applicant: G.N.C. TRANSPORT, INC., 1001 Territorial, P.O. Box 604, Benton Harbor, MI 49022. Representative: Nebraska Draughter, Route 3 Box 138 D, Coloma, MI 49038. Contract: irregular; *General commodities,* between points in MI, OH and WI. Supporting shipper(s): American Motors Corporation, 5626 25th Ave., Kenosha, WI 53140.

The following applications were filed in Region 5. Send protest to: Consumer Assistance Center, Interstate Commerce Commission, 411 West 7th Street, Suite 500, Fort Worth, TX 76102.

MC 110567 (Sub-5–11TA), filed December 7, 1982. Applicant: SOONER TRANSPORT CORPORATION, 666 Grand Ave., Des Moines, IA 50309. Representative: Kenneth L. Kessler, P.O. Box 855, Des Moines, IA 50304. Contract, Irregular; *such commodities as are distributed by retail grocery stores,* between Minnehaha County, SD, Sarpy and Douglas Counties, NE, and Polk County, IA, under continuing contract with Albertson's Inc., Omaha, NE.

MC 116164 (Sub-5–5TA), filed December 6, 1982. Applicant: ARROW TRANSPORTATION CO., 1911 N.E. 58th Avenue, Des Moines, IA 50313. Representative: James M. Hodge, 3730 Ingersoll Avenue, Des Moines, IA 50309. *Gypsum products,* from the facilities of Georgia Pacific Corporation at or near Fort Dodge, IA to points in IL, IN, KY, MI, MN, MO, HO, PA and WI. Supporting shipper(s): Georgia Pacific Corporation, Gypsum Division, Rosemont, PA.

MC 116164 (Sub-5–6TA), filed December 7, 1982. Applicant: ARROW TRANSPORTATION CO., 1911 N.E. 48th Avenue, Des Moines, IA 50313. Representative: James M. Hodge, 3730 Ingersoll Avenue, Des Moines, IA 50309. *Lumber, plywood and particleboard,* from points in AL, AR, GA, LA, MS, NC, SC and TX to points in IN, MI and OH. Supporting shipper(s) Erb Lumber Company, Inc., Burmingham, MI.

MC 121457 (Sub-5–3TA), filed December 7, 1982. Applicant: MERCURY TRANSPORTATION, INC., 8502 Miller Road #3, Houston, TX 77049. Representative: Harold H. Mitchell, Jr., P.O. Box 1295, Greenville, MS 38701. *Building materials and lumber and wood products,* between points in AL, AR, AZ, CO, FL, GA, ID, LA, MS, MT, NC, NM, OK, OR, SC, TX, WA, and WY. Supporting shippers: Allstates Steel Corporation, Houston, TX; The McGinnis Lumber Company, Inc., Meridian, MS; and Shuqualak Lumber Company, Inc., Shuqualak, MS.

MC 128067 (Sub-5–5TA), filed December 7, 1982. Applicant: JOHN N. JOHN III, INC., P.O. Box 921, Crowley, LA 70526. Representative: William M. John (same as above). *Textile and Burlap Bags and Bagging Material* between Crowley, LA and points in AL, AR, MS, and TX. Supporting shipper: Langston Companies, Inc., Continental Bag Co., Div. Crowley, LA.

MC 157950 (Sub-5–1TA), filed December 6, 1982. Applicant: HEISLER TRANSPORTS, INC., 128 SW 10th St., Oklahoma City, OK 73128. Representative: Don Cox (same as above). *General commodities (except household goods as defined by the commission, and Classes A and B Explosives)* between points in OK, on the one hand, and on the other, points in the U.S. (except AK and HI). Supporting shippers: Eight.

MC 158784 (Sub-5–2TA), filed December 7, 1982. Applicant: RONALD E. BALIK, d.b.a. BALIK TRUCKING, R. R. #2, Fort Atkinson, IA 52144. Representative: Richard D. Howe, 600 Hubbell Building, Des Moines, IA 50309. *Beer and materials, equipment and supplies used in the manufacture, sale, and distribution of beer,* between St. Paul, MN, and Milwaukee and La Crosse, WI, on the one hand, and, on the other, Winneshiek County, IA. Supporting shipper: Frana Beer Distributing Co., Inc., Calmar, IA.

MC 159982 (Sub-5–4TA), filed December 7, 1982. Applicant: O. L. EXPRESS, LTD., Box 327, Carlisle, IA 50047. Representative: William L. Fairbank, 2400 Financial Center, Des Moines, IA 50309. *Paper, paper products, printing supplies and bagged clay,* from points in GA, IL, ME, MA, MI, NJ, NY and WI to Des Moines, IA and Sturgis, MI. Supporting shipper: Frye Copysystems, Inc., Des Moines, IA.

MC 161767 (Sub-5–2TA), filed December 6, 1982. Applicant: BOBBY SMITH BROKERAGE, INC., 2520 Northeast 35th, Fort Worth, TX 76111. Representative: Harry F. Horak, Suite

115, 5001 Brentwood Stair Rd., Fort Worth, TX 76112. *Polystyrene and plastic materials,* from Fort Worth, TX, to ports of entry at Sweetgrass, MT, Blaine, WA, Detroit and Port Huron, MI, and Lake Champaign and Buffalo, NY. Supporting shipper: Canada Cup Co., Toronto, Ontario, Canada.

MC 163372 (Sub-5–7TA), filed December 6, 1982. Applicant: TRANS-CARRIERS, INC., 1013 Camelot Cove, West Memphis, AR 72301. Representative: R. Connor Wiggins, Jr., 100 N. Main Bldg., Suite 909, Memphis, TN 38103. *Beer* from facilities of Miller Brewing Company at Fort Worth, TX, to West Memphis, AR, and its commercial zone. Supporting shipper: McCain Distributing Co., Inc., West Memphis, AR.

MC 165027 (Sub-5–1TA), filed December 6, 1982. Applicant: DOUG BLAIR, P.O. Box 814, Levelland, TX 79336. Representative: Doyle G. Owens, P.O. Box 7735, Beaumont, TX 77706. *Rock, Gravel, Sand, Caliche, Dirt and Soil,* between Reeves, Midland, Ector, Andrews, Gaines, Terry, Yoakum, Cochran, Hockley, Lubbock, Parmer, Castro, Deaft Smith, and Oldham Counties, TX, on the one hand, and, on the other, Eddy, Lea, Chaves, Roosevelt, Curry, De Baca, Quay, Harding and Union Counties, NM. Supporting shippers: Hughes Construction, Sundown, TX; Roy E. Moore Dirt Contractor, Inc., Levelland, TX; Aristera Rock Company, Lubbock, TX.

MC 165048 (Sub-5–1TA), filed December 7, 1982. Applicant: SMITH TRUCKING COMPANY, INC., P.O. Box 865, Enid, OK 73702–865. Representative: William P. Parker, P.O. Box 54657, Oklahoma City, OK 73154. *Metal prefabricated buildings, parts thereof, and materials used in the manufacture thereof,* between the facilities of Star Manufacturing Incorporated at or near Oklahoma City, OK, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Star Manufacturing Incorporated, Oklahoma City, OK.

MC 67234 (Sub-5–37TA), filed December 8, 1982. Applicant: UNITED VAN LINES, INC., One United Drive, Fenton, MO 63026. Representative: B. W. LaTourette, Jr., 11 South Meramec, Suite 1400, St. Louis, MO 63105. Contract, Irregular; *General Commodities (except Classes A and B explosives and commodities in bulk)* between Essex Junction (Chittenden County), VT on the one hand, and Manassas (Prince William County), VA on the other hand, under continuing contract(s) with IBM Corporation. Supporting shipper: IBM Corporation, Princeton, NJ.

MC 67234 (Sub-5–38TA), filed December 8, 1982. Applicant: UNITED VAN LINES, Inc., One United Drive, Fenton, MO 63026. Representative: B. W. LaTourette, Jr., 11 South Meramec, Suite 1400, St. Louis, MO 63105. *General commodities (except Classes A and B explosives and commodities in bulk)* between points in the U.S. (including AK and HI) under continuing contract(s) with Western Airlines, Inc. Supporting shipper: Western Airlines, Inc., Los Angeles, CA.

MC 67234 (Sub-5–39TA), filed December 10, 1982. Applicant: UNITED VAN LINES, INC., Fenton, One United Drive, MO 63026. Representative: B. W. LaTourette, Jr., 11 South Meramec, Suite 1400, St. Louis, MO 63105. *General commodities (except Classes A and B explosives and commodities in bulk)* between points and places in the U.S. (including AK and HI) under continuing contract(s) with Paradyne Corp. Supporting shipper: Paradyne Corporation, Largo, FL.

MC 83539 (Sub-5–6TA), filed December 9, 1982. Applicant: C & H TRANSPORTATION CO., INC., 9757 Military Parkway, Dallas TX 75227–9989. Representative: Thomas E. James, P.O. Box 270535, Dallas, TX 75227–9989. Contract, Irregular; *General Commodities (except Class A&B explosives and HHG's)* between points in the U.S. under continuing contract with Standard Oil Company (IN) and Amoco subsidiaries.

MC 121631 (Sub-5–3TA), filed November 22, 1982. Applicant: MARSHFIELD DRAYAGE CO., P.O. Box 50, Marshfield, MO 65706. Representative: Elvin S. Douglas, Jr., P.O. Box 280, Harrisonville, MO 64701. Common, regular; *General commodities (except explosives, commodities of unusual value, HHG's, commodities in bulk, and commodities requiring special equipment)* from Springfield, MO, over Interstate 44 to Rolla, MO, and from Lebanon, MO, over MO Hwy 5 to Camdenton, MO; thence over US Hwy 54 to Eldon, MO, and return over the same routes serving the points of Lebanon, Waynesville, St. Robert, Rolla, Camdenton, Osage Beach and Eldon, MO, and all intermediate points along said route, and the off-route point of Crocker, MO. Applicant intends to tack and interline. Supporting shipper(s): 52.

MC 150303 (Sub-5–2TA), filed December 10, 1982. Applicant: HALLOUS H. GARRETT d.b.a. GARRETT TRUCKING CO., Rt. 3, Box 240, Greenbrier, AR 72058. Representative: Thomas B. Staley, 1550 Tower Bldg., Little Rock, AR 72201. Contract, Irregular; *General commodities (except commodities in bulk, and HHG's, as defined by the Commission)* between points in the U.S. under continuing contract with Kirkpatrick Rubber Co., Greenbrier, AR.

MC 150422 (Sub-5–3TA), filed December 8, 1982. Applicant: CONAGRA TRANSPORTATION, INC., 5440 West Channel Road, Catoosa, OK 74015. Representative: Peter A. Greene, 1920 N Street, NW., Washington, D.C. 20036. Contract, irregular; *General commodities (except Classes A and B explosives and household goods)* between points in the U.S. (except AK and HI), under continuing contracts with Country Pride Foods Limited. Supporting shipper: Country Pride Foods Limited, Athens, AL.

MC 154106 (Sub-5–4TA), filed December 10, 1982. Applicant: Mt. HOPE TRUCKING, INC., P.O. Box 247, MT. Hope, KS 67108. Representative: Clyde N. Christey, KS Credit Union Bldg., 1010 Tyler, Suite 110–L, Topeka, KS 66612. *Dry sugar, whole whey, nonfat dry milk and cornstarch,* from the Commercial Zones of Brighton, Denver, Longmont, Loveland, Sterling & Ovid, CO; Goodland & Kansas City, KS; East Grand Fork & Minneapolis, MN; St. Louis, MO; Scotts Bluff, NE; Hereford & Sugarland, TX; Torrington, WY; & Gramercy & New Orleans, LA to points in the U.S. (except AK, HI, WA, OR, ID, NV, NY, NJ, MD, VT, NH, MA & ME). Supporting shipper: International Distributing Corporation, St. Louis, MO.

MC 156199 (Sub-5–2TA), filed December 10, 1982. Applicant: GRUDLE TRUCKING, INC., Route 3, Glenwood, IA 51534. Representative: Carol Grudle, same as above. Contract, irregular, *Meat and Meat Products* from facilities of Victor's Iowa Pack, Inc., Council Bluffs, IA to Commercial Zone of Dallas-Ft. Worth, TX, and Sherman, TX, under continuing contract(s) with Victor's Iowa Pack, Inc., Council Bluffs, IA. Supporting shipper: Victor's Iowa Pack, Inc., Council Bluffs, IA.

MC 156336 (Sub-5–3TA), filed December 10, 1982. Applicant: OSCEOLA WASTE MATERIALS, INC., P.O. Box 752, Osceola, AR 72370. Representative: Thomas B. Staley, 1550 Tower Building, Little Rock, AR 72201. *Paper and paper products* between Muskogee, OK and Memphis, TN. Supporting shipper: Magnolia Paper and Janitor Supply Co., Inc., Memphis, TN.

MC 165087 (Sub-5–1TA), filed December 8, 1982. Applicant: BREWER TRANSPORT COMPANY, INC., 5221 Railroad Avenue, Palmetto, LA 71358. Representative: Richard D. Howe, 600 Hubbell Building, Des Moines, IA 50309.

Building materials, between points in AR, LA, MS, and TX. Supporting shipper: Port Barre Lumber Industries, Port Barre, LA.

MC 165088 (Sub-5–1TA), filed December 8, 1982. Applicant: DAN CLARK, d.b.a. CLARK TRANSPORTATION CO., Route 2, Box 215, Decatur TX 76234. Representative: Bernard H. English, 6270 Firth Road, Fort Worth, TX 76116. (1) *Lumber or Wood Products; (2) Chemicals or Allied Products; (3) Primary Metal Products, (4) Fabricated Metal Products; (5) Machinery, and (6) Non-Metallic Minerals,* between points in AL, AR, AZ, CA, CO, KS, KY, LA, MO, MS, NE, NV, NM, OK, TN, TX, UT and WY. Supporting shippers: 13.

MC 165102 (Sub-5–1TA), filed December 9, 1982. Applicant: PORTVINCENT TRUCK LEASING, INC., Route 3, Box 387, Denham Springs, LA 70726. Representative: Mary Thigpen Gourdon, same as above. Contract; Irregular. *Carpet and related supplies, tile, grout, cement products, and related tile supplies,* from points in the U.S. To points in New Orleans, Shreveport, and Baton Rouge, LA. Supporting shipper: Bolick Distributors, Inc., Baton Rouge, LA.

MC 165123 (Sub-5–1TA), filed December 10, 1982. Applicant: JIMMY DAYLE KING d.b.a. D & J TRUCKING, 500 East 50th Street, Lubbock, TX 79452. Representative: Donald B. Morrison P.O. Box 22628, Jackson, MS 39205. Contract, irregular; *Such commodities as are dealt in or used by manufacturers and distributors of cotton and linter baling and wrapping material; and anti-wash devices* between points in the U.S under continuing contract(s) with Belton Industries, Inc, of Belton, SC.

MC 165132 (Sub-5–1TA), filed December 10, 1982. Applicant: ROBERT L. BELL d.b.a. BELL TRUCKING, Star Route 488, Willow Springs, MO 65793. Representative: Bruce McCurry, 910 Plaza Towers Springfield, MO 65804. *Wood pallets, lumber and wood products* between points in Douglas, Dent, Howell, Oregon, Ozark, Reynolds, Shannon, Texas and Wright Counties, MO on the one hand and points in AR, CO, IL, IA, KS, NB, OH, and OK on the other hand, Supporting shippers: Bob Hanna Sales Company, West Plains, Mo; Ball Brothers Forest Products, Inc., Koshkonong, MO; Gray Forest Products, Inc., Birch Tree, MO.

The following applications, were filed in Region 6. Send protests to: Interstate Commerce Commission, Region 6 Motor Carrier Board, 211 Main St., Suite 501, San Francisco, CA 94105.

MC 148757 (Sub-6–1TA), filed December 6, 1982. Applicant: ASSOCIATED FREIGHT CONSOLIDATORS, INC., 288 Martin, Blaine,WA 98230. Representative: George LaBissoniere, 15 S. Grady Way, Suite 239, Renton, WA 98055. *General Commodities* (excluding A & B explosives, household goods and commodities in bulk) between points in Whatcom County, WA and ports of entry on the U.S-Canada International Boundary at Blaine, WA, for 270 days. Applicant intends to interline. An underlying ETA seeks 120 day authority. Supporting shipper: Jack R. Huls & Co., 61 12th Street, Blaine, WA 98230.

MC 165061 (Sub-6–TA), filed December 7, 1982. Applicant: LARRY MOULTON, d.b.a. BARTER TRUCKING, 3530 Martin Way 1, Olympia, WA 98506. Representative: (Same as applicant). *General Commodities* between points in WA and points in the U.S. including AK for 270 days. Supporting shippers: New Horizons Imports, 411 Sleater Kenny Rd. S.E., Olympia, WA 98503.

MC 149138 (Sub-6–7TA), filed November 18, 1982. Applicant: COLORADO–KANSAS MISSOURI EXPRESS CO., INC., 4250 Oneida Street, Suite 141, Denver, CO 80216. Representative: William Lippman, 52 South Steele, Suite 588, Denver, CO 80209. *Contract,* irregular; *General Commodities, (except HHG, class A&B explosives, and commodities in bulk,* between CO and the U.S. (except AK and HI) for 270 days. Supporting shippers: Rocky Mountain National Transport, 4250 Oneida St., Denver, CO 80216.

MC 164107 (Sub-6–1TA), filed December 7, 1982. Applicant: CONTINENTAL SECURITY GUARDS, INC., 4010 N. 27th St., Phoenix, AZ 85017. Representative: Marsha N. Honda, 1545 Wilshire Blvd., Suite 606, Los Angeles, CA 90017. *Contract Carrier,* irregular routes: *coin and currency,* between Mohave County, AZ, Maricopa County, AZ and Clark County, NV for 270 days. Supporting shipper: First Interstate Bank of Arizona, 100 West Washington, Phoenix, AZ 85063.

MC 128685 (Sub-6–10TA), filed December 6, 1982. Applicant: DIXON, BROS., INC., P.O. Drawer 8, Newcastle, WY 82701. Representative: Jerome Anderson, P.O. Drawer 849 Billings, MT 59103–0849. *Jet fuel* between points in Weston County, WY, on the one hand, and on the other, points in Davis County, UT. An underlying ETA seeks 120 days authority. Supporting shipper: Wyoming Refining Company, P.O.B. 820 Newcastle, WY 82701.

MC 160345 (Sub-6–4TA), filed December 7, 1982. Applicant: EATON TRANSPORTATION COMPANY, INC., 2951 Coors Ct., Santa Rosa, CA 94501. Representative: William D. Taylor, 100 Pine St., #2550, San Francisco, CA 94111. *Beer and malt beverages and glass bottles,* between points in Sonoma County, CA and points in Jefferson County, CO, for 270 days. Supporting shipper: Eaton Distributing Co., Inc., 2951 Coors Court, Santa Rosa, CA 94501.

MC 146024 (Sub-6–3TA), filed December 7,1982. Applicant: G & R PETROLEUM, INC., 253 S.W. 4th Avenue, Ontario, OR 97914. Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701. *Contract Carrier,* Irregular Routes: *Feed Ingredients and Molasses in bulk,* between points in ID and OR on the one hand, and on the other, points in CA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Stauffer Chemical Company, P.O. Box 3050, Rincon Annex, San Francisco, CA 94110.

MC 41098 (Sub-6TA), filed December 8, 1982. Applicant: GLOBAL VAN LINES, INC., One Global Way, Anaheim, CA 92803. Representative: Alan F. Wohlstetter, 1700 K St., NW., Washington, D.C. 20006. *Contract carrier,* irregular routes, *general commodities* (except commodities in bulk and classes A and B explosives) between points in the U.S. under continuing contract(s) with Barber-Colman Company of Rockford, IL and subsidiaries Robicon and Haskell-Dawes, for 270 days. Supporting shipper: Barber-Colman, 1300 Rock St., Rockford, IL 61101.

MC 152393 (Sub-6–7TA), filed December 8, 1982. Applicant: SCOTT B. WARN d.b.a. OVERNITE EXPRESS, 555 143d Avenue, San Leandro, CA 94577. Representative: Armand Karp, 743 San Simeon Drive, Concord, CA 94518. *Contract Carrier,* Irregular routes: *Paints, varnishes, alkyd resins,* from points in NJ to points in CA, for the account of Superior Varnish & Dryer, Merchantville, NJ, for 270 days. Supporting shipper: Superior Varnish & Dryer, P.O. Box 1310, Merchantville, NJ 08109.

MC 165014 (Sub-6–1TA), filed December 3, 1982. Applicant: PACIFIC NORTHWEST CARRIERS, INC., 12090 86th Ave., Surrey, B.C. CDV3W 3H7. Representative: Jim Pitzer, 15 South Grady Way, Suite 321, Renton, WA 98055. *Lumber and Wood Products, Prefabricated Steel and Scrap Metals* between Border Crossings between the U.S. and CD in WA and ID and between

points in ID, OR and WA for 270 days. Supporting shippers: There are 5 supporting shippers. Their statements may be examined at the Regional Office listed.

MC 146724 (Sub-6–5TA), filed December 8, 1982. Applicant: DEAN RAPPLEYE, INC., P.O. Box 204 West Jordan, UT 84084. Representative: Daniel O. Hands, 104 South Michigan Ave., Chicago, IL 60603. *Lumber and pallets* from the port of entry on the International Boundary line between the U.S. and CD at Sweetgrass, MT to points in CA and WA., for 270 days. Supporting shipper: Sun Child forest products, Ltd., P.O. Box 68, Winter Burn, AB, CD–CD TOE 2 NO.

MC 149078 (Sub-G–12TA), filed December 6, 1982. Applicant: ROAD WEST, INC., 1315 E. Holt Blvd., Ontario, CA 91761. Representative: Robert Fuller, 13215 E. Penn St., Ste, 310, Whittier, CA 90602. *Food products, frozen, for institutional delivery, and materials, supplies and equipment used in the manufacture and distribution of food products*, between Salina (Saline County), KS, on the one hand, and, on the other, points in the U.S. (except AK and HI), for 270 days. Supporting shipper: Schwan Sales Enterprises, 2413 Hein Street, Salina, KS 67401.

MC 134084 (Sub-6–1TA), filed December 8, 1982. Applicant: SHROCK TRUCKING, INC., P O B 428, Hubbard, OR 97032. Representative: Lawrence V. Smart, Jr., 419 NW 23d Ave., Portland, OR 97210. *Food and related products*, from Salem, OR to points in CA and AZ, for 270 days. An underlying ETA seeks 120 day authority, Supporting shipper: Agripac, Inc., P.O.B. 5346, Salem, OR 97304.

MC 165085 (Sub-G–1TA), filed December 8, 1982. Applicant: RAY BARBER d.b.a. WEST END TRUCKING, 7316 W. Southern, Phoenix, AZ 85339. Representative: A. Michael Bernstein, 1441 E. Thomas Rd., Phoenix, AZ 85014. *Contract carrier*, irregular routes, *Commodities used or useful in the operation of restaurants or food house businesses*, between points in WA, CA and AZ, under continuing contract with Foodmaker, Inc., for 270 days. An underlying ETA application seeds 120 days authority. Supporting shipper: Foodmaker, Inc., 9330 Balboa Ave., San Diego, CA 92112.

MC 152693 (Sub-G–2TA), filed December 8, 1982. Applicant: H. S. WILSON TRUCKING, INC., P.O.B. 221, Notus, ID 83656. Representative: Kevin M. Clark, 2417 Bank Dr., Ste. 8, Boise, ID 83705. *Fertilizer*, dry in bulk, between points in ID, CA, AZ, and NV, for 270 days. An underlying ETA seeds 120 day authority. Supporting shippers: J. R. Simplot Company, P.O.B. 27, Boise, ID, 83707 Simcal Chemical Co., P.O.B. 9460, Fresno, CA 93792.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–34398 Filed 12–17–82; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

In the matter of Motor Common and Contract Carriers of Property (except fitness-only); Motor Common Carriers of Passengers (public interest); Freight Forwarders; Water Carriers; Household Goods Brokers.

The following applications for motor common or contract carriers of property, water carriage, freight forwarders, and household goods brokers are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common carriage of passengers, filed on or after November 19, 1982, are governed by Subpart D of 49 CFR Part 1160, published in the **Federal Register** on November 24, 1982 at 47 FR 53271. For compliance procedures, see 49 CFR 1160.86. Carriers operating pursuant to an intrastate certificate also must comply with 49 U.S.C. 10922(c)(2)(E). Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E. In addition to fitness grounds, these applications may be opposed on the grounds that the transportation to be authorized is not consistent with the public interest.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations.

We make an additional preliminary finding with respect to each of the following types of applications as indicated: common carrier of property—that the service proposed will serve a useful public purpose, responsive to a public demand or need; water common carrier—that the transportation to be provided under the certificate is or will be required by the public convenience and necessity; water contract carrier, motor contract carrier of property, freight forwarder, and household goods broker—that the transportation will be consistent with the public interest and the transportation policy of section 10101 of chapter 101 of Title 49 of the United States Code.

These presumptions shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those

where service is for a named shipper "under contract." Applications filed under 49 U.S.C. 10922(c)(2)(B) to operate in intrastate commerce over regular routes as a motor common carrier of passengers are duly noted. Please direct status inquiries to Team 2, (202) 275–7030.

Volume No. OP2–317

Decided: December 13, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

W–643 (Sub-1), filed November 29, 1982. Applicant: RIEDEL INTERNATIONAL, INC., d.b.a. WILLAMETTE TUG AND BARGE COMPANY, 4555 N. Channel Ave., Portland, OR 97217. Representative: Russell M. Allen, 1200 Jackson Tower, Portland, OR 97205, 503–224–4840. Transporting by water, by towing vessels in the performance of *general towage;* and by non-self-propelled vessels with the use of separate towing vessels in the transportation of *general commodities,* between ports and points along the Pacific Coast and tributary waterways.

Note.—This application contemplates operations which should result in decreased energy consumption in comparison with existing energy consumption in the affected area. To the extent traffic will be diverted from existing transportation modes, greater energy efficiencies may be obtained without disruption to existing patterns of energy distribution or to development of energy resources. The application is, in all respects, consistent with prevailing goals and objectives of the National Energy Policy.

MC 147552 (Sub-15), filed December 7, 1982. Applicant: CAJUN CARTAGE AND WAREHOUSING CORPORATION, P.O. Box 96211, Houston, TX 77213–6211. Representative: Doyle G. Owens, P.O. Box 7735, Beaumont, TX 77706 (713) 898–8086. Transporting *general commodities* (except classes A and B explosives and household goods), between points in TX and LA.

MC 147553 (Sub-19(A), filed November 24, 1982. Applicant: DENNIS MOSS AND GARY MOSS, d.b.a., MOTOR WEST, P.O. Box 1405, Caldwell, ID 83605. Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701 (208) 343–3071. Transporting (1)(a) *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with American Strevell, Inc., of Salt Lake City, UT; (2)(b) *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (including AK and HI), and (3)(b) *as a broker of general commodities* (except household goods), between points in the U.S. (including AK and HI).

Note.—Part (2)(b) and (3)(b) are published in the **Federal Register**, this issue, with "fitness applications".

MC 159632 (Sub-1), filed December 6, 1982. Applicant: JACK D. BAILEY TRUCKING, P.O. Box 245, Dade City, FL 33525. Representative: Jack D. Bailey (same address as applicant) 904–567–9553. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in AZ, CA, OR, WA, ID, and FL, on the one hand, and on the other, points in the U.S. (except AK and HI).

MC 160192 (Sub-1), filed December 2, 1982. Applicant: DAN TERRELL TRUCKING, INC., 451 Tidewater Rd., Mooresville, IN 46158. Representative: Robert B. Hebert, One Indiana Square, Suite 1600, Indianapolis, IN 46204, 317–632–6262. Transporting *machinery,* between points in the U.S. (except AK and HI), under continuing contract(s) with John Jones Company, of Paragon, IN.

MC 165023, filed December 6, 1982. Applicant: M. DUCHARME TRANSIT LTD., 80 Turcot St., Auteuil Laval, Quebec Canada H7K 2K8. Representative: W. Norman Charles, P.O. Box 724, Glens Falls, NY 12801 518–792–0957. Transporting *lumber and wood products,* between ports of entry on the international boundary line between the U.S. and Canada in MI, NH, NY, VT, and WI, on the one hand, and, on the other, points in AL, CT, IL, IN, IA, KY, MD, MA, MI, MN, MO, NH, NJ, NY, OH, PA, RI, TN, VT, VA, WI, and DC.

Volume No. OP2–320

Decided: December 10, 1982.

By the Commission, Review Board No. 1, members Parker, Chandler, and Fortier. (Member Parker not participating.)

MC 52793 (Sub-115), filed November 22, 1982. Applicant: BEKINS VAN LINES CO., 333 South Center St., Hillside, IL 60162. Representative: David A. Gallagher (same address as applicant) (312) 547–2184. Transporting *household goods,* between points in the U.S. (except AK and HI), under continuing contract(s) with GPU Service Corporation, of Parsippany, NJ.

MC 98763 (Sub-5), filed November 19, 1982. Applicant: TED PETERS TRUCKING COMPANY, INC., 600 Fourth St., Gustine, CA 95322. Representative: Daniel W. Baker, 100 Pine St., #2550 San Francisco, CA 94111 (415) 986–1414. Over regular routes, transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), (1) between San Francisco and Roseville, CA, over Interstate Hwy 80; (2) between Sacramento, CA and junction Interstate Hwy 5 and CA Hwy 99 near Wheeler Ridge CA, over CA Hwy 99; (3) between junction of Interstate Hwys 580 and 5 near Tracy, CA, and Los Angles, CA, over Interstate Hwy 5; (4) between Los Angeles and Redlands, CA, over Interstate Hwy 10; (5) between San Francisco and Stockton, CA, over Interstate Hwys 580, 205, and 5; (6) between junction of Interstate Hwy 80 and CA Hwy 4, near Pinole, CA, and Stockton, CA, over CA Hwy 4; (7) between Tracy and Maricopa, CA, over CA Hwy 33; (8) between Santa Rosa and Los Angeles, CA, over U.S. Hwy 101; (9) between Los Angeles and San Ysidro, CA, over Interstate Hwy 5; (10) between San Fancisco and San Jose, CA, over CA Hwy 82; (11) between Montalvo and Capistrano Beach, CA, over CA Hwy 1; (12) between Roseville and Yuba City, CA, over CA Hwy 65; (13) between Yuba City and Chico, CA, over CA Hwy 99; (14) between Ygnacio and Vallejo CA, over CA Hwy 37; (15) between Riverside and San Diego, CA, over Interstate Hwy 15; (16) between Gilroy, CA, and the intersection of CA Hwys 99 and 152, near Califa, CA, over CA Hwy 152; and (17) between Oakland and San Jose, CA, over CA Hwy 17; serving all intermediate points over routes (1) thru (17) above, serving as off-route points in the following counties: Sonoma, Marin, Napa, Yolo, San Francisco, San Mateo, Santa Clara, Santa Cruz, Stanislaus, Alameda, Contra, Costa, San Joaquin, Sacramento, Solano, Verced, Yuba, Kings, Monterey, San Benito, Sutter, Butte, San Luis Obispo, Santa Barbara, Ventura, Orange, Los Angeles, points in San Diego County West of CA Hwy 79 and County Road S-2; points in that part of Fresno County west of a boundary line commencing at the Medera-Fresno County line at Friant, then southerly along the Friant Expressway to Pinedale, easterly along Herndon Avenue to Academy Avenue, southerly along Academy Avenue to CA Hwy 180, easterly along CA Hwy 180 to CA Hwy 63, southerly along CA Hwy 63 to Fresno-Tulare County line; points in Tulare County west of a boundary line commencing at the Fresno-Tulare County line, then southerly along CA Hwy 63 to CA Hwy 201, easterly along CA Hwy 201 to County Road J–27, southerly along County Road J–27 to CA Hwy 65, southerly along CA Hwy 65 to Tulare-Kern County line and Lindsay, Strathmore and Porterville; points in Kern County west and south of a boundary line commencing at the Tulare-Kern County line, then southerly

along CA Hwy 65 to CA Hwy 99, southerly along CA Hwy 99 to CA Hwy 204, easterly along CA Hwy 204 to CA Hwy 58, easterly along CA Hwy 58 to the Kern-San Bernardino County line; points in Madera County west of a boundary line commencing at the Madera-Mariposa County line, then southerly along the Atchison, Topeka and Santa Fe Railroad right-of-way to CA Hwy 145, easterly along CA Hwy 145 to County Road 145, southerly along County Road 145 and County Road 206 to the Madera-Fresno County line; points in Placer and Nevada Counties, west of CA Hwy 49; points in Glenn and Colusa Counties, east of Interstate Hwy 5; points in Riverside County, west of CA Hwy 79; and points in San Bernardino County, west of a line beginning at the Los Angeles-San Bernardino County line, then along CA Hwy 138 to Interstate Hwy 15; along Interstate Hwys 15 and 15E to junction with Interstate Hwy 10; along Interstate Hwy 10 to San Bernardino-Riverside County line.

Note—(1) The purpose of this application is to convert a Certificate of Registration authority to a Ceritificate of Public Convenience and Necessity.

(2) Issuance of a Certificate in this proceeding is subject to coincidental cancellation of carrier's existing Certificate of Registration in MC–98763 Sub 3, issued July 11, 1974, at applicant's written request.

MC 133172 (Sub-3), filed November 22, 1982. Applicant: GREAT SOUTHWEST WAREHOUSE, INC. d.b.a., SEATTLE TRANSFER & STORAGE, P.O. Box 2546, Spokane, WA 99220. Representative: James E. Wallingford, P.O. 2847, Spokane, WA 99220 (509) 534–5065. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in ID, MT,OR, and WA.

MC 139253 (Sub-11), filed December 2, 1982. Applicant: SOUTHEASTERN WAREHOUSING AND DISTRIBUTION CORPORATION, 102 Ashe St., Johnson City, TN 37061. Representative: Roland M. Lowell, 5th Floor, 501 Union St., Nashville, TN 37219 (615) 255–0540. Transporting (1) *automobile parts*, between points in IL, MS, OH, and TN, on the one hand, and, on the other, points in KY, MS, and TN, and (2) *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Baldwin County, AL, Whitfield County, GA, and points in TN in and east of Greene and Hawkins Counties, TN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Note.—Applicant intends to tack points in (2) above to its existing regular route authority.

MC 136183 (Sub-5), filed December 2, 1982. Applicant: JOE COSTA d.b.a. TRINIDAD FREIGHT SERVICE, Santa Fe Yards, Trinidad, CO 81082. Representative: Joe Costa (same address as applicant) (303) 846–6433. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), between points in CO and NM.

MC 141382 (Sub-11), filed December 6, 1982. Applicant: DON'S MOVING & DELIVERY SYSTEM, INC., 527 South Fremont, Janesville, WI 53545. Representative: James A. Spiegel, Olde Towne Office Park, 6333 Odana Road, Madison, WI 53719 (608) 273–1003. Transporting *furniture and fixtures*, between points in Rock County, WI, on the one hand, and, on the other, those points in the U.S., in and east of MN, IA, MO, AR and LA.

MC 147173 (Sub-6), filed December 2, 1982. Applicant: C & T TRUCKING, 1050 Brookside Dr., Richmond, CA 94806. Representative: Brian S. Stern, 5411–D Backlick Rd., Springfield, VA 22151 (703) 941–6200. Transporting *metal products*, between points in the U.S. (except AK and HI). Condition: Applicant's permits under MC–147173 and Sub 2, issued January 28, 1980, and May 26, 1981, respectively, are revoked.

MC 147573 (Sub-5), filed December 6, 1982. Applicant: OAK ISLAND EXPRESS, 2 Sixth St., Jersey City, NJ 07302. Representative: Peter Wolff, 722 Pittston Ave., Scranton, PA 18505, (717) 342–7595. Transporting *general commodities* (except classes A and B explosives, commodities in bulk and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with J. C. Penny Company, Inc., of New York, NY.

MC 149472 (Sub-11), filed November 23, 1982. Applicant: INTER-COASTAL, INC., 131 Beaverbrook Rd., Lincoln Park, NJ 07035. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934, (201) 234–0301. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI). Condition: The person or persons who appears to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. 11343(a), submit an affidavit indicating why such approval is unnecessary, or file a petition seeking exemption under 49 U.S.C. 11343(e). In order to expedit issuance of any authority please submit a copy of the affidavit or proof of filing the application(s) for common control to Team 2, Room 2379.

MC 152292 (Sub-2), filed November 26, 1982. Applicant: SUNBELT EXPRESS, INC., 255 Webb Chapel Village, Dallas, TX 75040. Representative: William Sheridan, P.O. Box Drawer 5049, Irving, TX 75062, (214) 255–6279. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in AZ, CA, CO, NM, OK, and TX.

MC 158052 (Sub-1), filed November 24, 1982. Applicant: J & E TRANSPORT, INC., P.O. Box 1418, Temple, TX 76503. Representative: Dorothy Smith (same address as applicant), (817) 771–0102. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 162572 (Sub-1), filed December 3, 1982. Applicant: TRUCK SERVICES, INC., 1590 Industrial Park Road, Mulberry, FL 33860. Representative: M. Craig Massey, 1701 South Florida Ave., P.O. Drawer 2787, Lakeland, FL 33806–2787, (813) 682–1178. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in FL, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with Lykes Pasco Packing Co., of Dade City, FL.

For the following, please direct status inquiries to Team 1 at 202–275–7992.

Volume No. OP1–227

Decided: December 10, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 1940 (Sub-45) filed December 6, 1982. Applicant: TRAILWAYS OF NEW ENGLAND, INC., 625 8th Ave., New York, NY 10018. Representative: George W. Hanthorn, 1500 Jackson Street, Dallas, TX 75201, (214) 655–7937. *Over regular routes*, transporting *passengers*, (1) between Boston, MA and Lewiston, ME, from Boston over U.S. Hwy 1 to Portland, then over the Maine Turnpike to Lewiston, and return over the same route, (2) between junction U.S. Hwy 1 and Interstate Hwy 95 near West Peabody, MA, and Portland, ME, from junction U.S. Hwy 1 and Interstate 95 over Interstate Hwy 95 to junction Interstate Hwy 295, then over Interstate Hwy 295 to Portland, and return over the same route, and (3) between junction U.S. Hwy 1 and NH Hwy 101E near Hampton, NH, and Hampton Beach, NH, over NH Hwy 101E, serving all intermediate points in connection with routes (1) to (3) above.

Note.—Applicant intends to tack the sought rights to its existing authority.

Applicant seeks to provide regular-route service in interstate or foreign commerce and in intrastate commerce under 49 U.S.C. 10922(c)(2)B) over the same route.

MC 104881 (Sub-10), filed December 6, 1982. Applicant: GAY TRUCK LINE, INC., P.O. Box 134, Highway 15 S., Falkner, MS 38629. Representative: Thomas A. Stroud, 109 Madison Ave., Memphis, TN 38103, (901) 526–2900. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in AL, AR, FL, GA, IA, IL, IN, KY, LA, MI, MN, MS, MO, NC, OH, OK, PA, SC, TN, TX, VA, WI, and WV.

MC 144140 (Sub-61), filed December 6, 1982. Applicant: SOUTHERN FREIGHTWAYS, INC., P.O. Box 158, Eustis, FL 32726. Representative: John L. Dickerson (same address as applicant), (904) 357–1300. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except Ak and HI).

MC 148980 (Sub-2), filed December 3, 1982. Applicant: WESTERN CARGO, INC., P.O. Box 20489, Reno, NV 89515. Representative: Royal F. Miller (same address as applicant), (702) 329–0061. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in CA and NV, on the one hand, and, on the other, points in AZ, CA, CO, ID, MT, NV, OR, WA, and WY, under continuing contract(s) with K-Mart Corp., of Troy, MI. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either (1) state that a petition has been filed under 49 U.S.C. 11343(e) seeking an exemption from the requirements of 49 U.S.C. 11343, (2) file an application under 49 U.S.C. 11343(A), or (3) submit an affidavit indicating why such approval is unnecessary, to the Secretary's office. In order to expedite issuance of any authority please submit a copy of this filing to Team 1, Room 2379.

MC 152581 (Sub-2) filed December 7, 1982. Applicant: YOUNG MOVING & STORAGE, INC., 4000 Mayflower Dr., Lynchburg, VA 24501. Representative: Alan F. Wohlstetter, 1700 K St., N.W., Washington, DC 20006, (202) 833–8884. Transporting *household goods,* between points in NC, OH, SC, VA and WV, on the one hand, and, on the other, points in AL, CT, DE, FL, GA, IN, KY, LA, MA, MD, MI, MS, NC, NJ, NY, OH, PA, RI, SC, TN, VA, WV and DC.

MC 162241, filed December 2, 1982. Applicant: VIRGIL CLARK, d.b.a. V. CLARK TRANSPORTATION, P.O. Box 2341, Roseburg, OR 97470. Representative: Virgil Clark, c/o Gaylord L. Cudmore, 617 Terrace Dr., San Dimas, CA 91773, (714) 592–3849. Transporting (1) *pulp, paper and related products,* between points in CA, AZ, NV, OR, WA, UT, ID, NM, TX, and CO, (2) *such commodities* as are dealt in or used by manufacturers and distributors of plastic toys, between points in CA, on the one hand, and, on the other, points in WA, OR, AZ, UT, ID, NM, TX, CO, NV, and WY, (3) *such commodities* as are dealt in or used by manufacturers and distributors of fibre-glass, earthenware, steel, and plumbers goods, between Dallas, TX, on the one hand, and, on the other, points in the U.S. (except AK, CT, DE, HI, ME, MA, NH, NJ, NY, PA, RI, and VT), and (4) (a) *new furniture and fixtures,* and (b) *such commodities* as are dealt in or used by manufacturers and distributors of exercise and health equipment, between points in CA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 163410, filed December 7, 1982. Applicant: MAYO TRUCKING, LTD., 4415 W. Harrison Street, Hillside, IL 60162. Representative: James R. Madler, 120 W. Madison Street, Chicago, IL 60602, (312) 726–6525. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between Chicago, IL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 164571 (Sub-1), filed December 1, 1982. Applicant: RELIABLE TRANSPORT CORPORATION, P.O. Box 4798, East Providence, RI 02916. Representative: Robert L. Cope, Suite 501, 1730 M St., N.W., Washington, DC 20036, (202) 296–2900. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between points in PA, NJ, NY, CT, RI, MA, NC, SC, GA, VA, DE, NH, VT, MD, ME, and FL.

MC 164651, filed December 6, 1982. Applicant: WALTER MOSLEY, JR., d.b.a. MOSLEY'S MOBILE HOME MOVERS, 920 N. Arizona Ave., Chandler, AZ 85224. Representative: Jack L. Schiller, 111–56 76th Dr., Forest Hills, NY 11375, (212) 263–2078. Transporting *such commodities* as are dealt in or used in the manufacture, distribution and installation of mobile homes, between points in AZ, CA, CO, NM, NV, TX, and UT.

MC 164981, filed December 2, 1982. Applicant: HOGAN TRANSPORTS, INC., 1000 North 14th St., St. Louis, MO 63106. Representative: B. W. LaTourette, Jr., 11 South Meramec, Suite 1400, St. Louis, MO 63105, (314) 727–0777. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk) between points in the U.S. (except AK and HI), under continuing contract(s) with Venture Stores, a division of May Department Stores Company, of St. Ann, MO. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file and application under 49 U.S.C. 11343 or an appropriate petition for exemption, or submit an affidavit indicating why such approval is unnecessary to the Secretary's office. In order to expedite issuance of any authority please submit a copy of the affidavit, a copy of the petition for exemption, or proof of filing the application(s) for common control to team 1, Room 2379.

MC 165021, filed December 6, 1982. Applicant: STAR ROUTE CARRIERS, INC., P.O. Box 717, R.D. 3, Coopersburg, PA 18036. Representative: Albert J. Olizi, Jr., 530 Walnut Street, Twelfth Floor, Philadelphia, PA 19106, (215) 574–0600. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in MD, NJ, NY, PA, DE, CT, MA, RI, VA and DC.

For the following, please direct status inquiries to Team 3 at 202–275–5223.

Volume No. OP3–41

Decided: December 10, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

FF 634, filed November 23, 1982. Applicant: ALPHA FORWARDERS, INC., 640 Hakaka St., Honolulu, HI 96816. Representative: Russell T. Higa (same address as applicant), (808) 737–1665. As a *freight forwarder,* in connection with the transportation of *household goods, baggage and automobiles,* between points in the U.S.

MC 1745, (Sub-16), filed November 30, 1982. Applicant: INTERSTATE VAN LINES, INC., West Springfield, VA 22152. Representative: Marshall Kragen, 1919 Pennsylvania Ave., N.W., Suite 300, Washington, DC 20006, (202) 466–3778. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Volvo White Truck Corporation, of Greensboro, NC.

MC 38055, (Sub-4), filed November 23, 1982. Applicant: BROWN MOVING & STORAGE, INC., 360 Warren Ave., East Providence, RI 02914. Representative: Charles L. Plante (same address as

applicant), (401) 434–5100. Transporting *household goods, furniture and fixtures,* between points in AZ, AR, CA, CO, ID, IL, IA, KS, KY, LA, MS, MO, NE, NV, NM, OK, OR, TN, TX, UT, WA and WY.

MC 88414, (Sub-9), filed November 30, 1982. Applicant: RICHMOND TRANSFER & STORAGE CO., 2114 Macdonald Ave., Richmond, CA 94801. Representative: Alan F. Wohlstetter, 1700 K St., NW, Washington, DC 20006, (202) 833–8884. Transporting *household goods,* between points in the U.S., under continuing contract(s) with American Vanpac Carriers, Inc., of Richmond, CA. Condition: A grant of authority here is conditioned upon an explanation by applicant of why the proposed operation is not proscribed by 49 U.S.C. 11323 which deals with limitations on ownership of other carriers by freight forwarders.

MC 93734 (Sub-14), filed November 29, 1982. Applicant: DEWITT TRANSFER & STORAGE CO., P.O. Box 82109, San Diego, CA 92138. Representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Washington, D.C. 20036, (202) 785–0024. Transporting *household goods,* between points in AL, AZ, CA, AR, CO, CT, DE, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY and DC.

Note.—A grant of authority here is conditioned upon an explanation by applicant of why the proposed operation is not proscribed by 49 U.S.C. 11323 which deals with limitation on ownership of other carriers by freight forwarders.

MC 99365 (Sub-6), file, November 26, 1982. Applicant: SHORTY HALL RIG CO., INC., P.O. Box 2429, 2632 E. Pearl, Odessa, TX 79760. Representative: Mike Cotten, P.O. Box 1148, Austin, TX 78767, (512) 472–6800. Transporting (1) *Mercer commodities* and (2) *earth drilling equipment,* between points in AR, AZ, CO, KS, LA, MO, MS, MT, ND, NE, NM, OK, SD, TX, UT and WY.

MC 111274 (Sub-91), filed November 29, 1982. Applicant: SCHMIDGALL TRANSFER INC., P.O. Box 351, Morton, IL 61550. Representative: Frederick C. Schmidgall, (same address as applicant), (309) 266–6773. Transporting *iron and steel products,* between points in the U.S., (except AK and HI), under continuing contract(s) with Parker Steel Co., Inc. of Toledo, OH.

MC 113855 (Sub-540), filed November 22, 1982. Applicant: INTERNATIONAL TRANSPORT, INC. 2450 Marion Rd., SE. Rochester, MN 55901. Representative: Thomas J. Van Osdel, 15 Broadway, Suite 502, Fargo, ND 58102 (701) 235–4487. Transporting *general commodities* (except classes A and B explosives, household good and commodities in bulk), between points in the U.S. (except HI) under continuing contract(s) with American Standard, Inc. of New Brunswick, NJ and Majestic Company of Huntington, IN, Modernfold of New Castle, IN, Steelcraft Manufacturing of Cincinnati, OH, American Bank Stationery Co. of Atlanta, GA, Bankers Lithographing Co. of Pittsburgh, PA, Westinghouse Air Brake Co. of Pittsburgh, PA Woehrmyer Business Forms of Denver, CO, Bibidinghaus Business Forms of Cincinnati, OH, Trinity Business Forms of Carrollton, TX, Pioneer Business Forms of Tacoma, WA, Frye & Smith of Costa Mesa, CA, Keller-Crescent Company of Evansville, IN, Adcrafters, Inc. of Baltimore, MD, Storm Printing Co. of Olive Branch, MS, Stafford-Lowdon Co. of Dallas, TX, Lebannon Valley Offset Co. of Annville, PA, Mosler Safe Co. of Cincinnati, OH, Universal Railway Devices of Chicago, IL and WABCO Construction & Mining Equipment Group of Peoria, IL.

MC 114334 (Sub-99), filed November 23, 1982. Applicant: BUILDERS TRANSPORTATION COMPANY, 3710 Tulane Rd., Memphis, TN 38116. Representative: Calvin R. Turner, Jr., P.O. Box 517, Evergreen, AL 36401, (295) 578–3212. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between those points in the U.S. in and east of ND, SD, NE, KS, OK and TX.

MC 119974 (Sub-238), filed November 22, 1982. Applicant: L. C. L. TRANSIT COMPANY, 949 Advance St., Green Bay, WI 54304. Representative: J. J. Gloeckler, P.O. Box 949, Green Bay, WI 54305, (414) 497–7400. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Roquette Corporation, of New York, NY.

MC 138624 (Sub-5), filed November 22, 1982. Applicant: CLIFF REED, INC., 510 Willow Creek Rd., Corvallis, MT 59828. Representative: Timothy R. Stivers, P.O.B 1576, Boise, ID 83701, (208) 343–3071. Transporting *building materials, lumber, metal and wood products,* between those points in the U.S. in and west of MI, IN, IL, MO, AR, and LA (except AK and HI).

MC 144484 (Sub-16), filed November 29, 1982. Applicant: FREIGHTWAYS, INC., 438 E. 2nd St., P.O. Box 31, Eldon, MO 65026. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309, (515) 244–2329. Transporting *electrical machinery,* between points in Cumberland County, NC, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 145925 (Sub-7), filed November 22, 1982. Applicant: TRANS CONTINENTAL LEASING, LTD., 8920 Pershall Rd., Hazelwood, MO 63042. Representative: B. W. LaTourette, Jr., 11 South Meramec, Suite 1400, St. Louis, MO 63105, (314) 727–0777. Transporting *foodstuffs,* between points in the U.S. (except AK and HI), under continuing contract(s) with AKF Foods, Inc., d/b/a Potato Service, of Presque Isle, ME. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. 11343(a), or submit an affidavit stating why Commission approval is unnecessary, or submit a petition of exemption to the Secretary's office. In order to expedite issuance of any authority please submit a copy of the affidavit or petition or proof of filing the application(s) for common control to Team 3, Room 2158.

MC 147704 (Sub-1), filed November 23, 1982. Applicant: CARTER CARTAGE COMPANY, INC., 2462 South West St., Indianapolis, IN 46225. Representative: Robert W. Loser II, Chamber of Commerce Bldg., 320 N. Meridian St., Indianapolis, IN 46204, (317) 635–2339. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Marion County, IN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 149284 (Sub-7), filed November 26, 1982. Applicant: MARION D. DAY, d.b.a. DAY'S EXPRESS, 1942 7th St., Columbus, IN 47201. Representative: Jack L. Schiller, 111–56 76th Dr., Forest Hills, NY 11375, (212) 263–2078. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Colgate-Palmolive Co., Inc., of New York, NY.

MC 152015 (Sub-2), filed November 29, 1982. Applicant: BLACK BEAUTY TRUCKING CO., INC., P.O. Box 312, Evansville, IN 47702. Representative: Alki E. Scopelitis, 1301 Merchants Plaza, Indianapolis, IN 46204, (317) 638–1301. Transporting *commodities in bulk,* between points in AL, IA, IL, IN, KY, MI, MO, OH, TN, and WI.

MC 153115 (Sub-1), filed November 26, 1982. Applicant: TRIPLE R TRUCKING CO., INC., Route 1, Register, GA 30452. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328, (404)

256–4320. Transporting *lumber, wood products, and forest products,* between points in AL, FL, GA, MD, NC, SC, TN, VA and WV.

MC 156044 (Sub-3), filed November 23, 1982. Applicant: G. T. MOTOR TRANSPORT OF ALABAMA, INC., 101 Kingsberry Road, Fort Payne, AL 35963. Representative: Terry P. Wison, 428 South Lawrence Street, Montgomery, AL 36104, (205) 262–2756. Transporting *general commodities* (except household goods, commodities in bulk and classes A and B explosives), between points in the U.S. (except AK and HI), under continuing contract(s) with Charles McAlpin Brokerage, Inc., of Decatur, AL.

MC 156764 (Sub-5), filed November 29, 1982. Applicant: WELCH TRUCKING, INC., 1105 So. Boulder, Portales, NM 88130. Representative: John R. Welch (same address as applicant), (505) 356–8548. Transporting *waste or scrap paper,* between points in TX, NM, OK, CO and AZ.

For the following, please direct status inquiries to Team 4 at 202–275–7669.

Volume No. OP4–064

Decided: December 10, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 2796 (Sub-11), filed November 26, 1982. Applicant: FULLINGTON AUTO BUS COMPANY, 316 Cherry St., Clearfield, PA 16830. Representative: Christian V. Graf, 407 N. Front St., Harrisburg, PA 17101, (717) 236–9318. Transporting *passengers,* (1) between Du Bois, PA and Cleveland, OH: from Du Bois over U.S. Hwy 219 to junction U.S. Hwy 119, then over U.S. Hwy 119 to junction U.S. Hwy 322, then over U.S. Hwy 322 to junction PA Hwy 257 at or near Cranberry, then over PA Hwy 257 to Oil City, then over U.S. Hwy 62 to Youngstown, OH, then over U.S. Hwy 422 to Cleveland, OH, and return over the same route, and (2) between junction U.S. Hwy 322 and PA Hwy 208, and Oil City, PA: from junction U.S. Hwy 208 over U.S. Hwy 208 to Fryburg, then over PA Hwy 157 to junction U.S. Hwy 62, then over U.S. Hwy 62 to Oil City, PA, serving all intermediate points.

Note.—Applicant seeks to provide regular-route service in interstate or foreign commerce and in intrastate commerce under 49 U.S.C. 10922(c)(2)(B) over the same route.

MC 60087 (Sub-24), filed November 18, 1982. Applicant: CURRY MOTOR FREIGHT LINES, INC., 700 Northeast 3rd Ave., Amarillo, TX 79107. Representative: Morris G. Cobb, P.O. Box 9050, Amarillo, TX 79189, (806) 374–1641. Transporting *general commodities,* (1) Between San Antonio, TX and Uvalde, TX from San Antonio over U.S. Hwy 87 to junction TX Hwy 27, then over TX Hwy 27 to junction TX Hwy 41, then over TX Hwy 41 to junction U.S. Hwy 377, then over U.S. Hwy 377 to junction TX Hwy 55, then over TX Hwy 55 to junction U.S. Hwy 83, then over U.S. Hwy 83 to Uvalde; (2) Between Amarillo, TX and Lubbock, TX, over U.S. Hwy 87; (3) Between Plainview, TX and Lubbock, TX, from Plainview over U.S. Hwy 70 to Floydada, TX, then over U.S. Hwy 62 to Ralls, TX, then over U.S. Hwy 62 to Lubbock; (4) Between Lubbock, TX and Odessa, TX, from Lubbock over U.S. Hwy 87 to Lamesa, then over TX Hwy 137 to junction U.S. Hwy 80, and then over U.S. Hwy 80 to Odessa, serving (6) Between Midland, TX and Sonora, TX, from Midland over TX Hwy 349 to Rankin, TX, then over U.S. Hwy 67 to Barnhart, TX, then over TX Hwy 163 to Ozona, TX, then over U.S. Hwy 290 to Sonora; (7) Between Brownfield, TX, and Seminole, TX, over U.S. Hwy 62; (8) Between Seminole, TX and Odessa, TX, (a) over U.S. Hwy 385, and (b) from Seminole over TX FM 181 to junction TX Hwy 302, then over TX Hwy 302 to Odessa; (9) Between Seminole, TX and Denver City, TX, over TX Hwy 214; (10) Between Denver City, TX and Seagraves, TX, over TX Hwy 83; (11) Between Seagraves, TX and Welch, TX, over TX Hwy 83; (12) Between Brownfield, TX and junction TX FM 303 and U.S. Hwy 180, from Brownfield over TX FM 403 to junction TX Hwy 83, then over TX Hwy 83 to junction TX FM 303, then over TX FM 303 to junction U.S. Hwy 180; (13) Between Andrews, TX and Patricia, TX, over TX Hwy 115; (14) Between Andrews, TX, and Lenorah, TX, over TX Hwy 176; (15) Between Frankel City, TX, and junction TX FM 1967 and U.S. Hwy 385, over TX FM 1967; (16) Between Andrews, TX and Frankel City, TX, from Andrews over TX Hwy 176 to junction TX FM 181, then over TX FM 181 to Frankel City; (17) Between Midland, TX, and junction TX Hwy 158 and U.S. Hwy 385, over TX Hwy 158; (18) Between junction TX FM 181 and TX Hwy 302 and Notrees, TX, over TX Hwy 302;
(19) Between junction TX FM 866 and TX Hwy 302 and Goldsmith, TX, over TX FM 866; (20) Between Seminole, TX and Lamesa, TX, over U.S. Hwy 180; (21) Between Rock Springs, TX and Mountain Home, TX, from Rock Springs over U.S. Hwy 377 to Junction, TX, then over Interstate Hwy 10 to junction TX Hwy 27, then over TX Hwy 27 to Mountain Home; (22) Between Sonora, TX and Rock Springs, TX, from Sonora over U.S. Hwy 277 to junction TX Hwy 55, then over TX Hwy 55 to Rock Springs; (23) Between Lubbock, TX, and Reese Air Force Base, Hurlwood, TX, over TX Hwy 114; (24) Between Wheeler, TX and Amarillo, TX, from Wheeler over TX Hwy 152 to Pampa, then over U.S. Hwy 60 to Amarillo, serving the off-route point of Lefors, TX; (25) Between Shamrock, TX and Amarillo, TX, over U.S. Hwy 66; (26) Between Wheeler, TX and Welling TX, over U.S. Hwy 83; (27) Between Fredericksburg, TX and Stonewall, TX, over U.S. Hwy 290; (28) Between Midland, TX and San Angelo, TX, from Midland over TX Hwy 158 to junction U.S. Hwy 87, then over U.S. Hwy 87 to San Angelo; (29) Between Robert Lee, TX and Menard, TX, from Robert Lee over TX Hwy 158 to Ballinger, TX, over U.S. Hwy 83 to Menard; (30) Between Eden, TX and San Angelo, TX, over U.S. Hwy 87; (31) Between Mason, TX and Eden, TX, over U.S. Hwy 87; (32) Between Stonewall, TX and Austin, TX, over U.S. Hwy 290; (33) Between Ft. Stockton, TX and Presidio, TX, over U.S. Hwy 67; (34) Between Alpine, TX and Marfa, TX, from Alpine over TX Hwy 118 to Fort Davis, TX, then over TX Hwy 17 to Marfa; (35) Between S Stockton, TX and Sanderson, TX, over U.S. Hwy 275; (36) Between Sanderson, TX and Alpine, TX, over U.S. Hwy 90; (37) Between Ft. Stockton, TX, and junction U.S. Hwy 385 and U.S. Hwy 90, over U.S. Hwy 385; (38) Between Silver, TX and junction TX FM 2059 and TX Hwy 158, over TX FM 2059; (39) San Angelo, TX and Bronte, TX, over U.S. Hwy 277; (40) Between Seminole, TX and the TX–NM State line, over U.S. Hwy 180; and (41) Between Denver City, TX and TX–NM State line, over TX Hwy 83; Serving all intermediate points in (1) through (41); Serving points in Andrews, Dawson, Gaines, Martin, Midland, Ector, Glasscock, Sterling, Coke, Tom Green, Terry, Yoakum, Potter, Wheller, and Pecos Counties, TX, as off-route points in (13) through (20), (28) and (29) above. Condition: (1) Issuance of a certificate in this proceeding is conditioned upon coincidental cancellation, at applicant's written request, of its Certificates of Registration in MC–60087 Sub 4, issued November 7, 1967, MC–60087 Sub 11, issued October 10, 1969, MC–60087 Sub 13, issued April 27, 1970, MC–60087 Sub 15, issued December 1, 1970, MC–60087 Sub 16, issued February 25, 1971, MC–60087 Sub 17, issued July 21, 1972, MC–60087 Sub 19, issued February 3, 1975, and MC–60087 Sub 20, issued May 14, 1976, and (2) to the extent the certificate granted in this proceeding authorizes the transportation of classes A and B explosives, it shall be limited in point of time to a period expiring 5 years from its date of issue.

Volume No. OP4–066

Decided: December 13, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 154636, filed November 22, 1982. Applicant: W. S. STEWART CORPORATION, 5456 Edgewood Drive, Salt Lake City, UT 84117. Representative: L. Edward Robbins, 425 S. 400 East, Suite 100, Salt Lake City, UT 84111, (801) 322–1076. Transporting *general commodities* (except classes A and B explosives), between points in the U.S. (except AK and HI).

MC 156107 (Sub-4), filed December 3, 1982. Applicant: VARDAROS MOTOR LINES, INC., 510 Plaza Dr., Suite 1530 H, College Park, GA 30349. Representative: Virgil H. Smith, 74 Hwy N. Box 245, Tyrone, GA 30290, (404) 969–1980. Transporting *resin solution,* and *oil compounds,* between points in Clayton County, GA, Kane County, IL, Los Angeles County, CA, and Ellis County, TX, on the one hand, and, on the other, points in the U.S. (except Ak and HI).

MC 163137 (Sub-2), filed December 3, 1982. Applicant: CABLE TRUCKING SERVICE, Hwy 69 Bypass South, P.O. Box 2204, McAlester, OK 74501. Representative: Lew Gravitt, P.O. Box 53567, Oklahoma City, OK 73152, (405) 524–2268. Transporting *pipe, compressors, separators, gate valves, cement, drilling muds, water, oilfield and construction equipment, coal, dirt, sand, rock, and gravel,* between points in OK, on the one hand, and, on the other, points in TX, LA, and KS.

Volume No. OP4–068

Decided: December 13, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 60157 (Sub-36), filed December 3, 1982. Applicant: C. A. WHITE TRUCKING COMPANY, 5327 N Central Exp., Suite 316, Dallas, TX 75205. Representative: Michael D. McCormick, 1301 Merchants Plaza, Indianapolis, IN 46204, (317) 638–1301. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except HI).

MC 118846 (Sub-27), filed December 3, 1982. Applicant: DALE JESSUP, INC., R.R. 1, Box 252, Camby, IN 46113. Representative: Walter F. Jones, Jr., 1111 E. 54th St., Suite 155, Indianapolis, IN 46220, (317) 257–4066. Transporting *machinery,* between points in IL, OH and IN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 150247, (Sub-7), filed December 3, 1982. Applicant: VAN EERDEN TRUCKING COMPANY, INC., 1150 Freeman SW., Grand Rapids, MI 49503. Representative: J. Michael Smith, 800 Calder Plaza Bldg., Grand Rapids, MI 49503, (616) 459–8311. Transporting *food and related products,* between points in MI, on the one hand, and, on the other, points in AL, AZ, AR, CA, CO, FL, GA, IA, ID, IL, IN, KS, KY, LA, MN, MO, MS, NE, NM, NV, NC, OH, OK, OR, SC, TN, TX, UT, VA, WA, WV, WI, and WY.

MC 161056, (Sub-2), filed December 1, 1982. Applicant: AMERICAN HIGHWAYS, INC., 2717 S. Redwood Rd., Suite 6, W. Valley City UT 84119. Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701, (208) 343–3071. Transporting (1) *general commodities* (except classes A and B explosives, and household goods), between points in the U.S., under continuing contract(s) with Menard, Inc., of Eau Claire, WI; and (2) (a) Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions); and (b) *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. Note: Persons wishing to oppose parts (2)(a) and (b) of this application may do so only on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations.

MC 162776, (Sub-2), filed December 3, 1982. Applicant: DMI TRUCKING, INC., P.O. Box 129, Huntingburg, IN 47546. Representative: Edward G. Baxelon, 135 S LaSalle St., Chicago, IL 60603, (312) 236–9375. Transporting *general commodities* (except classes A and B explosives household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Woodcraft Manufacturing Co. of Vincennes, IN, Wilmes Window Manufacturing Co., Inc. of Ferdinand, IN, Jack B. Parker Co., Inc. of Jasper, IN, and Agri Central Sales, Inc., Dubois Wood Products, Inc., Styline Corp. and Ferdinand Furniture Co., all of Huntingburg, IN.

MC 164976, filed December 2, 1982. Applicant: ROY A. AND KEVIN L. NELSON d.b.a. NELSON TRUCKING, Route 2, Roseau, MN 56751. Representative: Stanley C. Olsen, Jr., 5200 Willson Rd., Suite 307, Edina, MN 55424, (612) 927–8855. Transporting *fertilizer,* between points in Roseau and Kittson Counties, MN, on the one hand, and, on the other hand, points in the U.S. (except AK and HI).

MC 164996, filed December 3, 1982. Applicant: EFFICIENT TRUCKING, INC., 564 Haymore Ave., N, Worthington, OH 43085. Representative: Paul F. Beery, 275 E. State St., Columbus, OH 43215, (614) 228–8575. Transporting *concrete, glass or stone products, metal products, auto parts, machinery and building material,* between points in OH, IN, IL, MU, VA, KY, WV, PA, TN, NC, MD and points in that part of NY on and east of Interstate Hwy 81.

Volume No. OP4–070

Decided: December 13, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 30107 (Sub-4), filed November 29, 1982. Applicant: ANDY'S EXCAVATING, INC., 45 Morgan Hill Rd., Easton, PA 18042. Representative: Francis W. Doyle, 323 Maple Ave., Southampton, PA 18966, (215) 357–7220. Transporting those *commodities which because of their size or weight require the use of special handling or equipment,* between points in CT, DE, MD, NJ, NY, OH, PA, VA, WV, and DC.

MC 151556 (Sub-7), filed November 29, 1982. Applicant: ALLSTATE TRANSPORTATION COMPANY, 2000 W. 96th St., Bloomington, MN 55431. Representative: Marvin M. Mueller (same address as applicant), (612) 881–3378. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–34305 Filed 12–17–82; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

In the matter of Motor Common and Contract Carriers of Property (fitness-only); Motor Common Carriers of Passengers (fitness-only); Motor Contract Carriers of Passengers; Property Brokers (other than household goods).

The following applications for motor common or contract carriage of property and for a broker of property (other than household goods) are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** on December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an

application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common or contract carriage of passengers filed on or after November 19, 1982, are governed by Subpart D of the Commission's Rules of Practice. See 49 CFR Part 1160, Subpart D, published in the **Federal Register** on November 24, 1982, at 49 FR 53271. For compliance procedures, see 49 CFR 1160.86. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E.

These applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49 Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce, over irregular routes unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract."

Please direct status inquiries to Team 1, (202) 275–7992.

Volume No. OP1–226

Decided: December 10, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 541 (Sub-11), filed November 19, 1982. Applicant: THE NEW BRITAIN TRANSPORTATION COMPANY, 257 Woodlawn Rd., Berlin, CT 06037. Representative: L. C. Major, Jr., Suite 304, Overlook Bldg., 6121 Lincolnia Rd., P.O. Box 11278, Alexandria, VA 22312, (703) 750–1112. Transporting *passengers*, in special and charter operations, between points in the U.S. (including AK, but excluding HI).

Note.—Applicant receives governmental financial assistance for the purchase or operation of buses, or is an operator for such a recipient.

MC 41581 (Sub-2), filed December 2, 1982. Applicant: WAGNER TOURS, INC., 865 Belmont Ave., North Haledon, NJ 07508. Representative: Ronald I. Shapss, 450 Seventh Ave., New York, NY 10123, (212) 239–4610. Transporting *passengers*, in special and charter operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 130271 (Sub-1), filed December 2, 1982. Applicant: PATRICK TOURS AND TRAVEL, INC., 21 Division St., New York, NY 10002. Representative: Ronald I. Shapss, 450 Seventh Ave., New York, NY 10123, (212) 239–4610. Transporting *passengers*, in special and charter operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 142011 (Sub-7), filed December 2, 1982. Applicant: LEISURE TIME TOURS, INC., 4 Houvenkoph Rd., Mahwah, NJ 07430. Representative: Ronald I. Shapss, 450 Seventh Ave., New York, NY 10123, (212) 239–4610. Transporting *passengers*, in special and charter operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 161291 (Sub-2), filed December 6, 1982. Applicant: BIG SKY TRUCKING, 8280 Finch, Dr., Helena, MT 59601. Representative: Randall D. Stewart (same address as applicant), (406) 458–9366. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

For the following, please direct status calls to Team 2 (202) 275–7030.

Volume No. OP 2–318

Decided: December 13, 1982.

By the Commission, Review Board No. 1, members Parker, Chandler, and Fortier.

MC 29592 (Sub-17), filed November 26, 1982. Applicant: ARROW STAGE LINES, INC., 720 E. Norfolk Ave., Norfolk, NE 68701. Representative: D. Douglas Titus, 340 Insurance Exchange Bldg., Sioux City, IA 51101, 712–277–1434. Transporting *passengers*, in charter and special operations, between points in the U.S. (including AK, but excluding HI).

Note.—Applicant seeks to provide privately-funded charter or special transportation.

MC 140403 (Sub-4), filed November 29, 1982. Applicant: FRANCISCAN LINES, INC., 375 Illinois St., San Francisco, CA 94107. Representative: Eldon M. Johnson, 650 California St., Suite 2808, San Francisco, CA 94108, 415–495–7570. Transporting *passengers*, in charter and special operations, between points in the U.S. (including AK, but excluding HI).

Note.—Applicant seeks to provide privately-funded charter or special transportation.

MC 147553(B) (Sub-19), filed November 24, 1982. Applicant: DENNIS MOSS AND GARY MOSS, d.b.a. MOTOR WEST, P.O. Box 1405, Caldwell, ID 83605. Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701, (208) 343–3071. Transporting (1)(a) *general commodities* (except classes A and B explosives and housegoods), between points in the U.S. (except AK and HI), under continuing contract(s) with American Strevell, Inc., of Salt Lake City, UT; (2)(b) *shipments weighing 100 pounds or less* if

transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S., (including AK and HI), and (3)(b) *As a broker of general commodities* (except household goods), between points in th U.S. (including AK and HI).

Note.—Part (1)(a) is published in the Federal Register, this issue, with "regular applications".

MC 151422 (Sub-10), filed December 2, 1982. Applicant: MINN-DAK TRANSPORT, INC., 40–1st Ave. NW., P.O. Box N, Pelican Rapids, MN 56572. Representative: Thomas J. Van Osdel, 15 Broadway, Suite 502, Fargo, ND 58102, 701–235–4487. As a *broker of general commodities* (except household goods), between points in the U.S. (including AK, but excluding HI).

MC 164812, filed November 22, 1982. Applicant: RICHARDSON BUS SERVICE, INC., 5702 West Lacy Rd., Madison, WI 53711. Representative: Richard A. Westley, 4506 Regent St., Suite 100, P.O. Box 5086, Madison, WI 53705–0086, 608–238–3119. Transporting *passengers,* in charter and special operations, beginning and ending at points in IL, IN, IA, MI, MN, and WI, and extending to points in the U.S. (including AK, but excluding HI).

Note.—Applicant seeks to provide privately-funded charter or special transportation.

MC 164833, filed November 23, 1982. Applicant: M. A. J. TRANSIT, INCORPORATED, 58–64 Maurice Ave., Naspeth, NY 11378. Representative: Sidney J. Leshin, 3 East 54th St., New York, NY 10022, 212–759–3700. Transporting *passengers,* in special and charter operations, between points in the U.S. (including AK, but excluding HI).

Note.—Applicant seeks to provide privately-funded charter or special transportation.

MC 164943, filed November 24, 1982. Applicant: GABLE'S BUS SERVICE, Route 2, Box 268, Strawberry Plains, TN 37871. Representative: Carl Gable, Jr. (same address as applicant), 615–933–7298. Transporting *passengers,* in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter or special transportation.

Volume No. OP2–319

Decided: December 10, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 88293 (Sub-7), filed November 22, 1982. Applicant: AUDUBON TRAILS COACH LINE, INC., Rte. 8, Box 85, Evansville, IN 47711. Representative: Norman R. Garvin, 1301 Merchants Plaza, East Tower, Indianapolis, IN 46204–3491, 317–638–1301. Transporting *passengers,* in special and charter operations, between points in the U.S. (including AK, but excluding HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 91742 (Sub-2), filed November 22, 1982. Applicant: TIMBERLANE TRANSPORTATION, INC., P.O. Box 423, Rte. 125, Plaistow, NH 03865. Representative: Andrew J. Carraway, 1600 Wilson Blvd, Suite 1301, Arlington, VA 22209, 703–522–0900. Transporting *passengers,* in special and charter operations, between points in the U.S. (including AK, but excluding HI).

Note.—Applicant seeks to provide privately-funded charter or special transportation.

MC 155023 (Sub-1), filed November 22, 1982. Applicant: PETERSON BUS SERVICE, INC., P.O. Box 330, New London, MN 56273. Representative: Andrew R. Clark, 1600 TCF Tower, Minneapolis, MN 55402, 612–333–1341. Transporting *passengers,* in charter and special operations, beginning and ending at points in MN, ND, SD, IA, and WI, and extending to points in the U.S. (including AK, but excluding HI).

Note.—Applicant seeks to provide privately-funded charter or special transportation.

For the following, please direct status inquiries to Team 5 at 202–275–7289.

Volume No. OP5–281

Decided: December 8, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 788 (Sub-4), filed December 1, 1982. Applicant: THE MCMAHON TRANSPORTATION CO., 6515 Belair Road, Baltimore, MD 21206. Representative: Jeremy Kahn, 1511 K St., NW., Suite 733, Investment Bldg., Washington, DC 20005, (202) 783–3525. Transporting *passengers,* in charter and special operations, beginning and ending at points in MD, and extending to points in the U.S. (except (HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 99408 (Sub-14), filed November 29, 1982. Applicant: CITY DELIVERY SERVICE, INC., 1 Passan Dr., Wilkes-Barre, PA 18702. Representative: Raymond Talipski, 121 S. Main St., Taylor, PA 18517, (717) 344–8030. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except HI).

MC 95098 (Sub-2), filed November 29, 1982. Applicant: BOONTON TRANSPORT, 62 Water Street, Newton, NJ 07860. Representative: Ronald I. Shapss, 450 Seventh Ave., New York, NY 10123, (212) 239–4610. Transporting *passengers,* in special and charter operations between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 144288 (Sub-1), filed November 23, 1982. Applicant: EVANS RELIABLE MESSENGER, INC., 482 Summer Street, Stamford, CT 06901. Representative: Robert A. Martinik, Jr., 25 Third Street, Stamford, CT 06905, (203) 348–7300. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

MC 164849, filed November 23, 1982. Applicant: STEPHEN R. BARRY, d.b.a. SRB ASSOCIATES, 8 Old Coach Lane Amherst, NH 03031. Representative: Mary E. Kelley, 22 Stearns Ave., Medford, MA 02155, 617–396–4090. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

Volume No. OP5–284

Decided: December 9, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 6969 (Sub-1), filed November 22, 1982. Applicant: MERCHANTS FORWARDING COMPANY, 6747 Brandt, Dearborn, MI 48126. Representative: Ronald J. Mastej, 900 Guardian Bldg., Detroit, MI 48226, 313–963–3750. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 54698 (Sub-5), filed November 29, 1982. Applicant: VALLEY DISTRIBUTING AND STORAGE, 1 Passan Dr., Wilkes-Barre, PA 18702. Representative: Raymond Talipski, 121 Main St., Taylor, PA 18517, 717–344–8030. As a *broker of general commodities* (except household goods), between points in the U.S. (except HI).

MC 102299 (Sub-10), filed November 29, 1982. Applicant: THE BALTIMORE & ANNAPOLIS RAILROAD COMPANY, P.O. Box 490, 801 Baltimore-Annapolis Blvd., Glen Burnie, MD 21061. Representative: Jeremy Kahn, Suite 733 Investment Bldg., 1511 K St., N.W., Washington, DC 20005, 202–783–3525. Transporting *passengers in charter and*

special operations, beginning and ending at points in DE, MD, NJ, NY, PA, VA, WV, and DC, and extending to points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 138389 (Sub-4), filed November 22, 1982. Applicant: HUDSON VALLEY BUS CO. INC., Englewood Terrace, Mahopac, NY 10541. Representative: Sidney J. Leshin, 3 East 54th St., New York, NY 10022, (212) 759–3700. Transporting *passengers,* in special and charter operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 139769 (Sub-3), filed November 26, 1982. Applicant: FALCON CHARTER SERVICE, INC., 625 Bayshore Blvd., San Francisco, CA 94124. Representative: Eldon M. Johnson, 650 California St., Suite 2808, San Francisco, CA 94108, (415) 986–8696. Transporting *passengers,* in special and charter operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 139888 (Sub-2), filed November 24, 1982. Applicant: ROYAL COACH LINES, INC., 798 Nepperhan Ave., Yonkers, NY 10703. Representative: Sidney J. Leshin, 3 East 54th St., New York, NY 10022, (212) 759–3700. Transporting *passengers,* in special and charter operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 164769, filed November 18, 1982. Applicant: WAYNETTE L. WALLACE, d.b.a. KW ENTERPRISES P.O. Box 344, Farm Road 2450, Krum, TX 76249. Representative: Waynette L. Wallace (same address as applicant), (817) 482–3797. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI)

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–34391 Filed 12–17–82; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Decision Notice; Finance Applications

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsideration; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1181.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 20 days after publication or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission, Review Board No. 3, Members Krock, Joyce, Dowell.

Agatha L. Mergenovich,

Secretary.

Please direct status inquires to Team Four at (202) 275–7669.

Volume No. OP4–FC–073

MC–FC–81058. By decision of December 13, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, Review Board Number 3 approved the transfer to CAISSON FOUNDATIONS, INC., d.b.a. PRINCIPIO TRUCKING, York, PA, of Permit No. MC–136787 (Sub-No. 1), issued July 2, 1976, to BIBEY TRUCKING COMPANY, INC., Perryville, MD, authorizing the transportation of *sand and gravel,* in bulk, from the site of pits of Mason-Dixon Sand and Gravel Co., a division of York Buiding Products Co., Inc., at or near North East, MD, to Reading, Kennett Square, Chester, and Coatesville, PA, and Bear, Brookside Park, Dover, Middleton, Newark, and Wilmington, DE, under continuing contract(s) with Mason-Dixon. An application for temporary authority has been filed. Representative: Robert H. Stewart, 1020 N. Hartley St., York, PA 17405, for both transferee and transferor.

Volume No. OP4–FC–072

MC–FC–81057. By decision of December 13, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, Review Board Number 3 approved the transfer to GARY R. HOBIN and JAMES R. NYMAN, doing business as, GARY R. HOBIN and JAMES R. NYMAN TRUCKING, Philomath, OR, of Certificates Nos. MC-150347 Sub 1 and MC-150347 Sub 2, issued December 2, and November 6, 1980, respectively, to Hobin Trucking Co., Inc., Philomath, OR, authorizing the transportation of *lumber and lumber mill products,* between named facilities at or near Philomath, OR, on the one hand, and, on the other, points in AZ, CA, NV, UT and WA, and *Building materials,* from points in CA and NV, to points in OR and WA. Representative: Gary R. Hobin, 610 S 19th St., P.O Box 750, Philomath, OR 97370.

[FR Doc. 82–34390 Filed 12–17–82; 8:45 am]

BILLING CODE 7035–01–M

[Volume No. OP3–56]

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Decided: December 13, 1982.

90-Day Intrastate Motor Common Carriers of Passengers

The following applications, filed on or after November 19, 1982, are governed by Part 1168 of the Commission's Rules of Practice. See 49 CFR Part 1168, published in the **Federal Register** on November 24, 1982, at 47 FR 53275. For compliance procedures, see 49 CFR 1168.6 and 49 U.S.C. 10922(c)(2)(E).

Persons wishing to oppose an application must follow the rules under 49 CFR Part 1168. In addition to fitness grounds, applications may be opposed on the grounds that the transportation to be authorized would directly compete with a commuter bus operation and would have a significant adverse effect on all commuter bus service in the area in which the competing service will be performed. Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request

and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 25 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 30 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board Number 2, Members Carleton, Williams, and Ewing.

AGatha L. Mergenovich,

Secretary.

NOTE.—All applications are filed under 49 U.S.C. 1092(c)(2)(A) for authority to operate as a motor common carrier of passengers in intrastate commerce on a route over which applicant has interstate, regular-route authority on November 19, 1982.

Please direct status inquiries to Team 3, (202) 275-5223.

MC 1934 (Sub-52), filed December 6, 1982. Applicant: THE ARROW LINE, INC., 105 Cherry Street, P.O. Box 387, East Hartford, CT 06108. Representative: Helen D. Smith (same address as applicant), (203) 289-1531. Applicant seeks authority in intrastate commerce to conduct service at all intermediate points on routes in No. MC-1934 (Sub-No. 46), as follows: To operate over the route between Bridgeport, CT, and Albany, NY, to provide intrastate service at all intermediate points between Bridgeport and Hartford, CT.

[FR Doc. 82-34382 Filed 12-17-82; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. 316]

Motor Carriers; Permanent Authority Decisions, Restriction Removals; Decision-Notice

Decided: December 13, 1982.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR Part 1137. Part 1137 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of these applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with the criteria set forth in 49 U.S.C 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Shaffer, Williams, and Higgins.

Agatha L. Mergenovich,

Secretary.

MC 63390 (Sub-24)X, filed November 19, 1982. Applicant: CARL R. BIEBER, INC., Vine and Baldy St., Kutztown, PA 19530. Representative: L. C. Major, Jr., P.O. Box 11278, Alexandria, VA 22312. Subs 15 and 22F: authorize passenger service to all intermediate points on described routes between Reading, PA and New York, NY (Sub 15), between Kutztown and Allentown, PA, and between Kutztown an Bethlehem, PA (Sub 22F).

MC 83745 (Sub-12)X, filed November 17, 1982. Applicant: UNIVERSAL TRUCKING, INC., 6020 Hohman Avenue, Hammond, IN 64320. Representative: Joel H. Steiner, 135 South LaSalle St., Suite 206, Chicago, IL 60603. Sub-No. 9 certificate: (1) Broaden general commodities, with usual exceptions to "general commodities (except classes A and B explosives, household goods, and commodities in bulk)"; and (2) broaden Chicago, IL, to Kane, Lake, DuPage, Cook and Will Counties, IL and Lake and Porter Counties, IN.

MC 111397 (Sub-138)X, filed November 22, 1982. Applicant: DAVIS TRANSPORT, INC., 1345 South Fourth St., Paducah, KY 42001. Representative: H. S. Melton, Jr., P.O. Box 7406, Paducah, KY 42001. Sub 119 (1) broaden general commodities (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities requiring the use of special equipment, contractors' equipment, building, excavating, and mine machinery equipment, road building equipment, machinery, coal, limestone, lumber, wood products, motor vehicles, liquified natural gas, spent carbon, and fat, oils, and unprocessed gases to "general commodities (except classes A and B explosives and household goods)"; (2) broaden the site of Paducah-McCracken County Riverport Authority at Paducah, KY, TO McCracken County, KY; (3) eliminate restriction requiring "prior movement by water"; (4) remove the restriction against the transportation of (a) petroleum and petroleum products in bulk, in tank vehicles, to points in IL, IN, MO, AR, and TN; and (b) liquid chemicals, in bulk, in tank vehicles to points in VA, MO, AR, and points in Brooke, Hampshire, Kanawha, Marion, Marshall, Monongalia, Pleasant, and Wetzel Counties, WV; and (5) change one-way to radial authority.

MC 126472 (Sub-26)X, filed November 30, 1982. Applicant: WILLCOXSON TRANSPORT, INC. R.R. #2, Kahoka, MO 63445. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. Subs- 1, 2, 4, 12, 13, 16, 21F, 23F, and 24F; (1) broaden to (a) "chemicals and related products" from: liquid

fertilizer, in Sub 1; dry fertilizer and dry fertilizer compounds, in Sub 4; agricultural insecticides, fungicides, and herbicides, in Sub 12; anhydrous ammonia, in Subs 16 and 23F; dry fertilizer and fertilizer materials, in Sub 24F; (b) "petroleumn natural gas and their products" from liquefied petroleum gas, in Sub 2; (c) metal products" from new and used anhydrous ammonia nurse tanks and component parts thereof, in Sub 13; (d) "lumber and wood products" from used wooden pallets, in Sub 16; (e) "ores and minerals" from sand, gravel, and limestone, in Sub 21F. (2) change one-way to radial authority in all Subs. (3) expand specified facilities limitations and cities to counties: Gorydon, IA (Wayne County), in Sub 1; facilities at Cantril, IA (Van Buren County), in Sub 2; facilities at Fort Madison, IA (Lee County), in Sub 4; Janesville, WI (Rock County), in Sub 12; Fort Madison, Fort Dodge, Garner, Bellevue, and Early, IA (Lee, Webster, Hancock, Jackson, and Sac Counties, respectively), Sugar Creek and Selma, MO (Jackson and Jefferson Counties), Omaha, NE (Douglas and Sarpy Counties, NE and Pottawattamie County, IA), in Sub 16; facilities at Brunswick, MO (Chariton County), in Sub 24F. (4) remove: in bulk, in tank vehicles, and in containers limitations, wherever they appear; originating at and destined to restriction in Sub 12; precisely located facilities restrictions (Sub 21F).

MC 126709 (Sub-15)X, filed November 17, 1982. Applicant: SABER, INC., 514 Floyd Blvd., Sioux City, IA 51104. Representative: Edward A. O'Donnell, 1004 29th St., Sioux City, IA 51104. Sub 13F: (1) Broaden animal fats, animal oils, and animal greases to "food and related products and chemicals and related products"; (2) change one-way to radial authority; (3) expand Sioux Falls to Lincoln and Minnehaha Counties, SD; Sioux City, IA to Dakota County, NE, Woodbury and Plymouth Counties, IA, and Union County, SD; and Estherville, IA to Emmet County, IA: and (4) remove the in bulk, in tank vehicles restrictions.

MC 138730 (Sub-13)X, filed November 19, 1982. Applicant: CARAVAN COACH LINES, INC., RD 3 Box 451, Wharton, NJ 07885. Representative: L. C. Major, Jr., Suite 304, Overlook Bldg., 6121 Lincolnia Rd., Alexandria, VA 22312. Sub 10: Applicant holds interstate regular-route authority authorizing service on various routes in New Jersey including all intermediate points which are restricted to the transportation of pasengers originating at or destined to either the La Guardia or Kennedy International Airports, New York NY. Applicant seeks to remove that restriction on the basis that it precluded service at all intermediate points for passengers originating at or destined to any points other than the two named airports.

MC 145883 (Sub-4)X, filed November 29, 1982. Applicant: DANIEL B. ROEDIGER, Rt. 5, Box 205, St Rt 33, Wapakoneta, OH 45895. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43125. Sub-38F certificate: (1) broaden soy bean meal to "food and related products"; (2) remove facility limitation and expand Sidney to Shelby County, OH; (3) change one-way to radial authority; and (4) remove the in bulk restriction.

[FR Doc. 82-34393 Filed 12-17-82; 8:45 am]
BILLING CODE 7035-01-M

[Docket No. AB-6 (Sub-N 128)]

Rail Carriers; Burlington Northern Railroad Co.—Abandonment—in Grays Harbor County, WA; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that the Commission, Review Board Number 3, has issued a certificate authorizing the Burlington Northern Railroad Company to abandon its rail line between milepost 75.50, near Hoquiam, and milepost 96.36, at the end of the line near Aloha, a distance of 20.86 miles, in Grays Harbor County, WA, subject to certain conditions. Since no investigation was instituted, the requirement of § 1152.27(b) (formerly § 1121.38(b)) of the Regulations that publication of notice of abandonment decisions in the **Federal Register** be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (§ 1152.35 of the Regulations) (formerly § 1121.45). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed with the Commission and served concurrently on the applicant, with copies to Louis E. Gitomer, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice. The offer, as filed, shall contain information required pursuant to § 1152.27 (formerly § 1121.38) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective 30 days from the service date of the certificate.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-34394 Filed 12-17-82; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Agency Forms Under Review

December 16, 1982.

OMB has been sent for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. The list has all the entries grouped into new forms, revisions, or extensions. Each entry contains the following information:

(1) The name and telephone number of the agency Clearance Officer (from whom a copy of the form and supporting documents is available); (2) The office of the agency issuing this form; (3) The title of the form; (4) The agency form number, if applicable; (5) How often the form must be filled out; (6) Who will be required or asked to report; (7) An estimate of the number of responses; (8) An estimate of the total number of hours needed to fill out the form; (9) An indication of whether Section 3504(H) of Pub. L. 96-511 applies; (10) The name and telephone number of the person or office responsible for OMB review.

Copies of the proposed forms and supporting documents may be obtained from the Agency Clearance Officer whose name and telephone number appear under the agency name. Comments and questions about the items on this list should be directed to the reviewer listed at the end of each entry and to the Agency Clearance Officer. If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer and the agency Clearance Officer of your intent as early as possible.

Department of Justice

Agency Clearance Officer Larry E. Miesse—202-633-4312

Extension (No Change)

- Immigration and Naturalization Service

Department of Justice
Data Relating to Beneficiary of Private Bill
Nonrecurring
Individuals or households

Parties to Private Bills: 500 responses: 500 hours; not applicable under 3504(h).
David Reed—395–7231

- Immigration and Naturalization Service

Department of Justice
UPR–1, Uniform Parole Reports
Transmittal Letter to Violator of section 1426(h) of Title 18 U.S.C. (Unauthorized Reproduction of Certificate of Naturalization or Citizenship
Nonrecurring
Individuals or households
Violators of Section 1426(h), Title 18 U.S.C.: 500 responses; 125 hours; not applicable under 3504(h).
David Reed—395–7231

- Immigration and Naturalization Service,

Department of Justice
Application for Advance Permission to Return to Unrelinquished Domicile
Nonrecurring
Individuals or households
Resident Aliens returning to the United States: 58 hours; 234 hours; not applicable under 3504(h).
David Reed—395–7231

- Immigration and Naturalization Service

Department of Justice
Alien Employment Questionnaire
Nonrecurring
Business or other institutions (except farms)
Private businesses, offices or factories employing aliens: 5,000 responses; 833 hours; not applicable under 3504(h).
David Reed—395–7231

- Immigration and Naturalization Service

Department of Justice
Report of Alien Person Institutionalized On Occasion
State or Local Governments
Correctional institutions, hospitals, sanatoriums: 6,000 responses; 1,500 hours; not applicable under 3504(h).
David Reed—395–7231

Extension (Adjustment to Burden Only)

- Immigration and Naturalization Service

Department of Justice
Application for Waiver of Passport and/or Visa
Nonrecurring
Individuals or households
Alien Waiving Nonimmigrant Document Requirements: 6,000 responses; 998 hours; not applicable under 3504(h)
David Reed—395–7231

- Drug Enforcement Administration

Department of Justice
Piperidine Report
On Occasion
Businesses or other institutions (except farms)
Wholesale and retail chemical suppliers: 400 responses; 100 hours; not applicable under 3504 (h)
David Reed—395–7231

Larry E. Miesse,

Department Clearance Officer, Systems Policy Staff, Office of Information Technology, Justice Management Division, Department of Justice.

[FR Doc. 82–34458 Filed 12–17–82; 8:45 am]
BILLING CODE 4410–01–M

Drug Enforcement Administration

Eleanor J. Fendler, Ph. D.; Revocation of Registration

On September 30, 1982, the Acting Administrator of the Drug Enforcement Administraton (DEA) directed an Order to Show Cause to Eleanor J. Fendler, Ph. D., Standard Oil Company, Warrensville Laboratory, 4440 Warrensville Center Road, Cleveland, Ohio 44128. Dr. Fendler was previously registered at Kimberly Clark Corporation, P.O. Box 999, 2100 Winchester Road, Neenah, Wis. 54956. The order sought to revoke DEA Certificate of Registration PF0200511 issued to Dr. Fendler as a researcher under 21 U.S.C. 823. The statutory ground for the order was the revocation on February 17, 1982, of Special Use Authorization #226 issued to Dr. Fendler by the State of Wisconsin Controlled Substances Board. That document was Dr. Fendler's authorization to handle controlled substances in Wisconsin. More than 30 days have elapsed since issuance of the Order and Dr. Fendler has not responded to it. The Acting Administrator deems Dr. Fendler to have waived her opportunity for a hearing in this matter, and enters this final order on the record as it appears (21 CFR 1301.57; 21 CFR 1301.54(d) 1301.54(e)).

Examining the record, the Acting Administrator finds that the Wisconsin Controlled Substances Board ("the Board") registered Dr. Fendler to conduct research in controlled substances. The Board accepted Dr. Fendler's surrender of her application for renewal upon learning that Dr. Fendler had submitted an application to conduct research at Kimberly-Clark in 1980 when Kimberly-Clark does not use controlled substances in any of its research and does not possess any controlled substances on its premises. Dr. Fendler had indicated to the Board that another researcher at Kimberly-Clark would verify her application and that this researcher authorized controlled substances to be used at Kimberly-Clark. In fact, the other researcher was unaware of the application filed with the Board by Dr. Fendler.

DEA Compliance Investigators contracted Dr. Fendler to obtain a voluntary surrender of DEA Certificate of Registration PF0200511, to no avail. On September 2, 1982, Dr. Fendler indicated she would mail the certificate to the DEA Chicago Office. The Acting Administrator finds that Dr. Fendler has never voluntarily surrendered the certificate even after being informed that she lacked statutory authority to possess it.

This agency has consistently held that termination of a registrant's state authority to handle controlled substances requires DEA to revoke its Certificate of Registration. See *Hardley Famous Sisters Inc., d.b.a. Yerba Santa Pharmacy*, 47 FR 3693 (1982); *Henry Weitz, M.D.*, 46 FR 34858 (1981); *David Sachs, M.D., Docket No. 77–22, 42 FR 29112 (1977)*. The Acting Administrator has no alternative but to revoke the DEA Certificate of Registration previously issued to Dr. Fendler. While this action is virtually automatic when a state agency terminates a registrant's controlled substance authority, the Acting Administrator is constrained to make an observation. Dr. Fendler acted, at best, unprofessionally in falsifying her application with the Wisconsin Board for controlled substance registration and in not surrendering her DEA certificate as she said she would. DEA registration is a trust that is not to be treated lightly. Researchers, as well as physicians, dentists and other practitioners, have an obligation to responsibly handle the controlled substances their DEA registration entitles them to handle. Dr. Fendler has not discharged that obligation.

Accordingly, pursuant to the authority vested in the Attorney General and redelegated to the Administrator of the Drug Enforcement Administration, the Acting Administrator hereby revokes DEA Certificate of Registration PF0200511 issued to Eleanor J. Fendler, Ph. D. The revocation is effective immediately.

Date: December 9, 1982.

Francis M. Mullen, Jr.,

Acting Administrator.

[FR Doc. 82–34460 Filed 12–17–82; 8:45 am]
BILLING CODE 4410–09–M

Ronald Wardell Andrews, M.D.; Denial of Application

On September 28, 1982, the Acting Administrator of the Drug Enforcement

Administration (DEA) directed to Ronald Wardell Andrews, M.D., (Respondent), 5308 North Broad Street, Philadelphia, PA. 19141, an Order to Show Cause seeking to deny Respondent's application for renewal of his DEA registration, AA9000629. The statutory basis for the order under 21 U.S.C. 824(a)(2) was Respondent's conviction in the United States District Court for the Eastern District of Pennsylvania of nine counts of knowing and intentional distribution of controlled substances in violation of 21 U.S.C. 841(a)(1). These were felony offenses relating to controlled substances.

Respondent, through counsel, waived his right to a hearing and submitted a written statement on the matters of fact and law raised in the Order to Show Cause, as he is permitted to do under 21 CFR 1301.54(c). The Acting Administrator has carefully considered Respondent's statement and the investigative file in this matter and enters his final order under 21 CFR 1301.57.

Respondent's position is that his conviction is not final since Respondent has taken an appeal from his conviction to the United States Court of Appeals for the Third Circuit. This Administration has long and consistently maintained that a revocation of registration or denial of application is lawful even if a conviction is on appeal. See, *Carl Oslin Ramsey*, Docket No. 71–2, 36 FR 24077 (1971); *Don Williams t/a WEWA Drugs*, 41 FR 52554 (1976); *Isadore I. Rosen, M.D.*, 43 FR 14748 (1978); *Joseph J. Godorov, D.O.*, Docket No. 78–8, 43 FR 36702 (1978); *Lamar T. Zimmerman, M.D.*, 45 FR 3405 (1980). In *Faunce Drug Store*, Docket No. 82–3, 47 FR 30122 (1982), the Acting Administrator concluded that "a registrant is convicted of a controlled substance related felony if there is a judgment of guilt, plea of guilty or *Nolo contendere*, or some other indication that he has been found guilty of a controlled substance related felony." This conclusion is based on judicial interpretations of 21 U.S.C. 824(a)(2) and similar statutes. The court in *Perry-Hooker, M.D. v. Four Unnamed Known Agents of the Drug Enforcement Administration*, Civil Action No. 75–273 (D.Vt. 1975) held that the plaintiff had been "convicted" for the purpose of section 824(a)(2) at the time a guilty verdict was returned and that the suspension of his DEA registration was proper. For cases defining finality of convictions, see *Berman v. United States*, 302 U.S. 211, 58 S.Ct. 164 (1937) and *Korematsu v. United States*, 319 U.S. 432, 63 S.Ct 1124 (1943). See also *United States v. Rosenstengel*, 323 F. Supp. 499 (E.D. Mo. 1971), where the court interpreted the term "convicted" in 18 U.S.C. 1202(d) (relating to possession of firearms by convicted felons) in its broadest sense, concluding that to narrowly construe the term would clearly frustrate Congressional intent. Based on this precedent, the Acting Administrator finds that Respondent is "convicted" of a controlled substance related felony as that term is used in 21 U.S.C. 824(a)(2).

Having examined the record in this case, the Acting Administrator concludes that the application for registration submitted by Respondent should be denied. The Acting Administrator finds that Respondent was convicted, following a jury trial, of nine counts of illegal distribution of controlled substances to DEA Special Agents operating undercover. Respondent wrote prescriptions for Quaalude (methaqualone), Seconal (secobarbital) and Desoxyn (methamphetamine), all heavily abused Schedule II controlled substances, as well as Tussionex (hydrocodone), a Schedule III controlled substance. There was no medical justification for these prescriptions. Respondent has submitted no evidence that would mitigate the denial of his application, and the Acting Administrator can discern none from the record.

It is the decision of the Acting Administrator to deny the Respondent's application for renewal of his DEA registration. Accordingly, pursuant to the authority vested in the Attorney General and redelegated to the Administrator of the Drug Enforcement Administration, the Acting Administrator hereby denies the application for renewal of DEA registration AA9000629 executed by Ronald Wardell Andrews, M.D., on June 3, 1982. This action is effective January 19, 1983.

Dated December 9, 1982.

Francis M. Mullen, Jr.,

Acting Administrator.

[FR Doc. 82–34459 Filed 12–17–82; 8:45 am]

BILLING CODE 4410–09–M

Office of Justice Assistance, Research and Statistics

Regional Information Sharing System (RISS)

AGENCY: Office of Justice Assistance, Research, and Statistics, Justice.

ACTION: Request for public comment.

SUMMARY: The Office of Justice Assistance, Research and Statistics (OJARS), pursuant to Attorney General Order Number 886–80, proposes to issue a guideline for the award of funds to support regional information sharing system projects. OJARS invites interested persons to comment on the proposed guideline for the Regional Information Sharing System (RISS) Program. Comments received will be considered by OJARS before the final publication of this guideline. The period for public comment is 30 days. After publication of the final guideline following the comment period, participating projects may apply for refunding or may revise application on file in accordance with the final guideline.

As defined by Executive Order 12291, this proposed notice does to constitute a "major" notice because it does not result in: An effect on the economy of $100 million or more, (b) a major increase in any costs or prices, and, (c) adverse effects on competition, employment, investment, productivity, or innovation among American enterprise.

This proposed notice if promulgated, will not have "significant economic impact on a substantial number of small entities", as defined by the Regulatory Flexibility Act (Pub. L. 96–354).

DATES: Comments are dues on or before January 19, 1983.

ADDRESS: Send comments to H. T. Tubbs, Director, Program Management Division, Office of Policy and Management, OJARS, 633 Indiana Avenue NW., Washington, D.C. 20531, 202/724–5961.

FOR FURTHER INFORMATION CONTACT: H. T. Tubbs, Director, Program Management Division, Office of Policy and Management, OJARS, 202/724–5961.

Robert F. Diegelman,

Acting Director, Office of Justice Assistance, Research and Statistics.

Program Announcement

Subject: Announcement of the availability of financial assistance to continue support of the provisions of multijurisdictional intelligence information sharing services to state and local member agencies.

Summary: The Office of Justice Assistance, Research and Statistics announces its intention to award grants to seven projects participating in the Regional Information Sharing System (RISS) Program as authorized by Attorney General Order Number 886–80. Applicant eligibility is limited to existing projects which are in compliance with the legal, administrative and program requirements for finanical assistance.

Date: Applications will be reviewed upon receipt and financial assistance grant awards issued within 90 days from receipt. The closing date for receipt of applications for Fiscal Year 1983 funds is July 1, 1983.

Scope of Program Announcement

Funding and Administration of the Regional Information Sharing Systems (RISS) Program

1. *Purpose.* The purpose of this manual is to provide information and guidance concerning the funding and administration of the Regional Information Sharing Systems (RISS) Program. This manual is complemented by additional regulations, guidelines, instructions, and policies such as 28 Code of Federal Regulations (CFR) Part 23, 28 CFR Part 18, M7100.1B, Financial and Administrative Guide for Grants I4062.7, Standards for Equipment to be Acquired with LEAA Grant Funds, and G7100.5, Control and Use of Confidential Funds Under the RISS Program.

2. *Scope.* This manual is of interest to state and local criminal justice agencies, institutions, and organizations involved in the administration and implementation of the RISS Program.

3. *Introduction.*

A. *Authority.* Attorney General Order No. 886–80 authorizes the Director, Office of Justice Assistance, Research and Statistics (OJARS), after appropriate consultation with the Administrator of the Drug Enforcement Administration and the Assistant Attorney General in charge of the Criminal Division, to exercise the power and authority to administer the State and Local Drug Strike Force Grant Program, hereafter named as the Regional Information Sharing Systems Program (RISS). This authorization provides the authority to promulgate such regulations as are necessary for effective administration of this program.

B. *Oversight and Administration.* The Executive Group, composed of the Assistant Attorney General in charge of the Criminal Division, the Administrator of the Drug Enforcement Administration, and the Director, OJARS, exercises responsibility for the oversight and overall administration of the RISS Program. To assist the Executive Group in its responsibilities, the OJARS Intelligence Systems and Policy Review Board makes recommendations to the Executive Group concerning funding of applications and policy issues dealing with intelligence information and systems, and develops and implements oversight procedures to ensure compliance with the Standards for Criminal Intelligence Operations (28 CFR Part 23). Daily management of the RISS Program is conducted through the Program Management Division, Office of Planning and Management, OJARS.

4. *Program Goals and Objectives.* The goal of the RISS Program is to enhance the ability of state and local criminal justice agencies to identify, target, and remove criminal conspiracies and activities spanning jurisdictional boundaries. The primary objectives of the program are to encourage and facilitate the rapid exchange and sharing of information pertaining to known or suspected criminals or criminal activity among federal, state and local law enforcement agencies, and to enhance coordination/communication among those agencies in pursuit of criminal conspiracies determined to be interjurisdictional in nature. Secondary objectives are to provide technical and financial resources to augment existing multi-jurisdictional enforcement resources/operations. These technical and financial resources may include specialized equipment, training and investigative funds.

5. *Program Description.*

A. *Problem Analysis.* Major criminal offenses, including traditional and non-traditional organized crime, drug trafficking and major white collar crime, often span jurisdictional boundaries to the extent that two or more state or local jurisdictions may be required to respond to the same offense or conspirators. This multi-jurisdictional characteristic can pose significant problems for state and local law enforcement in target identification, allocation of enforcement resources, and coordination of those resources to affect successful multi-jurisdictional investigations and prosecutions. Many of these problems stem from the fact that, although state and local enforcement agencies individually may have pieces of information concerning multi-jurisdictional conspirators and their activities, they lack a mechanism by which this information can be exchanged and/or collected to support multi-jurisdictional investigations and prosecutions. Consequently, the enforcement community's response to the conspiracy/offense may be fragmented, duplicative, counterproductive, and limited. In addition to the lack of information exchange, many law enforcement agencies are deficient in specialized equipment, training, and investigative resources to mount successful multi-jurisdictional operations commensurate with the sophistication of the conspiracy/offense.

B. *Results Sought.* It is expected that successful implementation of the RISS Program will achieve some or all of the following results:

- Operation of a modern regional communication system capable of the controlled receipt, analysis, evaluation, storage, dissemination and updating of information concerned with organized criminal activity, drug trafficking, and white collar crime.
- Established system of coordination and communication among enforcement agencies for targeting and investigating criminal conspiracies and activities as a means to overcome problems associated with multi-jurisdictional enforcement operations.
- Allocation of technical and financial resources to participating state and local enforcement agencies in their investigation of multi-jurisdictional organized crime, drug trafficking, and white collar crime.
- Increased opportunity for arrest and successful prosecution of conspirators targeted by participating state and local enforcement agencies.
- Recovery of criminal assets (i.e., contraband, stolen equipment) by multi-jurisdictional enforcement operations evolving from services provided by the project.

6. *Program Strategy and Project Components.*

A. *Strategy.* The strategy of the RISS Program is to maintain operational centers throughout the United States to service state and local criminal justice agencies. Specifically, the strategy for the program, provided congressional appropriations continue, is to continue the six regional information system centers: the Middle Atlantic-Great Lakes Organized Crime Law Enforcement Network, the New England States Police Administrator's Conference, the Mid-States Organized Crime Information Center, the Regional Organized Crime Information Center, the Rocky Mountain Information Network, and the Western States Information Network. Support will also be given to continue the LEVITICUS Project, an investigative/prosecutorial information sharing project directed against major white collar criminals involved in various criminal enterprises affecting the acquisition and mining of coal in the Appalachian region.

B. *Activity Components.* The following are either required or optional components/activities of projects funded under this program. Optional components must be designed to support the required information-sharing component.

1. *Information Sharing Component (Required).* Every project will maintain and operate either a manual and/or -

automated information-sharing component that is responsive to the needs of participating enforcement agencies in addressing multi-jurisdictional offenses/conspiracies. This component must be capable of providing controlled input, dissemination rapid retrieval, and systematized updating of information to authorized agencies. This component must also possess the ability to perform analysis of information provided to the project/component. (See Para. 13.B, Special Requirements).

2. *Investigative Support Component (Optional).* Projects may establish and operate an investigative support component by providing financial assistance to participating agencies for their conduct of multi-jurisdictional investigations. Financial resources may include funds for the purchase of information, contraband that may be used as evidence, services, investigative travel and per diem, and overtime compensation. The LEVITICUS project is permitted to pay salaries and overtime for investigative personnel. (See Para. 13.A, Special Requirements).

3. *Specialized Equipment Component (Optional).* Projects may establish and maintain a pool of special investigative equipment for loan to participating agencies. (See Para. 13.D, Special Requirements).

4. *Technical Assistance Component (Optional).* Projects may establish and maintain a component to provide technical assistance to member agencies. Through use of project personnel and others in participating agencies, consultation, advice, and information may be made available to member agencies concerning use of specialized equipment, investigative procedures, accounting of project funds if provided by the project in support of investigations, and information analysis. This component will emphasize use of technical resources among the projects as necessary and available.

5. *Training Component (Optional).* Projects may establish and maintain a training component to upgrade investigative skills of personnel from participating agencies. Such training assistance may consist of financial support to send personnel to training courses, seminars, and conferences or design and delivery of special training courses by project staff.

C. *Administrative Components.* Each project must be comprised of three basic administrative components: an oversight group, project staff, and, member agencies.

1. *Oversight Group.*— Each project must have an established oversight group, i.e., Policy Board, Executive Committee, Supervisory Board, that is comprised of representatives from participating state and local agencies. The primary purpose of the oversight group is to provide policy and direction affecting project operations and administration.

2. *Project Staff.* Each project must contain a core group of staff that is of sufficient size and expertise to accomplish the stated objectives of the grant. An organizational structure must be developed that reflects the ability of the project to administer and operate the project with regard to the project components discussed in Para. 6.B.1 through 5.

3. *Member Agencies.* Each project must be made up of selected state and local criminal justice and/or regulatory agencies within the project's service area.

7. *Eligibility to receive grants.* The Policy Board or Executive Committee for each Riss project will select the state or local criminal justice agency eligible to apply for funding under this Program. Final approval of the applicant will remain with the Office of Justice Assistance, Research and Statistics (OJARS).

8. *Deadline for Submission of Applicantions.* Applications must be received by OJARS at least 90 days prior to the anticipated start date of the new award.

9. *Dollar Range and Number of Grants.* The award of seven grants is anticipated annually, ranging from $500,000 to $2 million per 12 month period of award.

10. *Matching Requirements.* Projects/grants may be funded up to 100 percent of total project/grant costs. Projects are encouraged to obtain and utilize other resources to the maximum extent possible for the purpose of augmenting project operations.

11. *Application Requirements.*

A. *Preparation.* All applications must be prepared on Standard Form 424, Application for Federal Assistance with Attachment OJARS Form 4000/3 (Appendix 1).

B. *Content.* The following information must be included in the application to OJARS:

(1) *Budget Narrative.* Applicants for grants must submit on separate sheets a budget narrative. The budget narrative should detail by budget category the Federal share. The purpose of the budget narrative is to relate items budgeted to project activities and to prövide justification and explanation for budget items, including criteria and cost data used to arrive at the estimates for each budget category. The following information is provided to assist the applicant in developing the budget narrative.

(a) *Personnel Category.* List each position by title (and name of employee if available), show annual salary rate and percentage of time to be devoted to the project by the employee. Compensation paid for employees engaged in Federally assisted activities must be consistent with that paid for similar work in other activities of the applicant.

(b) *Fringe Benefits Category.* Indicate each type of benefit included and the total cost allowable to employees assigned to the project.

(c) *Travel Category.* Itemize travel expenses of project personnel by purpose (e.g., staff to training site, advisory group meetings, etc.) and show basis of computation (e.g., "Five trips for 'x' purpose at $80 average cost $50 transportation and two days per diem at $15" or "Six people to 3-day meeting at $70 transportation and $45 subsistence"). In training activities where travel and subsistence for trainees is included, this should be separately listed indicating the number of trainees and the unit costs involved. (See Para. 13. E, Special Requirements).

(1) Identify the tentative location of all training sessions, meetings, and other travel whenever possible.

(2) Applicants should consult such references as the Official Airline Guide and the Hotel and Motel Redbook in projecting travel costs to obtain competitive rates.

(d) *Equipment.* List each type of equipment to be purchased or rented with unit or monthly cost. (See Para. 13. D, Special Requirements).

(e) *Supplies.* List items within this category by major type (office supplies, training materials, postage, etc.) and show basis for computation. Provide unit or monthly estimates.

(f) *Contractual Category.* State the selection basis for any contract or subcontract or prospective contract or subcontract (including equipment).

(1) For individuals to be reimbursed for personal services on a fee basis, list by name or type of consultant or service, the proposed fee (by day, week or hour), and the amount of time to be devoted to such services.

(2) For other types of contracts indicate the type of services to be performed and the estimated contract cost data.

(g) *Construction Category.* Describe construction or renovation which will be accomplished using grant funds and the method used to calculate cost. Allowable costs will be limited to project site modifications.

(h) *Other Category.* Include under "Other" such items as rent, reproduction, telephone, janitorial or security services and investigative expenses as defined in Para. 4, G7100.5 (See Appendix 3). List items by major type with basis of computation shown. (Provide square footage and cost per square foot for rent. Provide local and long distance telephone charges separately).

(i) *Indirect Cost Category.* The Administration may accept any indirect cost rate previously approved for an applicant by a Federal agency. Applicants must enclose a copy of the approved rate agreement with the grant application.

(j) *Program Income.* If applicable, provide a detailed estimate of the amount of program income to be generated during the grant period and its proposed application (to reduce the costs of the project or to increase the scope of the project). Also, describe the potential source of program income. (Refer to Para. 42., OJARS M7100.1B).

(2) *Project Narrative.* Each applicant will present its project narrative in the following format, which will be used in lieu of the format reflected in page 11 of SF 424.

(a) Description of the problems and needs to be addressed by the project.

(b) Summary of past accomplishments since project inception and their relationship to previously identified goals and objectives.

(c) Description of types of files, as approved by the projects' supervisory boards, that comprise the project's information sharing system, i.e., primary subject, associates, M.O., etc. and a description of the purpose of these files in relationship to the information-sharing system.

(d) Description of project goals and objectives to be achieved.

(1) The project goals should be consistent with the program goal set forth in Para. 4, of this Guideline.

(2) Objectives msut describe quantifiable achievements to the extent possible for each goal and take into consideration each of the project components set forth in Para. 6. B. of this Guideline.

(e) Description of project operations to include administrative and decisionmaking structure (including organizational chart).

(f) Description of milestones/major achievements to be accomplished.

(g) Summary of all assessments, evaluations and/or audits, other than those initiated by the Department of Justice.

(h) List of member agencies.

(3) *Supporting Documents.* The following documents must append the application:

(a) A current Equal Opportunity Employment Program (EEOP) which meets the requirements of 28 CFR 42.301, *et seq.* This requirement applies to applicant agencies that have fifty or more employees, which have received grants or $25,000 and which have a service population with a minority representation of 3% or more. (See Appendix 2.)

(b) A copy of a letter transmitting notification of project activities to state legislatures in those jurisdictions being serviced by the project. (See Para. 13.F, Special Requirements).

(c) Certifications signed by the appropriate authorities indicating:

(1) Compliance with G7100.5, Control and Use of Confidential Funds Under the RISS Program. (See Appendix 3).

(2) Compliance with 28 CFR Part 23 (See Appendix 4).

(3) State Criminal Justice Council (CJC) review, if CJC is serving as grantee.

(d) Constitution and/or bylaws adopted by the project.

(e) Procedures developed by the project for the administration of confidential funds if such funds are being requested in the application. (See Appendix 3).

(f) Procedures developed by the project for the administration of the information system as required in 28 CFR Part 23. (See Para. 13B, Special Requirements, and Appendix 4.)

(g) All assessments, evaluations and/or audit reports, other than those initiated by the Department of Justice, describing project activities.

12. *Reports.* Reporting requirements for grants/projects awarded under the RISS Program are articulated in Chapter 2, M7100.1B, Financial and Administrative Guide for Grants. The six regional information-sharing systems will use the quarterly narrative report format shown in Appendix 6. The Leviticus Project will use the format shown in Appendix 7.

13. *Special Requirements*

A. *Confidential Funds.* Approval by the Grantor Agency is required for all grantees/subgrantees prior to the use of funds for confidential expenditures. Confidential expenditures are herein defined as funds used for purchase of services, purchase of evidence (physical), and purchase of information. (See Appendix 3, OJARS Guideline G7100.5, "Control and Use of Confidential Funds Under the RISS Program").

(1) *Confidential expenditures* will be considered in all grants funded under this program provided that the process and procedures to be utilized by individual projects are included as part of the grant application and comply with G7100.5.

(2) *A signed certification* must be submitted by the Project Director that indicates he has read, understands, and agrees to abide by the conditions pertaining to confidential fund expenditures as set forth in OJARS' Guideline G7100.5. For a sample of the required certification, refer to Appendix 3.

(3) *Funds that are seized and revert* to the project as a result of the use of confidential funds shall be deemed program income pursuant to OMB Circular A102 up to the total amount of confidential funds used under the grant. (Refer to Para. 42, OJARS M7100.1B.).

(4) *The budgeting for and use of* confidential expenditures under this program is considered a support service to the primary objective of sharing information. These funds should only be allocated:

(a) When the particular merit of a case warrants the expenditure of these funds;

(b) to support multi-jurisdictional investigations in which two or more agencies are actively involved;

(c) where the user agency agrees that information obtained will be furnished to the project data base; and,

(d) when no other source of funds exists.

B. *Criminal Intelligence Systems Operating Policies (28 CFR Part 23).* All projects funded under the RISS program will be subject to the provisions of 28 Code of Federal Regulations (CFR) Part 23. "Criminal Intelligence Systems Operating Policies." (See Appendix 4).

(1) *Written procedures* for individual project compliance with these "Operating Policies" must accompany each application for funding. Specific application requirements for each of the Operating Policies of 28 CFR 23.20 are as follows:

(a) Application must describe the process by which information submitted is evaluated to ensure compliance with "reasonable suspicion of criminal activity" standard, and that the information has not been obtained in violation of applicable Federal, state or local laws and ordinances [§ 23.20(a), (b), (c)].

(1) Description must define what constitutes "reasonable suspicion of criminal activity" as a predicate for collecting, maintaining, and entering information [§ 23.20(a)].

(2) Description must explain system of controls to ensure that no information is

entered that violates applicable Federal, state or local laws and ordinances [§ 23.20(a)].

(b) Application must describe the procedures by which incoming information is received, processed, and stored [§ 23.20(f)].

(1) Procedures must indicate date of receipt (for purge purposes), the identity of submitting agency and the assignment of levels of sensitivity and confidence of the information [§ 23.20(f)].

(2) Description must discuss administrative, technical and physical safeguards (including audit trails) to ensure against unauthorized access and against intentional or unintentional damage [§ 23.20(f)].

(c) Application must describe the process by which information is disseminated [§ 23.20(d), (e), (f)].

(1) Description must discuss procedures for ensuring that access to the information is based on the "need to know/right to know the data in the performance of a law enforcement activity" [§ 23.20(d)].

(2) Description must discuss process used to ensure that information is disseminated only to other law enforcement authorities who agree to follow procedures regarding data entry, maintenance, security, and dissemination that are consistent with 28 CFR 23.20. Sample certification forms should be attached [§ 23.20(e)(1)].

(d) Application must describe procedures used to ensure that all information retained has relevancy and importance [§ 23.20(g)].

(1) Description must explain how information is screened for relevancy and to ensure that it is not misleading, obsolete, or otherwise unreliable [§ 23.20(g)].

(2) Description must discuss purging process and how reviewed material is annotated to reflect name of reviewer, date of review and explanation as to decision to retain. Any information that has been in the system but has not been reviewed for a period of two years must be reviewed and validated before it can be utilized or disseminated [§ 23.20(g)].

(3) Description must discuss how any recipient agencies are notified that information has been changed or purged [§ 23.20(g)].

(e) Application must describe sanctions to be used to control unauthorized access, utilization, or disclosure of information contained in the system [§ 23.20(1)].

(2) *The Criminal Intelligence Systems and Operating Policies Review Board* and/or the OJARS Program Manager will perform onsite visits during the project period to assess compliance with the Operating Policies.

(3) *Noncompliance with Operating Policies* is sufficient justification for project termination. Project activities determined to be noncompliant will be formally communicated to the grantee for redress. If the issues of noncompliance are not satisfactorily resolved by the established deadline date, OJARS may suspend all or part of the grant. If the issues still remain unresolved past the deadline date attached to the suspension action, OJARS may notify the grantee of an intent to terminate the grant. The grantee will have up to ten (10) working days from the date of the notice to file a written request for a compliance hearing pursuant to 28 CFR Part 18. If no request for a hearing is received by OJARS, the grant will be terminated.

(4) *The following Special Conditions* will be added to each award.

(a) Grantee agrees to be in compliance with the Criminal Intelligence Systems Operating Policies (28 CFR Part 23). Compliance will include all certifications required by § 23.30(a)(1)–(4) of these policies. The Criminal Intelligence Systems and Operating Policies Review Board, or its individual or group designees, may visit the project in order to determine compliance with these policies.

(b) Grantee/subgrantee agree that if automated equipment for use in connection with a criminal intelligence system is to be obtained with grant funds, then:

(1) Direct remote terminal access to data shall not be made available to system users; and,

(2) No modifications to system design shall be undertaken without prior OJARS approval [§ 23.20(h)].

(c) OJARS shall be notified prior to initiation of formal information exchange procedures with any Federal, state, regional, or other information system not indicated in the grant documents as initially approved at time of award [§ 23.20(i)].

(d) Grantee/subgrantee agree that no electronic, mechanical, or other device for surveillance purposes will be purchased, rented, or used in the course of this project that is in violation of the provisions of Title III of Pub. L. 90351, as amended, or any applicable state statute related to wiretapping and surveillance [§ 23.20(j)].

(e) Grantee/subgrantee agree that there shall be no harassment or interference with any lawful political activities as part of the intelligence system operation [§ 23.20(k)].

C. *Field Personnel.* Field personnel are defined as project employees (either direct or by formal contract) whose primary job function is to provide liaison services between the project and member agencies and who generally represent the project interests in assigned States throughout the service area.

(1) *It is the policy of OJARS to allow* the funding and utilization of field personnel provided that their activities are confined to liaison with and support of member agencies. Authorized liaison and support activities include:

(a) Dissemination of information collected by member agencies to other agencies requesting same;

(b) Provision of fixed site technical assistance to member agencies;

(c) Consultation and advice to member agencies in the completion of required reports and evaluations;

(d) Recruitment of new member agencies and liaison with existing members; and,

(e) Provision of training to law enforcement and prosecutorial agencies in project related law enforcement practices and techniques.

(2) *It is the policy of OJARS to prohibit* the involvement of field personnel in operationsl or investigative functions normally associated with the duties of a sworn law enforcement officer. These prohibited functions include:

(a) Handling informants (including paying informants; briefing or debriefing informants);

(b) Participation in any fixed or mobile surveillance (including providing fixed or mobile radio coordination);

(c) Participation in any other investigative activity, including collection of new intelligence from overt or covert sources, purchase of evidence, and undercover operations, such as drug buys or sting operations; and,

(d) Use of or carrying any firearm or other dangerous weapon while in the performance of project duties.

(3) *Each project that utilizes field personnel must develop* and submit to OJARS procedures that govern the use of and supervisory controls over its field personnel. These procedures must include:

(a) Specific job descriptions against which field personnel activities can be compared. These job descriptions must include:

(1) Duties;

(2) Supervisory Controls;

(3) Scope and Effect; and,

(4) Work Environment.

(b) A system of supervisory controls that is designed to manage and account for the activities and time of field personnel.

D. *Equipment.* Purchase or lease of equipment that specifically relates to the

achievement of the project goals and objectives, including repairs which materially increase its useful life, is an allowable expenditure of grant funds. The need for and acquisition of equipment in general is governed by the provisions of Instruction I4062.7, "Standards for Equipment to be Required with LEAA Grant Funds." See Appendix 5). The following further defines equipment acquisition and usage as it applies to the RISS Program.

(1) *All equipment purchases must receive the prior approval* of OJARS. Prior approval may be obtained either through inclusion in the grant application or, subsequently, by a prior written request.

(2) *Each application must contain a certification* governing the acquisition of equipment. (See Appendix 5).

(3) *No electronic, mechanical, or other device* may be purchased, rented, or used in the course of the project that is in violation of Title III, Pub. L. 90–351, as amended, and applicable state statutes related to wiretapping and surveillance.

(4) *Helicopters and airplanes* may not be purchased with grant funds. However, the rental of such equipment is allowable on an as needed basis provided that such rental is included as a line item in the approved grant application and is confined to ongoing investigations being performed by member agencies.

E. *Travel.* Travel must be categorized and described as either Administrative or Investigative. Administrative travel should be budgeted within the "Travel" category and is defined as travel performed by project employees or advisory board members to attend or participate in meetings, conferences, training, etc., to receive or provide technical assistance, or to perform liaison services to other projects or member agencies. Investigative travel should be budgeted within the "Other" category and is defined as travel performed by member agencies in the furtherance of ongoing investigations being supported by the project.

(1) *Each project must develop* and submit to OJARS internal travel procedures that:

(a) Document the project's official travel policies;

(b) Define the travel request, approval and voucher process;

(c) Explain the system of advances and reimbursements; and

(d) Describe the documentation necessary for approval and payment of travel vouchers.

(2) *Grantee may follow their own* established travel policies or the Federal travel rates. If a grantee does not have established travel rates, the grantee must abide by the Federal travel regulations.

(3) *Subgrantees may follow their own* established travel rates. If a subgrantee does not have an established travel rate, then:

(a) The subgrantee may follow the grantee-established travel policies; or,

(b) The subgrantee may abide by the Federal travel regulations.

(4) *Management attitudes towards travel* should be designed to minimize travel costs and eliminate nonessential travel. The following guidance should be observed by project management.

(a) Use alternatives. Travel should be permitted only when the matter cannot be handled via conference call or other mode of communication.

(b) Limit number of persons traveling. Only the minimum number of persons necessary to accomplish the purpose of the trip should be authorized to travel.

(c) Conference travel should be limited. Travel to conferences, seminars and meetings should be limited to those which directly further project goals and objectives. Whenever possible, limit attendance to a single individual who would then be responsible for summarizing and reporting results to other staff members.

(d) Examine location of meetings/conferences. Carefully consider cost benefits for all attendances prior to selecting sites for meetings or conferences.

(e) Utilize local training courses. Whenever possible, local training courses should be used to minimize travel costs.

(f) Minimize duration of trips. Trips should be as short as possible to accomplish their official purpose.

(g) Consolidate trips. To the extent possible, travel should be performed for more than a single purpose and visits to more than one location made in a series without returning to the official duty station.

(h) Assess alternate modes of common carriers. Consider all costs associated with different types of common carriers. This is especially true in the Northeast corridor where train service may provide the most cost beneficial method of travel.

(i) Use special fares. Utilize special excursion fares of other discount fares whenever possible.

(5) *All noninvestigative, out-of-region travel* must receive the written prior approval of OJARS on a trip-by-trip basis. The request for approval of each trip must provide specific information concerning the purpose of travel, who will be traveling, the dates of travel, and a certification that sufficient funds exist within the travel category of the approved project budget to accommodate the requested travel.

F. *Legislative Notification.* The State legislature in each State included in a RISS project must be notified that a RISS project is operating within its boundaries. Notification may be either directly to the legislature or to a body designated to act while the legislature is not in session. Each project, therefore, must provide evidence that the requisite notification has occurred. Evidence may take the form of a sample letter of notification to be included in the grant application. Copies of all letters of notification must be kept in file at the project headquarters.

G. *Prohibition Against Lobbying.* All activities under the grant, including oral and written grantee or subgrantee actions and direct or indirect congressional contact, shall be made in accordance with the anti-lobbying provision of the LEAA Financial and Administrative Guide for Grants (OJARS M7100.B, Chapter 5, Para. 75, October 2, 1980) as interpreted by OJARS Office of General Counsel Legal Opinions No. 74–1, No. 75–45, and 77–30.

[FR Doc. 82-34388 Filed 12-17-82; 8:45 am]
BILLING CODE 4410-18-M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Physics; Subcommittee for Review of NSF Gravitational Physics Program

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463 the National Science Foundation announces the following meeting:

Name: Advisory Committee for Physics, Subcommittee for the Review of the National Science Foundation Gravitational Physics Program.

Date and time: January 10–11, 1983; 9:00 a.m. to 5:00 p.m., each day.

Place: Room 341, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

Type of meeting: Closed.

Contact person: Dr. Margrete S. Klein, Staff Associate, Division of Physics, Room 341, National Science Foundation, Washington, D.C. 20550. Telephone (202) 357–7611.

Purpose of subcommittee: To provide oversight concerning NSF support and planning for research in gravitational physics.

Agenda: To review NSF Gravitational Physics program documentation as part of the program oversight function.

Reason for closing: The meeting will deal with a review of grants and declinations in which the Subcommittee will review materials containing the names of applicant institutions and principal investigators and privileged information from the files pertaining to the proposals. The meeting will

also include a review of the peer review documentation pertaining to applicants. These matters are within exemption (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, National Science Foundation, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

December 15, 1982.

[FR Doc. 82–34441 Filed 12–17–82; 8:45 am]

BILLING CODE 7555–01–M

Advisory Panel for Behavioral and Neural Sciences; Subpanel on Neurobiology Group "B"; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Subpanel on Neurobiology of the Advisory Panel for Behavioral and Neural Sciences.

Date and time: January 13 and 14, 1983; 9:00 a.m. to 5:00 p.m. each day.

Place: The Board Room of the Holiday Inn, Fisherman's Wharf, 1300 Columbus Avenue, San Francisco, CA 94133.

Type of meeting: Closed.

Contact Person: Dr. Nathaniel G. Pitts, Associate Program Director, Neurobiology Program, Room 320, National Science Foundation, Washington, D.C. 20550, telephone 202/357–7471.

Purpose of panel: To provide advice and recommendations concerning support for research in neurobiology.

Agenda

To review and evaluate research proposals as part of the selection process for awards.

Reason for Closing

The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to Close Meeting

This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, National Science Foundation, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

December 15, 1982.

[FR Doc. 82–34438 Filed 12–17–82; 8:45 am]

BILLING CODE 7555–01–M

Advisory Panel for Biotic Systems and Resources; Subpanel on Ecology; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Subpanel on Ecology of the Advisory Panel for Biotic Systems and Resources.

Date and time: January 13 and 14, 1983—8:30 a.m. to 5:00 p.m. each day.

Place: Room 1141, National Science Foundation, 1800 G St., NW., Washington, D.C. 20550.

Type of meeting: Closed.

Contact person: Dr. Gary W. Barrett, Program Director, Ecology (202) 357–9734, Room 1140, National Science Foundation, Washington, D.C. 20550.

Purpose of subpanel: To provide advice and recommendations concerning support for research in Ecology.

Agenda

Review and evaluation of research proposals and projects as part of the selection process of awards.

Reason for Closing

The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to Close Meeting

This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, National Science Foundation, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

December 15, 1982.

[FR Doc. 82–34443 Filed 12–17–82; 8:45 am]

BILLING CODE 7555–01–M

Advisory Panel for Biotic Systems and Resources; Subpanel on Population Biology and Physiological Ecology; Notice of Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Subpanel on Population Biology and Physiological Ecology of the Advisory Panel for Biotic Systems and Resources.

Date and time: January 20 and 21, 1983—8:30 a.m. to 5:00 p.m. each day.

Place: Room 1141, National Science Foundation, 1800 G. St., NW., Washington D.C. 20550.

Type of meeting: Closed.

Contact person: Dr. Robert E. Cook, Program Director, Population Biology and Physiological Ecology (202) 357–9728, Room 1140, National Science Foundation, Washington, D.C. 20550.

Purpose of subpanel: To provide advice and recommendations concerning support for research in population biology and physiological ecology.

Agenda

Review and evaluation of research proposals and projects as part of the selection process of awards.

Reason for Closing

The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to Close Meeting

This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, National Science Foundation, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

December 15, 1982.

[FR Doc. 82–34440 Filed 12–17–82; 8:45 am]

BILLING CODE 7555–01–M

Advisory Panel for Biotic Systems and Resources; Subpanel on Systematic Biology; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Subpanel on Systematic Biology of the Advisory Panel for Biotic Systems and Resources.

Date and Time: January 10 and 11, 1983—8:30 a.m. to 5:00 p.m. each day.

Place: Room 1141, National Science Foundation, 1800 G St., NW., Washington, D.C. 20550.

Type of meeting: Closed.

Contact Person: Dr. Wallace E. LaBerge, Program Director, Systematic Biology (202) 357–9588, Room 1140, National Science Foundation, Washington, D.C. 20550.

Purpose of subpanel: To provide advice and recommendations concerning support for research in systematic biology.

Agenda

Review and evaluation of research proposals and projects as part of the selection process of awards.

Reason for Closing

The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to Close Meeting

This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, National Science Foundation, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

December 15, 1982.

[FR Doc. 82-34442 Filed 12-17-82; 8:45 am]

BILLING CODE 7555-01-M

Advisory Panel for Physiology, Cellular and Molecular Biology; Subpanel on Regulatory Biology; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Science Foundation announces the following meeting:

Name: Subpanel on Regulatory Biology of the Advisory Panel for Physiology, Cellular and Molecular Biology.

Date and time: January 26, 27 and 28, 1983 (8:30 a.m. to 5:00 p.m.).

Place: Conference Room 338, National Science Foundation; 1800 G Street, NW; Washington, DC 20550.

Type of meeting: Closed.

Contact person: Dr. Bruce L. Umminger, Program Director, Regulatory Biology, Room 332, National Science Foundation, Washington, D.C. 20550, Telephone 202/357–7975.

Purpose of subpanel: To provide advice and recommendations concerning support for research in regulatory biology.

Agenda

To review and evaluate research proposals and projects as part of the selection process for awards.

Reason for Closing

The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of U.S.C. 552b(c), Government in the Sunshine Act.

Authority to Close Meeting

This determination ws made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer delegated the authority to make such determinations by the Director, National Science Foundation, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 82-34439 Filed 12-17-82; 8:45 am]

BILLING CODE 7555-01-M

POSTAL RATE COMMISSION

[Docket No. A83–10]

Liberty Farms, Calif.; Order of Filing of Appeal

December 15, 1982.

In the matter of: Liberty Farms, California 95647; Beverly Brownell, Petitioner.

On November 30, 1982, the Commission received a Mailgram from Mrs. Beverly Brownell ("Petitioner") expressing her concern about the Postal Service's plans to close the Liberty Farms, California, post office. It was unclear whether Mrs. Brownell wanted the Commission to consider this an appeal of the Postal Service's determination. Consequently, the Secretary of the Commission, Mr. David F. Harris, wrote to Mrs. Brownell on November 30, 1982, and asked whether it was her intention to file an appeal. On December 10, 1982, the Commission received Mrs. Brownell's second letter in which she clearly stated her intention to appeal the Postal Service's determination to close the Liberty Farms post office. Her letter effectively requests the review provided by section 404(b) of the Postal Reorganization Act [39 U.S.C. 404(b)].[1]

The petition sets out the Postal Service action complained of in sufficient detail to warrant further inquiry to determine whether the Postal Service complied with the applicable law and its regulations for the closing of post offices.[2]

Upon preliminary inspection, the Petitioner's letter of December 10, 1982, appears to present as issues of law all of the factors considered by the Postal Service in making a determination to close a post office, namely:

1. The effect of such closing on the community served by such post office [39 U.S.C. 404(b)(2)(A)];
2. The effect of such closing on an employee of the Postal Service employed at such office [39 U.S.C. 404(b)(2)B)];
3. Whether such closing is consistent with the policy of the Government, as stated in section 101(b) of this title, that the Postal Service shall provide a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining [39 U.S.C. 404(b)(2)(C)];
4. The economic savings to the Postal Service resulting from such closing [39 U.S.C. 404(b)(2)(D)].

Other issues of law may become apparent when the Commission has had the opportunity to examine the record made by the Postal Service. The record may be found to resolve adequately one or more of the issues presented by the Petitioner's letter.

In view of the above, and in the interest of expediting this proceeding under the 120-day decisional deadline imposed by section 404(b)(5), the Postal Service is advised that the Commission reserves the right to request a legal memorandum from the Service on the issues described above and/or any further issues of law disclosed by the record in this case. In the event that the Commission finds such memorandum necessary to explain or clarify the Service's legal position or interpretation on any such issue, it will make the request therefor by order, specifying the issues to be addressed.

When such a request is issued, the memorandum shall be filed within 20 days of the issuance, and a copy of the memorandum shall be served on the Petitioner by the Service.

In briefing the case or in filing any motion to dismiss for want of prosecution, in appropriate circumstances the Service may incorporate by reference all or any portion of a legal memorandum filed pursuant to such an order.

The Commission orders:

(A) The appeal letter from Mrs. Beverly Brownell be accepted as a petition for review pursuant to section 404(b) of the Act [39 U.S.C. 404(b)].

(B) The Secretary of the Commission shall publish this Notice and Order in the **Federal Register.**

By the Commission.

David F. Harris,

Secretary.

Appendix

Docket No. A83–10, Liberty Farms, California

December 10, 1982—Filing of Petition
December 15, 1982—Notice and Order of Filing of Appeal
December 27, 1982—Filing of Record by Postal Service [*see* 39 CFR 3001.113(a)].
December 30, 1982—Last day for filing of petitions to intervene [*see* 39 CFR 3001.113(b)].
January 10, 1983—Petitioner's Initial Brief [*see* 39 CFR 3001.115(a)].

[1] 39 U.S.C. 404(b) was added to title 39 by Pub. L. 94–421 (September 24, 1976), 90 Stat. 1310–11. Our rules of practice governing these cases appear at 39 CFR 3001.110 *et seq.*

[2] 42 FR 59079–85 (November 17, 1977). The Commission's standard of review is set forth at 39 U.S.C. 404(b)(5).

January 25, 1983—Postal Service Answering Brief [*see* 39 CFR 3001.115(b)].

February 9, 1983—(1) Petitioner's Reply Brief should Petitioner choose to file one [*see* 39 CFR 3001.115(c)]; (2) Deadline for motions by any party requesting oral argument. The Commission will exercise its discretion, as the interest of prompt and just decision may require, in scheduling or dispensing with oral argument.

March 30, 1983—Expiration of 120 day decisional schedule [*see* 39 U.S.C. 404(b)(5)].

[FR Doc. 82-34405 Filed 12-17-82; 8:45 am]
BILLING CODE 7715-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 12891; 812-8386]

Chicago Partners I et al.; Application

December 10, 1982.

In the matter of; Chicago Partners I, Chicago Partners II, Winthrop Financial Co., Inc. and Linnaeus-Hawthorne Associates, 225 Franklin Street, Boston, Mass. 0210, (812-8386).

Chicago Partners I and Chicago Partners II (the "Partnerships"), each of which is a District of Columbia limited partnership, and their general partners, Winthrop Financial Co., Inc., and Linnaeus-Hawthorne Associates ("Linnaeus-Hawthorne") (collectively referred to hereinafter as ("Applicants")) filed an application on November 30, 1982, pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act") for an order exempting the Partnerships from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants state that the Partnerships were formed on July 1, 1982, under the District of Columbia Limited Partnership Act, and are designed to provide private investors with a means of acquiring equity interests in government-assisted housing and to otherwise implement the policy of Title IX of the Housing and Urban Development Act of 1968 (the "1968 Act"). Each Partnership has acquired a limited partnership interest in a separate Illinois partnership (the "Operating Partnership") which will construct, own and operate a portion of a multi-use high-rise complex ("Ontario/Erie"). Ontario/Erie, located in an area of government-assisted urban renewal, is receiving financing assistance from federal governmental agencies. Applicants contend that each Partnership will exist and be operated as a "two-tier" limited partnership in accordance with Investment Company Act Release No. 8456 (August 9, 1974) ("Release No. 8456").

Applicants state that each Partnership is organized as a limited partnership because a limited partnership is the only form of organization which provides an investor with both liability limited to his capital investment and the ability to claim on his individual tax return the deductions, losses, credits, and other tax items a partnership can pass through to its partners. Applicants further state that each Partnership's investment objectives are to invest in its respective Operating Partnership, provide tax benefits on a current basis, obtain reasonable protection for its investment in the respective Operating Partnership, provide potential for appreciation, and provide potential for cash distributions from operations (on a limited basis), refinancing, or sale of Ontario/Erie.

According to the application, Chicago Partners I was formed to invest as a 98.998 percent limited partner in Ontario Place Associates, A Ltd. Partnership ("Operating Partnership I"), an Illinois limited partnership. Operating Partnership I will construct, own and operate 470 rental apartment units and a ground level garage (the "Residential Project") in Ontario/Erie. Applicants state that tenants of 20 percent of the apartment units in the Residential Project will be eligible for rental assistance from the United States Department of Housing and Urban Development ("HUD"). Chicago Partners II was formed to invest as a 98.998 percent limited partner in Erie Place Associates, A Ltd. Partnership ("Operating Partnership II"), which will construct, own and operate the first 6 floors of Ontario/Erie with approximately 111,000 net rentable square feet of office and retail space (the "Commercial Project"). Applicants further state the investment by each Partnership in its respective Operating Partnership (other than short-term interim investments made prior to the making of all capital contributions to the Operating Partnership and which are not subject to the discretion of management) will be its only investment; Chicago Partners I and Chicago Partners II will not acquire interests in any other entities or property.

Applicants state that although the Residential Project and the Commercial Project are considered two legally separate interests in real estate and will be operated as separate real estate enterprises, all financing, HUD mortgage insurance, and construction commitments relating to Ontario/Erie were executed by Operating Partnership I and Operating Partnership II as co-borrowers. Ontario/Erie is receiving permanent financing from the Government National Mortgage Association ("GNMA"), and HUD is insuring the construction loan and permanent mortgage.

Applicants state that Winthrop Financial Co., Inc. ("Managing General Partner") is the managing general partner of each Partnership. Linnaeus-Hawthorne, an affiliate of the Managing General Partner, is also a general partner of each Partnership.

According to the application, each Partnership will be controlled by the Managing General Partner, and the limited partners, consistent with their limited liability status, will not be entitled to participate in the control of the business of the Partnership. Applicants state, however, that limited partners owning a majority of Partnership interests will have the right to amend their respective partnership agreement, dissolve the Partnership, remove any general partner and elect a replacement therefor. Any amendment to the respective partnership agreements may not allow the limited partners to take part in the control of the Partnership's business or otherwise affect their limited liability. Applicants represent, in addition, that under each partnership agreement, each limited partner is entitled to review all books and records of the Partnership at any and all reasonable times.

Applicants state that Chicago Partner I will offer 85 units of limited partnership interest (the "units") at $154,000 per unit to investors meeting certain suitability standards described below, pursuant to Section 4(2) of the Securities Act of 1933, as amended (the "Securities Act") and Regulation D promulgated thereunder. Applicants further state that Chicago Partners II will offer 30 units of limited partnership interests at a price of $159,500 per unit to investors meeting the same suitability standards. Although the offerings of units in Chicago Partners I and Chicago Partners II will be conducted as separate offerings, they will be treated as a single offering for certain purposes of the Securites Act, including, for example, determining the number of permitted purchasers of units under Regulation D. Applicants represent that subscriptions for units must be approved by the Managing General Partner, and such approval will be made conditional upon representations as to suitability of the investment for each subscriber.

Applicants state that although the Partnerships' direct control over the management of the respective Operating Partnerships is limited, the Partnerships'

ownership of interests in the Operating Partnerships will be the economic equivalent of direct ownership of the Commercials Project and Residential Project themselves. The interests in the Operating Partnerships will have no value other than the Projects themselves.

Applicants state that the general partners and their affiliates will receive various fees and reimbursements as compensation for formation and operation of the Partnership. Applicants further state that the substantial fees and other forms of compensation that will be paid to these persons will not have been negotiated through arm's length negotiations. Applicants assert, however, that insofar as the Release No. 8456 requirement of fair dealing by the general partners with the limited partners of the Partnership is concerned, as reflected by the basic organizational docucments of the Partnership, the partnership agreements and the memorandum relating to the offering of units contain numerous provisions designed to insure such fair dealing. For example, with respect to the above described compensation, Applicants represent that the terms of all such compensation will be fair and not less favorable to the Partnership than would be the case if such terms had been negotiated with independent third parties. Applicants further represent that they believe such compensation meets all applicable guidelines necessary to permit the units to be offered and sold in the various states which prescribe such guidelines, including the statement of policy adopted by the North American Securities Administration in respect of real estate programs. Applicants also state that no fees will be payable to the Managing General Partner, or any of its affiliates, if all units offered to investors are not sold.

Although the Applicants believe that neither Partnership is an investment company, Applicants request that the Partnerships be exempted from the provisions of the Act pursuant to Section 6(c) of the Act. Section 6(c) of the Act authorizes the Commission to exempt any person, security, transaction, or any class or classes of persons, securities, or transactions, from the provisions of the act and the rules promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants contend that the exemption of the Partnerships from the provisions of the Act is both necessary and appropriate in the public interest because the form of organization of each Partnership (*i.e.*, a limited partnership), which is necessary to provide private investors with certain tax advantages without which investment in government-subsidized housing would not be attractive, does not conform to the regulatory framework of the Act.

Applicants contend that to defeat the limited partnership arrangement by application of the Act would be to eliminate the primary means of attracting private equity capital into government-assisted housing and would frustrate the national policy declared by Congress in Section 901 of Title IX of the 1968 Act: "to encourage the widest possible participation by private enterprise in the provision of housing for low or moderate income families. . . ."

Applicants also contend that the exemption would be consistent with the protection of investors and the purposes and policies underlying the Act because interests in each Partnership are being sold only to sophisticated investors as contemplated by Release No. 8456. In addition to representing that he or she is either an "accredited investor" as prescribed by Regulation D or one of up to 35 "qualified investors" who meet certain suitability requirements, each prospective investor in each Partnership will be required to represent in his or her subscription agreement that: (a) he or she meets any special requirements of his or her state of residence and/or state in which the transaction occurs; (b) his or her overall commitment to investments which are not readily marketable is reasonable in relation to his or her net worth; (c) he or she is willing and able to bear the economic risk of his or her investment in the units, has no need for liguidity in such investment and is able to sustain a complete loss of such investment; (d) he or she has read the partnership and operating partnership agreements and the memorandum for purposes of evaluating the risks of investing in the units; (e) he or she has substantial experience in making investment decisions of this type or is relying on his or her qualified adviser in making this investment decision; and (f) is purchasing units for his or her own account, for investment, and not with a view to resale. Furthermore, Applicants state, it is anticipated that comparable suitability standards will be imposed by each Partnership in connection with any transfer of units, and any such transfer will be subject to various restrictions. In addition, under the laws of certain states, an investor may transfer units only to persons who meet similar standards, and each Partnership will require assurance that such standards are met.

Applicants state that the general partners are required to act in a fiduciary capacity with respect to each Partnership and its limited partners. Finally, Applicants represent that although the general partners are engaged in other transactions independent from those involving the Partnerships, the Partnerships will not acquire or lease properties or interests therein to the general partners or their affiliates.

Notice is hereby given that any interested person may, not later than December 31, 1982, at 5:30 p.m., submit to the commission, in writing, a request for a hearing on the application accompanied by a statement as to the nature of his/her interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or such person may request notification should the Commission order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such reguest shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit, or in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. An order disposing of the application herein will be issued as a matter of course following said date unless the commission thereafter orders a hearing, upon request or upon its own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82-34409 Filed 12-17-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12892-5366]

Merchants Bancorporation; Application

December 10, 1982.

In the matter of Merchants Bancorporation, 8th and Jackson Streets, Topeka, Kans. 66112, (812-5366).

Merchants Bancorporation ("Applicant"), a Kansas corporation, filed an application, and an amendment thereto, pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act") for an order of the Commission exempting four corporations to be formed by Applicant from all of the provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it was incorporated under the laws of Kansas in 1981 and is a one-bank holding company registered under the Bank Holding Company Act of 1956, as amended. Applicant's principal subsidiary is the Merchants National Bank of Topeka (the "Bank"), which is engaged in the commercial banking and trust business in Topeka, Kansas. Applicant's stock is held of record by 480 stockholders and is registered under the Securities Exchange Act of 1934.

Applicant states that under Kansas law a bank holding company may not acquire 25 percent or more of the voting shares of more than one bank. Thus, applicant represents that until such time as the Kansas law is changed to permit multi-bank holding companies, Applicant cannot acquire more than 24.9 percent of the stock of any bank other than Bank.

Applicant notes that due to the fact that the Kansas law does not restrict the ownership by individual stockholders, singly or collectively, of more than one bank or bank holding company, various means have been employed to create privately-owned chain-bank systems under which each bank in the system is held by a one-bank holding company that is under common control with others in the system.

Applicant states that because of the loss of public deposits, the lack of growth in the Topeka economy and the competition of money market funds, Bank's deposits have declined in recent years. Applicant believes that in order to compete effectively for deposits with money market funds and other financial institutions, it must, in the long term, have the ability to acquire banks in other communities. With the continuing expansion and growth of privately owned chain-bank systems and the recent entry into the bank acquisition marketplace of larger competitors, Applicant represents that its need to secure this capability has become immediate. Without an early capability for expansion, Applicant's management believes that many attractive acquisition opportunities could well be lost and that the stockholders will not be able to take advangages of opportunities to maximize the value of their banking investment.

Applicant has developed a proposed plan which it states will provide a vehicle for the acquisition by Applicant of a significant interest in other banks located in Kansas and give Applicant the right to acquire the remaining interest at such time as multi-bank holding companies are permitted in Kansas. Applicant believes that the proposed plan is superior to the alternative means of acquiring significant interests in other Kansas banks because it will enable all of its stockholders to participate in the benefits of such acquisitions.

Applicant states that the proposed plan involves the creation of four new subsidiaries ("Corp. A", "Corp. B", "Corp. C", and "Corp. D", collectively the "Corps.") which initially be capitalized by the sale of stock to Applicant in exchange for the assignment of separate time deposits in the Bank. Applicant further states that each Corp. will attempt to purchase a bank whose principal office is located in Kansas with the funds provided from its initial capitalization together with the proceeds of additional stock sales to Applicant and bank borrowings. In order to ensure the availability of consolidated tax returns, Applicant represents that no acquisition will be effected unless at least 80 percent of a bank's outstanding stock can be acquired.

Applicant states that its shareholders will initially receive temporary, non-transferable certificates representing their interests in the Corps. ("temporary certificates"). These certificates will be issued together with a letter explaining that they should be turned over to an escrow agent, the Bank, and that any transfer by them of their holdings in Applicant's stock will constitute a transfer of their interests in the Corps. Applicant represents that at such time as an agreement in principal or a binding agreement has been reached with respect to the purchase of at least 80 percent of the outstanding stock of a bank (but in any event prior to the closing of such acquistion), the stock of the acquiring Corp. will be distributed to the persons who are stockholders of Applicant at the date for the distribution of the Corps.' stock. Applicant further represents that it anticipates that the Corps. will acquire their respective banks within three years from the date of the order and, therefore, the Corps. will cease to fall within the defintiion of investment company under Section 3(a)(1) of the Act at that time. Applicant states that, due to the difficulty of finding suitable acquistion targets in the current competitive environment, it would be unable to represent with certainty that such acquistions would occur within three years.

Following the distribution of the temporary certificates, Applicant will own 4.9 percent of the stock of the Corps. However, Applicant states that it will be obligated under a subscription agreement entered into with each of the Corps. to purchase enough newly issued shares to make it the owner of up to 24.9 percent of their outstanding stock. Applicant represents that the closing for a subscription would take place contemporaneously with a purchase of at least 80 percent of the outstanding stock of a bank by the acquiring Corp.

Applicant states that the subscription agreement will grant an option to it to purchase all of the assets of the issuing Corp., which would include the bank stock held by the issuing Corp. Applicant represents that the option will not be exercisable until multi-bank holding companies become legally permissible in Kansas. According to the application, the exercise price of the option will be equal to the net book value of the issuing Corp. and will be payable solely in stock of the Applicant having an equivalent net book value.

Applicant states that one of the key components of the proposed plan is to ensure that stockholders of Applicant acquire ownership for Federal income tax purpose of the Corps. stock upon transfer to them of the temporary certificates during the Applicant's current fiscal year, ending December 31, 1982. Applicant anticipates that the realization of losses in Bank's bond portfolio arising from sales of a portion thereof will eliminate all consolidated earnings in the current year. Since the Applicant was recently organized and has no accumulated earnings and profits for tax purposes and will have none in the current year, Applicant has sought a ruling from the Internal Revenue Service confirming that the distribution of the temporary certificates will constitute a non-taxable return of capital to Applicant's shareholders rather than a taxable dividend if completed during the current year. Applicant states that but for this tax factor, the distribution of the stock of a particular Corp. by Applicant to its shareholders could be timed to coincide with obtaining an agreement in principle to acquire a bank's stock. Applicant points out that in such case, the period during which that Corps.' assets would need to be invested to preserve their value would be eliminated almost completely. Applicant

submits that it would be unfair to impose such a tax burden on its shareholders (who it should be noted will also be the Corps.' shareholders) merely in order to avoid the potential costs and burdens of registration and regulation under the Act.

Rule 3a–2 under the Act provides an exclusion from the definition of an investment company under Section 3(a)(1) during a period of time not to exceed one year, provided that the issuer has a bona fide intent to be engaged primarily, as soon as is reasonably possible (in any event by the termination of such period of time), in a business other than that of investing, reinvesting, owning, holding or trading in securities.

According to the application, during the period between the sale of stock of each Corp. to Applicant and the use of the proceeds of such sales by each Corp. (together with certain additional funds ro be provided from the sources described above) to acquire at least 80 percent of the stock of a bank, those proceeds will remain in time deposits. Applicant states that although time deposits such as those held by the Corps. are cash items for purposes of Section 3(a)(3) of the Act, they may be "securities" for purposes of Section 3(a)(1). Without necessarily agreeing, Applicants states that the Corps. therefore potentially constitute "investment companies" within the meaning of Section 3(a)(1) of the Act notwithstanding the fact that the interest form those time deposits will not be reinvested, and such deposits will not be liquidated until acquistions are made.

Applicant states that it believes that Corps. could avoid registration and regulation under the Act by holding their assets in cash or in non-interest bearing bank accounts. Applicant notes, however, that unless such assets are appropriately invested there will be a depletion of those assets by a discount factor equal to the time value of money. Applicant submits that the imposition of such a burden on the Corps.' shareholders would not only be unfair but would raise a question as to whether such action would be consistent with management's fiduciary obligations.

Applicant represents that each of the Corps. would be able to meet the requirements of the exemption form Section 3(a)(1) provided by Rule 3a–2 under the Act with the exception that the length of the period during which their assets are invested in time deposits may, depending upon the availablity of suitable acquisition candidates, exceed one year. Applicant is therefore requesting that the Commission issue an order pursuant to Section 6(c) of the Act exempting each of the Corps. from all of the provisions of the Act.

Section 6(c) of the Act permits the Commission, among other things, to grant an exemption by order upon application from any provision or provisions of the Act provided such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant submits that its requested exemptive order should be granted because the Corps. will have a bona fide intent to be engaged primarily, as soon as reasonably possible, and in any event in less than three years, in a business other than that of investing, reinvesting, owning, holding or trading in securities. Applicant states that this intent is evidenced by the purpose for the formation of the Corps. as well as the competitive factors outlined above. Applicant further states that this intent is evidenced by the purpose for the formation of the Corps. as well as the competitive factors outlined above. Applicant further states that this intent will also be evidenced by ths same objective standards set forth in Rule 3a–2. Applicant represents in this regard that the predominant activity of the Corps. during the period prior to consummation of an acquisition will be to locate suitable acquisition candidates and negotiate the terms of an acceptable acquisition agreement. Applicant further represents that there may be regulatory waiting periods and other factors outside of its control. While each Corps.' assets will be invested in time deposits, Applicant represents that such investment will be made solely in order to preserve the value of the capital of the Corps. pending an acquisition and that there will be no speculative activity in such investments. In view of the limited purposes of the investment, its temporary nature, and the lack of speculative actiivity, the Applicant submits that the Corps. should not be deemed to be engaged primarily in the business of investing, reinvesting or trading in securites for purposes of evaluating the appropriateness of exemptive relief under Section 6(c) of the Act.

Applicant points out that in compliance with Rule 3a–2 under the Act, the bona fide intent discussed above will be evidenced by the adoption by each Corp.'s board of directors of a series of resolutions to the effect that, prior to the acquisition of 80 percent or more of the outstanding stock of a bank: (i) The Corps.' assets will be held solely as time deposits; (ii) such investments will be made solely in order to preserve the value of the Corps.' capital and the Corps. shall not engage in any sort of speculative activity in such securities; (iii) the sole purpose and business activity of the Corps. during such period (other than the making of investments to preserve the value of its capital) shall be to locate a bank whose main office is in Kansas and which is a suitable candidate for acquisition by the Corps. and to take such steps as are necessary or appropriate to effectuate such acquisition; (iv) the Corps.' management will be authorized, empowered and directed to use their best efforts to accomplish the foregoing purpose as soon as reasonably possible; and (v) the Corps. shall not hold itself out as being engaged primarily in the business of investing, reinvesting, owing, holding or trading in securities. Applicant submits that the limitations placed on the Corps.' business activities by such resolutions should also ensure that those activities are consistent with the policies underlying Rule 3a–2 and the standards for granting exemptive relief under Section 6(c).

Notice is hereby given that any interested person may, not later than December 31, 1982, at 5:30 p.m., submit to the Commission, in writing, a request for a hearing on the application accompanied by a statement as to the nature of his/her interest, the reasons for such request and issues, if any, of fact or law proposed to be controverted, or such person may request notification should the Commission order a hearing therein. Any such communication should be addressed: Secretary, securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit, or in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. An order disposing of the application herein will be issued as a matter of course following said date unless the Commission thereafter orders a hearing upon request or upon its own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82-34417 Filed 12-17-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12890; 812-5358]

Prime Cash Fund; Application

December 10, 1982.

In the matter of: Prime Cash Fund, 200 Park Avenue, New York, N.Y. 10017; (812-5358).

Prime Cash Fund ("Applicant"), registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application requesting an order of the Commission pursuant to Section 6(c) of the Act exempting Applicant from the provisions Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 therunder to the extent necessary to permit Applicant to compute its net asset value per share, for the purposes of effecting sales, redemptions and repurchases of its shares, to the nearest one cent on a share value of one dollar. Applicant represents that in all other respects, portfolio securities held by Applicant will be valued in accordance with the views set forth in Investment Company Act Release No. 9786 (May 31, 1977) ("Release No. 9786"). All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it is organized as a Massachusetts business trust, and that it is a "money market" fund, the investment objective of which is to achieve as high a level of current income as is consistent with high stability and liquidity of capital, through investment in a portfolio of "money market" securities meeting specified quality standards. According to the preliminary prospectus filed on October 8, 1982, with Applicant's N-1 registration statement under the Securities Act of 1933, Applicant proposes to invest in (1) Obligations issued or guaranteed by the United States government or its agencies or instrumentalities ("U.S. Government Securities"); (2) time deposits, certificates of deposit, bankers' acceptances and other bank instruments, if they are obligations of a domestic bank subject to regulation by the U.S. Government and having total assets of at least $1.5 billion (but not including obligations issued by foreign branches of these banks), and instruments secured by any such obligation; (3) commercial paper, including variable amount master demand notes, rated A-1 by Standard & Poor's Corporation ("S&P") Prime-1 or by Moody's Investors Service, Inc. ("Moody's") or, if not rated, issued by a corporation the debt obligations of which Applicant is permitted to acquire; (4) corporate debt obligations if they are rated AAA or AA by S&P, or Aaa or Aa by Moody's; and (5) certain other obligations accompanied by a guarantee of principal and interest by either a bank the obligations of which Applicant may acquire, or by a corporation the commercial paper of which Applicant may acquire; and (6) repurchase agreements relating to the foregoing classes of securities. Applicant's preliminary prospectus states that the collateral under any repurchase agreement will be marked to market every business day so that the value of the collateral is at least equal to the value of the loan, including the accrued interest earned thereon, plus sufficient additional market value as is considered necessary to provide a margin of safety. The preliminary prospectus also states that Applicant's investment adviser will regularly review the financial strength of all vendors of repurchase agreements to Applicant. Finally, Applicant's preliminary prospectus states that Applicant will not enter into a repurchase agreement which will cause more than 10% of its assets to be subject to repurchase agreements having a maturity of more than seven days.

Applicant states that its net asset value per share will remain constant at $1.00 except under extraordinary circumstances, as capital changes are reflected in dividends declared rather than in net asset value. Applicant states further that the maintenance of a constant net asset value per share is a crucial factor in attracting and retaining investors. Applicant believes that by valuing its shares in accordance with the "penny-rounding" valuation method it will be able to maintain a constant share value for its shareholders together with full liquidity and a statisfactory investment yield.

Rule 22c-1 provides, in pertinent part, that no registered investment company or principal underwriter therefor, issuing any redeemable security shall sell, redeem, or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security.

Section 2(a)(41) of the Act defines value to mean (i) with respect to securities for which market quotations are readily available, the market value of such securities and (ii) with respect to other securities and assets, fair value as determined in good faith by the board of directors.

Rule 2a-4 adopted under the Act provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution, redemption and repurchase shall be an amount that reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a-4 further provides that portfolio securities with respect to which market quotations are readily available shall be valued at current market value, and that other securities and assets shall be valued at fair value as determined in good faith by the board of directors. The Commission has expressed the view that, among other things, (1) Rule 2a-4 under the Act requires that portfolio instruments of "money market" funds be valued with reference to market factors, and (2) it would be inconsistent generally, with the provisions of Rule 2a-4 for a "money market" fund using a "floating" net asset value to "round off" calculations of its net asset value per share to the nearest one cent on a share value of $1.00 (Release No. 9786). Although Applicant does not use a floating net asset value, it believes that an exemption from the above-cited provisions is necessary to enable Applicant to use the penny-rounding method of valuation in circumstances in which Applicant's capital depreciation on a particular day exceeds its current income for that day. Under such circumstances, Applicant would want to be able to maintain its net asset value per share at $1.00 notwithstanding the effect which capital depreciation would have upon the net asst value for that day.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision of the Act or of any rule or regulation under the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

In suppport of the exemptions requested, Applicant states that the

issuance of the requested order is necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. It is asserted that shareholders who purchase Applicant's shares with the expectation of receiving high current income and stability of principal would be unfairly treated should there be a deviation from the $1.00 price per share. Applicant represents that prior to adopting the penny-rounding valuation method, Applicant's Board of Trustees shall have determined, in good faith based upon a full consideration of all material factors, that, absent unusual circumstances, such valuation method will fairly reflect the value of each shareholder's interest in Applicant; and Applicant has agreed that it will continue to use the penny-rounding valuation method only so long as its board of Trustees believes that such method fairly reflects the value of each shareholder's interest. In addition, applicant submits that by adhering to the conditions set forth immediately hereinafter it will substantially reduce the likelihood of significant variations from a constant share price and of any dilution of the assets and returns of incoming or outgoing shareholders:

1. In supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, Applicant's Board of Trustrees undertakes—as a particular responsibility within its overall duty of care owed to Applicant's shareholders—to assure to the extent reasonably practicable, taking into account current market conditions affecting Applicant's investment objective, that the price per share as computed for purposes of distribution, redemption and repurchase, rounded to the nearest one cent, will not deviate from one dollar.

2. Applicant will maintain a dollar-weighted average portfolio maturity[1] appropriate to its objective of maintaining a stable price per share. Applicant will not purchase any instrument with a remaining maturity of more than one year; nor will it maintain a dollar-weighted average portfolio maturity that exceeds 120 days.[2]

3. Applicant will limit its portfolio investments, including repurchase agreements, to those United States dollar-denominated instruments which the Board of Trustees determines present minimal credit risks, and which are of "high quality" as determined by any major rating service, or, in the case of any instrument that is not rated, of comparable quality as determined by the Board of Trustees.

Notice is hereby given that any interested person may, not later than January 4, 1983, at 5:30 p.m., submit to the Commission, in writing, a request for a hearing on the application accompanied by a statement as to the nature of his/her interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or such person may request to be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit, or in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. An order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon its own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter including the date of the hearing and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82-34408 Filed 12-17-82; 8:45 am]

BILLING CODE 8010-01-M

[1] In determining the dollar-weighted average portfolio maturity and the maturity of any individual instrument, Applicant will use the definition of "maturity of an instrument" contained in proposed Rule 2a-7 set forth in Release No. IC-12206 (January 29, 1982), whether or not the proposed rule is withdrawn, or upon the effectiveness of a final rule, the definition contained in such final rule. Applicant will also treat instruments called for redemption in one year or less as maturing within one year.

[2] In fulfilling this condition, if the disposition of a portfolio instrument results in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant will invest its available cash in such a manner as to reduce the dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

[Release No. 12889; 812-536.]

Trinity Liquid Assets Trust; Application

December 10, 1982.

In the matter of; Trinity Liquid Assets Trust; 200 Park Avenue, New York, N.Y. 10017; (812-5360).

Trinity Liquid Assets Trust ("Applicant"), registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application requesting an order of the Commission pursuant to Section 6(c) of the Act exempting Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 thereunder to the extent necessary to permit Applicant to compute its net asset value per share, for the purposes of effecting sales, redemptions and repurchases of its shares, to the nearest one cent on a share value of one dollar. Applicant represents that in all other respects, portfolio securities held by Applicant will be valued in accordance with the views set forth in Investment Company Act Release No. 9786 (May 31, 1977) ("Release No. 9786"). All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it is a "money market" fund organized as a Massachusetts business trust, the investment objective of which is to achieve as high a level of current income as is consistent with high stability and liquidity of capital, through investment in a portfolio of "money market" securities meeting specified quality standards. According to the preliminary prospectus filed with Applicant's N-1 Registration Statement under the Securities Act of 1933 on October 8, 1982, Applicant proposes to invest in (1) Obligations issued or gruaranteed by the United States government or its agencies or instrumentalities ("U.S. Government Securities"); (2) time deposits certificates of deposit, bankers' acceptances and other bank instruments if they are obligations of a domestic bank subject to regulation by the U.S. Government and having total assets of at least $1.5 billion (but not including obligations issued by foreign branches of these banks), and instruments secured by any such obligation; (3) commercial paper, including variable amount master demand notes, rated A-1 by Standard & Poor's Corporation ("S&P") or Prime-1 by Moody's Investors Service, Inc ("Moody's") or, if not rated, issued by a corporation the debt obligations of which Applicant is permitted to acquire; (4) corporate debt obligations if they are rated AAA or AA by S&P or Aaa or Aa by Moody's; (5) certain other obligations accompanied by a guarantee of principal and interest by either a bank the obligations of which Applicant may acquire, or by a

corporation the commmercial paper of which Applicant may acquire; and (6) repurchase agreements relating to the foregoing classes of securities. Applicant's preliminaray prospectus states that the collateral under any repurchase agreement will be marked to market every business day so that the value of the collateral is at least equal to the value of the loan, including the accrued interest earned thereon, plus sufficient additional market value as is considered necessary to provide a margin of safety. The preliminary prospectus also states that the Adviser will regularly review the financial strength of all vendors of repurchase agreements to Applicant. Finally, Applicant's preliminary prospectus states that Applicant will not enter into a repurchase transaction which will cause more than 10% of its assets to be subject to repurchase agreements having a maturity of more than seven days.

Applicant states that its net asset value per share will remain constant at $1.00 except under extraordinary circumstances, as capital changes are reflected in dividends declared rather than in net asset value. Applicant states further that the maintenance of a constant net asset value per share is a crucial factor in attracting and retaining investors. Applicant believes that by valuing its shares in accordance with the "penny-rounding" valuation method it will be able to maintain a constant share value for its shareholders together with full liquidity and a satisfactory investment yield.

Rule 22c–1 provides, in pertinent part, that no registered investment company or principal underwriter thereof, issuing any redeemable security shall sell, redeem, or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security.

Section 2(a)(41) of the Act defines value to mean (i) With respect to securities for which market quotations are readily available, the market value of such securities and (ii) with respect to other securities and assets, fair value as determined in good faith by the board of directors.

Rule 2a–4 adopted under the Act provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution, redemption and repurchase shall be an amount that reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a–4 further provides that portfolio securities with respect to which market quotations are readily available shall be valued at current market value, and that other securities and assets shall be valued at fair value as determined in good faith by the board of directors. The Commission has expressed the view that, among other things, (1) Rule 2a–4 under the Act requires that portfolio instruments of "money market" funds be valued with reference to market factors, and (2) it would be inconsistent generally, with the provisions of Rule 2a–4 for a "money market" fund using a "floating" net asset value to "round off" calculations of its net asset value per share to the nearest one cent on a share value of $1.00 (Release No. 9786). Although Applicant does not use a floating net asset value, it believes that an exemption from the above-cited provisions is necessary to enable Applicant to use the penny-rounding method of valuation in circumstances in which Applicant's capital depreciation on a particular day exceeds its current income for that day. Under such circumstances, Applicant would want to be able to maintain its net asset value per share at $1.00 notwithstanding the effect which capital depreciation would have upon the net asset value for that day.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision of the Act or of any rule or regulation under the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

In support of the exemptions requested, Applicant states that the issuance of the requested order is necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. It is asserted that shareholders who purchase Applicant's shares with the expectation of receiving high current income and stability of principal would be unfairly treated should there be a deviation from $1.00 per share. Applicant represents that prior to adopting the penny-rounding valuation method, Applicant's Board of Trustees shall have determined, in good faith based upon a full consideration of all material factors, that absent unusual circumstances, such valuation method will fairly reflect the value of each shareholder's interest in Applicant; and Applicant has agreed that it will continue to use the penny-rounding valuation method only so long as the Board of Trustees believes that such method fairly reflects that value of each shareholder's interest. In addition, Applicant submits that its adherence to the conditions set forth below will substantially reduce the likelihood of significant variations from a constant share price and of any dilution of the assets and returns of incoming or outgoing shareholders:

1. In supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, Applicant's Board of Trustees undertakes—as a particular responsibility within its overall duty of care owed to Applicant's shareholders—to assure to the extent reasonably practicable, taking into account current market conditions affecting Applicant's investment objective, that Applicant's price per share as computed for the purposes of distribution, redemption and repurchase, rounded to the nearest one cent, will not deviate from one dollar.

2. Applicant will maintain a dollar-weighted average portfolio maturity [1] appropriate to its objective of maintaining a stable price per share. Applicant will not purchase any instrument with a remaining maturity of more than one year; nor will it maintain a dollar-weighted average portfolio maturity that exceeds 120 days. [2]

3. Applicant will limit its portfolio investments, including repurchase agreements, to those United States dollar-denominated instruments which the Board of Trustees determines present minimal credit risks, and which are of "high quality" as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by the Board of Trustees.

---

[1] In determining the dollar-weighted average portfolio maturity and the maturity of any individual instrument, Applicant will use the definition of "maturity of an instrument" contained in proposed Rule 2a–7 set forth in Release No. IC–12206 (January 29, 1982), whether or not the proposed rule is withdrawn, or upon the effectiveness of a final rule, the definition contained in such final rule. Applicant will also treat instruments called for redemption in one year or less as maturing within one year.

[2] In fullfilling this condition, if the disposition of a portfolio instrument result in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant will invest its available cash in such a manner as to reduce the dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

Notice is hereby given that any interested person may, not later than January 4, 1983, at 5:30 p.m., submit to the Commission, in writing, a request for a hearing on the application accompanied by a statement as to the nature of his/her interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or such persons may request to be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (be affidavit, or in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. An order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon its own motion. Persons who request a hearing, or advise as to whether a hearing is ordered, will receive any notices and orders issued in this matter including the date of the hearing and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82-34411 Filed 12-17-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 19327; File No. SR—MCC—82—19]

Midwest Clearing Corp.; Filing of Proposed Rule Change

December 13, 1982.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on November 26, 1982, the Midwest Clearing Corporation filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change would amend MCC's By-Laws to increase the number of members of the Board of Directors by two, from 25 to 27. The two additional positions will be filled by public governors, i.e., governors not affiliated with a broker or dealer.

In its filing, MCC stated that the participation and added perspectives provided by public governors is valued by MCC's Board of Directors. With the expectation that the changes in the securities industry will continue at a rapid rate, and indeed may accelerate, the Board will be required to consider and act upon a much broader range of policy matters than ever before. The additional public governor positions will benefit the Board by their added participation in handling such policy matters. MCC stated that the proposed amendments to the By-Laws are consistent with Section 17A(b)(3)(C) of the Securities Exchange Act of 1934 in that it helps assure fair representation of its shareholder (the Midwest Stock Exchange) in the selection of its directors and administration of its affairs.

In order to assist the Commission in determining whether to approve the proposed rule change or institute proceedings to determine whether the proposed rule change should be disapproved, interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the **Federal Register**. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Reference should be made to File No. SR-MCC-82-19.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82-34410 Filed 12-17-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-19323; File No. SR-OCC-82-25]

Options Clearing Corp.; Self—Regulatory Organizations; Proposed Rule Change Relating to OCC's Options Pledge Program

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on November 9, 1982, the Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by OCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Proposed Rule Change

The proposed rule change implements OCC's Options Pledge Program. Proposed new Rule 614 would permit OCC's Clearing Members to pledge excess long market-maker option positions as collateral to support loans from banks or other Clearing Members. The proposed rule change would also add a new interpretation to Rule 601 to make it clear that long option positions which are pledged as collateral cannot be paired with short option positions contained in any other account of the Clearing Member or otherwise used to reduce the amount of margin which the Clearing Member is required to pay under OCC's rules. In addition, Rule 1106 would be amended to specify the procedures to be used by OCC to close out pledged option positions in the event that the Clearing Member is suspended.

II. Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC included statements concerning the purpose of, and basis for, the proposed rule change. The text of these statements may be examined at the places specified below. OCC has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to implement OCC's Options Pledge Program as authorized by Article VI, Section 3(d) of OCC's By-Laws. The Options Pledge Program is intended to facilitate the ability of OCC's Clearing

Members to finance their positions by permitting them to pledge excess long market-maker option positions as collateral to support loans from banks or other Clearing Members.

The Options Pledge Program would operate as follows. A Clearing Member may establish a Pledge Account which would be associated with another specific account ("Primary Account") of the Clearing Member which must be either (i) a combined Market-Makers' or specialists' account or (ii) a separate Market-Maker's or specialist's account which is confined to the Clearing Member's transactions as a Market-Maker or specialist. Whenever the Clearing Member desires to pledge a long option position to a Pledgee, the Clearing Member shall file a form instructing OCC to transfer such position from the Primary Account to the Pledge Account. If certain specified conditions are satisfied, OCC will effect the transfer on the next business day and will confirm in writing to the Pledgee and the Clearing Member that such position has been transferred into the Pledge Account. OCC will subordinate its lien on the options in the Pledge Account ("Pledged Options") to the security interest of the Pledgee, thus enabling the Pledgee to use the Pledged Options as collateral to support a loan to the Clearing Member. A Pledged Option shall continue to be pledged to the Pledgee until it is exercised, sold, transferred back to the Primary Account with the written consent of the Pledgee, or until the day before it expires.

A Clearing Member would be permitted to exercise or sell Pledged Options without the consent of the Pledgee because such transactions may need to be effected in response to rapidly changing market conditions, in which case it would be too time consuming to obtain the Pledgee's prior consent for each such transaction. If the Pledgee needs additional security following the sale or exercise of Pledged Options, it is expected that the Pledgee and the Clearing Member will arrange for the loan balance to be paid down or new collateral to be deposited. However, as a last resort, the Pledgee will have the right under Rule 614(i) to demand payment of the profit resulting from an exercise transaction (measured by the difference between the exercise price of the option and the closing price of the underlying stock on the day of exercise) or, in the case of a sale transaction, the closing price of the option on the day of sale. If the Pledgee makes a timely demand for such payment, the Clearing Member will be obligated to make such payment. If the Clearing Member does not, then OCC will take certain specified steps to attempt to collect such payment from the Clearing Member on behalf of the Pledgee.

The proposed rule change is consistent with the purposes and requirements of Section 17A of the Securities Exchange Act of 1934 because it promotes the prompt and accurate clearance and settlement of options transactions. It facilitates the ability of OCC's Clearing Members to finance their positions by permitting them to pledge excess long market-maker option positions as collateral to support loans from banks or other Clearing Members and reduces their borrowing costs by allowing such loans to be secured by pledged options rather than handled on an unsecured basis. Moreover, the proposed rule change contains a number of protective provisions designed to insure that OCC's system of financial safeguards would not be jeopardized.

(B) Burden on Competition

OCC does not believe that the proposed rule change will have any material impact on competition.

(C) Comments on the Proposed Rule Change Received From Members, Participants or Others

Comments were not and are not intended to be solicited by OCC with respect to the proposed rule change, and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to be proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: December 10, 1982.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82-34614 Filed 12-17-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 19321; File No. SR-PCC-82-5]

Pacific Clearing Corp.; Filing of Proposed Rule Change

December 10, 1982.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on July 12, 1982, the Pacific Clearing Corporation ("PCC") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change would amend Article XI of PCC's By-Laws, with regard to the indemnification of PCC's directors, officers, employees and agents, to conform to recent amendments to the California Corporation Law. Under the propsed rule change, PCC would indemify its "agents" to the maximum extent permissible under California law against all reasonably incurred fines, settlements, expenses, judgments and other fees. The proposal generally adopts the definition of "agent" in the California Corporation Law by including in that category, among others, past or present directors, officers, employees or other agents of PCC or of another entity, if serving in that capacity at PCC's request. PCC believes that the proposal is consistent with Section 17A of the Act because it will assure fair representation

of members of PCC in the selection of directors by removing impediments to serving in such capacity.

In order to assist the Commission in determining whether to approve the proposed rule change or institute proceedings to determine whether the proposed rule change should be disapproved, interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the **Federal Register.** Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Referecne should be made to File No. SR–PCC–82–5.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82–34412 Filed 12–17–82; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 19322; File No. SR–PSDTC–82–2]

Pacific Securities Depository Trust Co.; Filing of Proposed Rule Change

December 10,1982.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on July 12, 1982, the Pacific Securities Depository Trust Company ("PSDTC") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change would amend Article XIII of PSDTC's By-Laws, with regard to the indemnification of PSDTC's directors, officers, employees and agents, to conform to recent amendments to the California Corporation Law. Under the proposed rule change, PSDTC would indemnify its "agents" to the maximum extent permissible under California law against all reasonably incurred fines, settlements, expenses, judgments and other fees. The proposal generally adopts the definition of "agent" in the California Corporation Law by including in that category, among others, past or present directors, officers, employees or other agents of PSDTC or of another entity, if serving in that capacity at PSDTC's request. PSDTC believes that the proposal is consistent with Section 17A of the Act because it will assure fair representation of members of PSDTC in the selection of directors by removing impediments to serving in such capacity.

In order to assist the Commission in determining whether to approve the proposed rule change or institute proceedings to determine whether the proposed rule change should be disapproved, interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the **Federal Register.** Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street NW., Washington, D.C. 20549. Reference should be made to File No. SR–PSDTC–82–2.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street NW., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82–34413 Filed 12–17–82; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 19294A, SR–Phlx–82–10]

Philadelphia Stock Exchange, Inc.; Proposed Rule Change

December 10, 1982.

In the matter of Philadelphia Stock Exchange, Inc., 1900 Market Street, Philadelphia, PA 19103, (SR–Phlx–82–10), Order Approving Proposed Rule Change.

On December 3, 1982, Securities Exchange Act Release No. 19294 was issued providing approval of a proposed rule change by the Philadelphia Stock Exchange, Inc. ("Phlx") to, among other things, require specialists and alternate specialists to file daily reports with the Phlx under Phlx Rule 236 setting forth the closing position in each Phlx primary issue in which such specialist or alternate specialist is registered. The Release misidentifies the relevant Phlx rule as Rule 274; the correct number is Rule 236.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82–34415 Filed 12–17–82; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 19325; SR—Phlx—82—13]

Philadelphia Stock Exchange, Inc.; Proposed Rule Change

December 10, 1982.

In the matter of Philadelphia Stock Exchange, Inc.; 1900 Market Street, Philadelphia, PA 19103; (SR–Phlx–82–13).

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on November 10, 1982, the Philadelphia Stock Exchange, Inc. ("Phlx") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change further modifies Phlx option rules regarding delivery of disclosure documents and dissemination of educational materials to conform them to the revised disclosure system for standardized options recently adopted by the Commission.[1] In particular, under the proposed rule change, references to the Options Clearing Corporation ("OCC") prospectus in various Exchange rules

[1] The revised disclosure system was proposed in Securities Exchange Act Release No. 18836 (June 24, 1982), 47 FR 28688 (July 1, 1982) and approved in Securities Exchange Act Release No. 19055 (September 16, 1982), 47 FR 41950 (September 23, 1982).

are replaced, where appropriate, with references to the basic and supplemental options disclosure documents.[2] Also, Exchange Rule 1029 would be amended to apply to "educational materials" as well as to advertisements and sales literature.[3] Finally, Exchange Rule 1044 would be amended to make clear that the time frame for performing delivery and payment obligations for exercised foreign currency options must correspond with the time periods specified in OCC rules.[4]

[2] On October 19, 1982, the Commission approved a proposed rule change filed by the Phlx which replaced references to the current OCC prospectus with references to the current options disclosure document. Securities Exchange Act Release No. 19156; File No. SR–Phlx–82–11. The present proposal makes clear that the delivery requirements pertaining to the core disclosure document also pertain to supplemental disclosure documents, such as the disclosure document covering foreign currency options.

[3] The proposed change modifies Rule 1029 of the Exchange so as to conform to Commission Rule 134a under the Securities Act of 1933, which was adopted as part of the revised disclosure system for standardized options. Rule 134a provides that written materials relating to standardized options shall not be deemed a prospectus under Section 2(10) of the Securities Act provided that certain prescriptive requirements are met and provided that the materials are limited to explanatory information describing the general nature of the standardized options markets, one or more options strategies, as well as the correlative risks involved. The proposed rule change specifies that educational material pertaining to foreign currency options may only be used it it meets the requirements of Rule 134a. The proposed rule change also specifies that, along with advertisements and sales literature, educational material must be approved in advance by the member organization's Compliance Registered Options Principal or his designee and that, along with every advertisement, educational material must be submitted to, and approved by, the Exchange prior to circulation.

[4] In particular, OCC Rule 1607 provides that OCC and the individual broker/clearing member must establish and maintain bank accounts in correspondent banks in each issuing country for purposes of receiving or delivering the foreign currency underlying options contracts. Phlx Rule 1044 provides that the holder exercising a put option, "as promptly as practicable" after exercise, and the writer of a call option, "as promptly as practicable" after assignment of an exercise notice, must arrange for the deposit of the requisite units of foreign currency underlying the exercised option into a designated bank account in the issuing country. Phlx's proposed rule change further provides, however, that the payment of the option exercise price or the deposit of the underlying foreign currency "must be required to occur in correspondence with the timetables specified in the rules of the [OCC]. * * *" Under OCC Rule 1604(a), the exercise settlement date between a broker/clearing member and OCC is the third business day after an exercise notice is properly tendered to OCC. Thus, currently, "customer-side" settlement under the "as promptly as practicable" provision in Phlx Rule 1044 must occur no later than three business days after exercise so as to allow for "street side" settlement under OCC Rule 1604(a) on the third business day after exercise.

Interested persons are invited to submit written data, views, and arguments concerning the proposed rule change within 21 days from the date of publication of the submission in the **Federal Register**. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Reference should be made to File No. SR–Phlx–82–13.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of the filing and of any subsequent amendments also will be available at the principal office of the above-mentioned self-regulatory organization.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6 of the Act and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof, in that the rule change simply implements the immediate use of the new disclosure system for standardized options as well as the immediate start-up of trading on foreign currency options, both of which were the subject to extensive notice prior to adoption or approval by the Commission. In addition, the portions of the proposed rule change relating to the delivery of the disclosure document and dissemination of educational materials are substantially similar to other self-regulatory organization proposed rule changes recently approved by the Commission.[5]

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change referenced above be, and hereby is, approved.

[5] *See* Securities Exchange Act Release Nos. 19160 (October 19, 1982) and 19309 (December 8, 1982).

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82–34416 Filed 12–17–82; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[License No. 05/05–0098]

Doan Resources Corp.; Filing of Application for Approval of a Conflict of Interest Transaction

Notice is hereby given that Doan Resources Corporation (DRC), 110 East Grove, Midland, Michigan 48640, a Federal Licensee under the Small Business Investment Act of 1958, as amended (Act), has filed an application with the Small Business Administration (SBA) pursuant to section 312 of the Act and covered by § 107.1004 of the SBA Rules and Regulations, governing Small Business Investment Companies (13. CFR 107.1004 (1982)) for approval of a conflict of interest transaction falling within the scope of the Section of the Act and Regulations.

Subject to such approval, DRC proposes to provide funds to Sequoia Turner Corporation (STC), for the purpose of providing additional working capital.

The proposed financing is brought within the purview of Section 107.1004(b)(1) of the Regulations because Mr. James R. Weersing, a stockholder of STC, is an Investment Advisor to the Licensee, and therefore is considered an Associate of Doan Resources Corporation as defined by § 107.3 of the Regulations.

Notice is hereby given that any interested person may, not later than ten (10) days from the date of publication of the Notice, submit written comments on the proposed transaction to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: December 14, 1982.

Robert G. Lineberry,

Deputy Associate Administrator for Investment

[FR Doc. 82–34467 Filed 12–17–82; 8:45 am]

BILLING CODE 8025–01–M

[Application No. 06/06-0265]

Sunwestern Capital Corp.; Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102(1982)), for a license to operate as a small business investment company, under the provisions of the Small Business Investment Act of 1958, as amended (the Act), (15 U.S.C. 661 *et seq.*) by:

Applicant: Sunwestern Capital Corporation
Address: One Dallas Center, Suite 2225 Dallas, Texas 75201
Proposed Private Capital: $2,500,000
Area of Operations: State of Texas

James F. Leary, 225 One Dallas Centre, Dallas, Texas 75201, Chairman & President
F. B. Goldman, 2225 One Dallas Centre, Dallas, Texas 75201, Vice President & Director
J. Kevin Murphy, 2720 Stemmons Freeway, Suite 805, South Tower, Dallas, Texas 75207, Secretary & Director
Dan M. Krausse, 6750 LBJ Freeway, Suite 1130—One Oaks Plaza, Dallas, Texas 75240, Treasurer & Director
Mary A. Eckert, 2225 One Dallas Centre, Dallas, Texas 75201, Assistant Secretary
Sunwestern Management, Inc., 2225 One Dallas Centre, Dallas, Texas 75201, Manager
Cyrus J. Lawrence, Inc., 115 Broadway, New York, New York 10006, Investment Advisor
Sunwestern Investment Fund, 2225 One Dallas Centre, Dallas, Texas 75201, 100 Percent

No entity owns 10 or more percent of Sunwestern Investment Fund.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the new company under their management, including adequate profitability and financial soundness, in accordance with the Act and Regulations.

Notice is hereby given that any person may, not later than 15 days from the date of publication of this Notice, submit written comments to the Deputy Associate Administrator for Investment, 1441 L Street, NW., Washington, D.C. 20416.

A copy of this notice will be published in a newspaper of general circulation in the Dallas, Texas area.

(Catalog of Federal Domestic Assistance Program, No. 59.011, Small Business Investment Companies)

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

Dated: December 10, 1982.

[FR Doc. 82-34466 Filed 12-17-82; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[CM-8/585]

Secretary of State's Advisory Committee on Private International Law; Study Group on Arbitration; Meeting

There will be a meeting of the Study Group on Arbitration, a study group of the subject Advisory Committee, at 10:00 a.m. on Friday, January 28, 1983, at the United States Mission to the United Nations in New York City. Members of the general public may attend up to the capacity of the meeting room and participate in the discussion subject to instructions of the Chairman.

The primary purpose of the meeting is to consider the draft model law on international commercial arbitration which is being prepared by a working group of the United Nations Commission on International Trade Law (UNCITRAL). Other matters concerning United States participation in conventions and treaties concerning international commercial arbitration will be discussed as time permits.

The United States Mission is located at the corner of 45th Street and First Avenue. Participants in the meeting should use the auditorium entrance on 45th Street. As entry is controlled and will be facilitated by advance arrangements, members of the general public planning to attend are requested no later than January 26, 1983, to notify Ms. Rochelle Renna, Office of the Assistant Legal Adviser for Private International Law, Department of State, Washington, D.C. (telephone (202) 632-8134), of their name, affiliation, address, and phone number.

Robert K. German,

Executive Director, Secretary of State's Advisory Committee on Private International Law.

December 7, 1982.

[FR Doc. 82-34343 Filed 12-17-82; 8:45 am]

BILLING CODE 4710-08-M

[CM-8/584]

Secretary of State's Advisory Committee on Private International Law; Study Group on Negotiable Instruments; Meeting

There will be a meeting of the Study Group on Negotiable Instruments, a study group of the subject Advisory Committee, at 10:00 a.m. on Friday, January 14, 1983, at the United States Mission to the United Nations in New York City. Members of the general public may attend up to the capacity of the meeting room and participate in the discussion subject to instructions of the Chairman.

The primary purpose of the meeting is to consider the draft conventions on international bills of exchange and promissory notes, and on international checks. Both conventions were prepared by a working group of the United Nations Commission on International Trade Law (UNCITRAL). The Study Group will also examine draft comments on the draft conventions for ultimate submission to UNCITRAL by the United States Government.

The United States Mission is located at the corner of 45th Street and First Avenue. Participants in the meeting should use the auditorium entrance on 45th Street. As entry is controlled and will be facilitated by advance arrangements, members of the general public planning to attend are requested no later than January 12, 1983, to notify Ms. Rochelle Renna, Office of the Assistant Legal Adviser for Private International Law, Department of State, Washington, D.C. (telephone (202) 632-8134), of their name, affiliation, address, and phone number.

Peter H. Pfund,

Vice Chairman, Secretary of State's Advisory Committee on Private International Law.

[FR Doc. 82-34342 Filed 12-17-82; 8:45 am]

BILLING CODE 4710-08-M

[CM-8/583]

Shipping Coordinating Committee; Committee on Ocean Dumping; Meeting

The Committee on Ocean Dumping, a subcommittee of the Shipping Coordinating Committee, will hold two open meetings during January 1983. The purpose of these meetings is to discuss U.S. positions for the provisional Agenda of the Seventh Consultative Meeting of Contracting Parties to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, to convene February 14-18, 1983 in London.

The first meeting will be held on Wednesday, January 5, 1983 from 2:00 to 5:00 P.M.; the second will be held on Thursday, January 27, 1983 commencing at 9:30 A.M. Both meetings will take place in room 2814 (Mall) Waterside Mall, Environmental Protection Agency, 401 M Street, SW, Washington, D.C.

On January 5, the meeting will focus on the agenda item regarding the proposals to amend the Annexes of the Convention to prohibit the dumping of all radioactive wastes into the ocean. Copies of the documents transmitted by the Secretariat in regard to these proposals have been circulated to the members of the Committee. Comments received from the members and draft working papers prepared by EPA will be discussed in preparation for the development of a formal U.S. position on this issue.

The January 27 meeting will be for the purpose of discussing draft U.S. position papers on the Provisional Agenda items, other than the radioactive waste issue. Prior to the Committee meeting, copies of the draft position papers and related background documents will be distributed to the members for review.

Members of the public may attend up to the seating capacity of the room.

For further information contact Ms. Norma Highes, Executive Secretary, Committee on Ocean Dumping (WH-585), Environmental Protection Agency, Washington, D.C. 20460. Telephone: (202) 755-2927.

The Chairman will entertain comments from the public as time permits.

Dated: December 10, 1982.

Samuel V. Smith,

Executive Secretary, Shipping Coordinating Committee.

[FR Doc. 82-34340 Filed 12-17-82; 8:45 am]

BILLING CODE 4710-09-M

[CM-8/586]

Shipping Coordinating Committee; Subcommittee on Safety of Life at Sea; Meeting

The U.S. SOLAS Working Group on Fire Protection will conduct an open meeting on January 6, 1983, at 9:30 a.m., in room 1303 of the Coast Guard Headquarters Building, 2100 Second Street, SW., Washington, D.C. 20593.

The purpose of this meeting will be to:

—Discuss plans for FP 28 (January 17-21, 1983)

Members of the public may attend up to the seating capacity of the room.

For further information contact Mr. Donald J. Kerlin, U.S. Coast Guard (G-MTH-4/13), Washington, D.C. 20593. Telephone: (202) 426-2197.

Dated: December 6, 1982.

Samuel V. Smith,

Executive Secretary, Shipping Coordinating Committee.

[FR Doc. 82-34341 Filed 12-17-82; 8:45 am]

BILLING CODE 4710-07-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE-82-26]

Petitions for Exemption; Summary of Petitions Received Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before January 10, 1983.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No. , 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 916, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on December 14, 1982.

John H. Cassady,

Assistant Chief Counsel, Regulations and Enforcement Division.

PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought
[redacted]	Mid Pacific Airlines, Inc.	14 CFR 121.371(a), and 121.378	To permit petitioner to utilize Tom Domestic Airlines, an FAA-certified foreign repair station, and Nitto Maintenance Co. for the inspection, overhaul, and repair of its YS-11 aircraft.
23441	Vought Corp.	14 CFR 91 70(a)	To permit petitioner to operate various versions of the A-7 and F-8 aircraft at speeds in excess of 250 knots IAS below 10,000 feet MSL. Operations would be conducted within specified areas.
23442	Harold J. Cutler	14 CFR 61 187(b)	To permit petitioner to instruct certificated flight instructor students prior to having held petitioner's flight instructor certificate for 24 months.
23416	Empire Airlines, Inc.	14 CFR 121.371 and 121.378	To permit petitioner to utilize Braathens S.A.F.E. of Sola, Norway, to repair and overhaul equipment on its F-28 aircraft.
23447	Amway Corp.	14 CFR Portions of Parts 21 and 91	To permit petitioner to operate its Boeing 727 aircraft N529AC using an FAA-approved master minimum equipment list.

DISPOSITIONS OF PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought disposition
19911	Aerovias Nacionales de Colombia, S.A. (AVIANCA)	14 CFR 313(a) & 601(c)	To extend the expiration date of Exemption 2892B, as amended, to allow petitioner to operate five leased, U.S.-registered Boeing 727 airplanes, N200AV, N202AV, N203AV, N204AV, and N205AV, using a FAA-approved maintenance and inspection program and Boeing 727 minimum equipment list. *Granted 12/3/82.*
22198	Pilgrim Airlines	14 CFR 121.503(e)	To permit petitioner to employ five pilots to fly more than 1,000 hours during calendar year 1982. *Denied 12/1/82.*
23254	Office of Aircraft Services, U.S. Department of Interior	14 CFR 91 79(c)	To permit petitioner to operate in Hawaii over sparsely populated areas and open water closer than 500 feet to persons or property. *Partial grant 11/30/82.*
22690	Boeing Commercial Airplane Co.	14 CFR 61.57(c)	To allow petitioner's pilots to substitute six takeoffs and landings in a 90-day period in any and/or all large transport category aircraft types produced by petitioner for the specified general experience requirements. *Granted 11/23/82.*
20254	Royale Airlines	14 CFR 135.225(e)(1)	To permit petitioner to take off from Polk Army Air Field, Fort Polk, Louisiana, with one-half mile visibility. *Granted 12/1/82.*
23361	Japan Air Lines Co., Ltd. (JAL)	14 CFR 121.181, 61.77(e)(4), 63.23(e)(3), 91.27, 91.29, 91.165 and Part 125.	To permit petitioner to operate a leased Boeing 747-200F aircraft N211JL, using an approved continuous airworthiness maintenance and inspection program and minimum equipment list. *Partial grant 12/1/82.*
23179	Scandinavian Airlines System (SAS)	14 CFR 313(a), and 601(c)	To amend Exemption 3584 to extend the termination date through February 1983. All other conditions remain unchanged. The exemption allows SAS to continue to operate and maintain a leased U.S.-registered B-747 using an FAA-approved MEL and continuous airworthiness maintenance program. *Granted 11/30/82.*
23428	Venezolana Int'l. de Aviacion, S.A. (VIASA), & World Airways, Inc.	14 CFR Parts 21, 43, 91, & 121	To permit VIASA to operate a B-747-273C airplane using the FAA-approved master minimum equipment list and World to maintain the aircraft using the FAA-approved continuous airworthiness maintenance and inspection program, in accordance with the lease agreement between VIASA and World. *Granted 12/3/82.*
23425	Venezolana Internacional de Aviacion, S.A. (VIASA)	14 CFR Parts 21 & 91	To permit petitioner to operate two leased U.S.-registered DC-9-80 aircraft using an FAA-approved master minimum equipment list and continuous airworthiness maintenance and inspection program. *Granted 12/7/82.*
23061	Fluor Corp.	14 CFR Portions of Parts 21 and 91	To permit petitioner to operate its Boeing 727 aircraft in accordance with a Minimum Equipment List. *Withdrawn 12/9/82.*

[FR Doc. 82-34382 Filed 12-17-82; 8:45 am]

BILLING CODE 4910-13-M

Research and Special Programs Administration

[Docket Nos. IRA-13, 14, 15]

Inconsistency Ruling, IR-5, City of New York Administrative Code Governing Definitions of Certain Hazardous Materials; Correction

AGENCY: Materials Transportation Bureau, Research and Special Programs Administration, DOT.

ACTION: Correction of inconsistency ruling.

SUMMARY: This document corrects amendments to the Inconsistency Ruling, IR-5, that was published in the Federal Register on November 18, 1982, FR Doc. 82-31395. The purpose of this correction is to correct typographical and citation errors.

EFFECTIVE DATE: December 20, 1982.

FOR FURTHER INFORMATION CONTACT: Vita A. Simon, Office of the Chief Counsel, Research and Special Programs Administration, Washington, D.C. 20590, (202) 755-4972.

SUPPLEMENTARY INFORMATION: This correction is necessary because some grammatical errors in the published document may cause confusion in the interpretation of the ruling. In addition, some citations contained errors and required correction.

In consideration of the foregoing, the following corrections are made in IR-5 appearing at page 51991 of the Federal Register issued on November 18, 1982 (FR Doc. 82-31395).

1. On page 51992, the tenth line, first column, is corrected by changing the spelling of "proceding" to "proceeding".

2. On page 51992, the forty-fourth line, second column, is corrected by changing the spelling of "requirment" to "requirement".

3. On page 51994, the ninth line, first column is corrected by inserting the word "and" between "thereunder" and "are".

4. On page 51994, the forty-seventh line, first column, is corrected by changing the citation date from "1977" to "1974".

5. On page 51994, the fifty-fourth line, first column, is corrected by changing the word "material" to "materials".

6. On page 51994, the first line, third column, is corrected by changing the word "aper" to "paper".

7. On page 51994, the 27th line, third column, is corrected by changing that line to read "* * * Additional different requirements".

Issued in Washington, D.C. on December 13, 1982.

Joseph T. Horning,

Acting Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 82-34271 Filed 12-17-82; 8:45 am]

BILLING CODE 4910-60-M

Grants and Denials of Applications for Exemptions

AGENCY: Materials Transportation Bureau, Research and Special Programs Administration, DOT.

ACTION: Notice of grants and denials of applications for exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given of the exemptions granted in November 1982. The modes of transportation involved are identified by a number in the "Nature of Exemption Thereof" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft. Application numbers prefixed by the letters EE represent applications for Emergency Exemptions.

RENEWAL AND PARTY TO EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
3187-X	DOT-E 3187	PPG Industries, Incorporated, Pittsburgh, PA	49 CFR 173.119(m), 173.21(b), 173.218, 173.221(a)(3)	To renew, and to authorize an additional rectangular container of high density polyethylene, overpacked in a fiberboard box. (Mode 1.)
4631-X	DOT-E 4631	Nitrochem Energy Corporation, Brwabik, MN	49 CFR 173.114a, 173.304(a)	To authorize use of non-DOT specification hopper-type tank trucks and cargo tank trailers, for shipment of a blasting agent and a nonflammable compressed gas. (Mode 1.)
4760-X	DOT-E 4760	Air Products and Chemicals, Incorporated, Allentown, PA	49 CFR 172.101, 173.315(a)	To authorize use of a non-DOT specification cargo tank for transportation of liquefied helium. (Mode 1.)
4844-X	DOT-E 4844	BAJ Vickers Ltd., Avon, England	49 CFR 173.301(i), 173.302, 173.304	To authorize the use of non-DOT specification foreign made steel cylinders for shipment of certain nonflammable gases. (Mode 1.)
5959-X	DOT-E 5959	El Paso Products Company, Odessa, TX	49 CFR 172.101, 173.315(a)	To authorize shipment of liquefied ethylene in non-DOT specification insulated cargo tanks. (Mode 1.)
6066-X	DOT-E 6066	Union Carbide Corporation, Danbury, CT	49 CFR 173.119, 173.125, 46 CFR 98.35	To authorize use of non-DOT specification portable tanks, for transportation of certain flammable and combustible liquids. (Modes 1 and 3.)
6369-X	DOT-E 6369	E. I. du Pont de Nemours & Company, Inc., Wilmington, DE.	49 CFR 172.101, 173.346(a)(10), 173.347(a)(2), 173.352(a)(4), 173.374(a).	To authorize use of DOT specification 105A400W, 112A400W, 114A400W, 120A300W, and proposed 120A400W tank car tanks, for transportation of certain class B poisonous liquids. (Mode 2.)
6392-X	DOT-E 6392	El Paso Products Company, Odessa, TX	49 CFR 172.101, 173.314(c)	To authorize use of non-DOT specification vacuum insulated tank car tanks for transportation of a liquefied flammable compressed gas. (Mode 2.)
6434-P	DOT-E 6434	Rhone-Poulenc Inc., Monmouth Junction, NJ	49 CFR 173.377(i)(1)	To become a party to Exemption 6434. (Modes 1 and 2.)
6589-P	DOT-E 6589	Life Support Products, Inc., Anaheim, CA	49 CFR 173.302(a)(1), 175.3	To become a party to Exemption 6589. (Modes 1, 2, 4, and 5.)
6607-X	DOT-E 6607	Bio-Lab, Incorporated, Conyyers, GA	49 CFR 173.217(a)	To authorize a preformed expanded polystyrene molding, or thermoformed polyvinyl chloride tray, as inner packaging, overpacked in a fiberboard box, for transportation of a certain oxidizing material. (Modes 1, 2, and 3.)
6614-X	DOT-E 6614	Hasa Chemicals, Incorporated, Saugus, CA	49 CFR 173.263(a)(28), 173.277(a)(6)	To authorize use of non-DOT specification polyethylene bottles, packed inside a high density polyethylene box, for transportation of certain corrosive liquids. (Mode 1.)
6629-X	DOT-E 6629	The Boeing Company, Seattle, WA	49 CFR 173.304(a)(1), 173.305(c), 175.3	To authorize use of a modified DOT Specification 4B cylinder, for transportation of certain gases or mixture of gases or a nonhazardous material and a gas. (Modes 1, 4, and 5.)
6695-X	DOT-E 6695	Produits Chimiques Ugine Kuhlmann, Paris, France	49 CFR 173.315	To authorize use of a non-DOT specification IMO Type 5 portable tank, for transportation of certain nonflammable compressed gases. (Modes 1, 2, and 3.)
6802-X	DOT-E 6802	Welders Gas & Supply, Sioux Falls, SD	49 CFR 173.315(a)	To authorize transport of liquefied argon, nitrogen and oxygen in non-DOT specification truck mountable cargo tanks. (Mode 1.)
6802-X	DOT-E 6802	Harvey Company, Greensburg, PA	49 CFR 173.315(a)	To authorize transport of liquefied argon, nitrogen and oxygen in non-DOT specification truck mountable cargo tanks. (Mode 1.)
6824-P	DOT-E 6824	All Pure Chemical Company, Incorporated, Tracy, CA	49 CFR 173.217(a)	To become a party to Exemption 6824. (Modes 1, 2, and 3.)
6824-P	DOT-E 6824	Hasa Chemicals, Incorporated, Saugus, CA	49 CFR 173.217(a)	To become a party to Exemption 6824. (Modes 1, 2, and 3.)
6824-P	DOT-E 6824	Alstar Company, Saugus, CA	49 CFR 173.217(a)	To become a party to Exemption 6824. (Modes 1, 2, and 3.)
6932-X	DOT-E 6932	Compagnie des Containers Reservons, Paris, France	49 CFR 173.264(b)(4)	To authorize use of non-DOT specification IMO Type 5 portable tanks, for transportation of anhydrous hydrofluoric acid. (Modes 1 and 3.)
6932-X	DOT-E 6932	Fauvet-Girel, Paris, France	49 CFR 173.264(b)(4)	To authorize use of non-DOT specification IMO Type 5 portable tanks, for transportation of anhydrous hydrofluoric acid. (Modes 1 and 3.)
6932-X	DOT-E 6932	Eurotainer, Paris, France	49 CFR 173.264(b)(4)	To authorize use of non-DOT specification IMO Type 5 portable tanks, for transportation of anhydrous hydrofluoric acid. (Modes 1 and 3.)
6932-X	DOT-E 6932	Produits Chimiques Ugine Kuhlmann, Paris, France	49 CFR 173.264(b)(4)	To authorize use of non-DOT specification IMO Type 5 portable tanks, for transportation of anhydrous hydrofluoric acid. (Modes 1 and 3.)
6949-X	DOT-E 6949	FMC Corporation, Philadelphia, PA	49 CFR 173.190(b)(4)	To authorize use of marine portable tanks, for transportation of certain flammable solids. (Modes 1, 2, and 3.)
6971-X	DOT-E 6971	PolyScience Corporation, Niles, IL	49 CFR Parts 100-199	To authorize transport of small quantities of reagent chemicals in inside glass bottles packed in metal boxes, overpacked in a strong wooden or fiberboard box. (Modes 1, 2, 3, 4, and 5.)
6984-X	DOT-E 6984	Ireco Chemicals, Salt Lake City, UT	49 CFR 173.103(a), 173.66(g), 177.835(g)(2)(i)	To authorize packaging of 1000 or less electric blasting caps in inside pasteboard cartons or tubes, overpacked in an IME Standard 22 container. (Mode 1.)
6984-P	DOT-E 6984	Angus Chemical Company, Northbrook, IL	49 CFR 173.103(a), 173.66(g), 177.835(g)(2)(i)	To become a party to Exemption 6984. (Mode 1.)
7013-X	DOT-E 7013	Airco Welding Products, Murray Hill, NJ	49 CFR 173.315(a)(1)	To authorize use of a non-DOT specification cargo tank, for transportation of a flammable compressed gas. (Mode 1.)
7046-X	DOT-E 7046	J. T. Baker Chemical Company, Phillipsburg, NJ	49 CFR 173.269, 178.340-5(c)	To authorize use of modified DOT Specification MC-312 glass lined cargo tanks, for transportation of certain corrosive liquids and a certain oxidizer. (Modes 1 and 3.)
7052-P	DOT-E 7052	National Center for Atmospheric Research, Palestine, TX	49 CFR 172.101, 175.3	To become a party to Exemption 7052. (Modes 1, 2, 3, and 4.)
7096-X	DOT-E 7096	Fike Metal Products Corporation, Blue Springs, MO	49 CFR 173.304(a)(1), 178.55	To authorize shipment of bromotrifluoromethane (Freon 1301) in non-DOT specification cylinders. (Modes 1, 2, and 3.)
7220-X	DOT-E 7220	Gnef Brothers Corporation, Springfield, MI	49 CFR Part 173, Subart D, E, F, and H	To authorize manufacture, marking and sale of non-DOT specification reusable, blow-molded, polyethylene containers, for shipment of certain corrosive, flammable liquids, oxidizers and Class B poisonous liquids. (Modes 1, 2, and 3.)
7285-X	DOT-E 7285	Produits Chimiques Ugine Kuhlmann, Paris, France	49 CFR 173.315(a)	To authorize use of non-DOT specification IMO Type 5 portable tanks, for transportation of certain nonflammable, liquefied gases. (Modes 1, 2, and 3.)
7546-X	DOT-E 7546	Grumman Aerospace Corporation, Bethpage, NY	49 CFR 173.119, 173.302(a)(1), 173.304(a), 173.305(a), 173.34(d), 175.3.	To authorize use of a heat pipe radiator assembly for shipment of certain flammable liquids and nonflammable and flammable compressed gases. (Modes 1 and 3.)
7632-X	DOT-E 7632	Enterprise Service Company, Houston, TX	49 CFR 173.315(a)(1), 173.315(c)(1)	To authorize use of an insulated DOT Specification MC-331 cargo tank, for transportation of a liquefied gas mixtures. (Mode 1.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
7650-X	DOT-E 7650	ICI Americas, Incorporated, Wilmington, DE.	49 CFR 173.315	To authorize use of non-DOT specification vacuum insulated steel portable tanks for shipment of certain nonflammable compressed gases. (Modes 1 and 3.)
7677-X	DOT-E 7677	San Diego Gas & Electric Company, San Diego, CA.	49 CFR 172.101, 173.315(a)	To authorize shipment of liquefied natural gas (methane) in non-DOT specification vacuum insulated truck mounted portable tanks. (Mode 1.)
7778-X	DOT-E 7778	Schenley Distillers, Inc. New York, NY	49 CFR 172.400(a) Part 107 Subpart B, Subchapter B, App. B.	To authorize barrels of distilled spirits to be transported without being labeled or having the exemption number marked on the barrel or shipping paper. (Modes 1 and 2.)
7809-X	DOT-E 7809	Whitmire Research Laboratories, Inc., St. Louis, MO.	49 CFR 173.304, 173.34(d), 175.3	To authorize shipment of insecticides in DOT Specification 39 cylinders equipped with a pressure relief device. (Modes 1, 2, 3, and 4.)
7940-X	DOT-E 7940	Centennial Plastics Co., Inc., Camden, NJ	49 CFR 178.19, Part 173, Subparts D, F	To authorize manufacture, marking and sale of non-DOT specification reusable, rotationally molded polyethylene container, for transportation of corrosive and flammable liquids. (Modes 1, 2, and 3.)
8047-P	DOT-E 8047	GCS Container Service SA, Paris, France	49 CFR Part 173, Subparts D, F, Subpart H, J, Subpart K.	To become a party to Exemption 8047. (Modes 1, 2, and 3.)
8053-X	DOT-E 8053	Eastman Kodak Company, Rochester, NY.	49 CFR 173.148(a), 175.3	To authorize shipment of monoethylamine in inside glass bottles-metal cans, overpacked in DOT Specification 12B fiberboard boxes. (Modes 1, 2, and 4.)
8063-X	DOT-E 8063	Union Carbide Corporation, Danbury, Ct	49 CFR 173.304(a)	To authorize use of a vacuum insulated DOT Specification 4L welded cylinder, for transportation of certain nonflammable gases. (Mode 1.)
8067-X	DOT-E 8067	Container Corporation of America, Wilmington, DE.	49 CFR 173.272(g)	To authorize use of a 15-gallon capacity DOT Specification 34 container, for transportation of 95% to 98% sulfuric acid. (Modes 1, 2, and 3.)
8079-X	DOT-E 8079	Container Corporation of America, Wilmington, DE.	49 CFR 178.35a-1	To authorize manufacture, marking and sale of DOT Specification 2SL inside polyethylene containers using a higher density, higher melt index resin, for shipment of those materials authorized in a DOT Specification 2SL. (Modes 1, 2, and 3.)
8080-X	DOT-E 8080	Allied Corporation, Morristown, NJ	49 CFR 173.164	To authorize transport of dry chromic acid in a DOT Specification 105A300W tank car which has been converted to DOT Specification 111A100W. (Mode 2.)
8084-X	DOT-E 8084	Ireco Chemicals, Salt Lake City, UT	49 CFR 173.65(a)(5)	To authorize transport of Class A explosives containing more than 5% of moisture in plastic tubes overpacked in DOT Specification wooden or fiberboard boxes. (Mode 1.)
8111-X	DOT-E 8111	U.S. Department of Energy, Washington, DC.	49 CFR 173.304(a)	To authorize use of non-DOT specification welded, stainless steel cylinders for transportation of a nonflammable gas mixture. (Modes 1, 2, 3, 4, and 5.)
8125-X	DOT-E 8125	Compagnie des Containers Reservoirs, Paris, France.	49 CFR 173.123, 173.315	To authorize use of non-DOT specification portable tanks, for transportation of certain flammable and nonflammable gases and flammable liquids. (Modes 1, 2, and 3.)
8125-X	DOT-E 8125	Fauvet-Girel, Paris, France	49 CFR 173.123, 173.315	To authorize use of non-DOT specification portable tanks, for transportation of certain flammable and nonflammable gases and flammable liquids. (Modes 1, 2, and 3.)
8129-P	DOT-E 8129	Rollins Environmental Services (LA), Inc., Baton Rouge, LA.	49 CFR, 177.834(k), Part 173, Subparts D, E, F, H, Subparts K, L, M, O.	To become a party to Exemption 8129. (Mode 1.)
8129-P	DOT-E 8129	Ecoflo, Inc., Bladensburg, MD	49 CFR, 177.834(k), Part 173, Subparts D, E, F, H, Subparts K, L, M, O.	To become a party to Exemption 8129. (Mode 1.)
8129-P	DOT-E 8129	FMC Corporation, Princeton, NJ	49 CFR, 177.834(k), Part 173, Subparts D, E, F, H, Subparts K, L, M, O.	To become a party to Exemption 8129. (Mode 1.)
8141-X	DOT-E 8141	GTE Products Corporation, Waltham, MA	49 CFR 172.101, 173.206, 173.247	To authorize transport of individual cells and modules consisting of three cells containing lithium metal and thionyl chloride in non-DOT specification wooden boxes. (Mode 1.)
8144-X	DOT-E 8144	ICI Americas Inc., Wilmington, DE	49 CFR 173.133, 175.3, 176.3	To authorize cargo vessel and cargo-only aircraft as additional mode of transportation. (Modes 1, 3, and 4.)
8217-P	DOT-E 8217	GCS Container Service SA, New York	49 CFR F, H, J, and K, Part 173, Subpart D.	To become a party to Exemption 8217. (Modes 1, 2, and 3.)
8225-X	DOT-E 8225	Hoover Universal, Inc., Beatrice, NB	49 CFR 173.119, 173.266, Part 173, Subpart F.	To authorize cargo vessel as an additional mode of transportation and to add various flammable liquids and additional commodities. (Modes 1, 2, and 3.)
8360-X	DOT-E 8360	Grayco Specialist Tank Manufacturing, Fort Worth, TX.	49 CFR 173.119 (a), (m), 173.245(a), 173.346(a), 178.340-7, 178.342-5 178,343-5.	To authorize manufacture, marking and sale of non-DOT specification cargo tanks designed and constructed in full compliance with DOT Specification MC-307 or MC-312 with certain exceptions, for transportation of certain hazardous materials. (Modes 1.)
8390-P	DOT-E 8390	Micro Image, Inc., Orange, CT	49 CFR 173.272, 178.210, 178.24a	To become a party to Exemption 8390. (Modes 1.)
8390-P	DOT-E 8390	J. T. Baker Chemical Co., Phillipsburg, NJ	49 CFR 173.272, 178.210, 178.24a	To become a party to Exemption 8390. (Modes 1.)
8441-P	DOT-E 8441	EG&G Environmental Equipment Div., Sea-Link System, Herndon, VA.	49 CFR 172.101	To become a party to Exemption 8441. (Modes 1.)
8441-P	DOT-E 8441	National Center for Atomospheric Research, Palestine, TX.	49 CFR 173.101	To become a party to Exemption 8441. (Modes 1.)
8467-X	DOT-E 8467	Societe Auxiliaire de Transports et d'Industries, Paris, France.	49 CFR 173.315	To authorize use of non-DOT specification IMO Type 5 portable tanks, for transportation of nonflammable gases. (Modes 1, 2, 3.)
8467-X	DOT-E 8467	ANF-Industrie, Paris, France	49 CFR 173.315	To authorize use of non-DOT specification IMO Type 5 portable tanks, for transportation of nonflammable gases. (Modes 1, 2, and 3.)
8472-X	DOT-E 8472	Ohmart Corporation, Cincinnati, OH	49 CFR 173.302, 175.3	To authorize use of non-DOT specification, meta., single trip, inside container, for shipment of a nonflammable gas. (Modes 1, 2, 3, 4, and 5.)
8477-X	DOT-E 8477	Mobay Chemical Corporation, Pittsburgh, PA.	49 CFR 173.247(a)	To authorize use of a noninsulated DOT Specification 111A100W6 tank car tanks, for shipment of thionyl chloride. (Modes 2.)
8489-X	DOT-E 8489	E. I. du Pont de Nemours & Company, Inc., Wilmington, DE.	49 CFR 173.154, 173,182, 173.245b	To authorize shipment of certain oxidizers and corrosive materials in a non-DOT specification collapsible polyethylene-lined, woven polypropylene bag, and a disposable bulk container, (Modes 1. and 3.)
8489-X	DOT-E 8489	FMC Corporation, Philadelphia, PA	49 CFR 173.154, 173.182, 173.245b	To authorize shipment of certain oxidizers and corrosive materials in a non-DOT specification collapsible polyethylene-lined, woven polypropylene bag, and a disposable bulk container. (Modes 1, and 3.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8489-X	DOT-E 8489	Degussa Corporation, Teterboro, NJ	49 CFR 173.154, 173.182, 173.245b	To authorize shipment of certain oxidizers and corrosive materials in a non-DOT specification collapsible polyethylene-lined, woven polypropylene bag, and a disposable bulk container. (Modes 1, and 3.)
8490-P	DOT-E 8490	Union Carbide Corporation, Danbury, CT	49 CFR 173.245(a)(31)	To become a party to Exemption 8490. (Mode 1.)
8506-X	DOT-E 8506	Dow Chemical Company, Midland, MI	49 CFR 178.192-2(c), Part 173 Subpart D, Subpart E, F, H.	To authorize use of a DOT Specification 6D cylindrical steel overpack constructed with two holes below the top chime, for shipment of those materials presently authorized in a DOT Specification 6D. (Mode 1, 2, and 3.)
8531-X	DOT-E 8531	Monsanto Company, St. Louis, MO	49 CFR 172.101, 172.406, 172.504, 173.114@.	To authorize shipment of nitro carbo nitrate in prescribed DOT Specification bags labeled oxidizer, after December 31, 1980, in order to utilize the existing inventory. (Mode 1.)
8572-X	DOT-E 8572	AMEX, Inc., Hayden Lake, ID	49 CFR 172.101, 172.406, 172.504, 173.114a.	To authorize shipment of a limited number of packages of nitrocarbonitrate, after December 31, 1980, bearing the oxidizer label. (Mode 1.)
8655-P	DOT-E 8655	International Silver Company, Meriden, CT.	49 CFR 173.352(a)(1)	To become a party to Exemption 8655. (Mode 1.)
8691-X	DOT-E 8691	Aluminum Company of America, Palestine, TX.	49 CFR 173.338	To authorize a PVC coated polyester bag, not to exceed 110 pounds as additional container for shipment of aluminum chloride contaminated with phosgene, corrosive solid. (Modes 1, 2, and 3.)
8791-P	DOT-E 8791	Stauffer Chemical Company, Westport, CT.	49 CFR 173.245a, 178.245-1	To become a party to Exemption 8791 (Modes 1, 2, and 3.)

NEW EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8845-N	DOT-E 8845	Pengo Industries, Inc., Fort Worth, TX	49 CFR 173.110(c)(1), 173.80(b), 173.80(c).	To authorize transport of charged oil well jet perforating guns with detonators attached. (Modes 1 and 3.)
8851-N	DOT-E 8851	Process Engineering Inc., Plaistow, NH	49 CFR 173.315	To authorize manufacture, marking and sale of non-DOT specification vacuum insulated portable tanks, for transportation of non-flammable gases. (Modes 1 and 3.)
8862-N	DOT-E 8862	ABERCO Inc., Seabrook, MD	49 CFR 173.119, 173.306	To authorize authorize shipment of propylene oxide, classed as a flammable liquid, in DOT Specification 5P lagged steel drums. (Mode 1.)
8867-N	DOT-E 8867	3M Company, St. Paul, MN	49 CFR 173.119(k), 173.3	To authorize shipment of a certain viscous flammable liquid, n.o.s. in a polyvinyl chloride bottle, overpacked six to a DOT Specification 12B fiberboard box. (Modes 1, 2, and 4.)
8869-N	DOT-E 8869	Air Exec, Inc., Fort Madison, IA	49 CFR 172.101, 172.204(c)(3), 173.27, 175.30(a)(1), 175.320(b), Part 107, Appendix B.	To authorize carriage of certain Class A, B and C explosives not permitted for air shipment or in quantities greater than those prescribed for air shipment. (Mode 4.)
8870-N	DOT-E 8870	Hach Company, Ames, IA	49 CFR 172.101, 173.286, 175.3	To comingle compatible hazardous materials of various classifications packed in separate inside receptacles not exceeding 8 fluid ounces or 1¼ lb. packed inside a strong outside container, labeled according to the highest order of hazard, and described as chemical kit. (Modes 1, 2, 4, and 5.)
8878-N	DOT-E 8878	Corning Glass Works, Corning, NY	49 CFR 173.245	To authorize shipment of germanium tetrachloride, corrosive liquid, n.o.s., in glass containers of less than 3 gallon capacity, surrounded by vermiculite placed in a cylindrical steel overpack, packed six to a compartmented wooded box. (Mode 1.)
8886-N	DOT-E 8886	Amerex Corporation, Trussville, AL	49 CFR 173.34(e)(9)	To authorize a longer time period between retests of DOT Specification 4B or 4B240ET cylinders containing nonflammable gas. (Modes 1, 2, and 4.)
8891-N	DOT-E 8891	BIC Corporation, Milford, CT	49 CFR 173.21, 173.308	To authorize not more than two cigarette lighters containing flammable gas to be packed in the same inner container, overpacked in corrugated fiberboard boxes. (Modes 1 and 2.)
8899-N	DOT-E 8899	DIA, Inc., d/b/a Dauphin Island Airways, Mobile, AL	49 CFR 172.101, 172.204(c)(3), 173.27, 175.30(a)(1), 175.320(b), Part 107, Appendix B.	To authorize carriage of certain Class A, B and C explosives not permitted for air shipment or in quantities greater than those prescribed for air shipment. (Mode 4.)
8908-N	DOT-E 8908	Diamond Shamrock Corporation, Irving, TX	49 CFR 173.164	To authorize shipment of dry chromic acid, in non-DOT specification collapsible polyethylene-lined, woven polypropylene bags. (Mode 1.)
8911-N	DOT-E 8911	Olin Corporation, East Alton, IL	49 CFR 173.101	To authorize shipment of scrap, guillotined small arms ammunition loosely packed in non-DOT specification, nonreusable, closed-top wooden crates in truck load lots to an incinerator for disposal. (Mode 1.)
8928-N	DOT-E 8928	Aluminum Company of America, Lafayette, IN.	49 CFR 173.245b(a)	To authorize a one-time shipment of a corrosive solid waste material in a non-DOT specification open top tank. (Mode 1.)
8931-N	DOT-E 8931	CIL Industries, Toronto, Canada	49 CFR 173.272, 179.201-1	To authorize shipment of sulfuric acid, classed as a corrosive material in DOT Specification 111A100W2 tank cars equipped with bottom outlets. (Mode 2.)

EMERGENCY EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
EE 5186-X	DOT-E 5186	Liquid Carbonic Corporation, Chicago, IL	49 CFR 172.101, 173.315(a)	To authorize shipment of a flammable liquefied compressed gas in a non-DOT specification perlite-vacuum insulated cargo tank. (Mode 1.)
EE 8849-X	DOT-E 8849	Global International Airways, Kansas City, MO.	49 CFR 172.101 Column 8(b).	To authorize air transport of rocket ammunition with explosive projectile, Class A explosive that is packed, marked, labeled and loaded in accordance with DOD procedures and requirements. (Mode 4.)

WITHDRAWALS

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
3941-X	Pacific Engineering & Production Company of Nevada, Henderson, NV.	49 CFR 173.239a(a)(2)	To authorize transport of ammonium perchlorate in non-DOT specification aluminum portable tanks. (Modes 1 and 2.)
8635-N	Georgia-Pacific Corporation, Atlanta, GA	49 CFR 172.302(b)	To authorize use of shipping papers which list the quantity ordered and product number before the proper shipping name. (Modes 1 and 2.)

Denials

8271-X Request by John Brown Engineers and Constructors Ltd., Hampshire, England to reconsider denial of their request to authorize shipment of a pyrophoric solid dispersed in a flammable liquid in a non-DOT specification portable tank comparable to DOT specification 51 denied November 23, 1982.
8905-N Request by Eurotainer S.A., Paris, France to authorize use of non-DOT specification IMO Type 5 portable tanks for the transportation of pyroforic liquids and those flammable liquids allowed to be shipped in DOT Specification IM 101 portable tank denied November 3, 1982.

NOTE.—Inadvertently omitted from the 47 FR 223 publication of Exemptions issued during October 1982 are the following:

8271-X Request by John Brown Engineers and Constructors Ltd., Hampshire, England to authorize shipment of a pyrophoric solid dispersed in a flammable liquid in a non-DOT specification portable tank comparable to DOT Specification 51 denied October 14, 1982.
8909-N Request by Johnson Controls, Inc., Milwaukee, WI to authorize use of shipping papers which deviate from the proper format required for the description of hazardous materials being shipped denied October 1, 1982.
8922-N Request by PepsiCo., Inc., Purchase, NY to ship as essentially nonregulated a flammable liquid consisting of citrus oil and approximately 65% food grade ethanol in four one-gallon jars packed in a DOT Specification 12A80 fiberboard box denied October 4, 1982 as being unnecessary.

Issued in Washington, D.C., on December 8, 1982.

J. R. Grothe,

Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 82-34284 Filed 12-17-82; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted To OMB for Review

During the period December 3 through December 9, 1982, the Department of the Treasury submitted the following public information collection requirements to OMB, for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of these submissions may be obtained from the Treasury Department Clearance Officer, by calling (202) 634-2179. Comments regarding these information collections should be addressed to the Treasury Reports Management Officer, Information Resources Management Division, Room 309, 1625 I St. NW., Washington, D.C. 20220; *and* to the OMB reviewer listed at the end of entry.

Date Submitted: December 3, 1982.
Submitting Bureau: Internal Revenue Service.
OMB Number: 1545-0654.
Form Number: 4752.
Type of Submission: Revision.
Title: Questionnaire—Head of Household.
Purpose: Form 4752—Questionnaire, Head of Household was developed to assist in determining whether or not an individual who claimed this filing status was eligible to claim it and its more favorable tax rate. This information is requested in connection with an examination of the return.
OMB Reviewer: Michael Abrahams, (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

* * * * *

Date Submitted: December 3, 1982.
Submitting Bureau: Internal Revenue Service.
OMB Number: 1545-0029.
Form Number: 941, 941E, 941PR and 941SS.
Type of Submission: Revision.
Title: Quarterly Federal Tax Return; Quarterly Return of Withheld Federal Income Tax.
Purpose: Form 941 is used by employers to report payments made to employees subject to income and FICA taxes and the amounts of these taxes. Form 941E is used primarily by State and local governments to report withheld income taxes only. Form 941PR is used by employers in Puerto Rico to report FICA taxes only and Form 941SS is used by employers in the U.S. possessions to report FICA taxes only. The data is used primarily to verify that the correct taxes have been paid.
OMB Reviewer: Michael Abrahams, (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

* * * * *

Date Submitted: December 8, 1982.
Submitting Bureau: Internal Revenue Service.
OMB Number: 1545-0128.
Form Number: 1120L.
Type of Submission: Revision.
Title: U.S. Life Insurance Company Income Tax Return.
Purpose: Life insurance companies are required to file an annual return of income and compute and pay any tax due. The data is used to ensure that companies have correctly reported taxable income and paid the correct tax.
OMB Reviewer: Michael Abrahams, (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.
Date Submitted: December 8, 1982.
Submitting Bureau: Internal Revenue Service.
OMB Number: 1545-0197.
Form Number: 5300 and 5301.
Type of Submission: Revision.
Title: Application for Determination for Defined Benefit Plan and Application for Determination for Defined Contribution Plan.
Purpose: IRS needs certain information on the finances and operation of employee benefit plans set up by employers. The IRS uses Forms 5300 and 5301 to obtain the information needed to determine whether the plans qualify under section 401(a) of the Code and the applicable parts of ERISA as approved employee benefit plans. It also uses the information to determine tax exempt status of the related trust under section 501(a) of the Code.
OMB Reviewer: Michael Abrahams (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

* * * * *

Dated Submitted: December 8, 1982.
Submitting Bureau: Alcohol, Tobacco and Firearms.
OMB Number: 1512-0036.
Form Number: ATF F 5020.20.
Type of Submission: Extension.
Title: Form Letter Personnel Inquiry RE: Applicant for Federal Permit.
Purpose: Form is used to check references given by an applicant or an individual connected with an application for a Federal license or permit. The information asked of a reference is the following (length of association, character, integrity, business responsibility and general

reputation for conforming with laws and regulations) about the individual. The form provides evidence as to whether license or permit should be issued.

OMB Reviewer: Arnold Strasser (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20508.

* * * * *

Date Submitted: December 8, 1982.

Submitting Bureau: Internal Revenue Service.

OMB Number: 1545–0023.

Form Number: 720.

Type of Submission: Revision.

Title: Quarterly Federal Excise Tax Return.

Purpose: Form 720 is used to report excise taxes due from retailers and manufacturers on the sale or manufacture of various articles, to report taxes on oil, etc.). It enables IRS to monitor excise tax liability for various categories on a single form and to collect the tax quarterly in compliance with the law and regulations (IRC section 6011).

OMB Reviewer: Michael Abrahams (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

* * * * *

Date Submitted: December 8, 1982.

Submitting Bureau: Alcohol, Tobacco and Firearms.

OMB Number: 1512–0118.

Form Number: ATF F 2148.

Type of Submission: Extension.

Title: Bond-Drawback of Tax on Cigars, Cigarettes, or Cigarette Papers or Tubes.

Purpose: The bond is necessary to secure payment for tobacco articles on which drawback (refund on tariff or other tax) has been claimed and paid. The bond will secure payment in the event that a claim was not lawfully refunded. The bond describes the particular conditions under which the surety company and drawback claimant adhere to a description of what the bond covers.

OMB Reviewer: Arnold Strasser (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Date Submitted: December 8, 1982.

Submitting Bureau: Internal Revenue Service.

OMB Number: 1545–0334.

Form Number: 6450.

Type of Submission: Revision.

Title: Questionnaire to Determine Exemption from Withholding.

Purpose: Form 6450 is used in conjunction with letter 1407(Sc/Do) in contacting employees claiming exemption from withholding when there is no record of a prior year tax return being filed or the prior year tax return showed no tax liability.

OMB Reviewer: Michael Abrahams, (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

* * * * *

Date Submitted: December 8, 1982.

Submitting Bureau: Public Debt.

OMB Number: 1535–0018.

Form Number: PD–4882.

Type of Submission: Extension.

Title: Application for Purchase of U.S. Savings Bonds.

Purpose: Needed to indicate registration and number and denomination of securities desired. Used to document the request for issuance.

OMB Reviewer: Arnold Strasser, (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Joy Tucker,

Departmental Reports, Management Officer.

December 14, 1982.

[FR Doc. 82–34454 Filed 12–17–82; 8:45 am]

BILLING CODE 4810–25–M

Fiscal Service

[Dept. Circ. 570, 1982 Rev., Supp. No. 11]

Voyager Casualty Insurance Co.; Surety Companies Acceptable on Federal Bonds; Termination of Authority

Notice is hereby given that the certificate of authority issued by the Treasury to Voyager Casualty Insurance Company, Jacksonville, Florida, under Sections 9304 to 9308 of Title 31 of the United States Code (formerly 6 U.S.C. 6–13), to qualify as an acceptable surety on federal bonds is hereby terminated, effective today.

The company was last listed as an acceptable surety on federal bonds at 47 FR 28884, July 1, 1982.

With respect to any bonds currently in force with Voyager Casualty Insurance Company, bond approving officers of the Government should secure new bonds with acceptable sureties in those instances where a significant amount of liability remains outstanding.

Questions concerning this termination notice may be directed to the Operations Staff (Surety), Banking and Cash Management, Bureau of Government Financial Operations, Department of the Treasury, Washington, DC 20226, Telephone (202) 634–5752.

Dated: November 12, 1982.

W. E. Douglas,

Commissioner, Bureau of Government Financial Operations.

[FR Doc. 82–34444 Filed 12–17–82; 8:45 am]

BILLING CODE 4810–25–M

Office of the Secretary

[Dept. Cir. Public Debt Series—No. 36–82]

Treasury Bonds of 2003; Interest Rate

December 15, 1982.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for approximately $3,000,000,000 of the United States securities, designated Treasury Bonds of 2003 (CUSIP No. 912810 DC 9). The securities will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

Description of Securities

2.1. The securities will be dated January 4, 1983, and will bear interest from that date, payable on a semiannual basis on August 15, 1983 and each subsequent 6 months on February 15 and August 15 until the principal becomes payable. They will mature February 15, 2003, and will not be subject to call for redemption prior to maturity. In the event an interest payment date or the maturity date is a Saturday, Sunday, or other nonbusiness day, the interest or principal is payable on the next-succeeding business day.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift, or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Securities registered as to principal and interest will be issued in

denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of registered and book-entry securities, and the transfer of registered securities will be permitted. Bearer securities will not be available, and the interchange of registered or book-entry securities for bearer securities will not be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Standard time, Wednesday, December 22, 1982. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, December 21, 1982, and received no later than Tuesday, January 4, 1983.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is $1,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender, and the amount may not exceed $1,000,000.

3.3. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.4. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by full payment for the amount of securities applied for (in the form of cash, maturing Treasury securities, or readily collectible checks), or by a payment guarantee of 5 percent of the face amount applied for, from a commercial bank or a primary dealer.

3.5. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, on the basis of a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 95.000. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.6. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on securities allotted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in Section 3.4., must be made or completed on or before Tuesday, January 4, 1983. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Friday, December 31, 1982. When payment has been submitted with the tender and the purchase price of allotted securities is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the

securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4 Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, and to receive payment for and make delivery of securities on full-paid allotments.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Gerald Murphy,

Acting Fiscal Assistant Secretary.

[FR Doc. 82-34554 Filed 12-16-82; 3:28 pm]

BILLING CODE 4810-40-M

[Dept. Cir., Public Debt Series—No. 35-82]

Treasury Notes; Series C-1990

December 15, 1982.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for approximately $4,500,000,000 of United States securities, designated Treasury Notes of January 15, 1990, Series C-1990 (CUSIP No. 912827 PA 4). The securities will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorties.

2. Description of Securities

2.1. The securities will be dated January 4, 1983, and will bear interest from that date, payable on a semiannual basis on July 15, 1983, and each subsequent 6 months on January 15 and July 15 until the principal becomes payable. They will mature January 15, 1990, and will not be subject to call for redemption prior to maturity. In the event an interest payment date or the maturity date is a Saturday, Sunday, or other nonbusiness day, the interest or principal is payable on the next-succeeding business day.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift, or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Securities registered as to principal and interest will be issued in denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of registered and book-entry securities, and the transfer of registered securities will be permitted. Bearer securities will not be available, and the interchange of registered or book-entry securities for bearer securities will not be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Standard Time, Tuesday, December 21, 1982. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Monday, December 20, 1982, and received no later than Tuesday, January 4, 1983.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is $1,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender, and the amount may not exceed $1,000,000.

3.3. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.4. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by full payment for the amount of securities applied for (in the form of cash, maturing Treasury securities, or readily collectible checks), or by a payment guarantee of 5 percent of the face amount applied for, from a commercial bank or a primary dealer.

3.5. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, on the basis of a ⅛ of one percent increment, which results

in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 98.250. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.6. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securitites specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on securities allotted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in Section 3.4., must be made or completed on or before Tuesday, January 4, 1983. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury, in Treasury bills, notes, or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Friday, December 31, 1982. When payment has been submitted with the tender and the purchase price of allotted securities is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, and to receive payment for and make delivery of securities on full-paid allotments.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Gerald Murphy,

Acting Fiscal Assistant Secretary.

[FR Doc. 82-34553 Filed 12-16-82; 3:28 pm]

BILLING CODE 4810-40-M

UNITED STATES INFORMATION AGENCY

United States Advisory Commission on Public Diplomacy

A meeting of the U.S. Advisory Commission on Public Diplomacy will be held on December 21, 1982 from 9:30 AM to 12:00, and from 1:30 PM to 3:30 PM in Room 600, 1750 Pennsylvania Avenue, NW., Washington, D.C. In the morning, the Commission will discuss USIA's personnel policies and programs; in the afternoon, there will be a discussion of Latin American issues.

Since space is limited, please call Elizabeth Fahl, (202) 724-9244, if you are interested in attending the meeting.

Mary Jane Winnett,

Management Analyst, Management Analysis/Regulations Staff, Bureau of Management, United States Information Agency.

[FR Doc. 82-34450 Filed 12-17-82; 8:45 am]

BILLING CODE 8230-01-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 244
Monday, December 20, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Federal Communications Commission	1, 2
Federal Home Loan Bank Board	3, 4
Legal Services Corporation	5

1

FEDERAL COMMUNICATIONS COMMISSION

FCC To Hold a Closed Commission Meeting, Wednesday, December 22, 1982

December 15, 1982.

The Federal Communications Commission will hold a Closed Meeting on the subjects listed below on Wednesday, December 22, 1982 following the Open Meeting which is scheduled to commence at 9:30 a.m. in Room 856, at 1919 M Street, N.W., Washington, D.C.

Agenda, Item No., and Subject

Hearing—1—Motions for approval of settlement agreement, related motions to enlarge issues and other pleadings in the Jacksboro-Bridgeport, Texas (Docket Nos. 21333–34); Mineral Wells, Texas (CC Docket Nos. 81–90/91); Jacksboro-Agnes, Texas (CC Docket Nos. 81–68/69); Graham-Jacksonboro, Texas (CC Docket Nos. 81–84/87); and Bridgeport, Texas (CC Docket Nos. 81–423/424).

This item is closed to the public because it concerns Adjudicatory Matters (See 47 CFR 0.603 (j)).

The following persons are expected to attend:

Commissioners and their Assistants
Managing Director and members of his staff
General Counsel and members of his staff
Chief, Office of Public Affairs and members of his staff

Action by the Commission:

Hearing Item 1, December 14, 1982. Commissioners Fowler, Chairman; Quello, Fogarty, Jones, Dawson, Rivera, and Sharp voting to consider this item in Closed Session.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen Peratino, FCC Public Affairs Office, telephone number (202) 254–7674.

Issued: December 15, 1982.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S–1842–82 Filed 12–16–82; 2:58 pm]

BILLING CODE 6712-01-M

2

FEDERAL COMMUNICATIONS COMMISSION

FCC To Hold Open Commission Meeting, Wednesday, December 22, 1982.

December 15, 1982.

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Wednesday, December 22, 1982, which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, N.W., Washington, D.C.

Agenda, Item No., and Subject

General—1—*Title:* Petition for Rule Making and Petition for Waiver filed by the Senstar Security Systems Corporation. *Summary:* The Commission considers a petition for rule making requesting amendment of Part 15, Subpart F to provide for operation of field disturbance sensors in the band 40.66–40.70 MHz and a petition for waiver requesting Commission authorization for operation of the Senstar Perimeter Protection System (i.e., field disturbance sensor) in the bank 40.66–40.70 MHz pending the outcome of the rule making proceeding in this matter.

General—2—*Title:* Notice of Proposed Rulemaking to allocate spectrum for the establishment of a nationwide public air-ground telephone system. *Summary:* The Commission will consider the merits of RM–3524, filed by Airfone, Inc. and RM–3885, filed by Aeronautical Radio, Inc. Each petitioner has requested the allocation of spectrum in the 900 MHz region to establish a nationwide public air-ground telephone system.

Private Radio—1—*Title:* Rulemaking proceeding to implement changes in frequencies, operating procedures, technical standards and other criteria relating to the use of radiotelegraphy in the Maritime Mobile Service. *Summary:* The FCC will consider whether to adopt a Memorandum Opinion and order (Doc. No. 20813) responding to various requests for Reconsideration in regard to rule sections adopted in the Report and Order (FCC 77–380; 42 FR 30999) released June 10, 1977.

Private Radio—2—*Title:* Licensing and availability of narrow-band direct-printing (NB–DP) radio teletypewriter frequencies. *Summary:* The Commission will consider whether to adopt a Notice of Proposed Rule Making to amend its rules effecting assignment of NB–DP frequencies.

Common Carrier—1—*Title:* Modification of Depreciation Rates for Eighteen Domestic Telephone Companies. *Summary:* The Commission has under consideration revised depreciation rates using the straight line equal life group (SLELG) method for eleven Bell operating telephone companies, six GTE affiliates and one Continental affiliate. The proposed SLELG rates are based upon life and net salvage studies prepared by the companies and reviewed by the staffs of the respective state commissions and the FCC in 1980 and 1981. These SLELG rates are primarily for new additions to the central office equipment accounts. The SLELG method was permitted by the Commission in Docket No. 20188, 83 FCC 2d 267 (1980).

Common Carrier—2—*Title:* Petition for Reconsideration of GTE Satellite Corporation 90 FCC 2d 1009 (1982). *Summary:* The Commission will consider the petition of United States Satellite Broadcasting Company, Inc. requesting rescission of the grant, or in the alternative, conditioning the grant by prohibiting the offering of television service to individual residences.

Common Carrier—3—*Title:* Third Report and Order in the Matter of MTS–WATS Market Structure—Phase I, Docket No. 78–72. *Summary:* Telephone companies now receive compensation for providing access to their local network to complete interstate services through an uncoordinated system. They receive the revenue either directly or through the settlements or division of revenues procedures. The Commission will consider whether to adopt an order prescribing rules for computing access charges to replace these existing procedures.

Common Carrier—4—*Title:* American Telephone and Telegraph Company. *Summary:* The Commission will consider two petitions for waiver of section 64.702 of the rules to permit the Bell Operating Companies and other local telephone companies to provide customer premises equipment for disabled persons under tariff.

Common Carrier—5—*Title:* Petition for Reconsideration in Docket No. 79–105, Petition for Declaratory Ruling of General Telephone Co. of Ohio. *Summary:* The Commission will consider the effect of its depreciation rate prescriptions on the ability of state commissions to prescribe inconsistent depreciation rates.

Mass Media—Video—1—"Petition for Special Relief" (CSR–2191X) filed September 13, 1982, by Whitcom Investment Company. Whitcom Investment Company, the corporate parent of State Cable TV Corporation, requests a waiver of Section 76.501(a)(1) of the Commission's Rules to allow Mr. William S. Paley to become a partner in Whitcom.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen Peratino, FCC Public Affairs Office, telephone number (202) 254–7674.

Issued: December 15, 1982.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S–1843–82 Filed 12–16–82; 2:58 pm]

BILLING CODE 6712–01–M

3

FEDERAL HOME LOAN BANK BOARD

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. No. 47, Pagen No. None at this time. Date Published: None at this time.

PLACE: Board Room, sixth floor, 1700 G Street, N.W., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Lockwood (202–377–6679).

CHANGES IN THE MEETING: The following item has been withdrawn from the open portion of the Bank Board meeting scheduled Thursday, December 16, 1982, at 10:00 p.m.

Implementation of new powers; limitation on loans to one borrower.

[No. 89, December 16, 1982]

[S–1839–82 Filed 12–16–82; 10:00 am]

BILLING CODE 6720–01–M

4

FEDERAL HOME LOAN BANK BOARD

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. No. 47, Page No. None at this time. Date Published: None at this time.

PLACE: Board Room Sixth floor, 1700 G Street, N.W., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Lockwood (202–377–6679).

CHANGES IN THE MEETING: The following item has been put back on the Bank Board Meeting scheduled Thursday, December 16, 1982, at 10:00 a.m.

Implementation of New Powers; Limitations on Loans to One Borrower

[No. 90, December 16, 1982]

[S–1840–82 Filed 12–16–82; 10:38 am]

BILLING CODE 6720–01–M

5

LEGAL SERVICES CORPORATION

Meeting of the Board of Directors

PREVIOUS DATE ISSUED: November 24, 1982.

TIME AND DATE:

2:00 p.m.–5:00 p.m., Thursday, December 16, 1982.

9:00 a.m.–5:00 p.m., Friday, December 17, 1982.

PLACE: Hyatt Regency Washington, Columbia "B" Room, 400 New Jersey Avenue, NW., Washington, D.C.

PREVIOUSLY ANNOUNCED STATUS OF MEETING: Open (Portion of meeting may be closed to discuss personnel matters under 45 CFR 1622.5 (a) and (e).)

Amendments to Notice: (1) Status of Meeting: Open (Portion of meeting may be closed to discuss personnel and litigation matters under CFR 1622.5(a) through 1622.5(h).

Date Issued: December 16, 1982.

Donald P. Bogard,

President.

[S–1841–82 Filed 12–16–82; 12:34 pm]

BILLING CODE 6820–35–M

federal register

Monday
December 20, 1982

Part II

Department of Transportation

Coast Guard

Tank Vessels Carrying Oil In Bulk; Cargo Monitors

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 157

[CGD 76-088b]

Tank Vessels Carrying Oil in Bulk; Cargo Monitors

AGENCY: Coast Guard, DOT.

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: In the **Federal Register** of June 27, 1977, the Coast Guard proposed rules concerning the installation and use of cargo monitors on board tank vessels of 150 gross tons and over. The proposal applies both to U.S. seagoing vessels and to foreign vessels that call at U.S. ports. Several comments were received and the rules have been revised to incorporate commenters' recommendations to the extent possible. The proposal has also been revised to include certain requirements in the Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships, 1973. This notice contains the complete text of the revised proposal. The intended purpose of the proposed rules is to reduce oil pollution in operational discharges from tank vessels.

DATE: Comments on this proposal must be received on or before March 21, 1983.

ADDRESSES: (a) Comments should be mailed to Commandant (G-CMC/44), (CGD 76-088b), U.S. Coast Guard Headquarters, Washington, D.C. 20593. (b) The materials referenced in this notice and all comments received will be available for examination and copying between 8 a.m. and 4 p.m., Monday through Friday, except holidays, at the Marine Safety Council (G-CMC/44), Room 4402, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. 20593 (202-426-1477). Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Lieutenant Jeffrey G. Lantz, Project Officer, Office of Merchant Marine Safety, (G-MVI-5/12), Room 1206, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. 20593 (202-426-4431).

SUPPLEMENTARY INFORMATION: On June 27, 1977, the Coast Guard published a notice of proposed rulemaking (NPRM) for these regulations in the **Federal Register** (42 FR 32684). Interested persons were requested to submit comments and a public hearing was held in Washington, D.C., on November 28, 1977. Notice of the hearing was published in the **Federal Register** of October 27, 1977 (42 FR 56825). A total of 28 comments were received on the NPRM. After the comment period closed, several telephone inquiries were also received concerning potential methods for complying with the proposed requirements. The proposal was also explained and discussed at the 1980 U.S. Coast Guard Tanker Seminar conducted on May 30, 1980. A summary of topics discussed at the seminar is available at the address listed above for examination and copying of comments.

Interested persons are invited to submit written comments on this supplemental NPRM. Persons submitting comments should include their names and addresses, identify this notice (CGD 76-088b), give the specific section to which their comments apply, and give reasons for the comments. Persons desiring acknowledgment of their comments should enclose a stamped, self-addressed postcard or envelope. All comments received before expiration of the comment period will be considered before final action is taken on the proposed rules. The rules may be changed in light of comments received. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

The NPRM was published at the same time as two other sets of proposed pollution prevention regulations. The other two regulatory dockets are:

CGD 75-124 Pollution Prevention—Vessel and Oil Transfer Facilities (33 CFR Parts 154, 155, and 156). Portions of the proposal were later published as final regulations on January 31, 1980 (45 FR 7156). Proposed §§ 155.330 through 155.410, which included a requirement that oil-water separators, bilge alarms, and bilge monitors be installed and used, were not finalized and are currently being revised as a result of comments received.

CGD 76-088a Engineering Equipment: Design and Approval Requirements for Oil Pollution Prevention Equipment (46 CFR Part 162). These regulations were published as final rules in the **Federal Register** on September 13, 1979 (44 FR 53352). The final rules set out specifications and procedures for approving oil-water separators, cargo monitors, bilge monitors, and bilge alarms for use on merchant vessels. A current list of approved monitors can be obtained from the Coast Guard Office of Merchant Marine Safety (G-MVI-3/12), Room 1210, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. 20593 (202-426-1444).

Drafting Information

The principal persons involved in drafting this supplemental NPRM are: Lieutenant Commander Richard M. Cool, Office of Merchant Marine Safety, and William R. Register, Office of the Chief Counsel.

Background Information

In November 1973, the International Maritime Organization (IMO, then referred to as the Inter-Governmental Maritime Consultative Organization, IMCO) adopted the International Convention for the Prevention of Pollution from Ships, 1973 (MARPOL 73). In February 1978, MARPOL 73 was incorporated into and modified by the Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships, 1973 (MARPOL Protocol). On July 2, 1980, the U.S. Senate gave its advice and consent to ratification of the MARPOL Protocol, and implementing legislation was signed by the President on October 21, 1980 (Pub. L. 96-478; 33 U.S.C. 1901-1911). The legislation becomes fully effective when the MARPOL Protocol enters into force. The MARPOL Protocol will enter into force on October 2, 1983.

Annex I to the MARPOL Protocol sets forth several requirements applicable to all types of vessels. Regulations 9, 13A, 15, 16, 18, and 21 of the Annex contain specific requirements for the installation and use of oil-water separators, monitors, bilge alarms, and associated pumping, piping, and discharge arrangements. The Annex also includes provisions for approving the design features of the equipment in accordance with IMO design and testing specifications. The IMO specifications are set forth in IMO Resolution A.393(X) and they form the basis for the Coast Guard specifications published in the **Federal Register** on September 13, 1979 (44 FR 53352). Copies of the IMO Resolution may be purchased from the International Maritime Organization, Publications Section, 101-104 Picadilly, London W1V OAE, United Kingdom.

The regulations in this supplemental NPRM adopt the MARPOL Protocol requirements for cargo monitors on seagoing tank vessels. The proposal also adopts two recent IMO interpretations to the MARPOL Protocol. The interpretations are published as appendices to the rules in this Supplemental NPRM. They are not otherwise readily available to the public.

Several MARPOL requirements have already been adopted in regulations published in Subparts A through E of 33

CFR, Part 157. Regulations for tank vessels carrying oil in domestic trade were published in 1975 (40 FR 46280). Regulations for U.S. tank vessels in foreign trade and foreign tank vessels operating in U.S. waters were published in 1976 (41 FR 54177). Additional requirements for segregated ballast tanks (SBT), dedicated clean ballast tanks (CBT), and crude oil washing systems (COW) were published in June 1980 (45 FR 43705). Procedures for obtaining exemptions from the SBT, CBT, and COW requirements were published in Subpart F of Part 157 on January 15, 1981 (46 FR 3510).

Evaluation and Certification

These proposed regulations are considered to be nonsignificant and, accordingly, a draft evaluation has been prepared and placed in the public docket as required by the DOT Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of May 22, 1980). The regulations have also been reviewed in accordance with Executive Order 12291 of February 17, 1981, on Federal Regulations and have been determined not to be major rules under the terms of that order. Likewise, on the basis of the supporting explanation provided below, it is certified that these regulations, if promulgated, would not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (Pub. L. 96–354; 5 U.S.C. 610–612).

The draft evaluation includes an environmental assessment as required by DOT Order 5610.1C and Commandant Instruction M16475.1A. Comments on the content and accuracy of the draft evaluation and environmental assessment may be submitted to the address listed above for submission of comments. They will be considered in conjunction with comments on the supplemental NPRM.

The draft evaluation includes an estimate of the annual costs of these regulations to owners of U.S. ships for 1981 and subsequent years. These costs are $0.7 million for 1981; $13.2 million for 1982; $10.0 million for 1983; $5.0 million for 1984; $5.0 million for 1985; and $0.7 million for 1986 and each subsequent year. (All costs are in 1981 dollars. The present value of these costs is $31.9 million.) A portion of these costs may initially be absorbed by vessel owners, but all costs are eventually expected to be passed on to oil consumers in the form of increased transportation charges.

The costs include estimates for 1981 and 1982—before these regulations are expected to become effective. Some vessel owners are already taking measures to comply with the regulations.

Most of the costs resulting from these regulations will be those involving purchase and installation of cargo monitors and control systems. It is noted, however, that the principal requirements concerning this equipment are mandated by the MARPOL Protocol and implementing legislation in 33 U.S.C. 1901–1911.

The draft evaluation also includes an estimate of costs to owners of foreign vessels for comparative purposes. These costs will be incurred due to flag state enforcement of the MARPOL Protocol rather than as a result of compliance with these regulations.

The cost of these regulations to individual ship owners is estimated to be between $86,000 and $167,000 per vessel, depending in vessel size, delivery date, and date of monitor installation. Many U.S. vessels are independently owned and some of these can be considered to be "small entities." The cost per vessel (whether a large or small entity) represents a marginal, one-time outlay equal to only a small percentage of annual operating costs for a single year (0.9–3.3%). These costs are not considered to be significant.

The cargo monitor and control system required by these proposed regulations would provide both a means for: (1) Determining whether discharges from tankers meet international standards, and (2) recording the oil content of those discharges. These measures, coupled with MARPOL 73 provisions that have already been adopted in 33 CFR Part 157, are expected to reduce by 80% the amount of oil that would be routinely discharged overboard if no pollution prevention measures were used.

Description of the Regulations

1. These proposed regulations would apply both to U.S. seagoing vessels and to foreign vessels that call at U.S. ports. The regulations adopt and interpret various requirements contained in the MARPOL Protocol. Table I lists the proposed regulations, the corresponding MARPOL Protocol provisions, and the intended effect of the proposed requirements.

2. Each of the proposed rules would either clarify or relax an existing regulation in 33 CFR Part 157, or add a new provision that corresponds to a similar requirement in the MARPOL Protocol. The proposed clarifications are non-substantive in nature. The new provisions, with one exception, either relax existing regulations or otherwise have little or no economic impact. The exception relates to the proposed record keeping requirement in § 157.37(d). This requirement is specifically required by the MARPOL Protocol. However, the impact of § 157.37(d) has been minimized to the extent possible as explained in paragraph 22 below.

TABLE I—COMPARISON OF PROPOSED REQUIREMENTS IN SUPPLEMENTAL NPRM AND MARPOL PROTOCOL REQUIREMENTS

Proposed regulation in Supplemental NPRM	Corresponding MARPOL protocol requirement or related requirement	Effect of regulation and comments
157.03(e)	MARPOL Reg 1(16)	M
157.03(hh)	MARPOL Article I and 33 U.S.C. 1901(1).	C
157.08(b)	MARPOL Reg 15(7) and Annex 3 of MEPC XIV/11.	M/C
157.08(c)	MARPOL Regs 3 and 15(1).	C
157.08(i)(1)	MARPOL Regs 3 and 13C.	N2
157.08(i)(2)	MARPOL Reg 15(5)	M
157.11(a)	MARPOL Reg 15(2)	C
157.11(b)(1)	MARPOL Reg 18(1)	C
157.11(b)(2)(i) and (ii).	MARPOL Reg 18(2)	C
157.11(b)(2)(iii)	MARPOL Reg 15(3)(a), Annex 3 of MEPC XIV/11, and Resolution A.496(XII).	M/N1
157.11(c)	MARPOL Reg 18(4) and Appendix 5 to Annex 3 of MEPC XV/16.	M/N1
157.12(a)	MARPOL Reg 15(3)(a)	C
157.12(b)	MARPOL Reg 15(3)(a)	C
157.12(c)	MARPOL Reg 15(3)(a) and Resolution A.496(XII).	M/N1
157.12(d)(1)	MARPOL Article V	M
157.12(d)(2)	MARPOL Reg 15(1)	M
157.12(e)	MARPOL Reg 13A(3), 15.	M
157.13(a)	MARPOL Reg 18(3)	C
157.19(b)(1)	MARPOL Reg 24(2)	C
157.19(d)	MARPOL Reg 24(6)	M
157.25(a)	MARPOL Article 3 and 33 U.S.C. 1902(a).	M/C
157.25(b)	MARPOL Article 3 and 33 U.S.C. 1902(a).	M/C
157.28	MARPOL Regs 9(6) and 15(1).	C
157.37(a)(5)(i)	MARPOL Reg 18(4)	C
157.37(a)(5)(ii)	MARPOL Reg 18(4) and Annex 3 of MEPC XIV/11.	M
157.37(a)(5)(iii)	MARPOL Reg 18(4) and Annex 3 of MEPC XIV/11.	M
157.37(a)(6)	MARPOL Reg 15(3)(a)	C
157.37(a)(7)	MARPOL Reg 9(1)(a)(i)	N3
157.37(b)	MARPOL Reg 15(7)	M
157.37(c)	MARPOL Reg 15(3)(c)	N3
157.37(d)	MARPOL Reg 15(8)(a)	N4
157.37(e)	MARPOL Reg 18(4) and Annex 3 of MEPC XIV/11.	N1
157.39(b)	MARPOL Regs 9(4)(b) and 9(4).	M/C
157.43(a)(1)	MARPOL Reg 13A(3)	M
157.43(a)(2)	33 U.S.C. 391a (6)	R
157.43(b)(1)	33 U.S.C. 391a (6)	R
157.43(b)(2)	MARPOL Reg 18(4)(b)	M
157.43(c)	MARPOL Reg 18(4)	N1
157.43(c)(1)	MARPOL Reg 18(4)(a)	N3
157.43(c)(2)	MARPOL Reg 18(4) and Annex 3 of MEPC XIV/11.	N1
157.43(c)(3)	MARPOL Reg 18(4) and Annex 3 of MEPC XIV/11.	N1
157.43(c)(4)	MARPOL Reg 18(4)(b)	N3
157.43(d)	MARPOL Article 3	C
Appendix E	Appendix 5 to Annex 3 of MEPC XV/16.	N1
Appendix F	Resolution A.496(XII)	N1

NOTES.—The abbreviations used in the third column of the Table have the following meanings:
"M" means a MARPOL provision that relaxes an existing rule in 33 CFR Part 157.
"C" means a nonsubstantive clarification of an existing rule in 33 CFR Part 157.
"N1" means a new rule that adopts a recent IMO interpretation that relaxes, but is equivalent to an existing MARPOL requirement.
"N2" means a new rule that, although not contained in the MARPOL Protocol, is an equivalent under Regulation 3 of the Protocol.
"N3" means a new rule that imposes a MARPOL provision which would have little or no economic impact.
"N4 means a new rule that imposes a MARPOL record keeping requirement.
"R" means a relaxation to an existing rule in 33 CFR Part 157.

Discussion of Comments and Changes Made

General

1. No comments were received on §§ 157.13, 157.19(d), 157.25, 157.37(c) and 157.39(b), as proposed in the NPRM, and they have been incorporated into the supplemental NPRM without substantive change.

2. Although no comments were received on the revisions to §§ 157.17 and 157.23, as proposed in the NPRM, they have been determined to be unnecessary and are deleted from the supplemental NPRM.

3. Three commenters stated that the term "cargo monitor" in the NPRM is inaccurate and they recommended replacing the term with "oil content monitor," "oil discharge monitor" or "oil-in-water monitor" in order to reflect the intended use of the equipment. Though other terms may better reflect the medium being monitored, the term cargo monitor was chosen to differentiate this unit from a bilge monitor. Accordingly, these recommendations have not been adopted.

4. Editorial revisions have been made to certain requirements to make them more understandable. The principal changes are in § 157.11 of the NPRM, which has been restructured and separated into two sections to explain the requirements more clearly. Proposed § 157.11, as revised, contains requirements for pumping, piping, and discharge arrangements. Proposed § 157.12, as added in the supplemental NPRM, contains requirements for cargo monitors and control systems. Paragraphs § 157.08 (b) and (c) have also been revised to add a cross reference to § 157.12.

5. One commenter questioned whether the proposed piping and monitoring requirements would apply to inland river barges over 150 gross tons. The regulations in this supplemental NPRM apply only to seagoing vessels. The requirements would not apply to inland barges that operate exclusively on rivers.

Specific Regulations

6. *Section 157.03(e).* This change was not in the NPRM. It revises the existing definition of clean ballast to make it consistent with the MARPOL Protocol definition. Specifically, the word "cargo" is deleted from the phrase "from a cargo tank" and a new § 157.03(e)(2) has been added to provide that clean ballast also includes ballast water with an oil content of 15 p.p.m. or less, as verified by an approved cargo monitor and control system.

7. *Section 157.03(hh).* This change was not in the NPRM. It revises the existing definition of "MARPOL Protocol" by adopting the definition of the term provided in 33 U.S.C. 1901(1).

8. *Section 157.08(b).* This change was not in the NPRM. Section 157.08(b) exempts tank vessels that only carry asphalt from the piping, cargo monitor, and slop tank requirements in Part 157. As revised, this section also exempts vessels that only carry carbon black feed stock or other products with physical properties that inhibit effective product/water separation and monitoring. These products have (i) Densities greater than water, making normal slop tank practices ineffective, and (ii) adhesive and cohesive properties that do not permit proper monitoring.

9. *Section 157.08(i).* Two commenters recommended that vessels which are exempt under Subpart F or Part 157 from SBT, CBT, or COW requirements also be made exempt from the cargo monitor requirements. One of these comments was made at the 1980 Coast Guard Tanker Seminar. This recommendation has been adopted in § 157.08(i)(1) of the supplemental NPRM. Vessels exempt under Subpart F of Part 157 are prohibited by § 157.310 from discharging cargo residues and ballast other than segregated ballast and, as provided in § 157.43(b), use of a cargo monitor is not required for discharges of segregated ballast. An additional exemption from the cargo monitor requirements has also been added in § 157.08(i)(2) for vessels engaged solely in voyages that are: (1) Between ports or places within the United States, its territories or possessions, and (2) of less than 72 hours and at all times within 50 miles of the nearest land. Regulation 15(5) of Annex I to the MARPOL Protocol specifically allows this exemption.

10. *Sections 157.11(a) and 157.12.* Two commenters asked whether product carriers that have several independent piping arrangements for product segregation would be required to provide separate monitors for each arrangement. For the purpose of § 157.11, independent piping arrangements may collectively form the fixed piping system required by that section and one monitor could be provided for the collective system. Section 157.11(a) has been clarified in accordance with these commenters' question by adding a sentence stating that independent piping arrangements collectively form the fixed piping system required by that section.

As explained previously in paragraph 4, the specific requirements for cargo monitors have been transferred to § 157.12. Section 157.12(a) in this supplemental NPRM and Appendix F, as incorporated into § 157.12, require at least one monitor and provide for additional owner/operator options that, if selected, would necessitate the installation of additional sampling points, monitors, or flow meters, depending upon the requirements relating to the option.

11. *Section 157.11 (b) and (c).* The NPRM required each discharge point through which oily mixtures are discharged to the sea from a slop tank, cargo tank, or cargo pumproom bilge to be located above the waterline when the vessel is in its deepest ballast condition. Two commenters interpreted this provision to mean that all of a vessel's discharge points capable of discharging oily mixtures have to be above the waterline. They recommended that this requirement apply only to vessels constructed after these regulations become effective. The discharge points on many existing vessels are below the waterline and the commenters stated that the relocation of discharge piping to provide above the waterline discharge points would be both impracticable and beyond the scope of MARPOL 73. To the extent allowed by the MARPOL Protocol, the commenters' recommendation has been adopted. Section 157.11(b)(2), as revised in the supplemental NPRM, only requires one of the overboard discharge points to be above the waterline. The MARPOL Protocol contains essentially the same requirement. Also, a new provision has been added in § 157.11(c) to allow "existing vessels" to have a "part flow" system meeting IMO requirements in proposed Appendix E to Part 157 in lieu of an above waterline discharge point. It should be noted that the terms "new vessel" and "existing vessel" are defined in §§ 157.03 (ii) and (jj). The term "new vessel" includes, in addition to vessels built in future years, certain vessels that are currently in existence, but that were contracted for, delivered, or subjected to a major conversion after specific dates prescribed in the definition. The term "existing vessel"

means any vessel that is not a "new vessel".

12. *Section 157.11 (b)(2)(iii).* The NPRM required each point through which oily mixtures are discharged overboard to have a stop valve actuated by the system's cargo monitor. Three commenters objected to this requirement and recommended that pump shutdown, or other comparable methods, be accepted to stop overboard discharges. This recommendation has not been adopted. The MARPOL Protocol requires the monitor and control system to be capable of preventing oily discharges to the sea in concentrations that exceed those allowed by the Protocol. Stop valves are needed to ensure compliance with this requirement. Reliance on pump shutdown alone, or on other methods such as partial recirculation of the mixture to a cargo tank, would not always be effective. Much of the mixture in the discharge piping at the time of pump shutdown or other corrective action would in all probability be discharged overboard unless a stop valve were also actuated to retain the mixture. Accordingly, § 157.11 (b)(2)(iii) in the supplemental NPRM includes a stop valve requirement. The requirement has been modified, however, to allow manual valves on existing vessels and on new vessels that are less than 4,000 deadweight tons. IMO Resolution A.496 (XII), as set out in proposed Appendix F, allows manual valve closure on these vessels.

13. *Section 157.12(a).* No comments were received on this provision. It is being proposed again without substantive change.

14. *Section 157.12 (b).* This provision requires that (1) Monitors installed on U.S. vessels must be approved by the Coast Guard under 46 CFR 162.050 and (2) monitors installed or on foreign vessels must comply with either 46 CFR 162.050 or applicable IMO specifications. One commenter recommended that the Coast Guard allow the use of non-approved monitors if they are installed before the regulations require approved equipment. This recommendation has not been adopted. Most monitors currently being built, if they are not designed in accordance with Coast Guard or IMO specifications, are not sufficiently reliable or accurate for shipboard use. The IMO specifications are in IMO Resolution A.393 (X).

15. *Section 157.12(c).* The NPRM required both new and existing vessels to have a recording device that records the total amount of oil discharged in liters, the rate of discharge in liters per nautical mile, and the time and date of discharge. One commenter stated that this requirement should not apply to existing vessels since it would exceed MARPOL requirements. This section has been revised in accordance with the commenter's recommendation to incorporate the MARPOL Protocol requirements. The existing requirement for a recording device in 46 CFR 162.050–25 (j) will be deleted when the relaxed requirement in this section becomes effective.

16. *Section 157.12(c).* The NPRM required overboard discharge points for oily mixtures to have sampling points. Two commenters interpreted the rules to require sampling points also in piping used only for transfers within a vessel or for discharges to reception facilities. This interpretation is not correct. The monitoring requirements in IMO Resolution A.496(XII), as incorporated into § 157.12(c) and Appendix F to Part 157, apply only to discharge points used for overboard discharges, i.e. discharges into the sea.

17. *Section 157.12(c).* Three commenters recommended that the Coast Guard delete the requirement in the NPRM for sampling points to be located in vertical sections of piping, stating that existing installations which have sampling points in horizontal sections of piping have proven satisfactory. This comment has been adopted. The purpose of the NPRM requirement was to insure that samples would be taken from a piping section that has full flow. However, full flow can also be accomplished with other orientations of piping. IMO Resolution A. 496(XII), as incorporated into § 157.12(c) and Appendix F to Part 157, would allow any arrangement of piping that assures full flow through the sampling point during discharge operations.

18. *Sections 157.12 (d) and (e).* These provisions differ from those in the NPRM. They postpone the cargo monitor requirements to correspond with the dates specified by the MARPOL Protocol. The Protocol requires new vessels to comply with cargo monitoring requirements on and after the date the Protocol enters into force. Existing vessels, except those with dedicated clean ballast tanks, can delay installing a monitor for up to three years after that date (October 2, 1983). Existing vessels with dedicated clean ballast tanks are required to have an approved cargo monitor within three years after the MARPOL Protocol enters into force but, in any event, not later then the first scheduled shipyard visit after the entry into force of the Protocol.

19. *Section 157.19(b)(1).* There is a printing error in existing § 157.19(b)(1). The term "400 $\sqrt{}$ DWT "should read "400 $\sqrt[3]{}$DWT" and is accordingly changed.

20. *Section 157.28.* Section 157.28 has a clerical error. The error occurred in publishing revisions to Part 157 in the December 13, 1978, issue of the Federal Register (43 FR 54180). In those revisions, the requirement in § 157.08(a)(2) was transferred to § 157.08(c) and the cross reference in §157.28 was inadvertently not changed at that time. The revision to § 157.28 in this document corrects that prior error.

21. *Section 157.37 (a) and (b).* Section 157.37 has been revised to incorporate various MARPOL provisions. Section 157.37(a)(5) (ii) and (iii) prescribe requirements for below the waterline discharges by gravity or through a part flow system. Section 157.37(a)(7) prohibits discharges in a "special areas" listed in the MARPOL Protocol, once the Protocol becomes effective. Section 157.37(b) has been revised to emphasize that residues of products with properties similar to asphalt must, like asphalt, be transferred to reception facilities.

22. *Section 157.37(d).* Three commenters recommended that the requirement in § 157.37(d) to retain cargo monitor discharge data on board for three years should be modified. One commenter recommended that discharge date be allowed to be kept ashore rather than on the vessel. Another recommended that the data be kept for only one year, and on shore rather than on the vessel. The third recommended that the data be kept on board for one year and then ashore for two additional years. The purpose of this requirement is to provide verification of compliance with § 157.37(a). The need for verification is substantially less after the first year. The MARPOL Protocol requires that the data be kept for three years. Accordingly, § 157.37(d) has been modified to require discharge data to be kept on board for one year, when the potential need for it is the greatest, and to permit the owner to maintain it either on board or ashore for the second and third years.

23. *Section 157.43.* No comments were received on section 157.43, as proposed in the NPRM. However, this section has been revised in the supplemental NPRM to incorporate MARPOL provisions and interpretations for discharging clean and segregated ballast.

Paperwork Reduction Act

24. In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96–511), the recordkeeping provision in proposed § 157.37(d) is being submitted for

approval to the Office of Management and Budget.

25. The list of index terms for 33 CFR Part 157 is provided as follows:

List of Subjects in 33 CFR Part 157

Cargo vessels, Oil pollution, Tank vessels, Water pollution control.

In consideration of the foregoing, the Coast Guard proposes to amend Part 157 of Title 33, Code of Federal Regulations, as set forth below.

Dated: December 8, 1982.

Clyde T. Lusk, Jr.,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

PART 157—[AMENDED]

1. The authority citation for Part 157 is revised to read as follows:

Authority: Sec. 4, Pub. L. 96-478, 94 Stat. 2298 (33 U.S.C. 1903); Sec. 5, Pub. L. 95-474, 92 Stat. 1480 (46 U.S.C. 391a); 49 CFR 1.46.

2. By revising § 157.03 (e) and (hh) to read as follows:

§ 157.03 Definitions.

* * * * *

(e) "Clean ballast" means ballast which—

(1) If discharged from a vessel that is stationary into clean, calm water on a clear day, would not—

(i) Produce visible traces of oil on the surface of the water or on adjoining shore lines, or

(ii) Cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shore lines; or

(2) If verified by an approved cargo monitor and control system, has an oil content that does not exceed 15 p.p.m.

* * * * *

(hh) * * * This Protocol incorporates and modifies the International Convention for the Prevention of Pollution from Ships, 1973, done at London on November 2, 1973.

* * * * * *

3. By revising the introductory text of § 157.08 and paragraphs (b) and (c) and by adding new § 157.08(i) to read as follows:

§ 157.08 Applicability of Subpart B.

This subpart applies to vessels under this part that are seagoing and of 150 gross tons or more, except as follows:

* * * * *

(b) Section 157.11, 157.12, 157.13, and 157.15 do not apply to a tank vessel that carries only asphalt, carbon black feed stock, or other products with similar physical properties, such as specific gravity and cohesive and adhesive characteristics, that inhibit effective product/water separation and monitoring.

(c) Sections 157.11, 157.12, 157.13, 157.15, and 157.23 do not apply to a tank barge that cannot ballast cargo tanks or wash cargo tanks while proceeding en route.

* * * * *

(i) Section 157.12 does not apply to a U.S. vessel that—

(1) Is granted an exemption under Subpart F of this part; or

(2) Is engaged solely in voyages that are—

(i) Between ports or places within the United States, its territories or possessions;

(ii) Of less than 72 hours in length; and

(iii) At all times within 50 nautical miles of the nearest land.

4. By revising § 157.11 (a), (b), and (c) to read as follows:

§ 157.11 Pumping, piping and discharge arrangements.

(a) Each tank vessel must have a fixed piping system for transferring cargo residues and other oily mixtures for cargo tanks to slop tanks and for discharging oily mixtures to the sea and to reception facilities. On a vessel that has two or more independent piping arrangements, the arrangements collectively form the fixed piping system required by this paragraph.

(b) Each fixed piping system required by paragraph (a) of this section must have—

(1) At least two manifolds on the weather deck for transferring oily mixtures to reception facilities, one of which is on the port side of the vessel and one of which is on the starboard side; and

(2) Except as provided in paragraph (c) of this section, at least one discharge point that—

(i) Is used for discharges to the sea;

(ii) Is on a port or starboard weather dock or on the vessel's side above the waterline of its deepest ballast condition; and

(iii) Has an automatic stop valve that is actuated by a cargo monitor signal, except that manual valves may be provided on existing vessels and on new vessels of less than 4,000 deadweight tons.

(c) An above waterline discharge point is not required on an existing vessel if its fixed piping system meets Paragraphs 3 and 4 of Appendix E to this part.

* * * * *

5. By adding a new § 157.12 to read as follows:

§ 157.12 Cargo monitor and control system.

(a) Each vessel must have, for each type of cargo oil that it carries, at least one cargo monitor that is designed for use with that oil.

(b) Each monitor installed on a U.S. vessel must be approved under 46 CFR 162.050. Each monitor installed on a foreign vessel must be approved—

(1) Under 46 CFR 162.050; or

(2) As meeting IMO Resolution A.393(X) by a country that has ratified the MARPOL Protocol.

(c) Each monitor must be installed in accordance with Paragraphs 4, 5, and 6 of Appendix F to this part and be fitted with the control system prescribed by paragraphs 6.1.4.2 through 6.1.4.5.5 of that appendix.

(d) Except as provided in paragraph (e), this section becomes effective—

(1) For new vessels, on October 2, 1983; and

(2) For existing vessels, October 2, 1986.

(e) An existing vessel that has dedicated clean ballast tanks to meet the requirements in § 157.10a or § 157.10b must comply with paragraphs (a) and (b) of this section not later than the date in paragraph (d)(2) of this section or the end of the vessel's first scheduled shipyard visit after October 2, 1983, whichever is earlier.

6. By revising the introductory text of § 157.13 and paragraph (a) to read as follows:

§ 157.13 Designated observation area.

Each new vessel must have a designated observation area on the weather deck or above that is—

(a) Located where the effluent from each discharge point and manifold described in § 157.11 can be visually observed; and

* * * * *

§ 157.19 [Amended]

7. By striking the term "$400\sqrt[3]{DWT}$" in § 157.19(b)(1) and replacing it with the term "$400\sqrt[3]{DWT}$".

8. By revising § 157.19(d) to read as follows:

§ 157.19 Cargo tank arrangement and size.

* * * * *

(d) If a line of piping that runs through a cargo tank in a position less than t_c from the vessel's side or less than v_s from the vessel's bottom as defined in Appendix A of this part, has a branch, that branch must have a stop valve—

(1) Within each cargo tank into which the branch opens; or

(2) Outside each tank into which the branch opens in a location that is

immediately adjacent to the point at which the branch enters the tank.

* * * * *

9. By revising § 157.25 to read as follows:

§ 157.25 Exceptions to applicability.

(a) Sections 157.29, 157.31, 157.37(a)(5), 157.37(a)(6) and 157.43 apply to foreign vessels when they discharge into the navigable waters of the United States.

(b) Sections 157.35, 157.37, except paragraphs (a)(5) and (a)(6), 157.39, 157.45, and 157.47 do not apply to foreign vessels.

§ 157.28 [Amended]

10. By striking the citation "157.08(a)(2)" in § 157.28 and replacing it with the citation "157.08(c)".

11. In § 157.37, by revising the introductory text of paragraph (a), (a)(5), the introductory text of paragraph (a)(6), paragraphs (a)(6)(iv), and (b), and by adding paragraphs (a)(7) and (c) through (e) to read as follows:

§ 157.37 Discharge of cargo residue.

(a) A tank vessel may not discharge an oily mixture into the sea from a cargo tank, slop tank, or cargo pump room bilge unless the vessel—

* * * * *

(5) Discharges—

(i) Through the above waterline discharge point described in § 157.11(b)(2);

(ii) In accordance with paragraph 5 of Appendix E to this part, if the vessel is an existing vessel with a part Flow System meeting that appendix; or

(iii) Below the waterline in accordance with paragraph (e) of this section;

(6) Has in operation a cargo monitor and associated equipment required by § 157.12 that is designed for use with the oily mixture being discharged, except that the system may be operated manually if—

(i) * * *

(ii) * * *

(iii) * * *

(iv) The system is operated manually only until the ballast voyage is completed; and

(7) Is outside the "Special Areas" defined in Regulation 1 (10) of Annex I to the MARPOL Protocol after October 2, 1983.

(b) A seagoing tank vessel of 150 gross tons or more that carries asphalt or other products whose physical properties inhibit effective product/water separation and monitoring must transfer all residues and tank washings from such cargoes to a reception facility.

(c) Each cargo monitor must be maintained and operated in accordance with its instructions manual.

(d) All discharge data recorded by a cargo monitor must be retained for at least three years. The data for the most recent year must be retained on board the vessel.

(e) Ballast containing an oily mixture may be discharged below the waterline at sea by gravity if—

(1) The ballast is not from a slop tank;

(2) Examination with an oil-water interface detector shows that oil-water separation has taken place; and

(3) The oil layer is high enough in the tank so that it will not be discharged.

12. By revising § 157.39(b) to read as follows:

§ 157.39 Machinery space bilges.

* * * * *

(b) Each tank vessel must comply with the requirements in Part 155 of this Chapter concerning the use of oil-water separating and monitoring equipment in discharging to the sea oily mixtures that are not combined with cargo residues.

13. By revising § 157.43, including the heading, to read as follows:

§ 157.43 Discharges of clean and segregated ballast: Seagoing tank vessels of 150 gross tons or more.

(a) Clean ballast may not be discharged overboard unless the discharge is verified as clean ballast through use of an approved cargo monitor or, if discharged before the required cargo monitor installation date, by visual examination of the ballast contents immediately before discharge. This paragraph applies to discharges of clean ballast—

(1) From dedicated clean ballast tanks; and

(2) Into the navigable waters of the United States from any other tank.

(b) Segregated ballast may not be discharged overboard unless a visual examination, or a test of the ballast contents with an oil/water interface detector, immediately before the discharge shows that there is no oil mixture in the ballast. Use of a cargo monitor is not required. This paragraph applies to discharges of segregated ballast—

(1) Into the navigable waters of the United States; and

(2) Below the waterline at sea from an existing vessel that does not have an above the waterline discharge point for segregated ballast.

(c) All discharges of clean ballast and segregated ballast must be through an above the waterline discharge point described in § 157.11(b)(2), except that:

(1) A vessel may discharge clean ballast and segregated ballast below the waterline when in port or at an offshore terminal.

(2) A vessel may discharge clean ballast and segregated ballast at sea by gravity below the waterline.

(3) An existing vessel that does not have above waterline discharge points for dedicated clean ballast tanks may discharge clean ballast from those tanks below the waterline at sea.

(4) An existing vessel that does not have above waterline discharge points for segregated ballast tanks may discharge segregated ballast below the waterline at sea.

(d) This section applies only to seagoing tank vessels of 150 gross tons or more.

14. By adding new Appendices E and F at the end of Part 157 to read as follows:

Appendix E

Source: Appendix 5 to Annex 3 of the International Maritime Organization's (IMO's) Marine Environment Protection Committee document MEPC XV/16. Paragraphs 1 and 2 are printed for information. Paragraphs 3, 4, and 5 are referenced in §§ 157.11 and 157.37.

Note.—Information in square brackets has been added by the Coast Guard for clarity.

Specifications for the Design, Installation and Operation of a Part Flow System for Control of Overboard Discharges

1. Purpose.

The purpose of these Specifications is to provide specific design criteria and installation and operational requirements for the part flow system referred to in Regulation 18(6)(e) of Annex I of the International Convention for the Prevention of Pollution from Ships, 1973 as modified by the Protocol of 1978 relating thereto.

2. Application.

2.1 Existing oil tankers may, in accordance with Regulation 18(6)(e) of Annex I of MARPOL 73/78, discharge dirty ballast water and oil contaminated water from cargo tank areas below the waterline, provided part of the flow is led through permanent piping to a readily accessible location on the upper deck or above where it may be visually observed during the discharge operation and provided that the arrangements comply with the Requirements established by the Administration and which shall at least contain all the provisions of these Specifications.

2.2 The part flow concept is based on the principle that the observation of a representative part flow of the overboard effluent is equivalent to observing the entire effluent stream. These specifications provide the details of the design installation, and operation of a part flow system.

3. General Provisions.

3.1 The part flow system shall be so fitted that it can effectively provide a representative sample of the overboard effluent for visual display under all normal operating conditions.

3.2 The part flow system is in many respects similar to the sampling system for an oil discharge monitoring and control system but shall have pumping and piping arrangements separate from such a system, or combined equivalent arrangements acceptable to the Administration.

3.3 The display of the part flow shall be arranged in a sheltered and readily accessible location on the upper deck or above, approved by the Administration (e.g. the entrance to the pump room). Regard should be given to effective communication between the location of the part flow display and the discharge control position.

3.4 Samples shall be taken from relevant sections of the overboard discharge piping and be passed to the display arrangement through a permanent piping system.

3.5 The part flow system shall include the following components:

.1 Sampling probes;

.2 Sample water piping system;

.3 Sample feed pump(s);

.4 Display arrangement;

.5 Sample discharge arrangement; and, subject to the diameter of the sample piping;

.6 Flushing arrangement.

3.6 The part flow system shall comply with the applicable safety requirements.

4. System Arrangement

4.1 Sampling points:

4.1.1 Sampling point locations:

.1 Sampling points shall be so located that relevant samples can be obtained of the effluent being discharged through outlets below the waterline which are being used for operational discharges.

.2 Sampling points shall as far as practicable be located in pipe sections where a turbulent flow is normally encountered.

.3 Sampling points shall as far as practicable be arranged in accessible locations in vertical sections of the discharge piping.

4.1.2 Sampling probes:

.1 Sampling probes shall be arranged to protude into the pipe a distance of about one-fourth of the pipe diameter.

.2 Sampling probes shall be arranged for easy withdrawal for cleaning.

.3 The part flow system shall have a stop valve fitted adjacent to each probe, except that where the probe is mounted in a cargo line, two stop valves shall be fitted in series, in the sample line.

.4 Sampling probes should be of corrosion resistant and oil resistant material, of adequate strength, properly jointed and supported.

.5 Sampling probes shall have a shape that is not prone to becoming clogged by particle contaminants and should not generate high hydrodynamic pressures at the sampling probe tip. Figure 1 is an example of one suitable shape of a sampling probe.

.6 Sampling probes shall have the same nominal bore as the sample piping.

4.2 Sample piping:

.1 The sample piping shall be arranged as straight as possible between the sampling points and the display arrangement. Sharp bends and pockets where settled oil or sediment may accumulate should be avoided.

.2 The sample piping shall be so arranged that sample water is conveyed to the display arrangement within 20 seconds. The flow velocity in the piping should not be less than 2 metres per second.

.3 The diameter of the piping shall not be less than 40 millimetres if no fixed flushing arrangement is provided and shall not be less than 25 millimetres if a pressurized flushing arrangement as detailed in paragraph 4.4 is installed.

.4 The sample piping should be of corrosion-resistant and oil-resistant material, of adequate strength, properly jointed and supported.

.5 Where several sampling points are installed the piping shall be connected to a valve chest at the suction side of the sample feed pump.

4.3 Sample feed pump:

.1 The sample feed pump capacity shall be suitable to allow the flow rate of the sample water to comply with 4.2.2.

4.4 Flushing arrangement:

.1 If the diameter of sample piping is less than 40 millimetres, a fixed connexion from a pressurized sea or fresh water piping system shall be installed to enable flushing of the sample piping system.

4.5 Display arrangement:

.1 The display arrangement shall consist of a display chamber provided with a sight glass. The chamber should be of a size that will allow a free fall stream of the sample water to be clearly visible over a length of at least 200 millimetres. The Administration may approve equivalent arrangements.

.2 The display arrangement shall incorporate valves and piping in order to allow a part of the sample water to bypass the display chamber to obtain a laminar flow for display in the chamber.

.3 The display arrangement shall be designed to be easily opened and cleaned.

.4 The internal of the display chamber shall be white except for the background wall which shall be so coloured in order to facilitate the observation of any change in the quality of the sample water.

.5 The lower part of the display chamber shall be shaped as a funnel for collection of the sample water.

.6 A test cock for taking a grab sample shall be provided in order that a sample of the water can be examined independent of that in the chamber.

.7 The display arrangement shall be adequately lighted to facilitate visual observation of the sample water.

4.6 Sample discharge arrangement:

.1 The sample water leaving the display chamber shall be routed to the sea or to a slop tank through piping of adequate diameter.

5. Operation.

5.1 When a discharge of dirty ballast water or other oil contaminated water from the cargo tank area is taking place through an outlet below the waterline, the part flow system shall provide sample water from the relevant discharge outlet at all times.

5.2 The sample water should be observed particularly during those phases of the discharge operation when the greatest possibility of oil contamination occurs. The discharge shall be stopped whenever any traces of oil are visible in the flow and when the oil content meter reading indicates oil content exceeds permissible limits.

5.3 On those systems that are fitted with flushing arrangement, the sample piping should be flushed after contamination has been observed and additionally it is recommended that the sample piping be flushed after each period of usage.

5.4 The ship's cargo and ballast handling manuals and, where applicable, those manuals required for crude oil washing systems or dedicated clean ballast tanks operation shall clearly describe the use of the part flow system in conjunction with the ballast discharge and the slop tank decanting procedures.

BILLING CODE 4910-14-M

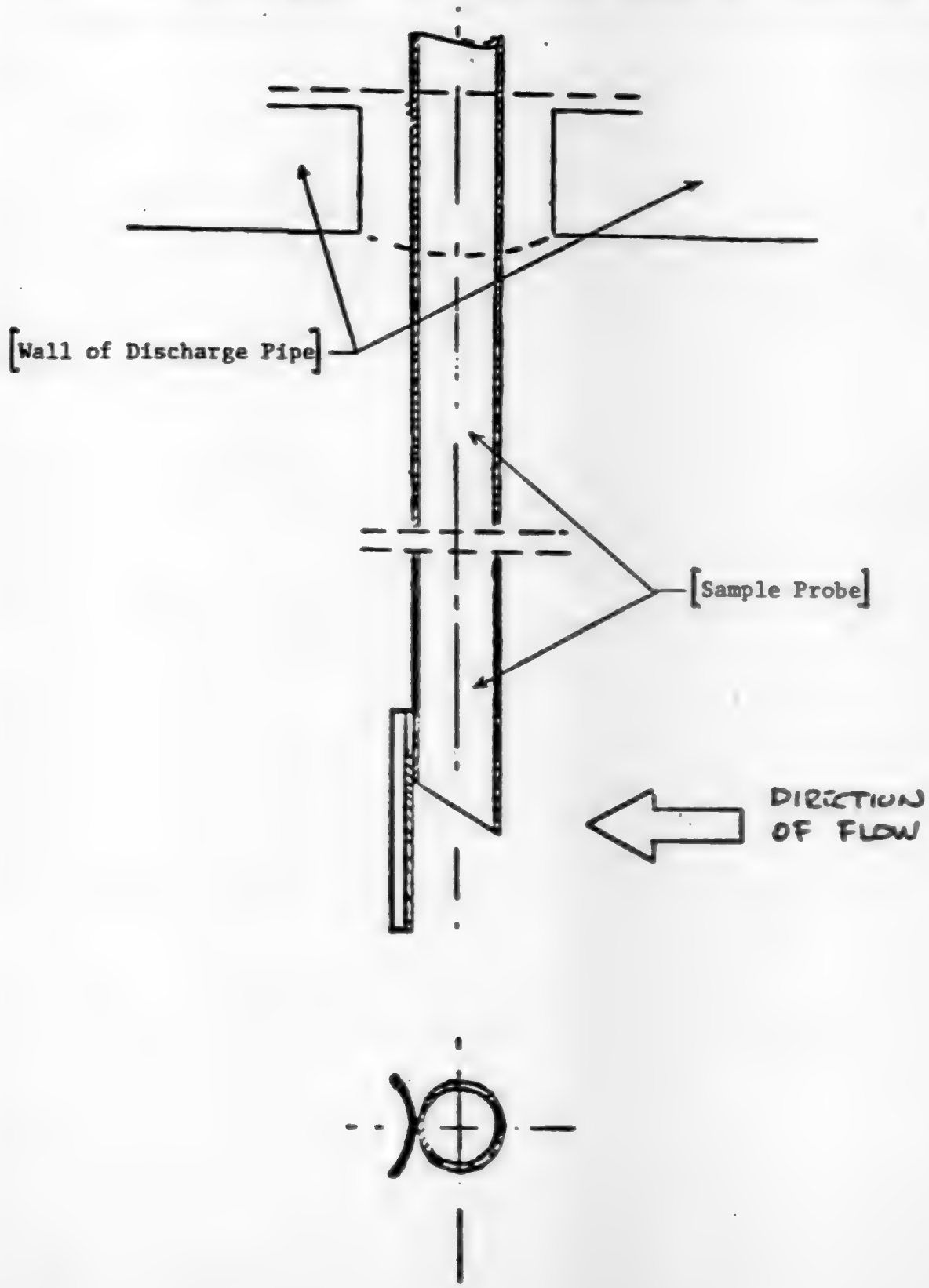


FIGURE 1

SAMPLING PROBE FOR A PART FLOW DISPLAY SYSTEM

BILLING CODE 4910-14-C

Appendix F

Source: International Maritime Organization (IMO) Resolution A.496(XII). Paragraphs 1, 2, 3, and 7 are printed for information. Paragraphs 4, 5, and 6 are referenced in §157.12.

Mandatory Language: Wherever the word "should" is used in this appendix, substitute the word "shall." Compliance with these provisions is mandatory.

Note: Numbered footnotes have been added by the Coast Guard for clarity. Footnotes in the original text have been inserted parenthetically in the text and are identified by an asterisk.

Guidelines and Specifications for Oil Discharge Monitoring and Control Systems for Tankers

1. *Purpose.*

1.1 The purpose of these Guidelines and Specifications is:

.1 To provide a uniformed interpretation of the requirements of Regulations 15(3)(a) of Annex I to the MARPOL 7378 Convention,[1] and

.2 To assist Administrations in determining appropriate design, construction and operational parameters for oil discharge monitoring and control systems when such systems are fitted in ships flying the flag of their State.

2. *Background.*

2.1 The requirements of Annex I to the MARPOL 73/78 Convention relating to oil content monitoring of oil tanker ballast and tank washing water are contained in Regulation 15(3)(a), which stipulates that oil tankers of 150 tons gross tonnage and above shall be equipped with an approved oil discharge monitoring and control system and that the system shall record continuously:

.1 The discharge of oil in litres per nautical mile and total quantity of oil discharge; or

.2 In lieu of the total quantity of oil discharged, the oil content of the effluent and rate of discharge.

In both cases the record shall be "identifiable as to time and date" and shall be kept for at least three years.

2.2 Regulation 15 also stipulates that the system shall come into operation when there is any discharge of effluent into the sea and shall be such as will ensure that any discharge of oily mixture is automatically stopped when the instaneous rate of discharge of oil exceeds that permitted by Regulation 9(1)(a). In existing oil tankers the stopping of the discharge may be performed manually and the rate of discharge may be estimated from the pump characteristics.

2.3 A test and performance specification for the basic oil content meter, indicating oil content in ppm, has been adopted by Resolution A.393(X).

2.4 Resolution A.445(XI) recognizes the need for early installation of oil discharge monitoring and control systems in order that operational experience can be gained. That resolution further invites the Marine Environmental Protection Committee (MEPC) to develop guidelines for the progressive installation of oil discharge monitoring and control systems for new and existing oil tankers.

3. *Application.*

3.1 An oil discharge monitoring and control system, approved by the Administration, shall be fitted in every oil tanker of 150 tons gross tonnage and above, and shall be fitted in:

.1 New (*as defined in Regulation 1(6))[2] tankers, on the date of entry into force of the Convention;

.2 Existing tankers, within three years of the date of entry into force of the Convention.

3.2 Existing tankers operating with a tank cleaning procedure using crude oil washing in accordance with Regulation 13(8) or with dedicated clean ballast tanks in accordance with Regulation 13(9) must fit an oil content meter not later than the first scheduled shipyard visit after entry into force of the Convention.

3.3 An incentive scheme to encourage the early installation of oil discharge monitoring and control systems (Resolution A.445(XI)) has been developed which allows different requirements depending on the date of installation of the systems and the size and building date of the oil tanker. The term used in the description of the various requirements are defined in section 4 below.

4. *Definitions.*

4.1 "Oil discharge monitoring and control system":

4.1.1 Oil discharge monitoring and control system is a general term covering any one of the units referred to in paragraphs 4.2, 4.3 and 4.4.

4.2 "Control unit":

4.2.1 A control unit is a system which receives automatic signals of:

.1 Oil content;
.2 Flow rate of discharge;
.3 Ship's speed;
.4 Date and time (G.M.T.); and
.5 Discharge valve position (open or closed).

4.2.2 The unit shall make automatic recordings of:

.1 Instantaneous rate of discharge of oil;
.2 Total quantity of oil discharged;
.3 Date and time (G.m.t.);
.4 Discharge valve position (open or closed);
.5 Alarm condition;
.6 Failure (i.e. no flow, fault etc.); and
.7 Override action (i.e. manual override, flushing, calibration etc.).

4.2.3 The unit shall be fitted with a starting interlock and discharge valve control capability. The unit shall meet the specifications contained in the relevant paragraphs of section 6.

4.3 "Computing unit":

4.3.1 A computing unit is a system which receives automatic signals of:

.1 Oil content;
.2 Date and time (G.m.t.);
.3 Discharge valve activation;
.4 Flow rate of discharge; and
.5 Ship's speed in knots.

The flow rate and ship's speed may be manually inserted into the unit.

4.3.2 The unit shall make automatic recordings of:

.1 Instantaneous rate of discharge of oil;
.2 Total quantity of oil discharged;
.3 Date and time (G.m.t.);
.4 Discharge valve position (open or closed);
.5 Alarm condition;
.6 Failure (i.e. no flow, fault etc.);
.7 Override action;
.8 Manual input (i.e. speed, flow); and
.9 Oil content if the flow rate has been manually inserted.

4.3.3 Unless explicitly stated in the Implementation Requirements (see section 5 below) the unit need not be fitted with a starting interlock or discharge valve control capability.

4.3.4 The unit shall meet the specifications contained in the relevant paragraphs of section 6.

4.4 "Calculating unit":

4.4.1 A calculating unit is a system which received automatic signals of:

.1 Oil content;
.2 Flow rate of discharge; and
.3 Ship's speed.

The flow rate an ship's speed may be manually inserted into the unit.

4.4.2 The unit shall make an automatic recording of:

.1 Oil content, unless the oil content meter is provided with a recorder.

4.4.3 The unit shall display:

.1 Instantaneous rate of discharge of oil;
.2 Total quantity of oil discharged, unless permitted to be calculated manually.

4.4.4 The time and date, instantaneous rate of discharge of oil and, the total quantity of oil discharged may be recorded manually.

4.4.5 The unit need not be fitted with a starting interlock nor discharge valve control capability.

4.4.6 The unit shall meet the specifications contained in the relevant paragraphs of section 6.

4.5 "Starting interlock" is an automatic device which prevents the initiation of the opening of the discharge valve before the monitoring and control system is fully operational when use of this system is required by the Convention.

4.6 The "discharge valve control" is an automatic device which initiates the sequence to stop the overboard discharge.

5. *Implementation Requirements.*

5.1 To assist in the implementation of Resolution A.445(XI), an implementation scheme has been developed by the MEPC which provides slightly different requirements for oil discharge monitoring and control systems depending on size and building date of the oil tanker. The scheme also allows for different requirements, depending on the installation date of the system.

5.2 Under the implementation scheme contained in paragraph 5.4 oil tankers of 150 tons gross tonnage and above have been arranged into five categories. Each category of oil tanker shall be fitted with an oil discharge monitoring and control system as set out below. The definitions given in section 4 should be consulted for a description of the different systems.

5.3 The implementation scheme set out in paragraph 5.4 give details, with reference to paragraph 4, of the minimum equipment required to comply with this scheme. Where

it is expedient to fit equipment of a higher category then required no objection shall be raised to this arrangement.

5.4 Implementation scheme:

5.4.1 Category I:

.1 An oil tanker of this category is of 4,000 tons deadweight and above and is a "new ship" as defined in Regulation 1(6) of Annex I of MARPOL 73/78 and the oil discharge monitoring and control system is installed on or after 1 June 1982.

.2 This category of ship shall be fitted with a control unit as defined under paragraph 4.2.

5.4.2 Category II:

.1 An oil tanker of this category is of 4,000 tons deadweight and above and is a "new ship" as defined in Regulation 1(6) of Annex I of MARPOL 73/78 and the oil discharge monitoring and control system is installed before 1 June 1982.

.2 This category of ship shall be fitted with a computing unit as defined under paragraph 4.3.

.3 The system shall also be fitted with a starting interlock and a discharge valve control.

5.4.3 Category III:

.1 An oil tanker of this category is of 150 tons gross tonnage and above, but less than 4,000 tons deadweight and is a "new ship" as defined in Regulation 1(6) of Annex I of MARPOL 73/78.

.2 This category of ship shall be fitted with a computing unit as defined under paragraph 4.3.

.3 No automatic devices are required to activate overboard discharge valve closure, neither is a starting interlock required.

5.4.4 Category IV(a):

.1 An oil tanker of this category is of 20,000 tons deadweight and above and is an "existing ship" as defined in Regulation 1(7) of Annex I of MARPOL 73/78 and the oil discharge monitoring and control system is installed between one year and three years after the date of entry into force of MARPOL 73/78.

.2 This category of ship shall be fitted with a computing unit as defined under paragraph 4.3.

.3 The system shall also be fitted with a starting interlock, but need not be fitted with a discharge valve control.

.4 For oil tankers within this category up to and including 100,000 tons deadweight, where the overboard discharge has local manual control or where control is provided by means of extension rods, Administrations may grant waivers or exemptions from the requirement to fit a starting interlock system.[3]

5.4.5 Category IV(b):

.1 An oil tanker of this category is of 20,000 tons deadweight and above and is an "existing ship" as defined in Regulation 1(7) of Annex I of MARPOL 73/78 and the oil discharge monitoring and control system is installed not later than one year after the date of entry into force of MARPOL 73/78.

.2 This category of ship shall be fitted with a computing unit as defined under paragraph 4.3.

.3 No automatic devices are required to activate overboard discharge valve closure, neither is a starting interlock required.

5.4.6 Category V(a):

.1 An oil tanker of this category is of 150 tons gross tonnage and above but less than 20,000 tons deadweight and is an "existing ship" as defined in Regulation 1(7) of Annex I of MARPOL 73/78 and the oil discharge monitoring and control system is installed between one year and three years after the entry into force of MARPOL 73/78.

.2 This category of ship shall be fitted with a calculating unit as defined under paragraph 4.4.

.3 No automatic devices are required to activate overboard discharge valve closure, neither is a starting interlock required.

5.4.7 Category V(b):

.1 An oil tanker of this category is of 150 tons gross tonnage and above but less than 20,000 tons deadweight and is an "existing ship" as defined in Regulation 1(7) of Annex I to MARPOL 73/78 and the oil discharge monitoring and control system is installed not later than one year after the entry into force of MARPOL 73/78.

.2 This category of ship shall be fitted with a calculating unit as defined under paragraph 4.4. However, the total quantity of oil discharged may be computed manually.

.3 No automatic devices are required to activate overboard discharge valve closure, neither is a starting interlock required.

5.5 Shown at the Appendix is a summary, in tabular form, of the implementation requirements.[4]

6. *Technical Specifications.*

6.1 Oil discharge monitoring and control system:

6.1.1 The oil discharge monitoring and control system shall be so fitted that it can effectively monitor and control the discharge of any effluent into the sea through those overboard discharge outlets permitted by Regulation 18(2) which in the opinion of the Administration are necessary for fulfill the operational requirements of the tanker.[5] The system should additional cover:

.1 The gravitational discharge of ballast water from cargo tanks; and

.2 The midship cargo manifold arrangement when used to meet the requirements of Regulation 18.

6.1.2 The discharge of dirty ballast water or oil contaminated water into the sea through outlets which are not controlled by the monitoring and control system is an infringement of the Convention.[6]

6.1.3 The system should function effectively, according to the criteria shown below, under all environmental conditions which vessels are normally assumed to encounter, and shall be designed and constructed to withstand the environmental conditions as specified in paragraph 6.1.6 of these Guidelines and Specifications:

.1 Except where manual operation of the system is permitted the system shall be so designed that no ballast discharge can take place unless the monitor is in the normal operating mode and the relevant sampling point has been connected to the monitor.

.2 Preferably the system should have a minimum number of discharge outlets and sampling points so arranged that discharge can take place via only one sampling point at a time.

.3 Where it is intended that more than one line is used for simultaneous discharge purposes, one oil content meter,[7] together with a flow meter, shall be installed per discharge line. These instruments shall be connected to a common processing unit.

.4 In order to avoid alarms due to short term high oil concentration signals (spikes) causing indications of high instantaneous rates of dischange, the short term high ppm signal may be suppressed for a maximum of 10 seconds by employing a delay relay. Alternatively, the instantaneous rate of discharge may be the average during the preceding 20 seconds or less as computed from instantaneous ppm values produced by the oil content meter with intervals of a maximum of 5 seconds.

6.1.4 The system should comprise the following:

.1 An oil content meter to measure the oil content of the effluent in parts per million. This meter shall be approved in accordance with the provisions contained in resolution A.393(X) [8] and certified to take into account the range of cargoes carried;

.2 A flow rate system to indicate the quantity of effluent being discharged in a unit of time (see also paragraphs 6.3.7 and 6.3.8);

.3 A vessel speed indicating device; to give the vessel's speed in knots (see also paragraphs 6.4.2 and 6.4.3);

.4 A sampling system to convey a representative sample of the effluent to the oil content meter;

.5 A control section which includes:

.5.1 A processor, which accepts signals of oil content, flow rate and the vessel's speed and converts them into litres per nautical mile and the total quantity of oil discharged (see also paragraph 6.5.3);

.5.2 A transmitting device to provide alarms and, where required, command signals to the discharge control arrangement;

.5.3 A recording device to provide, where required, a continuous record of the effluent discharged;

.5.4 A manual override system to be used in the event of failure of the monitoring and control system; and

5.5 Where required a transmitting device to provide signals to a starting interlock preventing the discharge of effluent before the oil content meter is fully operative.

6.1.5 The electrical components of the system installed in a hazardous area of a vessel shall meet the appropriate safety requirements (*As contained in the provisions of IEC Publication 92 or its equivalent.) [9] provided for these areas.

6.1.6 The control section of an oil discharge monitoring and control system shall be capable of operating satisfactorily under the following environmental conditions:

.1 *Ambient air temperature:* 0°C to 55°C in enclosed spaces; −25°C to 55°C on open decks

.2 *Vibration:* 2.0 Hz to 13.2 Hz, with displacement amplitude of ±1.0 mm 13.2 Hz to 80.0 Hz, with an acceleration amplitude of ±0.7g

.3 *Voltage variations for alternating current:* permanent variation of ±10%

.4 *Inclination:* inclination at angles of up to 22.5° in any place from the normal operational position

6.2 Sampling system:

6.2.1 Sampling points should be so located that relevant samples can be obtained from those outlets that are used for operational discharges in accordance with paragraph 6.1.1. the sampling probes located in the overboard discharge lines and the piping system connecting the sampling probes to the oil content meter should meet the following requirements:

.1 The piping and probes shall be of corrosion-resistant and oil-resistant material, of adequate strength, properly jointed and supported;

.2 The system shall have a stop valve fitted adjacent to each probe, except that where the probe is mounted in a cargo line, e.g. to the midship cargo manifold arrangement, two stop valves shall be fitted, in series, in the sample line;

.3 Sampling probes should be arranged for easy withdrawal and should as far as practicable be mounted at an accessible location in a vertical section of the discharge line. If a sampling point has to be made in a horizontal section then suitable arrangements should be made to obtain representative samples. Sampling probes should normally penetrate inside the discharge pipe to a distance of one quarter the diameter of that pipe;

.4 Means shall be provided for cleaning the probes and piping system by the provision of permanent clean water flushing arrangements or some other equivalent method, especially in the case of probes mounted in a cargo line. The design of the probes and piping should be such as to minimize their clogging by oil, oily residue and other matter;

.5 The velocity of the fluid in the piping shall be such that, taking into consideration the length of the piping, the overall response time should be as short as possible between an alteration in the mixture being pumped and the alteration in the meter reading and in any case not more than 40 seconds;

.6 The location of sampling probes in relation to any point of flow diversion to a slop tank shall be selected with regard to the need for sampling the oily water the recirculation mode;

.7 The arrangements for driving the sampling pump or any other pumps such as those provided for washing windows shall have regard to the safety requirements of the space in which the pump is located;

.8 The flushing arrangements should be such that where necessary they can be utilized for stabilizing the oil content meter and for correcting zero setting;

.9 Sample water when returned to the slop tank shall be allowed to free fall into the tank.

6.3 Flow rate indicating system:

6.3.1 A flow meter for measuring the rate of discharge should be installed in a vertical section of a discharge line or in any other section of discharge line as appropriate, so as to be always filled with the liquid.

6.3.2 A flow meter should employ an operating principle which is suitable for shipboard use and, where relevant, can be used in large diameter pipes.

6.3.3 A flow meter should be suitable for the full range of flow rates that may be encountered during normal operation. Alternatively, arrangements such as the use of two flow meters of different ranges or a restriction of the operational flow rate range may be necessary to meet this requirement.

6.3.4 The flow meter, as installed, should have an accuracy of ±15 per cent, or better, of the instantaneous rate throughout the operating range.

6.3.5 Any component part of the flow meter in contact with the effluent discharge including associated piping, if fitted, shall be of corrosion-resistant and oil-resistant material of adequate strength.

6.3.6 The design of the flow metering arrangements shall have regard to the safety requirements of the space in which such metering arrangements are located.

6.3.7 In ships fitted with a computing unit the flow rate may be determined from the pump characteristics and the data manually inserted into the unit.

6.3.8 In ships fitted with a calculating unit the flow rate may be manually inserted into the unit. The flow rate is to be estimated from the best available source e.g. pump characteristics, speed of pump(s), ullages or knowledge of pumping rates for particular tanks on the ship.

6.3.9 In oil tankers where the gravitational discharges of ballast water from the cargo tanks is an established practice, in accordance with Regulation 18(6)(d), means, such as calibration curves, shall be provided to estimate the flow rate of discharge.

6.4 Vessel's speed indicating system:

6.4.1 The automatic speed signal required for the control unit shall be obtained from the vessel's speed indicating device (*See "Recommendation on Performance Standards for Devices to Indicate Speed and Distance (Annex to Resolution A.478(XII)).) by means of a repeater signal. This information shall be readily available in a form that can be accepted by a processor. The speed information used may be either speed over the ground or speed through the water depending upon the speed measuring equipment installed on board.

6.4.2 In ships where a computing unit is required the vessel's speed may be manually inserted into the unit. This data shall be obtained from the ship's log or from an indicating device which transmits signals which need not be in a form which can be accepted by a computer system.

6.4.3 The vessel's speed on ships required to install a calculating unit may be obtained from the ship's log or from the navigation charts and shall be estimated from the most reliable source.

6.5 Processor and transmitting device:

6.5.1 The processor should receive, at time intervals not exceeding 5 seconds, signals from the oil content meter, the flow rate measuring system, and the vessel's speed indicator and automatically compute the following:

.1 Instantaneous rate of discharge of oil in litres per nautical mile; and

.2 Total quantity of oil discharged per voyage in cubic meters or litres.

6.5.2 When the calculations of the processor exceed the limits imposed by Regulation 9(1) (iv) and (v) [10] the transmitting device will provide alarms and, in new ships, it will also provide command signals to the discharge valve control which will cause the discharge of effluent into the sea to stop.

6.5.3 In existing ships fitted with a calculating unit where the unit is installed early, the total quantity of oil discharged may be computed manually.

6.6 Recording devices:

6.6.1 Control Unit:

.1 The recording device for a control unit should include a digital printer or an analogue recorder or the combination of both or a recorded visible display. The record shall be identifiable as to the time and date and shall be kept for at least three years. [11]

.2 The data to be automatically recorded shall include at least the following items:

.2.1 Instantaneous rate of discharge of oil (litres per nautical mile);

.2.2 The total quantity of oil discharged (litres);

.2.3 Time and date (G.M.T.);

.2.4 The discharge valve position (open or closed);

.2.5 Alarm condition;

.2.6 Failure (i.e. no flow, fault, etc.); and

.2.7 Override action (i.e. manual override, flushing, calibrating, etc.).

6.6.2 Computing Unit:

.1 The recording device for a computing unit should include a digital printer or an analogue recorder or the combination of both or a recorded visible display. The record shall be identifiable as to the time and date and shall be kept for at least three years. [11] Manual input information should be identifiable on the record.

.2 The data to be automatically recorded shall include at least the following items:

.2.1 Instantaneous rate of discharge of oil (litres per nautical mile);

.2.2 The total quantity of oil discharged (litres);

.2.3 Time and date (G.M.T.);

.2.4 Manual input information;

.2.5 The valve position (open or closed);

.2.6 Alarm condition;

.2.7 Failure (i.e. no flow, fault, etc.);

.2.8 Override action (i.e. manual override, flushing, calibration, etc.); and

.2.9 Oil content if flow rated is manually inserted.

6.6.3 Calculating unit:

.1 An automatic recording device is not required for a calculating unit, but, where fitted, the recording device should include a digital printer or an analogue recorder or the combination of both or a recorded acceptable visible display. The record shall be identifiable as to time and date, which may be entered manually, and shall be kept for at least three years. [11]

.2 The data to be automatically recorded on the above-mentioned recording device shall include at least the following item:

Oil content in ppm, unless the oil content meter is provided with a recorder.

6.6.4 Recording for digital printers:

Occasions of recordings. Data required in paragraphs 6.6.1.2, 6.6.2.2, and 6.6.3.2 of these Specifications shall be printed out with the following minimum frequency:

.1 When the discharge is started;

.2 When the discharge is stopped;
.3 At intervals of not more than 10 minutes;
.4 When an alarm condition is developed;
.5 When normal conditions are restored;
.6 At the change of valve order or valve position;
.7 When introducing input data;
.8 Whenever the computed rate of discharge varies by 10 litres/nautical mile, unless an equivalent trend-indicating arrangement is provided;
.9 When selecting zero setting or calibration mode; and
.10 On manual command.

6.6.5 Recording for analogue recorders:

Data required in paragraphs 6.6.1.2, 6.6.2.2 and 6.6.3.2 of these Specifications should be continuously recorded in such a way as would satisfy the following requirements:

.1 The chart speed should be indicated. If the speed is controllable, the recorder shall be provided with a marker to identify the speed of the chart paper; and

.2 Means shall be provided to enable the chart paper to be interpreted as to time, date and readings after it has been removed from the recorder.

6.7 Data display:

6.7.1 The current data shall be visibly displayed.

6.7.2 The recording device and the data display should be located in a position easily accessible to the person in charge of the operation of discharging the effluent overboard.

6.8 Manually operated alternatives:

6.8.1 The alternative means and information for use in case of any one failure in the system should be as follows:

.1 Oil content meter: visual observation of the surface of the water; [12]

.2 Sampling pump: visual observation of the surface of the water;
.3 Flow meter: pump characteristics, etc.;
.4 Vessel's speed indicating device: main engine R.P.M., etc.;
.5 Processor: manual calculation and manual recording; and
.6 Discharge valve control: manual operation of pumps and valves.

6.9 Alarm conditions resulting in the stopping of discharge:

6.9.1 Audio-visual alarms shall be initiated for any of the following conditions:

.1 Whenever the instantaneous rate of discharge of oil exceeds 60 litres per nautical mile;

.2 When the total quantity of oil discharged reaches the allowable limit prescribed by the provisions of the relevant regulations;

.3 Failure of the system's operation, such as:

.3.1 Power failure;
.3.2 Loss of sample;
.3.3 Failure of the measuring or recording system; or
.3.4 When the input signal of the sensors exceeds the effective capacity of the system.

6.10 Location of alarm indicator:

6.10.1 The alarm indicator of the system shall be installed in the cargo control room where provided and/or other places where it will attract immediate attention and action.

7. Equipment, Operation and Maintenance Manuals.

7.1 Adminstrations shall ensure that approved equipment, operational and/or maintenance manuals for the various items comprising the oil discharge monitoring and control systems are on board the vessel. These manuals shall cover the oil content meter, control, computing or calculating unit, flow meter and ship's speed indicator, where required.

Footnotes

(Added by the U.S. Coast Guard for clarity.)

[1] The "MARPOL 73/78 Convention" is referred to as the MARPOL Protocol" in 33 CFR, Part 157.

[2] Also defined in § 157.03(i).

[3] The Coast Guard has determined that a starting interlock system is not required on Category IV(a) vessels that are 100,000 DWT or less.

[4] The Coast Guard is not publishing this Appendix.

[5] Section 157.11(b)(2) requires at least one discharge point.

[6] Section 157.37(a) requires all overboard discharges of oily mixtures to be monitored.

[7] The "oil content meter" is referred to as a "cargo monitor" in 33 CFR Part 157 and 46 CFR Subpart 162.050.

[8] Approval under 46 CFR Subpart 162.050 constitutes compliance with this resolution. Section 157.12(b) requires that monitors installed on U.S. vessels must be approved under 46 CFR Subpart 162.050.

[9] U.S. vessels are required to meet 46 CFR Parts 110–113, Electrical Engineering Regulations, which also constitutes compliance with IEC Publication 92.

[10] Sections 157.37(a)(3) and (4) impose the same limits. These limits relate to instantaneous rate and total quantity of oil discharged.

[11] Section 157.37(d) also requires that discharge data be kept for three years.

[12] Section 157.37(a)(6) also requires visual observation of the discharge if the system fails.

[FR Doc. 82-34219 Filed 12-17-82; 8:45 am]
BILLING CODE 4910-14-M

federal register

Monday
December 20, 1982

Part III

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

Surface Coal Mining and Reclamation; Permanent Program; Federal Lands; State-Federal Cooperative Agreements; New Mexico

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 931

Surface Coal Mining and Reclamation; Permanent Program; Federal Lands; State-Federal Cooperative Agreements; New Mexico

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule.

SUMMARY: This final rule completes the administrative process for the adoption of a cooperative agreement between the Department of the Interior and the State of New Mexico for the regulation of surface coal mining and reclamation operations on Federal lands in New Mexico under the permanent regulatory program. Such a cooperative agreement is provided for by section 523(c) of the Surface Mining Control and Reclamation Act of 1977.

EFFECTIVE DATE: December 20, 1982.

ADDRESSES: Copies of the request by the State of New Mexico for the permanent program cooperative agreement, related information required under 30 CFR Part 745, and the complete administrative record of this rulemaking are available for public inspection Monday through Friday, 8:30 a.m. to 5:00 p.m., excluding holidays, at the following address: Administrative Record R&I–06, Office of Surface Mining, Room 5315, 1100 L Street, NW., Washington, D.C. 20005.

FOR FURTHER INFORMATION CONTACT: Andrew F. DeVito, Office of Surface Mining, South Interior Building, 1951 Constitution Avenue, NW., Washington, D.C. 20240, Phone: (202) 343–5866.

SUPPLEMENTARY INFORMATION: This preamble is divided into five parts in order to assist understanding of the process by which the Secretary decided to enter into a permanent program cooperative agreement with the Governor of the State of New Mexico. The notice is divided as follows:

I. Background.
II. Director's findings.
III. Approval of the cooperative agreement.
IV. Summary of the cooperative agreement and disposition of comments.
V. Procedural matters.

I. Background

A. The State of New Mexico's request

The purpose of this final rulemaking is to adopt a permanent program cooperative agreement between the Department of the Interior and the State of New Mexico which will give New Mexico primacy in the administration of its approved permanent regulatory program on Federal lands in New Mexico. The State of New Mexico requested the cooperative agreement on February 9, 1981. Section 523(c) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act), 30 U.S.C. 1201 *et seq.*, allows the State and the Secretary to enter into a permanent program cooperative agreement if the State has, as New Mexico does, an approved State program for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands. See 45 FR 86459, December 31, 1980.

Permanent program cooperative agreements are authorized by the first sentence of section 523(c) of the Act which provides that "[a]ny State *with an approved State program* may elect to enter into a cooperative agreement with the Secretary to provide for State regulation of surface coal mining and reclamation operations on Federal lands within the State, provided the Secretary determines in writing that such State has the necessary personnel and funding to fully implement such a cooperative agreement in accordance with the provisions of this Act." 30 U.S.C. 1273(c) (emphasis added). The procedures for States to elect to enter into permanent program cooperative agreements are found in 30 CFR Part 745.

The Secretary's regulations at 30 CFR 745.11(b) (1) through (8) require that certain information be submitted with a request for a permanent program cooperative agreement, if the information has not previously been submitted in the State program. The State of New Mexico submitted part of the supporting information required by 30 CFR 745.11(b) on May 13, 1981. The rest of the information relating to the budget, staffing, organization and duties of the State regulatory authority (the New Mexico Mining and Minerals Division (Mining and Minerals)), was listed as appearing in New Mexico's Proposed Permanent Coal Program Text. See 30 CFR 745.11(b) (1), (2), (3), (4), (5) and (6). In addition the State submitted a written certification from the General Counsel of the Mining and Minerals Division that no State statutory, regulatory or other legal constraint exists which would limit the capability of the State of New Mexico to fully comply with section 523(c) of the Act, as implemented by 30 CFR 745. See 30 CFR 745.11(b)(8).

B. Federal Rulemaking

On June 1, 1982, the Office of Surface Mining (OSM) published a notice of proposed rulemaking and public hearing (47 FR 23898) on the proposed cooperative agreement. A public hearing was held on July 20, 1982, in Santa Fe, New Mexico. Final revisions of the text based on comments received at the public hearing and on written comments received during the public comment period are discussed in Part IV, Summary of the Cooperative Agreement and Disposition of Comments.

II. Director's Findings

Under 30 CFR 745.11(f), the Director, OSM, must make the following three findings before recommending to the Secretary that the Department of the Interior enter into a cooperative agreement with a State.

Finding No. 1: The Director finds that the State of New Mexico has an approved State program which was conditionally approved by the Deputy Assistant Secretary for Energy and Minerals, on December 24, 1980. It became effective upon publication in the **Federal Register** on December 31, 1980, 45 FR 86459.

Finding No. 2: The Director finds that the State regulatory authority has sufficient budget, equipment and personnel to enforce fully the State's statutes and regulations for the regulation of surface coal mining and reclamation operations on Federal lands in New Mexico. The Director makes this finding based on information obtained in the processing of grants to the State of New Mexico.

Finding No. 3: The Director finds that the State of New Mexico has the legal authority to administer the cooperative agreement. This finding was made based on written certification from the General Counsel of the Mining and Minerals Division and conditional approval of the State's permanent regulatory program.

These findings were reported to the Secretary in a decision memorandum dated November 24, 1982, in which the Director, OSM, recommended approval of the cooperative agreement.

III. Approval of the Cooperative Agreement

Based upon the conditional approval of the New Mexico State program, the administrative record of this rulemaking, including written and oral comments and the public hearing, and the findings and recommendations of the Director, OSM, the Secretary decided to approve a permanent program cooperative agreement for the State of New Mexico. The cooperative agreement was signed on November 24, 1982, by the Secretary of the Interior and on December 7, 1982, by the Governor of the State of New Mexico. By its terms, the agreement

becomes effective upon publication as final rulemaking in the **Federal Register**.

IV. Summary of the Agreement and Disposition of Comments

Each article of the cooperative agreement is summarized below, along with the Department's disposition of any comments received. Unless indicated otherwise, the text is the same as that in the proposed rule except for minor editorial changes.

Article I: Introduction and Purpose

This Article sets forth the legal authority for the cooperative agreement which is contained in section 523 of the Act. The purposes of the cooperative agreement are also listed. No comments were received on this Article.

Article II: Effective Date

This Article provides that the cooperative agreement is effective following signing by the Secretary and the Governor, and upon publication as a final rule in the **Federal Register**. It will remain in effect until terminated as provided in Article XII. No comments were received concerning this Article.

In processing cooperative agreements with other States, OSM has been asked to clarify how pending permit applications will be processed on the date the cooperative agreement becomes effective. OSM has considered the matter and has concluded that the best solution is to have authority to process permit applications pass to the State on the effective date of the cooperative agreement. OSM will continue to assist in the processing of applications filed prior to the effective date of the cooperative agreement. This will allow for an orderly transition, assuring efficiency and economy in processing applications. The level of assistance necessary will be determined by the State and OSM.

Article III: Scope

Article III provides that the laws, regulations, terms and conditions of New Mexico's State program are applicable to Federal lands in New Mexico except as otherwise stated in the cooperative agreement, the Act, 30 CFR 745.13, or other applicable Federal laws. The effect of this provision is to adopt the New Mexico State program as substantive Federal law on Federal lands, enforceable by the State and the United States. This provision also specifically implements section 523(a) of the Act, which provides that "[w]here Federal lands in a State with an approved State program are involved, the Federal Lands Program shall, at a minimum, include the requirements of the approved State program." 30 U.S.C. 1273(a). Expressly excluded from the scope of the cooperative agreement are the authorities and responsibilities reserved for the Secretary pursuant to the Act and 30 CFR 745.13.

No comments were received concerning this Article. However, clarifying language has been added to Article III, paragraph 4, which specifies that appealable decisions and orders issued by Mining and Minerals are to be appealed to the State reviewing authority, which is the Coal Surface Mining Commission. Decisions and orders issued by non-secretarial officials of the Department are still appealable to the Department's Office of Hearing and Appeals.

Article IV: Responsibilities

This Article specifies that the responsible agency in the State of New Mexico for purposes of administering this cooperative agreement is the Mining and Minerals Division (Mining and Minerals), which has and must continue to have authority under State law to carry out this cooperative agreement.

This Article obligates the State to have the personnel necessary to implement the provisions of the cooperative agreement. It also specifies that the State will assume primary responsibility for the review and analysis of permit applications and applications for permit revisions or renewals. The term "permit application package," used throughout the cooperative agreement beginning in Article IV, is a new term. It constitutes the proposal to conduct surface coal mining and reclamation operations on Federal lands, including an application for a permit, permit revision or permit renewal, all the information required by the Act, 30 CFR Chapter VII, Subchapter D, the applicable State program, this cooperative agreement and all other applicable laws and regulations, including, with respect to leased Federal coal, the Mineral Leasing Act of 1920 (MLA), which is implemented by the 30 CFR 211 regulations of the Minerals Management Service (MMS). See the proposed Federal lands regulations published on June 9, 1982, for further explanation. 47 FR 25092.

At the public hearing held on July 20, 1982, clarification was requested concerning the sentence in paragraph 6 of this Article which states that "the State shall have the necessary personnel to fully implement this Agreement in accordance with the provisions of the Federal Act and the Program." This sentence was added to the cooperative agreement in order to comply with section 523(c) of the Federal Act. Section 523(c) requires that the Secretary determine in writing that the State has the necessary personnel and funding to fully implement a cooperative agreement in accordance with the provisions of the Act before entering into a cooperative agreement with the State. By signing the cooperative agreement the Secretary is agreeing to fund the State for the work that is contemplated by the cooperative agreement. This constitutes knowledge by the Secretary of sufficient funding and personnel as required by section 523 of the Act.

Article V: Funding

Article V provides that the State may be reimbursed pursuant to section 705(c) of the Act if the cooperative agreement has been implemented and if necessary funds have been appropriated to OSM by Congress. Section 705(c) of the Act provides that a State with a cooperative agreement may receive an increase in its annual grant for the development, administration and enforcement of a State program on Federal lands by an amount which the Secretary determines is approximately equal to the amount the Federal government would have expended to regulate surface coal mining and reclamation operations on the Federal lands within the State. See 30 U.S.C. 1295(c). The reference in section 705(c) to section 523(d) is obviously a typographical error. The correct reference is section 523(c). The regulations implementing section 705(c) appear at 30 CFR 735.16 through 735.26. If adequate funds have not been appropriated, OSM and Mining and Minerals will meet to decide on appropriate measures to insure that mining operations are regulated in accordance with the State program. Funds provided to the State are to be adjusted in accordance with Office of Management and Budget (OMB) Circular A–102 (Uniform Requirements For Assistance To State And Local Governments), Attachment E (Program Income). No comments were received on this Article.

Article VI: Reports, Fees and Equipment

The Article deals with reports, permit application fees, and the availability of equipment and laboratories. The proposed provisions are short and self-explanatory.

One comment was received concerning the submission of reports. The commenter suggested that where Article VI, paragraph 8, requires that Mining and Minerals make annual reports to OSM concerning its

compliance with the terms of the cooperative agreement, the phrase, " * * * and the surface managing agency" be added. Mining and Minerals would then be required to submit the annual report to the surface managing agency in addition to submitting it to OSM. OSM declined to adopt the suggestion because it would result in Mining and Minerals having to send duplicate reports to Federal agencies. OSM will, instead, send a copy of the report to the surface managing agency as appropriate.

Article VII: Permit Application Package

Under this Article, an operator on Federal lands will be required by Mining and Minerals and the Director of OSM to submit a permit application package or application for a permit revision or renewal in an appropriate number of copies to Mining and Minerals. The permit application package or application for a permit revision or renewal is to be in the form required by Mining and Minerals and contain any supplemental information which may be required by the Department of the Interior. At a minimum, the permit application package or application for a permit revision or renewal must include the information necessary for Mining and Minerals and the Department to make a determination of compliance with the State program, applicable terms and conditions of the Federal coal lease, if any, and applicable requirements of other Federal laws and regulations.

Article VII also describes the procedures for the cooperative review and analysis of permit applications or applications for permit revisions or renewals on Federal land. The cooperative agreement identifies Mining and Minerals as having the primary responsibility for the analysis and review of the permit application or application for a permit revision or renewal. OSM will assist the State in carrying out the State's analysis and review. However, this does not preclude an independent determination by the Department of the Interior with respect to those statutory requirements and decisions which the Secretary cannot delegate to the State. In assuming primary responsibility for review and analysis of a permit application or application for a permit revision or renewal, Mining and Minerals will also be the primary point of contact for operators on behalf of both the State and the Department. All joint State-Federal determinations are to be channeled to the operator through Mining and Minerals. However, the Secretary may contact the operator independently of the State to carry out his statutory responsibilities. Copies of any correspondence with the applicant as well as any information OSM receives from an applicant will be provided to Mining and Minerals.

In addition, this Article refers to Appendix B, which appears at the end of the rule. The exact procedures to be followed in processing the permit application package or application for a permit revision or renewal are listed in Appendix B. Because these procedures are an extension of the review provisions of Article VII, they are summarized here with the provisions of Article VII. Comments received on Appendix B will also be discussed here.

A. Mining and Minerals will be the primary point of contact and will coordinate communications with the applicant. Mining and Minerals will receive the permit application package or the application for a permit revision or renewal in an appropriate number of copies. Mining and Minerals will be required to transmit an appropriate number of copies to the Federal land management agency (FLMA), OSM, MMS and other appropriate Federal agencies specified by the Secretary for their review. It should be noted that this cooperative agreement cannot and does not purport to bind Federal agencies outside of the Department of the Interior such as the Forest Service. The Department is presently preparing a memorandum of understanding with the Forest Service which will deal with review procedures under the cooperative agreement. Mining and Minerals will coordinate with all appropriate Federal agencies to ensure timely funneling of analyses and conclusions.

Mining and Minerals will determine the completeness of the permit application package or application for a permit revision or renewal, coordinate the technical review of the application by Federal agencies to ensure timely funneling of analyses and conclusions, help OSM develop the decision document, and issue the permit, permit revision, or permit renewal for surface coal mining and reclamation operations. The Secretary will review and approve the elements of the permit application package relating to the MLA and other requirements of the permit application package, such as cultural resources and post-mining land use, which are required by Federal law and the responsibility for which cannot be delegated to the State. Even though the permit is issued by the State, mining may not commence on Federal lands until the Secretary approves the mining plan pursuant to the requirements of the MLA and complies with the requirements of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, *et seq.*, and other applicable Federal laws, responsibility for which cannot be delegated to the State. Because of the timing requirements of NEPA, it is possible that the permit will be issued before the mining plan is approved by the Secretary.

B. OSM, at the request of Mining and Minerals, will assist as possible in the review of the permit application package or application for a permit revision or renewal and provide technical assistance to Mining and Minerals. OSM also will prepare the decision document and incorporate NEPA requirements when necessary. Responsibility for compliance with NEPA remains with OSM.

C. MMS will assist Mining and Minerals as arranged and will be the point of contact with the applicant on issues concerned exclusively with its regulations codified at 30 CFR Part 211.

D. The FLMA will assist Mining and Minerals as arranged and will determine whether the permit application or application for a permit revision or renewal provides for post-mining land use consistent with FLMA's land use plan and whether it provides sufficient protection for resources not covered by the Federal coal lease.

E. Other agencies specified by the Secretary will review the permit application package or application for a permit revision or renewal in regard to their responsibilities under Federal law.

As originally proposed in the **Federal Register**, Article VII referred to permit application packages and applications for permit revisions. OSM has modified this Article to include permit renewals. This modification was made as a logical addition to permit application packages or applications for a permit revision because section 506(d) of the Act and 30 CFR 741.23 specify that a validly issued permit shall carry with it the right of successive renewal upon expiration.

OSM has also modified Article VII to indicate that OSM, with the assistance of Mining and Minerals, will prepare the decision document for the Secretary. As originally proposed, Mining and Minerals was to have prepared a draft decision document, circulated it to appropriate Federal agencies for comment, and then prepared the final decision document after reviewing any comments received. The procedure was modified so that it is in accord with OSM policy as enunciated in the proposed revisions to the Federal lands regulations published on June 9, 1982 (47 FR 25092). This will result in a uniform

system for decision document preparation in all States with cooperative agreements. OSM preparation of the decision document will essentially consist of incorporating the NEPA compliance document with documents prepared by other Federal agencies and by Mining and Minerals.

At the public hearing held on June 20, 1982, OSM was asked to clarify actual responsibility for mining plan approval, permit approval and the relationship between the two. As was explained above, the State will approve the permit while the Secretary (whose authority for mining plan approval is delegated to the Assistant Secretary for Energy and Minerals) will approve the mining plan. The permit and the mining plan are distinct although they are based on some common elements. The approval of the permit by Mining and Minerals is based on Mining and Minerals' review of those elements of the permit application package required by the approved State program. The approval of the mining plan will be based on the decision document prepared by OSM with the assistance of Mining and Minerals. The decision document will include a technical analysis of the proposed mining operation, prepared by the State, and all other written findings required by the approved State program; a NEPA compliance document; concurrences from appropriate Federal agencies; and a brief, but comprehensive discussion of the need for the proposal and alternatives to the proposal. Under the cooperative agreement, it is no longer necessary for OSM to concur in approval of the permit as is generally required by the Federal lands regulations. Since the cooperative agreement was promulgated in accordance with the Administrative Procedure Act, 5 U.S.C. 551 *et seq.*, it supersedes in New Mexico the Federal lands regulations in 30 CFR 740–745 to the extent that those regulations are inconsistent. See 47 FR 25091, June 9, 1982, for proposed revisions of 30 CFR Parts 740–745.

At the public hearing, one commenter pointed out that, as proposed, the cooperative agreement specifies that OSM will assist Mining and Mineral in the review of the permit application package or application for permit revision or renewal "at the request" of Mining and Minerals. The commenter asked how OSM and the Department could perform their responsibilities under the cooperative agreement if Mining and Minerals fails to request assistance in the review.

The provision in question pertains to the review of the permit application package or application for permit revision or renewal. This review is the responsibility of Mining and Minerals and it is the responsibility of Mining and Minerals to request any assistance it may require. This provision, however, cannot and does not purport to prohibit OSM or the Department from reviewing the permit application package or application for a permit revision or renewal as necessary to fulfill their responsibilities under the cooperative agreement.

One commenter felt that the provisions allowing Mining and Minerals to determine the completeness of the permit application package or application for a permit revision or renewal, coordinate the technical review of the application by Federal agencies, help OSM develop the decision document, and issue the permit, permit revision, or permit renewal for surface coal mining and reclamation operations combined with the provisions to avoid duplication resulted in so much authority being delegated to the State that the provision of section 523(c) of the Act, reserving to the Secretary the authority to approve mining plans, had been violated. The Department disagrees. The cooperative agreement clearly reserves to the Secretary the review and approval authority over mining plans. Much of the data needed for the mining plan will be the same as required in the permit application and to that extent the Department will avoid duplicative efforts. If additional information is needed the Department will arrange with the appropriate State or Federal agency such as the MMS, to obtain the information.

Another commenter questioned whether Congress actually intended to delegate to the States authority to approve surface coal mining permits on Federal lands and suggested that Congress perhaps intended to delegate authority for other types of permits instead, such as exploration permits.

Both the Act and its legislative history clearly indicate that Congress intended that the authority to approve surface coal mining permits for Federal lands could be delegated in a cooperative agreement to the States with approved State programs.

Article VIII: Inspections

This Article specifies that Mining and Minerals must conduct inspections of Federal lands and prepare and file inspection reports in accordance with its approved State program.

Administrative provisions of this Article include designation of Mining and Minerals as the primary point of contact with the operator and a provisions for reasonable notice to the State prior to a Federal inspection.

The right of Federal and State agencies to conduct inspections for purposes outside the scope of the proposed cooperative agreement is not affected. In particular, this Article preserves the Department's obligation and authority to conduct inspections pursuant to 30 CFR Parts 743 and 842. The Article also expressly reserves the Secretary's right to conduct inspections without prior notice to the State to carry out his responsibilities under the Federal Act.

On general comment was received at the public hearing concerning Article VIII. The commenter stated that the Article appeared unwieldy, although he approved of the fact that OSM retains the right to make inspections when necessary.

OSM has reviewed the language in Article VIII and believes it is as simple as possible given the need to retain certain authority for the Secretary, while delegating the primary responsibility for inspections on Federal lands to Mining and Minerals.

One comment was received concerning the provision requiring Mining and Minerals to file inspection reports with OSM. The commenter suggested that Mining and Minerals also file inspection reports with the surface managing agency.

OSM declined to adopt the suggestion because it would result in Mining and Minerals having to send duplicate reports to Federal agencies. OSM will, instead, send copies of reports to the surface managing agency as appropriate.

Article IX: Enforcement

Article IX sets forth the enforcement obligations and authorities of OSM and Mining and Minerals. Mining and Minerals has primary enforcement authority on Federal lands in accordance with the requirements of the cooperative agreement and the approved State program.

This Article also specifies that the parties will consult prior to revoking or suspending a permit. The Secretary's obligation to enforce violations of Federal law other than the Act is preserved, as is OSM's authority to take enforcement action to comply with 30 CFR Parts 843 and 845. In taking such action, OSM will apply the performance standards contained in the approved State program, but will use the Federal procedures and penalty system. Federal procedures must be used because enforcement by OSM would be a Federal action and the Act provides for

specific procedures to be followed when OSM is the enforcement agency. These procedures must be followed to ensure that the rights of all parties are protected during the Federal enforcement proceedings.

One comment was received concerning the provision requiring Mining and Minerals to notify OSM of violations. The commenter suggested that Mining and Minerals also notify the surface managing agency. OSM declined to adopt the suggestion because it would result in duplicate reporting to Federal agencies. OSM will notify the surface managing agency of any violations as appropriate.

Article X: Bonds

Under this Article, Mining and Minerals will require each operator to submit a single performance bond to meet Federal and State requirements. The bond will be payable to the State and, if required by Federal regulations in Subchapter D, the United States. Mining and Minerals is required to obtain the consent of the Department prior to releasing or forfeiting an operator's performance bond. In addition to a performance bond, an operator still will be required to furnish a lease bond and a lessee protection bond. Bonding requirements of the MLA and other Federal laws appear at 30 CFR Part 742 and 43 CFR Subpart 3474.

No comments were received concerning this Article. However, OSM has modified the sentence in paragraph 23 which states that if the cooperative agreement is terminated, the bonds will revert to being payable only to the United States. OSM has added the phrase "to the extent that Federal lands are involved." The sentence now reads as follows: "If the cooperative agreement is terminated, the bonds will revert to being payable only to the United States to the extent that Federal lands are involved." This will insure that there is bond coverage for both State and private lands as well as Federal lands if the cooperative agreement should terminate and a single performance bond has been filed for an entire operation covering both Federal and non-Federal lands.

Article XI: Designation of Lands as Unsuitable

This Article describes the roles of Mining and Minerals and OSM in the review and processing of petitions to designate lands as unsuitable for surface coal mining operations on adjacent Federal and non-Federal lands. The authority to designate Federal lands as unsuitable is reserved to the Secretary or his designated representative. See 30 CFR 745.13. Petitions for designation on Federal lands must be filed in accordance with 30 CFR Part 769.

At the public hearing, a commenter asked if the Secretary actually makes the determinations on whether or not to designate Federal lands as unsuitable for surface coal mining pursuant to petition.

Actual determinations are made by the Director of OSM unless the Secretary specifically chooses to assume jurisdiction. Both the Act and the legislative history clearly state that the authority to designate Federal lands as unsuitable is reserved to the Secretary and cannot be delegated to the State. Decisions on petitions to designate Federal lands in New Mexico as unsuitable for surface coal mining will therefore be made by the Secretary or his designated representative within the Department and not by Mining and Minerals.

One comment was received concerning the provisions in paragraph 30 requiring Mining and Minerals to notify OSM of the receipt of a petition to designate non-Federal lands as unsuitable for mining when the designation could impact adjacent Federal lands. The commenter suggested that Mining and Minerals should also notify the Federal surface managing agency.

OSM declined to adopt the suggestion because it would result in an unnecessary duplication of effort for Mining and Minerals. Instead, OSM will notify the surface managing agency of any petitions that are received.

Article XII: Termination of Cooperative Agreement

Article XII provides for termination of the cooperative agreement in accordance with 30 CFR 745.15. No comments were received on this Article.

Article XIII: Reinstatement of Cooperative Agreement

Article XIII provides for reinstatement of the cooperative agreement under 30 CFR 745.16. No comments were received on this Article.

Article XIV: Amendment of Cooperative Agreement

Article XIV provides that the cooperative agreement may be amended by mutual agreement of the Governor and Secretary in accordance with 30 CFR 745.14. No comments were received on this Article.

Article XV: Change in State or Federal Standards

This Article recognizes that the Secretary or the State may from time to time promulgate new or revised performance or reclamation requirements, or enforcement and administration procedures, necessitating corresponding changes to the cooperative agreement. Changes made by the State would be made in accordance with 30 CFR Part 732 in order to be consistent with State program regulations. Changes made by the Secretary would be made in accordance with section 501 of the Act. No comments were received on this Article.

Article XVI: Changes in Personnel and Organization

As required by 30 CFR 745.12, this Article specifies that the State and the Department must advise each other of changes in the organization, structure, functions, duties and funds of the offices, departments, divisions, and persons within their organizations which could affect administration or enforcement of the cooperative agreement. No comments were received on this Article.

Article XVII: Definitions

This Article specifies which definitions apply. Basically, it adopts the definitions presently in force in the Act, OSM's permanent regulatory program and the State program. In the case of conflict, the State definition applies except in the case of a term which defines the Secretary's remaining responsibilities under the Act and other laws. No comments were received on this Article.

Article XVIII: Reservation of Rights

Article XVIII recognizes that the Act, 30 CFR 745.13 and other authorities prohibit the Secretary from delegating certain authorities to the State. Article XVIII states that the cooperative agreement shall not be construed as waiving or preventing the assertion of any rights not expressly addressed in the cooperative agreement or available to the parties under the authorities cited in Appendix A.

Pursuant to 30 CFR 745.13 and the terms of this Article, the Secretary reserves authority and responsibility for several MLA functions (e.g., release of lease bonds). Section 745.13 lists other specific responsibilities reserved to the Secretary. Among these responsibilities are the designation of Federal lands as unsuitable for surface coal mining operations and the termination of such

designations. Under section 523 of the Act and 30 CFR 745.13, the Secretary must retain authority to approve mining plans or significant modifications thereto on Federal lands. No comments were received on this Article.

The Department of the Interior also reserves the authority and responsibility for several specific functions which are an integral part of the permit application review procedures discussed earlier. These items include, but are not limited to, the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, *et seq.*; consultation requirements of the Endangered Species Act of 1973, as amended, 16 U.S.C. 1531, *et seq.*; and section 106 of the National Historic Preservation Act of 1966, 16 U.S.C. 470f.

Compliance With NEPA

The Department and its member offices and bureaus must comply with NEPA, its implementing regulations, and the Department's own guidelines. See 40 CFR Part 1500, *et seq.* (regulations of the Council on Environmental Quality) and 45 FR 27541 (April 23, 1980) (Department of the Interior Notice of Final Revised Procedures). See also 45 FR 10043 (February 14, 1980) (Notice of Proposed Revised Instructions for the Office of Surface Mining). These authorities require the Department, prior to a decision on a permit application package on Federal lands, to prepare an environmental assessment or environmental impact statement. The current regulations at 30 CFR 745.13(b) do not allow the Secretary to delegate his NEPA duties to the States. However, the Secretary believes that this regulation does allow States to assist in preparation of NEPA documents (see 40 CFR 1506.3), with final action reserved to the Secretary so long as the Department is sufficently involved in the preparation of the NEPA document to form an independent judgment of the environmental impacts of the proposed action.

Endangered Species Act (16 U.S.C. 1536)

This Federal law requires that the Department take such steps as are necessary to insure that actions authorized, funded, or carried out by Federal departments and agencies do not jeopardize the continued existence of an endangered species, or result in the destruction or modification of a species' critical habitat. 16 U.S.C. 1536. See 50 CFR 402 (regulations on inter-agency cooperation under the Endangered Species Act). OSM's regulations at 30 CFR 745.13(m) provide that the Secretary's obligation to consult under section 7(a) of the Endangered Species Act regarding actions on Federal lands may not be delegated to a State.

National Historic Preservation Act (16 U.S.C. 470f)

Compliance with section 106 of the National Historic Preservation Act and its implementing regulations (36 CFR Part 800) is mandatory where the approval of mining on Federal lands may adversely affect sites, buildings, objects or districts which are listed on, or eligible for listing on, the National Register of Historic Places. Compliance is achieved through early consultation with and involvement of State Historic Preservation Officers and, in some cases, consultation with the Advisory Council on Historic Preservation.

OSM and the Department must also comply with Executive Order 11593, "Protection and Enhancement of the Cultural Environment" (May 13, 1971). Executive Order 11593 contains two principal requirements. First, with respect to properties not owned by the Federal government, agencies and departments must establish procedures for consultation with the Advisory Council on Historic Preservation on any Federal plans and programs affecting such properties. Second, the Order requires all Federal agencies and departments to inventory and nominate historic sites, buildings, districts and objects that are on Federal property and that may be eligible for inclusion on the National Register of Historic Places. Participation by all Federal agencies and departments insures that their areas of expertise are utilized.

Federal agencies must take measures to insure that proposed undertakings fulfill their responsibilities under section 106 of the National Historic Preservation Act of 1974, and that the Advisory Council on Historic Preservation is given an opportunity to comment on proposed treatment plans.

These responsibilities would be reserved to the Secretary under the cooperative agreement since they are not "expressly addressed" (Article XVI).

Floodplain Management and Wetland Protection

The Office of Surface Mining has published a general statement of policy which describes the existing procedural mechanisms for compliance with Executive Order 11988, Floodplain Management (May 24, 1977) and Executive Order 11990, Protection of Wetlands (May 24, 1977). See 45 FR 49872 (July 25, 1980). Secretarial approval of surface coal mining operations on Federal lands is discussed in that **Federal Register** notice at 45 FR 49872–73. As noted therein, the method and responsibility for compliance with these two Orders is to be a subject of the permanent program cooperative agreements under 30 CFR Part 745.

Since the cooperative agreement with New Mexico does not directly discuss compliance with these Orders, the obligation for compliance with them will remain with the Secretary and will not be delegated to New Mexico.

V. Procedural Matters Required for Promulgation of This Rule

1. Executive Order 12291 and Regulatory Flexibility Act

The Department has determined that this document is not a major rule and does not require a regulatory impact analysis under Executive Order 12291 because promulgation of a State-Federal cooperative agreement between the Department of the Interior and the State of New Mexico will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. The cooperative agreement should result in cost savings to the mining industry and lessen the burden of regulatory compliance. Further, the cooperative agreement will not result in significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based interprises in domestic or export markets. The Department certifies that this document will not have a significant economic effect on a substantial number of small entities and therefore does not require a regulatory flexibility analysis under the Regulatory Flexibility Act, 5 U.S.C. 605(b). This certification was made based on an assessment of the probable impact of the cooperative agreement on small entities within the State. The Director has concluded that the effect of the cooperative agreement would be to reduce the cost and burden of complying with the Federal Lands Program found in 30 CFR Chapter VII, Subchapter D. The above findings were made by the Director, OSM and approved by the Assistant Secretary for Energy and Minerals. A copy is on file in the OSM Administrative Record Room, Room 5315, 1100 L Street, Washington, D.C. 20005.

2. Recordkeeping and Reporting Requirements

There are recordkeeping and reporting requirements in this rule which are the same as and required by the permanent

program regulations. Those regulations received clearance from the Office of Management and Budget under 44 U.S.C. 3507 and were assigned the following clearance numbers:

Location of Requirements and OMB Clearance Number

Article VI.9 (Required by 30 CFR Part 735), 1029–0013
Article VII.11 (Required by 30 CFR Part 741), 1029–0026
Article VII.14 (Required by 30 CFR Part 786), 1029–0041
Article VIII.18 (Required by 30 CFR Part 840), 1029–0051
Article X.27 (Required by 30 CFR Part 800), 1029–0043

3. National Environmental Policy Act

Proceedings relating to adoption of a permanent program cooperative agreement are part of the Secretary's implementation of the Federal Lands Program pursuant to section 523 of the Act. Such proceedings are, therefore, exempt under section 702(d) of the Act from the requirements to prepare an Environmental Impact Statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

4. Justification for Immediate Effective Date

The Department of the Interior finds, in accordance with section 553(d)(3) of the Administrative Procedure Act (5 U.S.C. 551 *et seq.*), that good cause exists to make this final rule effective upon publication. Immediate implementation will result in the immediate elimination of dual administration of surface coal mining in New Mexico, resulting in efficiency and economy both to the State and the Federal government as well as to operators. Article II of the proposed cooperative agreement with New Mexico stated that the cooperative agreement would become effective upon publication in the **Federal Register** as a final rule. No comments were received on this provision and it has been adopted as proposed.

5. Indexing Requirements

List of Subjects in 30 CFR Part 931

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Accordingly, Part 931 of Chapter VII, Title 30 is amended as set forth herein.

Dated: November 24, 1982.

Daniel N. Miller Jr.,

Assistant Secretary for Energy and Minerals.

PART 931—[AMENDED]

1. Section 931.30 is added to read as follows:

§ 931.30 State-Federal cooperative agreement.

The State of New Mexico (State) acting through the Governor and the Department of the Interior (Department) acting through the Secretary enter into a Cooperative Agreement (Agreement) to read as follows:

Article I: Introduction and Purpose

1. This Agreement is authorized by section 523(c) of the Surface Mining Control and Reclamation Act (Federal Act), 30 U.S.C. 1273(c), which allows a State with a permanent regulatory program approved under 30 U.S.C. 1253 to elect to enter into an agreement with the Secretary for the regulation and control of surface coal mining and reclamation operations on Federal lands and by section 69–25A–27 NMSA 1978 of the Surface Mining Act (State Act).

The Agreement provides for State regulation of surface coal mining and reclamation operations on Federal lands within the State consistent with the State and Federal Acts, the State program (Program) (30 CFR Part 931) and the Federal Lands Program (30 CFR Parts 740–745). The term "Federal lands" is defined in the Federal Act and State and Federal regulations.

2. The purpose of this Agreement is to (a) foster State-Federal cooperation in the regulation of surface coal mining and reclamation operations; (b) eliminate intergovernmental overlap and duplication; and (c) provide uniformity by effective application of the State program to Federal lands in New Mexico.

Article II: Effective Date

3. This Cooperative Agreement is effective following signing by the Secretary and the Governor, and upon publication as a final rule in the **Federal Register**. This Agreement shall remain in effect until terminated as provided in Article XII.

Article III: Scope

4. This Agreement makes the laws, regulations, terms and conditions of the Program conditionally approved effective December 31, 1980 (30 CFR Part 931), or as hereinafter amended in accordance with 30 CFR 732.17, applicable to Federal lands within the State except as otherwise stated in this Agreement, the Federal Act, 30 CFR Part 745 or other applicable Federal laws. Orders and decisions issued in accordance with the Program by the Mining and Minerals Division (Mining and Minerals) of the New Mexico Energy and Minerals Department that are appealable shall be appealed to the State reviewing authority. Orders and decisions issued by the Department that are appealable shall be appealed to the Department of the Interior's Office of Hearings and Appeals.

Article IV: Responsibilities

5. Mining and Minerals is and shall continue to be the sole agency responsible for administering this cooperative agreement on behalf of the Governor on Federal lands throughout the State. Mining and Minerals has and shall continue to have authority under State law to carry out this Agreement. The Office of Surface Mining (OSM) of the Department of the Interior shall administer this Agreement of behalf of the Secretary in accordance with the regulations in 30 CFR Chapter VII.

6. To eliminate duplication and overlap, the State will assume the primary responsibility for the review and analysis of permit applications and applications for permit revisions or renewals, subject to legal restrictions, including those limitations in 30 U.S.C. 1272(b) and 1273 and in 42 U.S.C. 4321–4335. The State shall have the necessary personnel to fully implement this Agreement in accordance with the provisions of the Federal Act and the Program.

Article V: Funding

7. The State will devote adequate funds to the administration and enforcement of this Agreement of Federal lands within the State. If this Agreement has been carried out, and subject to appropriations, the Department shall provide the State with funds to defay the costs associated with carrying out responsibilities under this Agreement, as provided in 30 U.S.C. 1295(c) and 30 CFR 735.16. Reimbursement shall be in the form of annual grants, and applications for said grants shall be processed and awarded in a timely and prompt manner.

If sufficient funds have not been appropriated to OSM, OSM and Mining and Minerals shall promptly meet to decide on appropriate measures that will insure that mining operations are regulated in accordance with the Program.

Funds provided to the State shall be adjusted in accordance with Office of Management and Budget (OMB) Circular A–102, Attachment E.

Article VI: Reports, Fees and Equipment

8. Mining and Minerals shall make annual reports to OSM containing information respecting its compliance with the terms of this Agreement pursuant to 30 CFR 745.12(c). The State and OSM shall exchange, upon request, except where prohibited by Federal law, information developed under this Agreement. OSM shall provide Mining and Minerals with a copy of any final evaluation report prepared concerning State administration and enforcement of this Agreement.

9. The amount of the fee accompanying an application for a permit shall be determined in accordance with New Mexico Coal Surface Mining Commission Rule 80–1, Part 5–25. All permit fees shall be retained by the State and deposited with the State Treasurer in the Oil and Gas Conservation Fund. The Financial Status Report submitted pursuant to 30 CFR 735.26 shall include a report of the amount of fees collected during the prior State fiscal year.

10. Mining and Minerals will assure itself access to equipment, laboratories and facilities with which all inspections, investigations, studies, tests and analyses can be performed, and which are necessary to carry out the requirements of this Agreement.

Article VII: Permit Application Package

11. Mining and Minerals and OSM shall require an operator on Federal lands to submit a permit application package or an application for a permit revision or renewal in an appropriate number of copies to Mining and Minerals. Any documentation or information submitted by the operator for the sole purpose of complying with the 3-year requirement of section 7(c) of the Mineral Leasing Act of 1920, 30 U.S.C. 181 *et seq.*, will be forwarded to the Minerals Management Service (MMS). If such documentation is submitted as part of a permit application package, a copy of the entire package will be forwarded to MMS.

The permit application package or application for a permit revision or renewal shall be in the form required by Mining and Minerals, shall satisfy the requirements of 30 CFR 741.12(b) and 30 CFR 741.13, and shall include the information required by, or necessary for, Mining and Minerals and the Secretary to make a determination of compliance with:

(a) Section 69-25A-1, *et seq.*, NMSA 1978;

(b) New Mexico Coal Surface Mining Commission Rule 80-1;

(c) Applicable terms and conditions of the Federal coal lease;

(d) Applicable requirements of the 30 CFR Part 211 regulations pertaining to the Mineral Leasing Act requirements; and

(e) Applicable requirements of the approved Program and other Federal laws including, but not limited to, those identified in 30 CFR Chapter VII, Subchapter D and Appendix A of this Agreement.

12. Mining and Minerals shall assume the primary authority pursuant to sections 510(a) and 523(c) of the Federal Act for the analysis, review, and approval of the permit application or application for a permit revision or renewal according to the standards of the Program. OSM shall assist Mining and Minerals in the analysis of the permit application or application for a permit revision or renewal according to the procedures set forth in Appendix B. The Department shall concurrently carry out its responsibilities under the Mineral Leasing Act, as amended (MLA), the National Environmental Policy Act (NEPA), and other public laws (including but not limited to those in Appendix A) that cannot, under the Federal Act, be delegated to the State. The Department shall carry out these responsibilities according to the procedures set forth in Appendix B so as to avoid, to the maximum extent possible, duplication of the responsibilities of the State set forth in this Agreement and the State Program. The Secretary will consider the information in the permit application package and, where appropriate, make the decisions required by the Federal Act, MLA, NEPA and other public laws listed above.

13. Mining and Minerals shall be the primary point of contact with the operator. The Department will independently initiate contacts with the applicant regarding permit application packages or applications for a permit revision or renewal only where necessary to carry out its statutory responsibilities. When such action may generate correspondence with the applicant, a copy of all correspondence with the applicant that may have a bearing on decisions regarding the mining operation shall be sent to Mining and Minerals.

14. Mining and Minerals shall maintain a file of all original correspondence with the applicant and any information received from the applicant which may have a bearing on decisions regarding the permit application package or application for a permit revision or renewal. At the request of the Secretary or his designated agents, Mining and Minerals shall make available the Mining and Minerals files and send copies of such correspondence and information when requested to do so.

15. To the fullest extent allowed by State and Federal law, OSM and Mining and Minerals shall cooperate so that duplication will be eliminated in conducting the review and analysis of the permit application package or application for a permit revision or renewal.

16. Mining and Minerals will review the permit application or application for a permit revision or renewal under sections 11-11 through 11-29 of the New Mexico Coal Surface Mining Commission Rule 80-1.

Article VIII: Inspections

17. Mining and Minerals shall conduct inspections on Federal lands and prepare and file inspection reports in accordance with its Program.

18. Mining and Minerals shall, subsequent to conducting any inspection on Federal lands, file with OSM on a timely basis, an inspection report adequately describing (1) the general conditions of the lands; (2) the manner in which the operations are being conducted; and (3) whether the operator is complying with applicable performance and reclamation requirements.

19. Mining and Minerals will be the point of contact and primary inspection authority in dealing with the operator concerning operations and compliance with the requirements covered by this Agreement, except as described hereinafter. Nothing in this Agreement shall prevent inspections by authorized Federal agencies for purposes other than those covered by this Agreement.

20. The Department may conduct any inspections necessary to comply with 30 CFR Parts 842 and 743.

21. Except as provided below, the Secretary shall give Mining and Minerals reasonable notice of his intent to conduct an inspection in order to provide State inspectors an opportunity to join in the inspection. The Secretary reserves the right to conduct inspections without prior notice to Mining and Minerals to carry out his responsibilities under the Federal Act.

Article IX: Enforcement

22. Mining and Minerals shall be the primary enforcement authority under the Federal Act concerning compliance with the requirements of this Agreement and the Program. Enforcement authority of the Secretary under other laws and orders including, but not limited to, those listed in Appendix A is reserved to the Secretary.

23. During any joint inspection by OSM and Mining and Minerals, Mining and Minerals shall have primary responsibility for enforcement procedures, including issuance of orders of cessation, notices of violation and assessment of penalties. OSM and Mining and Minerals shall consult prior to issuance of any decision to suspend or revoke a permit.

24. Mining and Minerals and OSM shall promptly notify each other of all violations of applicable laws, regulations, orders, approved mining plans and permits subject to this Agreement and of all actions taken with respect to such violations.

25. During any inspection made solely by OSM or any joint inspection where Mining and Minerals and OSM fail to agree regarding the propriety of any particular enforcement action, OSM may take any enforcement action necessary to comply with 30 CFR Parts 843 and 845.

Such enforcement action shall be based on the performance standards included in the regulations of the Program, and the procedures and penalty system contained in 30 CFR Parts 843 and 845. This Agreement does not limit the Department's authority to enforce violations of standards and requirements of Federal laws other than the Federal Act.

26. Personnel of the State and the Department shall be mutually available to serve as witnesses in enforcement actions taken by either party.

Article X: Bonds

27. For all surface coal mines on Federal lands, Mining and Minerals and the Secretary shall require all operators to submit a single performance bond to cover the operator's responsibilities under the Federal Act and the Program, payable to the State, and if required by Federal regulations in Subchapter D, the United States. The performance bond shall be of sufficient amount to comply with the requirements of both State and Federal law and release of the bond shall be conditioned upon compliance with all applicable State and Federal requirements. If the cooperative agreement is terminated, the bonds will revert to being payable only to the United States to the extent that Federal lands are involved. Submission of a performance bond does not satisfy the requirements for a Federal lease bond required by 43 CFR 3474 or a lessee protection bond required in addition to a performance bond, in certain circumstances, by section 715 of the Federal Act.

28. Prior to releasing the operator from an obligation under the performance bond required by the Program for any Federal lands, Mining and Minerals shall obtain the consent of OSM. Mining and Minerals shall also advise OSM of adjustments to the performance bond.

29. The operator's performance bond shall be subject to forfeiture with the consent of the Department, in accordance with the procedures and requirements of the Program.

Article XI: Designating Land Areas Unsuitable for All or Certain Types of Surface Coal Mining

30. Mining and Minerals and the Director shall cooperate with each other in the review and processing of petitions to designate lands as unsuitable for surface coal mining operations. When either agency receives a petition that could impact adjacent Federal or non-Federal lands, the agency receiving the petition shall (1) notify the other of receipt and of the anticipated scheduled for reaching a decision; and (2) request and fully consider data, information and the views of the other.

The authority to designate State and private lands as unsuitable for mining is reserved to the State. The authority to designate Federal lands as unsuitable for mining is reserved to the Secretary or his designated representative.

Article XII: Termination of Cooperative Agreement

31. This Agreement may be terminated by the State or the Department under the provisions of 30 CFR 745.15.

Article XIII: Reinstatement of Cooperative Agreement

32. If this Agreement has been terminated in whole or in part it may be reinstated under the provisions of 30 CFR 745.16.

Article XIV: Amendments of Cooperative Agreement

33. This Agreement may be amended by mutual agreement of the State and the Department. An amendment proposed by one party shall be submitted to the other with a statement of the reasons for such proposed amendment. The amendment shall be adopted after Federal rulemaking in accordance with 30 CFR 745.11. The party to whom the proposed amendment is submitted shall signify its acceptance or rejection of the proposed amendment, and if rejected shall state the reasons for rejection.

Article XV: Changes in State or Federal Standards

34. The Department or the State may from time to time promulgate new or revised performance or reclamation requirements or enforcement and administration procedures. Each party shall, it it determines it to be necessary to keep this Agreement in force, change or revise its regulations and request necessary legislative action. Such changes shall be made under the procedures of 30 CFR Part 732 for changes to the State Program, and under the procedures of section 501 of the Federal Act for changes to the Federal Lands Program.

35. The State and the Department shall provide each other with copies of any changes to their respective laws, rules, regulations and standards pertaining to the enforcement and administration of this Agreement.

Article XVI: Changes in Personnel and Organization

36. The State and the Department shall, consistent with 30 CFR 745.12, advise each other of changes in the organization, structure, functions, duties and funds of the offices, departments, divisions and persons within their organizations. Each shall promptly advise the other in writing of changes in key personnel, including the head of a department or division, or changes in the functions or duties of persons occupying the principal offices within the structure of the Program. The State and the Department shall advise each other in writing of changes in the location of offices, addresses, telephone numbers and changes in the names, locations and telephone numbers of their respective mine inspectors and the area within the State for which such inspectors are responsible.

Article XVII: Definitions

37. Terms and phrases used in this Agreement which are defined in the Federal Act, 30 CFR 700, 701, and 740, and defined in the New Mexico Surface Mining Act (69–25A–1, *et seq.*, NMSA 1978) and the rules and regulations promulgated pursuant to that Act, shall be given the meanings set forth in said definitions. Where there is a conflict between the above referenced State and Federal definitions, the definitions used in the approved Program will apply, except in the case of a term which defines the Secretary's remaining responsibilities under the Federal Act and other laws.

Article XVIII. Reservation of Rights

38. In accordance with 30 CFR 745.13, this Agreement shall not be construed as waiving or preventing the assertion of any rights that have not been expresaly addressed in this Agreement that the State or the Secretary may have under other laws or regulations, including but not limited to those listed in Appendix A.

Dated: December 7, 1982.

Bruce King,

Governor of New Mexico.

Dated: November 24, 1982.

James G. Watt,

Secretary of the Interior.

Appendix A

1. The Federal Land Policy and Management Act, 43 U.S.C. 1701, *et seq.*, and implementing regulations.

2. The Mineral Leasing Act of 1920, 30 U.S.C. 181, *et seq.*, and implementing regulations including 30 CFR Part 211.

3. The National Environmental Policy Act of 1969, 42 U.S.C. 4321, *et seq.*, and implementing regulations including 40 CFR Part 1500 *et seq.*

4. The Endangered Species Act, 16 U.S.C. 1531 *et seq.*, and implementing regulations including 50 CFR Part 402.

5. The National Historic Preservation Act of 1966, 16 U.S.C. 470 *et seq.*, and implementing regulations including 36 CFR Part 800.

6. The Clean Air Act, 42 U.S.C. 7401, *et seq.*, and implementing regulations.

7. The Federal Water Pollution Control Act, 33 U.S.C. 1251, *et seq.*, and implementing regulations.

8. The Resource Conservation and Recovery Act of 1976, 42 U.S.C. 6901 *et seq.*, and implementing regulations.

9. The Reservoir Salvage Act of 1960, as amended by the Preservation of Historical and Archaeological Data Act of 1974, 16 U.S.C. 469 *et seq.*

10. Executive Order 11593, Cultural Resource Inventories on Federal Lands.

11. Executive Order 11988 for Flood Plain Protection. Executive Order 11990 for Wetlands Protection.

12. The Mineral Leasing Act for Acquired Lands, 30 U.S.C. 351, *et seq.*, and the implementing regulations.

13. The Stock Raising Homestead Act of 1916, 43 U.S.C. 291, *et seq.*

14. The Constitution of the United States.

15. The Constitution of the State and State law.

Appendix B—Procedure for Cooperative Review of Permit Application Packages and Applications for Permit Revisions or Renewals for Federal Coal Mines in New Mexico

I: Point of Contact and Coordination During the Review of Permit Application Packages and Applications for Permit Revisions and Renewals

A. The New Mexico Mining and Minerals Division (Mining and Minerals) will:

1. Be the point of contact and coordinate communications with the applicant on issues concerned with the development, review and approval of permit application packages or applications for permit revisions or renewals, except on issues concerned with the requirements of the Mineral Leasing Act of 1920 (MLA), 30 U.S.C. 181, *et seq.*, or National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, and the requirements of other Federal laws not addressed in the applications.

2. Communicate with the applicant on issues of concern to the appropriate Federal land management agency (FLMA) and immediately advise FLMA and OSM of such issues and communication.

3. Communicate with the applicant on issues of concern to the Office of Surface Mining (OSM), and immediately advise OSM of such issues and communications.

4. Communicate with the applicant on issues of concern to the Minerals Management Service (MMS) and immediately advise MMS and OSM of such issues and communications as they pertain to the application.

5. Communicate with the applicant on issues of concern to other agencies within the Department of the Interior, as appropriate, and immediately advise such agencies of such issues and communications.

6. Provide OSM with a copy of each apparent completeness review upon completion.

B. MMS will:

1. Receive any documentation required by the 30 CFR Part 211 regulations.

2. Be the point of contact with the applicant on issues concerned exclusively with the 30 CFR Part 211 regulations.

3. Provide Mining and Minerals and OSM with copies of pertinent correspondence.

C. OSM will: Be responsible for ensuring that any information OSM receives which has a bearing on decisions regarding the permit application package or application for

a permit revision or renewal is sent promptly to Mining and Minerals.

II: Receipt and Distribution of Permit Application Packages and Applications for Permit Revisions and Renewals

A. Mining and Minerals will:

1. Receive the permit application package, the application for a permit revision or renewal or the correspondence from the applicant and transmit an appropriate number of copies to FLMA, MMS, OSM and other agencies specified by the Secretary after the application has been filed. Such transmittal will include a request for a conference on the submissions, as needed.

2. Identify an application manger responsible for coordinating the review and notify OSM, MMS and FLMA as necessary.

3. Upon receipt of an application, meet with OSM to discuss the application and agree upon a schedule, and, when Mining and Minerals requests assistance, agree upon a work plan with OSM.

B. OSM, MMS and FLMA will: Identify an application manager upon receipt of the application and notify Mining and Minerals of the identity of the application manager.

III: Determination of Completeness

Mining and Minerals will:

1. Determine the completeness of a permit application package or application for a permit revision or renewal.

2. Issue public notice of the availability of complete applications for the public to review in accordance with the public review procedure set forth in New Mexico Coal Surface Mining Commission Rule 80–1, Part 11.

IV: Determination of Preliminary Findings of Substantive Adequacy

A. Mining and Minerals will:

1. Consult with MMS, FLMA, OSM, and other Federal agencies specified by the Secretary to review the filed application for preliminary findings of substantive adequacy (henceforth "preliminary findings") and to assess the need for additional data requirements in their respective areas of responsibility.

2. Arrange meetings and field examinations with the interested parties as necessary to determine the preliminary findings.

3. Advise the applicant of the preliminary findings upon the advice and consent of FLMA, MMS, OSM and other Federal agencies specified by the Secretary.

4. Transmit the letter(s) informing the applicant of the preliminary findings, with copies to FLMA, OSM, MMS and other agencies specified by the Secretary.

5. When requested, furnish the Director with copies of correspondence with the applicant and all information received from the applicant.

B. OSM will:

1. Review the permit application package or application for a permit revision or renewal for preliminary findings and, at the request of Mining and Minerals, provide technical assistance as possible.

2. Furnish Mining and Minerals with preliminary findings within 45 calendar days of receipt of the permit application package or application for a permit revision or renewal and specify any requirements for additional data.

3. No later then 30 days from notification of completeness, initiate NEPA compliance procedures and determine the need for an Environmental Assessment or an Environmental Impact Statement.

4. Publish notices of NEPA documents as required by Federal law and regulations.

5. Participate, as arranged, in meetings and field examinations.

C. FLMA will:

1. Review the permit application package or application for permit revision or renewal for preliminary findings as to whether the applicant's proposed postmining land use is consistent with FLMA's land use plan, and the adequacy of measures to protect Federal resources not covered by the rights granted by the Federal coal lease.

2. Furnish Mining and Minerals with preliminary findings within 45 calendar days of receipt of the permit application package or application for a permit revision or renewal and specify any requirements for additional data.

3. Participate, as arranged, in meetings and field examinations.

D. MMS will:

1. Review the permit application package or application for a permit revision or renewal in regard to MLA requirements.

2. Furnish Mining and Minerals with the preliminary findings within 45 calendar days of receipt of the permit application package or application for a permit revision or renewal and specify any requirements for additional data.

3. Participate, as arranged, in meetings and field examinations.

E. Other agencies specified by the Secretary will:

1. Review the permit application package or application for a permit revision or renewal for preliminary findings in regard to their responsibilities under law.

2. Furnish Mining and Minerals with preliminary findings within 45 calendar days of receipt of the application and specify any requirements for additional data.

3. Participate, as arranged, in meetings and field examinations.

V: Findings of Technical Adequacy and NEPA Compliance

A. Mining and Minerals will:

1. Develop and coordinate the technical review of permit application packages or applications for a permit revision or renewal. The review will include representatives of Mining and Minerals, MMS, FLMA, OSM and other Federal agencies specified by the Secretary as appropriate.

2. Coordinate with OSM, for the purpose of eliminating duplication, and provide to OSM a complete technical analysis of the permit application or application for permit revision or renewal pursuant to the Federal Act and the Program that will serve as the technical base for an Environmental Assessment (EA) or an Environmental Impact Statement (EIS) as may be required by NEPA for each permit application package or application for a permit revision or renewal.

3. Coordinate with MMS, for the purpose of eliminating duplication, to conduct a technical analysis that will assist MMS in making findings as may be necessary to determine compliance with the MLA.

4. Coordinate with FLMA, for the purpose of eliminating duplication, to conduct a technical analysis of issues regarding postmining land use and the adequacy of measures to protect Federal resources not covered by the rights granted by the Federal coal lease.

5. Coordinate with other agencies specified by the Secretary, for the purpose of eliminating duplication, to conduct technical analyses of issues within their jurisdiction.

B. OSM will:

1. At the request of Mining and Minerals, assist as possible in the review of the permit application package or application for a permit revision or renewal for technical adequacy in a timely manner as set forth by a schedule developed by Mining and Minerals in cooperation with OSM.

2. Take the leadership role for the development of the EA and/or EIS.

C. MMS will:

1. Review the permit application package or application for a permit revision or renewal for compliance with 30 CFR Part 211.

2. Furnish Mining and Minerals, through OSM, findings on compliance with 30 CFR Part 211 in a timely manner as set forth by a schedule developed by Mining and Minerals in cooperation with MMS.

3. Participate, as arranged, in meetings and field examinations.

D. FLMA will:

1. Determine whether the permit application package or application for a permit revision or renewal provides for postmining land use consistent with FLMA's land use plan and determine the adequacy of measures to protect Federal resources not covered by the rights granted by the Federal coal lease.

2. Furnish Mining and Minerals, through OSM, its determination on the technical adequacy in a timely manner as set forth by a schedule developed by Mining and Minerals in cooperation with FLMA.

3. Participate, as arranged, in meetings and field examinations.

E. Other agencies specified by the Secretary will:

1. Review the permit application package or application for a permit revision or renewal in regard to their responsibilities under law.

2. Furnish Mining and Minerals, through OSM, findings on compliance with other applicable Federal laws and regulations in a timely manner as set forth by a schedule developed in cooperation with Mining and Minerals.

3. Participate, as arranged, in meetings and field examinations.

VI: Preparation and Transmittal of the Decision Document

A. Mining and Minerals will:

1. Assist OSM in the preparation of the decision document for the permit application package or application for a permit revision or renewal, unless the work plan and schedule agreed upon provide otherwise. Mining and Minerals will provide OSM with:

a. A recommendation on the proposal;

b. A finding of compliance with the Program as approved by the Secretary and the regulations promulgated thereunder, which will consist of an analysis of critical issues raised during the course of the review and the resolution of those issues; and

c. All other specific written findings required under section 69-25A-14, NMSA 1978.

2. Consider the comments of OSM, MMS and FLMA and other appropriate Federal agencies when assisting in the preparation of the decision document.

B. OSM will:

1. Prepare the approved NEPA compliance document.

2. Prepare the decision document with the assistance of Mining and Minerals unless the work plan and schedule agreed upon provide otherwise. The decision document shall contain the following:

a. An analysis of the enviromental impacts of the proposal and alternatives to the proposal, prepared in compliance with NEPA, the Council on Environmental Quality regulations and OSM's NEPA compliance handbook;

b. The determinations and recommendations of FLMA;

c. The memorandum of recommendation from the MMS to the Assistant Secretary of the Interior for Energy and Minerals, with regard to MLA requirements;

d. The incorporation of the comments of other agencies specified by the Secretary, as appropriate; and

e. The relevant information submitted by Mining and Minerals as specified by A.1 of this Article.

3. Transmit the decision document to the Secretary.

C. FLMA will: Provide written concurrence on the final decision document to OSM with regard to postmining land use and the adequacy of measures to protect Federal resources not covered by rights granted by any Federal coal lease.

D. MMS will: Provide written concurrence on the final decision document to OSM with regard to its responsibilities.

E. Other agencies will: Provide written concurrence on the final decision document to OSM with regard to their responsibilities.

VII: Decision and Permit Issuance

A. The Secretary will:

1. Evaluate the analysis, conclusions, and recommendations in the decision document as necessary to determine whether he approves or disapproves.

2. Inform Mining and Minerals immediately of his decision. Where the Secretary decides not to approve, the reasons for not approving, and recommendations for remedy shall be specified.

B. Mining and Minerals will:

1. Issue the permit, revised permit, or permit renewal for surface coal mining and reclamation operations after making a finding of compliance with the approved Program in the manner set forth in this Agreement.

2. Advise the operator, in the permit, of the necessity of obtaining Secretarial approval for those statutory requirements which have not been delegated to the State prior to directly affecting Federal lands and, if necessary, prohibit the operator from directly affecting Federal lands under the permit, revised permit, or permit renewal until after the Secretary's approval of the mining plan has been received.

3. Reserve the right to modify the permit, revised permit or permit renewal to conform with the Secretary's decision if a permit, revised permit, or permit renewal has been issued prior to receipt of the Secretary's decision.

VIII: Resolution of Conflict

A. Every effort will be made to resolve errors, omissions and conflicts on data and data analysis at the State and field level.

B. Areas of disagreement between the State and the Department shall be referred to the Governor and the Secretary for resolution.

(Sec. 523(c) of the Surface Mining Control and Reclamation Act of 1977; Pub. L. 95-87; (30 U.S.C. 1273(c)))

[FR Doc. 82-34325 Filed 12-17-82; 8:45 am]

BILLING CODE 4310-05-M

Reader Aids

Federal Register

Vol. 47, No. 244

Monday, December 20, 1982

INFORMATION AND ASSISTANCE

PUBLICATIONS

Code of Federal Regulations

CFR Unit	202-523-3419 523-3517
General information, index, and finding aids	523-5227
Incorporation by reference	523-4534
Printing schedules and pricing information	523-3419

Federal Register

Corrections	523-5237
Daily Issue Unit	523-5237
General information, index, and finding aids	523-5227
Privacy Act	523-5237
Public Inspection Desk	523-5215
Scheduling of documents	523-3187

Laws

Indexes	523-5282
Law numbers and dates	523-5282 523-5266
Slip law orders (GPO)	275-3030

Presidential Documents

Executive orders and proclamations	523-5233
Public Papers of the President	523-5235
Weekly Compilation of Presidential Documents	523-5235
United States Government Manual	523-5230

SERVICES

Agency services	523-5237
Automation	523-3408
Library	523-4986
Magnetic tapes of FR issues and CFR volumes (GPO)	275-2867
Public Inspection Desk	523-5215
Special Projects	523-4534
Subscription orders (GPO)	783-3238
Subscription problems (GPO)	275-3054
TTY for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, DECEMBER

54053-54268.....1
54269-54418.....2
54419-54758.....3
54759-54924.....6
54925-55198.....7
55199-55378.....8
55379-55454.....9
55455-55626.....10
55627-55902.....13
55903-56128.....14
56129-56308.....15
56309-56468.....16
56469-56616.....17
56617-56810.....20

CFR PARTS AFFECTED DURING DECEMBER

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Administrative Orders:

Memorandums:
November 29, 1982..... 54053

Executive Orders:
10621 (Amended by EO 12396)..... 55897
11390 (Amended by EO 12396)..... 55897
12239 (Revoked by EO 12396)..... 55897
12396..... 55897

Proclamations:
4941 (Amended by Proc. 5002)..... 54269
5002..... 54269
5003..... 55899
5004..... 55901
5005..... 56309
5006..... 56617

4 CFR

Proposed Rules:
28..... 54972

5 CFR

1201..... 54419
2429..... 55379, 55903

Proposed Rules:
213..... 54974
890..... 54974

7 CFR

2..... 56619
52..... 55455
53..... 54925
55..... 54420
56..... 54420
59..... 54420
68..... 54271
70..... 54420
271..... 55903, 56469
272..... 55463, 55903
273..... 55463, 55903
278..... 56469
279..... 56469
319..... 54273, 55199
400..... 55886, 55888
610..... 56472
725..... 56473
800..... 54055, 54275, 55469
905..... 54926, 55199, 56619
906..... 56311
907..... 54281, 55379, 56312
910..... 54421, 55469, 56473
926..... 55910
982..... 56312
1046..... 55496
1065..... 55200
1098..... 56486
1126..... 54421
1132..... 54421
1139..... 55201
1421..... 54281
1497..... 54284
1822..... 55627
1901..... 54422
1922..... 55380
1942..... 54422
1944..... 54422, 55627
1948..... 54422

Proposed Rules:
52..... 54086
915..... 56500
967..... 54975
987..... 54307
1106..... 54977
1124..... 55490
1135..... 54978
1207..... 55245
1430..... 56505
1700..... 56505

8 CFR

214..... 55202, 56488
238..... 55388

9 CFR

71..... 55636
78..... 55636
92..... 54285, 55388
317..... 54286
381..... 54286

Proposed Rules:
113..... 54090, 54307, 55246

10 CFR

2..... 56314
9..... 56314
50..... 55203

Proposed Rules:
70..... 55951
170..... 56505

12 CFR

29..... 55911
201..... 54424
204..... 55204-55209
211..... 54057
217..... 54759
220..... 55912
523..... 56314
531..... 56316
545..... 55656
564..... 56318
614..... 54760
701..... 54424
745..... 54424
1204..... 56319-56323

Proposed Rules:
8..... 56652
207..... 54980
220..... 54980

221.....54980
224.....54980
543.....56363
612.....56140
1204.....56364

13 CFR

101.....56129

14 CFR

21.....54287, 54286
39.....54289–54291, 54760, 54761, 55657, 55658, 56620–56622
71.....54291, 54762, 54763, 55389, 55659, 56623, 56624
73.....54763, 56390
75.....54763
91.....56324
97.....54292, 55659
121.....56327, 56460
253.....54764
302.....56129
387.....56130

Proposed Rules:

Ch. I.....54629
23.....56456
39.....54630, 56658
61.....54414, 56654
71.....54308, 54309, 54631, 55687, 56654–56656
73.....56656
75.....54309, 55688, 56365, 56659
120.....56366
121.....56366
135.....56366

15 CFR

904.....54429, 56131

Proposed Rules:

929.....56506

16 CFR

13.....55210, 55211
1000.....54927

Proposed Rules:

13.....54452, 55398

17 CFR

200.....54764, 55211
210.....54764
229.....54764, 55661
230.....54764
239.....54764, 55661
240.....54057, 54764, 55661
249.....54764, 55661
260.....54764

Proposed Rules:

240.....55491
270.....56509

18 CFR

271.....54928
274.....54968

Proposed Rules:

271.....55246
385.....54981

19 CFR

4.....54064
10.....55470
18.....55470
19.....55470
22.....55470
24.....55470
101.....55913
113.....55470
125.....55470
127.....55470
132.....55470
142.....55470
144.....55470

Proposed Rules:

4.....54092
146.....54092
177.....55400

20 CFR

416.....55212
609.....54686
614.....54686

21 CFR

5.....54750, 55470
74.....54429, 56489
81.....54429, 56489
82.....54429, 56489
145.....55471
172.....55475
175.....54430
193.....55214
201.....54750
330.....54750
444.....56489
520.....55472
522.....55472
558.....54929

Proposed Rules:

145.....55496
182.....54454, 56513
184.....54454, 54456, 56513
186.....54454
310.....55497
333.....54981
348.....54982
357.....55076, 55497
358.....54646
886.....55497

22 CFR

9.....55594
22.....56328
51.....56329

24 CFR

10.....56624
15.....55658
50.....56285
200.....54790
203.....54790
204.....54790
213.....54790
220.....54790
221.....54790
222.....54790
226.....54790
227.....54790
233.....54790
235.....54430, 54790
237.....54790
240.....54790
300.....55660
804.....54293, 54790
805.....54293, 54790, 55136
812.....54790
841.....54790, 55136
860.....54296
880.....54293
881.....54293
882.....54293
883.....54293
884.....54293
885.....56490
886.....54293
888.....56133
890.....54431

Proposed Rules:

16.....56660
571.....55868
860.....55689
866.....55689
888.....55764

26 CFR

1.....54296, 54791, 54803, 55477, 56330, 56490
35.....54065, 55215
601.....56330

Proposed Rules:

1.....54093, 55247, 55696, 55697, 56367
11.....54093
31.....55248
54.....54093
601.....54459, 54461

27 CFR

9.....55915

Proposed Rules:

9.....55492, 55954–55961, 56369

28 CFR

2.....56334
540.....55128, 56134

Proposed Rules:

2.....54982
540.....55131
551.....55131, 56144

29 CFR

102.....54432
1903.....55478
1910.....54433
2610.....55670
2619.....56134
2621.....55672
2622.....55670

30 CFR

901.....56492
906.....56342
914.....56493
931.....56800
944.....55672
946.....55675

Proposed Rules:

55.....55499
56.....55499
57.....55499
75.....55499
77.....55499
221.....54462
903.....55249
934.....55499
936.....54472
942.....54474

31 CFR

53.....55481, 56351
55.....56351
81.....56351
90.....56351
92.....56351
93.....56351
120.....56351
121.....56351
122.....56351
127.....56351

Proposed Rules:

1.....54475
10.....56144

32 CFR

1285.....54929
1662.....56494

Proposed Rules:

701.....54104

33 CFR

1.....54298
2.....54298
110.....56354
114.....54298
115.....54298
117.....54298–54301
165.....54301, 55391
209.....55916

Proposed Rules:

110.....54310, 56661
117.....55400
157.....56786
165.....56370
207.....54832

34 CFR

Proposed Rules:

201.....54718
202.....54718
203.....54718
204.....54718
300.....54311
302.....54718

35 CFR

103.....54071
105.....54071
107.....54071
109.....54071
111.....54071
113.....54071
119.....54071
123.....54071

Proposed Rules:

103.....54105
113.....54105
119.....54105
123.....54105

36 CFR

7.....54930–54932, 55391, 55917

38 CFR

3.....54435
17.....55482

39 CFR

3.....56495
4.....56495
6.....56495
8.....56495
3001.....55392

Proposed Rules:

3001.....55698

40 CFR

50.....54896
52.....54072, 54312, 54808, 54933–54936, 55393, 55678, 55919, 56497, 56625
60.....54073, 54258, 54259
61.....56626
81.....54080, 56625
123.....55680
180.....55221–55225, 56135, 56136
300.....55488
415.....55226
440.....54598
465.....54232
716.....54642
761.....54436

Proposed Rules:

Ch. I.....55880
35.....56372
52.....54476, 54984, 55400, 55500, 55964, 55965, 56516, 56518
60.....55966, 56118
86.....54250, 56662
123.....56520
130.....56372
162.....55967
180.....54106, 55249, 55699
201.....54107, 54313
202.....54313
204.....54108
205.....54108–54111
228.....54834, 56663, 56665
403.....54477
439.....56373
455.....56373
461.....55502
464.....55502
467.....56373
468.....55502

41 CFR

101–36.....54810, 54937
101–47.....56499

Proposed Rules:

Ch. 9.....56256

42 CFR

52d.....55227
55a.....55227
57.....54437
58.....54437
86.....55227
401.....54939
405.....54302, 54811, 54939, 56282
488.....56282
489.....56282

Proposed Rules:

124.....54314
405.....54113
447.....54113

43 CFR

3833.....56300

Proposed Rules:

4.....56521
3200.....56151
4100.....55402

44 CFR

6.....54815
64.....54816, 55921, 55922
65.....54941
67.....54941, 55228, 55241, 56627
70.....54440–54444, 56629–56636
205.....55756

Proposed Rules:

59.....55752
60.....55752
67.....54477, 54478, 54835, 55251, 56668–56671

45 CFR

74.....55227
97.....56466
600.....54081
612.....54943
680.....54081
681.....54081
682.....54081
683.....54081
684.....54081
1300.....56466
1336.....55227
1601.....54943

46 CFR

67.....54305
536.....56138

Proposed Rules:

507.....55969

47 CFR

0.....55924
1.....56636
2.....55241
63.....54944
67.....55681
73.....54444, 54446, 55242, 55243, 55681–55683, 55924, 56355, 56356, 56638
74.....54446, 55931,
87.....54449, 56636
90.....54450
97.....55241

Proposed Rules:

15.....55251
34.....55974
35.....55974
67.....54479, 55699
73.....54519–54522, 55256, 55974, 56672
76.....54523
81.....54836, 56673
83.....56673
95.....56677

49 CFR

Ch. X.....54081, 55686
7.....55683
171.....54817, 54824
172.....54817, 54824
173.....54817, 54824
175.....54817, 54824
177.....54824
178.....54824
195.....55396
225.....56357
531.....55684
581.....56640
601.....55683
1003.....55939
1011.....55950
1043.....55939
1057.....54083
1249.....56359
1306.....54083

Proposed Rules:

Ch. X.....54985, 55975
29.....55700
571.....54839
1003.....55976
1039.....55257
1043.....55976, 55980
1084.....55976, 55980
1220.....56152

50 CFR

16.....56360
20.....55397
23.....54968
540.....55488
611.....56650
663.....56138
671.....54451

Proposed Rules:

29.....54840
611.....54841
652.....54985
671.....54125
675.....54841

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

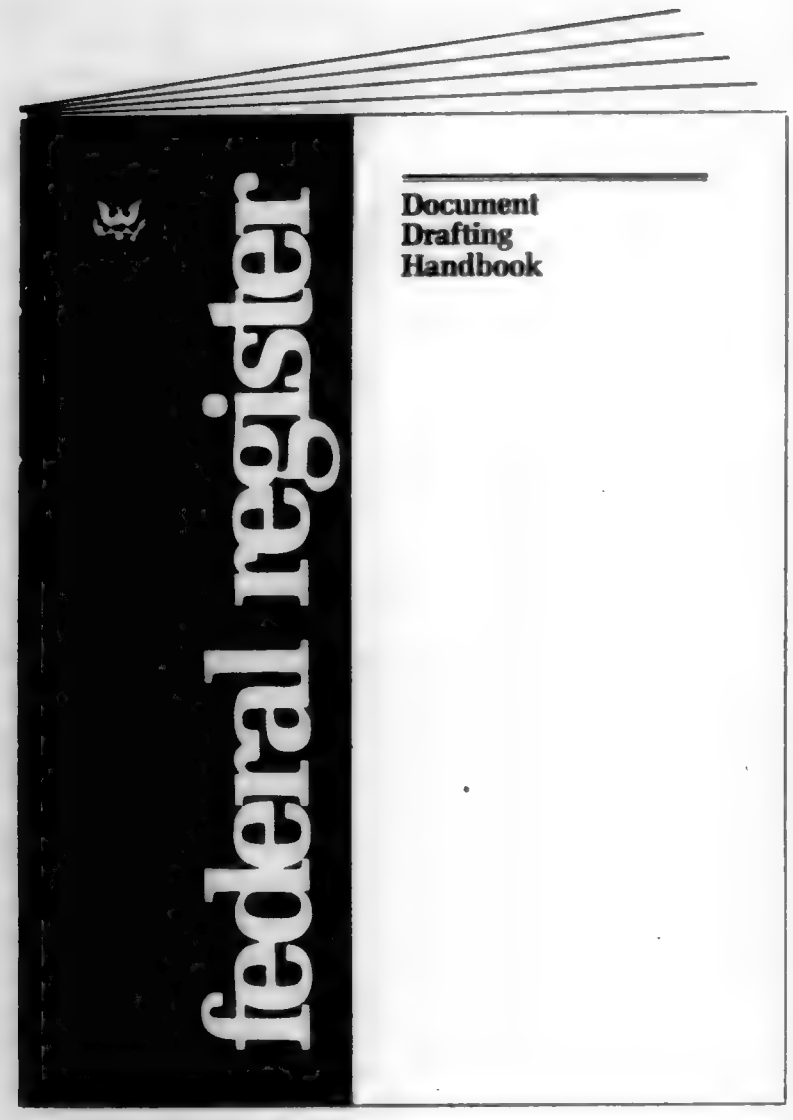
The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.) Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/MA	LABOR		DOT/MA	LABOR
DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
DOT/RSPA			DOT/RSPA	
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last Listing October 28, 1982



Federal Register Document Drafting Handbook

A Handbook for Regulation Drafters

This handbook is designed to help Federa agencies prepare documents for publication in the Federal Register. The updated requirements in the handbook reflect recent changes in regulatory development procedures, document format, and printing technology.

Price $5.00

Order Form

Mail To: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402

Enclosed is $ _____ ☐ check, ☐ money order, or charge to my Deposit Account No.

☐☐☐☐☐☐☐–☐

Order No._____

MasterCard and VISA accepted.

Credit Card Orders Only

Total charges $_____ Fill in the boxes below.

Credit Card No. ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

Expiration Date Month/Year ☐☐☐☐

Please send me ____ copies of the DOCUMENT DRAFTING HANDBOOK at $5.00 per copy. Stock No. 022-001-00088-4.

PLEASE PRINT OR TYPE

Company or Personal Name

Additional address/attention line

Street address

City State ZIP Code

(or Country)

For Office Use Only

Quantity	Charges
_____ Publications	
_____ Subscription	
Special Shipping Charges	
International Handling	
Special Charges	
OPNR	
_____ UPNS	
_____ Balance Due	
_____ Discount	
_____ Refund	

882

12-21-82
Vol. 47 No. 245
Pages 56811-56978

federal register

Tuesday
December 21, 1982

Selected Subjects

Air Pollution Control
Environmental Protection Agency

Authority Delegations (Government Agencies)
Federal Emergency Management Agency

Conflict of Interests
Interstate Commerce Commission

Crop Insurance
Federal Crop Insurance Corporation

Exports
International Trade Administration

Flood Insurance
Federal Emergency Management Agency

Food Grades and Standards
Food and Drug Administration

Government Contracts
Defense Department

Health Care
Veterans Administration

Museums
Arts and Humanities, National Foundation
Education Department

National Banks
Comptroller of Currency

Radio
Federal Communications Commission

Reporting and Recordkeeping Requirements
Securities and Exchange Commission

CONTINUED INSIDE

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect; documents required to be published by Act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The **Federal Register** will be furnished by mail to subscribers, free of postage, for $300.00 per year, or $150.00 for six months, payable in advance. The charge for individual copies is $1.50 for each issue, or $1.50 for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the **Federal Register**.

Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

Selected Subjects

Seizures and Forfeitures
Interior Department

Veterans
Veterans Administration

Contents

Federal Register
Vol. 47, No. 245
Tuesday, December 21, 1982

The President
PROCLAMATIONS
56811 La Guardia Memorial Day (Proc. 5007)

Executive Agencies

Agency for International Development
NOTICES
Authority delegations:
56917 Commodity Management Office Director; furnishing of commodities
56917 Government Property Resources Division Chief, et al.; furnishing of commodities

Agriculture Department
See Federal Crop Insurance Corporation; Forest Service; Soil Conservation Service; Statistical Reporting Service.

Arts and Humanities, National Foundation
PROPOSED RULES
Museum Services Institute:
56871 Program regulations

Centers for Disease Control
NOTICES
56915 Musculoskeletal disorders involving lower extremities occurring in workers; request for information

Commerce Department
See International Trade Administration.

Comptroller of Currency
PROPOSED RULES
National banks:
56862 Lending limits

Defense Department
RULES
56847 Contractors receiving negotiated contract awards, $10 million or more

Education Department
PROPOSED RULES
56871 Museum services program

Employment and Training Administration
NOTICES
Adjustment assistance:
56930 American Motors Corp. et al.
56932 General Motors Corp.
56934 Gibson, Inc.
56935 TRW, Inc., et al.

Energy Department
See also Federal Energy Regulatory Commission; Western Area Power Administration.
NOTICES
Meetings:
56892, 56893 National Petroleum Council (3 documents)

Environmental Protection Agency
RULES
Pesticides in food:
56845 2,2-Dichlorovinyl dimethyl phosphate; correction
Toxic substances:
56850 Health and safety data reporting; submission of lists and copies of studies; correction
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States, etc.:
56882 Kentucky
Air quality implementation plans; delayed compliance orders, etc.:
56883 Pennsylvania
Pesticide programs:
56884 Data requirements for registration; correction

Federal Communications Commission
RULES
Common carrier services:
56856 Public mobile radio services; one-way paging station policies and procedures; correction
Organization, functions, and authority delegations:
56852 Mass Media Bureau; establishment; correction
Radio services, special:
56852 Aviation services; removal of station log requirements, and utilization of additional frequencies
NOTICES
Hearings, etc.:
56910 Interamerican Broadcasting Co. et al.
56907 Payvision Communications et al.
56908 Redwood Television Ministries, Inc., et al.

Federal Crop Insurance Corporation
RULES
Crop insurance; various commodities:
56827 Corn; interim
56813 Cotton; interim
56820 Soybean; interim

Federal Emergency Management Agency
RULES
Flood insurance; communities eligible for sale:
56850 Tennessee et al.
Organization, functions, and authority delegations:
56850 Associate Director, State and Local Programs and Support, et al.; coastal barriers
PROPOSED RULES
Flood elevation determinations:
56884 Kansas

Federal Energy Regulatory Commission
NOTICES
Hearings, etc.:
56893 Alaskan Northwest Natural Gas Transportation Co.
56894 Alpha Farm Inc.
56894 Arkansas Louisiana Gas Co.
56895 Bonneville Power Administration
56895 Boyd, James O.
56895 Chasm Hydro, Inc.

56896 Consolidated Gas Supply Corp. (2 documents)
56896, 56897 Continental Hydro Corp. (2 documents)
56897 Detroit Edison Co.
56897, 56898 El Paso Natural Gas Co. (2 documents)
56898 Faustina Pipe Line Co.
56899 Granite State Gas Transmission, Inc., et al.
56899 Great Lakes Gas Transmission Co.
56900 Interstate Power Co.
56900 Kansas Power & Light Co.
56901 Metropolitan Edison Co.
56900 MIGC, Inc.
56901 Natural Gas Pipe Line Co. of America
56901 Rivanna Water and Sewer Authority
56901 Rood, L. MacRae
56901 South Georgia Natural Gas Co.
56902 Texas Eastern Transmission Corp. et al.
56902 Texaco Producing Inc. et al.
56903 Transcontinental Gas Pipe Line Corp.
56904 United Gas Pipe Line Co.
56904 Vermont Marble Co.
56904 Washington Water Power Co.
56904, 56905 Western Massachusetts Electric Co. (2 documents)
Small power production and cogeneration facilities; qualifying status; certification applications, etc.:
56905 Zond Systems, Inc.

Federal Reserve System
NOTICES
56911 Agency forms submitted to OMB for review
Applications, etc.:
56912 Ballston Spa Bancorp, Inc., et al.
56912 Bank South Corp.
56914 Chase Manhattan Bank
56914 First Community Bancorp, Inc.
Bank holding companies; proposed de novo nonbank activities:
56912 Barclays Bank PLC et al.
56955 Meetings; Sunshine Act

Food and Drug Administration
RULES
Animal drugs, feeds, and related products:
56845 Iron dextran injection
56846 Lasalocid sodium, roxarsone, and bacitracin zinc; correction
Food additives:
56845 Paper and paperboard components; n-vinyl pyrrolidone polymers, etc.; correction
Food for human consumption:
56845 Pears, canned; quality standard; effective date confirmed
Medical devices:
56846 Immunology and microbiology devices; general provisions and classification; correction
PROPOSED RULES
GRAS or prior-sanctioned ingredients:
56871 Nickel; correction
Human drugs:
56871 Alcohol and food, relief of symptoms associated with overindulgence (OTC); monograph establishment; advance notice; correction
56871 New and antibiotic drugs; marketing approval; revision of regulations; correction
NOTICES
Animal drugs, feeds, and related products:
56915 Prince Agri Products, Inc.; iron injectable; withdrawal of approval

Forest Service
NOTICES
Wilderness study areas:
56890 Vasquez Peak Wilderness Study Area, Colo.; hearings

General Services Administration
NOTICES
Committees; establishment, renewals, terminations, etc.:
56915 National Archives Advisory Council

Health and Human Services Department
See Centers for Disease Control; Food and Drug Administration.

Interior Department
See also Minerals Management Service; National Park Service.
RULES
56856 Civil procedures, seizure and forfeiture procedures; implementation of Lacey Act Amendments of 1981

International Development Cooperation Agency
See Agency for International Development; Overseas Private Investment Corporation.

International Trade Administration
PROPOSED RULES
56972 Export trade certificates of review
NOTICES
Scientific articles; duty free entry:
56891 Arizona State University
56891 Duke University
56891 Georgia Institute of Technology
56892 University of Hawaii at Manoa
56892 Yale University

Interstate Commerce Commission
PROPOSED RULES
56885 Conduct standards; reports, travel expense reimbursement, conflicts of interest, confidential statements, and sexual harassment
NOTICES
Motor carriers:
56917, 56921 Permanent authority applications (2 documents)
56927 Permanent authority applications; operating rights republication
56928 Permanent authority application; restriction removals
Rail carriers:
56929 Railroads per diem, mileage, demurrage and storage-agreement; inquiry; extension of time
Rail carriers; contract tariff exemptions:
56929 Missouri Pacific Railroad Co. et al.
Railroad operation, acquisition, construction, etc.:
56929 Burlington Northern Railroad Co.

Justice Department
See Parole Commission.

Labor Department
See Employment and Training Administration; Occupational Safety and Health Administration; Pension and Welfare Benefit Programs Office.

Minerals Management Service
PROPOSED RULES
Oil and gas operating regulations, etc.:
56871 Federal and Indian onshore and offshore leases; valuation of oil for royalty purchases; guidelines; extension of time

National Aeronautics and Space Administration
NOTICES
Meetings:
56952 Advisory Council

National Park Service
NOTICES
Boundary establishment, descriptions, etc.:
56916 Chesapeake and Ohio Canal National Historical Park, Md., W. Va., and D.C.; boundary revision
Historic Places National Register; pending nominations:
56916 Alabama et al.

Nuclear Regulatory Commission
NOTICES
56955 Meetings; Sunshine Act (2 documents)

Occupational Safety and Health Administration
NOTICES
Meetings:
56936 Occupational Safety and Health Federal Advisory Council

Overseas Private Investment Corporation
NOTICES
56952 Agency forms submitted to OMB for review

Parole Commission
RULES
Federal prisoners; paroling, releasing, recommitting, and supervising:
56846 Offense severity scale; policy guidelines; correction

Pension and Welfare Benefit Programs Office
RULES
56847 Employee retirement income security; definitions and coverage; supplemental payments; correction
NOTICES
Employee benefit plans; class exemptions:
56945 Plan asset transactions determined by independent qualified professional asset managers; hearing
Employee benefit plans; prohibited transaction exemptions:
56943 Deferred Benefits Corp. et al.
56936 Northern Minnesota-Wisconsin Area Retail Clerks et al.

Securities and Exchange Commission
RULES
Financial statements (Regulation S-X):
56835 Registered investment companies requirements
56834 Recording and recordkeeping requirements; expiration dates
NOTICES
56955 Meetings; Sunshine Act
Self-regulatory organizations; proposed rule changes:
56953 Pacific Stock Exchange, Inc.; correction

Soil Conservation Service
NOTICES
Environmental statements; availability, etc.:
56890 Camp Joy Flood Prevention & Land Drainage RC&D Measure, Va.

Statistical Reporting Service
NOTICES
56890 Grain stocks surveys; date changes, etc.

Treasury Department
See Comptroller of Currency.

United States Information Agency
NOTICES
Art objects, importation for exhibitions:
56953 Caravaggio in Sicily
56953 Paintings in Naples from Caravaggio to Giordano
56953 Paintings from the Royal Academy

Veterans Administration
PROPOSED RULES
Adjudication; pensions, compensation, dependency, etc.:
56880 Monetary allowance payable in lieu of Government-furnished headstone or marker; increase
56881 "Nursing home," definition
NOTICES
56953 Agency forms submitted to OMB for review

Western Area Power Administration
NOTICES
Power rate adjustments:
56905 Falcon Project, Tex.; interim

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR
5007 56811

7 CFR
421 56813
431 56820
432 56827

12 CFR
Proposed Rules:
3 56862
6 56862
7 56862
32 56862

15 CFR
Proposed Rules:
325 56972

17 CFR
200 56834
210 56835
270 56835

21 CFR
145 56845
176 56845
193 56845
510 56845
522 56845
558 56846
866 56846
Proposed Rules:
184 56871
314 56871
357 56871

28 CFR
2 56846

29 CFR
2510 56847

30 CFR
Proposed Rules:
221 56871
250 56871

32 CFR
166 56847

34 CFR
Proposed Rules:
64 56871

38 CFR
Proposed Rules:
3 (2 documents) 56880, 56881

40 CFR
716 56850
Proposed Rules:
52 56882
65 56883
158 56884

44 CFR
2 56850
64 56850
Proposed Rules:
67 56884

45 CFR
Proposed Rules:
1180 56871

47 CFR
0 56852
2 56852
22 56856
87 56852

49 CFR
Proposed Rules:
1000 56885

50 CFR
11 56856
12 56856

Federal Register
Vol. 47, No. 245
Tuesday, December 21, 1982

Presidential Documents

Title 3—

The President

Proclamation 5007 of December 17, 1982

Fiorello H. La Guardia Memorial Day

By the President of the United States of America

A Proclamation

December 11, 1982, marked the one hundredth anniversary of the birth of Fiorello H. La Guardia, affectionately known as The Little Flower, who served with great distinction for twelve years in the United States House of Representatives and then for ten years as Mayor of New York City.

With his vast energy, fiery leadership, and considerable wisdom, Mr. La Guardia contributed greatly to the betterment of the United States and New York City, in the finest tradition of public service. He was first elected to Congress in 1916 and served with distinction in that body from 1917 to 1919 and from 1923 to 1933. In 1933, Mr. La Guardia was elected Mayor of New York City, and he guided the City through the difficult days of the Depression and the early years of World War II. To this day, New York City bears strong testament to the vision and determination that marked Mr. La Guardia's administration.

Mr. La Guardia's many accomplishments, and the honesty and fairness which characterized his work, continue to serve as a benchmark against which other careers in public service are judged, and as an inspiration to all Americans, particularly those who share his Italian heritage.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, pursuant to a joint resolution of the Congress, do hereby declare December 11, 1982, as "Fiorello H. La Guardia Memorial Day", and I call upon all the people of the United States to observe that day with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this 17th day of December, in the year of our Lord nineteen hundred and eighty-two, and of the Independence of the United States of America the two hundred and seventh.

Ronald Reagan

[FR Doc. 82-34736
Filed 12-20-82; 11:08 am]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 47, No. 245
Tuesday, December 21, 1982

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 421

Cotton Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Interim rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby revises, and reissues, the Cotton Crop Insurance Regulations (7 CFR Part 421), effective with the 1983 and succeeding crop years, in accordance with the provisions of Secretary's Memorandum No. 1512–1, which requires a periodic review of FCIC's regulations as to need, currency, clarity, and effectiveness. FCIC has revised the regulations to: (1) Provide that the insured be required to file a notice of probable loss when the insured crop is damaged to the extent that a loss is probable and leave intact a representative sample of the unharvested crop, (2) prescribe the interest rate to be charged on any unpaid premium balances, (3) define FCIC's liability in cases of loss by fire when the insured has other insurance against loss by fire, (4) delete a section of the regulations requiring the posting of a list of indemnities paid within a county, (5) delete the reduction in guarantee for unharvested acreage provision, (6) combine the second and third stages and provide for full coverage in both stages, (7) increase the first stage guarantee to 60 percent of the full coverage, (8) provide improved coverage in cases where the producer elects not to have FCIC fire and hail coverage and buys an equal amount of such coverage from private companies, (9) provide a policy that is easy to read and understand, and (10) include an application form that is multicrop instead of single-crop format to reduce the time and paperwork burden on the applicant. In addition, the regulations have been reviewed and corrected as to language and format. The intended effect of this interim rule is to improve the debt management practices of FCIC, revise the system of reporting damage or loss to insured crops, remove certain restrictions on coverage of insurance in the various stages, reduce the time and paperwork demands on an applicant, and comply with the provisions of Secretary's Memorandum No. 1512–1, as to reviewing the regulations with regard to need, currency, clarity, and effectiveness.

DATES: Effective Date: December 16, 1982. Comment Date: Written comments, data, and opinions on this proposed rule must be submitted not later than February 22, 1983, to be sure of consideration.

ADDRESS: Written comments on this interim rule should be sent to the Office of the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250; telephone (202) 447–3325.

The Impact Statement describing the options considered in developing this interim rule and the impact of implementing each option is available upon request from Peter F. Cole.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1512–1 (June 11, 1981).

Information collection requirements contained in these regulations (7 CFR Part 421) have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Nos. 0563–0003 and 0563–0007.

Merritt W. Sprague, Manager, FCIC, has determined that: (1) This action is not a major rule as defined by Executive Order No. 12291 (February 17, 1981), (2) this action does not increase the Federal paperwork burden for individuals, small businesses, and other persons, and (3) this action conforms to the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), and other applicable law.

The title and number of the Federal Assistance Program to which this proposed rule applies are: Title—Crop Insurance; Number 10.450.

This action will not have a significant impact specifically upon area and community development; therefore, review as established in Executive Order (E.O.) 12372 (July 14, 1982) was not used to assure that units of local government are informed of this action.

It has been determined that this action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Impact Statement was prepared.

It has also been determined that this action constitutes a review as to need, currency, clarity, and effectiveness of these regulations under the provisions of Secretary's Memorandum No. 1512–1 (June 11, 1981). The sunset review date established for these regulations is October 1, 1987.

Merritt W. Sprague, Manager, FCIC, has determined that an emergency situation exists which warrants immediate implementation of this rule without allowing for the normal 60-day comment period prior to implementation because the regulations for insuring cotton provide that any amendments thereto must be placed on file or provided to insureds 15 days before the cancellation date for the crop insured. The cancellation date established for cotton is December 31; therefore, any amendments to the regulations must be placed on file by December 15. There would not be sufficient time to permit a comment period prior to implementation of these regulations and still comply with the regulations with respect to placing these regulations in file by such date.

FCIC is soliciting public comment on this interim rule for 60 days after publication in the **Federal Register**, and this interim rule will be scheduled for review so that a final document discussing comments received and any amendments required can be published in the **Federal Register** as soon as possible.

Pursuant to the administrative provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this interim rule prior to implementation are impracticable and contrary to the public interest; however, comments are solicited for 60 days after publication of this rule and such comments made pursuant to this notice will be available

for public inspection in the Office of the manager during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Part 421

Crop insurance, Cotton.

Interim Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby amends and reissues the Cotton Crop Insurance Regulations (7 CFR Part 421), effective with the 1983 and succeeding crop years, as follows:

PART 421—[AMENDED]

1. The Subpart heading is revised to read as follows:

Subpart—Regulations for the 1983 and Succeeding Crop Years

2. Sections 421.1–421.7 are revised to read as set forth below:

§ 421.1 Availability of cotton crop insurance.

Insurance shall be offered under the provisions of this subpart on cotton in counties within limits prescribed by and in accordance with the provisions of the Federal Crop Insurance Act, as amended. The counties shall be designated by the Manager of the Corporation from those approved by the Board of Directors of the Corporation. Before insurance is offered in any county, there shall be published by appendix to this part the names of the counties in which cotton insurance will be offered.

§ 421.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.

(a) The Manager shall establish premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed for cotton which shall be shown on the county actuarial table on file in the service office and may be changed from year to year.

(b) At the time the application for insurance is made, the applicant shall elect a coverge level and price at which indemnities shall be computed from among those levels and prices shown on the actuarial table for the crop year.

§ 421.3 [Reserved]

§ 421.4 Creditors.

An interest of a person in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy, or an involuntary transfer shall not entitle the holder of the interest to any benefits under the contract except as provided in the policy.

§ 421.5 Good faith reliance on misrepresentation.

Notwithstanding any other provision of the cotton insurance contract, whenever (a) an insured person under a contract of crop insurance entered into under these regulations, as a result of a misrepresentation of other erroneous action or advice by an agent or employee of the Corporation: (1) Is indebted to the Corporation for additional premiums, or (2) has suffered a loss to a crop which is not insured or for which the insured person is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the insured person believed to be insured, or believed the terms of the insurance contract to have been complied with or waived, and

(b) the Board of Directors of the Corporation, or the Manager in cases involving not more than $20,000, finds: (1) That an agent or employee of the Corporation did in fact make such misrepresentation or take other erroneous action or give erroneous advice, (2) that said insured person relied thereon in good faith, and (3) that to require the payment of the additional premiums or to deny such insured's entitlement to the indemnity would not be fair and equitable, such insured person shall be granted relief the same as if otherwise entitled thereto.

§ 421.6 The contract.

(a) The insurance contract shall become effective upon the acceptance by the Corporation of a duly executed application for insurance on a form prescribed by the Corporation. The contract shall cover the cotton crop as provided in the policy. The contract shall consist of the application, the policy, the appendix, and the county actuarial table. Any changes made in the contract shall not affect its continuity from year to year. Copies of forms referred to in the contract are available at the service office.

§ 421.7 The application and policy.

(a) Application for insurance on a form prescribed by the Corporation may be made by any person to cover such person's insurable share in the cotton crop as landlord, owner-operator, or tenant. The application shall be submitted to the Corporation at the service office on or before the applicable closing date for the county on file in the service office.

(b) The Corporation may discontinue the acceptance of applications in any county upon its determination that the insurance risk is excessive, and also, for the same reason, may reject any individual application. The Manager of the Corporation is authorized in any crop year to extend the closing date for submitting applications or contract changes in any county, by placing the extended date on file in the office for the county and publishing a notice in the **Federal Register** upon the Manager's determination that no adverse selectivity will result during the period of such extension. However, if adverse conditions should develop during such period, the Corporation will immediately discontinue the acceptance of applications.

(c) In accordance with the provisions governing changes in the contract contained in policies issued under FCIC regulations for the 1969 and succeeding crop years, a contract in the form provided for under this subpart will come into effect as a continuation of cotton contract issued under such prior regulations, without the filing of a new application.

(d) The provisions of the application and Cotton Insurance Policy for the 1983 and succeeding crop years, are as follows:

BILLING CODE 3410-08-M

UNITED STATES DEPARTMENT OF AGRICULTURE

FEDERAL CROP INSURANCE CORPORATION

CROP INSURANCE APPLICATION

CONTINUOUS CONTRACT

1. Name of Applicant _____ [ ][ ] -[ ][ ][ ] -[ ][ ][ ][ ][ ]
6. State County 7. Contract Number

2. Authorized Representative _____ 8. County _____ 9. State _____

3. Street or Mailing Address _____ [ ][ ][ ][ ][ ][ ][ ][ ][ ][ ] [ ] [ ]
10. Identification Number 11. SSN--Tax

4. City and State _____ 5. Zip Code _____ 12. Type of Entity _____

13. Applicant is over 18: Yes___ No___ _____
If no, Date of Birth

A. The applicant, subject to the provisions of the regulations of the Federal Crop Insurance Corporation (herein called "Corporation"), hereby applies to the Corporation for insurance on the applicant's share in the crop(s) shown below planted on insurable acreage as shown on the county actuarial table. The applicant elects from the actuarial table the coverage level, and where applicable, a price election or plan of insurance. THE PREMIUM RATE AND APPLICABLE PRODUCTION GUARANTEE OR AMOUNT OF INSURANCE PER ACRE SHALL BE THOSE SHOWN ON THE APPLICABLE COUNTY ACTUARIAL TABLE FILE IN THE SERVICE OFFICE FOR EACH CROP YEAR.

14. Effective Crop Year	15. Crop	16. Type, Class Plan of Ins.	17. Alpha Election	18. Price Election	19. Level Election	20. 21. 22. For Agency Use Only (A)	(P)
						[ ]____	____
						[ ]____	____
						[ ]____	____
						[ ]____	____
						[ ]____	____
						[ ]____	____
						[ ]____	____
						[ ]____	____
						[ ]____	____

23. N S I O T-H U R

24. [ ] Crop(s) NOT insured the first year: _____ _____ _____

B. This application is hereby accepted by the Corporation except that the Corporation may reject the application on the basis that (1) the Corporation has determined that the risk is excessive under the provisions of paragraph 7(b) of the individual crop insurance regulations; (2) any material fact is concealed or misrepresented or fraud occurs in the application, or submission of the application; (3) the applicant is indebted to any United States Government Agency and that indebtedness is delinquent; (4) the applicant previously had crop insurance terminated for violation of the terms of the contract or the regulations, or for failure to pay the applicant's indebtedness; (5) the applicant is debarred by any United States Government Agency; or (6) the applicant has failed to provide complete and accurate information to material requests in this application.

Rejection shall be accomplished by depositing notification thereof in the United States Mail, Postage Paid, to the above address. Unless rejection as provided above or the time for filing applications has passed at the time this application is filed, the contract shall be in effect for the crops and crop years specified. AND SHALL CONTINUE FOR EACH SUCCEEDING CROP YEAR UNTIL CANCELED OR TERMINATED as provided in the contract. This accepted application, the insurance policies, the applicable appendix(es), and the provisions of the county actuarial table showing the insurable and uninsurable acreage, coverage levels, premium rates, and wherever applicable, the production guarantees, amounts of insurance, or plan of insurance shall constitute the contract. No term or condition of the contract shall be waived or changed except in writing by the Corporation.

25. [ ] Applicant does not have other like insurance on any of the above crops.

26. [ ] Previous Carrier_____ 27. Policy Number_____

28. _____ _____, 19__ [ ] [ ] [ ] [ ] [ ] [ ] [ ] [ ]
Applicant's Signature 29. Date 30. Code Number

31. _____
Witness to Signature

32. Location of Farm Headquarters	33. Address of Your Service Office
Phone:	Phone:
SEE REVERSE SIDE OF FORM FOR STATEMENT REQUIRED BY PRIVACY ACT OF 1974	34. Page ___of___pages

Following is the Privacy Act Statement found on the reverse side of the Application for Crop Insurance:

COLLECTION OF INFORMATION AND DATA (PRIVACY ACT)

The following statements are made in accordance with the Privacy Act of 1974 (5 U.S.C. 552(a)):

The authority for requesting the information to be supplied on this form is the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 et seq.), and the regulations promulgated thereunder (7 CFR 400 et seq.). The information requested is necessary for FCIC to consider and process the application for insurance; to assist in determining the correct premium and indemnity; and to determine the correct parties to the insurance contract. The information may be furnished to FCIC contract agencies and contract loss adjusters, reinsured companies, other U.S. Department of Agriculture Agencies, Internal Revenue Service, Department of Justice, or other State and Federal law enforcement agencies, and in response to orders of a court, magistrate, or administrative tribunal.

Furnishing the Social Security number is voluntary and no adverse action will result from failure to do so. Furnishing the information, other than the Social Security number, is also voluntary; however, failure to furnish the correct, complete information requested may result in rejection of the application and/or subsequent denial of any claim for indemnity which may be filed. The failure to supply correct, complete information will also invalidate the automatic acceptance provisions of Section 8 hereof and may substantially delay acceptance of the application and processing of any claim for indemnity.

BILLING CODE 3410-08-C

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Cotton—Crop Insurance Policy

[This is a continuous contract. Refer to Section 15]

Agreement to insure: We will provide the insurance described in this policy in return for the premium and compliance with all applicable provisions.

Throughout this policy "you" and "your" refer to the insured shown on the approved Application and "we," "us" and "our" refer to the Federal Crop Insurance Corporation.

Terms and Conditions

1. Causes of loss.

a. The insurance provided is against unavoidable loss of production resulting from adverse weather conditions, fire, insects, plant disease, wildlife, earthquake, or volcano occurring within the insurance period, unless those causes are excepted, excluded, or limited by the actuarial table.

b. We will not insure against any cause of loss of production due to:

(1) The neglect or malfeasance of you, any member of your household, your tenants or employees;

(2) The failure to follow recognized good cotton farming practices;

(3) Damages resulting from the impoundment of water by any governmental, public or private dam or reservoir project; or

(4) Any cause not specified in section 1a as an insured loss.

2. Crop, acreage, and share insured.

a. The crop insured shall be American Upland lint cotton which is grown on insured acreage and for which we provide a guarantee and premium rate on the actuarial table.

b. The acreage insured for each crop year shall be that acreage planted to cotton on insurable acreage as provided for an actuarial table and in which you have a share, as reported by you or as determined by us, whichever we shall elect. The acreage insured of skiprow cotton shall be the acreage occupied by the rows of cotton after eliminating the skipped-row portions.

c. The insured share shall be your share as landlord, owner-operator, or tenant in the insured cotton at the time of planting.

d. We do not insure any acreage:

(1) Which is non-irrigated and from which a hay crop was harvested or a small grain crop reached the heading stage in the same calendar year;

(2) Which is new ground acreage;

(3) Where the farming practices carried out are not in accordance with the farming practices for which the premium rates have been established;

(4) Which is irrigated and an irrigated practice is not provided for on the actuarial table. (You have the option to insure such acreage by reporting it for insurance as provided in section 3.);

(5) Which is destroyed and we determine it is practical to replant to cotton and such acreage was not replanted;

(6) Initially planted after the final planting date contained in the actuarial table, unless you sign an option form agreeing to coverage reduction; or

(7) planted to a type or variety of cotton not established as adapted to the area or excluded on the actuarial table.

e. Where insurance is provided for an irrigated practice:

(1) You shall report as irrigated only the acreage for which you have adequate facilities and water to carry out a good cotton irrigation practice at the time of planting; and

(2) Any loss of production caused by failure to carry out a good cotton irrigation practice, except failure of the water supply from an unavoidable cause occurring after the beginning of planting, shall be considered as due to an uninsured cause. The failure or breakdown of irrigation equipment or facilities shall not be considered as a failure of the water supply from an unavoidable cause.

f. Acreage which is planted for the development of production of hybrid seed or for experimental purposes is not insured unless we agree in writing to insure such acreage.

g. We may limit the insured acreage to any acreage limitation established under any Act of Congress, if we advise you of the limit prior to planting.

3. Report of acreage, share, and where applicable, practice.

You shall report on our form:

a. All the acreage of cotton in the county in which you have a share;

b. The practice; and

c. Your share at the time of planting.

You shall designate separately any acreage that is not insurable. You shall report if you do not have a share in any cotton planted in the county. This report shall be submitted annually before the reporting date. If you do not submit this report by the reporting date, we may elect to determine by unit the insured acreage, share, and practice or we may deny liability on any unit. Any report submitted by you may be revised only upon our approval.

4. Production guarantees, coverage levels, and prices for computing indemnities.

a. The production guarantees, coverage levels, and prices for computing indemnities will be contained in the actuarial table.

b. The production guarantees in the actuarial table are the second stage guarantees. The first stage guarantee is 60 percent of the second stage guarantee.

The stages are:

(1) First Stage—Planting until 50 days after the final planting date or until the shedding of the first blooms, whichever occurs first. We may limit the liability to the first stage if the cotton was damaged during this period to the extent that farmers generally would not further care for the cotton; or

(2) Second Stage—Includes all insured cotton after the first stage.

c. You may change the coverage level and price election before the closing date for submitting applications for the crop year.

5. Annual premium.

a. The annual premium is earned and payable at the time of planting. The amount is computed by multiplying the production guarantee times the price election, times the premium rate, times the insured acreage, times your share at the time of planting, times the applicable premium adjustment percentage.

ANNUAL PREMIUM ADJUSTMENT TABLE [1]

[Percent adjustments for favorable continuous insurance experience]

Loss ratio [2] through previous crop year	Numbers of Years Continuous Experience Through Previous Year															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
	Percentage adjustment factor for current crop year															
.00 to .20	100	[illegible]	95	[illegible]	[illegible]	85	80	75	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	55	50
.21 to .40	100	[illegible]	95	95	[illegible]	[illegible]	[illegible]	85	[illegible]	[illegible]	75	75	[illegible]	[illegible]	65	[illegible]
.41 to .60	100	[illegible]	[illegible]	95	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	85	[illegible]	80	[illegible]	[illegible]	[illegible]
.61 to .80	100	[illegible]	95	[illegible]	95	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	90	85	85	85	[illegible]
.81 to 1.09	100	100	100	100	[illegible]	[illegible]	[illegible]	[illegible]	100	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	100	[illegible]

[Percent adjustments for unfavorable insurance experience]

Loss ratio [2] through previous crop year	Numbers of Loss Years Through Previous Year [3]															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
	Percentage adjustment factor for current crop year															
1.10 to 1.19	[illegible]	100	100	102	[illegible]	[illegible]	[illegible]	[illegible]	112	114	116	118	120	122	124	126
1.20 to 1.39	100	100	[illegible]	104	[illegible]	112	116	[illegible]	124	[illegible]	132	136	[illegible]	144	[illegible]	152
1.40 to 1.69	100	100	[illegible]	[illegible]	116	124	132	[illegible]	[illegible]	[illegible]	[illegible]	172	[illegible]	[illegible]	196	[illegible]
1.70 to 1.99	[illegible]	100	100	112	[illegible]	[illegible]	142	[illegible]	[illegible]	172	182	192	[illegible]	212	[illegible]	232
2.00 to 2.49	[illegible]	100	[illegible]	116	128	140	152	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	224	236	248	[illegible]
2.50 to 3.24	[illegible]	[illegible]	[illegible]	[illegible]	134	[illegible]	162	[illegible]	[illegible]	[illegible]	[illegible]	232	[illegible]	260	274	[illegible]
3.25 to 3.99	[illegible]	100	[illegible]	124	[illegible]	[illegible]	172	[illegible]	204	[illegible]	236	[illegible]	[illegible]	[illegible]	300	300
4.00 to 4.99	[illegible]	[illegible]	110	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	300	300
5.00 to 5.99	[illegible]	[illegible]	115	[illegible]	[illegible]	172	[illegible]	212	[illegible]	252	[illegible]	[illegible]	[illegible]	300	[illegible]	[illegible]
6.00 and up	100	100	120	136	[illegible]	[illegible]	[illegible]	224	248	[illegible]	290	300	[illegible]	[illegible]	[illegible]	300

[1] For premium adjustment purposes, only the years during which premiums were earned shall be considered.

[2] Loss Ratio means the ratio of indemnity(ies) paid to premium(s) earned

[3] Only the crop years after the 1979 crop year will be used to determine the number of "Loss Years" (A crop year is determined to be a "Loss Year" when the amount of indemnity for the year exceeds the premium for the year.)

b. Interest will accrue at the rate of one and a half percent (1½%) simple interest per calendar month, or any part thereof, on any unpaid premium balance starting on the first day of the month following the first premium billing date.

c. Any premium adjustment applicable to the contract shall be transferred to:

(1) The contract of your estate or surviving spouse in case of your death;

(2) The contract of the person who succeds you if such person had previously participated in the farming operation; or

(3) Your contract if you stop farming in one county and start farming in another county.

d. If participation is not continous, any premium will be computed on the basis of previous unfavorable insurance experience but no premium reduction under section 5a will be applicable.

6. Deductions for debt.

Any unpaid amount due us may be deducted from any indemnity payable to you or from any loan or payment due you under any Act of Congress or program administered by the United States Department of Agriculture or its Agencies, unless prohibited by law.

7. Insurance period. Insurance attaches when the cotton is planted and ends at the earliest of:

a. Total destruction of the cotton;

b. Removal of the cotton from the field;

c. Final adjustment of a loss; or

d. The date immediately following planting as follows:

(1) Arizona and California—January 31;

(2) Jackson, Victoria, Goliad, Bee, Live Oak, McMullen, LaSalle, Dimmit Counties, Texas and all Texas counties south thereof—September 30;

(3) All other Texas counties and other states—December 31.

8. Notice of damage or loss.

a. In case of damage or probable loss:

(1) You must give us written notice if:

(a) During the period before harvest, the cotton on any unit is damaged and you decide not to further care for or harvest any part of it;

(b) You want our consent to put the acreage to another use; or

(c) After consent to put acreage to another use is given, additional damage occurs.

Insured acreage may not be put to another use until we have appraised the cotton and given written consent. We will not consent to another use until it is too late to replant. You must notify us when such acreage is put to another use.

(2) You must give us notice of probable loss at least 15 days before the beginning of harvest if you anticipate a loss on any unit. If probable loss is later determined, immediate notice shall be given and a respresentative sample of unharvested cotton (at least 10 feet wide and the entire length of the field) shall be left for a period of 15 days from the date of the notice, unless we give you written consent to harvest the sample.

(3) In addition to the notices required by this section, if you are going to claim an indemnity on any unit, we must be given notice not later than 30 days after the earliest of:

(a) Total destruction of the cotton on the unit;

(b) Harvest of the unit; or

(c) The calendar date for the end of the insurance period.

b. You may not destroy any cotton on which an indemnity will be claimed until we give consent.

c. You must be given written consent by us before you destroy any of the cotton which is not to be harvested.

d. We may reject any claim for indemnity if any of the requirements of this section or section 9 are not complied with

9. Claim for indemnity.

a. Any claim for indemnity on a unit shall be submitted to us on our prescribed form not later than 60 days after the earliest of:

(1) Total destruction of the cotton on the unit;

(2) Harvest of the unit; or

(3) The calendar date for the end of the insurance period

b. We shall not pay any indemnity unless you:

(1) Establish the total production of cotton on the unit and that any loss of production has been directly caused by one or more of the insured causes during the insurance period; and

(2) Furnish all information we require concerning the loss.

c. The indemnity will be determined on each unit by:

(1) Multiplying the insured acreage by the production guarantee;

(2) Subtracting therefrom the total production of cotton to be counted under section 9d;

(3) Multiplying the remainder by the price election; and

(4) Multiply this result by your share.

If the information reported by you results in a lower premium than the actual premium determined by us, the indemnity will be reduced proportionately.

d. The total production to be counted for a unit shall include all harvested and appraised production but, shall not include any harvested production destroyed due to insurable causes occurring within the insurance period before being removed from the field.

(1) When mature cotton has been damaged solely by insured causes, the production to count shall be reduced if, on the date the final notice of loss is given by the insured, the price quotation for cotton of like quality (price quotation "A") at the applicable spot market, as determined by the Corporation, is less than 75 percent of price quotation "B". Price quotation "B" shall be that day's spot market price quotation at the same market for cotton of the grade, staple length, and micronaire reading shown on the actuarial table for this purpose. The pounds of production to be counted shall be determined by multiplying the actual number of pounds of such production by price quotation "A" and dividing the result by 75 percent of price quotation "B".

(2) Appraised production to be counted shall include:

(a) Unharvested production on harvested acreage and potential production lost due to uninsured causes and failure to follow recognized good cotton farming practices;

(b) Not less than the guarantee for any acreage which is abandoned or put to another use without our prior written consent or damaged solely by an uninsured cause;

(c) Only the appraised production in excess of the difference between the first and second stage production guarantee for any acreage which does not qualify for the second stage guarantee.

(3) Any appraisal we have made on insured acreage for which we have given written consent to be put to another use shall be considered production unless such acreage:

(a) Is not put to another use before harvest of cotton becomes general in the county;

(b) Is harvested; or

(c) Is further damaged by an insured cause before the acreage is put to another use.

(4) The cotton stalks shall not be destroyed on any acreage for which an indemnity is claimed, until consent is given by us. An appraisal of not less than the second stage guarantee may be made on acreage where the stalks have been destroyed without our consent.

(5) When you have elected to exclude hail and fire as insured causes of loss and you have obtained at least a like amount of hail and fire insurance and the cotton is damaged by hail or fire, appraisals will be made as follows:

(a) If hail or fire occurs prior to loss caused by any other insured cause and the percent of hail or fire loss determined as an average of the entire unit exceeds the following percentages for the applicable level, there will be an appraisal for uninsured causes as follows:

(i) Level 1. Each percent of loss in excess of 50 percent will result in an appraisal for uninsured causes of 2.00 percent of the guarantee;

(ii) Level 2. Each percent of loss in excess of 35 percent will result in an appraisal for uninsured causes of 1.54 percent of the guarantee; and

(iii) Level 3. Each percent of loss in excess of 25 percent will result in an appraisal for uninsured causes of 1.33 percent of the guarantee.

(b) If hail or fire occurs following a loss caused by any other insured cause and the amount of hail and fire insurance is reduced, an appraisal for uninsured causes will be made as follows:

(i) The hail and fire insurance indemnity will be divided by the original hail and fire insurance liability; and

(ii) This result applied to (a) (i), (ii) or (iii) above, whichever is applicable.

(6) The production of units commingled will be allocated to such units in proportion to the liability on the harvested acreage of each unit.

e. You will not abandon any insured cotton acreage to us.

f. You cannot bring suit or action against us unless you have complied with all policy provisions. If a claim is denied, you may sue us in the United States District Court under the provisions of 7 U.S.C. 1508(c). You must bring suit within 12 months of the date notice of denial is mailed to and received by you.

g. We will pay the loss within 30 days after we reach agreement with you entry of a final judgment, or the filing of any appraisal award with us. In no event shall we be liable for

interest or damages in connection with any claim for indemnity, whether we approve or disapprove such claim.

h. If you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved after the cotton is planted for any crop year, any indemnity will be paid to the person(s) we determine to be beneficially entitled thereto.

i. If you have other fire insurance and fire damage occurs during the insurance period and you have not elected to exclude fire insurance from this policy, we shall be liable for loss due to fire only for the smaller of:

(1) The amount of indemnity determined pursuant to this contract without regard to any other insurance; or

(2) The amount determined by us by which the loss from fire exceeds the indemnity paid or payable under such other insurance. For the purposes of this section, the amount of loss from fire shall be the difference between the fair market value of the production on the unit before the fire and after the fire, as determined by us from our appraisals.

10. Concealment or fraud.

We may void the contract on all crops insured without affecting your liability for premiums or waiving any right, including the right to collect any amount due us if, at any time, you have concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance shall be effective as of the beginning of the crop year with respect to which such act or omission occurred.

11. Transfer of right to indemnity on insured share.

If you transfer any part of your share during the crop year, you may transfer the right to an indemnity on an approved form. We may collect the premium from either you or your transferee or both. The transferee shall have the same rights and responsibilities provided by the contract.

12. Assignment of indemnity.

On our prescribed form and with our approval, you may assign to another party the right to an indemnity for the crop year and such assignee shall have the right to submit the loss notices and forms required by the contract.

13. Subrogation. (Recovery of loss from a third party.)

Because you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve any such rights. If we pay you for your loss then your right of recovery will belong to us. If we recover more than we paid you plus our expenses, the excess will be paid to you.

14. Records and access to farm.

You shall keep for two years after the time of loss, records of the harvesting, storage, shipments, sale or other disposition of all cotton produced on each unit including separate records showing the same information for production from any uninsured acreage. Any persons designated by us shall have access to such records and the farm for purposes related to the contract.

15. Life of contract: cancellation and termination.

a. This contract shall be in effect for the crop year specified on the application and may not be canceled for such crop year. Thereafter, the contract will continue in force for each succeeding crop year unless canceled or terminated as provided for in this section.

b. This contract may be canceled by either you or us for any crop year by giving written notice on or before the cancellation date preceding such crop year.

c. This contract will terminate as to any crop year if any amount due us on this or any other contract with you is not paid on or before the termination date preceding such crop year for the contract on which the amount is due. The date of payment of the amount due:

(1) If deducted from an indemnity claim shall be the date you sign such claim; or

(2) If deducted from payment under another program administered by United States Department of Agriculture shall be the date such payment was approved.

d. The cancellation and termination dates are:

State and County	Cancellation date	Termination date
Jackson, Victoria, Goliad, Bee, Live Oak, McMullen, LaSalle, Dimmit Counties, Texas and all Texas counties lying south thereof.	Sept. 30	Jan. 31.
All other Texas counties and states.	Dec. 31	Mar. 31.

e. If you die or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved, the contract shall terminate as of the date of death, judicial declaration, or dissolution. *However*, if such event occurs after insurance attaches for any crop year, the contract shall continue in force through the crop year and terminate at the end thereof. Death of a partner in a partnership shall dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons shall dissolve the joint entity.

f. The contract shall terminate if no premium is earned for five consecutive years.

16. Contract changes.

We may change any terms and provisions of the contract from year to year. If your price election at which indemnities are computed is no longer offered, the actuarial table will provide the price election which you will be deemed to have elected. You shall be notified of changes at least 15 days prior to the cancellation date preceding the crop year for which the changes are to become effective. Acceptance of any changes will be conclusively presumed in the absence of any notice from you to cancel the contract.

17. Meaning of terms.

For the purposes of cotton crop insurance:

a. "Actuarial table" means the forms and related material for the crop year approved by us which are available for public inspection in your service office, and which show the production guarantees, coverage levels, premium rates, prices for computing indemnities, practices where applicable, insurable and uninsurable acreage, and related information regarding cotton insurance in the county.

b. "Cotton" means only American Upland Cotton.

c. "County" means the county shown on the application and any additional land located in a local producing area bordering on the county, as shown on the actuarial table.

d. "Crop year" means the period within which the cotton is normally grown and shall be designated by the calendar year in which the cotton is normally harvested.

e. "Harvest" means the removal of the seed cotton from the open cotton boll or the severance of the open cotton boll from the stalk by either manual or mechanical means.

f. "Insurable acreage" means the land classified as insurable by us and shown as such on the actuarial table.

g. "Insured" means the person who submitted the application accepted by us.

h. "New ground acreage" in all states except Arizona, California, and New Mexico, means acreage on which it was necessary to remove or deaden timber and remove undergrowth to carry out established cultural practices. Pastureland, other than woodland pasture, cleared of underbrush and brought into cultivation will not be considered new ground acreage. In Arizona, California, and New Mexico, "new ground acreage" means any acreage which has not been planted to a crop in any one of the previous three crop years, except that acreage in tame hay or rotation pasture during the previous crop year shall not be considered new ground acreage.

i. "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

j. "Service office" means the office servicing your contract as shown on the application for insurance or such other approved office as may be selected by you or designated by us.

k. "Spot market" means a market so designated by the Secretary of Agriculture by Regulation (7 CFR 27.93) pursuant to 26 U.S.C. 1001.

l. "Tenant" means a person who rents land from another person for a share of the cotton or a share of the proceeds therefrom.

m. "Unit" means all insurable acreage of cotton in the county on the date of planting for the crop year (1) in which you have a 100 percent share, or (2) which is owned by one entity and operated by another entity on a share basis. Land rented for cash, a fixed commodity payment, or any consideration other than a share in the cotton on such land shall be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in your service office or by written agreement between us and you. We shall

determine units as herein defined when the acreage is reported. Errors in reporting such units may be corrected by us to conform to applicable guidelines when adjusting a loss and we may consider any acreage and share reported by or for your spouse or child or any member of your household to be the bona fide share of you or any other person having the bona fide share.

18. Descriptive headings.

The descriptive headings of the various policy terms and conditions are formulated for convenience only and are not intended to affect the construction or meaning of any of the provisions of the contract.

Appendix B [Redesignated as Appendix A]

3. Appendix B is redesignated as Appendix A.

(Secs. 506, 516, Pub. L. 75–430, 52 Stat. 72, as amended (7 U.S.C. 1506, 1516))

Done in Washington, D.C., on December 13, 1982.

Approved by:

Robert H. Sindt,

Deputy Manager.

Dated: December 13, 1982.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

[FR Doc. 82-34830 Filed 12-15-82; 10:40 am]

BILLING CODE 3410-08-M

---

7 CFR Part 431

Soybean Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Interim rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby revises and reissues the Soybean Crop Insurance Regulations (7 CFR Part 431), effective with the 1983 and succeeding crop years, in accordance with the provisions of the Secretary's Memorandum No. 1512–1, which requires periodic review of FCIC's regulations as to need, currency, clarity, and effectiveness. In addition to the review process, FCIC has revised the regulations to: (1) Provide that the insured to the extent that a loss is probable file a notice of probable loss, and leave intact a representative sample of the unharvested crop, (2) prescribe the interest rate to be charged on any unpaid premium balances, (3) define FCIC's liability in cases of loss by fire when the insured has other insurance against loss by fire, (4) change the replanting provision to limit the payment to actual cost of replanting and to simplify the method of deducting and replanting payment from any additional loss, (5) delete the reduction in guarantee for unharvested acreage, (6) provide improved coverage where the producer elects not to have FCIC fire and hail coverage, and buys an equal amount of such coverage from private companies, and (7) provide a policy that is easy to read and understand. The intended effect of this rule is to revise the system of reporting damage or loss to insured crops, improve the debt management practices of FCIC, reduce the paperwork burden on individuals, simplify the method of deducting the replanting payments from other indemnities, and remove the restriction of the reduction in guarantee for unharvested acreage. FCIC has also made minor corrections to language and format.

DATES: Effective date: December 16, 1982.

Comment date: Written comments, data, and opinions on this rule must be submitted not later than February 22, 1983, to be sure of consideration.

ADDRESS: Written comment on this rule should be sent to the Office of the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, telephone (202) 447–3325.

The Impact Statement describing the options considered in developing this rule and the impact of implementing each option is available upon request from Peter F. Cole.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1512–1 (June 11, 1981).

Information collection requirements contained in these regulations (7 CFR Part 431) have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Nos. 0563–0003 and 0563–0007.

Merritt W. Sprague, Manager, FCIC, has determined that this action (1) is not a major rule as defined by Executive Order No. 12291 (February 17, 1981), (2) does not increase the Federal paperwork burden for individuals, small businesses, and other persons, and (3) conforms to the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), and other applicable law.

The title and number of the Federal Assistance program to which these regulations apply are: Title—Crop Insurance; Number 10.450.

This action will not have significant impact specifically upon area and community development; therefore, review as established in Executive Order (E.O.) No. 12372 (July 14, 1982), was not used to assure that units of local government are informed of this action.

It has been determined that this action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Impact Statement was prepared.

It has also been determined that this action constitutes a review as to need, currency, clarity, and effectiveness of these regulations under the provisions of Secretary's Memorandum No. 1512–1 (June 11, 1981). The sunset review date established for these regulations is October 1, 1987.

Merritt W. Sprague, Manager, FCIC, has determined that an emergency situation exists which warrants immediate implementation of this rule without allowing for the normal 60-day comment period prior to implementation because the regulations for insuring soybeans provide that any amendments must be placed on file or provided to insureds 15 days before the cancellation date for the crop. The cancellation date established for soybeans is December 31; therefore, any amendments must be placed on file by December 15. There would not be sufficient time to permit a comment period prior to implementation of these regulations and still comply with the regulations with respect to placing these regulations in file by such date.

FCIC is soliciting public comment on this interim rule for 60 days after publication in the Federal Register, and this interim rule will be scheduled for review so that a final document discussing comments received and any amendments required can be published in the Federal Register as soon as possible.

Pursuant to the administrative provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this interim rule prior to implementation are impracticable and contrary to the public interest; however, comments are solicited for 60 days after publication of this rule and such comments made pursuant to this notice will be available for public inspection in the Office of the Manager during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Part 431

Crop insurance, Soybeans.

Interim Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation

hereby amends and reissues the Soybean Crop Insurance Regulations (7 CFR Part 431), effective with the 1983 and succeeding crop years, as follows:

PART 431—[AMENDED]

1. The Subpart heading is revised to read:

Subpart—Regulations for the 1983 and Succeeding Crop Year

2. Sections 431.1–431.7 are revised to read as follows:

§ 431.1 Availability of Soybean Insurance.

Insurance shall be offered under the provisions of this subpart on soybeans in counties within limits prescribed by and in accordance with the provisions of the Federal Crop Insurance Act, as amended. The counties shall be designated by the Manager of the Corporation from those approved by the Board of Directors of the Corporation. Before insurance is offered in any county, there shall be published by appendix to this part the names of the counties in which soybean insurance will be offered.

§ 431.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.

(a) The Manager shall establish premium rates, production guarantees, coverage levels and prices at which indemnities shall be computed for soybeans which shall be shown on the county actuarial table on file in the service office and may be changed from year to year.

(b) At the time the application for insurance is made, the applicant shall elect a coverage level and price at which indemnities shall be computed from among those levels and prices shown on the actuarial table for the crop year.

§ 431.3 [Reserved]

§ 431.4 Creditors.

An interest of a person in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy, or an involuntary transfer shall not entitle the holder of the interest to any benefit under the contract except as provided in the policy.

§ 431.5 Good faith reliance on misrepresentation.

Notwithstanding another provision of the soybean insurance contract, whenever (a) an insured person under a contract of crop insurance entered into under these regulations, as a result of a misrepresentation or other erroneous action or advice by an agent or employee of the Corporation, (1) is indebted to the Corporation for additional premiums, or (2) has suffered a loss to a crop which is not insured or for which the insured person is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the insured person believed to be insured, or believed the terms of the insurance contract to have been complied with or waived, and

(b) The Board of Directors of the Corporation, or the Manager in cases involving not more than $20,000.00, finds: (1) That an agent or employee of the Corporation did in fact make such misrepresentation or take other erroneous action or give erroneous advice, (2) that said insured person relied thereon in good faith, and (3) that to require the payment of the additional premiums or to deny such insured's entitlement to the indemnity would not be fair and equitable, such insured person shall be granted relief the same as if otherwise entitled thereto.

§ 431.6 The contract.

(a) The insurance contract shall become effective upon the acceptance by the Corporation of a duly executed application for insurance on a form prescribed by the Corporation. The contract shall cover the soybean crop as provided in the policy. The contract shall consist of the application the policy, the appendix, and the provisions of the county actuarial table. Any changes made in the contract shall not affect its continuity from year to year. Copies of forms referred to in the contract are available at the service office.

§ 431.7 The application and policy.

(a) Application for insurance on a form prescribed by the Corporation may be made by any person to cover such person's insurable share in the soybean crop as landlord, owner-operator, or tenant. The application shall be submitted to the Corporation at the service office on or before the applicable closing date on file in the service office.

(b) The Corporation reserves the right to discontinue the acceptance of applications in any county upon its determination that the insurance risk involved is excessive, and also for the same reason, to reject any individual application. The Manager of the Corporation is authorized in any crop year to extend the closing date for submitting applications or contract changes in any county, by placing the extended date on file in the service office and publishing a notice in the **Federal Register** upon the Manager's determination that no selectivity will result during the period of such extension. However, if adverse conditions should develop during such period, the Corporation will immediately discontinue the acceptance of applications.

(c) In accordance with the provisions governing changes in the contract contained in policies issued under FCIC regulations for the 1969 and succeeding crop years, a contract in the form provided for under this subpart will come into effect as a continuation of a soybean contract issued under such prior regulations, without the filing of a new application.

(d) The provisions of the application and Soybean Insurance Policy for the 1983 and succeeding crop years are as follows:

BILLING CODE 3410-08-M

UNITED STATES DEPARTMENT OF AGRICULTURE

FEDERAL CROP INSURANCE CORPORATION

CROP INSURANCE APPLICATION

CONTINUOUS CONTRACT

1. Name of Applicant _____ [ ][ ] -[ ][ ][ ] -[ ][ ][ ][ ][ ]
6. State County 7. Contract Number

2. Authorized Representative _____ 8. County _____ 9. State _____

3. Street or Mailing Address _____ [ ][ ][ ][ ][ ][ ][ ][ ][ ] [ ] [ ]
10. Identification Number 11. SSN--Tax

4. City and State _____ 5. Zip Code _____ 12. Type of Entity _____

13. Applicant is over 18: Yes___ No___ If no, Date of Birth _____

A. The applicant, subject to the provisions of the regulations of the Federal Crop Insurance Corporation (herein called "Corporation"), hereby applies to the Corporation for insurance on the applicant's share in the crop(s) shown below planted on insurable acreage as shown on the county actuarial table. The applicant elects from the actuarial table the coverage level, and where applicable, a price election or plan of insurance. THE PREMIUM RATE AND APPLICABLE PRODUCTION GUARANTEE OR AMOUNT OF INSURANCE PER ACRE SHALL BE THOSE SHOWN ON THE APPLICABLE COUNTY ACTUARIAL TABLE FILE IN THE SERVICE OFFICE FOR EACH CROP YEAR.

14. Effective Crop Year	15. Crop	16. Type, Class Plan of Ins.	17. Alpha Election	18. Price Election	19. Level Election	20. 21. 22. For Agency Use Only (A) (P)
						[ ]____ ____
						[ ]____ ____
						[ ]____ ____
						[ ]____ ____
						[ ]____ ____
						[ ]____ ____
						[ ]____ ____
						[ ]____ ____
						23. H S I O T-F U R

24. [ ] Crop(s) NOT insured the first year: _____ _____ _____

B. This application is hereby accepted by the Corporation except that the Corporation may reject the application on the basis that (1) the Corporation has determined that the risk is excessive under the provisions of paragraph 7(b) of the individual crop insurance regulations; (2) any material fact is concealed or misrepresented or fraud occurs in the application, or submission of the application; (3) the applicant is indebted to any United States Government Agency and that indebtedness is delinquent; (4) the applicant previously had crop insurance terminated for violation of the terms of the contract or the regulations, or for failure to pay the applicant's indebtedness; (5) the applicant is debarred by any United States Government Agency; or (6) the applicant has failed to provide complete and accurate information to material requests in this application.

Rejection shall be accomplished by depositing notification thereof in the United States Mail, Postage Paid, to the above address. Unless rejection as provided above or the time for filing applications has passed at the time this application is filed, the contract shall be in effect for the crops and crop years specified. AND SHALL CONTINUE FOR EACH SUCCEEDING CROP YEAR UNTIL CANCELED OR TERMINATED as provided in the contract. This accepted application, the insurance policies, the applicable appendix(es), and the provisions of the county actuarial table showing the insurable and uninsurable acreage, coverage levels, premium rates, and wherever applicable, the production guarantees, amounts of insurance, or plan of insurance shall constitute the contract. No term or condition of the contract shall be waived or changed except in writing by the Corporation.

25. [ ] Applicant does not have other like insurance on any of the above crops.

26. [ ] Previous Carrier_____ 27. Policy Number_____

28. _____ _____, 19__ [ ] [ ] [ ] [ ] [ ] [ ] [ ] [ ]
Applicant's Signature 29. Date 30. Code Number

31. _____
Witness to Signature

32. Location of Farm Headquarters	33. Address of Your Service Office
Phone:	Phone:
SEE REVERSE SIDE OF FORM FOR STATEMENT REQUIRED BY PRIVACY ACT OF 1974	34. Page ___of___pages

Following is the Privacy Act Statement found on the reverse side of the Application for Crop Insurance:

COLLECTION OF INFORMATION AND DATA (PRIVACY ACT)

The following statements are made in accordance with the Privacy Act of 1974 (5 U.S.C. 552(a)):

The authority for requesting the information to be supplied on this form is the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 et seq.), and the regulations promulgated thereunder (7 CFR 400 et seq.). The information requested is necessary for FCIC to consider and process the application for insurance; to assist in determining the correct premium and indemnity; and to determine the correct parties to the insurance contract. The information may be furnished to FCIC contract agencies and contract loss adjusters, reinsured companies, other U.S. Department of Agriculture Agencies, Internal Revenue Service, Department of Justice, or other State and Federal law enforcement agencies, and in response to orders of a court, magistrate, or administrative tribunal.

Furnishing the Social Security number is voluntary and no adverse action will result from failure to do so. Furnishing the information, other than the Social Security number, is also voluntary; however, failure to furnish the correct, complete information requested may result in rejection of the application and/or subsequent denial of any claim for indemnity which may be filed. The failure to supply correct, complete information will also invalidate the automatic acceptance provisions of Section B hereof and may substantially delay acceptance of the application and processing of any claim for indemnity.

BILLING CODE 3410-08-C

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Soybean—Crop Insurance Policy

[This is a continuous contract. Refer to Section 15]

Agreement to insure: We will provide the insurance described in this policy in return for the premium and compliance with all applicable provisions.

Throughout this policy "you" and "your" refer to the insured shown on the approved Application and "we," "us" and "our" refer to the Federal Crop Insurance Corporation.

Terms and Conditions

1. Causes of loss.

a. The insurance provided is against unavoidable loss of production resulting from adverse weather conditions, fire, insects, plant disease, wildlife, earthquake, or volcano occurring within the insurance period, unless those causes are excepted, excluded, or limited by the actuarial table.

b. We will not insure against any cause of loss of production due to:

(1) The neglect or malfeasance of you, any member of your household, your tenants or employees;

(2) The failure to follow recognized good soybean farming practices;

(3) Damage resulting from the impoundment of water by any governmental, public or private dam or reservoir project; or

(4) Any cause not specified in section 1a as an insured loss.

2. Crop, acreage, and share insured.

a. The crop insured shall be soybeans which are planted for harvest as beans and which are grown on insured acreage and for which we provide a guarantee and premium rate on the actuarial table.

b. The acreage insured for each crop year shall be that acreage planted to soybeans on insurable acreage as provided for on the actuarial table and in which you have a share, as reported by you or as determined by us, whichever we shall elect.

c. The insured share shall be your share as landlord, owner-operator, or tenant in the insured soybeans at the time of planting.

d. We do not insure any acreage:

(1) Where the farming practices carried out are not in accordance with the farming practices for which the premium rates have been established;

(2) Which is irrigated and an irrigated practice is not provided for on the actuarial table. (You have the option to insure such acreage by reporting it for insurance as provided in section 3.);

(3) Which is destroyed and we determine it is practical to replant to soybeans and such acreage was not replanted;

(4) Initially planted after the final planting date contained in the actuarial table, unless you sign an option form agreeing to coverage reduction;

(5) Of volunteer soybeans;

(6) Planted to a type or variety of soybeans not established as adapted to the area or excluded on the actuarial table;

(7) Planted with another crop; or

(8) Of a second soybean crop following a soybean crop harvested in the same calendar year.

e. Where insurance is provided for an irrigated practice:

(1) You shall report as irrigated only the acreage for which you have adequate facilities and water to carry out a good soybean irrigation practice at the time of planting; and

(2) Any loss of production caused by failure to carry out a good soybean irrigation practice, except failure of the water supply from an unavoidable cause occurring after the beginning of planting, shall be considered as due to an uninsured cause. The failure or breakdown of irrigation equipment or facilities shall not be considered as a failure of the water supply from an unavoidable cause.

f. Unless otherwise provided on the actuarial table, insurance shall attach only on acreage initially planted in rows far enough apart to permit cultivation, as determined by us; but, if such insured acreage is destroyed and replanted, whether in the same manner or by broadcasting, drilling, or in rows too close to permit cultivation, it shall be regarded as insured acreage and not as acreage put to another use.

g. Acreage which is planted for the development or production of hybrid seed or for experimental purposes is not insured unless we agree in writing to insure such acreage.

h. We may limit the insured acreage to any acreage limitation established under any Act of Congress, if we advise you of the limit prior to planting.

3. Report of acreage, share, and where applicable, practice.

You shall report on our form:

a. All the acreage of soybeans in the county in which you have a share;

b. The practice; and

c. Your share at the time of planting.

You shall designate separately any acreage that is not insurable. You shall report if you do not have a share in any soybeans planted in the county. This report shall be submitted annually before the reporting date. If you do not submit this report by the reporting date, we may elect to determine by unit the insured acreage, share, and practice or we may deny liability on any unit. Any report submitted by you may be revised only upon our approval.

4. Production guarantees, coverage levels, and prices for computing indemnities.

a. The production gurantees, coverage levels, and prices for computing indemnities will be contained in the actuarial table.

b. You may change the coverage level and price election before the closing date for submitting applications for the crop year.

5. Annual premium.

a. The annual premium is earned and payable at the time of planting. The amount is computed by multiplying the production guarantee times the price election, times the premium rate, times the insured acreage, times your share at the time of planting, times the applicable premium adjustment percentage.

ANNUAL PREMIUM ADJUSTMENT TABLE [1]

[Percent adjustments for favorable continuous insurance experience]

Loss ratio [2] through previous crop year	Numbers of years continuous experience through previous year															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
	Percentage Adjustments Factor For Current Crop Year															
.00 to .20	100	95	95	90	90	85	80	75	70	70	65	65	60	60	55	50
.21 to .40	100	100	95	95	90	90	90	85	80	80	75	75	70	70	65	60
.41 to .60	100	100	95	95	95	95	95	90	90	90	85	85	80	80	75	70
.61 to .80	100	100	95	95	95	95	95	95	90	90	90	90	85	85	85	80
.81 to 1.09	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

[1] For premium adjustment purposes, only the years during which premiums were earned shall be considered.
[2] Loss Ratio means the ratio of indemnity(ies) paid to premium(s) earned.

ANNUAL PREMIUMS ADJUSTMENT TABLE [1]

[Percent adjustments for unfavorable insurance experience]

Loss ratio through previous crop year	Numbers of loss years through previous year [2]															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
	Percentage Adjustment Factor For Current Crop Year															
1.10 to 1.19	100	100	100	102	104	106	108	110	112	114	116	118	120	122	124	126
1.20 to 1.39	100	100	100	104	108	112	116	120	124	128	132	136	140	144	148	152
1.40 to 1.69	100	100	100	108	116	124	132	140	148	156	164	172	180	188	196	204
1.70 to 1.99	100	100	100	112	122	132	142	152	162	172	182	192	202	212	222	232
2.00 to 2.49	100	100	100	116	128	140	152	164	176	188	200	212	224	236	248	260
2.50 to 3.24	100	100	100	120	134	148	162	176	190	204	218	232	246	260	274	288
3.25 to 3.99	100	100	108	124	140	156	172	188	204	220	236	252	268	284	300	300
4.00 to 4.99	100	100	110	128	146	164	182	200	218	236	254	272	290	300	300	300
5.00 to 5.99	100	100	115	132	152	172	192	212	232	252	272	292	300	300	300	300
6.00 and up	100	100	120	136	156	180	202	224	246	268	290	300	300	300	300	300

[1] For premium adjustment purposes, only the years during which premiums were earned shall be considered.
[2] Only the most recent 15 crop years will be used to determine the number of "Loss Years". (A crop year is determined to be a "Loss Year" when the amount of indemnity for the year exceeds the premium for the year.)
[3] Loss Ratio means the ratio of indemnity(ies) paid to premium(s) earned.

b. Interest will accrue at the rate of one and a half percent (1½%) simple interest per calender month, or any part thereof, on any unpaid premium balance starting on the first day of the month following the first premium billing date.

c. Any premium adjustment applicable to the contract shall be transferred to:

(1) The contract of your estate or surviving spouse in case of your death;

(2) The contract of the person who succeeds you if such person had previously participated in the farming operation; or

(3) Your contract if you stop farming in one county and start farming in another county.

d. If participation is not continuous, any premium will be computed on the basis of previous unfavorable insurance experience but no premium reduction under section 5a will be applicable.

6. Deductions for debt.

Any unpaid amount due us may be deducted from any indemnity payable to you or from any loan or payment due you under any Act of Congress or program administered by the United States Department of Agriculture or its Agencies, unless prohibited by law.

7. Insurance period.

Insurance attaches when the soybeans are planted and ends at the earliest of:

a. Total destruction of the soybeans;

b. Combining, threshing or removal from the field;

c. Final adjustment of a loss; or

d. The date immediately following planting as follows:

(1) Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina and Virginia, December 20;

(2) North Dakota, October 31;

(3) All other states, December 10.

8. Notice of damage or loss.

a. In a case of damage or probable loss:

(1) You must give us written notice if:

(a) You want our consent to replant soybeans damaged due to an insured cause. (To qualify for a replanting payment, the acreage replanted shall be at least the lesser of 10 acres or 10 percent of the insured acreage on the unit.);

(b) During the period before harvest, the soybeans on any unit are damaged and you decide not to further care for or harvest any part of them;

(c) You want our consent to put the acreage to another use; or

(d) After consent to put acreage to another use is given, additional damage occurs.

Insured acreage may not be put to another use until we have appraised the soybeans and given written consent. We will not consent to another use until it is too late to replant. You must notify us when such acreage is replanted or put to another use.

(2) You must give us notice or probable loss at least 15 days before the beginning of harvest if you anticipate a loss on any unit. If probable loss is later determined, immediate notice shall be given and a representative sample of unharvested soybeans (at least 10 feet wide and the entire length of the field) shall be left for a period of 15 days from the date of the notice, unless we give you written consent to harvest the sample.

(3) In addition to the notices required by this section, if you are going to claim an indemnity on any unit, we must be given notice not later than 30 days after the earliest of:

(a) Total destruction of the soybeans on the unit;

(b) Harvest of the unit; or

(c) The calendar date for the end of the insurance period.

b. You may not destroy or replant any of the soybeans on which a replanting payment will be claimed until we give consent.

c. You must be given written consent by us before you destroy any of the soybeans which are not to be harvested.

d. We may reject any claim for indemnity if any of the requirements of this section or section 9 are not complied with.

9. Claim for indemnity.

a. Any claim for indemnity on a unit shall be submitted to us on our prescribed form not later than 60 days after the earliest of:

(1) Total destruction of the soybeans on the unit;

(2) Harvest of the unit; or

(3) The calendar date for the end of the insurance period.

b. We shall not pay any indemnity unless you:

(1) Establish the total production of soybeans on the unit and that any loss of production has been directly caused by one or more of the insured causes during the insurance period; and

(2) Furnish all information we require concerning the loss.

c. The indemnity will be determined on each unit by:

(1) Multiplying the insured acreage by the production guarantee;

(2) Subtracting therefrom the total production of soybeans to be counted under section 9d;

(3) Multiplying the remainder by the price election; and

(4) Multiplying this result by your share.

If the information reported by you results in a lower premium than the actual premium determined by us, the indemnity will be reduced proportionately.

The indemnity will be reduced by the amount of any replanting payment.

d. The total production to be counted for a unit shall include all harvested and appraised production.

(1) Mature soybeans which grade No. 4 or better shall be reduced .12 percent for each .1 percentage point of moisture in excess of 14.0 percent; and if, due to insurable causes, any soybeans do not grade No. 4 or better in accordance with the Official United States Grain Standards the production shall be adjusted by:

(a) Dividing the value per bushel of such soybeans by the price per bushel of U.S No. 2 soybeans; and

(b) Multiplying the result by the number of bushels of such soybeans.

The applicable price for No. 2 soybeans shall be the local market price on the earlier of: the day the loss is adjusted or the day such soybeans were sold.

(2) Appraised production to be counted shall include:

(a) Unharvested production on harvested acreage and potential production lost due to uninsured causes and failure to follow recognized good soybean farming practices;

(b) Not less than the guarantee for any acreage which is abandoned or put to another use without our prior written consent or damaged solely by an uninsured cause;

(c) Any appraised production on unharvested acreage.

(3) Any appraisal we have made on insured acreage for which we have given written consent to be put to another use shall be considered production unless such acreage:

(a) Is not put to another use before harvest of soybeans becomes general in the county;

(b) Is harvested; or

(c) Is further damaged by an insured cause before the acreage is put to another use.

(4) We may determine the amount of production of any unharvested soybeans on the basis of field appraisals immediately after the end of the insurance period.

(5) When you have elected to exclude hail and fire as insured causes of loss and you have obtained at least a like amount of hail and fire insurance and the soybeans are damaged by hail or fire, appraisals will be made as follows:

(a) If hail or fire occurs prior to loss caused by any other insured cause and the percent of hail or fire loss determined as an average of the entire unit exceeds the following percentages for the applicable level, there will be an appraisal for uninsured causes as follows:

(i) Level 1. Each percent of loss in excess of 50 percent will result in an appraisal for uninsured causes of 2.00 percent of the guarantee;

(ii) Level 2. Each percent of loss in excess of 35 percent will result in an appraisal for uninsured causes of 1.54 percent of the guarantee; and

(iii) Level 3. Each percent of loss in excess of 25 percent will result in an appraisal for uninsured causes of 1.33 percent of the guarantee.

(b) If hail or fire occurs following a loss caused by any other insured cause and the amount of hail and fire insurance is reduced, an appraisal for uninsured causes will be made as follows:

(i) The hail and fire insurance indemnity will be divided by the original hail and fire insurance liability; and

(ii) This result applied to (a)(i), (ii) or (iii) above, whichever is applicable.

(6) The production of units commingled will be allocated to such units in proportion to the liability on the harvested acreage of each unit.

e. A replanting payment may be made on any insured soybeans replanted after we have given consent and the acreage replanted is at least the lesser of 10 acres or 10 percent of the insured acreage for the unit.

(1) No replanting payment will be made on acreage:

(a) On which our appraisal exceeds 90 percent of the guarantee;

(b) Initially planted prior to the date we determine reasonable; or

(c) On which a replanting payment has been made during the current crop year.

(2) The replanting payment per acre will be your actual cost per acre for replanting, but shall not exceed 3 bushels multiplied by the price election times your share.

If the information reported by you results in a lower premium than the actual premium determined by us, the replanting payment will be reduced proportionately.

Any replanting payment will be considered as an indemnity.

f. You will not abandon any insured soybean acreage to us.

g. You cannot bring suit or action against us unless you have complied with all policy provisions. If a claim is denied, you may sue us in the United States District Court under the provisions of 7 U.S.C. 1508(c). You must bring suit within 12 months of the date notice of denial is mailed to and received by you.

h. We will pay the loss within 30 days after we reach agreement with you, entry of a final judgment, or the filing of any appraisal award with us. In no event shall we be liable for interest or damages in connection with any claim for indemnity, whether we approve or disapprove such claim.

i. If you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved after the soybeans are planted for any crop year, any indemnity will be paid to the person(s) we determine to be beneficially entitled thereto.

j. If you have other fire insurance and fire damage occurs during the insurance period and you have not elected to exclude fire insurance from this policy, we shall be liable for loss due to fire only for the smaller of:

(1) The amount of indemnity determined pursuant to this contract without regard to any other insurance; or

(2) The amount determined by us by which the loss from fire exceeds the indemnity paid or payable under such other insurance. For the purposes of this section, the amount of loss from fire shall be the difference between the fair market value of the production on the unit before the fire and after the fire, as determined by us from our appraisals.

10. Concealment or fraud.

We may void the contract on all crops insured without affecting your liability for premiums or waiving any right, including the right to collect any amount due us if, at any time, you have concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance shall be effective as of the beginning of the crop year with respect to which such act or omission occurred.

11. Transfer of right to indemnity on insured share.

If you transfer any part of your share during the crop year, you may transfer the right to an indemnity on an approved form. We may collect the premium from either you or your transferee or both. The transferee shall have the same rights and responsibilities provided by the contract.

12. Assignment of indemnity.

On our prescribed form and with our approval, you may assign to another party the right to an indemnity for the crop year and such assignee shall have the right to submit the loss notices and forms required by the contract.

13. Subrogation. (Recovery of loss from a third party.)

Because you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve any such rights. If we pay you for your loss then your right of recovery will belong to us. If we recover more than we paid you plus our expenses, the excess will be paid to you.

14. Records and access to farm.

You shall keep for two years after the time of loss, records of the harvesting, storage, shipments, sale or other disposition of all soybeans produced on each unit including separate records showing the same information for production from any uninsured acreage. Any persons designated by us shall have access to such records and the farm for purposes related to the contract.

15. Life of contract: Cancellation and termination.

a. This contract shall be in effect for the crop year specified on the application and may not be canceled for such crop year. Thereafter, the contract will continue in force for each succeeding crop year unless canceled or terminated as provided for in this section.

b. This contract may be canceled by either you or us for any crop year by giving written notice on or before the December 31 cancellation date preceding such crop year.

c. This contract will terminate as to any crop year if any amount due us on this or any other contract with you is not paid on or before the termination date preceding such crop year for the contract on which the amount is due. The date of payment of the amount due:

(1) If deducted from an indemnity claim shall be the date you sign such claim; or

(2) If deducted from payment under another program administered by United States Department of Agriculture shall be the date such payment was approved.

The termination date for the contract is March 31.

d. If you die or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved, the contract shall terminate as of the date of death, judicial declaration, or dissolution. *However*, if such event occurs after insurance attaches for any crop year, the contract shall continue in force through the crop year and terminate at the end thereof. Death of a partner in a partnership shall dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons shall dissolve the joint entity.

e. The contract shall terminate if no premium is earned for five consecutive years.

16. Contract changes.

We may change any terms and provisions of the contract from year to year. If your price election at which indemnities are computed is no longer offered, the actuarial table will provide the price election which you will be deemed to have elected. You shall be notified of changes at least 15 days prior to the cancellation date preceding the crop year for which the changes are to become effective. Acceptance of any changes will be conclusively presumed in the absence of any notice from you to cancel the contract.

17. Meaning of terms.

For the purposes of soybean crop insurance:

a. "Actuarial table" means the forms and related material for the crop year approved by us which are available for public inspection in your service office, and which show the production guarantees, coverage levels, premium rates, prices for computing indemnities, practices where applicable, insurable and uninsurable acreage, and related information regarding soybean insurance in the county.

b. "County" means the county shown on the application and any additional land located in a local producing area bordering on the county, as shown on the actuarial table.

c. "Crop year" means the period within which the soybeans are normally grown and shall be designated by the calendar year in which the soybeans are normally harvested.

d. "Harvest" means the severance of mature soybeans from the land for combining or threshing.

e. "Insurable acreage" means the land classified as insurable by us and shown as such on the actuarial table.

f. "Insured" means the person who submitted the application accepted by us.

g. "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

h. "Replanting" means performing the cultural practices necessary to replant insured acreage to soybeans.

i. "Service office" means the office servicing your contract as shown on the application for insurance or such other approved office as may be selected by you or designated by us.

j. "Tenant" means a person who rents land from another person for a share of the soybeans or a share of the proceeds therefrom.

k. "Unit" means all insurable acreage of soybeans in the county on the date of planting for the crop year (1) in which you have a 100 percent share, or (2) which is owned by one entity and operated by another entity on a share basis. Land rented for cash, a fixed commodity payment, or any consideration other than a share in the soybeans on such land shall be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in your service office or by written agreement between us and you. We shall determine units as herein defined when the acreage is reported. Errors in reporting such units may be corrected by us to conform to applicable guidelines when adjusting a loss and we may consider any acreage and share reported by or for your spouse or child or any member of your household to be the bona fide share of you or any other person having the bona fide share.

18. Descriptive headings.

The descriptive headings of the various policy terms and conditions are formulated for convenience only and are not intended to affect the construction or meaning of any of the provisions of the contract.

Appendix B [Redesignated as Appendix A]

3. Appendix B is redesignated as Appendix A.

(Secs. 506, 516, Pub. L. 75–430, 52 Stat. 72 as amended (7 U.S.C. 1506, 1516))

Done in Washington, D.C., on December 13, 1982.

Dated: December 13, 1982.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Robert H. Sindt,

Deputy Manager.

[FR Doc. 82–34337 Filed 12–16–82; 10:04 am]

BILLING CODE 3410–06–M

---

7 CFR Part 432

Corn Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Interim rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby revises and reissues the Corn Crop Insurance Regulations (7 CFR Part 432), effective with the 1983 and succeeding crop years, in accordance with the provisions of Secretary's Memorandum No. 1512–1, which requires a periodic review of FCIC's regulations as to need, currency, clarity, and effectiveness. In addition to the review process, FCIC has revised the regulations to: (1) Include a provision to require the insured to file a notice of probable loss when the crop is damaged to the extent that a loss is probable and leave intact a representative sample of the unharvested crop, (2) prescribe the interest rate to be charged on any unpaid premium balances, (3) add a provision to provide a replanting payment limited to the actual cost of replanting; such payment to be considered as an indemnity payment deducted from any additional loss, (4) define FCIC's liability in cases of loss due to fire when the insured has other insurance against fire, (5) delete a section of the regulations requiring posting of indemnities paid within a county (6) eliminate the provision providing reduction in guarantee for any unharvested acreage, (7) eliminate the provision for substitute crops (8) provide improved coverage in cases where the producer elects not to have FCIC fire and hail coverage and buys an equal amount of such coverage from private companies, (9) provide a policy that is rewritten in clearer, easier to understand language, and (10) include a revised multi-crop application form to replace the former single-crop application. The intended effect of this interim rule is to revise the system of reporting damage or loss to an insured crop, improve the debt management practices of FCIC, rewrite the policy in clearer language, remove certain restrictions in the policy, and reduce the time and paperwork demands on the applicant, in addition to the review of these regulations in compliance with the provisions of Secretary's Memorandum No. 1512–1 (June 11, 1981).

DATES:

Effective date: December 16, 1982.

Comment date: Written comments, data, and opinions on this interim rule should be submitted not later than January 20, 1983, to be sure of consideration.

ADDRESS: Written comments on this interim rule should be sent to the Office of the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C, 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447–3325.

The Impact Statement describing the options considered in developing this interim rule and the impact of implementing each option is available upon request from Peter F. Cole.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1512–1 (June 11, 1981).

Information collection requirements contained in these regulations (7 CFR Part 432) have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Nos. 0563–0003 and 0563–0007.

Merritt W. Sprague, Manager, FCIC, has determined that: (1) This action is not a major rule as defined by Executive Order No. 12291 (February 17, 1981), (2) this action does not increase the Federal paperwork burden for individuals, small businesses, and other persons, and (3) this action conforms to the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), and other applicable law.

The title and number of the Federal Assistance Program to which this interim rule applies are: Title—Crop Insurance; Number 10.450.

This action will not have a significant impact specifically upon area and community development; therefore, review as established in Executive Order No. 12372 (July 14, 1982), was not used to assure that units of local government are informed of this action.

It has been determined that this action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Impact Statement was prepared.

It has also been determined that this action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under the provisions of Secretary's Memorandum No. 1512–1 (June 11, 1981). The sunset review date established for these regulations is October 1, 1987.

Merritt W. Sprague, Manager, FCIC, has determined that an emergency situation exists which warrants implementation of this proposed rule without allowing for the normal 60-day comment period prior to implementation because the regulations for insuring corn provide that any amendments thereto must be placed on file or provided to insureds 15 days before the cancellation date for the crop insured. The cancellation date established for corn is December 31; therefore, any amendments to the regulations must be placed on file by December 15. There would not be sufficient time to permit a comment period prior to implementation of these regulations and still comply with the regulations with respect to placing these regulations on file by such date.

FCIC is soliciting public comment on this interim rule for 60 days after publication in the **Federal Register**, and this interim rule will be scheduled for review so that a final document discussing comments received and any amendments required can be published in the **Federal Register** as soon as possible.

Pursuant to the administrative provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this interim rule prior to implementation are impracticable and contrary to the public interest; however, comments are solicited for 60 days after publication of this rule and such comments made pursuant to this notice will be available for public inspection in the Office of the Manager during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Part 432

Crop insurance, Corn.

Interim Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby amends and reissues the Corn Crop Insurance Regulations (7 CFR Part 432), effective with the 1983 and succeeding crop years, as follows.

PART 432—[AMENDED]

1. The Subpart heading is revised to read:

"Subpart—Regulations for the 1983 and Succeeding Crop Years"

2. Sections 432.1–432.7 are revised to read as set forth below:

§ 432.1 Availability of corn insurance.

Insurance shall be offered under the provisions of this subpart on corn in counties within limits prescribed by and in accordance with the provisions of the Federal Crop Insurance Act, as amended. The counties shall be designated by the Manager of the Corporation from those approved by the Board of Directors of the Corporation. Before insurance is offered in any county, there shall be published by appendix to this part the names of the counties in which corn insurance will be offered.

§ 432.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.

(a) The Manager shall establish premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed for corn which shall be shown on the county actuarial table on file in the service office and may be changed from year to year.

(b) At the time the application for insurance is made, the applicant shall elect a coverage level and price at which indemnities shall be computed from among those levels and prices shown on the actuarial table for the crop year.

§ 432.3 [Reserved.]

§ 432.4 Creditors.

An interest of a person in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy, or an involuntary transfer shall not entitle the holder of the interest to any benefit under the contract except as provided in the policy.

§ 432.5 Good faith reliance on misrepresentation.

Notwithstanding any other provision of the corn insurance contract, whenever (a) An insured person under a contract of crop insurance entered into under these regulations, as a result of a misrepresentation of other erroneous action or advice by an agent or employee of the Corporation (1) Is indebted to the Corporation for additional premiums, or (2) has suffered a loss to a crop which is not insured or for which the insured person is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the insured person believed to be insured, or believed the terms of the insurance contract to have been complied with or waived, and

(b) The Board of Directors of the Corporation, or the Manager in cases involving not more than $20,000.00, finds (1) That an agent or employee of the Corporation did in fact make such misrepresentation or take other erroneous action or give erroneous advice, (2) that said insured person relied thereon in good faith, and (3) that to require the payment of the additional premiums or to deny such insured's entitlement to the indemnity would not be fair and equitable, such insured person shall be granted relief the same as if otherwise entitled thereto.

§ 432.6 The contract.

The insurance contract shall become effective upon the acceptance by the Corporation of a duly executed application for insurance on a form prescribed by the Corporation. The contract shall cover the corn crop as provided in the policy. The contract shall consist of the application, the policy, the attached appendix, and the provisions of the county actuarial table. Any changes made in the contract shall not affect its continuity from year to year. Copies of forms referred to in the contract are available at the service office.

§ 432.7 The application and policy.

(a) Application for insurance on a form prescribed by the Corporation may be made by any person to cover such person's insurable share in the corn crop as landlord, owner-operator, or tenant. The application shall be submitted to the Corporation at the service office on or before the applicable closing date on file in the service office.

(b) The Corporation may discontinue the acceptance of applications in any county upon its determination that the insurance risk involved is excessive, and may also, for the same reason, reject any individual application. The Manager of the Corporation is authorized in any crop year to extend the closing date for submitting applications or contract changes in any county, by placing the extended date on file in the service office and publishing a notice in the **Federal Register** upon the Manager's determination that no adverse selectivity will result during the period of such extension. However, if adverse conditions should develop during such period, the Corporation will immediately discontinue the acceptance of applications.

(c) In accordance with the provisions governing changes in the contract contained in policies issued under FCIC regulations for the 1969 and succeeding crop years, a contract in the form provided for under this subpart will come into effect as a continuation of a corn contract issued under such prior regulations, without the filing of a new application.

(d) The provisions of the application and Corn Insurance Policy for the 1983 and succeeding crop years are as follows:

BILLING CODE 3410-08-M

UNITED STATES DEPARTMENT OF AGRICULTURE

FEDERAL CROP INSURANCE CORPORATION

CROP INSURANCE APPLICATION

CONTINUOUS CONTRACT

1. Name of Applicant

[ ][ ] -[ ][ ][ ] -[ ][ ][ ][ ][ ][ ]
6. State County 7. Contract Number

2. Authorized Representative

8. County

9. State

3. Street or Mailing Address

[ ][ ][ ][ ][ ][ ][ ][ ][ ][ ][ ][ ] [ ] [ ]
10. Identification Number 11. SSN--Tax

4. City and State

5. Zip Code

12. Type of Entity

13. Applicant is over 18: Yes__ No__

If no, Date of Birth

A. The applicant, subject to the provisions of the regulations of the Federal Crop Insurance Corporation (herein called "Corporation"), hereby applies to the Corporation for insurance on the applicant's share in the crop(s) shown below planted on insurable acreage as shown on the county actuarial table. The applicant elects from the actuarial table the coverage level, and where applicable, a price election or plan of insurance. THE PREMIUM RATE AND APPLICABLE PRODUCTION GUARANTEE OR AMOUNT OF INSURANCE PER ACRE SHALL BE THOSE SHOWN ON THE APPLICABLE COUNTY ACTUARIAL TABLE FILED IN THE SERVICE OFFICE FOR EACH CROP YEAR.

14. Effective Crop Year	15. Crop	16. Type, Class Plan of Ins.	17. Alpha Election	18. Price Election	19. Level Election	20. For Agency Use Only (A)	21. (P)
						[ ]	
						[ ]	
						[ ]	
						[ ]	
						[ ]	
						[ ]	
						[ ]	
						[ ]	

22. [ ]

23. N S I O T-F U R

24. [ ] Crop(s) NOT insured the first year: _____ _____ _____

B. This application is hereby accepted by the Corporation except that the Corporation may reject the application on the basis that (1) the Corporation has determined that the risk is excessive under the provisions of paragraph 7(b) of the individual crop insurance regulations; (2) any material fact is concealed or misrepresented or fraud occurs in the application, or submission of the application; (3) the applicant is indebted to any United States Government Agency and that indebtedness is delinquent; (4) the applicant previously had crop insurance terminated for violation of the terms of the contract or the regulations, or for failure to pay the applicant's indebtedness; (5) the applicant is debarred by any United States Government Agency; or (6) the applicant has failed to provide complete and accurate information to material requests in this application.

Rejection shall be accomplished by depositing notification thereof in the United States Mail, Postage Paid, to the above address. Unless rejection as provided above or the time for filing applications has passed at the time this application is filed, the contract shall be in effect for the crops and crop years specified. AND SHALL CONTINUE FOR EACH SUCCEEDING CROP YEAR UNTIL CANCELED OR TERMINATED as provided in the contract. This accepted application, the insurance policies, the applicable appendix(es), and the provisions of the county actuarial table showing the insurable and uninsurable acreage, coverage levels, premium rates, and wherever applicable, the production guarantees, amounts of insurance, or plan of insurance shall constitute the contract. No term or condition of the contract shall be waived or changed except in writing by the Corporation.

25. [ ] Applicant does not have other like insurance on any of the above crops.

26. [ ] Previous Carrier_____ 27. Policy Number_____

28. _____ _____, 19__ [ ] [ ] [ ] [ ] [ ] [ ] [ ]
Applicant's Signature 29. Date 30. Code Number

31. _____
Witness to Signature

32. Location of Farm Headquarters Phone:	33. Address of Your Service Office Phone:
SEE REVERSE SIDE OF FORM FOR STATEMENT REQUIRED BY PRIVACY ACT OF 1974	34. Page ___of___pages

Following is the Privacy Act Statement found on the reverse side of the Application for Crop Insurance:

COLLECTION OF INFORMATION AND DATA (PRIVACY ACT)

The following statements are made in accordance with the Privacy Act of 1974 (5 U.S.C. 552(a)):

The authority for requesting the information to be supplied on this form is the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 et seq.), and the regulations promulgated thereunder (7 CFR 400 et seq.). The information requested is necessary for FCIC to consider and process the application for insurance; to assist in determining the correct premium and indemnity; and to determine the correct parties to the insurance contract. The information may be furnished to FCIC contract agencies and contract loss adjusters, reinsured companies, other U.S. Department of Agriculture Agencies, Internal Revenue Service, Department of Justice, or other State and Federal law enforcement agencies, and in response to orders of a court, magistrate, or administrative tribunal.

Furnishing the Social Security number is voluntary and no adverse action will result from failure to do so. Furnishing the information, other than the Social Security number, is also voluntary; however, failure to furnish the correct, complete information requested may result in rejection of the application and/or subsequent denial of any claim for indemnity which may be filed. The failure to supply correct, complete information will also invalidate the automatic acceptance provisions of Section 8 hereof and may substantially delay acceptance of the application and processing of any claim for indemnity.

BILLING CODE 3410-08-C

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Corn Crop Insurance Policy

[This is a continuous contract. Refer to section 15.]

Agreement to insure: We will provide the insurance described in this policy in return for the premium and compliance with all applicable provisions.

Throughout this policy "you" and "your" refer to the insured shown on the approved Application and "we," "us" and "our" refer to the Federal Crop Insurance Corporation.

Terms and Conditions

1. Causes of loss.

a. The insurance provided is against unavoidable loss of production resulting from adverse weather conditions, fire, insects, plant disease, wildlife, earthquake, or volcano occurring within the insurance period, unless those causes are excepted, excluded, or limited by the actuarial table.

b. We will not insure against any cause of loss of production due to:

(1) The neglect or malfeasance of you, any member of your household, your tenants or employees;

(2) The failure to follow recognized good corn farming practices;

(3) Damage resulting from the impoundment of water by any governmental, public or private dam or reservoir project; or

(4) Any cause not specified in section 1a as an insured loss.

2. Crop, acreage, and share insured.

a. The crop insured shall be field corn ("corn") which is planted for harvest as grain or silage and which is grown on insured acreage and for which we provide a guarantee and premium rate on the actuarial table.

b. The acreage insured for each crop year shall be that acreage planted to corn on insurable acreage as provided for on the actuarial table and in which you have a share, as reported by you or as determined by us, whichever we shall elect.

c. The insured share shall be your share as landlord, owner-operator, or tenant in the insured corn at the time of planting.

d. We do not insure any acreage:

(1) Where the farming practices carried out are not in accordance with the farming practices for which the premium rates have been established;

(2) Which is irrigated and an irrigated practice is not provided for on the actuarial table. (You have the option to insure such acreage by reporting it for insurance as provided in section 3.);

(3) Which is destroyed and we determine it is practical to replant to corn and such acreage was not replanted;

(4) Initially planted after the final planting date contained in the actuarial table, unless you sign an option form agreeing to coverage reduction;

(5) Of volunteer corn;

(6) Planted to a type or variety of corn not established as adapted to the area or excluded on the actuarial table; or

(7) Planted with another crop.

e. Where insurance is provided for an irrigated practice:

(1) You shall report as irrigated only the acreage for which you have adequate facilities and water to carry out a good corn irrigation practice at the time of planting; and

(2) any loss of production caused by failure to carry out a good corn irrigation practice, except failure of the water supply from an unavoidable cause occurring after the beginning of planting, shall be considered as due to an uninsured cause. The failure or breakdown of irrigation equipment or facilities shall not be considered as a failure of the water supply from an unavoidable cause.

f. Acreage which is planted for the development or production of hybrid seed or for experimental purposes is not insured unless we agree in writing to insure such acreage.

g. We may limit the insured acreage to any acreage limitation established under any Act of Congress, if we advise you of the limit prior to planting.

3. Report of acreage, share, and where applicable, practice.

You shall report on our form:

a. All the acreage of corn in the county in which you have a share;

b. The practice; and

c. Your share at the time of planting.

You shall designate separately any acreage that is not insurable. You shall report if you do not have a share in any corn planted in the county. This report shall be submitted annually before the reporting date. If you do not submit this report by the reporting date, we may elect to determine by unit the insured acreage, share, and practice or we may deny liability on any unit. Any report submitted by you may be revised only upon our approval.

4. Production guarantees, coverage levels, and prices for computing indemnities.

a. The production guarantees, coverage levels, and prices for computing indemnities will be contained in the actuarial table.

b. You may change the coverage level and price election before the closing date for submitting applications for the crop year.

5. Annual premium.

a. The annual premium is earned and payable at the time of planting. The amount is computed by multiplying the production guarantee times the price election, times the premium rate, times the insured acreage, times your share at the time of planting, times the applicable premium adjustment percentage.

ANNUAL PREMIUM ADJUSTMENT TABLE [1]

[Percent adjustments for favorable continuous insurance experience]

Loss ratio [2] through previous crop year	Numbers of years continuous experience through previous year															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
Percentage Adjustment Factor For Current Crop Year																
.00 to .20	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	50	75	70	70	65	65	60	60	[illegible]	[illegible]
.21 to .40	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	90	[illegible]	[illegible]	[illegible]	75	75	70	70	[illegible]	[illegible]
.41 to .60	150	[illegible]	95	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
.61 to .80	[illegible]	[illegible]	[illegible]	[illegible]	95	95	[illegible]	95	[illegible]	[illegible]	[illegible]	90	[illegible]	[illegible]	85	[illegible]
.81 to 1.00	[illegible]	[illegible]	100	100	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	100	[illegible]	[illegible]

[1] For premium adjustment purposes, only the years during which premiums were earned shall be considered.
[2] Loss Ratio means the ratio of indemnity(ies) paid to premium(s) earned.

ANNUAL PREMIUM ADJUSTMENT TABLE [1]

[Percent adjustments for unfavorable insurance experience]

Loss ratio [3] through previous crop year	Numbers of loss years through previous year [2]															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Percentage Adjustment Factor For Current Crop Year																
1.10 to 1.19	100	100	100	102	[illegible]	106	[illegible]	110	112	114	116	118	[illegible]	[illegible]	[illegible]	[illegible]
1.20 to 1.39	100	100	100	104	108	112	116	120	[illegible]	[illegible]	[illegible]	136	[illegible]	[illegible]	[illegible]	152
1.40 to 1.69	100	100	100	[illegible]	116	124	[illegible]	[illegible]	148	156	164	172	[illegible]	[illegible]	196	[illegible]
1.70 to 1.99	100	100	100	112	122	[illegible]	142	152	[illegible]	172	182	[illegible]	202	212	222	[illegible]
2.00 to 2.49	[illegible]	[illegible]	[illegible]	116	128	140	[illegible]	164	176	[illegible]	200	[illegible]	[illegible]	236	248	[illegible]
2.50 to 3.24	[illegible]	100	[illegible]	[illegible]	134	148	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	246	[illegible]	[illegible]	[illegible]
3.25 to 3.99	[illegible]	[illegible]	105	124	[illegible]	156	172	[illegible]	[illegible]	220	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
4.00 to 4.99	100	100	[illegible]	[illegible]	[illegible]	164	[illegible]	[illegible]	218	236	254	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
5.00 to 5.99	100	100	115	[illegible]	152	172	[illegible]	212	232	252	[illegible]	[illegible]	[illegible]	300	[illegible]	[illegible]
6.00 to up	100	100	[illegible]	[illegible]	[illegible]	[illegible]	202	224	[illegible]	[illegible]	[illegible]	300	300	[illegible]	300	[illegible]

[1] For premium adjustment purposes, only the years during which premiums were earned shall be considered.
[2] Only the most recent 15 crop years will be used to determine the number of "Loss Years". (A crop year is determined to be a "Loss Year" when the amount of indemnity for the year exceeds the premium for the year.)
[3] Loss Ratio means the ratio of indemnity(ies) paid to premium(s) earned.

b. Interest will accrue at the rate of one and a half percent (1½%) simple interest per calendar month, or any part thereof, on any unpaid premium balance starting on the first day of the month following the first premium billing date.

c. Any premium adjustment applicable to the contract shall be transferred to:

(1) The contract of your estate or surviving spouse in case of your death;

(2) The contract of the person who succeeds you if such person had previously participated in the farming operation; or

(3) Your contract if you stop farming in one county and start farming in another county.

d. If participation is not continuous, any premium will be computed on the basis of

previous unfavorable insurance experience but no premium reduction under section 5a will be applicable.

6. Deductions for debt.

Any unpaid amount due us may be deducted from any indemnity payable to you or from any loan or payment due you under any Act of Congress or program administered by the United States Department of Agriculture or its Agencies, unless prohibited by law.

7. Insurance period.

Insurance attaches when the corn is planted and ends at the earliest of:

a. Total destruction of the corn;

b. Harvest;

c. Final adjustment of a loss;

d. The date immediately following planting as follows:

(1) North Dakota, October 31;

(2) Jackson, Victoria, Goliad, Bee, Live Oak, McMullen, LaSalle, Dimmitt Counties, Texas and all Texas counties south thereof, September 30;

(3) All other Texas counties and other states, December 10, or

e. September 30 where our actuarial table shows:

(1) Only a silage guarantee; or

(2) Both a grain and a silage guarantee and the corn is to be harvested for silage.

8. Notice of damage or loss.

a. In case of damage or probable loss:

(1) You must give us written notice if:

(a) You want our consent to replant corn damaged due to any insured cause. (To qualify for a replanting payment, the acreage replanted shall be at least the lesser of 10 acres or 10 percent of the insured acreage on the unit.);

(b) During the period before harvest, the corn on any unit is damaged and you decide not to further care for or harvest any part of it;

(c) You want our consent to put the acreage to another use; or

(d) After consent to put acreage to another use is given, additional damage occurs.

Insured acreage may not be put to another use until we have appraised the corn and given written consent. We will not consent to another use until it is too late to replant. You must notify us when such acreage is replanted or put to another use.

(2) You must give us notice of probable loss at least 15 days before the beginning of harvest if you anticipate a loss on any unit. If probable loss is later determined, immediate notice shall be given and a representative sample of unharvested corn (at least 10 feet wide and the entire length of the field) shall be left for a period of 15 days from the date of the notice, unless we give you written consent to harvest the sample.

(3) In addition to the notices required by this section, if you are going to claim an indemnity on any unit, we must be given notice not later than 30 days after the earliest of:

(a) Total destruction of the corn on the unit;

(b) Harvest of the unit; or

(c) The calendar date for the end of the insurance period.

b. You may not destroy or replant any of the corn on which a replanting payment will be claimed until we give consent.

c. You must be given written consent by us before you destroy any of the corn which is not to be harvested.

d. We may reject any claim for indemnity if any of the requirements of this section or section 9 are not complied with.

9. Claim for indemnity.

a. Any claim for indemnity on a unit shall be submitted to us on our prescribed form not later than 60 days after the earliest of:

(1) Total destruction of the corn on the unit;

(2) Harvest of the unit; or

(3) The calendar date for the end of the insurance period.

b. We shall not pay any indemnity unless you:

(1) Establish the total production of corn and/or silage on the unit and that any loss of production has been directly caused by one or more of the insured causes during the insurance period; and

(2) Furnish all information we require concerning the loss.

c. The indemnity will be determined on each unit by:

(1) Multiplying the insured acreage by the production guarantee;

(2) Multiplying this product by the price election;

(3) Subtracting the dollar amount obtained by multiplying the total production to be counted under section 9d by the price election; and

(4) Multiplying this result by your share.

Where a unit contains acreage to which both a grain and a silage guarantee apply, the dollar amount of insurance and dollar amount of the production to be counted shall be determined separately for each portion and then added together to determine the total amount for the unit.

If the information reported by you results in a lower premium than the actual premium determined by us, the indemnity will be reduced proportionately.

The indemnity will be reduced by the amount of any replanting payment.

d. The total production to be counted for a unit shall include all harvested and appraised production.

(1) When the actuarial table shows only a grain guarantee, all production and appraisals shall be determined in bushels. When the actuarial table shows only a silage guarantee, all production and appraisals shall be in tons. When the actuarial table shows both a grain and silage guarantee, the production and appraisals shall be determined in bushels for any unharvested acreage and in bushels or tons for any harvested acreage, depending upon whether the acreage is harvested for grain or silage.

(2) Mature grain production shall be reduced .12 percent for each .1 percentage point of moisture in excess of 15.5 through 30.0 percent and .2 percent for each .1 percentage point of moisture from 30.1 through 40.0 percent; and if, due to insurable causes, the moisture is over 40 percent, or the kernel damage is more than 15 percent as determined by a licensed grain grader, or the test weight is below 40 pounds per bushel, the production shall be adjusted by:

(a) Dividing the value per bushel of such corn by the price per bushel of U.S. No. 2 corn; and

(b) Multiplying the result by the number of bushels of such corn.

The applicable price for No. 2 corn shall be the local market price on the earlier of: the day the loss is adjusted or the day such corn was sold. The quality adjustment shall not reduce the harvested production more than 75 percent so that at least 25 percent of harvested production will count.

(3) Where the actuarial table shows both a grain and silage guarantee and the corn is harvested as silage, if a grain appraisal is made concurrently with a silage appraisal and the grain appraisal is less than 4.5 bushels per ton, the production shall be reduced 1 percent for each 1 tenth of a bushel below 4.5 bushels. There shall be no reduction allowed for harvested silage production if a representative sample of unharvested corn (one sample at least 10 feet wide and the entire length of the field for each 25 acres of corn harvested as silage) is not left until appraised by us.

(4) Appraised production to be counted shall include:

(a) Unharvested production on harvested acreage and potential production lost due to uninsured causes and failure to follow recognized good corn farming practices;

(b) Not less than the guarantee for any acreage which is abandoned or put to another use without our prior written consent or damaged solely by an uninsured cause;

(c) Any appraised production on unharvested acreage.

(5) Any appraisal we have made on insured acreage for which we have given written consent to be put to another use shall be considered as production unless such acreage:

(a) Is not put to another use before harvest of corn becomes general in the county;

(b) Is harvested; or

(c) Is further damaged by an insured cause before the acreage is put to another use.

(6) We may determine the amount of production of any unharvested corn on the basis of field appraisals immediately after the end of the insurance period.

(7) Where the actuarial table shows a silage guarantee or both a grain and silage guarantee and the normal silage harvesting period has ended, we may increase any tonnage appraisal or any harvested silage production to reflect the normal moisture content of silage harvested during the normal silage harvesting period.

(8) Where the actuarial table shows only a silage guarantee, we may convert bushels of grain to tons of silage, and increase all production harvested after the normal silage harvesting period to reflect the normal moisture content of silage harvested during the normal silage harvesting period.

(9) When you have elected to exclude hail and fire as insured causes of loss and you have obtained at least a like amount of hail and fire insurance and the corn is damaged by hail or fire, appraisals will be made as follows:

(a) If hail or fire occurs prior to loss caused by any other insured cause and the percent of hail or fire loss determined as an average of the entire unit exceeds the following percentages for the applicable level, there

will be an appraisal for uninsured causes as follows:

(i) Level 1. Each percent of loss in excess of 50 percent will result in an appraisal for uninsured causes of 2.00 percent of the guarantee;

(ii) Level 2. Each percent of loss in excess of 35 percent will result in an appraisal for uninsured causes of 1.54 percent of the guarantee; and

(iii) Level 3. Each percent of loss excess of 25 percent will result in an appraisal for uninsured causes of 1.33 percent of the guarantee.

(b) If hail or fire occurs following a loss caused by any other insured cause and the amount of hail and fire insurance is reduced, an appraisal for uninsured cause will be made as follows:

(i) The hail and fire insurance indemnity will be divided by the orginal hail and fire insurance liability; and

(ii) This result applied to (a)(i), (ii) or (iii) above, whichever is applicable.

(10) The production of units commingled will be allocated to such units in proportion to the liability on the harvested acreage of each unit.

e. A replanting payment may be made on any insured corn replanted after we have given consent and the acreage replanted is at least the lesser of 10 acres or 10 percent of the insured acreage for the unit.

(1) No replanting payment will be made on acreage:

(a) On which our appraisal exceeds 90 percent of the guarantee;

(b) Initially planted prior to the date we determine reasonable; or

(c) On which a replanting payment has been made during the current crop year.

(2) The replanting payment per acre will be your actual cost per acre for replanting except that:

(a) Where the actuarial table shows a grain guarantee only or both a grain and silage guarantee, the payment shall not exceed 8 bushels multiplied by the price election times your share; or

(b) Where the actuarial table shows only a silage guarantee, the payment shall not exceed 1 ton multiplied by the price election times your share.

If the information reported by you results in a lower premium than the actual premium determined by us, the replanting payment will be reduced proportionately.

Any replanting payment will be considered as an indemnity.

f. You will not abandon any insured corn acreage to us.

g. You cannot bring suit or action against us unless you have complied with all policy provisions. If a claim is denied, you may sue us in the United States District Court under the provisions of 7 U.S.C. 1508(c). You must bring suit within 12 months of the date notice of denial is mailed to and received by you.

h. We will pay the loss within 30 days after we reach agreement with you, entry of a final judgment, or the filing of any appraisal award with us. In no event shall we be liable for interest or damages in connection with any claim for indemnity, whether we approve or disapprove such claim.

i. If you die, disappear, or are judicially declared incompetent, or it you are an entity other than an individual and such entity is dissolved after the corn is planted for any crop year, any indemnity will be paid to the person(s) we determine to be beneficially entitled thereto.

j. If you have other fire insurance and fire damage occurs during the insurance period and you have not elected to exclude fire insurance from this policy, we shall be liable for loss due to fire only for the smaller of:

(1) The amount of indemnity determined pursuant to this contract without regard to any other insurance; or

(2) The amount as determined by us by which the loss from fire exceeds the indemnity paid or payable under such other insurance. For the purposes of this section, the amount of loss from fire shall be the difference between the fair market value of the production on the unit before the fire and after the fire, as determined by us from our appraisals.

10. Concealment or fraud.

We may void the contract on all crops insured without affecting your liability for premiums or waiving any right, including the right to collect any amount due us if, at any time, you have concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance shall be effective as of the beginning of the crop year with respect to which such act or omission occurred.

11. Transfer of right to indemnity on insured share.

If you transfer any part of your share during the crop year, you may transfer the right to an indemnity on an approved form. We may collect the premium from either you or your transferee or both. The transferee shall have the same rights and responsibilities provided by the contract.

12. Assignment of indemnity.

On our prescribed form and with our approval, you may assign to another party the right to an indemnity for the crop year and such assignee shall have the right to submit the loss notices and forms required by the contract.

13. Subrogation. (Recovery of loss from a third party.)

Because you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve any such rights. If we pay you for your loss then your right of recovery will belong to us. If we recover more than we paid you plus our expenses, the excess will be paid to you.

14. Records and access to farm.

You shall keep for two years after the time of loss, records of the harvesting, storage, shipments, sale or other disposition of all corn produced on each unit including separate records showing the same information for production from any uninsured acreage. Any persons designated by us shall have access to such records and the farm for purposes related to the contract.

15. Life of contract: cancellation and termination.

a. This contract shall be in effect for the crop year specified on the application and may not be canceled for such crop year. Thereafter, the contract will continue in force for each succeeding crop year unless canceled or terminated as provided for in this section.

b. This contract may be canceled by either you or us for any crop year by giving written notice on or before the cancellation date preceding such crop year.

c. This contract will terminate as to any crops year if any amount due us on this or any other contract with you is not paid on or before the termination date for the contract on which the amount is due. The date of payment of the amount due:

(1) If deducted from an indemnity claim shall be the date you sign such claim; or

(2) If deducted from payment under another program administered by the United States Department of Agriculture shall be the date such payment was approved.

d. The cancellation and termination dates are:

State and county	Cancellation date	Termination date for indebtedness
Jackson, Victoria, Goliad, Bee, Live Oak, McMullen, LaSalle, Dimmit Counties, Texas and all Texas counties lying south thereof	Sept. 30	Jan. 31
All other Texas counties and all other states.	Dec. 31	Mar. 31.

e. If you die or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved, the contract shall terminate as of the date of death, judicial declaration, or dissolution. *However*, if such event occurs after insurance attaches for any crop year, the contract shall continue in force through the crop year and terminate at the end thereof. Death of a partner in a partnership shall dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons shall dissolve the joint entity.

f. The contract shall terminate if no premium is earned for live consecutive years.

16. Contract changes.

We may change any terms and provisions of the contract from year to year. If your price election at which indemnities are computed is no longer offered, the actuarial table will provide the price election which you will be deemed to have elected. You shall be notified of changes at least 15 days prior to the cancellation date preceding the crop year for which the changes are to become effective. Acceptance of any changes will be conclusively presumed in the absence of any notice from you to cancel the contract.

17. Meaning of terms.

For the purposes of corn crop insurance:

a. "Actuarial table" means the forms and related material for the crop year approved by us which are available for public inspection in your service office, and which show the production guarantees, coverage levels, premium rates, prices for computing indemnities, practices where applicable, insurable and uninsurable acreage, and related information regarding corn insurance in the county.

b. "County" means the county shown on the application and any additional land located in a local producing area bordering on the county, as shown on the actuarial table.

c. "Crop year" means the period within which the corn is normally grown and shall be designated by the calendar year in which the corn is normally harvested.

d. "Harvest" means removing the grain from the stalk either by hand or machine or cutting the corn for the purpose of livestock feed.

e. "Insurable acreage" means the land classified as insurable by us and shown as such on the actuarial table.

f. "Insured" means the person who submitted the application accepted by us.

g. "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

h. "Replanting" means performing the cultural practices necessary to replant insured acreage to corn.

i. "Service office" means the office servicing your contract as shown on the application for insurance or such other approved office as may be selected by you or designated by us.

j. "Silage" means corn harvested by severing the stalk from the land and chopping the stalk and the ear for the purpose of livestock feed.

k. "Tenant" means a person who rents land from another person for a share of the corn or a share of the proceeds therefrom.

l. "Unit" means all insurable acreage of corn in the county on the date of planting for the crop year (1) in which you have a 100 percent share, or (2) which is owned by one entity and operated by another entity on a share basis. Land rented for cash, a fixed commodity payment, or any consideration other than a share in the corn on such land shall be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in your service office or by written agreement between us and you. We shall determine units as herein defined when the acreage is reported. Errors in reporting such units may be corrected by us to conform to applicable guidelines when adjusting a loss and we may consider any acreage and share reported by or for your spouse or child or any member of your household to be the bona fide share of you or any other person having the bona fide share.

16. Descriptive headings.

The descriptive headings of the various policy terms and conditions are formulated for convenience only and are not intended to affect the construction or meaning of any of the provisions of the contract.

Appendix B—[Redesignated as Appendix A]

3. Appendix B, counties designated for Corn Crop Insurance is redesignated as Appendix A.

(Secs. 506, 516, Pub. L 75-430, 52 Stat. 72, as amended (7 U.S.C. 1506, 1516))

Done in Washington, D.C., on December 13, 1982.

Dated: December 13, 1982.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Robert H. Sindt,

Deputy Manager.

[FR Doc. 82-34339 Filed 12-16-82; 10:04 am]

BILLING CODE 3410-08-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 200

[Release Nos. 33-6443; 34-19326; 35-22772; 39-785; IC-12894; IA-833]

Approved Information Collections; Current OMB Expiration Dates

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Commission is amending Subpart N of Part 200 to reflect current OMB expiration dates for approved information collections.

EFFECTIVE DATE: December 21, 1982.

FOR FURTHER INFORMATION CONTACT: Kenneth A. Fogash, Deputy Executive Director, SEC, 450 Fifth Street, NW., Washington, D.C. 20549, (202) 272-2142.

SUPPLEMENTARY INFORMATION: The Commission will amend Subpart N periodically to reflect current information.

List of Subject in 17 CFR Part 200

Administrative practice and procedure, Freedom of information, Privacy, Securities.

PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

Subpart N—Commission Information Collection Requirements Under the Paperwork Reduction Act: OMB Control Nos. and Expiration Dates

Part 200 of 17 CFR Chapter II is amended by removing Rule 242 and Forms 146, 240 and 242; by adding Rule 17f-5 and Rule 2A-7 (proposed); and revising certain expiration dates in paragraph (b) of § 200.800 as follows:

§ 200.800 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

* * * * *

(b) Display.

Information collection requirement	17 CFR Part or section where identified and described	Current OMB control No.	Expiration date
Regulation S-K.	Part 229	3235-0071	Dec. 31, 1982.
Regulation A	§§ 230.251 thru 230.264.	3235-0090	Do.
Regulation C	§§ 230.400 thru 230.494.	3235-0074	Sept. 30, 1985.
Regulation D	§§ 203.501 thru 230.506.	3235-0076	Dec. 31, 1984
Form S-1	§ 239.11	3235-0065	Sept. 30, 1985.
Form S-2	§ 239.12	3235-0072	Do.
Form S-3	§ 239.13	3235-0073	Do.
Form S-6	§ 239.16	3235-0184	May 31, 1985.
Form S-8	§ 239.16b	3235-0066	Sept. 30, 1985.
Form S-11	§ 239.18	3235-0067	Do.
Form S-18	§ 239.28	3235-0096	May 31, 1985.
Form 1-A	§ 239.90	3235-0096	Dec. 31, 1982.
Form 2-A	§ 239.91	3235-0096	Do.
Form 3-A	§ 239.92	3235-0096	Do.
Form 4-A	§ 239.93	3235-0096	Do.
Form 5-A	§ 239.94	3235-0096	Do.
Form 6-A	§ 239.95	3235-0096	Do.
Form 7-A	§ 239.96	3235-0096	Do.
Form D	§ 239.500	3235-0076	Do.
Rule 6a-2	§ 240.6a-2	3235-0022	Sept. 30, 1985
Rule 10b-7	§ 240.10b-7	3235-0201	Nov. 30, 1983
Regulation 13D/G.	§§ 240.13d-1 thru 240.13d-7.	3235-0145	Oct. 31, 1985.
Schedule 13D.	§240.13d-101.	3235-0145	Do.
Schedule 13G.	§ 240.13d-102.	3235-0145	Do.
Rule 13e-4	§ 240.13e-4	3235-0203	Sept. 30, 1985.
Schedule 13E-4.	§ 240.13e-101.	3235-0203	Do.
Rule 15b10-3.	§ 240.15b10-6.	3235-0158	Dec. 31, 1982.
Rule 17a-2	§ 240.17a-2	3235-0201	Nov. 30,1983
Rule 17a-4	§ 240.17a-4	3235-0197	Dec. 31, 1982.
Rule 17a-5(c).	§ 240.17a-5(c).	3235-0199	Sept. 30, 1985.
Rule 17Ad-6	§ 240.17Ad-6	3235-0137	Dec. 31, 1982.
Rule 17f-1(b)	§ 240.17f-1(b).	3235-0032	Do.
Rule 17f-1(g)	§ 240.17f-1(g).	3235-0036	Do.
Form 1	§ 249.1	3235-0017	Sept. 30, 1985.
Form 1-A	§ 249.1a	3235-0022	Do.
Form 4	§ 249.104	3235-0103	Dec. 31, 1982.
Form 8-B	§ 249.208b	3235-0066	Oct. 31, 1985.
Form 10	§ 249.210	3235-0064	Sept. 30, 1985.
Form 10-Q	§ 249.308a	3235-0070	Sept. 30, 1983.
Form 10-K	§ 249.310	3235-0063	Dec. 31, 1982.
Form X-17A-1.	§ 249.717	3235-0201	Nov. 30, 1983.
Rule 17f-2	§ 270.17f-2	3235-0223	Oct. 31, 1985.
Rule 31a-1(b).	§ 270.20a-1(b).	3235-0158	Sept. 30, 1985.
Rule 20a-2	§ 270.20a-2	3235-0158	Do.
Rule 20a-3	§ 270.20a-3	3235-0158	Do.
Rule 23c-1	§ 270.23c-1	3235-0260	Mar. 31, 1982.

Information collection requirement	17 CFR Part or section where identified and described	Current OMB control No.	Expiration date
Rule 23c-2	§ 270.23c-2	3235-0260	Do.
Rule 31a-1	§ 270.31a-1	3235-0178	June 30, 1983.
Rule 31a-2	§ 270.31a-2	3235-0179	Sept. 30, 1985.
Form N-8B-2	§ 274.12	3235-0186	Aug. 31 1982.
Form N-1R	§ 274.101	3235-0227	Oct. 31, 1985
Form N-1Q	§ 274.108	3235-0246	Do.
Form N-27E-1	§ 274.127e-1	3235-0255	Sept. 30, 1985
Form N-27F-1	§ 274.127f-1	3235-0253	Do.
Rule 204.2	§ 275.204.2	3235-0244	Dec. 31, 1982
1933 Act Guides 30, 55, 57, 60, 61, and 1934 Act Guide 3.	Guidlines for Disclosures by Certain Industries Under the 1933 and 1934 Acts.	[illegible]	Sept. 30, 1985
Questionnaire. Add	Research Forum.	3235-0271	Jan. 31, 1983
Rule 17f-5	§ 240.17f-5	3235-0269	July 31, 1985
Rule 2A-7 (proposed).	§ 270.2a-7	3235-0268	July 31, 1984
	Remove the following:		
Rule 242	§ 230.242	[illegible]	Nov. 30, 1984
Form 146	§ 239.146	3235-0005	Aug. 31, 1983
Form 240	§ 239.240	3235-0100	Nov. 30, 1984.
Form 242	§ 239.242	3235-0099	Do.

The Commission finds that this amendment, concerning the display of the control numbers and expiration dates assigned to information collection requirements of the Commission by the Office of Management and Budget pursuant to the Paperwork Reduction Act, pertains only to procedural matter: it is therfore not subject to the provisions of the Administrative Procedure Act, 5 U.S.C. 551 et seq., requiring advance notice and opportunity for comment. Accordingly, it is effective upon publication in the **Federal Register.**

(44 U.S.C. 3507(f)).

By the Commission.

Dated: December 13, 1982.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82-34558 Filed 12-20-82; 8:45 am]

BILLING CODE 8010-01-M

---

17 CFR Parts 210 and 270

[Release Nos. 33-6442; 34-19300; IC-12871; FR-8; File No. S7-918]

Financial Statement Requirements for Registered Investment Companies

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: The Commission announces the adoption of final rules which amend Article 6 of Regulation S-X regarding financial statements filed by registered investment companies. The amendments to Article 6 are being adopted to: (1) Eliminate rules which are duplicative of generally accepted accounting principles ("GAAP"), (2) effect changes which recognize current industry practices, and (3) integrate and simplify the rules to improve financial reporting. In addition, financial statement requirements for employee stock purchase, savings and similar plans are also being amended and transferred to a separate Article 6A. These amendments are part of the Commission's comprehensive reexamination of its requirements for financial statements in connection with its efforts to simplify and improve the current disclosure system.

EFFECTIVE DATE: Effective for companies and plans with fiscal years ended after June 15, 1983, with earlier implementation encouraged. Where comparative financial statements are presented, all reported periods shall conform with the rules being adopted.

FOR FURTHER INFORMATION CONTACT: Clarence M. Staubs, John W. Albert or Lawrence S. Jones, Office of the Chief Accountant, Securities and Exchange Commission, Washington, D.C. 20549 (202-272-2130).

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission is adopting final rules which amend Article 6 of Regulation S-X (17 CFR Part 210) regarding financial statements filed for registered investment companies and employee stock purchase, savings and similar plans. The amendments to Article 6 are being adopted to: (1) Eliminate rules which are duplicative of GAAP, (2) effect changes which recognize current industry practices, and (3) integrate and simplify the rules to improve financial reporting. The rules integrate certain common reporting requirements of management investment companies, unit investment trusts, and face-amount certificate companies (referred to collectively as registered investment companies) in a revised Article 6. Financial statement requirements for employee stock purchase, savings and similar plans are also amended to change requirements for valuation of investments and to transfer the rules to a separate Article 6A.

The final rules require management investment companies to present an all-inclusive statement of operations rather than the separate statements of income and expense, realized gain or loss on investments, and unrealized appreciation or depreciation of investments currently being furnished. The results of these operations will be captioned "net increase (decrease) in net assets resulting from operations." In addition, a reporting format is being prescribed for the presentation of a statement of net assets and a revised format adopted for the statement of changes in net assets. Finally, the requirements regarding the basis used to value certain assets in the balance sheets of closed-end management investment companies are being amended.

In connection with an ongoing review of Regulation S-X, the Commission established a project to review the requirements for financial statements filed by registered investment companies set forth in Article 6 of Regulation S-X. In a release issued on January 11, 1982,[1] the Commission invited public comment on proposed rules which would revise the financial statement requirements for these companies. A total of 19 letters were received during the comment period ended May 30, 1982.[2] Although the number of commentators was relatively few, the letters were generally very substantive. Accordingly, the comments included in these letters have been considered and appropriate changes made in the final rules adopted by the Commission.

Statement of Operations

The introduction of an all-inclusive statement of operations to replace the separate statements of income and expense, realized gain or loss on investments, and unrealized appreciation or depreciation of investments currently required represented the most significant proposed change and accordingly was addressed by many commentators. Views of the commentators were virtually evenly divided on this issue. Supportive commentators indicated that the adoption of an income statement results in a more meaningful presentation, and is consistent with the "total return" concept utilized by many investment companies. In addition, commentators supported the all-inclusive income statement as consistent with the concept of comprehensive income cited in the proposing release. Opposing views

[1] Securities Act Release 6374 (47 FR 2776).

[2] Representation among the commentators was virtually evenly divided between accounting firms or groups (9) and industry and related groups (8). Comments were also received from 2 law firms or groups. The comment period was extended 30 days from its original deadline of April 30, 1982.

generally focused on the inclusion of unrealized appreciation or depreciation in determining net income, arguing that income recognition is premature since the earnings process has not been completed. Other commentators argued that the all-inclusive income statement ignores the varying objectives of different investment companies.

The Commission believes that it is appropriate to report all changes in net assets resulting from investment activities in a basic statement and accordingly is adopting the requirement for an all-inclusive statement of operations. Since an open-end management investment company continuously trades its shares on the basis of its underlying net assets stated at value [3], the Commission believes that it is consistent for such investment companies to report changes in net assets resulting from all investment activities in the determination of operating results. Although a close-end management investment company does not stand ready to redeem its shares on a continuous basis, the market price at which such shares are traded correlates with the company's net asset value.

In adopting the requirements for a statement of operations, the Commission has considered the views of commentators who, while supportive of the income statement concept, opposed labeling the net result as "net income." These commentators cautioned that readers could confuse net income with the subcaption "investment income-net" also presented in the statement of operations or infer that net income represents amounts totally available for distribution. The Commission finds merit in these views and accordingly has adopted a reporting format under which the results of the income statement are captioned, "net increase (decrease) in net assets resulting from operations."

Statement of Net Assets

Rather than present a conventional balance sheet, management investment companies often substitute a statement of net assets. Since the major asset of any management investment company is its investment portfolio, the statement of net assets is comprised basically of a detailed listing of its securities portfolio similar to the schedule requirements for investment companies prescribed in Regulation S–X (§ 210.12–12). All other assets and total liabilities are often netted for presentation in the statement, and a balance captioned as net assets is presented, together with the number of outstanding shares and value per share.

Since the statement of net assets is fully informative only in situations in which an investment company's securities portfolio represents virtually all of its net assets, the Commission proposed rules which would establish conditions to restrict the use of this statement to such a situation. These proposed conditions were that (1) The amount of investment in securities (excluding investments in affiliated issuers) represent a least 95 percent of total assets, (2) liabilities not be significant (defined as not exceeding 5 percent of total assets), and (3) only one class of equity securities be outstanding. In addition, investment companies would not be permitted to use a statement of net assets if, as of the balance sheet date, there were outstanding balances with related parties representing amounts other than those arising from the conduct of regular investment advisory or management services or there were balances with respect to securities transactions involving short sales, open option contracts, or deposits on securities loaned.

Most commentators opposed the proposal to establish criteria for the use of the statement of net assets. In their view, failure to meet all of the proposed conditions should not result in forfeiture of the right to use the statement. These commentators suggested that additional disclosure requirements be imposed instead.

The Commission finds merit in this argument. As a consequence, the rules being adopted prohibit the presentation of a statement of net assets only in circumstances where the amount of investments in securities (other than investments in affiliated issuers) represents less than 95 percent of total assets. A reporting format for the statement of net assets is also being adopted to require that balances resulting from transactions with related parties, with certain limited exceptions, be presented on the face of the statement and that balances of other specified liabilities, including amounts related to short sales and open option contracts, be disclosed in the footnotes. Where the related party transaction occurs in the ordinary course of business, is subject to the usual trade terms, and involves noncontrolled affiliates, presentation on the face of the statement would not be required.

Valuation of Assets

Although the existing rules permit an option to state all assets at either cost or value, virtually all closed-end management investment companies currently reflect their investment securities at value. The final rules recognize current industry practice and require that closed-end companies state investments in securities at value.

Section 28(b) of the Investment Company Act of 1940 requires investment companies which issue face-amount certificates to value their "qualified assets" in accordance with certain provisions of the Code of the District of Columbia. Unlike management investment companies whose assets are largely comprised of investments in marketable securities, issuers of face-amount certificates often hold more diverse investments, such as real estate. Issuers of face-amount certificates will continue to value all investments pursuant to the statutory requirements.

Statement of Changes in Net Assets

In its January release, the Commission proposed certain revisions to its existing requirements for the content of the statement of changes in net assets presented by management investment companies. The revisions were intended to simplify the content of this statement by eliminating the presentation of certain information already reported in other statements and by restricting the presentation of other information to supplemental or footnote status. Commentators generally disagreed with the reporting format proposed by the Commission and offered specific suggestions for its improvement. The Commission finds merit in many of the suggestions and accordingly has adopted the following revised format for reporting changes in net assets:

Increase (decrease) in Net Assets

Operations:
- Investment income-net
- Realized gain (loss) on investments-net
- Increase (decrease) in unrealized appreciation or depreciation-net
- Net increase (decrease) in net assets resulting from operations

Net equalization credits

Dividends to shareholders from:
- Investment income-net
- Realized gain from investment transactions-net

Capital share transactions (net increase or decrease)

Total increase (decrease)

[3] Management investment companies are classified as either "open-end" or "closed-end" companies. An open-end management investment company stands ready to redeem its outstanding shares at current net asset value, and generally offers its shares to the public on a continuous basis. A closed-end management iinvestment company, however, does not stand ready to redeem its outstanding shares; its shares are traded in a manner similar to those of other public companies.

Net assets

Beginning of year
End of year (including parenthetical disclosure of amounts of undistributed net investment income as of end of each year presented)

Materiality Thresholds

Many commentators opposed the proposed requirement to separately present the amount of any liability which exceeds five percent of total liabilities, suggesting that since total liabilities are often insignificant to investment companies, separate presentation of amounts representing five percent of this caption would not be meaningful. These commentators suggested that the reporting of separate liability accounts be triggered by a more significant benchmark, such as their relationship to total assets. In adopting final rules on this issue, the Commission has deleted any reference to numerical tests in determining when separate presentation of a particular asset or liability account is appropriate. Persons are referred instead to the general standards of significance set forth in Rule 6–03(1) of Regulation S–X which permits the omission of separate captions where the items and conditions are not present, or the amounts involved not significant. The only exception to this general standard applies to amounts involving related parties which are required to be set forth regardless of amount.

Series Companies

A few commentators questioned the proposed requirement that financial information for series companies be provided on a comparative basis. This view is premised on the fact that a shareholder of one series company generally has no direct financial interest in the other series, and that comparative information on the other series is not meaningful. Commentators pointed out that assets, liabilities and results of operations are accounted for separately for each series, and that it is only for Federal income tax purposes that the series are ever combined and treated as a separate entity. For example, in the event that a series has a capital loss, the net capital loss may be used to offset any net capital gain from another series. The Commission finds merit in this argument and accordingly has deleted the requirement for comparative data of other series companies from the final rules and will require instead footnote disclosure of the income tax consequences and any contingencies arising from the relationship between related series issuers where appropriate.

Schedules

Although much of the proposed schedule information was carried forward from existing rules, the proposing release solicited public comment as to the usefulness of the proposed schedule requirements. As a result of the input provided by these commentators, the Commission is adopting certain significant revisions to its schedule requirements. These revisions include the elimination of schedules furnished pursuant to Rules 12–19 and 12–20 titled, "Investments in Securities," and "Trust Shares," respectively and which are applicable to unit investment trusts only. Instead of presenting the information on investments in securities called for in Rule 12–19, unit investment trusts would provide the information currently required for management investment companies under Rule 12–12 titled, "Investments in Securities of Unaffiliated Issuers." This change responds to the views expressed by commentators that the operations of unit investment trusts are not significantly different from those of management investment companies and that detailed information on investment activity during the period required under Rule 12–19 but not under Rule 12–12 is unnecessary. Finally, Rule 12–20 has been deleted because the information is generally duplicative of that provided in the statement of changes in net assets.

In addition to the changes affecting unit investment trusts, the requirements to provide detailed information as to investment activity have been deleted from the schedule furnished pursuant to Rule 12–13, "Investments other than Securities." In response to comments opposing the proposed requirements to provide detailed information on each separate securities issue, instructions to Rule 12–12 have been revised to permit grouping of short-term debt securities. In order to provide information to enable investors to assess the possible income tax consequences of unrealized gains or losses, the schedule requirements under Rules 12–12 and 12–13 have been expanded to require disclosure of the amounts of the aggregate unrealized appreciation or depreciation of securities based on the relationship between value and cost as determined for Federal income tax purposes. In addition, the requirement to disclose the basis for determining value where stock exchange prices are not used has been deleted from Rule 12–12 since such disclosure is already required in footnotes.

Other Changes

The final rules reflect certain other changes which eliminate additional rules identified by commentators as being duplicative of GAAP. Examples of these deletions from the proposed rules include, but are not limited to, portions of the general guidance on income recognition under Rule 6–03(g) and provisions for Federal income taxes under Rule 6–03(h). In addition, other proposed requirements, such as disclosure of the gross amounts of unrealized appreciation and depreciation of investment securities on the basis of historical cost, have been deleted based on commentators' concerns that they are contrary to GAAP.

In other instances, the final rules reflect changes to conform the requirements of Article 6 with other sections of Regulation S–X. For example, the requirements to present receivable balances under Rules 6–04.6 and 6–06.3 have been expanded to provide for separate disclosure of notes receivable balances to conform with similar provisions under Article 5 of Regulation S–X. In addition, the requirement to present net asset amounts in balance sheets of registered investment companies has been expanded to include per share data conforming to the requirements under Rule 6–05.4 for statements of net assets. Further, since the requirements for a statement of changes in net assets permit disclosure of the number of authorized and outstanding capital shares to be provided in a footnote, the requirements of Rule 6–04.16 relating to balance sheet presentation have been revised to permit presentation of this information either on the face of the balance sheet or in footnotes.

A few commentators suggested that certain of the proposed requirements, such as disclosures of restricted securities and the basis and method of compensating directors, called for information which is not generally appropriate for footnote presentation. Although the Commission finds merit in these arguments, it regards the information as meaningful. Accordingly, these disclosure requirements are included in the final rules being adopted. The Commission will reconsider these requirements at the time of any future project to transfer these type disclosure requirements from the financial statements to other sections of the propectus and annual report.

Finally, technical amendments are being adopted to conform the references

to specific provisions of Article 6 contained in other rules and regulations of the Commission with the amended rules.

FASB Extraction Project

As discussed in an earlier section of this release, the revisions to Article 6 are being adopted to, among other things, eliminate rules which are duplicative of GAAP. In this connection, the Commission recognizes that the Financial Accounting Standards Board ("FASB") has begun a project to extract the specialized accounting and reporting principles and practices from the industry audit guide, "Audits of Investment Companies," issued by the American Institute of Certified Public Accountants.[4] Upon completion of this project, the Commission will reexamine the rules being adopted in this release with the intent of eliminating any rules which become duplicative.

List of Subjects in 17 CFR Parts 210 and 270

Accounting, Reporting and recordkeeping requirements, Securities.

Parts 210 and 270 of Chapter II Title 17 of the Code of Federal Regulations are amended as follows:

PART 210—FORM AND CONTENT OF AND REQUIREMENTS FOR FINANCIAL STATEMENTS, SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935, INVESTMENT COMPANY ACT OF 1940, AND ENERGY POLICY AND CONSERVATION ACT OF 1975

1. By revising the introductory text of paragraph (a) and paragraph (a) (2) and (3) of § 210.3–18 to read as follows:

§ 210.3–18 Special provisions as to registered management investment companies and companies required to be registered as management investment companies.

(a) For filings by registered management investment companies, the following financial statements shall be filed:

* * * * *

(2) An audited statement of operations for the most recent fiscal year conforming to the requirements of § 210.6–07.

(3) Audited statements of changes in net assets conforming to the requirements of § 210.6–09 for the two most recent fiscal years.

* * * * *

2. By revising paragraph (a) of § 210.5–01 to read as follows:

§ 210.5–01 Application of §§ 210.5–01 to 210.5–04.

(a) Sections 210.5–01 to 210.5–04 shall be applicable to financial statements filed by all persons except—(1) registered investment companies (see §§ 210.6–01 to 210.6–10).

(2) Employee stock purchase, savings and similar plans (see §§ 210.6A–01 to 210.6A–05).

(3) Insurance companies (see §§ 210.7–01 to 210.7–05).

(4) Committees issuing certificates of deposit (see §§ 210.8–01 to 210.8–03).

(5) Bank holding companies and banks (see §§ 210.9–01 to 210.9–05).

(6) Brokers and dealers when filing Form X–17A–5 (§ 249.617) (see §§ 240.17a–5 and 240.17a.10 under the Securities Exchange Act of 1934).

* * * * *

3. By removing §§ 210.6–01 to 210.6–24 and the center headings for those sections and adding new §§ 210.6–01 to 210.6–10 and a new center heading preceding § 210.6–01 as follows:

Registered Investment Companies

Sec.
210.6–01 Application of §§ 210.6–01 to 210.6–10.
210.6–02 Definition of certain terms.
210.6–03 Special rules of general application to registered companies.
210.6–04 Balance sheets.
210.6–05 Statements of net assets.
210.6–06 Special rules applicable to the balance sheets of issuers of face-amount certificates.
210.6–07 Statements of operations.
210.6–08 Special provisions applicable to the statements of operations of issuers of face-amount certificates.
210.6–09 Statements of changes in net assets.
210.6–10 What schedules are to be filed.

Registered Investment Companies

§ 210.6–01 Application of §§ 210.6–01 to 210.6–10.

Sections 210.6–01 to 210.6–10 shall be applicable to financial statements filed for registered investment companies.

§ 210.6–02 Definition of certain terms.

The following terms shall have the meaning indicated in this rule unless the context otherwise requires. (Also see § 210.1–02 of this part.)

(a) *Affiliate.* The term "affiliate" means an "affiliated person" as defined in section 2(a)(3) of the Investment Company Act of 1940 unless otherwise indicated. The term "control" has the meaning in section 2(a)(9) of that Act.

(b) *Value.* As used in §§ 210.6–01 to 210.6–10, the term "value" shall have the meaning given in section 2(a)(41)(B) of the Investment Company Act of 1940.

(c) *Balance sheets; statements of net assets.* As used in §§ 210.6–01 to 210.6–10, the term "balance sheets" shall include statements of assets and liabilities as well as statements of net assets unless the context clearly indicates the contrary.

(c) *Qualified assets.* (1) For companies issuing face-amount certificates subsequent to December 31, 1940 under the provisions of section 28 of the Investment Company Act of 1940, the term "qualified assets" means qualified investments as that term is defined in section 28(b) of the Act. A statement to that effect shall be made in the balance sheet.

(2) For other companies, the term "qualified assets" means cash and investments which such companies do maintain or are required, by applicable governing legal instruments, to maintain in respect of outstanding face-amount certificates.

(3) Loans to certificate holders may be included as qualified assets in an amount not in excess of certificate reserves carried on the books of account in respect of each individual certificate upon which the loans were made.

§ 210.6–03 Special rules of general application to registered investment companies.

The financial statements filed for persons to which §§ 210.6–01 to 210.6–10 are applicable shall be prepared in accordance with the following special rules in addition to the general rules in §§ 210.1–01 to 210.4–10 (Articles 1, 2, 3, and 4). Where the requirements of a special rule differ from those prescribed in a general rule, the requirements of the special rule shall be met.

(a) *Content of financial statements.* The financial statements shall be prepared in accordance with the requirements of this part (Regulation S–X) notwithstanding any provision of the articles of incorporation, trust indenture or other governing legal instruments specifying certain accounting procedures inconsistent with those required in §§ 210.6–01 to 210.6–10.

(b) *Audited financial statements.* Where, under Article 3 of this part, financial statements are required to be audited, the independent accountant shall have been selected and ratified in accordance with section 32 of the Investment Company Act of 1940.

[4] At present, the principles and practices embodied in industry audit guides are considered preferable accounting but are not enforceable standards to be adhered to under Rule 3–02 of the AICPA's Code of Professional Ethics. In Statement of Financial Accounting Standards No. 32, the FASB announced a project to extract the specialized accounting and reporting principles and practices from the AICPA Guides and Statements of Position.

(c) *Consolidated and combined statements.* (1) Consolidated and combined statements filed for registered investment companies shall be prepared in accordance with §§ 210.3A–01 to 210.3A–05 (Article 3A) except that (i) statements of the registrant may be consolidated only with the statements of subsidiaries which are investment companies; (ii) a consolidated statement of the registrant and any of its investment company subsidiaries shall not be filed unless accompanied by a consolidating statement which sets forth the individual statements of each significant subsidiary included in the consolidated statement: *Provided, however,* That a consolidating statement need not be filed if all included subsidiaries are totally held; and (iii) consolidated or combined statements filed for subsidiaries not consolidated with the registrant shall not include any investment companies unless accompanied by consolidating or combining statements which set forth the individual statements of each included investment company which is a significant subsidiary.

(2) If consolidating or combining statements are filed, the amounts included under each caption in which financial data pertaining to affiliates is required to be furnished shall be subdivided to show separately the amounts: (i) Eliminated in consolidation; and (ii) not eliminated in consolidation.

(d) *Valuation of assets.* The balance sheets of registered investment companies, other than issuers of face-amount certificates, shall reflect all investments at value, with the aggregate cost of each category of investment reported under §§ 210.6–04.1, 6–04.2 and 6–04.3 and of the total investments reported under § 210.6–04.4 or § 210.6–05.1 shown parenthetically. State in a note the methods used in determining value of investments. As required by section 28(b) of the Investment Company Act of 1940, "qualified" assets of face-amount certificate companies shall be valued in accordance with certain provisions of the Code of the District of Columbia. For guidance as to valuation of securities, see §§ 404.03 to 404.05 of the Codification of Financial Reporting Policies.

(e) *Qualified assets.* State in a note the nature of any investments and other assets maintained or required to be maintained, by applicable legal instruments, in respect of outstanding face-amount certificates. If the nature of the qualifying assets and amount thereof are not subject to the provisions of section 28 of the Investment Company Act of 1940, a statement to that effect shall be made.

(f) *Restricted securities.* State in a note unless disclosed elsewhere the following information as to investment securities which cannot be offered for public sale without first being registered under the Securities Act of 1933 (restricted securities):

(1) The policy of the person with regard to acquisition of restricted securities.

(2) The policy of the person with regard to valuation of restricted securities. Specific comments shall be given as to the valuation of an investment in one or more issues of securities of a company or group of affiliated companies if any part of such investment is restricted and the aggregate value of the investment in all issues of such company or affiliated group exceeds five percent of the value of total assets. (As used in this paragraph, the term "affiliated" shall have the meaning given in § 210.6–02(a) of this part.)

(3) A description of the person's rights with regard to demanding registration of any restricted securities held at the date of the latest balance sheet.

(g) *Income recognition.* Dividends shall be included in income on the ex-dividend date; interest shall be accured on a daily basis. Dividends declared on short positions existing on the record date shall be recorded on the ex-dividend date and included as an expense of the period.

(h) *Federal income taxes.* The company's status as a "regulated investment company" as defined in Subtitle A, Chapter 1, Subchapter M of the Internal Revenue Code, as amended, shall be stated in a note referred to in the appropriate statements. Such note shall also indicate briefly the principal assumptions on which the company relied in making or not making provisions for income taxes. However, a company which retains realized capital gains and designates such gains as a distribution to shareholders in accordance with section 852(b)(3)(D) of the Internal Revenue Code shall, on the last day of its taxable year (and not earlier), make provision for taxes on such undistributed capital gains realized during such year.

(i) *Issuance and repurchase by a registered investment company of its own securities.* Disclose for each class of the company's securities:

(1) The number of shares, units, or principal amount of bonds sold during the period of report, the amount received therefor, and, in the case of shares sold by closed-end management investment companies, the difference, if any, between the amount received and the net asset value or preference in involuntary liquidation (whichever is appropriate) of securities of the same class prior to such sale; and

(2) The number of shares, units, or principal amount of bonds repurchased during the period of report and the cost thereof. Closed-end management investment companies shall furnish the following additional information as to securities repurchased during the period of report:

(i) As to bonds and preferred shares, the aggregate difference between cost and the face amount or preference in involuntary liquidation and, if applicable net assets taken at value as of the date of repurchase were less than such face amount or preference, the aggregate difference between cost and such net asset value;

(ii) As to common shares, the weighted average discount per share, expressed as a percentage, between cost of repurchase and the net asset value applicable to such shares at the date of repurchases.

The information required by paragraphs (h)(i)(2) (i) and (ii) of this section may be based on reasonable estimates if it is impracticable to determine the exact amounts involved.

(j) *Series companies.* (1) The information required by this part shall, in the case of a person which in essence is comprised of more than one separate investment company, be given as if each class or series of such investment company were a separate investment company; this shall not prevent the inclusion, at the option of such person, of information applicable to other classes or series of such person on a comparative basis, except as to footnotes which need not be comparative.

(2) If the particular class or series for which information is provided may be affected by other classes or series of such investment company, such as by the offset of realized gains in one series with realized losses in another, or through contingent liabilities, such situation shall be disclosed.

(k) *Certificate reserves.* (1) For companies issuing face-amount certificates subsequent to December 31, 1940 under the provisions of section 28 of the Investment Company Act of 1940, balance sheets shall reflect reserves for outstanding certificates computed in accordance with the provisions of section 28(a) of the Act.

(2) For other companies, balance sheets shall reflect reserves for

outstanding certificates determined as follows:

(i) For certificates of the installment type, such amount which, together with the lesser of future payments by certificate holders as and when accumulated at a rate not to exceed 3½ per centum per annum (or such other rate as may be appropriate under the circumstances of a particular case) compounded annually, shall provide the minimum maturity or face amount of the certificate when due.

(ii) For certificates of the fully-paid type, such amount which, as and when accumulated at a rate not to exceed 3½ per centum per annum (or such other rate as may be appropriate under the circumstances of a particular case) compounded annually, shall provide the amount or amounts payable when due.

(iii) Such amount or accrual therefor, as shall have been credited to the account of any certificate holder in the form of any credit, or any dividend, or any interest in addition to the minimum maturity or face amount specified in the certificate, plus any accumulations on any amount so credited or accrued at rates required under the terms of the certificate.

(iv) An amount equal to all advance payments made by certificate holders, plus any accumulations thereon at rates required under the terms of the certificate.

(v) Amounts for other appropriate contingency reserves, for death and disability benefits or for reinstatement rights on any certificate providing for such benefits or rights.

(l) *Inapplicable captions.* Attention is directed to the provisions of §§ 210.4–02 and 210.4–03 which permit the omission of separate captions in financial statements as to which the items and conditions are not present, or the amounts involved not significant. However, amounts involving directors, officers, and affiliates shall nevertheless be separately set forth except as otherwise specifically permitted under a particular caption.

§ 210.6–04 Balance sheets.

This rule is applicable to balance sheets filed by registered investment companies except for persons who substitute a statement of net assets in accordance with the requirements specified in § 210.6–05, and issuers of face-amount certificates which are subject to the special provisions of § 210.6–06 of this part. Balance sheets filed under this rule shall comply with the following provisions:

Assets

1. *Investments in securities of unaffiliated issuers.*

2. *Investments in and advances to affiliates.* State separately investments in and advances to: (a) Controlled companies and (b) other affiliates.

3. *Investments—other than securities.* State separately each major category.

4. *Total investments.*

5. *Cash.* Include under this caption cash on hand and demand deposits. Provide in a note to the financial statements the information required under § 210.5–02.1 regarding restrictions and compensating balances.

6. *Receivables.* (a) State separately amounts receivable from (1) sales of investments; (2) subscriptions to capital shares; (3) dividends and interest; (4) directors and officers; and (5) others.

(b) If the aggregate amount of notes receivable exceeds 10 percent of the aggregate amount of receivables, the above information shall be set forth separately, in the balance sheet or in a note thereto, for accounts receivable and notes receivable.

7. *Deposits for securities sold short and open option contracts.* State separately amounts held by others in connection with: (a) Short sales and (b) open option contracts.

8. *Other assets.* State separately (a) prepaid and deferred expenses; (b) pension and other special funds; (c) organization expenses; and (d) any other significant item not properly classified in another asset caption.

9. *Total assets.*

Liabilities

10. *Accounts payable and accrued liabilities.* State separately amounts payable for: (a) Securities sold short; (b) open option contracts written; (c) other purchases of securities; (d) capital shares reedeemed; (e) dividends or other distributions on capital shares; and (f) others. State separately the amount of any other liabilities which are material. Securities sold short and open option contracts written shall be stated at value.

11. *Deposits for securities loaned.* State the value of securities loaned and indicate the nature of the collateral received as security for the loan, including the amount of any cash received.

12. *Other liabilities.* State separately (a) amounts payable for investment advisory, management and service fees; and (b) the total amount payable to: (1) Officers and directors; (2) controlled companies; and (3) other affiliates, excluding any amounts owing to noncontrolled affiliates which arose in the ordinary course of business and which are subject to usual trade terms.

13. *Notes payable, bonds and similar debt.* (a) State separately amounts payable to: (1) Banks or other financial institutions for borrowings; (2) controlled companies; (3) other affiliates; and (4) others, showing for each category amounts payable within one year and amounts payable after one year.

(b) Provide in a note the information required under § 210.5–02.19(b) regarding unused lines of credit for short-term financing and § 210.5–02.22(b) regarding unused commitments for long-term financing arrangements.

14. *Total liabilities.*

15. *Commitments and contingent liabilities.*

Net Assets

16. *Units of capital.* (a) Disclose the title of each class of capital shares or other capital units, the number authorized, the number outstanding, and the dollar amount thereof.

(b) Unit investment trusts, including those which are issuers of periodic payment plan certificates, also shall state in a note to the financial statements: (1) The total cost to the investors of each class of units or shares; (2) the adjustment for market depreciation or appreciation; (3) other deductions from the total cost to the investors for fees, loads and other charges, including an explanation of such deductions; and (4) the net amount applicable to the investors.

17. *Accumulated undistributed income (loss).* Disclose:

(a) The accumulated undistributed investment income-net,

(b) accumulated undistributed net realized gains (losses) on investment transactions, and (c) net unrealized appreciation (depeciation) in value of investments at the balance sheet date.

18. *Other elements of capital.* Disclose any other elements of capital or residual interests appropriate to the capital structure of the reporting entity.

19. *Net assets applicable to outstanding units of capital.* State the net asset value per share.

§ 210.6–05 Statements of net assets.

In lieu of the balance sheet otherwise required by § 210.6–04 of this part, persons may substitute a statement of net assets if at least 95 percent of the amount of the person's total assets are represented by investments in securities of unaffiliated issuers. If presented in such instances, a statement of net assets shall consist of the following:

Statements of Net Assets

1. A schedule of investments in securities of unaffiliated issuers as prescribed in § 210.12–12.

2. The excess (or deficiency) of other assets over (under) total liabilities stated in one amount, except that any amounts due from or to officers, directors, controlled persons, or other affiliates, excluding any amounts owing to noncontrolled affiliates which arose in the ordinary course of business and which are subject to usual trade terms, shall be stated separately.

3. Disclosure shall be provided in the notes to the financial statements for any item required under §§ 210.6–04.10 to 210.6–04.13.

4. The balance of the amounts captioned as *net assets.* The number of outstanding shares and net asset value per share shall be shown parenthetically.

5. The information required by (i) § 210.6–04.16, (ii) § 210.6–04.17 and (iii) § 210.6–04.18 shall be furnished in a note to the financial statements.

§ 210.6–06 Special provisions applicable to the balance sheets of issuers of face-amount certificates.

Balance sheets filed by issuers of face-amount certificates shall comply with the following provisions:

Assets

1. *Investments.* State separately each major category: such as, real estate owned, first mortgage loans on real estate, other mortgage loans on real estate, investments in securities of unaffiliated issuers, and investments in and advances to affiliates.

2. *Cash.* Include under this caption cash on hand and demand deposits. Provide in a note to the financial statements the information required under § 210.5–02.1 regarding restrictions and compensating balances.

3. *Receivables.* (a) State separately amounts receivable from (1) sales of investments; (2) dividends and interest; (3) directors and officers; and (4) others.

(b) If the aggregate amount of notes receivable exceeds 10 percent of the aggregate amount of receivables, the above information shall be set forth separately, in the balance sheet or in a note thereto, for accounts receivable and notes receivable.

4. *Total qualified assets.* State in a note to the financial statements the amount of qualified assets on deposit classified as to general categories of assets and as to general types of depositories, such as banks and states, together with a statement as to the purpose of the deposits.

5. *Other assets.* State separately: (a) Investments in securities of unaffiliated issuers not included in qualifying assets in item 1 above; (b) investments in and advances to affiliates not included in qualifying assets in item 1 above; and (c) any other significant item not properly classified in another asset caption.

6. *Total assets.*

Liabilities

7. *Certificate reserves.* Issuers of face-amount certificates shall state separately reserves for: (a) Certificates of the installment type; (b) certificates of the fully-paid type; (c) advance payments; (d) additional amounts accrued for or credited to the account of certificate holders in the form of any credit, dividend, or interest in addition to the minimum amount specified in the certificate; and (e) other certificate reserves. State in an appropriate manner the basis used in determining the reserves, including the rates of interest of accumulation.

8. *Notes payable, bonds and similar debt.* (a) State separately amounts payable to: (1) Banks or other financial institutions for borrowings; (2) controlled companies; (3) other affiliates; and (4) others, showing for each category amounts payable within one year and amounts payable after one year.

(b) Provide in a note the information required under § 210.5–02.19(b) regarding unused lines of credit for short-term financing and § 210.5–02.22(b) regarding unused commitments for long-term financing arrangements.

9. *Accounts payable and accrued liabilities.* State separately (a) amounts payable for investment advisory, management and service fees; and (b) the total amount payable to: (1) Officers and directors; (2) controlled companies; and (3) other affiliates, excluding any amounts owing to noncontrolled affiliates which arose in the ordinary course of business and which are subject to usual trade terms. State separately the amount of any other liabilities which are material.

10. *Total liabilities.*

11. *Commitments and contingent liabilities.*

Stockholders' Equity

12. *Capital shares.* Disclose the title of each class of capital shares or other capital units, the number authorized, the number outstanding and the dollar amount thereof. Show also the dollar amount of any capital shares subscribed but unissued, and show the deduction for subscriptions receivable therefrom.

13. *Other elements of capital.* (a) Disclose any other elements of capital or residual interests appropriate to the capital structure of the reporting entity.

(b) A summary of each account under this caption setting forth the information prescribed in § 210.3–04 shall be given in a note or separate statement for each period in which a statement of operations is presented.

14. *Total liabilities and stockholders' equity.*

§ 210.6–07 Statements of operations.

Statements of operations filed by registered investment companies, other than issuers of face-amount certificates subject to the special provisions of § 210.6–08 of this part, shall comply with the following provisions:

Statements of Operations

1. *Investment income.* State separately income from: (a) dividends; (b) interest on securities; and (c) other income. If income from investments in or indebtedness of affiliates is included hereunder, such income shall be segregated under an appropriate caption subdivided to show separately income from: (1) Controlled companies; and (2) other affiliates. If non-cash dividends are included in income, the bases of recognition and measurement used in respect to such amounts shall be disclosed. Any other category of income which exceeds five percent of the total shown under this caption shall be stated separately.

2. *Expenses.* (a) State separately the total amount of investment advisory, management and service fees, and expenses in connection with research, selection, supervision, and custody of investments. Amounts of expenses incurred from transactions with affiliated persons shall be disclosed together with the identity of and related amount applicable to each such person accounting for five percent or more of the total expenses shown under this caption together with a description of the nature of the affiliation. Expenses incurred within the person's own organization in connection with research, selection and supervision of investments shall be stated separately. Reductions or reimbursements of management or service fees shall be shown as a negative amount or as a reduction of total expenses shown under this caption.

(b) State separately any other expense item the amount of which exeeds five percent of the total expenses shown under this caption.

(c) A note to the financial statements shall include information concerning management and service fees, the rate of fee, and the base and method of computation. State separately the amount and a description of any fee reductions or reimbursements representing: (1) Expense limitation agreements or commitments; and (2) offsets received from broker-dealers showing separately for each amount received or due from (i) unaffiliated persons; and (ii) affiliated persons. If no management or service fees were incurred for a period, state the reason therefor.

(d) If any expenses were paid otherwise than in cash, state the details in a note.

(e) State in a note to the financial statements the amount of brokerage commissions (including dealer markups) paid to affiliated broker-dealers in connection with purchase and sale of investment securities. Open-end management companies shall state in a note the net amounts of sales charges deducted from the proceeds of sale of capital shares which were retained by any affiliated principal underwriter or other affiliated broker-dealer.

3. *Interest and amortization of debt discount and expense.*

4. *Investment income before income tax expense.*

5. *Income tax expense.* Include under this caption only taxes based on income.

6. *Investment income-net.*

7. *Realized and unrealized gain (loss) on investments-net.* (a) State separately the net realized gain or loss on transactions in: (1) Investment securities of unaffiliated issuers, (2) investment securities of affiliated issuers, and (3) investments other than securities.

(b) Distributions of realized gains by other investment companies shall be shown separately under this caption.

(c) State separately: (1) The gain or loss from expiration or closing of option contracts written, (2) the gain or loss on closed short positions in securities, and (3) other realized gain or loss. Disclose in a note to the financial statements the number and associated dollar amounts as to option contracts written: (i) At the beginning of the period; (ii) during the period; (iii) expired during the period; (iv) closed during the period; (v) exercised during the period; (vi) balance at end of the period.

(d) State separately the amount of the net increase or decrease during the period in the unrealized appreciation or depreciation in the value of investment securities and other investments held at the end of the period.

(e) State separately any: (1) Federal income taxes and (2) other income taxes applicable to realized and unrealized gain (loss) on investments, distinguishing taxes payable currently from deferred income taxes.

8. *Net gain (loss) on investments.*

9. *Net increase (decrease) in net assets resulting from operations.*

§ 210.6-08 Special provisions applicable to the statements of operations of issuers of face-amount certificates.

Statements of operations filed by issuers of face-amount certificates shall comply with the following provisions:

Statements of Operations

1. *Investment income.* State separately income from: (a) Interest on mortgages; (b) interest on securities; (c) dividends; (d) rental income; and (e) other investment income. If income from investments in or indebtedness of affiliates is included hereunder, such income shall be segregated under an appropriate caption subdivided to show separately income from: (1) Controlled companies; and (2) other affiliates. If non-cash dividends are included in income, the bases of recognition and measurement used in respect to such amounts shall be disclosed. Any other category of income which exceeds five percent of the total shown under this caption shall be stated separately.

2. *Investment expenses.* (a) State separately the total amount of investment advisory, management and service fees, and expenses in connection with research, selection, supervision, and custody of investments. Amounts of expenses incurred from transactions with affiliated persons shall be disclosed together with the identity of and related amount applicable to each such person accounting for five percent or more of the total expenses shown under this caption together with a description of the nature of the affiliation. Expenses incurred within the person's own organization in connection with research, selection and supervision of investments shall be stated separately. Reductions or reimbursements of management or service fees shall be shown as a negative amount or as a reduction of total expenses shown under this caption.

(b) State separately any other expense item the amount of which exceeds five percent of the total expenses shown under this caption.

(c) A note to the financial statements shall include information concerning management and service fees, the rate of fee, and the base and method of computation. State separately the amount and a description of any fee reductions or reimbursements representing: (1) Expense limitation agreements or commitments; and (2) offsets received from broker-dealers showing separately for each amount received or due from: (i) Unaffiliated persons; and (ii) affiliated persons. If no management or service fees were incurred for a period, state the reason therefor.

(d) If any expenses were paid otherwise than in cash, state the details in a note.

(e) State in a note to the financial statements the amount of brokerage commissions (including dealer markups) paid to affiliated broker-dealers in connection with purchase and sale of investment securities.

3. *Interest and amortization of debt discount and expense.*

4. *Provision for certificate reserves.* State separately any provision for additional credits, or dividends, or interests, in addition to the minimum maturity or face amount specified in the certificates. State also in an appropriate manner reserve recoveries from surrenders or other causes.

5. *Investment income before income tax expense.*

6. *Income tax expense.* Include under this caption only taxes based on income.

7. *Investment income-net.*

8. *Realized gain (loss) on investments-net.* (a) State separately the net realized gain or loss on transactions in: (1) Investment securities of unaffiliated issuers, (2) investment securities of affiliated issuers, and (3) other investments.

(b) Distributions of capital gains by other investment companies shall be shown separately under this caption.

(c) State separately any: (1) Federal income taxes and (2) other income taxes applicable to realized gain (loss) on investments, distinguishing taxes payable currently from deferred income taxes.

9. *Net income or loss.*

§ 210.6-09 Statements of changes in net assets.

Statements of changes in net assets filed for persons to whom this article is applicable shall comply with the following provisions:

Statements of Changes in Net Assests

1. *Operations.* State separately: (a) Investment income-net as shown by § 210.6-07.6; (b) realized gain (loss) on investments-net of any Federal or other income taxes applicable to such amounts; (c) increase (decrease) in unrealized appreciation or depreciation-net of any Federal or other income taxes applicable to such amounts; and (d) net increase (decrease) in net assets resulting from operations as shown by § 210.6-07.9.

2. *Net equalization charges and credits.* State the net amount of accrued undivided earnings separately identified in the price of capital shares issued and repurchased.

3. *Distributions to shareholders.* State separately distributions to shareholders from: (a) Investment income-net; (b) realized gain from investment transactions-net; and (c) other sources.

4. *Capital share transactions.* (a) State the increase or decrease in net assets derived from the net change in the number of outstanding shares or units.

(b) Disclose in the body of the statements or in the notes, for each class of the person's shares, the number and value of shares issued in reinvestment of dividends as well as the number of dollar amounts received for shares sold and paid for shares redeemed.

5. *Total increase (decrease).*

6. *Net assets at the beginning of the period.*

7. *Net assets at the end of the period.* Disclose parenthetically the balance of undistributed net investment income included in net assets at the end of the period.

§ 210.6-10 What schedules are to be filed.

(a) When information is required in schedules for both the person and its subsidiaries consolidated, it may be presented in the form of a single schedule, provided that items pertaining to the registrant are separately shown and that such single schedule affords a properly summarized presentation of the facts. If the information required by any schedule (including the notes thereto) is shown in the related financial statement or in a note thereto without making such statement unclear or confusing, that procedure may be followed and the schedule omitted.

(b) The schedules shall be examined by an independent accountant if the related financial statements are so examined.

(c) *Management investment companies.* Except as otherwise provided in the applicable form: (1) The schedules specified below in this rule shall be filed for management investment companies as of the dates of the most recent audited balance sheet and any subsequent unaudited statement being filed for each person or group.

Schedule I—Investments in securities of unaffiliated issuers. The schedule prescribed by § 210.12-12 shall be filed in support of caption 1 of each balance sheet.

Schedule II—Investments—other than securities. The schedule prescribed by § 210.12-13 shall be filed in support of caption 3 of each balance sheet. This schedule may be omitted if the investments, other than securities, at both the beginning and end of the period amount to less than one percent of the value of total investments (§ 210.6-04.4).

Schedule III—Investments in and advances to affiliates. The schedule prescribed by § 210.12-14 shall be filed in support of caption 2 of each balance sheet.

Schedule IV—Amounts due from directors and officers. The schedule prescribed by § 210.12-03 shall be filed with respect to each person among the directors and officers from whom any amount was owed at any time during the period for which related statements of changes in net assets are required to be filed.

Schedule V—Investments—securities sold short. The schedule prescribed by § 210.12-12A shall be filed in support of caption 10(a) of each balance sheet.

Schedule VI—Open option contracts written. The schedule prescribed by § 210.12-12B shall be filed in support of caption 10(b) of each balance sheet.

Schedule VII—Short-term borrowings. The schedule prescribed by § 210.12-10 shall be filed in support of any amounts included in caption 13 of each balance sheet which are payable within one year to banks for borrowings; factors and other financial institutions for borrowings; and holders of any short-term notes.

(d) *Unit investment trusts.* Except as otherwise provided in the applicable form: (1) Schedules I and II, specified below in this section, shall be filed for unit investment trusts as of the dates of the most recent audited balance sheet and any subsequent unaudited statement being filed for each person or group.

(2) Schedule III, specified below in this section, shall be filed for unit investment trusts for each period for which a statement of operations is required to be filed for each person or group.

Schedule I—Investment in securities. The schedule prescribed by § 210.12-12 shall be

filed in support of caption 1 of each balance sheet (§ 210.6–04).

Schedule II—Allocation of trust assets to series of trust shares. If the trust assets are specifically allocated to different series of trust shares, and if such allocation is not shown in the balance sheet in columnar form or by the filing of separate statements for each series of trust shares, a schedule shall be filed showing the amount of trust assets, indicated by each balance sheet filed, which is applicable to each series of trust shares.

Schedule III—Allocation of trust income and distributable funds to series of trust shares. If the trust income and distributable funds are specifically allocated to different series of trust shares and if such allocation is not shown in the statement of operations in columnar form or by the filing of separate statements for each series of trust shares, a schedule shall be submitted showing the amount of income and distributable funds, indicated by each statement of operations filed, which is applicable to each series of trust shares.

(e) *Face-amount certificate investment companies.* Except as otherwise provided in the applicable form:

(1) Schedules I, V and X, specified below, shall be filed for face-amount certificate investment companies as of the dates of the most recent audited balance sheet and any subsequent unaudited statement being filed for each person or group.

(2) All other schedules specified below in this seciton shall be filed for face-amount certificate investment companies for each period for which a statement of operations is filed, except as indicated for Schedules III and IV.

Schedule I—Investment in securities of unaffiliated issuers. The schedule prescribed by § 210.12–21 shall be filed in support of caption 1 and, if applicable, caption 5(a) of each balance sheet. Separate schedules shall be furnished in support of each caption, if applicable.

Schedule II—Investments in and advances to affiliates and income thereon. The schedule prescribed by § 210.12–22 shall be filed in support of captions 1 and 5(b) of each balance sheet and caption 1 of each statement of operations. Separate schedules shall be furnished in support of each caption, if applicable.

Schedule III—Mortage loans on real estate and interest earned on mortages. The schedule prescribed by § 210.12–23 shall be filed in support of captions 1 and 5(c) of each balance sheet and caption 1 of each statement of operations, except that only the information required by column G and note 8 of the schedule need be furnished in support of statements of operations for years for which related balance sheets are not required.

Schedule IV—Real estate owned and rental income. The schedule prescribed by § 210.12–24 shall be filed in support of captions 1 and 5(a) of each balance sheet and caption 1 of each statement of operations for rental income included therein, except that only the information required by columns H, I and J, and item "Rent from properties sold during the period" and note 4 of the schedule need be furnished in support of statements of operations for years for which related balance sheets are not required.

Schedule V—Qualified assets on deposit. The schedule prescribed by § 210.12–27 shall be filed in support of the information required by caption 4 of § 210.6–06 as to total amount of qualified assets on deposit.

Schedule VI—Amounts due from officers and directors. The schedule prescribed by § 210.12–03 shall be filed with respect to each director, officer, or employee from whom any amount was owed at any time during the period for which related statements of operation are filed. State if an exemption has been granted by the Commission with respect to amounts included in this schedule.

Schedule VII—Short-term borrowings. The schedule prescribed by § 210.12–10 shall be filed in support of any amounts included in caption 8 of each balance sheet which are payable within one year to banks for borrowings; factors and other financial institutions for borrowings; and holders of any short-term notes.

Schedule VIII—Indebtedness to affiliates—not current. The schedule prescribed by §210.12–05 shall be filed in support of any amounts included in caption 9 of each balance sheet. This schedule and Schedule II may be combined.

Schedule IX—Supplementary profit and loss information. The schedule prescribed by § 210.12–25 shall be filed in support of each statement of operations.

Schedule X—Guarantees of securities of other issuers. The schedule prescribed by § 210.12–08 shall be filed with respect to any guarantees of securities of other issuers by the person for which the statement is filed.

Schedule XI—Certificate reserves. The schedule prescribed by § 210.12–26 shall be filed in support of caption 7 of each balance sheet.

Schedule XII—Valuation and qualifying accounts. The schedule prescribed by § 210.12–09 shall be filed in support of all other reserves included in the balance sheet.

§ 210.6–30 [Removed]

4. By removing § 210.6–30 and adding a new § 210.6A–01 as follows:

Employee Stock Purchase, Savings and Similar Plans

§ 210.6A–01 Application of §§ 210.6A–01 to 210.6A–05.

(a) Sections 210.6A–01 to 210.6A–05 shall be applicable to financial statements filed for employee stock purchase, savings and similar plans.

§ 210.6–31 [Removed]

5. By removing § 210.6–31 and adding a new § 210.6A–02 as follows:

§ 210.6A–02 Special rules applicable to employee stock purchase, savings and similar plans.

The financial statements filed for persons to which this article is applicable shall be prepared in accordance with the following special rules in addition to the general rules in §§ 210.1–01 to 210.4–10. Where the requirements of a special rule differ from those prescribed in a general rule, the requirements of the special rule shall be met.

(a) *Investment programs.* If the participating employees have an option as to the manner in which their deposits and contributions may be invested, a description of each investment program shall be given in a footnote or otherwise. The number of employees under each investment program shall be stated.

(b) *Net asset value per unit.* Where appropriate, the number of units and the net asset value per unit shall be given by footnote or otherwise.

(c) *Federal income taxes.* (1) If the plan is not subject to Federal income taxes, a note shall so state indicating briefly the principal assumptions on which the plan relied in not making provision for such taxes.

(2) State the Federal income tax status of the employee with respect to the plan.

(d) *Valuation of assets.* The statement of financial condition shall reflect all investments at value, showing cost parenthetically. For purposes of this rule, the term "value" shall mean (1) market value for those securities having readily available market quotations and (2) fair value as determined in good faith by the trustee(s) for the plan (or by the person or persons who exercise similar responsibilities) with respect to other securities and assets.

§ 210.6–32—210.6–34 [Redesignated as §§ 210.6A–03—210.6A–05]

6. By redesignating §§ 210.6–32, 210.6–33, and 210.6–34 as §§ 210.6A–03, 210.6A–04, and 210.6A–05, respectively.

7. By revising § 210.12–01 to read as follows:

§ 210.12–01 Application of §§ 210.12–01 to 210.12–27.

These sections prescribe the form and content of the schedules required by §§ 210.5–04, 210.6–10, 210.6A–05, 210.7–05 and 210.9–05.

8. By revising § 210.12–12 and adding new §§ 210.12–12A and 210.12–12B to read as follows:

§ 210.12–12 Investments in securities of unaffiliated issuers.

Col. A	Col. B	Col. C
Name of issuer and title of issue [1] and [2].	Balance held at close of period. Number of shares—principal amount of bonds and notes. [3]	Value of each item at close of period. [3] [4] [5] [6]

[1] Each issue shall be listed separately: *Provided,* however, that an amount not exceeding five percent of the total of Column C may be listed in one amount as "Miscellaneous securities," provided the securities so listed are not restricted, have been held for not more than one year prior to the date of the related balance sheet, and have not previously

been reported by name to the shareholders of the person for which the schedule is filed or to any exchange, or set forth in any registration statement, application, or annual report or otherwise made available to the public.

[2] List separately: (a) Common shares; (b) preferred shares; (c) bonds and notes; (d) time deposits; and (e) put and call options purchased. Within each of these subdivisions, classify in an appropriate manner according to type of business; e.g., aerospace, banking, chemicals, machinery and machine tools, petroleum, utilities, etc.; or according to type of instrument; e.g., commercial paper, bankers' acceptances, certificates of deposit. Short-term debt instruments of the same issuer may be aggregated, in which case the range of interest rates and maturity dates shall be indicated. For issuers of periodic payment plan certificates and unit investment trusts, list separately: (i) Trust shares in trusts created or serviced by the depositor or sponsor of this trust; (ii) trust shares in other trusts; and (iii) securities of other investment companies. Restricted securities shall not be combined with unrestricted securities of the same issuer. Repurchase agreements shall be stated separately showing for each the name of the party or parties to the agreement, the date of the agreement, the total amount to be received upon repurchase, the repurchase date and description of securities subject to the repurchase agreements.

[3] The subtotals for each category of investments, subdivided by business grouping or instrument type, shall be shown together with their percentage value compared to net assets (§§ 210.6–04.19 or 210.6–05.4).

[4] Column C shall be totaled. The total of column C shall agree with the correlative amounts shown on the related balance sheet.

[5] Indicate by an appropriate symbol each issue of securities which is non-income producing. Evidences of indebtedness and preferred shares may be deemed to be income producing if, on the respective last interest payment date or date for the declaration of dividends prior to the date of the related balance sheet, there was only a partial payment of interest or a declaration of only a partial amount of the dividends payable; in such case, however, each such issue shall be indicated by an appropriate symbol referring to a note to the effect that, on the last interest or dividend date, only partial interest was paid or partial dividends declared. If, on such respective last interest or dividend date, no interest was paid or no cash or in kind dividends declared, the issue shall not be deemed to be income producing. Common shares shall not be deemed to be income producing unless, during the last year preceding the date of the related balance sheet, there was at least one dividend paid upon such common shares.

[6] Indicate by an appropriate symbol each issue of restricted securities. State the following in a footnote: (a) As to each such issue: (1) Acquisition date, (2) carrying value per unit of investment at date of related balance sheet, e.g., a percentage of current market value of unrestricted securities of the same issuer, etc., and (3) the cost of such securities; (b) as to each issue acquired during the year preceding the date of the related balance sheet, the carrying value per unit of investment of unrestricted securities of the same issuer at: (1) The day the purchase price was agreed to; and (2) the day on which an enforceable right to acquire such securities was obtained; and (c) the aggregate value of all restricted securities and the percentage which the aggregate value bears to net assets.

[7] Indicate by an appropriate symbol each issue of securities held in connection with open put or call option contracts or loans for short sales.

[8] State in a footnote the following amounts based on cost for Federal income tax purposes: (a) Aggregate gross unrealized appreciation for all securities in which there is an excess of value over tax cost, (b) the aggregate gross unrealized depreciation for all securities in which there is an excess of tax cost over value, (c) the net unrealized appreciation or depreciation, and (d) the aggregate cost of securities for Federal income tax purposes.

§ 210.12–12A Investments—securities sold short.

[For management investment companies only]

Col. A	Col. B	Col. C
Name of issuer and title of issue.[1]	Balance of short position at close of period. (number of shares).	Value of each open short position.[2]

[1] Each issue shall be listed separately.

[2] Column C shall be totaled. The total of column C shall agree with the correlative amounts shown on the related balance sheet.

§ 210.12–12B Open option contracts written.

[For management investment companies only]

Col. A	Col. B	Col. C	Col. D	Col. E
Name of issue.[1,2]	Number of contracts.[3]	Exercise price.	Expiration date.	Value.[4]

[1] Information as to put options shall be shown separately from information as to call options.

[2] Options of an issuer where exercise prices or expiration dates differ shall be listed separately.

[3] If the number of shares subject to option is substituted for number of contracts, the column name shall reflect that change.

[4] Column E shall be totaled and shall agree with the correlative amount shown on the related balance sheet.

9. By revising § 210.12–13 as follows:

§ 210.12–13 Investments other than securities.

[For management investment companies only]

Col. A	Col. B	Col. C
Description.[1]	Balance held at close of period—quantity.[2,3,5]	Value of each item at close of period.[4,6,7]

[1] List each major category of investments by descriptive title.

[2] If practicable, indicate the quantity or measure in appropriate units.

[3] Indicate by an appropriate symbol each investment which is non-income producing.

[4] Indicate by an appropriate symbol each investment not readily marketable. The term "investment not readily marketable" shall include investments for which there is no independent publicly quoted market and investments which cannot be sold because of restrictions or conditions applicable to the investment or the company.

[5] Indicate by an appropriate symbol each investment subject to option. State in a footnote: (a) The quantity subject to option, (b) nature of option contract, (c) option price, and (d) dates within which options may be exercised.

[6] Column C shall be totaled and shall agree with the correlative amount shown on the related balance sheet.

[7] State in a footnote the following amounts based on cost for Federal income tax purposes: (a) Aggregate gross unrealized appreciation for all investments in which there is an excess of value over tax cost, (b) the aggregate gross unrealized depreciation for all investments in which there is an excess of tax cost over value, (c) the net unrealized appreciation or depreciation, and (d) the aggregate cost of investments for Federal income tax purposes.

10. By revising § 210.12–14 as follows:

§ 210.12–14 Investments in and advances to affiliates.

[For management investment companies only]

Col. A	Col. B	Col. C	Col. D	Col. E
Name of issuer and title of issue or nature of indebtedness.[1]	Number of shares—principal amount of bonds, notes and other indebtedness held at close of period.	Amount of equity in net profit and loss for the period.[2,6]	Amount of dividends or interest.[2,5]	Value of each item at close of period.[2,3,4,6]
			(1) Credited to income..	
			(2) Other.....	

[1] (a) List each issue separately and group (1) investments in majority-owned subsidiaries, segregating subsidiaries consolidated; (2) other controlled companies; and (3) other affiliates. (b) If during the period there has been any increase or decrease in the amount of investment in and advance to any affiliate, state in a footnote (or if there have been changes to numerous affiliates, in a supplementary schedule) (1) name of each issuer and title of issue or nature of indebtedness; (2) balance at beginning of period; (3) gross additions; (4) gross reductions; (5) balance at close of period as shown in Column E. Include in the footnote or schedule comparable information as to affiliates in which there was an investment at any time during the period even though there was no investment at the close of the period of report.

[2] Give totals for each group. If operations of any controlled companies are different in character from those of the company, group such affiliates (1) within divisions and (2) by type of activities.

[3] columns C, D and E shall be totaled. The totals of Column E shall agree with the correlative amount shown on the related balance sheet.

[4] (a) Indicate by an appropriate symbol each issue of restricted securities. The information required by instruction 5 of § 210.12–12 shall be given in a footnote. (b) Indicate by an appropriate symbol each issue of securities subject to option. The information required by instruction 5 of § 210.12–13 shall be given in a footnote.

[5] (a) Include in Column D (1) as to each issue held at the close of the period, the dividends or interest included in caption 1 of the statement of operations. In addition, show as the final item in column D (1) the aggregate of dividends and interest included in the statement of operations in respect of investments in affiliates not held at the close of the period. The total of this column shall agree with the correlative amount shown on the related statement of operations.

(b) Include in Column D (2) all other dividends and interest. Explain in an appropriate footnote the treatment accorded each item.

(c) Indicate by an appropriate symbol all non-cash dividends and explain the circumstances in a footnote.

(d) Indicate by an appropriate symbol each issue of securities which is non-income producing.

[6] The information required by column C shall be furnished only as to controlled companies.

§§ 210.12–19 and 210.12–20 [Removed]

11. By removing §§ 210.12–19 and 210.12–20.

PART 270—GENERAL RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

12. By revising paragraph (a)(4) and the introductory text of paragraph (a) of § 270.2a–4 to read as follows:

§ 270.2a–4 Definition of "current net asset value" for use in computing periodically the current price of redeemable security.

(a) The current net asset value of any redeemable security issued by a registered investment company used in computing periodically the current price for the purpose of distribution, redemption, and repurchase means an amount which reflects calculations, whether or not recorded in the books of account, made substantially in accordance with the following, with

estimates used where necessary or appropriate.

* * * * *

(4) Expenses, including any investment advisory fees, shall be included to date of calculation. Appropriate provision shall be made for Federal income taxes if required. Investment companies which retain realized capital gains designated as a distribution to shareholders shall comply with paragraph (h) of §210.6-03 of Regulation S-X.

* * * * *

(Secs. 7, 8, and 19(a) of the Securities Act of 1933 (15 U.S.C. 77g, 77h, and 77s(a)); secs. 12, 13, 15(d) and 23(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78l, 78m, 78o(d), 78w); and secs. 8, 30(d), 31(c), and 38(a) of the Investment Company Act of 1940 (15 U.S.C. 80a-8, 80a-29(d), 80a-30(c), and 80a-37(a)))

Dated: December 6, 1982.

By the Commission.

Shirley E. Hollis,

Assistant Secretary.

Regulatory Flexibility Act Certification

I, John S.R. Shad, Chairman of the Securities and Exchange Commission, hereby certify, pursuant to 5 U.S.C. 605(b) that the rules adopted in Securities Act Release No. 6442 which revise the financial statement requirements for registered investment companies will not have a significant economic impact on any entity subject to its provisions and, therefore, will not have a significant economic impact on a substantial number of small entities. The reason for this certification is that it is anticipated that the effects of the final rules will not be significant for any class of registrants for the following reasons. First, the compliance burden is not being significantly changed. In addition, the required information is readily available from existing accounting records or otherwise readily available to the affected companies at little or no cost. Finally, the disclosure of such information, both in form and content, would not impose significant competitive advantages or disadvantages or other significant costs.

Dated: December 6, 1982.

John S. R. Shad,

Chairman.

[FR Doc. 82-33847 Filed 12-20-82; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 145

[Docket No. 78N-0138]

Canned Pears; Standard of Quality; Confirmation of Effective Date

AGENCY: Food and Drug Administration.

ACTION: Final rule; confirmation of effective date.

SUMMARY: The Food and Drug Administration (FDA) is confirming the effective date for compliance with the provisions of the amended standard of quality for canned pears.

DATES: Effective July 1, 1985, for all affected products initially introduced or initially delivered for introduction into interstate commerce on or after this date. Voluntary compliance may have begun November 22, 1982.

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Bureau of Foods (HFF-214), Food and Drug Administration, 200 C St. SW., Washington, DC 20204; 202-245-1164.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of September 21, 1982 (45 FR 41526), FDA issued a final regulation amending the standard of quality for canned pears (21 CFR 145.175(b)) in consideration of the quality provisions of the Recommended International Standard for Canned Pears developed by the Codex Alimentarius Commission and requests by the Canners League of California and the United States Department of Agriculture. Any person who would be adversely affected by the regulation could have, at any time on or before October 21, 1982, filed written objections to the final regulation and requested a hearing on the specific provisions to which there were objections. No objections or requests for a hearing were received.

List of Subjects in 21 CFR Part 145

Canned fruit, Food standards; Fruits.

PART 145—[AMENDED]

§ 145.175 [Amended]

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), notice is given that the effective date for compliance with paragraph (b) of the standard of quality for canned pears (§ 145.175 *Canned pears* (21 CFR 145.175(b)) as amended in the **Federal Register** of September 21, 1982 (47 FR 41526) is July 1, 1985. Voluntary compliance may have begun November 22, 1982.

Dated: December 15, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-34522 Filed 12-20-82; 8:45 am]

BILLING CODE 4160-01-M

---

21 CFR Part 176

[Docket No. 81F-0209]

Indirect Food Additives; Paper and Paperboard Components

Correction

In FR Doc. 82-28712 beginning on page 46495 in the issue of Tuesday, October 19, 1982, make the following correction:

On page 46495, third column, § 176.210 (d)(3), fourth line, "esters butyl" should read "esters, butyl".

BILLING CODE 1505-01-M

ENVIRONMENTAL PROTECTION AGENCY

21 CFR Part 193

[FAP 1H5309/R120; PH-FRL-2260-6]

Tolerances for Pesticides in Food; 2 2-Dichlorovinyl Dimethyl Phosphate

Correction

In FR Doc. 82-33398 beginning on page 55214 in the issue of Wednesday, December 8, 1982, make the following correction:

On page 55214, third column, tenth line from the bottom "process" should read "processed."

BILLING CODE 1505-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510 and 522

Implantation or Injectable Dosage Form New Animal Drugs Not Subject To Certification; Iron Dextran Injection

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Fisons Corp. providing for safe and effective use of an iron dextran injection for prevention or treatment of baby pig anemia due to iron deficiency and to add the sponsor to the list of sponsors of approved NADA's.

EFFECTIVE DATE: December 21, 1982.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Bureau of Veterinary Medicine (HFV-128), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857; 301-443-4317.

SUPPLEMENTARY INFORMATION: Fisons Corp., Two Preston Ct., Bedford, MA

01730, filed an NADA (99-667) providing for intramuscular use of an iron dextran injection for baby pigs for prevention and treatment of baby pig anemia due to iron deficiency. Approval is based on the fact that the drug is identical to products which were reviewed by the National Academy of Sciences/National Research Council (NAS/NRC), found effective for prevention or treatment of baby pig anemia due to iron deficiency, and codified in 21 CFR 522.1183. The NAS/NRC notice was published in the **Federal Register** of February 14, 1969 (34 FR 2211). Based on the data and information in the NAS/NRC reviews and the information from published scientific literature, the NADA is approved and the regulations are amended to reflect the approval. In addition, the list of sponsors of approved NADA's in 21 CFR 510.600(c) is amended to add this new sponsor.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement therefore will not be prepared. The Bureau's finding of no significant impact and the evidence supporting this finding, contained in a statement of exemption (pursuant to 21 CFR 25.1(f)(1)(iii)) may be seen in the Dockets Management Branch (address above).

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

21 CFR Part 522

Animal drugs, Injectable.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Parts 510 and 522 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. In Part 510, § 510.600 is amended by adding a new sponsor alphabetically to paragraph (c)(1) and numerically to paragraph (c)(2) to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
Fisons Corp., 2 Preston Ct., Bedford, MA, 01730.....	000585

(2) * * *

Drug Labeler code	Firm name and address
000585	Fisons Corp., 2 Preston Ct., Bedford, MA, 01730.

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

2. In Part 522, § 522.1182 is amended by revising paragraph (b)(3) to read as follows:

§ 522.1182 Iron dextran complex injection.

* * * * *

(b) * * *

(3) See Nos. 000585 and 000845 in § 510.600(c) of this chapter for use as provided by paragraph (c) (5) and (6) of this section.

* * * * *

Effective date. December 21, 1982.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: December 13, 1982.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 82-34384 Filed 12-20-82; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Lasalocid Sodium Roxarsone and Bacitracin Zinc

Correction

In FR Doc. 82-28500 beginning on page 46496 in the issue of Tuesday, October 19, 1982 make the following correction:

On page 46496, middle column, fifteenth line from the bottom "21 CFR 556.37" should read "21 CFR 556.347"

BILLING CODE 1505-01-M

21 CFR Part 866

[Docket No. 78N-2113]

Immunology and Microbiology Devices; General Provisions and Classification of 162 Devices

Correction

In FR Doc. 82-30449 beginning on page 50814 in the issue of Tuesday, November 9, 1982, make the following corrections:

1. On page 50829, first column, in the 10th line from the top of the page, in paragraph (b) of § 866.3220, "Class I" should have read "Class II".

2. On page 30836, third column, in § 866.5360, in the second line of paragraph (a), "immunological system" should have read "immunological test system".

3. On page 50839, first column, 10th line, the section now designated "§ 886.5640" should have been designated "§ 866.5640".

BILLING CODE 1505-01-M

DEPARTMENT OF JUSTICE

Parole Commission

28 CFR Part 2

Paroling, Recommitting and Supervising Federal Prisoners

Correction

In FR Doc. 82-33881 beginning on page 56334, in the issue of Thursday, December 16, 1982, make the following correction.

On page 56341, third column, the section heading reading "2.39 Rescission guidelines." should read "§ 2.36 Rescission guidelines.".

BILLING CODE 1505-01-M

DEPARTMENT OF LABOR

Office of Pension and Welfare Benefit Programs

29 CFR Part 2510

Definitions and Coverage Under the Employee Retirement Income Security Act of 1974; Correction

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Final rule; correction.

SUMMARY: This document corrects a numbering error in a final regulation relating to supplemental payments under the Employee Retirement Income Security Act of 1974 (ERISA) as amended by the Multiemployer Pension Plan Amendments Act of 1980. In the final regulation published November 5, 1982 (47 FR 50237), on page 50241, in the third column, in the 20th line, "(5)" is corrected to read "(4)."

FOR FURTHER INFORMATION CONTACT: Patricia Nitchie, Pension and Welfare Benefit Programs, U.S. Department of Labor, Washington, D.C., telephone (202) 523–8521. This is not a toll-free number.

PART 2510—[CORRECTED]

Accordingly, the Office of Pension and Welfare Benefit Programs is correcting 29 CFR 2510.3–2(g) to read as follows:

§ 2510.3–2 Employee pension benefit plan.

* * * * *

(g) * * *

(4) *Examples.*

* * * * *

(29 U.S.C. 1002(2), 1135)

Signed at Washington, D.C., this 8th day of December 1982.

Jeffrey N. Clayton,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82–34540 Filed 12–20–82; 8:45 am]

BILLING CODE 4510–29–M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 166

Defense Contracting: Reporting Procedures on Defense Related Employment

AGENCY: Office of the Secretary, DOD.

ACTION: Amendment of final rule.

SUMMARY: This rule is the fiscal year 1982 update of the section listing DOD contractors receiving negotiated contract awards of $10 million or more. The regulation is published to comply with the provisions of Section 410, Pub. L. 91–121, November 19, 1969.

EFFECTIVE DATE: September 30, 1982.

FOR FURTHER INFORMATION CONTACT: Mrs. Cynthia V. Springer, Office of the Director for Information Operations and Reports, Washington Headquarters Services, The Pentagon, Washington, DC 20301. Telephone (202) 694–5614.

SUPPLEMENTARY INFORMATION: In FR Doc. 70–15846 appearing in the **Federal Register** on November 25, 1970 (35 FR 18040), the Office of the Secretary of Defense published a final rule establishing criteria, prescribing procedures, and assigning responsibilities for monitoring contracting within the Department of Defense. Subsequently, paragraphs (a) and (d) of § 166.11, which constitute the list of DOD contractors receiving negotiated contract awards for $10 million or more, were updated for fiscal years 1971 (36 FR 18464); 1972 (37 FR 18727); 1973 (38 FR 25990); 1974 (39 FR 32985); 1975 (40 FR 44135); 1976 (41 FR 20466); 1977 (43 FR 1617); 1978 (44 FR 3049); 1979 (44 FR 75631); 1980 (45 FR 83486); and 1981 (46 FR 60821).

List of Subjects in 32 CFR Part 166

Armed forces, Government employees, Government procurement, Information requirements.

PART 166—[AMENDED]

Accordingly, § 166.11 of this part is revised to read as follows:

§ 166.11 Department of Defense contractors receiving negotiated contract awards of $10 million or more.

Fiscal Year 1982:

A A I Corp.
A M F Inc.
A M General Corp.
Abbott Products, Inc.
Abex Corp.
Acadian Marine Service, Inc.
Accudyne Corp.
Action Mfg. Co.
Advanced Technology, Inc.
Aerojet General Corp.
Aerojet Liquid Rocket Co.
Aerojet Ordnance & Mfg. Co.
Aerojet Tactical Systems Co.
Aeroquip Corp.
Aerospace Corp.
Alabama Power Co.
Alascom, Inc.
Allied Materials Corp.
Alpha Industries, Inc.
Amerada Hess Corp.
American Air Filter Co., Inc.
American Airlines, Inc.
American Development Corp.
American Electronic Laboratories, Inc.
American Home Products Corp.
American Mfg. Co. of Texas
American President Lines, Ltd.
American Telephone & Telegraph Co.
Ametek, Inc.
Amex Systems, Inc.
Amoco Oil Co.
Ampex Corp.
Amron Corp.
Analysis & Technology, Inc.
Andrews & Parrish Co.
Angus Fire Armour Corp.
Apex International Mgt. Services, Inc.
Arcata Associates, Inc.
Arco Petroleum Co.
Arinc Research Corp.
Arkla, Inc.
Arrow Airways, Inc.
Ashland Petroleum Co.
Atlantic Research Corp.
Atlantic Richfield Co.
Atlas Processing Co.
Automation Industries, Inc.
Avco Corp.
Avco Everett Research Laboratory
Aviation Contractor Employees, Inc.
Avondale Shipyards, Inc.
Aydin Corp.
Ayer N W ABH International, Inc.

B D M Corp.
B E I Electronics, Inc.
Baltimore Gas & Electric Co.
Bath Iron Works Corp.
Battelle Memorial Institute
Bay City Marine, Inc.
Beacon Oil Co.
Beech Aerospace Services, Inc.
Beech Aircraft Corp.
Belcher Oil Co.
Bell & Howell Co.
Bendix Corp.
Bendix Field Engineering Corp.
Berry Petroleum Co.
Beta Systems, Inc.
Blue Shield of California
Boeing Co.
Boeing Computer Services, Inc.
Boeing Services International, Inc.
Boeing Vertol Co.
Bolt Beranek & Newman, Inc.
Booz Allen & Hamilton, Inc.
Borg Warner Corp.
Braswell Shipyards, Inc.
Brown & Williamson Tobacco Corp.
Brunswick Corp.
Bulova Watch Co., Inc.
Bunker Ramo Corp.
Burnside Ott Aviation Training Center
Burroughs Corp.

C D I Corp.
C P I Refining, Inc.
C Three, Inc.
CACI, Inc. Federal
Cal State Patrol Service, Inc.
Calcasieu Refining
California Microwave, Inc.
California, University of
Calspan Corp.
Caltex Oil Products Co.
Camel Mfg. Co.
Campbell Soup Co.
Cardion Corp.
Carnation Co.
Carnegie Mellon University
Carolina Power & Light Co.
Caterpillar Tractor Co.
Central Gulf Lines, Inc.
Centre Mfg. Co.

Cerberonics, Inc.
Chamberlain Mfg. Corp.
Chance, A B Co.
Chaparral Industries, Inc.
Charles Stark Draper Laboratories, Inc.
Chesapeake & Potomac Telephone Co.
Chesapeake & Potomac Telephone Co. of Va.
Chevron U S A, Inc.
Chromalloy American Corp.
Chrysler Corp.
Cibro Petroleum Products, Inc.
Cincinnati Electronics Corp.
Cities Service Co.
Cities Service Oil Co.
Cleveland Pneumatic Co.
Coastal States Marketing, Inc.
Colt Industries, Inc.
Colt Industries, Operating Corp.
Command Control & Communication
Communications Satellite Corp.
Computer Sciences Corp.
Comtech Telecommunications Corp.
Condec Corp.
Conoco, Inc.
Conrac Corp.
Control Data Corp.
Copano Refining Co.
Coral Petroleum, Ltd.
Corsair, Inc.
Craig Systems Corp.
Crane Co.
Cubic Corp.
Cummins Engine Co., Inc.
Curtiss Wright Corp.

Data Design Laboratories
Dataproducts New England, Inc.
Day & Zimmerman, Inc.
Day & Zimmerman, Inc. & Basil FE JV
Dayron Corp.
Dayton, University of
Del Mfg. Co.
Del Monte Corp.
Delta Refining Co.
Derby & Co., Inc.
Devils Lake Sioux Mfg. Corp.
Digital Equipment Corp.
Donaldson Co., Inc.
Douglas Oil Co. of California
Dupont E I De Nemours & Co.
Dynalectron Corp.
Dynamics Research Corp

E D S Federal Corp.
E G & G, Inc.
E S L, Inc.
E Systems, Inc.
Eastman Kodak Co.
Eaton Corp.
Ebony Oil Corp.
Edo Corp.
Educational Computer Corp.
El Paso, City of
El Paso Electric Co.
Electrospace Systems, Inc
Emco, Inc.
Emerson Electric Co.
Engineered Air Systems, Inc.
Engineering Research, Inc.
Environmental Elements Corp.
Ex Cell O Corp.
Exxon Co. U.S.A.
Exxon Corp.

F M C Corp.
F N Mfg., Inc.
Fairchild Camera & Instrument Corp.
Fairchild Industries, Inc.
Fairchild Weston Systems, Inc.
Fancy Industries, Inc.
Farrell Lines, Inc.
Federal Electric Corp.
Felec Services, Inc.
Ferrulmatic, Inc.
Figgie Interntional, Inc.
Fletcher Oil & Refining Co.
Florida Power & Light Co.
Ford Aerospace & Communications

G & M Oil Co., Inc.
G T E Products Corp.
Garrett Corp.
General Defense Corp.
General Dynamics Corp.
General Electric Co.
General Foods Corp.
General Instrument Corp.
General Mills, Inc.
General Motors Corp.
General Research Corp.
General Ship Engine Works
General Signal Corp.
Georgia Technical Research Institute
Getty Oil Co.
Getty Refining & Marketing Co.
Gibbs & Cox, Inc.
Gibralter Industries, Inc.
Giga Tronics
Gladieux Refinery, Inc.
Global Asssociates
Golden Eagle Oil Refinery, Inc.
Goodrich B F Co.
Goodyear Aerospace Corp.
Goodyear Tire & Rubber Co.
Gould, Inc.
Great Western Development Corp.
Grey Advertising, Inc.
Grimes Oil Co., Inc.
Grumman Aerospace Corp.
Guam Oil & Refining Co., Inc.
Gulf Apparel Corp.
Gulf Oil Corp.
Gulf Power Co.
Gulf States Oil & Refining Co.

H & S Corp.
H R B Singer, Inc.
Halifax Engineering, Inc.
Hamilton Technology, Inc.
Harris Corp.
Harsco Corp.
Hawaiian Electric Co., Ltd.
Hawaiian Independent Refinery, Inc.
Hawaiian Telephone Co.
Hayes International Corp.
Hazeltine Corp.
Hercules Construction Corp.
Hercules, Inc.
Hess Oil Virgin Island Corp.
Hewlett Packard Co.
Holloway Corp.
Holston Defense Corp.
Honeywell, Inc.
Honeywell Information Systems, Inc.
Hudson Waterways Corp.
Hughes Aircraft Co.
Hughes Communication Services
Hughes Helicopters, Inc.
Hunter Mfg. Co.
Hycor, Inc.
Hydroscience, Inc.
Hydrotronics, Inc.

I C I Americas, Inc.
I T T & Westinghouse JV
I T T Gilfillan, Inc.
I T T World Communications, Inc.
Illinois Institute of Technology
Industrial Design Laboratory
Industrial Fuel & Asphalt of Indiana
Ingersoll Rand Co.
Institute for Defense Analysis
Intercontinental Mfg. Co.
International Business Machines Co.
International Laser Systems, Inc.
International Telephone & Telegraph Corp.
Interstate Electronics Corp.
Itek Corp.

J W M Corp.
J W T Group, Inc.
Jackson Oil Co.
Jacksonville Shipyards, Inc.
Jaycor
Jersey Central Power & Light Co.
Johns Hopkins University
Jonathan Corp.

K D I Precision Products, Inc.
Kaiser Aerospace & Electronics Co.
Kaman Aerospace Corp.
Kaman Corp.
Kaman Sciences Corp.
Kansas Power & Light Co., Inc.
Keco Industries, Inc.
Kellogg Sales Co.
Kelsey Hayes Co., Inc.
Kentron International, Inc.
Kidde, Inc.
Kings Point Mfg. Co.
Kisco Co., Inc.
Koch Refining Co.
Kollmorgen Corp.
Kovatch Corp.
Kraft, Inc.

Lake Charles Refining, Inc.
Laketon Asphalt Refining, Inc.
Lansdowne Steel & Iron Co.
Lanson Industries, Inc.
Lear Siegler, Inc.
Libby Welding Co.
Listo Energy, Inc.
Little Arthur D., Inc.
Litton Industrial Products, Inc.
Litton Industries, Inc.
Litton Systems, Inc.
Lockheed Corp.
Lockheed Electronics Co., Inc.
Lockheed Missiles & Space Co., Inc.
Lockheed Shipbuilding & Construction
Loggins Meat Co.
Logicon, Inc.
Loral Corp.
Luis J Sportswear
Louisville Gas & Electric Co., Inc.
Lummus Co.
Lykes Bros. Steamship Co., Inc.

Magnavox Advanced Products & Systems Co.
Magnavox Co.
Magnavox Government & Industrial Electronics Co.
Management & Technical Services Co.
Mantech International Corp.
Marconi Avionics, Inc.
Maremont Corp.
Marlex Oil & Refining
Marquardt Co.
Martin Marietta Aluminum Sales, Inc.
Martin Marietta Corp.
Maryland, University of

Mason & Hanger Silas Mason Co.
Mason Chamberlain, Inc.
Massachusetts Institute of Technology.
Maxwell Laboratories, Inc.
Mayer Oscar & Co., Inc.
McDonnell Douglas Corp.
McGraw Edison Co.
McLaughlin Research Corp.
McMillin Construction Co.
McMullen John J Associates, Inc.
Menasco, Inc.
Merck & Co., Inc.
Metal Trades, Inc.
Metric Systems Corp.
Microwave Associates, Inc.
Midland Ross Corp.
Mine Safety Appliances Co.
Mission Research Corp.
Mitre Corp.
Mobil Oil Corp.
Monroe Wire & Cable Corp.
Morrison Knudsen Co., Inc.
Morton Thiokol, Inc.
Motorola, Inc.
Mountain States Tel & Tel Co.

Nabisco Brands, Inc.
National Academy of Sciences
National Steel & Shipbuilding Co.
Navajo Refining Co.
Needham, Inc.
Nestle Co., Inc.
New Mexico State University
New York Telephone Co.
Newport News Shipbuilding & Dry Dock Co.
Norden Systems, Inc.
Norfolk Shipbuilding & Dry Dock Corp.
Norris Industries, Inc.
North Pole Refining Co.
Northern Telecom, Ltd.
Northrop Corp.
Northrop Worldwide Aircraft Services, Inc.
Northwest Airlines, Inc.
Northwest Marine Iron Works
Nuclear Metals, Inc.

O R I, Inc.
Ocean Tankship Corp.
Ocean Technology, Inc.
Offshore Express, Inc.
Okmulgee Refining Co.
Olin Corp.
Oshkoch Truck Corp.

Pacific Telephone & Telegraph Co.
Pan American World Airways, Inc.
Parker Hannifin Corp.
Pennsylvania Shipbuilding Co., Inc.
Pennsylvania State University
Perkin Elmer Corp.
Peterson Builders, Inc.
Pettibone Corp.
Philip Morris, Inc.
Phillips Petroleum Co.
Physics International Co.
Pioneer Refining Co.
Planning Research Corp.
Pneumo Corp.
Polote Builders, Inc.
Potomac Electric Power Co.
Powerine Oil Co.
Pride Refining, Inc.
Proctor & Gamble Distributing Co.
Propper International, Inc.
Public Service Co. of New Mexico

Q E D, Inc.

R & D Associates
RCA Corp
RCA Global Communications, Inc.
Rand Corp.
Raytheon Co.
Raytheon Service Co.
Recon Optical, Inc.
Reelfoot Packing Co.
Refinery Associates, Inc.
Reflectone, Inc.
Rel, Inc.
Remington Arms Co.
Reynolds R J Tobacco Co.
Right Away Foods Corp.
Roarda, Inc.
Rochester, University of
Rockwell International Corp.
Rohr Industries, Inc.
Rosemount, Inc.
Rosenblatt M Son, Inc.
Ryan Walsh Stevedoring Co., Inc.

S C I Systems, Inc.
S R I International
S W L, Inc.
San Francisco Welding & Steel Fabricating
Sanders Associates, Inc.
Santa Barbara Research Center
Sargent Fletcher Co.
Sargent Industries, Inc.
Science Applications, Inc.
Sea Land Industries USA, Inc.
Sea Land Service, Inc.
Sealol Corp.
Seatrain Lines, Inc.
Selby John R., Inc.
Selma Apparel Corp.
Serv Air, Inc.
Shell Oil Co.
Sierra Research Corp.
Simmonds Precision Products
Simplex Wire & Cable Co.
Singer Co.
Smith L H Oil Corp.
Smithkline Beckman Corp.
Softech, Inc.
Solar Turbines International
Sonicraft, Inc.
Southern Bell Telephone & Telegraph
Southern California Edison Co.
Southern California, University of
Southern Packaging & Storage Co.
Southern Union Refining Co.
Southwest Marine, Inc.
Southwest Research Institute
Southwest Truck Body Co.
Southwestern Bell Telephone
Sparton Corp.
Sperry Corp.
Standard Container Co.
Standard Mfg. Co.
Stanford University
Stewart Warner Corp.
Summa Corp.
Sun Chemical Corp.
Sun Co., Inc.
Sun Refining & Marketing Co.
Sundstrand Corp.
Superior Welding, Inc.
Support Systems Associates, Inc.
Supreme Beef Co., Inc.
Sverdrup Technology, Inc.
Swift & Co.
Syscon Corp.
System Development Corp.
Systems & Appied Sciences Corp.
Systems Consultants, Inc.
Systems Research Laboratories, Inc.
T A D Communications Co.
T R W Colorado Electronics, Inc.
T R W, Inc.
T W Oil (Houston), Inc.
Talley Industries, Inc.
Tan Tex Industries, Inc.
Taylor T H, Inc.
Technical Publications Consultants
Technology Service Corp.
Tektronix, Inc.
Teledyne Brown Engineering
Teledyne C A E
Teledyne Electronics
Teledyne, Inc.
Teledyne Industries, Inc.
Teledyne M E C
Teledyne McCormick Selph
Teleport Oil Co.
Teletype Corp.
Tennessee Apparel Corp.
Tennier Industries, Inc.
Tesoro Alaskan Petroleum Corp.
Texaco, Inc.
Texaco International Trader, Inc.
Texas Instruments, Inc.
Texas, University of
Textron, Inc.
Tierney Mfg. Co.
Tiger International, Inc.
Todd Shipyards Corp.
Tracor, Inc.
Tradax Petroleum, Ltd.
Trans International Airlines, Inc.
Transamerica Delaval, Inc.
Transtechnology Corp.
Treadwell Corp.

Ultramar Trident, Ltd.
Uniflite, Inc.
Union Carbide Corp.
Union Oil Co. of California
Uniroyal, Inc.
United Beef Co.
United States & South American Enterprises
United States Lines Co.
United Technologies Corp.
United Terminals, Inc.
Universal Maritime Services Corp.
Univox California Co.

V S E Corp.
Valleydale Packers, Inc.
Valmac Industries, Inc.
Vanguard Oil & Service Co.
Varian Associates
Varo, Inc.
Veda, Inc.
Vemo Co.
Vought Corp.

Wardoco, Inc.
Washington, University of
Watkins Johnson Co.
Welbilt Electronic Die Corp.
Wells Marine, Inc.
Western Electric Co., Inc.
Western Gear Corp.
Western Union International, Inc.
Western Union Telegraph Co.
Westinghouse Electric Corp.
White Engines, Inc.
Whittaker Corp.
Williams International Corp.
Winfield Mfg. Co., Inc.
Winston Refining Co.
Wisconsin Physicians Service

Woods Hole Oceanographic Institute
World Airways, Inc.
Wyman Gordon Co.
Wyoming Refining Co.

X Tyal International
Xerox Corp.
Xerox Electro Optical Systems, Inc.

Youngdale J R Construction Co., Inc.
Zantop International Airlines, Inc.

Dated: December 14, 1982.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 82-34551 Filed 12-20-82; 8:45 am]

BILLING CODE 3810-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 716

[OPTS-84003C; TSH-FRL 2250-8]

Toxic Substances Control Act; Health and Safety Data Reporting; Submission of Lists and Copies of Health and Safety Studies

Correction

In FR Doc. 82-32843 beginning on page 54624 in the issue of Friday, December 3, 1982, make the following correction:

On page 54624, middle column, in the list under **"Economic Impact,"** the entry for Corporate Rule Review now reading "$81,000" should have read "$8,000".

BILLING CODE 1505-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 2

[Docket FEMA-GEN-2A]

Organization, Functions, and Delegations of Authority

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule

SUMMARY: This rule adds to the delegations of authority to implement the Coastal Barrier Resources Act. It delegates to the Associate Director, State and Local Programs and Support, and to the Federal Insurance Administrator, responsibilities assigned to FEMA under the Act which limits Federal financial assistance to undeveloped coastal barriers.

EFFECTIVE DATE: December 21, 1982.

FOR FURTHER INFORMATION CONTACT: William L. Harding, Office of General Counsel, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0377.

SUPPLEMENTARY INFORMATION: This regulation adds to the delegations of authority of the Federal Emergency Management Agency (FEMA) in order to implement the Coastal Barrier Resources Act (Pub. L. 97-348). As the document relates to agency management, FEMA has not engaged in notice and public comment rule making and has made the regulations effective immediately.

List of Subjects in 44 CFR Part 2

Authority delegations (Government Agencies), Organization and functions (Government Agencies).

PART 2—[AMENDED]

Accordingly, Part 2 is amended as follows:

Subpart B—Delegations

1. Section 2.61 is amended by adding a new paragraph (m) as follows:

§ 2.61 Associate Director, State and Local Programs and Support.

* * * * *

(m) Exercise the following authorities under the Coastal Barrier Resources Act:

(1) Apply the Coastal Barrier Resources Act (Pub. L. 97-348) to the Disaster Relief Act of 1974 (Pub. L. 93-288).

(2) Determine those areas which are included in the Department of Interior's (DOI's) designation of the Coastal Barrier Resources System, transpose DOI's designations onto FEMA's floodplain maps, and perform all other actions necessary to interpret DOI's maps.

(3) Determine, with the advice of the FIA, the meaning of the terms "new construction" and "substantial improvements" as used in the Coastal Barrier Resources Act.

(4) Issue the regulations necessary to implement this § 2.61.

2. Section 2.64 is amended by adding a new paragraph (d)(14) and a new paragraph (e).

§ 2.64 Federal Insurance Administrator.

* * * * *

(d) * * *

(14) Exercise the authority set out at § 2.61(m) of this subpart.

(e) The Federal Insurance Administrator is authorized to perform the functions necessary to make flood insurance unavailable pursuant to the Coastal Barrier Resources Act (Pub. L. 97-348). The Administrator is also authorized to define the term "new flood insurance coverage" as used in the Coastal Barrier Resources Act, and to issue any regulations necessary to implement this § 2.64(e).

(5 U.S.C. 552; Sec. 106, Reorganization Plan No. 3 of 1978; E.O. 12127 of March 31, 1979; E.O. 12148 of July 10, 1979, as amended; Coastal Barrier Resources Act (Pub. L. 97-348).)

Dated: December 14, 1982.

Louis O. Giuffrida,

Director.

[FR Doc. 82-34383 Filed 12-20-82; 8:45 am]

BILLING CODE 6718-01-M

44 CFR PART 64

[Docket No. FEMA 6460]

List of Communities Eligible for the Sale of Insurance Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain flood plain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The date listed in the fifth column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 3429, Bethesda, Maryland, 20034, Phone: (800) 638-6620.

FOR FURTHER INFORMATION CONTACT Mr. Richard E. Sanderson, Chief, Natural Hazards Division (202) 287-0270, 500 C Street Southwest, Donohoe Building, Room 505, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Director of the Federal Emergency Management Agency has

identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Director finds that delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance." This program is subject to procedures set out in OMB Circular A–95.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice stating the community's status in the NFIP and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 64

Flood insurance, Flood plains.

PART 64—[AMENDED]

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

§ 64.6 List of eligible communities.

State and county	Location	Community	Effective dates of authorization/cancellation of sale of Flood Insurance in community	Special flood hazard area identified
Tennessee: Sullivan	Unincorporated areas	470181B	Mar. 6, 1979, emergency; Sept. 30, 1982, regular; Sept. 30, 1982, suspended; Nov. 3, 1982, reinstated.	Dec. 30, 1977.
Virginia: Accomack	Tangier, town of	510004A	Mar. 28, 1975, emergency; Oct. 15, 1982, regular; Oct. 15, 1982, suspended; Nov. 3, 1982, reinstated.	May 31, 1974.
Florida: Polk	Lakes Wales, city of	120390	Nov. 4, 1982, emergency	Oct. 17, 1975.
Iowa: Plymouth	Remsen, city of	190480	....do	Mar. 19, 1976.
Michigan: Berrien	Berrien, township of	260733-New	....do	
Texas:				
Brown	Bangs, city of	480718	Nov. 9, 1982, emergency	Aug. 6, 1976.
Hansford	Gruver, city of	481104	....do	Nov. 5, 1976.
Tennessee: Washington	Unincorporated areas	470181B	Oct. 16, 1979, emergency; Sept. 30, 1982, regular; Sept. 30, 1982, suspended; Nov. 9, 1982, reinstated.	Mar. 25, 1977.
Iowa: Polk	Altoona, city of	190546	Nov. 10, 1982, emergency; Nov. 10, 1982, regular.	NSFHA
New Jersey: Monmouth	Holmdel, township of	340300C	Apr. 14, 1975, emergency; Mar. 1, 1982, regular; Mar. 1, 1982, suspended; Nov. 10, 1982, reinstated	Feb. 1, 1974, Oct. 17, 1975 and Apr 16, 1976.
California: Riverside	Cathedral City, city of [1]	060704	Nov. 12, emergency; Nov. 12, 1982, regular.	
Tennessee: Jackson	Unincorporated areas	470370A	Nov. 26, 1982, emergency	Mar. 23, 1979.
California: Tulare	Dinuba, city of	060403B	Nov. 3, 1982, suspension withdrawn	June 28, 1974 and Feb. 6, 1976
Colorado: Fremont	Canon City, city of	080068B	....do	May 24, 1974 and Mar 21, 1976.
Illinois: Lake	Unincorporated areas	170357B	....do	Jan. 17, 1975 and Mar 20, 1977.
Indiana: Rush	Rushville, city of	180223B	....do	Dec. 7, 1973 and June 11, 1976.
Michigan: Monroe	Berlin, township of	260143A	....do	Nov. 12, 1976.
Minnesota: Ramsey	Little Canada, city of	270377A	....do	July 23, 1976.
Missouri: Franklin	Washington, city of	290138B	....do	Jan. 9, 1974 and Oct 15, 1976
New Jersey: Gloucester	Mantua, township of	340207B	....do	Mar. 22, 1974 and Aug. 6, 1976.
New York:				
Montgomery	Canajoharie, village of	360443B	....do	Feb 22, 1974 and June 11, 1976
Montgomery	Fort Plain, village of	360448B	....do	Apr. 12, 1974 and May 28, 1976.
Suffolk	Patchogue, village of	360803C	....do	July 16, 1976, June 3, 1977 and June 28, 1974.
Ohio: Stark	North Canton, city of	390521B	....do	May 17, 1974 and May 21, 1976
Oklahoma: Oklahoma, Canadian, Cleveland, McClain and Pottawatomie	Oklahoma City, city of	405378D	....do	July 14, 1972, July 1, 1974 and Feb. 2, 1979.
Pennsylvania:				
Dauphin	Halifax, township of	421592B	....do	Nov. 15, 1974.
York	Windsor, borough of	420942B	....do	Jan. 23, 1974 and Jan. 16, 1976.
Washington:				
Whatcom	Lenden, city of	530202B	....do	May 17, 1974 and Apr. 2, 1976.
Walla Walla	Waitsburg, city of	530196B	....do	Apr. 12, 1974 and Jan. 9, 1976.
Wisconsin: Washington	West Bend, city of	550475B	....do	Dec. 28, 1973 and Apr. 30, 1976.
New Jersey:				
Sussex	Andover, borough of	340542B	....do	Feb. 25, 1977.
Do.	Branchville, borough of	340448A	....do	May 10, 1974.
Atlantic	Buena, borough of	340004A	....do	June 28, 1974.
Gloucester	Clayton, borough of	340198A	....do	Aug. 31, 1973.
Bergen	Edgewater, borough of	340029B	....do	Aug. 2, 1974.
Salem	Elmer, borough of	340414A	....do	June 28, 1974.
Sussex	Fredon, township of	340558	....do	Feb. 28, 1975.
Cumberland	Greenwich, township of	340169	....do	Nov. 5, 1976.
Gloucester	Harrison, township of	340205A	....do	July 26, 1974.
Sussex	Hopatcong, borough of	340452A	....do	June 28, 1974.
Do.	Lafayette, township of	340532B	....do	Dec. 20, 1974.
Bergen	Moonachie, borough of	340053A	....do	June 28, 1974.
Warren	Oxford, township of	340492C	....do	June 21, 1974.
Salem	Pilesgrove, township of	340420	....do	Nov. 14, 1975.
Gloucester	Pitman, borough of	340211A	....do	Mar. 15, 1975.
Cumberland	Upper Deerfield, township of	340175A	....do	Aug. 2, 1974.
California: Orange	Fountain Valley, city of	060216C	Nov. 17, 1982, suspension withdrawn	Mar. 29, 1974, May 28, 1976 and Oct 1, 1976.
Connecticut: Fairfield	Darien, town of	090005D	....do	July 26, 1974, May 17, 1977.

State and county	Location	Community	Effective dates of authorization/cancellation of sale of Flood Insurance in community	Special flood hazard area identified
Iowa:				
Black Hawk	Unincorporated areas	190535B	do	Oct. 25, 1977.
Linn	Palo, city of	190442A	do	Sept. 19, 1975.
[illegible]				
Boone	Unincorporated areas	170807B	do	Apr. 29, 1977.
Will	Lockport, city of	170703B	do	Mar. 8, 1974, June 11, 1976.
Do	Plainfield, village of	170771C	do	Nov. 29, 1974, Jan. 9, 1976 and Jan. 1, 1982.
Stephenson	Winslow, village of	170644B	do	Mar. 15, 1974, July 2, 1976.
Maryland: Cecil	Charlestown, town of	240021B	do	Sept. 20, 1974, Dec. 19, 1975
Michigan: Wayne Co	Lincoln Park, city of	[illegible]	do	May 3, 1974, June 27, 1975.
Missouri: Lincoln	Winfield, city of	290213B	do	Dec. 28, 1973, May 7, 1976.
New Jersey:				
Gloucester	Deptford, township of	340199B	do	Aug. 9, 1974, July 23, 1976.
Hudson	Hoboken, city of	340222B	do	June 28, 1974, Apr. 30, 1976.
Sussex	Stanhope, borough of	340456B	do	May 17, 1974, June 18, 1976.
Gloucester	Washington, township of	340213B	do	May 31, 1974, June 11, 1976.
New York:				
Nassau	Great Neck, village of	361519B	do	July 26, 1974, May 28, 1976.
Nassau	Russell Gardens, village	361583A	do	Nov. 17, 1982.
Ohio: Shelby	Sidney, city of	390507B	do	May 24, 1974, July 23, 1976.
Pennsylvania:				
Snyder	Union, township of	422040A	do	July 18, 1975.
Do	Selinsgrove, borough of	425387B	do	May 4, 1973, Oct. 31, 1975.
Adams	York Springs, borough of	421239B	do	Nov. 15, 1975, June 1, 1979.
Texas: Tarrant, Dallas	Grapevine, city of	480598B	do	June 28, 1974, June 18, 1976.
West Virginia: Brooke	Wellsburg, city of	540015B	do	May 17, 1974, Apr. 25, 1975.

[1] This is a newly incorporated community which was formally contained entirely in Riverside County, CA. Since this area was part of a Regular Program community, the City is being entered directly in the Regular Program and will use Riverside County's map in the interim for insurance and flood plain management purposes. (Community Number 060245, Effective FIRM 4-15-80.)

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001-4128; E.O. 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: December 3, 1982.

Dave McLoughlin,

Acting Associate Director, State and Local Programs and Support.

[FR Doc. 82-34295 Filed 12-20-82; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 0

[FCC 82-445]

Commission Organization; Amendment To Establish the Mass Media Bureau; Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: This document corrects an erroneous reference to a rule section amended in this proceeding regarding the establishment of the Mass Media Bureau.

FOR FURTHER INFORMATION CONTACT: Richard D. Goodfriend, Office of Managing Director, (202) 632-7513.

SUPPLEMENTARY INFORMATION:

Erratum

Released: November 23, 1982.

In the Matter of Amendment of Part 0 of the Commission's Rules to establish the Mass Media Bureau (10-28-82, 47 FR 47828).

On September 14, 1982, the Commission adopted an Order (FCC 82-445, released October 13, 1982) in the above captioned proceeding. The reference to § 0.281 in § 0.284(a) is corrected to read: § 0.283.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 82-34650 Filed 12-20-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Parts 2 and 87

[Gen. Docket No. 82-182; FCC 82-506]

Amendment To Remove Station Log Requirements and To Provide for Additional Utilization of Specific MHz Frequencies in the Aviation Services

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document amends the rules: (1) To eliminate the requirement for stations in the Aviation Services to maintain logs, (2) to permit the frequency 122.050 MHz to be used by air carrier aircraft as well as private aircraft for en route flight advisory service, and (3) to make the frequencies 122.775 and 122.850 MHz available for communications between aircraft on the ramp area of an airport and aviation service organizations at the airport. These actions result from an informal request from the Federal Aviation Administration and FCC review of its rules. These amendments are intended to eliminate unnecessary regulations and provide service to the aviation public in a more efficient, expeditious manner.

EFFECTIVE DATE: January 17, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554, (202) 632-7175.

FOR FURTHER INFORMATION CONTACT: Robert H. McNamara, Private Radio Bureau.

SUPPLEMENTARY INFORMATION:

List of Subjects

47 CFR Part 2

Radio, Treaties.

47 CFR Part 87

Aeronautical stations, General aviation, Radio.

Report and Order

(Proceeding Terminated)

Adopted: November 18, 1982.

Released: December 17, 1982.

In the matter of Amendment of Parts 2 and 87 of the rules to remove station log requirements and to provide for

additional utilization of the frequencies 122.050, 122.775 and 122.850 MHz in the Aviation Services. General Docket No. 82–182; FCC 82–506.

1. In this Report and Order we are: (1) Removing the requirements for most stations in the Aviation Services to maintain logs; (2) making the frequency 122.050 MHz available to air carrier aircraft stations as well as private aircraft stations for en route flight advisory service; and (3) making the frequencies 122.775 and 122.850 MHz available for communications between stationary aircraft on the apron (ramp) area of an airport [1] and aeronautical utility mobile stations operating on the airport.

Station Log Requirements

2. Currently stations at fixed locations in the Aviation Services are required to maintain logs showing hours of operation, frequencies used, and hours of duty and signature of the operator(s) on duty. Where applicable, information concerning distress and emergency situations and antenna illumination must be recorded. Generally, logs in the Aviation Services may be destroyed after 30 days.

3. As part of our regulatory review program we examined the necessity and usefulness of these station log requirements. As to the logs of station operation, we found that, typically, logs of subject stations in the Aviation Services merely contain a daily entry of the hours of operation and the signature of the operator. As to records of distress or emergency situations, we learned of no instances where subject station logs containing a record of distress or emergency communications were used for any purpose. Regarding antenna illumination records, we observed that it is extremely rare that an antenna in this service would be large enough to require illumination. Even if antenna illumination is required in a given case, Section 17.49 of the Commission's rules provides for recordation of the required information elsewhere.[2] Therefore, we proposed in the Notice of Proposed Rule Making [3] in this proceeding to delete the requirement to maintain station logs in the Aviation Services.

Comments

4. In response to the Notice of Proposed Rule Making (hereafter NPRM) comments were filed by:

—Aircraft Owners and Pilots Association (AOPA) representing more than 260,000 aircraft owners and pilots;
—National Business Aircraft Association, Inc. (NBAA) representing 2,638 members;
—Lee L. Robbins (Robbins);
—Aeronautical Radio, Inc. (ARINC) a communications intermediary for the air transport industry, which is the principal licensee of ground stations in the aeronautical en route service;
—Aerospace and Flight Test Radio Coordinating Council (AFTRCC) which represents entities in the aerospace manufacturing industry that are the primary licensees of aeronautical flight test stations; and
—Minneapolis-St. Paul Metropolitan Airports Commission (Minneapolis).

AOPA, NBAA, Robbins, AFTRCC and Minneapolis support the proposed removal of station log requirements in the Aviation Services. They concur that such recordkeeping requirements no longer serve a useful purpose. ARINC, although not opposing the deletion of the requirement for station logs, notes that paragraph 3.5, Volume II, Annex 10 to the Convention of International Civil Aviation requires the maintenance of certain records for stations in the International Aeronautical Telecommunications Service. ARINC interprets this requirement as applying only to aeronautical stations in the international mobile service and not applicable to stations in the domestic service. ARINC suggests that the Commission may wish to reflect in the rules the requirement for stations at fixed locations in the international aeronautical mobile service to maintain either written or automatic logs (the Convention permits automatic logs) for compliance with Annex 10 of the Convention.

Conclusion

5. For the reasons indicated in the NPRM, and in view of the strong support of the aviation community, we conclude that, except for en route stations providing international service, it is in the public interest to delete the rules requiring stations in the Aviation Services to maintain radio station logs. As suggested by ARINC, we believe the rules should reflect the requirement contained in Annex 10 of the Convention for stations at fixed locations in the international aeronautical mobile service to maintain either a written or automatic log of messages. This requirement only affects the relatively few aeronautical stations which are authorized to provide international VHF or HF en route service. Therefore, except for stations providing international services in accordance with the provisions of Annex 10 to the Convention on International Civil Aviation, we are removing the requirement for stations in the Aviation Services to maintain a log.

Air Carrier Aircraft Use of 122.050 MHz

6. Several years ago the Federal Aviation Administration (FAA) instituted en route flight advisory service (EFAS). This service allows aircraft in flight to communicate directly with a meteorologist at an FAA flight service station. The frequency 122.0 MHz, which is available for use by both air carrier and private aircraft, has been utilized for EFAS. The FAA indicates that the EFAS program has been so successful that a second frequency is needed to avoid interference problems.

7. The FAA informally requested that the Commission's rules be amended to provide for such use of the frequency 122.050 MHz by both air carrier and private aircraft. Presently the rules make this frequency available only to private aircraft. The FAA indicates that this frequency would be very helpful in relieving congestion on the single assigned EFAS frequency. Accordingly, in the NPRM we proposed to amend the rules as requested by the FAA to make the frequency 122.050 MHz available to both air carrier aircraft and private aircraft for en route flight advisory service.

Comments

8. AOPA, NBAA, Robbins, and ARINC favor the proposed change in the utilization of the frequency 122.050 MHz. AFTRCC and Minneapolis did not comment on this issue.

Conclusion

9. In light of the benefits noted in the NPRM and the support received for the amendment requested by the FAA, we conclude it is in the public interest to amend the rules as proposed. Therefore, we are revising the rules to make the frequency 122.050 MHz available to both air carrier and private aircraft.

---

[1] The Federal Aviation Administration's Pilot/Controller Glossary describes the apron/ramp as a defined area, on a land airport, intended to accommodate aircraft for purposes of loading or unloading passengers or cargo, refueling, parking, or maintenance. (With regard to seaplanes, a ramp is used for access to the apron from the water.)

[2] If applicable the licensee of any type of radio station must maintain a record of tower light inspections as specified in Section 17.49 of the rules.

[3] Gen. Docket No. 82–182, released April 15, 1982, FCC 82–149, 47 FR 17309.

Airport Ground Communications

10. In recent years general aviation [4] interests have indicated a need for a frequency in the VHF voice aeronautical band (118–136 MHz) to be made available for direct communications between aircraft on the ground and various aviation service entities, e.g., fuel trucks, avionics repair personnel and the like. Currently the rules do not provide a frequency which is generally available for direct communications between aircraft and mobile ground units operated by aviation service organizations. Typically, the use of an aeronautical advisory frequency assigned at an airport is requested for such purposes. However, since aeronautical advisory (unicom) frequencies are primarily utilized for safety-related communications, and are very heavily loaded in most regions of the United States, their additional use by numerous mobile units and service organizations is not considered a viable option. Further, unicom frequencies are used primarily at uncontrolled airports (i.e., airports without a control tower) for pilots to report their position in and near the airport traffic pattern. This critical air safety use should not be diluted by ground communications.

11. A frequency dedicated for such airport ground communications, although not essential for safety purposes, would undoubtedly contribute to more efficient and convenient aircraft operations. In the NPRM we proposed to make the frequency 122.775 MHz available on a primary basis for communications between stationary aircraft located on the apron/ramp area of an airport and aeronautical utility mobile stations operating on the airport. Any aviation service organization [5] operating on an airport would be eligible for an aeronautical utility mobile station authorization for such ground communications.

12. The frequency 122.775 MHz is the last of the unassigned 25 kHz VHF frequencies that were set aside for future assignment in the Aviation Services in Docket No. 20123.[6] Although almost all new aircraft radio equipment has 25 kHz channelization, we recognize that many general aviation aircraft have older radio equipment with 50 kHz channelization (i.e., they have 360 channels available rather than 720 channels). Therefore, we also proposed to make the frequency 122.850 MHz available on a secondary noninterference basis for such ground communications. This frequency is one of the three frequencies currently assigned for communications between aircraft and aeronautical multicom stations.[7] We believed the use of 122.850 MHz for the proposed ground communications would be compatible with multicom usage. However, to protect multicom assignments should harmful interference result, we proposed to make 122.850 MHz available on a secondary basis.

Comments

13. AOPA, NBAA, Robbins, Minneapolis and ARINC support the proposal to make the frequencies 122.775 and 122.850 MHz available for communications between aircraft on the ramp area of an airport and aviation service organizations on the airport. AFTRCC's comments did not address this proposal.

14. Although AOPA supports the proposal and in fact argues that such service is desperately needed, it expresses concern over the designation of a 25 kHz-spaced channel as the primary frequency. AOPA observes that a 1979 FAA report indicated that only 35% of general aviation aircraft were able to utilize 25 kHz spaced channels, while 86% were able to use 50 kHz spaced channels. Thus, AOPA submits that it would be preferable to designate a 50 kHz channel as the primary channel for the proposed ground communications.

15. NBAA indicates that it believes the proposal would not only improve and expedite aircraft servicing but would also increase safety. Minneapolis suggests, however, the limitation that aircraft be located on the airport ramp area be deleted. It feels aviation service organizations would prefer to be able to communicate with aircraft while they are still airborne. It also questions the enforceability of such a limitation.

16. ARINC notes that the proposal would primarily provide relief for general aviation aircraft at uncontrolled airports. The availability of 122.725 and 122.850 MHz would not provide spectrum for such use by scheduled air carriers at the larger commercial airports.[8] However, other aircraft operators would be provided with needed operating flexibility.

Conclusion

17. As we indicated in the NPRM, we recognize that although almost all new aircraft radio equipment has 25 kHz channelization, many general aviation aircraft have older equipment with 50 kHz channelization. We proposed to make 122.775 MHz available because it is the last of the unassigned VHF aeronautical frequencies. All the other VHF voice frequencies in the band are assigned for one or more uses. We proposed to make 122.850 MHz available on a secondary basis in order to alleviate the problem with older aircraft radios and because we felt that the proposed use for ground communications would be compatible with most multicom operations. However, we also sought to protect multicom assignments on 122.850 MHz if harmful interference develops at a given airport.

18. We still believe the proposed frequency assignments represent the best solution. There is little doubt that 25 kHz channelization is a necessary part of the future of aviation communications in the VHF band. The frequency 122.775 MHz is currently the only unassigned frequency in the band and, thus, a logical and convenient place to provide for the proposed ground communications. Additionally, with each passing year the number of aircraft equipped with 720 channel radios continues to grow. The availability of 122.850 MHz should accommodate the near term problem with the number of older 360 channel radios in use. The effect of making 122.850 MHz available on a secondary basis is to protect multicom assignments if harmful interference develops in a given location. We expect that this will be the exception. Thus, as a practical matter, at most airports 122.850 MHz would be available as the "primary" frequency for the proposed ground communications.

19. Additionally, we feel that the proposed limitation on the use of the

[4] General aviation encompasses all facets of civil aviation except certificated air carriers and large commercial aircraft operator. For example, corporate jets, light single engine aircraft and sailplanes are all considered within the "General Aviation" Classification.

[5] For the purposes of Part 87, an aviation service organization means any business firm which maintains facilities at a landing area for the purpose of one or more of the following general aviation activities: (1) Aircraft fueling; (2) aircraft services (e.g., parking, storage, tiedowns); (3) aircraft maintenance and/or sales; (4) avionics equipment maintenance; (5) aircraft rentals, air taxi service and/or flight instruction; and (6) baggage and cargo handling, and other passenger/freight services.

[6] Report and Order, adopted April 5, 1977, 64 FCC 2d 573, 42 FR 40469.

[7] Essentially, multicom communications pertain to activities of a temporary, seasonal or emergency nature which depend upon aircraft in flight for the successful or safe conduct of the activity. Such communications are limited to the directing of ground activities from the air, the directing of aerial activities from the ground, and related air-to-air communications.

[8] Air carrier ground crews employ UHF frequencies in the Business Radio Service to coordinate the servicing of aircraft at airport terminal areas.

subject frequencies for communications with aircraft on the ground must be retained. This proposal was initiated to satisfy a requirement for direct communications between aviation service organizations and aircraft on airport ramp areas. Other frequencies are available for necessary air-ground communications. Enforcement of this limitation does not pose a significant problem. First, the aviation community is highly self-disciplined and can be expected to cooperate in the use of these frequencies for the purpose designated. Second, should enforcement problems arise, it is relatively easy to determine if an aircraft is on the airport ramp area or not.

20. Further, as ARINC noted, it is not practical or desirable that these two frequencies be routinely utilized by scheduled air carriers at large commerical airports. The general aviation community is the intended beneficiary of the subject frequency usage.

21. For the reasons indicated above, including the strong support received from the aviation community, we believe it is in the public interest to make the frequencies 12.775 and 122.850 MHz available for communications between aircraft on the airport ramp area and aviation service organizations. Accordingly, we are amending the rules as proposed.

Summary of Actions

22. In summary, we are: (1) Revising § 87.99 and deleting §§ 87.103, 87.105, 87.107, and 87.109 to eliminate station logs in the Aviation Services, except where required by treaty; (2) amending § 87.195(e) to permit air carrier aircraft to utilize the frequency 122.050 MHz for enroute flight advisory service; and (3) revising §§ 87.183, 87.431, 87.432 and 87.433 to make the frequencies 122.775 and 122.850 MHz available for communications between aircraft on the ramp area of an airport and aviation service organizations on the airport. We are also amending U.S. footnote 31 in § 2.106 (Table of Frequency Allocations) to reflect these new frequency uses.

23. The rule amendments proposed in this proceeding, while expected to benefit the aviation public as described above, will not result in a significant economic impact on any person or entity. Therefore, the Commission has determined that Sections 603 and 604 of the Regulatory Flexibility Act of 1980 (Pub. L. 96–354) do not apply to this rule making proceeding, because the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.

24. Regarding questions on matters covered in this document contact Robert H. McNamara (202) 632–7175.

25. Accordingly, it is ordered, That under the authority contained in Sections 4(i) and 303(b), (c) and (r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(b), (c) and (r), the Commission's rules are amended as set forth in the attached Appendix, effective January 17, 1983.

26. It is further ordered, That this proceeding is terminated.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Parts 2 and 87 of chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

In § 2.106 footnote US31, the third, fourth and fifth paragraphs are revised to read as follows:

§ 2.106 Table of frequency allocations.

* * * * *

US31 * * *

The frequencies 122.850, 122.900 and 122.925 MHz may be assigned to aeronautical multicom stations. In addition, 122.850 MHz may be assigned on a secondary noninterference basis to aeronautical utility mobile stations. In case of 122.925 MHz, US213 applies.

Air carrier aircraft stations may use 122.000 and 122.050 MHz for communication with aeronautical stations of the Federal Aviation Administration and 122.700, 122.800, 122.900 and 123.000 MHz for communications with aeronautical stations pertaining to safety of flight with and in the vicinity of landing areas not served by a control tower.

Frequencies in the band 121.9375–122.6875 MHz may be used by aeronautical stations of the Federal Aviation Administration for communication with private aircraft stations only, except that 122.000 and 122.050 MHz may also be used for communication with air carrier aircraft stations concerning weather information.

* * * * *

PART 87—AVIATION SERVICES

1. Section 87.99 is revised to read as follows:

§ 87.99 Station Logs.

Stations at fixed locations in the international aeronautical mobile service (aeronautical enroute stations licensed to provide international VHF or HF service) shall maintain a written or automatic log in accordance with the provisions of Paragraph 3.5, Volume II, Annex 10 to the Convention on International Civil Aviation.

§ 87.103 [Amended]

2. Part 87 is amended by removing § 87.103.

§ 87.105 [Amended]

3. Part 87 is amended by removing § 87.105.

§ 87.107 [Amended]

4. Part 87 is amended by removing § 87.107.

§ 87.109 [Amended]

5. Part 87 is amended by removing § 87.109.

6. In § 87.183 paragraph (h) is revised to read as follows:

§ 87.183 Frequencies available.

* * * * *

(h) The frequencies 121.600 through 121.925 MHz listed in 87.401(a) may be used by aircraft on the ground for airport utility communications. In addition, the frequency 122.775 MHz and, on a secondary noninterference basis to aeronautical multicom stations, the frequency 122.850 MHz may be used by stationary aircraft on the apron/ramp area of an airport for utility communications in accordance with § 87.431 of this part.

* * * * *

7. In § 87.195 paragraph (e) is revised to read as follows:

§ 87.195 Frequencies available.

* * * * *

(e) The frequencies 122.000 and 122.050 MHz are available to air carrier aircraft stations for enroute flight advisory service (EFAS) provided by the Federal Aviation Administration

* * * * *

8. In § 87.201 paragraph (b) is amended by adding a note at the end of the table to read as follows:

§ 87.201 Frequencies available.

* * * * *

(b) * * *

Note.—The frequencies 122.000 and 122.050 MHz are available to private aircraft stations for enroute flight advisory service (EFAS) provided by the Federal Aviation Administration.

* * * * *

9. In § 87.431, new paragraph (d) is added to read as follows:

§ 87.431 Frequencies available.

* * * * *

(d) Additionally the frequency 122.775 MHz and, on a secondary noninterference basis to aeronautical

multicom stations, the frequency 122.850 MHz are available for communications between aeronautical utility mobile stations and stationary aircraft on the apron/ramp area of an airport.

10. In § 87.432, new paragraph (c) is added to read as follows:

§ 87.432 Eligibility.

* * * * *

(c) Authorization to operate an aeronautical utility mobile station on the frequencies 122.775 and 122.850 MHz will be issued to airport operators and aviation service organizations [1] located at a landing area.

11. In § 87.432, new paragraph (c) is added to read as follows:

§ 87.433 Scope of service.

* * * * *

(c) The frequencies 122.775 and 122.850 MHz may be used by aeronautical utility mobile stations for communications with stationary aircraft on the airport apron/ramp area concerning the safe and efficient portal-to-portal transit of the aircraft, such as the types of fuel and ground services available at the airport. These frequencies shall not be used for air traffic control purposes, to communicate with aircraft moving on the ground, or to transmit information pertaining to runway, wind or weather conditions.

[FR Doc. 82-34546 Filed 12-20-82; 8:45 am]

BILLING CODE 6712-01-M

---

47 CFR Part 22

[General Docket 80-183; FCC 82-503]

Public Mobile Radio Services; Allocate Spectrum in the 928-941 MHz Band and To Establish Other Rules, Policies, and Procedures for One-Way Paging Stations in the Domestic Public Land Mobile Radio Service; Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: The *Memorandum Opinion and Order on Reconsideration (Part 1),* in General Docket 80-183, FCC 82-503, released November 16, 1982 and published at 47 FR 53380, November 26, 1982, pertaining to allocation of spectrum for common carrier one-way paging systems in the 900 MHz band, contains inaccurate rule citations. The rule citations in paragraphs 20, 25 and 26 are hereby corected.

FOR FURTHER INFORMATION CONTACT: Lisa Wershaw, Common Carrier Bureau, (202) 632-6450.

SUPPLEMENTARY INFORMATION:

Released: December 13, 1982.

In the matter of amendments of Parts 2 and 22 of the Commission's Rules to Allocate Spectrum in the 928-941 MHz Band and to Establish Other Rules, Policies, and Procedures for One-Way Paging Stations in the Domestic Public Land Mobile Radio Service; General Docket No. 80-183, RM-2365, RM-2750, RM-3047 and RM-3068.

The *Memorandum Opinion and Order on Reconsideration (part 1),* in the captioned proceeding, General Docket 80-183, FCC 82-503, released November 16, 1982, (47 FR 53380, November 26, 1982) should be corrected as set forth below.

1. In paragraph 20 on page 53380, we waived the submission of topographic maps with 900 MHz common carrier paging applications. In this paragraph the rule citation for topographic maps should be corrected to read § 22.15 (j)(8), instead of § 22.115(j)(8).

2. Paragraph 26 on page 53383 should read as follows:

26. It is further ordered, That the topographic maps required by 47 CFR 22.15(j)(8) and the profile graphs required by 47 CFR 22.115 are hereby waived for a one-way paging applicant requesting a 900 MHz one-way paging frequency.

3. Finally, in paragraph 25 on page 53382, the reference to Part 2 of the Commission's Rules should be deleted.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 82-34348 Filed 12-20-82; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF THE INTERIOR
Office of the Secretary

50 CFR Parts 11 and 12

Civil Procedures, Seizure and Forfeiture Procedures; Implementation of Lacey Act Amendments of 1981

AGENCY: Office of the Solicitor, Interior.

ACTION: Final rule.

SUMMARY: The Office of the Solicitor of the Department of the Interior is issuing a final rule to implement recent amendments to the Lacey Act. This rule amends current procedural regulations governing civil procedures for the assessment of civil monetary penalties and the administrative forfeiture of items seized for alleged violations of various Federal wildlife laws, including the Lacey Act. This rule reflects new amendments to the Lacey Act which provide for the administrative forfeiture and strict liability forfeiture for items seized under the Act, in addition to provisions for assessment of civil monetary penalties for violations of various Federal and State wildlife laws. Further, in order to alleviate the confusion that has arisen regarding civil monetary penalty and administrative forfeiture procedures under the Lacey Act Amendments, and to effectuate clear Congressional intent which mandates these new regulations, this rule is effective immediately.

EFFECTIVE DATE: December 21, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Young, Attorney-Advisor, Division of Conservation and Wildlife, Office of the Solicitor, Department of the Interior, Washington, D.C. 20240 (202) 343-2172.

SUPPLEMENTARY INFORMATION: Recently, Congress amended various provisions of, and recodified the Lacey Act, formerly found at 18 U.S.C. 42-44 by Pub. L. 97-79, known as the Lacey Act Amendments of 1981 (hereinafter "the Act" or "the amendments"). The amendments modified, among other things, the procedures for the forfeiture of fish, wildlife and plants imported, exported, transported, sold, received, acquired, or purchased contrary to the provisions of the Act or regulations implementing the Act. 16 U.S.C. 3374. These amendments altered pre-existing forfeiture procedures in the following ways:

1. The Lacey Act previously authorized only judicial forfeiture. The amendments now authorize administrative forfeiture in the case of property having a value not greater than $10,000. 16 U.S.C. 3374(b). *See* H.R. Rep. No. 97-276, 97th Cong., 1st Sess. 23 (1981).

2. The Lacey Act previously authorized forfeiture only after a criminal conviction or the assessment of a civil penalty. The amendments provide that all fish, wildlife and plants imported, exported, transported, sold, received, acquired or purchased contrary to 16 U.S.C. 3372 (except subsection 3372(b)), or implementing regulations, are subject to forfeiture, without regard for any additional evidence of culpability as required for a civil penalty assessment or criminal conviction. 16 U.S.C. 3374(a). That is,

[1] For the purpose of this subpart, an aviation service organization means any business firm which maintains facilities at a landing area for the purposes of one or more of the following general aviation activities: (i) Aircraft fueling; (ii) aircraft services (e.g., parking, storage, tiedowns); (iii) aircraft maintenance and/or sales; (iv) avionics equipment maintenance and/or sales; (v) aircraft rental, air taxi service and/or flight instruction; and (vi) baggage and cargo handling, and other passenger/freight services.

forfeiture proceedings may now be brought prior to the initiation of civil penalty or criminal proceedings and even in cases where no civil penalty or criminal proceeding will be brought. *See* H.R. Rep. No. 97–276, *supra* at 22.

3. The Lacey Act did not previously authorize the assessment of costs, such as storage costs, associated with seizure and forfeiture of fish, wildlife and plants. The amendments provide that any person who is convicted or assessed a civil penalty for a violation of the Act is liable for costs incurred by the Government in storing, caring for, and maintaining any fish, wildlife, or plant seized in connection with the violation. 16 U.S.C. 3374(c).

In amending the Lacey Act in the above ways, Congress recognized that efficient forfeiture procedures are a prerequisite for an effective conservation program for protected fish, wildlife and plants. *See* H.R. Rep. No. 97–276, *supra* at 22–23. These regulations facilitate this effort by implementing the changes in Lacey Act forfeiture procedures directed by the recent amendments.

Current regulations found at 50 CFR Part 12 govern seizure and forfeiture of contraband under various Federal conservation statutes such as the Endangered Species Act, 16 U.S.C. 1531 *et seq.*, the Eagle Protection Act, 16 U.S.C. 668 *et seq.*, the Airborne Hunting Act, 16 U.S.C. 742j–1, and the Marine Mammal Protection Act, 16 U.S.C. 1361 *et seq.* All of these statutes, with the exception of the Marine Mammal Protection Act, authorize administrative forfeiture and forfeiture without regard to culpability. In addition, the Endangered Species Act authorizes the assessment of costs connected with storage of contraband seized pursuant to that Act. As a result, existing provisions of 50 CFR Part 12 provide procedures for administrative forfeiture, forfeiture without culpability, and the assessment of costs for violations under that above statutes. The effect of the amendments to the Lacey Act is to authorize administrative forfeiture under that Act corresponding to that authorized by the above statutes and the implementing regulations in 50 CFR Part 12. This rule applies the pre-existing forfeiture procedures of current regulations to forfeitures under the amended Lacey Act. A discussion of the specific provisions of 50 CFR Part 12 which are affected by this rule follows.

Recodification of Lacey Act Citations

Pub. L. 97–79 recodified those portions of the Lacey Act formerly appearing at 18 U.S.C. 43–44 as 16 U.S.C. 3371 *et seq.* Technical amendments to the following provisions of 50 CFR Part 12 are made to add the new citation to the Lacey Act as amended: The Authority Citation; Scope of regulations, § 12.2(j); Bonded release, § 12.6(a); Civil actions to obtain forfeiture, § 12.22; and Transfer in settlement of civil penalty claims, § 12.25.

In addition, Lacey Act citations appear in 50 CFR Part 11 which governs civil penalty proceedings under the Lacey Act as well as other conservation laws. Although the amendments to the Lacey Act did not modify provisions relating to civil penalty procedures, amendment of Part 11 is also necessary to reflect the citation to the Lacey Act Amendments. Accordingly, technical amendments are made to the authority citation for Part 11 and to section 11.2, scope of regulations. No other changes to Part 11 are made by this rule.

This rule adds the citation to the Lacey Act Amendments of 1981 and does not replace the citation to the pre-existing Lacey Act in the above-referenced sections in 50 CFR Parts 11 and 12. This addition makes clear that proceedings can still be brought for alleged violations which occurred prior to the amendment of the Lacey Act. As a result, procedures and remedies available under the pre-existing Lacey Act can still be pursued for actions occurring prior to the amendment of the Lacey Act.

Administrative Forfeiture

As previously stated, the Lacey Act Amendments of 1981 now authorize administrative forfeiture proceedings. The following provisions of 50 CFR Part 12, which currently apply to administrative forfeiture pursuant to other wildlife laws, are amended to reflect this new authorization under the Lacey Act Amendments: Appraisement, § 12.12; Administrative forfeiture proceedings, § 12.23(a); Petition for remission, § 12.24(a); Petition for restoration of proceeds, § 12.41(a).

Pursuant to these regulatory amendments, when property is seized under the Lacey Act Amendments of 1981, its value must first be determined before forfeiture proceedings may be initiated. If the value of the property is not greater than $10,000, the property is subject to administrative forfeiture under pre-existing agency procedures set forth in 50 CFR Part 12. These procedures include the opportunity for property owners to petition the Department for remission and, in certain cases when the property has already been sold, for restoration of proceeds. The availability of petitions for remission and restoration of proceeds is in conformance with a discussion in the legislative history of the Lacey Act Amendments. *See* H.R. Rep. No. 97–276, *supra* at 22. This discussion recognized that in certain cases, forfeiture, while required as a matter of law, may nevertheless be unnecessarily harsh. Therefore, the Secretary has the discretion to remit or mitigate a forfeiture based upon the equities of a given case.

The provisions of 50 CFR Part 12 have also been changed to allow for any person claiming an interest in seized property to move for a temporary stay of administrative forfeiture proceedings during the pendency of existing federal criminal proceedings against the claimant for alleged violations of the law related to the seized property. Such a stay may be granted upon the satisfaction of certain conditions. First, the motion must contain the claimant's verified statement showing that he or she holds an absolute, undivided title to the seized property and that there are no liens, encumbrances, or other third-party security interests on the items. Second, the claimant moving for a stay must agree to pay in advance all reasonable costs anticipated to be incurred in the storage, care, and maintenance of the seized property during the stay of the administrative forfeiture proceedings. A suitable bond may be required to secure the payment of these reasonable storage costs. This procedure will apply to all future administrative forfeiture proceedings brought under the various federal wildlife statutes.

Strict Liability Forfeiture

The Act now authorizes forfeiture independent of criminal convictions or the assessment of civil penalties. To reflect this amendment, 50 CFR 12.22 is amended to authorize the Solicitor to request the Attorney General to file a civil action to obtain forfeiture of items over $10,000 in value or for contested adminstrative forfeitures under the Lacey Act Amendments of 1981. A criminal conviction or the assessment of a civil penalty is not necessary for such an action to be filed.

Recovery of Storage Costs

The Lacey Act Amendments of 1981 authorize the recovery of certain costs associated with the storage of property seized in conjunction with a violation of the Act. Section 12.42 of 50 CFR is amended to reflect this new authority.

Furthermore, § 12.42 has also been amended to provide for an appeals procedure whereby the past owner of the forfeited property could promptly raise objections to the reasonableness of the assessed storage costs. Although

informal contacts with the Fish and Wildlife Service to resolve objections concerning the reasonableness of bills for storage costs are strongly encouraged, it is recognized that a more formal review procedure might be advantageous. Under the new procedure adopted by this rule, the recipient of a bill may file written objections including a statement of facts upon which the reasonableness of assessed costs is being challenged, within 30 days of the date of the bill with the Regional Director of the Fish and Wildlife Service for the Region in which the seizure and forfeiture occurred. The Regional Director will promptly review any written objections presented by a party and shall mail his response to the party within 30 days of receipt of the written objections. In all cases, the Regional Director's decision on these written objections to the Service's assessed costs will constitute the final administrative decision of the agency. This procedure will apply to cases under the Endangered Species Act as well as under the Lacey Act Amendments of 1981.

Analysis of Comments Received

The proposed rulemaking was published on pages 40670–40673 of the **Federal Register** of September 15, 1982, and invited comments for 15 days ending September 30, 1982. Comments were received in a timely fashion from 3 sources: Safari Club International, the American Fur Industry, Inc., and a private individual. The following summarizes the comments, suggestions and actions taken.

Safari Club International (SCI) expressed four major concerns with the proposed rulemaking. First, SCI stated that the administrative and strict liability forfeiture provisions pose constitutional concerns, in that no provision exists to guarantee an individual that statements he might make in contesting administrative forfeiture proceedings under the Lacy Act Amendments can not be used against him in any subsequent criminal proceeding. Second, SCI suggested that these regulations be amended to provide an individual with the opportunity to move for a stay of administrative forfeiture proceedings until disposition of any criminal charges through court action or running of the applicable statute of limitations. Third, the guidelines for determining storage costs were criticized by SCI as being "insufficient and loose," and an amendment was proposed to provide an individual with an opportunity to contest the alleged "reasonableness" of these costs. Finally, SCI objected to the appraisal procedure for property seized in accordance with 50 CFR Part 12. In particular, SCI stated that an appraisal should be conducted by independent appraisers (not employed by the United States Government, and restricted to a maximum number of appraisals annually so as to preclude the alleged possibility of conflict of interest) and that the standard for value should be the value "at the time and place of seizure"—not the time and place of appraisement standard found in 50 CFR 12.3(a)(2) and 12.12.

Some of the comments made by SCI reflected general criticisms of the existing seizure and forfeiture procedures in 50 CFR Part 12. Insofar as SCI desires a general amendment to 50 CFR Part 12, it is strongly encouraged to file an original petition for rulemaking under 43 CFR Part 14. To the extent that the Department deemed it possible, however, some of the general comments of SCI have already been incorporated into this rulemaking.

To begin with, SCI's comments regarding the need to immunize any statements made by an individual while contesting administrative forfeiture are at odds with the actual nature of administrative forfeiture proceedings under 50 CFR Part 12. No hearing is held before the agency during administrative forfeiture proceedings: the individual "contests" forfeiture by filing a claim and bond under 50 CFR 12.23(b)(2) setting forth his or her interest in the property. If the claim and bond is filed within 30 days after the date of first publication or posting of the notice of proposed forfeiture, these documents are transmitted to the Attorney General for the institution of forfeiture proceedings in United States District Court. 50 CFR 12.23(b)(3). At this point in the proceedings control over the matter transfers to the Justice Department. Therefore, it would be beyond the jurisdiction and authority of the Interior Department to incorporate the "immunization" recommendation of SCI in this rulemaking.

SCI's advocacy of a "motion for stay" procedure could operate to indefinitely delay forfeiture proceedings, thereby creating problems instead of solving them, in cases involving multiple-party ownership or security interests. However, whole due process would mandate the swift prosecution of forfeiture proceedings in each instance where third-party interests in the seized property are involved, the same would not be true in the case of an owner who holds absolute, fee simple title in seized property, free of all liens and encumbrances, who voluntarily and knowingly requests a stay of administrative forfeiture proceedings during the pendency of actual criminal proceedings against him relating to the property. In the absence of third-party interests, the owner's motion for a stay—a voluntary action on his part—would constitute a knowing written waiver of his due process right to a swift resolution of the forfeiture process. The final rule contains a new motion for stay procedure as described earlier in the preamble. As stated previously, this new procedure will apply to all administrative forfeiture proceedings initiated under 50 CFR Part 12.

The Lacey Act Amendments of 1981 also provide that "[a]ny person convicted of an offense, or assessed a civil penalty, under (16 U.S.C. 3373) shall be liable for the costs incurred in the storage, care, and maintenance of any fish or wildlife or plant seized in connection with the violation concerned." 16 U.S.C. 3374(c). The determination of liability for storage costs is made in accordance with 50 CFR 12.42, which provides for a standard of a "reasonable fee for expenses." This standard is in keeping with the Lacey Act Amendments and can be properly administered. Although any determination of liability under this procedure would be subject to review when the Service seeks the recovery of these costs through judicial collection remedies, it has been determined that an initial appeals process on assessment of costs will be adopted. This new administrative review procedure is contained in the final rule, and its features were described earlier in the preamble. It will apply to assessment of costs submitted under both the Endangered Species Act and the Lacey Act Amendments of 1981.

Finally, regarding SCI's comments suggesting changes in the appraisement procedure set out in 50 CFR Part 12, the current procedure predates the Lacey Act Amendments and has been used as a uniform procedure in all seizure and forfeiture cases. In fact, the Department's appraisement procedure is patterned after that followed by the Customs Service under the Tariff Act of 1930, 19 U.S.C. 1606. See 19 CFR 162.43(a). The present rulemaking thus provides for continued uniformity for seizure and forfeiture procedures. At this point, therefore, the Department questions the need for changing the appraisal system since the present system is functional, an adequate review mechanism exists, an independent appraisal system would involve great expense, and a referral to

independent appraisers would entail unaffordable delays.

A private individual commented that the 15-day public comment period was not practical and was contrary to the public interest. He further stated that this rule will have a significant economic impact on a substantial number of small entities due to civil penalty assessments. He also raised various other procedural questions regarding the proposed rule.

As stated in the proposed rulemaking, it was necessary to limit the public comment period to 15 days for this rule because actions on many wildlife violation cases are pending which urgently require the clarification of procedures provided by this rule. Further delays might have caused due process problems in pending forfeiture cases. The public interest, as expressed by Congress, is best served by the prompt implementation of the Lacey Act Amendments of 1981.

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities. Although assessments of civil penalties, where appropriate, will occur for violations of the Lacey Act Amendments under these procedures, "these regulations will only impact those individual members of the general public involved in violations of state and federal wildlife laws," and "it is highly unlikely that entire small business entities as a group would be affected unless they were involved in a conspiracy to violate the law." Determination of Effects of Rule at page 4.

In further response to this individual's general comments, 16 U.S.C. 3374(b) makes the customs laws applicable to Lacey Act forfeiture proceedings. Under this provision, administrative forefeiture can be had on seized property having a value not exceeding $10,000; seized property having a value exceeding $10,000 must be referred to the Attorney General for institution of judicial forfeiture proceedings. This individual's argument that "[e]vidence of culpability should be required when considering forfeiture" has been rejected by Congress with regard to fish, wildlife, or plants. 16 U.S.C. 3374(a)(1). However, procedures exist for the remission of forfeitures or the restoration of proceeds in appropriate cases. See 50 CFR 12.24, 12.41.

Finally, this individual's protest against the use of existing Lacey Act procedures and remedies to seek penalties and forfeiture for violations which preceded the passage of the Lacey Act Amendments of 1981 misinterprets the effect of this rule. Although violations of the former Lacey Act, 18 U.S.C. 43–44, can still be the subject of civil penalty and forfeiture proceedings, those proceedings must conform to the procedures and remedies available under the pre-existing law.

The American Fur Industry, Inc. (AFI) requested an amendment to the proposed rulemaking to require the Fish and Wildlife Service to store seized articles in proper facilities to avoid needless loss (deterioration). AFI stated that instances occur where seized articles are later returned to the owner due to a mistake on the Service's part or due to the furnishing of appropriate documentation, and yet the owner incurs damage because his property has deteriorated due to alleged improper storage. AFI's comment goes beyond the scope of the proposed rulemaking, which deals solely with the Solicitor's Office procedural responsibilities for processing civil penalty and forfeiture cases under the Lacey Act Amendments of 1981. The final rule, therefore, will not be amended to address storage facility requirements. It is suggested instead that the AFI raise the issue of adequacy of storage procedures directly with the United States Fish and Wildlife Service.

Regulation Promulgation

These amendments are being published as a final rule effective immediately. This rule implements changes to the Lacey Act which are technical in nature and which require only slight modifications to existing procedural regulations regarding administrative forfeiture and assessment of civil monetary penalties. Because actions on a large and growing number of wildlife violations which have occurred since the amendments to the Lacey Act have been held in abeyance pending clarification of the correct administrative procedure to follow, there is an urgent need to resolve this confusion. To alleviate this confusion and effectuate clear Congressional intent with regard to civil penalty and forfeitures under the Lacey Act as amended and to facilitate persons who have been alleged to have violated the law in obtaining prompt resolution of issues pertaining to the alleged violations, it has been determined by the Department that these regulations should be adopted and become effective as soon as practicable. Thus, failure to place this rule in immediate effect would be impracticable, unnecessary and contrary to the public interest. As explained above, good cause exists for placing this rule in immediate effect.

Primary Author: The primary author of this document is W. Michael Young, Division of Conservation and Wildlife, Office of the Solicitor, Department of the Interior.

Note.—The Department of the Interior has determined that this is not a major rule and does not require preparation of a regulatory analysis under Executive Order 12291. The Department has also determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act. As a result of this rule, violations of the Lacey Act involving fish, wildlife or plants which are not deemed to be of criminal culpability can continue to be processed efficiently through civil penalty proceedings. Persons whose conduct is alleged to be violative of the law are enable to obtain prompt administrative hearings of the issues under administrative procedures. The administrative forfeiture of contraband fish, wildlife or plants whose value is not greater than $10,000 is also more efficient because disposition of the items will not only reduce the overall cost to the government by reducing the number of more time-consuming and expensive judicial forfeitures to be sought, but may also generate a similar reduction in legal costs to members of the public whose property is involved in expedited administrative forfeiture proceedings. In addition, although the overall number of forfeitures is expected to rise due to the simplification of the forfeiture process, the current rate of property relinquishment is such that the change will probably not have a significant impact on any type of group or organization. These are merely procedural enforcement regulations that will be applied to individuals alleged to have violated the law, and it is unlikely that entire organizations or entities would be affected by these regulations absent a conspiracy to violate the law.

The revisions to the regulations contain no information collection or record-keeping requirement under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

In accordance with Appendix 1.4 of Chapter 516 of the Departmental Manual, these proposed regulations concern law enforcement and legal transactions and are therefore categorically excluded from preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969.

List of Subjects

50 CFR Part 11

Exports, Fish, Imports, Penalties, Wildlife, Administrative practice and procedure.

50 CFR Part 12

Administrative practice and procedure, Exports, Fish, Imports, Penalties, Plants (agriculture), Seizures and forfeitures, Surety bond, Wildlife.

Amendment of Existing Regulation

For the reasons set out in the preamble, Subchapter B, Chapter I of Title 50 of the Code of Federal Regulations is amended as follows:

PART 11—CIVIL PROCEDURES

1. The Authority citation for Part 11 is revised to read as follows:

Authority: Lacey Act, 83 Stat. 279–281, 18 U.S.C. 42–44; Lacey Act Amendments of 1981, 95 Stat. 1073–1080, 16 U.S.C. 3371 *et seq.*; Bald Eagle Protection Act, sec. 2, 54 Stat. 251, 16 U.S.C. 668a; Endangered Species Act of 1973, sec. 11(f), 87 Stat. 884, 16 U.S.C. 1540(f); Marine Mammal Protection Act of 1972, sec. 112(a), 86 Stat. 1042, 16 U.S.C. 1382.

2. Section 11.2 is revised to read as follows:

§ 11.2 Scope of regulations.

The regulations contained in this part apply only to actions arising under the following laws and regulations issued thereunder:

Lacey Act, 18 U.S.C. 43;
Lacey Act Amendments of 1981, 16 U.S.C. 3371 *et seq.*;
Bald Eagle Protection Act, 16 U.S.C. 668–668d;
Endangered Species Act of 1973, 87 Stat. 884, 16 U.S.C. 1531 *et seq.*; and Marine Mammal Protection Act of 1972, 18 U.S.C. 1361–1384 and 1401–1407.

PART 12—SEIZURE AND FORFEITURE PROCEDURES

3. The Authority citation for Part 12 is revised to read as follows:

Authority: Act of September 6, 1966, 5 U.S.C. 301; Bald and Golden Eagles Protection Act, 16, U.S.C. 668–668b; National Wildlife Refuge System Administration Act, 16 U.S.C. 668dd(e)–(f); Migratory Bird Treaty Act, 16 U.S.C. 704, 706–707, 712; Migratory Bird Hunting and Conservation Stamp Act, 16 U.S.C. 718f–718g; Fish and Wildlife Act of 1956 [Airborne Hunting Amendments], 16 U.S.C. 742j–l(d)–(f); Black Bass Act, 16 U.S.C. 852d–853; Marine Mammal Protection Act of 1972, 16 U.S.C. 1375–1377, 1382; Endangered Species Act of 1973, 16 U.S.C. 1540; Lacey Act, 18 U.S.C. 43, 44; Lacey Act Amendments of 1981, 95 Stat. 1073–1080, 16 U.S.C. 3371 *et seq.*; Tariff Act of 1930, 19 U.S.C. 1602–1624; Fish and Wildlife Improvement Act of 1978, 16 U.S.C. 7421; Exotic Organisms, E.O. 11987, 42 FR 26949; American Indian Religious Freedom Act, 42 U.S.C. 1996.

4. Amend § 12.2 by adding a new paragraph (j) to read as follows:

§ 12.2 Scope of regulations.

* * * * *

(j) The Lacey Act Amendments of 1981, 16 U.S.C. 3371 *et seq.*

5. Amend § 12.6 by revising paragraph (a) to read as follows:

§ 12.6 Bonded release.

(a) Subject to the conditions set forth in paragraphs (b) and (c) of this section, and to such additional conditions as may be appropriate, the Service, in its discretion, may accept an appearance bond or other security (including, but not limited to, payment of the value as determined under § 12.12) in place of any property seized under the Endangered Species Act, 16 U.S.C. 1531 *et seq.*; Marine Mammal Protection Act, 16 U.S.C. 1361 *et seq.*; Lacey Act, 18 U.S.C. 43; Lacey Act Amendments of 1981, 16 U.S.C. 3371 *et seq.*; Airborne Hunting Act, 16 U.S.C. 742j–1; or Eagle Protection Act, 16 U.S.C. 668 *et seq.*

* * * * *

6. Revise §12.12 to read as follows:

§ 12.12 Appraisement.

The Service shall determine the value of any cargo, of a vessel or other conveyance employed in unlawful taking, seized under the Marine Mammal Protection Act, 16 U.S.C. 1361 *et seq.*, and the value of any property seized under the Endangered Species Act, 16 U.S.C. 1531 *et seq.*; Eagle Protection Act, 16 U.S.C. 668 *et seq.*; Airborne Hunting Act, 16 U.S.C. 742j–1, *et seq.*; or the Lacey Act Amendments of 1981, 16 U.S.C. 3371 *et seq.* If the seized property may lawfully be sold in the United States, its domestic value shall be determined in accordance with § 12.3. If the seized property may not lawfully be sold in the United States, its value shall be determined by other reasonable means.

7. Revise § 12.22 to read as follows:

§ 12.22 Civil actions to obtain forfeiture.

The Solicitor may request the Attorney General to file a civil action to obtain forfeiture of any property subject to forfeiture under the Airborne Hunting Act, 16 U.S.C. 742j–1; Lacey Act, 18 U.S.C. 43–44; Lacey Act Amendments of 1981, 16 U.S.C. 3371 *et seq.*; Black Bass Act, 16 U.S.C. 851 *et seq.*; Marine Mammal Protection Act, 16 U.S.C. 1361 *et seq.*; Migratory Bird Treaty Act, 16 U.S.C. 703 *et seq.*; Migratory Bird Hunting Stamp Act, 16 U.S.C. 718 *et seq.*; Eagle Protection Act, 16 U.S.C. 668 *et seq.*; or Endangered Species Act, 16 U.S.C. 1531 *et seq.*. Before any such action is filed against property subject to forfeiture under the Lacey Act, 18 U.S.C 43, or against property, other than the cargo of a vessel or other conveyance employed in unlawful taking, subject to forfeiture under the Marine Mammal Protection Act, 16 U.S.C. 1361 *et seq.*, a civil penalty must first be assessed in accordance with the statute and applicable regulations, and no such action may be filed more than 30 days after the conclusion of civil penalty assessment proceedings.

8. Amend § 12.23 by revising paragraph (a) and by adding paragraph (b)(4) to read as follows:

§ 12.23 Administrative forfeiture proceedings.

(a) *When authorized.* Whenever any property subject to forfeiture under the Eagle Protection Act, 16 U.S.C. 668 *et seq.*, or Airborne Hunting Act, 16 U.S.C. 742j–1, or any wildlife or plant subject to forfeiture under the Endangered Species Act, 16 U.S.C. 1531 *et seq.*, or any fish, wildlife or plant subject to forfeiture under the Lacey Act Amendments of 1981, 16 U.S.C. 3371 *et seq.*, is determined under § 12.12 to have a value not greater than $10,000, the Solicitor may obtain forfeiture of such property in accordance with this section.

(b) * * *

(4) *Motion for stay.* Upon issuance of the notice of proposed forfeiture, any person claiming the seized property may file with the Solicitor's regional or field office indicated in the notice a motion to stay administrative forfeiture proceedings. Any motion for stay must be filed within 30 days after the date of first publication or posting of the notice of the proposed forfeiture. Each motion must contain: (i) The claimant's verified statement showing that he or she holds absolute, fee simple title to the seized property, free and clear of all liens, encumbrances, security interests, or other third-party interests, contingent or vested; and (ii) the claimant's offer to pay in advance all reasonable costs anticipated to be incurred in the storage, care, and maintenance of the seized property for which administrative forfeiture is sought. Where a stay of administrative forfeiture proceedings would not injure or impair the rights of any third parties and where the claimant has agreed to pay in advance anticipated, reasonable storage costs associated with the granting of a stay, the Regional or Field Solicitor as appropriate may, in his discretion, grant the motion for stay and specify reasonable and prudent conditions therefor, including but not limited to the duration of the stay, a description of the factors which would automatically terminate the stay, and any requirement for a bond (including amount) to secure the payment of storage and other maintenance costs. If a motion for stay is denied, or if a stay is terminated for any reason, the claimant must file, if he or she has not already done so, a claim and bond in accordance with paragraph (b)(2) of this section not later than 30 days after receipt of the Solicitor's

Office denial or termination order. Failure to file the claim and bond within 30 days will result in summary foreiture under paragraph (c) of this section.

* * * * *

9. Amend § 12.24 by revising paragraph (a) to read as follows:

§ 12.24 Petition for remission of forfeiture.

(a) Any person who has an interest in cargo, of a vessel or other conveyance employed in unlawful taking, subject to forfeiture under the Marine Mammal Protection Act, 16 U.S.C. 1361 *et seq.*, or any person who has an interest in any property subject to forfeiture under the Endangered Species Act, 16 U.S.C. 1531 *et seq.*; Eagle Protection Act, 16 U.S.C. 668 *et seq.*; Airborne Hunting Act, 16 U.S.C. 742j–1; or the Lacey Act Amendments of 1981, 16 U.S.C. 3371 *et seq.*, or any person who has incurred or is alleged to have incurred a forfeiture of any such property, may file with the Solicitor or, when forfeiture proceedings have been brought in United States District Court, the Attorney General, a petition for remission of forfeiture.

* * * * *

10. Revise § 12.25 to read as follows:

§ 12.25 Transfers in settlement of civil penalty claims.

In the discretion of the Solicitor, an owner of wildlife or plants who may be liable for civil penalty under the Endangered Species Act, 16 U.S.C. 1531 *et seq.*; Lacey Act, 18 U.S.C. 43; Lacey Act Amendments of 1981, 16 U.S.C. 3371 *et seq.*; Eagle Protection Act, 16 U.S.C. 668 *et seq.*; or Marine Mammal Protection Act, 16 U.S.C. 1361 *et seq.*, may be given an opportunity to completely or partially settle the civil penalty claim by transferring to the United States all right, title, and interest in any wildlife or plants that are subject to forfeiture. Such transfer may be accomplished by the owner's execution and return of a United States Customs Form 4607 or a similar compromise transfer of property instrument provided by the Department.

11. Amend § 12.41 by revising paragraph (a) to read as follows:

§ 12.41 Petition for restoration of proceeds.

(a) Any person claiming any property or interest therein which has been forfeited under the Endangered Species Act, 16 U.S.C. 1531 *et seq.*; Eagle Protection Act, 16 U.S.C. 668 *et seq.*; Airborne Hunting Act, 16 U.S.C. 742j–1; or the Lacey Act Amendments of 1981, 16 U.S.C. 3371 *et seq.*, and sold according to law, or any person claiming cargo or an interest therein, of a vessel or other conveyance employed in unlawful taking which has been forfeited under the Marine Mammal Protection Act, 16 U.S.C. 1361 *et seq.*, and sold according to law, may file with the Solicitor or, where forfeiture proceedings have been brought in United States District Court, the Attorney General, a petition for restoration of proceeds.

* * * * *

12. Revise § 12.42 to read as follows:

§ 12.42 Recovery of certain storage costs.

If any wildlife, plant, or evidentiary item is seized and forfeited under the Endangered Species Act, 16 U.S.C. 1531 *et seq.*, any person whose act or omission was the basis for the seizure may be charged a reasonable fee for expenses to the United States connected with the transfer, board, handling, or storage of such property. If any fish, wildlife or plant is seized in connection with a violation of the Lacey Act Amendments of 1981, 16 U.S.C. 3371, *et seq.*, any person convicted thereof, or assessed a civil penalty therefor, may be assessed a reasonable fee for expenses of the United States connected with the storage, care and maintenance of such property. Within a reasonable time after forfeiture, the Service shall send to such person by registered or certified mail, return receipt requested, a bill for such fee. The bill shall contain an itemized statement of the applicable costs, together with instructions on the time and manner of payment. Payment shall be made in accordance with the bill. The recipient of any assessment of costs under this section who has an objection to the reasonableness of the costs described in the bill may, within 30 days of the date on which he received the bill, file written objections with the Regional Director of the Fish and Wildlife Service for the Region in which the seizure occurred. Upon receipt of the written objections, the appropriate Regional Director will promptly review them and within 30 days mail his final decision to the party who filed objections. In all cases, the Regional Director's decision shall constitute final administrative action on the matter.

Dated: November 26, 1982.

William H. Coldiron,

Solicitor.

[FR Doc. 82–34561 Filed 12–20–82; 8:45 am]

BILLING CODE 4310–17–M

Proposed Rules

Federal Register
Vol. 47, No. 245
Tuesday, December 21, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

12 CFR Parts 3, 6, 7, and 32

[Docket No. 82-25]

National Bank Lending Limits

AGENCY: Comptroller of the Currency, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Office of the Comptroller of the Currency proposes to amend the regulations and interpretive rulings regarding national bank lending limits to reflect amendments of R.S. 5200 (12 U.S.C. 84) made by Congress in Section 401(a) of Pub. L. 97-320 (Oct. 15, 1982). The proposed amendments to the regulations and interpretive rulings would generally: (1) Clarify the manner in which the lending limits and exceptions thereto apply; (2) set forth rules under which loans made to one person are to be combined with loans made to other persons for purposes of the lending limits; and (3) define and further define terms used in the amended statute. These amendments will be of substantial interest to the banking industry. Interested persons are invited to submit written data, views, or arguments regarding the proposed amendments for a period of 45 days.

DATE: Comments must be received by February 4, 1983.

ADDRESSES: Please send comments to Docket No. 82-25, Communications Division, Third Floor, Office of the Comptroller of the Currency, 490 L'Enfant Plaza East, S.W., Washington, D.C. 20219. Attn: C. Christine Jones ((202) 447-1768). All Comments received will be made available for public inspection.

FOR FURTHER INFORMATION CONTACT: Carol M. Beaumier, Manager, International Examinations ((202) 447-1747); Howard J. Finkelstein, Attorney, Legal Advisory Services Division ((202) 447-1880); Claire Owen, National Bank Examiner, Commercial Examinations ((202) 447-1164).

SUPPLEMENTARY INFORMATION: Section 401(a) of Pub. L. 97-320 (Oct. 15, 1982) made a number of substantive changes to R.S. 5200 (12 U.S.C. 84), including the following:

(a) The lending limit generally applicable to national banks was changed from 10 percent of capital and surplus to 15 percent.

(b) A new exception to the lending limits was created by which national banks could lend an additional 10 percent of their capital and surplus if such loan was fully secured by "readily marketable collateral having a market value, as determined by reliable and continuously available price quotations, at least equal to the amount of the funds outstanding * * *."

(c) The term "loan and extension of credit" was substituted for "obligation" and the term was defined for the first time.

(d) The term "person" was defined for the first time. Explicitly included in the definition were sovereign governments, their agencies, subdivisions, and instrumentalities.

(e) The existing fourteen exceptions were modified and simplified; some were eliminated.

(f) An additional exception was added governing loans or extensions of credit secured by deposits in the lending bank.

(g) Rules regarding combining loans to individual borrowers were eliminated from the statute. Instead, the Comptroller was explicitly empowered to make these determinations.

(h) The Comptroller was granted explicit rulemaking and interpretive authority in determining when a commitment by a national bank to advance funds is to be considered a loan or extension of credit subject to the lending limits.

(i) The Comptroller was granted authority to "prescribe rules and regulations to administer and carry out the purposes of [section 84], including rules or regulations to define or further define terms used in [section 84] and to establish limits or requirements other than those specified in [section 84] for particular classes or categories of loans or extensions of credit."

These statutory changes made it necessary for the Comptroller to amend the Office's existing regulations under Section 84 and, in addition, to promulgate new regulations to carry out the intention of the statute. In order to simplify the existing regulations from a structural viewpoint, all current and new regulations and interpretations in this area will be incorporated in a new Part 32 of 12 CFR. It is believed that this change will make it easier to reference the laws governing national banks' lending limits.

Generally, the new Part 32 retains many of the Comptroller's Interpretive Rulings now found in Part 7. In addition, new regulations have been proposed in a number of areas. The public is invited to comment on all aspects of the proposed regulation.

The following are among the significant matters addressed by the proposal:

1. *Definition of "loan and extension of credit."* The proposed definition follows the definition found in section 84(b)(1).

The Office considered including in the regulation a listing of specific transactions which come within the definition of "loan and extension of credit" and a listing of transactions which will not be considered "loan and extension of credit." It was felt, however, that specific transactions were best dealt with in interpretations or on a case-by-case basis. Comment is specifically solicited on whether the definition in the Regulation should be expanded and on whether various transactions should be dealt with specifically.

2. *Definition of "person".* The proposed definition quotes verbatim from subsection (b)(2) of the revised Section 84.

3. *Definition of "unimpaired capital and unimpaired surplus."* The proposed regulation refers to the Office's generally applicable definition of this term. It should be noted that the Office is in the process of revising that definition. A proposed regulation was published on August 10, 1981 (46 FR 40520), and it is expected that the regulation will be adopted in final prior to the effective date of the revised Section 84 (April 14, 1983).

4. *Definition of "contractual commitment to advance funds."* The revised statute gives the Comptroller the authority to determine when a contractual commitment to advance funds would be included in a person's liability under 12 U.S.C. 84. The Office's position has generally been that a

liability on the part of the borrower is not created until funds are advanced, with the exception of standby letters of credit and guarantees. The Office has held that when the bank has obligated itself to make payment to a third party on behalf of a customer in the event of the customer's default, the obligation is subject to the customer's lending limit. Thus, the proposed regulation includes standby letters of credit and guarantees, to the extent permitted by law, as "loan and extension of credit" under Section 84. The Office would appreciate comments on the following questions related to commitments:

(a) Should fee paid commitments to lend or undisbursed loan funds be considered loans or extensions of credit subject to section 84's limits?

(b) Are there other third-party type commitments that should be included in a borrower's liability under section 84 limits, but do not meet the definition of § 32.2(f)?

5. *General limitation.* Proposed section 3(a) of the proposed regulation would restate the general rule of section 84. In preparing the regulation, the Office considered inserting a provision stating that the limitations of section 84 are applicable to loans made by a national bank's foreign subsidiaries, Edge Act Corporations, and Agreement Corporations. The Office would appreciate comments on the effects this type of provision would have on worldwide lending by national banks and on their ability to compete with other lenders abroad. The Office is also interested on the interplay between this type of provision and the lending limits contained in the Federal Reserve Board's Regulation K (12 CFR Part 211).

6. *Loans fully secured by readily marketable collateral.* Proposed § 32.4 would set forth rules for compliance with the newly created additional limitation for "loans fully secured by readily marketable collateral having a market value, as determined by reliable and continuously available price quotations, at least equal to the amount of the funds outstanding * * *." In formulating the regulation, the Office dealt with the following significant issues:

a. *Eligible collateral.* The proposed regulation would limit the collateral eligible under this limitation to certain financial instruments. In arriving at this definition, the Office attempted to define classes of collateral which shared a number of characteristics, such as: (i) Fungibility; (ii) easily traded; (iii) reliable price quotations available on a daily basis; (iv) traded through a regulated market. While these were not the only criteria used, they are significant ones. The Office believes that the basis for the additional 10 percent is the fact that loans secured by certain types of collateral are inherently less risky than other loans. It would therefore be unwise to permit, under this limitation, loans collateralized by items upon which the bank cannot almost immediately avoid loss by foreclosure and disposal of the collateral. Therefore, collateral such as lettered stock, which must be registered before it is sold, or a controlling share of a stock issuance, which cannot be disposed of easily, would not be eligible. The Office does solicit the views of the public as to other classes of collateral which might meet the above criteria.

b. *Margin requirements.* Under the terms of section 84(a)(2), loans eligible for the additional limitation must be "fully secured" at all times. Since market value for any type of collateral must fluctuate, the proposed regulation would require that, at the inception of the loan, collateral will have a market value of 115 percent of the loan. Banks would be required to make good-faith, reasonable efforts to maintain this margin throughout the life of the loan. This should be done through the establishment of internal procedures for monitoring both the value of the collateral and its relationship to the amount outstanding on the loan. In addition, if the value of the collateral falls below 115 percent of the outstanding loan for more than a short period of time, the bank would be obligated to take actions to restore the margin to the 115 percent level.

This is not to say, however, that the loan would be considered to be in violation of Section 84 whenever the collateral-to-loan ratio drops below 115 percent. The proposed regulation provides that the Office will generally consider the loan to be in violation of Section 84 only when the ratio drops below 100 percent. The proposed regulation would provide that once the value of the collateral falls to or below 100 percent of the amount of the loan outstanding the bank must, within a reasonable period of time (but in no case longer than five business days), take action to either obtain additional collateral, require reduction of the loan, or liquidate the collateral in its entirety. A bank failing to do so with respect to a loan that had previously qualified under section 84(a)(2) will be considered to have been in violation of its lending limits from the date the collateral-to-loan ratio fell to 100 percent.

It should also be noted that the 115 percent margin requirement is not especially burdensome or unreasonable. If, for example, a bank's capital was $1 million, it could, under the revised section 84, loan $250,000 to one individual ($150,000 under 84(a)(1) and $100,000 under (a)(2)) secured by only $115,000 of collateral eligible under section 84(a)(2). It is believed that the 115 percent ratio will provide banks with some margin of safety.

7. *Combining loans to separate borrowers.* Before its revision, 12 U.S.C. 84 required that loans to partnerships be combined with loans to members thereof and that loans to corporations be combined with loans to subsidiaries thereof. The Comptroller's Interpretive Rulings clarified these general rules and, in carrying out Congress's intent, defined certain relationships among borrowers which indicated that certain loans should be combined. These characteristics, referred to here as factors indicating a "common enterprise," dictated that loans to separate entities be combined when: (i) The bank is looking to a single source for repayment, (ii) a loan to one party is made for the accommodation of another, (iii) the borrowers are in reality merely departments of a single enterprise, or (iv) the borrowers are engaged in a common enterprise. Thus, Interpretive Ruling 7.1310, 12 CFR 7.1310, added that loans to subsidiaries of a common parent will be combined even where the parent has not borrowed when certain factors indicating a common enterprise are found to exist. Interpretive Ruling 7.1320, 12 CFR 7.1320, added that loans to any person engaged in a common enterprise in any form whatsoever will be combined. Finally, Interpretive Ruling 7.1330, 12 CFR 7.1330, was adopted in 1979 in response to the growth in national bank lending to foreign governments and instrumentalities thereof. It set forth two tests ("means" and "purpose") to judge when loans to foreign sovereigns and instrumentalities were to be combined. In addition to these Rulings, the Comptroller's Office issued numerous interpretive letters over the years addressing whether and when loans should be combined in a wide variety of circumstances.

The revised section 84 does not deal with combining loans to separate borrowers, except to grant the Comptroller authority to determine when such loans are to be combined. Section 5 of the proposed regulation sets forth these rules. In general, the section deviates from the law currently applicable only in a few instances. Insofar as it embodies positions of the Office not previously codified, it is believed that the regulation will provide more certainty than exists at the present time.

a. *General rule.* Paragraph (b)(1) of the proposed § 32.5 sets forth the general rule that loans to separate borrowers will be combined if the proceeds are to be used for the benefit of the other person or if a "common enterprise" is deemed to exist. The general rule would apply to all cases not covered in paragraphs (c), (d), and (e) of § 32.5. It is thus intended that the general rule will apply to a wide variety of circumstances where the legal relationships among the parties do not fit the special characteristics set forth in paragraphs (c), (d), and (e).

It is important to note that the defined characteristics of "common enterprise" will not be applied rigidly. The tests set forth in § 35.5(b)(2) are codifications of factors which arise frequently in fact situations reviewed by the Office's examiners and attorneys. As courts construing Section 84 have recognized, it is impossible to deal with the issue of combination of loans by *per se* rules which would cover all cases. Thus, there will be instances where logic and public policy dictate that certain loans should be combined even where the specific factors set forth in proposed § 35.5(b)(2) do not exist.

b. *Loans to corporations.* The proposed regulation for loans to corporations would require combination of loans to a corporation with loans to any person which owns a controlling interest in such corporation. In addition, loans to corporations would be combined with loans to any corporations controlled by the same legal entity. This subsection would expand on existing law in a number of ways:

(i) Under current law, absent a common enterprise, loans to corporations are not combined with loans to persons, other than corporations, which own a controlling interest therein. Under the proposed regulation, loans to a corporation will be combined with loans to individuals, partnerships, or other entities which own controlling interests in such corporations. This change is based upon the premise that, viewing Section 84 as a risk diversification device, there is no reason to distinguish a corporation owned by another corporation from a corporation owned by any other entity.

(ii) Under current law, loans to separate corporations which are subsidiaries of a common parent are not combined, absent a common enterprise, if the parent is not borrowing from the bank. The proposal would alter this rule and require combination regardless of whether the parent is borrowing. Once again, it is believed that this change will remove a distinction which, in terms of risk diversification, is needless and artificial.

The regulation would also clarify that a corporation is considered a subsidiary of a legal entity even where the person's ownership of the corporation is indirect. Thus, loans to a corporation will be combined with loans to its second- and third-tier subsidiaries.

c. *Loans to partnerships, joint ventures, and associations.* The proposed regulation would require combination of loans to partnerships, joint ventures, and associations with loans to members of such entities. This rule would also apply to persons who control majority interests in other legal entities, such as partnerships and corporations, where those legal entities are members of partnerships. The rationale for this rule is that members of partnerships, joint ventures, and associations are generally liable for the debts of such entities. The mandatory combination rules would not, however, be applicable to persons who own limited partnership interests; loans to these persons and partnerships would only be combined under the general rule of proposed § 32.5. The proposed regulation would bring a great deal of clarity to an area of the law which has become confused in recent years.

d. *Loans to foreign governments, their agencies and instrumentalities.* The proposed regulation sets forth the tests currently found in Interpretive Ruling 7.1330, 12 CFR 7.1330. The Comptroller does not recommend any change in these tests at the present time.

8. *Exceptions to the lending limits.* Before its revision, 12 U.S.C. 84 contained fourteen exceptions to the lending limits. The revised statute eliminates exceptions 1, 3, 4, 11, and 12, to the extent they are not covered by other exceptions. In addition, an exception has been added for loans secured by deposits in the lending bank. The proposed regulations generally follow the Office's current Interpretive Rulings on the individual exceptions.

The only major change would affect the valuation of United States obligations held as collateral. The current regulation, 12 CFR 6.2, allows these obligations to be valued at face or par. The proposed regulation would require that these obligations be valued at market value.

9. *Transitional rules.* Proposed § 32.7 sets forth transitional rules for loans made prior to the effective date of the revised Section 84. These rules are necessary to deal with: (a) Loans that violate the current Section 84 but would be permissible under the revision and (b) loans which were not in violation of the current Section 84 but will violate the revised Section 84 due to the elimination of one or more of the statutory exceptions, changes in the rules for combining loans to separate borrowers or other changes in applicable law.

Loans or extensions of credit which were previously in violation of 12 U.S.C. 84 would, under the proposal, be considered to remain in violation regardless of whether or not the loans or extensions of credit would be conforming under this Part. These violations would be subject to directors' liability and civil money penalties until they are paid in full. However, additional legal advances to these borrowers would, to the extent permitted under the proposal, be permissible.

Loans or extensions of credit which were previously conforming, but become nonconforming under the new statute, would not generally be considered violations of law. However, this Office believes that these loans should be brought into conforming status as soon as practicable. Whether the bank has made a reasonable effort to do so will be left to the discretion of the examiners. If examiners determine that a reasonable effort has not been made, the loans will be cited as violations of law subject to directors' liability and civil money penalties. Additional advances may not be made if they would themselves create a violation of Section 84, regardless of whether a commitment to lend was entered into prior to the enactment of this Part.

The Office would appreciate comments on the question of whether irrevocable commitments to lend should be considered legal if they are conforming at the time they are entered into, although nonconforming at the time funds are advanced. In addition, the Office requests comments on whether there are other transitional problems not covered by the proposed rules.

10. *Interpretations.* The proposal contains eleven proposed Interpretations, all of which would adopt existing Interpretive Rulings. The following lists the source of the proposed Interpretations:

New Sec.	*Old* Sec.
32.101	7.1125(c)
32.102	7.1130
32.103	7.1131
32.104	7.1160
32.105	7.1161
32.106	7.1120
32.107	7.1135
32.108	7.1150
32.109	7.1165
32.110	7.1161
32.111	7.1160

All changes from the originals reflect existing policies of the Office in the implementation of its Interpretive Rulings.

Regulatory Impact Analysis. Pursuant to section 3(g) (1) of Executive Order 12291 of February 17, 1981, it has been determined that the proposed regulations do not constitute a "major rule" within the meaning of section 1(b) of the Executive Order. The amendment would not have an effect on the economy or $100 million or more, would not affect costs or prices for consumers, individual industries, government agencies, or geographic regions, and would not have adverse effects on competition, employment, investment, productivity, or on the ability of United States based industries to compete with foreign based enterprises in domestic or export markets.

Regulatory Flexibility Act Analysis. Pursuant to section 605(b) of the Regulatory Flexibility Act (Pub. L. No. 96–354, 5 U.S.C. 601 *et seq.*) the Secretary of the Treasury has certified that the proposed amendment, if adopted, will not have a significant economic impact on a substantial number of small entities.

List of Subjects

12 CFR Parts 3, 6 and 32

National banks, Lending limits.

12 CFR Part 7

National banks, Management, and ownership rights, Other powers.

Accordingly, pusuant to authority under 12 U.S.C. 84 and 93a, the Comptroller of the Currency hereby proposes to amend Title 12 of the Code of Federal Regulations by removing Parts 3 and 6, by amending Part 7 and adding new Part 32 to read as follows:

PART 3—NATIONAL BANK LOANS SECURED OR COVERED BY GOVERNMENTAL GUARANTIES [RESERVED]

1. The authority for Part 3 is:

Authority: R. S. 5200; 12. U.S.C. 84(10).

2. Removing and reserving Part 3 in its entirety.

PART 6—LOANS MADE BY NATIONAL BANKS SECURED BY OBLIGATIONS OF THE UNITED STATES [RESERVED]

3. The authority for Part 6 is:

Authority: R.S. 5200; as amended 12 U.S.C. 84(8)).

4. By Removing and reserving Part 6 in its entirety.

PART 7—INTERPRETIVE RULINGS

5. The authority for Part 7 is:

Authority: R.S. 324 et seq., as amended; 12 U.S.C. 1 et seq.,

§§ 7.1110 through 7.1630 [Removed]

6. By removing §§ 7.1110 through and including 7.1630.

7. By establishing a new Part 32 to read as follows:

PART 32—LENDING LIMITS

Sec.

32.1 Authority, purpose, and scope.
32.2 Definitions.
32.3 General limitation.
32.4 Additional general limitation: Loans fully secured by readily marketable collateral.
32.5 Combining loans to separate borrowers.
32.6 Exceptions to the lending limits.
32.7 Transitional rules.

Interpretations

32.101 Obligations of accommodation parties.
32.102 Sale of Federal Reserve funds.
32.103 Purchase of securities subject to repurchase agreement.
32.104 Standby letters of credit.
32.105 Overdrafts.
32.106 Loans charged off in whole or in part.
32.107 Sale of loan participations.
32.108 Interest or discount on loans.
32.109 Loans to or guaranteed by general obligations of a State or political subdivision.
32.110 Loans to industrial development authorities.
32.111 Separate limitations for 12 U.S.C. 84 and 12 U.S.C. 24.

Authority: R.S. 5200(b)(1), (d)(1), and (d)(2); (12 U.S.C. 84(b)(1), (d)(1), and (d)(2)) and R.S. 5239A; (12 U.S.C. 93a).

§ 32.1 Authority, purpose, and scope.

(a) *Authority.* This Part is issued pursuant to authority granted in R.S. 5200(b)(1), (d)(1), and (d)(2); (12 U.S.C. 84(b)(1), (d)(1), and (d)(2)) and R.S. 5239A; (12 U.S.C. 93a).

(b) *Purpose and scope.* R.S. 5200 (12 U.S.C. 84) is intended to prevent one individual, or a relatively small group, from borrowing an unduly large amount of the bank's funds. It is also intended to safeguard the bank's depositors by spreading the loans among a relatively large number of persons engaged in different lines of business. This Part applies to loans and extensions of credit made by national banks.

§ 32.2 Definitions.

For purposes of this Part:

(a) "Loans and extensions of credit" means any direct or indirect advance of funds to a person made on the basis of any obligation of that person to repay the funds or repayable from specific property pledged by or on behalf of a person. "Loans and extensions of credit" also includes a "contractual commitment to advance funds" as that term is defined in this section.

(b) "Person" means an individual, sole proprietorship, partnership, joint venture, association, trust, estate, business trust, corporation, sovereign government or agency, instrumentality, or political subdivision thereof, or any similar entity or organization.

(c) "Unimpaired capital and unimpaired surplus" has the meaning set forth in 12 CFR 7.1100.

(d) "Contractual commitment to advance funds" means: (1) An obligation on the part of the bank to make payments (directly or indirectly) to a designated third party contingent upon a default by the bank's customer in the performance of an obligation under the terms of that customer's contract with the third party or (2) an obligation to guarantee or stand as surety for the benefit of a third party to the extent permitted by law. The term includes, but is not limited to, standby letters of credit (as defined and limited in 12 CFR 32.104), guarantees, and letters of indemnity. For purposes of this Part, undisbursed loan funds and loan commitments not yet drawn upon are not considered a "contractual commitment to advance funds."

§ 32.3 General limitation.

12 U.S.C. 84(a)(1) provides:

The total loans and extensions of credit by a national banking association to a person outstanding at one time and not fully secured, as determined in a manner consistent with paragraph (2) of this subsection, by collateral having a market value at least equal to the amount of the loan or extension of credit shall not exceed 15 per centum of the unimpaired capital and unimpaired surplus of the association.

§ 32.4 Additional general limitation: loans fully secured by readily marketable collateral

(a) *Law.* 12 U.S.C. 84(a)(2) provides:

The total loans and extensions of credit by a national banking association to a person outstanding at one time and fully secured by readily marketable collateral having a market value, as determined by reliable and continuously available price quotations, at least equal to the amount of the funds outstanding shall not exceed 10 per centum of the unimpaired capital and unimpaired surplus of the association. This limitation shall be separate from and in addition to the limitation contained in paragraph (1) of this subsection.

(b) *Compliance with Section 84(a)(2).* Each loan or extension of credit based on the foregoing limitation shall be secured by readily marketable collateral having a current market value of at least 15 percent greater than the amount of

the loan or extension of credit at the time the loan or extension of credit is made. "Current market value" means the closing price listed for an item in a regularly published listing or an electronic reporting service. The bank must make every effort to maintain a collateral margin of 115 percent. However, since collateral values may fluctuate, the current market value of the collateral may, for short periods of time, fall below the 115 percent coverage required. At no time, however, may current market value of the collateral be less than 10 percent of the funds outstanding except as provided in paragraph (e) of this section.

(c) For purposes of this Part, "readily marketable collateral" means financial instruments which are salable under ordinary circumstances with reasonable promptness at a fair market value based on continuously available daily bid and ask price quotations. "Financial instruments" include stocks, notes, bonds, and debentures traded on a national securities exchange, "OTC margin stocks" (as defined in Regulation U of the Federal Reserve Board), and negotiable certificates of deposit.

(d) Collateral must be repriced at least monthly or more frequently as necessary to ensure that margin requirements are maintained. Financial instruments may be denominated in foreign currencies which are freely convertible to U.S. dollars. If collateral is denominated and payable in a currency other than that of the loan or extension of credit which it secures, the collateral must be revalued at least monthly, using appropriate foreign exchange rates, in addition to being repriced at current market value.

(e) Each bank must monitor the current market value of collateral held for purposes of compliance with section 84(a)(2). If collateral values fall to or below 100 percent of the outstanding loan, the bank must, within a reasonable period of time: (1) Obtain additional collateral in an amount sufficient to provide 115 percent coverage, (2) require reduction of the loan or extension of credit, or (3) sell the collateral and liquidate the debt. Generally, a reasonable period of time is considered no longer than five business days. During this period, the loan or extension of credit will be considered nonconforming. Failure to comply with one of these alternatives will result in a violation of law.

§ 32.5 Combining loans to separate borrowers.

(a) *Authority.* 12 U.S.C. 84(d)(2).

(b)(1) *General rule.* Loans or extensions of credit to one person shall, for purposes of this Part, include loans made to other persons when (i) the proceeds of the loans or extensions of credit are to be used for the direct benefit of the first person of (ii) the persons are engaged in a "common enterprise."

(2) *"Common enterprise."* For purposes of this Part, one or more of the following circumstances is evidence that two or more persons are engaged in a "common enterprise":

(i) The persons are engaged in interdependent business and, as such, there is a substantial volume of transactions between the persons. Generally, when 50 percent or more of the persons' gross revenues or gross expenditures are attributable to each other, a "common enterprise" will be deemed to exist.

(ii) The expected source of repayment for each loan or extension of credit is the same for each person.

(iii) Each person intends or expects to use the proceeds of the loan or extension of credit for identical or related purposes.

(iv) Other facts and circumstances (including, but not limited to, interlocking directors and/or management) exist which indicate that the persons are operated as a common enterprise.

(c) *Special rules for corporations.* (1) Loans or extensions of credit to a corporation will be combined with loans or extensions or credit to any person of which such corporation is a subsidiary.

(2) Loans or extensions of credit to a subsidiary of one person will be combined with all loans or extensions of credit to other subsidiaries of that person.

(3) For purposes of the rule set forth in this subsection, a corporation is a "subsidiary" of any person which owns or beneficially owns or controls a majority interest in the corporation. such ownership need not be direct.

(d) *Special rules for partnerships, joint ventures, and associations.* (1) loans or extensions of credit to each member of a partnership, joint venture, or association shall be combined with loans or extensions of credit to all partnerships, joint ventures, or associations of which such person is a member.

(2) Loans or extensions of credit to a partnership, joint venture, or association shall be combined with direct loans or extensions of credit to all members thereof.

(3) For purposes of the rules set forth in this subsection, a member of a partnership, joint venture, or association includes any person who owns or beneficially owns or controls an interest in such partnership, joint venture, or association.

(4) The rules set forth in this subsection are not applicable to limited partners in limited partnerships. Loans to limited partners will be combined with one another or with loans to the limited partnership only if the criteria set forth in paragraph (b)(1) of this section are met.

(e) *Loans to Foreign governments, their agencies, and instrumentalities.* (1) Notwithstanding paragraphs (b), (c), and (d) of this section, loans or extensions of credit to foreign governments, their agencies, and instrumentalities will be combined with one another under Section 84 only if they fail to meet either of the following tests at the time the loan or extension of credit is made:

(i) The borrower has resources or revenue of its own sufficient over time to service its debt obligations (" means" test);

(ii) The purpose of the loan or extension of credit is consistent with the purposes of the borrower's general business ("purpose" test).

(2) In order to show that the "means" and "purpose" tests have been satisfied, a bank shall, at a minimum, assemble and retain in its files the following items:

(i) A statement (accompanied by supporting documentation) describing the legal status and the degree of financial and operational autonomy of the borrowing entity.

(ii) Financial statements for the borrowing entity for a minimum of three years prior to the date the loan or extension of credit was made or for each year less than three that the borrowing entity has been in existence.

(iii) Financial statements for each year the loan or extension of credit is outstanding.

(iv) The bank's assessments of the borrower's means of servicing the loan or extension of credit, including specific reasons in support of that assessment. The assessment shall include an analysis of the borrower's financial history, its present and projected economic and financial performance, and the significance of any financial support provided to the borrower by third parties, including the borrower's central government. If the government's support exceeds the borrower's annual revenues from other sources, it will be presumed that the "means" test has not been satisfied. No such presumption will be made, however, because of a guarantee by the central government of the borrower's debt.

(v) A loan agreement or other written statement from the borrower which clearly describes the purpose of the loan or extension of credit. The written

representation will ordinarily constitute sufficient evidence that the "purpose" test has been satisfied. However, when, at the time the funds are disbursed, the bank knows or has reason to know of other information suggesting that the borrower will use the proceeds in a manner inconsistent with the written representation, it may not, without further inquiry, accept the representation.

§ 32.6 Exceptions to the lending limits.

(a) *Discount of commercial or business paper.* (1) *Law.* 12 U.S.C. 84(c)(1) provides:

> Loans or extensions of credit arising from the discount of commerical or business paper evidencing an obligation to the persons negotiating it with recourse shall not be subject to any limitation based on capital and surplus.

(2) This exception applies to: (i) Negotiable paper given in payment of the purchase price of commodities purchased for resale or to be used in connection with fabrication of a product, or to be used for any other business purpose which may reasonably be expected to provide funds for payment of the paper; and (ii) negotiable paper given in payment of the purchase price of commodities in export transactions. Loans or extensions of credit arising from the discount of paper of the kind described in paragraph (a)(2)(i) of this section must bear the full recourse endorsement of the owner. Loans or extensions of credit arising from the discount of paper of the kind described in paragraph (a)(2)(ii) of this section may bear either the full or limited recourse endorsement of the owner. If endorsed without full recourse, however, the paper must be supported by an assignment of appropriate insurance covering the political credit, and transfer risks applicable to the paper. Insurance provided by the Export-Import Bank or the Foreign Credit Insurance Association is considered appropriate for this purpose. Loans or extensions of credit based on this exception are not subject to any limitation.

(3) Renewal of negotiable paper is permitted when the renewal is consistent with the conditions described above.

(4) Since the reason for the unlimited credit under this exception is that the paper arises from the sale of commodity which may reasonably be expected to provide funds for payment of the paper, failure to pay either principal or interest when due removes the reason for unlimited credit. Therefore, although the line of credit to the maker or endorser should not be classified as excessive by reason of such default, the paper on which the default has occurred must thereafter be taken into consideration in determining whether additional loans or extensions of credit may be made within the limits of 12 U.S.C. 84.

(b) *Banker's acceptances.* (1) *Law.* 12 U.S.C. 84(c)(2) provides:

> The purchase of bankers' acceptances of the kind described in section 13 of the Federal Reserve Act and issued by other banks shall not be subject to any limitation based on capital and surplus.

(2) This exception permits the purchase by a national bank without limitation of bankers' acceptances created by other banks, provided that such acceptances are of the kind described in 12 U.S.C. 372 and 373 (eligible acceptances). Acceptances other than those described in sections 372 and 373 must be included within the purchasing bank's lending limit to each acceptor bank.

(3) The limits under which a national bank may itself accept drafts eligible for rediscount are contained in sections 372 and 373. These limits are distinct from the limits under section 84. Acceptances by a national bank of "ineligible" drafts, *i.e.*, time drafts which do not meet the requirements for discount with a Federal Reserve bank, are subject to the limitations of section 84.

(4) During any period within which a national bank holds its own acceptances, eligible or ineligible, having given value therefor, the amount given is considered, for purposes of this Part, to be a loan or extension of credit to the customer for whom the acceptance was made and is subject to the lending limits. To the extent that a loan or extension of credit created by discounting the acceptance (rather than the acceptance itself) is covered by a bona fide participation agreement, the discounting bank need only consider that portion of the discounted acceptance which it retains as being subject to the limitations of section 84.

(c) *Loans secured by shipping documents or warehouse receipts covering readily marketable staples.* (1) *Law.* 12 U.S.C. 84(c)(3) provides:

> Loans and extensions of credit secured by bills of lading, warehouse receipts, or similar documents transferring or securing title to readily marketable staples shall be subject to a limitation of 35 per centum of capital and surplus in addition to the general limitations if the market value of the staples securing each additional loan or extension of credit at all times equals or exceeds 115 per centum of the outstanding amount of such loan or extension of credit. The staples shall be fully covered by insurance whenever it is customary to insure such staples.

(2) A readily marketable staple means an article of commerce, agriculture, or industry of such uses as to make it the subject of dealings in a ready market with sufficiently frequent price quotations as to the make: (i) the price easily and definitely ascertainable, and (ii) the staple itself easy to realize upon sale at any time at a price which would not involve any considerable sacrifice from the amount at which it is valued as collateral. Staples eligible for this exception must be nonperishable, may be refrigerated or frozen, and must be fully covered by insurance when such insurance is customary. This exception is intended to apply primarily to basic commodities, such as wheat and other grains, cotton, wool, and basic metals such as tin, coppper, lead and the like. Whether a commodity is readily marketable depends upon existing conditions and it is possible that a commodity that qualifies at one time may cease to qualify at a later date. Fabricated commodities which do not constitute standarized interchangeable units and do not possess uniformly broad marketability do not qualify as readily marketable collateral.

(3) Commodities sometimes fail to qualify as nonperishable because of the manner in which they are handled or stored during the life of the loan or extension of credit. Accordingly, the question as to whether a staple is nonperishable must be determined on a case-by-case basis.

(4) This exception is applicable to a loan or extension of credit arising from a single transaction or secured by the same staples for: (i) Not more than 10 months if secured by nonperishable staples; and (ii) not more than six months if secured by refrigerated or frozen staples.

(5) The important characteristic of warehouse receipts, order bills of lading, or other similar documents is that the holder of such documents has control of the commodity and can obtain immediate possession. Only documents with these characteristics are eligible security for loans under this exception. In the event of default on a loan secured by such documents, the bank must be in a position to sell the underlying commodity and promptly transfer title and possession to the purchaser, thus being able to protect itself without extended litigation.

(6) Field warehouse receipts are an acceptable form of collateral when they are issued by a duly bonded and licensed grain elevator or warehouse having exclusive possession and control of the commodities even though the grain elevator or warehouse is

maintained on the commodity owner's premise.

(7) Warehouse receipts issued by the borrower-owner which is a grain elevator or warehouse company, duly-bonded and licensed and regularly inspected by state or federal authorities, may be considered eligible collateral under this exception only when the receipts are registered with an independant registrar whose consent is required before the commodities can be withdrawn from the warehouse.

(d) *Loans secured by U.S. obligations.* (1) *Law.* 12 U.S.C. 84(c)(4) provides:

> Loans or extensions of credit secured by bonds, notes, certificates of indebtedness, or Treasury bills of the United States or by other such obligations fully guaranteed as to principal and interest by the United States shall not be subject to any limitation based on capital and surplus.

(2) This exception applies only to the extent that loans or extensions of credit are fully secured by the current market value of obligations of the United States or guaranteed by the United States.

(e) *Loans to or guaranteed by a federal agency.* (1) *Law.* 12 U.S.C. 84(c)(5) provides:

> Loans or extensions of credit to or secured by unconditional takeout commitments or guarantees of any department, agency, bureau, board, commission, or establishment of the United States or any corporation wholly owned directly or indirectly by the United States shall not be subject to any limitation based on capital and surplus.

(2) This exception may apply to only that portion of a loan or extension of credit that is covered by a federal guarantee or commitment.

(3) For purposes of this exception, the commitment or guarantee must be payable in cash or its equivalent within sixty days after demand for payment is made.

(4) A guarantee or commitment is unconditional if the protection afforded the bank is not substantially diminished or impaired in the case of loss resulting from factors beyond the bank's control. Protection against loss is not materially diminished or impaired by procedural requirements, such as an agreement to take over only in the event of default, including default over a specific period of time, a requirement that notification of default be given within a specific period after its occurrence, or a requirement of good faith on the part of the bank.

(f) *Loans secured by segregated deposit accounts.* (1) *Law.* 12 U.S.C. 84(c)(6) provides:

> Loans or extensions of credit secured by a segregated deposit account in the lending bank shall not be subject to any limitation based on capital and surplus.

(2) Deposit accounts which may qualify for this exception include deposits in any form generally recognized as deposits. In the case of a deposit eligible for withdrawal prior to the maturity of the secured loan, the bank must establish internal procedures which will prevent the release of the security.

(3) A deposit which is denominated and payable in a currency other than that of the loan or extension of credit which it secures must be revaluated at least monthly, using appropriate foreign exchange rates, to ensure that the loan or extension of credit remains fully secured. If foreign exchange rates fluctuate so that the market value of the collateral is less than the outstanding loan, the bank must, within five business days, (i) obtain the pledge of additional deposits, (ii) require reduction of the loan or extension of credit, or (iii) offset the loan against the deposit and thereby liquidate the debt. During this period, the loan or extension of credit will be considered nonconforming. Failure to comply with one of these alternatives will result in a violation of law.

(g) *Loans to financial institutions with the approval of the Comptroller.* (1) *Law.* 12 U.S.C. 84(c)(7) provides:

> Loans or extensions of credit to any financial institution or to any receiver, conservator, superintendent of banks, or other agent in charge of the business and property of such financial institution, when such loans or extensions of credit are approved by the Comptroller of the Currency, shall not be subject to any limitation based on capital and surplus.

(2) For purpose of this subsection, "financial institution" means a commercial bank, savings bank, trust company, savings and loan association, or credit union.

(h) *Discount of installment consumer paper.* (1) *Law.* 12 U.S.C. 84(c)(8) provides:

> (A) Loans and extensions of credit arising from the discount of negotiable or nonnegotiable installment consumer paper which carries a full recourse endorsement or unconditional guarantee by the person transferring the paper shall be subject under this section to a maximum limitation equal to 25 per centum of such capital and surplus, notwithstanding the collateral requirements set forth in subsection (a)(2).
>
> (B) If the bank's files or the knowledge of its officers of the financial condition of each maker of such consumer paper is reasonably adequate, and an officer of the bank designated for that purpose by the board of directors of the bank certifies in writing that the bank is relying primarily upon the responsibility of each maker for payment of such loans or extensions of credit and not upon any full or partial recourse endorsement or guarantee by the transferor, the limitations of this section as to the loans or extensions of credit of each such maker shall be the sole applicable loan limitations.

(2) This exception allows a national bank to discount negotiable or nonnegotiable installment consumer paper of one person in an amount equal to 10 percent of its capital and surplus (in addition to the 15 percent permitted by section 84(a)(1)) if the paper carries a full recourse endorsement or unconditional guarantee by the seller transferring such paper. The unconditional guarantee may be in the form of a repurchase agreement or a separate guarantee agreement. A condition reasonably within the power of the bank to perform, such as the repossession of collateral, will not be considered to make conditional an otherwise unconditional agreement.

(3) Where a bank purchases third party paper subject to an agreement that the seller will repurchase the paper at the end of a stated period, the seller's obligation to repurchase is subject to 12 U.S.C. 84 and is measured by the total unpaid balance of the paper owned by the bank less any applicable dealer reserves. Where the seller's obligation to repurchase is limited, the seller's total loans or extensions of credit, for the purpose of 12 U.S.C. 84 are measured by the total amount of paper the seller may ulitimately be obligated to repurchase. Where no more than an agreed percentage of the purchase price is retained by the bank and credited to the seller's account as a form of collateral security, but the bank has no direct or indirect recourse to the seller, the loans or extensions of credit do not constitute loans or extensions of credit to the seller subject to the limitations of section 84.

(4) For purposes of this subsection, "consumer" means the user of any products, commodities, goods, or services, whether leased or purchased, and does not include any person who purchases product or commodities for the purpose of resale or for fabrication into goods for sale.

(5) For purposes of this subsection, "consumer paper" includes paper relating to automoblies, mobile homes, residences, office equipment, household items, tuition fees, insurance premium fees, and similar consumer items. Also included is paper covering the lease (where the bank is not the owner or lessor) or purchase of equipment for use in manufacturing, farming, construction, or excavation.

(6) Under certain circumstances, installment consumer paper which otherwise meets the requirements of this exception will be considered a loan or

extension of credit to the maker of the paper rather than the seller of the paper. Specifically, where: (i) Through the bank's files or the knowledge of its officers, it has been determined that the financial condition of each maker is reasonably adequate to repay the loan or extension of credit, and (ii) an officer designated by the Board of Directors certifies in writing that the bank is relying primarily upon the maker to repay the loan or extension of credit, the loan or extension of credit is subject only to the lending limits of the maker of the paper. Where paper is purchased in substantial quantities, the records, evaluation, and certification may be in such form as is appropriate for the class and quantity of paper involved.

(i) *Loans secured by livestock or dairy cattle.* (1) *Loans secured by livestock.*

(i) *Law.* 12 U.S.C. 84(c)(9) (A) provides:

> Loans and extensions of credit secured by shipping documents or instruments transferring or securing title covering livestock or giving a lien on livestock when the market value of the livestock securing the obligation is not at any time less than 115 per centum of the face amount of the note covered, shall be subject under this section, notwithstanding the collateral requirements set forth in subsection (a)(2), to maximum limitation equal to 25 per centum of such capital and surplus.

(ii) This exception allows a national bank to make loans or extensions of credit to one person in an amount equal to 10 percent of its capital and surplus, (in addition to the 15 percent permitted by section 84(a)(1)), if the loans or extensions of credit are secured by livestock having a market value at least equal to 115 percent of the outstanding loan balance at all times. The loans or extensions of credit may be secured by shipping documents or other instruments which transfer title to, secure title to, or give a first lien on livestock. "Livestock" includes dairy and beef cattle, hogs, sheep, goats, horses, mules, poultry, and fish, whether or not held for resale. To support compliance with this exception, the bank must maintain in its files an inspection and appraisal report on the livestock pledged. The inspection and appraisal report should be performed at least annually, or more frequently as deemed prudent.

(iii) Under the laws of certain states, a person furnishing pasturage under a grazing contract may have a lien on the livestock for the amount due for pasturage. If the lien which is based on pasturage furnished by the lienor prior to the making of the loan: (A) Is assigned to the bank by a recordable instrument; and (B) is protected against being defeated by some other lien or claim, by payment to a person other than the bank, or otherwise, it would qualify under this exception provided the amount of such perfected lien is at least equal to the amount of the loan and the value of the livestock is at no time less than 115 percent of the loan. Where the amount due under the grazing contract is dependent upon future performance thereunder, the resulting lien has merely prospective value and does not meet the requirements of the exception.

(2) *Loans secured by dairy cattle.* (i) *Law.* 12 U.S.C. 84 (c)(9)(B) provides:

> Loans and extensions of credit which arise from the discount by dealers in dairy cattle of paper given in payment for dairy cattle, which paper carries a full recourse endorsement or unconditional guarantee of the seller, and which are secured by the cattle being sold, shall be subject under this section, notwithstanding the collateral requirements set forth in subsection (a)(2), to a limitation of 25 per centum of such capital and surplus.

(ii) This exception allows a national bank to discount paper of one person given in payment for dairy cattle in an amount equal to 10 percent of its capital and surplus (in addition to the general limitations of section 84 (a)(1)). The discounted paper must carry the full recourse endorsement or unconditional guarantee of the seller and the dairy cattle must secure the debt. Liens on the cattle may be in the form of recorded chattle mortgages, bills of sale, or any other form which provides security substantially equivalent to that afforded by a recorded chattel mortgage.

(3) The exceptions for loans and extensions of credit secured by livestock is separate and apart form the exception for loans and extensions of credit created by the discount of paper for the purchase of dairy cattle. Therefore, a national bank may make loans or extensions of credit to one person secured by each type of collateral in an amount equal to 10 percent of its capital and surplus (in addition to the 15 percent permitted under section 84(a)(1)).

(j) *Loans to Student Loan Marketing Association.* 12 U.S.C. 84(c)(10) provides:

> Loans or extensions of credit to the Student Loan Marketing Association shall not be subject to any limitation based on capital and surplus.

§ 32.7 Transitional rules

(a) Loans or extensions of credit which were in violation of 12 U.S.C. 84 prior to April 14, 1983, will be considered to remain in violation of section 84 and subject to remedial actions under 12 U.S.C. 93 and 1818 after that date until they are paid in full, regardless of whether the loans or extensions of credit conform to the rules established in this Part. Renewals or extensions of such loans or extensions of credit will also be considered violations of law.

(b) A national bank which has outstanding loans or extensions of credit to a person in violation of section 84 as of April 14, 1983, may make additional advances to such person after that date if the additionnal advances are permitted under this Part.

(c) Loans or extensions of credit which were in conformance with section 84 on April 14, 1983, but are in nonconformance with the rules established in this Part due to the elimination of certain exceptions or the change in methods for combining loans will generally not be considered to be violations of law. However, every effort should be made to bring the loans or extensions of credit into conformity with the rules established in this Part. Renewals or extensions of such loans or extensions of credit which are not in conformance with the rules set forth in this Part will be considered violations of law. Additional advances which do not conform with the rules set forth in this Part will be considered violations of law regardless of whether a commitment to make a loan or extension of credit was approved prior to the enactment of this Part.

Interpretations

§ 32.101 Obligations of accommodation parties.

The liability of a drawer, endorser, or guarantor who does not directly receive any of the proceeds of the loan or extension of credit is not a loan or extension of credit to such person for purposes of this Part unless one of the tests set forth in 12 CFR 32.5(b)(1) is satisfied.

§ 32.102 Sale of Federal Reserve funds.

(a) Definition. "Sale of Federal Reserve funds" means, for purposes of this Section, any transaction among depository institutions involving the disposal of immediately available funds resulting from credits to deposit balances at Federal Reserve Banks or from credits to new or existing deposit balances due from a correspondent depository institution.

(b) Sales of Federal Reserve funds with a maturity of one business day or under a continuing contract are not "loans or extensions of credit" for purposes of this Part. However, sales of Federal Reserve funds with a maturity

of more than one business day are subject to the lending limits.

§ 32.103 Purchase of securities subject to repurchase agreement.

The purchase of "Type I securities" within the meaning of 12 CFR 1.3(c) subject to an agreement that the seller will repurchase at the end of a stated period is not a "loan or extension of credit" for purposes of this Part.

§ 32.104 Standby letters of credit.

(a) *Definition.* A "standby letter of credit" is any letter of credit, or similar arrangement however named or described, which represents an obligation to the beneficiary on the part of the issuer: (1) To repay money borrowed by or advanced to or for the account of the account party or (2) to make payment on account of any indebtedness undertaken by the account party or (3) to make payment on account of any default by the account party in the performance of an obligation. As defined in this paragraph (a), the term "standby letter of credit" does not include commercial letters of credit and similar instruments where the issuing bank expects the beneficiary to draw upon the issuer, which do not "guarantee" payment of a money obligation, and which do not provide for payment in the event of default by the account party.

(b) *Subject to lending limits.* A standby letter of credit is subject to the limitations of Section 84 and must be combined with any other nonexpected loans to the account party by the issuing bank for the purposes of applying section 84. Where the standby letter of credit is subject to a nonrecourse participation agreement with another bank or banks, this subsection shall apply to the issuer and each participant in the same manner as in the case of a participated loan.

(c) *Exceptions.* All standby letters of credit shall be subject to the provisions of this Section except where:

(1) Prior to or at the time of issuance, the issuing bank is paid an amount equal to the bank's maximum liability under the standby letter of credit; or

(2) Prior to or at the time of issuance, the issuing bank has set aside sufficient funds in a segregated deposit account, clearly earmarked for that purpose, to cover the bank's maximum liability under the standby letter of credit; or

(3) The Comptroller of the Currency has found that a particular standby letter of credit or class of standby letters of credit will not expose the issuer to a similar risk of loss as would a loan to the account party.

§ 32.105 Overdrafts.

Overdrafts, whether or not prearranged, are "loans or extensions of credit" for purposes of this Part.

§ 32.106 Loans charged off in whole or in part.

The lending limits apply to all existing loans or extensions of credit to a person by the bank, including loans or extensions of credit which have been charged off on the books of the bank in whole or in part. Obligations which have become unenforceable by reason of discharge in bankruptcy are not "loans or extensions of credit" for purposes of this Part.

§ 32.107 Sale of loan participations.

When a bank sells a participation in a loan or extension of credit, including the discount of a bank's own acceptance, that portion of the loan that is sold on a nonrecourse basis will not be applied to the bank's lending limits. This is so even where the participation agreement provides that repayment must first be applied to the shares sold. As a matter of prudent banking practices, the agreement should also provide that, in case of a default or comparable event defined in the agreement, participants shall share in all subsequent repayments and collections in proportion to the percentage of participation at the time of the occurrence of the event.

§ 32.108 Interest or discount on loans.

The lending limits do not apply to the portion of a loan or extension of credit that represents accrued or discounted interest, unless such interest is past due. Past due interest must be taken into consideration in applying the limitations to additional extensions of credit.

§ 32.109 Loans to or guaranteed by general obligations of a State or political subdivision.

(a) A loan or extension of credit to a bank customer which is guaranteed or fully secured by a "general obligation" of any State or political subdivision thereof, within the meaning of 12 CFR 1.3(g), is not considered an obligation of the customer for purposes of 12 U.S.C. 84. The lending bank should obtain the opinion of competent counsel that the guarantee or collateral is a valid and enforceable obligation of the public body.

(b) A loan or extension of credit to a State or political subdivision thereof is not subject to any limitation based on capital or surplus if the loan or extension of credit constitutes a "general obligation" of the State or political subdivision within the meaning of 12 CFR 1.3(g). The lending bank should obtain the opinion of competent counsel that the loan or extension of credit is a valid and enforceable obligation of the borrower.

§ 32.110 Loans to industrial development authorities.

A loan or extension of credit to an industrial development authority or similar public entity created for the purpose of constructing and leasing a plant facility, including a health care facility, to an industrial occupant is not a loan or extension of credit to the authority for the purposes of 12 U.S.C. 84 if: (a) The bank relies on the credit of the industrial occupant in making the loan; (b) the authority's liability with respect to the loan is limited solely to whatever interest it has in the particular facility; (c) the authority's interest is assigned to the bank as security for the loan or a promissory note from the lessee to the bank provides a higher order of security than the assignment of a lease; and (d) the industrial occupant's lease rentals are assigned and paid directly to the bank. A loan or extension of credit meeting the above criteria will be deemed a loan or extension of credit to the lessee and will be combined with other obligations of the lessee for purposes of Section 84.

§ 32.111 Separate limitations for 12 U.S.C. 24 and 12 U.S.C. 84.

The lending limits prescribed by 12 U.S.C. 84 are separate and distinct from the investment limits prescribed by 12 U.S.C. 24. Accordingly, a national bank may make loans or extensions of credit to one borrower up to the full amount permitted by 12 U.S.C. 84 and also hold eligible investment securities of the same obligor up to the full amount permitted by 12 U.S.C. 24. In order for a security to be an "investment security" it must be eligible for investment by a national bank in accordance with the standards set forth in 12 CFR Part 1.

Dated: November 26, 1982.

H. Joe Selby,

Acting Comptroller of the Currency.

[FR Doc. 82-34445 Filed 12-20-82; 8:45 am]

BILLING CODE 4810-33-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 184

[Docket No. 80N-0245]

Nickel; Proposed Affirmation of GRAS Status

Correction

In FR Doc. 82-28722 beginning on page 46545 in this issue of Tuesday, October 19, 1982 make the following correction:

On page 46545, third column, "**SUPPLEMENTARY INFORMATION,**" line seven, "(36 FR 2040)" should read "(FR 20040)."

BILLING CODE 1505-01-M

21 CFR Part 314

[Docket No 82N-0293]

New Drug and Antibiotic Regulations

Correction

In FR Doc. 82-28617 beginning on page 46622 in the issue of Tuesday, October 19, 1982 make the following corrections:

1. On page 46654, third column, tenth line from the bottom, "not" should appear between "need" and "await."

2. On page 46656, third column, third paragraph, eleventh line, "trails" should read "trials."

3. On page 46656, third column, fourth paragraph, sixth line, "trails" should read "trials"

4. On page 46657, third column, third paragraph, third line, "reportedly" should read "repeatedly."

5. On page 46659, middle column, thirty-eight line, "each" should appear between "how" and "study."

BILLING CODE 1505-01-M

21 CFR Part 357

[Docket No. 82N-0166]

Orally Administered Drug Products for Relief of Symptoms Associated With Overindulgence in Alcohol and Food for Over-the-Counter Human Use; Establishment of a Monograph

Correction

In FR Doc. 82-27054, beginning at page 43540, in the issue of Friday, October 1, 1982, make the following changes:

(1) On page 43540, in the third column, the eighth line from the bottom, "delegated" should read "deleted".

(2) On page 43554, in the middle column under *"C. Category II Conditions"*, paragraph a. (1), line 1, should read "For the prevention of inebriation."

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Parts 221 and 250

Proposed Guideline and Request for Comments on How To Value Oil for Royalty Purposes From Federal and Indian Onshore and Offshore Leases

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Extension of comment period on proposed guideline.

SUMMARY: In reponse to requests for an extension of time to comment on the proposed guideline for valuing oil for royalty purposes as published in the Federal Register of November 29, 1982 (47 FR 53822), a 15-day extension is hereby granted. This extension will give the public more time to study and comment on the proposed guideline.

DATE: Written comments on this proposed guideline must be received in Royalty Standards and Measurements, Denver Federal Center, Denver, Colorado by 3:30 p.m., m.s.t., January 14, 1983.

ADDRESSES: Comments may be mailed to Mr. William H. Feldmiller, Chief, Royalty Standards and Measurements, Denver Federal Center, Denver, CO 80225, or delivered to Room F 211, in Building 85, Denver Federal Center.

FOR FURTHER INFORMATION CONTACT: Mr. William H. Feldmiller, (303) 231-3184, (FTS) 326-3184, or Mr.Thomas J. Blair, (303) 231-3153, FTS 326-3153.

Dated: December 17, 1982.

Robert E. Boldt,

Associate Director for Royalty Management, Minerals Management Services.

[FR Doc. 82-34663 Filed 12-20-82; 8:45 am]

BILLING CODE 4310-MR-M

DEPARTMENT OF EDUCATION

National Foundation on the Arts and the Humanities

Institute of Museum Services

34 CFR Part 64

45 CFR Part 1180

Grants to Museums

AGENCY: Institute of Museum Services, Education Department, and National Foundation on the Arts and the Humanities.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Institute of Museum Services proposes regulations governing a program of Federal financial assistance in the form of grants to museums. The regulations implement the Museum Services Act. They state eligibility conditions, application requirements, funding criteria and other rules for the administration of the grants program.

DATES: Comments must be received on or before February 22, 1983.

ADDRESSES: Comments should be addressed to: Mrs. Lilla Tower, Director, Institute of Museum Services, Room 4006, 330 C Street, S.W., Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Sara E. Traut, Institute of Museum Services, Room 4006, 330 C Street, S.W., Washington, D.C. 20202.

SUPPLEMENTARY INFORMATION:

1. *Nature of program.* The Museum Services Act ("the Act") which is Title II of the Arts, Humanities and Cultural Affairs Act of 1976, was enacted on October 8, 1976 and amended on December 4, 1980.

The purpose of the Act is stated in Section 202 as follows:

> "It is the purpose of [the Museum Services Act] to encourage and assist museums in their educational role, in conjunction with formal systems of elementary, secondary, and post-secondary education and with programs of nonformal education for all age groups; to assist museums in modernizing their methods and facilities so that they may be better able to conserve our cultural, historic, and scientific heritage; and to ease the financial burden borne by museums as a result of their increasing use by the public."

The Act establishes an Institute of Museum Services (IMS) consisting of a National Museum Services Board and a Director.

The Act provides that the National Museum Services Board shall consist of fifteen members appointed for fixed terms by the President with the advice and consent of the Senate. The Chairman of the Board is designated by the President from the appointed members. Members are broadly representative of various museums, including museums relating to science, history, technology, art, zoos, and botanical gardens, of the curatorial, educational and cultural resources of the United States, and of the general public. In addition to the members appointed by the President, the following serve as members of the Board: the Chairman of the National Endowment for the Arts, the Chairman

of the National Endowment for the Humanities, the Secretary of the Smithsonian Institution, the Director of the National Science Foundation, and the Secretary of Education. The Board has the responsibility for establishing the general policies of the Institute.

The Director of the Institute is appointed by the President with the advice and consent of the Senate. The Director has responsibility for the general administration of the Institute and is authorized, subject to the policy direction of the Board, to make grants under the Act to museums.

IMS is an independent agency placed in the National Foundation on the Arts and the Humanities (National Foundation) (Pub. L. 97–100, December 23, 1981).

The Act lists a number of illustrative activities for which grants may be made, including assisting museums to meet their administrative costs for preserving and maintaining their collections, exhibiting them to the public, and providing educational programs to the public. Other activities are designed to aid museums in developing and maintaining professionally trained staff; carrying out certain conservation activities; developing and carrying out specialized museum programs for specific segments of the public; and cooperating with other museums in developing traveling exhibitions, meeting transportation costs for these exhibitions, and identifying and locating collections available for loan.

For the Federal fiscal year ending September 30, 1982, $10.2 million was awarded for grants under the Act. The Administration has requested no funds for grants for fiscal year 1983.

Public Law 97–276 (October 2, 1982) makes continuing appropriations for the Federal Government for fiscal year 1983. Sections 101(b) and 102 of Pub. L. 97–276 provide, under a continuing resolution, an appropriation for IMS for fiscal year 1983 only through December 17, 1982 *or* the enactment of either an appropriation for the program or the applicable appropriation act without a funding provision for the program, whichever first occurs.

Public Law 97–257, the Supplemental Appropriations Act, 1982 makes available through Fiscal Year 1983 $720,000 appropriated for the IMS in Fiscal Year 1982. Accompanying report language indicates that at least $645,000 of this amount is intended for Special Project Grants.

Sen. Rept. No. 97–516, 97th Cong. 2d Sess. 117 (1982).

2. *Need for regulations.* Certain rules are needed for the proper administration of a federally funded grant program. These rules relate to such matters as the types of institutions eligible to apply for grants, the types of assistance available, the information which must be put in applications, and the criteria used to judge competitive applications, among others.

Rules governing the award of grants by IMS were published in the **Federal Register** in 1978 following a period of public comment under the procedures in 5 U.S.C. 553 and were codified in the Code of Federal Regulations (CFR). These regulations were revised on August 11, 1980, again following a period of public comment, and were last codified in 34 CFR Part 64 (1981). In view of the transfer of IMS as an independent agency to the National Foundation on the Arts and the Humanities effected by Pub. L. 97–100 in December of 1981, it is appropriate that these regulations be transferred to that part of the Code of Federal Regulations that contains the regulations of the National Foundation on the Arts and the Humanities.

Moreover, as a result of the transfer of IMS to the National Foundation, certain administrative regulations of the Education Department are no longer pertinent and therefore should no longer legally be applicable to IMS grants. It is therefore necessary and appropriate that IMS regulations be adopted in a revised and simplified form appropriate to its needs and functions as an independent agency.

Accordingly, at its meetings of October 23, and December 3, 1982, the National Museum Services Board extensively considered revisions in these regulations and adopted them for publication in the **Federal Register** as proposed regulations. The proposed regulations are set forth in the form of a new Part 1180 of Subchapter E of Chapter XI of the Title 45 CFR. Public comment on these regulations is invited by this document.

The paragraphs set forth below briefly describe changes in the current regulations made by these proposed regulations.

Sections 1180.3 and 1180.4—Definitions: The definition of "museum" in § 1180.3(a) of the proposed regulations is based on the statutory definition. Under the definition in § 1180.3(a) a museum is a public or private nonprofit institution which is organized on a permanent basis for essentially educational or aesthetic purposes and which, using a professional staff, owns or uses tangible objects, whether animate or inanimate, cares for these objects, and exhibits them to the general public on a regular basis. The proposed regulations would clarify current regulations by use of the term "*general* public". The proposed regulations also make clear that the term "museum" includes aquariums and zoological parks; botanical gardens and arboretums; nature centers, museums relating to art, history, natural history, science and technology; and planetariums. With the exception of "nature centers" all these terms are found in current regulations.

To provide greater certainty and efficiency in the administration of the Act and to make maximum use of resources, the proposed regulations also clarify certain aspects of the definition of "museum". An institution would be deemed to meet the requirement that it exhibits objects to the general public on a regular basis if it exhibits objects to the general public for at least 120 days a year (§ 1180.3(a)(3)). This new provision should also serve to clarify eligibility and thus direct resources to institutions which provide a substantial level of service without excluding institutions which operate on a seasonal basis. The status of museums which exhibit objects by appointment would also be made more certain by language added to § 1180.3(a)(3). Clarification of certain other terms used in the definition of "museum" is found in other provisions of § 1180.3.

A number of terms (other than "museum") used in the regulations are defined in § 1180.4. The proposed regulations would shorten this section by eliminating several definitions which have had little or no practical effect.

Section 1180.5—Eligibility. Current regulations provide lower priority to museums which have been providing museum services for less than two years. In practice, such institutions have not been reached for funding and the two-year provision has had the effect of an eligibility requirement, albeit unclear. The proposed regulations would make this requirement explicit (§ 1180.5(2)). Similarly, the proposed regulations would state more clearly the ineligibility of museums operated by Federal departments or agencies (§ 1180.5(4)). These museums receive their operating funds from other Federal appropriations which may not be augmented by funds under the Museum Services Act.

The proposed regulations would add new provisions in (§ 1180.5(5)–(7)) which are designed to address congressional and other concerns that the maximum number of museums share in limited resources; to avoid the possibility that museums receiving funds under the Act will become dependent on Federal support; and to achieve coordination

with activities of other Federal funding agencies, an objective set forth in the Museum Services Act. These provisions would render a museum ineligible to apply for both General Operating and Special Project support in a single year; would limit the eligibility of a museum for assistance under the Act to only three years in any succeeding five year period (quinquennium); and would preclude a museum from applying for or receiving IMS assistance if it has received or will receive a Challenge Grant from another Federal agency in the same fiscal year.

Sections 1180.7, 1180.8, and 1180.9—General Operating Support; Special Project Support; Size of Grants, and Allocation of Funds. Section 1180.7 of the proposed regulations (General Operating Support) would not be substantially changed. It provides for grants to assist museums to meet their administrative, staff and operating costs. Section 1180.8 (Special Project Support) would be revised to follow more closely statutory language with respect to those activities described in the regulations which are set forth in the Museum Services Act. However, it is emphasized that the list of possible activities in § 1180.8 is not exclusive. In particular, the statutory language specifying the specific segments of the public to be served by a specialized program (§ 1180.8(a)(5)) should not be read to exclude such segments of the public as the senior citizens or the handicapped, for example.

IMS regulations have set forth a maximum amount which it was anticipated that a museum could receive if appropriations were made available. In the current regulations the figure was $35,000. The increase in this amount from the $35,000 set forth in current regulations is associated with § 1180.5(6) of the proposed regulations (beginning with fiscal year 1983, a Museum is ineligible to receive funding for more than three years under the Act in any succeeding quinquennium). The proposed regulations would not set forth a fixed percentage of any appropriations to be reserved for General Operating Support but would provide for the determination of that reservation by the Director, subject to the policy direction of the Board.

Section 1180.10—Allowable costs. In the case of a General Operating Support grant, IMS funds cover a portion of the overall operating costs of a grantee to the extent that these costs are allowable under applicable cost principles contained in OMB circulars. To determine whether a particular cost is allowable under a grant, a museum must consult OMB circulars referred to in the regulations. These circulars set forth rules about the allowability or unallowability of particular costs such as compensation for personal services and fringe benefits, meetings and conferences, professional service costs, advertising costs, bidding or proposal costs, preaward costs, rental costs, and transportation costs.

Section 1180.11—Basic requirements which a museum must meet. Application requirements in § 1180.11 have been substantially clarified. The necessity of submitting a complete and timely application is emphasized in § 1180.11(a). If the applicant is a private, nonprofit agency, it must, as is now required in current regulations, submit a copy of the letter from the Internal Revenue Service indicating its nonprofit status under the applicable provision of the Internal Revenue Code of 1954 (§ 1180.11(b)).

In order to respond to the need of museums for further guidance, the requirement for submission of a financial statement would be emphasized and amplified in § 1180.11(c)—

—By indicating the time period to which such statement must relate;

—By indicating the types of documents which a financial statement must include;

—By providing further information on the preparation and content of an audited financial statement; and

—By clarifying the type of financial information which may, with the approval of the Director, be submitted in lieu of a separate audited financial statement by museums which do not receive audits separate from those of their parent organizations.

The requirements in the current regulations for a long-range plan and an assurance regarding maintenance of fiscal effort are revised and the latter is clarified (§§ 1180.11 (d) and (e)).

Section 1180.12—Priorities. For fiscal year 1983, priorities applicable to Special Project grants would focus on projects involving innovative fund raising and financial development activities and projects involving cooperative endeavors among groups of museums. To simplify the administration of the Act and focus staff resources on processing General Operating Support and Special Project grants, authority for emergency grants would be deleted. It is believed that certain legal and administrative difficulties to which the emergency grant authority has given rise, together with the fact that relatively few grants have been awarded under the emergency grant provisions, and the fact that the regular General Operating Support program can be used to meet operating needs of museums arising from the types of events specified in § 1180.12(d) of the current regulations, are factors that justify this change.

Sections 1180.13 and 1180.14—Funding criteria. Criteria for judging competing applications and reaching funding determinations are contained in these sections. The criteria for GOS (§ 1180.13) have been revised to address concerns of IMS field readers in assessing under the same criteria an applicant's situation both with and without assistance under the Act. The criteria, as amplified, are similar to those applied in prior years.

The proposed regulations would indicate the factors, among others, which IMS considers in applying certain criteria. Applicants should address these factors in preparing applications. These factors are not intended to be exclusive. An applicant which believes that other factors are relevant to a criterion is free to address them in the application.

A criterion which attempts to measure the impact of General Operating Support assistance on the museum's ability to increase its base of non-Federal support has been added as § 1180.13(h).

Criteria for judging applications for Special Projects under § 1180.8, as proposed, would evaluate the degree to which the project is of general benefit to museums, is of unique benefit to the general public, would involve a model or exemplary benefit, or may foster innovative methods to increase private support or limit costs of operations.

Section 1180.16—Cost sharing. Section 206(c) of the Museum Services Act, as amended, provides that grants under the Act for any fiscal year may not exceed 50 percent of the cost of the program for which the grant or financial assistance is made, except that not more than 20 percent of the funds available for grants under the Act for any fiscal year may be available for grants or financial assistance in such fiscal year without regard to the 50 percent limitation. (20 U.S.C. § 965(c)). This statutory provision, of course, applies to grants for General Operating and Special Project support. It is anticipated that in applying the exception in Section 206(c) priority will be given to Special Project grants.

In implementing this provision, based

upon the policy direction of the Board, IMS has not made grants under the Act in excess of 10 percent of a museum's actual operating budget. This policy direction has previously been set forth in program announcements of the Institute published in the Federal Register. The proposed regulations would restate it in § 1180.16(b) and would also clarify that, for purposes of applying the 10 percent limitation, the proposed regulations would provide that a museum's operating budget may be increased by an amount reflecting the reasonable and conservative value of volunteer services contributed in the most recently completed fiscal year.

In order to make maximum use of limited Federal resources and to emphasize that primary reliance should be placed on non-Federal support, language is proposed which would authorize the Board to determine, for a particular fiscal year, for one or more programs, that an amount equal to the amount to be awarded in any given fiscal year (or a percentage thereof) to applicants under the Act must consist of non-Federal funds contributed to the museum in excess of the non-Federal funds contributed to the museum for its immediately preceding fiscal year (§ 1180.16(c)). Finally, under proposed § 1180.16(d) language would be added which would require a museum to maintain a restricted account for funds received under the Act. The purpose of this is to assure proper accounting of grant funds and to assist museums in the event that they must respond to possible audits under the Act.

Subparts B and C of the proposed regulation would provide for general administrative provisions specifically tailored to the needs of the IMS program which greatly reduce the number of regulatory provisions which have in the past been applicable to the IMS program under the Education Department General Administrative Regulations.

Sections 1180.11 and 1180.55 of these proposed regulations contain information collection requirements. As required by 44 U.S.C. 3504(h), enacted by the Paperwork Reduction Act of 1980, IMS is submitting to the Office of Management and Budget, for its review, these information collection requirements. Comments can be submitted in accordance with the instructions in this notice of proposed rulemaking.

Executive Order 12291: These regulations have been reviewed in accordance with Executive Order 12291. They are classified as non-major because they do not meet the criteria for major regulations established in the order.

Regulatory Flexibility Act Certification: The Director certifies that these proposed regulations will not have a significant economic impact on a substantial number of small entities.

To the extent that these regulations affect States and State agencies they will not have an impact on small entities because States and State agencies are not considered to be small entities under the Regulatory Flexibility Act.

These regulations will affect certain museums receiving Federal financial assistance under the Museum Services Act. However, the regulations will not have a significant economic impact on the small entities affected because they do not impose excessive regulatory burdens or require unnecessary Federal supervision. The regulations impose minimal requirements to ensure the proper expenditure of program funds.

Invitation to Comment: Written comments and recommendations may be sent to the person listed at the beginning of this preamble as ADDRESSEE. All comments received on or before February 22, 1983, will be considered in developing the final regulations.

All comments submitted in response to this notice will be available for public inspection, during and after the comment period, in Room 4006, 330 C Street, S.W., Washington, D.C. 20202 between the hours of 9:00 a.m. and 4:30 p.m. Monday through Friday of each week, except Federal holidays.

Comments specifically on the information collection requirements should be addressed to the Office of Information and Regulatory Affairs, Office of Management and Budget, NEOB, Washington, D.C. 20503.

List of Subjects in 45 CFR Part 1180

Museums, National boards.

Dated: December 3, 1982.

Lilla Tower,

Director, Institute of Museum Services.

Dated: December 3, 1982.

Douglas Dillon,

Chairman, National Museum Services Board.

(Catalog of Federal Domestic Assistance No. 84.115, Museum Services Program)

The Education Department proposes to remove Part 64 of Title 34 of the Code of Federal Regulations upon adoption of these proposed rules as final.

The Institute of Museum Services proposes to add a new Subchapter E to Chapter XI of Title 45 of the Code of Federal Regulations as follows:

SUBCHAPTER E—INSTITUTE OF MUSEUM SERVICES

PART 1180—PROGRAM REGULATIONS

Subpart A—General Operating Support and Special Project Support

Sec.

1180.1 Purpose of museum services program.
1180.2 Scope of this document.
1180.3 Definition of museum.
1180.4 Other definitions.
1180.5 Eligibility and burden of proof—Who may apply.
1180.6 Related institutions.
1180.7 General Operating Support.
1180.8 Special Project Support.
1180.9 Likely size of grants and allocation of funds among activities.
1180.10 Allowable costs.
1180.11 Basic requirements which a museum must meet to be considered for funding.
1180.12 How applications are judged; priorities.
1180.13 Criteria for evaluation of applications for General Operating Support.
1180.14 Criteria for evaluation of applications for Special Project support.
1180.15 Duration of grant.
1180.16 IMS share of the cost of a proposal.
1180.17 Reports.

Subpart B—General Application, Selection and Award Procedures

Applications

1180.30 Publication of an application notice; content of the notice.
1180.31 Information in the application notice.
1180.32 Deadline date for applications.
1180.33 Applicants must meet procedural rules.
1180.34 Number of copies.
1180.35 Special Project Grant: Group applications.

Selection and Award Procedures

1180.36 Rejection of an application.
1180.37 How grants are processed.
1180.38 Applications not selected for funding.
1180.39 How the Institute makes a Special Project grant.
1180.40 The cost analysis; basis for Special Project grant amount.
1180.41 The notification of grant award.
1180.42 Effect of the grant.

Subpart C—General Conditions Which Must be Met by a Grantee

Nondiscrimination

1180.43 Federal statutes and regulations on nondiscrimination.
1180.44 Use of consultants in Special Projects.

Evaluation

1180.45 Evaluation by the grantee.
1180.46 Federal evaluation—cooperation by a grantee.

Publication and Copyrights
Sec.
1180.47 General conditions on publications.
1180.48 Copyright policy for grantees.
1180.49 Definition of "Special Project materials."

General Administrative Responsibilities

1180.50 Compliance with statutes, regulations, and its approved Grant Application.
1180.51 The grantee administers or supervises the Grant.
1180.52 Fiscal control and fund accounting procedures.
1180.53 Obligation of funds during the grant period.
1180.54 Prohibition of subgrants.

Records

1180.55 Records related to grant funds.
1180.56 Records related to compliance.
1180.57 Records related to Special Project performance.
1180.58 Applicability

Authority: Museum Services Act (20 U.S.C. 961–68), as amended, and Pub. L. 97–100, 95 Stat. 1414.

Subpart A—General Operating Support and Special Project Support

§1180.1 Purpose of museum services program.

The purpose of this program of Federal financial assistance is to ease the financial burden borne by museums as a result of their increasing use by the public and to encourage and assist them to carry out their educational and conservation roles as well as other functions and to modernize their methods and facilities.

§ 1180.2 Scope of this document.

This document establishes rules for the award of grants to museums from funds appropriated under the Museum Sevices Act including rules governing the eligibility of applicant institutions, the type of assistance which may be provided, requirements which applicants must meet and criteria to be used in judging applications.

§ 1180.3 Definition of museum.

For the purpose of this part:

(a) "Museum" means a public or private nonprofit institution which is organized on a permanent basis for essentially educational or aesthetic purposes and which, using a professional staff:

(1) Owns or uses tangible objects, either animate or inanimate;

(2) Cares for these objects; and

(3) Exhibits them to the general public on a regular basis.

(i) An institution which exhibits objects to the general public for at least 120 days a year shall be deemed to meet this requirement.

(ii) An institution which exhibits objects by appointment may meet this requirement if it can establish, in light of the facts under all the relevant circumstances, that this method of exhibition does not unreasonably restrict the accessibility of the institution's exhibits to the general public.

(b) "Museum" includes (but is not limited to) the following institutions if they satisfy the provisions of this section:

(1) Aquariums and zoological parks;

(2) Botanical gardens and arboretums;

(3) Nature Centers;

(4) Museums relating to art, history (including historic buildings), natural history, science and technology; and

(5) Planetariums.

(c) For the purposes of this section, an institution uses a professional staff if it employs at least one staff member, or the full-time equivalent, whether paid or unpaid primarily engaged in the acquisition, care, or exhibition to the public of objects owned or used by the institution.

(d) An institution does not exhibit objects to the general public for the purposes of this section if the display or use of the objects is secondary to its overall purpose.

(e) For the purposes of this section, an institution exhibits objects to the public if it exhibits the objects through facilities which it owns or operates.

§ 1180.4 Other definitions.

The following other definitions apply in this document:

"Act" means the Museum Services Act, Title II of the Arts, Humanities and Cultural Affairs Act of 1976, Pub. L. 94–462, (20 U.S.C. 961–968).

"Board" means the National Museum Services Board established under Section 204 of the Act.

"Collection" includes objects owned, used or loaned by a museum as well as these literary, archival and documentary resources specifically required for the study and interpretation of these objects.

"Foundation" means the National Foundation on the Arts and the Humanities.

"Director" means the Director of the Institute of Museum Services.

"Grantee" means the recipient of a grant under the Act.

"Institute" means the Institute of Museum Services ("IMS") established under Section 203 of the Act.

"Museum services" means services provided by a museum, primarily exhibiting objects to the general public, and including but not limited to preserving and maintaining its collections, and providing educational and other programs to the public through the use of its collections and other resources.

§ 1180.5 Eligibility and burden of proof—Who may apply.

(a) A museum located in the fifty States of the Union, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, Guam, or the District of Columbia may apply for a grant under the Act.

(b) No museum is eligible to apply for funding available under the Act unless it has provided museum services including exhibiting objects to the general public on a regular basis for at least two years prior to application.

(c) A public or private nonprofit agency which is responsible for the operation of a museum may, if necessary, apply on behalf of the museum.

(d) A museum operated by a department or agency of the Federal Government is not eligible to apply.

(e) A museum is ineligible to apply for or receive funding in any year for both Special Project and General Operating Support.

(f) Beginning with fiscal year 1983, a museum is ineligible to receive funding for more than three years in any succeeding quinquennium.

(g) A museum is ineligible to apply for or receive funds available under the Act (for General Operating or Special Project support) if it has received, or has been awarded a grant under which it will receive, from any other agency of the United States, Challenge Grant funds in the same Fiscal Year (in which funds would be received under a grant from IMS). For the purposes of the preceding sentence "Challenge Grant funds" means funds paid under any grant awarded by any agency pursuant to a program such as the Challenge Grant programs authorized by sections 5(1) and 7(h) of the National Foundation on the Arts and the Humanities Act of 1965, as amended. (20 U.S.C. 954(1) and 956(h).

(h) An applicant has the burden of establishing that it is eligible for assistance under these regulations.

§ 1180.6 Related institutions.

(a) If two or more institutions are under the common control of one agency or institution or are otherwise organizationally related and apply for assistance under the Act, the Director determines under all the relevant circumstances whether they are

separate museums for the purposes of establishing eligibility for assistance under these regulations. See §§ 1180.5; 1180.9.

(b) IMS regards the following factors, among others, as showing that a related institution is a separate museum:

(1) The institution has its own governing body;

(2) The institution has budgetary autonomy; and

(3) The institution has administrative autonomy.

§ 1180.7 General operating support.

In order to maintain, increase or improve museum services, a museum may apply for a grant under the Act to meet administrative, staff and operating costs, except as otherwise provided in these regulations.

§ 1180.8 Special project support.

(a) In order to increase or improve museum services through exemplary projects which are additional to its operating program, a museum may apply for a grant to:

(1) Provide a General, Unique, Model or Financial Benefit to museums as set forth in § 1180.14 (e), (f), (g), or (h);

(2) Develop and maintain professionally trained or otherwise experienced staff to meet its needs;

(3) Obtain expert assistance to carry out its functions or provide expert assistance to other museums;

(4) Conserve artifacts, objects, plants and animals;

(5) Develop and carry out specialized programs for specific segments of the public, such as programs for urban neighborhoods, rural areas, Indian reservations, and penal and other State institutions;

(6) Develop and carry out educational programs;

(7) Cooperate with other museums in developing traveling exhibitions, meeting transportation costs for these exhibitions, and identifying and locating collections available for loan.

(b) By notice published in the **Federal Register** and applicable to a particular fiscal year, IMS may limit the types of activities to be funded under this section.

§ 1180.9 Likely size of grants and allocation of funds among activities.

(a) In view of limited funds, it is anticipated that no museum will receive more than $50,000 under the Act for fiscal year 1983 and that most museums which are funded will receive a smaller amount. For future fiscal years, a different figure may be specified by notice published in the **Federal Register**.

(b) The Director, subject to the policy direction of the the Board, determines the percent of the funds available under the Act for grants in any fiscal year which shall be reserved for § 1180.7 General Operating Support grants.

§ 11800.10 Allowable costs.

(a) Determination of costs allowable under a grant is made in accordance with government-wide cost principles in applicable OMB circulars. (OMB Circular A–21 (educational institutions) February 26, 1979, published in 44 FR 12368 (March 6, 1979); OMB Circular A–87 (State and local governments) January 15, 1981 published in 46 FR 9548 (January 28, 1981); and OMB Circular A–122 (Nonprofit organizations) June 27, 1980, published in 45 FR 46022 (July 8, 1980)).

(b) No costs shall be allowed for the purchase of any object to be included in the collection of a museum, except library, literary, or archival material, specifically required for a designated activity under a grant under the Act.

§ 11800.11 Basic requirements which a museum must meet to be considered funding.

(a) *Application.* To apply for a grant, a museum must submit the designated application form containing the information requested in the form. Failure to submit the information required by the application at the time of filing can subject an applicant to rejection of the application without consideration on its merits.

(b) *IRS letter.* A museum applying as a private, nonprofit institution must submit a copy of the letter from the Internal Revenue Service indicating the applicant's eligibility for nonprofit status under the applicable provision of the Internal Revenue Code of 1954, as amended.

(c) *Financial statements.* (1) Each applicant museum must submit, with its application at the time of filing, *its* financial statements for the two fiscal years immediately preceding the fiscal year for which application is made or, if not available, for the second and third immediately preceding years. Each financial statement must include a statement of financial operations and balance sheet such as described in the Museum Accounting Guidelines of the Association of Science-Technology Centers (1976) or in the Museum Accounting Handbook of the American Association of Museums (1978).

(2) Every applicant which has previously received an IMS award must submit its audited financial statement for the last fiscal year immediately preceding the fiscal year in which application is made or the immediately preceding fiscal year, prepared by an individual or organization meeting the qualifications of the Comptroller General of the United States for individuals or organizations conducting Government audits. Reference is made to GAO, *Standards for Audit of Governmental Organizations, Programs and Functions* (1981 revision). The individual or organization performing the audit must certify that the financial statement of the museum presents fairly the financial position and the results of financial operations in accordance with generally accepted accounting principles.

(3) If a museum is part of an organization such as a university, State or municipality and does not receive audits separate from those of the organization of which it is a part, it may submit its financial statement as drawn from and containing only audited figures of the organization of which the museum is a part. This financial statement must clearly indicate that it has been so prepared and the Director *may*, upon written request filed at the time of the application, waive the requirement of a separate audit and proceed to process the application of its merits.

(d) *Long-range plan.* Each applicant museum must include long-range plans for program and financial development.

(e) *Maintenance of effort.* Each museum applicant must be able to show that it has maintained a continuing and successful fiscal effort of its own for the provision of funds for museum services. An applicant complies with this requirement if its aggregate expenditures for museum services (exclusive of Federal assistance) for the grant period are at least equal to those expenditures for the equivalent preceding period. Any applicant unable to furnish proof of the successful discharge of this requirement may be held ineligible to apply for funding.

(f) *Special Project Grant: schedule of completion.* An application for a Special Project grant shall establish a schedule for completing the project. An application shall describe when, during the term of the grant, the applicant plans to complete each objective or phase of the project.

§ 1180.12 How applications are judged; priorities.

(a) To select grantees and determine the amount of their awards, IMS rates applications under the applicable criteria stated in §§ 1180.13 and 1180.14. Normally, these applications are first evaluated by readers, panels of experts, or both. Final determinations as to the award of grants are made by the Director after review by the Board.

(b) In the case of Special Project applications, priority is given to applications for (1) projects involving innovative fund raising and financial development activities, and (2) projects involving innovative cooperative endeavors among groups of museums.

(c) To achieve diversity in the distribution of assistance, the Institute may consider the location, size and discipline of the applicant in addition to the criteria in §§ 1180.13 and 1180.14.

§ 1180.13 Criteria for evaluation of applications for General Operating Support.

The following criteria apply to the evaluation of all applications for General Operating Support. In applying these criteria, the total operation of the applicant museum is assessed, including the museum's operation as it would be if the General Operating Support is granted. This assessment is based primarily on the information supplied in the museum's application.

(a) *Museum services.* Are the applicant's museum services of high quality? IMS considers factors such as:

(1) The quality of the museum's educational and interpretive services and their relevance to the collections and audience including the special constituencies which the museum serves;

(2) The quality of the museum's physical facilities and the manner in which space is allocated to various museum activities; and

(3) The qualifications of the professional staff (both full-time and part-time; paid and volunteer) and the quality of the opportunities for professional staff development and in-service training afforded by the museum.

(b) *Collections and exhibits.* Are the museum's collections and exhibits of high quality and significance? IMS takes into account such factors as:

(1) The intrinsic value of the collections and exhibits;

(2) The significance of the museum's collections to the community; and

(3) The quality of the care and conservation of the collections; the quality of exhibit designs.

(c) *Accessibility.* How accessible to the general public are the museum's services, collections and exhibits? IMS considers such factors as:

(1) The percentage of the museum's collections on view to the general public on a regular basis; the extent of the museum's regular program for outreach, loans, and other means of exhibiting its collections to the public;

(2) The annual schedule of open hours for the museum; and

(3) The appropriateness of this schedule to the museum's audience.

(d) *Population served.* To what extent does the museum serve a general public which otherwise would have limited access to the type of museum services which it provides or to museum services of any type? To what extent does the public seek access to the museum's services? IMS considers such factors as:

(1) The characteristics of the audience and the community which the museum serves;

(2) The availability of other museums (or types of museums) which serve this audience and this community; and

(3) The museum's annual attendance by calendar quarters.

(e) *Financial Management.* What is the quality of the financial management of the museum? In how many of the last five years has the museum shown an excess of revenues over expenditures? IMS considers such factors as:

(1) The financial condition of the museum as reflected in its financial statements;

(2) The quality of the museum's plans for remedying any financial weaknesses in the museum's operations; and

(3) The qualifications of the museum staff assigned to financial management activities.

(f) *Long-range plans.* What is the quality of the museum's long-range plans for financial and program development? What are the museum's plans for the expenditure of the grant funds? IMS considers such factors as:

(1) The quality of the museum's long-range plans; how the museum proposes to implement them; how practical are the steps the museum plans to take to implement them?

(2) The probability that the General Operating Support grant, if awarded, will assist the museum in carrying out its long-range plans;

(3) In what manner will this grant, if awarded, contribute to maintaining, increasing or improving the museum's services?

(g) *Community commitment.* How committed to the museum are its users and supporters? Does the museum have a substantial base of non-Federal support? Does it have a strong volunteer program? IMS considers such factors as:

(1) The quality and extent of the financial support that the museum receives from the private sector and other non-Federal sources and the extent to which this support is stable, broad-based and indicative of continuing community commitment;

(2) The quality of the museum's volunteer program and its program of in-kind contributions and their importance to the museum's annual operations; and

(3) The commitment of its users to the museum as evidenced by such factors as participation in membership and docent programs, fund raising and other supportive activities.

(h) *Non-Federal support.* To what extent, if any, will the General Operating Support requested enable the museum to increase its base of State, local and private funding in the year for which assistance is requested and beyond?

(i) *Past use of IMS funds (when applicable).* Has the museum used its IMS funds effectively? How and in what amounts and in what manner have they been used?

§ 1180.14 Criteria for evaluation of applications for Special Project Support.

The following criteria apply to the evaluation of all applications for Special Project support:

(a) *Plan of operation.* What is the quality of the proposed project? In applying this criterion, IMS looks for information that shows:

(1) High quality in the design of the project;

(2) An effective plan of management that ensures proper and efficient administration of the project.

(b) *Quality of key personnel.* What is the quality of the key personnel the applicant plans to use on the project? In applying this criterion, IMS looks for information that shows:

(1) The qualifications of the project director;

(2) The qualifications of each of the other key personnel used in the project; and

(3) The time that each person referred to above is obligated to commit to the project.

(c) *Budget and cost effectiveness.* Does the project have an adequate budget to achieve its purpose? In applying this criterion, IMS looks for information that shows:

(1) The budget for the project is adequate to support the project activities; and

(2) Costs are reasonable in relation to the objectives of the project.

(d) *Adequacy of resources.* Does the applicant plan to devote adequate resources to the project?

(e) *General Benefit.* To what extent will the project, if successful, be of general benefit to museums or address a problem which is general to a number of museums but has not been adequately addressed?

(f) *Unique Benefit.* To what extent will the project provide a unique benefit to the general public?

(g) *Model or Exemplary Benefit.* To what extent does the project represent a model or exemplary approach and solution to the problem addressed?

(h) *Financial Benefit: Private support; cost control.* Is the project likely to produce innovative methods for (1) increasing museums' base of private support and/or (2) limiting a museum's cost of operation?

(i) *Other support.* Does the applicant lack alternative sources of support for the project?

(j) *Dissemination.* Has the applicant made satisfactory provision for disseminating the results of the project to other museums and the general public through the media?

§ 1180.15 Duration of Grant.

Grants under the Act normally permit the grantee to use the funds for a period of up to 12 months from the start of the grant period. The grantee may use grant funds during the period specified in the grant document unless the grant is suspended or terminated. If, in the case of a Special Project grant, the grantee needs additional time to complete the grant project, the grantee may apply for an extension of the grant period without additional funds. The Director may approve this extension at his or her discretion.

§ 1180.16 IMS share of the cost of a proposal.

(a) Section 206(c) of the Museum Services Act provides that grants under this section [Section 206] for any fiscal year may not exceed 50 per centum of the cost of the program for which the grant is made, except that no more than 20 per centum of the funds available under this section for any fiscal year may be available for grants in such fiscal year without regard to such limitation. In applying the exception in Section 206(c), priority will be given to Special Project grants.

(b) Subject to § 1180.9(a), IMS normally does not make grants for more than 10 percent of a museum's most recently completed fiscal year's actual operating budget. For future fiscal years a different figure may be specified by notice published in the Federal Register. An operating budget may be increased by an amount reflecting the reasonable and conservative value of volunteer services contributed in the most recently completed fiscal year.

(c) For a particular fiscal year, and for one or more programs, the Board may determine that an amount equal to the amount to be awarded (or a percentage thereof) to an applicant under the Act must consist of non-Federal funds contributed to the museum in excess of the non-Federal funds contributed to the museum for its immediately preceding fiscal year.

(d) A museum shall maintain a restricted account for funds received under the Act.

§ 1180.17 Reports.

In its final report a grantee shall briefly detail how the expenditure of the grant funds has satisfied the proposed use of the funds as stated in its General Operating Support application or has accomplished the proposal as set forth in its Special Project application and has served the purpose of the Act as reflected in the applicable evaluation criteria in § 1180.14.

Subpart B—General Application, Selection and Award Procedures

Applications

§ 1180.30 Publication of an application notice; content of the notice.

Each fiscal year the Director publishes application notices in the Federal Register that explain what kind of assistance is available that fiscal year under the Act.

§ 1180.31 Information in the application notice.

(a) The application notice usually includes:

(1) How an applicant can get an application packet containing detailed information about the program including an application form;

(2) Where an applicant must send its application;

(3) The amount of funds available for grants;

(4) The approximate number of grants the Institute expects to make under the program;

(5) The expected cap on grant(s) that may be applied for;

(6) Any priorities established by the Institute for that year;

(7) A reference to the applicable regulations.

(b) [Reserved]

§ 1180.32 Deadline date for applications.

(a) The application notice sets deadline date for applications to be postmarked or hand delivered to the Institute. The applicant shall:

(1) Mail the application to the address specified in the application notice on or before the deadline date; or

(2) Hand deliver the application to the address specified in the application notice by 4:30 p.m. (Washington, D.C. time) on deadline date.

(b) An applicant must be prepared to show one of the following as proof of timely mailing:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other dated proof of mailing acceptable to the Director.

(c) If an application is mailed through the U.S. Postal Service, the Director does not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not date-cancelled by the U.S. Postal Service.

§ 1180.33 Applicants must meet procedural rules.

The Director is authorized to make a grant only to an eligible applicant that submits a complete application, including attachments, on or before the deadline.

§ 1180.34 Number of copies.

Each applicant shall submit an original and four copies of its application to the Institute.

§ 1180.35 Special Project Grant: Group applications.

(a) Eligible museums may apply as a group for a Special Project grant.

(b) If a group of museums applies for a Special Project grant, the members of the group shall either:

(1) Designate one member of the group to apply for the grant; or

(2) Establish a separate, eligible legal entity, consisting solely of the museum group, to apply for the grant.

(c) The members of the group, or entity, shall enter into an agreement that:

(1) Details the activities that each member of the group plans to perform; and

(2) Binds each member of the group to every statement and assurance made by the applicant in the application.

(d) The applicant shall submit the agreement together with its application.

(e) If the Director makes a grant to a group of eligible museums, the applicant for the group is the grantee and is legally responsible for:

(1) The use of all grant funds; and

(2) Ensuring that the project is carried out by the group in accordance with applicable Federal laws, regulations, and requirements.

(f) Each member of the group is legally responsible for:

(1) Carrying out the activities it agrees to perform; and

(2) Using the funds it receives under the agreement in accordance with

applicable Federal laws, regulations, and requirements.

Selection and Award Procedures

§ 1180.36 Rejection of an application.

(a) The Director rejects an application if:

(1) The applicant is not eligible;

(2) The applicant fails to comply with procedural rules that govern the submission of the application;

(3) The application does not contain the information required;

(4) The application cannot be funded under the authorizing statute or implementing regulations.

(b) If the Director rejects an application under this section, the Director informs the applicant and explains why the application was rejected.

§ 1180.37 How grants are processed.

(a)(1) The Director may use one or more groups of experts or readers to evaluate eligible applications.

(2) Each group consists of three or more qualified persons.

(3) In each group there must be at least one person who is not an employee of the Federal Government.

(4) A person may not serve as a member of a group of experts or readers if the person is an employee of the Institute who is regularly involved in grants processing; however, the Director may sign a waiver for such person and that person may serve as a member of a group of experts or readers.

(b) When the Director uses a group of experts or readers, the group of experts or readers uses the applicable evaluation criteria set forth in the Regulations to evaluate each application.

(c) After the groups of experts or readers have evaluated the applications, a rank ordering of the applications is prepared. The rank ordering of the eligible applications is based solely on the valuations of the applications by the groups of experts.

(d) Subject to § 1180.12, the Director, in consultation with the Board, then determines the order in which applications will be selected. The Director makes these determinations on the basis of the evaluation criteria and any priorities or other program requirements that have been published in the **Federal Register**. The Director may consider the following in making these determinations:

(1) The Application.

(2) The rank ordering of the applications.

(3) Any other information relevant to applicable criteria, priorities, or any other applicable information or requirements.

(Cross reference. See § 1180.12)

§ 1180.38 Applications not selected for funding.

If an application is not selected for funding the Director informs the applicant.

§ 1180.39 How the Institute makes a Special Project grant.

The Director follows the procedures in §§ 1180.40–1180.41 to set the amount and determine the conditions of a Special Project grant.

§ 1180.40 The cost analysis; basis for Special Project grant amount.

(a) Before the Director sets the amount of a Special Project grant, a cost analysis of the project is made which involves an examination of:

(1) The cost data in the detailed budget for the project;

(2) Specific elements of costs; and

(3) The necessity, reasonableness, and allowability under applicable statutes and regulations.

(b) [Reserved]

§ 1180.41 The notification of grant award.

(a) The Director furnishes a notification of grant award to the grantee.

(b) The notification of grant award sets the amount of the grant and gives other information about the grant.

§ 1180.42 Effect of the grant.

The grant obligates both the Federal Government and the grantee to all of the requirements, regulations and statutes that apply to the grant.

Subpart C—General Conditions Which Must Be Met by a Grantee.

Nondiscrimination

§ 1180.43 Federal statutes and regulations on nondiscrimination.

Each grantee shall comply with the following statutes:

Subject	Statute
Discrimination on the basis of race, color or national origin.	Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d through 20000d–4).
Discrimination on the basis of sex.	Title IX of the Education Amendments of 1972 (20 U.S.C. 1681–1683).
Discrimination on the basis of handicap.	Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).
Discrimination on the basis of age.	The Age Discrimination Act (42 U.S.C. 6101 et seq).

§ 1180.44 Use of consultant in Special Projects.

(a) Subject to Federal statutes and regulations, a Special Project grantee shall adhere to its general policies and practices when it hires, uses, and pays a consultants as part of the Special Project staff.

(b) The grantee may not use its grant to pay a consultant unless:

(1) There is a need in the project for the services of that consultant; and

(2) The grantee cannot meet that need through using an employee rather than a consultant.

Evaluation

§ 1180.45 Evaluation by the grantee.

A grantee shall evaluate at least semi-annually:

(a) The grantee's progress in achieving the objectives set forth in its approved application; and

(b) The contribution of the grant toward meeting the pruposes of the Act.

§ 1180.46 Federal evaluation—cooperation by a grantee.

A grantee shall cooperate in any evalution by the Director of the particular grant program in which grantee has participated.

Publications and Copyrights

§ 1180.47 General conditions on publications.

(a) *Content of materials.* Subject to any specific requirements that apply to its Special Project grant, a Special Project grantee may decide the format and content of Special Project materials that it publishes or arranges to have published.

(b) *Required Statement.* The grantee shall ensure that any publication that contains Special Project materials also contains the following statement:

"The contents of this (insert type of publication, e.g., book, report, film,) were developed in whole or in part under a grant from the Institute of Museum Services. However, the contents do not necessarily represent the policy of the Institute, and endorsement by the Federal Government should not be assumed."

§ 1180.48 Copyright policy for grantees.

A grantee may copyright Special Project materials in accordance with government-wide policy applicable to copyright of publications developed under Federal grants.

§ 1180.49 Definition of "Special Project materials."

As used in §§ 1180.47–1180.48, "Special Project materials" means a copy-rightable work developed in whole or in part with funds from a Special Project grant from the Institute.

General Administrative Responsibilities

§ 1180.50 Compliance with statutes, regulations, and its approved Grant Application.

(a) A grantee shall comply with applicable statutes, regulations, and the approved grant application, and shall use Federal funds in accordance therewith.

(b) No official, agent, or employee of the Institute may waive any regulation unless the regulation specifically provides for waiver.

(c) No act or failure to act by an official, agent, or employee of the Institute can affect the authority of the Director to enforce regulations.

(d) In any circumstance for which waiver is provided, the determination of the Director shall be final.

§ 1180.51 The grantee administers or supervises the Grant.

A grantee shall directly administer or supervise the administration of the grant and be answerable therefore.

§ 1180.52 Fiscal control and fund accounting procedures.

A grantee shall exert fiscal control and employ fund accounting procedures that ensure proper disbursement of and accounting for Federal funds in accordance with OMB circulars A–102 and A–110.

§ 1180.53 Obligation of funds during the grant period.

A grantee may use grant funds for obligations it makes only during the grant period.

§ 1180.54 Prohibition of subgrants.

(a) A grantee may not make a subgrant.

(b) A grantee may contract for supplies, equipment, and services subject to § 1180.44(a).

Records

§ 1180.55 Records related to grant funds.

A grantee shall, in accordance with OMB circular A–102 and A–110, keep records that show accurately and in full:

(a) The amount of funds awarded under the grant;

(b) The exact uses of the funds;

(c) The total amount expended under the grant;

(d) The amount expended under the grant, during the grant period provided from non-Federal sources; and

(e) Other records necessary to facilitate an effective audit.

§ 1180.56 Records related to compliance.

A grantee shall, in accordance with OMB circulars A–102 and A–110, keep accurate and full records to show its compliance with specific program requirements set forth in the regulations, published notices, or contained in the grant award documents.

§ 1180.57 Records related to Special Project performance.

(a) A Special Project grantee shall keep records revealing progress and results under the grant.

(b) The grantee shall use the records under paragraph (a) of this section to:

(1) Determine progress in accomplishing Special Project Objectives; and

(2) Revise those objectives, if necessary and authorized under the grant.

§ 1180.58 Applicability.

(a) Subparts B and C (§§ 1180.30–1180.57) apply to General Operating Support and Special Project assistance, except as otherwise provided in these regulations.

(b) The Education Department General Administrative Regulations (34 CFR Parts 75–78) do not apply to programs of the Institute of Museum Services.

[FR Doc. 82–34845 Filed 12–20–82; 8:45 am]
BILLING CODE 4550–01–M

VETERANS ADMINISTRATION

38 CFR Part 3

Allowance in Lieu of Government-Furnished Headstone or Marker

AGENCY: Veterans Administration.

ACTION: Proposed regulation change.

SUMMARY: The Veterans Administration is proposing to increase the monetary allowance payable in lieu of a Government/furnished headstone or marker from $63 to $67. The need for this action results from the fact that the actual cost of a Government-furnished headstone or marker increased from $63 to $67. The effect of this proposed amendment would be to permit payment of up to $67 in lieu of a Government-furnished headstone or marker.

DATES: Comments must be received on or before January 20, 1983. We propose to make this change effective October 1, 1982.

ADDRESSES: Interested persons are invited to submit written comments, suggestions, or objections regarding this proposal to the Administrator of Veterans' Affairs (271A), Veterans Administration, 810 Vermont Avenue, N.W. Washington, D.C. 20420. All written comments received will be available for public inspection at the above address only between the hours of 8 a.m. and 4:30 p.m. Monday through Friday (except holidays) until January 31, 1983. Any person visiting the Veterans Administration Central Office in Washington, D.C. for the purpose of inspecting comments will be received by the Central Office Veterans Services Unit in room 132. Visitors to a VA field station will be informed that the records are available for inspection only in Central Office and will be furnished the address and room number.

FOR FURTHER INFORMATION CONTACT: C. A. Wheeler, 202–389–3005.

SUPPLEMENTARY INFORMATION: Under 38 CFR 3.1612 the Veterans Administration is authorized to pay a monetary allowance in lieu of furnishing a headstone or marker at Government expense under the provisions of 38 CFR 1.631(a)(2) and (b). The amount of the allowance is the lesser of the actual cost of acquiring a non-government headstone or marker (or adding identifying information to an existing marker) or the average actual cost of a Government-furnished headstone or marker for the fiscal year preceding the fiscal year in which the non-Government-furnished headstone or marker was furnished (or identifying information added). (38 CFR 3.1612(e)(2))

The average actual cost to the Veterans Administration of headstones and markers furnished at Government expense for fiscal year 1982 (October 1, 1981 through September 30, 1982) is $67. Consequently, we are amending § 3.1612 to include this information.

The Administrator hereby certifies this proposed rule, if promulgated, will not have a significant economic impact, in terms of compliance costs, paperwork and recordkeeping, or any other regulatory burden on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. Pursuant to 5 U.S.C. 605(b), this proposed rule is therefore exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604. The reason for this certification is that this regulation affects individual claimants only. It will have no significant impact on small entities in terms of compliance costs, recordkeeping requirements, or effects on competition.

The Veterans Administration has determined that this regulation is nonmajor in accordance with Executive Order 12291 because it simply implements statutory requirements and would have little or no economic impact, in itself.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Handicapped, Health care, Pensions, Veterans.

(Catalog of Federal Domestic Assistance Program number is 64.101)

Approved: December 1, 1982.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

PART 3—ADJUDICATION

It is proposed to amend 38 CFR Part 3 as follows:

In § 3.1612, paragraph (e)(2)(ii) is revised as follows:

§ 3.1612 Monetary allowance in lieu of a Government-furnished headstone or marker.

* * * * *

(e) *Payment and amount of the allowance.* * * *

(2) The amount of the allowance payable is the lesser of the following:

* * *

(ii) The average actual cost, as determined by the Veterans Administration, of headstones and markers furnished at Government expense for the fiscal year preceding the fiscal year in which the non-Government-furnished headstone or marker was purchased or the services for adding the veteran's identifying information on an existing headstone or marker were purchased. The average actual cost of headstones and markers furnished at Government expense for fiscal year 1981 (October 1, 1980 through September 30, 1981) is $83 and $67 for fiscal year 1982 (October 1, 1981 through September 30, 1982).

* * * * *

[FR Doc. 82-34567 Filed 12-20-81: 8:45 am]

BILLING CODE 8320-01-M

---

38 CFR Part 3

Veterans Benefits; Definition of Nursing Home

AGENCY: Veterans Administration.

ACTION: Proposed regulation amendment.

SUMMARY: The Veterans Administration is proposing to amend its adjudication regulations to establish a definition of the term "nursing home." The General Counsel recently advised the Department of Veterans Benefits that a regulatory definition of "nursing home" was necessary to determine the scope of the term as used in the adjudication of claims. This new definition specifies the standards to be used in determining whether an extended care facility qualifies as a nursing home for the purposes of establishing entitlement to aid and attendance benefits and certain other benefit determinations.

DATES: Comments must be received on or before January 20, 1983. We propose to make this change effective the date of final approval.

ADDRESSES: Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420. All written comments received will be available for public inspection at the above address only between the hours of 8 a.m. and 4:30 p.m. Monday through Friday (except holidays) until January 31, 1983. Any person visiting the Veterans Administration Central Office in Washington, D.C. for the purpose of inspecting comments will be received by the Central Office Veterans Services Unit in room 132. Visitors to a VA field station will be informed that the records are available for inspection only in Central Office and will be furnished the address and room number.

FOR FURTHER INFORMATION CONTACT: Robert M. White, 202–389–3005.

SUPPLEMENTARY INFORMATION: Under current provisions of law entitlement to increased benefits may be established by certain beneficiaries on the basis of being a patient in a nursing home (38 U.S.C. 315(1)(I), 322(b), 411(c), 415(g), and 502(b)). Nursing home patient status creates a presumption that an individual is so disabled as to require the regular aid and attendance of another person in performing the normal activities of daily living or for protection against the hazards of daily living (38 CFR 3.351(c)). This presumption allows the granting of increased benefits without requiring a formal rating decision as to the claimant's actual level of disability.

Nursing home patient status also affects computation of income for purposes of pension and parents' dependency and indemnity compensation (DIC) awards. Under the provisions of 38 CFR 3.262(1) and 3.272(g) unusual medical expenses may be deducted when computing countable income and they may be deducted prospectively if there is a clear and reasonable expectation that will be realized. It is the policy of the Veterans Administration to consider all expenses in connection with nursing home care as medical expenses and to allow their deduction from income prospectively.

A recent review of awards granting aid and attendance benefits based on nursing home patient status reveled that some beneficiaries were residing in facilities which did not provide a substantial level of nursing care or related services and, in some instances, no such care or services. These facilities were not licensed as nursing homes by the State in which they were located and, therefore, the presumption of need for regular aid and attendance should not have applied. Similarly, the cost of residing at these facilities, which essentially amounted to room and board, should not have been considered as medical expenses. It is considered necessary that a regulatory definition of the term "nursing home" be established to provide specific standards for determining whether an extended care facility could be considered a nursing home for benefit purposes.

The Veterans Administration is, therefore, proposing to amend 38 CFR 3.1 by adding paragraph (z) defining the term "nursing home." The proposed regulation will not impose on States or nursing homes additional standards or alteration of procedures. It will simply make State licensure the standard by which the Veterans Administration recognizes private institutions as qualifying under the terminology "nursing home" for Veterans Administration purposes.

The level of care provided by the nursing home must be such that any Veterans Administration beneficiary admitted to the facility may be presumed to require the regular aid and attendance of another person because of physical or mental disability. A review of Veterans Administration Nursing Home Care Unit requirements for admission, the requirements of community nursing homes with which the Veterans Administration contracts for extended patient care, and the Medicaid certification requirements in Title 42, Code of Federal Regulations clearly indicates that only those extended care facilities that provide skilled or intermediate-level nursing care would qualify as providers of sufficient care to create the presumption of a beneficiary's need for aid and attendance. The provision of skilled or intermediate-level nursing care would also create the presumption that expenses incurred in connection with admission to such a facility were medical in nature. Accordingly, the proposed definition requires that skilled or intermediate-level nursing care be provided. It is not required that nursing homes be Medicaid certified in order to qualify under this definition, however such a certification would clearly meet the standards of the proposed definition.

States are not required to license the nursing home care units at veterans' homes which they operate. Neither do States license the Nursing Home Care Units operated by the Veterans Administration as part of its hospital system. However, Veterans Administration Nursing Home Care Units do provide the level of care necessary to meet the requirements of the proposed definition, and nursing home care units in State veterans' homes which are approved for payment under 38 U.S.C. 642 also meet the proposed standards for level of care. They are, therefore, being specifically included in the definition since they would not otherwise meet the State licensure requirement.

Veterans Administration beneficiaries in extended care facilities which do not meet the requirements of the proposed definition or which are licensed by foreign jurisdictions will not be eligible for aid and attendance benefits on a presumptive basis. Neither will the cost of their care automatically be considered as a medical expense deduction. These beneficiaries will be required to submit medical evidence sufficient to justify a grant of aid and attendance benefits by formal rating decision, and they will be required to itemize all claimed medical expense deductions.

The Administrator hereby certifies that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. The reason for this certification is that the proposed regulatory definition would not directly affect any small entities.

Only Veterans Administration beneficiaries could be directly affected. A small number of extended care facilities may be indirectly affected, if they do not come within the definition, because some of the Veterans Administration beneficiaries who reside there would not be presumptively entitled to increased benefits. Preliminary Veterans Administration data indicate that less than 1 percent of the approximately 170,000 Veterans Administration beneficiaries currently receiving aid and attendance benefits would be affected by this regulatory change. Moreover, even this small number of beneficiaries may still be able to establish entitlement to aid and attendance benefits and medical expense deductions, on a factual basis, by submitting appropriate evidence. Since the definition refers to State licensure of a nursing home, and since that license is needed for nursing home operation in any event, no additional compliance costs, paperwork, recordkeeping, or other regulatory burden on nursing homes would result from this proposed regulation. Therefore, pursuant to 5 U.S.C. 605(b), this proposed rule is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

In accordance with Executive Order 12291, Federal Regulation, we have determined that this proposed regulation change is nonmajor for the following reasons:

(1) It will not have an effect on the economy of $100 million or more.

(2) It will not cause a major increase in costs or prices.

(3) It will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Handicapped, Health care, Pensions, Veterans.

(Catalog of Federal Domestic Assistance Program numbers are 64.102, 64.104, 64.105, 64.109 and 64.110)

Approved: December 1, 1982.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

PART 3—ADJUDICATION

The Veterans Administration proposes to amend 38 CFR Part 3 as follows:

In § 3.1, paragraph (z) is added as follows:

§ 3.1 Definitions.

* * * * *

(z) "Nursing home" means

(1) Any extended care facility which is licensed by a State to provide skilled or intermediate-level nursing care,

(2) A nursing home care unit in a State veterans' home which is approved for payment under 38 U.S.C. 642, or

(3) A Veterans Administration Nursing Home Care Unit.

[FR Doc. 82-34568 Filed 12-20-82; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[KY-001; A-4-FRL 2161-6]

Approval and Promulgation of State Implementation Plans; Kentucky; State Regulations for Prevention of Significant Deterioration

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: This notice proposes to approve Kentucky's request to revise its State Implementation Plan (SIP) to include the State regulation for Prevention of Significant Deterioration (PSD). The Kentucky Department for Natural Resources and Environmental Protection (DNREP) developed the regulation according to EPA's PSD regulations (45 FR 52676, August 7, 1980) and related EPA guidance. EPA approval of the Kentucky PSD regulation will give the DNREP full authority to implement and enforce the PSD program in Kentucky according to the State regulations.

DATE: To be considered, comments must be submitted on or before January 20, 1983.

ADDRESSES: Written comments should be addressed to Melvin Russell of EPA, Region IV's Air Management Branch (see EPA, Region IV address below). Copies of the materials submitted by Kentucky may be examined during normal business hours at the following locations:

Environmental Protection Agency, Region IV, Air Management Branch, 345 Courtland Street, N.E., Atlanta, Georgia 30365.

Kentucky Department for Natural Resources and Environmental Protection, Division of Air Pollution Control, 18 Reilly Road, Bldg. #2 Fort Boone Plaza, Frankfort, Kentucky 40601

FOR FURTHER INFORMATION CONTACT: Melvin Russell of the EPA Region IV Air Management Branch at the above address, telephone 404/881-3286). (FTS 257-3286).

SUPPLEMENTARY INFORMATION: The Commonwealth of Kentucky's Department for Natural Resources and Environmental Protection (DNREP) has submitted to EPA proposed State regulation for Prevention of Significant Deterioration (PSD). The DNREP regulation was submitted to EPA on March 19, 1982. The regulation was

considered at a public hearing held in Frankfort, Kentucky on April 29, 1982.

EPA is proposing approval of the regulation before adoption at the State level. This procedure is intended to expedite the approval process, and aid the State in its effort to adopt a final regulation that reflect EPA's recommendations and respond to comments in this proposal notice. The Kentucky regulations will be State-effective after approval by the State Legislative Research Commission.

On December 5, 1974, EPA published regulations for PSD under the 1970 version of the Clean Air Act. These regulations established a program for protecting areas with air quality better than the national ambient air quality standards (NAAQS). The Clean Air Act Amendments of 1977 changed the 1970 Act and EPA's regulations in many respects, particularly with regard to PSD. In addition to mandating certain immediately effective changes to EPA's PSD regulations, the new Clean Air Act, in sections 160–169, contains comprehensive new PSD requirements. These new requirements are to be incorporated by States into their implementation plans.

On June 19, 1978 (43 FR 26380), EPA promulgated further guidance. On August 7, 1980 (45 FR 52676), EPA promulgated the latest guidance to assist States in preparing State Implementation Plans (SIP) revisions meeting the new requirements.

The Kentucky regulation for PSD (401 KAR 51:017) is consistent with EPA's PSD regulations (45 FR 52676, August 7, 1980) and related EPA guidance. EPA delegated to Kentucky authority to implement and enforce all portions of the PSD program on May 19, 1980. The State has demonstrated the ability to implement and enforce all aspects of the PSD program.

By letter of May 14, 1982, EPA provided Kentucky with comments on the State's draft regulations for PSD (401 KAR 51:017), including the following:

PSD Regulation—401 KAR 51:017

1. Section 1(1) regarding Applicability:

EPA Comment: The State regulation indicates that "the provisions of this regulation are applicable to any major stationary source or any major modification which:

(a) Is constructed after the effective date of this regulation;"

The term "is constructed" should be "commence construction", so that the regulation will be clear as to when the State regulation takes over from the Federal regulation. Construction can occur over a period of time, but is commenced only at one point in time.

EPA Comment: The regulation should provide for the assessment of 401 KAR 51:017 on a periodic basis and within 60 days of such time as information becomes available that an applicable increment is being violated.

3. Section 2(3)(d) regarding "net emission increase."

EPA Comment: Section 2(3)(d), reference to "401 KAR 51:015, 401 KAR 51:016E, or 40 CFR 52.21" should be deleted. Only permits issued under EPA-approved State PSD regulations exclude increases and decreases from counting. Kentucky regulations 401 KAR 51:015 and 401 KAR 51:016E have not been approved by EPA.

EPA's review of Kentucky's PSD regulation revealed no major deficiencies. EPA is therefore proposing to approve the regulation, based upon the understanding that Kentucky will consider all comments received during the State and EPA comment periods and make all necessary changes in the regulation before EPA takes final action on this proposal.

Under 5 U.S.C. Section 605(B), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 52

Air pollution control, Intergovernmental relations, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

(Sec. 110 and 161 of the Clean Air Act (42 U.S.C. 7410 and 7471))

Dated: June 23, 1982.

Charles R. Jeter,

Regional Administrator.

[FR Doc. 82-34577 Filed 12-20-82; 8:45 am]

BILLING CODE 6560-50-M

---

40 CFR Part 65

[A-3-FRL 2225-7]

State and Federal Administrative Orders Permitting a Delay in Compliance With State Implementation Plan Requirements; Proposed Approval of an Administrative Order Issued by the Pennsylvania Department of Environmental Resources to InterRoyal Corp.

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule; invitation for public comment.

SUMMARY: EPA has proposed to approve an administrative order issued by the Pennsylvania Department of Environmental Resources to InterRoyal Corporation. The order requires the company to bring air emissions from its storage shelving manufacturing facility in Warren, Pennsylvania into compliance with certain regulations contained in the federally approved Pennsylvania State Implementation Plan (SIP) by April 9, 1985. Because the order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by EPA before it becomes effective as a delayed compliance under the Clear Air Act (the Act). If approved by EPA, the order will constitute an addition to the SIP. In addition, a source in compliance with an approved order may not be sued under the Federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the Order. The purpose of this notice is to invite public comment on EPA's proposed approval of the order as a delayed compliance order.

DATE: Written comments must be received on or before January 20, 1983.

ADDRESSES: Comments should be submitted to Director, Air & Waste Management Division, EPA Region III, Sixth & Walnut Streets, Philadelphia, Pennsylvania 19106. The State order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT: Patrick M. McManus, Environmental Engineer, General Air Compliance Section (3AW22), Air & Waste Management Division, U.S. EPA Region III, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106, Telephone: (215) 597–9893.

SUPPLEMENTARY INFORMATION: InterRoyal Corporation operates a storage shelving manufacturing facility at Warren, Pennsylvania. The order under consideration addresses emissions from the surface coating processes at the facility, which are subject to §129.52 of Title 25 of the Pennsylvania Code. The regulation limits the emissions of volatile organic compounds (VOC), and is part of the federally approved Pennsylvania State Implementation Plan. The order requires final compliance with the regulation by

April 9, 1985 through the use of low solvent coatings.

Because this order has been issued to a major source of VOC emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before it becomes effective as a delayed compliance order under Section 113(d) of the Clean Air Act (the Act). EPA has reviewed the order and has found that the order does satisfy the requirements of this subsection.

If the order is approved by EPA, source compliance with its terms would preclude federal enforcement action under Section 113 of the Act against the source for violations of the regulation covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provision of the Act (Section 304) would be similarly precluded. If approved, the order would also constitute an addition to the Pennsylvania SIP. However, source compliance with the order will not preclude assessment of any noncompliance penalties under Section 120 of the Act, unless the source is otherwise entitled to an exemption under Section 120 (a)(B) or (C).

All interested persons are invited to submit written comments on the proposed order. Written comments received by the date specified above will be considered in determining whether EPA may approve the order. After the public comment period, the Administrator of EPA will publish in the **Federal Register** the Agency's final action on the order in 40 CFR Part 65.

List of Subjects in 40 CFR Part 65

Air pollution control.

(42 U.S.C. 7413, 7601)

Dated: September 29, 1982.

Stanley L. Laskowski,

Acting Regional Administrator, Region III.

[FR Doc. 82-34676 Filed 12-20-82; 8:45 am]

BILLING CODE 6560-50-M

---

40 CFR Part 158

[OPP-30063; PH-FRL 2147-4]

Pesticides Registration; Proposed Data Requirements

Correction

In FR Doc. 82-31904 beginning on page 53192 in the issue of Wednesday, November 24, 1982, make the following correction:

On page 53192, fist column, under "**DATE:**", substitute the comment due date of "February 22, 1983" in the lines now reading "(*insert date 90 days after date of publication in the* **Federal Register**]".

BILLING CODE: 1505-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-6469]

Proposed Base Flood Elevation and Zone Designation Determinations For the City of Pratt, Pratt County, Kansas Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations and zone designations as described below.

The proposed base flood elevations and zone designations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations and zone designations are available for review at the Municipal Building, Third and Jackson, Pratt, Kansas.

Send comments to: Honorable Paul Hayse, Mayor, City of Pratt, Third and Jackson, P.O. Box 807, Pratt, Kansas 67124.

FOR FURTHER INFORMATION CONTACT: Mr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0230.

SUPPLEMENTARY INFORMATION: The Associate Director, State and Local Programs and Support, gives notice of the proposed base flood elevations and zone designations for the City of Pratt, Kansas in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR Part 67.

These base flood elevations and zone designations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. It should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. The proposed base flood elevations and zone designations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base flood elevations and zone designations are as follows:

Source of flooding and location	Elevation (feet) national geodetic vertical datum	Zone designation (zone)
South Fork Ninnescah River:		
At the downstream limit of detailed study.	1831	A4.
At a point located approximately 350 feet downstream of the confluence with Valley View Ditch.	1835	A4.
At a point located approximately 500 feet downstream of Haskell Street extended.	1842	A4.
At a point located approximately 200 feet upstream of Taylor Street extended.	1851	A4.
At a point located just downstream of County Road.	1865	A4.
At the upstream limit of detailed study.	1890	A4.
Valley View Ditch:		
At a point located approximately 600 feet upstream of First Street.	1853	A12.
At a point located approximately 500 feet downstream of Maple Street extended.	1854	A3.
At North Street	1876	A3.

The proposed special flood hazard areas, identified as Zone A, have been added along the South Fork Ninnescah River, Valley View Ditch, East Fork Big Ditch, and various unnamed streams throughout the extraterritorial limits. The remaining portions of the extraterritorial limits have been identified as Zones B and C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not

have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; E.O. 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: November 29, 1982.

Dave McLoughlin,

Acting Associate Director, State and Local Programs and Support.

[FR Doc. 82-34361 Filed 12-20-82; 8:45 am]

BILLING CODE 6718-03-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1000

[Ex Parte No. 440]

Canons of Conduct

AGENCY: Interstate Commerce Commission.

ACTION: Proposed rules.

SUMMARY: The Commission proposes to amend its Canons of Conduct relating to reports to the Commission, reimbursement for travel expenses, conflicts of interest and filing of confidential statements of employment and financial interest. These proposals are meant to update and clarify existing Canons and guidelines based on recommendations of the General Counsel. Additional Canons are proposed regarding agency policy prohibiting sexual harassment (Canon 30), and implementation of administrative enforcement procedures for post-employment conflicts of interest under the Ethics in Government Act.

DATE: Interested persons may submit written comments on the proposed rules and guidelines on or before January 20, 1983.

ADDRESS: Comments should be submitted to: Secretary, Interstate Commerce Commission, Room 2203, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Lawrence H. Richmond, 202–275–1857.

SUPPLEMENTARY INFORMATION:

1. *Canon 12* requires the Commission's General Counsel to report to the Commission on January 1 and June 30 of each year on the operation of the Canons. Although this semi-annual reporting requirement served a useful purpose when the Canons underwent major revision in 1979, we believe under the present circumstances an annual report (on June 30) will suffice. The Canons are now well established and any revisions are more easily managed on an annual basis.

2. *Canon 15* presently does not address whether members and employees are permitted to receive reimbursement for travel and subsistence expenses when they attend seminars or other functions. The Commission proposes to clarify the scope of reimbursement permitted in certain situations.

The Comptroller General has ruled that acceptance of a donation covering travel and subsistence expenses of a federal employee traveling on official business, whether such donation is in cash or in kind, constitutes an improper augmentation of the appropriations of the employing agency unless the employing agency has authority to accept gifts. 46 Comp. Gen. 689 (1967); see 18 U.S.C. 209. Inasmuch as the Commission has no statutory authority to accept gifts, travel and subsistence expenses of members and employees on official business may not be reimbursed.

This general prohibition concerning the agency's (and thus its members' or employees') ability to accept reimbursement, does not apply to (1) acceptance of reimbursement when the employee is on leave or otherwise in a non-official duty status at the time of the meeting or function on account of which the donation is made, or (2) payments from tax-exempt organizations (as described by 26 U.S.C. 501(c)(3) for travel incident to attendance at meetings even if the employee is on official duty status. 5 U.S.C. 4111(a). Of course reimbursement must be consistent with other provisions of Canon 15. Therefore acceptance of reimbursement from individuals or organizations which otherwise would represent a conflict of interest is prohibited.

3. *Canon 17* prohibits members or employees from participating in outside employment or other activity which might reasonably result in or appear to be a conflict of interest. Section (c), however, which precludes compensation of personnel for activities devoted substantially to the responsibilities of the Commission presently applies only to members. This provision was also intended to include employees, but they were inadvertently omitted. Therefore, the Commission proposes to amend Section (c) to include employees.

4. *Canon 18* prohibits a member or employee who "entertains a proposal for future employment by any entity subject to regulation by the Commission, or by associations or representatives of such entities," from participating in the decision or disposition of any matter in which the entity making the employment proposal has a substantial interest. Canon 18 does not, however, specify when an employee is deemed to be "entertaining a proposal." In particular, when a regulated entity contacts an employee to inquire whether he or she is interested in employment, when does Canon 18's prohibition come into play?

Whether an employee is "entertaining" a proposal for future employment depends upon the nature and substantiality of the contact by the regulated entity. It seems clear that if the employee listens to the initial contact, and then immediately responds negatively, the employee has not "entertained" the proposal because there has been no mutual expression of interest. When the contact is more substantial, the question becomes more difficult. Recognizing that no statement can address every circumstance and that each case must ultimately turn upon its own facts, the Commission proposes to adopt guidelines to Canon 18 to clarify its intended scope.

Under our proposed guidelines "entertaining a proposal" would include either: (1) Negotiations, (2) solicitation of employment by an agency or employee, or (3) situations where the Commission member or employee does not promptly reject an unsolicited offer of employment.

We believe the guidelines should distinguish between contact initiated by potential employers and contact initiated by agency members or employees. In the latter instance, the public's confidence in the agency's integrity and impartiality might be diminished if members or employees decided matters involving parties before whom they had employment applications pending. Certainly such a practice, if permitted, would give the appearance of impropriety. Mindful of the public trust which we hold and the high standards that trust entails, see Canon 11, we believe members or employees should refrain from participating in the decision or disposition of any matter in which the party who has been contacted about employment is known to have a direct or substantial interest. It should be noted that this bar on participation in

particular matters is effective for six months after negotiations have ceased.

5. *Canon 26.* This canon requires employees listed in Appendix I of Subpart B to submit confidential statements of employment and financial interests. Because of frequent organizational changes and changing responsibilities of various positions, the list contained in the Code of Federal Regulations is virtually never accurate. A current list of employees required to file is maintained and updated by the agency's Personnel Office pursuant to criteria set forth in 5 CFR Part 403. Because the list published in the regulations is of little use, and current lists are obtainable from the agency's Personnel Office we propose to delete Appendix I from the canons. Authority to designate those employees required to file statements of employment and financial interests will be delegated from the Chairman to the Director of Personnel and the Managing Director pursuant to 49 CFR 1011.4(c)(9). The Director of Personnel will make initial decisions on grievances by employees who do not believe they should be required to file statements. Appeals will be decided by the Managing Director.

6. *Canon 30.* Under section 703 of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e–2, discrimination on the basis of sex is unlawful. The Commission opposes sexual harassment in any form. Indeed, in a recent policy statement we noted that sexual harassment will be subject to strong disciplinary action. We propose to adopt a new Canon [1] in order to insure that all agency personnel have notice of this agency policy as well as the particular actions that constitute sexual harassment and the procedures for filing complaints.

7. *Miscellaneous Matters.* Appendix II to 49 CFR Part 1000, Subpart B, lists miscellaneous statutory provisions. Paragraph 4 of that Appendix restates the post-employment conflict of interest law, 18 U.S.C. 207. This section has been a constant source of inquiries from current or former members and employees. Therefore, we believe an expanded and detailed explanation of the provisions is warranted.

8. *Subpart D.* The Commission proposes to adopt regulations to implement administrative application of restrictions on post-employment activity of former officers and employees as established by Title V of the Ethics in Government Act of 1978. See 18 U.S.C. 207(j). The proposed regulations have been drafted in consultation with the Office of Government Ethics. The regulations, as adopted, will be designated as Subpart D to 49 CFR Part 1000.

Accordingly, the Commission proposes to adopt the following amendments and additions to its Canons of Conduct as set forth in the appendix below. This action is taken under authority of 49 U.S.C. 10321 and 5 U.S.C. 553.

[1] This Canon will be designated as Canon 30, the present Canon 30 which sets forth disciplinary action for violations of the Canons of Conduct will be renumbered as Canon 31.

List of Subjects in 49 CFR Part 1000

Conflicts of interest, Seals and insignias.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison.

Agatha L. Mergenovich,
Secretary.

Appendix

PART 1000—[AMENDED]

Title 49 CFR Part 1000 is proposed to be amended as follows:

§ 1000.735–12 [Amended]

1. Section 1000.735–12 would be amended by removing the words "January 1 and" from line 1 of paragraph (b).

2. (a) In § 1000.735–15 a new paragraph (e) would be added to read as follows:

§ 1000.735–15 Gifts, entertainment and favors.

* * * * *

(e) Neither this section nor § 100.735–17 precludes a member or employee from receipt of bona fide reimbursement, unless prohibited by law, for expenses of travel and such other necessary subsistence as is compatible with this part for which no Government payment or reimbursement is made. However, this paragraph does not allow a member or employee to be reimbursed or payment to be made on his behalf, for excessive personal living expenses, gifts, entertainment, or other personal benefits, nor does it allow a member or employee to be reimbursed by a person for travel on official business under agency orders when reimbursement is proscribed by Decision B–128527 of the Comptroller General dated March 7, 1957 (46 Comp. Gen. 689).

(b) In § 1000.735–15, the Guidelines would be amended by redesignating paragraphs (7) and (8) as paragraphs (8) and (9) respectively, and by adding a new paragraph (7) which would read as follows:

§ 1000.735–15 Gifts, entertainment and favors.

* * * * *

Guidelines * * *

(7) Paragraph (e) of this section does not allow for reimbursement of travel and subsistence expenses when members or employees travel on official business. The agency has no authority to accept gifts and acceptance of reimbursement would constitute an improper augmentation of the agency's appropriations. Payments from tax exempt organizations (as described by 26 U.S.C. 501(c)(3) for travel incident to attendance at meetings is permitted.

Examples of the types of organizations described in 26 U.S.C. 501(c)(3) include, *inter alia*, corporations, any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes and that otherwise meet the criteria outlined in the statute.

Acceptance of reimbursement from individuals or organizations which would otherwise represent a conflict of interest is prohibited except as provided in Guideline (2) of this section.

* * * * *

§ 1000.735–17 [Amended]

3. In § 1000.735–17, paragraph (c) would be amended by adding "and employees" to follow the word "Members."

4. The following Guidelines would be added to § 1000.735–18:

§ 1000.735–18 Future employment.

* * * * *

Guidelines

Members and employees are considered to be entertaining a proposal if they: (1) Are engaged in negotiations; (2) solicit employment by submitting a resume or otherwise contacting a prospective employer about employment; or (3) do not promptly reject an unsolicited offer of employment.

§ 1000.735–26 [Amended]

5(a). In paragraph (a) of § 1000.735–26 the first sentence would be amended by removing "in Appendix I of this subpart," and adding in its place "by the Director of Personnel in accordance with 5 CFR 735.403."

b. Paragraph (a) of § 1000.735–26 would be further amended by adding the following sentences to the end of that paragraph "Grievances shall be decided by the Director of Personnel. Appeals of initial decisions shall be decided by the Managing Director."

§ 1000.735–30 [Redesignated as § 1000.735–31]

6. Section 1000.735–30 would be redesignated as § 1000.735–31

7. A new § 1000.735–30 would be added to Part 1000 to read as follows:

§ 1000.735–30 Sexual harassment.

(a) Members and employees shall not engage in harassment on the basis of sex. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when: (1) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or (3) such conduct has the purpose or effect of interfering with an individual's work performance or creating an intimidating, hostile, offensive or unpleasant working environment.

(b) Employees and applicants may follow the standard equal employment opportunities complaint process if they believe they have a work related sexual harassment problem. This requires that the employee or applicant contact an EEO Counselor within 20 days of the alleged harassment, or, if a personnel action is involved within 30 days of its effective date.

Appendix I [Removed]

8. Appendix I to Subpart B of Part 1000 would be removed.

Appendix II [Amended]

9. Appendix II to Subpart B of Part 1000 would be redesignated as "Appendix," and paragraph (4) would be revised to read as follows:

4. *Post employment conflict of interest (18 U.S.C. 207).*

I. General

A. The Ethics in Government Act (Pub. L. 95–521) (the Act) broadened and added new restrictions to the existing provisions of 18 U.S.C. 207, which generally prohibit a former Government employee from acting as another person's representative to the Government in matters in which the employee had been involved while in the Government. Criminal penalties or fines of not more than $10,000 and imprisonment for not more than two years, as well as administrative sanctions are provided for violation of the Act.

1. *Post-Employment Generally.* It is important to note that nothing in the Act requires a former employee to decline employment with any organization regardless of dealings with that organization while a Government employee.

2. *Required Nexus.* With the exception of the 207(c) bar, what is prohibited depends upon the former employee's degree of involvement in the matter while with the Government and whether he or she was one of a specified group of high-ranking employees ("Senior Employees")

II. General Restrictions Applicable to all Former Employees

A. *Permanent Bar.* (18 U.S.C. 207(a); 5 CFR 737.5) After leaving Government employment, a former employee may not serve as another person's representative to the Government on a case contractual matter or other similar application or proceeding, formal or informal, in which he or she participated personally and substantially while a Government employee.

1. There are two important limitations to this prohibition which attacks "switching sides." First, the former employee is not restricted unless the matter in which he or she previously participated was (i) a "particular matter involving specific parties" and (ii) is the same matter in which he or she now attempts to represent another before the Government. Thus, where an employee's prior involvement was limited to, say, the design of program policy, general rulemaking, or technical concepts, he or she is not restricted by this prohibition as to any specific matters which may involve his or her prior work. Second, this bar requires that the employee has been personally involved in the matter in a substantial way.

2. The kind of representation that is restricted includes not only acting as another's attorney or agent, but any other kind of representation or communication made with the intent to influence the United States. This includes promotional and contract representation.

B. *Two-Year Bar.* (18 U.S.C. 207(b)(i) 5 CFR 737.7) This is basically the same bar as above, except that it applies for only two years and covers all particular matters which were actually pending under the former employee's "official responsibility" in his or her last year of Government service. An employee's official responsibility is usually defined by statute, regulation, written delegation of authority or job description.

1. There may be times when a former employee is in doubt as to whether a matter was under his or her official responsibility, whether it is the same "particular matter" as that with which he or she was involved or whether the United States still has an interest in the matter. His or her former agency has an obligation to advise promptly on those questions as provided in the regulations issued by the Office of Personnel Management (5 CFR Part 737)

III. Restrictions Applicable Only to Senior Employees

A. *Two-Year Bar on Assisting in Representing.* (18 U.S.C. 207(b)(ii); 5 CFR 737.9) For two years after leaving Government employment, a former Senior Employee may not assist in the representation of another person by personal presence at an appearance before the Government on any particular matter in which he or she could not act as the person's actual representative because of his or her substantial personal participation in the matter while in Government.

1. It is important to note that this restriction does not bar a Senior Employee from assisting on a matter in which he or she participated while in Government but only from assisting "in representing" while personally present at a formal or informal appearance. Thus, such employee could work on a contract with which he or she was involved while in Government and could manage a company, institution or university where such former employee's decisions determine the manner in which his or her organization will perform under a Government contract or grant.

B. *One-Year Bar on Attempts to Influence Former Agency.* (18 U.S.C. 207(c); 5 CFR 737.11) For one year after leaving Government employment, a former Senior Employee may not represent anyone in an attempt to influence his or her former agency on a matter before, or of substantial interest to such agency.

1. This "revolving door" provision is different from the previous restrictions in the following ways:

a. It does not require that the former employee have had any prior involvement in the matter.

b. The matters covered are broader; they need not involve specific parties, so the former employee could not, for example, attempt to influence rulemaking or policy formation.

c. It is limited to contact with his or her former agency; he or she may appear before, or act to influence, any other part of the Government in regard to a matter not otherwise covered.

d. The matter must be pending before, or of substantial interest to, his or her former agency.

e. The restriction covers the former employee's self-representation except for those matters outlined in subsection 2 below.

2. There are a number of matters to which the restriction does not apply, among these are:

a. Purely social or informational communications.

b. Transmission of filings which do not require Governmental action.

c. Personal matters.

d. Representing oneself in any judicial or administrative proceeding.

e. Any expression of personal views where the former employee has no pecuniary interest.

f. Response to the former agency's request for information.

g. Participation as the principal researcher under Government grants.

IV. What Is a Senior Employee? (18 U.S.C. 207(d); 5 CFR 737.25)

A. There are four groups of Senior Employees, two are named automatically by statute: (i) Civilians paid at the Executive Level and (ii) active duty uniformed service officers serving in grade 0–9 and above. Two other groups, (iii) civilians at or equivalent to GS–17 or above and (iv) uniformed service officers in grades 0–7 and 0–8, having significant decision-making or supervisory responsibility, must first be designated by the Director of the Office of Government Ethics before they are chargeable as Senior Employees.

1. Those automatically covered by the statute were made subject to the Act's

special restrictions on Senior Employees as of July, 1979.

2. Those designated by the Director, OGE, were covered as of February 28, 1980.

PART 1000—[AMENDED]

10. Part 1000 would be amended by adding a new Subpart D to read as follows:

Subpart D—Administrative Enforcement of Improper Post-Employment Activity

Sec.

1000.737–1 General.
1000.737–2 Initiation of enforcement action.
1000.737–3 Review and investigation.
1000.737–4 Notice of proceeding and opportunity for a hearing.
1000.737–5 Presiding official.
1000.737–6 Time, date, and place of hearing.
1000.737–7 Hearing rights.
1000.737–8 Burden of proof.
1000.737–9 Hearing decision.
1000.737–10 Administrative sanctions.
1000.737–11 Judicial review.

Authority: 18 U.S.C. 207(j), 49 U.S.C. 10321 and 5 U.S.C. 553.

Subpart D—Administrative Enforcement of Improper Post-Employment Activity

§ 1000.737–1 General.

A violation of 18 U.S.C. 207 [See 49 CFR Part 1000 Subpart B, Appendix, paragraph (4)) or the regulations set forth in 5 CFR Part 737 may be cause for appropriate administrative action which may be in addition to any penalty prescribed by law. This subpart is established pursuant to the provisions of 18 U.S.C. 207(j) and 5 CFR 737.27 to implement agency procedures for administrative enforecment of post-employment restrictions.

§ 1000.737–2 Initiation of enfocement action.

Information regarding a possible violation of 18 U.S.C. 207 by a former Commissioner or former Commission employee may be brought to the attention of the Commission by filing such information with the Ethics Counselor.

§ 1000.737–3 Review and investigation.

(a) Upon receipt of information regarding a possible violation of 18 U.S.C. 207, and after determining that such information appears non-frivolous, the Ethics Counselor shall forward the information to the Commission with any recommendations he or she may wish to make on administrative action; the Counselor shall also expeditiously provide such information, along with any comments or Commission regulations, to the Director of the Office of Government Ethics and to the Criminal Division, Department of Justice. The Commission shall coordinate any investigation or administrative action with the Department of Justice to avoid prejudicing criminal proceedings, unless the Department of Justice communicates to the Commission that it does not intend to initiate criminal prosecution.

(b) Whenever the Commission has determined after appropriate review that there is reasonable cause to believe that a former Commissioner or Commission employee has violated 18 U.S.C. 207, it may designate the matter for an administrative disciplinary proceeding.

§ 1000.737–4 Notice of proceeding and opportunity for a hearing

(a) Upon designating such matter for an administrative disciplinary proceeding, the Commission shall provide the former Commissioner or former Commission employee with notice of an intention to institute a proceeding and an opportunity for a hearing. Such notice shall include:

(1) A statement of allegations (and the basis thereof) sufficiently detailed to enable the former government employee to prepare an adequate defense;

(2) Notification of the right to a hearing; and

(3) An explanation of the method by which a hearing may be requested.

(b) If such former Commissioner or Commission employee fails to request a hearing within ten (10) calendar days of receipt of the notice or has waived the opportunity for a hearing, the Commission may take such administrative action as outlined in §1000.737–10, of this subpart. The former employee shall submit a written request for a hearing to the Chairman, Interstate Commerce Commission, 12th & Constitution Ave., NW. Washington, D.C. 20423.

§ 1000.737–5 Presiding official.

(a) The presiding official at proceedings under this section shall be the Chairman or an individual designated by the Chairman to make an initial decision. This person shall be called the examiner.

(b) The examiner at such proceeding must be a Commissioner, a member of a Review Board, an Administrative Law Judge or an attorney employed by the Commission. An employee selected and appointed as an examiner shall be authorized, in writing, by the Chairman to administer oaths or affirmations under 5 U.S.C. 2903(b)(2). The examiner shall be provided with appropriate administrative and secretarial support.

(c) The examiner shall be impartial. No individual who has participated in any manner in the decision to initiate the proceedings may serve as the examiner in those proceedings.

§ 1000.737–6 Time, date, and place of hearing.

(a) The hearing shall be conducted at a reasonable time, date, and place. In setting a hearing date, the examiner shall give due regard to the former government employee's need for adequate time to prepare a defense and an expeditious resolution of allegations that may be damaging to his or her reputation.

(b) Official notice of the time, date and place shall be sent by registered mail, return receipt requested, to the former employee. The mailing shall include a copy of these precedures.

(c) Hearings will be closed unless an open hearing is requested by the former employee. A request for an open hearing shall be made at least ten (10) days prior to the hearing date.

§1000.737–7 Hearing rights.

The hearing shall include, at a minimum the following rights for all parties:

(a) To represent oneself or to be represented by counsel;

(b) To introduce and examine witnesses and to submit physical evidence;

(c) To confront and cross-examine adverse witnesses and to submit physical evidence;

(d) To present oral argument: and

(e) To a transcript or recording of proceedings, on request.

§ 1000.737–8 Burden of proof.

In any hearing under this subpart, the Commission shall have the burden of proof and must establish substantial evidence of a violation.

§ 1000.737–9 Hearing decision.

(a) The examiner shall make a determination based exclusively on matters of record in the proceeding, and shall set forth in the decision all findings of fact and conclusions of law relevant to the matters at issue. Copies of the decision shall be furnished promptly to the former employee and his or her counsel.

(b) Within 30 days after the initial decision either party to the proceeding may appeal the decision to the Commission. Unless the Commission orders otherwise, other parties to the proceeding may file comments within 20 days after such appeal is filed, and the party that filed such appeal may file a reply within 10 days after the period for filing comments has expired. The Commission shall base its decision on

such appeal solely on the record of the proceedings or those portions thereof cited by the parties to limit the issues.

(c) If the Commission modifies or reverses the initial decision, it shall specify such findings of fact and conclusions of law as are different from those of the presiding official. The Commission's decision to uphold, modify, or reverse the examiner's initial decision shall be the final agency decision on the matter.

§ 1000.737-10 Administrative sanctions.

The Commission may take appropriate action in the case of any individual found in violation of 18 U.S.C. 207 (a), (b) or (c) after a final administrative decision, or in the case of any individual who failed to request a hearing, after having received adequate notice. Appropriate action may include:

(a) Prohibiting the individual from making on behalf of any other person except the United States, any formal or informal appearance before, or with the intent to influence, any oral or written communication to, such department or agency on any matter of business for a period not to exceed five years, which may be accomplished by directing agency employees to refuse to participate in any such communication; or

(b) Taking other appropriate disciplinary action.

§ 1000.737-11 Judicial review.

Any person found to have participated in a violation of 18 U.S.C. 207 (a), (b), or (c) may seek judicial review of the administrative determination in an appropriate United States District Court.

[FR Doc. 82-34397 Filed 12-20-82; 8:45 am]

BILLING CODE 7035-01-M

Notices

Federal Register
Vol. 47, No. 245
Tuesday, December 21, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Vasquez Peak Wilderness Study Area; Hearing Notice

Notice is hereby given that public hearings will be held on the proposed future management of the Vasquez Peak Wilderness Study Area.

The Vasquez Peak Wilderness Study Area is comprised of approximately 12,800 acres within the Arapaho National Forest in the County of Grand in the State of Colorado. This portion of the Arapaho National Forest is administered by the Forest Supervisor of the Routt National Forest.

Hearings will be held as follows:

Tuesday, January 18, 1983, 7:00–10:00 p.m., West Portal Station Building at Winter Park Ski Area, Denver, Colorado

Wednesday, January 19, 1983, 7:00–10:00 p.m., Botanical Gardens, Denver, Colorado

A brochure containing a map and information about the proposal may be obtained from the District Ranger's Offices at Walden, Yampa, Steamboat Springs, Craig, Kremmling, and Granby, Colorado, as well as at the Supervisor's Office, 137 10th Street, Steamboat Springs, Colorado 80477.

Individuals and organizations may express their views by appearing at these hearings or may submit written comments for inclusion in the official record to the Forest Supervisor at the above address. The time available to each speaker will be limited depending on the number of people who wish to speak. To be included in the official record, written comments must be received by March 25, 1983.

Dated: December 16, 1982.

F. Dale Robertson,

Associate Chief.

[FR Doc. 82-34566 Filed 12-20-82; 8:45 am]

BILLING CODE 3410-11-M

Soil Conservation Service

Camp Joy Flood Prevention and Land Drainage RC&D Measure, Virginia; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Camp Joy Flood Prevention and Land Drainage RC&D Measure, Tazewell County, Virginia.

FOR FURTHER INFORMATION CONTACT: Mr. Manly S. Wilder, State Conservationist, Soil Conservation Service, 400 North Eighth Street, P.O. Box 10026, Richmond, Virginia 23240, telephone 804–771–2455.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Manly S. Wilder, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for drainage and flood prevention on the grounds of Camp Joy. The planned work will include grading and shaping about 0.2 acres, excavation of a waterway with associated mechanical drainage and vegetative measures will be installed. Curbing around the parking area and a concrete wingwall to divert water from a building is planned. About 350 feet of interceptor tile with a gravel filter will be installed. The planned works of improvement include seeding and mulching.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Manly S. Wilder.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: December 10, 1982.

Manly S. Wilder,

State Conservationist.

[FR Doc. 82-34457 Filed 12-20-82; 8:45 am]

BILLING CODE 3410-16-M

Statistical Reporting Service

Changes in Grain Stocks Surveys

The statistical Reporting Service (SRS) proposes to move the October 1 Grain Stocks survey to September 1 starting in 1983. SRS is currently conducting a soybean stocks survey as of September 1, while the fall quarter stocks survey for other crops is conducted as of October 1. Many respondents to the two surveys are the same, and single fall stocks survey covering all crops would lessen respondent burden and result in cost savings. Furthermore, an earlier survey date for corn and sorghum would reduce the problem of new crop grain being erroneously reported in old crop (carryover) totals. The Statistical Reporting Service will work with the Economic Research Service to adjust 10 years of historic October 1 stocks data for all crops to a September 1 base and these data will be published.

SRS also proposed to estimate sunflower seed stocks by quarters rather than estimate rye and flaxseed stocks. Rye and flaxseed stocks estimates would be continued through June 1983 and the new series on sunflower seed

stocks would begin September 1, 1983. Sunflower production has become increasingly important while rye and flaxseed production has declined.

Comments on the above proposals should be addressed to Robert L. Schulte, Chief, Crops Branch, Estimates Division, Room 5175–S, USDA/SRS, Washington, D.C. 20250. The comment period will close February 1, 1983.

Done at Washington, D.C., this 16th day of December 1982.

W. E. Kibler,

Administrator.

[FR Doc. 82-34566 Filed 12-20-82; 8:45 am]

BILLING CODE 3410-20-M

DEPARTMENT OF COMMERCE

International Trade Administration

Arizona State University; Decision on Application for Duty-Free Entry of Scientific Instrument

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 AM and 5:00 PM in Room 2097, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 82–00256. Applicant: Arizona State University, Tempe, Arizona 85287. Instrument: BAF 400D Freeze Etching System & Accessories. Manufacturer: Balzers Aktiengesellschaft, Liechtenstein. Intended use of instrument: See Notice on page 32161 in the **Federal Register** of July 26, 1982.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument is an integrated system with: (1) Automatic vacuum and temperature control, (2) a microtome with motors for cutting motion and knife advance and (3) control of shadowing angle and coating thickness. The Department of Health and Human Services advises in its memorandum dated October 12, 1982 that: (1) The capabilities of the foreign instrument described above are pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 82-34571 Filed 12-20-82; 8:45 am]

BILLING CODE 3510-25-M

Duke University; Decision on Application for Duty-Free Entry of Scientific Instrument

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued pursuant there to (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 AM and 5:00 PM in Room 2097, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 82–00253. Applicant: Duke University, Durham, NC 27706. Instrument: Fluorescence Lifetime Instrument. Manufacturer: Photochemical Research Associated, Incorporated, Canada. Intended use of Instrument: See Notice on page 33527 in the **Federal Register** of August 3, 1982.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, is being manufactured in the United States. Reasons: The foreign instrument provides pulsed excitation capable of showing more than two decay components. The National Bureau of Standards advises in its memorandum dated November 2, 1982 that: (1) The capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 82-34572 Filed 12-20-82; 8:45 am]

BILLING CODE 3510-25-M

Georgia Institute of Technology; Decision on Application for Duty-Free Entry of Scientific Instrument

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 AM and 5:00 PM in Room 2097, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 82–00260. Applicant: Georgia Institute of Technology, Engineering Experiment Station, 225 North Avenue, NW, Atlanta, GA 30322. Instrument: Extended Interaction Oscillator. Manufacturer: Varian/Canada, Canada. Intended use of instrument: See Notice on page 32182 in the **Federal Register** of July 26, 1982.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, is being manufactured in the United States.

Reasons: This application is a resubmission of Docket Number 81–00355 which was denied without prejudice to resubmission on March 26, 1982 for informational deficiencies. The foreign instrument provides a center frequency of 95 gigahertz. The National Bureau of Standards advises in its memorandum dated October 25, 1982 that: (1) The capability of the foreign instrument described above is pertinent

to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 82-34570 Filed 12-20-82; 8:45 am]

BILLING CODE 3510-25-M

University of Hawaii at Manoa; Decision on Application for Duty-Free Entry of Scientific Instrument

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 AM and 5:00 PM in Room 2097, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 82-00163. Applicant: University of Hawaii at Manoa, Procurement and Property Management Office, Bachman Hall Annex No. 3, 2444 Dole Street, Honolulu, Hawaii 96822. Instrument: Ship Motion Meter. Manufacturer: Osaka Design Model Kabushiki Kaisha, Japan. Intended use of instrument: See Notice on page 21905 in the **Federal Register** of May 20, 1982.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides a decoupled output of its motion sensors which is needed for *in situ* studies and data analysis. The National Bureau of Standards advises in its memorandum dated November 10, 1982 that: (1) The capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 82-34573 Filed 12-20-82; 8:45 am]

BILLING CODE 3510-25-M

Yale University; Decision on Application for Duty-Free Entry of Scientific Instrument

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 2097, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 82-00124. Applicant: Yale University, 272 Whitney Avenue, P.O. Box 6666, New Haven, CT 06511. Instrument: Large-Solid-Angel Split-Pole Magnetic Spectrograph. Manufacturer: ANAC, Incorporated, New Zealand. Intended use of instrument: See Notice on page 30537 in the **Federal Register** of July 14, 1982.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides a full solid angle equal to 12 milli-steradians over the range of radii from 51.1 centimeters to 92.0 centimeters. The National Bureau of Standards advised in its memorandum dated October 25, 1982 that: (1) The capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 82-34569 Filed 12-20-82; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF ENERGY

National Petroleum Council, Coordinating Subcommittee of the Committee on Enhanced Oil Recovery; Meeting

Notice is hereby given that the Coordinating Subcommittee of the Committee on Enhanced Oil Recovery will meet in March 1983. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Enhanced Oil Recovery will investigate the technical and economic aspects of increasing the Nation's petroleum production through enhanced oil recovery. Its analysis and findings will be based on information and data to be gathered by the various task groups. The time, location and agenda of the Coordinating Subcommittee meeting follows:

The Coordinating Subcommittee will hold its sixth meeting on Tuesday, March 22, 1983, starting at 10:00 a.m. in the Rayburn I Room, Stouffer's Greenway Plaza Hotel, Six Greenway Plaza East, Houston, Texas.

The tentative agenda for the Coordinating Subcommittee meeting follows:

1. Opening remarks by the Chairman and Government Cochairman.
2. Review progress of Coordinating Subcommittee task group study assignments.
3. Review progress of the task group study assignments.
4. Discuss any other matters pertinent to the overall assignment from the Secretary of Energy.

The meeting is open to the public. The Chairman of the Coordinating Subcommittee is empowered to conduct the meeting in a fashion that will, in his

judgement, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Coordinating Subcommittee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform G. J. Parker, Office of Oil, Gas, and Shale Technology, Fossil Energy, 301/353–3032, prior to the meeting and reasonable provision will be made for their apppearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 1E–190, DOE, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on December 15, 1982.

Donald L. Bauer,

Principal Deputy Assistant Secretary for Fossil Energy.

[FR Doc. 82–34543 Filed 12–20–82; 8:45 am]

BILLING CODE 6450–01–M

National Petroleum Council, Coordinating Subcommittee of the Committee on Enhanced Oil Recovery; Meeting

Notice is hereby given that the Coordinating Subcommittee of the Committee on Enhanced Oil Recovery will meet in February 1983. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Enhanced Oil Recovery will investigate the technical and economic aspects of increasing the Nation's petroleum production through enhanced oil recovery. Its analysis and findings will be based on information and data to be gathered by the various task groups. The time, location and agenda of the Coordinating Subcommittee meeting follows:

The Coordinating Subcommittee will hold its fifth meeting on Thursday, February 17, 1983, starting at 10:00 a.m. in the Azalea Room, Stouffer's Greenway Plaza Hotel, Six Greenway Plaza East, Houston, Texas.

The tentative agenda for the Coordinating Subcommittee meeting follows:

1. Opening remarks by the Chairman and Government Cochairman.
2. Review progress of Coordinating Subcommittee task group study assignments.
3. Review progress of the task group study assigments.
4. Discuss any other matters pertinent to the overall assignment from the Secretary of Energy.

The meeting is open to the public. The Chairman of the Coordinating Subcommittee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Coordinating Subcommittee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform G. J. Parker, Office of Oil, Gas, and Shale Technology, Fossil Energy, 301/353–3032, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 1E–190, DOE, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on December 15, 1982.

Donald L. Bauer,

Principal Deputy Assistant Secretary for Fossil Energy.

[FR Doc. 82–34544 Filed 12–20–82; 8:45 am]

BILLING CODE 6450–01–M

National Petroleum Council, Coordinating Subcommittee of the Committee on Enhanced Oil Recovery; Meeting

Notice is hereby given that the Coordinating Subcommittee of the Committee on Enhanced Oil Recovery will meet in January 1983. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Enhanced Oil Recovery will investigate the technical and economic aspects of increasing the Nation's petroleum production through enhanced oil recovery. Its analysis and findings will be based on information and data to be gathered by the various task groups. The time, location and agenda of the Coordinating Subcommittee meeting follows:

The Coordinating Subcommittee will hold its fourth meeting on Tuesday, January 18, 1983, starting at 10:00 a.m. in the Plaza I Room, Stouffer's Greenway Plaza Hotel, Six Greenway Plaza East, Houston, Texas.

The tentative agenda for the Coordinating Subcommittee meeting follows:

1. Opening remarks by the Chairman and Government Cochairman.
2. Review progress of Coordinating Subcommittee task group study assignments.
3. Review progress of the task group study assignments.
4. Discuss any other matters pertinent to the overall assignment from the Secretary of Energy.

The meeting is open to the public. The Chairman of the Coordinating Subcommittee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Coordinating Subcommittee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform G. J. Parker, Office of Oil, Gas, and Shale Technology, Fossil Energy, 301/353–3032, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 1E–190, DOE, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on December 15, 1982.

Donald L. Bauer,

Principal Deputy Assistant Secretary for Fossil Energy.

[FR Doc. 82–34545 Filed 12–20–82; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. CP80–435–005]

Alaskan Northwest Natural Gas Transportation Co.; Amendment to Application

December 15, 1982.

Take notice that on November 4, 1982, Alaskan Northwest Natural Gas Transportation Company (Applicant), P.O. Box 1526, Salt Lake City, Utah 84110, filed in Docket No. CP80–435–005 pursuant to Section 7(c) of the Natural Gas Act and Section 9 of the Alaska Natural Gas Transportation Act an amendment to its application for a certificate of public convenience and necessity authorizing the construction

and operation of the Alaskan segments of the Alaska Natural Gas Transportation System (ANGTS). Copies of Volume I of the amendment, which this notice addresses, are on file with the Commission and are open to public inspection.[1]

Applicant states that this filing supplements the previous filings which were submitted in this proceeding on July 1, 1980, as supplemented on October 27, 1980, November 30, 1981, and amended on December 31, 1981. Applicant states that the instant filing supplements the previous application regarding the ANGTS Alaska Gas Conditioning Facility (AGCF).

Applicant states that the instant filing reflects certain revisions to the design and cost estimate of the AGCF resulting from engineering optimization studies and design refinement completed subsequent to the December 31, 1981, amendment. This adjustment results in a net decrease of $168 million in the prior estimate, for a total AGCF cost estimate of $3.83 billion in June 1981 dollars. The specific changes comprising the $168 million reduction are as follows:

Optimization and Design Development Adjustments ($1,000):	
(1) Centralization	($105,218)
(2) NGL Extraction/CO_2 Removal Trains Design Changes	(3,581)
(3) Pipeline Compressor Reduction	(20,581)
(4) Refrigeration Design Changes	(47,867)
(5) NGL Fractionation and Storage Facilities Design Changes	(18,479)
(6) Vacuum Compression Chillers Addition	2,379
(7) Dehydration System Addition	[illegible]
(8) Engineering Contractor Cost Adjustment	[illegible]7
(9) Vibration Monitoring System Increase	[illegible]
(10) Communication System Design Changes	[illegible]510]
(11) Additional Warehousing Requirement	6,824
(12) Utilities Plant and Power Generation Design Changes	[illegible]
(13) Flare System Design Changes	[illegible]
(14) Gravel Program Modifications	(1,779)
(15) Offsite Pipeline Modifications	(3,518)
(16) Temporary Facilities Cost Adjustments	3,821
(17) Fabrication, Logistics, and North Slope Service Adjustments	[illegible]
(18) Tax and Insurance Adjustments	(5,534)
Total Other Adjustments	(140,412)
Contingency Adjustments	[illegible]
Total Cost Estimate Adjustment	(168,410)

Applicant states that the purpose of the instant filing is to update the AGCF design and cost estimate to reflect the current design as of March 31, 1982, and should be processed in conjunction with the proceeding to be established for processing the December 31, 1981, AGCF filing. Proceedings with respect to the December 31, 1981, AGCF filing in Docket No. CP80-435-003 are currently being held in abeyance.[2]

Any person desiring to be heard or to make any protest with reference to said amendment should on or before January 5, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-34483 Filed 12-20-82; 8:45 am]

BILLING CODE 6717-01-M

[1] Volume II of the amendment is said to contain proprietary information regarding the SELEXOL process and has been tendered for filing on a confidential basis. It is indicated that on March 17, 1982, the Commission issued a Protective Order which set out procedures for preserving the confidentiality of information concerning the Allied Corporation SELEXOL Solvent Process and that such order pertained to Applicant's December 31, 1981, filing in Docket No. CP80-435-003. Applicant asserts that the March 17, 1982, Protective Order should also cover supplements or amendments to its December 31, 1981, filing.

[2] On February 12, 1982 the Secretary of the Commission notified Applicant of deficiencies with regard to Exhibits A, B, C, D, I, J, L, and N in its December 31, 1981, filing and stated that the filing would be accorded expedited treatment when and as the required information has been filed. On May 27, 1982, pursuant to Applicant's recommendation, the Presiding Administrative Law Judge, held in abeyance the proceeding to process the December 31, 1981, filing pending certain additional certificate filings including Applicant's financing plan.

[Docket No. QF83-47-000]

Alpha Farm Inc.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

December 14, 1982.

On November 9, 1982, Alpha Farm Inc., P.O. Box 187, Hackensack, New Jersey 07602, filed with the Federal Energy Reglatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The wind system will be located in Allentown, New Jersey. The electric power production capacity of the facility will be 40 kilowatts. Applicant does not own or operate any other small power production facility using wind as the primary energy source that is located within one mile of the facility. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestant parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-34484 Filed 12-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-99-000]

Arkansas Louisiana Gas Company, a Division of Arkla, Inc.; Application

December 15, 1982.

Take notice that on November 22, 1982, Arkansas Louisiana Gas Company, a division of Arkla, Inc. (Applicant), P.O. Box 21734, Shreveport, Louisiana 71151, filed in Docket No. CP83-99-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of taps on certain jurisdictional gas pipelines and related facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct and operate taps on the lines identified below for service to the following:

Line	Name of commercial establishment
AM-44	P. M. Adkins, McNeil, Ark.
O	Craig Cope, Hartshorne, Okla.
AD	Marion Posey, McAlester, Okla.
8-A	Lowell Flies, Sayre, Okla.
JM-24	Jesse McDermott, Earle, Ark.
SM-24	Coca-Cola Bottling Company of South Ark., Camden, Ark.
KM-19	Great Lakes Chemical Corp., El Dorado, Ark.
AM-148	Fiber Resources, Inc., Pine Bluff, Ark.
9-6	Carlton H. Berry, Cement, Okla.
AD	Samuel Jefferson, Weatherford, Okla.

Applicant states that the estimated cost of the proposed tap facilities is $105,525 which cost would be financed from funds on hand.

It is stated that the gas supply for these customers would be from general system supply with impact on Applicant's supply being negligible.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 5, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-34485 Filed 12-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. EF81-2021-002 and E-9563]

Bonneville Power Administration; Filing

December 13, 1982.

Take notice that the Bonneville Power Administration (BPA) on November 29, 1982, filed with the Commission a Petition for Extension of Transmission Rates until Janury 1, 1984.

On June 24, 1981, effective July 1, 1981, the Assistant Secretary for Conservation and Renewable Energy of the Department of Energy placed BPA's 1981 transmission rates into effect on an interim basis and filed the rates with the Commission requesting that they be granted final confirmation and approval. 46 FR 33542 (1981). On June 22, 1982, in Docket No EF81-2011, the Commission granted an extension of these interim rates until January 1, 1983. 19 F.E.R.C. section 61,281. BPA requests a twelve month extension, until January 1, 1984, of interim approval of the transmission rates schedules contained in Docket No. EF81-2021: (1) FPT-2 (Formula Power Transmission), (2) UFT-2 (Use-of-Facilities Transmission), (3) ET-2 (Energy Transmission), and (4) IR-1 (Integration of Resources). BPA also requests a twelve month extension of Set A and Set B of its General Transmission Rate Schedule Provisions, which are incorporated by reference in these four schedules.

On August 3, 1982, in Docket No. E-9563-, the Commission granted final confirmation and approval of BPA's 1976 transmission rates. 20 F.E.R.C. section 61,142. In that Order the Commission approved the FPT-1, UFT-1 and ET-1 transmission rate schedules for the period from June 10, 1977, until June 30, 1981. On July 1, 1981, BPA's 1981 rates went into effect. Some of BPA's transmission contracts, however, did not permit rates to be adjusted on July 1, 1981. Hence BPA has continued to collect under the FPT-1, UFT-1 and ET-1 schedules for these contracts. BPA therefore requests that the Commission also extend the effectiveness of the FPT-1, UFT-1 and ET-1 schedules until January 1, 1984.

In support of its request for extension, BPA indicates that it is in the process of developing a comprehensive transmission policy, which isn't expected to be finalized until January 1983. After such time BPA intends to develop new transmission rates consistent with this policy, and conduct a hearing and issue a decision on the new rates, all of which will not be completed until late 1983.

BPA also requests this extension in order to be allowed the time necessary to begin the process of complying with the commission's August 3, 1981 Order in Docket No. E-9563 before adjusting transmission rates.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before December 22, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-34507 Filed 12-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5874-001]

James O. Boyd; Surrender of Preliminary Permit

December 13, 1982.

Take notice that James O. Boyd, Permittee for the proposed Burney Creek Power Project No. 5874, has requested that his preliminary permit be terminated. The permit was issued on September 9, 1982, and would have expired on March 31, 1984. The project would have been located on Burney Creek near Burney, in Shasta County, California. The Permittee states that, because of fisheries release requirements and low power purchase prices, the proposed project would not be economically feasible.

The Permittee filed his request on November 17, 1982, and the surrender of his permit for Project No. 5874 is deemed effective as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-34508 Filed 12-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 4448-001]

Chasm Hydro, Inc.; Surrender of Preliminary Permit

December 13, 1982.

Take notice that Chasm Hydro, Inc., Permittee for the proposed Forge Dam Project No. 4448, has requested that its preliminary permit be terminated. The permit was issued on April 7, 1982, and would have expired on October 1, 1983. The project would have been located on the Chateaugay River in Franklin and Clinton Counties, New York.

The Permittee filed its request on November 3, 1982. The surrender of the preliminary permit for Project No. 4448

is deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-34509 Filed 12-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-82-000]

Consolidated Gas Supply Corp; Application

December 15, 1982.

Take notice that on November 12, 1982, Consolidated Gas Supply Corporation (Applicant), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP83-82-000 an application pursuant to Section 7(c) of the Natural Gas act for a certificate of public convenience and necessity authorizing the construction and operation of facilities to upgrade existing compressor engine at the Cornwell Compressor Station, Kanawha County, West Virginia, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to install a Cooper-Bessemer centrifugal blower kits on three existing compressor engine at its Cornwell Station. Applicant states that the modification is expected to increase the fuel efficiency of its station and incidentally increase the horsepower of each engine by 23 percent.

Applicant further states that the estimated cost of the proposed construction is $570,000 and that this cost would be financed from funds to be obtained from Applicant's parent corporation, Consolidated Natural Gas Company, from funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 5, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-34486 Filed 12-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-87-000]

Consolidated Gas Supply Corp.; Application

December 15, 1982

Take notice that on November 15, 1982, Consolidated Gas Supply Corporation (Consolidated), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP83-87-000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon 7,153 feet of 12¾-inch pipeline and related facilities located in Kanawha County, West Virginia, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Consolidated states that the pipeline to be abandoned, Line No. TL-293, is no longer needed because it connects Tennessee Gas Pipeline Company, a Division of Tenneco Inc.'s (Tennessee), facilities with Consolidated's Line No. TL-249 and that this interconnection has not been used for two years. It is submitted that Consolidated can receive its entitlement from Tennessee under its Rate Schedule CD-3 at higher pressures at the nearby Cornwell point of receipt where Tennessee interconnects with Consolidated's main line. Consolidated would also abandon an odorization plant because it is located on Line No. TL-293.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 5, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee or this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will by duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-34487 Filed 12-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 3356-001]

Continental Hydro Corp.; Surrender of Preliminary Permit

December 13, 1982.

Take notice that Continental Hydro Corporation, Permittee for the proposed Wister Dam Project No. 3356, has requested that its preliminary permit be terminated. The permit was issued on September 28, 1981, and would have expired on March 1, 1983. The project would have been located on the Poteau River in LeFlore County, Oklahoma.

Continental Hydro has determined that hydro development at this time would not be economically feasible.

Permittee filed its request on October 29, 1982. The surrender of the preliminary permit for Project No. 3356

is deemed accepted of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-34510 Filed 12-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 3400-001]

Continental Hydro Corp.; Surrender of Preliminary Permit

December 13, 1982.

Take notice that Continental Hydro Corporation, Permittee for the proposed Buckhorn Dam Project No. 3400, has requested that its preliminary permit be terminated. The permit was issued on June 9, 1981, and would have expired on December 31, 1983. The project would have been located on the Middle Fork of the Kentucky River in Perry County, Kentucky.

The Permittee filed its request on October 28, 1982, and the surrender of the preliminary permit for Project No. 3400 is deemed accepted of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-34511 Filed 12-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EC83-4-000]

The Detroit Edison Co.; Application

December 14, 1982.

Take notice that on December 2, 1982, The Detroit Edison Company (Edison), 2000 Second Avenue, Detroit, Michigan 48226, submitted an Application for Authority to Sell Certain Public Utility Facilities which are proposed to be sold and conveyed to the Michigan Public Power Agency (MPPA) and for such further relief as may be appropriate.

Edison's filing states that the facilities consist of certain coal handling facilities serving Edison's St. Clair Power Plant and which will serve Edison's Belle River Power Plant, which is presently under construction. Edison will sell and convey an approximate 8.5 to 10.3% undivided ownership interest in the facilities to MPPA, and Edison and MPPA will, thereafter, jointly own the facilities as tenants in common. The sales price is expected to be between $3,012,000 and $3,650,000. MPPA is a public body politic and corporate organized pursuant to Act 448, Public Acts of Michigan 1976 and consists of sixteen municipal electric utility members. MPPA is empowered, among other things, to plan, finance, develop, own and operate projects to supply electric power and energy for the present and future needs of its members.

The sale and conveyance to MPPA of the facilities is proposed in connection with the establishment of: (1) The respective ownership interests of Edison and MPPA in the Bille River fossil construction in St. Clair County, Michigan, (2) the respective obligations and rights of Edison and MPPA with respect to the construction, operation and maintenance of Bille River, and (3) the terms and conditions under which Edison is willing to make available to MPPA certain back-up electric capacity and energy. Edison requests approval of its Application prusuant to the provisions of Section 203 of the Federal Power Act.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordane with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 4, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-34488 Filed 12-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-72-000]

El Paso Natural Gas Co.; Application

December 15, 1982.

Take notice that on November 8, 1982, El Paso Natural Gas Company (Applicant), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP83-72-000 an application pursuant to Section 311 of the Natural Gas Policy Act of 1978 and Section 284.107 of the Commission's Regulations for authorization to continue the transportation of natural gas for Westar Transmission Company, a Division of Pioneer Corporation (Westar), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that on January 1, 1979, it entered into an agreement with Westar, as amended, pursuant to which Applicant would provide transportation service for Westar for a primary term ending December 31, 1984, and thereafter from month to month. Applicant further states that such agreement initially provided for a transportation service in accordance with Section 284.102 of the Commission's Regulations for self-implementing transactions for a two-year period which commenced on January 1, 1979, and was later extended for an additional two-year period to expire on December 31, 1982.

It is submitted that under the terms of such agreement Applicant would transport natural gas received for Westar's account at the Phillips Petroleum Company Dumas Plant located in Moore County, Texas, and would concurrently deliver an equivalent volume, less 5 percent of such volumes received by Applicant, which reduction represents gas lost and unaccounted-for and mainline fuel requirements, to Mobil Oil Corporation's Waha Plant located in Pecos County, Texas, for the account of Westar.

For such service, Applicant proposes to charge Westar for each Mcf of natural gas transported by Applicant for the account of Westar at the rate in effect and reflected from time to time as the "Mainline Transmission Charge—Texas" set forth on Sheet No. 1-D.2 of Applicant's FERC Gas Tariff, Third Revised Volume No. 2, or superseding tariff. Applicant states that its maximum obligation to receive natural gas for transportation is 20,000 Mcf per day.

It is asserted that Westar would continue to use the subject gas for system supply and that without the proposed transportation Westar would be required to construct and operate additional pipeline facilities.

Any person desiring to be heard or to make any protests with reference to said application should on or before January 5, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in

accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-34489 Filed 12-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-22-000]

El Paso Natural Gas Co.; Petition for Issuance of Order Determining the Lawfulness of Prices To Be Applied to Certain Natural Gas Production

December 14, 1982.

Take notice that on November 19, 1982, El Paso Natural Gas Company (El Paso) submitted for filing a petition for issuance of an order under Section 5(a) of the Natural Gas Act (NGA) to determine that the prices to be applied to certain of El Paso's own production are lawful so long as such prices do not exceed statutory maximum lawful prices. Specifically, El Paso requests that the Commission determine: (1) That El Paso may establish prices for its natural gas production (described in the instant petition) at any level not exceeding the applicable maximum lawful price limits established under the Natural Gas Policy Act of 1978 (NGPA), and (2) subject to any applicable limitations established by the NGPA, that such prices are just and reasonable under the NGA, and accordingly may be reflected in El Paso's rates.

El Paso states that this petition, concerning the production that is described in Article V of the Stipulation and Agreement in Docket No. RP79-12 (Further Extension, *et al.*, is filed in response to the Commission's order dated September 30, 1982, in Docket No. TA 82-2-33, holding production at maximum lawful NGPA levels until El Paso has obtained an order so permitting issued under Section 5(a) of the NGA.

El Paso states that it maintains its challenge to the legality of the September 30 order as it pertains to the subject matter in the instant petition so filed and on other grounds; accordingly, by filing the herein referred to petition, El Paso does not concede the lawfulness of the order, and it expressly reserves its rights to contest the legality of such order in further proceedings.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protext with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before December 22, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-34490 Filed 12-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-9-000]

Faustina Pipe Line Co.; Application

December 15, 1982.

Take notice that on October 6, 1982 Faustina Pipe Line Company (Applicant), P.O. Box 3102, Tulsa, Oklahoma 74101, filed in Docket No. CP83-9-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Southern Natural Gas Company (Southern), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Pursuant to an agreement dated June 10, 1982, Applicant proposes to transport for a term of 20 years, up to 150 billion Btu of natural gas per day for Southern from various points on Applicant's contiguous mainline facilities located in southern Louisiana to any other points located on those same facilities. It is explained that upon reasonable notice to Applicant, Southern would be permitted to tender or receive to or from Applicant each day up to the full contract demand at any point on Applicant's system which Southern would elect in its sole discretion. Such transportation would be performed on a firm basis for the fifteen year primary term of the agreement, and on an interruptible basis thereafter.

Applicant states that pursuant to authorizations recently received from or currently pending before the Louisiana Commissioner of Conservation, Applicant plans to install an additional 121 miles of mainline transmission facilities necessary to effectuate the proposed transportation service. The cost of these facilities is estimated to be $96 million. Applicant estimates that it would be prepared to commence service under the agreement by January 1, 1984.

For such service, Applicant proposes to charge a commodity rate equal to 28.27 cents per million Btu transported and redelivered. Applicant represents that such a rate is the result of competitive factors and is less than that which would be cost justified. In addition to the commodity rate, Applicant also proposes a "minimum annual charge" equal to the commodity rate times 80 percent of the applicable contract quantity multiplied by the number of days in the year. Applicant asserts that such a charge is compensatory for the service which Applicant would perform on behalf of Southern.

Applicant currently is exempt from the provisions of the Natural Gas Act pursuant to Section 1(c) thereof.[1] Accordingly Applicant requests that simultaneous with the issuance of the authorization herein sought, the Commission also affirmatively and explicitly declare that the jurisdiction of the Commission under the Natural Gas Act over Applicant and the transactions in which it is engaged would extend solely to the service authorized and that the jurisdiction of the Commission under the Natural Gas Act specifically shall not extend to any transaction which, but for the service authorized to be performed on behalf of Southern, would not be subject to such jurisdiction. Such a declaration would recognize that any sale for resale of gas to or delivery of gas to, or redelivery of gas by, Applicant by or to any intrastate pipeline would not become subject to, nor subject either Applicant or such intrastate pipeline or any other party to the jurisdiction of the Commission under the Natural Gas Act if such jurisdiction would result solely either because of the commingling of such gas with that gas redelivered by Applicant for the account of Southern for ultimate transportation and consumption in another state or because the transaction involved is with Applicant.

As a related matter, Applicant also requests that, simultaneous with the issuance of the authorization herein sought, the Commission further affirmatively authorize the abandonment of the services thus approved effective in the event of any determination by the Commission, a court or competent jurisdiction, or any other tribunal having jurisdiction in the premises that, by reason of the service so authorized, any other transportation or sale of gas by Applicant or by any other person transporting, selling, or purchasing gas through, from or to Applicant, or Applicant or any other person, has or will, if continued, become

---

[1] See order issued August 12, 1981, in Docket No. CP80-540 (16 FERC ¶61,128).

subject to the jurisdiction of the Commission under the Natural Gas Act.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 5, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-34490 Filed 12-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP82-18-005, et. al.]

Granite State Gas Transmission, Inc., et. al.; Filing of Pipeline Refund Reports and Refund Plans

December 14, 1982.

Take notice that the pipelines listed in the Appendix hereto have submitted to the Commission for filing proposed refund reports or refund plans. The date of filing, docket number, and type of filing are also shown on the Appendix.

Any person wishing to do so may submit comments in writing concerning the subject refund reports and plans. All such comments should be filed with or mailed to the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before December 28, 1982. Copies of the respective filings are on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

APPENDIX

Filing date	Company	Docket No	Type filing
11/30/82	Granite State Gas Transmission, Inc.	RP82-18-005	LFUT Report
12/ 1/82	Algonquin Gas Transmission Co	RP82-19-003	Do.
12/ 1/82	Tennessee Gas Pipeline Co	RP81-54-007	Report
12/ 1/82	Texas Eastern Transmission Corp	RP81-121-005	LFUT Report
12/ 1/82	Transwestern Pipeline Co	RP82-24-005	Do.
12/ 2/82	East Tennessee Natural Gas Co	RP82-22-003	Do.
12/ 3/82	Northern Natural Gas Co	RP78-56-007	Report.
12/ 3/82	Southern Natural Gas Co	RP81-105-016	LFUT Report
12/ 6/82	Cities Service Gas Co	RP81-127-006	Do.
12/ 6/82	Equitable Gas Co	RP82-40-004	Do
12/ 6/82	North Penn Gas Co	RP82-20-003	Do
12/ 7/82	Natural Gas Pipe Line Company of America	RP72-132-000	Report

[FR Doc. 82-34491 Filed 12-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GT83-7-000]

Great Lakes Gas Transmission Co.; Proposed Change in FERC Gas Tariff

December 14, 1982.

Take notice that on November 24, 1982, Great Lakes Gas Transmission Company (Great Lakes) tendered for filing the following tariff sheets:

	Proposed effective date
First Revised Volume No. 1:	
Third Revised Sheet No. 3	Dec. 22, 1982
Third Revised Sheet No. 116	Dec. 22, 1982
Original Volume No. 2:	
Seventh Revised Sheet No. 3	Dec. 22, 1982
Original Sheet No. 370-A	Nov. 1, 1982

Third Revised Sheet No. 3 of First Revised Volume No. 1 and Seventh Revised Sheet No. 3 of Original Volume No. 2 contain an updated map of Great Lakes' pipeline system as required under § 154.37 of the Commission's Regulations.

Third Revised Sheet No. 116 of First Revised Volume No. 1 sets forth an updated Index of Purchasers served under Rate Schedules contained in First Revised Volume No. 1.

Original Sheet No. 370-A of Original Volume No. 2 is a title page for Rate Schedule T-12. This page was inadvertently omitted in the initial Rate Schedule T-12 date September 28, 1981.

Copies of this letter were served upon all of Great Lakes' customers and the Public Service Commissions of Minnesota, Michigan and Wisconsin.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 385.11, 385.214). All such petitions or protests should be filed on or before December 22, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-34489 Filed 12-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EC83-3-000]

Interstate Power Co.; Application

December 14, 1982.

Take notice that on December 1, 1982, Interstate Power Company (Applicant) of Dubuque, Iowa, filed an Application pursuant to Section 203 of the Federal Power Act seeking authority to sell to Dairyland Power Cooperative certain electric transmission line facilities and real estate located in the Counties of Olmsted and Wabasha, State of Minnesota.

The facilities proposed to be sold by Applicant for a base purchase price of $16,472.22, consist of approximately 18.83 miles of 34.5KV transmission line.

Applicant represents that after the sale there will be no change in the use of the facilities.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 4, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-34500 Filed 12-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-177-000]

Kansas Power & Light Co.; Filing

December 14, 1982.

Take notice that on December 6, 1982, Kansas Power and Light Company (KPL) tendered for filing a supplemental agreement to original contract dated September 21, 1973 with The Kaw Valley Electric Cooperative Company, Inc., Topeka, Kansas for wholesale service to that Cooperative with the proposed effective date of not later than December 31, 1982. KPL states that this supplement permits The Kaw Valley Electric Cooperative Company, Inc. to receive service under rate schedule RCW-81 Revised designated supplement 1 to supplement 9 to R.S. FERC No. 156. The proposed change will delete the two present delivery points of Watson and Lecompton. A new delivery point of Stull will be added and the Banning Corner delivery point maximum capacity will lowered. The redistribution of load will allow for greater efficiency by the Cooperative.

Copies of the filing have been mailed to The Kaw Valley Electric Cooperative Company, Inc. and the State Corporation Commission of Kansas.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capital Street, N.E., Washington, D.C. 20426, in accordance with Rule 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such motions or protests should be filed on or before December 30, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person desiring to heard or to protest said filing should file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-34501 Filed 12-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-97-000]

MIGC, Inc.; Application

December 15, 1982.

Take notice that on November 18, 1982 MIGC, Inc. (Applicant), 10880 Wilshire Boulevard, Los Angeles, California 90024, filed in Docket No. CP83-97-000 an application pursuant to pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for ARCO Oil and Gas Company (ARCO), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport and exchange up to 2,000 Mcf of natural gas per day with ARCO pursuant to an exchange agreement with ARCO dated October 11, 1982. It is stated natural gas would be delivered by Applicant to ARCO at an existing point of interconnection between the parties near the Recluse facilities of ARCO located in Campbell County, Wyoming. It is further stated ARCO wishes to convert the Recluse facility from a processing operation to compression operation and perform all processing at its Kitty facility, Campbell County, Wyoming. To do so, it is stated ARCO would need up to 2,000 Mcf of natural gas per day for plant fuel and lease fuel at Recluse. Applicant proposes to deliver to ARCO the proposed volumes at the Recluse facilities from volumes of natural gas which it presently purchases from Montana-Dakota Utilities, Inc. It is asserted Applicant would accept similar volumes from ARCO at the outlet of the Kitty facility.

It is stated the arrangement is mutually beneficial, and, as such, no charge is proposed for the exchange. Applicant avers no construction of facilities is necessary for the exchange and it would not affect the ability of Applicant to serve its existing customers.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 5, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211), and the Regulations under the National Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificates is required by public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be

unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-34493 Filed 12-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GT83-6-000]

Natural Gas Pipe Line Co. of America; Proposed Change in FERC Gas Tariff

December 14, 1982.

Take notice that on November 24, 1982, Natural Gas Pipeline Company of America (Natural) submitted for filing to be effective January 1, 1982, the following tariff sheets to be part of its FERC Gas Tariff:

Third Revised Volume No. 1

Fifth Revised Sheet No. 2
Fifth Revised Sheet No. 2A
Fifth Revised Sheet No. 2B

Second Revision Volume No. 2

Eighteenth Revised Sheet No. 1
Fifth Revised Sheet No. 1A
Third Revised Sheet No. 1B.

Natural states that the purpose of the above-mentioned revised sheets is to update the Table of Contents of the Second Revised Volume No. 2 of Natural's FERC Gas Tariff.

Copies of this letter have been mailed to Natural's customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before December 22, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-34512 Filed 12-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6841-000]

Rivanna Water & Sewer Authority; Exemption From Licensing

December 15, 1982.

A notice of exemption from licensing of a small hydroelectric project known as the South Rivanna Hydropower Project No. 6841, was filed November 12, 1982, by Rivanna Water and Sewer Authority. The proposed hydroelectric project would have an installed capacity of 740 kW and would be located on the South Fork of the Rivanna River near Charlottesville, in Albermarle County, Virginia.

Pursuant to § 4.109(c) and 375.308(ss) of the Commission's regulations, and subject to the terms and conditions set forth in § 4.111 of the Commission's regulations, the Director, Office of Electric Power Regulation, issues this notification that the above project is exempted from licensing as of December 12, 1982.

Lawrence R. Anderson,

Director, Office of Electric Power Regulation.

[FR Doc. 82-34513 Filed 12-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5328-001]

L. MacRae Rood; Surrender of Preliminary Permit

December 13, 1982.

Take notice that L. MacRae Rood (LMR) Permittee for the proposed Moretown Project No. 5328 has requested that its preliminary permit be terminated. The preliminary permit was issued on April 16, 1982, and would have expired on September 20, 1983. The proposed project would have utilized an existing dam on the Mad River in the town of Moretown, Washington County, Vermont. LMR was unable to come to a satisfactory purchase agreement with the owner of the property at the dam site and therefore does not wish to pursue the project.

LMR made its request by letter dated November 16, 1982, and the surrender of its permit for Project No. 5328 has been deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-34514 Filed 12-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-173-000]

Metropolitan Edison Co.; Filing

December 14, 1982.

Take notice that on December 3, 1982, Metropolitan Edison Company (Met-Ed) filed tariff changes increasing its rates for wholesale all requirements, partial requirements and wheeling service. Met-Ed states that the changes, in two phases, reflect an annual increase in revenues of $1,692,108 (Phase A) and $1,842,638 (Phase B). Met-Ed request effective dates of February 1 and February 2, 1982, respectively.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before December 30, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-34492 Filed 12-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-1-8-000]

South Georgia Natural Gas Co.; Revision to Tariff

December 14, 1982.

Take notice that on December 6, 1982, South Georgia Natural Gas Company (South Geogria) tendered for filing Twentieth Revised Sheet No. 4 to its FPC Gas Tariff, First Revised Volume No. 1. This tariff sheet and supporting information is being filed 30 days before the effective date of January 1, 1983, pursuant to the Purchased Gas Adjustment Provisions set out in Section 14 of South Georgia's tariff.

South Georgia states that its Twentieth Revised Sheet No. 4 reflects increases in the rates of its pipeline supplier, Southern Natural Gas Company as filed to be effective January 1, 1983. This rate change will increase the cost of purchased gas to South Georgia's jurisdictional customers $8,610,216. Also reflected in Twentieth Revised Sheet No. 4 is a Surcharge Adjustment as provided for by Section 14.3 of the General Terms and Conditions of South Georgia's FPC Gas Tariff. The debit balance in the Unrecovered Purchased Gas Cost Account of $549,717 will be amortized over the estimated sales for the six-month period commencing January 1, 1983, by a surcharge adjustment rate of 6.93 cents per MMBtu.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington,

D.C. 20426, in accordance with Sections 211 and 214 of the Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before December 22, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-34515 Filed 12-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-18-000]

Texas Eastern Transmission Corp. v. North Alabama Gas District; Complaint and Petition for an Order Declaring Liability and Directing Compliance and for Expedited Consideration

December 14, 1982.

Take notice that on November 4, 1982, Texas Eastern Transmission Corporation (Texas Eastern) filed a complaint and petition to the Commission for issuance of an order declaring liability and directing North Alabama Gas District (North Alabama), a purchaser from Texas Eastern, to comply with the minimum monthly bill provisions of Texas Eastern's FERC Gas Tariff and for expedited consideration.

Texas Eastern states that its minimum monthly bill provision is an integral part of the rates, terms, provisions, and conditions pursuant to which Texas Eastern sells natural gas to North Alabama. However, for the month of June 1982, when Texas Eastern rendered to North Alabama as a part of its statement of changes for the month a minimum monthly bill charge of $1,079,394.26, North Alabama refused to pay the amount as rendered, instead, it made payment to Texas Eastern only for gas actually taken by North Alabama during June 1982, those payments being in the amount of $1,009,004.13.

North Alabama asserts that alleged events of force majeure occurring in the system of one of its customers excuses North Alabama from making the minimum monthly bill payments. However, Texas Eastern asserts that such events asserted by North Alabama do not constitute events of force majeure excusing performance by North Alabama in compliance with the minimum monthly bill provision of Texas Eastern's Tariff and Rate Schedule.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before December 22, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-34502 Filed 12-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. G-12425-000, et al.]

Texaco Producing Inc. (Successor in Interest to Texaco), et al.; Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

December 14, 1982.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before December 30, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, .214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft [3]	Pressure base
G-12425-000, E, Dec. 3, 1982	Texaco Producing Inc. (successor in interest to Texaco, Inc.) P.O. Box 52332, Houston, Texas 77052.	Texas Eastern Transmission Corp., Chapman Ranch Field, Nueces County, Tex.	([2])	14.65
G-18445-001, D, June 1, 1982	Gulf Oil Corp., P.O. Box 2100, Houston, Tex. 77252	Florida Gas Transmission Co., Shuteston Field, St. Landry Parish, La.	([2])	
CI69-754-000, C, Nov. 29, 1982	Getty Oil Co., P.O. Box 1404, Houston, Tex. 77001	Trunkline Gas Co., Vermilion Block 120 Field Offshore Louisiana.	([4])	15.025
CI69-806-001, Dec. 6, 1982	Cities Service Co., P.O. Box 300, Tulsa, Okla. 74102	Trunkline Gas Co., Vermilion Block 120 Field, Offshore Louisiana.	([5])	14.73
CI81-199-001, C, Nov. 22, 1982	Shell Offshore Inc., One Shell Plaza, P.O. Box 2463, Houston, Tex. 77001.	Transcontinental Gas Pipe Line Corp., Brazos Area Blocks A-19, A-20, and A-23, Offshore Texas.	([6])	14.73

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft ³	Pressure base
CI82-437-000 (CI71-508), B, July 14, 1982.	Sun Exploration & Production Co., formerly Sun Oil Co , P.O. Box 20, Dallas, Tex 75221.	Cities Service Co., Winchester Field, Woods County, Okla.	(⁹)	
CI83-67-000, F, Nov 19, 1982	Energy Reserves Group, Inc., (partial successor in interest to Edwin L. Cox), Post Office Box 1201, Wichita, Kans. 67201.	Texas Gas Transmission Corp., Ramos Field, St Mary Parish, La.	(⁹)	14 73
CI83-68-000, B, Nov. 22, 1982	Warren R. Haught or Eldon J. Haught, Agent, Route 3, Box 14, Smithville, W. Va 26178.	Pennzoil Exploration and Production Co., Sheridan District, Calhoun County, W. Va.	(¹⁰)	
CI83-70-000, B, Nov. 22, 1982	Willard Oil & Gas, Inc. (successor in interest to Earl T. Smith & Associates, Inc.), 1300 S. Cedar, Borger, Texas 79007.	Northern Natural Gas Co., Tarbox #1, Sec. 1014, Blk. 43, H&TC RRCo Survey, Ochiltree County, Tex.	(¹¹)	
CI83-71-000, A, Dec. 2, 1982	Phillips Petroleum Co., 336 HS&L Building, Bartlesville, Okla. 74004	West Texas Gathering Co., SW/4 Section 25, Block B-5, PSL Survey, Winkler County, Tex	(¹²)	14 73
CI83-73-000, A, Dec. 3, 1982	Texaco Inc., P.O. Box 60252, New Orleans, La. 70160.	Tennessee Gas Pipeline Co., Ship Shoal Area Block 181, Offshore Louisiana.	(¹³)	15.025
CI83-74-000, B, Dec. 3, 1982	Har-Ken Oil Co., (successor to Mobil Oil & Gas Co.), P.O. Box 626, Owensboro, Ky. 42302.	Texas Gas Transmission Corp., East Diamond Gas Field, Hopkins County Ky..	(¹⁴)	
CI83-75-000 (CI70-163), B Dec. 3, 1982.	Cornell Brothers, 2600 Breckenridge, Owensboro, Ky 42301.			
CI83-65-000 CI69-1043), B, Dec 3, 1982.	Glenn H. Brenn, (operator) et al., 525 Audobon Drive, Evansville, Ind. 47715.	Texas Gas Transmission Corp., Dalton Gas Field, Hopkins County, Ky.	(¹⁵)	
CI83-77-000, B, Dec. 3, 1982	C. B. Ames, d.b.a. Ames Oil & Gas, Suite 1000, 5051 Westheimer Road, Houston, Tex. 77056.	Texas Gas Transmission Corp., Poe Hill Gas Field, Hopkins County, Ky.	(¹⁴)	
CI83-78-000, B, Dec. 3, 1982	....do	Texas Gas Transmission Corp., East Diamond Gas Field, Hopkins County, Ky.	(¹⁴)	
CI83-79-000, A, Dec. 6, 1982	Mesa Petroleum Co., One Mesa Square, P.O. Box 2009, Amarillo, Tex. 79189	Northern Natural Gas Co., Gem-Hemphill Field, Hemphill County, Tex.	(¹⁶)	14 65
CI83-80-000, A, Dec 6, 1982	....do	Kansas-Nebraska Natural Gas Co., Inc., Bradshaw Field, Hamilton County, Kans.	(¹⁵)	14.65
CI83-81-000, (G-5891), B, Dec. 7, 1982.	Conoco Inc., P.O. Box 2197, Houston, Tex. 77252	Tennessee Gas Pipeline Co., Inc., Cold Springs Field, San Jacinto County, Tex.	(¹⁶)	
CI64-686-002, D, Dec. 24, 1982	Natural Gas Pipeline Company of America (partial successor to Tenneco Oil Co. (operator), et al., Agent for Tema Oil Co.) 122 South Michigan Avenue, Chicago, Ill. 60603.	Arkansas Louisiana Gas Co., Erick Field, Beckham County, Okla.	(¹⁷)	

[1] Applicant has acquired by assignment the interest of Texaco Inc. Assignor, in certain properties in the Chapman Ranch Field, Nuces County, Texas effective September 1, 1982.
[2] Applicant is filing under Gas Purchase Contract dated February 19, 1957, and Replacement Contract dated July 15, 1977.
[3] By this assignment dated July 29, 1969, Gulf assigned to Sun Oil Company its interest in a lease dated April 30, 1948.
[4] Applicant is filing under Gas Purchase Contract dated December 9, 1968, amended by amendatory agreement dated September 1, 1982
[5] Applicant is filing under Gas Purchase Contract dated December 23, 1968, amended by amendment dated July 12, 1982.
[6] Applicant is filing under Gas Sale and Purchase Contract dated December 15, 1980, amended by amendment dated September 16, 1982
[7] Application was erroneously noticed as partial abandonment in Docket No. CI71-508-000 on August 19, 1982.
[8] Applicant is requesting that its certificate of public convenience and necessity issued in Docket No. CI71-508 be abandonded because of assignment effective January 1, 1982 to Curtis F Clark and Kathleen T. Clark, dba Exploration.
[9] Applicant is filing under Gas Purchase Contract dated January 2, 1981.
[10] It is no longer economical for the field to be produced for Pennzoil to purchase it.
[11] The well pressure had dropped to the point that we could no longer deliver into Northern Natural Gas Company's line against the 200 PSI line pressure. Neither Northern Natural Gas Company nor Willard Oil & Gas Inc. believed that it is economically feasible to compress the gas so that delivery could be accomplished into the line.
[12] Applicant is filing under Gas Purchase Contract dated November 18, 1977 ratified by Ratification agreement dated December 20, 1977, and amended by agreement dated November 1, 1982.
[13] Applicant is filing under Gas Sales and Purchase Agreement dated November 2, 1982.
[14] Field depleted.
[15] Applicant is filing under Gas Purchase Contract dated December 21, 1973.
[16] All remaining acreage subject to RS No. 78 was conveyed to Ted R. Stalder.
[17] Natural is filing to partially abandon a sale which it states has become uneconomic to continue. The sale was authorized in Docket No. CI64-686 pursuant to a contract dated July 24, 1943, as amended, on file as Tenneco's FERC Gas Rate Schedule No. 388. Natural acquired the nine wells here involved from Tenneco effective January 1, 1981 as part of its possible future development of certain underground geological structures in the Erick Field as a gas storage reservoir.

Filing Code: A—Initial Service; B—Abandonment; C—Amendment to add acreage; D—Amendment to delete acreage; E—Total succession, E—Partial succession

[FR Doc. 82-34494 Filed 12-20-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. TA83-1-29-001]

Transcontinental Gas Pipe Line Corp.; Proposed Change in FERC Gas Tariff

December 14, 1982.

Take notice that on November 15, 1982, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing Substitute Twenty-fourth Revised Sheet No. 12 and Substitute Twenty-fourth Revised Sheet No. 15 to Second Revised Volume No. 1 and Substitute Thirtieth Revised Sheet No. 121 to Original Volume No. 2 of Transco's FERC Gas Tariff. The proposed effective date on the above-mentioned tariff sheets is November 1, 1982.

Transco states that these substitute tariff sheets, which are being filed in compliance with Ordering paragraph (C) of the Commission's order of October 29, 1982, and also to reduce the demand charge adjustment increase because of Transco's recent decision not to curtail this winter, are in lieu of the same numbered sheets submitted with the original filing of October 1, 1982, and conditionally accepted by the said October 29 order.

The proposed tariff sheets reflect a 3.7 cents per dekatherm (dth) decrease in the commodity rate or delivery charge of Transco's CD, G, OG, E, PS and S-2 rate schedules from those rates filing of October 1, 1982, in the instant docket; a decrease from such previously filed rates of 1.1 cents per dth in the commodity or delivery charge under the ACO rate schedule; and a decrease of 2.6 cents per dth from these rates in the delivery charge under the K-20 rate schedule.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before December 22, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-34516 Filed 12-20-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RP82-57-007]

United Gas Pipe Line Co.; Proposed Change in FERC Gas Tariff

December 14, 1982.

Take notice that on November 30, 1982, United Gas Pipe Line Company (United) tendered for filing Sixtieth Revised Sheet No. 4 to its FERC Gas Tariff, the revised tariff sheet to become effective October 1, 1982, in accordance with the Commission's orders of October 14, 1982 and November 18, 1982, in Docket No. RP82-57.

United states that this revised tariff reflects the following adjustment as described hereinafter. On October 14, 1982, the Federal Energy Regulatory Commission accepted tariff sheets placing rates for FERC Docket No. 82-57 into effect on October 1, 1982. Such acceptance was subject to refund and subject to any orders in Docket Nos. RP82-57 and TA82-2-11. Among the tariff sheets accepted was Revised Fifty-Ninth Revised Sheet No. 4 to FERC Gas Tariff, First Revised Volume No. 1. On November 18, 1982, the Commission issued an order in Docket No. TA82-2-11 accepting Alternate Revised Volume No. 1. This order made Revised Fifty-Eighth Revised Sheet No. 4 moot and of no force and effect. United has therefore recomputed the current adjustment shown on Revised Fifty-Ninth Revised Sheet No. 4. The resulting current adjustment is (1.06 cents) per Mcf.

Copies of this filing were mailed to all parties in this proceeding, all of United's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before December 22, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-34517 Filed 12-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-179-000]

Vermont Marble Co.; Filing

December 14, 1982.

Take notice that on December 6, 1982, Vermont Marble Company (VMC) tendered for filing as an initial rate schedule of an exchange agreement (the Agreement) between VMC; and the Connecticut Light and Power Company (CL&P), the Hartford Electric Light Company (HELCO), and Western Massachusetts Electric Company (WMECO) (together, CL&P, HELCO, and WMECO, are called the NU Companies). The agreement dated as of January 19, 1980 provides for VMC to exchange system capacity and associated energy from the VMC system, for gas turbine capacity and associated energy from several gas turbine type electric generating units owned and operated by the NU Companies.

The Agreement provides that the parties will determine daily or weekly during the term of the Agreement whether it is economically advantageous that an exchange shall take place.

VMC states that the NU Companies will pay an hourly Energy Reservation charge to VMC in an amount equal to the kilowatts of capacity exchanged in each hour times $0.003/kilowatt. The NU Companies will purchase energy from the VMC system at the forecasted cost of providing such energy. VMC will purchase energy from the NU Companies Units at the average cost of providing such energy.

VMC requests an effective date of January 19, 1980, and therefore requests waiver of the Commission's notice requirements.

The Agreement has been executed by the Vermont Marble Company and by the NU Companies and copies have been mailed to each of them.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before December 30, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-34495 Filed 12-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No ER83-178-000]

Washington Water Power Co.; Filing

December 14, 1982.

Take notice that on December 6, 1982, the Washington Water Power Company (Washington) tendered for filing copies of a service schedule applicable to what Washington refers to as a "Letter Agreement" between Washington and the City of Anaheim, which applies to the sale of energy which is surplus from Washington's portion of the Centralia coal-fired steam plant and from purchases made from Potlatch Corporation, a wood products manufacturing plant located in Lewiston, Idaho.

Washington requests an effective date of October 6, 1982, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before December 30, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-34496 Filed 12-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No ER83-176-000]

Western Massachusetts Electric Co.; Filing

December 14, 1982.

Take notice that on December 6, 1982, the Western Massachusetts Electric Company (WME) tendered for filing Supplement No. 5 to its Resale Service Rate CD-1 with the City of Westfield, Massachusetts.

WME states that the customer under the rate schedule concurs in the filing and supports the proposed effective date. WME further states that the rate schedule amendment provides for increased demand and energy charges which would result in an increase of approximately $839,000 in test year revenues.

WME indicates that it is in financially weakened condition and the proposed rate increase is essential to maintain its ability to provide service.

WME proposes an effective date of November 1, 1982 and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served upon the affected customer and the Department of Public Utilities of the Commonwealth of Massachusetts.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before December 30, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-34503 Filed 12-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-180.000]

Western Massachusetts Electric Co.; Filing

December 14, 1982.

Take notice that Western Massachusetts Electric Company (WME) tendered for filing on December 7, 1982 an amendment to its wholesale for resale total requirements service (Rate Schedule No. RS-1), by which it provides firm electric service to: the Town of Chester, Massachusetts; the Town of Russell, Massachusetts; Fletcher Gas and Electric Company; Massachusetts Electric Company and New York State Electric and Gas Company.

WME states that all of the customers under the tarfff concur in the filing and support the proposed effective date. WME further states that the rate schedule amendment provides for increased demand and energy charges which would result in an increase of approximately $49,000 in test year revenues.

WME indicates that it is in a financially weakened condition and the proposed rate increase is essential to maintain its ability to provide service.

WME request an effective date of November 1, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served upon all of the affected customers, the Department of Public Utilities of the Commonwealth of Massachusetts and the Department of Public Utility Control of the State of Connecticut.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before December 30, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-34504 Filed 12-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-48-000]

Zond Systems, Inc.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

December 14, 1982.

On November 15, 1982, Zond Systems, Inc., 112 South Curry Street, Tehachapi, California 93561, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The facility is under construction in Kern County, California. The primary energy source to the facility will be wind. The electric power production capacity of the facility will be 28 megawatts and is being installed in increments. The facility has a present production capacity of 2 megawatts. There will be no other wind powered small power production facility owned by Zond located within one mile of the facility. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordnace with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-34497 Filed 12-20-82; 8:45 am]

BILLING CODE 6717-01-M

Western Area Power Administration

Falcon Project; Notice of a Rate Order

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of a rate order; Falcon Project.

SUMMARY: Notice is given of a Rate Order No. WAPA-16 of the Assistant Secretary for Conservation and Renewable Energy for extending the power rate on an interim basis for Falcon Project (Falcon) power marketed by the Western Area Power Administration (Western).

The current rate of 14 mills/kWh is being extended to cover the interim period from the expiration of the original contract, between the United States and Central Power and Light Company (CPL) which will expire on December 31, 1982, to the date on which the Amistad Powerplant is ready to deliver power.

EFFECTIVE DATES: This interim rate will become effective at 12:01 a.m. C.S.T. January 1, 1983, and shall remain in effect until the date on which the Amistad Powerplant is ready to deliver power.

ADDRESSES: For further information contact:

Mr. Albert M. Gabiola, Area Manager, Salt Lake City Area Office, Western Area Power Administration, P.O. Box 11606, Salt Lake City, UT 84147, Telephone: (801) 524–5493

Mr. Conrad Miller, Chief, Rates and Statistics Branch, Western Area Power Administration, P.O. Box 3402, Golden, CO 80401, Telephone: (303) 231–1535

Mr. James A. Braxdale, Office of Power Marketing Coordination, Department of Energy, CE–91, Federal Building, Washington, DC 20461, Telephone: (202) 633–8338.

SUPPLEMENTARY INFORMATION: By Delegation Order No. 0204–33, effective January 1, 1979 (43 FR 60636, December 28, 1978), the Secretary of Energy delegated to the Assistant Secretary for Resource Applications the authority to develop power and transmission rates, acting by the through the Administrator of Western, and to confirm, approve, and place in effect such rates on an interim basis, and to the Federal Energy Regulatory Commission (FERC) the authority to confirm and approve on a final basis or to disapprove rates developed by the Assistant Secretary under the delegation. Due to a Department of Energy organizational realignment, Delegation Order No. 0204–33 was amended, effective March 19, 1981, to transfer the authority of the Assistant Secretary for Resource Applications to the Assistant Secretary for Conservation and Renewable Energy. Pursuant to regulations promulgated to complement the delegation order, the Assistant Secretary for Conservation and Renewable Energy has the authority to extend, on an interim basis, rates "previously confirmed and approved by . . . the Federal Power Commission." (10 CFR 903.23 (1981).

On August 30, 1982, a comment period was initiated with an announcement of the eproposed rate extension published in the **Federal Register** at 47 FR 38186. Written comments were received through September 30, 1982. An August 30, 1982, press release was also issued.

Public comments received during the comment period have been considered in the preparation of this rate order.

Rate Order No. WAPA–16 confirming and approving the extension of the power rate on an interim basis is hereby issued.

Issued in Washington, D.C., December 13, 1982.

Joseph J. Tribble,

Assistant Secretary, Conservation and Renewable Energy.

Department of Energy—Assistant Secretary for Conservation and renewable Energy

In the Matter of: Western Area Power Administration—Falcon Project Power Rates. Rate Order No. WAPA–16.

Order Confirming and Approving Extension of Power Rates on an Interim Basis

(December 13, 1982)

Pursuant to section 302(a) of the Department of Energy Organization Act of August 4, 1977 (42 U.S.C. 7101 et seq.), the power marketing functions of the Secretary of the Interior for the Bureau of Reclamation under the Reclamation Act of 1902 (43 U.S.C. 372 et seq.), as amended and supplemented by subsequent enactments, particularly section 9(c) of the Reclamation Act of 1939 (43 U.S.C. 485h(c)) and acts specifically applicable to the Falcon Project, were transferred to and vested in the Secretary of Energy, by Delegation Order No. 0204–33, effective January 1, 1979 (43 FR 60636, December 28, 1978), last amended March 19, 1981 (46 FR 25426, May 7, 1981), the Secretary of Energy delegated to the Assistant Secretary, Conservation and Renewable Energy, the authority to develop power and transmission rates, acting by and through the Administrator of the Western Area Power Administration (Western), and to confirm, approve, and place in effect such rates on an interim basis, and delegated to the Federal Energy Regulatory Commission (FERC) the authority to confirm and approve on a final basis or to disapprove rates developed by the Assistant Secretary under the delegation. This rate order is issued pursuant to the delegation to the Assistant Secretary and the rate adjustment procedures at 45 FR 86983 (December 31, 1980) as corrected at 46 FR 6864 (January 22, 1981) and amended at 46 FR 25426 (May 7, 1981), 10 CFR, Part 903.

Background

Existing Rates

On August 1, 1977, the Federal Power Commission, pursuant to the Falcon Dam Act of 1954, approved rates contained within the original contract between the Bureau of Reclamation (BuRec) and the Central Power and Light Company (CPL). Said contract remains in effect "until the date on which the Amistad Powerplant is ready to deliver power on December 31, 1982, whichever date occurs first." The rate for power in the contract is 14 mills per kilowatthour.

On August 12, 1977, the Federal Power Commission approved a rate formula contained in a contract between the BuRec and two cooperatives. The South Texas Electric Cooperative, Inc. (STEC), and the Medina Electric Cooperative, Inc. (MEC), agreed to purchase the output of the Falcon and Amistad Powerplants for a 50-year period, beginning when initial electric service is available from Amistad. The cooperatives agreed to take all Falcon and Amistad power and to pay the United States the following:

1. The amount necessary to amortize the remaining investment costs of the power facilities at Amistad over a 50-year period:

2. The amount necessary to amortize the remaining investment costs of the power facilities at Falcon; and

3. The annual projects' operation, maintenance, replacement costs, and the administrative costs of the International Boundary and Water Commission and BuRec.

On December 21, 1977, Western was organized and both of the power marketing contracts discussed above were transferred from the BuRec to Western for administration.

Due to construction delays, the Amistad Powerplant will not be operational until approximately May 1983. Western and CPL are in the process of extending the original contract for marketing Falcon power from January 1, 1983, to such time as the Amistad Powerplant is ready to deliver power. However, no rate for this time period has been approved for Falcon power by either the Federal Power Commission or FERC.

Public Notice and Comments

On August 30, 1982, a comment period was initiated with an announcement of the proposed rate extension published in the **Federal Register** at 47 FR 38186. Written comments were received through September 30, 1982. A public press release was also issued on August 20, 1982.

Written comments were received from five interested parties. One of the commentors recommended that the power rate be increased to the current market rate for fuel replacement energy of 36 mills/kWh in order to more nearly pay off the remaining debt on the Falcon Project before the Amistad Powerplant comes on line. It is estimated by this commentor that, additional revenues of over $1,240,000 would result from increasing the rate from 14 to 36 mills/kWh during the first 5 months of 1983.

The other four commenting parties supported an extension of the 14 mills/kWh rate for the interim period and each strongly opposed the 36 mills/kWh rate proposed by the commenting party above. The main reasons for opposing the increase are summarized below:

1. The language in the Falcon Dam Act provides that electric power and energy generated at the Falcon Dam and Amistad Dam shall be transmitted and disposed of at the lowest possible rates to consumers consistent with sound business principles. Rate schedules must provide for recovery of the cost of providing and transmitting such electric energy, including the amortization of the capital investment, over a reasonable period of years.

2. The rate formula contained in the 50-year contract for power and energy produced from both the Falcon and Amistad Powerplants binds the contractors to amortize any unamortized cost of the Falcon facilities.

Discussion

The 14 mills/kWh rate has been in effect since August, 1, 1977, when it was approved by the Federal Power Commission. It was the intent of the contracting parties that this rate would remain in effect until the date of initial

electric service from the Amistad Powerplant or December 31, 1982, whichever occurs first. Since the completion of the Amistad Powerplant is expected to be within approximately 5 months after the expiration of the original contract and the amortization of the Falcon Project will be accomplished under the terms of the contract between the United States and the two cooperatives, STEC and MEC, development of a new rate is not warranted. Therefore, it is appropriate to confirm and approve the extension of the 14 mill/kWh rate for the interim period.

Other Issues

Regulatory Procedural Requirements

A. Regulatory Flexibility Analysis

Pursuant to the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 et seq.), each agency, when required by 5 U.S.C. 553 to publish a final "rule," is further required to prepare and publish in the **Federal Register**, at the time of publication of the final rule, a final regulatory flexibility analysis. In this instance, the extension of the power rate on an interim basis relates to nonregulatory services provided by Western. Under 5 U.S.C. 601(2), rules of particular applicability relating to rates or services are not considered "rules" within the meaning of the act; therefore, Western believe that no flexibility analysis is required.

B. Environmental Evaluation

In compliance with the National Environmental Policy Act of 1969 (NEPA) and the Department of Energy (DOE) regulations published in the **Federal Register** on February 23, 1982 (47 FR 7976), Western has made a determination based on environmental consideration of the extension of the power rate on an interim basis that this action is not a significant action in the context of NEPA and that it will not lead to any significant environmental impacts.

C. Determination Under Executive Order 12291

The DOE has determined that this is not a major rule because it does not meet the criteria of section 1(b) of Executive Order 12291, 46 FR 13193 (February 19, 1981). Western has an exemption from sections 3, 4, and 7 of the Executive Order 12291.

Availability of Information

Information regarding this rate adjustment is available for public review in the Salt Lake City Area Office, Western Area Power Administration, 438 East 200 South, Suite 2, Salt Lake City, Utah 84111; in the Office of the Director, Division of Marketing and Rates, Western Area Power Administration, 1627 Cole Boulevard, Golden, Colorado 80401; and in the Office of Power Marketing Coordination, Department of Energy, 12th and Pennsylvania Avenue, NW., Washington, DC 20461.

Submission to the FERC

The rates herein confirmed, approved, and placed in effect on an interim basis, together with supporting documents, will be submitted to the FERC for confirmation and approval on a final basis.

Order

In view of the foregoing and pursuant to the authority delegated to me by the Secretary of Energy, I hereby confirm and approve on an interim basis, effective January 1, 1983, an extension of the current rate of 14 mills/kWh. This rate shall remain in effect on an interim basis until the date on which the Amistad Powerplant is ready to deliver power.

Issued at Washington, D.C., December 13, 1982.

Joseph J. Tribble,

Assistant Secretary, Conservation and Renewable Energy.

[FR Doc. 82-34542 Filed 12-20-82; 8:45 am]

BILLING CODE 6450-01-M

FEDERAL COMMUNICATIONS COMMISSION

[BC Docket No. 82-804, File No. BPCT-820721KI; et al.]

Payvision Communications, et al.; Designating Applications for Consolidated Hearing on Stated Issues

In re applications of Payvision Communications, Biloxi, Mississippi; BC Docket No. 82-804, File No. BPCT-820721KI; the Hightower Partnership, Biloxi, Mississippi, BC Docket No. 82-05; File No. BPCT-820722KF; and Four-O, Inc., Gulfport, Mississippi; BC Docket No. 82-806, File No. BPCT-820729KG; for construction permit for a new television station.

Hearing Designation Order

Adopted: November 29, 1982.

Released: December 10, 1982.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications of Payvision Communications (Payvision), The Hightower Partnership (Hightower), and Four-O, Inc., (Four-O) for a new commercial television station to operate on Channel 25, Biloxi, Mississipi.[1]

2. Payvision and Hightower specify Biloxi as the city of license. Four-O, however, specifies Gulfport. Consequently, it will be necessary to determine, pursuant to Section 307(b) of the Communications Act of 1934, as amended, whether a new station in Biloxi or Gulfport would better provide a fair, efficient and equitable distribution of television service. If the Section 370(b) issue is not determinative (the applicants would serve substantial areas in common), all applicants can be considered under the comparative issue.

3. Payvision's application did not include Page 19, F.C.C. Form 301. This page contains Sections VI and VII of the Application for Construction Permit for a New Commercial Broadcast Station. It also contains the certification by the applicant that the information contained in the application is true and correct. The only portion of the application which was signed by one of Payvision's general partners was the certification of Payvisions's Equal Employment Opportunity statement. We believe that Payvision's consultant assumed that the signature certifying the EEO statement could be substituted for the signature required on Page 19. Since the Commission has previously allowed applicants to submit *nunc pro tunc* certifications [2], Payvision, accordingly, will be ordered to file a properly executed copy of this page with the Administrative Law Judge within 30 days of the release of this Order.

4. Applicants for new broadcast stations are required to give local notice of the filing of their applications, in accordance with § 73.3580 of the Commission's Rules. They must then file proof of such notice or certify that they have or will comply with the public notice requirement. We have no evidence, however, that Payvision has done either. If it has not already done so, Payvision will be required to file a statement that it has or will comply with the public notice requirement with the Administrative Law Judge within 30 days of the release of this Order.

5. No determination has been reached that the tower heights and locations proposed by Payvision and Four-O would not constitute a hazard to air navigation. Accordingly, an issue will be specfied.

6. There is a discrepancy between the azimuth of major lobes listed in Section V-C and the directional antenna pattern show in Exhibit E-1 of Hightower's application. Hightower will be required to submit the correct azimuth of major lobes to the Administrative Law Judge within 30 days of the release of this Order.

7. Section 73.636(a) of the Rules states that no license for a television broadcast station shall be granted to any party if such party directly or indirectly controls one or more AM or FM broadcast stations and the grant of such license will result in the Grade A contour of the proposed television station encompassing the entire community of

[1] Channel 25 is assigned to Biloxi, Mississippi. Gulfport, Mississippi is located within 15 miles of Biloxi. Accordingly, under Section 73.607 of the Commission's Rules, Channel 25 is available for use in Gulfport.

[2] See, e.g., *Communications Gaithersburg, Inc.*, 60 FCC 2d 537 (1976).

license of one or more of the radio stations. Zane D. Roden, Sr., Vice-President, Director and 33.75% stockholder in Four-O, is an Executive Vice-President, Director and 37% stockholder of E.O. Roden & Associates, Inc., Licensee of stations WTAM and WGCM-FM, Gulfport, Mississippi. He is also General Manager of WGCM-FM. Four-O has represented to the Commission that, in the event of a grant of its application, Mr. Roden will divest himself of his interest in the licensee of Stations WTAM and WGCM–FM. To ensure compliance with Section 73.636(a), any grant of a construction permit to Four-O will be conditioned upon the divestiture by Mr. Roden of all interest in, and connection with, WTAM and WGCM–FM.

8. Data submitted by the applicants indicate that there would be a significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, for the purpose of comparison, the areas and populations which would receive television service of 64 dBu or greater intensity (Grade B), together with the availability of other primary television services in such areas, will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accure to any of the applicants.

Conclusion and Order

9. Except as indicated by the matters set out below, the applicants are qualified to construct and operate as proposed. Since the proposals are mutually exclusive, however, they must be designated for hearing in a consolidated proceeding on the issues specified below.

10. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine the areas and populations that would receive Grade B or better service from the proposals and the availability of other Grade B services to such areas and populations.

2. To determine, in light of Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would provide a fair, efficient and equitable distribution of television service.

3. In the event it is concluded from the foregoing issues that a choice among applicants should not be based solely on considerations relating to Section 307(b), to determine which of the proposals would, on a comparative basis, best serve the public interest.

4. To determine, with respect to Payvision Communications and Four-O Inc., whether there is a reasonable possibility that the tower height and location proposed by each would constitute a hazard to air navigation.

5. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

11. It is further ordered, That the Federal Aviation Administration is made a party respondent to this proceeding with respect to issue 4.

12. It is further ordered, That Payvision Communications shall, within 30 days of the release of this Order, submit a properly executed Page 19, F.C.C. Form 301, to the Administrative Law Judge.

13. It is further ordered, That Payvision Communications shall, within 30 days of the release of this Order, certify to the Administrative Law Judge that local notice of the filing of its application has or will be published.

14. It is further ordered, That The Hightower Partnership shall submit an amendment to its application correcting the discrepancy noted in paragraph six, above, to the Administrative Law Judge within 30 days of the release of this Order.

15. It is further ordered, That, in the event of a grant of Four-O, Inc's application, the construction permit shall be conditioned as follows:

Prior to the commencement of operation of the television station authorized herein, permittee shall certify to the Commission that Mr. Zane D. Roden, Sr. has divested himself of all interest in, and connection with, Stations WTAM and WGCM–FM, Gulfport, Mississippi.

16. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants and the party respondent herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for hearing and to present evidence on the issues specified in this Order.

17. It is further ordered, That, the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Larry D. Eads,

Chief, Broadcast Facilities Division, Broadcast Bureau.

[FR Doc. 82-34547 Filed 12-20-82; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket No. 81-912, File No. BPCT-5225; et al.]

Redwood Television Ministries, Inc., et al.; Enlarging Issues

In re applications of Redwood Television Ministries, Inc., Vallejo, California; BC Docket No. 81–912, File No. BPCT–5225; Golden State Television, Inc., Vallejo, California, BC Docket No.81–913, File No. BPCT–790130LR, Bay Area Community Television, Inc., Vallejo, California; BC Docket No. 81–914, File No. BPCT–790130LS; Family Stations, Inc., Stockton, California; BC Docket No. 81–915, File No. BPCT–790104LD; and Sterling Recreation Organization Co., Stockton, California; BC Docket No. 81–916, File No. BPCT–790507KI; for construction permit.

Memorandum Opinion and Order

Adopted: October 28, 1982.

Released: December 14, 1982.

1. The Commission has under consideration the Hearing Designation Order, 40 FR 1,326 (January 12, 1982), by the Chief, Broadcast Bureau (Bureau); Applications for Review filed on January 13, 1982, by Bay Area Community Television, Inc., (BACTV), and on January 15, 1982, by Redwood Television Ministries, Inc. (Redwood); Comments filed January 22, 1982, by the Bureau; Oppositions filed January 20 and 27, 1982, by Golden State Television, Inc. (Golden State); a Motion for Leave to file Supplement to Applications for Review and accompanying Supplement, filed on May 21, 1982, by Redwood and BACTV; an Opposition thereto filed June 3, 1982, by Golden State; Comments thereon filed June 3, 1982, by the Bureau; and a Transmission of Attachments to Opposition filed June 17, 1982, by Golden State. Also before the Commission is a Memorandum Opinion and Order (FCC 82M–2271, released July 23, 1982) by the presiding Judge in this proceeding, certifying questions to the Commission concerning whether issues should be designated to inquire into Golden State's Ownership and whether Golden State has kept the Commission

apprised of the facts and circumstances concerning its ownership.

2. *Background.* Golden State filed its application on January 30, 1979, the cut-off-date for Vallejo, California, applications. Section II, Table I of the application listed the owners and officers of Golden State as follows:

Name and interest or office held	Shares subscribed	Ownership percent
Helena H. Chen, President	16,150	9.5
Leo H. Chen, Exec.-Vice President	16,150	9.5
Ting Chai Liang	18,700	11.0
Nelson K. Chen, Secretary-Treasurer		
Recortec, Inc.		

No ownership interests were shown for either Nelson K. Chen or Recortec. In response to Section II, p. 2, q. 9, Golden State represented that none of its stock had been subscribed.

3. On June 18, 1979, after the cut-off-date, Golden State amended its application to reflect a different corporate ownership structure as follows:

Name	Shares (to be subscribed)	Ownership percent
Helena H. Chen	17,000	20
Leo H. Chen	17,000	20
Ting Chai Liang	17,000	20
James G. Freeman	17,000	20
Nelson K. Chen	5,666	6.66
Carson Chen	5,666	6.66
Han Y. Lee	5,666	6.66

The amendment indicated that none of Golden State's stock had been subscribed.

4. On October 12, 1979, golden State further amended its application to substitute two new stockholders for Ting Chai Liang, who was one of the original stockholders, as follows:

Name	Shares (to be subscribed)	Ownership percent
Helena H. Chen	17,000	20
Leo H. Chen	17,000	20
Nelson K. Chen	5,666	6.66
Carson Chen	5,666	6.66
Han Y. Lee	5,666	6.66
James G. Freeman	17,000	20
Christopher Hirose	8,500	10
Charlotte Hirose	8,500	10

(5) When the Bureau designated Golded State's application for hearing,[1] it recognized that the application did not fully disclose Golden State's ownership. The Bureau concluded, however, that the corporate structure set out in the original application never existed, and that Golden State's "true corporate structure was, and had always been, that shown in the June 1979 amendment." As a result, the Bureau found that the transfer of 20 percent of Golden State's stock, as reflected in the October 1979 amendment, did not effectuate a transfer of control and was only a minor change. The Bureau said that, although Golden State's applications was incomplete when filed, there was no basis for dismissal because Golden State perfected its application before processing and designation were completed.

(6) *The Applications for Review.* BACTV and Redwood argue that in addition to the attribution of ownership in the January 1979 application, Recortec and Nelson Chen were listed as officers, directors and stockholders in the newspaper notice published pursuant to Section 73.3580 of the Rules. They also note that Golden State did not account for 70 percent of its stock and they attribute that interest to Recortec and Nelson Chen. BACTV and Redwood assert that, if Recortec was originally a principal, Golden State's post-cut-off amendment constituted a transfer of control.[2] If Nelson Chen and Recortec were not principals in January 1979 as found by the Bureau, BACTV and Redwood argue that Golden State's application was incomplete and the Bureau improperly allowed it to allocate 70 percent of its stock 5 months after the cut-off-date. They also argue that under any permissible interpretation of the facts, there had to be a transfer of control, because the stockholders listed in the original filing held only 46.66 percent of the stock after the October 1979 amendment, while 5 new stockholders held 53.32 percent of Golden State.

(7) *The Bureau's Comments.* The Bureau argues that its conclusion in the Hearing Designation Order, that the corporate structure shown in the January 1979 application never existed, was necessary because of the confusion caused by the inconsistencies in that application. That conclusion was based on Golden State's claim that Recortec never intended to be a stockholder.[3] The Bureau insists that its action is consistent with sound policy considerations. It argues that dismissal of the application is a draconian remedy[4] which would deprive the Commission of an opportunity to have the widest comparative choice of applicants.[5] Moreover, it argues that in *Grace Missionary Baptist Church,* where the Commission considered a post-cut-off-date transfer of control, the Commission did not dismiss the offending application.[6]

8. *Subsequent Events.* On March 9, 10 and 11, 1982, Golden State's principals and former principals were deposed.[7] The depositions establish that Leo and Helena Chen held the controlling interest in Golden State when it filed its application;[8] that their ownership interests were diluted to 40% by the June 18 and October 12, 1979, amendments; and that 60% of Golden State's stock is now held by persons who did not have any ownership interest when the application was filed.[9] Relying on the foregoing, Redwood and BACTV submit that the uncertainty and confusion surrounding Golden State's ownership have now been resolved and that, accordingly, the relief requested in their previously filed applications for review should be granted; *i.e.,* the dismissal of Golden State's application because of a major change in ownership voluntarily effected after the cut-off-date. The Bureau, in its comments, acknowledges that its assumption in the Designation Order that Golden State's true corporate structure was, and had always been, as shown in the June 1979 amendment was incorrect. Accordingly, the Bureau now believes that Golden State's application should be dismissed, unless the post-cut-off amendments are withdrawn.

9. *Golden State's Arguments.* Golden State argues that the amendments did

[1] Hearing Designation Order (BC-1374), released January 8, 1982, by the Chief, Broadcast Bureau.

[2] The June 1979 amendment showed Nelson Chen with 6.66 percent of the stock. Thus, BACTV and Redwood argue that at least 63.34 percent of the stock was held by persons who did not have that stock at the time of the January 1979 filing.

[3] Comments in Opposition to Informal Objection, p. 2, filed August 31, 1979, by Golden State.

[4] *Radio Athens, Inc.* v. *FCC,* 401 F. 2d 398 (D.C. Cir. 1968).

[5] *Anax Broadcasting Inc.,* 87 FCC 2d 483 (1981).

[6] 80 FCC 2d 330 (1980). The applicant was allowed to withdraw the offending amendment.

[7] Relevant portions of the depositions were submitted with the Supplement to Applications for Review filed by Redwood and BACTV. The Supplement is not a pleading authorized by Section 1.115 of the Rules. It was, however, filed within 15 days after the depositions were made available to the parties, and the depositions clarify the confusion concerning Golden State's ownership which resulted from the omissions in its original application. Accordingly, good cause has been shown and we will grant the Motion to Accept Supplement to Applications for Review filed by Redwood and BACTV.

[8] Supplement to Applications for Review, filed May 21, 1982, Exhs. A and B (Depositions of Leo Chen, March 9, 1982 and Helena Chen, March 10, 1982).

[9] New stock ownerships are: Han Y. Lee, 6.66% (acquired on March 23, 1982); Carson Chen, 6.66% (acquired on April 20, 1979); Nelson K. Chen, 6.66% (acquired on April 27, 1979); James G. Freeman, 20% (acquired on June 15, 1979); and Christopher and Charlotte Hirose, 20% (acquired on September 14, 1979).

not effect a transfer of control because Leo and Helena Chen and their sons, Carson Chen and Nelson Chen, still hold more than 50% of the corporation's stock. Since all four members of the Chen family submitted affidavits asserting that they considered Golden State to be a family controlled corporation and that they will vote their stock as a family unit, and since Nelson Chen and Carson Chen also stated in their affidavits that it is their intent that their parents have control of the corporation, Golden State rationalizes that a transfer of control of the corporation has not taken place despite the amendments.

10. *Discussion.* Nelson Chen is 35 years old and independently employed.[10] Carson Chen is 33 years old, married, lives apart from his parents and is independently employed.[11] While their affidavits indicate an intent to insure family control over the corporation, the record establishes that Nelson Chen and Carson Chen are legally and financially independent from their parents, and that there are no legal or economic impediments to their exercising independent discretion in voting their stock.[12] Thus, Leo and Helena Chen can legally control only 40% of the stock of Golden State, and since 60% of the corporation's stock is held by persons not listed as shareholders in Golden State's original application, the amendments effectuated a post-cut-off transfer of control.

11. Section 73.3572(b) of the Commission's Rules provides that whenever amendments to an application effectuate a transfer of control, the application will be assigned a new file number and returned for processing as a new application. Here, because the amendments effectuating the transfer of control were filed after the cut-off-date for Vallijo, California, applications, strict adherence to Rule § 73.3572(b) would essentially remove Golden State's application from comparative consideration in this proceeding. However, it is well established that the Commission's procedural Rules should not be used to dismiss summarily applications where equity would warrant a different result.[13] Golden State filed its application almost three years before designation and its post-cut-off amendments were on file with the Commission for over a year and a half. During this period the Bureau raised no question concerning Golden State's corporate ownership and in designating this proceeding for hearing the Bureau rejected objections filed by Redwood and BACTV, allowing Golden State to proceed believing that there were no questions concerning its ownership.[14] These Broadcast Bureau actions give rise to significant equities which warrant permitting Golden State to avoid dismissal at this late date. Consequently, we will give Golden State 10 days from the release date of this Memorandum Opinion and Order to further amend its application so that control of Golden State will be held by those persons listed as stockholders in Golden State's application on January 30, 1979, or suffer the dismissal of its application.[15] Moreover, having concluded that Golden State's application did not fully apprise the Commission of its structure we will also designate a hearing issue concerning Golden State's compliance with Section 73.3514 of the Rules and the impact of any violation of that Rule on its basic and/or comparative qualifications to be a licensee.[16] The Commissiom is concerned about th acceptance criteria being employed by the Broadcast Bureau, and notice is given that the Commission is reexamining the standards to be employed in accepting applications for filing.

12. Accordingly, it is ordered, That the Motion for Leave to File Supplement to Applications for Review, filed jointly on May 21, 1982, by Bay Area Community Television, Inc. and Redwood Television Ministries, Inc., is granted.

13. It is further ordered, That the Applications for Review, filed on January 13, 1982, by Bay Area Community Television, Inc., and on January 15, 1982, by Redwood Televison Ministries, Inc., and as supplemented on May 21 ,1982 are granted to the extent indicated herein and in all other respects are denied.

14. It is further ordered, That Golden State Television, Inc., is granted leave to further amend its application pursuant to paragraph 11, *supra*, within 10 days from the release date of this Memorandum Opinion and Order, but, if its does not do so, the presiding Administrative Law Judge is authorized to dismiss Golden State Television, Inc.'s application.[17]

15. It is further ordered, That the hearing issues in this proceeding are enlarged to include the following:

(a) To determine the facts concerning the ownership of Goldern State Television, Inc., as they existed on the application cut-off date in this proceeding.

(b) To determine in light of the facts adduced pursuant to (a) above, whether Golden State Television, Inc., violated § 73.3514 of the Rules, and if so, the effect thereof on its basic and/or comparative qualifications to be a Commission licensee.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 82-34549 Filed 12-20-82; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket No. 82-802, File No. BPCT-820721KH and BC Docket No. 82-803, File No. BPCT-820810KH]

Norman E. Parkhurst Rodriquez and Mari Rosa Valderas d.b.a. Interamerican Broadcasting Co. and Amilcar Gandia, for Construction Permit; Designating Applications for Consolidated Hearing on Stated Issues

Hearing Designation Order

Adopted: November 29, 1982.

Released: December 10, 1982.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has before it the above captioned mutually exclusive applications of Norman E. Parkhurst Rodriquez and Mari Rosa Valderas d.b.a. Interamerican Broadcasting Co. (Interamerican) and Amilcar Gandia for authority to construct a new commercial television station on Channel 20, Ponce, Puerto Rico.

2. The effective rádiated visual power, antenna heights above average terrain and other technical data submitted by the applicants indicate that there would be a significant difference in the size of the areas and populations which would be served by each of the proposals Consequently, for the purpose of comparison, the areas and populations which would be within the predicted 64

---

[10] Supplement to Applications for Review, filed May 21, 1982, Exh. C (Deposition of Nelson Chen, March 9, 1982).

[11] *Id.* at Exh. D (Deposition of Carson Chen, March 11, 1982).

[12] *Cf. KTRB Broadcasting, Inc.*, 46 FCC 2d 605, 608 (1974).

[13] *Crosthwait* v. *FCC*, 584 F.2d 398 (D.C. Cir. 1969); *Eastern Broadcasting Co.*, 55 FCC 2d 276 (1975).

[14] Had the Bureau recognized that the amendments effectuated a major change, it would have granted Golden State an opportunity to withdraw its amendments prior to suffering an assignment of a new file number and dismissal of its application. *See Grace Missionary Baptist Church*, 80 FCC 2d 330, 337 (1980).

[15] *Cf. Grace Missionary Baptist Church, supra* at 337–38.

[16] In view of our holdings herein, the questions raised by the ALJ's certification (FCC 28M–2271, released July 23, 1982) are mooted.

[17] In the interest of administrative efficiency, we are authorizing the ALJ to dismiss Golden State's application in the event it does not comply with this Memorandum Opinion and Order, rather than to require the application to be returned to the processing line for assignment of a new file number and other appropriate action in accordance with § 73.3572(b).

dBu (Grade B) contours, together with the availability of other television service of 64 dBu Grade B or greater intensity, will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to one of the applicants.

Amilcar Gandia

3. The applicant's proposed antenna is to be mounted on the exiting AM tower of station WZBS, Ponce, Puerto Rico. Therefore, in order to insure that the AM pattern will not be adversely affected, a grant of this application will be appropriately conditioned.

4. The applicant specifies overall height above average terrain (HAAT) of 104 feet, but its exhibits show minus 329 feet. Consequently, the applicant will be required to submit the correct figure for the overall height above average terrain within 20 days of the release of this Order.

Conclusion and Order

5. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since these applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant will serve the public interest, convenience, and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues specified below.

6. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine which of the proposals would, on a comparative basis, better serve the public interest.

2. To determine, in light of the evidence adduced pursuant to the foregoing issue, which of the applications should be granted.

7. It is further ordered, That grant of a construction permit to Amilcar Gandia will be subject to the following condition:

During installation of the TV antenna, AM station *WZBS* shall determine operating power by the indirect method. Upon completion of the installation, antenna impedance measurements of the AM antenna shall be made. The results shall be submitted to the Commission, along with a tower sketch of the installation, in an application for the AM station to return to the direct method of power determination. Thereafter, the TV station may commence *Limited Program Tests.*

8. It is further ordered, That within 20 days of the release of this Order, Amilcar Gandia shall submit the correct figure for its overall height above average terrain.

9. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

10. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Larry D. Eads,

Chief, Broadcast Facilities Division, Broadcast Bureau.

[FR Doc. 82-34548 Filed 12-20-82; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL RESERVE SYSTEM

Agency Forms Under Review

December 14, 1982.

Background

When executive departments and independent agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Paperwork Reduction Act (44 U.S.C. Chapter 35). Departments and agencies use a number of techniques to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibilities under the act also considers comments on the forms and recordkeeping requirements that will affect the public. Reporting or record-keeping requirements that appear to raise no significant issues are approved promptly. OmB's usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the **Federal Register**, but occasionally the public interest requires more rapid action.

List of Forms Under Review

Immediately following the submission of a request by the Federal Reserve for OMB approval of a reporting or recordkeeping requirement, a description of the report is published in the **Federal Register.** This information contains the name and telephone number of the Federal Reserve Board clearance officer (from whom a copy of the form and supporting documents is available). The entries are grouped by type of submission—i.e., new forms, revisions, extensions (burden change), extensions (no change), and reinstatements.

Copies of the proposed forms and supporting documents may be obtained from the Federal Reserve Board clearance officer whose name, address, and telephone number appear below. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF 83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review.

FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Officer—Cynthia Glassman—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202-452-3829)

OMB Reviewer—Richard Sheppard—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503 (202-395-6880)

Request for Extension Without Revisions

1. Report title: Bank Holding Company Financial Supplement—
Agency form number: FR Y-9
Frequency: annual; semi-annual depending on who is filing.
Reporters: bank holding companies
SIC Code: 671
Small businesses are not affected.
General description of report:
Respondent's obligation to respond is mandatory (12 U.S.C. 1844); a pledge of confidentiality is not promised.

Report completed annually by bank holding companies (BHC's) having assets exceeding $50 million and semi-annually by BHC's having assets exceeding $300 million. All of the BHC's submit parent-only financial statements and those having assets exceeding $100 million file consolidated financial statements. The report is used for monitoring and surveillance purposes and to analyze the condition of the holding company and its banks.

Board of Governors of the Federal System, December 15, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-34528 Filed 12-20-82; 8:45 am]

BILLING CODE 6210-01-M

Ballston Spa Bancorp, Inc., et al.; Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, indentifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Ballston Spa Bancorp, Inc.*, Ballsonn Spa, New York; to become a bank holding company by acquiring 80 percent of the voting shares of Ballston Spa National Bank, Ballston Spa, New York. Comments on this application must be received not later than January 13, 1983.

2. *Ultra Bancorporation*, Bridgewater, New Jersey; to become a bank holding company by acquiring 100 percent of the voting shares of the successor by merger to First National Bank of Central New Jersey, Bridgewater, New Jersey. Comments on this application must be received not later than January 13, 1893.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *First Peoria Corp.*, Peoria, Illinois; to become a bank holding company by acquiring at least 80 percent of the voting shares of The First National Bank of Peoria, Peoria, Illinois; and at least 80 percent of the voting shares of First National Bank of Metamora, Metamora, Illinois. Comments on this application must be received not later than January 13, 1983.

C. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480

1. *Duke Financial Group, Inc.*, St. Paul, Minnesota; to become a bank holding company by acquiring 87.46 percent of the voting shares of State Bank of New Prague, New Prague, Minnesota. Comments on this application must be received not later than January 13, 1983.

D. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Bassett Investment Co.*, Bassett, Nebraska; to become a bank holding company by acquiring 83.8 percent of the voting shares of Commercial Bank, Bassett, Nebraska. Comments on this application must be received not later than January 31, 1983.

E. **Board of Governors of the Federal Reserve System** (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *Fergus Falls Bancshares, Inc.*, Fergus Falls, Minnesota; to become a bank holding company by acquiring 94.1 percent of the voting shares of Security State Bank of Fergus Falls, Fergus Falls, Minnesota. This application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Comments on this application must be received not later than January 13, 1983.

2. *Security Shares, Inc.*, Abilene, Texas; to become a bank holding company by acquiring 80 percent of the voting shares of Security State Bank, Abilene, Texas. This application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Comments on this application must be received not later than January 13, 1983.

Board of Governors of the Federal Reserve System, December 15, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-34523 Filed 12-20-82; 8:45 am]

BILLING CODE 6210-01-M

Bank South Corp.; Proposed Acquisition of Bank South Mortgage Corp.

Bank South Corporation, Atlanta, Georgia, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C 1843(c)(8)), and 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Bank South Mortgage Corporation, Atlanta, Georgia.

Applicant states that the proposed subsidiary would engage in the activities of generating marketable permanent mortgage loans and interim loans for sale to investors, and servicing such loans. These activities would be performed from offices of Applicant's subsidiary in Atlanta, Albany, Brunswick, Columbus, Mableton, Rome, Savannah, Valdosta, Marietta, and Newnan, Georgia and the geographic area to be served is the State of Georgia. Such activities have been specified by the Board in section 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of section 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonable be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, indentifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta.

Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than January 12, 1983.

Board of Governors of the Federal Reserve System, December 15, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-34524 Filed 12-20-82; 8:45 am]

BILLING CODE 6210-01-M

Barclays Bank PLC et al.; Bank Holding Companies; Proposed de Novo Nonbank Activities

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo*, directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Barclays Bank PLC*, and its subsidiary, Barclays Bank International Limited, each a bank holding company whose principal office is in London, England (consumer finance and insurance activities; Lexington, Kentucky): To engage through their subsidiaries, BarclaysAmerican Corporation, Charlotte, North Carolina, and BarclaysAmerican/Financial of Kentucky, Inc. in making direct consumer loans, including loans secured by real estate, and purchasing sales finance contracts representing extensions of credit such as would be made or acquired by a consumer finance company, and wholesale financing (floor planning) and acting as agent for the sale of related credit life, credit accident and health and credit property insurance. Credit life and credit accident and health insurance sold as agent may be underwritten or reinsured by BAC's insurance underwriting subsidiaries. These activities would be conducted from an office of BarclaysAmerican/Financial of Kentucky, located in Lexington, Kentucky, serving customers in Lexington and surrounding areas in Kentucky. Comments on this application must be received not later than January 13, 1983.

2. *Citicorp*, New York New York (consumer finance and insurance activities; Indiana and Tennessee): To expand the activities and service area of an existing office of its subsidiary, Citicorp Acceptance Company, Inc., located in Louisville, Kentucky. The new activities in which the office proposes to engage *de novo* are: the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required; and the servicing, for any person, of loans and other extensions of credit. In addition, the office proposes to broaden its previously approved activities to include the extension of loans for the financing of inventory (floor planning) and working capital purposes and the purchasing and servicing for its own account of sales finance contracts with regard to all types of dealers and all types of consumer installment paper. The proposed expanded service area for all the aforementioned activities shall be comprised of the entire states of Kentucky, West Virginia, Indiana and Tennessee. Credit related life, accident, and health insurance may be written by Family Guardian Life Insurance Company, an affiliate of Citicorp Acceptance Company, Inc. Comments on this application must be received not later than January 13, 1983.

3. *Societe Generale*, ("Societe Generale"), Paris, France (commercial lending and leasing activities; California, Oregon, Washington, Nevada, and Arizona): To engage through de novo office of Sogelease Corporation in making or acquiring, for its own account or for the account of others, commercial loans and other extensions of credit; and leasing personal or real property or acting as agent, broker or advisor in leasing such property and servicing such leases, subject to all the qualifications specified in 12 CFR 225.4 (a) and (b), where the leases serve as the functional equivalent of an extension of credit to the lessee of the property. Such activities would be conducted from an office in San Francisco, California serving California, Oregon, Washington, Nevada, and Arizona. Comments on this application must be received not later than January 13, 1983.

B. **Federal Reserve Bank of Richmand** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *First & Merchants Corporation*, Richmond, Virginia (insurance activities; Commonwealth of Virginia): To engage, through its wholly-owned subsidiary, Secutrity Atlantic Insurance Agency, Inc., in acting as insurance agent or broker with respect to the following types of insurance: the sale of credit life, credit disability, mortgage redemption and mortgage cancellation insurance in connection with extensions of credit by First & Merchants National Bank (Bank), a wholly-owned subsidiary of the holding company, and any of Bank's subsidiaries; and the sale of vendors single interest physical damage insurance for motor vehicles, mobile homes, motor homes, boats, trailers and other kinds of personal property, or attachments designed for use in connection therewith, securing loans and other extensions of credit by Bank. The activities covered by this proposal would be conducted through the offices of Bank and its subsidiaries serving the cities of Roanoke, Salem, Staunton, Portsmouth, Chesapeake, Virginia Beach, Danville, Colonial Heights, Hopewell, Petersburg, Bedford, Alexandria, Fairfax, Falls Church, Hampton, Poquoson, and Williamsburg, Virginia; and the counties of Roanoke, Augusta, Dinwiddie, Prince George, Chesterfield, Pittsylvania, Bedford, Campbell, Amherst, Loudoun, Prince William, York, James City, Henrico, and Hanover, Virginia. Comments on this application must be received not later than January 11, 1983.

C. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *First National of Nebraska, Inc.*, Omaha, Nebraska (industrial banking; Nebraska): To engage, through its subsidiary, First of Omaha Savings Company, in operation an industrial bank as authorized by Nebraska Law, including issuing certificates of indebtedness and making and acquiring loans and other extensions of credit such as would be made by an industrial bank from offices in Omaha, Nebraska, serving the City of Omaha and Douglas County. Comments on this application must be received not later than January 13, 1983.

D. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *Alaska Pacific Bancorporation*, Anchorage, Alaska (mortgage financing and loan servicing activities; Alaska and Washington): To engage through its subsidiary, Alaska Pacific Mortgage Company, in mortgage financing and loan servicing activities. These activities would be conducted from offices in Anchorage, Alaska, serving the States of Alaska and Washington. Comments on this application must be received not later January 13, 1983.

2. *Rainier Bancorporation*, Seattle, Washington (investments to promote

community welfare; Washington): To expand the geographic scope and to continue to engage through its indirect subsidiary, Rainier Community Service Corporation, in the activities of making equity and debt investments in corporations or projects designed primarily to promote community welfare, such as the economic rehabilitation and development of low-income areas. These activities will be conducted from an existing office located in Seattle, Washington, serving the entire State of Washington. Comments on this application must be received not later than January 13, 1983.

3. *U.S. Bancorp*, Portland, Oregon (consumer finance and credit-related insurance activities; Washington): To open a *de novo* office of its wholly owned subsidiary, U.S. Bancorp Mortgage Company ("Bancorp Mortgage"). Bancorp Mortgage will engage in the making, acquiring and servicing of loans and other extensions of credit, either secured or unsecured, for its own account or for the account of others, including, but not limited to loans and other extensions of credit secured by mortgages or deeds of trust on real property, and to act as insurance agent with regard to credit life and disability insurance solely in connection with extensions of credit by Bancorp Mortgage. Bancorp Mortgage's activities will be performed from an office in Spokane, Washington, serving the city of Spokane and the surrounding rural area. Comments on this application must be received not later than January 12, 1983.

4. *U.S. Bancorp*, Portland, Oregon (consumer finance and credit-related insurance activities; Washington): To open a *de novo* office of its wholly owned susidiary, U.S. Bancorp Mortgage Company ("Bancorp Mortgage"). Bancorp Mortgage will engage in the making, acquiring and servicing of loans and other extensions of credit, either secured or unsecured, for its own account or for the account of others, including, but not limited to loans and other extensions of credit secured by mortgages or deeds of trust on real property, and to act as insurance agent with regard to credit life and disability insurance solely in connection with extensions of credit by Bancorp Mortgage. Bancorp Mortgage's activities will be performed from an office in Bellevue, Washington, serving the city of Bellevue and the surrounding rural area. Comments on this application must be received not later than January 12, 1983.

Board of Governors of the Federal Reserve System, December 15, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-34527 Filed 12-20-82; 8:45 am]

BILLING CODE 6210-01-M

Chase Manhattan Bank, N.A.; Corporation To Do Business

An application has been submitted for the Board's approval of the organization of a corporation to do business under section 25(a) of the Federal Reserve Act ("Edge Corporation"), to be known as Chase Manhattan Capital Markets International, Newark, Delaware. Chase Manhattan Capital Markets International would operate as a subsidiary of Chase Manhattan Capital Markets (Holdings) Inc., which, in turn is a subsidiary of The Chase Manhattan Bank, N.A., New York, New York. The factors that are considered in acting on the application are set forth in § 211.4(a) of the Board's Regulation K (12 CFR 211.4(a)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of New York. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received not later than January 12, 1983. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identify specifically any questions of fact that are in dispute and summarize the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 15, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-34528 Filed 12-20-82; 8:45 am]

BILLING CODE 6210-01-M

First Community Bancorp, Inc., et al.; Acquisition of Bank Shares by Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *First Community Bancorp, Inc.*, Rockford, Illinois; to acquire 80 percent or more of the voting shares or assets of The Guaranty National Bank of Rockford, Rockford, Illinois. Comments on this application must be received not later than January 10, 1983.

2. *Middle State Bancorporation, Inc.*, East Moline, Illinois; to acquire 9.22 percent of the voting shares or assets of Colona Avenue State Bank, East Moline, Illinois. Comments on this application must be received not later than January 11, 1983.

3. *Northern Trust Corporation*, Chicago, Illinois; to acquire 100 percent of the voting shares (less directors' qualifying shares) of Northern Trust Bank of Florida/Palm Beach National Association, Palm Beach, Florida, which will merge with Security Trust Company of Palm Beach, Palm Beach, Florida. Comments on this application must be received not later than January 12, 1983.

4. *Northern Trust Corporation*, Chicago, Illinois; to acquire 100 percent, less directors' qualifying shares of the voting shares of Northern Trust Bank of Florida/Naples National Association, Naples, Florida, which will merge with Security Trust Company of Naples, Naples, Florida. Comments on this application must be received not later than January 12, 1983.

B. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Allied Bancshares, Inc.*, Houston, Texas; to acquire 100 percent of the voting shares or assets of Citizens National Bank of Beaumont, Beaumont, Texas. Comments on this application must be received not later than January 13, 1983.

2. *RepublicBank Corporation*, Dallas, Texas; to acquire 100 percent of the voting shares or assets of Texas National Bank of Midland, Midland, Texas. Comments on this application

must be received not later than January 13, 1983.

3. *Southwest Bancshares, Inc.*, Houston, Texas; to acquire 100 percent of the voting shares or assets of State National Bank, Odessa, Texas, Odessa, Texas. Comments on this application must be received not later than January 13, 1983.

C. **Board of Governors of the Federal Reserve System** (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *Fourth Financial Corporation*, Wichita, Kansas; to acquire 24.98 percent of the voting shares and 100 percent of the nonvoting preferred stock of Pittsburg Bancshares, Inc., Pittsburg, Kansas, and indirectly, The National Bank of Pittsburg, Pittsburg, Kansas. This application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas. Comments on this application must be received not later than January 13, 1983.

Board of Governors of the Federal Reserve System, December 15, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-34526 Filed 12-20-82; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

National Archives and Records Service

National Archives Advisory Council; Renewal

Renewal of Advisory Committee. This notice is published in accordance with the provisions of section 9(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), and advises of the renewal of the National Archives Advisory Council. The Administrator of General Services has determined that renewal of this advisory committee is in the public interest to ensure that the archival program is responsive to public needs and interests.

Designation. National Archives Advisory Council.

Purpose. The committee advises the Archivist of the United States on policies, procedures, programs, objectives, and other matters relating to the effectiveness of the National Archives and Records Service program.

Issued in Washington, D.C. on December 14, 1982.

Ray Kline,

Deputy Administrator of General Services.

[FR Doc. 82-34482 Filed 12-20-82; 8:45 am]

BILLING CODE 6820-34-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

National Institute for Occupational Safety and Health; Musculoskeletal Disorders; Request for Information

AGENCY: National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control, Public Health Service, HHS.

ACTION: Notice of request for information.

SUMMARY: NIOSH is seeking information on musculoskeletal disorders involving the lower extremities (i.e., hip, knee, ankle, foot) occurring in workers. The information may be in the form of case studies or incidence data collected for a given job/occupation, descriptions of apparent risk factors for a given occupation, and examples of tool/work methods redesign for preventing lower extremity disorders. This information will be used by NIOSH to develop research projects for evaluation and control of these disorders.

DATES: Comments concerning this notice should be submitted by February 22, 1983.

ADDRESS: Comments should be submitted in writing to Dr. Vernon Putz-Anderson, Chief, Psychophysiology and Biomechanics Section, Applied Psychology and Ergonomics Branch, Division of Biomedical and Behavioral Science (C-24) NIOSH, 4676 Columbia Parkway, Cincinnati, Ohio 45226.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Frederick or Dr. Donald Badger, Project Officers, (513) 684-8383.

SUPPLEMENTARY INFORMATION: Under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651, et seq), NIOSH conducts research to develop recommendations for new and improved occupational safety and health procedures. NIOSH is currently collecting information pertaining to musculoskeletal disorders of the lower extremities (hip, knee, ankle, and foot) and information on static or constrained work postures which may contribute to these musculoskeletal strains or disorders. NIOSH is particularly interested in obtaining the following information:

1. Identification of job-related musculoskeletal strains and disorders of the lower extremities including any statistical data on incidence, risk factors, and preventive measures. Identify sources and availability of data.

2. What static of constrained work postures contribute to the development of musculoskeletal strains and disorders? This includes statistical data on incidence, risk factors, and preventive measures, along with sources and availability of data.

3. What sources of information such as case studies, accident/injury records, and epidemiology studies are currently available? What studies are being conducted or contemplated?

4. What pattern of work tasks are considered to have the most potential for the development of musculoskeletal disorders of the lower extremities? What postures for what period of time are associated with an increased risk of developing these strains or disorders?

5. What procedures have been developed, or are being used, to prevent or counteract these problems? Which of these are effective? Please describe in full detail.

All information received in response to this notice, except that designated as trade secret and protected by section 15 of the Occupational Safety and Health Act, will be available for public examination and copying at the above address.

Date: December 13, 1982.

J. Donald Millar,

Director, National Institute for Occupational Safety and Health.

[FR Doc. 82-34529 Filed 12-20-82; 8:45 am]

BILLING CODE 4160-19-M

Food and Drug Administration

Prince AGRI Products; Iron Injectable; Withdrawal of Approval of NADA

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of a new animal drug application (NADA) sponsored by Prince Agri Products, Inc., providing for use of Iron Injectable in baby pigs for prevention and treatment of iron deficiency anemia. The firm requested withdrawal of approval.

EFFECTIVE DATE: January 3, 1983.

FOR FURTHER INFORMATION CONTACT: Howard Meyers, Bureau of Veterinary Medicine (HFV-218), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4093.

SUPPLEMENTARY INFORMATION: Prince Agri Products, Inc., 8800 E. 63d St., Kansas City, MO 64133, is the current sponsor of NADA 033-070 which provides for intramuscular use of a colloidal ferric oxide injection in baby pigs for prevention and treatment of iron deficiency anemia.

The product, originally sponsored by Corn King Co., Cedar Rapids, IA, became effective August 5, 1966. In their submission of June 18, 1982, to the Bureau of Veterinary Medicine, Prince Agri Products requested withdrawal of approval of the NADA because the product is not being marketed. Approval of this NADA had not been codified in the Code of Federal Regulations.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345–347 (21 U.S.C. 360b(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.84) and in accordance with § 514.115 *Withdrawal of approval of applications* (21 CFR 514.115), notice is given that approval of NADA 033–070 and all supplements for Prince Agri Products' Iron Injectable is hereby withdrawn, effective January 3, 1983.

Dated: December 14, 1982.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 82-34530 Filed 12-20-82; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

National Park Service

Chesapeake and Ohio Canal National Historical Park; Maryland, West Virginia and District of Columbia

AGENCY: National Park Service, Interior.

ACTION: Notice of revision of park boundary.

SUPPLEMENTARY INFORMATION: For the proper management and development of the Chesapeake and Ohio Canal National Historical Park, it is necessary to modify the boundary to conform to the realignment of Maryland State Route 34 which will require the addition of one tract of land, comprising 3.16 acres hereinafter described. Paragraph 5 of Pub. L. 95–42, approved June 10, 1977, 91 Stat. 211, 16 U.S.C. sec. 460l–9, authorizes such a boundary modification.

Notice is given that the boundary of the Chesapeake and Ohio Canal National Historical Park has been revised pursuant to the above act, to include a 3.16 acre parcel of land lying on the northerly right-of-way line of Maryland State Route 34 in the First Election District, Washington County, Maryland. This parcel of land is depicted as Tract P–1 on Land Status Map numbered 412/35004, Segment 31, dated June 1971 prepared by L. Robert Kimball, Consulting Engineers, Ebensburg Pennsylvania, under contract with the National Park Service.

The map is on file and available for inspection in the administrative office of the Chesapeake and Ohio Canal National Historical Park, Sharpsburg, Maryland, 21782; in the office of the National Capital Region, 1100 Ohio Drive, SW., Washington, D.C. 20242; and in the office of the National Park Service, Department of the Interior, 18th and C Streets, Washington, D.C. 20240.

Dated: November 19, 1982.

Manus J. Fish, Jr.,

Regional Director, National Capital Region.

[FR Doc. 82-34555 Filed 12-20-82; 8:45 am]

BILLING CODE 4310-70-M

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before December 10, 1982. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by January 5, 1983.

Carol D. Shull,

Chief of Registration, National Register.

ALABAMA

Etowah County

Gadsden, *Gadsden Times-News Building,* Fourth and Chestnut Sts.

Jackson County

Scottsboro, *College Hill Historic District,* 402–308 and 405–411 College Ave.

Mobile County

Mobile, *Greene-Marston House,* 2000 Dauphin St.

St. Clair County

Springville, *Presley Store,* 601 Main St.

ARIZONA

Coconino County

Flagstaff, *Railroad Addition Historic District,* Roughly bounded by Santa Fe RR tracks, Agassiz and Beaver Sts., Birch and Aspen Aves.

CALIFORNIA

Alameda County

Berkeley, *Phi Delta Theta Chapter House,* 2717 Hearst Ave.

FLORIDA

Manatee County

Sarasota vicinity, *Seagate (Powel Crosley, Jr. House),* 6565 N. Tamiami Trail

Palm Beach County

Lake Worth, *Gulf Stream Hotel,* 1 Lake Ave.

Santa Rosa

Milton, *Ollinger-Cobb House,* 302 Pine St.

INDIANA

Fayette County

Brownsville vicinity, *Ranck, Thomas, Round Barn,* N of Brownsville on SR 500 N.

Vanderburgh County

Evansville, *Evansville College,* 1800 Lincoln Ave.

LOUISIANA

DeSoto Parish

Mansfield vicinity, *Wood Park (Glassell-Turner House),* S of Mansfield off LA 175

Jefferson Parish

Gretna, *Old Jefferson Parish Courthouse,* 200 Huey P. Long Ave.

Lafayette Parish

Lafayette, *Hope Lodge #145,* 116 E. Vermilion St.

Orleans Parish

New Orleans, *Macheca Building,* 828 Canal St.

MAINE

Hancock County

Bar Harbor vicinity, *Abbe, Robert, Museum of Stone Age Antiquities,* S of Bar Harbor off ME 3.

Knox County

Rockland, *Tillson, Gen. Davis, House,* 157 Talbot Ave.

South Thomaston, *Thorndike, George, House,* ME 73.

NEW JERSEY

Bergan County

Hackensack, *Bergen County Court House Complex,* Court, Main and Essex Sts.

NEW MEXICO

Socorro County

Socorro vicinity, *Teypama Piro Site,*

OHIO

Allen County

Lima vicinity, *Breese, Griffith, Farm,* S of Lima at 2775 Fort Amanda Rd.

Athens County

Athens, *Athens B & O Train Depot,* Depot St.

Carroll County

Mechanicstown, *Herrington, John, House and Herrington Bethel Church,* 4070 Arbor Rd. NE

Delaware County

Delaware, *Delaware Public Library,* 101 N. Sandusky St.

Sunbury vicinity, *Center Inn,* SE of Sunbury on OH 37

Franklin Parish

Columbus, *Second Presbyterian Church*, 132 S. Third St.

Hamilton County

Cincinnati, *Withrow High School*, 1488 Madison Rd.

Licking County

Newark, *West Side Planing Mill*, 197 Maholm St.

Madison County

London, *Swetland House*, 147 E. High St.

Morgan County

Ringgold vicinity, *Rock Hollow School*, S of Ringgold on SR 67

Stark County

Massillon vicinity, *Kettering, William, Homstead*, N of Massillon at 5509 Wales Ave.

Summit County

Akron, *Akron Public Library*, 69 E. Market St.

Washington County

Lowell vicinity, *Sprague, Jonathan, House*, W of Lowell off OH 60

Marietta, *Cisler Terrace*, 7th and Ephraim Cutler Sts.

OKLAHOMA

Carter County

Ardmore, *Ardmore Historic Commerical District*, Main St., and Hinkle Ave.

Pottawatomie County

Shawnee, *Beard Cabin (Shawnee Historic Homes TR)*, Woodland Park

Shawnee, *Governor's Mansion (Giza House) (Shawnee Historic Homes TR)*, 618 N Park St.

Shawnee, *Kerfoot House (Shawnee Historic Homes TR)*, 740 N Beard St.

Shawnee, *Nuckolls House (Shawnee Historic Homes TR)*, 200 E. Federal St.

Shawnee, *Walker House (Shawnee Histroic Homes TR)*, 1801 N. Broadway

Tulsa County

Tulsa, *Maple Ridge Historic Residential District*, Roughly bounded by Hazel Blvd., S. Peoria Ave., 14th St., and Railroad

TENNESSEE

Davidson County, Nashville, *Savage House*, 167 Eight Ave., N.

UTAH

Davis County

Antelope Island, *Fielding Garr Ranch*, Off UT 127

Utah County

Springville, *Crandall Houses*, 112 and 136 E. 200 North

Springville, *Wood-Harrison*, 310 S. 300 West

VERMONT

Lamoille County

Morrisville, *Morrisville Historic District*, Portland, Main, Railroad and Foundry Sts.

WISCONSIN

Ashland County

Apostle Islands National Lakeshore, *Manitou Camp*, Manitou Island

[FR Doc. 82-34474 Filed 12-20-82; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

[Redelegation of Authority 41.8.1.1]

Chief, Government Property Resources Division, et al.; Redelegation of Authority Regarding Furnishing of Commodities

1. Pursuant to the authority delegated to me by Redelegation of Authority No. 41.8.1, dated December 6, 1982, from the Deputy Assistant to the Administrator for Management, I hereby redelegate to the Chief, Government Property Resources Division, and to the Chiefs, field offices of the Government Property Resources Division, the authority to make the determinations prescribed in section 607(c) [1] of the Foreign Assistance Act of 1961, as amended.

2. The authority herein redelegated to the officers named above may be exercised by duly authorized persons who are performing the functions of those officers in an "Acting" capacity, but may not be redelegated.

3. This Redelegation of Authority shall be effective immediately.

Dated: December 9, 1982.

William C. Schmeisser, Jr.,

Director, Office of Commodity Management.

[FR Doc. 82-34481 Filed 12-20-82; 8:45 am]

BILLING CODE 8116-01-M

[Redelegation of Authority 41.8.1]

Director, Office of Commodity Management; Redelegation of Authority Regarding Furnishing of Commodities

Pursuant to the authority delegated to me by Redelegation of Authority No. 41.8, dated January 22, 1982 (47 FR 7346), from the Assistant to the Administrator for Management, I hereby redelegate to the Director, Office of Commodity Management the following authorities:

1. Authority to execute transfer or transfer/trust agreements with respect to the furnishing of commodities to international organizations having a membership consisting primarily of foreign governments, to the American Red Cross, and to voluntary nonprofit agencies registered with and approved by the Agency for International Development [1] pursuant to determinations made under section 607(a) of the Foreign Assistant Act of 1961, as amended (the Act);

2. Authority to make the determinations prescribed in section 607(c) [2] of the Act.

The authorities herein redelegated to the Director, Office of Commodity Management, may be exercised by duly authorized persons who are performing the functions of the Director in an "acting" capacity.

Only the authority to make the determinations prescribed in section 607(c) of the Act may be redelegated by the Director.

This Redelegation of Authority amends and supersedes Redelegation of Authority No. 41.8.1 dated April 22, 1982 (47 FR 21931).

This Redelegation of Authority shall be effective immediately.

Dated: December 6, 1982.

John F. Owens,

Deputy Assistant to the Administrator for Management, Programs and Management Services.

[FR Doc. 82-34480 Filed 12-20-82; 8:45 am]

BILLING CODE 8116-01-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Motor Common and Contract Carriers of Property (fitness-only); Motor Common Carriers of Passengers (fitness-only); Motor Contract Carriers of Passengers; Property Brokers (other then household goods).

The following applications for motor common or contract carriage of property and for a broker of property (other than household goods) are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** on December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an

[1] Section 607(b) of the Foreign Assistance Act of 1961, as amended, was redesignated as section 607(c) by an amendment in 1978 (92 Stat. 959).

[1] The reference in the Act to the Agency for International Development was substituted in lieu of a reference to the Advisory Committee on Voluntary Foreign Aid by amendment in 1979 (93 Stat. 366).

[2] Section 607(b) of the Act was redesignated as Section 607(c) by amendment in 1978 (92 Stat. 959).

application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common or contract carriage of passengers filed on or after November 19, 1982, are governed by Subpart D of the Commission's Rules of Practice. See 49 CFR Part 1160, Subpart D, published in the **Federal Register** on November 24, 1982, at 49 FR 53271. For compliance procedures, see 49 CFR 1160.86. persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E.

These applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effecitve notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce, over irregular routes unless noted otherwise. Applications for motor contract carrier authority are those where service in for a named shipper "under contract." Please direct status inquiries to Team 1, (202) 275–7992.

Volume No. OP1–228

Decided: December 14, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler and Fortier.

MC 110310 (Sub-4), filed December 8, 1982. Applicant: INTER-COUNTY BUS LINES, INC., 513 S. Adams Street, Havre de Grace, MD 21078. Representative: James C. Vancheni III (same address as applicant), (301) 939–3900. Transporting *passengers,* in charter and special operations, beginning and ending at points in Baltimore, Cecil, and Harford Counties, MD, and York, Lancaster, Dauphin, Lebanon, Chester, Delaware and Montgomery Counties, PA and New Castle and Dover Counties, DE, on the one hand, and, on the other, points in the U.S.

Note.—Applicant seeks to provide privately-funded special and charter transportation.

MC 124421 (Sub-2), filed November 29, 1982. Applicant: 88 TRANSIT LINES, INC., Arentzen Blvd., Charleroi, PA 15022. Representative: S. Berne Smith, P.O. Box 1166, Harrisburg, PA 17108–1166, (717) 232–8000. Transporting *passengers,* in special and charter operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 127900 (Sub-7), filed December 8, 1982. Applicant: GROOME TRANSPORTATION, INC., P.O. Box A–23, Richmond, VA 23231. Representative: Dennis Dean Kirk, Suite 929, Pennsylvania Bldg., 425 13th St., N.W., Washington, DC 20004, (202) 347–2857. Transporting *passengers,* in charter and special operation, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 139210 (Sub-6), filed December 6, 1982. Applicant: ALASKA YUKON MOTORCOACHES, INC., 555 Forth & Battery Bldg., Seattle, WA 98121. Representative: A. T. Wendells, 910 Bank of California Center, Seattle, WA 98164, (206)–682–1780. Transporting *passengers,* in charter and special operations, between points in the U.S. (including AK but excluding HI).

Note.—Applicant seeks to provide privately-funded charter and special operations.

MC 144410, filed December 9, 1982. Applicant: DEL AND NELLIE BUNCH, a partnership, d.b.a. ROYAL CHARTERS, 211 West Lewis, Pasco, WA 99336. Representative: Eldon M. Johnson, 650 California St., Suite 2808, San Francisco, CA 94108, (415) 986–8696. Transporting *passengers,* in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 148150 (Sub-4), filed December 3, 1982. Applicant: BROTHERS TRUCKING CO., INC., R.D. #2, Manchester, PA 17345. Representative: J. Bruce Walter, P.O. Box 1146, Harrisburg, PA 17108, (717) 233–5731. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 164911, filed November 29, 1982. Applicant: LODESTAR BUS LINES, INC., 230 Theatre Drive, Johnstown, PA 15904. Representative: John A. Pillar, 1500 Bank Tower, 307 Forth Ave., Pittsburgh, PA 15222, (412) 471–3300. Transporting *passengers,* in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165060, filed December 7, 1982. Applicant: ISAAC I. LAPP, 2926 Church Rd., Bird-in-Hand, PA 17505. Representative: George E. Campbell, 985 Old Eagle School Rd., Suite 501, Wayne, PA 19087, (215) 293–9220. Transporting *food and other edible products and by-products intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizer, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 165081, filed December 7, 1982. Applicant: EMPIRE BUS CO., INC., 2024 3rd St., N.E., Washington, DC 20002. Representative: William L. Briscoe (same address as applicant), (202) 529

6679. Transporting *passengers,* in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165090, filed December 8, 1982. Applicant: CHARLES BRUMLEY, Box 3681, Lubbock, TX 79452. Representative: Terry Holt, 8212 Ithaca #9, Lubbock, TX 79423, (806) 797–9743. Transporting *food and other edible products and by-products intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizer, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 165091, December 7, 1982. Applicant: OPEM SPACE, INC., 5714 Eastern Ave., N.W., Washington, DC 20011. Representative: David L. Dupree (same address as applicant), (202)–529–9032. Transporting *passengers,* in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 165100, filed December 9, 1982. Applicant: ACTION TRANSIT ENTERPRISES, INCORPORATED, 3810 Penn Ave., Pittsburgh, PA 15201. Representative: William A. Gray, 2310 Grant Bldg., Pittsburgh, PA 15219, (412) 471–1800. Transporting *passengers,* in charter and special operations, between points in the U.S. (excluding HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

For the following, please direct status calls to Team 1 (202) 275–7030.

Volume No. OP2–322

Decided: December 14, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 3932 (Sub-1), filed December 2, 1982. Applicant: CLEVELAND-LORAIN HIGHWAY COACH CO., 3747 Colorado Ave., Lorain, OH 44054. Representative: Robert J. Brooks, 1828 L St., NW, Suite 1111, Washington, D.C. 20036, (202) 466–3892. Transporting *passengers,* in charter and special operations, between points in the U.S. (including AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 61993 (Sub-2), filed December 6, 1982. Applicant: KEYSTONE TOURS, INC., R.D. 2, Box 116, Bath, PA 18014. Representative: Morton E. Kiel, Suite 1832—Two World Trade Center, New York, NY 10048, 212–466–0220. Transporting *passengers,* in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 108452 (Sub-16), filed December 2, 1982. Applicant: GOLD LINE, INC., d.b.a. GOLD LINE, 5500 Tuxedo Rd., Tuxedo, MD 20781. Representative: L. C. Major, Jr., Suite 304 Overlook Bldg., 6121 Lincolnia Rd., P.O. Box 11278, Alexandria, VA 22312, 703–750–1112. Transporting *passengers,* in charter and special operations, between points in the U.S. (including AK, but excluding HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 112422 (Sub-13), filed November 22, 1982. Applicant: SAM VAN GALDER, INC., 715 South Pearl St., Janesville, WI 53545. Representative: Richard A. Westley, 4506 Regent St., Ste. 100, P.O. Box 5086, Madison, WI 53705–0086, (608) 238–3119. Transporting *passengers,* in charter and special operations, beginning and ending at points in IL, IN, IA, MI, MN, and WI, and extending to points in the U.S. (except HI, but including AK). Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. 11343(a), submit an affidavit indicating why such approval is unnecessary, or file a petition seeking exemption under 49 U.S.C. 11343(e) to the Secretary's Office. In order to expedite issuance of any authority, please submit a copy of the affidavit or proof of filing the application(s) for common control to Team 2, Room 2379.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 141743 (Sub-5), filed December 7, 1982. Applicant: MARK IV CHARTER LINES, INC., 14800 South Avalon Blvd., Gardena, CA 90248. Representative: Eldon M. Johnson, 650 California St., Suite 2808, San Francisco, CA 94108, (415) 986–8696. Transporting *passengers,* in charter and special operations, between points in the U.S. (except HI, but including AK).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 156152 (Sub-2), filed December 9, 1982. Applicant: IMPERIAL ENTERPRISES CORPORATION, P.O. Box 6009, Lafayette, IN 47903. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240, 317–846–6655. Transporting *passengers,* in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter or special transportation.

MC 164782, filed November 19, 1982. Applicant: AMERICA TRAVELS, INC., 84–03 Northern Blvd., Jackson Heights, NY 11372. Representative: Robert J. Brooks, 1828 L St., N.W., Suite 1111, Washington, DC 20036, 202–466–3892. Transporting *passengers* in special and charter operation, between points in the U.S. (including AK and HI).

Note.—Applicant seeks to provide privately-funded charter or special transportation.

MC 164863, filed November 24, 1982. Applicant: GREAT AMERICAN BUS COMPANY, 1217 Griswold, Suite 200, Detroit, MI 48226. Representative: Robert J. Brooks, 1828 L St., NW, Suite 1111, Washington, DC 20036, (202) 466–3892. Transporting *passengers,* in special and charter operations, between points in the U.S. (including AK and HI).

Note.—Applicant seeks to provide privately-funded passenger charter and special transportation.

MC 164953, filed November 30, 1982. Applicant: WHITE HOUSE SIGHTSEEING CORPORATION, d.b.a. AMERICAN TOURS, 519 Sixth St., NW Washington, DC 20001. Representative: Robert R. Harris, 1730 M St., NW Suite 501, Washington, DC 20036, 202–296–2900. Transporting *passengers,* in charter and special operations, between points in the U.S. (including AK, but excluding HI).

Note.—Applicant seeks to provide privately-funded charter or special transportation.

MC 165022, filed December 6, 1982. Applicant: TRANSACTION INTERNATIONAL TRADE AND TRANSPORTATION, U.S.A. INC., 17412 Kurt Lane, Huntington Beach, CA 92647. Representative: Robert J. Gallagher, 1000 Connecticut Ave., NW, Suite 1200, Washington, DC 20036, 202–785–0024. As a *broker* of **GENERAL COMMODITIES** (except household goods), between points in the U.S. (except AK and HI).

MC 165063, filed December 6, 1982. Applicant: L & M TRANSPORTATION, 719 Fritztown Rd., Sinking Spring, PA 19608. Representative: Darrell A. Lutz (same address as applicant), 215–678–5832). Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners,* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 165092, filed December 7, 1982. Applicant: OPAL E. & DENNIS L. WARE, 3220 Chippiwa Lane, Council Bluffs, IA 51501. Representative: Edward A. O'Donnell, 1004–29th St., Sioux City, IA 51104, 712–255–3127. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

For the following, please direct status inquiries to Team 4 at 202–275–7669.

Volume No. OP4–075

December 14, 1982.

By the Commission, Reviw Board No. 2, Members Carleton, Williams, and Ewing.

MC 154126 (Sub-1), filed December 6, 1982. Applicant: SEGURA'S TRUCKING, INC., P.O. Box 3232, Lafayette, LA 70502. Representative: C. W. Ferebee, 3910 FM 1960 W., Suite 106, Houston, TX 77068, (713) 537–8156. Transporting (1) *shipments weighing 100 pounds or less* if transported in a moter vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI), and (2) for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, sensitive weapons and munition), between points in the U.S. (except AK and HI).

MC 164917, filed December 8, 1982. Applicant: A & A CHARTER SERVICE, INC., 297 Communipaw Ave., Jersey City, NJ 07304. Representative: Edward F. Bowes, P.O. Box Y, Roseland, NJ 07068, (201) 992–2200. Transporting *passengers*, in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special operations.

MC 165016, filed December 6, 1982. Applicant: L. A. PATTERSON, INC., 1000 Boston Neck Rd., N Kingstown, RI 02852. Representative: William F. Poole, 22 Knollwood Circle, N Kingstown, RI 02852, (401) 885–0474. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 165017, filed December 6, 1982. Applicant: EUGENE R. THOMPSON, Box 62, Cascade, MT 59421. Representative: Charlene R. Thompson (same address as applicant), (406) 468–2712. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 165047, filed December 7, 1982. Applicant: JIM'S BUS SERVICE, 2824 Curtis Dr., Temple Hills, MD 20748. Representative: Joyce Marshall (same address as applicant), (301) 894–5417. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

Volume No. OP4–076

Decided: December 15, 1982.

By the Commission, Review Board No. 2, Members Carleton, Wiliams, and Ewing.

MC 129596 (Sub-1), filed November 16, 1982. Applicant: ABC BONDED WAREHOUSES, INC., 5000 Pan American, NE, P.O. Box 724, Albuquerque, NM 87109. Representative: Norris R. Penny, Sr. (same address as applicant), (505) 881–1414. Transporting, (1) for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), and (2) *used household goods* for the account of the United States Government incidental to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S. (except AK and HI).

For the following, please direct status inquiries to Team 5 at 202–275–7289.

Volume No. OP5–286

Decided: December 10, 1982

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 52479 (Sub-4), filed December 2, 1982. Applicant: SUNNYLAND STAGES INC., 320 South Kimbrough, Springfield, MO 65806. Representative: Wayne V. Barnes (same address as applicant), (417) 866–1495. Transporting *passengers*, in special and charter operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 134099 (Sub-2), filed November 29, 1982. Applicant: PACIFIC NATIONAL LINES, INC., 2209 Pacific Ave., Tacoma, WA 98402. Representative: Lawrence E. Lindeman, 4660 Kenmore Ave., Suite 1203, Alexandria, VA 22304, 703–751–2441. Transporting *passengers, in charter and special operations*, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 140818 (Sub-3), filed November 29, 1982. Applicant: THE GRAY LINE OF SEATTLE, INC., Suite 400 1218 Third Ave., Seattle, WA 98101. Representative: L. C. Major, Jr., Suite 304 Overlook Bldg., 6121 Lincolnia Rd., P.O. Box 11278, Alexandria, VA 22312, 703–750–1112. Transporting *passengers, in charter and special operations*, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 150519 (Sub-3), filed November 22, 1982. Applicant: PETER PICKNELLY AND LOUIS MAGNANO, d.b.a. VIP COACH SERVICES, 1776 Main St., Springfield, MA 01103. Representative: Robert J. Brooks, 1828 L St., NW, Suite 111, Washington, DC 20036, (202) 466–3892. Transporting *passengers*, in special and charter operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

Volume No. OP5–288

Decided: December 13, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 108359 (Sub-10), filed December 6, 1982. Applicant: EMPIRE TRAILWAYS, INC., 384 East Ave., Rochester, NY 14607.. Representative: Lawrence E. Lindeman, 4660 Kenmore Ave., Suite 1203, Alexandria, VA 22304, (703) 751–2441. Transporting *passengers*, in special and charter operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 128449 (Sub-15), filed December 3, 1982. Applicant: JIMMIE TUCKER TRUCKING, INC., P.O. Box 428, Broken Bow, OK 74728. Representative: William P. Parker, P.O. Box 54657, Oklahoma City, OK 73154, (405) 424–3301. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 129379 (Sub-4), filed December 3, 1982. Applicant: FIDELITY MOTOR BUS LINES, INC., 1920 Lincoln Way East, Massillon, OH 44646. Representative: Frank L. Calvary, 3066 N. Star Rd., Columbus, OH 43221, (614) 459–4248.

Transporting *passengers,* in special and charter operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special operations.

MC 156179 (Sub-1), filed December 3, 1982. Applicant: MARIN AIRPORTER, 200 Tamal Vista Blvd., Suite 507, Corte Madera, CA 94925. Representative: Ellis Ross Anderson, 100 Bush Street, Suite 410, San Francisco, CA 94104, (415) 421–6743. Transporting *passengers,* in special and charter operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 164959, filed November 30, 1982. Applicant: CATHERINE E. STUTHEIT AND MARY MULLEE, d.b.a. VALLEY DISPATCH, 904 Second Ave. West, Columbia Falls, MT 59912. Representative: John B. Dudis, 1 Main—P.O. Box 759, Kalispell, MT 59901, 406–755–6644. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 164979, filed December 2, 1982. Applicant: MERCED TRANSPORTATION, d.b.a. VIA CHARTER LINES, 300 Grogan Avenue, Merced, CA 95340. Representative: Eldon M. Johnson, 650 California Street, Suite 2808, San Francisco, CA 94108, (415) 986–8696. Transporting *passengers,* in special and charter operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 164988, filed December 2, 1982. Applicant: WILCO TRAVEL AGENCY, INC., 386 Waller Avenue, Suite 9, Lexington, KY 40504. Representative: Robert J. Brooks, 1828 L. Street, N.W., Suite 1111, Washington, DC 20036, (202) 466–3892. Transporting *passengers,* in special and charter operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–34536 Filed 12–20–82; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Motor Common and Contract Carriers of Property (except fitness-only); Motor Common Carriers of Passengers (public interest); Freight Forwarders; Water Carriers; Household Goods Brokers.

The following applications for motor common or contract carriers of property, water carriage, freight forwarders, and household goods brokers are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice: See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common carriage of passengers, filed on or after November 19, 1982, are governed by Subpart D of 49 CFR Part 1160, published in the **Federal Register** on November 24, 1982 at 47 FR 53271. For compliance procedures, see 49 CFR 1160.86. Carriers operating pursuant to an intrastate certificate also must comply with 49 U.S.C. 10922 (c) (2)(E). Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E. In addition to fitness grounds, these applications may be opposed on the grounds that the transportation to be authorized is not consistent with the public interest.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations.

We make an additional preliminary finding with respect to each of the following types of applications as indicated: common carrier of property—that the service proposed will serve a useful public purpose, responsive to a public demand or need; water common carrier—that the transportation to be provided under the certificate is or will be required by the public convenience and necessity; water contract carrier, motor contract carrier of property, freight forwarder, and household goods broker-that the transportation will be consistent with the public interest and the transportation policy of section 10101 of chapter 101 of Title 49 of the United States Code.

These presumptions shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract." Applications filed under 49 U.S.C. 10922(c)(2)(B) to operate in intrastate commerce over regular routes as a motor common carrier of passengers are duly.

Please direct status inquiries to Team One at (202) 275–7992.

Volume No. OP1–229

Decided: December 14, 1982.

By the Commission, Review Board No. 1. Members Parker, Chandler, and Fortier.

W–1310 (Sub-2), filed December 1, 1982. Applicant: PADELFORD PACKET BOAT CO., INC., Harriet Island, St. Paul, MN 55107. Representative: Andrew R. Clark, 1600 TCF Tower, Minneapolis, MN 55402, (602) 333–1341. As a *water carrier* in connection with the transportation of *passengers and their*

baggage by the use of self-propelled vessels, between points on the Mississippi River and coastal ports in FL and the Florida Keys.

MC 134781 (Sub-8), filed December 7, 1982. Applicant: FAST FREIGHT TRANSFER, INC., P.O. Box 2163, Hialeah, FL 33012. Representative: Clayton R. Byrd, 2870 Briarglen Drive, Doraville, GA 30340, (404) 491–1696. Transporting general commodities (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with K Mart Corporation, of Troy, MI.

MC 138730 (Sub-14), filed December 1, 1982. Applicant: CARAVAN COACH LINES, INC., RD 3, Box 451, Wharton, NJ 07885. Representative: L. C. Major, Jr., Suite 304, Overlook Bldg., 6121 Lincolnia Road, P.O. Box 11278, Alexandria, VA 22312, (703) 750–1112. Over regular routes, transporting *passengers*, between the Newark International Airport, Newark, NJ, and New York, NY, from the Newark International Airport over access roads to junction with NJ Turnpike North (I–95), then over NJ Turnpike to U.S. Hwy S–3 at or near Secaucus, NJ, then over U.S. Hwy S–3 to the Lincoln Tunnel, then through the Lincoln Tunnel to New York, NY, and return over the same route, serving all intermediate points.

Note.—Applicant seeks to provide regular-route service in interstate or foreign commerce.

MC 140800 (Sub-8), filed December 9, 1982. Applicant: COLONIAL TRANSPORTATION, INC., P.O. Box 448, McMinnville, TN 37110. Representative: Robert L. Baker, Sixth Floor, U.S. Bank Bldg., Nashville, TN 37219–2180, (615) 244–8100. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in GA, IL and OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 148341 (Sub-6), filed December 3, 1982. Applicant: MASS TRANSIT, INC., 2450 Orange Ave., Signal Hill, CA 90806. Representative: Milton W. Flack, 8484 Wilshire Blvd., #840, Beverly Hills, CA 90211, (213) 655–3573. Transporting (1) *general commodities* (except classes A and B explosives, household goods and commodities in bulk), and (2) *metal products*, between points in the U.S. (except AK and HI), under continuing contract(s) in (1) above with The Price Company, of San Diego, CA, and in (2) above with Flynn & Enslow, Inc., of San Francisco, CA.

MC 150221 (Sub-14), filed December 6, 1982. Applicant: CENTRAL SOUTHERN, INC., P.O. Box 375, Drayton, SC 29333. Representative: George W. Clapp, P.O. Box 836, Taylors, SC 29687 (803) 244–9314. Transporting (1) *general commodities* (except classes A and B explosives, household goods and commodities in bulk), and (2) *pulp, paper and related products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Coats & Clark's Sales Corp., of Seneca, SC, and N.V.F. Co., of Hartwell, GA, and in (2) above with Champion International Corporation, of Stamford, CT.

MC 154510 (Sub-1), filed December 6, 1982. Applicant: INLAND CORPORATION, P.O. Box 1528, Farmington, NM 87401. Representative: Dale E. Isley, 50 S. Steele St., #330, Denver, CO 80209, (303) 320–6100. Transporting *commodities in bulk*, between points in La Plata, Montezuma, Dolores, San Juan, San Miguel, Ouray, Montrose, and Mesa Counties, CO, San Juan, Grand and Emery Counties, UT, San Juan, McKinley, Rio Arriba and Sandoval Counties, NM, and Apache County, AZ.

MC 156071 (Sub-1), filed December 7, 1982. Applicant: RONALD GROSS, R. D. #2, Cabot, PA 16023. Representative: Arthur J. Diskin, 402 Law & Finance Bldg., Pittsburgh, PA 15219, (412) 281–9494. Transporting *metal products*, between points in Westmoreland and Armstrong Counties, PA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 160730, filed December 9, 1982. Applicant: ATLANTIC MOBILE TRANSPORT, Gideon Grove Church Rd., Stokesdale, NC 27357. Representative: David L. Wilmore (same address as applicant), (919)–643–5475. Transporting *manufactured mobile homes, offices, housing, or other buildings of a similar design, and materials, parts, and supplies*, used in the construction thereof, between those points in and east of IL, KY, MS, TN and WI.

MC 161171 (Sub-1), filed December 7, 1982. Applicant: V. K. PUTMAN, 509 North Grand, Bozeman, MT 59715. Representative: Jerome Anderson, 315 North 24th, P.O. Drawer 849, Billings, Mt 59103–0849, (406)–248–2611. Transporting *vinyl and wood floor coverings, floor undlayment compounds, vinyl weld seam-fuses, floor cleansers, floor covering samples, display cases, racks and materials used in display-floor covering, metal containers, and ceramic tile*, between points in Lehigh County, PA, Stark County, OH and Orange County, NY, on the one hand, and, on the other, points in Missoula County, MT, Multnomah County, OR and King, Spokane and Okanogan Counties, WA.

MC 162971 (Sub-1), filed December 6, 1982. Applicant: DONALD R. LIND AND NULLET L. SCHNEIDER, d.b.a. D&N TRUCKING, 19472 Yuma Pl., Castro Valley, CA 94546. Representative: Ronald C. Chauvel, 100 Pine St., #2550, San Francisco, CA 94111, (415) 986–1414. Transporting *alcoholic beverages*, between points in OR, WA and CA.

MC 163221 (Sub-1), filed December 9, 1982. Applicant: COOLIDGE GRAIN AND PRODUCE, INC., 3112 Stratford St., Pearland, TX 77581. Representative: David H. Baker, 600 Maryland Avenue SW., Washington, DC 20024, (202) 484–9090. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Jenson Brokerage, Inc., of Houston, TX.

MC 163741, filed December 7, 1982. Applicant: JOSEF STONE, Stone Meadows Farm, P.O. Box 9, Newtown, PA 18940. Representative: Louis J. Carter, 7300 City Line Ave., Suite 120, Philadelphia, PA 19151–2291. Transporting *wheat middlings*, between points in Northampton County, PA. on the one hand, and, on the other, points in Salem County, NJ.

MC 164251, filed December 6, 1982. Applicant: NEW ENGLAND RETAIL EXPRESS, INC., 111 Lennox St., Norwood, MA 02062. Representative: John C. Fudesco, Suite 960, 1333 New Hampshire Avenue NW., Washington, DC 20036, (202)–659–5157. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Puritan Furniture Corp., of Norwood, MA.

MC 164451, filed December 7, 1982. Applicant: POLYOCK FARMS TRUCKING, INC., Box 43, Zenda, WI 53195. Representative: Richard A. Kerwin, 180 North LaSalle Street, Chicago, IL 60601, (312) 332–5106. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Arrow Plastic Manufacturing Co., of Chicago, IL.

MC 165051, filed December 7, 1982. Applicant: LONA TRUCKING CO., 7339 Lemont Road, Downers Grove, IL 60515. Representative: James R. Madler, 120 W. Madison St., Chicago, IL 60602, (312) 726–8525. Transporting *lumber and*

wood products, rubber and plastic products, and clay, concrete, glass or stone products, between points in IL, IN, IA and WI.

MC 165080, filed December 7, 1982. Applicant: OKLAHOMA CITY EASTERN EXPRESS, INC., 1002 North Owasso Ave., Tulsa, OK 74106. Representative: Martin E. Wyatt, P.O. Box 771, Tulsa, OK 74101, (918) 744–0306. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in AR, KS, MO, TX and OK.

For the following, please direct status calls to Team 2 (202) 275–7030.

Volume No. OP2–321

Decided: December 14, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 109593 (Sub-23), filed December 6, 1982. Applicant: H. R. HILL, INC., P.O. Box 2389, Muskogee, OK 74401. Representative: Jack R. Anderson, 9 East 4th St., Suite 305, Tulsa, OK 74103, 918–583–9000. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Owens-Illinois, of Toledo, OH.

MC 110012 (Sub-92), filed December 6, 1982. Applicant: ROY WIDENER MOTOR LINES, INC., 707 North Liberty Hill Rd., Morristown, TN 37814. Representative: Robert B. Walker, 915 Pennsylvania Bldg., 425–13th Street NW., Washington, DC 20004, 202–737–1030. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 151753 (Sub-7), filed December 7, 1982. Applicant: M. W. CYCLE HAULER, INC., 25 S. Third, Kansas City, KS 66103. Representative: Clyde N. Christey, Ks Credit Union Bldg., 1010 Tyler, Suite 110–L, Topeka, KS 66612, 913–233–9629. Transporting *paper and paper products,* between Newton Falls, NY, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 159982 (Sub-4), filed December 6, 1982. Applicant: O. L. EXPRESS, LTD., P.O. Box 327, Carlisle, IA 50047. Representative: William L. Fairbank, 2400 Financial Center, Des Moines, IA 50309, 515–282–3525. Transporting *paper and paper products, printing supplies and clay,* between points in Polk County, IA and St. Joseph County, MI, on the one hand, and, on the other, points in GA, IL, ME, MA, MI, NJ, NY, and WI.

MC 164003, filed December 6, 1982. Applicant: CASEBIER BULK TRANSPORT CO., INC., 1048 Creekside Drive, Wheaton, IL 60186. Representative: Robert G. Paluch, 7800 West 60th Place, P.O. Box 356, Summit, IL 60501, (312) 563–0060. Transporting *chemicals and related products,* between points in KY, on the one hand, and, on the other, points in IL, IN, KY, OH and TN, under continuing contract(s) with Hercules Incorporated, of Wilmington, DE, and Peabody Coal Company, of St. Louis, Mo.

MC 164823, filed November 22, 1982. Applicant: PEDRO ORTEGA, 2551 Sixth St. #C, San Diego, CA 92102. Representative: Pedro Ortega (same address as applicant), 619–233–0574. Transporting *general commodities* (except Classes A and B explosives and household goods), between points in the U.S. under continuing contract(s) with Cascade West Transportation Brokers, of Lake Oswego, OR.

MC 165062, filed December 6, 1982. Applicant: MIM'S MOTORFRATE, INC., 12662 York Rd., North Royalton, OH 44131. Representative: James Duvall, 220 W. Bridge St., P.O. Box 97, Dublin, OH 43017, (614) 889–2531. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with K Mart Corporation, of Troy, MI.

MC 165033, filed December 6, 1982. Applicant: ROYAL LINES, INC., 8605 Ames Ave., Omaha, NE 68107. Representative: Arlyn L. Westergren, Suite 201, 9202 W. Dodge Rd., Omaha, NE 68114, 402–397–7033. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Dodge, Douglas, and Saunders Counties, NE, Pottawattamie and Shelby Counties, IA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 165083, filed December 7, 1982. Applicant: KENNETH KALLMEYER d.b.a. GILLESPIE MOBILE HOMES, 2474 Anderson Rd., Crescent Springs, KY 41017. Representative: Edward P. Bocko, P.O. Box 496, Mineral Ridge, OH 44440, 216–652–2789. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of mobile homes, between points in Dearborn County, IN, Boone County, KY, and Clermont and Butler Counties, OH, on the one hand, and, on the other, points in AL, GA, FL, IL, IN, KY, KS, MI, NC, OH, SC, TN, and WV.

MC 165112, filed December 9, 1982. Applicant: GARDNER TRANSPORTATION CO., INC., 820 Ave. E, Pratt City, Birmingham, AL 35214. Representative: George M. Boles, 629 Frank Nelson Bldg., Birmingham, AL 35203, 205–251–6602. Transporting *iron, steel, and aluminum articles, pipe, pipe fittings and accessories, machinery, machinery parts, foundry supplies, and building materials,* between points in the U.S. (except AK and HI).

For the following, please direct status calls to Team 3 (202) 275–5223.

Volume No. OP3–48

Decided: December 13, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

FF–635, filed December 2, 1982. Applicant: FLEET INTERNATIONAL FORWARDERS, INC., 703 Market St., Suite 485, San Francisco, CA 94103. Representative: D. A. Park (same address as applicant), (415) 957–9016. As a freight forwarder, in connection with the transportation of *household goods, baggage,* and *automobiles,* between points in the U.S.

MC 1745 (Sub-17), filed December 1, 1982. Applicant: INTERSTATE VAN LINES, INC., 5801 Rolling Rd., West Springfield, VA 22152. Representative: Marshall Kragen, 1919 Pennsylvania Ave., NW., Suite 300, Washington, D.C. 20006, (202) 466–3778. Transporting *household goods,* between points in the U.S. (except AK and HI), under continuing contract(s) with persons as defined at 49 U.S.C. 10923 who are commercial shippers as defined at 49 CFR 1056.1(b)(6) of the Commission's regulations.

MC 67234 (Sub-67), filed December 2, 1982. Applicant: UNITED VAN LINES, INC., One United Dr., Fenton, MO 63026. Representative: B. W. LaTourette, Jr., 11 South Meramec, Suite 1400, St. Louis, MO 63105, (314) 727–0777. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with Ford Motor Company, of Dearborn, MI.

MC 117204 (Sub-2), Filed November 29, 1982. Applicant: JARVIS TRANS., INC., 25 Tower Rd., Seekonk, MA 02771. Representative: David Deneault, 848 Pleasant St., Suite 13, New Bedford, MA 02740, (617) 999–2929. Transporting *general commodities* (except classes A and B explosives and household goods), between points in CT, MA, NH, and RI.

MC 149215 (Sub-1), Filed December 2, 1982. Applicant: RAYMOND SNELL d.b.a. SNELL & SONS, 5025 Ursula Way.

Denver, CO 80239. Representative: Raymond Snell (same address as applicant), (303) 373–1283. Transporting *general commodities* (except classes A and B explosives), between points in the U.S. (except AK and HI).

MC 150235 (Sub-7), Filed November 29, 1982. Applicant: POWELL TRUCKING COMPANY, INC., Rt. 3, Box 13, Sumrall, MS 39482. Representative: John A. Crawford, 17th fl. Deposit Guaranty Plaza, P.O. Box 22567, Jackson, MS 39205, (601) 948–5711. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in AL, AZ, AR, CO, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NM, NY, NC, OH, OK, PA, SC, SD, TN, TX, VA, WV and WI.

MC 152074 (Sub-4), Filed November 23, 1982. Applicant: KEY–STONE FREIGHT, INC., 767 St. George Ave., Woodbridge, NJ 07095. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934, (201) 234–0301. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 153474 (Sub-3), Filed December 2, 1982. Applicant: WAYNE THOMAS d.b.a. C&W TRUCKING, Box 261, R.D.3, Rockton Rd., Du Bois, PA 15801. Representative: Edward A. O'Donnell, 1004 29th St., Sioux City, IA 51104, (712) 255–3127. Transporting (1) *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contracts(s) with Interstate Freight Brokers, Inc. of Sioux City, IA and (2) *food and related products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Swift Independent Packing Co. of Chicago, IL.

MC 154904 (Sub-2), filed November 23, 1982. Applicant: RUSSELL TRUCKING, INC., 1860 W. Main, Ubly, MI 48475. Representative: James R. Davis, Tenth Floor, Michigan National Tower, Lansing, MI 48933, (517) 482–5800. Transporting (1) *wire; cord sets, scrap metal, plastic and metal products, plastic pellets, clay filler, rubber and materials* used in the manufacture of metal insulating materials between points in Sanilac County, MI, on the one hand, and on the other, points in AL, IL, AZ, CA , FL, GA, IN, KY, MA, MS, NE, NJ, PA, TX, TN, and NY, and (2) *metal buildings, gain bins, forage and livestock equipment*, between points in MI, on the one hand, and, on the other, points, KS, IA, MN, and WI.

MC 161574, filed December 1, 1982. Applicant: INTERNATIONAL CONTAINER SERVICES, INC., 5155 Warner Rd., Garfield Heights, OH 44125.. Representative: Norman J. Philion, 1920 N St., N.W., Washington, DC 20036, (202) 331–8800. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between those points in the U.S. in and east of MN, IA, MO, AR, and TX.

MC 164784 (Sub-1), filed December 1, 1982. Applicant: COMMAND SYSTEMS, INC., 6810 Fleetwood Rd., McLean, VA 22101. Representative: J. G. Dail, Jr., P. O. Box LL, McLean, VA 22101, (703) 893–3050. Transporting *general commodities* (except classes A and B explosives household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 164905, filed November 29, 1982. Applicant: G. M. G. TRANSPORTATION CORP., 18 Lido Blvd., Lake Ronkonkoma, NY 11779. Representative: Ronald I. Shapss, 450 Seventh Ave., New York, NY 10123, (212) 239–4610. Transporting *general commodities* (except classes A and B explosives household goods, and commodities in bulk), between points in NY, NJ, CT, and PA.

MC 164955, filed December 1, 1982. Applicant: W. T. B. INC., 6422 E. Mallon, Spokane, WA 99206.. Representative: James A. Eccles; (same address as applicant), (800) 541–4226. Transporting *general commodities* (except classes A and B explosives household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Gary J. Padrta D/B/A Western Truck Brokers, of Spokane, WA.

MC 164964, filed December 1, 1982. Applicant: J. & L. TRANSPORT, 24530 S. Cass Rd., Canby, OR 97038. Representative: James Watson, P.O. Box 209, Canby, OR 97013, (206) 254–3021. Transporting *such commodities* as are dealt in or distributed by manufacturers of building materials, machinery, metal products, chemicals, stone, clay, or glass products, between points in AR, AZ, CA, CO, GA, ID, IL, KS, MD, MT, NJ, NM, NY, OR, PA, TN, TX, UT, VA, NV and WA.

Volume No. OP3–54

Decided: December 14, 1982.

By the Commission, Review Board No. 2, Members Carlton, Williams, and Ewing.

MC 67234 (Sub-66), filed November 22, 1982. Applicant: UNITED VAN LINES, INC., One United Dr., Fenton, MO 63026. Representative: B. W. LaTourette, Jr., 11 South Meramec, Suite 1400, St. Louis, MO 63105, (314) 727–0777. Transporting *general commodities* (except classes A and B explosives, and commodities in bulk), between points in the U.S., under continuing contracts with General Electric Company, of Bridgeport, CT, Atlantic Plant Maintenance, of Oak Brook, IL, Network Consultants, of Chicago, IL, Banking Systems, Incorporated, of Dallas, TX, Benerson Corporation, of Evansville, IN, Calma Company, of Sunnyvale, CA, East Erie Commercial Railroad, of Erie, PA, General Electric Environmental Services, Inc., of Lebanon, PA, General Electric Broadcasting Company, General Electric Cablevision Corporation, and Multi-Craft Installation Services, Inc., all of Schenectady, NY, General Electric Credit Corporation, General Electric International Operations Company, Inc., General Electric Technical Services Co., Inc., General Electric Trading Company, and Kun-Yong of Korea, Limited, all of New York, NY, General Electric Information Services Company, of Rockville, MD, General Electric Uranium Management Corporation, of San Jose, CA, Great Western Silicon Corporation, of Chandler, AZ, L. E. Hawkins Contractor, Inc., of Midsonville, KY, Management and Technical Services Company, of Mankato, MN, Mitrol, Inc., of Lexington, MA, and Trafalger Developers of Florida, Inc., of Miami, FL.

MC 107515 (Sub-1427), filed November 26, 1982. Applicant: RTC TRANSPORTATION, INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, 3390 Peachtree Rd., N.E., Suite 520, Atlanta, GA 30326, (404) 262–7855. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with Kraft, Inc. of Glenview, IL.

MC 109064 (Sub-48), filed December 3, 1982. Applicant: TEX-O-KAN TRANSPORTATION COMPANY, INC., 3301 East Loop 820 South, P.O. Box 8367, Ft. Worth, TX 76112. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062, (214) 255–6279. Transporting *chemicals and related products*, between points in Ellis County, TX, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 113855 (Sub-541), filed November 29, 1982. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Rd., S.E., Rochester, MN 55903. Representative: Leonard L. Bennett

(Same address as applicant), (507) 288–3331. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contracts with Hamption Lumber Sales Company, or Portland, OR, Arden Lumber Company, of Kettle Falls, WA, Avison Lumber Company, of Molalla, OR, Barbee Mill, of Quendall, WA, Bohemia Lumber Company, of Brownsville, OR, Boise Cascade Corporation, of Elgin, OR, Boise Cascade Corporation, of Emmett, ID, Boise Cascade Corporation, of Kettle Falls, WA, Boise Cascade Corporation, of LaGrande, OR, Boise Cascade Corporation, of Goldendale, WA, Boise Cascade Corporation, of Yakima, WA, Boyd Lumber Company, of Sedro Woolley, WA, Brazier Forest Products, of Molalla, OR, Brooks-Scanlon, Inc., of Bend, OR, Broughton Lumber Company, of Hood, WA, C & D Lumber Company, of Riddle, OR, C & W Lumber Company, of Woodland, WA, Channel Lumber Company, of Craigmont, ID, Clark & Powell Lumber Co., of Junction City, OR, Collins Pine Company, of Chester, CA, Cone Lumber Company, of Goshen, OR, Coos Head Timber Company, of Coos Bay, OR, Crane Mills, of Corning, CA, Crown Zellerbach Corp., Columbia City, OR, Crown Zellerback Corp., of Rainier, OR, Dant & Russell, Inc., of Marysville, WA, Dant & Russell, Inc., of Port Angeles, WA, Dant & Russell, Inc., of Warrenton, OR, Davidson Industries, of Beck, OR, Delson Lumber Company, of Olympia, WA, Diamond International Corp., of Marysville, CA, Diamond International Corp., of Oroville, CA, Diamond International Corp., of Red Bluff, CA, Douglas County Lumber Co., of Roseburg, OR, Ellingson Lumber Company, of Baker, OR, Exeter Lumber Company, of Longview, WA, Forest Grove Lumber Company, of Carnation, OR, Friesen Lumber Company, of St. Helens, OR, Gram Lumber Company, of Kalama, WA, Hambleton Bros. Lumber Co., of Camas, WA, Hanel Lumber Company, of Odell, OR, Hemphill-O'Neill Lumber Co., of Chehalis, WA, Herbert Lumber Company, of Riddle, OR, Edward Hines Lumber Company, of Hines, OR, Hudspeth Pine, of Prineville, OR, Hull-Oakes Lumber Company, of Dawson, OR, Ida-Pine, of Grangeville, ID, International Paper Company, of Chalatchie, WA, International Paper Company, of Vaughan, OR, International Paper Company, of Gardiner, OR, Kimberly-Clark Corporation, of Anderson, CA, Louisiana Pacific Corp., of Alderpoint, CA, Louisiana Pacific Corp., of Fort Bragg, CA, Louisiana Pacific Corp., of Oroville, CA, Louisiana Pacific Corp., of Red Bluff, CA, Louisiana Pacific Corp., of Samoa, CA, Louisiana Pacific Corp., of Tillamook, OR, Louisiana Pacific Corp., of Ukiah, CA, Louisiana Pacific Corp., of Willits, CA, McGrew Brothers Sawmill, of Bellview, OR, Main Industries, of Bieber, CA, Manke & Sons, Inc, of Tacoma, WA, Mary's River Lumber Company, of Corvallis, OR, Modoc Lumber Company, of Klamath Falls, OR, Mountain Fir Lumber Company, of Independence, OR, Mountain Fir Lumber Company, of Maupin, OR, Oregon Cedar Products, of Eugene, OR, Ostrom Lumber Company, of Pedee, OR, Pacific Wood Products, of Redmond, OR, Pack River Tree Farms, of Bonners Ferry, ID, Pack River Tree Farms, of Cashmere, WA, Pack River Tree Farms, of Entiat, WA, Pack River Tree Farms, of Gibbs, ID, Pack River Tree Farms, of Peshastin, WA, Pack River Tree Farms, of Spokane, WA, Paul Bunyan Lumber Company, of Anderson, CA, Plum Creek Lumber Company, of Columbia Falls, MT, Plum Creek Lumber Company, of Kalispell, MT, Pope & Talbot, Incorporated, of Port Gamble, WA, Pope & Talbot, Incorporated, of Oakridge, OR, Publishers Forest Products, of Liberal, OR, Publishers Forest Products, of Tillamook, OR, Rosboro Lumber Company, of Springfield, OR, Roseburg Lumber Company, of Roseburg, OR, SDS Lumber Sales, of Bingen, WA, SDS Lumber Sales, of Cascade Locks, OR, St. John's Stud, of Portland, OR, St. Regis Lumber, of Tacoma, WA, Schmidbauer Lumber Company, of Eureka, CA, Seneca Sawmill Company, of Eugene, OR, Sierra Pacific Industries, of Arcata, CA, Sierra Pacific Industries, of Loyalton, CA, Sierra Pacific Industries, of Quincy, CA, Sierra Pacific Industries, of Redding, CA, Sierra Pacific Industries, of Susanville, CA, Simpson Timber Company, of Shelton, WA, Spalding & Sons, Inc., of Grants Pass, OR, Summitt Timber Company, of Everett, WA, John C. Taylor Lumber Co., of Shipley, OR, Three-G Lumber Company, of Wrens, OR, Twin Harbors Lumber Company, of Twin Harbors, WA, U.S. Plywood, of Odell, OR, U.S. Plywood, of Roseburg, OR, U.S. Plywood, of Morton, WA, Vaagen Bros. Lumber Company, of Colville, WA, Vanport Manufacturing, of Boring, OR, Warm Springs Forest Products, of Madras, OR, Welco Lumber Company, of Marysville, WA, Wendell Mills, of Fairfield, ID, Whipple & Moshofsky Lumber Co., of Grande Rone, OR, Wickes Forest Industries, of Dinuba, CA, Willamette Industries, of Dallas, OR, Willamette Industries, of Sweet Home, OR, and Willamette Industries, of Waterloo, OR.

MC 121395 (Sub-3), filed December 3, 1982. Applicant: PMS TRANSPORTATION CO., 110 East Chicago Ave., Westmont, IL 60559. Representative: Anthony E. Young, 29 South LaSalle St., Suite 350, Chicago, IL 60603, (312) 782–8880. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between Chicago, IL, on the one hand, and, on the other, points in IL, IN, WI, MI, OH, MO, KY, IA, and MN.

MC 125894 (Sub-26), filed November 24, 1982. Applicant: J & R SCHUGEL TRUCKING, INC., 2026 North Broadway, New Ulm, MN 56073. Representative: Robert S. Lee, 1600 TCF Tower, 121 So. 8th St., Minneapolis, MN 55402, (612) 333–1341. Transporting *general commodities* (except classes A and B explosives and household goods), between those points in the U.S. in and east of ND, SD, NE, KS, AR, and LA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 128504 (Sub-8), filed December 1, 1982. Applicant: JAMES M. and MRS. JAMES M. BARNETT, d.b.a. BARNETT'S MOVING AND STORAGE, 507 West Adams St., P.O. Box 726, Kosciusko, MS 39090. Representative: (Same as applicant), (601) 289–5071. Transporting *household goods*, between points in the U.S. (except ME).

MC 140615 (Sub-71), filed December 3, 1982. Applicant: DAIRYLAND TRANSPORT, INC., P.O. Box 1116, Wisconsin Rapids, WI 54494. Representative: Joseph A. Nemecek, 1992 Susan Ave., Neenah, WI 54956, (414) 725–4096. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI).

MC 140645 (Sub-24), filed November 29, 1982. Applicant: UNITED TRUCKING, INC., P.O. Box 398, Tallapoosa, GA 30176. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328, (404) 256–4320. Transporting (1) *containers, container ends, container accessories,* (2) *liquid commodities,* (3) *buffing, polishing, scouring, and washing compounds, solvents, starch, bleach, lubricating oils, carbon gum and sludge removing compounds, disinfectants, softeners and sizing, janitorial supplies and equipment,* (4) *insecticides and pesticides,* (5) *food and such commodities* as are dealt in by grocery houses, retail chain department stores, and drug stores, and (6) *such commodities* as are dealt in by retail

paint stores, between points in the U.S. (except AK and HI).

MC 145054 (Sub-50), filed December 3, 1982. Applicant: COORS TRANSPORTATION COMPANY, 5101 York St., Denver, CO 80216. Representative: Leslie R. Kehl, 1660 Lincoln St., Suite 1600, Denver, CO 80264, (303) 861–4028. Transporting *general commodities* (except classes A and B explosives), between points in the U.S. (except AK and HI), under continuing contract(s) with Adolph Coors Company, Coors Porcelain Company, Coors Energy Co., Cadco Incorporated, Coors Food Products Company, The Rocky Mountain Water Company, and The Wannamaker Ditch Company, all of Golden, CO, Coors Distributing Company, of Denver, CO, American Center for Occupational Health, Inc., of Aurora, CO, Alumina Ceramics, Inc., of Benton, AR, RI Ceramic Company, of Norman, OK, and Wilbank's International, Inc., of Hillsboro, OR.

MC 152524 (Sub-2), filed December 3, 1982. Applicant: COLONIAL EXPRESS, INC., 4 Alger Street, South Boston, MA 02127. Representative: John F. O'Donnell, 60 Adams St., P.O. Box 238, Milton, MA 01287, (617) 676–7610. Transporting *food and related products,* between points in MA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 164935, filed December 1, 1982. Applicant: RANGE TRAFFIC SERVICE, INC., 803 Glenmar Rd., P.O. Box 154, Fairless Hills, PA 19030. Representative: Peter B. Tansey (same address as applicant), (215) 946–5293. As a broker, at Fairless Hills, PA, in arranging for the transportation of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 164995, filed December 3, 1982. Applicant: THREE STAR CORPORATION, 1340 Highway 92 West, Winter Haven, FL 33880. Representative: M. Craig Massey, 1701 South Florida Avenue, P.O. Drawer 2787, Dixieland Station, Lakeland, FL 33806–2787, (813) 682–1178. Transporting *food and related products,* between points in AL, AR, FL, GA, IA, IL, IN, KY, LA, MI, MN, MO, MS, NC, OH, SC, TN, and WI.

For the following, please direct status calls to Team 4 (202) 275–7669.

Volume No. OP4–074

Decided: December 14, 1982.

By the Commission, Review Board No. 2, members Carleton, Williams, and Ewing.

MC 102616 (Sub-1037), filed December 6, 1982. Applicant: COASTAL TANK LINES, INC., 250 Cleavland Massillon Rd., Akron, OH 44319.. Representative: Fred H. Daly, 2550 M St., Suite 475, Washington, DC 20037, (202) 293–3204. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Mobay Chemical Company, Pittsburgh, PA, and Ashland Oil, Inc., Ashland, KY.

MC 121316 (Sub-3), filed December 6, 1982. Applicant: M. K. & SONS EXPRESS, INC., 8 Upton St., Peabody, MA 01960. Representative: Curtis L. Wood, 14 New England Executive Pk., Burlington, MA 01803, (617) 272–7540. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in CT, ME, MA, NH, NJ, NY, PA, RI and VT.

MC 141407 (Sub-4), filed December 7, 1982. Applicant: CHARLES N. CASKEY, d.b.a. B & C TRANSFER, 4915 Stone Ave., Sioux City, IA 51105. Representative: Edward A. O'Donnell, 1004 29th St., Sioux City, IA 51104, (712) 255–3127. Transporting *food and related products,* between points in IA, IL, KS, MN, MO, ND, NE, SD, and WI.

MC 145637 (Sub-12), filed December 7, 1982. Applicant: B & B EXPRESS, INC., P.O. Box 5552, Station B, Greenville, SC 29606. Representative: Henry E. Seaton, 1024 Pennsylvania Bldg., 425 13th Street NW., Washington, DC 20004, (202) 347–8862. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in Anderson Couty, SC, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 148437 (Sub-7), filed December 6, 1982. Applicant: BORK TRANSPORT, INC., 2843 Ingersoll, Des Moines, IA 50312. Representative: William L. Fairbank, 2400 Financial Center, Des Moines, IA 50309, (515) 282–3525. Transporting (1) *alcohol,* between points in IL and IA, on the one hand, and, on the other, points in the U.S. (except AK and HI), and (2) *petroleum products,* between points in IA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 151587 (Sub-2), filed December 6, 1982. Applicant: P & G OIL COMPANY, INC., d.b.a. P & G TRUCKING COMPANY, Lakeview Dr., Madison Heights, VA 24572. Representative: Eric Meierhoefer, 915 Pennsylvania Bldg., 425 13th Street NW., Washington, DC 20004, (202) 737–1030. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Hopeman Brothers, Inc., of Waynesboro, VA.

MC 156436 (Sub-1), filed December 6, 1982. Applicant: RUSH MOTOR TRANSIT, 260 S. Los Robles Ave., Pasadena, CA 91101. Representative: Milton McKay (Same address as applicant), (213) 793–0625. Transporting *petroleum and petroleum products,* between points in CA, AZ, NM, NV, UT, OR, ID, WY, MT, CO, WA, TX.

MC 159646 (Sub-3), filed December 2, 1982. Applicant: ENERGY TRUCKING, INC., 4100 So. 500 W, Salt Lake City, UT 84107. Representative: George Hammon (Same address as applicant), (801) 268–0909. Transporting *general commodities* (except classes A & B explosives and household goods), between points in the U.S. (except AK and HI), under continuing contracts(s) with Energy Fuels Nuclear, Inc. of Denver, Co.

MC 162397, filed December 7, 1982. Applicant: DAYTON TRUCKING, INC, 521 Brown St, Dayton, OH 45402. Representative: Michael Spurlock, 275 E. State St., Columbus, OH 43215, (614) 228–8575. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in OH and VA, on the one hand, and , on the other, points in the U.S. (except AK and HI).

MC 163036 (Sub-1), filed December 6, 1982. Applicant: ANTHONY'S DELIVERY SERVICE, INC., 1196 W Broad St., Columbus, OH 43222. Representative: Earl N. Merwin, 85 E Gay St., Columbus, OH 43215, (614) 224–3161. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in OH, on the one hand, and, on the other, points in the U.S. (except AK and HI.

MC 162457, filed December 6, 1982. Applicant: ROBERT E. ANDERSON, JR., 34 Greenridge Dr., Decatur, IL 62526. Representative: Patrick J O'Hara, P.O. Box 23, Petersburg, IL 62675, (217) 632–2878. Transporting *food and related products,* between points in the U.S., under continuing contract(s) with Decatur Bottling Company, of Decatur, IL.

MC 164557, filed December 7, 1982. Applicant: SEMINOLE REFINING, INC., P.O. Box 1217, Panama City, FL 32401. Representative: Mark S. Gray, 1006 South Tower, 225 Peachtree St., N.E., Atlanta, GA 30343, (404) 523–1717. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI), under

continuing contract(s) with A. E. Staley Manufacturing Company, of Decatur, IL.

MC 164977, filed December 2, 1982. Applicant: ABLE TRANSPORT, INC., 3484 Union St., P.O. Box 557, Mineral Ridge, OH 44440. Representative: Earl N. Merwin, 85 East Gay St., Columbus, OH 43215, (614) 224–3161. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Syro Steel Company, of Girard, OH.

MC 164987, filed December 2, 1982. Applicant: NORRED TRUCKING AND MATERIALS, INC., 907 East 129th Ave., Tampa, FL 33612. Representative: Sheldon L. Wind, 2804 N. Central Ave., Tampa, FL 33602, (813) 224–9558. Transporting *clay, concrete, glass or stone products, sand, and agricultural products*, between those points in Fulton, De Kalb, Cobb, Clayton, Clark, Richmond, Chatham, Glynn, Dougherty, Chattahoochee, Bibb, Lowndes, Brooks, Decatur, Randolph, and Jefferson Counties, GA, those in Jefferson, Montgomery, Houston, Henry, Mobile, Dallas, Coosa, and Clay Counties, AL, Davidson, Shelby, Bradley, Knox, Madison, and Washington Counties, TN, Pulaski, Jefferson Union, Crittenden, and Miller Counties, AR, Charleston, Richland, Aiken, Greenville, Anderson, Florence, Georgetown, and York Counties, SC, Rankin, Jackson, Forrest, Lowndes, Washington, and Warren Counties, MS, New Hanover, Mecklenburg, Forsyth, Wake, Orange, and Chatham Counties, NC, Middlesex County, CT, Plaquemines, Jefferson, St. Charles, and St. Bernard Parishes, LA, Nansemond County, VA, and points in FL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 165036, filed December 6, 1982. Applicant: ADVOCATE SERVICES, INC., P.O. Box 1510, Butler, PA 16001. Representative: William A. Gray, 2310 Grant Bldg., Pittsburgh, PA 15219, (412) 471–1800. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 165057, filed December 6, 1982. Applicant: NATIONS TRANSPORT CORPORATION, P.O. Box 4744, Syracuse, NY 13221. Representative: Harry J. Jordan, Suite 502, Solar Bldg., 1000 16th Street NW., Washington, DC 20036, (202) 783–8131. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-34537 Filed 12-20-82; 8:45 am]
BILLING CODE 7035-01-M

[Volume No. OP3–057]

Motor Carriers; Permanent Authority Applications; Republications of Grants of Operating Rights Authority Prior to Certification

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the **Federal Register**.

An original and one copy of petition for leave to intervene must be filed with the Commission within 30 days after the date of this **Federal Register** notice addressing specifically the issue(s) indicated as the purpose for republication.

Agatha L. Mergenovich,
Secretary.

MC 149565 (Sub-3) (Republication), filed April 12, 1982, published in the **Federal Register** issue of May 6, 1982. Applicant: G. L. DUNPHY & SON, INC., Box 2350, North Anson, ME 04958. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., Arlington, VA 22210. A Decision of the Commission, Review Board 3, decided August 23, 1982, and served September 14, 1982, finds that the performance by applicant of the service described herein to operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities*, between Kansas, Windsor, Ashmore, and Tower Hill, IL, Huntertown, Wallen, Laotto, Swan, Avilla, Gadsden, Toto, Tefft, Charlottesville, Greenfield, Philadelphia, Gem, Cumberland, Hebron, Denham, Plainfield, Clayton, Amo, Coatesville, Fillmore, Pennville, West Cambridge City, Hillsboro, Waynetown, and Covington IN, Buzzards Bay, Sagamore, Sandwich, and Ludlow, MA, Clinton, Tekonsha, Homer, Concord, Spring Arbor, Centreville, Nottawa, Fairfax, Colon, Sherwood, and Union City, MI, Elm, Mt. Hope, Vernon, Rudeville, Highland Lakes, Blairstown, Marksboro, Greendell, Cranberry Lake, Lake Lackawanna, Pompton Plains, Pemberton, and Ft. Dix, NJ, New Milford, Rosendale, High Falls, Rifton, Tillson, Williamsville, Gardiner, Modena, Lee, Blossvale, Lima, Malone, Constable, Trout River, Leicester, LaGrange, Groveland, Mt. Morris, Sonyea, Linden, Oneida Castle, Red Oaks Mill, Fishkill Plains, St. Andrew, Plattekill, Ilion, and Stafford, NY, Berwick, Ellis, Dresden, Cadix, Patterson, Grant, Lisbon, Westerville, Galena, Sunbury, Centerburg, Bangs, Mount Liberty, Millwood, Phalanx, Garrettsville, Piney Fork, Pekin, Paris, Amsterdam, Wolf Run, Pattersonville, Augusta, Mechanicstown, Bergholz, Harrod, White Cottage, Moxahala Park, Roseville, Hepburn, Meeker, Big Island, New Lexington, Savona, Fort Jefferson, Germantown, Farmersville, Ingomar, West Alexandria, Trotwood, Brookville, Bachman, West Sonora, Eldorado, Glass Rock, Mt. Perry, Fultonham, East Fultonham, and Crooksville, OH, and Heilwood, Mountain Home, Spring City, Seiple, Strawberry Ridge, Eyers Grove, Pulaski, Upland, Carlton, Dimeling, Madera, Potts Run, Nanty Gol, Lilly, Alexandria, Mount Pleasant, Hepburnville, Woodland Park, Cochranton, Utica, Niles, New Providence, Garland, Pittsfield, Youngsville, Irvine, Starbrick, Waterford, Union City, Beaver Dam, Elgin, Spring Creek, Greason, Audubon, Newville, Oadville, Cornwall, Northwood, Vail, Bald Eagle, Port Matilda, Julian, Unionville, Wingate, South Bradford, Degolia, Custer City, Lewis Run, and Slatington, PA, on the one hand, and, on the other, points in the Unied States; that applicant is fit, willing, and able properly to perform the granted service and to conform to statutory and administrative requirements. CONDITIONS: To the extent that the authority granted embraces classes A and B explosives, it shall be limited in point of time to a period expiring 5 years from the effective date of the certificate; and issuance of a certificate in this proceeding is conditioned upon applicant certifying to the Commission, prior to commencing operations, that all rail service has actually terminated at specified points. The certification should be sent to the Deputy Director, Section of Operating Rights, Interstate Commerce Commission, Washington, DC 20423. The purpose of this republication is to give notice to those parties who have relied on the previous notice in the **Federal Register** of the application as published and may have an interest in, and would be prejudiced by the lack of proper notice to the authority granted to the extent it authorizes classes A and B explosives, household goods and service to Alaska and Hawaii.

MC 152914 (Sub-3) (republication), filed June 1, 1982, published in the **Federal Register** issue of June 25, 1982,

and republished this issue. Applicant: STATEWAY TRUCKING, INC., 2025 So. Morgan St., Chicago, IL 60608. Representative: Rick A. Rude, Suite 611, 1730 Rhode Island Ave., NW., Washington, DC 20036, (202) 223–5900. A decision of the Commission, Review Board 2, decided August 31, 1982, and served September 15, 1982, finds that the performance by the applicant of the service described herein to operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except household goods and classes A and B explosives), between Buckley and Enumclaw, WA, Big Sandy, Lacy, Series, Hornsby, Deanberg, Parkburg, and Silverton, TN, DeWalt and Herbert, TX, Ragan, Huntley, and Irvington, NE, Hunter, Salt Fork, LaMont, Eddy, Peckham, Middleton, and Simpson, OK, West Grove, Bloomfield, and Carbon, IA, Ehrhardt and Lodge, SC, Oakdale, MN, Davidson and Fordsville, KY, Waverly, FL, Kentmeer, DE, Ludlow, Randolph, and Newton Highlands, MA, Avondale, Elsonor, Eden Park, and Whitehall, OH, Centerville, Colon, Fairfax, Union City, Homer, Concord, Tekonsha, and Spring Arbor, MI, Rochester, Berry, Edinberg, Sharpsburg, Lakewood, Millersville, Beecher City, Iola, Louis, Windsor, Gays, Ashmore, Kansas, and Dudley, IL, Thorne, Cumberland, Gem, Greenfield, Charlottesville, Alysworth, Kouts, Hebron, Palmer, Leroy, Wallen, Huntertown, La Otto, Rupel, San Pierre, and Tefft, IN, Hepburnville, Earnst, Ironsides, Port Indian, and Betzwood, PA, Williamsville, Pittsford, Lima, Honeoye Falls, Woodbine, Aqueduct, E. Walden, Modena, Clintondale, Chauncey, Elmsford, and Eastview, NY, Finderne, E. Long Beach, Pompton West and Pompton Lakes, NJ, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii); that applicant is fit, willing, and able properly to perform the granted service and to conform to statutory and administrative requirements. Condition: The certificate to be issued in this proceeding, to the extent it authorizes the transportation of classes A and B explosives, shall be limited in point of time to a period expirng five (5) years from the date of issuance. The purpose of the republication is to give notice to those parties who have relied on the previous notice in the **Federal Register** of the application as published and may have an interest in, and would be projudiced by the lack of proper notice to the authority granted.

MC 162355 (republication) filed June 7, 1982, published in the **Federal Register** issue of June 28, 1982. Applicant: UNIVERSAL INDUSTRIAL SERVICES, INC., 620 Wilbur Ave., Antioch, CA 94509. Representative: Elvis Lawhorn (same address as applicant), (415) 778–4430. A Decision of the Commission, Review Board 2, decided August 18, 1982 and served August 24, 1982, finds that the performance by applicant of the service will serve a useful public purpose, responsive to a public demand or need to operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *hazardous materials,* between points in California, on the one hand, and, on the other, points in Owyhee County, ID, Union County, AR, and Washoe County, NV: That applicant is fit, willing, and able properly to perform the granted service and to conform to statutory and administrative requirements. Condition: The Certificate granted in this proceeding shall expire 5 years from its date of issuance. The purpose of this republication is to indicate that applicant is a common carrier.

[FR Doc. 82-34535 Filed 12-20-82; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. 317]

Motor Carriers; Permanent Authority Decisions; Restriction Removals

Decided: December 15, 1982.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR 1137. Part 1137 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings,

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with the criteria set forth in 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Shaffer, Williams, and Higgins.

Agatha L. Mergenovich,

Secretary.

MC 40896 (Sub-2)X, filed November 8, 1982. Applicant: RUTGERS EXPRESS, INC., 6 Connerty Court, East Brunswick, NJ 08816. Representative: George A. Oslen, P.O. Box 357, Gladstone, NJ 07934. MC 20841 Subs 1, 2, 3, 4, 7, and 10 acquired thru FC–79963: (1) Broaden (a) general commodities, with exceptions to "general commodities (except classes A and B explosives and commodities in bulk)" in Sub 1 regular route, and "general commodities (except classes A and B explosives, commodities in bulk, and household goods)" in Sub 1 irregular route; (b) canned goods, processed food in packages, and foodstuffs to "food and related products" in Subs 1 and 2; and (c) paper products to "pulp, paper and related products" in Sub 1; (2) authorize service at all intermediate points, regular route portion Sub 1; (3) broaden (a) off-route point of Liberty to Sullivan County, NY in regular route portion, Sub 1; and (b) Sea Bright and Asbury Park to Monmouth County, NJ; New Rochelle, Mamaroneck, and White Plains, NY to Westchester County, NY and Fairfield County, CT; Woodbridge to Middlesex County, NJ; and Newark, Paterson, Passaic, and Perth Amboy to Hudson, Bergen, Essex Union, Passaic and Middlesex Counties, NJ in irregular route portion, Sub 1; (4) eliminate facility limitations at specified locations in Subs 2, 3, 4, 7 and 10; (5) change one-way to radial authority; and (6) remove the originating at and/or destined to restrictions in Subs 3, 4 and 10; (7) eliminate the restriction against service to those points in designated New Jersey counties which are within the New York, NY commercial zone in irregular route portion, Sub 1.

MC 45626 (Sub-78)X, filed November 23, 1982. Applicant: VERNON TRANSIT CO., INC., 135 St. Paul St., Burlington, VT 05402. Representative: L.C. Major, Jr., Suite 304, Overlook Bldg., 6121 Lincolnia Rd., Alexandria, VA. Lead and Sub-33 certificates: (1) Lead certificate, Sheet No. 1, remove the restriction "against the transportation of any passengers or shipments who or which originate at Lebanon, NH, and terminate at White River Junction, VT, and terminiate at Lebanon, NH which specifically impedes service at the intermediate point of Lebanon, NH; (2) lead

certificate, Sheet No. 5, authorize passenger service at all intermediate points on route for operating convenience only between Lowell and Tyngsboro, MA, and (3) sub 33, authorize service at all intermediate points on described regular route between Rutland, VT, and Junction Interstate Hwy 87 and unnumbered hwy near Glens Falls, NV, by eliminating the provision which restricts service at points between the FortAnn, NY—Kingsbury, NY town line and junction unnumbered hwy and Interstate Hwy 87 near Glens Falls "against the transportation of passengers, their baggage, express and newspapers originating at or destined to points south therof."

MC 61335 (Sub-18)X, filed November 29, 1982. Applicant: TRANS-BRIDGE LINES, INC., 2012 Industrial Dr., Bethlehem, PA 18017. Representative: W. C. Mitchell, 370 Lexington Ave., New York, NY 10017. Subs 7, 9, 15, and 16: provide for passenger service at all intermediate points over described regular routes extending (1) between Belvidere, NJ, and Allentown, PA, Sub 7; (2) between Allentown, PA, and Hackettstown, NJ, Sub 9; (3) between Bethlehem, PA, and New York, NY, between Pluckemin, NJ, and Newark, NJ, and between Pluckemin, NJ, and Kearny, NJ, Sub 15; and (4) between Phillipsburg, NJ, and Atlantic City, NJ, and between Stroudsburg, PA, and jct. Pennsylvania Hwy 663 and Pennsylvania Hwy 9 (Pennsylvania Turnpike Extension), Sub 16; and eliminate provision restricting service at intermediate points by removing restriction "against the transportation of passengers originating at points west of Hackettstown, NJ, including New York, NY, or originating at New York, NY, and points east of Hackettstown, NJ, and destined to points west of Hackettstown, NJ" (Sub 9).

MC 86954 (Sub-10)X, filed November 23, 1982. Applicant: NODAK STAGES, INC, P.O. Box 638, Bismark, ND 58502. Representative: David Stockert (same as above). Lead certificate: Authorize passenger carrier service at all intermediate points along the described regular route between junction U.S. Highway 83 and North Dakota Hwy. 11 and Hague, ND.

MC 125115 (Sub-7)X, filed November 29, 1982. Applicant: EL PASO-LOS ANGELES LIMOUSINE EXPRESS, INC., 720 S. Oregon St. (P.O. Box 1183), El Paso, TX 79947. Representative: M. Ward Bailey, 2416 Continental Life Bldg., Fort Worth, TX 76102. Sub-5: Authorize passenger service to all intermediate points between El Paso, TX and Los Angeles, CA.

MC 144989 (Sub-27)X, filed November 29, 1982. Applicant: BLUE RIDGE MOUNTAIN CONTRACT CARRIER, INC., P.O. Box 1965, Dalton, GA 30720. Representative: Malcolm Silvers (same address as applicant). Subs 1F, 6F, 7F, 8F, 10F, 13F, 15F, 16F, and 17F permits: broaden to "between all points in the US", under continuing contract(s) with named shippers, all Subs.

MC 146689 (Sub-18)X, filed November 22, 1982. Applicant: BLUE CHIP TRANSPORTATION COMPANY, 281 Maplewood Dr., Pottstown, PA 19464. Representative: Gerald K. Gimmel, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877. Subs 2F, 3, and 4F permits: broaden to (A) "clay, concrete, glass or stone products" from glass containers, Sub 3F; and (B) "between points in the U.S. (except Alaska and Hawaii)," under continuing contract(s) with named shippers, all Subs.

[FR Doc. 82-34534 Filed 12-20-82; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30059]

Rail Carriers; Burlington Northern Railroad Co.; Trackage Rights Discontinuance Exemption; Over the Atchison, Topeka and Santa Fe Railway Co.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: Pursuant to 49 U.S.C. 10505, the Interstate Commerce Commission exempts from the requirements of prior approval under 49 U.S.C. 10903–10906 the discontinuance of trackage rights by the Burlington Northern Railroad Company over 34.06 miles of the Atchison, Topeka, and Santa Fe Railway Company track between Augusta, KS and Winfield, KS in Butler and Cowley Counties, KS.

DATES: This exemption is effective on January 20, 1982. Petitions for reconsideration must be filed by January 10, 1983 and petitions for stay must be filed by January 3, 1983.

ADDRESSES: Send pleadings to:

(1) Rail Section, Room 5349, Interstate Commerce Commission, Washington, DC 20423

(2) Petitoner's representative: Thomas A. Ehlinger, 176 East Fifth Street, St. Paul, MN 55101

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision contact: TS Infosytems, Inc., Room 2227, 12th & Constitution Ave., NW., Washington, DC 20423, (202) 289–4357—DC metropolitan area, (800) 424–5403—Toll free for outside the DC area.

Decided: December 13, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-34531 Filed 12-20-82; 8:45 am]

BILLING CODE 7035-01-M

[Section 5b Application No. 7]

Railroads Per Diem, Mileage, Demurrage and Storage Agreement

AGENCY: Interstate Commerce Commission.

ACTION: Notice of extension of time to file comments.

SUMMARY: In the **Federal Register** notice of October 26, 1982. (47 FR 47479), the date comments were due in this proceeding on the amended rate bureau agreement, Section 5b Application No. 7, was 60 days after **Federal Register** publication or December 27, 1982. Replies were due 90 days after publication or January 24, 1983. At the request of the Association of American Railroads, the due date has been postponed 60 days to February 25, 1983. Replies are postponed to March 29, 1983.

DATES: Comments are due February 25, 1983. Replies are due March 29, 1983.

ADDRESS: Send original and 15 copies to: Interstate Commerce Commission, Office of Proceedings, Room 5344, 12th and Constitution Avenue, NW., Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway, (202) 275–7278.

By the Commission, Reese H. Taylor, Jr., Chairman

Dated: December 14, 1982.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-34533 Filed 12-20-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 387]

Exemptions for Contract Tariffs

AGENCY: Interstate Commerce Commission.

ACTION: Notices of provisional exemptions

SUMMARY: Provisional exemptions are granted under 49 U.S.C. 10505 from the

notice requirements of 49 U.S.C. 10713(e), and the below-listed contract tariffs may become effective on one day's notice. These exemptions may be revoked if protests are filed.

DATES: Protests are due within 15 days of publication in the **Federal Register.**

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT:

Douglas Galloway, (202) 275–7278

or

Tom Smerdon, (202) 275–7277

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in these instances to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption requests meet the requirements of 49 U.S.C. 10505(a) and are granted subject to the following conditions.

These grants neither shall be construed to mean that the Commission has approved the contracts for purposes of 49 U.S.C. 10713(e) not that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review these contracts and to determine their lawfulness.

Sub-No.	Name of railroad, contract no., and specifics	Review Board	Decided date
465	Missouri Pacific Railroad Co., ICC–MP–C–0207, (Galvanized pipe)	2	12–13–82
466	Illinois Central Gulf Railroad Co., ICC–ICG–C–0056, (Grain)	2	12–13–82
472	Southern Pacific Transportation Co., ICC–SP–C–0285, (Petroleum oil)	2	12–13–82

[1] Review Board No. 2, Members Carleton, Williams, and Ewing.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-34396 Filed 12-20-82; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

American Motors Corp. et al.; Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 3, 1983.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the Address shown below, not later than January 3, 1983.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, N.W., Washington, D.C. 20213.

Signed at Washington, D.C., this 13th day of December 1982.

Marvin M. Fooks.

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
American Motors Corp., Jeep Plant (UAW)	Toledo, Ohio	11/30/82	11/23/82	TA–W–14,014	Jeeps.
American Motors Corp., Milwaukee Mfg. Plant (UAW)	Milwaukee, Wis	11/30/82	11/23/82	TA–W–14,015	Stamping parts.
American Motors Corp., AM General South Bend (UAW)	South Bend, Ind	11/30/82	11/23/82	TA–W–14,016	Vehicles, military.
Volkswagon of America (UAW)	Fort Worth, Tex	11/30/82	11/24/82	TA–W–14,017	Parts, air conditioners, heaters, accessories—Volkswagon.
Volkswagon of America (UAW)	South Charleston W. Va	11/30/82	11/24/82	TA–W–14,018	Auto stamping plant.
Volkswagon of America (UAW)	Westmoreland, Pa	11/30/82	11/24/82	TA–W–14,019	Auto assembly plant (Rabbit).
Chrysler Corp., Hamtramck Assembly (UAW)	Hamtramck, Mich	11/30/82	11/23/82	TA–W–14,020	Volare and Aspen—assembly.
Chrysler Corp., Jefferson Assembly (UAW)	Detroit, Mich	11/30/82	11/23/82	TA–W–14,021	K cars, Aries, Reliant, E cars, and Dodge 600 assembly.
Chrysler Corp., Lynch Road (UAW)	Detroit, Mich	11/30/82	11/23/82	TA–W–14,022	New York and Dodge Plymouth assembly
Chrysler Corp., Mound Road Engine (UAW)	Detroit, Mich	11/30/82	11/23/82	TA–W–14,023	Engines.
Chrysler Corp., Missouri Truck (UAW)	Fenton, Mo	11/30/82	11/23/82	TA–W–14,024	Dodge van assembly.
Chrysler Corp., Twinsburg Stamping (UAW)	Twinsburg, Ohio	11/30/82	11/23/82	TA–W–14,025	Stamping—auto.
Chrysler Corp., St. Louis Assembly (UAW)	Fenton, Mo	11/30/82	11/23/82	TA–W–14,026	LeBaron and Dodge 400 assembly.
Chrysler Corp., Warren Truck Assembly (UAW)	Warren, Mich	11/30/82	11/23/82	TA–W–14,027	Dodge truck assembly.
Chrysler Corp., Harper Amplex (UAW)	Warren, Mich	11/30/82	11/23/82	TA–W–14,028	Products—Metal, powered.
Chrysler Corp., Division Office (UAW)	Warren, Mich	11/30/82	11/23/82	TA–W–14,029	Engineering and office and clerical.
Chrysler Corp., Detroit Universal Div. (UAW)	Detroit, Mich	11/30/82	11/23/82	TA–W–14,030	Transmission—power and components.
Chrysler Corp., Mack Avenue Assembly (UAW)	Detroit, Mich	11/30/82	11/23/82	TA–W–14,031	Stamping and assembly of small stampings.
Chrysler Corp., Outer Drive Mfg. Teck, Center (UAW)	Detroit, Mich	11/30/82	11/23/82	TA–W–14,032	Engineering center.
Chrysler Corp., Eight Mile & Outer Drive Stamping (UAW)	Detroit, Mich	11/30/82	11/23/82	TA–W–14,033	Stamping.
Chrysler Corp., Vernor Tool & Die (UAW)	Detroit, Mich	11/30/82	11/23/82	TA–W–14,034	Tools and dies.
Chrysler Corp., Detroit Trim (UAW)	Detroit, Mich	11/30/82	11/23/82	TA–W–14,035	Trim—auto.
Chrysler Corp., Chrysler Transportation (UAW)	Detroit, Mich	11/30/82	11/23/82	TA–W–14,036	Trivers—transportation.
Chrysler Corp., McGraw Glass (UAW)	Detroit, Mich	11/30/82	11/23/82	TA–W–14,037	Glass.
Chrysler Corp., Export-Import (UAW)	Detroit, Mich	11/30/82	11/23/82	TA–W–14,038	Exports/imports.
Chrysler Corp., Emissions Test Facility (UAW)	Los Angeles, Calif	11/30/82	11/23/82	TA–W–14,039	Emissions.
Chrysler Corp., Manufacturing Group & Stamping Office (UAW).	Detroit, Mich	11/30/82	11/23/82	TA–W–14,040	Engineering and office and clerical.
Chrysler Corp., New Castle Machining & Forge (UAW)	New Castle, Ind	11/30/82	11/23/82	TA–W–14,041	Forge and machinery.
Chrysler Corp., Trenton Engine (UAW)	Trenton, Mich	11/30/82	11/23/82	TA–W–14,042	Engines.
Chrysler Corp., Trenton, Mich	Trenton, Mich	11/30/82	11/23/82	TA–W–14,043	Products—chemical brakes.
Chrysler Corp., Marine & Industrtial (UAW)	Marysville, Mich	11/30/82	11/23/82	TA–W–14,044	Engines—industrial.

APPENDIX—Continued

Petitioner: Union/workers or former workers of—	Location	Date [illegible]	Date of petition	Petition No.	Articles produced
Chrysler Corp., Highland Park Complex (UAW)	Highland Park, Mich	11/30/82	11/23/82	TA-W-14,045	Engineering—maintenance and purchasing.
Chrysler Corp., Fostoria Foundry (UAW)	Fostoria, Ohio	/30/82	11/23/82	TA-W-14,046	Casting.
Chrysler Corp., Highland Park Machining (UAW)	Highland Park, Mich	11/30/82	11/23/82	TA-W-14,047	Powerhouse.
Chrysler Corp., Indianapolis Foundry (UAW)	Indianapolis, Ind	11/30/82	11/23/82	TA-W-14,048	Castings.
Chrysler Corp., Introl Div. (UAW)	Ann Arbor, Mich	11/30/82	11/23/82	TA-W-14,049	Electronics and instruments.
Chrysler Corp., Kokomo Transmission (UAW)	Kokomo, Ind	11/30/82	11/23/82	TA-W-14,050	Transmissions.
Chrysler Corp., Warren Stamping (UAW)	Warren, Mich	11/30/82	11/23/82	TA-W-14,051	Stampings—auto.
Chrysler Corp., Detroit Forge & Axle (UAW)	Detroit, Mich	11/30/82	11/23/82	TA-W-14,052	Axles.
Chrysler Corp., Winfield Foundry (UAW)	Detroit, Mich	11/30/82	11/23/82	TA-W-14,053	Castings.
Chrysler Corp., Kokomo Castings (UAW)	Kokomo, Ind	11/30/82	11/23/82	TA-W-14,054	Die cast.
Chrysler Corp., Newark Assembly (UAW)	Newark, Del	11/30/82	11/23/82	TA-W-14,055	K car, Anes, and Reliant assembly.
Chrysler Corp., Indianapolis Electrical (UAW)	Indianapolis, Ind	11/30/82	11/23/82	TA-W-14,056	Products—electrical.
Chrysler Corp., Sterling Stamping (UAW)	Sterling Hts., Mich	11/30/82	11/23/82	TA-W-14,057	Stamping—auto.
Chrysler Corp., Belvidere Assembly (UAW)	Belvidere, Ill	11/30/82	11/23/82	TA-W-14,058	Omni and Horizon assembly.
Chrysler Corp., Chelsea Proving Ground (UAW)	Chelsea, Mich	11/30/82	11/23/82	TA-W-14,059	Testing.
Chrysler Corp., Van Wert Complex (UAW)	Van Wert, Ohio	11/30/82	11/23/82	TA-W-14,060	Products—metal, powered.
Chrysler Corp., Huntsville Electronics (UAW)	Huntsville, Ala	11/30/82	11/23/82	TA-W-14,061	Radios and electronics.
Chrysler Corp., Toledo Machining (UAW)	Perrysburg, Ohio	11/30/82	11/23/82	TA-W-14,062	Machinery—diversified and stamping.
Chrysler Corp., Nurses (UAW)	Detroit, Mich	11/30/82	11/23/82	TA-W-14,063	Nurses—industrial.
Chrysler Corp., Huber Foundry (UAW)	Detroit, Mich	11/30/82	11/23/82	TA-W-14,064	Castings.
Ford Motor Co., Wixom Assembly (UAW)	Wixom, Mich	11/30/82	11/24/82	TA-W-14,065	Lincion, Mrk, Cont., Fairmont, Zephyr.
Ford Motor Co., Kansas City Assembly (UAW)	Kansas City Mo	11/30/82	11/24/82	TA-W-14,066	Fairmont, Zephyr.
Ford Motor Co., St. Louis Assembly (UAW)	St. Louis, Mo	11/30/82	11/24/82	TA-W-14,067	Mercury.
Ford Motor Co., Chesterfield Trim (UAW)	Utica, Mich	11/30/82	11/24/82	TA-W-14,068	Roof, vinyl covers, trim—seat.
Ford Motor Co., Utica Trim (UAW)	Utica, Mich	11/30/82	11/24/82	TA-W-14,069	Door trim panels, heat rests, seat trim covers, miscellaneous trim items.
Ford Motor Co., Lorain Assembly (UAW)	Lorain, Ohio	11/30/82	11/24/82	TA-W-14,070	T-Bird/XR7, Econoline Van.
Ford Motor Co., Chicago Assembly (UAW)	Chicago, Ill	11/30/82	11/24/82	TA-W-14,071	Granda/Cougar.
Ford Motor Co., San Jose Assembly (UAW)	San Jose, Calif	11/30/82	11/24/82	TA-W-14,072	Escort/Lynx, EXP/LN7.
Ford Motor Company, Dearborn Assembly (UAW)	Dearborn, Mich	11/30/82	11/24/82	TA-W-14,073	Mustang/Capri.
Ford Motor Co., B & A Gen. Office (UAW)	Dearborn, Mich	11/30/82	11/24/82	TA-W-14,074	General office.
Ford Motor Co., Louisville Assembly (UAW)	Louisville, Ky	11/30/82	11/24/82	TA-W-14,075	Ranger, light truck.
Ford Motor Co., Kentucky Truck (UAW)	Louisville, Ky	11/30/82	11/24/82	TA-W-14,076	Medium and heavy trucks.
Ford Motor Co., Twin Cities Assembly (UAW)	St. Paul, Minn	11/30/82	11/24/82	TA-W-14,077	Light trucks.
Ford Motor Co., Atlanta Assembly (UAW)	Atlanta, Ga	11/30/82	11/24/82	TA-W-14,078	Granada/Cougar, Fairmont/Zephr.
Ford Motor Co., Wayne Assembly (UAW)	Wayne, Mich	11/30/82	11/24/82	TA-W-14,079	Excort/Lynx.
Ford Motor Co., Michigan Truck (UAW)	Wayne, Mich	11/30/82	11/24/82	TA-W-14,080	Bronco, light trucks.
Ford Motor Co., Ohio Truck (UAW)	Avonteke, Ohio	11/30/82	11/24/82	TA-W-14,081	Econoline van.
Ford Motor Co., Vulcan Forge (UAW)	Detroit, Mich	11/30/82	11/24/82	TA-W-14,082	Connecting rods for engines.
Ford Motor Co., Research & Eng. Pattern Shop Operators (UAW).	Dearborn, Mich	11/30/82	11/24/82	TA-W-14,083	Research and engineering.
Ford Motor Co., Sheffield (UAW)	Sheffield, Ala	11/30/82	11/24/82	TA-W-14,084	Cases, extension—transmission pistons, castings, aluminum.
Ford Motor Co., Sheldon Road (UAW)	Plymouth, Mich	11/30/82	11/24/82	TA-W-14,085	Heater and air conditioner controls and assemblies.
Ford Motor Co., Green Island (UAW)	Green Island, NY	11/30/82	11/24/82	TA-W-14,086	Radiators and heater cores.
Ford Motor Co., Ypsilanti Plant (UAW)	Ypsilanti, Mich	11/30/82	11/24/82	TA-W-14,087	Parts—small, bumper shock absorbers, struts.
Ford Motor Co., Rawsonville Plant (UAW)	Rawsonville, Mich	11/30/82	11/24/82	TA-W-14,088	Carburetors, alternators, throttle bodies, speedometer fram and shaft, motor for heater, master brake cylinders, cooling fans.
Ford Motor Co., Sandusky Plant (UAW)	Sandusky, Ohio	11/30/82	11/24/82	TA-W-14,089	Window regulators, door latches, lamps, air cleaners, starter motor drives, carbon canister, and other small parts.
Ford Motor Co., Dearborn Engine (UAW)	Dearborn, Mich	11/30/82	11/24/82	TA-W-14,090	Fuel tank, rocker arms, 4 cylinder auto engines.
Ford Motor Co., Engine Div. Gen. Office (UAW)	Dearborn, Mich	11/30/82	11/24/82	TA-W-14,091	General office.
Ford Motor Co., Lima Engine (UAW)	Lima, Ohio	11/30/82	11/24/82	TA-W-14,092	Engines—auto 4 and 6 cylinder engines—truck, medium 6 cylinder engines—econoline.
Ford Motor Co., Wixom Warehouse (UAW)	Wixom, Mich	11/30/82	11/24/82	TA-W-14,093	Support service.
Ford Motor Co., Glass Teck, Center (UAW)	Dearborn, Mich	11/30/82	11/24/82	TA-W-14,094	Windshields and backlites.
Ford Motor Co., Dearborn Glass Plant (UAW)	Dearborn, Mich	11/30/82	11/24/82	TA-W-14,095	Windshields and backlites.
Ford Motor Co., Nashville Glass (UAW)	Nashville, Tenn	11/30/82	11/24/82	TA-W-14,096	Windshields, backlites, bodyside glass.
Ford Motor Co., Tulsa Glass (UAW)	Tulsa, Okla	11/30/82	11/24/82	TA-W-14,097	Backlites and body glass.
Ford Motor Co., Woodhaven Stamping (UAW)	Woodhaven, Mich	11/30/82	11/24/82	TA-W-14,098	Stampings—auto.
Ford Motor Co., Walton Hills Stamping (UAW)	Cleveland, Ohio	11/30/82	11/24/82	TA-W-14,099	Stamp—auto.
Ford Motor Co., Chicago Stamping (UAW)	Chicago, Ill	11/30/82	11/24/82	TA-W-14,100	Stampings—auto.
Ford Motor Co., Dearborn Frame (UAW)	Dearborn, Mich	11/30/82	11/24/82	TA-W-14,101	Door hinges, frames, and stampings.
Ford Motor Co., Dearborn Stamping (UAW)	Dearborn, Mich	11/30/82	11/24/82	TA-W-14,102	Stampings—auto.
Ford Motor Co., Dearborn Tool & Die (UAW	Dearborn, Mich	11/30/82	11/24/82	TA-W-14,103	Tools and dies.
Ford Motor Co., Monroe Plant (UAW)	Monroe, Mich	11/30/82	11/24/82	TA-W-14,104	Front and rear bumpers, coil springs, front stabilizer bars, sheels catalytic converters, small stampings.
Ford Motor Co., Buffalo Stamping (UAW)	Buffalo, N.Y	11/30/82	11/24/82	TA-W-14,105	Stampings—auto.
Ford Motor Co., Maumee Stamping (UAW)	Maumee, Ohio	11/30/82	11/24/82	TA-W-14,106	Stampings—auto.
Ford Motor Co., Mt. Clemens Paint (UAW)	Mount Clemens, Mich	11/30/82	11/24/82	TA-W-14,107	Interior and exterior primers, enamels and resins.
Ford Motor Co., Mt. Clemens Vinyl (UAW)	Mount Clemens, Mich	11/30/82	11/24/82	TA-W-14,108	Vinyl film, vinyl materials, headlining, vinyl urethane composites.
Ford Motor Co., Milan Plastics (UAW)	Milan, Mich	11/30/82	11/24/82	TA-W-14,109	Instrument panels, fan shrouds, load floors, grill opening panels, and miscellaneous exterior plastic body parts.
Ford Motor Co., Saline Plant (UAW)	Saline, Mich	11/30/82	11/24/82	TA-W-14,110	Instrument cluster, radiator grills, and miscellaneous plastic body chasse and electrical parts, instrument panels.
Ford Motor Co., Livonia Plant (UAW)	Livonia, Mich	11/30/82	11/24/82	TA-W-14,111	C-6 transmissions, AOD for Ford and flywheels.
Ford Motor Co., Sterling Plant (UAW)	Sterling, Mich	11/30/82	11/24/82	TA-W-14,112	Drive shafts and rear axles.
Ford Motor Co., Canton Forge (UAW)	Canton, Ohio	11/30/82	11/24/82	TA-W-14,113	Spindles, sector shafts pinion gears, yokes and universal joint spinders, output shafts, and side gears.
Ford Motor Co., Batavia Plant (UAW)	Cincinnati, Ohio	11/30/82	11/24/82	TA-W-14,114	ATX for Escort and Lynx.
Ford Motor Co., Sharonville Plant (UAW)	Cincinnati, Ohio	11/30/82	11/24/82	TA-W-14,115	C-5 transmissions.

APPENDIX—Continued

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Ford Motor Co., Indianapolis Plant (UAW)	Indianapolis, Ind	11/30/82	11/24/82	TA-W-14,116	Steering columns, bolts, power steering pumps, XR-50 gears, rack and pinion gear.
Ford Motor Co., Van Dyke Plant (UAW)	Van Dyke, Mich	11/30/82	11/24/82	TA-W-14,117	Rear axle assemblies, upper suspension arms, lower suspension arms, rear suspension arms, front wheel drive, spindle front wheel.
Ford Motor Co., Highland Park Tractor (UAW)	Highland Park, Mich	11/30/82	11/24/82	TA-W-14,118	Tractors.
Ford Motor Co., Romeo Tractor & Equipment (UAW)	Romeo, Mich	11/30/82	11/24/82	TA-W-14,119	Tractor, backhoe, loaders, and related equipment.
Ford Motor Co., KC Supply Depot (UAW)	Kansas City, Mo	11/30/82	11/24/82	TA-W-14,120	Distributors and suppliers of tractors and related parts.
Ford Motor Co., Dallas Supply Depot (UAW)	Dallas, Tex	11/30/82	11/24/82	TA-W-14,121	Distributors ans suppliers of tractors ans related parts.
Ford Motor Co., Atlanta Supply Depot (UAW)	Atlanta, Ga	11/30/82	11/24/82	TA-W-14,122	Distributors and suppliers of tractors and related parts.
Ford Motor Co., Memphis Supply Depot (UAW)	Memphis, Tenn	11/30/82	11/24/82	TA-W-14,123	Distributors and suppliers of tractors and related parts.
Ford Motor Co., Detroit Supply Depot (UAW)	Troy, Mich	11/30/82	11/24/82	TA-W-14,124	Distributors and suppliers of tractors and related parts.
Ford Motor Co., Birmingham Supply Depot (UAW)	Troy, Mich	11/30/82	11/24/82	TA-W-14,125	Distributor and suppliers of tractors and related parts.
Ford Motor Co., Oakland Supply Depot (UAW)	Oakland, Calif	11/30/82	11/24/82	TA-W-14,126	Distributor and suppliers of tractors and related parts.
Rouge Steel Co., Rouge Steel (UAW)	Dearborn, Mich	11/30/82	11/24/82	TA-W-14,127	Steel.
Rouge Steel Co., Rouge Power (UAW)	Dearborn, Mich	11/30/82	11/24/82	TA-W-14,128	Steel.
Ford Motor Co., Seattle Parts Depot (UAW)	Seattle, Wash	11/30/82	11/24/82	TA-W-14,129	Parts distribution.
Ford Motor Co., Detroit Distribution (UAW)	Detroit, Mich	11/30/82	11/24/82	TA-W-14,130	Service and parts distribution.
Ford Motor Co., Cincinnati Distribution (UAW)	Cincinnati, Ohio	11/30/82	11/24/82	TA-W-14,131	Service and parts distribution.
Ford Motor Co., Kansas City Distribution (UAW)	Kansas City, Mo	11/30/82	11/24/82	TA-W-14,132	Service and parts distribution.
Ford Motor Co., Detroit Industrial Engine (UAW)	Detroit, Mich	11/30/82	11/24/82	TA-W-14,133	Service—engine.
Ford Motor Co., Chicago Distribution (UAW)	Chicago, Ill	11/30/82	11/24/82	TA-W-14,134	Service and parts distribution.
Ford Motor Co., San Francisco Distribution (UAW)	San Jose, Calif	11/30/82	11/24/82	TA-W-14,135	Service and parts distribution.
Ford Motor Co., Ford Redistribution (Brownstown) (UAW)	Brownstown, Mich	11/30/82	11/24/82	TA-W-14,136	Distribution.
Ford Motor Co., National Distribution (UAW)	Detroit, Mich	11/30/82	11/24/82	TA-W-14,137	Service and parts distribution.
Ford Motor Co., Detroit Area Distribution (UAW)	Dearborn, Mich	11/30/82	11/24/82	TA-W-14,138	Service and parts distribution.
Ford Motor Co., Ford Parts & Service Div. (UAW)	Dearborn, Mich	11/30/82	11/24/82	TA-W-14,139	Parts service.
Ford Motor Co., FCS Detroit Parts Depot (UAW)	Dearborn, Mich	11/30/82	11/24/82	TA-W-14,140	Parts distribution.
Ford Motor Co., FP & DS Gen Office (UAW)	Dearborn, Mich	11/30/82	11/24/82	TA-W-14,141	Office—headquarters.
Ford Motor Co., Dallas Distribution (UAW)	Dallas, Tex	11/30/82	11/24/82	TA-W-14,142	Service and parts distribution.
Ford Motor Co., Atlanta Distribution (UAW)	Atlanta, Ga	11/30/82	11/24/82	TA-W-14,143	Service and parts distribution.
Ford Motor Co., Twin Cities Distribution (UAW)	St. Paul Minn	11/30/82	11/24/82	TA-W-14,144	Service and parts distribution.
Ford Motor Co., Memphis Distribution (UAW)	Memphis, Tenn	11/30/82	11/24/82	TA-W-14,145	Service and parts distribution.
Ford Motor Co., Mahwah (Teterboro) NY Parts (UAW)	Mahwah, NJ	11/30/82	11/24/82	TA-W-14,146	Parts service.
Ford Motor Co., Delaware Valley Distribution (UAW)	Delaware, NJ	11/30/82	11/24/82	TA-W-14,147	Service and parts distribution.
Ford Motor Co., Virginia Distribution (UAW)	Richmond, Va	11/30/82	11/24/82	TA-W-14,148	Service and parts distribution.
Ford Motor Co., Denver Distribution (UAW)	Denver Colo	11/30/82	11/24/82	TA-W-14,149	Service and parts distribution.
Ford Motor Co., Los Angeles Distribution (UAW)	Pico Rivera, Calif	11/30/82	11/24/82	TA-W-14,150	Service and parts distribution.
Ford Motor Co., Charlotte Distribution (UAW)	Charlotte, NC	11/30/82	11/24/82	TA-W-14,151	Service and parts distribution.
Ford Motor Co., Jacksonville Distribution (UAW)	Jacksonville, Fla	11/30/82	11/24/82	TA-W-14,152	Service and parts distribution.
Ford Motor Co., Research & Engineering, Engineering Facility & Service Office (UAW).	Dearborn, Mich	11/30/82	11/24/82	TA-W-14,153	Research, engineering, and service office
Ford Motor Co., Rouge Sales Operations Staff Ran Con. (UAW).	Dearborn, Mich	11/30/82	11/24/82	TA-W-14,154	Sales office.
Ford Motor Co., Rouge Gen. Office Ford Div. (UAW)	Dearborn, Mich	11/30/82	11/24/82	TA-W-14,155	General office.
Ford Motor Co., Rouge Area Central Accounting Service (UAW).	Dearborn, Mich	11/30/82	11/24/82	TA-W-14,156	Accounting service.
Ford Motor Co., Rouge Area NAAO Staff (UAW)	Dearborn, Mich	11/30/82	11/24/82	TA-W-14,157	Office.

[FR Doc. 82-34471 Filed 12-20-82; 8:45 am]
BILLING CODE 4510-30-M

[TA-W-13,280-13,326]

General Motors Corp.; Affirmation of Negative Determination Regarding Eligibility for Worker Adjustment Assistance

On September 30, 1982, a negative determination was made regarding worker petitions TA-W-13,280-13,326 for trade adjustment assistance filed by the United Auto Workers in behalf of workers and former workers of General Motors Corporation at the facilities listed in the Appendix. The notice of negative determination was published in the **Federal Register** on October 15, 1982 (47 FR 46160). The determination was based on group eligibility requirements of Section 222 of the Trade Act of 1974, 19 U.S.C. 2272, which were mandated at the time of denial by the Act as amended by Section 2501 of the Omnibus Budget Reconciliation Act of 1981, Public Law 97-35.

Title XXV of the Omnibus Budget Reconciliation Act of 1981 amended worker adjustment assistance provisions of the Trade Act of 1974. Among the amendments was one that changed the group eligibility requirements from:

(3) That increases of imports of articles like or directly competitive with articles produced by such workers' firm or an appropriate subdivision *thereof contributed importantly to such total or partial separation,* or threat thereof, and to such decline in sales or production," Section 222(3) of the Trade Act of 1974, (Italic added for emphasis).

to:

(3) That increases of imports of articles like or directly competitive with articles produced by such workers' firm or an appropriate subdivision thereof *were a substantial cause of such total or partial separation,* or threat thereof, and of such decline in sales or production." Section 2501 of the Omnibus Budget Reconciliation Act of 1981. (Italic added for emphasis).

Subsequently, the Miscellaneous Revenue Act of 1982, (Public Law 97-362) enacted on October 25, 1982, postponed implementation of the amended group eligibility requirements until October 1, 1983. Because of the subsequent change in group eligibility

requirements, the Department of Labor reopened the cases in light of the "contributed importantly" test to ascertain whether a different outcome on the decision was required.

Upon reconsideration of these petitions using the "Contributed importantly" eligibility requirements, the Department concludes that the requirements of Section 222 for certification are not met.

Petitioning workers were engaged in employment related to the production and sales of all of the firms car lines. Therefore, the Department considered the effect of import competition in all categories of automobilies produced by General Motors. Information gathered in the factfinding investigation confirms that imports of foreign made automobiles did not contribute importantly to total or partial separation of workers, nor to the decline in sales or production. (See the attached Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance issued on September 30, 1982).

Conclusion

After careful reconsideration of the case file, I conclude that all workers of the facilities of General Motors Corporation listed in the Appendix are denied eligibility under the "contributed importantly" test to apply for adjustment assistance pursuant to the Trade Act of 1974.

Signed at Washington, D.C., on this 9th day of December 1982.

Harold A. Bratt,

Deputy Director, Office of Program Management Unemployment Insurance Service.

APPENDIX

TA-W No.	Facility	Location
General Motors Corp., Chevrolet Motor Division		
13,280	Central Office	Warren, MI.
13,281	Engineering Center	Warren, MI.
General Motors Corp., Central Office		
13,282	Central Office	Hackensack, NJ.
13,283	Central Office	Atlanta, GA.
13,284	Central Office	Pontiac, MI.
13,285	Central Office	Mesa, AZ.
General Motors Corp., Buick Motor Division		
13,286	Zone Sales Office	Denver, CO.
13,287	Zone Sales Office	Overland Park, KS.
13,288	Zone Sales Office	No. Quincy, MA.
13,289	Zone Sales Office	Farmington Hills, MI.
13,290	Zone Sales Office	White Plains, NY.
13,291	Zone Sales Office	Williamsville, NY.
13,292	Zone Sales Office	Rocky River, OH.
13,293	Zone Sales Office	Memphis, TN.
13,294	Zone Sales Office	Rockville, MD.
13,295	Zone Sales Office	Wauwatosa, WI.

APPENDIX—Continued

TA-W No.	Facility	Location
General Motors Corp., Cadillac Motor Division		
13,296	Zone Sales Office	Westlake Village.
13,297	Zone Sales Office	Fremont, CA
13,298	Zone Sales Office	Jacksonville, FL.
13,299	Zone Sales Office	Oak Brook, IL.
13,300	Zone Sales Office	Overland Park, KS.
13,301	Zone Sales Office	Rockville, MD.
13,302	Zone Sales Office	Wellesley, MA.
13,303	Zone Sales Office	Edina, MN.
13,304	Zone Sales Office	Paramus, NJ.
13,305	Zone Sales Office	Wayne, PA.
13,306	Zone Sales Office	Beachwood, OH.
13,307	Zone Sales Office	Beaverton, OR.
General Motors Corp., Oldsmobile Motor Division		
13,308	Zone Sales Office	Fremont, CA.
13,309	Regional and Zone Sales Office	Oak Brook, IL.
13,310	Zone Sales Office	Overland Park, KS.
13,311	Regional and Zone Sales Office	Southfield, MI.
13,312	Regional and Zone Sales Office	Tarrytown, NY.
13,313	Zone Sales Office	Williamsville, NY
13,314	Zone Sales Office	Charlotte, NC.
13,315	Regional and Zone Sales Office	Irving, TX.
General Motors Corp., Pontiac Motor Division		
13,316	Zone Sales Office	Westlake Village.
13,317	Zone Sales Office	Atlanta, GA.
13,318	Zone Sales Office	Overland Park, KS.
13,319	Zone Sales Office	Rockville, MD.
13,320	Zone Sales Office	Wellesley, MA.
13,321	Zone Sales Office	St. Louis, MO.
13,322	Zone Sales Office	Charlotte, NC.
13,323	Zone Sales Office	Cleveland, OH.
13,324	Zone Sales Office	Oklahoma City, OK
13,325	Zone Sales Office	Memphis, TN.
13,326	Zone Sales Office	Brookfield, WI.

[TA-W-13,280-13,326]

General Motors Corp., Detroit, Michigan; Negative Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

(1) that a significant number or proportion of the workers in the worker's firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

(2) that sales or production, or both, of the firm or subdivision have decreased absolutely.

(3) that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision were a substantial cause of the separations, or threat thereof, and of the absolute decline in sales or production.

The investigation was initiated on February 26, 1982 in response to petitions received on February 18, 1982 which were filed on behalf of workers providing a variety of support services at the facilities of General Motors Corporation listed in the Appendix.

The investigation revealed that criterion (3) has not been met.

During 1980 the Department issued certifications of eligibility to apply for trade adjustment assistance benefits applicable to workers at a number of support facilities (primarily sales and administrative staff) of the Central Office and each of the automotive divisions (Chevrolet, Buick, Cadillac, Oldsmobile, Pontiac) of General Motors Corporation. The certifications were based on the finding that increased imports of automobiles contributed importantly to declines in sales and employment experienced by G.M. facilities in model year (MY) 1979 and MY 1980 (October 1979–September 1980).

The Department established a termination date of November 1980 (after the end of MY 1980) in these certifications. The present group of petitions were filed by officials of General Motors Corporation because layoffs occurred at a number of the firm's support facilities subsequent to November 1980. Model years 1981 and 1982 are therefore the relevant periods under investigation regarding the present group of petitions.

Since workers at support facilities of General Motors Corporation are engaged in employment related to the production and sales of all of the firm's car lines, the Department must consider the effect of import competition in all categories of automobiles in order to determine whether increased import competition was a substantial cause of the layoffs which occurred at these G.M. facilities.

U.S. imports of subcompact automobiles decreased, in quantity, absolutely and relative to domestic production in MY 1981 from MY 1980 and in the first six months of MY 1982 (October 1981–March 1982) from the same period of MY 1981. Compared to the same quarter of the previous model year, imports of subcompact automobiles decreased, in quantity, in three of the four quarters of MY 1981 and in each of the first two quarters of MY 1982. Compared to the previous model year, U.S. production of subcompact automobiles increased during each year of the MY 1978–MY 1981 period.

U.S. imports of compact automobiles decreased, in quantity, relative to domestic production in MY 1981 from MY 1980 and decreased absolutely, in quantity, in the first six months of MY 1982 from the same period of MY 1981. Compared to the same quarter of the previous model year, imports of compact automobiles deceased, in quantity, in four of the six quarters from the first quarter of MY 1981 through the second quarter of MY 1982. U.S. production of compact automobiles increased in MY 1981 from MY 1980.

U.S. imports of intermediate automobilies decreased, in quantity, in MY 1981 from MY 1980 and in the first six months of MY 1982 from the same period of MY 1981.

U.S. imports of luxury/specialty automobiles decreased, in quantity, absolutely and relative to domestic production in MY 1981 from MY 1980. Compared to the same quarter of the previous model year, imports of luxury/speciality automobiles decreased, in quantity, relative to domestic production in each of the last three quarters of MY 1981.

Domestic production by General Motors Corporation of intermediate and luxury/specialty automobiles increased, in quantity, in each category in MY 1981 from MY 1980.

Workers at the support facilities of the central Office and each of the automotove divisions of General Motors Corporation are not separately identifiable by automobile category. Standard automobiles accounted for a relatively small proportion of total sales and domestic production by General Motors Corporation during the period under investigation. Any import influence in this automobile category could not be considered a substantial cause of the overall employment declines which occurred at support facilities of General Motors Corporation.

Two factors which contributed to declines in sales and employment throughout the automobile industry in model years 1981 and 1982 are the general recession in the U.S. economy and the high interest rates which prevailed during this period. These two developments had a significant adverse impact on automobile sales in the United States during the period under investigation.

The overall negative influence of the recession and high interest rates can be illustrated by the fact that retail sales of all automobiles in the U.S. market by General Motors Corporation, by other North American automobile manufacturers, and by foreign automobile manufacturers decreased, in quantity, in MY 1981 from MY 1980 and in the first six months of MY 1982 compared to the same period of MY 1981. Sales by Ford Motor Company, Chrysler Corporation, American Motors Corporation and Volkswagen of America.

These sales also include automobiles produced by their assembly plants in Canada. Imports from Canada represented a relatively small proportion of total U.S. sales and production. G.M.'s market share of these retail sales decreased by approximately one percentage point in MY 1981 from MY 1980 and by two percentage points in the first six months of MY 1982 from the same period of MY 1981. The market share of retail sales held by foreign automobile manufacturers remained the same in MY 1981 from MY 1980 before increasing by one percentage point in the first six months of MY 1982 from the comparable MY 1981 period. The market share held by other North American automobile manufacturers increased by one percentage point in MY 1981 from MY 1980 and by another percentage point in the first six months of MY 1982 from the comparable MY 1981 period. Therefore, most of the market share in retail sales which was lost by General Motors Corporation in MY 1981 and the first six months of MY 1982 was replaced by other North American automobile manufacturers' sales, not by foreign automobile manufacturers' sales.

Conclusion

After careful review, I determine that all workers of the facilities of General Motors Corporation listed in the Appendix are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C. this 30th day of September 1982.

Harold A. Bratt,

Acting Deputy Director, Office of Program Management, Unemployment Insurance Service.

APPENDIX

TA-W #	Facility	Location
General Motors Corporation, Chevrolet Motor Division		
13,280	Central Office	Warren, MI.
13,281	Engineering Center	Do.
General Motors Corporation, Central Office		
13,282	Central Office	Hackensack, NJ.
13,283	....do	Atlanta, GA.
13,284	....do	Pontiac, MI.
13,285	....do	Mesa, AZ.
General Motors Corporation, Buick Motor Division		
13,286	Zone Sales Office	Denver, CO.
13,287	....do	Overland Park, KS.
13,288	....do	No. Quincy, MA.
13,289	....do	Farmington Hills, MI.

APPENDIX—Continued

TA-W #	Facility	Location
13,290	....do	White Plains, NY.
13,291	....do	Williamsville, NY.
13,292	....do	Rocky River, OH
13,293	....do	Memphis, TN.
13,294	....do	Rockville, MD.
13,295	....do	Wauwatosa, WI.
General Motors Corporation, Cadillac Motor Division		
13,296	Zone Sales Office	Westlake Village
13,297	....do	Fremont, CA.
13,298	....do	Jacksonville.
13,299	....do	Oak Brook, IL.
13,300	....do	Overland Park, KS
13,301	....do	Rockville, MD
13,302	....do	Wellesley, MA
13,303	....do	Edina, MN.
13,304	....do	Paramus, NJ
13,305	....do	Wayne, PA.
13,306	....do	Beachwood, OH
13,307	....do	Beaverton, OR.
General Motors Corporation, Oldsmobile Motor Division		
13,308	Zone Sales Office	Fremont, CA.
13,309	Regional and Zone Sales Office.	Oak Brook, IL
13,310	Zone Sales Office	Overland Park, KS
13,311	Regional and Zone Sales Office.	Southfield, MI
13,312	....do	Tarrytown, NY
13,313	Zone Sales Office	Williamsville, NY
13,314	....do	Charlotte, NC
13,315	Regional and Zone Sales Office.	Irving, TX
General Motors Corporation, Pontiac Motor Division		
13,316	Zone Sales Office	Westlake Village
13,317	....do	Atlanta, GA.
13,318	....do	Overland Park, KS
13,319	....do	Rockville, MD
13,320	....do	Wellesley, MA
13,321	....do	St. Louis, MO
13,322	....do	Charlotte, NC
13,323	....do	Cleveland, OH
13,324	....do	Oklahoma City, OK
13,325	....do	Memphis, TN
13,326	....do	Brookfield, WI

[FR Doc. 82-34469 Filed 12-20-82; 8:45 am]
BILLING CODE 4510-30-M

[TA-W-12,776]

Gibson, Inc.; Kalamazoo, Mich.; Amended Determination on Reconsideration

On November 17, 1982, the Department issued an Affirmative Determination Regarding Application for Reconsideration for former workers of the Gibson, Incorporated's plant in Kalamazoo, Michigan. This determination was published in the **Federal Register** on December 7, 1982 (47 FR 55053).

The union claims that the April 1, 1982 termination date in the initial certification denies many workers trade adjustment assistance who were adversely affected by imports.

The Department's reconsideration investigation showed that the April 1, 1982 termination date was set because Gibson Incorporated began transferring production of the Epiphone line of

musical instruments in April 1982 from a corporate facility in the Orient to the Kalamazoo plant. Company imports from the Orient would cease when the production transfer was completed. However, the Department further found that although the Kalamazoo plant began Epiphone production in April 1982, the company continued to import the Epiphone line. Current plans are to make the Kalamazoo plant solely a distribution center for the imported Epiphone line when the Gibson line of musical instruments is moved to a corporate facility in Nashville, Tennessee in 1983. Production of the Epiphone line at Kalamazoo ceased on October 15, 1982 and all workers producing that line were laid off by that date. Production ceased because that Kalamazoo plant could not produce the Epiphone line of musical instruments as cheaply as they could import them.

U.S. imports of fretted musical instruments increased absolutely in 1981 compared to 1980 and in the first nine months of 1982 compared to the same period in 1981. The imports to production ratio (I/P) was 393.0 percent in 1981.

Conclusion

After careful review of the facts obtained on reconsideration, it is concluded that increased imports of fretted musical instruments contributed importantly to the total or partial separations of former workers at the Kalamazoo, Michigan plant of Gibson, Incorported. In accordance with the provisions of the Trade Act of 1974, I make the following amended determination: All workers of Gibson, Incorporated, Kalamazoo, Michigan who became totally or partially separated from employment on or after March 16, 1981 and before October 16, 1982 are eligible to apply for trade adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C., this 9th day of December 1982.

Robert A. Schaerfl,

Director, Office of Program Management Unemployment Insurance Service.

[FR Doc. 82-34472 Filed 12-20-82; 8:45 am]

BILLING CODE 4510-30-M

TRW, Inc., et al.; Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period December 6, 1982–December 10, 1982.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) that sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–13,063; TRW, Inc., Ross Gear Div., Greeneville, TN

TA–W–13,361; Brown Boveri Electric, Inc., Downey, CA

TA–W–13,135; Mass Machine & Stamping, Inc., Nashua, NH

TA–W–13,038; Margaret Fashions, Panama City, FL

In the following cases the investigation revealed that criterion (3) has not been met. Increased imports did not contribute importantly to workers separations at the firm.

TA–W–13,131; Jeep Corp., Toledo, OH

TA–W–13,382; RCA Corp., Picture Tube Div., Marion, IN

TA–W–13,267; RCA Corp., Picture Tube Div., Dunmore, PA

TA–W–13,397; Fitchburg Foundry, Inc., Fitchburg, MA

In the following cases the investigation revealed that criterion (3) has not been met for the reasons specified.

TA–W–13,374; Davis Coal Co., Kermit, WV

Aggregate U.S. imports of metallurgical coal and coke did not increase as required for certification.

TA–W–13,274; Dietz & Co., Inc., East Norwalk, CT

Aggregate U.S. imports of boy's sportcoats did not increase as required for certification.

TA–W–13,387; Commercial Honing of Detroit, Ltd., Warren, MI

The investigation revealed that criterion (3) has not been met. The workers' firm did not produce an article as required for certification under Section 222 of the Trade Act of 1974.

Affirmative Determinations

TA–W–13,355; General Electric Co., Special Products Dept., Auburn, NY

A certification was issued in response to a petition received on March 12, 1982 covering all workers separated on or after March 5, 1981.

TA–W–13,357; Rhone Poulenc, New Brunswick, NJ

A certification was issued in response to a petition received on March 1, 1982 covering all workers producing metronidazole who became separated on or after January 1, 1982.

TA–W–13,053; Tree Island Steel, Inc., Carson, CA

A certification was issued in response to a petition received on October 6, 1981 covering all workers separated on or after September 16, 1980.

TA–W–13,330; Brigham Apparel Corp., Brigham City, UT

A certification was issued in response to a petition received on February 23, 1982 covering all workers separated on or after July 24, 1981 and before April 1, 1982.

TA–W–13,331; Brigham Sportswear, Brigham City, UT

A certification was issued in response to a petition received on February 23, 1982 covering all workers separated on or after July 24, 1981 and before April 1, 1982.

TA–W–13,331A; The Los Angeles Plant of Silton Brothers, Inc., Los Angeles, CA

A certification was issued in response to a petition received on February 23, 1982 covering all workers separated on or after July 24, 1981 and before April 1, 1982.

TA–W–12,583; Fulton Shirt Co., Fulton Street, Elizabeth, NJ

A certification was issued in response to a petition received on March 27, 1981 covering all workers separated on or after March 27, 1980 and before July 1, 1981.

TA–W–12,584; Fulton Shirt Co., Division Street, Elizabeth, NJ

A certification was issued in response to a petition received on March 27, 1981 covering all workers separated on or after March 27, 1980 and before July 1, 1981.

TA–W–13,120; RCA Corp., Consumer Electronics Div., Bloomington, IN

A certification was issued in response to a petition received on November 27, 1981 covering all workers engaged in

employment related to the production of color television components and subassemblies who became separated on or after December 4, 1981 and before October 3, 1982.

TA–W–13,327; Arvin Industries, Inc., Princeton, KY

A certification was issued in response to a petition received on February 24, 1982 covering all workers separated on or after December 1, 1981.

TA–W–13,336; Missouri Resource Service, Mineral Point, MO

A certification was issued in response to a petition received on February 23, 1982 covering all workers separated on or after December 1, 1981.

TA–W–13,362; DeSoto Mining Co., Inc., Richwood, MO

A certification was issued in response to a petition received on March 15, 1982 covering all workers engaged in employment related to production of drilling mud grade barite who became separated on or after November 1, 1981.

TA–W–13,363; DeSoto Mining Co., Inc., Kingston, MO

A certification was issued in response to a petition received on March 15, 1982 covering all workers engaged in employment related to petition of drilling mud grade barite who became separated on or after November 1, 1981.

TA–W–13,026; Act III Distribution Center, Spartanburg, SC

A certification was issued in response to a petition received on October 5, 1981 covering all workers producing jackets and blouses separated on or after October 18, 1981.

TA–W–13,027; Andrew Knit, Tuscaloosa, AL

A certification was issued in response to a petition received on October 5, 1981 covering all workers producing jackets and blouses separated on or after October 18, 1981.

TA–W–13,031; Debra Knit, Northport, AL

A certification was issued in response to a petition received on October 5, 1981 covering all workers producing jackets and blouses separated on or after October 18, 1981.

TA–W–13,032; Eufaula Fashions, Eufaula, AL

A certification was issued in response to a petition received on October 5, 1981 covering all workers producing jackets and blouses separated on or after October 18, 1981.

TA–W–13,036; Livingston Fashions, Livingston, AL

A certification was issued in response to a petition received on October 5, 1981 covering all workers producing jackets and blouses separated on or after October 18, 1981..

TA–W–13,039; Oxford Fashions, Oxford AL

A certification was issued in response to a petition received on October 5, 1981 covering all workers producing jackets and blouses separated on or after October 18, 1981.

TA–W–13,041; Roanoke Fashions, Roanoke, AL

A certification was issued in response to a petition received on October 5, 1981 covering all workers producing jackets and blouses separated on or after October 18, 1981.

TA–W–13,044; Stevens Fashions, Carrollton, AL

A certification was issued in response to a petition received on October 5, 1981 covering all workers producing jackets and blouses separated on or after October 18, 1981.

I hereby certify that the aforementioned determinations were issued during the period December 6, 1982–December 10, 1982. Copies of these determinations are available for inspection in Room 10,332, U.S. Department of Labor, 601 D Street, NW. Washington, D.C. 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated: December 14, 1982.

Glenn M. Zech,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 82–34470 Filed 12–20–82; 8:45 am]

BILLING CODE 4510–30–M

Occupational Safety and Health Administration

Federal Advisory Council on Occupational Safety and Health; Meeting

Notice is hereby given that the Federal Advisory Council on Occupational Safety and Health, established under Section 1–5 of Executive Order 12196 of February 26, 1980, published in the **Federal Register** February 27, 1980 (45 FR 12769), will meet on January 12, 1983 starting at 10:00 a.m. in Rooms N5437 A,B,C, of the Frances Perkins Department of Labor Building, 200 Constitution Avenue N.W., Washington, D.C. The meeting will be open to the public.

The agenda provides for:

I. Call to Order.
II. Announcement of Appointments.
III. Approval of Minutes of October 6, 1982 Meeting.
IV. Election of Vice Chairman.
V. Presidential Safety and Health Policy Statement.
VI. Reports.
A. Activities of Standing Committee on Federal Occupational Safety and Health.
B. Proposed FACOSH Action Plans.
C. Criteria for President's Safety and Health Awards.
D. Consideration of the FARS Report.
VII. New Business.
VIII. Adjournment.

The Council welcomes written data, views or comments concerning safety and health programs for Federal employees, including comments on the agenda items. All such submissions received by close of business January 7, 1983, will be provided to the members of the Council and included in the record of the meeting.

The Council will consider oral presentations relating to agenda items. Persons wishing to orally address the Council at the meeting should submit a written request to be heard by close of business January 7, 1983. The request must include the name and address of the person wishing to appear, the capacity in which appearance will be made a short summary of the intended presentation and an estimate of the amount of time needed.

All communications regarding this Advisory Council should be addressed to John E. Plummer, Director, Office of Federal Agency Programs, Department of Labor, OSHA, Frances Perkins Building, 200 Constitution Avenue, N.W., Room N3613, Washington, D.C., 20210. telephone (202)523–8081.

Signed at Washington, D.C. this 15th day of December 1982.

Thorne G. Auchter,

Assistant Secretary.

[FR Doc. 82–34473 Filed 12–20–82; 8:45 am]

BILLING CODE 4510–26–M

Office of Pension and Welfare Benefit Programs

Proposed Exemptions

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Writen Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption, unless otherwise stated in the Notice of Pendency, or or before February 4, 1983. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216. Attention: Application No. stated in each Notice of Pendency. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of pendency of the exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of pendency are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

[Application Nos. D–3599 and L–3600]

The Northern Minnesota-Wisconsin Area Retail Clerks Pension Plan (the Pension Plan) and the Northern Minnesota-Wisconsin Area Retail Food Health and Welfare Plan (the H/W Plan; Collectively, the Plans) Located in Duluth, Minnesota

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75.1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply to the sublease of office space by the Plans to Plan Administrators, Inc. (the Administrator), a fiduciary with respect to the Plans, provided the terms of the sublease are no less favorable to the Plans than the terms obtainable in an arm's length lease with an unrelated party.

EFFECTIVE DATE: If the proposed exemption is granted, the exemption will be effective on October 1, 1982.

Summary of Facts and Representations

1. The Plans are multiemployer, jointly trusteed plans, each covering approximately 2,700 employees in the retail grocery business. Each Plan is funded by a separate trust. As of December 31, 1981, the H/W Plan's assets totalled $1,448,918, and the Pension Plan's assets totalled $7,017,813. The applicant represents that the Administrator provides contract administration services to the Plans and is, accordingly, a fiduciary with respect to the Plans. The trustees of the H/W Plan—William D. Watters, Robert C. Hall, Dick Walsh, Virgil Dock, James J. Bouley, and Daniel H. Mundt—are responsible for investing the H/W Plan's assets. The trustees of the Pension Plan—William D. Watters, Jerry Miner, James J. Bouley, Bert Harstad, Vern D. Bates, Al Scott, and Daniel H. Mundt—have employed a registered investment consulting firm, Loomis Sayles, to invest the Pension Plan's assets. It is represented that neither Loomis Sayles nor the trustees of the Plans have any relationship to the Administrator aside from their working relationship as Plan fiduciaries.

2. The Administrator requires more office space than is currently available to it to process claims and to organize its whole operations more efficiently to ultimately benefit the Plans' participants and beneficiaries. Therefore, the Administrator wishes to sublease from the Plans all of the space leased to the Plans by the Duluth Labor Temple Association (the Association). The applicant represents that the Association is not a party in interest with respect to the Plans and that the Administrator will use the subleased space exclusively to conduct its administrative services to the Plans.

3. The sublease agreement (the Sublease) between the Plans and the Administrator states that the terms and conditions of the Sublease shall be identical to those in the lease agreement between the Association and the Plans (the Lease). The Lease provides, among other things, for a yearly rental of $6.00 per square foot per year for 3,100 feet of rental space, payable in equal monthly installments, for a five-year term beginning October 1, 1982, on Business Office No. 300, located on the third floor of the Duluth Labor Center, at 2002 London Road, Duluth, Minnesota. The rental shall be adjusted on a yearly basis for any increased operational costs incurred by the Association and attributable to the premises (on a square footage basis). The Lease may be renewed for an additional five years, at the Plans' option, on the same terms and condition, except that the yearly rental may be increased to a maximum of $6.60 per square foot. If the proposed exemption is granted, the Sublease shall be effective as of October 1, 1982. The Plans will not be required to pay any commissions in connection with the Sublease. The applicant represents that the terms of the Sublease are the same as those that would be available to any other disinterested tenant.

4. The decision to sublease office space to the Administrator was a joint majority decision of the trustees of the Plans, after considering the specific terms of the Sublease and whether the Sublease would be in the best interests of the participants and beneficiaries of the Plans. The applicant states that the Administrator has no investment authority or discretion with respect to the decision of the Plans to sublease the office space in question and that throughout the trustees' discussions concerning the possibility of a sublease arrangement, the Administrator has been a totally neutral party with respect to that decision. Mr. Daniel H. Mundt, who serves as a trustee for both Plans, states that the Sublease will assure the Administrator's continued involvement and participation in the administration of the Plans, will be on a strictly arm's-length basis, and will automatically

terminate if the Administrator is no longer the administrator of the Plans. Mr. Mundt also states that he is personally acquainted with other plan administrators in surrounding localities and believes that the services, information, and background provided by the Administrator is of unique and particular value. He believes that the Administrator provides services at the lowest possible cost and in the most effective manner to the participants of the Plans. He explains that the reason the Plans have entered into the Lease and the Sublease, rather than have the Association lease directly to the Administrator, is that under the Lease and Sublease arrangement the Plans will control the space. Thus, in the event of any problem with the Administrator, whether because of inability to perform, incapacity, or otherwise, the Plans will still have the right to occupy the space. For all of the foregoing reasons, Mr. Mundt believes that the Sublease will be in the best interests of the Plans and their participants and beneficiaries.

The trustees of the Plans will be solely responsible for monitoring the Sublease during its term, will act to protect the rights and interests of the Plans under the Sublease, and will ensure throughout its term that the terms and conditions of the Sublease are being complied with.

5. In summary, the applicant represents that the Sublease meets the exemptive criteria provided by section 408(a) of the Act because (a) the terms of the Sublease are the same as those that would be available to any other disinterested tenant, (b) the additional space to be made available to the Administrator under the Sublease will enable the Administrator to process claims and to organize its entire operations more efficiently to ultimately benefit Plan participants and beneficiaries, (c) the trustees of both Plans have initially decided that the Plans should enter into the Sublease, will monitor the Sublease, and will take any action necessary to protect the rights of the Plans thereunder, (d) the trustees of the Plans believe that the Sublease is in the best interests of the participants and beneficiaries of the Plans, and (e) the Plans will not be required to pay any commissions in connection with the Sublease.

FOR FURTHER INFORMATION CONTACT: Mrs. Miriam Freund, of the Department, telephone (202) 523-8971. (This is not a toll-free number.)

[Application No. D-3623]

The Annuity Trust Fund of Exxon Corporation (the Fund) Located in Houston, Texas

Proposed Exemption

The Department is considering granting an exemption for the following transactions under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975).

Section I. The restrictions of section 406(a), 406(b)(1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to:

(A) The contribution of certain improved real property (the Property) to the Fund by Exxon Company, U.S.A. (EUSA), a contributing employer to the Fund, provided that EUSA's Federal tax deduction for the contribution does not exceed the fair market value of the Property as of the date it is contributed to the Fund;

(B) The lease (the Lease) of office space by the Fund to Friendswood Development Company (Friendswood), a contributing employer to the Fund, entered into pursuant to the property management agreement (the Management Agreement) between the Fund and Friendswood;

(C) The grant and exchange of certain interests in the Property between Friendswood and the Fund pursuant to an easement agreement (the Easement Agreement); and

(D) The joint use of certain portions of the Property by Friendswood and the Fund pursuant to a joint operating agreement (the Joint Operating Agreement).

Section II. The restrictions of section 406(b)(1) and (2) [1] of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(E) of the Code, shall not apply to the provision of certain real property management services to the Fund by Friendswood pursuant to the Management Agreement and the Joint Operating Agreement, provided that Friendswood receives no more than reasonable compensation for such services, pursuant to section 408(b)(2) of the Act and section 4975(d) (2) of the Code and the regulations promulgated thereunder.

Section III. The restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply to the lease of space by the Fund to certain parties in interest with respect to the Fund, provided that no space is leased (other than pursuant to the Lease) to:

(A) A subsidiary, division or affiliate (as defined in section 407(d)(7) of the Act) of Exxon Corporation (Exxon), the Fund sponsor, or

(B) A person who exercises discretionary authority, responsibility or control, or who provides investment advice, either with respect to the investment of any assets of the Fund or with respect to the management or disposition of the Property.

The proposed exemption is subject to the condition that the terms and conditions of each of the above-described transactions are at least as favorable to the Fund as those that could be obtained from an unrelated party.

EFFECTIVE DATE: The effective date of the proposed exemption, if granted, will be December 15, 1982.

Summary of Facts and Representations

1. The Fund is composed of a number of participating defined benefit plans of affiliates and divisions of Exxon. Both EUSA and Friendswood are wholly owned subsidiaries of Exxon. As of December 31, 1981, the Fund had net assets of $3,426,000,000 and approximately 85,853 participants in the various plans comprising the Fund. The named fiduciary of the Fund is the Administrator-Finance who is the treasurer of Exxon, currently Mr. A. C. Hamilton.

2. EUSA proposes to purchase the Property from Friendswood and contribute the Property in partial satisfaction of EUSA's 1982 plan contribution. It was decided that EUSA would make the contribution of the Property, since the value of the Property would greatly exceed Friendswoods current plan funding obligation. According to an appraisal by Mr. James A. Britton, Jr., Britton Appraisal Associates, Inc., 444 Madison Avenue, New York, New York, an appraisal service company neither directly nor indirectly affiliated with Exxon or EUSA or with any other affiliate or division of Exxon, the estimated fair market value of the Property, as currently leased, is $53,630,000.00 as of July 1, 1982. Mr. Britton will reappraise the Property

[1] No exemption from section 406(a) of the Act or section 4975(c)(1)(A) through (D) of the Code is being granted for the transactions discussed in this section beyond that which is provided by the statutory exemption provided by section 408(b) (2) of the Act or section on 4975(d) (2) of the Code.

upon the granting of the exemption and EUSA will purchase the Property from Friendswood for an amount equal to this final appraisal value. EUSA will then contribute the Property to the Fund and take a Federal tax deduction in the amount of the final appraisal value. The Property is totally free of debt and encumbrance, and will represent approximately 1.6% of the Fund's current net assets.

3. The Property consists of approximately 15.1 acres of land, various office buildings and retail facilities located on the land, a 68% undivided interest in a central plant and a 41% undivided interest in a parking garage. The remaining interests in the central plant and parking garage will be held by Friendswood, in order to service a building owned by Friendswood which is adjacent to the Property. In each instance of joint ownership, the allocation of each party's interest was based upon the specific requirements and needs of each party, based upon the property serviced. The Property is located in the Greenspoint project, a 220 acre mixed-use land development project in North Houston. Friendswood acquired the Greenspoint project property in 1976 and subsequently developed the project pursuant to a controlled master plan. Friendswood currently manages the Property. Friendswood has been engaged in the business of real estate development in the Houston, Texas area since 1962, and has managed, developed or sold over 80,000 acreas of land.

4. The "North Belt" market area, within which Greenspoint is located, has undergone substantial growth in the past six years. In 1976, the area had fewer than 200,000 square feet of office space and currently there are approximately 4,600,000 square feet of office space in the area. Current projections indicate the number will grow to 7,800,000 square feet by 1983. This growth is primarily attributable to the area's proximity to excellent residential areas, the Houston Intercontinental Airport, the presence of the succesful Greenspoint Regional Shopping Mall and its location at the intersection of two primary Houston traffic arteries, Interstate 45 North Beltway 8. The area is now established as the commercial center of North Houston.

5. The facilities located on the Property are and will continue to be leased to a variety of business firms. The applicant represents that no portion of the Property (other than the office space reserved for Friendswood discussed below), will be leased to: (a) a subsidiary, division or affiliate (as defined in section 407(d)(7) of the Act) of Exxon; or (b) a person who exercises discretionary authority, responsibility, or control, or who provides investment advice, either with respect to the investment of any assets of the Fund or with respect to the management or disposition of the Property. However, because of the size of the Fund and the large number of service providers who would be parties in interest with respect to the Fund, the applicant represents that it would be extremely difficult to ascertain in all instances whether a Property tenant was a party in interest with respect to the Fund. Therefore, the applicant requests an exemption to permit leasing of space in the Property to parties other than those specified in subparts (a) and (b) above.

6. In May 1982, a total of 4,343 square feet of space in the buildings located on the Property was vacant out of a total of 546,241 square feet, for a vacancy rate of 0.8%. The credit capability of all tenants is evaluated by Friendswood and when deemed appropriate, security deposits are required. The net cash flow to the Fund from rentals in the first year of the Fund's ownership of the Property would be $4,727,607, representing an annual return of 8.8% of the appraised fair market value of the Property.

7. At the time EUSA contributes the Property to the Fund, the parties propose to enter into the Management Agreement, whereby Friendswood would agree to manage the Property on the Fund's behalf. The Management Agreement may be cancelled by the Fund upon 30 days advance notice. Friendswood's services would cover all spects of financial and physical management, operation, maintenance and leasing of the Property. Pursuant to the Management Agreement, Friendswood is required to maintain detailed records and books of account concerning the operation of the Property, which are to be available to the Fund for examination at all reasonable times. In addition, detailed monthly reports on the operation of the Property will be prepared by Friendswood and sent to the Fund.

8. Friendswood's compensation under the Management Agreement will consist of reimbursement of costs for direct on-site management plus a management fee of 3% of all receipts collected and remitted from Property tenants on a monthly basis, or $14,000 per month, whichever is greater. Additionally, pursuant to the Management Agreement, 3,781 square feet of space in Two Greenspoint Plaza (0.7% of the Property) would be reserved as office space for Friendswood to provide the above-described services. It is represented that such arrangements are customary in the real property management industry and that the Lease is considered to be a portion of Friendswood's compensation. The applicant states that the Lease of office space would facilitate Friendswood's execution of its duties as the Property manager. This reservation of office space would terminate with the termination of the Management Agreement.

9. Upon the contribution of the Property, the Fund and Friendswood would also enter into the Joint Operating Agreement, whereby Friendswood would agree to maintain and operate the jointly owned central plant and parking garage. Friendswood would be reimbursed by the Fund for the Fund's share of direct and indirect expenses properly and actually incurred, pursuant to the terms of the Joint Operating Agreement. Friendswood would be required to furnish the Fund with reports on a monthly basis, detailing all such expenses for which reimbursement is sought.

10. The third agreement to be entered into between the Fund and Friendswood upon the contribution of the Property, would be the Easement Agreement, whereby the Fund and Friendswood, as owners of adjacent properties in the Greenspoint project, will grant to each other reciprocal easements regarding the use of the common access areas of such properties. Friendswood will receive no consideration under the terms of the Easement Agreement.

11. InterFirst Bank Dallas, N.A., Trust Division (the Bank, formerly First National Bank in Dallas) has agreed to serve as an independent fiduciary on behalf of the Fund for the transactions described herein. The Bank would decide whether to enter into the proposed transactions and would monitor the Agreements to ensure Friendswood's compliance therewith. The Bank and Exxon have a number of business relationships, however, these relationships constitute less than 1% of the Bank's commercial credit and deposit business. Furthermore, although the Bank serves as an investment manager for the Fund, the amount of Fund assets currently managed by the Bank constitutes less than 1% of the Bank's trust division business.

12. The Bank has reviewed the terms and conditions of the contribution of the Property, the Management Agreement, the Joint Operating Agreement and the Easement Agreement (collectively, the Agreements). The Bank has stated that the contribution of the Property, taking

into consideration the cash flow and net rate of return, would be in the interests of the Fund participants and beneficiaries and would be an appropriate investment for the Fund. The Bank further stated that the terms and conditions of the Agreements are standard, reasonable and customary in the real property management industry and are appropriate for the management and operation of the Property.

13. In summary, the applicant represents that the proposed transactions satisfy the statutory criteria of section 408(a) due to the following: (a) the Bank has reviewed the terms and conditions of the transactions and believes they are customary and reasonable and are in the interests of the Fund and its participants and beneficiaries; (b) the Bank will make all decisions on the Fund's behalf regarding the transactions proposed herein, will monitor the transactions to ensure Friendswood's compliance therewith, and will have the authority to terminate the Management Agreement upon 30 days advance notice; (c) the Property will be contributed at its fair market value as determined by an appraiser independent of Exxon and its affiliates and divisions; (d) the Property would represent approximately 1.6% of Fund assets; (e) the Property vacancy rate is currently 0.8%; and (f) no portion of the Property (other than the office space reserved for Friendswood) would be leased to Exxon or to any of its subsidiaries, affiliates, or divisions.

FOR FURTHER INFORMATION CONTACT: Robert Sandler of the Department, telephone (202) 523-8195. (This is not a toll-free number.)

[Application No. D-3700]

Quain and Ramstad Clinic, P.C. Employees' Retirement Plan (the Plan) Located in Bismarck, North Dakota

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the loan of $2 million (the Loan) by the Plan to Quain and Ramstad Clinic, P.C. (the Employer), the sponsor of the Plan, provided the terms of the transaction are at least as favorable to the Plan as those obtainable in an arm's length transaction with an unrelated party.

Summary of Facts and Representations

1. The Plan is a defined benefit plan with 270 participants. As of May 31, 1982, the Plan had total assets of approximately $5.7 million. The Northwestern National Bank of Minneapolis (the Bank) serves as the trustee of the Plan and is responsible for Plan investment decisions. Neither the Bank, nor any affiliate thereof, maintains any commercial or banking relationship with the Employer.

2. The Employer is a multispecialty medical clinic providing medical services. The Employer leases the space it utilizes from a partnership (the Partnership) whose partners are shareholders and employees of the Employer.

3. The applicant is requesting an exemption to allow the Plan to engage in the Loan with the Employer. The Loan proceeds will be subsequently loaned to the Partnership to provide a minor portion of the permanent financing for an expansion of the building currently used by the Employer. The major portion of the financing of the expansion of the building will be through a $9.3 million loan from the First National Bank and Trust Company of Bismarck.

The Loan will be for a ten year term and will provide for equal monthly payments of principal. The Loan's interest rate will be equal to the prime rate of interest as daily quoted by the First National Bank of Minneapolis. Interest on the unpaid balance of the Loan will be payable monthly.

4. The Loan will be secured by a perfected first security interest in all of the accounts receivable of the Employer. As of August, 1982, the Employer had 23,579 receivables totalling $4,677,000. The average amount of a receivable is $198. The largest single receivable is $362,098 which is due from the Bismarck Hospital for x-ray and laboratory services. The receivables have normally been collected within 109 days from the date the medical services are rendered. A large portion (approximately 79%) of the receivables represent insurance claims that require processing by insurance carriers.

5. The Employer will enter into a loan agreement with the Plan which will provide, inter alia, that certain conditions are imposed on the Employer. Among the conditions are that the Employer will maintain a ratio of debt to total assets of not more than .9 to 1; will maintain a ratio of current assets to current liabilities of not less than 1.25 to 1; and will maintain a tangible net worth of not less than $500,000. Additional conditions include prohibitions on the Employer from incurring debt or guarantees of debt, limitations on the types and amounts of investments that it may hold, prohibitions on the payment of dividends, prohibitions with respect to the sale of its assets, prohibitions pertaining to corporate reorganizations, prohibitions on expenditures for capital expenses, and prohibitions on certain lease transactions.

6. The Bank has examined the terms and conditions of the proposed Loan. After examining the overall investment portfolio of the Plan and the diversification of Plan assets in light of the proposed Loan investment, with consideration given to the cash flow needs of the Plan and the necessity of a sale of any Plan assets, the Bank has determined that the Loan is an appropriate and suitable investment for the Plan and its participants and beneficiaries. The Bank will render the same determination immediately prior to the consummation of the transaction.

7. The Bank will completely monitor the terms and conditions of the Loan. The Bank will require the Employer to reduce the outstanding balance of the Loan if at any time the value of the collateral falls below 150% of the outstanding Loan balance. The applicant represents that in the event of any default on the Loan the Bank would be able to effectively take over receivable collections which would be adequate to pay off the Loan within 60 days. The Loan agreement provides that the Bank will be provided (1) on an annual basis with financial statements of the Employer, an unqualified audit letter of a certified public accountant, and a certification by such certified public accountant that he or she knows of no event that would constitute an event of default under the Loan agreement; (2) quarterly, with unaudited financial statements of the Employer and a certification from the chief financial officer of the Employer that he or she knows of no event of default under the Loan-agreement; and (3) monthly, with schedules of the accounts receivable of the Employer.

8. In summary, the applicant represents that the proposed Loan will satisfy the statutory criteria of section 408(a) of the Act because (a) the Loan will be secured by a perfected first security interest in collateral which will, at all times throughout the term of the Loan, have a value not less than 150% of the outstanding Loan balance, (b) the Bank, an independent, qualified party will serve as the fiduciary of the Plan with regard to the Loan, and has determined that the Loan is an

appropriate and suitable investment for the Plan; and (c) the Bank will completely monitor the Loan and enforce the performance of the Employer's obligations under the applicable Loan documents.

FOR FURTHER INFORMATION CONTACT: Mr. David Stander of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

[Application No. D–3708]

Profit Sharing Plan for Employees of Gonzalez, Lupo, Walker, Webb & Arthur, M.D.s, P.A. (the Plan) Located in Tampa, Florida

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a) and 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the proposed sale of the land described below by the Plan to Buffalo Avenue Associations (the Partnership), a party in interest with respect to the Plan, provided the sales price is no less than the fair market value of land on the date of the sale.

Summary of Facts and Representations

1. The Plan covered ten participants as of August 17, 1982, and had total assets of $242,701 as of December 31, 1981. The Plan trustees—Drs. Arturo G. Gonzalez, Joseph F. Lupo, Charles G. Walker, Gilsen S. Webb, and Gary K. Arthur—make investment decisions on behalf of the Plan.

2. Eighty percent of the profits interest in the Partnership, a Florida general partnership, is owned by the Plan trustees and administrators who are also officers, directors, and employees of the Plan sponsor and who collectively own over 50% of the stock of the Plan sponsor. The parties in interest with respect to the Plan who own interests in the Partnership are Arturo G. Gonzalez, M.D., Joseph F. Lupo, M.D., Charles G. Walker, M.D., Gilson S. Webb, M.D., Gary K. Arthur, M.D. and Espy D. Ball, Ph.D.

3. The land in question is two non-contiguous lots of vacant land, #19 of Block 1 and #1 of Block, 9 totalling 19,720 square feet in the Northdale subdivision of Tampa, Florida. The lots are zoned for single-family residences only and are encumbered by a purchase money mortgage. The two lots are not located proximate to any property owned by the Partnership, the Plan sponsor, or any other party in interest. They are located in a rapidly developing residential neighborhood close to schools and numerous recently completed shopping centers. The Plan acquired these lots as an investment on November 20, 1980, from Criterion Corporation, which, according to the applicants, is not a party in interest with respect to the Plan. The purchase price paid by the Plan for the lots was $51,400.00, 10% of which was paid on the purchase date, the balance payable within five years at 10% interest with a balloon payment due at the end of the fifth year. The Plan made some principal payments under the mortgage (see 5, below). As of October 25, 1982, the Plan had paid $10,585.69 in interest under the mortgage, $974.32 in taxes on the lots, $360.88 for signs and advertisements, $100.00 for mowing, and $150.00 for appraisals of the lots on March 3, 1982.[2] The lots do not produce any income for the Plan. During 1981, the Plan attempted unsuccessfully to sell the lots.

4. The appraisals mentioned above were made by Charles K. Evanich and were reviewed by Diane G. Bussman, a member of the American Institute of Real Estate Appraisers. It is represented that neither appraiser is related to the Partnership. Both appraisers have experience appraising vacant land, among other types of real property, for savings and loan institutions and mortgage lenders, among other clients. The appraisals show that the highest and best use of each lot would be to improve it with a single family residence and estimate that Lot 19 of Block 1 had a fair market value of $27,000 on March 3, 1982, and that Lot 1 of Block 9 had a fair market value of $26,000 on that date.

5. The Plan proposes to sell both lots to the Partnership at a price equal to the fair market value of the lots as established in the appraisals described above ($53,000 total) or in another appraisal made by a qualified independent appraiser on a later date closer to the proposed sale date. The Partnership will assume the balance due under the existing mortgage and will pay cash to the Plan in the amount of the difference between the proposed sales price and such balance due. The principal balance due under this mortgage as of December 31, 1981 was $44,080.03, according to the Plan's financial statements of that date. The Plan trustees have reviewed the situation and determined that a sale of the lots, as soon as possible, for their fair market value is in the best interests of the Plan and its participants in order to eliminate the necessity of continuing to pay substantial interest expenses.

6. In summary, the applicants represent that the proposed sale meets the exemptive criteria provided by section 408(a) of the Act because (a) the proposed sale will involve the Plan in a one-time transaction in which the Plan will receive cash for its equity interest in the lots, (b) the proposed sale will relieve the Plan of both a non-income producing asset that is not readily saleable and also a mortgage obligation requiring large cash payments of interest and principal, (c) the proposed sales price will equal the fair market value of the two lots as appraised by a qualified independent appraiser, and (d) the Plan trustees believe the proposed sale is in the best interests of the Plan and its participants.

FOR FURTHER INFORMATION CONTACT: Mrs. Miriam Freund, of the Department, telephone (202) 523–8971. (This is not a toll-free number.)

[Application No. D–3725]

H. A. Berkheimer, Inc. Profit Sharing Plan (the Plan Located in Bangor, Pennsylvania

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a) and 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the proposed loan of $100,000 by the Plan to H. A. Berkheimer, Inc., a party in interest with respect to the Plan, provided that the terms of the transaction are not less favorable to the Plan than those obtainable in an arm's-length transaction with an unrelated party at the time of consummation of the transaction.

Summary of Facts and Representations

1. The Plan, which was established in 1969, is a profit sharing plan with 81 participants and total assets as of May 31, 1982 of $322,757. First Valley Bank of Bethlehem, Pennsylvania (the Bank) is the Plan trustee and is solely responsible for the investment of Plan

[2] In this proposed exemption the Department expresses no opinion regarding whether the acquisition and holding of the lots violates any provision of Part 4 of Title I of the Act.

assets. H. A. Berkheimer, Inc. (the Employer) is a tax collection agency for municipalities and other local government agencies in Pennsylvania.[3]

2. On November 18, 1981, the Employer purchased data processing equipment from National Cash Register Corporation (NCR). The data processing equipment is known as the NCR Criterion Group V–8550 Data Processing System (the Equipment) and cost $112,512.[4] The Employer obtained interim financing for the Equipment from the bank in the form of a demand loan calling for monthly payments of interest based on the prime rate of interest.

3. The Employer proposes to pay off its loan to the Bank by borrowing $100,000 from the Plan. Under the terms of the proposed loan, the Plan would receive a security agreement collateralized by a first lien on the Equipment (evidenced by a promissory note) plus a pledge agreement on a $100,000 Bank 26-week time deposit (the Deposit).[5] The loan will be repaid in 36 equal monthly principal installments of $2,777.78 plus an interest rate of the Bank's prime rate plus 1 percent. This rate will be adjusted monthly to reflect changes in the prime rate, but in no event will be less than 10 percent per annum. Further, in the event the value of the equipment and the Deposit should ever fall to less than 150 percent of the outstanding loan balance, the Employer shall within 30 days of such a determination provide additional collateral so that the fair market value of the collateral securing the loan will always represent at least 150 percent of the outstanding loan balance. The Employer will maintain insurance on the Equipment in an amount equal to or greater than the unpaid loan balance, with the Plan being named the loss payee of the insurance policy. All costs and expenses relating to the transaction will be paid by the Employer.

4. On July 19, 1982, Mr. J. P. Rowan, an account manager of major systems for NCR Corporation issued a letter to the Employer in which he valued the Equipment at $112,512.

(5) The Northeastern Bank of Pennsylvania located in Scranton, Pennsylvania (Fiduciary Bank), has been engaged to serve as an independent fiduciary with respect to the above described transaction. The Fiduciary Bank invests approximately $60,000,000 in employee benefit plan assets. The Fiduciary Bank has no other relationship with the Employer or the Plan.

The Fiduciary Bank represents that the proposed loan is appropriate for the Plan and is in the best interests of its participants and beneficiaries. In making these determinations, the Fiduciary Bank has examined the overall portfolio of the Plan, considered the Plan's cash flow needs, considered the assets that might have to be sold in order to meet the liquidity and diversification requirements of the Plan in light of the proposed loan and reviewed the proposed loan in terms of how it fits within the Plan's funding policy.

The Fiduciary Bank has agreed to undertake the following actions as part of its responsibilities; (a) monitor the loan to insure that payments under the promissory note are made in accordance with its terms and to demand timely payment, if necessary; (b) adjust the interest rate for the loan monthly; (c) keep adequate records; (d) report at least annually to the Bank on the performance of the loan, specifically including an annual appraisal by an independent appraiser indicating that the fair market value of the collateral is never less than 150 percent of the outstanding balance of the loan; (e) demand additional collateral be pledged if necessary; (f) make certain the collateral is always insured with the Plan being named as beneficiary of the insurance policy; and (g) in the event of a default on the loan, take steps necessary to insure the collateral is repossessed, sold in conformity with Pennsylvania law and that any deficiency is collected from the Employer.

6. In summary, the applicant represents that the proposed transaction meets the statutory criteria for an exemption under section 408(a) of the Act because:

(a) the Employer will insure the collateral and add additional collateral so that the value of the collateral securing the loan is always at least 150% of the outstanding balance of the loan;

(b) the loan will be administered by the Fiduciary Bank; and

(c) the Fiduciary Bank has determined that the transaction is appropriate for the Plan and is in the best interests of the Plan's participants and beneficiaries.

FOR FURTHER INFORMATION CONTACT: Alan H. Levitas of the Department, telephone (202) 523–8971. (This is not a toll-free number.)

[3] The applicant represents that the Employer is not an instrumentality of any state or local government.

[4] The total sales price for the equipment was $121,388.80, however, this included taxes and distribution charges of $8,876.80.

[5] The Deposit, including all interest earned, will be held by the Bank and will be rolled-over each 26 weeks until the loan has been repaid.

[Application No. D–3731]

The Orloff, Lowenbach, Stifelman and Siegel, P.A. Employees' Profit Sharing Plan (the Plan) Located in Roseland, New Jersey

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to (1) a loan of $300,000 (the Loan) by the Plan to Orloff, Lowenbach, Stifelman and Siegel, P.A. (the Employer), provided the terms and conditions of the Loan are at least as favorable to the Plan as those obtainable in an arm's length transaction with an unrelated party; and (2) the guarantee of repayment of the Loan by the principals of the Employer.

Summary of Facts and Representations

1. The Plan is a profit sharing plan with 16 participants and total assets of $820,795 as of June 30, 1982. The trustees of the Plan are the six principal shareholders of the Employer. These individuals make investment decisions for the Plan. The Employer is a law firm presently located in Roseland, New Jersey.

2. The Employer proposes to borrow $300,000 from the Plan [6] to finance certain expenses associated with its recent move from Newark, New Jersey to a larger office facility located in Roseland, New Jersey. The Loan, which will be evidenced by a promissory note, will be amortized in equal monthly installments of principal and interest over an 84 month period. The Loan will carry interest at one percent over the prime rate of First National State Bank of New Jersey (First National). The interest rate will have a floor of 12 percent per annum and it will be adjusted monthly by an independent fiduciary designated to oversee the proposed transactions.

[6] Financial statements accompanying the exemption application show that the Plan had made loans to three participants as of June 30, 1981. On that date, the loans had a total outstanding principal balance of $51,237. The application states that the participant loans satisfy the conditions of section 408(b)(1) of the Act. The Department expresses no opinion as to whether or not these conditions have been met.

3. The Loan will be secured by an assignment of the Employer's accounts receivable (the Receivables). The Employer will execute and file UCC financing statements giving the Plan a perfected first security interest in the Receivables. The Employer has represented that the Receivables will at all times be equal to a minimum of 150 percent of the outstanding Loan balance. If the value of the Receivables falls below 150 percent of the outstanding loan balance, the Employer will be required to pledge additional security. As further collateral for the Loan, the six principal shareholders of the Employer will give their personal guarantees. As of October 14, 1982, the shareholders had a combined net worth in excess of $3 million.

4. The Receivables represent amounts due the Employer from clients for the Employer's rendition of legal services. Between June 30, 1981 and August 31, 1982, the Receivables ranged between $630,470 and $641,358 in value. During the fourteen month period, 78 percent of the Receivables were collected, 7 percent were written off as uncollectible and 15 percent remain outstanding. Of the $244,406 in Receivables which were more than 120 days old as of June 30, 1981, 68 percent were collected during the fourteen month period, 11 percent were written off as uncollectible and 15 percent remain outstanding.

5. By letter dated July 19, 1982, First National committed itself to lend $300,000 to the Employer. The bank loan would have carried a floating interest rate of one percent over the prime rate with quarterly payments of principal and interest over a five year period. There would have been no prepayment penalty. The loan would have been secured by the personal guarantees of the principals of the Employer.

6. Mr. Irwin Gedinsky (Mr. Gedinsky), a certified public accountant and a senior tax partner with the accounting firm Granet and Granet of Union, New Jersey, has agreed to serve as the independent fiduciary for the Loan. Mr. Gedinsky has no other relationship with the Plan or the Employer. Mr. Gedinsky represents he has served as an executor and trustee of many estates and trusts in the past as well as at present. He also states that in his role as senioir tax partner for his firm, he has advised the firm's clients with respect to the design of pension and profit sharing plans, the administration of such plans (including the investment of plan assets) and compliance with provisions of the Act.

With respect to the Loan, Mr. Gedinsky indicates he has examined its specific terms and he believes the Loan is in the best interests of the Plan and its participants and beneficiaries because of the substantially higer interest rate than the Plan would otherwise earn, the fair and reasonable Loan duration, and the adequate collateral provided. Mr. Gedinsky also represents he has examined the overall Plan portfolio, considered the Plan's cash flow needs, considered the assets that might have to be sold to meet the Plan's liquidity requirements, examined the diversification of the Plan's assets in light of the proposed investment, and examined the Loan in terms of the manner in which it fits into the Plan's investment scheme.

As the independent fiduciary, Mr. Gedinsky will monitor the Loan to ensure repayment on a monthly basis. Mr. Gedinsky will also verify that the interest rate is adjusted monthly. He will further verify that the Receivables will at all times represent 150 percent of the outstanding Loan balance and if they ever fall below this level, he will demand additional collateral from the Employer. In addition, Mr. Gedinsky will take all necessary and appropriate actions to protect the interests of the plan.

7. In summary, it is represented that the proposed transactions will satisfy the requirements of section 408(a) of the Act because: (a) the Loan will be monitored by Mr. Gedinsky who believes the Loan is in the best interests of the Plan and protective of the Plan's participants and beneficiaries; (b) the Loan will be secured by the Employer's Receivables and the personal guarantees of the Employer's principals; and (c) the Receivables will at all times throughout the duration of the Loan represent 150 percent of the outstanding Loan balance and if the value of the Receivables falls below this level, Mr. Gedinsky will demand that the Employer pledge additional collateral.

FOR FURTHER INFORMATION CONTACT: Ms. Jan Broady of the Department, telephone (202) 523-8971. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibitedransaction.

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 16th day of December, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82-34584 Filed 12-20-82; 8:45 am]

BILLING CODE 4510-29-M

Grant of Individual Exemptions

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such

exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of pendency were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

[Prohibited Transaction Exemption 82–217; Exemption Application No. D–2794]

The Deferred Benefits Corporation Pension Plan (the Plan) Located in Atlanta, Georgia

Exemption

The restrictions of section 406(a)(1)(A) through (D) and 406(b) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (F) of the Code, shall not apply to the receipt of brokerage commissions by the Deferred Benefits Corporation (the Employer) and certain of its employees (the Employees) incidental to the purchase of investment media by the Employees through their individual accounts in the Plan provided:

(a) The terms of the sales will be at least as favorable to the Plan as the terms offered for similar purchases by unrelated third parties in the normal course of the Employees' business;

(b) The purchases by the Employees will only be made for the respective Employee's individual account in the Plan;

(c) During no plan year will the commissions paid by the Plan as a result of purchases by the Employees for their respective individual account exceed five percent (5%) of the commissions earned by such Employee during the plan year in similar purchases by unrelated third parties; and

(d) Payment of commissions by the Plan in connection with such purchases will be treated under the Employer's fee sharing agreement in the same manner as all other commissions earned by the Employees in sales of investment media by unrelated third parties in the ordinary course of business.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on October 19, 1982 at 47 FR 46599.

FOR FURTHER INFORMATION CONTACT: Paul R. Antsen of the Department, telephone (202) 523–6915. (This is not a toll-free number.)

[Prohibited Transaction Exemption 82–218; Exemption Application No. D–3076]

The Tenneco Inc. Thrift Plan (the Plan) Located in Houston, Texas

Exemption

The restrictions of section 406 (a) and (b) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (F) of the Code, shall not apply, effective January 1, 1982, to the sale of individual life insurance contracts by Philadelphia Life Insurance Co. (PLI) to the Plan, and the payment of commissions to agents of PLI, provided the following conditions are met:

(a) PLI—(1) Is a party in interest with respect to the Plan by reason of a stock or partnership affiliation with Tenneco Inc. that is described in section 3(14) (E) or (G) of the Act,

(2) Is licensed to sell insurance in at least one of the United States or in the District of Columbia,

(3) Has obtained a Certificate of Compliance from the Insurance Commissioner of its domiciliary state, Pennsylvania, within the 18 months prior to the date when the transaction is entered into or when such certificates were last made available by the domiciliary state, if earlier, and (4) (i) Has undergone a financial examination (within the meaning of the law of its domiciliary state, Pennsylvania) by the Insurance Commissioner of the State of Pennsylvania within 5 years prior to the end of the year preceding the year in which the sale occurred, or

(ii) Has undergone an examination by an independent certified public accountant for its last completed taxable year.

(b) The Plan pays no more than adequate consideration for the insurance contracts.

(c) The commission paid to an agent by PLI in connection with the sale of a policy to the Plan does not exceed the commission paid to the agent by reason of placing the same policy with a person who is not a Plan participant.

(d) For taxable years of PLI beginning after December 31, 1981, the gross premiums and annuity considerations received in that taxable year by PLI for life and health insurance or annuity contracts for all employee benefit plans (and their employers) with respect to which PLI is a party in interest or disqualified person by reason of a relationship to such employers described in section 3(14) (E) or (G) of the Act and section 4975(e)(2) (E) or (G) of the Code do not exceed 50 percent of the gross premiums and annuity considerations received for all lines of insurance in that taxable year by PLI. For purposes of this condition (d):

(1) The term "gross premiums and annuity considerations received" means the total of premiums and annuity considerations received, reduced (in both the numerator and denominator of the fraction) by experience refunds paid or credited in that taxable year by PLI.

(2) All premiums and annuity considerations written by PLI for plans which it alone maintains are to be excluded from both the numerator and the denominator of the fraction.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on October 15, 1982 at 47 FR 46181.

EFFECTIVE DATE: This exemption is effective January 1, 1982.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

[Prohibited Transaction Exemption 82–219; Exemption Application No. D–3203]

Design Master Homes, Inc. Profit Sharing Plan and Trust (the Plan) Located in Phoenix, Arizona

Exemption

The restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to a loan (the Loan) by the Plan of $350,000 to Design Master Homes, Inc., provided the terms and conditions of the Loan are not less favorable to the Plan than those obtainable in an arm's length transaction with an unrelated party at the time the transaction is consummated.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on October 19, 1982 at 47 FR 46597.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady of the Department, telephone (202) 523–8971. (This is not a toll-free number.)

[Prohibited Transaction Exemption 821–220; Exemption Application No. D–3325]

Starr-Wood-Chapman-Ahmad, P.C. Retirement Trust (the Plan) Located in Portland, Oregon

Exemption

The restrictions of section 406(a), 406(b)(1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to: (1) the proposed assignment by Dr. Albert Starr to the Plan of his interest in a real estate sales contract (the Contract) for $51,200, minus the amount of any principal payments received by Dr. Starr prior to the assignment, provided that this price is not more than the fair market value of Dr. Starr's interest in the Contract on the date it is assigned to the Plan; and (2) Dr. Starr's agreement to indemnify the Plan in the event of any loss suffered as a result of default by Adams Street Investors under the Contract.

For more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on September 3, 1982 at 47 FR 39020.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Sandler of the Department, telephone (202) 523–8195. (This is not a toll-free number.)

[Prohibited Transaction Exemption 82–221; Exemption Application No. L–3350]

National Production Workers Insurance Fund (the Fund) Located in Chicago, Illinois

Exemption

The restrictions of section 406(a) of the Act shall not apply to the purchase of certain computer and office equipment by the Fund from Labor Benefit Services, a party in interest with respect to the Fund, for the cash amount of $125,000, so long as the amount does not exceed the fair market value of the items purchased on the date the transaction is consummated.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on October 15, 1982 at 47 FR 46174.

EFFECTIVE DATE: This exemption is effective April 16, 1982.

FOR FURTHER INFORMATION CONTACT: Linda M. Hamilton of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Prohibited Transaction Exemption 82–222; Exemption Application Nos. L–3537 and L–3538]

Painters District Council No. 3 Vacation Fund (the Vacation Fund) and Painters District Council No. 3, Health and Welfare Fund (the Welfare Fund), Located in Kansas City Missouri

Exemption

The restrictions of section 406(b)(2) of the Act shall not apply to the transfer of unclaimed funds from the Vacation Fund to the Welfare Fund, provided that the Welfare Fund agrees to pay any future claims for benefits due former Vacation Fund participants.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on September 21, 1982 at 47 FR 41661.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Sandler of the Department, telephone (202) 523–8195. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(3) The availability of these exemptions is subject to the express conditions that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 16th day of December, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standard, Pension and Welfare Benefit Programs, Labor-Managment Services Administration, Department of Labor

[FR Doc. 82–34562 Filed 12–20–82; 8:45 am]

BILLING CODE 4510–29–M

Proposed Class Exemption for Plan Asset Transactions Determined by Independent Qualified Professional Asset Managers; Hearing

AGENCY: Department of Labor.

ACTION: Notice of Proposed Class Exemption and Notice of Hearing.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed class exemption from certain prohibited transactions restrictions of the Employee Retirement Income Security Act of 1974 (ERISA) and from certain taxes imposed by the Internal Revenue Code of 1954 (the Code). The proposed exemption would permit various parties who are related to employee benefit plans to engage in transactions involving plan assets if, among other conditions, the assets are

managed by qualified professional asset managers (QPAMs) which are independent of the parties in interest and which meet specified financial standards. Additional exemptive relief is proposed for employers which provide limited amounts of goods and services in the ordinary course of business. Limited relief is also provided for leases of office space between managed funds and QPAMs or contributing employers. The proposed exemption, if granted, would affect participants and beneficiaries of employee benefit plans, the sponsoring employers of such plans, QPAM's and other persons engaging in the described transactions.

DATES: Written comments and requests for time to present oral comments at the public hearing must be received by the Department on or before February 18, 1983. The hearing will be held on March 10, 1983 beginning at 10 a.m. The exemption would be effective as of the date of publication of the final grant notice.

ADDRESSES: Written comments and requests for time to present oral comments (preferably at least three copies) should be sent to: Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Ave., N.W., Washington, D.C. 20216. Attention: Professional Asset Manager Exemption. All communications received in response to this notice will be available for public inspection in the Public Documents Room, Pension and Welfare Benefit Programs, Room N–4677 at the above address. The hearing will be held in the Department of Labor Auditorium, 200 Constitution Avenue, N.W., Washington, D.C. Hearing procedure: Any interested person who wishes to be assured of the opportunity to present oral comments at the hearing should submit by March 1, 1983: (1) A written request to be heard, and (2) an outline (preferably 5 copies) of the topics to be discussed, indicating the time to be allocated to each topic. The request to be heard and accompanying outline should be submitted to the address mentioned above.

The Department will prepare an agenda indicating the order of presentation of oral comments and the time allotted to each person making oral comments. In the absence of special circumstances, each commentator will be allotted 10 minutes in which to complete his or her presentation. Information about the agenda may be obtained on or after March 8, 1983, by telephoning Mr. Paul Antsen at (202) 523–8915. This is not a toll-free number. Individuals not listed in the agenda will be allowed to make oral comments at the hearing to the extent time permits. Those individuals who make oral comments should be prepared to answer questions regarding their comments.

A written record of the hearing will be made.

FOR FURTHER INFORMATION CONTACT: Mr. Ivan L. Strasfeld or Mr. Paul R. Antsen, Office of Fiduciary Standards, Pension and Welfare Benefit Programs, U.S. Department of Labor, Washington, D.C. 20216, telephone (202) 523–7901 or 523–8915. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of a proposed class exemption from certain of the restrictions of section 406 of ERISA, and from certain taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) of the Code. The Department is proposing the class exemption on its own motion pursuant to section 408(a) of ERISA and section 4975(c)(2) of the Code,[1] and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), specifically section 3.01 of that Procedure.

I. Background

The Department is proposing the class exemption contained in this notice as part of a continuing effort to improve the administration of the prohibited transaction rules of ERISA. The rules set forth in section 406 of ERISA prohibit various transactions between plans and certain related parties. Those parties in interest described in section 3(14) of ERISA, such as plan fiduciaries, sponsoring employers, unions, service providers and their affiliates, may not engage in a transaction described in ERISA section 406 with a plan (or an entity whose assets are plan assets). Specifically, section 406 prohibits sales, leases, loans or the provision of services between a party in interest and a plan, as well as a use of plan assets by or for the benefit of, or a transfer of plan assets to, a party in interest, unless a statutory or administrative exemption applies to the transaction. In addition, unless exempted, parties in interest who are fiduciaries of plans are not permitted to engage in acts of self-dealing or make decisions on behalf of a plan if they are in a conflict of interest situation.

The Department has in the past frequently exercised its statutory authority under section 408(a) of ERISA to grant both individual and class exemptions where it has been able to find that the criteria for granting such exemptions have been met. In general, it has responded to applications for exemption submitted by members of the public. This process has been helpful in providing relief for transactions which would otherwise have been prohibited, without impairing the interests of plans, participants and beneficiaries.

The Department recognizes the general perception that in many instances the prohibited transaction rules continue to present complex problems of compliance for fiduciaries charged with responsibility for employee benefit plan assets. Nevertheless, based on its experience in considering applications for individual and class exemptions, and in dealing with instances of abusive violations of the fiduciary responsibility rules of ERISA, the Department believes that, as a general matter, transactions entered into on behalf of plans with parties in interest are most likely to conform to ERISA's general fiduciary standards where the decision to enter into the transaction is made by an independent fiduciary.

Prohibited Transaction Exemption 78–19 (PTE 78–19) (43 FR 50915, December 22, 1978) and Prohibited Transaction Exemption 80–51 (PTE 80–51) (45 FR 49709, July 25, 1980) generally provide relief from the restrictions of section 406(a) of ERISA for transactions between parties in interest of plans and pooled separate accounts and collective investment funds maintained by insurance companies and banks, respectively, if, among other conditions, the plan has a five percent or less interest in the account or fund. Additional broad exemptive coverage is provided by PTEs 78–19 and 80–51, for parties in interest who are service providers of participating plans.

Established financial institutions, such as banks, insurance companies and registered investment advisers, must maintain current rosters or parties in interest with respect to plans that commit assets to single customer accounts, trust funds and those pooled accounts and collective funds which fail

---

[1] Section 408(a) of ERISA provides, among other things, that the Department may grant an exemption from the prohibited transaction rules only if it finds that the exemption is administratively feasible; in the interests of the plan, and of its participants and beneficiaries; and protective of the rights of participants and beneficiaries of such plan. See also section 4975(c)(2) of the Code.

Section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978), effective December 31, 1978 (44 FR 1065, January 3, 1979), transferred the authority of the Secretary of the Treasury to issue exemptions of this type to the Secretary of Labor.

In the discussion of the exemption, references to the various provisions of section 406 of ERISA should be read to refer as well to the corresponding provisions of section 4975 of the Code.

to qualify for the relief provided by PTEs 78–19 and 80–51. These fiduciaries are required to undertake time consuming ERISA compliance checks for the numerous investment transactions under consideration each year to ascertain whether a party in interest of a plan, any of whose assets are subject to the fiduciary's management, would cause the transaction to be prohibited. In the case of a large plan, there may be thousands of parties in interest. Where a potentially prohibited party in interest transaction is identified and is not covered by an existing class exemption, the asset manager may have to choose between applying for an individual administrative exemption or foregoing the investment opportunity entirely. The Department believes that further actions would be appropriate in order to eliminate the need for individual exemptions wherever feasible, and that substantial deregulation in this area can be accomplished by administrative means without sacrificing the interests of plan participants and beneficiaries.

The exemption proposed in this document would be available for transactions that may involve assets of single customer accounts and funds managed by insurance companies, banks and registered investment advisers, as well as pooled separate accounts and collective trust funds maintained for a number of plans. Transactions involving assets of pooled separate accounts and collective investment funds that qualify for the relief contained in PTEs 78–19 and 80–51 may be entered into pursuant to those class exemptions or, in the alternative, may be covered by the exemption for qualified professional asset managers, when granted. However, the proposed exemption would not supersede three class exemptions identified in section I(b) of the proposal. The transactions described in, and the protective conditions adopted for, those exemptions were developed with regard to highly standardized industry practices and the generally accepted regulation that surrounds residential mortgage financing, mortgage pool and securities lending arrangements.

II. Description of the Proposed Exemption

A. The QPAM Concept: As proposed, the class exemption would be available for various party in interest transactions that involve those assets of plans that are transferred for discretionary management to qualified professional asset managers (QPAMs). A QPAM is defined as a bank, insurance company or registered investment adviser that meets certain financial conditions. In following the general pattern of the definition of "investment manager" in ERISA section 3(38), the Department recognizes that each of these categories of asset manager is subject to regulation by Federal or State agencies. The minimum capital and funds-under-management standards of the proposed exemption are intended to assure that the eligible fiduciaries managing the accounts or funds ("investment funds"), consisting of the assets of one or more plans, are established institutions which are large enough to discourage the exercise of undue influence upon their decision-making processes by parties in interest.

A financial entity would not achieve QPAM status with regard to a plan unless it enters into a written management agreement or issues a contract that delineates its management authority over investment fund assets and contains a statement acknowledging that it is a fiduciary.[2] As is made explicit in a general condition of the proposed exemption, the Department is prepared to grant broad exemptive relief only where an independent asset manager has, and in fact exercises, discretionary authority to cause an investment fund to enter into a transaction which is otherwise prohibited. Party in interest transactions that are negotiated by, e.g., an employer which sponsors a plan, and are then presented to a QPAM for approval would not qualify for the class exemption as proposed. However, the exemption, as proposed, would be available even though the transfer of assets by a plan to a QPAM is subject to general investment guidelines, so long as there is no arrangement, direct or indirect, for the QPAM to negotiate, or engage in, any specific transaction or to benefit any specific person.

A QPAM, and those who may be in a position to influence its policies, are expected to maintain a high standard of integrity. Accordingly, the proposed exemption does not cover transactions if the QPAM or various "affiliates" have been convicted of various crimes (outlined in section I(g) of the proposal), that involve abuse or misuse of a position of trust, or felonies generally described in ERISA section 411.

B. General Exemption: The proposed exemption consists of four separate parts. The general exemption, set forth in Part I, would allow an investment fund managed by a QPAM to engage in all transactions described in ERISA section 406(a)(1) (A) through (D) with virtually all parties in interest except the QPAM which manages the assets involved in the transaction, and those parties most likely to have the power to influence the QPAM. In this latter regard, under section I(a), a QPAM would not be permitted to cause the investment fund to enter into a transaction if the party in interest dealing with the fund, or its "affiliate", (1) has the authority to appoint or terminate the QPAM as a manager of any of the plan's assets, (2) has the authority to negotiate the terms of the management agreement with the QPAM, or (3) has exercised such powers in the two years immediately preceding the date of the proposed transaction. Under this functional approach, the presence or absence of these disqualifying powers would be determined by the QPAM on a plan-by-plan basis; none of the parties in interest listed in section 3(14) of ERISA would be categorically excluded from the purview of the proposed relief. The principles of this paragraph may be illustrated by the following examples:

Example (1). Plan P establishes a trust fund for a portion of its assets with Bank B. Assume that B meets the criteria for a QPAM that are proposed. B uses Plan P assets to buy a building whose elevators are serviced by Company X under a maintenance contract. Under current law, an investment of Plan P assets to purchase a modern elevator from X, a party in interest described in ERISA section 3(14)(B), would violate the restrictions contained in section 406(a)(1)(A), and the transaction could not proceed until exempted by the Department. The general exemption set forth in Part I of the proposal would allow such a transaction.

Example (2). Corporation C is the named fiduciary of Plan P. C chooses Bank B to manage the portion of P's assets allocated for real estate investments. Bank B uses these assets to purchase a commercial building in New York City from Croporation Z. Z is a wholly-owned subsidiary of C. No part of the exemption would be available for

[2] Section 403(a) provides, in pertinent part, that, generally, all assets of a plan shall be held in trust by one or more trustees. Such trustee or trustees shall have exclusive authority and discretion to manage and control the assets of the plan, except to the extent that (1) the plan expressly provides that the trustee or trustees are subject to the direction of a named fiduciary who is not a trustee, or (2) authority to manage, acquire, or dispose of assets of the plan is delegated to one or more investment managers pursuant to section 402(c)(3). Section 402(c)(3) of ERISA provides that a person who is a named fiduciary with respect to control or management of the assets of the plan may appoint an investment manager or managers to manage (including the power to acquire or dispose of) any assets of a plan.

It is the view of the Department that a delegation of authority to manage plan assets must describe with specificity the scope of the delegation and the duties to be undertaken by the investment manager. See section 404(a)(1) of ERISA.

the purchase of the building because Z is an affiliate (as defined in section V(c) of the proposed exemption) of a party in interest (C) which has the authority to appoint or terminate the QPAM.

Example (3). Plan M is a collectively bargained multiemployer pension plan administered by a joint board of union and employer trustees. The board of trustees chooses Insurance Company Y to manage a portion of its assets in a pooled separate account. The Insurance Company uses a portion of the pooled separate account assets to purchase computers from corporation Z, a contributing employer to Plan M. These computers will be leased to the general public. Neither Z nor any of its affiliates is a member of the board of trustees. Although Z is a party in interest, as an employer any of whose employees are covered by the plan, the general exemption of Part I is available for the purchase of the computers. In this regard, neither Z nor an affiliate has the authority with respect to the plan described in section I(a) of the exemption.

Example (4). Assume the same facts as in Example (3) except that an officer of Corporation Z was a member of the board of trustees of Plan M for the year ending december 31, 1984. Insurance Company Y is chosen on January 1, 1986 to manage plan assets as a successor to Investment Adviser A whose 3 year management contract expired on March 15, 1985. Although the officer had the authority to participate in the appointment of the QPAM and to negotiate the terms of the management contract, this authority was never exercised. Corporation Z can engage in transactions under Part I of the proposed exemption because its affiliate, the officer, did not, at the time of the transaction have the authority, and during the immediately preceding two years (when it had the authority) did not exercise it to appoint the QPAM or negotiate a management agreement with the QPAM with regard to the Plan's assets.

Example (5). QPAM X invests part of a pension fund's managed account to acquire a parcel of unimproved real property from its president Y. QPAM X has engaged in an act of self-dealing described in section 406(b)(1) of ERISA because it has caused the fund's assets to be used in a transaction which benefits a person in whom QPAM X has an interest which may affect the exercise of its best judgment as a fiduciary. Although Part I of the proposal provides an exemption for the purchase of property from Y, it does not provide relief from acts described in section 406(b) of ERISA.

Example (6). Plan P chooses a registered investment adviser, QPAM I, to manage 40 percent of its assets. The Plan allocates an additional 30 percent of its assets to a single customer separate account maintained by QPAM II. QPAM II uses a portion of the separate account's assets to purchase U.S. Government securities directly from Broker-Dealer B, a wholly-owned subsidiary of QPAM I. Assuming that the QPAMs are unrelated entities, the general exemption of Part I is available for this transaction because neither QPAM I nor its affiliate, Broker-Dealer B has, or exercised during the preceding two years, the authority to appoint or terminate QPAM II (or negotiate the QPAM's contract) as a manager of the Plan's assets involved in the transaction. In this regard, a person who is a plan fiduciary, as defined in section 3(21)(A) of ERISA, is deemed to be a fiduciary only with respect to those plan assets over which it exercises, or has responsibility to exercise, those functions which make it a fiduciary (See 29 CFR 2510.3–21(d)(2)). Thus, a fiduciary will be treated as a party in interest other than a fiduciary (i.e., a service provider) when it engages in a transaction involving plan assets with respect to which it is not a fiduciary. Accordingly, no additional relief under the self-dealing provisions of ERISA section 406(b) is required for this transaction which would be covered by Part I of the proposal.

Section I(c) of the proposal requires that the QPAM function as the decision maker of the investment fund for all covered transactions. In general, the terms of the transactions are also to be negotiated by the QPAM. However, specific transactions may be effected by a person or entity that acts under the authority and general direction of the QPAM.

Example (7). A collective fund for plans managed by a bank that is a QPAM invests assets to acquire a large office building. Under section I(c), the QPAM could contract with an unrelated property manager or leasing agent which would operate the property on a day to day basis, under the authority and general direction of the QPAM, for the purpose of making it a productive investment. So long as the transactional criteria are generally established and monitored by the QPAM, and the QPAM approves each transaction, the property manager could negotiate lease, etc., arrangements with parties in interest eligible for the exemption.

Except as permitted in a limited special exemption for leases of office space (proposed in Part III), a QPAM or its affiliate may not enter into transactions with an investment fund which it manages. Moreover, under section I(d), the general exemption would not be available if the QPAM and the party in interest dealing with the fund are related parties. Section V(h) general provides that a party in interest and a QPAM would be "related" if either entity owns a five percent or more interest, directly or indirectly, in the other entity.

The rule proposed in section I(e) makes explicit the Department's view that a plan (and its sponsor) which provides a significant portion of the QPAM's business as a manager of plan funds would, in many cases, be in a position to improperly influence investment decisions of the QPAM. Accordingly, transactions with parties in interest of a plan would not be covered if the amount of the plan's assets that are managed by a QPAM together with the assets managed by the same QPAM that are attributable to other plans maintained by a common sponsor (or its affiliate) represent more than 10 percent of all employee benefit plan assets under the management of the QPAM.

Example (8). A QPAM is organized to manage the assets of only three plans, Plans X, Y and Z delegate responsibility for the management of $3,000,000, $6,000,000 and $1,000,000, of their respective assets to the QPAM. The proposed exemption would be available for transactions involving the parties in interest of Plan Z, only.

Example (9). Corporation X and its wholly owned subsidiary, Corporation Y, maintain separate pension plans for their employees. The assets of Corporation X's plan and Corporation Y's plan are managed by Investment Adviser Z (a QPAM) and comprise 7 percent and 6 percent, respectively, of the total employee benefit assets managed by the Investment Adviser. The Investment Adviser uses plan assets of Corporation X to purchase a shopping center. The Investment Adviser proposes to purchase landscaping shrubbery from any party in interest of either plan. The proposed exemption would not be available for this transaction because the assets of Corporation X's plan (7 percent) when aggregated with the assets of the plan maintained by its affiliate, Corporation Y (6 percent), represent more than 10 percent of the total employee benefit assets managed by the QPAM. However, as proposed, the exemption would be available for transactions

involving parties in interest with respect to other plans managed by the QPAM if the conditions of the exemption are met.

C. Special Exemptions for Employers: Part II of the proposed exemption provides limited relief under section 406 (a) and (b) of ERISA for certain transactions involving those employers and their affiliates who cannot qualify for the general exemption provided by Part I.

Part II is divided into two subparts. Section II(a) would permit transactions involving the furnishing of goods and services to an investment fund managed by a QPAM by a party in interest if certain requirements are met. Transactions must be necessary for the administration or management of the investment fund and must take place in the ordinary course of a business engaged in by the party in interest with the general public. As a limitation, the proposal requires that no more than one percent of the party in interest's annual gross receipts from all business sources may be attributable to transactions engaged in under this special exemption. The application of section II(a) may be illustrated by the following two examples.

Example (10). Pursuant to a proper plan provision, Corporation X, a pension consulting firm which provides actuarial services in the ordinary course of its business, enters into an agreement with a QPAM for the management by the QPAM of the assets of the X-sponsored plan. The QPAM wishes to retain X to provide actuarial services with regard to the trust fund established for the plan. Although the relief afforded by Part I of the proposed exemption would not be available to Corporation X because it has the authority to hire and fire the QPAM, Part II of the exemption would permit Corporation X to provide the type of services that it normally furnishes to the public and that are necessary for the plan, if the remaining conditions of Part II are met.

Example (11). The Board of Directors of Corporation X allocates a portion of Plan P's assets to Investment Adviser I for management. I uses these assets to purchase a shopping center. I contracts with X, a lighting fixtures wholesaler, to purchase and install new fluorescent fixtures throughout the shopping center. The contract sales price for the fixtures and installation amounted to .05 percent of the total gross receipts received by X during its taxable year. The special exemption for employers contained in section II(a) is available for the purchase of fixtures and the accompanying services because the total cost of these goods and services is less than one percent of X's total annual gross receipts and such goods and services are provided in the ordinary course of X's business.

Section II(b) would permit the leasing of office or commercial space by an investment fund to a party in interest if the unit of space under the lease is suitable for use by different tenants and does not exceed 15 percent of the rentable space of the office building or commercial space. The Department notes that the general exemption provided by Part I of the proposal would not provide relief from the limitations with respect to holdings by certain plans of employer securities and employer real property contained in section 407(a) of ERISA (even in the case of employers who contribute to multiple employer plans and do not hold the power of appointment over a QPAM). Section II(b), however, proposes an exemption from the restrictions of ERISA section 407(a) for transactions involving the leasing of office space to employers even where such leases might not otherwise qualify under the employer real property rules by reason of the definition of "qualifying employer real property" contained in ERISA section 407(d)(4).[3] However, in the case of a plan that is not an eligible individual account plan, immediately after the lease transaction, the aggregate fair market value of employer real property and employer securities held by the investment funds of the QPAM in which the plan has an interest may not exceed ten percent of the fair market value of the assets of the plan held in these investment funds. The application of section II(b) may be illustrated by the following example.

Example (12). Corporation X chooses Insurance Company I to manage Profit-Sharing Plan P's assets in a single customer separate account. I uses plan assets to purchase a fifty-story office building. I proposes to lease one floor of the building to Corporation Z, a wholly owned subsidiary of X. Real estate agent A will receive a commission from Z for locating the rental space. The special exemption provided by section II(b) is available for this transaction because the amount of space to be leased to Z is less than 15 percent of the rentable space of the office building and no commission will be paid by the separate account in connection with the transaction.

The availability of the relief provided by sections II(a) and II(b) of the proposal is further conditioned by the requirement that the transactions satisfy the provisions of sections I(c) through (g) of the proposed exemption.

D. Specific Lease Exemption for QPAMs: Part III of the proposed exemption provides limited relief under section 406 (a) and (b) of ERISA for the leasing of office space by an investment fund to the QPAM, an affiliate of the QPAM, or a person who cannot qualify for the general exemption provided by Part I because it holds (or has held) the power of appointment described in section I(a). For this exemption to be available, the unit of space under the lease must be suitable for use by different tenants and cannot exceed one percent of the rentable space in the office building.

The Department recognizes that a QPAM or its affiliate often needs to occupy space in close proximity to those assets managed by the QPAM on behalf of plans. The one percent limitation on the amount of space leased in an office building is designed to ensure that the terms of the lease are no more favorable to the QPAM or its affiliate than are available to other occupants of the building in which the investment fund has an investment.

E. Places of Public Accommodation: In the regular operations of places of public accommodation, such as hotels and motels, that may be purchased by a QPAM on behalf of an investment fund, many people, including parties in interest with respect to a plan managed by the QPAM, may receive the use of rooms, services, food, etc. Such hotels and motels will typically be managed by hotel management companies who probably would not be aware of the relationships of the hotel and motel guests to the QPAM and the plans whose assets are managed by the QPAM. Accordingly, based on precedents established in several class and individual exemptions, the Department is proposing a special exemption, set forth in Part IV, that would provide relief from sections 406(a)(1) (A) through (D) and 406(b) (1) and (2) of ERISA for the furnishing of services and facilities by a place of public accommodation owned by an investment fund managed by a QPAM to all parties in interest if the services and facilities are furnished on a comparable basis to the general public.

Notice to Interested Persons

Because all plan participants and beneficiaries whose plans participate in investment funds managed by QPAMs could conceivably be interested persons, the Department has determined that the

[3] For example, a lease of an office by the investment fund to the employer may not meet the requirement of ERISA section 407(d)(4)(A) that a substantial number of leased parcels be dispersed geographically.

only practical form of notice is by publication in the Federal Register.

General Information

The attention of interested persons is directed to the following: (1) The fact that a transaction is the subject of an exemption under section 408(a) of ERISA and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of ERISA and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of ERISA, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of ERISA; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of ERISA and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(3) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of ERISA and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Proposed Exemption

The Department has under consideration the granting of the following exemption under the authority of section 408(a) of ERISA and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975).

Part I. *General Exemption.* Effective [date of grant of this exemption], the restrictions of ERISA section 406(a)(1)(A) through (D) and the taxes imposed by Code section 4975 (a) and (b), by reason of Code section 4975(c)(1) (A) through (D), shall not apply to a transaction between a party in interest with respect to an employee benefit plan and an investment fund (as defined in section V(b)) in which the plan has an interest, and which is managed by a qualified professional asset manager (QPAM) (as defined in section V(a)), if the following conditions are satisfied:

(a) At the time of the transaction the party in interest, or its affiliate (as defined in section V(c)), does not have, and during the immediately preceding two years has not exercised, the authority to——

(1) Appoint or terminate the QPAM as a manager of any of the plan's assets, or

(2) Negotiate the terms of the management agreement with the QPAM (including renewals or modifications thereof) on behalf of the plan;

(b) The transaction is not described in—

(1) Prohibited Transaction Exemption 81–6 (46 FR 7527; 1/23/81) (relating to securities lending arrangements),

(2) Prohibited Transaction Exemption 81–7 (46 FR 7520; 1/23/81) (relating to acquisitions by plans of interests in mortgage pools), or

(3) Prohibited Transaction Exemption 82–87 (47 FR 21331; 5/18/82) (relating to certain mortgage financing arrangements);

(c) The terms of the transaction are negotiated on behalf of the investment fund by, or under the authority and general direction of, the QPAM, and the QPAM makes the decision on behalf of the investment fund to enter into the transaction;

(d) The party in interest dealing with the investment fund is neither the QPAM nor a person related to the QPAM (within the meaning of section V(h));

(e) The transaction is not entered into with a party in interest with respect to any plan whose assets managed by the QPAM, when combined with the assets of other plans established or maintained by the same employer (or affiliate thereof described in section V(c)(1) of this exemption) or by the same employee organization, and managed by the QPAM, represent more than 10 percent of the total employee benefit plan assets (as defined in section V(i)) managed by the QPAM;

(f) At the time the transaction is entered into, and at the time of any subsequent renewal or modification thereof, the terms of the transaction are at least as favorable to the investment fund as the terms generally available in arm's length transactions between unrelated parties;

(g) Neither the QPAM nor any affiliate thereof (as defined in section V(d)), nor any other, direct or indirect, of a 5 percent or more interest in the QPAM is a person who within the 10 years immediately preceding the transaction has been either convicted or released from imprisonment, whichever is later, as a result of: any felony involving abuse or misuse of such person's employee benefit plan position or employment, or position or employment with a labor organization; any felony arising out of the conduct of the business of a broker, dealer, investment adviser, bank, insurance company or fiduciary; income tax evasion; any felony involving the larceny, theft, robbery, extortion, forgery, counterfeiting, fraudulent concealment, embezzlement, fraudulent conversion, or misappropriation of funds or securities; conspiracy or attempt to commit any such crimes or a crime in which any of the foregoing crimes is an element; or any other crime described in section 411 of ERISA. For purposes of this section (g), a person shall be deemed to have been "convicted" from the date of the judgement of the trial court, regardless of whether that judgement remains under appeal.

Part II. *Specific Exemptions for Employers.* Effective [date of grant of this exemption], the restrictions of sections 406(a), 406(b)(1) and 407(a) of ERISA and the taxes imposed by section 4975 (a) and (b) of the Code, by reason of Code section 4975(c)(1) (A) and (E), shall not apply to:

(a) The sale, leasing, or servicing of goods, or to the furnishing of services, to an investment fund managed by a QPAM by a party in interest with respect to a plan having an interest in the fund, if—

(1) The party in interest is an employer any of whose employees are covered by the plan or is a person who is a party in interest by virtue of a relationship to such an employer described in subparagraphs (E), (G), (H) or (I) of ERISA section 3(14),

(2) The transaction is necessary for the administration or management of the investment fund,

(3) The transaction takes place in the ordinary course of a business engaged in by the party in interest with the general public,

(4) Effective for taxable years of the party in interest furnishing goods and services after the date this exemption is granted, no more than one (1) percent of gross receipts derived from all sources may be attributable in any taxable year of the party in interest to transactions engaged in with an investment fund pursuant to section II(a) of this exemption, and

(5) The requirements of sections I (c) through (g) are satisfied with respect to the transaction;

(b) The leasing of office or commercial space by an investment fund managed by a QPAM to a party in interest with respect to a plan having an interest in the investment fund, if—

(1) The party in interest is an employer any of whose employees are covered by the plan or is a person who is a party in interest by virtue of a relationship to such an employer described in subparagraphs (E), (G), (H), or (I) of ERISA section 3(14),

(2) No commission is paid by the investment fund in connection with the transaction,

(3) Any unit of space leased to the party in interest by the investment fund is suitable (or adaptable without excessive cost) for use by different tenants.

(4) The amount of space covered by the lease does not exceed fifteen (15) percent of the rentable space of the office building or the commercial center (if the lease does not pertain to office space),

(5) In the case of a plan that is not an eligible individual account plan (as defined in section 407(a)(3) of ERISA), immediately after the transaction is entered into, the aggregate fair market value of employer real property and employer securities held by investment funds of the QPAM in which the plan has an interest does not exceed 10 percent of the fair market value of the assets of the plan held in these investment funds. For purposes of this requirement, the term "employer real property" means real property leased to, and the term "employer securities" means securities issued by, an employer any of whose employees are covered by the plan or a party in interest of the plan by reasons of a relationship to the employer described in subparagraphs(E), (G), (H), or (I) of ERISA section 3(14), and

(6) The requirements of sections I(c) through (g) are satisfied with respect to the transaction.

Part III. *Specific Lease Exemption for QPAMs.* Effective [date of grant of this exemption], the restrictions of section 406(a)(1) (A) through (D) and 406(b) (1) and (2) of ERISA and the taxes imposed by Code section 4975 (a) and (b), by reason of Code section 4975(c)(1) (A) through (E), shall not apply to the leasing of office space by an investment fund managed by a QPAM to the QPAM, a person who is a party in interest of a plan by virtue of a relationship to such QPAM described in subparagraphs (G),(H), or (I) of ERISA section 3(14) or a person not eligible for the General Exemption of Part I by reason of section I(a), if—

(a) The amount of space covered by the lease does not exceed one (1) percent of the rentable spece of the office building in which the investment fund has the investment,

(b) The unit of space subject to the lease is suitable (or adapatable without excessive cost) for use by different tenants,

(c) At the time the transaction is entered into, and at the time of any subsequent renewal or modification thereof, the terms of the transaction are not more favorable to the lessee than the terms generally available in arm's length transactions between unrelated parties, and

(d) No commission is paid by the investment fund in connection with the transaction.

Part IV. *Transactions Involving Places of Public Accommodation.* Effective [date of grant of this exemption], the restrictions of section 406(a)(1)(A) through (D) and 406(b) (1) and (2) of ERISA and the taxes imposed by Code section 4975 (a) and (b), by reason of Code section 4975(c)(1) (A) through (E), shall not apply to the furnishing of services and facilities (and goods incidental thereto) by a place of public accommodation owned by an investment fund managed by a QPAM to a party in interest with respect to a plan having an interest in the investment fund, if the services and facilities (and incidental goods) are furnished on a comparable basis to the general public.

Part V. *Definitions and General Rules.* For the purposes of this exemption:

(a) The term "qualified professional asset manager" or "QPAM" means—

(1) A bank, as defined in section 202(a)(2) of the Investment Advisers Act of 1940 that has the power to manage, acquire or dispose of assets of a plan, which bank has, as of the last day of its most recent fiscal year, equity capital (as defined in section V(j)) in excess of $1,000,000, or

(2) An insurance company which is qualified under the laws of more than one State to manage, acquire, or dispose of any assets of a plan, which company has, as of the last day of its most recent fiscal year, net worth (as defined in section V(k)) in excess of $1,000,000 and which is subject to supervision and examination by a State authority having supervision over insurance companies, or

(3) An investment adviser registered under the Investment Advisers Act of 1940 that has, as of the last day of its most recent fiscal year, total client assets under its management and control in excess of $50,000,000 and either (A) shareholders' or partners' equity (as defined in section V(1)) in excess of $750,00 or (B) all of its obligations and liabilities assumed or guaranteed by a person described in (a)(1) or (a)(2) of section V above or by a broker-dealer registered under the Securities Exchange Act of 1934 that has, as of the last day of its most recent fiscal year, net worth in excess of $750,000, that has acknowledged in a written management agreement that it is a fiduciary with respect to the plan.

(b) an "investment fund" includes single customer and pooled separate accounts maintained by an insurance company, individual trusts and common, collective or group trusts maintained by a bank, and any other account or fund to the extent that the disposition of its assets (whether or nor in the custody of the QPAM) is subject to the discretionary authority of the QPAM.

(c) For purposes of section I(a), an "affiliate" of a person means—

(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with the person;

(2) Any corporation, partnership, trust or unincorporated enterprise of which such person is an officer, director, partner or employee (but only if the employer of such employee is the plan sponsor); and

(3) Any director of the person or any employee of the person who is a highly compensated employee, as defined in section 4975(e)(2)(H) of the Code, or who has direct or indirect authority, responsibility or control regarding the custody, management or disposition of plan assets.

(d) For purposes of section I(g) an "affiliate" of a person means—

(1) any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with the person;

(2) Any officer, director, relative of, or partner in, any such person;

(3) Any corporation, partnership, trust or unincorporated enterprise of which such person is an officer, director, partner, or owner; and

(4) Any employee of the person who—

(A) is a highly compensated employee, defined in section 4975(e)(2)(H) of the Code, or

(B) Has direct or indirect authority, responsibility or control regarding the custody, management or disposition of plan assets.

(e) The term "control" means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(f) The term "party in interest" means a person described in ERISA section 3(14) and includes a "disqualified

person," as defined in Code section 4975(e)(2).

(g) The term "relative" means a relative as that term is defined in ERISA section 3(15), or a brother, a sister, or a spouse of a brother or sister.

(h) A QPAM is "related" to a party in interest for purposes of section I(d) of this exemption if the party in interest (or a person controlling, or controlled by, the party in interest) owns, directly or indirectly, a five percent or more interest in the QPAM or if the QPAM (or a person controlling, or controlled by, the QPAM) owns, directly or indirectly, a five percent or more interest in the party in interest. For purposes of this definition, the term "interest" means with respect to ownership of an entity—

(1) The combined voting power of all classes of stock entitled to vote or the total value of the shares of all classes of stock of the entity if the entity is a corporation,

(2) The capital interest or the profits interest of the entity if the entity is a partnership, or

(3) The beneficial interest of the entity if the entity is a trust or unincorporated enterprise.

(i) For purposes of section I(e), the term "employee benefit plan assets" includes assets attributable to plans described in section 3(3) of ERISA and section 4975(e)(1) of the Code, with respect to which assets the QPAM is a fiduciary as defined in section 3(21)(A) of ERISA.

(j) For purposes of section V(a)(1), the term "equity capital" includes stock (common and preferred), surplus, undivided profits, contingency reserves and other capital reserves.

(k) for purposes of section V(a)(2), the term "net worth" includes capital, paid-in and contributed surplus, unassigned surplus, contingency reserves, group contingency reserves, and special reserves.

(l) For purposes of section V(a)(3), the term "shareholders' or partners' equity" is the equity shown in the most recent balance sheet prepared within the two years immediately preceding a transaction undertaken pursuant to this exemption, in accordance with generally accepted accounting principles.

Signed at Washington, D.C. this 14 day of December.

Jeffrey N. Clayton,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82-34563 Filed 12-20-82; 8:45 am]
BILLING CODE 4510-29-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (82-68)]

NASA Advisory Council (NAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Informal Task Force for the Study of Effective Shuttle Utilization.

DATES: January 5, 1983, 9 a.m. to 5 p.m.; January 6, 1983, 8:30 a.m. to 4 p.m.

ADDRESS: Nasa Headquarters, Room 7002, 400 Maryland Avenue SW, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Carl R. Praktish, Code LB-4, National Aeronautics and Space Administration, Washington, DC 20546 (202/755-8380).

SUPPLEMENTARY INFORMATION: The NASA Advisory Council Informal Task Force for Effective Shuttle Utilization was established under the NASA Advisory Council to conduct a study of the directions NASA should take to ensure the most effective use of the Shuttle capability and to report its findings and recommendations to the Council. The Task Force is chaired by Edgar M. Cortright, and has a total of 11 members.

The meeting will be closed to the public from 8:30 a.m. to 4 p.m. on January 6, 1983, because the members will consider the qualifications of candidates to participate in the study either as additional Task Force members or as other contributors. Because this session will be concerned throughout with matters listed in 5 U.S.C. 552b(c)(6), it has been determined that this season should be closed to the public.

For the open sessions, visitors will be admitted to the meeting room up to its capacity, which is approximately 60 persons including Task Force members and other participants. Visitors will be requested to sign a visitor's register.

TYPE OF MEETING: Open—except for the closed session as noted in the following agenda.

AGENDA:

January 5, 1983

9 a.m.—Introduction
9:10 a.m.—Policy and Operations
10:45 a.m.—Marketing and Pricing
3:15 p.m.—Future Launch Vehicles
5 p.m.—Adjourn

January 6, 1983

8:30 a.m.—Planning Session (closed)
4 p.m.—Adjourn

Richard L. Daniels,

Director, Management Support Office, Office of Management.

December 15, 1982.

[FR Doc. 82-34478 Filed 12-20-82; 8:45 am]
BILLING CODE 7510-01-M

OVERSEAS PRIVATE INVESTMENT CORPORATION

Agency Report Forms Under OMB Review

AGENCY: Overseas Private Investment Corporation.

ACTION: Request for comments.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit information collection requests to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the Agency has made such a submission. The proposed form under review is summarized below.

DATE: Comments must be received within 14 calendar days of this notice. If you anticipate commenting on the form but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB reviewer and the Agency Submitting Officer of your intent as early as possible.

ADDRESS: Copies of the subject form and the request for review submitted to OMB may be obtained from the Agency Submitting Officer. Comments on the form should be submitted to the Agency Submitting Officer and the OMB reviewer.

FOR FURTHER INFORMATION CONTACT:

OPIC Agency Submitting Officer: L. Jacqueline Brent, Office of Personnel and Administration, Overseas Private Investment Corporation, Room 405, 1129 20th Street, NW., Washington, D.C. 20527; Telephone (202) 653-2818.

OMB Reviewer: Francine Picoult, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503; Telephone (202) 395-7231.

SUPPLEMENTARY INFORMATION:

Summary of Form Under Review

Type of Request: Reinstatement.
Title: Project Information Report.
Form Number: OPIC 71.
Frequency of Use: Annually.

Type of Respondent: Businesses.
Standard Industrial Classification Codes: All.
Description of Affected Public: Private, U.S.-owned businesses or investors having overseas investments.
Number of Responses: 60.
Reporting Hours: 1½ hours per response.
Federal Cost: $0.00.
Authority for Information Collection: Section 231(k) of the Foreign Assistance Act of 1961, as amended.
Abstract (Needs and Uses): The project information report form is necessary to elicit and record information on the developmental, environmental, and U.S. economic effects of projects assisted by OPIC. The form will be used by OPIC's staff and management solely as a basis for monitoring these projects and for reporting the results in aggregate form to Congress. The information elicited is available from OPIC's clients only and is pledged to be held in strictest confidentiality.

Dated: December 13, 1982.

Leo H. Phillips, Jr.,

Assistant General Counsel for Legislative and Administrative Affairs.

[FR Doc. 82-34479 Filed 12-20-82; 8:45 am]

BILLING CODE 3210-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 19276 (SR-PSE-82-14)]

Pacific Stock Exchange, Inc.; Filing and Order Granting Accelerated Approval of Proposed Rule Change

Corrections

In FR Doc. 82-33124, beginning on page 54887, in the issue of Monday, December 6, 1982, make the following corrections:

(1) On page 54887, in the heading, "(SR-PSE-82-18)" should read "(SR-PSE-83-14)"

(2) On page 54888, the first column, first complete paragraph, the last line should read "No. SR-PSE-82-14".

BILLING CODE 1505-01-M

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459) and Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), I hereby determine that the objects in the exhibit, "Paintings from the Royal Academy" (included in the list [1] filed as a part of this determination) imported from abroad for the temporary exhibition without profit within the United States are of cultural significance. These objects are imported pursuant to a loan agreement between the foreign lender and the International Exhibitions Foundation. I also determine that the temporary exhibition or display of the listed exhibit objects at the Society of the Four Arts, Palm Beach, Florida, beginning on or about January 7, 1983, to on or about February 13, 1983, at the Cincinnati Art Museum, Cincinnati, Ohio, beginning on or about March 1, 1983, to on or about April 17, 1983, at the National Academy of Design, New York, N.Y., beginning on or about May 1, 1983, to on or about June 15, 1983, at the Seattle Art Museum, Seattle, Washington, beginning on or about June 28, 1983, to on or about August 14, 1983, at the New Orleans Museum of Art, New Orleans, Louisiana, beginning on or about September 10, 1983, to on or about October 23, 1983, at the San Antonio Museum of Art, San Antonio, Texas, beginning on or about November 6, 1983, to on or about December 25, 1983, at the Virginia Museum, Richmond, Virginia, beginning on or about January 15, 1984, to on or about February 26, 1984, and at the Delaware Art Museum, Wilmington, Delaware, beginning on or about March 10, 1984, to on or about April 15, 1984, is in the national interest.

Public notice of this determination is ordered to be published in the **Federal Register.**

Dated: December 17, 1982.

Charles Z. Wick,

Director.

[FR Doc. 82-34697 Filed 12-17-82; 5:06 pm]

BILLING CODE 8230-01-M

Culturally Significant Objects Imported for Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459) and Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), I hereby determine that the objects in the exhibit, "Paintings in Naples from Coravaggio to Giordano" (included in the list [1] filed as a part of this determination) imported from abroad for the temporary exhibition without profit within the United States are of cultural significance. These objects are imported pursuant to a loan agreement between the foreign lenders and the National Gallery of Art. I also determine that the temporary exhibition or display of the listed exhibit objects at the National Gallery of Art, Washington, D.C., beginning on or about February 13, 1983, to on or about May 1, 1983, is in the national interest.

Public notice of this determination is ordered to be published in the **Federal Register**

Dated: December 17, 1982.

Charles Z. Wick,

Director.

[FR Doc. 82-34698 Filed 12-17-82; 5:06 pm]

BILLING CODE 8230-01-M

Culturally Significant Objects Imported for Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459) and Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), I hereby determine that the objects in the exhibit, "Caravaggio in Sicily" (included in the list [1] filed as a part of this determination) imported from abroad for the temporary exhibition without profit within the United States are of cultural significance. These objects are imported pursuant to a loan agreement between the foreign lenders and the National Gallery of Art. I also determine that the temporary exhibition or display of the listed exhibit objects at the National Gallery of Art, Washington, D.C., beginning on or about Fedruary 13, 1983, to on or about May 1, 1983, is in the national interest.

Public notice of this determination is ordered to be published in the **Federal Register**

Dated: December 17, 1982.

Charles Z. Wick,

Director.

[FR Doc. 82-34699 Filed 12-17-82; 5:06 pm]

BILLING CODE 8230-01-M

[1] An itemized list of objects included in the exhibit is filed as part of the original document.

[1] An itemized list of objects included in the exhibit is filed as part of the original document.

VETERANS ADMINISTRATION

Notice of Agency Forms Under OMB Review

AGENCY: Veterans Administration.

ACTION: Notice.

SUMMARY: The Veterans Administration has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document lists a new form and a revised form. The entries contain the following information: (1) The department or staff office issuing the form: (2) The title of the form; (3) The agency form number, if applicable; (4) How often the form must be filled out; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to fill out the form; and (8) An indication of whether section 3504(H) of Pub. L. 96–511 applies.

ADDRESSES: Copies of the proposed forms and supporting documents may be obtained from Patricia Viers, Agency Clearance Officer (004A2), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC, 20420 (202) 389–2146. Comments and questions about the items on this list should be directed to the VA's OMB Desk Officer, Andy Usher, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, (202) 395–7316.

DATES: Comments on the forms should be directed to the OMB Desk Officer within 60 days of this notice.

Dated: December 13, 1982.

By direction of the Administrator.

Dominick Onorato,

Associate Deputy Administrator for Information Resources Management.

New Form

(1) Office of Budget and Finance.

(2) Work-Study Time Record (VETERAN-STUDENT SERVICES).

(3) VA Form 4–8690.

(4) Recurring.

(5) Educational Institutions.

(6) 45,000 responses.

(7) 11,250.

(8) Not Applicable under 3504 (H).

Revision

(1) Department of Veterans Benefits, Veterans Assistance Service.

(2) Compliance Report of Proprietary Institutions.

(3) VA Form 27–4274.

(4) The collection of data is an ongoing process.

(5) All proprietary schools receiving Federal financial assistance from the VA and/or the Department of Education.

(6) 649 responses annually.

(7) 649 hours.

(8) Not applicable under 3504(H).

[FR Doc. 82–34574 Filed 12–20–82; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 245
Tuesday, December 21, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Federal Reserve System	1
Nuclear Regulatory Commission	2–3
Securities and Exchange Commission	4

1

FEDERAL RESERVE SYSTEM

(Board of Governors)

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Notice forwarded to Federal Register on December 15, 1982.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 9:30 a.m., Wednesday, December 22, 1982.

CHANGES IN THE MEETING: Deletion of the following open item(s) from the agenda:

Proposed amendments to Regulation K (International Banking Operations) regarding bank holding company investment in export trading companies.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated: December 17, 1982.

James McAfee,

Associate Secretary of the Board.

[S–1846–82 Filed 12–17–82; 3:43 pm]

BILLING CODE 6210–01–M

2

NUCLEAR REGULATORY COMMISSION

DATE: Thuesday, December 16, 1982.

PLACE: Commissioners' Conference Room, 1717 H Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE DISCUSSED: *Thursday, December 16:*

10:00 a.m.:
Brirfing by Ad Hoc Committee on Regulatory Reform (Public Meeting) (replaces Briefing by Regulatory Reform Task Force) (Legislative Proposals)—moved to December 22, 1982).

All other meetings remain as announced.

AUTOMATIC TELEPHONE ANSWERING SERVICES FOR SCHEDULE UPDATE: (202) 634–1498. Those planning to attend a meeting should reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634–1410.

December 15, 1982.

Walter Magee,

Office of the Secretary.

[S–1844–82 Filed 12–17–82; 10:21 am]

BILLING CODE 7590–01–M

3

NUCLEAR REGULATORY COMMISSION

DATE: Friday, December 17, 1982 and Week of December 20, 1982 (Revised).

PLACE: Commissioner's Conference Room, 1717 H Street, N.W., Washington, D.C.

STATUS: Open and close.

MATTERS TO BE DISCUSSED: *Friday, December 17:*

1:00 p.m.:
Briefing on Board Notification—TMI–1 Seismic Capability of Auxiliary Feedwater System (Public Meeting) (New Item)
2:30 p.m.:
Discussion of Immediate Effectiveness Issues in TMI–1 Restart Proceeding (Closed—Exemption 10) (New Time)

Monday, December 20:

10:00 a.m.:
Discussion of Management—Organization and Internal Personnel Matters (Closed—Exemption 2 and 6) (As Announced)
2:00 p.m.:
Briefing by Regulatory Reform Task Force (Legislative Proposals) (Public Meeting) (As Announced)

Tuesday, December 21:

9:30 a.m.:
Discussion of Plans for Hearing on NFS Erwin (Open/Portions May be Closed) (New Item)
10:30 a.m.:
Discussion of Immediate Effectivess Issues in TMI–1 Restart Proceeding (Closed—Exemption 10) (*Replaces* previously announced Public Meeting: "Possible Vote on Immediate Effectiveness Issues in TMI–1 Restart Proceeding")
2:00 p.m.:
Discussion of Possible Actions in Regard to Indian Point (Public Meeting) (Title Change)

Wednesday, December 22:

10:00 a.m.:
Discussion of Regulatory Reform Task Force Legislative Proposals (Public Meeting) (Title Change)
2:00 p.m.:
Discussion of Proposed Safety Goals and Staff Evaluation Plan (Public Meeting) (Title Change)
3:30 p.m.:
Affirmation/Discussion and Vote (Public Meeting) (Items Revised)
a. Indian Point Special Proceeding
b. Review of ALAB–691 (Consumers Power Company)
c. San Onofre Memorandum and Order re Medical Services
d. ALAB–687 (Duke Power) (postponed from December 16)
4:00 p.m.:
Discussion/Possible Vote on Actions in Regard to Indian Point (Public Meeting) (Title Change)

ADDITIONAL INFORMATION: On December 16 the Commission voted 5–0 to hold Discussion of Letters Regarding Water Level Indicators (Public Meeting), held that day.

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634–1498. Those planning to attend a meeting should reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634–1410.

December 16, 1982.

Walter Magee,

Office of the Secretary.

[S–1847–82 Filed 12–17–82; 3:54 pm]

BILLING CODE 7590–01–M

4

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: [47 FR 55564. December 10, 1982.

STATUS: Closed/open meeting.

PLACE: 450 Fifth Street, N.W., Washington, D.C. Room 1C30.

DATE PREVIOUSLY ANNOUNCED: Tuesday. December 7, 1982.

CHANGES IN THE MEETING: Additional/deletion items. The following item was considered at a closed meeting scheduled for Wednesday, December 15. 1982, at 9:00 a.m.:

Access to investigative files by Federal. State, or Self-Regulatory authorities.

The following additional item was considered at an open meeting scheduled for Wednesday, December 15. 1982, 10:00 a.m.:

Consideration of whether to adopt final rules which would replace the existing

requirement for supplemental oil and gas disclosures with a requirement to provide the supplemental disclosures specified in FASB Statement No. 69. In addition, the Commission will consider certain conforming amendmens to Industry Guide 2, the proxy rules, and various "safe harbor" provisions. For further information, please contact M. Elizabeth Rader or John W. Albert at (202) 272–3081.

The following item was not considered at an open meeting scheduled for Wednesday, December 15, 1982, at 10:00 a.m.:

Consideration of whether to permit Vincent Forma to become an associated person in a non-supervisory, non-proprietary capacity with BAP Management Corporation. For further information, please contact Mary Binno at (202) 272–2318.

Chairman Shad and Commissioners Evans, Thomas, Longstreth and Treadway determined by vote that Commission Business required the above changes and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any matters have been added, deleted or postponed, please contact: Diane Klinke at (202) 272–2014.

December 16, 1982.

[S–1845–82 Filed 12–17–82; 11:45 am]

BILLING CODE 8010–01–M

federal register

Tuesday
December 21, 1982

Part II

Department of Commerce

International Trade Administration

Export Trade Certificates of Review

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Part 325

[Docket No. 21215-252]

Export Trade Certificates of Review

AGENCY: International Trade Administration, Commerce.

ACTION: Proposed rule.

SUMMARY: The Department of Commerce is proposing regulations to implement Title III of the Export Trading Company Act, Pub. L. 97-290. The purpose of this statute is to promote United States export trade by affording United States businesses an export trade certificate of review process. These regulations will establish the procedures for the application for and issuance of the export trade certificates of review. Persons identified in these certificates will have certain protections from liability under Federal and state antitrust laws for certified export trade, export trade activities and methods of operation conducted while the certificates are in effect.

DATE: Comments must be submitted on or before January 20, 1983.

ADDRESS: Interested persons are invited to submit comments regarding this rule to the Office of the Assistant General Counsel for Export Trading Companies, Department of Commerce, Room 4877, Washington, D.C. 20230.
Communications should refer to this rule by its title above.

FOR FURTHER INFORMATION CONTACT: Eleanor Roberts Lewis, Assistant General Counsel for Export Trading Companies, Department of Commerce, Washington, D.C. 20230; (202) 377-0937. This is not a toll free number.

SUPPLEMENTARY INFORMATION: On October 1, 1982, Congress passed the Export Trading Company Act (Pub. L. No. 97-290, 96 Stat. 1233) which the President signed into law on October 8, 1982. The purpose of this legislation is to increase United States exports of products and services by encouraging more efficient provision of export trade services to United States producers and suppliers. This is to be accomplished by establishing an office within the Department of Commerce to promote the formation of export trade associations and export trading companies (ETCs), by permitting bankers' banks and bank holding companies to invest in ETCs, by reducing restrictions on export financing provided by financial institutions, by affording certain protections from liability under Federal and state antitrust laws, and by clarifying the application of Federal antitrust laws to certain export trade.

These proposed regulations will implement Title III of the Export Trading Company Act. Title III (15 U.S.C. 4011-4021) authorizes the Secretary to promote and encourage export trade by issuing export trade certificates of review. A person to whom a certificate of review is issued is protected from the trebling of damages for any injury resulting from and criminal liability for export trade, export trade activities and methods of operation specified in the certificate.

Any person may apply for a certificate or review. The regulations define "person" to mean an individual who is a resident of the United States; a partnership or corporation created and existing pursuant to the laws of any state or of the United States; a state or local government entity; or any association or combination, by contract or other arrangement, between or among such persons. There is no requirement that the applicant be organized and operated principally to export or to facilitate the export of goods or services produced in the United States. However, only the applicant's export trade activities can be certified. The Secretary will publish notice of each application in the **Federal Register**. Interested parties will then have twenty days to submit to the Secretary information they consider relevant to the application.

The Secretary may issue a certificate of review to an applicant only if the Secretary, with the concurrence of the Attorney General of the United States, determines that the applicant's proposed conduct will: (1) Result in neither a substantial lessening of competition or restraint of trade within the United States nor a substantial restraint of the export trade of any competitor of the applicant; (2) not unreasonably enhance, stabilize, or depress prices within the United States; (3) not constitute unfair methods of competition against competitors engaged in the export of the same class of goods or services; and (4) not reasonably be expected to result in the sale for consumption or resale in the United States of goods or services exported by the applicant. The proposed regulations set out and require the applicant to submit, as part of its application, information needed by the Secretary to make this determination. The Secretary may also request such supplemental information as he or the Attorney General deems necessary to make a proper determination on an application.

The Secretary and the Attorney General are especially interested in comments on the preparation and disclosure of information on the total domestic and foreign sales of the applicant and its members as required in § 329.3(b)(9)(B) of the proposed regulations. The exchange and sharing of such information among competitors may, in certain circumstances, raise antitrust concerns. Since it is not dealt with in the regulations, the Secretary invites comments on how this issue should be addressed.

In addition to the submission of applications, these regulations will also establish the procedures for the review of applications by the Secretary and the Attorney General and for the issuance of a certificate or the denial of an application. The regulations will allow the applicant to withdraw its application at any time prior to a final determination. However, an application which is denied is not entitled to be submitted again for twelve months. The applicant may, within 30 days of receiving a notice of denial, request the Secretary to reconsider his determination.

A person to whom a certificate of review has been issued may subsequently apply for an amendment of the certificate. An application for an amendment will be treated in the same manner as an original application. The grounds and procedures for the modification or revocation of a cetificate are also set out in these regulations. The Secretary specifically invites comments on the appropriateness of the proposed revocation and modification procedures. Finally, the regulations will implement Section 305 of the Export Trading Company Act which governs the judicial review of decisions by the Secretary to grant, deny, amend, modify or revoke a certificate.

The Secretary, with the concurrence of the Attorney General, plans to promulgate guidelines for the issuance of certificates of review. These guidelines will set forth the standards and analytical approach which will be applied in determining whether to certify an applicant's proposed export trade, export trade activities and methods of operation. The Secretary will publish these guidelines in the **Federal Register** when they are developed.

The Department is providing a period of 30 days for public comments on this rule. All comments received before the close of the comment period will be considered by the Department in the development of final regulations. While comments received after the end of the comment period will be considered if possible, their consideration cannot be assured. Public comments that are

accompanied by a request that part or all of the material be treated confidentially because of its business proprietary nature or for any other reason will not be accepted. Such comments and materials will be returned to the submitter and will not be considered in the development of final regulations.

All public comments on these regulations will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, comments in written form are preferred. If oral comments are received, they must be followed by written memoranda which will also be a matter of public record and will be available for public review and copying. Communications from agencies of the United States Government or foreign governments will not be made available for public inspection.

The public record concerning these regulations will be maintained in the International Trade Administration Freedom of Information Records Inspection Facility, Room 4001–B, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in Part 4 of Title 15 of the Code of Federal Regulations. Information about the inspection and copying of records at the facility may be obtained from Patricia L. Mann, the International Trade Administration Freedom of Information Officer, at the above address or by calling (202) 377–3031.

This rule does not constitute a "major rule" as that term is defined in section 1(b) of the Executive Order on Federal Regulations issued by the President on February 17, 1981. The proposed regulations are procedural in nature and will not have an annual effect on the economy of $100 million or more. Analysis of the regulations also indicates that they will not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions, or have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Accordingly, a preliminary Regulatory Impact Analysis of this rule is not required.

The only potential costs of the proposed regulations are those to businesses associated with applying for certification and the costs to the Government for processing applications. The recordkeeping, administrative burdens, and direct financial costs to a business to prepare an application under the regulations are expected to be minimal and there is no requirement on a firm wishing to conduct an export venture to utilize the certification mechanism: It is entirely voluntary. Comments from the public regarding costs are specifically requested by the Department to aid in preparing a final rule to ensure cost minimization. The costs to the Federal Government for conducting the antitrust reviews are not expected to be significant.

The proposed rule is not a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969. Accordingly, no assessment of environmental impact statement has or will be prepared.

The proposed rule is exempt from the Regulatory Flexibility Act since the requirements of Section 603 of the Regulatory Flexibiity Act since the Department is not required by Section 553 of Title V, United States Code, or any other law, to publish general notice of proposed rulemaking for interpretative rules, general statements of policy, and rules of procedure or practice. However, even if the proposed rule were not exempt, preparation of an initial Regulatory Flexibility Analysis would not be required because the record keeping, administrative burdens and other costs on any individual entity applying for a certificate of review under the regulations would be minimal and those costs would not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

The Department has requested approval by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) of the information collection requirements contained in these regulations.

List of Subjects in 15 CFR Part 325

Exports, Antitrust, Administrative practice and procedure, Reporting requirements, and Freedom of information.

Accordingly, the Department proposes to amend 15 CFR Chapter III by adding a new Part 325 to read as follows:

PART 325—EXPORT TRADE CERTIFICATES OF REVIEW

Sec.

325.1 Scope.
325.2 Definitions.
325.3 Application for certification.
325.4 Issuance of certificate.
325.5 Publication in the Federal Register.
325.6 Amendment.
325.7 Expedited certification.
325.8 Reconsideration of denial of application for certificate.
325.9 Modification or revocation of certificate.
325.10 Judicial review.
325.11 Return of documents.
325.12 Nonadmissibility in evidence.
325.13 Reports.
325.14 Confidentiality of information.

Authority: Title III of the Export Trading Company Act, Pub. L. 97–290 (96 Stat. 1240–1245, 15 U.S.C. 4011–4021).

§ 325.1 Scope.

This part contains regulations for the issuance of Export Trading Certificates of Review under Title III of the Export Trading Company Act, Pub. L. No. 97–290. Persons identified in these certificates have certain protections from liability under the antitrust laws for certified export trade, export trade activities and methods of operation engaged in while the certificates are in effect.

§ 325.2 Definitions.

As used in this part:

(a) "Act" means Title III of Pub. L. 97–290, Export Trade Certificates of Review.

(b) "Antitrust laws" means the antitrust laws, as such term is defined in the first section of the Clayton Act (15 U.S.C. 12), section 5 of the Federal Trade Commission Act (15 U.S.C. 45) (to the extent that section 5 prohibits unfair methods of competition), and any State antitrust or unfair competition law.

(c) "Applicant" means the person or persons submitting an application for a certificate.

(d) "Application" means an application for a certificate issued pursuant to this Act.

(e) "Attorney General" means the Attorney General of the United States or his designee.

(f) "Certificate" means a certificate of review issued pursuant to this Act.

(g) "Control" means either: (1) Holding 50 percent or more of the outstanding voting securities of an issuer; or

(2) having the contractual power presently to designate a majority of the directors of a corporation, or in the case of unincorporated entities, of individuals exercising similar functions.

(h) "Controlling entity" means an entity which directly or indirectly controls a member or applicant, and is not controlled by any other entity.

(i) "Export trade" means trade or commerce in goods, wares, merchandise, or services exported, or in the course of being exported, from the United States or any territory thereof to any foreign nation.

(j) "Export trade activities" means activities or agreements in the course of export trade.

(k) "Member" means a partner in the parnership or joint venture, if the applicant is a partnership or joint venture; a shareholder of the corporation, if the applicant is a corporation; or a participant in the association, cooperative, or other form of profit or nonprofit organization if the applicant is an association, cooperative or other form of profit or nonprofit organization, where such partner, shareholder or participant is seeking protection under the certificate.

(l) "Method of operation" means any method by which a person conducts or proposes to conduct export trade.

(m) "Person" means an individual who is a resident of the United States; a partnership that is created under and exists pursuant to the laws of any State or of the United States; a state or local government entity; a corporation, whether organized as a profit or nonprofit corporation, that is created under and exists pursuant to the laws of any State or of the United States; or any association or combination, by contract or other Arrangement, between or among such persons.

(n) "Secretary" means the Secretary of the Department of Commerce, or his designee.

(o) "United States" means the several States of the United States the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

§ 325.3 Application for certification.

(a) *Place of filing.* An original and two copies of an application for certification shall be submitted for filing by personal delivery during normal business hours or by registered mail to the Department of Commerce, Washinton, D.C. 20230.

(b) *Contents of Application.* Any person may submit an application for certification. Such application shall contain the following information:

(1) Name and principal address of the applicant and of its controlling entity, if any. Include the name, title, address, telephone number and relationship to the applicant of the individual or individuals to whom all correspondence should be addressed.

(2) The name and principal address of each member, and of each member's controlling entity, if any.

(3) A copy of any legal instrument under which the applicant is organized or will operate. Include copies, as applicable, of its corporate charter, bylaws, partnership, joint venture, membership or other agreements or contracts under which the applicant is organized and conducts or proposes to conduct its export trade activity.

(4) An organization chart or table for the export-related operations of the applicant.

(5) A copy of the applicant's most recent annual report, if any, and that of its controlling entity, if any. To the extent the information is not included in the annual report, or other documents submitted in connection with this application, a brief description of the applicant's operations, including the nature of its business, the types of products or services with which it deals, the places where it does business and its methods of operation.

(6) A copy of the most recent annual report of each member and of its controlling entity, if any. To the extent the information is not included in the annual report, or other documents submitted in connection with this application, a brief description of each member's business operations, including the types of products it manufactures or sells, the types of services it provides, and the places where it does business.

(7) The names, titles, and responsibilities of the applicant's directors, officers, partners and managing officials, and their business affiliations with other members or other businesses engaged in the production or sale of any types of goods or services described in paragraph (b)(8) of this section.

(8)(i) A description refleting customary industry product or service definitions of the goods or services which the applicant exports or proposes to export for itself, its members or its customers.

(ii) To the extent it is reasonably ascertainable, an identification of the goods or services according to the Standard Industrial Classification (SIC) number. Goods should normally be identified according to the 7-digit level. Services should be identified at the most detailed SIC level available.

(9) For each class of the goods, wares, merchandise or services set forth in paragraph (b)(8) of this section:

(i) The principal geographic area or areas in the United States in which the sales of the applicant and each member are made.

(ii) For the previous two calendar years, the dollar value of the applicant's and each member's (A) total domestic sales and (B) total foreign sales. The value of sales of the controlling entity and all entities under its control should be included.

(10) For each class of the goods, wares, merchandise or services set forth in paragraph (b)(8) of this section, the best information or estimate accessible to the applicant of the total value of sales in the United States for the last two years. Identify the source of the information or basis of the estimate.

(11) A description of the specific export trade activities and methods of operation which the applicant seeks to have certified. Only the specific activities and methods described in the application will be eligible for certification. Examples indicating the degree of specificity that the applicant may want to provide, and thus have certified, include:

(i) The types of services which the applicant will provide to or secure for persons engaged in export trade and the manner in which those services will be provided;

(ii) The manner in which prices and quantities of products and services to be exported will be established;

(iii) Any agreements to sell exclusively to or through the applicant or other person, any agreements with foreign persons who may act as joint or exclusive agents, any agreements for pooling tangible or intangible property or resources, and any territorial or price maintenance restrictions to be imposed or agreed to;

(iv) The nature of any restrictions for withdrawal by members.

(12) A statement of whether the export trade, export trade activities or methods of operation for which certification is sought will involve, directly or indirectly, any agreement or any exchange of information with respect to domestic prices, production or sales, or will involve any exchange of other business confidential information. If so, specify the nature of any such agreement or exchange of information.

(13) A statement of whether the applicant intends or foresees that any exported goods or services will re-enter the United States, either in its original or modified form. If so, identify the goods or services and the manner in which they may re-enter the U.S.

(14) The number of employees of the applicant, and of each member of the applicant.

(15) A proposed non-confidential summary of the conduct for which certification is sought for publication in the **Federal Register** pursuant to § 325.5(a).

(16) A draft porposed certificate for the export conduct which the applicant seeks to have certified.

(17) A statement of whether the applicant proposes to engage in the export of goods or services supplied by persons not covered by the certificate.

(18) Such other information as the applicant believes necessary or helpful to a determination on the application under the standards of the Act.

(19) Such other information as the Secretary deems necessary.

(c) *Conformity with regulations.* No application shall be deemed submitted unless such document is in compliance with these regulations. Applicants are encouraged to consult with the Department of Commerce prior to filing an application in order to avail themselves of guidance and assistance in the preparation and documentation of their application.

(d) *Review and acceptance.* On the day of delivery of an application, the Secretary shall stamp the application as received. The Secretary shall have five working days from the stamped date of delivery of the application to determine whether the application is complete, has been properly prepared and can be deemed submitted under this Act. On the date on which the application is deemded submitted, the Secretary shall stamp the application with that date, and notify the applicant of the determination. Where the application cannot be deemed submitted, the Secretary shall advise the applicant that it may be refiled when the specified deficiencies have been corrected.

(e) *Withdrawal of application.* An application may be withdrawn by an applicant by written request at any time before a determination under § 325.4 is made on the application. An applicant who withdraws an application may at any time thereafter submit a new application in accordance with these regulations.

(f) *Supplemental information.* In addition to the information contained in the application, the Secretary shall request such supplemental information as he or the Attorney General deems necessary to make a determination on the application. If such a request is made, and the applicant consents to supply the additional information, the time period for determination on the application will be suspended from the date on which the request is sent until the supplemental information is received and deemed complete by the Secretary. If the applicant does not agree to provide the additional information, and the Secretary or Attorney General deems the information in their possession insufficient to make a determination on the application, the application may be withdrawn by the applicant, or shall be denied by the Secretary.

§ 325.4 Issuance of certificate

(a) *Time period.* The Secretary shall issue or decline to issue a certificate to an applicant within 90 days after an application is deemed submitted under this Act pursuant to § 325.3(d) (excluding any time period which has been suspended pursuant to § 325.3(f)). Upon agreement by the applicant, the Secretary may, if he deems it necessary, or at the request of the Attorney General, take up to an additional 30 days before issuing or declining to issue a certificate.

(b) *Determination.* The Secretary shall issue a certificate to the applicant if he determines, and the Attorney General concurs, that the proposed export trade, export trade activities and methods of operation will—

(1) Result in neither a substantial lessening of competition or restraint of trade within the United States nor a substantial restraint of the export trade of any competitor of the applicant;

(2) Not unreasonably enhance, stabilize, or depress prices within the United States of the class of the goods, wares, merchandise or services exported by the applicant;

(3) Not constitute unfair methods of competition against competitors engaged in the export of goods, wares, merchandise or services of the class exported by the applicant; and

(4) Not include any act that may reasonably be expected to result in the sale for consumption or resale within the United States of the goods, wares, merchandise, or services exported by the applicant.

(c) *Concurrence of the Attorney General.* (1) Within seven days after an application is deemed submitted under this Act pursuant to § 325.3(d), the Secretary shall forward to the Attorney General a copy of the application, any information submitted in connection with the application, and any other relevant information in his possession. The Secretary and the Attorney General shall make available to each other copies of other relevant information obtained in connection with the certification review process, unless otherwise prohibited by law.

(2) Immediately upon completion of an initial draft of a certificate, but in no event later than twenty days prior to the expiration of the time period for a determination on the application, the Secretary shall make it available to the Attorney General for discussion and comment. If the Attorney General disagrees with the proposed certificate, he shall, no later than ten days prior to the running of the time period for a determination on the application, so advise the Secretary and state the reasons for the disagreement. The Secretary, with the concurrence of the Attorney General, may modify or revise the proposed certificate to resolve the objections and problems raised by the Attorney General, or deny the application for a certificate.

(3) If, after having received the draft certificate by the date specified in paragraph (c)(2) of this section, the Attorney General does not render advice within the time period specified in the preceding paragraph, he shall be deemed to concur in the proposed certificate.

(d) *Content of certificate.* The certificate shall specify the export trade, export trade activities, methods of operation, and all persons which are protected from liability under the antitrust laws. The Secretary may certify in whole or in part the proposed export trade, export trade activities, and methods of operation contained in the applicant's draft certificate with such changes, modifications, terms or conditions as appropriate.

(e) *Effect of denial.* If an application is denied, on the merits, in whole or in part, the applicant shall not be entitled, without the approval of the Secretary, to resubmit the application for certification within the twelve month period succeeding the date of the denial. The Secretary shall consult with the Attorney General regarding any request to resubmit an application prior to the twelve month period.

(f) *Certificate procured by fraud.* A certificate shall be void ab initio with respect to any export trade, export trade activities, or methods of operation for which a certificate was procured by fraud.

(g) *Minimum thirty day period.* No certificate of review may be issued earlier than thirty days from the date of publication of notice in the **Federal Register** pursuant to § 325.5

§ 325.5 Publication in the "Federal Register."

(a) Not more than ten days after an application is deemed submitted for filing under § 325.3(d), the Secretary shall publish notice of the submission of such application in the **Federal Register**, identifying the name of the applicant,

and a non-confidential summary of the conduct for which certification is sought.

(b) Interested parties may, within twenty days from the date of publication in the **Federal Register**, submit to the Secretary information relevant to the determination of whether to issue a certificate.

(c) If a certificate is issued to an applicant, the Secretary shall publish a copy of the certificate in the **Federal Register**. If an application for a certificate is denied, the Secretary shall publish a brief statement of its action on the application.

§ 325.6 Amendment.

An application for an amendment shall be treated in the same manner as an original application under these regulations. The application for an amendment to a certificate shall set forth the proposed amendment(s) and the reasons therefor, and shall contain the information specified in § 325.3(b) which is relevant to the determination of the application for an amendment. The application shall also include a copy of the original application, copies of any previous applications for amendment, and a copy of the certficate under which the applicant has been operating. The effective date of an amendment, if granted, shall be the date on which the application for the amendment is deemed submitted for filing pursuant to § 325.3(d).

§ 325.7 Expedited certification.

(a) *Request for expedited action.* (1) An applicant may request expedited action on its application where circumstances indicate a special need for prompt disposition. Such applicant should set forth the facts and circumstances which warrant expedited processing of its application.

(2) The Secretary shall, with the concurrence of the Attorney General, advise the applicant within 10 days after an application is deemed submitted under this Act pursuant to § 325.3(d) whether it will receive expedited action. The Secretary may grant the request in part, and process the remainder of the application through the normal procedures.

(b) *Time period.* The Secretary shall, with regard to any application for which a request for expedited action has been granted, and subject to the minimum time period in § 325.4(g), issue or decline to issue a certificate within forty five days after an application is deemed submitted under this Act pursuant to § 325.3(d) (excluding any time period which has been suspended pursuant to § 325.3(f)).

(c) *Concurrence of the Attorney General.* (1) Immediately upon completion of an initial draft of a certificate, but in no event later than ten days prior to the expiration of the time period for a determination on the application, the Secretary shall make it available to the Attorney General for discussion and comment. If the Attorney General disagrees with the proposed certificate, he shall, no later than five days prior to the running of the time period for a determination on the application, so advise the Secretary and state the reasons for the disagreement. The Secretary, with the concurrence of the Attorney General, may modify or revise the proposed certificate to resolve the objections and problems raised by the Attorney General, or deny the application for a certificate.

(2) If, after having received the draft certificate by the date specified in paragraph (c)(1) of this section, the Attorney General does not render advice within the time period specified, he shall be deemed to concur in the proposed certificate.

§ 325.8 Reconsideration of denial of application for certification.

(a) If the Secretary determines to deny a certificate to an applicant, in whole or in part, he shall notify the applicant in writing of his decision and the reasons for his determination.

(b) Within 30 days of receipt of a notice of denial, the applicant may request the Secretary to reconsider his determination.

(1) The request for reconsideration should include a written statement setting forth the reasons why the applicant believes the decision should be reconsidered, and such additional information as the applicant deems pertinent.

(2) In the discretion of the Secretary, upon the request of the applicant, the Secretary, and the Attorney General may meet informally with the applicant and/or his representative to discuss the reasons why the determination on the application should be changed.

(c) The Secretary shall consult with the Attorney General with regard to the reconsideration of the application. The Secretary may not modify his original determination without the concurrence of the Attorney General.

(d) The Secretary shall notify the applicant, in writing, of his final determination upon reconsideration and the reasons therefor within thirty days after the request for reconsideration has been received.

§ 325.9 Modification or revocation of certificate.

(a) *Action subject to modification or revocation.* A person holding a certificate whose export trade, export trade activities or methods of operation no longer comply with the requirements set forth in § 325.4(b) or the terms and conditions set forth in the certificate, or who fails to comply with a request for information pursuant to paragraph (b) of this section, may be subject to any of the following actions:

(1) Revocation of certificate. A certificate may be revoked, in whole or in part.

(2) Modification of certificate. A certificate may be modified by the Secretary in such manner and upon such terms and conditions as necessary.

(b) *Request for information.* If the Secretary or the Attorney General has reason to believe that the export trade, export trade activities, or methods of operation of a person holding a certificate no longer comply with the requirements set forth in § 325.4(b), the Secretary shall request such information as he or the Attorney General deems necessary to resolve the matter.

(c) *Proceedings for the revocation or modification of a certificate.* (1) *Notification letter.* If, upon the review of such relevant information as is in their possession, the Secretary or the Attorney General believes that the export trade, export trade activities, or methods of operation of a person holding a certificate no longer comply with the requirements set forth in § 325.4(b), the Secretary shall notify the holder of a certificate in writing by registered or certified mail to the address specified in the certificate of his intent to revoke or modify the certificate. The notification shall include a detailed statement setting forth the facts, conduct or circumstances which may warrant the revocation or modification of the certificate.

(2) *Answer.* The certificate holder shall respond to the notification letter within 30 days of receipt thereof. The answer shall respond specifically to the statement included with the notification letter and state in detail why the facts, conduct or circumstances described in the notification letter are not true, of if true, do not warrant the revocation or modification of the certificate. The failure to respond within the specified period shall be deemed an admission of the allegations contained in the notification letter.

(3) *Resolution of factual disputes.* Where material facts are in dispute, the Secretary and the Attorney General may meet informally with the certificate

holder, and may require the certificate holder to provide such documents or information as necessary to support its contentions. Upon the review of the statements of the certificate holder and the documents or information submitted in support thereof, and upon consideration of other relevant documents or information in his possession, the Secretary shall make a proposed determination of the factual matters in dispute. The Attorney General shall not be bound by the proposed determination.

(4) *Final determination.* The Secretary and Attorney General shall review the notification letter and the answer thereto, the proposed factual determination made pursuant to paragraph (c)(3) of this section, and any other relevant documents or information in their possession. If, upon such review, the Secretary or Attorney General determines that the export trade, export trade activities or methods of operation no longer comply with the standards set forth in § 325.4(b), the Secretary shall revoke or modify the certificate as appropriate. The decision shall be final and will be issued to the certificate holder in writing. The decision shall include a statement of the circumstances underlying, and the reasons in support of the determination. If the determination is made to revoke or modify the certificate, the decision shall specify the effective date for the revocation or modification, which date shall be no earlier than thirty days nor later than ninety days after notice of the determination is given.

(d) *Investigative information.* In proceedings under this section, the Attorney General shall make available to the Secretary any information obtained in response to Civil Investigative Demands issued pursuant to Section 304(b)(3) of this Act. The Attorney General and the Secretary shall also make available to each other such other information which each is relying upon under these proceedings, unless such disclosure is prohibited by law.

§ 325.10 Judicial review.

(a) *Review of certain determinations.* (1) Any person aggrieved by final orders of the Secretary pursuant to §§ 325.4, 325.6, and 325.9 of these regulations may, within thirty days of the determination, bring an action in an appropriate district court of the United States to set aside the determination on the ground that such determination is erroneous.

(2)(i) For purposes of this section, an order shall be deemed final under §§ 325.4 and 325.6 when notice is published in the **Federal Register** of the final determination: (A) To grant, in whole or in part, the application or request for amendment; or (B) to deny, in whole or in part, the application or request for amendment, unless the applicant requests reconsideration of the determination within 30 days pursuant to § 325.8. If the applicant requests reconsideration, the final determination upon reconsideration shall be deemed final when notice is published in the **Federal Register.**

(ii) For purposes of this section, an order shall be deemed final under § 325.9 when notice is published in the **Federal Register** of a final determination pursuant to § 325.9(c)(4).

(b) *Record for review.* For purposes of this section, the record, unless otherwise stipulated by the parties, shall consist of:

(1) with regard to the determination to grant or deny an application for a certificate, a copy of all information presented to or obtained by the Secretary which had a bearing on the determination;

(2) with regard to the revocation or modification of a certificate, all information relating to the preparation of the notification letter or which had a bearing on the final determination;

(3) A copy of the determination and the supporting statement.

(c) *Confidential or privileged material.* In any action under this section, the parties shall seek an appropriate protective order prior to the disclosure of any confidential or privileged documents or information.

(d) *Limitation on judicial review.* Except as provided in paragraph (a) of this section, no agency action taken under this Act shall be subject to judicial review.

§ 325.11 Return of documents.

(a) Upon the denial or withdrawal of an application for a certificate in its entirety, an applicant may request the return of all documents and all copies of the documents available to the Department of Commerce or the Department of Justice. The applicant shall submit such a request to both the Secretary and the Attorney General.

(b) The Secretary and the Attorney General shall return all such documents to the applicant not later than thirty days after receipt of the request, except to the extent that the information contained in a document has been made available to the public.

§ 325.12 Nonadmissibility in evidence.

The denial of an application for a certificate, in whole or in part, or for an amendment to a certificate, and the revocation or modification of a certificate, and any statement of reasons in support thereof shall not be admissible in evidence in any administrative or judicial proceeding in support of any claim under the antitrust laws.

§ 325.13 Reports.

On the anniversary date of each year following the issuance of a certificate, a certificate holder shall submit to the Secretary a report which shall contain any changes relevant to the matters specified in the certificate, an update of the information contained in the application, and any other information the Secretary deems appropriate, after consultation with the Attorney General.

§ 325.14 Confidentiality of information.

(a) Any information submitted by any person pursuant to this Act shall be exempt from disclosure under the Freedom of Information Act, (5 U.S.C. 552).

(b)(1) Except as authorized under paragraph (b)(2) of this section, no officer or employee of the United States shall disclose commercial or financial information submitted pursuant to this Act if the information is privileged or confidential and if disclosure of the information would cause harm to the person who submitted the information.

(2) An officer or employee of the United States may disclose such information under the following circumstances—

(i) Upon a request made by either House of Congress or a Committee or Subcommittee of the Congress,

(ii) In a judicial or administrative proceeding, subject to issuance of an appropriate protective order,

(iii) With the consent of the person who submitted the information,

(iv) When the Secretary deems disclosure of the information to be necessary for a determination with respect to the issuance, amendment, or revocation of a certificate, provided that—

(A) The Secretary determines that a non-confidential summary of the information is inadequate; and

(B) The person who submitted the information is informed of the intent to disclose the information, and has an opportunity to advise the Secretary of the potential harm which disclosure may cause,

(v) In accordance with any requirement imposed by a statute of the United States.

Dated: December 16, 1982.

Malcolm Baldrige,

Secretary of Commerce.

[FR Doc. 82-34664 Filed 12-17-82; 3:46 pm]

BILLING CODE 3510-25-M

Reader Aids

Federal Register

Vol. 47, No. 245

Tuesday, December 21, 1982

INFORMATION AND ASSISTANCE

PUBLICATIONS

Code of Federal Regulations

CFR Unit	202-523-3419 523-3517
General information, index, and finding aids	523-5227
Incorporation by reference	523-4534
Printing schedules and pricing information	523-3419

Federal Register

Corrections	523-5237
Daily Issue Unit	523-5237
General information, index, and finding aids	523-5227
Privacy Act	523-5237
Public Inspection Desk	523-5215
Scheduling of documents	523-3187

Laws

Indexes	523-5282
Law numbers and dates	523-5282 523-5266
Slip law orders (GPO)	275-3030

Presidential Documents

Executive orders and proclamations	523-5233
Public Papers of the President	523-5235
Weekly Compilation of Presidential Documents	523-5235
United States Government Manual	523-5230

SERVICES

Agency services	523-5237
Automation	523-3408
Library	523-4986
Magnetic tapes of FR issues and CFR volumes (GPO)	275-2867
Public Inspection Desk	523-5215
Special Projects	523-4534
Subscription orders (GPO)	783-3238
Subscription problems (GPO)	275-3054
TTY for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, DECEMBER

54053-54268.....1
54269-54418.....2
54419-54758.....3
54759-54924.....6
54925-55198.....7
55199-55378.....8
55379-55454.....9
55455-55626.....10
55627-55902.....13
55903-56128.....14
56129-56308.....15
56309-56468.....16
56469-56616.....17
56617-56810.....20
56811-56978.....21

CFR PARTS AFFECTED DURING DECEMBER

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Administrative Orders:

Memorandums:
November 29, 1982.....54053

Executive Orders:
10621 (Amended by EO 12396).....55897
11390 (Amended by EO 12396).....55897
12239 (Revoked by EO 12396).....55897
12396.....55897

Proclamations:
4941 (Amended by Proc. 5002).....54269
5002.....54269
5003.....55899
5004.....55901
5005.....56309
5006.....56617
5007.....56811

4 CFR

Proposed Rules:
28.....54972

5 CFR

1201.....54419
2429.....55379, 55903

Proposed Rules:
213.....54974
890.....54974

7 CFR

2.....56619
52.....55455
53.....54925
55.....54420
56.....54420
59.....54420
68.....54271
70.....54420
271.....55903, 56469
272.....55463, 55903
273.....55463, 55903
278.....56469
279.....56469
319.....54273, 55199
400.....55886, 55888
421.....56813
431.....56820
432.....56827
610.....56472
725.....56473
800.....54055, 54275, 55469
905.....54926, 55199, 56619
906.....56311
907.....54281, 55379, 56312
910.....54421, 55469, 56473
926.....55910
982.....56312
1046.....56486
1065.....55200
1098.....56486
1126.....54421
1132.....54421
1139.....55201
1421.....54281
1497.....54284
1822.....55627
1901.....54422
1922.....55380
1942.....54422
1944.....54422, 55627
1948.....54422

Proposed Rules:
52.....54086
915.....56500
967.....54975
987.....54307
1106.....54977
1124.....55490
1135.....54978
1207.....55245
1430.....56505
1700.....56505

8 CFR

214.....55202, 56488
238.....55388

9 CFR

71.....55636
78.....55636
92.....54285, 55388
317.....54286
381.....54286

Proposed Rules:
113.....54090, 54307, 55246

10 CFR

2.....56314
9.....56314
50.....55203

Proposed Rules:
70.....55951
170.....56505

12 CFR

29.....55911
201.....54424
204.....55204-55209
211.....54057
217.....54759
220.....55912
523.....56314
531.....56316
545.....55656
564.....56318
614.....54760
701.....54424
745.....54424
1204.....56319-56323

Proposed Rules:
3 ... 56862
6 ... 56862
7 ... 56862
8 ... 56652
32 ... 00000
207 ... 54980
220 ... 54980
221 ... 54980
224 ... 54980
543 ... 56363
612 ... 56140
1204 ... 56364

13 CFR
101 ... 56129

14 CFR
21 ... 54287, 54288
39 ... 54289–54291, 54760, 54761, 55657, 55658, 56620–56622
71 ... 54291, 54762, 54763 55389, 55659, 56623, 56624
73 ... 54763, 55390
75 ... 54763
91 ... 56324
97 ... 54292, 55659
121 ... 56327, 56460
253 ... 54764
302 ... 56129
387 ... 56130

Proposed Rules:
Ch. I ... 54829
23 ... 56456
39 ... 54830, 56653
61 ... 54414, 56654
71 ... 54308, 54309, 54831, 55687, 56654–56656
73 ... 56656
75 ... 54309, 55688, 56365, 56659
120 ... 56366
121 ... 56366
135 ... 56366

15 CFR
904 ... 54429, 56131

Proposed Rules:
325 ... 56972
929 ... 56506

16 CFR
13 ... 55210, 55211
1000 ... 54927

Proposed Rules:
13 ... 54452, 55398

17 CFR
200 ... 54764, 55211, 56843
210 ... 54764, 56835
229 ... 54764, 55661
230 ... 54764
239 ... 54764, 55661
240 ... 54057, 54764, 55661
249 ... 54764, 55661
260 ... 54764
270 ... 56835

Proposed Rules:
240 ... 55491
270 ... 56509

18 CFR
271 ... 54928
274 ... 54063

Proposed Rules:
271 ... 55246
385 ... 54981

19 CFR
4 ... 54064
10 ... 55470
18 ... 55470
19 ... 55470
22 ... 55470
24 ... 55470
101 ... 55913
113 ... 55470
125 ... 55470
127 ... 55470
132 ... 55470
142 ... 55470
144 ... 55470

Proposed Rules:
4 ... 54092
148 ... 54092
177 ... 55400

20 CFR
416 ... 55212
609 ... 54686
614 ... 54696

21 CFR
5 ... 54750, 55470
74 ... 54429, 56489
81 ... 54429, 56489
82 ... 54429, 56489
145 ... 55471, 56845
172 ... 55475
175 ... 54430
176 ... 56845
193 ... 55214, 56845
201 ... 54750
330 ... 54750
444 ... 56489
510 ... 56845
520 ... 55472
522 ... 55472, 56845
558 ... 54929, 56846
866 ... 56846

Proposed Rules:
145 ... 55496
182 ... 54454, 56513
184 ... 54454, 54456, 56513, 56871
186 ... 54454
310 ... 55497
314 ... 56871
333 ... 54981
348 ... 54982
357 ... 55076, 55497, 56871
358 ... 54646
886 ... 55497

22 CFR
9 ... 55594
22 ... 56328
51 ... 56329

24 CFR
10 ... 56624
15 ... 55669
50 ... 56266
200 ... 54790
203 ... 54790
204 ... 54790
213 ... 54790
220 ... 54790
221 ... 54790
222 ... 54790
226 ... 54790
227 ... 54790
233 ... 54790
235 ... 54430, 54790
237 ... 54790
240 ... 54790
300 ... 55669
804 ... 54293, 54790
805 ... 54293, 54790, 55136
812 ... 54790
841 ... 54790, 55136
860 ... 54293
880 ... 54293
881 ... 54293
882 ... 54293
883 ... 54293
884 ... 54293
885 ... 56490
886 ... 54293
888 ... 56133
890 ... 54431

Proposed Rules:
16 ... 56660
571 ... 55868
860 ... 55689
866 ... 55689
888 ... 55764

26 CFR
1 ... 54296, 54791, 54803, 55477, 56330, 56490
35 ... 54065, 55215
601 ... 56330

Proposed Rules:
1 ... 54093, 55247, 55696, 55697, 56367
11 ... 54093
31 ... 55248
54 ... 54093
601 ... 54459, 54461

27 CFR
9 ... 55915

Proposed Rules:
9 ... 55492, 55954–55961, 56369

28 CFR
2 ... 56334, 56846
540 ... 55128, 56134

Proposed Rules:
2 ... 54982
540 ... 55131
551 ... 55131, 56144

29 CFR
102 ... 54432
1903 ... 55478
1910 ... 54433
2510 ... 56847
2610 ... 55670
2619 ... 56134
2621 ... 55672
2622 ... 55670

30 CFR
901 ... 56492
906 ... 56342
914 ... 56493
931 ... 56800
944 ... 55672
946 ... 55675

Proposed Rules:
55 ... 55499
56 ... 55499
57 ... 55499
75 ... 55499
77 ... 55499
221 ... 54462, 56871
250 ... 56871
903 ... 55249
934 ... 55499
936 ... 54472
942 ... 54474

31 CFR
53 ... 55481, 56351
55 ... 56351
81 ... 56351
90 ... 56351
92 ... 56351
93 ... 56351
120 ... 56351
121 ... 56351
122 ... 56351
127 ... 56351

Proposed Rules:
1 ... 54475
10 ... 56144

32 CFR
166 ... 56847
1285 ... 54929
1662 ... 56494

Proposed Rules:
701 ... 54104

33 CFR
1 ... 54298
2 ... 54298
110 ... 56354
114 ... 54298
115 ... 54298
117 ... 54298–54301
165 ... 54301, 55391
209 ... 55916

Proposed Rules:
110 ... 54310, 56661
117 ... 55400
157 ... 56786
165 ... 56370
207 ... 54832

34 CFR

Proposed Rules:
64 ... 56871
201 ... 54718
202 ... 54718
203 ... 54718
204 ... 54718
300 ... 54311
302 ... 54718

35 CFR
103 ... 54071
105 ... 54071
107 ... 54071
109 ... 54071
111 ... 54071
113 ... 54071
119 ... 54071
123 ... 54071

Proposed Rules:
103 ... 54105
113 ... 54105
119 ... 54105

123.....54105

36 CFR

7.....54930–54932, 55391, 55917

38 CFR

3.....54435
17.....55482

Proposed Rules:

3.....56880, 56881

39 CFR

3.....56495
4.....56495
6.....56495
8.....56495
3001.....55392

Proposed Rules:

3001.....55698

40 CFR

50.....54896
52.....54072, 54312, 54808, 54933–54936, 55393, 55678, 55919, 56497, 56625
60.....54073, 54258, 54259
61.....56626
81.....54080, 56625
123.....55680
180.....55221–55225, 56135, 56136
300.....55488
415.....55226
440.....54598
465.....54232
716.....54642, 56850
761.....54436

Proposed Rules:

Ch. I.....55880
35.....56372
52.....54476, 54984, 55400, 55500, 55964, 55965, 56516, 56518, 56882
60.....55966, 56118
65.....56883
86.....54250, 56662
123.....56520
130.....56372
158.....56884
162.....55967
180.....54106, 55249, 55699
201.....54107, 54313
202.....54313
204.....54108
205.....54108–54111
228.....54834, 56663, 56665
403.....54477
439.....56373
455.....56373
461.....55502
464.....55502
467.....56373
468.....55502

41 CFR

101–36.....54810, 54937
101–47.....56499

Proposed Rules:

Ch. 9.....56256

42 CFR

52d.....55227
55a.....55227
57.....54437
58.....54437
86.....55227
401.....54939
405.....54302, 54811, 54939, 56282
488.....56282
489.....56282

Proposed Rules:

124.....54314
405.....54113
447.....54113

43 CFR

3833.....56300

Proposed Rules:

4.....56521
3200.....56151
4100.....56402

44 CFR

2.....56850
6.....54815
64.....54816, 55921, 55922, 55950
65.....54941
67.....54941, 55228, 55241, 56627
70.....54440–54444, 56629–56636
205.....55756

Proposed Rules:

59.....55752
60.....55752
67.....54477, 54478, 54835, 55251, 56668–56671, 56884

45 CFR

74.....55227
97.....56466
600.....54081
612.....54943
680.....54081
681.....54081
682.....54081
683.....54081
684.....54081
1300.....56466
1336.....55227
1601.....54943

Proposed Rules:

1180.....56871

46 CFR

67.....54305
536.....56138

Proposed Rules:

507.....55969

47 CFR

0.....55924, 56852
1.....56636
2.....55241, 56852
22.....56856
63.....54944
67.....55681
73.....54444, 54446, 55242, 55243, 55681–55683, 55924, 56355, 56356, 56638
74.....54446, 55931,
87.....54449, 56636, 56852
90.....54450
97.....55241

Proposed Rules:

15.....55251
34.....55974
35.....55974
67.....54479, 55699
73.....54519–54522, 55256, 55974, 56672
76.....54523
81.....54836, 56673
83.....56673
95.....56677

49 CFR

Ch. X.....54081, 55686
7.....55683
171.....54817, 54824
172.....54817, 54824
173.....54817, 54824
175.....54817, 54824
177.....54824
178.....54824
195.....55396
225.....56357
531.....55684
581.....56640
601.....55683
1003.....55939
1011.....55950
1043.....55939
1057.....54083
1249.....56359
1306.....54083

Proposed Rules:

Ch. X.....54985, 55975
29.....55700
571.....54839
1000.....56885
1003.....55976
1039.....55257
1043.....55976, 55980
1084.....55976, 55980
1220.....56152

50 CFR

11.....56856
12.....56856
16.....56360
20.....55397
23.....54968
540.....55488
611.....56650
663.....56138
671.....54451

Proposed Rules:

29.....54840
611.....54841
652.....54985
671.....54125
675.....54841

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

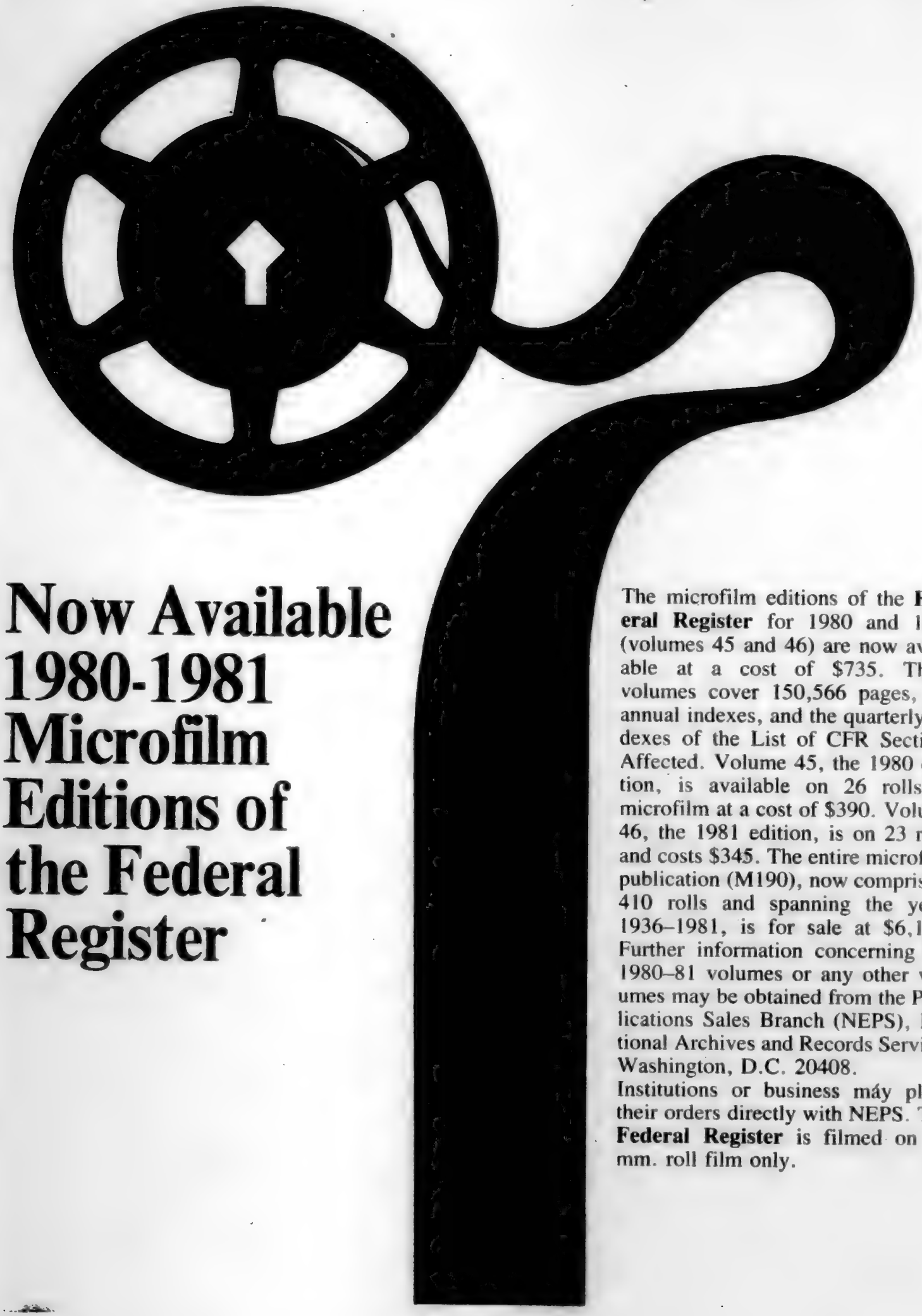
The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.) Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/MA	LABOR		DOT/MA	LABOR
DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
DOT/RSPA			DOT/RSPA	
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last Listing October 28, 1982



Now Available 1980-1981 Microfilm Editions of the Federal Register

The microfilm editions of the **Federal Register** for 1980 and 1981 (volumes 45 and 46) are now available at a cost of $735. These volumes cover 150,566 pages, the annual indexes, and the quarterly indexes of the List of CFR Sections Affected. Volume 45, the 1980 edition, is available on 26 rolls of microfilm at a cost of $390. Volume 46, the 1981 edition, is on 23 rolls and costs $345. The entire microfilm publication (M190), now comprising 410 rolls and spanning the years 1936–1981, is for sale at $6,150. Further information concerning the 1980–81 volumes or any other volumes may be obtained from the Publications Sales Branch (NEPS), National Archives and Records Service, Washington, D.C. 20408.

Institutions or business máy place their orders directly with NEPS. The **Federal Register** is filmed on 35 mm. roll film only.

12-22-82
Vol. 47 No. 246
Pages 56979-57252

Federal Register

Wednesday
December 22, 1982

Selected Subjects

Administrative Practice and Procedure
Federal Communications Commission

Coal Mining
Surface Mining Reclamation and Enforcement Office

Commodity Exchanges
Commodity Futures Trading Commission

Employee Benefit Plans
Pension Benefit Guaranty Corporation

Exports
Animal and Plant Health Inspection Service

Fisheries
National Oceanic and Atmospheric Administration

Flood Insurance
Federal Emergency Management Agency

Government Procurement
General Services Administration

Hazardous Materials
Environmental Protection Agency

Household Appliances
Conservation and Renewable Energy Office

Marketing Agreements
Agricultural Marketing Service

Nuclear Power Plants and Reactors
Nuclear Regulatory Commission

Privacy
Health and Human Services Department

CONTINUED INSIDE

Selected Subjects

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The **Federal Register** will be furnished by mail to subscribers, free of postage, for $300.00 per year, or $150.00 for six months, payable in advance. The charge for individual copies is $1.50 for each issue, or $1.50 for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the **Federal Register.**

Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

Reporting and Recordkeeping Requirements
Commodity Futures Trading Commission

Savings and Loan Associations
Federal Home Loan Bank Board

Contents

Federal Register

Vol. 47, No. 246

Wednesday, December 22, 1982

Agricultural Marketing Service
RULES
56982 Oranges, grapefruit, tangerines, and tangelos grown in Fla.
PROPOSED RULES
57222 Pecans grown in Alabama et al.

Agriculture Department
See also Agricultural Marketing Service; Animal and Plant Health Inspection Service.
NOTICES
57081 Agency forms submitted to OMB for review

Animal and Plant Health Inspection Service
RULES
Animal exports:
56983 Indianapolis, Ind., ports of embarkation; additions; interim
Livestock and poultry quarantine:
56982 Interstate transportation; movement of diseased animals and poultry; restrictions; correction
PROPOSED RULES
Viruses, serums, toxins, etc.:
57054 Vaccines prepared using cells and ingredients of animal origin, extraneous agents detection; requirements standards revision; correction

Architectural and Transportation Barriers Compliance Board
NOTICES
57081 Meetings

Census Bureau
NOTICES
Surveys, determinations, etc.:
57081 Retail sales and inventories; annual
57082 Wholesale trade; annual

Commerce Department
See Census Bureau; International Trade Administration; National Oceanic and Atmospheric Administration.

Commodity Futures Trading Commission
RULES
56996 Domestic exchange-traded commodity options; pilot program expansion for options on physicals
PROPOSED RULES
57055 Futures commission merchants; monthly and confirmation statements to customers; commissions and fees
NOTICES
57188 Meetings; Sunshine Act

Conservation and Renewable Energy Office
RULES
Consumer products:
57198 Clothes dryers and kitchen ranges and ovens

Consumer Product Safety Commission
NOTICES
57188 Meetings; Sunshine Act

Defense Department
See Engineers Corps; Navy Department.

Energy Department
See Conservation and Renewable Energy Office; Energy Information Administration; Energy Research Office; Federal Energy Regulatory Commission.

Energy Information Administration
NOTICES
57088 Agency forms submitted to OMB for review

Energy Research Office
NOTICES
Meetings:
57089 Energy Research Advisory Board
57089 Magnetic Fusion Advisory Committee

Engineers Corps
NOTICES
Environmental statements; availability, etc.:
57084 Duck Island/Sagavanirktok River Delta development project, Prudhoe Bay, Alaska
57085 Sand Island shore protection study, Oahu, Hawaii

Environmental Protection Agency
RULES
Hazardous waste programs; interim authorizations; various States:
57022 Washington; hearing
Toxic substances:
57023 Health and safety data reporting; submission of lists and copies of studies; correction
NOTICES
Pesticide, food, and feed additive petitions:
57127 BASF Wyandotte Corp.; correction
57127 Dow Chemical Co. et al.
57129 Mobay Chemical Corp. et al.
Pesticide registration, cancellation, etc.:
57130 Selecticide, etc.
Pesticides; temporary tolerances:
57126 Amitraz
57130 Diamond Shamrock Corp.
Toxic and hazardous substances control:
57131 Premanufacture notification requirements; test marketing exemption approvals

Federal Communications Commission
RULES
Common carrier services:
57040 Pacific telecommunications needs, 1981–1995; facilities authorization policies
Practice and procedure:
57049 Private land mobile and general mobile radio services; forms for application

Federal Deposit Insurance Corporation
NOTICES
57188 Meetings; Sunshine Act

Federal Emergency Management Agency
PROPOSED RULES
Flood elevation determinations:
57061 Alabama et al.

Federal Energy Regulatory Commission
PROPOSED RULES
Natural Gas Policy Act; ceiling prices for high cost natural gas produced from tight formations; various States:
57056 Oklahoma
57057, 57058 Texas (2 documents)
57059 Utah
NOTICES
Hearings, etc.:
57122 Lockhart Power Co.
57125 Ozark Gas Transmission System
57122 Pacific Gas & Electric Co.
57125 Pennsylvania Power & Light Co.
57126 Pennzoil Co.
57125 Stowe Mills, Inc.
Natural Gas Policy Act:
57091–57114 Jurisdictional agency determinations (4 documents)

Federal Home Loan Bank Board
RULES
56985 Federal associations; available charters and bylaws, and processing of applications

Federal Maritime Commission
NOTICES
57132 Agreements filed, etc.
Casualty and nonperformance certificates:
57132 Norwegian Caribbean Lines (2 documents)

General Accounting Office
RULES
56979, 56980 Authority citations; amendments (2 documents)

General Services Administration
RULES
Procurement:
57023 Audit thresholds and progress payment provisions

Health and Human Services Department
See also Public Health Service.
RULES
57040 Privacy Act; implementation

Interior Department
See Land Management Bureau; Surface Mining Reclamation and Enforcement Office

Internal Revenue Service
RULES
Employment and income taxes:
57021 Pensions, annuities, and certain other deferred income, tax withholding; temporary; correction

International Trade Administration
NOTICES
Meetings:
57082 Semiconductor Technical Advisory Committee

International Trade Commission
NOTICES
57139 Foreign-exchange value of U.S. dollar; effect on U.S. trade in selected commodities
Import investigations:
57134 Diary products from European Community
57139 Hand-operated, gas-operated welding, cutting, and heating equipment and component parts

Interstate Commerce Commission
NOTICES
Motor carriers:
57139 Finance applications
57140–57147 Permanent authority applications (4 documents)
57147 Permanent authority applications; correction
57147 Permanent authority applications; restriction removals; correction
57147 Temporary authority applications
Rail carriers:
57149 Cost recovery procedures; approval of railroad cost index and rail cost adjustment factor
Rail carriers; contract tariff exemptions:
57149 Denver & Rio Grande Western Railroad Co. et al.
Railroad operation, acquisition, construction, etc.:
57149 Integrated Transportation Systems, Inc.
Rerouting of traffic:
57150 Baltimore & Ohio Railroad Co. et al.

Justice Department
NOTICES
Competitive grant research solicitation:
57151 Federal justice research program; feasibility of shared concurrent State/Federal administration of prison facilities

Land Management Bureau
NOTICES
57134 Land tenure adjustment program; Excondido Project Area, California Desert District, Calif.; inquiry and hearings
Motor vehicles, off-road, etc.; area closures and openings:
57133 California
Multiple use plan for lands and minerals:
57133 Alabama

Management and Budget Office
NOTICES
57230 Budget rescissions and deferrals

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
57052 Tanner crab off Alaska
PROPOSED RULES
Fishery conservation and management:
57079 Pacific Coast groundfish; inseason adjustment
NOTICES
Marine mammal permit applications, etc.:
57083 Shane, Susan
57083 Wometco Miami Seaquarium
Meetings:
57082 Caribbean Fishery Management Council

National Science Foundation
NOTICES
57152 Agency forms submitted to OMB for review

Navy Department
NOTICES
Environmental statements; availability, etc.:
57085 Naval submarine reactor plants, decommissioned and defueled; permanent disposal; hearings
57087 Navy administrative offices, Washington, D.C.; consolidation; hearings

Nuclear Regulatory Commission
RULES
56984 Operator licensing function, partial regionalization
PROPOSED RULES
Production and utilization facilities, domestic licensing:
57054 Codes and standards for nuclear power plants; ASME boiler and pressure vessel code; incorporation by reference
NOTICES
57158, 57165, 57166 Agency forms submitted to OMB for review (3 documents)
Applications, etc.:
57154, 57155 Arkansas Power & Light Co. (2 documents)
57157 Carolina Power & Light Co.
57170 Commonwealth Edison Co. et al.
57158 Consolidated Edison Co. of New York, Inc.
57159 Duke Power Co.
57161 Florida Power Corp. et al.
57163 General Public Utilities Nuclear Corp.
57165 Indiana & Michigan Electric Co.
57165 Northern States Power Co.
57171 Pennsylvania Power & Light Co. et al.
57171 Public Service Co. of Colorado
57166 Sacramento Municipal Utility District
57167 Toledo Edison Co. et al.
57170 Washington Public Power Supply System et al.
Meetings:
57153, 57154 Reactor Safeguards Advisory Committee (3 documents)
57153 Reactor Safeguards Advisory Committee; addition
57152 Reactor Safeguards Advisory Committee; proposed
57158 Regulatory guides; issuance, availability, and withdrawal

Pension Benefit Guaranty Corporation
RULES
Plan benefits valuation:
57021 Non-multiemployer plans; determination of expected retirement age

Public Health Service
NOTICES
Organization, functions, and authority delegations:
57132 Centers for Disease Control

Securities and Exchange Commission
NOTICES
57171 Agency forms submitted to OMB for review
Hearings, etc.:
57172 Automated Government Money Trust
57173 Guranteed Mortgage Corp. I et al.
57174 Massachusetts Financial Services Co. et al.
57177 Smith Barney Inc.
57177 Springerville Corp.
57179 Union-Investment Gesellschaft m.b.H.
Self-regulatory organizations; proposed rule changes:
57176 New York Stock Exchange, Inc.
57176 Philadelphia Stock Exchange, Inc. (2 documents)

Small Business Administration
NOTICES
57186 Agency forms submitted to OMB for review
Applications, etc.:
57185 Roedal Associates, Inc.
Disaster loan areas:
57185 Arkansas
57185 Illinois
57185 Missouri
57186 Interest rates; quarterly determinations
57186 License surrenders

Surface Mining Reclamation and Enforcement Office
PROPOSED RULES
Coal exploration on non-Federal and non-Indian lands; Federal program regulations, various States
57236 Nebraska
57246 Rhode Island

Tennessee Valley Authority
NOTICES
57188 Meeting; Sunshine Act

Textile Agreements Implementation Committee
NOTICES
Cotton, wool, or man-made textiles:
57083 Taiwan

Treasury Department
See Internal Revenue Service.

United States Information Agency
NOTICES
Meetings:
57186 International Educational Exchange Advisory Panel

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

4 CFR
2 ... 56979
3 ... 56979
4 ... 56979
5 ... 56979
6 ... 56979
7 ... 56979
8 ... 56979
9 ... 56979
11 ... 56979
21 ... 56979
22 ... 56979
27 ... 56980
28 ... 56980
30 ... 56979
31 ... 56979
32 ... 56979
33 ... 56979
34 ... 56979
35 ... 56979
36 ... 56979
52 ... 56979
53 ... 56979
75 ... 56979
81 ... 56979
82 ... 56979
91 ... 56979
92 ... 56979
93 ... 56979

7 CFR
905 ... 56982

Proposed Rules:
983 ... 57222

9 CFR
71 ... 56982
91 ... 56983

Proposed Rules:
113 ... 57054

10 CFR
55 ... 56984
430 ... 57198

Proposed Rules:
50 ... 57054

12 CFR
523 ... 56985
541 ... 56985
543 ... 56985
544 ... 56985
545 ... 56985
546 ... 56985
547 ... 56985
549 ... 56985
552 ... 56985
561 ... 56985
563 ... 56985
563b ... 56985
564 ... 56985
565 ... 56985
569a ... 56985
575 ... 56985
576 ... 56985
577 ... 56985
578 ... 56985
583 ... 56985
584 ... 56985

17 CFR
1 ... 56996
3 ... 56996
4 ... 56996
15 ... 56996
16 ... 56996
18 ... 56996
21 ... 56996
32 ... 56996
33 ... 56996
145 ... 56996
147 ... 56996
155 ... 56996
170 ... 56996
180 ... 56996

Proposed Rules:
1 ... 57055

18 CFR

Proposed Rules:
271 (4 documents) ... 57056–57060

26 CFR
35 ... 57021

29 CFR
2619 ... 57021

30 CFR

Proposed Rules:
927 ... 57236
939 ... 57246

40 CFR
123 ... 57022
716 ... 57023

41 CFR
1–3 ... 57023
1–16 ... 57023
1–30 ... 57023

44 CFR

Proposed Rules:
67 ... 57061

45 CFR
5b ... 57040

47 CFR
Ch. I ... 57040
1 ... 57049
90 ... 57049
95 ... 57049

50 CFR
671 ... 57052

Proposed Rules:
663 ... 57079

Rules and Regulations

Federal Register
Vol. 47, No. 246
Wednesday, December 22, 1982

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

GENERAL ACCOUNTING OFFICE

4 CFR Parts 2, 3, 4, 5, 6, 7, 8, 9, 11, 21, 22, 30, 31, 32, 33, 34, 35, 36, 51, 52, 53, 75, 81, 82, 91, 92, and 93

Technical and Conforming Amendments

AGENCY: General Accounting Office.

ACTION: Final rule.

SUMMARY: This rule makes technical and conforming amendments to change citations of law or references to provisions of law appearing in GAO's existing rules and regulations. This is necessary because of the enactment of the codification of Title 31, U.S.C., into positive law. As a result of this enactment, the substance of provisions of law currently cited in our regulations have been included in the codification while the currently cited provisions of law themselves have been repealed. This rule makes no substantive changes in any of our rules or regulations.

EFFECTIVE DATE: December 22, 1982.

FOR FURTHER INFORMATION CONTACT: Richard Cambosos, Office of General Counsel, U.S. General Accounting Office, 275–5544.

SUPPLEMENTARY INFORMATION: Section 1 of Pub. L. 97–258, September 13, 1982, 97 Stat. 877, revised, codified and enacted certain general and permanent laws of the United States relating to money and finance as Title 31, U.S.C., entitled "Money and Finance."

The purpose of the codification is to restate without substantive change previously adopted provisions of law and to replace them with the code provisions. Section 4(a) of Pub. L. 97–258, 96 Stat. 1067. Consequently, upon enactment of Title 31, U.S.C., by the Congress, all provisions of law restated in the codification were repealed. Section 5 of Pub. L. 97–258, 96 Stat. 1068. However, any order, rule or regulation in effect under any law repealed by Pub. L. 97–258, continues in effect under the corresponding provision of Title 31, U.S.C. Section 4(c) of Pub. L. 97–258, 96 Stat. 1067.

Since GAO's rules and regulations appearing in Title 4 of the CFR were adopted under authority of provisions of law the substance of which have been carried forward into Title 31, U.S.C., we are amending our regulations to change legal references and citations to the appropriate corresponding section of Title 31, U.S.C.

PART 2—[AMENDED]

Accordingly, Title 4, CFR is amended as follows:

1. The Authority of citation for Part 2 is revised to read as follows:

Authority: 31 U.S.C. 732.

§ 2.2 [Amended]

2. Paragraph (a) of 2.2 is revised to read as follows:

(a) Subchapters III and IV of Chapter 7 of Title 31, U.S.C.

3. Section 2.3 is revised to read as follows:

§ 2.3 GAO Personnel Appeals Board.

The General Accounting Office Personnel Appeals Board is established by 31 U.S.C. 751. This Board will promulgate regulations providing for employee appeals and establishing its operating procedures.

PART 3—[AMENDED]

4. The Authority citation for Part 3 is revised to read as follows:

Authority: 31 U.S.C. 732.

PART 4—[AMENDED]

5. The Authority citation for Part 4 is revised to read as follows:

Authority: 31 U.S.C. 732.

PART 5—[AMENDED]

6. The Authority citation for Part 5 is revised to read as follows:

Authority: 31 U.S.C. 732.

§ 5.1 [Amended]

7. Paragraph (b)(2) of § 5.1 is amended by removing the citation "section 5(a)(4) of the GAO Personnel Act of 1980" and inserting, in its place, the citation "31 U.S.C. 733(c)".

PART 6—[AMENDED]

§ 6.1 [Amended]

8. The parenthetical citation following the text of § 6.1 is revised to read as follows:

(31 U.S.C. 732)

PART 7—[AMENDED]

9. The Authority citation for Part 7 is revised to read as follows:

Authority: 31 U.S.C. 732.

PART 8—[AMENDED]

§ 8.1 [Amended]

10. The parenthetical citation following the text of § 8.1 is revised to read as follows:

(31 U.S.C. 732)

PART 9—[AMENDED]

11. Paragraph (b) of § 9.1 is revised to read as follows:

§ 9.1 GAO Senior Executive Service.

* * * * *

(b) Requirements for positions included in the GAO Senior Executive System. The GAO Senior Executive Service may include—

(1) The 100 positions authorized by 31 U.S.C. 732(c)(4);

(2) The position of General Counsel authorized by 31 U.S.C. 731(c);

(3) The 5 positions authorized by 31 U.S.C. 731(d); and,

(4) The 10 positions authorized by 31 U.S.C. 731(e)(2);

12. The two parenthetical citations "(31 U.S.C. 1154(d))" and "(Sec. 5, Pub. L. 96–191; 94 Stat. 31 (31 U.S.C. 52–4))" following the text of § 9.1 are removed and inserted, in their place, the parenthetical citation "(31 U.S.C. 733)".

PART 11—[AMENDED]

13. The Authority citation for Part 11 is revised to read as follows:

Authority: 31 U.S.C. 711.

PART 21—[AMENDED]

14. The Authority citation for Part 21 is revised to read as follows:

Authority: 31 U.S.C. 711. Interpret or apply 31 U.S.C. 3526 and 3529.

PART 22—[AMENDED]

15. The Authority citation for Part 22 is revised to read as follows:

Authority: 31 U.S.C. 711 and 3529.

§ 22.3 [Amended]

16. Paragraph (e) of § 22.3 is amended by removing the citation "4 CFR Part 1" and inserting, in its place, the citation "4 CFR Part 11".

PART 30—[AMENDED]

17. The Authority citation for Part 30 is revised to read as follows:

Authority: 31 U.S.C. 711 and 3702.

PART 31—[AMENDED]

18. The Authority citation for Part 31 is revised to read as follows:

Authority: 31 U.S.C. 711. Interpret or apply 31 U.S.C. 3702.

§ 31.5 [Amended]

19. Paragraph (a) of § 31.5 is amended by removing the citation "31 U.S.C. 71a" and inserting, in its place, the citation "31 U.S.C. 3702(b)".

20. Paragraph (b) of § 31.5 is amended by removing the citation "31 U.S.C. 122" and inserting, in its place, the citation "31 U.S.C. 3702(c)".

PART 32—[AMENDED]

§ 32.1 [Amended]

21. The Authority citation for Part 32 is revised to read as follows:

Authority: 31 U.S.C. 711.

PART 32—[AMENDED]

22. Section 32.1 is amended by removing the citation "31 U.S.C. 71" and inserting, in its place, the citation "31 U.S.C. 3702".

PART 33—[AMENDED]

23. The Authority citation for Part 33 is revised to read as follows:

Authority: 31 U.S.C. 711. Interpret or apply 5 U.S.C. 5583, unless otherwise noted.

§ 33.6 [Amended]

24. Paragraph (c)(3) of §33.6 is amended by removing the citation "section 1(b) of the act of August 28, 1957, Pub. L. 85–183, 31 U.S.C. 132" and inserting, in its place, the citation "31 U.S.C. 3328(b)".

PART 34—[AMENDED]

25. The Authority citation for Part 34 is revised to read as follows:

Authority: 31 U.S.C. 711. Interpret or apply 10 U.S.C. 2771; 32 U.S.C. 714; sec. 3, 70A Stat. 619, as amended, 33 U.S.C. 857a; and, sec. 4, 70A Stat. 619, as amended, 42 U.S.C. 213a.

§ 34.3 [Amended]

26. Paragraph (b)(3) of § 34.3 is amended by removing the citation "section 1(b) of the act of August 28, 1957, Pub. L. 85–183, 31 U.S.C. 132." and inserting, in its place, the citation "31 U.S.C. 3328(b)."

PART 35—[AMENDED]

27. The Authority citation for Part 35 is revised to read as follows:

Authority: 31 U.S.C. 711. Interpret or apply 31 U.S.C. 3702.

PART 36—[AMENDED]

28. The Authority citation for Part 36 is revised to read as follows:

Authority: 31 U.S.C. 711. Interpret or apply 31 U.S.C. 3702.

PART 51—[AMENDED]

§ 51.1 [Amended]

29. Section 51.1 is amended as follows:

(a) By removing the citation "section 309, 42 Stat. 25, 31 U.S.C. 49" and inserting, in its place, the citation "31 U.S.C. 3511"; and,

(b) By revising the parenthetical citation immediately following the text to read as follows: (31 U.S.C. 711. Interpret and apply 31 U.S.C. 3511 and 3512.)

PART 52—[AMENDED]

30. The Authority citation for Part 52 is revised to read as follows:

Authority: 31 U.S.C. 711. Interpret or apply 31 U.S.C. 3511, 3512 and 3523.

§ 52.2 [Amended]

31. The parenthetical citation following the text of § 52.2 is revised to read as follows:

(31 U.S.C. 711. Interpret or apply 31 U.S.C. 3511, 3512, 3513, 3526 and 3529; sec. 901(a), 49 Stat. 2015, 46 U.S.C. 1241(a); sec. 5, 88 Stat. 2104, 49 U.S.C. 1517)

PART 53—[AMENDED]

32. The Authority citation for Part 53 is revised to read as follows:

Authority: 31 U.S.C. 711. Interpret or apply sec. 322, 54 Stat. 955, as amended, 49 U.S.C. 66(b).

PART 75—[AMENDED]

§ 75.1 [Amended]

33. The parenthetical citation following the text of § 75.1 is revised to read as follows:

(31 U.S.C. 711 and 3511)

PART 81—[AMENDED]

34. The Authority citation for 81 is revised to read as follows:

Authority: 31 U.S.C. 711.

PART 82—[AMENDED]

§ 82.1 [Amended]

35. Paragraph (b) of § 82.1 is amended by removing the citation "(31 U.S.C. 46)" and inserting, in its place, the citation "(31 U.S.C. 704)."

§§ 82.1, 82.2 [Amended]

36. The parenthetical citation following §§ 82.1 and 82.2 are each revised to read as follows:

(31 U.S.C. 711, 713, 714, 718, 3523, 3524, 3526 and 3529)

PART 91—[AMENDED]

37. The Authority citation for Part 91 is revised to read as follows:

Authority: 31 U.S.C. 711. Interpret or apply 5 U.S.C. 5584; 10 U.S.C. 2774; and, 32 U.S.C. 716.

PART 92—[AMENDED]

38. The Authority citation for Part 92 is revised to read as follows:

Authority: 31 U.S.C. 711. Interpret or apply 5 U.S.C. 5584; 10 U.S.C. 2774; and 32 U.S.C. 716.

§ 92.8 [Amended]

39. Paragraph (b) of § 92.8 is amended by removing the citation "31 U.S.C. 71" and inserting, in its place, the citation "31 U.S.C. 3702".

PART 93—[AMENDED]

40. The Authority citation for Part 93 is revised to read as follows:

Authority: 31 U.S.C. 711. Interpret or apply 5 U.S.C. 5584; 10 U.S.C. 2774; and, 32 U.S.C. 716.

Charles A. Bowsher,

Comptroller General of the United States.

[FR Doc. 82-34703 Filed 12-21-82; 8:45 am]

BILLING CODE 1610-01-M

---

4 CFR Parts 27 and 28

General Accounting Office Personnel Appeals Board—Organization and Procedures; Technical and Conforming Amendments

AGENCY: General Accounting Office Personnel Apppeals Board.

ACTION: Final rule.

SUMMARY: This rule makes technical and conforming amendments to change citations of law or references to

provisions of law appearing in the Board's existing rules and regulations. This is necessary because of the enactment of the codification of Title 31, U.S.C., into positive law. As a result of this enactment, the substance of currently cited provisions of law appearing in the Board's regulations have been included in the codification while the currently cited provisions of law themselves have been repealed. This rule makes no substantive changes in any of the Board's rules or regulations.

EFFECTIVE DATE: December 22, 1982.

FOR FURTHER INFORMATION CONTACT: Richard Cambosos, Office of General Counsel, U.S. General Accounting Office, 275–5544.

SUPPLEMENTARY INFORMATION: Section 1 of Pub. L. No. 97–258. September 13, 1982, 97 Stat. 877, revised, codified and enacted certain general and permanent laws of the United States relating to money and finance as Title 31, U.S.C., entitled "Money and Finance."

The purpose of the codification is to restate without substantive change previously adopted provisions of law and to replace them with the code provisions. Section 4(a) of Pub. L. No. 97–258, 96 Stat. 1067. Consequently, upon enactment of Title 31, U.S.C., by the Congress, provisions of law restated in the codification were repealed. Section 5 of Pub. L. 97–258, 96 Stat. 1068. However, any order, rule or regulation in effect under any law repealed by Pub. L. No. 97–258, continues in effect under the corresponding provision of Title 31, U.S.C. 4(c) of Pub. L. No. 97–258, 96 Stat. 1067.

Since the rules and regulations of the Board appearing Title 4 of the CFR were adopted under authority of provisions of law the substance of which have been carried forward into Title 31, U.S.C., it is necessary for the Board to amend its regulations to change legal references and citations to the appropriate corresponding section of Title 31, U.S.C.

Accordingly, Title 4, CFR is amended as follows:

PART 27—[AMENDED]

1. The Authority citation for Part 27 is revised to read as follows:

Authority: 31 U.S.C. 753.

2. Section 27.1 is amended by removing the citation "Section 4 of Pub. L. No. 96–191, 94 Stat. 29, the General Accounting Office Personnel Act of 1980" and inserting, in its place, the citation "31 U.S.C. 751".

PART 28—[AMENDED]

3. The Authority citation for Part 28 is revised to read as follows:

Authority: 31 U.S.C. 753.

§ 28.1 [Amended]

4. Paragraph (b) of § 28.1 is amended by removing the citation "section 4(h) of the Act." and inserting, in its place, the citation "31 U.S.C. 753."

§ 28.3 [Amended]

5. Section 28.3 is amended by removing paragraph "(a)" and redesignating paragraphs "(b)" through "(j)" as paragraphs "(a)" through "(i)".

6. Redesignated paragraph (e) of § 28.3 is amended by removing the citation "Sections 4(f) and (g) of the the Act" and inserting, in its place, the citation "31 U.S.C. 752(b)".

§ 28.25 [Amended]

7. Paragraph (f) of § 28.25 is amended by removing the citation "section 4(l)(1) of the Act," and inserting, in its place, the citation "31 U.S.C. 755,".

§ 28.27 [Amended]

8. Paragraph (a) of § 28.27 is amended by removing the citation "subsections 4(h)(1), (2), (3), (6), and (7) of the Act" and inserting, in its place, the citation "31 U.S.C. 753(a) (1), (2), (3), (6), and (7)".

9. Paragraph (c) of § 28.27 is amended by removing the citation "section 4(l) of the Act" and inserting, in its place, the citation "31 U.S.C. 755".

§ 28.31 [Amended]

10. Section 28.31 is amended by removing the citations "Section 3(g) of the Act" and "section 3(g)(3) of the Act" and inserting, in their places, the citations "Section 732(f) of Title 31, U.S.C." and "31 U.S.C. 732(f)(2)", respectively.

§ 28.33 [Amended]

11. Paragraph (c) of § 28.33 is amended by removing the citation "section 3(g)(3) of the Act" and inserting, in its place, the citation "31 U.S.C. 732(f)(2)".

§ 28.41 [Amended]

12. Paragraph (e) of § 28.41 is amended by removing the citation "Act, Section 3(g)(3)" and inserting, in its place, the citation "31 U.S.C. 732(f)(2)".

§ 28.61 [Amended]

13. Section 28.61 is amended by removing the citation "section 4(h)(4) and (5) of the Act" and inserting, in its place, the citation "31 U.S.C. 753(a)(4) and (5)".

14. Section 28.81 is revised to read as follows:

§ 28.81 Authority of the Board.

(a) The procedures in this subpart relate in part to the Board's function to "consider and order corrective or disciplinary action in cases arising from * * * a matter appealable to the Board under the labor-management relations program under" 31 U.S.C. 732(e)(2) "including a labor practice prohibited under" 31 U.S.C. 732(e)(1). 753(a)(6).

(b) The system so established by the Comptroller General is required to provide that each employee of the GAO has the right to form, join or assist, or not form, join, or assist, an employee organization, freely and without penalty or reprisal and for a labor-management relations program, consistent with Chapter 71 of Title 5, U.S.C. (31 U.S.C. 732(e))

§ 28.105 [Amended]

15. Paragraph (a) of § 28.105 is amended by removing the citation "section 4(g) of the Act" and inserting, in its place, the citation "31 U.S.C. 752(b)".

16. Paragraph (e) of § 28.105 is amended by removing the citation "section 4(1) of the Act" and inserting in its place, the citation "31 U.S.C. 755".

§§ 28.1, 28.3, 28.11, 28.17, 28.21, 28.33, and 28.103 [Amended]

17. In addition to the amendments set forth above 4 CFR Part 28 is amended by removing the words "the Act" and inserting, in their place, the citation "Subchapters III and IV of Chapter 7 of Title 31, United States Code" in the following places:

(a) 4 CFR 28.1(a)(3) and (4) and (c);

(b) 4 CFR 28.3(h) as redesignated above;

(c) 4 CFR 28.11(a);

(d) 4 CFR 28.17(d);

(e) 4 CFR 28.21(i);

(f) 4 CFR 28.33(b)(1) and (2); and,

(g) 4 CFR 28.103.

Edward C. Gallas,

Chairman.

[FR Doc. 82–34704 Filed 12–21–82; 8:45 am]

BILLING CODE 1610–01–M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 905

[Orange, Grapefruit, Tangerine and Tangelo Regulation 6, Amdt. 19]

Oranges, Grapefruit, Tangerines and Tangelos Grown in Florida; Amendment of Tangerine Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to final rule.

SUMMARY: This amendment lowers the minimum size requirement applicable to fresh domestic shipments of Honey tangerines from 2$^{8}/_{64}$ inches to 2$^{6}/_{64}$ inches in diameter on and after December 20, 1982. This action allows an increase in the supply of tangerines in recognition of demand conditions and the size composition of available supply in the interest of growers and consumers. This amendment also corrects an error in the grade requirement of domestic and export shipments of Honey tangerines.

EFFECTIVE DATE: December 20, 1982.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS USDA, Washington, D.C. 20250, telephone (202) 447–5975.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a signifocamt economic impact on a substantial number of small entities. This action is designed to promote orderly marketing of the Florida Honey tangerine crop for the benefit of producers, and will not substantially affect costs for the directly regulated handlers.

This amendment is issued under the marketing agreement and Order No. 905 (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines and tangelos grown in Florida. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon recommendation and information submitted by the Citrus Administrative Committee, and upon other available information. It is hereby found that the regulation of Florida Honey tangerines, as hereinafter provided, will tend to effectuate the declared policy of the Act.

This amendment would relax limitations on the handling of Honey tangerines by permitting each handler, on and after December 20, 1982, to ship Honey tangerines in domestic channels of 176 size (2$^{8}/_{64}$ inches) and larger.

The committee reports that the total quantity of Honey tangerines which are currently being harvested is less than anticipated and there is a need to augment the total available supply of fruit for market by permitting shipment of smaller sized Honey tangerines. Honey tangerines are maturing approximately four to six weeks early this season. This amendment allows shipment of smaller sizes which normally would not be matured at this time. Thus, relaxation of the regulation is necessary to allow a greater proportion of the available supply of marketable fruit to reach the market.

This regulation also corrects an error in the domestic and export grade requirements for Honey variety tangerines. Florida Orange, Grapefruit, Tangerine, and Tangelo Regulation 6, Amendments 13 and 16 (47 FR 44704 and 47 FR 54926, respectively) incorrectly list the minimum grade of Honey tangerines as U.S. No. 1 for domestic and export shipment. On and after October 1982, the correct minimum grade for domestic and export shipments of such tangerines is Florida No. 1.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this amendment is based and the effective date necessary to effectuate the declared purposes of the Act. Interested persons were given an opportunity to submit information and views on the amendment at an open meeting. This amendment relieves restrictions on the handling of Florida Honey tangerines. Handlers have been apprised of such provisions and the effective date.

List of Subjects in 7 CFR Part 905

Grapefruit, Marketing agreements, Oranges, Tangelos, Tangerines.

PART 905—[AMENDED]

Accordingly, the provisions of § 905.306 are amended by revising the following entries in Table I, paragarph (a) applicable to domestic shipments, and Table II, paragraph (b), applicable to export shipments, to read as follows:

§ 905.306 Oranges, Grapefruit, Tangerine and tangelo regulation 6.

(a) * * *

TABLE I

Variety	Regulation period	Minimum grade	Minimum diameter (inch)
(1)	(2)	(3)	(4)
* * *	* * *	* * *	* * *
Tangerines	Oct. 18 to Dec. 19, 1982.	Florida No. 1	2$^{8}/_{64}$
Honey	On and after Dec. 20, 1982.	Florida No. 1	2$^{8}/_{64}$
* * *	* * *	* * *	* * *

TABLE II

Variety	Regulation period	Minimum grade	Minimum diameter (inch)
(1)	(2)	(3)	(4)
* * *	* * *	* * *	* * *
Tangerines:			
Honey	On and after Oct. 18, 1982.	Florida No. 1	2$^{8}/_{64}$
* * *	* * *	* * *	* * *

* * * * *

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: December 16, 1982.

D. S. Kuryloski,

Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 82-34641 Filed 12-21-82; 8:45 am]

BILLING CODE 3410-02-M

Animal and Plant Health Inspection Service

9 CFR Part 71

[Docket No. 82-091]

General Provisions; Interstate Movement of Diseased Animals and Poultry; Correction

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule; correction.

SUMMARY: On December 7, 1981 (46 FR 59527–59528), a document was published in the **Federal Register** which removed the word "screwworms" from the regulations in § 71.3(a). However, on February 23, 1982 (47 FR 7825–7826), a document published in the **Federal Register** inadvertently included the word "screwwworms" in § 71.3(a) when making other amendments to that section. This document corrects this administrative oversight which resulted in reinstating the word "screwworms" in 9 CFR 71.3(a).

EFFECTIVE DATE: December 22, 1982.

FOR FURTHER INFORMATION CONTACT: Dr. Jack R. Pitcher, Sheep, Goat, Equine and Ectoparasites Staff, VS, APHIS,

USDA, Room 738, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8231.

§ 71.3 [Corrected]

Accordingly, 9 CFR 71.3(a) is corrected by removing the word "screwworms."

(Sec. 2, 32 Stat. 792; secs. 3 and 11, 23 Stat. 32, as amended; sec 1, 32 Stat. 791 (21 U.S.C. 111, 114, 114(a), 120))

Done at Washington, D.C. this 15th day of December 1982.

J. K. Atwell,

Deputy Administrator, Veterinary Services.

[FR Doc. 82-34556 Filed 12-21-82; 8:45 am]
BILLING CODE 3410-34-M

---

9 CFR Part 91

[Docket No. 82-084]

Port Designated for Exportation of Animals

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: This document amends the regulations which lists the ports of embarkation and export inspection facilities, by adding Indianapolis, Indiana, as a port of exportation. The effect of this action will be to add an additional port through which animals may be exported. This action is necessary to save both time and additional expenses presently imposed on exporters.

DATES: Effective date: December 22, 1982. Written comments must be received on or before February 21, 1983.

ADDRESS: Written comments should be submitted to the Deputy Administrator, VS, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

Comments submitted should bear a reference to the date and page number of this issue in the **Federal Register**.

All written submissions made pursuant to this interim rule will be made available for public inspection at the Federal Building, Room 728, Hyattsville, MD, during regular hours of business (8 a.m. to 4:30 p.m., Monday to Friday, except holidays) in a manner convenient to the public business (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Dr. N. Q. Faizi, VS, APHIS, USDA, Room 821, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8170.

SUPPLEMENTARY INFORMATION:

Executive Order 12291 and Emergency Action

This document has been reviewed in conformance with Executive Order 12291 and has been determined to be not a "major rule." The Department has determined that this action will not have an annual effect on the economy of $100 million or more; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and will not have any adverse effects on competition, employment, investment, productivity, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this action, the Office of Management and Budget has waived their review process required by Executive Order 12291.

Dr. George P. Pierson, Acting Director, National Program Planning Staffs, VS, APHIS, USDA, has determined that an emergency situation exists which warrants publication without prior opportunity for a public comment period on this interim rule since the export inspection facilities at the port being added to the list of designated ports of embarkation have met the standards for export inspection facilities set forth in § 91.41(c) of the regulations; and the addition of this port to the list must be made promptly in order to inform exporters of the addition of this port so that they can make appropriate plans to export their animals and avoid unnecessary restrictions on the exportation of animals.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this emergency interim action is impracticable, unnecessary and contrary to the public interest, and good cause is found for making this emergency interim action effective less than 30 days after publication of this document in the **Federal Register**. Comments will be solicited for 60 days after publication of this document, and this action will be scheduled for review so that a final document discussing comments received and any amendments required can be published in the **Federal Register** as soon as possible.

Certification Under the Regulatory Flexibility Act

Dr. Harry C. Mussman, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. It is anticipated that approximately 35 shipments of animals, consisting of cattle, swine, and occasionally sheep and goats, will be exported annually through the facility at Indianapolis, Indiana. The addition of Indianapolis, Indiana, to the list of approved exportation facilities will increase the number of such facilities from twenty-three to twenty-four. According to Foreign Agricultural Service records, there are approximately 700 exporters who could use these export facilities nationwide. It is anticipated that only 8 such exporters will be utilizing this facility.

Alternatives Considered

The following alternatives were considered in making this interim rule:

1. Make no change in lists of ports.
2. Amend the regulations by adding Indianapolis, Indiana, as a port of export.

Alternative No. 1 was rejected because the export inspection facilities at the Indianapolis International Airport meet the requirements of § 91.14(c) and this alternative would be an unnecessary restriction placed upon the exporters who otherwise would choose to use this port of export.

Alternative No. 2 is the most advantageous to exporters because they can export animals from the Indianapolis International Airport instead of having the additional expense of transporting them to Dundee, Illinois, which is 250 miles away. Also, it appears that this alternative would maximize the net benefit to society at the lowest net cost.

Background

The Department has been requested to designate Indianapolis, Indiana, as a port of export through which animals can be exported. This action will facilitate approximately 35 shipments of animals annually.

Section 91.14(a) of Title 9, Code of Federal Regulations (9 CFR 91.14(a)) lists ports which have export inspection facilities which satisfy the requirements of paragraph (c) of said section and are therefore designated as ports of embarkation. The section further requires that, except for certain exceptions, all animals be exported through either the ports listed in § 91.14(a) or through ports designated in special cases under paragraph (b) of this section.

Presently, ports of exports in § 91.14(a) are listed alphabetically by State; therefore, the State of Indiana will

be added to the list as § 91.14 (a)(4) and the present § 91.14(a)(4) through § 91.14(a)(12) will be renumbered § 91.14(a)(5) through § 91.14(a)(13), respectively.

List of Subjects in 9 CFR Part 91

Animal diseases, Animal welfare, Exports, Livestock and livestock products, Transportation, Humane animal handling.

PART 91—INSPECTION AND HANDLING OF LIFESTOCK FOR EXPORTATION

Accordingly, Part 91, Title 9, Code of Federal Regulations, is amended in the following respect.

In § 91.14(a), paragraphs (4) through (12) are redesignated as (5) through (13) and a new paragraph (4) is added to read:

§ 91.14 Ports of embarkation and export inspection facilities.

(a) * * *

(4) *Indiana.*

(i) Indianapolis—airport only.

(A) Indiana Livestock Export Inspection Facility, Indianapolis International Airport, 7151 Powers Drive, Indianapolis, IN 46241, (317) 248–9211.

* * * * *

(Sec. 10, 26 Stat. 417; secs. 4, 5, 23 Stat. 32, as amended; sec. 1, 32 Stat. 791, as amended; sec. 3, 76 Stat. 130; sec. 11, 76 Stat. 132; secs. 12, 13, 14, 18, 34 Stat. 1263, as amended; secs. 1, 2, 26 Stat. 833, as amended; (21 U.S.C. 105, 112, 113, 114a, 120, 121, 134b, 134f, 612, 613, 614, 618; 46 U.S.C 466a, 466b); 7 CFR 2.17, 2.51, 371.2(b))

Done at Washington, D.C., this 15th day of December 1982.

J. K. Atwell,

Deputy Administrator, Veterinary Services.

[FR Doc. 82-34557 Filed 12-21-82; 8:45 am]

BILLING CODE 3410-34-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 55

Partial Regionalization of the Operator Licensing Function

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The NRC is amending its regulations relating to operator licenses to provide information concerning the further implementation of NRC's regional licensing program. This amendment states that authority and responsibility for the issuance of licenses for operators and senior operators of licensed nuclear reactors located in Regions II and III have been assigned and delegated to the Regional Administrators of Regions II and III and specifies where applicants for these licenses should obtain necessary forms and file applications. This amendment is necessary to inform licensees, operators, applicants, and the public of current NRC organization and practice.

EFFECTIVE DATE: December 17, 1982.

FOR FURTHER INFORMATION CONTACT: Don H. Beckhan, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555; Telephone (301) 492–4868.

SUPPLEMENTARY INFORMATION: In further implementation of its regionalization program, the Commission has delegated to the Regional Administrators of Regions II and III authority and responsibility pursuant to the regulations in 10 CFR Part 55 to issue and renew licenses for operators and senior operators of nuclear reactors licensed under 10 CFR Part 50 and located in those regions.

The general delegation of authority for the Regional Administrators is described in NRC Manual Chapter 0128. Pursuant to that general delegation of authority, the Executive Director for Operations and the Director of Nuclear Reactor Regulation assigned and delegated to the Regional Administrators for Regions II and III the responsibility under 10 CFR Part 55 for licensing operators of nuclear reactors licensed under 10 CFR Part 50 and located in Regions II and III. Copies of the delegations of authority have been placed in the Commission's public document room at 1717 H Street, NW., Washington, D.C., and at the Region II Office, 101 Marietta Street, Suite 3100, Atlanta, Georgia 30303, and the Region III Office, 799 Roosevelt Road, Glen Ellyn, Illinois 60137, where they are available for inspection and copying by the public.

The revised regulations, which are intended to inform licensees and the public of current NRC practices and organization, specify where applications for operator and senior operator licenses shall be filed, where reports and communications shall be submitted and where needed information and forms may be obtained.

Since the amendments to Part 55 are nonsubstantive and relate to matters of agency organization and procedure, the notice and comment procedures of the Administrative Procedure Act (5 U.S.C. 553) do not apply and good cause exists for making the amendments effective on December 17, 1982, without the customary 30-day waiting period.

Paperwork Reduction Act Statement

This rule contains no new or amended requirements for recordkeeping, reporting, plans or procedures, applications, or any other type of information collection subject to the Paperwork Reduction Act of 1980, Pub. L. 96–511.

List of Subjects in 10 CFR Part 55

Manpower training programs, Nuclear power plants and reactors, Penalty, Reporting requirements.

Under the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 552 and 553, the following amendments to 10 CFR Part 55 are published as a document subject to codification.

PART 55—OPERATORS' LICENSES

1. The authority citation for Part 55 is revised to read as follows:

Authority: Secs. 107, 161, 68 Stat. 939, 948, as amended (42 U.S.C. 2137, 2201); secs. 201, 202, 88 Stat. 1242, as amended, 1244 (42 U.S.C. 5841, 5842).

Section 55.40 also issued under secs. 186, 187, 68 Stat. 955 (42 U.S.C. 2236, 2237).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); §§ 55.3 and 55.31(a)–(d) are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and § 55.41 is issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. Section 55.5 is revised to read as follows:

§ 55.5 Communications.

(a) Except as provided under a regional licensing program identified in paragraph (b) of this section, any communication or report concerning the regulations in this part and any application filed under these regulations may be submitted to the Commission as follows:

(1) By mail addressed to—Director of Nuclear Reactor Regulation or Director of Nuclear Material Safety and Safeguards, as appropriate, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(2) By delivery in person to the Commission offices at—

(i) 1717 H St. NW., Washington, D.C. or

(ii) 7920 Norfolk Avenue, Bethesda, Maryland.

(b)(1) The Commission has delegated to the Regional Administrators of Regions II and III authority and responsibility pursuant to the regulations in this part for the issuance and renewal of licenses for operators and senior operators of nuclear reactors

licensed under 10 CFR Part 50 and located in these regions.

(2) Any application filed under the regulations in this part involving a nuclear reactor licensed under 10 CFR Part 50 and located in Region II and any inquiry, communication, information or report relating to matters subject to the regulations in this part and involving a nuclear reactor licensed under 10 CFR Part 50 and located in Region II must be submitted by mail or in person to the Regional Administrator, Region II, U.S. Nuclear Regulatory Commission, 101 Marietta Street, Suite 3100, Atlanta, Georgia 30303. The Regional Administrator of Region II, or his designee, will transmit to the Director of Nuclear Reactor Regulation any matter which is not within the scope of the Regional Administrator's delegated authority.

(3) Any application filed under the regulations in this part involving a nuclear reactor licensed under 10 CFR Part 50 and located in Region III, and any inquiry, communication, information or report relating to matters subject to the regulations in this part and involving a nuclear reactor licensed under 10 CFR Part 50 and located in Region III, must be submitted by mail or in person to the Regional Administrator, Region III, U.S. Nuclear Regulatory Commission, 799 Roosevelt Road, Glen Ellyn, Illinois 60137. The Regional Administrator of Region III, or his designee, will transmit to the Director of Nuclear Reactor Regulation any matter which is not within the scope of the Regional Administrator's delegated authority.

3. In Section 55.10, paragraph (a) is revised to read as follows:

§ 55.10 Contents of applications.

(a) As provided in § 55.5, each application for a license must be filed with the Director of Nuclear Reactor Regulation, the Director of Nuclear Material Safety and Safeguards, or a designated Regional Administrator, as appropriate. The application must be submitted in triplicate, except for the report of medical examination, and must contain the following information:

(1) The full name, citizenship, age, address, and present employment of the applicant;

(2) The education and pertinent experience of the applicant, including detailed information on the extent and nature of responsibility;

(3) Serial numbers of any operator and senior operator license issued by the Commission to the applicant and the expiration date of each;

(4) The specific facility for which the applicant seeks an operator or senior operator license;

(5) The written request of an authorized representative of the facility licensee that the operating test be administered to the applicant of the facility.

(6) Evidence that the applicant has learned to operate the controls in a competent and safe manner and has need for an operator or a senior operator license in the performance of his duties. The Commission may accept as proof of this a certification of an authorized representative of the facility licensee where the applicant's services will be utilized. This certification must include details on courses of instruction administered by the facility licensee, number of course hours, number of hours of training and nature of training received at the facility, and for reactors, the startup and shutdown experience received.

(7) A report of a medical examination by a licensed medical practitioner, in one copy in the form prescribed in § 55.60.

* * * * *

4. Section 55.41 is revised to read as follows:

§ 55.41 Notification of disability.

The licensee shall notify the Commission of the occurrence of any disability referred to in § 55.11(a)(1) that occurs after the submission of the licensee's medical examination form. As provided in § 55.5, the licensee shall notify the Director of Nuclear Reactor Regulation, the Director of Nuclear Material Safety and Safeguards, or the designated Regional Administrator, as appropriate, within 15 days after the occurrence of the disability.

5. In § 55.60, paragraph (b) and the note to the section are revised to read as follows:

§ 55.60 Examination form.

* * * * *

(b) The examining physician shall complete and sign Form NRC–396, and, as provided in § 55.5, shall mail the completed form to the Director of Nuclear Reactor Regulation, the Director of Nuclear Material Safety and Safeguards, or the designated Regional Administrator, as appropriate.

Note:—Copies of Form NRC–396 may be obtained by writing the Commission at the appropriate address provided in § 55.5.

Dated at Bethesda, Maryland, this 8th day of December 1982.

For the Nuclear Regulatory Commission.

William J. Dircks,

Excutive Director for Operations.

[FR Doc. 82-34702 Filed 12-21-82; 8:45 am]

BILLING CODE 7590-01-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Parts 523, 541, 543, 544, 545, 546, 547, 549, 552, 561, 563, 563b, 564, 565, 569a, 575, 576, 577, 578, 583, and 584

[No. 82-791]

Charters and Bylaws Available to Federal Associations, and Related Amendments; Processing of Applications

Dated: December 8, 1982.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule; request for comments.

SUMMARY: In order to implement statutory revisions contained in Public Law 97–320, the Garn-St Germain Depository Institutions Act of 1982, the Federal Home Loan Bank Board has amended its regulations governing federal association charters. Under the amendments, all federal associations (or those seeking to convert to federal associations) may elect to be chartered either as federal savings and loan associations or as federal savings banks. In addition, federal charters, whether in the stock or mutual form, may be obtained by state-chartered savings banks without the requirement that they surrender their Federal Deposit Insurance Corporation ("FDIC") insurance in favor of insurance of accounts from the Federal Savings and Loan Insurance Corporation ("FSLIC"). No charter already issued will have to be amended if an institution is content with the status quo; any amendment will be purely a business decision for an institution. Because of the addition of FDIC-insured federal savings banks to the list of Board regulatees, numerous technical and conforming amendments have been made, particularly in the merger area. This, in large degree, has been required as a result of the fact that many regulations designed to apply to federal associations are cast in terms of whether an institution is an "insured institution," i.e., one the accounts of which are insured by the FSLIC.

As an additional matter, the Board also is consolidating its application process for all de novo federal mutual associations. The amendments will combine the Permission to Organize application and the Petition for Charter application. The Board will propose de novo federal stock institution application regulations in the near future.

These changes should prove extremely beneficial to thrift

institutions. A wider range of thrifts will have access to a greater variety of federal charter forms, and to the increased empowerments and flexibility that accompany those charters. Moreover, the process of applying to organize a federal association will be simplified and streamlined, benefiting those seeking to enter the thrift industry.

DATES: Effective December 15, 1982.

Comments must be received by February 22, 1983

ADDRESS: Send comments to Director, Information Services Section, Office of Communications, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552. Comments will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: Randall H. McFarlane, Legislative Counsel, Office of General Counsel (202–377–6449), David A. Permut, Attorney, Office of General Counsel (202–377–6982), Donna K. Ralston, Attorney, Office of General Counsel (202–377–6421), or K. Diane Boyle, Program Analysis Development Division Director, Office of District Banks (202–377–6720).

SUPPLEMENTARY INFORMATION:

Charters Available to Federal Associations and Related Amendments

A. Overview

On October 15, 1982, the Garn-St Germain Depository Institutions Act of 1982 ("Act"), Pub. L. 97–320, was enacted. A major thrust of the Act is to broaden greatly the chartering and organizational options open to federal associations. Previously, federal associations could be organized on a de novo basis only as federal mutual savings and loan associations. The Board could charter federal savings banks, but only as mutual institutions with accounts insured by the FSLIC, and only as a direct consequence of a conversion from a state-chartered mutual savings bank. The Act not only permits de novo organization of federal savings banks, it allows any current or future federal association to be chartered either as a federal savings and loan association or a federal savings bank. Furthermore, federal charters, whether in the stock or mutual form, may be obtained by state-chartered savings banks without the requirement that they surrender their FDIC insurance in favor of FSLIC insurance of accounts. The Act also considerably broadens the statutory purposes of federal associations; prior to the passage of the Act, the basic purpose of a federal association was to act as a place for the investment of funds and as a source of investment for housing. The statutory purposes of federal associations now include the financing of all goods and services.

The Board has determined to respond to these changes basically by creating four new charter forms, which will be accessible to all federal associations or those institutions qualifying to convert to federal associations. Any institution wishing to organize as, or convert to, a federal mutual savings bank will seek a Charter B (Revised) instead of a Charter B. An association desirous of organizing as, or converting to, a federal stock savings bank will elect a Charter T. Those that wish to organize as, or convert to, federal mutual savings and loan associations, will have to obtain a Charter N (Revised) rather than a Charter N, or a Charter L rather than a Charter K (Revised). All the new mutual charters contain conforming changes to reflect, as a result of the Act, the broader purposes of federal associations. Charter T follows the very broadly phrased language of Charter S (for federal stock savings and loan associations). Current holders of charters will not have to amend their charters or seek new charters unless they perceive a business or other benefit, such as the ability to operate as a federal savings bank. In the interest of rapid implementation of the Act, the Board has not attempted to make extensive changes in its previous charter forms, although it believes such changes may be appropriate. The Board intends, however, to examine the need for a broad restructuring of its charter forms in the near future, and has instructed its staff to develop proposals on this subject.

Because the Act provides, for the first time, for Board regulation of FDIC-insured institutions, it has been necessary to make a large number of amendments to prior regulations to permit these institutions to fit rationally into a regulatory scheme largely keyed to a description of regulatees as "insured institutions," i.e., institutions the accounts of which are insured by the FSLIC. Among the more important of these were amendments adjusting the Board's merger regulations to accommodate the presence of FDIC-insured organizations.

B. Federal Mutual Savings Banks

Previous regulations governing federal mutual savings banks ("FMSBs") were found in 12 CFR Parts 575, 576, 577 and 578. Given the wider availability of the FMSB charter option, previously open only to converted state mutual savings banks, the removal by the Act of distinctions between FMSBs and other federal associations in such areas as branching and discrimination requirements, and the substantial changes made regarding grandfathering, it was determined to repeal those Parts, after making appropriate regulatory adjustments elsewhere in 12 CFR Part 544. Thus, 12 CFR 544.1(c) will contain Charter B (Rev.), the form that will be used by new FMSBs. That form will be virtually the same as the former Charter B, basically containing changes intended to conform to the broadened purposes of federal associations, the availability of authority to offer demand accounts as well as savings accounts, the repeal of former restrictions on equity, corporate bond and consumer loan investments, and the existence of FDIC-insured FMSBs not subject to FSLIC insurance reserve requirements. FMSBs, except as specifically noted in the regulations or their charters, will have the same powers and be subject to the same requirements as other federal associations.

C. Federal Stock Savings Banks

Federal associations (whether FSLIC-insured or FDIC-insured) wishing to operate as federal stock savings banks will do so under new Charter T, found at 12 CFR 552.3. Charter T essentially is Charter S with the phrase "Charter T" substituted for "Charter S," the words "Federal Savings Bank" substituted for the words "Federal Savings and Loan Association," and the word "bank" substituted for the word "association". Charter T associations will be regulated, except as specifically provided in their charters or by regulation, on the same basis as other federal associations. Any association in the mutual form must convert to the stock form pursuant to the provisions of 12 CFR Part 563b in order to obtain a Charter T.

D. Federal Savings and Loan Associations

Charters for new mutual-form federal savings and loan associations previously were issued either as Charter N, under 12 CFR 544.1(a), or as Charter K (rev.), under § 544.1(b). Charters issued under those provisions are being modified slightly to reflect changes resulting from the Act, and are redesignated as Charter N (rev.) and Charter L, respectively. The changes involve restating the purpose of an association as being to pursue the lawful objectives of a federal association, rather than simply to promote thrift and economical home financing, and conforming the Charters, previously oriented only to holders of savings

accounts, to reflect the existence of demand accounts.

E. Adoption by Federal Associations of New Federal Charters

Large numbers of federal associations have expressed interest in converting to federal savings banks. Under these amendments, a federal savings and loan association may become a federal savings bank (and vice versa) only in connection with a change of charter under 12 CFR 544.3. This requirement is contained in 12 CFR 543.1(b), dealing with title changes. Section 544.3, which previously dealt only with changes to Charter K (rev.) from Charter N, now governs all situations where a federal mutual association seeks a new form of federal mutual charter, or a federal stock association seeks a new form of federal stock charter. The simple procedure of the old regulation, however, is preserved: when notified by an institution's board that a majority of the institution's members or stockholders have approved adoption of a new form of federal charter, the Board will issue the charter in the form desired, upon approval of any change sought in name or location. Approval of the charter and other changes, however, now may be made by the Principal Supervisory Agent.

F. Mergers

Previously, the merger regulations for federal mutual associations, found at 12 CFR Part 546, and for federal stock associations, found at 12 CFR Part 552, contemplated mergers only with FSLIC-insured institutions. With the provision of authority to charter FDIC-insured federal associations, it has been necessary to make certain regulatory adjustments. Accordingly, 12 CFR 546.1(a) is amended to allow: Under subparagraph (1), mergers between FSLIC-insured federal associations and other FSLIC-insured institutions, as per prior regulation; under subparagraph (2), mergers between FDIC-insured federal associations and other FDIC-insured institutions, provided laws applicable to the non-federal associations are complied with (for instance, the provisions of the Bank Merger Act (12 U.S.C. 1828)); and under subparagraph (3), mergers between FDIC-insured federal associations and FSLIC-insured institutions, subject to prior FDIC approval and compliance with such law as may be applicable to the non-federal associations involved. Other amendments include a revision of 12 CFR 546.1(a) to expand the definition of "association" to include commercial banks eligible to merge with a federal association, and a revision of 12 CFR 546.2(g), concerning the law governing effective dates of mergers, to cover the possibility of resulting associations other than federal associations that would not be subject to state law requirements.

Similar changes are made to the federal stock association merger regulations in 12 CFR 552.13. Section 552.13(c)(1), which previously limited merger partners to institutions insured by the FSLIC, is amended to stipulate that, where a transaction involves an FDIC-insured federal association, the constituent associations may be either FDIC-insured or FSLIC-insured (including interim federal and interim state associations). Another change in § 552.13(b)(1) provides an additional exception to the rule that a mutual association must survive its merger with a Charter S or T association. This amendment incorporates the new exception into § 552.13(c)(1) in conformity with an amendment to § 563b.10 of the Rules and Regulations for Insurance of Accounts (12 CFR 563b.10) which authorized, on a test-case basis, the filing of applications for the non-supervisory merger of insured mutual institutions into insured stock institutions. (See Board Res. No. 82–390; 47 FR 24252, June 4, 1982.) Section 552.13(b)(1) is revised to include commercial and industrial banks within the definition of association. In addition, the provision governing Board approval, § 552.13(d), is amended, as required by statute, to require prior FDIC approval of mergers of FDIC-insured federal associations with entities not so insured, and § 552.13(e), concerning board-of-director approval, is amended to acknowledge that state law may not always be determinative with respect to what procedure a board must observe to approve a merger. Finally, § 552.13(l), dealing with effective dates of mergers, is revised to recognize that state law may not be the proper source of authority as to what date is proper where a resulting association is not a federal association.

G. Delegation of Authority Regarding State Stock to Federal Stock Conversions

On October 29, 1981, by Resolution No. 81–851 (46 FR 54722, November 4, 1981), the Board amended the Rules and Regulations for the Federal Savings and Loan System to provide in § 552.2–1 (12 CFR 552–2.1) for delegation of authority to the Principal Supervisory Agent of the appropriate Federal Home Loan Bank to approve applications for conversion of state-chartered stock savings and loan institutions to federally-chartered stock savings and loan institutions.

Based on its experience with conversion applications processed pursuant to Section 552–2.1, the Board has found that applications for conversion of state-chartered stock savings and loan institutions to federally-chartered stock savings and loan institutions for supervisory reasons may present significant legal issues or policy considerations requiring review by the Board's staff in Washington, D.C. Accordingly, the Board has determined to amend its delegation of authority to the Principal Supervisory Agent to approve state stock to federal stock conversion applications to delegate to the General Counsel the authority to approve conversion applications undertaken for supervisory reasons. The amendment does not affect the delegation of authority to the Principal Supervisory Agent to approve conversion applications not undertaken for supervisory reasons.

On March 26, 1980, by Resolution No. 80–202, the Board delegated to the Principal Supervisory Agent the authority to approve unprotested applications for conversion of state-chartered institutions the accounts of which are insured by the Federal Savings and Loan Insurance Corporation to federally-chartered institutions conditioned upon the applicant's satisfaction of the criteria established in § 543.9 (12 CFR 543.9) and submission of evidence from the appropriate state authorities within six months from the date of the approval of the conversion application that the conversion is in conformance with state law. The first of these conditions is contained in § 552–2.1. The Board has determined to amend § 552–2.1. to include the second of these conditions in order to ensure that the conversion of state-chartered stock savings and loan institutions to federally-chartered stock savings and loan institutions complies with the applicable laws of the applicants' jurisdictions. However, in order to expedite the conversion process, the Board is requiring that the certification that the conversion is in conformance with state law be made by independent local counsel rather than by the appropriate state authorities.

H. Miscellaneous, Technical and Conforming Amendments

1. A new § 523.3–2 authorizes the Principal Supervisory Agent to approve all unprotested FHLBank membership applications.

2. 12 CFR 523.10(b)(1) is amended to indicate that FDIC-insured banks may include stock-form as well as mutual-form savings banks.

3. 12 CFR 541.8 is amended to include savings banks chartered under section 5 of the Home Owners' Loan Act as federal associations. Previously, the section only referenced federal savings and loan associations so chartered.

4. 12 CFR 541.8–1 is amended to delete the words "A savings and loan", thus allowing the Board to charter interim federal associations that are federal savings banks.

5. In order to clarify to whom questions should be directed regarding conversions to federal mutual charters, and the status of Supervisory Agent recommendations on same, 12 CFR 543.8 is amended to incorporate the substance of former 12 CFR 576.1, regarding mutual savings bank conversions. Similar language exists at 12 CFR 543.2(a), regarding permission to organize a federal association. In addition, § 543.8 is amended to indicate that approval authority for conversions to federal charters is delegated to the Principal Supervisory Agent.

6. An amendment to 12 CFR 543.9(c) stipulates that an eligibility examination by the FSLIC is not a precondition to Board consideration of a request for a federal charter by an FDIC-insured savings bank. Section 543.9(d) is amended to delete reference to a repealed statutory requirement that a state institution seeking a federal charter must receive approval of 51 percent of its members. The question of consent now will be left entirely to state law. In addition, those sections, as well as § 543.9(a), are amended to reflect delegation of authority to the Principal Supervisory Agent to approve conversion applications.

7. 12 CFR 543.10 is removed, and 12 CFR 543.11 is redesignated as § 543.10, with an amendment to supply a reference to the procedures in new § 543.11 as constituting an exception to the normal post-conversion organization rules for federal associations. 12 CFR 576.4, governing organization after conversion to federal charter of federal mutual savings banks, is redesignated as new § 543.11, and amended to specify that it applies only to FMSBs that immediately prior to conversion were state MSBs. References are amended to conform to the new section numbers.

8. A new § 543.12 is added which states that the Board may grant federal charters to FDIC-insured savings banks notwithstanding their failure to obtain FSLIC insurance of accounts.

9. A new § 543.13 is added which states that the Board shall notify the FDIC of applications for federal charters by FDIC-insured institutions, shall consult with it before disposing of such an application, and shall notify it of the Board's determination with respect to the application.

10. 12 CFR 544.2, concerning federal charter amendments, is amended to indicate in the introductory text and paragraph (i) that it applies only to mutual savings and loan associations, and not to federal mutual savings banks, which are governed by another provision in this respect. Section 544.2(c) is amended to delete the word "savings", in recognition of the ability of federal associations to offer demand accounts as well as savings accounts, and § 544.2(f) is revised to replace obsolete references to Charter N and Charter K (rev.) with references to Charter N (Rev.) and Charter L.

11. 12 CFR 577.1–1, setting forth a preapproved mutual capital certificate amendment for federal mutual savings banks, is amended to redesignate it as 12 CFR 544.2–1, after removing existing § 544.2–1.

12. A new 12 CFR 544.2–2 is added, dealing with preapproval of federal mutual savings bank corporate title changes. The language is virtually identical to that of 12 CFR 577.1–2, repealed by these amendments, concerning the same subject.

13. 12 CFR 544.5, regarding prescribed bylaws, is amended to indicate they are applicable only to federal mutual S&Ls.

14. 12 CFR 577.2, regarding bylaws for federal mutual savings banks, is redesignated 12 CFR 544.5–1 and revised to indicate that it applies only to federal mutual savings banks.

15. A new § 544.8 is added to incorporate the substance of 12 CFR 578.1(b), removed by these amendments. Paragraph (a) essentially restates the provision in § 578.1(b) that references in the regulations to federal mutual savings and loan charters shall also be deemed references to federal mutual savings bank charters, also stipulating that references to superseded mutual association charter forms shall be references to the new forms created by these amendments. Paragraph (b) duplicates the requirement in § 578.1(a) that federal mutual savings bank trustees are subject to regulations applicable to federal savings and loan association directors.

16. A new § 544.9 is added, stipulating that Charter B federal mutual savings banks no longer must comply with a now-obsolete charter provision restricting their corporate debt, equity, and consumer loan investments.

17. 12 CFR 546.5, concerning conversions to the state mutual form under a now repealed provision of section 5(i) of the Home Owners' Loan Act of 1933, is deleted.

18. 12 CFR 547.3, 547.6, 549.1(b), 549.2 and 549.3, relating to receiverships, are amended to conform to the statutory requirement that the Board appoint the FDIC as receiver for FDIC-insured federal associations. In addition, the amendment to § 547.6 deletes a confusing reference to liquidation as the sole purpose of a receivership.

19. 12 CFR 549.5–1(a) is amended to stipulate that federal savings bank receivers shall follow procedures for deposit associations. Amendments are made to § 549.5–1 (b) and (c) to provide for the fact that federal associations now may offer demand accounts, and not just savings accounts.

20. The introductory text and paragraph (b) of 12 CFR 552.1 are amended to state that references to Charter S associations also shall be deemed to be references to Charter T associations, and to define a Charter T association, in effect, as a federal stock savings bank. Old paragraph (b) is redesignated as paragraph (c).

21. 12 CFR 552.2–1, dealing with conversions of state-stock associations to federal stock charters, is amended to delete obsolete requirements pertaining to the date on which a state institution became a stock association, and to provide for conversion of state stock savings banks.

22. 12 CFR 552.3(a) is amended by adding a clarifying reference to Charter T associations.

23. 12 CFR 552.9 is amended to substitute references to Charter N (Rev.) for obsolete references to Charter N.

24. 12 CFR 561.1 is amended to add references to federal savings banks, interim federal associations, and interim state associations as institutions that may be insured by the FSLIC, and to stipulate that, except as specifically noted, FDIC-insured federal associations will be subject to regulations applicable to "insured institutions", as are other federal associations.

25. 12 CFR 561.2, defining insured member, is amended to stipulate that, for the purposes of that provision, the term "insured institution" shall not include an FDIC-insured federal association.

26. 12 CFR 561.11 is amended to include savings accounts held at FDIC-insured federal associations within the definition of "savings accounts".

27. 12 CFR 563.7–1 is amended to remove the term "savings and loan", thus clarifying that the provision, which deals with savings deposits or shares of federal associations, applies to federal savings banks.

28. 12 CFR 563.7–4(a) is amended to change the phrase "insured mutual

institution" to clarify that it refers to all insured institutions, including FDIC-insured federal associations, that are in the mutual form.

29. 12 CFR 563.14, regarding payment of dividends, is amended to ensure its applicability to dividends paid to accountholders by FDIC-insured savings banks.

30. 12 CFR 563.15 and 563.16, regarding insurance premiums, are amended to specify that the provisions do not apply to FDIC-insured federal associations.

31. 12 CFR 563.28 is amended to indicate that an FDIC-insured federal association is prohibited from advertising itself as a member of the FSLIC.

32. 12 CFR 563.31 is amended by revising paragraph (a) to state that an FDIC-insured federal association may not obtain deposit insurance in addition to that provided by the FDIC, paralleling the requirement that FSLIC-insured institutions obtain insurance of accounts only from the FSLIC. In addition paragraph (b)(1) is amended to provide that federal savings banks as well as federal savings and loan associations may give bond or security.

33. 12 CFR 563b.3(b)(4), 563b.4(a)(xiv), and 563b.4(b) are to clarify that federal stock charters are available to federal associations insured by the FDIC.

34. 12 CFR 563b.8(d)(2) and (3) are amended to indicate that any eligible mutual, state or federal, may convert to either a Charter S or a Charter T, and that the corporate existence of the converting institution does not terminate.

35. 12 CFR Parts 564 and 565, dealing respectively with settlement of insurance and termination of insurance, are amended to create new §§ 564.11 and 565.9, specifying that those Parts do not apply to FDIC-insured federal associations.

36. 12 CFR Part 569a, dealing with receivers of non-federally chartered insured institutions, is amended by changing the heading to reflect the existence of federal associations other than federal savings and loan associations, and by revising section 569a.1(a) to ensure the non-applicability of that section to federal savings banks.

37. Subchapter E, dealing with rules and regulations for federal mutual savings banks, and consisting of 12 CFR Parts 575, 576, 577 and 578, is removed as obsolete, after relocation of appropriate provisions elsewhere.

38. 12 CFR 583.5 is amended to indicate that an insured institution subsidiary of a savings and loan holding company may be engaging in the business of a savings bank as well as the business of a savings and loan association.

39. 12 CFR 583.6 is amended to include as insured institutions all federal associations insured by the FSLIC or the FDIC.

40. 12 CFR 583.7 is amended to specify that an uninsured institution does not include a federal association insured by the FDIC.

41. 12 CFR 584.1(e) is amended to inndicate that an insured institution may be engaging in the business of a savings as well as the business of a savings and loan association.

Consolidation of Applications

The Board has determined to amend 12 CFR Part 543 to consolidate applications provided for all de novo federal mutual associations. The amendments involve combining the Permission to Organize application and the Petition for Charter application. Formerly, associations had to go through a two-step procedure in order to receive a federal charter. The first step was an application for permission to organize a federal association, which required numerous procedures and conditions. Upon compliance with these conditions, the applicants then had to submit a second application for petition for charter. This application also required numerous procedures and conditions. In combining the two applications, the Board will expedite the application process, delete several unnecessary or duplicative conditions, and cause the application process to apply to all types of new federal charters.

Final Regulatory Flexibility Analysis

Although the regulations promulgated herein have not been proposed for public notice and comment, the Board is providing the following regulatory flexibility analysis:

1. *Reason, objective and legal basis underlying the final rule.* These elements are incorporated above in the supplementary information and definitional sections regarding the regulation.

2. *Small entities to which the final rule would apply.* The final rule would apply equally to all institutions chartered by the Board.

3. *Overlapping or conflicting federal rules.* There are no known federal rules that may duplicate, overlap or conflict with the final regulation.

4. *Alternatives to the final rule.* To the extent that any institution determines to adopt a new charter, the final regulation would benefit its operations. Increased flexibility for all institutions will result from this regulation as well as increased powers for federal associations. The final regulation will not have a disproportionate impact on small institutions, and there is no alternative action that would change the impact of broadened chartering authority on small institutions.

List of Index Subjects in 12 CFR Parts 541, 543, 544, 545, 546, 547, 549, 552, 561, 563, 563b, 564, 565, 569a, 575, 576, 577, 578, 583 and 584

Savings and loan associations, Securities, Insurance, Holding companies.

The Board finds that the public notice and comment procedures of 5 U.S.C. 503(b) and 12 CFR 508.13 are unnecessary for the following reasons: (1) Immediate regulatory action is in the public interest in that the Congress expressly intended, in passing the Garn-St Germain Depository Institutions Act of 1982, that Federal associations and other thrift institutions exercise increased organizational flexibility to meet current, extremely stressful economic conditions, and it will increase the availability of this new power to federal associations; (2) Most federal associations have annual meetings in the first month of the calendar year, notice of which must go out to shareholders 15 to 45 days in advance, and any change in charter would of necessity need to be considered at such a meeting; (3) It will expedite the processing of applications for the several Federal charters; and (4) It will relieve restrictions. The Board further finds that delay of the effective date of this regulatory action pursuant to 5 U.S.C. 553(d) and 12 CFR 508.14 is unnecessary for the same reasons.

Since there are a large and complex number of changes in these regulations, the Board is soliciting comments from the public as to the effect of these regulations.

Accordingly, the Board hereby amends Part 523 of Subchapter B, Parts 541, 543, 544, 545, 546, 547, 549 and 552 of Subchapter C, Parts 561, 563, 563b, 564, 565, and 569a of Subchapter D, Parts 575, 576, 577 and 578 of Subchapter E, and Parts 583 and 584 of the Subchapter F, Chapter V of Title 12, Code of Federal Regulations, to read as set forth below.

SUBCHAPTER B—FEDERAL HOME LOAN BANK SYSTEM

PART 523—MEMBERS OF BANKS

1. Part 523 is amended by adding a new § 523.3–2, to read as follows:

§ 523.3–2 Delegations.

The Principal Supervisory Agent, as that term is defined in § 545.14(a)(3)(i) of

this Chapter, is authorized to approve unprotested applications for Bank membership filed by an entity which is eligible for such membership and which satifies the criteria therefor. .

2. Amend paragraph (b) (1) of § 523.10 by removing the term "mutual".

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

PART 541—DEFINITIONS

Revise § 541.8 to read as follows:

§ 541.8 Federal association.

A savings and loan association or savings bank chartered by the Board under section 5 of the Act and, except as the Board may otherwise provide, any building and loan, savings and loan, building, or homestead association, organized or incorporated under the laws of the District of Columbia.

§ 541.8–1 [Amended]

4. Amend § 541.8–1 by removing the phrase "A savings and loan" and inserting in lieu thereof the word "An".

PART 543—INCORPORATION, ORGANIZATION, AND CONVERSION

5. Amend § 543.1 by revising paragraph (b), as follows:

§ 543.1 Corporate title.

* * * * *

(b) *Title change.* Prior to changing its corporate title, an association must file with the Supervisory Agent a written notice indicating the intended change. The Supervisory Agency shall provide to the association a timely written acknowledgment stating when the notice was received. If, within 30 days of receipt of notice, the Supervisory Agent does not notify the association of his or her objection on the grounds set forth in paragraph (a) of this section, the association may change its title by amending its charter in accordance with § 544.2(f), or § 544.2–2, or § 552.4(c) and the amendment provisions of its charter, except that an association chartered as a Federal Savings and Loan Association may change its title to indicate that it is a Federal Savings Bank, and an association chartered as a Federal Savings Bank may change its title to indicate that it is a Federal Savings and Loan Association, only pursuant to a charter change under § 544.3 of this Chapter.

6. Amend § 543.2 by revising the third sentence of paragraph (b) and revising paragraph (g), as follows:

§ 543.2 Application for permission to organize.

* * * * *

(b) *Form; supporting information.* * * * The applicants shall request a corporate title to be approved by the Board and to be included as Section One of the association's charter. * * *

* * * * *

(g) *Approval.* Decisions on all applications for permission to organize a Federal association will be made by the Board. Approvals of applications will be conditioned on the following: (1) a minimum amount of capital to be paid into the association's accounts prior to insurance of accounts; (2) the submission of a statement that (i) the applicants have complied in all respects with the Act and these rules and regulations regarding organization of a Federal association; (ii) the applicants have incurred no expense in forming the association which is chargeable to it, and no such expense will be incurred; (iii) no money will be collected on account of the association before the Board issues its charter; (iv) an organization committee has been created (naming the committee and its officers); and (v) the committee will organize the association when the Board issues its charter and serve as temporary officers of the association until officers are elected by the association's board of directors under § 543.6 of this Part; and (3) the satisfaction of any other requirement the Board may impose. Approval of an application does not obligate the Board to issue a charter.

* * * * *

§ 543.3 [Removed effective December 15, 1982; see § 543.6(a).]

7. Remove § 543.3.

§ 543.4 [Removed effective December 15, 1982; see § 543.3.]

8. Remove § 543.4.

9. Amend § 543.6 by revising paragraph (a), as follows:

§ 543.6 Completion of organization.

(a)(1) *Temporary officers.* When the Board approves an application for permission to organize a Federal association, the applicants shall constitute the organization committee and elect a chairperson, vice-chairperson, and a secretary, who shall act as the temporary officers of the association until their successors are duly elected and qualified. The temporary officers may effect compliance with any conditions prescribed by the Board.

(2) *Organization meeting.* Promptly upon receipt of a charter, the temporary officers shall call a meeting of the association's capital subscribers; notice of such meeting shall be mailed to each subscriber at least 5 days before the meeting day. Subscribers who have subscribed for a majority of the association's capital, present in person or by proxy, shall constitute a quorum. At such meeting, directors of the association shall be elected according to the association's charter and bylaws, and any other action permitted by such charter and bylaws may be taken; any such action shall be considered an acceptance by the association of such charter and of such bylaws, which shall be in the form provided in Parts 544 and 552 of this Subchapter.

* * * * *

10. Revise § 543.8 as follows:

§ 543.8 General.

(a) With the approval of the Principal Supervisory Agent, any member may, on such conditions as the Board may prescribe, convert itself into a Federal association, if it complies with all laws of its jurisdiction expressly providing for such conversions and with these rules and regulations.

(b) Questions regarding conversions shall be directed to the Board's Supervisory Agent of the district in which the applicant is located. Recommendations by Supervisory Agents and officers and employees of the Board regarding applications for issuance of Federal charters are privileged, confidential and subject to § 505.6 of this chapter.

11. Amend § 543.9 by revising the last sentence of paragraph (a), by revising paragraph (c), and by removing paragraph (d), as follows:

§ 543.9 Applications.

(a) *Filing.* * * * The applicant shall submit any financial statements or other information the Board or the Principal Supervisory Agent may require, and pay all costs, as determined by the Principal Supervisory Agent or the Board, of consideration of the application.

* * * * *

(c) *Action on application.* The Principal Supervisory Agent will consider such application and any information submitted therewith, and may approve the application. The Principal Supervisory Agent will not consider the application of a converting insititution not insured by the Federal Savings and Loan Insurance Corporation, except in the case of a saving bank insured by the Federal Deposit Insurance Corporation, until an eligibility examination has been completed to the satisfaction of the Federal Savings and Loan Insurance Corporation. Approval of an application and issuance by the Board of a charter

will be subject to the applicant's (1) compliance with all conditions prescribed in the approval; (2) receipt of approval of the plan of conversion by such vote as may be required by the laws of the applicant's jurisdiction to consider such action; and (3) approval of its application for Federal Home Loan Bank membership, if the applicant is not a member.

§ 543.10 [Removed]

12. Remove § 543.10.

13. Amend § 543.11 by redesignating it as § 543.10 and by revising the first sentence thereof, as follows:

§ 543.10 Organization after conversion.

Except as provided in § 543.11, after a Federal charter is issued under § 543.9 the association's members shall, after due notice, or upon a valid adjournment of a previous legal meeting, hold a meeting to elect directors and take all other action necessary fully to effect the conversion and operate the association in accordance with law and these rules and regulations. * * *

14. Add a new § 543.11 by inserting the text of § 576.4 thereto, revising paragraph (a) thereof, and changing the reference to "§ 576.4" in paragraph (c)(2) thereof to read "this section", as follows:

§ 543.11 Organization, plan for governance during first years after issuance of Federal mutual savings bank charter.

(a) *Organizational meeting.* Except as provided in paragraph (c)(1) of this section, promptly upon receipt of a charter, the officers of a Federal mutual savings bank which, immediately prior to conversion, was a state chartered mutual savings bank, shall call a meeting of the members. Notice for, and conduct of, such meeting shall be in accordance with the bank's Federal charter and bylaws. Business to be conducted at the organizational meeting shall include the election of trustees and any other matters permitted by the charter and bylaws. Any action taken at such meeting shall be deemed and acceptance of the charter and bylaws issued pursuant to §-544.2–2 of this Subchapter.

* * * * *

15. Add a new § 543.12, as follows:

§ 543.12 FDIC-insured Federal savings banks.

The Board may issue a Federal charter to a state-chartered savings bank which is insured or continues to be insured by the Federal Deposit Insurance Corporation.

17. Add a new § 543.13, as follows:

§ 543.13 Notice to FDIC.

Upon receiving an application for a Federal charter by an institution insured by the Federal Deposit Insurance Corporation, the Board shall notify the Federal Deposit Insurance Corporation, shall consult with it before disposing of the application, and shall notify it of the Board's determination with respect to such application.

PART 544—CHARTER AND BYLAWS

17. Amend § 544.1(a) by revising the first sentence of that paragraph; removing the term "Charter N" as the heading at the beginning of the charter form and replacing it with the term "Charter N (Rev.)"; removing the term "savings" wherever it appears in section 4 of the charter, other than in the first sentence, and wherever it appears in section 7 thereof; and revising the introductory text and subsection (6) of section 3, the first sentence of section 4, and the last sentence of section 10 of the charter; as follows:

§ 544.1 Issuance of charter.

(a) *Charter N (Rev.).* Except as provided in paragraph (b) of this section, when the Board approves an Application for Permission to Organize for a Federal mutual association that is a Federal savings and loan association, it shall issue a charter in the following form, or a form which includes any of the additional provisions set forth in § 544.2 if such provisions are specifically requested, known as Charter N (Rev.).

Charter N (Rev.)

* * * * *

3. *Purpose and Powers.* The purpose of the association is to pursue any or all of the lawful objectives of a Federal association; and in the accomplishment of such purpose, it shall have perpetual succession and power:

* * *

(6) To raise its capital, which shall be unlimited, by accepting payments on savings and demand accounts representing share interests in the association;

* * * * *

4. *Members.* All holders of the association's savings accounts and demand accounts and all borrowers therefrom are members. * * *

* * * * *

10. *Reserves, surplus and distribution of earnings.*

* * * All holders of savings accounts and demand accounts of the association shall be entitled to equal distribution of assets, pro rata to the value of their accounts, in the event of voluntary or involuntary liquidation, dissolution or winding up of the association.

* * * * *

18. Amend § 544.1(b) by revising the introductory text of that paragraph, and removing the term "Charter K (Rev.)" at the heading of the beginning of the charter form and replacing it with the term "Charter L", as follows:

§ 544.1 Issuance of charter.

* * * * *

(b) *Charter L.* If expressly requested in the Application for Permission to Organize, or in the Application for Conversion to a Federal Association, the Board will issue, in lieu of Charter N (Rev.), a Charter L. The form of Charter L is the same as the form of Charter N (Rev.), except that the heading states "CHARTER L" instead of "CHARTER N (REV.)" and in lieu of the provision in Charter N (Rev.) designated "6. *Withdrawals,"* the following provision is substituted:

Charter L

* * * * *

19. Amend § 544.1 by adding a new paragraph (c) entitled *Charter B (Rev.)* and inserting the text and charter form of § 577.1 thereto; removing the term "Charter B" as the heading at the beginning of the charter form and replacing it with the term "Charter B (Rev.)"; and amending that charter by removing the phrases "established for the primary purpose of providing people with a convenient and safe place to invest their funds and to provide for the financing of homes, and", and *"General Objects and"* contained in section 3, revising section 5 as set forth below, revising the first sentence of section 6 as set forth below and removing the word "savings" from section 6 wherever it appears other than in the first sentence, removing the phrase "in Board Resolution No. ——, dated ——, ——," in section 7 and substituting therefore the phrase "by the Board or its delegatee in connection with action", removing the phrase "charter: *Provided, however,* That the bank's equity, corporate bond, and consumer loan investments may in no event exceed —— percent of its assets." contained in section 10 and substituting therefor the phrase "charter."; removing in section 10 the phrase "Board Resolution No. —— dated ——" and substituting therefor the phrase "action of the Board or its delegatee in connection with action", removing from the third paragraph of section 11 the word "savings" and the phrase "[and checking accounts]" wherever they appear, and removing from section 11 the phrase "Board, such reserves shall include the reserve required for insurance of accounts." and inserting in its place the phrase "Board."; as follows:

§ 544.1 Issuance of charter.

* * * * *

(c) *Charter B (Rev.).*

* * * * *

Charter B (Rev.)

Section 5. *Capital.* The bank may raise capital by accepting payments on savings accounts and demand accounts and by any other means as may be authorized by the Board.

Section 6. *Members.* All holders of the bank's savings accounts and demand accounts and all borrowers therefrom are members. * * *

* * * * *

20. Amend § 544.2 by revising the introductory text; removing from paragraph (c) the word "savings"; removing from paragraph (f) the phrase "Charter N or Charter K (rev.)" and substituting therefor the words "Charter N (Rev.) or Charter L"; and removing from paragraph (i) the word "mutual" and substituting therefor the phrase "mutual savings and loan"; as follows:

§ 544.2 Amendment of charter.

This section constitutes approval by the Board of any of the following amendments to the charter of a Federal mutual savings and loan association:

* * * * *

§ 544.2–1 [Amended]

21. Amend § 544.2–1 by removing the title and text thereof and substituting therefor the title and text of § 577.1–1.

22. Add a new § 544.2–2, as follows:

§ 544.2–2 Preapproved charter amendment.

This section constitutes approval by the Board of the amendment of section 1 of the Federal mutual savings bank charter to effect the change of the corporate title of a Federal mutual savings bank that has complied with § 543.1(b) of this Subchapter.

23. Revise § 544.3, as follows:

§ 544.3 Adoption of new Federal charter by a Federal association.

If the board of directors of a Federal mutual association proposes to amend its charter to read in the form of any other Federal mutual association charter, the amendment may be approved by a majority vote of members present at any duly called regular or special meeting of members. In the case of a Federal stock association, the board of directors of which proposes to amend its charter to read in the form of any other Federal stock association charter, the amendment may be approved by the stockholders by a majority of the total votes eligible to be cast at a legal meeting. In either case, after such vote, the association shall submit the following petition to the Principal Supervisory Agent, together with any requested change in the association's title or location of home office, and the Board thereafter will issue a charter in the form sought, upon approval by the Principal Supervisory Agent or the Board of a change in such name or location:

Federal Home Loan Bank of ————————
[City] ————————
[State] ————————

The undersigned, under § 544.3 of the rules and regulations for the Federal Savings and Loan System, petitions the Federal Home Loan Bank Board to issue to it a charter in the form of Charter ——, fixing the name of the undersigned as ————, and its home office at ————. The present charter fixes the name of the association as ———— and its home office location as ————.

The undersigned, by its secretary, hereby certifies that the members or stockholders, at a meeting duly called and held, adopted the following resolution:

Be it resolved, That the present charter of this association be amended to read in the form of Charter ———— as prescribed in the rules and regulations for the Federal Savings and Loan System, prescribing the name of the association as ———— and fixing its home office location as ————.

In witness whereof, the Secretary of the undersigned has hereunto affixed his hand and the seal of the undersigned this —— day of ————, 19—.

————————
[Name of Federal Association]
By ————————
[Corporate Seal]

24. Amend § 544.5 by revising the introductory text, as follows:

§ 544.5 Prescribed form.

A Federal mutual savings and loan association shall operate under the following bylaws, until such bylaws are amended under the procedure therein presecribed.

* * * * *

25. Add a new "§ 544.5–1" by inserting the title and text of § 577.2, removing the term "§ 577.2" wherever it appears therein and substituting therefor the term "§ 544.5–1", and revising the introductory text, as follows:

§ 544.5–1 Prescribed form.

Unless otherwise authorized by the Board, a Federal mutual savings bank shall operate under the following bylaws until such bylaws are amended under the procedure therein prescribed.

* * * * *

26. Add a new § 544.8, as follows:

§ 544.8 References to old and new charters; rules applicable to trustees of Federal mutual savings banks.

(a) References in the Rules and Regulations for the Federal Savings and Loan System to associations with a Charter K (Rev.) or Charter N shall be deemed as also referring respectively to associations with a Charter L or Charter N (Rev.) and, other than in § 545.4 of this Subchapter, as also referring to associations with a Charter B or Charter B (Rev.).

(b) The trustees of each Federal mutual savings bank shall be subject to the Rules and Regulations for the Federal Savings and Loan System (Part 541 et seq. of this Subchapter), the Regulations for the Federal Home Loan Bank System (Part 521 et seq. of this Chapter), and the Rules and Regulations for Insurance of Accounts (Part 561 et seq. of this Chapter), insofar as they pertain to directors of Federal associations, just as if they were directors.

27. Add a new § 544.9, as follows:

§ 544.9 Obsolete charter provision for Charter B associations.

The standard provision in section 10 of Charter B relating to limiting equity, corporate bond and consumer loan investments to a particular percentage of assets is of no force and effect.

PART 545—OPERATIONS

28. Amend § 545.25–1 by revising paragraph (a) as follows:

§ 545.25–1 Employment contracts.

(a) *General.* A Federal savings and loan association with bylaws amended under § 544.8(k), a Federal mutual savings bank or a Charter S or Charter T association, upon specific approval of its board of directors, may enter into employment contracts with its officers and other employees in accordance with § 563.39 of this Chapter.

* * * * *

PART 546—MERGER, DISSOLUTION, REORGANIZATION, AND CONVERSION

29. Amend § 546.1 by revising paragraph (a) as follows:

§ 546.1 Definitions.

As used in §§ 546.2 and 546.3—

(a) "Association" means a Federal association, or interim Federal association, a national bank, and any building and loan, savings and loan, or homestead association, or cooperative bank, or interim state institution, or commercial or industrial bank organized under the laws of any state which may, under those laws, or other applicable law, merge or consolidate with a Federal association.

* * * * *

30. Amend § 546.2 by revising paragraph (a), as follows, and by

removing in paragraph (g) the word "created" and substituting therefor the phrase, "created, if applicable, or any other applicable law":

§ 546.2 Procedure; effective date.

(a)(1) A Federal association insured by the Federal Savings and Loan Insurance Corporation and one or more other associations so insured may merge as prescribed in this Part if, as to any association which is not a Federal association, the merger is in accordance with the laws of the jurisdiction in which the association was organized.

(2) A Federal association insured by the Federal Deposit Insurance Corporation and any one or more other institutions so insured may merge as prescribed in this Part if, as to any such institution which is not a Federal association, the merger is in accordance with the laws of the jurisdiction in which the association was organized, if applicable, and such other laws as may be applicable.

(3) A Federal association insured by the Federal Deposit Insurance Corporation and any one or more other associations insured by the Federal Savings and Loan Insurance Corporation may merge as prescribed in this Part, subject to the prior approval of the Federal Deposit Insurance Corporation, and if, as to any association which is not a Federal association, the merger is in accordance with the laws of the jurisdiction in which the association was organized.

* * * * *

31. Remove § 546.5.

§ 546.5 Conversion from Federal mutual to state-charter mutual. [Removed effective December 15, 1982.]

PART 547—APPOINTMENT OF CONSERVATORS AND RECEIVERS

32. Amend § 547.3 by adding a second sentence, as follows:

§ 547.3 Appointment on other grounds.

* * * In the event a Federal association insured by the Federal Deposit Insurance Corporation has its insured status terminated by the Board of Directors of said Corporation, the Board shall appoint the Federal Deposit Insurance Corporation receiver for that association.

33. Revise § 547.6, as follows:

§ 547.6 Federal Savings and Loan Insurance Corporation or Federal Deposit Insurance Corporation as receiver.

The Board shall appoint only the Federal Savings and Loan Insurance Corporation as receiver for a Federal association which that Corporation insures. The Board shall appoint only the Federal Deposit Insurance Corporation as receiver for a Federal association which that Corporation insures.

PART 549—POWERS OF RECEIVERS AND CONDUCT OF RECEIVERSHIP

34. Amend § 549.1 by revising paragraph (b) as follows:

§ 549.1 Definitions.

* * * * *

(b) "Corporation" means the Federal Savings and Loan Insurance Corporation, except when the Federal Deposit Insurance Corporation is receiver, in which case it means the Federal Deposit Insurance Corporation.

35. Revise § 549.2 as follows:

§ 549.2 Procedure upon taking possession.

The procedure prescribed in § 548.1 of this Subchapter for a conservator taking possession of a Federal association shall also apply to a receiver except that the notice required by § 548.1(c) shall state:

————Federal Savings and Loan Association [or Federal Savings Bank],————, ————, ————, is in the hands of the Federal Savings and Loan Insurance Corporation [or Federal Deposit Insurance Corporation] as receiver appointed by the Federal Home Loan Bank Board.

Federal Savings and Loan Insurance Corporation [or Federal Deposit Insurance Corporation] as Receiver.

By ————————————

Title ————————————

Date ————————————

36. [Revise paragraph (b)(3) of § 549.3, as follows:

§ 549.3 Powers and duties of receiver.

* * * * *

(b) * * *

(3) Deposit funds collected in any bank(s) insured by the Federal Deposit Insurance Corporation, in a Bank, or any other depository institutions approved for that purpose by the Board. All depository bank accounts of the receiver shall be carried as follows: "Federal Savings and Loan Insurance Corporation [or Federal Deposit Insurance Corporation], Receiver for ——— Association";

* * * * *

§549.5–1 [Amended]

37. Amend § 549.5–1 by adding the phrase "or a Federal savings bank" immediately after the word "association" the second time it appears in paragraph (a) thereof; , and amend subparagraph (1) of paragraph (b) thereof by adding in the first sentence the phrase "demand accounts" immediately prior to the word "savings" the first time it appears, adding in the fourth sentence the phrase "demand account," immediately prior to the word "savings" the first time that word appears, and adding in the fifth sentence the phrase"demand account, holder of a" immediately prior to the word "savings" the first time that word appears; and amending paragraph (c) thereof by adding in subparagraph (1) the phrase "demand accounts," immediately prior to the phrase "savings accounts" wherever the latter phrase appears, adding in subparagraph (2) the phrase "demand accounts," immediately prior to the phrase "savings deposits," adding in subparagraph (3) the phrase "demand account," immediately prior to the phrase "savings deposit", and adding in subparagraph (4) the phrase "demand accounts," immediately prior to the term "savings deposits".

PART 552—STOCK ASSOCIATIONS

38. Amend § 552.1 by revising the introductory test, redesignating paragraph (b) as paragraph (c) thereof, and adding a new paragraph (b) thereto, as follows:

§ 552.1 Definitions.

All references in this Subchapter to the following terms shall, with respect to an association with a charter in the form of Charter S or Charter T, have the meaning defined herein.

* * * * *

(b) *Charter T association.* The term "Charter T association" means a Federal savings bank which has its charter in the form of a Charter T. References in this Chapter to Charter S associations or Charter S shall be deemed also as referring respectively to Charter T associations or Charter T.

* * * * *

39. Amend § 552.2–1 by removing the last sentence and revising the first sentence thereof, as follows:

§ 552.2–1 Conversion from state stock to Federal stock charter.

With the approval of the Principal Supervisory Agent or, in connection with a supervisory transaction, with the approval of the General Counsel, any state stock savings and loan association type or state stock savings bank type institution may convert to a Federal stock savings and loan association or a Federal stock savings bank, subject to its compliance with the requirements set forth in §§ 543.8 through 543.10 of this Subchapter governing conversion to a Federal mutual association and its submission of an opinion by independent local counsel within six

months from the date of the approval that the conversion is in conformance with applicable state law. * * *

§ 552.3 [Amended]

40. Amend paragraph (a) of § 552.3 by adding the phrase "or Charter T" immediately after the phrase "Charter S".

41. Amend § 552.3 by revising paragraph (b) and adding a new paragraph (c), as follows:

§ 552.3 Issuance of charter.

* * * * *

(b) A Charter S or Charter T in the following form shall be issued to a state stock institution which has converted respectively to a Federal stock savings and loan association or a Federal stock savings bank pursuant to § 552.2–1, except that in a case not involving an association that has converted from mutual to stock form, Section 7 of Charter S or Charter T requiring a liquidation account and all references thereto shall be deleted, Sections 8 and 9 shall be redesignated Sections 7 and 8 respectively, and the optional provision contained in § 552.4(b) of this Part shall not be available.

(c) Where a Charter T is issued, all references in the following form to "Charter S" shall be changed to "Charter T", all references to "Federal Savings and Loan Association" shall be changed to "Federal Savings Bank" and all references to "association" shall be changed to "bank", and the following sentence shall be added to the end of Section 3: "In addition, the bank may make any investment and engage in any activity as may be specifically authorized by action of the Board or its delegatee in connection with action approving the issuance of the charter."

42. Revise § 552.9, as follows:

§ 552.9 Investments, services and borrowings.

A Charter S association may: (a) Make any loan or investment authorized by this Subchapter for a Charter N (Rev.) association; (b) be surety and perform such services as are authorized by this Suchapter for a Charter N (Rev.) association; and (c) borrow, issue obligations, and give security to the same extent authorized by this Subchapter for a Charter N (Rev.) association which has amended its charter under § 544.2(f) of this Subchapter. A Charter T association, in addition to the above, may utilize any authority permitted by this Subchapter for Charter T associations.

43. Amend § 552.13 by revising paragraphs (b)(1), (c) (1) and (2), (d) and (e), as follows:

§ 552.13 Combinations involving Charter S associations.

* * * * *

(b) *Definitions.* * * *

(1) *Association.* Any building and loan, savings and loan, or homestead association, or commercial, industrial, cooperative or savings bank organized under Federal or state law, including interim Federal associations and interim state associations.

* * * * *

(c) *Forms of combination.* * * *

(1) Mergers or bulk purchases of assets in exchange for assumption of liabilities: *Provided,* That (i) all constituent associations have accounts insured by the Federal Savings and Loan Insurance Corporation, except that in combinations involving a Federal association insured by the Federal Deposit Insurance Corporation, all constituent associations have accounts insured either by the Federal Savings and Loan Insurance Corporation or the Federal Deposit Insurance Corporation, and (ii) if any constituent is a mutual association, the resulting association shall be mutually held, except in cases involving supervisory mergers, mergers approved under Part 563b of Subchapter D or mergers in which one of the constituents is an interim Federal association or an interim state institution.

(2) Consolidations among Federal associations resulting in Federal mutual associations.

(d) *Agency approval.* Prior written approval of the Board is required for every combination. In determining whether to confer such approval, the Board shall apply the criteria set out in § 571.5 of this Chapter. Prior written approval of the Federal Deposit Insurance Corporation is required for every combination involving both a Federal association insured by the Federal Deposit Insurance Corporation and an association not insured by such Corporation.

(e) *Approval of board of directors.* Before filing for Board approval, the combination shall be approved by each constituent association's board of directors: (1) By a two-thirds vote of the entire board of each Federal association, and (2) as required by state law, or other applicable law, for other constituents.

* * * * *

§ 552.13 [Amended]

44. Amend paragraph (l) of § 552.13 by inserting before the period at the end of the third sentence and the following ", or other applicable law".

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 561—DEFINITIONS

45. Revise § 561.1, as follows:

§ 561.1 Insured institution.

An "insured institution" is a Federal savings and loan association or Federal savings bank, an interim Federal association, a building and loan, savings and loan, or homestead association, or a cooperative bank, or an interim state institution, whose accounts are insured by the Federal Savings and Loan Insurance Corporation, referred to in this Subchapter as the "Corporation". The Federal Home Loan Bank Board is referred to in this Subchapter as the "Board". Except where otherwise noted, the term "insured institution" shall also be deemed to refer to a Federal association the deposits of which are insured by the Federal Deposit Insurance Corporation.

46. Amend § 561.2 by revising the first sentence, as follows:

§ 561.2 Insured member.

The term "insured member" means a holder of an account or accounts in an insured institution, other than a Federal association insured by the Federal Deposit Insurance Corporation.

* * * * *

42. Amend § 561.11 by inserting before the period at the end thereof the following: "or held by insured depositors in a Federal association the deposits of which are insured by the Federal Deposit Insurance Corporation".

PART 563—OPERATIONS

§ 563.7–1 [Amended]

48. Amend § 563.7–1 by removing the phrase "savings and loan" the first time it appears.

§ 563.7–4 [Amended]

49. Amend the first sentence of paragraph (a) of §§ 563.7–4 by removing the phrase "insured mutual institution" and adding in its place the phrase "insured institution that is in the mutual form".

§ 563.14 [Amended]

50. Amend § 563.14 by adding the word "insured" immediately before the word "institution" wherever the latter word appears, and by adding the phrase "or other account holders" immediately after the phrase "insured members" wherever the latter phrase occurs.

51. Amend § 563.15 by adding a new paragraph (c), as follows:

§ 563.15 Insurance premiums.

* * * * *

(c) *FDIC-insured Federal associations.* As used in this section, the term "insured institution" shall not refer to a Federal association the deposits of which are insured by the Federal Deposit Insurance Corporation.

§ 563.16 [Amended]

52. Amend § 563.16 by adding in the first sentence, immediately after the term "insured institution" the first time it appears, the phrase "(which, for the purposes of this section, shall not include a Federal association the deposits of which are insured by the Federal Deposit Insurance Corporation)".

53. Revise § 563.28, as follows:

§ 563.28 Advertising of insurance of accounts.

An insured institution, other than a Federal association the deposits of which are insured by the Federal Deposit Insurance Corporation, may advertise itself as a "member" of the Federal Savings and Loan Insurance Corporation.

54. Revise paragraph (a), the introductory text of (b) and (b)(1) of § 563.31, as follows:

§ 563.31 Other insurance or guaranty.

(a) *General rule.* An insured institution may not acquire any insurance on, or guaranty of, all or any part of its insured accounts in addition to the insurance provided in Title IV of the National Housing Act, other than a Federal association the deposits of which are insured by the Federal Deposit Insurance Corporation, and a Federal association the deposits of which are insured by the Federal Deposit Insurance Corporation shall not acquire any insurance on, or guaranty of, all or any part of its deposits insured thereby in addition to the insurance provided by the Federal Deposit Insurance Corporation.

(b) *Exceptions.* Paragraph (a) of this section notwithstanding: (1) A Federal association may give bond or security pursuant to § 545.24–2 of this Chapter;

* * * * *

PART 563b—CONVERSIONS FROM MUTUAL TO STOCK FORM

55. Revise paragraph (b)(4) of § 563b.3, as follows:

§ 563b.3 General principles for conversions.

* * * * *

(b) *General requirements.* * * *

(4) The converted institution would not have its accounts insured by the Corporation, except in the case of a Federal association insured by the Federal Deposit Insurance Corporation.

* * * * *

§ 563b.4 [Amended]

56. Amend clause (xiv) of paragraph (a)(4) of § 563b.4 by inserting, immediately after the word "Corporation", the following: ", or, in the case of a Federal association the deposits of which are insured by the Federal Deposit Insurance Corporation, by the Federal Deposit Insurance Corporation".

57. Amend paragraph (b) of § 563b.4 by revising the heading for the notice to read as follows: "Notice of Filing of an Application for Conversion to Convert to a Stock Savings and Loan Association or a Stock Savings Bank".

58. Revise the first sentence of subparagraphs (2) and (3) of paragraph (d) of § 563b.8, as follows:

§ 563b.8 Procedural requirements.

* * * * *

(d) *Termination or amendment of charter.* * * *

(2) A mutual association converting to a Federal stock association shall apply to amend its charter and bylaws to read in the form of a charter and bylaws for a Charter S or Charter T association. * * *

(3) The corporate existence of a mutual association converting to a Federal stock association shall not terminate, but the converted association shall be deemed to be a continuation of the entity of the association so converted. * * *

* * * * *

PART 564—SETTLEMENT OF INSURANCE

59. Add a new § 564.11, as follows:

§ 564.11 FDIC-insured Federal associations.

Federal associations the deposits of which are insured by the Federal Deposit Insurance Corporation are not deemed to be insured institutions for the purposes of this Part.

PART 565—TERMINATION OF INSURANCE

60. Add a new § 565.9, as follows:

§ 565.9 FDIC-insured Federal associations.

Federal associations the deposits of which are insured by the Federal Deposit Insurance Corporation are not deemed to be insured institutions for the purposes of this Part.

PART 569a—RECEIVERS FOR INSURED INSTITUTIONS OTHER THAN FEDERAL SAVINGS AND LOAN ASSOCIATIONS

61. Amend the heading of Part 569a removing the phrase "SAVINGS AND LOAN".

§ 569a.1 [Amended]

62. Amend paragraph (a) of § 569a.1 by adding the phrase "or Federal savings bank" immediately after the word "association" wherever that word appears.

SUBCHAPTER E—RULES AND REGULATIONS FOR FEDERAL MUTUAL SAVINGS BANKS

63. Remove Subchapter E in its entirety, to read as follows: Subchapter E—Rules and Regulations for Federal Mutual Savings Banks [Removed effective December 15, 1982.]

SUBCHAPTER F—REGULATIONS FOR SAVINGS AND LOAN HOLDING COMPANIES

PART 583—DEFINITIONS

§ 583.5 [Amended]

64. Amend § 583.5 by adding the phrase "or savings bank" immediately after the phrase "savings and loan".

§ 583.6 [Amended]

65. Amend § 583.6 by removing the term "savings and loan" the first time it appears, and by inserting before the period at the end thereof the following: ", and any Federal association the deposits of which are insured by the Federal Deposit Insurance Corporation".

§ 583.7 [Amended]

66. Amend § 583.7 by inserting before the period at the end thereof the following: ", but does not mean a Federal association the deposits of which are insured by the Federal Deposit Insurance Corporation".

PART 584—REGULATED ACTIVITIES

67. Amend paragraph (e) of § 584.1 by adding the phrase "or savings bank" immediately after the phrase "savings and loan" the second time the latter phrase appears.

(Sec. 2, 5, 48 Stat. 128, 132, as amended (12 U.S.C. 1462, 1464.); Sec. 401, 402, 403, 405, 406, 407, 48 Stat. 1255, 1256, 1257, 1259, 1260, as amended (12 U.S.C. 1724, 1725, 1726, 1728, 1729, 1730); Sec. 406, 82 Stat. 5, as amended (12 U.S.C. 1730a); Reorg. Plan No. 3 of 1947; 3 CFR, 1943–1948 Comp., p. 1071)

By the Federal Home Loan Bank Board
J. J. Finn,
Secretary.

[FR Doc. 82-34448 Filed 12-21-82; 8:45 am]
BILLING CODE 6720-01-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 1, 3, 4, 15, 16, 18, 21, 32, 33, 145, 147, 155, 170 and 180

Domestic Exchange-Traded Commodity Options; Expansion of Pilot Program To Include Options on Physicals

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rules.

SUMMARY: This Commodity Futures Trading Commission ("Commission") has previously adopted regulations to govern a three-year pilot program under which options on certain commodity futures contracts will be permitted to be traded on and through the facilities of domestic boards of trade designated by the Commission as contract markets for options trading. The Commission indicated at the time that it intended to supplement those rules with rules authorizing the trading of options on physicals on presently-designated contract markets and on other boards of trade which may qualify for designation to trade such options. The Commission has now adopted rules which, subject to review by the Commission's Congressional oversight committees pursuant to Section 4c(c) of the Commodity Exchange Act, authorize the trading of options on physicals, thereby completing this first phase of the pilot program. The new rules allow any domestic board of trade, regardless of whether it is currently engaged in the trading of futures contracts or options on those contracts, to apply for contract market designation for one option on a physical. The Commission is also amending a number of other rules, which apply to futures contracts and to options on futures contracts, for purposes of clarification as well as to include appropriate references to option transactions.

EFFECTIVE DATE: Except as specified herein, the rules will become effective January 21, 1983. The amendments to §§ 1.3(*ll*), 33.4, 33.6, and 33.7 (except §§ 33.7(b)(2)(viii), (c), (d)) will become effective upon the expiration of 30 calendar days of continuous session of Congress after the transmittal of those rules, and related materials, to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry pursuant to Section 4c(c) of the Commodity Exchange Act, but not before further notice of the effective date is published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Lawrence B. Patent, Special Counsel, or Kenneth M. Rosenzweig, Assistant Chief Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street N.W., Washington, D.C. 20581. Telephone: (202) 254-8955. For information concerning amendments to 17 CFR Parts 15-18 and 21, contact: Lamont L. Reese, Associate Director, Division of Economics and Education, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581. Telephone: (202) 254-3310.

SUPPLEMENTARY INFORMATION:

I. Introduction

On November 3, 1981, the Commission published regulations to establish a three-year pilot program for the trading, on domestic exchanges, of options on certain commodity futures contracts. 46 FR 54500. Those rules, however, did not authorize or otherwise directly apply to options on actual commodities ("physicals"). The Commission noted at that time that it was "exercising only one aspect of its jurisdiction with respect to options" [1] and, on the same date, published a separate notice of proposed rulemaking in which it reaffirmed its intention to adopt rules which would permit the trading of options on physicals. 46 FR 54570.

The Commission received nineteen comments in response to that notice. Only three of those comments, however, offered specific suggestions as to how the Commission's rules should be amended to include options on physicals. In an effort to engender as much public participation as possible, the Commission thereafter published for public comment proposed rules which would further amend the Commission's regulations to accommodate options on physicals and to make minor clarifying and conforming changes to certain of the Commission's other regulations. 47 FR 28401 (June 30, 1982).

The Commission received seventeen comment letters in response to its June 1982 proposal. The commentors included six contract markets, three securities exchanges which list stock options for trading, five futures commission merchants ("FCMs"), a trade association, a law firm, and the National Futures Association. The Commission has carefully considered those comments, as well as the comments it received in response to the regulations proposed in June 1981 to establish the option pilot program [2] and its November 3, 1981 notice of proposed rulemaking and, as is discussed in greater detail below, has determined to adopt regulations which will permit any board of trade—irrespective of whether it is presently designated as a contract market for futures trading or for options on futures contracts—to apply for designation as a contract market for the trading of one option on a physical. These regulations also permit, in appropriate cases, the "cash settlement" of options on physicals.

II. Completion of the First Phase of the Pilot Program

When the Commission proposed rules to incorporate options on physicals within the scope of the pilot program, it proposed to allow any board of trade meeting the requirements of the Act and the Commission's regulations to apply for designation to trade one option on a physical.[3]

Three commentators supported the Commission's proposal on the grounds that the inclusion within the pilot program of boards of trade that are not presently designated as contract markets would enhance competition and the quality of the data generated by the pilot program. A fourth commentator disagreed, stating that such a previously-undesignated board of trade would be unable to monitor the interaction of prices for the option and the related futures contract and that the activities of persons not subject to the jurisdiction of the contract market designated to trade the related futures contract could adversely affect the operations of that contract market. The Commission has considered these comments, as well as the comments it has received in response to earlier requests for comments on this question,[4]

---

[1] *Id.* at 54501.

[2] *See* 46 FR 54570, 54571 n.2 (November 3, 1981), referring to 46 FR 33293 (June 29, 1981).

[3] Proposed § 33.4(a)(6). By comparison, before it may be designated as a contract market for options on a futures contract, § 33.4(a)(3) specifies that a board of trade must first be designated as a contract market for that underlying futures contract.

[4] In connection with its June 1981 proposal to establish a pilot program for options trading and subsequently, in a notice of proposed rulemaking relating solely to options on physicals, the Commission requested comments as to whether it should restrict the trading of options on physicals to those boards of trade which are designated as a contract market for a futures contract which draws on the same deliverable supply as the proposed option on a physical. 46 FR 33293, 33295 (June 29, 1981); 46 FR 54570, 54571 (November 3, 1981).

and has determined not to preclude previously undesignated boards of trade from participating in this portion of its pilot program.

Although, as noted earlier, a board of trade must be designated as a contract market for futures trading before it may be designated for the trading of options on that futures contract, the Commission is not convinced that similar restrictions are necessary with respect to options on physicals. In this regard, the Commission notes that all contract markets—whether designated for futures contracts, options on futures contracts, or options on physicals—must conduct regular and continuous surveillance of the underlying cash market.[5] A contract market which has been designated for a futures contract involving a commodity which also underlies an option on a physical would have market surveillance responsibilities which are essentially no different from its present obligation to monitor activity in the cash market underlying the futures contract. Thus, the Commission does not believe that any regulatory benefits would be achieved by limiting involvment in this portion of the pilot program to those exchanges and FCMs which are already participating in that program.[6]

The Commission also proposed to limit each exchange to no more than one option on a futures contract and one option on a physical. Proposed § 33.4(a)(6). In seeking to determine the appropriate scope of the pilot program, however, the Commission specifically requested comments as to whether it should nonetheless allow each exchange to trade any two option contracts, regardless of whether those option contracts would involve options on futures contracts, options on physicals, or one of each type of option. 47 FR at 28404.

The Commission received a wide range of comments on this question. A number of the commentators urged the Commission to allow the exchanges to select either two options on futures or two options on physicals. These commentators maintained that the regulatory burdens on the Commission and on the exchanges would not be significantly greater if the Commission were to allow such an election rather than limit further expansion of the pilot program to one option of each type. One of these commentators further stated that inasmuch as Section 15 of the Commodity Exchange Act ("Act") (7 U.S.C. 19) directs the Commission to endeavor to use the least anticompetitive means of accomplishing its objectives, the Commission should allow the exchanges to decide how to allocate the permitted number of option contracts between options on futures and options on physicals in order to develop whichever contract a particular exchange believed would be most economically viable. Other commentators, concurring in the Commission's decision to proceed cautiously with any expansion of the pilot program, urged the Commission to adhere to its proposal and allow only one option of each type. Finally, one commentator suggested that the Commission defer any measures which would permit the trading of options on physicals and instead, expand the pilot program solely to allow each qualifying exchange to offer two options on futures contracts.

The Commission has stated, both in the **Federal Register** releases accompanying the proposed and final regulations for exchange-traded options[7] and in the materials submitted to Congress pursuant to Section 4c(c), that it intends to proceed with due caution in any expansion of the option pilot program. After careful consideration of all the comments and other relevant factors, the Commission has decided to broaden the pilot program no further than is necessary to allow each qualifying exchange to be designated solely for one option on a futures contract and one option on a physical.[8] Although the unique attributes of options on physicals [9] will complement the Commission's assessment of the use and market performance of option contracts, the Commission has chosen to proceed in a controlled and orderly manner until both the Commission and the exchanges have had greater experience with the trading of options under the pilot program. The Commission thus views the adoption of rules implementing the inclusion of options on physicals as constituting the completion of the first phase of the option pilot program.[10] The Commission believes that the primary goal of the option pilot program—the development of data and information which will permit the Commission to determine whether and under what conditions options trading should be allowed to continue after the pilot program has terminated [11]—are best served, at least at this juncture, by this balanced approach.

This Commission is, of course, cognizant of its responsibilities under Section 15 of the Act. Section 15, however, does not require the Commission to subordinate the policies and purposes of the Act to those of the antitrust laws. Section 15 requires only that the Commission, in achieving the goals and policies of the Act, consider the public interest served by the antitrust laws and endeavor to use the least anticompetitive means available. Limitations of the type now being adopted by the Commission are, of course, inherent in an experimental pilot program. Moreover, Section 15 does not require the Commission to adopt the least anticompetitive course of action where the objectives, policies and purposes of the Commodity Exchange Act would be better served in some other way.[12] The Commission further

---

[5] *See, e.g.*, Commission rule 1.51(a)(1), 17 CFR 1.51(a)(1).

[6] The Commission expects that boards of trade which have not previously been designated as, or applied for designation as, contract markets for the trading of options on futures contracts will apply for designation for options on physicals. Because § 33.3(b)(1) presently restricts the solicitation and acceptance of option customers' orders to those FCMs which are members of the contract market on which the option is traded, the Commission expects that the participation in the pilot program of additional exchanges should further broaden the number of FCMs who may offer at least one commodity option to option customers.

[7] *See, e.g.*, 47 FR 28401, 28404 (June 30, 1982); 46 FR 54500, 54501–02 (November 3, 1981); 46 FR 33293, 33294, 33295 (June 29, 1981).

[8] By letter dated December 9, 1981, the Board of Trade of the City of Chicago ("CBT") petitioned the Commission to repeal regulation 33.4(a)(4) which, at the time that petition was submitted, prevented a board of trade from being designated as a contract market for more than one option on a futures contract and, in particular, precluded the CBT from applying for contract market designation for options on Government National Mortgage Association collateralized delivery receipt futures contracts. In amending § 33.4 to allow the boards of trade to be designated solely for one option of each type, the Commission has considered the views of the CBT in support of its petition. The petition of the CBT has been denied to the extent that the CBT would seek authority to trade more than one option on a future contract or one option on a physical.

[9] For example, and as discussed elsewhere in this **Federal Register** release, the Commission has declined to require a limited period (or a single date) for the exercise of options on physicals. As a result, unlike futures contracts which have a much more limited delivery period, options on physicals could be exercised at any time prior to expiration.

[10] The Commission has previously indicated, both in the **Federal Register** notice announcing the adoption of the pilot program regulations and in the materials provided to the Commission's Congressional oversight committees pursuant to Section 4c(c) of the Act (7 U.S.C. 6c(c)), that it intended to supplement the pilot program regulations to permit the trading of options on physicals.

[11] 46 FR 33293, 33294 (June 29, 1981).

[12] *British American Commodity Options Corp.* v. *Bagley*, Comm. Fut. L. Rep. (CCH) § 20,245 at 21,334 (S.D.N.Y. December 21, 1976), *aff'd in part and rev'd in part on other grounds*, 552 F. 2d 492 (2d Cir.), *cert. denied*, 434 U.S. 938 (1977).

believes that these restrictions are reasonable and necessary if it is to limit appropriately the phased expansion of the pilot program. The Commission nonetheless intends to monitor closely all facets of option trading under the pilot program and will use the experience gained as a result of that review to determine if further expansion of the pilot program should be permitted.[13]

When it adopted regulations governing the trading of options on futures contracts, the Commission indicated that it would simultaneously review all option designation applications which were received by a specified date. The Commission has decided, however, that this approach is unnecessary to this completion of the first phase of the pilot program and therefore, will consider applications for contract market designation for the trading of options on physicals in accordance with the policies and practices that normally apply to such applications.[14]

Although the preponderance of the rules which the Commission is now adopting will become effective thirty days after publication of this **Federal Register** notice, certain of those rules which relate specifically to the trading of options on physicals will not become effective until after the conclusion of the Congressional review period specified in Section 4c(c) of the Act. Thus, although the Commission will accept applications for contract market designation made in accordance with these rules at any time, it will not designate any board of trade as a contract market for the trading of options on physicals until such time as the Commission provides notice in the **Federal Register** that those latter rules have been transmitted to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry in accordance with the requirements of the Act and have thereafter been declared by the Commission to be effective.

III. Commodity Option Transactions

The Commission proposed to define the term "physical" principally to enable the Commission to differentiate, where necessary, between references in its regulations to options on physicals and options on futures contracts. One commentator noted that the proposed definition could apply to certain transactions which would be excluded from the Commission's jurisdiction upon the passage of legislation affecting the respective jurisdictions of the Commission and the Securities and Exchange Commission. As the Commission stated in the **Federal Register** release accompanying the proposed regulations, the definition of "physical" is intended to be coextensive with the Commission's jurisdiction with respect to commodity options and would therefore be limited by any statutory limitation of the Commission's authority with respect to options on securities or exempt securities. 47 FR 28401, 28402 (June 30, 1982). Section 1.3(11) is therefore being adopted without change.

The Commission proposed to amend § 33.4(a)(3), which relates to demonstrations by applicant exchanges of continued compliance with the requirements for contract market designation, to make the requirements of that section applicable solely to options on futures contracts. The Commission also proposed to establish a comparable rule (§ 33.4(a)(4)) for those boards of trade which are already designated as a contract market for futures contracts or options on futures contracts and which are applying for contract market designation for options on physicals. One commentator, noting that neither rule would apply to an applicant board of trade which is not yet designated as a contract market for either futures contracts or options on futures contracts, suggested that the Commission rectify this apparent disparity. As the Commission indicated when it proposed these rules, however, such a board of trade still would be required to demonstrate compliance with the requirements of Sections 5 and 5a of the Act (7 U.S.C. 7, 7a) as part of its initial application. The Commission is, therefore, adopting §§ 33.4(a) (3) and (4) without change.

Compliance with the conditions and requirements of Sections 5 and 5a of the Act would also entail compliance with, *inter alia*, Commission rules 1.51 and 1.52 (17 CFR 1.51, 1.52). Thus, the Commission notes that although the references to § 1.50 (17 CFR 1.50) contained in §§ 33.4(a) (3) and (4) necesarily would apply only to boards of trade already designated for futures or option trading in the commodity which is the subject of the application, the Commission will evaluate especially carefully any exchange's application for contract market designation for option trading where the Commission's experience with that exchange indicates that the exchange is not satisfactorily discharging its self-regulatory responsibilities under the Act and the regulations thereunder. (Of course, nothing in § 33.4(a) (3) or (4) limits the Commission's authority to make a "§ 1.50 call" with respect to any designated futures or option contract.) Similarly, the Commission would in appropriate cases consider any disciplinary actions against or sanctions imposed on an applicant by the Securities and Exchange Commission as bearing upon the board of trade's ability and willingness to comply with the requirements of the Act and the Commission's regulations.

Sections 33.4(a)(1)(ii) specifies that options on futures contracts may be exercised only by the establishment, by book entry, in the clearing organization of positions in the underlying futures contract. By comparison, the Commission's June 30, 1982 proposal did not include any restrictions on the delivery mechanism for options on physicals. Instead, the Commission announced its intention, should the proposed regulations be adopted, to "consider applications for contract market designation which provide for cash settlement in lieu of actual delivery of [the] underlying physical in the event of exercise of an option on a physical." 47 FR at 28403. In this regard, the Commission noted that cash settlement of options on physicals might be appropriate in certain circumstances, such as where cash settlement would reduce the possibility of disruption of either the cash or futures markets or facilitate trading in the option itself.

The Commission received three comments on this issue. Two commentators suggested that cash settlement should not be permitted at all while the other commentator stated that cash settlement should be permitted only where the related futures contract is settled in cash. One of these commentators further stated that a central issue in the evaluation of options on physicals is the reliability and accessibility of cash market price quotations.

The Commission has decided, after careful review of the comments, to neither prohibit nor require cash

---

[13] Legislation now pending in Congress (H.R. 5447 and S. 2109) would remove the ban, contained in Section 4c of the Act (7 U.S.C. 6c), on options involving the commodities specifically enumerated in Section 2(a)(1) of the Act (7 U.S.C. 2). If that legislation is enacted, the Commission's experience with trading under the pilot program will be of significance to Commission decisions on the appropriate regulatory framework for such options.

[14] Section 33.5(c) provides, in pertinent part, that contract market designations for option trading "shall be for a period not to exceed three years * * * or such shorter period as the Commission may specify. * * *" Because the pilot program will terminate, unless otherwise extended, on September 30, 1985 (three years after the effective date of the initial designations under the pilot program), contract market designations for options on physicals will also cease to be effective after that date absent further action by the Commission.

settlement in lieu of actual delivery of the underlying physical. The Commission reaffirms its belief that cash settlement of options on physicals may be approporiate in certain circumstances and that the appropriateness of cash settlement is best addressed in the context of specific exchange proposals for option trading where the potential benefits and drawbacks of cash settlement may be evaluated fully in the context of the terms and conditions of the option contract.

One of the commentators maintained that allowing cash settlement could increase the likelihood that an option's settlement prices would be tied to the closing or settlement prices for the related futures contract or option on that futures contract. As discussed elsewhere in this **Federal Register** release, however, the Commission recognizes the importance of a reliable and accessible cash-market price for the physical underlying an option on a physical and has adopted, in § 33.4(a)(5)(iv)(B), a requirement that the boards of trade demonstrate an adequate cash price series as part of the designation process. Indeed, one of the reasons the Commission has required an adequate cash price series is to avoid reliance on the closing or settlement prices for a related futures contract (or option on a futures contract) for the settlement price of an option on a physical.

The Commission proposed that a board of trade applying for contract market designation for the trading of options on physicals demonstrate that "the cash market for the underlying physical exhibit sufficient liquidity so that option grantors and purchasers can purchase or sell the underlying physical at its economic value in normal cash marketing channels." Proposed § 33.4(a)(5)(iv)(A). The Commission proposed this requirement because of its belief that non-commercial traders should be able to buy or sell the physical underlying the option at its economic value without significant disadvantage relative to other traders.

This rule for options on physicals parallels a requirement for futures market liquidity (§ 33.4(a)(5)(iii)) applicable to options on futures contracts. Both rules seek to prevent the trading and exercise of options from disrupting underlying cash and futures markets. The Commission's rule for options on physicals also helps to ensure that those options can be exercised at their economic value, thereby providing an opportunity for the option holder to receive the intrinsic value of the option. The lack of a liquid cash market could especially disadvantage holders of deep-in-the money options who might have to accept significant discounts from the intrinsic value of the option if the ability to receive the economic value of the physical through exercise of the option did not exist.

Four commentators objected to this proposed designation requirement. These commentators asserted that the standard was vague, that cash market liquidity was irrelevant under certain circumstances, and that the existence of a liquid cash market prior to the commencement of option trading was not necessary. The Commission believes that its rule is sufficiently specific to apprise the boards of trade of the minimum standards necessary to demonstrate liquidity in the underlying cash markets. These measures of liquidity could include, in appropriate cases, bid-ask spreads, the number of transactions per unit of time, and the closeness of the prices for large and small orders. The Commission also recognizes, as mentioned by one commentator, that option trading may itself encourage the development of liquid cash markets. However, the Commission is not persuaded that a mere expectation that such liquidity will develop after the introduction of option trading is an appropriate basis upon which to trade options on physicals in view of the limited, rigidly-controlled nature of the option pilot program. The Commission, therefore, will not authorize options on physicals which lack the basic liquidity in the underlying physicals market which the Commission deems necessary for market and customer protection. The Commission has accordingly determined to adopt § 33.4(a)(5)(iv)(A) as proposed.

The Commission also proposed that a board of trade seeking designation to trade options on physicals demonstrate the existence of an accurate, widely-disseminated price series for the underlying physical. Proposed § 33.4(a)(5)(iv)(B). In proposing this requirement, the Commission stated that it deemed such a price series to be necessary because option premiums and the intrinsic value of an option on a physical will be derived from the current market value of the underlying physical. Thus, the Commission stated that a reliable price series would be essential if option customers were to be able to measure the value of their option contracts.

Three commentators opposed this proposal on several grounds. One commentator suggested that because there is no similar requirement for futures contracts or for options on futures contracts, the Commission should not adopt such a requirement for options on physicals. The Commission disagrees. First, while futures markets can serve a price discovery and price-basing function, there is no direct analogue to these functions in the option markets. Second, a requirement concerning an appropriate cash price series is not necessary for options on futures contracts inasmuch as the futures price serves the same purpose as the cash price series serves for options on physicals. Moreover, the Commission notes that its rules already specify that options on futures contracts can be designated only where there is a liquid underlying futures market and where the applicant board of trade complies with the conditions and requirements for designation as a contract market—*i.e.*, where the underlying futures contract generates a reliable and widely-disseminated price series. *See* § 33.4(a)(5)(iii) and § 33.4(a)(3).

The Commission further notes that the functions of the option markets do not include discovery of the price of the underlying future or commodity. Specifically, there is no single or small range of prices of the underlying future or commodity which can be imputed from an option premium because the option premium also depends on such subjective elements as expected future price volatility and price distributions of the underlying future or commodity. Accordingly, the Commission does not agree with the commentator who stated that the value of the underlying commodity can be derived from the price of the option itself.

Finally, one commentator noted that the commodities markets typically do not have accurate, widely-disseminated price series. In the absence of accurate and widely-disseminated cash prices, however, market participants and members of the public do not have an objective standard against which to measure the price and performance of their options and on which to base their decisions to maintain, offset or exercise their option positions. As indicated above, the Commission believes that in order to maintain the customer information and protection standards already established for options on futures contracts, such commodities should not be eligible for designation for options on physicals. The Commission has therefore decided to adopt § 33.4(a)(5)(iv)(B) as proposed.

As proposed, § 33.4(a)(5)(iv)(C) would require an applicant board of trade to demonstrate that the trading of options

on physicals will not disrupt trading in either the cash market for the underlying physical or in any futures contract. The Commission received two comments on its proposal. One commentator stated that § 33.4(a)(5)(iv)(C) was redundant in light of proposed §§ 33.4(a)(5)(iv)(A) and (B) while the other commentator supported the proposed rule.

The Commission does not agree with the commentator who suggested that this requirement is superfluous; rather, the Commission believes that this rule complements §§ 33.4(a)(5)(iv)(A) and (B). Specifically, the Commission notes that, without proper safeguards, the trading of options on physicals could disrupt trading in liquid cash markets and in related futures markets, particularly during or immediately before the delivery period. The Commission has accordingly determined to adopt § 33.4(a)(5)(iv)(C) as proposed. The Commission notes that under this rule, applicant boards of trade will be required to demonstrate that they have taken into account potential adverse effects on the underlying cash market in the design of their proposed option on physicals contracts and, in those cases in which related futures contracts are trading, have also considered the potential adverse effects on such futures contracts. In addition, applicant boards of trade must demonstrate that they have a systematic means of monitoring and acting to prevent any disruptions of the cash market and related futures markets, if any, particularly when the period during which options on physicals are likely to be exercised is close to the futures delivery period.

Proposed §§ 33.4(a)(7), (8) and (9) would have codified and made applicable to the trading of options on physicals the requirements of Commission Guideline No. 1. Several commentators objected to this codification on the grounds that it would reduce flexibility in the contract designation process.[15] While the Commission does not necessarily agree with these comments, it has determined not to codify these requirements in its option regulations for the reasons set forth in the **Federal Register** release accompanying the Commission's recent revision of Guideline No. 1.[16] The Commission is instead adopting a requirement that an applicant board of trade demonstrate, consistent with a description of the cash market furnished by the board of trade, that the individual terms and conditions of the contract are justified. Section 33.4(a)(5)(iv)(D).[17]

Section 33.4(b)(1)(iii) has been amended to require option contract markets to specify "the point, in terms of the underlying futures contract or underlying physical, at which a new strike price will be introduced in any option which is already trading." One commentator urged the Commission alternatively to allow strike prices for options on physicals to be based upon futures contracts where there is no widely-disseminated cash price series for the underlying physical. The Commission, however, would not designate an option on a physical in the absence of such a cash price series. *See* § 33.4(a)(5)(iv). Furthermore, the Commission is concerned that allowing strike prices for options on physicals to be based, in whole or in part, on a futures contract—which may or may not be traded on the same exchange on which the option is traded—could have adverse effects on the pricing efficiency of that futures contract.

Proposed § 33.4(a)(8)(iv) would have required a board of trade applying for contract market designation for the trading of options on physicals to include in its application an analysis and justification of any proposed option expiration date. Although the Commission did not propose to otherwise restrict the time when such an option could be exercised, the Commission specifically requested comments as to whether there should be a limited period or a single date for the exercise of options on physicals. 47 FR 28401, 28403 (June 30, 1982).

The Commission received six comments on this question, three of which supported permitting exercise at any time prior to the expiration of the option and two of which opposed unlimited exercise. The sixth commentator favored exercise at any time during the life of the option only if the option expiration date occurred prior to the first notice date for delivery of any related futures contract.

After considering these comments, the Commission remains of the opinion that restrictions on the exercise of options on physicals are best reviewed on a case-by-case basis. The Commission agrees, however, with the commentator who noted that the exercise of options on physicals may be disruptive of the futures markets if, for example, option grantors or purchasers take opposite positions in the futures market and then make or take delivery on those futures contracts if the options are exercised. That commentator argued that the delivery period for a futures contract should be protected from such adverse effects in the same manner as it is protected from the trading of options on futures. The Commission finds merit in this comment and is therefore modifying § 33.4(d)(1) to extend to options on physicals the requirement that the expiration date of the option ordinarily precede by at least ten business days the first notice day or last trading day of any related futures contract.

In response to a suggestion made by one of the commentators, the Commission has modified the last sentence of paragraph (1) of the Options Disclosure Statement (§ 33.7(b)(1)) in order to clarify its meaning. The Commission has also modified that paragraph to alert option customers to the possibility that the exercise period for some options may be restricted.

Another commentator noted that the description of the profit potential of deep-out-of-the-money options as "remote" (§ 33.7(b)(6)) was not necessarily accurate. Specifically, this commentator stated that an option customer could profit on the purchase of a deep-out-of-the-money option upon offset after a price change in the underlying futures contract or physical resulted in a favorable price change in the option premium. The Options Disclosure Statement, however, does not indicate that an option purchaser cannot profit from such an option position; instead, it indicates that such profits are ulikely. Therefore, although this commentator is correct, the Commission believes that this is a matter that is best explained orally to those option customers who may be contemplating the purchase of a deep-out-of-the-money option and that further elaboration of this issue in the Disclosure Statement would be unnecessarily confusing.

The Commission proposed to amend paragraph (b)(2)(viii) of the Options Disclosure Statement to make clear that the required discussion of the effects of limit moves in the futures market did not apply to options on physicals. Specifically, that rule requires FCMs to provide their option customers with the following information for options on futures contracts:

The loss (or profit) that could be generated by the option position by a limit move (or a series of limit moves) in the underlying

[15] A number of the commentators reiterated or incorporated by reference comments they had already made in connection with the Commission's earlier proposed codification of Guideline No. 1. *See* 45 FR 73504 (November 5, 1980).

[16] 47 FR 49832 (November 3, 1982).

[17] This demonstration should be made in accordance with Sections A and B, respectively, of revised Guideline No. 1. The justification required under 33.4(a)(5)(iv)(D) is not the only economic requirement for designation of a contract market to trade options on physicals. *See, e.g.*, § 33.4(a)(5)(i), which requires a demonstration of a legitimate economic purpose, such as the reduction of commercial risks.

future, both in total dollars and as a percentage of the total cost of the option.

One commentator urged the Commission to delete this requirement. In support its position, that commentator stated that its experience had already indicated that compliance with this requirement was extremely costly and inherently difficult because it necessitated a series of complex computations that are not readily understood by option customers.

The Commission has reconsidered that portion of its disclosure rule in light of its objective that all option customers be fully informed of the risks involved in option trading. *See* 46 FR 54500, 54507 (November 3, 1981). The Commission agrees that a literal calculation of the effects of limit moves on the profit potential of an option is unduly complicated and provides information that is, at best, of little value to option customers. The Commission believes, however, that a generic discussion of the possibility of limit moves in the futures contract underlying a commodity option may well be of importance to option customers, particularly insofar as trading in pilot program options "may attract customers who heretofore have had little or no exposure to the commodity markets." *Id.* The Commission has, therefore, modified that portion of its disclosure rule to eliminate the present requirement that an FCM provide its option customers with detailed calculations of the effects of limit moves and instead, will require that an FCM provide generalized information as to the effect of such market activity.

The Commission is aware that the amendments to the Disclosure Statement necessitated by the inclusion within the pilot program of options on physicals will ultimately require revision of those Statements. The Commission does not believe that it is necessary, however, to require the amendment of those Statements prior to the commencement of trading in options of physicals. Accordingly, the Commission will deem an FCM to be in compliance with the requirements of § 33.7(a) if, subsequent to the final adoption of these amendments to § 33.7, it continues to provide to its prospective option customers Options Disclosure Statements that have not been amended to reflect the revisions that are made necessary by the trading of options on physicals. This "no action" position will terminate, however, when the Commission designates one or more exchanges as contract markets for the trading of options on physicals. All FCMs will then be required to provide the same Options Disclosure Statement, irrespective of whether a particular FCM intends to offer options on physicals to its option customers.

It has come to the Commission's attention that certain portions of its disclosure rules are susceptible of interpretations which are contrary to the Commission's intentions. For example, § 33.7(a) provides that "[t]he disclosure statement and the acknowledgment [Signed and dated by the option customer] shall be retained by the futures commission merchant in accordance with § 1.31." The Commission is aware that this provision could be interpreted to mean that an FCM must maintain one copy of that statement for each of its option customers. The rule is intended, however, generally to require only that an FCM retain a single copy of the Disclosure Statement. Of course, should an FCM provide different versions of the Disclosure Statement to different option customers (such as where the Disclosure Statement has been revised to incorporate references to options on physicals), the FCM's records must accurately reflect which version of the Disclosure Statement was provided to particular option customers. Furthermore, an FCM continues to remain obligated to retain, in accordance with § 1.31, the required acknowledgment for each of its option customers.

Section 33.7(c) presently provides that an FCM must provide an option customer with all of the information required under paragraph (b) of that rule "[p]rior to the entry into a commodity option transaction. * * *" The Commission understands that some persons have asked whether this would require an FCM to provide information to its option customers before the entry of every option order. The Commission's intention, however, was to ensure that each option customer is fully informed as to the matters discussed in the Disclosure Statement prior to the time he commences trading. The Commission has, therefore, modified that portion of its rule to require the disclosure of this information" [p]rior to the entry of the first commodity option transaction for the account of an option customer. * * *[18] Of course, this rule change does not affect an FCM's obligation to provide new or additional information to its option customers prior to the entry of an order if the information previously provided has become inaccurate or incomplete. *See* § 33.7(f). Although the rules which the Commission is now adopting generally will not become effective until after publication of this **Federal Register** notice, the Commission has instructed its staff not to take enforcement action against any FCM or person soliciting or accepting the order therefor which chooses to conform its disclosure practices to the revised requirements of § 33.7 prior to that time.

[18] The Commission has further modified paragraphs (c) and (d) of rule so that the limitations, if any, on the transfer of an option customer's account generally need only be provided prior to the commencement of trading and not prior to the entry of each option order.

IV. Amendments to Existing Regulations

The Commission is adopting minor amendments to the definitions of the terms "associated person" (§ 1.3(aa)), "commodity option transaction" and "commodity option" (§ 1.3(hh)), and "strike price" (§ 1.3(kk)) and, as noted earlier, is also adding a definition of the term "physical" § 1.3(ll)).

The Commission did not receive any comments on the proposed amendments to §§ 1.3(aa) and 1.3(kk) and they are being adopted without change. The Commission similarly did not receive any comments on the proposed amendment to § 1.3(hh), which clarifies that the terms "commodity option transaction" and "commodity option" are not defined by reference to any particular commodity but instead are determined by the descriptions of transactions provided in that paragraph. Section 1.3(hh) is therefore being adopted in the form in which it was proposed.

The Commission is making several changes to § 1.17, the minimum financial rule for futures commission merchants. In particular, the Commission has decided that no "haircut," or safety factor charge, need be taken against an FCM's adjusted net capital for inventory which is currently registered as deliverable on a contract market and is covered by a futures contract or an option on a physical. Section 1.17(c)(5)(ii)(A). Some of the commentators, while acknowledging the basis for the Commission's approach, urged the Commission to afford similar treatment to inventory which is "covered" by options on futures contracts. The Commission believes, however, that subparagraph (B) of § 1.17(c)(5)(ii) already sets forth the appropriate charge in such cases and has therefore adopted the amendment as proposed.

The Commission is also amending paragraphs (c)(1)(iii) and (c)(5)(xi) of § 1.17 to make clear that those provisions are consistent with the definition of "physical" and further, to specify that they apply regardless of whether the option involved is an option

on a physical or an option on a futures contract.[19] Finally, the Commission is amending §§ 1.17(c)(5)(x) and (c)(5)(x)(D) to make minor, clarifying changes in the terminology of those paragraphs. The Commission did not receive any comments on those portions of its proposal and they are being adopted without change.

Section 1.19 is being amended to delete specific references to various types of option transactions and by inserting the term "commodity option" in their place. No comments were submitted in response to the proposed amendment.

The Commission is adopting, without change, certain technical amendments to § 1.22. One commentator asked whether § 1.22 prohibits the use of customer funds (as defined in § 1.3(gg)) to purchase a commodity for the purpose of covering a granted option. By its terms, § 1.22 imposes obligations upon FCMs (and other depositories of customer funds); it does not, by comparison, preclude an FCM from so using customer funds pursuant to instructions from a customer or option customer.

The Commission is amending § 1.33, which relates to confirmation and monthly statements, to include references to options on physicals. Section 1.33(a) is also being amended to require FCMs to provide to their futures customers a monthly activity statement which contains, among other items, information relating to financial charges and credits during the preceding month; this information is already required to be provided to option customers. One commentator objected to this latter requirement, stating that the Commission should not establish such a rule without specifically identifying all of the items that would have to be included in the monthly statement. The Commission does not agree that any further elaboration is necessary in view of the existing and widespread industry practice of separately enumerating such charges and credits on customers' account statements and in view of the variety of debit and credit items that may be properly posted to a customer's account. The Commission had also proposed to require the itemization of commissions and fees in the monthly statements provided to futures customers. The Commission has, however, received suggestions from certain FCMs that such a requirement would be costly to implement and furthermore, may not be of significant benefit to customers, who already receive this information on a timely basis. The Commission is therefore today publishing a separate notice of proposed rulemaking in the **Federal Register** specifically requesting comments as to whether it should further amend §1.33(a)(1)(iv) to require the inclusion of commissions and fees in the monthly statements provided to futures customers.

Section 1.33(b)(2)(v) presently requires FCMs to provide to their option customers confirmation statements which specify both the expiration date and the final exercise date of the option as well as the final trading date of the contract for future delivery underlying an option on a futures contract. The Commission has become aware, however, that the inclusion of the expiration date and the final trading date of an underlying futures contract may be creating unnecessary operational difficulties for FCMs and, in some instances, causing confusion to option customers. Specifically, the Commission anticipates that many option positions will be offset or allowed to expire, in which cases the final trading date of the underlying futures contract will be of little importance to an option customer. Furthermore, the Commission is concerned that option customers could, in reviewing their confirmation statements, confuse the final exercise date of the option with either the option expiration date or the final futures trading date and inadvertently allow profitable option positions to expire unexercised.

The Commission is, therefore, deleting from § 1.33(b) any requirement that the option expiration date appear on a confirmation statement. By comparison, the Commission believes that information as to the final trading date of the underlying futures contract will be of interest to those option customers who do exercise their option positions. The Commission has accordingly removed from § 1.33(b)(2)(v) the requirement that the final trading date of the underlying futures contract appear in every option confirmation statement and instead, will require that this information be provided only in the event of exercise of an option on a futures contract. *See* § 1.33(b)(3). Although these rule changes will not become effective until thirty days after the date of this **Federal Register** notice, the Commission has instructed its staff not to take enforcement action against any FCM which chooses to conform its confirmation and monthly statements to the revised requirements of § 1.33(b) prior to that time.

No comments were received in response to proposed changes to §§ 1.34, 1.35 and 1.39. The Commission is adopting these amendments without change. The amendments are basically technical in nature and, in general, merely incorporate appropriate references to options on physicals. Section 1.35(e) has also been amended to refer to the non-competitive execution of option transactions in accordance with contract market rules submitted to and approved by the Commission in accordance with § 1.38, thereby conforming the concluding paragraph of § 1.35(e) to earlier amendments to § 1.38.[20]

When it adopted rules to govern the option pilot program, the Commission amended § 1.41(a)(2) to specify, consistent with the prohibition on the margining of option premiums contained in § 33.4(a)(2), that the term "reviewable rule" of a contract market (§ 1.41(a)(2)) included contract market rules relating to the payment or collection of commodity option premiums. 45 FR 54500, 54510 (November 3, 1981). The Commission further indicated that it had instructed its staff to review carefully the exchanges' applications for option contract market designation to ensure that each board of trade or its clearing organization, as applicable, will have in place a system to require the payment of margin by option grantors and, where applicable, their FCMs. *Id.* at 54505. Thus, when the Commission proposed rules to incorporate options on physicals within the scope of the option pilot program, it proposed, consistent with its existing practice, to amend §1.41(a)(2) to specify that the term "reviewable rule" also included any rule of a contract market "relating to the payment or collection of commodity option margin."

A number of commentators, concerned that the Commission intended to involve itself in the setting of levels of margin, maintained, *inter alia*, that the Commission was ill-equipped to act promptly in response to the changes in market conditions that not infrequently require an adjustment in the levels of margin established by the exchanges or their clearing organizations. These commentators further observed that Commission review of option margin levels could result in an anomalous situation

[19] One commentator, noting that the proposed rules referred to the "market value of the physical or futures contract which is the subject of the option," stated that a futures contract does not have a "market value" *per se*. The Commission has used the term "market value" in § 1.17 to mean the settlement price of the underlying futures contract, inclusive of unrealized gains and losses.

[20] 46 FR 54500, 54523 (November 3, 1981); *see* 47 FR 28401, 28406 (June 30, 1982).

whereby futures margin levels could be changed immediately, but option margin levels would remain unadjusted pending review and approval by the Commission. As indicated above, the Commission's proposal was not intended to abrogate the routine determination, by the exchanges, of appropriate levels of margin. Indeed, as the Commission observed when it adopted rules to establish the option pilot program, the characteristics of the futures and option markets are not at present sufficiently different to require the Commissions involvement in the setting of levels of option margin. *Id.* The Commission has accordingly modified the final rule to make clear that rules relating to the actual setting of levels of margin will not be deemed to be reviewable rules.

Many of those commentators further argued that the Commission also lacked authority under the Act to review exchange rules relating to the payment or collection of option margins. The Commission has plenary authority under Section 4c(c) of the Act to adopt such a requirement. Section 5a(12) of the Act (7 U.S.C. 7a(12)) restricts only the Commission's authority to review and approve contract market rules relating to the setting of levels of margin for futures transactions.[21] Indeed, the Commission is authorized under Section 4c(c) to review not only exchange rules relating to the payment and collection of option margins which—together with exchange rules establishing or modifying methods and systems for the payment and collection of option margin—must be submitted to the Commission as reviewable rules under § 1.41(b), but also to review the establishment of actual levels of margin for commodity option transactions.

One contract market, while expressing reservations about the Commission's proposal, stated that it did not object to seeking prior Commission approval of rules relating to the bases on which original margin for option grantors will be determined or to the times within which margin payments must be made.[22] The Commission's rule would encompass primarily these and related subjects [23] but would not, as indicated above, directly involve the Commission in the day-to-day establishment of actual levels of option margins.

Although this amendment to § 1.41 would merely continue the Commission's practice of reviewing the exchanges' methods and systems for the assessment and the payment and collection of option margin,[24] one commentator suggested that the Commission not codify this procedure in its regulations because decisions made by the Commission with respect to option margin procedures could have an effect on margin levels for futures contracts. In this regard, the Commission notes that despite the urgings of certain segments of the industry, it has thus far declined to impose upon the boards of trade a uniform system for the margining of option transactions which would be significantly more intrusive that the limited review contemplated by the rule now being adopted by the Commission. The Commission will, however, continue to assess the operation and effect of these different margining systems in order to determine whether the exchange's divergent approaches to the margining of option transactions are causing unnecessary operational difficulties for FCMs or resulting in confusion as to the obligations of option grantors.[25]

The Commission proposed to amend §§ 1.42–1.44, which relate generally to delivery notices and the storage of commodities in warehouses and similar depositories, to include appropriate references to options on physicals. One commentator stated its belief that those regulations should not apply to any futures or option contract which is settled in cash. The Commission agrees with this commentator and notes that, both as proposed and as now amended, neither § 1.43 nor § 1.44 would apply to such cash-settled contracts. Section 1.42, which requires each contract market to furnish a copy of delivery notices (or, as proposed, notices of exercise of options on physicals) has also been amended to exclude from this requirement those futures contracts and options on physicals which are settled in cash rather than by delivery of the underlying commodity or physical.

The Commission proposed to amend §§ 1.46(a) (3) and (4), which apply generally to the closing out of offsetting long and short positions, to include options on physicals within the provisions of that section. One commentator noted that, as proposed, § 1.46 could be construed to require an FCM to offset an option on a futures contract with an option on a physical where those contracts were executed on the same contract market and had the same strike price and expiration date. The Commission has modified the final regulation accordingly to eliminate this ambiguity.

The Commission is also amending the concluding paragraph of § 1.46(a) which, in addition to requiring the closing out of offsetting long and short positions, requires an FCM to furnish to its customer or option customer "a statement showing the financial results of the transactions involved." The Commission recognizes, however, that while a statement of the financial results is appropriate for futures transactions, where no gain or loss is realized until a position is closed out, similar treatment is unnecessary for options transactions because options confirmation statements will separately specify the amount of the premium paid (in the case of a long options position) or received (in the case of a short options position). Section 1.33(b).[26] As with the amendments the Commission is today making to § 1.33, the Commission has instructed its staff not to take enforcement action against any FCM which chooses, before the effective date of these rule amendments, to conform its options purchase and sale statements to the requirements of the amended rule.

Section 1.46(d)(1), which was adopted as part of the option pilot program regulations, presently provides an exemption from the provisions of that section for "purchases or sales of futures contracts for the purpose of covering the granting of options on a contract market, if such purchases or sales are accompanied by instructions and other evidence that such futures contracts are

---

[21] Similarly, Section 8a(7) of the Act (7 U.S.C. 12a(7)) would not impede the Commission's authority, in appropriate cases, to alter or supplement exchange rules relating to the levels of option margin or the methods and systems employed by the exchanges for the payment or collection of option margins.

[22] *See* 45 FR 54500, 54505 & n.12 (November 3, 1981.)

[23] For example, the Commission has earlier indicated that it intends to scrutinize especially carefully any exchange application for contract market designation which contemplates the payment of unrealized profits to option purchasers on options that are not offset, exercised or expired. *Id.* at 54505.

[24] To date, the Commission has designated four boards of trade as contract markets for the trading of options on futures contracts and has made substantial progress in the processing of four additional applications for such designation.

[25] On July 2, 1982, the Commission denied a petition by the Coffee, Sugar & Cocoa Exchange, Inc. to modify or repeal Commission rule 33.4(a)(2) which, in effect, prohibits the margining of option premiums. Although it denied that petition, the Commission nonetheless indicated that it would reconsider the issue after the Commission and the industry have gained sufficient experience with the trading of options under the pilot program.

[26] The Commission also is aware that to require the inclusion of this information on the purchase and sale statements required by § 1.46 could create significant operational difficulties for FCMs who would be required, in effect, to credit (or debit) their option customers' accounts not only when the option position was established, but then to debit and recredit (or credit and redebit) the account when the position was offset.

cover for granted options." The Commission proposed to delete that provision when it proposed regulations to implement the trading of options on physicals. As the Commission explained at that time, the exception provided by that paragraph was inappropriate insofar as it referred to futures contracts "covering" options on those contracts. By comparison, the Commission understands the term "cover" to apply only to an option on a physical (and the underlying physical) and to a futures contract (and the underlying commodity).[27] The Commission further indicated in its proposal that "in a situation where § 1.46(d)(1) would apply as presently written, a portion of the overall market position [*i.e.*, the underlying commodity] would necessarily be 'uncovered.' " 47 FR 28401, 28406 (June 30, 1982).

The comments received by the Commission on this proposal suggested that the deletion of this provision would adversely affect the liquidity and pricing efficiency of the option markets. Rather than delete § 1.46(d)(1), the commentators suggested that the Commission instead expand the exemption to permit traders to keep open offsetting option positions and exempt all options on futures transactions from the provisions of § 1.46.

The Commission also requested comments as to whether and under what circumstances it should exempt commercial option traders from the requirements of § 1.46. 47 FR 28401, 28405 (June 30, 1982).[28] The commentators generally supported such an exemption, stating that it would provide a significant opportunity to use options for the reduction of commercial risks.

The Commission has considered these comments and has further analyzed its proposal. While the Commission believes that the positions advanced by some of the commentators are not without merit, the suggested alternatives to the Commission's proposed deletion of paragraph (d)(1) do not allay the Commission's concerns in this area. Specifically, and apart from the reasons already specified by the Commission in its proposal, the Commission is concerned that continuing the exemption presently contained in § 1.46(d)(1) would have the effect of distorting open interest, to the detriment of the Commission and the exchanges in the performance of their respective market surveillance activities and to the disadvantage of users of the markets who rely upon the accuracy of that information in making trading decisions.[29] In this regard, the Commission deems it essential that any exemption for option transactions from the automatic offset provisions of § 1.46 provide specifically for the closing out of these "balanced" positions by open outcry, on the floor of the exchange, and not by transfer trade or some comparable mechanism. The Commission further believes that any such exemption should also provide adequate safeguards to ensure that the trading losses incurred by an option customer on one side of a balanced and otherwise offsetting position are not obscured by the absence of a mandatory close-out provision.

In view of these considerations, the Commission has determined to revise § 1.46(d)(1) to provide what it believes to be a limited but nonetheless appropriate exemption for commercial participants in the option markets. Specifically, the rule which the Commission is now adopting will provide an exemption for option positions held by commercial interests in the underlying commodity where those option positions have been determined by the contract market to be economically appropriate to the reduction of risks in the conduct and management of a commercial enterprise. Thus, the rule which the Commission is now adopting parallels Commission rule 1.61(b) (17 CFR 1.61(b)) and the Commission will allow the contract markets to afford the same treatment to commercial traders under both §§ 1.46 and 1.61.[30] However, in view of the Commission's concerns with respect to the effects on open interest of such offsetting positions, the Commission is further requiring that any such offsetting positions must be closed out by open outcry, on the floor of the contract market, and not by transfer trade or other, similar noncompetitive means.[31]

The Commission also wishes to emphasize that, as amended, § 1.46(d)(1) will apply only to offsetting option positions—*i.e.*, long and short call or long and short put option positions on the same contract market which have the same strike price and expiration date.

The Commission is amending certain of its registration regulations to include references, where appropriate, to commodity option transactions. The Commission did not receive any comments responding to the proposed changes. Specifically, § 3.20 (delegation of authority to deny registration) has been amended to include as a basis for denial of registration certain misdemeanor convictions involving commodity options. Section 3.33 (withdrawal from registration) has been amended to clarify that certain requirements concerning the termination of relationships with customers apply equally to option customers. Similarly, the Commission's interpretation of the "other good cause" provisions of Section 8a(2)(B)(ii) of the Act (7 U.S.C. 12a(2)(B)(ii)), is being amended to include references to commodity options (17 CFR Part 3 Appendix A).

The Commission is amending §§ 4.13, 4.21, 4.22, 4.23, 4.30, 4.31 and 4.32, which relate to the operations and activities of commodity trading advisors ("CTAs") and commodity pool operators ("CPOs"), to make clear that the provisions of the Commission's Part 4 rules apply to all "commodity interest" transactions, whether they involve futures contracts, options, or leverage contracts, and to make other conforming changes. No comments specifically responding to the proposed amendments were submitted and the amendments are being adopted in the form in which they were proposed. In this regard, the Commission wishes to note that corrections to the Disclosure Documents furnished by CPOs and CTAs (*see* §§ 4.21(a) and 4.31(a)) may be made by way of an amended Document or other similar means such as a letter or, in the case of a commodity pool, by the next periodic account statement for the pool. It should be further noted that §§ 4.21 and 4.31 only require the updating of a Disclosure Document if the Document is being used to solicit prospective customers; the Commission will not require that the Documents be amended if no solicitations are being made. If solicitation is resumed, however, the Document must be updated at that time. *See* 46 FR 26004, 26010–11 (May 8, 1981).

The Commission is amending § 32.1 by adding a new paragraph (a), which would delineate the scope of Part 32,

---

[27] *See generally* Commission rule 1.17(j), 17 CFR 1.17(j).

[28] The exemption from the requirements of § 1.46 for "bona fide hedging transactions" provided by paragraph (d)(2) of that section does not apply to option transactions. 47 FR at 28405; *see* § 1.3(z), 17 CFR 1.3(z).

[29] *See* 45 FR 57141, 57146 (August 27, 1980).

[30] Section 1.61(b), which generally requires each contract market to adopt and submit to the Commission for its approval rules which limit the maximum net long and net short futures and option positions any person may hold or control (*i.e.*, speculative position limits), provides an exception from those exchange-set speculative limits for commercial interests.

[31] Any such open and otherwise offsetting positions must be reported both to the exchange as open interest and, in appropriate cases, to the Commission on the Large Trader Reporting (Series '01) Forms. *See* § 17.00.

and by redesignating other paragraphs of that section accordingly. In addition, § 32.11(b) has been amended to clarify that the ban on certain commodity option transactions contained in § 32.11(a) does not apply to option transactions conducted on or subject to the rules of a contract market in accordance with the provisions of Section 4c(c) of the Act and the regulations promulgated thereunder.

Sections 145.5 and 147.3 are being amended to provide for the generally non-public treatment of information furnished in compliance with the reporting requirements contained in Parts 15–21 of the Commission's regulations.

The Commission is amending § 155.2 to clarify that an exchange's rules on dual trading should prohibit a floor broker from executing an order for his own account or an account in which he has an interest where such execution would involve a purchase or sale of a future or option if the floor broker is holding an executable customer or option customer's order (for the purchase or sale of a future or an option) in the same commodity and that customer or option customer's order would benefit from a market move in the same direction as the broker's trade for his own account or the account in which he has an interest. The Commission is also amending § 155.3 to establish similar requirements for FCMs. Specifically, § 155.3(a)(1) provides generally that each FCM must establish and enforce internal rules, procedures and controls to prevent the FCM's affiliated persons who know of a customer's or option customer's trading activity to transmit for execution orders in the same commodity or in an option on that commodity in advance of the customer's or option customer's order. The Commission did not receive any comments on either of those proposed rule changes.

The Commission proposed to amend certain of its regulations relating to the customer protection and arbitration programs of registered futures associations in order to include references to commodity options. One commentator was concerned that adoption of these changes could be viewed as implicitly mandating the immediate assumption of those responsibilities by the National Futures Association ("NFA"). The Commission, however, does not view the adoption of these amendments as establishing new obligations for NFA and further, does not believe that these amendments will adversely affect the orderly phase-in, by NFA, of customer protection and arbitration programs pursuant to rules which have been approved by the Commission. The Commission is also amending § 180.1, which relates to exchange-sponsored arbitration programs, to include appropriate references to commodity option transactions.

V. Amendments to the Reporting Requirements

The Commission proposed that, with two exceptions, the reporting requirements already established for options on futures be applied to options on physicals. *See* 47 FR 28401, 28407 (June 30, 1982). Those two exceptions concern the frequency with which large option trader reports must be filed and the information that must be contained in those reports. For options on futures contracts, large trader reports must be routinely filed on a weekly basis and only account identification and position information must be reported. 17 CFR 16.02. For options on physicals, the Commission proposed that large trader reports be filed daily and that option exercises, as well as account identification and position information, be reported, *See* 47 FR at 28407. The Commission received five comments on these aspects of the proposed regulation, all of which opposed the adoption of these requirements.

Four of the commentators believed that the requirements for large trader reports for options on physicals should parallel the requirements for options on futures. These commentators all maintained that these additional requirements were unwarranted in view of the added cost to, and operational burden on, the exchanges that would result from these requirements. None of these commentators provided any estimate of these additional costs, however. Another commentator stated "the collection of market surveillance data should be based on a perceived need, * * * not because of a regulation requiring it." With respect to the reporting of exercises of options on physicals, this commentator further argued that the "need for the information would vary widely, depend[ing] on the contract being traded * * * [and] would vary for the same commodity at different times and under different circumstances."

One of the commentators separately recommended that the requirements concerning daily reporting and reporting of option exercises should not apply to options on physicals which are settled in cash. The Commission agrees that when options on physicals are settled in cash, weekly large trader options reports will ordinarily be sufficient and that the reporting of options exercised by large traders may not provide useful information for market surveillance purposes. The reporting requirements for options on physicals which are settled in cash are, therefore, identical to the current reporting requirements for options on futures.

By comparison, the Commission is not persuaded that daily reporting of large option traders' positions and exercises should not be required with respect to options on physicals which call for transfer of ownership of the underlying commodity as the means of exercise. The Commission currently deems it necessary to receive daily reports concerning the positions of large futures traders and the delivery notices issued or stopped by such traders. The Commission anticipates that market surveillance concerns similar to those which the Commission experiences with maturing futures contracts may occur as options on physicals near expiration. The Commission will, however, carefully consider exchange rules, submitted in conjunction with applications for contract market designation for options on physicals, which limit or modify the applicability of the reqirements of § 16.02 in appropriate cases. The Commission has, therefore, revised the reporting requirements contained in § 16.02 for those options on physicals which are not settled in cash to reflect that the Commission may, in its discretion, approve reporting rules for a particular contract market that differ from those specified in § 16.02.[33]

In addition to the measures discussed above, the Commission proposed other amendments to its reporting

---

[33] One commentator noted that the term "reportable" had been omitted from the specification, in § 16.02, of which option positions should be reported to the Commission by the exchanges. As adopted, this term has been incorporated by the Commission into that rule.

One commentator also objected to the proposed requirement that large option trader reports for options on physicals be provided six weeks in advance of an option's expiration date, a requirement that already applies to options on futures contracts. The Commission traditionally intensifies its surveillance of a futures contract approximately six weeks prior to the last day of trading in order to make a timely assessment of potential problems and to gather any additional information to supplement that which it routinely receives. The Commission presently has no reason to believe that the requirements for surveillance of options on physicals will differ markedly from the requirements for surveillance of maturing futures contracts. For this reason, the Commission has adopted, as proposed, a six-week reporting requirement for large option trader reports. The Commission will, however, review this requirement during the pilot program and, if the situation warrants, reconsider the need for the six-week reporting period.

requirements to conform further the regulations concerning futures and options reporting. These included amendments to § 16.00 to require exchanges to provide information concerning futures positions and transactions of clearing member firms separately for proprietary and customer accounts and to § 16.01 to require the contract markets to report futures transactions and open interest in machine-readable form.

One commentator objected to the requirement that the futures transactions and positions of clearing members be reported separately by proprietary and customer accounts. That commentator noted that this requirement has not previously applied to futures transactions and claimed that the Commission has not demonstrated "* * * that the availability of this data would have been beneficial in the past or could be expected to provide a useful surveillance tool in the future."

Information provided by the exchanges under Part 16 of the Commission's regulations is, however, the only report received by the Commission that indicates, by firm, the distribution of total open contracts and transactions in a given future of a commodity. Moreover, since the Commission has discontinued the routine filing of large trader reports under § 16.00, the Commission receives information concerning the volume of trading by firms only from the reports filed under § 16.00.[33] As such, the reports filed pursuant to that regulation are used routinely to investigate concentrations of positions and the origins of large trading volume. These investigations frequently involve maturing futures contracts and, in the event of sharp price changes, analyses of all futures. Because clearing member firms are generally active traders for their own accounts, the information required under § 16.00, when separated by proprietary and customer accounts, has often been sufficient to provide the Commission with the information it requires and has eliminated the need for further investigation. Where exchanges do not separately identify positions and transactions by proprietary and customer accounts, the Commission has been forced to expend considerable time and resources to obtain the necessary breakdown. Moreover, the Commission notes that the majority of the exchanges already collect from their clearing members and provide to the Commission the information that will now be required under § 16.00. In view of these considerations, the Commission is adopting §16.00 as proposed.

One commentator questioned the need for the amendments to §16.01 which require the exchanges to provide information relating to futures transactions and open interest in machine-readable form. This commentator argued that the Commission should indicate how it would use the new reports since the adoption of this proposal would result in increased expense to the contract markets. The Commission believes this change has been made necessary by the dramatic increase in recent years in the number of contract markets for which the Commission must conduct market surveillance. The corresponding increase in the volume of data that must be analyzed by the Commission has resulted in a corresponding increase in the Commission's reliance on computers and automated data processing to screen and organize that data.

Furthermore, market information which is disseminated to the public by a number of exchanges either is, or can be, produced from the exchanges' own computer systems. In such cases, the cost of providing the information to the Commission in the form specified in the rule is insignificant relative to the cost to the Commission of translating that information into machine-readable form. In this regard, the Commission notes that provisions in its existing rules allow it to consider each exchange on a case-by-case basis in applying similar requirements;[34] this same provision will apply to the amendments to § 16.01. In view of the above considerations, the Commission has determined to adopt § 16.01 as proposed.

No comments were received with respect to the remainder of the proposed amendments to §§ 15.00, 15.05, 16.01, 16.04, 18.00, 18.01, 18.04, 18.05, and 21.02. Most of these proposals were technical amendments intended to add conforming references to options on physicals, to simplify or clarify existing regulations, and to reduce the number of reporting forms that must be filed with the Commission. Accordingly, the Commission is adopting these amendments as proposed.

VI. Related Matters

When the Commission proposed regulations to permit and govern the trading of options on physicals on domestic exchanges, the Chairman certified, on behalf of the Commission and pursuant to the Regulatory Flexibility Act, that if the regulations were promulgated as proposed, there would not be a significant economic impact on a substantial number of small entities. In this connection, the Commission noted its previous determination that contract markets, registered futures commission merchants, registered commodity pool operators, and large traders are not "small entities" for purposes of that Act (47 FR 18618 (April 30, 1982)) and that the requirements of the Regulatory Flexibility Act therefore did not apply to those entities. The Commission further noted that those provisions of the proposed regulations which affected commodity trading advisors merely would amend §§4.30–4.32 to include, where appropriate, references to "commodity interests" [35] rather than references solely to futures trading, and hence were technical in nature. Thus, the Commission expressed its belief that, if adopted, §§ 4.30–4.32 would not have a significant economic impact on commodity trading advisors. As stated above, the Commission did not receive any comments responsive to the proposed amendments to §§ 4.30–4.32 and is adopting them as proposed. The Commission also did not receive any comments on its proposed Regulatory Flexibility Act certification.

For the reasons indicated above, and pursuant to Section 3(a) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Chairman, on behalf of the Commission, hereby certifies that these regulations will not have a significant economic impact on a substantial number of small entities.

List of Subjects

17 CFR Part 1

Commodity exchanges, Financial requirements, Commodity exchange designation procedures, Commodity exchange rules, Reporting and recordkeeping requirements, Records, Customer protection, Definitions.

17 CFR Part 3

Withdrawal from registration, Denial of registration.

17 CFR Part 4

Commodity pool operators, Commodity trading advisors, Disclosure document, Records.

17 CFR Part 15

Reporting and recordkeeping requirements, Foreign brokers, Foreign traders.

---

[33] 46 FR 59960 (December 8, 1981).

[34] 46 FR 54500, 54514 (November 3, 1981).

[35] Commission rule 4.10(a) defines the term "commodity interest" to include futures, options, and leverage transactions. 17 CFR 4.10(a).

17 CFR Part 16

Commodity exchange reports, Reporting and recordkeeping requirements.

17 CFR Part 18

Reporting and recordkeeping requirements.

17 CFR Part 21

Reporting and recordkeeping requirements, Special calls for information.

17 CFR Part 32

Commodity options, Fraud.

17 CFR Part 33

Commodity options, Commodity exchange designation procedures, Fraud, Risk disclosure statement.

17 CFR Part 145

Records, Freedom of information.

17 CFR Part 147

Commission meetings, Sunshine Act.

17 CFR Part 155

Commodity exchange trading standards, Futures commission merchant trading standards.

17 CFR Part 170

Futures Association.

17 CFR Part 180

Arbitrations, Claims.

In consideration of the foregoing, and pursuant to the authority contained in the Commodity Exchange Act and, in particular, Sections 2(a)(1), 4c(a), 4c(b), 4c(c), 4c(d), 4d, 4f, 4g, 4k, 4m, 4n, 8a, 15 and 17 thereof, 7 U.S.C. 2 and 4, 6c(a), 6c(b), 6c(c), 6c(d), 6d, 6f, 6g, 6k, 6m, 6n, 12a, 19 and 21, and pursuant to the authority contained in 5 U.S.C. 552 and 552b, the Commission hereby amends Chapter I of Title 17 of the Code of Federal Regulations as follows:

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

1. Section 1.3 is amended by revising paragraphs (aa), (hh) and (kk), and by adding a new paragraph (ll) to read as follows:

§ 1.3 Definitions.

* * * * *

(aa) *Associated person.* This term means any natural person who (as provided in Section 4k of the Act) is associated with a futures commission merchant or with an agent of a futures commission merchant as a partner, officer, or employee (or any person occupying a similar status or performing similar functions), in any capacity which involves (1) the solicitation or acceptance of customers' or option customers' orders (other than in a clerical capacity) or (2) the supervision of any person or persons so engaged.

* * * * *

(hh) *Commodity option transaction; commodity option.* These terms each mean any transaction or agreement in interstate commerce which is or is held out to be of the character of, or is commonly known to the trade as, an "option," "privilege," "indemnity," "bid," "offer," "call," "put." "advance guaranty," or "decline guaranty," and which is subject to regulation under the Act and these regulations.

* * * * *

(kk) *Strike price.* This term means the price, per unit, at which a person may purchase or sell the contract of sale of a commodity for future delivery or the physical which is the subject of a commodity option: *Provided*, That for purposes of § 1.17, the term "strike price" means the total price at which a person may purchase or sell the contract of sale of a commodity for future delivery or the physical which is the subject of a commodity option *(i.e.*, price per unit times the number of units).

(ll) *Physical.* This term means any good, article, service, right or interest upon which a coimmodity option may be traded in accordance with the Act and these regulations.

2. Section 1.17 is amended by revising paragraphs (c)(1)(iii), (c)(5)(ii)(A), (c)(5)(x), (c)(5)(x)(D) and (c)(5)(xi) to read as follows: §1.17 Minimum financial requirements—futures commission merchants.

* * * * *

(c) * * *

(1) * * *

(iii) The value attributed to any commodity option which is not traded on a contract market shall be the difference between the option's strike price and the market value for the physical or futures contract which is the subject of the option. In the case of a call commodity option which is not traded on a contract market, if the market value for the physical or futures contract which is the subject of the option is less than the strike price of the option, it shall be given no value. In the case of a put commodity option which is not traded on a contract market, if the market value for the physical or futures contract which is the subject of the option is more than the strike price of the option, it shall be given no value; and

* * * * *

(5) * * *

(ii) * * *

(A) Inventory which is currently registered as deliverable on a contract market and covered by an open futures contract or by a commodity option on a physical.—No charge.

* * * * *

(x) In the case of open futures contracts and granted (sold) commodity options held in proprietary accounts carried by the applicant or registrant which are not covered by a position held by the applicant or registrant or which are not the result of a "changer trade" made in accordance with the rules of a contract market:

* * * * *

(D) For open contracts or granted (sold) commodity options for which there are no applicable maintenance margin requirements, 200 percent of the applicable initial margin requirement: *Provided*, the equity in any such proprietary account shall reduce the deduction required by this paragraph (c)(5)(x) if the such equity is not otherwise includable in adjusted net capital;

(xi) In the case of an applicant or registrant which is a purchaser of a commodity option not traded on a contract market which has value and such value is used to increase adjusted net capital, ten percent of the market value of the physical or futures contract which is the subject of such option but in no event more than the value attributed to such option;

* * * * *

3. Section 1.19 is revised to read as follows:

§ 1.19 Prohibited trading in certain options.

No futures commission merchant may make, underwrite, issue, or otherwise assume any financial responsibility for the fulfillment of, any commodity option except for commodity options traded on or subject to the rules of a contract market in accordance with the requirements of Part 33 of this chapter.

4. Section 1.22 is revised to read as follows:

§ 1.22 Use of customer funds restricted.

No futures commission merchant shall use, or permit the use of, the customer funds of one commodity and/or option customer to purchase, margin, or settle the trades, contracts, or commodity options of, or to secure or extend the credit of, any person other than such customer or option customer. Customer funds shall not be used to carry trades or positions of the same commodity and/or option customer other than in commodities or commodity options

traded throught the facilities of a contract market.

5. Section 1.33 is amended by adding paragraph (a)(1)(iv), by revising paragraphs (a)(2)(i), (a)(2)(ii), (b)(2)(iv), (b)(2)(v), (b)(3), by removing and reserving paragraph (d)(2), and by revising paragraph (e) to read as follows:

§ 1.33 Monthly and confirmation statements.

(a) * * *

(1) * * *

(iv) A detailed accounting of all financial charges and credits to the commodity customer's account during the monthly reporting period, including all customer funds received from or disbursed to the commodity customer and realized profits and losses; and

(2) For each option customer—

(i) All commodity options purchased, sold, exercised, or expired during the monthly reporting period, identified by underlying futures contract or underlying physical, strike price, transaction date, and expiration date;

(ii) The open commodity option positions carried for the option customer as of the end of the monthly reporting period, identified by underlying futures contract or underlying physical, strike price, transaction date, and expiration date;

* * * * * * *

(b) * * *

(2) * * *

(iv) The underlying futures contract or underlying physical;

(v) The final exercise date of the commodity option purchased or sold; and

* * * * *

(3) To each option customer, upon the expiration or exercise of any commodity option, a written confirmation statement thereof, which statement shall include the date of such occurrence, a description of the option involved, and, in the case of exercise, the details of the futures or physical position which resulted therefrom including, if applicable, the final trading date of the contract for future delivery underlying the option.

* * * * *

(d) * * *

(2) [Reserved]

* * * * *

(e) *Recordkeeping.* Each futures commission merchant shall retain, in accordance with § 1.31, a copy of each monthly statement and confirmation required by this § 1.33.

6. Section 1.34 is amended by revising paragraph (b) to read as follows:

§ 1.34 Monthly record, "point balance."

* * * * *

(b) Each futures commission merchant shall prepare, and retain in accordance with the requirements of § 1.31, a listing in which all open commodity option positions carried for option customers are marked to the market. Such listing shall be prepared as of the last business day of each month, or as of any regular monthly date selected, and shall be by put or by call, by underlying contract for future delivery (by delivery month) or underlying physical (by option expiration date), and by strike price.

7. Section 1.35 is amended by revising paragraphs (b)(2)(ii), (b)(3)(ii), (d) and (e) to read as follows:

§ 1.35 Records of cash commodity, futures, and option transactions.

* * * * *

(b) * * *

(2) * * *

(ii) All commodity option transactions executed for such account, including the date, whether the transaction involved a put or call, expiration date, quantity, underlying contract for future delivery or underlying physical, strike price, and details of the purchase price of the option, including premium, mark-up, commission and fees; and

(3) * * *

(ii) All commodity option transactions executed on that day, including the date, whether the transaction involved a put or call, expiration date, quantity, underlying contract for future delivery or underlying physical, strike price, details of the purchase price of the option, incuding premium, mark-up, commission and fees, and the person for whom such transaction was made.

* * * * *

(d) *Members of contract markets.* Each member of a contract market who, in the place provided by the contract market for the meeting of persons similarly engaged, executes purchases or sales of any commodity for future delivery or commodity option on or subject to the rules of such contract market, shall prepare regularly and promptly a trading card or record showing such purchases and sales. Such trading card or record shall show his own name, the name of the clearing member, transaction date, time period (as described in paragraph (g) of this section), quantity, and, as applicable, underlying commodity, contract for future delivery or physical, price or premium, delivery month or expiration date, whether the transaction involved a put or a call, and strike price. Such trading card or record shall also clearly identify the opposite floor broker or floor trader with whom such transaction was executed, and the opposite clearing member (if, in accordance with the rules or practice of the contract market, such opposite clearing member is made known to him).

(e) *Contract markets.* Each contract market shall maintain or cause to be maintained by its clearing organization a single record which shall show for each futures or option trade: the transaction date, time period (as described in paragraph (g) of this section), quantity, and, as applicable, underlying commodity, contract for future delivery or physical, price or premium, delivery month or expiration date, whether the transaction involved a put or a call, strike price, floor broker of floor trader buying, clearing member buying, floor broker or floor trader selling, clearing member selling, and symbols indicating the buying and selling customer or option customer types. The customer and option customer type indicators shall show, with respect to each person executing the trade whether such person:

(1) Was trading for his own account;

(2) Was trading for his clearing member's house account;

(3) Was trading for another member present on the exchange floor, or an account controlled by such other member; or

(4) Was trading for any other type of customer or option customer.

The record required by this paragraph (e) shall also show, by appropriate and uniform symbols, any transaction which is made non-competitively in accordance with written rules of the contract market which have been submitted to and approved by the Commission in accordance with § 1.38, and trades cleared on dates other than the date of execution. Except as otherwise approved by the Commission for good cause shown, the record required by this paragraph (e) shall be maintained in a format and coding structure approved by the Commission (i) in hard copy or on microfilm as specified in § 1.31 and (ii) for 60 days in computer-readable form on compatible magnetic tapes or discs.

* * * * *

8. Section 1.39 is amended by revising paragraph (a) to read as follows:

§ 1.39 Simultaneous buying and selling orders of different principals; execution of, for and between principals.

(a) *Conditions and requirements.* A member of a contract market who shall have in hand at the same time both buying and selling orders of different principals for the same commodity for future delivery in the same delivery

month or the same option (both puts or both calls, with the same underlying contract for future delivery or the same underlying physical, expiration date and strike price) may execute such orders for and directly between such principals at the market price, if in conformity with written rules of such contract market which have been approved by the Commission, and:

(1)(i) When trading is conducted in a trading pit or ring, such orders are first offered openly and competitively by open outcry in such trading pit or ring (A) by both bidding and offering at the same price, and neither such bid nor offer is accepted, or (B) by bidding and offering to a point where such offer is higher than such bid by not more than the minimum permissible price fluctuation applicable to such futures contract or commodity option on such contract market, and neither such bid nor offer is accepted; or

(ii) When in nonpit trading in contracts of sale for future delivery, bids and offers are posted on a board, such member (A) pursuant to such buying order posts a bid on the board and, incident to the execution of such selling order, accepts such bid and all other bids posted at prices equal to or higher than the bid posted by him, or (B) pursuant to such selling order posts an offer on the board and, incident to the execution of such buying order, accepts such offer and all other offers posted at prices equal to or lower than the offer posted by him;

(2) Such member executes such orders in the presence of an official representative of such contract market designated to observe such transactions and, by appropriate descriptive words or symbol, clearly identifies all such transactions on his trading card or other similar record, made at the time of execution, and notes thereon the exact time of execution and promptly presents said record to such official representative for verification and initialing;

(3) Such contract market keeps a record in permanent form of each such transaction showing the transaction date, by whom executed, the exact time of execution, quantity, and, as applicable, underlying commodity, contract for future delivery or physical, price or premium, whether a put or a call, and strike price; and

(4) Neither the futures commission merchant receiving nor the member executing such orders has any interest therein, directly or indirectly, except as a fiduciary.

* * * * *

9. Section 1.41 is amended by revising paragraph (a)(2) to read as follows:

§ 1.41 Contract market rules; submission of rules to Commission; exemption of temporary emergency rules and certain operational and administrative rules; emergencies.

(a) * * *

(2) The term "reviewable rule" of a contract market means any rule of a contract market which relates to terms and conditions of contracts of sale of a commodity for future delivery or of commodity option transactions to be executed on or subject to the rules of such contract market or relates to other trading requirements except those relating to the setting of levels of margin: *Provided,* That any rule of a contract market relating to the payment or collection of commodity option margin or premiums shall be a reviewable rule.

* * * * *

10. Section 1.42 is amended by revising paragraph (a) and by adding a new paragraph (c) to read as follows:

§ 1.42 Delivery notice; filing of copy.

(a) Each contract market shall furnish or cause to be furnished promptly to the Commission a copy of each notice of delivery issued by any member thereof covering the delivery of any commodity on a futures contract or on a commodity option made on or subject to the rules of such contract market, and shall also furnish or cause to be furnished promptly to the Commission a record of all endorsements of the original notice of delivery shown in the order in which such endorsements were made.

* * * * *

(c) For the purposes of this section, the term "delivery" includes the exercise of a commodity option on a physical but does not include any futures contract or option on a physical which is settled in cash rather than by delivery of the underlying commodity or underlying physicals.

11. Section 1.43 is revised to read as follows:

§ 1.43 Information required concerning warehouses, depositories, and other similar entities.

Each contract market shall file with the Commission a list of all warehouses, depositories and other similar entities in which or out of which commodities are deliverable in satisfaction of futures contracts or options on physicals made on or subject to the rules of such contract market, which list shall show the name, location, and storage capacity of each such warehouse, depository or other similar entity, together with the name and business address of the operator thereof. The Commission shall be kept currently advised of all changes affecting such information. Each contract market shall require the operator of such warehouse, depository or other similar entity to furnish, upon call by the Commission, a schedule of storage charges, handling charges, and the annual fire insurance rate applicable to such warehouse, depository or other similar entity.

12. Section 1.44 is amended by revising paragraphs (a) and (b) to read as follows:

§ 1.44 Records and reports of warehouses, depositories, and other similar entities; visitation of premises.

Each contract market shall require the operators of warehouses, depositories and other similar entities whose receipts are deliverable in satisfaction of commodity futures contracts or options on physicals made on or subject to the rules of such contract market:

(a) To keep records showing the stocks of each commodity traded for future delivery or upon which option contracts are traded on such contract market in store in such warehouses, depositories and other similar entities by kinds, by classes, and by grades, if stored under conditions requiring such designation or identification, and including also lots and parcels stored specially or separately or in specially leased space of the warehouse, depository or other similar entity;

(b) Upon call from the Commission, to report the stocks of commodities in such warehouses, depositories and other similar entities and to furnish information concerning stocks of each commodity traded for future delivery or upon which option contracts are traded on such contract market about to be transferred or in the process of being transferred or otherwise moved into or out of such warehouses, depositories and other similar entities, as well as any other information concerning commodities stored in such warehouse, depositories and other similar entities and which are or may be available for delivery on futures contracts or options on physicals; and

* * * * *

13. Section 1.46 is amended by revising paragraphs (a)(3), (a)(4), the closing text of paragraph (a), and paragraph (d)(1), to read as follows:

§ 1.46 Application and closing out of offsetting long and short positions.

(a) * * *

(3) Purchases a put or call option for the account of any option customer

when the account of such option customer at the time of such purchase has a short put or call option position with the same underlying futures contract or same underlying physical, strike price, expiration date and contract market as that purchased; or

(4) Sells a put or call option for the account of any option customer when the account of such option customer at the time of such sale has a long put or call option position with the same underlying futures contract or same underlying physical, strike price, expiration date and contract market as that sold

shall on the same day apply such purchase or sale against such previously held short or long futures or option position, as the case may be, and shall, for futures transactions, promptly furnish such customer a statement showing the financial result of the transactions involved.

* * * * *

(d) * * *

(1) Purchases or sales of commodity options held by commercial interests in the underlying commodity, where such purchases or sales are determined by the contract market to be economically appropriate to the reduction of risks in the conduct and management of a commercial enterprise pursuant to rules of the contract market which have been adopted in accordance with the requirements of § 1.61(b) and approved by the Commission pursuant to Section 5a(12) of the Act; *Provided,* that no contract market or futures commission merchant shall permit such option positions to be offset other than by open and competitive execution in the trading pit or ring provided by the contract market, during the regular hours prescribed by the contract market for trading in such commodity option.

* * * * *

PART 3—REGISTRATION

14. The authority citation for Part 3 is revised to read as follows:

Authority: 7 U.S.C. 2, 4, 4a, 6c, 6d, 6e, 6f, 6k, 6m, 6n, 6p and 12a.

15. Section 3.20 is amended by revising paragraphs (a)(1)(ii) and (a)(1)(iii) to read as follows:

§ 3.20 Delegation of authority to deny registration.

(a) * * *

(1) * * *

(ii) Within ten years preceding the filing of the application has been convicted of a misdemeanor which (A) involves any transaction or advice concerning any commodity, contract for future delivery of a commodity, commodity option, or security; (B) arises out of the conduct of the business of a futures commission merchant, associated person, floor broker, commodity trading advisor, commodity pool operator, securities broker, securities dealer, municipal securities dealer, transfer agent, clearing agency, securities information processor, investment adviser, investment company, or employee or affiliated person of any of the foregoing; or (C) involves embezzlement, defalcation, fraudulent conversion, misappropriation of funds, securities or other property, forgery, counterfeiting, false pretenses, gambling, or similar crimes reflecting upon the ability of the applicant, if registered, faithfully to discharge the fiduciary duties imposed by the Act; or

(iii) At the time of the application, is permanently or temporarily enjoined by order, judgment or decree of any court of competent jurisdiction, or is prohibited by agreement or settlement with the Commission or the Securities and Exchange Commission, or any State agency or governmental body, (A) from acting as a commodity trading advisor, commodity pool operator, futures commission merchant, floor broker, securities broker or dealer, municipal securities dealer, transfer agent, clearing agency, securities information processor, investment adviser, investment company, or as an associated or affiliated person or employee of any of the foregoing, or (B) from engaging in or continuing any conduct or practice in connection with any such activity or involving any transaction or advice concerning commodities, contracts for future delivery of commodities, commodity options, or securities; or

* * * * *

16. Section 3.33 is amended by revising paragraphs (b)(7)(i), (b)(7)(ii), (b)(7)(iii), and (b)(7)(v) to read as follows:

§ 3.33 Withdrawal from registration.

* * * * *

(b) * * *

(7) * * *

(i) That all customer or option customer agreements, if any, have been terminated;

(ii) That all customer or option customer positions, if any, have been transferred on behalf of customers or option customers or closed;

(iii) That all customer or option customer cash balances, securities, or other property, if any, have been transferred on behalf of customers or option customers or returned, and that there are no obligations to customers or option customers outstanding;

* * * * *

(v) The nature and extent of any pending customer, option customer or commodity pool participant claims against the registrant, and, to the best of the registrant's knowledge and belief, the nature and extent of any anticipated or threatened customer, option customer or commodity pool participant claims against the registrant.

* * * * *

17. Appendix A is amended by revising paragraphs (1), (3) and (4) to read as follows:

* * * * *

(1) The operations of such person disrupt or would tend to disrupt orderly market conditions, or cause or would tend to cause sudden or unreasonable fluctuations or unwarranted changes in the price of commodities or contracts for future delivery of commodities or commodity options.

* * * * *

(3) Such person has, within ten years preceding the filing of the application for registration, been convicted of a misdemeanor which (a) involves any transactions or advice concerning any commodity, contract for future delivery of a commodity, commodity option or security; or (b) arises out of conduct of the business of a futures commission merchant, associated person, floor broker, commodity trading advisor, commodity pool operator, securities broker, securities dealer, municipal securities dealer, transfer agent, clearing agency, securities information processor, investment adviser, investment company, or an affiliated person or employee of any of the foregoing; or (c) involves embezzlement, defalcation, fraudulent conversion, misappropriation of funds, securities or other property, forgery, counterfeiting, false pretenses, gambling, or similar crimes indicating a lack of high ethical standards or unreliability in maintaining a fiduciary relationship.

(4) Such person is permanently or temporarily enjoined by order, judgment or decree of any court of competent jurisdiction, or by agreement of settlement to which the Commission, the Securities and Exchange Commission, or any State agency or governmental body is a party, from (a) acting as a futures commission merchant, associated person, floor broker, commodity trading advisor, commodity pool operator, securities broker, securities dealer, municipal securities dealer, transfer agent, clearing agency, securities information processor, investment adviser, investment company or employee or affiliated person of any of the foregoing or (b) engaging in or continuing any conduct or practice in connection with any such activity or involving any transaction or advice concerning commodities, contracts for future delivery of commodities, commodity options, or securities.

* * * * *

PART 4—COMMODITY POOL OPERATORS AND COMMODITY TRADING ADVISORS

18. Section 4.13 is amended by revising paragraph (b)(2)(i)(B) to read as follows:

§ 4.13 Exemption from registration as a commodity pool operator.

* * * * *

(b) * * *

(2) * * *

(i) * * *

(B) Clearly show on such statement, or on an accompanying supplemental statement, the net profit or loss on all commodity interests closed since the date of the previous statement; and

* * * * *

19. Section 4.21 is amended by revising paragraphs (a)(1)(vi) and (a)(1)(vii), by adding a new paragraph (a)(1)(viii), and by revising paragraphs (a)(9)(ii), (a)(9)(iii) and (a)(17)(i) to read as follows:

§ 4.21 Disclosure to prospective pool participants.

(a) * * *

(1) * * *

(vi) The name of the person who will make the trading decisions for the pool;

(vii) If known, the name of the futures commission merchant through which the pool will execute its trades; and

(viii) The types of commodity interests the commodity pool operator intends that the pool will trade, with a description of any restrictions or limitations on such trading established by the commodity pool operator.

* * * * *

(9) * * *

(ii) The form in which pool funds not deposited as margin or paid as premiums will be held after the commencement of trading by the pool. If those funds will be held in assets other than cash, the pool operator must disclose:

* * * * *

(iii) If pool funds not deposited as margin or paid as premiums will be held outside of the United States, its territories or possessions, the pool operator must specify where those funds will be held.

* * * * *

(17)(i) The following Risk Disclosure Statement, to be prominently disclosed as, and the only language on, the first page of the Disclosure Document:

RISK DISCLOSURE STATEMENT

YOU SHOULD CAREFULLY CONSIDER WHETHER YOUR FINANCIAL CONDITION PERMITS YOU TO PARTICIPATE IN A COMMODITY POOL. YOU MAY LOSE A SUBSTANTIAL PORTION OR EVEN ALL OF THE MONEY YOU PLACE IN THE POOL.

IN CONSIDERING WHETHER TO PARTICIPATE IN A COMMODITY POOL, YOU SHOULD BE AWARE THAT TRADING COMMODITIES CAN QUICKLY LEAD TO LARGE LOSSES AS WELL AS GAINS. SUCH TRADING LOSSES CAN SHARPLY REDUCE THE NET ASSET VALUE OF THE POOL AND CONSEQUENTLY THE VALUE OF YOUR INTEREST IN THE POOL. ALSO, MARKET CONDITIONS MAY MAKE IT DIFFICULT OR IMPOSSIBLE FOR THE POOL TO LIQUIDATE A POSITION.

IN SOME CASES, COMMODITY POOLS ARE SUBJECT TO SUBSTANTIAL CHARGES FOR MANAGEMENT, ADVISORY AND BROKERAGE FEES. IT MAY BE NECESSARY FOR THOSE POOLS THAT ARE SUBJECT TO THESE CHARGES TO MAKE SUBSTANTIAL TRADING PROFITS TO AVOID DEPLETION OR EXHAUSTION OF THEIR ASSETS. THIS DISCLOSURE DOCUMENT CONTAINS A COMPLETE DESCRIPTION OF EACH EXPENSE TO BE CHARGED THIS POOL.

THIS BRIEF STATEMENT CANNOT DISCLOSE ALL THE RISKS AND OTHER SIGNIFICANT ASPECTS OF PARTICIPATING IN A COMMODITY POOL. YOU SHOULD THEREFORE CAREFULLY STUDY THIS DISCLOSURE DOCUMENT AND COMMODITY TRADING BEFORE YOU DECIDE TO PARTICIPATE IN A COMMODITY POOL.

* * * * *

20. Section 4.22 is amended by revising paragraph (a)(1)(iii) to read as follows:

§ 4.22 Reporting to pool participants.

(a) * * *

(1) * * *

(iii) The total amount of net gain or loss from all other transactions in which the pool engaged during the reporting period, including interest and dividends earned on funds not paid as premiums or used to margin the pool's commodity interest positions;

* * * * *

21. Section 4.23 is amended by revising paragraphs (a)(1), (a)(7), (b)(1) and (b)(2) to read as follows:

§ 4.23 Recordkeeping.

* * * * *

(a) * * *

(1) An itemized daily record of each commodity interest transaction of the pool, showing the transaction date, quantity, commodity interest, and, as applicable, price or premium, delivery month or expiration date, whether a put or a call, strike price, underlying contract for future delivery or underlying physical, the futures commission merchant carrying the account, whether the interest was purchased, sold, exercised, or expired, and the gain or loss realized.

* * * * *

(7) Copies of each confirmation of a commodity interest transaction of the pool, each purchase and sale statement and each monthly statement for the pool received from a futures commission merchant.

* * * * *

(b) * * *

(1) An itemized daily record of each commodity interest transaction of the commodity pool operator and each principal thereof, showing the transaction date, quantity, commodity interest, and, as applicable, price or premium, delivery month or expiration date, whether a put or a call, strike price, underlying contract for future delivery or underlying physical, the futures commission merchant carrying the account, whether the interest was purchased, sold, exercised, or expired, and the gain or loss realized.

(2) Each confirmation of a commodity interest transaction, each purchase and sale statement and each monthly statement furnished by a futures commission merchant to (i) the commodity pool operator relating to a personal account of the pool operator, and (ii) each principal of the pool operator relating to a personal account of such principal.

* * * * *

22. Section 4.30 is revised to read as follows:

§ 4.30 Prohibited activities.

No commodity trading advisor may solicit, accept or receive from an existing or prospective client funds, securities or other property in the trading advisor's name (or extend credit in lieu thereof) to purchase, margin, guarantee or secure any commodity interest of the client; *Provided, however,* That this section shall not apply to a futures commission merchant that is registered as such under the Act or to a leverage transaction merchant that is registered as a commodity trading advisor under the Act.

23. Section 4.31 is amended by revising paragraphs (a)(1)(iii) and (a)(1)(iv)(B), by adding a new paragraph (a)(1)(v), and by revising paragraph (a)(8)(i) to read as follows:

§ 4.31 Disclosure to prospective clients.

(a) * * *

(1) * * *

(iii) A description of the trading program;

(iv) * * *

(B) If the client is free to choose the futures commission merchant with which it will maintain its account, the trading advisor must make a statement to that effect; and

(v) The types of commodity interests the commodity trading advisor intends to trade, with a description of any restrictions or limitations on such trading established by the commodity trading advisor.

* * * * *

(8)(i) The following Risk Disclosure Statement to be prominently disclosed as, and the only language on, the first page of the Disclosure Document:

RISK DISCLOSURE STATEMENT

THE RISK OF LOSS IN TRADING COMMODITIES CAN BE SUBSTANTIAL. YOU SHOULD THEREFORE CAREFULLY CONSIDER WHETHER SUCH TRADING IS SUITABLE FOR YOU IN LIGHT OF YOUR FINANCIAL CONDITION. IN CONSIDERING WHETHER TO TRADE OR TO AUTHORIZE SOMEONE ELSE TO TRADE FOR YOU, YOU SHOULD BE AWARE OF THE FOLLOWING:

(1) IF YOU PURCHASE A COMMODITY OPTION YOU MAY SUSTAIN A TOTAL LOSS OF THE PREMIMUM AND OF ALL TRANSACTION COSTS.

(2) IF YOU PURCHASE OR SELL A COMMODITY FUTURE OR SELL A COMMODITY OPTION YOU MAY SUSTAIN A TOTAL LOSS OF THE INITIAL MARGIN FUNDS AND ANY ADDITIONAL FUNDS THAT YOU DEPOSIT WITH YOUR BROKER TO ESTABLISH OR MAINTAIN YOUR POSITION. IF THE MARKET MOVES AGAINST YOUR POSITION, YOU MAY BE CALLED UPON BY YOUR BROKER TO DEPOSIT A SUBSTANTIAL AMOUNT OF ADDITIONAL MARGIN FUNDS, ON SHORT NOTICE, IN ORDER TO MAINTAIN YOUR POSITION. IF YOU DO NOT PROVIDE THE REQUIRED FUNDS WITHIN THE PRESCRIBED TIME, YOUR POSITION MAY BE LIQUIDATED AT A LOSS, AND YOU WILL BE LIABLE FOR ANY RESULTING DEFICIT IN YOUR ACCOUNT.

(3) UNDER CERTAIN MARKET CONDITIONS, YOU MAY FIND IT DIFFICULT OR IMPOSSIBLE TO LIQUIDATE A POSITION. THIS CAN OCCUR, FOR EXAMPLE, WHEN THE MARKET MAKES A "LIMIT MOVE."

(4) THE PLACEMENT OF CONTINGENT ORDERS BY YOU OR YOUR TRADING ADVISOR, SUCH AS A "STOP-LOSS" OR "STOP-LIMIT" ORDER, WILL NOT NECESSARILY LIMIT YOUR LOSSES TO THE INTENDED AMOUNTS, SINCE MARKET CONDITIONS MAY MAKE IT IMPOSSIBLE TO EXECUTE SUCH ORDERS.

(5) A "SPREAD" POSITION MAY NOT BE LESS RISKY THAN A SIMPLE "LONG" OR "SHORT" POSITION.

(6) THE HIGH DEGREE OF LEVERAGE THAT IS OFTEN OBTAINABLE IN COMMODITY TRADING CAN WORK AGAINST YOU AS WELL AS FOR YOU. THE USE OF LEVERAGE CAN LEAD TO LARGE LOSSES AS WELL AS GAINS.

IN SOME CASES, MANAGED COMMODITY ACCOUNTS ARE SUBJECT TO SUBSTANTIAL CHARGES FOR MANAGEMENT AND ADVISORY FEES. IT MAY BE NECESSARY FOR THOSE ACCOUNTS THAT ARE SUBJECT TO THESE CHARGES TO MAKE SUBSTANTIAL TRADING PROFITS TO AVOID DEPLETION OR EXHAUSTION OF THEIR ASSETS. THIS DISCLOSURE DOCUMENT CONTAINS A COMPLETE DESCRIPTION OF EACH FEE TO BE CHARGED TO YOUR ACCOUNT BY THE COMMODITY TRADING ADVISOR.

THIS BRIEF STATEMENT CANNOT DISCLOSE ALL THE RISKS AND OTHER SIGNIFICANT ASPECTS OF THE COMMODITY MARKETS. YOU SHOULD THEREFORE CAREFULLY STUDY THIS DISCLOSURE DOCUMENT AND COMMODITY TRADING BEFORE YOU TRADE.

* * * * *

24. Section 4.32 is amended by revising paragraphs (a)(6), (b)(1) and (b)(2) to read as follows:

§ 4.32 Recordkeeping.

(a) * * *

(6) Copies of each confirmation of a commodity interest transaction, each purchase and sale statement and each monthly statement received from a futures commission merchant.

* * * * *

(b) * * *

(1) An itemized daily record of each commodity interest transaction of the commodity trading advisor and each principal thereof, showing the transaction date, quantity, commodity interest, and, as applicable, price or premium, delivery month or expiration date, whether a put or a call, strike price, underlying contract for future delivery or underlying physical, the futures commission merchant carrying the account, whether the interest was purchased, sold, exercised, or expired, and the gain or loss realized.

(2) Each confirmation of a commodity interest transaction, each purchase and sale statement and each monthly statement furnished by a futures commission merchant to (i) the commodity trading advisor relating to a personal account of the trading advisor, and (ii) each principal of the trading advisor relating to a personal account of such principal.

* * * * *

PART 15—REPORTS—GENERAL PROVISIONS

25. Section 15.00 is amended by revising paragraph (b)(2) and redesignating paragraph (b)(2) as paragraph (b)(2)(i), by adding paragraph (b)(2)(ii), and by revising paragraphs (g) and (h) to read as follows:

§ 15.00 Definition of terms used in Parts 15 to 21 of this chapter.

* * * * *

(b) * * *

(2) For purposes of reports regarding commodity options—

(i) For reports specified in Part 16 and in § 17.01 of this chapter, any open contract position on any one contract market in the put option or separately in the call option of a specified option expiration date, which is carried on the books of any one futures commission merchant or foreign broker or which is held by a member of a contract market, and which, at the close of the market on any business day, equals or exceeds 25 options on futures contracts or 25 options on physicals, except as otherwise approved by the Commission.

(ii) For reports specified in §§ 18.00 and 18.04 of this chapter, and for recordkeeping requirements specified in § 18.05 of this chapter, 25 or more open options on futures contracts or 25 or more open options on physicals on any one contract market in a put option or separately in a call option of a specified option expiration date.

* * * * *

(g) *"Guided account program"* means any customer trading program which limits trading to the purchase or sale of a particular contract for future delivery of a commodity or a particular commodity option that is advised or recommended to the participant in the program.

(h) *"Discretionary account"* means a commodity futures or commodity option trading account for which buying and/or selling orders can be placed or

originated, or for which transactions can be effected, under a general authorization and without the specific consent of the customer, whether the general authorization for such orders or transactions is pursuant to a written agreement, power of attorney, or otherwise.

* * * * *

26. Section 15.01 is amended by revising paragraph (c) to read as follows:

§ 15.01 Persons required to report.

* * * * *

(c) Traders who hold or control reportable positions as specified in Part 18 of this chapter.

* * * * *

27. Section 15.02 is revised to read as follows:

§ 15.02 Reporting forms.

Forms on which to report may be obtained from any office of the Commission. Forms to be used for the filing of reports are listed below, and persons required to file these forms may be determined by referring to the rule listed in the column opposite the form number.

Form No.	Title	Rule
40	Statement of Reporting Trader	18.04
102	Identification of Special Accounts	17.01
103	Large Trader Report	18.00
Series 04	Cash Positions of Traders in Specified Commodities.	19.00
	204—Grains (including Oilseeds)	
	304—Cotton	
	504—Eggs	
	604—Potatoes	
Series 01	Positions of Special Accounts on or Subject to the Rules of Specified Markets.	17.00
	01-60—Board of Trade of the City of Chicago.	
	01-61—Board of Trade of the City of Kansas City, Missouri, Inc.	
	01-62—Minneapolis Grain Exchange	
	01-63—MidAmerica Commodity Exchange.	
	01-64—Chicago Mercantile Exchange	
	01-65—New York Mercantile Exchange.	
	01-66—New York Cotton Exchange and Associates.	
	01-69—Commodity Exchange, Inc.	
	01-73—Coffee, Sugar and Cocoa Exchange.	
	01-74—International Monetary Market	
	01-77—New York Futures Exchange	
	01-78—New Orleans Commodity Exchange.	

28. Section 15.05 is revised to read as follows:

§ 15.05 Designation of a futures commission merchant to be the agent of foreign brokers, customers of a foreign broker, and foreign traders.

(a) For purposes of this section, the term "futures contract" means any contract for the purchase or sale of any commodity for future delivery traded or executed on or subject to the rules of any contract market; the term "option contract" means any contract for the purchase or sale of a commodity option traded or executed on or subject to the rules of any contract market; the term "customer" means any person for whose benefit a foreign broker makes or causes to be made any futures contract or option contract; and the term "communication" means any summons, complaint, order, subpoena, special call, request for information, or notice, as well as any other written document or correspondence.

(b) Any futures commission merchant who makes or causes to be made any futures contract or option contract for the account of any foreign broker or foreign trader shall thereupon be deemed to be the agent of the foreign broker or the foreign trader for purposes of accepting delivery and service of any communication issued by or on behalf of the Commission to the foreign broker or the foreign trader with respect to any futures or option contracts which are or have been maintained in such accounts carried by the futures commission merchant. In the case of a futures commission merchant who makes or causes to be made any futures or option contract for the account of a foreign broker, the futures commission merchant shall also be the agent of the customers of the foreign broker (including any customer who is also a foreign broker and its customers) who have positions in the foreign broker's futures or option contract account carried by the futures commission merchant for purposes of accepting delivery and service of any communication issued by or on behalf of the Commission to the customer with respect to any futures or option contracts which are or have been maintained in such accounts carried by the futures commission merchant. Service or delivery of any communication issued by or on behalf of the Commission to a futures commission merchant pursuant to such agency shall constitute valid and effective service or delivery upon the foreign broker, a customer of the foreign broker or the foreign trader. A futures commission merchant who has been served with, or to whom there has been delivered, a communication issued by or on behalf of the Commission to a foreign broker, a customer of the foreign broker or the foreign trader shall transmit the communication promptly and in a manner which is reasonable under the circumstances, or in a manner specified by the Commission in the communication, to the foreign broker, a customer of the foreign broker or the foreign trader.

(c) It shall be unlawful for any futures commission merchant to open a futures or options contract account for, or to effect transactions in futures contracts or option contracts for an existing account of, a foreign broker or foreign trader unless the futures commission merchant informs the foreign broker or foreign trader prior thereto, in any reasonable manner which the futures commission merchant deems to be appropriate, of the requirements of this section.

(d) The requirements of paragraphs (b) and (c) of this section shall not apply to any account carried by a futures commission merchant if the foreign broker, customer of a foreign broker, or foreign trader for whose benefit such account is carried has duly executed and maintains in effect a written agency agreement in compliance with this paragraph with a person domiciled in the United States and has provided a copy of the agreement to the futures commission merchant prior to the opening of an account, or placing orders for transactions in futures contracts or option contracts of an existing account, with the futures commission merchant. This agreement must authorize the person domiciled in the United States to serve as the agent of the foreign broker and customers of the foreign broker or the foreign trader for purposes of accepting delivery and service of all communications issued by or on behalf of the Commission to the foreign broker, customers of the foreign broker, or foreign trader and must provide an address in the United States where the agent will accept delivery and service of communications from the Commission. This agreement must be filed with the Commission by the futures commission merchant prior to opening an account for the foreign broker or foreign trader or effecting transactions in futures or option contracts for an existing account of a foreign broker or foreign trader. Unless otherwise specified by the Commission, the agreements required to be filed with the Commission shall be filed with the Secretary of the Commission at 2033 K Street, N.W., Washington, D.C. 20581. A foreign broker, customer of a foreign broker, or foreign trader shall notify the Commission immediately if the written agency agreement is terminated, revoked or is otherwise no longer in effect. If a futures commission merchant carrying an account for a foreign broker or foreign trader knows or should know that the agreement has expired, has been terminated or is otherwise no longer in effect, the futures commission merchant shall notify the Secretary of

the Commission immediately. If the written agency agreement expires, terminates or is not in effect, the futures commission merchant and the foreign broker, customers of the foreign broker or foreign trader are subject to the provisions of paragraphs (b) and (c) of this section.

PART 16—REPORTS BY CONTRACT MARKETS

29. Section 16.00 is amended by revising paragraph (a) to read as follows:

§ 16.00 Clearing member reports.

(a) *Information to be provided.* Each contract market shall submit to the Commission, in accordance with paragraph (b) of this section, a report for each business day, showing for each clearing member, by proprietary and customer account, the following information separately for futures by commodity and by future, and, for options, by underlying futures contract for options on futures contracts or by underlying physical for options on physicals, and by put, by call, by expiration date and by strike price:

* * * * *

30. Section 16.01 is amended by revising the introductory text of paragraphs (a) and (b) and by revising paragraphs (c) and (d) to read as follows:

§ 16.01 Trading volume, open contracts and price.

(a) *Trading volume and open contracts.* Each contract market shall publish for each business day the following information separately for futures by commodity and by future, and, for options, by underlying futures contract for options on futures contracts or by underlying physical for options on physicals, and by put, by call, by expiration date and by strike price:

* * * * *

(b) *Prices.* Each contract market shall make readily available to the news media and the general public no later than the business day following the day to which the information pertains, the following information separately for futures, by commodity and by future, and, for options, by underlying futures contract for options on futures contracts or by underlying physical for options on physicals, and by put, by call, by expiration date and by strike price:

* * * * *

(c) *Additional information.* Each contract market shall make readily available to the public, in printed form at the office of the contract market, the following information with respect to transactions in commodity futures and commodity options on that contract market: (1) The method used by the contract market in determining nominal prices and settlement prices; and (2) if discretion is used by the contract market in determining the opening and closing ranges or the settlement prices, an explanation that certain discretion may be employed by the contract market and a description of the manner in which that discretion may be employed.

(d) *Reports to the Commission.* Unless otherwise approved by the Commission or its designee, the information specified in paragraphs (a) and (b) of this section shall be submitted to the Commission on compatible data processing punched cards, magnetic tapes or magnetic discs using a format and coding structure approved in writing by the Commission or its designee. Unless otherwise instructed by the Commission or its designee, such information shall be submitted the business day following the day to which the information pertains at the Regional Office of the Commission having local jurisdiction with respect to such contract market.

31. Section 16.02 is amended by revising paragraphs (a)(1) and (b) to read as follows:

§ 16.02 Large option trader reports.

(a) *Information required.* When an option becomes the option which will expire next, and, in any case, at least six weeks prior to an option's expiration date, each contract market shall submit to the Commission a weekly report for options on futures and options on physicals that are settled in cash and, unless otherwise determined by the Commission, a daily report for all other options on physicals, containing the following information for each option trader controlling a reportable option position in the option which will expire next or controlling a reportable option position in an option which will expire in six weeks or less:

(1)(i) For options on futures contracts and options on physicals that are settled in cash, with respect to each put and call and each long and short controlled by the option trader, the following information shown separately by futures commission merchant or member of the contract market and combined for all futures commission merchants and members:

(A) All reportable positions in the option which is next to expire, by strike price;

(B) All reportable positions in any other options which expire within six weeks, by strike price;

(C) All reportable positions in the next-deferred option expiration date, regardless of strike prices;

(D) All reportable positions in all other more distant option expiration dates, regardless of strike prices; and

(E) The total reportable position controlled by the option trader in all option expiration dates, regardless of strike prices.

(ii) Unless otherwise determined by the Commission, for all other options on physicals, with respect to each put and call and each long and short controlled by the option trader, the following information shown separately by futures commission merchant or member of the contract market and combined for all futures commission merchants and members:

(A) All reportable positions in the option which is next to expire, by strike price, and the number of contracts exercised;

(B) All reportable positions in any other options which expire within six weeks, by strike price, and the number of contracts exercised;

(C) All reportable positions in the next-deferred option expiration date, regardless of strike prices, and the number of contracts exercised;

(D) All reportable positions in all other more distant option expiration dates, regardless of strike prices, and the number of contracts exercised; and

(E) The total reportable position controlled by the option trader in all option expiration dates, regardless of strike prices, and the total number of contracts exercised.

(iii) Each contract market shall identify all option positions controlled by the same trader which are carried at the same futures commission merchant or held by a member of the contract market by use of the number which is assigned by the futures commission merchant or member in accordance with § 17.01(a) of this chapter.

* * * * *

(b) *Form and manner of reporting.* The information required by paragraph (a) of this section shall be submitted in hard copy form and on compatible data processing punched cards, magnetic tapes or magnetic discs, using a format and coding structure approved in writing by the Commission or its designee. For options on futures and for options on physicals that are settled in cash, such information shall be compiled weekly as of the close of business on Tuesday, or Monday if Tuesday is a holiday, or more frequently than weekly as the Commission may direct. Unless otherwise instructed by the Commission or its designee, the information shall be

submitted by the business day following that to which the information pertains at the Regional Office of the Commission having local jurisdiction with respect to such contract market.

32. Section 16.04 is amended by revising paragraph (a) to read as follows:

§ 16.04 Month-end reports.

(a) *Information to be provided.* Each contract market shall submit to the Commission, for each month, a report for options on futures contracts and separately a report for options on physicals showing long and short open option positions held at month-end in all accounts, reported separately by underlying futures contract or physical, for commercial and noncommercial option traders, by put, by call, by expiration date, by strike price and by clearing member.

* * * * *

PART 18—REPORTS BY TRADERS

33. Section 18.00 is amended by revising the introductory paragraph, paragraphs (a), (b), (c) and(d) and by removing paragraphs (e), (f), (g) and (h) to read as follows:

§ 18.00 Information to be furnished by traders.

Every trader who owns, holds or controls, or has held, owned or controlled, a reportable futures or options position in a commodity shall within one business day after a special call upon such trader by the Commission or its designee file reports to the Commission concerning transactions and positions in such futures or options. Reports shall be filed for the period of time that the trader held or controlled a reportable position as instructed in the call. Each such report shall be prepared on the Commission's Large Trader Reporting Form (Form 103) on a separate sheet for each commodity or option, and shall show for the day covered by the report the following information, as specified in the call, separately for each future or option and for each contract market:

(a) Open contracts;

(b) Purchases and sales;

(c) Delivery notices issued and stopped; and

(d) Options exercised.

§ 18.01 [Amended]

34. Section 18.01 is amended by removing paragraph (d).

35. Section 18.04 is amended by revising the introductory paragraph and paragraphs (a)(2), (a)(5), (a)(9), (b)(3), (b)(4), (c)(3), (c)(4), (c)(5), (c)(6), and (d) to read as follows:

18.04 Statement of reporting trader.

Every trader who holds or controls a reportable futures position shall file with the Commission a "Statement of Reporting Trader" on Form 40. Each trader shall file an initial Form 40 at such time as the Commission directs, but not later than the tenth business day following the date the trader assumes the reportable position. Subsequent filings shall be made at the time specified in paragraph (e) of this section. In addition, every trader who holds or controls a reportable option position, as set forth in § 15.00(b)(2)(ii) of this chapter, shall within one business day after a special call upon such trader by the Commission or its designee file a "Statement of Reporting Trader" with respect to such option positions. All traders shall complete Part A of the Form 40 and, in addition, shall complete:

Part B—If the trader is an individual, a partnership or a joint tenant.

Part C—If the trader is a corporation or type of trader other than an individual, partnership, or joint tenant.

(a) * * *

(2) Principal business and occupation of the reporting trader and, in addition, whether transactions are made for, on behalf of, or in association with, a customer trading program of a futures commission merchant, a commodity pool, a producer cooperative, any business activities in which the trader is commercially engaged, or for personal use.

* * * * *

(5) The name and address of each person whose account is controlled by the reporting trader.

* * * * *

(9) The following information concerning accounts which the reporting trader guarantees or in which the trader has a financial interest of ten percent or more if such accounts are in a name other than that of the reporting trader:

* * * * *

(b) * * *

(3) If the trader is self-employed and engaged in the marketing of a cash commodity or in a business activity which is hedged by use of the futures market, or the trader uses the option market in connection with such business, the cash commodity marketed or risk exposure covered, types of associated marketing activities, the option contract used or the futures contract used for hedging.

(4) The name, address, and type of any organization in which the reporting trader participates in the management if such organization holds another futures or option trading account.

* * * * *

(c) * * *

(3) Names and locations of all subsidiary firms that trade in commodity futures or options and whether or not the subsidiary firms are organized under the law of any state (including the District of Columbia) or territory or possession of the United States.

(4) Name, address, and business telephone number of person(s) actually controlling the trading and, if different persons are responsible for different commodities or options, the commodities or options for which each controller has responsibility.

(5) Name, office address and business telephone number of person or persons to contact regarding trading.

(6) If the firm is engaged in the marketing of a cash commodity or in a business activity which is hedged by using the futures markets, or the firm uses the option market in conjunction with such business, the cash commodity marketed or risk exposure covered, types of associated marketing activities, and the option contracts used or the futures contracts used for hedging.

(d) *Updating reports.* If at the time a trader holds or controls a reportable futures position and (1) the trader has not filed a Form 40 during the previous twelve months or (2) a Form 40 previously filed by the trader is no longer accurate because, since the previous filing, there has been a change in the information required under paragraph (a)(1), (a)(2), (a)(3), (a)(5), (a)(6), (a)(8), (a)(9), (a)(10), (b) or (c) of this section, the trader shall file an updated Form 40 with the Commission not later than 10 calendar days after the expiration of such twelve month period or after such change occurs, as the case may be.

36. Section 18.05 is revised to read as follows:

§ 18.05 Maintenance of books and records.

Every trader who holds or controls a reportable futures or option position shall keep books and records showing all details concerning all positions and transactions for future delivery in the commodity on all contract markets, all positions and transactions in the commodity option, and all positions and transactions in the cash commodity, its products and byproducts and, in addition, commercial activities that the trader hedges in the commodity underlying the futures contract in which the trader is reportable, and shall upon

request furnish to the Commission any pertinent information concerning such positions, transactions or activities.

PART 21—SPECIAL CALLS FOR INFORMATION FROM CONTRACT MARKETS, FUTURES COMMISSION MERCHANTS, MEMBERS OF CONTRACT MARKETS, AND FOREIGN BROKERS

37. Section 21.02 is revised to read as follows:

§ 21.02 Special calls for information on open contracts in accounts carried by futures commission merchants, members of contract markets, and foreign brokers.

Upon special call by the Commission for information relating to futures and/or option positions held on the dates specified in the call, each futures commission merchant, member of a contract market, or foreign broker, and, in addition, for options information, each contract market, shall furnish to the Commission the following information concerning accounts of traders owning or controlling such futures and/or options positions as may be specified in the call:

(a) The name and address of the person for whom each account is carried:

(b) The principal business or occupation of the person for whom each account is carried, as specified in the call;

(c) The type of each such account;

(d) The name, address and principal business or occupation of any person who controls the trading of each account;

(e) The name and address of any person having a financial interest of ten percent or more in each account;

(f) The number of open futures and/or option positions carried in each account as specified in the call; and

(g) As applicable, the following identifying information:

(1) Whether a trader who holds commodity options is classified as a commercial or as a noncommercial for each commodity option;

(2) Whether the open commodity futures contracts are classified as speculative, spreading (straddling), or hedging; and

(3) Whether any of the accounts in question are omnibus accounts and, if so, whether the originator of the omnibus account is another futures commission merchant or foreign broker.

PART 32—REGULATION OF COMMODITY OPTION TRANSACTIONS

38. Section 32.1 is revised to read as follows:

§ 32.1 Scope of Part 32; definitions.

(a) *Scope.* The provisions of this Part, except for the provisions of §§ 32.8 and 32.9 which shall in any event apply to all commodity option transactions, shall apply to all commodity option transactions except for commodity option transactions conducted or executed on or subject to the rules of a contract market pursuant to Section 4c(c) of the Act and the regulations promulgated thereunder.

(b) *Definitions.* As used in this Part:

(1) "Commodity option transaction" and "commodity option" each means any transaction or agreement in interstate commerce which is or is held out to be of the character of, or is commonly known to the trade as, an "option", "privilege", "indemnity", "bid", "offer", "put", "call", "advance guaranty", or "decline guaranty' involving any commodity regulated under the Act other than wheat, cotton, rice, corn, oats, barley, rye, flaxseed, grain sorghums, mill feeds, butter, eggs, onions, Solanum tuberosum (Irish potatoes), wool, wool tops, fats and oils (including lard, tallow, cottonseed oil, peanut oil, soybean oil and all other fats and oils), cottonseed meal, cottonseed, peanuts, soybeans, soybean meal, livestock, livestock products and frozen concentrated orange juice;

(2) "Interstate commerce" shall be construed and have the same meaning as set forth in Sections 2(a) and 2(b) of the Act;

(3) "Option customer" means any person who, directly or indirectly, purchases or otherwise acquires for value any interest in a commodity option, but shall not include a person required to register as a futures commission merchant in accordance with this Part;

(4) "Purchase price" means the total actual cost paid or to be paid, directly or indirectly, by an option customer for entering into and maintaining an interest in a commodity option transaction by whatever name called; and

(5) "Striking price" means the price at which an option customer may purchase or sell the commodity or the contract of sale of a commodity for future delivery which is the subject of a commodity option transaction.

39. Section 32.11 is amended by revising paragraph (b) to read as follows:

§ 32.11 Suspension of commodity option transactions.

* * * * *

(b) The provisions of paragraph (a) of this section shall not apply to any commodity option transaction conducted in accordance with the provisions of § 32.4(a) or any commodity option transaction conducted on or subject to the rules of a contract market in accordance with the provisions of Section 4c(c) of the Act and the regulations promulgated thereunder.

* * * * *

PART 33—REGULATION OF DOMESTIC EXCHANGE-TRADED COMMODITY OPTION TRANSACTIONS

40. Section 33.2 is amended by revising paragraph (a) to read as follows:

§ 33.2 Applicability of Act and rules; scope of Part 33.

(a) Except as otherwise specified in this Part and unless the context otherwise requires:

(1) Each board of trade designated, or applying for designation, by the Commission as a contract market for the purpose of trading commodity options pursuant to this Part shall be deemed for such purpose to be a "board of trade," "exchange," and a "contract market" and, with respect to commodity option transactions conducted pursuant to such designation, shall comply with and be subject to all of the provisions of the Act relating to boards of trade, exchanges, or contract markets as though such provisions were set forth herein; and

(2) The provisions of Sections 2(a)(1), 2(a)(8)(B), 4, 4a, 4c(a), 4d, 4e, 4f, 4g, 4h, 4i, 4j, 4k, 4m, 4n, 5, 5a, 5b, 6, 6a, 6b, 6c, 7, 8(a)–(e), 8a, 8b, 8c, and 16 of the Act shall apply to commodity option transactions that are subject to the requirements of this Part as though such provisions were set forth herein and included specific references to commodity option transactions. Nothing contained in this section shall be construed to confer designation as a contract market absent issuance of an order of the Commission so designating an applicant board of trade.

* * * * *

41. Section 33.3 is amended by revising paragraphs (b)(1) and (b)(2) to read as follows:

§ 33.3 Unlawful commodity option transactions.

* * * * *

(b) * * *

(1) Any person to solicit or accept orders from an option customer (other than in a clerical capacity) for any commodity option transaction, or to supervise any person or persons so engaged, unless such person is:

* * * * *

(2) Any person registered or required to be registered as a futures commission

merchant under the Act to permit another person to become or remain associated with such person as a partner, officer, employee, agent or representative (or in any status or position involving similar functions) in any capacity involving the solicitation or acceptance of an order from an option customer (other than in a clerical capacity) for any commodity option transaction or the supervision of any person or persons so engaged, if such person knows or should know that such other person is or was not registered as required by this Part or that such registration has expired, been suspended (and the period of suspension has not expired) or been revoked.

42. Section 33.4 is amended by revising the introductory paragraph and paragraphs (a)(1)(ii) and (a)(3), by revising paragraph (a)(4) and redesignating paragraph (a)(4), as paragraph (a)(6), by adding a new paragraph (a)(4), by revising paragraph (a)(5)(iii) and by adding a new paragraph (a)(5)(iv), by revising paragraph (b)(1)(iii), by adding a new paragraph (b)(11), and by revising paragraphs (c), (d), (d)(1), (d)(3), and (g) to read as follows:

§ 33.4 Designation as a contract market for the trading of commodity options.

The Commission may designate any board of trade located in the United States as a contract market for the trading of options on contracts of sale for future delivery or options on physicals when the applicant complies with and carries out the requirements of the Act (as provided in § 33.2), these regulations, and the following conditions and requirements with respect to the commodity option for which the designation is sought:

(a) * * *

(1) * * *

(ii) With respect to options on futures contracts, may be exercised only by the establishment, by book entry, in the clearing organization of positions in the underlying futures contract.

* * * * * *

(3) If designation for the trading of options on futures contracts is sought, is designated as a contract market for the underlying contract of sale for future delivery which is the subject of the option for which designation is sought, and submits, if so requested by the Commission, the information called for by § 1.50 of this chapter (relating to continued compliance with the conditions and requirements for designation as a contract market) for the specified futures contract underlying the option for which the designation is sought, and the applicant complies with the conditions and requirements for designation as a contract market for such contract for future delivery as set forth in Sections 5 and 5a of the Act and as set forth in these regulations.

(4) In the case of a contract market which is requesting designation for the trading of options on physicals for which it is designated as a contract market for contracts of sale for future delivery or for options on futures contracts, submits, if so requested by the Commission, the information called for by § 1.50 of this chapter (relating to continued compliance with the conditions and requirements for designition as a contract market) for that specified futures contract and/or options on that futures contract, and the applicant complies with the conditions and requirements for designation as a contract market for such contract for future delivery as set forth in Sections 5 and 5a of the Act and as set forth in these regulations.

(5) * * *

(iii) If designation for the trading of options on futures contracts is sought the volume of trading in all contract months for future delivery of the commodity for which the option designation is sought has averaged at least 1,000 contracts per week on such board of trade for the 12 months preceding the date of application for the designation, or, alternatively, that there is sufficient liquidity in the cash and futures markets in the commodity underlying the option for which designation is being sought to prevent disruption of those markets by the trading of options on a futures contract; and

(iv) If designation for the trading of options on physicals is sought and thereafter for the purpose of demonstrating continued compliance with the Act and these regulations:

(A) The cash market for the underlying physical exhibits sufficient liquidity such that the grantor and purchaser of the option have the opportunity to purchase or sell the underlying physical at its economic value in normal cash marketing channels;

(B) There exists an accurate and widely-disseminated price series for the underlying physical which is deliverable on the option contract;

(C) Trading of such options will not be disruptive of trading in the cash market for the underlying physical or of any futures contract; and

(D) The individual terms and conditions of the option contract conform to practices in the underlying cash market or are otherwise justified, including a demonstration that the terms and conditions of the option contract provide for a deliverable supply which is not conducive to price manipulation or distortion, consistent with a description of the cash market furnished by the board of trade.

(6) If designation for the trading of options on a futures contract is sought, is not designated as a contract market for any other option on a futures contract, and if designation for the trading of options on a physical is sought, is not designated as a contract market for any other option on a physical.

(b) * * *

(1) * * *

(iii) The point, in terms of the price of the underlying futures contract or underlying physical, at which a new strike price will be introduced in any option which is already trading;

* * * * * *

(11) Establish appropriate criteria which are reasonably designed to secure performance, upon exercise, of the option contracts.

(c) Such board of trade establishes procedures and conducts sales practice audits of member futures commission merchants which engage in the offer or sale of option contracts regulated under this Part. These sales practice audits must be of sufficient scope to enforce the contract market's rules, including investigation for the improper handling of discretionary accounts, inadequate internal supervision, fraudulent or high-pressure sales communications, compliance with disclosure requirements, improper handling and disposition of option customer complaints, and, where applicable, the futures commission merchant's officer or sale of deep-out-of-the-money options.

(d) A board of trade must submit an analysis and justification of the individual terms and conditions of the option contract. In determining whether to approve option contract terms and conditions, the Commission may consider the analysis and justification submitted for such terms and conditions, including, without limitation:

(1) The expiration date of the option if that date is less than ten business days before the earlier of the last trading day or the first notice day of any futures contract on the same or a related commodity;

* * * * * *

(3) The nature of the clearing mechanism to be utilized for the commodity option, and the differences, if any, among the clearing mechanisms for options on futures contracts, options on physicals, and futures contracts;

* * * * * *

(g) Such board of trade provides a comprehensive list of occupation or business categories of commercial users of the commodity underlying the option contract for which the board of trade is seeking designation as a contract market.

43. Section 33.5 is amended by revising paragraph (c) to read as follows:

§ 33.5 Application for designation as a contract market for the trading of commodity options.

* * * * *

(c) The effective period for designation as a contract market for a particular commodity option under this Part shall be for a period not to exceed three years from the effective date of the designation, or such shorter period as the Commission may specify at the time the designation is granted, and in any event shall be of no further force or effect should the Commission, by rule or regulation, repeal the provisions of this Part under which such designation is granted. Except as may be specifically authorized by the Commission, no board of trade which has been designated as a contract market for the trading of commodity options may authorize or allow the trading of any commodity option which will expire after the termination of the effective period of such designation, and, with respect to an option on a futures contract, where the delivery month of the futures contract underlying such option is later than the termination of the effective period of such designation or where the month for the underlying futures contract has not been listed.

44. Section 33.6 is amended by revising paragraph (c) to read as follows:

§ 33.6 Suspension or revocation of designation as a contract market for the trading of commodity options.

* * * * *

(c) The option market is not used on more than an occasional basis for other than speculative purposes by producers, processors, merchants or commercial users engaged in handling or utilizing the commodity (including the products, by-products or source commodity thereof) underlying an option, in interstate commerce; or

* * * * *

45. Section 33.7 is amended by revising portions of paragraph (b) (Options Disclosure Statement) and by revising paragraphs (c) and (d) to read as follows:

§ 33.7 Disclosure.

* * * * *

(b) The disclosure statement must read as follows:

OPTIONS DISCLOSURE STATEMENT

BECAUSE OF THE VOLATILE NATURE OF THE COMMODITIES MARKETS, THE PURCHASE AND GRANTING OF COMMODITY OPTIONS INVOLVE A HIGH DEGREE OF RISK. COMMODITY OPTION TRANSACTIONS ARE NOT SUITABLE FOR MANY MEMBERS OF THE PUBLIC. SUCH TRANSACTIONS SHOULD BE ENTERED INTO ONLY BY PERSONS WHO HAVE READ AND UNDERSTOOD THIS DISCLOSURE STATEMENT AND WHO UNDERSTAND THE NATURE AND EXTENT OF THEIR RIGHTS AND OBLIGATIONS AND OF THE RISKS INVOLVED IN THE OPTION TRANSACTIONS COVERED BY THIS DISCLOSURE STATEMENT.

BOTH THE PURCHASER AND THE GRANTOR SHOULD KNOW WHETHER THE PARTICULAR OPTION IN WHICH THEY CONTEMPLATE TRADING IS AN OPTION WHICH, IF EXERCISED, RESULTS IN THE ESTABLISHMENT OF A FUTURES CONTRACT (AN "OPTION ON A FUTURES CONTRACT") OR RESULTS IN THE MAKING OR TAKING OF DELIVERY OF THE ACTUAL COMMODITY UNDERLYING THE OPTION (AN "OPTION ON A PHYSICAL COMMODITY"). BOTH THE PURCHASER AND THE GRANTOR OF AN OPTION ON A PHYSICAL COMMODITY SHOULD BE AWARE THAT, IN CERTAIN CASES, THE DELIVERY OF THE ACTUAL COMMODITY UNDERLYING THE OPTION MAY NOT BE REQUIRED AND THAT, IF THE OPTION IS EXERCISED, THE OBLIGATIONS OF THE PURCHASER AND GRANTOR WILL BE SETTLED IN CASH.

A PERSON SHOULD NOT PURCHASE ANY COMMODITY OPTION UNLESS HE IS ABLE TO SUSTAIN A TOTAL LOSS OF THE PREMIUM AND TRANSACTION COSTS OF PURCHASING THE OPTION. A PERSON SHOULD NOT GRANT ANY COMMODITY OPTION UNLESS HE IS ABLE TO MEET ADDITIONAL CALLS FOR MARGIN WHEN THE MARKET MOVES AGAINST HIS POSITION AND, IN SUCH CIRCUMSTANCES, TO SUSTAIN A VERY LARGE FINANCIAL LOSS.

A PERSON WHO PURCHASES AN OPTION SHOULD BE AWARE THAT IN ORDER TO REALIZE ANY VALUE FROM THE OPTION, IT WILL BE NECESSARY EITHER TO OFFSET THE OPTION POSITION OR TO EXERCISE THE OPTION. IF AN OPTION PURCHASER DOES NOT UNDERSTAND HOW TO OFFSET OR EXERCISE AN OPTION, THE PURCHASER SHOULD REQUEST AN EXPLANATION FROM THE FUTURES COMMISSION MERCHANT. CUSTOMERS SHOULD BE AWARE THAT IN A NUMBER OF CIRCUMSTANCES, SOME OF WHICH WILL BE DESCRIBED IN THIS DISCLOSURE STATEMENT, IT MAY BE DIFFICULT OR IMPOSSIBLE TO OFFSET AN EXISTING OPTION POSITION ON AN EXCHANGE.

THE COMMODITY FUTURES TRADING COMMISSION REQUIRES THAT ALL CUSTOMERS RECEIVE AND ACKNOWLEDGE RECEIPT OF A COPY OF THIS DISCLOSURE STATEMENT BUT DOES NOT INTEND THIS STATEMENT AS A RECOMMENDATION OR ENDORSEMENT OF EXCHANGE-TRADED COMMODITY OPTIONS.

Contents of Disclosure Statement

1. Some of the risks of option trading
2. Description of commodity options
3. The mechanics of option trading
4. Margin requirements
5. Profit potential of an option position
6. Deep-out-of-the-money options
7. Glossary of terms

(1) *SOME OF THE RISKS OF OPTION TRADING.*

THE GRANTOR OF AN OPTION SHOULD BE AWARE THAT, IN MOST CASES, A COMMODITY OPTION MAY BE EXERCISED AT ANY TIME FROM THE TIME IT IS GRANTED UNTIL IT EXPIRES. THE PURCHASER OF AN OPTION SHOULD BE AWARE THAT SOME OPTION CONTRACTS MAY PROVIDE ONLY A LIMITED PERIOD OF TIME FOR EXERCISE OF THE OPTION.

THE PURCHASER OF A PUT OR A CALL IS SUBJECT TO THE RISK OF LOSING THE ENTIRE PURCHASE PRICE OF THE OPTION—THAT IS THE PREMIUM PAID FOR THE OPTION PLUS ALL TRANSACTION COSTS.

Specific market movements of the underlying future or underlying physical commodity cannot be predicted accurately.

The grantor of a call option who does not have a long position in the underlying futures contract or underlying physical commodity is subject to risk or loss should the price of the underlying futures contract or underlying physical commodity increase by an amount greater than the premium received for granting the call option.

The grantor of a call option who has a long position in the underlying futures contract or underlying physical commodity is subject to the full risk of a decline in price of the underlying position. In exchange for the premium received for granting a call option, the option grantor gives up all of the potential gain resulting from an increase in the price of the underlying futures contract or underlying physical commodity above the option strike price if the option is exercised against the grantor.

The grantor of a put option who does not have a short position in the underlying futures contract or underlying physical commodity (*e.g.*, commitment to sell the physical) is subject to risk of loss should the price of the underlying futures contract or underlying physical commodity decrease by an amount in excess of the premium received for granting the put option.

The grantor of a put option on a futures contract who has a short position in the underlying futures contract is subject to the full risk of a rise in the price in the underlying position. In exchange for the premium received for granting a put option on a futures contract, the option grantor gives up all of the potential gain resulting from a decrease in the price of the underlying futures contract below the option strike price if the option is exercised against the grantor. The grantor of a put option on a physical commodity who

has a short position (*e.g.*, commitment to sell the physical) is subject to the full risk of a rise in the price of the physical commodity which must be obtained to fulfill the commitment. In exchange for the premium, the grantor of a put option on a physical commodity gives up all of the potential gain which would have resulted from a decrease in the price of the commodity below the option strike price if the option is exercised against the grantor.

(2) *Description of Commodity Options.* Prior to entering into any transaction involving a commodity option, an individual should thoroughly understand the nature and type of option and the underlying futures contract or underlying physical commodity involved. The futures commission merchant is required to provide, and the individual contemplating an option transaction should obtain, a description of the following:

(i) The futures contract or the physical commodity which is the subject of the option;

(ii) The quantity of the underlying futures contract or underlying physical commodity which may be purchased or sold upon exercise of the option or, if applicable, whether exercise of the option will be settled in cash;

* * * * *

(v) A description of all costs in addition to the purchase price which may be incurred if the commodity option is exercised, including the amount of commissions (whether termed sales commissions or otherwise), storage, interest, and all similar fees and charges which may be incurred;

(vi) An explanation and understanding of an option grantor's initial margin requirement and obligation to provide additional margin in connection with such an option position, or a position in a futures contract, if applicable;

* * * * *

(viii) If applicable, a description of the effect upon the value of the option position that could result from limit moves in the underlying futures contract.

(3) *The Mechanics of Option Trading.* Before entering into any exchange-traded option transaction, an individual should obtain a description of how commodity options are traded.

Option customers should clearly understand that there is no guarantee that option positions may be offset by either a closing purchase or closing sale transaction on an exchange. In this circumstance, option grantors could be subject to the full risk of their positions until the option positions expire, and the purchaser of a profitable option might have to exercise the option to realize a profit.

For an option on a futures contract, an individual should clearly understand the relationship between exchange rules governing option transactions and exchange rules governing the underlying futures contract. For example, an individual should understand what action, if any, the exchange will take in the option market if trading in the underlying futures market is restricted or the futures prices have made a "limit move."

* * * * *

(5) *Profit Potential of An Option Position.* An option customer should carefully calculate the price which the underlying futures contract or underlying physical commodity would have to reach for the option position to become profitable. This price would include the amount by which the underlying futures contract or underlying physical commodity would have to rise above or fall below the strike price to cover the sum of the premium and all other costs incurred in entering into and exercising or closing (offsetting) the commodity option position.

(6) *Deep-out-of-the-Money Options.* A person contemplating purchasing a deep-out-of-the-money option (that is, an option with a strike price significantly above, in the case of a call, or significantly below, in the case of a put, the current price of the underlying futures contract or underlying physical commodity) should be aware that the chance of such an option becoming profitable is ordinarily remote.

On the other hand, a potential grantor of a deep-out-of-the-money option should be aware that such options normally provide small premiums while exposing the grantor to all of the potential losses described in section (1) of this disclosure statement.

(7) *Glossary of Terms.* (i) *Contract market*—Any board of trade (exchange) located in the United States which has been designated by the Commodity Futures Trading Commission to list a futures contract or commodity option for trading.

(ii) *Exchange-traded option; put option; call option*—The options discussed in this disclosure statement are limited to those which may be traded on a contract market. These options (subject to certain exceptions) give an option purchaser the right to buy in the case of a call option, or to sell in the case of a put option, a futures contract or the physical commodity underlying the option at the stated strike price prior to the expiration date of the option. Each exchange-traded option is distinguished by the underlying futures contract or underlying physical commodity, strike price, expiration date, and whether the option is a put or a call.

(iii) *Underlying futures contract*—The futures contract which may be purchased or sold upon the exercise of an option on a futures contract.

(iv) *Underlying physical commodity*—The commodity of a specific grade (quality) and quantity which may be purchased or sold upon the exercise of an option on a physical commodity.

(v) *Class of options*—A put or a call covering the same underlying futures contract or underlying physical commodity.

(vi) *Series of options*—Options of the same class having the same strike price and expiration date.

(vii) *Exercise price*—*See* strike price.

(viii) *Expiration date*—The last day when an option may be exercised.

(ix) *Premium*—The amount agreed upon between the purchaser and seller for the purchase or sale of a commodity option.

(x) *Strike price*—The price at which a person may purchase or sell the underlying futures contract or underlying physical commodity upon exercise of a commodity option. This term has the same meaning as the term "exercise price."

(xi) *Short option position*—*See* opening sale transaction.

(xii) *Long option position*—*See* opening purchase transaction.

(xiii) *Types of options transactions*—

(A) *Opening purchase transaction*—A transaction in which an individual purchases an option and thereby obtains a long option position.

(B) *Opening sale transaction*—A transaction in which an individual grants an option and thereby obtains a short option position.

(C) *Closing purchase transaction*—A transaction in which an individual with a short option position liquidates the position. This is accomplished by a closing purchase transaction for an option of the same series as the option previously granted. Such a transaction may be referred to as an offset transaction.

(D) *Closing sale transaction*—A transaction in which an individual with a long option position liquidates the position. This is accomplished by a closing sale transaction for an option of the same series as the option previously purchased. Such a transaction may be referred to as an offset transaction.

(xiv) *Purchase price*—The total actual cost paid or to be paid, directly or indirectly, by a person to acquire a commodity option. This price includes all commissions and other fees, in addition to the option premium.

(xv) *Grantor, writer, seller*—An individual who sells an option. Such a person is said to have a short position.

(xvi) *Purchaser*—An individual who buys an option. Such a person is said to have a long position.

(c) Prior to the entry of the first commodity option transaction for the account of an option customer, a futures commission merchant or the person soliciting or accepting the order therefor must provide an option customer with all of the information required under the disclosure statement: *Provided,* The limitations, if any, on the transfer of an option customer's account to a futures commission merchant other than the one through whom the commodity option transactions are to be executed must be provided in writing; *Provided, further,* That the futures commission merchant or the person soliciting or accepting the order therefor must provide current information to an option customer if the information provided previously has become inaccurate.

(d) Prior to the entry into a commodity option transaction on or subject to the rules of a contract market, each option customer or prospective option customer shall, to the extent the following amounts are known or can reasonably be approximated, be informed by the person soliciting or accepting the order therefor of the amount of the premium and any mark-ups thereon, if applicable, commissions, costs, fees and other charges to be incurred in connection with the commodity option transaction.

as well as the strike price and all costs to be incurred by the option customer if the commodity option is exercised.

* * * * *

PART 145—COMMISSION RECORDS AND INFORMATION

46. Section 145.5 is amended by revising paragraph (d)(1)(vi) to read as follows:

§ 145.5 Nonpublic matters.

* * * * *

(d) * * *

(1) * * *

(vi) Reports required to be filed pursuant to Parts 15–21 of this chapter; and

* * * * *

PART 147—OPEN COMMISSION MEETINGS

47. Section 147.3 is amended by revising paragraph (b)(4)(i)(F) to read as follows:

§ 147.3 General requirement of open meetings; grounds upon which meetings may be closed.

* * * * *

(b) * * *

(4) * * *

(i) * * *

(F) Reports required to be filed pursuant to Parts 15–21 of this chapter; and

* * * * *

PART 155—TRADING STANDARDS

48. Section 155.2 is amended by revising paragraphs (a), (b), and (i) to read as follows:

§ 155.2 Trading standards for floor brokers.

Each contract market shall adopt and submit to the Commission for approval pursuant to Section 5a(12) of the Act and § 1.41 of this chapter, a set of rules which shall, at a minimum, with respect to each member of the contract market acting as a floor broker:

(a) Prohibit such member from purchasing any commodity for future delivery, purchasing any call option, or selling any put option, for his own account or for any account in which he has an interest, while holding an order of another person for the (1) purchase of any future, (2) purchase of any call option, or (3) sale of any put option, in the same commodity which is executable at the market price or at the price at which such purchase or sale can be made for the member's own account or any account in which he has an interest.

(b) Prohibit such member from selling any commodity for future delivery, selling any call option, or purchasing any put option, for his own account or for any account in which he has an interest, while holding an order of another person for the (1) sale of any future, (2) sale of any call option, or (3) purchase of any put option, in the same commodity which is executable at the market price or at the price at which such sale or purchase can be made for the member's own account or any account in which he has an interest.

* * * * *

(i) Require that every execution of a transaction on the floor by such member be confirmed promptly with the opposite floor broker or floor trader; such confirmation shall identify price or premium, quantity, future or commodity option and respective clearing members. In the event a contract market cannot require prompt identification of respective clearing members without seriously disrupting the functions of its marketplace, the contract market may petition the Commission for exemption from this requirement. Such petition shall include:

* * * * *

49. Section 155.3 is amended by revising paragraph (a)(1) to read as follows:

§ 155.3 Trading standards for futures commission merchants.

(a) * * *

(1) Insure, to the extent possible, that each order received from a customer or from an option customer which is executable at or near the market price is transmitted to the floor of the appropriate contract market before any order in any future or in any commodity option in the same commodity for any proprietary account, any other account in which an affiliated person has an interest, or any account for which an affiliated person may originate orders without the prior specific consent of the account owner, if the affiliated person has gained knowledge of the customer's or option customer's order prior to the transmission to the floor of the appropriate contract market of the order for a proprietary account, an account in which the affiliated person has an interest, or an account in which the affiliated person may originate orders without the prior specific consent of the account owner; and

* * * * *

PART 170—REGISTERED FUTURES ASSOCIATIONS

50. The authority citation for Part 170 is revised to read as follows:

Authority: 7 U.S.C. 6c, 12a, and 21.

51. Section 170.5 is revised to read as follows:

§ 170.5 Prevention of fraudulent and manipulative practices (Section 17(b)(7) of the Act).

A futures association must establish and maintain a program for the protection of customers and option customers, including the adoption of rules to protect customers and option customers and customer funds and to promote fair dealing with the public. These rules shall set forth the ethical standards for members of the association in their business dealings with the public. An applicant association must also demonstrate its capability to foster a professional atmosphere among its members, including an acceptance of an adherence to the ethical standards, and to monitor and enforce compliance with the customer and option customer protection program and rules.

52. Section 170.8 is revised to read as follows:

§ 170.8 Settlement of customer disputes (Section 17(b)(10) of the Act).

A futures association must be able to demonstrate its capability to promulgate rules and to conduct proceedings which provide a fair and equitable procedure, through arbitration or otherwise, for the voluntary settlement of a customer's or option customer's claim or grievance of less than $15,000 brought against any member of the association or any employee of a member of the association. Such rules shall conform to and be consistent with Section 17(b)(10) of the Act and be consistent with Part 180 of the Commission's regulations governing contract market arbitration and dispute settlement procedures.

PART 180—ARBITRATION OR OTHER DISPUTE SETTLEMENT PROCEDURES

53. Section 180.1 is amended by revising paragraph (a) to read as follows:

§ 180.1 Definitions.

(a) The term "claim or grievance" as used in this Part shall mean any dispute which arises out of any transaction on or subject to the rules of a contract market, executed by or effected through a member of that contract market or employee thereof which dispute does not require for adjudication the presence of essential witnesses or third parties over whom the contract market does not have jurisdiction and who are not otherwise available. The term claim or grievance does not include disputes

arising from cash market transactions which are not a part of or directly connected with any transaction for the purchase or sale of any commodity for future delivery or commodity option.

* * * * *

Issued in Washington, D.C. on December 13, 1982, by the Commission.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 82-34536 Filed 12-21-82; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 35

[T.D. 7858]

Withholding From Pensions, Annuities, and Certain Other Deferred Income; Temporary Regulations

Correction

In FR Doc. 82-32771 beginning on page 54065 in the issue for Wednesday, December 1, 1982, make the following correction:

On page 54066, middle column, in paragraph **e. Reporting and Recordkeeping** to § 35.3405-1, in the first line *"l-10."* should have read *"e-10."*.

BILLING CODE: 1505-01-M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2619

Valuation of Plan Benefits in Non-Multiemployer Plans

AGENCY: Pension Benefits Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This rule amends the Pension Benefit Guaranty Corporation's regulation on Valuation of Plan Benefits in Non-Multiemployer Plans, Part 2619, by adding a new table, Table I-83, to Appendix D and correcting typographical errors in Subpart D. Table I-83 is to be used for plans covered under Title IV of the Employee Retirement Income Security Act of 1974, *as amended*, that terminate in 1983. The table is needed to determine an expected retirement age for certain plan participants in terminating pension plans that provide for an early retirement benefit. The expected retirement age is needed to calculate the value of the early retirement benefit and, thus, the total value of benefits under the plan.

EFFECTIVE DATE: January 1, 1983.

FOR FURTHER INFORMATION CONTACT: Renae R. Hubbard, Special Counsel, Office of General Counsel, Code 210, Pension Benefit Guaranty Corporation, 2020 K Street, N.W., Washington, D.C. 20006, 202-254-4895 (not a toll-free number).

SUPPLEMENTARY INFORMATION: On January 28, 1981, the Pension Benefit Guaranty Corporation ("PBGC") published a final and interim rule on Valuation of Plan Benefits in Non-Multiemployer Plans, 29 CFR Part 2610 (46 FR 9504). Under Title IV of the Employee Retirement Income Security Act of 1974, 29 U.S.C. 1001 *et seq.*, as amended, covered pension plans that terminate must determine the total value of benefits under the plan in order to determine if plan assets are sufficient to provide for those benefits. If plan assets are not sufficient to provide for all benefits guaranteed by PBGC, the employer is liable for the insufficiency up to a limit of 30% of the employer's "net worth" within the meaning of 29 U.S.C. 1362. The interim portion of the benefit valuation regulation, Subpart D and Appendices D and E, provided methods for determining an expected retirement age to be used with the rules in Subparts B and C of Part 2610 to determine the value of an early retirement benefit. Part 2610 was redesignated Part 2619 in a notice published June 24, 1981 (46 FR 32574). Subpart D and Appendices D and E of Part 2619, as amended December 31, 1981 (46 FR 63268), were promulgated as final rules on April 13, 1982 (47 FR 15780).

Appendix D contains two sets of tables to be used to determine an expected date of retirement for each participant entitled to early retirement. The first set of tables, Selection of Retirement Rate Category (I-79, I-80, I-81, and I-82), is used to determine whether a participant has a low, medium, or high probability of retiring early. The second set of tables, Expected Retirement Ages for Individuals in the Low/Medium/High Categories (II-A, II-B, and II-C), is used to determine the expected retirement age.

The first set of tables determines the probability of early retirement based on the year a participant would reach normal retirement age and the participant's monthly benefit at normal retirement age. The second set of tables establishes, by probability category, the expected retirement age based on the earliest age a participant could retire and on the normal retirement age under the plan. This age is used to calculate the value of the early retirement benefit and, thus, the total value of benefits under the plan and the amount of employer liability, if any, owed to PBGC.

The first set of tables in Appendix D as originally published (46 FR 9504)—the Selection of Retirement Rate Category—consists of three tables. The tables establish a retirement rate category for each of the calendar years 1979 through 1981, and each table applies only to plans terminating in that particular year. A new table, I-82, was added on December 31, 1981 (46 FR 63268) in order to update the correlation between the amount of a participant's benefit and the probability that he or she will elect early retirement. Normally, a table remains in effect only for a calendar year. This rule amends Appendix D of Part 2619 to add Table I-83 for use in valuing benefits in plans that terminate during calendar year 1983.

This rule also amends §§ 2619.63(c) and 2619.64(c) to correct two typographical errors. The cross reference to Appendix C should be to Appendix D in each instance.

The PBGC has determined that notice of and public comment on the addition of Table I-83 to Appendix D, Part 2619, are impracticable and contrary to the public interest. This determination is based on the need to issue the table promptly so the appendix will reflect, as accurately as possible, the relationship between a participant's benefit and his or her probability of retiring early. The PBGC has found that the public interest is best served by issuing this table without an opportunity for notice and comment so that plans can calculate the value of plan benefits before submitting a notice of intent to terminate. Also, plans will be able to predict employer liability more accurately prior to plan termination and can, therefore, lessen or avoid interest charges under 29 CFR 2622.7 for late payment of employer liability. Moreover, because of the need to provide immediate guidance for the valuation of benefits under plans that will terminate on or after January 1, 1983, and because no adjustment by ongoing plans is required by this amendment, the PBGC finds that good cause exists for making the table set forth in this amendment to the final regulation effective less than 30 days after publication.

The PBGC has determined that this is not a "major rule" under the criteria set forth in Executive Order 12291 of

February 17, 1981 (46 FR 13193) because it will not result in an annual effect on the economy of $100 million or more, a major increase in costs for consumers or individual industries, or significant adverse effects on competition, employment, investment, productivity, or innovation.

List of Subjects in 29 CFR Part 2619

Employee benefit plans, Pension insurance, Pensions.

PART 2619—[AMENDED]

In consideration of the foregoing, Part 2619 of Chapter XXVI of Title 29, Code of Federal Regulations is hereby amended by adding a new table and making corrections as follows:

1. The authority citation for Part 2619 reads as follows:

Authority: Sections 4002(b)(3), 4041(b), 4044, and 4062(b)(1)(A), Pub. L. 93–406, 88 Stat. 1004, 1020, 1025, 1029, (1974), as amended by Secs. 403(1), 403(d), and 402(a)(7), Pub. L. 96–364, 94 Stat. 1302, 1301, and 1299, (1980) (29 U.S.C. 1302, 1341, 1344, 1362).

§ 2619.63 [Amended]

2. In § 2619.63, paragraph (c)(1) is amended by substituting "Appendix D" for "Appendix C".

§ 2619.64 [Amended]

2. In § 2619.64, paragraph (c) is amended by substituting "Appendix D" for "Appendix C" in the first sentence.

4. Appendix D to Part 2619 is amended by the addition of Table I–83, as follows:

Appendix D.—Tables Used to Determine Expected Retirement Age

* * * * *

TABLE I–83.—SELECTION OF RETIREMENT RATE CATEGORY

[For plans with a valuation date after Dec. 31, 1982 and before Jan. 1, 1984]

Participant reaches NRA in year	Participant's retirement rate category is—			
	Low (table II–A)	Medium (table II–B)	Medium (table II–B)	High (table II–C)

—

Participant reaches NRA in year	If monthly benefit at NRA is—			
	Less than	From	To	Greater than
1984	$259	$259	$1,091	$1,091
1985	271	271	1,142	1,142
1986	283	283	1,195	1,195
1987	296	296	1,250	1,250
1988	309	309	1,306	1,306
1989	323	323	1,362	1,362
1990	337	337	1,422	1,422
1991	352	352	1,484	1,484
1992	367	367	1,517	1,517
1993 or later	384	384	1,517	1,517

Edwin M. Jones,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 82–34580 Filed 12–21–82; 8:45 am]

BILLING CODE 7708–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 123

[SW–10–FRL 2272–2]

Hazardous Waste Management Program; Washington Application for Interim Authorization, Phase I and Phase II Components A and B

AGENCY: Environmental Protection Agency.

ACTION: Notice of public hearing and public comment period.

SUMMARY: EPA regulations to protect human health and the environment from the improper management of hazardous waste were published in the **Federal Register** on May 19, 1980 (45 FR 33063). These regulations include provisions for authorization of State programs to operate in lieu of the Federal program. Today EPA is announcing the availability for public review the Washington application for Phase I and Phase II Components A and B Interim Authorization, inviting public comment, and giving notice of a public hearing to be held on the application.

DATE: Comments on the Washington interim authorization application must be received by February 1, 1983.

EPA will conduct a Public Hearing for the Washington Interim Authorization application at 10:00 AM on January 25, 1983. The State of Washington will participate in the Public Hearing held by EPA on this subject.

ADDRESSES: The Public Hearing will be held at: Federal Building, South Auditorium (Fourth Floor), 915 Second Avenue, Seattle, Washington. Copies of the Interim Authorization application are available at the following addresses for inspection and copying by the public during normal business hours:

Washington Department of Ecology, Solid Waste Division, Rowesix Building, #4, Second Floor, 4224 Sixth Avenue NE, Lacey, Washington, (206) 459–6301

Environmental Protection Agency, Region 10, Library, 12th Floor, 1200 Sixth Avenue, Seattle, Washington 98101, (206) 442–1259

EPA Headquarters Library, Room 2404, 401 M Street SW., Washington, D.C. 20460.

Written comments and requests to speak at the hearing should be sent to: Environmental Protection Agency, Region 10, Betty Wiese, RCRA Program Development Section M/S 530, 1200 Sixth Avenue, Seattle, Washington 98101, (206) 442–2857.

FOR FURTHER INFORMATION CONTACT: Betty Wiese (206) 442–2857.

SUPPLEMENTARY INFORMATION: In the May 19, 1980 **Federal Register** (45 FR 33063) the Environmental Protection Agency promulgated regulations pursuant to Subtitle C of the Resource Conservation and Recovery Act of 1976 (as amended), to protect human health and the environment from the improper management of hazardous waste. Included in these regulations, which became effective six (6) months from the date of promulgation, were provisions for a transitional stage in which states would be granted interim authorization in phases corresponding to the stages in which the underlying Federal program will take effect. EPA's Phase I regulations (promulgated May 19, 1980) establish, among other things: the initial identification and listing of hazardous wastes; the standards applicable to generators and transporters of hazardous wastes, including a manifest system; and the "interim status" standards applicable to existing hazardous waste management facilities before they receive permits.

In the January 26, 1981 **Federal Register** (46 FR 7765), the Environmental Protection Agency announced availability of portions of the second phase of Interim Authorization. Component A, published in the **Federal Register** January 12, 1981 (46 FR 2802) contains standards for permitting containers, tanks and certain kinds of surface impoundments and waste piles. Component B published in the **Federal Register** January 23, 1981 (46 FR 7666) contains standards for permitting hazardous waste incinerators.

The State of Washington has submitted an application to EPA for interim authorization for Phase I and Phase II, Components A and B. A full description of the requirements and procedures for State Interim Authorization is included in 40 CFR Part 123 Subpart F, 45 FR 33479.

Prior to being authorized for a component of Phase II, a state may require facilities that treat, store or dispose of hazardous waste to obtain a

state permit. There are no provisions within RCRA or the Federal hazardous waste regulations for designating these pre-authorization state permits as RCRA permits. Only EPA or an authorized state can issue a RCRA permit.

EPA and the State of Washington now require permits for certain hazardous waste facilities. The agencies are cooperating in the current permit application review activity and intend to jointly issue Federal/State permits for these facilities. EPA is proposing to consider such jointly issued State permits as RCRA permits upon authorization of the applicable component of Phase II.

As noted in the May 19, 1980 Federal Register, copies of State submittals for interim authorization are to be made available for public inspection and comment. The purpose of this notice is to announce the availability of Washington's application for public inspection, to invite public comments and to give notice of a public hearing to be held on Washington's application.

List of Subjects in 40 CFR Part 123

Hazardous materials, Indians—land, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control, Water supply, Intergovernmental relations, Penalties and confidential business information.

(Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 and Solid Waste Disposal Act Amendments of 1980, 42 U.S.C. 6901 et seq.)

Dated: December 14, 1982.

John R. Spencer,

Regional Administrator, Region 10.

[FR Doc. 82-34701 Filed 12-21-82; 8:45 am]

BILLING CODE 6560-50-M

---

40 CFR Part 716

[OPTS-84003D; TSH-FRL 2272-4]

Health and Safety Data Reporting; Submission of Lists and Copies of Health and Safety Studies; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: This document corrects errors in an amendment to 40 CFR Part 716 adding 11 chemicals to the final regulations, under section 8(d) of the Toxic Substances Control Act (TSCA) (15 U.S.C. 2607(d)), which require the submission of unpublished health and safety studies on specifically listed chemicals by chemical manufacturers, processors, and others in possession of such studies. The 11 chemical substances added were recommended for testing by the Interagency Testing Committee (ITC) in their Eleveth Report to EPA and designated for priority consideration by EPA within one year. The amendment was published in the Federal Register of December 3, 1982 (47 FR 54624).

EFFECTIVE DATE: This correction document was effective on December 3, 1982.

FOR FURTHER INFORMATION CONTACT: Douglas Bannerman, Acting Director, Industry Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-511, 401 M St., SW., Washington, D.C. 20460, Toll free: (800-424-9065), In Washington, D.C.: (554-1404), Outside the USA: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION: In FR Doc. 82-32843, published in the Federal Register of December 3, 1982, appearing at page 54624, the following corrections are made in the first table in the center column under the heading Alkyltin Compounds:

1. The CAS No. for monobutyltin tris(isooctyl mercaptoacetate) is corrected to read "25852-70-4".

2. The following chemical is added to the bottom of the list of Alkyltin Compounds:

Monomethyltin tris(isooctyl mercaptoacetate), 54849-38-6

This notice corrects the list of chemicals that appeared in the preamble to the amendment. The list should have contained the 11 chemicals recommended for testing by the ITC and designated for priority consideration by EPA within one year. The list of chemicals codified at 40 CFR 716.17(a)(2) is correct.

Dated: December 15, 1982.

Don R. Clay,

Director, Office of Toxic Substances.

[FR Doc. 82-34659 Filed 12-21-82; 8:45 am]

BILLING CODE 6560-50-M

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 1-3, 1-16 and 1-30

[FPR Amdt. 227]

Federal Procurement Regulations; Revisions to Audit Thresholds and Progress Payment Provisions

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This amendment revises the thresholds for requesting contract audit services as a pricing aid, raises the uniform standard percentages for progress payments based on total costs, and revises the provisions covering progress payments based on costs. It is based upon changed agency needs arising from present economic conditions and revisions recently made to the Defense Acquisition Regulation. The intended effect is to reduce mandatory audit requirements for certain cost-reimbursement type contract proposals, provide increased progress payments for both small and large businesses, and achieve substantial Government-wide uniformity regarding progress payment clauses and provisions.

EFFECTIVE DATE: January 31, 1983.

FOR FURTHER INFORMATION CONTACT: Philip G. Read, Director, Office of Federal Procurement Regulations, Office of Acquisition Policy, (202-523-4755).

SUPPLEMENTARY INFORMATION: Significant changes introduced in this amendment are as follows:

1. The audit requirement threshold for contract proposals for cost-reimbursement, cost-sharing, cost-plus-award-fee, and cost-plus-fixed-fee contracts is increased from $250,000 to $500,000.

2. Customary progress payment rates based upon total costs, which are presently set at 80 percent for other than small business concerns and 85 percent for small business concerns, are increased to 90 percent and 95 percent, respectively.

3. Miscellaneous revisions are made to the FPR coverage on advance payments because of revisions to Treasury Circular No. 1075 and the cancellation of Federal Management Circular 73-7.

4. Subpart 1-30.5, Progress Payments, is revised to make the coverage substantially uniform with parallel coverage in the Defense Acquisition Regulation except in areas considered peculiar to Defense Department contracting.

5. The information collection requirement contained in this regulation (section 1-16.808(a)) has been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and has been assigned OMB control number 3090-0105.

List of Subjects

41 CFR Part 1-3

Government procurement, Types of contracts, Procurement by negotiation, Small purchases and cost accounting standards.

41 CFR Part 1–16

Government procurement and procurement forms.

41 CFR Part 1–30

Government procurement, Claims and contract finance.

PART 1–3—PROCUREMENT BY NEGOTIATION

Subpart 1–3.8—Price Negotiation Policies and Techniques

Section 1–3.809 is amended to revise paragraph (b)(1) to read as follows:

§ 1–3.809 Contract audit as a pricing aid.

* * * * *

(b) *Auditors reports on contract proposals.* (1) The contracting officer or his authorized representative shall request an audit review by the contract audit activity in accordance with this paragraph (b). Audit reviews shall be requested prior to the negotiation of any contract or modification resulting from proposals in excess of $100,000 which are for firm fixed-price, fixed-price with economic price adjustment, fixed-price redeterminable (prospective), and time and materials or labor-hour type contracts, and for interim and final price redetermination and settlement of incentive type contracts; $250,000 for fixed-price incentive, cost-plus-incentive-fee or fixed-price redeterminable (retroactive) type contracts; or $500,000 for cost-reimbursement, cost-sharing, cost-plus-award-fee or cost-plus-a-fixed-fee type contracts, when the price is based on cost or pricing data (§1–3.807–3) submitted by the contractor. These include initial prices, estimated cost of cost-reimbursement type contracts, economic price adjustments, target prices, and modifications of formally advertised contracts. In arriving at the aggregate amount involved in a contract or modification, all supplies and services shall be included (including construction) which properly would be grouped together in a single transaction. Requirements shall not be split into several contracts or modifications which individually would be less than (but in the aggregate would be more than) the amounts set forth in this paragraph (b)(1) for the type of contract anticipated.

(i) The requirement to audit proposals as set forth in paragraph (b)(1) of this section may be waived by the contracting officer whenever it is clear that information already available is adequate for determining the reasonableness of the price of the proposed procurement. Examples of such information include recent preaward audits of proposals submitted by the offeror, preaward surveys, or other recent favorable audit experience. In such cases, the contract files shall be documented to reflect the reasons for any such waivers. However, independent Government estimates of cost or price shall not be used as the sole justification for waiver (see § 1–3.811(a)(4)).

(ii) Audits should be requested for proposals which are less than the thresholds set forth in paragraph (b)(1) of this section where a valid need exists, such as:

(A) Inadequate knowledge concerning the contractor's accounting policies, cost systems, or substantially changed methods or levels of operation;

(B) Previous unfavorable experience indicating doubtful reliability of the contractor's estimating, accounting, or purchasing methods; or

(C) Procurement of a new product for which cost experience is lacking.

* * * * *

PART 1–16—PROCUREMENT FORMS

The table of contents for Part 1–16 is amended to add 2 new entries as follows:

1–16.808 Contractor's request for progress payment.
1–16.901–1443 Standard Form 1443: Contractor's Request for Progress Payment.

Subpart 1–16.8—Miscellaneous Forms

Section 1–16.808 is added to read as follows:

§ 1–16.808 Contractor's request for progress payment.

Standard Form 1443, Contractor's Request for Progress Payment, is designed for submission of progress payment requests under the contract clauses set forth in § 1–30.510–1. This form is specifically referred to in § 1–30.529 and in the guidance pertaining to the administration of progress payments throughout Subpart 1–30.5. Instructions for completion are printed on the form.

Subpart 1–16.9—Illustrations of Forms

Section 1–16.901–1443 is added to read as follows:

§ 1-16.901-1443 Contractor's request for progress payment.

(a) Page 1 of Standard Form 1443.

CONTRACTOR'S REQUEST FOR PROGRESS PAYMENT

IMPORTANT: This form is to be completed in accordance with instructions on reverse.

SECTION I – IDENTIFICATION INFORMATION

1. TO: NAME AND ADDRESS OF CONTRACTING OFFICE (Include ZIP Code)	2. FROM: NAME AND ADDRESS OF CONTRACTOR (Include ZIP Code)
PAYING OFFICE	

3. SMALL BUSINESS	4. CONTRACT NO.	5. CONTRACT PRICE
☐ YES ☐ NO		$

6. RATES		7. DATE OF INITIAL AWARD		8A. PROGRESS PAYMENT REQUEST	8B. DATE OF THIS REQUEST
A. PROG. PYMTS.	B. LIQUIDATION	A. YEAR	B. MONTH		
%	%				

SECTION II – STATEMENT OF COSTS UNDER THIS CONTRACT THROUGH _____ (Date)

9. PAID COSTS ELIGIBLE UNDER PROGRESS PAYMENT CLAUSE		$
10. INCURRED COSTS ELIGIBLE UNDER PROGRESS PAYMENT CLAUSE		
11. TOTAL COSTS ELIGIBLE FOR PROGRESS PAYMENTS *(Item 9 plus 10)*		
12. a. TOTAL COSTS INCURRED TO DATE	$	
b. ESTIMATED ADDITIONAL COST TO COMPLETE		
13. ITEM 11 MULTIPLIED BY ITEM 6a		
14. a. PROGRESS PAYMENTS PAID TO SUBCONTRACTORS		
b. LIQUIDATED PROGRESS PAYMENTS TO SUBCONTRACTORS		
c. UNLIQUIDATED PROGRESS PAYMENTS TO SUBCONTRACTORS *(Item 14a less 14b)*		
d. SUBCONTRACT PROGRESS BILLINGS APPROVED FOR CURRENT PAYMENT		
e. ELIGIBLE SUBCONTRACTOR PROGRESS PAYMENTS *(Item 14c plus 14d)*		
15. TOTAL DOLLAR AMOUNT *(Item 13 plus 14e)*		
16. ITEM 5 MULTIPLIED BY ITEM 6b		
17. LESSER OF ITEM 15 OR ITEM 16		
18. TOTAL AMOUNT OF PREVIOUS PROGRESS PAYMENTS REQUESTED		
19. MAXIMUM BALANCE ELIGIBLE FOR PROGRESS PAYMENTS *(Item 17 less 18)*		

SPECIMEN

SECTION III – COMPUTATION OF LIMITS FOR OUTSTANDING PROGRESS PAYMENTS

*SEE SPECIAL INSTRUCTIONS ON BACK FOR USE UNDER THE FEDERAL ACQUISITION REGULATION.

20. COMPUTATION OF PROGRESS PAYMENT CLAUSE *(a(3)(ii) or a(4)(ii))* LIMITATION*	$	
a. COSTS INCLUDED IN ITEM 11, APPLICABLE TO ITEMS DELIVERED, INVOICED, AND ACCEPTED TO THE DATE IN HEADING OF SECTION II.		
b. COSTS ELIGIBLE FOR PROGRESS PAYMENTS, APPLICABLE TO UNDELIVERED ITEMS AND TO DELIVERED ITEMS NOT INVOICED AND ACCEPTED *(Item 11 less 20a)*		
c. ITEM 20b MULTIPLIED BY ITEM 6a		$
d. ELIGIBLE SUBCONTRACTOR PROGRESS PAYMENTS *(Item 14e)*		
e. LIMITATION a(3)(ii) or a(4)(ii) *(Item 20c plus 20d)**		
21. COMPUTATION OF PROGRESS PAYMENT CLAUSE *(a(3)(ii) or a(4)(ii))* LIMITATION*		
a. CONTRACT PRICE OF ITEMS DELIVERED, ACCEPTED AND INVOICED TO DATE IN HEADING OF SECTION II		
b. CONTRACT PRICE OF ITEMS NOT DELIVERED, ACCEPTED AND INVOICED *(Item 5 less 21a)*		
c. ITEM 21b MULTIPLIED BY ITEM 6b		
d. UNLIQUIDATED ADVANCE PAYMENTS PLUS ACCRUED INTEREST		
e. LIMITATION *(a(3)(ii) or a(4)(ii))* *(Item 21c less 21d)**		
22. MAXIMUM UNLIQUIDATED PROGRESS PAYMENTS *(Lesser of Item 20e or 21e)*		
23. TOTAL AMOUNT APPLIED AND TO BE APPLIED TO REDUCE PROGRESS PAYMENT		
24. UNLIQUIDATED PROGRESS PAYMENTS *(Item 18 less 23)*		
25. MAXIMUM PERMISSIBLE PROGRESS PAYMENTS *(Item 22 less 24)*		
26. AMOUNT OF CURRENT INVOICE FOR PROGRESS PAYMENT *(Lesser of Item 25 or 19)*		
27. AMOUNT APPROVED BY CONTRACTING OFFICER		

CERTIFICATION

I certify that the above statement (with attachments) has been prepared from the books and records of the above-named contractor in accordance with the contract and the instructions hereon, and to the best of my knowledge and belief, that it is correct, that all the costs of contract performance (except as herewith reported in writing) have been paid to the extent shown herein, or where not shown as paid have been paid or will be paid currently, by the contractor, when due, in the ordinary course of business, that the work reflected above has been performed, that the quantities and amounts involved are consistent with the requirements of the contract. That there are no encumbrances (except as reported in writing herewith, or on previous progress payment request No. _____) against the property acquired or produced for, and allocated or properly chargeable to the contract which would affect or impair the Government's title, that there has been no materially adverse change in the financial condition of the contractor since the submission of the most recent written information dated _____ by the contractor to the Government in connection with the contract, that to the extent of any contract provision limiting progress payments pending first article approval, such provision has been complied with, and that after the making of the requested progress payment the unliquidated progress payments will not exceed the maximum unliquidated progress payments permitted by the contract.

NAME AND TITLE OF CONTRACTOR REPRESENTATIVE SIGNING THIS FORM	SIGNATURE
NAME AND TITLE OF CONTRACTING OFFICER	SIGNATURE

NSN 1443-101 STANDARD FORM 1443 (10-83)
Prescribed by GSA (FPR 1-16.000)
FAR (48 CFR 53.232)

(b) Page 2 of Standard Form 1443.

INSTRUCTIONS

GENERAL- All entries on this form must be typewritten - all dollar amounts must be shown in whole dollars, rounded up to the next whole dollar. All line item numbers not included in the instructions below are self-explanatory.

SECTION I — IDENTIFICATION INFORMATION. Complete Items 1 through 8c in accordance with the following instructions:

Item 1. TO — Enter the name and address of the cognizant Contract Administration Office. PAYING OFFICE — Enter the designation of the paying office, as indicated in the contract.

Item 2. FROM - CONTRACTOR'S NAME AND ADDRESS/ ZIP CODE — Enter the name and mailing address of the contractor. If applicable, the division of the company performing the contract should be entered immediately following the contractor's name.

Item 3. Enter an "X" in the appropriate block to indicate whether or not the contractor is a small business concern.

Item 5. Enter the total contract price, as amended. If the contract provides for escalation or price redetermination, enter the initial price until changed and not the ceiling price; if the contract is of the incentive type, enter the target or billing price, as amended until final pricing. For letter contracts, enter the maximum expenditure authorized by the contract, as amended.

Item 6A. PROGRESS PAYMENT RATES — Enter the 2-digit progress payment percentage rate shown in paragraph (a)(1) of the progress payment clause.

Item 6B. LIQUIDATION RATE — Enter the progress payment liquidation rate shown in paragraph (b) of the progress payment clause, using three digits - Example: show 80% as 800 - show 72.3% as 723.

Item 7. DATE OF INITIAL AWARD — Enter the last two digits of the calendar year. Use two digits to indicate the month. Example: show January 1982 as 82/01.

Item 8A. PROGRESS PAYMENT REQUEST NO. — Enter the number assigned to this request. All requests under a single contract must be numbered consecutively, beginning with 1. Each subsequent request under the same contract must continue in sequence, using the same series of numbers without omission.

Item 8B. Enter the date of the request.

SECTION II — GENERAL INSTRUCTIONS. DATE. In the space provided in the heading enter the date through which costs have been accumulated from inception for inclusion in this request. This date is applicable to item entries in Sections II and III.

Cost Basis. For all contracts with small business concerns, the base for progress payments is total costs incurred. For contracts with concerns other than Small Business, the progress payment base will be the total recorded paid costs, together with the incurred costs per the Computation of Amounts paragraph of the progress payment clause in FPR 1-30.510-1(a) or FAR 52.232-16, as appropriate. Total costs include all expenses paid and incurred, including applicable manufacturing and production expense, general and administrative expense for performance of contract, which are reasonable, allocable to the contract, consistent with sound and generally accepted accounting principles and practices, and which are not otherwise excluded by the contract.

Manufacturing and Production Expense, General and Administrative Expense. In connection with the first progress payment request on a contract, attach an explanation of the method, bases and period used in determining the amount of each of these two types of expenses. If the method, bases or periods used for computing these expenses differ in subsequent requests for progress payments under this contract, attach an explanation of such changes to the progress payment request involved.

Incurred Costs Involving Subcontractors for Contracts with Small Business Concerns. If the incurred costs eligible for progress payments under the contract include costs shown in invoices of subcontractors, suppliers and others, that portion of the costs computed on such invoices can only include costs for: (1) completed work to which the prime contractor has acquired title; (2) materials delivered to which the prime contractor has acquired title; (3) services rendered; and (4) costs billed under cost reimbursement or time and material subcontracts for work to which the prime contractor has acquired title.

SECTION II — SPECIFIC INSTRUCTIONS

Item 9. PAID COSTS ELIGIBLE UNDER PROGRESS PAYMENT CLAUSE — Line 9 will not be used for Small Business Contracts.

BILLING CODE 6820-61-C

For large business contracts, costs to be shown in Item 9 shall include only those recorded costs which have resulted at time of request in payment made by cash, check, or other form of actual payment for items or services purchased directly for the contract. This includes items delivered, accepted and paid for, resulting in liquidation of subcontractor progress payments.

Costs to be shown in Item 9 are not to include advance payments, downpayments, or deposits, all of which are not eligible for reimbursement; or progress payments made to subcontractors, suppliers or others, which are to be included in Item 14. See "Cost Basis" above.

Item 10. INCURRED COSTS ELIGIBLE UNDER PROGRESS PAYMENT CLAUSE — For all Small Business Contracts, Item 10 will show total costs incurred for the contract.

Costs to be shown in Item 10 are not to include advance payments, downpayments, deposits, or progress payments made to subcontractors, suppliers or others.

For large business contracts, costs to be shown in Item 10 shall include all costs incurred (see "Cost Basis" above) for: materials which have been issued from the stores inventory and placed into production process for use on the contract; for direct labor; for other direct in-house costs; and for properly allocated and allowable indirect costs as set forth under "Cost Basis" above.

Item 12a. Enter the total contract costs incurred to date; if the actual amount is not known, enter the best possible estimate. If an estimate is used, enter-(E) after the amount.

Item 12b. Enter the estimated cost to complete the contract. The estimate may be the last estimate made, adjusted for costs incurred since the last estimate; however, estimates shall be made not less frequently than every six months.

Items 14a through 14e. Include only progress payments on subcontracts which conform to progress payment provisions of the prime contract.

Item 14a. Enter only progress payments actually paid.

Item 14b. Enter total progress payments recouped from subcontractors.

Item 14d. For Small Business prime contracts, include the amount of unpaid subcontract progress payment billings which have been approved by the contractor for the current payment in the ordinary course of business. For other contracts, enter "0" amount.

SECTION III — SPECIFIC INSTRUCTIONS. This Section must be completed only if the contractor has received advance payments against this contract, or if items have been delivered, invoiced and accepted as of the date indicated in the heading of Section II above. EXCEPTION: Item 27 must be filled in by the Contracting Officer.

Item 20a. Of the costs reported in Item 11, compute and enter only costs which are properly allocable to items delivered, invoiced and accepted to the applicable date. In order of preference, these costs are to be computed on the basis of one of the following: (a) The actual unit cost of items delivered, giving proper consideration to the deferment of the starting load costs or, (b) projected unit costs (based on experienced costs plus the estimated cost to complete the contract), where the contractor maintains cost data which will clearly establish the reliability of such estimates.

Item 20d. Enter amount from 14e.

Item 21a. Enter the total billing price, as adjusted, of items delivered, accepted and invoiced to the applicable date.

Item 23. Enter total progress payments liquidated and those to be liquidated from billings submitted but not yet paid.

Item 25. Self-explanatory. (NOTE: If the entry in this item is a negative amount, there has been an overpayment which requires adjustment.)

Item 26. Self-explanatory, but if a lesser amount is requested, enter the lesser amount.

SPECIAL INSTRUCTIONS FOR USE UNDER FEDERAL ACQUISITION REGULATION (FAR).

Items 20 and 20a. Delete the references to a(3)(i) of the progress payment clause.

Items 21 and 21a. Delete the references to a(3)(ii) of the progress payment clause.

STANDARD FORM 1443 BACK (10-82)

SPECIMEN

PART 1-30—CONTRACT FINANCING

The table of contents for Part 1-30 is amended to remove 4 entries and revise 11 entries as follows:

1-30.502-1 [Removed]
1-30.503 Customary progress payments.
1-30.503-1 Uniform standard percentages.
1-30.503-2 Applicability of percentages.
1-30.503-3 Indefinite quantity contracts and basic ordering agreements.
1-30.504-5 Non-responsive bids—uninvited progress payment condition.
1-30.504-6 [Removed]
1-30.510-2 [Removed]
1-30.511-2 Uniform standard percentages—firms not small business concerns—paragraphs (a) and (b) of clause.
1-30.511-3 Uniform standard percentages—firms not small business concerns—paragraphs (a) and (b) of clause.
1-30.511-4 Unusual percentages.
1-30.511-5 Other protective provisions.
1-30.511-6 Provisional increases in contract price.
1-30.521-2 [Removed]
1-30.529 Standard Form 1443, Contractor's Request for Progress Payment.

Subpart 1-30.1—Forms of Financing

Section 1-30.104-1 is revised to read as follows:

§ 1-30.104-1 Letters of credit.

Whenever the criteria set forth by the Department of the Treasury in Department Circular No. 1075, 4th Revision, 42 FR 62927, December 14, 1977 (31 CFR Part 205) are met, the letter of credit method of financing advance payments must be used unless waived by the Department of the Treasury.

Subpart 1-30.2—Basic Policies

Section 1-30.209 is amended to revise paragraph (e) to read as follows:

§ 1-30.209 Order of preference.

* * * * *

(e) Advance payments (§ 1-30.408). However, see § 1-30.401(b) for guidance on the use of advance payments for research contracts with educational institutions.

Subpart 1-30.4—Advance Payments

1. Section 1-30.401 is revised to read as follows:

§ 1-30.401 Types of contracts that may have advance payments.

(a) Advance payments may be made on any approved type of contract.

(b) In view of the nonprofit position of educational institutions, and the Government objective of strengthening the research capabilities of these institutions, all agencies shall make advance payments to them in reasonable amounts on contracts for research, whenever practical, in all cases where the agency is authorized by law to do so. (See §§ 1-30.403, 1-30.404, and 1-30.408.)

2. Section 1-30.408-1 is amended by revising paragraphs (a) and (b) to read as follows:

§ 1-30.408-1 Use of letter of credit method of financing.

(a) Unless a waiver has been obtained from the Department of the Treasury, the letter of credit method of financing advance payments must be used whenever the criteria set forth in Treasury Department Circular No. 1075 (31 CFR Part 205) and promulgated in regulations contained in Volume I, Part VI, Chapter 2000, of the Treasury Fiscal Requirements Manual are met. The letter of credit method of financing advance payments shall be employed in accordance with agency procedures and Department of the Treasury regulations whenever the agency has, or expects to have, a continuing relationship with a recipient organization for at least 1 year, involving annual advances aggregating at least $120,000. Agency procedures may be applicable to an entire agency, a major organizational unit of an agency (e.g. bureau, service or administration), any component of a major unit, or a lower tier element of such component. The letter of credit procedures may apply to the financing of all contracts and/or grants, or classes of contracts and/or grants between a recipient organization and an agency or any of its components. Since the letter of credit method enables the recipeint organization to withdraw cash from the Treasury concurrently with and as frequently as disbursements are made by the recipient organization, there need be no time lag between drawdowns from the Treasury and disbursements by the recipient organization. Therefore, it is unnecessary for the recipient organization to maintain undisbursed balances of Federal cash to provide for an element of bank float other than small balances necessary to accommodate Treasury minimum limitations on individual drawdowns.

(b) Contracts shall require such adequate security for funds advanced as may be considered appropriate for the protection of the Government under the circumstances of each case, but in any event, the financial management system of the recipient organization shall provide for effective control over and accountability for all Federal funds in accordance with governing regulations of the Treasury Department. See § 1-30.413 and 31 CFR Part 205 (also appearing as Department of the Treasury Circular No. 1075, 4th Revision, 42 FR 62927, December 14, 1977).

* * * * *

Subpart 1-30.5—Progress Payments Based on Costs

1. Section 1-30.500-1 is revised to read as follows:

§ 1-30.500-1 Exclusions.

This subpart does not apply to (a) cost-reimbursement type contracts, except as to progress payments to subcontractors and suppliers thereunder (see § 1-30.514), or (b) contracts for construction or for shipbuilding or ship conversion, alteration, or repair, when such contracts provide for progress payments based on a percentage or stage of completion.

2. Section 1-30.502 is revised to read as follows:

§ 1-30.502 General.

(a) *Obligations.* Nothing in these regulations shall be construed to authorize payment of more than the amount obligated on a contract.

(b) *Requests for proposals.* In connection with procurement by negotiation, requests for proposals shall state that contract provision for progress payments will be made in conformity with regulations, and that the need for progress payments conforming to regulations will not be considered as a handicap or adverse factor in the award of contracts. Requests for proposals shall not state a liquidation rate for progress payments (see § 1-30.512).

§ 1-30.502-1 [Removed]

3. Section 1-30.502-1 is removed.

4. Section 1-30.503 is revised to read as follows:

§ 1-30.503 Customary progress payments.

(a) Certain contracts may require a contractor to incur predelivery or unbillable partial performance expenditures that will have a material impact on the contractor's working funds. These include production contracts which involve a long "lead time" or preparatory period between the beginning of work and the first production delivery, normally involving 4 months or more for small business concerns and 6 months or more for firms which are not small business concerns. They also include some contracts for research and development and some contracts for services which have a long time period, of approximately 4 months or more for small business concerns and 6 months or more for firms which are not small business concerns, between the beginning of work and the first

opportunity to bill and receive payment for a significant element of contract performance. Progress payments are customary at (1) the uniform standard percentages of total costs (§ 1–30.503–1), (2) the uniform cost base (§ 1–30.509–5), (3) the frequency of payment established in the progress payment clause (§ 1–30.510–1), and (4) the ordinary liquidation method (§ 1–30.512–1) unless changed to the alternate method as provided in § 1–30.512–2 on this category of contracts and letter contracts comtemplating a definitive fixed price type of contract. Length of lead time, or length of the time period within which billings for deliveries or for significant partial performance cannot be accomplished, are not factors in qualifying letter contracts and their superseding definitive contracts for customary progress payments. Contract financing arrangements other than those set forth in this paragraph are regarded as unusual, and not within the category of customary progress payments (§ 1–30.505).

(b) The long lead time or preparatory period in these cases, and the accompanying predelivery or pre-partial performance billing expenditures that may have a material impact on the contractor's working funds, and the equivalent circumstances of letter contracts and their superseding definitive contracts, are regarded as making these customary progress payments reasonably necessary. The general preference for private financing is not applicable to this class of cases. Provision for customary progress payments will be made as a matter of course when requested by contractors who are known (from experience or adequate preaward investigation) to be reliable, competent capable of satisfactory performance, in satisfactory financial condition, and to have an adequate accounting system and controls. In such cases, it is not necessary to require projections of cash receipts and expenditures or other demonstration of actual reasonable need for progress payments. However, in order to minimize administrative effort and expense, progress payments will be discouraged on relatively small contracts of the stronger and larger contractors who are not small business concerns; e.g., contracts for less than $1 million, unless the circumstances of a group of such contracts, for contemporaneous performance, make such contracts the approximate equivalent of a larger contract that would have a material impact on the contractor's working funds. If a small business concern and the contract involved meet the above standards for customary progress payments, the smallness of the contract shall not deter the making of provision for customary progress payments to such small business concern.

5. Section 1–30.503–1 is revised and the caption changed to read as follows:

§ 1–30.503–1 Uniform standard percentages.

The uniform standard progress payment rate is 90 percent of total costs for firms which are not small business concerns, and 95 percent of total costs for small business concerns, whether or not awarded by formal advertising. Higher percentages will be regarded as unusual (§ 1–30.505) and not within the category of customary progress payments. No percentage higher than the uniform standard progress payment may be offered in any solicitation unless approved in advance in accordance with § 1–30.505.

6. Section 1–30.503–2 is revised to read as follows:

§ 1–30.503–2 Applicability of percentages.

The uniform standard percentages authorized by § 1–30.503–1 apply to new contracts; new procurement effected by supplements, amendments, or other modifications of existing contracts; definitive contracts superseding letter contracts; contracts effecting new procurement under basic agreements; orders or other instruments under basic ordering agreements or indefinite quantity contracts; all supplements, amendments, or other modifications which affect or provide for progress payments; and any outstanding contracts which contain optional provision as to progress payment percentages. Higher percentages for new contracts will be regarded as unusual (§ 1–30.505) and not within the category of customary progress payments.

7. Section 1–30.503–3 is revised to read as follows:

§ 1–30.503–3 Indefinite quantity contracts and basic ordering agreements.

(a) Ordinarily, progress payments will not be undertaken in indefinite quantity contracts or basic ordering agreements which do not provide for payments and liquidation by a single office. Otherwise, for indefinite quantity contracts (§ 1–30.409(c)) and basic ordering agreements (§ 1–3.410–3) contemplating requisitions, delivery orders, work orders, task orders, job orders or their equivalent, if the contractor meets all other requirements for customary progress payments, the decision as to whether progress payments come within the customary category will depend upon estimates of the amount of work expected to be done, and the production lead time expected to be necessary for the major part of the work anticipated. In these cases, provision for progress payments in the indefinite quantity contract or basic ordering agreement may be deemed customary if the amounts involved, and the production lead time, result in conditions substantially equivalent to those required for authorization of customary progress payments. Insofar as practicable, the progress payment provision of an indefinite quantity contract or basic ordering agreement shall fix a single liquidation rate to be applicable to all procurement actions under that agreement. The standards for unusual progress payments govern when progress payments are not of the customary type.

(b) Progress payments made under indefinite quantity contracts and basic ordering agreements shall normally be processed on the basis of individual orders or calls. Except as provided below, for progress payment purposes, each order, call, or equivalent procurement action with progress payments, will be treated as a separate contract. Alternatively, at the contractor's request, but with the specific approval of the contracting officer provision may be made to process progress payments against the basic contract/agreement. Whenever the contract/agreement method is used, the contractor shall be required to submit a supporting schedule for each Contractor's Request For Progress Payment (see § 1–30.529), identifying the costs applicable to each call or order. Subject to the above restrictions, for progress payment purposes, all procurement actions under the basic contract (1) involving progress payments on a procurement action, (2) having a single uniform liquidation rate, and (3) for payment by a single paying office, may be grouped and aggregated so that the contract price, costs, payments, and liquidations will be handled in the same way as if all such procurement actions constituted work under a single fixed-price type contract.

8. Section 1–30.504–1 is amended to revise paragraphs (a)(2), (b), and (c) to read as follows:

§ 1–30.504–1 Progress payment provision in invitations for bids.

(a) * * *

(2) Provision for progress payments ordinarily will not be made in invitations for bids when the procurement is for quick turnover items of kinds for which predelivery financing

by progress payments is not the custom or practice on sales by members of the industry or private commercial customers, such as: (i) Subsistence, (ii) clothing and apparel, (iii) "off-the-shelf" items, and (iv) standard commercial items or equivalent items (including medical and dental supplies), not requiring substantial accumulation of predelivery expenditures.

* * * * *

(b) When progress payments are contemplated, the invitations for bids should include the notice set forth in § 1–30.504–4(a). This notice to bidders may be modified as provided in paragraph (c) of this section.

(c) In unusual circumstances, the contracting officer may consider it to be in the interest of the Government to contemplate progress payments, but to provide for application of the criteria specified in § 1–30.504–1(a)(1) after the opening of bids. In such event, the invitations shall state that upon written request by the prospective contractor a progress payment clause, of a type considered appropriate to the circumstances, will be included in the contract at the time of award if the contracting officer considers the contractor eligible under applicable regulations. (See § 1–30.504–4(b) for appropriate notice to bidders.)

9. Section 1–30.504–2 is revised to read as follows:

§ 1–30.504–2 Small business restricted advertising.

The policy and standards set forth in § 1–30.504–1 also apply to procurement by "Small Business Restricted Advertising" and for procurement pursuant to § 1–30.504–3. When progress payments are contemplated in these cases, provision will be made for progress payment percentage at 95 percent of total costs.

10. Section 1–30.504–4 is amended to revise paragraph (a) to read as follows:

§ 1–30.504–4 Notice to bidders.

(a) Those invitations for bids that make provision for progress payments pursuant to § 1–30.504–1(b) should contain substantially the following notice to bidders:

Progress Payments*

The need for progress payments conforming to regulations (Part 1–30, Federal Procurement Regulations) will not be considered as a handicap or adverse factor in the award of contracts. Authorized progress payments will not be a factor for evaluation of bids. The appropriate "Progress Payment" clause attached hereto will be included in the contract awarded in the manner herein provided; however, the clause shall be inoperative during the time the contractor's accounting system and controls are determined by the Government to be inadequate for segregation and accumulation of contract costs. For small business concerns the clause designated "Progress Payment for Small Business Concerns" (§ 1–30.510–1(b)) shall be used for such contractors. For contractors who are not small business concerns, the clause designated "Progress Payment for Other Than Small Business Concerns" (§ 1–30.510–1(a)) shall be used. (End of notice)

*Do not use the last sentence of this notice for procurements mentioned in §§ 1–30.504–2 and 1–30.504–3.

* * * * *

11. Section 1–30.504–5 is revised and § 1–30.504–6 is removed as follows:

§ 1–30.504–5 Nonresponsive bids—uninvited progress payment condition.

To minimize the possibility of misunderstandings, the recipients of invitations for bids, or those included on bidders lists, should be informed and kept aware that when invitations for bids do not provide for progress payments, progress payment clauses cannot be included in the contract at time of award, and that bids conditioned upon provision for progress payments will have to be rejected as nonresponsive. This precautionary warning notice may be included in invitations for bids, may accompany invitations for bids, or may be otherwise circulated or made known to prospective bidders by such means as are considered appropriate. Also, prospective bidders who are not small business concerns should be given appropriate precautionary warning notice that when invitations for bids provide for progress payments for small business concerns only (§ 1–30.504–3), progress payment provision cannot be made for contractors who are not small business concerns, and that bids of those who are not small business concerns, if conditioned upon provision for progress payments, will have to be rejected as nonresponsive.

§ 1–30.504–6 [Removed]

12. Section 1–30.505 is amended to revise paragraph (b) to read as follows:

§ 1–30.505 Unusual progress payments—standards—procedure.

* * * * *

(b) Such cases must involve a preparatory period requiring contractor's predelivery expenditures that are large in relation to the contract price and in relation to the contractor's working capital and credit. Contract provisions for progress payments in this category will be only supplementary to private financing, including guaranteed loans, in amounts necessary for contract performance. The percentage rates for progress payments in this category will be determined on a minimum basis commensurate with the contractor's production schedule requirements and minimum inventory lead time, with due regard to the contractor's projected cash needs, cash resources, and their planned application.

* * * * *

13. Section 1–30.508 is revised to read as follows:

§ 1–30.508 Advance payments.

When advance payments and progress payments are authorized in the same contract, progress payment percentages shall not exceed the uniform standard percentages in §§ 1–30.503 and 1–30.504. In these cases, the words "less unliquidated advance payments" may be deleted from paragraphs (a)(4)(ii) of the progress payment clause for other than small business concerns (see § 1–30.510–1(a)) and (a)(3)(ii) of the progress payment clause for small businesses (see § 1–30.510–1(b)), in accordance with agency procedures.

14. Section 1–30.509–4 is revised to read as follows:

§ 1–30.509–4 Costs.

For progress payment purposes, costs, except as otherwise limited in this paragraph, include all expenses of contract performance which are reasonable, allocable to the contract, consistent with sound and generally accepted accounting principles and practices, and not excluded by the contract. Limitations on costs that may be accepted for progress payments are contained in the clauses in § 1–30.510–1.

15. Section 1–30.509–5 is revised to read as follows:

§ 1–30.509–5 Incurred costs.

(a) Incurred costs are those costs identified through the use of the accrual method of accounting and reporting. As to invoices, incurred costs include only invoices for (1) completed work to which the prime contractor has acquired title, (2) materials delivered (to which the prime contractor has acquired title), (3) services rendered, (4) costs billed under cost reimbursement or time and material subcontracts for work to which the prime contractor has acquired title, and (5) invoices for progress payments to subcontractors, which have been paid or approved for current payment in the ordinary course of business (as specified in the prime contract), all properly recorded on the books of the contractor and identified with the contracts. Costs incurred are exclusively costs of direct labor, direct material, and direct

services identified with and necessary for the performance of the contract, and also all properly allocable and allowable overhead (indirect) costs recorded on the books of the contractor.

(b) However, for those contractors who elected to use the special transition method provided in Cost Accounting Standard (CAS) 410, "Allocation of Business Unit General and Administrative Expenses to Final Cost Objectives," General and Administrative Expenses (G&A) shall not be included in incurred costs eligible for progress payments until the work-in-process inventories of those contracts entered into after the applicability date of CAS 410, exceed the amounts contained in the CAS 410 suspense account and then limited to the contract's pro rata share of the G&A allocable to such excess. This limitation shall not apply where the CAS 410 suspense account is less than $5 million.

(c) Facilities capital cost of money, which is recognized as an allowable cost by § 1–15.205–51, shall be deemed an incurred cost for progress payment purposes. When this cost is allocated in accordance with applicable regulations and records are maintained in accordance with § 1–15.205–51, it shall be a "properly allocable and allowable indirect cost as shown by records maintained by the contractor" within the meaning of that requirement as included in the Computation of Amounts provision of the appropriate Progress Payment clause set forth in § 1–30.510–1.

(d) For the purpose of progress payments to other than small business concerns in connection with items or services purchased directly for the contract, costs must be paid as well as incurred as shown by payment made by cash, check, interdivisional notices of payment, or other form of actual payment.

16. Section 1–30.509–7 is revised to read as follows:

§ 1–30.509–7 Contract price.

The term "contract price" means the total amount fixed by the contract (other than any portion of the contract specifically providing for cost reimbursement only), as amended, to be paid for complete performance of the contract. If the contract provides for economic price adjustment or for redetermination of price, this term means the initial price until changed and not the ceiling price. If the contract is of the incentive type, the term means the target or billing price, as amended, until final pricing. This definition shall also apply to incentive type subcontracts containing a progress payment clause. For letter contracts and similar preliminary contractual instruments, this term means the maximum expenditure authorized by the contract, as amended.

17. Section 1–30.510 is revised to read as follows:

§ 1–30.510 Contract clauses.

Subject to the instructions in §§ 1–30.511 and 1–30.512, the Progress Payment clauses in § 1–30.510–1 shall be used when payments are to be made to a contractor based upon a percentage of costs. The clause contained in § 1–30.510–1(a) shall be used in contracts with other than small business concerns. The clause contained in § 1–30.510–1(b) shall be used in contracts with small business concerns.

18. Section 1–30.510–1 is revised to read as follows:

§ 1–30.510–1 Total costs clauses.

One of the following clauses shall be used whenever progress payments are to be based upon a percentage of costs in accordance with the instructions in § 1–30.510:

(a) *Progress payment clause for other than small business concerns.*

Progress Payment for Other Than Small Business Concerns

Progress payments shall be made to the Contractor when requested as work progresses, but not more frequently than monthly, in amounts approved by the Contracting Officer upon the following terms and conditions:

(a) *Computation of amounts.*

(1) Unless a smaller amount is requested, each progress payment shall be (i) 90 percent of the amount of the Contractor's total costs which, except as provided in (a)(2) below, shall include only those recorded costs which result, at the time of the request, from payment made by cash, check, or other form of actual payment for items or services purchased directly for the contract, together with (when the Contractor is not delinquent in payment of costs of contract performance in the ordinary course of business) cost incurred, but not necessarily paid, for materials which have been issued from the Contractor's stores inventory and placed in the production process for use on the contract, for direct labor, for direct travel, for other direct inhouse costs, and for properly allocable and allowable indirect costs, all as shown by records maintained by the Contractor for purposes of obtaining payment under Government contracts plus (ii) the amount of progress payments which have been paid to Contractor's subcontractors and other divisions as provided in (j) below; all less the sum of previous progress payments.

(2)(i) With respect to costs of pension, profit sharing, and employee stock ownership plan contributions, when these contributions are paid by the Contractor to the pension, profit sharing, or employee stock ownership plan funds less frequently than quarterly, accruals of the costs of these contributions shall be excluded from the Contractor's total costs for progress payment purposes until such costs are paid. If pension, profit sharing, and employee stock ownership plan contributions are paid on a quarterly or more frequent basis, accruals of costs of these contributions may be included in the Contractor's total costs for progress payment purposes *provided* these contributions are paid to the pension, profit sharing, and employee stock ownership plan funds within 30 days after the close of the period covered by the payment. If payments are not made to the pension, profit sharing, and employee stock ownership plan funds within such 30 day period, these costs shall be excluded from the Contractor's total costs for progress payment purposes until payment therefor has been made.

(ii) For those Contractors who elected to use the special transition method provided in Cost Accounting Standard (CAS) 410, "Allocation of Business Unit General and Administrative Expenses to Final Cost Objectives", general and administrative expenses (G&A) shall not be included in incurred costs eligible for progress payments until the work-in-process inventories of those contracts entered into after the applicability date of CAS 410, exceed the amounts contained in the CAS 410 suspense account and then limited to this contract's pro rata share of the G&A allocable to such excess. This limitation shall not apply where the CAS 410 suspense account is less than 5 million dollars.

(3) The Contractor's total costs ((a)(1)(i)) shall be reasonable, allocable to this contract, and consistent with sound and generally accepted accounting principles and practices. However, such costs shall not include (i) any costs incurred by subcontractors or suppliers, or (ii) any payments or amounts payable to subcontractors or suppliers, except for completed work (including partial deliveries) to which the Contractor has acquired title and except for amounts paid or payable under cost-reimbursement or time and material subcontracts for work to which the Contractor has acquired title, or (iii) costs ordinarily capitalized and subject to depreciation or amortization except for the properly depreciated or amortized portion of such costs.

(4) The amount of unliquidated progress payments shall not exceed the lesser of (i) 90 percent of the costs mentioned in (a)(1)(i) above, plus any unliquidated progress payments mentioned in item (a)(1)(ii) above, both of which are applicable only to the supplies and services not yet delivered and invoiced to and accepted by the Government, or (ii) 90 percent of the total contract price of supplies and services not yet delivered and invoiced to and accepted by the Government, less unliquidated advance payments.

(5) The aggregate amount of progress payments made shall not exceed 90 percent of the total contract price.

(6) If at any time a progress payment or the unliquidated progress payments exceed the amount permitted by this paragraph (a), the Contractor shall pay the amount of such excess to the Government upon demand.

(b) *Liquidation.* Except as provided in the clause entitled "Termination for Convenience

of the Government", all progress payments shall be liquidated by deducting from any payment under this contract, other than advance or progress, the amount of unliquidated progress payments, or 90 percent, or the applicable percentage (calculated in accordance with references in the *footnote at the end of the clause) of the gross amount invoiced, whichever is less. Repayment to the Government required by a retroactive price reduction will be made after calculating liquidations and payments on past invoices at the reduced prices and adjusting the unliquidated progress payments accordingly. The Government reserves the right to unilaterally change from the ordinary liquidation rate to the alternate rate when deemed appropriate for proper contract financing.

(c) *Reduction or suspension.* The Contracting Officer may reduce or suspend progress payments, or liquidate them on a rate higher than the percentage stated in (b) above, or both, whenever he finds upon substantial evidence that the Contractor (1) has failed to comply with any material requirement of this contract, (2) has so failed to make progress, or is in such unsatisfactory financial condition, as to endanger performance of this contract, (3) has allocated inventory to this contract substantially exceeding reasonable requirements, (4) is delinquent in payment of the costs of performance of this contract in the ordinary course of business, (5) has so failed to make progress that the unliquidated progress payments exceed the fair value of the work accomplished on the undelivered portion of this contract, or (6) is realizing less profit than the estimated profit used for establishing a liquidation percentage in paragraph (b), if that liquidation percentage is less than the percentage stated in paragraph (a)(1).

(d) *Title.* Immediately, upon the date of this contract, title to all parts; materials; inventories; work in process; special tooling as defined in the clause of this contract entitled "Special Tooling"; special test equipment and other special tooling to which the Government is to acquire title pursuant to any other provision of this contract; nondurable (i.e., noncapital) tools, jigs, dies, fixtures, molds, patterns, taps, gauges, test equipment, and other similar manufacturing aids title to which is not obtained as special tooling pursuant to this paragraph; and drawings and technical data (to the extent delivery thereof to the Government is required by other provisions of this contract); theretofore acquired or produced by the Contractor and allocable or properly chargeable to this contract under sound and generally accepted accounting principles and practices shall forthwith vest in the Government; and title to all like property thereafter acquired or produced by the Contractor and allocable or properly chargeable to this contract as aforesaid shall forthwith vest in the Government upon said acquisition, production or allocation. Nothwithstanding that title to property is in the Government through the operation of this clause, the handling and disposition of such property shall be determined by the applicable provisioins of this contract such as: the Default clause and paragraph (h) of this clause; Termination for Convenience of the Government clause; and the Special Tooling clause. Current production scrap may be sold by the Contractor without approval of the Contracting Officer and the proceeds shall be credited against the costs of contract performance. With the consent of the Contracting Officer and on terms approved by him, the Contractor may acquire or dispose of property to which title is vested in the Government pursuant to this clause, and in that event, the costs allocable to the property so transferred from this contract shall be eliminated from the costs of contract performance and the Contractor shall repay to the Government (by cash or credit memorandum) an amount equal to the unliquidated progress payments allocable to the property so transferred. Upon completion of performance of all the obligations of the Contractor under this contract, including liquidation of all progress payments hereunder, title to all property (or the proceeds thereof), which had not been delivered to and accepted by the Government under this contract or which had not been incorporated in supplies delivered to and accepted by the Government under this contract, and to which title has vested in the Government under this clause, shall vest in the Contractor. The provisions of this contract referring to or defining liability for Government-furnished property shall not apply to property to which the Government shall have acquired title solely by virtue of the provisions of this clause.

(e) *Risk of loss.* Except to the extent that the Government shall have otherwise expressly assumed the risk of loss of property, title to which vests in the Government pursuant to this clause, in the event of the loss, theft or destruction of or damage to any such property before its delivery to and acceptance by the Government, the Contractor shall bear the risk of loss and shall repay the Government an amount equal to the unliquidated progress payment based on costs allocable to such lost, stolen, destroyed or damaged property.

(f) *Control of costs and property.* The Contractor shall maintain an accounting system and controls adequate for the proper administration of this clause.

(g) *Reports and information-access to records.* Insofar as pertinent to the administration of this clause, the Contractor will (1) furnish promptly such relevant reports, certificates, financial statements, and other information as may be reasonably requested by the Contracting Officer, and (2) give the Government reasonable opportunity to examine and verify his books, records and accounts.

(h) *Special provisions regarding default.* If this contract is terminated pursuant to the clause entitled "Default," (1) the Contractor shall, upon demand, pay the Government the amount of unliquidated progress payments, and (2) with respect to all property as to which the Government elects not to require delivery under the clause entitled "Default," title shall vest in the Contractor upon full liquidation of progress payments, and the Government shall be liable for no payment except as provided by the "Default" clause.

(i) *Reservations of rights.* The rights and remedies of the Government provided in this clause shall not be exclusive, and are in addition to any other rights and remedies provided by law or under this contract. No payment, or vesting of title pursuant to this clause, shall excuse the Contractor from performance of his obligations under this contract, nor constitute a waiver of any of the rights and remedies of the parties under this contract. No delay or failure of the Government in exercising any right, power or privilege under this clause shall affect any such right, power or privilege, nor shall any single or partial exercise thereof preclude or impair any further exercise thereof or the exercise of any other right, power or privilege of the Government.

(j) *Progress payments to subcontractors.*

(1) The amounts mentioned in item (a)(1)(ii) of this clause shall be all progress payments paid by the Contractor to his subcontractors or other divisions and remaining unliquidated when under subcontracts or interdivisional orders which conform to (2) below.

(2) Subcontracts or interdivisional orders on which progress payments to subcontractors or other divisions may be included in the base for progress payments pursuant to paragraph (a) of this clause are limited to those subcontracts in which there is expected to be a long "lead time" between the beginning of work and the first delivery, approximating four months or more for small business concerns and six months or more for firms which are not small business concerns, and in which the provisions regarding progress payments are substantially similar to and as favorable to the Government as this "Progress Payment" clause, (except that in the case of those subcontractors which are small business concerns, a "Progress Payment" clause substantially similar to that contained in § 1–30.510–1(b) of the Federal Procurement Regulations (FPR) may be used). Progress payment rates for subcontractors shall be the uniform, standard progress payment rate under FPR § 1–30.503–1. All rights of the subcontractor with respect to all property to which the Government has title under the subcontract will be made subordinate to the rights of the Government to require delivery of such property to it in the event of default by the Contractor under this contract or in the event of the bankruptcy or insolvency of the subcontractor.

(3) The Government agrees that any proceeds received by it from property to which it has acquired title by virtue of such provisions in any subcontract shall be applied to reduce the amount of unliquidated progress payments made by the Government to the Contractor under this contract. In the event the Contractor fully liquidates such progress payments made by the Government to him hereunder and there are progress payments to any subcontractors which are unliquidated, the Contractor shall be subrogated to all the Government's rights by virtue of such provisions in the subcontract or subcontracts involved as if all such rights had been thereupon assigned and transferred to the Contractor.

(4) To facilitate small business participation in subcontracting under this

contract, the Contractor agrees to offer and provide progress payments to those subcontractors that are small business concerns, in conformity with the standards for customary progress payments stated in § 1–3.503 of the FPR as in effect on the date of this contract. The Contractor further agrees that the need for such progress payments will not be considered as a handicap or adverse factor in the award of subcontracts.

(End of clause)

*See §§ 1–30.512–2 and 1–30.512–3 for calculation of alternate liquidation percentages. For contractors who elected to use the transition method in Appendix A of CAS 410, see §§ 1–30.512–1 and 1–30.512–3(f) for calculation of adjusted ordinary and alternate liquidation percentages.

(b) *Progress payment clause for small business concerns.*

Progress Payment for Small Business Concerns

Progress payments shall be made to the Contractor when requested as work progresses, but not more frequently than monthly, in amounts approved by the Contracting Officer under the following terms and conditions.

(a) *Computation of amounts.*

(1) Unless a smaller amount is requested, each progress payment shall be (i) 95 percent of the amount of the Contractor's total costs incurred under this contract, except as provided herein with respect to costs of pension contributions, plus (ii) the amount of progress payments to subcontractors as provided in (j) below; all less the sum of previous progress payments. With respect to costs of pension contributions, when pension contributions are paid by the Contractor to the retirement fund less frequently than quarterly, accruals of the costs of these pension contributions shall be excluded from the Contractor's total costs for progress payment purposes until such costs are paid. If pension contributions are paid on a quarterly or more frequent basis, accruals of the costs of these pension contributions may be included in the Contractor's total costs for progress payment purposes provided that the pension contributions are paid to the retirement fund within 30 days after the close of the period covered by the payment. If payments are not made to the fund within such 30 day period, pension contribution costs shall be excluded from the Contractor's total costs for progress payment purposes until payment therefor has been made.

(2) The Contractor's total costs ((a)(1)(i)) shall be reasonable, allocable to this contract, and consistent with sound and generally accepted accounting principles and practices. However, such costs shall not include (i) any costs incurred by subcontractors or suppliers, or (ii) any payments or amounts payable to subcontractors or suppliers, except for completed work (including partial deliveries) to which the Contractor has acquired title and except for amounts paid or payable under cost-reimbursement or time and materials subcontracts for work to which the Contractor has acquired title, or (iii) costs ordinarily capitalized and subject to depreciation or amortization except for the properly depreciated or amortized portion of such costs.

(3) The amount of unliquidated progress payments shall not exceed the lesser of (i) 95 percent of the costs mentioned in (a)(1)(i) above, plus any unliquidated progress payments mentioned in item (a)(1)(ii) above, both of which are applicable only to the supplies and services not yet delivered and invoiced to and accepted by the Government, or (ii) 95 percent of the total contract price of supplies and services not yet delivered and invoiced to and accepted by the Government, less unliquidated advance payments.

(4) The aggregate amount of progress payments made shall not exceed 95 percent of the total contract price.

(5) If at any time a progress payment or the unliquidated progress payments exceed the amount permitted by this paragraph (a), the Contractor shall pay the amount of such excess to the Government upon demand.

(b) *Liquidation.* Except as provided in the clause entitled "Termination for Convenience of the Government," all progress payments shall be liquidated by deducting from any payment under this contract, other than advance or progress, the amount of unliquidated progress payments, or 95 percent* (See footnote at end of clause) of the gross amount invoiced, whichever is less. Repayment to the Government required by a retroactive price reduction will be made after calculating liquidations and payments on past invoices at the reduced prices and adjusting the unliquidated progress payments accordingly.

(c) *Reduction or suspension.* The Contracting Officer may reduce or suspend progress payments, or liquidate them at a rate higher than the percentage stated in (b) above, or both, whenever he finds upon substantial evidence that the Contractor (1) has failed to comply with any material requirement of this contract, (2) has so failed to make progress, or is in such unsatisfactory financial condition, as to endanger performance of this contract, (3) has allocated inventory to this contract substantially exceeding reasonable requirements, (4) is delinquent in payment of the costs of performance of this contract in the ordinary course of business, (5) has so failed to make progress that the unliquidated progress payments exceed the fair value of the work accomplished on the undelivered portion of this contract, or (6) is realizing less profit than the estimated profit used for establishing a liquidation percentage in paragraph (b), if that liquidation percentage is less than the percentage stated in paragraph (a)(1).

(d) *Title.* Immediately, upon the date of this contract, title to all parts; materials; inventories; work in process; special tooling as defined in the clause of this contract entitled "Special Tooling"; special test equipment and other special tooling to which the Government is to acquire title pursuant to any other provision of this contract; nondurable (i.e. noncapital) tools, jigs, dies, fixtures, molds, patterns, taps, gauges, test equipment, and other similar manufacturing aids title to which is not obtained as special tooling pursuant to this paragraph; and drawings and technical data (to the extent delivery thereof to the Government is required by other provisions of this contract); theretofore acquired or produced by the Contractor and allocable or properly chargeable to this contract under sound and generally accepted accounting principles and practices shall forthwith vest in the Government; and title to all like property thereafter acquired or produced by the Contractor and allocable or properly chargeable to this contract as aforesaid shall forthwith vest in the Government upon said acquisition, production or allocation. Nothwithstanding that title to property is in the Government through the operation of this clause, the handling and disposition of such property shall be determined by the applicable provisions of this contract such as: the Default clause and paragraph (h) of this clause; Termination for Convenience of the Government clause; and the Special Tooling clause. Current production scrap may be sold by the Contractor without approval of the Contracting Officer and the proceeds shall be credited against the costs of contract performance. With the consent of the Contracting Officer and on terms approved by him, the Contractor may acquire or dispose of property to which title is vested in the Government pursuant to this clause, and in that event, the costs allocable to the property so transferred from this contract shall be eliminated from the costs of contract performance and the Contractor shall repay to the Government (by cash or credit memorandum) an amount equal to the unliquidated progress payments allocable to the property so transferred. Upon completion of performance of all the obligations of the Contractor under this contract, including liquidation of all progress payments hereunder, title to all property (or the proceeds thereof) which had not been delivered to, and accepted by the Government under this contract and to which title has vested in the Government under this contract or which had not been incorporated in supplies delivered to and accepted by the Government under this contract and to which title has vested in the Government under this clause shall vest in the Contractor. The provisions of this contract referring to or defining liability for Government-furnished property shall not apply to property to which the Government shall have acquired title solely by virtue of the provisions of this clause.

(e) *Risk of loss.* Except to the extent that the Government shall have otherwise expressly assumed the risk of loss of property, title to which vests in the Government pursuant to this clause, in the event of the loss, theft or destruction of or damage to any such property before its delivery to and acceptance by the Government, the Contractor shall bear the risk of loss and shall repay the Government an amount equal to the unliquidated progress payments based on costs allocable to such lost, stolen, destroyed, or damaged property.

(f) *Control of costs and property.* The Contractor shall maintain an accounting system and controls adequate for the proper administration of this clause.

(g) *Reports and information—access to records.* Insofar as pertinent to the administration of this clause, the Contractor will (1) furnish promptly such relevant reports, certificates, financial statements, and other information as may be reasonably requested by the Contracting Officer, and (2) give the Government reasonable opportunity to examine and verify his books, records and accounts.

(h) *Special provisions regarding default.* If this contract is terminated pursuant to the clause entitled "Default," (i) the Contractor shall, upon demand, pay to the Government the amount of unliquidated progress payments and (ii) with respect to all property as to which the Government elects not to require delivery under the clause entitled "Default," title shall vest in the Contractor upon full liquidation of progress payments, and the Government shall be liable for no payment except as provided by the "Default" clause.

(i) *Reservations of rights.* The rights and remedies of the Government provided in this clause shall not be exclusive, and are in addition to any other rights and remedies provided by law or under this contract. No payment, or vesting of title pursuant to this clause, shall excuse the Contractor from performance of his obligations under this contract, nor constitute a waiver of any of the rights and remedies of the parties under this contract. No delay or failure of the Government in exercising any right, power or privilege under this clause shall affect any such right, power or privilege, nor shall any single or partial exercise thereof preclude or impair any further exercise thereof or the exercise of any other right, power or privilege of the Government.

(j) *Progress payments to subcontractors.*

(1) The amount mentioned in item (a)(1)(ii) of this clause shall be the sum of (i) all the progress payments made by the Contractor to his subcontractors and remaining unliquidated, and (ii) unpaid billings for progress payments to subcontractors which have been approved for current payment in the ordinary course of business, when under subcontracts which conform to (2) below.

(2) Subcontracts on which progress payments to subcontractors may be included in the base for progress payments pursuant to paragraph (a) of this clause are limited to those subcontracts in which there is expected to be a long "lead time" between the beginning of work and the first delivery, approximating four months or more for small business concerns and six months or more for firms which are not small business concerns, and in which the provisions regarding progress payments are substantially similar to and as favorable to the Government as the "Progress Payments" clause set forth in § 1–30.510–1(a) of the Federal Procurement Regulations (FPR), (except that in the case of those subcontractors which are small business concerns, a "Progress payment" clause substantially similar to this clause may be used). Progress payment rates for subcontractors shall be the uniform, standard progress payment rate under FPR § 1–30.503–1. All rights of the subcontractor with respect to all property to which the Government has title under the subcontract will be made subordinate to the rights of the Government to require delivery of such property to it in the event of default by the Contractor under this contract or in the event of the bankruptcy or insolvency of the subcontractor.

(3) The Government agrees that any proceeds received by it from property to which it has acquired title by virtue of such provisions in any subcontract shall be applied to reduce the amount of unliquidated progress payments made by the Government to the Contractor under this contract. In the event the Contractor fully liquidates such progress payments made by the Government to him hereunder and there are progress payments to any subcontractors which are unliquidated, the Contractor shall be subrogated to all the Government's rights by virtue of such provisions in the subcontract or subcontracts involved as if all such rights had been thereupon assigned and transferred to the Contractor.

(4) The billings described in (j)(1)(ii) above shall be paid promptly by the Contractor in the ordinary course of business, not later than a reasonable time after payment of equivalent amounts by the Government to the Contractor.

(5) To facilitate small business participation in subcontracting under this contract, the Contractor agrees to offer and provide progress payments to those subcontractors which are small business concerns, in conformity with the standards for customary progress payments stated in § 1–30.503 of the FPR, as in effect on the date of this contract. The Contractor further agrees that the need for such progress payments will not be considered as a handicap or adverse factor in the award of subcontracts.

(End of clause)

*For lower percentages for this paragraph (b) and for (a)(3)(ii) and (a)(4), see § 1–30.512–1.

§ 1–30.510–2 [Removed]

19. Section 1–30.510–2 is removed.

20. Section 1–30.511 is revised to read as follows:

§ 1–30.511 General instructions for progress payment clauses.

The following instructions apply to the clauses required by § 1–30.510 and set forth in § 1–30.510–1.

21. Section 1–30.511–2 is revised and the caption is changed to read as follows:

§ 1–30.511–2 Uniform standard percentages—firms not small business concerns—paragraphs (a) and (b) of clause.

For contracts with contractors that are not small business concerns, except as provided in § 1–30.511–4, the figure of 90 percent stated in paragraphs (a)(1)(i), (a)(4)(i), (a)(4)(ii), (a)(5) and (b) of the clause in § 1–30.510–1(a) is the uniform standard percentage for use in those paragraphs for all contracts, whether awarded on the basis of formal advertising or negotiation.

22. Section 1–30.511–3 is revised and the caption is changed to read as follows:

§ 1–30.511–3 Uniform standard percentages—small business concerns—paragraphs (a) and (b) of clause.

For contracts with small business concerns, except as provided in § 1–30.511–4, a figure of 95 percent shall be specified in paragraphs (a)(1)(i), (a)(3)(i), (a)(3)(ii), (a)(4) and (b) of the clause in § 1–30.510–1(b). This is the standard percentage for all contracts awarded to small businesses, whether on the basis of formal advertising (see §§ 1–30.504–1, 1–30.504–2, or 1–30.504–3) or negotiation.

23. Section 1–30.511–4 is revised and the caption is changed to read as follows:

§ 1–30.511–4 Unusual percentages.

For unusual progress payments (§ 1–30.505), the percentage used for paragraph (a)(1)(i) of the clauses in § 1–30.510–1 will also be specified in paragraph (a)(4)(i) of the clause for other than small business concerns (§ 1–30.510–1(a)) and in paragraph (a)(3)(i) of the clause for small business concerns (§ 1–30.510–1(b)). For these contracts, if a percentage lower than the percentage used for paragraph (a)(1)(i) is stated in paragraph (b) of the clause pursuant to § 1–30.512–2, the exact percentage stated in paragraph (b) shall also be specified in paragraphs (a)(4)(ii) and (a)(5) of the clause for other than small business concerns (§ 1–30.510–1(a)) and paragraphs (a)(3)(ii) and (a)(4) of the clause for small business concerns (§ 1–30.510–1(b)).

24. Section 1–30.511–5 is revised to read as follows:

§ 1–30.511–5 Other protective provisions.

When deemed reasonably necessary for the protection of the Government, the clauses set forth in § 1–30.510–1 may be supplemented by additional protective provisions, such as personal or corporate guarantees, subordinations or standbys of indebtedness, special bank accounts, and other protective covenants of the kinds outlined in item (r) of § 1–30.414–2. When first article approval is required, additional protective provisions shall be used reciting that, until first article approval, there shall be no progress payments, or that the aggregate of progress payments for first article costs shall be limited to a stated amount, or percentage (less than the percentage used in paragraph (a)(4) of the clause in § 1–30.510–1(a) and paragraph (a)(3) of the clause in § 1–30.510–1(b)) of the contract price.

25. Section 1–30.511–6 is revised to read as follows:

§ 1-30.511-6 Provisional increases in contract price.

Ordinarily, the definitized price shall be the basis for limiting the aggregate amount of progress payments within the meaning of "total contract price" as used in paragraph (a)(5) of the clause in § 1-30.510-1(a) and paragraph (a)(4) of the clause in § 1-30.510-1(b). An exception exists if the application of this limitation would result in an inability to pay progress payments for costs properly incurred for authorized but unpriced contractual actions pertaining to the definitized contract, or in the case of incentive-type contracts, if the contractor's costs exceed the target price. When this exception exists, the contracting officer may make a provisional increase in the contract price for the purpose of paragraph (a)(5) of the clause in § 1-30.510-1(a) and paragraph (a)(4) of the clause § 1-30.510-1(b). The provisional increase to the contract price shall not exceed the amount recorded as an obligation based upon the Government's estimate of its liability for those unpriced contractual actions.

28. Section 1-30.512 is revised to read as follows:

§ 1-30.512 Progress payment liquidation.

Controlling principles for liquidation of progress payments based on costs, and for specification of a percentage in paragraph (b) of the clauses in § 1-30.510-1 are set forth in this § 1-30.512.

27. Section 1-30.512-1 is revised to read as follows:

§ 1-30.512-1 Ordinary method.

The percentages specified in § 1-30.511-2 and § 1-30.511-3 for paragraph (b) of the Progress Payment clauses (§ 1-30.510-1) represent the ordinary method for liquidation of progress payments, i.e., the percentage for progress payments stated in paragraph (a)(1)(i) of each clause will also be the percentage for liquidation stated in paragraph (b) of such clause. However, when a contract is subject to a limitation on General and Administrative (G&A) expenses eligible for progress payments because a contractor elected to use the special transition method provided in Cost Accounting Standard 410, Allocation of Business Unit General and Administrative Expense to Final Cost Objectives, an adjusted ordinary liquidation rate will be used. The adjusted liquidation rate will be established by subtracting from the progress payment percentage stated in the contract, the percentage computed by multiplying the progress payment percentage by the results of dividing the unbilled G&A expense by the contract price. For example, if the price was $1,100,000 and the unbilled G&A was $47,600 the liquidation rate would be:

	Percent
Progress payment percentage	80.00
Less: Unbilled G&A ÷ contract price × progress payment percentage ($47,600 ÷ 1,100,000) × 90 pct	3.89
Total	86.11

These methods of liquidation are the only methods authorized for use at the inception of a contract.

28. Section 1-30.512-2 is revised to read as follows:

§ 1-30.512-2 Alternate method.

(a) The alternate method for liquidation of progress payments involves the use of a percentage rate of liquidation which will (1) effect liquidation of the amount of progress payments involved in each invoice from which liquidation of progress payments is to be made (i.e., recovery of the portion of costs for which progress payments have been made), (2) permit payment to the contractor of not more than the cost of items delivered and accepted (less allocable progress payments) and his earned profit on those items, and (3) ensure that unliquidated progress payments will not exceed the amount permitted by paragraph (a)(4) of the Progress Payment clause in § 1-30.510-1(a) and paragraph (a)(3) of the clause in § 1-30.510-1(b).

(b) Adequate consideration shall be deemed to exist in the initial negotiation of the contract for subsequent changes in the percentage of liquidation. A negotiated contract shall be amended to substitute the alternate rate of liquidation for the ordinary rate when all of the following conditions are met:

(1) Contract delivery schedule extends 18 months or more beyond the contract award date.

(2) Data on actual costs are available for the products delivered, or, if no deliveries have been made, for a performance period of at least 12 months.

(3) The contractor requests the alternate rate and furnishes data on actual cumulative costs and estimated future costs to complete the contract, which satisfactorily fulfill the requirements in § 1-30.512-2(a).

(4) The parties agree on an appropriate percentage rate of liquidation.

(5) The contractor agrees to provide updated information on an annual basis or upon request of the contracting officer and certify as to the continued validity of the alternate rate in relation to the § 1-30.512.2(a) requirements. When the above-stated conditions are met, the contracting officer shall take prompt action to amend the contract to provide for the alternate liquidation rate.

(c) If profit rates on contracts subject to price redetermination or to incentive price revision are changed by contract modification, appropriate harmonizing changes to conform to § 1-30.512-2(a) will be made at the time of such modification in the stated percentage for future progress payment liquidation. Except as done incident to modification of a profit rate on contracts subject to price redetermination or to incentive price revision, above, contracts may be amended to reduce the progress payment liquidation rate not more frequently than once in each period of twelve months. Amendments reducing liquidation rates will be retroactive as well as prospective and appropriate adjustment will be made for items theretofore delivered and associated progress payments. When a progress payment liquidation rate is changed by contract amendment, appropriate conforming changes will be made in (a)(4)(ii) and (a)(5) of the clause in § 1-30.510-1(a) and (a)(3)(ii) and (a)(4) of the clause in § 1-30.510-1(b) so that the new percentage specified in paragraph (b) of the progress payment clause will also be specified in these paragraphs.

(d) Contract amendments that substitute an alternate rate of liquidation for the ordinary rate shall include the following provision:

> On an annual basis, or more frequently as determined necessary by the contracting officer, the contractor agrees to (1) certify in relation to the requirements of § 1-30.512-2(a) of the Federal Procurement Regulations as to the continued validity of the liquidation rate in the progress payment clause as hereby amended and (2) furnish information which adequately supports the certification.

(e) Revision of an alternate liquidation rate (§ 1-30.512-3) would occur because either (1) a contractor is realizing more profit than previously anticipated and the liquidation rate is to be adjusted downward, or (2) a contractor is achieving less profit than anticipated and the liquidation rate is to be adjusted upward. A contractor should be promptly paid any amount improperly withheld, and conversely, any overpayments should be promptly recouped. Therefore, revised liquidation rates should apply retroactively and prospectively. This policy will be administered in accordance with the provisions of § 1-30.524.

29. Section 1-30.512-3 is revised to read as follows:

§ 1-30.512-3 Liquidation percentages.

(a) For the purposes of § 1-30.512-2, the minimum liquidation rate has to be enough to recover the full amount of progress payments by way of deductions from delivery billings. The amount of expected progress payments divided by the contract price, gives the minimum liquidation percentage. The amount of expected progress payments is the product of multiplication of the progress payment percentage by either: (1) The total estimated contract costs, or (2) the total estimated contract cost less estimated G&A costs not eligible for progress payments because a contractor elected to use the special transition method provided in Cost Accounting Standard (CAS) 410, Allocation of Business Unit General Administrative Expense to Final Cost Objectives. For the purpose of this paragraph, the contract price may be calculated by the contracting office to include authorized but undefinitized work and projected economic adjustments; however, the price thus calculated may not exceed the Government's estimate of the price of all authorized work. The contract files shall document the basis and rationale for calculation of such rates. Examples of computations of the alternate liquidation rates when progress payments are made at 90 percent are as follows:

(i) If price is $1,000,000 and total estimated cost of $1,000,000 is eligible for progress payments, the liquidation rate would be:

$$\frac{1.000.000 \times 90\%}{1,100,000} = 81.82\%$$

(ii) If price is $1,10,000 and total estimated cost includes $47,600 of G&A not eligible for progress payments, the liquidation rate would be:

$$\frac{(1,000,000 - 47,600) \times 90\%}{1,100,000} = 77.92\%$$

(b) For the computation of minimum rates of liquidation, fractions of a percentage point will be expressed in tenths. Fractions between tenths will be rounded upward to the next higher tenth of a point as follows:

(1) 63.64 percent would be expressed as 63.7 percent in the contract.

(2) 68.18 percent would be expressed as 68.2 percent in the contract.

(3) 72.72 percent would be expressed as 72.8 percent in the contract.

(4) 72.27 percent would be expressed as 77.3 percent in the contract.

(5) 81.81 percent would be expressed as 81.9 percent in the contract.

(c) Further illustrative examples of minimum liquidation rates for contracts not subject to the CAS 410 suspense account limitation on G&A expense are set out in paragraph (d) of this section.

For the purposes of § 1-30.512-2, the profit rate is deemed to be amount by which the fixed or target contract price exceeds estimated total costs within the fixed or target price, divided by those estimated total costs as follows:

$$\frac{\text{Price-Costs}}{\text{Costs}} = \text{Profit Rate}$$

If the estimated profit rate falls between tenths of a percentage point, the fraction of a tenth will be dropped off for computation of a minimum liquidation rate. For example, a profit rate of 8.21 percent or 8.29 percent would be used as 8.2 percent for this computation of a minimum liquidation rate.

(d) Illustrative minimum progress payment liquidation rates.

MINIMUM LIQUIDATION RATE WITH PROGRESS PAYMENT RATE

Profit rate	Percent												
	80	[illegible]	[illegible]	91	92	[illegible]	[illegible]	95	[illegible]	97	[illegible]	[illegible]	100
2.0	78.5	[illegible]	88.3	[illegible]	90.2	91.2	[illegible]	93.2	[illegible]	95.1	[illegible]	97.1	[illegible]
3.0	77.7	[illegible]	87.4	[illegible]	90.3	91.3	[illegible]	[illegible]	[illegible]	94.2	[illegible]	[illegible]	97.1
4.0	77.0	81.8	[illegible]	87.5	[illegible]	[illegible]	[illegible]	91.4	92.3	93.3	94.3	[illegible]	[illegible]
4.1	76.9	81.7	86.5	87.5	88.4	[illegible]	90.3	91.3	[illegible]	[illegible]	[illegible]	95.1	[illegible]
5.0	76.2	81.0	[illegible]	86.7	87.7	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	93.5	[illegible]	[illegible]
6.0	75.5	80.2	84.8	85.9	86.8	87.8	[illegible]	[illegible]	[illegible]	91.5	92.5	[illegible]	[illegible]
7.0	74.8	79.5	84.2	[illegible]	[illegible]	87.0	[illegible]	[illegible]	[illegible]	[illegible]	91.6	[illegible]	[illegible]
7.1	74.7	79.4	84.1	[illegible]	[illegible]	86.9	[illegible]	[illegible]	[illegible]	[illegible]	91.5	92.5	[illegible]
7.2	74.7	79.3	84.0	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
7.3	74.6	79.3	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	91.4	92.3	[illegible]
7.4	74.5	79.2	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	88.5	[illegible]	[illegible]	91.3	92.2	[illegible]
7.5	74.5	79.1	83.8	84.7	85.6	[illegible]	[illegible]	[illegible]	89.3	[illegible]	91.2	[illegible]	[illegible]
7.6	74.4	79.0	[illegible]	[illegible]	85.5	[illegible]	[illegible]	[illegible]	89.3	[illegible]	91.1	[illegible]	[illegible]
7.7	74.3	79.0	[illegible]	[illegible]	85.5	[illegible]	[illegible]	[illegible]	89.2	[illegible]	91.0	92.0	92.9
7.8	74.3	[illegible]	[illegible]	[illegible]	85.4	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
7.9	74.2	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	90.9	[illegible]	[illegible]
8.0	74.1	78.7	[illegible]	[illegible]	[illegible]	86.2	87.1	[illegible]	88.9	[illegible]	[illegible]	91.7	92.6
8.1	74.0	78.7	83.3	[illegible]	85.1	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	92.5
8.2	74.0	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	90.6	[illegible]	[illegible]
8.3	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	90.5	[illegible]	[illegible]
8.4	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	91.4	[illegible]
8.5	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	92.2
8.6	73.7	[illegible]	[illegible]	[illegible]	[illegible]	85.7	[illegible]	[illegible]	[illegible]	[illegible]	90.3	[illegible]	[illegible]
8.7	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	91.1	[illegible]
8.8	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	92.0
8.9	73.5	78.1	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
9.0	73.4	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
9.1	73.4	[illegible]	82.5	[illegible]	[illegible]	85.3	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	91.7
9.2	73.3	77.9	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
9.3	73.2	77.8	82.4	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	90.6	91.5
9.4	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	86.0	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	91.4
9.5	73.1	77.7	82.2	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	91.4
9.6	73.0	77.6	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
9.7	[illegible]	77.5	82.1	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
9.8	[illegible]	77.5	82.0	82.9	[illegible]	84.7	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	91.1
9.9	72.8	77.4	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
10.0	72.8	77.3	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	86.4	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
10.1	72.7	77.2	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
10.2	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
10.3	[illegible]	77.1	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	86.2	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
10.4	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
10.5	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
10.6	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]

MINIMUM LIQUIDATION RATE WITH PROGRESS PAYMENT RATE—Continued

Profit rate	Percent												
	80	81	90	91	92	93	94	95	96	97	98	99	100
10.7	72.3	76.8	81.3	82.2	83.1	84.1	85.0	85.9	86.8	87.7	88.6	89.5	90.4
10.8	72.2	76.8	81.3	82.2	83.1	84.0	84.9	85.8	86.7	87.6	88.5	89.4	90.3
10.9	72.2	76.7	81.2	82.1	83.0	83.9	84.8	85.7	86.6	87.5	88.4	89.3	90.2
11.0	72.1	76.6	81.1	82.0	82.9	83.8	84.7	85.6	86.5	87.4	88.3	89.2	90.1
11.1	72.0	76.5	81.0	81.9	82.8	83.7	84.6	85.5	86.4	87.3	88.2	89.1	90.0
11.2	72.0	76.5	81.0	81.9	82.8	83.7	84.6	85.5	86.4	87.3	88.2	89.1	90.0
11.3	71.9	76.4	80.9	81.8	82.7	83.6	84.5	85.4	86.3	87.2	88.1	89.0	89.9
11.4	71.9	76.3	80.8	81.7	82.6	83.5	84.4	85.3	86.2	87.1	88.0	88.9	89.8
11.5	71.8	76.3	80.8	81.7	82.6	83.4	84.3	85.2	86.1	87.0	87.9	88.8	89.7
11.6	71.7	76.2	80.7	81.6	82.5	83.4	84.3	85.2	86.1	87.0	87.9	88.7	89.6
11.7	71.7	76.1	80.6	81.5	82.4	83.3	84.2	85.1	86.0	86.9	87.8	88.7	89.6
11.8	71.6	76.1	80.6	81.4	82.3	83.2	84.1	85.0	85.9	86.8	87.7	88.6	89.5
11.9	71.5	76.0	80.5	81.4	82.3	83.1	84.0	84.9	85.8	86.7	87.6	88.5	89.4
12.0	71.5	75.9	80.4	81.3	82.2	83.1	84.0	84.9	85.8	86.6	87.5	88.4	89.3
12.1	71.4	75.9	80.3	81.2	82.1	83.0	83.9	84.8	85.7	86.6	87.5	88.4	89.2
12.2	71.3	75.8	80.3	81.1	82.0	82.9	83.8	84.7	85.6	86.5	87.4	88.3	89.2
12.3	71.3	75.7	80.2	81.1	82.0	82.9	83.7	84.6	85.5	86.4	87.3	88.2	89.1
12.4	71.2	75.7	80.1	81.0	81.9	82.8	83.7	84.6	85.4	86.3	87.2	88.1	89.0
12.5	71.2	75.6	80.0	80.9	81.8	82.7	83.6	84.5	85.4	86.3	87.2	88.0	88.9
12.6	71.1	75.5	80.0	80.9	81.7	82.6	83.5	84.4	85.3	86.2	87.1	88.0	88.8
12.7	71.0	75.5	79.9	80.8	81.7	82.6	83.4	84.3	85.2	86.1	87.0	87.9	88.8
12.8	71.0	75.4	79.8	80.7	81.6	82.5	83.4	84.3	85.1	86.0	86.9	87.8	88.7
12.9	70.9	75.3	79.8	80.6	81.5	82.4	83.3	84.2	85.1	86.0	86.8	87.7	88.6
13.0	70.8	75.3	79.7	80.6	81.5	82.3	83.2	84.1	85.0	85.9	86.8	87.7	88.5
13.1	70.8	75.2	79.6	80.5	81.4	82.3	83.2	84.0	84.9	85.8	86.7	87.6	88.5
13.2	70.7	75.1	79.5	80.4	81.3	82.2	83.1	84.0	84.8	85.7	86.6	87.5	88.4
13.3	70.6	75.1	79.5	80.4	81.2	82.1	83.0	83.9	84.8	85.7	86.5	87.4	88.3
13.4	70.6	75.0	79.4	80.3	81.2	82.1	82.9	83.8	84.7	85.6	86.5	87.3	88.2
13.5	70.5	74.9	79.3	80.2	81.1	82.0	82.9	83.7	84.6	85.5	86.4	87.3	88.1
13.6	70.5	74.9	79.3	80.1	81.0	81.9	82.8	83.7	84.5	85.4	86.3	87.2	88.1
13.7	70.4	74.8	79.2	80.1	81.0	81.8	82.7	83.6	84.5	85.4	86.2	87.1	88.0
13.8	70.3	74.7	79.1	80.0	80.9	81.8	82.6	83.5	84.4	85.3	86.2	87.0	87.9
13.9	70.3	74.7	79.1	79.9	80.8	81.7	82.6	83.4	84.3	85.2	86.1	87.0	87.8
14.0	70.2	74.6	79.0	79.9	80.7	81.6	82.5	83.4	84.3	85.1	86.0	86.9	87.8
14.7	69.6	74.1	78.5	79.4	80.2	81.1	82.0	82.9	83.7	84.6	85.5	86.4	87.2
15.0	69.4	74.0	78.3	79.2	80.0	80.9	81.8	82.6	83.5	84.4	85.3	86.1	87.0
16.0	68.6	73.3	77.6	78.5	79.4	80.2	81.1	81.9	82.8	83.7	84.5	85.4	86.2
16.8	68.1	72.8	77.1	78.0	78.8	79.7	80.5	81.4	82.2	83.1	83.9	84.8	85.7
17.0	68.4	72.7	77.0	77.8	78.7	79.5	80.4	81.2	82.1	82.9	83.8	84.7	85.5
18.0	67.8	72.1	76.3	77.2	78.0	78.9	79.7	80.5	81.4	82.2	83.1	83.9	84.8
18.9	67.3	71.5	75.7	76.6	77.4	78.3	79.1	79.9	80.8	81.6	82.5	83.3	84.1
19.0	67.3	71.5	75.7	76.5	77.4	78.2	79.0	79.9	80.7	81.6	82.4	83.2	84.1
20.0	66.7	70.9	75.0	75.9	76.7	77.5	78.4	79.2	80.0	80.9	81.7	82.5	83.4

(e) Minimum liquidation rates will of course have to vary up or down from those shown in the above illustrative tables, for differing rates of projected profit and for different percentages for progress payments.

(f) When a contract is subject to a limitation on General and Administrative (G&A) expenses eligible for progress payments because a contractor elected to use the special transition method provided in cost Accounting Standard 410, an adjusted alternate liquidation rate will be used. The adjusted alternate liquidation rate will be established by subtracting the estimated G&A costs not eligible for progress payments from total estimated contract costs. For example, if the price is $1,100,000, costs is $1,000,000 and unbilled G&A $47,600, the liquidation rate would be calculated as follows:

$$\frac{(1{,}000{,}000-47{,}600)}{1{,}100{,}000}\times 90\% = 77.92\%$$

Use 78.00%

30. Section 1–30.513 is amended to revise paragraph (b) to read as follows:

§ 1–30.513 Subcontracts.

* * * * *

(b) The policies and standards for "unusual" progress payments set forth in § 1–30.505, are equally applicable to situations where it is contemplated that contracts will provide for progress payments based on "unusual" progress payments made by a prime contractor to a subcontractor. In such cases, when the inclusion of such unusual progress payments on the subcontracts has been approved in the manner set forth in § 1–30.505, appropriate revision will be made in paragraph (j)(2) of the Progress Payment clause in § 1–30.510–1(a) so as to permit inclusion of the unusual progress payments on the subcontract as part of the base for progress payments on the prime contract. Such revisions are deemed not to be deviations, and do not require the clearance called for by § 1–30.517(b). Paragraph (a)(3) of the clause in § 1–30.510–1(a) applies only to the "contractor's" costs mentioned in paragraph (a)(1)(i) of the clause. Paragraph (a)(3) of the clause does not apply to the progress payments to subcontractors mentioned in paragraph (a)(1)(ii) of the clause. The same policies and standards apply to the same numbered paragraphs in the progress payment clause in § 1–30.510–1(b), except that paragraph (a)(3) of the clause in § 1–30.510–1(a) is numbered (a)(2) in the clause in § 1–30.510–1(b).

31. Section 1–30.513–1 is revised to read as follows:

§ 1–30.513–1 Subcontractor progress payments.

When progress payments have been made by a prime contractor to a subcontractor pursuant to the provisions of the applicable prime contract and subcontract, the progress payment to the prime contractor to reimburse him for such progress payment to the subcontractor shall include the full amount of his progress payment made to the subcontractor.

32. Section 1–30.513–2 is revised to read as follows:

§ 1–30.513–2 Adaptation of uniform clause for subcontracts.

(a) Contracting officers are not required to review or approve subcontracts merely because they provide for progress payments. However, they shall check and review subcontracts providing for progress

payments to the extent appropriate in the ordinary course of administration of the Progress Payment clause of prime contracts. The duty rests on the prime contractor to see to it that subcontracts providing for progress payments, to be included in the base for progress payments pursuant to the provisions of paragraph (j) of the clause in § 1–30.510–1(a), conform to the provisions of paragraph (j) of the clause in § 1–30.510–1(a). In adapting the clause in § 1–30.510–1(a) for use in subcontracts, to conform to paragraph (j) of the clause, the subcontract Progress Payment clause should have appropriate changes to reflect the position of the prime contractor as purchaser and of the subcontractor as vendor, and to indicate that the progress payments under the subcontract are being made and administered by the prime contractor. However, the title provision of the Progress Payment clause, the subcontract shall provide for the vesting of title directly in the Government, as set forth in paragraph (d) of the clause, and the subcontract will not substitute the prime contractor for the Government as the holder of title under that paragraph of the subcontract. In that title paragraph of the subcontract, reference to the prime contractor should, however, be substituted for the word "Government" in the parenthetical expression concerning drawings and technical data.

(b) In the subcontract counterpart (clause paragraph (g)) entitled "Reports and information—access to records", the references to "Contracting Officer" and "Government" should not be deleted, but may in each case be expanded so as to refer to the "Contracting Officer or the prime contractor," (paragraph (g)(1) of the clause) and to the "Government or the prime contractor" (paragraph (g)(2) of the clause).

(c) With regard to the subcontract counterpart of the "Special Provisions Regarding Default" (paragraph (h) of the clause), only the substance of the first twenty-six words of that paragraph (with reference to the prime contractor being substituted for "Government"), is required for conformity to the provisions of paragraph (j)(2) of the clause.

(d) The same policies and standards apply to the same numbered paragraphs in the Progress Payment clause provided in § 1–30.510–1(b).

33. Section 1–30.515 is revised to read as follows:

§ 1–30.515 Letter contracts.

When progress payments are to be made under letter contracts or similar contractual instruments (§ 1–30.503, § 1–30.503–2), incorporation of the appropriate clause in § 1–30.510–1 is required. See §§ 1–30.509–7, 1–30.511–2, and 1–30.511–3. Procedures for later events are outlined in paragraphs (a) and (b) below.

(a) When the superseding definitive contract provides for progress payments (§ 1–30.503, § 1–30.503–2), the letter contract costs, progress payments and unliquidated progress payments will be carried over to the definitive contract the same as if initially covered by the definitive contract instead of the letter contract. For the various percentages, see §§ 1–30.503–2, 1–30.511–2, 1–30.511–3, 1–30.511–4 and 1–30.512.

(b) If the letter contract is not superseded by a definitive contract providing for progress payments, for whatever reason, the unliquidated progress payments on the letter contract will be deducted from amounts otherwise payable to the contractor. If not so fully liquidated, the amount of unliquidated progress payments will be payable to the Government upon demand.

34. Section 1–30.519 is revised to read as follows:

§ 1–30.519 Contractor's request.

All invoices for progress payments on contracts containing the Progress Payment clauses set out in § 1–30.510, and on contracts containing any deviation from those clauses approved pursuant to § 1–30.517, will be supported by Standard Form 1443 (see § 1–30.529 and § 1–16.808) with any supporting information that may be reasonably required. The reverse side of the form contains instructions for use.

35. Section 1–30.520 is revised to read as follows:

§ 1–30.520 Audit.

For the making of progress payments, principal reliance will be placed on the adequacy of the contractor's accounting system and controls (§ 1–30.506) and on the reliability of the contractor's certificates. To conserve administrative effort, hold down expense, and promote prompt payment of proper progress billings, audit before the making of progress payments will be kept to the minimum necessary for the protection of the interest of the Government. Preaudit, that is, audit before the making of a progress payment, will be limited to those situations in which there is reason to question the reliability or accuracy of the contractor's certificate, or reason to believe that the contract will involve a loss. Where the adequacy and reliability of the contractor's accounting system and controls have been established in accordance with § 1–30.506, there shall be no requirement for preaudit of the first progress billing under new contracts. Postreview or postaudit will be made when considered desirable by the contracting officer to determine the validity of any progress payment made on the contractor's certifications.

§ 1–30.521–2 [Removed]

36. Section 1–30.521–2 is removed.

37. Section 1–30.522 is revised to read as follows:

§ 1–30.522 Adjustment—retroactive price reduction—refunds.

When a retroactive price reduction has been made effective, i.e., by supplemental agreement or by unilateral determinaton pursuant to the price redetermination provision of the contract, paragraph (b) of the clauses prescribed in § 1–30.510–1 requires adjustments so that the amount of unliquidated progress payments and the amounts paid or payable for supplies or services accepted will give effect to the price reduction. In this situation, the retroactive price reduction means that too much has been paid or billed for deliveries, and that from those delivery billings too much has been applied as a reduction of the unliquidated progress payment balance. The necessary adjustments would be; (a) Recomputation of total cash delivery payments on the basis of the reduced billing price resulting from the retroactive price reduction, and repayment by the contractor of the difference between the total recomputed payments and the total cash delivery payments that had been made, and (b) increase of the unliquidated progress payment balance by the excess of the total amounts previously applied to reduce the unliquidated progress payment balance over the amounts that would have been applied to reduce the unliquidated progress payment balance if the reduced delivery prices had been in effect from the date from which the redetermination is applicable. This same principle of upward adjustment of the unliquidated progress payment balance is also applicable in connection with interim refunds made by contractors pursuant to the provisions of incentive and price redetermination contracts, and in connection with voluntary refunds on such contracts.

38. Section 1–30.523 is revised to read as follows:

§ 1–30.523 Maximum unliquidated amount.

When the contract price is sufficient to cover all costs of complete performance, and liquidation of progress payments is effected by the ordinary method (§ 1–30.512–1), the amount of

unliquidated progress payments should automatically stay within the maximum limits stated in paragraph (a)(4) of the clause in § 1–30.510–1(a) and paragraph (a)(3) of the clause in § 1–30.510–1(b). For either method of liquidation § 1–30.512–2, or § 1–30.512–2 and § 1–30.512–3), whenever the rate or quality of performance is unsatisfactory, or the rate of rejections is unduly high, or there is excessive wastage or spoilage, or a loss to the contractor is indicated, careful examination should be made to determine whether or not the unliquidated progress payments exceed the maximum amounts permitted by paragraph (a)(4) of the clause in § 1–30.510–1(a) and paragraph (a)(3) of the clause in § 1–30.510–1(b). Also, when the alternate method of liquidation is used (§ 1–30.512–2, § 1–30.512–3), it may occur that actual costs and future costs of performance are higher than the estimated costs used to establish a liquidation rate. In such cases (paragraph (c)(6) of the clauses in § 1–30.510–1), appropriate increase of the liquidation percentage, with or without reduction of the rate of progress payments or suspension of progress payments (§ 1–30.524) will be necessary to adjust for any liquidation that may have occurred, to bring the amount of unliquidated progress payments within the limits of paragraph (a)(4) of the clause in § 1–30.510–1(a), and paragraph (a)(3) of the clause in § 1–30.510–1(b), and to assure the adequacy of future liquidations. As required, the services of the agency's contract audit organization should be utilized to the fullest extent available, together with the services of qualified cost analysis and engineering personnel. See § 1–30.519.

39. Section 1–30.524–1 is revised to read as follows:

§ 1–30.524–1 Failure to comply with contract.

Except for the purpose of correcting overpayments or obtaining amounts due from the contractor, action will not be taken pursuant to paragraph (c)(1) of the clauses provided in § 30.510–1 for failure to comply with a requirement of the contract, if such failure has resulted solely from causes beyond the control and without the fault or negligence of the contractor. For examples of such causes, see paragraph (c) of the Default clause in § 1–8.707. Compliance with the material requirements of the contract, within the meaning of paragraph (c)(1) includes compliance with all provisions of the Progress Payment clause.

40. Section 1–30.524–2 is revised to read as follows:

§ 1–30.524–2 Unsatisfactory financial condition.

If unsatisfactory financial condition, or failure to make progress, endangering contract performance, as described in paragraph (c)(2) of the clauses prescribed in § 1–30.510–1, is found to exist, arrangements reasonably assuring contract completion without loss to the Government will be required in connection with the making of further progress payments and the making of other payments so long as progress payments are unliquidated. Within the meaning of this paragraph (c)(2), performance of the contract includes full liquidation of progress payments. Further payments should be withheld so long as any progress payments remain unliquidated, only upon full consideration of all pertinent facts, and upon concluding that further payments will serve to increase the probable loss to the Government.

41. Section 1–30.524–3 is revised to read as follows:

§ 1–30.524–3 Excessive inventory.

When inventory allocated to the contract is found substantially to exceed reasonable requirements (paragraph (c)(3) of the clauses in § 1–30.510–1), the simplest form of adjustment to correct or avoid overpayment will be to eliminate the costs of such excess inventory from the costs shown in items 9 and 10 of the contractor's request referenced in § 1–30.529. If that is not regarded as sufficient in a particular case, or if the adjustment in items 9 and 10 of the request will not accomplish full correction, additional deductions, to the extent necessary for the correction, should be made to liquidate progress payments incident to billings for payments other than progress payments. Transfer of such excess inventory from the contract should also be required. The expression "reasonable requirements" includes a reasonable accumulation of inventory for future use to assure continuity of operations.

42. Section 1–30.524–4 is revised to read as follows:

§ 1–30.524–4 Delinquency in payment of costs of performance.

The contractor's delinquency in payment of costs of contract performance in the ordinary course of business (paragraph (c)(4) of the clauses in § 1–30.510–1) may be an indication of unsatisfactory financial condition or other circumstances endangering contract performance and involving probability of loss to the Government. If such delinquency is not connected with poor financial condition that is so unsatisfactory as to endanger contract performance or to involve reasonably foreseeable loss to the Government, further progress payments and other payments will not necessarily be denied to protect the unliquidated progress payments and minimize risks of additional losses, and payments may be continued at the contract rate, or in reduced amounts, in connection with appropriate arrangements to (a) cure the contractor's delinquencies in payment of the costs of contract performance, (b) avoid further delinquencies, and (c) reasonably assure completion of the contract without loss to the Government. (See also § 1–30.524–3.) The standards in paragraph (a) of the clauses in § 1–30.510–1 for the exclusion of pension contribution costs from progress payment computations will govern a determination of delinquency in the ordinary course of business with respect to these pension contribution costs, without regard to other provisions in § 1–30.524. Amounts claimed by subcontractors, suppliers and others, but disputed in good faith by the contractor, should not be considered delinquent until determined due by a court (or by arbitration if applicable). However, any such disputed amounts shall be excluded from costs of performance so long as they are disputed.

43. Section 1–30.524–5 is revised to read as follows:

§ 1–30.524–5 Fair value of undelivered work.

(a) In connection with determining the relation of the amount of unliquidated progress payments to the fair value of the work accomplished on the undelivered portion of the contract (see paragraph (c)(5) of the clauses prescribed in § 1–30.510–1), the principles stated in § 1–30.523 are applicable. In determining action, if any, to be taken, the contracting officer (using available audit, engineering, inspection, and cost analysis services) will give full consideration to the degree of completion of contract performance, the quality and amount of work performed on the undelivered portion of the contract, the amount of work remaining to be done and the estimated costs of completion of performance, and the amount remaining unpaid under the contract. If the contracting officer finds that the fair value of the work done under the undelivered portion of the contract, in relation to the contract price, is less than the unliquidated progress payments, his actions will be governed by the principles stated in §§ 1–30.524–2 and 1–30.524–4. This fair value could not exceed the contract price of undelivered work under the

contract, less the estimated total future costs of completion of the contract. When this fair value is found to be less than the amount of the unliquidated progress payments, all further payments on the contract will be controlled in such a manner as to hold the unliquidated progress payments within the fair value of the work done on the undelivered portion of the contract. (See also § 1–30.525–1.)

(b) If it is determined that the total costs incurred plus the estimated additional costs to complete the contract will exceed the contract price, the purchasing office will be promptly advised and all further progress payments will be adjusted using a loss ratio factor. Principles and practices discussed in § 1–30.524 will be followed in adjusting progress payments. For the purpose of computing the loss ratio factor, a revised contract price will be used consisting of the current contract price, (current contract price of fixed-price incentive contracts for this purpose is the current ceiling price) plus unpriced contractual actions, such as change orders and unpriced orders, to the extent obligated. The revised contract price divided by the sum of the total costs incurred to date (item 12a) plus the estimated additional costs to complete (item 12b) will be the loss ratio factor.

(c) When computing progress payments for loss contracts, the *Contractor's Request for Progress Payment* (Standard Form 1443) instructions will be modified as follows:

Item 5—Current contract price plus unpriced contractual actions, such as change orders and unpriced orders, to the extent obligated.

Item 11—The sum of Items 9 and 10 will be multiplied by the loss ratio factor and the result (recognized costs for progress payments) will be entered on Item 11.

Item 20a—Contract price of items delivered, invoiced and accepted to the date in heading of Section II. Note that average unit contract price is equal to the projected average unit cost multiplied by the loss ratio factor. Consequently, the maximum cost that may be recognized for the items delivered is equal to the contract price of the items delivered.

The contracting officer shall use, as required, audit and technical services and other pertinent data and management reports in determining the amount and costs of work completed and the estimated amount costs of uncompleted work under the contract. In the event that the figures submitted by the contractor in his request for progress payment are at variance with the determination of the estimated loss made by the contracting officer, the latter shall (1) adjust the figures in accordance with his own determination, (2) advise the contractor in writing, and (3) adjust all further progress payments in accordance with his calculations until the difference is resolved. The contracting officer will prepare a supplementary sheet which will be attached to the *Contractor's Request for Progress Payment* showing the revised contract price where there are outstanding unpriced actions to be considered, calculation of the loss ratio factor, and alternate amount to be used as Item 13. An example of such a supplementary sheet is as follows:

EXAMPLE: § 1–30.524–5 LOSS CONTRACTS

Section I—Contractor's request for progress payment:

Item 5—Contract price	[illegible]
Change orders and unpriced orders to extent obligated	[illegible]
Revised contract price	1,000,000

Section II:

Item 12a—Total costs incurred to date	1,080,000
Item 12b—Estimated additional costs to complete	120,000
Total	1,200,000

Loss ratio factor $\frac{1,000,000}{1,200,000} = 83.3\%$

Item 11—Total costs eligible for progress payments	[illegible]
Loss ratio factor (percent)	× 83.3
Recognized costs for progress payments	[illegible]
Item 6a—Progress payment rate (percent)	× 90.0
Item 13—Alternate amount to be used	674,730

Section III:

*Item 20a—Contract price of items delivered	[illegible]
Item 20b—Recognized costs applicable to undelivered items ($749,700–$250,000)	499,700

*This amount will be the same as item 21a since the costs of such items will exceed the contract price.

44. Section 1–30.525–1 is revised to read as follows:

§ 1–30.525–1 Loss, theft, destruction, or damage.

Paragraph (e) of the clauses in § 1–30.510–1 is not intended to apply to normal spoilage. The risk of loss as to properlty affected by the Progress Payments clause is on the contractor, except to the extent that by some special provision of the contract (such as that relating to aircraft in the open) the Government shall have expressly assumed the risk of loss. Such express assumption of risk by the Government is not made in the Progress Payments clause, the Default clause or the Termination clause. Because of problems of administering the contract, especially those connected with property responsibility and inventory control, the risk of loss on property to which the Government holds title because of progress payments must be on the contractor to the same extent that it would be if the contractor held title to the property. This risk of loss carries with it the accompanying duty to repay to the Government the amount of unliquidated progress payments based on cost allocable to lost, stolen, or destroyed property or to the damaged portion of the property. If the Government has expressly assumed particular risks of loss, then, to the extent of such express assumption of risks by the Government, the contractor would not be obligated to repay to the Government the amount of unliquidated progress payments based on costs allocable to such lost, stolen, destroyed, or damaged property. (See, however, paragraphs (c)(5) and (c)(6) of the clauses prescribed in § 1–30.510–1 as to future payments on the contract after such loss, damage, theft, or destruction.)

45. Section 1–30.525–5 is amended to revise paragraph (b) to read as follows:

§ 1–30.525–5 Scrap—excess property.

* * * * *

(b) When: (1) The contractor has completed all work called for by the contract, and (2) such work has been delivered to and accepted by the Government, and (3) progress payments made under the contract have been fully liquidated, and (4) the contractor has fully performed all his obligations under the contract (including the making of any payments to which the Government may be entitled under the contract, and including compliance with any other provisions of the contract, such as the Termination clause, the Special Tooling clause, or the Government-furnished Property clause), any excess property remaining is to be regarded as having not been allocated or properly chargeable to the contract under sound and generally accepted accounting principles and practices, and thus outside the scope of the Progress Payments clause which would have

vested title in the Government. Accordingly, the contractor holds title to such excess property and may deal with it as he desires.

46. Section 1–30.529 is revised to read as follows:

§ 1–30.529 Standard Form 1443, Contractor's Request For Progress Payment.

Standard Form 1443 set forth in § 1–16.901–1443 and described in § 1–16.808 is provided to facilitate the submission of requests for progress payments. Various instructions contained in this Subpart 1–30.5 are referenced to specific paragraphs of this form.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Dated: December 4, 1982.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 82–34453 Filed 12–21–82; 8:45 am]

BILLING CODE 6820–61–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

45 CFR Part 5b

Privacy Act of 1974; Exempt Record System

AGENCY: Department of Health and Human Services.

ACTION: Final rule.

SUMMARY: The Office of the Secretary of the Department of Health and Human Services is amending its Privacy Act Regulations to exempt the system of records, "Civil and Administrative Investigative Files of the Inspector General, HHS/OS/OIG," from certain provisions of the Privacy Act. This exemption is authorized by subsection (k)(2) of the Privacy Act, which applies to investigative materials compiled for law enforcement purposes. The Office of Inspector General (OIG) is authorized to gather information for civil and administrative law enforcement purposes under Pub. L. 94–505, establishing the HHS Office of Inspector General, and section 1128A of the Social Security Act, authorizing civil money penalties for the filing of false claims in certain health care financing programs. In order to maintain the integrity of the OIG investigative process and to assure that the OIG will be able to obtain access to complete and accurate information, the Department is exempting this system, under subsection (k)(2), from the notification, access, correction and amendment provisions of the Privacy Act.

DATE: This amendment is effective January 21, 1983.

FOR FURTHER INFORMATION CONTACT: Richard McGowan, Public Affairs Officer, Office of Inspector General, Department of Health and Human Services, Room 5267 North Building, 330 Independence Avenue, S.W., Washington, D.C. 20201 or call (202) 472–3142.

SUPPLEMENTARY INFORMATION: On September 30, 1982, a notice of proposed rulemaking concerning the amendment to the Department's Privacy Act Regulations was published in the **Federal Register** (47 FR 43099) and invited public comments by November 1, 1982. No comments were received.

The Office of Inspector General is expanding its responsibilities in the area of civil and administrative investigations involving DHHS programs and operations. This requires the establishment of a records system to document the investigations which will be conducted by the OIG or other investigative agencies; to improve the tracking of reviews conducted because of allegations and complaints received by DHHS or other agencies concerning DHHS programs, or current or former HHS personnel; to improve the reporting of the results of civil and administrative investigations to other components of the Department for their use in operating and evaluating their programs; and to assist in civil and administrative proceedings, including proceedings under section 1128A of the Social Security Act (establishing civil monetary penalties in the Medicare, Medicaid, and Maternal and Child Health programs).

This system will contain sensitive investigative records, the release of which could impede on-going investigations, violate the privacy rights of individuals other than the subjects of the investigations, reveal the identities of confidential sources, or otherwise impair the ability of the Office of Inspector General to conduct civil and administrative investigations. For these reasons, the Department is exempting this system, under subsection (k)(2) of the Privacy Act, from the notification, access, correction and amendment provisions of the Privacy Act.

The exemption does not meet the standards set forth in Executive Order 12291 for classification as a major rule, and no regulatory analysis statement is required.

The Secretary certifies that the exemption will not have a significant impact on any substantial number of small entities as defined by the Regulatory Flexibility Act, Pub. L. 96–354.

List of Subjects in 45 CFR Part 5b

Privacy.

PART 5b—PRIVACY ACT REGULATIONS

Accordingly, the Department's Privacy Act Regulations, Part 5b of 45 CFR Subtitle A is amended as follows:

1. In § 5b.11 by adding paragraph (b)(2)(ii)(D) as follows:

§ 5b.11 Exemptions.

* * * * *

(b) * * *
(2) * * *
(iii) * * *

(D) Civil and Administrative Investigative Files of the Inspector General, HHS/OS/OIG.

(5 U.S.C. 552a)

Dated: December 3, 1982.

Richard S. Schweiker,

Secretary.

[FR Doc. 82–34705 Filed 12–21–82; 8:45 am]

BILLING CODE 4150–04–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. I

[CC Docket No. 81–343; FCC 82–513]

Proceeding Concerning the Policies To Be Followed in the Authorization of Common Carrier Facilities To Meet Pacific Telecommunications Needs During the Period 1981–1995

AGENCY: Federal Communications Commission.

ACTION: Policy statement (Report and order).

SUMMARY: The Federal Communications Commission issues the policies it will follow in authorizing common carrier facilities that will be needed in the Pacific Ocean Region during the period 1982–1986. The incorporation of these policies into the authorization process will ensure that service will be provided to the public in the most efficient, expeditious manner possible.

DATE: Effective December 22, 1980.

ADDRESS: Federal Communications Commission, 1919 M Street, NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: William J. Sill, International Facilities Planning Division, Common Carrier Bureau, Federal Communications Commission, Washington, D.C. 20554, (202) 632–4047.

SUPPLEMENTARY INFORMATION:

Report and Order

Adopted: November 18, 1982.

Released: December 3, 1982.

In the matter of inquiry into the policies to be followed in the authorization of Common Carrier Facilities to Meet Pacific Telecommunications Needs During the Period 1981–1995; CC Docket No. 81–343.

1. On June 1, 1981, the Commission released a Notice of Inquiry, FCC 81–243, 46 FR 31286 (June 15, 1981), which initiated a comprehensive planning process in the Pacific Ocean Region for the 1981–1995 period. The U.S. international service carriers (USISCs),[1] Comsat, Hawaiian Telephone Company (HTC), the Department of Commerce (DOC) and the State of Hawaii (State) submitted comments. The Commission later released a Notice of Proposed Rulemaking in the above-captioned proceeding, Notice of Proposed Rulemaking, FCC 82–206, 47 FR 21868 (May 20, 1982) (hereinafter, Notice of Proposed Rulemaking or Notice), by which we issued for public comment our tentative conclusions about facilities planning and use in the Pacific Ocean Region (POR) from 1981–1986. On June 28, 1982, AT&T, ITT World Communications Inc. (ITT Worldcom), RCA Global Communications, Inc. (RCA Globcom), Comsat, HTC, DOC, the Department of Defense (DoD), Western Union International, Inc. (WUI), RCA American Communications, Inc. (RCA Americom) and State filed comments on the tentative conclusions contained in the NPRM.[2] On July 1, 1982 TRT Telecommunications Corporation (TRT) filed its comments.[3] Replies were filed by RCA Globcom, HTC, AT&T, WUI, Comsat, ITT Worldcom and the State of Hawaii. On July 29, 1982 the State of Hawaii revised the Appendix to its reply. On October 29, 1982 AT&T revised Appendix E to its comments. The comments and reply comments are summarized in Appendix I to this Report and Order.[a] Here we adopt the policies which we shall apply in acting upon requests for authorization to construct and operate submarine cable and satellite communications facilities for Pacific service during 1982–1986.

I. Background

2. In response to the Notice of Inquiry, the USISCs formulated and submitted four alternative facilities plans to meet anticipated POR traffic demands during the 1981–1995 planning period, referred to as Plans I, IIA, IIB and III. These plans utilize a combination of existing and possible future facilities options. The various future facilities under consideration are the ANZCAN cable system (ANZCAN),[4] HAW–4 cable, HAW–5, Trans-Pacific-3 cable (TPC–3), TPC–4, INTELSAT V–A, VI, and VI–A.[5] The ANZCAN cable system will link Australia, New Zealand, Fiji and Norfolk Islands with Hawaii (ANZCAN South) and provide cable service between Hawaii and Canada (ANZCAN North). The proposed HAW–4 cable would be routed between the U.S. Mainland and Hawaii. WAW–5's route has not been determined. TPC–3 would be constructed between Hawaii and Japan while the TPC–4 cable would land in Hawaii and Guam. Intelsat satellites series V–A, VI and VI–A would be located in the Pacific Ocean Region.

3. Plan I proposed the construction of no new facilities during the planning period; it was submitted for analytical purposes rather than as a viable option. Plan IIA calls for U.S. carriers' use of ANZCAN cable system, the use of a primary path satellite, the introduction of a major path satellite in 1987, and the construction of HAW–4 and TPC–3 as digital optical fiber cables in 1988. Plan IIB varies from IIA in one respect; Plan IIB assumes use of the in-orbit spare satellite as an operational spare satellite between 1984–1987.[6] Plan III proposes construction and use of (a) ANZCAN, (b) an analog HAW–4 between Mainland U.S. and Hawaii in 1984, (C) an analog TPC–3 cable between Hawaii and Japan in 1986, (d) digital optical fiber HAW–5 and TPC–4 in 1991, with TPC–4 landing in Guam and Hawaii, (e) use of an in-orbit spare satellite as an operational spare satellite between 1984–1987, and (f) introduction of a major path satellite in 1987. Plans IIA and IIB contemplate U.S. carriers acquiring temporary and permanent interests in ANZCAN's circuits, while Plan III Proposes the acquisition of permanent interests.

4. In the Notice of Proposed Rulemaking the Commission decided that it would focus upon POR facilities planning for 1981–1986, and consider the 1987–95 period in a subsequent phase of the proceeding. The Commission reviewed the comments and evaluated the four facilities plans using demand flexibility, cost, service quality and technological risk as criteria. The Commission tentatively concluded:

(a) U.S. carriers' acquisition of permanent interests in ANZCAN South would serve U.S. interests. However, the Commission did not express a preference for the number of circuits to be acquired.

(b) U.S. carriers should be authorized to acquire temporary indefeasible right of user (IRU) interests in 734 ANZCAN North half circuits for international service and the IRCs should be authorized to acquire temporary IRU interests in 56 ANZCAN North whole circuits for domestic service.

(c) Utilization of Intelsat's proposed in-orbit operational spare satellite in the POR during the mid-1980's is desirable.

(d) Construction and use of analog HAW–4 and TPC–3 cables would not serve U.S. interests.

(e) A flexible master plan approach to development of a circuit distribution methodology is desirable. However, U.S. record carriers should be exempted from a specific circuit distribution methodology.

However, the Commission was unable to conclude that acquisition of temporary interests in 600 whole circuits in ANZCAN North for service between the U.S. Mainland and Hawaii would serve the United States' interests, as proposed in Plans IIA and IIB. In addition, the Commission requested AT&T, ITT Worldcom and HTC to submit reasons supporting permanent acquisition of ANZCAN North half circuits. The Commission also requested the parties to provide additional information on the availability of domestic satellite capacity between the U.S. Mainland and Hawaii.

5. The Pacific planning process is the first attempt by the Commission to analyze the U.S. carriers facilities requirements in the POR on a

---

[1] The USISCs are the United States entities which provide telecommunications service directly to the public. For purposes of this proceeding, the USISCs are composed of AT&T and the international record carriers: FTC Communications, Inc., ITT World Communications Inc., RCA Global Communications, Inc., TRT Telecommunications Corporation and Western Union International, Inc.

[2] On May 28, 1982 the Bureau granted AT&T's request for extension of time to file Comments and Replies in this proceeding; the deadlines for submission of comments and replies were changed to June 28, 1982 and July 28, 1982.

[3] TRT Telecommunications Corporation (TRT) filed its comments three days after the period for filing comments had passed. Since the acceptance of this pleading will not delay the proceeding and our analysis of the issues in the proceeding will be benefited by its acceptance, we shall accept the pleading.

[a] Filed as part of the original document.

[4] The ANZCAN cable will be constructed and owned by telecommunications entities in Australia, Canada, France, the Federal Republic of Germany, New Zealand, the Independent State of Papua, New Guinea, the Philippines and the United Kingdom.

[5] Intelsat series IV–A and V are currently in use in other ocean regions and are proposed be relocated in the POR.

[6] Use of an in-orbit spare satellite as an operational spare satellite would not provide additional satellite capacity but would provide an additional independent satellite path. Satellite traffic would be limited to the capacity of a single spacecraft, so that if the primary satellite failed the operational spare satellite would be able to restore the traffic formerly carried on the primary satellite.

comprehensive basis. Since international communications is a cooperative venture involving foreign and domestic entities, development of United States policy entails some consideration of what would be mutually acceptable. To this end, the Commission has taken cognizance of the views of interested foreign entities.[7]

II. Discussion

6. The parties' comments and reply comments provide us with significant information which was not available for our consideration during the preparation of the Notice of Proposed Rulemaking. Careful review and analysis of this information has caused us to modify our earlier analysis and some of the tentative conclusions announced in the Notice of Proposed Rulemaking. Below we shall consider the impact of these additional comments and information on the following issues: (1) The use of the ANZCAN cable system by any U.S. carrier; (2) the types of interests and the number of circuits the USISCs should be authorized to acquire in ANZCAN North for international services; (3) the types of interests and number of circuits HTC should be authorized to acquire in ANZCAN North for international service; (4) the types of interests and number of circuits the U.S. carriers should be authorized to acquire in ANZCAN North to provide domestic service; and (5) the number of circuits the USISCs and HTC should be authorized to acquire in ANZCAN South for international service.

A. U.S. Carrier Involvement in ANZCAN

7. In the NPRM we tentatively concluded that U.S. carriers' use of the ANZCAN North and South would serve U.S. interests. The Department of Commerce, in its comments, disagreed. It contends that the ANZCAN cable system will be foreign owned, constructed and operated. According to DOC, U.S. participation in ANZCAN will benefit foreign countries rather than the U.S., and U.S. involvement in a foreign cable will set a bad precedent. DOC calculates that a half circuit IRU in ANZCAN would cost 5 times more than a half circuit in an optical fiber HAW–4, and believes that this is too high a price to pay for route diversity and redundancy. In contrast, ITT Worldcom points out that there is no U.S. cable available which could meet its customers' needs. HTC believes that DOC's comments reflect a parochial outlook and notes that an ITT subsidiary will be involved in the ANZCAN's construction. In addition, HTC challenges the validity of DOC's comparing the cost of ANZCAN IRUs to HAW–4 circuits. HTC believes that such a comparison is invalid since the ANZCAN temporary interests will have expired by the time HAW–4 becomes available.

8. Based upon the responses of the parties and the information before us, we conclude that U.S. carriers' acquisition of ANZCAN circuits will serve the public interest. Existing POR facilities in place in 1986 will not be able to meet forecasted demands for international services between the U.S. and Pacific points in that year. The ANZCAN cable system can be utilized by the carriers to fill the gap between circuit supply and expected demand, and will provide additional route diversity and redundancy. Further, utilization of ANZCAN North will obviate the necessity to build an analog HAW–4 which would require greater USISCs investment than ANZCAN North. We also note that international telecommunications increasingly involves the participation of many nations in a single system. We do not beleive that foreign ownership of a specific cable will in all instances militate against its use. Rather, the question to be answered in overseeing U.S. carriers' involvement in foreign-owned cable is whether this involvement would serve the public interest. In light of the scarcity of available circuits in the POR during the middle of the planning period, we conclude that the U.S. carriers' acquisition of ANZCAN circuits serves the public interest.

1. ANZCAN North—International Service, the USISCs' Circuit Requests

9. In the NPRM we tentatively concluded that U.S. carriers should be authorized to acquire temporary interests in 734 half circuits for international service.[8] We found that ANZCAN North usage, on a temporary basis, was less expensive than a comparable outlay for the analog HAW–4 cable system. In addition, we determined that in conjunction with ANZCAN South, ANZCAN North usage would bridge the circuit demand gap of the mid-1980's and permit the construction of an optical fiber rather than an analog HAW–4. In the NPRM we stated that the optical fiber cables are expected to be much cheaper on a unit cost basis than their analog counterparts. We affirm here out earlier finding that temporary interests in ANZCAN will serve the public interest.

10. After tentatively concluding that the carriers should be restricted to temporary interests in ANZCAN North, we invited the carriers to explain why they had proposed acquiring permanent as well as temporary interests. In their comments and replies, the USISCs contend that the acquisition of permanent interests is warranted by economic, planning flexibility and international comity considerations. Serveral carriers maintain that ANZCAN would be the most cost effective means of assuring service. ITT Worldcom claims ANZCAN use would cost less than utilization of Comstar/Telstar and would provide route diversity. AT&T and WUI state that the ANZCAN owners redesigned their cable system from 9 mHz to 14 mHz in order to accommodate the U.S. carriers' needs with the expectation that the carriers would attempt to secure Commission approval for their acquisition of permanent interests in ANZCAN North.[9] In their comments the carriers significantly lowered their circuit requests for international service from their earlier request of permanent interests in 300 ANZCAN North half circuits to 131 half circuits. The State of Hawaii, in contrast with the USISCs, contends that the MOU is a private matter and was entered into prior to Commission approval. Under the circumstances, the State of Hawaii states that frustration of the purpose of the MOU is a private, rather than international, concern. In addition, DOC concurs with the Commission's tentative conclusion and contends that the cost of permanent ANZCAN interests and the availability of a digital optical fiber HAW–4 in 1988 make the acquisition of permanent interests unnecessary.

11. Our analysis of the comments filed in response to the NPRM has led us to revise our tentative conclusion about USISCs' circuit acquisition and to permit the USISCs to acquire some permanent

[7] On September 22, 1982 the Chairman and representatives from three telecommunications entities which are involved in the ANZCAN cable project, Teleglobe Canada, the New Zealand Overseas Post Office and the Overseas Telecommunications Commission of Australia, participated in a teleconference during which these representatives expressed their views on U.S. carriers involvement in ANZCAN. A report summarizing the views expressed by the participants has been placed in C.C. Docket No. 81–343.

[8] These 734 half circuits are comprised of the USISCs' requested 539 half circuits and HTC's requested 195 half circuits.

[9] On October 1, 1981 the carriers and the ANZCAN owners signed a Memorandum of Understanding (MOU) in which the carriers pledged their best efforts to obtain Commission approval of their acquisition of temporary and permanent interests in ANZCAN. A copy of this memorandum was submitted along with AT&T's comments of June 28, 1982.

interests in ANZCAN North. We believe that a combination of permanent and temporary interests is warranted on the basis of cost, route diversity, and international comity. In the NPRM we found that the carriers' initial comprehensive ANZCAN North circuit requests would have cost $41.8 million (1981 dollars) (or $47.0 million 1984 dollars).[10] If the carriers' revised request for ANZCAN North were approved it would cost $26.6 million (1984 dollars). Thus, the carriers' revised circuit requests would cost $20.4 million less than their initial circuit requests. *See* Appendix II.[11] Therefore, the combination of permanent and temporary interests now proposed by the U.S. carriers in ANZCAN North increases the cost differential between ANZCAN North and the construction and use of an analog HAW–4, the only short term cable alternative. *See* NPRM Table 7.

12. Authorization of a combination of temporary and permanent circuits in ANZCAN North will increase route diversity, obviate the necessity of constructing an analog HAW–4 cable and promote the early introduction of optical fiber cables in the POR. The USISCs' temporary acquisition of interests in ANZCAN North would provide additional route diversity until 1988, when their temporary interests terminate. However, permanent interests in ANZCAN North circuits would continue to provide additional route diversity for the U.S. Mainland-Hawaii portion of international routes even after a digital optical fiber HAW–4 is constructed. Further, the U.S. carriers' use of ANZCAN North circuits would obviate any need to build an analog HAW–4, which would require greater USISCs' initial investment than ANZCAN North. In addition, the use of ANZCAN North to bridge circuit supply shortfall will permit the construction of a digital optical fiber HAW–4. Thus, authorizing a combination of temporary and permanent interests in ANZCAN North will increase route diversity both in the short and long term and encourage the early introduction of optical fiber cables into the POR.

13. We believe that in addition to the other considerations discussed above, international comity is a factor which should be taken into account.[12] It would be short sighted to view U.S. participation in this system without taking into account the effect our decision will have on relations with international telecommunications entities. Many of the ANZCAN owners, confronted with the expiration of the COMPAC North cable in 1983 and the COMPAC South in 1984, decided to participate in the construction of the ANZCAN cable to replace COMPAC North and South.[13] In 1981 the ANZCAN owners redesigned ANZCAN North's bandwidth from 9 mHz to 14 mHz specifically to accommodate the U.S. carriers' circuit requests. A failure to consider both the importance of the ANZCAN cable to its owners and the owners' reliance on the U.S. carriers' assurances in the MOU could well undermine the trust and co-operative spirit beneficial for international telecommunications planning projects.

14. Furthermore, this report and order is the culmination of the Commission's first comprehensive Pacific planning process. We note that the MOU between the ANZCAN owners and the U.S. carriers is the result of informal discussion which began long before this proceeding began. The Commission considers these circumstances unique, and expects future phases of this and other planning processes to provide the forum for facilities planning.

15. We conclude that a combination of permanent and temporary interests in ANZCAN North circuits would serve the public interest and is warranted by economic, route diversity and international comity considerations. The only question which remains to be answered is what number of permanent and temporary interests should be authorized in the public interest. On June 28, 1982 the carriers reduced both the number of circuits they requested and the exent of their initial investment in ANZCAN North. *See* paras. 10, 11, *supra*. In addition to reducing their circuit requirements, AT&T plans to utilize circuit multiplication technology on its MTS circuits to maximize their capacity. We have evaluated forecasted demand, circuit requests and the manner in which the proposed circuits would be utilized, and conclude that the record supports, and the public interest will be served by USISCs' acquisition of temporary IRU interests in 386 half circuits in ANZCAN North and permanent ownership interests in 131 half circuits in ANZCAN North for international service. *See*, Appendix III.

2. ANZCAN North—International Service, HTC's Circuit Requests

16. In the NPRM the Commission tentatively concluded that authorizing HTC to acquire temporary interests in 195 ANZCAN North half circuits and ITT Worldcom to acquire a temporary interest in one half circuit for international service would serve U.S. interests. In its comments on the NPRM, HTC revised its earlier request and notified the Commission that it wished instead to acquire permanent interest in 120 half circuits to serve Canada and permanent interests in 35 half circuits for use to Europe. ITT Worldcom dropped its request for permanent interest in 1 half circuit for international use. Therefore, we shall consider here whether HTC's acquisition of permanent interests in 155 half circuits to serve Canada and Europe would serve the public interest.

17. In its comments HTC contends that 120 ANZCAN half circuits directly to Canada would prove more cost effective than routing via the U.S. and then transiting to Canada. HTC contends that if it were restricted to acquiring temporary interests it would have to relinquish them when HAW–4 becomes operational. HTC opposes use of HAW–4 because unlike ANZCAN North, HAW–4 is not a direct route and would require the additional cost and decreased reliability inherent in transiting.[14] HTC states that it plans to use Intelsat to cross the Atlantic and therefore needs to acquire permanent interests in 35 ANZCAN North half circuits, rather than satellite circuits, if it is to avoid a "double hop" situation.[15]

---

[10] The conversion from 1981 to 1984 dollars was made based upon use of a constant discount rate of 4% as was used in Appendix E of the AT&T submission of June 28, 1982. This discount rate was agreed upon by the carriers as representing the "real" impact of inflation after accounting for changes in both costs and revenues.

[11] The facility investment cost for acquisition of ANZCAN North circuits found to be in the public interest in this proceeding is approximately $22.5 million (1984 dollars). *See* Appendix II.

[12] As we stated in Overseas Communication, 67 FCC 2d 359, 417–418 (Report, Order and Third Statement of Policy Guidelines) (1977), that while international comity is a significant factor in the consideration of facility plans and programs, it must be balanced against our public interest mandate. Our actions here are consonant with *Overseas Communication* since we have examined the U.S. carriers proposals and, after modification, found that they would serve the public interest.

[13] The COMPAC cable system is the only cable system that connects Canada, Hawaii, the Fiji Islands, New Zealand and Australia. ANZCAN North will follow the same route as COMPAC North. ANZCAN South's route differs from COMPAC South only in that it will land on Norfolk Island.

[14] The proposed HAW–4 cable will be routed between Hawaii and the U.S. Mainland. To provide Canadian service via HAW–4, HTC would have to employ a terrestrial system from the U.S. Mainland to Canada

[15] A double hop occurs when traffic is transferred from one satellite to another. Double hop configurations exceed the 400 milli-second (ms) one way propagation time limitation which CCITT considers desirable. International Telecommunication Union, International Telegraph and Telephone Consultative Committee, Yellow Book, Volume III, General Characteristics of International Telephone Connections and Circuits, Recommendation G. 114(b), pp 70–2, VIIth Plenary Assembly, Geneva (November 10–12, 1980).

The State of Hawaii and DOC object to HTC's proposals, and state that the record does not support the requested circuitry. The State of Hawaii cautions that HTC's rates are already high and that the authorization of these circuits could exacerbate the situation. DOC views HTC's routing to Europe as an attempt to forsake use of U.S. telecommunications systems. DOC believes that U.S. facilities could be more cost effective and better serve U.S. interests without any loss of redundancy or media diversity.

18. Our analysis of the comments filed in response to the NPRM has lead us to revise our tentative conclusion concerning HTC's acquisition of temporary interests in 195 half circuits in ANZCAN North for international service. We believe that the public interest would be served by HTC acquiring permanent ownership interests in 60 half circuits for Canadian service and denial of its requests for another 60 half circuits for Canadian service and for permanent ownership interests in 35 half circuits for European service. ANZCAN North is the only cable with available capacity which would give HTC direct service to Canada. Direct routing is desirable since it improves service reliability and minimizes the number of transmission systems and switching terminals which must be traversed. Acquisition of permanent rather than temporary interest permits the continued utilization of the only direct cable route to Canada.

19. While we believe that acquisition of permanent interests is warranted, our examination of HTC's circuit requests reveals that HTC is not proposing to efficiently utilize the circuits it requests. We note that HTC and AT&T's joint request for 149 whole circuits in ANZCAN North for domestic MTS service will employ circuit multiplication equipment and thereby double their circuits' capacity. However, HTC's request for 120 half circuits in ANZCAN North for Canadian service fails to take advantage of the cost savings inherent in the use of circuit multiplication technology.[16] By utilizing circuit multiplication equipment HTC would need only half of its requested 120 half circuits. Therefore, we find the public interest shall be served by HTC's acquisition of permanent interests in 60 half circuits in ANZCAN North for Canadian service and require HTC to utilize circuit multiplication equipment.[17]

20. HTC's request for 35 half circuits in ANZCAN North for service to Europe would not serve the public interest. HTC has submitted only a skeletal description of its proposal for use of ANZCAN North for this service. HTC has failed to demonstrate that using ANZCAN North to Canada, transiting Canada to Teleglobe Canada's earth station, and then using the Intelsat satellite system to Europe would be cost effective.[18] HTC states that since it will utilize the Intelsat satellite system to cross the Atlantic it must use ANZCAN North in order to avoid a "double hop" situation. However, if HTC utilized the TAT–7 cable rather than the Intelsat satellite system to cross the Atlantic, HTC could utilized domestic satellites between Hawaii and the U.S. Mainland without a double hop. This routing is more direct, involves a much shorter land transit[19] and would result in the same degree of route diversity and redundancy as HTC's proposal. Further, it would appear more reasonable for HTC to provide European service via domestic satellite(s) and the TAT–7 cable.[20]

3. ANZCAN North—Domestic Service, U.S. Carriers' Circuit Requests

21. In the NPRM the Commission tentatively concluded that the IRCs' acquisition of temporary interests in 56 ANZCAN North whole circuits would serve U.S. interests. However, we refrained from tentatively concluding whether AT&T and BTC should be authorized to jointly acquire temporary interests in 600 ANZCAN North whole circuits. We noted that domestic satellite systems might contain sufficient capacity to accommodate the U.S. carriers' needs and requested the parties to provide information on domestic satellite circuit availability.

22. Along with their comments, AT&T, HTC and the IRCs submitted revised circuit requests. AT&T and HTC reduced their joint request for temporary interests in ANZCAN North whole circuits from 600 to 149 circuits, and the IRCs lowered their circuit requests from 56 to 47 whole circuits. AT&T reports that its revised circuit request reflects decreased demand resulting from prevailing economic conditions and recent rate increases. WUI and ITT Worldcom consider IRUs the only affordable basis for acquiring access to AT&T's Comstar/Telstar domestic satellite system and both express concern over the continued availability of IRUs on the Comstar/Telstar system. ITT Worldcom reports that its search for additional satellite capacity has been fruitless. AT&T notes that domestic satellite carriers have failed substantively to respond to the Commission's request for information on circuit availability.[21] However, AT&T and WUI contend that they did not propose to use ANZCAN North whole circuits because of a shortage of domestic satellite capacity. Rather, they state they selected ANZCAN North whole circuits because utilizing these circuits would increase route diversity, service reliability, media diversity, national security and their ability to meet customer preferences. AT&T states if their satellite system were disrupted by equipment failure or a catastrophic event the ANZCAN North whole circuits would provide additional continuity of service. AT&T calculates that, without using ANZCAN North whole circuits, cable usage would peak in 1983 when cables carried 16% of the U.S. Mainland-Hawaii MTS traffic. If AT&T and HTC jointly acquire 149 whole circuits in ANZCAN North, cable usage would peak in 1984 when cable traffic would account for 22% of all MTS traffic between the U.S. Mainland and Hawaii.

23. DOC and the State of Hawaii contend that these circuits are unneccessary. Both DOC and the State of Hawaii agree with the Commission's finding in the NPRM that sufficient domestic satellite capacity could be made available to meet demand. In addition, DOC contends that domestic satellite circuits could be less expensive than ANZCAN North circuits and that service reliability and route diversity could be increased in a less costly way by utilization of the three existing U.S. Mainland-Hawaii cable systems and the Intelsat satellite system. The State of Hawaii notes that RCA Americom has already indicated that it would have a minimum of 200–300 circuits available.

---

[16] See *Overseas Communication, supra* note 10, at 404.

[17] HTC is not authorized to directly serve Canada. Therefore, HTC must file for and be granted § 214 authority in order to directly serve Canada.

[18] We note that HTC's proposed extensive transiting proposal is inconsistent with its objections to transiting the comparatively short distance over the U.S. and Canadian borders to provide Canadian service.

[19] HTC could use a domestic satellite from Hawaii to an earth station in Pennsylvania and use a terrestrial system to transit from the earth station to the TAT–7 cable head in Tuckerton, N.J.

[20] If HTC requests authority to serve Europe via domestic satellite(s) and TAT–7, the Commission could order AT&T to make available interests in TAT–7 circuits to HTC. *See* AT&T et al. (TAT–7), 73 FCC 2d 248, 261 (1979).

[21] On December 23, 1981, the Common Carrier Bureau sent letters to RCA American Communications, Inc. (RCA Americom), American Satellite Company, Southern Pacific Communications Company, Alascom, Inc., Hughes Communications Company, GTE Satellite Corporation, and the Western Union Telegraph Company. Although all the domestic satellite carriers responded, RCA Americom was the only domestic satellite carrier which provided specific circuit availability information.

The State of Hawaii suggests the Commission should again request domestic satellite carriers to provide information on circuit availability and price.

24. We conclude that AT&T's, HTC's and the IRCs' requests to acquire temporary interest in ANZCAN North whole circuits for domestic service would serve the public interest. As we stated in the NPRM, service reliability and media diversity are important considerations in facilities planning.[22] Over 80% of the MTS traffic between Hawaii and the U.S. Mainland is transmitted via two satellites. A satellite system's failure could result in a serious disruption of service. The three existing cable systems will be saturated by 1983. Therefore, ANZCAN North is the only cable available from 1983 to 1988 that AT&T, HTC and the IRCs could use to cushion the impact of a satellite system's failure. We note that these parties are proposing acquisition of temporary rather than permanent interests for domestic service. This will reduce initial costs and maximize the ability of AT&T, HTC and the IRCs to utilize optical fiber cables when they are introduced. In addition, we note that AT&T and HTC will utilize circuit multiplication technology to minimize their bearer circuit requirement.

25. Finally, while there is apparently adequate domestic satellite capacity to accommodate these service requirements, the domestic satellite carriers have not actively sought this business and there are good public interest reasons for utilizing ANZCAN North. AT&T, HTC and IRC's acquisition of temporary interests in ANZCAN North whole circuits would increase service reliability and media diversity, while minimizing both the initial cost and length of involvement in this analog cable. Therefore, we conclude that AT&T, HTC and the IRC's acquisition of temporary interests in ANZCAN North whole circuits for domestic use would serve the public interest. *See,* Appendix III.

4. ANZCAN South—International Service, U.S. Carriers' Circuit Requests

26. In the Notice of Proposed Rulemaking the Commission tentatively concluded that U.S. carriers' acquisition of permanent ownership interests in ANZCAN South would serve U.S. interests but did not tentatively decide the number of half circuits that should be acquired. On June 28, 1982 AT&T, the IRCs and HTC submitted revised circuit requests which reduced their proposed ANZCAN South involvement from 648 half circuits to 546 half circuits.[23]

27. In their Comments AT&T, the IRCs and HTC concurred with the Commission's tentative conclusion. The Department of Commerce favors minimizing use of ANZCAN South due to its cost and the possible introduction of additional cable facilities. DOC concurs with the Commission's decision in the NPRM not to express a tentative preference for the number of circuits the carriers should acquire since DOC believes that demand growth in the region will decrease. The State of Hawaii contends that the record fails to support the need for any additional cable facilities in the Pacific Ocean Region.

28. We conclude that the public interest would be served by AT&T, the IRCs and HTC acquiring permanent ownership interests in 518 half circuits in ANZCAN South. The U.S. carriers' facility investment costs for these circuits is approximately $48.4 million (1984 dollars). *See* Appendix II. Projected demand figures indicate that by 1986 existing POR facilities will be unable to provide sufficient capacity to satisfy forecasted demands for international service between U.S. and Pacific points. During the mid-1980's ANZCAN South circuits would provide sufficient additional capacity to meet predicted demand for U.S. international services, at adequate levels of service quality in the POR. In addition, the acquisition of long term interests in ANZCAN South is required to provide media diversity to Southern Pacific points between 1991–1995 since after Seacom–2's retirement in 1991 ANZCAN South will be the only direct cable route projected to have available capacity from 1984 to 1995 between the U.S. and those points.

29. While the U.S. carriers have requested 546 half circuits, we conclude that only 518 half circuits should be acquired. This circuit reduction can be accomplished without any decrease in requested capacity. While HTC had requested permanent interest in 60 half circuits to serve Australia, it did not propose to utilize circuit multiplication technology. If HTC utilizes circuit multiplication equipment, 32 half circuits would carry the same traffic 60 unenhanced half circuits would carry. HTC's utilization of circuit multiplication technology would maximize the efficient use of ANZCAN South circuits and minimize its investment. For the reasons discussed above, we conclude that acquisition of permanent interest in 518 half circuits in ANZCAN South by AT&T, HTC and the IRCs serves the public interest.[24] *See* Appendix III.

B. Other Issues

30. Several other issues arose in this proceeding: (a) A master plan; (b) IRC's exemption from specific loading criteria; (c) application of the IRC's exemption to HTC; (d) adoption of a standardized costing methodology; (e) the adequacy of the record; (f) the use of an in-orbit operational spare satellite; and (g) the construction and use of analog HAW–4 and TPC–3 cables.[25] We shall discuss these issues below.

1. The Master Plan

31. Subsequent to the NOI, AT&T recommended formulation of a Master Plan approach to circuit activation. Further, both AT&T and Comsat proposed the incorporation of the principle of balanced loading into the Master Plan.[26]

32. In the NPRM the Commission tentatively concluded that a Master Plan approach to development of circuit distribution methodology is acceptable if it: (a) Utilizes balanced loading to optimize service quality, (b) gives due consideration to the costs to the ratepayers, and (c) contains a mechanism to deal with forecasted traffic level deviations.

33. In response to the Commission's tentative conclusion, in their comments the U.S. carriers and Comsat generally supported the concept of a Master Plan and submitted their circuit activation plans. ITT Worldcom submitted the requested information but questioned the necessity for IRCs to do so in light of

---

[22] In its comments, DoD states that service reliability and media diversity are extremely important due to their impact on U.S. national security.

[23] AT&T requested permanent interests in 360 half circuits, the IRCs 108, and HTC 78.

[24] AT&T will be authorized to acquire 360 half circuits, the IRCs 108 and HTC 50 half circuits.

[25] In addition, the IRCs registered their concern over continued access to domestic satellites, the State of Hawaii complained about HTC's rates and suggested that cable and satellite rates be unbundled, and ITT Worldcom requested an affirmation of the Commission's 1966 *Authorized User* decision. Authorized Entities and Users, 4 FCC 2d 421, 431 (1966). A facilities planning process is not the appropriate forum to discuss or decide the issues of continued access to domestic satellites and rate structures. Furthermore, subsequent to ITT Worldcom's request for an affirmation of the 1966 *Authorized User* decision, the Commission modified its earlier decision. Authorized User Modification, FCC 82–357,—— FCC 2d——, released August 19, 1982. To the extent this Report and Order is related to the *Authorized User Modification* decision, it is consistent with our decision there.

[26] The principle of balanced loading is considered by many to minimize the period of time over which there is an imbalance of traffic among the available facilities on a given route, and to minimize the percentage of lost circuits in the event of a facilities failure between two geographical points.

the Commission's tentative conclusion to exempt the IRCs from any particular loading criteria. In its comments, DOC suggests that a Master Plan not be adopted until criteria have been fully aired and adopted. DOC supports a media loading ratio of 65/35 which would be based on relative cost effectiveness of either cable or satellite systems.

34. Comsat, HTC and AT&T proposed various mechanisms to deal with deviation of forecasted traffic levels in the context of the Master Plan for circuit activation. Comsat and AT&T propose similar shortfall/longfall approaches to deal with traffic levels falling short of projected levels (shortfall) and traffic levels exceeding projected levels (longfall). The shortfall/longfall approach distributes a shortfall or a longfall in projected traffic levels over facilities in proportion to the originally planned growth for facilities in each year. Comsat's and AT&T's greatest area of disagreement concerns the circumstances under which the Master Plan would require modification. Rather than proposing an approach similar to Comsat's and AT&T's, HTC proposes the Commission authorize a carrier's Master Loading Plan subject to a total cable or satellite traffic deviation of ±20%. Comsat states that HTC's request for a 20% variation in circuit activation is too broad. In addition, Comsat requests the Commission to require U.S. carriers to file monthly status reports so that actual circuit activation can be monitored.

35. A Master Plan is a useful means of arraying projected circuit requirements. We requested the U.S. carriers to submit their circuit distribution plans for incorporation into a Master Plan to clarify their proposals and detail the method in which their requested circuits would be utilized. Without the IRC's forecasted circuit distributions the Master Plan would have fallen short of being comprehensive. The information contained in the Master Plan aided the Commission in conducting its analysis of the merits of the proposed facilities requests.

36. This is the first facilities planning proposal we have had an opportunity to review since we announced in *Authorized User Modification*, FCC 82–357,—— FCC 2d ——, released August 19, 1982, our intention to remove ourselves from the decision as to the activation of cable and satellite circuits. However, as we noted in that decision, the lack of effective competition between cable and satellite mediums prevents us from relying totally upon market forces. Thus, we stated that while we would generally rely upon the carriers to make circuit activation decisions, we would be required to monitor those decisions to assure that both mediums are reasonably used.

37. Consistent with *Authorized User Modification*, the carriers in this proceeding generated their own proposed circuit activation plans based upon the principle of balanced loading. We believe that the Commission's authorization of a specific master plan is undesirable since it would frustrate our decision to rely upon the carriers and competitive forces to efficiently activate circuits. After reviewing the carrier's circuit activation plans we believe those plans appear to constitute a reasonable Master Plan. Furthermore, we believe that AT&T's shortfall/longfall approach is a reasonable mechanism for dealing with deviations from projected traffic levels. In addition, in this proceeding AT&T's flexible approach appears preferable to using the specific allowable percentage of deviation proposed by HTC, since deviations in forecasted traffic levels are by their nature unexpected and can occur for a myriad of reasons. We shall not, at this time, express an opinion as to what set of circumstances we believe would necessitate the revision of the Master Plan. We expect the U.S. carriers to use the Master Plan as a guideline for circuit activation. As we stated in *Authorized User Modification*, we shall continue to monitor the U.S. carriers' circuit activation to assure that both cable and satellite facilities are reasonably used.[27] For the reasons discussed above, we find both the Master Plan for circuit activations from 1982–1986 and the use of a shortfall/longfall approach to traffic deviation during that period of time to be reasonable.

2. IRCs' Exemption From Specific Loading Methodology

38. The Commission tentatively concluded in the NPRM that the IRCs should be exempt from any particular loading criteria so they can adequately respond to their customers' preferences for cable or satellite circuits. In reaching this conclusion, we noted that the IRCs' circuit requests are small enough relative to the total number of circuits in use that if exempted from balanced loading IRCs' circuit distribution would be unlikely to deprive the ratepayers of the benefits of a balanced loading.

39. The IRCs enthusiastically supported our tentative conclusion. WUI and ITT Worldcom assured the Commission that, if exempted, they would not abandon satellites for cable. They maintain that good management policy dictates the relatively even use of both mediums. Both Comsat and the State of Hawaii expressed their concerns that the IRCs would migrate to cable at the expense of satellites if the IRCs were exempted. Further, Comsat contended that the IRCs' bearer and MTS circuits should be subject to balanced loading. Comsat believes that the IRCs would have sufficient flexibility to meet customer preferences if corcuits for leased channel record services were not subject to a strict circuit activation schedule.

40. We conclude that exempting IRCs from any particular loading criteria would serve the public interest. In the NPRM we tentatively concluded that IRCs should be exempted from specific circuit distribution methodology because of the existence of customer preferences for cable and satellite circuits. In order to adequately respond to individual private line customer demands the IRCs require flexibility in choosing facilities. The degree of flexibility they require cannot be attained by restricting them to a particular loading criteria. We disagree with Comsat's suggestion that the IRCs' leased circuits and bearer circuits should be treated differently because the former is subject to customer preferences while the latter is not. In the NPRM we stated that due to the relatively small number of circuits the IRCs required, exempting *all* their circuits was unlikely to harm U.S. ratepayers. If all the IRCs' circuits can be exempted without any adverse affect to the U.S. ratepayer, affording the IRCs' leased circuits and bearer circuits different treatment would not serve any purpose. Further, in the North Atlantic planning process we exempted the IRCs' total requested circuits so that IRCs could reconfigure its circuits to make cable or satellite circuits available to honor customer requests. *Future Licensing of Overseas Communications Facilities*, 73 FCC 2d 326, 348–349 (1979). Finally, we believe that the IRCs' need to be responsive to their customers' preferences will militate against a mass migration from either cable or satellite usage. However, we shall monitor the IRCs' use of facilities. *See* para. 37, *supra*. For the reasons discussed above we conclude that the IRCs shall be exempt from a specific circuit

[27] In *Authorized User Modification* the Commission found it necessary to continue to monitor the U.S. carriers' use of facilities to assure that both cable and satellite facilities are reasonably used. FCC 82–357 para. 65. To aid our monitoring of circuit activations we will condition § 214 authorizations on the carriers' submission of monthly status reports for the POR.

distribution in the Pacific Ocean Region.[28]

3. Application of IRC's Exemption to HTC.

41. In its comments HTC requests that the Commission extend the proposed IRC exemption from a specific loading methodology to encompass HTC's private line circuits. HTC contends that like the IRCs, its private line customers express media preferences and its private line circuits are small relative to its total circuit requirements. Comsat states that HTC should be accorded the same degree of flexibility as the IRCs in accommodating private line circuits.

42. We believe that exempting HTC's private line circuits would serve the public interest. HTC's and the IRCs' private line circuits are similar in terms of customer preference and small number relative to their respective total circuit requirements. HTC's exemption will apply only to its private line circuits, since unlike the IRCs, HTC's total circuits are numerous enough to distort the balance of use of facilities. For the reasons discussed above, we conclude that exempting HTC's private line circuits from a specific loading methodology would serve the public interest.

4. Adoption of a Standardized Cost Methodology

43. In the NPRM we discussed various costing methodologies and requested that the parties comment on them. At that point the parties had submitted four different methods for calculating the cost of the various plans; AT&T's investment method, AT&T's use method, Comsat's Present Worth of Expenditures (PWE), and the State of Hawaii's revenue requirements approach.

44. While the concept of a standardized costing methodology appealed to many, the parties were unable to agree on any one specific methodology. Several parties felt that Hawaii's revenue requirements approach called for too much speculation and effort. AT&T in its reply noted that no consensus had arisen but contended that it was not necessary to choose a specific methodology since the various costing methods tended to yield similar results.

45. We shall not adopt a standard costing methodology here. We note that utilizing the three methods suggested by AT&T and Comsat[29] yield similar relative costs for the plans; Plan III is the most expensive followed by Plan IIA and IIB.[30] Rather than adopting a specific cost methodology, we are utilizing the investment cost outlay costing approach, as described in the Table 7 of the NPRM, to arrive at the cost figures provided in Appendix II. Therefore, it is unnecessary to adopt a standard methodology at this time.

5. The Adequacy of the Record

46. In their comments both the State of Hawaii and DOC contend that the record is inadequate to support the acquisition of additional circuits. Both parties suggest that the Commission delay the Report and Order until a more complete record has been established. Both the State of Hawaii and the Department of Commerce are critical of the number of plans generated. The State of Hawaii contends that the international facilities planning process might be illegal since Hawaii is a domestic rather than international point. Hawaii suggests that the Commission should either sever the domestic matters or broaden the scope of the proceeding to include all domestic common carriers. The State of Hawaii also criticizes the Commission for failing to consider whether existing and future facilities are being efficiently utilized. The State of Hawaii contends that before the Commission authorizes additional circuits the Commission should require USISCs to demonstrate that they have efficiently subdivided their bearer circuits and fully utilized time division multiplex (TDM) equipment on their existing bearer circuits. In addition, Hawaii contends that the U.S. carriers failed to show that the ANZCAN owners decision to reduce ANZCAN North from 1840 3KHz to 1380 4KHz is cost effective. The DOC suggests an alternative facilities planning process which is ongoing and dynamic. In addition, its alternative process would formulate specific guidelines.

47. The U.S. carriers disagree with DOC's and the State of Hawaii's characterization of the record as incomplete. AT&T reminds the State of Hawaii that the Commission's request for information from domestic satellite common carriers went largely unanswered. AT&T states that Hawaii is a hub for international and domestic service and therefore both international and domestic facilities should be considered. According to AT&T, bifurcating the proceeding would deny the U.S. ratepayer the economies of scale inherent in the joint use of facilities. AT&T states that the reconfiguration of ANZCAN North from 3KHz to 4KHz will increase the cost on a per-circuit basis but concludes that the corresponding reduction in its U.S.-Hawaiian circuit needs and the elimination of 3KHz channelizing equipment will result in a lower overall USISCs investment. WUI believes that DOC's and Hawaii's objections to the adequacy of the record consist largely of unsubstantiated assertions.

48. The record is adequate. We believe that the Pacific Ocean Region planning process has been a dynamic and ongoing one, but we also recognize that planning must become final so construction and operation of facilities can begin. This proceeding was initiated on May 15, 1981 when the Commission released the Notice of Inquiry. Since that time we have held public meetings, requested domestic satellite common carriers to submit information, issued an NPRM, and extended the time for responding to the NPRM so that both the parties and the public would have an opportunity to comment. Further, in the NPRM we have explicitly stated various criteria that we would use in evaluating the plans.

49. In addition, we have examined both existing and future facilities for efficient use. The latest monthly circuit reports[31] indicate that out of 333 circuits used by HTC and the IRCs to provide service between Hawaii-U.S. Mainland, 316 are used for alternative voice and data services (AVD). Therefore, the State of Hawaii is concerned with only 17 bearer circuits (about 5%). Thus, the number of circuits with which Hawaii is concerned is not significant. In addition, the monthly reports indicate that carriers are deriving between 42–90 subchannel circuits per voice circuit between Hawaii and the U.S. Mainland. This appears to reflect use of TDM equipment by the IRCs and HTC on this route. We would expect that competition will continue to promote the maximization of subdivision equipment use. Further, our analysis of the carriers' requested circuits revealed that HTC could use fewer circuits without a decrease in capacity if it employed circuit multiplication equipment. Accordingly, the number of circuits authorized to HTC was substantially

[28] Several IRCs urge this policy to be extended to the TRANSPAC–2 cable. This facilities planning process is not the appropriate forum for such a request.

[29] No one, including Hawaii, calculated what the various plans would cost if the revenue requirements approach were utilized.

[30] Plan IIB is the least expensive plan unless the "use" costing method is utilized. Under the use method, Plan IIB is only slightly more costly than IIA.

[31] HTC, RCA Globcom and WUI's August 1982 monthly circuit reports were utilized. ITT Worldcom's June 1982 circuit report was used.

reduced from its initial request. We also examined the cost effectiveness of reconfiguring the ANZCAN North cable. While changing the ANZCAN North cable from a 3KHz to a 4KHz circuit increased per circuit costs, the increase was more than offset by the fact that the carriers would need fewer 4KHz circuits.

50. Finally, we note that bifurcating this proceeding would require the planning and perhaps construction of separate facilities for domestic and international service, which would result in needless delay and expense to the U.S. ratepayer. For the reasons discussed above, we conclude that the record as a whole is complete.[33]

6. In-Orbit Operational Spare Satellite, Analog HAW–4 and TPC–3 Cables

51. In the NPRM the Commission tentatively concluded that use of Intelsat's proposed in-orbit operational spare satellite in the POR during the mid-1980's was desirable but tentatively concluded that construction and use of analog HAW–4 and TPC–3 cables would not serve U.S. interests. Our tentative conclusions did not generate significant controversy. The U.S. carriers supported these tentative conclusions. Utilization of Intelsat's in-orbit spare satellite as an operational spare satellite would provide additional route diversity at minimal U.S. costs. Therefore, we conclude that configuration of the INTELSAT Pacific Ocean Region in-orbit spare satellite as an operational spare satellite during the mid-1980's is desirable. However, construction of and use of analog HAW–4 and TPC–3 is not essential to satisfy projected demands for service at adequate levels of service quality during the mid-1980's due to the U.S. carriers' use of the ANZCAN cable system. In addition, U.S. carriers' use of ANZCAN would be more compatible with the early introduction of the more cost effective digital optical fiber technology into the Pacific Ocean Region. Therefore, we conclude that construction and use of the analog HAW–4 and TPC–3 cables proposed in Plan III would not serve the public interest.

C. Issues Deferred

52. In the NOI we initiated a comprehensive planning process in the Pacific Ocean Region for the 1981–1995 period. However, in the NPRM we decided to focus upon POR facilities planning for 1981–1986 and consider the 1987–1995 period in a subsequent phase of the proceeding.

53. In the next phase of the POR planning process we shall examine U.S. carriers' 1987–1995 forecasted circuit demands, their circuit requests, and alternative facility plans proposed for construction during that period. Both the DOC and DoD suggest that the Commission consider landing the TPC–3 cable in Guam as well as Japan. This concern has not been addressed here because the issue of service to Guam is not affected by the planning process for the 1981–1986 period. However, full consideration will be given to this important topic in the next phase of the proceeding, which will examine the introduction of the TPC–3 cable in 1988.

III. Conclusion

54. Accordingly, it is ordered pursuant to Sections 4(i), 4(j), 214 and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 214 and 403 (1976), that we adopt the following policy guidelines for the Pacific Ocean Region:

(1) We find that U.S carriers' acquisition of ANZCAN circuits serves the public interest.

(2) We find that the public interest would be served by the American Telephone and Telegraph Company's acquisition of temporary IRU interests in 332 half circuits in ANZCAN North, and the International Record Carriers' acquisition of temporary IRU interests in 54 ANZCAN North half circuits for international service.

(3) We find that the public interest would be served by the authorization of American Telephone and Telegraph Company to acquire permanent ownership interests in 112 ANZCAN North half circuits and the International Record Carriers' acquisition of permanent ownership interests in 19 half circuits in ANZCAN North for international service.

(4) We find that the public interest would be served by the American Telephone and Telegraph Company and Hawaiian Telephone Company jointly acquiring temporary IRU interests in 149 whole circuits in ANZCAN North for domestic service.

(5) We find that the public interest would be served by the International Record Carriers acquiring temporary IRU interests in 47 whole circuits in ANZCAN North for domestic service.

(6) We find that Hawaiian Telephone Company's acquisition of permanent ownership interests in 60 half circuits in ANZCAN North for Canadian service would serve the public interest.

(7) We find that the Hawaiian Telephone Company's acquisition of 35 half circuits in ANZCAN North for European service would not serve the public interest.

(8) We find that the public interest will be served by the American Telephone and Telegraph Company acquiring permanent ownership interests in 360 half circuits, the International Record Carriers acquiring permanent ownership interests in 108 half circuits and Hawaiian Telephone Company acquiring permanent ownership interests in 50 half circuits in ANZCAN South.

(9) We find that the Master Plan and incorporation of the shortfall/longfall approach proposed by the American Telephone and Telegraph Company to accommodate deviations from forecasted traffic levels are reasonable.

(10) We find that the exemption of the IRCs from specific loading criteria would serve the public interest.

(11) We find that exemption of HTC's private line circuits from a specific loading methodology would serve the public interest.

(12) We find that standardized costing methodology need not be adopted in this phase of the planning process.

(13) We find that utilization of INTELSAT's in-orbit spare satellite as an operational spare satellite during the mid-1980's would serve the public interest.

(14) We find that construction and use of analog HAW–4 and TPC–3 cables would not serve the public interest.

55. It is further ordered that the rulemaking instituted by our Notice of Proposed Rulemaking is hereby terminated; but that the overall inquiry looking toward the development of facilities policy for the 1987–1995 period remains OPEN.

56. It is further ordered pursuant to § 0.291 of our Rules and Regulations, 47 CFR 0.291 (1980), that we continue the delegation of authority to the Chief, Common Carrier Bureau and his staff to meet with the parties to the inquiry in this proceeding and other interested persons to discuss matters relating to the issues on which we have deferred action as well as other matters relating to Pacific Ocean Region facilities

[33] In addition, the record supports the acquisition of interests in ANZCAN South and North. A discussion of those matters can be found in paragraphs 6–29, *supra*.

planning and to require submission of information relevant to those discussions.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Note.— Due to the effort to minimize publishing costs, Appendix I (Comments) (filed as part of the original document) will not be printed herein. However, this document in its entirety may be obtained from the distribution centers listed in the FCC Office of Public Affairs, Room 202, 1919 M St. NW., Washington, D.C. 20554. A copy is also available for inspection in the FCC Dockets Branch, Room 239, and the FCC Library, Room 639, both located at 1919 M St. NW., Washington, D.C.

APPENDIX II.—TOTAL USISC'S AND HTC FACILITY INVESTMENT COST OUTLAY [1]

[Dollars in millions]

	AT&T cost of money method (present worth of Jan. 1, 1984)
ANZCAN North	22.5
ANZCAN South	[illegible]
Total	[illegible]

[1] Based on the number of circuits listed in Appendix III, and the assumed individual facility unit costs ($1984) listed as follows: ANZCAN North—Temporary IRU (5 years), $18,177 per half-circuit; ANZCAN North—Ownership (24 years), $43,606 per half-circuit; ANZCAN South—Ownership (24 years), Australia, $90,857 per half-circuit; New Zealand, $112,971 per half-circuit; Fiji, $51,054 per half-circuit.

Source: AT&T Submission of June 28, 1982, Appendix E.

APPENDIX III.—GUIDELINE FOR ANZCAN CABLE CIRCUIT ACQUISITION

[4KHz assigned half circuits]

	AT&T	FTCC	ITT	RCA	TRT	WUI	HTC	Total
ANZCAN North:								
Australia	89P/139T	2T	5P/4T	9T	2T	9P		103P/156T.
Fiji	4P/3T			IT		1P		5P/4T.
New Zealand	19P/46T		2P/1T	2T	1T	2P		23P/50T.
Papua New Guinea	1T		1T					2T.
Hong Kong	22T		2T	4T		6T		34T.
Japan	67T							67T.
Malaysia	3T							3T.
Philippines	24T					8T		32T.
Singapore	12T		2T	2T		5T		21T.
Taiwan	11T		2T					13T.
Thailand	4T							4T.
Canada							60P	[illegible]
Hawaii	149T		15T°	12T°		20T°	149T	196T°.
Total	112P/481T	2T	7P/12T	18T	3T	12P/19T	60P/149T	191P/386T.
			15T°	12T°		20T°		196T°.
ANZCAN South:								
Australia	266P	4P	27P	20P	2P	37P	32P	388P.
Fiji	16P			1P		1P	6P	24P.
New Zealand	78P		4P	4P	1P	4P	12P	103P.
Papua New Guinea			1P	1P		1P		3P.
Total	360P	4P	32P	26P	3P	43P	[illegible]	[illegible]

Legend: P (Ownership); T (Temporary IRU); ° (Whole Circuit).

[FR Doc. 82-34173 Filed 12-21-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Parts 1, 90, and 95

[FCC 82-397]

Substitution of Forms for Applications in the Private Land Mobile and General Mobile Radio Services

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission has adopted a Memorandum Opinion and Order substituting Forms 574, 574A and 574B for Forms 400 and 400S for applications in the Private Land Mobile and General Mobile Radio Services. This action was taken because under international agreements the United States should report to the International Telecommunication Union certain technical data which is used to protect reported stations and to resolve interference disputes between licensees in different countries. The information is needed as well so that the Commission can carry out its licensing function. The new forms will better serve these ends.

DATE: Initiation of these new forms and procedural rules is contingent upon approval of the forms by the Office of Management and Budget. When such approval has been obtained, we will announce the effective date by public notice. Until that time, the existing rules remain in effect and the existing forms must be employed.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Charles F. Turner, Private Radio Bureau, (202) 632-6497.

SUPPLEMENTARY INFORMATION:

List of Subjects

47 CFR Part 1

Practice and procedure.

47 CFR Part 90

Public safety radio services, Special emergency radio service, Industrial radio services, Land transportation radio services, Radiolocation service.

47 CFR Part 95

Personal radio services, General mobile radio service.

Adopted: August 24, 1982.

Released: August 31, 1982.

In the matter of amendment of the Commission's Rules to substitute Forms 574, 574A, and 574B for Forms 400 and 400S for applications in the Private Land Mobile and General Mobile Radio Services; memorandum opinion and order.

1. The Federal Communications Commission adopts new forms (FCC Forms 574, 574A and 574B) for use by applicants for authorizations in the Private Land Mobile and General Mobile Radio Services.

2. Pursuant to the requirements of Numbers 147 and 571 of the International Telecommunication Convention (Malaga-Torremolinas, 1973), as the United States is expected to report to the ITU certain technical data regarding the private land mobile radio services. This information is used to protect reported stations, and to resolve interference disputes between licensees in different countries.

3. In order to collect the necessary data, and to provide the Commission with additional information it requires, we are adopting new license application forms for use by applicants in the Private Land Mobile and General Mobile Radio Services. We are also taking this opportunity to modify our system licensing procedures in two respects. First we are expanding the number of stations that may be contained in a "system license." Second, we are making the submission of system applications optional raather than mandatory. See 47 CFR 90.117. Currently, only applications involving systems consisting of not more than two stations at permanent locations are submitted as applications for a "system license". Those needing larger systems have had to file multiple applications. This limitation was dictated by the capabilities of our data processing systems, and our intention has always been to expand the system licensing approach when it became practical to

do so.[1] [2] In addition, the mandatory filing requirement to file a system application when not more than two stations at a permanent location are involved has proved to be burdensome for both the Commission and the applicants. In view of our enhanced computer capabilities, therefore, applications involving systems consisting of not more than six stations at permanent locations may be filed as applications for systems licensing if the applicant wishes. We are eliminating, however, any compulsion on applicants to seek a single system license.

Form 574

4. Form 574 replaces Form 400. It is to be filed by those applying for new stations or systems, for modification of existing systems, or for Commission consent to the assignment of a license. The new form contains several data elements not contained on Form 400. Form 574 requires applicants to state the effective radiated power of their proposed station; this information is necessary for the Commission to comply with ITU reporting requirements. Other data elements which we had considered including at one time have been eliminated or reduced 8, *infra*. We are requiring submission of the name and telephone number of the person supplying technical data for the application in order to permit the Commission to contact this person should technical questions arise. At the same time we have been able to delete 5 questions previously required on the Form 400 which are no longer required for licensing.

5. To minimize the impact to the public in supplying data such as a station's effective radiated power, existing licensees may continue to use Form 405A (the short form renewal) when filing for a license renewal. They will, however, have to file Form 574 in instances of station modifications where they previously would have been required to file Form 400. Applicants may, as a precaution, wish to file Form 574 voluntarily, inasmuch as licensees will receive maximum protection from international interference only if the Commission can report current and accurate station information (including E.R.P.) to the ITU. If such information is not reported, any international interference disputes that arise may be resolved on the basis of "worst-case" assumptions that could be unfavorable to the licensee. In any case, the licensee would be protected in accordance with the limits of the assumptions reported by the FCC unless exceptions are filed.

Form 574A

6. Form 574A, replacing Form 400S, is to be filed by applicants for 800 MHz-band stations. This new form will enable the Commission to collect in a more orderly fashion information already supplied by licensees in this band. Because Form 574A does not collect any ITU required information, existing licensees are not required to file it for simple renewals. They may use 405A instead. They will be required to file 574A, however, when applying for a modification, for consent to an assignment, or for a new station or system. The data collection burden on the public (400S vs 574A) has also been reduced by the elimination of several questions previously required.

Form 574B

7. Form 574B pertains to stations operating on frequencies below 27.5 MHz for which additional data are required for reporting to ITU, and to stations close to the U.S.-Canada or U.S.-Mexico borders to satisfy coordination procedures established by treaties or agreements.[3] The form contains the following new data elements:

(1) Class of operation (required only on applications for frequencies below 27.5 MHz).

(2) Azimuth of main lobe.

(3) Angular width of radiation main lobe of directional antennas.

8. All licensees operating stations below 27.5 MHz, an estimated 500 of some 180,000 applications received yearly whatever their location, must file Form 574B. Because it is in the bands below 27.5 MHz that there is the greatest potential for international interference problems, no exception will be made of existing licensees. Thus existing licensees in these bands must file Form 574B the first time that they file for renewal of their authorizations following the effective date of the new rule and whenever a modification occurs which affects the data of the new rule and whenever a modification occurs which affects the data contained thereon. Applicants operating or seeking authorization to operate border-area facilities above 27.5 MHz will not be required to file Form 574–B. But, if they choose not to submit the form, the Commission will report the station to the coordinating nation as having certain assumed characteristics.[4] In those instances where the assumptions do not apply, applicants may provide the correct data by filing Form 574B. If they do not, they will be bound by the assumptions.

9. These changes are procedural in nature and we find notice and public procedure thereon are impractical and unnecessary. See 5 U.S.C Section 553(b)(3)(A). Nevertheless, we have informally solicited public comment regarding the proposed revisions. On December 11, 1980, we issued a Public Notice announcing the proposed changes and soliciting written comments. On January 6, 1981 and November 11, 1981, interested parties attended open meetings held by members of the Commission's staff and expressed their views. We have considered the comments made, and made some changes to these new forms as a result.[5]

---

[1] This limitation does not apply to systems operating exclusively in the 470–512 MHz band.

[2] *Private Land Mobile Radio Services-System Licensing*, 71 FCC 2d 1150 (1979) at p. 1153–1154.

[3] Specifically, the following stations are involved:

(1) Those north of Line A, or east of Line C if the application is for a frequency between 30 MHz and 470 MHz.

(2) Those requesting frequencies in the portions of the frequency bands allocated to both countries that overlap in the two geographical areas as defined in the U.S.-Canada agreement, dated April 7, 1962, concerning the use of 800 MHz frequencies along the U.S.-Canada border.

[4] The assumed characteristics are as follows:

(a) *Class of Operation for HF stations.* All HF applicants must file Form 574B. However, any station record not updated will be assumed to operate in the "A" mode.

(b) *Antenna Polarization.* We will report each station as having a vertically polarized antenna.

(c) *Antenna Gain.* Since we require each applicant to report each transmitter's output power and effective radiated power, we will approximate the gain.

(d) *Antenna Azimuth of Main Lobe.* We will report each base or mobile relay station as having an omnidirectional (360 degrees) azimuth. We will assume that each control station associated with a mobile relay station has a directional antenna with its azimuth of maximum radiation directed toward the mobile relay station.

(e) *Beamwidth.* Since an omnidirectional antenna is assumed, beamwidth has no relevance and no assumption will be made. However, for control stations we will assume 20 degrees.

(f) *Regular Hours of Operation.* We will report each station as operating twenty-four hours per day.

(g) *Receiver Information.* We will assume that a receiver operates at the same location as a transmitter, and that all units specified on the same application form communicate with each other as a system. In other words, we will assume that the receiver site for a mobile station transmission is the location of the associated base station. The receiver site for a base station transmission will be assumed to be the area of operation of the associated mobile stations. For a control station transmission, the location of the associated mobile relay station's receiver antenna will be the assumed receiver site.

[5] We have modified the forms so as to make them easier to complete. For instance, we have "grandfathered" existing licensees, eliminating the need for them to supply effective radiated power data when they file renewal applications subsequent to the effective date of these new rules. In addition, these new forms provide larger spaces for listing multiple frequencies, so that applicants seeking to operate on a number of channels need

10. Initiation of these new forms and procedural rules is contingent upon approval of the forms by the Office of Management and Budget. When such approval has been obtained, we will announce the effective date by public notice. Until that time, the existing rules remain in effect and the existing forms must be employed.

11. For the reasons set forth above, Parts 1, 90 and 95 of Title 47, Code of Federal Regulations, are amended as set forth in the Appendix hereto, effective on a date to be published in the **Federal Register** following Office of Management and Budget approval of these new forms. This action is taken pursuant to Sections 4(i) and 303(r) of the Communications Act, as amended, 47 U.S.C. Sections 154(i) and 303(r).

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Parts 1, 90, and 95 of Chapter 1 of the Code of Federal Regulations are amended as follows:

PART 1—PRACTICE AND PROCEDURE

1. Section 1.922 is amended by removing the Form 400 and 400–10 from the list of Forms and adding in appropriate numerical order, Forms 574, 574–A, and 574–B as follows:

§ 1.922 Forms to be used.

FCC form	Title
*	*
574	Application for Radio Station Authorization in the Private Land Mobile and General Mobile Radio Services.
574–A	Supplementary Information for Trunked and Conventional Systems (806–821 MHz and 851–866 MHz bands).
574–B	Private Fixed, Mobile, and Radiolocation Services Supplementary Information Form. Instructions for Completion of FCC Form 574.
*	*

2. Section 1.924 is amended by revising paragraph (b)(2)(i), redesignating paragraphs (b)(2)(v) through (b)(2)(vii) as (b)(2)(iv) through (b)(2)(vi) respectively and reserving (b)(2)(vii).

not complete several application forms. In response to suggestions offered by frequency coordinators, we have added a data element that solicits a frequency coordination number. We have eliminated previously proposed data elements concerning points of communication, equipment type acceptance, shared use, and rendering of service. We have also deleted a proposed requirement to list wireline control points other than the primary control point.

§ 1.924 Assignment or transfer of control, voluntary and involuntary.

* * * * *

(b) * * *

(2) * * *

(i) FCC Form 574: for assignment of station authorization in services under Part 90 of this chapter, except as provided in subparagraph (ii). Attached thereto shall be an executed Form 1046 or a signed letter from proposed assignor stating the desire to assign the current authorization in accordance with the rules governing the particular radio service involved. Applications for consent to assign authorizations of stations operating in the 806–821 and 851–866 MHz bands shall be accompanied by FCC Form 574–A. Applications for assignment of authorizations for stations operating on frequencies below 27.5 MHz shall be accompanied by FCC Form 574–B.

* * * * *

3. Section 1.926 is amended by adding a new paragraph (b)(3).

§ 1.926 Application for renewal of license.

* * * * *

(b) * * *

(3) Applications for renewal of stations operating on frequencies below 27.5 MHz may be submitted on FCC Form 405–A, but it must be accompanied by a completed FCC Form 574–B unless Form 574–B had been submitted previously for the station in question.

* * * * *

§ 1.931 [Removed]

4. Section 1.931, Application for extension of construction permit, is removed in its entirety.

5. Section 1.955 is amended as follows:

Paragraphs (a) and (g) are revised. New paragraph (h) is added.

§ 1.955 Frequency coordination, Canada.

(a) As a result of mutual agreements, the Commission has, since May 1950 had an arrangement with the Canadian Department of Communications for the exchange of frequency assignment information and engineering comments on proposed assignments along the Canada-United States borders in certain bands above 30 MHz. Except as provided in paragraph (b) of this section, this arrangement involves assignments in the following frequency bands.

MHz	*MHz*
30.56–32.00	75.40–76.00
33.00–34.00	150.80–174.00
35.00–36.00	450–470
37.00–38.00	806.00–890.00
39.00–40.00	1850.0–3220.0
42.00–46.00	3450.0–3690.0
47.00–49.60	3700.0–4200.0
72.00–73.00	5925.0–7125.0
GHz	*GHz*
10.55–10.68	10.70–13.25

* * * * *

(g) Proposed assignments in the space radiocommunication services and proposed assignments to stations in frequency bands allocated coequally to space and terrestrial services above 1 GHz are not treated by these arrangements. Such proposed assignments are subject to the regulatory provisions of the International Radio Regulations.

(h) Assignments proposed in the frequency band 806–890 MHz shall be in accordance with the Canada-United States agreement, dated April 7, 1982.

PART 90—PRIVATE LAND MOBILE RADIO SERVICES.

1. Section 90.117 is revised as follows:

§ 90.117 Applications for radio station or radio system authorizations.

Persons desiring a radio station or radio system authorization must first submit the appropriate application(s). Prescribed application forms are listed in § 90.119. The Forms may be obtained from the Washington, D.C. office of the Commission, its Gettysburg, Pa. office, or from any of its engineering field offices. (See § 90.145 for information regarding special temporary authorizations.) Applicants for new stations comprising a land mobile radio system as defined in § 90.7 of this Part, or applicants modifying or renewing a station that is a part of a system, may file an application for a system authorization.

2. Section 90.119 is amended by revising the introductory text of paragraph (a) and paragraphs (a)(2)(i) and (a)(2)(ii). Present paragraphs (d) and (e) are redesignated as new paragraphs (f) and (g). Present paragraph (b) is redesignated as paragraph (e) and revised. New paragraphs (b), (c), and (d) are added as set forth below.

§ 90.119 Applications forms.

* * * * *

(a) Form 574 shall be used to apply:

(2) * * *

(i) Application for a radio system may be submitted on a single Form 574.

(ii) If the control station(s) will operate on the same frequency as the mobile station, and if the height of the control station(s) antenna(s) will not exceed 6.1 meters (20 feet) above the ground, or an existing man-made structure (other than an antenna structure), there is no limit on the number of such stations which may be authorized. Items 1 through 5 of Form 574 shall be completed showing the

frequency, the station class, the total number of control stations, the emission, and the output power of the highest powered control station.

* * * * *

(b) With respect to the 806–821 and 851–866 MHz bands, all applications required by this Section to be filed on Form 574 shall be accompanied by Form 574–A.

(c) With respect to the frequencies below 27.5 MHz, all applications required by this Section to be filed on Form 574 shall be accompanied by Form 574–B.

(d) Applications for stations on frequencies above 27.5 MHz in areas where international coordination is required may be accompanied by Form 574–B, but are not required to be. If the applicant files Form 574–B, the information concerning the proposed station that the Commission reports to the coordinating nation will be that provided on the Form. If the applicant does not file Form 574–B, the information concerning the proposed station that the Commission reports to the coordinating nation will be based on assumed technical characteristics determined by the Commission and described in instructions to Form 574. Specifically, the following stations are involved:

(1) Those north of Line A, or east of Line C if the application is for a frequency between 30 MHz and 470 and 929 and 930 MHz. Lines A and C are defined in Section 90.7.

(2) Those requesting frequencies in the portion of the frequency bands allocated to both countries that overlap in the two geographical areas as defined in the U.S. Canada agreement, dated April 7, 1982, concerning the use of 800 MHz frequencies along the U.S.-Canada border.

(e) Form 405–A shall be used to apply for a renewal without modification of a station or system license.

* * * * *

3. Section 90.135 is amended by revising paragraph(b)(7).

§ 90.135 Modification of license.

* * * * *

(b) * * *

(7) In the case of a change listed in subparagraphs (b)(3), (b)(4), or (b)(5) of this paragraph, the licensee shall promptly notify the Commission within 30 days of the change. The notice shall be filed on FCC Form 574 and sent to Federal Communications Commission, Gettysburg, Pa. 17325. If the notification relates to stations operating in 806–821 and 851–866 MHz bands, the Form 574 shall be accompanied by Form 574–A. If the notification relates to stations operating on frequencies above 27.5 MHz the Form 574 may be accompanied by Form 574–B, but is not a requirement. See § 90.119(d).

PART 95—PERSONAL RADIO SERVICES

Subpart A—General Mobile Radio Service

* * * * *

Part 95 is amended as follows:

1. Section 95.15 is amended by revising the introductory text of paragraph (a), paragraphs (a)(3), and (a)(6) through (a)(8), and adding paragraph (a)(5) as follows:

§ 95.15 Standard forms to be used.

(a) Except as required in paragraph (b) of this section, FCC Form 574 shall be used when:

* * * * *

(3) Application is made for station license of any base station or fixed station.

* * * * *

(5) Application is made for reinstatement of an expired authorization.

(6) Application is made for an authorization for a new base or fixed station to operate at unspecified or temporary locations. When individual transmitters are intended to be operated as base stations or as fixed stations at unspecified or temporary locations for indeterminate periods, such transmitters may be considered to comprise a single station intended to be operated at a temporary location. The application shall specify the general geographic area within which the operation will be confined. Data must be submitted to show why the proposed area of operation needs to be the size requested.

(7) Subject to the limitations set out in this Section, applicants for new stations comprising a land mobile radio system (See Section 95.17(e)), or applicants modifying or renewing a station that is part of a system may file an application for a system authorization if the system consists of not more than six land stations at permanent locations. The system may include any number of mobile stations and any number of fixed stations for control. The application must include:

(i) Number of fixed stations for control;

(ii) Their transmitting frequencies;

(iii) Their types of emission;

(iv) Their highest output powers;

(v) Each street address;

(vi) Each street address of control points;

(vii) Geographical coordinates for all land stations whose antenna heights exceed 6.1 meters;

(viii) Geographical coordinates for all fixed stations for control which transmit with more than 5 watts ERP.

(8) Applicants for new station licenses or for modification of existing station licenses, where the modification involves a change in station location or antenna height, must furnish a narrative statement concerning environmental impact, if required (See Part 1 of this chapter, §§ 1.1301 through 1.1319).

* * * * *

2. Section 95.17 is amended by revising paragraphs (b) and (e) as follows:

§ 95.17 Filing of applications

* * * * *

(b) Applications for station or system authorizations, applications for consent to transfer of control of a corporation holding a radio station or system authorization, requests for special temporary authority or other special requests, and correspondence relating to an application for a radio station or system authorization shall be submitted to the Federal Communications Commission, Gettysburg, Pennsylvania 17325. Prescribed application forms are set forth in 47 CFR Part 1, Sections 1.922 and 1.926.

* * * * *

(e) Applications for land mobile radio system authorizations will only be accepted for systems complying with § 95.15(a)(7).

* * * * *

[FR Doc. 82-34579 Filed 12-21-82; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 671

[Docket No. 21217-253]

Tanner Crab Off Alaska

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of season adjustment.

SUMMARY: The Secretary of Commerce establishes new season opening dates for Tanner crab fishing in the fishery conservation zone in the South Peninsula and Chignik Districts of

Registration Area J. The new opening dates are consistent with those set by the State of Alaska and are necessary to allow Tanner crab fishing during periods when meat content of the crab is more fully developed and of better quality. This action would promote conservation of Tanner crab stocks and more optimal use of harvested Tanner crab. This action also would provide coordinated State/Federal management of a Tanner crab fishery that is conducted simultaneously in State and Federal waters.

EFFECTIVE DATE: This notice of season adjustment is effective from December 17, 1982 through October 31, 1983. This notice was filed for public inspection with the Office of the Federal Register on December 17, 1982 at 5:05 p.m.

FOR FURTHER INFORMATION CONTACT: Robert W. WcVey, Director, Alaska Region, National Marine Fisheries Service, 907–586–7221.

SUPPLEMENTARY INFORMATION: The fishery management plan for the Commercial Tanner Crab Fishery off the Coast of Alaska provides for adjustments of season and area openings and closures by field order. Implementing rules at 50 CFR Part 671 specify at section 671.27(b) that these orders will be issued by the Secretary of Commerce under criteria set out in that section.

In March of 1982, the Alaska Board of Fisheries (Board) adopted changes to Tanner crab fishing seasons in both the South Peninsula and Chignik Districts of Registration Area J by changing the opening date in each district from 12:00 noon local time on December 15, to 12:00 noon local time on February 10. The Board took this action at a joint meeting of the Board and the North Pacific Fishery Management Council (Council) in response to requests from the fishing industry. At the request of the Council, the Secretary of Commerce made an initial determination to adopt these changes for the South Peninsula and Chignik Districts, explained the rationale for that determination, and invited comments on these changes through December 16, 1982 (47 FR 54125, December 1, 1982).

No comments were received during the comment period. By this notice the Secretary of Commerce confirms the initial determination to adopt those changes and announces that the opening dates for the Chignik and South Peninsula Districts are changed to 12:00 noon local time on February 10, 1983. Closing dates remain unchanged. This field order expires on October 31, 1983.

These new seasons will not be effective prior to filing this notice for publication with the Office of the Federal Register and publicizing the season opening for 48 hours through Alaska Department of Fish and Game (ADF&G) procedures, under 50 CFR 671.27(a)(2).

Other Matters

This action is taken under the authority of regulations specified at 50 CFR 671.27 and is taken in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 671

Fish, Fisheries, Reporting requirements.

(16 U.S.C. 1801 et seq.)

Dated: December 17, 1982.

Joseph W. Angelovic,

Acting Deputy Assistant Administrator for Science and Technology National Marine Fisheries Service.

[FR Doc. 82–34700 Filed 12–17–82; 5:05 pm]

BILLING CODE 3510–22–M

Proposed Rules

Federal Register
Vol. 47, No. 246
Wednesday, December 22, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 113

[Docket No. 82-022]

Viruses, Serums, Toxins, and Analogous Products; Revision of Standard Requirements for the Detection of Extraneous Agents in Vaccines Prepared Using Cells and Ingredients of Animal Origin; Relaxation of Testing Requirements

Correction

In FR Doc. 82-32636 beginning on page 53884, in the issue of Tuesday, November 30, 1982, make the following correction.

On page 53889, in the second column, the eighth line of § 113.55 (a)(3), the reference to "§ 113.2" should have read "§ 113.52".

BILLING CODE 1505-01-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Codes and Standards for Nuclear Power Plants

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Commission proposes to amend its regulations to incorporate by reference the Summer 1982 Addenda of the American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code. The sections of the ASME Code being incorporated provide rules for the construction of nuclear power plant components. Adoption of these amendments would permit the use of improved methods for construction of nuclear power plants.

DATE: Comments must be received by February 22, 1983. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before this date.

ADDRESSES: Written comments or suggestions may be submitted to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch. Copies of comments received may be examined in the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Mr. E. T. Baker, Division of Engineering Technology, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Telephone (301) 443-5893.

SUPPLEMENTARY INFORMATION: On July 29, 1982 (47 FR 32725), the Nuclear Regulatory Commission published in the **Federal Register** proposed amendments to is regulation, 10 CFR Part 50, "Domestic Licensing of Production and Utilization Facilities," which proposed incorporation by reference of the Winter 1981 Addenda to the ASME Boiler and Pressure Vessel Code. The proposed amendment would revise § 50.55a to incorporate by reference the Winter 1981 Addenda to Section III, Division 1, "Rules for the Construction of Nuclear Power Plant Components," and to Section XI, Division 1, "Rules for Inservice Inspection of Nuclear Power Plant Components," of the ASME Boiler and Pressure Vessel Code. The Summer 1982 Addenda to the ASME Code have been issued. The Commission proposes to further amend § 50.55a to incorporate by reference the Summer 1982 Addenda that modifies Section III, Division 1, of the ASME Boiler and Pressure Vessel Code.

Some of the changes effected in the addenda that would be incorporated through the adoption of the proposed amendments follow:

1. The foreword of all sections of the Code was revised regarding interpretations of the Code to restrict the authority to issue such interpretations to the American Society of Mechanical Engineers. Previously, paragraph thirteen of the foreword had permitted the National Board of Boiler and Pressure Vessel Inspectors to issue interpretations of the ASME Boiler and Pressure Vessel Code.

2. Paragraph NCA-8230(b) was revised to delete the requirement that the location of the nameplate for component supports be shown on the support drawing.

3. Code Case N-100, "Pressure Relief Valve Design," was adopted into the body of the Code as subsubarticle NB-3590. The Code Case will be annulled when the Summer 1982 Addenda becomes effective.

4. Subsubarticle NB-5520 was revised to update the reference to the American Society for Nondestructive Testing (ASNT) standard SNT-TC-1A, to the 1980 Edition. It was also revised to clearly state that even if an outside agency or ASNT provided the qualification examinations, the employer is still responsible for certifying its own personnel.

Paperwork Reduction Act Statement

Pursuant to the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511), the NRC has made a determination that this proposed rule does not impose new nor impact existing information collection requirements.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission hereby certifies that this rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. This proposed rule affects only the licensing and operation of nuclear power plants. The companies that own these plants do not fall within the scope of the definition of "small entities" set forth in the Regulatory Flexibility Act or the Small Business Size Standards set out in regulations issued by the Small Business Administration at 13 CFR Part 121. Since these companies are dominant in their service areas, this proposed rule does not fall within the purview of the Act.

List of Subjects in 10 CFR Part 50

Antitrust, Classified information, Fire prevention, Intergovernmental relations, Nuclear power plants and reactors, Penalty, Radiation protection, Reactor siting criteria, Reporting requirements.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended,

and section 553 of title 5 of the United States Code, notice is hereby given that adoption of the following amendments to 10 CFR Part 50 is contemplated.

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

1. The authority citation for Part 50 continues to read as follows:

Authority: Secs. 103, 104, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 1244, as amended (42 U.S.C. 2133, 2134, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, 202, 206, 88 Stat. 1242, 1244, 1246, as amended (42 U.S.C. 5841, 5842, 5846), unless otherwise noted.

Section 50.7 also issued under Pub. L. 95–601, Sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80–50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Sections 50.100–50.102 also issued under sec. 186, 68 Stat. 955; (42 U.S.C. 2236).

For the purposes of sec. 223, 68 Stat. 958, as amended, (42 U.S.C. 2273), §§ 50.10(a), (b), and (c), 55.44, 50.46, 50.48, 50.54, and 50.80(a) are issued under sec. 161b, 68 Stat. 948 as amended (42 U.S.C. 2201(b)); §§ 50.10(b) and (c) and 50.54 issued under sec. 161i, 68 Stat. 949, as amended, (42 U.S.C. 2201(i)); and §§ 50.55(e), 50.59(b), 50.70, 50.71, 50.72, and 50.78 are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. In § 50.55a, paragraph (b)(1) is revised to read as follows:

§ 50.55a Codes and standards.

* * * * *

(b) * * *

(1) As used in this section, references to Section III of the ASME Boiler and Pressure Vessel Code refer to Section III, Division 1, and include editions through the 1980 Edition and addenda through the Summer 1982 Addenda.

* * * * *

Dated at Bethesda, Maryland this 20th day of November 1982.

For the Nuclear Regulatory Commission.

William J. Dircks,

Executive Director for Operations.

[FR Doc. 82-34586 Filed 12-21-82; 8:45 am]

BILLING CODE 7590-01-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

Monthly Statements

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rule.

SUMMARY: The Commodity Futures Trading Commission ("Commission") is proposing to amend its regulations to require futures commission merchants ("FCMs") to include in the monthly statements of account activity furnished to futures customers a detailed accounting of commissions and fees charged to the customer's account during the preceding month. The Commission is also requesting comments as to whether it should continue to require FCMs to include in their monthly statements to option customers information relating to commissions and fees. The Commission believes that the presentation of such information in summary form in monthly activity statements would be of benefit to futures customers.

DATE: Comments must be received on or before January 21, 1983.

ADDRESS: Comments should be sent to: Commodity Futures Trading Commission, 2033 K Street N.W., Washington, D.C. 20581. Attention: Secretariat.

FOR FURTHER INFORMATION CONTACT: Paul G. Thompson, Esq., Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581. Telephone: (202) 254–8955.

SUPPLEMENTARY INFORMATION: On June 30, 1982, the Commission published proposed rules to expand the Commission's commodity options pilot program to include the trading on domestic exchanges of options on physicals. 47 FR 28401. That proposal also included proposed amendments to existing rules which would affect transactions in futures contracts and options on futures contracts. Among the proposed rules affecting futures transactions was a proposal to amend § 1.33(a)(1) to require that FCMs provide their futures customers with monthly activity statements which include information relating to financial charges and credits to the customer's account and trading activity during the preceding month. Proposed § 1.33(a)(1)(iv). The Commission proposed this requirement because it believed that the presentation of such information in summary form in monthly activity statements would be of benefit to futures customers. In particular, the Commission believed that the reiteration of this information would be useful to customers who otherwise would receive this data only on a "per transaction" basis in the purchase and sale statements provided pursuant to § 1.46(a) when it may not be focused on by customers. Furthermore, and as the Commission noted when it proposed this rule, § 1.33(a)(2)(v) presently requires that this information be provided to option customers. 47 FR at 28406.

The Commission, however, has recently received letters from FCMs suggesting that the inclusion of commissions and fees in the monthly statements provided to futures customers would require the modification, at great expense, of most FCMs' computer systems. These FCMs further suggested that implementation of such a requirement could substantially increase the length of the monthly statements now provided to futures customers, thereby making those statements less, rather than more, useful to their recipients. Thus, although the Commission is today publishing in the **Federal Register** rules and rule amendments it has adopted after consideration of the comments on its June 30, 1982 proposal, the Commission has decided to repropose § 1.33(a)(1)(iv) in order to allow other FCMs and interested members of the public an additional opportunity to offer comments on whether FCMs should be required to include information relating to commissions and fees in the monthly statements provided to their futures customers.[1]

As noted earlier, § 1.33(a)(2)(v) requires the inclusion of commissions and fees in the monthly statements provided to option customers. The Commission understands that comments submitted on the question of whether the Commission should require this information to be included in the monthly statements for futures transactions could also apply generally to whether this requirement is appropriate for option transactions.[2] The Commission is therefore requesting that in light of the special protections that are afforded to option customers under the Commission's pilot program regulations, such comments be separately identified and specifically address the value of such information to option customers.

The Commission has previously determined that registered futures commission merchants are not "small entities" for purposes of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). 47 FR 18618 (April 30, 1982). The requirements of the Regulatory Flexibility Act do not, therefore, apply to those entities. Accordingly, the Chairman, on behalf of the Commission, hereby certifies pursuant to 5 U.S.C.

[1] The Commission will consider the letters it has thus far received on this subject in its review of the amendment proposed herein.

[2] For example, confirmation statements for option transactions must include, among other items, all "commissions, costs, fees and other charges incurred in connection with the option transaction." Section 1.33(b)(2)(ii).

605(b) that the rules provided herein, if promulgated, will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 17 CFR Part 1

Records, Monthly statements.

In consideration of the foregoing, and pursuant to the authority contained in the Commodity Exchange Act and, in particular, Section 4g and 8a thereof, 7 U.S.C. 6g, 12a, the Commission hereby proposes to amend Chapter I of Title 17 of the Code of Federal Regulations by amending § 1.33(a)(1)(iv) as follow:

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

1. Section 1.33 is proposed to be amended by revising paragraph (a)(1)(iv) to read as follows:

§ 1.33 Monthly and confirmation statements

(a) * * *

(1) * * *

(iv) A detailed accounting of all financial charges and credits to the commodity customer's account during the monthly reporting period, including all customer funds received from or disbursed to the commodity customer, commissions and fees, and realized profits and losses; and

* * * * *

Issued in Washington, D.C. on December 13, 1982, by the Commission.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 82-34539 Filed 12-21-82; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79-76-148 (Oklahoma-5)]

High-Cost Gas Produced From Tight Formations; Oklahoma Proposed Rulemaking

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the State of Oklahoma that the "Jones Sand member" of the "Cleveland Sand" interval of the Skiatook Group be designated as a tight formation under § 271.703(d).

DATES: Comments on the proposed rule are due on January 31, 1983. Public Hearing: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on January 3, 1983.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, N.E., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357-8511, or John Roy Johnson, (202) 357-8731.

SUPPLEMENTARY INFORMATION:

Issued: December 16, 1982.

I. Background

On October 23, 1982, the Oklahoma Corporation Commission (Oklahoma) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (45 FR 56034, August 22, 1980), that the "Jones Sand member" of the "Cleveland Sand" interval of the Skiatook Group located in Lincoln County, Oklahoma, be designated as a tight formation. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Oklahoma's recommendation that the "Jones Sand member" of the "Cleveland Sand" interval of the Skiatook Group be designated a tight formation should be adopted. Oklahoma's recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

Oklahoma has recommended that the "Jones Sand member" of the "Cleveland Sand" interval, underlying Sections 1 through 4 and 9 through 12, Township 13 North, Range 2 East; Sections 4 through 8, Township 13 North, Range 3 East; Sections 21 through 28 and 33 through 36, Township 14 North, Range 2 East; and Sections 19, 20 and 28 through 33, Township 14 North, Range 3 East, in Lincoln County, central Oklahoma, be designated a tight formation. The recommended interval is Early Pennsylvanian (Missourian) in age.

The "Jones Sand member" is composed of an "upper", "middle" and "lower" sand zone and two interbedded zones of predominantly shale. The sand zones consist of fine- to very fine-grained, well cemented quartz sandstone and interbedded shale.

The depth of the recommended interval ranges from 3,910 to 4,500 feet, and it is approximately 200 feet thick. The top of the designated interval is respectively overlain by a shale zone (ranging from 200 to 280 feet in thickness), the "Upper Cleveland sand" and the "Checkerboard limestone" of the Lower Skiatook Group; the recommended interval is underlain by a shale zone (ranging from 100 to 150 feet in thickness which separates the "Oswego limestone" of the Marmaton Group (Des Moinesian age) from the "Lower Jones sand" zone.

III. Discussion of Recommendation

Oklahoma claims in its submission that evidence gathered through information and testimony presented at public hearings convened on July 20 and August 16, 1982, by Oklahoma on this matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

Oklahoma further asserts that existing State and Federal Regulations assure that development of this formation will not adversely affect any fresh water aquifers.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM80-68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by Oklahoma that the "Jones Sand member" of the "Cleveland Sand" interval of the Skiatook Group, as described and delineated in Oklahoma's recommendation as filed with the

Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before January 31, 1983. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79–76–148 (Oklahoma-5) and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing of a desire to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than January 3, 1983.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432.)

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, Code of Federal Regulations, as set forth below, in the event Oklahoma's recommendation is adopted.

Kenneth A. Williams

Director, Office of Pipeline and Producer Regulation.

PART 271—[AMENDED]

Section 271.703(d) is amended by adding subparagraph (152) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(115) through (151) [Reserved]

(152) *"Jones Sand member" of the "Cleveland Sand" interval of the Skiatook Group in Oklahoma.* RM79–76–148 (Oklahoma-5).

(i) *Delineation of formation.* The designated interval is found in Sections 1 through 4 and 9 through 12, Township 13 North, Range 2 East; Sections 4 through 8, Township 13 North, Range 3 East; Sections 21 through 28 and 33 through 36, Township 14 North, Range 2 East; and Sections 19, 20 and 28 through 33, Township 14 North, Range 3 East, in Lincoln County, central Oklahoma. The "Jones Sand member" consists of three quartz sandstone zones and two interbedded zones of predominantly shale.

(ii) *Depth.* The depth of the applicable interval ranges from 3,910 to 4,500 feet, and it is approximately 200 feet thick. The top of the designated interval is respectively overlain by a shale zone (ranging from 200 to 280 feet in thickness), the "Upper Cleveland sand" and the "Checkerboard limestone" of the Lower Skiatook Group; the interval is underlain by a shale zone (ranging from 100 to 150 feet in thickness) which separates the "Oswego limestone" of the Marmaton Group (Des Moinesian age) from the "Lower Jones sand" zone.

[FR Doc. 82–34615 Filed 12–21–82; 8:45 am]

BILLING CODE 6717–01–M

---

18 CFR Part 271

[Docket No. RM79–76–159 (Texas–29)]

High-Cost Gas Produced From Tight Formations, Texas; Proposed Rulemaking

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by Section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the Railroad Commission of Texas that the Vicksburg Formation in the Portilla (9000') Field be designated as a tight formation under § 271.703(d).

DATES: Comments on the proposed rule are due on January 31, 1983.

Public Hearing: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on January 3, 1983.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, N.E., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357–8511, or Walter W. Lawson, (202) 357–0556.

SUPPLEMENTARY INFORMATION:

Issued: December 16, 1982.

I. Background

On November 9, 1982, the Railroad Commission of Texas (Texas) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (45 FR 56034, August 22, 1980), that the Vicksburg Formation in the Portilla (9000') Field, in San Patricio County, Texas, be designated as a tight formation. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Texas' recommendation that the Vicksburg Formation in the Portilla (9000') Field be designated a tight formation should be adopted. Texas' recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

Texas recommends that the Vicksburg Formation in the Portilla (9000') Field in the northern portion of San Patricio County, Texas, Railroad Commission District 4, be designated as a tight formation. The recommended area is located approximately six miles northeast of Sinton, Texas, and underlies some 15,000 acres of land bounded by the Chiltipin Creek to the south, U.S. Highway 77 to the west, and the Aransas River to the north. The eastern boundary is a line extending from the Chiltipin Creek on the south to the Aransas River on the north and approximately bisecting the following surveys: Isaac Clover A–89, N. J. Devenny A–105, and Ralph Ellis Hrs. A–115. The depth to the top of the Vicksburg Formation in the Portilla (9000') Field varies between 8,800 feet and 9,000 feet, and the formation extends to depths in excess of 11,000 feet.

III. Discussion of Recommendation

Texas claims in its submission that evidence gathered through information and testimony presented at a public hearing in support of this recommendation demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

Texas further asserts that existing State and Federal regulations assure that development of the formation will not adversely affect any fresh water aquifers that are or are expected to be used as a domestic or agricultural water supply.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM80-68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by Texas that the Vicksburg Formation in the Portilla (9000') Field as described and delineated in Texas' recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before January 31, 1983. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79-76-159 (Texas-29) and should give reasons including supporting data for any recommendation. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing of a desire to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than January 3, 1983.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432)

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, Code of Federal Regulations, as set forth below, in the event Texas' recommendation is adopted.

Kenneth A. Williams,

Office of Pipeline and Producer Regulation.

PART 271—[AMENDED]

Section 271.703(d) is amended by adding subparagraph (155) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(115) through (154) [Reserved]

(155) *Vicksburg Formation in the Portilla (9000') Field in Texas.* RM78-76-159 (Texas-29).

(i) *Delineation of formation.* The Vicksburg Formation in the Portilla (9000') Field is located in the northern portion of San Patricio County, Texas, Railroad Commission District 4, approximately six miles northeast of Sinton, Texas, and underlies 15,000 acres of land bounded by the Chiltipin Creek to the south, U.S. Highway 77 to the west, and the Aransas River to the north. The eastern boundary is a line extending from the Chiltipin Creek on the south to the Aransas River on the north and approximately bisecting the following surveys; Isaac Clover A-89, N. J. Devenny A-105, and Ralph Ellis Hrs. A-115.

(ii) *Depth.* The depth to the top of the Vicksburg Formation in the Portilla (9000') Field varies between 8,600 feet and 9,000 feet and the formation extends to depths in excess of 11,000 feet.

[FR Doc. 82-34613 Filed 12-21-82; 8:45 am]

BILLING CODE 6717-01-M

---

18 CFR Part 271

[Docket No. RM79-76-149 (Texas-3 Addition IV)]

High-Cost Gas Produced From Tight Formations, Texas; Proposed Rulemaking

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This notice of proposed rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the Railroad Commission of Texas that an additional area of the Cisco-Canyon Formations located in Glasscock, Reagan, and Sterling Counties, Texas, be designated as tight formations under § 271.703(d).

DATE: Comments on the proposed rule are due on January 31, 1983.

Public Hearing: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on January 3, 1983.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357-8511, or Walter W. Lawson, (202) 357-8556.

SUPPLEMENTARY INFORMATION:

Issued December 16, 1982.

I. Background

On October 22, 1982, the Railroad Commission of Texas (Texas) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (45 FR 56034, August 22, 1980), that an additional area of the Cisco-Canyon Formations located in Glasscock, Reagan, and Sterling Counties, in west Texas, be designated as tight formations. The Commission previously adopted a recommendation

that the Cisco-Canyon Formations encountered in a specified portion of Glasscock County be designated as tight formations. (Order No. 242, issued July 15, 1982, in Docket No. RM79-76 (Texas-3 Addition III)). Pursuant to 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Texas' recommendation that an additional area of the Cisco-Canyon Formations in Glasscock, Reagan, and Sterling Counties be designated tight formations should be adopted. Texas' recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

Texas recommends that the Cisco-Canyon Formations encountered in southeast Glasscock County, southwest Sterling County and northwest Reagan County, in west Texas, Railroad Commission Districts 7C and 8, be designated as tight formations. The area lies to the north and west of the Sallie (Cisco) Field and is an extension of the Cisco-Canyon Formations in Glasscock County in the area of the Conger, S.W. (Penn) Field which have previously been approved. The recommended area includes the following sections: T. & P. RR. Block 33, T-5-S, Sections 34, 36, and the west half of Section 38; T. & P. RR. Block 32, T-5-S, Sections 42 and 46; T. & P. RR. Block 2, Sections 44, 50, 62, 70, 90, 100, 118, 128, 146, 155 and 156; G. C. & S. F. RR., Sections 1 and 3; C. T. & M. C. RR., Section 2; E. L. & RR. Sections 3 and 4; W. R. Barton, Section 4; S. H. Birdwell, Section 17; Brooks & Burleson, Sections 1 and 2; D. L. Carver, Section 4; T. B. Wilson, Section 2; and approximately the south half of the H. T. Tweedle, Section 2 (I. W. Terry Fee).

The depth to the top of the Cisco Formation varies from approximately 8,670 feet on the west part of the area to 7,810 feet on the east. The depth to the top of the Canyon Formation (the base of the Cisco Formation) varies from approximately 8,810 feet on the west to 7,970 feet on the east. Total thickness of the two sandstone formations varies from approximately 200 feet on the west to 430 feet on the east.

III. Discussion of Recommendation

Texas claims in its submission that evidence gathered through information and testimony presented at a public hearing convened by Texas on this matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formations, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formations is expected to produce more than five (5) barrels of oil per day.

Texas further asserts that existing State and Federal regulations assure that development of these formations will not adversely affect any fresh water aquifers.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM80-68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by Texas that the Cisco-Canyon Formations, as described and delineated in Texas' recommendation as filed with the Commission, be designated as tight formations pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before January 31, 1983. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79-76-149 (Texas-3 Addition IV), and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing of a desire to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than January 3, 1983.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432)

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, Code of Federal Regulations, as set forth below, in the event Texas' recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

PART 271—[AMENDED]

Section 271.703(d) is amended by revising subparagraph (12)(iii) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(12) *Cisco Sandstone Formation in Texas.* RM79-76-149 (Texas-3 Addition IV).

* * * * *

(iii) *The Cisco-Canyon Formations.*

(A) *Delineation of formation.* The Cisco-Canyon Formations are found in the area of the Conger, S.W. (Penn) Field in Glasscock, Reagan and Sterling Counties, Texas, Railroad Commission Districts 7C and 8. The area includes the following sections: T. & P. RR. Co. Block 33, T-5-S, Sections 34, 36, and W½ of 38; T. & P. RR. Co. Block 32, T-5-S, Sections 40, 41, 42 and 46; T. & P. RR. Co. Block 2, Sections 44, 50, 62, 70, 90, 100, 118, 128, 146, 155 and 156; G. C. & F. RR., Sections 1 and 3; C. T. & M. C. RR., Section 2; E. L. & RR., Sections 3 and 4; W. R. Barton, Section 4; S.H. Birdwell, Section 17; Brooks & Burleson, Sections 1 and 2; D. L. Carver, Section 4; T. B. Wilson, Section 2; and approximately the south half of H. T. Tweedle, Section 2 (I. W. Terry Fee).

(B) *Depth.* The depth to the top of the Cisco Formation varies from approximately 8,670 feet on the west part of the area to 7,810 feet on the east. The depth to the top of the Canyon Formation (the base of the Cisco Formation) varies from approximately 8,810 feet on the west to 7,970 feet on the east. Total thickness of the two formations varies from approximately 200 feet on the west to 430 feet on the east.

[FR Doc. 82-34614 Filed 12-21-82; 8:45 am]
BILLING CODE 6717-01-M

18 CFR Part 271

[Docket No. RM79-76-155 (Utah-7)]

High-Cost Gas Produced From Tight Formations; Utah Proposed Rulemaking

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR section 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the State of Utah that the Mancos "B" formation be designated as a tight formation under § 271.703(d).

DATES: Comments on the proposed rule are due on January 31, 1983.

Public Hearing: No public hearing is scheduled in this docket as yet. Written requests for public hearing are due on January 3, 1983.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357-8511, or Victor Zabel, (202) 357-8616.

SUPPLEMENTARY INFORMATION:

Issued December 16, 1982.

I. Background

On November 5, 1982, the State of Utah Board of Oil, Gas and Mining (Utah) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (45 FR 56034, August 22, 1980), that the Mancos "B" Formation located in Carbon County, Utah, be designated as a tight formation. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Utah's recommendation that the Mancos "B" Formation be designated a tight formation should be adopted. The United States Department of the Interior, Minerals Management Service (formerly the U.S. Geological Survey) concurs with Utah's recommendation. Utah's recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

The recommended formation is located about 18 miles northeast of Price, Utah, and underlies all of Township 12 South, Range 13 East in Caron County, Utah. The recommended area contains approximately 22,207 acres, of which 76% is federal land, 16% is state land, 8% is fee land.

The Mancos "B" Formation is a distinct lithologic unit within the Mancos Shale. In the recommended area, the Mancos "B" Formation is found at a depth of between 7,000 and 7,800 feet with an average depth to the top of the formation of 7,490 feet. The designated formation varies in thickness from 1,400 feet to 1,600 feet.

III. Discussion of Recommendation

Utah claims in its submission that evidence gathered through information and testimony presented at a public hearing in Cause No. TGF-106 convened by Utah on this matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c) (2) (i) (B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

Utah further asserts that existing State and Federal Regulations assure that development of this formation will not adversely affect any fresh water aquifers.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM 80-68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by Utah that the Mancos "B" Formation, as described and delineated in Utah's recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E. Washington, D.C. 20426, on or before January 31, 1983. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM 79-76-155 (Utah-7), and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing of the desire to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than January 3, 1983.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432.)

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, Code of Federal Regulations, as set forth below, in the event Utah's recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

PART 271—[AMENDED]

Section 271.703(d) is amended by adding subparagraph (151) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(115) through (150) [Reserved]

(151) *Mancos "B" Formation in Utah.* RM79-76-155 (Utah-7).

(i) *Delineation of formation.* The Mancos "B" Formation is located in all

of Township 12 South, Range 13 East, SLM, in Carbon County, Utah.

(ii) *Depth.* The Mancos "B" Formation is a distinct lithologic unit of the Mancos Shale, occurring 200 to 300 feet below the top of the Mancos Formation. The formation varies in thickness from 1,400 to 1,600 feet and is found at an average depth of 7,490 feet.

[FR Doc. 82-34616 Filed 12-21-82; 8:45 am]
BILLING CODE 4717-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-6470]

National Flood Insurance Program; Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below and proposed changes to base flood elevations for selected locations in the nation. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. Brian R. Mrazik, Ph.D., National Flood Insurance Program, (202) 287-0230, Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the proposed determinations of base (100-year) flood elevations for selected locations in the nation, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a).

These elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or Regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under Section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the floodplain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts floodplain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the floodplain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Floodplains.

The proposed base (100-year) flood elevations for selected locations are:

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Alabama	City of Anniston, Calhoun County	Cane Creek	Approximately 100 feet downstream of Southern Railway	*670
			Approximately 250 feet upstream of Weaver Road	*677
		Cave Creek	Approximately 60 feet downstream of Weaver Road	*675
			Just downstream of Cave Road	[illegible]
			Just upstream of State Highway 21 southbound	*741
		Snow Creek	Approximately 200 feet downstream of Noble Street	[illegible]
			Approximately 100 feet upstream of F Street	[illegible]
			Approximately 150 feet upstream of Glen Addie Avenue	[illegible]
			Approximately 100 feet upstream of 16th Street	*706
		Hobson Creek	Just upstream of Front Avenue	[illegible]
			Just downstream of McDaniel Street	[illegible]
		Pilgrim Creek	Just upstream of Quintard Avenue (shallow flooding)	#1
			Just upstream of 7th Street	[illegible]
			Approximately 70 feet upstream of Kirkwood Avenue	*773
		Golden Springs Branch	Approximately 220 feet upstream of Lyda Road	[illegible]
			Just upstream of Choccolocco Road	[illegible]
			Approximately 90 feet upstream of Golden Springs Road	[illegible]
			Just downstream of Shamrock Road	[illegible]
		Boiling Springs Branch	Approximately 120 feet upstream of Rosetta Lane	[illegible]
			Approximately 70 feet downstream of Greenbriar Drive	[illegible]
		Deermanville Branch	Just upstream of Greenbriar Drive	*671
			Approximately 70 feet upstream of Lara Drive extension	*757
		West Branch (Shallow Flooding)	Just upstream of Southern Railway	#1
		East Branch (Shallow Flooding)	Just upstream of 10th Street	#2

Maps available for inspection at Planning Office, City Hall, Anniston, Alabama [illegible]

Send comments to Mayor Gertrude R. Williams or Mr. Tom Magee, Planning Director, City Hall, Anniston, Alabama 36202.

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Alabama	Unincorporated Areas of Calhoun County	Cane Creek	Just upstream of Louisville and Nashville Railroad	*612
			Just upstream of Saks Road	*640
			Just upstream of Nielsen Street	*754
		Lenlock Branch	Just upstream of Glade Circle	*671
		Cave Creek	Approximately 100 feet downstream of 4th Avenue	*745
			Just downstream of 2nd Avenue	*765
		Remount Creek	Just upstream of Galloway Road	*714
			Just upstream of Baltzell Road	*715
			Just upstream of Summerall Gate Road	*771
		South Branch (Cane Creek)	Just upstream of 10th Street	*731
			Just upstream of 20th Street	*752
			Just upstream of 23rd Street	*785
			Just downstream of Rock Hollow Road	*847
		Ingram Creek	Just downstream of Rock Hollow Road	*813
		Choccolocco Creek	Just downstream of Boiling Springs Road	*617
		Snow Creek	Just upstream of U.S. Highway 431 and State Highway 21.	*631
		Golden Springs Branch	Approximately 80 feet upstream of U.S. Highway 431	*[illegible]
			Approximately 80 feet downstream of Greenbriar Drive	*658
		Boiling Springs Branch	Just upstream of Miller Lane	*656
		Dearmanville Branch	Approximately 340 feet upstream of Golden Springs Road.	*621
			Approximately 100 feet downstream of Southern Railroad.	*652
		Terrapin Creek	Just upstream of Southern Railway	*[illegible]
			Approximately 170 feet upstream of U.S. Highway 278	*661
		Mill Creek	Just upstream of Seaboard Coastline Railroad	*724
			Just downstream of State Highway 21	*752
		Mill Creek Tributary No. 1	Approximately 70 feet downstream of State Highway 21.	*714
			Just upstream of State Highway 21	*717
			Just downstream of private drive (approximately 1,360 feet upstream of State Highway 21).	*733
		Nances Creek	Approximately 470 feet downstream of Southern Railway.	*662
			Just upstream of County Highway 70	*676
			Just downstream of Spencer Street	*684
		Nances Creek Tributary No. 2	Approximately 250 feet upstream of confluence with Nances Creek.	*669
		Tallasseehatchee Creek	Just upstream of State Highway 204	*607
		Little Tallasseehatchee Creek	Just downstream of Southern Railway	*629
			Just upstream of Southern Railway	*643
			Approximately 350 feet upstream of Alexandria Roar	*645

Maps available for inspection at Civil Defense Office, 25 West Eleventh Street, and at the Calhoun County Courthouse, Anniston, Alabama 36201.

Send comments to Mr. Jack Boozer, Chairman, County Board of Commissioners, or Mr. Ken Joiner, County Administrator, Calhoun County Courthouse, Anniston, Alabama 36201.

Alabama	City of Clanton, Chilton County	Goose Pond Creek	Just upstream of Lay Dam Road	*569
			Just upstream of Louisville and Nashville Railroad	*572
		Poley Bridge Creek	Just downstream of 6th Street	*569
			Just upstream of Louisville and Nashville Railroad	*575
		Black Snake Creek	Just upstream of Ollie Avenue	*571
			Just upstream of Blacksnake Road	*586
		Goose Pond Tributary 1	Just upstream of 16th Avenue North	*579
			Just downstream of Center Street	*586
		Goose Pond Tributary 2	Just upstream of Old Thursby Road	*580
			Just upstream of 14th Avenue	*589

Maps available for inspection at City Clerk's Office, City Hall, Second Avenue, Clanton, Alabama 35045.

Send comments to Mayor Basil Clark, City Hall, P.O. Box 580, Clanton, Alabama 35045.

Alabama	City of Hobson City, Calhoun County	Park Creek	Just upstream of Church Street	*[illegible]
			Just upstream of Park Avenue	*694
		Hobson Creek	Just upstream of Church Street	*671

Maps available for inspection at City Clerk's Office, City Hall, 610 Park Avenue, Hobson City, Alabama 36201.

Send comments to Mayor Willie Snow or Ms. Denise Deramee, City Clerk, City Hall, 610 Park Avenue, Hobson City, Alabama 36201.

Alabama	Town of Maplesville, Calhoun County	Byrd Creek	Just downstream of Illinois Central Gulf Railroad	*323
			Just downstream of Farm Road	*357
		Little Mulberry Creek	Approximately 150 feet downstream of State Highway 22.	*325
			Approximately 100 feet upstream of State Highway 22	*326

Maps available for inspection at Town Clerk's Office, Town Hall, Main Street, Maplesville, Alabama 36750.

Send comments to Mayor Aubrey C. Morrison or Mr. Jesse J. Hayes, Jr., Town Councilman, Town Hall, P.O. Box 9, Maplesville, Alabama 36750.

Alabama	City of Oxford, Calhoun County	Choccolocco Creek	Just downstream of Friendship Road	*605
		Snow Creek	Just upstream of Interstate Highway 20	*612
			Just downstream of Snow Street	*618
		Golden Springs Branch	Just upstream of U.S. Highway 78 and 431	*623
		Boiling Springs Branch	Just upstream of U.S. Highway 78 and 431	*632
		Park Creek	Approximately 80 feet downstream of McDaniel Street	*662
		Hobson Creek	Approximately 350 feet upstream of Southern Railway	*647

Maps available for inspection at City Administrator's Office, City Hall, 100 Choccolocco Street, Orford, Alabama 36203.

Send comments to Mayor Thurman Whitmore or Mr. Tom Simpson, City Administrator, City Hall, P.O. Box 3383, Oxford, Alabama 36203.

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
Alabama	City of Tallassee, Elmore and Tallapoosa Counties	Graveyard Creek	Approximately 200 feet upstream of Noble Street	*314
		Lewis Creek	Approximately 220 feet downstream of Friendship Road.	*274

Maps available for inspection at City Hall, 214 Varnett Boulevard, Tallassee, Alabama 36078.

Send comments to Mayor Thomas Pollard or Ms. Betty Elrod, City Clerk, City Hall, Tallassee, Alabama 36078.

Alabama	City of Union Springs, Bullock County	Conecuh River—Old Town Creek	Just upstream of U.S. Highway 29/State Highway 15	*464
			Approximately 220 feet downstream of confluence of Tributary No. 3.	*467
			Approximately 330 feet upstream of U.S. Highway 82/State Highway 6.	*477
		Tributary No. 1	Approximately 250 feet upstream of confluence with Conecuh River—Old Town Creek.	*465
		Tributary No. 2	Just upstream of South Rooney Street	*470
		Tributary No. 3	Just upstream of Southern Railway	*479
		Slaughter Creek	Approximately 70 feet upstream of confluence of Slaughter Creek Tributary No. 1.	*359
		Slaughter Creek Tributary 1	Approximately 100 feet upstream of confluence with Slaughter Creek.	*358

Maps available for inspection at City Administrator's Office, City Hall, 303 North Prairie Street, Union Springs, Alabama 36089.

Send comments to Mayor Wiley T. Gibson, Jr., or Mr. Robert Wolting, City Administrator, City Hall, P.O. Box 549, Union Spring, Alabama 36089.

Alabama	City of Weaver, Calhoun County	Cave Creek	Just downstream of Lett Street (Extended)	*751

Maps available for inspection at City Hall, 406 Anderson Street, Weaver, Alabama 37277.

Send comments to Mayor Raymond Ewell, or Mr. Dewey Sams, Water Department, City Hall, P.O. Box A, Weaver, Alabama 37277.

Alaska	Nome (city), Nome Division	Snake River	At the intersection of Center Creek Road and Airport Road	*15
		Norton Sound	200 feet South of the center of West K St. and Gold Avenue.	*21
			230 feet Southwest of center of intersection of River Street and Front Street.	*27
			50 feet South of the center of the intersection of Carstens Way and East Front Street.	*20
			At intersection of East Front Street and Campbell Way	*#2

Maps available for inspection at City Clerk's Office, Front and Division, Nome, Alaska.

Send comments to Honorable Leo Rasmussen, Box 261, Nome Alaska 99762.

California	Long Beach (city), Los Angeles County	Pacific Ocean, San Pedro Bay	60 feet south from center of intersection of Seaside Walk with Bath Place.	*6
		Alamitos Bay	Center of intersection of Division Street with Pomona Avenue.	*6
		Los Cerritos Channel	At the intersection of channel with Pacific Coast Highway.	*6
		Pacific Ocean, San Pedro Bay	750 feet south from center of intersection of Ocean Boulevard with Alamitos Avenue.	*7
		Los Angeles River	At the intersection of channel with Queens Way	*7
		Shallow Flooding	Center of intersection of 7th Street with Prospect Avenue.	*9
		Shallow Flooding	Center of intersection of Cowles Street with San Francisco Avenue.	*9

Maps available for inspection at Engineering and Planning Department, 333 W. Ocean Boulevard, Long Beach, California.

Send comments to Honorable Barbara Doerr, 333 W. Ocean Boulevard, Long Beach, California 90802.

California	Redondo Beach (city), Los Angeles County	Pacific Ocean	At Pleasure Pier	*6
			120 feet west from center of intersection of Harbor Drive and Diamond Street.	*4
			500 feet west from center of intersection of Hopkins Way and Yacht Club.	*8
		Shallow Flooding	50 feet west from center of intersection of Ripley Avenue and Ridge Lane.	*81
			75 feet east from center of intersection of Goodman and Wylie Avenues.	*83
			Center of intersection of Vincent Street and South Irena Avenue.	*81
			150 feet south from center of intersection of South Juanita Avenue and Camino Real.	*120
			Center of intersection of Avenue H and Maraena Avenue.	*83

Maps available for inspection at Engineering Department, 415 Diamond Avenue, Redondo Beach, California.

Send comments to Honorable Barbara Doerr, 415 Diamond Avenue, Redondo Beach, California 90277.

Idaho	Albion (city), Cassia County	College Creek	5 feet downstream from center of Main Street	*4,719
			At the intersection of Market Street and West Street	*#2
		Marsh Creek	60 feet downstream from center of Main Street	*4,714

Maps available for inspection at City Hall, Albion, Idaho.

Send comments to Honorable Kay Powell, Box 163, Albion, Idaho 83311.

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Idaho	Cassia County (unincorporated areas)	Marsh Creek near Declo	10 feet upstream from center of 4th West Street	*4,198
		Marsh Creek near Albion	95 feet upstream from center of North Street	*4,664
		College Creek	Center of State Highway 77, 600 feet southwest along highway from its intersection with Bowlden Alley.	*4,735
		Land Creek	50 feet downstream from center of State Highway 77	*4,732
Maps available for inspection at Civil Defense Office, 129 E. 14th Street, Burley, Idaho.				
Send comments to Honorable J. Weldon Beck, Cassia County Courthouse, Burley, Idaho 83318.				
Idaho	Declo (city), Cassia County	Marsh Creek	At the intersection of stream and Clark Street	*4,203
Maps available for inspection at City Hall, Declo, Idaho.				
Send comments to Honorable Jones Leonard, Box 141, Declo, Idaho 83323.				
Illinois	(V) Elizabethtown, Hardin County	Ohio River	Within Corporate limit	*358
Maps available for inspection at the Clerk's Office. Elizabethtown, Illinois.				
Send comments to Honorable Robert T. Patton, Village President, Village of Elizabethtown, P.O. Box 155, Elizabethtown, Illinois 62931.				
Illinois	(C) Keithsburg, Mercer County	Mississippi River	About 1.4 miles downstream of confluence of Pope Creek.	*543
			About 0.9 mile upstream of confluence of Pope Creek	*544
Maps available for inspection at City Hall, Fourth and Main Streets, Keithsburg, Illinois.				
Send comments to Honorable Henry Swank, Mayor, City of Keithsburg, City Hall, Fourth and Main Streets, Keithsburg, Illinois 61442.				
Illinois	(C) Marion, Williamson County	Westernaire Creek	Just upstream of West Main Street	*421
			Just upstream of DeYoung Street	*432
		West Fork Westernaire Creek	At mouth at Westernaire Creek	*423
			About 1,300 feet upstreams of mouth	*426
		Campground Creek	Just upstream of West Main Street	*424
			Just upstream of Illinois Central Gulf Railroad	*428
		West Fork Campground Creek	At mouth at Campground Creek	*424
			Just downstream of Illinois Central Gulf Railroad	*424
		East Fork Campground Creek	Just upstream of West Main Street	*423
			About 1,300 feet upstream of Halfway Road	*430
		Mule Creek	At mouth at Fairgrounds Creek	*426
			Just upstream of Harper Street	*436
			About 600 feet upstream of Madison Street	*441
		High School Tributary	At mouth at Crab Orchard Creek	*420
			Just upstream of South Carbon Street	*430
		North Fork High School	Mouth at High School Tributary	*423
			Just downstream of Hendrickson Street	*430
		Fairgrounds Creek	At mouth at Crab Orchard Creek	*424
			Just upstream of DeYong Street	*438
		Westend Creek	At mouth at Fairgrounds Creek	*424
			Just upstream of Goodall Street	*436
		North Fork Westend Creek	At mouth at Westend Creek	*430
			Just upstream of Stockton Street	*438
		Crab Orchard	About 100 feet upstream of confluence of High School Tributary.	*420
			About 300 feet upstream of Old Creal Springs Road	*427
			About 1,900 feet downstream of DeYoung Street	*430
Maps available for inspection at the Clerk's Office, City Hall, 100 Tower Square Plaza, Marion, Illinois.				
Send comments to Honorable Robert L. Butler, Mayor, City of Marion, City Hall, 100 Tower Square Plaza, Marion, Illinois 62959.				
Illinois	(C) Rosiclare, Harding County	Ohio River	At downstream corporate limits	*356
			At upstream corporate limits	*357
Map available for inspection at City Hall, Main Street, Rosiclare, Illinois.				
Send comments to Honorable Bill Cook, Mayor, City of Rosiclare, City Hall, Box 474, Main Street, Rosiclare, Illinois 62982.				
Indiana	(Uninc.) Decatur County	Flatrock River	Decatur-Shelby County Line	*788
			Just upstream of Unnamed Tributary about 1.89 miles upstream of Conrail.	*805
			About 1.25 miles downstream of County Road 400 West.	*814
			Just downstream of County Road 400 West	*829
		Clifty Creek	About 0.6 mile downstream of County Road 100 West	*795
			About 0.78 mile upstream of County Road 100 West	*813
		Sand Creek	About 0.49 mile downstream of City of Greensburg corporate limits.	*901
			Just downstream of City of Greensburg corporate limits.	*910
		Gas Creek	About 200 feet downstream of Montgomery road	*932
			Just upstream of Montgomery Road	*935
			About 1.08 miles upstream of Barachel Lane	*951
		Little Flatrock River	About 0.35 mile upstream from mouth	*811
			About 1.73 miles upstream from mouth	*840
		Muddy Fork	About 0.6 mile downstream of Park Road	*886
			Just downstream of Park Road	*889
			Just upstream of Park Road	*894
			Just upstream of Dam	*901
			About 0.6 mile upstream of State Road 3 bypass	*915

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Unnamed Tributary to Muddy Fork	Just downstream of Dam	*913
			Just upstream of Dam	*918
			Just upstream of Conrail	*922
			Just upstream of State Road 3 bypass	*925
			About 0.16 mile upstream of U.S. Highway 421	*929
		Unnamed Tributary to Salt Creek	About 0.46 mile downstream of Base Road	*906
			Just downstream of Base Road-850	*919
			Just upstream of Base Road-850 East Road	*925
			About 0.48 mile upstream of Base Road-850 East Road	*931
		Unnamed Tributary to Sand Creek	About 0.02 mile upstream from mouth	*935
			About 0.92 mile upstream from mouth	*963
		Fall Fork Clifty Creek	About 0.28 feet downstream of State Highway 46	*786
			Just downstream of 700 West Road	*798
			Just upstream of 700 West Road	*802
			Just downstream of County Road 200 South	*805
		Turnover Creek	Just upstream of County Road 1300 South	*746
			Just downstream of State Road 3	*763

Maps available for inspection at the Decatur County Courthouse, Greensburg, Indiana.

Send comments to Honorable Gordon Springmeir, Chairman of the County Commissioners, Decatur County, Decatur County Courthouse, Greensburg, Indiana 47240.

Indiana	(C) Greensburg, Decatur County	Sand Creek	Downstream corporate limit	*910
			upstream corporate limit	*924
		Gas Creek	About 0.2 mile downstream of Franklin Street	*907
			About 150 feet downstream of Franklin Street	*909
			Just upstream of Franklin Street	*916
			Just downstream of Conrail	*922
			Just upstream of Conrail	*928
			About 0.42 mile upstream of Barachel Lane	*943
		Unnamed Tributary to Muddy Fork	About 0.48 mile downstream of Michigan Avenue	*925
			Just downstream of Conrail	*935

Maps available for inspection at City Hall, Greensburg, Indiana.

Send comments to Honorable Sheldon Smith, Mayor, City of Greensburg, City Hall, Greensburg, Indiana 47240.

Indiana	(T) Middlebury, Elkhart County	Little Elkhart River	About 1.0 mile downstream of State Route 13	*808
			About 0.95 mile downstream of State Route 13	*813
			About 0.87 mile upstream of County Road 16	*825

Maps available for inspection at the Town Hall, Middlebury, Indiana.

Send comments to Honorable Ernie Miller, Town Board President, Town of Middlebury, Town Hall, P.O. Box 812, Middlebury, Indiana 46540.

Indiana	(C) Nappanee Elkhart and Kosciusko Counties	Berlin Court Ditch	About 1400 feet downstream of County Road 7	*850
			About 900 feet upstream of County Road 3	*859

Maps available for inspection at the City Hall—Municipal Center, 300 West Lincoln, Nappanee, Indiana.

Send comments to Honorable Robert Callander, Mayor, City of Nappanee, City Hall—Municipal Center, 300 West Lincoln, Box 29, Nappanee, Indiana 46550.

Kansas	(Uninc.) Harvey, County	Little Arkansas River	At downstream county boundary	*1374
			At confluence of Kisiwa Creek	*1385
			Just upstream of Atchison, Topeka, and Santa Fe Railway.	*1392
			Just downstream of U.S. Route 50	*1398
		Sand Creek	At confluence with Little Arkansas River	*1375
			Just upstream of County Road 584	*1386
			Just upstream of County Road 580	*1396
			Just upstream of County Road 617	*1406
			Just downstream of West First Street	*1420
			About 800 feet downstream of Missouri Pacific Railroad	*1425
			Just upstream of County Road 584	*1440
			About 2100 feet downstream of County Road 580	*1451
		Mud Creek	At confluence with Sand Creek	*1398
			Just upstream of Atchison, Topeka and Santa Fe Railway.	*1416
			Just upstream of U.S. Route 50	*1420
			Just upstream of West First Street	*1431
			Just upstream of County Road 568	*1440
			Just downstream of U.S. Route 81	*1454
		State Creek	At confluence with Sand Creek	*1415
			At City of Newton corporate limits	*1417
		Emma Creek-West Emma Creek	At confluence with Little Arkansas River	*1378
			Just upstream of County Road 580	*1389
			Just upstream of Atchison, Topeka and Santa Fe Railway.	*1403
			Just downstream of County Road 570	*1410
		East Emma Creek	At confluence with Emma Creek	*1397
			Just upstream of Atchison, Topeka and Santa Fe Railway.	*1403
			Just downstream of County Road 570	*1416
		Middle Emma Creek	Just upstream of Interstate 35	*1456
			Just upstream of County Road 556	*1461
			About 6100 feet upstream of County Road 556	*1468
		Middle Emma Creek Tributary No. 1.	At confluence with Middle Emma Creek	*1457
			About 1000 feet upstream of confluence with Middle Emma Creek	*1461

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Just downstream of County Road 556	*1473
		Middle Emma Creek Tributary No. 2.	At confluence with Middle Emma Creek	*1462
			About 5900 feet upstream of confluence with Middle Emma Creek.	*1478
		Halstead Slough	Just upstream of County Road 803	*1389
			Just upstream of Sixth Street	*1393
			About 0.08 mile upstream of Atchison, Topeka and Santa Fe Railway.	*1396
		Sedgwick Ditch	At county boundary	*1377
			About 0.58 miles upstream of Seventh Street	*1381
			About 1.1 miles upstream of Seventh Street	*1388

Maps available for inspection at the Harvey County Courthouse, Newton, Kansas.

Send comments to Honorable Charles Benjamin, Chairman of the County Commission, Harvey County, Harvey County Courthouse, Newton, Kansas 67114.

Maryland	Rock Hall, Town, Kent County	Grays Inn Creek	Downstream corporate limits	*8
			Upstream Rock Hall Road	*12
		Chesapeake Bay	Shoreline at southwestern corporate limits	*11
			Shoreline at northern corporate limits	*9

Maps available for inspection at the Municipal Building, South Main Street, Rock Hall, Maryland.

Send comments to Honorable P. J. Elbourn, Sr., Mayor of Rock Hall, P.O. Box 8, South Main Street, Rock Hall, Maryland 21661.

Massachusetts	Holland, Town, Hampden County	Hamilton Reservoir	Upstream from Sturbridge Road	*686
			Downstream from Mashapaug Road Causeway	*687
			Upstream corporate limits	*690
		Stevens Brook	Confluence with Hamilton Reservoir	*687
			Downstream from Marcey Road (first crossing)	*763
			Downstream from Marcey Road (second crossing)	*776
		May Brook	Confluence with Hamilton Reservoir	*690
			Approximately 2,540 feet upstream from confluence with Hamilton Reservoir.	*736

Maps available for inspection at the Town Hall, Holland, Massachusetts.

Send comments to Honorable Philip Babineau Road, Chairman of the Holland Board of Selectmen, Sturbridge, R.F.D. 2, Box 62, Southbridge, Massachusetts 01550.

New Jersey	Allamuchy, township, Warren County	Musconetcong River	Downstream corporate limits	[redacted]
			Dam (downstream)	*624
			Kenny Road (upstream)	*641

Maps available for inspection at the Office of the Township Clerk, Allamuchy Municipal Building, Allamuchy, New Jersey.

Send comments to Honorable Alfred Walmsley, Mayor of Allamuchy Township, P.O. Box A, Allamuchy, New Jersey 07820.

New Jersey	Allenhurst, borough, Monmouth County	Atlantic Ocean	Entire shoreline within community	*13
		Deal Lake	Entire shoreline within community	*11

Maps available for inspection at the Municipal Building, 125 Crolies Avenue, Allenhurst, New Jersey.

Send comments to Honorable James A. O'Malley, Mayor of Allenhurst, 125 Crolies Avenue, Allenhurst, New Jersey 07711.

New Jersey	Asbury Park, City, Monmouth County	Atlantic Ocean	Entire shoreline within community	*13
		Deal Lake	Entire shoreline within community	*11
		Sunset Lake	Entire shoreline within community	*10
		Lake Wesley	Entire shoreline within community	*10

Maps available for inspection at the City Hall, One Municipal Plaza, Asbury Park, New Jersey.

Send comments to Honorable Ray Kramer, Mayor of Asbury Park, One Municipal Plaza, Asbury Park, New Jersey 07712.

New Jersey	Atlantic City, city, Atlantic County	Atlantic Ocean	Entire shoreline within community	*15
			Shoreline of Absecon Inlet at Atlantic Avenue (extended).	*14
				*13
			Shoreline of Absecor Inlet at Melrose Avenue	*12
			Shoreline of Absecon Inlet at Parkside Avenue (extended).	*10
				*12
			Shoreline of Clan Creek at Massachusetts Avenue (extended).	*12
				*11
			Shoreline of Absecon Channel at Poles Point	
			Shoreline of Absecon Bay at Weakfish Island	
			Shoreline of Great Thorofare at Pleasantville Boulevard.	
			Shoreline of Beach Thorofare at Arizona Avenue (extended).	*10
			Shoreline of Inside Thorofare at Albany Avenue	*10
			Shoreline of Beach Thorofare at Pleasantville Boule[redacted].	*11

Maps available for inspection at the Office of the City Engineer, City Hall, 1301 Bacharach Boulevard, Atlantic City, New Jersey.

Send comments to Honorable Michael J. Matthews, Mayor of Atlantic City, 1301 Bacharach Boulevard, Atlantic City, New Jersey 08401.

New Jersey	Blairstown, township, Warren County	Paulins Kill	Upstream Vail Road	*318
			Approximately 3,000' upstream of Rubble Dam	*324
			Upstream Lambert Road	*330
			Confluence of Jacksonburgh Creek	*332
			Confluence of Blair Creek	*343
			Upstream corporate limits	*357
		Jacksonburg Creek	Confluence with Paulins Kill	*332
			Upstream New Jersey State Highway Route 94	*363
			Upstream dam	*383
		Blair Creek	Confluence with Paulins Kill	*343

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Upstream Gordon Lane	*365
			Upstream corporate limits	*369

Maps available for inspection at the Municipal Building, Stillwater Road, Blairstown, New Jersey.

Send comments to Honorable Carl Race, Mayor of Blairstown Township, P.O. Box 128, Blairstown, New Jersey 07825.

New Jersey	Brigantine, city, Atlantic County	Atlantic Ocean	Entire Atlantic Ocean shoreline within community	*15
			Shoreline of Bonita Tideway at 35th Street (extended)	*10
			Shoreline of Steelman Bay at Travers Place (extended).	*13
			Shoreline of Steelman Bay at 13th Street (extended)	*11

Maps available for inspection at the City Hall, 1417 West Brigantine Avenue, Brigantine, New Jersey.

Send comments to Honorable J. Edward Kline, Mayor of Brigantine, 1417 West Brigantine Avenue, Brigantine, New Jersey 08206.

New Jersey	Evesham (township), Burlington County	Southwest Branch Rancocas Creek.	50 feet upstream from the center of North Elmwood Road	*50
		Barton Run	50 feet upstream from the center of Taunton Lake Road	*57
		Tributary No. 1 to Barton Run	At the center of Tuckerton Road	*42
		Tributary No. 2 to Barton Run	At confluence with Barton Run	*46
		Black Run	At the center of Taunton Lake Road	*52
		Tributary to Black Run	200 feet upstream from the center of Kettle Run Road	*90
		Kettle Run	100 feet upstream from the center of Hopewell Road	*126
		South Branch Pennsauken Creek	At the center of Marlton Pike	*73
		Cropwell Brook	100 feet upstream from the center of Conestoga Drive	*65

Maps available for inspection at Municipal Building, 125 E. Main Street, Marlton, New Jersey.

Send comments to Honorable Raymond Brusel, 125 E. Main Street, Marlton, New Jersey 08053.

New Jersey	Hackettstown, town, Warren County	Musconetcong River	Confluence of Trout Brook	*492
			State Route 24 (upstream)	*503
			East Avenue (upstream)	*514
			U.S. Route 46 (upstream)	*522
			Confluence of Hackettstown Brook	*528
			Stephen's Park Road (upstream)	*599
			Upstream corporate limits	*609
		Trout Brook	Confluence with Musconetcong River	*492
			State Route 57 (upstream)	*495
			Hatchery Drive (upstream)	*509
			Hatchery Road (upstream)	*516
			Grand Avenue (upstream)	*529
			Conrail (upstream)	*534
			Prospect Street (upstream)	*564
			U.S. Route 46 (upstream)	*569
			Baldwin Street (upstream)	*581
			Approximately 1,130 feet upstream of Baldwin Street	*610
		Hackettstown Brook	Confluence with Musconetcong River	*528
			Willow Grove Street (upstream)	*531
			Plane Street (upstream)	*536
			Maple Avenue (upstream)	*540
			Franklin Street (upstream)	*542
			Private Drive (downstream), approximately 1,000 feet upstream of Franklin Street.	*547

Maps available for inspection at the Office of the Town Engineer located in the Municipal Building, 215 Stiger Street, Hackettstown, New Jersey.

Send comments to Honorable James Smith, Mayor of Hackettstown, 215 Stiger Street, Hackettstown, New Jersey 07840.

New Jersey	Little Egg Harbor, township, Ocean County	Mill Branch	At confluence of Goffords Mill Branch	*11
			Nugentown Road (upstream)	*12
		Giffords Mill Branch	At confluence with Mill Branch	*11
			Gifford Lane (upstream)	*14
			Otis Bog Road (upstream)	*18
		Willis Creek	At Atlantic Boulevard	*8
			Center Street (upstream)	*21
		Atlantic Ocean	Little Egg Harbor	*8
			Great Bay	*9
			Mullica River	*9

Maps available for inspection at the Municipal Building, Gifford Road and Route 9, Tuckerton, New Jersey.

Send comments to Honorable F. Richard Chiovarou, Mayor of Little Egg Harbor, P.O. Box 262, Tuckerton, New Jersey 08087.

New Jersey	Loch Arbour, village, Monmouth County	Atlantic Ocean	Entire shoreline within community	*13
		Deal Lake	Entire shoreline within community	*11

Maps available for inspection at the Municipal Building, 550 Main Street, Loch Arbour, New Jersey.

Send comments to Honorable John L. Reng, Mayor of Loch Arbour, 550 Main Street, Loch Arbour, New Jersey 07711,

New Jersey	Longport, borough, Atlantic County	Atlantic Ocean	Entire shoreline from northeastern corporate limits to Point Drive (extended).	*15
			Entire shoreline of Risley Channel and Beach Thorofare from Point Drive (extended) to northeastern corporate limits.	*10

Maps available for inspection at the Municipal Building, 2301 Atlantic Avenue, Longport, New Jersey.

Send comments to Honorable Leon Leopardi, Mayor of Longport, 2301 Atlantic Avenue, Longport, New Jersey 08403.

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

[illegible]	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
New Jersey	Mansfield, township, Warren County	Musconetcong River	Downstream corporate limits	[illegible]
			Anthony Road (upstream side)	*395
			Penwell Dam (upstream side)	*416
			Stephensburg Road (upstream side)	*436
			Ruth Lane (upstream side)	*443
			Kings Highway (upstream side)	*460
			Newburgh Road (upstream side)	*484
			Upstream corporate limits	*492
		Pohatcong Creek	Downstream corporate limits	*473
			Willever Lake Dam (upstream side)	*494
			Hoffman Road (upstream side)	*504
			Jackson Valley Road, downstream crossing (upstream side).	*545
			[illegible]	*504
			Mitchell Road (ustream side)	*667
			Jackson Valley Road, upstream crossing (upstream [illegible].	*714
			Smith Road (upstream crossing)	*780
			Jane Chapel Road (downstream side)	
		Hances Brook	Confluence with Musconetcong River	*443
			Watters Road (upstream side)	*466
			Hazen Road (upstream side)	*477
			Highland Avenue (upstream side)	*496
		Trout Brook	Confluence with Musconetcong River	*492
			Hatchery Road	*500

Maps available for inspection at the Municipal Building, Port Murray, New Jersey.
Send comments to Honorable William Mannon, Mayor of Mansfield Township, Municipal Building, Box 105, Port Murrary, New Jersey 07865.

New Jersey	Medford (township) Burlington County	Southwest Branch Rancocas Creek.	60 feet upstream from center of South Main Street	*39
		Sharps Run	50 feet upstream from center of Jennings Road	*40
		Barton Run	50 feet upstream from center of Tuckerton Road	*44
		Tributary No. 1 to Barton Run	200 feet upstream from confluence with Barton Run	*42
		Haynes Creek	50 feet upstream from center of Elm Drive	*41
		Ballinger Run	50 feet upstream from center of Ramblewood Lane	*47
		Tributary to Ballinger Run	50 feet upstream from center of South Lakeside Drive East	*49
		Blue Lake Run	100 feet upstream from center of Berlin Road	*50
		Mimosa Lake Run	50 feet upstream from center of Shanty Dam Drive	[illegible]
		Little Creek	150 feet upstream from center of Church Road	*24
		Skeet Run	25 feet upstream from center of Chairville Road	*34

Maps available for inspection at Office of the Township Planners, 19 N. Main Street, Medford; New Jersey.
Send comments to Honorable David C. Hartnett, 19 N. Main Street, Medford, New Jersey 08055.

New Jersey	North Plainfield, borough, Somerset County	Green Brook	At downstream corporate limits	*58
			Upstream of West End Avenue	*67
			Upstream of Duer Street	*86
			Upstream of Norwood Avenue	*104
			At upstream corporate limits	*128
		Stony Brook	At confluence with Green Brook	[illegible]
			Upstream of Rockview Terrace	*74
			Downstream of Grove Street	*93
			At upstream corporate limits	*114

Maps available for inspection at the Municipal Building, 263 Somerset Street, North Plainfield, New Jersey.
Send comments to Honorable Steven Novack, Mayor of North Plainfield, 263 Somerset Street, North Plainfield, New Jersey 07060.

New Jersey	Piscataway, township, Middlesex County	Raritan River	Downstream of State Route 18	*16
			Upstream of Fieldville Dam	*30
		Ambrose Brook	Upstream of Possumtown Road (first crossing)	*43
			Upstream of confluence of Dotys Brook	*51
			Upstream of Lake Nelson Dam	*62
			Upstream of stelton Road	*78
		Dotys Brook	Downstream of South Randolphville Road	*50
			Upstream of Earthen Dam	*63
			Upstream of South Washington Avenue	[illegible]
			Downstream of Stelton Road	[illegible]
		Bound Brook	Upstream of South Avenue	*50
			Upstream of New Market Lake Dam	*58
			Downstream of New Brunswick Avenue	*61
		Bonygutt Brook	Downstream of Hazelwood Place	*58
			Upstream of Chestnut Place	*63
			Upstream of Leslie Avenue	*66

Maps available for inspection at the Municipal Building, Hoes Road and Sidney Road, Piscataway, New Jersey.
Send comments to Honorable Robert G. Smith, Mayor of Piscataway Township, Municipal Building, Hoes Road and Sidney Road, Piscataway, New Jersey 08854.

New Jersey	Point Pleasant Beach, borough, Ocean County	Atlantic Ocean	Entire shoreline within community	*13
		Manasquan	From approximately 850 feet east of Ocean Avenue, extended to Conrail Bridge.	*10
			From Conrail bridge to Orchard Avenue, extended	*8

Maps available for inspection at the Municipal Building, 416 New Jersey Avenue, Point Pleasant Beach, New Jersey.
Send comments to Honorable Daniel J. Hennessey, Mayor of Point Pleasant Beach, 416 New Jersey Avenue, Point Pleasant Beach, New Jersey 08742.

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. Elevation in feet (NGVD)
New Jersey	Seaside Heights, borough, Ocean County	Atlantic Ocean	Entire shoreline within Community	*13
		Barnegat Bay	Entire shoreline within Community	*6

Maps available for inspection at the Borough Hall, Boulevard and Somerset Avenue, Seaside Heights, New Jersey.

Send comments to Honorable George B. Tompkins, Mayor of Seaside Heights, P.O. Box 38, Seaside Heights New Jersey 08751.

New Jersey	Ventnor, City, Atlantic County	Atlantic Ocean	Entire Atlantic Ocean Shoreline within community	*15
			Shoreline of Beach Thorofare at Harvard Avenue, extended.	*10
			Entire shoreline of Shelter Island	*11

Maps available for inspection at the City Hall, Cambridge and Atlantic Avenues, Ventnor, New Jersey.

Send comments to Honorable Raymond W. Hart, Mayor of Ventnor, Cambridge and Atlantic Avenues, Ventnor, New Jersey 08406.

New Mexico	City of Albuquerque, Bernalillo County	Rio Grande	Just upstream of Rio Bravo Boulevard	*4,931
			Just downstream of Bareias Bridge	*4,945
		Rio Grande (east overbank)	Approximately 1,200 feet upstream of Interstate Highway 25.	*4,901
		Arroyo de las Calabacillas	Just upstream of Golf Course Road	*5,145
		Tijeras Arroyo	Just upstream of the Atchison-Topeka and Santa Fe Railroad.	*4,944
			Just upstream of Broadway Boulevard	*4,982
			Just downstream of Four Hills Road	*5,546

Maps available for inspection at Municipal Development Department, Fourth Floor, City Hall, 400 Marquette Avenue, N.W., Albuquerque, New Mexico 87103.

Send comments to Mayor Harry E. Kinney, Mr. Carl Roldolf, Director, Municipal Development Department or Mr. Frank Kleinhenz, City Administrator, City Hall, P.O. Box 1293, Albuquerque, New Mexico 87103.

New Mexico	Unincorporated Areas of Bernalillo County	Rio Puerco	Just downstream of Interstate Highway 40	*5,259
		Unnamed Arroyo No. 1	Just downstream of Interstate Highway 40	*5,266
			Just upstream of Frontage Road	*5,282
		San Pedro Creek	Just upstream of extension of Erickson Road (Dip Section).	*6,633
			Just upstream of State Highway 14	*6,798
		Frost Arroyo	Just upstream of Private Drive (approximately 5,500' above confluence).	*6,644
			Just upstream of Private Drive (approximately 7,760' above confluence).	*6,664

Maps available for inspection at County Clerk's Office, County Courthouse Annex, 505 Central N.W., Albuquerque, New Mexico 87102.

Send comments to Mr. Alex Abeyta, County Manager or Mr. Norman McNew, County Administrative Office Building, 620 Lomas Street, N.W., Albuquerque, New Mexico 87102

New York	Bayville, Village Nassau County	Long Island Sound	Entire shoreline within community	*17
			Oyster Bay Harbor shoreline and Mill Neck Creek shoreline from Bayville Bridge to Bayview Avenue extended.	*13
		Mill Neck Creek	Mill Neck Creek shoreline from Bayview Avenue extended to and including the Oak Neck Creek shoreline within community.	*12

Maps available for inspection at the Village Hall, 34 School Street, Bayville, New York

Send comments to Hon. Victor Siegel, Mayor of Bayville, Village Hall, 34 School Street, Bayville, New York 11709.

New York	Canadice, Town, Ontario County	Canadice Outlet	Downstream corporate limits	*1,089
			Upstream of Hollow Road	*1,093
			Upstream of Purcell Hill Road	*1,100
		Affolter Gully	Confluence with Honeoye Lake	[illegible]
			Confluence with Tributary 5–B	*819
			Approximately 600 feet upstream of Tributary 5–B confluence	*834
		Tributary T–2	Confluence with Honeoye Lake	[illegible]
			Upstream of Access Road	*814
			Approximately 325 feet upstream of Access Road	*842
		Tributary 5–B	Confluence with Affolter Gully	*819
			Approximately 490 feet upstream of Affolter Gully confluence	*841
		Tributary T–7	Confluence with Honeoye Lake	*806
			Upstream of Access Road	*812
			Approximately 750 feet upstream of Access Road	*837
		Tributary T–10	Confluence with Honeoye Lake	[illegible]
			Upstream of Private Road	*825
			Approximately 270 feet upstream of Private Road	*842
		Tributary T–15	Confluence with Honeoye Lake	[illegible]
			Upstream of Access Road	[illegible]
			Approximately 200 feet upstream of Access Road	[illegible]
		Tributary T–16	Confluence with Honeoye Lake	[illegible]
			Upstream of Private Road	*816
			Approximately 270 feet upstream of Private Road	*832
		Tributary T–17	Confluence with Honeoye Lake	[illegible]
			Downstream of Private Road	*820
			Upstream of Private Road	[illegible]
		Honeoye Lake	Entire shoreline in the community	[illegible]
		Hemlock Lake	Entire shoreline in the community	[illegible]

Maps available for inspection at the Town Hall, County Route 37, Springwater, New York.

Send comments to Honorable Sheryl Volpe, Supervisor, Town of Canadice, Box 268A, Springwater, New York 14560.

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
New York	Cortland, City Cortland County	Tioughnioga River	Downstream corporate limits	*1,092
			Downstream U.S. Route 11	*1,097
			At confluence of East and West Branches Tioughnioga River.	*1,100
		East Branch Tioughnioga River	At confluence with Tioughnioga River	*1,100
			Upstream corporate limits	*1,103
		West Branch Tioughnioga River	Approximately 1,400' downstream of Conrail	*1,100
			Upstream of Rickard Street	*1,109
			Confluence of Dry Creek	*1,115
			Upstream corporate limits	*1,117
		Otter Creek	Confluence with West Branch Tioughnioga River	*1,115
			Downstream Arthur Avenue	*1,120
			Upstream State Route 222	*1,129
			Upstream corporate limits	*1,138
		Dry Creek	Confluence with West Branch Tioughnioga River	*1,115
			Upstream Main Street	*1,120
			Upstream Madison Street	*1,130
			Upstream corporate limits	*1,145

Maps available for inspection at the City Hall, 25 Court Street, Cortland, New York.

Send comments to Honorable Edmund Hart, Mayor of the City of Cortland, City Hall, 25 Court Street, Cortland, New York 13045.

New York	Cortlandville, Town, Cortland County	Tioughnioga River	Downstream corporate limits	*1,072
			Confluence of Trout Brook	*1,089
			Confluence of East and West Branches of Tioughnioga River.	*1,100
		East Branch Tioughnioga River	Confluence with Tioughnioga River	*1,100
			Upstream corporate limits	*1,106
		West Branch Tioughnioga River	Downstream corporate limits	*1,117
			Upstream corporate limits	*1,122
		Tributary A to Tioughnioga River	Confluence with Tioughnioga River	*1,085
			Downstream of East Blodgett Mills Road	*1,111
			Approximately 1,800' upstream of East Blodgett Mills Road	*1,206
		Tributary B to Tioughnioga River	At confluence with Tioughnioga River	*1,091
			Upstream of U.S. Route 11	*1,121
			Downstream of Interstate 81	*1,160
		Blue Creek	Confluence with Dry Creek	*1,183
			Upstream of Kinney Gulf Road	*1,202
		Dry Creek	Corporate limits	*1,145
			Confluence of Blue Creek	*1,183
			Downstream of Kinney Gulf Road	*1,209
		Mosquito Creek	Downstream corporate limits of Village of McGraw	*1,207
			Approximately 3,000' upstream of corporate limits	*1,278
			Upstream of McGraw North Road (1st crossing)	*1,371
			Upstream of Heath Road	*1,407
			Approximately 1,000' downstream of corporate limits	*1,487
			Upstream corporate limits	*1,518
		Otter Creek	Downstream corporate limits	*1,138
			Approximately 500' upstream of McLean Road	*1,168
		Smith Brook	Downstream corporate limits	*1,172
			Approximately 2,000' upstream of corporate limits	*1,200
			Upstream corporate limits	*1,271
		Trout Brook	Confluence with Tioughnioga River	*1,089
			Upstream of Interstate 81 Northbound	*1,095
			Downstream corporate limits of Village of McGraw	*1,125
			Upstream corporate limits	*1,204

Maps available for inspection at the Town Hall, 15 Terrace Road, Cortlandville, New York.

Send comments to Honorable Stanley Nadolski, Supervisor of the Town of Cortlandville, Town Hall, 15 Terrace Road, Cortlandville, New York 13045.

New York	East Bloomfield, Ontario County	Mud Creek	Extreme downstream corporate limits	*682
			Brace Road (upstream side)	*731
			North Bloomfield Road (upstream side)	*766
			Abandoned railroad (upstream side)	*812
			U.S. Route 20/State Route 5 (upstream side)	*836

Maps available for inspection at the Town Hall, Main Street, East Bloomfield, New York.

Send comments to Honorable William Compton, Supervisor of the Town of East Bloomfield, R.D. 2, Box 203A, Holcomb, New York 14469.

New York	Hadley, Town, Saratoga County	Hudson River	Downstream corporate limits	*559
			Downstream State Route 9N	*560
			Confluence of Sacandaga River	*561

Maps available for inspection at the Town Hall, 11418 Stoney Creek Road, Hadley, New York.

Send comments to Honorable Emma L. Smead, Town Supervisor, Town Hall, 11418 Stoney Creek Road, Hadley, New York 12835.

New York	Harriman, Village, Orange County	Ramapo River	At downstream corporate limits	*552
			Approximately 200' upstream of State Route 17	*527
			Approximately 200' upstream of River Road	*537
			Approximately 150' upstream of Conrail	*552
			Upstream corporate limits	*564
		Tributary 1	Downstream corporate limits	*522
			Upstream corporate limits	*522

Maps available for inspection at the Village Hall, in the Clerk's Office, Harriman, New York.

Send comments to Honorable David E. Clark, Mayor of Harriman, Village Hall, P.O. Box 337, Harriman, New York 10926.

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
New York	Homer, Town, Cortland County	East Branch Tioughnioga River	Downstream corporate limits	*1,106
			Upstream East Homer crossing	*1,125
			Upstream of Young's crossing	*1,136
		West Branch Tioughnioga River	Downstream corporate limits	*1,131
			Upstream of Conrail	*1,133
			At confluence of Cold Brook	*1,143
			Upstream of Little York Dam	*1,155
			Upstream corporate limits	*1,156
		Factory Brook	Downstream corporate limits	*1,143
			Upstream Brake Hill Road	*1,181
			Upstream of downstream crossing of State Route 41	*1,198
			Upstream of upstream crossing of State Route 41	*1,229
			Upstream corporate limits	*1,299
		Cold Brook	Confluence with West Branch Tioughnioga River	*1,143
			Upstream State Route 281	*1,159
			Upstream Ayers Road	*1,194
			Downstream Cold Brook Road	*1,234
		Albright Creek	Confluence with East Branch Tioughnioga River	*1,125
			Upstream State Route 13	*1,141
			Approximately .6 mile upstream State Route 13	*1,194
		Tributary A to Factory Brook	Confluence with Factory Brook	*1,148
			Upstream State Route 41	*1,192
			Approximately .26 mile upstream of State Route 41	*1,214
		Tributary B to Factory Brook	Confluence with Factory Brook	*1,216
			Upstream State Route 41	*1,245
			Approximately 600 feet upstream of State Route 41	*1,260

Maps available for inspection at the Town Hall, 31 North Main Street, Homer, New York.

Send comments to Honorable William Wright, Supervisor, Town of Homer, Town Hall, 31 North Main Street, Homer, New York 13077.

New York	Homer, Village, Cortland County	Factory Brook	Confluence with West Branch Tioughnioga River	*1,130
			Upstream of Conrail	*1,136
			Upstream corporate limits	*1,143
		West Branch Tioughnioga River	Downstream of State Route 281	*1,120
			Upstream of Albany Street	*1,126
			Upstream of Water Street	*1,129
			Upstream of Conrail	*1,133

Maps available for inspection at the Town Hall, 31 North Main Street, Homer, New York.

Send comments to Honorable Harry Calale, Mayor of the Village of Homer, Town Hall, 31 North Main Street, New York 13077.

New York	Ilion, Village, Herkimer County	Mohawk River	Upstream corporate limits	*[illegible]
			Upstream Central Avenue	*395
			Downstream corporate limits	*395

Maps available for inspection at the Village Clerk's Office, Village Hall, 45 Morgan Street, Ilion, New York.

Send comments to Honorable Charles Haggerty, Village Hall, 45 Morgan Street, Ilion, New York 13357.

New York	Lake Luzerne, Town, Warren County	Hudson River	Downstream of Palmers Falls Dam	*447
			Downstream of Curtis Mill Dam	*535
			Downstream of State Route 9N	*560
			Confluence of Sacandaga River	*561

Maps available for inspection at the Town Hall, 2143 Main Street, Lake Luzerne, New York.

Send comments to Honorable Victor R. Grant, Supervisor of Lake Luzerne, Town Hall, 2143 Main Street, Lake Luzerne, New York 12846.

New York	Munnsville, Village, Madison County	Oneida Castle	Downstream corporate limits	*632
			Upstream [illegible] Route 46	*664
			Upstream corporate limits	*688

Maps available for inspection at the residence of Honorable J. Jack Kern, Mayor, 5222 South Main Street, Munnsville, New York.

Send comments to Honorable M. Jack Kern, Mayor, 5222 South Main Street, Munnsville, New York 13409.

New York	Oneida Castle, Village, Oneida County	Oneida Creek	Downstream corporate limits	*429
			Upstream Conrail	*444
			Upstream Middle Road	*451
			Upstream corporate limits	*453

Maps available for inspection at the residence of Ms. Florence Sweetman, Village Clerk, 97 Seneca Street, Oneida, New York.

Send comments to Honorable James Campbell, Mayor, 17 West Second Street, Oneida Castle, New York 13421.

New York	Oriskany, Village, Oneida County	Oriskany Creek	Conrail (downstream side)	*419
			Downstream State Route [illegible]	*422
			Upstream corporate limits	*429
		Mohawk River	Downstream corporate limits (extended)	*418
			Upstream corporate limits (extended)	*419

Maps available for inspection at the Village Clerk's Office, Municipal Building, Oriskany, New York.

Send comments to Honorable Robert J. Moore, Mayor of Oriskany, Municipal Building, Oriskany, New York 13424.

New York	Paris, Town, Oneida County	Sauquoit Creek	Downstream corporate limits	*737
			Upstream 1st dam	*758
			Upstream Pinnacle Road	*809
			Upstream [illegible] City Road	*877

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Upstream State Route 8 culvert (1st crossing)	*897
			Downstream corporate limits of Village of Clayville	*930
			Upstream corporate limits of Village of Clayville	*1,050
			Upstream State Route 8 (2nd crossing)	*1,071
			Upstream State Route 8 (3rd crossing)	*1,096
			Upstream State Route 8 (4th crossing)	*1,151
			Upstream Reservoir Road	*1,179
			Approximately 0.75 mile upstream of Reservoir Road	*1,222
Maps available for inspection at the Town Clerk's Office, Sauquoit Valley Elementary School, Sulphur Spring Road, Sauquoit, New York.				
Send comments to Honorable Mitchell L. Fadel, Town Supervisor, P.O. Box 288, Clayville, New York 13322.				
New York	Schenectady, City, Schenectady County	Mohawk River	At downstream corporate limits	*226
			At upstream corporate limits	*232
Maps available for inspection at the City's Clerk's Office, City Hall, Jay Street, Schenectady, New York.				
Send comments to Honorable Frank J. Duci, Mayor of Schenectady, City Hall, Jay Street, Schenectady, New York 12305.				
New York	Sherrill, City, Oneida County	Oneida Creek	Downstream corporate limits	*454
			Downstream of Kenwood Avenue	*470
			Upstream corporate limits	*486
Maps available for inspection at the City Hall, 601 Sherrill Road, Sherrill, New York.				
Send comments to Honorable Wallace Glasgow, City Manager, 601 Sherrill Road, Sherrill, New York 13461.				
New York	Stockbridge, Town, Madison County	Oneida Creek	Downstream approximately 620 feet from County Road	*605
			Upstream corporate limits	*635
Maps available for inspection at the residence of Honorable Charles Young, Town Supervisor, 6065 City Manager, Williams Road, Munnsville, New York				
Send comments to Honorable Charles Young, Town Supervisor, 6065 Williams Road, Munnsville, New York 13409.				
New York	Utica, City, Oneida County	Mohawk River	Downstream corporate limits	*407
			Downstream North Genesee Street	*409
			Upstream North-South Arterial Highway	*414
		Sauquoit Creek	Downstream corporate limits	*487
			Upstream State Route 5 East	*508
			Upstream third spillway	*520
			Upstream Genesee Street	*534
			Upstream third Conrail crossing	*550
			Upstream corporate limits	*567
		Reall Creek	Confluence with New York State Barge Canal	*409
			Upstream North Genesee Street	*416
			Upstream New York State Thruway	*424
			Upstream Trenton Avenue	*434
			Upstream corporate limits	*446
		Nail Creek	Confluence with Mohawk River	*414
			Upstream Alder Street	*481
			Downstream second Conrail crossing	*502
			Approximately 500' upstream of Genesee Street	*543
			Upstream Oneida Street	*617
			Upstream corporate limits	*627
		Starch Factory Creek	Confluence with Mohawk River	*407
			Downstream East-West Arterial Highway	*417
			Upstream of second Conrail crossing	*439
			Upstream Rutger Street	*453
			Upstream Ludlow Ave	*489
			Upstream Albany Street	*511
			Approximately 2,800 feet upstream of Albany Street	*550
			Upstream South Park Drive	*581
			Upstream corporate limit	*594
		Tributary to Sauquoit Creek	Downstream corporate limits	*516
			Upstream corporate limits	*516
Maps available for inspection at the City Engineer's Office, City Hall, 1 Kennedy Plaza, Utica, New York.				
Send comments to Honorable Stephen Pawlings, Mayor, 1 Kennedy Plaza, Utica, New York 13502.				
New York	Whitestown, Town, Oneida County	Mohawk River	Downstream corporate limits	*414
			Upstream Hayes Road	*417
			Upstream corporate limits	*420
		Sauquoit Creek	Confluence with Mohawk River	*414
			Downstream Oriskany Road	*425
			Upstream corporate limits	*455
		Mud Creek	Confluence with Saquoit Creek	*449
			Upstream corporate limits	*457
		Oriskany Creek	Confluence with Mohawk River	*419
			Downstream Pleasant Valley Road	*440
			At New York State Thruway	*459
			Upstream County Route C	*481
			Upstream corporate limits	*504
		Deans Creek	Confluence with Oriskany Creek	*471
			Upstream corporate limits	*482
Maps available for inspection at the Town Clerk's Office, 8 Park Avenue, Whitesboro, New York 13492.				
Send comments to Honorable William Goodman, County Supervisor, 8 Park Avenue, Whitsboro, New York 13492.				
Ohio	(V) Athalia, Lawrence County	Ohio River	Within the corporate limits	*558
Maps available for inspection at the Village Hall, Athalia, Ohio. Send comments to Honorable Lee Roy Ramey, Mayor, Village of Athalia, Village Hall, Athalia, Ohio 45669.				

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Ohio	(V) Cheshire, Gallia County	Ohio River	Within the community	*574

Maps available for inspection at the Village Hall, Cheshire, Ohio. Send comments to Honorable Scott Lucas, Mayor, Village of Cheshire, Village Hall, Cheshire, Ohio 45620.

Ohio	(V) Dillonvale, Jefferson County	Short Creek	At downstream corporate limit	*739
			At upstream corporate limit	*741
		Piney Fork	About 1350 feet downstream of State Highway 150	*732
			At upstream corporate limit	*741

Maps available for inspection at the Mayor's Office, Village Hall, Main Street, Dillonvale, Ohio. Send comments to Honorable Silvio Bansl, Mayor, Village of Dillonvale, Village Hall, Main Street, Dillonvale, Ohio 43917.

Ohio	(V) Groveport, Franklin County	Big Walnut Creek	Just upstream of old Groveport Road	*726
			About 0.2 mile upstream of Chessie System	*728
		Little Walnut Creek	About 1.38 miles downstream of Golf Course Drive	*726
			Just downstream of Richardson Road	*732
		Tributary J	About 0.27 mile upstream of mouth	*739
			About 0.4 mile upstream of mouth	*470

Maps available for inspection at Village Hall, 605 Cherry Street, Groveport, Ohio. Send comments to Honorable Robert Degenhart, Mayor, Village of Groveport, Village Hall, 605 Cherry Street, Groveport, Ohio 43125

Ohio	(V) Hanging Rock, Lawrence County	Ohio River	At downstream corporate limits	*544
			At upstream corporate limits	*545

Maps available for inspection at the Village Hall, Railroad Street, Hanging Rock, Ohio. Send comments to Honorable Albert Hopper, Mayor, Village of Hanging Rock, Village Hall, Railroad Street, Hanging Rock, Ohio 45635.

Ohio	(V) Higginsport, Brown County	Ohio River	Within corporate limits	*511

Maps available for inspection at the Village Hall, Jackson Street, Higginsport, Ohio. Send comments to Honorable Danny Brown, Mayor, Village of Higginsport, Village Hall, Jackson Street, Higginsport, Ohio 45131.

Ohio	(C) Portsmouth Scioto County	Ohio River	About 0.8 mile downstream of U.S. Route 23	*[illegible]
			About 0.7 mile upstream of the Chessie System	*538

Maps available for inspection at the Engineer's Office, 728 Second Street, Portsmouth, Ohio. Send comments to Honorable Richard Roberts, City Manager, City of Portsmouth, 728 Second Street, Portsmouth, Ohio 45662.

Ohio	(V) Racine Meigs County	Ohio River	About 1.0 mile upstream of confluence of Wolf Run	*582
			About 1.6 miles upstream of confluence of Wolf Run	*583

Maps available for inspection at the Mayor's Office, Village Hall, Third Street, Racine, Ohio. Send comments to Honorable Charles Pyles, Mayor, Village of Racine, Village Hall, Third Street, Racine, Ohio 45771.

Pennsylvania	Delta, Borough, York County	Scott Creek	Downstream corporate limits	*362
			Upstream of Township Route 798/Bunker Hill Avenue	*[illegible]
			Upstream of Legislative Route A-342	*414

Maps available for inspection at the Borough Building, Delta, Pennsylvania.

Send comments to Honorable Harry Robinson, Mayor of Delta, P.O. Box 288, Delta, Pennsylvania 17314

Pennsylvania	Franklin, township Adams County	Marsh Creek	Confluence of Mummasburg Run	*537
			Seven Stars Road (upstream)	*546
			Fairview Fruit Road (upstream)	*600
			Hilltown Road (upstream)	*633
			Flohrs Church Road (upstream)	*655
			Cashtown road (downstream)	*730
		Mammasburg Run	Confluence with Marsh Creek	*537
			Legislative Route 01002 (upstream)	*545
			1st Farm Lane (upstream)	*557
			2nd Farm Lane (upstream)	*572
			Hilltown Road (downstream)	*586
		Marsh Creek Tributary	Confluence with Marsh Creek	*539
			Lincoln Highway (upstream)	*550
			2nd crossing Chessie System (upstream)	*[illegible]
			Faram Lane (upstream)	*583
			Legislative Route 01018 (upstream)	*609
			Old U.S. Route 30 (downstream)	*638
		Little Marsh Creek	Cashtown Road (downstream)	*613
			Confluence of Little Marsh Creek Tributary	*616
		Little Marsh Creek Tributary	Confluence with Little Marsh Creek	*616
			Poplar Springs Road (downstream)	*663

Maps available for inspection at the Franklin Township Building.

Send comments to Honorable Larry Dillon, Chairman of the Franklin Board of Supervisors, R.D. 1, Orrtanna, Pennsylvania 17353.

Pennsylvania	Gettysburg, borough, Adams County	Rock Creek	Downstream corporate limits	*478
			Upstream corporate limits	*481
		Stevens Run	Confluence with Rock Creek	*489
			Upstream North Stration Street	*500
			Downstream Buford Avenue	*514
			Upstream footbridge	*[illegible]

Maps available for inspection at the Municipal Building, Gettysburg, Pennsylvania.

Send comments to Honorable Willis L. Welkert, Mayor of Gettysburg, P.O. Box 166, Gettysburg, Pennsylvania 17325.

Pennsylvania	South Heights borough, Beaver County	Ohio River	Entire shoreline within community	*711

Maps available for inspection at the Borough Hall, South Heights, Pennsylvania.

Send comments to Honorable Rick Tranter, Mayor of South Heights, Box 302, South Heights, Pennsylvania 15081.

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Pennsylvania	Spring Grove, borough, York County	Codorus Creek	Downstream corporate limits	*445
			Downstream State Route 116	*450
			Upstream Dam	*458

Maps available for inspection at the Office of the Borough Secretary, 31 South East Street, Spring Grove, Pennsylvania.

Send comments to Honorable Shirley Glass, Council President, 112 West Hoke Street, Spring Grove, Pennsylvania 17362.

Commonwealth of Puerto Rico.	Rio Camuy Basin	Rio Camuy	At the intersection of Puerto Rico Highway 119 and river.	*4.7
		Atlantic Ocean	At the mouth of Rio Camuy	*1.6

Maps available for inspection at Planning Board, Minillas Government Center, D-Diego Avenue, P.O. Box 41119, San Juan, Puerto Rico.

Send comments to Honorable Carlos Romero Barcedo, La Fortaleza, San Juan, Puerto Rico 00902.

Commonwealth of Puerto Rico.	Rio Coamo Basin	Rio Coamo	At the intersection of an access road connecting Puerto Rico Highway 545 and 153 and river..	*38.9
		Rio Descalabrado	At the intersection of Puero Rico Highway 536 and an access road, approximately 0.45 kilometer north along Puerto Rico Highway 536 from Ponce Guayama Railroad.	*15.9
		Caribbean Sea	South and Puerto Rico Highway 537 approximately 1.2 kilometers southwest along Puerto Rico Highway 1.	*2.0

Maps available for inspection at Planning Board, Minillas Government Center, D-Diego Avenue, P.O. Box 41119, San Juan, Puerto Rico.

Send comments to Honorable Carlos Romero Barcelo, La Fortaleza, San Juan, Puerto Rico 00902.

Commonwealth of Puerto Rico.	Rio Guanajibo Basin	Rio Guanajibo	10 meters upstream from the center of Puerto Rico Highway 102 (Avenida Comercio).	*3.0
			At the Intersection of Puerto Rico Highway 114 and river.	*20.3
			10 meters downstream from the center of Puerto Rico Highway 119.	*45.5
			30 meters downstream from the center of Puerto Rico Highway 368.	*94.0
		Quebrada Mendoza	At the Intersection of Puerto Rico Highway 312 and Calle Baldorioti.	*22.1
		Atlantic Ocean	At the mouth of Rio Guanajibo	*1.6

Maps available for inspection at planning Board, Minillas Government Center, D-Diego Avenue, P.O. Box 41119, San Juan, Puerto Rico.

Send comments to Honorable Carlos Romero Barcelo, La Fortaleza, San Juan, Puerto Rico 00902.

South Carolina	Unincorporated areas of Berkeley County	Ancrum Swamp Limehouse Branch	Just upstream of State Route 62 (Ladson Road)	*15
			Approximately 300 feet at downstream of confluence of Stroberfield Branch.	*20
		Cypress Swamp	Just upstream of Interstate Highway 26	*29
			Just downstream of U.S. Highway 176	*37
		Back River	At confluence of Canterhill Branch	*11
		California Branch	Just upstream of Seaboard Coastline Railroad	*24
			Just downstream of Whiteaville Road	*71
		Canterhill Branch	Just downstream of Seaboard Coastline Railroad	*14
			Just downstream of Cypress Garden Road (State Highway 9).	*19
		Durham and Chicken Creek	At Cypress Garden Road (State Road 244) (Backwater from West Branch Cooper River).	*7
		Felder Branch	Just upstream of State Highway 16	*52
			Just downstream of New Hope Road	*63
		Fosters Creek	Just upstream of Liberty Hall Road	*12
		Huckhole Swamp	Just upstream of the Road located along the County Line.	*13
			Just upstream of the First County Road located downstream of State Route 567.	*18
		Laurel Swamp	Approximately 200 feet at downstream of northbound U.S. Highway 52 (downstream lane).	*15
			Just downstream of U.S. Highway 17-A	*43
			Just upstream of Lakewood Road	*70
		Miller Dam Branch	Approximately 150 feet downstream of State Highway 16.	*42
			Approximately 250 feet upstream of New Hope Road	*54
			Just downstream of State Road 275	*75
		Molly Branch	Just upstream of Old U.S. Highway 52	*15
		Sandy Run Creek	Just downstream of State Highway 16	*38
			Just downstream of U.S. Highway 176	*54
		Sawmill Branch	Just downstream of eastbound lane of Interstate Highway 26.	*[illegible]
		Sophia Swamp	Just upstream of Pine Grove Road (State Road 667)	*14
		Stroberfield Branch	Just Downstream of North Frontage Road of Interstate Highway 26.	*49
		Unnamed Tributary to Back River	Just downstream of Cypress Garden Road (State Highway 9).	*9
			Just upstream of Old U.S. Highway 52	*16
		West Branch of the Cooper River	At Seaboard Coast Line Railroad	*7
			At confluence of Molly Branch	*[illegible]
			Just downstream of State Highway 17-A	*12

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
		Unnamed Tributary to West Branch of Cooper River.	Just downstream of Old U.S. Highway 52	*18
		Atlantic Ocean/Wando River	At State Highway 41	*11
			At confluence of Beresford Creek and Wando River	*12
			At Cainhoy Road (extended)	*13
		Atlantic Ocean/Cooper River	At confluence of Clouter Creek and Cooper River	*13
		Atlantic Ocean/Back River	Just upstream of State Highway 593	*11
		Atlantic Ocean/Foster Creek	At Ghetto Road	*10

Maps available for inspection at Planning Commission Administrator's Office, 223 North Live Oak Drive, Moncks Corner, South Carolina 29461.

Send comments to Mr. Johnnie Flynn, County Supervisor, or Mr. E. Nick Bruce, Administrator of Planning Commission, 223 North Live Oak Drive, Moncks Corner, South Carolina 29461.

South Carolina	Unincorporated areas of Charleston County	[illegible] Ocean/South Santee River.	Just downstream of U.S. Highways 17 and 701	*14
		Atlantic Ocean	At the confluence of Jeremy Creek with the Intracoastal Waterway near the Town of McClellanville.	*17
			At the intersection of U.S. Highways 17 and 701 and State Highway 1335	*12
			At the intersection of State Highway 51 and Porcher [illegible] Road.	*10
		Atlantic Ocean/Wando River	Just downstream of State Highway 41 along the north bank of the river	*11
			Just downstream of State Highway 85	*[illegible]
		Atlantic Ocean/Charleston Harbor	At the intersection Wampler Street and Sterling Drive	*14
			At the intersection of Beauregard Street and Clear View Drive.	*14
		Atlantic Ocean/James Island Creek.	Just upstream of Harbor View Road	*16
		Atlantic Ocean/Ashley River	Just upstream of State Highway 7	*11
			At the intersection of Hutton Place and Ashley Hall [illegible]	*9
			Just upstream of Seaboard Coastline Railroad	*9
		Atlantic Ocean/Stono River	Just downstream of State Highway 700	*12
			Just downstream of State Highway 20 (John's Island Road).	*9
		Atlantic Ocean/Rantowles Creek	Just upstream of Seaboard Coastline Railroad	*9
		Atlantic Ocean/Wadmalaw River	Approximately 1.95 miles southeast of the intersection of State Highways 69 and 174 along State Highway 89.	*14
		Atlantic Ocean/Bohicket Creek	At State Highway 1443 extended	*12
		Atlantic Ocean/Toogoodoo Creek	At Ethel Road extended	*10
		Atlantic Ocean/Dawho Creek	At the intersection of State Highways 174 and 69	*8
		Atlantic Ocean/South Edisto River	At Raccoon Island Extended	*16
			Just downstream of the Seaboard Coastline Railroad	*12
		Atlantic Ocean/Fishing Creek near St. Pierre.	At State Highway 767 extended	*17

Maps available for inspection at Building Inspections Office, County Office Building, 2 Courthouse Square, Charleston, South Carolina 29401.

Send comments to Mr. Steve Stewart, County Administrator, or Mr. Carl Simmons, Building Inspections Director, County Office Building, 2 Courthouse Square, Room 401, Charleston, South Carolina 29401.

South Carolina	City of Isle of Palm, Charleston County	Atlantic Ocean	31st Avenue extended to the Atlantic Ocean coastline	*20
			A point 600 feet seaward along 49th Avenue from the intersection of 49th Avenue and Cameron Boulevard.	*15
			At the intersection of Palm Boulevard and 31st Avenue.	*14
			At the intersection of Hamett Boulevard and 31st Avenue	*13

Maps available for inspection at Building Inspector's Office, City Hall, 1301 Palm Boulevard, Isle of Palms, South Carolina 2945.

Send comments to Mayor L. C. Cable or Mr. George Penington, Building Official, City Hall, P.O. Drawer Q, Isle of Palms, South Carolina 29451.

South Carolina	City of North Charleston, Charleston County	Atlantic Ocean/Cooper River	At the confluence of Cooper River and Filbin Creek	*13
		Atlantic Ocean/Ashley River	Approximately 3,000 feet west of Dorchester Road and Bream Street intersection along Bream Street.	*9

Maps available for inspection at Planning and Management Department, City Hall, 4900 Lacross Road, North Charleston, South Carolina 29411.

Send comments to Mayor John E. Bourne, Jr., or David Franks, City Draftsman, City Hall, P.O. Box 10100, North Charleston, South Carolina 29411.

Tennessee	City of Humboldt, Gibson County	Lick Creek	Just upstream of Hadley Street	*340
			Just upstream of State Highway 52 (Macon Street)	*352
		Little Sugar Creek	Just upstream of U.S. Route 45W Bypass	*352
		Unnamed Tributary to Middle Fork of Forked Deer River.	Just upstream of Gibson Wells Road	*333

Maps available for inspection at Mayor's Office, Municipal Building, 1421 Osborne Street, Humboldt, Tennessee 38343.

Send comments to Mayor Tom McCaslin, Municipal Building, 1421 Osborne Street or Mr. Griffin Boyle, City Attorney, First National Shopping Center, 22nd Avenue, Humboldt, Tennessee 38343.

Texas	City of Boerne, Kendall County	Cibolo Creek	Just downstream of Main Street	*1,395
			Just upstream of the [illegible] Street	*1,399
			Just upstream of San Antonio Avenue	*1,401
			Just upstream of John Road	*1,408
		Currey Creek	Just upstream of Esser Road	*1,392
			Just upstream of Rosewood Street	*1,400
			Just upstream of Blanco Road	*1,407

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Unnamed Tributary A	Just upstream of River Road	*1,388
			Just downstream of Rosewood Street	*1,399
			Just upstream of Blanco Road	*1,405
			Approximately 300 feet downstream of Southern Pacific Railroad.	*1,410
			Just upstream of Southern Pacific Railroad	*1,418

Maps available for inspection at City Hall, City Administrator's Office, 402 East Blanco, Boerne, Texas 78006.

Send comments to Mayor Arthur E. Howell, Jr., or Edgar Schwarz, Jr., City Administrator, City Hall, P.O. Drawer U, Boerne, Texas 78006.

Texas	Unincorporated Areas of Cameron County	Gulf of Mexico/Laguna Madre	Approximately 1.0 mile east along State Highway 48 from the intersection of Vermilion Avenue and State Highway 48.	*13
			Approximately 1.0 mile east along Boca Chica Highway (State Highway 4) from the intersection of Oklahoma Avenue (FM 1419) and Boca Chica Highway.	*13
			At the intersection of Buena Vista Road and State Highway 100.	*12
			Approximately 14.8 miles east along Boca Chica Highway (State Highway 4) from the intersection of Oklahoma Avenue (FM 1419) and Boca Chica Highway; at Hopernik Shores.	*8
			At the intersection of State Highway 100 and FM 1792	*7

Maps available for inspection at Cameron County Courthouse, Room 201, 964 East Harrison Street, Brownsville, Texas 78520.

Send comments to Judge R. A. Ramon or Mr. R. A. Torres, Building Official, Cameron County Courthouse, 964 East Harrison Street, Brownsville, Texas 78520.

Texas	Village of Laguna Vista, Cameron County	Gulf of Mexico/Laguna Madre	Approximately 300 feet from the intersection of Fernandez Street and Beach Boulevard towards the Laguna Madre shoreline.	*9
			Approximately 200 feet from the intersection of Box Street and Beach Boulevard towards the Laguna Madre shoreline	*11

Maps available for inspection at Building Inspector's Office, Village Hall, 122 Fernandez, Laguna Vista, Texas 78578.

Send comments to Mayor Arnold Samuelson or O.V. Heckman, Building Inspector, Village Hall, 122 Fernandez, Laguna Vista, Texas 78578.

Texas	City of Palacios, Matagorda County	Gulf of Mexico/Tres Palacios Bay	At the intersection of First Street and Perryman Avenue.	*13
			At the intersection of Third Street and Ritchie Avenue	*10

Maps available for inspection at City Hall, 205 Fourth Street, Palacios, Texas 77465.

Send comments to Mayor Leonard Lamar, City Hall, P.O. Box 845, Palacios, Texas 77465.

Texas	City of Port Isabel, Cameron County	Gulf of Mexico/Laguna Madre	At the intersection of Madison Street and Garcia Street.	*8
			At the intersection of Second Street and Oklahoma Avenue.	*7
			At the intersection of Island Avenue and Bass Avenue	*7

Maps available for inspection at City Hall, 305 East Masan Street, Port Isabel, Texas 78578.

Send comments to Mayor Quirino Martinez or Ernestina Varrera, City Secretary, City Hall, P.O. Box 146, Port Isabel, Texas 78578.

Texas	Town of South Padre Island, Cameron County	Gulf of Mexico	At the intersection of Gulf Boulevard and Coronado Drive.	*8
			At the intersection of Gulf Boulevard and Hibiscus Street.	*8
		Gulf of Mexico/Laguna Madre	At the intersection of Padre Boulevard and King Fish Street.	*6
			At the intersection of Laguna Boulevard and Mezquite Street.	*6

Maps available for inspection at Building Inspector's Office, Town Hall, 4305 Padre Boulevard, South Padre Island, Texas 78597.

Send comments to Mayor Minnie Solomonson or Johnny P. Smith, Town Manager, Town Hall, P.O. Box 3410, South Padre Island, Texas 78597.

Vermont	Marshfield, Town, Washington County	Winooski River	Downstream corporate limits	*751
			Downstream of Town Road 57	*759
			Upstream of Town Road 48	*776
			Upstream of Town Road 38	*782
			Upstream of Town Road 12	*867
			Upstream corporate limits	*888

Maps available for inspection at the Town Clerk's Office, Marshfield, Vermont.

Send comments to Honorable Richard Phillips, Chairman of the Marshfield Board of Selectmen, Town Offices, Marshfield, Vermont 05658.

Vermont	Marshfield, Village, Washington County	Winooski River	Downstream corporate limits	*791
			Downstream of Marshfield Dam	*809
			Upstream of U.S. Route 2	*845

Maps available for inspection at the Village Offices, Marshfield, Vermont.

Send comments to Honorable Charles Stander, Village Trustee, Village Offices, Marshfield, Vermont 05658.

Virginia	Tazewell, Town, Tazewell County	Clinch River	Downstream corporate limits	*2,348
			Fairground Road	*2,353
			Private Drive approximately 4,646' upstream of Fairground Road.	*2,379
			Wolfe Street	*2,379

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			1st upstream corporate limits	*2,384
			Confluence of North Fork and South Fork Clinch River	*2,397
		Tributary 1 to Clinch River	Confluence with Clinch River	* 2,351
			Corporate limits	*2,351
		North Rork Clinch River	Confluence with Clinch River	* 2,397
			Confluence of Tributary to North Fork Clinch River	*2,406
			Corporate limits	*2,412
		Tributary to North Fork Clinch River.	Confluence with North Fork Clinch River	* 2,406
			Corporate limits	*2,416
		Cavitts Creek	Confluence with Clinch River	* 2,353
			Private Drive approximately 1,267' upstream of State Route 16 (upstream side).	*2,365
			Corporate Limits	*2,372
		Tributary 2 to Clinch River	Confluence with Clinch River	* 2,368
			1st crossing State Route 16	*2,376
			2nd crossing State Route 16	*2,386
		South Fork Clinch River	Confluence with Clinch River	* 2,397
			Corporate limits	*2,407

Maps available for inspection at the Town Hall, 100 Central Avenue, Tazewell, Virginia.

Send comments to Honorable Buddy Blevins, Town Manager, P.O. Box 608, Tazewell, Virginia 24651.

Virginia	Tazewell County	Clinch River	Downstream corporate limits	* 1,905
			Confluence of Tributary to Clinch River	*1,922
			Downstream corporate limits of Town of Cedar Bluff and Tazewell County.	*1,944
			Upstream of 3rd crossing of Norfolk and Western Railway.	*2,338
			Upstream of dam	*2,365
			Most upstream corporate limits	*2,392
		Middle Creek	Downstream corporate limits	* 1,992
			Approximately .6 mile upstream of 2nd crossing of State Route 621.	*2,039
			Approximately 1.5 miles upstream of 2nd crossing of State Route 621.	*2,070
			Upstream of 3rd crossing of State Route 621	*2,106
		Johnson Branch	Upstream of State Route 635	* 2,447
			Approximately 2,000' upstream of State Route 16	*2,473
		Cavitts Creek	Downstream corporate limits	* 2,367
			Approximately .5 mile upstream of corporate limits	*2,390
		Laurel Fork	Downstream corporate limits	* 2,309
			Upstream corporate limits of Town of Pocahontas and Tazewell County.	*2,950
			Upstream of Cassidy Drive	* 2,387
			Upstream of most upstream crossing of State Route 747.	*2,429
		Wrights Valley Creek	Downstream of U. S. Routes 19 and 450	* 2,422
			Upstream of State Route 650	*2,442
			Approximately .5 mile upstream of State Route 650	*2,453
		Coal Creek	Confluence with Clinch River	* 1,906
			Downstream of 3rd crossing of Norfolk and Western Railway.	* 1,948
			Upstream of 4th crossing of Norfolk and Western Railway.	* 1,966
			Downstream of State Route 801	*2,041
			Approximately .3 mile upstream of 8th crossing of Norfolk and Western Railway.	*2,175
		Indian Creek	Downsteam corporate limits of Town of Cedar Bluff and Tazewell County.	* 1,999
			Downstream of State Route 626	*2,004
			Downstream of 2nd crossing of Norfolk and Western Railway.	*2,024
			Upstream of 1st crossing of State Route 627	*2,053
			Upstream of State Routes 626 and 627	*2,083
			Upstream of State Route 624	[illegible]
			Downstream of State Route 612	*2,161
		West Fork Plum Creek	Approximately 125' upstream of confluence with Plum Creek.	* 2,365
			Approximately 1.5 miles upstream of confluence with Plum Creek.	*2,440
			Approximately 1.9 miles upstream of confluence with Plum Creek.	*2,507
			Approximately 2.3 miles upstream of confluence with Plum Creek.	*2,568
			Approximately 2.6 miles upstream of confluence with Plum Creek.	*2,583
		North Fork Clinch River	Upstream of 1st crossing of U. S. Highways 19 and [illegible]	* 2,416
			Approximately .7 mile downstream of 2nd crossing of U. S. Highways 19 and 460.	*2,458
			Downstream of 1st crossing of Norfolk and western Railway.	* 2,461
		South Fork Clinch River	Downstream corporate limits	*2,406
			Approximately 0.75 mile upstream of corporate limits	*2,406
			Approximately 1.25 miles upstream of corporate limits	*2,452
		Bluestone River	Downstream of Taylor Road	*2,431
			Approximately 2 miles upstream of Taylor Road	*2,466

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

[redacted]	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Downstream of Fannin Road	*2,499
			Downstream of Russell Road	*2,535
			Approximately 0.9 mile upstream of Russell Road	*2,558
		Big Creek	Approximately 1 mile upstream of confluence with Clinch River.	*1,968
			Approximately 750' upstream of State Route 67	*1,975
		Tributary to Clinch River	Confluence with Clinch River	*1,922
			Upstream corporate limits	*1,923
		Tributary to North Fork Clinch River.	Downstream corporate limits	*2,413
			Approximately 1,100' upstream of corporate limits	*2,424
Maps available for inspection at the County Courthouse, Inspector's Office, Main Street, Tazewell, Virginia.				
Send comments to Honorable W. J. Hankins, Tazewell County Administrator, P.O. Box 68, Tazewell, Virginia 24651				
Virginia	Pocahontas, Town, Tazewell County	Laurel Fork	Downstream corporate limits	*2,317
			Upstream Paradise Street	*2,322
			Upstream State Route 659	*2,336
			Upstream corporate limits	*2,349
		Tributary to Laurel Fork	Confluence with Laurel Fork	*2,333
			Approximately 1,150' upstream of confluence with Laurel Fork.	*2,353
Maps available for inspection at the Town Hall, St. Clar Street, Pocahontas, Virginia.				
Send comments to Honorable Wilson Edward Herman, Mayor of Pocahontas, P.O. Box 127, Pocahontas, Virginia 24635.				
Wisconsin	(Uninc.) Columbia County	Wisconsin River	About 400 feet downstream of State Highway 60	*748
			Just downstream of Prairie Du Sac Dam	*750
			Just upstream of Prairie Du Sac Dam	*774
			Just downstream of city of Wisconsin Dells corporate [redacted]	*827
		Fox River	At downstream county boundary	*782
			Just upstream of State Highway 33 (downstream crossing).	*789
			Just upstream of Haynes Road	*810
			About 2.4 miles upstream of State Highway 33 (upstream crossing).	*819
		Crawfish River	Just upstream of State Highway 73	*835
			About 1.3 miles upstream of Hall Road	*847
		North Branch Crawfish River	At village of Fall River corporate limits	*859
			Just downstream of County Highway DG (upstream crossing).	*861
		Duck Creek	Mouth at Wisconsin River	*788
			At village of Wyocena corporate limits (downstream crossing).	*794
			At village Wyocena corporate limits (upstream crossing).	*803
		Neenah Creek-Big Slough	Mouth at Fox River	*783
			About 600 feet upstream of U.S. Highway 51	*787
			About 5,500 feet upstream of County Highway X	*791
		Baraboo River	Mouth at Wisconsin River	*788
			At upstream county boundary	*803
Maps available for inspection at the Zoning Office, Columbia County Administration Building, Portage, Wisconsin. Send comments to Honorable Reuben Damm, Chairman of the Columbia County Board, Columbia County, Columbia County Administration Building, Portage, Wisconsin 53901.				
Wisconsin	(Uninc.) Green County	Allen Creek	Just downstream of County Highway E	*811
			About 1.4 miles upstream of County Highway E	*821
		Brayton Creek	About 500 feet upstream from mouth	*837
			About 0.97 mile upstream from mouth	*845
		Honey Creek	Just upstream of Franklin Road	*931
			About 0.6 mile upstream of Chicago, Milwaukee, St. Paul and Pacific Railroad at city of Monroe corporate limits.	*966
		Juda Branch	Just upstream of County Highway OK	*799
			About 1.98 miles upstream of County Highway S	*904
		Legler School Branch	Just upstream of Second Street at village of New Glarus corporate limit.	*859
			About 0.45 mile upstream of Legler Valley Road	*991
		Little Sugar River	At mouth (Albany Lake)	[redacted]
			About 1.4 miles upstream of River Road at confluence of West Branch Little Sugar River.	*825
		Norwegian Creek	Just upstream of Sugar River State Trail	*792
			Just downstream of State Highways 104 and County Highway T.	*805
		Pecatonica River	At Illinois-Wisconsin State Boundary	*783
			At Lafayette-Green County Boundary	*790
		Richland Creek	Just upstream of County Highway K	*900
			Just upstream of culvert at State Highway 11 and 81	*947
			Just downstream of Greenbush Road	*991
		Skinner Creek	At mouth	*790
			About 1.01 miles upstream of Cadiz Springs Road	*790
		Sugar River	Just upstream of County Highway T	*764
			About 1.7 miles upstream of Decatur-Albany Road near village of Albany (southern corporate limit).	*801
			Albany Lake just upstream of village of Albany (northern corporate limit).	[redacted]
			About 3.1 miles upstream of County Highway D	*855

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Sugar River Decatur Raceway	About 0.36 mile downstream of Decatur Road	*780
			About 0.13 mile upstream of Decatur Raceway Dam	*792
		West Branch Little Sugar River	At mouth	*825
			About 0.23 mile upstream of Illinois Central Gulf Railroad	*828
			About 0.21 mile downstream of State Highways 69 and 39	*836
			About 0.84 mile upstream of Washington Road	*845

Maps available for inspection at the Highway Department Office, 2813 Sixth Street, Monroe, Wisconsin. Send comments to Honorable Kenneth Meyer, Highway and Zoning Commissioner, Green County, Highway Department Office, P.O. Box 259, 2813 Sixth Street, Monroe, Wisconsin 53566.

Wisconsin	(V) Wyocena, Columbia County	Duck Creek	Just upstream of private drive	*794
			Just downstream of breached dam	*795
			Just upstream of breached dam	*799
			At upstream corporate limits	*803

Maps available for inspection at the Village Hall, Wyocena, Wisconsin. Send comments to Honorable Max M. Lytle, Village President, Village of Wyocena, Village Hall, P.O. Box 656, Wyocena, Wisconsin 53969.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4002–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: December 2, 1982.

Dave McLoughlin,

Acting Associate Director State and Local Programs and Support.

[FR Doc. 82-34357 Filed 12-21-82; 8:45 am]

BILLING CODE 6718-03-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 663

[Docket No. 21210-254]

Pacific Coast Groundfish Fishery

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of proposed inseason adjustment and request for comment.

SUMMARY: This notice proposes an increase in the optimum yield (OY) for sablefish harvested off the coasts of Washington, Oregon, and California in 1982. This action is authorized under the Pacific Coast Groundfish Fishery Management Plan and Federal regulations. The intended effect of this action is to establish a more accurate basis on which to manage the fishery in 1983.

DATE: Comments on this proposed action must be received by January 11, 1983.

ADDRESSES: Send comments to H. A. Larkins, Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way N.E., BIN C15700, Seattle, Washington 98115.

FOR FURTHER INFORMATION CONTACT: H. A. Larkins, 206–527–6150.

SUPPLEMENTARY INFORMATION: The Pacific Coast Groundfish Fishery Management Plan (FMP) was approved by the Assistant Administrator for Fisheries, NOAA, on January 4, 1982, and its implementing regulations were published in the **Federal Register** at 47 FR 43974 on October 5, 1982. The regulations at 50 CFR 663.22(b) (47 FR 43978) state that the Secretary of Commerce (Secretary), after receiving a recommendation from the Pacific Fishery Management Council (Council), may increase the numerical OY for a species if he determines that no biological stress would result and that the increase would promote full utilization of the resource. The numerical OY is the maximum amount of a species that may be retained or landed each year from the fishery management area (3–200 nautical miles from shore) and State waters (0–3 nautical miles from shore). The FMP assigns numerical OYs to five species: Pacific whiting, sablefish, Pacific ocean perch, shortbelly rockfish, and widow rockfish. All other species managed under the FMP are in a multispecies complex and do not have individual numerical OY specifications.

In late September 1982, the Council became aware that the OY for sablefish had been reached. The Council directed its Groundfish Management Team (Team) to reevaluate the appropriateness of the sablefish OY because: (1) The harvest of sablefish in 1980 and 1981 was about 8,000 mt below the total OY for the two years, possibly providing additional harvestable fish in 1982; (2) there were indications of a strong 1977 year class that had recently became available to the fishery; (3) signs of stress on the stock had not been identified; (4) it would be premature to close the fishery completely before the accuracy of the OY were verified; and (5) OY is based not only on biological factors but on social and economic factors as well, and closure of the fishery would result in economic hardship for many in the fishing industry.

To ensure that biological stress did not occur before the Team could reevaluate OY, and to avoid premature and perhaps unnecessary closure of the fishery, the Secretary imposed an emergency interim rule placing a 3,000 pound (round weight) trip limit on sablefish after October 27, 1982 (47 FR 49620). This trip limit will be extended by separate **Federal Register** notice through December 31, 1982.

According to the regulations at 50 CFR 663.22(b)(3), the maximum possible increase in OY for sablefish that can be made in 1982 is 4,000 mt, a 30 percent increase over the initial 1982 specification of 13,400 mt.

The regulations at 50 CFR 663.22(b) list biological factors to be considered before increasing OY, and require public input in the determination. The biological factors are to be considered when determining whether the increase

in OY would cause biological stress. No biological information to support a change to the maximum sustainable yield (MSY) and 1982 acceptable biological catch (ABC) estimates of 13,400 mt was available. Although projected catches to the end of 1982 are over 21,000 mt, the Team was unable to document signs of biological stress at the levels of sablefish fishing experienced in 1982. The proposed increase is not expected to impact the OY for other species. The Council's Scientific and Statistical Committee and Groundfish Advisory Subpanel favored increasing the 1982 OY to 17,400 mt to avoid unnecessary economic hardship for the fishing industry. A public hearing was held in conjunction with the November 17–18, 1982, Council meeting. Most of the public testimony requested increasing the 1982 sablefish OY by 30 percent and maintaining the increase for the initial 1983 OY. (Such an action would allow the OY to be increased an additional 30 percent in 1983 if conditions warrant). After considering all comments, the Council recommended that the 1982 OY for sablefish should be increased to 17,400, mt, based solely on social and economic factors.

The Secretary has considered the sparse information available and the factors listed at 50 CFR 663.22(b)(i)-(vi) and has determined that a 30 percent increase in the 1982 OY estimate for sablefish from 13,400 mt to 17,400 mt will not cause biological stress to that or any other species and that such action would promote full utilization of the resource. He, therefore, proposes to increase the 1982 OY for sablefish to 17,400 mt.

Lists of Subjects in 50 CFR Part 663

Fish, Fisheries, Fishing.

This action is taken under the authority of 50 CFR 663.22, is in compliance with Executive Order 12291, and is covered by the Regulatory Flexibility Analysis prepared for the authorizing regulations and by the Final Environmental Impact Statement (filed with the Environmental Protection Agency) for the FMP.

(16 U.S.C. 1801 *et seq.*)

Dated: December 17, 1982.

Joseph W. Angelovic,

Acting Deputy Assistant Administrator for Science and Technology, National Marine Fisheries Service.

[FR Doc. 82-34695 Filed 12-21-82; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 47, No. 246
Wednesday, December 22, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

December 17, 1982.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96–511 applies; (9) Name and telephone number of the agency contact person.

Comments and questions about the items in the listing should be directed to the agency person named at the end of each entry. If you anticipate commenting on a form but find that preparation time will prevent you from submitting comments promptly, you should advise the agency person of your intent as early as possible.

Copies of the proposed forms and supporting documents may be obtained from: Richard J. Schrimper, Statistical Clearance Officer, (202) 447–6201.

Revised

• Economic Research Service
Cost of Production—Major Crops
Nonrecurring
Farms: 2,940 responses; 3,234 hours; not applicable under 3504(h)
James Johnson (202) 447–2317

• Agricultural Marketing Service
Tomatoes Grown in Florida—Marketing Order 966
On occasion, annually
Farms, businesses or other institutions: 72,732 responses; 143,984 hours; not applicable under 3504(h)
Charles W. Porter (202) 447–2615

• Agricultural Marketing Service
Report Forms Under Federal Milk Orders (From Milk Handlers and Milk Marketing Copperatives)
On occasion, monthly, annually
Businesses or other institutions: 48,384 responses; 36,691 hours; not applicable under 3504(h)
Martin J. Dunn (202) 447–7311

Reinstatement

• Agricultural Marketing Service
Poultry Market News Reports
PY–10, 17, 88, 90
Weekly, monthly
Businesses or other institutions: 55,932 responses; 2,261 hours; not applicable under 3504(h)
Ray Wruk (202) 447–6911.

Richard J. Schrimper,
Statistical Clearance Officer.

[FR Doc. 82–34642 Filed 12–21–82; 8:45 am]
BILLING CODE 3410–01–M

ARCHITECTURAL AND TRANSPORTATION

Barriers Compliance Board; Meeting

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Notice of ATBCB Meeting.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (ATBCB) has scheduled a meeting to be held from 1:00 PM to 5:00 PM, Tuesday, January 11, 1983, to take place in the Main Hall of the Disabled American Veterans (DAV) National Service and Legislative Headquarters, 807 Maine Avenue, SW., Washington, D.C. 20024. Items to be considered are as follows: Discussion on the utilization of ATBCB discretionary funds in FY 1983; proposed transfer of ATBCB administrative support services from Departemnt of Education to GSA; discussion of exploration of long-term ATBCB objective.

DATE: January 11, 1983, 1:00 PM–5:00 PM.

ADDRESS: Main Hall, Disabled American Veterans (DAV) National Service and Legislative Headquarters, 809 Maine Avenue, SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Larry Allison, Director of Public Information (202) 245–1591 (voice or TDD).

Committee meetings of the ATBCB will be held on Monday, January 10, 1983, in the Hubert Humphrey Building. Contact Larry Allison, Director of Public Information (202) 245–1591 (voice or TDD), for further information.

Wm. Bradford Reynolds,
Chairperson.

[FR Doc. 82–34626 Filed 12–21–82; 8:45 am]
BILLING CODE 4065–87–M

DEPARTMENT OF COMMERCE

Bureau of the Census

Annual Survey of Retail Sales and Inventories; Determination

In accordance with title 13, United States Code, sections 182, 224, and 225, and due Notice of Consideration having been published November 9, 1982 (47 FR 50732), I have determined that certain 1982 annual data for retail trade are needed to provide a sound statistical basis for the formation of policy by various governmental agencies and that these data are also applicable to a variety of public and business needs. This annual survey is a continuation of similar surveys conducted each year since 1951 (except 1954). It provides, on a comparable classification basis, annual sales and accounts receivable balances for 1982 and year-end inventories for 1981 and 1982. These data are not publicly available on a timely basis from nongovernmental or other governmental sources.

Reports will be required from a selected sample of firms operating retail establishments in the United States, with probability of selection based on sales size. The sample will provide, with measurable reliability, statistics on the subjects specified above.

Report forms will be furnished to the firms covered by the survey and will be due 20 days after receipt. Copies of the forms are available upon written request to the Director, Bureau of the Census, Washington, D.C. 20233.

I have, therefore, directed that an annual survey be conducted for the purpose of collecting these data.

Dated: December 16, 1982.

Bruce Chapman,

Director, Bureau of the Census.

[FR Doc. 82-34657 Filed 12-21-82; 8:45 am]

BILLING CODE 3510-07-M

Annual Wholesale Trade; Determination

In accordance with title 13, United States Code, sections 182, 224, and 225, and due Notice of Consideration having been published November 12, 1982 (47 FR 51176), I have determined that data covering year-end inventories and annual sales are needed to provide a sound statistical basis for the formation of policy by various governmental agencies and that these data are also applicable to a variety of public and business needs. This annual survey is a continuation of similar surveys conducted each year since 1978. It provides, on a comparable classification basis, annual sales for 1982 and year-end inventories for 1981 and 1982. These data are not publicly available on a timely basis from nongovernmental or other governmental sources.

Reports will be required from a selected sample of firms operating merchant wholesale establishments in the United States, with probability of selection based on sales size. The sample will provide, with measurable reliability, statistics on the subjects specified above.

Report forms will be furnished to the firms covered by the survey and will be due 20 days after receipt. Copies of the forms are available upon written request to the Director, Bureau of the Census, Washington, D.C. 20233.

I have, therefore, directed that this annual survey be conducted for the purpose of collecting these data.

Dated: December 16, 1982.

Bruce Chapman,

Director, Bureau of the Census.

[FR Doc. 82-34656 Filed 12-21-82; 8:45 am]

BILLING CODE 3510-07-M

International Trade Administration

Semiconductor Technical Advisory Committee; Partially Closed Meeting

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: The Semiconductor Technical Advisory Committee was initially established on January 3, 1973, and rechartered on September 18, 1981 in accordance with the Export Administration Act of 1979 and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical specifications and policy issues relating to those specifications which are of concern to the Department, (B) worldwide availability of products and systems, including quantity and quality, and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to semiconductors, or technology, and (D) exports of the aforementioned commodities subject to unilateral and multilateral controls which the United States established or in which it participates including proposed revisions of any such controls.

TIME AND PLACE: January 18, 1983 at 9:30 a.m. The meeting will take place at the Main Commerce Building, Room 5230, 14th Street and Constitution Ave., NW., Washington, D.C.

AGENDA: General Session:

(1) Opening remarks by the Chairman.

(2) Presentation of papers or comments by the public.

(3) Update of the COCOM schedule for the list review.

(4) Subcommittee reports:

a. Discrete Semiconductor Device,

b. Microcircuits, and

c. Semiconductor Manufacturing Materials and Equipment.

(5) Election of chairman.

(6) New business; Executive Session.

(7) Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

PUBLIC PARTICIPATION: The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 29, 1981, pursuant to Section 10(d) of the Federally Advisory Committee Act, as amended by Section 5(c) of the Government In The Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 12356.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, telephone: 202-377-4217.

FOR FURTHER INFORMATION OR COPIES OF THE MINUTES CONTACT: Mrs. Margaret Cornejo, Committee Control Officer, Office of Export Administration, Room 2613, U.S. Department of Commerce, Washington, D.C. 20230, Telephone: 202-377-2583.

Dated: December 14, 1982.

John K. Boidock,

Director, Office of Export Administration.

[FR Doc. 82-34624 Filed 12-21-82; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Caribbean Fishery Management Council's Scientific and Statistical Committee and Advisory Panel; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Caribbean Fishery Management Council, established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94-265), has established a Scientific and Statistical Committee and an Advisory Panel, which will meet jointly to examine and provide recommendations on the policy to be adopted by the Council on potential sites for marine sanctuaries in Puerto Rico and the U.S. Virgin Islands; on the evaluation of area closures as a management tool in the Caribbean fishery conservation zone, and to discuss other related business.

DATE: The public meeting will convene on Tuesday, January 18, 1983, at approximately 9:30 a.m., and will adjourn at approximately 3:30 p.m., and will take place at the Federal Building, Room 327, Carlos Chardon Avenue, Hato Rey, Puerto Rico.

FOR FURTHER INFORMATION CONTACT: Caribbean Fishery Management Council, Suite 1108, Banco de Ponce Building, Hato Rey, Puerto Rico 00918; Telephone: (809) 753-4926.

Dated: December 17, 1982.

Joe P. Clem,

Acting Chief, Operations Coordination Group, National Marine Fisheries Service.

[FR Doc. 82-34696 Filed 12-21-82; 8:45 am]

BILLING CODE 3510-22-M

University of California; Issuance of Permit

On November 8, 1982, Notice was published in the **Federal Register** (47 FR 50540), that an application had been filed with the National Marine Fisheries Service by Ms. Susan Shane, Biology-Applied Sciences Bldg., University of California, Santa Cruz, California 95064, for a permit to take by harassment up to 2,000 Pacific pilot whales over a three year period for the purpose of scientific research.

Notice is hereby given that on December 16, 1982, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service issued a permit for the above taking subject to certain conditions set forth therein.

The Permit is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: December 16, 1982.

Richard B. Roe,

Acting Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 82-34694 Filed 12-21-82; 8:45 am]

BILLING CODE 3510-22-M

Wometco Miami Seaquarium; Receipt of Application for Permit

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant: Wometco Miami Seaquarium, 4400 Rickenbacker Causeway, Miami, Florida 33149.
2. Type of Permit: Public Display.
3. Name and Number of Animals: Atlantic bottlenose dolphins (Tursiops truncatus) (6).
4. Type of Take: To take for permanent maintenance.
5. Location of Activity: Indian River, Florida.
6. Period of Activity: 2 years.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington D.C.; and

Regional Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

Dated: December 17, 1982.

R. B. Brumstead,

Acting Chief, Protected Species Division, National Marine Fisheries Service.

[FR Doc. 82-34693 Filed 12-21-82; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Establishing Import Restraint Levels for Certain Cotton, Wool, and Man-Made Fiber Textile Products From Taiwan Under a New Agreement, Effective on January 1, 1983

December 16, 1982.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Establishing the import restraint levels for certain cotton, wool, and man-made fiber textile and apparel products, produced or manufactured in Taiwan and exported during the twelve-month period beginning on January 1, 1983 and extending through December 31, 1983, under a new agreement.

SUMMARY: On November 18, 1982 representatives of the American Institute in Taiwan and the Coordination Council for North American Affairs signed an agreement concerning cotton, wool, and man-made fiber textile products, produced or manufactured in Taiwan, and exported during the six year period beginning on January 1, 1982 and extending through December 31, 1987. The new agreement establishes specific ceilings, among other categories, for Categories 313, 331, 333/334, 335, 337, 338/339, 340, 341, 347/348, 353/354/653/654, 435, 445/446, 604, 633/634/635, 638, 639, 640, 641, 645/646, 647, 648, and 659 for the agreement year beginning on January 1, 1983. Accordingly, there is published below a letter from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs directing that entry into the United States for consumption, or withdrawal from warehouse for consumption, of cotton, wool, and man-made fiber textile products in the foregoing categories be limited to the designated amounts during the agreement year which begins on January 1, 1983. In accordance with the flexibility provisions of the new agreement the base levels for Categories 633/634/635, 640, 645/646, and 659 have been adjusted to include swing.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), August 12, 1980 (45 FR 53506), December 24, 1980 (45 FR 85142), May 5, 1981 (46 FR 25121), October 5, 1981 (46 FR 48963), October 27, 1981 (46 FR 52409), February 9, 1982 (47 FR 5926), May 13, 1982 (47 FR 20654), and November 24, 1982 (47 FR 53091).)

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

EFFECTIVE DATE: January 1, 1983.

FOR FURTHER INFORMATION CONTACT: Ronald J. Sorini, International Trade Specialist, Office of Textiles and

Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–4212).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

December 16, 1982.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the bilateral textile agreement of November 18, 1982, concerning cotton, wool, and man-made fiber textile products from Taiwan; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on January 1, 1983 and for the twelve-month period extending through December 31, 1983, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool, and man-made fiber textile products in the following categories, produced or manufactured in Taiwan, in excess of the indicated levels of restraint:

Category	12-mo level of restraint
313	42,875,872 square yards.
331	473,006 dozen pairs.
333/334	61,870 dozen.
335	73,988 dozen.
337	131,067 dozen.
338/339	559,411 dozen.
340	644,548 dozen.
341	373,366 dozen.
347/348	909,085 dozen of which not more than 446,481 dozen shall be in Cat. 347 and not more than 720,783 dozen shall be in Cat. 348.
353/354/653/654	219,406 dozen.
435	19,616 dozen.
445/446	126,286 dozen.
604	461,340 pounds.
633/634/635	1,506,746 dozen of which not more than 993,723 dozen shall be in Cat. 633/634 and not more than 739,034 dozen shall be in Cat. 635.
638	1,626,644 dozen.
639	5,033,179 dozen.
640	3,254,255 dozen.
641	703,726 dozen.
645/646	3,966,756 dozen.
647	2,378,621 dozen.
648	3,089,650 dozen.
659 pt.[1]	3,340,838 pounds.
659 pt.[2]	1,725,500 pounds.

[1] In Category 659, only T.S.U.S.A. numbers 703.0500 and 703.1000.
[2] In Category 659, only T.S.U.S.A. number 703.1515.

In carrying out this directive entries of textile products in the foregoing categories, except Categories 313 and 337, which have been exported to the United States on and after January 1, 1982 and extending through December 31, 1982, shall, to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during that twelve-month period. In the event the levels of restraint established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter. Entries of textile products in Categories 313 and 337, which have been exported before January 1, 1983 shall not be subject to this directive.

Except as already adjusted, the levels of restraint set forth above are subject to adjustment pursuant to the provisions of the bilateral agreement of November 18, 1982, which provide, in part, that: (1) specific limits or sublimits may be exceeded by certain designated percentages, provided a corresponding reduction in equivalent square yards is made in one or more specific limits or sublimits during the same agreement year; (2) certain specific limits and sublimits may be increased for carryforward; (3) special shift may be applied to certain categories, provided an equivalent quantity in square yards equivalent is deducted from designated categories; and (4) administrative arrangements or adjustments may be made to resolve problems arising in the implementation of the agreement. Any appropriate adjustments under the provisions of the bilateral agreement, referred to above, will be made to you by letter.

A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), August 12, 1980 (45 FR 53506), December 24, 1980 (45 FR 85142), May 5, 1981 (46 FR 25121), October 5, 1981 (46 FR 48963), October 27, 1981 (46 FR 52409), February 9, 1982 (47 FR 5926), May 13, 1982 (47 FR 20654), and November 24, 1982 (47 FR 53091).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the authorities in Taiwan and with respect to imports of cotton, wool, and man made fiber textile products from Taiwan have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 82-34623 Filed 12-21-82; 8:45 am]
BILLING CODE 3510-25-M

DEPARTMENT OF DEFENSE

Corps of Engineers; Department of the Army

Intent To Prepare a Regulatory Action Draft Environmental Impact Statement (DEIS) for the Duck Island/ Sagavanirktok River Delta Development Project, Prudhoe Bay, Alaska

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS)

SUMMARY: 1. The proposed action contemplates issuance of a permit to the SOHIO Alaska Petroleum Company and the EXXON Corporation for the Duck Island/Sagavanirktok (Sag) Delta Development Project located offshore of the North Slope Borough, Alaska. The project is related to society's need for energy and is proposed to recover oil and gas of the Endicott Reservoir by facilities located on manmade gravel islands. The proposed project includes:

a. Construction in the Beaufort Sea (Arctic Ocean) of a combined production and drilling island, two satellite drilling islands, and, should secondary recovery be found to be feasible, a waterflood island.

b. Construction of buried pipeline between islands for produced fluids, injection water, artifical lift gas, and fuel.

c. Construction of buried pipelines for sales of oil and gas between the production island and the Trans-Alaska Pipeline System (TAPS). Two pipeline alternatives are being considered, construction of a causeway connecting the production island with the shore, or pipeline burial in subsea trenches.

d. Construction of facilities to generate electrical power, both centralized on the production island and localized on each island

e. Placement of cables between islands for electrical power distribution.

f. Construction of roads, distribution

pipelines, and fuel and utility systems.

2. Alternatives include no action; meeting society's energy need by other means; issuing a permit with certain conditions; alternative locations for drilling and production; alternative plan variations relating to roads, pipelines, structures, construction techniques, gravel sources, intake/discharge structures, treatment plant processes, and air quality control techniques.

3. The scope of the DEIS will be determined by encouraging and seeking the involvement of individuals; organized groups; the Inupiat Eskimos; local, State, and Federal agencies; and expert opinion from other sources. These and other interested parties are invited to actively participate in the scoping process by expressing ideas and concerns related to the proposed action.

Issues to be analyzed indepth include effects on wetland values, biological resources of aquatic systems, water quality, wildlife, air quality, human dependence and use of affected resources, and the cumulative impact of continued oil and gas development on the North Slope, Alaska. Possible cooperating agencies (as defined by current Federal guidelines) include the U.S. Environmental Protection Agency (EPA), the U.S. Fish and Wildlife Service, and other agencies of the Department of the Interior. In addition to preparation of the environmental impact statement and involvement in the Corps of Engineers permit process, the project will require permits from EPA and various local and state bodies.

4. An initial scoping meeting to provide an opportunity for public involvement will be held on 18 January 1983 in Anchorage, Alaska. The time and location have not yet been established. There will be additional scoping meetings to follow, times have yet to be determined. Written comments regarding the scope of the DEIS are welcomed

5. The DEIS is estimated to be available for public review in October 1983.

ADDRESS: Questions about the proposed action and the DEIS can be answered by: William D. Lloyd, Chief, Environmental Resources Section, Alaska District, Corps of Engineers, P.O. Box 7002, Anchorage, Alaska 99510

Dated: December 8, 1982.

Neil E. Saling,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 82-34625 Filed 12-21-82; 8:45 am]

BILLING CODE 3710-NL-M

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for the Sand Island Shore Protection Study

December 10, 1982.

AGENCY: Army Corps of Engineers, Honolulu District, DOD.

ACTION: Notice of intent to prepare draft environmental impact statement.

SUMMARY: 1. The U.S. Army Engineer District, Honolulu, is studying the feasibility of providing shore protection for Sand Island on Oahu, Hawaii.

2. The study is investigating the possibility of using detached breakwaters and/or an ungrouted riprap revetment to provide the protection.

3. The corps held a workshop in November 1982 in Honolulu with the State of Hawaii, Parks Division, and interested local citizens. Local interest groups, private organizations and parties, and Federal, State and County of Hawaii agencies will again be contacted during the course of the study. At this time, the DEIS will address the effects of the improvements on fish and wildlife resoures, historic sites, water resources, parks and social considerations identified by local residents at the public workshops. The U.S. Fish and Wildlife Service will provide their opinion of the project effects on fish and wildlife resources for inclusion in the DEIS. Consultation with the U.S. Advisory Council on Historic Preservation, National Park Service, State Historic Preservation Officer, State Department of Health, U.S. Environmental Protection Agency, National Marine Fisheries Service, State Harbor Division, and State Department of Parks, and the County Department of Parks and Recreation will be completed during the study as appropriate.

4. A scoping meeting is not planned at this time.

5. The DEIS will be made available for public review about April 1983.

ADDRESS: Questions about the proposed action and DEIS can be answered by: Mr. Warren Kanai, Project Manager, U.S. Army Engineer District, Honolulu, Building T-1, Fort Shafter, HI 96858; telephone (808) 438-2240.

Alfred J. Thiede,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 82-34640 Filed 12-21-82; 8:45 am]

BILLING CODE 3710-NN-M

Department of the Navy

Permanent Disposal of Decommissioned, Defueled Naval Submarine Reactor Plants; Public Hearings and the Availability of Draft Environmental Impact Statement

The Department of the Navy has prepared a draft environmental impact statement (EIS) to assess the environmental implications of alternatives that could be used to permanently dispose of decommissioned, defueled naval submarine reactor plants.

The proposed action is to evaluate the two basic alternatives for the permanent disposal of decommissioned, defueled submarine reactor plants—either land or sea. The Navy has made no decision to dispose of any nuclear-powered ships at this time. However, with over 100 nuclear-powered submarines in operation, the Navy is faced with eventual decommissioning of these ships at a future rate of possibly 3 or 4 per year over the next 30 years, and a permanent means of disposal must be developed that is environmentally acceptable. Following decommissioning, the submarines do not contain nuclear fuel, transuranic elements, or high level radioactive material. They will, however, contain low-level radioactivity resulting from the operation of the reactors while the submarines were in commission.

The two basic alternatives for permanent disposal are land disposal and sea disposal. Permanent disposal can be achieved by removal of the submarine compartment that contains the defueled reactor, followed by shipment of the compartment by barge and overland transporter to either of two accessible Federal land burial sites currently used by the Department of Energy for burial of low-level radioactive waste. These sites are in South Carolina (Savannah River Plant) and Washington State (Hanford Site). Radiation levels associated with the entire operation would meet applicable requirements of the Department of Transportation, Nuclear Regulatory Commission, and Department of Energy for transportation and disposal of solid low-level radioactivity. Alternatively, permanent disposal of the defueled submarine reactor plants could be achieved by sinking the defueled, decommissioned submarine in deep water locations that would be designated by the United States Environmental Protection Agency.

An alternative for temporary disposition of these defueled submarine

reactor plants would be the placement of each submarine in protective storage in a Navy facility for an extended period. This would allow radioactive material to decay under controlled conditions without release to the environment. However, this alternative would lead to other impacts and only postpone the decision for ultimate disposal, requiring the decision to be made sometime in the future. For this reason, this alternative is regarded as the no-action alternative. No other practical alternatives are known to exist for the final disposition of the reactor plants.

Impacts assessed for each disposal alternative include expected commitment of resources, land use, transportation requirements, and environmental consequences, including occupational radiation exposure due to disposal activities, and possible radiation exposure to the public during transportation and disposal. The impact of radioactivity releases due to unexpected occurrences is also assessed. For each alternative considered, an assessment is made of the impact on the environment in the vicinity of disposal sites. The draft EIS also includes a cost analysis of the disposal alternatives.

In accordance with the Council on Environmental Quality regulations for compliance with the National Environmental Policy Act (NEPA) (40 CFR Part 1501), the Department of the Navy is serving as the lead agency for preparation of the EIS. The Department of Energy (DOE) is participating as a cooperating agency with regard to the alternative of land disposal at DOE burial sites. By participating as a cooperating agency, DOE obligations under NEPA are fulfilled and no separate DOE EIS is required.

Copies of the draft EIS have been sent to various Federal, State, and local agencies as outlined in the Council on Environmental Quality regulations. Copies have also been sent to interested organizations and individuals, including those who requested copies in their response to the Navy's solicitation of comments or suggestions on the scope of the planned environmental statement, which was published in the Federal Register on January 14, 1982.

Single copies of the draft EIS may be obtained by writing to: Captain Edward F. Wagner, U.S. Navy, Office of the Chief of Naval Operations (OPNAV–22), Department of the Navy, Washington, D.C. 20350, Telephone (202) 697–1961.

The draft EIS may also be reviewed at the locations identified in this notice. The locations selected include public libraries in the county seats of all counties on the U.S. west coast. Locations were not selected in every county on the U.S. east coast because of the large number of counties and the short distance between county seats in some cases. Therefore, public libraries were selected in these locations such that any person would only have to travel a short distance to review the draft EIS. The draft EIS will be available in public libraries in all counties which surround the Federal land burial sites in South Carolina (Savannah River Plant) and Washington State (Hanford Site). The draft EIS will also be available at several locations in each State capitol where public hearings will be held.

Interested agencies, organizations, and the general public desiring to submit comments on the draft EIS are invited to do so. Comments on the draft EIS will be considered in preparing the final EIS.

Written comments on the draft EIS may be submitted to: Captain Edward F. Wagner, U.S. Navy, Office of the Chief of Naval Operations (OPNAV–22), Department of the Navy, Washington, D.C. 20350, Telephone (202) 697–1961.

Written comments should be received on or before March 31, 1983, in order to be incorporated into the final EIS. Responses to all substantive comments will be published in the final EIS.

Public hearings will be held during the comment period to afford members of the public an opportunity to present their views on the basic alternatives. These hearings will be held at the following locations:

1. February 14, 1983, in three sessions, the first commencing at 9:00 a.m., the second commencing at 1:30 p.m., and the third commencing at 7:30 p.m. in the North Carolina Department of Transportation Auditorium, Wilmington and Morgan Streets, Raleigh, North Carolina.

2. February 17, 1983, in three sessions, the first commencing at 9:00 a.m., the second commencing at 1:30 p.m., and the third commencing at 7:30 p.m. in the University of South Carolina Wade Hampton Conference Center, Main and Gervais Streets, Columbia, South Carolina.

3. February 22, 1983, in three sessions, the first commencing at 9:00 a.m., the second commencing at 1:30 p.m., and the third commencing at 7:30 p.m. in the State of Washington Department of General Administration, Office Building #2 auditorium, 218 General Administration Building, Olympia, Washington.

4. February 24, 1983, in three sessions, the first commencing at 9:00 a.m., the second commencing at 1:30 p.m., and the third commencing at 7:30 p.m. in the California Water Resources Building, 1416 Main Street, Sacramento, California.

The hearings will be conducted by a Navy Hearing Officer. The hearings will be informal, neither evidential nor judicial in nature, and there will be no cross-examination of witnesses. All persons who give testimony or ask questions are requested to address themselves to the Hearing Officer. Individual speakers are requested to limit their testimony to five minutes each, and organizational spokesmen will have ten minutes each to summarize and present their views. Organizations desiring to make a formal presentation in excess of ten minutes may do so if specific arrangements have been made with the Hearing Officer in advance. All testimony will be recorded.

Individuals and organizations wishing to submit written statements to be included in the hearing record may either present such statements to the hearing Officer at the hearing or mail the statements to Captain Wagner at the above address.

Locations Where Draft EIS Is Available for Review

San Diego Public Library, 820 E Street, San Diego, CA 92101, Phone: 714–565–5100.
Redwood City Public Library, 881 Jefferson Avenue, Redwood City, CA 94063, Phone: 415–369–6251.
Santa Ana Public Library, 26 Civic Center Plaza, P.O. Box 1988, Santa Ana, CA 92701, Phone: 714–834–4021.
Los Angeles Public Library System, 630 W. Fifth Street, Los Angeles, CA 90071, Phone: 213–627–7555.
Ventura County Library Services Agency, Ventura County Library, 651 E. Main Street, P.O. Box 771, Ventura, CA 93009, Phone: 805–654–2627.
Santa Barbara Public Library, 1021 Anacapa Street, P.O. Box 1019, Santa Barbara, CA 93102, Phone: 805–962–7653.
San Luis Obispo City-County Library, P.O. Box X, San Luis Obispo, CA 93406, Phone: 805–543–1730.
Monterey County Library, 26 Central Avenue, Salinas, CA 93901, Phone: 408–424–8611.
Coquille Public Library, 105 N. Birch Street, Coquille, OR 97423, Phone: 503–396–2410.
Santa Cruz Public Library, 224 Church Street, Santa Cruz, CA 95060, Phone: 408–429–3533.
San Francisco Public Library, Civic Center, San Francisco, CA 94102, Phone: 415–558–4235.
Sacramento Public Library, 7000 Franklin Boulevard, Suite 540, Sacramento, CA 95823, Phone: 916–440–5926.
Marin County Free Library, Civic Center Administration Building, San Rafael, CA 94903, Phone: 415–479–1100.
Sonoma County Library, Third and E Streets, Santa Rosa, CA 95404, Phone: 707–545–0831.
Mendocino County Library, 105 N. Main Street, Ukiah, CA 95482, Phone: 707–468–4491.

Eureka-Humboldt County Library, 636 F Street, Eureka, CA 95501, Phone: 707–445–7284.
Del Norte County District Library, 450 H Street, Crescent City, CA 95531, Phone: 707–464–9616.
Curry Public Library, 330 Covin, P.O. Box 625, Goldbeach, OR 97444, Phone: 503–247–7246.
Columbia Basin College, Library, Media Center, 200 N. 20th Avenue, Pasco, WA 99301, Phone: 509–547–0511.
Douglas County Library System, Courthouse, Douglas Avenue, Roseburg, OR 97470, Phone: 503–673–1111.
Eugene Public Library, 100 W. 13th Avenue, Eugene, OR 97401, Phone: 503–687–5450.
Newport Public Library, 251 W. Olive Street, Newport, OR 97365.
Tillamook County Public Library, 210 Ivy Avenue, Tillamook, OR 94141, Phone: 503–842–4792.
Astoria Public Library, 450 Tenth Street, Astoria OR 97103, Phone: 503–325–6581.
Grays Harbor College, John Spellman Library, Aberdeen, WA 98520, Phone: 206–532–9020.
Port Townsend Public Library, 1228 Lawrence Street, Port Townsend, WA 98368, Phone: 206–385–3181.
North Olympic Library System, 2210 S. Peabody, Port Angeles, WA 98362, Phone: 206–457–4464.
Timberland Regional Library, 415 Sirdustrail SW, Olympia, WA 98502, Phone: 206–942–5001.
Charleston County Library, 404 King Street, Charleston, SC 29403, Phone: 803–723–1645.
Monroe County Public Library, 700 Fleming Street, Key West, FL 30040, Phone: 305–294–7100.
Miami-Dade Public Library System, One Biscayne Blvd., Miami, FL 33132, Phone: 305–579–5001.
Palm Beach County Public Library System, 3650 Summit Blvd., West Palm Beach, FL 33406, Phone: 305–686–0895.
Volusia County Public Libraries, City Island, Daytona Beach, FL 32014, Phone: 904–353–8374.
Indian River County Library, 1028 20th Place, Vero Beach, FL 32960, Phone: 305–567–4111.
Jacksonville Public Library System, Haydon Burns Library, 122 N. Ocean Street, Jacksonville, FL 32202, Phone: 904–633–6870.
Brunswick-Glynn County Regional Library, 208 Glouster Street, Brunswick, GA 31520, Phone: 912–246–7360.
Chatham-Effingham-Liberty Regional Library, Savannah Public Library, 2002 Bull Street, Savannah, GA 31401, Phone: 912–234–5127.
New York Public Library, Astor, Lennox & Tilden Foundations Library, Fifth Avenue and 42nd Street, New York, NY 10018, Phone: 212–790–6262.
Georgetown County Memorial Library, Highmarket & Screven, Drawer D, Georgetown, SC 92440, Phone: 803–546–2521.
New Hanover County Public Library, 409 Market Street, Wilmington, SC 28401, Phone: 919–763–3303.
Onslow County Public Library, 501 Davis Avenue, Jacksonville, NC 28540, Phone: 919–347–2592.
Dare County Library, Box 968, Manteo, NC 27954, Phone: 919–473–2372.
Norfolk Public Library, 301 E. City Hall Avenue, Norfolk VA 23510.
Georgetown Public Library, 10 W. Pine Street, Georgetown, DE 19947, Phone: 307–865–7959.
Cape May County Library, Mechanic Street, Cape May Court House, NJ 08216, Phone: 609–456–7837.
Ocean County Library, 15 Hooper Avenue, Toms River, NJ 08753, Phone: 201–349–6200.
Wake County Department of the Public Library, 104 Fayetteville Street Mall, Raleigh, NC 27601, Phone: 919–755–6077.
Sacramento Public Library, Central Library, 828 I Street, Sacramento, CA 95814, Phone: 916–449–5203.
New Haven Free Public Library, 133 Elm Street, New Haven, CT 06510, Phone: 203–562–0151.
Newport Public Library, Aquidneck Park, Box 8, Newport, RI 02840.
Boston Public Library, 666 Boylston Street, Box 286, Boston, MA 02117, Phone: 617–536–5400.
Portland Public Library, Baxter Library, 619 Congress Street, Portland, ME 04101, Phone: 207–773–4761.
Ellsworth City Library, 46 State Street, Ellsworth, ME 04605, Phone: 207–667–2307.
Richland County Public Library, 1400 Sumter Street, Columbia, SC 29201, Phone: 803–799–9084.
Aiken-Bamberg-Barnwell-Edgefield Regional Library, 224 Laurens Street, Box 909, Aiken, SC 29801, Phone: 803–648–8961.
Richland County Public Library, John Hughes Cooper Branch, 5317 Trenholm Road, Columbia, SC 29204, Phone: 803–787–3462.
Richland County Public Library, Devine Street Branch, 2728 Devine Street, Columbia, SC 29205, Phone: 803–799–5873.
Sacramento Public Library, Arcade Branch, 2443 Marconi Avenue, Sacramento, CA 95821, Phone: 916–483–5061.
Sacramento Public Library, Arden Branch, 891 Watt Avenue, Sacramento, CA 95825, Phone: 916–483–6361.
Sacramento Public Library, Martin Luther King Regional Branch, 7340 24th Street Bypass, Sacramento, CA 95822, Phone: 916–421–3115.
Wake County Public Library, 104 Fayetteville Street Mall, Raleigh, NC 27601, Phone: 919–755–6077.
Wake County Public Library, Richard B. Harrison Branch, 1313 New Bern Avenue, Raleigh, NC 27610, Phone: 919–755–6097.
Public Documents Room, U.S. Department of Energy, San Francisco Operations Office, 1333 Broadway, Oakland, CA 94612, Phone: 415–273–4135.
Public Documents Room, Federal Building (Science Center), Richland Operations Office, 825 Jadwin Avenue, P.O. Box 550 Richland, WA 99351, Phone: 509–376–7411.
Z. J. Loussac Public Library, 427 F Street, Anchorage, Alaska 99501, Phone: 907–264–4481.
Hawaii Regional Library, 300 Waianueneu Ave., Hilo, Hawaii 96720.
Richland County Public Library, St. Andrews Branch, 130 Lancewood Road, Columbia, SC 29210, Phone: 803–772–6875.
Timberland Regional Library, South Bend Branch, First and Pacific, South Bend, WA 98586, Phone: 206–875–5523.
Timberland Regional Library, W. H. Abel Memorial Branch, 125 Main Steet, Montesano, WA 98563.
Timberland Regional Library, Olympia Branch, Seventh Franklin, Olympia, WA 98501, Phone: 206–352–0595.
Public Documents Room, U.S. Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, SC 29801, Phone: 803–725–6211.
Public Documents Room, U.S. Department of Energy, Forrestal Building, Room 1E090, 1000 Independence Ave., S.W., Washington, D.C. 20585, Phone: 202–252–5575.
The Juneau Memorial Library, 114 West 4th Street, Juneau, Alaska 99801, Phone: 907–586–2429.
Kodiak Public Library, P.O. Box 985, Kodiak, Alaska 99615, Phone: 907–486–3312.
Kaimuki Regional Library, 1041 Koko Hd. Ave., Honolulu, Hawaii 96816.
Maui Regional Library, 251 High Street, Wailuka, Hawaii 96793.
Kauai Regional Library, 4344 Hardy Street, Lihue, Hawaii 96766.
Pearl City Regional Library, 1138 Waimano Home Rd., Pearl City, Hawaii 96782.

For general information on the Navy EIS process contact: Mr. Edward W. Johnson, Office of the Chief of Naval Operations (OPNAV–45), Department of the Navy, Washington, D.C. 20350, Telephone: (202) 697–3689.

Dated: December 17, 1982.

F. N. Ottie,

Lieutenant Commander, JAGC, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 82–34585 Filed 12–21–82; 8:45 am]

BILLING CODE 3810–AE–M

Relocation of Navy Personnel From Leased Space to Government-Owned Office Space, Washington, D.C.; Public Hearings and Availability of Draft Environmental Impact Statement

Notice is hereby given that two public hearings will be held for the purpose of receiving oral and written comments concerning the Draft Environmental Impact Statement (DEIS) on the potential consolidation of Navy administrative offices now located in leased buildings in the Washington, D.C., area. Potentially affected by this consolidation are approximately 18,000 Navy military and civilian employees now working at thirteen locations in the District of Columbia, Maryland, and Virginia, with the greatest number in the northern Virginia suburbs of Washington.

The DEIS documents the impact of implementing the consolidation at each of four alternative sites: (1) The Washington Navy Yard/Southeast Federal Center tract in southeast Washington, D.C.; (2) the Naval Surface

Weapons Center at White Oak, Maryland; (3) the Pentagon site in Arlington, Virginia; and (4) the Crystal City complex of buildings, also in Arlington, Virginia.

The public hearings will be held on January 18, 1983, at 7:00 p.m., at the Aurora Hills Recreation Center, 735 South Hayes Street (South Hayes at 18th Street, near Crystal City), Arlington, Virginia, and on January 19, 1983, at 7:00 p.m., in Room 201, Building 172, the Washington Navy Yard, Washington, D.C. (gate guards will direct visitors to Building 172 at the Navy Yard).

At the hearings, a short presentation will be given describing the consolidation, and summarizing the major impacts associated with the alternative consolidation sites. After the presentation, there will be an opportunity for public and agency comment. Persons wishing to speak at the hearings may register by contacting EDAW, Inc., Attention: Tony Duncanson, 601 Prince Street, Alexandria, Virginia 22314, telephone 836–1414. Speakers may also register on the evening of either hearing by completing a registration card at the door. Oral statements at the hearings will be limited to five minutes. Lengthy comments should be submitted in writing and summarized orally. Only registered speakers will be recognized. Written comments are not required, but are encouraged to ensure accuracy. Written comments will be accepted at the hearings, or at the above address during normal business hours before or after the hearings, through January 24, 1983.

To facilitate public review, copies of the DEIS have been placed in a number of public libraries in the Washington, D.C. area. Persons wishing to examine a copy at one of these locations may contact EDAW, Inc., at the above address and telephone number for the name and location of the nearest public library at which copies of the DEIS have been placed.

Dated: December 17, 1982.

F. N. Ottie,

Lieutenant Commander, JAGC, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 82-34584 Filed 12-21-82; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF ENERGY

Energy Information Administration

Agency Forms Under Review by the Office of Management and Budget

AGENCY: Energy Information Administration, DOE.

ACTION: Notice of submission of request for clearance to the Office of Management and Budget.

SUMMARY: Under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), Department of Energy (DOE) notices of proposed collections under review will be published in the **Federal Register** on the Thursday of the week following their submission to the Office of Management and Budget (OMB). Following this notice is a list of the DOE proposals sent to OMB for approval since December 9, 1982.

Each entry contains the following information and is listed by the DOE sponsoring office: (1) The form number; (2) Form title; (3) Type of request, e.g., new, revision, or extension; (4) Frequency of collection; (5) Response obligation, i.e., mandatory, voluntary, or required to obtain or retain benefit; (6) Type of respondent; (7) An estimate of the number of respondents; (8) Annual respondent burden, i.e., an estimate of the total number of hours needed to fill out the form; and (9) A brief abstract describing the proposed collection.

DATE: Last Notice published Thursday, December 9, 1982 (47 FR 55414).

FOR FURTHER INFORMATION CONTACT:

John Gross, Director, Forms Clearance and Burden Control Division, Energy Information Administration, M.S. 1H-023, Forrestal Building, 1000 Independence Ave., NW., Washington, DC 20585, (202) 252-2308

Jefferson B. Hill, Department of Energy Desk Officer, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, (202) 395-7340

Vartkes Broussalian, Federal Energy Regulatory Commission Desk Officer, Office of Management and Budget, 726 Jackson Place, NW., Washington, D.C. 20503, (202) 395-3087

SUPPLEMENTARY INFORMATION: Copies of proposed collections and supporting documents may be obtained from Mr. Gross. Comments and questions about the items on this list should be directed to the OMB reviewer; comments should also be provided Mr. Gross. If you anticipate commenting on a form, but find that time to prepare the comments will prevent you from submitting them promptly, you should advise the OMB reviewer of your intent as early as possible.

Issued in Washington, D.C., December 10, 1982.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

DOE Forms Under Review by OMB

From No. (1)	From title (2)	Type of request (3)	Response frequency (4)	Response obligation (5)	Respondent description (6)	Estimated number of respondents (7)	Annual respondent burden (8)	Abstract (9)
EIA-3	Quarterly Coal Consumption Report—Manufacturing Plants.	Extension	Quarterly	Mandatory	Manufacturing plants known to use coal for uses other than coke production.	1,100	2,200	EIA-3 collects information on coal stocks, receipts, prices and amounts consumed. The information is published in the Quarterly Coal Report and the Annual Report to Congress.
EIA-5	Coke Plant Report—Quarterly	Extension	Quarterly	Mandatory	Coke Plants	49	1176	EIA-5 data are used to track metallurgical coal receipts/cost/consumption/stocks and coke production/use/sales/stocks. The data are published in the Quarterly Coal Report and the Annual Report to Congress.
EIA-5A	Coke Plant Report—Annual Supplement.	Extension	Quarterly	Mandatory	Coke Plants	49	837	EIA-5A data are used to track coke ovens, coking capacity, crude coal chemical materials production/use/sales/stocks, and coal receipts/quantities/origin and related data. The data are published in the Oct.-Dec. issue of the Quarterly Coal Report and in the Annual Report to Congress.

DOE FORMS UNDER REVIEW BY OMB—Continued

From No. (1)	From title (2)	Type of request (3)	Response frequency (4)	Response obligation (5)	Respondent description (6)	Estimated number of respondents (7)	Annual respondent burden	(9)
FERC-516.	Electric Rate Filings	Extension	On occasion	Mandatory	Public Utilities-Electric	170	700,000	The Federal Power Act requires each utility which has sales for resale or transmits energy in interstate commerce to file the rate schedules for such sales, together with related contracts and service conditions. The data are required to determine the reasonableness of rates.
FERC-550.	Oil Pipelene Rates: Tariff Filings.	Extension	On occasion	Mandatory	Oil Pipeline Companies	125	11,300	Data are used by FERC to establish the just and reasonable rates that may be charged by oil pipeline companies.
FERC-570.	Recordkeeping Requirements for Certain Sales of Natural Gas.	New	NA-Record-keeping Requirement	Mandatory	Natural Gas Producers	1,000	0	In relation to first sales of gas under Sections 105, 106(b) and 109 of the Natural Gas Policy Act of 1978 (NGPA), books, records, and contracts must be retained by the seller for a period of three years to enable the Commission staff to audit for compliance with the maximum ceiling price permitted by these sections

[FR Doc. 82-34621 Filed 12-21-82; 8:45 am]

BILLING CODE 6450-01-M

Office of Energy Research

Light Water Reactor Safety R&D Panel, Energy Research Advisory Board; Meeting

Notice is hereby given of the following meeting:

Name: Light Water Reactor Safety R&D Panel of the Energy Research Advisory Board (ERAB). ERAB is a Committee constituted under the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770).

Date and time: January 18, 1983, from 9 a.m. to 5 p.m.

Place: Department of Energy, Room 8E-089, Forrestal Building, 1000 Independence Avenue, SW. Washington, DC 20585.

Contact: Charles E. Cathey, Energy Research Advisory Board, Department of Energy, Forrestal Building, ER-6, 1000 Independence Avenue, SW., Washington, DC 20585, telephone: 202/252-8933.

Purpose of the parent board: To advise the Department of Energy on the overall research and development conducted in DOE and to provide long-range guidance in these areas to the Department.

Tentative Agenda:

- Introduction of members of Panel.
- Discussion of the Panel's charge.
- Discussion of initial work plan.
- Future meeting schedule.
- Briefings on DOE management plan for LWR Safety R&D.
- In the event that business is not completed by 5 p.m. on January 18, the meeting will continue at 9 a.m. on January 19 in the same room.

Public participation: The meeting is open to the public. Written statements may be filed with the Panel either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Charles E. Cathey at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Panel is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts: Available for public review and copying at the Freedom of Information Public Reading Room, 1E-190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 8:30 a.m. and 4 P.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on December 16, 1982.

J. Ronald Young,

Director for Management, Office of Energy Research.

[FR Doc. 82-34620 Filed 12-21-82; 8:45 am]

BILLING CODE 6450-01-M

Magnetic Fusion Advisory Committee; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: Magnetic Fusion Advisory Committee.

Date and time: Monday, January 10, 1983—9:00 a.m. to 5:00 p.m. Tuesday, January 11, 1983—9:00 a.m. to 5:00 p.m.

Place: Lawrence Livermore National Laboratory, Building 111, Room Q-114, Conference Room A, Livermore, California.

Contact: Lenore R. Ledman, Office of Fusion Energy, ER-50.2, U.S. Department of Energy, Germantown—Room G-226, Washington, DC 20545, Telephone: 301/353-3598.

Purpose of the committee: To provide advice to the Secretary of Energy on the Department's Magnetic Fusion Energy Program, including periodic reviews of elements of the program and recommendations of changes based on scientific and technological advances or other factors; advice on long-range plans, priorities, and strategies to demonstrate the scientific and engineering feasibility of fusion; advice on recommended appropriate levels of funding to develop those strategies and to help maintain appropriate balance between competing elements of the program.

Tentative Agenda:

- Panel #3 findings and recommendations on Tokamak Fusion Test Reactor (TFTR) upgrade options—H. Forsen
  - Introduction and review of charges
  - Technical basis and requirements
  - Description of upgrade options
  - Summary
  - Findings
- Magnetic Fusion Advisory Committee discussion and recommendations on TFTR upgrade option.
- Review of charges to Panel #3 on Mirror Fusion Test Facility (MFTF-B) upgrade options—R. Davidson.

- New charges to Magnetic Fusion Advisory Committee.
- Review of Department of Energy Charges—J. Clarke
- Charges to Panel(s)—R. Davidson.
- Discussion.
- Public Comment.

Public participation: The meetinfg is open to the public. Written statements may be filed with the committee either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Lenore R. Ledman at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Minutes: Available approximately 30 days following the meeting.

Issued at Washington, DC, on December 16, 1982.

Howard H. Raiken,

Deputy Advisory Committee, Management Officer.

[FR Doc. 83-34622 Filed 12-21-82; 8:45 am]

BILLING CODE 6450-01-M

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: December 14, 1982.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
OHIO DEPARTMENT OF NATURAL RESOURCES									
-ACTION PETROLEUM INC				RECEIVED:	11/16/82	JA: OH			
8309337		3400722091		103	107-TF	WHITELY #1	NEW LYME	30.0	P O I ENERGY INC
-ALAN HARRIS				RECEIVED:	11/16/82	JA: OH			
8309423		341N722883		108		HARRIS #1		0.2	RIVER GAS CO
-ALLEN M ANDERSON				RECEIVED:	11/16/82	JA: OH			
8309363		3416726057		103		JAMES & VIRGINIA VIA #1	WARREN	10.0	
-ALSID OIL & GAS DEVELOPMENT CO				RECEIVED:	11/16/82	JA: OH			
8309355		3415723458		107-TF		ARTH #1	SALEM	15.0	
8309346		3415521554		107-TF		BURTON & FRANCES DUCK #1	BLOOMFIELD	15.0	
8309347		3415521555		107-TF		BURTON & FRANCES DUCK #2	BLOOMFIELD	15.0	
8309348		3415521562		107-TF		BURTON & FRANCES DUCK #3	BLOOMFIELD	15.0	
8309349		3415521564		107-TF		BURTON & FRANCES DUCK #4	BLOOMFIELD	15.0	
8309350		3412122227		107-TF		H BOND #1 (687)	BUFFALO	15.0	
8309352		3412122229		107-TF		H BOND #2 (690)	BUFFALO	15.0	
8309340		3409921202		107-TF		J GREENELSEN #1	SMITH	15.0	
8309344		3415521371		107-TF		JEWELL #1	BLOOMFIELD	15.0	
8309345		3415521424		107-TF		JEWELL #2	BRISTOL	15.0	
8309353		3415723444		107-TF		LAHMERS #1	SALEM	15.0	
8309354		3415723445		107-TF		LAHMERS #2	SALEM	15.0	
8309338		3405922658		107-TF		MITCHELL #1	ADAMS	15.0	
8309339		3409921198		107-TF		SCHIMLER #1	BERLIN	15.0	
8309342		3409921267		107-TF		SCHROEDER #1	SMITH	15.0	
8309341		3409921230		107-TF		WEIZENECKER UNIT #2	SMITH	15.0	
8309351		3412132228		107-TF		WILLIAMS - BOND (696) #1	BUFFALO	15.0	
8309343		3412121546		107-TF		WILLIAMS - BOND (699) #2	BUFFALO	15.0	
-AMERICAN WELL MANAGEMENT COMPANY				RECEIVED:	11/16/82	JA: OH			
8309356		3411521998		107-TF		PRICE #1	DEERFIELD	450.0	COLUMBIA GAS TRAN
8309357		3411925353		107-TF		SHOOK #1	CASS	385.0	NATIONAL GAS & OI
8309362		3416320407		107-TF		TURNER #1	SWAN	1.0	COLUMBIA GAS TRAN
8309359		3416320402		107-TF		WHITE #1	SWAN	2.0	COLUMBIA GAS TRAN
8309361		3416320404		107-TF		WHITE #2	SWAN	720.0	COLUMBIA GAS TRAN
8309360		3416320403		107-TF		WRIGHT #1	SWAN	298.0	COLUMBIA GAS TRAN
8309358		3416320401		107-TF		WRIGHT #2	SWAN	9.0	COLUMBIA GAS TRAN
-APPALACHIAN EXPLORATION INC				RECEIVED:	11/16/82	JA: OH			
8309364		3410322728		107-TF		FIXLER-KUROWSKI #1	SHARON	18.3	COLUMBIA GAS TRAN
-BANDS COMPANY INC				RECEIVED:	11/16/82	JA: OH			
8309365		3407523657		103		JOHN & ROBERT STARNER #1	KILLBUCK	1.5	COLUMBIA GAS TRAN
-BASIN PRODUCING CO				RECEIVED:	11/16/82	JA: OH			
8309366		3413322917		103	107-TF	PRASKY UNIT #1 PERMIT 2917	WINDHAM	10.0	
-BECK OIL & GAS CO				RECEIVED:	11/16/82	JA: OH			
8309367		3403124789		103	107-TF	DOTY #1	WILLS CREEK	0.0	COLUMBIA GAS TRAN

VOLUME 793 PAGE 002

JO NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-BELDEN & BLAKE E CO 89				RECEIVED:	11/16/82	JA: OH			
8309370		3415123692		103		VOGLEY ORCHARD #2 -34-1215	WAYNESBURG	36.5	
8309368		3401921566		103		W & N DANNER 34-1217	DELLROY	36.5	
8309369		3401921599		103		WHITACRE-GREER #37 - 34-1250	BROWN	36.5	
-BERMAN J SHAFER				RECEIVED:	11/16/82	JA: OH			
8309518		3415321153		103		R B STOUT #1	BATH	7.5	EAST OHIO GAS CO
8309517		3415321152		103		R B STOUT #2	BATH	7.5	EAST OHIO GAS CO
-BERRESFORD ENTERPRISES INC				RECEIVED:	11/16/82	JA: OH			
8309372		3416727284		103		LOUIS SCHILLING #11	BEVERLY	6.8	
-CARBONIT EXPLORATION INC				RECEIVED:	11/16/82	JA: OH			
8309375		3411122058		107-DV		BLAIR #1	WASHINGTON	8.0	TEXAS EASTERN TRA
8309374		3411122050		107-DV		KNOWLTON #1 "A" NORTH	WASHINGTON	8.0	TEXAS EASTERN TRA
8309373		3411122028		107-DV		KNOWLTON #1B SOUTH	WASHINGTON TWP	8.0	TEXAS EASTERN TRA
-CAVENDISH PETROLEUM OF OHIO INC				RECEIVED:	11/16/82	JA: OH			
8309376		3411923579		108		OHIO POWER 4-E		17.1	EAST OHIO GAS CO
-CLOVER OIL CO				RECEIVED:	11/16/82	JA: OH			
8309377		3400523481		107-TF		DEAN & DONNA SHEPPARD #1	WEST SALEM	7.8	COLUMBIA GAS TRAN
-CONSOLIDATED RESOURCES OF AMERICA				RECEIVED:	11/16/82	JA: OH			
8309379		3416320476		103	107-TF	LELAND MINTON #1	JACKSON	3.7	COLUMBIA GAS TRAN
8309378		3405923142		103	107-TF	WALKER-HUNTER UNIT #1	SENECAVILLE	4.5	COLUMBIA GAS TRAN
-DEER CREEK INC				RECEIVED:	11/16/82	JA: OH			
8309381		3411926864		107-TF		M MATHEWS #1	OTSEGO	15.0	
-DOME PRODUCING				RECEIVED:	11/16/82	JA: OH			
8309382		3416523848		107-TF		DONNELLY #1	HINCKLEY	15.0	COLUMBIA GAS TRAN
8309383		3416523139		107-TF		KRASNY #1	HINCKLEY	20.0	COLUMBIA GAS TRAN
-DWIGHT MARTIN				RECEIVED:	11/16/82	JA: OH			
8309452		3416923391		107-TF		BORMAN 1A	WEST SALEM	10.8	
-EDCO DRILLING & PRODUCING INC				RECEIVED:	11/16/82	JA: OH			
8309384		3403123426		108		JONES BL-3E		18.8	COLUMBIA GAS TRAN
8309385		3403124220		108		JONES BL-4E		18.8	COLUMBIA GAS TRAN
8309386		3407522343		108		WATTS SM-1A		18.8	COLUMBIA GAS TRAN
8309387		3407522365		108		WATTS SM-2A		18.8	COLUMBIA GAS TRAN
-ENERGY DEVELOPMENT CORP				RECEIVED:	11/16/82	JA: OH			
8309388		3406722039		103	107-TF	NEALEN #1	DRWELL	18.8	
-ENTERPRISE ENERGY CORP				RECEIVED:	11/16/82	JA: OH			
8309390		3416320693		103	107-TF	BENEDICT #4	SWAN	27.3	COLUMBIA GAS TRAN
8309391		3416320729		103	107-TF	D DAVIS #8	SWAN	36.5	COLUMBIA GAS TRAN
8309389		3405923248		103	107-TF	MID-OHIO COAL #13	JACKSON	27.3	COLUMBIA GAS TRAN
-EVERFLOW EASTERN INC				RECEIVED:	11/16/82	JA: OH			
8309393		3415723667		103	107-TF	BENNER #1	RUSH	8.8	
8309392		3409920947	D	107-RT		BOWMAN CACKOVIC #1	ELLSWORTH	8.8	AMERICAN ENERGY S
8309394		3415723786		103	107-TF	ROY WHITE #1	MILL	8.8	
-FORAKER PRODUCING COMPANY INC				RECEIVED:	11/16/82	JA: OH			
8309405		3412725020		107-TF		BROWN #2	BEAVERTOWN	40.8	
8309396		3411925201		107-TF		BRUCE #2	NEWTON	10.8	
8309395		3411924781		107-TF		CANNON #2	NEWTON	20.8	
8309400		3412724575		107-TF		GLADDEN #1	DEAVERTOWN	10.8	
8309404		3412724980		107-TF		HAGAN-REICHLEY #2	DEAVERTOWN	25.8	
8309403		3412724978		107-TF		HAGAN-REICHLEY #4	DEAVERTOWN	20.8	
8309398		3412724568		107-TF		HARRIS-RICKETTS #3	BEARFIELD	25.8	
8309399		3412724569		107-TF		HARRIS-RICKETTS #4	DEAVERTOWN	30.8	
8309410		3412725030		107-TF		HARRIS-RICKETTS #5	DEAVERTOWN	25.8	
8309411		3412725031		107-TF		HARRIS-RICKETTS #6	DEAVERTOWN	30.8	

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8309412		3412725032		107-TF		HARRIS-RICKETTS #7	DEAVERTOWN	25.0	
8309402		3412724705		107-TF		HOLCOMB #1	DEAVERTOWN	25.0	
8309413		3412725020		107-TF		MARLOW 2-A	HARRISON	15.0	
8309408		3412725027		107-TF		PETTET #1	DEAVERTOWN	30.0	
8309409		3412725028		107-TF		PETTET #3	DEAVERTOWN	40.0	
8309397		3411925227		107-TF		WILKISON #1	NEWTON	2.0	
8309407		3412725025		107-TF		WORLEY-DEAVER #3	DEAVERTOWN	20.0	
8309401		3412724695		107-TF		WORLEY-DEAVERS #1	DEAVERTOWN	25.0	
8309406		3412725024		107-TF		WORLEY-DEAVERS #2	DEAVERTOWN	20.0	
-GASEARCH INC				RECEIVED: 11/16/82		JA: OH			
8309414		3408922310		103		BAIRD BROS #1-B	YORK	10.0	COLUMBIA GAS TRAN
8309415		3415522253		103	107-TF	DETWEILLER #2	MESOPOTAMIA	20.0	YANKEE RESOURCES
-GENERAL ELECTRIC CO				RECEIVED: 11/16/82		JA: OH			
8309416		3400722020		103	107-TF	RING #1	CONNEAUT	20.0	EAST OHIO GAS CO
-GEO ENERGY INC				RECEIVED: 11/16/82		JA: OH			
8309417		3411926235		107-TF		MCCALL #22-3	HIGHLAND	15.5	
-GRAHAM-MICHAELIS CORP				RECEIVED: 11/16/82		JA: OH			
8309419		3406522181		102-2		RETTIG #1-32	DAMASCUS	9.1	
8309418		3406520075		102-4		SHIDLER #1-4	RICHFIELD	27.4	
-GREEN GAS COMPANY				RECEIVED: 11/16/82		JA: OH			
8309420		3409321169		107-TF		ENGLEBROOK PARK #2	COLUMBIA	30.0	COLUMBIA GAS TRAN
-GREENLAND PARTNERSHIP	#2-1			RECEIVED: 11/16/82		JA: OH			
8309421		3407322662		103		BILIKAM #1	FALLS GORE	0.0	COLUMBIA GAS TRAN
-HOPCO RESOURCES INC				RECEIVED: 11/16/82		JA: OH			
8309424		3403124729		103	107-TF	MAYSE #1	KEENE	12.0	COLUMBIA GAS TRAN
8309425		3403124884		103	107-TF	PEOPLES INC #2	KEENE	12.0	COLUMBIA GAS TRAN
-INDUSTRIAL NATURAL GAS CORP				RECEIVED: 11/16/82		JA: OH			
8309426		3404120380		103		D JACKSON #1	HARLEM	365.0	
-J D DRILLING CO				RECEIVED: 11/16/82		JA: OH			
8309440		3410523330		107-TF		ARNOLD WEBSTER #1	POMEROY (TO 1646')	4.0	COLUMBIA GAS TRAN
8309442		3410523380		107-TF		ARNOLD WEBSTER #3	POMEROY (TO 1800')	5.0	COLUMBIA GAS TRAN
8309441		3410523340		107-TF		ARNOLD-WEBSTER #2	POMEROY (TO 1616')	7.0	COLUMBIA GAS TRAN
8309427		3410522003		107-TF		CHARLES ESKEW #1	SALISBURY (TO 1530')	8.0	COLUMBIA GAS TRAN
8309437		3410522200		107-TF		DALE & SHIRLEY PRIDDY #2	RUTLAND (TO 1514')	3.0	COLUMBIA GAS TRAN
8309429		3410522021		107-TF		DALE PRIDDY #1	RUTLAND (TO 1618')	3.0	COLUMBIA GAS TRAN
8309433		3410522188		107-TF		HANSON & HOWELL #1	RUTLAND (TO 1566')	3.0	COLUMBIA GAS TRAN
8309436		3410522118		107-TF		HARRY OSBORNE #2	SALISBURY (TO 1580')	3.0	COLUMBIA GAS TRAN
8309434		3410522109		107-TF		LELAND CLONCH #1	RUTLAND (TO 1720')	4.0	COLUMBIA GAS TRAN
8309435		3410522110		107-TF		LELAND CLONCH #2	RUTLAND (TO 1722')	3.0	COLUMBIA GAS TRAN
8309428		3410522015		107-TF		MARIE STEINER #1	RUTLAND (TO 1562')	3.0	COLUMBIA GAS TRAN
8309432		3410522090		107-TF		RAYMOND J SMITH #2	RUTLAND (TO 1740')	9.0	COLUMBIA GAS TRAN
8309431		3410522089		107-TF		RAYMOND J SMITH #3	RUTLAND (TO 1760')	4.0	COLUMBIA GAS TRAN
8309430		3410522050		107-TF		RICHARD MEES #1	SHADE (TO 1694')	7.0	COLUMBIA GAS TRAN
8309438		3410522324		107-TF		VIRGIL PARSONS #1	POMEROY (TO 1754')	5.0	COLUMBIA GAS TRAN
8309439		3410522305		107-TF		VIRGIL PARSONS #2	POMEROY (TO 1784')	5.0	COLUMBIA GAS TRAN
-J P WHITE				RECEIVED: 11/16/82		JA: OH			
8309531		3400720377	D	107-RT		WESTFALL #1	DENMARK	0.3	EAST OHIO GAS CO
-JACK M CRISP & GLENNA R CRISP				RECEIVED: 11/16/82		JA: OH			
8309380		3415522518		103		CRISP #3	RUTLAND	3.5	COLUMBIA GAS TRAN
-JAMES R BERNHARDT				RECEIVED: 11/16/82		JA: OH			
8309371		3413123505		103	107-TF	KUBALA #2	HINCKLEY	72.0	COLUMBIA GAS TRAN
-JOHN C MASON				RECEIVED: 11/16/82		JA: OH			
8309453		3407523902		107-TF		MILLER-SCHROCK-LEHMAN #1	HOLMES	10.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-LAKE REGION OIL INC				RECEIVED: 11/16/82		JA: OH			
8309444		3402920910		103	107-TF	DONALD SCHNEIDER #1	KNOX	12.0	COLUMBIA GAS TRAN
8309446		3416923400		103	107-TF	KENNETH L ZUERCHER #1	SUGAR CREEK	15.0	COLUMBIA GAS TRAN
8309445		3402920920		103	107-TF	PAUL COURTNEY #1	BUTLER	15.0	COLUMBIA GAS TRAN
8309447		3416923413		103	107-TF	THOMAS W BROWN #1	SUGAR CREEK	15.0	COLUMBIA GAS TRAN
-L&J DRILLING DBA JEFF	MORAN			RECEIVED: 11/16/82		JA: OH			
8309443		3408924389		103		PAUL F CROUCH #1	HICKMAN	18.0	
-LEADER EQUITIES INC				RECEIVED: 11/16/82		JA: OH			
8309448		3411522826		103	107-TF	DOTT #3	MEIGSVILLE	15.0	
8309449		3411522839		103	107-TF	HANN #3	MEIGSVILLE	14.0	
-MAGNUM RESOURCES INC				RECEIVED: 11/16/82		JA: OH			
8309450		3416727244		103		KRIS-MAR #1 - WARREN TWP	BEREA GRIT	8.0	RIVER GAS CO
-MARLINE OIL CORP				RECEIVED: 11/16/82		JA: OH			
8309451		3416726431		107-DV		USA/M JOY #1	BUCKEYE PROSPECT	5.5	COLUMBIA GAS TRAN
-MORGAN-PENNINGTON INC				RECEIVED: 11/16/82		JA: OH			
8309454		3407523858		103		HOUSEHOLDER #1	MONROE	7.2	COLUMBIA GAS TRAN
-NEW FRONTIER EXPLORATION INC				RECEIVED: 11/16/82		JA: OH			
8309460		3415123624		103	107-TF	BEDNAR UNIT #1	WASHINGTON	22.0	
8309457		3406720499		103	107-TF	BERNADINE AKKERMAN #1	MONROE	18.0	
8309459		3411522857		103	107-TF	CHARLES GREER #1	PENN	22.0	COLUMBIA GAS TRAN
8309456		3406720478		103	107-TF	EARL SHEEHAN #3	MONROE	20.0	
8309455		3405923164		103	107-TF	HAROLD LEPAGE #1	CENTER	20.0	
8309458		3410322794		103	107-TF	ROBERT BOWMAN #1	WADSWORTH	18.0	AMERICAN ENERGY $
-NOBLE OIL CORP				RECEIVED: 11/16/82		JA: OH			
8309474		3413321247		107-TF		GEIB #1	EDINBURG	20.0	YANKEE RESOURCES
8309477		3413322430		107-TF		KURZ UNIT #1	FREEDOM	20.0	YANKEE RESOURCES
8309475		3413321614		107-TF		LANGE #1	FREEDOM	20.0	YANKEE RESOURCES
8309476		3413322391		107-TF		LANGE #3	FREEDOM	20.0	YANKEE RESOURCES
8309478		3413322433		107-TF		LANGE #5	FREEDOM	20.0	YANKEE RESOURCES
-NOWHART DRILLING CO				RECEIVED: 11/16/82		JA: OH			
8309462		3416700794		108		ARMSTRONG #1		0.9	RIVER GAS CO
8309463		3416700795		108		ARMSTRONG #2		0.9	RIVER GAS CO
8309467		3416720488		108		DICKSON - #12		0.3	RIVER GAS CO
8309464		3416720394		108		DICKSON #6		0.3	RIVER GAS CO
8309465		3416720404		108		DICKSON #6-A		0.3	RIVER GAS CO
8309461		3416700793		108		DICKSON #7		0.3	RIVER GAS CO
8309466		3416720448		108		DICKSON #9		0.3	RIVER GAS CO
8309468		3416721495		108		GRAHAM & CLINE - #1		0.5	RIVER GAS CO
8309473		3416722908		108		GRAHAM-CLINE - #9		0.5	RIVER GAS CO
8309469		3416721543		108		GRAHAM-CLINE -- #2		0.5	RIVER GAS CO
8309470		3416721636		108		GRAHAM-CLINE -- #3		0.5	RIVER GAS CO
8309471		3416722077		108		GRAHAM-CLINE -- #5		0.5	RIVER GAS CO
8309472		3416722392		108		GRAHAM-CLINE -- #7		0.5	RIVER GAS CO
-OHIO PURE OIL CORP				RECEIVED: 11/16/82		JA: OH			
8309479		3415922893	D	107-TF		FRANK BISHOP #1	PLAIN	0.0	
-ONEAL PETROLEUM INC				RECEIVED: 11/16/82		JA: OH			
8309482		3411522758		103		HARSHBERGER UNIT #1	PENN	0.0	COLUMBIA GAS TRAN
8309480		3411522392		103		J ROGERS #1	PENN	0.0	COLUMBIA GAS TRAN
8309481		3411522635		103		J ROGERS #2	PENN	0.0	COLUMBIA GAS TRAN
-ORION ENERGY CORP				RECEIVED: 11/16/82		JA: OH			
8309484		3416923351		107-TF		HARLE #2	WEST SALEM	25.0	COLUMBIA GAS TRAN
8309485		3416923353		107-TF		HARLE #3	CHESTER	12.0	COLUMBIA GAS TRAN
8309483		3415723689		103	107-TF	MICK #1	UNION	40.0	EAST OHIO GAS CO

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-OXFORD OIL CO				RECEIVED: 11/16/82		JA: OH			
8309486		3408924519		103		SAULTZ-WOLFORD #1	PERRY	11.0	
-PETRO EVALUATION SERVICES INC				RECEIVED: 11/16/82		JA: OH			
8309489		3408520385		103	107-TF	RICHARD P WEST #1	PERRY	30.0	EAST OHIO GAS CO
8309488		3408520357		103	107-TF	RICHARD P WEST #2	PERRY	30.0	EAST OHIO GAS CO
-PETRO-LEWIS CORPORATION				RECEIVED: 11/16/82		JA: OH			
8309490		3405921377		108		HARDING #1	SPENCER TWP	2.1	EAST OHIO GAS CO
-PETROLEUM SECURITIES FUND - 80				RECEIVED: 11/16/82		JA: OH			
8309491A		3411925583		103		PARKS UNIT #2 ALTON & DUANE	UNION	32.0	
8309491B		3411925583	D	107-TF		PARKS UNIT #2 ALTON & DUANE	UNION	32.0	
-POI ENERGY INC				RECEIVED: 11/16/82		JA: OH			
8309487		3400721683	D	107-DV		LAKE CARDINAL #5	ROME	7.5	
-POMSTONE CORP				RECEIVED: 11/16/82		JA: OH			
8309492		3403123493		102-3		BRICE DREHER #1	KEENE	29.0	
8309493		3403123893		102-3		STANLEY MIZER #1	ADAMS	330.0	
8309494		3403124738		102-3		STANLEY MIZER #3	ADAMS	270.0	
-POWER RESOURCES INC				RECEIVED: 11/16/82		JA: OH			
8309496		3415723772		107-TF		CONOTTON LAND #11	UNION	0.0	M B OPERATING CO
8309495		3415723763		103		CONOTTON LAND CO #12	WARREN	0.0	M B OPERATING CO
-QUALITY OIL & GAS CORP				RECEIVED: 11/16/82		JA: OH			
8309497		3402920883		107-TF		CLARK HAHN #1	KNOX	150.0	COLUMBIA GAS TRAN
-RALPH H HAMBLIN				RECEIVED: 11/16/82		JA: OH			
8309422		3403124025		103		RALPH H HAMBLIN #2 RICH	TIVERTON	10.0	COLUMBIA GAS TRAN
-REPUBLIC STEEL CORP				RECEIVED: 11/16/82		JA: OH			
8309498		3411925861		103	107-TF	CONSOLIDATION COAL CR #11	MADISON	7.2	TENNECO OIL CO
8309499		3411925862		103	107-TF	CONSOLIDATION COAL CR #12	SALEM	7.0	TENNECO OIL CO
8309500		3411925951		103	107-TF	CONSOLIDATION COAL CR #22	WASHINGTON	7.5	TENNECO OIL CO
8309501		3411925969		103	107-TF	CONSOLIDATION COAL CR #25	WASHINGTON	8.0	TENNECO OIL CO
8309502		3411926036		103	107-TF	CONSOLIDATION COAL CR #314	SALEM	8.0	TENNECO OIL CO
8309503		3411926308		103	107-TF	CONSOLIDATION COAL CR #33	MADISON	7.0	TENNECO OIL CO
8309504		3411926332		103	107-TF	CONSOLIDATION COAL CR #40	MADISON	8.0	TENNECO OIL CO
-RIMCO OPERATING INC				RECEIVED: 11/16/82		JA: OH			
8309509		3416923157		103	107-TF	B MILLER #7	CRESTON	12.0	COLUMBIA GAS TRAN
8309510		3416923300		103	107-TF	GALLAPOO #4	WOOSTER	12.0	COLUMBIA GAS TRAN
8309508		3416923142		103	107-TF	SNURE #4	WAYNE	12.0	COLUMBIA GAS TRAN
8309512		3416923316		103	107-TF	WAYNEDALE STOCK FARM #10	WOOSTER	12.0	COLUMBIA GAS TRAN
8309513		3416923317		103	107-TF	WAYNEDALE STOCK FARM #11	WOOSTER	12.0	COLUMBIA GAS TRAN
8309514		3416923318		103	107-TF	WAYNEDALE STOCK FARM #12	WOOSTER	12.0	COLUMBIA GAS TRAN
8309515		3416923323		103	107-TF	WAYNEDALE STOCK FARM #8	WOOSTER	12.0	COLUMBIA GAS TRAN
8309511		3416923315		103	107-TF	WAYNEDALE STOCK FARM #9	WOOSTER	12.0	COLUMBIA GAS TRAN
8309506		3416923020		103	107-TF	WEAVER #1	CHESTER	12.0	COLUMBIA GAS TRAN
8309507		3416923069		103	107-TF	WEAVER #2	CHESTER	12.0	COLUMBIA GAS TRAN
8309505		3416922711		103	107-TF	WEISER #3	CONGRESS	12.0	COLUMBIA GAS TRAN
-SANDHILL ENERGY INC (OH)				RECEIVED: 11/16/82		JA: OH			
8309516		3416727221		103		LONGFELLOW #2	GRANDVIEW	21.9	
-SHAMROCK EQUIPMENT CO				RECEIVED: 11/16/82		JA: OH			
8309519		3411916397		107-TF		T & M PORTER #2	HOPEWELL	25.0	NATIONAL GAS & OI
-STRATA CORP				RECEIVED: 11/16/82		JA: OH			
8309524		3412725518		107-TF		A & O FARMS #1	BEARFIELD	15.0	
8309523		3412725508		107-TF		HOLCOMB #1-A	BEARFIELD	15.0	
8309525		3412725563		107-TF		MCCONNELL #1	HARRISON	15.0	
8309521		3412725504		107-TF		PETTET #2	BEARFIELD TWP	0.0	
8309520		3412725034		107-TF		SCHWARTZEL #1	BEARFIELD	25.0	

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8309526		3412725711		107-TF		TAYLOR #5	CLAYTON	20.0	
8309522		3412725506		107-TF		WELSH #1	BEARFIELD	15.0	
-SWINGLE DRILLING INC				RECEIVED: 11/16/82		JA: OH			
8309527		3400922578		103		SUNDAY CREEK COAL CO #5	SOUTH CORNING OIL POO	12.0	
-TOWNER PETROLEUM CO				RECEIVED: 11/16/82		JA: OH			
8309528		3405923282		103	107-TF	SWICKARD H/HUNTSMAN J #1	FREEPORT	27.0	TENNESSEE GAS PIP
-TWINOAKS OIL & GAS				RECEIVED: 11/16/82		JA: OH			
8309530		3410323146		103	107-TF	ETELA-OLEKSIAK	GRANGER	11.0	COLUMBIA GAS TRAN
8309529		3403124834		103		J D SCHULER & D L WIDDER #3	MONROE	8.0	COLUMBIA GAS TRAN
-WITCO CHEMICAL CORP				RECEIVED: 11/16/82		JA: OH			
8309532		3415122304		108		E LOOMIS B #2		2.5	CANTON OIL & GAS

SOURCE DATA FOR THIS NOTICE IS AVAILABLE ON MAGNETIC TAPE FROM THE NATIONAL TECHNICAL INFORMATION SERVICE (NTIS). FOR INFORMATION, CONTACT STUART WEISMAN (NTIS) AT (703) 487-4808, 5285 PORT ROYAL RD, SPRINGFIELD, VA 22161, OR SANDRA SPEAR (FERC) (202) 357-8681.

BILLING CODE 6717-01-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (HHCF). An (* before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The application for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register.**

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 mile rule)
102–3: New well (1000 ft. rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–CB: Geopressured brine
107–DS: Coal seams
107–DV: Devonian shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–34518 Filed 12–21–82; 8:45 am]

BILLING CODE 6717–01–M

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: December 14, 1982.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
********** TEXAS RAILROAD COMMISSION **********									
-ABCO ENERGY CORP				RECEIVED:	11/17/82	JA: TX			
8309598	F-04-055125	4221531206	103			H L MARTIN #2	PENITAS (8650)	33.1	VALERO TRANSMISSI
-AEC OIL & GAS				RECEIVED:	11/17/82	JA: TX			
8309796	F-78-059558	4242933314	102-2			F T C LAKE #7 RRC LEASE #18898	REID-MCLENNAN (MISS)	350.0	PETROLEUM CORP OF
-AERO ENERGY INC				RECEIVED:	11/17/82	JA: TX			
8309545	F-03-046235	4214930998	102-2			GLENN #1	GIDDINGS (AUSTIN CHAL	122.4	CLAJON GAS CO
-ALPAR RESOURCES INC				RECEIVED:	11/17/82	JA: TX			
8309647	F-10-057751	4239330983	103			CHAMBERS #1-107	MENDOTA NORTHWEST (GR	219.0	
-AMERIND OIL CO				RECEIVED:	11/17/82	JA: TX			
8309702	F-08-059171	4215533835	103			COWDEN "L" #1	GOLDSMITH N (SAN ANDR	35.0	WESTAR TRANSMISSI
-AMINOIL USA INC				RECEIVED:	11/17/82	JA: TX			
8309542	F-02-045649	4229700000	102-4			EL PASO NATURAL GAS CO #6	CHAPA EAST (12400')	110.0	EL PASO NATURAL G
8309776	F-08-059525	4210332996	103			UNIVERSITY 28 "B" #7	SOUTH ANDREWS (WOLFCA	346.0	EL PASO NATURAL G
-ANADARKO PRODUCTION COMPANY				RECEIVED:	11/17/82	JA: TX			
8309681	F-10-058964	4221100000	103			HOLLAND "C" #2057	BUFFALO WALLOW (GRANI	170.0	PANHANDLE EASTERN
-ARCO OIL AND GAS COMPANY				RECEIVED:	11/17/82	JA: TX			
8309562	F-08-050582	4230130330	103	107-DP		MENTONE GAS UNIT #1-X	MOORE-HOOPER (ELLENBU	1460.0	LONE STAR GAS CO
-BANAM CORP				RECEIVED:	11/17/82	JA: TX			
8309605	F-78-055638	4215131520	102-4			BLEVINS-STROUBE #I-7	SATURDAY EAST (CANYON	10.9	CONOCO INC
8309564	F-78-050920	4215131455	102-4			CANFILL NO 2 WELL	SATURDAY EAST (CANYON	0.0	CONOCO INC
-BASIN OPERATING CO LTD				RECEIVED:	11/17/82	JA: TX			
8309658	F-06-058425	4200100000	103			MIRIAM MILES #1	DECKER SWITCH (PETTET	182.5	DELHI GAS PIPELIN
-BELCO PETROLEUM CORPORATION				RECEIVED:	11/17/82	JA: TX			
8309609	F-7C-055723	4210533864	103			ARCHO-CHILDRESS #2	OZONA CANYON SAND	0.0	INTER NORTH INC
-BLAKE HAMMAN				RECEIVED:	11/17/82	JA: TX			
8309541	F-09-045388	4236700000	108-ER			WALTER R BENNETT 30941	BOONSVILLE (BEND CONG	20.0	NATURAL GAS PIPEL
-BLANKS ENERGY CORP				RECEIVED:	11/17/82	JA: TX			
8309688	F-08-059041	4243131152	103	107-TF		MCENTIRE 26-1	CREDO E (CISCO UP)	146.0	INTRATEX GAS CO
-BURNETT OIL CO INC				RECEIVED:	11/17/82	JA: TX			
8309662	F-02-058550	4212331123	103			DANIELS #1	PROPOSED S DANIELS RA	84.0	VALERO TRANSMISSI
-CAROLINA GROUP INC				RECEIVED:	11/17/82	JA: TX			
8309694	F-78-059138	4214300000	108			HERPLE-MURPHY #1	MORGAN MILL (MARBLE F	13.2	INTER NORTH INC
8309698	F-78-059142	4214300000	108			MORRIS #1	MORGAN MILL (MARBLE F	12.3	INTER NORTH INC
8309695	F-78-059139	4214300000	108			S H ATOR #2	HOUSTON RANCH (STRAWN	0.0	INTER NORTH INC
8309696	F-78-059140	4214300000	108			TIPTON #2	MORGAN MILL (MARBLE F	3.3	INTER NORTH INC
8309697	F-78-059141	4214300000	108			TIPTON #4	MORGAN MILL (MARBLE F	14.8	INTER NORTH INC
-CHALMERS OPERATING CO INC				RECEIVED:	11/17/82	JA: TX			
8309646	F-78-057747	4242932265	108			LOLA BEN MASON 080803	MASON (LOWER STRAWN)	18.5	SOUTHWESTERN GAS
-CHARLES F HAAS				RECEIVED:	11/17/82	JA: TX			
8309600	F-02-055209	4223931733	102-4	103		M W MAURITZ #1	CANADO EAST (WILDCAT)	0.0	HOUSTON PIPE LINE
-CHESTER R UPHAM JR				RECEIVED:	11/17/82	JA: TX			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8309549	F-7B-047803	4236300000		102-4		CLAYTON #2-C	NEW DISCOVERY - NO FI	0.0	SOUTHWESTERN GAS
8309591	F-7B-053889	4236300060		102-4		KESSLER #1-C	TOMERLIN (CONGL)	0.0	SOUTHWESTERN GAS
-CHEVRON U S A INC				RECEIVED:	11/17/82	JA: TX			
8309585	F-7C-053476	4241331176		103		NEVA WEST #1208	NEVA WEST (STRAWN)	27.0	ARCO OIL & GAS CO
8309741	F-8A-059444	4241532233		103		SACROC UNIT #77-5	KELLY-SNYDER	196.0	EL PASO NATURAL G
-COMANCHE INVESTMENTS				RECEIVED:	11/17/82	JA: TX			
8309618	F-7B-056477	4215333149		102-4		BIG MIKE #1	DAVENPORT (RANGER M)	19.9	LONE STAR GAS CO
-CONOCO INC				RECEIVED:	11/17/82	JA: TX			
8309628	F-C4-057093	4242700000		102-4	103	T B SLICK EST H-536 #165	RINCON (VICKSBURG 650	329.0	TENNESSEE GAS PIP
-COTTON PETROLEUM CORPORATION				RECEIVED:	11/17/82	JA: TX			
8309576	F-10-052834	4221131303		103		MARSH #1	BATES (MORROW LOWER)	0.0	UNITED TEXAS TRAN
-CRABTREE OIL CO				RECEIVED:	11/17/82	JA: TX			
8309685	F-08-059022	4249500000		108		BROWN-ALTMAN #1	KERMIT (YATES)	3.7	CABOT CORP
-CROWN CENTRAL PETROLEUM CORP				RECEIVED:	11/17/82	JA: TX			
8309666	F-09-058628	4249700000		108		FAITH & BOYDSTON #1	BOONSVILLE	18.0	NATURAL GAS PIPEL
8309665	F-09-058627	4249700000		108		J O MATZENGER #1	BOONSVILLE	11.0	SOUTHWESTERN GAS
-D & B PETROLEUM INC				RECEIVED:	11/17/82	JA: TX			
8309557	F-10-049209	4248330964		103		ASHLEY #1	PANHANDLE EAST	0.0	WARREN PETROLEUM
8309558	F-10-049212	4248330989		103		BUBBA #2	PANHANDLE EAST	0.0	WARREN PETROLEUM
-DALPORT OIL CORPORATION				RECEIVED:	11/17/82	JA: TX			
8309712	F-04-059273	4240931533		102-4		J CAMPBELL ESTATE #3	MIDWAY 5077	15.0	HOUSTON PIPELINE
8309716	F-04-059393	4240931631		103		J CAMPBELL ESTATE #4	MIDWAY 5600	13.0	HOUSTON PIPELINE
-DIAMOND SHAMROCK CORPORATION				RECEIVED:	11/17/82	JA: TX			
8309567	F-10-051706	4221131453		103		FRANK SHALLER "A" #4	CANADIAN SE	0.0	INTER NORTH INC
-DORCHESTER EXPLORATION INC				RECEIVED:	11/17/82	JA: TX			
8309657	F-10-058394	4221131356		103		LUCILLE WRIGHT #2	HUMPHREYS	0.0	
-DUVAL PRODUCTION INC				RECEIVED:	11/17/82	JA: TX			
8309682	F-04-058975	4213100000		103		D C R C #1	HAGIST RANCH (1030')	8.2	TENNESSEE GAS PIP
-EL PASO NATURAL GAS COMPANY				RECEIVED:	11/17/82	JA: TX			
8309536	F-10-0416621	4217923696		108-PB		CALLHAM #1	PANHANDLE - WEST	14.0	EL PASO NATURAL G
8309534	F-7C-33032	4243530555		168-PB		DEBERRY - BOYETT UNIT #2	SONORA CANYON UPPER	27.0	EL PASO NATURAL G
8309533	F-7C-025985	4243530862		108-PB		MECKEL A #6	SONORA (CANYON UPPER)	11.7	EL PASO NATURAL G
-ENERGY RESOURCES OIL & GAS CORP				RECEIVED:	11/17/82	JA: TX			
8309568	F-10-051792	4248330974		107-DP		BREWER #2	ALLISON PARKS S E (PU	925.0	MICHIGAN-WISCONSI
-ERWIN E GRIMES				RECEIVED:	11/17/82	JA: TX			
8309715	F-7C-059295	4239932500		102-4		PERRY BRAGG #2 (09703)	MARI-BILL (ELLENBURGE	20.0	VALERO TRANSMISSI
-EUROPEAN SOUTHWEST CO				RECEIVED:	11/17/82	JA: TX			
8309637	F-10-057305	4249300000		102-4		ROSE ULMIG GAS UNIT #1	CINDY ANN (AUSTIN CHA	0.0	VALERO TRANSMISSI
-EXXON CORPORATION				RECEIVED:	11/17/82	JA: TX			
8309738	F-06-059441	4220330848		102-3	107-TF	CAROLYN W BELL GAS UNIT #1 #1	BLOCKER (COTTON VALLE	182.9	DELHI GAS PIPELIN
8309653	F-04-058177	4226130512		102-4		J D KENEDY JR "E" 33 (ID PENDING)	EL PAISTLE (H-45)	876.0	NATURAL GAS PIPEL
8309756	F-08-059478	4200332626		103		J S MEANS A/C 4 #331	MEANS SOUTH (WOLFCAMP	16.0	
8309753	F-04-059460	4226130737		103		K R SAN JOSE DE LA PARRA 42 101251	CALANDRIA (H-59)	650.0	ARMCO STEEL CORP
8309602	F-02-055508	4202531543		103		LAURA D THOMSON B 16 (PENDING)	BURKES RIDGE (VICKSBU	191.0	TRUNKLINE GAS CO
8309736	F-06-059437	4220330884		102-3	107-TF	MARY LOUISE WALDRON GAS UNIT #1 #1	BLOCKER (COTTON VALLE	440.0	DELHI GAS PIPELIN
8309577	F-08-053129	4200333066		103		MEANS/SAN ANDRES/UNIT #1384	MEANS	15.0	PHILLIPS PETROLEU
8309610	F-04-055765	4213132305		103		P E WHITE B-104 PENDING	LUNDELL (MIRANDO 1)	22.0	ARMCO STEEL CORP
8309693	F-8A-059129	4216532390		103		ROBERTSON CLEARFORK UNIT #3403	ROBERTSON N (CLEARFOR	15.0	PHILLIPS PETROLEU
8309678	F-04-058925	4226130687		103		SARITA FLD O & G UT 173 -ID PENDING	SARITA (3-C E)	26.0	NATURAL GAS PIPEL
8309675	F-04-058743	4204730871		103		SCOTT & HOPPER 35 (ID PENDING)	SCOTT & HOPPER (6850)	800.0	TENNESSEE GAS PIP
8309737	F-06-059439	4220330893		102-3	107-TF	VIOLA MIZELL GAS UNIT #1 #1	BLOCKER (COTTON VALLE	182.5	DELHI GAS PIPELIN
8309611	F-08-055862	4213533934		103		YARBROUGH & ALLEN #97	ARENOSO (STRAWN DETRI	8.0	EL PASO NATURAL G
-FIRST TEXAS CRUDE INC				RECEIVED:	11/17/82	JA: TX			

VOLUME 794 PAGE 003

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8309663	F-78-058562	4242933199		102-2		VAN CRUDGINGTON #4 RRC ID #18920	REID-MCLENNAN (MISS)	30.0	PETROLEUM CORP OF
-FLORIDA GAS EXPLORATION COMPANY				RECEIVED: 11/17/82 JA: TX					
8309645	F-7C-057737	4243532740		103	107-TF	FLORENCE 26-#2	PHYLLIS SONORA	0.0	INTRATEX GAS CO
8309686	F-08-059039	4200131326		102-4		FLORIDA J W MILLS #1	PURT WEST (RODESSA 10	146.0	ESPERANZA PIPELIN
-FUNK EXPLORATION INC				RECEIVED: 11/17/82 JA: TX					
8309535	F-10-040671	4235700000		102-4	103	KERNS #1		0.0	TENNESSEE GAS PIP
-GAYLORD T HUGHEY SR OPERATING CO				RECEIVED: 11/17/82 JA: TX					
8309691	F-06-059097	4240100000		108		JOHN ORR GAS UNIT #1 RRC ID 16701	SHILOH (TRAVIS PEAK)	10.0	TEXAS UTILITIES F
-GEOSOUTHERN ENERGY CORP				RECEIVED: 11/17/82 JA: TX					
8309621	F-03-056938	4247730477		102-2	103	NANCY B #1	GIDDINGS (AUSTIN CHAL	0.0	CLAJON GAS CO
-GETTY OIL COMPANY				RECEIVED: 11/17/82 JA: TX					
8309606	F-03-055645	4204100000		102-2		G W LIGHTSEY #1	KURTEN (BUDA)	0.0	FERGUSON CROSSING
8309608	F-03-055678	4204100000		102-2		LAND EQUITIES #1	KURTEN (WOODBINE)	0.0	FERGUSON CROSSING
-GORDON T WEST JR & STAN RUGELEY				RECEIVED: 11/17/82 JA: TX					
8309667	F-78-058636	4244732631		102-2	103	BROWN RANCH #2 (182791	CONDRON (CONGL)	109.5	LONE STAR GAS CO
-GULF OIL CORPORATION				RECEIVED: 11/17/82 JA: TX					
8309655	F-08-058324	4213501286		108		C A GOLDSMITH #917	LAWSON SAN ANDRES	2.6	PHILLIPS PETROLEU
8309773	F-08-059520	4247532672		103		HUTCHINGS STOCK ASSN #1086	WARD-ESTES NORTH	71.0	CABOT CORP
8309679	F-08-058940	4247532668		103		HUTCHINGS STOCK ASSN #1167	WARD-ESTES NORTH	194.0	CABOT CORP
8309774	F-08-059523	4247532669		103		HUTCHINGS STOCK ASSN #1171	WARD-ESTES NORTH	56.0	CABOT CORP
8309775	F-08-059524	4247532680		103		HUTCHINGS STOCK ASSN #1172	WARD-ESTES NORTH	2.0	CABOT CORP
8309806	F-08-059571	4210300642		108		J T MCELROY CONSOLIDATED WELL #B-36	MCELROY	8.0	PHILLIPS PETROLEU
8309802	F-08-059567	4210300616		108		J T MCELROY CONSOLIDATED WELL #B-7	J T MCELROY CONSOLIDA	13.0	PHILLIPS PETROLEU
8309805	F-08-059570	4210331339		108		J T MCELROY CONSOLIDATED WELL #B-87	MCELROY	39.0	PHILLIPS PETROLEU
8309810	F-08-059575	4246102526		108		J T MCELROY CONSOLIDATED WELL #C-17	MCELROY	12.0	PHILLIPS PETROLEU
8309812	F-08-059577	4246102527		108		J T MCELROY CONSOLIDATED WELL #C-26	MCELROY	11.0	PHILLIPS PETROLEU
8309818	F-08-059584	4246130186		108		J T MCELROY CONSOLIDATED WELL #C-47		7.0	PHILLIPS PETROLEU
8309809	F-08-059574	4246102520		108		J T MCELROY CONSOLIDATED WELL #C-5	MCELROY	9.7	PHILLIPS PETROLEU
8309730	F-08-059428	4210305945		108		J T MCELROY CONSOLIDATED WELL #161	MCELROY	4.0	PHILLIPS PETROLEU
8309754	F-08-059433	4210300682		108		J T MCELROY CONSOLIDATED WELL #164	MCELROY	18.0	PHILLIPS PETROLEU
8309814	F-08-059579	4246101851		108		J T MCELROY CONSOLIDATED WELL #189	MCELROY	24.0	PHILLIPS PETROLEU
8309735	F-08-059434	4210300652		108		J T MCELROY CONSOLIDATED WELL #20	MCELROY	21.0	PHILLIPS PETROLEU
8309804	F-08-059569	4210300588		108		J T MCELROY CONSOLIDATED WELL #219	MCELROY	50.0	PHILLIPS PETROLEU
8309732	F-08-059431	4210300603		108		J T MCELROY CONSOLIDATED WELL #254	MCELROY	23.0	PHILLIPS PETROLEU
8309720	F-08-059418	4210300660		108		J T MCELROY CONSOLIDATED WELL #28	MCELROY	1.0	PHILLIPS PETROLEU
8309725	F-08-059423	4210300661		108		J T MCELROY CONSOLIDATED WELL #29	MCELROY	12.0	PHILLIPS PETROLEU
8309803	F-08-059568	4210300570		108		J T MCELROY CONSOLIDATED WELL #458	MCELROY	2.0	PHILLIPS PETROLEU
8309800	F-08059565	4210300508		108		J T MCELROY CONSOLIDATED WELL #475	MCELROY	6.6	PHILLIPS PETROLEU
8309798	F-08-059563	4210300511		108		J T MCELROY CONSOLIDATED WELL #478	MCELROY	17.0	PHILLIPS PETROLEU
8309799	F-08-059564	4210300526		108		J T MCELROY CONSOLIDATED WELL #488	MCELROY	9.0	PHILLIPS PETROLEU
8309808	F-08-059573	4246100649		108		J T MCELROY CONSOLIDATED WELL #500	MCELROY	4.4	PHILLIPS PETROLEU
8309813	F-08-059578	4246100663		108		J T MCELROY CONSOLIDATED WELL #515	MCELROY	9.0	PHILLIPS PETROLEU
8309815	F-08-059580	4246100670		108		J T MCELROY CONSOLIDATED WELL #522	MCELROY	2.0	PHILLIPS PETROLEU
8309722	F-08-059420	4246130218		108		J T MCELROY CONSOLIDATED WELL #710	MCELROY	28.0	PHILLIPS PETROLEU
8309719	F-08-059417	4210300461		108		J T MCELROY CONSOLIDATED WELL #75	MCELROY	6.0	PHILLIPS PETROLEU
8309723	F-08-059421	4210300462		108		J T MCELROY CONSOLIDATED WELL #77	MCELROY	5.0	PHILLIPS PETROLEU
8309724	F-08-059422	4246130433		108		J T MCELROY CONSOLIDATED WELL #821	MCELROY	28.0	PHILLIPS PETROLEU
8309797	F-08-059559	4210331199		108		J T MCELROY CONSOLIDATED WELL #857	MCELROY	12.0	PHILLIPS PETROLEU
8309753	F-08-059432	4210331341		108		J T MCELROY CONSOLIDATED WELL #878	MCELROY	6.0	PHILLIPS PETROLEU
8309811	F-08-059576	4246130576		108		J T MCELROY CONSOLIDATED WELL #894	MCELROY	38.0	PHILLIPS PETROLEU
8309801	F-08-059566	4210331381		108		J T MCELROY CONSOLIDATED WELL #906	MCELROY	0.0	PHILLIPS PETROLEU
8309807	F-08-059572	4246130631		108		J T MCELROY CONSOLIDATED WELL #935	MCELROY	5.0	PHILLIPS PETROLEU
8309726	F-08-059424	4246101121		108		MCELROY CONSOLIDATED #1 #M-266	MCELROY	24.0	PHILLIPS PETROLEU

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8309759	F-08-059482	4246100563		108		MCELROY CONSOLIDATED #1 WELL #M-311	MCELROY	0.0	PHILLIPS PETROLEU
8309721	F-08-059419	4246103816		108		MCELROY CONSOLIDATED #1 WELL #M-566	MCELROY	33.0	PHILLIPS PETROLEU
8309758	F-08-059481	4246130474		108		MCELROY CONSOLIDATED #1 WELL #M-841	MCELROY	10.0	PHILLIPS PETROLEU
8309757	F-08-059480	4246130487		108		MCELROY CONSOLIDATED #1 WELL #M-844	MCELROY	10.0	PHILLIPS PETROLEU
8309729	F-08-059427	4246100742		108		MCELROY CONSOLIDATED #1 WELL #36	MCELROY	5.0	PHILLIPS PETROLEU
8309728	F-08-059426	4246130213		108		MCELROY CONSOLIDATED #1 WELL #44	MCELROY	2.0	PHILLIPS PETROLEU
8309727	F-08-059425	4246130254		108		MCELROY CONSOLIDATED #1 WELL #48	MCELROY	10.0	PHILLIPS PETROLEU
8309731	F-08-059430	4246130314		108		MCELROY CONSOLIDATED #1 WELL #55	MCELROY	8.0	PHILLIPS PETROLEU
8309772	F-08-059519	4246130371		108		MCELROY CONSOLIDATED #1 WELL #58	MCELROY	3.0	PHILLIPS PETROLEU
8309771	F-08-059516	4246130441		108		MCELROY CONSOLIDATED #1 WELL #60	MCELROY	20.0	PHILLIPS PETROLEU
-H L HUFFMAN LTD				RECEIVED: 11/17/82 JA: TX					
8309672	F-7C-058696	4241331146		107-TF		R L HENDERSON "B" NO 4-X WELL	VELMEX (CANYON SAND)	365.0	CRA INC
-H-M OIL CO				RECEIVED: 11/17/82 JA: TX					
8309615	F-04-056384	4213100000		102-4	103	HERMINIA G ROGERS #2	THOMAS LOCKHART (PETT	0.0	VALERO TRANSMISSI
-HENDERSON CLAY PRODUCTS INC				RECEIVED: 11/17/82 JA: TX					
8309639	F-06-057342	4240131403		102-2	107-TF	ALFORD -B- GAS UNIT WELL #1	CYRIL (COTTON VALLEY)	704.0	B & A PIPELINE
8309603	F-06-055509	4240131423		102-2	107-TF	BUSBY ESTATE GAS UNIT WELL #1	HENDERSON N (COTTON V	730.0	B & A PIPE LINE C
8309650	F-06-057921	4240131493		102-2	107-TF	WILLIE THOMPSON GAS UNIT	HENDERSON N (COTTON V	730.0	B & A PIPE LINE C
-HNG OIL COMPANY				RECEIVED: 11/17/82 JA: TX					
8309711	F-7C-059268	4243532751		103	107-TF	REED "116" #5	SAWYER (CANYON)	405.6	INTRATEX GAS CO
8309703	F-7C-059178	4243532738		103	107-TF	SHURLEY "166" #4	SAWYER (CANYON)	427.0	INTRATEX GAS CO
-HUDSON PETROLEUM INC				RECEIVED: 11/17/82 JA: TX					
8309714	F-7C-059280	4208100000		102-4		SMITH A #1	BUFFALO CREEK (CADDO.	237.0	
8309713	F-7C-059279	4208100000		102-4		WILLCOCKSON B #1	BUFFALO CREEK (CADDO	5.5	
-HUFO PRODUCTION CORP				RECEIVED: 11/17/82 JA: TX					
8309614	F-10-056383	4234100000		103		BRENT 61-6	BRENT (PANHANDLE MOOR	0.0	PANHANDLE EASTERN
-HUGHES & HUGHES				RECEIVED: 11/17/82 JA: TX					
8309624	F-04-057028	4247933271		102-4		G F VELA CUELLAR #1	STAGGS (700) FIELD	37.0	VALERO TRANSMISSI
8309625	F-04-057029	4247933366		102-4		G F VELA CUELLAR #1	STAGGS (823) (PROPOSE	27.0	VALERO TRANSMISSI
-IKE LOVELADY INC				RECEIVED: 11/17/82 JA: TX					
8309578	F-7C-05322[illegible]	4248532664		102-4		WEST #7-L	INTERSTATE (ELLENBERG	109.5	ADOBE GAS CO
-INDIAN WELLS OIL CO				RECEIVED: 11/17/82 JA: TX					
8309620	F-7C-056906	4223531943		102-2		PROBANDT 70-5	PROBANDT (CANYON)	0.0	CRA INC
-INVESTEK INC				RECEIVED: 11/17/82 JA: TX					
8309684	F-09-059009	4223700000		103		J E HENDERSON B #1	JACK COUNTY REGULAR	160.0	SOUTHWESTERN GAS
-JAMES K ANDERSON INC				RECEIVED: 11/17/82 JA: TX					
8309689	F-7C-059078	4239932396		102-4		STRAKE MICHAELIS #[illegible]	FRITZESS (GARDNER SAN	15.0	UNION TEXAS PETRO
-JOHN L COX				RECEIVED: 11/17/82 JA: TX					
8309565	F-7C-050989	4238300000		103		ROCKER B "E" #1-4 RRC #04544	SPRAWBERRY (TREND AREA	5.0	EL PASO NATURAL G
8309543	F-7C-046147	4238332121		103		ROCKER B "E" #5-X RRC# 04544	SPRAWBERRY (TREND AREA	10.0	EL PASO NATURAL G
8309544	F-7C-046149	4238306000		103		ROCKER B "D" #3-X RRC# 05289	SPRAWBERRY (TREND AREA	10.0	EL PASO NATURAL G
-KENNEDY & MITCHELL INC				RECEIVED: 11/17/82 JA: TX					
8309550	F-10-047872	4229530695		102-4		JONES #25-406	COBURN MORROW UPPER	500.0	INTER NORTH INC
-L M YOUNG				RECEIVED: 11/17/82 JA: TX					
8309692	F-7B-059109	4204932861		102-4		R J GOODALL "L"	DALE (MARBLE FALLS)	15.0	ODESSA NATURAL CO
-LAEL ENERGY				RECEIVED: 11/17/82 JA: TX					
8309660	F-10-058457	4217900000		103		AXELROD #2-1	PANHANDLE	62.5	CITIES SERVICE CO
-LAMBERT HOLLUB DRILLING CO				RECEIVED: 11/17/82 JA: TX					
8309687	F-03-059040	4205132306		103		PARTHUM UNIT #1	WILLARD	0.3	
-LANDRUM OPERATING CO INC				RECEIVED: 11/17/82 JA: TX					
8309590	F-09-053881	4233731855		103		DUBBS #1L	SMYRNA (ATOKA)	0.0	LONE STAR GAS CO
-LEWIS B BURLESON				RECEIVED: 11/17/82 JA: TX					
8309571	F-08-052215	4237133761		102-4		KAY #2		0.0	APACHE GAS CORP

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
-LOUISIANA LAND & EXPLORATION CO				RECEIVED:	11/17/82	JA: TX
8309593	F-03-054697	4207131186		102-4		STATE TRACT 79213 #1
-MARSHALL EXPLORATION INC				RECEIVED:	11/17/82	JA: TX
8309569	F-06-052082	4236530842		103		J A HARRISON #1
-MAY PETROLEUM INC				RECEIVED:	11/17/82	JA: TX
8309640	F-7C-057397	4238332227		103		ROCKER "B" 32 #2
8309642	F-7C-057477	4238332230		103		ROCKER "B" 32 #3
-MCCORD EXPLORATION				RECEIVED:	11/17/82	JA: TX
8309595	F-04-054849	4235500000		102-4		LONDON #2 T
8309596	F-04-054850	4235500000		102-4		MCCORD - LONDON #2 C
-MCZ INC				RECEIVED:	11/17/82	JA: TX
8309817	F-03-059582	4204130782		102-2		ERCANBRACK-RAMBO UNIT #1-U
8309754	F-03-059471	4204130768		102-2		SIEGERT UNIT #1-U
-NEWBOURNE OIL COMPANY				RECEIVED:	11/17/82	JA: TX
8309607	F-10-055655	4235731269		102-4	103	C H WILLIAMS #1 RRC # N/A
-MITCHELL ENERGY CORPORATION				RECEIVED:	11/17/82	JA: TX
8309570	F-09-052197	4249700000		108		C H GROLLMAN #1 #40144
8309589	F-03-053780	4237300000		108		C L BRENT #1 #77325
8309635	F-7C-057272	4245131004		102-4	103	FREYSCHLAG 219 A #2
8309538	F-03-043931	4216730804		103		GALVESTON TOWNSITE UNIT 3 #2
8309546	F-09-046447	4249700000		108-ER		J V HAMPTON #1 28667
8309547	F-09-046451	4249700000		108-PB		LAWRENCE TAYLOR #1 51127
8309690	F-09-059093	4223734428		103		M D HUTTON #1
8309707	F-09-059254	4249732524		103		MOLLIE REDDELL #2
8309588	F-03-053779	4237300000		108		S PARRISH #1 #72459
8309537	F-09-042230	4249700000		108-ER		W M SIMPSON #1
8309539	F-09-044862	4249700000		108-ER		WARREN DONALDSON #2 28632
-MOBIL PROD TEXAS & NEW MEXICO INC				RECEIVED:	11/17/82	JA: TX
8309661	F-10-058512	4221135086		108		BERT F MCCLURE #1 #2
-MOORE MCCORMACK OIL & GAS CORP				RECEIVED:	11/17/82	JA: TX
8309579	F-06-053316	4200131303		102-4		ROYAL NATIONAL BANK #2
-MORAN EXPLORATION INC				RECEIVED:	11/17/82	JA: TX
8309781	F-7C-059532	4223531411		102-2		A A SUGG "12" #1
8309780	F-7C-059531	4223531733		102-2		A A SUGG "12" #2
8309778	F-7C-059529	4223531523		102-2		A A SUGG "13" #1
8309792	F-7C-059544	4223531781		102-2		A A SUGG "15" #1
8309791	F-7C-059543	4223531864		102-2		A A SUGG "15" #2
8309785	F-7C-059536	4223531607		102-2		A A SUGG "2" #1
8309779	F-7C-059530	4223531838		102-2		A A SUGG "2" #2
8309790	F-7C-059542	4223531620		102-2		A A SUGG "20" #1
8309789	F-7C-059541	4223531740		102-2		A A SUGG "20" #2
8309788	F-7C-059540	4223531516		102-2		A A SUGG "21" #1
8309787	F-7C-059539	4223531742		102-2		A A SUGG "21" #2
8309786	F-7C-059538	4223531467		102-2		A A SUGG "22" #1
8309777	F-7C-059526	4223531637		102-2		A A SUGG "3057" #1
8309794	F-7C-059547	4223531824		102-2		A A SUGG "3057" #2
8309793	F-7C-059545	4223531823		102-2		A A SUGG "3058" #2
8309784	F-7C-059535	4223531515		102-2		A A SUGG "5" #1
8309783	F-7C-059534	4223531738		102-2		A A SUGG "5" #2
8309782	F-7C-059533	4223531591		102-2		A A SUGG "6" #1
-MORNAC ENERGY CORP				RECEIVED:	11/17/82	JA: TX
8309706	F-02-059230	4229733197		102-4		L A REAGAN #2
-MORROW RESOURCES INC				RECEIVED:	11/17/82	JA: TX

VOLUME 794 PAGE 005

FIELD NAME	PROD	PURCHASER
SEABROOK "TEX 2" (PRO	81.0	UNITED TEXAS TRAN
BELLE BOWER (PETTIT)	120.0	TENNESSEE GAS PIP
SPRAGBERRY (TREND AREA	36.5	INTER NORTH INC
SPRAGBERRY (TREND AREA	36.5	INTER NORTH INC
DOUGHTY	400.0	HOUSTON PIPELINE
DOUGHTY FIELD	1000.0	HOUSTON PIPELINE
KURTEN (WOODBINE)	96.0	FERGUSON CROSSING
KURTEN (WOODBINE)	77.0	FERGUSON CROSSING
HARDY (MORROW UPPER)	55.0	TRANSWESTERN PIPE
BOONSVILLE (BEND CONG	13.1	NATURAL GAS PIPEL
HORTENSE (WOODBINE)	4.1	HOUSTON PIPELINE
K W B (STRAWN)	375.0	ESPERANZA PIPELIN
LAFITTES GOLD	135.0	HOUSTON PIPELINE
BOONSVILLE (BEND CONG	10.9	NATURAL GAS PIPEL
BOONSVILLE (BEND CONG	11.9	NATURAL GAS PIPEL
WOODKIRK (STRAWN)	43.0	
BOONSVILLE (BEND CONG	1897.0	NATURAL GAS PIPEL
HORTENSE (WOODBINE)	9.1	HOUSTON PIPELINE
BOONESVILLE	0.0	NATURAL GAS PIPEL
BOONSVILLE (BEND CONG	10.6	NATURAL GAS PIPEL
FELDMAN (TONKAWA)	16.3	TRANSWESTERN PIPE
TENNESSEE COLONY (SW)	146.0	MOORE MCCORMACK O
ANDREW A (CANYON)	0.0	FARMLAND INDUSTRI
ANDREW A (CANYON)	0.0	FARMLAND INDUSTRI
ANDREW A (CANYON)	0.0	FARMLAND INDUSTRI
ANDREW A (CANYON)	0.0	FARMLAND INDUSTRI
ANDREW A (CANYON)	0.0	FARMLAND INDUSTRI
ANDREW A (CANYON)	0.0	FARMLAND INDUSTRI
ANDREW A (CANYON)	0.0	FARMLAND INDUSTRI
ANDREW A (CANYON)	0.0	FARMLAND INDUSTRI
ANDREW A (CANYON)	0.0	FARMLAND INDUSTRI
ANDREW A (CANYON)	0.0	FARMLAND INDUSTRI
ANDREW A (CANYON)	0.0	FARMLAND INDUSTRI
ANDREW A (CANYON)	0.0	FARMLAND INDUSTRI
ANDREW A (CANYON)	0.0	FARMLAND INDUSTRI
ANDREW A (CANYON)	0.0	FARMLAND INDUSTRI
ANDREW A (CANYON)	0.0	FARMLAND INDUSTRI
OAKVILLE (WILCOX 9700	1000.0	TRANSCONTINENTAL

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8309705	F-7C-059218	4245131030		102-4	103	BROWN #4
-MUSTANG EXPLORATION CO INC				RECEIVED:	11/17/82	JA: TX
8309676	F-03-058887	4214931527		102-2		GRAHAM #3
-N T E OF NORMAN OKLAHOMA INC				RECEIVED:	11/17/82	JA: TX
8309654	F-09-058284	4218130843		102-4	103	EDWIN KIDD #1
-NEUMIN PRODUCTION CO				RECEIVED:	11/17/82	JA: TX
8309588	F-04-053395	4200700000		107-PE		STATE TRACT 59 WELL #1
-NORTH STAR PETROLEUM CORPORATION				RECEIVED:	11/17/82	JA: TX
8309644	F-10-057855	4223300000		103		TARVER YAKE #3 (050328)
-OWL PETROLEUM CO				RECEIVED:	11/17/82	JA: TX
8309561	F-03-049503	4208930918		102-4		R TAYLOR #1-T
-P C BURNS				RECEIVED:	11/17/82	JA: TX
8309704	F-09-059215	4207732696		103		BARRINGTON #1 22508
-PALO PETROLEUM INC				RECEIVED:	11/17/82	JA: TX
8309592	F-08-054028	4217331290		103		EDITH BOOKS "17" #1
-PAN PETROLEUM				RECEIVED:	11/17/82	JA: TX
8309558	F-78-048278	4209330929		102-4		J N KOONCE #4
-PANHANDLE ENERGY CORP				RECEIVED:	11/17/82	JA: TX
8309746	F-10-059443	4217900000		103		MICHAEL #2 (ID# 005172)
8309739	F-10-059442	4217900000		103		MICHAEL #4 (ID #005172)
-PAR PRODUCING CO				RECEIVED:	11/17/82	JA: TX
8309819	F-03-059585	4214931373		102-2		KUBENA
8309820	F-03-059587	4228731276		102-2		MERSIOVSKY
-PARKER OPERATING CO INC				RECEIVED:	11/17/82	JA: TX
8309652	F-09-058128	4250300000		103		HALL-PARKS "B" #6
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	11/17/82	JA: TX
8309556	F-10-049036	4215700000		103		BENNETT B #2
8309761	F-6F-059493	4240100000		108		FREDERICK A & M #2
-PLACER ENERGY CORP				RECEIVED:	11/17/82	JA: TX
8309630	F-8A-057096	4207931489		103		FROST #1
8309631	F-8A-057099	4207931486		103		FROST #2
8309629	F-7C-057098	4238332137		103		ONA WELLS #1
8309633	F-7C-057102	4238332139		103		ONA WELLS "A" #1
8309634	F-7C-057103	4238332258		103		R W HALFMAN #1
-PLATEAU EXPLORATION & DEVELOPMENT I				RECEIVED:	11/17/82	JA: TX
8309638	F-10-057340	4235731235		103		ROGERS #1-408
-R A W ENERGY CORP				RECEIVED:	11/17/82	JA: TX
8309572	F-7B-052335	4236300000		103		DOW #1
8309632	F-7B-057171	4236731146		10244		JOHN FLORENCE #1
-R H ENGELKE				RECEIVED:	11/17/82	JA: TX
8309548	F-03-048525	4248132169		103		HLAVINKA WILLIAM J #1
-REALITOS ENERGY CORP				RECEIVED:	11/17/82	JA: TX
8309573	F-08-052517	4223931761		103		MAURITZ ESTATE #2-C
-REYNOLDS ORLO OU & ENI EXPL CO				RECEIVED:	11/17/82	JA: TX
8309669	F-08-058652	4240131344		103	137-TF	RUST ESTATE #2
-ROCKWOOD RESOURCES INC				RECEIVED:	11/17/82	JA: TX
8309585	F-03-053401	4248132092		10244		APPLING #1
8309581	F-02-053398	4223931758		102-4		CANERDAY #1
8309584	F-02-053402	4223931583		103		HULTQUIST #1
8309582	F-02-053399	4223931746		102-4		MATCEK #2
-ROY FARRELL JR				RECEIVED:	11/17/82	JA: TX
8309701	F-10-059167	4206531002		108		CHARLES BOWERS #1 ID #100593
-ROY R GARDNER				RECEIVED:	11/17/82	JA: TX

FIELD NAME	PROD	PURCHASER
K W D (STRAWN)	0.0	LONE STAR GAS CO
GIDDINGS (AUSTIN CHAL	56.0	PHILLIPS PETROLEU
SHERMAN (10700)	360.0	LONE STAR GAS CO
COPANO BAY S (FB-B N-	148.0	HOUSTON PIPE LINE
PANHANDLE HUTCHINSON	8.0	PHILLIPS PETROLEU
LYDIA (3700)	36.0	LONE STAR GAS CO
TALLY (STRAWN)	6.0	PAGADAU ENERGY CO
SPRABERRY (TREND AREA	0.0	EL PASO NATURAL G
DELEON N (STRAWN)	184.0	SOUTHWESTERN GAS
PANHANDLE GRAY	40.0	GETTY OIL CO
PANHANDLE GRAY	100.0	GETTY OIL CO
GIDDINGS (AUSTIN CHAL	200.0	PHILLIPS PETROLEU
GIDDINGS (AUSTIN CHAL	200.0	PHILLIPS PETROLEU
YOUNG COUNTY REGULAR	0.0	NATURAL GAS PIPEL
FARNSWORTH-CONNER (DE	0.0	PANHANDLE EASTERN
EAST TEXAS (WOODBINE)	1.6	PARADE CO
BUCKSHOT (4950 SD)	5.5	WARREN PETROLEUM
BUCKSHOT (4950 SD)	5.5	WARREN PETROLEUM
SPRABERRY (TREND AREA	0.7	UNION TEXAS PETRO
SPRABERRY (TREND AREA	0.7	UNION TEXAS PETRO
SPRABERRY (TREND AREA	0.7	UNION TEXAS PETRO
DUTCHER-CLEVELAND	182.0	DIAMOND SHAMROCK
PALO PINTO CO REGULAR	0.0	SOUTHWESTERN GAS
CABBAGE PATCH (ATOKA)	200.0	EMPIRE PIPELINE C
HUNDERFORD NORTH (350	0.0	
MAURITZ (6245)	50.0	DELHI GAS PIPELIN
NORTH TATUM (COTTON V	0.0	UNITED GAS PIPE L
MILLJE (FRIO 6750)	0.0	LONE STAR GAS COM
EL FORD (6300)	0.0	LONE STAR GAS CO
GANADO DEEP (HULTQUIS	0.0	LONE STAR GAS CO
MAYO (8540)	0.0	TEXAS EASTERN TRA
WEST PANHANDLE FIELD	15.0	NATURAL GAS PIPEL

VOLUME 794 PAGE 007

JD NO	DA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8309599	F-03-055206	4208900000		102-4		BUESCHER UNIT #1	FRANK (WILCOX O) (PRO	0.0	TEXAS EASTERN TRA
-SAGE ENERGY CO				RECEIVED:	11/17/82	JA: TX			
8309563	F-03-050702	4205132187		102-2		HARRIS #1 RRC ID #101648	GIDDINGS (AUSTIN CHAL	361.8	PHILLIPS PETROLEU
8309574	F-03-052714	4205132233		102-2		MASON #N-1 RRC ID #101596	BIG "A" TAYLOR	246.2	PHILLIPS PETROLEU
-SANDEFER PETROLEUM CO				RECEIVED:	11/17/82	JA: TX			
8309626	F-02-057036	4229733175		102-4		K W SCHREINER #1	TOM LYNE N (WILCOX 10	1.8	HOUSTON PIPE LINE
-SEEK RESOURCES LTD				RECEIVED:	11/17/82	JA: TX			
8309560	F-8A-049480	4213509671		102-2	103	SEEK #1 RATLIFF 94627	PRUDENCE (ATOKA)	74.4	PALO DURO PIPELIN
-SHA-JAM CORP				RECEIVED:	11/17/82	JA: TX			
8309670	F-03-058662	4214931337		103		MELBA JUNE #1	GIDDINGS (AUSTIN CHAL	91.2	SOUTH CEN-TEX GAS
-SKLAR & PHILLIPS OIL CO				RECEIVED:	11/17/82	JA: TX			
8309555	F-06-048976	4242330511		103	107-TF	LAKE RONEL #1	CHAPEL HILL (COTTON V	480.0	UNITED GAS PIPE L
-SO-TEX PETROLEUM, INC.				RECEIVED:	11/17/82	JA: TX			
8309770	F-7B-059517	4244132236		103		SOUTH CORNETT #2	JOCELYN-VARN (FRY)	87.0	UNION TEXAS PETRO
-SOHIO PETROLEUM CO				RECEIVED:	11/17/82	JA: TX			
8309816	F-7C-059581	4217331323		103		M V BRYANS "B" #5	CALVIN (DEAN)	16.0	EL PASO NATURAL G
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	11/17/82	JA: TX			
8309597	F-04-054913	4227331656		103		E G CANALES #24	TIJERINA-CANALES-BLUC	38.0	
8309636	F-7B-057291	4243360399		103		EAST FRANKIRK (CANYON SAND) UT #23	FRANKIRK EAST	2.0	CITIES SERVICE CO
8309768	F-09-059514	4227331195		102-4		FANT EST "2" #1	FANT	8.0	SUN GAS TRANSMISS
8309767	F-09-059513	4227330824		102-4		FANT EST "56" #1	FANT	33.0	SUN GAS TRANSMISS
8309766	F-09-059512	4227330871		102-4		FANT EST "56" #2	FANT	40.0	SUN GAS TRANSMISS
8309765	F-09-059511	4227330904		102-4		FANT EST "56" #3	FANT	5.0	SUN GAS TRANSMISS
8309752	F-09-059458	4227330903		102-4		FANT EST "56" #4	FANT	27.0	SUN GAS TRANSMISS
8309764	F-09-059510	4227330963		102-4		FANT EST "56" #5	FANT	7.0	SUN GAS TRANSMISS
8309763	F-09-059509	4227330964		102-4		FANT EST "56" #6	FANT	19.0	SUN GAS TRANSMISS
8309762	F-09-059508	4227331149		102-4		FANT EST "56" #7	FANT	5.0	SUN GAS TRANSMISS
8309760	F-09-059483	4227331204		102-4		FANT EST "56" #8	FANT	8.0	SUN GAS TRANSMISS
8309751	F-09-059457	4227331172		102-4		FANT EST "56A" #3	FANT	0.9	SUN GAS TRANSMISS
8309750	F-09-059456	4227581216		102-4		FANT EST "57" #6	FANT	10.0	SUN GAS TRANSMISS
8309749	F-09-059455	4227531226		102-4		FANT EST "57" #7	FANT	5.0	SUN GAS TRANSMISS
8309748	F-09-059454	4227530946		102-4		FANT EST "57A" #1	FANT	21.0	SUN GAS TRANSMISS
8309747	F-09-059453	4227531012		102-4		FANT EST "57A" #2	FANT	32.6	SUN GAS TRANSMISS
8309746	F-09-059452	4227531013		102-4		FANT EST "57A" #3	FANT	9.0	SUN GAS TRANSMISS
8309745	F-09-059451	4227531014		102-4		FANT EST "57A" #4	FANT	4.0	SUN GAS TRANSMISS
8309744	F-09-059450	4227531152		102-4		FANT EST "57A" #5	FANT	22.0	SUN GAS TRANSMISS
8309743	F-09-059449	4227531171		102-4		FANT EST "57A" #6	FANT	21.0	SUN GAS TRANSMISS
8309769	F-09-059516	4227531174		102-4		FANT EST "57A" #7	FANT	17.0	SUN GAS TRANSMISS
8309742	F-09-059448	4227531222		102-4		FANT EST "58A" #1	FANT	5.0	SUN GAS TRANSMISS
8309673	F-09-058728	4227531196		102-4	103	FANT ESTATE "2A" #1	FANT (CONGL LO)	15.0	SUN GAS TRANSMISS
8309717	F-8A-059395	4221933384		103		MALLET LAND & CATTLE CO A/C-1 #10	SLAUGHTER	6.0	AMOCO PRODUCTION
8309700	F-04-059164	4242731449		103		MARRS MCLEAN #24	LOCKHART (COCKFIELD)	5.0	TENNESSEE GAS PIP
8309604	F-08-055590	4213533853		103		PAUL MOSS #194	COWDEN SOUTH	4.0	ODESSA NATURAL GA
8309651	F-10-058079	4235700000		108		R C ELLIOTT-A #2	FARNSWORTH-CONNER	7.5	PHILLIPS PETROLEU
8309718	F-08-059396	4233500000		108		TUBB OMEGA #2	JAMESON NORTH STRAWN	10.0	LONE STAR GAS CO
-SUPERIOR OIL CO				RECEIVED:	11/17/82	JA: TX			
8309594	F-03-054734	4205132231		102-2	103	L I PAVLAS #1	GIDDINGS (AUSTIN CHAL	0.0	
-SUPERIOR WELL SERVICING CO				RECEIVED:	11/17/82	JA: TX			
8309540	F-10-045284	4223300000		108		JOHNSON #1	PANHANDLE HUTCHINSON	2.0	
-TASCOCITA ENERGY CO				RECEIVED:	11/17/82	JA: TX			
8309552	F-03-048160	4215731240		102-4	103	SIMMONS #1	WILDCAT	500.0	DOW CHEMICAL CO
-TAUBERT & STEED				RECEIVED:	11/17/82	JA: TX			
8309619	F-06-056862	4249900000		102-4		J J PUCKETT HEIRS #3	NEUHOFF (CLARKSVILLE)	693.5	UNITED GAS PIPELI

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-TAYLOR OPERATING COMPANY				RECEIVED:	11/17/82	JA: TX			
8309795	F-09-059552	4249700000		103		SIMONS #1 (100708)	BOONSVILLE (BEND CONG	456.3	NATURAL GAS PIPEL
-TED MCCANN & ASSOCIATES INC				RECEIVED:	11/17/82	JA: TX			
8309659	F-7C-058448	4243532760		103	107-TF	FIELDS #1-25	SAWYER (CANYON)	100.0	EL PASO NATURAL G
-TENNECO OIL COMPANY				RECEIVED:	11/17/82	JA: TX		125.0	
8309674	F-10-058733	4221131447		103		TESSON 1-12			
-TEXACO INC				RECEIVED:	11/17/82	JA: TX			
8309566	F-08-051703	4210931552		102-4		CULBERSON "AB" FEE #1	UNASSIGNED	0.0	
8309683	F-8A-058995	4250132058		103		ROBERTS UNIT #1736	WASSON	0.0	SHELL OIL CO
8309649	F-8A-057814	4250132076		103		ROBERTS UNIT #3627	WASSON	0.0	SHELL OIL CO
8309613	F-8A-056322	4250132057		103		ROBERTS UNIT NO 1735	WASSON	17.1	SHELL OIL CO
8309622	F-8A-056957	4216532382		103		ROBERTSON UNIT #51	ROBERTSON N (CLEARFOR	0.0	PHILLIPS PETROLEU
8309641	F-8A-057468	4216532380		103		ROBERTSON UNIT #53	ROBERTSON N (CLEARFOR	31.3	PHILLIPS PETROLEU
8309648	F-08-057792	4243131169		103		STERLING "E" FEE #13	CONGER (PENN)	0.0	VALERO TRANSMISSI
8309671	F-10-058687	4206500000		108		T J BONEY NCT-3 #10	PANHANDLE CARSON COUN	0.6	GETTY OIL CO
-TEXAS UNITED GEOPRODUCTION				RECEIVED:	11/17/82	JA: TX			
8309709	F-7B-059266	4225331378		102-4		AMY SEARS #1 16069	ACME (STRAWN MIDDLE)	1.0	PALO DURO PIPELIN
8309708	F-7B-059265	4225331254		103		JOE JACKSON #1 15247	AMY SEARS (W CANYON [illegible]	4.0	PALO DURO PIPELIN
8309710	F-7B-059267	4225331254		103		JOE JACKSON #2-15247	AMY SEARS (W CANYON [illegible]	1.0	PALO DURO PIPELIN
-THE DOW CHEMICAL COMPANY				RECEIVED:	11/17/82	JA: TX			
8309617	F-03-056402	4224531296		102-4		HEBERT-BROUSSARD #8	GUM ISLAND N (7800')	365.0	
-TOM F MARSH INC				RECEIVED:	11/17/82	JA: TX			
8309559	F-10-049362	4248331002		102-4		MAY #1-85	CANDICE (MORROW)	183.0	
8309551	F-10-047933	4248330972		102-4		SHELTON #1-97	CANDICE (MORROW)	183.0	
-TOMMY STAPLES OIL CO				RECEIVED:	11/17/82	JA: TX			
8309554	F-02-048851	4202531408		102-4		HARRIS #4	DIRKS (1850)	50.0	TEXAS EASTERN GAS
-TRIPLE J INVESTMENTS INC				RECEIVED:	11/17/82	JA: TX			
8309668	F-06-058646	4240100000		103		R W FAIR #1	TALIAFERRO	48.0	ARCO OIL & GAS CO
-TXO PRODUCTION CORP				RECEIVED:	11/17/82	JA: TX			
8309586	F-02-053751	4246931741		102-4		ADCOCK #2	RICHARD ADCOCK (3360'	0.0	UNITED GAS PIPELI
8309587	F-02-053753	4223931334		102-4		SCHAEFER B-1	MCDANIEL (3650')	0.0	TEXAS EASTERN TRA
8309627	F-7B-057086	4241734653		103		WALKER-BUCKLER 72-1	ROCKWELL (CONGL)	30.0	DELHI GAS PIPELIN
-U S OPERATING INC				RECEIVED:	11/17/82	JA: TX			
8309680	F-03-058952	4228700000		102-2		BRENDA #2 RRC ID #12970	GIDDINGS (AUSTIN CHAL	0.0	PERRY PIPELINE CO
8309664	F-03-058617	4228731246		102-2		KIMBERLY #1 RRC ID # N/A	GIDDINGS (AUSTIN CHAL	0.0	PERRY PIPELINE CO
-UNION EXPLORATION				RECEIVED:	11/17/82	JA: TX			
8309677	F-7B-058896	4243331412		103		DRUEHEDOW "B" #3 (11303)	CORSICA (BEND CONGLOM	35.0	CITIES SERVICE CO
-VENQUEST RESOURCES INC				RECEIVED:	11/17/82	JA: TX			
8309616	F-03-056388	4247700000		102-2		NIXON UNIT #1	GIDDINGS (AUSTIN CHAL	0.0	CLAJON GAS CO
-VENUS OIL COMPANY				RECEIVED:	11/17/82	JA: TX			
8309699	F-02-059151	4223900000		102-4		OTTO WELL #1	BENNVIEW	0.0	DELHI GAS PIPELIN
-W M NULL				RECEIVED:	11/17/82	JA: TX			
8309643	F-01-057581	4212700000		102-4	103	KING N C #2	STUMBERG (OLMOS 4150)	0.0	VALERO TRANSMISSI
8309656	F-01-058382	4212700000		102-4	103	STUMBERG RANCH #4 07714	STUMBERG (OLMOS N-2)	0.0	VALERO TRANSMISSI
-WAINOCO OIL & GAS CO				RECEIVED:	11/17/82	JA: TX			
8309575	F-05-052719	4216130794		102-4	107-TF	COCHRUM #1	FREESTONE W (BOSSIER)	110.0	DELHI GAS PIPELIN
8309623	F-03-057017	4208931299		102-4	103	J R THOMAS #2	WYLIE FIELD	100.0	SEAGULL PIPELINE
-WINN EXPLORATION/DULCE CO				RECEIVED:	11/17/82	JA: TX			
8309601	F-01-055384	4250731185		102-4		PRYOR RANCH 4-T	WINN-DULCE	0.0	INTER NORTH INC
8309612	F-01-056018	4250731676		102-4		PRYOR RANCH 64	WINN-DULCE	0.0	VALERO TRANSMISSI
-3 W OIL INC				RECEIVED:	11/17/82	JA: TX			
8309755	F-10-059472	4206531136		103		WEBSTER (05135) #2	PANHANDLE CARSON COUN	9.0	GETTY OIL CO

SOURCE DATA FOR THIS NOTICE IS AVAILABLE ON MAGNETIC TAPE FROM THE NATIONAL TECHNICAL INFORMATION SERVICE (NTIS). FOR INFORMATION, CONTACT STUART WEISMAN (NTIS) AT (703) 487-4808, 5285 PORT ROYAL RD, SPRINGFIELD, VA 22161, OR SANDRA SPEAR (FERC) (202) 357-8681.

BILLING CODE 6717-01-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The application for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission 's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register.**

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 mile rule)
102–3: New well (1000 ft. rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–CB: Geopressured brine
107–CS: Coal seams
107–DV: Devonian shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–34519 Filed 12–21–82; 8:45 am]
BILLING CODE 6717–01–M

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: December 14, 1982.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
TEXAS RAILROAD COMMISSION									
-ADOBE OIL & GAS CORPORATION				RECEIVED:	11/17/82	JA: TX			
8310075	F-7B-059936	4213334235		102-4		SNEED "C" #2	MANGUM NORTH (3200)	40.0	EL PASO HYDROCARB
-ARGONAUT ENERGY CORPORATION				RECEIVED:	11/17/82	JA: TX			
8310079	F-10-059958	4219530823		103		PHELPS #3 (03930)	HANSFORD (MORROW UPPE	39.0	PHILLIPS PETROLEU
-CAL-T OIL CO				RECEIVED:	11/17/82	JA: TX			
8310091	F-10-060019	4223331417		103		CARVER AREA WATERFLOOD 1 02712 #43	PANHANDLE - HUTCHINSO	88.0	DIAMOND SHAMROCK
-CALIX CORP				RECEIVED:	11/17/82	JA: TX			
8309923	F-01-59735	4217731322		102-4		INDUSTRIAL PARK UNIT #1 ID #08343	PEACH CREEK (BUDA)	6.0	VALERO TRANSMISSI
-CITIES SERVICE COMPANY				RECEIVED:	11/17/82	JA: TX			
8309852	F-08-59653	4213533942		103		WEST GOLDSMITH UNIT #4005	GOLDSMITH W (CLEARFOR	18.0	SHELL OIL CO
-CONOCO INC				RECEIVED:	11/17/82	JA: TX			
8310068	F-10-059902	4206500000		108		BURNETT 72A	WEST PANHANDLE	16.0	CITIES SERVICE GA
8310067	F-10-059901	4206500000		108		BURNETT 94A	WEST PANHANDLE	15.0	CITIES SERVICE GA
8310084	F-8A-059979	4207931522		103		CONOCO DEAN UNIT #134 ID #60106	SLAUGHTER	4.0	AMOCO PRODUCTION
8310066	F-10-059900	4206500000		108		FUQUA 6	WEST PANHANDLE	22.0	CITIES SERVICE GA
8310065	F-10-059899	4217900000		108		HEXTER AH 1	WEST PANHANDLE	18.0	CITIES SERVICE GA
8310064	F-10-059898	4217900000		108		HEXTER AH 2	WEST PANHANDLE	21.0	CITIES SERVICE GA
8310063	F-10-059897	4206500000		108		MOORE JULIA 1	WEST PANHANDLE	11.0	CITIES SERVICE GA
8310062	F-10-059896	4206500000		108		POPE MARY 1	WEST PANHANDLE	17.0	CITIES SERVICE GA
8310061	F-10-059895	4206500000		108		SIMMS MINOR 1B	WEST PANHANDLE	12.0	CITIES SERVICE GA
8310059	F-10-059894	4217900000		108		TEXAS-6 COFFEE 1A	WEST PANHANDLE	15.0	CITIES SERVICE GA
-D L BISHOP				RECEIVED:	11/17/82	JA: TX			
8310077	F-7C-059956	4210533067		103		UNIVERSITY "25-A" #6 (RRC #08023)	FARMER (SAN ANDRES)	1.8	J L DAVIS
8310078	F-7C-059957	4210533066		103		UNIVERSITY "25-A" #7 (RRC #08023)	FARMER (SAN ANDRES)	1.8	J L DAVIS
-DAMSON OIL CORPORATION				RECEIVED:	11/17/82	JA: TX			
8310087	F-06-060003	4240130813		103		DANIEL MENEFEE GAS UNIT #2	OAK HILL (COTTON VALL	350.0	DELHI GAS PIPELIN
-DESANA CORP				RECEIVED:	11/17/82	JA: TX			
8310019	F-7C-05984	4239932243		103		BAKER #3	WINTERS	37.0	LONE STAR GAS CO
8310021	F-7B-059844	4243331120		102-4		FLAT TOP (133) #1-133	FLAT TOP (133)	1.0	TUFCO
8310020	F-7B-059843	4220731218		102-4		FLAT TOP (24) #3-24	P O C	1.0	TUFCO
8310018	F-7B-059841	4220731220		102-4		FLAT TOP (24) #424	P O C	1.0	TUFCO
-DIAMOND SHAMROCK CORPORATION				RECEIVED:	11/17/82	JA: TX			
8310086	F-10-05998	4229531073		103		CROSSLEY ESTATE #2	LIPSCOMB	50.0	
8310085	F-10-059995	4229531139		103		KATIE SELL #3	LIPSCOMB SW	53.0	
-FAGADAU ENERGY CORP				RECEIVED:	11/17/82	JA: TX			
8310074	F-09-059930	4223700000		108		W F GLEASON A-1 #041255	BOONESVILLE (BEND CON	173.0	LONE STAR GAS CO
-GULF OIL CORPORATION				RECEIVED:	11/17/82	JA: TX			
8309951	F-08-59769	4246110059		108		B J O'NEAL NCT-B WELL #23	MCELROY	4.0	PHILLIPS PETROLEU
8309950	F-08-59768	4246110050		108		B J O'NEAL NCT-B WELL #24	MCELROY	4.3	PHILLIPS PETROLEU
8310023	F-08-059846	4213501289		108		C A GOLDSMITH #920	GOLDSMITH (5600)	1.3	PHILLIPS PETROLEU
8309966	F-08-059784	4246100988		108		CRIER-MCELROY WELL #A-20	MCELROY	9.9	PHILLIPS PETROLEU

VOLUME 795 PAGE 002

JD. NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8309977	F-08-059795	4246130354		108		CRIER-MCELROY WELL #A-40	MCELROY	26.9	PHILLIPS PETROLEU
8309975	F-08-059794	4246130217		108		CRIER-MCELROY WELL #A-45	MCELROY	20.7	PHILLIPS PETROLEU
8309974	F-08-059793	4246130357		108		CRIER-MCELROY WELL #A-46	MCELROY	4.9	PHILLIPS PETROLEU
8309965	F-08-059783	4210331452		108		CRIER-MCELROY WELL #A-60	MCELROY	6.5	PHILLIPS PETROLEU
8309964	F-08-059782	4210331481		108		CRIER-MCELROY WELL #A-64	MCELROY	4.0	PHILLIPS PETROLEU
8309945	F-08-59763	4210300398		108		CRIER-MCELROY WELL #100	MCELROY	22.0	PHILLIPS PETROLEU
8309961	F-08-059779	4210300408		108		CRIER-MCELROY WELL #117	MCELROY	0.8	PHILLIPS PETROLEU
8309967	F-08-05978	4246100963		108		CRIER-MCELROY WELL #122	MCELROY	0.7	PHILLIPS PETROLEU
8309971	F-08-059790	4210300416		108		CRIER-MCELROY WELL #127	MCELROY	0.3	PHILLIPS PETROLEU
8309970	F-08-059789	4210300418		108		CRIER-MCELROY WELL #129	MCELROY	7.7	PHILLIPS PETROLEU
8309968	F-08-059786	4210300430		108		CRIER-MCELROY WELL #132	MCELROY	8.4	PHILLIPS PETROLEU
8309980	F-08-059799	4246100976		108		CRIER-MCELROY WELL #153	MCELROY	0.3	PHILLIPS PETROLEU
8309909	F-08-59720	4210300421		108		CRIER-MCELROY WELL #156	MCELROY	8.0	PHILLIPS PETROLEU
8309911	F-08-59723	4210300426		108		CRIER-MCELROY WELL #163	MCELROY	0.6	PHILLIPS PETROLEU
8309976	F-08-059796	4246110191		108		CRIER-MCELROY WELL #177	MCELROY	0.6	PHILLIPS PETROLEU
8309952	F-08-59770	4246130128		108		CRIER-MCELROY WELL #182	MCELROY	12.0	PHILLIPS PETROLEU
8309969	F-08-059787	4210330605		108		CRIER-MCELROY WELL #184	MCELROY	5.5	PHILLIPS PETROLEU
8309994	F-08-059813	4210330676		108		CRIER-MCELROY WELL #193	MCELROY	8.3	PHILLIPS PETROLEU
8309906	F-08-59717	4210330658		108		CRIER-MCELROY WELL #195	MCELROY	11.4	PHILLIPS PETROLEU
8309958	F-08-059776	4246130355		108		CRIER-MCELROY WELL #208	MCELROY	5.0	PHILLIPS PETROLEU
8309910	F-08-59721	4210331007		108		CRIER-MCELROY WELL #213	MCELROY	1.8	PHILLIPS PETROLEU
8309957	F-08-059775	4246130443		108		CRIER-MCELROY WELL #223	MCELROY	4.0	PHILLIPS PETROLEU
8309955	F-08-059773	4246130450		108		CRIER-MCELROY WELL #227	MCELROY	22.0	PHILLIPS PETROLEU
8309956	F-08-059774	4246130470		108		CRIER-MCELROY WELL #228	MCELROY	16.8	PHILLIPS PETROLEU
8309954	F-08-59772	4246130479		108		CRIER-MCELROY WELL #230	MCELROY	9.9	PHILLIPS PETROLEU
8309978	F-08-059797	4246130505		108		CRIER-MCELROY WELL #237	MCELROY	15.8	PHILLIPS PETROLEU
8309981	F-08-059800	4246130529		108		CRIER-MCELROY WELL #247	MCELROY	19.5	PHILLIPS PETROLEU
8309991	F-08-059810	4210331273		108		CRIER-MCELROY WELL #249	MCELROY	4.6	PHILLIPS PETROLEU
8309992	F-08-059811	4210331271		108		CRIER-MCELROY WELL #250	MCELROY	11.7	PHILLIPS PETROLEU
8309953	F-08-59771	4246130560		108		CRIER-MCELROY WELL #257	MCELROY	7.1	PHILLIPS PETROLEU
8309993	F-08-059812	4210331349		108		CRIER-MCELROY WELL #259	MCELROY	2.1	PHILLIPS PETROLEU
8309989	F-08-059808	4210331350		108		CRIER-MCELROY WELL #260	MCELROY	4.9	PHILLIPS PETROLEU
8309982	F-08-059801	4246130616		108		CRIER-MCELROY WELL #268	MCELROY	6.5	PHILLIPS PETROLEU
8309962	F-08-059780	4210331413		108		CRIER-MCELROY WELL #269	MCELROY	7.4	PHILLIPS PETROLEU
8309983	F-08-059802	4246130634		108		CRIER-MCELROY WELL #272	MCELROY	4.9	PHILLIPS PETROLEU
8309984	F-08-059803	4246131159		108		CRIER-MCELROY WELL #280	MCELROY	3.4	PHILLIPS PETROLEU
8309985	F-08-059804	4246131161		108		CRIER-MCELROY WELL #281	MCELROY	13.0	PHILLIPS PETROLEU
8309986	F-08-059805	4246131160		108		CRIER-MCELROY WELL #282	MCELROY	8.9	PHILLIPS PETROLEU
8309987	F-08-059806	4246131169		108		CRIER-MCELROY WELL #284	MCELROY	5.2	PHILLIPS PETROLEU
8309988	F-08-059807	4246131175		108		CRIER-MCELROY WELL #285	MCELROY	5.5	PHILLIPS PETROLEU
8309990	F-08-059809	4246131177		108		CRIER-MCELROY WELL #288	MCELROY	7.1	PHILLIPS PETROLEU
8309913	F-08-59725	4246131197		108		CRIER-MCELROY WELL #296	MCELROY	3.7	PHILLIPS PETROLEU
8309907	F-08-59718	4246131198		108		CRIER-MCELROY WELL #297	MCELROY	9.9	PHILLIPS PETROLEU
8309908	F-08-59719	4246131218		108		CRIER-MCELROY WELL #303	MCELROY	8.9	PHILLIPS PETROLEU
8309912	F-08-59724	4246131221		108		CRIER-MCELROY WELL #308	MCELROY	13.6	PHILLIPS PETROLEU
8309963	F-08-059781	4246100310		108		CRIER-MCELROY WELL #50	MCELROY	8.2	PHILLIPS PETROLEU
8309973	F-08-059792	4210300376		108		CRIER-MCELROY WELL #52	MCELROY	1.9	PHILLIPS PETROLEU
8309960	F-08-059778	4246100317		108		CRIER-MCELROY WELL #65	MCELROY	10.3	PHILLIPS PETROLEU
8309972	F-08-059791	4246100176		108		CRIER-MCELROY WELL #7	MCELROY	0.8	PHILLIPS PETROLEU
8309959	F-08-059777	4246100320		108		CRIER-MCELROY WELL #72	MCELROY	2.5	PHILLIPS PETROLEU
8309979	F-08-059798	4246100328		108		CRIER-MCELROY WELL #94	MCELROY	0.3	PHILLIPS PETROLEU
8309926	F-08-59743	4237132420		108		EFFIE SIBLEY ET AL STATE WELL #2	USM	20.7	INTER NORTH INC
8309930	F-7C-59747	4210510136		108		F R HENDERSON JR A WELL #2	OZONA	24.8	SHELL PIPELINE CO

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8309928	F-7C-59745	4210510439		108		F R HENDERSON WELL #7	OZONA	30.0	SHELL PIPELINE CO
8309935	F-08-59753	4237110388		108		GEORGE M SHELTON JR ET AL WELL #1	USM	3.4	INTER NORTH INC
8310022	F-08-059845	4213533874		103		GOLDSMITH SAN ANDRES UNIT #2-177	GOLDSMITH SAN ANDRES	15.2	PHILLIPS PETROLEU
8309937	F-08-59755	4237110209		108		J H DYCHE B WELL #2	USM	3.0	INTER NORTH INC
8309940	F-7C-59758	4210510840		108		J H TIPPETT "E" NCT-B WELL #4	TIPPETT	26.6	NELEH GAS & OIL C
8309938	F-7C-59756	4210530126		108		J H TIPPETT "E" NCT-B WELL #14-U	TIPPETT	18.0	NELEH OIL & GAS C
8309936	F-7C-59754	4210530124		108		J H TIPPETT "E" NCT-B WELL #16-U	TIPPETT	2.7	NELEH OIL & GAS C
8309934	F-7C-59752	4210530072		108		J H TIPPETT "E" NCT-C WELL #13-U	TIPPETT	20.2	NELEH OIL & GAS C
8309943	F-7C-59761	4210510799		108		J H TIPPETT "E" WELL #2	TIPPETT	26.6	NELEH GAS & OIL C
8309944	F-7C-59762	4210530044		108		J H TIPPETT "G" WELL #11	TIPPETT	7.4	NELEH GAS & OIL C
8309920	F-08-59732	4246130697		108		J T MC ELROY CONSOLIDATED WELL #983	MCELROY	5.3	PHILLIPS PETROLEU
8309995	F-08-059814	4210300619		108		J T MCELROY CONSOLIDATED WELL #B-11	MCELROY	13.0	PHILLIPS PETROLEU
8309996	F-08-059815	4210300620		108		J T MCELROY CONSOLIDATED WELL #B-18	MCELROY	26.0	PHILLIPS PETROLEU
8309922	F-08-59734	4210300627		108		J T MCELROY CONSOLIDATED WELL #B-19	MCELROY	6.0	PHILLIPS PETROLEU
8310032	F-08-059856	4246102505		108		J T MCELROY CONSOLIDATED WELL #B-40	MCELROY	13.0	PHILLIPS PETROLEU
8310028	F-08-059851	4246102513		108		J T MCELROY CONSOLIDATED WELL #B-53	MCELROY	3.4	PHILLIPS PETROLEU
8309997	F-08-059816	4210330568		108		J T MCELROY CONSOLIDATED WELL #B-65	MCELROY	10.0	PHILLIPS PETROLEU
8309892	F-08-59702	4246130489		108		J T MCELROY CONSOLIDATED WELL #B-82	MCELROY	26.0	PHILLIPS PETROLEU
8309933	F-08-59751	4246130525		108		J T MCELROY CONSOLIDATED WELL #B-85	MCELROY	5.0	PHILLIPS PETROLEU
8309877	F-08-59683	4246131186		108		J T MCELROY CONSOLIDATED WELL #1005	MCELROY	16.7	PHILLIPS PETROLEU
8309878	F-08-59684	4246131201		108		J T MCELROY CONSOLIDATED WELL #1006	MCELROY	9.9	PHILLIPS PETROLEU
8309873	F-08-59679	4246131202		108		J T MCELROY CONSOLIDATED WELL #1007	MCELROY	18.0	PHILLIPS PETROLEU
8309883	F-08-59689	4246131203		108		J T MCELROY CONSOLIDATED WELL #1008	MCELROY	9.9	PHILLIPS PETROLEU
8309881	F-08-59687	4246131205		108		J T MCELROY CONSOLIDATED WELL #1010	MCELROY	18.8	PHILLIPS PETROLEU
8310058	F-08-059892	4246131212		108		J T MCELROY CONSOLIDATED WELL #1011	MCELROY	16.7	PHILLIPS PETROLEU
8309879	F-08-59685	4246131213		108		J T MCELROY CONSOLIDATED WELL #1012	MCELROY	15.2	PHILLIPS PETROLEU
8309880	F-08-59686	4246131216		108		J T MCELROY CONSOLIDATED WELL #1013	MCELROY	4.3	PHILLIPS PETROLEU
8309882	F-08-59688	4246131215		108		J T MCELROY CONSOLIDATED WELL #1014	MCELROY	6.8	PHILLIPS PETROLEU
8309860	F-08-59666	4246131226		108		J T MCELROY CONSOLIDATED WELL #1017	MCELROY	15.8	PHILLIPS PETROLEU
8310043	F-08-059867	4246101071		108		J T MCELROY CONSOLIDATED WELL #205	MCELROY	9.0	PHILLIPS PETROLEU
8309863	F-08-59669	4246101073		108		J T MCELROY CONSOLIDATED WELL #253	MCELROY	4.0	PHILLIPS PETROLEU
8310041	F-08-059865	4210300489		108		J T MCELROY CONSOLIDATED WELL #361	MCELROY	0.5	PHILLIPS PETROLEU
8310046	F-08-059870	4210305951		108		J T MCELROY CONSOLIDATED WELL #367	MCELROY	8.7	PHILLIPS PETROLEU
8309869	F-08-59675	4210300670		108		J T MCELROY CONSOLIDATED WELL #38	MCELROY	15.0	PHILLIPS PETROLEU
8309867	F-08-59673	4246100602		108		J T MCELROY CONSOLIDATED WELL #381	MCELROY	4.4	PHILLIPS PETROLEU
8309855	F-08-59660	4210300500		108		J T MCELROY CONSOLIDATED WELL #385	MCELROY	0.7	PHILLIPS PETROLEU
8309904	F-08-059715	4210302625		108		J T MCELROY CONSOLIDATED WELL #389	MCELROY	19.6	PHILLIPS PETROLEU
8310057	F-08-059891	4246100610		108		J T MCELROY CONSOLIDATED WELL #395	MCELROY	5.0	PHILLIPS PETROLEU
8310053	F-08-059886	4246100612		108		J T MCELROY CONSOLIDATED WELL #397	MCELROY	17.0	PHILLIPS PETROLEU
8310056	F-08-059890	4246100615		108		J T MCELROY CONSOLIDATED WELL #400	MCELROY	15.0	PHILLIPS PETROLEU
8310050	F-08-059882	4246100616		108		J T MCELROY CONSOLIDATED WELL #401	MCELROY	19.0	PHILLIPS PETROLEU
8309897	F-08-59707	4210300551		108		J T MCELROY CONSOLIDATED WELL #419	MCELROY	3.5	PHILLIPS PETROLEU
8309856	F-08-59661	4246100631		108		J T MCELROY CONSOLIDATED WELL #435	MCELROY	15.8	PHILLIPS PETROLEU
8309917	F-08-59729	4210300556		108		J T MCELROY CONSOLIDATED WELL #437	MCELROY	0.0	PHILLIPS PETROLEU
8310030	F-08-059853	4210300512		108		J T MCELROY CONSOLIDATED WELL #479	MCELROY	7.7	PHILLIPS PETROLEU
8309895	F-08-59705	4210300514		108		J T MCELROY CONSOLIDATED WELL #481	MCELROY	25.0	PHILLIPS PETROLEU
8309872	F-08-59678	4246100645		108		J T MCELROY CONSOLIDATED WELL #494	MCELROY	2.9	PHILLIPS PETROLEU
8309998	F-08-059817	4246100652		108		J T MCELROY CONSOLIDATED WELL #503	MCELROY	3.0	PHILLIPS PETROLEU
8310001	F-08-059820	4246100667		108		J T MCELROY CONSOLIDATED WELL #519	MCELROY	11.0	PHILLIPS PETROLEU
8309862	F-08-59668	4246100680		108		J T MCELROY CONSOLIDATED WELL #532	MCELROY	20.0	PHILLIPS PETROLEU
8309999	F-08-059818	4246102446		108		J T MCELROY CONSOLIDATED WELL #549	MCELROY	16.0	PHILLIPS PETROLEU
8310044	F-08-059868	4246102447		108		J T MCELROY CONSOLIDATED WELL #550	MCELROY	7.0	PHILLIPS PETROLEU
8310031	F-08-059854	4246102452		108		J T MCELROY CONSOLIDATED WELL #561	MCELROY	4.0	PHILLIPS PETROLEU

VOLUME 795 PAGE 004

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8310045	F-08-059869	4246102470		108		J T MCELROY CONSOLIDATED WELL #581	MCELROY	2.6	PHILLIPS PETROLEU
8310033	F-08-059857	4246102475		108		J T MCELROY CONSOLIDATED WELL #589	MCELROY	5.0	PHILLIPS PETROLEU
8309854	F-08-59659	4246102479		108		J T MCELROY CONSOLIDATED WELL #594	MCELROY	30.9	PHILLIPS PETROLEU
8309915	F-08-59727	4246102481		108		J T MCELROY CONSOLIDATED WELL #596	MCELROY	20.7	PHILLIPS PETROLEU
8310035	F-08-059859	4246110344		108		J T MCELROY CONSOLIDATED WELL #60	MCELROY	7.1	PHILLIPS PETROLEU
8310049	F-08-059881	4246102486		108		J T MCELROY CONSOLIDATED WELL #603	MCELROY	14.6	PHILLIPS PETROLEU
8309859	F-08-59665	4246102487		108		J T MCELROY CONSOLIDATED WELL #604	MCELROY	11.0	PHILLIPS PETROLEU
8309921	F-08-59733	4246102489		108		J T MCELROY CONSOLIDATED WELL #606	MCELROY	16.0	PHILLIPS PETROLEU
8310025	F-08-059848	4246102491		108		J T MCELROY CONSOLIDATED WELL #609	MCELROY	22.0	PHILLIPS PETROLEU
8309870	F-08-59676	4246110235		108		J T MCELROY CONSOLIDATED WELL #635	MCELROY	2.0	PHILLIPS PETROLEU
8310000	F-08-059819	4246130110		108		J T MCELROY CONSOLIDATED WELL #654	MCELROY	5.0	PHILLIPS PETROLEU
8309901	F-08-59712	4210330637		108		J T MCELROY CONSOLIDATED WELL #678	MCELROY	11.1	PHILLIPS PETROLEU
8310029	F-08-059852	4210330759		108		J T MCELROY CONSOLIDATED WELL #698	MCELROY	8.3	PHILLIPS PETROLEU
8309899	F-08-59710	4210330724		108		J T MCELROY CONSOLIDATED WELL #699	MCELROY	9.3	PHILLIPS PETROLEU
8309903	F-08-59714	4210330784		108		J T MCELROY CONSOLIDATED WELL #702	MCELROY	8.8	PHILLIPS PETROLEU
8310002	F-08-059821	4246130192		108		J T MCELROY CONSOLIDATED WELL #704	MCELROY	10.0	PHILLIPS PETROLEU
8310042	F-08-059866	4210330823		108		J T MCELROY CONSOLIDATED WELL #709	MCELROY	1.5	PHILLIPS PETROLEU
8309884	F-08-59690	4246130241		108		J T MCELROY CONSOLIDATED WELL #716	MCELROY	0.9	PHILLIPS PETROLEU
8310004	F-08-059823	4246130237		108		J T MCELROY CONSOLIDATED WELL #717	MCELROY	9.0	PHILLIPS PETROLEU
8309874	F-08-59680	4246130265		108		J T MCELROY CONSOLIDATED WELL #732	MCELROY	4.0	PHILLIPS PETROLEU
8309864	F-08-59670	4246130327		108		J T MCELROY CONSOLIDATED WELL #758	MCELROY	8.0	PHILLIPS PETROLEU
8310047	F-08-059879	4246130333		108		J T MCELROY CONSOLIDATED WELL #765	MCELROY	10.0	PHILLIPS PETROLEU
8309914	F-08-59726	4246130340		108		J T MCELROY CONSOLIDATED WELL #768	MCELROY	4.0	PHILLIPS PETROLEU
8310040	F-08-059864	4246130343		108		J T MCELROY CONSOLIDATED WELL #769	MCELROY	4.3	PHILLIPS PETROLEU
8310038	F-08-059862	4246130344		108		J T MCELROY CONSOLIDATED WELL #770	MCELROY	18.8	PHILLIPS PETROLEU
8310055	F-08-059889	4246130368		108		J T MCELROY CONSOLIDATED WELL #780	MCELROY	6.0	PHILLIPS PETROLEU
8310039	F-08-059863	4210330977		108		J T MCELROY CONSOLIDATED WELL #783	MCELROY	3.1	PHILLIPS PETROLEU
8310005	F-08-059824	4246130386		108		J T MCELROY CONSOLIDATED WELL #785	MCELROY	19.0	PHILLIPS PETROLEU
8309871	F-08-59677	4246130385		108		J T MCELROY CONSOLIDATED WELL #786	MCELROY	27.6	PHILLIPS PETROLEU
8309876	F-08-59682	4246130384		108		J T MCELROY CONSOLIDATED WELL #787	MCELROY	37.2	PHILLIPS PETROLEU
8309900	F-08-59711	4210331053		108		J T MCELROY CONSOLIDATED WELL #811	MCELROY	5.8	PHILLIPS PETROLEU
8309866	F-08-59672	4246130458		108		J T MCELROY CONSOLIDATED WELL #831	MCELROY	4.0	PHILLIPS PETROLEU
8309857	F-08-59662	4210331176		108		J T MCELROY CONSOLIDATED WELL #853	MCELROY	14.8	PHILLIPS PETROLEU
8309861	F-08-59667	4246130507		108		J T MCELROY CONSOLIDATED WELL #856	MCELROY	12.0	PHILLIPS PETROLEU
8309905	F-08-059716	4246130528		108		J T MCELROY CONSOLIDATED WELL #861	MCELROY	6.2	PHILLIPS PETROLEU
8310036	F-08-059860	4210331322		108		J T MCELROY CONSOLIDATED WELL #877	MCELROY	4.7	PHILLIPS PETROLEU
8309942	F-08-59760	4246130552		108		J T MCELROY CONSOLIDATED WELL #887	MCELROY	19.8	PHILLIPS PETROLEU
8309868	F-08-59674	4246130548		108		J T MCELROY CONSOLIDATED WELL #888	MCELROY	23.8	PHILLIPS PETROLEU
8309858	F-08-59664	4210331378		108		J T MCELROY CONSOLIDATED WELL #898	MCELROY	5.8	PHILLIPS PETROLEU
8309875	F-08-59681	4246130575		108		J T MCELROY CONSOLIDATED WELL #908	MCELROY	4.3	PHILLIPS PETROLEU
8310034	F-08-059858	4246130587		108		J T MCELROY CONSOLIDATED WELL #913	MCELROY	3.0	PHILLIPS PETROLEU
8310051	F-08-059883	4246130583		108		J T MCELROY CONSOLIDATED WELL #916	MCELROY	6.0	PHILLIPS PETROLEU
8309891	F-08-59701	4246130606		108		J T MCELROY CONSOLIDATED WELL #927	MCELROY	2.0	PHILLIPS PETROLEU
8309916	F-08-59728	4246130629		108		J T MCELROY CONSOLIDATED WELL #930	MCELROY	8.9	PHILLIPS PETROLEU
8309893	F-08-59703	4246130638		108		J T MCELROY CONSOLIDATED WELL #946	MCELROY	6.0	PHILLIPS PETROLEU
8309898	F-08-59708	4246130642		108		J T MCELROY CONSOLIDATED WELL #948	MCELROY	4.6	PHILLIPS PETROLEU
8310027	F-08-059850	4246130647		108		J T MCELROY CONSOLIDATED WELL #952	MCELROY	1.2	PHILLIPS PETROLEU
8310026	F-08-059849	4246130661		108		J T MCELROY CONSOLIDATED WELL #956	MCELROY	1.2	PHILLIPS PETROLEU
8309902	F-08-059713	4210331479		108		J T MCELROY CONSOLIDATED WELL #957	MCELROY	1.2	PHILLIPS PETROLEU
8309919	F-08-59731	4246130660		108		J T MCELROY CONSOLIDATED WELL #958	MCELROY	33.5	PHILLIPS PETROLEU
8310037	F-08-059861	4246130667		108		J T MCELROY CONSOLIDATED WELL #962	MCELROY	22.3	PHILLIPS PETROLEU
8309865	F-08-59671	4246130684		108		J T MCELROY CONSOLIDATED WELL #969	MCELROY	16.0	PHILLIPS PETROLEU
8309896	F-08-59706	4246130691		108		J T MCELROY CONSOLIDATED WELL #972	MCELROY	2.0	PHILLIPS PETROLEU

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8309918	F-08-59730	4246130696		108		J T MCELROY CONSOLIDATED WELL #981	MCELROY	17.3	PHILLIPS PETROLEU
8310003	F-08-059822	4246130705		108		J T MCELROY CONSOLIDATED WELL #989	MCELROY	3.0	PHILLIPS PETROLEU
8310048	F-08-059880	4246131171		108		J T MCELROY CONSOLIDATED WELL #994	MCELROY	2.9	PHILLIPS PETROLEU
8310052	F-08-059885	4246131172		108		J T MCELROY CONSOLIDATED WELL #997	MCELROY	17.9	PHILLIPS PETROLEU
8310060	F-10-059893	4246131181		108		J T MCELROY CONSOLIDATED WELL #999	MCELROY	17.8	PHILLIPS PETROLEU
8310054	F-08-059888	4246100629		108		J T MCELROY CONSOLIDATED WELL 433	MCELROY	41.0	PHILLIPS PETROLEU
8309949	F-08-59767	4210330386		108		JAX M COWDEN NCT-F WELL #13	W E R	22.6	PHILLIPS PETROLEU
8309948	F-08-59766	4210330592		108		JAX M COWDEN NCT-F WELL #14	W E R	16.4	PHILLIPS PETROLEU
8309946	F-08-59764	4210330716		108		JAX M COWDEN NCT-F WELL #15	W E R	34.1	PHILLIPS PETROLEU
8309947	F-08-59765	4210330806		108		JAX M COWDEN NCT-F WELL #16	W E R	2.7	PHILLIPS PETROLEU
8309941	F-08-59759	4237132510		108		L H HILLAR ET AL TRE WELL #16	PUTNAM	40.3	PHILLIPS PETROLEU
8309939	F-08-59757	4237133080		108		MARIE LAURENCE ET AL WELL #1	USM	0.8	INTER NORTH INC
8309894	F-08-59704	4246100537		108		MCELROY CONSOLIDATED #1 WELL #M-270	MCELROY	1.0	PHILLIPS PETROLEU
8310024	F-08-059847	4246100726		108		MCELROY CONSOLIDATED #1 WELL #18	MCELROY	3.0	PHILLIPS PETROLEU
8309929	F-7C-5974	4246100708		108		MCELROY RANCH CO "L" WELL #3	JACK HERBERT	3.2	EL PASO NATURAL G
8309932	F-08-59750	4237130453		108		RUTH PRICE ET AL "D" NCT-B #3-U	EL CINCO	16.0	SEMLI GAS PIPELIN
8309830	F-10-59605	4217900000		108		SOUTH PAMPA WF #1-10	PANHANDLE GRAY COUNTY	0.3	PHILLIPS PETROLEU
8309831	F-10-59606	4217900000		108		SOUTH PAMPA WF #1-11	PANHANDLE GRAY COUNTY	0.3	PHILLIPS PETROLEU
8309832	F-10-59607	4217900000		108		SOUTH PAMPA WF #1-12	PANHANDLE GRAY COUNTY	0.3	PHILLIPS PETROLEU
8309828	F-10-59602	4217900000		108		SOUTH PAMPA WF #1-2	PANHANDLE GRAY COUNTY	0.3	PHILLIPS PETROLEU
8309827	F-10-59601	4217900000		108		SOUTH PAMPA WF #1-3	PANHANDLE GRAY COUNTY	0.3	PHILLIPS PETROLEU
8309826	F-10-59600	4217900000		108		SOUTH PAMPA WF #1-4	PANHANDLE GRAY COUNTY	0.3	PHILLIPS PETROLEU
8309825	F-10-59599	4217900000		108		SOUTH PAMPA WF #1-7	PANHANDLE GRAY COUNTY	0.3	PHILLIPS PETROLEU
8309824	F-10-59598	4217900000		108		SOUTH PAMPA WF #1-8	PANHANDLE GRAY COUNTY	0.3	PHILLIPS PETROLEU
8309829	F-10-59604	4217900000		108		SOUTH PAMPA WF #1-9	PANHANDLE GRAY COUNTY	0.3	PHILLIPS PETROLEU
8309846	F-10-59634	4217900000		108		SOUTH PAMPA WF #3-3A	PANHANDLE GRAY COUNTY	0.3	PHILLIPS PETROLEU
8309845	F-10-59633	4217900000		108		SOUTH PAMPA WF #3-4	PANHANDLE GRAY COUNTY	0.3	PHILLIPS PETROLEU
8309844	F-10-59632	4217900000		108		SOUTH PAMPA WF #3-5	PANHANDLE GRAY COUNTY	0.3	PHILLIPS PETROLEU
8309843	F-10-59631	4217900000		108		SOUTH PAMPA WF #3-7	PANHANDLE GRAY COUNTY	0.3	PHILLIPS PETROLEU
8309842	F-10-59630	4217900000		108		SOUTH PAMPA WF #3-8A	PANHANDLE GRAY COUNTY	0.3	PHILLIPS PETROLEU
8309841	F-10-59629	4217900000		108		SOUTH PAMPA WF #4-2	PANHANDLE GRAY COUNTY	0.3	PHILLIPS PETROLEU
8309840	F-10-59628	4217900000		108		SOUTH PAMPA WF #4-8	PANHANDLE GRAY COUNTY	0.3	PHILLIPS PETROLEU
8309839	F-10-59627	4217900000		108		SOUTH PAMPA WF #5-1	PANHANDLE GRAY COUNTY	0.3	PHILLIPS PETROLEU
8309838	F-10-59626	4217900000		108		SOUTH PAMPA WF #5-2	PANHANDLE GRAY COUNTY	0.3	PHILLIPS PETROLEU
8309837	F-10-59625	4217900000		108		SOUTH PAMPA WF #5-3	PANHANDLE GRAY COUNTY	0.3	PHILLIPS PETROLEU
8309836	F-10-59627	4217900000		108		SOUTH PAMPA WF #5-5	PANHANDLE GRAY COUNTY	0.3	PHILLIPS PETROLEU
8309835	F-10-59623	4217900000		108		SOUTH PAMPA WF #6-1	PANHANDLE GRAY COUNTY	0.3	PHILLIPS PETROLEU
8309834	F-10-59622	4217900000		108		SOUTH PAMPA WF #6-2	PANHANDLE GRAY COUNTY	0.3	PHILLIPS PETROLEU
8309833	F-10-59621	4217900000		108		SOUTH PAMPA WF #6-4	PANHANDLE GRAY COUNTY	0.3	PHILLIPS PETROLEU
8309931	F-7C-59748	4210531162		108		STATE IT WELL #6	FARMER (SAN ANDRES)	6.2	J L DAVIS
8309927	F-7C-59744	4210511020		108		STATE SCHOOL BOARD MF WELL #1	TIPPETT WEST (HUELO)	22.6	SHELL PIPELINE CO
8309925	F-7C-59742	4238331190		108		STATE WP WELL #2	AMIGO (SAN ANDRES)	11.4	INTER NORTH INC
-HENDERSON CLAY PRODUCTS INC				RECEIVED:		11/17/82 JA: TX			
8310073	F-06-059929	4246131415		102-4		MARTHA JANE DOERGE #1 RRE#101217	MARTHA JANE (PETTET U	100.0	HENDERSON CLAY PR
-INWOOD EXPLORATION INC				RECEIVED:		11/17/82 JA: TX			
8310076	F-78-059937	4236732237		102-4		H T WHITE #2 (100943)	WORLEY (STRAWN)	4.0	SOUTHWESTERN GAS
-J M HUBER CORPORATION				RECEIVED:		11/17/82 JA: TX			
8310008	F-10-059828	4234130828		103		PRITCHARD "C" #6	PANHANDLE	37.0	COLORADO INTERSTA
-MID-AMERICA PETROLEUM INC				RECEIVED:		11/17/82 JA: TX			
8309888	F-7C-59697	4238331823		103		JIM DIXON #1	SPRABERRY (TREND AREA	10.0	INTER NORTH INC
8309887	F-7C-59696	4238331822		103		JIM DIXON #2	SPRABERRY (TREND AREA	9.0	INTER NORTH INC
8309889	F-7C-59698	4238331821		103		JIM DIXON #3	SPRABERRY (TREND AREA	10.0	INTER NORTH INC
8309890	F-7C-59699	4238331824		103		JIM DIXON #4	SPRABERRY (TREND AREA	9.0	INTER NORTH INC

VOLUME 795 PAGE 006

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-MILLS BENNETT ESTATE				RECEIVED:	11/17/82	JA: TX			
8310083	F-04-059976	4284730981		108		MILLS BENNETT ESTATE FEE #54	MILLS BENNETT (D-1 SA	0.0	TEXAS EASTERN TRA
-MITCHELL ENERGY CORPORATION				RECEIVED:	11/17/82	JA: TX			
8309849	F-09-59646	4249700000		108		CLARENCE J HARRISON #1 #045062	BOONSVILLE (BEND CONG	11.6	NATURAL GAS PIPEL
8309847	F-09-59636	4249700000		108		H H DEARMAN #1 #028621	BOONSVILLE (BEND CONG	8.5	NATURAL GAS PIPEL
8309848	F-7B-59637	4236700000		108		J J YATES #1 #077968	LAKE MINERAL WELLS (4	9.8	NATURAL GAS PIPEL
8309850	F-09-59648	4249700000		108		N R ROBERTS #1 T 54287	T BOONSVILLE (BEND CO	9.7	NATURAL GAS PIPEL
-MOBIL PRDG TEXAS & NEW MEXICO INC				RECEIVED:	11/17/82	JA: TX			
8310006	F-8A-059825	4221933544		103		NORTH CENTRAL LEVELLAND UNIT #370	LEVELLAND	1.5	AMOCO PRODUCTION
-MR OIL CO				RECEIVED:	11/17/82	JA: TX			
8309885	F-08-59694	4247532697		103		I B MCFARLAND SEC 25 #16	WARD-ESTES NORTH	33.0	WESTERN COUNTIES
8309886	F-08-59695	4247532513		103		JOHNSON -B- #10	WARD-ESTES NORTH	45.8	WESTERN COUNTIES
-NORTHRIDGE OIL CO				RECEIVED:	11/17/82	JA: TX			
8309853	F-09-59654	4207732329		102-4		CATHERINE SCHEFFE #2	ARROWHEAD CADDO	20.0	FAGADAU ENERGY CO
-PANHANDLE ENERGY CORP				RECEIVED:	11/17/82	JA: TX			
8310071	F-10-059925	4206531105		103		WHITE #3 (ID #35160)	PANHANDLE CARSON	140.0	GETTY OIL CO
-PAR PRODUCING CO				RECEIVED:	11/17/82	JA: TX			
8309821	F-03-59588	4214931331		102-2		KASPAR	GIDDINGS (AUSTIN CHAL	40.0	PHILLIPS PETROLEU
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	11/17/82	JA: TX			
8310009	F-08-059830	4213503113		108		G S ANDECTOR #P-C8	GOLDSMITH (CLEARFORK)	12.0	EL PASO NATURAL G
8310011	F-08-059833	4200304766		108		UNIVERSITY ANDREWS #40	EMBAR (PERMIAN)	10.0	EL PASO NATURAL G
8310012	F-08-05983	4200304796		108		UNIVERSITY ANDREWS #93	EMBAR (PERMIAN)	14.0	EL PASO NATURAL G
8310010	F-08-059832	4249503476		108		WALTON A #1	KERMIT (YATES)	25.0	CABOT CORP
-POWDER HORN OIL INC				RECEIVED:	11/17/82	JA: TX			
8310017	F-7B-059840	4204900000		108		T W PALMER #1-A	BROWN COUNTY REGULAR	0.0	EL PASO HYDROCARB
-RAY HERRING				RECEIVED:	11/17/82	JA: TX			
8309851	F-09-59649	4250336186		102-4		BENNETT #1	CLARK (MARBLE FALLS)	125.0	SUN GAS TRANSMISS
-RYDER SCOTT OIL CO				RECEIVED:	11/17/82	JA: TX			
8310080	F-09-059963	4223734414		102-4		COOPER #1	COOPER (CONGLOMERATE)	120.0	
8310081	F-09-059964	4223734573		102-4		COOPER #2	COOPER (CONGLOMERATE)	110.0	
-SNOW OIL CO				RECEIVED:	11/17/82	JA: TX			
8310015	F-7B-059839	4213333333		102-4		REED #1 (17695)	JMJ (MARBLE FALLS)	43.0	LONE STAR GAS CO
-SOUTHLAND ROYALTY CO				RECEIVED:	11/17/82	JA: TX			
8310070	F-08-059920	4247510436		108		SOUTHLAND FEE #1	SOUTH WARD	11.0	WARREN PETROLEUM
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	11/17/82	JA: TX			
8310072	F-08-059925	4213533631		103		NORTH LAWSON UNIT #5-8	LAWSON-SAN ANDRES	24.0	PHILLIPS PETROLEU
8309823	F-04-059592	4224900000		108		SEELIGSON UNIT #40-51C	SEELIGSON (ZONE 19B-D	15.0	TENNESSEE GAS PIP
-TARINA OIL CO				RECEIVED:	11/17/82	JA: TX			
8310089	F-01-060010	4212732219		103		BRISCOE RANCHES INC "A" #1150	CATARINA S W (OLMOS)	144.0	DELHI GAS PIPELIN
8310088	F-01-060009	4212732318		103		BRISCOE RANCHES INC "A" #1572	CATARINA S W (OLMOS)	72.0	DELHI GAS PIPELIN
8310090	F-01-060012	4212732221		103		SPRINGMAN #1251	CATARINA S W (OLMOS)	24.0	DELHI GAS PIPELIN
-TAYLOR OPERATING COMPANY				RECEIVED:	11/17/82	JA: TX			
8309928	F-09-59736	4249700000		103		KENT #1 (22365)	CHICO W (CONGL 5700)	109.5	LONE STAR GAS CO
-TERRA RESOURCES INC				RECEIVED:	11/17/82	JA: TX			
8310007	F-7C-059827	4246131887		102-2		CORBETT ESTATE #2	CORBETT (BEND DETRIDA	0.0	NEW ENERGY CO
-TUCKER DRILLING COMPANY INC				RECEIVED:	11/17/82	JA: TX			
8310069	F-7C-059911	4223531935		103		LINDLEY "40" #3	ROCK PEN (CANYON)	82.8	INTER NORTH INC
-VINSON EXPLORATION				RECEIVED:	11/17/82	JA: TX			
8309822	F-7C-59589	4210500000		102-4		UNIVERSITY "33-F" #1	INGHAM (QUEEN)	1.0	SOUTHWESTERN GAS
-W J WHITT				RECEIVED:	11/17/82	JA: TX			
8310013	F-7B-059836	4241734645		102-4		PARRISH #2 (18557)	BIRTHDAY (MORAN)	41.0	LONE STAR GAS CO
8310014	F-7B-059837	4204933169		102-4		4-W RANCH "A" #6 (18645)	DUDLEY (CADDO)	48.0	EL PASO HYDROCARB
8310015	F-7B-059838	4204933171		102-4		4-W RANCH "A" #8 (18645)	DUDLEY (CADDO)	26.0	EL PASO HYDROCARB
-W R EDWARDS JR				RECEIVED:	11/17/82	JA: TX			
8310082	F-10-059971	4223300000		103		CASTLEMAN #2A	PANHANDLE MOORE	153.0	DIAMOND SHAMROCK

SOURCE DATA FOR THIS NOTICE IS AVAILABLE ON MAGNETIC TAPE FROM THE NATIONAL TECHNICAL INFORMATION SERVICE (NTIS). FOR INFORMATION CONTACT STUART WEISMAN (NTIS) AT (703) 487-4808, 5285 PORT ROYAL RD, SPRINGFIELD, VA 22161, OR SANDRA SPEAR (FERC) (202) 357-8681.

BILLING CODE 6717-01-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denoted additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register.**

Categories within each MGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 mile rule)
102–3: New well (1000 ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old BCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal seams
107–DV: Devonian shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–34505 Filed 12–21–82; 8:45 am]

BILLING CODE 6717–01–M

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: December 14, 1982.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
KANSAS CORPORATION COMMISSION									
-EARL M KNIGHTON				RECEIVED:	11/22/82	JA: KS			
8310307	K-82-0235	1518500000		108-CR		SUITTER B #1	MACKSVILLE	0.0	KANSAS NEBRASKA N
-IMPERIAL OIL COMPANY				RECEIVED:	11/22/82	JA: KS			
8310310	K 82-0034	1515121000		102-2		LEMON #1-7	CARVER ROBBINS WEST	3.7	PANHANDLE EASTERN
-INCA OIL CO				RECEIVED:	11/17/82	JA: KS			
8310093	K-82-0674	1517520122		103		HUTCHINSON 1-17	BLUE BELL	127.0	PANHANDLE EASTERN
-J MARK RICHARDSON				RECEIVED:	11/17/82	JA: KS			
8310092	K-82-0753	1515121054		102-2		HARPER FARMS A #2	CARVER ROBBINS	45.0	PANHANDLE EASTERN
-MCCOY PETROLEUM CORP				RECEIVED:	11/22/82	JA: KS			
8310309	K #1-1000	1507720716		103		CATLIN-MASNER #1	SULLIVAN STALNAKER SA	100.0	PEOPLES NATURAL G
-MIDWESTERN EXPLORATION CO				RECEIVED:	11/22/82	JA: KS			
8310308	K 82-0996	1512930003		103		MCGEE #1-11	GREENWOOD GAS FIELD	40.0	COLORADO INTERSTA
MICHIGAN DEPARTMENT OF NATURAL RESOURCES									
-AZTEC PRODUCING CO INC				RECEIVED:	11/23/82	JA: MI			
8310304		2110134076		102-4		STATE MANISTEE UNIT #1-1A	MANISTEE UNIT #1-1	0.0	MICHIGAN CONSOLID
8310305		2110132621		102-4		STATE OF MICH - MANISTEE UT #1-2	MANSITEE UNIT #1-2	0.0	MICHIGAN CONSOLID
8310306		2110132699		102-4		STATE OF MICH - MANISTEE UT #3-2A	MANISTEE UNIT	0.0	MICHIGAN CONSOLID
NORTH DAKOTA INDUSTRIAL COMMISSION									
-BELCO PETROLEUM CORPORATION				RECEIVED:	11/18/82	JA: ND			
8310299	621	3305300684		102-4		EDGAR BN 11-13	ROUGHRIDER	0.0	KOCH OIL CO
8310300	622	3305301399		102-4		SHEEP CREEK 9-21	SHEEP CREEK	0.0	KOCH OIL CO
-EVERETT DRILLING VENTURES INC				RECEIVED:	11/18/82	JA: ND			
8310298	620	3310500967		102-4		LONG CREEK #4	UNNAMED	547.5	PHILLIPS PETROLEU
-MESA PETROLEUM CO				RECEIVED:	11/18/82	JA: ND			
8310296	618	3302500211		102-4		BULLINGER #1-30	WILDCAT	407.0	
-MGF OIL CORP				RECEIVED:	11/18/82	JA: ND			
8310297	619	3300700766		102-4		BURLINGTON NORTHERN #2-1	DEVILS PASS	494.0	KOCH HYDROCARBON
-RANGER OIL CO				RECEIVED:	11/18/82	JA: ND			
8310301	623	3310500872		102-4		CARLSON #2-36	BATTLEVIEW	0.0	AMINOIL USA INC
8310295	616	3310500985		102-3		MCGINNITY #14-6	TEMPLE	140.0	AMINOIL USA INC
8310303	625	3310500939		102-4		SKARDERUD #2-7	TEMPLE	5.5	AMINOIL USA
8310302	624	3305301279		102-4		WOLLAN #10-15	BERG	0.0	AMINOIL USA INC
-TEXACO INC				RECEIVED:	11/18/82	JA: ND			
8310294	615	3305301451		102-3		ELIZABET SIVERTSON "A" #2	BLUE BUTTES	179.0	MONTANA DAKOTA UT
8310292	613	3305301448		102-3		F P KEOSH #6	BLUE BUTTES	356.0	
8310293	614	3305301449		102-3		G V LEVANG (NCT-1) #1	BLUE BUTTES	81.8	MONTANA DAKOTA UT
8310291	617	3305301051		102-3		R L OLSON #10	BLUE BUTTES	108.4	MONTANA DAKOTA UT

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
NEW MEXICO DEPARTMENT OF ENERGY & MINERALS									
-AMERADA HESS CORPORATION				RECEIVED:	11/15/82	JA: NM			
8310099		3002500008		108		L M LAMBERT #8	MONUMENT	3.9	WARREN PETROLEUM
8310100		3002500008		108		L M LAMBERT #9	MONUMENT	3.7	WARREN PETROLEUM
-AMOCO PRODUCTION CO				RECEIVED:	11/15/82	JA: NM			
8310095		3004508104		108		MARTINEZ GAS COM "D" #1	AZTEC - PICTURED CLIF	12.0	EL PASO NATURAL G
8310102		3002527494		102-4		STATE LL #1	WEST OSUDO (MORROW)	1825.0	EL PASO NATURAL G
-DOYLE HARTMAN OIL OPERATOR				RECEIVED:	11/22/82	JA: NM			
8310315		3002527808		103		BYRON WILLIAMS #1	EUMONT GAS	40.0	EL PASO NATURAL G
-EL PASO NATURAL GAS COMPANY				RECEIVED:	11/15/82	JA: NM			
8310098		3004524602		108		ATLANTIC A #13	BLANCO-PICTURED CLIFF	18.0	EL PASO NATURAL G
8310097		3004520885		108		ATLANTIC D COM H #5	BLANCO-PICTURED CLIFF	20.0	EL PASO NATURAL G
8310103		3003960067		108-PB		S J 27-5 UNIT #29	TAPACITO-PICTURED CLI	0.0	NORTHWEST PIPELIN
-EL PASO NATURAL GAS COMPANY				RECEIVED:	11/22/82	JA: NM			
8310319		3003908116		108		HARVEY A #3	BLANCO-MESA VERDE	22.0	EL PASO NATURAL G
-FLAG-REDFERN OIL CO				RECEIVED:	11/22/82	JA: NM			
8310314		3002527456		103		OSUDO ST COM#2 LG-2061;A-1375-E1723	N OSUDO MORROW	10.9	WARREN PETROLEUM
-GETTY OIL COMPANY				RECEIVED:	11/15/82	JA: NM			
8310094		3002500000		108		STATE "P" UNIT #12	LOVINGTON PADDOCK	6.4	PHILLIPS PETROLEU
-GETTY OIL COMPANY				RECEIVED:	11/22/82	JA: NM			
8310317		3002500080		108		STATE "P" UNIT #7	LOVINGTON PADDOCK	2.5	PHILLIPS PETROLEU
-HARVEY E YATES COMPANY				RECEIVED:	11/15/82	JA: NM			
8310101		3000561212		102-4		SEYMOUR STATE COM #1	WILDCAT	0.0	
-MESA PETROLEUM CO				RECEIVED:	11/15/82	JA: NM			
8310104		3000561555		102-3	107-TF	PETE COM #1	PECOS SLOPE ABO	576.0	
8310106		3000561543		102-2	107-TF	ROUND TOP STATE #7	UNDESIGNATED ABO	353.0	
8310105		3000561667		102-3	107-TF	SAND COM #1	PECOS SLOPE ABO	366.0	
-MESA PETROLEUM CO				RECEIVED:	11/22/82	JA: NM			
8310321		3000561394		102-3		NEAL COM #1	PECOS SLOPE ABO	104.0	
-PIONEER PRODUETION CORPORATION				RECEIVED:	11/22/82	JA: NM			
8310312		3004500000		102-4		HARTMAN #1-E	CHACRA (UNDESIGNATED)	0.0	PIONEER CORP
8310311		3004500000		102-4		SALMON #1-E	CHACRA (UNDESIGNATED)	0.0	PIONEER CORP
8310313		3004500000		102-4		SHEPHERD-KELSEY #1-E	CHACRA	0.0	PIONEER CORP
-SOUTHERN UNION EXPLORATION COMPANY				RECEIVED:	11/15/82	JA: NM			
8310096		3004500000		108		MIMS STATE COM #2	BASIN DAKOTA	10.0	SOUTHERN UNION GA
-SOUTHLAND ROYALTY CO				RECEIVED:	11/15/82	JA: NM			
8310107		3003922937		103		JOHNSON #1A	BLANCO	50.0	EL PASO NATURAL G
-SOUTHLAND ROYALTY CO				RECEIVED:	11/22/82	JA: NM			
8310320		3004500000		108-EK		LAWSON #3	BLANCO PICTURED CLIFF	0.0	SOUTHERN UNION GA
8310316		3001522955		108		STATE "G" COM #1	ANGELL RANCH	7.0	EL PASO NATURAL G
-STEVENS OPERATING CORP				RECEIVED:	11/22/82	JA: NM			
8310333		3000500000		108		CITGO "A" STATE #2	TWIN LAKES - SAN ANDR	11.4	MAPCO PRODUCTION
8310326		3000560329		108		CITGO STATE #2	TWIN LAKES - SAN ANDR	2.5	MAPCO PRODUCTION
8310331		3000560010		108		CITGO STATE #3	TWIN LAKES - SAN ANDR	10.1	MAPCO PRODUCTION
8310323		3000560533		108		CITGO STATE #5	TWIN LAKES - SAN ANDR	3.7	MAPCO PRODUCTION
8310328		3000500000		108		O'BRIEN "C" #2	TWIN LAKES - SAN ANDR	11.6	MAPCO PRODUCTION
8310327		3000560248		108		O'BRIEN "C" #3	TWIN LAKES - SAN ANDR	12.8	MAPCO PRODUCTION
8310335		3000560026		108		O'BRIEN "C" #5	TWIN LAKES - SAN ANDR	2.2	MAPCO PRODUCTION
8310334		3000560297		108		O'BRIEN "C" #6	TWIN LAKES - SAN ANDR	2.3	MAPCO PRODUCTION
8310329		3000560468		108		O'BRIEN "E" #1	TWIN LAKES - SAN ANDR	9.7	MAPCO PRODUCTION
8310324		3000560794		108		O'BRIEN "E" #4	TWIN LAKES - SAN ANDR	2.0	MAPCO PRODUCTION

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8310318		3000560717		108		O'BRIEN "F" #5	TWIN LAKES - SAN ANDR	17.2	MAPCO PRODUCTION
8310325		3000560732		108		O'BRIEN "F" #6	TWIN LAKES - SAN ANDR	5.5	MAPCO PRODUCTION
8310322		3000560596		108		O'BRIEN "K" #3	TWIN LAKES - SAN ANDR	2.0	MAPCO PRODUCTION
8310332		3000560334		108		STATE "CH" COM #2	TWIN LAKES - SAN ANDR	16.5	MAPCO PRODUCTION
8310330		3000560470		108		STATE "CH" COM #3	TWIN LAKES - SAN ANDR	5.7	MAPCO PRODUCTION

****

NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION

****

-GYPSUM ENERGY MANAGEMENT CO RECEIVED: 11/15/82 JA: NY

8310145	4132	3103715883		103		ABRAMS #1	HURON CREEK	0.2	US GYPSUM CO
8310120	4072	3103713917		103		BURKHARDT #1	HURON CREEK	2.3	U S GYPSUM CO
8310158	4057	3103713846		108		C MARTIN #1	HURON CREEK	5.2	US GYPSUM CO
8310161	4052	3103713902		108		CAPWELL #1	HURON CREEK	0.4	U S GYPSUM CO
8310133	4130	3103715881		103		CLARKE #1	HURON CREEK	3.5	US GYPSUM CO
8310160	4054	3103713848		108		CZAPECZKA #1	HURON CREEK	9.1	US GYPSUM CO
8310162	4049	3103713849		108		CZAPECZKA #2	HURON CREEK	9.4	US GYPSUM CO
8310163	4047	3103713852		108		DANCER #1	HURON CREEK	6.3	US GYPSUM CO
8310128	4098	3103715264		103		DANSER #2	HURON CREEK	1.6	U S GYPSUM CO
8310134	4128	3103715921		103		DARKER #1	HURON CREEK	0.4	US GYPSUM CO
8310135	4126	3103716001		103		FENTON #1	HURON CREEK	1.3	US GYPSUM CO
8310164	4045	3103713855		108		FOSS #1	HURON CREEK	0.4	US GYPSUM CO
8310165	4043	3103713882		108		FOSS #2	HURON CREEK	0.1	US GYPSUM CO
8310136	4096	3103715164		103		GASBARRINI #1	HURON CREEK	8.2	US GYPSUM CO
8310140	4124	3103715882		103		GILDNER #1	HURON CREEK	2.3	US GYPSUM CO
8310166	4041	3103713853		108		GOLDING #1	HURON CREEK	16.5	US GYPSUM CO
8310123	4070	3103713883		103		HAAS #1	HURON CREEK	3.6	U S GYPSUM CO
8310154	4089	3103713883		108		HAAS #1	HURON CREEK	3.6	US GYPSUM CO
8310111	4094	3103715166		103		HAAS #2	HURON CREEK	2.8	U S GYPSUM CO
8310138	4122	3103715920		103		HAGEN #1	HURON CREEK	8.2	US GYPSUM CO
8310124	4067	3103713974		103		HEGGE #1	HURON CREEK	6.3	U S GYPSUM CO
8310155	4068	3103713974		108		HEGGE #1	HURON CREEK	6.3	US GYPSUM CO
8310110	4066	3103713857		103		JANKOWSKI #1	HURON CREEK	15.0	U S GYPSUM CO
8310144	4064	3103713851		108		JAVA #1	HURON CREEK	0.6	US GYPSUM CO
8310112	4092	3103715169		103		JERICHO LAKE #1	HURON CREEK	5.0	U S GYPSUM CO
8310156	4081	3103713847		108		KERN #1	HURON CREEK	9.8	US GYPSUM CO
8310139	4120	3103715898		103		KONFEDERATH #1	HURON CREEK	3.9	US GYPSUM CO
8310157	4059	3103713856		108		LAMB #1	HURON CREEK	4.0	US GYPSUM CO
8310113	4090	3103715165		103		LAMB #2	HURON CREEK	12.0	U S GYPSUM CO
8310137	4118	3103715899		103		MANNE #1	HURON CREEK	2.4	US GYPSUM CO
8310121	4086	3102712918		103		PECK #1	HURON CREEK	7.5	U S GYPSUM CO
8310152	4085	3103713918		108		PECK #1	HURON CREEK	7.5	US GYPSUM CO
8310122	4084	3103713981		103		PENKSZYK #1	HURON CREEK	4.5	U S GYPSUM CO
8310153	4083	3103713981		108		PENKSZYK #1	HURON CREEK	4.5	US GYPSUM CO
8310115	4082	3103713973		103		PERRIN #1	HURON CREEK	5.7	U S GYPSUM CO
8310146	4081	3103713973		108		PERRIN #1	HURON CREEK	5.7	US GYPSUM
8310143	4116	3103715879		103		PERRY #1	HURON CREEK	2.5	US GYPSUM CO
8310141	4114	3103715884		103		PHELPS #2	INDIAN FALLS	2.2	US GYPSUM CO
8310114	4088	3103715167		103		POKORNY #1	HURON CREEK	9.5	U S GYPSUM CO
8310159	4055	3103713884		108		R MILLER #2	HURON CREEK	12.0	US GYPSUM CO
8310108	4040	3103713300		103		RAY MILLER #1	HURON CREEK	9.1	U S GYPSUM CO
8310167	4039	3103713300		108		RAY MILLER #1	HURON CREEK	9.1	US GYPSUM CO
8310142	4112	3103715880		103		READ #1	HURON CREEK	1.0	US GYPSUM CO
8310147	4079	3103713972		108		RICHELY #1	HURON CREEK	2.2	US GYPSUM CO

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8310116	4080	3103713972		103		RICHLEY #1
8310127	4099	3103715163		103		SCHUNK #1
8310129	4110	3103715328		103		SCHUNK #2A
8310130	4107	3103715162		103		SCHUNK #3
8310126	4101	3103715173		103		SEAMANS #1
8310109	4038	3103713250		103		SMITH #1
8310168	4037	3103713250		108		SMITH #1
8310118	4076	3103713901		103		SPIOTTA #1
8310149	4075	3103713901		108		SPIOTTA #1
8310132	4134	3103716172		103		STALICA #1
8310131	4106	3103715252		103		U S G #1
8310125	4104	3103715168		103		WINKSTERN #1
8310117	4078	3103713850		103		WITTMAN #1
8310148	4077	3103713850		108		WITTMAN #1
8310119	4074	3103713885		103		WITYK #1
8310151	4073	3103713885		108		WITYK #1
-SEIS-EX GEOPHYSICAL LTD				RECEIVED:	11/15/82	JA: NY
8310150	3947	3101317646		107-TF		SEIS-EX REYNOLDS #1

OKLAHOMA CORPORATION COMMISSION

-A & P DRILLING CO INC				RECEIVED:	11/12/82	JA: OK
8310188	17754	351■3900■■		103		KEENE-RAHE #2
-ARROWHEAD ENERGY CO				RECEIVED:	11/12/82	JA: OK
8310171	17681	3511721172		103		CHARITY #1
-BERRY PETROLEUM CORP				RECEIVED:	11/12/82	JA: OK
8310169	17689	3509322321		103		CORNELSON 1-4
-BOGERT OIL CO				RECEIVED:	11/12/82	JA: OK
8310176	17659	3508321986		103		DRYE #2-35
-DOAK OIL INC				RECEIVED:	11/12/82	JA: OK
8310173	17674	3513100000		108		PLUMER #1
-HARRY M DIAMOND				RECEIVED:	11/12/82	JA: OK
8310179	17707	3506300000		108		JOHNSON #1
8310180	17706	3506300000		108		LASHLEY #1
-HIGHLANDS GOODALL & GREER INC				RECEIVED:	11/12/82	JA: OK
8310174	17662	3501121636		103		SHAW #1-6
-JAKE L HAMON				RECEIVED:	11/12/82	JA: OK
8310170	17685	3508322020		103		BOZARTH #1-D
-JMD OIL & GAS				RECEIVED:	11/12/82	JA: OK
8310177	17723	3503120553		103		DELLUOMO #3
-PHASE III OIL & GAS INC				RECEIVED:	11/12/82	JA: OK
8310178	17722	3503120873		103		BUCKLER #1
-RICKS EXPLORATION CO				RECEIVED:	11/12/82	JA: OK
8310186	21719	3501521321		107-DP		TURNBILL #1
-RONNIE BLUBAUGH				RECEIVED:	11/12/82	JA: OK
8310172	17679	3507122555		103		HAYDEN #1
-TXO PRODUCTION CORP				RECEIVED:	11/12/82	JA: OK
8310184	21789	3512900000		107-PE		DAVIS #1
8310183	21791	3512900000		107-PE		DUNN #1
8310181	21793	3512900000		107-PE		PARK #1
8310185	21790	3512900000		107-PE		SHAW "A" #1
8310182	21792	3512900000		107-PE		WATSON #1
-WARD PETROLEUM CORP				RECEIVED:	11/12/82	JA: OK

FIELD NAME	PROD	PURCHASER
HURON CREEK	2.2	U S GYPSUM CO
HURON CREEK	1.5	U S GYPSUM CO
HURON CREEK	0.8	U S GYPSUM CO
HURON CREEK	1.0	U S GYPSUM CO
HURON CREEK	1.2	U S GYPSUM CO
HURON CREEK	7.1	U S GYPSUM CO
HURON CREEK	7.1	US GYPSUM CO
HURON CREEK	4.2	U S GYPSUM CO
HURON CREEK	4.2	US GYPSUM CO
HURON CREEK	2.5	US GYPSUM CO
INDIAN FALLS	1.2	U S GYPSUM CO
HURON CREEK	24.3	U S GYPSUM CO
HURON CREEK	0.3	U S GYPSUM CO
HURON CREEK	0.3	US GYPSUM CO
HURON CREEK	9.1	U S GYPSUM CO
HURON CREEK	9.1	US GYPSUM CO
UNNAMED	30.0	COLUMBIA GAS TRAN
CRESCENT LOVELL	0.0	EASON OIL CO
	14.6	COLORADO GAS COMP
W CLEO SPRINGS	37.0	RINGWOOD GATHERIN
SOONER TREND	217.0	CONOCO INC
	1.2	DIAMOND "S" GAS S
GREASY CREEK	14.3	OKLAHOMA GAS & EL
GREASY CREEK	5.0	OKLAHOMA GAS & EL
	0.0	EL PASO NATURAL G
NORTH GUTHRIE	27.0	EASON OIL CO
PUMPKIN CENTER	0.0	MANN INDUSTRIES I
PUMPKIN CENTER	0.0	MANN INDUSTRIES I
NORTH ANADARKO FIELD	989.0	TENNESSEE GAS PIP
NOT NAMED	40.0	ARKANSAS-LOUISIAN
WEST DURHAM	0.0	DELHI GAS PIPELIN
WEST DURHAM	0.0	DELHI GAS PIPELIN
WEST DURHAM	0.0	DELHI GAS PIPELIN
WEST DURHAM	0.0	DELHI GAS PIPELIN
WEST DURHAM	0.0	DELHI GAS PIPELIN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8310189	17751	3505121206		103		GERTIE #1	S W NORGE	220.0	
-WESLEY WEBBER				RECEIVED:	11/12/82	JA: OK			
8310175	17660	3513723035		103		SPEARS "B" #19	SHO-VEL-TUR	14.0	GETTY OIL CO
-WESTERN PACIFIC PETROLEUM INC.				RECEIVED:	11/12/82	JA: OK			
8310190	17747	3500320836		103		JANTZEN #1-18	SOUTHEAST HELENA	18.3	UNION TEXAS PETRO
-WESTHEIMER-NEUSTADT CORP				RECEIVED:	11/12/82	JA: OK			
8310187	18402	3501922505		103		PERKINS #1	SHO-LEM	360.0	
**********									
WEST VIRGINIA DEPARTMENT OF MINES									
**********									
-CONSOLIDATED GAS SUPPLY CORPORATION				RECEIVED:	11/15/82	JA: WV			
8310194		4700100778		108		C J MITCHELL 12149	PLEASANT	0.0	GENERAL SYSTEM PU
8310192		4707700205		108		DENNIS HOLMES 12584	LYON DISTRICT	17.0	GENERAL SYSTEM PU
8310193		3713100704		108		POCAHONTAS LAND CORP 11340	BARKERS RIDGE DISTRIC	7.8	GENERAL SYSTEM PU
-MILLS DRILLING CO INC				RECEIVED:	11/15/82	JA: WV			
8310191		4709901593		107-DV		DC & PATRICIA MORRIS JR WELL #1	BUTLER DISTRICT	11.0	ROARING FORK GAS
-STERLING DRILLING & PROD CO INC				RECEIVED:	11/15/82	JA: WV			
8310195		4708703512		103		FIELDS #372	WALTON DISTRICT	17.4	ROARING FORK CO
**********									
** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, ALBUQUERQUE,NM									
**********									
-AMOCO PRODUCTION CO				RECEIVED:	11/19/82	JA: NM 4			
8310246	NM 0966-82	3004524356		103		JACK FROST "B" #1E	ANGELS PEAK-GALLUP	4.0	EL PASO NATURAL G
8310237	NM-1010-82	3004524667		103		JACK FROST "D" #1E	BASIN DAKOTA	11.0	EL PASO NATURAL G
8310282	NM-1078-82-A	3003922566		103		JICARILLA CONTRACT 148 #26	OTERO CHACRA	24.0	EL PASO NATURAL G
8310283	NM-1078-82-B	3003922566		103		JICARILLA CONTRACT 148 #26	SOUTH BLANCO - PICTUR	81.0	NORTHWEST PIPELIN
8310284	NM-1079-82	3003921994		103		JICARILLA GAS COM 35 "D" #1	OTERO GALLUP	19.0	NORTHWEST PIPELIN
8310287	NM-1076-82	3004525305		103		LEFKOVITZ GAS COM "B" #1E	BASIN DAKOTA	15.0	EL PASO NATURAL G
8310288	NM-1077-82	3004525305		103		LEFKOVITZ GAS COM "C" #1	BLANCO MESAVERDE	20.0	EL PASO NATURAL G
8310234	NM-1012-82	3004524880		103		MARTIN GAS COM "B" #1E	BASIN DAKOTA	32.0	EL PASO NATURAL G
8310238	NM-1011-82	3004524880		103		MARTIN GAS COM "H" #1	FULCHER KUTZ - PICTUR	7.0	EL PASO NATURAL G
8310204	NM 0834-82-A	3003922767		103		ROSA UNIT #86	BASIN DAKOTA	28.0	NORTHWEST PIPELIN
8310211	NM 0834-82-B	3003922767		103		ROSA UNIT #86	WILDCAT-GALLUP	28.0	NORTHWEST PIPELIN
8310264	NM-1124-82	3003922644		103		SAN JUAN 29-4 UNIT #24	UNDESIGNATED -GALLUP	23.0	NORTHWEST PIPELIN
-BCO INC				RECEIVED:	11/19/82	JA: NM 4			
8310273	NM 1139-82	3003970068		103		DUNN #10	LYBROOK GALLUP	80.0	EL PASO NATURAL G
8310285	NM-1082-82	3003970068		103		DUNN #10	UNDESIGNATED GRANEROS	25.0	EL PASO NATURAL G
8310221	NM-1004-82-A	3003970067		103		DUNN #9	LYBROOK GALLUP	55.0	EL PASO NATURAL G
8310222	NM-1004-82-B	3003970067		103		DUNN #9	UNDESIGNATED GRANEROS	10.0	EL PASO NATURAL G
-CHACE OIL COMPANY INC				RECEIVED:	11/19/82	JA: NM 4			
8310226	NM-1026-82	3003922960		103		JICARILLA 70-15	S LINDRITH GALLUP DAK	36.0	EL PASO NATURAL G
8310225	NM-1025-82	3003922956		103		JICARILLA 71-7	S LINDRITH GALLUP DAK	36.0	EL PASO NATURAL G
-CONSOLIDATED OIL & GAS INC				RECEIVED:	11/19/82	JA: NM 4			
8310248	NM-0963-82	3004524387		108		SOUTHERN UNION #2-E	BASIN DAKOTA	19.0	SOUTHERN UNION GA
-DEPCO INC				RECEIVED:	11/19/82	JA: NM 4			
8310232	NM-1019-82	3004524966		103		FEDERAL 32 #44	WEST KUTZ PICTURED CL	21.9	GAS CO OF NEW MEX
8310280	NM1085-82102	3000500000		102-2		VANCE FEDERAL A #1	UND ABO	46.0	
-DUGAN PRODUCTION CORP				RECEIVED:	11/19/82	JA: NM 4			
8310247	NM 0961-82	3004524222		103		LA LEE ANN #3	WAW FRUITLAND PICTURE	10.0	EL PASO NATURAL G
8310227	NM-1027-82	3004525400		103		PET INC #16	OJO PICTURED CLIFFS	0.1	NORTHWEST PIPELIN
8310276	NM-1086-82	3004522689		103		REX #3 WELL	WAW FRUITLAND - PICTU	38.5	EL PASO NATURAL G
-EL PASO NATURAL GAS COMPANY				RECEIVED:	11/19/82	JA: NM 4			
8310252	NM-1164-82	3004503008		108		BLANCO #15 MV & PC	BLANCO - MESA VERDE S	17.0	EL PASO NATURAL G

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8310260	NM-1167-82	3003920758		108		CANYON LARGO UNIT #238
8310213	NM-0703-82	3003920783		108		CANYON LARGO UNIT #236
8310257	NM-1174-82	3004506724		108		DAY B #5
8310261	NM-1170-82	3003906001		108		JICARILLA E #4
8310249	NM-1179-82	3003906409		108		JICARILLA F #8
8310255	NM-1171-82	3003906416		108		JICARILLA J #4
8310259	NM-1166-82	3004320110		108		JICARILLA 183 #6
8310268	NM-1161-82	3002500000		108		JUSTIS BC FEDERAL COM #3
8310254	NM-1176-82	3004505604		108		MCMANUS #9
8310253	NM-1175-82	3004505693		108		NAW-DI-DES-WOOD #1
8310256	NM-1172-82	3004505505		108		QUITZAU #6
8310269	NM-1162-82	3004508643		108		RIDDLE A #5
8310267	NM-1160-82	3003906970		108		RINCON UNIT #115 PC & MV
8310251	NM-1177-82	3004505460		108		SHEETS C #2
8310252	NM-1178-82	3004505600		108		WHAN JONES #1
-EXXON CORPORATION				RECEIVED:	11/19/82	JA: NM 4
8310231	NM-1018-82	3001524131		103		RYAN FEDERAL #2
-GETTY OIL COMPANY				RECEIVED:	11/19/82	JA: NM 4
8310212	81-2017-NM	3003905706		108		JICARILLA "B" #4
8310272	NM 1137-82	3003922841		103		JICARILLA "C" #30
-GULF OIL CORPORATION				RECEIVED:	11/19/82	JA: NM 4
8310223	NM-0995-82	3002522534		108		C E LAMUNYON #35
8310274	NM-1129-82	3002522838		108		C E LAMUNYON #43
8310224	NM-1024-82	3002522432		108		M K STEWART #2
8310219	NM-1029-82	3002522500		108		M K STEWART #4
8310277	NM-1087-82	3001522480		108		PACHECO FEDERAL #2
-HANSON OIL CORPORATION				RECEIVED:	11/19/82	JA: NM 4
8310245	NM 0964-82	3001523697		103		GINSBERG FEDERAL #17
-KENAI OIL AND GAS INC				RECEIVED:	11/19/82	JA: NM 4
8310241	NM-1006-82	3004525117		103		FEDERAL #35-43
-KIMBELL OIL COMPANY				RECEIVED:	11/19/82	JA: NM 4
8310250	NM 1252-82	3003922318		107-TF		FEDERAL COM A-4
-LADD PETROLEUM CORPORATION				RECEIVED:	11/19/82	JA: NM 4
8310220	NM-1000-82	3004510611		108		BARKER DOME GAS COMMUNITY #1
-MERRION OIL & GAS CORP				RECEIVED:	11/19/82	JA: NM 4
8310281	NM 1127-82	3003922951		103		GONZALES COM #1
8310265	NM 1125-82-A	3004525376		103		MARITO #1
8310266	NM1125821038	3004525376		103		MARITO #1
-MESA PETROLEUM CO				RECEIVED:	11/19/82	JA: NM 4
8310243	NM-0967-82	3004525294		103		SOUTH BLANCO FEDERAL 26 #3
-MOBIL PROD TEXAS & NEW MEXICO INC				RECEIVED:	11/19/82	JA: NM 4
8310239	NM-0991-82	3003922879		103		JICARILLA E #7
8310275	NM-1133-82	3003921484		108		JICARILLA F #2A
-NORMAN L GILBREATH				RECEIVED:	11/19/82	JA: NM 4
8310214	NM-1776-81	3004500000		108		MCILROY #1 SLC #93-374-60518
-NORTHWEST PIPELINE CORPORATION				RECEIVED:	11/19/82	JA: NM 4
8310289	NM-1058-82	3003906897		108		JICARILLA 92 #2
8310290	NM-1068-82	3003921397		108		ROSA 62
8310203	NM 0956-82-A	3004525080		103		SAN JUAN 32-7 #41A MV
8310202	NM 0956-82-B	3004525080		103		SAN JUAN 32-7 #41A PC
8310198	NM 0958-82-A	3004525207		103		SAN JUAN 32-7 COM 79 MV
8310197	NM 0958-82-B	3004525207		103		SAN JUAN 32-7 COM 79 PC
8310196	NM 1994-81	3004511414		108		SAN JUAN 32-8 #4

FIELD NAME	PROD	PURCHASER
BALLARD - PICTURED CL	19.0	EL PASO NATURAL G
SOUTH BLANCO - PICTUR	20.0	EL PASO NATURAL G
BLANCO - MESA VERDE	17.0	EL PASO NATURAL G
SOUTH BLANCO PICTURED	17.0	EL PASO NATURAL G
SOUTH BLANCO - PICTUR	21.0	EL PASO NATURAL G
SOUTH BLANCO - PICTUR	19.0	EL PASO NATURAL G
BALLARD - PICTURED CL	15.0	EL PASO NATURAL G
JUSTIS - GLORIETTA	15.0	EL PASO NATURAL G
BALLARD - PICTURED CL	19.0	EL PASO NATURAL G
BALLARD - PICTURED CL	22.0	EL PASO NATURAL G
BALLARD - PICTURED CL	21.0	EL PASO NATURAL G
BLANCO - PICTURED CLI	21.0	EL PASO NATURAL G
SOUTH BLANCO-PICTURED	19.0	EL PASO NATURAL G
BALLARD - PICTURED CL	15.0	EL PASO NATURAL G
BALLARD - PICTURED CL	19.0	EL PASO NATURAL G
UNDESIGNATED	2.0	
OTERO GALLUP	0.0	EL PASO NATURAL G
OTERO-GALLUP	17.0	EL PASO NATURAL G
TEAGUE BLINEBRY	9.0	EL PASO NATURAL G
TEAGUE BLINEBRY	6.2	EL PASO NATURAL G
TEAGUE BLINEBRY	3.5	EL PASO NATURAL G
TEAGUE BLINEBRY	3.2	EL PASO NATURAL G
ANGELL RANCH MORROW	11.1	EL PASO NATURAL G
SHUGART E NE1/4NE1/4	3.0	PHILLIPS PETROLEU
LYBROOK-GALLUP	17.5	GAS CO OF NEW MEX
BALLARD PICTURED CLIF	300.0	EL PASO NATURAL G
BASIN DAKOTA	14.5	SOUTHERN UNION GA
DEVILS FORK GALLUP	102.5	EL PASO NATURAL G
DUFERS POINT - GALLUP	84.2	NORTHWEST PIPELIN
DUFERS POINT	84.0	NORTHWEST PIPELIN
LYBROOK-GALLUP EXTENS	23.0	GAS CO OF NEW MEX
BLANCO MESAVERDE GAS	152.2	NORTHWEST PIPELIN
BLANCO MESAVERDE GAS	17.6	NORTHWEST PIPELIN
SAN JUAN BASIN	18.0	EL PASO NATURAL G
BLANCO	12.0	NORTHWEST PIPELIN
BASIN DAKOTA	0.0	NORTHWEST PIPELIN
BLANCO MESAVERDE	121.1	NORTHWEST PIPELIN
SO LOS PINOS PICTURED	1.8	NORTHWEST PIPELIN
BLANCO MESAVERDE	164.3	NORTHWEST PIPELIN
UNDESIGNATED PICTURED	12.9	NORTHWEST PIPELIN
BLANCO MESAVERDE	5.0	NORTHWEST PIPELIN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8310281	NM 0957-82	3004525130		103		SAN JUAN 32-8 #47	BLANCO MESAVERDE	122.5	NORTHWEST PIPELIN
-PETROLEUM CORP OF DELAWARE				RECEIVED:	11/19/82	JA: NM 4			
8310209	NM 0852-82 B	3001523979		103		SUPERIOR FEDERAL #6 (MORROW)	EAST BURTON FLAT (MOR	730.0	EL PASO NATURAL G
8310210	NM 0852-82-A	3001523979		103		SUPERIOR FEDERAL #6 (STRAWN)	EAST BURTON FLAT (STR	547.5	EL PASO NATURAL G
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	11/19/82	JA: NM 4			
8310208	NM 0858-82	3000520847		103		DAVIS N #5	CHAVEROO SAN ANDRES	0.0	
-ROBERT L BAYLESS				RECEIVED:	11/19/82	JA: NM 4			
8310258	NM-1126-82	3003922907		103		AXI "H" #16	BALLARD PIC CLIFFS	78.0	GAS CO OF NEW MEX
8310260	NM-0992-82	3004320634		103		AXI "P" #5	BALLARD PICTURED CLIF	15.0	GAS CO OF NEW MEX
-SOUTHERN UNION EXPLORATION COMPANY				RECEIVED:	11/19/82	JA: NM 4			
8310205	NM 0757-82-B	3003922356		103		JICARILLA "A" #13E	BASIN	826.0	GAS CO OF NEW MEX
8310206	NM 0757-82-A	3003922356		103		JICARILLA "A" #13E	BLANCO	313.2	GAS CO OF NEW MEX
-SOUTHLAND ROYALTY CO				RECEIVED:	11/19/82	JA: NM 4			
8310278	NM-1116-82	3004525363		103		CAIN #23	BLOOMFIELD	189.0	SOUTHERN UNION GA
8310207	NM-0907-82	3001523689		103		DALE M PARKE "D" #2	GRAYBURG-JACKSON	5.0	CONTINENTAL OIL C
8310217	NM-1031-82	3004525361		103		FRONTIER "C" #1-E	BASIN	23.0	EL PASO NATURAL G
8310218	NM-1028-82	3004525331		103		GRENIER #15-E	BASIN	115.0	SOUTHERN UNION GA
8310270	NM 1135-82-A	3004525364		103		HUGHES #3	KUTZ	80.0	SOUTHERN UNION GA
8310271	NM 1135-82-B	3004525364		103		HUGHES #3	BLOOMFIELD	70.0	SOUTHERN UNION GA
8310215	NM-1030-82-A	3003922818		103		JICARILLA 101 #7-M	BLANCO	135.0	GAS CO OF NEW MEX
8310216	NM-1030-82-B	3003922818		103		JICARILLA 101 #7-M	BASIN	25.0	GAS CO OF NEW MEX
8310263	NM-1117-82	3004525362		103		MCCLANAHAN #21	BLOOMFIELD	183.0	SOUTHERN UNION GA
-TENNECO OIL COMPANY				RECEIVED:	11/19/82	JA: NM 4			
8310233	NM-1021-82A	3004523362		103		FLORANCE 111	BLANCO PICTURED CLIFF	500.0	EL PASO NATURAL G
8310228	NM-1021-82-B	3004523362		103		FLORANCE 111	BASIN DAKOTA	500.0	EL PASO NATURAL G
8310244	NM-0973-82	3004524898		103		HUBBARD COM #2	BASIN DAKOTA	500.0	EL PASO NATURAL G
8310229	NM-1022-82	3004525193		103		HUGHES A 4E	BASIN DAKOTA	500.0	EL PASO NATURAL G
8310230	NM-1023-82	3004525248		103		WILCH #2	BASIN DAKOTA	500.0	EL PASO NATURAL G
-TXO PRODUCTION CORP				RECEIVED:	11/19/82	JA: NM 4			
8310242	NM-0983-82	3001522409		103		KEOHANE FEDERAL COM #1	UNDESIGNATED ATOKA	300.0	COLUMBIA GAS TRAN
-YATES PETROLEUM CORPORATION				RECEIVED:	11/19/82	JA: NM 4			
8310236	NM-1014-82	3001524101		103		FEDERALES "BO" COM #10	EAST EAGLE CREEK ATOK	0.0	TRANSWESTERN PIPE
8310200	NM 0947-82	3001523989		103		MADDOX "QU" FEDERAL #1	ANTELOPE SINK MORROW	0.0	TRANSWESTERN PIPE
8310286	NM-1074-82	3001524028		103		NO TURKEY TRACK MU FED COM #2	UND MORROW	0.0	TRANSWESTERN PIPE
8310235	NM-1013-82	3001524095		103		OAKASON "NV" FEDERAL #3	UND MORROW	0.0	TRANSWESTERN PIPE
8310279	NM-1083-82	3003920865		103		UNION "BI" FEDERAL #3	TOMAHAWK SAN ANDRES	0.0	CITIES SERVICE CO
-B J HOWELL				RECEIVED:	11/19/82	JA: OK 4			
8310199	OKA-0959-82	3506330041		108		SEARS #1	SHADY GROVE	18.1	HILL TOP INVESTME
**********									
** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, CASPER,WY									
**********									
-FALCON-COLORADO EXPLORATION INC				RECEIVED:	11/22/82	JA: MT 5			
8310339	M140-2	2507121684		108		HICKMAN 1-26	SWANSON CREEK	21.0	MONTANA-DAKOTA UT
-MIDLANDS GAS CORPORATION				RECEIVED:	11/22/82	JA: MT 5			
8310336	M-619-1	2507121339		108		FEDERAL #1 1132	WILDCAT	9.0	KANSAS-NEBRASKA N
8310337	M620-1	2507121388		108		2631-1 263331	BOWDOIN	4.0	KANSAS-NEBRASKA N
-BELCO PETROLEUM CORPORATION				RECEIVED:	11/22/82	JA: ND 5			
8310338	ND36-2	3305301357		102-4		ROUGHRIDER FEDERAL 14-34	ROUGHRIDER	0.0	KOCH OIL CO
-ALTUS EXPLORATION CO				RECEIVED:	11/22/82	JA: WY 5			
8310345	W168-2	4904320415		102-2		ALTUS-GOV*T #22-1 HILAND	SOUTH FRISBY	3.5	MONTANA DAKOTA UT
8310346	W169-2	4904320418		102-2		ALTUS-GOV*T #23-1 HILAND	SOUTH FRISBY	12.8	MONTANA DAKOTA UT
8310347	W170-2	4904320436		102-2		ALTUS-GOV*T #23-3 HILAND	SOUTH FRISBY	29.2	MONTANA DAKOTA UT
8310348	W171-2	4904320454		102-2		ALTUS-GOV*T #23-4 HILAND	SOUTH FRISBY	22.6	MONTANA DAKOTA UT

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8310349	W172-2	4904320467		102-2		ALTUS-GOV'T #23-5 HILAND	SOUTH FRISBY	35.5	MONTANA DAKOTA UT
8310350	W173-2	4904320491		102-2		ALTUS-GOV'T #26-1 HIWAY	SOUTH FRISBY	3.6	MONTANA DAKOTA UT
8310351	W174-2	4904320495		102-2		ALTUS-GOV'T #26-2 BADLANDS	SOUTH FRISBY	7.3	MONTANA DAKOTA UT
8310352	W175-2	4904320510		102-2		ALTUS-GOV'T #26-3 BADLANDS	SOUTH FRISBY	8.8	MONTANA DAKOTA UT
-BELCO PETROLEUM CORPORATION				RECEIVED:	11/22/82	JA: WY 5			
8310342	W164-2	4903520592		103		BPMV 1-E4	MESAVERDE	0.0	NORTHWEST PIPELIN
8310341	W163-2	4903520632		103		S 33-28	JOHNSON RIDGE	0.0	NORTHWEST PIPELIN
-SOUTHLAND ROYALTY CO				RECEIVED:	11/22/82	JA: WY 5			
8310343	W165-2	4901920671		102-2		REINAUER FEDERAL #1-26	HOLLER DRAW	26.0	PHILLIPS PETROLEU
8310344	W166-2	4901920605		102-2		REINAUER FEDERAL #1-34	HOLLER DRAW	25.0	PHILLIPS PETROLEU
-WEXPRO COMPANY				RECEIVED:	11/22/82	JA: WY 5			
8310340	W162-2	4903520589		102-2		THE MESA UNIT WELL #1	PINEDALE	225.0	MOUNTAIN FUEL RES

SOURCE DATA FOR THIS NOTICE IS AVAILABLE ON MAGNETIC TAPE FROM THE NATIONAL TECHNICAL INFORMATION SERVICE (NTIS). FOR INFORMATION, CONTACT STUART WEISMAN (NTIS) AT (703) 487-4808, 5285 PORT ROYAL RD, SPRINGFIELD, VA 22161, OR SANDRA SPEAR (FERC) (202) 357-8681.

BILLING CODE 6717-01-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the Federal Register.

Categories within each MGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 mile rule)
102–3: New well (1000 ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old BCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal seems
107–DV: Devonian shale
107–PR: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–34508 Filed 12–21–82; 8:45 am]
BILLING CODE 6717–01–M

[Docket No. ER83–171–000]

Lockhart Power Co.; Filing

December 14, 1982.

Take notice that on November 24, 1982, Lockhart Power Company (Lockhart) tendered for filing a proposed reduced interim rate pursuant to Duke Power Company's (Duke) proposed reduced interim rate, filed on November 8, 1982, pending resolution of Duke's proceeding in Docket No. ER82–732–000.

Lockhart requests that this reduced rate be made effective, subject to refund, coincident with the November 2, 1982, effective date of Duke's proposed reduction in Docket No. ER82–732–000.

Lockhart requests a waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before December 22, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–34509 Filed 12–21–82; 8:45 am]
BILLING CODE 6717–01–M

[Docket No. ER82–729–000]

Pacific Gas and Electric Co.; Order Accepting for Filing and Suspending Rates, Noting Interventions, Granting Untimely Intervention, Granting Motions for Summary Disposition, Denying Motions, and Establishing Hearing Procedures

Issued: December 14, 1982.

On August 17, 1982, as completed on October 15, 1982,[1] Pacific Gas & Electric Company (PG&E) tendered for filing proposed changes in its rates and charges for wholesale electric transmission service for customers receiving Central Valley Project Power from the U.S. Department of Energy's Western Area Power Administration (WAPA).[2] PG&E proposes to increase revenues for transmission and distribution of WAPA power in two steps by approximately $7.5 million (90%), based on a test period ending December 31, 1983. The Phase I rates would increase revenues by about $5.5 million, while the Phase II rates would increase revenues by an additional $2 million. PG&E requests that the original August 17, 1982 filing date be reinstated along with the originally proposed October 18 and October 19 effective dates for the Phase I and Phase II increases, respectively. Alternatively, PG&E requests waiver of the notice requirements in order to permit the rates to become effective as of October 18, 1982, and October 19, 1982, respectively.

Notice of PG&E's filing was published in the Federal Register with comments due on or before September 8, 1982. On September 7, 1982, WAPA filed a motion to intervene. WAPA states that the Central Valley Project will be directly affected by PG&E's proposed increase. WAPA contends that the proposed rates appear to be inconsistent with the terms of several contracts between PG&E and WAPA. Specifically, WAPA points out that Article 32 of one of the contracts (948A) provides for review and adjustment of rates, as appropriate, only at five year intervals. PG&E, as part of its filing, has proposed a formula rate adjustment mechanism which would revise transmission and distribution rates on a yearly basis. WAPA claims that this mechanism appears to be inconsistent with the five year fixed rate provision contained in its contract with PG&E. Additionally, WAPA states that the demand allocation used by PG&E to develop its proposed rates may not have properly taken into account certain WAPA loads which are currently served under contractually fixed rates. WAPA also claims that PG&E's proposed rates may not properly account for credits due to WAPA for the contribution which CVP transmission lines make to the integrated operation of the CVP–PG&E integrated system. Finally, WAPA states that the filing does not fully support PG&E's requested rate of return.

On September 8, 1982, the Northern California Power Agency and its members (collectively, "NCPA") and the Sacramento Municipal Utility District ("SMUD") filed a protest and motions to reject, to intervene, and for summary disposition. NCPA and SMUD request a hearing and a five month suspension of PG&E's rate request. NCPA and SMUD state that they are customers of WAPA under WAPA's Central Valley Project contract with PG&E. Like WAPA, NCPA and SMUD claim that PG&E's rate filing is inconsistent with contractual provisions which provide that rates and charges may only be adjusted at five year intervals. These intervenors also claim that the terms of the contract would preclude PG&E's use of a future test period and would also require that PG&E include a 5% credit in its cost of service to reflect benefits that PG&E derives through use of WAPA transmission facilities. NCPA and SMUD further request that PG&E's proposed inclusion of non-cash items in cash working capital be summarily rejected and that the cost of service inclusion of PG&E's contributions to the

[1] On September 10, 1982, PG&E's original submittal was found to be deficient. PG&E, on October 15, 1982, completed its filing by submitting revised cost of service statements consistent with the requirements of section 35.25 of the Commission's regulations and Commission Order Nos. 144 and 144–A.

[2] *See* Attachment A for customers and rate schedule designations.

Electric Power Research Institute (EPRI) be summarily rejected. They also move to reject PG&E's filing and, in the alternative, seek summary disposition to the extent that PG&E's proposed increase fails to provide a credit to PG&E's cost of service to reflect the benefits to PG&E of WAPA transmission facilities within PG&E's service area.

Additionally, NCPA and SMUD request that both steps of the proposed increase be suspended for five months from the requested effective dates based on a number of items included in PG&E's filing including an alleged excessive return on equity, overstated demand projections, overstated expense projections, and PG&E's failure to synchronize interest expenses for tax purposes. NCPA and SMUD also contend that PG&E's proposal to file a two-phase rate increase is inconsistent with the Federal Power Act and amounts to an attempt to circumvent the Commission's suspension authority and obligations. Petitioners therefore request that the phased rate request be rejected.

On September 14, 1982, Arvin-Edison Water Storage District, a customer taking Central Valley Power from WAPA ("Ariven-Edison"], filed a protest, motion to reject, and motion to intervene out of time. Arvin-Edison states that it incorporates and adopts the arguments raised by NCPA and SMUD in their motion to intervene.

On September 14, 1982, the United States Department of Energy (DOE) filed an untimely intervention. DOE states that the proposed increase would raise the rates for four federal executive agencies which are ultimate customers of PG&E power. DOE states that it has requested a Delegation of Authority from the General Services Administration (GSA) to represent the executive agencies. According to DOE, such request is pending, but GSA has indicated that such request should be granted.

On September 20, 1982, PG&E filed separate responses to the motions to intervene of WAPA, and NCPA and SMUD, respectively. PG&E states that it does not oppose WAPA's motion to intervene. With respect to NCPA and SMUD, PG&E takes issue with the requests for summary disposition based upon claims of non-compliance with Article 32 of the contract and states that, at a minimum, these are issues that should be set for hearing.[3]

[3] PG&E does not oppose intervention by NCPA and its member cities, provided that the individual cities participate through NCPA, as their representative. However, PG&E asserts that the cities will not be active participants in view of NCPA's involvement in a representative capacity. Thus, PG&E asks that the member cities be denied intervenor status or that a restricted service list be required under Rule 2010(d). Given their individual interests in the outcome of this proceeding, we shall not deny intervenor status. Nonetheless, there may be merit to the contention that a restricted service list would avoid unnecessary expense and improve administrative efficiency. We believe that the presiding judge will be in the best position to make such a determination after having considered the scope of the proceeding, the interests of all parties, and any responsive argument by NCPA or the cities. We shall therefore leave this decision to the discretion of the presiding judge.

Discussion

Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214), the timely motions to intervene and the notice of intervention serve to make WAPA, NCPA and its members, SMUD, and DOE parties to this proceeding. We find that Arvin-Edison may have a significant economic interest in the outcome of this proceeding. Given the early stage of this proceeding and the fact that intervention by Arvin-Edison should not prejudice other parties or delay the proceedings, we shall grant Arvin-Edison's untimely request for intervention.

Article 32 of the existing agreement states in pertinent part that:

> 32. Rates and charges under this contract shall be fair and equitable and shall, except those provided in Articles 22(b)(1) and 22(c)(2)(i), together with service charges, be jointly reviewed, and adjusted as appropriate, on April 1, 1971, and every five years therafter. * * * Such review shall take into account substantial savings accruing to either party and applicable costs of construction and production, including changes therein and appropriate service charges, during the preceding five years. If the parties are unable to agree on a change of any rate or charge, the matter shall be submitted to the Federal Power Commission for final decision.

The intervenors contend that PG&E's use of a calendar 1983 test period should be rejected inasmuch as the above contractural provision requires that rates be developed based upon experiences occuring over the preceding five year period. The intervenors also contend that PG&E's proposal to implement a formula which would adjust the WAPA transmission rate on an annual basis violates the contractual provision for rate review and adjustment at five year intervals. PG&E, in response to these claims, argues that the above provision does not require that rates be set solely on the basis of the preceding five years' experience and that in any event, this language only applies to rates negotiated by the parties. In the event that the parties are unable to agree on a rate, PG&E argues that the Commission has the discretion to develop appropriate rates without regard to the preceding five years' experience. Additionally, PG&E asserts that its proposed annual adjustment mechanism is appropriate under the contract.

Upon review, the Commission finds that the WAPA/PG&E contract does not preclude PG&E's use of a calendar 1983 future test period in order to arrive at an appropriate transmission rate. While the terms of the agreement require that PG&E's rates shall take into account any substantial savings accruing to either party during the preceding five years, PG&E is correct in its assertion that the rates proposed for the next five year interval do not have to be based solely upon PG&E's experience during that period. Whether the rates properly take into account the parties' experience over the prior five year period and are therefore in compliance with the terms of the contract is an issue to be resolved during the course of an evidentiary hearing. We shall therefore deny the motions for rejection or summary disposition of this issue. With respect to PG&E's proposed annual rate mechanism, the Commission would note that the formula has not been expressly included as part of PG&E's rate schedules or tariffs. In fact, PG&E specifically points out that the adjustment mechanism is severable from the rest of PG&E's proposed rates. The Commission finds that the proposed formula mechanism is inconsistent with the terms of the contract which require that rates shall be reviewed and adjusted, as appropriate, only at five year intervals. This provision would necessarily preclude any rate adjustments on an annual basis as proposed by PG&E. Accordingly, the Commission will summarily reject PG&E's proposed formula rate mechanism.

With respect to the intervenors' claim that PG&E has failed to credit its cost of service to reflect the intangible benefits of extra reliability which PG&E may realize from transmission facilities owned by CVP, the Commission notes that in the instant docket, PG&E has used a transmission cost allocation methodology different from that previously used by PG&E and addressed by the Commission in Opinion No. 143, Docket No. ER78-532-000, 20 FERC ¶ 61,190 (August 16, 1982). Under the methodology utilized in the instant docket, PG&E would give credit to WAPA by declining to allocate generation tie expenses as well as certain system interconnection and exclusive use transmission expenses. This change in PG&E's allocation

technique therefore appears to be providing some credit to CVP and, in light of this change, PG&E's elimination of the 5 percent credit previously adopted by the Commission may be justified. However, the issue of credits and transmission cost allocations are questions which should appropriately be addressed during the course of an evidentiary proceeding. We shall therefore deny the intervenors' request for summary disposition as to this issue.

The Commission will also deny the intervenors' request for rejection based on PG&E's request for a phased increase. Contrary to the petitioners' assertion, nothing in the Federal Power Act or the Commission's regulations prohibits PG&E from filing a two-step rate increase, and we have previously sanctioned such filings. *See, e.g., Jersey Central Power & Light Co.*, 19 FERC ¶ 61,208 (May 28, 1982); *Cincinnati Gas & Electric Co.*, 20 FERC ¶ 61,148 (August 4, 1982). As stated by the Commission in the *Jersey Central* case, "so long as the two phases are independently evaluated for purposes of determining appropriate suspension periods, neither the company nor its customers will be subjected to irreparable harm." 19 FERC at 61,403. Because the submittal, as completed, substantially complies with the filing requirements and no other basis for rejection has been shown, we decline to reject PG&E's filing.[4]

The Commission will grant the request for summary disposition with respect to PG&E's proposed inclusion of non-cash items in the cash working capital allowance. In a recently issued opinion regarding PG&E's wholesale rates, we held that non-cash items are to be excluded from the company's computation of its cash working capital allowance. Opinion No. 147, 20 FERC § 61,340 (September 22, 1982). In light of the Commission's recent pronouncement on this subject, summary disposition is warranted. However, because of the minimal cost of service impact of this item, we shall not require the company to refile its rates at this time.

The Commission will also order summary disposition as to PG&E's failure to synchronize test year interest expenses used in the income tax calculation with the interest portion of the claimed rate of return. Commission policy and practice have consistently required the computation of the long-term debt component of the interest expense tax deduction as the product of a utility's allocated rate base and the weighted cost of long-term debt. *See, e.g.,,Gulf States Utilities Company*, 20 FERC ¶ 61,039 (July 9, 1982); Opinion No. 133, 17 FERC ¶ 61,121 (1981). Again, however, we shall not require PG&E to immediately refile its rates since the cost of service impact of this adjustment appears to be minimal.

NCPA and SMUD also request summary disposition with respect to the company's allocation of EPRI expenses to its wholesale customers. However, in its filing of October 15, 1982, PG&E excluded the allocation of EPRI contributions to WAPA. As a result of PG&E's voluntary withdrawal of its proposed inclusion of EPRI contributions, this issue is now moot and need not be addressed in this order.

With respect to all other issues raised by the parties, we believe that these matters present questions of law or fact most appropriately resolved on the basis of an evidentiary record to be developed at hearing. Therefore, summary disposition of these issues will be denied.

Our preliminary review indicates that PG&E's rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept the proposed rates for filing and suspend them as ordered below.

We find that PG&E has failed to show good cause for waiver of the notice requirements or for having the Commission assume a filing date other than the date on which PG&E filing was in substantial compliance with the Commission's regulations. The Commission will therefore deny these requests.

We recently explained the Commission's suspension policy in *West Texas Utilities Company*, Docket No. ER82-23-000, 18 FERC ¶ 61,189 (February 26, 1982). As noted there, where our preliminary review suggests that increased rates may be unjust and unreasonable, but may not be substantially excessive as described in *West Texas*, we shall suspend the rates for one day. Where, however, preliminary examination indicates that the rates may be substantially excessive, we shall suspend for the maximum period. Our review indicates that the Phase I rates may not produce substantially excessive revenues, but that the Phase II rates may produce substantially excessive revenues. Accordingly, we shall suspend the Phase I rates for one day from 60 days after completion of filing, to become effective on December 16, 1982, and the Phase II rates for five months to become effective on May 16, 1983, subject to refund.

Finally, we note, for purposes of the Economic Recovery Tax Act of 1981, that PG&E has reflected a normalization method of accounting and the normalization of investment tax credits in accordance with the procedures required by Section 168(e) and 46(f) of the Internal Revenue Code adopted as Part of ERTA. According to our review, it appears that the instant filing reflects a normalization method of accounting for all post-1980 property additions, that the cost of service correctly reflects the effects of normalization, and that PG&E's fling satisfies the requirements of ERTA.

The Commission orders

(A) NCPA's and SMUD's motions for summary disposition with respect to (1) PG&E's proposed annual adjustment mechanism, (2) its failure to properly synchronize test year interest expense deductions, and (3) the inclusion of non-cash items in the cash working capital allowance are hereby granted as set forth in the body of this order. These determinations shall be reflected in any compliance cost of service and rates at the conclusion of this proceeding.

(B) All other motions for rejection or summary disposition are hereby denied.

(C) PG&E's request for waiver of the notice requirements is hereby denied.

(D) PG&E's proposed Phase I and Phase II rates for transmission service are hereby accepted for filing and are suspended as follows: the Phase I rates are suspended for one day to become effective on December 16, 1982, subject to refund, and the Phase II rates are suspended for five months to become effective on May 16, 1983, subject to refund.

(E) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power act (18 CFR Chapter I), a public hearing shall be held concerning the justness and reasonableness of PG&E's rates.

(F) Arvin-Edison is hereby permitted to intervene in this proceeding subject to the Commission's Rules of Practice and Procedure.

(G) The Commission staff shall serve top sheets in this proceeding on or before December 17, 1982.

(H) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall

[4] *See Municipal Light Boards of Reading and Wakefield, Massachusetts v. FPC*, 450 F. 2d 1341 (D.C Cir. 1971).

convene a conference in this proceeding to be held within approximately fifteen (15) days after service of top sheets, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(J) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

Attachment A.—Pacific Gas and Electric Company

Rate Schedule Designations (Docket No. ER82–739–000)

Filed: October 15, 1982.

(1) Second Revised Sheet Nos. 60 and 61 under FPC Electric Tariff Original Volume No. 4 (Supersede First Revised Sheet Nos. 60 and 61).

(2) Second Revised Sheet Nos. 60 and 61 under FPC Electric Tariff Original Volume No. 4 (Supersede Second Revised Sheet Nos. 60 and 61).

(3) Supplement No. 1 to Rate Schedule FERC No. 63.

(4) Supplement No. 2 to Rate Schedule FERC No. 63 (Supersedes Supplement No. 1).

[FR Doc. 82–34610 Filed 12–21–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER83–174–000]

Pennsylvania Power & Light Co.; Filing

December 14, 1982.

Take notice that Pennsylvania Power & Light Company (PP&L) on December 3, 1982, tendered for filing as a rate schedule an executed agreement dated as of November 24, 1982 between PP&L and Consolidated Edison Company of New York, Inc. ("Con Edison"). The proposed rate schedule provides for the sale of interruptible power and energy by PP&L to Con Edison.

The rate schedule provides for a maximum energy reservation charge rate of $24.70 per megawatt per hour and an energy charge rate based upon the incremental cost of providing the energy.

PP&L requests waiver of the Notice requirements of Section 205 of the Federal Power Act and Section 35.3 of the Commission's Regulations so that the proposed rate schedule can be made effective December 3, 1982.

PP&L states that a copy of its filing was served on Con Edison and the Pennsylvania Public Utility Commission.

Any person desiring to be heard or to protest said application should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before December 30, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–34611 Filed 12–21–82; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 4186–001]

Stowe Mills, Inc., Exemption From Licensing

December 17, 1982.

A notice of exemption from licensing of a small hydroelectric project known as McAdenville Dam, Project No. 4186, was filed on November 17, 1982, by Stowe Mills, Inc. The proposed hydroelectric project would have an installed capacity of 1,040 kW and would be located on the South Fork Catawba River, at the McAdenville Dam, in Gaston County, North Carolina.

Pursuant to §§ 4.109(c) and 375.308(ss) of the Commission's regulations, and subject to the terms and conditions set forth in § 4.111 of the Commission's regulations, the Director, Office of Electric Power Regulation, issues this notification that the above project is exempted from licensing as of December 17, 1982.

Lawrence R. Anderson,

Director, Office of Electric Power Regulation

[FR Doc. 82–34612 Filed 12–21–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP82–129–001]

Ozark Gas Transmission System; Petition To Amend

December 17, 1982.

Take notice that on December 13 and 15, 1982, Ozark Gas Transmission System (Ozark), 2700 Fidelity Union Tower, Dallas, Texas 75201, filed in Docket No. CP82–129–001 a petition to amend the order issued March 30, 1982, in Docket No. CP82–129–000, pursuant to Section 7(c) of the Natural Gas Act and Section 157.7(b) of the Regulations thereunder (18 CFR 157.7(b)) to authorize: (a) An increase in the single project cost limit for the calendar year 1982 up to $1,000,000 and (b) increases in single project and annual cost limitations up to $2,500,000 and $10,000,000, respectively, for calendar year 1983, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Ozark was authorized to construct and operate gas supply facilities at an annualized cost limitation of three percent of its Account No. 101, or approximately $3,900,000 and a single project cost limitation of approximately $975,000. For 1982, during which its certificate was effective for three-fourths of the year, Ozark's pro-rated limits were approximately $2,925,000 and $731,250, respectively.

Ozark states that as a newly-constructed system, its 1982 budget limit was committed to projects planned for construction during the April 1 to September 16, 1982, period. It exceeded the single-project limit for 1982 by inadvertently computing the single-project limit on the basis of the full annualized limit, instead of the pro-rated amount. In order to attach new gas supply projects, including those that might otherwise have been installed in the last quarter of 1982, Ozark seeks the higher limits for 1983. It projects expenditures of not less than the requested $10,000,000 during the first eight months of 1983. Ozark asserts that producers continue to be very active in the Arkoma Basin supply area, and it is aware of some 63 supply projects available for possible attachment to its system.

Any person desiring to be heard or to make any protest with reference to this application should on or before December 27, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in

any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-34666 Filed 12-21-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. G-7004-009]

Pennzoil Co.; First Amendment To Application for Clarification or Abandonment Authorization

December 17, 1982.

Take notice that on December 16, 1982, Pennzoil Company (Pennzoil), P.O. Box 2967, Houston, Texas 77001 filed in Docket No. G-7004-009 a First Amendment to its application for clarification or abandonment authorization filed October 26, 1982 in Docket No. G-7004-006. Pursuant to Sections 16 and 7(b) of the Natural Gas Act and the Commission's regulations thereunder, Pennzoil requests the Commission to grant clarification of its Order dated November 24, 1980 in Docket No. G-7004 as to the need for abandonment authority, or abandonment authorization for as much gas as is required to allow sales of gas to 17 specified additional applicants for residential service in West Virginia pursuant to West Virginia law. Pennzoil also renews each of the requests set forth in its original application in Docket No. G-7004-006.

Pennzoil states that immediate action is necessary to protect the health, welfare and property of the 17 current Pennzoil applicants in West Virginia who are depending on Pennzoil for their gas supply needs. Service to these 17 applicants would be provided, as permitted under the contract, from gas supplies that would otherwise be sold to Consolidated Gas Supply Corporation (Consolidated), an interstate pipeline.

Consolidated has previously indicated in connection with Pennzoil's original application in Docket No. G-7004-006 that it has no objection to an order of the Commission which would authorize Pennzoil to use gas to serve West Virginia consumers as required by West Virginia law.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than normal for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said amendment to the original application should on or before December 23, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, .214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. Any person previously granted intervention in connection with Pennzoil's original application in Docket No. G-7004-006 need not seek intervention herein. Each such person will be treated as having also intervened in Docket No. G-7004-009.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on the amendment to the original application in the event no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-34669 Filed 12-21-82; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[PP 1G2452/T396; PH-FRL 2271-8]

Amitraz; Renewal of Temporary Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has renewed temporary tolerances for the combined residues of the insecticide amitraz and its metabolites in or on certain raw agricultural commodities.

DATE: These temporary tolerances expire October 7, 1983.

FOR FURTHER INFORMATION CONTACT: Jay Ellenberger, Product Manager (PM) 12, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 202, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-2386).

SUPPLEMENTARY INFORMATION: EPA issued a notice that published in the **Federal Register** of July 8, 1981 (46 FR 35339) stating that temporary tolerances had been established for the combined residues of the insecticide amitraz and its metabolites containing the 2,4,-dimethylaniline moiety (calculated as the parent compound) in or on the raw agricultural commodities meat, fat, and meat byproducts of cattle at 0.05 part per million (ppM); and milk fat at 0.5 ppm. These tolerances were established in response to pesticide petition (PP 1G2452), submitted by BFC Chemicals, Inc., 4311 Lancaster Pike, P.O. Box 2867, Wilmington, DE 19805. The company has requested a 1-year renewal of the temporary tolerances to permit the continued marketing of the above raw agricultural commodities when treated in accordance with the provisions of the experimental use permit 43142-EUP-2 which is being renewed under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, (92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that a renewal of the temporary tolerances will protect the public health. Therefore, the temporary tolerances have been renewed on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.

2. BFC Chemicals, Inc. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance, and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These tolerances expire October 7, 1983. Residues not in excess of the temporary tolerances in or on the above raw agricultural commodities after this expiration date will not be considered actionable if the pesticide is legally

applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerances. These tolerances may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicates that such revocation is necessary to protect the public health.

The Office of Management and Budget has exempted this notice from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(j) 68 Stat. 516, (21 U.S.C. 346a(j)))

Dated: December 14, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82-34575 Filed 12-21-82; 8:45 am]

BILLING CODE 6560-50-M

[PF-295A; PH-FRL 2268-3]

BASF Wyandotte Corp.; Pesticide Petition; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice corrects a pesticide petition (PP 2F2748) proposing the establishment of a tolerance for the combined residues of the herbicide 2-[1-(ethoxyimino)butyl]-5-[2-(ethylthio)propyl]-3-hydroxy-2-cyclohexen-1-one and its metabolites in or on the raw agricultural commodity cottonseed.

ADDRESS: Written comments to: Robert Taylor, Product Manager (PM) 25, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 245, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Robert Taylor, (703–557–1800).

SUPPLEMENTARY INFORMATION: In FR Doc. 82–28634 published in the **Federal Register** of October 20, 1982 (47 FR 46756), EPA issued a notice that announced that the BASF Wyandotte Corp., 100 Cherry Hill Road, Parsippany, NJ 07054, had filed pesticide petition 2F2748 with the Agency proposing to amend 40 CFR Part 180 by establishing a tolerance for the combined residues of the herbicide 2-[-1-(ethoxyimino)butyl]-5-[2-(ethylthio)propyl]-3-hydroxy-2-cyclohexen-1-one and its metabolites containing 5-[-2-(ethylthio)propyl]-3, 5-dihydroxy-2-cyclohexen-1-one moiety, and their several thioxidation products in or on the raw agricultural commodity cottonseed at 4 parts per million (ppm).

The chemical identification of the herbicide under PP 2F2748, appearing at page 46756, third column, fifth line, was erroneously given and is corrected to read "2-[1-(ethoxyimino)butyl]-5-2-(ethylthio)propyl]-3-hydroxy-2-cyclohexen-1-one and its metabolites containing the 5-[2-(ethylthio)propyl]-3-hydroxy-2-cyclohexen-1-one moiety and the 5-[2-ethylthio)propyl]-3,5-dihydroxy-2-cyclohexen-1-one moiety, and their several thioxidation products".

(Sec. 408(d)(1), 68 Stat. 512, (7 U.S.C. 136))

Dated: December 8, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82-34152 Filed 12-21-82; 8:45 am]

BILLING CODE 6560-50-M

[PF-302; PH-FRL 2268-5]

Certain Companies Pesticide, Food, and Feed Additive Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice

SUMMARY: EPA has received pesticide, food, and feed additive petitions relating to the establishment and/or amendments of tolerances for residues of certain pesticide chemicals in or on certain commodities.

ADDRESS: Written comments to the product manager (PM) cited in each specific petition at the address below: Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Written comments may be submitted while the petitions are pending before the Agency. The comments are to be identified by the document control number [PF–302] and the specific petition number. All written comments filed in response to this notice will be available for public inspection in the product manager's office from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: The product manager cited in each petition at the telephone number provided.

SUPPLEMENTARY INFORMATION: EPA gives notice that the Agency has received the following pesticide, food, and feed additive petitions relating to the establishment and/or amendment of tolerances for residues of certain pesticide chemicals in or on certain commodities in accordance with the Federal Food, Drug, and Cosmetic Act. The analytical method for determining residues, where required, is given in each petition.

A. Initial Filing

1. *PP 3F2778.* Dow Chemical Co., PO Box 1706, Midland, Mich. 48640. Proposes to amend 40 CFR 180. 342 by establishing tolerances for the combined residues of the insecticide chlorpyrifos (*O,O*–diethyl *O*–(3,5,6–trichloro–2–pyridyl) phosphorothioate) in or on the commodities almonds at 0.05 part per million (ppm), walnuts at 0.2 ppm, and almond hulls at 12.0 ppm. The proposed analytical method for determining residues is gas chromatography using electron capture detector. (PM–12, Jay Ellenberger, 703–557 2386).

2. *PP 3F2785.* American Cyanamid, PO Box 400, Princeton, N.J. 08540. Proposes to amend 40 CFR 180.361 by establishing a tolerance for residues of the herbicide pendimethalin (*N*–(1–ethylpropyl)–3,4–dimethyl–2,6–dinitrobenzamine) in or on the commodity sugarcane at 0.05 ppm. The proposed analytical method for determining residues is gas–liquid chromatography with an electron capture detector. (PM–25, Robert Taylor, 703–557–1800).

3. *PP 3F2786.* Ciba–Geigy Corp., PO Box 18300, Greensboro, N.C. 27419. Proposes to amend 40 CFR 180.408 by establishing a tolerance for the combined residues of the fungicide metalaxyl (*N*–2,6–dimethylphenyl)–*N*–(methoxyacetyl) alanine methyl ester) and its metabolites containing the 2,6–dimethylaniline moiety, each expressed as metalaxyl in or on citrus fruit at 1.0 ppm. The proposed analytical method for determining residues is gas chromatography using an alkali flame ionization detector. (PM–21, Henry Jacoby, 703–557–1900).

4. *FAP 3H5376.* Ciba–Geigy Corp. Proposes to amend 21 CFR 193.277 by establishing a regulation permitting the combined residues of the fungicide metalaxyl and its metabolites in citrus oil at 7.0 ppm. (PM–21, Henry Jacoby, 703–557–1900).

5. *FAP 3H5376.* Ciba-Geigy Corp. Proposes to amend 21 CFR 561.273 by establishing a regulation permitting the combined residues of the fungicide metalaxyl and its metabolites in or on dried citrus pulp at 6.0 ppm and citrus

molasses at 5.0 ppm. (PM–21, Henry Jacoby, 703–557–1900).

6. *PP 3F2776.* Burst Products, Inc., 6901 West 63rd St., Overland Park, Kans. 66202. Proposes to amend 40 CFR 180.1042 by establishing an exemption from the requirements of a tolerance for the residues of the plant growth regulator aqueous extract of seaweed meal derived from *Ascophyllum nodosum* in or on the commodities alfalfa, asparagus, beans, broccoli, brussel sprouts, cabbage, cauliflower, cotton, cucumber, eggplant, lettuce, melons, okra, onions, parsley, peas, radish, sorghum (milo), sweet potatoes, spinach, and squash. (PM–25, Robert Taylor, 703–557–1800).

7. *PP 3F2779.* E. I. du Pont de Nemours and Company, Wilmington, Del. 19898. Proposes to amend 40 CFR 180.396 by establishing a tolerance for the combined residues of the herbicide hexazinone (3-cyclohexyl-6-(dimethylamino)-1-methyl-1,3,5-triazine-2,4(1*H*,3*H*)-dione) and its metabolites (calculated as hexazinone) in or on pasture grasses at 10.0 ppm. The proposed analytical method for determining residues in nitrogen selective gas chromatography. (PM–23, Richard Mountfort, 703–557–1830).

8. *PP 3E2780.* University of Southern Mississippi, PO Box 5024, Southern Station, Hattiesburg, Miss. 29406. Proposes to amend 40 CFR Part 180 by establishing an exemption from the requirements of a tolerance for potassium ricinoleate in fish when it results from the use of saponified castor oil as an algicide in catfish ponds. (PM–23, Richard Mountfort, 703–557–1830).

9. *FAP 3H5375.* Union Carbide Corp., T.W. Alexander Drive, Research Triangle Park, N.C. 20749. Proposes to amend 21 CFR 561.386 by establishing a regulation permitting the combined residues of the insecticide thiodicarb (dimethyl *N,N'*[thiobis (methylimino) carbonyl) oxy) bis (ethanimidothioate) and its metabolite methomyl, *N*-(methylcarbamoyl) oxy) thioacetimidate in or on the commodity sweet cannery waste at 40.0 ppm. (PM–12, Jay Ellenberger, 703–557–2386).

B. Amended Petitions

1. *PP 2F2743.* Ciba-Geigy Corp. EPA issued a notice published in the **Federal Register** of September 22, 1982 (47 FR 41854), that announced that Ciba-Geigy Corp. had submitted pesticide petition 2F2743 to the Agency proposing to amend 40 CFR 180.408 by establishing tolerances for the combined residues of the fungicide metalaxyl and its metabolites in or on the commodities pineapples and pineapple fodder at 0.1 ppm.

Ciba/Geigy Corp. has amended the petition by adding a proposed tolerance for pineapple forage at 0.1 ppm. The proposed analytical method for determining residues is gas chromatography with alkali flame ionization detector. (PM–21, Henry Jacoby, 703–557–1900).

2. *PP 0F 2331.* Janssen R&D, Inc., 501 Geroge St., New Brunswick, N.J. 08903. EPA issued a notice published in the **Federal Register** of April 22, 1980 (45 FR 27009) that announced that Janssen R&D, Inc. had submitted pesticide petition 0F2331 to the Agency proposing to amend 40 CFR Part 180 by establishing tolerances for residues of the fungicide 1-(2-(2,4-dichlorophenyl)-2-(2-propenyloxy)ethyl)-1*H*-imidazole in or on citrus fruit. The petitioner subsequently amended the petition (47 FR 6091, February 10, 1982) by proposing tolerances on additional commodities.

The petitioner has submitted a second amendment to the petition by including the two metabolites alpha-(2-4-dichlorophenyl) 1*H*-imidazole-1-ethanol and 3 ((1-(2,4-dichlorophenyl-2-(1*H*-imidazole-1-yl)ethoxl))-1,2-propanediol in the expression of the tolerances and decreasing the proposed tolerances in or on fat, meat, and meat byproducts (except liver) of cattle, goats, hogs, horses, and sheep from 0.04 to 0.01 ppm; milk from 0. 04 to 0.01 ppm; and liver of cattle, goats, hogs, horses, and sheep from 0.8 to 0.5 ppm. The proposed analytical method for determining residues is gas chromatography. (PM–21, Henry Jacoby, 703–557–1900).

3. *PP 8E2100* Janssen R&D, Inc. EPA issued a notice published in the **Federal Register** of January 27, 1982 (46 FR 3876) that announced that Janssen R&D, Inc. had submitted pesticide petition 8E2100 to the Agency proposing to amend 40 CFR Part 180 by establishing a tolerance for residues of the fungicide 1-(2-(2,4-dichlorophenyl)-2-(2-propenyloxy)ethyl)-1*H*-imidazole and its metabolites alpha-(2-4-dichlorophenyl)1*H*-imidazole-1-ethanol and 3(1-(2,4-dichlorophenyl-2-(1*H*-imidazole-1-yl)ethoxyl))-1,2-propanediol in or on bananas (whole) at 2.0 ppm of which no more than 0.2 ppm is in the edible pulp.

Janssen R&D, Inc. has amended the petition by increasing the tolerance level to 3.0 ppm with the permissible residue in edible pulp to remain at 0.2 ppm. The proposed analytical method for determining residues is high pressure liquid chromatography with a reverse phase system using an ultraviolet detector. (PM–21, Henry Jacoby, 703–557–1900).

4. *PP 2F2698.* EPA issued a notice published in the **Federal Register** of June 30, 1982 (47 FR 28453) that announced that BFC Chemicals, Inc., 4311 Lancaster Pike, PO Box 2867, Wilmington, Del. 19805, had submitted pesticide petition 2F2698 proposing to amend 40 CFR 180.345 by establishing a tolerance for the combined residues of the herbicide ethofumesate (2-ethoxy-2,3-dihydro-3,3-dimethyl-5-benzofuranyl methanesulfonate) and its metabolites 2-hydroxy-2,3-dihydro-3,3-dimethyl-5-benzofuranyl methanesulfonate and 2,3-dihydro-3,3-dimethyl-2-oxo-5-benzofuranyl methanesulfonate (both calculated as the parent compound) in or on fresh grass at 10 ppm.

BFC Chemicals, Inc. has amended the petition by increasing the tolerance for fresh grass to 20 ppm and proposing tolerances for kidney of cattle, goats, horses, and sheep at 5 ppm; fat, meat, and meat byproducts (except kidney) of cattle, goats, horses, and sheep at 0.2 ppm; fat, meat, and meat byproducts of hogs at 0.05 ppm, and milk at 0.05 ppm. The proposed analytical method for determining residues is gas liquid chromatographic determination process using a flame photometric detector in the sulphur mode, (PM–23, Richard Mountfort, 703–557–1830).

5. *PP 6F1748.* E. I. du Pont de Nemours and Company. EPA issued a notice puyblished in the **Federal Register** of April 8, 1976 (41 FR 14924) that announced that E. I. du Pont de Nemours had submitted pesticide petition 6F1748 to the Agency proposing to amend 40 CFR 180.294 by establishing tolerances for the combined residues of the fungicide benomyl (methyl 1-(butylcarbamoyl)-2-benzimidazolecarbamate) and its metabolites containing the benzimidazole moiety (calculated as benomyl) in or on certain commodities.

E. I. du Pont de Nemours has amended the petition by proposing tolerances in or on the commodities liver of cattle, goats, hogs, horses, and sheep at 4.0 ppm; milk at 1.0 ppm; the hay of barley, oats, and rye at 0.2 ppm; and hay of wheat at 15 ppm. The proposed analytical method for determining residues is cation exchange liquid chromatography. (PM–21, Henry Jacoby, 703–557–1900).

(Sec. 408(d)(1), 68 Stat. 512, (7 U.S.C. 136); 409(b)(5), 72 Stat. 1786, (21 U.S.C. 348))

Dated: December 8, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82-34153 Filed 12-21-82; 8:45 am]

BILLING CODE 6560-50-M

[PF-300; PH-FRC 2270-1]

Certain Companies; Pesticide, Feed, and Food Additive Petitions

AGENCY: Environmental Protection Agency (FPA).

ACTION: Notice.

SUMMARY: EPA has received pesticide, feed, and food additive petitions relating to establishment and amendment of tolerances for residues of certain pesticide chemicals in or on certain raw agricultural commodities and feed and food items.

ADDRESS: Written comments may be submitted to the product manager (PM) cited in each specific petition at the address below: Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Written comments may be submitted while the petitions are pending before the Agency. The comments are to be identified by the document control number "[PF-303]" and the specific petition number. All written comments filed in response to this notice will be available for public inspection in the product manager's office from 8:00 a.m. to 4:00. p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: The product manager cited in each petition at the telephone number provided.

SUPPLEMENTARY INFORMATION: EPA gives notice that the Agency has received the following pesticide, feed, and food additive petitions relating to establishment and amendment of tolerances for residues of certain pesticide chemicals in or on certain raw agricultural commodities and feed and food items in accordance with the Federal Food, Drug and Cosmetic Act. The analytical method for determining residues, where required, is given in each petition.

FAP 3H5373. Mobay Chemical Corp., P.O. Box 4913, Kansas City, Mo. 64120. Proposes amending 21 CFR Part 193 by establishing a regulation permitting residues of the nematicide ethyl 3-methyl-4-(methylthio) phenyl (1-methylethyl) phosphoramidate and its cholinesterase-inhibiting metabolites ethyl 3-methyl-4-(methylsulfinyl) phenyl (1-methylethyl) phosphoramidate and ethyl 3-methyl-4-(methylsulfonyl) phenyl (1-methylethyl) phosphoramidate in or on the commodity raisins at 0.3 part per million (ppm). (PM 21, Henry Jacoby, 703-557-1900.)

FAP 3H5373. Mobay Chemical Corp. Proposes amending 21 CFR 561.232 by establishing a regulation permitting residues of the above nematicide in or on the commodities grape pomace at 1.0 ppm and raisin waste at 3.0 ppm. (PM 21, Henry Jacoby, 703-557-1900.

PP 2F2650. EPA issued a notice published in the **Federal Register** of June 23, 1982 (FR 27126) which announced that the BASF Wyandotte Corp., 100 Cherry Hill Rd., P.O. Box 181, Parsippany, NJ 07054, had filed a pesticide petition (PP 2F2650) with the Agency. The petition proposed that 40 CFR 180.380 be amended by establishing tolerances for the combined residues of the fungicide 3-(3,5-dichlorophenyl)-5-ethenyl-5-methyl-2,4-oxazolidinedione and its 3,5-dichloroaniline containing metabolites in or on the raw agricultural commodities peaches and cherries at 4.0 ppm and plums at 1.0 ppm

BASF amended the petition by deleting cherries at 4.0 ppm and plums at 1.0 ppm and substituting the raw agricultural commodity group stonefruit at 25 ppm. Proposed analytical method for determining residues is gas chromatography using an electron capture detector (Ni 63). (PM 21, Henry Jacoby, 703-557-1900.)

FAP 2H5349. Sandoz, Inc., Crop Protection, 480 Camino Del Rio South, San Diego, Calif. 92108. Proposes amending 21 CFR Part 561 by establishing a regulation permitting residues of the insecticide propetamphos [(*E*)-]-methylethyl 3-[[(ethylamino) methoxyphosphinothioyl] oxy]-2-butenoate] in or on animal feed exposed to the insecticide during treatment of animal feed handing establishments with a tolerance limitation of 0.1 ppm and 21 CFR Part 193 by permitting residues of propetamphos in or on food resulting from application of the insecticide in food handling establishments with a tolerance limitation of 0.1 ppm. (PM 16, William Miller, 703-557-2600.)

FAP 2H5367. Upjohn Co., Agricultural R&D, Kalamazoo, Mich. 49001. Proposes amending 21 CFR Part 561, by establishing a regulation permitting residues of insecticide amitraz (*N*-[2,4-dimethylphenyl)-*N*-[[(2,4-dimethylphenyl)imino]-methyl]-*N*-methylmethanimidamide and *N*-(2,4-dimethylphenyl) formamide, calculated as the parent compound in or on the commodity dried apple pomace at 35.0 ppm. (PM 12, Jay Ellenberger, 703-557-2386).

PP 3F2771. Dow Chemical Comp., P.O. Box 1706, Midland, Mich. 48640. Proposes amending 40 CFR 180.144 by establishing tolerances for the combined residues of insecticide cyhexatin (tricyclohexylhydroxystannane) and its organotin metabolites (calculated as cyhexatin) in or on the raw agricultural commodity cherries at 4.0 ppm. Proposed analytical method for determining residues is one in which the organic tin is oxidized to inorganic tin and measured colorimetrically with catechol violet. (PM 12, Jay Ellenberger, 703-557-2386).

PP 3F2773. Union Carbide Corp., T.W. Alexander Drive, Research Triangle Park, N.C. 27709. Proposes amending 40 CFR 180.407 by establishing tolerances for the combined residues of thiodicarb (dimethyl *N*',*N*',-(thiobis((methylimino) carbonyloxy)) bis (ethanimidothioate)) and its metabolite (methomyl *N*-((methylcarbamoyl)oxy) thioacetinidate in or on the raw agricultural commodities field corn grain at 0.05 ppm, sweet corn kernels (plus cob) at 1.5 ppm, filed corn fodder and forage at 60.0 ppm. Proposed analytical method for determining residues is liquid chromatography. (PM 12, Jay Ellenberger, 703-557-2386).

FAP 3H5372. Union Carbide Corp., Proposes amending 21 CFR 561.386 by establishing a regulation permitting the combined residues of the insecticide thiodicarb in or on the commodity sweet corn cannery waste at 40.0 ppm. (PM 12, Jay Ellenberger, 703-577-2386).

PP 3F2767. FMC Corp., 2000 Market St., Philadelphia, Pa. 19103. Proposes amending 40 CFR Part 180 by establishing tolerances for the combined residues of the insecticide carbosulfan (2,3-dihydro-2,2-dimethyl-7-benzofuranyl [(dibutylamino) thio] methyl carbamate) plus carbofuran (2,3-dihydro-2,2-methyl-7-benzofuranyl-*n*-methyl-carbamate; and its carbamate cholinesterase-inhibiting metabolities 2,3-dihydro-2,2-dimethyl-3-dimethyl-3-keto-7-benzofuranyl-*n*-methylcarbamate); and its phenolic metabolites (2,3-dihydro-2,-dimethyl-7-benzofuranol; 2,3-dihydro-2,2-dimethyl-3-oxo-7-benzofuranol and 2,3-dihydro-2,2-dimethyl-3, 7-benzofurandiol) and its metabolite (di-*n*-butylamine) in or on the raw agricultural commodities citrus fruit at 5.5 ppm total residues of carbosulfan consisting of 1.0 ppm carbosulfan parent, 1.7 ppm of carbamate cholinesterase-inhibiting metabolites and 2.0 ppm of the dibutylamine metabolite; and for the dibutylamine metabolite (di-*n*-butylamine) of carbosulfan in milk and meat, fat, and meat byproducts of cattle, goats, horses, and sheep at a level of 0.2 ppm. Proposed analytical method for determining residues is gas liquid chromatography with a nitrogen phorphorus detector. (PM 12, Jay Ellenberger, 703-557-2386).

FAP 3H5370. FMC Corp., Proposes amending 21 CFR Part 193 by

establishing a regulation permitting the combined residues of the insecticide carbosulfan in or on processed citrus fractions oil, at 39 ppm total residues of carbosulfan consisting of 20.0 ppm of carbosulfan parent and 12.0 ppm of carbamate cholinesterase-inhibiting metabolite. (PM 12, Jay Ellenberger, 703–557–2386).

FAP 3H5370. FMC Corp., Proposes amending 21 CFR Part 561 by establishing a regulation permitting the combined residues of the insecticide carbosulfan in or on the processed citrus fractions dried pulp, at 20 ppm total residues of carbosulfan consisting of 6.0 ppm of carbamate cholinesterase inhibiting metabolites and 6.0 ppm of the dibutylamine metabolite, and molasses at 23 ppm total residues of carbosulfan consisting of 4.0 ppm of carbamate cholinesterase-inhibiting metabolites and 4.0 ppm of the dibutylamine metabolite. (PM 12, Jay Ellenberger, 703–557–2386).

(Sec. 408(d)(1), 68 Stat. 512, (7 U.S.C. 136); (Sec. 409(b)(5), 72 Stat. 1786, (21 U.S.C. 348)))

Dated: December 8, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82-34422 Filed 12-21-82; 8:45 am]

BILLING CODE 6560-50-M

[OPP-31059; PH-FRL 2268-6]

Certain Companies; Applications To Register a Pesticide Product Involving a Changed Use Pattern

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of applications to register, or amend registration of pesticide products involving a changed use pattern pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATE: Comments by January 21, 1983.

ADDRESS: Written comments, identified by the document control number [OPP–31059] and the file or registration number, should be submitted to the product manager (PM) cited at the address below: Product Manager (PM), Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202.

SUPPLEMENTARY INFORMATION: EPA received applications as follows to register, or amend registration of, pesticide products involving changed use pattern pursuant to the provisions of section 3(c)(4) of FIFRA. Notice of receipt of applications does not imply a decision by the Agency on the applications.

Applications Received

1. File Symbol: 48531–R. Applicant: University of Mississippi, PO Box 5024, Southern Station, Hattiesburg, MS 39406. Product name: Selecticide. Algicide. Active ingredient: Potassium ricinoleate 50%. Proposed classification/Use: General. Proposed use, outdoor use to control algae in catfish ponds. Type registration: Conditional. (Product Manager (PM) 23–Richard Mountfort, (703–557–1830)).

2. File Symbol: 100–AUR. Applicant: Ciba-Geigy Corp., PO Box 18300, Greensboro, NC 27419. Product name: Banner ™ Fungicide. Fungicide. Active ingredient: 1[[2-(2,4-dichlorophenyl)-4-propyl-1,3-dioxolan-2yl]methyl]-1*H*-1,2,4-triazole 14.7%. Proposed classification/Use: General. To include in its presently registered use a new use for control of certain diseases in domestic turf. Type registration: Conditional. (PM 21-Henry Jacoby, (703–557–1900)).

Notice of approval or denial of an application to register, or amend registration of, a pesticide product will be announced in the **Federal Register**. Except for such material protected by section 10 of FIFRA, the test data and other scientific information deemed relevant to the registration decision may be made available after approval under the provisions of the Freedom of Information Act. The procedure for requesting such data will be given in the **Federal Register** if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

Written comments filed pursuant to this notice, will be available in the product manager's office from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays. It is suggested that persons interested in reviewing the application file, telephone the product manager's office to ensure that the file is available on the date of intended visit.

(Sec. 3(c)(4) of FIFRA, as amended)

Dated: December 8,1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82-34150 Filed 12-21-82; 8:45 am]

BILLING CODE 6560-50-M

[PP 2G2660/T398; PH-FRL 2268-7]

Diamond Shamrock Corp.; Establishment of Temporary Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has established a temporary tolerance for residues of the fungicide 2,4,5,6-tetrachloroisophthalonitrile and its metabolite 4-hydroxy-2,5,6-trichloroisophthalonitrile in or on the raw agricultural commodity apples. This temporary tolerance was requested by Diamond Shamrock Corporation.

DATE: This temporary tolerance expires July 1, 1983.

FOR FURTHER INFORMATION CONTACT: Henry Jacoby, Product Manager (PM) 21, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 227, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–1900).

SUPPLEMENTARY INFORMATION: Diamond Shamrock Corp., Agricultural Chemicals Division, 1100 Superior Ave., Cleveland, Ohio 44114, has requested, in pesticide petition PP 2G2660 the establishment of a temporary tolerance for residues of the fungicide 2,4,5,6-tetrachloroisophthalonitrile and its metabolite 4-hydroxy-2,5,6-trichloroisophthalonitrile in or on the raw agricultural commodity apples (fresh market) at 0.1 part per million (ppm). There is a label restriction against applying the pesticide to apples to be sold for processing.

This temporary tolerance will permit the marketing of the above raw agricultural commodity when treated in accordance with the provisions of experimental use permit 677–EUP–22 which is being issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, (92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that establishment of the temporary tolerance will protect the public health. Therefore, the temporary tolerance has been established on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.

2. Diamond Shamrock Corp. must immediately notify the EPA of any

findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This tolerance expires July 1, 1983. Residues not in excess of this amount remaining in or on the raw agricultural commodity after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerance. This tolerance may be revoked if the experimental use permit is revoked or if any experience or scientific data with this pesticide indicate that such revocation is necessary to protect the public health.

The Office of Management and Budget has exempted this notice from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 610-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(j), 68 Stat. 516, (21 U.S.C. 346a(j)))

Dated: December 8, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82-34151 Filed 12-21-82; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59107A; TSH-FRL 2272-3]

Certain Chemicals; Approval of Test Marketing Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of TM-83-6 and TM-83-7 and TM-83-8, three applications for test marketing exemptions (TME) under section 5(h)(6) of the Toxic Substances Control Act (TSCA). The test marketing conditions are described below.

EFFECTIVE DATE: December 10, 1982.

FOR FURTHER INFORMATION CONTACT: Theodore Jones, Acting Chief, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-204, 401 M Street S.W., Washington, D.C. 20460, (202-382-3725).

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and to permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use and disposal of the substances for test marketing purposes will not present any unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities.

EPA has determined that test marketing of the new chemical substances described below, under the conditions set out in the applications, and for the time period specifed below, will not present any unreasonable risk of injury to health or the environment. Production volume, number of workers exposed to the new chemical, and the levels and duration of exposure must not exceed that specified in the applications. All other conditions described in the applications must be met. The following additional restrictions apply:

1. The applicant must maintain records of the date(s) of shipment(s) to each customer and the quantities supplied in each shipment, and must make these records available to EPA upon request.

2. A bill of lading accompanying each shipment must state that use of the substance is restricted to that approved in the TME.

TME 83-6

Date of Receipt: October 27, 1982.

Notice of Receipt: November 5, 1982 (47 FR 50337).

Applicant: Confidential.

Chemical: Polymer from PMDA and diamines (Generic).

Use: Industrial coating.

Production Volume: Confidential.

Number of Customers: 3 to 4.

Exposure Information: Potential during sampling and drumming for 2 people to be exposed for a maximum of 1 hour.

Test Marketing Period: 45 days.

Commencing on: (signature date)

Risk Assessment: Based on the type of polymer, molecular weight, and that the test market substance is not designed to be water soluble, no health or environmental concerns were identified. Exposure to workers and the environment is expected to be low.

Public Comments: None.

TME 83-7

Date of Receipt: 10/27/82.

Notice of Receipt: November 5, 1982 (47 FR 50337).

Applicant: American Hoechst Corp.

Chemical: 1,2-benzenediamine, 4-ethoxy, sulfate (1:1).

Use: Intermediate in Dye Production.

Import Volume: 15,000 kg.

Number of Use Sites: 1.

Process Information: The TME substance will be imported and processed at one ot the Company's production sites. The new substance will be a water wet solid, and will be used as an intermediate reactant in dye production. A total of 3 workers will have potential dermal exposure to the new TME substance. Total exposure during the test marketing period is expected to be approximately 68 man-hours.

Release of the TME substance will be minimal, since the new substance will be consumed by chemical reaction. Any residual quantity which might result from clean-up operations will be disposed of through an on-site treatment facility.

Test Marketing Period: 9 months.

Commencing on: December 10, 1982.

Risk Assessment: Health effect concerns identified in the review of the TME substance include potential for sensitization and hepatotoxicity with chronic exposure, as well as possible carcinogenicity by analogy to certain phenylenediamines reported to be carcinogenic in animal studies. However, exposure is expected to be very limited during the test marketing period.

The new TME substance will be imported to replace the intermediate which has been manufactured at the company's United States plant site. Thus, exposure to the new substance will be limited to processing procedures only. Since the TME substance will be imported as a water wet solid, the potential for exposure is limited to dermal contact during processing operations. Worker exposure will be minimized by the use of rubber gloves, boots, disposable coveralls, safety glasses and helmets. Exposure during the 9 months test market period is epected to be limited to about 68 man-hours. With the potential for exposure reduced by the use of protective equipment and limited in duration during the test market period the risk to human health should be minimal. Approval is contingent upon the use of all protective equipment specified in the exemption application.

Public Comments: None

TME 83-8

Date of Receipt: October 27, 1982.

Notice of Receipt: November 5, 1982 (47 FR 50337).

Applicant: Minnesota Mining and Manufacturing Company (3M).

Chemical: Modified fluoroaliphactic adduct (generic).

Use: Carpet fiber coating.

Production Volume: 1000 lbs.

Exposure: Potential dermal exposure. Manufacturing—3 persons/8 hours per day/ 19 days per year. Processing—One fiber manufacturer—20 persons; ten carpet mills (as treated fiber).

Consumer—A probable 5,000 individuals could be exposed to treated carpet.

Test Marketing Period: 6 months.

Commencing on: December 10, 1982.

Risk Assessment: Regardless of the exposure, the TME substance is expected to be poorly absorbed due to its molecular weight. Consequently, no significant health or environmental effects are anticipated.

Public Comments: None

The Agency reserves the right to rescind approval of an exemption should any new information come to its attention which casts significant doubt on its finding that the test marketing activities will not present an unreasonable risk to health or the environement.

Dated: December 10, 1982.

Don R. Clay,

Director, Office of Toxic Substances.

[FR Doc. 82-34660 Filed 12-21-82; 8:45 am]

BILLING CODE 4310-01-M

FEDERAL MARITIME COMMISSION

Security for the Protection of the Public Financial Responsibility To Meet Liability Incurred for Death or Injury To Passengers or Other Persons on Voyages; Issuance of Certificate (Casualty)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of Section 2, Pub. L. 89-777 (80 Stat. 1356, 1357) and Federal Maritime Commission General Order 20, as amended (46 CFR 540):

K/S A/S Skyward, A/S Skyward, K/S A/S Southward, A/S Southward, K/S A/S Starward, A/S Starward, and Klosters Rederi A/S d/b/a Norwegian Caribbean Lines c/o Norwegian Caribbean Lines, One Biscayne Tower, Miami, Florida 33131

Dated: December 17, 1982.

Francis C. Hurney,

Secretary.

[FR Doc. 82-34667 Filed 12-21-82; 8:45 am]

BILLING CODE 6730-01-M

Security for the Protection of the Public Indemnification of Passengers for Nonperformance of Transportation; Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of Section 3, Pub. L. 89-777 (80 Stat. 1357, 1358) and Federal Maritime Commission General Order 20, as amended (46 CFR 540):

K/S A/S Skyward, A/S Skyward, K/S A/S Southward, A/S Southward, K/S A/S Starward, A/S Starward, and Klosters Rederi A/S d/b/a Norwegian Caribbean Lines c/o Norwegian Caribbean Lines, One Biscayne Tower, Miami, Florida 33131

Dated: December 17, 1982.

Francis C. Hurney,

Secretary.

[FR Doc. 82-34666 Filed 12-21-82; 8:45 am]

BILLING CODE 6730-01-M

[Rate Agreement No. 9984]

South Atlantic-North Europe Rate Agreement; Termination

The Federal Maritime Commission gives notice that it shall terminate its approval of the South Atlantic-North Europe Rate Agreement No. 9984, as amended, effective January 8, 1983, the effective date of the withdrawal of Sea-Land Service, Inc. from membership in the agreement. Sea-Land's withdrawal will reduce the agreement membership to only one party, thereby terminating the agreement as a matter of law. Section 15 of the Shipping Act, 1916, only recognizes agreements between two or more persons subject to the Act.

By Order of the Federal Maritime Commission.

Dated: December 17, 1982.

Francis C. Hurney,

Secretary.

[FR Doc. 82-34665 Filed 12-21-82; 8:45 am]

BILLING CODE 6730-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

Sections 304 and 306 of the Public Health Service Act, as Amended; Delegation of Authority

Notice is hereby given that in furtherance of the delegation of December 2, 1982, by the Assistant Secretary for Health to the Director, National Center for Health Statistics, The Acting Director, National Center For Health Statistics, has delegated to the Dirctor, Centers for Disease Control (CDC), with authority to redelegate, the following authorities under Title III of the Public Health Service Act, as amended, as they pertain to the Functional responsibilities assigned to CDC:

Section 304 of the Public Health Service Act (42 U.S.C. 242b), as amended—General Authority Respecting Research, Evaluations, and Demonstrations in Health Statistics, Health Services and Health Care Technology to collect information through health statistical or epidemiological activities, where such activities of CDC are not duplicative of other activities of the Department, and when the Director, CDC, determines that the authority to give assurances of confidentiality based upon Section 308(d) is necessary for the successful conduct of these statistical and epidemiological activities.

Section 306 of the Public Health Service Act (42 U.S.C. 242k), as amended—National Center for Health Statistics, to collect information through health statistical or epidemiological activities, where such activities of CDC are not duplicative of other activities of the Department, and when the Director, CDC, determines that the authority to give assurances of confidentiality based upon Section 308(d) is necessary for the successful conduct of these statistical and epidemiological activities.

The delegation to the Director, Centers for Disease Control, became effective on December 2, 1982.

Dated: December 2, 1982.

Peter L. Hurley,

Acting Director, National Center for Health Statistics.

[FR Doc. 82-34639 Filed 12-21-82; 8:45 am]

BILLING CODE 4160-6-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Alabama; Multiple Use Plan for Lands and Minerals

Pursuant to the responsibilities outlined in 43 CFR Part 1601 and the Eastern States Director Planning Guidance, the Eastern States Office (ESO) of the Bureau of Land Management (BLM), U.S. Department of the Interior, announces the completion of Phase I of the Multiple Use Plan (MUP) for public lands and Federal mineral ownership (FMO) under its jurisdiction in the State of Alabama.

Geographic Area of the Plan

The MUP considers public domain lands and FMO under ESO jurisdiction throughout Alabama, with the exception of a three-county area (Walker, Tuscaloosa, and Fayette Counties) that was examined in the *Environmental Impact Statement for the Southern Appalachian Federal Coal Production Region* (January 1981). Public lands under ESO jurisdiction in Alabama consist of 97 separate parcels, ranging in size from .04 acres to 399.40 acres, scattered over 24 counties and totaling 3,061.75 acres.

Although FMO in Alabama totals 667,014 acres, the MUP considers only those areas of FMO that underlie ESO-administered surface or privately-owned surface, and which are considered to have the greatest potential for mineral resource development. FMO under ESO-administered surface in Alabama totals 3,061.75 acres; FMO under privately-owned surface in Alabama totals 74,818 acres. Considering the largely scattered nature of this FMO, and the absence of sufficient geologic information to determine much of its development potential, the total FMO addressed in the MUP has been pared to 30,639 acres. This acreage is located in eight counties where the potential for mineral resource development is considered to be the greatest: Baldwin, Choctaw, Cherokee, Coffee, Cullman, Jackson, Marengo, and Marion.

Phase I Recommendations

During Phase I of the MUP, the 97 parcels of public land in Alabama were inventoried and reviewed in light of several issues, among them: public domain ownership conflicts; suitability or unsuitability for transfer or disposal; the presence of specific resource values (such as threatened or endangered species habitat) requiring special protection; encumbrance by withdrawal or color-of-title applications; advantages of public vs. private ownership. FMO was reviewed in the context of minerals activity throughout the State of Alabama, and with specific attention to the problem of inadequate geologic data and issues stemming from FMO under privately-owned surface.

The end product of the Phase I MUP document is a set of draft recommendations for the future management and disposal of ESO-administered public lands and FMO in the State. The recommendations fall into four general categories:

1. *Federal Minerals.* The MUP recommends that all FMO considered in the plan be retained by BLM for lease-by-application or competitive leasing. In addition, the MUP makes several recommendations regarding the gathering of more detailed geologic data.

2. *Surface Lands Requiring Detailed Land Use Planning.* None. Because of the scattered nature of BLM surface ownership in Alabama, a detailed land use plan is not recommended.

3. *Surface Lands Recommended for Transfer/Disposal.* These include 23 parcels, totaling 187.26 acres, which are recommended for transfer/disposal, with retention of mineral rights by the U.S. Fifty-one additional parcels, totaling 2,275.45 acres are involved in some type of ownership conflict. One of these (39.78 acres) is encumbered by a color-of-title application; the MUP recommends that resolution of the application be attempted at once. Another parcel (40 acres) is involved in an active trespass case; the MUP recommends that this receive the immediate attention of ESO's Resource Protection staff. The remaining 49 parcels are recommended for review for ownership status and title verification in preparation for transfer/disposal.

4. *Surface Lands Recommended for Retention/Custodial Management by BLM Pending Final Disposition.* These include 21 islands in the Coosa River that are permanently or seasonally submerged. These are currently withdrawn by the Alabama Power Company below the 350' contour; the MUP recommends that the withdrawal be revised to include all portions of these islands. Two other parcels, totaling 559.40 acres, are encumbered by U.S. Forest Service withdrawal applications for inclusion in the Talladega National Forest; the MUP recommends that the processing of these applications receive high priority. Any lands which are currently the subject of applications filed under the authority of the Recreation and Public Purposes Act will be guided by the statutory provisions of the Act. Although the filing of an application does not preclude the filing of similar applications by other qualified applicants, current BLM procedures require that applications filed under the same authority be adjudicated on a first come first served basis. Therefore, no decisions will be made on new submissions until prior applications are adjudicated on their merits.

Availability of the Phase I Draft Document and Draft Summary

A draft summary of the findings and recommendations of the Phase I MUP is available from the Tuscaloosa Office, Bureau of Land Management, 518 19th Avenue, Tuscaloosa, Alabama 35401. The entire Phase I MUP document is available for inspection during business hours at the same address. Persons with questions involving the MUP should contact Bert Rodgers of the same office at (205) 759–5441.

Announcement of 45-Day Public Review and Comment Period

A 45-day public review and comment period will commence today and conclude February 5, 1983. Comments received at the Tuscaloosa Office from all interested parties will be considered before the Phase I draft recommendations are accepted or rejected by the Eastern States Director. Notice of the Eastern States Director's action with respect to the Phase I recommendations will be published in the **Federal Register** after the 45-day comment period expires, and will incorporate management's proposed schedule for implementing any or all of the recommendations, as well as future opportunities for public participation.

G. Curtis Jones, Jr.,
Eastern States Director.

[FR Doc. 82–34552 Filed 12–21–82; 8:45 a.m.]
BILLING CODE 4310–84–M

California Desert District; Soggy Dry Lake Creosote Rings and Barstow Woolly Sunflower Areas of Critical Environmental Concern

AGENCY: Bureau of Land Management, Interior.

ACTION: Closure of public lands to vehicle use.

SUMMARY: The closure is being implemented to protect sensitive botanical values from inadvertent damage caused by vehicle use. The areas affected by this vehicle closure are the Soggy Dry Lake Creosote Rings ACEC and the Barstow Wooly Sunflower ACEC. The Soggy Dry Lake

Creosote Rings ACEC contains 278 acres of BLM-managed lands near Lucerne Valley in San Bernardino County. The Barstow Wooly Sunflower ACEC contains 160 acres of BLM-managed lands near Kramer Junction in San Bernardino County. Closures are the result of management plans for these ACECs which were developed following the guidelines established in the California Desert Conservation Area Plan. Development of these plans included public involvement.

AUTHORITY: Under the authority provided in the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), 43 CFR 8000.0–6. 8340, 8341, 8342, and 8364, and Executive Order 11644 (Use of Off-Road Vehicles on Public Lands).

DATE: This notice is effective upon publication.

VEHICLE USE: Vehicle use within these areas is not permitted. The areas will be clearly signed. Copies of maps showing the closed areas are available for review at the Barstow Resource Area Office, 831, Barstow Road, Barstow, California 92311. The public lands within the ACECs will remain open to other resource uses not in conflict with the objectives of their management plans. Administrative access by vehicle into areas closed to vehicle access is allowed for BLM personnel, BLM contractors, licensees, permittees, lessees, and other Federal, State, and county employees when on official duty and when authorized beforehand by the Area Manager.

FOR FURTHER INFORMATION CONTACT: Area Manager, Barstow Resource Area, 831 Barstow Road, Barstow, California 92311, or telephone (619) 256–3591.

Hugh Riecken,

Acting District Manager.

[FR Doc. 82–34638 Filed 12–21–82; 8:45 am]

BILLING CODE 4310–84–M

Proposed Land Tenure Adjustment Program in the Escondido Project Area of the California Desert District, Bureau of Land Management (Counties of San Diego, Part; Orange, All; Los Angeles, Part; San Bernardino, Part; Riverside, Part)

The Bureau of Land Management, in an effort to better manage lands under its jurisdiction within the California Desert District, is proposing a land tenure adjustment program which would divest the Bureau of Land Management from the five southern California counties. The classes of land are:

1. Land proposed to be transferred to the National Forest System,

2. Land proposed to be acquired by local governmental entities,

3. Land proposed to be placed on the market to be sold at fair market value.

Comments on the proposed action are being solicited from public agencies and interested individuals and organizations. The Bureau invites written comments to be submitted by February 1, 1983 to the following address; Escondido Project Area Manager, California Desert District, 1695 Spruce Street, Riverside, California 92507, (714) 351–6394.

Three public hearings will be conducted as a part of this review in late January and will be conducted from 2 p.m. to 5 p.m. and 6 p.m. to 9 p.m. on each day. The dates and locations are scheduled as follows:

January 25, 1983: Riverside, California, Bureau of Land Management, Conference Room, 1695 Spruce Street.

January 26, 1983: San Diego, California, San Diego County Administration Building, 1600 Pacific Coast Highway, Room 303.

January 27, 1983: Los Angeles, California, U.S. Courthouse 312 N. Spring Street, Room 332.

Copies of the proposed action have been mailed to all individuals on our mailing list. There will be a limited number of copies available upon request or at the meeting places.

Dated: December 13, 1982.

Hugh Riecken,

Acting District Manager.

[FR Doc. 82–34637 Filed 12–21–82; 8:45 am]

BILLING CODE 4310–84–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 104–TAA–10]

Certain Dairy Products From the European Community

Determination

On the basis of the record [1] developed in investigation No. 104–TAA–10, the Commission unanimously determines, pursuant to section 104(a) of the Trade Agreements Act of 1979, that an industry in the United States is not materially injured, is not threatened with material injury, and that the establishment of an industry is not materially retarded by reason of imports from the European Community (EC) of certain dairy products [2] which are subject to an outstanding countervailing duty order, but for which the imposition and collection of such duties have been waived.

Background

Section 104(a) of the Trade Agreements Act of 1979 requires that the U.S. International Trade Commission make an injury determination in those cases in which the Commission has received the most current net subsidy information pertaining to any countervailing duty order in effect on January 1, 1980, which had been waived pursuant to section 303(d) of the Tariff Act of 1930.

On June 10, 1982, the Commission received a letter dated June 8, 1982 from the U.S. Department of Commerce (Commerce) transmitting the most current information regarding subsidies bestowed by the EC on nonfat dry milk and butter. On August 13, 1982, Commerce amended its letter of June 10, 1982, to include the most current information on all the products in the waived countervailing duty order except quota cheese and the certain nonquota cheeses, for which the Commission had previously determined in *Certain Nonquota Cheese from Belgium, Denmark, the Federal Republic of Germany, France, Ireland, Italy, Luxembourg, the Netherlands and the United Kingdom,* USITC Pub. No. 1079 (June 1980), that there was no material injury or threat thereof. Accordingly, on August 27, 1982, the Commission instituted investigation No. 104–TAA–10 to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded by reason of imports from the EC of certain dairy products which are subject to the countervailing duty order for which the imposition and collection of duties has been waived.

Notice of the institution of the Commission's investigation and of the public hearing to be held in connection therewith was given by posting copies of

---

[1] The "record" is defined in sec. 207.2(i) of the Commission's Rules of Practice and Procedure (47 FR 6190, Feb. 10, 1982).

[2] The dairy products included in the investigation are:

1. Milk and cream, fluid, condensed, evaporated, or dried; butter and butter substitutes; and cheese except quota cheeses (as defined in section 701(c)(1) of the Trade Agreements Act of 1979) and certain nonquota cheeses made from goat's or sheep's milk (all the foregoing provided for in subparts A, B, and C, part 4, schedule 1, or the Tariff Schedules of the United States (TSUS)).

2. Whey and yoghurt and other fermented milk (provided for in TSUS items 118.00–.10, inclusive).

3. Animal oils, fats, and greases, all the foregoing derived from milk (provided for in TSUS item 177.67).

4. Animal feeds containing milk or milk derivatives (provided for in TSUS items 184.70 and 184.80).

the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and by publishing the notice in the **Federal Register** on September 9, 1982 (47 FR 39744). The public hearing was held in Washington, D.C. on October 21, 1982, and all persons who requested the opportunity were permitted to appear in person or by counsel.

Views of Chairman Alfred E. Eckes and Commissioner Paula Stern

Pursuant to section 104(a) of the Trade Agreements Act of 1979 (19 U.S.C. 1671 note), we determine that an industry in the United States is not materially injured or threatened with material injury, or that the establishment of an industry in the United States is not materially retarded,[3] by reason of imports of certain dairy products from the European Community (EC) which are subject to a countervailing duty (CVD) order [4] for which the imposition and collection of duties has been waived.

Introduction

In July 1968, the National Milk Producers Federation filed a petition with the U.S. Department of the Treasury (Treasury) [5] alleging that bounties and grants in the form of export subsidies were being paid and bestowed by all foreign countries on dairy products imported into the United States. As a result of the investigation instituted pursuant to this petition, Treasury published a "Notice of Countervailing Duties" on dairy products from the EC in May 1975. Purusant to section 303(d) of the Tariff Act of 1930 (19 U.S.C. 1303(d)), as amended by the Trade Act of 1974, Treasury simultaneously issued a Waiver of Countervailing Duties. This waiver, which would otherwise have expired, was extended on April 3, 1979, by Pub. L. 96–6. (19 U.S.C. 1303(4)(A)).

The Commission's jurisdiction in this section 104 investigation is based on the Trade Agreements Act of 1979. This act established an injury test for CVD cases and provided for a review of designated CVD orders issued in investigations without a material injury test prior to enactment of the Trade Agreements Act of 1979 for the purpose of making such orders consistent with the new law.[6] The purpose of this investigation is to make a material injury determination with respect to certain dairy products from the EC subject to the CVD order which was imposed without the benefit of an injury test. Section 104(a) covers this CVD order for which the imposition of duties was waived by the Secretary of the Treasury pursuant to section 303(d) of the Tariff Act of 1930.

Section 104(a)(1) requires the Department of Commerce (Commerce) to notify the Commission of the CVD orders in effect on January 1, 1980, for which the imposition of duties has been waived.[7] It further requires Commerce to furnish the Commission with "the most current information it has with respect to the net subsidy benefiting the merchandise subject to the countervailing duty order."

Commerce notified the Commission of the "most current information" available regarding certain EC dairy products subject to the waived order by letters of June 8 and August 9, 1982. These letters stated that there were no net subsidies currently bestowed by the EC, but that "the countervailable program of EC restitution payments remains in effect, though the EC has suspended specific payments * * * since July 12, 1974."[8][9]

The Domestic Industry

We begin our analysis with the definition of the relevant domestic industry against which the impact of the subject imports must be assessed. Section 771(4)(A) of the Tariff Act of 1930 [10] defines the term "industry" as "the domestic producers as a whole of a like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product." The term "like product" is, in turn, defined in section 771(10) as "a product which is like, or in the absence of like, most similar in characteristics and uses with the article subject to an investigation under this title."

The present investigation covers:

1. Milk and cream, fluid, condensed, evaporated, or dried; butter and butter substitutes; and cheese except quota cheeses (as defined in section 701(c)(1) of the Trade Agreements Act of 1979) and certain nonquota cheeses made from goat's or sheep's milk (all the foregoing provided for in subparts A, B, and C part 4, schedule 1, of the Tariff Schedules of the United States (TSUS)).

2. Whey and yoghurt and other fermented milk (provided for in TSUS items 118.00–.10, inclusive).

3. Animal oils, fats, and greases, all the foregoing derived from milk (provided for in TSUS item 177.67).

4. Animal feeds containing milk or milk derivatives (provided for in TSUS items 184.70 and 184.80).[11]

---

[3] Since there is an established domestic dairy industry, the question of material retardation of the establishment of an industry is not at issue and will not be discussed further.

[4] This is not the first time that the Commission has been asked to make a material injury determination with regard to imports subject to this waived CVD order. On January 7, 1980, the Commission received a notice from the Department of Commerce that the same products subject to the instant investigation were being referred to the Commission for an injury determination, and on February 5, 1980, the Commission received from the Department of Commerce the most current net subsidy information with regard to these dairy products. In its February 5, 1980 letter, Commerce informed the Commission of the amount of the subsidies for certain nonquota cheeses and also indicated that no payments were currently being paid on exports of the other dairy products to the United States that were included in the order. Consequently, the Commission conducted an investigation only with regard to imports of the nonquota cheeses for which subsidies had been found and ultimately determined that there was no material injury in Certain Nonquota Cheese from Belgium, Denmark, the Federal Republic of Germany, Ireland, Italy, Luxembourg, the Netherlands, and the United Kingdom, USITC Pub. No. 1079 (June 1980). The Commission in its 1980 proceeding did not conduct an investigation with regard to those dairy products which the Department of Commerce reported were not subject to a net subsidy.

In Molasses from France, USITC Pub. No. 1248 (May 1982), the Commission determined that it is "appropriate for the Commission to conduct a section 104 investigation so long as the order remains outstanding and the subsidy can be resumed." Although the Molasses review was conducted pursuant to section 104(b), the Department of Commerce cited it as the basis for again asking us to review the remaining dairy products subject to the waived CVD order despite its finding of no net subsidies for these products. See Report at A–68. This background serves to emphasize the unique nature of this case.

[5] Most of the Treasury Department's functions regarding CVD cases have been transferred to the Commerce Department. 44 FR 69173.

[6] S. Rep. No. 96–249, 96th Cong., 1st Sess. 108 (1979).

[7] 19 USC 1671.

[8] We note that the Department of Commerce in its investigation regarding the existence of subsidies did not look into any of the EC's internal mechanisms but solely relied on the EC's authorized export restitution payments. Official Journal of the European Communities. Notes of telephone conversations of Oct. 21 and 28, 1982, between Commission staff and Commerce Department official. Witnesses at the hearing held on Oct. 21, 1982, before the Commission contested Commerce's conclusion that the EC does not subsidize its exports of dairy products to the United States. Transcript 5–7, 11–13, 22. Pursuant to the bifurcated process for resolving these issues provided for by Congress, Commerce is the appropriate forum for presenting objections to the determination of the existence and level of the subsidy.

[9] Commissioner Stern notes that, in addition to the reasons for a negative determination contained in these views, the absence of subsidy payments and the lack of information indicating the likelihood of resumed payments supports a negative determination in this investigation.

[10] Section 104(e) of the Trade Agreements Act of 1979 provides that: "[w]henever any term which is defined in section 771 of the Tariff Act of 1930 is used in [section 104], it has the same meaning as when it is used in title VII of that Act."

[11] While the subject of this investigation is described in terms of the TSUS, the outstanding CVD order described the products covered in terms of the brusasels Tariff Nomenclature.

The different imported dairy products subject to this investigation are clearly distinguishable in terms of characteristics and uses. However, domestic producers do not segregate their economic data by product. Therefore, the narrowest group of products for which profit and loss data is available for this investigation includes all of the domestic dairy products. Thus, the domestic industry in this investigation includes all producers of all dairy products.

Condition of the Domestic Industry

Because all the subject dairy products are derived from milk, our analysis is based on data for milk which is representative of the total industry. Although the number of domestic farms selling milk declined from about 402,000 in 1977 to 325,000 in 1981 and the number of U.S. plants producing manufacture dairy products decclined moderately during the same period, both the production of milk and the value of milk production increased. From 1977 to 1982, milk production increased from nearly 123 billion pounds to approximately 134 billion pounds. The value of production increased from nearly $12 billion in 1977 to over $18 billion in 1981.[12]

Material Injury or Threat Thereof

Pursuant to section 22 of the Agricultural Adjustment Act (21 U.S.C. 24) imports of most of these dairy products have been limited by quotas for a considerable time, some as long as thirty years.[13] There is no reason to expect that this situation will change in the foreseeable future. The impact of these dairy imports must be viewed in conjunction with the U.S. Department of Agriculture's price support program for the dairy products subject to this investigation. This was recognized by Congress in its enactment of section 771(7)(D), 19 U.S.C. 1677(7)(D) which directs that the Commission consider any increased burden on government income or price support programs in assessing material injury for agricultural commodities.

These imports have been equivalent to less than 0.5 percent of U.S. consumption in recent years.[14] In particular, U.S. imports of the most widely traded dairy products, NFDM and butter, which entered at their maximun allowable levels under the quota in 1981, equaled only 0.2 percent of domestic NFDM production and 0.06 percent of domestic butter production.

[12] Report at A–26.
[13] Report at A–16.
[14] Report at A–40.

Although the price of imported condensed or evaporated milk and cream, nonfat dried milk, and butter have been lower than domestic prices throughout the period of this investigation, and the differential between domestic and imported prices has been increasing, there has not been a depressing effect on domestic prices.[15]

The U.S. price support program [16] provides a price floor for manufacturing grade milk. In order to accomplish this objective, the USDA purchases three manufactured dairy products, butter, nonfat dry milk, and Cheddar cheese,[17] that can be stored for several years. When market demand and supply are in balance as in 1977, the market price may exceed the support level. However, when milk supplies exceed demand, as they have since 1979, the market will fall to the support price level and the support price may even exceed the market price.

Because the supported price of whole milk keeps the production costs of all dairy products up in times of oversupply, all dairy products are to some degree influenced by the price support program for milk when supply exceeds demand, even though they may not be directly purchased by USDA. Hence, the prices for non-USDA purchased items, such as condensed and evaporated milk and cream and dried whole milk, behave similarly to the prices of the three USDA purchased products. During the 1977 to 1981 period, domestic prices for the three USDApurchased dairy products, Cheddar cheese, NFDM, and butter, increased by a range of 38 to 52 percent. The price of yoghurt,[18] increased approximately 10 percent during the 1977–1981 period, and the price of whey powder [19] used for animal feed from 16 cents per pound to 14 cents per pound between 1978 and 1981.[20]

The traditional indicators of injury do not demonstrate material injury or threat thereof to the domestic industry by reason of the subject imports. However, the impact of dairy imports from the EC on the U.S. dairy industry may not be fully measurable by the traditional indices of material injury to the domestic producers because of the United States government price support programs for dairy products subject to this investigation. Thus, the impact of dairy imports must be viewed in conjunction with the USDA's price support program. In fact, section 771(7)(D) of the Tariff Act directs the Commission to consider "any increased burden on government income or price support programs" in assessing material injury for agricultural commdities.[21]

The U.S. Government's net support purchases of dairy products increased during the period under investigation. Although net support purchases decreased from nearly $710 million for the year ending September 30, 1977, to over $244 million for the year ending in September 30, 1979, the amount increased to nearly $2 billion in the year ending September 30, 1981. However, even assuming all imports subject to this investigation displaced domestic products, the total cost to the price support program is estimated at $38 million [22] approximately 0.2 percent of net U.S. government expenditures on the dairy support program. However, inasmuch as the quotas on the products under investigation have been in effect for years and the volume of the subject imports has remained stable, we do not have any reason to foresee a change in this situation.[23, 24]

The increased government expenditures on the price support program for dairy products may be explained by increased domestic milk production and higher support prices, With the exception of specialty cheeses, imports of dairy products subject to this investigation have been at minimal levels.

For these reasons we have determined that the domestic industry is not materially injured by reason of imports of the merchandise subject to the waived countervailing duty order on dairy products from the EC.

The Community used export refunds of over $2.3 billion in 1981 to sell surplus dairy products abroad to countries other than the United States. Comparisons of the EC dairy export data with the data on U.S. imports of EC dairy products confirms the existence of other export markets for EC dairy products. Although the EC's restitution payments may result in increased exports to third country markets, this is not an issue in this

[15] Report at A–46.
[16] 7 U.S.C. 1421 note.
[17] Two of the products purchased by USDA, butter and NFDM, are included in this investigation.
[18] The lower price increase of yoghurt is partly explained by the price premium that this product attained during the years of rapid consumption growth in the 1970's. Recently, with increasing competition in the yoghurt market, prices have not grown as rapidly as previously.
[19] The price decline of whey—a by-product of cheese—is partly explained by the rapid rise in production of cheese in the 1970's and the consequent excess supply of whey on the market.
[20] Report at A–47.
[21] 19 U.S.C. 1677(7)(D).
[22] Report at A–52.
[23] Chairman Eckes directs the reader to compare Sugar from the EC, Inv. No. 104–TAA–7, at 11, USITC Pub. No. 1247 (May 1982).
[24] Report at A–16.

investigation.[25] The availability of other markets for EC dairy products coupled with the quantitative restrictions on access to the U.S. market indicates that there is no real threat of imminent injury to the domestic industry by reason of the subject imports.

Views of Commissioner Veronica A. Haggart

Pursuant to section 104(a) of the Trade Agreements Act of 1979 (19 U.S.C. 1671 note), we determine that an industry in the United States is not materially injured or threatened with material injury, or that the establishment of an industry in the United States is not materially retarded,[26] by reason of imports of certain dairy products from the European Community (EC) which are subject to a countervailing duty (CVD) order [27] for which the imposition and collection of duties has been waived.

Introduction

In July 1968, the National Milk Producers Federation filed a petition with the U.S. Department of the Treasury (Treasury) [28] alleging that bounties and grants in the form of export subsidies were being paid and bestowed by all foreign countries on dairy products imported into the United States. As a result of the investigation instituted pursuant to this petition, Treasury published a "Notice of Countervailing Duties" on dairy products from the EC in May 1975. Pursuant to section 303(d) of the Tariff Act of 1930 (19 U.S.C. 1303(d)), as amended by the Trade Act of 1974, Treasury simultaneously issued a Waiver of Countervailing Duties. This waiver, which would otherwise have expired, was extended on April 3, 1979.[29]

The Commission's jurisdiction in this section 104 investigation is based on the Trade Agreements Act of 1979. This act established an injury test for CVD cases and provided for a review of designated CVD orders issued in investigations without a material injury test prior to enactment of the Trade Agreements Act of 1979 for the purpose of making such orders consistent with the new law.[30] The purpose of this investigation is to make a material injury determination with respect to certain dairy products from the EC subject to the CVD order which was imposed without the benefit of an injury test. Section 104(a) covers this CVD order for which the imposition of duties was waived by the Secretary of the Treasury pursuant to section 303(d) of the Tariff Act of 1930.

Section 104(a)(1) requires the Department of Commerce (Commerce) to notify the Commission of the CVD orders in effect on January 1, 1980, for which the imposition of duties has been waived.[31] It further requires Commerce to furnish the Commission with "the most current information it has with respect to the net subsidy benefiting the merchandise subject to the countervailing duty order."

Commerce notified the Commission of the "most current information" available regarding certain EC dairy products subject to the waived order by letters of June 8 and August 9, 1982. These letters stated that there were no net subsidies currently bestowed by the EC, but that "the countervailable program of EC restitution payments remains in effect, though the EC has suspended specific payments * * * since July 12, 1974." [32]

The Domestic Industry

We begin our analysis with the definition of the relevant domestic industry against which the impact of the subject imports must be assessed. Section 771(4)(A) of the Tariff Act of 1930 [33] defines the term "industry" as the domestic producers as a whole of a like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product." The term "like product" is, in turn, defined in section 771(10) as "a product which is like, or in the absence of like, most similar in characteristics and uses with the article subject to an investigation under this title."

The present investigation covers:

1. Milk and cream, fluid, condensed, evaporated, or dried; butter and butter substitutes; and cheese except quota cheeses (as defined in section 701(c)(1) of the Trade Agreements Act of 1979) and certain nonquota cheeses made from goat's or sheep's milk (all the foregoing provided for in subparts A, B, and C, part 4, schedule 1, of the Tariff Schedules of the United States (TSUS)).

2. Whey and yogurt and other fermented milk (provided for in TSUS items 118.00–.10, inclusive).

3. Animal oils, fats, and greases, all the foregoing derived from milk (provided for in TSUS item 177.67).

4. Animal feeds containing milk or milk derivatives (provided for in TSUS items 184.70 and 184.80).[34]

---

[25] This may be a violation of the Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade (relating to subsidies and countervailing measures) to which both the EC and the United States are parties. The proper recourse for such a violation is the filing of a petition pursuant to section 302 of the Trade Act of 1974, as amended by the Trade Agreements Act of 1979, 19 U.S.C. 2412.

[26] Since there is an established domestic dairy industry, the question of material retardation of the establishment of an industry is not at issue and will not be discussed further.

[27] This is not the first time that the Commission has been asked to make a material injury determination with regard to imports subject to this waived CVD order. On January 7, 1980, the Commission received a notice from the Department of Commerce that the same products subject to the instant investigation were being referred to the Commission for an injury determination, and on February 5, 1980, the Commission received from the Department of Commerce the most current net subsidy information with regard to these dairy products. In its February 5, 1980 letter, Commerce informed the Commission of the amount of the subsidies for certain nonquota cheeses and also indicated that no payments were currently being paid on exports of the other dairy products to the United States that were included in the order. The Commission conducted an investigation only with regard to imports of the nonquota cheeses for which subsidies had been found and ultimately determined that there was no material injury in Certain Nonquota Cheese from Belgium, Denmark, the Federal Republic of Germany, Ireland, Italy, Luxembourg, the Netherlands, and the United Kingdom, USITC Pub. No. 1079 (June 1980). The Commission in its 1980 proceeding did not conduct an investigation with regard to those dairy products which the Department of Commerce reported were not subject to a net subsidy.

In Molasses from France, USITC Pub. No. 1248 (May 1982), the Commission determined that it is "appropriate for the Commission to conduct a section 104 investigation so long as the order remains outstanding and the subsidy can be resumed." Although the molasses review was conducted pursuant to section 104(b), the Department of Commerce cited it as the basis for again asking us to review the remaining dairy products subject to the waived CVD order despite its finding of no net subsidies for these products. See Report at A–68. This background serves to emphasize the unique nature of this case.

[28] Most of the Treasury Department's functions regarding CVD cases have been transferred to the Commerce Department. 44 FR 69173.

[29] Pub. L. 96–6 (19 U.S.C. 1303(4)(A)).

[30] S. Rep. No. 96–249, 96th Cong., 1st Sess. 106 (1979).

[31] 19 U.S.C. 1671.

[32] We note that the Department of Commerce in its investigation regarding the existence of subsidies did not look into any of the EC's internal mechanisms but solely relied on the EC's authorized export restitution payments. Official Journal of the European Communities. Notes of telephone conversations of Oct. 21 and 28, 1982, between Commission staff and Commerce Department official. Witnesses at the hearing held on Oct. 21, 1982, before the Commission contested Commerce's conclusion that the EC does not subsidize its exports of dairy products to the United States. Transcript (TR) 5–7, 11–13; 22. Pursuant to the bifurcated process for resolving these issues provided for by Congress, Commerce is the appropriate forum for presenting objections to the determination of the existence and level of the subsidy.

[33] Section 104(e) of the Trade Agreements Act of 1979 provides that: "[w]henever any term which is defined in section 771 of the Tariff Act of 1930 is used in [section 104], it has the same meaning as when it is used in title VII of that Act."

[34] While the subject of this investigation is described in terms of the TSUS, the outstanding CVD order described the products covered in terms of the Brussels Tariff Nomenclature.

The different imported dairy products subject to this investigation are clearly distinguishable in terms of characteristics and uses. However, domestic producers do not segregate their economic data by product. Therefore, the narrowest group of products for which profit and loss data is available for this investigation includes all of the domestic dairy products. Thus, the domestic industry in this investigation includes all producers of all dairy products.

Condition of the Domestic Industry

Because all the subject dairy products are derived from milk, our analysis is based on data for milk which is representative of the total industry. Although the number of domestic farms selling milk declined from about 402,000 in 1977 to 325,000 in 1981 and the number of U.S. plants producing manufactured dairy products declined moderately during the same period, both the production of milk and the value of milk production increased. From 1977 to 1982, milk production increased from nearly 123 billion pounds to approximately 134 billion pounds. The value of production increased from nearly $12 billion in 1977 to over $18 billion in 1981.[35]

Material Injury or Threat Thereof

The traditional indicators of injury do not demonstrate material injury or threat thereof to the domestic industry by reason of the subject imports. However, the impact of dairy imports from the EC on the U.S. dairy industry may not be fully measurable by the traditional indices of material injury to the domestic producers because of the United States government price support program for dairy products subject to this investigation. Thus, the impact of dairy imports must be viewed in conjunction with the USDA's price support program. In fact, section 771(7)(D) of the Tariff Act directs the Commission to consider "any increased burden on government income or price support programs" in assessing material injury for agricultural commodities.[36]

The U.S. price support program [37] provides a price floor for manufacturing grade milk. In order to accomplish this objective, the USDA purchases three manufactured dairy products—butter, nonfat dry milk, and Cheddar cheese—[38] that can be stored for several years. When market demand and supply are in balance as in 1977, the market price may exceed the support level. However, when milk supplies exceed demand, as they have since 1979, the market will fall to the support price level and the support price may even exceed the market price.

Because the supported price of whole milk keeps the production costs of alldairy products up in times of oversupply, all dairy products are to some degree influenced by the price support program for milk when supply exceeds demand, even though they may not be directly purchased by USDA. Hence, the prices for non-USDA purchased items, such as condensed and evaporated milk and cream and dried whole milk, behave similarly to the prices of the three USDA purchased products. During the 1977 to 1981 period, domestic prices for the three USDA-purchased dairy products—Cheddar cheese, NFDM, and butter—increased by a range of 38 to 52 percent. The price of yogurt [39] increased approximately 10 percent during the 1977–1981 period, and the price of whey powder [40] used for animal feed fell from 16 cents per pound to 14 cents per pound between 1978 and 1981.[41]

With regard to the issue of increased government expenditures, the U.S. Government's net support purchases of dairy products increased during the period under investigation. Although net support purchases decreased from nearly $710 million for the year ending September 30, 1977, to over $244 million for the year ending in September 30, 1979, the amount increased to nearly $2 billion in the year ending September 30, 1981. However, even assuming all imports subject to this investigation displaced domestic products, the total cost to the price support program is estimated at $38 million,[42] approximately 0.2 percent of net U.S. government expenditures on the dairy support program. In any case, the increased government expenditures on the price support program for dairy products may be explained by increased domestic milk production and higher support prices.

Pursuant to section 22 of the Agricultural Adjustment Act (21 U.S.C. 24) imports of most of these dairy products have been limited by quotas for a considerable time, some as long as thirty years.[43] There is no reason to expect that this situation will change in the foreseeable future. These imports have been equivalent to less than 0.5 percent of U.S. consumption in recent years.[44] In particular, U.S. imports of the most widely traded dairy products, NFDM and butter, which entered at their maximum allowable levels under the quota in 1981, equaled only 0.2 percent of domestic NFDM production and 0.06 percent of domestic butter production.

For these reasons we have determined that the domestic industry is not materially injured by reason of imports of the merchandise subject to the waived countervailing duty order on diary products from the EC.

The Community used export refunds of over $2.3 billion in 1981 to sell surplus dairy products abroad to countries other than the United States. Comparisons of the EC dairy export data with the data on U.S. imports of EC dairy products confirms the existence of other export markets for EC dairy products. Although the EC's restitution payments may result in increased exports to third country markets, this is not an issue in this investigation.[45] The availability of other markets for EC dairy products coupled with the quantitative restrictions on access to the U.S. market indicates that there is no real threat of imminent injury to the domestic industry by reason of the subject imports.

By order of the Commission.

Issued: December 13, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-34690 Filed 12-21-82; 8:45 am]

BILLING CODE 7020-02-M

---

[35] Report at A–26.

[36] 19 U.S.C. 1677(7)(D).

[37] 7 U.S.C. 1421 note.

[38] Two of the products purchased by USDA, butter and NFDM, are included in this investigation.

[39] The lower price increase of yogurt is partly explained by the price premium that this product attained during the years of rapid consumption growth in the 1970's. Recently, with increasing competition in the yogurt market, prices have not grown as rapidly as previously.

[40] The price decline of whey—a by-product of cheese—is partly explained by the rapid rise in production of cheese in the 1970's and the consequent excess supply of whey on the market.

[41] Report at A–47.

[42] Report at A–52.

[43] Report at A–16.

[44] Report at A–40.

[45] This may be a violation of the Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade (relating to subsidies and countervailing measures) to which both the EC and the United States are parties. The proper recourse for such a violation is the filing of a petition pursuant to section 301 of the Trade Act of 1974, as amended by the Trade Agreements Act of 1979, 19 U.S.C. 2412.

[Investigation No. 337-TA-132]

Certain Hand-Operated, Gas-Operated Welding, Cutting, and Heating Equipment and Component Parts Thereof; Commission Decision Not To Review Initial Determination To Terminate Investigation With Respect To Three Respondents

AGENCY: International Trade Commission.

ACTION: Notice is hereby given that the Commission has determined not to review the presiding officer's initial determination to terminate the investigation as to the following respondents: Stillman & Associates, Inc., Fischer Welding Products, and Tacoma Tool Co. Accordingly, as of December 14, 1982, the initial determination became the Commission's determination with respect to this matter.

Authority: The authority for the Commission's disposition of this matter is contained in section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and in § 210.53(c) and (h) of the Commission's Rules of Practice and Procedure (47 FR 25134, June 10, 1982; to be codified at 19 CFR 210.53(c) and (h)).

SUPPLEMENTARY INFORMATION: On November 17, 1982, complainant Victor Equipment Co. filed a motion (Motion No. 132–5) to dismiss Stillman & Associates, Inc., Fischer Welding Products, and Tacoma Tool Co. as party respondents because those respondents have either ceased importing or may, in fact, never have imported the articles under investigation. On November 26, 1982, the presiding officer filed an initial determination with the Commission granting the motion.

Pursuant to § 210.53(h)(2) of the Commission's rules, an initial determination of the presiding officer under § 210.53(c) becomes the determination of the Commission fifteen (15) days from the date of service, unless the Commission orders review of the initial determination.

Having examined the record in this investigation, including Motion No. 132–5 and the initial determination of the presiding officer, the Commission found no grounds for review of the initial determination. It notes that the investigation will continue with respect to the remaining two respondents.

Copies of the presiding officer's initial determination and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

FOR FURTHER INFORMATION CONTACT: Sheila J. Landers, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–0421.

By order of the Commission.

Issued: December 14, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-34692 Filed 12-21-82; 8:45 am]

BILLING CODE 7020-02-M

[332-150]

Effect of Changes in the Value of the U.S. Dollar on Trade in Selected Commodities

AGENCY: International Trade Commission.

ACTION: In accordance with the provisions of section 332(b) of the Tariff Act of 1930 (19 U.S.C. 1332(b)), the Commission has instituted on its own motion investigation No. 332–150 for the purpose of assessing the impact of changes in the foreign-exchange value of the U.S. dollar on U.S. trade in selected commodities. The commodities under study are: (1) Polyester staple fiber; (2) cotton denim fabric; (3) unwrought magnesium; (4) alloyed copper strip; (5) pianos; and (6) bicycles.

EFFECTIVE DATE: December 13, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Reuben Schwartz or Mr. Robert Wallace, Textiles, Leather Products, and Apparel Division, U.S. International Trade Commission, Washington, D.C. 20436 (telephone 202–523–0114 or 202–523–0120).

WRITTEN SUBMISSIONS: While there is no public hearing scheduled for this study, written submissions from interested parties are invited. Commercial or financial information which a party desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested parties. To be ensured of consideration by the Commission, written statements should be received by the close of business on April 1, 1983. All submissions should be addressed to the Secretary at the Commission's office in Washington, D.C.

By order of the Commission.

Issued: December 16, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-34691 Filed 12-21-82; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

[OP-5FC 289]

Motor Carriers; Finance Applications; Decision-Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find

Each transaction is exempt from section 11343 of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsideration; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1181.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 20 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is ordered

The following applications are approved, subject to the conditions stated in the publication, and further subject to be the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

Agatha L. Mergenovich,

Secretary.

Please direct status inquiries to Team 5, (202) 275–7289.

MC–FC–81021. By decision of December 3, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 3 approved the transfer to MARSHALL P. LEDBETTER, SR., and MARSHALL P. LEDBETTER, JR., doing business as LEDBETTER & LEDBETTER, Columbia, TN, of Certificate No. MC–108692 issued July 15, 1957, to VICTORY VAN LINES, INC., Columbia, TN, authorizing the transportation of household goods between points in Maury, Lewis, Hickman, and Giles Counties, TN, on the one hand, and, on the other, points in AL, GA, FL, KY, NC, and SC. Representative: Lon P. MacFarland, P.O. Box 1121, Columbia, TN 38401.

[FR Doc. 82-34849 Filed 12-21-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decision; Decision-Notice

Motor Common and Contract Carriers of Property (except fitness-only); Motor Common Carriers of Passengers (public interest); Freight Forwarders; Water Carriers; Household Goods Brokers.

The following applications for motor common or contract carriers of property, water carriage, freight forwarders, and household goods brokers are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common carriage of passengers, filed on or after November 19, 1982, are governed by Subpart D of 49 CFR Part 1160, published in the **Federal Register** on November 24, 1982 at 47 FR 53271. For compliance procedures, see 49 CFR 1160.86. Carriers operating pursuant to an intrastate certificate also must comply with 49 U.S.C. 10922(c)(2)(E). Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E. In addition to fitness grounds, these applications may be opposed on the grounds that the transportation to be authorized is not consistent with the public interest.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations.

We make an additional preliminary finding with respect to each of the following types of applications as indicated: common carrier of property—that the service proposed will serve a useful public purpose, responsive to a public demand or need; water common carrier-that the transportation to be provided under the certificate is or will be required by the public convenience and necessity; water contract carrier, motor contract carrier of property, freight forwarder, and household goods broker—that the transportation will be consistent with the public interest and the transportation policy of section 10101 of chapter 101 of Title 49 of the United States Code.

These presumptions shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient oposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains apporpriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplicaiton shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract." Applications filed under 49 U.S.C. 10922(c)(2)(B) to operate in intrastate commerce over regular routes as a motor common carrier of passengers are duly.

Please direct status inquiries about the following to Team One at (202) 275–7992.

Volume No. OP1–231

Decided: December 15, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 74761 (Sub-26), filed December 7, 1982. Applicant: TRAILWAYS TAMIAMI, INC., 200 Spring St., NW., Atlanta, GA 30303. Representative: George W. Hanthorn, 1500 Jackson St., Dallas, TX 75201, (214) 655–7937. Over regular routes, transporting *passengers*, between Savannah, GA, and Jacksonville, FL, from Savannah over Interstate Hwy 16 to junction Interstate 95, then over Interstate Hwy 95 to Jacksonville, FL, and return over the same route, serving all intermediate points.

Note.—Applicant intends to tack the sought rights with its existing regular-route authority. Applicant seeks to provide regular-route service in interstate or foreign commerce, and in intrastate service under 49 U.S.C. 10922(c)(2)(B).

MC 116510 (Sub-3), filed December 3, 1982. Applicant: KEENAN TRANSIT CO., 3600 North Ave., Melrose Park, IL 60161. Representative: Allan C. Zuckerman, 221 N. LaSalle St., Suite 826, Chicago, IL 60601, (312) 641–5900. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with Whitaker Carpenter Paper Company, of Elk Grove Village, IL.

MC 143001 (Sub-6), filed December 1, 1982. Applicant: PARK CITY MOTORWAYS, INC., R.R. 2, Box 47, Merrill, WI 54452. Representative: Harold O. Orlofske, P.O. Box 368, Neenah, WI 54956, (414) 722–2848.

Transporting (1) *chemical and related products,* (a) between Minneapolis, MN, on the one hand, and, on the other, points in WI, and (b) between Chicago, IL, and points in Hardin County, KY, on the one hand, and, on the other, Minneapolis, MN, and points in WI, (2) *scrap and waste paper,* between points in the U.S. (except AK and HI), (3) *food and related products,* between points in WI, and Dickinson County, MI, on the one hand, and on the other, points in the U.S. (except AK and HI), (4) *pulp, paper, and related products,* between points in Marathon and Oneida Counties, WI, on the one hand, and, on the other, points in the U.S. (except AK and HI), and (5) *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in Dane and Lincoln Counties, WI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 147131 (Sub-8), filed December 7, 1982. Applicant: KENNAMER BROTHERS, INC., Route 2, Box 866, Grant, AL 35747. Representative: Donald B. Sweeney, Jr., P.O. Box 2366, Birmingham, AL 35201, (205) 254–3880. Transporting *food and related products,* between points in AL, AR, FL, GA, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, NE, NC, ND, OH, OK, SC, SD, TN, TX, VA, WV, and WI.

MC 161830 (Sub-1), filed December 9, 1982. Applicant: ESCANABA OIL COMPANY, INC., P.O. Box 606, Escanaba, MI 49829. Representative: John L. Bruemmer, P.O. Box 927, Madison, WI 53701, (608) 257–9521. Transporting *petroleum products,* in bulk, between points in WI, on the one hand, and, on the other, points in Delta, Dickinson, Houghton, Marquette, and Schoolcraft Counties, MI.

Please direct status inquiries about the following to team 2, (202)275–7030.

Volume No. OP2–323

Decided: December 15, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler and Fortier.

W 1363, filed November 26, 1982. Applicant: ROMULUS DEVELOPMENT CORP., Foot of Baldwin Ave., Weehawken, NJ 07087. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934, 201–234–0301. To operate a ferry service, transporting, by water carrier, *passengers, their baggage, and newspapers,* between points in the New York Harbor.

MC 52793 (Sub-116), filed December 7, 1982. Applicant: BEKINS VAN LINES CO., 333 South Center St., Hillside, IL 60162. Representative: David A. Gallagher (same address as applicant), 321–547–2184. Transporting *household goods,* between points in the U.S. (except AK and HI), under continuing contract(s) with Lockheed Shipbuilding Co.

MC 121572 (Sub-3), filed November 19, 1982. Applicant: TRANS STATE BUS, INC., Route 1, Hwy 156, Larned, KS 67550. Representative: Eugene W. Hiatt, 207 Casson Bldg., 603 Topeka Blvd., Topeka, KS 66603, (913) 232–7263. *Over regular routes,* transporting *passengers,* between Liberal, KS, and McCook, NE, over U.S. Hwy 83, serving all intermediate points, including Lakin and Colby, KS.

Note.—Applicant seeks to provide regular route service in interstate or foreign commerce. This is a "public interest" application.

MC 134153 (Sub-5), filed December 7, 1982. Applicant: D & D TRANSPORTATION CO., INC., 1059 Empire Ave., Camden, NJ 08103. Representative: James H. Sweeney, P.O. Box 9023, Lester, PA 19113, 215–365–5141. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S.

Note.—Applicant seeks to convert its contract authority to common carrier authority.

Note.—Applicant's permits under MC 134153 subs 1 and 3, issued April 12, 1976 and August 18, 1982, respectively, are hereby cancelled.

MC 143553 (Sub-18), filed December 7, 1982. Applicant: CONTINENTAL TRANSPORT SYSTEMS, INC., 35 Main St., Versailles, CT 06383. Representative: Ronald I. Shapss, 450 Seventh Ave., New York, NY 10123. Transporting *chemicals and related products,* between points in the U.S. (except AK and HI), under continuing contract(s) with Sybron Tanatex Chemical Corp., of Wellford, SC, and its following divisions: (a) Jersey State Chemical, of Haledon, NJ, and (b) Gamlen Chemical, of Clifton, NJ.

MC 143533 (Sub-19), filed December 7, 1982. Applicant: CONTINENTAL TRANSPORT SYSTEM, INC., 35 Main St., Versailles, CT 06383. Representative: Ronald I. Shapss, 450 Seventh Ave., New York, NY 10123, (212) 239–4610. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Beverage-Air, a company of Tannetics, Inc., of Spartanburg, SC.

MC 148203 (Sub-9), filed December 6, 1982. Applicant: COPPER CITY TRANSPORT, INC., Old Route 5S, RD #2, Frankfort, NY 13340. Representative: Murray J. S. Kirshtein, 118 Bleecker St., Utica, NY 13501, 315–797–1970. Transporting *waste metals, waste paper and recyclable materials,* between points in the U.S. (except AK and HI), under continuing contract(s) with Empire Recycling Corp., of Utica, NY.

MC 150422 (Sub-2), filed December 6, 1982. Applicant: CONAGRA TRANSPORTATION, INC., 5440 West Channel Rd., Catoosa, OK 74015. Representative: Peter A. Greene, 1920 N St., NW., Washington, DC 20036, (202) 331–8800. Transporting *general commodities* (except AK and HI), under continuing contract(s) with Country Pride Foods Limited, of Athens, AL.

MC 164942, filed November 29, 1982. Applicant: LAUDERDALE AIRPORT WAREHOUSE, INC., 304 S.W. 12th St., Ft. Lauderdale, FL 33315. Representative: Gerard J. Donovan, 4791 S.W. 82nd Ave., Davie, FL 33328, 305–434–7621. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in Dade, Broward, Palm Beach, and St. Lucie Counties, FL.

MC 164592, filed November 29, 1982. Applicant: CANALSIDE CORPORATION, 205 Central Ave., Cincinnati, OH 45202. Representative: Michael Spurlock,275 East State St., Columbus, OH 43215. Transporting, *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in OH and KY, on the one hand, and, on the other, points in IN, OH, PA, WV, VA, TN, NC and KY.

Please direct status inquiries about the following to Team 3, (202) 275–5223.

Volume No. OP3–53A

Decided: December 13, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams and Ewing.

MC 41905 (Sub-6), filed December 2, 1982. Applicant: ILLINI-SWALLOW LINES, INC., 118–120 S. Walnut St., P.O. Box 775, Champaign, IL 61820. Representative: Robert J. Brooks, 1828 L St. NW., Suite 1111, Washington, D.C. 20036, (202) 466–3892. Over regular routes, transporting *passengers,* between Peoria, IL and Davenport, IA: (a) from Peoria over I–74 to Davenport, IA and (b) from Peoria over I–74 to the junction with U.S. Hwy 6, then over U.S. Hwy 6 to Davenport, and return over the same routes, serving all intermediate points and the off-route points of Galesburg and Rock Island, IL.

Note.—Applicant intends to tack this authority to its existing regular route authority.

Note.—Applicant seeks to provide regular-route service only in interstate or foreign commerce.

MC 41905 (Sub-6), filed December 2, 1982. Applicant: ILLINI-SWALLOW LINES, INC., 118–120 S. Walnut St., P.O. Box 775, Champaign, IL 61820. Representative: Robert J. Brooks, 1828 L St. NW., Suite 1111, Washington, D.C. 20036, (202) 466–3892. Transporting (1) *passengers,* in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded special and charter transportation.

Please direct status inquiries about the following to Team 5, (202) 275–7289.

Volume No. OP5–285

Decided: December 10, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce and Dowell.

MC 114028 (Sub-52), filed November 29, 1982. Applicant: ROWLEY INTERSTATE TRANSPORTATION, COMPANY, INC., 2010 Kerper Blvd., Dubuque, IA 52001. Representative: Edward G. Bazelon, 135 South La Salle St., Chicago, IL 60603, (312) 236–9375. Transporting *general commodities,* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with International Paper Company of New York, NY, and Richmond Gravure and Mid Continent Carton, wholly-owned subsidiaries of International Paper Company.

MC 126898 (Sub-16), filed November 15, 1982. Initially published in **Federal Register** republication on December 3, 1982. Applicant: BULLDOG HIWAY EXPRESS, P.O. Box 506, Charleston, SC 29402. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168, 703–629–2818. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk, (1) between points in AL, TN, and VA, and; (2) between points in AL, TN, and VA, on the one hand, and, on the other, points in FL, GA, NC, and SC.

Note.—This application is republished to correct territorial description.

MC 128928 (Sub-110), filed November 29, 1982. Applicant: STEVENS TRANSPORTATION CO., INC., 121 South Niagara St., Saginaw, MI 48602. Representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Suite 1200, Washington, DC 20036, 202–785–0024. Transporting *household goods,* between points in the U.S. (except ME, NH, and VT).

MC 139879 (Sub-5), filed November 29, 1982. Applicant: LASALLE CARTAGE CO., INC., 2707 Territorial Rd., St. Paul, MN 55114. Representative: Stanley C. Olsen, Jr., 5200 Willson Rd., Suite 307, Edina, MN 55424, 612–927–8855. Transporting *chemicals and related products, petroleum, natural gas, and related products,* and *such commodities* as are used in the manufacture or distribution of fiberglass products, between points in Ramsey County, MN, on the one hand, and, on the other, points in IL.

MC 145058 (Sub-9), filed November 30, 1982. Applicant: THOMAS PRODUCE COMPANY OF MOUNT AIRY, INC., P.O. Box 16707, Greensboro, NC 27406. Representative: Michael F. Morrone, 1150 17th St., N.W., Suite 1000, Washington, DC 20036, 202–457–1124. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in SC, on the one hand, and, on the other, points in MN, MO, AR, LA, TX, OK, KS, NE, MT, WY, CO, NM, AZ, UT, ID, WA, OR, CA, and NV.

MC 147028 (Sub-5), filed November 29, 1982. Applicant: MICHAEL L. GINEVRA TRUCKING, 1500 S. Zarzamora, Rm. 228, San Antonio, TX 78207. Representative: Greg P. Stefflre, 3620 Long Beach Blvd., C–11, Long Beach, CA 90807, (213) 595–0766. Transporting *general commodities,* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 156488 (Sub-6), filed November 30, 1982. Applicant: CONTRANS, INC., 6716 Berger, Kansas City, KS 66111. Representative: Donald J. Quinn, Commerce Bank Bldg. 8901 State Line, Suite 232, Kansas City, MO 64114, 816–444–7474. Transporting *food and related products, paper products,* and *beverage containers* between points in AR, IA, IL, KS, MO, MN, ND, NE, OK, TX, and SD.

MC 160908, filed November 29, 1982. Applicant: TREADWAY TRUCKING, INC., P.O. Box 269, Oakman, AL 35579. Representative: Gerald D. Colvin, Jr., 603 Frank Nelson Bldg., Birmingham, AL 35203–3666, (205) 251–2881. Transporting (1) *coal and coal products,* between points in Jefferson County, AL, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX, (2) *lumber and wood products,* between points in AL, MS, LA, GA, and FL, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX, and (3) *metal products* and *machinery,* between Houston, TX, Birmingham, AL, and points in Walker County, AL, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 164868, filed November 23, 1982. Applicant: ARTHUR BUIE, d.b.a. ARTHUR BUIE TRUCKING COMPANY, 3017 Highlands Blvd. (P.O. Box 2150), Spring Valley, CA 92077. Representative: Arthur Buie (same address as applicant), 714–464–3709. Transporting *general commodities* (except classes A and B explosives and household goods), between points in AZ, CA, NV, OR, and WA.

MC 164878, filed November 23, 1982. Applicant: GARY R. DANIELS, d.b.a. G. R. DANIELS TRUCKING, Rt. 3, Hutchinson, MN 55350. Representative: Gary R. Daniels (same address as applicant), (612) 587–4002. Transporting *machinery and machinery parts,* between points in McLeod County, MN, on the one hand, and, on the other, points in ND, SD, IA, WI, IL, and MN.

MC 164908, filed November 30, 1982. Applicant: INDIANA-KENTUCKY TRUCKING, INC., P.O. Box 371, Carrollton, KY 41008. Representative: Fred F. Bradley P.O. Box 773, Frankfort, KY 40602, 502–227–2254. Transporting *commodities in bulk,* between points in IN and KY, on the one hand, and, on the other, those points in the U.S. on and east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the eastern boundary of Itasca County, MN, thence northward along the eastern boundaries of Itasca and Koochiching Counties, MN, to the international boundary line between the U.S. and Canada.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–34647 Filed 12–21–82; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Motor Common and Contract Carriers of Property (fitness-only); Motor Common Carriers of Passengers (fitness-only); Motor Contract Carriers of Passengers; Property Brokers (other than household goods).

The following applications for motor common or contract carrige of property and for a broker of property (other than household goods) are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** on December 31, 1980. For

compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common or contract carriage of passengers filed on or after November 19, 1982, are governed by Subpart D of the Commission's Rules of Practice. See 49 CFR Part 1160, Subpart D, published in the **Federal Register** on November 24, 1982, at 49 FR 53271. For compliance procedures, see 49 CFR 1160.86. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E.

These applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce, over irregular routes unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract."

Please direct status inquiries about the following to Team 1, (202) 275–7992.

Volume No. OP1–232

Decided: December 15, 1982.

By the Commission, Review Board No. 1, Members Chandler, Parker and Fortier.

MC 164990, filed December 2, 1982. Applicant: D & J TRANSPORTATION COMPANY, 308 Garfield Court, Fredericksburg, VA 22401. Representative: Lester R. Gutman, 1919 Pennsylvania Ave., N.W., Suite 500, Washington, DC 20006, (202) 828–5017. Transporting, *passengers*, in charter and special operations, beginning and ending at Fredericksburg, and points in Fauquier, Culpeper, Orange, Caroline, King George, Louisa, Spotsylvania, and Stafford Counties, VA, and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special operations.

Please direct status inquiries about the following to Team 2, (202) 275–7030.

Volume No. OP2–325

Decided: December 15, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler and Fortier.

MC 55312 (Sub-19), filed December 7, 1982. Applicant: TRAILWAYS TENNESSEE LINES, INC., 327 Gayoso St., Memphis, TN 38103. Representative: George W. Hanthorn, 1500 Jackson St., Dallas, TX 75201, 214–655–7037. Transporting, *passengers*, (1) between Dalton and Marietta, GA, from Dalton over unnumbered highway to junction Interstate Hwy 75, then over Interstate Hwy 75 to Marietta, and return over the same routes, (2) between Birmingham and Gadsden, AL, from Birmingham over Interstate Hwy 59 to junction U.S. hwy 278, then over U.S. Hwy 278 to Gadsden, and return over the same routes, and (3) between Louisville, KY, and Nashville, TN, over Interstate Hwy 65, serving all intermediate points in (1) thru (3) above.

Note.—Applicant seeks to provide regular route service in interstate or foreign commerce and in intrastate commerce under 49 U.S.C. 10922(c)(2)(B) over the same route.

Note.—Applicant may tack this authority with his existing authority.

MC 119262 (Sub-2), filed November 29, 1982. Applicant: ERNEST J. KELLER, JR., d.b.a. KELLERS BUS SERVICE, Rt. 1, Box 188C, Waldorf, MD 20601. Representative: Lawrence E. Lindeman, 4660 Kenmore Ave., Suite 1203, Alexandria, VA 22304, (703) 751–2441. Transporting, *passengers*, in charter and special operations, between points in the U.S. (Except HI, but including AK).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 120083 (Sub-11), filed December 8, 1982. Applicant: LINCOLN COACH LINES, 12681 Route 30 (P.O. Box 369), Irwin, PA 15642. Representative:S. Berne Smith, P.O. Box 1166, Harrisburg, PA 17108–1166, 717–232–8000. Transporting, *passengers*, in charter and special operations, between points in the U.S.

Note.—Applicant receives governmental financial assistance for the purchase or operation of buses, or is an operator for such a recipient.

MC 130223 (Sub-3), filed November 22, 1982. Applicant: PETER PAN WORLD TRAVEL, INC., 1778 Main St., Springfield, MA 01103. Representative: Robert J. Brooks, 1828 L St., NW, Suite 1111, Washington, DC 20036, (202) 466–3892. Transporting, *passengers*, in special and charter operations, between points in the U.S. (including AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 148862 (Sub-3), filed November 26, 1982. Applicant: ANGELTOWN CHARTER LINES, INC., 3216 Westminster Blvd., Santa Ana, CA 92703. Representative: John M. Clark (same address as applicant), (714) 554–0412 Transporting *passengers*, in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 155822, filed December 1, 1982. Applicant: BILL DEESE, d.b.a. DEESE COACH LINE, P.O. Box 388, Pembroke, NC 28372. Representative: Robert J. Brooke, 1828 L St., N.W., Suite 1111, Washington, DC 20036, 202–466–3892. Transporting *passengers*, in special and charter operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 164922, filed November 29, 1982. Applicant: PHANTOM CHARTER SERVICE, 2103 N. Central, Rockford, IL 61103. Representative: Lawrence E. Lindeman, 4660 Kenmore Ave., Suite 1203, Alexandria, VA 22304, (703) 715–2441. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI, but including AK).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 164933, filed November 26, 1982. Applicant: K & G BUS TRANSPORTATION SERVICES, INC., d.b.a. WESTERN CHARTER TOURS, 67 Magnolia Ave., Petaluma, CA 94952. Representative: Eldon M. Johnson, 650 California St., Suite 2808, San Francisco, CA 94108, 415–986–8696. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 164962, filed November 26, 1982. Applicant: INTERTRUCK CORPORATION, d.b.a. BELL'S CARGO, P.O. Box 374, 300 Roper Mountain Rd., Greenville, SC 29602. Representative: James E. Halbkat, Jr. (same address as applicant), 803–288–5639. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI)

MC 165053, filed December 6, 1982. Applicant: LONNIE M. SHAW, d.b.a. L AND C SHAW TRUCKING CO., 1755 Tierra Lynn Dr., P.O. Box 783, Woodburn, OR 97071. Representative: Lonnie M. Shaw (Same address as applicant) 503–982–3112. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

Please direct status inquiries about the following to team 3, (202) 275–5223.

Volume No. OP3–53

Decided: December 13, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams and Ewing.

MC 74 (Sub-14), filed November 19, 1982. Applicant: VALLEY TRANSIT COMPANY, INC., P.O. Box 1870, Harlingen, TX 78551. Representative: Paul D. Angenend, P.O. Box 2207, Austin, TX 78768, (512) 476–6391. Transporting *passengers*, in charter and special operations, beginning and ending at points in TX, and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 745 (Sub-2), filed December 2, 1982. Applicant: HAGEY'S BUS SERVICE, INC., P.O. Box 68, Franconia, PA 18924. Representative: J. Bruce Walter, P.O. Box 1146, Harrisburg, PA 17108, (717) 233–5731. Transporting *passengers*, in special and charter operations, beginning and ending at points in Chester, Delaware, Lehigh, Berks, and Philadelphia Counties, PA, and extending to points in the U.S.

Note.—Applicant seeks to provide privately-funded special and charter transportation.

MC 128798 (Sub-11), filed September 20, 1982. Applicant: GALASSO TRUCKING, INC., 8 Kilmer Rd., Larchmont, NY 10538. Representative: Larsh B. Mewhinney, 555 Madison Ave., New York, NY 10022, 121–838–0600. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI) under continuing contract(s) with Purex Corporation of Lakewood, CA.

MC 41905 (Sub-6), filed December 2, 1982. Applicant: ILLINI-SWALLOW LINES, INC., 188–120 S. Walnut St., P.O. Box 775, Champaign, IL 61820. Representative: Robert J. Brooks, 1828 L St., NW., Suite 1111, Washington, DC. 20036. (202) 466–3892. Transporting (1) *passengers*, in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded special and charter transportation.

MC 41905 (Sub-6), filed December 2, 1982. Applicant: ILLINI-SWALLOW LINES, INC., 118–120 S. Walnut St., P.O. Box 775, Champaign, IL 61820. Representative: Robert J. Brooks, 1828 L St., NW., Suite 1111, Washington, DC. 20036. (202) 466–3892. Over regular routes, transporting *passengers*, between Peoria, IL and Davenport, IA: (a) from Peoria over I–74 to Davenport, IA and (b) from Peoria over I–74 to the junction with U.S. Hwy 6, then over U.S. Hwy 6 to Davenport, and return over the same routes, serving all intermediate points and the off-route points of Galesburg and Rock Island, IL.

Note.—Applicant intends to tack this authority to its existing regular route authority.

Note.—Applicant seeks to provide regular-route service only in interstate or foreign commerce.

MC 141294 (Sub-2), filed November 30, 1982. Applicant: GETTYSBURG TOURS, INC., 302 York St., Gettysburg, PA 17325. Representative: Robert J. Brooks, 1828 L St., NW., Suite 1111 Washington, D.C. 20036, (202) 466–3892. Transporting *passengers*, in special and charter operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 144504 (Sub-2), filed December 3, 1982. Applicant: DELTA CHARTER SERVICE, INC., 4900 E. Mariposa, P.O. Box 5547, Stockton, CA 95205. Representative: Eldon M. Johnson, 650 California St., Suite 2808, San Francisco, CA 94108, (414) 986–8696. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 150365 (Sub-3), filed November 29, 1982. Applicant: UNITED LIMO, INC., 10844 McKinley Hwy., Osceola, IN 46561. Representative: Robert W. Loser II, Chamber of Commerce Bldg., 320 N. Meridian St., Indianapolis, IN 46204, (317) 635–2339. Transporting *passengers*, in special and charter operations, beginning and ending at points in IN, MI, IL, and OH, and extending to points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 155665 (Sub-1), filed December 6, 1982. Applicant: COMFORT TRANSIT CO., INC., 224–20 Merrick Boulevard, Laurelton, NY 11413. Representative: Sidney J. Leshin, 3 East 54th Street, New York, NY 10022, (212) 759–3700. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 159595 (Sub-1), filed December 2, 1982. Applicant: DONALD B. FISHER AND EFFIE G. FISHER, 1715 Grace Ave., Lebanon, PA 17042. Representative: Robert J. Brooks, 1828 L St., NW., Suite 1111, Washington, DC 20036, (202) 466–3892. Transporting *passengers*, in special and charter operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded special and charter transportation.

MC 164904, filed November 29, 1982. Applicant: BROCK BUS LINES, INC., 722

W. Wilson, Glendale, CA 91203. Representative: Donald R.Hedrick, P.O. Box 4334, Santa Ana, CA 92702, (714) 667–8107. Transporting *passengers,* in charter and special operations, beginning and ending at points in Los Angeles, Orange, San Bernardino, Riverside and Ventura Counties, CA, and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 164915, filed November 29, 1982. Applicant: MCCLAIN BUSES, 6284 Eisenhower Ct., Chino, CA 91710. Representative: Donald R. Hedrick, P.O. Box 4334, Santa Ana, CA 92702, (714) 667–8107. Transporting *passengers,* in charter and special operations, btween points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 164984, filed December 2, 1982. Applicant: KRAPF'S COACHES, INC., R.D. #5, Glen Moore, PA 19343. Representative: D. Mark Thomas, 212 Locust St., P.O. Box 999, Harrisburg, PA 17108, (717) 255–7600. Transporting *passengers,* in special and charter operations beginning and ending at points in Chester, Delaware, Montgomery, Berks and Lancaster Counties, PA, and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 164994, filed December 3, 1982. Applicant: AL–JO BUS SERVICE, INC., 913 Fulton Street, Brooklyn, NY 11238. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048, (212) 466–0220. Transporting *passengers,* in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165004, filed November 22, 1982. Applicant: ACADEMY BUS TOURS, INC., 1515 Jefferson Street, Hoboken, NJ 07030 Representative: Sidney J. Leshin, 3 East 54th Street, New York, NY 10022, (212) 759–3700. Transporting *passengers* in charter and special operations, between points in the U.S. (except HI). Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. 11343(a) or submit an affidavit indicating why such approval is unnecessary to the Secretary's Office. In order to expedite issuance of any authority please submit a copy of the affidavit or proof of filing the application for common control to Team 3, Rm. 2158.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165005, filed December 3, 1982. Applicant: COASTAL BUS LINES, INC., 111 Main St., Acushnet, MA 02743. Representative: Robert G. Parks, 20 Walnut St., Suite 101, Wellesley Hills, MA 02181, (617) 235–5571. Transporting *passengers,* in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165044, filed December 6, 1982. Applicant: BASSETT TRANSIT, INC., 1505 Sanford, Ave., Richland, WA 99352. Representative: Lawrence E. Lindeman, 4660 Kenmore Ave., Suite 1203, Alexandria, VA 22304, (703) 751–2441. Transporting *passengers,* in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

Please direct status inquiries about the following to Team 5, (202) 275–7289.

Volume No. OP5–287

Decided: December 13, 1982.

By the Commission, Review Board No. 3. Members Krock, Joyce and Dowell.

FF 79 (Sub-4), filed December 2, 1982. Applicant: WESTERN CARLOADING CO., INC., 960 East Third St., Los Angeles, CA 90013. Representative: S.S. Eisen, 370 Lexington Ave., New York, NY 10017, (212) 532–5100. As a *freight forwarder,* in connection with the transportation of *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. Condition: Any permit issued in this proceeding is conditioned upon coincidental cancellation of Permit No. FF 79 Sub 3 issued August 30, 1982.

MC 1759 (Sub-45), filed December 3, 1982. Applicant: FROEHLICH TRANSPORTATION CO., INC., Federal Road, Danbury, CT 06810. Representative: Gerald A. Joseloff, 410 Asylum St., Suite 532, Hartford, CT 06103, (203) 728–0700. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in ME, NH, VT, CT, MA, RI, NY, NJ, and PA.

MC 21958 (Sub-12), filed December 6, 1982. Applicant: STARCK VAN LINES, INC., RD #1, Burgettstown, PA 15021. Representative: Robert J. Gallagher, 1000 Connecticut Ave., NW Ste 1200, Washington, DC 20036, 202–785–0024. Transporting *household goods,* between points in the U.S. (except AK, HI and ND.)

MC 41608 (Sub-6), filed December 6, 1982. Applicant: CORRIGAN MOVING & STORAGE CO., 2000 Westwood Avenue, Dearborn, MI 48124. Representative: B. W. LaTourette, Jr., 11 South Meramec, Suite 1400, St. Louis, MO 63105, (314) 727–0777. Transporting *household goods and furniture and fixtures,* between points in AL, AR, CO, CT, DE, DC, FL, GA, IA, IL, IN, KS, KY, LA, MA, MI, MD, ME, MO, MN, MS, NC, NE, NH, NJ, NM, NY, OH, OK, PA, RI, SC, TN, TX, VA, VT, WI and WV.

MC 79658 (Sub-37), filed November 30, 1982. Applicant: ATLAS VAN LINES, INC., 1212 St. George Rd., P.O. Box 509, Evansville, IN 47711. Representative: Robert C. Mills (same address as applicant), 812–424–2222. Transporting *household goods, office equipment, prototype and new show vehicles,* between points in the U.S. under continuing contract(s) with Ford Motor Company of Dearborn, MI.

MC 94068 (Sub-7), filed December 2, 1982. Applicant: POM-ARLEAU TRANSFER AND STORAGE, CORP., P.O. Box 1255, Wenatchee, WA 98801. Representative: Boyde Hartman, P.O. 3641, Bellevue, WA 98009, (206) 453–0312. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), (1) between points in WA, and (2) between points in Multnomah County, on the one hand, and, on the other, points in WA.

MC 117919 (Sub-3), filed december 6, 1982. Applicant: CORCORAN'S TRANSPORTATION, INC., 45 Bown Place, Westbury, CT 06702. Representative: Robert J. Gallagher, 1000 Connecticut Ave., NW., Suite 1200, Washington, DC 20036, (202) 785–0024. Transporting *household goods,* (1) between points in ME, MA, NH, VT, RI, CT, NY, NJ, PA, DE, MD, VA, NC, SC, GA, FL, IL, IN, OH, WV, KY, TN, MS, MO, AL, LA, TX, and DC, on the one hand, and, on the other, points in the U.S., (except AK and HI).

MC 156199 (Sub-1), filed December 6, 1982. Applicant: GRUDLE TRUCKING, INC., Rural Route 3, Glenwood, IA 51534. Representative: Edward A. O'Donnell, 1004 29th St., Sioux City, IA 51104, (712–255–3127). Transporting *food and related products,* between points in the U.S. (except AK and HI), under continuing contract(s) with Victor's Iowa Pack, Inc., of Council Bluffs, IA.

MC 159849 (Sub-3), filed December 2, 1982. Applicant: DAYMARK FOODS, INC., d.b.a. ODISCO TRANSPORTATION, 500 West Main St., P.O. Box 1982, Suite 208, Russellville, AR 72801. Representative: Robert R. Harris, 1730 M St., NW Suite 501, Washington, D.C. 20036, (202) 296–2900. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 163008, filed December 6, 1982. Applicant: W. RAY ODOM, Route 3, Williford Road, Pineville, LA 71360. Representative: W. Ray Odom (same address as applicant) (318) 640–1908. Transporting *bakery products*, between points in the U.S. under continuing contract(s) with Hardin's Bakeries Corp., of Meridian, MS.

MC 163789, filed December 24, 1982. Applicant: LCI TRUCKING CO., 1335 Darlington Ave., P.O. Box 2177, Upland, CA 91786. Representative: Jim Pitzer, 15 South Grady Way Suite 321, Renton, WA 98055, 206–235–1111. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in AK, CA, OR, WA, AZ, UT, TX, KS, and PA, on the one hand, and, on the other, points in AK, AZ, CA, CO, ID, MT, NV, NM, OR, UT, and WA.

MC 164158 (Sub-1), filed December 2, 1982. Applicant: OMELIO ARMAS,760 N.W. 202 St. Miami, Fl 33169. Representative: Omelio Armas (same address as applicant), (305) 653–3524. Transporting *general commodities* except classes A and B explosives, household goods, and commodities in bulk), between points in Dade, Broward, and Palm Beach Counties, FL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 164909, filed November 29, 1982. Applicant: ROSEHILL TRUCKING CO., INC., 5 Wagon Wheel Lane, P.O. Box F, Lincoln, RI 02865. Representative: Frank J. Weiner, 15 Court Sq., Boston, MA 02108, 617–742–3530. Transporting *general commodities* (except classes A and B explosives, household goods, and commodites in bulk), between points in MA, RI, NC, TX, and CA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 164918, filed November 30, 1982. Applicant: MAURICE FRIEDMAN, P.O. Box 43, Templeton, IA 51463. Representative: Richard D. Howe, 600 Hubbell Bldg, Des Moines, IA 50309, 515–244–2329. Transporting *beer*, between points in Carroll County, IA, on the one hand, and, on the other, Peoria, IL; St. Paul, MN, and Milwaukee, WI.

MC 164999, filed December 3, 1982. Applicant: BEACH, INC., 3320 Sixth Street, Bay City, TX 77414. Representative: Thomas F. Sedberry, P.O. Box 2023 (78768), 2600 Austin National Bank Tower, Austin, TX 78701, (512) 472–8355. Transporting *Mercer commodities*, between points in AR, CO, LA, KS, MS, NM, OK, TX and WY.

MC 165029, filed December 6, 1982. Applicant: DALE A. ZORMAN, P.O. Box 147, Remer, MN 56672. Representative: Robert N. Maxwell, P.O. Box 2471, Fargo, ND 58108, (701) 237–4223. Transporting *lumber and wood products and building materials*, between points in MN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-34648 Filed 12-21-82; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. OP3–49]

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Decided: December 10, 1982.

The following applications are governed by 49 CFR 1160.1–1160.23 of the Commission's Rules of Practice. These rules were published in the **Federal Register** of December 31, 1980, at 45 FR 86771 and redesignated at 47 FR 49583, November 1, 1982. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1160.40–1160.49. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal of any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract."

Please direct status inquiries to Team 3, (202) 275–5223.

MC 29904 (Sub-7), filed November 16, 1982. Applicant: SUDDATH VAN LINES, INC., P.O. Box 60069, Jacksonville, FL 32205. Representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Suite 1200, Washington, D.C. 20036, (202) 785–0024. Transporting *household goods*, between points in AL, AK, AZ, AR, CA, CO, CT, DE, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI and DC.

Note: A grant of authority herein is conditioned upon an explanation by applicant of why the proposed operation is not proscribed by 49 U.S.C. 11323 which deals

with limitation on ownership of other carriers by freight forwarders.

MC 145767 Sub-17), filed November 15, 1982. Applicant: WIEST TRUCKLINE, INC., R.R. 2, Ext 57, I–94 West, Jamestown, ND 58401. Representative: Charles E. Johnson, 220 N. 4th St., P.O. Box 2056, Bismarck, ND 58502–2056, (701) 223–5300. Transporting *lumber, lumber products, lumber mill products, wood products, forest products,* and *building materials,* between those points in the U.S. in and west of NY, PA, WV, VA, NC, SC, GA, and FL (except AK and HI).

[FR Doc. 82–34650 Filed 12–21–82; 8:45 am]

BILLING CODE 7035–01–M

[Volume No. OP2–324]

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Decided: December 15, 1982.

90-Day Intrastate Motor Common Carriers of Passengers

The following applications, filed on or after November 19, 1982, are governed by Part 1168 of the Commission's Rules of Practice. See 49 CFR Part 1168, published in the **Federal Register** on November 24, 1982, at 47 FR 53275. For compliance procedures, see 49 CFR 1168.6 and 49 U.S.C. 10922(c)(2)(E).

Persons wishing to oppose an application must follow the rules under 49 CFR Part 1168. In addition to fitness grounds, applications may be opposed on the grounds that the transportation to be authorized would directly compete with a computer bus operation and would have a significant adverse effect on all commuter bus service in the area in which the competing service will be performed. Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 25 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 30 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board Number 1, Members Parker, Chandler, and Fortier.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are filed under 49 U.S.C. 10922(c)(2)(A) for authority to operate as a motor common carrier of passengers in intrastate commerce on a route over which applicant has interstate, regular-route authority on November 19, 1982.

Please direct status inquiries to Team 2, (202) 275–7030.

MC 55312 (Sub-20), filed December 7, 1982. Applicant: TRAILWAYS TENNESSEE LINES, INC., 327 Gayoso Street, Memphis, TN 38103. Representative: George W. Hanthorn, 1500 Jackson St., Dallas, TX 75201 214 655–7937. Applicant seeks authority in intrastate commerce to conduct service at all intermediate points on routes in MC–55312 (Sub-No. 17), in part, as follows: over the entire route at part (2) extending between Bristol, TN and Roanoke, VA.

[FR Doc. 82–34651 Filed 12–21–82; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Correction

In FR Doc. 82–31391 beginning on page 51807 in the issue of Wednesday, November 17, 1982, make the following correction:

On page 51809, third column, under MC 148279 (Sub-1), *Palletized Trucking, Inc.*, in the second line from the bottom of the page, "Arkansas" should have read "Aransas".

BILLING CODE 1505–01–M

[Volume No. 309]

Motor Carriers; Permanent Authority Decisions; Restriction Removals; Decision-Notice

Correction

In FR Doc. 82–30991 beginning on page 51239 in the issue of Friday, November 12, 1982, make the following correction:

On page 51240, third column, under MC 144732 (Sub–6)X, the last seven lines of the paragraph should have read ". . . soda ash; (B) MC–144732 Sub 1F and 2F, "radial authority"; and (C) Lead MC–113635 and Sub 3, "between points in the U.S. (except AK and HI)", under continuing contract(s) with named and unnamed shippers; and (D) MC–144732, Sub 3, add authorization of "materials, equipment, and supplies" to the commodity description."

BILLING CODE 1505–01–M

Motor Carrier; Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make

available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F-223

The following applications were filed in Region 3. Send protests to: ICC, Regional Authority Center, Room 300, 1776 Peachtree Street, N.E., Atlanta, GA 30309.

MC 163527 (Sub-3-2TA), filed December 13, 1982. Applicant: R & J ASSOCIATES, INC., 131 Maplewood Avenue, Thomasville, NC 27360. Representative: Richard A. Hicks (same address as applicant). *Contract:* Irregular: *New Furniture* between Thomasville, NC, and Appomattox, VA on the one hand, and on the other, Albuquerque, NM, under continuing contract with Thomasville Furniture Industries, Inc., P.O. Box 339, 401 East Main Street, Thomasville, NC 27360. Supporting shipper: Thomasville Furniture Industries, Inc., P.O. Box 339, 401 East Main Street, Thomasville, NC 27360.

MC 47171 (Sub-3-18TA), filed December 13, 1982. Applicant: COOPER MOTOR LINES, INC., P.O. Box 2820, Greenville, SC 29602. Representative: Harris G. Andrews (same address as applicant). *Contract:* Irregular: *Lumber, or wood products (except furniture)* between points in the U.S. (except AK & HI). Supporting shipper: Continental Forest Industries, P.O. Box 8969, Savannah, GA 31412.

MC 144026 (Sub-3-9TA), filed December 13, 1982. Applicant: WILLIAMS CARTAGE COMPANY, INC., P. O. Box 897, Hartsville, SC 29550. Representative: Robert L. McGeorge, Esq., 1000 Potomac Street NW.; Ste. 501, Washington, D.C. 20007. *Contract; irregular General commodities (except Classes A & B explosives and hazardous materials),* between points in the U.S. (except AK and HI) under continuing contract(s) with National Wire Products Corp. of Baltimore, MD. Supporting shipper: National Wire Products Corporation, 8203 Fischer Rd., Baltimore, MD 21222.

MC 164665 (Sub-3-1TA), filed December 13, 1982. Applicant: MARKETING UNLIMITED, INC, d.b.a. WAGON WHEEL FREIGHT, INC., 2911 8th Ave., Chattanooga, TN 37407. Representative: Charles E. Akins (same as above). *General commodities, except in bulk and tank vehicles,* between points in TN, GA, AL, MS, FL, SC, NC, VA, WV, KY, OH, NJ, NY, MO, IN, WI, PA and IL. Supporting shippers: Hartford Carpet Mills, Inc., 2913 8th Ave., Chattanooga, TN 37407; C&S Distributing Co., 2911—8th Ave., Chattanooga, TN 37404; Mid South Freight Line, Inc., 2901 Watauga Ave., Chattanooga, TN 37404; and Red Food Stores, 5901 Shallowford Rd., Chattanooga, TN 37404.

MC 126542 (Sub-3-11TA), filed December 13, 1982. Applicant: B. R. WILLIAMS TRUCKING, INC., P.O. Box 3310, Oxford, AL 36201.Representative: John W. Cooper, P.O. Box 162, Mentone, AL 35984. *Contract Carrier,* Irregular routes, *Metal and Plastic Articles* between all points in the U.S. except AK and HI under continuing contract with Hager Hinge Manufacturing Co., Inc. Supporting shipper: Hager Hinge Manufacturing Co., Inc., Hwy. 78W, P.O. Box 3288, Oxford, AL 36203.

MC 164860 (Sub-3-1TA), filed December 13, 1982. Applicant: MEL T. COWART and BILLY R. COWART d.b.a. COWARTS, DRIVE AWAY SERVICE, 3750 Beach Boulevard, Jacksonville, FL 32207. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. *Automobiles, in driveaway service,* from Jacksonville, FL to Atlanta, GA, Dothan, AL, Decatur, GA, Knoxville, TN, Summerville, SC, Hilton, SC and Athens, GA. There are seven supporting shippers. Their statements may be examined at the ICC Regional Office, Atlanta, GA.

The following applications were filed in Region 6. Send protests to: Interstate Commerce Commission, Region 6, Motor Carrier Board, 211 Main St., Suite 501, San Francisco, CA 94105.

MC 162259 (Sub-6-2TA), filed December 14, 1982. Applicant: D.E.L.L. TRUCKING, INC., P.O. Box 1230, Fort Morgan, CO 80701. Representative: Charles J. Kimball, 1600 Sherman St., Suite 665, Denver, CO 80203. *Contract carrier,* irregular routes, *oilfield casing and tubing* (1) from Long Beach, CA and Houston, TX and points in their commercial zones to facilities of D.E.L.L. Trucking, Inc. in Morgan County, CO, (2) from the facilities of D.E.L.L. Trucking, Inc. in Morgan County, CO to points in Weld County, CO, and (3) between the facilities of D.E.L.L. Trucking, Inc. in Morgan County, CO, on the one hand, and, on the other, Kimball, NE and points in its commercial zone. Under a continuing contract or contracts with Avery Sales, Inc. for 270 days. Supporting shipper: Avery Sales, Inc., Box 2861, Dillon CO 80435.

MC 41098 (Sub-6-14TA), filed December 13, 1982. Applicant: GLOBAL VAN LINES, INC., One Global Way, Anaheim, CA 92803. Representative: Alan F. Wohlstetter, 1700 K St., NW., Washington, D.C. 20006. *Contract carrier,* irregular routes, *general commodities* (except class A and B explosives and commodities in bulk), between points in the U.S. under continuing contract(s) with Honeywell, Inc. of Minneapolis, MN for 270 days. Supporting shipper: Honeywell, Inc., Honeywell Plaza, Minneapolis, MN 55408.

MC 165175 (Sub-6-1TA), filed December 13, 1982. Applicant: GOLD BOND BUILDING PRODUCTS, 800 West Church St., Stockton, CA 95203. Representative: Arden Riess, P.O. Box 7965, Stockton, CA 95207. *Building materials; Pulp, paper and related articles; clay, concrete, glass and stone products,* except for commodities in bulk, between points in CA, ID OR and WA, for 270 days. Supporting shippers: There are six shippers. Their statements may be examined at the Regional Office listed.

MC 138069 (Sub-6-11TA), filed December 13, 1982. Applicant: LUCIOUS, INC., 8331 Pontiac, Commerce City, CO 80022. Representative: Lester G. Huskey (same as applicant). *Toys and Games,* From points in MI to points in CO, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Circus World Toy Stores, Inc., 21150 Trolley Industrial Dr., Taylor, MI 48180.

MC 165174 (Sub-6-1TA), filed December 12, 1982. Applicant: G. MALAKOFF & SONS TRANSPORT LTD., 2304 Bedford Avenue East, Regina, Saskatchewan, CD S4N OG9. Respresentative: Garry Malakoff (same as applicant). *Contract,* irregular; *Emulsified asphalt and asphalt in tank vehicles,* from Saskatchewan/North Dakota Border to all points in ND; and from Saskatchewan/Montana Border to all points in MT for 270 days. Supporting shipper: Chevron Asphalt Ltd., 1210 Sheppard Ave., Willowdale, Ontairo, Canada

MC 161238 (Sub-6-2TA), filed December 13, 1982. Applicant: SUNRISE TRUCKING LTD., 8705 163 Street,

Edmonton, Alberta T5R 2N7. Representative: Patricia Garwasiuk (same as applicant). Contract; irregular, *Plastic greenhouse film,* between the Alberta, CD and the U.S. international boundary and between the British Columbia and the U.S. international boundary to WA, OR and CA under continuing contract with C.I.L. Inc. of Edmonton Alberta, CD., for 270 days. Supporting shipper: C.I.L. Inc., 800 Terminal Avenue, Vancouver, B.C. V6A 2M8.

MC 151878 (Sub-6–8TA), filed December 13, 1982. Applicant: THREE WAY CORPORATION, 1120 Karlstad Dr., Sunnyvale, CA 94086. Representative: Charles H. White, Jr., 1019 19th St., N.W., Suite 800, Washington, D.C. 20036 *Contract,* irregular, *General commodities (except Classes A and B explosive and commodities in bulk)* between points in the U.S. under continuing contract with Hewlett Packard, for 270 days. Supporting shipper: Hewlett Packard, 11311 Chinden Blvd, Boise, ID 83707.

Agatha L Mergenovich,

Secretary.

[FR Doc. 82-34686 Filed 12-21-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 387]

Exemptions for Contract Tariffs Denver, & Rio Grande Western Railroad Co.;

AGENCY: Interstate Commerce Commission

ACTION: Notices of Provisional Exemptions.

SUMMARY: Provisional exemptions are granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the below-listed contract tariffs may become effective on one day's notice. These exemptions may be revoked if protests are filed.

DATE: Protests are due January 6, 1983.

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway, (202) 275–7278

or

Tom Smerdon, (202) 275–7277

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in these instances to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption requests meet the requirements of 49 U.S.C. 10505(a) and are granted subject to the following conditions: These grants neither shall be construed to mean that the Commission has approved the contracts for purposes of 49 U.S.C. 10713(e) not that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review these contracts and to determine their lawfulness.

Sub-No.	Name of railroad, contract No. and specifics	Review Board [1]	Decided date
478	Denver and Rio Grande Western Railroad Co., ICC-DRGW-C-0074, (Brick)	2	12-15-82
479	Soo Line Railroad Co.; ICC-SOO-C-0137, (Sheet, iron or steel, in coils)	3	12-14-82

[1] Review Board No. 2, Members Carleton, Williams, and Ewing. Review Board No. 3, Members Krock, Joyce, and Dowell.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-34532 Filed 12-21-82; 8:45 am]

BILLING CODE 7035-01-M

[No. MC-F-15017]

Integrated Transportation Systems, Inc.—Common Control Exemption—Multitrans, Inc. and Jones Motor Co., Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Proposed Exemption.

SUMMARY: Pursuant to 49 U.S.C. 11343(e), added by section 21 of the Bus Regulatory Reform Act of 1982, Pub. L. 97–261 (September 20, 1982), Integrated Transportation Systems, Inc., (Integrated), and in turn, Donald R. Sheehy, Dennis C. Papa, and James J. Koegel, who jointly control Integrated and who also control New Trans, Inc., which owns all of the stock of Jones Motor Co., Inc., a regulated motor carrier (No. MC–4963), seek an exemption from the requirement under section 11343 of prior regulatory approval for the acquisition of control of Multi Trans, Inc., a regulated motor carrier (No. MC–160611).

DATES: Comments must be received within 30 days after the date of publication in the **Federal Register.**

ADDRESSES: Send comments to: (1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, DC. 20423; and (2) Petitioner's Representative, Robert C. Bamford, Suite 1301, 1600 Wilson Boulevard, Arlington, VA 22209. Comments should refer to No. MC–F–15017.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood (202) 275–7949.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioner's representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

Decided: December 16, 1982.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-34654 Filed 12-21-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 290 (Sub-2)]

Railroad Cost Recovery Procedures

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Approval of Railroad Cost Index and Rail Cost Adjustment Factor.

SUMMARY: The Commission has decided to approve the cost index filed by the Association of American Railroads (AAR) under the procedures of Docket Ex Parte No. 290 (Sub-2), *Railroad Cost Recovery Procedures.* In accordance with the provisions of 49 U.S.C. 10707a(a) the denominator of the RCAF has been restated to 120.9 for the quarter beginning October 1, 1982. The application of the index provides for a maximum increase of 1.0 percent above the level prescribed in our decision served December 22, 1981. Because the index for the second, third and fourth quarters of 1982 declined from the first quarter level, no rate actions were ordered in our decisions served March 25, 1982, June 24, 1982 and September 24, 1982.

EFFECTIVE DATE: December 20, 1982.

FOR FURTHER INFORMATION CONTACT: Robert C. Hasek, (202) 275–0938, Tom Smerdon, (202) 275–7277.

SUPPLEMENTARY INFORMATION: By decision served April 17, 1981 (46 FR 22594, April 20, 1981) we outlined procedures for the calculaton of the interim Mid-Quarter Index of railroad costs and the methodology for computation of the Rail Cost Adjustment Factor (RCAF). AAR was required to

calculate and submit the Mid-Quarter Index to the Commission no later than 20 days before the end of each quarter.

We have reviewed AAR's calculations of this Mid-Quarter Index and find that they comply with the guidelines contained in our decision served April 17, 1981.

The Staggers Rail Act of 1980 (49 U.S.C. 10707a(2)(B)) requires that the denominator of the RCAF be rebased in the fourth quarter of 1982 and for the fourth quarter of every fifth year thereafter, as appropriate.

AAR, in filing this RACF, proposed that the Commission adopt the first quarter 1982 forecasted index as the appropriate rebased denominator for the fourth quarter of 1982 (beginning October 1, 1982) in order to preclude any claims of excessive cost recovery. They note that if the fourth quarter 1982 RCAF denominator of 119.0 had been used rather than the 120.9 first quarter 1982 denominator, a 2.6 percent increase could have been permitted.

We agree with the AAR that the appropriate RCAF denominator to be used in determining the new base rate for the fourth quarter of 1982 should be 120.9. Although a literal reading of Section 10707a(a) would seem to dictate a denominator of 119.0, we do not believe that such a literal reading would achieve the Congressional intent—which was merely to allow rail carriers quickly to recoup increased costs without challenge. For example, the Senate Commerce Committee Report specified that the provision "* * * will help assure that rail rates reflect a carrier's current costs * * *" by providing "* * * a zone of rate freedom *not in excess* of the carriers increased costs * * *" (Report No. 96–470, December 7, 1979, at pages 19–20. Emphasis added). The railroads' proposal is consistent with this, and produces a fair and equitable result which prevents a windfall profit which would result if the provision is literally construed. We note that the court in *Western Coal Traffic League* vs. *United States*, 677 F.2d 915, 925 (D.C. Cir. 1982) stated: "We agree with the shippers that the principal function of the Section 203 [section 10707a] inflationary cost index is to provide a mechanism for *recovering inflation based costs, not to enhance revenues*" (emphasis added).

Adopting 120.9 as the new base rate denominator is also consistent with our previous commitment set fourth in our decision of April 18, 1982, where we adopted a forecasting approach and state "* * * to avoid the possibility of cumulative forecasting error, we will require that, for each quarter, the allowable percentage increase be calculated on the basis of the forecasted, rather than actual cost increases from the previous quarter. This prevents any party from benefitting or being penalized by a forecast error when the net change for the next quarter is calculated * * *". [1] Likewise, our decision herein prevents the rail carriers from benefitting from a decline in their costs after they had previously been permitted to raise their rates to a level based on higher costs. We do not believe this situation was foreseen at the time of enactment of section 10707a, and thus are construing the section to achieve what we believe was intended by it.

We have reviewed AAR's calculations of the Mid-Quarter Index for the first quarter of 1983 and find that these calculations comply with the guidelines contained in our decisions served April 17, 1981.

INTERIM MID-QUARTER INDEX

Line No.	Category	1980 weight	3d quarter 1982 actual	4th quarter 1982 forecast	Rebased 4th quarter 1982 forecast	1st quarter 1983 forecast
1	Salaries, Wages and Supplements	47.2	128.6	128.5	XXX	134.4
2	Fuel	12.3	115.0	111.7	XXX	114.9
3	Materials and Supplies	12.2	108.1	107.9	XXX	105.5
4	Other Expenses	28.3	111.7	111.2	XXX	111.6
5	1980=100		119.6	[1]119.0	[1]120.9	122.1
6	10/1/80=100 [2] (Rail Cost Adjustment Factor)		116.5	115.9	117.7	118.9

[1] 119.0 was the index forecast for the fourth quarter of 1982. This figure has been restated to 120.9 in accordance with 49 U.S.C. 10707a(a)(2)(B) and is now the rebased index for the fourth quarter 1982. (Quarter Beginning October 1, 1982.)
[2] Weighted Average 10/1/80=102.7.

Based on the above figures we conclude that the RACF for the first quarter of 1983 is 1.010. This is determined by dividing the first quarter 1983 forecast index (122.1) by the rebased fourth quarter 1982 index (120.9). Application of this index figure provides for a maximum increase of 1.00 percent above levels prescribed in our decision served December 22, 1981.

This decision will not significantly affect the quality of the human environment or conservation of energy resources. Although this proceeding is not subject to Public Law 96–354, it is our opinion that it will not have significant adverse impact on a substantial number of small entities.

(49 U.S.C. 10321, 10707a, 5 U.S.C. 553)

Dated: December 16, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison.

Agatha L. Mergenovich.

Secretary.

[FR Doc. 82–34652 Filed 12–21–82; 8:45 am]

BILLING CODE 7035–01–M

Rerouting Traffic; Amendment No. 2 to Third Revised I.C.C. Order No. 82 Under Service Order No. 1344

To: The Baltimore and Ohio Railroad Company; The Chesapeake and Ohio Railway Company; Norfolk and Western Railway Company; Green Bay and Western Railroad Company; Chicago and North Western Transportation Company; Soo Line Railroad Company; and GranD Trunk Western Railroad Company.

Upon further consideration of I.C.C. Order No. 82 and good cause appearing therefor:

It is ordered,

I.C.C. Order No. 82 is amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* The order shall expire at 11:59 p.m., June 30, 1983, unless otherwise modified, amended or vacated.

Effective date. This order shall become effective at 11:59 p.m., December 31, 1982.

This amendment shall be served upon the Association of American Railroads, Transportation Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this amendment shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., December 15, 1982.

Interstate Commerce Commission.

J. Warren McFarland,

Agent.

[FR Doc. 82–34646 Filed 12–21–82; 8:45 am]

BILLING CODE 7035–01–M

[1] 364 I.C.C. 850.

DEPARTMENT OF JUSTICE

Office of Legal Policy

Federal Justice Research Program; Notice of Solicitation

The Federal Justice Research Program (FJRP) is a departmental program for conducting research relating to the administration of civil and criminal justice in the United States.

Feasibility of Shared Concurrent State/Federal Administration of Prison Facilities

The Federal Justice Research Program announces a competitive grant solicitation to research and investigate alternative approaches which could be undertaken to achieve shared federal/state planning, financing, administration and operation of prison facilities. As the financial resources of government have become more limited while the need for additional prison facilities to house convicted dangerous offenders has increased, government officials and planners have developed interest in connection of multi-jurisdictional prison facilities. Thus far this interest has been confined to multi-jurisdictional jail facilities serving the joint needs of city/county, county/county, and, in one instance, a bi-state, bi-county, bi-city facility located in Texarkana, Arkansas/Texas.

In general, three approaches to planning, building and administering multi/jurisdictional prison facilities have emerged. Under the first approach, each involved jurisdiction participates in the planning, financing and construction of the facility. Upon completion, one jurisdiction is designated to administer and operate the facility. Under the second approach, one jurisdiction plans, finances, constructs, operates and administers a facility then, through contract for service offers the use of the facility to other jurisdictions on the basis of negotiated fees. Under the last approach, implemented to support the Texarkana Bi-state Criminal Justice Center, involves shared, concurrent jurisdiction in the planning, financing, construction and operation and administration of a multi-jurisdictional jail facility.

We invite submission of proposals to research the feasibility of shared concurrent state/federal administration of prison facilities.

Issues to be addressed in this study include:

a. Can the shared, concurrent state/federal administration of prisons be a viable policy alternative?

b. Can the shared, concurrent state/federal administration of prisons be a cost effective alternative? Are there other options which are more cost effective?

c. How can the management, organizational structure and ownership for the shared, concurrent state/federal administration of prison be established to meet legal and procedural needs of state and federal government?

d. How could planning, construction, maintenance and operation costs be shared?

e. What model or models of state and federal legislation could enable the establishing and managing of a shared, concurrently administered state/federal prison facility?

f. What type of offenders should be housed in such facilities?

Deadlines

All papers postmarked before midnight January 25, 1983, and received by the FJRP within ten (10) working days after that date will be considered. Submissions received after this prescribed period will be returned to the submitters.

Level and Duration of Funding

This announcement envisions a grant award not to exceed $100,000 with an expected duration of ten (10) months.

Eligibility

Eligible applicants include: universities, agencies involved in the criminal justice process, other not-for-profit research organizations, and profit-making organizations that are willing to waive their fee or profit.

Application Requirements and Procedures

Parties interested in responding to this solicitation should prepare and submit a proposal (not to exceed 15 double-space typewritten pages) which should include:

(1) A 150–200 word abstract summarizing the proposed research design and methodology.

(2) A clear, concise statement of the issues surrounding the problem area and of the research hypotheses or questions to be explored. A discussion of the relationship of the proposed work to the existing literature is also expected.

(3) A detailed statement of the proposed research design and analytical methodologies. Delineate carefully and completely the proposed data sources, data collection strategies, variables to be examined, and procedures of analysis to be employed.

(4) the organization and management plan to conduct the study. Include a list of major milestones of events, activities and products and a timetable for completion, including the time commitments of key staff to individual project tasks.

(5) The anticipated number and type of interim and/or final products of the project.

(6) A budget outlining all direct and indirect costs for personnel, fringe benefits, travel, equipment, supplies, subcontracts, and overhead. Percentage of time and man-months of effort to be devoted by principal staff should also be included.

(7) A statement of the competence of the research team, indicating the variety of skills to be used, a description of the relevant research experience, educational background, and the demonstrated ability to produce a final product that is readily comprehensible and usable. Include resumes of all known staff.

Seven (7) copies of the proposals should be submitted to: Federal Justice Research Program, 10th and Constitution Avenue, N.W., Room 4237, Washington, D.C. 20530.

Selection Process

Notification: Applicants will receive a letter acknowledging receipt of the submission.

Review: A panel of reviewers with expertise in the subject area will evaluate the proposals submitted. Based on the criteria set forth below, this panel will then recommend proposals that the Assistant Attorney General, Office of Legal Policy, may consider for award.

Criteria for Review of Proposals

Proposals will be assessed according to the following criteria:

(1) *Conceptualization of the Problem:* Demonstration of the applicant's firm grasp of the issues underlying the problem area including ongoing and past relevant research. (40%)

(2) *Soundness of Research Design and Methodology:* The design and methodology for the proposed study in terms of clarity, specificity, appropriateness and feasibility. (40%)

3. *Qualifications of the Applicant:* The competence of the research team, the appropriateness of the proposed combination skills, its prior relevant research experience, the demonstrated ability to produce a final product which is readily comprehensive and usable, adequacy of the time commitment of key staff, and the quality and specificity of the organization and management plan to accomplish the proposed project. (15%)

(5) *Costs:* The reasonableness of cost estimates and personnel allocations.

and the appropriateness of the costs to the expected products. (5%)

Contact Helen Shaw, Administrator of the Federal Justice Research Program (202) 633–2034 if you have any questions concerning this request for solicitations.

Dated: December 17, 1982.

Jonathan C. Rose,

Assistant Attorney General, Office of Legal Policy.

[FR Doc. 82-34661 Filed 12-21-82; 8:45 am]

BILLING CODE 4410-01-M

NATIONAL SCIENCE FOUNDATION

Forms Submitted to OMB for Review

In accordance with the Paperwork Reduction Act and OMB guidelines, NSF is posting this notice of recordkeeping requirements that will affect the public.

Agency Clearance Officer: Herman G. Fleming, (202) 357–7580.

OMB Officer: Gwendolyn Pla, (202) 395–7313.

Title: 1984 Survey of Science and Engineering Graduates.

Affected Public: Scientists and Engineers.

Number of Responses: 21,350; total number of hours 5,383.

The information provided by this Survey will enable the NSF to comply with the Legislative Requirement to collect information about Scientific and Technical Personnel which can be used in policy and planning activity by government agencies, private industry, educational institutions, and others.

Title: National Survey of Academic Research Instruments and Instrumentation Needs.

Affected Public: Individuals or households, businesses or other institutions.

Number of Responses: 5,320, total number of hours 1,233.

This study will develop measures of the current, stock, utilization, and requirements for scientific research instrumentation in doctorate-granting institutions. The development of these baseline measures is requisite to assessing the state of and need for equipment in science and engineering fields.

Title: Survey of Graduate Science and Engineering Students and Postdoctorates, Fall 83, 84, and 85.

Affected Public: Science/engineering departments with graduate degree programs in institutions of higher education.

Number of Responses: 10,000, number of hours 19,000.

The Survey is the only source on National statistics on graduate student and postdoctorate support and characteristics of faculty employed in graduate science/engineering (S/E) programs. Data are used by agencies, State Education Board, professional societies, and institutions of higher education in monitoring S/E educational progress and in planning to meet future S/E personnel needs.

Herman G. Fleming,

Clearance Officer.

[FR Doc. 82-34619 Filed 12-21-82; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Notice of Proposed Meetings

In order to provide advance information regarding proposed meetings of the ACRS Subcommittees and of the full Committee, the following preliminary schedule is published to reflect the current situation, taking into account additional meetings which have been scheduled and meetings which have been postponed or cancelled since the last list of proposed meetings published November 17, 1982 (47 FR 51832). Those meetings which are definitely scheduled have had, or will have, an individual notice published in the **Federal Register** approximately 15 days (or more) prior to the meeting. Those Subcommittee meetings for which it is anticipated that there will be a portion or all of the meeting open to the public are indicated by an asterisk (*). It is expected that the sessions of the full Committee meeting designated by an asterisk (*) will be open in whole or in part to the public. ACRS full Committee meetings begin at 8:30 a.m. and Subcommittee meetings usually begin at 8:30 a.m. The time when items listed on the agenda will be discussed during full Committee meetings and when Subcommittee meetings will start will be published prior to each meeting. Information as to whether a meeting has been firmly scheduled, cancelled, or rescheduled, or whether changes have been made in the agenda for the January 1983 ACRS full Committee meeting can be obtained by a prepaid telephone call to the Office of the Executive Director of the Committee (telephone 202/634–3267, ATTN: Barbara Jo White) between 8:15 and 5:00 p.m., Eastern Time.

ACRS Subcommittee Meetings

**Class 9 Accidents,* December 21, 1982, Washington, DC. The Subcommittee will meet with the NRC Staff to discuss the NRC Safety Research Program for fiscal years 1984 and 1985. Notice of this meeting was published December 2.

**Electrical Systems,* December 22, 1982, Washington, DC. The Subcommittee will discuss the NRC-sponsored Safety Research Programs and the proposed budget for fiscal years 1984 and 1985 in the area of electrical systems. Notices of this meeting were published November 30 and December 8.

**Regulatory Activities,* January 4, 1983, Washington, DC. The Subcommittee will discuss proposed Revision 3 to Regulatory Guide 1.97, "Instrumentation for Light-Water-Cooled Nuclear Power Plants to Assess Plant and Environs Conditions During and Following an Accident," and the proposed Regulatory Guide (Task No. IC 126–5), "Instrument Sensing Lines."

**Generic Items,* January 5, 1983, Washington, DC. The Subcommittee will discuss the methodology used by the NRC Staff in prioritizing the generic safety issues.

**Safety Research Program,* January 5, 1983, Washington, DC. The Subcommittee will discuss the NRC Safety Research Program and Budget for fiscal years 1984 and 1985; the impact of proposed budget reductions on certain research program; and Draft 2 of the Annual ACRS Report to the Congress on this matter.

**Regulatory Policy and Procedures,* January 13 and 14, 1983, Washington, DC. The Subcommittee will continue to review the matter of regulatory reform.

**Skagit,* January 17 and 18, 1983, Richland, WA. The Subcommittee will review the application of the Puget Sound Power and Light Company for a construction permit.

**Clinch River Breeder Reactor (CRBR),* January 20 and 21, 1983, Washington, DC. The Subcommittee will continue the review of the CRBR plant design.

**Class 9 Accidents,* January 21, 1982, Washington, DC. The Subcommittee will review the severe fuel damage research program.

**Decay Heat Removal,* January 27, 1983, Washington, DC. The Subcommittee will discuss the merits and problems associated with primary system depressurization (feed and bleed) and secondary system depressurization for decay heat removal.

**Joint Metal Components and Three Mile Island (TMI) Unit 1,* January 28, 1983, Washington, DC. The Subcommittee will review the Steam Generator Generic Recommendation Report and the TMI–1 steam generator problems and fixes.

Reactor Radiological Effect, Date to be determined (January, Tentative), Washington, DC. The Subcommittee will review the Shippingport decommissioning.

Safety Research Program, February 9, 1983, Washington, DC. The Subcommittee will discuss the final draft of the ACRS Report to Congress on the NRC Safety Research Program for fiscal years 1984 and 1985.

Emergency Core Cooling System (ECCS), February 17 and 18, 1983, San Jose, CA. The Subcommittee will continue the review of the General Electric SAFER/GESTER ECCS Licensing Code.

Class 9 Accidents and Reactor Radiological Effects, February 22, 1983, Washington, D.C. The Subcommittee will discuss the research program being proposed and conducted to confirm and verify the existing or a new radiation source term for severe accidents.

Combination of Dynamic Loads. Date to be determined (February, Tentative), Washington, DC. The Subcommittee will review the status of work being done on the combination of dynamic loads.

Metal Components, Date to be determined (February, Tentative), Washington, DC. The Subcommittee will review the elimination of the double-ended pipe break criteria for the design of pipe whip supports.

Metal Components, Date to be determined (February, Tentative), Washington, DC. The Subcommittee will review the NRC action plan on integrity of steel bolts.

GE Water Reactors/Westinghouse Water Reactors/Safeguards and Security, Date to be determined (April, Tentative), Washington, DC. The Subcommittee will discuss applications for Final Design Approvals (FDA) by General Electric and preliminary design information for the Westinghouse advanced pressurized water reactor (APWR).

Reactor Operations, Date to be determined, Washington, DC. The Subcommittee will review generic PWR procedures used to prevent a Presssurized Thermal Shock (PTS) transient and to review proposed rule, 10 CFR 50.54, "Applicability of License Conditions and Technical Specifications in an Emergency."

Catawba, Date to be determined, Rock Hill, SC. The Subcommittee will review the application of the Duke Power Company for an operating license.

Clinch River Breeder Reactor (CRBR) Working Group on Thermal Hydraulic Design, Date to be determined, Washington, DC. The Subcommittee will continue the review of the CRBR thermal hydraulic design.

Seabrook 1, Date and location to be determined. The Subcommittee will review the application of the Public Service Company of New Hampshire for an operating license.

ACRS Full Committee Meeting

January 6–8, 1983: Items are *tentatively* scheduled.

A. *Clinch River Breeder Reactor*—Construction Permit (partial review).

B. *NRC Reactor Safety Research Program and Budget*—Annual ACRS Report to the U.S. Congress.

C. *Seismic Design of Nuclear Facilities*—Proposed ACRS report regarding seismic design margins.

D. *Auxiliary Feedwater Systems*—Briefing regarding status of program to seismically upgrade auxiliary feedwater systems in nuclear power plants.

E. *Control Room Habitability*—Briefing in response to ACRS report of August 18, 1982.

F. *Hydraulic Control Unit (HCU) Line Integrity*—Briefing regarding vulnerability of control rod drive HCU line to disabling damage from LOCAs.

G. *Future Schedule and Activities of ACRS Members*—Discuss proposed schedule and scope of Committee, Subcommittee and Members activities.

H. *NRC Regulations and Regulatory Guides*—Discuss proposed changes in NRC Regulatory Guides and Regulations.

February 10–12, 1983—Agenda to be announced.

March 10–12, 1983—Agenda to be announced.

Dated: December 16, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82-34589 Filed 12-21-82; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Class-9 Accidents; Addition

The ACRS Subcommittee on Classs-9 Accidents may close a portion of the meeting scheduled for December 21, 1982, Room 1046 at 1717 H Street, NW, Washington, DC in order to ensure the security of information identified and supplied by foreign governments in confidence (Sunshine Act Exemption 4).

All other items regarding this meeting remain the same as published on Thursday, December 2, 1982 (47 FR 54375).

I have determined, in accordance with Subsection 10(d) of the Federal advisory Committee Act, that it may be necessary to close sessions of this meeting to public attendance to protect information supplied by a foreign government. The authority for such closure is Exemption (4) to the Sunshine Act, 5 U.S.C. 552b(c)(4).

Dated: December 16, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82-34590 Filed 12-21-82; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Generic Items; Notice of Meeting

The ACRS Subcommittee on Generic Items will hold a meeting on January 5, 1983, Room 1046, 1717 H Street, NW, Washington, DC. The Subcommittee will discuss the methodology used by the NRC Staff in prioritizing the generic safety issues.

In accordance with the procedures outlined in the **Federal Register** on October 1, 1982 (47 FR 43474), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.The agenda for subject meeting shall be as follows:

Wednesday, January 5, 1983–8:00 a.m. until 9:00 a.m.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hold discussions with reqresentatives of the NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Sam Duraiswamy (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m., EST.

Dated: December 14, 1982.

Samuel J. Chilk,

(Acting) Advisory Committee Management Officer.

[FR Doc 82-34588 Filed 12-21-82; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Regulatory Activities; Meeting

The ACRS Subcommittee on Regulatory Activities will hold a meeting on January 4, 1983 in Room 1046, 1717 H Street, NW, Washington, DC.

In accordance with the procedures outlined in the **Federal Register** on October 1, 1982 (47 FR 43474), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows: *Tuesday, January 4, 1983—8:45 a.m. until the conclusion of business*

The Subcommittee will hear presentations from the NRC Staff and will hold discussions with this group pertinent to the following:

1. Proposed Revision 3 to Regulatory Guide 1.97, "Instrumentation for Light-Water-Cooled Nuclear Power Plants to Assess Plant and Environs Conditions During and Following an Accident."

2. Proposed Regulatory Guide (Task No. IC 126-5), "Instrument Sensing Lines."

Other matters which may be of a predecisional nature relevant to reactor operation or licensing activities may be discussed following this session.

Persons wishing to submit written statements regarding Regulatory Guide 1.97, Revision 3, and Regulatory Guide on Instrument Sensing Lines, may do so by providing a readily reproducible copy to the Subcommittee at the beginning of the meeting. However, to ensure that adequate time is available for full consideration of these comments at the meeting, it is desirable to send a readily reproducible copy of the comments as far in advance of the meeting as practicable to Mr. Sam Duraiswamy, the Designated Federal Employee for the meeting, in care of ACRS, Nuclear Regulatory Commission, Washington, DC 20555 or telecopy them to the Designated Federal Employee (202/634-3319) as far in advance of the meeting as practicable. Such comments shall be based upon documents on file and available for public inspection at the NRC Public Document Room, 1717 H St., NW, Washington, DC 20555.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the Designated Federal Employee for this meeting, Mr. Sam Duraiswamy, (telephone 202/634-3267) between 8:15 a.m. and 5:00 p.m., EST.

Dated: December 14, 1982.

Samuel J. Chilk,

(Acting) Advisory Committee Management Officer.

[FR Doc. 82-34587 Filed 12-21-82; 8:45 am]

BILLING CODE 759-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Safety Research Program; Meeting

The ACRS Subcommittee on Safety Research Program will hold a meeting on January 5, 1983, in Room 1046, 1717 H Street, NW., Washington, DC. The Subcommittee will discuss the NRC Safety Research Program and Budget for FY year 1984 and 1985; the impact of proposed budget reductions on continuing and proposed research contracts; and Draft 2 of the Annual ACRS Report to the Congress on the related matter.

The entire meeting will be closed (Sunshine Act Exemption (9)b). Such a discussion, if held in public session, might result in the premature disclosure of information which would in turn frustrate the Commission's ability to implement the affected programs effectively.

I have determined, in accordance with Subsection 10(d) Pub. L. 92-463 that it may be necessary to close the meeting as noted above to discuss preliminary information the release of which would be likely to significantly frustrate the Committee in the performance of its statutory function (Exemption (9)b). The authority for such closure is Exemption (9)b to the Sunshine Act, 5 U.S.C. 552b(c)(9)b.

Dated: December 14, 1982.

Samuel. J. Chilk,

(Acting) Advisory Committee Management Officer.

[FR Doc. 82-34591 Filed 12-21-82; 8:45 am]

BILLING CODE 7590-01-M

[Dockets Nos. 50-313 and 50-368]

Arkansas Power and Light Co.; Consideration of Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating Licenses Nos. DPR-51 and NPF-6, issued to Arkansas Power & Light Company (the licensee), for operation of Arkansas Nuclear One, Units Nos. 1 and 2 (ANO-1 and ANO-2), located in Pope County, Arkansas.

In accordance with the licensee's application for amendments dated November 5, 1982, the amendments would permit the expansion of the spent fuel storage capacity for ANO-1 and ANO-2. This expansion would be accomplished by replacing the existing spent fuel storage racks with new high density storage racks. Reracking the spent fuel pools would increase the ANO-1 pool storage capacity from 589 spaces to approximately 968 spaces and the ANO-2 pool storage capacity from 485 spaces to approximately 988 spaces.

Prior to issuance of the proposed license amendments, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

By January 20, 1983, the licensee may file a request for a hearing with respect to issuance of the amendments to the subject facility operating licenses and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2.

If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a

notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendments under consideration. A petitioner who fails to file such a supplement which satisifies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (In Missouri (800) 342–5700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to John F. Stolz: (petitioner's name and telephone number); (date petition was mailed); (ANO1&2); and (publication date and page number of this **Federal Register** notice). A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Nicholas S. Reynolds, Debevoise & Liberman, 1200 17th Street, N.W., Washington, D.C. 20036, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1) (i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendments dated November 5, 1982, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Arkansas Tech University, Russellville, Arkansas.

Dated at Bethesda, Maryland, this 10th day of December 1982.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch No.4, Division of Licensing.

[FR Doc. 82–34582 Filed 12–21–82; 8:45 am]

BILLING CODE 7590–01–M

[Dockets Nos. 50–313 and 50–368]

Arkansas Power and Light Co., Arkansas Nuclear One, Units Nos. 1 and 2; Order for Modification of Licenses

I

Arkansas Power and Light Company (the licensee) holds Facility Operating Licenses Nos. DPR–51 and NPF–6, which authorize the licensee to operate the Arkansas Nuclear One, Units Nos. 1 and 2 (the facilities) at power levels not in excess of 2568 megawatts thermal for Unit No. 1 and 2815 megawatts thermal for Unit No. 2. The facilities consist of pressurized water reactor (PWRs) located at the licensee's site in Pope County, Arkansas.

II

Following the accident at Three Mile Island Unit No. 2 (TMI–2), the Nuclear Regulatory Commission (NRC) identified the need for additional instrumentation to detect inadequate core cooling (ICC). All licensees were required by Order issued in December 1979, to review and upgrade existing instrumentation to assure that information on the reactor coolant subcooling margin and the temperature indicated by the core exit thermocouples over an elevated temperature range were available to operators in the control room. In addition, the NRC proposed that additional instrumentation to provide an unambiguous, easy-to-interpret indication of ICC be studied and such instrumentation be provided if found necessary. In NUREG–0737, *Clarification of TMI Action Plan Requirements*, the design requirements and qualification criteria for additional instrumentation were specified. On October 31, 1980, licensees were required, pursuant to 10 CFR 50.54(f), to provide a report detailing their planned instrumentation system for monitoring ICC.

Following analysis of the information provided by the licensees, meetings with industry groups and independent studies by the NRC Staff, the Commission has determined that during a small break Loss of Coolant Accident (LOCA), there is a period of time before the core has boiled dry (indicated by core exit thermocouples) when the operators have insufficient information to clearly indicate void formation in the reactor vessel head or to track the inventory of coolant in the vessel and primary system. The Subcooling Margin Monitor gives early indication of a problem but does not indicate whether the condition is getting worse or better.

The addition of a reactor coolant inventory system will improve the reliability of plant operators to diagnose the approach of ICC and to assess the adequacy of responses taken to restore core cooling. The benefit will be preventive in nature in that the instrumentation will assist the operator in avoidance of a degraded or melted core when voids in the reactor coolant system and saturation conditions result from over cooling events, steam generator tube ruptures, and small break loss of coolant events. The addition of a reactor coolant inventory system, coupled with upgraded incore thermocouple instruments and a

subcooling margin monitor, provides an ICC instrumentation package which could reduce significantly the likelihood of incorrect operator diagnosis and errors for events such as stream generator tube ruptures, loss of instrument bus or control system upsets, pump seal failures, or overcooling events originating from disturbances in the secondary coolant side of the plant. For low probability events, involving coincidental multiple faults or more rapidly developing small break LOCA conditions, the ICC instrumentation could also reduce the probability of incorrect operator diagnosis and subsequent errors leading to a degraded core.

The NRC has completed its review of several generic reactor level or inventory system instrumentation systems which have been proposed for the detection of ICC in PWRs. The Combustion Engineering Heated Junction Thermocouple (HJTC) system and the Westinghouse Reactor Vessel Level Instrumentation System (RVLIS) are acceptable for tracking reactor coolant system inventory and provide an enhanced ICC instrument package when used in conjunction with core exit thermocouple systems and subcooling margin monitors designed in accordance with NUREG–0737 and operated within approved Emergency Operating Procedure Guidelines. The details of the NRC Staff review of these generic systems are reported in NUREG/CR–2627 and NUREG/CR–2628 for the Combustion Engineering and Westinghouse systems respectively.

Other differential pressure (d/p) measurement techniques for reactor coolant system inventory tracking are acceptable provided that they meet NUREG–0737 design requirements and monitor the coolant inventory over the range from the vessel upper head to the bottom of the hot leg as a minimum. For Babcock and Wilcox (B&W) reactors in which the steam or noncondensables can accumulate in the hot leg candy cane (high point of the system) and interfere with natural circulation, a d/p measurement extending from the top of the hot leg candy cane to the low point in the hot leg is also required. A d/p measurement extending from the bottom of the reactor vessel need not be provided if equivalent instrumentation (e.g., pump power or pump current monitor) is provided to trend the Reactor Coolant System void content when pumps are running.

Consequently, the Commission has determined that an instrumentation system for detection of ICC consisting of upgraded subcooling margin monitors, core-exit thermocouples, and an inventory tracking system is required for the operation of PWR facilities. To assure that an acceptable system is installed as soon as practicable, the information described below and in Appendix A must be submitted to the NRC for review and approval.

III

Accordingly, pursuant to Sections 103, 161i, and 182 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is hereby ordered that Facility Operating Licenses Nos. DPR–51 and NPF–6 are modified as follows:

1. The licensee shall install an ICC instrumentation system consisting of subcooling margin monitors, core-exit thermocouples and a reactor coolant inventory tracking system all of which conform to the design parameters specified in NUREG–0737, Item II.F.2. Installation of the ICC instrumentation system shall be completed and made operational in accordance with the timetables approved pursuant to the terms of this Order.

2. Within 90 days of the date of this Order, the licensee must complete a conceptual design review for a reactor coolant inventory tracking system, identify the design selected and submit to the Director, Division of Licensing detailed schedules for engineering, procurement and installation of the inventory tracking system. References to generic design descriptions, where applicable, are acceptable.

3. Within 90 days of the date of this Order, the licensee shall review the status of conformance of all components of the ICC instrumentation system with NUREG–0737, Item II.F.2, and submit a report on the status of such conformance. For your convenience in performing the status review, a checklist of the nine items of documentation cited on pp. II.F.2–3 and 4 of that document is provided in the Appendix to this Order.

4. the licensee shall develop a schedule for installation and making operational the ICC instrumentation system which ensures installation during the earliest refueling shutdown consistent with the existing status of the plant and practical design and procurement considerations. This schedule shall be subject to approval by the Director, Division of Licensing.

5. Prior to using the installed ICC instrumentation system as a basis for operator decisions or actions, final documentation, including calibration data and proposed emergency procedure revisions, shall be submitted for NRC review and approval, and the task analysis portion of the control room design review must be completed by the licensee. Prior to NRC approval, the system may be used for the purpose of operator training and familiarization and may be used with prudence as supplemental input to plant operating decisions.

6. The licensee may request from the Commission an extension of time for submittals of the required information. Such a request must set forth the proposed schedule and justification for the delay. Such request shall be directed to the Secretary of the Commission, U.S. NRC, Washington, D.C. 20555. Any such request must be submitted at least 30 days prior to the date the information is required.

IV

The licensee may request a hearing on this Order within 25 days of the date of its publication in the **Federal Register**. A request for hearing shall be submitted to the Director, Office of NRR, U.S. NRC, Washington, D.C. 20555. Copies of the request shall also be sent to the Secretary of the Commission and the Executive Legal Director at the same address.

If a hearing is requested by the licensee, the Commission will issue an order designating the time and place of any such hearing. If a hearing is held, the issue to be considered at such hearing shall be: Whether, on the basis of the matters set forth in Section II of this Order, this Order should be sustained.

V

This Order shall become effective upon expiration of the period within which a hearing may be requested or, if a hearing is requested, on the date specified in an order issued following further proceedings on this Order.

This request for information was approved by the Office of Management and Budget under Clearance No. 3150–0065 which expires on June 30, 1983. Comments on burden and duplication may be directed to the Office of Management and Budget, Reports and Management, Room 3208, New Executive Office Building, Washington, D.C.

Dated at Bethesda, Maryland this 10th day of December 1982.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

Appendix A

Checklist for Plant Specific Review of Inadequate Core Cooling (ICC) Instrumentation System

For _____
Docket No. _____
Operated by: _____

The following items for review are taken from NUREG–0737, pp II.F.2–3, and 4. Responses should be made to full requirements in NUREG–0737, not abbreviated forms below. Applicants should provide reference to either the applicant's submittal or the generic description under the column labled "Reference." These items are required to be reviewed on a plant specific basis by NUREG–0737 for all plants. Differences from the generic descriptions provided by Westinghouse, the Westinghouse Owner's Group, Combustion Engineering, or Combustion Engineering Owner's Group must be indicated by "yes or no" in the column labled deviations and must be justified. Under the Column labeled schedule, either indicate that your documentation of the item is complete or provide a proposed schedule for your submittal.

	Reference	Deviations	Schedule
1. Description of the proposed final system including: a. a final design description of additional instrumentation and displays;			
b. detailed description of existing instrumentation systems.			
c. description of completed or planned modifications.			
2. A design analysis and evaluation of inventory trend instrumentation, and test data to support design in item 1.			
3. Description of tests planned and results of tests completed for evaluation, qualifications, and calibration of additional instrumentation.			
4. Provide a table or description covering the evaluation of conformance with NUREG–0737: II.F.2, Attachment 1, and Appendix B (to be reviewed on a plant specific basis)*			
5. Describe computer, software and display functions associated with ICC monitoring in the plant.			
6. Provide a proposed schedule for installation, testing and calibration and implementation of any proposed new instrumentation or information displays.			
7. Describe guidelines for use of reactor coolant inventory tracking system, and analyses used ot develop procedures.			
8. Operator instructions in emergency operating procedures for ICC and how these procedures will be modified when final monitoring system is implemented.			
9. Provide a schedule for additional submittals required**			

*II.F.2 Attachment 1 (for Core Exit Thermocouples)

In response to item 4 in the above checklist, the following materials should be included to show that the proposed system meets the design and qualification criteria for the core exit thermocouple system.

1. Provide diagram of core exit thermocouple locations or reference the generic description if appropriate.

2. Provide a description of the primary operator displays including:

a. A diagram of the display panel layout for the core map and description of how it is implemented, e.g., hardware or CRT display.

b. Provide the range of the readouts.

c. Describe the alarm system.

d. Describe how the ICC instrumentation readouts are arranged with respect to each other.

3. Describe the implementation of the backup display(s) (including the subcooling margin monitors), how the thermocouples are selected, how they are checked for operability, and the range of the display.

4. Describe the use of the primary and backup displays. What training will the operators have in using the core exit thermocouple instrumentation? How will the operator know when to use the core exit thermocouples and when not to use them? Reference appropriate emergency operating guidelines where applicable.

5. Confirm completion of control room design task analysis applicable to ICC instrumentation. Confirm that the core exit thermocouples meet the criteria of NUREG–0737, Attachment 1 and Appendix B, or identify and justify deviations.

6. Describe what parts of the systems are powered from the 1E power sources used, and how isolation from non-1E equipment is provided. Describe the power supply for the primary display. Clearly delineate in two categories which hardware is included up to the isolation device and which is not.

7. Confirm the environmental qualification of the core exit thermocouple instrumentation up to the isolation device.

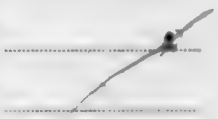
Appendix B (of NUREG–0737, II.F.2)

Confirm explicitly the conformance to the Appendix B items listed below for the ICC instrumentation, i.e., the SMM, the reactor coolant inventory tracking system, the core exit thermocouples and the display systems.

	Reference	Deviations
1. Environmental qualification		
2. Single failure analysis		
3. Class 1E power source		
4. Availability prior to an accident		
5. Quality Assurance		
6. Continuous indications		
7. Recording of instrument outputs		
8. Identification of instruments		
9. Isolation		

**For the users of either Combustion Engineering Heated Junction Thermocouple (HJTC) System or Westinghouse Differential Pressure (dp) system a detailed response to the plant specific items stated below should be provided.

	Reference	Deviations
A. Westinghouse dp System:		
1. Describe the effect of instrument uncertainties on the measurement of level		
2. Are the differential pressure transducers located outside containment?		
3. Are hydraulic isolators and isolators included in the impulse lines?		
B. CE HJTC System:		
1. Discuss the spacing of the sensors from the core alignment plate to the top of the reactor vessel head. How would the decrease in resolution due to the loss of a single sensor affect the ability of the system to detect an approach to ICC?		



[FR Doc. 82–34593 Filed 12–21–82; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–261]

Carolina Power & Light Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 73 to Facility Operating License No. DPR–23 issued to Carolina Power and Light Company (the licensee), which revises the license of the H. B. Robinson Steam Electric Plant, Unit No. 2 (the facility), located in Darlington County, South Carolina. The amendment is effective as of the date of issuance.

The amendment removes the three EFPM limit of operation during cycle 9 operations.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commissions rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) The application for amendment dated July 13, 1982, as supplemented September 24, 1982, (2) Amendment No. 73 to License No. DPR-23, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission't Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina 29550. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 10th day of December 1982.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 82-34594 Filed 12-21-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-247 and 50-3]

Consolidated Edison Co. of New York, Inc.; Notice of Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 31 to Provisional Operating License No. DPR-5 for the Indian Point Nuclear Generating Unit No. 1 and Amendment No. 82 to Facility Operating License No. DPR-26, issued to the Consolidated Edison Company of New York, Inc. (the licensee) which revised Technical Specifications and the Facility Operating License No. DPR-26 for operation of the Indian Point Nuclear Generating Unit No. 2 (the facilities) located in Buchanan, Westchester County, New York. The amendments are effective as of the date of issuance.

The amendments revise the Technical Specifications by modifications to the Facility Organization Structure; containment isolation valves testing requirements; and redesign of the snubbers support systems of certain safety-related pipe lines. Facility Operating License No. DPR-26 is also modified by the deletion of License Condition 2.D.(1) concerning steam generator inspections.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in these license amendments. Prior public notice of these amendments was not required since these amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) The application for amendments dated August 31, 1982, (2) Amendment No. 31 to Provisional Operating License No. DPR-5, (3) Amendment No. 82 to License No. DPR-26, and (4) the Commission's related Saftey Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the White Plains Public Library, 100 Martine Avenue, White Plains, New York. A copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 11th day of December 1982.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 82-34595 Filed 12-21-82; 8:45 am]

BILLING CODE 7590-01-M

Documents Containing Reporting or Recordkeeping Requirements: Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: The Nuclear Regulatory Commission has recently submitted to the Office of Management and Budget (OMB) for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. Type of submission, new, revision or extension: Revision.

2. The title of the information collection: 10 CFR 50.54(x), Fitness for Duty.

3. The form number if applicable: Not applicable.

4. How often the collection is required: On occasion.

5. Who will be required or asked to report: NRC Licensees.

6. An estimate of the number of responses: 80.

7. An estimate of the total number of hours needed annually to complete the requirement or request: 105,600.

8. An indication of whether Section 3504(h), Pub. L. 96-511 applies: Not applicable.

9. Abstract: NRC is proposing to amend its regulations to regulate fitness for duty for personnel with unescorted access to protected areas. Specific procedures are to be established to prevent access to those individuals under influence of alcohol or drugs or otherwise unfit for duty due to mental or temporary physical impairments that could affect their performance.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 1717 H Street N.W., Washington, D.C. 20555.

Comments and questions should be directed to the OMB reviewer Jefferson Hill, (202) 395-6880.

NRC Clearance Officer is R. Stephen Scott, (301) 492-8585.

Dated at Bethesda, Md., this 15th day of December 1982.

For the Nuclear Regulatory Commission.

Patricia G. Norry,

Director, Office of Administration.

[FR Doc. 82-34605 Filed 12-21-82; 8:45 am]

BILLING CODE 7590-01-M

Draft Regulatory Guide; Issuance and Availability

The Nuclear Regulatory Commission has issued for public comment a draft of

a new guide planned for its Regulatory Guide Series together with a draft of the associated value/impact statement. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

The draft guide, temporarily identified by its task number, MS 146-4 (which should be mentioned in all correspondence concerning this draft guide), is entitled "Design, Installation, and Inspection of Seepage Control Liners at Uranium Recovery Facilities" and is intended for Division 3, "Fuels and Materials Facilities." The guide is being developed to describe engineering practices acceptable to the NRC staff for the design, installation, and inspection of liners that control the seepage of toxic materials from tailings and evaporation ponds at uranium recovery facilities.

This draft guide and the associated value/impact statement are being issued to involve the public in the early stages of the development of a regulatory position in this area. They have not received complete staff review and do not represent an official NRC staff position.

Public comments are being solicited on both drafts, the guide (including any implementation schedule) and the draft value/impact statement. Comments on the draft value/impact statement should be accompanied by supporting data. Comments on both drafts should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, by February 14, 1983.

Although a time limit is given for comments on these drafts, comments and suggestions in connection with (1) Items for inclusion in guides currently being developed; or (2) improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of draft guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory Guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Md., this 14th day of December 1982.

For the Nuclear Regulatory Commission.

G. A. Arlotto,

Director, Division of Engineering Technology, Office of Nuclear Regulatory Research.

[FR Doc. 82-34606 Filed 12-21-82; 8:45 am]

BILLING CODE 7590-01-M

[Dockets Nos. 50-269, 50-270 and 50-287]

Duke Power Co. (Oconee Nuclear Station, Units Nos. 1, 2 and 3); Order for Modification of Licenses

I

Duke Power Company (the licensee) holds Facility Operating Licenses Nos. DPR-38, DPR-47 and DPR-55, which authorize the licensee to operate the Oconee Nuclear Station, Units 1, 2 and 3 (the facilities), at power levels not in excess of 2568 megawatts thermal for each unit. The facilities consist of pressurized water reactors (PWRs) located at the licensee's site in Oconee County, South Carolina.

II

Following the accident at Three Mile Island Unit No. 2 (TMI-2), the Nuclear Regulatory Commission (NRC) identified the need for additional instrumentation to detect inadequate core cooling (ICC). All licensees were required by Orders issued in December 1979, to review and upgrade existing instrumentation to assure that information on the reactor coolant subcooling margin and the temperature indicated by the core exit thermocouples over an elevated temperature range were available to operators in the control room. In addition, the NRC proposed that additional instrumentation to provide an unambiguous, easy-to-interpret indication of ICC be studied and such instrumentation be provided if found necessary. In NUREG-0737, *Clarification of TMI Action Plan Requirements*, the design requirements and qualification criteria for additional instrumentation were specified. On October 31, 1980, licensees were required, pursuant to 10 CFR 50.54(f), to provide a report detailing their planned instrumentation system for monitoring ICC.

Following analysis of the information provided by the licensees, meetings with industry groups and independent studies by the NRC Staff, the Commission has determined that during a small break Loss of Coolant Accident (LOCA), there is a period of time before the core has boiled dry (indicated by core exit thermocouples) when the operators have insufficient information to clearly indicate void formation in the reactor vessel head or to track the inventory of coolant in the vessel and primary system. The Subcooling Margin Monitor gives early indication of a problem but does not indicate whether the condition is getting worse or better.

The addition of a reactor coolant inventory system will improve the reliability of plant operators to diagnose the approach of ICC and to assess the adequacy of responses taken to restore core cooling. The benefit will be preventive in nature in that the instrumentation will assist the operator in avoidance of a degraded or melted core when voids in the reactor coolant system and saturation conditions result from over cooling events, steam generator tube ruptures, and small break loss of coolant events. The addition of a reactor coolant inventory system, coupled with upgraded incore thermocouple instruments and a subcooling margin monitor, provides an ICC instrumentation package which could reduce significantly the likelihood of incorrect operator diagnosis and errors for events such as steam generator tube ruptures, loss of instrument bus or control system upsets, pump seal failures, or overcooling events originating from disturbances in the secondary coolant side of the plant. For low probability events, involving coincidental multiple faults or more rapidly developing small break LOCA conditions, the ICC instrumentation could also reduce the probability of incorrect operator diagnosis and subsequent errors leading to a degraded core.

The NRC has completed its review of several generic reactor level or inventory system instrumentation systems which have been proposed for the detection of ICC in PWRs. The Combustion Engineering Heated Junction Thermocouple (HJTC) system and the Westinghouse Reactor Vessel Level Instrumentation System (RVLIS) are acceptable for tracking reactor coolant system inventory and provide an enhanced ICC instrument package when used in conjunction with core exit thermocouple systems and subcooling margin monitors designed in accordance with NUREG-0737 and operated within approved Emergency Operating Procedure Guidelines. The details of the

NRC Staff review of these generic systems are reported in NUREG/CR-2627 and NUREG/CR-2628 for the Combustion Engineering and Westinghouse systems respectively.

Other differential pressure (d/p) measurement techniques for reactor coolant system inventory tracking are acceptable provided that they meet NUREG-0737 design requirements and monitor the coolant inventory over the range from the vessel upper head to the bottom of the hot leg as a minimum. For Babcock and Wilcox (B&W) reactors in which the steam or noncondensables can accumulate in the hot leg candy cane (high point of the system) and interfere with natural circulation, a d/p measurement extending from the top of the hot leg candy cane to the low point in the hot leg is also required. A d/p measurement extending from the bottom of the reactor vessel need not be provided if equivalent instrumentation (e.g., pump power or pump current monitor) is provided to trend the Reactor Coolant System void content when pumps are running.

Consequently, the Commission has determined that an instrumentation system for detection of ICC consisting of upgraded subcooling margin monitors, core-exit thermocouples, and an inventory tracking system is required for the operation of PWR facilities. To assure that an acceptable system is installed as soon as practicable, the information described below and in Appendix A must be submitted to the NRC for review and approval.

III

Accordingly, pursuant to Sections 103, 161i, and 182 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is hereby ordered that Facility Operating Licenses Nos. DPR-38, DPR-47 and DPR-55 are modified as follows:

1. The licensee shall install an ICC instrumentation system consisting of subcooling margin monitors, core-exit thermocouples and a reactor coolant inventory tracking system all of which conform to the design parameters specified in NUREG-0737, Item II.F.2. Installation of the ICC instrumentation system shall be completed and made operational in accordance with the timetables approved pursuant to the terms of this Order.

2. Within 90 Days of the date of this Order, the licensee must complete a conceptual design review for a reactor coolant inventory tracking system, identify the design selected and submit to the Director, Division of Licensing detailed schedules for engineering, procurement and installation of the inventory tracking system. References to generic design descriptions, where applicable, are acceptable.

3. Within 90 days of the date of this Order, the licensee shall review the status of confromance of all components of the ICC instrumentation system with NUREG-0737, Item II.F.2, and submit a report on the status of such conformance. For your Convenience in performing the status review, a checklist of the nine items of documentation cited on pp. II.F.2—3 and 4 of that document is provided in the Appendix to this Order.

4. The licensee shall develop a schedule for installation and making operational the ICC instrumentation system which ensures installation during the earliest refueling shutdown consistent with the existing status of the plant and practical design and procurement considerations. This schedule shall be subject to approval by the Director, Division of Licensing.

5. Prior to using the installed ICC instrumentation system as a basis for operator decisions or actions, final documentation, including calibration data and proposed emergency procedure revisions, shall be submitted for NRC review and approval, and the task analysis portion of the control room design review must be completed by the licensee. Prior to NRC approval, the system may be used for the purpose of operator training and familiarization and may be used with prudence as supplemental input to plant operating decisions.

6. The licensee may request from the Commission an extension of time for submittals of the required information. Such a request must set forth the proposed schedule and justification for the delay. Such request shall be directed to the Secretary of the Commission, U.S. NRC, Washington, D.C. 20555. Any such request must be submitted at least 30 days prior to the date the information is required.

IV

The licensee may request a hearing on this Order within 25 days of the date of its publication in the **Federal Register**. A request for hearing shall be submitted to the Director, Office of NRR, U.S. NRC, Washington, D.C. 20555. Copies of the request shall also be sent to the Secretary of the Commission and the Executive Legal Director at the same address.

If a hearing is requested by the licensee, the Commission will issue an order designating the time and place of any such hearing. If a hearing is held, the issue to be considered at such hearing shall be: Whether, on the basis of the matters set forth in Section II of this Order, this Order should be sustained.

V

This Order shall become effective upon expiration of the period within which a hearing may be requested or, if a hearing is requested, on the date specified in an order issued following further proceedings on this Order.

This request for information was approved by the Office of Management and Budget under Clearance No. 3150-0065 which expires on June 30, 1983. Comments on burden and duplication may be directed to the Office of Management and Budget, Reports and Management, Room 3208, New Executive Office Building, Washington, D.C.

Dated at Bethesda, Maryland this 10th day of December 1982.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

Appendix A.—Checklist for Plant Specific Review of Inadequate Core Cooling (ICC) Instrumentation System

For _____ Docket No. _____

Operated by: _____

_____

_____

The following items for review are taken from NUREG-0737, pp. II.F.2-3, and 4. Responses should be made to full requirements in NUREG-0737, not abbreviated forms below. Applicants should provide reference to either the applicant's submittal or the generic description under the column labled "Reference." These items are required to be reviewed on a plant specific basis by NUREG-0737 for all plants. Differences from the generic descriptions provided by Westinghouse, the Westinghouse Owner's Group, Combustion Engineering, or Combustion Engineering Owner's Group must be identified by "yes or no" in the column labled deviations and must be justified. Under the Column labeled schedule, either indicate that your documentation of the item is complete or provide a proposed schedule for your submittal.

	Reference	Deviations	Schedule
1. Description of the proposed final system including:			
a. A final design description of additional instrumentation and displays			
b. detailed description of existing instrumentation systems			

	Reference	Deviations	Schedule
c. description of completed or planned modifications			
2. A design analysis and evaluation of inventory trend instrumentation, and test data to support design in item 1			
3. Description of tests planned and results of tests completed for installation, qualification, and calibration of additional instrumentation			
4. Provide a table or description covering the evaluation of conformance with NUREG–0737: II.F.2, Attachment 1, and Appendix B (to be reviewed on a plant specific basis)*			
5. Describe computer, software and display functions associated with ICC monitoring in the plant			
6. Provide a proposed schedule for installation, testing and calibration and implementation of any proposed new instrumentation or information displays			
7. Describe guidelines for use of reactor coolant inventory tracking system, and analyses used to develop procedures			
8. Operator instructions in emergency operating procedures for ICC and how these procedures will be modfied when final monitoring system is implemented			
9. Provide a schedule for additional submittals required **			

*** II.F.2 Attachment 1 (for Core Exit Thermocouples)**

In response to item 4 in the above checklist, the following materials should be included to show that the proposed system meets the design and qualification criteria for the core exit thermocouple system.

1. Provide diagram of core exit thermocouple locations or reference the generic description if appropriate.

2. Provide a description of the primary operator displays including:

a. A diagram of the display panel layout for the core map and description of how it is implemented, e.g., hardware or CRT display.

b. Provide the range of the readouts.

c. Describe the alarm system.

d. Describe how the ICC instrumentation readouts are arranged with respect to each other.

3. Describe the implementation of the backup display(s) (including the subcooling margin monitors), how the thermocouples are selected, how they are checked for operability, and the range of the display.

4. Describe the use of the primary and backup displays. What training will the operators have in using the core exit thermocouple instrumentation? How will the operator know when to use the core exit thermocouples and when not to use them? Reference appropriate emergency operating guidelines where applicable.

5. Confirm completion of control room design task analysis applicable to ICC instrumentation. Confirm that the core exit thermocouples meet the criteria of NUREG–0737, Attachment 1 and Appendix B, or identify and justify deviations.

6. Describe what parts of the systems are powered from the 1E power sources used, and how isolation from non-1E equipment is provided. Describe the power supply for the primary display. Clearly delineate in two categories which hardware is included up to the isolation device and which is not.

7. Confirm the environmental qualification of the core exit thermocouple instrumentation up to the isolation device.

Appendix B (of NUREG–0737, II.F.2)

Confirm explicitly the conformance to the Appendix B items listed below for the ICC instrumentation, i.e., the SMM, the reactor coolant inventory tracking system, the core exit thermocouples and the display systems.

	Reference	Deviations
1. Environmental qualification		
2. Single failure analysis		
3. Class 1E power source		
4. Availability prior to an accident		
5. Quality assurance		
6. Continuous indications		
7. Recording of instrument outputs		
8. Identification of instruments		
9. Isolation		

** For the users of either Combustion Engineering Heated Junction Thermocouple (HJTC) System or Westinghouse Differential Pressure (dp) system a detailed response to the plant specific items stated below should be provided.

	Reference	Deviations
A. Westinghouse dp System:		
1. Describe the effect of instrument uncertainties on the measurement of level		
2. Are the differential pressure transducers located outside containment?		
3. Are hydraulic isolators and sensors included in the impulse lines?		
B. CE HJTC System:		
1. Discuss the spacing of the sensors from the core alignment plate to the top of the reactor vessel head. How would the decrease in resolution due to the loss of a single sensor affect the ability of the system to detect an approach to ICC?		

[FR Doc. 82–34596 Filed 12–21–82; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–302]

Florida Power Corp., et al. (Crystal River Unit No. 3 Nuclear Generating Plant); Order for Modification of License

The Florida Power Corporation (the licensee) and eleven other co-owners hold Facility Operating License No. DPR–72, which authorizes the licensee to operate the Crystal River Unit No. 3 Nuclear Generating Plant (the facility) at power levels not in excess of 2544 megawatts thermal. The facility is a pressurized water reactor (PWR) located at the licensee's site in Citrus County, Florida.

II

Following the accident at Three Mile Island Unit No. 2 (TMI–2), the Nuclear Regulatory Commission (NRC) identified the need for additional instrumentation to detect inadequate core cooling (ICC). All licensees were required by Orders issued in December 1979, to review and upgrade existing instrumentation to assure that information on the reactor coolant subcooling margin and the temperature indicated by the core exist thermocouples over an elevated temperature range were available to operators in the control room. In addition, the NRC proposed that additional instrumentation to provide an unambiguous, easy-to-interpret indication of ICC be studied and such instrumentation be provided if found necessary. In NUREG–0737, *Clarification of TMI Action Plan Requirements*, the design requirements and qualification criteria for additional instrumentation were specified. On October 31, 1980, licensees were required, pursuant to 10 CFR 50.54(f), to provide a report detailing their planned instrumentation system for monitoring ICC.

Following analysis of the information provided by the licensees, meetings with industry groups and independent studies by the NRC Staff, the Commission has determined that during a small break Loss of Coolant Accident (LOCA), there is a period of time before the core has boiled dry (indicated by core exit thermocouples) when the operators have insufficient information to clearly indicate void formation in the reactor vessel head or to track the inventory of coolant in the vessel and primary system. The Subcooling Margin Monitor gives early indication of a problem but does not indicate whether the condition is getting worse or better.

The addition of a reactor coolant inventory system will improve the reliability of plant operators to diagnose

the approach of ICC and to assess the adequacy of responses taken to restore core cooling. The benefit will be preventive in nature in that the instrumentation will assist the operator in avoidance of a degraded or melted core when voids in the reactor coolant system and saturation conditions result from over cooling events, steam generator tube ruptures, and small break loss of coolant events. The addition of a reactor coolant inventory system, coupled with upgraded incore thermocouple instruments and a subcooling margin monitor, provides an ICC instrumentation package which could reduce significantly the likelihood of incorrect operator diagnosis and errors for events such as steam generator tube ruptures, loss of instrument bus or control system upsets, pump seal failures, or overcooling events originating from disturbances in the secondary coolant side of the plant. For low probability events, involving coincidental multiple faults or more rapidly developing small break LOCA conditions, the ICC instrumentation could also reduce the probability of incorrect operator diagnosis and subsequent errors leading to a degraded core.

The NRC has completed its review of several generic reactor level or inventory system instrumentation systems which have been proposed for the detection of ICC in PWRs. The Combustion Engineering Heated Junction Thermocouple (HJTC) system and the Westinghouse Reactor Vessel Level Instrumentation System (RVLIS) are acceptable for tracking reactor coolant system inventory and provide an enhanced ICC instrument package when used in conjunction with core exist thermocouple systems and subcooling margin monitors designed in accordance with NUREG–0737 and operated within approved Emergency Operating Procedure Guidelines. The details of the NRC Staff review of these generic systems are reported in NUREG/CR–2627 and NUREG/CR–2628 for the Combustion Engineering and Westinghouse systems respectively.

Other differential pressure (d/p) measurement techniques for reactor coolant system inventory tracking are acceptable provided that they meet NUREG–0737 design requirements and monitor the coolant inventory over the range from the vessel upper head to the bottom of the hot leg as a minimum. For Babcock and Wilcox (B&W) reactors in which the steam or noncondensables can accumulate in the hot leg candy cane (high point of the system) and interfere with natural circulation, a d/p measurement extending from the top of the hot leg candy cane to the low point in the hot leg is also required. A d/p measurement extending from the bottom of the reactor vessel need not be provided if equivalent instrumentation (e.g., pump power or pump current monitor) is provided to trend the Reactor Coolant System void content when pumps are running.

Consequently, the Commission has determined that an instrumentation system for detection of ICC consisting of upgraded subcooling margin monitors, core-exit thermocouples, and an inventory tracking system is required for the operation of PWR facilities. To assure that an acceptable system is installed as soon as practicable, the information described below and in Appendix A must be submitted to the NRC for review and approval.

III

Accordingly, pursuant to Sections 103, 161i, and 182 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is hereby ordered that Facility Operating License No. DPR–72 is modified as follows:

1. The licensee shall install an ICC instrumentation system consisting of subcooling margin monitors, core-exit thermocouples and a reactor coolant inventory tacking system all of which conform to the design parameters specified in NUREG–0737, Item II.F.2. Installation of the ICC instrumentation system shall be completed and made operational in accordance with the timetables approved pursuant to the terms of this Order.

2. Within 90 days of the date of this Order the licensee must complete a conceptual design review for a reactor coolant inventory tracking system, identify the design selected and submit to the Director, Division of Licensing, detailed schedules for engineering, procurement and installation of the inventory tracking system. References to generic design descriptions, where applicable, are acceptable.

3. Within 90 days of the date of this Order, the licensee shall review the status of conformance of all components of the ICC instrumentation system with NUREG–0737, Item II.F.2, and submit a report on the status of such conformance. For your convenience in performing the status review, a checklist of the nine items of documentation cited on pp. II.F.2–3 and 4 of that document is provided in the Appendix to this Order.

4. The licensee shall develop a schedule for installation and making operational the ICC instrumentation system which ensures installation during the earliest refueling shutdown consistent with the existing status of the plant and practical design and procurement considerations. This schedule shall be subject to approval by the Director, Division of Licensing.

5. Prior to using the installed ICC instrumentation system as a basis for operator decisions or actions, final documentation, including calibration data and proposed emergency procedure revisions, shall be submitted for NRC review and approval, and the task analysis portion of the control room design review must be completed by the licensee. Prior to NRC approval, the system may be used for the purpose of operator training and familiarization and may be used with prudence as supplemental input to plant operating decisions.

6. The licensee may request from the Commission an extension of time for submittals of the required information. Such a request must set forth the proposed schedule and justification for the delay. Such request shall be directed to the Secretary of the Commission, U.S. NRC, Washington, D.C, 20555. Any such request must be submitted at least 30 days prior to the date the information is required.

IV

The licensee may request a hearing on this Order within 25 days of the date of its publication in the **Federal Register**. A request for hearing shall be submitted to the Director, Office of NRR, U.S. NRC, Washington, D.C. 20555. Copies of the request shall also be sent to the Secretary of the Commission and the Executive Legal Director at the same address.

If a hearing is requested by the licensee, the Commission will issue an order designating the time and place of any such hearing. If a hearing is held, the issue to be considered at such hearing shall be: Whether, on the basis of the matters set forth in Section II of this Order, this Order should be sustained.

V

This Order shall become effective upon expiration of the period within which a hearing may be requested or, if a hearing is requested, on the date specified in an order issued following further proceedings on this Order.

This request for information was approved by the Office of Management and Budget under Clearance No. 3150–0065 which expires on June 30, 1983. Comments on burden and duplication may be directed to the Office of Management and Budget, Reports and

Management, Room 3208, New Executive Office Building, Washington, D.C.

Dated at Bethesda, Maryland this 10th day of December 1982.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

Appendix A.—Checklist for Plant Specific Review of Inadequate Core Cooling (ICC) Instrumentation System

For _____
Docket No. _____
Operated by: _____

The following items for review are taken from NUREG–0737, pp II.F.2–3, and 4. Responses should be made to full requirements in NUREG–0737, not abbreviated forms below. Applicants should provide reference to either the applicant's submittal or the generic description under the column labeled "Reference." These items are required to be reviewed on a plant specific basis by NUREG–0737 for all plants. Differences from the generic descriptions provided by Westinghouse, the Westinghouse Owner's Group, Combustion Engineering, or Combustion Engineering Owner's Group must be indicated by "yes or no" in the column labeled deviations and must be justified. Under the Column labeled schedule, either indicate that your documentation of the item is complete or provide a proposed schedule for your submittal.

	Refer-	Devi-	Sched-
1. Description of the proposed final system including:			
a. a final design description of additional instrumentation and displays			
b. detailed description of existing instrumentation systems			
c. description of completed or planned modifications			
2. A design analysis and evaluation of inventory trend instrumentation, and test data to support design in item 1			
3. Description of tests planned and results of tests completed for evaluation, qualification, and calibration of additional instrumentation			
4. Provide a table or description covering the evaluation of conformance with NUREG–0737: II.F.2, Attachment 1, and Appendix B (to be reviewed on a plant specific basis)[1]			
5. Describe computer, software and display functions associated with ICC monitoring in the plant			
6. Provide a proposed schedule for installation, testing and calibration and implementation of any proposed new instrumentation or information displays			
7. Describe guidelines for use of reactor coolant inventory tracking system, and analyses used to develop procedures			
8. Operator instructions in emergency operating procedures for ICC and how these procedures will be modified when final monitoring system is implemented			
9. Provide a schedule for additional submittals required.[2]			

[1] II.F.2 Attachment 1 (for Core Exit Thermocouples)

In response to item 4 in the above checklist, the following materials should be included to show that the proposed system meets the design and qualification criteria for the core exit thermocouple system.

1. Provide diagram of core exit thermocouple locations or reference the generic description if appropriate.
2. Provide a description of the primary operator displays including: a. diagram of the display panel layout for the core map and description of how it is implemented, e.g., hardware or CRT display; b. Provide the range of the readouts; c. Describe the alarm system; and d. Describe how the ICC instrumentation readouts are arranged with respect to each other.
3. Describe the implementation of the backup display(s) (including the subcooling margin monitors), how the thermocouples are selected, how they are checked for operability, and the range of the display.
4. Describe the use of the primary and backup displays. What training will the operators have in using the core exit thermocouple instrumentation? How will the operator know to use the core exit thermocouples and when not to use them? Reference appropriate emergency operating guidelines where applicable.
5. Confirm completion of control room design task analysis applicable to ICC instrumentation. Confirm that the core exit thermocouples meet the criteria of NUREG–0737, Attachment 1 and Appendix B, or identify and justify deviations.
6. Describe what parts of the systems are powered from the 1E power sources used, and how isolation from non-1E equipment is provided. Describe the power supply for the primary display. Clearly delineate in two categories which hardware is included up to the isolation device and which is not.
7. Confirm the environmental qualification of the core exit thermocouple instrumentation up to the isolation device.

Appendix B (of NUREG–0737, II.F.2)

Confirm explicitly the conformance to the Appendix B items listed below for the ICC instrumentation, i.e., the SMM, the reactor coolant inventory tracking sysem, the core exit thermocouples and the display systems

	Refer-	Devi-
1. Environmental qualification		
2. Single failure analysis		
3. Class 1E power source		
4. Availability prior to an accident		
5. Quality Assurance		
6. Continuous indications		
7. Recording of instrument outputs		
8. Identification of instruments		
9. Isolation		

[2] For the users of either Combustion Engineering Heated Junction Thermocouple (HJTC) System or Westinghouse Differential Pressure (dp) system a detailed response to the plant specific items stated below should be provided.

	Refer-	Devi-
A. Westinghouse dp System:		
1. Describe the effect of instrument uncertainties on the measurement of level		
2. Are the differential pressure transducers located outside containment?		
3. Are hydraulic isolators and sensors included in the impulse lines?		
B. CE HJTC System:		
1. Discuss the spacing of the sensors from the core alignment plate to the top of the reactor vessel head. How would the decrease in resolution due to the loss of a single sensor affect the ability of the system to detect an approach to ICC?		

[FR Doc. 82–34597 Filed 12–21–82; 8:45 am]
BILLING CODE 7590–01–M

[Docket No. 50–289]

General Public Utilities Nuclear Corp. (Three Mile Island Nuclear Station, Unit No. 1); Order for Modification of License

I

The General Public Utilities Nuclear Corporation (the licensee) and three co-owners hold Facility Operating License No. DPR–50, which authorizes the licensee to operate the Three Mile Island Nuclear Station, Unit No. 1 (the facility), at power levels not in excess of 2535 magawatts thermal. The facility is a pressurized water reactor (PWR) located at the licensee's site in Dauphin County, Pennsylvania.

II

Following the accident at Three Mile Island Unit No. 2 (TMI–2), the Nuclear Regulatory Commission (NRC) identified the need for additional instrumentation to detect inadequate core cooling (ICC). All licensees were required by Orders issued in December 1979, to review and upgrade existing instrumentation to assure that information on the reactor coolant subcooling margin and the temperature indicated by the core exit thermocouples over an elevated temperature range were available to operators in the control room. In addition, the NRC proposed that additional instrumentation to provide an unambiguous, easy-to-interpret indication of ICC be studied and such instrumentation be provided if found necessary. In NUREG–0737, *Clarification of TMI Action Plan Requirements,* the design requirements and qualification criteria for additional instrumentation were specified. On October 31, 1980, licensees were required, pursuant to 10 CFR 50.54(f), to provide a report detailing their planned instrumentation system for monitoring ICC.

Following analysis of the information provided by the licensees, meetings with industry groups and independent studies by the NRC Staff, the Commission has determined that during a small break Loss of Coolant Accident (LOCA), there is a period of time before the core has boiled dry (indicated by core exit thermocouples) when the operators have insufficient information to clearly indicate void formation in the reactor vessel head or to track the inventory of coolant in the vessel and primary system. The Subcooling Margin Monitor gives early indication of a problem but

does not indicate whether the condition is getting worse or better.

The addition of a reactor coolant inventory system will improve the reliability of plant operators to diagnose the approach of ICC and to assess the adequacy of responses taken to restore core cooling. The benefit will be preventive in nature in that the instrumentation will assist the operator in avoidance of a degraded or melted core when voids in the reactor coolant system and saturation conditions result from over cooling events, steam generator tube ruptures, and small break loss of coolant events. The addition of a reactor coolant inventory system, coupled with upgraded incore thermocouple instruments and a subcooling margin monitor, provides an ICC instrumentation package which could reduce significantly the likelihood of incorrect operator diagnosis and errors for events such as steam generator tube ruptures, loss of instrument bus or control system upsets, pump seal failures, or overcooling events originating from disturbances in the secondary coolant side of the plant. For low probability events, involving coincidental multiple faults or more rapidly developing small break LOCA conditions, the ICC instrumentation could also reduce the probability of incorrect operator diagnosis and subsequent errors leading to a degraded core.

The NRC has completed its review of several generic reactor level or inventory system instrumentation systems which have been proposed for the detection of ICC in PWRs. The Combustion Engineering Heated Junction Thermocouple (HJTC) system and the Westinghouse Reactor Vessel Level Instrumentation System (RVLIS) are acceptable for tracking reactor coolant system inventory and provide an enhanced ICC instrument package when used in conjunction with core exit thermocouple systems and subcooling margin monitors designed in accordance with NUREG–0737 and operated within approved Emergency Operating Procedure Guidelines. The details of the NRC Staff review of these generic systems are reported in NUREG/CR–2627 and NUREG/CR–2628 for the Combustion Engineering and Westinghouse systems respectively.

Other differential pressure (d/p) measurement techniques for reactor coolant system inventory tracking are acceptable provided that they meet NUREG–0737 design requirements and monitor the coolant inventory over the range from the vessel upper head to the bottom of the hot leg as a minimum. For Babcock and Wilcox (B&W) reactors in which the steam or noncondensables can accumulate in the hot leg candy cane (high point of the system) and interfere with natural circulation, a d/p measurement extending from the top of the hot leg candy cane to the low point in the hot leg is also required. A d/p measurement extending from the bottom of the reactor vessel need not be provided if equivalent instrumentation (e.g., pump power or pump current monitor) is provided to trend the Reactor Coolant System void content when pumps are running.

Consequently, the Commission has determined that an instrumentation system for detection of ICC consisting of upgrade subcooling margin monitors, core-exit thermocouples, and an inventory tracking system is required for the operation of PWR facilities. To assure that an acceptable system is installed as soon as practicable, the information described below and in Appendix A must be submitted to the NRC for review and approval.

III

Accordingly, pursuant to Sections 103, 161i, and 182 of the atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is hereby ordered that Facility Operating License No. DPR–50 is modified as follows:

1. The licensee shall install an ICC instrumentation system consisting of subcooling margin monitors, core-exit thermocouples and a reactor coolant inventory tracking system all of which conform to the design parameters specified in NUREG–0737, Item II.F.2. Installation of the ICC instrumentation system shall be completed and made operational in accordance with the timetables approved pursuant to the terms of this Order.

2. Within 90 days of the date of this Order, the licensee must complete a conceptual design review for a reactor coolant inventory tracking system, identify the design selected and submit to the Director, Division of Licensing detailed schedules for engineering, procurement and installation of the inventory tracking system. References to generic design descriptions, where applicable, are acceptable.

Within 90 days of the date of this Order, the licensee shall review the status of conformance of all components of the ICC instrumentation system with NUREG–0737, Item II.F.2, and submit a report on the status of such conformance. For your convenience in performing the status review, a checklist of the nine items of documentation cited on pp. II.F.2–3 and 4 of that document is provided in the Appendix to this Order.

4. The licensee shall develop a schedule for installation and making operational the ICC instrumentation system which ensures installation during the earliest refueling shutdown consistent with the existing status of the plant and practical design and procurement considerations. This schedule shall be subject to approval by the Director, Division of Licensing.

5. Prior to using the installed ICC instrumentation system as a basis for operator decisions or actions, final documentation, including calibration data and proposed emergency procedure revisions, shall be submitted for NRC review and approval, and the task analysis portion of the control room design review must be completed by the licensee. Prior to NRC approval, the system may be used for the purpose of operator training and familiarization and may be used with prudence as supplemental input to plant operating decisions.

6. The licensee may request from the Commission an extension of time for submittals of the required information. Such a request must set forth the proposed schedule and justification for the delay. Such request shall be directed to the Secretary of the Commission, U.S. NRC, Washington, D.C. 20555. Any such request must be submitted at least 30 days prior to the date the information is required.

IV

The licensee may request a hearing on this Order within 25 days of the date of its publication in the **Federal Register**. A request for hearing shall be submitted to the Director, Office of NRR, U.S. NRC, Washington, D.C. 20555. Copies of the request shall also be sent to the Secretary of the Commission and the Executive Legal Director at the same address.

If a hearing is requested by the licensee, the Commission will issue an order designating the time and place of any such hearing. If a hearing is held, the issue to be considered at such hearing shall be: Whether, on the basis of the matters set forth in Section II of this Order, this Order should be sustained.

V

This Order shall become effective upon expiration of the period within which a hearing may be requested or, if a hearing is requested, on the date specified in an order issued following further proceedings on this Order.

This request for information was approved by the Office of Management and Budget under Clearance No. 3150–0065 which expires on June 30, 1983. Comments on burden and duplication may be directed to the Office of Management and Budget, Reports and Management, Room 3208, New Executive Office Building, Washington, D.C.

Dated at Bethesda, Maryland, this 10th day of December 1982.

For the Nuclear Regulatory Commission.

Robert A. Purple,

Acting Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 82–34598 Filed 12–21–82; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–315 AND 50–316

Indiana and Michigan Electric Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 66 to Facility Operating License No. DPR–58, and Amendment No. 47 to Facility Operating License No. DPR–74 issued to the Indiana and Michigan Electric Company (the licensee), which revised Technical Specifications for operation of D.C. Cook Units 1 and 2 (the facilities) located in Berrien County, Michigan. The amendments are effective as of the date of issuance.

The amendments revise the Technical Specifications to allow containment purging during operation and to allow purge and vent modifications required as part of the TMI Action Plan.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For futher details with respect to this action, see (1) The application for amendments dated August 30, 1982, as supplemented by letters dated October 29, 1982 and November 19, 1982, (2) Amendment Nos. 66 and 47 to License Nos. DPR–58 and DPR–74, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Maude Reston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 8th day of December 1982.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 82–34599 Filed 12–21–82; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–263]

Northern States Power Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 14 to Facility Operating License No. DPR–22, issued to Northern States Power Company, which revised the license and the Technical Specifications for operation of the Monticello Nuclear Generating Plant (the facility) located in Wright County, Minnesota. The amendment is effective as of its date of issuance.

The amendment: (1) Approves the repair to the recirculation system piping and authorizes resumption of power, subject to certain conditions, and (2) changes the Technical Specifications to revise the Limiting Conditions for Operation and Surveillance Requirements for the coolant leak detection system.

The application for amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of the amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of the amendment.

For further details with respect to this action, see: (1) The application for amendment dated July 6, 1981, as supplemented November 22 and December 3, 1982 (2) Amendment No. 14 to License No. DPR–22, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Environmental Conservation Library, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland this 10th day of December, 1982.

For the Nuclear Regulatory Commission.

Domenic B. Vassallo,

Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 82–34600 Filed 12–21–82; 8:45 am]

BILLING CODE 7590–01–M

OMB Review of Information Collection; NRC Form 212, "Qualifications Investigation (Professional)"

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: The Nuclear Regulatory Commission has recently submitted to the Office of Management and Budget (OMB) for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. Type of submission, new, revision or extension: Extension.

2. The title of the information collection: NRC Form 212 "Qualifications Investigation (Professional)".

3. The form number if applicable: NRC Form 212.

4. How often the collection is required: when an applicant is considered for employment.

5. Who will be required or asked to report: Previous supervisors and personal acquaintances.

6. An estimate of the number of responses: 2000.

7. An estimate of the total number of hours needed to complete the requirement or request: 500.

8. Section 3504(h), Pub. L. 96–511 does not apply.

9. Abstract: Information used to determine qualifications and suitability of applicants for employment with NRC.

ADDRESSES: Copies of the submittal will be made available for inspection or copying for a fee at the NRC Public Document Room, 1717 H Street, NW., Washington, D.C. 20555.

FOR FURTHER INFORMATION CONTACT: Comments and questions should be directed to the OMB reviewer, Jefferson B. Hill, (202) 395–7340.

NRC Clearance Officers R. Stephen Scott, (301) 492–8585. Dated at Bethesda, Maryland, this 15th day of December 1982.

For the Nuclear Regulatory Commission.

Patricia G. Norry,

Director, Office of Administration.

[FR Doc. 82–34603 Filed 12–21–82; 8:45 am]

BILLING CODE 7590–01–M

OMB Review of Information Collection; NRC Form 212A, "Qualifications Investigation (Secretarial/Clerical)"

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: The Nuclear Regulatory Commission has recently submitted to the Office of Management and Budget (OMB) for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. Type of submission, new, revision or extension: Extension.

2. The title of the information collection: NRC Form 212A, "Qualifications Investigation (Secretarial/Clerical)."

3. The form number is applicable: NRC Form 212A.

4. How often the collection is required: when an applicant is considered for employment.

5. Who will be required or asked to report: Previous supervisors and personal acquaintances.

6. An estimate of the number of responses: 2,000.

7. An estimate of the total number of hours needed to complete the requirement or request: 500.

8. Section 3504(h), Pub. L. 96–511 does not apply.

9. Abstract: Information used to determine qualifications and suitability of applicants for employment with NRC.

ADDRESSES: Copies of the submittal will be made available for inspection or copying for a fee at the NRC Public Document Room, 1717 H Street, NW., Washington, D.C. 20555.

FOR FURTHER INFORMATION: Comments and questions should be directed to the OMB reviewer, Jefferson B. Hill, (202) 395–7340.

NRC Clearance Officers R. Stephen Scott, (301) 492–8585. Dated at Bethesda, Maryland, this 15th day of December 1982.

For the Nuclear Regulatory Commission.

Patricia G. Norry,

Director, Office of Administration.

[FR Doc. 82–34604 Filed 12–21–82; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–312]

The Sacramento Municipal Utility District (Rancho Seco Nuclear Generating Station); Order for Modification of License

I

The Sacramento Municipal Utility District (the licensee) holds Facility Operating License No. DPR–54, which authorizes the licensee to operate the Rancho Seco Nuclear Generating Station (the facility) at power levels not in excess of 2772 megawatts thermal. The facility is a pressurized water reactor (PWR) located at the licensee's site in Sacramento County, California.

II

Following the accident at Three Mile Island Unit No. 2 (TMI–2), the Nuclear Regulatory Commission (NRC) identified the need for additional instrumentation to detect inadequate core cooling (ICC). All licensees were required by Orders issued in December 1979, to review and upgrade existing instrumentation to assure that information on the reactor coolant subcooling margin and the temperature indicated by the core exit thermocouples over an elevated temperature range were available to operators in the control room. In addition, the NRC proposed that additional instrumentation to provide an unambiguous, easy-to-interpret indication of ICC be studied and such instrumentation be provided if found necessary. In NUREG–0737, *Clarification of TMI Action Plan Requirements*, the design requirements and qualification criteria for additional instrumentation were specified. On October 31, 1980, licensees were required, pursuant to 10 CFR 5054(f), to provide a report detailing their planned instrumentation system for monitoring ICC.

Following analysis of the information provided by the licensees, meetings with industry groups and independent studies by the NRC Staff, the Commission has determined that during a small break Loss of Coolant Accident (LOCA), there is a period of time before the core has boiled dry (indicated by core exit thermocouples) when the operators have insufficient information to clearly indicate void formation in the reactor vessel head or to track the inventory of coolant in the vessel and primary system. The Subcooling Margin Monitor give early indication of a problem but does not indicate whether the condition is getting worse or better.

The addition of a reactor coolant inventory system will improve the reliability of plant operators to diagnose the approach of ICC and to assess the adequacy of responses taken to restore core cooling. The benefit will be preventive in nature in that the instrumentation will assist the operator in avoidance of a degraded or melted core when voids in the reactor coolant system and saturation conditions result from over cooling events, steam generator tube ruptures, and small break loss of coolant events. The addition of a reactor coolant inventory system, coupled with upgraded incore thermocouple instruments and a subcooling margin monitor, provides an ICC instrumentation package which could reduce significantly the likelihood of incorrect operator diagnosis and errors for events such as steam generator tube ruptures, loss of instrument bus or control system upsets, pump seal failures, or overcooling events originating from disturbances in the secondary coolant side of the plant. For low probability events, involving coincidental multiple faults or more rapidly developing small break LOCA conditions, the ICC instrumentation could also reduce the probability of incorrect operator diagnosis and subsequent errors leading to a degraded core.

The NRC has completed its review of several generic reactor level or inventory system instrumentation systems which have been proposed for the detection of ICC in PWRs. The Combustion Engineering Heated Junction Thermocouple (HJTC) system and the Westinghouse Reactor Vessel Level Instrumentation System (RVLIS) are acceptable for tracking reactor coolant system inventory and provide an enhanced ICC instrument package

when used in conjunction with core exit thermocouple systems an subcooling margin monitors designed in accordance with NUREG–0737 and operated within approved Emergency Operating Procedure Guidelines. The details of the NRC Staff review of these generic systems are reported in NUREG/CR–2627 and NUREG/CR–2628 for the Combustion Engineering and Westinghouse systems respectively.

Other differential pressure (d/p) measurement techniques for reactor coolant system inventory tracking are acceptable provided that they meet NUREG–0737 design requirements and monitor the coolant inventory over the range from the vessel upper head to the bottom of the hot leg as a minimum. For Babcock and Wilcox (B&W) reactors in which the steam or noncondensables can accumulate in the hot leg candy cane (high point of the system) and interfere with natural circulation, a d/p measurement extending from the top of the hot leg candy cane to the low point in the hot leg is also required. A d/p measurement extending from the bottom of the reactor vessel need not be provided if equivalent instrumentation (e.g., pump power or pump current monitor) is provided to trend the Reactor Coolant System void content when pumps are running.

Consequently, the Commission has determined that an instrumentation system for detection of ICC consisting of upgraded subcooling margin monitors, core-exit thermocouples, and an inventory tracking system is required for the operation of PWR facilities. To assure that an acceptable system is installed as soon as practicable, the information described below and in Appendix A must be submitted to the NRC for review and approval.

III

Accordingly, pursuant to Sections 103, 161i, and 182 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is Hereby Ordered That Facility Operating License No. DPR–54 is modified as follows:

1. The licensee shall install an ICC instrumentation system consisting of subcooling margin monitors, core-exit thermocouples and a reactor coolant inventory tracking system all of which conform to the design parameters specified in NUREG–0737, Item II.F.2. Installation of the ICC instrumentation system shall be completed and made operational in accordance with the timetables approved pursuant to the terms of this Order.

2. Within 90 days of the date of this Order, the licensee must complete a conceptual design review for a reactor coolant inventory tracking system, identify the design selected and submit to the Director, Division of Licensing detailed schedules for engineering, procurement and installation of the inventory tracking system. References to generic design descriptions, where applicable, are acceptable.

3. Within 90 days of the date of this Order, the licensee shall review the status of conformance of all components of the ICC instrumentation system with NUREG–0737, Item II.F.2, and submit a report on the status of such conformance. For your convenience in performing the status review, a checklist of the nine items of documentation cited on pp. II.F.2–3 and 4 of that document is provided in the Appendix to this Order.

4. The licensee shall develop a schedule for installation and making operational the ICC instrumentation system which ensures installation during the earliest refueling shutdown consistent with the existing status of the plant and practical design and procurement considerations. This schedule shall be subject to approval by the Director, Division of Licensing.

5. Prior to using the installed ICC instrumentation system as a basis for operator decisions or actions, final documentation, including calibration data and proposed emergency procedure revisions, shall be submitted for NRC review and approval, and the task analysis portion of the control room design review must be completed by the licensee. Prior to NRC approval, the system may be used for the purpose of operator training and familiarization and may be used with prudence as supplemental input to plant operating decisions.

6. The licensee may request from the Commission an extension of time for submittals of the required information. Such a request must set forth the proposed schedule and justification for the delay. Such request shall be directed to the Secretary of the Commission, U.S. NRC, Washington, D.C. 20555. Any such request must be submitted at least 30 days prior to the date the information is required.

IV

The licensee may request a hearing on this Order within 25 days of the date of its publication in the **Federal Register.** A request for hearing shall be submitted to the Director, Office of NRR, U.S. NRC, Washington, D.C. 20555. Copies of the request shall also be sent to the Secretary of the Commission and the Executive Legal Director at the same address.

If a hearing is requested by the licensee, the Commission will issue an order designating the time and place of any such hearing. If a hearing is held, the issue to be considered at such hearing shall be: Whether, on the basis of the matters set forth in Section II of this Order, this Order should be sustained.

V

This Order shall become effective upon expiration of the period within which a hearing may be requested or, if a hearing is requested, on the date specified in an order issued following further proceedings on this Order.

This request for information was approved by the Office of Management and Budget under Clearance No. 3150–0065 which expires on June 30, 1983. Comments on burden and duplication may be directed to the Office of Management and Budget, Reports and Management, Room 3208, New Executive Office Building, Washington, D.C.

Dated at Bethesda, Maryland, this 10th day of December 1982.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

Appendix A.—Checklist for Plant Specific Review of Inadequate Core Cooling (ICC) Instrumentation System

For _____
Docket No. _____
Operated by: _____

The following items for review are taken from NUREG–0737, pp. II.F.2–3, and 4. Responses should be made to full requirements in NUREG–0737, not abbreviated forms below. Applicants should provide reference to either the applicant's submittal or the generic description under the column labled "Reference." These items are required to be reviewed on a plant specific basis by NUREG–0737 for all plants. Differences from the generic descriptions provided by Westinghouse, the Westinghouse Owner's Group, Combustion Engineering, or Combustion Engineering Owner's Group must be indicated by "yes or no" in the column labled deviations and must be justified. Under the Column labeled schedule, either indicate that your documentation of the item is complete or provide a proposed schedule for your submittal.

	Reference	Deviations	Schedule
1. Description of the proposed final system including:			
a. a final design description of additional instrumentation and displays			

	Reference	Deviations	Schedule
b. detailed description of existing instrumentation systems			
c. description of completed or planned modifications			
2. A design analysis and evaluation of inventory trend instrumentation, and test data to support design in item 1			
3. Description of tests planned and results of tests completed for evaluation, qualification, and calibration of additional instrumentation			
4. Provide a table or description covering the evaluation of conformance with NUREG–0737: II.F.2, Attachment 1, and Appendix B (to be reviewed on a plant specific basis)[1]			
5. Describe computer, software and display functions associated with ICC monitoring in the plant			
6. Provide a proposed schedule for installation, testing and calibration and implementation of any proposed new instrumentation or information displays			
7. Describe guidelines for use of reactor coolant inventory tracking system, and analyses used to develop procedures			
8. Operator instructions in emergency operating procedures for ICC and how these procedures will be modified when final monitoring system is implemented			
9. Provide a schedule for additional submittals required[2]			

[1] II.F.2 Attachment 1 (for Core Exit Thermocouples)

In response to item 4 in the above checklist, the following materials should be included to show that the proposed system meets the design and qualification criteria for the core exit thermocouple system.

1. Provide diagram of core exit thermocouple locations or reference the generic description if appropriate.

2. Provide a description of the primary operator displays including: a. A diagram of the display panel layout for the core map and description of how it is implemented, e.g., hardware or CRT display; b. Provide the range of the readouts; c. Describe the alarm system; and d. Describe how the ICC instrumentation readouts are arranged with respect to each other.

3. Describe the implementation of the backup display(s) (including the subcooling margin monitors), how the thermocouples are selected, how they are checked for operability, and the range of the display.

4. Describe the use of the primary and backup displays. What training will the operators have in using the core exit thermocouple instrumentation? How will the operator know when to use the core exit thermocouples and when not to use them? Reference appropriate emergency operating guidelines where applicable.

5. Confirm completion of control room design task analysis applicable to ICC instrumentation. Confirm that the core exit thermocouples meet the criteria of NUREG–0737, Attachment 1 and Appendix B, or identify and justify deviations.

6. Describe what parts of the systems are powered from the 1E power sources used, and how isolation from non–1E equipment is provided. Describe the power supply for the primary display. Clearly delineate in two categories which hardware is included up to the isolation device and which is [illegible].

7. Confirm the environmental qualification of the core exit thermocouple instrumentation up to the isolation device.

Appendix B (of NUREG–0737, II.F.2)

Confirm explicitly the conformance to the Appendix B items listed below for the ICC instrumentation, i.e., the SAMM, the reactor coolant inventory tracking system, the core exit thermocouples and the display systems.

	Reference	Deviations
1. Environmental qualification		
2. Single failure analysis		
3. Class 1E power source		
4. Availability prior to an accident		
5. Quality Assurance		
6. Continuous indications		
7. Recording of instrument outputs		
8. Identification of instruments		
9. Isolation		

[2] For the users of either Combustion Engineering Heated Junction Thermocouple (HJTC) System or Westinghouse Differential Pressure (dp) system a detailed response to the plant specific items stated below should be provided.

	Reference	Deviations
A. Westinghouse dp System:		
1. Describe the effect of instrument uncertainties on the measurement of level		
2. Are the differential pressure transducers located outside containment?		
3. Are hydraulic isolators and sensors included in the impulse lines?		
B. CE HJTC System:		
1. Discuss the spacing of the sensors from the core alignment plate to the top of the reactor vessel head. How would the decrease in resolution due to the loss of a single sensor affect the ability of the system to detect an approach to ICC?		

[FR Doc. 82–34601 Filed 12–21–82: 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–346]

The Toledo Edison Co. and the Cleveland Electric Illuminating Co. (Davis-Besse Nuclear Power Station, Unit No. 1); Order for Modification of License

I

The Toledo Edison Company (TECo) and The Cleveland Electric Illuminating Company (the licensees) hold Facility Operating License No. NPF–3, which authorizes the TECo to operate the Davis-Besse Nuclear Power Station, Unit No. 1 (the facility), at power levels not in excess of 2772 megawatts thermal. The facility is a pressurized water reactor (PWR) located at the licensee's site in Ottawa County, Ohio.

II

Following the accident at Three Mile Island Unit No. 2 (TMI–2), the Nuclear Regulatory Commission (NRC) identified the need for the additional instrumentation to detect inadequate core cooling (ICC). All licensees were required by Orders issued in December 1979, to review and upgrade existing instrumentation to assure that information on the reactor coolant subcooling margin and the temperature indicated by the core exit thermocouples over an elevated temperature range were available to operators in the control room. In addition, the NRC proposed that additional instrumentation to provide an unambiguous, easy-to-interpret indication of ICC be studied and such instrumentation be provided if found necessary. In NUREG–0737, *Clarification of TMI Action Plan Requirements,* the design requirements and qualification criteria for additional instrumentation were specified. On October 31, 1980, licensees were required, pursuant to 10 CFR 50.54(f), to provide a report detailing their planned instrumentation system for monitoring ICC.

Following analysis of the information provided by the licensees, meetings with industry groups and independent studies by the NRC Staff, the Commission has determined that during a small break Loss of Coolant Accident (LOCA), there is a period of time before the core has boiled dry (indicatd by core exist thermocouples) when the operators have insufficient information to clearly indicate void formation in the reactor vessel head or to track the inventory of coolant in the vessel and primary system. The Subcooling Margin Monitor gives early indication of a problem but does not indicate whether the condition is getting worse or better.

The addition of a reactor coolant inventory system will improve the reliability of plant operators to diagnose the approach of ICC and to assess the adequacy of responses taken to restore core cooling. The benefit will be preventive in nature in that the instrumentation will assist the operator in avoidance of a degraded or melted core when voids in the reactor coolant system and saturation conditions result from over cooling events, steam generator tube ruptures, and small break loss of coolant events. The addition of a reactor coolant inventory system, coupled with upgraded incore thermocouple instruments and a subcooling margin monitor, provides an ICC instrumentation package which could reduce significantly the likelihood of incorrect operator diagnosis and errors for events such as steam generator tube-ruptures, loss of instrument bus or control system upsets, pump seal failures, or overcooling events originating from disturbances in the secondary coolant side of the plant. For low probability events, involving coincidental multiple faults or more rapidly developing small break LOCA conditions, the ICC instrumentation could also reduce the probability of incorret operator diagnosis and subsequent errors leading to a degraded core.

The NRC has completed its review of several generic reactor level or inventory system instrumentation systems which have been proposed for the detection of ICC in PWRs. The Combustion Engineering Heated Junction Thermocouple (HJTC) system and the Westinghouse Reactor Vessel Level Instrumentation System (RVLIS)

are acceptable for tracking reactor coolant system inventory and provide and enhanced ICC instrument package when used in conjunction with core exist thermocouple systems and subcooling margin monitors designed in accordance with NUREG–0737 and operated within approved Emergency Operating Procedure Guidelines. The details of the NRC Staff review of these generic systems are reported in NUREG/CR–2627 and NUREG/CR–2628 for the Combustion Engineering and Westinghouse suystems respectively.

Other differential pressure (d/p) measurement techniques for reactor coolant system inventory tracking are acceptable provided that they meet NUREG–0737 design requirements and monitor the coolant inventory over the range from the vessel upper head to the bottom of the hot leg as a minimum. For Babcock and Wilcox (B&W) reactors in which the steam or noncondensables can accumulate in the hot leg candy cane (high point of the system) and interfere with natural circulation, a d/p measurement extending from the top of the hot leg candy cane to the low point in the hot leg is also required. A d/p measurement extending from the bottom of the reactor vessel need not be provided if equivalent instrumentation (e.g., pump power or pump current monitor) is provided to trend the Reactor Coolant System void content when pumps are running.

Consequently, the Commission has determined that an instrumentation system for detection of ICC consisting of upgraded subcooling margin monitors, core-exit thermocouples, and an inventory tracking system is required for the operation of PWR facilities. To assure that an acceptable system is installed as soon as practicable, the information described below and in Appendix A must be submitted to the NRC for review and approval.

III

Accordingly, pursuant to Sections 103, 161i, and 182 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is hereby ordered that Facility Operating License No. NPF–3 is modified as follows:

1. The licensee shall install an ICC instrumentation system consisting of subcooling margin monitors, core-exist thermocouples and a reactor coolant inventory tracking system all of which conform to the design parameters specified in NUREG–0737, Item II.F.2. Installation of the ICC instrumentation system shall be completed and made operational in accordance with the timetables approved pursuant to the terms of this Order.

2. Within 90 days of the date of this Order, the licensee must complete a conceptual design review for a reactor coolant inventory tracking system, identify the design selected and submit to the Director, Division of Licensing detailed schedules for engineering, procurement and installation of the inventory tracking system. References to generic design descriptions, where applicable, are acceptable.

3. Within 90 days of the date of this Order, the licensee shall review the status of conformance of all components of the ICC instrumentation system with NUREG–0737, Item II.F.2, and submit a report on the status of such conformance. For your convenience in performing the status review, a checklist of the nine items of documentation cited on pp. II.F.2–3 and 4 of that document is provided in the Appendix to this Order.

4. The licensee shall develop a schedule for installation and making operational the ICC instrumentation system which ensures installation during the earliest refueling shutdown consistent with the existing status of the plant and practical design and procurement considerations. This schedule shall be subject to approval by the Director, Division of Licensing.

5. Prior to using the installed ICC instrumentation system as a basis for operator decisions or actions, final documentation, including calibration data and proposed emergency procedure revisions, shall be submitted for NRC review and approval, and the task analysis portion of the control room design review must be completed by the licensee. Prior to NRC approval, the system may be used for the purpose of operator training and familiarization and may be used with prudence as supplemental input to plant operating decisions.

6. The licensee may request from the Commission an extension of time for submittals of the required information. Such a request must set forth the proposed schedule and justification for the delay. Such request shall be directed to the Secretary of the Commission, U.S. NRC. Washington, D.C. 20555. Any such request must be submitted at least 30 days prior to the date the information is required.

IV

The licensee may request a hearing on this Order within 25 days of the date of its publication in the **Federal Register**. A request for hearing shall be submitted to the Director, Office of NRR, U.S. NRC, Washington, D.C. 20555. Copies of the request shall also be sent to the Secretary of the Commission and the Executive Legal Director at the same address.

If a hearing is requested by the licensee, the Commission will issue an order designating the time and place of any such hearing. If a hearing is held, the issue to be considered at such hearing shall be: Whether, on the basis of the matters set forth in Section II of this Order, this Order should be sustained.

V

This Order shall become effective upon expiration of the period within which a hearing may be requested or, if a hearing is requested, on the date specified in an order issued following further proceedings on this Order.

This request for information was approved by the Office of Management and Budget under Clearance No. 3150–0065 which expires on June 30, 1983. Comments on burden and duplication may be directed to the Office of Management and Budget, Reports and Management, Room 3208, New Executive Office Building, Washington, D.C.

For the Nuclear Regulatory Commission.

Dated at Bethesda, Maryland, this 10th day of December 1982.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

Appendix A.—Checklist for Plant Specific Review of Inadequate Core Cooling (ICC) Instrumentation System

For _____

Docket No. _____

Operated by:_____

_____

The following items for review are taken from NUREG–0737, pp II.F.2–3, and 4. Responses should be made to full requirements in NUREG–0737, not abbreviated forms below. Applicants should provide reference to either the applicant's submittal or the generic description under the column labled "Reference." These items are required to be reviewed on a plant specific basis by NUREG–0737 for all plants. Differences from the generic descriptions provided by Westinghouse, the Westinghouse Owner's Group, Combustion Engineering, or Combustion Engineering Owner's Group must be indicated by "yes or no" in the column labled deviations and must be justified. Under the Column labeled schedule, either indicate that your documentation of the item is complete or provide a proposed schedule for your submittal.

	Reference	Deviations	Schedule
1. Description of the proposed final system including:			
a. a final design description of additional instrumentation and displays			
b. detailed description of existing instrumentation systems			
c. description of completed or planned modifications			
2. A design analysis and evaluation of inventory trend instrumentation, and test data to support design in item 1			
3. Description of tests planned and results of tests completed for evaluation, qualification, and calibration of additional instrumentation			
4. Provide a table or description covering the evaluation of conformance with NUREG-0737: II.F.2, Attachment 1, and Appendix B (to be reviewed on a plant specific basis) [1]			
5. Describe computer, software and display functions associated with ICC monitoring in the plant			
6. Provide a proposed schedule for installation, testing and calibration and implementation of any proposed new instrumentation or information displays			
7. Describe guidelines for use of reactor coolant inventory tracking system, and analyses used to develop procedures			
8. Operator instructions in emergency operating procedures for ICC and how these procedures will be modified when final monitoring system is implemented			
9. Provide a schedule for additional submittals required [2]			

[1] II.F.2 Attachment 1 (for Core Exit Thermocouples).
In response to item 4 in the above checklist, the following materials should be included to show that the proposed system meets the design and qualification criteria for the core exit thermocouple system.

1. Provide diagram of core exit thermocouple locations or reference the generic description if appropriate.
2. Provide a description of the primary operator displays including: a. A diagram of the display panel layout for the core map and description of how it is implemented, e.g., hardware or CRT display; b. Provide the range of the readouts; c. Describe the alarm system; and d. Describe how the ICC instrumentation readouts are arranged with respect to each other.
3. Describe the implementation of the backup display(s) (including the subcooling margin monitors), how the thermocouples are selected, how they are checked for operability, and the range of the display.
4. Describe the use of the primary and backup displays. What training will the operators have in using the core exit thermocouple instrumentation? How will the operator know when to use the core exit thermocouples and when not to use them? Reference appropriate emergency operating guidelines where applicable.
5. Confirm completion of control room design task analysis applicable to ICC instrumentation. Confirm that the core exit thermocouples meet the criteria of NUREG-0737, Attachment 1 and Appendix B, or identify and justify deviations.
6. Describe what parts of the systems are powered from the 1E power sources used, and how isolation from non-1E equipment is provided. Describe the power supply for the primary display. Clearly delineate in two categories which hardware is included up to the isolation device and which is not.
7. Confirm the environmental qualification of the core exit thermocouple instrumentation up to the isolation device.

Appendix B (of NUREG-0737, II.F.2)

Confirm explicitly the conformance to the Appendix B items listed below for the ICC instrumentation, i.e., the SMM, the reactor coolant inventory tracking system, the core exit thermocouples and the display systems.

	Reference	Deviations
1. Environmental qualification		
2. Single failure analysis		
3. Class 1E power source		
4. Availability prior to an accident		
5. Quality Assurance		
6. Continuous indications		
7. Recording of instrument outputs		
8. Identification of instruments		
9. Isolation		

[2] For the users of either Combustion Engineering Heated Junction Thermocouple (HJTC) System or Westinghouse Differential Pressure (dp) system a detailed response to the plant specific items stated below should be provided.

	Reference	Deviations
A. Westinghouse dp System:		
1. Describe the effect of instrument uncertainties on the measurement of level		
2. Are the differential pressure transducers located outside containment?		
3. Are hydraulic isolators and sensors included in the impulse lines?		
B. CE HJTC System:		
1. Discuss the spacing of the sensors from the core alignment plate to the top of the reactor vessel head. How would the decrease in resolution due to the loss of a single sensor affect the ability of the system to detect an approach to ICC?		

[FR Doc. 82-34602 Filed 12-21-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-460 OL (ASLBP No. 82-479-06 OL), Docket Nos. 50-460 CPA, 50-397 CPA (ASLBP No. 83-480-01 CPA)]

Washington Public Power Supply System, et al. (WPPSS Nuclear Project Nos. 1 and 2); Order Rescheduling Prehearing Conferences

On November 30, 1982 and December 1, 1982, this Board issued orders scheduling prehearing conferences in the above-captioned proceedings for January 19, 1983, and January 20, 1983, if necessary. The Conferences and all other activities specified in the orders are hereby rescheduled for exactly seven (7) days later. Accordingly, it is, this 15th day of December, 1982 Ordered:

(1) That the Board will conduct prehearing conferences in the construction permit extension proceedings beginning at 9:30 a.m., and in the operating license proceeding beginning at 10:30 a.m., on January 26, 1983 and continuing through January 27, 1983, if necessary, at the Federal Building, Auditorium, 825 Jadwin Avenue, Richland, Washington 99352;

(2) CSP may file its supplements to its requests for hearing not later than 15 days prior to these prehearing conferences. The parties are to arrange for the WPPSS and NRC Staff to receive any supplements on that date (January 11, 1983);

(3) WPPSS and NRC Staff are requested to file any responses to the supplemental petitions by January 24, 1983, and deliver copies to the Board in the forenoon of that date; and

(4) All other provisions in the Board's orders of November 30, 1982 and December 1, 1982, regarding the conduct and subject matter of the prehearing conferences, remain in effect.

Dated at Bethesda, Maryland, this 15th day of December, 1982.

For the Atomic Safety and Licensing Board.

Herbert Grossman,

Chairman, Administrative Judge.

[FR Doc. 82-34607 Filed 12-21-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-254]

Commonwealth Edison Co. and Iowa-Illinois Gas & Electric Co.; Issuance of Amendment To Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 83 to Facility Operating License No. DPR-29 issued to Commonwealth Edison Company and Iowa-Illinois Gas and Electric Company, which revised the Technical Specifications for operation of the Quad Cities Nuclear Power Station, Unit 1, located in Rock Island County, Illinois. the amendment is effective as of the date of issuance.

This amendment: (1) Incorporates revised Maximum Average Planar Linear Heat Generation Rate (MAPLHGR) limits for certain fuel types, (2) deletes Minimum Critical Power Ration (MCPR), MAPLHGR and Linear Heat Generation Rate (LHGT) operating limits for all 7 x 7 fuel, including all mixed oxide fuel, (3) changes the pressure safety limits as a result of recently installed Anticipated Transient Without Scram (ATWS) Recirculation Pump Trip (RPT), (4) implements the ODYN transient analysis code for analyzing rapid pressurization events and (5) changes the pressure setpoints for three safety relief valves.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of the amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of the amendment will not result in any significant environmental

impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendment.

For further details with respect to this action, see: (1) The application for amendment dated August 19, 1982; (2) Amendment No. 83 to License No. DPR–29; and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Moline Public Library, 504–17th Street, Moline, Illinois. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 15th day of December 1982.

For the Nuclear Regulatory Commission.

Domenic B. Vassallo,

Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 82–34687 Filed 12–21–82; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–387]

Pennsylvania Power & Light Co. and Allegheny Electric Cooperative, Inc., Issuance of Amendment of Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 6 to Facility Operating License No. NPF–14, issued to Pennsylvania Power & Light Company and Allegheny Electric Cooperative, Inc., for Susquehanna Steam Electric Station, Unit 1 (the facility) located in Luzerne County, Pennsylvania. This amendment grants changes to Technical Specifications to change surveillance requirements for vacuum breakers to be consistent with manufacturer's test procedure, to establish minimum discharge pressure for the low pressure coolant injection pump for testing purposes, to change ECCS actuation instrumentation setpoint allowable values, to provide establishment of SRV acoustic monitoring setpoints based on the startup test program, to revise applicability of SRV's when the vessel is not pressurized, to correct errors in the fire detection instrumentation table, and to correct typographical errors in various technical specifications. This amendment is effective as of the date of issuance.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see: (1) The applications for the amendment dated August 18, 1982, as amended by licensee letter dated August 23, 1982; (2) Amendment No. 6 to License NPF–14 dated December 16, 1982; and (3) the Commission's evaluation dated December 16, 1982. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555, and at the Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701. A copy of items (1), (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 16th day of December 1982.

For the Nuclear Regulatory Commission.

Robert L. Perch,

Acting Chief, Licensing Branch No. 2, Division of Licensing.

[FR Doc. 82–34688 Filed 12–21–82; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–267]

Public Service Co. of Colorado; Issuance of Amendment To Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 29 to Facility Operating License No. DPR–34 issued to the Public Service Company of Colorado, which revised Technical Specifications for operation of the Fort St. Vrain Generating Station (the facility) located in Platteville, Colorado. The amendment is effective as of the date of issuance.

The amendment revises the Technical Specifications to delete the requirements for monthly trip tests of the ultrasonic steam pipe rupture detectors.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see: (1) The application for amendment dated November 12, 1980, as supplemented by letter dated December 5, 1980; (2) Amendment No. 29 to Facility Operating License No. DPR–34; and (3) the Commission's related Safety Evaluation. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555 and at the Greeley Public Library, City Complex Building, Greeley, Colorado. A copy of items (2) and (3) may be obtained upon request to the U.S. Nuclear Regulatory Commission, Regional Administrator, Region IV, 611 Ryan Plaza Drive, Suite 1000, Arlington, Texas 76011, Attention: Director, Division of Resident Reactor Projects and Engineering Programs.

Dated at Arlington, Texas, the 13th day of December, 1982.

For the Nuclear Regulatory Commission

Glen L. Madsen,

Chief, Reactor Projects Branch No. 1, Division of Resident, Reactor Projects and Engineering Programs, Region IV.

[FR Doc. 82–34689 Filed 12–21–82; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

Forms Under Review by Office of Management and Budget

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. et seq.), the Securities and Exchange Commission has submitted for extension of approval Form N–5 under the Securities Act of 1933 ("1933 Act")

and the Investment Company Act of 1940 ("1940"). Form N–5 is the registration statement form used by small business investment companies licensed as such under the Small Business Investment Act of 1958 both to register as investment companies under the 1940 Act and to register the securities under the 1933 Act.

The potential respondents are small business investment companies licensed as such under the Small Business Investment Act of 1958.

Agency Clearance Officer—Kenneth Fogash 202–272–2700.

Upon written request copy available from: Securities and Exchange Commission, Officer of Consumer Affairs and Information Services, Washington, D.C. 20549.

Extension

Form N–5 [17 CFR 274.5]
SEC File No. 270–172

Submit comments to OMB Desk Officer: Robert Veeder, 202–395–4814.

Dated: December 14, 1982.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-34629 Filed 12-21-82; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 12901; 812–5217]

Automated Government Money Trust; Filing of Application

December 15, 1982.

Notice is hereby given that Automated Government Money Trust ("Applicant"), 421 Seventh Avenue, Pittsburgh, Pennsylvania 15219, a no-load, open-end diversified management investment company registered under the Investment Company Act of 1940 ("Act"), filed an application on June 17, 1982, and amendments thereto on July 6, July 21, and December 6, 1982, requesting an order of the Commission, pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of Section 2(a)(41) of the Act, and Rules 2a–4 and 22c–1 thereunder to the extent necessary to permit Applicant to value its assets at amortized cost. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below. Such persons are also referred to the Act and the rules thereunder for the complete text of those provisions thereof for which exemption is being sought.

Applicant is a "money market fund" organized as a Massachusetts business trust. Applicant states that it is designed as an investment vehicle to provide stability of principal and current income consistent with stability of principal for investors with temporary cash balances or cash reserves. Applicant states that its portfolio may include U.S. Government obligations, U.S. Government obligations purchased on a when-issued or delayed delivery basis, repurchase agreements (an instrument where the seller agrees to repurchase the instrument at the time of sale on a mutually agreed upon time and price) with banks or other financial institutions and portfolio instruments held pursuant to reverse repurchase agreements. Applicant states that it may invest up to 20% of its assets in short-term instruments of banks and savings and loan associations if the principal amount of the instrument is insured in full by the FDIC or FSLIC (such as certificates of deposit, demand and time deposits) all maturing in one year or less. Applicant represents that commerical paper investments are limited to commercial paper rated A–1 by Standard & Poor's Corporation, Prime 1 by Moody's Investors Service or F–1 by Fitch Investors Service. Applicant further represents that, when effecting reverse repurchase agreements, when-issued and delayed delivery transactions, assets of Applicant of a dollar amount sufficient to make payment for the obligations to be purchased will be segregated at the trade date and monitored until the transaction has been settled.

Applicant states that its Board of Trustees has determined that two qualities are necessary in the operation of money market funds: (1) Certainty of stability of principal and (2) steady flow of predictable and competitive investment income. Applicant asserts that by utilizing high quality money market instruments of short maturities priced at amortized cost, it is possible to provide these features. Applicant further asserts that investors are not conserned with the theoretical difference which might occur between yield achieved through pricing to "market" and yield computed by using the amortized cost method, but that they are adament that the daily income declared by Applicant reflect income as earned using the amortized cost method and that it not exhibit volatility which may occur when, according to Applicant, changes in "market" prices cause unreal and artifical changes in yield on a daily or weekly basis. Applicant states that its Board of Trustees has determined in good faith that in light of its charateristics, the amortized cost method of valuation of portfolio instruments is appropriate.

Section 6(c) of the Act provides, in part, that the Commission may, by order upon application, exempt any person, security or transaction, or any class or classes of persons, securities or transactions from any provision or provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant submits that the standards of fairness governing the granting of exemptions by the Commission under Section 6(c) of the Act are clearly present. Applicant also submits that its proposed operation is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

In order to enhance investor protection, Applicant agrees to the following conditions:

1. In supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, Applicant's Board of Trustees undertakes—as a particular responsibility within the overall duty of care owed to its shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objectives, to stabilize Applicant's net asset value per share, as computed for the purpose of distribution, redemption and repurchase, at $1.00 per share.

2. Included within the procedures to be adopted by Applicant's Board of Trustees shall be the following:

(a) Review by the Board of Trustees, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from the Applicant's $1.00 amortized cost price per share, and the maintence of records of such review.[1]

---

[1] To fulfill this condition, Applicant intends to use actual quotations or estimates of market value reflecting current market conditions chosen by its Board of Trustees in the exercise of its discretion to be appropriate indicators of value which may include, *inter alia*, (1) quotations or estimates of market value for individual portfolio instruments, or (2) values obtained from yield data relating to classes of money market instruments published by reputable sources.

(b) In the event such deviation from the $1.00 amortized cost price per share exceeds ½ of 1 percent, a requirement that the Board of Trustees will promptly consider what action, if any, should be initiated by it.

(c) Where the Board of Trustees believes the extent of any deviation from the Applicant's $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which may include: redemption of shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses or to shorten the average portfolio maturity of Applicant; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

3. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that Applicant will not (a) purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity which exceeds 120 days.[2]

4. Applicant will record, maintain, and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in condition 1 above, and will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the Board of Trustees' considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of the Boards of Trustees' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act, as if such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit its portfolio investments, including repurchase agreements, to those United States dollar-denominated instruments which its Board of Trustees determines present minimal credit risks, and which are of "high quality" as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by its Board of Trustees.

6. Applicant will include in each quarterly report, as an attachment to Form N–1Q, a statement as to whether any action pursuant to condition 2(c) above was taken during the preceding fiscal quarter and, if any such action was taken, will describe the nature and circumstances of such action.

Notice is further given that any interested person may, not later than January 10, 1983, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commisssion shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. An order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon its own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-34630 Filed 12-21-82; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No.12695; 812-5347]

Guaranteed Mortgage Corp. I and First Home Credit Corp. I; Filing of an Application

December 13, 1982.

Notice is hereby given that Guaranteed Mortgage Corporation I and First Home Credit Corporation I ("Applicants"), Suite 200, 4380 South Syracuse Street, Denver, Colorado 80237, filed an application on October 20, 1982, for an order pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act") exempting Applicants from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

According to the application, Applicants are newly-formed limited-purpose financing subsidiaries of ICM Mortgage Corporation ("ICM") which, in turn, is the wholly-owned mortgage banking subsidiary of Pulte Home Corporation ("Pulte"). Each Applicant was incorporated for the limited purpose of facilitating the financing of long-term residential mortgages on single-family residences constructed by Pulte and other builders located in the United States (the "Builders"). Applicants represent that they will not engage in any other unrelated business or investment activities.

Applicants contemplate that Guaranteed Mortgage Corporation I will issue, in series, GNMA-Collateralized Bonds. Each series will be separately secured by collateral consisting primarily of "fully-modified pass-through" mortgage-backed certificates ("GNMA Certificates") and the payments thereon, fully guaranteed as to principal and interest by the Government National Mortgage Association ("GNMA") and by one or more reserve funds. Each GNMA Certificate will evidence an undivided interest in a pool of mortgage loans owned by a limited-purpose financing subsidiary (a "Finance Company"), wholly-owned by a Builder or a subsidiary of a Builder, on single-family residences constructed primarily by the Builder which owns that Finance Company. Applicants further contemplate that First Home Credit Corporation I will issue, in series, Mortgage-Backed Bonds. Each series will be separately secured by collateral consisting primarily of conventional (i.e. not government guaranteed or insured) first mortgage loans (and payments thereon) secured by single-family residences constructed by the Builders, payments due under certain mortgage insurance and hazard insurance policies and one or more reserve funds.

Applicants state that each series of GNMA-Collateralized Bonds or Mortgage-Backed Bonds (collectively, the "Bonds") will be issued pursuant to an indenture between the Applicant and an independent trustee (the "Trustee"), as supplemented by one or more supplemental indentures, for such series (the "Indenture"). Each series of Bonds will be sold to investors through one or more registered securities dealers.

---

[2] In fulfilling this condition, if the disposition of a portfolio security results in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant will invest available cash in such a manner as to reduce the dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

Applicants presently contemplate that each series of Bonds will be registered under the Securities Act of 1933 and sold pursuant to a prospectus containing all material disclosures required by the terms of that Act. Indentures for each such offering will be subject to provisions of the Trust Indenture Act of 1939. Furthermore, it is represented that the Applicants' Articles of Incorporation will provide that no series of Bonds may be issued unless that series has been rated in one of the two highest rating categories by a nationally recognized rating service.

Applicants state that the collateral securing each series of Bonds will be pledged by the Finance Companies to the Applicants prior to issuance of the Bonds secured thereby. Pledges by the Finance Companies will be made to secure long-term obligations of the Finance Companies that Applicants will purchase with proceeds of capital contributions (or subordinate loans) from the Applicants' parent, ICM. Net proceeds to the Applicants of the sale of each series of Bonds will either be transferred to ICM or used to purchase other long-term obligations of Finance Companies secured by new collateral for other series of Bonds. Applicants anticipate that each Finance Company will use the proceeds of the Applicants' purchases of their long-term obligations to repay short-term mortgage warehousing loans from lenders (including ICM) incurred in connection with the funding or acquisition of the mortgage loans which the Finance Company will pledge as security for the long-term obligations sold to Applicants.

The application states that mortgage loans that will secure Applicants' Bonds will have original maturities (and amortization schedules) of not more than 30 years. The Finance Company obligations that Applicants will purchase will provide for full repayment out of the proceeds of the collateral pledged to the Applicants as security therefor. The Finance Companies will assign the collateral securing each series of Bonds to an Applicant, which will assign its entire right, title and interest in the collateral to the Trustee under the Indenture. Applicants represent that amounts payable to the Applicants upon the long-term obligations of the Finance Companies purchased by Applicants will be sufficient to pay the principal of and interest on Bonds secured by the GNMA Certificates or pledged mortgages as they shall become due. The principal balance of each series of Bonds will be equal to or less than the principal balance of the GNMA Certificates or pledged mortgages securing such obligations. Each series of Bonds will provide for periodic payment of interest out of the interest payments on pledged mortgages or GNMA Certificates. Principal payments on the collateral will be deposited in a redemption fund which the Trustee will invest in United States Government securities or other cash equivalents. It is asserted that these funds will be available for redemptions at the request of bond holders in the order of their requests. It is further asserted that the redemption fund will also be used to assure that interest payments will always be sufficient to pay interest on the outstanding Bonds.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

The Applicants state that affiliates of Pulte and other large national homebuilders issue bonds of the type that the Applicants propose to issue without registering under the Act by virtue of the exemption under Section 3(c)(5)(C) thereof. Applicants assert that by granting this application, a valuable source of mortgage financing will become available to many homebuilders that could not issue bonds by themselves due to their inability to individually sell enough houses in a relatively short time to generate the mortgages needed to support a public offering of mortgage backed bonds. The Applicants note that each series of Bonds will be registered under provisions of the Securities Act of 1933 and will be sold to investors on the basis of a prospectus meeting requirements of that Act and that neither Applicants, ICM, the Trustee nor any Finance Company will be authorized to invest or reinvest assets pledged as collateral for any series of Bonds. Each pool of collateral for a series of Bonds will be fixed at the time of issuance, and the pool will not be subject to investment discretion exercisable by any participant in the proposed bond issuing program. Accordingly, Applicnts submit that an exemptive order pursuant to Section 6(c) is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than January 7, 1983, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. An order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon its own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-34633 Filed 12-21-82; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 12902; 812-5362]

Massachusetts Financial Services Co., et al.; Filing of Application

December 15, 1982.

Notice is hereby given that Massachusetts Investors Trust, Massachusetts Investors Growth Stock Fund, Inc., Massachusetts Income Development Fund, Inc., Massachusetts Capital Development Fund, Inc., Massachusets Financial Development Fund, Inc., Massachusetts Financial Bond Fund, Inc., MFS Manage Municipal Bond Trust, Massachusetts Financial High Income Trust, Massachusetts Financial International Trust and Massachusetts Financial Emerging Growth Trust (collectively, "Fund Applicants") 200 Berkeley Street, Boston, MA 02116, each of which is registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management

investment company, and Massachusetts Financial Services Company ("MFS"), Fund Applicants' principal underwriter and investment adviser, filed an application on November 1, 1982, for an order pursuant to Section 6(c) of the Act, exempting certain transactions from the provisions of Section 22(d) of the Act and Rule 22d–1 thereunder to the extent necessary to permit sales of shares presently offered by Fund Applicants, and of shares of other registered investment companies which may in the future engage MFS as principal underwriter, at net asset value without a sales charge to present and retired directors, officers, enployees and career life insurance agents of Sun Life Assurance Company of Canada ("Sun Life") and its subsidiary companies on terms and in the manner described below. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The application states that each Fund Applicant is currently offering shares to the public at public offering prices consisting of net asset value per share next computed after sale plus varing sales charges described in the prospectus of that Fund Applicant. Shares are sold to MFS as principal underwriter which in turn sells shares to dealers having sales agreements with MFS. Applicants state that MFS is a wholly-owned subsidiary of Sun Life Assurance Company of Canada (U.S.) ("Sun Life (U.S.)"), which in turn is a wholly-owned subsidiary of Sun Life, a mutual life insurance company incorporated pursuant to an Act of Parliament of Canada, and conducting business in Canada, the United States and elsewhere.

Applicants state that they propose to permit directors and officers, fulltime employees and career life insurance agents who have acted as such for not less than 90 days, and retired directors, officers, employees and career life insurance agents of Sum Life and its subsidiary companies (including MFS and Sun Life (U.S.)), to purchase on their own behalf, and on behalf of a spouse or children under the age of 21 years (collectively, "Affiliated Employees and Agents"), shares of Fund Applicants, or of other investment companies which may in the future be offered by MFS, for initial and subsequent investment including dividend reinvestment, at net asset value determined in accordance with Rule 22c–1 under the Act without the imposition of a sales charge as otherwise applied to such sales. Applicants represent that purchases on behalf of a spouse or child will be eligible for purchase at net asset value only if that purchase is directed by the Affiliated Employee or Agent.

Applicants assert that any such sales will be made only upon the written assurance of the Affiliated Employee or Agent that the Purchase is being made for the purpose of investment and that the shares will not be resold except to the issuer thereof. The application further states that in the event of the issuer thereof. The application further will not be resold except to the issuer thereof. The application further states that in the event of the death of a shareholder, his legal representative, legatee or beneficiary will be permitted to continue to hold such shares subject to the same restriction that they will not be resold, except to the issuer.

Applicants state that it is contemplated that all Affiliated Employees and Agents will receive, at least annually, notice from their employers concerning the availability of shares of Fund Applicants at net asset value without a sales charge. This notice, which will be furnished at the expense of their employers, will describe the Fund Applicants and their individual investment objectives, indicate that investments would be at the net asset value without a sales charge, and detail the various ways in which investments could be made. Applicants further maintain that this notice would indicate that additional information concerning the Funds could be obtained from MFS or Sun Life and would inform employees of the availability of prospectuses of the Fund Applicants from such source.

Section 6(c) of the Act provides, in pertinent part, that the Commission by order upon application, may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities, or transactions, from any provision of the Act or any rule under the Act if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants submit that the sale of shares of the Fund Applicants at net value to Affiliated Employees and Agents may conflict with the provisions of Section 22(d) of the Act and Rule 22d–1 thereunder. Nevertheless, Applicants assert that investment by Affiliated Employees and Agents in shares of Fund Applicants at net asset value pursuant to a uniform offer described in the prospectuses of the Funds would not be inconsistent with the purposes underlying Section 22(d) of the Act.

Applicants assert that the proposed sale to Affiliated Employees and Agents would result in substantial economies in sales efforts and sales-related expenses as compared with other sales. The application represents that Affiliated Employees and Agents have a general familiarity with, and a degree of loyalty to, Fund Applicants as investment vehicles offered by a subsidiary of Sun Life. Applicants submit that the affiliation of the varius entities in the Sun Life group is the basis for a unique relationship of these entities to the Fund Applicants and that substantial equities exist in favor of the class of persons described above since the customary selling expenses would not be incurred by MFS or dealers in connection with these sales.

Notice is further given that any interested perons may, not later than January 10, 1983, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant as the address stated above. Proof of such service (by affidivit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request.

An order disposing of the application herein wil be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon its own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A Fitzsimmons,

Secretary.

[FR Doc. 82-34629 Filed 12-21-82; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 19328; SR-NYSE-82-16]

New York Stock Exchange, Inc.; Order Approving Proposed Rule Change

December 13, 1982.

The New York Stock Exchange, Inc. ("NYSE"), 11 Wall Street, New York, New York 10005, submitted on October 8, 1982, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b–4 thereunder, to amend current NYSE Rule 248 to permit the listing of certain types of debt issues currently precluded by Rule 248. Rule 248 presently requires a due bill to accompany registered bonds traded "and interest" and delivered between record date and interest payment date. By prefacing current Rule 248 with the words "unless otherwise directed by the Exchange," the NYSE proposes to provide for situations which may warrant departure from the usual application of the rule.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission release (Securities Exchange Act Release No. 19167, October 22, 1982) and by publication in the **Federal Register** (47 FR 51265, November 12, 1982), No comments were received with respect to the proposed rule change.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6, and the rules and the regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioined proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–34632 Filed 12–21–82; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 19334; SR-Phlx-82-17]

Philadelphia Stock Exchange, Inc.; Filing and Order Granting Accelerated Approval of Proposed Rule Change

December 14, 1982.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on December 14, 1982, the Philadelphia Stock Exchange, Inc. ("Phlx"), 1900 Market Street, Philadelphia, PA 19103, filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The Phlx proposes to extend temporary Rule 933 until March 14, 1983. Rule 933 terminates by its own terms on December 14, 1982.[1] Temporary Rule 933 requires Phlx members who lease their seats to execute a sale and subordination agreement under which the Exchange may sell the membership upon termination of the lease and apply the proceeds of such a sale to the satisfaction of the priority claims specified in Phlx By-law XV. The Phlx states that the purpose of an extension of this rule is to keep it effective on a temporary basis until the Commission has had time to consider its proposed adoption as a permanent rule as part of the comprehensive membership transfer program Phlx has proposed in File No. SR–Phlx–82–4.[2] The Phlx states that the statutory basis for the proposed rule change is Sections 6(b)(1), 6(b)(5), and 6(c)(3)(A).

Interested persons are invited to submit written data, views and arguments concerning the proposed rule change within 21 days after the date of publication in the **Federal Register**. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Reference should be made to File No. SR–Phlx–82–17.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6 and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof, in that the proposed rule change would merely keep in effect a Phlx rule that currently is operative. Rule 933, however, terminates on December 14, 1982 and an extension is necessary in order to allow time for consideration of its proposed adoption as a permanent rule as part of SR–Phlx–82–4. The Commission believes it is appropriate to extend the effectiveness of this rule on a temporary basis pending final Commission action on SR–Phlx–82–4.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change referenced above be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–34631 Filed 12–21–82; 8:45 am]

BILLING CODE 8010-01-M

[1] The Commission approved the adoption of temporary Rule 933 on December 21, 1981 (Securities Exchange Act Release No. 18356, December 21, 1981; 46 FR 63434, December 31, 1981).

[2] Notice of SR–Phlx–82–4 has been given by Commission Release (Securities Exchange Act Release No. 19163, October 21, 1982) and by publication in the **Federal Register** (47 FR 49515, November 1, 1982). On December 3, 1982, the Phlx granted an extension of time to March 7, 1983, for Commission action on this filing.

[Rel. No. 19335; SR-Phlx-82-18]

Philadelphia Stock Exchange, Inc.; Filing and Order Granting Accelerated Approval of Proposed Rule Change

December 14, 1982.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on December 14, 1982, the Philadelphia Stock Exchange, Inc., ("Phlx") 1900 Market Street, Philadelphia, PA 19103, filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The Phlx proposes to extend temporary Rule 941 until March 14, 1983 rule 941 terminated by its own terms on December 14, 1982.[1] Temporary Rule 933 requires Phlx member organizations and members who are parties to a–b–c agreements to execute a sale and subordination agreement under which the exchange may sell the membership upon termination of the member's

[1] The Commission approved the adoption of temporary Rule 941 on October 21, 1982 (Securities Exchange Act Release No. 19164, October 21, 1982; 47 FR 49503, November 1, 1982).

interest in it and apply the proceeds to satisfaction of the priority claims specified in Phlx By-law XV. In its filing the Phlx states that the purpose of an extension of this Rule is to keep it effective on a temporary basis until the Commission has had time to consider its proposed adoption as a permanent rule as part of the comprehensive membership transfer program Phlx has proposed in Filing No. SR–Phlx–82–4.[2] The Phlx states that the statutory basis for the proposed rule change is Sections 6(b)(1), 6(b)(5), and 6(c)(3)(A).

Interested persons are invited to submit written date, views and arguments concerning the proposed rule change within 21 days after the date of publication in the **Federal Register**. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Reference should be made to File No. SR–Phlx–82–18.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6 and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof, in that the proposed rule change would merely keep in effect a Phlx rule that currently is operative. Rule 941, however, terminates on December 14, 1982 and an extension is necessary in order to allow time for consideration of its proposed adoption as a permanent rule as part of SR–Phlx–82–4. The Commission believes it is appropriate to extend the effectiveness of this rule on a temporary basis pending final Commission action on SR–Phlx–82–4.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change is referenced above be and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–34636 Filed 12–21–82; 8:45 am]

BILLING CODE 8010–01–M

[2] Notice of SR–Phlx–82–4 has been given by Commission Release (Securities Exchange Act Release No. 19163, October 21, 1982) and by publication in the **Federal Register** (47 FR 49515, November 1, 1982). On December 3, 1982, the Phlx granted an extension of time to March 7, 1983, for Commission action on this filing.

[File No. 81–673]

Smith Barney Inc.; Application and Opportunity for Hearing

December 15, 1982.

Notice is hereby given that Smith Barney Inc. (the "Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, (the "1934" Act"), for an order of the Commission granting Applicant an exemption from the provisions of Section 12(g) of the 1934 Act.

Smith Barney's application states in part:

1. In the absence of an exemption, Applicant would be required to register its securities under Section 12(g) of the 1934 Act, and would be required to comply with all reporting requirements thereunder.

2. Applicant believest that the exemption order requested by it is appropriate in view of the fact that with minor exceptions all holders of the Common Stock of the Applicant are engaged in the firm's business, and that there is no market for its Common Stock.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 450 Fifth Street, N.W., Washington, D.C. 20549.

Notice is further given that any interested persons not later than January 10, 1983 may submit to the Commission in writing his views on any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reasons for such request, and the issues of fact and law raised by the application which he desires to controvert. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission by the Division of Corporation Finance pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–34635 Filed 12–21–82; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 12903; 812–5356]

Springerville Corp.; Filing of Application

December 15, 1982

Notice is hereby given that Springerville Corp. ("Applicant") 333 South Hope Street Los Angeles, California 90071, a California Corporation, filed an application on October 26, 1982, for an order, pursuant to Section 6(c) of the Investment Company Act of 1940 (the "Act"), exempting Applicant from all the provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it was incorporated under the laws of California on March 18, 1982, solely for the purpose of serving as a financing vehicle for the construction of Unit 2 ("Unit 2") of a coal-fired electric generating plant located in Apache County, Arizona which is under construction and is presently leased to Tucson Electric Power Company ("Utility"). Construction of Unit 2 commenced in January, 1979, and completion is currently scheduled for June, 1987. The cost is expected to total up to $650 million. To the extent funds borrowed by Applicant are not, at any given time, needed to pay construction costs of Unit 2, Applicant may lend such surplus funds to the Utility against its promissory note or other promise to repay the amounts lent to it, with interest at a rate designed to match Applicant's borrowing costs. Applicant might also temporarily place small amounts left over from round number borrowings and Commercial Paper Note issuance described below in high grade, short term securities. Applicant represents that its use as a financing vehicle should permit substantial savings in the cost of Unit 2 through lower costs of securing funds for construction.

Applicant represents that none of its outstanding common stock is owned by

the Utility or any affiliate thereof and that there has been no public offering of Applicant's common stock or of any other security of Applicant. Applicant agrees that the continuing effectiveness of any order granting the relief requested under Section 6(c) may be conditioned on none of Applicant's outstanding common stock being owned by the Utility or any affiliate thereof, and on no public offering of Applicant's common stock or of any other security of Applicant being made, except Commercial Paper Notes of the type described below.

The Applicant states that pursuant to a Facility Transfer Agreement dated as of March 18, 1982, and accompanying documents, Unit 2 was transferred to Security Pacific Corporation, a bank holding company, and Applicant agreed to provide funds for the construction of Unit 2. The Chase Manhattan Bank, N.A. ("Chase") loaned funds to Applicant for the construction of Unit 2 pursuant to a Loan Agreement dated as of March 18, 1982 (the "Loan Agreement"). Pursuant to a Lease Agreement with Security Pacific Corporation dated as of March 18, 1982, and accompanying documents, Unit 2 was leased by Security Pacific Corporation to Utility, and the rentals to be made under such lease as well as certain payments to be made by San Diego Gas & Electric Company ("San Diego Payments") for the purchase of power generated by Unit 2 (the "San Diego Payments") were assigned to Applicant. Applicant has reassigned its right to such rentals and payments as security for its obligations under the Loan Agreement, under the Credit Agreement described below, under the Commercial Paper Notes referred to below and under any other similar agreements with future lenders to the Applicant.

According to the application, Applicant proposes to issue commercial paper (the "Commercial Paper Notes") and borrow funds from certain institutional lenders in order to obtain additional funds to pay a portion of the construction costs of Unit 2. Applicant states that the initial series of Commercial Paper Notes will be backed by letters of credit of Bankers Trust Company, Continental Illinois National Bank and Trust Company of Chicago, and Wells Fargo Bank, N.A. (individually, a "Bank" and collectively, the "Banks") for $50 million each, issued pursuant to a Credit Agreement dated as of June 15, 1982 (the "Credit Agreement") with Applicant. Applicant will also be able to borrow directly from the Banks under the Credit Agreement up to the unused portions of their respective $50 million commitments. In addition, Applicant has a $85 million line of credit with Chase pursuant to the Loan Agreement, all of which had been borrwed at October 1, 1982. Applicant's obligations under both the Credit Agreement and the Loan Agreement are secured by a lien on Unit 2 and an assignment of Applicant's right to receive Unit 2 rentals and the San Diego Payments. These security interests are to be held by an agent for the equal and ratable benefit of the Banks, Chase, the holders of the Commercial Paper Notes and any other lenders to the Applicant.

Each of the Banks will issue to Morgan Guaranty Trust Company of New York, as issuing and paying agent and depository for the initial series of Commercial Paper Notes (the "Depository"), and irrevocable letter of credit for $50 million, for the benefit of holders of Applicant's initial series of Commercial Paper Notes. The Commercial Paper Notes will not be sold in denominations of less than $100,000 each. The aggregate principal amount (plus interest to maturity, if interest bearing Commercial Paper Notes are issued) of the initial series of Commercial Paper Notes outstanding at any one time will not exceed the amount available to be drawn upon under the letters of credit issued by the Banks ($150,000,000 under present agreements).

Applicant contemplates entering into additional agreements similar to the Credit Agreement or the Loan Agreement, once available credit thereunder is fully utilized, in order to finance the completion of Unit 2. Applicant also contemplates issuing further series of Commercial Paper Notes, similar to the initial series, which will be backed by letters of credit issued by one or more major banks which may or may not include the Banks.

Applicant undertakes not to market any Commercial Paper Notes prior to receiving an opinion of counsel to the effect that the proposed offering of Commercial Paper Notes is exempt from the registration requirements of the Securities Act of 1933 (the "Securities Act") by virtue of Sections 3(a)(2), 3(a)(3) or 4(2) thereof. Applicant further undertakes that, in respect of any future offerings of Applicant's debt securities, it will obtain an opinion of counsel as to the availability of an exemption from the registration requirements of the Securities Act. Applicant does not request Commission review or approval of counsel's opinion(s) regarding the availability of an exemption from the registration requirements of the Securities Act. Applicant represents that, unless and until the requested exemptive order is issued, Applicant's outstanding securities (other than short-term paper) will be beneficially owned by not more than one hundred persons and Applicant will not make a public offering of its securities. Consequently, Applicant asserts that it is excluded from the definition of investment company by Section 3(c)(1) of the Act.

If the requested order is issued, Applicant, through one or more major commercial paper dealers, expects to offer the Commercial Paper Notes publicly, but Applicant represents that they will be offered only to the types of sophisticated and largely institutional investors that ordinarily participate in the commercial paper market. While an announcement of the establishment of the commercial paper facility may be made as a matter of record, the offering will not be advertised. Applicant undertakes to require its commercial paper dealer(s) to agree to provide each purchaser of the Commercial Paper Note prior to its purchase thereof a memorandum which briefly describes the businesses of Applicant and the Bank whose letter of credit backs the Commercial Paper Note in question. Such memorandum will be updated as promptly as practicable to reflect material adverse changes in the financial status of Applicant or any of the Banks and will be at least as comprehensive as memoranda customarily used in offering commercial paper. Applicant consents to having any order granting the relief requested under Section 6(c) expressly conditioned upon its compliance with the foregoing undertakings regarding disclosure documents.

Applicant represents that, prior to their issuance, the Commercial Paper Notes will have received one of the three highest investment grade ratings from at least one nationally recognized statistical rating organization. However, no such rating shall be required to be obtained with respect to an issue of Commercial Paper Notes if in the opinion of counsel, an exemption is available for the issue pursuant to Section 4(2) of the Securities Act.

The application states that the Commercial Paper Notes will be repaid through either the issuance of additional Commercial Paper Notes or borrowings under Applicant's lines of credit under the Credit Agreement, the Loan Agreement or other similar agreements or drawings on the letters of credit issued by the Banks or by other major banks. The Credit Agreement provides that the initial series of Commercial Paper Notes must all be retired on or before September 1, 1987, at which time

the lines of credit under the Credit Agreement convert into term loans. Loans under the Loan Agreement are term loans. Upon repayment of these term loans Applicant will be left with no profit or gain.

Applicant states that its right to receive rental income from Unit 2 and the San Diego Payments, which constitute Applicant's principal assets, could be considered "investment securities." Thus Applicant states that it may be considered to be an investment company under Section 3(a)(3) of the Act. However, having been organized solely as a financing vehicle to facilitate financing the construction of Unit 2, Applicant does not view itself as an investment company. Accordingly, in order to eliminate any doubt that Applicant would be entitled, without registration under the Act, to issue and sell Commercial Paper Notes publicly, Applicant has applied for an exemption from all provisions of the Act pursuant to Section 6(c) of the Act.

Section 6(c) of the Act provides, in part, that upon application the Commission may conditionally or unconditionally exempt any person, security or transaction, or any class of classes or persons, securities, or transactions, from any provision or provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant states that approval of this application would be necessary and appropriate in the public interest. Applicant maintains that approval would allow construction of Unit 2 at substantial savings in interest costs, which savings would be passed on to the rate-payers of Utility and San Diego. Applicant believes that these savings would result from the lower commercial paper rate which Applicant would pay as a result of publicly offering its Commercial Paper Notes, as opposed to the higher rates Applicant is advised prevail in the private placement market.

Applicant states that approval of this application would be consistent with the protection of investors. Applicant represents that the Commercial Paper Notes will be backed by letters of credit issued by major banks which are regulated by bank regulatory agencies. Utility is a public utility regulated by the Arizona Corporations Commission. San Diego is a public utility regulated by the California Public Utilities Commission. Applicant states that except for investment of temporarily excess funds which might be loaned to Utility or invested in certain high grade instruments of not more than 270 days maturity, Applicant's only "investment security", if any, is its right to Unit 2 rentals and the San Diego payments. Applicant maintains that these are not the liquid types of "securities" contemplated by the drafters of the Act. Applicant also asserts that as a special purpose corporation established solely to issue commercial paper and borrow money for the purposes specified in the application, Applicant's operations do not lend themselves to the abuses against which the Act was directed.

Notice is further given that any interested person may, not later than January 10, 1983, at 5:30 p.m., submit to the Commission in writing a request for a hearnig on the application accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. An order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon its own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-34834 Filed 12-21-82; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 12863; 812-4707]

Union-Investment Gesellschaft m.b.H; Filing of Application

December 1, 1982.

Notice is hereby given that Union-Investment-Gesellschaft m.b.H. ("Union-Investment" or "Applicant") c/o Franz M. Oppenheimer, Esq., Leva, Hawes, Symington, Martin & Oppenheimer, 815 Connecticut Avenue, N.W., Washington, D.C. 20006, a West German management company, filed an application on behalf of Unifonds, a West German mutual fund, on August 5, 1980, and an amendment thereto on October 8, 1982, for an order of the Commission pursuant to Section 7(d) of the Investment Company Act of 1940 ("Act") permitting registration of the Applicant under the Act so that it may sell Unifonds shares in the United States, and pursuant to Section 6(c) of the Act granting exemptions from the following provisions of the Act and various rules adopted thereunder: Sections 10 (a), (b), (f) and (g); 12 (b) and (d)(3); 13; 15; 16; 17 (a), (e), (f), (g) and (j); 18(i); 22 (c), (d) and (e); 30 (a), (c) and (d); 31 (a) and (b); 32; and 34. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the complete text of those provisions of the Act to which the exemptive request applies.

According to the application, Unifonds is one of the three largest mutual funds in West Germany, having over $900 million in assets comprised of cash and a diversified portfolio made up soley of securities of West German issuers that are listed or traded on West German stock exchanges. Under West German law, Unifonds is a "separate estate"; it has no legal personality or existence. It is an unicorporated collection of assets. It has no employees, cannot transact business, and can neither sue nor be sued. Union-Investment is one of West Germany's oldest management companies. It advises and administers five separate funds, one of which is Unifonds. Consequently, Union-Investment is the entity that issues shares in Unifonds, and has filed the application on its behalf.

According to the application, Union-Investment is owned by 40 shareholder banks whose liability as owners is limited to the amount of their respective contributions. Applicant states that these banks, not the shareholders of Unifonds, vote on matters concerning Union-Investment, including the election of its Aufsichtsrat ("Board of Supervisors").

Applicant states that Union-Investment's Board of Supervisors can, among other things, appoint, dismiss and generally oversee the Geschaeftsfuehrung ("Board of Management"), call shareholder meetings and approve certain major transactions of Union-Investment. Applicant further states, however, that the Board of Supervisors cannot, under

West German law, perform any management functions. Similarly, the Anlageausschus ("Advisory Board"), a second governing body of Union-Investment, whose members are selected by the Board of Supervisors, is prohibited from determining which securities will be bought and sold, although it appoints a working committee to meet regularly with Union-Investment's executives and fund managers to discuss investment matters. West German law only permits a third body, the Board of Managers, to make determinations concerning the portfolios of mutual funds which Union-Investment manages, including Unifonds. The Board of Managers appoints a fund manager to supervise each fund's portfolios and set investment policy. The fund manager, who consults regularly with the Advisory Board and with Union-Investment's research staff, makes the day-to-day investment decisions.

Applicant also states that Union-Investment provides all investment advice, management services, and promotional activities for Unifonds. Union-Investment receives a management fee in exchange for these services pursuant to the Unifonds Investment Contract.

According to the application, portfolio transactions of Unifonds are effected almost entirely through Union-Investment's West German shareholder banks. The allocation of this brokerage business is determined by the Board of Managers and is usually effected by the fund manager. A portion of the commissions earned by these shareholders banks is remitted to Union-Investment, which uses these amounts to pay Unifonds' custodian fees. Accordingly, Unifonds itself is not charged directly for its custodian fees.

Applicant states that the Board of Supervisors appoints a custodian bank for Unifonds which, under West German law, must have custody of all Unifonds' assets, control all Unifonds' accounts, collect all interest and dividends, effect all portfolios transactions, compute the daily net asset value, and pay all disbursements to investors.

Applicant further states that Union-Investment issues shares of beneficial interest in Unifonds. Those shares are bearer shares which are redeemable and have no voting rights. The issuing price of Unifonds shares is the net asset value of its portfolio determined at the close of the Frankfurt Stock Exchange on the day the shares are purchased, plus a sales load of five percent. While an investor may purchase Unifonds shares directly from Union-Investment or from other banks, they are typically sold through Union-Investment's shareholder banks.

A. Registration of Applicant Under the Act to Allow Sale of Unifonds Shares in the United States.

Section 7(d) of the Act prohibits foreign investment companies from making a public offering in the United States unless they first receive an order of the Commission based upon a finding that "by reason of special circumstances or arrangements, it is both legally and practically feasible effectively to enforce the provisions of the (the Act) against such company and that the issuance of such order is otherwise consistent with the public interest and the protection of investors." Rule 7d–1 sets forth for Canadian management investment companies certain conditions and arrangements for compliance with the standard of enforceability stated in Section 7(d). Those conditions and arrangements have also, in the past, been used as guidelines for non-Canadian investment companies wishing to sell their shares in the United States although strict conformity with Rule 7d–1 is not a requirement. Rule 7d–1 provides that "conditions and arrangements proposed by investment companies organized under the laws of other countries will be considered by the Commission in light of the special circumstances and local laws involved in each case." In addition, the Commission, in Investment Company Act Release No. 8959 (September 26, 1975), issued a statement of "Commission Policy and Guidelines for Filing of Application for Order Permitting Registration Under the Act and Sale of Shares in the United States (hereinafter referred to as the "Guidelines"), which announced that applications filed pursuant to Section 7(d) would be reviewed on a case by case basis until such time as the Commission adopted specific rules under that section. The Guidelines do, however, require a foreign investment company desiring to register in the United States to describe the extent to which it cannot comply with Rule 7d–1.

Applicant states that, because of the reasons outlined below, it has difficulties complying with many of the provisions of Rule 7d–1 because of the West German regulatory system and West German business practices, but that the operation of West German law and the conditions and arrangements to which it has consented in its application, together with the application of those provisions of the Act from which it does not request exemption, provide the means for it to meet the enforceabiltiy standard of Section 7(d). Specifically, Applicant states that it cannot comply with all of the requirements of paragraphs b(1), b(3), b(4), b(5), b(6), b(7), b(8) and b(9) of Rule 7d–1.

Applicant declares that its corporate executives and Unifonds' distributor, custodian and accountant under West German law are not permitted to be United States citizens or residents. Furthermore, Union-Investment states that under West German business practice those persons have no personal liability toward fund shareholders. Therefore, such persons and entities will not enter into any agreements to comply with the Act, nor will they consent to the jurisdiction of United States courts and appoint agents for service of process here. However, Union-Investment, which is liable to the shareholders of Unifonds under West German law, has undertaken to comply with those provisions of the Act from which it is not exempted, and will consent to jurisdiction of United States courts and will appoint an agent for service of process. Also, Union-Investment has agreed that the Commission may revoke any order issued on this application in the event of a violation of such order. In addition, according to Applicant, all of Unifonds' assets must be held in West Germany in Unifonds' custodian bank or, for some of its cash deposits, in Union-Investment's shareholder banks. Under West German law, all sales transactions must take place at Unifonds' custodian bank in Frankfurt. Thus, in many cases, the United States courts will not have jurisdiction over the persons associated with UnionInvestment, Unifonds' assets or the transactions in Unifonds shares.

Moreover, it may be difficult for the Commission or a shareholder to enforce an injunction or bring a criminal action against the European executives of Union-Investment or attach, liquidate or distribute any of the assets of Union-Investment or Unifonds, all of which will be kept in West Germany. The assets can be liquidated and distributed according to West German law only, and jurisdiction over any distribution lies solely in the courts in Frankfurt. Union-Investment has, however, attempted to compensate for the unavailability of assets in the United States with which to satisfy a judgment by undertaking to arrange for and maintain, in a form satisfactory to the staff or the Commission, an irrevocable letter of credit in an initial amount of $1 million, and thereafter in an amount equal to five percent of the value of Unifonds shares then outstanding in the United States, with the amount of the

letter of credit to be adjusted monthly in order to maintain such five percent relationship. This letter of credit will be drafted and issued so as to be payable, effectively, to any person (or persons) who has obtained a judgment of a United States court aganist Union-Investment for violation of the securities laws of the United States, provided that Union-Investment has refused to satisfy such judgment after demand for satisfaction. Finally, according to Applicant, it will not be possible to inspect or audit the books and records of either Union-Investment or Unifonds, as the originals of such items will be kept in West Germany and Union-Investment asserts that it would be too expensive to ship duplicates to this country.

Applicant asserts that, despite its inability to comply with many of the provisions of Rule 7d–1, the special circumstances of this case warrant permitting Union-Investment to register here. It asserts that West Germany has an extensive system of regulation with oversight of the activities of management companies by each fund's respective custodian bank and by the Bundesaufsichtsamt fuer das Kreditwesen ("BAK")—the agency in West Germany that regulates investment companies operating there. In addition, Applicant states that West German law imposes a fiduciary duty upon managers of an investment company to operate the fund on behalf of the fund's shareholders. Applicant submits that the conditions and arrangements discussed herein, which have been agreed to as prerequisites for obtaning a Commission order under Section 7(d), together with the protections afforded by the West German regulatory system, meet the standard of enforceability enunciated in Section 7(d). Applicant further submits that the policies of facilitating the international flow of capital and practicing reciprocity with friendly nations argue for granting permission to Union-Investment to register here.

In order to facilitate granting its requested order under Section 7(d) of the Act, Union-Investment has made certain undertakings and agreed to certain conditions being imposed in such order. Specifically, Union-Investment has undertaken that, with respect to the financial statements of Unifonds, those statements will meet the requirements of Regulation S–X (except for such differences that have been agreed upon by representatives of the Commission's staff and Applicant), despite the fact that such statements filed with the Commission and sent to United States investors will be prepared in accordance with West German generally accepted accounting principles. Such financial statements will reconcile the differences between West German accounting principles and generally accepted accounting principles in the United States. Union-Investment has also agreed that such financial statements will be audited on a basis that substantially complies with United States generally accepted auditing standards, and that it will engage United States independent public accountants for the purpose of consulting with its independent West German accountants as to such standards. Such financial statements will contain an audit report that is substantially equivalent to an audit report that would be issued by an independent public accountant in the United States under similar circumstances, and will not be prepared on a basis that would result in a qualification in the accountant's report other than qualifications which are beyond the control of Union-Investment to cure.

Applicant has also undertaken that it will register Unifonds as an investment company under the Act, that it will register Unifonds shares sold to United States investors under the Securities Act of 1933 ("1933 Act") and will file all appropriate disclosure documents prepared in the prescribed manner, with the exception that Union-Investment will report the aggregate amount of remuneration paid to its management and the aggregate amount of brokerage fees paid to its shareholder banks, and provided that Union-Investment will be permitted to discuss with the staff the possible modification or inapplicability of certain items in the disclosure forms. Applicant further states that it will file with the Commission and, where applicable, send to United States investors all annual and periodic reports required to be filed by the Act. Such reports will be prepared in the manner required by the prescribed forms, except that Union-Investment will report in the aggregate (rather than individually) the amount of remuneration paid to its management and the aggregate amount of brokerage fees paid to its shareholder banks, and that Union-Investment will not, because of the reporting practices in West Germany, include a statement of operations in its semi-annual report to shareholders, and provided the Union-Investment will be permitted to discuss with the staff the possible modification or inapplicability of certain items of disclosure. In addition, Applicant has agreed to include an audited balance sheet of Union-Investment, in a form acceptable to the Commission's staff, as of the end of Union-Investment's most recent fiscal year, in the prospectus of Unifonds used to offer Unifonds shares for sale in the United States.

As an additional condition to issuance of its requested Section 7(d) order, Applicant has agreed to make disclosure to its United States investors of all material regulatory provisions of the Act from which it is exempted by the terms of its order and the possible consequences of such exemption.

In its application, Applicant has also undertaken to register as an investment adviser under the Investment Advisers Act of 1940 ("Advisers Act"), with the understanding that it may request exemptions from provisions of the Advisers Act that correspond to exemptions granted by the Commission from the Act, as well as such other exemptions from the Advisers Act as it can justify. Finally, Applicant has represented that the Geschaeftsfuehrer and the Deputy Geschaeftsfuehrer of Union-Investment (its two top officials) have determined that there are no bank secrecy or blocking laws in West Germany that would prevent their testifying or providing documentary evidence on the operations of Union-Investment and Unifonds to the Commission or to a United States court, and that they have stated that they will not invoke any contractual or otherwise legally enforceable privilege of secrecy that might prevent others from providing testimony or documentary evidence on the operations of Union-Investment or Unifonds. Such persons have also stated that should any such secrecy or blocking laws be enacted in the future, they will waive the application of such laws to the operations of Union-Investment and Unifonds to the extent they are allowed by German law to waive such laws.

Therefore, based on the conditions and representations it has made in its application, Applicant submits that it meets the criteria for issuance of its requested order under Section 7(d) of the Act.

B. Request for Exemptions from the Provisions of Certain Sections of the Act.

Pursuant to Section 6(c) of the Act, Applicant has requested exemptive relief from many provisions of the Act in order to accommodate Unifonds' status as a registered investment company under the Act with West German law and business practices. Such exemptive requests are summarized below.

Section 6(c) provides that the Commission may exempt any person from the provisions of the Act if and to the extent that such exemption is

necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant has requested exemption from Sections 30(a) and 30(d) in order to be able to prepare and file its required periodic Commission and shareholder reports with such modifications as discussed above.

Applicant requests an exemption from Section 22(d) in order that (1) its shareholder banks, which sell Unifonds shares, may negotiate a discount on the price of Unifonds shares as long as they prevent dilution by remitting the full net asset value to Unifonds' custodian bank, (2) Union-Investment may engage in the longstanding and widespread West German practice of rounding up the issuing price of every share to the nearest tenth of a deutsche mark, with the additional amount paid directly (as part of the sales load) to Union-Investment and the shareholder bank selling shares and (3) Union-Investment may, although it has not done so since 1979, round down the redemption price of Unifonds shares to the nearest fifth or tenth of a deutsche mark. Applicant states that all of these practices are permitted by West German law, which contains provisions designed to prevent dilution and riskless trading. Moreover, Applicant has consented as condition of its order to disclose to United States investors that it engages in these practices, such disclosure to include the maximum sales load that could result from the rounding up procedure. In addition, applicant states that if Union-Investment decides in the future to engage in the practice of rounding down the redemption price of Unifonds shares, it will so inform the Commission.

Since Union-Investment effects its transactions on West German stock exchanges and is regulated by the BAK, it requests exemption from Section 22(e) of the Act to the extent necessary to permit it to suspend the right of redemption and to postpone the date of payment or satisfaction when the Frankfurt Stock Exchange is closed or trading thereon is restricted or whenever the BAK so orders. In addition, Applicant states, the Unifonds Investment Contract permits Union-Investment to suspend the right of redemption until it has disposed of assets equivalent to the amount of redemption provided Union-Investment acts with dispatch and in the interest of all shareholders. As a condition of exemption from Section 22(e), Applicant will disclose to United States investors that Union-Investment may suspend the right of redemption and delay payment or satisfaction under the above circumstances, and will immediately report any suspension of redemption to the Commission. Union-Investment also has undertaken to waive applicability to it of Section 22(e)(1) since Applicant does not require that it be allowed to suspend the right of redemption when the New York Stock Exchange is closed or trading thereon is restricted.

Applicant represents that it needs an exemption from the bonding requirements of Section 17(g) of the Act and Rule 17g–1 thereunder because BAK policy would prohibit it from obtaining a bond to protect United States investors unless it provided bonding protection for all Unifonds' shareholders, which, it further represents, would put Applicant at a competitive disadvantage with other West German investment companies. As a condition to granting this exemption, Union-Investment consents to disclose to its United States investors that, although those investors are protected under West German law against acts of theft or embezzlement of Unifonds' assets, Union-Investment's employees are not bonded, and there is no assurance that Union-Investment's assets will be adequate to cover a loss.

Applicant also requests exemption from several of the Act's recordkeeping and inspection provisions, which are designed to reveal, among other things, overreaching of investment companies through parallel trading by insiders. According to Applicant, the BAK will not permit Applicant to submit its books and records to inspection by an agency of a foreign government in Germany, and furnishing copies to the Commission for inspection in the United States would be prohibitively expensive and useless, since such documents would be in German. Specifically, Applicant requests relief from Section 17(j) and Rule 17J–1(b) and (c) thereunder; Section 31(a) and (b) and Rule 31a–1(d) thereunder; Section 32(c); and Section 34. Applicant represents, however, that West German law limits the number of persons with knowledge of Unifonds' transactions, makes self-dealing by insiders unlawful, and requires Unifonds to be audited annually to discover any manipulation. In addition, Union-Investment argues that because Unifonds' portfolio contains only stock traded on West German stock exchanges, the possibility is remote that manipulation of such a market could result in harm to Unifonds' shareholders. Applicant's request for exemption from the Act's recordkeeping provisions, including Section 34 of the Act, is premised on its contention that Union-Investment should not be required to maintain records that it is not required to maintain under German law and which other German funds do not maintain. Section 34, in essence, prohibits destruction, alteration or material misstatements in various documents required to be preserved pursuant to Section 31 and/or 32. Applicant has requested relief from Section 34, not to permit the conduct proscribed therin, but solely because it seeks relief also from those sections (31 and 32), which mandate preservation of such documents, although it will comply with West German recordkeeping requirements. As a condition to this exemption, Union-Investment states that it will disclose to United States investor: (1) That Union Investment, the members of its Board of Managers, Unifonds' fund manager and Union-Investment's shareholder banks that act as principal underwriters do not comply with the reporting and recordkeeping requirements of Sections 17(j) and 31(a) of the Act and the rules promulgated thereunder, and (2) the possible consequences of such non-compliance.

Applicant states that owing to the structure of the West German investment company industry and the provisions of West German law, which do not embody the concept of independent directors, it needs an exemption from those provisions of the Act dealing with disinterested directors: Sections 10(a), (b) and (g); 15(c) and 32(c). Applicant states, without necessarily admitting, that members of Union-Investment's Advisory Board, Board of Supervisors and Board of Managers may be deemed "affiliated persons" of Union-Investment, Unifonds' principal underwriter and investment adviser. In addition, such persons may be deemed "interested persons" of Unifonds. Applicant further states that members of Union-Investment's Board of Supervisors, who are either officers of or partners in Union-Investment's shareholder banks, may be deemed affiliated persons of investment bankers. If such persons are so deemed, and if Union-Investment's Advisory Board and Board of Supervisors are deemed to be subject to the same regulation under the Act as the boards of advisers and boards of directors of domestic investment companies, neither Union-Investment nor Unifonds will have any disinterested advisory board members or directors. Applicant argues that West German law provides substitute safeguards for these provisions. With respect to Section 10(1), Applicant represents that West German law imposes a duty on

management to act in the interest of Unifonds' shareholders, and it provides for independent review of management by Unifonds' custodian bank and by the BAK, both of which may bring suit against Union-Investment for management's failure to so act. The BAK may also dismiss a manager who is unfit professionally or who violates laws regulating West German investment companies. Applicant argues that the functions of Sections 10(b) and (g), to prevent conflicts of interest, are fulfilled by provisions of West German law that prohibit members of the Advisory Board and the Board of Supervisors from participating in the daily decisions concerning allocation of brokerage and the investment of assets for Unifonds. Applicant states that the managers and employees who make those decisions at Union-Investment are not affiliates or interested persons of the shareholder banks who act as brokers, investment bankers and principal underwriters for Unifonds. In addition, Applicant further states that fund managers are held by West German law to a fiduciary duty with limits on their investment discretion. Applicant does not, however, represent that West German law prohibits "interested persons" from serving as managers. Finally, Applicant offers what it states is an alternative protection to Section 15(C) by representing that, under West German law, the BAK must approve both the Unifonds Investment Contract and the selection of Unifonds' accountant.

Applicant states that since shares issued by Unifonds are not voting shares, Unifonds and Union-Investment cannot comply with Section 18(i) of the Act, which requires that every share of stock issued by a registered investment company be voting stock, or with Sections 13(a), 15(a) and (b), 16(a) and 32(a), which require shareholder approval of many activities of a registered company. Applicant represents that some of those activities, such as becoming a "nondiversified" company, as defined by West German law, issuing senior securities, underwriting securities issued by other persons, buying or selling real estate or commodities, making loans and deviating from its investment policy as stated in the Unifonds Investment Contract, are prohibited by West German law. Applicant further represents that the other activities subject to shareholder approval in the United States are subject to BAK approval in West Germany. The names of Union-Investment's directors (who are elected by its shareholders, rather than by Unifonds' shareholders) and any borrowing by Union-Investment on behalf of Unifonds are reported to the BAK. The BAK must approve the written Union-Investment Contract between Unifonds' shareholders and Union-Investment, and must also approve the appointment of Unifonds' accountant. Once approved by the BAK, the Unifonds Investment Contract can be terminated only pursuant to West German law. The terminated contract cannot be assigned and, upon termination, the custodian bank may either dissolve the fund or appoint another company to manage Unifonds under the terms of the previous contract. Successor management would have to be approved by the BAK.

The application also requests exemptive relief so that Applicant may engage in certain affiliated transactions which are typical of West German business practices. Applicant requests exemptions from Sections 10(f) and 17 (a), (b) and (e)(2) to be able to continue to use its shareholder banks as depositary banks and as principal underwriters and brokers, and to buy securities from and sell securities to such banks and members of its Advisory Board. Applicant represents that, instead of prohibiting affiliated transactions, West German law prohibits any borrowing of fund assets by anyone except to the extent that cash is deposited in shareholder banks. It also prohibits members of the Board of Supervisors and Board of Managers from buying property from or selling property to a fund. Applicant states that conflicts of interest are also prevented by a prohibition against participation in daily investment decisions by members of the Board of Supervisors and the Advisory Board, and by limitations on the terms of all transactions, rather than the proscription of affiliated transactions. For example, Applicant states that, although the purchase of securities from and sale of securities to affiliates, including shareholder banks, is permitted by West German law, restrictions are placed on the price and type of security that may be bought or sold. Applicant represents that transactions which meet such restrictions would meet the standard of Section 17(b).

Applicant states that, to the extent its shareholder banks serve as depositories for Unifonds' cash, there may be non-compliance with Section 17(a)(3). It represents, however, that West German law prohibits the participation of the members of the Board of Supervisors in any decision concerning the allocation of cash deposits and requires Unifonds' fund manager to make such allocations for the benefit of Unifonds' shareholders. Applicant further represents that the amount of cash held by the shareholder bank cannot exceed the level described in the Unifonds Investment Contract. In addition, Applicant states that the banks pay at least as much as, and usually more than, the standard interest rate, and that the amount deposited in each bank is determined by the Board of Managers acting independently of the shareholder banks and in the interest of Unifonds' shareholders. Finally, Applicant represents that only the custodian bank may draw on the accounts, and the deposits in each bank are protected in full by the Deposit Protection Fund.

Applicant states that although Unifonds' brokerage commissions, which are paid to its affiliated shareholder banks, are lower than fees customarily charged similar credit institutions in West Germany for comparable transactions, and although Union-Investment maintains records of Unifonds' brokerage transactions for at least six years, Unifonds' fees are not "customary" pursuant to Rule 17e–1 because Union-Investment's Board of Supervisors does not review such transactions. Therefore, an exemption is needed from Rule 17e–1 and from Section 17(e)(2). Applicant represents that there is, however, regular review of all brokerage transactions by Unifonds' custodian bank, which is not a shareholder bank.

Applicant requests an exemption from Section 10(f) of the Act so that Union-Investment may from time to time buy securities in the course of an underwriting directly or indirectly from a shareholder bank. Union-Investment submits that it provides alternative safeguards for investors. Union-Investment represents that it complies with a number of the requirements of Rule 10f–3, although it does not comply with all of them. Specifically, it represents that the price it pays for securities does not exceed the public offering price, and the underwriting fee is comparable to fees charged for similar securities sold during a similar period of time. In addition, Union-Investment respresents that West German law limits the amount of an issuer's securities which an investment company may purchase to five percent of the outstanding securities of that issuer, unless the investment company obtains a specific exemption from the BAK permitting the purchase of a greater amount. Union-Investment further represents that although it may purchase shares directly from a shareholder bank during an offering, West German law

prevents any pressure to buy new issues exerted by the members of the Board of Supervisors, who are the affiliates of the shareholder banks acting as principal underwriters. It does this by prohibiting them from participating in Union-Investment's daily investment decisions. Finally, Union-Investment represents that its manager, who makes the daily investment decisions for Unifonds, may purchase shares for Unifonds only if it is in the best interest of Unifonds' shareholders to do so, and that they may not do so to assist a shareholder bank in dumping or in stimulating the market in a new issue.

Applicant states that since Union-Investment is technically the "issuer" of Unifonds shares and pays for the distribution of those shares out of its own assets, it may be deemed in violation of Section 12(b) and Rule 12b–1. Accordingly, Applicant requests an exemption from those provisions. In support thereof, Applicant submits that it does not violate the purpose of Section 12(b), which it states is to regulate the use of the assets of a registered investment company when such assets are used to pay the costs of distribution, an activity which, unless properly controlled, may result in little or no benefit to fund shareholders.

Applicant also requests an exemption from Section 12(d)(3) of the Act. Applicant states that Unifonds owns shares of West German banks, and in West Germany the underwriting and brokerage business is conducted almost exclusively by banks. Union-Investment states that it would probably be unlawful for it not to invest Unifonds' assets in bank securities since: (1) Under West German law and the Unifonds Investment Contract, Union-Investment must diversify risk and manage Unifonds' assets in the interest of Unifonds' shareholders and (2) Union-Investment must select securities "exclusively on the criteria of earnings and/or growth rate." In support of its request, Applicant asserts that, in comparison with Rule 12d–1(a)(1), which provides an exemption from Section 12(d)(3), the shareholder banks are engaged primarily in commercial banking activities and it believes that their gross revenues from securities dealing, brokerage and underwriting activities do not exceed 15 percent of their total gross revenues, although it cannot state unequivocally that in all cases there will be compliance with this percentage limitation. Union-Investment also represents that under West German law, Unifonds and all other funds manage by Union-Investment in the aggregate cannot own more than five percent of the voting stock of any one issuer. Union-Investment states that under the Act a registered investment company may purchase the securities of a bank engaged in the business of an investment adviser, provided that the bank does not act as adviser to the purchasing investment company. Union-Investment represents that it does not invest Unifonds' assets in the common stock of shareholder banks that act as its principal underwriters and brokers, and submits that it is as appropriate to permit it to invest Unifonds' assets in the securities of other West German commercial banks that act as underwriters, dealers and brokers as it is to permit domestic investment companies to invest in the securities of domestic banks that act as investment advisers because all such banks are primarily engaged in commercial banking, not investment activities.

Applicant states that it is the practice of Union-Investment when determining the net asset value of Unifonds' shares to debit monthly to Unifonds the management and custodian fees. Thus, Applicant requests an exemption from Section 22(c) of the Act and from Rule 22c–1 thereunder. Union-Investment represents that it believes that the dilutive effect on net asset value caused by monthly accrual of its principal expense fees is probably "immaterial" when compared with more significant fluctuations in the market price of portfolio securities, and it therefore submits that the practice of monthly accrual does not give an unfair advantage to investors who redeem just prior to the accrual date. Union-Investment further represents that monthly accrual of expenses accords with the established practice of West German investment companies. Applicant also requests an exemption from Section 22(c) and Rule 22c–1 because it sells and redeems Unifonds shares between 8:00 a.m. and 4:00 p.m. on a given day at a price computed at 2:00 p.m., after the close of the Frankfurt Stock Exchange on that day. With respect to the method of pricing used for Unifonds shares, Union-Investment represents that little potential exists for investors to speculate on raising or falling prices on the Frankfurt Stock Exchange. In addition, Applicant also notes that this method of pricing is common for West German funds.

Finally, Applicant requests an exemption from Section 17(f) of the Act. Applicant represents that, under West German law, Union-Investment must keep its assets in West Germany in a West German custodian bank, which plays a substantial regulatory role. Applicant further represents that, while Unifonds' custodian bank is not regulated by U.S. laws, it is regulated pursuant to the German Banking Act, and West German law provides protections equivalent to those provided by Section 17(f) and the rules thereunder by requiring that: (1) The custodian bank keep Unifonds' assets in a restricted account where they cannot be pledged, assigned, encumbered or transferred except for the account of Unifonds; (2) the BAK approve the selection of the custodian bank and remove it if it is unqualified to perform its regulatory functions; (3) the custodian bank keep vouchers reflecting the value, date, object of and parties to each transaction in Unifonds' account; (4) the BAK or Bundesbank (the West German banking regulatory agency) appoint an auditor to perform a regular audit of the Unifonds account including an examination of its portfolio transactions; (5) Union-Investment be liable to Unifonds for assets stolen or embezzled by any employee, including the four members of its Board of Managers or by Unifonds' fund manager, who are the only five persons with access to Unifonds' assets; and (6) Unifonds' cash deposits be protected against a bank failure by the Deposit Protection Fund.

Therefore, Applicant submits that granting it the exemptive relief it has requested under Section 6(c) of the Act is appropriate in the public interest and consistent with the protection of investors.

Notice is further given that any interested person may, not later than December 27, 1982, at 5:30 p.m., submit to the Commission, in writing, a request for a hearing on the application accompanied by a statement as to the nature of his/her interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or such person may request that he/she be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit, or in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. An order disposing of the application herein will be issued as a matter of course following said date unless the Commission thereafter orders a hearing upon request or upon its own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and

orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-34658 Filed 12-21-82; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan No. 2072]

Arkansas; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration, I find that the Counties of Conway, Faulkner, Garland, Independence, Jackson, Lawrence, Ouachita, Pope, Pulaski, Randolph, Saline, Sharp, Van Buren and White, Arkansas, constitute a disaster area because of damage resulting from severe storms, tornadoes and flooding beginning on December 2, 1982. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on February 11, 1983, and for economic injury until the close of business on September 13, 1983, at: U.S. Small Business Administration, 320 West Capitol Avenue, Suite 601, Little Rock, Arkansas 72201, or other locally announced locations.

Interest rates for applicants filing for assistance under this declaration are as follows:

	Percent
Homeowners with credit available elsewhere	13¾
Homeowners without credit available elsewhere	6¾
Businesses with credit available elsewhere	11½
Businesses without credit available elsewhere	8
Businesses (EIDL) without credit available elsewhere	8
Other (non-profit organizations including charitable and religious organizations)	11¾

It should be noted that assistance for agriculture enterprises is the primary responsibility of the Farmers Home Administration as specified in Pub. L. 96-302.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: December 15, 1982.

James C. Sanders,

Administrator.

[FR Doc. 82-34678 Filed 12-21-82; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan No. 2073]

Illinois; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration, I find that the Counties of Brown, Bureau, Calhoun, Cass, Clinton, Fulton, Greene, Grundy, Jersey, LaSalle, Livingston, Madison, Marshall, Mason, Morgan, Peoria, Pike, Putnam, Schuyler, Scott, Tazewell and Woodford, Illinois, consitute a disaster area because of damage resulting from severe storms, tornadoes and flooding beginning on or about December 2, 1982. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on February 11, 1983, and for economic injury until the close of business on September 13, 1983, at: U.S. Small Business Administration, 219 South Dearborn Street, Room 438, Chicago, Illinois 60604, or other locally announced locations.

Interest rates for applicants filing for assistance under this declaration are as follows:

	Percent
Homeowners with credit available elsewhere	13¾
Homeowners without credit available elsewhere	6¾
Businesses with credit available elsewhere	11½
Businesses without credit available elsewhere	8
Businesses (EIDL) without credit available elsewhere	8
Other (non-profit organizations including charitable and religious organizations)	11¾

It should be noted that assistance for agriculture enterprises is the primary responsibility of the Farmers Home Administration as specified in Pub. L. 96-302.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: December 16, 1982.

James C. Sanders,

Administrator.

[FR Doc. 82-34673 Filed 12-21-82; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan No. 2071]

Missouri; Declaration of Disaster Loan Area

As a result of the president's major disaster declaration, I find that the Counties of Bollinger, Cape Girardeau, Carter, Franklin, Iron, Jefferson, Lincoln, Perry, Phelps, Pulaski, Ripley, St. Charles, Ste. Genevieve, St. Louis and Wayne, in the State of Missouri, constitute a disaster area because of damage resulting from severe storms, tornadoes and flooding beginning on December 1, 1982. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on February 10, 1983, and for economic injury until the close of business on September 12, 1983, at: U.S. Small Business Administration, 12 Grand Building, 5th Floor, 1150 Grand Avenue, Kansas City, Missouri 64106, or U.S. Small Business Administration, 815 Olive Street, Room 242, St Louis, Missouri 63101, or other locally announced locations.

Interest rates for applicants filing for assistance under this declaration are as follows:

	Percent
Homeowners with credit available elsewhere	13¾
Homeowners without credit available elsewhere	6¾
Businesses with credit available elsewhere	11½
Businesses without credit available elsewhere	8
Businesses (EIDL) without credit available elsewhere	8
Other (non-profit organizations including charitable and religious organizations)	11¾

It should be noted that assistance for agriculture enterprises is the primary responsibility of the Farmers Home Administration as specified in Pub. L. 96-302.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: December 13, 1982.

James C. Sanders,

Administrator.

[FR Doc. 82-34677 Filed 12-21-82; 8:45 am]

BILLING CODE 8025-01-M

[License No. 02/02-5454]

Roedal Associates, Inc.; Application for License To Operate as a Small Business Investment Company (SBIC)

An application for a license to operate as a small business investment company under the provisions of Section 301(d) of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 *et seq.*), has been filed by Roedal Associates, Inc., 77-51 141st Street, Flushing, New York 11367, with the Small Business Administration (SBA), pursuant to (13 CFR 107.102;)(1982).

The officers, and directors of the Applicant are as follows:

President, Director (⅓%)
Robert Cohn, 280 Dolphin Drive, Woodmere, New York 11598
Vice President, Director, Secretary (⅓%)
Edward Cohn, 194 Harbor View, S., Lawrence, New York 11559
Vice President, Treasurer, Director (⅓%)
Alan Cohn, 303 East 57th Street, New York, New York 10022

The Applicant will begin operations with a capitalization of $500,000 which will be a source of equity capital and

long-term loans for qualified small business concerns.

The Applicant will conduct its operations principally in the State of New York.

As an SBIC under Section 301(d) of the Act, the Applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Small Business Investment Act of 1958, as amended, from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balance national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the Applicant include the general business reputation and character of the proposed owners and management, and the probability of successful operation of the Applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, not later than 15 days from the publication of this notice, submit to SBA written comments on the proposed Applicant. Any such communication should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Flushing, New York.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: December 14, 1982.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 82-34674 Filed 12-21-82; 8:45 am]

BILLING CODE 8025-01-M

Interest Rates

The interest rate on section 7(a) Small Business Administration direct business loans (as amended by Pub. L. 97-35) and the SBA share of immediate participation loans is eleven and five-eights (11⅝) percent for the fiscal quarter beginning January 1, 1983.

On a quarterly basis, the Small Business Administration also publishes an interest rate called the optional "peg" rate (13 CFR 120.3(b)(2)(iii)). This rate is a weighted average cost of money to the government for maturities similar to the average SBA loan. This rate may be used as a base rate for guaranteed fluctuating interest rate SBA loans. For the January–March quarter of 1983, this rate will be eleven and one-fourth (11¼) percent.

Dated: December 16, 1982.

Edwin T. Holloway,

Associate Administrator for Finance and Investment.

[FR Doc. 82-34676 Filed 12-21-82; 8:45 am]

BILLING CODE 8025-01-M

[License No. 01/01-5268]

W.C.C.I. Capital Corp.; License Surrender

Notice is hereby given that, pursuant to Section 107.105 of the Small Business Administration (SBA) Rules and Regulations governing Small Business Investment Companies (13 CFR 107.105 (1982)), W.C.C.I. Capital Corporation, 791 Main Street, Worcester, Massachusetts 01610, incorporated under the laws of the State of Massachusetts, has surrendered its License No. 01/01-5268, issued by the SBA on December 6, 1972.

W.C.C.I. Capital Corporation has complied with all conditions set forth by SBA for surrender of its license. Therefore, under the authority vested by the Small Business Investment Act of 1958, as amended, and pursuant to the above-cited Regulation, the license of W.C.C.I. Capital Corporation is hereby accepted and it is no longer licensed to operate as a Small Business Investment Company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: December 14, 1982.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 82-34675 Filed 12-21-82; 8:45 am]

BILLING CODE 8025-01-M

Reporting and Recordkeeping Requirement Under OMB Review

ACTION: Notice of Reporting Requirement Submitted for OMB Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATE: Comments must be received on or before January 24, 1983. If you anticipate commenting on a submission but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB reviewer and the agency clearance officer of your intent as early as possible.

COPIES: Copies of the proposed form, the request for clearance (S.F. 83), supporting statement, instructions, transmittal letters, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Comments on the item listed should be submitted to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

Agency Clearance Officer: Elizabeth M. Zaic, Small Business Administration, 1441 L St., N.W., Room 200, Washington, D.C. 20416; Telephone: (202) 653-8538.

OMB Reviewer: J. Timothy Sprehe, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3235, New Executive Office Building, Washington, D.C. 20503; Telephone: (202) 395-4814.

Title: Certificate of Prior Loan Status by Applicants for Disaster Temporary Employment.

Form No.: SBA 1335.

Frequency: Nonrecurring.

Description of Respondents: Applicants for employment as disaster temporaries.

Annual Responses: 500.

Annual Burden Hours: 10.

Type of Request: New.

Dated: December 16, 1982.

Elizabeth M. Zaic,

Chief, Paperwork Management Branch, Small Business Administration.

[FR Doc. 82-34679 Filed 12-21-82; 8:45 am]

BILLING CODE 8025-01-M

UNITED STATES INFORMATION AGENCY

Advisory Panel on International Educational Exchange

The Advisory Panel on International Educational Exchange will hold its second meeting on Monday, January 17, 1983 at Youth for Understanding headquarters located at 3501 Newark Street, Northwest, Washington, D.C. from 9:00 a.m. until 5:30 p.m.

The Advisory Panel will meet to discuss the following agenda:

9:00 a.m.–10:30 a.m.: International educational exchanged programs in the fields of engineering and science.

10:45 a.m.–12:30 p.m.: International educational exchange programs in the social sciences.

2:30 p.m.–5:30 p.m.: International educational exchange programs from the perspective of the Congress of the United States.

Additionally, the Advisory Panel will review information received about the work of other advisory committees and fora in the field of international education.

Members of the public who wish to attend the meeting must reserve a seat by January 12, 1983 by calling Christopher Paddack at (202) 724–9849. Space is limited and the public will be admitted on a space available basis by prior reservation.

Stephen A. McKnight,

Director, Office of Academic Programs. U.S. Information Agency.

Mary Jane Winnett,

Management Assistant.

December 10, 1982.

[FR Doc. 82–34655 Filed 12–21–82: 8:45 am]

BILLING CODE 8230–01–M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 246
Wednesday, December 22, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Commodity Future Trading Commission	1
Consumer Product Safety Commission	2
Federal Deposit Insurance Corporation	3
Tennessee Valley Authority	4

1

COMMODITY FUTURES TRADING COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 56434, Thursday, December 16, 1982.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Tuesday December 21, 1982.

CHANGES IN THE MEETING: Rescheduled to 10 a.m., Tuesday January 4, 1983.

[S–1848–82 Filed 12–20–82; 11:26 am]

BILLING CODE 6351–01–M

2

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 2 p.m., Monday, December 20, 1982.

LOCATION: Eighth Floor Conference Room, 1111 18th Street, NW., Washington, DC.

STATUS: Closed to the public:

Statutory Review
The Commissioners and staff will discuss matters related to statutory review.

The Commission voted that agency business required the holding of this meeting without the normal notice.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Avenue, Bethesda, MD 20207; 301–492–6800.

[S–1849–82 Filed 12–20–82; 1:15 pm]

BILLING CODE 6355–01–M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 6:20 p.m. on Thursday, December 16, 1982, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to: (1) Receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in The Security State Bank, Mooreland, Oklahoma, which was closed by the Bank Commissioner of the State of Oklahoma on December 16, 1982; (2) accept the bid for the transaction submitted by First State Bank of Mooreland, Mooreland, Oklahoma; (3) approve the applications of First State Bank of Mooreland, Mooreland, Oklahoma for Federal deposit insurance, and for consent to purchase the assets of and assume the liability to pay deposits made in The Security State Bank, Mooreland, Oklahoma; and (4) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to effect the purchase and assumption transaction.

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: December 17, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–1850–82 Filed 12–20–82; 1:41 pm]

BILLING CODE 6714–01–M

4

TENNESSEE VALLEY AUTHORITY

TIME AND DATE: 10:30 a.m. (e.s.t.), Wednesday, December 22, 1982.

PLACE: TVA West Tower Auditorium, 400 West Summit Hill Drive, Knoxville, Tennessee.

STATUS: Open.

MATTER FOR ACTION:

Power Item

Consideration of arrangements to be applicable following the expiration on December 31, 1982 of: (1) The New Fontana Agreement and (2) a contract with Nantahala Power and Light Company. In addition to proposed interconnection arrangements with Nantahala Power and Light Company, proposed exchange power arrangements with Tapoco, Inc., and a proposed power contract with Aluminum Company of America, consideration will be given as to conditions under which TVA: (1) Would continue to make power available to Nantahala in the absence of the proposed long-term agreement and (2) would acquire energy generated by Tapoco in excess of Tapoco's needs in the absence of the proposed long-term exchange arrangements.

CONTACT PERSON FOR MORE INFORMATION: Craven H. Crowell, Jr., Director of information, or a member of his staff can respond to requests for information about this meeting. Call 615–632–3257, Knoxville, Tennessee. Information is also available at TVA's Washington Office, 202–245–0101.

SUPPLEMENTARY INFORMATION:

TVA Board Action

The TVA Board of Directors has found, the public interest not requiring otherwise, that TVA business requires that this meeting be called at the time set out above and that no earlier announcement of the meeting was possible.

The members of the TVA Board voted to approve the above findings and their approvals are recorded below.

Dated: December 20, 1982.

Approved:

C. O. Dean, Jr.,

S. David Freeman,

Richard M. Freeman.

[S–1851–82 Filed 12–20–82; 2:44 pm]

BILLING CODE 8120–01–M

federal register

Wednesday
December 22, 1982

Part II

Department of Energy

Office of Conservation and Renewable Energy

Energy Conservation Program for Consumer Products; Final Rule for Clothes Dryers and Kitchen Ranges and Ovens

DEPARTMENT OF ENERGY

Office of Conservation and Renewable Energy

10 CFR Part 430

[Docket No. CAS-RM-78-110 (Partial)]

Energy Conservation Program for Consumer Products; Final Rule for Clothes Dryers and Kitchens Ranges and Ovens

AGENCY: Office of Conservation and Renewable Energy, Department of Energy.

ACTION: Final rule.

SUMMARY: As a general matter, the Energy Policy and Conservation Act, as amended (EPCA), requires the Department of Energy to prescribe an energy efficiency standard for each of thirteen major household appliances, unless DOE determines by rule that a standard for a product will not result in significant conservation of energy, is not technologically feasible, or is not economically justified. On April 2, 1982, DOE published a proposed rule that would determine that for eight products an energy efficiency standard would not result in a significant conservation of energy or be economically justified. The April 2 proposed rule also proposed procedural rules governing how States could petition for exemption from the preemption of State and local efficiency or energy use standards and how manufacturers could petition for a rule to preempt State or local efficiency or energy use standards.

In a settlement agreement in a suit brought in the United States District Court for the District of Columbia by the Natural Resources Defense Council and Consumers Union, DOE agreed to issue a final rule with respect to the eight products by October 29, 1982. It was provided that this deadline could be modified for good cause upon approval by the court, but that in the case of delay DOE should issue by the October 29 deadline any segregable portion of the rule that could be completed without additional time and without further delaying the uncompleted aspect of the rulemaking. Consequently, DOE is today issuing a final rule with respect to clothes dryers and kitchen ranges and ovens in which DOE determines that an energy efficiency standard for either of these products would not result in a significant conservation of energy and would not be economically justified. In addition, DOE is adopting a final rule with respect to the procedures by which States may obtain exemption for State or local efficiency standards that are statutorily preempted as a result of a final rule with respect to energy efficiency standards and procedures by which manufacturers may obtain a rule to preempt a State or local efficiency standard for which there is no Federal final rule.

The rulemaking with respect to the other six products continues, and DOE is investigating as a result of public comment various aspects of several of the computer models relied upon in the April 2 proposed rule.

DATES: Except for Section 430.32, the effective date of this rule is January 21, 1983. Section 430.32 is effective June 20, 1983, except in a State that has filed pursuant to Subpart D a notice of petition before February 22, 1983, and a petition before April 21, 1983, the effective date of Section 430.32 is the date on which DOE issues or denies a final rule concerning that petition.

FOR FURTHER INFORMATION CONTACT:

Michael J. McCabe, U.S. Department of Energy, Office of Conservation and Renewable Energy, Building Energy Research and Development Division, Test and Evaluation Branch, Mail Station CE-113, Room GH-068, Forrestal Building, 1000 Independence Ave., SW., Washington, D.C. 20585, (202) 252-9127

Lona Feldman, Assistant General Counsel for Conservation and Renewable Energy, U.S. Department of Energy, Mail Station GC-33, Room 6B-194, Forrestal Building, 1000 Independence Ave., SW., Washington, D.C. 20585, (202) 252-9507,

or

William Funk, Assistant General Counsel for Regulatory Oversight, U.S. Department of Energy, Mail Station GC-12, Room 6A-141, Forrestal Building, 1000 Independence Ave., SW., Washington, D.C. 20585, (202) 252-6736

I. Introduction

a. Authority

Part B of Title III of the Energy Policy and Conservation Act (EPCA) (Pub. L. 94-163), as amended by the National Energy Conservation Policy Act (NECPA) (Pub. L. 95-619),[1] creates the Energy Program for Consumer Products Other Than Automobiles. The consumer products subject to this program (often referred to hereafter as "covered products") are: refrigerators and refrigerator freezers; freezers; dishwashers; clothes dryers; water heaters; room air conditioners; home heating equipment, not including furnaces; television sets; kitchen ranges and ovens; clothes washers; humidifiers and dehumidifiers; central air conditioners; and furnaces, as well as any other consumer product classified by the Secretary of Energy, if the product uses a specified minimum amount of energy. *See* Section 322. The Secretary has not so classified any additional products.

Under the Act the program consists essentially of three parts; testing, labeling, and mandatory minimum energy efficiency standards. The Department of Energy, in consultation with the National Bureau of Standards, is required to establish test procedures for each of the covered products. Section 323(a)(2). The purpose of the test procedures is to provide for test results that reflect the energy efficiency, energy use, or estimated annual operating costs of each of the covered products. Section 323(b)(1). All test procedures were required to be adopted not later than May 1, 1978. Section 323(a) (4) and (6). A test procedure was not required if DOE determined by rule that one could not be developed. Section 323(a)(6)(B). One hundred and eighty days after a test procedure for a product is adopted, no manufacturer may represent the energy consumption of or the cost of energy consumed by the product except as reflected in a test conducted according to the DOE procedure. Section 323(c). Test procedures have been prescribed relating to all products, but, on the basis of continuing review, certain classes of products do not have currently applicable test procedures.

The Federal Trade Commission (FTC) is required by the Act to prescribe rules governing the labeling of the covered products. Section 324(a). These rules are to require that each particular model of a covered product bear a label that indicates its annual operating cost and the range of estimated annual operating costs for other models of that product. Section 324(c)(1). A rule is not required under Section 324 if the Secretary of Energy determines that disclosure of estimated annual operating costs on a label is not technologically feasible or if the FTC determines that such disclosure is not likely to assist consumers in making purchasing decisions or is not economically feasible. Section 324(c). No labeling rule can be made with respect to a product for which there is no DOE testing procedure. Section 324(b)(3). At the present time there is an FTC rule requiring labels under the Act for the following products: room air conditioners, furnaces, clothes washers, dishwashers, water heaters, freezers,

[1] Part B of Title III of EPCA, as amended by the NECPA, is often referred to in this notice as the "Act."

and refrigerators and refrigerator-freezers.[2] The FTC has proposed a rule to require labels for central air conditioners which has not been made final.

For each of the covered products, DOE is required to establish mandatory energy efficiency standards that are designed to achieve the maximum improvement in energy efficiency that is technologically feasible and economically justified. Section 325(a) (1) and (c). The Act provides, however, that no standard for a product is to be established if there is no test procedure for the product, or if DOE determines by rule either that a standard would not result in significant conservation of energy or that a standard is not technologically feasible or economically justified. Section 325(b). In determining whether a standard is economically justified, the Department is directed to determine whether the benefits of the standard exceed its burdens by weighing six specific factors, as well as any other factors DOE considers relevant. Section 325(d). The factors are:

(1) The economic impact of the standard on the manufacturers and on the consumers of the product subject to such standard;

(2) The savings in operating costs throughout the estimated average life of the covered product in the type (or class), compared to any increase in the price of, or in the initial charges for, or maintenance expenses of the covered products which are likely to result from the imposition of the standard;

(3) The total projected amount of energy savings likely to result directly from the imposition of the standard;

(4) Any lessening of the utility or the performance of the covered products likely to result from the imposition of the standard;

(5) The impact of any lessening of competition, determined in writing by the Attorney General, that is likely to result from the imposition of the standard; and

(6) The need of the Nation to conserve energy.

A rule establishing an energy efficiency standard for a product may set different levels of efficiencies for different classes [3] of that product if they use a different kind of energy or have different capacity or performance related features that justify different levels of efficiencies. Sec. 325(f). When a standard has been established, DOE may exempt a manufacturer whose gross revenues in the preceding year did not exceed $8 million from the effect of the standard for up to two years, if DOE determines, after obtaining the views of the Attorney General, that failure to grant the exemption would likely result in a lessening of competition. Section 325(e).

The Act specifies the priorities and procedures to be followed in adopting efficiency standards. Nine of the 13 covered products are given priority under the Act. Section 325(g). These nine products are: refrigerators and refrigerator-freezers, freezers, clothes dryers, water heaters, room air conditioners, home heating equipment (other than furnaces), kitchen ranges and ovens, central air conditioners, and furnaces.

The procedures include a requirement for an advance notice of proposed rulemaking upon which interested persons may make written comments. Section 325(i)(1). Thereafter, there is to be a notice of proposed rulemaking, upon which interested persons may make written and oral comments, including an opportunity to question those who make such comments with respect to disputed issues of material fact. Section 325(i)(3) and Section 336(a)(1).

Section 327 of the Act addresses the effect of Federal rules concerning testing, labeling, and standards on State laws or regulations concerning such matters. Generally, all such State laws or regulations are superseded by the Federal rule. Section 327(a). A rule by DOE that an efficiency standard is not technologically feasible, economically justified, or likely to save significant amounts of energy is a rule that supersedes any State standard. Section 325(b). If, because there is no Federal rule, a State efficiency standard is not superseded, persons subject to it may petition DOE to have it superseded on the basis that there is no significant State or local interest sufficient to justify the regulation and such regulation unduly burdens interstate commerce. Section 327(b)(1). A State whose energy efficiency standard is superseded may petition the Department for a rule that it not be superseded, on the basis that there is a significant State or local interest to justify the standard and the State standard is a stricter standard. However, DOE cannot issue the requested rule if the State standard would unduly burden interstate commerce. Section 327(b)(3).

b. Background

The DOE published its advance notice of proposed rulemaking pursuant to Section 325(i)(1) for the nine first priority products on January 2, 1979 (44 FR 29). On December 13, 1979, the DOE published an advance notice of proposed rulemaking for dishwashers, television sets, clothes washers, and humidifiers and dehumidifiers (44 FR 72276). An advance notice for central air conditioners (heat pumps) was published on January 23, 1980 (45 FR 5602). These advance notices were designed to present a full discussion of the Department's views concerning the standards program and the process for its implementation. DOE also set forth its views concerning the criteria for selecting classes in each product type and the maximum technologically feasible efficiency standard for each class of product. DOE specifically requested comments on all matters presented in the advance notices. Meetings were held throughout 1979 and 1980 to solicit the views of all concerned parties.

After receiving comments on the advance notices, on June 30, 1980, the DOE set forth its first proposed rulemaking for the nine products (45 FR 43976). (Hereafter referred to as the June 1980 proposal.) The June 1980 proposal set forth the DOE's proposal concerning energy efficiency standards for these covered products. It also proposed procedures for processing petitions by States that sought exemption for regulations subject to the general preemption requirements of Section 327(a) of the Act. The June 1980 proposal considered comments received in response to the advance notice on these nine products and made changes in the DOE's initial determinations concerning classes for each covered product and the methods for determining energy efficiency standards. The June 1980 proposal was based upon five technical support documents which were made available for public review.

To encourage public participation in the rulemaking process, the DOE held a series of public meetings and hearings, starting in July 1980. Public hearings were conducted in Chicago and Washington in August 1980. As a result of these hearings and the solicitation of written comments, over 1800 comments were received on the June 1980 proposal. These comments addressed all aspects of the rulemaking proposal including the establishment of classes in each covered product type, the feasibility of the standards selected for each covered product, the validity of the assumptions made in the technical support documents, the procedure for seeking exemptions for State regulations from preemption by the Federal standard, the effective date of a final regulation, the propriety of standards for small

[2] 44 FR 66475 (November 19, 1979).

[3] Each covered product category may be made up of several classes.

businesses, whether alternatives to regulations were practical, and the proposal for certification and enforcement procedures.

On December 17, 1980, the Department notified the Congress of its inability to make a final determination on the imposition of energy efficiency standards on the nine covered products by the deadline of January 2, 1981. On February 23, 1981, DOE published a notice of its intent not to issue any energy efficiency standard until it fully studied the comments recieved on the June 30 proposal and made a thorough reassessment of the data supporting the proposal (46 FR 13517).

On April 2, 1982, DOE issued a further Notice of Proposed Rulemaking with respect to the nine priority products (47 FR 14424). (Hereafter referred to as the April 2 proposal.) With respect to eight of the products DOE proposed to make a determination that a standard would not result in a significant conservation of energy and would not be economically justified.[4] The April 2 proposal also proposed rules governing petitions to DOE both by States to obtain exemption from premption of State or local energy efficiency standards as well as by manufacturers to obtain preemption of State or local standards. Two technical support documents—an Economic Analysis and an Engineering Analysis—supported the proposal.

Hearings were held on the April 2 proposal over three days in Washington, D.C. in which 39 persons presented statements. Over 130 written comments were received during the initial comment period, and 36 additional written comments were made on earlier submitted comments.

In October 1981, the Natural Resources Defense Council (NRDC) and Consumers Union of the United States, Inc., brought suit against DOE for DOE's failure to adopt a final rule for the nine priority products by the statutory deadline of January 2, 1981. A settlement agreement adopted by the parties required DOE to adopt a final rule for these products (except home heating equipment other than furnaces) by October 29, 1982. The agreement provided, however, for a modification of that deadline for good cause as approved by the court. Nevertheless, the agreement required that, if the entire rule could not be adopted by October 29, DOE would issue those segregable portions of the rule that could be issued.

[4] The April 2 proposal did not propose any rule with respect to the product type "home heating equipment, not including furnaces" or with respect to that class of the product water heaters made up of heat pump water heaters or with respect to those classes of the product central air conditioners that are heat pumps.

II. Discussion

a. General

As indicated above, the court-approved settlement agreement required DOE to issue by October 29, 1982, at least those segregable portions of the rule that could be issued by that date without delaying the other parts of the rule. After reviewing the comments received as a result of the April 2 proposal, DOE determined that questions raised and comments made concerning the Oak Ridge National Laboratory Residential Energy End Use Model (ORNL Model) and its projection of energy savings attributable to standards were substantial and significant. After an initial analysis to determine the scope of the potential problems with the Model and possible responses, it became clear that the time and analysis required to address these questions and comments made with respect to the ORNL Model would preclude adoption of final rules for the eight products by October 29, 1982.

The ORNL Model is the computer model that projects the energy savings attributable to a standard for a product. Moreover, other outputs of the Model are used in the Financial Impact Model and other analyses. Consequently, the validity of the ORNL Model is a critical factor in assessing possible standards for most products. With respect to two products, however, in light of all the comments received as well as the minimal level of energy savings predicted in each iteration of the ORNL Model, DOE determined that there was substantial evidence in the record to support a conclusion that an energy efficiency standard would neither result in a significant conservation of energy nor be economically justified. The two products are clothes dryers and kitchen ranges and ovens.

As indicated above, the April 2 proposal also included a provision regarding the preemption of State and local energy efficiency standards and the procedures for petitions for preemption or for exemption from preemption. While there was substantial comment on this aspect of the April 2 proposal, the comments were of a nature that could be addressed and responded to in a reasonable period of time.

Consequently, DOE is adopting a final rule with respect to clothes dryers and kitchen ranges and ovens and with respect to preemption of State and local law. The preemption final rule applies not only to these two products but will also apply to all other covered products when final rules for those products are promulgated.

At the present time, because the nature of the problems being assessed with regard to the ORNL Model, DOE is unable to project with any certainty when a final rule on the remaining six products will be issued.

b. Methodology

1. *Determination of Energy Savings.* In the April 2 proposal DOE quantified the energy savings that would be attributable to a standard imposed at each of the analyzed levels of efficiency for each product. This was done through use of the ORNL Model. The ORNL Model is fully explained in the Economic Analysis Document which accompanied the April 2 proposal, *see especially* Appendix E. This model was used to project residential energy use of a product with and without standards. In the April 2 proposal the period of analysis was the period 1987–2005. By comparing the energy used without a standard during this period to the energy used with a particular standard during the same period, DOE estimated the amount of energy saved during that period due to that standard. The energy saved was expressed in Quads (quadrillion BTUs).

As indicated above, certain aspects of the ORNL Model were subjected to some criticism in the comments on the April 2 proposal. Probably the issue that attracted the greatest attention was the Model's treatment of the relationship between energy prices and the market's responsiveness in producing and selling more energy efficient products. This relationship was reflected in the Economic Analysis Document (EAD) accompanying the April 2 proposal in terms of the so-called implicit discount rate, *see* pp. 46–47, EAD. The initial relationship between life cycle cost and the efficiency of models in the current market was given as an initial implicit discount rate, and the change in the relationship over time was characterized by a formula, *see* p. 46, EAD, which had the effect of changing the implicit discount rate as energy prices changed, *see* p. 52, EAD.[5] Both the

[5] The implicit discount rate is neither an input to nor a formula in the ORNL Model. That is, nothing in the Model is driven by the implicit discount rate. Rather, the implicit discount rate is an output that can be derived by the Model, and in the April 2 proposal the implicit discount rate was used as a shorthand method of expressing the market distortion that does drive parts of the Model. The formula did not act on the implicit discount rate itself, but on the market distortion, which had the effect of changing the implicit discount rate.

initial implicit discount rates and the formula that resulted in their change were criticized as being allegedly unsupported by data or other studies. The initial implicit discount rates were considered to be too high by several manufacturers and their representatives, while the formula was criticized by environmental and consumer groups. Because of the seriousness of these comments, DOE is studying these matters thoroughly. Nevertheless, notwithstanding the criticisms of the ORNL Model, it appeared that with respect to savings attributable to standards for clothes dryers and kitchen ranges and ovens, these comments and criticisms were not directly relevant.

First, the initial implicit discount rates for clothes dryers and ranges and ovens were not criticized as being too high and were not totally outside the range of what other scientists have estimated as the implicit discount rates for home appliances. Second, unlike the other six products analyzed, the effect of the contested formula on clothes dryers and kitchen ranges and ovens was to increase the implicit discount rate as energy prices increased, which would have the effect of increasing energy savings attributable to standards. *See* p. 52, EAD. That is, commenters like the NRDC that complained about the formula did so because it generally reduced the savings attributable to standards by increasing market responsiveness to higher energy prices in terms of efficient products. With respect to clothes dryers and kitchen ranges and ovens, however, as energy prices rise the formula indicates that the market unaccountably becomes less responsive in terms of efficient products. Consequently, with respect to both the initial implicit discount rate and its change with higher energy prices, the ORNL Model's behavior in terms of clothes dryers and kitchen ranges and ovens is not generally at odds with the commenters' major criticism of the Model.

Nevertheless, in order to ensure that any possible problems with the ORNL Model would not invalidate the conclusions for these two products, DOE ran two sensitivity analyses. The first analysis substitutes the historical trend in efficiency improvements of a product for the Model's derived projections based on a relationship between life cycle costs and the efficiency of the product. The second analysis increases the initial implicit discount rate by 100 percent and then holds it constant,[6] which has the dual effect of greatly increasing the initial implicit discount rate and eliminating any effect of the disputed formula.[7] Both of these sensitivity analyses were chosen because they replace the existing ORNL methodology for determining the efficiencies of products in future years in the absence of standards with methodologies that are perhaps more pessimistic as to market responsiveness to higher prices. The results of these two analyses, as well as the normal ORNL Model projection, are provided in the product specific analyses.

In addition to the major criticisms of the ORNL Model mentioned above, there were some comments on the Model that DOE is now able to respond to because of their relative simplicity. Consequently, in light of comments on the April 2 proposal and its own analysis DOE has already made changes to the Model in four areas and will make a change in a fifth area.

They are: energy price forecasts; housing forecasts; income forecasts; energy consumption of products being retired from stock; and marketplace behavior in the standards case.

A. *Energy Price Forecasts.* The energy price projections used in the April 2 proposal were from the National Energy Policy Plan, DOE/S–008, July 1981, pp. 3–24 (hereafter referred to as "NEPP III.") A number of commenters, including the General Accounting Office (GAO),[8] commented that DOE used energy price projections significantly higher than energy price assumptions of certain private organizations. DOE has always used throughout these various rulemaking proceedings the most recent, and in DOE's view the most reliable, energy price forecasts. Consistent with this approach, the current analysis makes use of the energy price projections from the Energy Information Administration's 1981 Annual Report to Congress, February 1982 (DOE/EIA–0173(81)/3). The table below shows the historical energy prices and energy price projections for each of four fuel types used in this analysis.

HISTORICAL AND PROJECTED ENERGY PRICES [1]

[Dollars Per 10^6 BTU]

	1977	1980	1985	1990	1995	2000	2005
Electricity [2]	4.18	[illegible]	5.10	5.35	5.47	5.70	[illegible]
Natural gas	[illegible]	[illegible]	[illegible]	7.49	[illegible]	[illegible]	11.33
Residential distillate	4.40	7.05	[illegible]	10.70	14.01	17.32	20.63
Liquid gas	4.19	6.09	[illegible]	[illegible]	[illegible]	[illegible]	18.54

[1] In 1980 dollars.
[2] 11,500 BTU=1 kw-h.

The energy price projections used in the analysis generally tend to be lower in the near term (through 1990) then NEPP III and are higher in the out years (beyond 1990). DOE has not compared these most recent EIA projections with projections from private organizations. The forecasts made by EIA are made totally independent of and without relation to this rulemaking. Under the Department of Energy Organization Act, EIA's statistical and forecasting reports are not allowed to be subjected to prior approval requirements outside of EIA, thereby assuring the necessary independence and neutrality of its forecasts, which become in effect the official government forecasts.

B. *Income Forecasts.* While no commenter specifically mentioned the income forecast used in the April 2 proposal, DOE has updated the forecast by using the more recent data that went into EIA's energy price forecasts discussed above. Again, DOE use these data in order that the ORNL Model results are based upon the most recent data and a consistent set of input.

C. *Housing Construction Forecasts.* A number of comments were received that DOE's forecasts of housing construction were not consistent with recent history and that they were higher than other forecasts. For the April 2 proposal, the ORNL Model projected that the number of households would increase from 73

[6] Above, it was explained that in the ORNL Model the implicit discount rate was not an input or driving force in the Model. Rather, it was an output of the Model. In this sensitivity analysis, however, the implicit discount rate is used as an input, overriding the Model's normal method of computing product shipments' efficiencies.

[7] DOE has no basis for believing that the initial implicit discount rates for the two products in today's rule or the other products are too low. To the contrary as noted above, if anything, initial implicit discount rates for the other products were deemed too high by a number of commenters. By including a sensitivity analysis that increases the initial implicit discount rates by 100 percent for these two products, DOE is not suggesting that this is even a reasonable scenario. It is intended merely to demonstrate beyond cavil that neither of these two products would save a significant amount of energy even if the initial implicit discount rate were vastly inflated.

[8] See GAO report EMD–82–76; May 14, 1982, Appliance Efficiency Standards: Issues Needing Resolution by DOE (hereafter "GAO Report").

million in 1976 to 105 million in 2000, with an average growth rate of 1.6%/year, resulting in annual additions of approximately 2 million units per year. *See* Table E–9, EAD. Recent data shows that housing construction has been averaging approximately 1 million units per year, and a lower level than initially projected is expected to continue. Comparison of the ORNL Model's projections of housing construction in the year 1980 shows that the Model projected more than 25 percent more construction than occurred. Therefore, DOE believes that the use of the ORNL Model projection of housing construction results in an overestimation. DOE, accordingly, is substituting for the ORNL housing submodel the residential construction forecast of the MASTER Model developed by DOE independently of this rulemaking or program.[8] The residential construction forecasts made by the MASTER model for selected years are shown below:

ANNUAL ADDITIONS

Building category	1980	1985	1990	1995	2000	2005
Single Family (millions of units)	.80	.80	.97	.80	.80	.80
Multi-Family (millions of units)	.48	.47	.51	.45	.45	.45
Mobile Homes (millions of units)	0.26	0.26	0.27	0.28	0.30	0.32

D. *Energy Use of Retiring Appliances.* The ORNL Model in the April 2 proposal used a retirement function that was based on a vintaging concept that kept track of the age distribution of appliances and retired appliances as a function of the number of years since they were originally purchased. *See* p. 412, EAD. However, the per unit energy use of the retiring appliances was left equal to the average energy use of the existing stock at the time of retirement. This treatment of the per unit energy use is inconsistent with the concept of vintaging that underlies the retirement formula. Therefore, DOE has revised the appliance retirement forecast to use the same vintaging approach to the energy use of retiring appliances as was used to calculate appliance retirements. This retirement formulation better approximates what is occurring in the marketplace.

E. *Market Behavior in the Standards Case.* The GAO said DOE was inconsistent in its treatment of market forces between the base case and the standards cases. GAO stated that DOE "assumed the market would not improve appliance efficiency once a minimum standard was put in place, unless average efficiency in the base case exceeded the standard." GAO Report, at 13–14. This comment correctly described the way the ORNL Model treated the shipment weighted energy factor (SWEF) for products in the years following imposition of standards. DOE concurs in GAO's conclusion that this is inconsistent with the method of projecting market behavior in the base case. Accordingly, DOE will make changes in the Model to project market behavior in the standards case after the imposition of standards. That is, the shipments that in the base case would be below the standards level will be set at the standards level in the standards case, and the shipments that in the base case would be at levels higher than the standard will continue as if unaffected by the standards.

This change, however, involves recoding the Model—an activity that is more complex than the input changes noted above and that, in order to issue this rule as soon as possible, has not yet been accomplished. To ensure that this fault in the ORNL Model does not invalidate the conclusions as to savings and net present benefits for ranges and ovens and clothes dryers, DOE ran a third sensitivity analysis. This analysis holds the efficiency of the appliances constant in the base case beginning in the year 1987—the year standards would begin—through the period analyzed. In this way, the inconsistency between the base and standard case criticized by GAO is eliminated by eliminating from the base case efficiency improvements stimulated by the market. The results of this sensitivity analysis are presented in the product-specific discussion.

2. *Economic Impact.* To assess the economic impacts on consumers that would occur generally from the adoption of standards for the April 2 proposal, DOE conducted a life-cycle cost (LCC) analysis and a net present value (NPV) analysis. The LCC analysis calculated the total cost of ownership for consumers for each class of product. A number of commenters on the April 2 proposal stated that the LCC analysis should have been conducted with marginal rather than average costs. While the Act does not specifically address whether life-cycle costs should be calculated with marginal or average costs, DOE believes that it requires average costs since it directs the Secretary to calculate the savings in operating costs to the consumer. *See* Section 325(d)(2). The savings in operating costs to the consumer are better reflected by average costs than marginal costs.

The life cycle cost analysis performed for the April 2 proposal showed that for most classes of clothes dryers and kitchen ranges and ovens the life-cycle costs at the various standards levels considered were greater than that for the average product sold in 1978. No comments were received disputing this increase in life-cycle costs. DOE has not revised the LCC analysis because, given the changes in energy prices, the use of the later energy prices would not change the conclusion of the April 2 LCC analysis that life-cycle costs for most classes of these two products would increase.

The ORNL Model was used to calculate the differential economic impacts on purchases of a product through a net present value analysis. The ORNL Model calculates the total cost for each product with and without standards. The total costs include the discounted total value of energy consumption from 1987 through the last year of use for those products purchased through the year 2005 plus the total discounted equipment costs of equipment purchased from 1987 through 2005.

The NPV calculation was repeated for today's rule with the changes described in II. b.1 above. DOE did not conduct a separate analysis to determine what effect each change had on the results of the analysis.

c. Significance of Energy Savings

The Act prohibits DOE from adopting a standard for a product if, by rule, DOE determines that a standard would not result in a significant conservation of energy. In the April 2 proposal, DOE explained that the Act did not define or

[8] The Master Model forecasts national variables by first forecasting for each SMSA and Rest-of-State (ROS) area in the contiguous United States and then aggregating the results. The national residential construction forecast was prepared in this manner. For each SMSA and ROS area, construction in the following five residential categories was forecast: (1) single-family detached; (2) duplexes; (3) three- and four-unit apartments; (4) five or more unit apartments, one-three stories; (5) five or more unit apartments, four or more stories. The latter four categories were combined for the purposes of this forecast into multi-family residences. Forecasts of single-family residential and multi-family residential construction were then aggregated to national totals.

explain what would constitute a "significant" conservation of energy and that, accordingly, DOE believed the Act intended for DOE to exercise its informed judgment in determining what level of savings would be significant.

The April 2 proposal contained three different proposed tests to determine if a standard would result in a significant conservation of energy. It was proposed that if a standard for a product would meet any one of the three tests, then the savings attributable to that standard would be deemed significant. The three tests were generally described as: whether savings of oil or gas are large enough to decrease meaningfully this Nation's reliance on foreign sources of energy; whether savings of electricity are large enough either to reduce significantly new generation requirements or to affect significantly the environment; and, whether a standard would result in a product using 20 percent less energy than it would absent a standard. Specifically, the first test was whether over the nineteen-year period 1987–2005 the savings attributable to a standard for a product would average 10,000 barrels per day (bpd) of oil or the natural gas equivalent of 10,000 bpd of oil. The second test was whether over the same period the total savings of electricity attributable to a standard for a product would constitute one percent of the total U.S. electrical supply. The third test was whether over the same period the energy usage by a product if a standard were imposed would be 20 percent less than the energy usage by that product if no standard were imposed.

Commenters that supported the April 2 proposal generally supported each of the three tests and the rationales behind each. On the other hand, commenters that opposed the April 2 proposal with respect to one or more products generally did not support the three tests or their rationales.[10] While each of the tests received substantial comment, a number of comments were not necessarily directed to any one of the tests.

As indicated above, each of the three significance tests measured the projected savings attributable to a standard over the period 1987–2005, the period of the analysis made by the ORNL Model in the April 2 proposal. Some commenters, such as the NRDC, believed that nineteen years was too long, while others, such as the American Council for an Energy Efficiency Environment (ACEEE), felt the period was too short. Some of those who felt the period was too long believed that "the savings are . . . diluted by modeling assumptions concerning market behavior in later years." (NRDC, May 20, 1982, at 6). The NRDC suggested a five-year period, citing the five-year review requirement of Section 325(h) of the Act. Those who believed the nineteen-year period too short mentioned that it was shorter than the useful life of furnaces and therefore did not permit a full turnover of the equipment stock. DOE has considered these comments and has concluded that the same fixed-year period for all products is not appropriate. Because many of these products have useful lives of different lengths, their turnover rates are different. The turnover rate can directly affect the penetration rate of new appliances of the product type, and the penetration rate of new appliances will affect the energy savings attributable to standards. Consistent with the thrust of several of the comments, DOE is adopting the average life of the product as the appropriate period over which to measure savings. *See* EAD, Table 3–3. Thus, the period for furnaces will be longer than nineteen years, as suggested by ACEEE, while the period for most products will be shorter than nineteen years, as suggested by several other commenters. By adopting the average life of a product as the appropriate period for analyzing that product's savings, DOE assures that the savings analysis will be neutral as to differences in penetration rates attributable to retirement and replacement of products.

DOE does not believe the use of the suggested five-year period is appropriate because (1) it would be a fixed year period for all products with the problems mentioned above; (2) the five-year review mentioned in the Section 325(h) of the Act would occur five years after publishing the standard or, in other words, before the standard would have any meaningful impact on the products in use; and (3) as several commenters stated, it was simply too short a period for an adequate analysis.

Several commenters were of the view that it was improper for DOE to measure the significance of the energy savings of each of the products separately. Rather, these commenters suggested that the total projected savings attributable to standards for all products should be the figure to be considered significant. DOE does not believe the Act allows for such an interpretation. Section 325(b) states "[n]o standard for a type (or class) of covered products shall be prescribed . . . if . . . the establishment of such standard will not result in significant conservation of energy. . . ." This language makes clear that the determination of whether a standard will save significant energy is to be made on an individual product type basis, not on the basis that standards for all products together would save significant energy.

Another criticism made by some commenters was that allegedly one or more products were technically incapable of meeting one or more of the significance tests. DOE does not believe such criticism is well founded. If the savings attributable to a standard for a product cannot meet a particular test for significance because the technologically feasible improvements are insufficient to produce a large amount of savings, this is not by itself evidence of a fault of the significance test. Congress, in specifying certain products concerning which DOE would be required to conduct standards rulemakings, did not prejudge or determine that a standard for any or all of these products could in fact result in a significant conservation of energy. Rather, the specific products named were included because of the amount of energy they used. Whether a standard was appropriate, i.e., among other things whether it would result in a significant conservation of energy, was to be determined by DOE. For example, in both the June 1980 and April 2 proposals DOE proposed no standard for electric furnaces because no improvements would save any energy. No commenter has disputed this conclusion. Similarly improvements to efficiency in other products may save only a small amount of energy. It is clear, however, that the fact that the potential savings are too small to meet one or more of the significance tests does not constitute a fault with the test.

Moreover, the fact that a particular product does not use enough energy to be able feasibly to meet the oil or gas and electricity tests does not suggest the inappropriateness of those tests. The NOPR acknowledged that the oil or gas and electricity savings tests had a natural bias toward products that use a large amount of those fuels. That is, a relatively small improvement in energy efficiency attributable to a standard for a product that uses a large amount of

[10] Many of the commenters that took issue with the three tests alleged that, even so, if the projected energy savings had been properly calculated then standards for certain products would have met one or more of the significance tests. Such a claim was never made, however, with respect to clothes dryers or kitchen ranges and ovens, and, as reflected below in the products-specific analyses, whatever methodological questions may exist with respect to the ORNL Model's projection of savings, they would not impact clothes dryers or kitchen ranges and ovens sufficiently to affect a determination of the significance of energy savings attributable to standards for these products.

energy might meet the oil or gas or electricity savings tests, but for certain products that use relatively little energy, those tests might be impossible to meet. Accordingly, DOE proposed its third test which would be neutral as to the amount of energy used by the product, by measuring the savings as a percent of the use by that product. While there were other problems with the third test that could have inappropriately precluded a product from meeting that test, they have been addressed, *see* below. Consequently, DOE concludes that the three tests, as reformulated, are appropriate, even if a particular product might not be able to meet one or more tests.

In the same vein, some commenters suggested that the oil or gas and electricity savings tests of significance were unlawful because the amount of energy required to be saved in order to be deemed significant was greater than the amount of energy that a product was required to consume in order to be considered as a possible candidate for standards under Section 325(a)(2)(B) of the Act. These commenters suggested that DOE use as its significance test what had been proposed in the June 1980 proposal—a savings equal to 20 percent of the minimum energy required to be consumed in order to be considered a possible candidate for standards.

DOE has considered these comments but has concluded that the record does not support adoption of the test of significance proposed in June 1980.[11] At that time, DOE proposed that savings attributable to a standard for a product would have to exceed .002867 Quads per year. This level was explained as being based upon application of the 20 percent efficiency improvement, specified in the former Section 325(a)(1)(B) of EPCA as the minimum improvement, to the minimum energy use provision in the current Section 325(a)(2)(B). In the proposal it was not made clear, however, that the "energy use" provision by definition measured the amount of energy consumed in the home, whereas the ORNL Model measured electricity savings as the *source* energy savings, that is, the powerplants' input savings, rather that the *site* (or electricity consumers') savings. Thus, under the June 1980 proposal, electricity savings as measured by the ORNL Model would have to exceed .01 Quads per year to be deemed significant. Many of the commenters criticizing the April 2 proposal and supporting the June 1980 proposal were not aware of this source/site savings problem.

The June 1980 proposal was criticized in that proceeding by a number of commenters on the grounds that it simply was too small an amount of energy to be deemed significant. Moreover, several commenters noted that the amount was less than an amount Congress had found insignificant in rejecting a conservation contingency plan. In the April 2 proposal DOE concurred with these comments, stating that the level proposed in June 1980 was too small to be measurable in national reports and was less than 20 percent of the energy savings that Congress had rejected as insignificant in considering a conservation contingency plan.

Some commenters, however, took issue with these conclusions. For example, the NRDC stated that whether or not the savings were measurable in national reports was irrelevant, because the Act was designed to significantly improve the efficiency of appliances, not to save significant amounts of the energy used in the United States. (NRDC, May 20, 1982, at 2). DOE cannot agree with this comment. The Act, DOE believes, was designed to improve the efficiency of appliances only if such improvement would save significant amounts of energy. The prohibition in Section 325(b)(2) against adopting any standard that does "not result in a significant conservation of energy" is explicit. DOE believes, as most commenters agreed who addressed this issue, that generally a savings that would be too small even to discern in normal DOE reporting systems should not be deemed significant. The amount proposed in June 1980 would constitute less than one half of one tenth of one percent of the current low level of oil imports and less than one hundredth of one percent of current oil usage; it would constitute less than one-fifth of one percent of current energy input to electricity, and less than one-half of one percent of current energy input to just residential electricity. In some cases this amount of savings is so small as to be less than is involved in rounding the numbers as they are reported. In most cases this amount is less than the level of reporting error involved in the reporting system.

The NRDC and some other commenters took issue as will with DOE's reliance as a basis for rejecting the June 1980 test on the Congressional rejection of a conservation contingency plan, on grounds of insufficient savings, that provided for five times the savings as the June 1980 proposed significance test.[12] The NRDC noted that the Congressional rejection was made by a different Congress than passed the Act, did not involve home appliances, and involved different forms of restriction on businesses and individuals. DOE has always acknowledged that Congress neither defined nor gave clear indication as to the meaning of "significant" energy conservation. The April 2 proposal, in rejecting the June 1980 proposed definition which even the NRDC termed "lenient," looked in part to a different Congressional action for an indication as to what might constitute "significant" savings. DOE did not intend to suggest that this Congressional action was indistinguishable from the present situation, but rather that it provided a general sense of what might be considered insignificant. The commenters, such as the NRDC, that merely catalogued the differences between the circumstances present in the Congressional rejection of the conservation plan for lack of significant savings and the present rulemaking failed to demonstrate why those differences are sufficient to lead DOE to ignore that Congressional action in trying to determine what should constitute a significant savings under the Act. For example, some commenters said it was improper to compare savings from an emergency conservation plan designed for use in a shortage to savings from a long-term overall increase in the efficiency of appliances. DOE disagrees that it is improper to make such a comparison but recognizes that the comparison must be viewed with caution. Because this was the only legislative action cited to us that quantified a measure of insignificance, DOE believes it is entitled to some weight. Moreover, the notion, suggested by some commenters, that the circumstances involving an emergency measure would naturally require greater savings to be deemed significant than would be involved in a long-term conservation measure is not persuasive. It could equally be hypothesized that in an emergency savings would be deemed significant even if smaller than what

[11] DOE does not believe that because the oil or gas and the electricity savings tests would require greater savings of energy by the eight products subject to this rule than is required to be used by some other products in order to be possibly considered for standards means that these tests are unlawful or precluded by the statute. As indicated above, the oil or gas and electricity savings tests were designed with a bias to products that use large amounts of energy. The eight products subject to the present rulemaking are the largest energy using appliance and, thus, these tests are appropriate for them.

[12] For a full description of that Congressional action, *see* the April 2 proposal, at 14429.

would be required to be deemed significant in normal supply times.

Both interpretations may be plausible, but no evidence has been adduced to demonstrate that one rather than the other is determinative. Consequently, DOE has given no weight to either and has merely taken the Congressional action to be suggestive that 4400 bpd is insignificant. Accordingly, DOE has concluded that the record does not support adoption of the significance test proposed in the June 1980 proposal which would have found as significant energy savings of less than 1500 bpd.

Finally, a few commenters, such as the New York State Energy Office, suggested that, in measuring the energy savings attributable to a standard for the purpose of determining their significance, it was improper to measure only those incremental savings over what would occur in an unregulated environment. Their position was that Congress, in rejecting voluntary targets for mandatory standards, had rejected the concept of allowing an unregulated market to achieve requisite energy efficiencies for products, so that any increased efficiencies achieved by the unregulated market should be disregarded. DOE cannot agree with this comment. Section 325(b)'s injunction against a standard is that *the standard would not result* in a significant conservation of energy. Certainly the best, if not the only, way to measure whether the conservation of energy is the result of the standard or is the result of some other factor is to consider what would occur in the absence of standards. If DOE ignored the effect of market-induced efficiencies, the savings identified in the standards case could not be said to be the result of standards. Moreover, DOE disagrees with these commenters' assessment that Congress by enacting the current Section 325 intended to reject the notion that efficiencies that would be obtained by an unregulated market should be ignored. Indeed, DOE believes that current Section 325(b) was included to ensure that DOE did *not* ignore the effects of an unregulated market, by ensuring that DOE assessed whether a mandatory standard was worth the candle in terms of the amount of energy conservation achieved *as a result* of the standard.

Finally, some commenters suggested that DOE was ignoring the "significant" savings reported by two States—California and New York—as being the result of State standards for efficiency of certain appliances. DOE has not ignored these reported savings. DOE notes, however, that the representative of Pacific Gas and Electric indicated that the California savings were almost entirely a result of the building standards and not the appliance standards, and that New York's estimated savings for all of its standards (.018 Quads over five years for all State standards, or less than .004 Quads per year) would constitute less than ⅒ of one percent of even the State's electricity usage. More importantly, DOE indicated in the April 2 proposal that because of climate differences or different energy concerns (especially with respect to electricity where problems are local and regional in nature) a mandatory efficiency standard in a State might well have greater relative positive impacts or savings than if the standard were adopted on a national basis. Thus, even if mandatory standards in California and New York have resulted in savings significant to those States, this is not evidence that a mandatory standard for a product would have significant savings nationwide.

1. *Oil or Gas Savings.* As was described in the April 2 proposal, DOE believes that it is apropriate to focus on savings of oil or gas because it is these fuels that Congress was most concerned about conserving when it enacted NECPA, amending EPCA to create the existing appliance efficiency standard program. The findings enumerated in NECPA are instructive:

> (a) Findings.—The Congress finds that—
> (1) The United States faces an energy shortage arising from increasing demand for energy, particularly for oil and natural gas, and insufficient domestic supplies of oil and natural gas to satisfy that demand;
> (2) Unless effective measures are promptly taken by the Federal Government and other users of energy to reduce the rate of growth of demand for energy, the United States will become increasingly dependent on the world oil market, increasingly vulnerable to interruptions of foreign oil supplies, and unable to provide the energy to meet future needs; and
> (3) All sectors of our Nation's economy must begin immediately to significantly reduce the demand for nonrenewable energy resources such as oil and natural gas by implementing and maintaining effective conservation measures for the efficient use of these and other energy sources.

Accordingly, DOE concluded that a saving of oil or gas would be deemed significant if it made a significant contribution to reducing this Nation's energy dependence on foreign nations. No commenter specifically took objection to such a test. DOE then stated that it tentatively proposed 10,000 bpd of oil or the natural gas equivalent of 10,000 bpd of oil as the lowest level of savings that would still have a significant contribution to reducing this Nation's energy dependence on foreign nations, but DOE requested comments as to whether the figure should be different.

Some commenters, such as the Air Conditioning and Refrigeration Institute (ARI), suggested that 10,000 bpd was too low a level of savings to be deemed significant because even this level was less than one tenth of one percent of national oil use and less than ⅒ of 1 percent of petroleum imports. Other commenters asserted that the 10,000 bpd level was too high.

The ARI did not suggest a specific higher figure or indicate what basis DOE should use in reassessing the proposed 10,000 bpd figure. Some of the commenters who believed 10,000 bpd was too high, however, suggested particular lower levels. One suggestion was 4400 bpd—the specific level of savings projected for the conservation contingency plan that had been rejected by Congress in 1979 as insignificant. As DOE noted in the April 2 proposal, however, 4400 bpd was rejected as insignificant, and nothing in the history of that action suggests that this figure should constitute the breakpoint between significance and insignificance. The New York State Energy Office suggested 1165 bpd, the oil equivalent of 16.67 percent of the minimum energy use a product must use before it can be considered for standards under Section 325(a)(2)(B).[13] This amount is, of course, even less than the test proposed by DOE in June 1980, the rejection of which was described above. Accordingly, DOE does not believe this is an appropriate figure. The Northern States Power Company suggested 1000 bpd as the level because "[t]his amount is typical of many oil wells, each of which are accounted for nationally." In fact, DOE does not account for each oil well, nor, if it did, would the lack of production from one be noticeable or recognizable in national figures. Moreover, none of these commenters indicated how his proposed level would relate to a meaningful contribution to reducing this Nation's energy dependence on foreign nations. It is difficult to understand how a saving too small even to be discernible or measurable on national reports could be said to make a significant contribution to reducing our national energy dependence on foreign nations.

As a further basis for the 10,000 bpd test, in the April 2 proposal DOE indicated that 10,000 bpd was a rough

[13] 16.67 percent is the reduction in energy use resulting from a 20 percent increase in the energy efficiency of the product. This is discussed more fully below.

approximation of the per-product oil savings to result from the adoption of standards, as estimated at the time by the Administration that proposed the NECPA amendment to the appliance efficiency program. Also the April 2 proposal indicated that a 10,000 bpd oil savings for each of the products specified in the Act would be in the same range of savings as other major conservation programs proposed by the Administration that proposed mandatory appliance standards. No commenter took issue with either of these points.

Accordingly, after considering the various comments on the 10,000 bpd test, DOE believes the record supports adoption of the test. While ARI is right that 10,000 bpd is itself a very small amount of oil or gas, DOE believes that in light of Congress' special concern for oil and gas in the findings of NECPA, such a level still is appropriate.

Some commenters distinguished between the derivation of the 10,000 bpd test and its application. For example, the Environmental Policy Center (EPC) stated that its problem with the 10,000 bpd test was "with its application (as opposed to derivation) by DOE." [14] (May 19, 1982, at 11). The NRDC asserted that DOE defined the oil and gas problem away by allegedly using "NEP III forecasts which show oil and gas use by utilities will be inconsequential by 1990." (May 20, 1982, at 6). In fact, however, DOE did not use the National Energy Policy Plan III forecasts of oil and gas use by utilities. Rather, it used the most recent Energy Information Administration (EIA) Annual Report to Congress, which had only been recently issued. As indicated above, DOE is committed to using the most recent and reliable data in this rulemaking. Moreover, the forecasts made by EIA (whether of energy usage or price) are made totally independent of and without relation to this rulemaking. Thus, the oil and gas problem was not "defined away." Rather, to the extent that the projections are accurate, and no commenter suggested they were not or offered recommended substitutes, it is simply a fact that future electricity savings will save smaller and smaller amounts of oil and gas as those fuels are used less to generate electricity.

One commenter asked for clarification as to whether the 10,000 bpd test required a savings of either 10,000 bpd of oil or the equivalent of 10,000 bpd of gas, or only a total savings of oil and gas that would equal 10,000 bpd of oil. In the April 2 proposal, the test required that the savings attributable to a standard must save either 10,000 bpd of oil or an equivalent amount of gas, not just a total savings of oil and gas equalling 10,000 bpd. In other words, if a standard would result in a savings of 10,000 bpd of oil *or* if it would result in a savings of gas equal to 10,000 bpd of oil (approximately 538 mcf/day), the savings would be deemed significant. If, on the other hand, neither 10,000 bpd of oil nor its equivalent in gas were saved, the savings would not be deemed significant even if taken together they were the equivalent of 10,000 bpd of oil.

The commenter suggested that, because oil and gas were often substitutes, the 10,000 bpd should refer to the sum of oil and gas savings. DOE has considered this comment but has concluded that such a change is inappropriate. First, oil and gas are not direct substitutes in the appliances subject to this rulemaking. For example, one furnace can use oil; another can use gas; no furnace can use both. Moreover, even in the generation of electricity, the substitutability of gas for oil or vice versa is often more theoretical than real except in the long term. Consequently, DOE believes it would not be proper to assume the perfect substitutability that adoption of this comment would necessarily imply.

Second, 10,000 bpd of oil is itself such a small amount, barely discernible in national reports, and the equivalent of 10,000 bpd of gas is also such a small amount (less than one tenth of one percent of the gas used), that effectively to lower these separate tests by allowing the sum of oil and gas savings to be measured against the 10,000 bpd level would lower the test and the amount below the level of significance. Moreover, as indicated in the April 2 proposal, the original savings estimate by the Administration which proposed the NECPA amendment was approximately 10,000 bpd of oil per standard plus approximately the same for gas. *See* 49 FR 14429 n.15.

Finally, neither 10,000 bpd of oil nor its equivalent of gas are large amounts of fuel to be saved compared to the amounts of these fuels consumed by the eight products subject to this rulemaking. For example, .021 Quads (the BTUs in 10,000 bpd of oil in a year) was in 1980 less than one percent of the oil used in central space heating and less than one percent of the gas used in central space heating. *See* 47 FR 14430. Thus, these figures are entirely reasonable for measuring separately oil and gas savings.

2. *Electricity Savings.* In the April 2 proposal DOE proposed that, notwithstanding NECPA's focus on oil and gas savings, some level of electricity savings should also be deemed significant because of the positive social benefits from saving electricity, separate from the consequent saving of any oil and gas used to generate the electricity. In the April 2 proposal DOE indicated that such social benefits might include reducing environmental problems.

With respect to environmental benefits from electricity savings, DOE noted that the Environmental Analysis that accompanied the June 1980 proposal determined that even if all the standards proposed at that time were adopted, the positive effect on the environment would not be significant. In the June 1980 proceeding that conclusion was not challenged. Inasmuch as the Environmental Analysis considered the total potential energy savings that would be attributable to imposition of standards for all products at the highest standard level considered, the finding that the positive impacts on the environment would not be significant in the June 1980 proposal was viewed in the April 2 proposal as clearly indicating that electricity savings attributable to any one standard would not be significant in terms of their positive impact on the environment. No commenter on the April 2 proposal took issue with this conclusion.[15] Consequently, DOE has determined that electricity savings attributable to a standard would not be significant in terms of their environmental impact.

The April 2 proposal, however, suggested that an additional social benefit associated with electricity savings would be the reduction in need for new incremental generating capacity. Therefore, DOE proposed that a savings of electricity would be deemed significant if the savings significantly reduced the need for such new, incremental generating capacity. Most commenters, including those who criticized the proposed test, supported this concept. DOE proposed to quantify this concept by requiring a standard to result in a savings of electricity over the nineteen-year period 1987–2005 equal to

[14] EPC's problem with DOE's application of the 10,000 bpd test was EPC's belief that DOE only measured *site* energy savings, "thereby ignoring the vast inefficiency of electric generation, and, therefore oil and gas consumed in power production." *Id.* In fact, the ORNL Model, and the energy savings figures in the April 2 proposal, did not measure site savings of electricity, but rather savings of energy inputs to produce the electricity, for the very reasons enunciated by EPC.

[15] The NRDC in its comments on the April 2 proposal raised questions concerning the adequacy of the Environmental Analysis' consideration of possible *negative* impacts if no standards were adopted, which would preempt State standards. *See infra.*

one percent of the total electricity used during that period. DOE explained this required level of savings by saying that "[b]ecause the relative need for new capacity differs substantially among different regions of the Nation, DOE believes a national savings would at least have to exceed one percent of national usage over the period of analysis in order to have an effect on the need for new generating capacity, which at the utility level is distinguishable from other factors." 47 FR 14430. Several commenters disagreed that a one percent electricity savings was the appropriate test for determining the significance of electricity savings.[16]

Several commenters felt that this level of savings was simply too high because it was an amount in excess of (a) the minimum amount of energy specified in Section 325(b) that other products would have to use to qualify for consideration of standards, (b) the amount of energy proposed in the June 1980 proposal to be deemed significant, or (c) the amount that it is even theoretically possible for some products to save. All of these arguments have been addressed earlier.

Some commenters noted that the one percent savings of electricity (approximately 7 Quads over the period 1987–2005) was more than the 10,000 bpd savings proposed for gas or oil savings (approximately .4 Quads over the period 1987–2005). DOE recognizes this difference, but the fact that the electricity savings would have to be larger than oil or gas savings in order to be deemed significant is intentional and, DOE believes, supported by the high priority NECPA gives to savings of oil and gas. Moreover, it is important to remember that each test is intended to quantify a different concept—the one saving enough oil or gas to reduce this Nation's dependence on foreign sources of energy, and the other saving enough electricity to reduce significantly the need for new, incremental generating capacity—thus, it is not surprising that the quantifications are different, and that fact does not by itself suggest that one percent electricity savings is too high a level.

Several commenters complained that in quantifying a test for electricity savings, DOE had not quantified the amount of new additional capacity that such a savings would make unnecessary. None of these commenters suggested what amount of additional new capacity should have to be avoided in order to be deemed significant. Rather, several commenters attempted to translate the aggregate electricity savings for all products using electricity, if standards were adopted for all those products, into additional new capacity that could be avoided. These estimates ranged from 16.8 GWe (ACEEE, June 16, 1982, at 11) to 17.6 GWe (Northern States Power, June 15, 1982, at 1) in the year 2005.[17] Each of these commenters also reflected these estimated avoided capacities in terms of powerplant equivalents, which ranged from 17 1000 MW plants to 22 800 MW plants. These capacities avoided were all felt to be "significant" by the commenters.

First, even assuming that these amounts were significant savings under Section 325(b)(2), they would not support a finding that a standard for any one product would result in significant savings, for these amounts reflect aggregate savings from standards on all products using electricity. Under even ACEEE's methodology the largest reduction in need for new, incremental capacity attributable to one standard (electric water heaters) would be only 36 percent of the aggregate figure presented. Under DOE's base case projection, the largest reduction would be only 17 percent of the aggregate figure presented, or approximately 3 GWe or three 1000 MW powerplant equivalents nationwide. As discussed earlier, Section 325(b) requires DOE to make a determination of significant savings on an individual product type basis, not on the basis of the aggregate savings if standards were imposed on all products.

Second, it is not at all clear that even a 17 to 18 GWe theoretical reduction of additional new capacity is significant in terms of actually affecting potential new, incremental capacity. The 17 to 18 GWe capacity savings projected by the commenters would be less than 2 percent of the approximate forecast capacity for the year 2005, and these savings would for the most part be spread over large parts, if not all, of the Nation.[18] The result of this is that in some utility service areas, the level at which decisions are made as to the need for new, incremental capacity, these marginal savings could be so small compared to other factors, e.g., demographic changes, that they would have no impact on actual construction decisions. Thus, one cannot reliably assume that whatever number of gigawatts one may mathematically back out as a result of reduced kilowatt hours attributable to a standard represents the actual gigawatts of capacity construction foregone.

For the above reasons, DOE is unable to accept these commenters' position that the standards analyzed in the April 2 proposal saved a significant amount of electricity.

The final major comment made by commenters with respect to the electricity savings test related to consideration of peak load demand. These commenters criticized the one percent savings test saying it failed to take adequate account of savings' effect on peak load. Unfortunately, as DOE noted in the April 2 proposal, the nature of a utility's peak load and the impacts of projected increases are highly regional, if not local, matters. Many utilities are winter peaking as a result of electric space heating, whereas others are summer peaking because of air conditioning. Moreover, the nature of peaking capacity differs greatly, and in many circumstances peak load problems can be alleviated through load management techniques. No commenter provided or suggested a methodology for relating the ORNL Model's savings projections to peak load problems. Moreover, at the present time DOE has been unable to develop such a methodology.

The no-standard rule being issued today does not include air conditioning equipment, the products invariably cited to DOE as those for which analysis of peak load is most important. DOE is continuing to study whether some manner of addressing the peak load problem for air conditioning equipment

[16] A number of these commenters apparently misunderstood the test. Despite the April 2 proposal's clear indication that the total electricity savings over nineteen years would have to exceed one percent of the total electricity usage over the same period, the Environmental Policy Center (EPC) was of the view that savings were only considered as an "annual sum averaged across the entire period." May 19, 1982, at 10. Several commenters, such as the NRDC and the Department of Veteran and Community Affairs of the State of Florida, appeared to believe the requirement was a one percent savings *each* year, because they suggested that a one percent savings was a major portion of DOE's projected two-to-three percent annual increased electrical demand. In fact, whereas the total savings over the nineteen-year period 1987–2005 had only to be one percent of total use over that period, electricity demand is forecast to increase over 33 percent in the ten-year period of 1985–1995 (1981 Annual Report to Congress, DOE/EIA–0173(81)/3 at 152) and over 50 percent in the fifteen-year period 1985–2000 (NEPP III, DOE/S–0006 at 21).

[17] The EPC also made an estimate. Its figure of 40.2 GWe by the year 2000 is, DOE believes, founded on a methodological error. The ACEEE states that its figure is based on the ORNL Model's projection of the historical trends base case compared with the standards case, rather than on DOE's base case projection, which would reduce ACEEE's 1.10 Quads of electricity savings in the year 2005 to 0.32 Quads. The Northern States Power Company did not specify its methodology.

[18] In the ACEEE analysis, less than 20 percent of the electricity savings are attributable to central or room air conditioning, which savings might be more regional than national.

is feasible towards the end of perhaps adopting an additional test of significance in the final rule for air conditioning equipment.[19]

3. *The Twenty Percent Savings Test.* The April 2 proposal indicated that the oil or gas savings and electricity savings tests of significance related savings to their impact at the national level, and that this was both the most natural and the most appropriate meaning of significance in trying to assess whether the energy savings attributable to a national efficiency standard for a product was significant. Nonetheless, DOE recognized that the two tests were biased toward large energy users and that another concept of significance was at least plausible. This concept was to measure the significance of the energy savings attributable to a standard for a product in relation to the energy use by that product. Such a test is neutral as to whether the product uses a large or small amount of energy. Most commenters seemed to concur in this approach, even though they criticized the actual test proposed.

DOE proposed that in order for savings attributable to a standard to be deemed significant they would have to equal 20 percent of the energy used over the period 1987–2005 in the absence of a standard. DOE explained the 20 percent figure as being a percentage level that would provide meaningful savings even if the product used a relatively small amount of fuel. DOE also stated that it found support for this figure from the former requirement of Section 325 requiring voluntary energy efficiency targets for ten products (including the eight in the April 2 proposal) that would, if followed, result in an aggregate increase in energy efficiency of 20 percent in those products.

Several commenters took issue with this test as formulated, and in certain respects DOE has found the comments well taken. First, several commenters noted that the 20 percent requirement in the former Section 325 referred to a 20 percent improvement in efficiency in the products, whereas the April 2 proposal related to a 20 percent decrease in energy use as a result of an increase in products' efficiencies. Several of these commenters pointed out that mathematically a 20 percent increase in a product's efficiency results in a 16.67 percent decrease in fuel use, not a 20 percent decrease. Thus, some commenters suggested that we substitute a 20 percent increase in efficiency test for the 20 percent energy savings test; others suggested we substitute 16.67 percent for 20 percent in measuring the level of energy savings. We have adopted the latter approach rather than the former, because Section 325(b)'s injunction is phrased in terms of whether a standard will result in a significant conservation of energy rather than a significant increase in the efficiency of appliances.

Second, several commenters noted that under the April 2 proposal some products would not meet the test even if a standard required every new product sold to use no energy at all. This anomalous result occurred because so much of the energy being measured in the standards case would be energy consumed by products purchased before the standards were put in effect. Accordingly, DOE has changed the time period over which the savings would be measured for this test. In the April 2 proposal the period was the nineteen-year period 1987–2005; instead of this period, DOE is adopting the one-year period following the year of the retirement of the average product purchased immediately preceding the application of a standard. For example, for kitchen ranges and ovens the average lifetime is 18 years, and the standards case assumes standards are put into effect in 1987, so the energy savings in the year 2005 would be used to determine if there was a 16.67 percent decrease in kitchen ranges and ovens' energy use in the standards case from the base case. This change effectively limits the measurement of energy use in the standards case to energy use only by products that were purchased when standards were deemed in effect.

With these changes, DOE believes it has met the major objections which commenters had with the 20 percent test in the April 2 proposal. Nonetheless, even with the above changes, not all objections have been met. Several commenters were of the view that the April 2 proposal's 20 percent test was not at all comparable to the 20 percent increase in efficiency referred to in former Section 325, and, therefore, the April 2 test had no basis at all. Some of these commenters stressed the differences in how and what the 20 percent measured in former Section 325 and the April 2 proposal.[19a] Moreover, several commenters complained that the former Section 325's 20 percent increase in efficiency was measured as the difference between the relative efficiencies of products in the two years 1972 and 1980, whereas the April 2 proposed 20 percent test was the difference in energy use between a base case and a standards case over the nineteen-year period 1987–2005.[19b] These commenters stated that because there have already been some substantial improvements in efficiency between 1972 and 1978, this reduces the potential for further increasing efficiencies by significant percentages, and, accordingly, 20 percent is too high a figure.

DOE acknowledges, as it did with respect to the April 2 proposal, that the current test of a product's energy use if a standard were adopted compared to the product's energy use if no standard were adopted is not exactly the same nor is it applied in exactly the same circumstances as the minimum voluntary energy targets that were required under former Section 325. Nevertheless, these differences are not of a sufficient degree or of a kind or nature to conclude that DOE's 16.67 percent test is out of proportion to the target in former Section 325. Rather, in attempting to define a reasonable test of what should constitute a significant conservation of energy for all products, and especially for those products using relatively less energy, DOE noted that Congress had required a voluntary target of at least a 20 percent increase in the efficiency of all the products between 1972 and 1980. Only if a voluntary target were not met, would a mandatory standard be considered. Recognizing the differences between that regulatory scheme and the test adopted by DOE, DOE believes that the earlier target suggests the reasonableness of the measure adopted now by DOE. Moreover, even if the commenters were correct that DOE could not rely on the former Section 325 target in adopting its 16.67 percent test, DOE believes the record still supports the reasonableness of a significance test based on a 16.67 percent decrease in energy use by the product at issue.

4. *Conclusion.* On the basis of the foregoing, DOE is adopting three tests to determine whether the savings attributable to a standard would result

[19] The addition of a new test for significance does not create an additional hurdle for a standard, because if the savings attributable to a standard meet *any* test, DOE deems the standard to save significant energy. Thus, each additional test in fact increases the chances of a standard being deemed to have significant energy savings.

[19a] For example, it was noted that former Section 325's 20 percent increase in efficiency referred to an aggregate average increase in efficiency of all products, implicitly recognizing that some products might have increases of less than 20 percent, whereas the April 2 proposal's 20 percent test was (and the reformulated 16.67 percent test is) a minimum for each product.

[19b] The adopted 16.67 percent test would measure decreased energy use between a base case and a standards case in one year (the first year in which virtually all products in use would have been subject to standards in the standards case).

in a significant conservation of energy under Section 325 (b) (1). The first test would deem significant the savings attributable to a standard if the standard would result in the saving of 10,000 bpd of oil or the saving of natural gas equivalent to 10,000 bpd of oil over the period of the average life of the product in question beginning with the year 1987. The second test would deem significant the savings attributable to a standard if the standard would result in the saving of one percent of national electricity use over the period of the average life of the product in question beginning with the year 1987. The third test would deem savings significant if the savings attributable to a standard for a product were equal to 16.67 percent of the energy that would be used by that product in the absence of a standard measured over the one year period following the period of the average life of the product purchased in the last year before the standard would bee imposed.

II. (d) Economic Justification

As discussed in the April 2 proposal, Section 325(b) also prohibits an appliance efficiency standard if that standard is not economically justified. Thus, even if a standard saves significant amounts of energy, no standard could be issued unless it was determined to be economically justified. Section 325(d) states that a standard can be economically justified only if DOE determines that the benefits of standard exceed its burdens. In determining whether the benefits of a particular standard exceed the burdens, DOE must weigh six specific factors as well as any other factors that DOE deems to be appropriate. *See* Section 325(d) (1)–(7).[20] All of these factors were addressed in the April 2 proposal. Comments have been received which criticized DOE's views concerning some of these factors. However, no specific comments were received which addressed any of the factors in relationship to the two products involved in today's rulemaking.

Because no specific comments on the economic justification involving clothes dryers and ranges and ovens were received and because some of the economic justification factors rely heavily on the ORNL model,[21] DOE is not discussing all of the non-specific comments made with respect to its economic justification. Where significant adverse comment was received with respect to a general factor discussed in the General Discussion of the April 2 proposal and DOE is not responding to it in this rule, DOE is not giving any weight to that general factor in this rule.

III. Clothes Dryers

a. Technical Issues

In the technical area, comments regarding clothes dryers addressed the design options considered in DOE's analysis, the classes proposed, and DOE's test procedures for clothes dryers.

DOE evaluated three design options for improving the efficiency of clothes dryers in the analysis which led to the April 2 proposal. The three were: insulation, automatic termination by moisture sensing, and automatic termination by temperature sensing.

Several commenters stated that the insulation design option should not have been considered. Two of the commenters, Webster City Products (Webster City) and Whirlpool Corporation (Whirlpool), suggested that the extended payback period of this design option should disqualify it from consideration. Webster City remarked that its laboratory test investigation showed a 15 to 20 year payback period for this design option while Whirlpool used cost figures from DOE's Engineering Analysis to compute a 22.3 year payback period.

DOE agrees that the payback for this design option is not attractive, but this fact, given the purpose for which the design options in the Engineering Analysis are used, does not compel its elimination. The design options are used to assess the relationship between increases in the efficiency of a product and increases in the cost of that product. This relationship is then used in other analyses to project the effects that would be attributable to standards set at different levels. Design options with a range of payback periods may be useful in the derivation of the relationship between increases in efficiency and increases in cost. Of course, a standard that would require use of such a design option may not be economically justified.

General Electric Company (GE) commented that DOE's estimate of a 1.5 percent energy savings for insulating clothes dryers was overstated. GE claimed that this level of energy savings could only be achieved under the condition of comparing the energy consumption of an insulated clothes dryer with that of an uninsulated unit operated for multiple consecutive cycles drying certain types of clothes loads. DOE's estimate of 1.5 percent savings was taken from NBS test data and from an analysis of previous industry comments relative to improvements that could be gained from insulation. In its comment, GE did not provide the basis for its conclusion or identify where DOE might have erred. Accordingly, DOE was unable to conclude that GE's comment was justified.

The remaining comment made pertaining to the insulation design option was an expression of concern on the part of the Association of home Appliance Manufacturers (AHAM) that insulation in clothers dryers could degrade with time with the resultant potential for loose particles of insulation being drawn into the clothes load or exhausted into the home environment. The type of insulation which DOE considered in its analysis of this design option was vinyl-clad fiberglass, one inch in thickness, which is commonly used in air ducts where high velocity hot air is encountered. DOE is not aware of any problems associated with this application of this material. Therefore, DOE does not project any problems or risks associated with using this type of insulating material on the inside of clothes dryer cabinets.

Other comments pertaining to clothes dryer design options concerned automatic termination controls. Whirlpool questioned DOE's estimate of the energy savings associated with the application of moisture sensing automatic termination controls on 120 volt compact dryers. Since such controls have not been applied in production to 120 volt compact dryers, the commenter pointed out that DOE's energy savings estimate cannot be verified with field use results. It is true that no field use data are available for this application of this design option. However, field use data are available for 240 volt standard clothes dryers equipped with moisture sensing automatic termination devices and it is DOE's position that, in the absence of data to the contrary, it is reasonable to apply the field usage factor determined from these data to 120 volt compact clothes dryers equipped with the same design option. Consequently, DOE has not made changes to the Engineering Analysis in this regard.

[20] The NRDC pointed out in its comments that Section 325(d) by its terms only refers to Section 325(c), not to Section 325(b), and therefore suggested that DOE need not and should not determine economic justification on the basis of the weighing of the specified factors. Whether or not Section 325(d) *requires* its test to apply to determinations of economic justification under Section 325(b), or only those determinations made under Section 325(c), DOE believes the test in Section 325(d) test is appropriate for determining economic justification under Section 325(b).

[21] For example, until the issues involving the ORNL Model are satisfactorily resolved the economic impact on manufacturers as measured by the Financial Impacts Model cannot be determined.

This same commenter further remarked that, in DOE's analysis, temperature sensing automatic termination controls apparently were not assigned the full energy savings that DOE accorded moisture sensing automatic termination controls. The commenter is correct. For this analysis, DOE used the field use factors for temperature sensing and moisture sensing automatic termination controls found in the prosposed amendments to the test procedures for clothes dryers published on July 10, 1980 (45 FR 46762). These proposed factors were 1.04 for moisture sensing automatic termination and 1.10 for temperature sensing automatic termination. The rational for this, as stated in DOE's Engineering Analysis, was that temperature sensors rely on a rise in the temperature of the exiting air to terminate a cycle. Since such a temperature rise occurs after the moisture in the load has been removed, DOE reasoned that a temperature sensing control would terminate a cycle later than a moisture sensing control, all other things being equal. Based on this rational, DOE assigned a lesser value for energy savings to temperature sensing controls.

At the time, these proposed field use factors represented DOE's best estimate of the actual energy savings associated with the two types of automatic termination controls. Industry comments and data submitted in response to the proposed test procedure amendment established that temperature sensing controls are the equal of moisture sensing controls in actual field energy savings. As a result, DOE assigned the same field use factor for temperature sensing automatic termination controls as for moisture sensing automatic termination controls, 1.04 for both, in the final rule amending the test procedures for clothes dryers published on May 19, 1981 (45 FR 27324). Were DOE to update its engineering analysis for clothes dryers to account for this change to the test procedure, the result would be a reduction in the energy savings associated with a standard for clothes dryers, further substantiating a "no standard" finding for this product type.

Two comments pertaining to the proposed classes for clothes dryers were received. GE recommended that clothes dryers that are timed-only controlled be made a separate class. According to the Act, DOE can establish a product class for each subgrouping of a product type that uses a different type of energy or that has a performance feature which affects utility and energy consumption. While timed-only dryers generally tend to be less energy efficient than clothes dryers incorporating other types of automatic termination devices, it is not clear why consumers would perceive that these dryers offer any added utility. Since the timed-only feature does not affect product utility, DOE has determined that a separate product class for timed-only dryers should not be established.

Whirlpool recommended that gas fueled compact clothes dryers be made a separate class and, further, that any standard pertaining to compact clothes dryers be a function of drum volume. DOE's test procedures for clothes dryers define compact dryers as those with drum volumes of less than 4.4 cubic feet. According to the CS–179 data, only one model of a gas fueled compact dryer was made in 1972, two models were made in 1978, and no models are projected for 1985. Included with the CS–179 data was information which showed that the average drum volume for all types of clothes dryers was 5.9 cubic feet in 1969, 6.12 cubic feet in 1976, and 6.34 cubic feet in 1980. DOE did not propose a separate product class for gas fueled compact clothes dryers because it appeared that gas dryers of less than 4.4 cubic feet drum volume will not be manufactured in 1987, the year that any standard prescribed in this rulemaking would have become effective. Further, in reviewing the CS–179 data, DOE also found no significant correlation between the energy factor and drum volume for compact dryers. Therefore, DOE has decided against specifying a volume adjustment for compact clothes dryers.

The remaining technical issue raised in regard to clothes dryers concerned the variability of test procedure results. DOE published amended test procedures for clothes dryers on May 19, 1981 (46 FR 27324). GE commented that this amended test procedure had resolved several of its concerns. However, GE, Whirlpool, Webster City, and AHAM remarked that test result variability continues to be a problem. Specific test procedure modifications intended for reduction of test result variability were provided. DOE has taken steps to address this concern. Tests run at the National Bureau of Standards have not exhibited variability of test results of the order experienced by industry members. DOE will continue its attempts to resolve this issue; however, any steps taken along these lines are not expected to have any impact on the results of any of the analyses discussed herein.

b. Significance of Energy Savings.

The table below reflects the projected energy savings attributable to a standard for clothes dryers at each of the standards levels analyzed under the ORNL Model as well as the results of the sensitivity analyses performed on standard level 4.

CLOTHES DRYERS

	Levels						
	1	2	3	4 (ORNL)[1]	4 (historic)[2]	4 (constant)[3]	4 (double)[4]
Direct fuel savings 1987–2006 in quads:							
E	0	0	.035	.208	.320	.208	.350
G	-0	0	0	.024	.001	.024	.002
Percent decrease in energy use in the year 2006 attributable to a standard:							
E	0	0	1	3	3	3	6
G	0	0	0	7	0	7	0

[1] Levels 1 through 4 (ORNL) reflect the projections of the ORNL Model as described in the April 2 EAD with the changes described above.
[2] This reflects a base case where the market activity is projected linearly based on past efficiency improvements on clothes dryers between 1972 and 1980, rather than on ORNL Model projections of increased efficiencies.
[3] This reflects a base case in which the efficiency of clothes dryers does not change from 1987–2006.
[4] This reflects an initial implicit discount rate for clothes dryers that is increased 100 percent over what is otherwise in the ORNL Model and then that rate is held constant, i.e., the disputed formula is eliminated.

The greatest savings of natural gas under the ORNL Model or any of the sensitivity analyses is the equivalent of 873 bpd of oil,[22] less than the 10,000 bpd that DOE would deem significant.

With respect to electricity savings, none of the projections rises even to the level of ⅓₀ of the one percent of electricity usage over the period that DOE would deem significant.[23]

Finally, the largest percentage decreases in energy use attributable to a standard for clothes dryers reflected in any of the analyses is only seven percent of gas use in six percent of

[22] Under both the level 4 ORNL projection and the sensitivity analysis holding clothes dryer efficiency constant in the base case beginning in the year 1987, the Model projects direct natural gas savings of .024 Quads and indirect savings of .013 Quads over the period 1987–2006, based upon natural gas composing 6.15 percent of the energy used to generate electricity over this period, *see* 47 FR 14436 n. 28. This is the equivalent of 873 bpd of oil.

[23] Electricity usage over the period 1987–2006 is projected to be about 700 Quads, 47 FR 14430 n. 28.

electricity use by that product in the base case, less than the 16.67 percent that DOE would deem significant.

On the basis of the above, DOE concludes that a standard for clothes dryers would not result in a significant conservation of energy.

c. Economic Justification.

1. *Economic impact on manufacturers and consumers.* DOE has reviewed its initial determinations concerning the per unit increased cost to manufacturers to meet the highest level of efficiency as well as the increased prices to consumers at all standards levels. No comments were received that have persuaded DOE to alter these conclusions.

As discussed in the April 2 proposal, DOE did not analyze the impacts on manufacturers of dryers by use of the Financial Impacts Model. However, DOE indicated that it believed that an effect of a standard generally would be to require certain investments to be made that might not have otherwise been made. These required investments would probably result in the foregoing of certain other investments which would be more beneficial to the manufacturer. No specific comments were received disputing this determination, but comments were received from a number of manufacturers that they concurred in this general assessment.

2. *Life-cycle cost and net present value.* No specific comments were received concerning DOE's determinations on the life-cycle cost and net present value of clothes dryers. As indicated in the April 2 proposal, the life cycle cost of clothes dryers at both levels 3 and 4 (the only two levels that save any energy) actually increases for the two classes of dryers that made up 93 percent of the market in 1978. Thus, as set forth in the April 2 proposal, any energy saved would be as a result of penalizing the average consumer by requiring that consumer to purchase a dryer with a higher life-cycle cost than is now available.

The net present value (NPV) analysis is executed by use of the ORNL Model. Accordingly, for reasons discussed earlier, DOE subjected the NPV analysis to the same three sensitivity analyses as the energy savings analysis. At no standard level and under none of the sensitivity analyses was there a positive NPV for gas clothes dryers. The largest NPV for electric clothes dryers was $197 million from energy savings over the period 1987–2024.[24] This comes to only about five cents a year per household.

[24] The NPV's for electric clothes dryers at a level 4 standard ranged from $89 million under the ORNL Model and the sensitivity analysis holding the base case efficiency constant beginning in 1987, to $148 million under the sensitivity analysis using historic efficiency improvements projected into the future, to $197 million under the sensitivity analysis that doubled the implicit discount rate and then held it constant. The NPV is based upon energy savings over the period 1987–2024 resulting from standards over the period 1987–2006.

3. *Energy saving.* As indicated previously the maximum savings attributable to standards for clothes dryers under any of the analyses would be 0.374 quads.

4. *Lessening of utility or performance of products.* As indicated in the April 2 proposal, the classes established by DOE were intended to assure that the standards analyzed would not lessen the existing utility or performance of clothes dryers. As discussed in the April 2 proposal, however, the future utility or performance of clothes dryers involving investments in energy using new features could be lessened as a result of standards. No comments were received that disputed this determination.

5. *Impact of lessening competition.* The Attorney General has determined that the absence of a Federal standard for clothes dryers would have no impact on competition.

6. *Need to save energy.* As shown above, standards for clothes dryers would save very little gas or electricity. In the April 2 proposal, DOE stated that in balancing the benefits of a standard against its burdens, no weight need be given to savings of energy that are so small. No comments were received disputing this determination.

7. *Other factors.* Because the FIM was not used to assess the impacts of standards on dryer manufacturers, DOE did not estimate the impact of the standard for dryers on small manufacturers of dryers. No comments were received from any small manufacturers concerning the impact of standards on dryers.

It should be noted that while comments were received suggesting that standards should be adopted for a number of specified appliances, no commenter suggested that a standard should be adopted for clothes dryers.

Conclusion

DOE has determined that in light of all the factors discussed above and in the April 2 proposal, the burdens of an efficiency standard for clothes dryers outweigh the benefits. Accordingly, no efficiency standard for clothes dryers is economically justified.

IV. Kitchen Ranges and Ovens

a. Technical Issues

In the technical area, comments regarding kitchen ranges and ovens addressed the design options considered in DOE's analysis.

The NRDC and the ACEEE asserted that had a certain prototype electric oven been included in DOE's engineering analysis, then the resulting potential energy savings associated with standards for electric ranges and ovens would have been significant. They relied upon data contained in a report on work performed at DOE's Oak Ridge National Laboratory. The oven in question is termed a "bi-radiant" design. It utilizes highly reflective cavity surfaces and highly absorptive cookware to minimize radiant energy losses. As acknowledged by one of these commenters, this oven design is available in prototype form only and no production cost estimates have been made. The commenter contends, however, that the physical description of the prototype design implies that the cost would be low.

DOE has considered this comment but has concluded that prototype versions of products that are not available in the marketplace and for which production cost estimates are not available should not generally be included as design options in the Engineering Analysis. Moreover, DOE has reviewed the work of the Oak Ridge National Laboratory in developing this advanced oven design and determined that the general considerations that militate against inclusion of prototypes as design options are equally applicable to this particular oven. Specifically, because it is a prototypical model, it has not been demonstrated that it lends itself to efficient mass production, has general market potential, or even whether such a level of efficiency could be obtained from a mass-production model. Moreover, even if it were feasible, it could require a separate product class (as is true of microwave ovens) because of unique utility features. Finally, the inability to determine production costs with reliability precludes its use in the Engineering Analysis.

Another comment concerned the reduced vent size design option for standard ovens. This design option involved reducing the vent size in standard ovens to the size in self-cleaning ovens. Whirlpool remarked that this design option could cause moisture condensation on cooler range surfaces and lead to underbaked food products. This manufacturer further commented that the vent on current models of self-cleaning ovens is really

throttled down more than is desirable from a performance standpoint but is necessary for the catalyst in the vent to prevent excess smoke generation.

DOE has test results which confirm the energy savings potential of reduced oven vent sizing. These results were obtained by testing currently available oven designs. Further, DOE believes the clear market acceptance of self-cleaning ovens indicates that their cooking characteristics are acceptable. Consequently, DOE has not revised its estimate or the viability or energy savings attributable to this design option.

b. Significance of Energy Savings

The table below reflects the projected energy savings attributable to a standard for kitchen ranges and ovens at each of the standards levels analyzed under the ORNL Model as well as the results of the sensitivity analyses performed on standard level 4.

RANGES AND OVENS

	Levels						
	1	2	3	4(ORNL)[1]	4(historic)[2]	4(constant)[3]	4(double)[4]
Direct fuel savings 1987–2005 in quads:							
E	.014	.032	−.306	−.390	−.103	−.390	.006
G	.001	.003	.267	.316	.055	.315	.004
Percent decrease in energy use in the year 2005 attributable to a standard[5]	0	0	0	0	−1	0	4

[1] Levels 1 through 4(ORNL) reflect the projections of the ORNL Model as described in the April 2 EAD with the changes described above.
[2] This reflects a base case where the market activity is projected linearly based on past efficiency improvements in kithen ranges and ovens between 1972 and 1980, rather than on ORNL Model projections of increased efficiencies.
[3] This reflects a base case in which the efficiency of kitchen ranges and ovens does not change from 1987–2005.
[4] This reflects an initial implicit discount rate for kitchen ranges and ovens that is increased 100 percent over what is otherwise in the ORNL Model and then that rate is held constant, i.e., the disputed formula is eliminated.
[5] Because almost all the energy savings of gas (and all the increased use of electricity) between the base and standards cases are attributable to fuel switching rather than efficiency increases, *see infra*, it would not be appropriate to reflect percentages for gas and electricity separately with respect to kitchen ranges and ovens. Aggregating the savings for gas and electricity provides the proper measure of the decreased energy use attributable to increases in efficiency of kitchen ranges and ovens resulting from standards.

The greatest savings of natural gas under the ORNL Model or any of the sensitivity analyses is the equivalent of 7566 bpd of oil,[34] less than the 10,000 bpd that DOE would deem significant. Moreover, this gas savings is at the direct expense of increased electricity usage. That is, under all the analyses the savings of gas is almost entirely the result of the standard influencing the market to purchase electric rather than gas kitchen ranges and ovens. This is due to the negative net present value and increased life cycle costs involved in standards for gas ranges and ovens. Thus, the savings of gas attributable to standards are for the most part the result of fewer gas ranges and ovens being purchased, not the increased efficiency of those products under standards. Similarly, the negative savings of electricity under most of the analyses is the result of increased purchases of electric kitchen ranges and ovens, not any decrease in their efficiency compared to the base case.

With respect to electricity savings, none of the projections rises even to the level of 1/10 of the 1 percent of electricity usage over the period that DOE would deem significant.[35]

Finally, the largest percentage decrease in energy use attributable to a standard for the product kitchen ranges and ovens reflected in any of the analyses is only 4 percent of the base case energy use by that product, less than the 10.67 percent that DOE would deem significant.

On the basis of the above, DOE concludes that a standard for kitchen ranges and ovens would not result in a significant conservation of energy.

c. Economic Justification

1. *Economic impact on manufacturers and consumers.* DOE has reviewed its initial determinations concerning the per unit increased cost to manufacturers to meet the highest level of efficiency as well as the increased prices to consumers at all standards levels. No comments were received that have persuaded DOE to alter these conclusions.

As discussed in the April 2 proposal, DOE did not analyze the impacts on manufacturers of kitchen ranges and ovens by use of the Financial Impacts Model. However, DOE indicated that it believed that an effect of a standard generally would be to require certain investments to be made that might not have otherwise been made. These required investments would probably result in the forgoing of certain other investments which would be more beneficial to the manufacturer. No specific comments were received disputing this determination, but comments were received from a number of manufacturers that they concurred in this general assessment.

2. *Life-cycle cost and net present value.* No specific comments were received concerning DOE's determinations on the life-cycle cost and net present value for ranges and ovens. As indicated in the April 2 proposal and as continues to be true, at every level of efficiency analyzed as a potential standard for electric ovens, the standard would be set higher than the average consumer's LCC minimum. Therefore, a standard at this level would penalize the average and below average consumers by banning their optimal oven from the market. While there is a slightly positive NPV projected at levels 1 and 2 ($16 million and $38 million, respectively, over the 38 year period), there is a negative NPV at standard levels 3 and 4 under the ORNL Model and under two of the three sensitivity analyses. Under the sensitivity analysis of standard level 4 where the initial implicit discount rate is increased 100 percent and then held constant, the Model shows a $473 million NPV. Inasmuch as three of the analyses reflected a negative NPV at level 4, DOE does not believe the occurrence of a positive NPV in one sensitivity analysis is a sufficient basis to conclude that a level 4 standard would have a positive NPV. Even were this one analysis deemed to project the actual NPV, this figure represents a benefit of less that 13 cents per year per household. Consequently, DOE does not believe that this NPV is entitled to great weight in measuring the benefits and burdens of possible standards, especially when this benefit is directly at the expense of banning from the market the minimal LCC oven for average consumers.

At the two levels of efficiency that would save the most gas (levels 3 and 4), the standards for gas ovens would be set higher than the average consumer's LCC minimum. Therefore, a standard at these levels would penalize the average and below average consumers by banning their optimal oven from the market. For some classes of oven, the life cycle cost is increased by standards from the 1978 average. The net present value attributable to a standard for gas ranges and ovens is either zero or negative at each standard level and under each sensitivity analysis. This

[34] Under the sensitivity analysis that doubles the initial implicit discount rate and then holds it constant, the Model projects direct natural gas savings of .304 Quads and indirect savings of less than .001 Quads, based upon natural gas composing 6.15 percent of the energy used to generate electricity over this period, *see* 47 FR 14436 n. 28. This is the equivalent of 7566 bpd of oil.

[35] Electricity usage over the period 1987–2005 is projected to be about 700 Quads, 47 FR 14436 n. 28.

demonstrates that consumers as a whole would suffer economically from imposition of a standard.

3. *Energy savings.* The energy savings are indicated as discussed in the Significance of Energy Savings section above.

4. *Lessening of utility or performance of products.* As indicated in the April 2 proposal, the classes established by DOE were intended to insure that the standards analyzed would not lessen the existing utility or performance of ranges and ovens. However, as we stated in the April 2 proposal, standards could discourage investments that would improve future utility or performance of ranges and ovens with some additional energy use. No specific comments were received disputing this determination.

5. *Impact of lessening competition.* The Attorney General has determined that the absence of a Federal standard for ranges and ovens would have no impact on competition.

6. *Need to save energy.* As shown above, a standard for kitchen ranges and ovens would save at most .398 Quads over nineteen years, less than 2 percent of the energy used over that period by that product.[27]

In the April 2 proposal DOE concluded that, in balancing the benefits of a standard against its burden, no weight need be given to savings of such a small amount. No commenter disputed this conclusion. Moreover, as discussed above, virtually all the savings of gas are directly attributable to persons not purchasing gas kitchen ranges and ovens as a result of a Federal standard making the appliance less economical. The need to save oil and gas is not so great to justify standards that have the effect of influencing persons merely to switch from gas or oil products to electrical products in order to save that oil or gas.

7. *Other factors.* DOE received no comments from manufacturers discussing the impact of possible standards for ranges and ovens on small manufacturers.

Two appliance manufacturers (Amana and Carrier), however, and the Northern States Power Company, all three of which supported standards for some products, notably made an exception with respect to standards for kitchen ranges and ovens.

Conclusion

DOE has determined that in light of all the factors discussed above and in the April 2 proposal, the burdens of an efficiency standard for kitchen ranges and ovens outweigh the benefits. Accordingly, no efficiency standard for kitchen ranges and ovens is economically justified.

v. Preemption of State Regulations

Section 327(a)(2) of EPCA, as amended, provides that any Federal standard applicable under section 325 supersedes any non-identical State or local standard. Section 325(b) explicitly requires that a "no-standard" standard likewise supersede any State or local standard. Section 327(b)(3), however, provides that a State may petition for and DOE shall adopt a rule exempting a State or local standard from being superseded, if DOE finds that there is a significant State or local interest to justify the State or local standard and the standard is more stringent than the Federal standard.[28] Nevertheless, DOE is prohibited from adopting such a rule if the State or local standard would unduly burden interstate commerce.

In the NOPR, DOE proposed to establish the effective dates upon which supersession of State and local standards would take place and the general procedures by which States could petition for rules exempting their State or local standards for all covered products.

Major comments were received in the following areas:

(1) the effect of a Federal "no-standard" determination on the appropriateness of State and local standards; (2) the criteria by which DOE would determine whether or not to issue a rule exempting a State or local standard from preemption; (3) questions as to the date upon which State or local laws would be superseded by the Federal standard; (4) which State or local regulations would be an "energy efficiency standard or other requirement with respect to energy efficiency or energy use of a covered product" within the meaning of the statute; and (5) questions on the procedural rules governing State submission of petitions for a rule to exempt a State standard from supersession.

The final rule adopted today establishes the procedures that will apply in all cases in which States petition the DOE for rules exempting individual State or local standards. It should be emphasized that the regulation applies not only to the two covered products subject to this rulemaking but will also apply to all other covered products when final standards are promulgated for them.

1. The Effect of a "No-Standard" Determination on Related State Regulations

Many commenters appeared to believe that DOE had the preemption of State law as one of its aims in proposing a "no-standard" standard. To the contrary, DOE recognized in the NOPR that many energy problems are local in nature. Indeed, this fact is one of the reasons discussed above why a single, national standard either imposes too great a cost on large numbers of persons or fails to save significant energy over the entire nation. Thus, analyses that DOE believes demonstrate the inappropriateness of Federal standards under the statutory tests do not necessarily indicate their inappropriateness on a State or local basis. Moreover, this Administration's policy of New Federalism supports the freedom of the States to take regulatory actions they deem appropriate to State or local interests, so long as these actions do not unduly burden interstate commerce, and such freedom is inconsistent with automatic preemption by a Federal no-standard determination. Accordingly, the Administration supported one bill in Congress that would have legislatively eliminated any Federal standard and any automatic Federal preemption and did not oppose a bill that simply would have eliminated automatic Federal preemption if a no-standard rule for a product were adopted.

So long as current provisions of the Act remain in effect, however, the Department will faithfully execute the law and, if petitioned, determine the appropriateness of State and local standards in each particular case of their desired continuation or implementation. As is discussed further below, the DOE believes that many, if not all, existing State and local standards might well prevail in rulemakings for exemption from Federal preemption.

2. The Criteria for Exemptions From Preemption

The NOPR did not specify the criteria upon which DOE would assess petitions from States that their standards not be superseded by the Federal "no-standard" standard, other than stating

[27] Between 1987 and 2006, 20.11 Quads are projected to be used by kitchen ranges and ovens. *See* EAD, Table 3–15.

[28] Similarly, DOE had previously adopted a rule pursuant to § 327(b)(1) of EPCA which permits DOE to prescribe a rule upon a petition by a party subject to a State or local standard that would preempt in whole or in part a State regulation if DOE finds no significant State or local interest sufficient to justify such a regulation and that the State regulation unduly burdens interstate commerce. *See* Section 430.47. The NOPR proposed only minor changes to those regulations, and no significant comments were received on those proposed changes.

that in reaching a determination DOE would balance the State's interest in its standard with the standard's burden on interstate commerce. Both States and manufacturers sought further specificity in the criteria.

Manufacturers generally suggested that DOE apply the same criteria in assessing State petitions as DOE applied in making its determination on Federal standards. This would require that significant energy would be saved by the State standard and that the State standard be economically justified according to the terms of section 325(d). DOE has not adopted this suggestion.

Section 327(b)(3) requires DOE to grant an exemption to a State if the State standard is more stringent than the Federal standard and there is a significant State or local interest to justify the regulation, unless DOE finds the State standard unduly burdens interstate commerce. The fact that Congress created different tests, using different words, for a rule exempting a State standard than for a rule adopting a Federal standard (including a "no-standard" standard) strongly indicates that the tests were to be different. Both the State interest and burden on interstate commerce tests have been applied by courts in assessing the constitutionality of State legislation affecting interstate commerce without the necessity of involved cost-benefit tests.

Even if DOE had the discretion to adopt such cost-benefit tests in assessing State standards, however, DOE would not. The standards at issue are State standards. Federal concern under the Act involves assuring that there is a significant State interest to justify the standard and that the standard does not unduly burden interstate commerce.

Moreover, there is no inconsistency in DOE rejecting the views, opinions, conclusions, methodologies, or judgments of a State in its comments on the proposed Federal "no-standard" standard and yet deferring to that State in the context of a petition for a rule to exempt a State standard from supersession. In the former case, in promulgating a rule applicable to the entire nation, DOE must reach its own independent judgment concerning the accuracy or wisdom of the various comments and must independently assess and weigh the evidence in the record. In the latter case, however, the purpose of the rulemaking (which is not required to be based on substantial evidence) to exempt the State standard from preemption is not to scrutinize every step in the State's decisionmaking procedure to determine if DOE agrees with all of the State's judgments and decisions. Such second-guessing of a State's decisionmaking is not necessary to protect the Federal interests involved.

After considering all of the comments on possible specification of criteria for exemptions, DOE has determined to adopt only the language of the statute. DOE believes that language is sufficiently specific to give guidance to petitioners and those opposing the petition. Further specification, DOE believes, would likely lead only to litigation and greater uncertainty.

Nevertheless, in order to enable interested parties to assess DOE's initial approach to these State petitions, DOE has reviewed the existing State standards that have been brought to its attention in the course of this rulemaking.[29] While DOE cannot make any conclusive determinations at this time with regard to these existing laws, they do not appear to have caused an undue burden on interstate commerce, as indeed most manufacturers admitted when questioned. Moreover, it appears to the DOE that significant State interest would be demonstrated by the type of explanations currently in the record concerning that particular problems that the States face and the results that they expect to achieve through their particular energy efficiency standards. Thus, with regard to the existing State and local laws that DOE has reviewed, DOE believes that, in general, these laws would qualify for an exemption from supersession.

3. The Time of Supersession

The NOPR proposed that State and local laws would be superseded 180 days after publication of the related Federal rule in the **Federal Register**, unless a State had petitioned within that time for a rule excepting its standard. In the case of a petition, the State or local standard would not be superseded until and unless DOE denied the requested rule but in no event sooner than 180 days after publication of the standard. In this way there could be no hiatus when a State or local standard was not in effect if the State obtained an exemption.[30] DOE's purpose in allowing States to maintain the *status quo* prior to a determination by the agency was to avoid the situation where DOE's delay in adopting a rule, for which a State was not responsible, would nevertheless redound to the detriment of the State and its established public policy.

This proposal was generally criticized by manufacturers and supported by States. Manufacturers, for the most part, were of the view that State and local standards should be superseded on the date that the corresponding Federal standard is published in the **Federal Register**. This view would result in a hiatus period during which neither a Federal nor a State standard would be in effect.

Manufacturers argued not only that the Act must be read to require the early preemption date, but also that the early date would serve important policy goals. They claimed undue burden on themselves were they to be regulated under State regulations all the way up to the time a corresponding Federal regulation came into effect. Manufacturers were also concerned that under the NOPR, if State laws were not to be superseded until the effective date of the Federal standard, a State could enact new standards in the 180 days before the Federal standard was effective and file its petition at the last minute to delay supersession of State law for the longest possible time.

The Department does not find the statutory construction and public policy arguments of manufacturers to be persuasive. Unlike manufacturers, DOE interprets the Act based on the language of Section 327(a)(2)(A) which provides:

> This part supersedes any State regulation insofar as such State regulation may now or hereafter provide for—
>
> * * * * *
>
> (2) any energy efficiency standards or other requirement with respect to energy efficiency or energy use of a covered product—
>
> (A) If there is a standard under section 325 *applicable* to such product, and such State regulation is not identical to such standard * * * * [Italic added].

This statutory language refers to the Federal standard as being "applicable" to a product. DOE interprets the term "applicable" in this section as meaning "having legal effect," based on the intent of Congress to delay the effectiveness of any Federal standards determination until 180 days after publication of the Federal standards rule. *See* Section 325(i)(4) of the Act.

Moreover, an early preemption date would create a hiatus which in DOE's view would be unacceptable because it would balance the legitimate interests of States and manufacturers so poorly.

---

[29] DOE also reviewed these existing State standards in its evaluation of the possible economic and environmental impacts of a finding of "no standard" for the eight appliances set forth in the NOPR nand the two appliances addressed in today's rulemaking.

[30] Similarly, even if the Federal standard established a particular efficiency level for a covered product, an energy efficiency standard, either State or Federal, would be in effect during the entire period.

States clearly have a legitimate interest in maintaining their regulations during the period in which a petition for exemption from preemption is pending before DOE. On the other hand, no comments by manufacturers demonstrated any public policy necessity for a hiatus. Manufacturers claimed this result would provide them with needed protection from having to comply with two regulatory programs at once.[31] However, even if DOE were to impose substantive Federal standards, there should be few if any instances of impossibility of compliance or other undue burden problems. First, there would of necessity be a substantially delayed effective date of the Federal rule. Second, Federal rules would take effect in conjuction with the requirement of section 325(i)(4) of the Act that no Federal standard shall apply to any products manufactured before the effective date of the standard. Thus, there would be little immediate impact on manufacturers. Moreover, the risk of any real burden appears to be virtually non-existent whenever Federal "no-standard" standards are concerned.

However, after reviewing all of the arguments presented by the commenting parties, DOE has determined to make certain changes to the proposed rule. Thus, in order to balance the concerns of commenting manufacturers who fear last-minute State petitions filed with DOE and the legitimate interests of the States, DOE is adopting in its final rule a requirement that in order for the effective date of the Federal standard to be delayed by the filing of a petition for exemption, a notice of petition must be filed by a State with DOE within 60 days of publication of the final Federal rule setting forth the standard (or no standard) for a particular covered product. The petition itself must be filed within 120 days of publication of the particular rule.[32]

Some manufacturers also suggested that the DOE prohibit State or local governments from adopting any new appliance efficiency standards during the 180 day period prior to the effective date of the rule. DOE cannot prohibit State or local governments from taking any lawful actions. However, as noted above, only States which file a notice of petition and a petition in accordance with § 430.34(b) and the provisions of Subpart D will be able to implement any new standards. Thus, any new standards for a particular covered product (or new levels of energy efficiency for States or local governments that had previously implemented standards), in order to be effective 180 days after publication of the Federal rule for that product, would have to be enacted within 60 days of publication of this rule and a notice of petition and the petition itself would have to be filed in a timely fashion. After this time period, States may of course submit petitions for exemption. However, the State or local energy efficiency standard could not be in effect, after the 180 day period, until DOE granted the State's petition.[33]

Some questions were also raised concerning DOE's ability to consider petitions prior to the effective date of the Federal standard. As DOE stated in the NOPR, the procedural rules governing these petitions in Part 430, Subpart D, will be effective 30 days after their publication in the **Federal Register**. Accordingly, the regulations governing the petitions for exemption will be in effect at the time the DOE reaches its determinations on them.

4. State Standards Affected by the Federal Rule

Many commenters indicated some uncertainty as to the State and local laws that would qualify as an "energy efficiency standard or other requirement with respect to energy efficiency or energy use" and consequently that would be subject to supersession. A number of specific examples of State laws and regulations were given in the comments. DOE does not believe it is appropriate to attempt to specify or define in the actual rule adopted today what State laws or regulations are subject to supersession. Nevertheless, in reviewing economic and environmental impacts of the proposed "no-standard" standards, DOE read "energy efficiency standard" to be as set forth in section 321(6) of the Act: "a performance standard * * * which prescribes a minimum level of energy efficiency for a covered product * * *." Standards could be set either by legislation or regulation. Standards subject to preemption would include standards for any particular type (or class) of covered products established by mandatory State or local building codes, including codes that incorporate consensus standards, such as those set forth in the American Society of Heating, Refrigerating, and Air Conditioning Engineers (ASHRAE) Standards. More specific examples of DOE's understanding of the coverage of the statute are listed below.

(a) Voluntary utility rebate or incentive programs, authorized or required by State law or regulation, are not considered to be subject to preemption.

(b) Any State or local law or regulation relating to the purchase by a State or any political subdivision of appliances would not be subject to preemption. In other words, a State or any political subdivision (e.g., a public housing authority) may set any efficiency standard or energy use requirement it wishes with respect to appliances purchased by the State or any of its political subdivisions. *See* Section 327(c) of EPCA.

(c) Prohibition of hook-ups for appliances with less than a certain efficiency would be subject to preemption.

(d) "Point" index programs in construction or building codes that would not set specific requirements for a covered product, but would establish an overall maximum number of energy efficiency points for the building or all appliances, would not be subject to preemption.

(e) Prohibitions on standing pilot lights would be subject to preemption.[34]

(f) Prohibition against placing oversized furnaces and air conditioners in new buildings, would not be subject to preemption.

The DOE makes the following suggestion in order to resolve any uncertainty about whether any particular State or local law or regulation is subject to preemption. Beginning today, any State or person subject to a State or local law or regulation involving a covered product may write to the Department at the address given in the beginning of this notice and request an interpretation in this matter. The request for interpretation should be submitted to the DOE pursuant to 10 CFR Part 205, Subpart F. The DOE requests that interested persons identify all laws and

[31] The Department notes in passing that during any hiatus, of course, manufacturers would not be subject to *any* regulation of minimum appliance efficiencies.

[32] It should be noted that a State may only file a petition after DOE has reached a final determination concerning standards for a particular covered product. Thus, States may only file petitions at this time concerning their standards for clothes dryers and ranges and ovens, since a determination on standards for all other covered products has not yet been finalized by rule.

[33] Any changes in State or local building codes which impose energy efficiency standards on covered products are subject to Federal preemption, even if a lesser standard for the same covered product has been granted an exemption from preemption. Thus, States will have to submit petitions to DOE for such exemptions each time a new standard is formulated.

[34] It should be noted that the prohibition of a standing pilot light in ranges and ovens and clothes dryers by a State or local standard would be preempted by today's rulemaking. Such a prohibition in a furnace or water heater is not impacted by today's rulemaking.

regulations in question with respect to ranges and ovens and clothes dryers within 60 days of the publication of today's notice. The requestor should provide the exact text of the law or regulation in question and may include reasons why the requestor believes the law or regulation is or is not subject to preemption. The Department will give notice of all such correspondence in the **Federal Register** in order that all interested persons may be adequately informed.

5. Procedures Regarding Petitions

In the NOPR, DOE proposed to stay the effectiveness of the rule upon receipt of a petition for rulemaking by a State within 180 days. As discussed above, § 430.41(b)(2) requires a notice of petition to be submitted to the Secretary within 60 days of publication of a final standard for a covered product and a complete petition within 120 days after publication of such a final standard in order to delay the effective date of the final standard.

In the NOPR, DOE requested comments regarding how notice of a State's petition should be given to interested manufacturers. DOE proposed, in the alternative, requiring States to give individual notice to affected manufacturers or providing notice generally through the **Federal Register** (47 FR 14456 (proposed § 430.42(b)(2))). Based on the comments, DOE has concluded that the benefits of requiring individual notice to manufacturers is outweighed by the costs. DOE believes that individual manufacturers both directly and through their trade associations will be apprised of State petitions and the consequent DOE rulemakings, thereby enabling them to participate fully in the proceedings if they desire. DOE will therefore publish an announcement of the petition for rulemaking in the **Federal Register** promptly after receiving the full petition from a petitioner.

Because of the absence of individualized notice, however, DOE is extending the period for public comment on petitions (which is also clarified to be the rulemaking's public comment period) from 60 to 90 days. *See* § 430.43.

Proposed § 430.42(c) provided that, even if after a DOE request for further information, there remained insufficient information upon which to base a determination, DOE may deny a petition without prejudice. Some comments urged the Department to obligate itself to do its own investigation in these circumstances. Since it serves the interests of all parties to provide adequate information, however, the DOE believes that instances of insufficient information will be infrequent. While in any given case the DOE may, in its discretion, seek further information on its own initiative, it has determined not to bind itself to do so by rule.

A few manufacturers, while noting that States do not bear the ultimate burden on the interstate commerce issue, recommended nevertheless that the rules require State petitions to make a *prima facie* case on this issue. Proposed § 430.44(b)(5) contained no requirement for information in State petitions on this issue. Manufacturers also noted a possible inconsistency in the showing State petitions must make on the issue of significant State or local interest. Proposed § 430.44(b)(5) merely required a "description" of this issue, while the preamble stated that "a State must present information which would appear on its face to show . . . that there is a significant State or local interest in issuance of the State's regulation," 47 FR at 14456. The DOE has considered these comments and has determined to make no changes to the regulatory language. This stance is taken in part in full deference to the Congressional intent regarding the States' burden on the interstate commerce issue and in recognition that it is in the States' interest to provide the best possible information on both these issues, regardless of the exact wording of the regulations.

Some manufacturers asked the DOE to require affirmations from States that there had been public participation in the development of all State regulations for which State petitions are filed. The DOE declines to impose minimum due process requirements on the States and localities. Any statute or regulation duly enacted or promulgated under whatever procedures are applicable at the State or local level, as appropriate, may be the subject of a State petition.

Finally, manufacturers argued that their need for certainty justified some absolute deadline for taking final action on State petitions, after which time the relevant State regulation would be automatically preempted, but could later be reinstated if appropriate. Manufacturers making this comment generally suggested a six month deadline. The Department has reviewed and retained § 430.48(a) as proposed. Section 430.48(a) provides that DOE will attempt to take final action on a petition within six months after it is filed. If DOE cannot make a determination during this time period, the DOE will publish a notice in the **Federal Register** extending the period to a date certain and giving the reasons for the delay. Section 430.48(a) applies to petitions by manufacturers as well as by States and is based directly on provisions in the Act.

Except as noted above, DOE is adopting the procedural regulations at 10 CFR Part 430, Subpart D, as proposed in the NOPR.

VI. Environmental, Regulatory Impact and Small Entity Impact Reviews

a. Environmental Review

The Department has reviewed today's final rule in accordance with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 et seq.), the Council on Environmental Quality Regulations implementing the procedural provisions of NEPA (40 CFR Part 1500 et seq.), and the Department's own NEPA guidelines (45 FR 20694, March 28, 1980, as amended by 47 FR 7976, February 23, 1982) and finds that neither an environmental impact statement nor an environmental assessment is required since there are clearly no significant environmental impacts associated with today's action.

In the April 2, 1982 notice proposing "no standard" standards for eight types of consumer products, DOE identified the preemption of State energy efficiency standards applicable to these products as the one element of this proposed action which could have foreseeable environmental impacts.[35] DOE considered the possibility that States with existing standards would not seek exemption from preemption as provided for under Section 327(b)(3) of the Act or would be denied an exemption from preemption. In either case, the State standard would no longer be effective, thereby permitting sales of prevously noncompliant products in the State. DOE reviewed this potential outcome and determined that any impacts associated with Federal preemption of existing State standards or regulations would not have significant environmental impacts.

However, one comment received in response to the April 2 notice contested DOE's general determination, stressing that the original Environmental Assessment (EA) did not specifically address the environmental consequences of eliminating State standards.

DOE has considered this comment in light of today's final rule prescribing "no

[35] State petitions for exemption of standards from preemption will be subjected to appropriate NEPA review on a case-by-case basis. Except with respect to preemption of existing State standards, the establishment of a "no standard" standard does not change the status quo.

standard" for clothes dryers and kitchen ranges and ovens. DOE is not aware of any State which has ever had an energy efficiency standard *per se* applicable to either of these products; however, nine States currently have regulations prohibiting standing pilot lights on natural gas-fueled versions of these products.[36] Today's final rule preempts such regulations as they apply to these two products. DOE performed a "worst case" analysis to assess the worst possible environmental impacts of this action. In the worst case situation, all States with standing pilot light bans applicable to clothers dryers and kitchen ranges and ovens would fail to petition for exemption from Federal preemption or would be denied an exemption, thereby permitting sales of previously noncompliant products.

In the case of clothes dryers, DOE has determined that the preemption of State regulations banning standing pilot lights should have virtually no environmental impacts since there are few, if any, gas clothes dryers being manufactured with standing pilot lights. DOE considers it highly unlikely that, in the absence of State bans, manufacturers would return to standing gas pilots on clothes dryers for the following reasons. First, manufacturers have already made the investment in tooling for intermittent ignition devices (IID's). Second, IID's increase the reliability of clothes dryers by eliminating service calls for re-lighting pilots. Finally, the increasing price of gas will increase market demand for IID's on gas clothes dryers. Therefore, there would clearly be no significant adverse environmental impacts associated with the preemption of State regulations banning standing gas pilot lights with respect to clothes dryers.

With regard to kitchen ranges and ovens, DOE's "worst case" analysis assumed that all future sales of gas-fired units, in those States which do not exempt gas ranges and ovens without electrical power cords from their ban on standing pilot lights, would be units equipped with standing pilot lights. Sales of units with standing pilot lights in those States with such exemptions were assumed to remain unchanged since consumers in those States have always been able to purchase gas ranges and ovens with standing pilot lights. According to DOE's analysis, this "worst case" would result in an annual increase in gas range energy consumption of approximately one half of one percent. This is about 0.0015 Quads of additional gas energy consumption in 1980. This is a clearly insignificant increase in gas energy consumption.

Thus, DOE has concluded that the "no standards" final rule for these two products clearly will not have a significant impact on the quality of the human environment. Therefore, DOE has determined that no EA or Environmental Impact Statement need be prepared for this rulemaking.

b. Executive Order 12291

Executive Order 12291 requires agencies to determine if a rule is a "major rule" under the Order. In the April 2 proposal, DOE determined that the rule proposed there would not be a major rule because, if adopted, it would not result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. This conclusion was not criticized in the rulemaking proceeding. The rule adopted today is a part of the rule proposed on April 2 and, accordingly, would likewise not be a major rule under the Executive Order. Consequently, this rule has been reviewed by OMB under the procedures applicable to rules other than major rules.

c. Regulatory Flexibility

In the April 2 proposal DOE certified, pursuant to Section 605(b) of the Regulatory Flexibility Act, that the proposal, if promulgated, would not have a significant economic impact on a substantial number of small entities. While the April 2 proposal received comment from small businesses involved in the manufacture of appliances, generally supportive of the proposal, the commenters did not take issue with DOE's certification. Accordingly, DOE certifies that this rule will not have a significant economic impact on a substantial number of small entities.

In consideration of the foregoing, Part 430 of Chapter II of Title 10, Code of Federal Regulations, is amended as set forth below.

[36] The nine States are: Arizona, California, Hawaii, Iowa, Michigan, Minnesota, New York, Oregon, and Wisconsin. Four of these States, Arizona, Michigan, Minnesota and Wisconsin, exempt gas kitchen ranges and ovens without electrical power cords from the standing pilot light ban.

List of Subjects in 10 CFR Part 430

Administrative practice and procedure, Energy conservation, Household appliances.

Issued in Washington, D.C., December 15, 1982.

Joseph J. Tribble,

Assistant Secretary, Conservation and Renewable Energy.

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

1. Section 430.2 is amended by adding or revising the following definitions:

§ 430.2 Definitions.

* * * * *

"Act" means the Energy Policy and Conservation Act (Pub. L. 94–163), as amended by the National Energy Conservation Policy Act (Pub. L. 95–619).

* * * * *

"Consumer product" means any article (other than an automobile, as defined in section 501(1) of the Motor Vehicle Information and Cost Savings Act) of a type:

(a) Which in operation consumes, or is designed to consume, energy; and

(b) Which, to any significant extent, is distributed in commerce for personal use or consumption by individuals; without regard to whether such article of such type is in fact distributed in commerce for personal use or consumption by an individual.

* * * * *

"Covered product" means a consumer product of a type specified in section 322 of the Act.

* * * * *

"Energy efficiency standard" means a performance standard:

(a) Which prescribes a minimum level of energy efficiency for a covered product, determined in accordance with test procedures prescribed under section 323 of the Act, and

(b) Which include any other requirements which the Secretary may prescribe under section 325(c) of the Act.

* * * * *

"Manufacturer" means any person who manufactures a consumer product.

* * * * *

"Person" includes any individual, corporation, company, association, firm, partnership, society, trust, joint venture or joint stock company, the government, and any agency of the United States or any State or political subdivision thereof.

* * * * *

"State" means a State, the District of Columbia, Puerto Rico, or any territory or possession of the United States.

"State regulation" means a law or regulation of a State or political subdivision thereof.

* * * * *

2. Subpart C of Part 430 is revised to read as follows:

Subpart C—Energy Efficiency Standards

Sec.
430.31 Purpose and scope.
430.32 Final energy efficiency standards.
430.33 Preemption of state regulations.
430.34 Effective date.

Authority: Energy Policy and Conservation Act, Pub. L. 94–163, as amended by Pub. L. 95–619; Federal Energy Administration Act of 1974, Pub. L. 93–275, as amended by Pub. L. 94–385; Department of Energy Organization Act, Pub. L. 95–91; E.O. 12009, 42 FR 46267.

Subpart C—Energy Efficiency Standard

§ 430.31 Purpose and scope.

This subpart contains any energy efficiency standards for classes of covered products that are required to be promulgated by the Department of Energy pursuant to the energy conservation program for consumer products other than automobiles under the Energy Policy and Conservation Act, as amended (42 U.S.C. 6291 *et seq.*).

§ 430.32 Final energy efficiency standards.

The final energy efficiency standards for each class of covered products are:

(a) Refrigerators and refrigerator-freezers. [Reserved]

(b) Freezers. [Reserved]

(c) Dishwashers. [Reserved]

(d) Clothes dryers: No standard for all classes.

(e) Water heaters:

(1) For the classes gas, electric, electric table top, and oil. [Reserved]

(2) For the class heat pump water heater. [Reserved]

(f) Room air conditioners. [Reserved]

(g) Home heating equipment, not including furnaces. [Reserved]

(h) Television sets. [Reserved]

(i) Kitchen ranges and ovens: No standard for all classes.

(j) Clothes washers. [Reserved]

(k) Humidifiers and dehumidifiers. [Reserved]

(l) Central air conditioners:

(1) For the classes which include all split systems and single package units which do not operate with a heat pump. [Reserved]

(2) For the classes which operate with a heat pump. [Reserved]

(m) Furnaces. [Reserved]

§ 430.33 Preemption of State regulations.

Any State regulation providing for any energy efficiency standard, or other requirement with respect to the energy efficiency or energy use, of a covered product that is not identical to a Federal standard (including a determination of no standard) in effect under this subpart is preempted by that standard.

§ 430.34 Effective date.

The effective date of a final energy efficiency standard (including a determination of no standard) in § 430.32 shall be the later of:

(a) 180 days after publication of that standard in the **Federal Register**, or

(b) With respect to a covered product in a particular State for which that State has filed a notice of petition within 60 days of publication of that standard in the **Federal Register**, and a petition under § 327(b)(3) of the Act within 120 days of publication of that standard in the **Federal Register**, the date upon which the Secretary issues or denies a final rule concerning that petition.

3. Subpart D of Part 430 is revised to read as follows:

Subpart D—General Procedural Regulations

Sec.
430.41 Petition for prescription of a rule.
430.42 Filing requirements.
430.43 Announcement of petition for rulemaking.
430.44 Contents.
430.45 Consolidation of proceedings.
430.46 Hearings and comments of interested persons.
430.47 Evaluation of petition.
430.48 Disposition of petition.
430.49 Judicial review.

Authority: Energy Policy and Conservation Act, Pub. L. 94–163, as amended by Pub. L. 95–619; Federal Energy Administration Act of 1974, Pub. L. 93–275, as amended by Pub. L. 94–385; Department of Energy Organization Act, Pub. L. 95–91; E.O. 12009, 42 FR 46467.

Subpart D—General Procedural Regulations

§ 430.41 Petition for prescription of a rule.

(a) Pursuant to section 327(b)(1) of the Act, any person subject to a State regulation may petition the Secretary for a rule to supersede in whole or in part that State regulation prescribing an energy efficiency standard or other requirement respecting energy use or energy efficiency of a type (or class) of covered products.

(b)(1) Pursuant to section 327(b)(3) of the Act, any State may petition the Secretary for a rule that a State regulation prescribing an energy efficiency standard or other requirement respecting energy use or energy efficiency for a type (or class) of covered products not be superseded.

(2) A State may submit a notice of petition to the Secretary within 60 days after publication of a final standard for a covered product and a complete petition within 120 days after publication of such a final standard for a covered product in order to implement the provisions of § 430.34(b) of this Part.

§ 430.42 Filing requirements.

(a) A notice of petition or a petition for a rule under this section shall be submitted in triplicate to: U.S. Department of Energy, "Section 327 Petition—Energy Efficiency Program for Consumer Products," 1000 Independence Avenue, S.W., Washington, D.C. 20585.

(b)(1) A petition for a rule to supersede a State or local regulation and all related submissions shall be served upon each State agency, department, or instrumentality whose regulation the petitioner seeks to supersede.

(2) All materials required to be served under this Part shall be served personally or by registered or certified mail. Service upon a person's duly authorized representative shall constitute service upon that person. Service by registered or certified mail is complete upon mailing.

(c) If the DOE determines that there is insufficient information upon which to base a decision and if upon request the necessary additional information is not submitted, the DOE may deny the petition without prejudice. The Secretary shall publish notice of such a denial in the **Federal Register** and the reason for such a denial.

(d) If any person wishes to claim confidential treatment pursuant to 5 U.S.C. 552 or 18 U.S.C. 1905, for any information contained in the petition or other document submitted prior to the issuance of a final decision, that person shall submit together with the original document, a copy of the document in triplicate, from which has been deleted the information for which such person wishes to claim confidential treatment. The person shall indicate in the original document that it is confidential or contains confidential information and shall file a statement specifying the justification for non-disclosure of the information for which confidential treatment is claimed. If the person states that the information comes within the exception in 5 U.S.C. 552(b)(4) for trade secrets and commercial or financial information, such person shall include a statement specifying why such information is privileged or confidential. If the person filing a document does not

submit a copy of the document with the confidential information deleted, the DOE may assume that there is no objection to public disclosure of the document in its entirety. The DOE retains the right to make its own determination with regard to any claim of confidentiality. Notice of the decision by the DOE to deny such claim, in whole or in part, and an opportunity to respond shall be given to a person claiming confidentiality of information no less than five days prior to its public disclosure.

§ 430.43 Announcement of petition for rulemaking.

Promptly after receipt of a petition, an announcement of such a petition shall be published in the **Federal Register**. The announcement shall set forth the availability for public review of all data, and information available, and shall solicit comments, data and information with respect to the petition. Each announcement shall contain a summary of the State or local regulation at issue and either (a) the petitioner's reasons for a rule to supersede the State or local regulation, or (b) the petitioner's reasons for a rule not to supersede the regulation. Except as may otherwise be specified, the period for public comment shall be 90 days after the announcement appears in the **Federal Register**. This comment period shall be the same as any comment period specified by the Secretary pursuant to § 430.46(b).

§ 430.44 Contents.

(a) A petition to supersede a State regulation under section 327(b)(1) of the Act shall include:

(1) The name, address and telephone number of the petitioner;

(2) A statement of the interest of the petitioner for which a superseding rule is sought;

(3) A copy of the law or regulation for which supersession is sought;

(4) Specification of each type or class of product for which a superseding rule is sought;

(5) Information which would show why such regulation unduly burdens interstate commerce;

(6) Information which would show that there is no significant State or local interest sufficient to justify the State regulation in issue;

(7) Any other information that the petitioner considers relevant or that the Secretary may require.

(b) A petition from a State for a rule for exemption from supersession of a State regulation under section 327(b)(3) of the Act shall include:

(1) The name, address, and telephone number of the petitioner;

(2) A statement of the petitioner's authority to represent the governmental entity in this proceeding;

(3) A copy of the law or regulation which the State or local entity requests not be superseded;

(4) Specification of each type or class or product covered by the regulation;

(5) A description of the significant State or local interest justifying such State regulation;

(6) Any other information that the petitioner considers relevant or that the Secretary may require.

(c) A notice of petition submitted under § 430.41(b)(2) from a State shall include the information contained in § 430.44(b) (1), (2) and (3).

(d) All petitions and comments by interested persons shall be made available for public review, except for information determined to be confidential pursuant to § 430.42(d).

§ 430.45 Consolidation of proceedings.

DOE may consolidate any or all matters at issue in two or more proceedings docketed where there exist common questions of fact and law, and where such consolidation would expedite or simplify consideration of the issues. Consolidation shall not affect the right of any party to raise issues that could have been raised if consolidation had not occurred.

§ 430.46 Hearings and comments of interested persons.

(a) The Secretary shall hold a public hearing to afford interested persons a reasonable opportunity to present oral data, views, and arguments with respect to the proposed rule, and publish notice in the **Federal Register** of the date and location of the hearing. A transcript shall be kept of the hearing.

(b) The Secretary shall accept written comments from interested persons with respect to the proposed rule.

§ 430.47 Evaluation of petition.

(a) In evaluating a petition submitted pursuant to section 327(b)(1) of the Act, the Secretary shall issue a requested rule only if the Secretary determines:

(1) There is no significant State or local interest sufficient to justify such regulation; or

(2) Such State or local regulation unduly burdens interstate commerce.

(b) In evaluating a petition submitted pursuant to section 327(b)(3) of the Act, the Secretary shall issue the requested rule only if the Secretary determines:

(1) There is a significant State or local interest to justify such regulation; and

(2) Such State or local regulation contains a more stringent energy efficiency standard than such Federal standard;

except that the Secetary may not prescribe such rule if he finds that such State or local regulation would unduly burden interstate commerce.

§ 430.48 Disposition of petition.

(a) The Secretary shall prescribe a final rule or deny the petition within 6 months after the date the petition is filed, except that the Secretary may publish a notice in the **Federal Register** extending such period to a date certain. Such notice shall include the reasons for the delay.

(b) The final rule issued by the Secretary or a determination to deny the petition by the Secretary shall include a written statement setting forth the factual and legal basis for the decision. A copy of the Secretary's decision shall be sent to either (1) the petitioner and the affected State or local agency if the petition is for a rule to supersede a State regulation, or (2) the petitioner and all persons subject to the State regulation who have submitted comments if the petition is for a rule not to supersede a State regulation. The Secretary shall publish in the **Federal Register** a notice of the final rule or a notice of the denial of the petition and the factual and legal basis for the decision.

§ 430.49 Judicial review.

The decision issued by the Secretary concerning a petition filed under this subpart shall be a final determination of the DOE of which any adversely affected person may seek judicial review.

[FR Doc. 82-34541 Filed 12-16-82; 4:45 pm]
BILLING CODE 6450-01-M

United States Department of Agriculture

Agricultural Marketing Service

Fruit and Vegetable Division

Pecans Grown In 16 States

Notice Of Hearing On Proposed Marketing Agreement And Order

NEWS

United States Department of Agriculture

Office of Governmental and Public Affairs

USDA News Center
Room 404-A
Washington, D.C. 20250

Garten (202) 447-8999
Hilt (202) 447-6445

HEARINGS SET ON PROPOSED PECAN MARKETING ORDER

WASHINGTON, Dec. 21--The U.S. Department of Agriculture has scheduled public hearings at three locations to consider an industry-funded program of research and promotion for pecans produced in 16 states.

The hearings will begin at 9 a.m. local time at the following sites:

-- Feb. 8-11, Dallas, Texas, LeBaron Hotel, 1055 Regal Row;

-- Feb. 14-16, Atlanta Ga., R.B. Russell Federal Bldg., L.D. Strong Auditorium, Lower Plaza Level, 75 Spring St. S.W;

-- Feb. 17-18, Mobile, Ala., Mobile Gas Service Corp. Auditorium, 2828 Dauphine St.

Vern Highley, administrator of USDA's Agricultural Marketing Service, said the proposed program would provide for marketing research and development projects for pecans, including promotion and paid advertising. Projects would be financed with assessments on pecans shelled in the continental United States. Assessments would be paid by pecan shellers.

Under the proposal, the production area would include Alabama, Arizona, Arkansas, California, Florida, Georgia, Kansas, Louisiana, Mississippi, Missouri, New Mexico, North Carolina, Oklahoma, South Carolina, Tennessee and Texas.

A 14-member board of growers, shellers, grower-shellers and a public member would work with USDA in administering the program.

The program would be backed by federal law and would allow agricultural producers and handlers to work together to solve marketing problems. Forty-seven

- more -

such programs are in effect now for a wide variety of fruits, vegetables and specialty crops like almonds, walnuts and filberts.

Highley said the proposal and request for hearings were submitted to USDA by the Federated Pecan Growers' Association of the United States.

"Pecan production is expected to increase rapidly over the next few years," Highley said. "A voluntary program for marketing research and development projects is in effect, but the industry has indicated a need for a broader financial base to support such programs."

If evidence presented at the hearings supports the program, and if USDA approves, growers currently producing pecans in the designated production area would vote on the proposed program. To become effective, the program would have to be approved by two-thirds of the voting growers, either by number or by the volume of production.

The hearing notice and proposal will be published in the Dec. 22 Federal Register, available at many public libraries. The notice will be mailed to all known pecan growers and shellers. Copies also may be obtained from:

J.S. Miller, chief, Specialty Crops Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250; (202) 447-5697;

William C. Knope, P.O. Box 9, Lakeland, Fla.; (813) 683-5983;

David B. Fitz, 320 North Main St., rm. A-103, McAllen, Texas; (512) 682-2833.

#

federal register

Wednesday
December 22, 1982

Part III

Department of Agriculture

Agricultural Marketing Service

Pecans Grown in 16 States; Hearing on Proposed Marketing Agreement and Order No. 983

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 983

[Docket No. F&V AO-79-3]

Pecans Grown in 16 States; Hearing on Proposed Marketing Agreement and Order No. 983

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of public hearing on proposed marketing agreement and order.

SUMMARY: Notice is hereby given of a public hearing to consider a proposal to establish a marketing agreement and order for pecans. The proposed program would authorize marketing research and development projects, including promotion and paid advertising, designed to improve the marketing, distribution, and consumption of pecans. The proposal was submitted by the Federated Pecan Growers' Associations of the United States and has not received the approval of the Secretary of Agriculture. All interested persons will be given the opportunity to testify at the hearing.

DATES AND ADDRESSES: See Supplementary Information below.

FOR FURTHER INFORMATION CONTACT: J. S. Miller, Chief, Specialty Corps Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250, (202) 447-5697.

SUPPLEMENTARY INFORMATION: Hearing Dates and Locations: The hearing will begin on February 8, 1983, at the LeBaron Hotel, 1055 Regal Row, Dallas, Texas 75247 and will continue at that location through February 11. The hearing will then be reconvened February 14-16 at the L. D. Strong Auditorium, Lower Plaza Level, Richard B. Russell Federal Building, 75 Spring Street, SW., Atlanta, Georgia 30303, and conclude February 17 and 18 at the Mobile Gas Service Corporation Company Auditorium, 2828 Dauphine Street, Mobile, Alabama 36606. All hearing sessions will begin at 9:00 a.m., local time.

This administrative action is governed by the provisions of Sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it would result in only minimal costs being incurred by the regulated handlers.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900). The public hearing is for the purpose of:

(a) Receiving evidence about the economic and marketing conditions which relate to the proposed marketing agreement and order and to any appropriate modifications thereof,

(b) Determining whether the handling of pecans produced in the area proposed for regulation is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects interstate or foreign commerce,

(c) Determining whether there is a need for a marketing agreement and order for pecans, and

(d) determining whether the proposed marketing agreement and order or any appropriate modification of it will tend to effectuate the declared policy of the act.

The proposed program would be administered by a 14-member Pecan Marketing Board composed of 7 growers, 4 shellers, 2 grower-shellers, and 1 public member. Board members would be nominated by their respective industry groups and selected by the Secretary of Agriculture.

Funds to conduct the authorized projects and to maintain the Board would be obtained from assessments levied on handlers (shellers). All shellers who handle pecans in the continental United States would be assessed at a rate authorized by the Secretary of Agriculture for each marketing year. The rate would not exceed a ceiling of one cent per pound of inshell pecans handled, except that this ceiling could be adjusted based on changes in the Consumer Price Index for all items. The adjusted assessment could not exceed two cents per pound.

To become effective, the proposed program or any appropriate modification of it would have to be voted on and approved by growers producing pecans in the designated production area. The proposal designates a "production area" comprised of 16 states: Alabama, Arizona, Arkansas, California, Florida, Mississippi, Missouri, New Mexico, North Carolina, Oklahoma, Georgia, Kansas, Louisiana, South Carolina, Tennessee, and Texas.

List of Subjects in 7 CFR Part 983

Marketing agreement and order, Pecans.

Part 983 is proposed to be added to Title 7 as follows:

PART 983—PECANS GROWN IN 16 STATES

Definitions

Sec.
983.1 Secretary.
983.2 Act.
983.3 Person.
983.4 Production area.
983.5 District.
983.6 Grower.
983.7 Pecans.
983.8 Inshell pecans.
983.9 Shelled pecans.
983.10 Shell.
983.11 Sheller.
983.12 Grower-sheller.
983.13 To handle.
983.14 Handler.
983.15 Board.
983.16 Marketing year.
983.17 Part and subpart.

Pecan Marketing Board

983.18 Establishment and membership.
983.19 Redistricting.
983.20 Eligibility.
983.12 Term of office.
983.22 Nomination.
983.23 Selection.
983.24 Qualification by acceptance.
983.25 Alternate members.
983.26 Vacancies.
983.27 Expenses.
983.28 Procedures.
983.29 Powers.
983.30 Duties.

Research and Development

983.31 Marketing estimates and recommendations.
983.32 Marketing research and promotion.

Reports and Other Records

983.33 Confidential information.
983.34 Reports of acquisitions.
983.35 Other reports.
983.36 Records.
983.37 Verification of reports.

Expenses and Assessments

983.38 Expenses.
983.39 Assessments.

Miscellaneous Provisions

983.40 Rights of the Secretary.
983.41 Personal liability.
983.42 Separability.
983.43 Derogation.
983.44 Duration of immunities.
983.45 Agents.
983.46 Effective time and termination.
983.47 Amendment.
983.48 Effect of termination or amendment.
983.49 Counterparts.
983.50 Additional parties.
983.51 Order with marketing agreement.

Authority: Sec. 1-9, 48 Stat. 31, as amended, 7 U.S.C. 601-674.

Definitions

§ 983.1 Secretary.

"Secretary" means the Secretary of Agriculture of the United States or any other officer or employee of the United States Department of Agriculture who is, or who may be, authorized to perform the duties of the Secretary of Agriculture of the United States.

§ 983.2 Act.

"Act" means Public Act No. 10, 73rd Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (Secs. 1–49, 48 Stat. 31, as amended; 7 U.S.C. 601–674).

§ 983.3 Person.

"Person" means an individual, partnership, corporation, association, or any other business unit.

§ 983.4 Production area.

"Production area" means the following states: Alabama, Arizona, Arkansas, California, Florida, Mississippi, Missouri, New Mexico, North Carolina, Oklahoma, Georgia, Kansas, Louisiana, South Carolina, Tennessee, and Texas.

§ 983.5 District.

"District" means any one of the following geographic subdivisions of the production area:

District 1: Arizona, California, New Mexico, and West Texas (West of Highway 277 from Del Rio to Stamford and Highway 6 from Stamford to Quanah and Oklahoma line).

District 2: Kansas, Missouri, Oklahoma, and East Texas (East of Highway 277 from Del Rio to Stamford and Highway 6 from Stamford to Quanah and Oklahoma line).

District 3: Alabama, Arkansas, Louisiana, Mississippi, and Tennessee.

District 4: Florida, Georgia, North Carolina, and South Carolina.

§ 983.6 Grower.

"Grower" is synonymous with "producer" and means any person engaged in a proprietary capacity in the commercial production of pecans.

§ 983.7 Pecans.

"Pecans" means the nut of the pecan tree *Carya illinoensis* grown in the production area.

§ 983.8 Inshell pecans.

"Inshell pecans" is synonymous with "unshelled pecans" and means pecans from which the shells have not been removed.

§ 983.9 Shelled pecans.

"Shelled pecans" means pecan kernels or portions of kernels after the shells have been removed.

§ 983.10 Shell.

"Shell" means to remove the shells from inshell pecans.

§ 983.11 Sheller.

"Sheller" means any person who shells pecans, or has pecans shelled for his account, in the continental United States, and who purchases more than 50 percent of the pecans he shells or has shelled for his account.

§ 983.12 Grower-sheller.

"Grower-sheller" means any person who shells pecans, or has pecans shelled for his account, in the continental United States, and who grows 50 percent or more of the pecans he shells or has shelled for his account.

§ 983.13 To handle.

"To handle" means receipt of inshell pecans by a sheller or grower-sheller, including pecans of their own production.

§ 983.14 Handler.

"Handler" means any sheller or grower-sheller who handles pecans in the continental United States.

§ 983.15 Board.

"Board" means the Pecan Marketing Board established pursuant to § 983.18.

§ 983.16 Marketing year.

"Marketing year" means the twelve months from September 1 to the following August 31, both inclusive, or such other period of time as may be recommended by the Board and established by the Secretary.

§ 983.17 Part and subpart.

"Part" means the order to promote pecans and all rules and supplementary orders issued thereunder. The order itself shall be a "subpart" of such part.

Pecan Marketing Board

§ 983.18 Establishment and membership.

A Pecan Marketing Board (hereinafter referred to as the "Board") is hereby established, consisting of fourteen members, each of whom shall have an alternate with the same qualifications as the member, to administer the terms and provisions of this part. Seven members and alternates shall be growers; four members and alternates shall be shellers; two members and alternates shall be grower-shellers; and one member and alternate shall represent the public.

(a) The grower representation on the Board shall be: One member from District 1, two members from District 2, two members from District 3, and two members from District 4.

(b) The sheller representation on the Board shall be: Two members from east of the Mississippi River and two members from west of the Mississippi River.

The grower-sheller representation on the Board shall be: One member from Districts 1 or 2 and one member from Districts 3 or 4.

(d) The public representation on the Board shall be: One member who is not a grower, sheller, or grower-sheller.

§ 983.9 Redistricting.

The Board may review every three years and recommend, and the Secretary may approve, the reapportionment of members among districts and the reestablishment of districts within the production area. In recommending any such changes, the Board shall give consideration to shifts in pecan acreage and production within the districts and within the production area during recent years. Any redistricting or reapportionment must be made six months prior to the date on which the terms of office begin.

§ 983–20 Eligibility.

Each grower member of the Board and alternate shall be, at the time of his selection and during the term of office, a producer in the district for which selected and shall cease to be a member or alternate when he ceases to be a producer in the district. Each sheller member of the Board and alternate shall be, at the time of his selection and during the term of office, a sheller or an officer or employee of a sheller in the region for which selected and shall cease to be a member or alternate when he ceases to be a sheller in the region. Each grower-sheller member of the Board and alternate shall be, at the time of his selection and during the term of office, and producer in the district from which selected and shall cease to be a member or alternate when he ceases to be a producer in the district from which he is selected or when he ceases to be a grower-sheller as defined in § 983.12. The public member shall not be affiliated in any way with the pecan industry.

§ 983.21 Term of office.

Members and alternate members of the Board shall serve for terms of three years ending on May 31: *Provided,* That the term of office of five of the initial members and alternates shall end on

May 31, 1984, and the term of office of five other such initial members and alternates shall end on May 31, 1985. Except as otherwise provided in § 983.20, each member and alternate member shall continue to serve until his successor is selected and has qualified. The consecutive terms of office of members and alternates shall be limited two terms.

§ 983.22 Nomination.

The Board shall hold or cause to be held and shall give reasonable publicity to nomination meetings of producers, shellers, and grower-shellers for such purposes. Only persons eligible to serve as members shall be eligible to vote at their respective nomination meetings and each person shall have one vote. The person receiving the largest number of votes cast for member or alternate position shall be the district nominee. These nominations shall be certified by the Board to the Secretary no later than May 1 preceding the commencement of the term of office. For the purpose of obtaining initial nominations, the Secretary shall perform or cause to be performed the functions of the Board. The public member an public alternate shall be nominated by the other Board members and certified to the Secretary.

§ 983.2 Selection.

The Secretary shall select members and alternate members of the Board in the numbers and with the qualifications specified in this part. Such selections shall be made from the nominations certified by the Board.

§ 983.24 Qualification by acceptance.

Each person selected by the Secretary as a member or as an alternate member shall, prior to serving, qualify by filing with the Secretary a written acceptance as soon as practicable after being notified of such selection.

§ 983.25 Alternate members.

An alternate for a member shall act in the place and stead of such member during his absence or, in the event of his removal, resignation, disqualification, or death, until a successor for such member's unexpired term has been selected and has qualified. The Board may request the attendance of alternates at any or all meetings, notwithstanding the expected or actual presence of the respective members.

§ 983.26 Vacancies.

Any vacancy occasioned by the removal, resignation, disqualification, or death of any member, or alternate, or any need to select a successor through failure of any person selected a a member or alternate to qualify, shall be recognized by the Board, causing a nomination to be made by the appropriate group and certifying to the Secretary a new nominee as soon as practicable.

§ 983.27 Expenses.

The members and their alternates of the Board shall serve without compensation but shall be allowed their necessary expenses as provided by the Board.

§ 983.28 Procedures.

(a) The members of the Board shall select a chairman from their membership and shall select such other officers and adopt such rules for the conduct of Board business as they deem advisable. The Board shall give the Secretary or designated agent the same notice of its meetings as is given to members of the Board.

(b) All decisions of the Board, except where otherwise specifically provided, shall be by majority vote of the members present. A quorum of at least nine voting positions shall be required for the conduct of Board business.

(c) The Board may vote by mail or telegram upon due notice to its members. When any proposition is to be voted on by either of these methods, at least twelve votes must be received by the Board and no dissenting votes may be received in order for the proposition to be adopted.

§ 983.29 Powers.

The Board shall have the following powers:

(a) To administer this part in accordance with its terms and provisions;

(b) To make rules and regulations to effectuate the terms and provisions of this part;

(c) To receive, investigate, and report to the Secretary complaints of violations of this part; and

(d) To recommend to the Secretary amendments to this part.

§ 983.30 Duties.

The duties of the Board shall be as follows:

(a) To act as intermediary between the Secretary and any handler or grower;

(b) To keep minutes, books, and records which will clearly reflect all of its acts and transactions and such minutes, books, and records shall at any time be subject to the examination of the Secretary;

(c) To notify growers and handlers of all Board meetings;

(d) To furnish to the Secretary a complete report of all meetings and such other available information as may be requested;

(e) To appoint such employees as it may deem necessary and to determine the compensation, define the duties, and fix the bonds of such employees;

(f) To appoint such subcommittees and consultants as it may deem necessary;

(g) To cause the books of the Board to be audited by one or more public accountants at least once for each marketing year and at such other times as the Board deems necessary or as the Secretary may request and to file with the Secretary reports of all audits made;

(h) To prepare periodic statements of the financial operations of the Board and to make copies of each such statement available to growers and handlers for examination at the Board's office;

(i) To assemble data and information on growing, shipping, and marketing conditions with respect to pecans;

(j) To develop programs and projects and to enter into contracts or agreements for the development and carrying out of marketing research and development projects, including marketing promotion and paid advertising. The payment of the costs thereof shall be with funds collected pursuant to this part; and

(k) To recommend to the Secretary appropriate rules and regulations as are necessary to effectuate the purposes of this part.

Research and Development

§ 983.31 Marketing estimates and recommendations

Each marketing year the Board shall hold a meeting or meetings for the purpose of recommending to the Secretary a marketing research and development policy, including marketing promotion and paid advertising, for such year. Such recommendations shall include the following:

(a) its estimate of the native and improved pecan production in the area of production for the marketing year;

(b) Its estimates of the handler carryover of inshell and shelled pecans;

(c) Its estimates of the trade demand for such marketing year for shelled and inshell pecans, taking into consideration trade carryover, imports, prices, competing nut supplies, and other facts; and

(d) Its recommendation for the establishment of a marketing research and development policy, including marketing promotion and paid advertising, which is designed to assist, improve, or promote the marketing, distribution, or consumption of pecans.

§ 983.32 Marketing research and promotion.

(a) *Projects and activities*—The Board, with the approval of the Secretary, may establish or provide for the establishment of marketing research and development projects, including promotion and paid advertising. The expenses of such projects shall be paid from assessments obtained pursuant to § 983.39.

(b) *Board recommendations*—Each marketing year, the Board shall prepare and submit to the Secretary its recommendations with respect to marketing research and development projects, including marketing promotion and paid advertising. The Board's recommendations shall include the nature of the projects or activities to be undertaken, the time and duration of activities, advertising media to be used, if any, the estimated cost of the activities, and the objectives of such projects or activities.

(c) No activities other than marketing research and development including marketing promotion and paid advertising, and those necessary for the administration of this part shall be undertaken by the Board.

(d) *Review*—As soon as practicable after the end of each marketing year, the Board shall review the operation and results of its projects and submit a report thereon to the Secretary. In any contract between the Board and any agency involving marketing research and development, including marketing promotion and paid advertising, the Board shall reserve to itself and the Secretary the right to verify performance and invoices for services rendered by such agency.

(e) *Rules and regulations*—The Board, with the approval of the Secretary, shall establish such rules and regulations as are necessary to carry out the requirements of this part.

Reports and Other Records

§ 983.33 Confidential information.

All reports and records furnished or submitted by handlers to the Board, or obtained by employees of the Board, which include data or information constituting a trade secret or disclosing the trade position, financial condition, or business operations of the particular handler or its customers shall be received by, and at all times kept in the custody and under the control of, one or more employees of the Board. The employees shall disclose such information to no person, including Board members, except the Secretary in connection with enforcement of this part, other legal action, or as otherwise authorized by the act and specifically directed by the Secretary. At no time shall an individual's or firm's records be disclosed to any Board member.

§ 983.34 Reports of acquisitions.

Each handler shall file such reports of acquisitions of pecans as may be requested by the Board.

§ 983.35 Other reports.

Upon the request of the Board and with the approval of the Secretary, each handler shall furnish such other reports and information as are needed to enable the Board to perform its function under this part. Such reports shall be requested only on approval of at least ten members of the Board.

§ 983.36 Records

Each handler shall maintain such records of pecans received, held, and disposed of by him as will substantiate any required reports and will show performance under this part. All such records shall be retained for at least two years beyond the marketing year of their applicability.

§ 983.37 Verification of reports.

For the purpose of assuring compliance with record keeping requirements and verifying reports filed by handlers or the operation of handlers under the provisions of this part, the Secretary and the Board, through its duly authorized agents, shall have access to any premises where pecans may be held by any handler and at any time during reasonable business hours, shall be permitted to inspect any and all records of such handler with respect to the acquisition, holding, or disposition of all pecans which may be held or which may have been disposed of by him.

Expenses and Assessments

§ 983.38 Expenses.

The Board is authorized to incur such expenses as the Secretary may find are reasonable and likely to be incurred by it during each marketing year for the maintenance and functioning of the Board, including and accumulation of a reserve fund for such purposes as the Secretary may, pursuant to the provisions of this subpart, determine to be appropriate. The Board shall file a proposed budget of expenses and a rate of assessment with the Secretary as soon as practicable after the beginning of each marketing year.

§ 983.39 Assessments.

(a) *Assessment rate*—Each handler shall pay to the Board, on demand by the Board, such handler's pro rata share of the expenses authorized by the Secretary for each marketing year based on such rate per pound of inshell pecans handled during such marketing year. The assessment rate shall not exceed one cent ($0.01) per pound of inshell pecans, which ceiling rate shall be adjusted, according to the Consumer Price Index (C.P.I.) for all items, with C.P.I. for all items for 1980 equal to 100: *Provided,* That in no event shall the adjusted assessment exceed two cents ($0.02) per pound of inshell pecans.

(b) *Advance payments and loans*—In order to provide funds to carry out the functions of the Board, the Board may borrow money or may accept advance payments from any handler to be credited toward such assessments as may be levied pursuant to this section against the respective handler.

(c) *Reserve*—The Board, with the approval of the Secretary, may establish and maintain during subsequent marketing years a monetary reserve in an amount approximating two years' budgeted expenses. Such reserve funds may be used to defray any authorized expenses under this part.

(d) *Refunds*—Funds held by the Board at the conclusion of the marketing year in excess of its expenses, other than reserve funds, may be used to defray expenses for no more than the ensuing twelve months, and, thereafter, within a reasonable time, the Board shall credit the excess to handlers who contributed to such excess: *Provided,* That the excess due any handler shall be applied, in whole or in part, by the Board to any outstanding obligation due the Board from such handler. Should any handler discontinue handling pecans, such excess shall be refunded to him. A handler's share of such excess funds shall be the amount of assessments he has paid in excess of his pro rata share of the actual expenses of the Board.

(e) *Credit*—A handler shall receive a credit against the assessment on those inshell pecans he sells inshell during the applicable marketing year.

(f) *Disposition of funds upon termination*—Upon termination of this part any funds in possession of the Board shall be distributed in such manner as the Secretary shall direct: *Provided,* That to the extent practicable such funds shall be returned pro rata to the person from whom collected.

Miscellaneous Provisions

§ 983.40 Rights of the Secretary.

The members and alternates of the Board and any agent or employee appointed or employed by the Board shall be subject to removal or suspension by the Secretary, at his

discretion, at any time. Each action of the Board shall be subject to the continuing right of the Secretary to disapprove such action and, upon such disapproval, shall be deemed null and void.

§ 983.41 Personal liability.

No member of the Board or alternate nor any employee or agent thereof shall be held personally responsible either individually or jointly with others, in any way whatsoever, to any handler or any other person for errors in judgment, mistakes, or other acts either of commission or omission as such member, alternate, employee or agent, except for acts of dishonesty, willful misconduct, gross negligence, or disclosure of confidential information.

§ 983.42 Separability.

If any provision of this subpart is declared invalid, or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the remainder hereof or the applicability hereof to any other person, circumstance, or thing shall not be affected thereby.

§ 983.43 Derogation.

Nothing contained in this subpart is, or shall be construed to be, in derogation or in modification of the rights of the Secretary or of the United States.

§ 983.44 Duration of immunities.

The benefits, privileges, and immunities conferred upon any person by virtue of this subpart shall cease upon its termination, except with respect to acts done under and during the existence of this part.

§ 983.45 Agents.

The Secretary may, by a designation in writing, name any person, including any officer or employee of the United States Government, or name any subdivision of the United States Department of Agriculture to act as his agent or representative in connection with any of the provisions of this part.

§ 983.46 Effective time and termination.

(a) *Effective time*—The provisions of this subpart shall become effective at such time as the Secretary may declare and shall continue in force until terminated or suspended in one of the ways hereinafter specified.

(b) *Termination or suspension*—(1) The Secretary may, at any time terminate or suspend the provisions of this subpart by giving at least one day's notice by means of a press release or in any other manner which he may determine.

(2) The Secretary may terminate or suspend the operation of any or all of the provisions of this subpart whenever he finds that such provisions do not tend to effectuate the declared policy of the act.

(3) the Secretary shall terminate the provisions of this subpart at the end of any marketing year whenever he finds that such termination is favored by a majority of the producers of pecans who during the preceding year have been engaged in the production for market of pecans in the production area: *Provided,* That such majority has during such period produced for market more than 50 percent of the volume of such pecans produced for market within the production area, but such termination shall be effective only if announced on or before July 1 of the then current marketing year.

(4) The Secretary shall conduct a referendum by July 1 of the fifth year following the effective date of this subpart and prior to July 1 every fifth year thereafter to determine whether, in accordance with subparagraph (b)(3) of this section, termination of this subpart is favored by growers: *Provided,* That if a termination referendum is held within any five year period of time as herein provided, the next termination referendum shall be held by July 1 of the fifth year following such referendum.

(5) The provisions of this subpart shall, in any event, terminate whenever the provisions of the act authorizing them cease to be in effect.

(c) *Proceedings after termination*—(1) Upon the termination of the provisions of this subpart, the members of the Board then functioning shall continue as joint trustees for the purpose of liquidating the affairs of the Board of all funds and property then in the possession or under the control of the Board, including claims for any funds unpaid or property not delivered at the time of such termination. Action by said trusteeship shall require the concurrence of a majority of the said trustees.

(2) Said trustees shall continue in such capacity until discharged by the Secretary; shall from time to time account for all receipts and disbursements and deliver all property on hand, together with all books and records of the board and the joint trustees, to such person as the Secretary may direct; and shall, upon the request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title and right to all of the funds, property, and claims vested in the Board or the joint trustees pursuant hereto.

(3) Any person to whom funds, property, or claims have been transferred or delivered by the Board or its members, pursuant to this section, shall be subject to the same obligation imposed upon the members of the said Board and upon said joint trustees.

§ 983.47 Amendment.

No amendment to this subpart shall be adopted unless it meets the requirements of the act and is adopted in accordance with the Rules of Practice and Procedure Governing Proceedings to Formulate Marketing Agreements and Marketing Orders and the Procedure for the Conduct of Referenda in Connection With Marketing Orders for Fruits, Vegetables, and Nuts Pursuant to the Agricultural Marketing Agreement Act of 1937, as Amended (Title 7, Code of Federal Regulations, §§ 900.1–900.18 and 900.400–900.407, respectively).

§ 983.48 Effect of termination or amendment.

Unless otherwise expressly provided by the Secretary, the termination of this subpart or of any regulation issued pursuant to this subpart, or the issuance of any amendment to either thereof, shall not (a) affect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise in connection with any provision of this subpart or any regulation issued under this subpart or (b) release or extinguish any violation of this subpart of any regulation issued under this subpart, or (c) affect or impair any rights or remedies of the Secretary or of any other person with respect to any such violation.

§ 983.49 Counterparts.

This agreement may be executed in multiple counterparts and when one counterpart is signed by the Secretary, all such counterparts shall constitute, when taken together, one and the same instrument as if all signatures were contained in one original.[1]

§ 983.50 Additional parties.

After the effective date thereof, any handler may become a party to this agreement if a counterpart is executed by him and delivered to the Secretary. This agreement shall take effect as to such new contracting party at the time such counterpart is delivered to the Secretary, and the benefits, privileges and immunities conferred by this agreement shall then be effective as to such new contracting party.[1]

[1] These provisions apply only to the proposed marketing agreement and not to the proposed order.

§ 983.51 Order with marketing agreement.

Each signatory hereby requests the Secretary to issue, pursuant to the act, an order providing for regulating the handling of pecans in the same manner as is provided for in this agreement.[1]

Copies of this notice of hearing may be obtained from: J. S. Miller, Room 2525–S, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–5697; William C. Knope, P.O. Box 9, Lakeland, Florida 33802, (813) 683–5983, and David B. Fitz, 320 North Main Street, Room A–103, McAllen, Texas 78501, (512) 682–2833.

Signed at Washington, D.C. on December 16, 1982.

Vern F. Highley,

Administrator, Agricultural Marketing Service.

[FR Doc. 82–34684 Filed 12–21–82; 8:45 am]

BILLING CODE 3410–02–M

federal register

Wednesday
December 22, 1982

Part IV

Office of Management and Budget

Budget Report; Rescissions and Deferrals

OFFICE OF MANAGEMENT AND BUDGET

Budget Report, Rescissions and Deferrals

To the Congress of the United States

In accordance with the impoundment Control Act of 1974, I herewith report a proposal to rescind $2,000,000 in budget authority previously provided by the Congress. In addition, I am reporting two new deferrals totaling $18,464,000 and a revision to a previously reported deferral, increasing the amount deferred by $4,408,812.

The rescission proposal is for the Department of Commerce's National Oceanic and Atmospheric Administration. The deferrals affect programs in the Departments of Agriculture and Justice and the Pennsylvaina Avenue Development Corporation.

The details of the rescission proposal and deferrals are contained in the attached reports.

Ronald Reagan.

The White House,
December 16, 1982.

BILLING CODE 3110-01-M

CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)

Rescission #	Item	Budget Authority
	Department of Commerce	
	National Oceanic and Atmospheric Administration	
R83-1	Construction	2,000
	Subtotal, rescission proposal	2,000

Deferral #	Item	Budget Authority
	Department of Agriculture	
	Animal and Plant Health Inspection Service	
D83-34	Salaries and expenses	2,134
	Department of Justice	
	Bureau of Prisons	
D83-35	Buildings and facilities	16,330
	Other Independent Agencies	
	Pennsylvania Avenue Development Corporation Finance	
D83-19A	Land acquisition and development fund	22,358
	Subtotal, deferrals	40,822
	Total, rescission proposal and deferrals	42,822

SUMMARY OF SPECIAL MESSAGES
FOR FY 1983
(in thousands of dollars)

	Rescissions	Deferrals
Third special message		
New items	2,000	18,464
Change to amount previously submitted	---	4,409
Effects of Third special message	2,000	22,873
Amounts previously submitted that were changed by this message	---	17,949
Total, rescissions and deferrals	2,000	40,822
Amounts previously submitted that were not changed by this message	---	3,323,959
Total amount proposed to date in all special messages	2,000	3,364,781 1/

1/ All amounts listed represent budget authority except for $14,446,000 in one general revenue sharing deferral of outlays only.

Rescission Proposal No: R83-1

PROPOSED RESCISSION OF BUDGET AUTHORITY

Report Pursuant to Section 1012 of P.L. 93-344

Agency: Department of Commerce	New budget authority (P.L. _____): $ _____
Bureau: National Oceanic and Atmospheric Administration	Other budgetary resources: 18,550,910
Appropriation title & symbol: Construction 13X1452 1/	Total budgetary resources: 18,550,910
	Amount proposed for rescission: $ 2,000,000
OMB identification code: 13-1452-5-1-306	Legal authority (in addition to sec. 1012): ☒ Antideficiency Act ☐ Other _____
Grant program: ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☐ Multiple-year _____ (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other _____

Justification: This account provides for the planning and construction of administrative and research facilities (Western Regional Center (WRC)) at Sand Point, Seattle, Washington. Funding to complete the construction of additional facilities was received in 1979. Construction costs for the WRC have been less than anticipated and $2 million will no longer be required. This rescission is proposed in accordance with Section 1512, Subchapter II of Title 31, United States Code.

Estimated Effect: Construction of the WRC can be completed as previously planned for less funds than are currently available. Thus, the funds proposed for rescission will not affect the completion of the WRC.

Outlay Effect: (in millions of dollars)

1983 Outlay Estimate		Outlay Savings			
Without Rescission	With Rescission	1983	1984	1985	1986
$5	$3	-2	--	--	--

1/ This account was the subject of a deferral in FY 1982 (D82-5B).

RH3-1

NOAA Construction Rescission Language

Of the funds provided for "Construction" in Public Law 95-86, $2 million are rescinded.

Deferral No: D83-34

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: U.S. Department of Agriculture	New budget authority (P.L. 97-276): $ 58,636,820
Bureau: Animal and Plant Health Inspection Service	Other budgetary resources: 1,980,000
Appropriation title & symbol: Animal and Plant Health Inspection Service, Salaries and Expenses 1221600	Total budgetary resources: 60,616,820
	Amount to be deferred: Part of year: 2,134,000 Entire year: _____
OMB identification code: 12-1600-0-1-352	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act ☐ Other _____
Grant program: ☐ Yes ☒ No	
Type of account or fund: ☒ Annual ☐ Multiple-year _____ (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other _____

Justification: The Animal and Plant Health Inspection Service conducts programs to control, eradicate, or prevent the introduction of animal and plant diseases and pests. In addition, the agency inspects certain establishments which handle animals to ensure their humane treatment. It is necessary to defer these funds in order to establish a more adequate contingency reserve. In the past, APHIS has had to transfer substantial funds from the Commodity Credit Corp. to meet these obligations. This deferral action is taken under the provisions of the Antideficiency Act (31 U.S.C. 1512).

Estimated Effect: This deferral action will restrain the rate of obligations that might otherwise occur under the Continuing Resolution (P.L. 97-276) for specific program elements while at the same time assuring adequate resources to meet unforeseen and unappropriated commitments associated with APHIS's mission.

Outlay Effect: This deferral action has no outlay effect on the APHIS account since funds will be released and made available for obligation as contingencies arise.

Deferral No: D83-35

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Justice	New budget authority (P.L. 97-276): $ 2,640,000
Bureau: Bureau of Prisons	Other budgetary resources: 6[illegible],14[illegible],00[illegible]
Appropriation title & symbol: Buildings and Facilities 15X1003 1/	Total budgetary resources: [illegible]1,78[illegible],000
	Amount to be deferred: Part of year: ____ Entire year: 1[illegible],330,000
OMB identification code: 15-1003-0-1-753	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act ☐ Other ____
Grant program: ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☐ Multiple-year ____ (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other ____

Justification: This appropriation finances planning, acquisition of sites, and construction of new penal and correctional facilities as well as construction, remodeling and equipping necessary buildings and facilities at existing penal and correctional institutions. Projects are undertaken to reduce over crowding, close old and antiquated penitentaries and provide a safe and humane environment for staff and inmates. Due to the time required for planning, design efforts and selection of contractors, it is not possible to complete these projects during FY 1983. This deferral action is taken under the provisions of the Antideficiency Act (31 U.S.C. 1512).

Estimated Effect: The amount deferred for the entire year could not be economically used if made available in FY 1983.

Outlay Effect: There is no outlay effect of this deferral.

1/ This account was the subject of two deferrals in FY 82 (D82-17B and D82-192).

D83-19A

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014 (c) of Public Law 93-344.

This report updates Deferral No. D83-19, transmitted to the Congress on October 1, 1982.

This revision to a deferral of Pennsylvania Avenue Development Corporation land acquisition and development funds increases the budgetary resources for this fund to reflect new borrowing authority provided in P. L. 97-276 and to reflect increased unobligated balances carried over into FY 1983.

In addition, this report increases the amount previously reported as deferred from $17,948,745 to $22,357,557.

Deferral No: D83-19A

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency Pennsylvania Avenue Development Corp.	New budget authority (P.L. 97-276) $ 806,968*
Bureau	Other budgetary resources 33,102,589*
Appropriation title & symbol: Land Acquisition and Development Fund 42X4084 1/	Total budgetary resources: 33,909,557*
	Amount to be deferred: Part of year ____
	Entire year 22,157,557*
CMB identification code: 42-4084-0-3-451	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act
Grant program: ☐ Yes ☒ No	☐ Other ____
Type of account or fund: ☐ Annual ☐ Multiple-year ____ (expiration date) ☒ No-year	Type of budget authority: ☐ Appropriation ☐ Contract authority ☒ Other ____

Justification: *This account provides borrowing authority to acquire private property to accelerate redevelopment in the Pennsylvania Avenue project area. The 1974 land use plan for the eastern sector of the project area was reviewed and updated in light of current real estate trends and market conditions. The update consisted of a study to determine what design configuration and mixture of land uses are now appropriate for the eastern area.

In order to ensure that new development will be economically self-sufficient and within the resources available to private developers and to limit the level of net out ays, $22.4 million of borrowing authority is deferred.

Estimated Effect: *The Corporation will not proceed with significant new land acquisition activity in the area east of the FBI building. However, borrowing authority will be released on a case-by-case basis when needed to solve development problems.

Outlay Effect: *This deferral will shift $22 million of potential outlays out of FY 1983 into FY 1984.

* Revised from previous report.

1/ This account was the subject of a similar deferral in FY 1982 (D81-4EA) other deferrals in FY 1982 (D82-25A).

[FR Doc. 82-34672 Filed 12-21-82; 8:45 am]

BILLING CODE 3110-01-C

federal register

Wednesday
December 22, 1982

Part V

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

Surface Mining and Reclamation Operations Under the Federal Program for the State of Nebraska; Proposed Rule

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 927

Surface Mining and Reclamation Operations Under the Federal Program for the State of Nebraska

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rules.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) of the Department of the Interior proposes a Federal program for regulation of coal exploration and surface coal mining and reclamation operations on non-Federal and non-Indian lands in Nebraska. This includes surface effects of underground coal mining. This proposed program is necessary in order to regulate surface coal mining activities in the absence of a State program.

DATES: Written comments must be received not later than 5:00 p.m. on March 8, 1983 at the address below. A public hearing will be held on March 3, 1983. Requests to testify at the hearing should be received by February 25, 1983. If commenters request a hearing date later than that set, OSM will consider postponing the hearing until a later time, and the new date, if any will be announced by a notice in the **Federal Register.**

ADDRESSES: Written comments must be mailed or hand-delivered to: Administrative Record Room, R&I–30, Office of Surface Mining, 502 Scaritt Building, 818 Grand Avenue, Kansas City, MO 64106. The public hearing on the proposed program will be held at the Nebraska State Office Bldg., 301 Centenial Mall South, Lincoln Nebraska 68509, 2nd Floor, at 3:30 pm.

FOR FURTHER INFORMATION CONTACT: James M. Kress, Office of Surface Mining, Branch of Regulatory Programs, Room 222, 1951 Constitution Avenue, NW., Washington, D.C. 20240. Telephone: (202) 343–5866.

SUPPLEMENTARY INFORMATION:

Availability of Copies

Copies of the proposed program are available for inspection and may be obtained at the OSM office listed above in "**ADDRESSES.**"

Public Comment Period

The comment period on the proposed program will extend until March 8, 1983. All written comments must be received at the location above under "**ADDRESSES**" by close of business on that date.

All written comments received, a transcript of the public hearing, summaries of meetings held at the request of any person or organization to receive advice or recommendations concerning the proposed program with representatives of OSM, and other documents comprising the administrative record on the Federal program for Nebraska will be made available for public review during regular business hours at the location listed above.

OSM appreciates any and all comments on the proposal, but those that would be most useful should be as specific as possible, focus on the issues of this proposed rulemaking, and provide reasons for any recommendations. OSM will not consider comments that do not pertain to the issues of this proposal. Nor can OSM ensure consideration of written comments received after the comment period ends or those delivered to an address other than that specified.

Public Hearing

A public hearing on the proposed program will be held at the time and location listed above to hear all those who wish to testify. The hearing may be cancelled if, by February 25, 1983, no person has expressed an interest in presenting testimony.

Individual testimony at the hearing will be limited to 15 minutes. The hearing will be transcribed. Filing of a written statement at the time of giving oral testimony would be helpful and would facilitate the job of the court reporter. Submission of written statements in advance of the hearing would greatly assist OSM officials who will attend the hearing. Advance submissions will give these officials an opportunity to consider appropriate questions which could be asked for clarification or to request more specific information from the person testifying. The public hearing will continue until all persons scheduled to speak have been heard. Persons in the audience who have not been scheduled to speak and wish to do so will be heard following the scheduled speakers. The hearing will end after all persons scheduled to testify and persons present in the audience who wish to speak have been heard. Persons not scheduled to testify, but wishing to do so, assume the risk of having the public hearing adjourned unless they are present in the audience at the time all scheduled speakers have been heard.

Background

Under Section 504(a) of the Surface Mining Control and Reclamation Act of 1977 (the Act), Pub. L. 95–87, 30 U.S.C. 1201 *et seq.*, the Secretary of the Interior (the Secretary) is required to promulgate a Federal program within 34 months after passage of the Act if a State fails to submit a program to assume responsibility for regulating surface mining activities, fails to resubmit a program within 60 days of disapproval, or fails at the time to implement enforce or maintain an approved State program.

An additional standard for the promulgation of a Federal program is found in 30 CFR Part 736, which requires the implementation of a Federal program for a State where the Director of OSM (the Director) "reasonably expects coal exploration or surface coal mining and reclamation operations to exist on non-Federal and non-Indian lands * * * at any time before June 1985 * * *." 30 CFR 736.11(a)(1).

Nebraska has identifiable coal reserves, but has failed to submit a program to the Secretary to obtain primary regulatory responsibility. The Secretary believes that it is reasonable to expect coal exploration or surface coal mining and reclamation operations to exist on non-Federal and non-Indian lands in Nebraska before June, 1985. Therefore, pursuant to 30 CFR 736.11, the Director must promulgate and implement a Federal program.

Once a decision is made that a Federal program is necessary for a State, the Secretary must make several determinations before promulgating a program. Section 504(4) of the Act requires that in implementing a Federal program the Secretary take into consideration the nature of the State's terrain, climate, biological, chemical, and other relevant physical conditions. This requirement is also found in the regulations, 30 CFR 736.22(a)(1). The Act (Section 505(b)) and the regulations (§ 736.23(b)) also provide that if a State has more stringent land use and environmental laws or regulations, they shall not be construed to be inconsistent with the Act or the Secretary's regulations. If the State's laws or regulations establish more stringent standards regulating surface mining control and reclamation procedures than those found in the Act or the Secretary's regulations, or if the State regulates or protects an aspect of the environment affected by surface mining operations which neither the Act nor the Secretary's regulations protect, then those State standards are specifically preserved. Thus, the Secretary believes

that the requirements of Section 505(b) can best be met by identifying State laws and regulations which impose equivalent or more stringent environmental controls, and by listing them in § 927.700(e).

Also, in promulgating a program for a State, Section 504(g) specifies that any State statutes or regulations which regulate surface mining and reclamation operations subject to the Act will be superseded and preempted by the Federal program to the extent that they interfere with the achievement of the purposes and requirements of the Act and the Federal program. This provision is reinforced by Section 505(a) of the Act, which states that only those State laws and regulations which are inconsistent with the Act and its implementing regulations shall be superseded by the Federal program. Thus, State statutes and rules regulating the same activities as those covered by the Federal law and regulations and which interfere with achievement of the purposes of the Act must be identified and preempted by OSM.

Finally, a Federal program, according to Section 504(h) of the Act, must include a process for coordinating the review and issuance of surface mining permits with other Federal or State permits applicable to the proposed operation. The Federal statutes with which the surface mining permitting process must be coordinated are set out in 30 CFR 736.22(c). State statues for which a permit is required must be identified in the process of promulgating a Federal program, and the Federal program must provide for coordination with the review and issuance procedures required by those statutes.

Federal programs are based on the Secretary's permanent program regulations: 30 CFR Subchapters A, F, G, J, K, L, and M. The permanent program regulations establish procedures and performance standards under the Act and form the benchmark for State programs. In order for a State to have a program approved by the Secretary, Section 503(a)(7) requires that the State's rules and regulations be consistent with the Secretary's regulations.

The parts of the permanent program regulations that must be included in a Federal program are listed at 30 CFR 736.22(b). They include general requirements and definitions (Parts 700 and 701), the exemption for coal extraction incident to government-financed highway or other construction (Part 707), the designation of lands unsuitable for surface mining (Parts 760, 761, 762 and 765), permits and permit applications (Subchapter G), reclamation bonding (Subchapter J), performance standards (Subchapter K), inspection and enforcement (Parts 842, 843, and 845), and blaster training and certification (Subchapter M). In addition, the provisions in the permanent regulations on protection of employees (Subchapter P) and restrictions on financial interests (Part 706) are applicable to Federal employees who perform functions or duties under the Act.

The rules for the permanent program are found in 30 CFR Parts 700–707 and 730–865. Part 705 was published October 20, 1977 (42 FR 56060). Parts 795 and 865 (originally Part 830) were published December 13, 1977 (42 FR 62639). The other permanent program regulations were published at 44 FR 15323–15463 (March 13, 1979). Subchapter M was published on December 12, 1980 (45 FR 82098). Corrections were published at 44 FR 15485 (March 14, 1979); 44 FR 53507–53509 (September 14, 1979); 44 FR 66195 (November 19, 1979); 45 FR 26001 (April 16, 1980); 45 FR 37818 (June 5, 1980); and 45 FR 47424 (July 15, 1980). Amendments to the rules have been published at 44 FR 60969 (October 22, 1979) as corrected at 44 FR 75143 (December 19, 1979); at 44 FR 77440–77447 (December 31, 1979); 45 FR 2628–2629 (January 11, 1980); 45 FR 25998–26001 (April 16, 1980); 45 FR 33926–33927 (May 20, 1980); 45 FR 39446–39445 (June 10, 1980); 45 FR 52306–52324 (August 6, 1980); 45 FR 52375 (August 7, 1980); 45 FR 58780–58786 (September 4, 1980); and 45 FR 76932 (November 20, 1980); 46 FR 37232 (July 17, 1981); 46 FR 41702 (August 17, 1981); 46 FR 47720 (September 29, 1981); 46 FR 53376 (October 28, 1981) 46 FR 59934 (December 7, 1981); 47 FR 32942 (July 30, 1982); 47 FR 33431 (August 2, 1982); 47 FR 35620 (August 16, 1982); and 47 FR 38486 (August 31, 1982).

Representatives of industry, two States and several environmental groups challenged the permanent regulatory program in the U.S. District Court for the District of Columbia. These suits were consolidated and heard in a single lawsuit entitled *In re: Permanent Surface mining Regulation Litigation* (Civil Action No. 79–1144). In response to the arguments raised in the challenges, the Secretary voluntarily suspended several permanent program regulations. These suspensions were announced in the **Federal Register** on November 27, 1979 (44 FR 67942); December 31, 1979 (44 FR 77447–77454); January 30, 1980 (45 FR 6913); and August 4, 1980 (45 FR 51547–51550). In two opinions the Court remanded certain other regulations which had been challenged in the lawsuit. These opinions were issued on February 26, 1980, and May 16, 1980. Many of the issues decided by the District Court have been appealed to the Court of Appeals for the District of Columbia Circuit. *In re: Permanent Surface Mining Regulation Litigation*, Nos. 80–1810, 80–1811, 80–1812, 80–1813 and 80–1823. The appeals are presently pending before the appellate Court.

Nebraska Federal Program

As mentioned above, when promulgating a Federal program for a State, the Secretary is required by Section 504(a) of the Act to take into consideration the nature of the terrain, climate, biological, chemical, and other relevant physical conditions of that State. OSM has reviewed Nebraska laws and regulations to determine whether they suggest that special provisions may be necessary or appropriate based on special terrain or other physical conditions in the State. OSM solicits comments on special provisions that should be promulgated and the basis for those provisions.

Pursuant to Section 504(a), the Secretary becomes the regulatory authority when a Federal program is implemented for a State. OSM's permanent program regulations contain references to "the regulatory authority" and "the State regulatory authority," both of which mean the Secretary when a Federal program for a State is involved. Section 701(22) of the Act. The Office of Surface Mining is delegated all of the Secretary's authority for implementing, maintaining and enforcing a Federal program. This proposed program for Nebraska would not change these responsibilities.

Explanation of Cross-Referencing

In the general notice of intent to promulgate Federal programs of may 16, 1980 (45 FR 32228), OSM stated that each Federal program would be specific to the particular State and would implement the permanent program procedures and environmental protection provisions of the Act (45FR at 32229). however, except for changes to incorporate more stringent State environmental protection standards and to list other State laws requiring permits for which coordination is required, and any specific changes identified which are needed to reflect conditions in a State, OSM believes that few changes are needed in the permanent program regulations.

In January, 1981, the Secretary directed that the Department review all existing regulations in order to eliminate those which are burdensome, excessive, and unecessary. Review of the

permanent program regulations was initiated and may result in a large scale revision of them. See semi-annual calendar of Federal Regulations notice of rule review and revision, 47 FR 1709 (January 13, 1982). See also, e.g., revisions of OSM's bonding regulations, 30 CFR Subchapter J, 46 FR 45082 (September 9, 1981) and OSM's inspection and enforcement regulations, 30 CFR Parts 843, 842, and 845, 47 FR 35620 (August 16, 1982).

In part to take advantage of the results which revision of the permanent program regulations will achieve but also to avoid unnecessary duplication in a Federal program of the permanent program regulations, OSM proposes to develop and promulgate this Federal program in the following manner. Rather than repeating the full text of the permanent regulations, there would be a cross-reference to the permanent program regulations. For example, criteria for the designation of lands unsuitable for surface coal mining would be provided by the statement that "Part 762 of this chapter . . . shall apply to surface coal mine operations." (See proposed Section 927.762). The result would be the adoption of the provisions of the permanent program regulations for the Nebraska Federal Program.

The promulgation of this cross-referencing program would not result in any modification of the substance of OSM's permanent program rules. Where specific provisions are needed for an individual State's Federal program which are different from the permanent program regulations, a separate paragraph is proposed to be added to the appropriate section of that State's Federal program.

An effect of the proposed cross-referencing to the permanent program regulations is that as the permanent program regulations are revised, this Federal program would be similarly revised. All of the permanent program regulations have undergone review and many are being revised. No separate rulemaking would be undertaken or is necessary for revision of this program if the proposed cross-referencing program becomes effective, unless OSM determined that special conditions were necessary for a particular State. A notice appeared in the Federal Register on July 13, 1982, 47 FR 30267, advising the public that each change in the permanent program rules would result in a parallel change in all Federal programs, absent special conditions. The notice invited comments on necessary modifications to accommodate unique or unusual aspects of surface mining in any State so that the final permanent program rule could be tailored for each State's Federal program as necessary.

Several provisions of the permanent program regulations are already applicable to all States's Federal programs and need not be cross-referenced here because they were fully promulgated for application to all regulatory programs. Those provisions are 30 CFR Chapter VII, Subchapter P—Protection of Employees; Part 706—Restrictions on Financial Interests of Federal Employees; and Part 769—Petition Process for Designation of Federal Lands Unsuitable for Surface Coal Mining. However, 30 CFR Part 764—State Processes for Designating Lands Unsuitable for Surface Coal Mining—would be included in the Nebraska program by a cross-reference under Section 927.764, to provide a petition process on non-Federal and non-Indian lands in that State.

With regard to the bonding regulations (Subchapter J), only Part 800 is proposed to be cross-referenced because OSM has proposed to revise Subchapter J to include just one part, Part 800. 46 FR 45082 (September 9, 1981).

Content and Organization of the Program

The content and organization of the proposed Federal program for the State of Nebraska would generally follow the permanent program regulations. But, as discussed above, instead of the full text appearing, each section of this proposed program would only include reference to the pertinent permanent program regulation. Sections 927.700 (e) & (f), respectively, list State statutes that are more stringent than, and those that are inconsistent with, the Act. Where specific provisions are needed for any proposed Federal program for a State which are different from the permanent program regulations, a separate paragraph is proposed to be added to the appropriate section.

Detailed Discussion

The State of Nebraska has no statutes or regulations specifically intended for regulation of surface coal mining or exploration operations. There are many Nebraska statutes and regulations, however, that apply, or could be interpreted to apply, to surface coal mining or exploration operations. OSM and the Office of the Solicitor have made an extensive study of Nebraska law to determine what laws affect coal-related enterprises and whether they are consistent with or interfere with the Surface Mining Control and Reclamation Act of 1977 (the Act). The Office of the Solicitor also sought to identify those Nebraska agencies whose advice should be sought prior to issuance of surface coal mining or exploration permits, and agencies which issue other kinds of permits that coal operators or exploration operators must obtain. The Secretary solicits comments on how OSM should coordinate its permitting process with the issuance of required State permits.

Nebraska has no statute which generally regulates mining activities. It does impose a business franchise tax on mining, R.S.N. 77–801 *et seq.* (1976 Reissue), and does provide for recording mineral interest conveyances, R.S.N. 57–201 *et seq.* (1978 Reissue). None of the just cited laws interfere with a Federal regulatory program, however.

The principal Nebraska environmental protection statute is Revised Statutes of Nebraska (R.S.N.) Sections 81–1501 through 81–1508 (1981 Supp.), "The Environmental Protection Act." This law empowers the Department of Environmental Control (DEC) as the State agency for enforcing the Federal Water Pollution Control Act (FWPCA) (30 U.S.C. 1251 *et seq.*), the Clean Air Act (42 U.S.C. 7401 *et seq.*), and the Resource Conservation and Recovery Act (42 U.S.C. 6901 *et seq.*), "and any other Federal legislation pertaining to loans or grants for environmental protection" (R.S.N. (1981 Supp.) Section 81–1504 (4)). The Environmental Protection Act, however, may be subject to interpretations that could bring it into conflict with the Act.

R.S.N. Section 81–1504(11) (1981 Supp.) authorizes the DEC to "issue * * * permits * * * to prevent, control, or abate pollution, or for the discharge of wastes into the air, land, or waters of the State * * *." Additionally, Section 81–1504(20) authorizes the Department of Environmental Control to "require all persons engaged or desiring to engage in operations which result or may result in air, water or land pollution to secure a permit prior to installation or operation * * *." Although these provisions purport to regulate sewage and factory wastes under the FWPCA, Clean Air Act, and Resource Conservation and Recovery Act, the broad statements of authority and broad definitions of such terms as "waste" (Section 81–1502(14)), "land pollution" (Section 81–1502(19)), and "hazardous waste" (Section 81–1502(25)) could be interpreted to allow the Department of Environmental Control to require a permit for coal exploration or mining operations beyond those specifically contemplated under these acts.

Similarly, R.S.N. Section 81–1505(13), which authorizes the Environmental Control Council to adopt regulations for hazardous waste management, also authorizes licensing and permitting of facilities and operations. The definition of "hazardous waste" (Section 81–1502(14)) includes solid waste with chemical characteristics that could "pose * * * a potential hazard to human or animal health or the environment * * *." This could encompass acidic or toxic materials in coal mine overburden (spoils) that are regulated by the Act. There are additional permitting provisions in Section 81–1505(14) and reporting provisions in Section 81–1505(16) that are equally applicable to coal mines.

R.S.N. Section 81–1506(1) broadly prohibits pollution of air, water, or land, and Section 81–1506(2) prohibits several activities unless the person responsible has a permit from the Department of Environmental Control. Among the listed activities is "the * * * operation of any industrial * * * or other establishment * * * which would cause an increase in the discharge * * * of wastes into the air, waters or land of the State or would otherwise alter the physical, chemical or biological properties of any air, waters or land in any manner not already lawfully authorized * * *." The operation of a coal mine would necessarily alter some land and water, and possibly air.

OSM tentatively concludes that the Nebraska Environmental Protection Act need not be preempted because it does not interfere with the Act or the Secretary's regulations. However, OSM may conclude in the future that partial preemption is required, but such preemption would not interfere with the requirement that coal mine operators obtain from the Department of Environmental Control National Pollution Discharge Elimination System (NPDES) permits for point sources under FWPCA and the Environmental Protection Act, because compliance with the NPDES permitting program is required by Section 702 of the Act (30 U.S.C. 1292), which states that the Act does not supersede the FWPCA or other Federal environmental laws. Since the U.S. Environmental Protection Agency has delegated NPDES authority to Nebraska, the Department of Environmental Control would have authority to require coal operators to comply with its NPDES law and procedure.

Nor would any such partial preemption interfere with the Department of Environmental Control applying to coal mines any provisions of its air pollution control program that are more stringent than the fugitive dust control measures of 30 CFR 816.95 and 817.95. *The Nebraska Air Pollution Control Rules and Regulations* (as amended through Aug 20, 1980) do not on their face appear applicable to coal mine activities, with the exception of Rule 4–1, which applies new source performance standards to "coal preparation plants." Since the Act does not specifically regulate air pollution from such plants, the Department of Environmental Control would not be preempted from exercising jurisdiction under its rules.

A partial preemption would also not preclude the Department of Environmental Control from issuing a permit to any coal operator who proposed to integrate into his operation a disposal area for any hazardous wastes or solid wastes not generated in the mining process. For instance, an operator might propose to dispose of municipal garbage or industrial solvents in mine pits which are then backfilled with overburden and completely reclaimed. Such a proposal would have to be scrutinized by the Department of Environmental Control under the State's assumption of enforcement authority under the Resource Conservation and Recovery Act as well as by OSM under the Act. An operator could not proceed in such an instance without permits from both agencies.

Although OSM considered proposing here that the Nebraska Environmental Protection Act be preempted and superseded as it may be applied to surface coal mining operations regulated by the Act, it has chosen not to do so at this time, except as indicated above. However, OSM solicits comments on the need for or appropriate extent of any such preemption.

Chapter 37 of the Nebraska Statutes, Game and Parks, includes criminal provisions for offenses against the game, fish, and park laws. Among these are R.S.N. Sections 37–516 and 520 (1978) which describe misdemeanor offenses for pollution of waters of the State. Section 516 makes it unlawful to dump or drain "refuse" from factories, etc., "or other place whatsoever" into Nevraska waters, or to leave "refuse" so it will wash in through natural processes. Refuse is defined to mean oils, tars, etc., and "all other substances which are injurious to aquatic life." This broad definition could include acid, sediment, or metallic ion runoff from coal mines that are subject to regulation under Act and the NPDES permits system, and penalty provisions under those laws. Section 520 makes it unlawful to "run or drain any matter harmful to fish into any waters of this State where same have been stocked by the Game and Parks Commission." "Any matter" could also include coal mine outfalls regulated by the Act and the FWPCA. Although these provisions could interfere with the control of water pollution caused by surface mining and reclamation operations regulated under the Act, OSM does not propose that their application to coal mines regulated under Sections 515 and 516 and 30 CFR Parts 816 and 817 and coal exploration operations regulated under Section 512 of the Act and 30 CFR Part 776 be preempted. However, OSM solicits comment on this issue.

A. Nebraska Laws and Regulations More Stringent Than the Act

The following Nebraska laws and regulations are proposed to be found more stringent than the Act and thus not inconsistent with it.

1. Nebraska has an extensive body of law dealing with groundwater management and quality control. The Nebraska Groundwater Management Act, R.S.N. Section 46–656 *et seq.* (1981 Supp.), authorizes the Director of the Department of Water Resources to designate "control areas" for protection of groundwater quantity and quality. Within such areas, well drillers must obtain permits from the Director and obey his regulations. Drillers of all wells must register the wells pursuant to R.S.N. Section 46–602 (1980 Supp.) within 20 days of completion. There are spacing controls on all wells under R.S.N. Section 46–651 (1981 Supp.). The Department of Environmental Control has promulgated rules governing underground injection of fluids and groundwater protection standards under R.S.N. Section 81–1501 *et seq.* (1981 Supp.). The injection rules are known as Rule 40, UICR, and the groundwater protection standards are cited as Title 118, Chapter 1.

Each of these bodies of law would apply to surface coal mining operations because groundwater monitoring wells are required by the Act and regulations in 30 CFR Parts 816 and 817. The injection regulations would not normally be applicable and would come into play only if the operator chose to dispose of liquid coal mine wastes by underground injection. OSM tentatively concludes that these laws are more stringent than the requirements of the Act.

2. R.S.N. Section 57–104 (1978 reissue) requires coal prospectors to file drill boring specimens from prospecting holes with the State if the State pays them the bonus allowed by Section 57–101 for

discovery of a recoverable coal seam. This requirement is more stringent than the requirements of the Act and 30 CFR Part 776 for coal exploration operations.

3. R.S.N. Section 2–955(b) (1977 Reissue) authorizes noxious weed control authorities to order landowners to control any plant deemed a noxious weed. If the landowner does not comply, the authority will do the work and collect from the landowner the cost of the work. Until paid, the cost is a lien on the land. This statute is an important part of Nebraska's agriculture laws and is consistent with 30 CFR 816.111 and 817.111. It would apply to coal mine operators before and during the reclamation responsibility period. Therefore, Section 2–955(b) is more stringent than the requirements in 30 CFR Chapter VII.

4. The Nebraska Water Quality Standards for Surface Wastes (May 10, 1982) promulgated pursuant to R.S.N. Section 81–1501 *et seq.* (1981 Supp.), complement the NPDES program under the FWPCA and impose obligations on coal operators more stringent than the effluent limitations of 30 CFR Chapter VII.

5. Rule 4 of the Department of Environmental Control, Air Pollution Control Regulations, requires new source performance permits for coal preparation plants. This is more stringent than the regulation of preparation plants under the Act.

6. The Nongame and Endangered Species Conservation Act, R.S.N. Section 37–430 *et seq.* (1978 Reissue), may be more stringent than the provisions of the Federal Endangered Species Act, as amended, 16 U.S.C. 1531 *et seq.* and OSM's obligations thereunder, depending on the regulations and designations of the Nebraska Game and Park Commission. However, OSM has not completed its review of the Commission's regulations and, therefore, especially solicits comment from the Commission on this point. Section 37–434(5)–(8) makes it unlawful, among other things, to "take" any species listed by the Commission as threatened or endangered. The term "take," as defined in Section 37–431(10), includes to "harm" or to "kill." Since a coal mine operation could harm or kill any listed species that live on the affected land, the Nongame and Endangered Species Act could impose requirements beyond those of the Federal Endangered Species Act that are incorporated into the Secretary's regulations under the Act and which, therefore, are more stringent. OSM is proposing to identify in Section 927.700(e)(10) the State's Nongame and Endangered Species Act as one which is more stringent. Should the review result in a determination that the State's statute does not provide more stringent protection, the statute will not be listed in the final Federal program rule notice.

B. Nebraska Laws That Interfere With Achievement of the Purposes of the Act

OSM proposes to preempt or supersede in part, the following Nebraska laws to the extent that they interfere with the achievement of the purposes and requirements of the Act.

1. R.S.N. Sections 28–1213 to 28–1239 (1979 Reissue) regulate the use of explosives. Section 1229 authorizes the State Fire Marshal to issue permits for storage, transportation or use of explosives. Section 1229(5) prescribes general standards for issuance of use permits, including that the applicant pass an examination prescribed by the State Fire Marshal. OSM is not familiar with the details of any examination the State Fire Marshal may have for qualifying persons for blasting at a surface coal mining operation. OSM regulates training and certification of coal mine blasting personnel under 30 CFR Part 850 and is developing a national minimum standards tests. It is proposed that R.S.N. Section 28–1229 be preempted insofar as they apply to surface coal mining operations unless it is demonstrated that the State Fire Marshal's examination and permit do not interfere with achievement of the purposes of a Federal program. However, OSM solicits comments on this issue from the State Fire Marshal and the public.

2. The R.S.N. Section 23–174.10 (1980 Supp.) allows Nebraska counties which have adopted zoning regulations under Chapter 23 to "make regulations as may be necessary or expedient to promote the public health, safety, and welfare, including * * * rules for the prevention, abatement, and removal of nuisances, including the pollution of air and water * * *. Such regulations shall not be inconsistent with the general laws of the State * * *." To the extent a Nebraska county has authority under this statute to enact regulations more stringent than OSM's regulations for coal mines, there would be no conflict with the Act. However, to the extent any county sought to regulate coal mining or exploration in a manner that interfered with implementation of a Federal program through OSM's regulations, the county's regulation would have to be preempted. OSM, therefore, proposes to preempt Section 23–174.10 to the extent it may be used to regulate surface coal mining and reclamation operations by a county government in any way which interferes with achievement of the purposes and requirements of the Act.

3. The R.S.N. Section 46–277 (1980 Supp.) authorizes the Department of Water Resources to approve the construction of dams inpounding ten acre-feet or more of water and to conduct inspections of dams impounding fifteen or more acre-feet. If safety problems are found, the Director of the Department of Water Resources may order repairs, which must be completed within 90 days. This statute may interfere with the Secretary's standards for sediment ponds and permanent impoundments at coal mines contained in 30 CFR 816.49, 816.91–.93, 817.49, and 817.91–.93; although in some instances, the Director's standards could be more stringent than the Secretary's. It is not clear from the statute what standards the Director applies to dam safety. OSM tentatively concludes that R.S.N. Section 46–277 (1980 Supp.) should be preempted as it is applied to coal mine impoundments regulated under the Act to the extent its standards and enforcement mechanisms interfere with 30 CFR 816.49, 816.91–.93, 817.49, and 817.91–.93. OSM solicits comments from the Nebraska Department of Water Resources and from the public on this issue.

C. State Permitting Requirements Applicable to Coal Mines With Which OSM Must Coordinate

OSM has tentatively identified several Nebraska laws that may be applicable to coal mining and exploration operations and which require a license or permit. In the process of issuing permits under the Act, OSM must coordinate its review with these other State permitting processes to comply with Section 504(h) of the Act 30 U.S.C. 1254(h). OSM proposes to consider in its review of permit applications under the Federal program the applican'ts status as to the following laws:

1. The requirements of R.S.N. Section 28–1229 (1979 Reissue), which requires permits from the State Fire Marshal for the purchase, use and storage of explosives, and the rules promulgated thereunder.

2. The requirements for an NPDES permit under the Environmental Protection Act, R.S.N. Section 81–1501 *et seq.* (1981 Supp.), and the rules promulgated thereunder.

3. The requirements for an air pollution permit for coal preparation plants under Rule 4, APC, Nebraska Department of Environmental Control.

4. The requirements for groundwater well permits under R.S.N. Section 46–659

(1981 Supp.) where the mine is in a designated control area.

5. The requirement for a hazardous waste permit under R.S.N. Section 81–1505(13) (1981 Supp.) for any coal operation that proposes to integrate into the mining and reclamation plan the disposal of hazardous wastes generated beyond the mine site.

D. Consultation by OSM With Additional State Agencies

In addition to coordinating its permitting process with State agencies which require permits applicable to coal mines, OSM proposes to consult with several other State agencies whose views would be necessary to a successful Federal program in Nebraska.

(1) OSM will consult with the Nebraska Policy Research Office and the appropriate local planning agencies regarding the compatibility of proposed coal mining or exploration operations, and post-mining land-use proposals, with existing land-use plans and zoning regulations.

(2) OSM will consult with the Nebraska Game and Parks Commission regarding the effect of proposed coal mining or exploration operations on State parks, game and fish populations and habitat and, in particular, endangered or threatened species.

(3) OSM will consult with the Nebraska Natural Resources Commission and local Natural Resources Districts regarding the effect of proposed coal mining or exploration operations on local district plans for soil and water conservation and on flood control projects. This consultation is important to the determination of probable hydrologic consequences of the proposed mine and to the determination of probable cumulative impacts of mining in the vicinity required by Section 507(b)(11) of the Act, 30 U.S.C. 1257(b)(11).

(4) OSM will also consult with the Nebraska Department of Water Resources and local groundwater conservation districts regarding the hydrologic consequences of proposed operations, particularly the effect of the operation on groundwater and the need for, and proper location of, monitoring wells.

(5) OSM will consult with the Nebraska Department of Agriculture regarding identification of prime farmlands on proposed mining areas, and will seek the Department's advice regarding the proposed plans for removal, replacement, and revegetation of soils. Advice will also be sought regarding appropriate seed mixtures, planting times, cultivation, and control of noxious weeds.

OSM solicits comments from the public and Nebraska agencies as to whether there are other matters requiring consultation and whether there are other State agencies that should be regularly consulted by OSM during the permitting process under the proposed Federal program.

Copies of the Nebraska statutes and regulations referred to herein are in the administrative record and are available for review at the place listed above under "**ADDRESSES**."

OMB Review

The recordkeeping and reporting requirements of the proposed rule are the same as those of the permanent program regulations which have been approved by the Office of Management and Budget under 44 U.S.C. 3507. Although this rule would contain information and recordkeeping requirements, OSM anticipates less than ten respondents. Under the Paperwork Reduction Act, clearance of information collection forms is required only when ten or more respondents are expected. If in the future the number of respondents appears to be increasing, the proper forms, if they differ from those already approved, will be submitted to the Office of Management and Budget with accompanying notices in the **Federal Register**, in accordance with the requirements of 44 U.S.C. Chapter 35.

Other Information

OSM has examined these proposed rules according to the criteria of Executive Order 12291 (46 FR 13193, February 19, 1981) and determined that they do not constitute a major rule. There would be no major economic impact through adoption of this rule because it would affect only a small number of mining operations.

OSM has examined these proposed rules pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, and determined that they will not have a significant impact on a substantial number of small entities.

Section 702(d) of the Act provides that promulgation of a Federal program shall not constitute a major Federal action under the National Environmental Policy Act, 42 U.S.C. 4332. Thus, no Environmental Assessment is required for this rulemaking.

List of Subjects in 30 CFR Part 927

Coal mining, Intergovernmental relations, Surface mining, Underground mining, reporting requirements.

Drafting Information

These regulations were drafted by Gerald A. Thornton, Office of the Solicitor and James M. Kress, Branch of Regulatory Programs, Office of Surface Mining.

Daniel N. Miller, Jr.,

Assistant Secretary, Energy and Minerals.

OSM proposes to add Part 927 to 30 CFR Chapter VII to read as follows:

PART 927—NEBRASKA

Sec.

927.700 Nebraska program.
927.701 General.
927.707 Exemption for coal extraction incident to government-financed highway or other construction.
927.761 Areas designated unsuitable for surface coal mining by Act of Congress.
927.762 Criteria for designating areas as unsuitable for surface coal mining operations.
927.764 Process for designating areas unsuitable for surface coal mining operations.
927.770 General requirements for permit and exploration procedures.
927.771 General requirements for permits and permit applications.
927.776 General requirements for coal exploration.
927.778 Surface mining permit applications—minimum requirements for legal, financial, compliance, and related information.
927.779 Surface mining permit applications—minimum requirements for information on environmental resources.
927.780 Surface mining permit applications—minimum requirements for reclamation and operation plan.
927.782 Underground mining permit applications—minimum requirements for legal, financial, compliance, and related information.
927.783 Underground mining permit applications—minimum requirements for information on environmental resources.
927.784 Underground mining permit applications—minimum requirements for reclamation and operation plan.
927.785 Requirements for permits for special categories of mining.
927.786 Reviews, public participation, and approval or disapproval of permit applications and permit terms and conditions.
927.787 Administrative and judicial review of decisions on permit applications.
927.788 Permit reviews, revisions, and renewals, and transfer, sale, and assignment of rights granted under permits.
927.795 Small operator assistance.
927.800 General requirements for bonding of surface coal mining and reclamation operations.
927.815 Performance standards—coal exploration.
927.816 Performance standards—surface mining activities.
927.817 Performance standards—underground mining activities.
927.818 Special performance standards—concurrent surface and underground mining.

Sec.

927.819 Special performance standards—auger mining.
927.822 Special performance standards—operations in alluvial valley floors.
927.823 Special performance standards—operations on prime farmland
927.824 Special performance standards—mountaintop removal.
927.826 Special performance standards—operations on steep slopes.
927.827 Special performance standards—coal processing plants and support facilities not located at or near the minesite or not within the permit area for a mine.
927.828 Special performance standards—In Situ processing.
927.842 Federal inspections.
927.843 Federal enforcement.
927.845 Civil penalties.

Authority: Pub. L. 95–87, The Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1201 *et seq.*, 91 Stat. 445.

§ 927.700 Nebraska program.

(a) This part contains all rules that are applicable to surface coal mining operations in Nebraska which have been adopted under the Surface Mining Control and Reclamation Act of 1977.

(b) The rules in this part cross-reference pertinent parts of the permanent program regulations in this chapter. The full text of a rule is in the permanent program rule cited under the relevant section of the Nebraska Federal program.

(c) The rules in this part apply to all surface coal mining operations in Nebraska conducted on non-Federal and non-Indian lands. The rules in Subchapter D of this chapter apply to operations on Federal lands in Nebraska.

(d) The information collection requirements contained in this part do not require approval by the Office of Management and Budget under 44 U.S.C. 3507 because there are fewer than ten respondents annually.

(e) The following provisions of Nebraska laws provide, where applicable, for more stringent environmental control and regulation of surface coal mining operations than do the provisions of the Act and the regulations in this chapter. Therefore, pursuant to Section 505(b) of the Act, they shall not be construed to be inconsistent with the Act:

(1) The Nebraska Groundwater Management Act, Revised Statutes of Nebraska (R.S.N.) Section 46–6565 *et seq.* (1981 Supp.), regarding water wells and boreholes drilled at coal mining and exploration operations.

(2) R.S.N. Section 46–602 (1980 Supp.), requiring registration of water wells.

(3) R.S.N. Section 46–651 (1981 Supp.), providing spacing controls on wells.

(4) Rule 40, UICR, Nebraska Department of Environmental Control, governing underground injection of fluids.

(5) The Rules in Title 118, Ch. 1, Nebraska Department of Environmental Control, concerning groundwater protection standards.

(6) R.S.N. Section 57–104 (1978 Reissue), which requires coal prospectors to file drill boring specimens from prospecting holes with the State if the State pays the bonus allowed by Section 57–101 for discovery of a marketable coal seam.

(7) R.S.N. Section 2–955(b) (1977 Reissue), governing control of noxious weeds.

(8) The Nebraska Water Quality Standards for Surface Waters (dated May 10, 1982), Rules 1–9, W.Q.S., Nebraska Department of Environmental Control.

(9) Rule 4, Air Pollution Control Regulations, Nebraska Department of Environmental Control, regarding coal preparation plants.

(10) The Nongame and Endangered Species Conservation Act, R.S.N. Section 37–430 *et seq.* (1978 Reissue), to the extent it protects species beyond the protection available under the Federal Endangered Species Act, 16 U.S.C. Section 1531 *et seq.*

(f) The following are Nebraska laws that interfere with the achievement of the purposes and requirements of the Act and are, in accordance with Section 504(g) of the Act, preempted and superseded insofar as they affect coal exploration and surface coal mining and reclamation operations. This preemption does not apply to any surface coal mining operation that affects two acres or less or from which 250 tons or less of coal is removed or intended to be removed for commercial purposes. The preemption also does not apply where removal of coal is incidental to the extraction of the minerals and does not exceed 16⅔ percent of the tonnage of minerals removed for purposes of commercial use or sale, or where the extraction of coal is an incidental part to Federal, State, or local government financed highway or other construction.

(1) R.S.N. Sections 28–1213 to 28–1239 (1979 Reissue) regulates the use of explosives.

(2) R.S.N. 23–174.10 (1980 Supp.) and county zoning regulations promulgated thereunder, to the extent they purport to regulate coal mining and exploration operations.

(3) R.S.N. 46–277 (1980 Supp.) to the extent that its dam safety and enforcement standards interfere with the regulatory scheme for coal mine impoundments under 30 CFR Chapter VII.

§ 927.701 General.

Sections 700.5, 700.11, 700.12, 700.13, 700.14, 700.15 and Part 701 of this chapter shall apply to surface coal mining and reclamation operations in Nebraska.

§ 927.707 Exemption for coal extraction incident to government-financed highway or other construction.

Part 707 of this chapter, Exemption for Coal Extraction Incident to Government-Financed Highway or Other Construction, shall apply to surface coal mining and reclamation operations.

§ 927.761 Areas designated unsuitable for surface coal mining by Act of Congress.

Part 761 of this chapter, Areas Designated by Act of Congress, shall apply to surface coal mining and reclamation operations.

§ 927.762 Criteria for designating areas as unsuitable for surface coal mining operations.

Part 762 of this chapter, Criteria for Designating Areas Unsuitable for Surface Coal Mining Operations, shall apply to surface coal mine operations.

§ 927.764 Process for designating areas unsuitable for surface coal mining operations.

Part 764 of this chapter, State Processes for Designating Areas Unsuitable for Surface Coal Mining Operations, pertaining to petitioning, initial processing, hearing requirements, decisions, data base and inventory systems, public information, and regulatory responsibilities shall apply to surface coal mine operations one year after the effective date of this program.

§ 927.770 General requirements for permits and exploration procedures.

(a) Part 770 of this chapter, General Requirements for Permit Systems Under State Programs, shall apply to coal exploration and surface coal mining and reclamation operations.

(b) Where applicable, no person shall conduct coal exploration operations which result in the removal of more than 250 tons in one location, or surface coal mining operations without permits issued pursuant to:

(1) R.S.N. 28–1229 (1979 Reissue), pertaining to permits from the State Fire Marshal for the purchase, use and storage of explosives, to the extent not preempted under 30 CFR 927.700(f).

(2) The Nebraska National Pollutant Discharge Elimination System under R.S.N. 81–1501 *et seq.* (1981 Supp.),

Nebraska Department of Environmental Control.

(3) Rule 4, APC, Nebraska Department of Environmental Control, pertaining to coal preparation plants.

(4) R.S.N. 46–659 (1981 Supp.), pertaining to groundwater wells.

(5) R.S.N. 81–1505(13) (1981 Supp.), pertaining to hazardous waste permits, for hazardous wastes to be disposed of at a mine that are not generated in the mining process.

(c) The Secretary shall preserve applicable requirements of the Nebraska Environmental Protection Act, 81–1501 *et seq.* R.S.N. (1981 Supp.), to the extent not preempted by 30 CFR 927.700(f); the Nebraska Groundwater Management Act, R.S.N. 46–656 *et seq.* (1981 Supp.); R.S.N. 46–602 (1980 Supp.); R.S.N. 46–651 (1981 Supp.); Rule 40, UICR, Nebraska Department of Environmental Control; Title 118, Ch. 1, Nebraska Department of Environmental Control (groundwater protection standards); R.S.N. 57–104 (1978 Reissue); R.S.N. 2–955(b) (1977 Reissue); Rules 1–9, W.Q.S., Nebraska Department of Environmental Control; Rule 4, Air Pollution Control Regulations, Nebraska Department of Environmental Control; and the Nongame and Endangered Species Conservation Act, R.S.N. 37–430 *et seq.* (1978 Reissue).

(d) The Secretary shall coordinate review of permits, where applicable, with the following State agencies:

(1) The Nebraska Policy Research Office and appropriate local planning agencies regarding the compatibility of proposed coal exploration or surface coal mining and reclamation, and post-mining land-use proposals, with existing land-use plans and zoning regulations.

(2) The Nebraska Game and Parks Commission regarding the effect of proposed coal exploration or surface coal mining and reclamation operations on State parks, game and fish populations and habitat, and endangered or threatened species.

(3) The Nebraska Natural Resources Commission and local Natural Resources Districts regarding the effect of proposed coal mining or exploration operations on local district plans for soil and water conservation and on flood control projects.

(4) The Nebraska Department of Water Resources and local groundwater conservation districts regarding the hydrologic consequences of proposed coal mining or exploration operations.

(5) The Nebraska Department of Agriculture regarding identification of prime farmlands in proposed mine areas, advice on operators' plans to remove, replace, and revegetate soils, advice on seed mixtures, planting times, and control of noxious weeds.

§ 927.771 General requirements for permits and permit applications.

(a) Part 771 of this chapter, General Requirements for Permits and Permit Applications, shall apply to any person who makes application for a permit to conduct surface coal mine operations.

(b) A person who wishes to conduct new surface coal mining and reclamation operations or who wishes a revision of his permit shall file a complete application at least 12 months prior to the date upon which permit issuance or revision is desired, and shall pay to the Secretary a permit fee in accordance with § 736.25 of this chapter.

§ 927.776 General requirements for coal exploration.

(a) Part 776 of this chapter, General Requirements for Coal Exploration, shall apply to any person who conducts or seeks to conduct coal exploration operations.

(b) The Office shall make every effort to act on an exploration application within 60 days of receipt or such longer time as may be reasonable under the circumstances. If additional time is needed, OSM shall notify the applicant that the application is being reviewed, but that more time is necessary to complete such review, setting forth the reasons and the additional time that is needed.

§ 927.778 Surface mining permit applications—minimum requirements for legal, financial, compliance and related information.

Part 778 of this chapter, Surface Mining Permit Applications—Minimum Requirements for Legal, Financial, Compliance, and Related Information, shall apply to any person who makes application for a permit to conduct surface coal mining and reclamation operations.

§ 927.779 Surface mining permit applications—minimum requirements for information on environmental resources.

Part 779 of this chapter, Surface Mining Permit Applications—Minimum Requirements for Information on Environmental Resources, shall apply to any person who makes application to conduct surface coal mining and reclamation operations.

§ 927.780 Surface mining permit applications—minimum requirements for reclamation and operation plan.

Part 780 of this chapter, Surface Mining Permit Applications—Minimum Requirement for Reclamation and Operation Plan, shall apply to any person who makes application to conduct surface coal mining and reclamation operations.

§ 927.782 Underground mining permit applications—minimum requirements for legal, financial, compliance, and related information.

Part 782 of this chapter, Underground Mining Permit Applications—Minimum Requirements for Legal, Financial, Compliance, and Related Information, shall apply to any person who makes application for a permit to conduct underground coal mining operations.

§ 927.783 Underground mining permit applications—minimum requirements for information on environmental resources.

Part 783 of this chapter, Underground Mining Permit Applications—Minimum Requirements for Information on Environmental Resources, shall apply to any person who submits an application to conduct underground coal mining operations.

§ 927.784 Underground mining permit applications—minimum requirements for reclamation and operation plan.

Part 784 of this chapter, Underground Mining Permit Applications—Minimum Requirements for Reclamation and Operation Plan, shall apply to any person who makes application to conduct underground coal mining operations.

§ 927.785 Requirements for permits for special categories of mining.

Part 785 of this chapter, Requirements for Permits for Special Categories of Mining, shall apply to each person who makes application for a permit to conduct certain categories of surface coal mining and reclamation operations as specified therein.

§ 927.786 Reviews, public participation, and approval or disapproval of permit applications and permit terms and conditions.

Parts 786 of this chapter, Review, Public Participation, and Approval or Disapproval of Permit Applications and Permit Terms and Conditions, shall apply to the review of applications made by any person for surface coal mining and reclamation operations.

§ 927.787 Administrative and judicial review of decisions on permit applications.

Decisions on permit applications shall be subject to administrative and judicial

review in accordance with Part 787 of this chapter and Sections 520, 525 and 526 of the Act.

§ 927.788 Permit reviews, revisions, and renewals, and transfer, sale, and assignment of rights granted under permits.

Part 788 of this chapter, Permit Reviews, Revisions, and Renewals, and Transfer, Sale, and Assignment of Rights Granted Under Permits, shall apply to review, revision, and renewal of permits for surface coal mining and reclamation operations, and to transfer, sale, and assignment of rights granted under permits.

§ 927.795 Small operator assistance.

Part 795 of this chapter, Small Operator Assistance, shall apply to any person making application for assistance under the small operator assistance program.

§ 927.800 General requirements for bonding of surface coal mining and reclamation operations.

Part 800 of this chapter, General Requirements for Bonding of Surface Coal Mining and Reclamation Operations Under Regulatory Programs, shall apply to all surface coal mining and reclamation operations.

§ 927.815 Performance standards—coal exploration.

Part 815 of this chapter, Permanent Program Performance Standards—Coal Exploration, shall apply to any person conducting coal exploration operations.

§ 927.816 Performance standards—surface mining activities.

Part 816 of this chapter, Permanent Program Performance Standards—Surface Mining Activities, shall apply to any person who conducts surface coal mining and reclamation operations.

§ 927.817 Performance standards—underground mining activities.

Part 817 of this chapter, Permanent Program Performance Standards—Underground Mining Activities, shall apply to any person who conducts underground coal mining operations.

§ 927.818 Special performance standards—concurrent surface and underground mining.

Part 818 of this chapter, Special Permanent Program Performance Standards—Concurrent Surface and Underground Mining, shall apply to any person who conducts combined surface and underground coal mining operations.

§ 927.819 Special performance standards—auger mining.

Part 819 of this chapter, Special Permanent Program Performance Standards—Auger Mining, shall apply to any person who conducts surface coal mining operations which include auger mining.

§ 927.822 Special performance standards—operations in alluvial valley floors.

Part 822 of this chapter, Special Permanent Program Performance Standards—Operations in Alluvial Valley Floors, shall apply to any person who conducts surface coal mining and reclamation operations on alluvial valley floors.

§ 927.823 Special performance standards—operations on prime farmland.

Part 823 of this chapter, Special Permanent Program Performance Standards—Operations on Prime Farmland, shall apply to any person who conducts surface coal mining and reclamation operations on prime farmlands.

§ 927.824 Special performance standards—mountaintop removal.

Part 824 of this chapter, Special Permanent Program Performance Standards—Mountaintop Removal, shall apply to any person who conducts surface coal mining operations constituting mountaintop removal mining.

§ 927.826 Special performance standards—operations on steep slopes.

Part 826 of this chapter, Special Permanent Program Performance Standards—Operations on Steep Slopes, shall apply to any person who conducts surface coal mining and reclamation operations on steep slopes.

§ 927.827 Special performance standards—coal processing plants and support facilities not located at or near the minesite or not within the permit area for a mine.

Part 827 of this chapter, Special Permanent Program Performance Standards—Coal Processing Plants and Support Facilities Not Located at or Near the Minesite or Not Within the Permit Area for a Mine, shall apply to any person who conducts surface coal mining and reclamation operations which include the operation of coal processing plants and support facilities not located at or near the minesite or not within the permit area for a mine.

§ 927.828 Special performance standards—in Situ processing.

Part 828 of this chapter, Special Permanent Program Performance Standards—In Situ Processing, shall apply to any person who conducts in situ processing activities.

§ 927.842 Federal inspections.

(a) Part 842 of this chapter, Federal Inspections, shall apply to all exploration and surface coal mining and reclamation operations.

(b) In addition to the requirements of Part 842, the Office will furnish a copy of each inspection report regarding inspections conducted pursuant to this part to the Nebraska Department of Environmental Control upon request.

§ 927.843 Federal enforcement.

(a) Part 843 of this chapter, Federal Enforcement, shall apply when enforcement action is required for violations on surface coal mining and reclamation operations or exploration operations.

(b) The Office will furnish a copy of each enforcement action and order to show cause issued pursuant to this part to the Nebraska Department of Environmental Control upon request.

§ 927.845 Civil penalties.

Part 845 of this chapter, Civil Penalities, shall apply when civil penalties are assessed for violations on surface coal mining and reclamation operations or exploration operations.

[FR Doc. 82-34706 Filed 12-21-82; 8:45 am]
BILLING CODE 4310-05-M

federal register

Wednesday
December 22, 1982

Part VI

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

Surface Mining and Reclamation Operations Under the Federal Program for Rhode Island; Proposed Rule

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 939

Surface Mining and Reclamation Operations Under a Federal Program for Rhode Island

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) of the Department of the Interior proposes a Federal program for regulation of coal exploration and surface coal mining and reclamation operations on non-Federal and non-Indian lands in Rhode Island. This includes surface effects of underground coal mining. This proposed program is necessary in order to regulate surface coal mining activities in the absence of a State program.

DATES: Written comments must be received not later than 5:00 p.m. on February 28, 1983 at the address below. A public hearing will be held on February 23, 1983. Requests to testify at the hearing should be received by February 18, 1983. If commenters request a hearing date later than that set, OSM will consider postponing the hearing until a later time; any new date will be announced by a notice in the **Federal Register.**

ADDRESSES: Written comments must be mailed or hand-delivered to: Administrative Record Room R&I—19, Office of Surface Mining, Pennsylvania Field Office, 100 Chestnut St., Suite 300, Harrisburg, Pennsylvania 17101.

The public hearing on the proposed program will be held at the John O. Pastore Federal Building, Room 309, Exchange Terrace, Providence, Rhode Island 02903 at 12:00 noon.

FOR FURTHER INFORMATON CONTACT: James M. Kress, Office of Surface Mining, Branch of Regulatory Programs, Room 222, 1951 Constitution Avenue, NW., Washington, D.C. 20240. Telephone: (202) 343–5866.

SUPPLEMENTARY INFORMATION:

Availability of Copies

Copies of the proposed program are available for inspection and may be obtained at the OSM office listed above in "**ADDRESSES.**"

Public Comment Period

The comment period on the proposed program will extend until February 28, 1983. All written comments must be received at the location above under "**ADDRESSES**" by close of business on that date.

All written comments received, a transcript of the public hearing, summaries of meetings held at the request of any person or organization to receive advice or recommendations concerning the proposed program with representatives of OSM, and other documents comprising the administrative record on the Federal program for Rhode Island will be made available for public review during regular business hours at the location listed above.

OSM appreciates any and all comments on the proposal, but those that would be most useful should be as specific as possible, focus on the issues of this proposed rulemaking, and provide reasons for any recommendations. OSM will not consider comments that do not pertain to the issues in this proposal. Nor can OSM ensure consideration of written comments received after the comment period ends or those delivered to an address other than that specified.

Public Hearing

A public hearing on the proposed program will be held at the time and location listed above to hear all those who wish to testify. The hearing may be cancelled if, by February 18, 1983, no person has expressed interest in presenting testimony.

Individual testimony at the hearing will be limited to 15 minutes. The hearing will be transcribed. Filing of a written statement at the time of giving oral testimony would be helpful and would facilitate the job of the court reporter. Submission of written statements in advance of the hearing would greatly assist OSM officials who will attend the hearing. Advance submissions will give these officials an opportunity to consider appropriate questions which could be asked for clarification or to request more specific information from the person testifying. The public hearing will continue until all persons scheduled to speak have been heard. Persons in the audience who have not been scheduled to speak and wish to do so will be heard following the scheduled speakers. The hearing will end after all persons scheduled to testify and persons present in the audience who wish to speak have been heard. Persons not scheduled to testify, but wishing to do so, assume the risk of having the public hearing adjourned unless they are present in the audience at the time all scheduled speakers have been heard.

Background

Under Section 504(a) of the Surface Mining Control and Reclamation Act of 1977 (the Act), Pub. L. 95–87, 30 U.S.C. 1201 *et seq.*, the Secretary of the Interior (the Secretary) is required to promulgate a Federal program within 34 months after passage of the Act if a State fails to submit a program to assume responsibility for regulating surface mining activities, fails to resubmit a program within 60 days of disapproval, or fails at any time to implement, enforce or maintain an approved State program.

An additional standard for the promulgation of a Federal program is found in 30 CFR Part 7–36, which requires the implementation of a Federal program for a State where the Director of OSM (the Director) "reasonably expects coal exploration or surface coal mining and reclamation operations to exist on non-Federal and non-Indian lands * * * at any time before June 1985 * * *." 30 CFR 736.11(a)(1).

The State has identifiable coal reserves, but has failed to submit a program to the Secretary to obtain primary regulatory responsibility. The Director believes that it is reasonable to expect that coal exploration or surface coal mining will occur in Rhode Island before June 1985. Therefore, pursuant to 30 CFR 736.11, the Director must promulgate and implement a Federal program.

Once a decision is made that a Federal program is necessary for a State, the Secretary must make several determinations before promulgating a program. Section 504(a) of the Act requires that in implementing a Federal program the Secretary take into consideration the nature of the State's terrain, climate, biological, chemical, and other relevant physical conditions. This requirement is also found in the regulations, 30 CFR 736.22(a)(1). The Act (Section 505(b)) and the regulations (Section 736.23(b)) also provide that if a State has more stringent land use and environmental laws or regulations, they shall not be construed to be inconsistent with the Act or the Secretary's regulations. If the State's laws or regulations establish more stringent standards regulating surface mining control and reclamation procedures than those found in the Act or the Secretary's regulations, or if the State regulates or protects an aspect of the environment affected by surface mining operations which neither the Act nor the Secretary's regulations protect, then those State standards are specifically preserved. Thus, the Secretary believes that the requirements of Section 505(b) can best be met by identifying Rhode Island laws and regulations which impose equivalent or more stringent

environmental controls, and by listing them in § 939.700(e).

Also, in promulgating a program for a State, Section 504(g) of the Act specifies that any State statutes or regulations which regulate surface mining and reclamation operations subject to the Act will be superseded and preempted by the Federal program to the extent that they interfere with the achievement of the purposes and requirements of the Act and the Federal program. This provision is reinforced by Section 505(a) of the Act, which states that only those State laws and regulations which are inconsistent with the Act and its implementing regulations shall be superseded by the Federal program. Thus, State statutes and rules regulating the same activities as those covered by the Federal law and regulations and which interfere with achievement of the purposes of the Act must be identified and preempted by OSM.

Finally, a Federal program, according to Section 504(h) of the Act, must include a process for coordinating the review and issuance of surface mining permits with other Federal or State permits applicable to the proposed operation. The Federal statutes with which the surface mining permitting process must be coordinated are set out in 30 CFR 736.22(c). State statutes for which a permit is required must be identified in the process of promulgating a Federal program, and the Federal program must provide for coordination with the review and issuance procedures required by those statutes.

Federal programs are based on the Secretary's permanent program regulations: 30 CFR Subchapters A, F, G, J, K, L and M. The permanent program regulations establish procedures and performance standards under the Act and form the benchmark for State programs. In order for a State to have a program approved by the Secretary, Section 503(a)(7) requires that the State's rules and regulations be consistent with the Secretary's regulations.

The parts of the permanent program regulations that must be included in a Federal program are listed at 30 CFR 736.22(b). They include general requirements and definitions (Parts 700 and 701), the exemption for coal extraction incident to government-financed highway or other construction (Part 707), the designation of lands unsuitable for surface mining (Part 760, 761, 762, and 764), permits and permit applications (Subchapter G), reclamation bonding (Subchapter J), performance standards (Subchapter K), inspection and enforcement (Parts 842, 843 and 845), and blaster training and certification (Subchapter M). In addition, the provision in the permanent regulations on protection of employees (Subchapter P) and restrictions on financial interests (Part 706) are applicable to Federal employees who perform functions or duties under the Act.

The rules for the permanent program are found in 30 CFR Parts 700–707 and 730–865. Part 705 was published October 20, 1977 (42 FR 56060). Parts 795 and 865 (originally Part 830) were published December 13, 1977 (42 FR 62639). The other permanent program regulations were published at 44 FR 15323–15463 (March 13, 1979). Subchapter M was published on December 12, 1980 (45 FR 82098). Corrections were published at 44 FR 15485 (March 14, 1979); 44 FR 53507–53509 (September 14, 1979); 44 FR 66195 (November 19, 1979); 45 FR 26001 (April 16, 1980); 45 FR 37818 (June 5, 1980); and 45 FR 47424 (July 15, 1980). Amendments to the rules have been published at 44 FR 60969 (October 22, 1979) as corrected at 44 FR 75143 (December 19, 1979); at 44 FR 77440–77447 (December 31, 1979); 45 FR 2626–2629 (January 11, 1980); 45 FR 25998–26001 (April 16, 1980); 45 FR 33926–33927 (May 20, 1980); 45 FR 39446–39447 (June 10, 1980); 45 FR 52306–52324 (August 6, 1980); 45 FR 52375 (August 7, 1980); 45 FR 58780–58786 (September 4, 1980); and 45 FR 76932 (November 20, 1980); 46 FR 37232 (July 17, 1981); 46 FR 41702 (August 17, 1981); 46 FR 47720 (September 29, 1981); 46 FR 53376 (October 28, 1981); 46 FR 59934 (December 7, 1981); 47 FR 32942 (July 30, 1982); 47 FR 33431 (August 2, 1982); 47 FR 35620 (August 16, 1982); and 47 FR 38486 (August 31, 1982).

Representatives of industry, two States and several environmental groups challenged the permanent regulatory program in the U.S. District Court for the District of Columbia. These suits were consolidated and heard in a single lawsuit entitled *In re: Permanent Surface Mining Regulation Litigation* (Civil Action No. 79–1144). In response to the arguments raised in the challenges, the Secretary voluntarily suspended several permanent program regulations. These suspensions were announced in the **Federal Register** on November 27, 1979 (44 FR 67942); December 31, 1979 (44 FR 77447–77455); January 30, 1980 (45 FR 6913); and August 4, 1980 (45 FR 51547–51550). In two opinions the Court remanded certain other regulations which had been challenged in the lawsuit. These opinions were issued on February 26, 1980, and May 16, 1980. Many of the issues decided by the District Court have been appealed to the Court of Appeals for the District of Columbia Circuit. *In re: Permanent Surface Mining Regulation Litigation*, Nos. 80–1810, 80–1811, 80–1812, 80–1813 and 80–1823. The appeals are presently pending before the appellate court.

Rhode Island Federal Program

As mentioned above, when promulgating a Federal program for a State, the Secretary is required by Section 504(a) of the Act to take into consideration the nature of the terrain, climate, biological, chemical, and other relevant physical conditions of that State. OSM has reviewed Rhode Island laws and regulations to determine whether they suggest that special provisions may be necessary or appropriate based on special terrain or other physical conditions in the State. OSM solicits comments on special provisions that should be promulgated and the basis for those provisions.

Pursuant to Section 504(a), the Secretary becomes the regulatory authority when a Federal program is implemented for a State. OSM's permanent program regulations contain references to "the regulatory authority" and "the State regulatory authority," both of which mean the Secretary when a Federal program for a State is involved. Section 701(22) of the Act.

The Office of Surface Mining is delegated all of the Secretary's authority for implementing, maintaining and enforcing a Federal program. This proposed program for Rhode Island would not change these responsibilities.

Explanation of Cross-Referencing

In the general notice of intent to promulgate Federal programs of May 16, 1980 (45 FR 32228), OSM stated that each Federal program would be specific to the Particular State and would implement the permanent program procedures and environmental protection provisions of the Act (45 FR at 32229). However, except for changes to incorporate more stringent State environmental protection standards, to list State laws requiring permits for which coordination is required, and any specific changes identified which are needed to reflect conditions in a State, OSM believes that few changes are needed in the permanent program regulations for any particular State for which a Federal program must be promulgated.

In January 1981 the Secretary directed that the Department review all existing regulations in order to eliminate those which are burdensome, excessive and unnecessary. Review of the permanent program regulations was initiated and may result in a large scale revision of

them. See semi-annual Calendar of Federal Regulations notice of rule review and revision, 47 FR 1709 (January 13, 1982). See also, e.g., revisions of OSM's bonding regulations, 30 CFR Subchapter J, 46 FR 45082 (September 9, 1981) and OSM's inspection and enforcement regulations, 30 CFR Parts 842, 843, and 845, 47 FR 35620 (August 16, 1982).

In order to take advantage of the results which revision of the permanent program regulations will achieve, OSM proposes to develop and promulgate this Federal program in the following manner. Rather than repeating the full text of the permanent regulations there would be a cross-reference to the permanent program regulations. For example, criteria for the designation of lands unsuitable for surface coal mining would be provided by the statement that "Part 762 of this chapter * * * shall apply to surface coal mine operations." (see proposed § 939.762). One effect of the proposed cross-referencing to the permanent program regulations would be that as the permanent program regulations are revised, this Federal program would be similarly revised. Over time, all of the permenent program regulations will undergo review and many will be revised. No separate rulemaking would be undertaken or necessary for revision of this program if the cross-referencing alternative becomes effective, unless OSM determined that special conditions were necessary for a particular State. A notice appeared in the Federal Register on July 13, 1982 (47 FR 30287), advising the public that all changes in the permanent program rules would also result in corresponding changes in Federal programs, absent special conditions. The notice invited comments on necessary modifications to accommodate unique or unusual aspects of surface mining in any State so that the final permanent program rule would be tailored for each State's Federal program as necessary.

The promulgation of this cross-referencing program would not result in any modification of the substance of OSM's permanent program rules. Where specific provisions are needed for an individual State's Federal program which are different from the permanent program regulations, a separate paragraph is proposed to be added to the appropriate section of that State's Federal program. Cross-referencing to the permanent program rules is also being used in the promulgation of other Federal programs. Public comment on the cross-referencing method as it affects other Federal programs, however, should be directed to each of those rulemaking notices.

Several provisions of the permanent program regulations are already applicable to this Federal program and need not be cross-referenced here because they were fully promulgated for application to all regulatory programs. Those provisions are 30 CFR Chapter VII, Subchapter P—Protection of Employees, Part 706—Restrictions on Financial Interest of Federal Employees; and Part 769—Petition Process for Designation of Federal Lands Unsuitable for Surface Coal Mining. (30 CFR Part 764—Designating Lands Unsuitable for Surface Coal Mining, would be included in the Rhode Island program by a cross-reference under § 939.764, to provide a petition process on non-Federal and non-Indian lands in that State.)

With regard to the bonding regulations (Subchapter J), only Part 800 is proposed to be cross-referenced because OSM has proposed to revise Subchapter J to include just one part, Part 800. 46 FR 45082 (September 9, 1981) (proposed).

Content and Organization of the Program

The content and organization of the proposed Federal program for Rhode Island would generally follow the permanent program regulations. But, as discussed above, instead of the full text appearing, each section of this proposed program would include only reference to the pertinent permanent program regulation. Sections 939.700 (e) and (f) set out more stringent and inconsistent State statutes respectively. Where specific provisions are needed for each proposed Federal program for a State which are different from the permanent program regulations, a separate paragraph is proposed to be added to the appropriate section.

Detailed Discussion

Since Section 504(a) of the Act obligates the Secretary to take into account the nature of the terrain and the climate as well as biological, chemical, and other relevant physical conditions in each State, OSM reviewed Rhode Island's pertinent statutes in the process of developing this proposed Federal program. OSM has determined that there are statutes which, under certain circumstances, impose stricter environmental controls than those provide by either the Act of the Federal regulations. Section 939.700(e) of this proposed Federal program lists the laws of Rhode Island which OSM has tentatively identified as setting more stringent land use and environmental controls for surface mining. These Rhode Island statutes may be summarized as follows:

(a) The Rhode Island Hazardous Waste Management Act of 1978, as amended, R.I. General Laws Sections 23–19.1–1 to 23–19.1–22, makes it unlawful to treat or dispose of hazardous wastes anywhere within the State of Rhode Island without an approved permit issued by the Director of the Department of Environmental Management. This statute also prohibits the disposal of waste in any area overlying underground water sources designated by the U.S. Geological Survey and the Rhode Island Water Resources Board. R.I. General Laws Sections 23–19.1–10. Any person who violates the Act's provisions is deemed to be absolutely liable for the costs of cleanup and removal of the discharged wastes and for all damages and injuries, including environmental losses, which result directly or indirectly from the unauthorized discharge. R.I. General Laws Section 23–19.1–22. Intentional or grossly negligent violations of these statutes are criminal offenses punishable by a maximum fine of $25,000 or a minimum prison term of five years, or both. R.I. General Laws Section 23–19.1–18(A).

(b) R.I. General Laws Sections 46–12–1 to 46–12–37 (statutes controlling the pollution of State waters) prohibit, *inter alia*, the entrance or discharge of sewage waste into any waters of the State without an order of approval from the Director of the Department of Environmental Management. This statute includes a provision imposing strict liability for negligent or intentional pollution of ground waters in the State. R.I. General Laws Section 46–12–37.

Members of the public are invited to comment on whether the laws identified in § 939.700(e) of the proposed Rhode Island Federal program as instances of more stringent State environmental controls adequately take into consideration the nature of the relevant physical conditions in Rhode Island.

OSM also requests comments identifying any other State laws which establish more stringent land use and environmental controls than does the permanent Federal program.

Section 939.700(f) states that no State laws have been identified as interfering with the Act's requirements and frustrating the accomplishment of its goals. If such State laws did exist, they would be preempted and superseded by the Federal program. Interested persons are urged to submit comments on any State laws or regulations which would, if complied with by an operator,

interfere with achievement of the purposes and requirements of the Act.

In order to coordinate the Federal program permitting process under the Act with the permitting requirements imposed by other Federal statutes and by Rhode Island, § 939.770 of the proposed Federal program tentatively identifies the following pertinent permits, statutes, and rules.

(a) Air contaminant discharge permits and variances granted by the Department of Environmental Management pursuant to the Rhode Island Clean Air Act, R.I. General Laws Sections 23–23–1 to 23–23–23.

(b) Chapter 20 of the Rhode Island Act on Waters and Navigation, R.I. General Laws Sections 46–20–1 to 46–20–5, permit an owner of any lands in the State to file a petition with the town council of the town in which the lands are situated for permission to drain his lands.

(c) The Act for Inspection of Dams and Reservoirs, R.I. General Laws Sections 46–19–1 to 46–19–8, prohibits construction or substantial alteration of any dam or reservoir without first filing with the Department of Environmental Management, the work plan proposal and specifications, and securing written approval of the Director.

(d) Permits to possess or use explosives and permits for quarry operations and repeated blasting issued by the State Fire Marshal. No person shall conduct blasting operations without first posting a bond and obtaining a license from the State Fire Marshal. R.I. General Laws Sections 23–28.28–1 to 23–28.28–27.

(e) Permits from the appropriate local historic district commission are required prior to any construction, alteration, or demolition affecting any structures within a historic district. R.I. General Laws Sections 45–24.1–1 to 45–24.1–16.

(f) The antiquities Act of Rhode Island, R.I. General Laws Sections 42–45.1–1 to 42–45.1–13, prohibits exploration or excavation activities on any site designated as a State archeological landmark without a permit from the State Historical Preservation Commission.

(g) Permits for dredging, filling, or otherwise altering coastal wetlands and all directly related contiguous areas are issued by the Coastal Resources Management Council. R.I. General Laws Sections 46–23–1 to 46–23–17.

(h) Permits and variances relative to disposal, transportation, and containment of hazardous wastes are issued by the Department of Environmental Management pursuant to the Rhode Island Hazardous Waste Management Act of 1978. R.I. General Laws Sections 23–19.1–1 to 23–19.1–22.

(i) The Department of Environmental Management is responsible for issuing orders of approval authorizing discharge of sewage into waterways within the State and modification or operation of sewage disposal systems. R.I. General Laws Sections 46–12–1 to 46–12–37.

(j) The Wetlands Protection Act, R.I. General Laws Sections 2–1–21 to 2–1–24, authorizes the Department of Environmental Management to designate wetlands and issue permits for excavation, drainage, or any other alteration affecting wetlands within the State.

Copies of the above Rhode Island statutes and other Rhode Island statutes referred to herein are in the administrative record and are available for review at the place listed above under "**ADDRESSES**."

Part 939.764 specifies that the process for designating land unsuitable shall begin on May 28, 1983. This is because the Federal coal exploration program was promulgated April 28, 1982 (47 FR 18232 *et seq.*), effective on May 28, 1982, which started the one-year waiting period required under section 504(a) of the Act. See 47 FR 18236.

OMB Review

The recordkeeping and reporting requirements of the proposed rule are the same as those of the permanent program regulations which have been approved by the Office of Management and Budget under 44 U.S.C. 3507. Although this rule would contain information and recordkeeping requirements, OSM anticipates less than ten respondents. Under the Paperwork Reduction Act, clearance of information collection forms is required only when ten or more respondents are expected. If in the future the number of respondents appears to be increasing, the proper forms, if they differ from those already approved, will be submitted to the Office of Management and Budget with accompanying notices in the **Federal Register**, in accordance with the requirements of 44 U.S.C. Chapter 35.

Other Information

OSM has examined these proposed rules according to the criteria of Executive Order 12291 (46 FR 13193, February 19, 1981) and determined that they do not constitute a major rule. There would be no major economic impact through adoption of this rule because it would affect only a small number of mining operations.

OSM has examined these proposed rules to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, and determined that they will not have a significant impact on a substantial number of small entities.

Section 702(d) of the Act provides that promulgation of a Federal program shall not constitute a major Federal action under the National Environmental Policy Act, 42 U.S.C. 4332. Thus, no Environmental Assessment is required for this rulemaking.

List of Subjects in 30 CFR Part 939

Coal mining, Intergovernmental relations, Surface mining, Underground mining, Reporting requirements.

Drafing Information

These regulations were drafted by Patricia McHugh, Office of the Solicitor and James M. Kress, Branch of Regulatory Programs, Office of Surface Mining.

Daniel N. Miller, Jr.

Assistant Secretary, Energy and Minerals.

OSM proposes to delete the existing Part 939 of 30 CFR Chapter VII, and add the following Part 939 to read as follows:

PART 939—RHODE ISLAND

Sec.

939.700 Rhode Island Program.
939.701 General.
939.707 Exemption for coal extraction incident to government-financed highway or other construction.
939.761 Areas designated unsuitable for surface coal mining by Act of Congress.
939.762 Criteria for designating areas as unsuitable for surface coal mining operations.
939.764 Process for designating areas unsuitable for surface mining operations.
939.770 General requirements for permit and exploration procedures.
939.771 General requirements for permits and permit applications.
939.776 General requirements for coal exploration.
939.778 Surface mining permit applications—Minimum requirements for legal, financial, compliance, and related information.
939.779 Surface mining permit applications—Minimum requirements for information on environmental resources.
939.780 Surface mining permit applications—Minimum requirements for reclamation and operations plan.
939.782 Underground mining permit applications—Minimum requirements for legal, financial, compliance, and related information.
939.783 Underground mining permit applications—Minimum requirements for information on environmental resources.
939.784 Underground mining permit applications—Minimum requirements for reclamation and operation plan.
939.785 Requirements for permits for special categories of mining.
939.786 Review, public participation, and approval or disapproval of permit

Sec.
applications and permit terms and conditions.
939.787 Administrative and judicial review of decisions on permit applications.
939.788 Permit review, revisions, and renewals, and transfer, sale, and assignment of rights granted under permits.
939.795 Small operator assistance.
939.800 General requirements for bonding of surface coal mining and reclamation operations.
939.815 Performance standards—Coal exploration.
939.816 Performance standards—Surface mining activities.
939.817 Performance standards—Underground mining activities.
939.818 Special performance standards—Concurrent surface and underground mining.
939.819 Special performance standards—Auger mining.
939.823 Special performance standards—Operations on prime farmland.
939.824 Special performance standards—Mountaintop removal.
939.826 Special performance standards—Operations on steep slopes.
939.827 Special performance standards—Coal processing plants and support facilities not located at or near the minesite or not within the permit area for a mine.
939.828 Special performance standards—In situ processing.
939.842 Federal inspections.
939.843 Federal enforcement.
939.845 Civil penalties.

Authority: Pub. L. 95–87, The Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1201 et seq., 91 Stat. 445 et seq.

§ 939.700 Rhode Island program.

(a) This part contains all rules that are applicable to surface coal mining and reclamation operations in Rhode Island which have been adopted under the Surface Mining Control and Reclamation Act of 1977.

(b) The rules in this part cross-reference pertinent parts of the permanent program regulations in this chapter. The full text of a rule is in the permanent program rule cited under the relevant section of the Rhode Island Federal program.

(c) The rules in this part apply to all surface coal mining and reclamation operations in Rhode Island conducted on non-Federal and non-Indian lands. The rules in Subchapter D of this chapter apply to operations on Federal lands in Rhode Island.

(d) The information collection requirements contained in this part do not require approval by the Office of Management and Budget under 44 U.S.C. 3507 because there are fewer than ten respondents annually.

(e) The following provisions of Rhode Island laws provide, where applicable, for more stringent environmental control and regulation of surface coal mining and reclamation operations than do the provisions of the Act and the regulations in this chapter. Therefore, pursuant to section 505(b) of the Act, they shall not be construed to be inconsistent with the Act:

(1) R.I. General Laws sections 23–19.1–1 to 23–19.1–22, regulating treatment, disposal, and transportation of hazardous wastes within the State of Rhode Island.

(2) R.I. General Laws sections 46–12–1 to 46–12–37, controlling the pollution of any of the State's waterways.

(f) There are no Rhode Island laws that interfere with the purposes and requirements of the Act and which must be superseded and preempted pursuant to section 504(g).

§ 939.701 General.

Sections 700.5, 700.11, 700.2, 700.13, 700.14, 700.15 and Part 701 of this chapter shall apply to surface coal mining and reclamation operations in Rhode Island.

§ 939.707 Exemption for coal extraction incident to government-financed highway or other construction.

Part 707 of this chapter, Exemption for Coal Extraction Incident to Government-Financed Highway or Other Construction, shall apply to surface coal mining and reclamation operations.

§ 939.761 Areas designated unsuitable for surface coal mining by Act of Congress.

Part 761 of this chapter, Areas Designated by Act of Congress, shall apply to surface coal mining and reclamation operations.

§ 939.762 Criteria for designating areas as unsuitable for surface coal mining operations.

Part 762 of this chapter, Criteria for Designating Areas Unsuitable for Surface Coal Mining Operations, shall apply to surface coal mining and reclamation operations.

§ 939.764 Process for designating areas unsuitable for surface coal mining operations.

Part 764 of this chapter, State Processes for Designating Areas Unsuitable for Surface Coal Mining Operations, pertaining to petitioning, initial processing, hearing requirements, decisions, data base and inventory systems, public information, and regulatory responsibilities shall become applicable in Rhode Island on May 28, 1983.

§ 939.770 General requirements for permits and exploration procedures.

(a) Part 770 of this chapter, General Requirements for Permit Systems Under State Programs, shall apply to coal exploration and surface coal mining and reclamation operations.

(b) The Secretary shall coordinate issuance of coal exploration permits for the removal of more than 250 tons of coal and permits for surface coal mining operations pursuant to 30 CFR Part 770 with permits issued pursuant to State law, including: the Wetlands Protection Act (R.I. General Laws section 2–1–22); chapter 20 of the Waters and Navigation Act (petitions for ditches and drains) (R.I. General Laws section 46–20–1 et seq.); the Coastal Resources Management Council Act of 1971 (R.I. General Laws section 46–23–6); the Rhode Island Clean Air Act (R.I. General Laws section 23–23–15), the Rhode Island Hazardous Waste Management Act of 1978 (R.I. General Laws sections 23–19.1–11 et seq.); the Rhode Island Act for Inspection of Dams and Reservoirs (R.I. General Laws section 46–19–1 et seq.) and Chapter 23–28.28 of Rhode Island's Health and Safety Code (R.I. General Laws section 23–28.28–1 et seq., permits for blasting), and an order of approval authorizing discharge of sewage into waterways within the State and modification or operation of sewage disposal systems if applicable (R.I. General Laws sections 46–12–1 to 46–12–37). The permit issued by the Secretary shall incorporate the requirements of the Rhode Island Historical Zoning Act of 1954, as amended (R.I. General Laws section 45–24.1–1 et seq.), and the Rhode Island Antiquities Act of 1974 (R.I. General Laws section 42–45.1–1 et seq.).

§ 939.771 General requirements for permits and permit applications.

(a) Part 771 of this chapter, General Requirements for Permits and Permit Applications, shall apply to any person who makes application for a permit to conduct surface coal mining and reclamation operations.

(b) A person who wishes to conduct new surface coal mining and reclamation operations or who wishes a revision of his permit shall file a complete application at least 12 months prior to the date upon which permit issuance or revision is desired, and shall pay to the Secretary a permit fee in accordance with § 736.25 of this chapter.

§ 939.776 General requirements for coal exploration.

(a) Part 776 of this chapter, General Requirements for Coal Exploration, shall apply to any person who conducts or seeks to conduct coal exploration operations.

(b) The Office shall make every effort to act on an exploration application within 60 days of receipt or such longer time as may be reasonable under the circumstances. If additional time is needed, OSM shall notify the applicant that the application is being reviewed, but that more time is necessary to complete such review, setting forth the reasons and the additional time that is needed.

§ 939.778 Surface mining permit application—Minimum requirements for legal, financial, compliance and related information.

Part 778 of this chapter, Surface Mining Permit Applications—Minimum Requirements for Legal, Financial, Compliance, and Related Information, shall apply to any person who makes application for a permit to conduct surface coal mining and reclamation operations.

§ 939.779 Surface mining permit applications—Minimum requirements for information on environmental resources.

Part 779 of this chapter, Surface Mining Permit Applications—Minimum Requirements for Information on Environmental Resources, shall apply to any person who makes application to conduct surface coal mining and reclamation operations.

§ 939.780 Surface mining permit applications—Minimum requirements for reclamation and operation plan.

(a) Part 780 of this chapter, Surface Mining Permit Applications—Minimum Requirement for Reclamation and Operation Plan, shall apply to any person who makes application to conduct surface coal mining and reclamation operations.

(b) The applicant for a permit shall demonstrate compliance with Rhode Island air quality control laws (R.I. General Laws section 23–23–1 et seq.) by obtaining an order of approval from the Director of the Department of Environmental Management for any facility with the potential to emit one ton per year or more of any air contaminant to R.I. General Laws section 23–23–15.

§ 939.782 Underground mining permit applications—Minimum requirements for legal, financial, compliance, and related information.

Part 782 of this chapter, Underground Mining Permit Applications—Minimum Requirements for Legal, Financial, Compliance, and Related Information, shall apply to any person who makes application for a permit to conduct underground coal mining operations.

§ 939.783 Underground mining permit applications—Minimum requirements for information on environmental resources.

Part 783 of this chapter, Underground Mining Permit Applications—Minimum Requirements for Information on Environmental Resources, shall apply to any person who submits an application to conduct underground coal mining operations.

§ 939.784 Underground mining permit applications—Minimum requirements for reclamation and operation plan.

Part 784 of this chapter, Underground Mining Permit Applications—Minimum Requirements for Reclamation and Operation Plan, shall apply to any person who makes application to conduct underground coal mining.

§ 939.785 Requirements for permits for special categories of mining.

Part 785 of this chapter, Requirements for Permits for Special Categories of Mining, shall apply to each person who makes application for a permit to conduct certain categories of surface coal mining and reclamation operations as specified therein.

§ 939.786 Review, public participation, and approval or disapproval of permit applications and permit terms and conditions.

Part 786 of this chapter, Review, Public Participation, and Approval or Disapproval of Permit Applications and Permit Terms and Conditions, shall apply to the review of applications made by any person for surface coal mining and reclamation operations.

§ 939.787 Administrative and judicial review of decisions on permit applications.

Decisions on permit applications shall be subject to administrative and judicial review in accordance with Part 787 of this chapter and sections 520, 525 and 526 of the Act.

§ 939.788 Permit reviews, revisions, and renewals, and transfer, sale, and assignment of rights granted under permits.

Part 788 of this chapter, Permit Reviews, Revisions, and Renewals, and Transfer, Sale, and Assignment of Rights Granted Under Permits, shall apply to review, revision, and renewal of permits for surface coal mine operations, and to transfer, sale, and assignment of rights granted under permits.

§ 939.795 Small operator assistance.

Part 795 of this chapter, Small Operator Assistance, shall apply to any person making application for assistance under the small operator assistance program.

§ 939.800 General requirements for bonding of surface coal mining and reclamation operations.

Part 800 of this chapter, General Requirements for Bonding of Surface Coal Mining and Reclamation Operations Under Regulatory Programs, shall apply to all surface coal mining and reclamation operations.

§ 939.815 Performance standards—Coal exploration.

Part 815 of this chapter, Permanent Program Performance Standards—Coal Exploration, shall apply to any person conducting coal exploration operations.

§ 939.816 Performance standards—Surface mining activities.

Part 816 of this chapter, Permanent Program Performance Standards—Surface Mining Activities, shall apply to any person who conducts surface coal mining and reclamation operations.

§ 939.817 Performance standards—Underground mining activities.

Part 817 of this chapter, Permanent Program Performance Standards—Undeground Mining Activities, shall apply to any person who conducts underground coal mining operations.

§ 939.818 Special performance standards—Concurrent surface and underground mining.

Part 818 of this chapter, Special Permanent Program Performance Standards—Concurrent Surface and Underground Mining, shall apply to any person who conducts combined surface and underground coal mining operations.

§ 939.819 Special performance standards—Auger mining.

Part 819 of this chapter, Special Permanent Program Performance Standards—Auger Mining, shall apply to any person who conducts surface coal mining operations which include auger mining.

§ 939.823 Special performance standards—Operations on prime farmland.

Part 823 of this chapter, Special Permanent Program Performance Standards—Operations on Prime Farmland, shall apply to any person who conducts surface coal mining and reclamation operations on prime farmlands.

§ 939.824 Special performance standards—mountaintop removal.

Part 824 of this chapter, Special Permanent Program Performance Standards—Mountaintop Removal, shall apply to any person who conducts surface coal mining operations

constituting mountaintop removal mining.

§ 939.826 Special performance standards—operations on steep slopes.

Part 826 of this chapter, Special Permanent Program Performance Standards—Operations on Steep Slopes, shall apply to any person who conducts surface coal mining and reclamation operations on steep slopes.

§ 939.827 Special performance standards—coal processing plants and support facilities not located at or near the minesite or not within the permit area for a mine.

Part 827 of this chapter, Special Permanent Program Performance Standards—Coal Processing Plants and Support Facilities Not Located at or Near the Minesite or Not Within the Permit Area for a Mine, shall apply to any person who conducts surface coal mining and reclamation operations which include the operation of coal processing plants and support facilities not located at or near the minesite or not within the permit area for a mine.

§ 939.828 Special performance standards—in situ processing.

Part 828 of this chapter, Special Permanent Program Performance Standards—In Situ Processing, shall apply to any person who conducts in situ processing activities.

§ 939.842 Federal inspections.

(a) Part 842 of this chapter, Federal Inspections, shall apply to all coal exploration and surface coal mining and reclamation operations.

(b) The Secretary will furnish copies of inspection reports and reports of any enforcement action taken to the Rhode Island Department of Environmental Management upon request.

§ 939.843 Federal enforcement.

(a) Part 843 of this chapter, Federal Enforcement, shall apply when enforcement action is required for violations on coal exploration or surface coal mining and reclamation operations.

(b) The Office will furnish a copy of any order to show cause to the Rhode Island Department of Environmental Management upon request.

§ 939.845 Civil penalties.

Part 845 of this chapter, Civil Penalties, shall apply when civil penalties are assessed for violations on surface coal mining and reclamation operations.

[FR Doc. 82-34718 Filed 12-21-82; 8:45 am]

BILLING CODE 4310-05-M

Reader Aids

Federal Register

Vol. 47, No. 246

Wednesday, December 22, 1982

INFORMATION AND ASSISTANCE

PUBLICATIONS

Code of Federal Regulations

CFR Unit	202-523-3419 523-3517
General information, index, and finding aids	523-5227
Incorporation by reference	523-4534
Printing schedules and pricing information	523-3419

Federal Register

Corrections	523-5237
Daily Issue Unit	523-5237
General information, index, and finding aids	523-5227
Privacy Act	523-5237
Public Inspection Desk	523-5215
Scheduling of documents	523-3187

Laws

Indexes	523-5282
Law numbers and dates	523-5282 523-5266
Slip law orders (GPO)	275-3030

Presidential Documents

Executive orders and proclamations	523-5233
Public Papers of the President	523-5235
Weekly Compilation of Presidential Documents	523-5235

United States Government Manual 523-5230

SERVICES

Agency services	523-5237
Automation	523-3408
Library	523-4986
Magnetic tapes of FR issues and CFR volumes (GPO)	275-2867
Public Inspection Desk	523-5215
Special Projects	523-4534
Subscription orders (GPO)	783-3238
Subscription problems (GPO)	275-3054
TTY for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, DECEMBER

54053-54268.....1
54269-54418.....2
54419-54758.....3
54759-54924.....6
54925-55198.....7
55199-55378.....8
55379-55454.....9
55455-55626.....10
55627-55902.....13
55903-56128.....14
56129-56308.....15
56309-56468.....16
56469-56616.....17
56617-56810.....20
56811-56978.....21
56979-57252.....22

CFR PARTS AFFECTED DURING DECEMBER

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Administrative Orders:

Memorandums:
November 29, 1982.....54053

Executive Orders:
10621 (Amended by EO 12396).....55897
11390 (Amended by EO 12396).....55897
12239 (Revoked by EO 12396).....55897
12396.....55897

Proclamations:
4941 (Amended by Proc. 5002).....54269
5002.....54269
5003.....55899
5004.....55901
5005.....56309
5006.....56617
5007.....56811

4 CFR

2.....56979
3.....56979
4.....56979
5.....56979
6.....56979
7.....56979
8.....56979
9.....56979
11.....56979
21.....56979
22.....56979
27.....56980
28.....56980
30.....56979
31.....56979
32.....56979
33.....56979
34.....56979
35.....56979
36.....56979
52.....56979
53.....56979
75.....56979
81.....56979
82.....56979
91.....56979
92.....56979
93.....56979

Proposed Rules:
28.....54972

5 CFR

1201.....54419
2429.....55379, 55903

Proposed Rules:
213.....54974
890.....54974

7 CFR

2.....56619
52.....55455
53.....54925
55.....54420
56.....54420
59.....54420
68.....54271
70.....54420
271.....55903, 56469
272.....55463, 55903
273.....55463, 55903
278.....56469
279.....56469
319.....54273, 55199
400.....55886, 55888
421.....56813
431.....56820
432.....56827
610.....56472
725.....56473
800.....54055, 54275, 55469
905.....54926, 55199, 56619, 56982
906.....56311
907.....54281, 55379, 56312
910.....54421, 55469, 56473
926.....55910
982.....56312
1046.....56486
1065.....55200
1098.....56486
1126.....54421
1132.....54421
1139.....55201
1421.....54281
1497.....54284
1822.....55627
1901.....54422
1922.....55380
1942.....54422
1944.....54422, 55627
1948.....54422

Proposed Rules:
52.....54056
915.....56500
967.....54975
983.....57222
987.....54307
1106.....54977
1124.....55490
1135.....54978
1207.....55245
1430.....56505
1700.....56505

8 CFR

214.....55202, 56488
238.....55388

9 CFR

71.....55636, 56982

78.....55636
91.....56983
92.....54285, 55388
317.....54286
381.....54286

Proposed Rules:
113.....54090, 54307, 55246, 57054

10 CFR

2.....56314
9.....56314
50.....55203
55.....56984
430.....57198

Proposed Rules:
50.....57054
70.....55951
170.....56505

12 CFR

29.....55911
201.....54424
204.....55204–55209
211.....54057
217.....54759
220.....55912
523.....56314, 56985
531.....56316
541.....56985
543.....56985
544.....56985
545.....55656, 56985
546.....56985
547.....56985
549.....56985
552.....56985
561.....56985
563.....56985
563b.....56985
564.....56318, 56985
565.....56985
569a.....56985
575.....56985
576.....56985
577.....56985
578.....56985
583.....56985
584.....56985
614.....54760
701.....54424
745.....54424
1204.....56319–56323

Proposed Rules:
3.....56862
6.....56862
7.....56862
8.....56652
207.....54980
220.....54980
221.....54980
224.....54980
543.....56363
612.....56140
1204.....56364

13 CFR

101.....56129

14 CFR

21.....54287, 54288
39.....54289–54291, 54760, 54761, 55657, 55658, 56620–56622
71.....54291, 54762, 54763, 55389, 55659, 56623, 56624
73.....54763, 55390
75.....54763
91.....56324
97.....54292, 55659
121.....56327, 56460
253.....54764
302.....56129
387.....56130

Proposed Rules:
Ch. I.....54829
23.....56456
39.....54830, 56653
61.....54414, 56654
71.....54308, 54309, 54831, 55687, 56654–56656
73.....56656
75.....54309, 55688, 56365, 56659
120.....56366
121.....56366
135.....56366

15 CFR

904.....54429, 56131

Proposed Rules:
325.....56972
929.....56506

16 CFR

13.....55210, 55211
1000.....54927

Proposed Rules:
13.....54452, 55398

17 CFR

1.....56996
3.....56996
4.....56996
15.....56996
16.....56996
18.....56996
21.....56996
32.....56996
33.....56996
145.....56996
147.....56996
155.....56996
170.....56996
180.....56996
200.....54764, 55211, 56843
210.....54764, 56835
229.....54764, 55661
230.....54764
239.....54764, 55661
240.....54057, 54764, 55661
249.....54764, 55661
260.....54764
270.....56835

Proposed Rules:
1.....57055
240.....55491
270.....56509

18 CFR

271.....54928
274.....54063

Proposed Rules:
271.....55246, 57056–57060
385.....54981

19 CFR

4.....54064
10.....55470
18.....55470
19.....55470
22.....55470
24.....55470
101.....55913
113.....55470
125.....55470
127.....55470
132.....55470
142.....55470
144.....55470

Proposed Rules:
4.....54092
148.....54092
177.....55400

20 CFR

416.....55212
609.....54686
614.....54696

21 CFR

5.....54750, 55470
74.....54429, 56489
81.....54429, 56489
82.....54429, 56489
145.....55471, 56845
172.....55475
175.....54430
176.....56845
193.....55214, 56845
201.....54750
330.....54750
444.....56489
510.....56845
520.....55472
522.....55472, 56845
558.....54929, 56846
866.....56846

Proposed Rules:
145.....55496
182.....54454, 56513
184.....54454, 54456, 56513, 56871
186.....54454
310.....55497
314.....56871
333.....54981
348.....54982
357.....55076, 55497, 56871
358.....54646
886.....55497

22 CFR

9.....55594
22.....56328
51.....56329

24 CFR

10.....56624
15.....55669
50.....56266
200.....54790
203.....54790
204.....54790
213.....54790
220.....54790
221.....54790
222.....54790
226.....54790
227.....54790
233.....54790
235.....54430, 54790
237.....54790
240.....54790
300.....55669
804.....54293, 54790
805.....54293, 54790, 55136
812.....54790
841.....54790, 55136
860.....54293
880.....54293
881.....54293
882.....54293
883.....54293
884.....54293
885.....56490
886.....54293
888.....56133
890.....54431

Proposed Rules:
16.....56660
571.....55868
860.....55689
866.....55689
888.....55764

25 CFR

1.....54296, 54791, 54803, 55477, 56330, 56490
35.....54065, 55215, 57021
601.....56330

Proposed Rules:
1.....54093, 55247, 55696, 55697, 56367
11.....54093
31.....55248
54.....54093
601.....54459, 54461

27 CFR

9.....55915

Proposed Rules:
9.....55492, 55954–55961, 56369

28 CFR

2.....56334, 56846
540.....55128, 56134

Proposed Rules:
2.....54982
540.....55131
551.....55131, 56144

29 CFR

102.....54432
1903.....55478
1910.....54433
2510.....56847
2610.....55670
2619.....56134, 57021
2621.....55672
2622.....55670

30 CFR

901.....56492
906.....56342
914.....56493
931.....56800
944.....55672
946.....55675

Proposed Rules:
55.....55499
56.....55499
57.....55499
75.....55499
77.....55499
221.....54462, 56871
250.....56871

903.....55249
927.....57236
934.....55499
936.....54472
939.....57246
942.....54474

31 CFR

53.....55481, 56351
55.....56351
81.....56351
90.....56351
92.....56351
93.....56351
120.....56351
121.....56351
122.....56351
127.....56351

Proposed Rules:

1.....54475
10.....56144

32 CFR

166.....56847
1285.....54929
1662.....56494

Proposed Rules:

701.....54104

33 CFR

1.....54298
2.....54298
110.....56354
114.....54298
115.....54298
117.....54298–54301
165.....54301, 55391
209.....55916

Proposed Rules:

110.....54310, 56661
117.....55400
157.....56786
165.....56370
207.....54832

34 CFR

Proposed Rules:

64.....56871
201.....54718
202.....54718
203.....54718
204.....54718
300.....54311
302.....54718

35 CFR

103.....54071
105.....54071
107.....54071
109.....54071
111.....54071
113.....54071
119.....54071
123.....54071

Proposed Rules:

103.....54105
113.....54105
119.....54105
123.....54105

36 CFR

7.....54930–54932, 55391, 55917

38 CFR

3.....54435
17.....56482

Proposed Rules:

3.....56880, 56881

39 CFR

3.....56495
4.....56495
6.....56495
8.....56495
3001.....55392

Proposed Rules:

3001.....55698

40 CFR

50.....54896
52.....54072, 54312, 54808, 54933–54936, 55393, 55678, 55919, 56497, 56625
60.....54073, 54258, 54259
61.....56626
81.....54080, 56625
123.....55680, 57022
180.....55221–55225, 56135, 56136
300.....55488
415.....55226
440.....54598
465.....54232
716.....54642, 56850, 57023
761.....54436

Proposed Rules:

Ch. I.....55880
35.....56372
52.....54476, 54984, 55400, 55500, 55964, 55965, 56516, 56518, 56882
60.....55966, 56118
65.....56883
86.....54250, 56662
123.....56520
130.....56372
158.....56884
162.....55967
180.....54106, 55249, 55699
201.....54107, 54313
202.....54313
204.....54108
205.....54108–54111
228.....54834, 56663, 56665
403.....54477
439.....56373
455.....56373
461.....55502
464.....55502
467.....56373
468.....55502

41 CFR

1–3.....57023
1–16.....57023
1–30.....57023
101–36.....54810, 54937
101–47.....56499

Proposed Rules:

Ch. 9.....56256

42 CFR

52d.....55227
55a.....55227
57.....54437
58.....54437
86.....55227
401.....54939
405.....54302, 54811, 54939, 56262
488.....56282
489.....56282

Proposed Rules:

124.....54314
405.....54113
447.....54113

43 CFR

3833.....56300

Proposed Rules:

4.....56521
3200.....56151
4100.....55402

44 CFR

2.....56850
6.....54815
64.....54816, 55921, 55922, 56050
65.....54941
67.....54941, 55228, 55241, 56627
70.....54440–54444, 56629–56636
205.....55756

Proposed Rules:

59.....55752
60.....55752
67.....54477, 54478, 54835, 55251, 56668–56671, 56884, 57061

45 CFR

5b.....57040
74.....55227
97.....56466
600.....54081
612.....54943
650.....54081
681.....54081
682.....54081
683.....54081
684.....54081
1300.....56466
1336.....55227
1601.....54943

Proposed Rules:

1180.....56871

46 CFR

57.....54305
536.....56138

Proposed Rules:

507.....55969

47 CFR

Ch. I.....57040
0.....55924, 56852
1.....56636, 57049
2.....55241, 56852
22.....56856
63.....54944
67.....55681
73.....54444, 54446, 55242, 55243, 55681–55683, 55924, 56355, 56356, 56638
74.....54446, 55931,
87.....54449, 56636, 56852
90.....54450, 57049
95.....57049
97.....55241

Proposed Rules:

16.....55251
34.....55974
35.....55974
67.....54479, 55699
73.....54519–54522, 55256, 55974, 56672
76.....54523
81.....54836, 56673
83.....56673
95.....56677

49 CFR

Ch. X.....54081, 55686
7.....55683
171.....54817, 54824
172.....54817, 54824
173.....54817, 54824
175.....54817, 54824
177.....54824
178.....54824
195.....55396
225.....56357
531.....55684
581.....56640
601.....55683
1003.....55939
1011.....55950
1043.....55939
1057.....54083
1249.....56359
1306.....54083

Proposed Rules:

Ch. X.....54985, 55975
29.....55700
571.....54839
1000.....56885
1003.....55976
1039.....55257
1043.....55976, 55980
1084.....55976, 55980
1220.....56152

50 CFR

11.....56856
12.....56856
16.....56360
20.....55397
23.....54968
540.....55488
611.....56650
663.....56138
671.....54451, 57052

Proposed Rules:

29.....54840
611.....54841
652.....54985
663.....57079
671.....54125
675.....54841

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.) Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/MA	LABOR		DOT/MA	LABOR
DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
DOT/RSPA			DOT/RSPA	
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	

List of Public Laws

Last Listing October 28, 1982

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (phone 202–275–3030).

H.J. Res. 595/Pub. L. 97–368. Designating December 11, 1982, as "Fiorello H. LaGuardia Memorial Day." (December 17, 1982; 96 Stat. 1764); Price: $1.75.

H.R. 7019/Pub. L. 97–369. Department of Transportation and Related Agencies Appropriations Act, 1983. (December 18, 1982; 96 Stat. 1765) Price: $3.00.

H.R. 7072/Pub. L. 97–370. Making appropriations for Agriculture, Rural Development, and Related Agencies programs for the fiscal year ending September 30, 1983, and for other other purposes. (December 18, 1982; 96 Stat. 1787) Price: $3.25.

Microfiche Editions Available...

Federal Register

The Federal Register is published daily in 24x microfiche format and mailed to subscribers the following day via first class mail. As part of a microfiche Federal Register subscription, the LSA (List of CFR Sections Affected) and the Cumulative Federal Register Index are mailed monthly.

Code of Federal Regulations

The Code of Federal Regulations, comprising approximately 180 volumes and revised at least once a year on a quarterly basis, is published in 24x microfiche format and the current year's volumes are mailed to subscribers as issued. Or, the previous year's full set may be purchased at a reduced price and mailed as a single shipment.

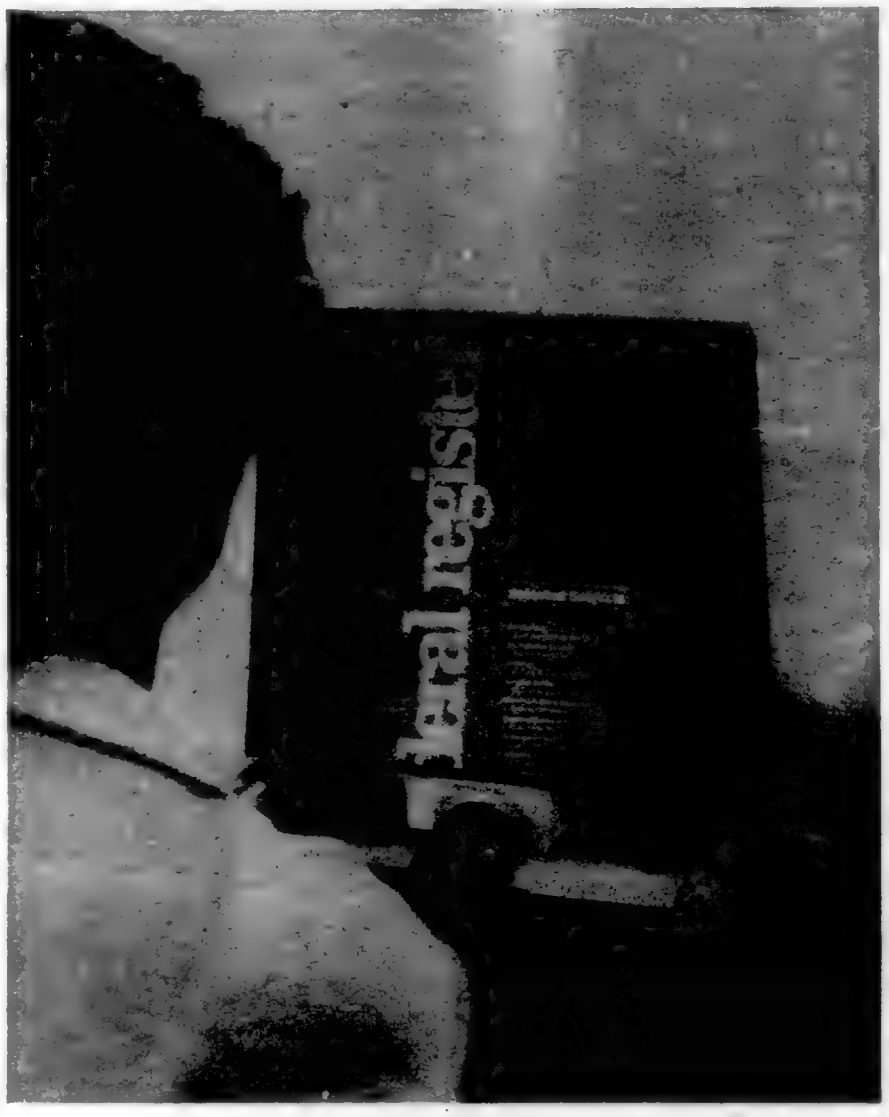
Subscription Prices:

Federal Register:

One year: $175 domestic; $218.75 foreign
Six months: $87.50 domestic; $109.40 foreign

Code of Federal Regulations:

Current year (as issued): $250 domestic; $312.50 foreign
Previous year's full set (single shipment): $155 domestic; $193.75 foreign



Order Form

Mail To: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402

Enclosed is $ _____ ☐ check, ☐ money order, or charge to my Deposit Account No.

☐☐☐☐☐☐–☐

Order No._____

MasterCard and VISA accepted.

Credit Card Orders Only

Total charges $_____ Fill in the boxes below.

Credit Card No. ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

Expiration Date Month/Year ☐☐☐☐

Please send me _____ **Federal Register:** One year as issued: $175 domestic; $218.75 foreign
Six months: $87.50 domestic; $109.40 foreign

_____ **Code of Federal Regulations:** Current year: $250 domestic; $312.50 foreign
Previous year's full set (single shipment): $155 domestic; $193.75 foreign

PLEASE PRINT OR TYPE

Company or Personal Name

Additional address/attention line

Street address

City State ZIP Code

(or Country)

For Office Use Only

Quantity		Charges
_____	Publications	
_____	Subscription	
	Special Shipping Charges	
	International Handling	
	Special Charges	
	OPNR	
_____	UPNS	
_____	Balance Due	
_____	Discount	
_____	Refund	

882

12-23-82
Vol. 47 No. 247
Pages 57253-57442

federal register

Thursday
December 23, 1982

Selected Subjects

Air Traffic Control
Federal Aviation Administration

Animal Diseases
Animal and Plant Health Inspection Service

Authority Delegations (Government Agencies)
Transportation Department

Aviation Safety
Federal Aviation Administration

Child Support
Child Support Enforcement Office

Classified Information
National Science Foundation

Disaster Assistance
Federal Emergency Management Agency

Federal Home Loan Banks
Federal Home Loan Bank Board

Fisheries
National Oceanic and Atmospheric Administration

Government Property
Tennessee Valley Authority

Hazardous Materials
Environmental Protection Agency

Imports
Animal and Plant Health Inspection Service

Indians—Education
Indian Affairs Bureau

CONTINUED INSIDE

Selected Subjects

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The **Federal Register** will be furnished by mail to subscribers, free of postage, for $300.00 per year, or $150.00 for six months, payable in advance. The charge for individual copies is $1.50 for each issue, or $1.50 for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the **Federal Register**.

Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

Low and Moderate Income Housing
Housing and Urban Development Department

Marine Safety
Coast Guard

Marketing Agreements
Agricultural Marketing Service

Meat and Meat Products
Agriculture Department

Motor Carriers
Interstate Commerce Commission

Motor Vehicle Safety
National Highway Traffic Safety Administration

National Banks
Comptroller of Currency

National Parks
National Park Service

Natural Gas
Federal Energy Regulatory Commission

Organization and Functions (Government Agencies)
Economic Development Administration

Radio
Federal Communications Commission

Railroads
Interstate Commerce Commission

Recreation
Land Management Bureau

Water Pollution Control
Environmental Protection Agency

Contents

Federal Register

Vol. 47, No. 247

Thursday, December 23, 1982

Agricultural Marketing Service
RULES
57253 Oranges (naval) grown in Ariz. and Calif.

Agriculture Department
See also Agricultural Marketing Service; Animal and Plant Health Inspection Service.
RULES
Meat import restrictions:
57253 Australia and New Zealand

Air Force Department
NOTICES
Meetings:
57324 Scientific Advisory Board (2 documents)

Animal and Plant Health Inspection Service
RULES
Animal and poultry import restrictions:
57254 Hidalgo, Tex.; addition to list special ports for pet birds; interim
PROPOSED RULES
Animal and poultry import restrictions:
57291 Brownsville, Tex.; deletion from list of special ports for pet birds
57288 Cattle from Mexico
57292 Swine health protection; rendering facilities exemption

Arts and Humanities, National Foundation
NOTICES
Meetings:
57368 Humanities Advisory Panel
57368 Music Advisory Panel

Blind and Other Severely Handicapped, Committee for Purchase from
NOTICES
57323, 57324 Procurement list, 1983; additions and deletions (2 documents)
57324 Procurement list, 1983; establishment; correction

Census Bureau
NOTICES
Surveys, determinations, etc.:
57308 Service industries, annual

Child Support Enforcement Office
RULES
State plan requirements, etc.:
57277 Collection of support for adults
57282 Federal funding rate and incentive payments reduction, and repeal of expanded Federal funding for court costs

Civil Aeronautics Board
NOTICES
57307 Commuter fitness determinations
Hearings, etc.:
57307 Ellis Air Taxi, Inc.
57308 United Air Lines, Inc., et al.
57391 Meetings; Sunshine Act
Mail rates:
57307 Intra-Alaska service
57307, 57308 Subsidy rate adjustments (2 documents)

Coast Guard
RULES
57287 Cargo containers; safety approval; correction
NOTICES
Meetings:
57384 Chemical Transportation Advisory Committee (2 documents)

Commerce Department
See Census Bureau; Economic Development Administration; International Trade Administration; National Bureau of Standards; National Oceanic and Atmospheric Administration.

Commodity Futures Trading Commission
RULES
57266 Registration; interpretative position on applicants for associated persons

Comptroller of Currency
RULES
National banks:
57255 Transfer agents; registration
NOTICES
57387 Closed receivership fund; termination

Consumer Product Safety Commission
PROPOSED RULES
57296 Product-specific information, public disclosure; policy and procedure; extension of time

Customs Service
NOTICES
Customhouse broker license cancellation, suspension, etc.:
57388 DRD Fast Freight, Inc.
57388 Port Terminal Refrigerated Transport, Inc.

Defense Department
See also Air Force Department.
NOTICES
Meetings:
57325 Science Board task forces (2 documents)
57325 Wage Committee

Economic Development Administration
RULES
57256 Organization and functions; interim

Economic Regulatory Administration
NOTICES
Consent orders:
57326 Mustang Fuel Corp.

Education Department
NOTICES
Meetings:
57325 Women's Educational Programs, National Advisory Council

Energy Department
See also Economic Regulatory Administration; Federal Energy Regulatory Commission.
NOTICES
Contract suspension and debarment:
57326 Buening, Ronald A.
Meetings:
57326 National Petroleum Council

Environmental Protection Agency
PROPOSED RULES
Hazardous waste programs; interim authorizations; various States:
57301 New Hampshire; hearing, etc.
Water pollution control; State underground injection control program, primacy applications:
57302 North Dakota
NOTICES
Environmental statements; availability, etc.:
57335 Agency statements; weekly receipts
Meetings:
57335 Science Advisory Board
Radiation protection:
57338 Radiofrequency radiation, public exposure guidance; inquiry
Toxic and hazardous substances control:
57332, 57336 Premanufacture notice receipts (2 documents)
57336 Premanufacture notification requirements; test marketing exemption applications

Federal Aviation Administration
RULES
Air traffic operating and flight rules:
57262 Emergency air traffic regulations; update
Airworthiness directives:
57258 Bell
57259, 57260 Control zones; final rule and request for comments (2 documents)
57265 Standard instrument approach procedures
57261 VOR Federal airways
57262 VOR Federal airways; correction
PROPOSED RULES
Airworthiness directives:
57295 Piper
NOTICES
Environmental statements; availability, etc.:
57385 Kenosha Municipal Airport, Kenosha, Wis.; proposed improvements, alterations and additions
Meetings:
57384, 57385 Aeronautics Radio Technical Commission (3 documents)
57384 Air Traffic Procedures Advisory Committee
57386 Aviation forecast conference
57386 National Airspace Review Advisory Committee
Organization and functions:
57385 Engineering and Development, Associate Administrator, et al.; engineering and maintenance functions restructured and consolidated

Federal Communications Commission
RULES
Frequency allocations and radio treaty matters:
57286 Government use of maritime frequencies; editorial amendment
NOTICES
Hearings, etc.:
57340 RCA American Communications, Inc.
Meetings:
57341 Telecommuncations Industry Advisory Group

Federal Deposit Insurance Corporation
NOTICES
57391 Meetings; Sunshine Act (2 documents)

Federal Emergency Management Agency
RULES
Disaster assistance:
57275 Use of gifts and bequests; interim rule
NOTICES
Disaster and emergency areas:
57341 Arkansas
57341 Hawaii
57342 Illinois
Meetings:
57342 National Fire Academy Board of Visitors

Federal Energy Regulatory Commission
RULES
57270 Freedom of Information Act; Implementation; correction
National Gas Policy Act; ceiling prices for high cost natural gas produced from tight formations; various States:
57270 Colorado; correction
Policy and interpretations:
57268 Take or pay provisions in gas purchase contracts
NOTICES
Hearings, etc.:
57327 Caddo Pine Island Corp.
57327 Continental Steel Corp.
57328 El Paso Natural Gas Co.
57329 Gas Service, Inc.
57329 Manchester Gas Co.
57330 Michigan Consolidated Gas Co.
57330 Michigan Wisconsin Pipe Line Co.
57330 Mountain Fuel Supply Co.
57331 Northern Illinois Gas Co.
57329 Ozark Gas Transmission System
57331 Tennessee Gas Pipeline Co. et al.
57332 Texas Eastern Transmission Corp.
Natural gas companies:
57326 Small producer certificates, applications (Entex-Petroleum Inc. et al.)
Natural Gas Policy Act:
57331 Jurisdictional agency determinations; well category withdrawals, etc. (Gulf Oil Corp.)
Small power production and cogeneration facilities; qualifying status; certification applications, etc.:
Alpha Farm, Inc. (Editorial Note: This document, appearing at page 56894 in the **Federal Register** for December 21, 1982, was mistakenly listed in the table of contents under Hearings, etc.)

Federal Home Loan Bank Board
PROPOSED RULES
Federal home loan bank system:
57293 Payment instrument services program, pricing requirements

Federal Maritime Commission
NOTICES
57342 Agreements filed, etc.

Federal Reserve System
NOTICES
Applications, etc.:
57344 Citicorp
57343 Gravois Bancorp, Inc., et al.
57345 Mellon National Corp.
57345 Starbuck Bancshares, Inc.
57344 Union Bancorp of Du Bois et al.
Bank holding companies; proposed de novo nonbank activities:
57343 Key Banks Inc. et al.

Fiscal Service
NOTICES
57388 Renegotiation interest rate for excessive profits and refund

Health and Human Services Department
See also Child Support Enforcement Office; National Institutes of Health; Public Health Service.
NOTICES
57350 Agency forms submitted to OMB for review

Housing and Urban Development Department
RULES
Low income housing:
57270 Annual contributions for operating subsidy; performance funding system; interim

Indian Affairs Bureau
RULES
Grants and contracts (Indian Self-Determination and Educational Assistance Act programs):
57274 Education contracts under Johnson-O'Malley Act; school lunch provision
NOTICES
Irrigation projects; operation and maintenance charges:
57351 Crow Irrigation Project, Mont.

Interior Department
See also Indian Affairs Bureau; Land Management Bureau; Minerals Management Service; National Park Service; Surface Mining Reclamation and Enforcement Office.
RULES
Public land orders:
57275 Alaska

International Development Cooperation Agency
NOTICES
57356 Agency forms submitted to OMB for review

International Trade Administration
NOTICES
Antidumping:
57308 Industrial nitrocellulose from France
Countervailing duties:
57317 Amoxicillin Trihydrate and its salts from Spain
57318 Ampicillin trihydrate and its salts from Spain
57315 Chain of iron or steel from Japan
57310 Fireplace mesh panels from Taiwan
57316 Textiles and textile products from Argentina
57311 Export trading company contact facilitation service and fee schedule; computerized clearinghouse
Scientific articles; duty free entry:
57312 Auburn University
57313 Massachusetts Institute of Technology
57313 Oregon State University
57313 University of Illinois
57314 University of Minnesota
57314 University of Southern California
57314 VA Medical Center Research Division et al.
Steel trigger price levels:
57310 Stainless steel round wire; first quarter 1983; correction

Interstate Commerce Commission
RULES
Railroad car service orders; various companies:
57287 Chicago, Milwaukee, St. Paul & Pacific Railroad Co.; track use by various railroads
PROPOSED RULES
Tariffs and schedules:
57303 Motor contract carriers; exemption
NOTICES
Motor carriers:
57357, 57362 Finance applications (2 documents)
57358, 57360 Permanent authority applications (3 documents)
Rail carriers; contract tariff exemptions:
57362 Soo Line Railroad Co. et al.
Railroad operation, acquisition, construction, etc.:
57363 Louisville & Nashville Railroad Co.; abandonment exemption
Railroad services abandonment:
57363 Atchison, Topeka & Santa Fe Railway Co. (2 documents)

Justice Department
See also National Institute of Justice.
NOTICES
Pollution control; consent judgments:
57367 Baton Rouge, La.
57364 British Columbia Forest Products, Ltd., et al.

Land Management Bureau
PROPOSED RULES
Recreation management:
57404 Prohibited acts and penalties
NOTICES
Classifications of public lands:
57352 Nevada; correction
Coal leases, exploration licenses, etc.:
57355 Utah
Environmental statements; availability, etc.:
57354 Big Lost and Mackay Units, Idaho Falls and Salmon Districts, Idaho; proposed range management program; notice of intent
57354 Grand Junction Resource Area, Grand Junction District, Colo. and Utah; scoping meetings
57351 Green River-Hams Fork Federal Coal Region, Colo. and Wyo.; track ranking for proposed leasing of Federal coal; meeting
57353 Shoshone-Eureka Resource Area, Battle Mountain District, Nev.; land acquisition application by Exxon Minerals Corp.; scoping meetings
Exchange of public lands for private land:
57353 California (2 documents)

Meetings:
57352 Butte District Multiple Use Advisory Council
57352 Canon City District Grazing Advisory Board
57352 Casper District Advisory Council
57355 Idaho Falls District Grazing Advisory Board
57352 Roswell District Advisory Council
Withdrawal and reservation of lands, proposed, etc.:
57355 Montana

Management and Budget Office
NOTICES
57369 Intergovernmental review of Federal programs; availability of regulatory policy issues and decisions

Maritime Administration
NOTICES
Trustees; applicants approved, disapproved, etc.:
57386 Bank of New York
57386 Connecticut National Bank

Minerals Management Service
NOTICES
Outer Continental Shelf; oil, gas, and sulphur operations:
57408 Mid-Atlantic; proposed oil and gas lease sale (Sale No. 76)
Outer Continental Shelf; oil, gas, and sulphur operations; development and production plans:
57356 Mobil Oil Exploration & Producing Southeast Inc.
57356 Tenneco Oil Exploration & Production (2 documents)

National Bureau of Standards
NOTICES
Information processing standards, Federal:
57319 Federal and federally-assisted organizations, identification codes

National Highway Traffic Safety Administration
PROPOSED RULES
57298 Alcohol traffic safety programs; incentive grant criteria; hearing
Motor vehicle safety standards:
57302 Controls and displays, and hydraulic brake systems; extension of time
NOTICES
Motor vehicle defect proceedings; petitions, etc.:
57386 Spencer, Robert

National Institute of Justice
NOTICES
Meetings:
57363 Advisory Board

National Institutes of Health
NOTICES
Meetings:
57346 Advisory Committee to the Director
57346 Cancer Treatment Division; Scientific Counselors Boards
57348 Child Health and Human Development National Advisory Council
57348 Dental Research National Advisory Council
57346 Digestive Diseases National Advisory Board
57348 Environmental Health Sciences Institute, National; Scientific Counselors Board
57349 Environmental Health Sciences National Advisory Council
57348 General Medical Sciences National Advisory Council
57349 Heart, Lung, and Blood National Advisory Council
57347 Neurological and Communicative Disorders and Stroke National Advisory Council
57347 Research Grants Division study sections
57349 Research Manpower Review Committee
57346 Resources, Centers, and Community Activities Division; Scientific Counselors Board

National Mediation Board
NOTICES
57391 Meetings; Sunshine Act

National Oceanic and Atmospheric Administration
RULES
Financial aid to fisheries:
57290 Fisheries obligation guarantee program
PROPOSED RULES
Fishery conservation and management:
57306 Bering Sea and Aleutian Islands groundfish; foreign and domestic fishing; correction
NOTICES
Meetings:
57320 New England Fishery Management Council

National Park Service
PROPOSED RULES
Special regulations:
57300 North Cascades National Park, et al., Wash.; snowmobile regulations

National Science Foundation
RULES
57284 National security information program; implementation

Nuclear Regulatory Commission
NOTICES
Meetings:
57368, 57369 Reactor Safeguards Advisory Committee (2 documents)

Public Health Service
NOTICES
National toxicology program:
57350 Cancer bioassay reports; 2-biphenylamine hydrochloride, etc.

Securities and Exchange Commission
RULES
Financial statements (Regulation S–X):
57267 Annual report to security holders; proxy rules, elimination of separate reports of other accountants; CFR correction
NOTICES
57369 Consolidated Tape Association plan; amendment
Hearings, etc.:
57370 GIT Cash Trust
57371 IDS Cash Management Fund, Inc.
57372 Mississippi Power & Light Co.
57373 Plaza One Money Market Fund

Self-regulatory organizations; proposed rule changes:
57374 American Stock Exchange, Inc.
57376, 57377 Options Clearing Corp. (2 documents)
57382 Philadelphia Stock Exchange, Inc.
Self-regulatory organizations; unlisted trading privileges:
57372 Midwest Stock Exchange, Inc.

Small Business Administration
NOTICES
Applications, etc.:
57382 Basic Investment Corp.
57383 C & C Capital Corp.
57383 Security Capital Corp.
57383 Suburban Capital Corp.

Surface Mining Reclamation and Enforcement Office
PROPOSED RULES
Permanent program submission; various States:
57299 Kansas

Tennessee Valley Authority
PROPOSED RULES
57297 Administrative cost recovery

Textile Agreements Implementation Committee
NOTICES
Cotton, wool, or man-made textiles:
57321 Macau
57322 Poland
57322 Singapore

Transportation Department
See also Coast Guard; Federal Aviation Administration; Maritime Administration; National Highway Traffic Safety Administration.
RULES
Organization, functions, and authority delegations:
57286 Assistant Secretary for Administration; real property leases
NOTICES
57386 Financial assistance programs; recoveries of overcharges, etc.; policy statement

Treasury Department
See also Comptroller of Currency; Customs Service; Fiscal Service.
NOTICES
57388 Agency forms submitted to OMB for review
Notes, Treasury:
57390 K–1986 series
57390 Z–1984 series

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

7 CFR
16.....57253
907.....57253

9 CFR
92.....57254

Proposed Rules:
92 (2 documents).....57288, 57291
166.....57292

12 CFR
9.....57255

Proposed Rules:
534.....57293

13 CFR
301.....57256

14 CFR
39.....57257
71 (4 documents).....57259–57262
91.....57262
97.....57265

Proposed Rules:
39.....57295

15 CFR

Proposed Rules:
1101.....57296

17 CFR
3.....57266
240.....57267

18 CFR
2.....57268
3.....57270
271.....57270

Proposed Rules:
1300.....57297

23 CFR

Proposed Rules:
1209.....57298

24 CFR
890.....57270

25 CFR
273.....57274

30 CFR

Proposed Rules:
916.....57299

36 CFR

Proposed Rules:
7.....57300

40 CFR

Proposed Rules:
123 (2 documents).....57301, 57302

43 CFR

Public Land Orders:
6342.....57275

Proposed Rules:
8360.....57404

44 CFR
205.....57275

45 CFR
301.....57277
302.....57277
303 (2 documents).....57277, 57282
304 (2 documents).....57277, 57282
305 (2 documents).....57277, 57282
601.....57284

47 CFR
2.....57286

49 CFR
1.....57286
450.....57287
451.....57287
452.....57287
453.....57287
1033.....57287

Proposed Rules:
571.....57302
1162.....57303
1306.....57303
1307.....57303

50 CFR
255.....57432

Proposed Rules:
611.....57306
675.....57306

Rules and Regulations

Federal Register
Vol. 47, No. 247
Thursday, December 23, 1982

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 16

Restriction of Importation of Meat from Australia and New Zealand.

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Final rule.

SUMMARY: This rule adjusts the quantitative restrictions on meat imports from Australia and New Zealand. This adjustment reflects the reallocation to Australia and New Zealand of a shortfall in meat imports from other supplying countries. Such a reallocation was provided for in agreements with Australia and New Zealand.

EFFECTIVE DATE: December 23, 1982. See supplementary information.

FOR FURTHER INFORMATION CONTACT: Bryant Wadsworth (FAS), (202) 447–8031, Dairy, Livestock and Poultry Division, FAS, USDA, Room 6616 South Building, Washington, D.C. 20250.

SUPPLEMENTARY INFORMATION: Pursuant to the authority of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and Executive Order 11539, as amended, the Office of the United States Trade Representative has negotiated agreements with the Governments of Australia and New Zealand whereby each country has voluntarily agreed to a limitation on the quantity of certain meats exported from it to the United States during calendar year 1982.

Those agreements provided that, if the amount of meat imported from other supplying countries was less than the estimated amount used in negotiating the maximum level of imports contained in those agreements, then that shortfall would be reallocated to Australia and New Zealand and the total level of permissible imports from those two countries would be adjusted correspondingly.

Such a shortfall has occurred. Accordingly, this final rule increases the permissible level of imports from Australia and New Zealand to reflect the allocation of that shortfall to Australia and New Zealand.

The concurrence of the Secretary of State and the United States Trade Representative has been obtained for the issuance of these regulations.

The action taken herewith has been determined to involve foreign affairs functions of the United States. Therefore, this regulation falls within the foreign affairs exception of Executive Order 12291 and the notice, public participation and effective date provisions of 5 U.S.C. 553. Further, the provisions of the Regulatory Flexibility Act do not apply to this rule since the notice of proposed rulemaking provisions of 5 U.S.C. 553 do not apply.

List of Subjects in 7 CFR Part 16

Meat and meat products, Imports.

PART 16—[AMENDED]

Accordingly, Subpart A of Part 16 of Title 7 of the Code of Federal Regulations is amended as follows:

1. Section 16.5 is revised as follows:

§ 16.5 Quantitative restrictions.

(a) Imports from New Zealand. During calendar year 1982, no more than 349.9 million pounds of meat exported from New Zealand in the form in which it would fall within the definition of meat in TSUS 106.10, 106.22, 106.25, 107.55, or 107.62 may be entered or withdrawn from warehouse for consumption in the United States, whether shipped directly or indirectly from New Zealand to the United States.

(b) Imports from Australia. During calendar year 1982, no more than 697.0 million pounds of meat exported from Australia in the form in which it would fall within the definition of meat in TSUS 106.10, 106.22, 106.25, 107.55, or 107.62 may be entered or withdrawn from warehouse for consumption in the United States, whether shipped directly or indirectly from Australia to the United States.

(Sec. 204, Pub. L. 540, 84th Cong. 70 Stat. 200, as amended (7 U.S.C. 1854), and Executive Order 11539 (35 FR 10733), as amended by Executive Order 12188 (45 FR 989))

Issued at Washington, D.C., this 21st day of December, 1982.

John R. Block,
Secretary.

[FR Doc. 82-34953 Filed 12-21-82; 12:47 pm]
BILLING CODE 3410-10-M

Agricultural Marketing Service

7 CFR Part 907

[Navel Orange Reg. 557]

Navel Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period December 24–30, 1982. Such action is needed to provide for orderly marketing of fresh navel oranges for this period due to the marketing situation confronting the orange industry.

EFFECTIVE DATE: December 24, 1982.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, 202–447–5975.

SUPPLEMENTARY INFORMATION:

Findings

This rule has been reviewed under USDA procedures and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This action is designed to promote orderly marketing of the California-Arizona navel orange crop for the benefit of producers and will not substantially affect costs for the directly regulated handlers.

This regulation is issued under the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–

674). This action is based upon the recommendations and information submitted by the Navel Orange Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

This action is consistent with the marketing policy for 1982–83. The marketing policy was recommended by the committee following discussion at a public meeting on September 21, 1982. The committee met again publicly on December 21, 1982, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of navels deemed advisable to be handled during the specified week. The committee reports the demand for navel oranges is easier.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared policy of the Act to make this regulatory provision effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 907

Marketing agreements and orders, California, Arizona, Oranges (navel).

1. Section 907.857 is added as follows:

§ 907.857 Navel Orange Regulation 557.

The quantities of navel oranges grown in Arizona and California which may be handled during the period December 24, 1982, through December 30, 1982, are established as follows:

(1) District 1: 700,000 cartons;

(2) District 2: Unlimited cartons;

(3) District 3: Unlimited cartons;

(4) District 4: Unlimited cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: December 21, 1982.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 82–35080 Filed 12–22–82; 11:53 am]
BILLING CODE 3410–02–M

Animal and Plant Health Inspection Service

9 CFR Part 92

[Docket No. 82–092]

Ports Designated for the Importation of Animals; Addition of a Special Port for Pet Birds

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: This document adds Hidalgo, Texas, to the list of special ports for the importation of pet birds. This action is being taken because it will relieve restrictions presently imposed on the owners of pet birds and reduce expenses incurred by this Department in transporting a small number of pet birds 80 miles from the present port of entry at Brownsville, to Mission, Texas, for quarantine. The intended effect of this action is to revise the list of special ports for pet birds designated in 9 CFR 92.3(f).

DATES: Effective date December 23, 1982. Comments must be received on or before February 22, 1983.

ADDRESS: Written comments to Deputy Administrator, VS, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

All written submissions made pursuant to this interim rule will be made available for public inspection at the Federal Building, Room 728, 6505 Belcrest Road, Hyattsville, MD, during regular hours of business (8 a.m. to 4:30 p.m., Monday to Friday, except holidays) in a manner convenient to the public business (9 CFR 1.27(b)).

Comments submitted should bear a reference to the date and page number of this issue in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Dr. S. S. Richeson, Chief Staff Veterinarian, Import/Export Animals and Products, VS, APHIS, USDA, Room 846, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8170.

SUPPLEMENTARY INFORMATION:

Executive Order 12291 and Emergency Action

This interim rule has been reviewed in conformance with Executive Order 12291 and Secretary's Memorandum 1512–1, and has been determined to be not a "major rule." The Department has determined that this action will not have a significant annual effect on the economy, will not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and will not have any adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this rulemaking action, the Office of Management and Budget has waived their review process required by Executive Order 12291.

Dr. George P. Pierson, Acting Director, National Program Planning Staffs, VS, APHIS, USDA, has determined that an emergency situation exists which warrants publication without prior opportunity for a public comment period on this interim action. This amendment relieves restrictions presently imposed on pet birds imported into the United States by adding a new port of entry at Hidalgo, Texas, and should be made effective immediately in order to permit affected persons to move these birds into the United States without unnecessary and time consuming restrictions. Further, this amendment reduces the expense and manpower this Department must bear in transporting birds from Brownsville to Mission, Texas, where the birds are quarantined.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this emergency interim action is impracticable, unnecessary and contrary to the public interest, and good cause is found for making this action effective less than 30 days after publication of this document in the **Federal Register.** Comments have been solicited for 60 days after publication of this document, and this emergency interim action will be scheduled for review so that a final document discussing comments received and any amendments required can be published in the **Federal Register** as soon as possible.

Certification under the Regulatory Flexibility Act

Dr. Harry C. Mussman, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. It is anticipated that no more than approximately 45 pet birds will be imported annually through this port of entry. Since these are pet birds and not commercial birds, it is anticipated that there will not be any economic impact on any small entities.

Background

The regulations in 9 CFR 92.3 list the ports of entry for pet birds which are not known to be affected with or exposed to communicable diseases of poultry. Presently, birds that enter at Brownsville, Texas, are placed in quarantine at Mission, Texas. Brownsville, Texas, the nearest approved port of entry to Mission, Texas, is 80 miles away and Hidalgo, Texas, is only 25 miles from Mission, the USDA quarantine facility. It is contrary to the public's interest to require importer(s) to commute to Brownsville to enter a pet bird when it is more convenient to use Hidalgo as a port of entry. Adding Hidalgo as a port of entry for pet birds will also save the Department the expense and manpower of transporting such birds from Brownsville to Mission, Texas, for quarantine. It should be noted that in a companion docket, published in this issue of the **Federal Register**, it has been proposed that Brownsville, Texas, be deleted as a port of entry for pet birds.

Therefore, the Department is adding Hidalgo, Texas, as a port of entry for pet birds because it is economically advantageous to importers and the Department.

Alternatives

The following alternatives were considered in making this decision:

1. To make no change in the regulation.

This alternative would continue to prohibit the use of Hidalgo, Texas, as a port of entry for pet birds, and, thereby, the restrictions presently imposed would not be relieved. This alternative was not selected because the Deputy Administrator, Veterinary Services, has determined that it is not in the best interest of the importers of pet birds and this Department.

2. To amend the regulation as outlined above.

This alternative was selected because presently importers must use the port of entry at Brownsville, Texas. This alternative maximizes net benefit to society at the lowest net cost in that the present restriction is inconvenient and creates unjust hardships on importers desiring to use Hidalgo because of the distance from Hidalgo to Brownsville and because of the added expense and manpower the Department must bear in transporting pet birds from Brownsville to Mission, Texas, where the birds must be placed in quarantine. Hidalgo is 55 miles closer to Mission, Texas, than Brownsville.

List of Subjects in 9 CFR Part 92

Animal diseases, Imports, Mexico, Poultry and poultry products, Quarantine, Transportation, Exotic Newcastle Disease, Pet birds.

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

§ 92.3 [Amended]

Accordingly, Part 92, Title 9, Code of Federal Regulations, is amended by adding "Hidalgo, Texas," to the list of special ports for pet birds in § 92.3(f).

(Sec. 2, 32 Stat. 792, as amended; secs. 2, 4, 11, 76 Stat. 129, 130, 132; 21 U.S.C. 111, 134a, 134c, 134f)

Done at Washington, D.C., this 20th day of December, 1982.

J. K. Atwell,

Deputy Administrator, Veterinary Services.

[FR Doc. 82-34878 Filed 12-22-82; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

12 CFR Part 9

[Docket No. 82-28]

Registration of National Bank Transfer Agents

AGENCY: Comptroller of the Currency, Treasury.

ACTION: Final rule.

SUMMARY: The Office of the Comptroller of the Currency ("Comptroller") is amending its rules governing the registration of transfer agents for securities registered under Section 12 of the Securities Exchange Act of 1934 or for certain securities exempt from registration. The amendments will allow additional time in which to file amendments of Form TA-1, will repeal a transitional provision which is no longer required, and will add a citation of statutory authority.

EFFECTIVE DATE: The amendments are immediately effective December 23, 1982.

FOR FURTHER INFORMATION CONTACT: Tyler Tullos, Trust Examinations Division, (202) 447-1731 or Brenda Curry, Legal Advisory Services Division, (202) 447-1880, Office of the Comptroller of the Currency, Washington, D.C. 20219.

SUPPLEMENTARY INFORMATION: On May 28, 1982, the Comptroller published for comment (47 FR 23473) a Notice of Proposed Rulemaking to amend 12 CFR 9.20 to conform to the revised Form TA-1, which was jointly developed by the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Securities and Exchange Commission and the Office of the Comptroller of the Currency. Adoption of the new Form TA-1 occurred on June 28, 1982, 30 days after publication of the notice of adoption in the **Federal Register** (47 FR 23473) Registrants, however, were permitted to use either the old or new form TA-1 during the 30-day interim period.

The Comptroller recieved four letters commenting on the proposed amendments to the regulation and the adoption of the revised Form TA-1. All four letters favored the changes, stating that their implementation should reduce paper work, simplify procedures and facilitate compliance. Therefore, the regulation is being adopted without change.

Registrants will now be allowed sixty days in which to file an amendment to correct inaccurate, misleading or incomplete information included in a previously filed Form TA-1. Extending the period of time for filing amendments from twenty-one days to sixty days will allow registered transfer agents sufficient time in which to comply with the regulation.

Section 9.20(e) was enacted as a transitional rule in 1975. The Comptroller believes that it no longer serves a useful purpose and should be repealed in the interest of regulatory simplification and clarity. Finally, the Comptroller will add a citation of statutory authority to 12 CFR 9.20 to inform the public of the Comptroller of the Currency's specific rulemaking authority for transfer agents under the Securities Exchange Act of 1934.

Special Studies

The Secretary of Treasury certified in the Notice of Proposed Rulemaking that this rule would not have a significant economic impact on a substantial number of small entities; therefore, no Regulatory Flexibility Analysis was prepared. A Regulatory Impact Analysis pursuant to Executive Order 12291 was not required since the amendments will not have an annual effect on the economy of $100 million or more, will not result in a major increase in costs or prices to consumers, individual industries, federal, state or local government agencies or geographic regions nor will it have significant adverse effects on competition,

employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

List of Subjects in 12 CFR Part 9

National banks, Transfer agents, Fiduciary powers.

PART 9—[AMENDED]

For the reasons set forth in the preamble, 12 CFR Part 9 is amended as follows:

1. The authority citation for Part 9 is revised to read as follows:

Authority: Sec. 1, 77 Stat. 668; 12 U.S.C. 92a; and R.S. 5240 as amended (12 U.S.C. 481), unless otherwise noted.

2. 12 CFR 9.20(c) is revised to read as follows:

§ 9.20 Registration of national bank transfer agents.

* * * * *

(c) Within sixty calendar days following the date on which any information reported on Form TA–1 becomes inaccurate, misleading or incomplete, the registrant shall file an amendment on Form TA–1 correcting the inaccurate, misleading or incomplete information.

* * * * *

3. 12 CFR 9.20(e) is removed.

4. A citation of authority is added after § 9.20 to read as follows:

(Secs. 3(a)(34)(B), 17, 17A, and 23 of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(34)(B), 78q, 78q–1, 78w))

Dated: December 3, 1982.

C. T. Conover,

Comptroller of the Currency.

[FR Doc. 82-34812 Filed 12-22-82; 8:45 am]

BILLING CODE 4810-33-M

DEPARTMENT OF COMMERCE

Economic Development Administration

13 CFR Part 301

[Docket No. 21203–242]

Establishment and Organization, Subpart C, Description of Organization

AGENCY: Economic Development Administration (EDA), Commerce.

ACTION: Interim rule.

SUMMARY: This rule amends EDA's Establishment and Organization regulation to reflect organizational changes in the Agency. It describes changes in titles and duties of EDA Officials/Offices.

DATES: Effective December 23, 1982. Comments by February 22, 1983.

ADDRESS: Send comments to the Assistant Secretary for Economic Development, U.S. Department of Commerce, Room 7800B, Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Henry C. Kramer, Acting Director, Office of Management and Administration, U.S. Department of Commerce, Economic Development Administration, Room 7816, Washington, D.C. 20230; (202) 377–2194.

SUPPLEMENTARY INFORMATION: EDA is amending its establishment and organization regulation at 13 CFR Part 301, Subpart C—Description of Organization. The regulation as now written does not accurately reflect Agency organizational structure, i.e., titles and duties. Such changes were brought about by a Reduction in Force, Agency reorganization and new delegations of authority. The changes are reflected in Department Organization Order 45–1, effective August 2, 1982.

Because this rule relates to Agency Management, it is exempt from the notice and comment procedures described in Section 553 of the Administrative Procedure Act (5 U.S.C. 553). However, while the rule will become effective upon publication in interim form, the public will be given an opportunity to comment before it is published in final form.

In accordance with Section 3(c)(3) of Executive Order No. 12291, this rulemaking has been submitted to the Director of the Office of Management and Budget. Since this is not a "major rule," a Regulatory Impact Analysis is not required. In addition, there are no reporting or recordkeeping requirements under the Paperwork Reduction Act of 1980 (Pub. L. 96–511).

It has been determined by the General Counsel of the Department of Commerce that this rulemaking will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 13 CFR Part 301

Organization and functions (government agencies). Freedom of information.

Accordingly, EDA amends 13 CFR Part 301 as follows:

PART 301—ESTABLISHMENT AND ORGANIZATION

Subpart C—Description of Organization

1. Section 301.32 is revised to read as follows:

§ 301.32 Assistant Secretary.

The Assistant Secretary for Economic Development directs the programs and is responsible for the conduct of all activities, including overall direction and coordination of the Regional Offices of EDA, subject to the policies and directives prescribed by the Secretary of Commerce. The Assistant Secretary also directs the Executive Secretariat.

(a) The Executive Secretariat receives all correspondence addressed to the Office of Assistant Secretary, and assigns it to the appropriate office for action; records controlled and non-controlled correspondence; maintains prompt follow-up of replies to ensure that deadlines are met; maintains correspondence and policy files; and provides a selective reference service to files as requested by EDA Officials.

2. Section 301.33 is revised to read as follows:

§ 301.33 Deputy Assistant Secretary.

The Deputy Assistant Secretary assists the Assistant Secretary in all matters affecting EDA; and performs the duties of the Assistant Secretary during the latter's absence. The Deputy Assistant Secretary also directs the Office of Compliance. Regional Directors report directly to the Deputy Assistant Secretary.

(a) The Office of Compliance conducts Section 702 studies, where appropriate; recommends areas for designation, as requested; coordinates all of EDA's environmental activities; develops, as appropriate, agency procedures for complying with environmental legislation, regulations, and executive orders; serves as EDA's Official under the provisions of the National Environmental Policy Act of 1969 (NEPA); establishes effective systems throughout EDA to obtain and monitor reports concerning the program of equality of opportunity and ensures compliance with Civil Rights Guidelines, Department and EDA Regulations; establishes report requirements to ensure equality of opportunity by participants in economic development programs, conducts on-site inspections, and receives, investigates, and adjusts complaints; evaluates EDA experience relating to the equal opportunity programs; and establishes uniform equal opportunity standards and procedures to be followed in reviewing EDA projects.

(b) The Regional Directors (along with the appropriate Deputy Assistant Secretary (DAS)) have review and clearance responsibilities concerning certain types of amendments; approve disbursements and close out grant

project audits; approve deferments of certain payments concerning loans and leases; and have certain powers and duties concerning Economic Development Districts, Indian organizations and other Areas. Regional Directors also approve Overall Economic Development Programs (OEDP).

3. Section 301.34 is revised to read as follows:

§ 301.34 Deputy Assistant Secretary for Operations.

The Deputy Assistant Secretary for Operations reports to the Deputy Assistant Secretary; and provides coordinated direction of headquarters activities related to financial and technical assistance projects, which will improve local economies, and integrate EDA's investment and planning activities. He/she also develops, in conjunction with the Office of the Inspector General, criteria for audits, including adherence to EDA policy and programmatic requirements. In addition, he/she develops policies and procedures for the implementation of the following program authorities: Public Works; Technical Assistance; Title IX Special Adjustment Assistance; Title IX Long-Term Economic Deterioration; and Local Public Works. The Deputy Assistant Secretary for Operations oversees and coordinates the Section 304 program of the Act; and monitors and services projects developed under: The Comprehensive Employment Training Act of 1973, as amended (29 U.S.C. 801 *et seq.)*; Section 217 of Pub. L. 89–298 (42 U.S.C. 3142a) relating to river and harbor projects; 41 CFR Part 101–43, Public Contracts and Property Management, for the acquistion, use and eventual disposition of excess personal property obtained by the Administration and furnished to the Administration's project grantees and cost reimbursement type contractors; The Local Public Works Capital Development and Investment Act of 1976, which is Title I of the Public Works Employment Act of 1976 (Pub. L. 94–369, 42 U.S.C. 6701 *et seq.*), as amended by Pub. L. 95–28; Pub. L. 94–427, 90 Stat. 1336–1339, relating to the XIII International Olympic Winter Games; and The Community Emergency Drought Relief Act of 1977, Pub. L. 95–31. In addition, the Deputy Assistant Secretary for Operations directs and supervises the activities of the Office of Economic Adjustment, the Office of Public Works, and the Office of Planning, Technical Assistance, Research, and Evaluation.

(a) The Office of Economic Adjustment coordinates and oversees the operation of the Title IX economic dislocation program; develops policies and procedures for implementation of the program; and provides post-approval assistance, taking into account program and policy compliance and appropriate measures to correct non-compliance.

(b) The Office of Public Works is responsible for the implementation of Public Works grants and loans under the Act (Title I, II, and IV); and the Long-Term Deterioration (Title IX) program. The Office of Public Works is also responsible for the implementation of Title I of the Public Works Employment Act of 1976 (LPW) as amended; Pub. L. 94–427, relating to the XIII International Olympic Winter Games; and the Community Emergency Drought Relief Act of 1977. In addition, the Office of Public Works develops policies and procedures for the implementation of public investment programs; directs and oversees the specific program authorities, and oversees post-approval management of all public investments, including special adjustment assistance, construction, and revolving loan projects.

(c) The Office of Planning, Technical Assistance, Research, and Evaluation oversees the monitoring of planning grants to states, cities, districts, counties, neighborhoods, metropolitan organizations, and Indian tribes; oversees and monitors technical assistance activities; conducts evaluations of EDA policies, programs, and projects to determine their effectiveness in terms of goals and objectives; and develops cost-benefit studies to aid the Assistant Secretary in making choices and decisions between alternative programs, projects, or activities for economic development; and reviews, evaluates, integrates, and disseminates the results of EDA sponsored research as well as other research findings that are relevant to EDA's objectives.

4. Section 301.35 is added to read as follows:

§ 301.35 Deputy Assistant Secretary for Finance.

The Deputy Assistant Secretary for Finance reports to the Deputy Assistant Secretary; and provides coordinated direction of headquarters and regional activities related to EDA's direct loan and loan guaranty programs. The Deputy Assistant Secretary for Finance also develops policies and procedures for the administration of Section 202 of the Public Works and Economic Development Act of 1965, as amended; and monitors and services projects developed under Chapters 3 and 4 of Title II of the Trade Act of 1974 as amended, (19 U.S.C. 2341 *et seq.*, 2371 *et seq.*), and predecessor statutes, as they pertain to providing monitoring and servicing for those adjustment assistance projects to firms which were certified eligible to apply and were approved prior to the transfer of functions to the Under Secretary for International Trade.

The Deputy Assistant Secretary for Finance directs and supervises the activities of the Office of Loan Management, the Office of Special Servicing, and the Office of Liquidation.

(a) The Office of Loan Management oversees and monitors the servicing activities of the Regional Offices; conducts the loan administration of EDA loans/guarantees requiring servicing, so as to sustain or restore EDA projects as viable operations, including modifications of existing loan/guaranty terms and conditions; analyzes and recommends for approval or denial, modification actions to existing EDA loan/guaranty terms and conditions as requested by the Regional Offices; and coordinates and oversees the management information system relating to Regional Office portfolio administration and administration of the Office of Loan Management portfolio.

(b) The Office of Special Servicing develops, implements, and evaluates the policies, standards and procedures for the operation of the direct loan and loan guaranty programs in headquarters and the Regional Offices; performs the final financial and programmatic reviews of any application for new loan/guaranty assistance received in EDA; recommends the expenditure of current funds for new projects or for the injection of current funds for previously approved projects; and conducts the post approval administration of all EDA loans/guarantees within the headquarters portfolio that are determined to have the highest risk, greatest exposure, greatest programmatic sensitivity; and performs appropriate workout actions, such as restructuring, refinancing, obtaining new captial, or arranging for takeover by another organization, when it is determined to be in the best interest of the government.

(c) The Office of Liquidation conducts the orderly liquidation of EDA projects incapable of continuing viable operations, so as to dispose of the project assets, acquired at foreclosure or otherwise, to the best advantage of the government; directs all activities in connection with the care and preservation of EDA's collateral and security position in EDA loans/guarantees; and requests the assistance of, and works with, EDA's Office of

Chief Counsel and other Federal agencies toward the orderly liquidation of EDA loans/guarantees.

5. Section 301.36 is revised to read as follows:

§ 301.36 Management and Administration Directorate.

The Management and Administration Directorate is headed by a Director who reports to the Deputy Assistant Secretary. The Director is responsible for providing the full range of administrative services and for management and organization analysis and evaluation functions. These functions are carried out through the Affirmative Action Officer, the Budget Division, the Management Analysis and Services Division, the Accounting Division, the Information Systems and Services Division, and the Personnel Management Division.

(a) The Affirmative Action Officer resolves discrimination complaints in accordance with the provisions of Title VII of the Civil Rights Act, and administers EDA's Affirmative Action Program.

(b) The Budget Division develops and prepares the annual budget for EDA; is responsible for the total financial program of EDA, and for the fiscal aspects of EDA programs entrusted to other Federal agencies; and reviews and monitors a fiscal control system for both program and administrative expenses consistent with the requirements of the Anti-Deficiency Act, which shall include, but not be restricted to allotment of funds, operating budgets, employment limitations, and analyses of reports and proposed actions relating thereto.

(c) The Management Analysis and Services Division conducts organizational and management studies and surveys; plans and conducts a program for achieving operational maximum economy, effectiveness, and efficiency and for obtaining optimum personnel utilization; develops and conducts a program for the efficient management of all official records, including an issuance system for administrative and program orders, and the design and control of official forms; and develops and administers a report control system for all administrative and operational reports. The Management Analysis and Services Division also provides, or arranges for administrative services for EDA headquarters and, as required, for the Regional Offices, including the procurement of administrative supplies, vehicle hire, furniture, equipment, and the distribution of printed and bound materials; evaluates, reports on, and makes recommendations on the utilization of space, supplies, equipment, communications, and related services within EDA; and serves as liaison with the Office of the Secretary on administrative matters. In addition, the Management Analysis and Services Division, in conjunction with the Office of General Counsel, prepares or arranges for an appropriate response to all inquiries for Privacy Act or Freedom of Information requests.

(d) The Accounting Division develops and maintains accounting systems and prepares financial reports for internal and external use, according to the needs of management, the requirements of laws or regulations, and established policies; provides accounting support for effective control of all funds administered, to present accurately the status of the appropriated funds within the requirements of the Anti-Deficiency Act, and as required for good management by the program officials; analyzes financial and operating data to assure that financial and management policies are being followed; and serves as the liaison with the Office of the Secretary and other Federal Agencies in all accounting matters.

(e) The Information Systems and Services Division plans, develops, acquires, and coordinates the use of automatic data processing systems and equipment for EDA; provides data processing services, including the conduct of feasibility studies and the development of systems and programs for the application of automatic data processing techniques; develops and maintains a comprehensive information and data base system to meet specified requirements for administrative, planning, operational, program management, and program evaluation purposes; and provides periodic and special summary reports on current optional and performance comparisons to planned goals.

(f) The Personnel Management Division plans, organizes, and administers staffing services such as recruitment and placement, appointment, promotion, and separation; manages other personnel programs including employee relations, employee training and development, employee recognition and incentives, labor-management relations, position management and classification, and various employee services and benefits programs; maintains a processing and filing system for all personnel actions; and provides planning and administrative support to EDA's Equal Employment Opportunity programs.

6. Section 301.37 is revised to read as follows:

§ 301.37 Office of the Chief Counsel.

The Office of the Chief Counsel renders all necessary legal services, subject to the provisions of Department Organization Order 10-6; has primary responsibility for the preparation, coordination, and clearance of all legislation, regulations, and external orders subject to the provisions of applicable Departmental Orders; and provides the legal services review required to administer all EDA projects.

§§ 301.38–301.43 [Removed]

7. Sections 301.38–301.43 are removed.

Authority: (Sec. 701, Pub. L. 89–136, 79 Stat. 570) (42 U.S.C. 3211). Sec. 1–105, E.O. 12185, DOC Organization Order 10–4, as amended (40 FR 56702, as amended).

Dated: November 19, 1982.

Charles S. Warner,

Assistant Secretary for Economic Development.

[FR Doc. 82–33992 Filed 12–22–82; 8:45 am]

BILLING CODE 3510–24–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 82-ASW-78; Amdt. 39-4512]

Airworthiness Directive; Bell Model 214ST Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) which requires repetitive inspections of the upper left tailboom attach longeron and installation of a reinforcement modification on Bell Model 214ST helicopters. The AD is needed to prevent failure of this longeron which could result in separation of the tailboom from the fuselage.

DATE: Effective December 23, 1982. Compliance schedule—As prescribed in body of AD.

ADDRESSES: The applicable Alert Service Bulletin may be obtained from Bell Helicopter Textron, Inc., P.O. Box 482, Fort Worth, Texas 76101. A copy of the Alert Service Bulletin is contained in the Rules Docket, Room 916, Federal Aviation Administration, 800 Independence Avenue, SW., Washington D.C. 20591, and the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas 76106.

FOR FURTHER INFORMATION CONTRACT: R. L. Filler, Helicopter Certification Branch, ASW-170, Aircraft Certification Division, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, telephone number (817) 624-4911, extension 521.

SUPPLEMENTARY INFORMATION: The FAA has determined that fatigue failures of the upper left tailboom attach longeron, P/N 214-031-431-101, occurred on two Bell Model 214ST helicopters. One failure was found at 120 hours' total time in service and consisted of a crack in the longeron approximately 1½ inches long originating in the attaching pin hole just aft of the fairing attach bracket, P/N 214-031-700-129. The other failure occurred at 485 hours' total time in service and was identical to the first except that the crack extended completely across the longeron, separating it into two pieces. This second failure occurred in flight; however, the aircraft landed safely. Since this condition is likely to exist or develop on other helicopters of the same type design, an Airworthiness Directive is being issued which requires repetitive inspections of the longeron and installation of a modification which strengthens the longeron on Bell Model 214ST helicopters.

This AD requires daily inspection of the longeron and a more extensive repetitive inspection, involving removal of the aft fuselage/tailboom fairings, every 25 flight hours until the strengthening modification is installed. After this modification is accomplished, only the 25 hour inspection is required. This inspection may ultimately be deleted by revision to this AD after further substantiation of the strengthening modification is completed.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

Approximately 15 aircraft could be affected by this AD for an estimated impact of $21,000 or $1,400 per aircraft, plus a cost of $1.40 per flight hour for the continuing inspection.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

Bell Helicopter Textron, Inc.: Applies to Model 214ST helicopters certificated in all categories which have upper left tailboom attach longeron part number (P/N) 214-031-431-101 installed.

Compliance is required as indicated unless already accomplished.

To prevent possible separation of the tailboom from the fuselage due to failure of the upper left tailboom attach longeron, accomplish the following:

(a) Before the first flight of each day on those helicopters that have not had the longeron modification described in paragraph (d) below, inspect the aft portion of the upper left longeron, P/N 214-031-431-101, that is visible inside the oil cooler compartment and the portion visible inside the aft left electrical compartment for cracks.

(b) Within the next 5 hours' time in service after the effective date of this AD, unless already accomplished within the last 20 hours' time in service, and thereafter at intervals not to exceed 25 hours' time in service, perform the following inspection on those helicopters that have not had the longeron modification installed:

(1) Remove forward fairing assembly, P/N 214-061-866-113, and LH and RH fairing assemblies, P/N's 214-061-866-115 and -117.

(2) Visually inspect the aft end of the upper left longeron, P/N 214-031-431-101, immediately adjacent to and inboard of the pin, P/N 100-048-5-4, just aft of the fairing attach bracket, P/N 214-021-700-129. Inspect for a crack that may extend from the pin hole in the longeron across the longeron and forward.

(c) If the longeron is found to be cracked during the inspections of paragraphs (a) and (b) of this AD, replace it with a serviceable part and install the modification described in paragraph (d) below before further flight.

(d) Within the next 25 hours' time in service after the effective date of this AD or before the accumulation of 100 hours' total time in service, whichever occurs later, install a reinforcement modification to the longeron, P/N 214-031-431-101, installation. This reinforcement consists of the addition of a new support, P/N 214-031-454-101, and the replacement of a doubler, P/N 214-031-702-131, with a new doubler, P/N 214-031-643-101. Remove the attaching pin, P/N 100-048-5-4, that is installed in the most aft hole in the longeron outboard flange and plug the remaining hole with adhesive. Accomplish the reinforcement in accordance with Bell Helicopter Textron (BHT) Alert Service Bulletin No. 214ST-82-3, dated 10/25/82 or other FAA approved data.

(e) After installation of the longeron modification, conduct the following inspection at intervals not to exceed 25 flight hours:

(1) Remove forward fairing assembly, P/N 214-061-866-113, and LH and RH fairing assemblies, P/N's 214-061-866-115 and -117.

(2) Visually inspect the aft end of the longeron, P/N 214-031-431-101, immediately adjacent to and inboard of the service deck, P/N 214-031-702-101, for cracks. Also, inspect that portion of the longeron adjacent to the newly installed support that is visible inside the aft left electrical compartment and that portion of the longeron that is visible inside the oil cooler compartment for cracks.

(f) Replace any cracked parts found during the inspections of paragraph (e) with serviceable parts.

(g) Any equivalent method of compliance with this AD must be approved by the Manager, Aircraft Certification Division, Federal Aviation Administration, 4400 Blue Mount Road, Fort Worth, Texas 76106.

(h) In accordance with FAR 21.197, flight is permitted to a base where the inspection required by this AD may be accomplished.

This amendment becomes effective December 23, 1982.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Note.—For the reasons discussed earlier the FAA has determined that this document involves a regulation that is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final regulatory evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified under the caption, "FOR FURTHER INFORMATION CONTACT."

This rule is a final order of the Administrator. Under Section 1006(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1486(a)), it is subject to review by the various courts of appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Fort Worth, Texas, on November 26, 1982.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 82-34716 Filed 12-22-82; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 71

[Airspace Docket No. 82-ASO-58]

Alteration of Control Zone, Bartow, Florida

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment alters the Bartow, Florida, control zone by revoking an exclusion associated with the Cypress Gardens Airport which has permanently closed. It will also correct the description of an arrival extension to coincide with an instrument approach procedure. No significant change in airspace designation is intended by this action.

DATES: Effective 0901 G.m.t., February 17, 1983. Comments must be received on or before January 20, 1983.

ADDRESSES: Send comments on the rule in triplicate to: Federal Aviation Administration, Manager, Airspace and Procedures Branch, ASO-530, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Regional Counsel, Room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, telephone: (404) 763-7646.

FOR FURTHER INFORMATION CONTACT: Donald Ross, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763-7646.

SUPPLEMENTARY INFORMATION:

Request for Comments on the Rule

Although this action is in the form of a final rule, which involves revoking an exclusion which is predicated upon a closed airport and correcting the description of an arrival extension and, thus, was not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropiate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the rule that might suggest the need to modify the rule.

The Rule

The purpose of this amendment to § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to revoke an exclusion which was predicated on the Cypress Gardens Airport which has been closed and to properly align the control zone arrival extension with the final approach course of the instrument approach procedure which serves the Bartow Municipal Airport. Section 71.171 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3 dated January 29, 1982. Therefore, I find that notice or public procedure under 5 U.S.C. 553(b) is unnecessary and that good cause exists for making this amendment effective in less than 30 days after its publication in the Federal Register.

List of Subjects in 14 CFR Part 71

Aviation safety, Airspace, Control zone.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) (as amended) is further amended, effective 0901 G.m.t., February 17, 1983, as follows:

Bartow Municipal Airport, FL [Amended]

By deleting the words, "* * *VORTAC 103° radial* * *" and "* * *excluding the area within a 1-mile radius of Cypress Gardens Airport (Lat. 27°57'35" N., Long. 81°42'00 "W.)* * *", and substituting for them the words, "* * *VORTAC 102° radial* * *.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in East Point, Georgia, on December 14, 1982.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 82-34714 Filed 12-22-82; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 71

[Airspace Docket No. 82-ASO-60]

Alteration of Control Zone, Fort Knox, Kentucky

AGENCY: Federal Aviation Administration (FAA), Dot.

ACTION: Final rule; request for comments.

SUMMARY: This amendment alters the Fort Knox, Kentucky, control zone by (1) revoking an arrival extension which is no longer required, (2) correcting the name of a navigational aid, (3) correcting the descriptions of two arrival extensions and (4) adding a provision to the description which will permit use of the FAA's Notice to Airmen (NOTAM) system and the Airport/Facility Director (A/FD) to publicize the hours during which the control zone is effective.

DATES: Effective 0901 G.M.T., February 17, 1983. Comments must be received on or before January 30, 1983.

ADDRESSES: Send comments on the rule in triplicate to: Federal Aviation Administration, Chief, Airspace and Procedures Branch, ASO-530, Air Traffic Division, P. O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Regional Counsel, Room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, Telephone: (404) 763-7646.

FOR FURTHER INFORMATION CONTACT: Donald Ross, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P. O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763-7646.

SUPPLEMENTARY INFORMATION:

Request for Comments on the Rule

Although this action is in the form of a final rule, which involves revocation of unneeded controlled airspace, corrections to the technical description of the control zone and adding a provision to provide a more effective method of publicizing the effective hours of the control zone and, thus, was not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental and energy aspects of the rule that might suggest the need to modify the rule.

The Rule

The purpose of this amendment to § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to revoke an arrival extension which was previously established to provide controlled airspace for containment of aircraft executing an instrument approach procedure to Godman AAF Runway 15. The approach procedure has been cancelled, thus, negating the need

for the arrival extension. The name of the Fort Knox RBN has been changed to Godman RBN and this change needs to be reflected in the description of the control zone. Due to realignment of final approach courses associated with instrument approach procedures serving the airport, the various radials upon which required arrival extensions are predicated also need to be revised. Weather reporting service, a requirement for retention of a control zone, is no longer available on a 24-hour basis at Godman AAF. Therefore, the status of the control zone must revert to part-time and the control zone will only be effective during those periods when weather reporting service is available. A provision is being added to the description of the control zone which will permit notification of changes in effective hours through use of the NOTAM system. After issuance of appropriate NOTAM's, the effective hours of the control zone will thereafter be listed in the A/FD. If future aeronautical activities indicate a change in effective hours is necessary and, if additional weather reporting service becomes available, such changes could be publicized in a rapid and effective manner to airspace users. Section 71.171 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3 dated January 29, 1982. Under the circumstances presented, the FAA concludes that there is a need for a regulation to amend the description of the Fort Knox control zone to accomplish the changes outlined above. Therefore, I find that notice or public procedure under 5 U.S.C. 553(b) is unnecessary as this action reduces the burden on the public and that good cause exists for making this amendment effective in less than 60 days after its publication in the **Federal Register**.

List of Subjects in 14 CFR Part 71

Aviation safety, Airspace, Control zone.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) (as amended) is further amended, effective 0901 G.m.t., February 17, 1983, as follows:

Fort Knox Godman AAF, KY [Revised]

Within a 5-mile radius of Godman AAF (Lat. 37°54'27" N., Long. 85°58'21" W.); within 3 miles each side of the 354° bearing from Godman RBN, extending from the 5-mile radius zone to 8.5 miles north of the RBN; within 3 miles each side of Fort Knox VOR 360° and 170° radials, extending from the 5-mile radius zone to 8.5 miles north and south of the VOR. This control zone is effective during the specific days and times established in advance by a Notice to Airmen. The effective days and times will thereafter be continuously published in the Airport/Facility Directory.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in East Point, Georgia, on December 13, 1982.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 82-34713 Filed 12-22-82; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 71

[Airspace Docket No. 82-ASO-23]

Alteration of VOR Federal Airway V-11

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters VOR Federal Airway V-11 by redesigning the airway between Greene County, MS, and Jackson, MS. This change also revokes certain alternate airway segments associated with V-11 which are no longer needed for flight planning and renumbers other alternate airway segments that are retained in accordance with the International Civil Aviation Organization (ICAO) agreement to phase out alternate airway descriptions from the National Airspace System.

EFFECTIVE DATE: February 17, 1983.

FOR FURTHER INFORMATION CONTACT: George Hussey, Airspace Regulations and Obstructions Branch (ATT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-8783.

SUPPLEMENTARY INFORMATION:

History

On July 29, 1982, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter VOR Federal Airway V-11 between Greene County, MS, and Jackson, MS (47 FR 32728). This change is necessary because of the planned decommissioning of the Laurel (LUL), MS, VOR, by separate nonrulemaking action (82-ASO-137NR), which now describes this portion of the airway. This rule is also intended to inform interested persons of this nonrulemaking action. This action also revokes V-11 east alternate between Dyersburg, TN, and Pocket City, IN, and V-11 west alternate between Brookley, AL, and Greene County, MS, and between Dyersburg, TN, and Cunningham, KY. These alternate airway segments are no longer needed for flight planning and their revocation will help reduce chart clutter. V-11 east alternate between Pocket City, IN, and Indianapolis, IN, and V-11 west alternate between Greenwood, MS, and Holly Springs, MS, are renumbered in support of ICAO agreement to phase out alternate airway descriptions from the National Airway System. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3 dated January 29, 1982.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations realigns V-11 between Greene County, MS, and Jackson, MS, revokes certain alternate airway segments and renumbers other alternate airways associated with V-11.

List of Subjects in 14 CFR Part 71

Federal airways, Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.m.t., February 17, 1983, as follows:

1. V-11 [Revised]

From Brookley, AL; Greene County, MS; Jackson, MS; Greenwood, MS; Holly Springs, MS; Dyersburg, TN; Cunningham, KY; Pocket City, IN; Indianapolis, IN; Marion, IN; Fort Wayne, IN; Salem, MI; 6 miles wide to

INT Salem 052° and Windsor, ON, Canada, 335° radials.

2. V–305 [Amended]
By deleting the words "Cunningham, KY." and substituting for them the words "Cunningham, KY, via Pocket City, IN; INT Pocket City 046° and Bloomington, IN, 205° radials; Bloomington; INT Bloomington 025° and Indianapolis, IN, 185° radials; to Indianapolis."

3. V–535 [New]
From Greenwood, MS; INT Greenwood 010° and Holly Springs, MS, 225° radials; Holly Springs.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. Issued in Washington, D.C., on December 16, 1982.

B. Keith Potts,

Manager, Airspace and Air Traffic Rules Division.

[FR Doc. 82-34717 Filed 12-22-82; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 71

[Airspace Docket No. 82-AWA-3]

Alteration and Designation of VOR Federal Airways; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to final rule.

SUMMARY: Airspace Docket 82–AWA–3 was published in the **Federal Register** on September 23, 1982 (47 FR 41946), that amended the descriptions of several airways in the vicinity of Dickinson, ND. A mistake was noted in the description of the new V–510 between Gopher, MN, and Nodine, MN, and this action makes that correction.

EFFECTIVE DATE: December 23, 1982.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Regulations and Obstructions Branch (AAT–230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426–8783.

SUPPLEMENTARY INFORMATION:

History

FR Doc. 82–26002 was published on September 23, 1982, (47 FR 41946), that designated new VOR Federal Airway V–510 from Dickinson ND, to Rochester, NY. An error was noted in the alignment of the segment between Gopher, MN, and Nodine, MN, and this action corrects that mistake.

List of Subjects in 14 CFR Part 7

Aviation safety, VOR Federal airways.

Adoption of the Correction

Accordingly, pursuant to the authority delegated to me, **Federal Register** Document 82–26002, as published in the **Federal Register** on September 23, 1982, is corrected as follows:

V–510 [Amended]

By deleting the words beginning in line 8 "Gopher 116° and Nodine, MN, 328° radials; and substituting for them the words "Gopher 109° and Nodine, MN, 328° radials;"

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note. The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on December 16, 1982.

B. Keith Potts,

Manager, Airspace and Air Traffic Rules Division.

[FR Doc. 82-34712 Filed 12-22-82; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 91

[Docket No. 21022A; Reg. Notice No. 91–100]

Emergency Air Traffic Regulations Issued Under Section 91.100 of the Federal Aviation Regulations

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Update of emergency air traffic regulations.

SUMMARY: Section 91.100 of the Federal Aviation Regulations (FAR) (14 CFR 91.100) requires aircraft operators to comply with emergency air traffic regulations issued under that section and covered by Notices to Airmen (NOTAMs) that are also issued under that section. This document provides notice of regulations already adopted that were immediately effective under § 91.100, for which the FAA has also issued NOTAMs. It adds, to Notice 91–100, emergency regulations implementing Special Federal Aviation Regulation (SFAR) No. 44, as amended, that were necessary to respond to a shortage in air traffic control personnel.

DATES: Effective Date/Time: As stated in each regulation listed.

ADDRESSES: Send comments on the listed regulations, in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC–204), Docket No. 21022A, 800 Independence Avenue, SW., Washington, DC 20591. Comments may be examined in the Rules Docket, Room 915, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: B. Keith Potts, Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 426–3731.

SUPPLEMENTARY INFORMATION:

Comments Invited

The regulations issued under § 91.100 and listed herein are emergency final rules involving immediate air traffic requirements throughout the United States. The need for immediate regulatory response under § 91.100 is stated at 46 FR 16666, *et seq.* In issuing the regulations in this notice, the FAA has found that the conditions cited in § 91.100 exist or will exist and that the regulations are necessary in order to respond to those conditions in the public interest. Where necessary, these regulations may be supplemented or amended hourly, or even more

frequently, as air traffic conditions change. Accordingly, good cause exists for making these regulations effective immediately, without prior notice and public procedure.

Comments are invited on any aspect of the listed regulations, individually or cumulatively, and on any aspect of the emergency air traffic control conditions they respond to. When § 91.100 was issued, the FAA noted that it was an emergency regulation under Executive Order 12291 and DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979), and had no cost impact in itself since it was only procedural. However, the FAA also stated (at 46 FR 16669) that the regulations distributed in accordance with § 91.100 will be evaluated individually, as appropriate, to determine whether they have cost impacts. To assist the FAA in determining, as soon as practicable after issuance, the cost impacts of the regulations issued under § 91.100, comments on economic impact are specifically invited.

Commenters wishing the FAA to acknowledge receipt of their comments in response to these rules must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 21022A." The postcard will be date/time stamped and returned to the commenter.

Effect of Publication

Publication, in the **Federal Register**, of emergency air traffic regulations issued under § 91.100 provides constructive legal notice of those regulations to all persons who may not have received the NOTAMs concerning those regulations or who otherwise may not have legal notice of the adoption of those regulations. This document provides this constructive legal notice of immediately effective emergency regulations that have already been adopted. Additional emergency rules will be published periodically if the need for their adoption continues.

Availability Prior to Publication: Preflight Requirement

Since there is a necessary time lag between the issuance of emergency air traffic regulations and NOTAMs under § 91.100 and the publication of these regulations in the **Federal Register**, and since these regulations and NOTAMs respond to emergency conditions that exist, or will exist, relating to the FAA's ability to operate the Air Traffic Control System, the NOTAMs concerning these regulations are available at operating air traffic facilities and Regional Air Traffic Division offices prior to **Federal Register** publication and as long as they remain effective. Under § 91.5 *Preflight Action* (14 CFR 91.5), each pilot in command is required to familiarize himself or herself with all available information concerning each flight.

Air Traffic Controller Shortage: SFAR No. 44, as Amended

The air traffic regulations listed in this amendment to Notice 91–100 follow the adoption of SFAR Nos. 44 through 44–5, in response to an organized air traffic controller job action. The emergency aspects of that action are described at 46 FR 39997, *et seq.* As a result, air traffic control facilities have experienced staffing shortages that have reduced the level of air traffic that can be handled with the required levels of safety and efficiency. To ensure that these levels of safety and efficiency are fully maintained during this shortage of air traffic personnel, the emergency regulations listed in section 2 of this notice have been issued under § 91.100.

Regulatory Impact

The FAA has determined that the regulations listed in this notice are emergency regulations that are not major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to these regulations, since they were issued in response to existing or expected emergency conditions relative to FAA's ability to operate the Air Traffic Control System. It has been further determined that the listed regulations are emergency regulations under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If these regulations are later determined to be significant, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

List of Subjects in 14 CFR Part 91

Air traffic control, Airspace, Aviation safety.

Notice of Adoption

Accordingly, pursuant to the authority delegated to me by the Administrator in § 91.100 of the Federal Aviation Regulations (14 CFR 91.100; 46 FR 16666, March 13, 1981) and that cited below, the following emergency air traffic regulations have been adopted and covered by NOTAMs under that section.

(Secs. 307, 313(a), 601, 603, 902, 1110, and 1202, Federal Aviation Act of 1958, as amended (49 U.S.C. 1348, 1354(a), 1421, 1442, 1443, 1472, 1510, and 1522); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

In consideration of the foregoing, section 2 of Notice 91–100 is hereby amended by adding the following emergency regulations following the regulation numbered FDC No. 2/2147.

Air Traffic Controller Shortage of 1981, and Related Emergency Conditions (SFAR–44, as Amended; Docket No. 21022A)

* * * * *

FDC 2/2078 Cancel FDC 2/1662.

FDC 2/2200 Emergency Flight Rules—IFR Flight Plan Filing/General Aviation Reservation Rule effective September 20, 1982, 0600 Local Time.

The IFR capacity of the enroute ATC system is increasing and permits relaxation of the IFR Flight Plan Filing/General Aviation Reservation Rule (GAR). Intra-ARTCC operations may now be conducted within Washington ATRCC's airspace without a reservation.

Accordingly, pursuant to SFAR No. 44, as amended, and Federal Aviation Regulation Section 91.100, the following regulation is effective in the 20 conterminous ARTCC areas to provide for the orderly handling and safe movement of IFR traffic.

1. All aircraft operators planning a flight under IFR with a proposed departure/enroute pick-up time from 0600 local to 1959 local shall file a flight plan with and obtain a departure/enroute pick-up reservation from an FAA flight service station at least 30 minutes before but not more than 24 hours before his/her proposed departure/enroute time if any segment of the flight will enter ARTCC airspace.

2. ATC clearance must be requested not later than 1 hour after proposed departure/enroute pick-up time.

3. Multiple-Leg Flight Plans may be filed provided:

A. The conditions of paragraph 1 above, are met.

B. The last proposed departure/enroute pick-up time does not exceed the 24-hour filing time limitation specified in paragraph 1 above.

C. The same departure/enroute pick-up point is not specified twice in the request.

D. The request does not involve more than three departure/enroute pick-up points.

4. The provisions of this regulation do not apply to the following operators and flights:

A. FAR Part 121 or Part 135 operators with FAA/ICAO approved two-letter or three-letter call signs.

B. Military flights.

C. Medical emergency flights.

D. Presidential or Vice-Presidential flights.

E. FAA critical flights.

F. NASA flights supporting space shuttle launch and recovery operations during periods designated by the Director, Air Traffic Service.

G. Flights to or from Washington National, John F. Kennedy, LaGuardia, and O'Hare

Airports during periods when reservations are required by Subpart K of FAR Part 93—High Density Rule.

H. Flights originating within the airspace areas of Anchorage and Honolulu ARTCC's.

I. Turbojet aircraft operations at FL 290 and above to a destination 200 nautical miles or more from the point of departure.

J. Nonstop flights destined for airports outside the continental United States.

K. Operations affecting certain ARTCC's are as follows:

Intra-ARTCC: Albuquerque, Seattle, Salt Lake, and Washington

Inter-ARTCC: Seattle-Salt Lake City

5. Limitations on obtaining an IFR clearance while airborne remain in effect in the Anchorage ARTCC area as specified in the pertinent regulatory NOTAM.

FDC 2/2263 Cancel FDC 2/2040.

FDC 2/2390 Emergency Flight Rules—IFR Flight Plan Filing/General Aviation Reservation Rule effective September 30, 1982, 0600 Local Time.

The IFR capacity of the enroute ATC system is increasing and permits relaxation of the General Aviation Reservation (GAR) rule with respect to certain operations. Beginning October 4, turboprop aircraft operations will be permitted in the Boston ARTCC airspace without reservations. On October 18, Jacksonville and Atlanta Centers will allow intra-ARTCC operations without reservations. On November 22, Memphis Center will accept intra-ARTCC operations without reservations. However, existing restrictions under the GAR rule remain in effect for operations from airports that are capacity controlled by SFAR No. 44–5.

Accordingly, pursuant to SFAR No. 44, as amended, and § 91.100 of the FARs, the following regulation is effective immediately, unless otherwise specified:

1. All aircraft operators planning a flight under IFR with a proposed departure/enroute pick-up time from 0600 local to 1959 local shall file a flight plan with and obtain a departure/enroute pick-up reservation from an FAA flight service station at least 30 minutes before but not more than 24 hours before his/her proposed departure/enroute time if any segment of the flight will enter ARTCC airspace.

2. ATC clearance must be requested not later than 1 hour after proposed departure/enroute pick-up time.

3. Multiple-Leg Flight Plans may be filed provided:

A. The conditions of paragraph 1 above are met.

B. The last proposed departure/enroute pick-up time does not exceed the 24-hour filing time limitation specified in paragraph 1 above.

C. The same departure/enroute pick-up point is not specified twice in the request.

D. The request does not involve more than three departure/enroute pick-up points.

4. The provisions of this regulation do not apply to the following operators and flights:

A. FAR Part 121 or Part 135 operators with FAA/ICAO approved two-letter or three-letter call signs.

B. Military flights.

C. Medical emergency flights.

D. Presidential or Vice-Presidential flights.

E. FAA critical flights.

F. NASA flights supporting space shuttle launch and recovery operations during periods designated by the Director, Air Traffic Service.

G. Flights to or from Washington National, John F. Kennedy, LaGuardia, and O'Hare Airports during periods when reservations are required by Subpart K of FAR Part 93—High Density Traffic Airports.

H. Flights originating within the airspace areas of Anchorage and Honolulu ARTCC's.

I. Turbojet aircraft operations at FL 290 and above to a destination 200 nautical miles or more than the point of departure.

J. Nonstop flights destined for airports outside the continental United States.

K. Inter-ARTCC flights within the Seattle and Salt Lake City ARTCC airspace.

L. Intra-ARTCC flights—

(1) effective immediately, operations in the Albuquerque, Seattle, Salt Lake City, or Washington ARTCC airspace;

(2) effective October 4, 1982, 0600 local time, turboprop operations in the Boston ARTCC airspace;

(3) effective October 18, 1982, 0600 local time, operations in the Jacksonville or Atlanta ARTCC airspace;

(4) effective November 22, 1982, 0600 local time, operations in the Memphis ARTCC airspace.

5. For the purpose of this rule, the term intra-ARTCC flights does not mean flight from—

A. The William B. Hartsfield Atlanta International Airport (ATL).

B. General Edward Lawrence Logan International Airport (BOS).

6. Limitations on obtaining an IFR clearance while airborne remain in effect in the Anchorage ARTCC area as specified in the pertinent regulatory NOTAM.

Cancel FDC FDC 2/2200.

FDC 2/2552 Cancel FDC 2/1999.

FDC 2/2560 Cancel FDC 2/2147.

FDC 2/2797 Emergency Flight Rules—IFR Flight Plan Filing/General Aviation Reservation Rule effective November 29, 1982, 1645 Greenwich time.

The IFR capacity of the enroute ATC system is increasing and permits relaxation of the General Aviation Reservation Rule (GAR) with respect to certain operations. On December 13, Kansas City ARTCC will accept intra-ARTCC operations without reservation. However, existing restrictions under the GAR rule remain in effect for operations from airports that are capacity controlled by SFAR No. 44–5.

Accordingly, pursuant to SFAR No. 44, as amended, and § 91.100 of the Federal Aviation Regulations, the following regulation is effective immediately, unless otherwise specified:

1. All aircraft operators planning a flight under IFR with a proposed departure/enroute pick-up time from 0600 local to 1959 local shall file a flight plan with and obtain a departure/enroute pick-up reservation from an FAA flight service station at least 30 minutes before but not more than 24 hours before his/her proposed departure/enroute time if any segment of the flight will enter ARTCC airspace.

2. ATC clearance must be requested not later than 1 hour after proposed departure/enroute pick-up time.

3. Multiple-Leg Flight Plans may be filed provided:

A. The conditions of paragraph 1 above are met.

B. The last proposed departure/enroute pick-up time does not exceed the 24-hour filing time limitation specified in paragraph 1 above.

C. The same departure/enroute pick-up point is not specified twice in the request.

D. The request does not involve more than three departure/enroute pick-up points.

4. The provisions of this regulation do not apply to the following operators and flights:

A. FAR Part 121 or Part 135 operators with FAA/ICAO approved two-letter or three-letter call signs.

B. Military flights.

C. Medical emergency flights.

D. Presidential or Vice-Presidential flights.

E. FAA critical flights.

F. NASA flights supporting space shuttle launch and recovery operations during periods designated by the Director, Air Traffic Service.

G. Flights to or from Washington National, John F. Kennedy, LaGuardia, and O'Hare Airports during periods when reservations are required by Subpart K of FAR Part 93—High Density Traffic Airports.

H. Flights originating within the airspace areas of Anchorage and Honolulu ARTCC's.

I. Turbojet aircraft operations at FL 290 and above to a destination 200 nautical miles or more than the point of departure.

J. Nonstop flights destined for airports outside the continental United States.

K. Inter-ARTCC flights within the Seattle and Salt Lake City ARTCC airspace.

L. Intra-ARTCC—

(1) effective immediately, flights in the Albuquerque, Memphis, Jacksonville, Atlanta, Seattle, Salt Lake City, or Washington ARTCC airspace;

(2) effective immediately, turboprop flights in the Boston ARTCC airspace; and

(3) effective December 13, 1982, 0600 local time, flights in the Kansas City ARTCC airspace;

5. For the purpose of this rule, the term intra-ARTCC flights does not mean flight from—

A. The William B. Hartsfield Atlanta International Airport (ATL).

B. General Edward Lawrence Logan International Airport (BOS).

C. Lambert-St. Louis International Airport (STL).

6. Limitations on obtaining an IFR clearance while airborne remain in effect in the Anchorage ARTCC area as specified in the pertinent regulatory NOTAM.

Cancel FDC NOTAM 2/2390.

FDC 2/2824 Cancel FDC 2/2037.

Issued in Washington, DC, on December 15, 1982.

R. J. Van Vuren,

Director, Air Traffic Service.

[FR Doc. 82-34710 Filed 12-22-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 97

[Docket No. 23472; Amdt. No. 1232]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Information Center (APA–430), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendant of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

FOR FURTHER INFORMATION CONTACT: Donald K. Funai, Flight Procedures and Airspace Branch (AFO–730), Aircraft Programs Division, Office of Flight Operations, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426–8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4 and 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPs criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, or contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

List of Subjects in 14 CFR Part 97

Approaches, Standard instrument, Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.m.t. on the dates specified, as follows:

1. By amending § 97.23 VOR–VOR/DME SIAPs identified as follows:

* * * *Effective February 17, 1983*

Galena, AK—Galena, VOR Rwy 25, Amdt. 8.
Galena, AK—Galena, VOR/DME or TACAN Rwy 7, Amdt. 5
King Salmon, AK—King Salmon, VOR or TACAN Rwy 11, Amdt. 11
King Salmon, AK—King Salmon, VOR/DME or TACAN Rwy 29, Amdt. 8
Paris, IL—Edgar County, VOR/DME–A, Amdt. 3
Lafayette, IN—Aretz, VOR–C, Original
Louisville, KY—Bowman Field, VOR Rwy 14, Amdt. 6
Maryville, MO—Maryville Meml, VOR/DME Rwy 36, Amdt. 1
Sikeston, MO—Sikeston Meml Muni, VOR Rwy 20, Amdt. 1
Galion, OH—Galion Muni, VOR Rwy 23, Amdt. 9
Marion, OH—Marion Muni, VOR Rwy 24, Amdt. 2
Millersburg, OH—Holmes County, VOR–A, Amdt. 3
Aberdeen, SD—Aberdeen Regional, VOR/DME or TACON Rwy 13, Amdt. 8
Aberdeen, SD—Aberdeen Regional, VOR Rwy 31, Amdt. 16

* * * *Effective February 3, 1983*

Hawesville, KY—Hancock Airfield, VOR Rwy 15, Amdt. 3
Hawesville, KY—Hancock Airfield, VOR Rwy 33, Amdt. 2
Aburn-Lewiston, ME—Auburn-Lewiston Muni, VOR/DME–A Original
Boston, MA—General Edward Lawrence Logan Intl, VOR Rwy 33L, Amdt. 17
Ogallala, NE—Searle Field, VOR Rwy 8, Amdt. 1
Ogallala, NE—Searle Field, VOR Rwy 26, Amdt. 1
Ardmore, OK—Downtown Ardmore, VOR–A, Amdt. 9
Allentown, PA. Allentown Queen City Muni, VOR–B, Amdt. 4
Culpeper, VA—Culpeper Muni T. I. Martin Field, VOR–A, Amdt. 3

* * * *Effective December 10, 1982*

Mt. Holly, NJ—Burlington County Airpark, VOR Rwy 26, Amdt. 1

2. By amending § 97.25 SDF–LOC–LDA SIAPs identified as follows:

* * * *Effective February 17, 1983*

King Salmon, AK—King Salmon, LOC/DME (BC) Rwy 29, Amdt. 1
Moline, IL—Quad-City, LOC Rwy 27, Amdt. 3
Aberdeen, SD—Aberdeen Regional, LOC/DME BC Rwy 13, Amdt. 5

* * * *Effective January 20, 1983*

Indianapolis, IN—Eagle Creek Airpark, LOC Rwy 21, Original

3. By amending § 97.27 NDB/ADF SIAPs identified as follows:

* * * *Effective February 17, 1983*

Galena, AK—Galena, NDB–A, Amdt. 14
King Salmon, AK—King Salmon, NDB Rwy 11, Amdt. 2
Moline, IL—Quad-City, NDB Rwy 9, Amdt. 25
Paris, IL—Edgar County, NDB Rwy 27, Amdt. 5
Hutchinson, KS—Hutchinson Muni, NDB Rwy 13, Amdt. 12
Thief River Falls, MN—Thief River Falls Regional, NDB Rwy 31, Original
Thief River Falls, MN—Thief River Falls Regional, NDB Rwy 31, Amdt. 1, cancelled
Brookfield, MO—Brookfield Memorial, NDB Rwy 35, Amdt. 1
Brookfield, MO—Brookfield Memorial, NDB–A, Amdt. 1
Charleston, MO—Mississippi County, NDB Rwy 36, Amdt. 2
Maryville, MO—Maryville Meml, NDB Rwy 14, Original
Marion OH—Marion Muni, NDB Rwy 12, Amdt. 7
Millersburg, OH—Holmes County, NDB Rwy 27, Amdt. 2
Aberdeen, SD—Aberdeen Regional, NDB Rwy 31, Amdt. 6
Britton, SD—Britton Muni, NDB Rwy 13, Amdt. 1
Miller, SD—Miller Muni, NDB Rwy 13, Amdt. 1

* * * *Effective February 3, 1983*

Clanton, AL—Gragg-Wade Field, NDB Rwy 26, Original
Michigan City, IN—Michigan City, NDB Rwy 20, Amdt. 11, cancelled
Michigan City, IN—Michigan City, Muni NDB Rwy 23, Amdt. 3, cancelled
Lexington, KY—Blue Grass, NDB Rwy 4, Amdt. 14
Gaithersburg, MD—Montgomery County Arpk, NDB–A, Amdt. 1
Detroit, MI—Willow Run, NDB Rwy 5R, Amdt. 7
Ludington, MI—Mason County, NDB Rwy 25, Amdt. 5
Ogallala, NE—Searle Field, NDB Rwy 8, Amdt. 4
Ogallala, NE—Searle Field, NDB Rwy 26, Amdt. 3
Ardmore, OK—Downtown Ardmore, NDB Rwy 35, Amdt. 1

* * * *Effective January 20, 1983*

Indianapolis, IN—Eagle Creek Airpark, NDB Rwy 21, Original
Platteville, WI—Grant County, NDB Rwy 25, Original
Platteville, WI—Grant County, NDB Rwy 25, Amdt. 4, cancelled

4. By amending § 97.29 ILS–MLS SIAPs identified as follows:

* * * *Effective February 17, 1983*

King Salmon, AK—King Salmon, ILS Rwy 11, Amdt. 14
Moline, IL—Quad-City, ILS Rwy 9, Amdt. 25
Hutchinson, KS—Hutchinson Muni, ILS Rwy 13, Amdt. 12
Thief River Falls, MN—Thief River Falls Regional, ILS Rwy 31, Original
Aberdeen, SD—Aberdeen Regional, ILS Rwy 31, Amdt. 6

* * * *Effective February 3, 1983*

Lexington, KY—Blue Grass, ILS Rwy 4, Amdt. 0
Lexington, KY—Blue Grass, ILS Rwy 22, Amdt. 4

* * * *Effective January 20, 1983*

Norfolk, VA—Norfolk Intl, ILS Rwy 5, Amdt. 18

* * * *Effective December 10, 1982*

Charlotte Amalie, St. Thomas, VI—Harry S. Truman, ILS Rwy 9, Amdt. 6

5. By amending § 97.31 RADAR SIAPs identified as follows:

* * * *Effective February 17, 1983*

Moline, IL—Quad-City, RADAR–1, Amdt. 5

* * * *Effective February 3, 1983*

Des Moines, IA—Des Moines Muni, RADAR–1, Amdt. 14
Lexington, KY—Blue Grass, RADAR–1, Amdt. 7

6. By amending § 97.33 RNAV SIAPs identified as follows:

* * * *Effective February 17, 1983*

Moline, IL—Quad-City, RNAV Rwy 30, Amdt. 7

* * * *Effective February 3, 1983*

Clinton, IA—Clinton Muni, RNAV Rwy 21, Amdt. 6, cancelled
Houma, LA—Houma-Terrebonne, RNAV Rwy 17, Amdt. 1
Houma, LA—Houma-Terrebonne, RNAV Rwy 35, Amdt. 1
Ardmore, OK—Downtown Ardmore, RNAV Rwy 17, Amdt. 1
Ardmore, OK—Downtown Ardmore, RNAV Rwy 35, Amdt. 1
Allentown, PA—Allentown Queen City Muni, RNAV Rwy 7, Orignial

(Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354(a), 1421, and 1510); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.49(b)(3))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. The FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Note.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

Issued in Washington, D.C. on December 17, 1982.

John M. Howard,

Manager, Aircraft Programs Division.

[FR Doc. 82-34706 Filed 12-22-82; 8:45 am]
BILLING CODE 4910-13-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 3

Registration

AGENCY: Commodity Futures Trading Commission.

ACTION: Statement of staff interpretative position.

SUMMARY: The Commodity Futures Trading Commission ("Commission") is publishing an interpretative letter which sets forth the position of the staff of its Divison of Trading and Markets regarding the availability of the Commission's no-action position with respect to certain applicants for registration as associated persons ("APs"). The Commission recently determined not to take any enforcement action against any applicant for registration as an AP, based solely on the failure to be registered as such, if the individual's application for registration was received by the Commission on or before November 18, 1982 and if certain other specified conditions are met, including that the Futures Commission Merchant (FCM) with whom the applicant will be associated as an AP is currently registered with the Securities and Exchange Commission ("SEC") as a broker or dealer and is also a member of the National Association of Securities Dealers, Inc. ("NASD"). 47 FR 53764 (November 29, 1982). Specifically, the letter expresses the Division's view that the availability of the Commission's no-action position is not affected solely because the FCM with whom an applicant will be associated as an AP through an agent of the FCM upon being granted registration is not currently registered with the SEC as a broker or dealer and is not currently a member of the NASD where, among other things, the agent of the FCM meets those two conditions. The Commission is publishing the Division's interpretative

position in the Federal Register to provide affected persons and the public with notice thereof.

FOR FURTHER INFORMATION CONTACT: Theodore W. Urban, Deputy Director, or David S. Mitchell, Esq., Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Telephone: (202) 254–8955.

SUPPLEMENTARY INFORMATION: On December 17, 1982, the Division of Trading and Markets issued the following letter which sets forth its view regarding the availability of the Commission's recently adopted no-action position with respect to certain applicants for registration as APs:

Re: *Petition for Exemption from a Requirement of the Commission's No-action Position*

Dear: ———: This is in response to your letter dated December 9, 1982 to Ms. Andrea M. Corcoran. Pursuant to Rule 3.12(g), 17 CFR 3.12(g) (1982), your request, on behalf of "X", a registered futures commission merchant ("FCM"), that an exemption be granted from one of the requirements of the Commission's recently adopted no-action position with respect to certain applicants for registration as associated persons ("APs").[1] This request was incorporated in the written certification required for such a no-action position with respect to "Y," an applicant for registration as an AP, who you stated will be associated with "X" as an AP of a designated agent of the firm, "Z."

As you know, the Commission has determined not to take any enforcement action with respect to an applicant for registration as an AP, based solely on the failure to be registered as such, if the individual's application for registration was received by the Commission on or before November 18, 1982 and if certain other specified conditions are met, including that the FCM with whom the applicant will be associated as an AP is currently registered with Securities and Exchange Commission ("SEC") as a broker or dealer and is also a member of the National Association of Securities Dealers, Inc. ("NASD").[2] In this connection, it appears that your letter sets forth each of the elements of the certification required for the no-action position, except as to the fact that "X" is not currently registered with the SEC as a broker or dealer and is not currently a member of the NASD.

This is to advise you of the Division's view that the availability of the Commission's no-action position with respect to "Y's" registration as an AP is not affected solely because "X," the FCM with whom he will be associated as an AP through "Z" (an agent of "X") upon being granted registration, is not currently registered with the SEC as a broker or dealer or a member of the NASD. This view is based upon, among other things, the facts that: (1) The Commission's no-action position is available to any applicant for registration as an AP who meets certain specified conditions, whether he will be associated with an FCM directly or with an FCM through an agent of the FCM [3]; (2) "Z," the agent of "X" with whom "Y" will be associated, is currently registered with the SEC as a broker or dealer and is a member of the NASD; (3) "Y" is currently a registered representative or registered principal of "Z"; and (4) "Y" (and "Z") have previously been determined by the NASD, under screening procedures similar to those of the Commission, to be fit to engate in the securities business and remain in good standing as registrants and/or members of the NASD. Accordingly, enclosed please find confirmation of the effectiveness of a no-action position with respect to "Y's" registration as an AP.

The view expressed in this letter is based upon the facts set forth in your December 9, 1982 letter and upon our understanding of those facts. Any changed, different or omitted facts might require us to reach a different conclusion. Also, the view expressed in this letter is solely that of the Division of Trading and Markets and does not necessarily represent the view of the Commission or that of any other unit of the Commission's staff.

Very truly yours,

Theodore W. Urban,

Deputy Director.

Dated: December 17, 1982.

By the Division of Trading and Markets.

Theodore W. Urban,

Deputy Director, Division of Trading and Markets.

[FR Doc. 82–34733 Filed 12–22–82; 8:45 am]

BILLING CODE 6351-01-M

[1] The Division has determined to treat your petition for an exemption as a request for an interpretative position.

[2] Item #3 of the written certification required for the no-action position provides in pertinent part that "the FCM is currently registered with the SEC as a broker or dealer and is also a member of the NASD * * *." 47 FR 53764 (November 29, 1982). (Footnote omitted.)

[3] In this connection, we note that Section 4k(1) of the Commodity Exchange Act, as amended, 7 U.S.C. 6K(1) (1976), which contains the requirement that an AP register with the Commission as such, recognizes that an AP may be associated with an FCM either directly or through an agent of the FCM.

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

Separate Reports of Other Accountants; Amendments to Proxy Rules and Regulation S–X

CFR Correction

At 46 FR 40872, August 13, 1981, a document was published in the **Federal Register** revising paragraph (b)(1) of § 240.14a–3, and paragraph (a)(1) of § 240.14c–3. Each of these revised paragraphs were followed by two notes. In Title 17, Code of Federal Regulations, revised as of April 1, 1982, on pages 138 and 170, the second note was inadvertently omitted from § 240.14a–3(b)(1) and § 240.14c–3(a)(1) respectively. These two notes should appear as follows:

PART 240—[AMENDED]

§ 240.14a–3 Information to be furnished to security holders.

* * * * *

(b)(1) * * *

Note 2.—If the financial statements for a period prior to the most recently completed fiscal year have been examined by a predecessor accountant, the separate report of the predecessor accountant may be omitted in the report to security holders provided the registrant has obtained from the predecessor accountant a reissued report covering the prior period presented and the successor accountant clearly indicates in the scope paragraph of his report (a) that the financial statements of the prior period were examined by other accountants, (b) the date of their report, (c) the type of opinion expressed by the predecessor accountant and (d) the substantive reasons therefor, if it was other than unqualified. It should be noted, however, that the separate report of any predecessor accountant is required in filings with the Commission. If, for instance, the financial statements in the annual report to security holders are incorporated by reference in a Form 10–K, the separate report of a predecessor accountant shall be filed in Part II or in Part IV as a financial statement schedule.

§ 240.14c–3 Annual report to be furnished security holders.

(a)(1) * * *

Note 2.—If the financial statements for a period prior to the most recently completed fiscal year have been examined by a predecessor accountant, the separate report of the predecessor accountant may be omitted in the report to security holders provided the registrant has obtained from the predecessor accountant a reissued report covering the prior period presented and the successor accountant clearly indicates in the scope paragraph of his report (a) that the financial statements of the prior period were examined by other accountants, (b) the date of their report (c) the type of opinion expressed by the predecessor accountant and (d) the substantive reasons therefor, if it was other than unqualified. It should be noted however, that the separate report of any predecessor accountant is required in filings with the Commission. If, for instance, the financial statements in the annual report to security holders are incorporated by reference in a Form 10–K, the separate report of a predecessor accountant shall be filed in Part II or in Part IV as a financial statement schedule.

* * * * *

BILLING CODE 1505-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 2

[Docket No. PL83-1-000]

Take or Pay Provisions in Gas Purchase Contracts; Statement of Policy

Issued: December 16, 1982.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Statement of policy.

SUMMARY: Recognizing that take-or-pay contract obligations may be shielding the prices of deregulated and other higher cost gas from market constraints, the Commission is announcing its general policy by adding a new § 2.103 to its regulations regarding prepayments for natural gas pursuant to take or pay provisions in gas contracts and amendments thereto between producers and interstate pipelines which become effective December 23, 1982. With respect to such contracts, the Commission intends to apply a rebuttable presumption in general rate cases that prepayments to producers will not be given rate base treatment if the prepayments are made pursuant to take or pay requirements in such gas contracts or amendments which exceed 75 percent of annual deliverability.

DATE: Effective on December 23, 1982.

FOR FURTHER INFORMATION CONTACT: Thomas P. Gross, Office of General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426; (202) 357-8033.

SUPPLEMENTARY INFORMATION: The Federal Energy Regulatory Commission (Commission) announces its general policy regarding prepayments for natural gas pursuant to take or pay provisions in natural gas purchase contracts and amendments thereto between producers and interstate pipelines which become effective on or after the effective date of this Statement of Policy. The Commission intends to apply a rebuttable presumption in general rate cases under sections 4 and 5 of the Natural Gas Act (NGA) that take or pay payments to producers which are made pursuant to requirements in such contracts in excess of 75 percent of annual deliverability are inappropriate and should not be given rate base treatment. In addition, the Commission will continue to review the extent of its other authority, if any, to deal with excessive take or pay payments under existing contracts.

The purpose of this policy statement is to provide guidance as to how the Commission intends to treat future prepayments in general section 4 or 5 rate cases. The Commission is mindful that a general policy statement does not have the force and effect of law. Rather, it is an articulation of the Commission's tentative intentions which will be followed unless circumstances demonstrate the policy to be inappropriate. In particular cases, both the underlying validity of the policy and its application to particular facts may be challenged and are subject to further consideration. This general policy is being codified in Part 2 (General Policy and Interpretations) of the Commission's regulations by adding new § 2.103.

I. Introduction

The Commission is aware that currently, as a general matter, wholesale and retail gas prices are rising rapidly at the same time that demand for natural gas at the user level is falling. Numerous commenters in recent Commission proceedings [1] have stated that demand for natural gas has dropped due to a number of factors, including conservation and the state of the economy. They also allege that the current high prices for gas have prompted large industrial and commercial users who have the ability to use other energy sources to switch to cheaper, alternative fuels. At the same time, wholesale gas prices have only slowly and reluctantly responded to the decreased demand. Traditional economic theory of supply and demand would suggest a more rapid response than has occurred. Many commenters allege that the high take or pay obligations interstate pipelines have agreed to in gas purchase contracts for natural gas subject to section 107 of the Natural Gas Policy Act of 1978 (NGPA) have kept gas prices from responding to market forces.

The Commission is aware that many interstate pipelines have agreed to large take or pay obligations—as much as 95 percent of contract deliverability. This has particularly been the case with contracts for gas where the first sale price is deregulated pursuant to NGPA section 107(c)(1)-(4) or where the Commission has set an incentive price under section 107(c)(5). The Commission is also aware that the pricing provisions of conventional gas purchase contracts do not permit downward pricing flexibility. Since pipelines cannot respond to declining prices of competitive fuels as well as declining demand, additional load loss may well be expected. Under these circumstances, high take or pay obligations can also be expected to aggravate counter-market behavior by influencing pipelines to take and sell high cost gas while cutting back takes of lower cost gas. The result is higher prices for consumers, while reducing the take or pay liability for the pipeline. These behavioral expectations may well explain, at least in part, the counterintuitive phenomenon of falling demand, surpluses of supply, but rising prices. A recent GAO report describes this phenomenon as follows:

> [T]he pipeline can add the "pre-payments" to a specified account in its rate base and earn a rate of return on them. Therefore, to maintain cash flow, a pipeline may prefer to buy more expensive gas and recover its costs semi-annually, but incur any "pre-payments" on less expensive gas and recover these costs later. To the extent that "take-or-pay" and other contract clauses influence a pipeline to buy more expensive gas and forgo less expensive gas, such clauses will contribute to an increase in the pipeline's average gas costs.[2]

II. Future Prepayments

Because of its concern for problems such as those sketched above, the Commission recently ordered that a pipeline's purchasing practices should be considered an issue in a general section 4 rate case.[3] While the Commission notes with favor that a number of pipelines have recently exercised market-out provisions in gas purchase contracts for high cost gas or are renegotiating pricing and other contract terms, the Commission also believes that it should provide guidance as to the level of future prepayments that will be accorded rate treatment in general section 4 and 5 rate cases. With such guidance, parties presently involved in negotiating or renegotiating contracts will have the benefit of the Commission's preliminary judgments about the rate consequences of these new contracts.

With respect to such new contracts, the Commission intends to apply a rebuttable presumption in general rate cases that future prepayments to producers which meet the following

---

[1] *See* comments submitted in response to the Notice of Inquiry, "Impact of NGPA on Current and Projected Natural Gas Markets," Docket No. RM82-26, issued April 28 1982 (NOI); comments submitted at the Public Conference, "Review of Off-System Sales Program," Docket No. GP82-47, November 4-5, 1982.

[2] GAO Report entitled "Natural Gas Price Increases: A Preliminary Analysis," GAO/RCED-83-76, December 9, 1982 at 20.

[3] Tennessee Gas Pipeline Company, Order Denying Rehearing, Docket Nos. TA82-2-0-000, *et al.*, issued October 1, 1982, 21 FERC ¶ 61,004.

criteria should not be given rate base treatment:

(1) The prepayments are made pursuant to take or pay requirements in gas purchase contracts or amendments which provide for take or pay liability in excess of 75 percent of annual deliverability from the relevant wells; and

(2) The gas purchase contract was entered into on or after the effective date of this Statement of Policy. Since the Commission's purpose is to encourage producer and pipeline cooperation in developing appropriate pricing and other contract terms which are sensitive to market factors, this general policy is limited to contracts or amendments which are entered into on or after the effective date of this Statement of Policy.

By selecting the 75 percent limitation, the Commission has attempted to balance the need for pipeline flexibility in responding to changing market conditions against the need to assure a cash flow to producers to cover their costs. However, the Commission's choice of 75 percent as the outside limit for affording rate base treatment to prepayments should *not* be construed as Commission policy that 75 percent is also a floor and that lower take or pay obligations are inappropriate. The Commission is aware that some pipelines and producers have agreed to lower take or pay requirements, and the Commisson encourages such actions.

III. Other Potential Commission Responses

In addition, the Commission will continue its ongoing investigation to determine the extent of its authority, if any, to deal with existing take or pay payments and to determine whether any action should be taken. For example, numerous commenters to the NOI argued that the Commission has authority under various sections of the NGPA and NGA to prevent the operation, or otherwise modify the treatment, of take or pay provisions in existing as well as future contracts. Some state that the Commission has interpreted its authority under section 601(c)(2) of the NGPA too narrowly and urge the Commission to expand its interpretation to hold that excessive take or pay requirements constitute an "abuse" of section 601(c)(2) and that the Commission, therefore, has authority to deny passthrough of purchased gas costs aassociated with those contract provisions.[4]

Others argue that the Commission has broad authority under sections 4, 5 and 7 of the NGA to override or limit the operation of contract terms if the Commission finds the terms to be contrary to the public interest.[5] An argument has also been made that take or pay payments violate the maximum lawful prices under Title I of the NGPA.[6]

On the other hand, many commenters argue that the Commission lacks authority to alter existing nonprice contractual terms, citing the "Mobile-Sierra" doctrine and other judicial precedents.[7] They also state that the Commission's current interpretation of its authority under NGPA section 601(c)(2) is accurate and that Congress did not intend the Commission to prevent the passthrough of maximum lawful prices except in very limited circumstances.[8]

The Commission has not come to any final conclusions as to whether it has authority to modify the operation of existing take or pay provisions or to affect the passthrough of costs associated with these contract provisions. Furthermore, the Commission has not determined whether any action would be appropriate, assuming such authority exists. Hence, at this time, the Commission is taking only those actions, as reflected in this Statement of Policy and other ongoing Commission proceedings, which are clearly within our authority.

It should be noted that as part of its continuing efforts to review the cost of gas to consumers, the Commission is also considering the propriety of revising its current procedures concerning pipeline treatment of prepayments generally. Pipelines are now permitted to include take or pay prepayments in Account 165, and they may be afforded rate base treatment over a period no longer than five years. By including these amounts in the rate base, pipelines are allowed a return and associated taxes on such amounts. This treatment may be more expensive to consumers [9] than if prepayments were financed through debt arrangements, and the pipelines were allowed to recover debt costs. We recognize that any change in our present rate treatment would at least require us to consider the practical consequences of regulatory lag and timing differences. However, we intend to pursue this option.

In accordance with section 553(b) of the Administrative Procedure Act (5 U.S.C. 553) (APA), the Commission finds that public notice and comment are unnecessary. In accordance with section 553(d) of the APA, this Statement of Policy is effective December 23, 1982.

(Natural Gas Act, 15 U.S.C. 717–717w; Natural Gas Policy Act of 1978, Pub. L. No. 95–621, 92 Stat. 3350, 15 U.S.C. 3301–3432)

List of Subjects in 18 CFR Part 2

Administrative practice and procedure, Electric power, Environmental impact statements, Natural gas, Pipelines.

In consideration of the foregoing, Part 2 of Subchapter A, Chapter 1, Title 18 Code of Federal Regulations, is amended as set forth below, effective the date of publication in the Federal Register.

By the Commission.

Lois D. Cashell,

Acting Secretary.

PART 2—[AMENDED]

1. The Table of Contents for Part 2 is amended by adding a new § 2.103 to follow § 2.102 to read as set forth below:

2.103 Statement of policy respecting take or pay provisions in gas purchase contracts.

2. Part 2 is amended by adding a new § 2.103 to read as follows:

§ 2.103 Statement of policy respecting take or pay provisions in gas purchase contracts.

(a) Recognizing that take or pay contract obligations may be shielding the prices of deregulated and other higher cost gas from market constraints, the Commission sets forth its general policy regarding prepayments for natural gas pursuant to take or pay provisions in gas contracts and amendments thereto between producers and interstate piplines which become effective December 23, 1982. The provisions of this policy statement do not establish a binding norm but instead provide general guidance. In particular

---

[4] *See, e.g.*, comments filed in Docket No. RM82–26 by Consolidated Edison Company of New York, Inc. (at 5), Process Gas Consumers Group, *et al.* (at 70–76), the Public Service Commission of the District of Columbia (at 123), and the Pennsylvania Public Utility Commission (at 7–8).

[5] *See, e.g.*, comments filed in Docket No. RM82–26 by the Associated Gas Distributors (at 22–26), Terra Chemicals International, Inc. (at 7), Process Gas Consumers Group, *et al.*, (at 67–69), and the National Association of Regulatory Utility Commissioners (at 7–8).

[6] *See, e.g.*, comments filed in Docket No. RM82–26 by the American Gas Association (at 26–27), Associated Gas Distributors (at 17), Transcontinental Gas Pipe Line Corporation (at 4–5), and Public Power Group (at 23).

[7] *See, e.g.*, comments filed in Docket No. RM82–26 by Tennessee Gas Pipeline Company (at 25–27), Indicated Producers (at 98–121), and Northern Natural Gas Company (at 7–9).

[8] *See, e.g.*, comments filed in Docket No. RM82–26 by Transcontinental Gas Pipeline Corporation (at 15) and Columbia Gas Transmission Corporation (at 11–12).

[9] *See* comments filed in Docket No. RM82–26 by Process Gas Consumers Group (at 67–68).

cases, both the underlying validity of the policy and its application to particular facts may be challenged and are subject to further consideration.

(b) With respect to gas purchase contracts entered into on or after December 23, 1982, the Commission intends to apply a rebuttable presumption in general rate cases that prepayments to producers will not be given rate base treatment if the prepayments are made pursuant to take or pay requirements in such gas purchase contracts or amendments which exceed 75 percent of annual deliverability.

[FR Doc. 82-34870 Filed 12-22-82; 8:45 am]
BILLING CODE 6717-01-M

---

18 CFR Part 3

Freedom of Information Act Fees; Correction

December 15, 1982.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule; technical correction.

SUMMARY: This document makes technical corrections to the Final Rule issued May 19, 1982, in Docket No. RM81-40, that appeared in the **Federal Register** on May 27, 1982 (47 FR 23148). The action is necessary to conform the Freedom of Information Act Fees regulations to the redesignation of the Public Information and Requests regulations published on May 3, 1982 (47 FR 19014).

FOR FURTHER INFORMATION CONTACT: Maureen F. Thompson, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357-8529.

SUPPLEMENTARY INFORMATION: The following technical corrections are made in FR Doc. 82-14377, beginning on page 23148 of the issue of May 27, 1982.

PART 3—[AMENDED]

§ 3.8 [Corrected]

1. In the parenthetical between the heading and the text of § 3.8, at 47 FR 23149, the reference to "§ 1.36" is corrected to read "Part 388."

2. In paragraph (k)(1)(i) of § 3.8, at 47 FR 23149, the reference to "§ 1.36" is corrected to read "Part 388."

3. In paragraph (k)(5)(iii) of § 3.8, at 47 FR 23150, the reference to "§ 1.36" is corrected to read "Part 388."

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-34823 Filed 12-22-82; 8:45 am]
BILLING CODE 6717-01-M

---

18 CFR Part 271

[Docket No. RM79-76-123 (Colorado-26)]

Colorado; High-Cost Gas Produced From Tight Formations; Correction

December 15, 1982.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule; correction.

SUMMARY: This document corrects an earlier correction of a final rule that concerned high-cost gas produced from tight formations, Docket No. RM79-76-123 (Colorado-26). The final rule appeared in the **Federal Register** on September 3, 1982 (47 FR 38878), and contained an incorrect acreage description. The original correction to this final rule, which appeared in the **Federal Register** on September 28, 1982 (47 FR 42562), contained an incorrect cite to the Commission's Rules of Practice and Procedure, as well as errant page numbers.

FOR FURTHER INFORMATION CONTACT: Steven Ross, Office of General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20436, (202) 357-8571.

The following restates the acreage descriptions in FR Doc. 82-24358, appearing on page 38879, and in FR Doc. 82-28524, appearing on page 42562. On pages 38879 and 42562, § 271.703(d)(108)(i) should read as follows:

PART 271—[AMENDED]

§ 271.703 [Corrected]

* * * * *

(d) * * *

(108) * * *

(i) *Delineation of formation.* The Dakota-Lakota Formation is located in Boulder County, Colorado, in Township 1 North Range 69 West, 6th P.M., Sections 25 through 36; Township 1 South, Range 69 West, 6th P.M., Sections 3 through 10, 15 through 22, and 27 through 34; Township 1 South, Range 70 West, 6th P.M., Sections 1 through 3, 10 through 15, 22 through 27, and 34 through 36.

* * * * *

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-34824 Filed 12-22-82; 8:45 am]
BILLING CODE 6717-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 890

[Docket No. R-82-1036]

Annual Contributions for Operating Subsidy Performance Funding System

AGENCY: Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Interim rule.

SUMMARY: This interim rule amends 24 CFR Part 890 to reinstate the Rolling Base Period in determining the Allowable Utilities Consumption Level (AUCL) to be utilized by public housing agencies (PHAs) in the Performance Funding System (PFS) calculation of the Utilities Expense Level. The Utilities Expense Level is a component of the PHA's calculation of its PFS operating subsidy eligibility.

DATES: Effective December 23, 1982. Comment due date: February 22, 1983.

ADDRESS: Interested persons are invited to submit comments regarding this rule to the Office of General Counsel, Rules Docket Clerk, Room 10278, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410. Communications should refer to the above docket number and title. A copy of each comment submitted will be available for public inspection during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: J. Milton Slifkin, Fiscal Management Division, Room 4218, Office of Public Housing, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410. Telephone (202) 426-1872. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: At the inception of the PFS, beginning with the PHA fiscal year beginning April 1, 1975, the AUCL was based upon the PHA's actual utility consumption experienced during a 36-month Rolling Base Period. The Rolling Base Period system was replaced by the Fixed Base Period

system, which was first applicable to PHA fiscal years beginning July 1, 1977, and all fiscal years thereafter. The Fixed Base Period system in effect froze the AUCLs to the 36-month periods which ended December 31, 1975, March 31, 1976, June 30, 1976 or September 30, 1976. The consumption of utilities used for space heating was later adjusted by a Change Factor which was developed to indicate the relationship of the average annual heating degree days for the 30-year period from 1941 through 1970 to the average annual heating degree days for each PHA's Fixed Base Period.

A study recently completed by the HUD Office of Policy Development and Research recommended that the base period used to compute the AUCL be a rolling average of the most recent years' utilities consumption. The Department has decided that a Rolling Base Period of three years is sufficient to establish a reliable average of utilities consumption free of distortions which might be caused by the abnormal weather of a PHA fiscal year. Such a system holds some advantages for a PHA in that it will reflect changes in consumption patterns brought about by any increased usage of appliances by public housing residents, similar to increases which have occurred in the private market, and any changes in utility consumption habits of residents. A Rolling Base Period system also will reflect decreases in consumption levels brought about through conservation measures taken by PHAs in the past and in the future. Under the Fixed Base Period system, it is not possible to take into account reductions in utilities consumption realized in many cases, through large expenditures of HUD modernization program funds or from non-HUD sources.

The first PHA fiscal year affected by this regulation is the PHA fiscal year beginning January 1, 1983, and its first Rolling Base Period will be the three (3) PHA fiscal years which ended December 31, 1979, December 31, 1980, and December 31, 1981. The AUCL of the Rolling Base Period utility(ies) used for space heating will be adjusted after the end of the PHA fiscal year to reflect the ratio of the heating degree days (HDD) of the PHA fiscal year affected by this regulation to the average annual HDD for the three-year (36 months) Rolling Base Period. (In the above example, the year affected by this regulation is the fiscal year ending December 31, 1983). The above adjustment (Change Factor) is the result of the HDD of the PHA affected fiscal year divided by the Rolling Base Period average HDD. Unlike the 30-Year Heating Degree Day System procedures, which will be superseded by this rule, Change Factors of less than 1.000 will not be rounded up to 1.000 but will be used to reduce the AUCL of the Rolling Base Period prior to calculating the mandatory year-end utility adjustment. Section 890.170 of this rule sets forth the procedures to be used by PHAs in utilizing the Rolling Base Period system.

This rule will apply to fiscal years beginning January 1, 1983 and thereafter. The application of this rule to such fiscal years is essential so that PFS calculations reflect reasonable consumption levels based on the most recent consumption experienced by the PHAs. Notice and prior public procedure would not allow PHAs adequate time to: (1) Incorporate the Rolling Base Period system into their AUCL and operating subsidy eligibility for fiscal years beginning January 1, 1983 and thereafter, and (2) prepare an operating budget which reflects the maximum subsidy available and the level of services possible within this amount of subsidy. It is therefore in the public interest to amend Part 890 as soon as possible to permit the use of the Rolling Base Period. Accordingly, the Secretary has determined that notice and prior public procedure would be contrary to the public interest and that good cause exists for publishing this rule as an interim rule.

Section 7(o)(3) of the Department of HUD Act (42 U.S.C. 3535(o)(3)) provides for a delay in effectiveness for a period of 30 calendar days of continuous session of Congress after publication. A waiver of this requirement has been requested from the Chairmen and Ranking Minority members of the Senate Committee on Banking, Housing, and Urban Affairs, and the House Committee on Banking, Finance and Urban Affairs.

This rule does not constitute a "major rule" as that term is defined in section 1(b) of the Executive Order 12291 on Federal Regulation issued on February 17, 1981. Analysis of the rule indicates that it does not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in cost or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulation 24 CFR Part 50 which implements Section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of General Counsel, Rules Docket Clerk, Room 10278, 451 Seventh Street, SW, Washington, DC 20410.

Pursuant to the provisions of 5 U.S.C. 605(b), (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities because the rule will only slightly change the funds available to PHAs.

This rule was not listed in the Department's Semi-Annual Agenda of Regulations published on August 17, 1981 (46 FR 41708) pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

(The Catalog of Federal Domestic Assistance, program number is 14.148)

Information collection requirements contained in this regulation 24 CFR Part 890 have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and have been assigned OMB control number 2502–0125.

List of Subjects in 24 CFR Part 890

Grant programs: Housing and community development, Low and moderate income housing, Public housing.

PART 890—ANNUAL CONTRIBUTIONS FOR OPERATING SUBSIDY

Accordingly, 24 CFR Chapter VIII is amended by revising §§ 890.102(t), 890.102(u) and 890.107 and adding §§ 890.102(v) and 890.102(w) as follows:

1. Section 890.102 (t) and (u) are revised to read as follows and § 890.102 (v) and (w) are added:

§ 890.102 Definitions.

* * * * *

(t) *Rolling Base Period.* The 36-month period which ends 12 months prior to the beginning of the PHA Requested Budget Year which is used to determine the Allowable Utilities Consumption Level used to compute the Utilities Expense Level.

(u) *Change Factor.* The ratio of the affected PHA fiscal year heating degree days (HDD) divided by the average annual HDD of the Rolling Base Period.

(Affected year HDD÷Rolling Base Period average HDD.)

(v) *Heating Degree Days.* Heating Degree Days are the annual arithmetic sum of the positive differences (those under 65 degrees) of the average of the lowest and highest daily outside temperatures in degrees Fahrenheit, subtracted from 65 degrees Fahrenheit.

(w) *Allowable Utilities Consumption Level (AUCL).* The amount of utilities expected to be consumed per unit per month by the PHA during the Requested Budget Year which is equal to the average amount consumed per unit per month during the Rolling Base Period. Subsequent to the end of the said Budget Year the AUCL of the utility(ies) used for space heating will be adjusted by a Change Factor, which is defined in § 890.102(u).

2. Section 890.107 is revised to read as follows:

§ 890.107 Computation of utilities expense level.

(a) *General.* In recognition of the rapid rises which occur in utilities costs, the wide diversity among PHAs as to types of utilities services used and the manner in which utilities payments are allocated between PHAs and tenants, and the fact that utilities rates charged by suppliers are beyond the control of the PHA, the PFS treats utilities expenses separately from other PHA expenses. Utilities expenses are, therefore, excluded from the PHA's Allowable Expense Level and the PFS provides for computation of the amount of operating subsidy for utilities cost based upon a calculated utilities expense of each PHA. Accordingly, the PHA's Utilities Expense Level for the Requested Budget Year shall be computed by multiplying the AUCL per unit per month for each utility, determined as provided in paragraph (c) of this section, by the projected utility rate determined as provided in paragraph (b) of this section. The AUCL for space heating utilities will be adjusted after the end of the affected fiscal year pursuant to the instructions of paragraph (d) of this section.

(b) *Utilities rates.* The current applicable rates, with consideration of adjustments and pass-throughs, in effect at the time the Operating Budget is submitted to HUD will be used as the utilities rates for the Requested Budget Year, except that, when the appropriate utility commission has, prior to the date of submission of the Operating Budget to HUD, approved and published rate changes to be applicable during the Requested Budget Year, the future approved rates may be used as the utilities rates for the entire Requested Budget Year.

(c) *Computation of Utilities Consumption Level.* The AUCL used to compute the Utilities Expense Level of a PHA for the Requested Budget Year will be based upon the availability of consumption data. For project utilities where consumption data is available for the entire Rolling Base Period, the computation will be in accordance with paragraph (c)(1) of this section. For project utilities (other than New Projects) where the consumption data is not available for the entire Rolling Base Period, the computation will be in accordance with paragraph (c)(2) of this section. For New Projects, the computation will be in accordance with paragraph (c)(3) of this section. The AUCL for all of a PHA's projects is the sum of the amounts determined using paragraphs (c)(1), (2) and (3) of this section, as appropriate.

(1) *Rolling Base Period System.* For project utilities with consumption data for the entire Rolling Base Period, the AUCL is the average amount consumed per unit per month during the Rolling Base Period, adjusted in accordance with paragraph (d) of this section. The PHA shall determine the average amount of each of the utilities consumed during the Rolling Base Period (i.e., the 36-month period ending 12 months prior to the first day of the Requested Budget Year).

(i) *PHA fiscal years affected.* The Rolling Base Period shall be used to compute the AUCL submitted with the Operating Budgets for PHA Fiscal Years beginning January 1, 1983, April 1, 1983, July 1, 1983, October 1, 1983 and thereafter.

(ii) An example of a rolling base is as follows:

PHA Fiscal Year (affected fiscal year)		Rolling base period	
Beginning	Ending	Begins	Ends
1-1-83	12-31-83 (1st year)	1-1-79	12-31-81
1-1-84	12-31-84 (2nd year)	1-1-80	12-31-82

(2) Alternative method where data is not available for the entire Rolling Base Period:

(i) If the PHA has not maintained or cannot recapture consumption data regarding a particular utility from its records for the whole Rolling Base Period mentioned in paragraph (c)(1) of this section, it shall submit consumption data for that utility for the last 24 months of its Rolling Base Period to the HUD Field Office for approval. If this is not possible, it shall submit consumption data for the last 12 months of its Rolling Base Period. The PHA also shall submit a written explanation of the reasons that data for the whole Rolling Base Period is unavailable. (Approved by the Office of Management and Budget under OMB control number 2502–0125).

(ii) In those cases where a PHA has not maintained or cannot recapture consumption data for a utility for the entire Rolling Base Period, comparable consumption for the greatest of either 36, 24, or 12 months, as needed, shall be used for the utility for which the data is lacking. The comparable consumption shall be estimated based upon the consumption experienced during the Rolling Base Period of comparable project(s) with comparable utility delivery systems and occupancy. The use of actual and comparable consumption by each PHA, other than those PHAs defined as New Projects in paragraph (c)(3) of this section, will be determined by the availability of complete data for the entire 36-month Rolling Base Period. Appropriate utility consumption records, satisfactory to HUD, shall be developed and maintained by all PHAs so that a 36-month rolling average utility consumption per unit per month under paragraph (c)(1) of this section can be determined.

(iii) If a PHA cannot develop the consumption data for the Rolling Base Period or for 12 or 24 months of the Rolling Base Period, either from its own project(s) data, or by using comparable consumption data the actual per unit per month (PUM) utility expenses stated in paragraph (e) of this section shall be used as the Utilities Expense Level and no Change Factor shall be applied.

(3) *Computation of Allowable Utilities Consumption Levels for New Projects.*

(i) A New Project, for the purpose of establishing the Rolling Base Period and the Utilities Expense Level, is defined as either: (A) A project which had not been in operation during at least 12 months of the Rolling Base Period, or a project which enters management after the Rolling Base Period and prior to the end of the Requested Budget Year, or (B) a project which during or after the Rolling Base Period, has experienced conversion from one energy source to another; interruptable service; deprogrammed units; a switch from tenant-purchased to PHA-supplied utilities; or a switch from PHA-supplied to tenant-purchased utilities.

(ii) The actual consumption for New Projects shall be determined so as not to distort the Rolling Base Period in accordance with a method prescribed by HUD.

(d) Adjustment to utilities used for space heating. For project utilities with consumption data for the entire Rolling

Base Period, and for New Projects, consumption of utilities used for space heating shall be adjusted, after the end of the affected year, using a Change Factor as follows:

(1) *Adjustment of the Rolling Base Period data.*

(i) *Use of Change Factors.* A Change Factor will be developed each year by HUD which indicates the relationship of the affected PHA fiscal year HDD to the average HDD of the Rolling Base Period. This Change Factor is to be used to establish an AUCL for utilities used for space heating which reflects the severity of the winter weather of the affected PHA fiscal year. The Change Factors are developed by the National Climatic Center of the Department of Commerce for each established standard weather division of the country, by PHA fiscal year. Change Factors will be supplied by HUD to the PHAs. When a Change Factor is greater than 1.000, it means that the HDD of the affected fiscal year were greater than the average annual HDD of the Rolling Base Period. An example of the effect of the Change Factor on the Rolling Base Period consumption is:

Assume:

Affected fiscal year HDD—5,250
Rolling Base Period average HDD—5,000
Rolling Base Period average annual consumption for heating purposes—1,000 gallons

Results:

Change Factor is (5,250 ÷ 5,000) = 1.050
Adjusted Rolling Base Period average consumption for heating purposes (1,000 × 1.050) = 1,050 gallons

(ii) *PHA fiscal years affected.* The Change Factor shall be used to compute the AUCL submitted with Operating Budgets for PHA fiscal years beginning January 1, 1983, April 1, 1983, July 1, 1983 and October 1, 1983, and thereafter.

(iii) *Application of Change Factor to consumption of the Rolling Base Period.* The Change Factor is to be applied only to the consumption readings of meters of utilities, or gallons of oil, or tons of coal used for the purpose of generating heat for dwelling units and other PHA associated buildings. The Change Factor shall not be applied to the consumption readings of meters of utilities not used for the purpose of generating heat; e.g., water and sewer or electricity used solely for non-heating purposes. The Change Factor shall be applied to the total consumption reading of meters of utilities, or gallons of oil, or tons of coal used for heating even though the same meter or same energy source is used for other purposes; e.g., heating and cooking gas usage metered on the same meter or oil used for space heating and also heating of water. Such consumption for each fiscal year of the Rolling Base Period shall be adjusted by the Change Factor. The adjusted consumption for each year shall be totalled, These totals then will be averaged. The consumption readings of meters of utilities not used for heating (not adjusted by the Change Factor) shall be included in the total consumption.

EXAMPLE SHOWING APPLICATION OF CHANGE FACTOR

	Base years		
	1st Year	2d Year	3d Year
Gas meters used for heating:			
No.1234 (In therms)	15,000	16,000	17,000
No. 2345	10,000	12,000	11,000
Subtotal	[illegible]	[illegible]	[illegible]
Change Factor (HUD supplied)	x1.050	x1.050	x1.050
Subtotal	[illegible]	31,500	[illegible]
Gas meters not used for heating:			
No.3456	2,500	[illegible]	[illegible]
Total adjusted allowable gas consumption level	28,750	34,100	[illegible]

PHAs will be required to use Change Factors of less than 1.000. Change Factors are listed by county. If a PHA manages units in more than one county and those counties have different Change Factors, the above calculation shall be done considering the units in each county and each county's assigned Change Factor. If a PHA manages units in an independent city not within the jurisdiction of a county, it shall: (A) If within one county, use that county's Change Factor; or (B) If the city abuts more than one county, use the average of the Change Factors of the contiguous counties.

(2) *Adjusted consumption for New Projects.*

(i) *Use of Change Factor.* For New Projects, the PHA shall apply the Change Factor to the HUD approved consumption level of utilities used for heating.

(ii) *PHA fiscal years affected.* The Change Factor shall be used to compute the AUCL submitted with the Operating Budgets for PHA Fiscal Years beginning January 1, 1983, and thereafter.

(iii) *Application of Change Factor to consumption of New Projects.* The annual AUCL for New Projects shall be adjusted by applying the Change Factor to the estimated consumption where the utility is used for heating in part or in total. This consumption shall be from a comparable project during the permissible Rolling Base Period. Any other consumption of this utility which is not used for heating shall not be adjusted by the Change Factor, but the estimated annual consumption based upon data from a comparable project during the permissible Rolling Base Period shall be added to the adjusted consumption.

(e) *Utilities expense level where consumption data for the full Rolling Base Period is unavailable.* If a PHA does not obtain the consumption data for the entire Rolling Base Period, or for 12 or 24 months of the Rolling Base Period, either for its own project(s) or by using comparable consumption data as required in paragraph (c)(2) of this section, it shall request HUD Field Office approval to use actual PUM utility expenses. These expenses shall exclude Utilities Labor and Other Utilities Expenses. The actual PUM utility expenses shall be taken from the year-end Statement of Operating Receipts and Expenditures, Form HUD–52599, (Office of Management and Budget approval number 2505–0240) prepared for the PHA fiscal year which ended 12 months prior to the beginning of the PHA Requested Budget Year (e.g., for a PHA fiscal year beginning January 1, 1983, the PHA would use data from the fiscal year ended December 31, 1981). No Change Factor shall be applied to actual PUM utility expenses, and subsequent adjustments will not be approved for a budget year for which the utility expense level is established based upon actual PUM utility expenses.

(f) *Adjustments.* PHAs shall request adjustments of Utilities Expense Levels in accordance with § 890.110(c), which requires an adjustment based upon a comparison of actual experience to the estimated level. The estimated level will have been adjusted in accordance with paragraph (d) of this section. If the actual consumption exceeds the estimated level, HUD would pay 50 percent of the excess and the PHA would pay 50 percent. If consumption is less than the estimated level, HUD would recapture 50 percent of the savings and the PHA would keep 50 percent. One hundred percent adjustment would be allowed for increases or decreases in utilities cost rates.

Sec. 9, United States Housing Act of 1937, (42 U.S.C. 1437g); sec. 201(b), Housing and Community Development Act of 1974, (42 U.S.C. 1437 note); sec. 7(d), Department of HUD Act, (42 U.S.C. 3535(d))

Dated: October 22, 1982.

Philip Abrams,

General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

[FR Doc. 82-34671 Filed 12-22-82; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 273

Education Contracts Under Johnson-O'Malley Act

December 21, 1982.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Final rule.

SUMMARY: The Bureau of Indian Affairs is publishing a final rule to amend an existing regulation on the use of other Federal, State and local funds under the Johnson-O'Malley Act and the Indian Self-Determination Act. The amended rule will make clear that no free school lunch program will be offered by the Bureau of Indian Affairs, but that Indian students may be eligible to participate in the National School Lunch Program administered by the U.S. Department of Agriculture (USDA).

EFFECTIVE DATE: January 24, 1983.

FOR FURTHER INFORMATION CONTACT: Jerry L. Jaeger, Bureau of Indian Affairs, Office of Indian Education Programs, Washington, D.C. 20245, telephone (202) 343–2175.

SUPPLEMENTARY INFORMATION: This rulemaking document is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

A proposed rule was published in the **Federal Register**, 47 FR 40345, on Monday, September 13, 1982. The entire proposal would have substantially revised Parts 271 through 277 of Title 25 of the Code of Federal Regulations. Consideration of most of this proposal continues within the Bureau of Indian Affairs. This final rule pertains only to the proposed regulation numbered section 273.27 on page 40345. It is a minor amendment to existing section 273.34.

The amendment has been added to clarify the status of school lunch programs for Indian students in public schools following the decision of the U.S. Court of Appeals in *Vigil* v. *Andrus*, 667 F. 2d 931 (10th Cir. 1982). Before 1970 the Bureau of Indian Affairs under the Johnson-O'Malley Act, 25 U.S.C. 452 *et seq.*, provided school lunches to Indian students in public schools. After 1970, the Bureau discontinued its Johnson-O'Malley school lunch programs, and the United States Department of Agriculture began to provide school lunches to eligible Indian students in public schools under the National School Lunch Act, 42 U.S.C. 1751–1774, 1824. In 1975, the Johnson-O'Malley Act was amended, 25 U.S.C. 456, to require that Indian school boards, or, in the absence of an Indian school board, a committee of Indian parents, approve or disapprove programs to be conducted under Johnson-O'Malley contracts. Section 273.34(c) will make clear that the only school lunch programs for Indian students in public schools are those operated by USDA pursuant to the National School Lunch Act and those approved by Indian school boards or by Indian parent committees pursuant to the Johnson-O'Malley Act.

Following the publication, copies of the proposed rules were sent to all tribes for review and comment. Written comments were received from September 13, 1982 through November 12, 1982. Nineteen comments were received on proposed § 273.27(c) through this process.

Seventeen commenters maintained that free school lunches for Indian children should be provided by the Bureau of Indian Affairs (Bureau) rather than USDA. They contend that it is a part of the continuing obligation of the Federal government to Indian people. They also felt that rather than being a "technical change in form" the "magnitude" of the proposed change required the Bureau and the Department of the Interior to provide an opportunity for public hearings.

Another commenter felt that the utilization of Johnson-O'Malley funds for hot lunch programs did not appear to be an authorized activity as this program could be a part of the operational budget. Accordingly, he said that the use of Johnson-O'Malley funds would be questionable as it is intended for supplemental educational programs.

Another comment pointed out the distinction between USDA lunches from USDA free lunches. A change has been made in the language for clarification.

One other change has been made from the originally proposed rule. References in the proposal to "grant funds" have been changed to "contract funds" since the existing regulations refer to "contracts" not "grants." At this point in time, no final decision has been made as to the conversion to grants.

Tribal consultation is an underlying concept of the Indian Self-Determination and Education Assistance Act. In addition to mailing copies of the publication to every tribe, meetings were held between representatives of the Department of Interior and representatives of the All Indian Pueblo Council in Washington, D.C. on October 6, 1982 and in Albuquerque, New Mexico on October 28, 1982 to inform the parties involved of the various steps taken to resolve the lawsuit.

Since the proposed rule is not a complex proposal requiring elaborate explanation, we do not see the need for formal hearings on this matter. We do not believe there are any new issues which would be raised in a hearing which have not already been addressed. We are satisfied that we have complied with Congressional directives and statutory procedures.

Further, the supplemental program funds for educational assistance to public schools under the Johnson-O'Malley Act are distributed to contractors through a formula dependent on the number of eligible children and appropriations received. Based on the amount available, contractors and Indian education committees set their own program priorities in meeting the special and unique needs of Indian children. Given the limited amount of funds available to meet the needs of Indian children nationwide, it has been our view that it would be more feasible to utilize the USDA National School Lunch Program for the provision of free lunches to eligible Indian students. In that way Bureau of Indian Affairs' appropriations for Indian programs can be more effectively utilized to meet the other needs of Indian families. Moreover, if Indian education committees, established pursuant to 25 CFR 273.15, or contractors wish to utilize contract funds under this part of pay for school lunches for those Indian students who are not eligible for the USDA program, they may prepare their education plans under § 273.18 to do so. This is consistent with the intent of section 202 of the Indian Self-Determination Act of 1975.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and does not have a significant economic effect on a substantial number of small entities under the criteria established by the Regulatory Flexibility Act.

The primary authors of this document are M. Elizabeth Holmgren and Maribel Printup, Bureau of Indian Affairs, Office of Indian Education Programs, telephone number (202) 343–8657.

List of Subjects in 25 CFR Part 273

Government contracts, Indian-education, Indians self-determination.

PART 273—[AMENDED]

Section 273.34 of Part 273 in Subchapter M, Chapter I of Title 25 of the Code of Federal Regulation is revised to read as follows:

§ 273.34 Use of other Federal, State and local funds.

(a) Contract funds under this part shall supplement, and not supplant, Federal, State and local funds. Each contract shall require that the use of these contract funds will not result in a decrease in State, local, or Federal funds which would be made available for Indian students if there were no funds under this part.

(b) State, local and other Federal funds must be used to provide comparable services to non-Indian and Indian students prior to the use of contract funds.

(c) Except as hereinafter provided, the school lunch program of the United States Department of Agriculture (USDA) shall constitute the only Federally-funded school lunch program for Indian students in public schools. Where Indian students do not qualify to receive free lunches under the National School Lunch Program of USDA because such students are non-needy and do not meet the family size and income guidelines for free USDA lunches, plans prepared pursuant to § 273.18 may provide, to the extent of funding available for Johnson-O'Malley programs, for free school lunches for those students who do not qualify for free USDA lunches but who are eligible students under § 273.12.

Kenneth Smith,

Assistant Secretary—Indian Affairs.

[FR Doc. 82-35028 Filed 12-22-82; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

43 CFR Public Land Order 6342

[F-024460]

Alaska; Partial Revocation of Public Land Order No. 503 and Classification of Land for Selection by the State of Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: The purpose of this public land order is to partially revoke an administrative site withdrawal and to classify and open the land for selection by the State of Alaska.

EFFECTIVE DATE: December 23, 1982.

FOR FURTHER INFORMATION CONTACT: Beaumont C. McClure, Washington, D.C., (202) 343-6511, or Robert Sorenson, Alaska State Office, (907) 271-5060.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Subsection 204(a) of the Federal Land Policy and Management Act of October 21, 1976, (43 U.S.C. 1714(a)) and by Section 17 (d)(1) of the Alaska Native Claims Settlement Act of December 18, 1971, (43 U.S.C. 1616(d)(1)), it is ordered as follows:

1. Public Land Order No. 503 of July 27, 1948, withdrawing lands for the use of the Bureau of Land Management as an administrative site is hereby revoked as to the following described land:

3½ Mile Administrative Site

(F-024460)

Fairbanks Meridian

A portion of Lot 57, section 7, T. 1 S., R. 1 W., more particularly described as follows:

Beginning at the southeast corner of Lot 57, thence north 12 chains, to the northern boundary of Airport Way, Right-of-Way F-12378, thence west along the northern boundary of Airport Way Right-of-Way 20.015 chains, thence south 12 chains, thence east 20.015 chains, to the point of beginning; containing 24 acres more or less.

2. As provided by Section 6(g) of the Alaska Statehood Act (72 Stat. 339), the State of Alaska is provided a preferred right of selection for the lands described herein until 10:00 A.M. Alaska Standard Time on October 23, 1982. After this time and date, any of the above identified land not selected by the State, will immediately become subject to all the terms and conditions of, and are withdrawn by Public Land Order No. 5180 of March 9, 1972, as amended, by Public Land Order No. 5418 of March 25, 1974, and Public Land Order No. 6092, of November 20, 1981, which withdrew lands for classification and protection of the public interest and subsequently made certain lands available for State selection.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

December 16, 1982.

[FR Doc. 82-34821 Filed 12-22-82; 8:45 am]

BILLING CODE 4310-84-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 205

[Docket No. FEMA-205.60]

Use of Gifts and Bequests for Disaster Assistance

AGENCY: Federal Emergency Management Agency.

ACTION: Interim rule with request for comments.

SUMMARY: This rule sets forth FEMA's interim procedures for implementing a disaster assistance program using funds bequeathed to the Federal Government by Cora C. Brown of Kansas City, Mo. Mrs. Brown died in 1977, leaving a portion of her estate to the United States to be used as a special fund solely for the relief of human suffering caused by natural disasters or other disasters not caused by or attributable to war. A special fund, known as the Cora Brown Fund, has been established in accordance with Pub. L. 96-446 (94 Stat. 1893; October 13, 1980), thus fulfilling Mrs. Brown's will.

FEMA intends to use the funds, and any others that may be bequeathed under authority of Pub. L. 96-446, in the manner and under the conditions described below. FEMA will invest and reinvest excess money in the fund according to the provisions of Pub. L. 96-446. In order to make this assistance available as soon as possible, these regulations are effective upon publication, so as to reflect legislative intent and the will of Mrs. Brown.

DATES: These regulations are effective December 23, 1982. However, interested persons may comment until February 22, 1983.

FOR FURTHER INFORMATION CONTACT: Agnes C. Mravcak, Office of Disaster Assistance Programs, State and Local Programs and Support, FEMA, 500 C Street, SW., Washington, D.C., 20472 (202-287-0555).

SUPPLEMENTARY INFORMATION:

Environmental Considerations

This rule deals with administrative actions and is categorically excluded from the requirements for environmental assessment under 44 CFR Part 10.

Executive Order 12291, "Federal Regulations"

This interim rule is not a "major rule" within the context of Executive Order 12291 for the following reasons: (a) It will not have an annual effect on the economy of $100 million or more; (b) it will not result in a major increase in

costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and (c) it will not have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The rule will not have a significant economic impact on small entities, within the meaning of 4 U.S.C. 605 (the Regulatory Flexibility Act), in that it pertains only to disaster assistance for individuals. Therefore, no regulatory flexibility analysis will be prepared. This rule does not involve any information collection.

Authority. This rule is issued under authority of Section 601 of the Disaster Relief Act of 1974 (Pub. L. 93–288), as amended by Pub. L. 96–446, and Executive Order 12381.

Content of the Rule. The rule states the purposes for awarding funds from the "Cora Brown Fund", conditions for use of the fund, and administrative procedures for awards.

List of Subjects in 44 CFR Part 205

Community facilities, Disaster assistance, Grant programs, Housing and community development.

PART 205—FEDERAL DISASTER ASSISTANCE (PUBLIC LAW 93–288)

Accordingly, new § 205.60, is added to Subpart D of 44 CFR Part 205, as follows:

§ 205.60 Use of Gifts and Bequests for Disaster Assistance Purposes.

(a) *Introduction.* By publishing this regulation, FEMA gives notice of the establishment of a special disaster assistance fund made possible by a bequest of funds from the late Cora C. Brown of Kansas City, Missouri, who left a portion of her estate to the United States for helping victims of natural disasters and other disasters not caused by or attributable to war. FEMA intends to use the funds, and any others that may be bequeathed under this authority, in the manner and under the conditions described below.

(b) *Purposes for awarding funds.* Money from the Cora Brown Fund may only be used to provide for disaster-related needs that have not been or will not be met by governmental agencies or any other organizations which have programs to address such needs; however, the fund is not intended to replace or supersede these programs. Therefore, if assistance is available from another source, including the Individual and Family Grant program, government-sponsored disaster loan assistance, and credit from private sources if the disaster loan agency requires a "credit elsewhere test," then money from the Cora Brown Fund will not be available to the applicant for the same purpose. Listed below are the general categories of assistance which can be provided by the Cora Brown Fund:

(1) Disaster-related home repair and rebuilding assistance to families for permanent housing purposes, including site acquisition and development, relocation of residences out of hazardous areas, assistance with costs associated with temporary housing or permanent re-housing (e.g., utility deposits, access, transportation, connection of utilities, etc.);

(2) Disaster-related unmet needs of families who are unable to obtain adequate assistance under the Disaster Relief Act, or from other sources. Such assistance may include but is not limited to: health and safety measures; evacuation costs; assistance delineated in the Disaster Relief Act or other Federal, State, local, or volunteer programs; hazard mitigation or floodplain management purposes; and assistance to self-employed persons (with no employees) to reestablish their businesses; and

(3) Other services which alleviate human suffering and promote the well-being of disaster victims. For example, services to the elderly, to children, or to handicapped persons, such as handyman or chore services, transportation, recreational programs, provision of special ramps, or hospital or home-visiting services. The funds may be provided to individual disaster victims, or to benefit a group of disaster victims.

(c) *Conditions for use of the Cora Brown Fund.* (1) The Cora Brown Fund is available only when the President declares that a major disaster or emergency exists under the Disaster Relief Act, only in the areas designated as eligible for Federal disaster assistance through notice in the **Federal Register**, and only at the discretion of the Assistant Associate Director, Office of Disaster Assistance Programs, FEMA. The fund is limited to the initial endowment plus accrued interest, and this assistance program will cease when the fund is used up.

(2) A disaster victim normally will receive no more than $2,000 from this fund in any one declared disaster unless the Assistant Associate Director determines that a larger amount is in the best interest of the disaster victim and the Federal Government. Funds to provide services which benefit a group may be awarded in an amount determined by the Assistant Associate Director, based on the Regional Director's recommendation.

(3) The fund may not be used in a way that is inconsistent with other Federally-mandated disaster assistance or insurance programs, or to modify other generally applicable requirements.

(4) Funds awarded to a disaster victim may be provided by FEMA jointly to the disaster victim and to a State or local agency, or volunteer organization, to enable such an agent to assist in providing the approved assistance to an applicant. Example: repair funds may be provided jointly to an applicant and the Mennonite Disaster Service, who will coordinate the purchase of supplies and provide the labor.

(5) Money from this fund will not duplicate assistance for which a person is eligible from other sources.

(6) In order to comply with the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), as amended, any award for acquisition or construction purposes shall carry a requirement that an adequate flood insurance policy be purchased and maintained. The Assistant Associate Director shall determine what is adequate based on the purpose of the award.

(7) The fund shall be administered in an equitable and impartial manner without discrimination on the grounds of race, color, religion, national origin, sex, age, or economic status.

(8) Funds awarded to a disaster victim from this fund may be combined with funds from other sources.

(d) *Administrative procedures.* (1) The Assistant Associate Director, Office of Disaster Assistance Programs, shall be responsible for awarding funds and authorizing disbursement.

(2) The Comptroller of FEMA shall be responsible for fund accountability, and, in coordination with the Assistant Associate Director, for liaison with the Department of the Treasury concerning the investment and reinvestment of excess money in the fund pursuant to the provisions of Pub. L. 96–446.

(3) Each FEMA Regional Director may submit requests to the Assistant Associate Director on a disaster victim's behalf by providing documentation which consists of the disaster victim's needs and supporting documentation, including a verification of the disaster victim's claim, a record of other assistance which has been or will be available for the same purposes, and his/her recommendation as to the items and the amount. The Assistant Associate Director shall review the facts and make a determination. If the award

amount is below $2,000, the Assistant Associate Director may appoint a designee to have approval authority; approval authority of $2,000 or above shall be retained by the Assistant Associate Director. The Assistant Associate Director shall notify the Comptroller of a decision for approval, and the Comptroller shall order a check to be sent to the disaster victim (or jointly to the disaster victim and an assistance organization), through the Regional Director. The Assistant Associate Director shall also notify the Regional Director of the decision, whether for approval or disapproval. The Regional Director shall notify the disaster victim in writing, and identify any award as assistance from the Cora Brown Fund.

(4) If the award is to be for a service to a group of disaster victims, the Regional Director shall submit his/her recommendation and supporting documentation to the Assistant Associate Director. The Assistant Associate Director (or his/her designee if the award is below $2,000) shall review the information and make a determination. In cases of approval, the Assistant Associate Director shall request the Comptroller to send a check to the intended recipient or provider, as appropriate. The Assistant Associate Director shall notify the Regional Director of the decision. The Regional Director shall notify a representative of the group in writing.

(5) The disaster victim may appeal the Assistant Associate Director's (or his/her designee's) decision by submitting a written statement to the Associate Director through the Regional Director. The appeal letter must be dated no less than 15 days after the date of the notification letter sent to the disaster victim by the Regional Director. The Regional Director shall forward the appeal letter, along with any additional information relevant to the appeal, to the Associate Director within 15 days of the receipt of the appeal in the Regional office. The Associate Director will consider the additional information from both sources, and shall make a decision promptly. If the decision is for approval, the check procedures in (3) above shall be followed. If the decision is to deny the appeal, the Associate Director shall notify the disaster victim in writing, through the Regional Director.

(6) The Comptroller shall process requests for checks, shall keep records of disbursements and balances in the account, and shall provide the Assistant Associate Director with quarterly reports.

(e) *Audits.* The Inspector General of FEMA shall audit the use of money in this account to determine whether the funds are being administered according to these regulations and whether the financial management of the account is adequate. The Inspector General shall provide his/her findings to the Associate Director, State and Local Programs and Support, for information, comment, and appropriate action. A copy shall be provided to the Comptroller for the same purpose.

(f) *Effective date.* Assistance will be made available as of December 23, 1982, in connection with any declared major disaster or emergency.

Dated: December 15, 1982.

Dave McLoughlin,

Acting Associate Director, State and Local Programs and Support.

[FR Doc. 82-34783 Filed 12-22-82; 8:45 am]

BILLING CODE 6718-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Child Support Enforcement

45 CFR Parts 301, 302, 303, 304, and 305

Child Support Enforcement Program—Collection of Support for Certain Adults

AGENCY: Office of Child Support Enforcement (OCSE), HHS.

ACTION: Final rule with comment period.

SUMMARY: Section 2332 of Pub. L. 97–35, the Omnibus Budget Reconciliation Act of 1981, provides that, at its option, a State may collect and enforce support obligations from an absent parent both for the children and the spouse or former spouse who is receiving aid under title IV–A of the Social Security Act (the Act) and with whom the children are living. A State may not attempt to establish a spousal support obligation and may collect spousal support only if the existing support obligation includes both child and spousal support. If a State chooses to collect spousal support, it may use all existing collection mechanisms and enforcement remedies to collect and enforce child support. Section 171(a)(1) of Pub. L. 97–248, the Tax Equity and Fiscal Responsibility Act of 1982, allows States to collect spousal support in non-AFDC cases. These regulations implement section 2332 of Pub. L. 97–35 and section 171(a)(1) of Pub. L. 97–248, and supercedes OCSE–AT–81–25, issued October 19, 1981.

DATES: Effective December 23, 1982. Consideration will be given to written comments received by February 22, 1983.

ADDRESS: Address comments to: Director, OCSE, Department of Health and Human Services, Room 1010, 6110 Executive Boulevard, Rockville, Maryland 20852, ATTN: Policy Branch. Comments will be available for public inspection Monday through Friday, 8:30 a.m. to 5:00 p.m., in Room 1010 of the Department's offices at the above address.

FOR FURTHER INFORMATION CONTACT: Marianne Rufty (301) 443–5350.

SUPPLEMENTARY INFORMATION:

Statutory Provisions

Prior to the enactment of Pub. L. 97–248, the Social Security Act (the Act) only allowed States to collect and enforce child support obligations. When there was a single support order which represented an obligation for both spousal and child support, the IV–D agency was not authorized to collect, distribute or enforce the spousal support obligation under the IV–D State plan, even though spousal support must be assigned to the State under section 402(a)(26)(A) of the Act as a condition of receipt of aid under title IV–A of the Act. This situation created enormous difficulties in determining how to account for and distribute the collections which were made in these situations.

Section 2332 of Pub. L. 97–35, effective on October 1, 1981, amended sections 451, 452, 453, 454, 457 and 460 of the Act to allow States the option of collecting and enforcing certain spousal support. Section 171(a)(1) of Pub. L. 97–248, effective on August 13, 1981, amended section 454(6)(A) of the Act to allow States to collect and enforce certain spousal support in non-AFDC cases.

Section 451 of the Act was expanded to authorize appropriations for collecting and enforcing support obligations for children and the spouse (or former spouse) with whom the children are living.

The State plan requirement under section 454(4)(B) was amended to include, at the option of the State, securing support from an absent parent for a spouse (or former spouse) who is receiving Aid to Families with Dependent Children (AFDC) under title IV–A of the Act. A State may collect spousal support only if a support obligation has already been established for that spouse. States are not permitted to attempt to establish obligations for spousal support nor are they permitted to collect and distribute monies which represent payment of a

spousal support obligation if there is no child support included in the obligation.

Sections 454(5) and (11) were expanded to provide that spousal support collected on behalf of AFDC families will be distributed in the same manner as child support. Section 454(9), which requires cooperation between States, was amended to require States to cooperate with any other State in securing child or spousal support from an absent parent living in the State. Section 454(16), which allows a State to establish comprehensive automatic data processing and information retrieval system qualifying for Federal financial participation (FFP) at the 90 percent rate was amended to include accounting for and monitoring *all* support collected or enforced by the State.

Section 454(18), added by section 2331 of Pub. L. 97–35, requires States to submit delinquent AFDC cases involving child and spousal support to the Secretary of the Treasury for collection by Federal tax refund offset. Section 171(a)(3) of Pub. L. 97–248 amended section 454(6)(C) of the Act to allow States to recover costs, in excess of any application fee, of providing IV-D services to non-AFDC families from the absent parent or from the collection made on behalf of the non-AFDC family, subject to certain conditions. This provision replaced the requirement under section 2335 of Pub. L. 97–35 that States charge the absent parent who owes support a fee equal to 10 percent of the amount owed. Section 2333 of Pub. L. 97–35 added section 454(20) of the Act (redesignated as section 454(19) by section 171(b)(1)(C) of Pub. L. 97–248) which requires IV-D agencies, beginning October 1, 1982, to determine if any individuals who owe support are receiving unemployment compensation and to enforce unmet obligations by withholding unemployment compensation through voluntary agreement with the individual or through legal process (garnishment). Interim final regulations with a comment period implementing the Federal tax refund offset provision were published on February 19, 1982 (see 47 FR 7425). Separate regulations will be issued to implement other provisions of Pub. L. 97–35 and Pub. L. 97–248.

Section 457 of the Act was amended to allow a State, in accordance with its State plan, to collect both child and spousal support for 5 months after a family ceases to receive AFDC, and, if the State is authorized by the family on whose behalf the collection will be made, to continue to collect both child and spousal support after that 5-month period.

In addition to the provisions discussed above, section 2332 of Pub. L. 97–35 amended title IV-D to allow States to use existing child support collection and enforcement procedures and systems for the collection and enforcement of spousal support in cases which meet the statutory requirements. Section 453 of the Act was amended to allow authorized individuals to use the Federal Parent Locator Service (PLS) to locate absent parents for the purpose of recovering amounts owed as child and spousal support. Under the amended section 460 of the Act, the Federal courts may be used for the enforcement of child and spousal support obligations. Section 452(b) of the Act was amended to require the Secretary of HHS, upon request by a State, to certify for collection by the Internal Revenue Service (IRS) the amount of any child support obligation assigned to the State, including any spousal support obligation for a parent who is living with the child. Subsection (b) was amended further to allow certification to the IRS of the amount of support owed under an administrative order, in addition to a court order, and to require States to reimburse the Secretary of the Treasury, instead of the United States, for any costs involved in making the collection. Regulations implementing section 402 of Pub. L. 96–265 which make IRS full collection services available to individuals who are not receiving AFDC were published on April 14, 1982 at 47 FR 16027. Those regulations do not require further revision by this document in order to apply to spousal support.

Finally, the duties of the Secretary of HHS under section 452 of the Act to establish standards for State programs, provide technical assistance to States, and report annually to Congress were expanded to include spousal support.

Section 171(a)(1) of Pub. L. 97–248, enacted on September 3, 1982, and effective on August 13, 1981, amended section 454(6)(A) of the Act to permit spousal support collection and enforcement services to be provided to individuals not eligible for AFDC. Therefore, States have the option of collecting spousal support in non-AFDC as well as AFDC cases.

OCSE issued interim instructions to IV–D agencies on the collection of spousal support in an Action Transmittal dated October 19, 1981 (OCSE–AT–81–25). That Action Transmittal is superseded by these regulations.

Changes to Existing Regulations

The collection and enforcement of spousal support is optional for States. If a State chooses to collect spousal support, it may use all existing collection and enforcement procedures and systems for those cases which meet the requirements of the statute. The procedures and systems include use of the Federal courts for the enforcement of court orders (45 CFR 303.73), the full collection services available from the Secretary of the Treasury (45 CFR 303.71), collection of past-due support owed to AFDC families from Federal tax refunds (45 CFR 302.60), and use of the Federal Parent Locator Service (PLS) to locate absent parents (45 CFR 302.35 and 303.70). With the exception of the Federal tax refund offset which is available in AFDC cases only, all support and enforcement services with respect to spousal support are available to non-AFDC individuals who request them. If a State chooses to collect spousal support, it must do so on a statewide basis for both AFDC and non-AFDC cases.

If a State chooses to collect spousal support, all spousal support payments must be made to the State IV–D agency for distribution, as are child support payments, in accordance with the requirements of 45 CFR 302.51. Spousal support collections are also eligible for incentive payments as provided in 45 CFR 302.51(b)(2), (b)(4), and (f)(2) in accordance with 45 CFR 303.52. A State may choose to continue to collect spousal support for a period of time not to exceed five months after a family ceases to receive AFDC if its State plan permits continuing the collection of support for that period of time in accordance with 45 CFR 302.51(e). At the end of the five month period, the State may continue to collect spousal support if authorized by the individual on whose behalf the collection will be made and pay the net amount collected to the individual after deducting any costs incurred in making the collection. Additionally, if a State has chosen to collect spousal support, in order to qualify for FFP at the 90 percent rate for the development of a comprehensive child support enforcement system in accordance with 45 CFR 302.85, the system must provide for the collection and distribution of spousal support.

We are implementing the statutory requirements by adding or deleting language in the existing regulations to extend collection and enforcement provisions to include spousal support. To the extent possible, we are simply deleting the word "child" wherever it appears before the word "support" to indicate that the regulatory provision applies to any support collected or enforced. However, in certain

circumstances, this approach is not possible and alternative language is used for clarity. We are also making a few minor changes to correct inconsistencies or to make the regulations easier to read.

The changes are being made in 45 CFR Parts 301 through 305. 45 CFR Part 306, Medical Support Enforcement, does not require amendment because this Part remains applicable only to support for children. Changes made in each Part and to specific regulations are discussed below.

1. *Part 301—State plan approval and grant procedures.*

Section 301.1 is amended to define spousal support as a legally enforceable obligation assessed against an individual for the support of a spouse or former spouse who is living with a child for whom the individual also owes support. We are also revising § 301.1 by alphabetizing the definitions.

2. *Part 302—State plan requirements.*

Minor changes are necessary to many sections in Part 302 to include spousal support in the State plan requirements addressed in each section. We are not amending 45 CFR 302.50, Support obligations, which can be read to include spousal support as written. Either the word "child" is deleted wherever it appears before the word "support," or "and spousal support" or a similar phrase is added for clarity in the following sections:

Sec.
302.15 Reports and maintenance of records. (See discussion following.)
302.17 Inclusion of State statutes.
302.19 Bonding of employees.
302.20 Separation of cash handling and accounting functions.
302.31 Establishing paternity and securing support. (See discussion following.)
302.32 Child support payments to the IV–D agency.
302.33 Individuals not otherwise eligible for paternity and child support services. (See discussion following.)
302.34 Cooperative arrangements.
302.35 State parent locator service.
302.36 Cooperation with other States. (See discussion following.)
302.37 Distribution of child support payments.
302.51 Distribution of child support collections.
302.85 Computerized child support enforcement systems eligible for 90 percent FFP.

The State plan preprint changes required by this regulation have been approved by OMB under OMB number 0960–0253.

45 CFR 302.15–Reports and maintenance of records. We are amending § 302.15 to require IV–D agencies to maintain records on the number of cases in which spousal support is collected. This requirement is necessary because the Secretary of HHS must include a separate identification of the number of child support cases in which spousal support was involved in his annual report to Congress which is required under section 452(a)(10)(C) of the Act. This information will be collected on the revised OCSE–3, Child Support Enforcement Activities and Staff under Title IV–D of the Social Security Act.

The public is required to comply with the information collection requirements of § 302.15 of this rule. These requirements have been approved by the Office of Management and Budget (OMB) under section 3507 of the Paperwork Reduction Act (Pub. L. 96–511). The OMB approval number is 0960–0154.

45 CFR 302.31–Establishing paternity and securing support. Section 302.31 is revised to provide States with the option of collecting support for a spouse receiving AFDC, if support is also being collected for a child receiving AFDC with whom the spouse is living. Spousal support may be collected when the order specified separate amounts for the child and the spouse or when the order combines child and spousal support into a single amount.

The collection and enforcement of spousal support will normally occur with respect to support obligations containing both child and spousal support which are currently in existence for IV–D cases or with respect to those in existence at the time the case is referred to the IV–D agency by the IV–A agency. This provision does not authorize States to attempt to establish such an obligation or to establish, collect or enforce any obligation which provides only for spousal support. If, however, a child and spousal support obligation is established under a single support order at the direction of a judge or similar official over whom the IV–D agency has no control, States may collect and distribute the spousal support covered by such an order.

45 CFR 302.33–Individuals not otherwise eligible for paternity and child support services. Congress, in enacting section 2332 of Pub. L. 97–35, did not specifically include spousal support in section 454(6)(A) of the Act which makes child support enforcement and collection services available to individuals who are not AFDC recipients. However, section 171(a)(1) of Pub. L. 97–248, enacted on September 3, 1982, amends section 454(6)(A) of the Act to permit spousal support collection and enforcement services to be provided to individuals not otherwise eligible for AFDC. The amendment made by section 171(a)(1) is effective August 13, 1981. We are, therefore, amending 45 CFR 302.23 to allow States to provide spousal support enforcement and collection services to non-AFDC individuals who request them.

45 CFR 302.36–Cooperation with other States. Collection and enforcement of spousal support is optional for States in intrastate cases. However, the amended section 454(9)(C) of the Act extends the interstate cooperation requirements to the collection and enforcement of spousal support obligations. Therefore, States must, regardless of whether or not they have chosen to collect spousal support in their own State, cooperate with any other State which requests assistance in collecting and enforcing spousal support.

3. *Part 303–Standards for program operations.*

We are not amending the following sections because they can be read to include spousal support as written: §§ 303.2, Maintenance of case records, 303.3, Location of absent parents; 303.21, Safeguarding information; 303.52, Incentive payments to States and political subdivisions; 303.71, Requests for collection by the Secretary of the Treasury; and 303.73, Applications to use the Courts of the United States to enforce courts orders.

We are, however, making technical changes to a number of other sections in Part 303 to include spousal support. Since these changes are similar to changes in Part 302–State plan requirements—i.e., deleting the word "child" wherever it appears before the word "support" or inserting the words "support," "and spousal support," or a similar phrase—they are not discussed in further detail below.

The following sections of Part 303 are amended:

Sec.
303.6 Enforcement of support obligations.
303.7 Cooperation with other States.
303.20 Minimum organizational and staffing requirements.
303.65 Approval of advance planning documents for computerized child support enforcement systems eligible for 90 percent FFP.
303.66 Review of computerized child support systems eligible for 90 percent FFP.
303.67 Suspension of approval of advance planning documents for computerized child support

enforcement systems eligible for 90 percent FFP.

303.70 Requests by the State Parent Locator Service for information from the Federal Parent Locator Service.

4. *45 CFR Part 304—Federal Financial Participation*

When a State chooses to collect spousal support, Federal financial participation (FFP) is available for the administrative costs of collecting and processing the spousal support in those cases which meet the statutory requirements. If a State does not choose to collect spousal support itself but collects spousal support in an interstate case, incentive payments under section 458 of the Act and FFP for the administrative costs of collecting, distributing or otherwise processing spousal support in the interstate case are available.

Minor changes are necessary to several sections in Part 304 to provide for FFP in the costs of collecting and processing spousal support. Because the changes are technical in nature they are not discussed in more detail in this preamble. The following sections of Part 304 are amended to clarify the circumstances under which FFP is available:

Sec.

304.20 Availability and rate of Federal financial participation

304.21 Federal financial participation in the costs of cooperative agreements with courts and law enforcement officials.

304.22 Federal financial participation in purchased child support enforcement services.

304.23 Expenditures for which Federal financial participation is not available.

304.26 Determination of Federal share of collections.

304.90 Federal financial participation at the 90 percent rate for computerized child support enforcement systems.

304.91 Federal financial participation at the 75 percent rate for computerized child support enforcement systems.

5. *45 CFR Part 305—Audit and Penalty*

We are not amending 45 CFR 305.32, Cooperation with other States, because it can be read to include spousal support as written. Minor changes are necessary, however, to Part 305 to include spousal support by deleting the word "child" where it appears before the word "support." These changes are similar to changes in the State plan requirements under Part 302:

Sec.

305.20 Audit criteria.

305.26 Enforcement of support obligations.

305.27 Child support payment to the IV–D agency.

305.28 Distribution of child support payments.

305.31 Individuals not otherwise eligible.

305.34 Cooperative arrangements.

Waiver of Proposed Rulemaking

These regulations are being published in final form with a comment period. The Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, if the Department for good cause finds that a notice of proposed rulemaking is unnecessary, impracticable, or contrary to the public interest, it may dispense with the notice if it incorporates in the final regulations a brief statement of the reasons for doing so.

The Department finds that there is good cause to dispense with proposed rulemaking procedures with respect to these changes. We find that publication of these regulations in proposed form is unnecessary for the following reasons. Pub. L. 97–35, enacted August 13, 1981, was effective October 1, 1981. Section 171(a)(1) of Pub. L. 97–248, enacted on September 3, 1982, was effective August 13, 1981. The statute is explicit with respect to the requirements for the collection and enforcement of spousal support and leaves OCSE no discretion in implementing those requirements. Changes to the regulations are mainly technical since existing regulatory requirements, procedures, and services for the enforcement and collection of child support are merely expanded to include spousal support. These changes will result in increased collections and eliminate difficulties States encountered in determining how to collect and distribute child support when both child and spousal support are included in the same support order. In addition, since a comment period follows publication, any problems with these changes that are pointed out can be addressed immediately.

For these reasons, OCSE believes that there is sufficient cause to dispense with proposed rulemaking. Nonetheless, we wish to have the advantage of the information and opinions we may receive through public comments. We will consider any comments received.

List of Subjects

45 CFR Parts 301, 302, 303 and 304

Child welfare, Grant programs—social programs.

45 CFR Part 305

Child welfare, Grant programs—social programs, Accounting.

Regulatory Burden

The Secretary has determined that this document is not a major rule as described by Executive Order 12291, because it does not meet any of the criteria set forth in Section 1 of the Executive Order. The Secretary certifies that because these regulations apply to States and will not have a significant economic impact on a substantial number of small entities, they do not require a regulatory flexibility analysis as provided in Pub. L. 96–354, the Regulatory Flexibility Act of 1980. This rule implements section 2332 of Pub. L. 97–35 which allows States to collect spousal support. We estimate implementation of the spousal support provision will result in collections of $5 million each year from FY 1982 through 1986.

PART 301—[AMENDED]

1. 45 CFR Part 301 is amended by revising § 301.1 to read as follows:

§ 301.1 General definitions.

When used in this chapter, unless the context otherwise indicates:

"Act" means the Social Security Act, and the title referred to is title IV–D of that Act.

"Department" means the Department of Health and Human Services.

"Director" means the Director, Office of Child Support Enforcement, who is the Secretary's designee to administer the Child Support Enforcement program under title IV–D.

"Federal PLS" means the Parent Locator Service operated by the Office of Child Support Enforcement pursuant to section 452(a)(9) of the Act.

"IV–D Agency" means the single and separate organizational unit in the State that has the responsibility for administering or supervising the administration of the State plan under title IV–D of the Act.

"Office" means the Office of Child Support Enforcement which is the separate organizational unit within the Department with the responsibility for the administration of the program under this title.

"Regional Office" and "Central Office" refer to the Regional Offices and the Central Office of the Office of Child Support Enforcement, respectively.

"Secretary" means the Secretary of Health and Human Services.

"Spousal support" means a legally enforceable obligation assessed against

an individual for the support of a spouse or former spouse who is living with a child or children for whom the individual also owes support.

"State" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, and Guam.

The "State plan" means the State plan for child and spousal support under section 454 of the Act.

"State PLS" means the service established by the IV–D agency pursuant to section 454(8) of the Act to locate absent parents.

PART 302—[AMENDED]

2. 45 CFR Part 302 is amended as shown.

A. By revising § 302.15(a)(1) (i) through (iv) to read as follows:

§ 302.15 Reports and maintenance of records.

(a) The State plan shall provide that:

(1) The IV–D agency will maintain records necessary for the proper and efficient operation of the plan, including records regarding:

(i) Applications pursuant to § 302.33 for support services available under the State plan;

(ii) Location of absent parents, actions to establish paternity and obtain and enforce support, and the costs incurred in such actions;

(iii) Amount and sources of support collections (including separate identification of the number of cases in which spousal support is collected) and the distribution of these collections;

(iv) Any fees charged or paid for support enforcement services;

* * * * *

B. By revising § 302.17 to read as follows:

§ 302.17 Inclusion of State statutes.

The State plan shall provide a copy of State statutes, or regulations promulgated pursuant to such statutes and having the force of law (including citations of such statutes and regulations), that provide procedures to be used in the determination of paternity of a child born out of wedlock, and to establish the child support obligation of a responsible parent, and to enforce the support obligation, including spousal support if the State has chosen to collect spousal support under § 302.31(a)(2) of this part.

§§ 302.19, 302.20, 302.32, 302.33, 302.37, 302.51, 302.52, and 302.85 [Amended]

C. By removing the word "child" where it appears in the following sections as follows:

1. In title headings for §§ 302.32, 302.33, 302.37, 302.51 and 302.85 of the Table of Contents;
2. Section 302.19 (b) and (e);
3. Section 302.20 (a) and (c);
4. the title of § 302.32;
5. Section 302.32 (a) and (e);
6. Section 302.33 title and text;
7. Section 302.37 title and text;
8. the title of § 302.51;
9. Section 302.51 (b)(2), (c) and (e);
10. Section 302.52(d);
11. The title of § 302.85; and
12. Sections 302.85(a) (2), (2)(ii), (3), (5), and (7); (b); (c); and (c) (2), (2)(i), (2)(v), (2)(ix), and (2)(x).

D. By revising § 302.31 to read as follows:

§ 302.31 Establishing paternity and securing support.

The State plan shall provide that:

(a) The IV–D agency will undertake:

(1) In the case of a child born out of wedlock with respect to whom an assignment under § 232.11 of this title is effective, to establish the paternity of such child; and

(2) In the case of any individual with respect to whom an assignment under § 232.11 of this title is effective, to secure support for a child or children from any person who is legally liable for such support, and, at the option of the State, from such person for his or her spouse (or former spouse) who is living with the child or children (but only if a support obligation has been established with respect to such spouse), using reciprocal arrangements adopted with other States when appropriate.

(b)(1) The IV–D agency will not undertake to establish paternity or secure support in any case for which it has received notice from the IV–A agency that there has been a finding of good cause under §§ 232.40 through 232.49 of this title except as provided in paragraph (c) of this section.

(2) Upon receiving notice from the IV–A agency that an applicant or recipient has claimed good cause, the IV–D agency will suspend all activities to establish paternity or secure support until notified of a final determination by the IV–A agency.

(c) The IV–D agency will not undertake to establish paternity or secure support if there has been a finding of good cause pursuant to §§ 232.40 through 232.49 of this title unless there has been a determination by the State or local IV–A agency that support enforcement may proceed without the participation of the caretaker relative. If there has been such a determination, the IV–D agency will undertake to establish paternity or secure support but may not involve the caretaker relative in such undertaking.

E. By revising § 302.34(a). The introductory text is not changed. It is shown for the convenience of the user.

§ 302.34 Cooperative arrangements

The State plan shall provide that the State will enter into written agreements for cooperative arrangements with appropriate courts and law-enforcement officials. Such agreements may be entered into with a single official covering more than one court, official, or agency, if such single official has the legal authority to enter into agreements on behalf of such courts, officials, or agencies. Such agreements shall contain provisions for providing courts and law-enforcement officials with pertinent information needed in locating absent parents, establishing paternity and securing support, including the immediate transfer of the information obtained under § 235.70 of this title to the court or law-enforcement official, to the extent that such information is relevant to the duties to be performed pursuant to the agreement. They shall also provide for assistance to the IV–D agency in carrying out the program, and may relate to any other matters of common concern. Under this requirement such agreements may include provisions:

(a) For the investigation and prosecution of fraud directly related to paternity and child and spousal support;

* * * * *

F. By revising § 302.35(c)(1) to read as follows:

§ 302.35 State parent locator service.

The State plan shall provide as follows:

* * * * *

(c) The State PLS shall only accept requests to use the Federal PLS from:

(1) Any State or local agency or official seeking to collect child and spousal support obligations under the State plan, or medical support obligations if an agreement is in effect under § 306.2 of this chapter;

* * * * *

G. By revising § 302.36(c) to read as follows:

§ 302.36 Cooperation with other States.

The State plan shall provide that the State will cooperate with any other State:

* * * * *

(c) In securing compliance by an absent parent who is present in the State with an order issued by a court of competent jurisdiction against such parent for the support and maintenance

of a child or children of such parent and of the spouse (or former spouse) of such parent with whom the child or children are living and with respect to whom aid is being provided under the plan approved under title IV–A of the Social Security Act in any other State; and,

* * * * *

H. By revising § 302.51(b) introductory text to read as follows:

§ 302.51 Distribution of support collections.

The State plan shall provide as follows:

* * * * *

(b) The amounts collected as support by the IV–D agency pursuant to the State plan for children and the parents of such children who are current recipients of aid under the State's title IV–A plan and for whom an assignment under § 232.11 of this title is effective shall be distributed as follows:

* * * * *

PART 303—[AMENDED]

3. 45 CFR Part 303 is amended as shown.

§§ 303.6, 303.20, and 303.70 [Amended]

A. By removing the word "child" in § 303.6(f), § 303.20(c) introductory phrase, § 303.20(c)(1), and § 303.70(d)(1) after the word "securing".

B. By § 303.7(a) introductory text to read as follows:

§ 303.7 Cooperation with other States.

(a) For all cases referred to the IV–D agency under the State plan of another State, the IV–D agency must assist the other State in locating an absent parent, establishing paternity, or securing support for a child or children and for the spouse (or former spouse) of the absent parent with whom the child or children are living in the other State. Under this standard, the IV–D agency must:

* * * * *

§ 303.20 [Amended]

C. By adding the word "child" after the word "parent's" in § 303.20(c)(5).

§§ 303.65, 303.66, and 303.67 [Amended]

D. By substituting the phrase "computerized support enforcement" for "computerized child support enforcement" wherever it appears in §§ 303.65, 303.66, and 303.67.

PART 304—[AMENDED]

4. 45 CFR Part 304 is amended as shown.

A. By revising § 304.20(b)(3) to read as follows:

§ 304.20 Availability and rate of Federal financial participation

* * * * *

(b) Services and activities for which Federal financial participation will be available shall be those made pursuant to the approved title IV–D State plan, except any expenditure incurred in providing location services to individuals listed in 45 CFR 302.35(c)(4), which are determined by the Secretary to be necessary expenditures properly attributable to the child support enforcement program including the following:

* * * * *

(3) The establishment and enforcement of support obligations including:

(i) Investigation, the development of evidence and when appropriate, bringing court actions;

(ii) Determination of the amount of the child support obligation including developing the information needed for a financial assessment;

(iii) Referral of cases to the IV–D agency of another State to establish a child support obligation when appropriate;

(iv) Enforcement of a support obligation including those activities associated with collections and the enforcement of court orders, such as contempt citations, issuance of warrants, investigation, wage attachment and processing, and the obtaining and enforcing of court-ordered support through civil or criminal proceedings either in the State that granted the order or in another State;

(v) Investigation and prosecution of fraud related to child and spousal support.

* * * * *

B. By removing the word "child" where it appears in the following sections as follows:

§§ 304.20, 304.21, 304.22, 304.23, and 304.26 [Amended]

1. In title headings for §§ 304.22, 304.90 and 304.91 of the Table of Contents;

2. § 304.20(a) (1) and (4); (b)(1) (ii) and (iii); (b)(4)(ii); and (b)(6);

3. § 304.21(a)(2);

4. § 304.22 title and text;

5. § 304.23(b); and

6. § 304.26(a).

§§ 304.90 and 304.91 [Amended]

C. By substituting the phrase "computerized support enforcement" for "computerized child support enforcement" wherever it appears in §§ 304.90 and 304.91.

PART 305—[AMENDED]

§§ 305.20, 305.26, 305.27, 305.28, 305.31, and 305.34 [Amended]

5. 45 CFR Part 305 is amended by removing the word "child" where it appears in the following sections as follows:

A. In title headings for §§ 305.27 and 305.28 of the Table of Contents; and in § 305.20(a);

B. Section 305.26(c);

C. The title of § 305.27;

D. Section 305.27 introductory phrase, 305.27 (a) and (c);

E. Section 305.28 title and text;

F. Section 305.31; and

G. Section 305.34(a), after the word "collect."

(Sec. 1102 of the Social Security Act (42 U.S.C. 1302) and secs. 451, 452, 453, 454, 457, and 460 of the Social Security Act (43 U.S.C. 651, 652, 653, 654, 657, and 660))

(Catalog of Federal Domestic Assistance program No. 13.679, Child Support Enforcement Program)

The Secretary has determined that this document is not a major rule as described by Executive Order 12291, because it does not meet any of the criteria set forth in Section 1 of the Executive Order. The Secretary certifies that because these regulations apply to States and will not have a significant economic impact on a substantial number of small entities, they do not require a regulatory flexibility analysis as provided in Pub. L. 96–354, the Regulatory Flexibility Act of 1980.

Dated: October 15, 1982.

John A. Svahn,

Director, Office of Child Support Enforcement.

Approved: December 2, 1982.

Richard S. Schweiker,

Secretary.

[FR Doc. 82–34682 Filed 12–22–82; 8:45 am]

BILLING CODE 4190–11–M

---

45 CFR Parts 303, 304, and 305

Reduction in Federal Funding Rate; Reduction in Incentive Payments to States and Political Subdivisions; Repeal of Expanded Federal Funding in the Costs of Cooperative Agreements With Courts and Law Enforcement Officials

AGENCY: Office of Child Support Enforcement (OCSE), HHS.

ACTION: Final rule.

SUMMARY: This regulation implements section 174 of Pub. L. 97–248, the Tax Equity and Fiscal Responsibility Act of 1982, signed into law on September 3,

1982. Section 174 reduces Federal payments to States under the Child Support Enforcement program. The reductions are in three areas: (1) Federal funding of State administrative costs is reduced from 75 to 70 percent effective October 1, 1982; (2) incentive payments to States and political subdivisions are reduced from 15 to 12 percent of Aid to Families with Dependent Children (AFDC) collections retained by the State for which both enforcement and collection action has been taken; and (3) Federal funding of the expenditures of courts for support personnel of judges and other individuals who make judicial determinations in child support enforcement cases and the administrative costs incurred on behalf of the support personnel is eliminated. The latter two reductions are effective October 1, 1983.

EFFECTIVE DATES: Changes made by this rule to reduce Federal funding from 75 percent to 70 percent of a State's expenditures in 45 CFR 303.65, Part 304 and 305.22 are effective October 1, 1982. Changes made by this rule to reduce incentive payments and eliminate funding of certain court costs in 45 CFR 303.52 and 304.21 are effective October 1, 1983.

FOR FURTHER INFORMATION CONTACT: Pierre Mooney, (301) 443–5350.

SUPPLEMENTARY INFORMATION:

Reduction in Federal Funding Rate

Federal funding is available to States for administrative costs incurred pursuant to a State plan approved under title IV–D of the Social Security Act (the Act). This funding is authorized by section 455(a)(1) of the Act. Section 174 of Pub. L. 97–248 amends section 455(a)(1) by reducing the Federal funding rate from 75 to 70 percent. The new rate applies to amounts expended in quarters beginning on or after October 1, 1982. We are implementing this change by substituting the phrase "70 percent" for the phrase "75 percent" in 45 CFR 303.65 and wherever it appears in Part 304. Also, we are making a conforming change to § 305.22, State financial participation, to specify that the State share in funding the administrative costs of the program has risen from 25 to 30 percent.

Reduction in Incentive Payments

Under section 458 of the Act, States and political subdivisions that enforce and collect child support receive incentive payments on the collections made on behalf of an AFDC recipient and retained by the State. The incentive payment is a portion of the Federal share of the collection which would otherwise be used to reimburse the Federal government for its contribution toward the AFDC payments made to the recipient. Upon the creation of title IV–D of the Act by Pub. L. 93–647, the incentive payment rate was fixed at 25 percent for the first 12 months for obligations collected and retained by the State and 10 percent thereafter. Pub. L. 95–30 eliminated the variable 25 and 10 percent rates and substituted a flat 15 percent rate effective May 23, 1977. Pub. L. 97–248 reduces the 15 percent rate of incentive payments to 12 percent. This 12 percent rate must be used in calculating the incentives payable for collections made on or after October 1, 1983. We are implementing this change by substituting the phrase "12 percent" for the phrase "15 percent" wherever it appears in 45 CFR 303.52, Incentive payments to States and political subdivisions, which was published as a final rule in the **Federal Register** on August 27, 1982 (47 FR 37886).

Repeal of Expanded FFP for Court Costs

Section 174(b) of Pub. L. 97–248 reduces Federal funding of court costs related to child support enforcement. Section 404(a) of Pub. L. 96–265, the Social Security Disability Amendments of 1980, amended section 455 of the Act by adding a new paragraph (c). That paragraph expanded Federal funding to include expenditures for the support personnel of judges and other individuals who make judicial determinations in child support enforcement court cases and administrative costs incurred on behalf of those support personnel. States could only claim this expanded Federal funding where expenditures exceeded the funds spent on those same costs during calender year 1978. To obtain the expanded funding States had to reconstruct and document those administrative and personnel costs incurred by courts under the IV–D State plan in that year. Specific costs which were included under this expanded Federal funding were costs of judicial support staff such as bailiffs, stenographers and clerks. Also included were administrative costs incurred on behalf of these support personnel in performing IV–D functions under a cooperative agreement, such as office space, equipment, furnishings, supplies, travel and training. Pub. L. 97–248 repeals this expanded court costs provision effective October 1, 1983. Federal funding for those costs authorized under section 404(a) of Pub. L. 96–265 is available until that date. We are implementing section 174(b) of Pub. L. 97–248 by deleting paragraphs (c), (d) and (e)(2), redesignating paragraphs (e)(1) and (f) as (c) and (d) respectively, and revising paragraph (b) of 45 CFR 304.21, Federal financial participation in the costs of cooperative agreements with courts and law enforcement officials, which was published as a final rule in the **Federal Register** on November 24, 1982 (47 FR 53014).

Waiver of Proposed Rulemaking

These changes to the regulations are being published in final form. The Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, if the Department for good cause finds that a notice of proposed rulemaking is unnecessary, impracticable or contrary to the public interest, it may dispense with such notice.

We find that there is good cause to dispense with proposed rulemaking because these regulations are based on specific statutory provisions in section 174 of Pub. L. 97–248 which leave the agency no discretion with respect to interpretation. A notice of proposed rulemaking, therefore, is unnecessary.

List of Subjects

45 CFR Parts 303 and 304

Child welfare, Grant programs—Social programs.

45 CFR Part 305

Child welfare, Grant programs—Social programs, Accounting.

OMB Clearance

These regulations contain no reporting or recordkeeping requirements involving Office of Management and Budget clearance under the Paperwork Reduction Act of 1980.

Regulatory Burden

OCSE estimates that the revisions specified in this regulation will result in a savings to the Federal government of $64 million in FY 1983, $108 million in FY 1984, and $121 million in FY 1985. However, because the rules adhere strictly to the statutory provisions in section 174 of Pub. L. 97–248, which leave no room for interpretation, the Secretary has determined that the rule does not meet any of the criteri a for a major rule under Executive Order 12291, and a regulatory impact analysis is not required.

45 CFR Parts 303, 304 and 305 are amended to read as follows:

PART 303—[AMENDED]

§ 303.52 [Amended]

1. 45 CFR 303.52 is amended by substituting the phrase "12 percent" for "15 percent" wherever it appears.

§ 303.65 [Amended]

2. 45 CFR 303.65 is amended by substituting the phrase "70 percent" for "75 percent" wherever it appears.

PART 304—[AMENDED]

3. 45 CFR Part 304 is amended by substituting the phrase "70 percent" for "75 percent" wherever it appears.

§ 304.21 [Amended]

4. 45 CFR 304.21 is amended by removing paragraphs (c), (d) and (e)(2) and redesignating paragraphs (e)(1) and (f) as (c) and (d), respectively. In addition, paragraph (b) is amended by revising the introductury text of paragraph (b) and paragraph (b)(4) and by adding (b)(5) to read as follows:

§ 304.21 Federal financial participation in the costs of cooperative agreements with courts and law enforcement officials.

* * * * *

(b) *Limitations.* Federal financial participation is not available in:

* * * * *

(4) Office-related costs, such as space, equipment, furnishings and supplies, incurred by judges or other officials who make judicial decisions;

(5) Compensation (salary and fringe benefits), travel and training, and office-related costs incurred by administrative and support staffs of judges and other officials who make judicial decisions.

* * * * *

PART 305—[AMENDED]

5. 45 CFR 305.22(a) is revised to read as follows:

§ 305.22 State financial participation.

* * * * *

(a) A State must participate financially by incurring 30 percent of the cost of the program; and

* * * * *

Note.—The Secretary has determined that this document is not a major rule as described by Executive Order 12291, because it does not meet any of the criteria set forth in Section 1 of the Executive Order. The Secretary certifies that because these regulations apply to States and will not have significant economic impact on a substantial number of small entities, they do not require a regulatory flexibility analysis as provided in Pub. L. 96-354, the Regulatory Flexibility Act of 1980.

(Sec. 1102 of the Social Security Act (42 U.S.C. 1302))

(Catalog of Federal Domestic Assistance Program No. 13.679, Child Support Enforcement Program)

Dated: October 12, 1982.

John A. Svahn,

Director, Office of Child Support Enforcement.

Approved: December 8, 1982.

Richard S. Schweiker,

Secretary.

[FR Doc. 82-34681 Filed 12-22-82; 8:45 am]

BILLING CODE 4190-11-M

NATIONAL SCIENCE FOUNDATION

45 CFR Part 601

Classification and Declassification of National Security Information and Material

AGENCY: National Science Foundation.

ACTION: Regulation revision.

SUMMARY: The Foundation is adopting this revision of its regulations to comply with Executive Order 12356, relating to the classification, downgrading, declassification and safeguarding of national security information.

EFFECTIVE DATE: January 3, 1983.

FOR FURTHER INFORMATION CONTACT: Melvin D. Ford, Division of Administrative Services, National Science Foundation, 1800 G Street, NW., Washington, D.C., 20550; Telephone (202) 357-7884.

SUPPLEMENTARY INFORMATION: Executive Order 12356, National Security Information, requires that agencies that originate or handle classified information establish procedures to prevent unnecessary access to classified information, including procedures that require that a demonstrable need for access to classified information is established before initiating administrative clearance procedures, and ensure that the number of persons granted access to classified information is limited to the minimum consistent with operational and security requirements and needs.

List of Subjects in 45 CFR Part 601

Classified information.

Accordingly, Chapter VI of Title 45 of the Code of Federal Regulations is hereby amended by revising Part 601 to read as follows:

PART 601—CLASSIFICATION AND DECLASSIFICATION OF NATIONAL SECURITY INFORMATION

Sec.
601.1 Purpose.
601.2 Classification authority.
601.3 Security program.
601.4 Classification Review Committee.
601.5 Derivative classification.
601.6 Downgrading and declassification.
601.7 Mandatory declassification review.
601.8 Access to classified materials.
601.9 Access by historical researchers and former Presidential appointees.

Authority: E.O. 12356, 43 FR 14874, April 2, 1982.

§ 601.1 Purpose.

Pursuant to Executive Order 12356 and Information Security Oversight Office Directive No. 1, the National Science Foundation [Foundation] issues the following regulations. The regulations identify the information to be protected, prescribe classification, declassification, downgrading, and safeguarding procedures to be followed, and establish a monitoring system to ensure the regulations' effectiveness.

§ 601.2 Classification authority.

The Foundation does not have original classification authority under Executive Order 12356. In any instance where a Foundation employee develops information that appears to warrant classification because of its national security character, the material will be afforded protection and sent to the Division of Administrative Services (DAS). Upon determination that classification is warranted, DAS will submit such material to the agency that has appropriate subject matter interest and classification authority.

§ 601.3 Security program.

The Director, Division of Administrative Services, is responsible for conducting a security program that ensures effective implementation of Executive Order 12356, to include:

(a) Maintaining active training and orientation programs for employees concerned with classified information or material.

(b) Encouraging Foundation personnel to challenge those classification decisions they believe to be improper.

(c) Issuing directives that ensure classified information is used, processed, stored, reproduced and transmitted only under conditions that will provide adequate protection and prevent access by unauthorized persons.

(d) Recommending to the Director appropriate administrative action to correct abuse or violation of any provision of these regulations, including notification by warning letters, formal reprimand, and to the extent permitted by law, suspension without pay and removal.

§ 601.4 Classification Review Committee.

The Security Officer (Information) chairs the Foundation's Classification Review Committee which has authority to act on all suggestions and complaints

with respect to the Foundation's administration of the regulations. The Assistant Directors and the Heads of other offices reporting to the Director serve as members of the Committee. All suggestions and complaints including those regarding overclassification, failure to classify, or delay in declassifying not otherwise resolved, shall be referred to the Committee for resolution. The Committee shall establish procedures to review and act within 30 days upon all appeals regarding requests for declassification. The Committee is authorized to overrule previous determinations in whole or in part when in its judgment, continued protection is no longer required. If the Committee determines that continued classification is required under the criteria of the Executive Order, it shall promptly so notify the requester and advise him that he may file an application for review with the Foundation. In addition, the Committee shall review all appeals of requests for records under section 552 of Title 5 U.S.C. (Freedom of Information Act) when the proposed denial is based on their continued classification under Executive Order 12356.

§ 601.5 Derivative classification.

Distinct from "original" classification is the determination that information is in substance the same as information currently classified, because of incorporating, paraphrasing, restating or generating in new form information that is already classified, and marking the newly developed material consistent with the marking of the source information. Persons who only reproduce, extract, or summarize classified information, or who only apply classification markings derived from source material or as directed by a classification guide, need not possess original classification authority.

(a) If a person who applies derivative classification markings believes that the paraphrasing, restating, or summarizing of classified information has changed the level of or removed the basis for classification, that person must consult for a determination an appropriate official of the originating agency or office of origin who has the authority to upgrade, downgrade, or declassify the information.

(b) The person who applies derivative classification markings shall observe and respect original classification decisions; and carry forward to any newly created documents any assigned authorized markings. The declassification date or event that provides the longest period of classification shall be used for documents classified on the basis of multiple sources.

§ 601.6 Downgrading and declassification.

Executive Order 12356 prescribes a uniform system for classifying, declassifying, and safeguarding national security information.

(a) Information shall be declassified or downgraded as soon as national security considerations permit. The National Science Foundation shall coordinate their review of classified information with other agencies that have a direct interests in the subject matter. Information that continues to meet the classification requirements prescribed by Section 1.3 despite the passage of time will continue to be protected in accordance with Executive Order 12356.

(b) Foundation documents may be declassified or downgraded by the official who authorized the original classification, if that official is still serving in the same position; the originator's successor; a supervisory official of either; or officials delegated such authority in writing by the Director.

(c) The Director shall conduct internal systematic review programs for classified information originated by the Foundation contained in records determined by the Archivist to be permanently valuable but that have not been accessioned into the National Archives of the United States.

(d) The Archivist of the United States shall, in accordance with procedures and timeframes prescribed in the Information Security Oversight Office's directives implementing E.O. 12356, systematically review for declassification or downgrading, classified records accessioned into the National Archives of the United States. Such information shall be reviewed by the Archivist for declassification or downgrading in accordance with systematic review guidelines that shall be provided by the head of the agency that originated the information, or in the case of foreign government information, by the Director of Information Security Oversight Office in consultation with interested agency heads.

§ 601.7 Mandatory declassification review.

(a) The Division of Administrative Services is hereby designated as the office to which members of the public or Departments may direct requests for mandatory review for declassification under this provision. In the case of documents originally classified by the Foundation, this office shall, in turn, assign the request to the appropriate office for action within 60 days. In each instance, receipt of the request will be acknowledged in writing immediately by the office that has been assigned action. A request for classification review must reasonably describe the document.

(b) Whenever a request is deficient in its description of the record sought, the requester should be asked to provide additional identifying information to the extent possible. Whenever a request does not reasonably describe the information sought, the requester shall be notified that unless additional information is provided or the scope of the request is narrowed, no further action will be undertaken. Upon a determination that the requested material no longer warrants classification, it shall be declassified and made promptly available to the requester, if not otherwise exempt from disclosure under 5 U.S.C. 552(b) (Freedom of Information Act) or other provision of law. If the information may not be released in whole or in part the requester shall be given a brief statement as to the reasons for denial, a notice of the right to appeal the determination of the Classification Review Committee, and a notice that such an appeal must be filed with the Foundation within 60 days in order to be considered.

(c) When the request relates to a document given derivative classification by the Foundation or originated by another agency, the request and the document will be forwarded to the originator of the source document, and the requestor notified of such referral.

(d) Employees presently cleared for access to classified information are encouraged to challenge classification in cases where there is reasonable cause to believe that information is classified unnecessarily, improperly, or for an inappropriate period of time. Such challenges should be brought to the attention of the Security Officer (Information) who will act thereon within 30 days, informing the challenger of actions taken. Requests for confidentiality will be honored.

§ 601.8 Access to classified materials.

No person may be given access to classified information unless that person has been determined to be trustworthy and unless access is essential to the accomplishment of lawful and authorized Government purposes.

§ 601.9 Access by historical researchers and former Presidential appointees.

The requirement in § 601.8 that access to classified information may be granted only as is essential to the accomplishment of lawful and authorized Government purposes may

be waived for persons who are engaged in historical research projects, or previously have occupied policymaking positions to which they were appointed by the President, provided they execute written agreements to safeguard the information and written consent to the Foundation's review of their notes and manuscripts solely for the purpose of determining that no classified information is disclosed. A precondition to any such access is the favorable completion of an appropriate investigative inquiry.

Dated: December 14, 1982.

Edward A. Knapp,

Director.

[FR Doc. 82-34777 Filed 12-22-82; 8:45 am]

BILLING CODE 7555-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 2

Amendment To Effect Certain Editorial Changes to Footnote US 77

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Federal Communications Commission is editorially amending its rules to update Footnote US 77 to the Table of Frequency Allocations. Certain rule provisions enacted for Commission licensed ship radio stations to conduct bridge-to-bridge, navigational and vessel traffic service communications apply equally to Government vessels and should be reflected in § 2.106, Footnote US 77. The Table of Frequency Allocations will be more complete by updating the footnote and frequency managers and Table users alike should benefit from listing all provisions for Government use of the maritime frequencies.

EFFECTIVE DATE: December 28, 1982.

FOR FURTHER INFORMATION CONTACT: Sam Tropea, Office of Science and Technology, 2025 "M" Street NW., Washington, D.C. 20554, (202) 653-8167.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 2

Frequency allocations.

In the matter of amendment of Part 2 of the Commission's Rules to effect certain editorial changes to Footnote US 77.

Order

Adopted: December 8, 1982.

Released: December 14, 1982.

1. In the Report and Orders released in Dockets 19343, Gen. Docket No. 78-310 and PR Docket No. 81-744, the Commission amended its Rules relative to the use of the frequencies 156.25 MHz, 156.375 MHz, and 156.65 MHz by ship radio stations. Specifically the Commission actions provided that either 156.375 MHz or 156.65 MHz could be utilized by certain ships transmitting bridge-to-bridge and navigational communications and that 156.25 MHz could be utilized for vessel traffic service (VTS) communications in the Seattle, Washington area. While the provisions for use of these frequencies apply to Commission licensed vessels operating under Part 83 of the Rules, they equally apply to Government vessels also. Since the referenced rulemakings did not modify the Footnote in Part 2 of the Rules to indicate applicability to Government stations, Footnotes US 77 to the Table of Frequency Allocations in Section 2.106 is being amended to reflect the permissible Government station usage of the specified frequencies.

2. The specific rule amendments adopted are set forth in the Appendix. Authority for amendment is contained in Sections 4(i) and 303(r) of the Communications Act, as amended, and § 0.231(d) of the Commission's Rules. We are dispensing with the prior notice and public procedure provisions of the Administrative Procedures Act, Title 5 U.S.C. 553, as unnecessary since the amendments adopted herein are editorial in nature.

3. Accordingly, It is ordered, effective December 28, 1982, that Part 2 of the Commission's Rules is amended as set forth in the attached Appendix.

4. For further information regarding matters covered in this document contact Sam Tropea (202) 653-8167.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Alan R. McKie,

Deputy Managing Director.

Appendix

Part 2 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

Section 2.106, footnote US 77 is amended to add the frequency 156.25 MHz to paragraph (d) and to add a new paragraph (e) to read as follows:

§ 2.106 Table of frequency allocations.

* * * * *

U.S. Footnotes

* * * * *

US 77—Government stations may also be authorized:

* * * * *

(d) Vessel traffic services under the control of the U.S. Coast Guard on a simplex basis by coast and ship stations on the frequencies 156.25, 156.55, 156.6 and 156.7 MHz.

(e) Navigational bridge-to-bridge and navigational communications on a simplex basis by coast and ship stations on the frequencies 156.375 and 156.65 MHz.

[FR Doc. 82-34822 Filed 12-22-82; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 1

[OST Docket No. 1; Amdt. 1-178]

Organization and Delegation of Powers and Duties; Assistant Secretary for Administration

AGENCY: Department of Transportation (DOT), Office of the Secretary.

ACTION: Final rule.

SUMMARY: Peridically, the Administrator of General Services delegates to the Secretary the authority—normally exercised by the General Services Administration (GSA)—to lease real property for use by DOT. These delegations from GSA are redelegable. The purpose of this amendment is to delegate this authority categorically to the Assistant Secretary for Administration so that he can redelegate it in each instance to the appropriate DOT official.

DATE: The effective date of this amendment is December 23, 1982.

FOR FURTHER INFORMATION CONTACT: Robert I. Ross, Office of the General Counsel, (202) 426-4723.

SUPPLEMENTARY INFORMATION: Since this amendment relates to Departmental management, procedures, and practice, notice and comment on it are unnecessary and it may be made effective in fewer than thirty days after publication in the **Federal Register.**

List of Subjects in 49 CFR Part 1

Authority delegations (government agencies), Organization and functions (government agencies), Transportation Department.

In consideration of the foregoing, Part 1 of Title 49, Code of Federal Regulations, is amended by inserting at the end of § 1.59 a new paragraph (a)(4), to read as follows:

§ 1.59 Delegations to Assistant Secretary for Administration.

The Assistant Secretary for Administration is delegated authority for the following—

* * * * *

(a) *Procurement.* * * *

(4) Carry out the functions delegated to the Secretary from time to time by the Administrator of General Services to lease real property for Department use.

* * * * *

(Sec. 9(e), Department of Transportation Act, 49 USC 1657(e))

Issued in Washington, DC, on November 17, 1982.

Andrew L. Lewis, Jr.,

Secretary of Transportation.

[FR Doc. 82-34725 Filed 12-22-82; 8:45 am]

BILLING CODE 4910-62-M

Coast Guard

49 CFR Parts 450, 451, 452, and 453

[CGD 82-086]

Safety Approval of Cargo Containers

AGENCY: Coast Guard, DOT.

ACTION: Final rule, correction.

SUMMARY: This document corrects 49 CFR 452.1, published November 8, 1982 [47 FR 50494–50496], by adding a footnote to the listed schedule for subsequent examination of containers safety plated before January 1, 1985. This footnote was inadvertently omitted when published. Its purpose is to cross-reference § 451.14 to the schedule for the convenience of the readers. Containers approved under § 451.14 are new containers by definition but are approved, examined, safety plated and re-examined as existing containers and are therefore treated as existing containers when applying the schedule listed in § 452.1.

FOR FURTHER INFORMATION CONTACT: Lt. Jeffrey G. Lantz, Merchant Vessel Inspection Division (G-MVI-5). Room 2407, U.S. Coast Guard Headquarters, Trans Point Building, 2100 Second Street SW, Washington, DC 20593, 202–426–4431.

List of Subjects in 49 CFR Parts 450–453

Cargo containers.

§ 452.1 [Corrected]

Accordingly § 452.1(a) is corrected by adding the following note at the bottom of the schedule for subsequent examination:

Note.—Containers plated under § 451.14 are considered existing containers in the above schedule.

(46 U.S.C. 1503, 49 CFR 1.46(n))

Dated: December 20, 1982.

Clyde T. Lusk, Jr.,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc. 82-34910 Filed 12-22-82; 8:45 am]

BILLING CODE 4910-14-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[Amdt. No. 1 to Twelfth Revised Service Order No. 1474]

Various Railroads Authorized To Use Tracks and/or Facilities of Chicago, Milwaukee, St. Paul and Pacific Railroad Co., Debtor (Richard B. Ogilvie, Trustee)

AGENCY: Interstate Commerce Commission.

ACTION: Amendment No. 1 To Twelfth Revised Service Order No. 1474.

SUMMARY: Pursuant to Section 122 of the Rock Island Railroad Transition and Employee Assistance Act, Public Law 96–254, this order authorizes various railroads to provide interim service over the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor (Richard B. Ogilvie), Trustee, and to use such tracks and facilities as are necessary for operations. This order permits carriers to continue to provide service to shippers which would otherwise be deprived of essential rail transportation.

EFFECTIVE: 11:59 p.m., December 31, 1982, and continuing in effect until 11:59 p.m., March 31, 1983, unless otherwise modified, amended or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT: M. F. Clemens, Jr., (202) 275–1559.

SUPPLEMENTARY INFORMATION:

Decided: December 17, 1982.

PART 1033—[AMENDED]

Upon further consideration of Twelfth Revised Service Order No. 1474 (47 FR 49649), and good cause appearing therefor:

§ 1033.1474 [Amended]

It is ordered, § 1033.1474 *Various railroads authorized to use tracks and/or facilities of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor (Richard B. Ogilvie, Trustee),* Twelfth Revised Service Order No. 1474 is amended by substituting the following paragraph (n) for paragraph (n) thereof:

* * * * *

(n) *Expiration date.* The provisions of this order are extended for an additional ninety (90) days, and shall expire at 11:59 p.m., March 31, 1983, unless otherwise modified, amended or vacated by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., December 31, 1982.

This action is taken under authority of 49 U.S.C. 10304–10305 and Section 122, Public Law 96–254.

This amendment shall be served upon the Association of American Railroads, Transportation Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

List of Subjects in 49 CFR Part 1033

Railroads.

By the Commission, Railroad Service Board, members J. Warren McFarland, Bernard Gaillard, and John H. O'Brien.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-34759 Filed 12-22-82; 8:45 am]

BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 47, No. 247
Thursday, December 23, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 92

[Docket No. 82-065]

Cattle From Mexico

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: This document would amend the import regulations to provide conditions under which cattle could be imported into the United States from Mexico without complying with the herd of origin and of entry brucellosis test requirements.

The intended effect of this action would be to facilitate the importation of cattle from Mexico by removing the herd of origin and port of entry brucellosis test requirements and allowing the importation of such cattle into the United States under conditions which would minimize the risk of the spread of brucellosis to animals located in the United States.

DATE: Comments must be received on or before February 22, 1983.

ADDRESS: Comments to Deputy Administrator, USDA, APHIS, VS, Federal Building, Room 870, 6505 Belcrest Road, Hyattsville, MD 20782; 301-436-8695.

FOR FURTHER INFORMATION CONTACT: Dr. D. E. Herrick, USDA, APHIS, VS, Room 821, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782; 301-436-8170

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This proposed action has been reviewed in conformance with Executive Order 12291 and has been determined to be not a "major rule." Based on information compiled by the Department, it has been determined that this action would have an annual effect on the economy of less than one hundred million dollars; would not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local goverment agencies, or geographic regions; and would not have a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of the United Stats based enterprises to compete with foreign-based enterprises in domestic or export markets.

Certification Under the Regulatory Flexibility Act

Dr. Harry C. Mussman, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This action would facilitate the importation of cattle from Mexico into the United States for movement directly to approve quarantined feedlots for feeding and return to Mexico for slaughter. Since such cattle are not to be slaughtered in the United States, they are not competitive with United States cattle.

Background

The Department believes that, by placing certain restrictions on the importation and subsequent handling of cattle from Mexico, some of the Department's requirements regarding the importation of these cattle from Mexico may be removed without increasing the risk of the dissemination of communicable disease in the United States.

Specifically, § 92.31(b) presently requires, among other things, that, except with respect to certain specified categories of cattle, for all cattle intended for importation from Mexico, an official record of a negative brucellosis test conducted on the herd of origin must be presented to the veterinary inspector at the port of entry when application is made for inspection.

This document would amend § 92.31(b) to include cattle which are imported in accordance with proposed § 92.35(e) (discussed below) in those categories of cattle for which an official record of a negative brucellosis test conducted on the heard of origin is not required to be presented to the veterinary inspector at the port of entry when application is made for inspection. The Department believes that the restrictions on the importation and subsequent handling of cattle set forth in proposed § 92.35(e) and discussed below, preclude the need for having a record of a negative brucellosis test conducted on the herd of origin.

Section 92.35(d) requires, among other things, that except for steers, all cattle offered for importation from Mexico the United States must be accompanied by a certificate of a salaried veterinarian of the Mexican Government stating that the cattle originated in a herd in which all cattle (except calves under 6 months of age and steers) were subjected to a test for brucellosis and found negative; the date and place such herd was tested; and that the herd had been isolated from the time the herd was tested negative for brucellosis to the date of the offer of the cattle for entry into the United States. Further, § 92.35(d) requires, that all cattle, except for calves under 6 months of age, be subjected to an additional test for brucellosis at the port of entry and found negative to such test.

This document would amend § 92.35(d) to include cattle which are imported in accordance with proposed § 92.35(e) (discussed below) as an additional category of cattle which would not be required to be accompanied by a certificate stating that they originated in a herd in which all cattle (except calves under 6 months of age and steers) have been subjected to a test for brucellosis and found negative; the date and place such herd was tested; and that the herd of origin has been isolated from the time the herd was tested negative for brucellosis to the date of the offer of the cattle for entry into the United States. Additionally, cattle imported in accordance with proposed § 92.35(e) would not be required to be subjected to a test for brucellosis at the port of entry and found negative to such test.

The Department believes that the restrictions on the importation and subsequent handling of cattle set forth in proposed § 92.35(e) (discussed below) would reduce the risk of the dissemination of brucellosis in the United States to such a low level that there would be no need for a negative brucellosis test on the herd of origin and the test for brucellosis at the port of entry.

Further, present § 92.6(a) requires that all cattle offered for importation except as provided in §§ 92.20 and 92.35 (b) and

(c) and except cattle imported for immediate slaughter, shall be accompanied by a certificate of a salaried veterinary officer of the national government of the country of origin showing that the animals have been tested for tuberculosis and brucellosis with negative results within 30 days of the date of their exportation. The reference to § 92.35 "(b)" is incorrect and would be corrected to read "(d)." In addition, this proposal would add a reference to § 95.35 "(e)" for the reasons set forth above.

Section 92.31(a), among other things, exempts importers of ruminants which are intended for importation from Mexico through a land border port and which meet certain specified conditions from the requirement that they apply for and obtain an import permit. This document would amend § 92.31(a) to require that importers who import cattle in accordance with proposed § 92.35(e) (discussed below) apply for and obtain an import permit. The Department believes that a large number of cattle may be imported in accordance with proposed § 92.35(e). The information on the application for an import permit will facilitate this Department's scheduling the additional workload that may be placed on the ports of entry and the coordination of these importations with state officials and other concerned federal agencies.

A new § 92.35(e) would be added to impose requirements upon the importation of certain cattle into the United States from Mexico. As discussed above, this document would amend the regulations concerning the importation of certain cattle from Mexico, to exempt such cattle from certain requirements presently imposed to prevent the introduction of brucellosis into the United States from Mexico. The Department, therefore, believes that the requirements set forth in proposed § 92.35(e) would be necessary to minimize the risk of the dissemination of brucellosis from cattle which would be exempt from the present brucellosis test requirements.

Specifically, proposed § 92.35(e)(1) would require that such cattle be entered into the United States under a United States Customs Bond and remain under such bond until returned to Mexico. United States Customs requires the posting of a bond for items which are not eligible for permanent import. The bond is required to assure that requirements for entry into the United States are met and to assure that either the import requirements will be met after entry or the item removed from the country. The Department would require that the cattle imported pursuant to proposed § 92.35(e) be imported under United States Customs Bond to assure that the requirements for handling the cattle as set forth in this proposal are met and to assure that the cattle are returned to Mexico.

Proposed § 92.35(e)(2) would require that cattle imported from Mexico be hot iron branded with the letter "S" on the left jaw or high on the tailhead in letters not less than 2 nor more than 3 inches high so as to be visible from ground level. "S" branding would clearly identify the Mexican cattle in question as those that would be required to be kept in approved quarantined feedlots.

Proposed § 92.35(e)(3) would require that cattle imported from Mexico must be moved from the port of entry in vehicles sealed with Department seals and without diversion to an approved quarantined feedlot. The Department believes that the movement direct to an approved quarantined feedlot in vehicles sealed with Department seals is necessary to assure that such cattle are not unloaded enroute and do not come in contact with any other animals during this transportation to the approved quarantined feedlot. Vehicles used to transport these cattle would be sealed with Department seals since Veterinary Services representatives or State representatives would not always be available to accompany the vehicles in transit from the port of entry to the approved quarantined feedlot. Further, proposed § 92.35(e)(3) would require that the approved quarantined feedlot be designated in advance by the Deputy Administrator, Veterinary Services, and the State animal health official of the receiving State. The Department believes that this requirement would be necessary so that both the Department and the State in which the cattle are to be located are aware of the location to which the cattle would be sent.

Proposed § 92.35(e)(4) would require that the Department seals could only be removed on arrival at the approved quarantined feedlot by a Veterinary Services representative or a state representative. This requirement is necessary to assure that all cattle moved from the port of entry pursuant to this proposal arrive at and are placed in the approved quarantined feedlot.

Proposed § 92.35(e)(4) would also require that cattle imported from Mexico pursuant to this proposal be maintained at the approved quarantined feedlot in pens sealed with a Department seal and in a manner to prevent contact with other animals. This requirement would be necessary to prevent the possible spread of brucellosis to other animals in the United States. The seals on pens would be broken only by a Veterinary Services representative or state representative. This requirement is proposed to ensure that no cattle imported from Mexico are removed from or escape from the approved quarantined feedlot except as provided by these regulations and thereby have an opportunity to intermingle with other animals in the United States.

Proposed § 92.35(e)(5) would require that the cattle or any offspring thereof which die, become disabled or diseased would be disposed of by burning, burial or removal directly to a rendering plant in accordance with the State animal health official's instructions. This requirement is necessary to prevent the possible dissemination of disease to other animals in the United States and to avoid the requirement that such cattle be returned to Mexico.

Proposed § 92.35(e)(6) would require that the State animal health official account for all cattle imported from Mexico and moved to the approved quarantined feedlot and any offspring of such cattle. This accounting would be made to the Deputy Administrator, Veterinary Services. The Department believes this accounting is necessary so that the Department is assured that all cattle imported from Mexico in accordance with this proposal and any offspring of such cattle, are removed from the United States or are disposed of in accordance with proposed § 92.35(e)(5).

Proposed § 92.35(e)(7) would require that the cattle imported from Mexico and any offspring of such cattle, except those cattle disposed of in accordance with proposed § 92.35(e)(5), are moved from the approved quarantined feedlot in a vehicle sealed with a Department seal, without diversion, to a port of export through which the cattle are returned to Mexico. The seals on vehicles used to move the cattle to the port of export would only be broken by a Veterinary Services representative or State representative. This requirement would be necessary to assure that the cattle and their offspring are moved to the port of export and returned to Mexico without contact with any animals in the United States.

The Department believes that by placing the restrictions as set forth in proposed § 92.35(e), the importation of cattle from Mexico into the United States without negative herd of origin and port of entry brucellosis tests could be accomplished without dissemination of brucellosis in the United States.

Four terms used in this document would be defined in order to clarify their

meanings. "State animal health official," "State representative," "Veterinary Services representative," and "Approved quarantined feedlot," would be added to the definitions in § 92.1.

An approved quarantined feedlot would be defined as a confined area under State quarantine which has been approved by the Deputy Administrator, Veterinary Services, and the State animal health official for feeding cattle from Mexico in dry lot with no provisions for pasturing or grazing. The Department believes that all these requirements are necessary to assure that the cattle remain in the feedlot, are not in contact with other animals in the United States, and can be accounted for at all times.

There are a number of references to regulations contained within the present regulations concerning importation of cattle from Mexico which are incorrect. This document would correct each of these incorrect references.

In § 92.31(b) the references to "§ 92.35(c)" would be corrected to read "§ 92.35(d)"; in § 92.33(a) the reference to "§ 92.35(a)(2)" would be corrected to read "§ 92.35(b)(2)"; in § 92.35(d)(2) the reference to "§ 78.15" would be corrected to read "§ 78.24"; in § 92.35(d)(2) the reference to "§ 78.1(v)" would be corrected to read "§ 78.1(q)"; and in § 92.35(d)(2) the reference to "§ 78.12(b)(1)" would be corrected to read "§ 78.8(b)."

Alternatives

1. Not to amend the regulations. This alternative was not adopted because the Department believes that with respect to cattle imported from Mexico, the negative herd of origin and port of entry brucellosis test requirements are unnecessary if such cattle are imported under specified conditions.

2. Amend the regulations to provide conditions under which cattle could be imported into the United States from Mexico without complying with the herd of origin and port of entry brucellosis test requirements. This amendment is proposed because the Department believes that the regulations requiring negative herd of origin and port of entry brucellosis tests for cattle imported from Mexico under conditions specified above herein, are not necessary to prevent the dissemination of brucellosis in the United States and would maximize the net benefit to society at the lowest net cost.

List of Subjects in 9 CFR Part 92

Animal diseases, Canada, Imports, Livestock and livestock products, Mexico, Poultry and poultry products, Quarantine, Transportation, Wildlife.

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

Accordingly, Part 92, Title 9, Code of Federal Regulations, would be amended in the following respects:

1. In § 92.1, new paragraphs (cc), (dd), (ee), and (ff) would be added to read as follows:

§ 92.1 Definitions.

* * * * *

(cc) *Approved quarantined feedlot.* Any confined area under state quarantine which has been approved jointly by the State animal health official and the Deputy Administrator, Veterinary Services, for feeding cattle from Mexico in dry lot with no provisions for pasturing or grazing.

(dd) *State animal health official.* The State animal health official who is responsible for the livestock and poultry disease control and eradication programs in a particular state or his designated representative.

(ee) *State representative.* A person employed in livestock sanitary work by a state and who is authorized by such state to perform the function involved.

(ff) *Veterinary Services Representative.* A person employed by Veterinary Services, Animal and Plant Health Inspection Service, United States Department of Agriculture, who is authorized to perform the function involved.

§ 92.6 [Amended]

2. In § 92.6(a) the reference to "§ 92.35 (b) and (c)" would be removed and referenced to "§ 92.35 (c), (d) and (e)" would be inserted in lieu thereof.

3. In § 92.31(a), the proviso would be revised to read as follows:

§ 92.31 Import permits and applications for inspection for animals and animal semen.

(a) * * * *Provided,* That an import permit is not required for a ruminant offered for entry at a land border port designated in § 92.3(c), except for cattle imported in accordance with § 92.35(e), if such animal:

* * * * *

4. In § 92.31(b), the second sentence would be revised to read as follows:

§ 92.31 Import permits and applications for inspection for animals and animal semen.

* * * * *

(b) * * * For all cattle, except those entering pursuant to the third proviso in § 92.35(d), steers and cattle imported in accordance with § 92.35(e), an official record of negative brucellosis test conducted on the herd of origin as required in § 92.35(d) shall be presented to the veterinary inspector at the port of entry when application is made for inspection.

* * * * *

§ 92.33 [Amended]

5. In § 92.33(a), the reference to "§ 92.35(a)(2)" would be removed and reference to "§ 92.35(b)(2)" would be inserted in lieu thereof.

6. In § 92.35(d), the introductory paragraph preceding the colon would be amended to read as follows:

§ 92.35 Cattle from Mexico.

* * * * *

(d) *Brucellosis.* All cattle offered for importation into the United States from Mexico shall be individually identified with a numbered metal tag; and except in the case of steers and cattle imported in accordance with paragraph (e) of this section, shall be eligible for entry into the United States only if, in addition to complying with other applicable provisions of this part, they:

* * * * *

7. In § 92.35(d)(2) the reference to "§ 78.15" would be removed and reference to "§ 78.24" would be inserted in lieu thereof.

8. In § 92.35(d)(2) the reference to "§ 78.1(v)" would be removed and reference to "§ 78.1(q)" would be inserted in lieu thereof.

9. In § 92.35(d)(2) the reference to "§ 78.12(b)(1)" would be removed and reference to "§ 78.8(b)" would be inserted in lieu thereof.

10. In § 92.35, a new paragraph (e) would be added to read as follows:

§ 92.35 Cattle from Mexico.

* * * * *

(e) *Cattle for feeding from Mexico.* Cattle may be imported into the United States from Mexico if, in addition to other applicable provisions of this part:

(1) The cattle are entered into the United States under United States Customs bond and remain under such bond until returned to Mexico;

(2) Before release from the port of entry, the cattle are hot-iron branded with the letter "S" on the left jaw or high on the tailhead so as to be visible from ground level in letters not less than 2 nor more than 3 inches high;

(3) The cattle are moved from the port of entry in vehicles sealed with Department seals and without diversion to an approved quarantined feedlot designated in advance by the Deputy

Administrator, Veterinary Services, and the State animal health official of the receiving state;

(4) On arrival at the approved quarantined feedlot, the Department seals are broken only by a Veterinary Services representative or State representative, the cattle are placed in pens sealed with Department seals only to be broken by a Veterinary Services representative or State representative, and the cattle are maintained in a manner to prevent contact with other animals;

(5) The cattle or any offspring thereof which die, become diseased or become disabled are disposed of by burning, burying or removal directly to a rendering plant in accordance with instructions issed by the State animal health official;

(6) The State animal health official shall make an accounting of all cattle moved to the approved quarantined feedlot and any offspring thereof in accordance with this paragraph and shall report this accounting to the Deputy Administrator, Veterinary Services, immediately following the movement of the cattle from the quarantined feedlot; and

(7) The cattle and any offspring thereof except cattle disposed of in accordance with paragraph (e)(5) of this section are moved from the approved quarantined feedlot in vehicles sealed with Department seals to be broken only by a Veterinary Services representative or State representative and without diversion to a port of export through which the cattle and any offspring thereof shall be returned to Mexico.

(Sec. 2. 32 Stat. 792, as amended, secs. 2, 4, 11, 76 Stat. 129, 130, 132; 21 U.S.C. 111, 134a, 134c, 134f; 37 FR 28464, 28477; 38 FR 19141)

All written submissions made pursuant to this notice will be made available for public inspection at the Federal Building, 6505 Belcrest Road, Room 870, Hyattsville, MD., during regular hours of business (8 a.m. to 4:30 p.m., Monday to Friday, except holidays) in a manner convenient to the public business (7 CFR 1.27(b)).

Comments submitted should bear a reference to the date and page number of this issue in the **Federal Register.**

Done at Washington, D.C., this 17th day of December 1982.

K. R. Hook,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 82-34773 Filed 12-22-82; 8:45 am]

BILLING CODE 3410-34-M

9 CFR Part 92

[Docket No. 82-057]

Ports Designated for the Importation of Animals; Deletion of a Special Port for Pet Birds

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would delete the port of Brownsville, Texas, from the list of special ports for pet birds designated in 9 CFR 92.3(f). This action is being proposed because of the few pet birds offered for importation into the United States at this port of entry and the cost incurred by USDA in transporting those few birds 80 miles to Mission, Texas, for quarantine. The intended effect of this action is to revise the list of special ports for pet birds designated in 9 CFR 92.3(f) as ports of entry for the importation of pet birds.

DATE: Comments must be received on or before February 22, 1983.

ADDRESS: Comments to Deputy Administrator, USDA, APHIS, VS, Federal Building, Room 728, 6505 Belcrest Road, Hyattsville, MD 20782.

All written submissions made pursuant to this notice will be made available for public inspection at the Federal Building, 6505 Belcrest Road, Room 728, Hyattsville, MD, during regular hours of business (8 a.m. to 4:30 p.m., Monday to Friday, except holidays) in a manner convenient to the public business (7 CFR 1.27(b)).

Comments submitted should bear a reference to the date and page number to this issue in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: S. S. Richeson, Chief Staff Veterinarian, Import/Export Staff, VS, APHIS, USDA, Room 843, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8170.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This proposed rule has been reviewed in conformance with Executive Order 12291 and has been determined to be not a "major rule." The proposed rule, if adopted, would have an annual effect on the economy of less than $100 million; would not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises, in domestic or export markets.

For this rulemaking action, the Office of Management and Budget has waived their review process required by Executive Order 12291.

Alternatives

The following alternatives were considered in making this decision:

1. To make no change in the regulation.

This alternative would permit pet birds to be imported at Brownsville, Texas. Our records show that from January of 1980 through June of 1982, a total of 28 lots (46 birds) have been entered at this port. Such usage does not justify having border ports for pet birds at both Brownsville and Hidalgo, and Hidalgo is 55 miles closer to Mission, Texas, where such pets are quarantined.

2. To amend the regulation as proposed.

This alternative was selected because, in addition to the reasons stated above for rejecting alternative one, prospective users of the Brownsville port of entry may use the approved port of entry at Laredo and the newly added port of entry at Hidalgo, Texas. This alternative would be a better utilization of personnel and monies, thereby maximizing the net benefit to society at the lowest net cost.

Certification under the Regulatory Flexibility Act

Dr. Harry C. Mussman, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This proposed action would revise the list of special ports of entry for pet birds by deleting the port of Brownsville, Texas, however, such birds could still be entered at other ports including Hidalgo which is only 55 miles away from Brownsville, Texas.

Notice is hereby given in accordance with the administrative procedure provisions in 5 U.S.C. 553, that pursuant to section 2 of the Act of February 2, 1903, as amended, and sections 2, 3, 4, and 11 of the Act of July 2, 1962, (21 U.S.C. 111, 134a, 134b, 134c, and 134f), the Animal and Plant Health Inspecton Service is considering amending Part 92, Title 9, Code of Federal Regulations, to delete Brownsville, Texas, as a special port for entry of pet birds.

The Department, in a companion interim rule published in this issue of the **Federal Register,** has added Hidalgo, Texas, as a port of entry for pet birds. This action alleviates the added expense and manpower the Department must bear in transporting pet birds the

60 miles form Brownville to Mission, Texas, for quarantine.

Therefore, the Department is proposing to delete the port of Brownsville, Texas, from the list of special ports for pet birds designated in 9 CFR 92.3(f).

List of Subjects in 9 CFR Part 92

Animal diseases, Imports, Mexico, Poultry and poultry products, Quarantine, Transportation, Exotic Newcastle disease, Pet birds.

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

§ 92.3 [Amended]

Accordingly, Part 92, Title 9, Code of Federal Regulations, would be amended by removing "Brownsville, Texas," from the list of special ports for pet birds in § 92.3(f).

Done at Washington, D.C., this 20th day of December 1982.

J. K. Atwell,

Deputy Administrator, Veterinary Service.

[FR Doc. 82-34879 Filed 12-22-82; 8:45 am]

BILLING CODE 3410-34-M

---

9 CFR Part 166

[Docket No. 82-087]

Swine Health Protection

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: This document proposes to exempt rendering facilities from the provisions of the Swine Health Protection Regulations. This Action is being proposed because the Deputy Administrator of Veterinary Services, APHIS, has determined that rendered products pose no disease threat to the swine industry. The intended effect of this proposal is to relieve the unnecessary burden on renderers of obtaining licenses to treat garbage which is to be fed to swine.

DATE: Comments must be received on or before January 12, 1983.

ADDRESS: Written comments should be submitted to the Deputy Administrator, Veterinary Services, APHIS, USDA, Room 870, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

FOR FURTHER INFORMATION CONTACT: Dr. L. W. Schnurrenberger, Chief Staff Veterinarian, Swine Diseases, Special Diseases Staff, Veterinary Services, APHIS, USDA, Room 841, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782; 301-436-8438.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

In accordance with Executive Order 12291 and based on information compiled by the Department of Agriculture, this rule is determined to be non major. This rule will not have a significant effect on the economy and will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Director, National Program Planning Staffs, VS, APHIS, USDA, has determined that an emergency situation exists which warrants publication of this proposed rule with a shortened comment period. This is being done because the Department wishes to have the proposed amendments in effect before the effective date of newly promulgated regulations in Title 9, Code of Federal Regulations (CFR), Part 166. Those regulations were published in the **Federal Register** on November 3, 1982, (47 FR 49940–49948) and will become effective on January 1, 1983. If these proposed amendments are not in effect by January 1, 1983, when new 9 CFR Part 166 becomes effective, renderers would be required to obtain licenses under those regulations. However, as explained below, the Department does not believe that it is necessary for renderers to be licensed at all, and is, therefore, proposing these amendments to 9 CFR Part 166. Therefore, in order to meet this time restriction, it is necessary to limit the comment period to 20 days to give the Department enough time to evaluate any comments received and publish a final rule before January 1, 1983.

Certification Under the Regulatory Flexibility Act

Dr. Harry C. Mussman, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on any entity. This action will impact on rendering facilities only. The renderers would merely not be required to obtain licenses under 9 CFR Part 166, because their activities do not pose a risk to the swine industry in the United States, as explained below.

Background

On November 3, 1982, there was published in the **Federal Register** at 47 FR 49940–49948, new Title 9, CFR, Part 166, which, among other things, requires the licensing of garbage treatment facilities producing edible waste of animal origin for swine consumption. Rendering facilities fall into this category since they produce animal protein supplements for animal feeds from raw animal products and byproducts.

Rendering is the process of treating any fat, bone, offal, viscera or related material derived from the carcasses of livestock, poultry, fish, or parts thereof, and used cooking greases and oils into products that include animal, poultry, or fish protein meal, grease or tallow. The material treated by rendering falls under the definition of garbage in the Swine Health Protection Act (7 U.S.C. 3801 *et seq.*) and 9 CFR Part 166. As the final rendered products are used in animal feeds, some of which are consumed by swine, renderers are subject to regulations under the Swine Health Protection Act and the regulations in 9 CFR Part 166.

There are two main rendering processes: dry batch rendering and wet rendering. Dry rendering occurs where the material is agitated and cooked at 240°–250° F. for 1½ to 4 hours, driving off all moisture. Wet rendering occurs by injecting the container with live steam and cooking at 240°–310° F. for 1½ to 4 hours. The minimum final temperature of the rendered product with all rendering methods is not less than 230° F. Both of these processes meet or exceed the requirements of the regulations in Part 166. Those regulations are designed to ensure that all possible disease organisms in garbage which is to be fed to swine are killed by boiling at 212° F. for ½ hour or equivalent temperature. Rendered products reach at least 230° F., and it is not necessary to require that this temperature be maintained for any minimum time period, as merely reaching this temperature has the same effect as boiling for ½ hour; that is all possible disease organisms are killed. In addition, rendered products used in animal feeds are under the jurisdiction of the Food and Drug Administration. Therefore, in view of these facts the Deputy Administrator, Veterinary Services, has determined that rendering facilities as defined in these regulations do not pose a risk to the swine industry in the United States.

Alternatives

There are two alternatives that were considered:

1. Provide no exemption for rendering facilities.

2. Exempt rendering facilities.

Alternative 1 was rejected because it would require the inspection and licensing of all rendering facilities, regardless of the fact that their activities pose no disease threat to the swine industry in the United States.

Alternative 2 was selected because it was determined that rendering facilities already exceed the requirements in Part 166, and do not produce products that would transmit diseases of swine.

Therefore, the Department is proposing to amend Title 9, CFR, § 166.1, § 166.2(a), and § 166.10 to exempt renderers from the licensing requirements of Part 166, to allow the feeding to swine of rendered products from rendering facilities not licensed under the Swine Health Protection Act and the Regulations in Part 166, and to add definitions of "to render" and "rendered product."

List of Subject in 9 CFR Part 166

Animal diseases, Hogs, African swine fever, Foot-and-mouth disease, Garbage, Hog cholera, Swine vesicular disease, Vesicular exanthema of Swine.

Accordingly, the Animal and Plant Health Inspection Service is proposing to amend 9 CFR Part 166.

PART 166—SWINE HEALTH PROTECTION

Accordingly, Part 166, Title 9, Code of Federal Regulations, would be amended in the following respects:

1. In § 166.1, definitions of the words, "render" and "rendered product" would be inserted after the definition for "Premises" and before the definition for "State." The definitions for "to render" and "rendered product" would read:

§ 166.1 Definitions in alphabetical order.

* * * * *

Render. To process garbage derived from slaughter, food processing, food service, and other sources through grinding and heating to a minimum temperature of not less than 230° F.

Rendered product. Garbage that has been rendered to make products such as, but not limited to, animal, poultry, or fish protein meal, grease or tallow.

* * * * *

2. In § 166.2 paragraph (a) would be revised to read:

§ 166.2 General restrictions.

(a) No person shall feed or permit the feeding of garbage to swine, except for rendered products, unless it is treated to kill disease organisms, pursuant to the regulations, at a facility operated by a person holding a valid license for the treatment of garbage.

* * * * *

3. § 166.10 a new sentence would be added to the end of paragraph (a) to read:

§ 166.10 Licensing

(a) * * * Producers of only rendered products are so exempted from the requirements of this paragraph in States which do not have primary enforcement responsibility.

* * * * *

(Sec. 511, Pub. L. 95–592, 94 Stat. 3451 (7 U.S.C. 3802); Secs. 4, 5, 9, 12, Pub. L. 95–468, 94 Stat. 2229 (7 U.S.C. 3803, 3804, 3408, 3811) 45 FR 85696, 46 FR 7286)

All written submissions made pursuant to this action will be made available for public inspection at the Federal Building, Room 870, Hyattsville, MD, during regular hours of business (8 a.m. to 4:30 p.m., Monday to Friday, except holidays) in a manner convenient to the public business (7 CFR 1.27(b)).

Comments submitted should bear a reference to the date and page number of this issue in the **Federal Register**.

Done at Washington, D.C., this 29th day of December 1982.

J. K. Atwell,

Deputy Administrator, Veterinary Services.

[FR Doc. 82–34774 Filed 12–22–82; 8:45 am]

BILLING CODE 3410–34–M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 534

[No. 82–811]

Pricing of Payment Instrument Services

Dated: December 16, 1982.

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed rule.

SUMMARY: The Federal Home Loan Bank Board proposes to revise its regulations on the pricing of payment instrument services by the Federal Home Loan Banks. These revisions would extend the period from five to ten years in which a Bank may recover all of its initial costs in establishing a payment instrument services program and may project cash flows for purposes of attaining a competitive rate of return in order to comply with the statutory pricing requirements.

DATE: Comments must be received by: January 27, 1983.

ADDRESS: Send comments to Director, Information Services Section, Office of Communications, Federal Home Loan Bank Board, 1700 G Street NW., Washington, D.C. 20552. Comments will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: Jerry Hartzog (202–377–6782), Policy Analysis Division Director, Office of Policy and Economic Research; K. Diane Boyle (202–377–6720), Program Analysis Development Division Director, Office of District Banks; or Deborah C. Jenkins (202–377–6464), Attorney, Office of General Counsel.

SUPPLEMENTARY INFORMATION: The Federal Home Loan Bank Board, by Resolution No. 80–591 (Sept. 18, 1980), 45 FR 64161, adopted Part 534 of the Federal Home Loan Bank System Regulations ("Bank System Regulations"), codified at 12 CFR Part 534 (1982), to implement Section 311 of the Depository Institutions Deregulation and Monetary Control Act ("DIDMC Act"), 12 U.S.C. 1431(e)(2) (Supp. IV 1980), which authorizes the Board to promulgate regulations permitting the Federal Home Loan Banks ("Banks") to engage in the collection, processing, and settlement of instruments drawn on, or issued by, their members or eligible institutions and to provide any necessary services therefor, and to establish standards for and regulate the pricing of such services in a manner consistent with the principles set forth in section 11A(c) of the Federal Reserve Act. 12 U.S.C. 1431(e)(2)(B) (Supp. IV 1980). It is clear that Congress contemplated that the Federal Reserve Banks and the Federal Home Loan Banks would operate under the same general pricing principles and would price in a manner that would promote and increase efficiency in payment instrument services programs.

The Board adopted a comprehensive pricing regulation, 12 CFR 534.6, providing a general pricing philosophy, a methodology for computing prices, and an annual review and publication process. The Banks must charge for payment instrument services in a manner consistent with section 11A(c) of the Federal Reserve Act, 12 U.S.C. 248a(c) (Supp. IV 1980). 12 CFR 534.6(a). These pricing principles are:

(1) All services shall be priced explicitly;

(2) All services shall be available to nonmember eligible institutions, and such services shall be priced according to the same fee schedule applicable to members, except that nonmembers shall be subject to any other terms, including

a requirement of balances sufficient for clearing purposes, that the Board may determine are applicable to member institutions;

(3) Over the long run, fees shall be established on the basis of all direct and indirect costs actually incurred in providing the services, including interest on items credited prior to actual collection, overhead, and an allocation of imputed costs which takes into account the taxes that would have been paid and the return on capital that would have been provided had the services been furnished by a private business firm, except that the pricing principles shall give due regard to competitive factors and the provision of an adequate level of such services nationwide; and

(4) Interest on items credited prior to collection shall be charged at the current rate applicable in the market for federal funds.

The board adopted, in paragraph (b) of § 534.6 of the Bank System Regulations, 12 CFR 534.6, a pricing methodology reflecting its interpretation of these pricing principles. The Board requires that the Banks apply a cost-of-capital-adjustment factor to those assets used in providing payment instrument services when computing their prices to reflect those charged by the private sector. 12 CFR 534.6(b)(2). Under paragraph (b)(3) of § 534.6, the Banks must recapture all costs of operating a payment instrument services program within five years. Thus, the Banks, all of which established their payment instrument services programs shortly after the adoption of § 534.6 by the Board, must recover all of their start-up costs and price so as to earn at least a competitive rate of return by the end of 1985.

The current pricing methodology and guidelines, codified at 12 CFR 534.6, which are used by the Board to review prices annually, are designed to ensure that the Banks' payment instrument services are not provided at a subsidized rate and are not priced so as to provide unfair competition to private firms, which must pay taxes and earn a normal profit. Given that objective, the Board adopted a conservative pricing methodology that was more restrictive than a private firm might use for determining its operating equilibrium and for evaluating a potential investment project.

Under the Board's current pricing regulations, the Banks' prices for their payment instrument services must be sufficient to recapture all initial costs and to generate a competitive rate of return, including the cost of taxes, within a five-year period. The five-year period for recovery of all initial costs and the yielding of competitive rate of return is not mandated by Section 311 of the DIDMC Act nor its legislative history. The five-year period is a regulatory requirement adopted by the Board after reviewing an analysis of NOW account activity in New England. The Board believed that it would take five to seven years for thrift institutions to achieve their long-run equilibrium market share and to penetrate the consumer transactions account market. Thus, it was expected that Banks would reach a normal scale of operations after five to seven years of operations. Although the Board realized at the time of its adoption that this five-year requirement is more restrictive than that which normally would be used by a new private firm for evaluating an investment, the Board believed that it was appropriate to adopt a conservative standard which could be reviewed in light of actual Bank operations, and could be changed if warranted.

The Board is now proposing to amend paragraph (b)(3) of § 534.6 of the Bank System Regulations (12 CFR 534.6(b)(3)) to extend the five-year recovery period to ten years for several reasons. First, after two years of actual experience with the Banks' processing operations, the Board believes that the pricing standard can be less conservative, that a standard more in conformance with the private sector's investment evaluation procedures can be adopted, and that a ten-year recovery period is a more appropriate standard. Second, a review of NOW account activity in the past two years and the recent expansion of transactions account authority of thrift institutions indicate that the scale of operations of Bank processing will continue to expand for the remainder of the decade. It is the opinion of the Board that the extension of the recovery period from five to ten years would enable the Banks to continue to price competitively with private suppliers of payment instrument services and to aid in maintaining a competitive market for such services.

The Board also takes this opportunity to clarify and simplify § 534.6 by removing certain redundant requirements. Accordingly, the Board is proposing to delete the first sentence of paragraph (b)(3) of § 534.6, which states that "all costs must be fully recovered within a period not exceeding five years."

The Board will continue to review Bank pricing annually. The Board believes that the annual review and approval of the Banks' fee schedules by the Office of District Banks and the Office of Policy and Economic Research will ensure compliance with the pricing principles.

Regulatory Analysis

The elements of regulatory analysis for major proposed regulations required by Board Resolution No. 80–584 (September 11, 1980), 45 FR 63135, and those required by the Financial Regulatory Simplification Act of 1980, 12 U.S.C. 3522 (Supp. IV 1980), Pub. L. No. 96–221, 94 Stat. 191, 192, have been incorporated into the supplementary information regarding the proposal.

Initial Regulatory Flexibility Analysis

Pursuant to section 3 of the Regulatory Flexibility Act, 5 U.S.C. 603 (Supp. IV 1980), Pub. L. No. 96–534, 94 Stat. 1164 (September 19, 1980), the Board is providing the following regulatory flexibility analysis.

1. *Reasons, objective and legal basis underlying the proposed rule.* These elements have been incorporated above in the supplementary information regarding the proposal.

2. *Small entities to which the proposed rule will apply.* The proposed rule would apply only to the Federal Home Loan Banks and not to any small entities.

3. *Impact of the proposed rule on small institutions.* The proposal would not have a disproportionate effect on small institutions. The proposed amendment is not designed to interfere with legitimate business opportunities of any small entities competing with the Federal Home Loan Banks in the provision of payment instrument services; thus, it is expected that the proposed rule would have no significant economic impact on a substantial number of small entities.

4. *Overlapping or conflicting federal rules.* There are no known federal rules that may duplicate, overlap, or conflict with the proposal.

5. *Alternatives to the proposed rule.* The Board believes that this amendment is necessary in that it would enable the Federal Home Loan Banks to effectively comply with the statutory mandate set forth in the Federal Home Loan Bank Act to price competitively.

Because prompt consideration of this proposal is in the public interest, in order to enable the Banks to reflect in the pricing of their payment instrument services the change in the recovery period for initial costs, the Board has limited the public comment period to 30 days.

List of Subjects in 12 CFR Part 534

Federal Home Loan Bank Board, Federal Home Loan Banks, Processing of payment instruments.

Accordingly, the Federal Home Loan Bank Board hereby proposes to amend Part 534 of Subchapter B. Chapter V of Title 12, Code of Federal Regulations, as set forth below.

SUBCHAPTER B—FEDERAL HOME LOAN BANK SYSTEM

PART 534—COLLECTION, SETTLEMENT, AND PROCESSING OF PAYMENT INSTRUMENTS

Amend § 534.6 by removing the first sentence of paragraph (b)(3) and substituting "ten" for "five" in the remaining sentence, to read as follows:

§ 534.6 Pricing of services.

* * * * *

(b) *Payment instrument account services.* * * *

(3) The prices charged for collection, processing, and settlement services must yield at least a competitive rate on return over a period not exceeding ten years after offering such services.

* * * * *

(12 U.S.C. 1431(e); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

Gregory B. Smith,

Acting Secretary.

[FR Doc. 82-34907 Filed 12-22-82; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 82-CE-34-AD]

Airworthiness Directives; Piper Models PA-24-400, PA-30 and PA-39 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to adopt a new Airworthiness Directive (AD) applicable to Piper Models PA–24–400, PA–30 and PA–39 airplanes. Service reports and incidents/accidents involving water contamination of the fuel systems indicate some owners/operators are not following recommended maintenance/operating practices in this area. The notice would require installation of an improved fuel selector valve strainer housing and make mandatory existing manufacturer's recommendations on fuel system maintenance. It would also require installation of a placard prescribing, in detail, preflight fuel system drainage procedures. This AD will reduce water contamination and the fuel system's sensitivity to this contamination.

DATES: Comments must be received on or before February 23, 1983.

Compliance: As prescribed in the body of the AD.

ADDRESSES: Piper Aircraft Corporation Service Letter No. 589, dated August 18, 1971, and Service Spares Letter SP–282, dated November 15, 1968, applicable to this AD may be obtained from Piper Aircraft Corporation, 820 East Bald Eagle Street, Lock Haven, Pennsylvania 17745 or the rules docket at the address below.

Send comments on the proposal in duplicate to Federal Aviation Administration Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 82–CE–34–AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106

FOR FURTHER INFORMATION CONTACT: Raymond J. O'Neill/P. Perrotta, Propulsion Section, ANE–174, FAA, New York Aircraft Certification Office, Federal Building, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581; Telephone (516) 791–7421.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 82–CE–34–AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Discussion

Service and accident reports involving Piper Models PA–24–400, PA–30 and PA–39 airplanes establish that the present level of maintenance and preflight procedures given the fuel systems by some owners/operators is not assuring the continued airworthiness of these airplanes. The manufacturer has make available a conical-shaped stainless steel fuel selector valve strainer housing having much improved moisture and sediment drainage characteristics and has recommended installation of this part on affected airplanes in Piper Service Letter No. 589 dated August 18, 1971. However, a relatively small percentage of the owners/operators of these airplanes have installed this improved part. The manufacturer has also made available in Service Letters, Service Manuals, Owners Handbook and/or Pilots Operating Manuals, as applicable, maintenance and operating procedures which, if observed, will control water/contamination in these airplanes' fuel systems. The manufacturer believes, and the FAA concurs, that observance of existing manufacturer's recommendations on the modification, maintenance and operation of these airplanes is necessary to assure their continued airworthiness. In some cases the failure of some operators to do so is adversely affecting, to a catastrophic extent, the level of safety in their operation.

Since the condition described is likely to exist or develop in other Piper Model PA–24–400, PA–30 and PA–39 airplanes of the same design, the AD would require incorporation of stainless steel conical fuel selector valve strainer housing, installation of placards prescribing preflight fuel system drainage procedures and initial and repetitive cleaning and inspection of the fuel selector valve strainers on these airplanes.

There are approximately 2300 airplanes affected by the proposed AD. The cost of modifying the affected aircraft is estimated to be $130 per airplane for total of $280,020 to the private sector. No cost is assessed for the required operation and maintenance procedures as owners/operators should now be complying with these practices.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

PART 39—[AMENDED]

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new Airworthiness Directive:

Piper: Applies to Models PA–24–400 (S/Ns 26–2 through 26–148); PA–30 (S/Ns 30–2 through 30–2000); and PA–39 CS/Ns 39–1 through 39–155) airplanes certificated in any category.

Compliance: Required as indicated, unless already accomplished.

To prevent premature fuel depletion due to loss of fuel through an unseated fuel selector drain valve, accomplish the following:

(a) Within 50 hours time-in-service after the effective date of this AD and at intervals not exceeding 50 hours time-in-service thereafter, clean and inspect the fuel selector valve strainer filter on all airplanes listed in the applicability statement for water accumulation, contamination and corrosion of the fuel strainer filter components in accordance with the following procedures:

(1) Gain access to the fuel strainer installation by removing the floor panel in the center section of the fuselage (PA–30, PA–39) or between the two front seats (PA–24–400).

(2) Remove, drain and clean fuel strainer housing and filter discs in accordance with the following procedures:

a. Separate filter housing from selector valve assembly by removing attaching screws.

b. Remove the filter disc assembly from stem by compressing filter retainer spring and removing retainer washer.

c. In the event that contamination is found, flush fuel tanks and selector valves and clean filter assemblies using the following procedures:

(i) Plug open ends of filter disc to prevent disc dirt from entering.

(ii) Wash the disc with suitable cleaner or solvent. Heavy dirt, lint or dust deposits may be removed from disc with a soft bristle paint brush.

(iii) Drain or blow off cleaning fluid and remove plugs.

(iv) Inspect bowl gasket and disc filter for damage and replace if necessary.

(b) Within 100 hours time-in-service after the effective date of this AD, replace the existing fuel selector strainer filter housing on the Model PA–30 and PA–39 airplanes listed in the applicability statement with a Piper P/N 757187 conical-shaped stainless steel strainer housing in accordance with Piper Service Letter No. 589, dated August 18, 1971.

(c) Within 50 hours time-in-service after the effective date of this AD, fabricate and install a permanent placard as described below having letters with ⅛ inch minimum height on the inside of the hinged access door or adjacent location clearly visible to the pilot during his preflight check.

(1) On Model PA–24–400 airplanes, the placard must read as follows: "The fuel system shall be drained daily prior to first flight and after refueling to avoid the accumulation of water or sediment using the following procedures:

a. Move the quick drain valve handle to full aft position to open the strainer quick drain for a few seconds with the fuel cell selector on each cell including the auxiliary tanks. Allow enough fuel to flow to clear lines as well as the strainer. Positive fuel flow shut-off can be observed through the clear plastic tube.

b. Ensure that the drain valve positively closes.

c. If it is not possible to observe fuel draining through the clear plastic tube because of a loss in its transparency, replace with a new tube.

Caution: When draining any amount of fuel, care should be taken to ensure that no fire hazard exists before starting engine".

(2) On Models PA–30 and PA–39 airplanes, the placard must read as follows:

"The fuel system shall be drained daily prior to first flight and after refueling to avoid the accumulation of water or sediment using the following procedure:

a. Pull up on the knob located in the center of the selector valves to open the strainer quick drain for a few seconds with the fuel tank selector on the main tank, then change the tank selector to each auxiliary tank and repeat the process. Allow enough fuel to flow to clear the lines as well as the strainer. Positive fuel flow shut-off can be observed through the clear plastic tube which carries the fuel overboard.

b. Ensure that the drain valve positively closes.

c. If it is not possible to observe fuel draining through the clear plastic tube because of a loss in its transparency, replace with a new tube.

Caution: When draining any amount of fuel, care should be taken to ensure that no fire hazard exists before starting engine".

(d) The fabrication and installation of the placards required by paragraph (c) of this AD may be accomplished by the owner/operator of the airplane who must make an entry in the Airplane Maintenance Record indicating compliance with paragraph (c) of the AD.

(e) The intervals between repetitive inspections required by this AD may be adjusted up to 10 hours time-in-service to allow them to be accomplished concurrent with other scheduled maintenance on the airplane.

(f) Airplanes may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished.

(g) An equivalent method of compliance with this AD may be used when approved by the Manager, New York Aircraft Certification Office, Federal Aviation Administration, ANE–170, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a) 1421 and 1423); Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and § 11.85 of the Federal Aviation Regulations (14 CFR 11.85))

Note.—For reasons discussed earlier in the preamble, the FAA has determined that this document: (1) Involves a proposed regulation that is not major under the provisions of Executive Order 12291; (2) is not significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) in addition, I certify under the criteria of the regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. A draft regulatory evaluation has been prepared and has been placed in the Public Docket.

Issued in Kansas City, Missouri, on December 10, 1982.

Murray E. Smith,

Director, Central Region.

[FR Doc. 82–34521 Filed 12–22–82; 8:45 am]

BILLING CODE 4910–13–M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1101

Information Disclosure Under Section 6(b) of the Consumer Product Safety Act

AGENCY: Consumer Product Safety Commission.

ACTION: Extension of comment period.

SUMMARY: The Consumer Product Safety Commission extends to February 4, 1983, the time for submitting comments on the proposed policy and procedure for the public disclosure of information under section 6(b) of the Consumer Product Safety Act.

DATES: Comments on the Commission's proposed policy and procedure should be submitted by February 4, 1983.

ADDRESS: Written comments should be submitted to the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207.

FOR FURTHER INFORMATION CONTACT: Alan H. Schoem or Mana L. Jennings, Office of the General Counsel, Consumer Product Safety Commission, Washington, D.C. 20207, telephone: (301) 492–6980.

SUPPLEMENTARY INFORMATION: On November 5, 1982, the Commission proposed for comment interpretive regulations setting forth its policy and procedure for the public disclosure of information under section 6(b) of the Consumer Product Safety Act, 15 U.S.C. 2055(b) (*see* 47 FR 50283). At that time the Commission established a 60 day comment period and requested that comments be received in the Office of the Secretary of the Commission by January 4, 1983.

The Commission received three (3) requests for an extension of the comment period for one month (*i.e.*, until February 4, 1983). These requests came from the National Association of Manufacturers, the National Electrical Manufacturers Association, and the

Association of Home Appliance Manufacturers.

The Commission has considered and granted these requests, providing until February 4, 1983, to comment on the proposed policy and procedure under section 6(b) of the Consumer Product Safety Act. The Commission granted the requests due to the importance of section 6(b) and the proposal, the complexity of the issues, and the fact that the holiday season (Thanksgiving, Christmas, and New Year's) occurred during the comment period. Accordingly, the comment period is extended from January 4, 1983, to February 4, 1983.

Dated: December 20, 1982.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 82-34905 Filed 12-22-82; 8:45 am]

BILLING CODE 6355-01-M

TENNESSEE VALLEY AUTHORITY

18 CFR Part 1300

Administrative Cost Recovery

AGENCY: Tennessee Valley Authority.

ACTION: Proposed rulemaking.

SUMMARY: This proposed rulemaking establishes a schedule of fees to be charged in connection with the disposition and uses of, and activities affecting, real property in TVA custody and control, and certain other activities in order to help ensure that such activities are self-sustaining to the full extent possible. The regulations are proposed under authority of the Tennessee Valley Authority Act of 1933, as amended, and Title V of the Independent Offices Appropriations Act of 1952 which authorize TVA to prescribe for certain work or service performed by TVA such fee, charge, or price as it determines to be fair and equitable. The proposed rulemaking will require payment to TVA of certain fees associated with the disposition and use of real property in TVA custody and control and the resolution of violations of Section 26a of the TVA Act which requires that TVA approve plans for the construction, operation, or maintenance of dams, appurtenant works, or other obstructions affecting navigation, flood control, or public lands or reservations in the Tennessee River system, prior to the construction, commencement of construction, operation, or maintenance of such structures. The proposed rulemaking does not apply to charges for the cost of environmental investigations which may be assessed as provided in section 5.7.2 of TVA's procedures implementing the National Environmental Policy Act (45 FR 54,511-15).

DATES: Comments must be submitted on or before January 24, 1983.

ADDRESS: Send comments to: Tennessee Valley Authority, Office of the General Counsel, 400 West Summit Hill Drive, Knoxville, Tennessee 37902. See Supplementary Information for locations where comments may be examined.

FOR FURTHER INFORMATION CONTACT: John R. Paulk, Director of Land and Forest Resources, Tennessee Valley Authority, 101 Natural Resources Building, Norris, Tennessee 37828, (615) 632-6450.

SUPPLEMENTARY INFORMATION: TVA has determined that this rule will not be a "major" rule under Executive Order No. 12291 and will not have a significant economic impact on a substantial number of "small entities" as defined by the Regulatory Flexibility Act (5 U.S.C. 601(6)).

TVA has determined in accordance with section 5.2.24 of TVA's procedures implementing the National Environmental Policy Act (45 FR 54,511-15) that the proposed rulemaking is of a type that does not have a significant impact on the human environment. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

All comments will be available for public examination during regular business hours at the following locations:

TVA Technical Library, Room E2A1, 400 West Summit Hill Drive, Knoxville, Tennessee 37902.

TVA Technical Library, Room 100, 401 Building, 401 Chestnut Street, Chattanooga, Tennessee 37401.

TVA Technical Library, A100 NFDC Building, Muscle Shoals, Alabama 35660.

Natural Resources Library, Tennessee Valley Authority, Norris Tennessee 37828

List of Subjects in 18 CFR Part 1310

Government property.

For the reasons set out in the preamble, Part 1300 of Chapter XIII of Title 18 of the Code of Federal Regulations is proposed to be amended by adding a new Subpart 1310 reading as follows:

PART 1300—[AMENDED]

Subpart 1310—Administrative Cost Recovery

Sec.

1310.1 Purpose.
1310.2 Application.
1310.3 Assessment of administrative charge.

Authority. Tennessee Valley Authority Act of 1933, as amended (16 U.S.C. 831-831dd); Title V of the Independent Offices Appropriations Act of 1952 (31 U.S.C. 483a).

§ 1310.1 Purpose.

The purpose of the regulations in this part is to establish a schedule of fees to be charged in connection with the disposition and uses of, and activities affecting, real property in TVA's custody or control, and certain other activities in order to help ensure that such activities are self-sustaining to the full extent possible.

§ 1310.2 Application.

(a) TVA will undertake the following actions only upon the condition that the applicant pay to TVA such administrative charge as the Director of Land and Forest Resources or Chief of the Power Management Services Staff (hereinafter "responsible land manager"), as appropriate, shall assess in accordance with § 1310.3 herein; provided, however, that no payment shall be required where the responsible land manager determines that there is a corresponding benefit to TVA:

(1) Conveyance and abandonment of TVA land or landrights, except as provided in paragraph (b)(5) of this section.

(2) Other private uses of TVA land not involving the disposition of TVA real property or interests in real property.

(3) Actions taken to suffer the presence of unauthorized fills and structures over, on, or across TVA land or landrights, and including actions not involving the abandonment or disposal of TVA land or landrights.

(4) Actions taken to approve fills or structures constructed either without prior approval of plans under Section 26a of the Tennessee Valley Authority Act of 1933, as amended (16 U.S.C. 831y-*l*), and TVA's regulations issued thereunder at 18 CFR Part 1304, or not in accordance with such plans previously approved by TVA.

(b) *Exemption.* An administrative charge shall not be made for the following actions:

(1) Agricultural licenses.

(2) Firewood cutting permits and timber sale contracts.

(3) Permits for the nonexclusive short-term use of TVA land.

(4) Uses of TVA land, at no charge, for utility line crossings, not involving the disposition of TVA real property or interests in real property.

(5) Conveyance of TVA land or landrights at no charge to States and

municipalities, and political subdivisions and agencies thereof.

(6) Conveyances pursuant to section 4(k)(d) of the Tennessee Valley Authority Act of 1933, as amended (16 U.S.C. 831c(k)(d)).

(7) Releases of unneeded mineral right options.

(8) TVA phosphate land and mineral transactions.

(9) Permits and licenses for use of TVA land by distributors of TVA power.

§ 1310.3 Assessment of administrative charge.

(a) *Range of charges.* Except as otherwise provided herein, the responsible land manager shall assess a charge which he determines in his sole judgment to be approximately equal to the administrative costs incurred by TVA for each action including both the direct cost to TVA and applicable overheads. With respect to the following categories of actions, a charge of not less than the minimum or greater than the maximum amount specified herein shall be assessed except as otherwise provided in paragraph (c) of this section.

(1) Land transfers—$100–$4,400.

(2) Use permits or licenses—$50–$625.

(3) Actions taken to approve plans for fills or structures constructed either without prior approval by TVA under Section 26a of the TVA Act or not in accordance with such plans previously approved by TVA, and other actions, where appropriate, to suffer the presence of such fills or structures or to reach other agreements with respect to such fills or structures—$100–$2,500.

(4) Abandonment of transmission line easements and rights of way—$100–$1,500.

(b) *Basis of charge.* The administrative charge assessed by the responsible land manager shall, to the extent applicable, include the following costs:

(1) Appraisal of the land or landrights affected;

(2) Assessing applicable rental fees;

(3) Field inspections and investigations;

(4) Title and record searches;

(5) Preparation for conducting public auction and negotiated sales;

(6) Mapping and surveying;

(7) Preparation of conveyance instrument, permit, or other authorization or approval instrument;

(8) Coordination of the proposed action within TVA and with other Federal, State, and local agencies;

(9) Legal review; and

(10) Administrative overheads associated with the transaction.

(c) *Assessment of charge when actual administrative costs significantly exceed established range.* When the responsible land manager determines that the actual administrative costs are expected to significantly exceed the range of costs established in paragraph (a) of this section, such manager shall not proceed with the TVA action until agreement is reached on payment of a charge calculated to cover TVA's actual administrative costs.

(d) *Additional charges.* In addition to the charges assessed under these regulations, TVA may charge for its services if TVA is required to make environmental investigations or otherwise incur additional expenses as provided in section 5.7.2 of TVA's procedures implementing the National Environmental Policy Act (45 FR 54511–15).

W. F. Willis,

General Manager.

December 3, 1982.

[FR Doc. 82-34860 Filed 12-22-82; 8:45 am]

BILLING CODE 8120-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

23 CFR Part 1209

[Docket No. 82-18; Notice 3]

Incentive Grant Criteria for Alcohol Traffic Safety Programs

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Notice of public hearing.

SUMMARY: The purpose of this notice is to announce that the National Highway Traffic Safety Administration will hold a public hearing on January 11, 1983, concerning the incentive grant criteria for alcohol traffic safety programs. During the week of December 27, 1982, the agency expects to publish a notice of proposed rulemaking, seeking comment on the criteria which a State must implement in order to be eligible to receive a grant to conduct effective programs to reduce the drunk driving problem. The purpose of the January hearing is to receive public comment on that proposal. Participants at the public hearing will be permitted to make written and/or oral statements or supplement previous comments.

DATE: The public hearing will be held January 11, 1983.

ADDRESS: The public hearing will be held in the Elizafield Room (French Restaurant Level), Omni International Hotel, 1 Omni International, Atlanta, Georgia. The hearing schedule will be from 9 a.m. to 12 p.m. and from 1:30 p.m. to 5 p.m.

FOR FURTHER INFORMATION CONTACT: Joe Jeffrey or Marian Tomassoni, Office of the Associate Administrator, Traffic Safety Programs, Room 5125, NHTSA, 400 Seventh Street, SW., Washington, D.C. 20590 (202–426–1634).

SUPPLEMENTARY INFORMATION: In October 1982, the Congress completed an examination of the drunk driving problem and enacted legislation to provide $125 million in new highway safety funds over the next three years to those States that adopt and implement stricter laws and more comprehensive programs against drunk driving. The legislation (Pub. L. 97–364, 23 U.S.C. 408) establishes a two tier grant system as an incentive for States to implement effective alcohol traffic safety programs. The first tier is a basic grant, which is to be awarded to States that have met Congressionally required criteria. The second tier is a supplement grant which is to be awarded to States that have met additional criteria as required by the agency.

On November 12, 1982, the agency published an advanced notice of proposed rulemaking which proposed criteria for the second tier of the grant, the procedure by which grants would be awarded, and definitions for the basic grant criteria. A public hearing was held on December 13, 1982, at which interested parties testified concerning the proposal set forth in the advance notice. The agency is now analyzing all of the testimony and comments received in the docket and will publish a notice of proposed rulemaking during the week of December 27, 1982. The purpose of this notice is to announce a public hearing concerning the criteria which will be advanced in that notice of proposed rulemaking.

Interested persons are invited to attend the public hearings and make oral statements. Anyone who wishes to make an oral statement at one of the public hearings should notify Marian Tomassoni or Joe Jeffrey at the address or telephone number listed at the beginning of this notice no later than seven days before each hearing. Oral statements should be limited to 10 minutes or less. Oral or written clarification on issues raised in the oral statements or the docket submissions may also be requested by agency representatives conducting these hearings. As time permits, the formal statements may be followed by an open discussion. Written comments to the

public docket must be received by January 14, 1983, and a final rule will be issued by February 1, 1983. Copies of all written statements and a verbatim transcript of the public hearing will be prepared and placed in NHTSA Docket 82-18 as soon as possible after the hearing. A schedule of the persons making oral presentations will be available at the Elizafield Room on the morning of January 11, 1983.

Issued on December 17, 1982.

George Reagle,

Associate Administrator for Traffic Safety Programs.

[FR Doc. 82-34734 Filed 12-20-82; 11:37 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 916

Surface Coal Mining Reclamation and Enforcement in Kansas: Review of State Program Amendments; Reopening of Public Comment Period

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule; reopening of public comment period.

SUMMARY: The Office of Surface Mining (OSM) is reopening the period for review and comment on certain modifications by Kansas to its permanent program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Specifically, OSM is announcing receipt of regulatory revisions submitted by Kansas and is reopening the comment period to allow the public sufficient time to consider and comment on statutory and regulatory revisions submitted by Kansas.

DATES: Written comments relating to Kansas' modifications to its program must be received on or before 4:00 p.m., January 24, 1983, to be considered in the Director's decision on whether to approve or disapprove the proposed amendments.

ADDRESSES: Written comments should be mailed or hand-delivered to: Richard Rieke, Field Office Director, Missouri Field Office, Office of Surface Mining, Scarritt Building, 818 Grand Avenue, Kansas City, Missouri 64106.

Copies of the Kansas program, the proposed modifications to the program, a listing of any scheduled public meetings, and all written comments are available for review at the OSM office and the offices of the State regulatory authority listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays: Office of Surface Mining, Missouri Field Office, 5th Floor, Scarritt Building, 818 Grand Avenue, Kansas City, Missouri 64106; Mined Land Office, 107 West 11th Street, Pittsburg, Kansas 66726; Kansas Corporation Commission, Legal Office, State Office Building, 4th Floor, 915 Harrison, Topeka, Kansas 66617.

FOR FURTHER INFORMATION CONTACT: Richard Rieke, Field Office Director, Missouri Field Office, Office of Surface Mining, Scarritt Building, 818 Grand Avenue, Kansas City, Missouri 64106; Telephone: (816) 374-5527.

SUPPLEMENTARY INFORMATION: The Kansas permanent regulatory program under SMCRA was approved on January 21, 1981, conditioned upon the correction of six minor deficiencies. To correct these minor deficiencies, Kansas submitted amended statutory provisions which were approved on April 14, 1982 (47 FR 16012-16014). At the same time that Kansas submitted provisions to satisfy the conditions of approval, the State also submitted other proposed statutory amendments. Notice of receipt and request for public comment on these additional amendments were published on June 1, 1982 (47 FR 23766). The comment period closed on July 1, 1982.

A public hearing scheduled for June 23, 1982, was not held because no one expressed a desire to present testimony. On June 17, 1982, OSM published a notice in the **Federal Register** cancelling the public hearing (47 FR 26165).

The June 1, 1982 **Federal Register** notice announced receipt of Kansas House Bill 2182, enacted May 14, 1981, which amended the Kansas Mined Land Conservation and Reclamation Act (MLCRA) as follows:

(1) Section 49-403 of the MLCRA was amended to include definitions of geologist and geology;

(2) Section 49-405c of the MLCRA was amended to include a provision that a penalty be placed in an interest-bearing escrow account in the event the person contests the amount of the penalty or the fact of the violation;

(3) Section 49-406 was amended to provide:

(a) For geologists to certify maps that accompany permit applications;

(b) That bonding requirements may be satisfied by depositing cash, negotiable bonds, negotiable certificates of deposit, or irrevocable letters of credit with the State treasurer;

(4) Added a provision excluding the extraction of coal incidental to highway construction from the provisions of the MLCRA;

(5) Amended Section 49-420(b) of the MLCRA to create the mined-land reclamation fund in the State treasury.

The full text of these statutory amendments is in the Administrative Record under No. KS-234.

After reviewing the statutory amendments, OSM determined that amended Section 49-420(b) of the MLCRA, because it lacked interpretive regulations, was inconsistent with Section 509 of SMCRA and 30 CFR 806.12. In a letter to Kansas dated August 16, 1982 (Administrative Record No. KS-241), OSM provided comments on the provision and suggested that Kansas promulgate interpretive regulations.

On September 10, 1982, Kansas replied to OSM's August 16, 1982 letter agreeing that interpretive regulations were necessary to implement House Bill 2182 and stated that such regulations were in the process of being developed. The letter also contained the opinion of the Assistant General Counsel on several other points raised in OSM's letter.

On November 16, 1982 (Administrative Record No. KS-243), Kansas submitted the following enacted regulations:

(1) K.A.R. 47-2-21 which eliminates members of the mined-land conservation and reclamation board from the definition of "employee", in accordance with K.S.A. 1981 Supp. 49-404;

(2) K.A.R. 47-8-10 which implements K.S.A. 1981 Supp. 49-406 to allow mine operators to bond their permits with cash, negotiable bonds, negotiable cetificates of deposit, and irrevocable letters of credit, as well as surety bonds; and

(3) K.A.R. 47-8-11 which implements K.S.A. 1981 Supp. 49-420 concerning use of forfeited bond money in the mined-land reclamation fund.

Thus, OSM is reopening the public comment period until 4:00 p.m. January 24, 1983, to allow the public time to review and comment on the above cited Administrative Record material.

This announcement is made in keeping with OSM's commitment to public participation as a vital component in fulfilling the purposes of SMCRA.

Dated: December 10, 1982.

William B. Schmidt,

Assistant Director, Program Operations and Inspection, Office of Surface Mining.

[FR Doc. 82-34806 Filed 12-3-82; 8:45 am]

BILLING CODE 4310-05-M

National Park Service

36 CFR Part 7

North Cascades National Park, Washington; Lake Chelan National Recreation Area, Washington; Ross Lake National Recreation Area, Washington; Snowmobile Regulations

AGENCY: National Park Service, Interior.

ACTION: Proposed rule.

SUMMARY: The proposed regulations set forth below are necessary to designate locations within North Cascades National Park, Lake Chelan National Recreation Area, and Ross Lake National Recreation Area where snowmobiles may be used for recreational and personal purposes during the winter season. It is the objective of this proposed regulation to provide for the preservation and enjoyment of North Cascades National Park, Lake Chelan National Recreation Area and Ross Lake National Recreation Area in a way that is consistent with both the snowmobile policy of the National Park Service and the off-road vehicle policy of the Department of the Interior.

EFFECTIVE DATE: Written comments, suggestions or objections will be accepted until January 24, 1983.

ADDRESS: Comments should be directed to: Superintendent, North Cascades National Park, 800 State Street, Sedro Woolley, Washington 98284.

FOR FURTHER INFORMATION CONTACT: Keith E. Miller, Superintendent, North Cascades National Park, Telephone: 206/855–1331.

SUPPLEMENTARY INFORMATION:

Background

Executive Order 11644 (Use of Off-Road Vehicles on the Public Lands) issued in 1972, directed Federal land managing agencies to develop unified regulations and to designate areas of use for off-road vehicles. Such areas must meet criteria which minimize resource damage, harrassment of wildlife, disruption of wildlife habitat, and, in the case of national parks, not adversely affect scenic, natural and aesthetic values.

In response to Executive Order 11644, the Secretary of the Interior issued a Departmental memorandum on May 5, 1972, to assure full compliance with the Order and to provide policies and procedures for its implementation. The National Park Service, as required by the above directive, promulgated 36 CFR 2.34 on April 1, 1974, which closed all National Park System areas to snowmobile use except those specifically designated as open by **Federal Register** notice or special regulation.

Routes open to snowmobiling within the national park and recreation areas were discussed in an Environmental Assessment approved July 27, 1982. It was determined at the time that snowmobile use in the park and recreation areas did not constitute a major Federal action and no environmental impact statement would be necessary. This proposal designates the same routes that were discussed in the Environmental Assessment. These routes have been used by snowmobiles before the creation of the park and both recreation areas in October 1968.

In order to comply with the requirements of Executive Order 11644 and 36 CFR 2.34, the National Park Service developed a Servicewide policy revision which was published in the **Federal Register** on August 13, 1979 (44 FR 47412). This policy provides for the use of snowmobiles in units of the National Park System as a mode of transportation to provide the opportunities for visitors to see, sense, and enjoy the special qualities of a park in the winter. Snowmobiling must be consistent with a park's natural, cultural, scenic and aesthetic values; safety considerations; park management objectives; and not disturb the wildlife or damage other park resources.

The policy further provides that, where permitted, snowmobiles shall be confined to properly designated routes and water surfaces which are used by motorized vehicles or motorboats during other seasons. Routes and water surfaces to be designated for snowmobile use shall be promulgated as special regulations in the Code of Federal Regulations. This proposed regulation is necessary to comply with Servicewide policy.

Designated routes for snowmobiles within the North Cascades National Park will be the Cascade River Road between the park boundary and the Cascade Pass Trailhead parking area and the Stehekin Valley Road between the park boundary and Cottonwood Camp.

Routes within Ross Lake National Recreation Area include State Highway 20, the Hozomeen Road, including access and circulatory roads, from the international boundary to the East Landing, Thornton Lake Road from Highway 20 to Thornton Lake Trailhead parking area, Damnation Creek Road from its junction with the Thornton Lake Road to the North Cascades National Park Boundary, Newhalem Creek Road from State Highway 20 to its junction with the down-river road on the south side of the Skagit River, and the down-river road on the south side of the Skagit River from its junction with the Newhalem Creek Road to the end of the road across the Skagit River from the mouth of Sky Creek.

Routes within Lake Chelan National Recreation Area include all open areas, designated trails and roadways on public land below the 1320-foot contour line within the Stehekin Valley, except cross-country ski trails and within the perimeter of the Buckner Orchard, and that portion of the Stehekin Valley Road normally open to use by motor vehicles from the 1320-foot contour line to the park boundary.

Public Participation

It is the policy of the Department of the Interior that whenever practicable, the public will be afforded an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions or objections regarding this proposed regulation to the address noted at the beginning of this rulemaking.

Drafting Information

The following persons participated in the writing of this regulation: John Jensen, District Manager; Noel Poe, District Ranger; Daniel L. Allen, Resource Management Specialist; Alan D. Eliason, Management Assistant.

Paperwork Reduction Act

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

Compliance With Other Laws

The Department of the Interior has determined that this document is not a "major rule" within the meaning of Executive Order 12291 (February 19, 1981), 46 FR 13193, and does not require a regulatory analysis under the requirements of the Regulatory Flexibility Act (94 Stat. 1164, 5 U.S.C. 601 *et seq.*). Snowmobiling is not an extensive activity in this area; the majority of use is expected from a resident winter population of about 70 people within the Stehekin Valley and up to 200 individual trips by snowmobile users from within a 100 mile radius. These rules impose no substantial costs on small entities. There may be a limited positive effect on local repair shops, filling stations, parts stores, and retail outlets for snowmobiles.

Pursuant to the National Environmental Policy Act (42 U.S.C. 4332), the Service has prepared an

Environmental Assessment on this proposed regulation which is available at the address noted above.

List of Subjects in 36 CFR Part 7

National parks.

PART 7—[AMENDED]

In consideration of the foregoing, it is proposed to amend Title 36, Code of Federal Regulations, Part 7 as shown.

1. By adding a new § 7.62 to read as follows:

§ 7.62 Lake Chelan National Recreation Area.

(a) *Snowmobiles.* After consideration of existing special situations, i.e. depth of snow, and depending on local weather conditions, the superintendent may permit the use of snowmobiles in the following designated areas within the Lake Chelan National Recreation Area:

(1) All open areas, designated trails and roadways on public land below 1320-foot contour line within the Stehekin Valley, except cross-country ski trails and within the perimeter of the Buckner Orchard.

(2) That portion of the Stehekin Valley Road normally open to use by motor vehicles from the 1320-foot contour line to the park boundary.

2. By adding a new paragraph (b) to § 7.66 to read as follows:

§ 7.66 North Cascades National Park.

* * * * *

(b) *Snowmobiles.* After consideration of existing special situations, i.e. depth of snow, and depending on local weather conditions, the superintendent may permit the use of snowmobiles on the following designated routes within the National Park:

(1) The Cascade River Road between the park boundary and the Cascade Pass Trailhead parking area.

(2) The Stehekin Valley Road between the park boundary and Cottonwood Camp.

3. By adding a new § 7.69 to read as follows:

§ 7.69 Ross Lake National Recreation Area.

(a) *Snowmobiles.* After consideration of existing special situations, i.e. depth of snow, and depending on local weather conditions, and subject to any and all restrictions or prohibitions further imposed by the State of Washington on Highway 20, the superintendent may permit the use of snowmobiles on the following designated routes within the Ross Lake National Recreation Area:

(1) State Highway 20, that portion normally closed to motor vehicles during the winter season.

(2) The Hozomeen entrance road from the U.S./Canadian border to the end of the road at East Landing.

(3) Access and circulatory roads in the Hozomeen developed area normally open to public motor vehicle use.

(4) The Thornton Lake Road from State Highway 20 to Thornton Lake Trailhead parking area.

(5) The Damnation Creek Road from its junction with the Thornton Lake Road on the North Cascades National Park boundary.

(6) The newhalem Creek Road from State Highway 20 to its junction with the down-river road on the south side of the Skagit River.

(7) The down-river road on the south side of the Skagit River from its junction with the Newhalem Creek Road to the end of the road across the Skagit river from the mouth of Sky Creek.

(Sec. 3 of the Act of August 26, 1916 (39 Stat. 535, as amended; 16 U.S.C. 3)

Dated: November 23, 1982.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 82-34813 Filed 12-22-82; 8:45 am]

BILLING CODE 4310-70-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 123

[SW-1-FRL 2272-5]

Hazardous Waste Management Program; New Hampshire; Application for Interim Authorization, Phase II, Components A and B

AGENCY: Environmental Protection Agency.

ACTION: Notice of public hearing and public comment period.

SUMMARY: EPA is today announcing the availability for public review of the New Hampshire application for Phase II, Components A & B, Interim Authorization, Hazardous Waste Management Program, inviting public comment, and giving notice that EPA will hold a public hearing on the application.

DATES: A public hearing is scheduled for January 28, 1983 at 10:00 a.m. All written comments on the New Hampshire Interim Authorization Application must be received by the close of business on February 2, 1983.

ADDRESSES: EPA will hold a public hearing on New Hampshire's Application for Interim Authorization on January 28, 1983, at 10:00 a.m. in the Health and Welfare Auditorium, Hazen Drive, Concord, New Hampshire 03301.

Written comments on the application and requests to speak at the hearing should be sent to: Susan L. Hanamoto, New Hampshire State Coordinator, State Waste Programs Branch, U.S. EPA, Region I, John F. Kennedy Federal Building, Boston, Massachusetts 02203, Telephone (617) 223-3468.

Copies of the New Hampshire Phase II Interim Authorization application are available during normal business hours at the following addresses for inspection and copying by the public:

Office of Waste Management, Bureau of Hazardous Waste Management, Hazen Drive, Concord, New Hampshire, 03301, Telephone (603) 271-4623.

Environmental Protection Agency, Region I Office Library, Room 2100 B, John F. Kennedy Federal Building, Boston, Massachusetts 02203, Telephone (617) 223-5791.

EPA Headquarters Library, Room 2404, 401 M Street, SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Susan L. Hanamoto, New Hampshire State Coordinator, State Waste Programs Branch, U.S. EPA, Region I, John F. Kennedy Federal Building, Boston, Massachusetts 02203, Telephone (617) 223-3468.

SUPPLEMENTARY INFORMATION: In the May 19, 1980 **Federal Register** (45 FR 33063) the Environmental Protection Agency promulgated regulations, pursuant to Subtitle C of the Resource Conservation and Recovery Act of 1976, as amended, to protect human health and the environment from the improper management of hazardous waste. These regulations included provisions under which EPA can authorize qualified State hazardous waste management programs to operate in lieu of the Federal program. The regulations provide for a transitional stage in which qualified state programs can be granted interim authorization. The interim authorization program is being implemented in two phases corresponding to the two stages in which the underlying Federal program will take effect.

The State of New Hampshire received interim authorization for Phase I on November 3, 1981.

In the January 26, 1981 **Federal Register** (46 FR 7965), the Environmental Protection Agency announced the availability of portions or components of Phase II of interim authorization. Component A, published in the **Federal**

Register January 12, 1981 (46 FR 2802), contains standards for permitting storage and treatment in containers, tanks, surface impoundments and waste piles. Component B, published in the Federal Register January 23, 1981 (46 FR 7666), contains standards for permitting hazardous waste incinerators.

A full description of the requirements and procedures for State interim authorization is included in 40 CFR Part 123, Subpart F, as amended by 47 FR 32377.

As noted in the May 19, 1980 Federal Register, copies of complete state submittals for Phase II interim authorization are to be made available for public inspection and comment.

Lists of Subjects in 40 CFR Part 123

Hazardous materials, Indian lands, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control, Water supply, Intergovernmental relations, Penalties, Confidential business information.

Dated: December 15, 1982.

Paul G. Keough,

Acting Deputy Regional Administrator, Region I.

[FR Doc. 82-34810 Filed 12-22-82; 8:45 am]

BILLING CODE 6560-50-M

---

40 CFR Part 123

North Dakota State Department of Health; Underground Injection Control; Primary Application

[OW-8-FRL 2273-5]

AGENCY: Environmental Protection Agency.

ACTION: Notice of public comment period and of public hearing.

SUMMARY: The purpose of this notice is to announce that: (1) The Environmental Protection Agency (EPA) has received a complete application from the North Dakota State Department of Health requesting primary enforcement responsibility for the Underground Injection Control (UIC) Program; (2) the application is now available for inspection and copying; (3) public comments are requested; and (4) a public hearing will be held.

The proposed comment period will provide EPA the breadth of information and public opinion necessary to approve, disapprove, or approve in part the application of the North Dakota State department of Health, Division of Water Supply and Pollution Control, to regulate Classes I, III, IV, and V injection wells.

DATES: Requests to represent oral testimony should be filed by January 18, 1983; the public hearing will be held on Tuesday January 25, 1983, in two sessions: 10:00 a.m. and 7:00 p.m. Written comments must be received by Monday, January 31, 1983.

ADDRESSES: Comments and/or requests to testify should be mailed to Laura Clemmens, Drinking Water Branch (8WM-DW), Environmental Protection Agency, Region VIII, 1860 Lincoln Street, Denver, Colorado 80295. Copies of the application and pertinent materials are available for copying between 8:30 a.m. and 4:00 p.m., Monday through Friday, at the following locations:

Environmental Protection Agency, Region VIII, Drinking Water Branch, 1860 Lincoln Street, 6th Floor, Denver, Colorado 80295, PH: (303) 837-2731

North Dakota State Department of Health, Division of Water Supply and Pollution Control, Missouri Office Building, 1200 Missouri Avenue, Bismark, North Dakota 58501.

The hearing will be held in the meeting room complex at the North Dakota Heritage Center, State Capitol Complex, Bismark, North Dakota.

FOR FURTHER INFORMATION CONTACT: Patrick A. Crotty, Chief, Colorado/North Dakota-Wyoming Section, Drinking Water Branch, Environmental Protection Agency, Region VIII, 1860 Lincoln Street, Denver, CO 80295, (303) 837-2731.

SUPPLEMENTARY INFORMATION: This application from the North Dakota State Department of Health is for the regulation of Class I, III, IV, and V injection wells. The program will be implemented by two agencies; the State Department of Health, Division of Water Supply and Pollution Control, and the State Industrial Commission, Office of the State Geologist.

The Underground Injection Control (UIC) program seeks to protect as "underground sources of drinking water" (USDWs) all aquifers capable of yielding a significant amount of water containing less than 10,000 mg/l of total dissolved solids. If this application from North Dakota is approved, the State would protect underground sources of drinking water from endangerment by the following kinds of injection practices:

Class I—wells which are used to inject municipal and industrial wastes (including hazardous wastes) below the deepest USDW in the area.

Class III—wells which are used to inject for the extraction of minerals.

Class IV—wells which are used to inject hazardous wastes into or above USDWs.

Class V—all other wells.

At present, North Dakota has one known Class I well, 4 Class III wells, no identified Class IV wells, and approximately 80 Class V wells.

Class I and III wells would require a permit to operate. The permit would apply a number of technical requirements designed to assure that the injection did not result in native or injected fluids reaching USDWs. Such requirements include criteria for siting, construction, testing, operation, minotoring and abandonment.

Class IV wells would be prohibited. Class V wells will be studied to assess what further regulatory measures are required. A full control program for Class V wells will be developed approximately three years from the date of approval of the State application for primacy. In the meanwhile, existing State requirements will continue to be applied.

The Safe Drinking Water Act requires EPA to determine whether the proposed State program meets the requirements of regulations issued at 40 CFR Parts 122, 123, 124, and 146. Should this application be disapproved, the Act requires EPA to prescribe the UIC program for the State.

This application includes a description of the State Underground Injection Control program, copies of all applicable regulations and forms, a statement of legal authority, and the memorandum of agreement between the North Dakota State Department of Health and the Region VIII office of the Environmental Protection Agency.

List of Subjects in 40 CFR Part 123

Hazardous materials, Indians—lands, Reporting and recordkeeping, Waste treatment and disposal, Water pollution control, Water supply, Intergovernmental relations, Penalties, Confidential business information.

Dated: December 17, 1982.

Frederic A. Eidsness, Jr.,

Assistant Administrator for Water.

[FR Doc. 82-34811 Filed 12-23-82; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Dockets No. 1-18, Notice 24; No. 70-27, Notice 25]

Controls and Displays

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Proposed rule: extension of period for public comment.

SUMMARY: This notice responds to a petition for extension of the comment period for written comments on a notice of proposed rulemaking concerning controls and displays. The notice proposed to update Standard No. 101, *Controls and Displays*, by adding or modifying several symbols to bring the standard into harmony with latest documents prumulgated by the International Standards Organization. Conforming amendments were proposed for Standard No. 105, *Hydraulic Brake Systems*. The comment closing date is changed from January 3, 1983, to February 2, 1983.

DATE: Comments on the notice of proposed rulemaking must be received on or before February 2, 1983.

ADDRESS: Comments should be submitted to Docket Section, Room 5109, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590. Docket hours are 8 a.m. to 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. Nelson Erickson, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590 (202–426–2720).

SUPPLEMENTARY INFORMATION: On November 4, 1982 NHTSA published in the **Federal Register** (47 FR 49993) a notice of proposed rulemaking to amend Standard No. 101, *Controls and Displays*. That standard specifies requirements for the accessibility, identification and illumination of controls and displays in passenger cars, trucks and buses. The notice proposed to update the standard by adding or modifying several symbols to bring the standard into harmony with latest documents promulgated by the International Standards Organization. Conforming amendments were proposed for Standard No. 105, *Hydraulic Brake Systems*. The original comment closing date was January 3, 1983.

On December 13, 1982, the Motor Vehicle Manufacturers Association of the United States, Inc. (MVMA), petitioned for an extension of the comment closing date to February 2, 1983. MVMA indicated that its technical experts have identified several research studies that may be pertinent to the proposed amendments. That organization indicated that the time needed to comprehensively examine each of those studies, including evaluating the interaction of conclusions resulting from the various studies, impeded its ability to prepare a comprehensive response to the notice of proposed rulemaking by January 3, 1983. An added factor noted by MVMA is the motor vehicle industry holiday shutdown (December 24 to January 2). MVMA requested a delay of 30 days to permit that organization and its member auto companies adequate time for a comprehensive review of the proposal. In a telephone conversation to the agency concerning MVMA's petition, a representative of General Motors (GM) stated that company's support for the petition and indicated that the requested extra time would be helpful to GM in preparing its comments.

After evaluating the MVMA petition, the agency has determined that a reasonable extension of the comment period is justified. The more comprehensive analysis that MVMA plans to submit may help the agency in evaluating the proposed amendments. Moreover, the agency notes that the proposed effective date for mandatory use of the new symbols is not until September 1, 1985. Therefore, a 30-day extension of the comment period will not affect that date. Accordingly, MVMA' petition is granted and the comment closing date is extended to February 2, 1983.

All comments received before the close of business on the new comment closing date will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicles safety, Motor vehicles, Rubber and rubber products, Tires.

(Secs. 103, 119, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegations of authority at 49 CFR 1.50 and 501.8)

Issued on December 17, 1982.

Courtney M. Price,

Associate Administrator for Rulemaking.

[FR Doc. 82–34735 Filed 12–20–82; 11:37 am]

BILLING CODE 4910-59-M

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1162, 1306, and 1307

[Ex Parte No. MC–165]

Exemption of Motor Contract Carriers From Tariff Filing Requirements

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Contract Carrier Conference of the American Trucking Associations and the Federal Trade Commission (through certain of its Bureaus) each petitioned the Commission to relieve all motor contract carriers of property from tariff filing requirements. Because the Commission considers the petitioners' questions to be valid the Commission proposes, subject to comments of interested parties, to grant the relief sought. The Commission also proposes to relieve all motor contract carriers of passengers from the tariff filing requirements.

DATES: Comments of interested persons will be due on or before January 24, 1983. Replies will be due February 7, 1983.

ADDRESS: Send an original and, if possible, 15 copies of comments to: Ex Parte No. MC–165, Room 5344, Interstate Commerce Commission, Washington, D.C. 20423. Comments and replies should be served upon the Contract Carrier Conference of the American Trucking Association; the Bureau of Competition, Federal Trade Commission; United Forwarding, Inc.; Carnaco, Inc.; and the lawfirm of Rea, Cross and Auchincloss.

FOR FURTHER INFORMATION CONTACT: Jane Morris, (202) 275–1757, or Wendy Tillis, (202) 275–6445.

SUPPLEMENTARY INFORMATION: The Contract Carrier Conference of the American Trucking Associations (Conference or petitioner) requested that the Commission exempt, under 49 U.S.C. 10702(b), 10761(b) and 10762(f), all motor contract carriers of property from tariff filing requirements. The Conference is a national association representing the interests of motor contract carriers of property. A similar request for exemption has been received from United Forwarding, Inc., a freight forwarder, on behalf of all contract carriers which have been, or will be, granted authority to serve it.

The Federal Trade Commission (FTC), through several of its Bureaus, [1] has also petitioned this Commission to institute a rulemaking to consider eliminating the requirement that motor contract carriers of property file rate schedules. [2] Carnaco Transport, Inc., a motor contract carrier, supports the petition on the tariff filing issue.

A reply to the FTC's petition was filed by several rate bureaus [3] (replicants) arguing that the Commission has no authority to adopt the FTC proposal. They contend that an exemption from the tariff filing requirements may be granted only upon application by a contract carrier, or group of carriers, following a hearing on the application, and not in a general rulemaking instituted by the Commission. Replicants also argue that Congress intended that contract carriers should generally file tariffs and envisioned only occasional and narrow use of exemption power. Essentially, replicants assert that Congress would not have given the Commission authority to regulate contract carrier rates if it had contemplated that the Commission could render that authority useless by exempting all contract carriers from filing tariffs.

The FTC does not qualify as a contract carrier. The three statutory provisions that grant the Commission the power to exempt each state:

> The Commission may begin a proceeding under this subsection on application of a contract carrier or group of contract carriers * * *[4]

Since the FTC is not a contract carrier, it does not have standing to request the proposed exemption; and, as the Commission may not institute such a proceeding on its own initiative, the FTC's petition, insofar as it relates to the tariff filing issue, will be denied.[5]

However, the Contract Carrier Conference also seeks an exemption, and we conclude that the Conference qualifies as a "group of contract carriers." The Commission, therefore, may properly consider this request.

The replicants' argument that Congess did not contemplate an exemption such as the one proposed here is without merit. The existing exemption provisions were derived with no substantive change from former section 218(a) [6] of the Interstate Commerce Act, which stated in relevant part:

> (Any such motor contract carrier or carriers) or any class or group thereof, may apply to the Commission for relief * * * (Parentheses added).

Congress, therefore, apparently did envision that an entire class of carriers could be exempted. The ultimate "class or group" is, of course, all motor contract carriers. We tentatively conclude that the broad language used in the exemption provisions does allow us to consider an application to exempt all motor contract carriers from the requirement of filing tariffs.

Moreover, we reject the argument that a rulemaking format is unlawful for a broad-ranging proposal. There is nothing in the statute to indicate that an adjudicatory proceeding is required. In fact, the three statutory provisions governing exemptions do not on their face require an adjudicatory hearing as contemplated by 5 U.S.C. 554. Rather, we believe that those provisions clearly permit us to adopt a "statement of general * * * applicability and future effect,"5 U.S.C. 551(4), on the basis of circumstances that are applicable to the industry as a whole.

The Regular Common Carrier Conference of the American Trucking Associations, Inc. (RCCC) filed a petition requesting that the Commission either (1) Institute a rulemaking to determine the criteria to be used in granting individual petitions for tariff filing exemption or (2) broaden this proceeding to include such a determination. It asserts that the Commission has no authority to grant a blanket exemption to all contract carriers and that such relief may only be granted on a case-by-case basis. The RCCC presents nine questions which, it states, must be resolved to provide the public with guidelines as to the conditions under which the Commission will grant individual petitions for exemption.

We conclude that any determination of critera for exempting individual contract carriers would be irrelevant should the proposal to exempt all contract carriers ultimately be granted. Therefore, we deny the request for a rulemaking to set such criteria and will not specifically broaden this proceeding to include a discussion of this issue. However, RCCC's petition is essentially a comment opposing the proposals of the FTC and Conference and we shall accept it as such.

The Conference asserts that the Commission must grant its application if the relief sought is in the public interest and consistent with the National Transportation policy (49 U.S.C. 10101). It states that tariff filing requirements impose a real and substantial burden on all contract carriers. The Conference contends that tariff filing can be very expensive because of the extensive time required to keep carriers' tariffs current in a highly competitive, constantly changing marketplace. It also alleges that the requirement that tariffs not become effective for 30 days after filing severely hampers carriers' ability to respond promptly and effectively to competitive rates offered by other carriers, or to the changing needs of their existing contract customers.

Petitioner also argues that the tariff filing requirements no longer serve a valid regulatory purpose, since problems of unreasonable rates, predation, and discrimination do not occur to any significant degree in the contract carrier area; and, therefore, regulatory protections against these ills are not necessary or appropriate. Shippers do not need regulatory protections against unreasonably high or discriminatory rates, since there is competition among contract carriers and between contract and other carriers. A shipper who is dissatisfied with a contract carrier's pricing can simply and quickly change carriers. Finally, the Conference alleges that the concept of discrimination has no application to contract carriers, as the statute's prohibitions against discrimination apply only to common carriers (see 49 U.S.C. 10741 and 10702(b). Different rates for different shippers is the norm in contract carriage, since contract carriers, by definition, render individualized service.

The Conference states that the only issue of rate reasonableness involved in the contract carrier area is whether rates are too low and thus unfair to competitors. However, it notes in this regard that complaints by competing carriers have been rare in recent years and are unlikely to be found valid in today's highly competitive environment.

---

[1] Bureaus of Consumer Protection, Competition, and Economics.

[2] In addition, the FTC requested that the Commission consider allowing contract carriers to obtain operating permits to serve entire industries rather than named shippers. These two issues involve different questions of law and policy, and will be severed. Only the tariff filing issue will be considered here. The issue of operating permits will be separately addressed subsequently in Ex Parte No. MC–165 (Sub-1).

[3] Representing the members of Central & Southern Motor Freight Tariff Association, Inc., Central States Motor Carriers Association, Inc., Middle Atlantic Conference, Middlewest Motor Freight Bureau, National Motor Freight Traffic Association, Inc., New England Motor Rate Bureau, Inc., Niagara Frontier Tariff Bureau, Inc., Pacific Inland Tariff Bureau, Rocky Mountain Motor Tariff Bureau, and Southern Motor Carriers Rate Conference.

[4] 49 U.S.C. 10702(b), 10761(b), and 10762(f).

[5] The petition of United Forwarding, Inc., will also be denied for lack of standing. However, rather than rejecting these pleadings, the petitions of the FTC and United Forwarding, Inc., along with that of Carnaco Transport, will be accepted as comments in this proceeding. These three parties are, of course, free to file additional comments if they so choose.

[6] Former 49 U.S.C. 318(a).

Petitioner contends that fears of predation (the practice of setting rates below cost to drive competitors out of the market) are unfounded, since contract carriers are relatively small, as a rule, and do not have the economic resources to undertake a predatory strategy. Moreover, petitioner asserts that freer entry into the trucking industry makes it impossible for any carrier to drive all its competitors out of a market for even a short period of time. The Conference also argues that since shippers always have alternatives to contract carriage (common carriers, private carriage, et cetera), they are unlikely to find their competitive options severely limited by a predatory pricing scheme.

Petitioner alleges that fears of secret rates and unfair burdens are without merit. Even if competitors of the carrier or the shipper are thought to need full rate information, simple price lists that do not involve the 30-day delay in effectiveness for new or reduced rates would suffice. Moreover, the contract between carrier and shipper is already secret; and without access to the contract the rates filed by a contract carrier do not describe the total picture to would-be competitors. Petitioner urges, therefore, that removing the burdensome requirement of filing tariffs would not place competitors in any worse position. The Conference notes that most businesses in the United States do not file contracts or tariffs with any governmental agency, and yet competition continues unimpaired. Petitioner also argues that it is not unfair to exempt contract carriers from filing tariffs while common carriers would still have to comply with these requirements. Common and contract carriers already operate in fundamentally different regulatory environments. A common carrier who would find tariff rules a burden in competing with a contract carrier is free to apply for contract carrier authority.

Finally, petitioner argues that relief from the tariff filing requirements is consistent with the National Transportation Policy, as revised by the Motor Carrier Act of 1980 (Act). The legislative history of the Act notes with approval the growth and stabiltiy of the contract carrier industry,[7] and the Act made numerous changes in existing law that would further strengthen the industry. For example, contract carriers are no longer limited in the number of contracts they may enter; they may be employed by freight forwarders; the Commission may not require then to limit their operations to carriage for a particular industry or within a particular geographic area; and the prohibition on dual operations has been removed.[8]

Petitioner contends that the Act clearly required the Commission to promote competition and efficiency in motor carrier operations as the most desirable means of achieving national transportation goals and objectives. These goals include: meeting the needs of shippers; allowing a variety of quality and price options to meet changing market demands; allowing the most productive use of equipment; and maintaining a sound, safe, and competitive privately-owned motor carrier system (49 U.S.C. 10101(a)(7)).

The Conference argues that an exemption from the tariff filing requirements for contract carriers will meet many of these goals by allowing contract carriers to respond more rapidly to shipper needs for new service by eliminating the 30-day waiting period: allowing a variety of price options to meet market demands; and by facilitating carriage of shipments on otherwise empty return trips to promote more efficient use of equipment.

Petitioner has raised valid questions about whether the requirement that contract carriers continue to file rate tariffs is consistent with the public interest and the transportation policy of Section 10101. While the Conference's request for relief focused primarily on contract carriers of property, it is only logical that this proceeding should include consideration of like relief for contract carriers of passengers. Many of the arguments put forward in support of exempting property carriers apply equally to contract passenger operations. Therefore, we request comments on the proposed exemption of contract carriers of property and passengers from traffic filing requirements. The exemption would appyly to all contract carriers (present and future) as a class, and would be accomplished generally by repeal of 49 CFR 1307, Subpart A—*Schedules of Motor Contract Carriers of Property* and Subpart B—*Common Carrier Freight Tariffs and Classifications*, which deal with contract carrier schedules and loose-leaf tariffs. Changes in 49 CFR 1131.3, 1131.5, 1308.7 to 1308.9, 1308.101 and 1307.101 would also be necessary to relieve contract carriers of passengers and those operating under emergency temporary authority and temporary authority from the requirement of filing tariffs (See the appendix for the text of proposed amended subsections). We request comments on the proposed changes in the regulations, and on the likely effects of an exemption on the shipping public. A final decision in this proceeding will be issued within 60 days of the last date for receipt of reply comments.

Environmental and Energy Considerations

The proposed exemption should not have any significant impact upon the quality of the human environment or conservation of energy resources. However, comments on these issues are welcome.

Initial Regulatory Flexibility Analysis

Under 5 U.S.C. 601, *et seq.*, we are required to analyze the potential impact of the proposed rule on small entities. The rule, as explained above, would exempt all motor contract carriers from the requirement of filing tariffs, pursuant to the exemption provisions of 49 U.S.C. 10702(b), 10761(b) and 10762(f). We conclude that the proposed rule will have a significant economic impact on a substantial number of small entities. The impacts will be beneficial.

The exemption will reduce the amount of reporting and recordkeeping, in the form of tariff filings, required of contract carriers, many of which are small entities. In addition, the exemption will increase the ability of small contract carriers to compete effectively by reducing the administrative costs and time delays caused by the current regulations. Small shippers and communities will also benefit from the proposed exemption, as contract carriers will be able to supply service on short notice without the delay of filing a tariff to cover the movement and waiting 30 days for it to become effective.

We invite comment on the foregoing analysis. A copy of this notice will be forwarded to the Chief Counsel for Advocacy, Small Business Administration.

List of Subjects

49 CFR Parts 1162 and 1306

Buses, Freight, Motor carriers.

[7] See *e.g.*, H.R. Re. No. 1069, 96th Cong., 2d Sess. 22 (1980) (one of Congress aims in the new law is to remove many of the obstacles that have kept motor contract carriers from realizing their full potential).

[8] Congress could also have exempted all contract carriers from the existing tariff filing requirements. But it appears to us that Congress believed such action unnecessary, in view of the statutory exemption mechanism already available. Further, the Congressional action (in Section 5, the entry Section, of the Act) awarding limited tariff relief to certain contract and common carriers does not indicate that we are precluded from awarding a broad exemption. It simply requires certain relief even if we choose not to grant the broad exemption.

49 CFR Part 1307

Freight, Motor carriers, Moving of household goods.

Summary

We propose to adopt the rules in Appendix A to amend Title 49 CFR Parts 1162, 1306 and 1307.

(49 U.S.C. 10321, 10702(b), 10761(b), 10762(f), 10928, and 5 U.S.C. 553)

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison. Commissioner Sterrett was absent and did not participate.

Decided: December 3, 1982.

Agatha L. Mergenovich,

Secretary.

Appendix

It is proposed to amend Title 49 of the Code of Federal Regulations as follows:

PART 1162—TEMPORARY AUTHORITY PROCEDURES UNDER 49 U.S.C. 10928

1. Section 1162.3 *Processing of applications.* Section 1162.3(b) would be amended to remove reference to motor contract carriers and as revised would read as follows:

§ 1162.3 Processing of application.

* * * * *

(b) *Publication of rates and charges.* A carrier may not lawfully perform transportation under a grant of temporary authority unless and until compliance has been made with the rate and other requirements of section 217 of the Interstate Commerce Act in the case of common carriers.

* * * * *

2. Section 1162.5 *Rates, fares, charges, and special permission applications.* Section 1162.5(a)(3) would be removed and the present paragraphs (a)(4) and (a)(5) would be redesignated (a)(3) and (a)(4) respectively. Section 1162.5 would be further amended by revising the first sentence of paragraph (b)(1) to read as follows:

§ 1162.5 Rates, fares, charges, and special permission applications.

* * * * *

(b) *Emergency temporary authority—*(1) *Motor carriers.* Each application for emergency temporary authority for 30 days or less, except those involving the Railway Express Agency, substitution of motor for rail service, or contract carriers, shall be accompanied by a statement of the rates, fares, charges, and other tariff or schedule provisions to be filed under Special Permission M–60160 or M–60161, §§ 1306.100 and 1307.100 of this chapter, for use in the event the authority is granted.

* * * * *

PART 1306—PASSENGER AND EXPRESS TARIFFS AND SCHEDULES OF MOTOR CARRIERS

3. Section 1306.7 *Construction and filing of schedules* would be removed and reserved for future use.

§ 1306.8 [Reserved]

4. Section 1306.8 *Filing of Contracts* would be removed and reserved for future use.

5. Section1306.9 *Construction, filing, and posting of express tariffs and schedules.* Section 1306.9(a) would be amended to remove reference to contract carriers of passengers and as revised would read as follows:

§ 1306.9 Construction, filing and posting of express tariffs and schedules.

(a) *Conformity.* Tariffs and schedules of common carriers of passengers containing rates and charges for the transportation of express or express classifications must conform to the requirements set forth to govern the construction, filing and posting of common carrier passenger tariffs and schedules in §§ 1306.1 to 1306.3 and §§1306.5 to 1306.6, subject to the modifications, exceptions, and additional requirements set forth in the following sections.

* * * * *

§ 1306.101 [Reserved]

6. Section 1306.101 *Motor contract carriers of property or passenger: Establishment of actual or minimum rates, fares, etc., covering emergency transportation of property or passengers, or both* would be removed and reserved for future use.

PART 1307—FREIGHT RATE TARIFFS, SCHEDULES, AND CLASSIFIATIONS OF MOTOR CARRIERS

7. Subpart A—*Schedules of Motor Contract Carriers of Property.* The heading and text of present § 1307.0 would be revised to read as follows:

§ 1307.0 General.

Motor contract carriers shall not be required to publish or file schedules stating the rates or charges covering the services provided or the rules, practices, or regulations affecting those rates and charges.

§ 1307.1–1307.18 [Reserved]

8. Sections 1307.1 through 1307.18, inclusive, would be removed and reserved for future use.

§ 1307.21–1307.50 [Reserved]

9. Subpart B—*Common Carrier Freight Tariffs and Classifications.* In Subpart B, §§ 1307.21 through 1307.50, inclusive, would be removed and reserved for future use.

§ 1307.101 [Reserved]

10. Subpart C—*Special Permissions.* Section 1307.101, would be removed and reserved for future use.

[FR Doc. 82–34853 Filed 12–22–82; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 675

[Docket No. 21105–224]

Foreign Fishing; Groundfish of the Bering Sea and Aleutian Islands Area

Correction

In FR Doc. 82–33104 beginning on page 54841 in the issue of Monday, December 6, 1982, make the following corrections:

1. On page 54843, third column, ninth line, "178°30′ longitude" should read "178°30′ W. longitude."

2. Also on page 54843, in Table 1, in the entry for Atka mackerel, in the sixth column headed "Initial TALFF", "9,450" should read "9,060". Also in Table 1, in the footnote, delete "Equal".

BILLING CODE 1505–01–M

Notices

Federal Register
Vol. 47, No. 247
Thursday, December 23, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

CIVIL AERONAUTICS BOARD

[Order 82-12-65]

Application of Ellis Air Taxi, Inc. for Certificate Authority

AGENCY: Civil Aeronautics Board.

ACTION: Notice of order to show cause (82-12-65).

SUMMARY: The Board is proposing to find Ellis Air Taxi, Inc. fit, willing, and able to authorize it to provide interstate and overseas transportation of persons, property, and mail between all points in the United States, its territories and possessions.

DATES: Objections: All interested persons having objections to the Board issuing the proposed certificate shall file, and serve upon all persons listed below no later than January 7, 1983 a statement of objections, together with a summary of testimony, statistical data, and material expected to be relied upon to support the objections.

ADDRESSES: Objections to the issuance of final order should be filed in Docket 40993 and should be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20448.

In addition, copies of such filings should be served upon Ellis Air Taxi, Inc., the mayors and airport managers of each city to which the pleading refers; The Alaska Transportation Commission; and the Federal Aviation Commission.

FOR FURTHER INFORMATION CONTACT: Mary Catherine Terry, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, (202) 673-5088.

SUPPLEMENTARY INFORMATION: The complete text of Order 82-12-65 is available from the Distribution Section, Room 100, 1825 Connecticut Avenue NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 82-12-65 to that address.

By the Civil Aeronautics Board: December 16, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-34838 Filed 12-22-82; 8:45 am]

BILLING CODE 6320-01-M

[Order 82-12-73]

Fitness Determination of North American Helicopter Services, Inc. d.b.a. Grand Canyon Helicopters

AGENCY: Civil Aeronautics Board.

ACTION: Notice of commuter air carrier fitness determination—Order 82-12-73, order to show cause.

SUMMARY: The Board is proposing to find that North American Helicopter Services, Inc., d.b.a. Grand Canyon Helicopters is fit, willing, and able to provide commuter air carrier service under section 419(c)(2) of the Federal Aviation Act, as amended, and that the aircraft used in this service will conform to applicable safety standards. The complete text of this order is available, as noted below.

DATES: Responses: All interested persons wishing to respond to the Board's tentative fitness determination shall serve their responses on all persons listed below no later than January 6, 1983, together with a summary of the testimony, statistical data, and other material relied upon to support the allegations.

ADDRESSES: Responses or additional data should be filed with the Special Authorities Division, Room 915, Civil Aeronautics Board, Washington, D.C. 20428, and with all persons listed in Attachment A to Order 82-12-73.

FOR FURTHER INFORMATION CONTACT: Ms. Anne W. Stockvis, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428 (202) 673-5088.

SUPPLEMENTARY INFORMATION: The complete text of Order 82-12-73 is available from the Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 82-12-73 to that address.

By the Civil Aeronautics Board: December 16, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-34835 Filed 12-22-82; 8:45 am]

BILLING CODE 6320-01-M

Order Concerning Mail Rates

Order 82-12-66, December 16, 1982, Dockets 41105 and 41108, establishes temporary service mail rates for Northern Air Cargo, Inc. and Arctic Circle Air Service, Inc. at the same level as fixed by Order 82-11-108 for other intra-Alaska carriers and proposes final rates at the same level as determined in Docket 38961 for carriers providing substantially the same services.

For Further Information Contact: James E. Gardner, Bureau of International Aviation, (202) 673-5391.

Copies of the order are available from the C.A.B. Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request.

By the Civil Aeronautics Board: December 16, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-34837 Filed 12-22-82; 8:45 am]

BILLING CODE 6320-01-M

[Order 82-12-74; Docket 41149]

Order To Show Cause Proposing a Method To Implement a Special Subsidy Program Established by Congress in the Continuing Resolution Adopted October 1, 1982

AGENCY: Civil Aeronautics Board.

ACTION: Summary of Order 82-12-74, Docket 41149.

SUMMARY: The Board has adopted an order proposing a method for implementing a Congressional directive to continue subsidy payments during fiscal 1983 to certain air carriers under section 406 rate provisions in effect as of July 1, 1982. (Congress ended the Board's authority to pay subsidy under section 406 of the Federal Aviation Act for services provided after September 30, 1982). The payments are to continue only for service to points in the lower 48 states which were receiving service subsidized under section 406 as of

September 30, 1982 and total payments in fiscal 1983 are limited to $13.5 million, about half of the amounts payable if 406 rates were paid in full. To meet this lower level, Congress specified that each eligible carrier's subsidy payments be reduced by the same percentage.

In order to stay within the $13.5 million ceiling the Board's order proposes to pay 56.45 percent of the 406 rate level monthly, with a final payment adjustment at the end of fiscal 1983 to correct for any underpayments. The new program applies to three carriers, Frontier Airlines, Piedmont Aviation and Republic Airlines, for services to 28 points.

DATES: Parties must file notices of objection within 10 days of the date of service and answers within 30 days.

FOR FURTHER INFORMATION CONTACT: John R. Hokanson or James Craun, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673–5368.

The complete text of Order 82–12–74 is available from our Distribution Section. Persons outside the metropolitan area may send a postcard request for the order to the Distribution Section, B–22b, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: December 16, 1982.

Phyllis T. Kaylor.

Secretary.

[FR Doc. 82–34836 Filed 12–22–82; 8:45 am]

BILLING CODE 6320–01–M

[Order 82–12–71; Docket 41029]

Order To Show Cause Proposing a Method for Continuing Previously Established Temporary Section 406 Subsidy Rates for Wien Air Alaska.

AGENCY: Civil Aeronautics Board.

ACTION: Summary of Order 82–12–71, Docket 41029.

SUMMARY: The Board has adopted an order proposing a temporary section 419 subsidy rate for service by Wien Air Alaska to five Alaskan points: Aniak, Barrow Galena, St. Mary's and Unalakleet. The proposed rate is an allocation of Wien's previous section 406 rates to these five points. Wien has filed notice to suspended service at these (and other) points because the section 406 subsidy program was ended by Congressional action. However, the Board has prohibited Wien from suspending service for a 30-day period. Additional 30-day hold-in orders may be issued until replacement service can be inaugurated and maintained. The temporary subsidy rate to be paid for service during this hold-in period is proposed in this order.

DATE: Wien Air Alaska must file notice of objection within 10 days of the date of service and answer within 30 days.

FOR FURTHER INFORMATION CONTACT: John R. Hokanson or James Craun, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673–5368.

The complete text of Order 82–12–71 is available from our Distribution Section. Persons outside the metropolitan area may send a postcard request for the order to the Distribution Section, B–22b, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: December 16, 1982.

Phyllis T. Kaylor.

Secretary.

[FR Doc. 82–34833 Filed 12–22–82; 8:45 am]

BILLING CODE 6320–01–M

[Docket 40991]

United Air Lines, Inc., vs. Pacific East Air, Inc., Enforcement Proceeding; Notice of Assignment of Proceeding

This proceeding has been assigned to Chief Administrative Law Judge Elias C. Rodriguez. Future communications should be addressed to him.

Dated at Washington, D.C., December 17, 1982.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 82–34834 Filed 12–22–82; 8:45 am]

BILLING CODE 6320–01–M

DEPARTMENT OF COMMERCE

Bureau of the Census

Service Annual Survey; Determination

In accordance with title 13, United States Code, sections 182, 224, and 225, and due Notice of Consideration having been published November 16, 1982 (47 FR 51604), I have determined that data covering 1981 and 1982 operating receipts of selected service industries are needed to provide a sound statistical basis for the formation of policy by various governmental agencies and that these data are also applicable to a variety of public and business informational needs. The Service Annual Survey replaces the Monthly Selected Services Survey which was terminated in December 1981. This will be the first time that annual receipts data will be collected for service establishments as part of the current business programs. This survey will provide data on annual operating receipts for 1981 and 1982 for selected service industries. These data are not publicly available from nongovernmental or other governmental sources on a continuing basis.

Reports will be required from a selected sample of service firms operating in the United States, with probability of selection based on receipts size. The sample will provide, with measurable reliability, statistics on the subjects specified above.

Report forms will be furnished to the firms covered by the survey and will be due 15 days after receipt. Copies of the forms are available upon written request to the Director, Bureau of the Census, Washington, D.C. 20233.

I have, therefore, directed that this annual survey be conducted for the purpose of collecting these data.

Dated: December 20, 1982.

Bruce Chapman,

Director, Bureau of the Census.

[FR Doc. 82–34862 Filed 12–22–82; 8:45 am]

BILLING CODE 3510–07–M

International Trade Administration

Preliminary Determination of Sales At Not Less Than Fair Value; Industrial Nitrocellulose From France

AGENCY: International Trade Administration, Commerce.

ACTION: Preliminary Determination of Sales at Not Less Than Fair Value: Industrial Nitrocellulose from France.

SUMMARY: We have preliminarily determined that industrial nitrocellulose from France is not being sold, or is not likely to be sold, in the United States at less than fair value. We have notified the United States International Trade Commission (ITC) of our determination. We found a weighted-average margin of 0.43137% for exports of industrial nitrocellulose. This margin is *de minimis*.

If this investigation proceeds normally, we will make a final determination by March 8, 1983.

EFFECTIVE DATE: December 23, 1982.

FOR FURTHER INFORMATION CONTACT: Stuart Keitz or Betty H. Laxague, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230. Telephone (202) 377–1769/3601.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

We have preliminary determined that there is no reasonable basis to believe or suspect that industrial nitrocellulose from France is being sold, or is likely to be sold, in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended (the Act). The only producer of the subject merchandise in France, Societe Nationale des Poudres et Explosifs (SNPE), had dumping margins on a small percentage of their sales. However, the weighted-average margin for the product is 0.43137% which is *de minimis*.

If this investigation proceeds normally, we will make a final determination by March 8, 1983.

Case History

On July 2, 1982, we received a petition filed by counsel on behalf of Hercules Incorporated of Wilmington, Delaware, purported to be the only U.S. manufacturer of industrial nitrocellulose. The petitioner alleged that imports from France of industrial nitrocellulose are being sold, or are likely to be sold, in the United States at less than fair value, and that such sales are materially injuring, or threatening to materially injure, a United States industry. The petitioner also alleged sales in the home market at prices below the cost of production exist in this case. After reviewing the petition, we determined that it contained sufficient grounds to initiate an antidumping investigation. We notified the ITC of our action and initiated such investigation on July 28, 1982 (47 FR 32557). The ITC subsequently found, on August 16, 1982, that there is a reasonable indication that imports of industrial nitrocellulose are materially injuring, or are threatening to materially injure, a United States industry. We determined this case to be "extraordinarily complicated," as defined in section 733(c) of the Act. Therefore, we extended the period for making a preliminary determination by 14 days until December 23, 1982 (47 FR 53441).

Scope of Investigation

The product covered by this investigation is industrial nitrocellulose containing between 10.8% and 12.2% nitrogen. It should not be confused with explosive grade nitrocellulose which contains over 12.2% nitrogen. Industrial nitrocellulose is a dry, white, amorphous synthetic chemical produced by the action of nitric acid on cellulose. The product comes in several viscosities and is used to form films in lacquers, coatings, furniture finishes and printing inks. It is currently classified as cellulosic plastic materials, other than cellulose acetate, under item number 445.2500 of the *Tariff Schedules of the United States Annotated*.

Approximately three percent of total sales (value and quantity) to the U.S. were of butyl nitrocellulose. Since this was such a small quantity and since the cost for producing this product is different from the remaining 97 percent of sales, we disregarded these sales for purposes of the fair value investigation.

This investigation covers the period from January 1 to June 30, 1982.

Fair Value Comparisons

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price with the foreign market value.

United States Price

As provided in section 772 of the Act, we used purchase price of the subject merchandise to represent the United States price since the merchandise was sold to unrelated purchasers prior to its importation into the United States.

We calculated the purchase price based on the c.i.f., delivered, packed price to an unrelated purchaser in the United States. Deductions were made for ocean freight, insurance, foreign inland freight, U.S. inland freight, and, where appropriate, commissions.

Foreign Market Value

In accordance with section 773 of the Act, we used home market prices since there were sufficient sales of such or similar merchandise in the home market at or above cost.

The petitioner alleged that sales in the home market were made at prices below the cost of producing industrial nitrocellulose. We examined production costs including materials, labor, and general expenses. We found some sale during the period to have been made at less than cost. However, as there were sufficient sales made in the home market at prices at or above the cost of production, we used home market prices to determine the foreign market value.

The home market prices were based on the f.o.b. or delivered, packed price to unrelated purchasers. We made deductions, where appropriate, for inland freight and rebates. Adjustments were made, where appropriate, for indirect selling expenses, warranty expense, credit expense, differences in the cost of merchandise, and the cost of packing. Adjustments for differences in merchandise were based of differences in the cost of materials, labor, and directly-related factory overhead.

Adjustments were claimed for institutional advertising expenses, quality control costs, and for technical services. We did not allow these adjustments since they were not directly related to the sales.

Verification

For purposes of this preliminary determination, we verified cost of production data, sales data, and information relative to adjustments claimed by SNPE, by using standard verification procedures, including on-site inspection of the exporter's operations and examination of accounting records and selected documents containing relevant information. In accordance with 776(a) of the Act, we will verify all data used in reaching a final determination in this investigation.

ITC Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our determination.

Public Comment

In accordance with § 353.47 of the Commerce Department Regulations, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 10:00 a.m. on January 26, 1983, at the United States Department of Commerce, Room 4830, 14th Street and Constitution Avenue NW., Washington, DC 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room 3099B, at the above address within ten days of publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs in at least ten copies must be submitted to the Deputy Assistant Secretary by January 19, 1983. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 353.46, within thirty days of publication of this notice, at the above address and in at least ten copies.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

December 17, 1982.

[FR Doc. 82-34861 Filed 12-22-82; 8:45 am]

BILLING CODE 3510-25-M

Stainless Steel Round Wire; Announcement of Corrections in First Quarter 1983 Trigger Prices

AGENCY: International Trade Administration, Commerce.

ACTION: This document corrects a document that was published November 26, 1982 titled, "Announcement of the First Quarter 1983 Trigger Price Levels for Stainless Steel Round Wire Products."

SUMMARY: The following errata are applicable to the First Quarter 1983 trigger prices which were published in the **Federal Register** on November 26, 1982, 47 FR 53432.

Page	Description	1st quarter price	
		Incorrect	Correct
53433	Group I 300 and 17-7 PH .375" to .499"	[illegible]	[illegible]
53434	Group I 17-4 PH, 15-5PH .00575"	3,939	4,939

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 82-34802 Filed 12-22-82; 8:45 am]

BILLING CODE 3510-25-M

Preliminary Negative Countervailing Duty Determination; Fireplace Mesh Panels From Taiwan

AGENCY: International Trade Administration, Commerce.

ACTION: Preliminary Negative Countervailing Duty Determination.

SUMMARY: We preliminarily determine that no benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters, in Taiwan of fireplace mesh panels, as described in the "Scope of Investigation" section of this notice. Two programs were alleged to provide subsidies; a preferential income tax program and a preferential labor program. We preliminarily determine that the income tax program provides a benefit that constitutes a subsidy in this case. However, the value of this benefit is 0.012 percent, which is *de minimis*. We also preliminarily determine that manufacturers, producers, or exporters of fireplace mesh panels did not use the labor program during the period for which subsidization is being measured or since that time. Therefore, our preliminary determination is negative.

In accordance with section 703(f) of the Act, we will notify the U.S. International Trade Commission (ITC) of our determination. If this investigation proceeds normally, we will make our final determination by March 5, 1983.

EFFECTIVE DATE: December 23,1982.

FOR FURTHER INFORMATION CONTACT: Paul Nichols, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, telephone: (202) 377-5497.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

Based upon our investigation, we preliminarily determine that there is no reason to believe or suspect that certain benefits which constitute subsidies within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers, or exporters in Taiwan of fireplace mesh panels, as described in the "Scope of Investigation" section of this notice. We preliminarily determine that a preferential income tax program provides a benefit that constitutes a subsidy under the Act. However, the value of this benefit is 0.012 percent, which is *de minimis*. We also preliminarily determine that manufacturers, producers, or exporters of fireplace mesh panels did not use a preferential labor program during the period for which subsidization is being measured or since that time. Therefore, our preliminary determination is negative.

Case History

On July 22, 1982, we received a petition from counsel for Justesen Industries, Inc., Pacific Fireplace Furnishings, Inc., and Fall River Fireplace Co., Inc., on behalf of the U.S. industry producing fireplace mesh panels. The petition alleged that manufacturers, producers, or exporters in Taiwan of fireplace mesh panels receive benefits which constitute subsidies within the meaning of the countervailing duty law. We found the petition sufficient, and on August 18, 1982, we initiated a countervailing duty investigation (47 FR 36005). We stated that we would make our preliminary determination by October 15, 1982. However, pursuant to section 703(c)(1)(A) of the Act, we extended the period for the preliminary determination to no later than December 20, 1982.

Since Taiwan is a "country under the Agreement" within the meaning of section 701(b) the Act, Title VII of the Act applies to this investigation, and an injury determination is required. Therefore, we notified the ITC of our initiation. On September 15, 1982, the ITC preliminarily determined that there is a reasonable indication that these imports are materially injuring, or threatening to materially injure, a U.S. industry (47 FR 40726).

We presented a questionnaire concerning the allegations in the petition to the Taiwanese, in Taipei, on September 14, 1982. On October 22, 1982, we received the response to that questionnaire.

Scope of Investigation

For the purposes of this investigation, fireplace mesh panels are defined as precut, flexible mesh panels, both finished and unfinished, which are constructed of interlocking spirals of steel wire and are of a kind used in the manufacture of safety screening by U.S. manufacturers of fireplace accessories and zero-clearance fireplaces. Fireplace mesh panels are currently provided for either in item 642.89 or item 654.00 of the *Tariff Schedules of the United States* depending on their stage of processing.

Fuan Da Industrial Co., Ltd. (Fuan Da) and Yue Sheng Wire Mesh & Screen Co. Ltd. (Yue Sheng) are the only known producers in Taiwan of the fireplace mesh panels exported to the United States.

Analysis of Programs

The period for which subsidization is being measured is January 1, 1982 to June 30, 1982. In its response to our questionnaire, the government of Taiwan provided data for the applicable period. Additionally, we received information from Fuan Da and Yue Sheng for the period January 1, 1981 to June 30, 1982.

Based upon our analysis to date of the response and petition, we preliminarily determine the following.

I. Programs Preliminarily Determined To Confer Subsidies to Manufacturers, Producers, or Exporters of Fireplace Mesh Panels

We preliminarily determine that a subsidy is being provided to manufacturers, producers, or exporters in Taiwan of fireplace mesh panels under the program listed below:

Preferential Income Tax Rates: Article 10 of the Statute for Encouragement of Investment (SEI) was amended in 1980 and renumbered Article 15. The regulations issued to implement this article were also amended at that time. Under Article 15, certain productive enterprises which are organized as "companies limited by shares" in accordance with the Company Law are eligible for reduced

income tax rates. A company limited by shares must have a minimum of seven shareholders and be registered as a share issuing corporation. Yue Sheng was not eligible for benefits under this program as it is not organized as a company limited by shares and its tax rate is the normal 35 percent. Fuan Da does qualify for Article 15 benefits and its tax rate is 25 percent.

Under the amended law and regulations, the limitation, restricting benefits to corporations existing or expanding before a certain date has been removed, and the categories of industries eligible for encouragement have been broadened by removing some restrictive criteria. However, the remaining general eligibility criteria in the regulations still appear to limit the availability of the benefits and appear to target certain categories of industries for encouragement. Based on this limited availability of the program, we preliminarily determine that Article 15 of the SEI does provide a benefit that constitutes a subsidy under the Act.

As Article 15 is a broad incentive program for increased investment in eligible industries and, for this product, does not appear to be intended as an export subsidy, we determine this program to be a domestic subsidy and thus have allocated the tax savings over total sales revenue. For programs involving income tax benefits, the Department generally determines the value of the benefit when it is known and accounted for.

In Fuan Da's case, the measure of the benefit is the difference in the tax due under the two rates for 1981, which is known and accounted for in 1982. This figure is then divided by total sales for 1981. This results in a benefit of 0.012 percent *ad valorem*. This rate is *de minimis*.

II. Programs Preliminarily Determined Not To Be Used By Manufacturers, Producers, or Exporters of Fireplace Mesh Panels

We preliminarily determine that manufacturers, producers, or exporters in Taiwan of fireplace mesh panels did not use the vocational training centers during the period for which subsidization is being measured or since that time.

Verification

In accordance with section 776(a) of the Act, we have verified all the information relied upon for our determination.

ITC Notification

In accordance with section 703(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

Public Comment

In accordance with § 355.35 of the Commerce Regulations, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on these preliminary determinations at 10 a.m., January 17, 1983, at the U.S. Department of Commerce, Room 3080, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room 3099B, at the above address within 10 days of this notice's publication. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs in at least 10 copies must be submitted to the Deputy Assistant Secretary by January 10, 1982. Oral presentations will be limited to issues raised in the briefs.

All written views should be filed in accordance with 19 CFR 355.43, on or before January 24, 1983, at the above address and in at least 10 copies.

Gary N. Horlick,

Deputy Assistant Secretary, for Import Administration.

[FR Doc. 82-34732 Filed 12-22-82; 8:45 am]

BILLING CODE 3510-25-M

Export Trading Company Contact Facilitation Service and Fee Schedule

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce announces a computerized clearinghouse called the ETC Contact Facilitation Service to match export trading companies (ETC) with U.S. firms looking for export services.

ADDRESSES: Registrations and search requests should be directed to your nearest ITA District Office listed at the end of this notice.

FOR FURTHER INFORMATION CONTACT: Donald Huber, (202) 377-4533.

SUPPLEMENTARY INFORMATION: As a part of the Department's active role in supporting and promoting U.S. exports, under Pub. L. 97-290 the International Trade Administration (ITA) has established a Contact Facilitation Service for U.S. suppliers and export trading companies. This service will help U.S. producers identify and contact newly formed ETCs. Similarly, ETCs may want to utilize this program in order to identify possible clients for their services.

How Contact Facilitation Works

Provided the firm or individual is sincerely concerned with establishing an ETC/producer relationship, Department of Commerce personnel at local ITA District Offices will fill out a form to "register" export trading companies, other types of firms which provide export services (such as banks or export managment companies), and U.S. firms interested in contacting or being contacted by a provider of these services. Registration, which requires a nominal fee, simply entails giving the District Office representative brief information about your company, who to contact, and what products you wish to export or represent. Information for registration forms will be entered into a computer data base in Washington.

For an additional service fee, each party can also request a search for the names, addresses, a product description, and company contact for firms which match their product interest. The ETC Contact Facilitation Service will search on the basis of type of service provided or sought, geographic area, areas of foreign market interest and Standard Industrial Classification (SIC) codes for each product. Searches will be made only for those firms which have already registered in the ETC Contact Facilitation Service data base. When the information has been in the data base for more than one year, registrants will be contacted to ascertain status and continued interest. They will be retained in the data base if appropriate or purged when no longer interested in participating in the program.

What Registration Will Cost and How Long It Will Take

The Department is charging a $25 registration fee. For $25 your firm or service organization will be placed in the contact facilitation file and will be available as a contact for anyone requesting a search. A search will cost an additional $25 plus $5 for each name provided. Payment must be sent with

registration and search requests. A bill for the number of contacts provided will be sent with the order. You may limit the number of names you wish to receive. A search provides a one-time match of whatever is in the computer at the time of the request.

During January and February of 1983, the Department will be conducting a series of nationwide conferences in 27 cities which will explain the new ETC legislation, how to form an ETC, related Commerce activities, and the Contact Facilitation Service. Until a large number of firms become aware of the ETC program, it is likely that registrations will be slow during the initial weeks of operation, servinig to limit the number of contacts that can be identified through a retrieval. For this reason, USDOC will hold initial retrieval requests until at least a few "hits" in most of the more general SIC codes can be expected.

Once approximately 200 registrants have joined the program, local District Officers will be provided an inventory by geographic distribution of what products have been entered into the contact facilitation file for export trading companies, service firms, and U.S. producers. They can then advise you when it is appropriate to request a list of ETCs/firms in yor area of interest.

Where To Register

To register or obtain more information on the ETC Contact Facilitation Service, get in touch with your local ITA District Office. Locations and telephone numbers for each office are listed at the end of this notice. District Offices will also help you identify the correct Standard Industrial Classification (SIC) codes for your products.

Because we are unable to verify the qualifications and continued interest of any of the companies participating in this program, we accept no responsibility for the quality or substance of the contact lists provided in response to a retrieval request.

Stephen B. Strauss,

Deputy Assistant Secretary for Trade Information and Analysis.

International Trade Administration District Offices

Albuquerque, 87102, 505 Marquett Ave. N.W., Rm. 1015. (505) 766–2386.
Anchorage, 99513. P.O. Box 32, 701 C St. (907) 271–5041.
Atlanta, 30309, Suite 600, 1365 Peachtree St., NE. (404) 881–7000.
Baltimore, 21202, 415 U.S. Customhouse, Gay and Lombard Sts. (301) 962–3560.
Birmingham, 32505, Suite 200–201, 908 S. 20th St. (205) 254–1331.
Boston, 0116, 10th Floor, 441 Stuart St. (617) 223–2312.
Buffalo, 14202, 1312 Federal Bldg., 111 W. Huron St. (716) 846–4191.
Charleston, W. Va., 25301, 3000 New Federal Office Bldg., 500 Quarrier St. (304) 343–6181, Ext. 375.
Cheyenne, 82001, 8007 O'Mahoney Federal Center, 2120 Capitol Ave. (307) 772–2151, Ext. 2151.
Chicago, 60603, Room 1406, Mid-Continental Plaza Bldg., 55 E. Monroe St. (312) 353–4450.
Cincinnati, 45202, 10504 Fed. Bldg., 550 Main St., (513) 684–2944.
Cleveland, 44114, Room 600, 666 Euclid Ave. (216) 522–4750.
Columbia, S.C., 29201, Strom Thurmond Fed. Bldg., 1835 Assembly St. (803) 765–5345.
Dallas, 75242, Room 7A5, 1100 Commerce St. (214) 767–0542.
Denver, 80202, Room 119 U.S. Customhouse, 721 19th St. (303) 837–3246.
Des Moines, 50309, 817 Federal Bldg., 210 Walnut St. (515) 284–4222.
Detroit, 48226, 445 Federal Bldg., 231 W. Lafayette. (313) 226–3650.
Greensboro, N.C., 27402, 203 Federal Bldg., W. Market St., P.O. Box 1950. (919) 378–5345.
Hartford, 06103, Room 610–B, Fed. Bldg., 450 Main St. (203) 244–3530.
Honolulu, 96850, 4106 Federal Bldg., 300 Ala Moana Blvd., P.O. Box 50026. (808) 546–8694.
Houston, 77002, 2625 Federal Bldg., 515 Rusk St. (713) 226–4231.
Indianapolis, 46204, 357 U.S. Courthouse & Federal Office Bldg., 46 E. Ohio St. (317) 269–6214.
Jackson, Miss., 39213, Suite 3230, 300 Woodrow Wilson Blvd. (601) 960–4388.
Little Rock, 72201, Rm. 635, 320 W. Capitol Ave. (501) 378–5794.
Los Angeles, 90049, Rm. 800, 11777 San Vincente Blvd. (213) 824–7591.
Louisville, 40202, Rm. 636B, U.S. Post Office and Courthouse Bldg. (502) 582–5066.
Memphis, 38103, Room 710, 147 Jefferson Ave. (901) 521–3213.
Miami, 33130, Rm. 821, City National Bank Bldg., 25 W. Flagler St. (305) 350–5267.
Milwaukee, 53202, 605 Federal Office Bldg., 517 E. Wisconsin Ave. (414) 291–3473.
Minneapolis, 55401, 218 Federal Bldg., 110 S. 4th St. (612) 725–2133.
New Orleans, 70130, Room 432 International Trade Mart, 2 Canal St. (504) 589–6546.
New York, 10278, 37th Floor, Federal Office Bldg., 26 Federal Plaza, Foley Sq. (212) 264–0634.
Omaha, 68102, Empire State Bldg., 1st Floor, 300 S. 19th St. (402) 221–3664.
Philadelphia, 19106, 9448 Federal Bldg., 600 Arch St. (215) 597–2866.
Phoenix, 85073, 2950 Valley Bank Center, 201 N. Cental Ave. (602) 261–3285.
Pittsburgh, 15222, 2002 Fed. Bldg., 1000 Liberty Ave. (412) 644–2850.
Portland, Ore., 97204, Room 618, 1220 S.W. 3rd Ave. (503) 221–3001.
Reno, Nev., 89502, 1755 East Plum Lane, Rm. 152. (702) 784–5203.
Richmond, 23240, 8010 Federal Bldg., 400 N. 8th St. (804) 771–2246.
St. Louis, 63105, 120 S. Central Ave. (314) 425–3302.
Salt Lake City, 84101, Rm. 340, U.S. Post Office and Courthouse Bldg., 350 S. Main St. (801) 524–5116.
San Francisco, 94102, Federal Bldg., Box 36013, 450 Golden Gate Ave. (415) 556–5860.
San Juan, P.R., 00918, Room 659 Federal Bldg., Chardon Ave. (809) 753–4555, Ext. 555.
Savannah, 31412, 222 U.S. Courthouse, P.O. Box 9746, 125–29 Bull St. (921) 944–4204.
Seattle, 98109, 706 Lake Union Bldg., 1700 Westlake Ave. North. (206) 442–5616.
Trenton, 08608, 240 West State St., 8th Fl. (609) 989–2100.

[FR Doc. 82-34728 Filed 12-22-82; 8:45 am]

BILLING CODE 3510-25-M

Auburn University, Decision on Application for Duty-Free Entry of Scientific Instrument

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 Pub. L. 89–651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 AM and 5:00 PM in Room 2097, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 82–00300. Applicant: Auburn University, Auburn, Alabama 36849. Instrument: High Resolution X-ray Photoelectron Spectrometer (XPS) System. Manufacturer: Leybold-Heraeus GmbH & Company, West Germany. Intended use of instrument: See Notice on page 36686 in the **Federal Register** of August 23, 1982.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, is being manufactured in the United States.

Reasons: This application is a resubmission of Docket No. 82–00043 which was denied without prejudice to resubmission on June 3, 1982 for informational deficiencies. The foreign instrument performs X-ray photoelectron spectrometry, ultraviolet photoelectron spectrometry, auger electron spectrometry and ion scattering spectroscopy while maintaining an ultra high-vacuum of less than 5×10^{-10} millibars. The National Bureau of Standards advises in its memorandum dated November 2, 1982 that (1) the capabilities of the foreign instrument

decribed above are pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 82-34795 Filed 12-22-82; 8:45 am]

BILLING CODE 3510-25-M

Massachusetts Institute of Technology; Decision on Application for Duty-Free Entry of Scientific Instrument

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 AM and 5:00 PM in Room 2097, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 82-00273. Applicant: Massachusetts Institute of Technology, 170 Albany Street, Cambridge, MA 02139. Instrument: Automated Scanning Fabry-Perot Interferometer. Manufacturer: National Physical Laboratory, United Kingdom. Intended Use of Instrument: See Notice on page 36685 in the **Federal Register** of August 23, 1982.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument can measure electron temperature profiles at fields equal to or greater than 10 Tesla. The National Bureau of Standards advises in its memorandum dated October 28, 1982 that (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 82-34796 Filed 12-22-82; 8:45 am]

BILLING CODE 3510-25-M

Oregon State University, Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 AM and 5:00 PM in Room 2097, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 82-00283. Applicant: Oregon State University, School of Oceanography, Corvallis, Oregon. 97331. Instrument: Submersible Acoustic Transponder. Manufacturer: Institute of Oceanographic Science, United Kingdom. Intended use of instrument: See notice on page 39546 in the **Federal register** of September 8, 1982.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, was being manufactured in the United States at the time the foreign instrument was ordered (April 1, 1982).

Reasons: The foreign instrument can open and close the sampling net as well as measure the total water volume sampled. The National Oceanic and Atmospheric Administration advises in its memorandum dated November 1, 1982 that (1) the capabilities of the foreign instrument described above are pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use at the time the foreign instrument was ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, which was being manufactured in the United States at the time the foreign instrument was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director Statutory Import Programs Staff.

[FR Doc. 82-34798 Filed 12-22-82; 8:45 am]

BILLING CODE 3510-25-M

University of Illinois; Decision on Application for Duty-Free Entry of Scientific Instrument

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 AM and 5:00 PM in Room 2097, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 82-00276. Applicant: University of Illinois, Urbana-Champaign Campus, Purchasing Division, 223 Administration Building, 506 S. Wright Street, Urbana, Illinois 61801. Instrument: Primary Beam Mass Filter Accessory for an Ion Microanalyzer. Manufacturer: Thomson-CSF/Cameca Instruments, France. Intended use of instrument: See Notice on page 36685 in the **Federal Register** of August 23, 1982.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, is being manufactured in the United States.

Reasons: This application relates to a compatible accessory for an instrument that has been previously imported for the use of the applicant institution. The

instrument is being manufactured by the manufacturer which produced the instrument with which it is intended to be used. We are advised by the National Bureau of Standards in its memorandum dated October 25, 1982 that the accessory is pertinent to the applicant's intended uses and that it knows of no comparable domestic instrument.

The Department of Commerce knows of no similar accessory being manufactured in the United States which is interchangeable with or can be readily adapted to the instrument with which the foreign instrument is intended to be used.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 82-34799 Filed 12-22-82; 8:45 am]

BILLING CODE 3510-25-M

University of Minnesota; Decision on Application for Duty-Free Entry of Scientific Instrument

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 AM and 5:00 PM in Room 2097, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 82-00285. Applicant: University of Minnesota, Department of Chemical Engineering and Material Science, 421 Washington Avenue, S.E., Minneapolis, Minnesota 55455. Instrument: Dynamic Microcalorimeter-Picker Specific Heat Unit, Model CP-E. Manufacturer: Sodev, Incorporated, Canada. Intended use of instrument: See Notice on page 36686 in the **Federal Register** of August 23, 1982.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, was being manufactured in the United States at the time the U.S. Customs Service received this application (July 14, 1982).

Reasons: The foreign instrument has a heat capacity sensitivity of 5×10^{-6} J/K×cm³ (Joules/Kelvin times cubic centimeters) and a reproducibility of 0.2 percent. The National Bureau of Standards advises in its memorandum dated October 26, 1982 that (1) the capabilities of the foreign instrument described above are pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use which was available at the time Customs received the application.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, which was being manufactured in the United States at the time Customs received the application.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 82-34797 Filed 12-22-82; 8:45 am]

BILLING CODE 3510-25-M

University of Southern California; Decision on Application for Duty-Free Entry of Scientific Instrument

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 AM and 5:00 PM in Room 2097, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 82-00275. Applicant: University of Southern California, University Park, Los Angeles, California 90007. Instrument: Micromanipulators with Accessories. Manufacturer: Narashige Scientific Instrument Laboratory, Japan. Intended use of instrument: See Notice on page 39545 in the **Federal Register** of September 8, 1982.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument is a small unit that provides finely controlled calibrated micrometer movements in three orthogonal directions. The Department of Health and Human Services advises in its memorandum dated October 12, 1982 that (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 82-34794 Filed 12-22-82; 8:45 am]

BILLING CODE 3510-25-M

VA Medical Center Research Division (151), et al.; Consolidated Decision on Applications for Duty-Free Entry of Accessories for Foreign Instruments

The following is a consolidated decision on applications for duty-free entry of accessories for foreign instruments pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereto (15 CFR Part 301 as amended by 47 FR 32517). (See especially § 301.5(f).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 2097 of the Department of Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 82-00277. Applicant: VA Medical Center Research Divison (151), 3350 La Jolla Village Drive, San Diego, California 92161. Instrument: Refrigeration System with Thermo-Static Control for the Cooling Circuit #2 for VaP 11. Manufacturer: Bender & Hobein GMBH, West Germany. Intended use of instrument: See Notice on page 36685 in the **Federal Register** of August 23, 1982. Advice submitted by: Department of Health and Human Services: November 3, 1982.

Docket No. 82-00281. Applicant: Pennsylvania College of Optometry,

1200 West Godfrey, Philadelphia, PA 19141. Instrument: Interactive TEM-Morphometry Drawing Apparatus and 45° Goniometer. Manufacturer: Carl Zeiss, West Germany. Intended use of instrument: See Notice on page 39546 in the **Federal Register** of September 8, 1982. Advice submitted by: Department of Health and Human Services: November 3, 1983.

Docket No. 82–00290. Applicant: University of Kentucky, Biochemistry Department, Medical Center, Lexington, KY 40536. Instrument: Nanosecond Fluorometer Components. Maufacturer: Photochemical Research Associates, Incorporated. Canada. Intended use of instrument: See Notice on page 39546 in the **Federal Register** of September 8, 1982. Advice submitted by: Department of Health and Human Services: November 3, 1982.

Docket No. 82–00316. Applicant: University of Maryland, Baltimore County, 5401 Wilkens Avenue, Catonsville, Maryland 2128. Instrument: LKB 14800–3 Cryokit. Manufacturer: LKB Produkter AB, Sweden. Intended use of instrument: See Notice on page 41797 in the **Federal Register** of September 22, 1982. Advice submitted by: Department of Health and Human Services: November 10, 1982.

Docket No. 82–00317. Applicant: Indiana University, 1101 east 17th Street, Bloomington, IN 4705. Instrument: Helber Bacteria Counting Chambers complete with Accessories. Manufacturer: Hawksely & Sons, Limited, United Kingdom. Intended use of instrument: See Notice on page 41798 in the **Federal Register** of September 22, 1982. Advice submitted by: Department of Health and Human Services: November 10, 1982.

Comments: No comments have been received with respect to any of the foregoing applications.

Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign instruments, for the purposes for which the instruments are intended to be used, is being manufactured in the United States.

Reasons: The applications relate to compatible accessories for instruments that have been previously imported for the use of the applicant institutions. The instruments are being manufactured by the manufacturers which produced the instruments with which they are intended to be used. We are advised by the Department of Health and Human Services in its respectively cited memoranda that the accessories are pertinent to the applicant's intended uses and that it knows of no comparable domestic accessories.

The Department of Commerce knows of no similar accessories manufactured in the United States which are interchangeable with or can be readily adapted to the instrument with which each accessory is intended to be used.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 82–34800 Filed 12–22–82; 8:45 am]

BILLING CODE 3510–25–M

Chain of Iron or Steel From Japan; Final Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Final Results of Administrative Review of Countervailing Duty Order.

SUMMARY: On September 23, 1982, the Department of Commerce published in the **Federal Register** a notice of the preliminary results of its administrative review of the countervailing duty order on chain of iron or steel from Japan. The review covered the period January 1, 1981 through December 31, 1981. The notice stated that the Department had preliminarily determined the amount of the net subsidy to be 1.95 percent ad valorem.

Interested parties were ivited to comment on our preliminary results. We received no comments. Therefore, the final results of the review are the same as those presented in the preliminary results.

EFFECTIVE DATE: December 23, 1982.

FOR FURTHER INFORMATION CONTACT: Joseph A. Black or Kenneth Haldenstein, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377–2785

SUPPLEMENTARY INFORMATION:

Background

On September 23, 1982, the Department of Commerce ("the Department") published in the **Federal Register** (47 FR 42012) the preliminary results of its administrative review of the countervailing duty order on chain of iron or steel from Japan (43 FR 37685, August 24, 1978). The Department has now completed that administrative review.

Scope of the Review

The merchandise covered by the review is chain of iron or steel, the links of which are essentially round in cross section, and parts thereof. Such chain is currently classifiable under items 652.2410 through 652.2450, 652.2710 through 652.2740, 652.3010 through 652.3040, 652.3310 through 652.3330, and 652.3510 through 652.3530 of the Tariff Schedules of the United States Annotated. The review covers the period January 1, 1981 through December 31, 1981 and a program of tax deferrals on funds held in the Overseas Market Development Reserve ("OMDR").

Final Results of the Review

Interested parties were invited to comment on our preliminary results. We received no comments. Therefore, the final results of our review are the same as those presented in the notice of preliminary results of review.

The Department will instruct the Customs Service to assess countervailing duties in the amount of the net subsidy, 1.95 percent of the f.o.b. invoice price, on shipments of chain of iron or steel from Japan exported on or after January 1, 1981 and on or before December 31, 1981.

Further, as provided for by section 751(a)(1) of the Tariff Act of 1930 ("the Tariff Act"), the Department will instruct the Customs Service to collect cash deposits of estimated countervailing duties of 1.95 percent of the f.o.b. invoice price on all shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

The Department intends to conduct the next administrative review by the end of August 1983. The amount of countervailing duties to be imposed on exports made during 1982 will be determined in that review. Consequently, the suspension of liquidation previously ordered will continue for all entries of this merchandise exported on or after January 1, 1982.

The Department encourages interested parties to review the public record and submit applications for protective orders, if desired, as early as possible after the Department's receipt of the information in the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated: December 19, 1982.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 82-34800 Filed 12-22-82; 8:45 am]

BILLING CODE 3510-25-M

Certain Textiles and Textile Products From Argentina; Preliminary Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Preliminary Results of Administrative Review of Countervailing Duty Order.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on certain textiles and textile products from Argentina, specifically men's and boys' woolen apparel. The review covers the period January 1, 1981 through December 31, 1981. As a result of the review, the Department has preliminarily determined the amount of net subsidy to be 5.67 percent of the f.o.b. invoice price of the merchandise. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: December 23, 1982.

FOR FURTHER INFORMATION CONTACT: Lorenza Olivas or Richard Moreland, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On August 14, 1982, the Department of Commerce ("the Department") published in the **Federal Register** (47 FR 33729) the final results of its last administrative review of the countervailing duty order on certain textiles and textile products from Argentina (47 FR 53421, November 18, 1978) and announced its intent to conduct the next administrative review by the end of November 1982. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are men's and boys' woolen apparel imported from Argentina. Such apparel is currently classifiable under the items of the Tariff Schedules of the United States Annotated ("TSUSA") listed in the Appendix to this notice.

The review covers the period January 1, 1981 through December 31, 1981 and the following programs: (1) The reembolso, a cash rebate of indirect taxes; and (2) a preferential financing program.

Analysis of Programs

(1) *Reembolso.* The reembolso is a rebate of indirect and direct taxes, upon exportation of merchandise, paid as a percentage of the f.o.b. invoice price.

Although the Government of Argentina rebates upon exportation all indirect and direct taxes borne by the exported product, the Tariff Act allows the rebate of only the following: (1) Taxes borne by inputs which are physically incorporated in the exported product (see Annex 1.1 of Part 355 of the Commerce Regulations) and (2) indirect taxes levied at the final stage (see Annex 1.2 of part 355 of the Commerce Regulations). If the tax rebate upon export exceeds tht total amount of allowable indirect taxes described above, the Department considers the difference to be an overrebate of indirect taxes and, therefore, a subsidy.

For men's and boys' woolen apparel, the reembolso rate was 25 percent during 1981. The Government of Argentina has provided us with an analysis of the tax incidence in 1981 for the woolen garment industry. To calculate the net subsidy we allowed the rebate of indirect taxes on raw materials, which constitute the bulk of the taxes. In addition we allowed final stage indirect taxes, such as excise taxes. We disallowed taxes on labor, "indirect expenditures" and other items not physically incorporated.

Based on our analysis, we have found that indirect taxes of physically incorporated inputs and final stage indirect taxes on men's and boys' woolen apparel amount to 19.33 percent *ad valorem*. Therefore, we preliminarily determine that there was an overrebate of indirect taxes of 5.67 percent *ad valorem* for 1981.

(2) *Preferential Financing.* The preferential financing program makes pre-export loans, in pesos indexed to U.S. dollars, available to exporters at an interest rate of one percent. Such funds are available for a period of up to 180 days, and are to be repaid no later than 60 days after the export date. The funds are provided by the Central Bank of Argentina and disbursed by private commercial banks to individual borrowers.

Until July 1981, for men's and boys' woolen apparel, the Central Bank limited potential loan amounts to 55 percent of the contracted f.o.b. price. In August 1981, the limit was increased to 60 percent. However, because the Government of Argentina has informed us that this program was not used during 1981 for men's and boys' woolen apparel exports to the United States, we preliminarily determine that there was no benefit conferred under the preferential financing program during the period of review.

Preliminary Results of the Review

As a result of our review, we preliminarily determine the aggregate net subsidy conferred during the period of review by the two programs to be 5.67 percent *ad valorem*. Accordingly, the Department intends to instruct the Customs Service to assess contervailing duties of 5.67 percent of the f.o.b. invoice price on all shipments of men's and boys' woolen apparel from Argentina exported on or after January 1, 1981 and on or before December 31, 1981.

Further, as provided for by section 751(a)(1) of the Tariff Act, the Department intends to instruct the Customs Service to collect a cash deposit of estimated countervailing duties of 5.67 percent of the f.o.b. invoice price on all shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of the current review. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of this administrative review including the results of its analysis of issues raised in any such comments or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) or the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated: December 17, 1982.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

Appendix

Wearing Apparel

372.0800(b)
372.1020(a)(b)

372.1050(a)(b)
372.2500(for male infants)
372.3000(b)
372.3500(b)
372.4000(b)
372.4500(b)
373.0500 of wool
373.1500
376.0800(b)
378.3510(b)
378.4000(b)
378.4500(b)
379.1100
379.1300
379.1510 through 379.1530
379.1710 through 379.1750
379.2010
379.2020
379.3520(a)
379.6615(a)
379.6934 through 379.6958(a)
379.7100
379.7240 through 379.7295
379.7400
379.7510
379.7530
379.7605 through 379.7650
379.7810 through 379.7850
379.7900
379.8100
379.8311 through 379.8360
379.8410
379.8420
379.8615(a)
379.8715(a)
379.9815(a)

[a] Wool articles classified under this TSUSA item number are covered by this notice if they are included in the textile category system used by the United States to monitor and administer the U.S. textile trade agreements made pursuant to the Arrangement Regarding International Trade in Textiles, December 20, 1973, 25 U.S.T. 1001, TIAS 7840.

[b] If the item is for men and boys, it is included in this notice. The term "men and boys" should be interpreted in accordance with the applicable headnotes to the schedule part and subpart in which the TSUSA number falls. Where the phrase is not covered by such headnotes, items classified under the TSUSA number which can be used by either sex are covered by this notice. Items under TSUSA numbers identifiable as being intended exclusively for women and/or girls are not covered by this notice.

[FR Doc. 82-34808 Filed 12-22-82; 8:45 am]
BILLING CODE 3510-25-M

Amoxicillin Trihydrate and its Salts From Spain; Preliminary Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Preliminary Results of Administrative Review of Countervailing Duty Order.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on amoxicillin trihydrate and its salts from Spain. The review covers the period January 1, 1981 through December 31, 1981. As a result of this review, the Department has preliminarily determined the amount of the net subsidy to be 1.28 percent of the f.o.b. invoice price of the merchandise. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: December 23, 1982.

FOR FURTHER INFORMATION CONTACT: Laura K. Knealey or Joseph A. Black, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On August 5, 1982, the Department of Commerce ("the Department") published in the **Federal Register** (47 FR 33999) the final results of its last administrative review of the countervailing duty order on amoxicillin trihydrate and its salts from Spain (44 FR 44154, July 27, 1979) and announced its intent to conduct the next administrative review. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act") the Department has now conducted that administrative review.

Scope of the Review

The merchandise covered by the review is amoxicillin trihydrate and its salts ("amoxicillin"), an antibiotic which is a semi-synthetic penicillin, imported directly or indirectly from Spain. Such imports are currently classifiable under item 411.7400 of the Tariff Schedules of the United States Annotated.

The review covers the period January 1, 1981 through December 31, 1981, and the following programs: (1) A rebate upon exportation of indirect taxes, under the Desgravacion Fiscal a la Exportacion ("DFE"); and (2) an operating capital loans program. The only known exporter of this merchandise to the United States is antibioticos, S.A.

Analysis of Programs

(1) Desgravacion Fiscal a la Exportacion ("DFE") Spain employs a cascading tax system. Under this system, the government levies a turnover tax ("IGTE") on each sale of a product through its various stages of production, up to (but not including) the final sale in Spain. Upon exportation of the product, the government, under the DFE, rebates both these accumulated IGTE indirect taxes and final stage taxes.

Although the Spanish government rebates upon exportation all indirect taxes paid under the cascading tax system, the Tariff Act allows the rebate of only the following: (1) Taxes borne by inputs which are physically incorporated in the exported product (see Annex 1.1 of Part 355 of the Commerce Regulations); and (2) indirect taxes levied at the final stage (see Annex 1.2 of Part 355 of the Commerce Regulations). If the tax rebate upon export exceeds the total amount of allowable indirect taxes described above, the Department considers the difference to be an overrebate of indirect taxes and, therefore, a subsidy.

Physical incorporation is a question of fact to be determined for each product in each case. In this case, the physically incorporated inputs are the raw materials previously allowed by the Department in the final results of the last review of this order.

The rebate of the two final stage taxes, the parafiscal tax on export licenses and the tax on freight and insurance, is also allowable when calculating whether or not there is an overrebate of indirect taxes under the DFE.

As of January 1, 1981, the Spanish government increased the IGTE rate from 2.4 percent to 3.8 percent while maintaining the previous rate for the export rebate. Based upon our analysis of the indirect taxed on physically incorporated inputs and the two indirect taxes on the final product, we determine that the change in aggregate indirect tax incidence has eliminated the overrebate previously found countervailable; therefore, we preliminarily determine the net subsidy attributable to this program during 1981 to be zero percent.

(2) *Operating Capital Loans.* The Spanish government requires banks to set aside funds to provide short-term operating capital loans. These loans are granted for a period of less than one year. For the first two months of 1981, the Spanish government fixed the interest rate for such loans at 8 percent, which was 1.5 percent below the legally established commercial interest rate of 9.5 percent. Effective March 1, 1981, the Spanish government increased the interest rate on operating capital loans from 8 to 10 percent while eliminating the interest rate ceiling on comparable short-term commercial loans. To determine the interest rate on comparable commercial loans for the remaining ten months in 1981, we took the average national prime interest rate for loans of comparable length, added the prevailing interest charge over prime facing borrowers of average

creditworthiness and added the legally established fees and commissions. Comparing this benchmark with the 10 percent interest rate established for the operating capital loans program, we found a differential of 9.45 percent after March 1.

The maximum loan principal available to a given exporter is determined as a percentage of the firm's previous year's exports. This amount may be increase by 10 percent if the firm has a government-issued Exporter's Card. Antibioticos, S.A. has such a card and thus maximum eligibility until November 1981 was 35 percent. Effective November 21, 1981, the Spanish government decreased the maximum eligibility (including Exporter's Card eligibility) to 28 percent. Because we have no information on Antibioticos' actual level of utilization of this program, we assumed that the maximum allowable amount was borrowed. After prorating for the interest rate differentials and eligibility levels prevailing in 1981, we preliminarily determine the net subsidy conferred under this program in 1981 to be 1.28 percent of the f.o.b. invoice price of the merchandise.

Effective April 20, 1982, the Spanish government reduced the maximum percentage of eligibility for operating capital loans to 26.6 percent. As a result, using the same methodology and calculating the interest rate differential for the first five months of 1982, we preliminarily determine, for purposes of cash deposits of estimated countervailing duties, that the net subsidy attributable to this program is 1.16 percent *ad valorem*.

Preliminary Results of the Review

As a result of our review, we preliminarily determine that the aggregate net subsidy confered during the period of review by the two programs is 1.28 percent *ad valorem*. Accordingly, the Department intends to instruct the Customs Service to assess countervailing duties of 1.28 percent of the f.o.b. invoice price on all shipments of Spanish amoxicillin exported on or after January 1, 1981 and on or before December 31, 1981.

Further, as provided for by section 751(a)(1) of the Tariff Act, the Department intends to instruct the Customs Service to collect a cash deposit of estimated countervailing duties of 1.16 percent of the f.o.b. invoice price on all shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of the current review. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of this administrative review including the results of its analysis of issues raised in any such written comments or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated: December 17, 1982.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 82-34897 Filed 12-22-82; 8:45 am]

BILLING CODE 3510-25-M

Ampicillin Trihydrate and Its Salts From Spain; Preliminary Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Preliminary Results of Administrative Review of Countervailing Duty Order.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on ampicillin trihydrate and its salts from Spain. The review covers the period January 1, 1981 through December 31, 1981. As a result of this review, the Department has preliminarily determined the amount of the net subsidy to be 1.73 percent of the f.o.b. invoice price of the merchandise. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: December 23, 1982.

FOR FURTHER INFORMATION CONTACT: Laura K. Kneale or Joseph A. Black, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On August 5, 1982, the Department of Commerce ("the Department") published in the **Federal Register** (47 FR 34000) the final results of its last administrative review of the countervailing duty order on ampicillin trihydrate and its salts from Spain (44 FR 17484, March 22, 1979) and announced its intent to conduct the next administrative review. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

The merchandise covered by the review is ampicillin trihydrate and its salts ("ampicillin"), an antibiotic which is a semi-synthetic penicillin, imported directly or indirectly from Spain. Such imports are currently classifiable under item 411.6000 of the Tariff Schedules of the United States Annotated.

The review covers the period January 1, 1981 through December 31, 1981, and the following programs: (1) A rebate upon exportation of indirect taxes, under the Desgravacion Fiscal a la Exportacion ("DFE"); and (2) an operating capital loans program. The only known exporter of this merchandise to the United States is Antibioticos, S.A.

Analysis of Programs

(1) *Desgravacion Fiscal a la Exportacion ("DFE").* Spain employs a cascading tax system. Under this system, the government levies a turnover tax ("IGTE") on each sale of a product through its various stages of production, up to (but not including) the final sale in Spain. Upon exportation of the product, the government, under the DFE, rebates both these accumulated IGTE indirect taxes and final stage taxes.

Although the Spanish government rebates upon exportation all indirect taxes paid under the cascading tax system, the Tariff Act allows the rebate of only the following: (1) Taxes borne by inputs which are physically incorporated in the exported product (see Annex 1.1 of part 355 of the Commerce Regulations); and (2) indirect taxes levied at the final stage (see Annex 1.2 of part 355 of the Commerce Regulations). If the tax rebate upon export exceeds the total amount of allowable indirect taxes described above, the Department considers the difference to be an overrebate of indirect taxes and, therefore, a subsidy.

Physical incorporation is a question of fact to be determined for each product

in each case. In this case, the physically incorporated inputs are the raw materials previously allowed by the Department in the final results of the last review of this order.

The rebate of two final stage taxes, the parafiscal tax on export licenses and tax on freight and insurance, is also allowable when calculating whether or not there is an overrebate of indirect taxes under the DFE.

As of January 1, 1981, the Spanish government increased the IGTE rate from 2.4 percent to 3.8 percent while maintaining the previous rate for the export rebate. Based upon our analysis of the indirect taxes on physically incorporated inputs and the two indirect taxes on the final product, we determine that the change in aggregate indirect tax incidence has eliminated the overrebate previously found countervailable, therefore, we preliminarily determine the net subsidy attributable to this program during 1981 to be zero percent.

(2) *Operating Capital Loans.* The Spanish government requires banks to set aside funds to provide short-term operating capital loans. These loans are granted for a period of less than one year. For the first two months of 1981, the Spanish government fixed the interest rate for such loans at 8 percent, which was 1.5 percent below the legally established commercial interest rate of 9.5 percent. Effective March 1, 1981, the Spanish government increased the interest rate on operating capital loans from 8 to 10 percent while eliminating the interest rate ceiling on comparable short-term commercial loans. To determine the interest rate on comparable commercial loans for the remaining ten months in 1981, we took the average national prime interest rate for loans of comparable length, added the prevailing interest charge over prime facing borrowers of average creditworthiness and added the legally established fees and commissions. Comparing this benchmark with the 10 percent interest rate established for the operating capital loans program, we found a differential of 9.45 percent after March 1.

The maximum loan principal available to a given exporter is determined as a percentage of the firm's previous year's exports. This amount may be increased by 10 percent if the firm has a government-issued Exporter's Card. Antibioticos, S.A. has such a card and thus maximum eligibility until November 1981 was 35 percent. Effective November 21, 1981, the Spanish government decreased the maximum eligibility (including Exporter's Card eligibility) to 28 percent. Because we have no information on Antibioticos' actual level of utilization of this program, we assumed that the maximum allowable amount was borrowed. After prorating for the interest rate differentials and eligibility levels prevailing in 1981, we preliminarily determine the net subsidy conferred under this program in 1981 to be 1.73 percent of the f.o.b. invoice price of the merchandise.

Effective April 20, 1982, the Spanish government reduced the maximum percentage of eligibility for operating capital loans to 26.6 percent. As a result, using the same methodology and calculating the interest rate differential for the first five months of 1982, we preliminarily determine, for purposes of cash deposits of estimated countervailing duties, that the net subsidy attributable to this program is 1.57 percent *ad valorem*.

Preliminary Results of the Review

As a result of our review, we preliminarily determine that the aggregate net subsidy conferred during the period of review by the two programs is 1.73 percent *ad valorem*. Accordingly, the Department intends to instruct the Customs Service to assess countervailing duties of 1.73 percent of the f.o.b. invoice price on all shipments of Spanish ampicillin exported on or after January 1, 1981 and on or before December 31, 1981.

Further, as provided for by section 751(a)(1) of the Tariff Act, the Department intends to instruct the Customs Service to collect a cash deposit of estimated countervailing duties of 1.57 percent of the f.o.b. invoice price on all shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of the current review. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter, any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of this administrative review including the results of its analysis of issues raised in any such written comments or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated: December 17, 1982.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 82-34898 Filed 12-22-82; 8:45 am]

BILLING CODE 3510-25-M

National Bureau of Standards

[Docket No. 2819-158]

Approval of Federal Information Processing Standard 95; Codes for the Identification of Federal and Federally-Assisted Organizations

Under the provisions of Pub. L. 89-306 (79 Stat. 1127; 40 U.S.C. 759 (f)) and Executive Order 11717 (38 FR 12315, dated May 11, 1973), the Secretary of Commerce (Secretary) is authorized to establish uniform Federal automatic data processing standards. Responsibilities of the National Bureau of Standards for the development, publication, and promulgation of data elements and representation standards are defined in Part 6 of Title 15 of the Code of Federal Regulations. On April 21, 1981, a notice was published in the **Federal Register** (46 FR 22780-22781) that a standard for Codes for the Identification of Federal and Federally-Assisted Organizations was being proposed for Federal use. Interested parties were invited to submit written comments concerning this proposed standard to the National Bureau of Standards (NBS).

The written comments submitted by interested parties and other material available to the Department relevant to this standard were reviewed by NBS. On the basis of this review, NBS recommended to the Secretary his approval of the standard as a Federal Information Processing Standard (FIPS), and prepared a detailed justification document for the Secretary's review in support of that recommendation. The purpose of this notice is to announce that the Secretary has approved the standard as a FIPS, and that the standard shall be published as FIPS Publication 95. Use of this standard by Federal agencies is encourage when such use contributes to operational benefits, efficiency, or economy.

The detailed justification document which was presented to the Secretary, and which includes an analysis of the written comments received, is part of the public record and is available for

inspection and copying in the Department's Central Reference and Records Inspection Facility. Room 6622, Main Commerce Building, 14th Street between Constitution Avenue and E Street, NW., Washington, D.C. 20230.

The Federal standard satisfies a long-standing need for a Federal agency indentification code based on the Treasury Accounting Symbol. Expected benefits to Federal agencies using this standard in their information processing applications include reduced costs of data management and related paperwork, and improved opportunities for more effective use of data resources. The standard is expected to reduce duplication and promote coordination in information exchange involving Exceutive departments and independent agencies.

The approved FIPS contains two portions: (1) An announcement portion which provides information concerning the applicability, implementation, and maintenance of the standard and (2) a specifications portion which deals with the technical requirements of the standard. Only the announcement portion of the standard is provided in ths notice.

Interested parties may purchase copies of this standard, including the specifications portion, from the National Technical Information Service (NTIS). Specific ordering information from NTIS for this standard is set out in the Where to Obtain Copies section of the announcement portion of the standard.

Persons desiring futher information about this standard may contact Mr. Roy Saltman, Center for Programming Science and Technology, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234, (301) 921–3491.

Dated: December 16, 1982.

Raymond G. Kammer,

Acting Director.

Federal Information Processing Standards Publication 95, 1982 (Month) (Day)

Announcing the Standard for Codes for the Identification of Federal and Federally-Assisted Organizations

Federal Information Processing Standards Publications (FIPS PUBS) are issued by the National Bureau of Standards in accordance with section 111(f)(2) of the Federal Property and Administrative Services Act of 1949, as amended, Pub. L. 89–306 (79 Stat. 1127), Executive Order 11717 (38 FR 12315), dated May 11, 1973, and Part 6 of Title 15 Code of Federal Regulations.

1. *Name of Standard:* Codes for the Identification of Federal and Federally-Assisted Organizations, (FIPS Pub 95).

2. *Category of Standard:* Federal General Data Element and Representation Standard.

3. *Explanation:* This standard provides a four-character identifier for each organization listed. The set of identifiers defines a standard data element. The two leftmost characters form a component data element which is identical with the two-digit numerical code used in the Federal budgetary process to identify major Federal organizations. This component, designated as the Treasury Agency Symbol (TAS), is maintained by the U.S. Department of the Treasury.

The purposes of data element standardization are to eliminate unnecessary duplications and incompatibilities in the collection, processing, and dissemination of data, and to maximize the usefulness of data resources. The use of data referenced to a standard set of representations or codes reduces collection costs by allowing previously collected data to be applied to new uses, and provides a potential for benefits derived from those additional applications. Standardization also reduces conversion costs for interchange of data between databases, and reduces costs of data element maintenance by the implementation of a single, maintained standard to replace separately maintained elements.

4. *Approving Authority:* The Secretary of Commerce.

5. *Maintenance Agency:* Data Element and Representation Standards Program Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234. Federal departments and independent agencies are invited to assist in the maintenance of this standard by submitting copies of newly implemented tables of organization that affect any listing.

Change notices to this FIPS PUB will be issued by the National Bureau of Standards. Users who wish to receive such notices should complete the Change Request Form included in this FIPS PUB and return it to the address indicated.

6. *Cross Index:* None.

7. *Applicability:* This Federal general data element and representation standard is made available for data interchange among executive departments and independent agencies and for Federal data interchange with the non-Federal sector including industry, State, local, and other Governments, and the public at large.

This standard data element may be used for the interchange of information on Federal operations when that information is identified by organization. Information interchanged may concern, for example: number of personnel employed, value of contracts and grants issued, value of services of an identical type received from a single source, inventoried quantity of a particular item, and value and identity of property managed or controlled. The data element need not be used to record information on Federal operations of unlisted, lower-level organizations. The data element may be used if lower-level data are aggregated to the level of organizations identified in this standard.

This standard data element also may be used for interchange of identification codes assigned to a set of similar items, but only if an organizational indication is included as part of the coding structure. Examples of sets of items which could employ organizational-indicative identification codes are: the set of identities of Federal reports and computer programs that are available for public use or distribution, the set of identities of domestic assistance programs for which a prospective recipient might apply, and the set of identities of grants and contracts awarded. If organizational identification is used but is not fully appropriate below the first level, then only the two leftmost characters of the standard data element (the TAS) should be used. Agencies may wish to use the standard in applications other than those suggested above. This standard, however, is not intended for the replacement of U.S. Department of the Treasury agency location and appropriation fund account codes.

8. *Implementation Schedule:* This standard became effective December 1, 1982. Use by Federal agencies is encouraged when such use contributes to operational benefits, efficiency or economy.

9. *Specifications:* Federal Information Processing Standard 95 (FIPS Pub 95), Codes for the Identification of Federal and Federally-Assisted Organizations (affixed).

10. *Where To Obtain Copies of the Standard:* Copies of this publication are available for sale by the National Technical Information Service (NTIS), U.S. Dept. of Commerce, Springfield, Virginia 22161. When ordering, refer to Federal Information Processing Standards Publication 95 (FIPS Pub 95), and title. When microfiche is desired, this should be specified.

Inquires concerning the FIPS data element standards program may be directed to the Program Manager, Data Element and Representation Standards, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234; telephone: (301) 921–3491.

[FR Doc. 82–34751 Filed 12–22–82; 8:45 am]

BILLING CODE 3510–CN–M

National Oceanic and Atmospheric Administration

New England Fishery Management Council; Public Meetings

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice.

SUMMARY: The New England Fishery Management Council, established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94–265), will meet to discuss reports of the lobster oversight and demersal finfish oversight committees; a report from the National Marine Fisheries Service on the 3-tier data collection system; a staff report on meat count/shell size of sea scallops in the Gulf of Maine fishery; foreign fishing matters, as well as other fishery

management and administrative matters.

DATES: The public meetings will convene on Tuesday, January 11, 1983, at approximately 10 a.m., and will adjourn on Wednesday, January 12, 1983, at approximately 5 p.m. The meetings may be lengthened or shortened, or agenda items rearranged depending upon progress on the agenda.

ADDRESS: The meetings will take place at King's Grant Inn, Danvers, Massachusetts.

FOR FURTHER INFORMATION CONTACT: New England Fishery Management Council, Suntaug Office Park—5 Broadway (Route One), Saugus, Massachusetts 01906, Telephone: (617) 231–0422.

Dated: December 20, 1982.

Joe P. Clem,

Acting Chief, Operations Coordination Group, National Marine Fisheries Service.

[FR Doc. 82–34893 Filed 12–22–82; 8:45 am]

BILLING CODE 3510–22–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing Import Restraint Levels for Certain Cotton, Wool, and Man-Made Fiber Textile Products from Macau, Effective on January 1, 1983

December 17, 1982.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Establishing import restraint levels for certain cotton, wool, and man-made fiber textile products imported from Macau, effective on January 1, 1983.

SUMMARY: The Bilateral Cotton Wool, and Man-Made Fiber Textile Agreement of November 29 and December 18, 1979, between the Governments of the United States and Portugal establishes specific ceilings for cotton, wool, and man-made fiber textile products from Macau in Categories 333/334/335 (Suit-Type and Other Cotton Coats), 338 (Men's and Boys Knit Shirts), 339, (Women's Girls', and Infants' Knit Shirts and Blouses), 340 (Men's and Boys' Woven Cotton Shirts), 341 (Women's, Girls', and Infants' Woven Cotton Blouses), 347/348 (Cotton Trousers), 445/446 (Wool Sweaters), 633/634/635 (Suit-Type and Other Man-Made Fiber Coats), and 641 (Blouses), during the agreement year which begins on January 1, 1983 and extends through December 31, 1983. The agreement also provides consultation levels for certain categories, such as Categories 331 (Cotton Gloves), and 351 (Cotton Nightwear), which are not subject to specific ceilings and which may be increased upon agreement between the two governments. In the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs, in accordance with the terms of the bilateral agreement, to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of textile products in the foregoing categories, produced or manufactured in Macau and exported during the twelve-month period which begins on January 1, 1983 and extends through December 31, 1983, in excess of the designated levels of restraint.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), August 12, 1980 (45 FR 53506), December 24, 1980 (45 FR 85142), May 5, 1981 (46 FR 25121), October 5, 1981 (46 FR 48963), October 27, 1981 (46 FR 52409), February 9, 1982 (47 FR 5926), and May 13, 1982 (47 FR 20654))

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

EFFECTIVE DATE: January 1, 1983.

FOR FURTHER INFORMATION CONTACT: Diana Bass, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–4212).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

December 17, 1982.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton, Wool, and Man-Made Fiber Textile agreement of November 29 and December 18, 1979, between the Governments of the United States and Portugal; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on January 1, 1983 and for the twelve-month period extending through December 31, 1983, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool, and man-made fiber textile products in the following categories, produced or manufactured in Macau, in excess of the indicated level of restraint:

Category	12-mo. level of restraint
331	200,000 dozen pairs
333/334/335	91,163 dozen of which not more than 53,976 dozen shall be in Cat. 333/335.
338	137,644 dozen
339	585,643 dozen
340	131,941 dozen
341	85,099 dozen.
347/348	314,259 dozen
351	13,462 dozen
445/446	69,972 dozen
633/634/635	220,051 dozen
641	79,102 dozen

In carrying out this directive, entries of textile products in the foregoing categories, which have been exported to the United States on and after January 1, 1982, shall, to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during the twelve-month period beginning on January 1, 1982 and extending through December 31, 1982. In the event the levels of restraint established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter.

The levels set forth above are subject to adjustment in the future according to the provisions of the bilateral agreement of November 29 and December 18, 1979, which provide, in part, that: (1) Within the aggregate and applicable group limits, specific levels of restraint may be exceeded by designated percentages; (2) these same levels may be increased for carryover and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement. Any appropriate adjustment under the provisions of the bilateral agreement referred to above will be made to you by letter.

A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), August 12, 1980 (45 FR 53506), December 24, 1980 (45 FR 85142), May 5, 1981 (46 FR 25121), October 5, 1981 (46 FR 48963), October 27, 1981 (46 FR 52409), February 9, 1982 (47 FR 5926), and May 13, 1982 (47 FR 20654).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Portugal and with respect to imports of cotton, wool, and man-made fiber textile products from Macau have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commisisoner of Customs, which are necessary for the implementation of such action, fall within the foreign affairs exception to the rule-making provisions of 5

U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

Walter C. Lanahan

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 82-34789 Filed 12-22-82; 8:45 am]

BILLING CODE 3510-25-M

Announcing Import Restraint Levels for Certain Cotton, Wool, and Man-Made Fiber Textile Products From the Polish People's Republic, Effective on January 1, 1983

December 17, 1982.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Establishing import restraint levels for certain cotton, wool, and man-made fiber textile products imported from Poland, effective on January 1, 1983.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), August 12, 1980 (45 FR 53506), December 24, 1980 (45 FR 85142), May 5, 1981 (46 FR 25121), October 5, 1981 (46 FR 48963), October 27, 1981 (46 FR 52409), February 9, 1982 (47 FR 5926), May 13, 1982 (47 FR 20654), and November 24, 1982 (47 FR 53091))

SUMMARY: The Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of September 15, 1980 and March 20, 1981 between the Governments of the United States and the Polish People's Republic establishes specific ceilings for cotton, wool, and man-made fiber textile products in Categories 335, 433, and 443/643/644, produced or manufactured in Poland and exported during the twelve-month period which begins on January 1, 1983.

In the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of cotton, wool, and man-made fiber textile products in the foregoing categories in excess of the designated twelve-month levels of restaint. The levels of restraint for Category 443/643/644 and its sublimit have been reduced by 788 dozen to reflect carryforward used in 1982.

EFFECTIVE DATE: January 1, 1983.

FOR FURTHER INFORMATION CONTACT: Carl Ruths, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-4212).

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

December 17, 1982

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229.

Dear Mr. Commissioner: Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of September 15, 1980 and March 20, 1981, between the Governments of the United States and the Polish People's Republic; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on January 1, 1983 and for the twelve-month period extending through December 31, 1983, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool, and man-made fiber textile products in the following categories, produced or manufactured in Poland, in excess of the indicated levels of restraint:

Category	12-mo level of restraint
335	40,179 dozen.
433	7,299 dozen.
443/643/644	15,150 dozen of which not more than 12,473 dozen shall be applied to all T.S.U.S.A. numbers in these categories except 379.8351, 379.8352, 379.8920, and 379.9560.

In carrying out this directive, entries of cotton, wool, and man-made fiber textile products in the foregoing categories, produced or manufactured in Poland, which have been exported to the United States during the period beginning on January 1, 1982 and extending through December 31, 1982, shall, to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during the period which began on January 1, 1982 and extends through December 31, 1982. In the event the levels of restraint established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter.

The levels of restraint set forth above are subject to adjustment in the future according to the provisions of the bilateral agreement of September 15, 1980 and March 20, 1981, between the Governments of the United States and the Polish People's Republic, which provide, in part, that: (1) Within the aggregate and applicable group limits of the agreement, specific levels of restraint may be exceeded by designated percentages; (2) these same levels may be increased for carryover and carryforward; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement. Any appropriate adjustments under the provisions of the bilateral agreement will be made to you by letter.

A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on December 13, 1982 (47 FR 55709).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the Polish People's Republic and with respect to imports of cotton, wool, and man-made fiber textile products from Poland have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 82-34790 Filed 12-22-82; 8:45 am]

BILLING CODE 3510-25-M

Announcing Import Restraint Levels for Certain Cotton, Wool, and Man-Made Fiber Textile Products From Singapore Effective on January 1, 1983

December 17, 1982.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Establishing import restraint levels for certain cotton, wool, and man-made fiber textile products imported from Singapore, effective January 1, 1983.

SUMMARY: The Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of August 21, 1981, as amended, between the Governments of the United States and the Republic of Singapore, establishes specific levels of restraint for cotton and man-made fiber textile products in Categories 320 (other woven fabrics), 333/334/335 (cotton coats), 340 (men's and boys' woven cotton shirts), 347/348 (cotton trousers), and 604 (other man-made fiber yarn, wholly of non-cellulosic filament), produced or manufactured in Singapore and exported to the United States during the twelve-month period beginning on

January 1, 1983. It also provides consultation levels for certain categories, such as Categories 319 (carded cotton duck), 341 (women's, girls, and infants' woven cotton blouses), 445/446 (wool sweaters), 640 (men's and boys' woven shirts of man-made fiber), and 641 (women's, girls', and infants woven blouses of man-made fiber), among others.

The letter published below from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs directs that entry into the United States for consumption, or withdrawal from warehouse for consumption, of cotton, wool, and man-made fiber textile products in Categories in 319, 320, 333/334/335, 340, 341, 347/348, 445/446, 604, 640, and 641 be limited to the designated levels of restraint during the twelve-month period which begins on January 1, 1983 and extends through December 31, 1983.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), August 12, 1980 (45 FR 53506), December 24, 1980 (45 FR 85142), May 5, 1981 (46 FR 25121), October 5, 1981 (46FR 48963), October 27, 1981 (46 FR 52409), February 9, 1982 (47 FR 5926), May 13, 1982 (47 FR 20654), and November 24, 1982 (47 FR 53091))

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

EFFECTIVE DATE: January 1, 1983.

FOR FURTHER INFORMATION CONTACT: Ronald J. Sorini, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–4212).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

December 17, 1982.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury,
Washington, D.C. 20229

Dear Mr. Commissioner: Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of August 21, 1981, as amended, between the Governments of the United States and the Republic of Singapore; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on January 1, 1983 and for the twelve-month period extending through December 31, 1983, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool, and man-made fiber textile products in the following categories, produced or manufactured in Singapore, in excess of the indicated twelve-month levels of restraint:

Category	12-mo level of restraint
319	3,000,000 square yards.
320	8,400,000 square yards.
333/334/335	191,443 dozen of which not more than 11,008 dozen shall be in Cat. 333; not more than 58,122 dozen shall be in Cat. 334; and not more than 151,029 dozen shall be in Cat. 335.
340	446,699 dozen.
341	48,276 dozen.
347/348	638,141 dozen of which not more than 549,598 dozen shall be in Cat. 347 and not more than 248,077 dozen shall be in Cat. 348.
445/446	20,000 dozen.
604	1,212,750 pounds.
640	29,167 dozen.
641	48,276 dozen.

In carrying out this directive, entries of cotton, wool and man-made fiber textile products in the foregoing categories, produced or manufactured in the Republic of Singapore, which have been exported to the United States on and after January 1, 1982 and extending through December 31, 1982, shall, to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during that twelve-month period. In the event the levels of restraint established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter.

The levels set forth above are subject to adjustment in the future according to the provisions of the bilateral agreement of August 21, 1981, as amended, between the Governments of the United States and the Republic of Singapore, which provide, in part, that: (1) Within the aggregate and applicable group limits of the agreement, specific levels of restraint may be exceeded by designated percentages; (2) specific levels may be increased by carryover and carryforward up to 11 percent of the applicable category limit and (3) administrative arrangements or adjustments may be made to resolve problems arising in the implementation of the agreement. Any appropriate adjustments under the provisions of the bilateral agreement, referred to above, will be made to you by letter.

A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), August 12, 1980 (45 FR 53506), December 24, 1980 (45 FR 85142), May 5, 1981 (46 FR 25121), October 5, 1981 (46 FR 48963), October 27, 1981 (46 FR 52409), February 9, 1982 (47 FR 5926), May 13, 1982 (47 FR 20654), and November 24, 1982 (47 FR 53091).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the Republic of Singapore and with respect to imports of cotton, wool, and man-made fiber textile products from Singapore have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register**.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 82–34791 Filed 12–22–82; 8:45 am]

BILLING CODE 3510–25–M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHERS SEVERELY HANDICAPPED

Procurement List 1983; Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to procurement list.

SUMMARY: This action adds to Procurement List 1983 commodities to be produced by and services to be provided by workshops for the blind and other severely handicapped.

EFFECTIVE DATE: December 23, 1982.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557–1145.

SUPPLEMENTARY INFORMATION: On July 23, 1982, August 20, 1982, and September 30, 1982, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (47 FR 31915, 47 FR 36467, 47 FR 43107) of proposed additions to Procurement List 1983, November 18, 1982 (47 FR 52101).

After consideration of the relevant matter presented, the Committee has determined that the commodities and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77.

I certify that the following actions will not have a significant impact on a substantial number of small entities. The major factors considered were:

a. The actions will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The actions will not have a serious economic impact on any contractors for the commodities and services listed.

c. The actions will result in authorizing small entities to produce or provide commodities and services procured by the Government.

Accordingly, the following commodities and services are hereby added to Procurement List 1983:

Class 7510

Sheath, Pen and Pencil, 7510–00–052–2564

Class 7920

Cloth, Wiping ("Jean Cotton"), 7920–LL–L01–0013 (12" x 13"), 7920–LL–L01–0014 (20" x 30"), (Requirements for the Portsmouth Naval Shipyard, Portsmouth, New Hampshire only)

SIC 0782

Grounds Maintenance, Buildings 4582 and 4531, Portable Buildings 2, 9, 12, 13, 18, 19, 20, 59 and 61, Bergstrom Air Force Base, Texas

SIC 7349

Janitorial/Custodial (Laundry), National Defense University, Health Fitness, Ft. McNair, Washington, D.C.

Janitorial Service, Federal Records Center, 380 Trapelo Road, Waltham, Massachusetts

C. W. Fletcher,

Executive Director.

[FR Doc. 82-34627 Filed 12-22-82; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1983; Notice of Establishment; Correction

In FR Doc. 82–31658 appearing at page 52101 in the issue for Thursday, November 18, 1982, make the following corrections:

1. On page 52107, second column, under "Decalcomania NUMBERS AND LETTERS (SH)", the first entry should read 7690———1½" and the third entry should read 7690–00–311–7128———3".

2. On page 52108, second column, under "Coin Bages (SH)", the entry "8105–00–NSH–0007———50% of Gov't requirement" should be deleted.

3. On page 52113, first column, under "Department of Treasury: Bureau of Engraving and Printing, Washington, D.C., for Public Debt Building (SH)", the entire entry should be in Column 3 under the "janitorial/Elevator Operator".

C. W. Fletcher

Executive Director.

FR Doc. 82-34628 Filed 12-22-82; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1983; Proposed Additions and Deletion

AGENCY: Committee for purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed additions to and deletion from procurement list.

SUMMARY: The Committee has received proposals to add to and delete from Procurement List 1983 commodities to be produced by and a service to be provided by workshops for the blind and other severely handicapped.

DATE: Comments must be received on or before: January 26, 1983.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557–1145.

SUPPLEMENTARY INFORMATION: This noticer is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

Additions

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the Commodities listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities to Procurement List 1983, November 18, 1982 (47 FR 52101):

Class 7510

Binder, Looseleaf, Presentation Style, 7510–00–582–5398, 7510–00–582–5399, 7510–00–582–5400 (For GSA Regions 1, 5, 6, 7, 8, 9, and 10)

Class 7530

Card, Index: 7530–00–238–4316, 7530–00–244–7453, 7530–00–242–7456, 7530–00–247–0325, 7530–00–247–0318, 7530–00–247–0310, 7530–00–247–1315

Class 7530

Card, Index: 7530–00–244–7459, 7530–00–244–745, 17530–00–234–9436, 7530–00'238–4319, 7530–00–238–4331, 7530–00–264–3723, 7530–00–949–2787, 7530–00–243–9437, –247–0311, 7530–00–244–7447, 7530–00–247–0315

Folder, File, Pressboard, 7530–00–926–8981, 17530–00–926–8983, 7530–00–739–7723

Folder Set, File, Pressboard, 7530–00–286–6926

Class 8415

Mask, Extreme Cold Weather, 8415–00–006–3468, 8415–00–243–9844

Deletion

It is proposed to delete the following service from Procurement List 1983, November 18, 1982 (47 FR 52101):

SIC 7699

Rebuilding of Typewriters, General Services Administration, GSA Self-Service Stores, Chicago, Illinois

C. W. Fletcher,

Executive Director.

FR Doc. 82-34629 Filed 12-22-82; 8:45 am]

BILLING CODE 6820-33-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

December 7, 1982.

The USAF Scientific Advisory Board Foreign Technology Division Advisory Group will meet at Wright-Patterson AFB, OH, on January 27–28, 1983. The purpose of the meeting will be to discuss development of synthetic aperture radars and the various foreign contributions to the state of the art. The meeting will convene at 8:30 a.m. and adjourn at 3:30 p.m. on each day.

The meeting concerns matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at 697–4648.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 82-34616 Filed 12-22-82; 8:45 am]

BILLING CODE 3910-01-M

USAF Scientific Advisory Board; Meeting

December 14, 1982.

The USAF Scientific Advisory Board Acquisition Logistics Division Advisory Group will meet at Headquarters Air Force Acquisition Logistics Division, Wright-Patterson Air Force Base, Ohio on February 2–3, 1983. The purpose of the meeting will be to conduct a

preliminary supportability analysis of the Advanced Tactical Fighter program. The meeting will convene at 8:30 a.m. and adjourn at 5:00 p.m. each day.

The meeting concerns matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697–8845.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 82–34863 Filed 12–22–82; 8:45 am]

BILLING CODE 3910–01–M

Office of the Secretary

Defense Science Board Task Force on Anti-Tactical Missiles (ATM), Phase II; Notice of Advisory Committee Meeting

The defense Science Board Task Force on Anti-Tactical Missile (ATM) will meet in closed session on 27 January 1983 in Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs to the Department of Defense.

At the meeting on 27 January 1983 the Defense Science Board Task Force on ATM will examine the status of defense against Soviet Tactical Missiles and will discuss a final report.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92–463, as amended (5 U.S.C. App. I, (1976)), it has been determined that this DSB Task Force meeting concerns matters listed in 5 U.S.C. 552b(c) (1) (1976), and that accordingly these meetings will be closed to the public.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Service, Department of Defense.

December 17, 1982.

[FR Doc. 82–34770 Filed 12–22–82; 8:45 am]

BILLING CODE 3810–01–M

Defense Science Board Task Force on Long Endurance Aircraft;

The Defense Science Board Task Force on Long Endurance Aircraft (LEA) will meet in closed session on 20–21 January 1983 in the Pentagon, Arlington Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs to the Department of Defense.

At the meeting on 20–21 January 1983 the Defense Science Board Task Force on LEA will consider the mission potential for long endurance aircraft.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92–463, as amended (5 U.S.C. App. I, (1976)), it has been determined that this DSB Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly these meetings will be closed to the public.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Service, Department of Defense.

December 17, 1982.

[FR Doc. 82–34771 Filed 12–22–82; 8:45 am]

BILLING CODE 3810–01–M

Defense Wage Committee; Closed Meetings

Pursuant to the provisions of section 10 of Pub. L. 92–463, the Federal Advisory Committee Act, notice is hereby given that a meeting of the Department of Defense Wage Committee will be held on Tuesday, February 1, 1983; Tuesday, February 8, 1983; Tuesday, February 15, 1983; and Tuesday, February 22, 1983 at 10:00 a.m. in Room 1E801, the Pentagon, Washington, D.C.

The Committee's primary responsibility is to consider and submit recommendations to the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) concerning all maters involved in the development and authorization of wage schedules for federal prevailing rate employees pursuant to Pub. L. 92–392. At this meeting, the Committee will consider wage survey specifications, wage survey data, local wage survey committee reports and recommendations, and wage schedules derived therefrom.

Under the provisions of section 10(d) of Pub. L. 92–463, meetings may be closed to the public when they are "concerned with matters listed in 5 U.S.C. 552b." Two of the matters so listed are those "related solely to the internal personnel rules and practices of an agency," (5 U.S.C. 552b. (c)(2)), and those involving "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (5 U.S.C. 552b. (c)(4)).

Accordingly, the Deputy Assistant Secretary of Defense (Civilian Personnel Policy & Requirements) hereby determines that all portions of the meeting will be closed to the public because the matters considered are related to the internal rules and practices of the Department of Defense (5 U.S.C. 552b (c)(2)), and the detailed wage data considered by the Committee during its meetings have been obtained from officials of private establishments with a guarantee that the data will be held in confidence (5 U.S.C. 552b. (c)(4)).

However, members of the public who may wish to do so are invited to submit material in writing to the chairman concerning matters believed to be deserving of the Committee's attention. Additional information concerning this meeting may be obtained by writing the Chairman, Department of Defense Wage Committee, Room 3D264, the Pentagon, Washington, D.C. 20301

M. S. Healy

OSD Federal Register Liaison Officer Department of Defense.

December 17, 1982.

[FR Doc. 82–34772 Filed 12–22–82; 8:45 am]

BILLING CODE 3810–01–M

DEPARTMENT OF EDUCATION

National Advisory Council Women's Educational Programs; Meeting

AGENCY: National Advisory Council on Women's Educational Programs.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a meeting of the National Advisory Council on Women's Educational Programs Executive Committee. The agenda will be a discussion of National Advisory Council on Women's Educational Programs goals and objectives for 1983. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act. This Document is intended to notify the general public of their opportunity to attend.

DATE: January 8, 1983, 9:00 a.m. to 4:30 p.m.

ADDRESS: The meetings will be held at O'Hare Hilton Hotel, O'Hare International Airport, Chicago Illinois.

FOR FURTHER INFORMATION CONTACT: Sharon Petersen, Special Assistant to the Executive Director, National Advisory Council on Women's Educational Programs, 1832 M Street, N.W., Suite 821, Washington, D.C., 20036; (202) 653–5846.

SUPPLEMENTARY INFORMATION: The National Advisory Council on Women's Educational Programs is established pursuant to Pub. L. 95–561. The Council

is mandated to: (a) Advise the Secretary on matters relating to equal education opportunities for women and policy matters relating to the administration of the Women's Educational Equity Act of 1978; (b) make recommendations to the Secretary with respect to the allocation of any funds pursuant to the Act, including criteria developed to insure an appropriate geographical distribution of approved programs and projects throughout the Nation; (c) recommend criteria for the establishment of program priorities; (d) make such reports as the Council determines appropriate to the President and Congress on the activities of the Council; and (e) disseminate information concerning the activities of the Council.

The meeting of the Council will be open to the public. Records will be kept of the proceedings and will be available for public inspection at the office of the National Advisory Council on Women's Educational Programs, 1832 M Street, NW., Suite 821, Washington, D.C. 20036.

Signed at Washington, D.C. on December 21, 1982.

Sharon Petersen,

Acting Executive Director.

[FR Doc. 82-35029 Filed 12-22-82; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

National Petroleum Council, Miscible Displacement Task Group of the Committee on Enhanced Oil Recovery; Meeting

Notice is hereby given that the Miscible Displacement Task Group of the Committee on Enhanced Oil Recovery will meet in January 1983. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Enhanced Oil Recovery will investigate the technical and economic aspects of increasing the Nation's petroleum production through enhanced oil recovery. Its analysis and findings will be based on information and data to be gathered by the various task groups. The time, location and agenda of the Miscible Displacement Task Group meeting follows:

The Miscible Displacement Task Group will hold its second meeting on Wednesday, January 12, 1983, starting at 9:00 a.m. in Room 1603, Mobile Exploration and Producing Services, Inc., 7200 North Stemmons Freeway, Dallas, Texas.

The tentative agenda for the Miscible Displacement Task Group meeting follows:

1. Opening remarks by the Chairman and Government Cochairman.
2. Review progress of Task Group study assignments.
3. Discuss any other matters pertinent to the overall assignment from the Secretary of Energy.

The meeting is open to the public. The Chairman of the Miscible Displacement Task Group is empowered to conduct the meeting in a fashion that will, in his judgement, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Miscible Displacement Task Group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform G. J. Parker, Office of Oil, Gas and Shale Technology, Fossil Energy, 301/353-3032, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 1E-190, DOE Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on December 16, 1982.

Donald L. Bauer,

Principal Deputy Assistant Secretary for Fossil Energy.

[FR Doc. 82-34814 Filed 12-22-82; 8:45 am]

BILLING CODE 6450-01-M

Procurement and Assistance Management Directorate

AGENCY: Department of Energy.

ACTION: Notice of debarment.

SUMMARY: This notice announces that the Department of Energy (DOE) has debarred Ronald A. Buening, and all organizations with which he is or may become affiliated, from participating in any new DOE contract or subcontract for a period beginning December 20, 1982, and ending September 8, 1984.

DATE: The debarment became effective on December 20, 1982, and shall remain in effect through September 8, 1984.

FOR FURTHER INFORMATION CONTACT: Scott Sheffield, Procurement and Assistance Management Directorate, Room 1I-018, Forrestal Building, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, telephone 202/252-8267.

SUPPLEMENTARY INFORMATION: The debarment is being imposed in accordance with the procedures set forth in Federal Procurement Regulations (FPR) Temporary Regulation No. 65, 41 CFR Subpart 1-1.6, 47 FR 43692 (October 4, 1982), and the DOE Procurement Regulations (DOE-PR), 41 CFR Subpart 9-1.6. In addition to Ronald A. Buening, the known affiliated organizations affected by the debarment are R. A. Buening, C.P.A., C.E.A.; R. A. Buening and Associates; and Applied Energy Conservation Techniques, Ltd. Mr. Buening's address is 441 Mariner Drive, Tarpon Springs, Florida 33589. The address of all the known affiliates is the same: P.O. Box 1118, Tarpon Springs, Florida 33589.

During the period of debarment, DOE will neither accept nor consider a bid or proposal submitted by Mr. Buening or by any organization with which he is affilated. In addition, DOE will not approve any new contract between him or any such affiliated organization and a DOE contractor.

The debarment is based on Mr. Buening's September 8, 1982, conviction in the United States District Court for the Middle District of Florida for violation of Title 18 of the United States Code, Sections 287 and 2. According to the judgment of conviction, Mr. Buening plead guilty to presenting a false claim of $10,825.00 to the State of Florida Governor's Energy Office for payment under the DOE Grant Programs for Schools and Hospitals and Buildings Owned by Units of Local Government and Public Care Institutions, 10 CFR Part 455.

As required under DOE-PR 9-1.602, Mr. Buening and the above named affiliated organizations have been placed on the DOE Consolidated List of Debarred, Suspended, and Ineligible Contractors which is distributed periodically to DOE Contracting Officers. DOE has also notified the General Services Administration of this debarment.

Issued in Washington, D.C. on December 20, 1982.

Hilary J. Rauch,

Director, Procurement and Assistance, Management Directorate.

[FR Doc. 82-34730 Filed 12-22-82; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Mustang Fuel Corp.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of action taken on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces that it has adopted a Consent Order with Mustang Fuel Corporation as a final order of the Department.

EFFECTIVE DATE: December 23, 1982.

FOR FURTHER INFORMATION CONTACT: David H. Jackson, Director, Kansas City Office, Economic Regulatory Administration, 324 East 11th Street, Kansas City, Missouri 64106–2466, (816) 374–2092.

SUPPLEMENTARY INFORMATION: On November 12, 1982, 47 Fed. Reg. 51182, the ERA published a notice in the **Federal Register** that it executed a proposed Consent Order with Mustang Fuel Corp. (Mustang) of Oklahoma City, Okla., on November 3, 1982, which would not become effective sooner than 30 days after publication of that notice. The Consent Order settles regulatory violations alleged by the Department of Energy (DOE) against Mustang, involving prices charged for natural gas liquids and natural gas liquid products by Mustang's subsidiary, Mustang Gas Products Company, during the period September 1, 1973 through January 27, 1981. Under the terms of the Consent Order, Mustang Fuel Company agrees to refund $4,600,000, to be distributed by the DOE.

Pursuant to 10 CFR 205.199J(c), interested persons were invited to submit comments concerning the terms and conditions of the proposed Consent Order. Three comments were received. Each proposed that the refund, or a portion thereof, be distributed to the States for redistribution.

As stated in the proposed Consent Order, the ERA is at present unable to determine the appropriate disposition of the refund, and it is for that reason that such a determination has been deferred. Since the proposed Consent Order does not bind the DOE to a specific distribution of the refund, the comments received are fully consistent with it. Thus the ERA has determined that it should adopt the Consent Order as proposed.

Issued in Kansas City on the 14th day of December, 1982.

David H. Jackson,

Director, Kansas City Office, Economic Regulatory Administration.

[FR Doc. 82–34809 Filed 12–22–82; 8:45 am]

BILLING CODE 6450–01–M

FEDERAL ENERGY REGULATORY COMMISSION

[Docket No. CI83–94–000]

Caddo Pine Island Corp., Application for Abandonment of Service

December 16, 1982.

Take notice that the Applicant listed herein has filed an application pursuant to Section 7 of the Natural Gas Act for authorization to abandon service as described herein, all as more fully described in the application which is on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 30, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, .214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on the application in the event no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft.³	Pressure base
CI83–94–000 (G–11392), B, Dec. 13, 1982.	Caddo Pine Island Corporation, Route 1, Box 600, Oil City, Louisiana 71061	Arkansas Louisiana Gas Company, Caddo Pine Island Field, Caddo Parish, Louisiana.	(1)	

[1] Depletion of the supply of casing head gas resulted in there not being enough gas to operate the plan economically

Filing Code: A—Initial Service. B—Abandonment. C—Amendment to add acreage. D—Amendment to delete acreage. E—Total Succession F—Partial Succession.

[FR Doc 82–34883 Filed 12–22–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. . SA83–4–000]

Continental Steel Corp.; Petition for Adjustment Seeking Interim Relief and Permanent Extension of Exemption From Incremental Pricing Provisions of NGPA

December 16, 1982.

Take notice that on November 17, 1981, Continental Steel Corporation (Continental Steel) filed with the Commission a petition for adjustment under sections 502(c) and 206(d) of the Natural Gas Policy Act of 1978 (NGPA) and Subpart K of the Commission's Rules of Practice and Procedure. Continental Steel seeks interim relief and a permanent exemption from incremental pricing surcharges imposed under Title II of the NGPA.

Continental Steel uses natural gas as a boiler fuel in the manufacture of steel products at its plant in Kokomo, Indiana. The gas is supplied by Kokomo Gas and Fuel Company, and it is estimated that an incremental pricing surcharge of, for example, 10¢/Mcf will result in additional costs of approximately $150,000 per year. Continental Steel has recently been reorganized under Chapter 11 of the Federal Bankruptcy Code and maintains that additional gas surcharge costs will tend to make its job of rebuilding and returning to profitable operations more difficult.

Continental Steel states further that it is the third largest employer in the

Kokomo area and that surcharges could place additional hardships on the steelworkers it employs. Until the economy significantly improves, Continental Steel is faced with meeting fixed costs from capital reserves. Moreover, it states that it cannot pass on increased costs to its customers because of a pattern of failing sales and prices in the markets it serves.

The procedures applicable to this adjustment proceeding are found at Subpart K of the Commission's Rules of Practice and Procedure, 18 CFR 385.1101–.1117, and § 282.206 of the Commission's regulations, 18 CFR 282.206.

Any person desiring to participate in this proceeding shall file a petition to intervene in accordance with the provisions of Rule 1105. All petitions to intervene must be filed within 15 days after publication of this notice in the **Federal Register.**

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82–34864 Filed 12–22–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. SA83–5–000]

El Paso Natural Gas Co.; Petition for Staff Adjustment

Issued: December 17, 1982.

On November 22, 1982, El Paso Natural Gas Company (El Paso), P.O. Box 1492, El Paso, Texas 79978 filed a Petition For Staff Adjustment with the Federal Energy Regulatory Commission (Commission) pursuant to section 502(c) of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3301–3342 (Supp. IV 1980), and Rules 1101–1117, Subpart K of the Commission's Rules of Practice and Procedure, 18 CFR 385.1101–.1117.

El Paso requests an adjustment from § 270.101(e) of the Commission's regulations which requires refunds of overpayments to first sale sellers of natural gas to be made to the purchaser with interest. El Paso claims that special hardship, inequity and unfair distribution of burdens will result if the request is not granted.

El Paso states that there are lag periods between the time a denial or withdrawal of a well eligibility application is made or a stripper well is disqualified and the time when El Paso receives notice of such action. These lags result in El Paso paying the first seller of such gas the previously applicable higher amount for two to five month's production after a lower price is applicable. El Paso states that it currently makes up these temporary overcollection payment imbalances promptly by adjusting subsequent payments with the first seller without the collection of interest. El Paso further states that its present computerized payment system is incapable of calculating and recouping an increment of interest on the principal amounts made up by payment adjustment, and that the time and costs of designing, developing and implementing such a system could outweigh any benefit gained by adding it.

The procedures applicable to the conduct of this adjustment proceeding are found in Subpart K of the Commission's Rules of Practice and Procedure, 18 CFR 385.1101–.1117. (47 FR 19014, May 3, 1982).

Any person desiring to participate in this adjustment proceeding shall file a motion to intervene in accordance with Rule 1105 of the Commission's revised rules of Practice and Procedure. All motions to intervene must be filed within 15 days after publication of this notice in the **Federal Register.**

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–34865 Filed 12–22–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. CS71–625–000, et al.]

Entex Petroleum Inc. (Big Chief Drilling Co.) et at.; Applications for "Small Producer" Certificates [1]

December 17, 1982.

Take notice that each of the Applicants listed herein has filed an application pursuant to Section 7(c) of the Natural Gas Act and § 157.40 of the Regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before January 4, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

Docket No.	Date filed	Applicant
CS71–625–000.....	[1]12/3/82	Entex Petroleum Inc. (Big Chief Drilling Co.), P.O. Box 14837, Oklahoma City, Okla. 73113.
CS83–14–000.....	10/28/82	Ruth S. McArthur, 8318 East Welsh Trail, Scottsdale, Anz. 85258.
CS83–15–000.....	11/4/82	Graham Exploration, Ltd., 3510 North Causeway Blvd., Suite 408, Metairie, La. 70002.
CS83–16–000.....	11/8/82	Ashton J. Fischer; 1009 Jefferson, New Orleans, La. 70115.
CS83–17–000.....	11/15/82	Enex Oil & Gas Income Program I, Series 3, whose General Partner is Enex Resources Corp., 1 Kingwood Place, Suite 202, Kingwood, Tex. 77339.
CS83–18–000.....	11/15/82	Esson Inc., P.O. Box 1796, Oklahoma City, Okla. 73101.
CS83–19–000.....	11/15/82	S T Joint Venture 1982 D, P.O. Box 552, Westport, Conn. 06881.
CS83–20–000.....	11/15/82	Seajay Oil, Inc., 130 Brandy Dr., Marietta, Ohio 45750.

[1] On June 25, 1975, Big Chief Drilling Company, holder of a small producer certificate changed its name to Entex Petroleum Inc.

[FR Doc. 82–34866 Filed 12–22–82; 8:45 am]

BILLING CODE 6717–01–M

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

[Docket No. CP83-94-000]

Gas Service, Inc.; Application

December 17, 1982.

Take notice that on November 17, 1982, Gas Service, Inc. (Applicant), P.O. Box 807, Nashua, New Hampshire 03061, filed in Docket No. CP83-94-000 an application pursuant to Section 1(c) of the Natural Gas Act for exemption from the provisions of the Natural Gas Act and the Regulations of the Commission thereunder, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is submitted that Applicant is engaged in the distribution and retail sale of natural gas and mixed natural gas and propane for ultimate public consumption within its franchise territory in the towns of and areas surrounding Nashur, Keene, and Laconia, New Hampshire. It is asserted that all gas received by Applicant within New Hampshire is delivered and ultimately consumed within that state. Applicant states its sole source of supply of natural gas is Tennessee Gas Pipeline Company, a Division of Tenneco Inc.

It is explained that Applicant's franchise territory is adjacent to other gas distribution company systems within New Hampshire with which, from time to time as weather or operating conditions on its or its adjacent company system would require or permit, Applicant has or would exchange volumes of natural gas, or to which it would sell natural gas. These exchanges or sales, Applicant asserts, act to relieve short-term supply shortfalls, serve emergency purposes, or permit Applicant to maintain the proper mix of natural gas and propane as conditions require.

It is further asserted that the Public Utilities Commission of the State of New Hampshire has certified to the Commission that natural gas rates, service and facilities of Applicant are subject to its regulatory jurisdiction and that the Commission is exercising such jurisdiction.

Applicant, therefore, requests a declaration of exemption pursuant to Section 1(c) of the Natural Gas Act.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 10, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-34887 Filed 12-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP78-532-008]

Ozark Gas Transmission System; Petition To Amend

December 20, 1982.

Take notice that on December 17, 1982, Ozark Gas Transmission System (Ozark), 2700 Fidelity Union Tower, Dallas, Texas 75201, filed in Docket No. CP78-532-008 a petition to amend the order issued July 28, 1981, in Docket No. CP78-532, as amended, pursuant to Section 7(c) of the Natural Gas Act and the Commission's Regulations thereunder, to conform said certificate to the actual, as-built Carter Lateral line and Carter Lateral Compressor Station.

Ozark was originally authorized to construct and operate a new pipeline system consisting of approximately 285 miles of 20-inch transmission line, 170 miles of various diameter lateral lines, 3,200 horsepower of lateral line compression and appurtenant facilities. Among such authorized facilities were the Carter Lateral Line and the Carter Lateral Compressor Station, located in Franklin County, Arkansas. Ozark states that a question may exist as to whether such facilities are actually located as contemplated by the certificate granted in Docket No. CP78-532. As a means of resolving the matter, it therefore requests that the certificate, as amended, be further amended to conform to the as-built location of the Carter Lateral Line and the Carter Lateral Compressor Station.

Any person desiring to be heard or to make any protest with reference to said petition should on or before December 30, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a preceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-34876 Filed 12-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-95-000]

Manchester Gas Co.; Application

December 17, 1982.

Take notice that on November 17, 1982, Manchester Gas Company (Applicant), P.O. Box 329, Manchester, New Hampshire 03105, filed in Docket No. CP81-95-000 an application pursuant to Section 1(c) of the Natural Gas Act for exemption from the provisions of the Natural Gas Act and the Regulations of the Commission thereunder, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is submitted that Applicant is engaged in the distribution and retail sale of natural gas and mixed natural gas and propane for ultimate public consumption within its franchise territory consisting of the City of Manchester and three surrounding communities in New Hampshire. It is asserted that all gas received by Applicant within New Hampshire is delivered and ultimately consumed within that state. Applicant states its sole source of supply of natural gas is Tennessee Gas Pipeline Company, a Division of Tenneco Inc.

It is explained that Applicant's franchise territory is adjacent to other gas distribution company systems within New Hampshire with which from time to time as whether or operating conditions on its or its adjacent company systems would require or permit, Applicant has or would exchange volumes of natural gas, or to which it would sell natural gas. These exchanges or sales, Applicant asserts, act to relieve short-term supply shortfalls, serve emergency purposes, or permit Applicant to maintain the proper mix of natural gas and propane as conditions require.

It is further asserted that the Public Utilties Commission of the State of New Hampshire has certified to the Commission that the natural gas rates, service and facilities of Applicant are subject to its regulatory jurisdiction.

Applicant, therefore, requests a declaration of exemption pursuant to Section 1(c) of the Natural Gas Act.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 10, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it is determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-34869 Filed 12-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-108-000]

Michigan Consolidated Gas Co., and Interstate Storage Division; Application

December 17, 1982.

Take notice that on November 30, 1982, Michigan Consolidated Gas Company-Interstate Storage Division (Mich Con), 500 Griswold Street, Detroit, Michigan 48226, filed in Docket No. CP83-108-000 an application pursuant to Section 7(c) of the Natural Gas Act and § 284.221 of the Commission's Regulations for a blanket certificate of public convenience and necessity authorizing the transportation of natural gas for the system supply of any other interstate pipeline, all as more fully set forth in the application on file with the Commission and open to public inspection.

Mich Con requests blanket authorization to transport gas for other interstate pipeline companies for periods of up to two years. It states it would comply with § 284.221(d) of the Commission's Regulations.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 6, 1983, file with the Federal Energy Regulatory Commission, Washington D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Mich Con to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-34870 Filed 12-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-100-000]

Michigan Wisconsin Pipe Line Co.; Request Under Blanket Authorization

December 17, 1982.

Take notice that on November 22, 1982, Michigan Wisconsin Pipe Line Company (Mich-Wis), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP83-100-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Mich-Wis proposes to add a new delivery point to Northern Indiana Public Service Company (Nipsco) in Mongo, La Grange County, Indiana, under the authorization issued in Docket No. CP82-480-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Mich-Wis states that natural gas sales are made to Nipsco pursuant to the service agreement between the parties dated June 22, 1979, as amended. Mich-Wis proposes the construction and operation of a new meter station in Mongo, Indiana, for deliveries of natural gas to Nipsco in order to provide natural gas service to an industrial and certain residential end-users. The maximum daily deliveries of natural gas at the Mongo delivery point would be 2,900 Mcf which are within Nipsco's currently existing peak day and annual entitlements, it is submitted.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-34871 Filed 12-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-105-000]

Mountain Fuel Supply Co.; Request Under Blanket Authorization

December 17, 1982.

Take notice that on November 29, 1982, Mountain Fuel Supply Company (Applicant), 180 East First South Street, Salt Lake City, Utah 84139, filed in Docket No. CP83-105-000 a request pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Applicant proposes to add new delivery points under the authorization issued in Docket No. CP82-490-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Pursuant to § 157.212 of the Commission's Regulations, as amended, Applicant proposes to transport gas to Natural Gas Pipeline Company of America (Natural) at additional delivery points.

By Commission order issued November 21, 1979, in Docket No. CP79-288, Applicant was authorized to deliver up to 20,000 Mcf of natural gas per day to Colorado Interstate Gas Company (CIG) for Natural's account at Applicant's Kanda Exchange Point

located in Sweetwater County, Wyoming. Applicant intends to establish delivery of such gas to Wyoming Interstate Company (WIC) for Natural's account as an alterantive to the existing delivery point. The delivery of natural gas would be made through existing points of interconnection between the facilities of Applicant and WIC at the Kanda Exchange Point, it is explained. No new facilities are proposed or required by the instant proposal.

Applicant states the proposed additional delivery points would have no adverse impact on Applicant's peak day or annual deliveries as the instant request proposes no increase in the volumes to be delivered and the facilities to be used are adjacent to those through which the volumes are currently being delivered.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-34872 Filed 12-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP83-5-000]

State of New Mexico, Section 108 NGPA Determination, Gulf Oil Corporation, R. E. Cole (NCT-A) Well No. 5, FERC J. D. No. 82-47290; Petition To Reopen and Vacate Final Well Category Determination and Request To Withdraw

Issued: December 17, 1982.

On November 10, 1982, Gulf Oil Corporation (Gulf) filed with the Federal Energy Regulatory Commission (Commission) a petition to reopen and a request to withdraw its application for a final well category determination, that gas from the R. E. Cole (NCT-A) Well No. 5, located in Lea County, New Mexico, qualifies as a stripper natural gas well pursuant to section 108 of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3301-3432 (Supp. IV 1980). This determination made by the New Mexico Oil Conservation Division (NMOCD) became a final determination on September 24, 1982, pursuant to NGPA section 503(d) and 18 CFR 275.202(a).

Gulf requests reopening of this final determination so that it can withdraw its appliation for said determination as a result of an internal review which uncovered the information that production during the 90 day qualifying period used for the subject well exceeded 60 Mcf per day.

Gulf states that it will promptly make all appropriate refunds, with interest, if any, that may be due to the purchasers of natural gas from the subject well. Gulf avers that it has not collected the NGPA section 108 rate for any sales of natural gas to El Paso Natural Gas Company from the R. E. Cole (NCT-A) Well No. 5, and therefore, no refund is due El Paso. Notwithstanding these assertions, the Commission hereby gives notice that the question of whether refunds, plus interest as computed under § 154.102(d), will be required is a matter which is subject to the review and final determination of the Commission.

Any person desiring to be heard or to make any protest to the requested reopening and withdrawal should file, within 30 days after this notice is published in the **Federal Register**, with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of Rules 214 or 211 of the Rules of Practice and Procedure. All protests filed will be considered but will not make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-34868 Filed 12-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP66-269, et al. and Docket No. CI67-1810]

Tennessee Gas Pipeline Co., et al. and Louisiana Land and Exploration Co.; Informal Conference

December 16, 1982.

Notice is hereby given that an informal conference to discuss the above-proceedings will be held on January 21, 1983 at 10:00 a.m. in a hearing room of the FERC, 825 N. Capitol Street, N.E., Washington, D.C. 20426.

The conference room will be posted on the day of the conference on the second floor.

Specifically, the participants will be considering procedures and possible settlement of refund issues remaining after issuance of FPC Opinion No. 772 (royalty interests, Bastian Bay Field).

Applicants, intervenors, and staff will be permitted to attend.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-34874 Filed 12-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. G-10632-006]

Northern Illinois Gas Co., Application

December 17, 1982.

Take notice that on November 12, 1982, Northern Illinois Gas Company (NI-Gas), P.O. Box 190, Aurora, Illinois 60507, filed in Docket No. G-10632-006 [1] an application pursuant to Section 1(c) of the Natural Gas Act for the continued exemption from the provisions of the Natural Gas Act and the Regulations of the Commission thereunder, all as more full set forth in the application which is on file with the Commission and open to public inspection.

NI-Gas states that it was declared exempt from the provisions of the Natural Gas Act by order issued July 26, 1956, in Docket No. G-10632. This request is filed as a result of NI-Gas' leasing interest in its extensive intrastate storage and related transportation system to its affilitate, Mid-Continent Gas Storage Company (Mid-Continent), which would use the storage and transportation facilities to implement a proposed limited-term storage service for Alabama-Tennessee Natural Gas Company (Alabama-Tennessee), it is explained.

It is stated that NI-Gas and Mid-Continent have entered into a limited-term storage leasing agreement dated September 20, 1982, which permits Mid-Continent to lease an undivided interest in NI-Gas' extensive intrastate storage and transportation system. NI-Gas asserts that during each storage injection period NI-Gas 2,000,000 Mcf of gas. NI-Gas states that it has also agreed to make available or cause to be made available to Mid-Continent aggregate storage withdrawal volumes thermally equivalent to the applicable injection volumes.

---

[1] These proceedings were commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), they were transferred to the Commission.

NI–Gas alleges that its arrangement with Mid-Continent is intended only as a temporary arrangement and is merely an arrangement by which NI–Gas is leasing storage space to Mid-Continent which is providing storage service to Alabama-Tennessee. NI–Gas asserts that by leasing storage capacity to another that it would not be transporting or selling natural gas in interstate commerce.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 10, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-34873 Filed 12-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP81-535-003]

Texas Eastern Transmission Corp.; Petition To Amend

December 17, 1982.

Take notice that on November 24, 1982, Texas Eastern Transmission Corporation (Petitioner), P.O. Box 2521, Houston, Texas 77252, filed in Docket No. CP81–535–003 a petition to amend the order issued July 28, 1982, in Docket No. CP81–535–000 pursuant to Section 7(c) of the Natural Gas Act so as to authorize the transportation of natural gas for Public Service Electric and Gas Company (Public Service), for an extended period, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that by order issued July 28, 1982, it was authorized to transport up to 50,000 dekatherms (dt) equivalent of natural gas per day that Public Service purchases from its subsidiary, Energy Development Corporation (EDC). Petitioner states that its authority to transport gas for Public Service terminates on January 11, 1983. Petitioner proposes herein pursuant to an amendment to the gas transportation agreement dated November 11, 1982, to extend the transportation service of up to 50,000 dt equivalent of natural gas per day for Public Service for a limited term commencing upon the date of initial delivery to Petitioner and terminating 6 months from such date. Petitioner also requests herein authority to provide for an additional point of receipt located at Petitioner's meter station 1668 in Beauregard Parish, Louisiana, and additional points of delivery located at Petitioner's existing exchange points with Transcontinental Gas Pipe Line Corporation.

Petitioner states it would charge Public Service its presently applicable Rate Schedule TS–1 basic rate of 50/70 cents per dt equivalent; provided, however, for quantities transported and delivered by Petitioner which, when added to the quantities delivered to Public Service under Petitioner's Rate Schedule TS–1 and SS–II and other transportation agreements, exceed the combined total curtailment of natural gas sales to Public Service under all of Petitioner's firm sales rate schedules, Petitioner would charge Public Service the presently applicable effective Rate Schedule TS–1 excess rate of 60.20 cents per dt equivalent. It is further stated that Petitioner would retain 9 percent of all gas received for transportation from April 16 through November 15 of each year and 15 percent of all gas received for transportation from November 16 through April 15 of each year for shrinkage. Petitioner further proposes that the retention of revenues derived from the transportation service would be subject to Petitioner's pending rate proceeding in Docket No. RP81–109–000.

It is asserted that the proposed service would enable Public Service to continue its purchase of natural gas from EDC and to help fulfill its need for greater natural gas supply. It is explained that this service is subject to interruption and is conditioned upon the availability of sufficient capacity on Petitioner's system.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before January 10, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirments of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-34875 Filed 12-22-82; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS–51445; TSH FRL 2271–5]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of interim policy published in the **Federal Register** of May 15, 1979 (44 FR 28558) and November 7, 1980 (45 FR 74378). This notice announces receipt of thirty-two PMNs and provides a summary of each.

DATE: Close of Review Period:

PMN 83–266, 83–267, 83–268, 83–269, 83–270, 83–271, and 83–272: March 2, 1983.

PMN 83–273, 83–247, 83–275, 83–276, 83–277, 83–278 and 83–279: March 5, 1983.

PMN 83–280, 83–281, 83–282, 83–283, 83–284, 83–285, 83–286, 83–287, 83–288, 83–289, 83–290, 83–291 and 83–292: March 6, 1983.

PMN 83–293, 83–294 and 83–295: March 7, 1983.

PMN 83–296 and 83–297: March 8, 1983.

Written comments by:

PMN 83–266, 83–267, 83–268, 83–269, 83–270, 83–271 and 83–272: January 31, 1983.

PMN 83–273, 83–274, 83–275, 83–276, 83–277, 83–278 and 83–279: February 3, 1983.

PMN 83–280, 83–281, 83–282, 83–283, 83–284, 83–285, 83–286, 83–287, 83–288, 83–289, 83–290, 83–291 and 83–292: February 4, 1983.

PMN 83–293, 83–294 and 83–295: February 5, 1983.

PMN 83–296 and 83–297: February 6, 1983.

ADDRESS: Written comments, identified by the document control number "[OPTS–51445]" and the specific PMN

number should be sent to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–409, 401 M St., SW., Washington, DC 20460; (202–382–3532).

FOR FURTHER INFORMATION CONTACT: Margaret Stasikowski, Acting Chief, Notice Review Branch, Chemical Control Division (TS–794), office of Toxic Substances, Environmental protection Agency, Rm. E–216, 401 M St., SW., Washington, DC 20460; (202–382–3729).

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the public Reading Room E–107

PMN 83–266

Manufacturer. Confidential.
Chemical. (G) Poly(oxyalkyl disubstituted silane) alkyl, alkoxy-terminated, polymer with titanium alkoxide.
Use/Production. (S) Additive in industrial coatings. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: dermal, inhalation and eye, a total of 64 workers, up to 12 hrs/da, up to 260 da/yr.
Environmental Release/Disposal. No release. Disposal by incineration, land fill and plant waste treatment facility.

PMN 83–267

Manufacturer. Confidential.
Chemical. (G) Polyester from carbomonocyclic anhydrides and substituted alkanediols.
Use/Production. Confidential. Prod. range: 10,000–750,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture and use: dermal, inhalation and eye, a total of 89 workers, up to 8 hrs/da, up to 250 da/yr.
Environmental Release/Disposal. Less than 19 kg/yr released to air and water with greater than 10,000 kg/yr to land. Disposal by incineration and approved landfill.

PMN 83–268

Manufacturer. Confidential.
Chemical. (G) Azobis-(nitrosulfophenyl-alkylsulfobenzene) compound with oxyalkylamine.
Use/Production. (S) Colorant for paper. Prod. range: Confidential.
Toxicity Data. Acute oral: > 5 g/kg; Acute dermal: 1.53 g/kg; Irritation: Skin-Slight, Eye-Non-irritant; Biodegradation: 25–50% Inhibition level: < 100 mg/l.
Exposure. Manufacture, processing, use and disposal: dermal, a total of 10 workers, up to 8 hrs/da, up to 60 da/yr.
Environmental Release/Disposal. Confidential. Disposal by incineration.

PMN 83–269

Manufacturer. Confidential.
Chemical. (G) Substituted naphthalenylazo naphthalenedisulfonic acid salt.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: a total of 2 workers, up to 80 man hrs/yr.
Environmental Release/Disposal. No release. Disposal by sewer.

PMN 83–270

Manufacturer. Confidential.
Chemical. (G) Tetra (substituted sulfonic acid) derivative of transition metal-arylcyanine complex.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted on PMN substance.
Exposure. Manufacture: a total of 1 worker, up to 225 man hrs/yr.
Environmental Release/Disposal. No release. Disposal by sewer.

PMN 83–271

Importer. Confidential.
Chemical. (G) Hydrocarbon complex with platinum halide.
Use/Import. Confidential. Import range: Confidential.
Toxicity Data. No data submitted.
Exposure. No exposure.
Environmental Release/Disposal. No release.

PMN 83–272

Manufacturer. Confidential.
Chemical. (G) Substituted pyridine.
Use/Production. Confidential. Prod. Range: Confidential.
Toxicity Data. Acute oral: > 500 mg/kg; Acute dermal: 2,000 mg/kg; Irritation: Skin-Non—irritant, Eye—Slight; Inhalation: Moderate to high; Skin sensitization: Positive.
Exposure. Manufacture: workers, up to 30 min/batch.
Environmental Release/Disposal. No release.

PMN 83–273

Manufacturer. Confidential.
Chemical. (G) Blocked isocyanate.
Use/Production. (S) Site—limited coatings. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. None.
Environmental Release/Disposal. No release.

PMN 83–274

Manufacturer. Confidential.
Chemical. (G) Polymer of alkane polyols, alkanedioic acids and aromatic polyacid.
Use/Production. (S) Site-limited automotive primer. Prod range: Confidential.
Toxicity Data. No data submitted.
Exposure. None.
Environmental Release/Disposal. No release. Disposal by incineration and city sewage system.

PMN 83–275

Manufacturer. Confidential.
Chemical. (g) Modified polyisocyanate.
Use/Production. (S) Coatings. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. No exposure.
Environmental Release/Disposal. No release.

PMN 83–276

Manufacturer. Confidential.
Chemical. (G) Modified polyisocyanate.
Use/Production. (S) Coatings. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. No exposure.
Environmental Release/Disposal. No release.

PMN 83–277

Manufacturer. Minnesota Mining and Manufacturing Company.
Chemical. (S) 2-Oxepanone, polymer with 2,2'-[oxybis (methylene)] bis[2-(hydroxymethyl)-1,3-propanediol].
Use/Production. (G) Site-limited intermediate. Prod. range: Confidental.
Toxicity Data. No data submitted.
Exposure. Manufacture and use: a total of 2 workers, up to 8 hrs/da, up to da/yr.
Environmental Release/Disposal. Disposal by incineration.

PMN 83–278

Manufacturer. Minnesota Mining and Manufacturing Company.
Chemical. (S) 2-Oxepanone, polymer with 2,2-bis[[3-hydroxy-2,2-bis(hydroxymethyl)propoxy]methyl]-1,3-propanediol.
Use/Production. (G) Site-limited intermediate. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture and use: a total of 2 workers, up to 8 hrs/da, up to 4 da/yr.
Environmental Release/Disposal. Disposal by incineration.

PMN 83-279

Manufacturer. Confidential.
Chemical. (G) Chlorinated, oleated, hydrocarbon polymer.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Minimal to any single individual.
Environmental Release/Disposal. Release only by accidential spill.

PMN 83-280

Manufacturer. Confidential.
Chemical. (G) 2-Anthracenesulfonic acid, 1-amino-9,10-dihydro-9,10-dioxo-4-[(substituted phenyl)amino]-.
Use/Production. (S) Site-limited intermediate. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 12 workers, up to 4 hrs/da, up to 19 da/yr.
Environmental Release/Disposal. No release.

PMN 83-281

Manufacturer. Confidential.
Chemical. (G) Benzenesulfonamide salt.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. Acute oral: >5,000 mg/kg; Acute dermal:>5,000 mg/kg; Irritation: Skin—Slight, Eye—Slight; Inhalation: No adverse effects.
Exposure. Dermal and inhalation, a total of 25 workers, up to 2 hrs/da, up to 100 da/yr.
Environmental Release/Disposal. Disposal by incineration, and waste water treatment.

PMN 83-282

Manufacturer. Confidential.
Chemical. (G) Polyester based complex alkanediol.
Use/Production. (G) Open use. Prod. range: 0-1,500,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture, processing and use: dermal, inhalation, and eye, a total of 156 workers, up to 8 hrs/da, up to 240 da/yr.
Environmental Release/Disposal. Less than 10 kg/yr released to air and water with more than 10,000 kg/yr to land. Disposal by incineration.

PMN 83-283

Manufacturer. Confidential.
Chemical. (G) Substituted cyclosiloxane.
Use/Production. (S) Site-limited chemical intermediate. Prod. range: Confidential.
Toxicity Data. mg Oxygen per mg PMN substance-2.2; Bioxidation, % of COD: Day 5—<5, Day 10—<10, Day 20—10; LC_{50}, 24 hr. (fathead minnows)—>1,000 mg/1.
Exposure. Manufacture and processing: dermal, inhalation and eye, a total of 4 workers/shift, 2 shifts/da, up to 8 hrs/da, up to 12 da/yr.
Environmental Release/Disposal. Release is minimal. Disposal by plant waste treatment facility.

PMN 83-284

Manufacturer. Confidential.
Chemical. (G) Polyester polyol.
Use/Production. (S) Additive for preparation of coatings, adhesives and cast polyurethane elastomer's. Prod. range: Confidential.
Toxicity Data. Acute oral: >5.0 g./kg; Acute dermal: >16.0 gm/kg; Irritation: Eye—None; Inhalation: 8 hrs, killed 0 of 6.
Exposure. Manufacture and processing: dermal, a total of 10 workers, up to 12 hrs/da, up to 30 da/yr.
Environmental Release/Disposal. No release. Disposal by incineration.

PMN 83-285

Manufacturer. FMC Corporation.
Chemical. (G) Phosphate ester.
Use/Production. (G) Flame retardant plasticizer. Prod. range: Confidential.
Toxicity Data. Acute oral: >5 g/kg; Acute dermal: >2 g/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant.
Exposure. Manufacture: dermal, minimal.
Environmental Release/Disposal. Minimal release. Disposal by biological treatment system.

PMN 83-286

Manufacturer. Witco Chemical Corporation.
Chemical. (G) 1,1-dimethyl ethyl peroxyester.
Use/Production. (S) Replacement for an existing peroxyester. Prod. range: 3,000-60,000 lbs/yr.
Toxicity Data. No data submitted.
Exposure. Negligible.
Environmental Release/Disposal. No release. Disposal by publicly owned treatment works (POTW) and approved landfill.

PMN 83-287

Manufacturer. Witco Chemical Corporation.
Chemical. (G) 1,1-dimethylpropyl peroxyester.
Use/Production. (S) Replacement for an existing peroxyester. Prod. range: 4,000-65,000 lbs/yr.
Toxicity Data. No data submitted.
Exposure. Negligible.
Environmental Release/Disposal. No release. Disposal by POTW and approved landfill.

PMN 83-288

Manufacturer. Witco Chemical Corporation.
Chemical. (G) 1-methyl-1-phenyl ethyl peroxyester.
Use/Production. (S) Replacement for an existing peroxyester. Prod. range: 4,000-65,000 lbs/yr.
Toxicity Data. No data submitted.
Exposure. Negligible.
Environmental Release/Disposal. No release. Disposal by POTW and approved landfill.

PMN 83-289

Importer. Mac Dermid, Incorporate.
Chemical. (S) Copolymer from acrylonitrile, styrene and p-isopropenylphenol.
Use/Import. Confidential. Import range: 100-10,000 kg/yr.
Toxicity Data. Acute oral: >5 g/kg; Acute Toxicity, 48 hr.: > 100 parts per million (ppm) irritation; Ames Test: Non-mutagenic.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

PMN 83-290

Manufacturer. Confidential.
Chemical. (G) Asphalt styrenated resin.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Dermal.
Environmental Release/Disposal. Minimal release to land.

PMN 83-291

Manufacturer. National Starch & Chemical Corporation.
Chemical. (G) Vinylic copolymer.
Use/Production. (S) Dispersant for inorganic particulates. Prod. range: 175,000-225,000 lbs/yr.
Toxicity Data. No data submitted.
Exposure. Minimal.
Environmental Release/Disposal. Minimal release. Disposal by POTW.

PMN 83-292

Manufacturer. Confidential
Chemical. (G) N-substituted-N-mixed alkyloxypropylmaleamic acid derivatives.
Use/Production. (G) Open use. Prod. range: Confidential.
Toxicity Data. Acute oral: >5.0 g/kg; Acute dermal: < 2.0 g/kg; Irritation: Skin—Non—irritant.
Exposure. Manufacture and processing: dermal, a total of 6 workers, up to 2 hrs/da, up to 12 da/yr.
Environmental Release/Disposal. Negligible.

PMN 83–293

Importer. Confidential
Chemical. (S) Hydrogenated acrylonitrile-butadiene copolymer (H-NBR).
Use/Import. (S) Industrial oil resistance rubber parts. Import range: 100–1,000,000 kg/yr.
Toxicity Data. Mutation examination in salmonella typhimurium and escherichia coli—None; TLM, 48 hrs (killfish): 250 ppm.
Exposure. Processing, use and disposal: dermal, a total of 50 workers, up to 5 hrs/da, up to 200 da/yr.
Environmental Release/Disposal. 1,000–10,000 kg/yr released to land.

PMN 83–294

Manufacturer. Confidential.
Chemical. (G) Organophosphorous compound.
Use Production. (G) Destructive. Prod. range: Confidential.
Toxicity Data. Acute oral: >5,000 mg/kg—males; 4,173 mg/kg—females Acute dermal: >2,000 mg/kg; Irritation: Skin—Mild, Eye—Moderate.
Exposure. Confidential.
Environmental Release/Disposal. No release. Disposal by incinerátion or deep well injection.

PMN 83–295

Manufacturer. Confidential.
Chemical. (G) Oganosulfur compound.
Use/Production. (G) Destructive. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. No release. Disposal by incineration or deep well injection.

PMN 83–296

Manufacturer. Confidential.
Chemical. (G) Rosin metallic salt.
Use/Production. (S) Industrial publication gravure printing inks. Prod. range: Confidential.
Toxicity Data. No data submitted on the PMN substance.
Exposure Manufacture: dermal, a total of 2 workers, up to 2 hrs/da, up to 62 da/yr.
Environmental Release/Disposal. Less than 10 kg/yr released to air, water and land.

PMN 83–297

Importer. Confidential.
Chemical. (G) (Substituted) anthracenylimino-(substituted) carbomonocyclic acid alkylamine salt.
Use/Import. (S) Open use. Import range: Confidential.
Toxicity Data. Acute oral: >8,000 mg/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant.
Exposure. Dermal and inhalation, minimal.
Environmental Release/Disposal. Less than 10 kg/yr released.

Dated: December 10, 1982.

Woodson W. Bercaw,

Acting Director, Management Support Division.

[FR Doc. 82–34421 Filed 12–22–82; 8:45 am]

BILLING CODE 6560–50–M

(SAB–FRC 2273–3)

Science Advisory Board; Closed Meeting

Under Pub. L. 92–463, notice is hereby given that a meeting of an ad-hoc Subcommittee of the Science Advisory Board will be held in Washington, D.C. January 14, 1983 to determine the recipients of the Agency's 1982 Scientific and Technological Achievement Cash Awards. These awards are established to give honor and recognition to EPA employees who have made outstanding contributions in the advancement of science and technology through their research and development activities, and who have published their results in peer reviewed journals.

Pursuant to section 10(d) of the U.S.C. Appendix 1 and 5 U.S.C 522(c), I hereby determine that this meeting is concerned with information exempt from disclosure, and that the public interest requires that this meeting be closed.

In selecting the recipients for the awards, and in determining the actual cash amount of each award, the Agency requires full and frank advice from the Science Advisory Board. This advice will involve professional judgments on those employees whose published research results are deserving of a cash award as well as those that are not. In addition, the Board will advise on the amount of money to be allocated for each award. Discussion of such a personal nature, where disclosure would constitute an unwarranted invasion of personal privacy, are exempted under Section 10(d) of Title 5, U.S. Code, Appendix 1. In accordance with the provisions of the Federal Advisory Committee Act, minutes of the meeting will be kept for Agency and Congressional review.

The Science Advisory Board shall be responsible for maintaining records of the meeting, and for providing an annual report setting forth a summary of the meeting consistent with the policy of U.S.C. Appendix 1, section 10(d).

Dated: December 17, 1982.

Anne M. Gorsuch,

Administrator.

[FR Doc 82–34806 Filed 12–22–82; 8:45 am]

BILLING CODE 6560–50–M

[ER–FRL–2274–2]

Agency Statements

Availability of Environmental Impact Statements Filed December 13 Through December 17, 1982, Pursuant to 40 CFR Part 1506.9

RESPONSIBLE AGENCY: Office of Federal activities, General Information 382–5075 or 382–5076

Corps of Engineers:
- EIS No. 820802, Final, COE, SEV, MO, NB, MS, IA, Missouri River Bank Stabilization/Navigation/Mitigation, Due: Jan. 24, 1983.
- EIS No. 820805, DSuppl, DOE, NY, Ellicott Creek Flood Control Management Plan, Erie County, Due: Feb. 7, 1983.
- EIS No. 820797, Report, DOE, TX, Corpus Christi Ship Channel, Dredging, Disposal Site Designation.

Department of Transportations:
- EIS No. 820796, Final, FHW, CI, CT–34 Corridor Competition, R. C. Lee Highway to CT–34, New Haven Co., Due: Jan. 24, 1983.
- EIS No. 820800, Final, FHW, ID, ID–55/McCall—New Meadows Highway Upgrading, Valley and Adams Counties, Due: Jan. 24, 1983.
- EIS No. 820801, Final, FHW, MA, MA–2 Relocation, Millers Falls to I–495, Franklin County, Due: Jan. 24, 1983.
- EIS No. 820798, DSuppl, FHW, MN, Juan Tabo Extension, Wagon Train Dr. to Central Ave., Fernalillo Co. Due: Feb. 7, 1983.

Department of Agriculture:
- EIS No. 820795, Draft, AFS, CO Routt National Forest Land and Resource Management Plan, Due: Mar. 25, 1983.

Department of Defense, Navy
- EIS No. 820803, Draft, USN, SEV, DC, MD, VA, Navy Personnel Consolidation, National Capital Region, Due: Feb. 7, 1983.

Amended Notices:
- EIS No. 770289, Draft, FHW, PA, Vine Street Improvement, I–76 to I–95, Philadelphia County *Published FR March 1977—Officially withdrawn.
- EIS No. 820766, Draft, FHW, IL, North End Bridge Construction, Big Timber Rd. to Summit St., Kane Co. *Published FR 12/08/82—Officially retracted due to noncompletion of distribution.
- EIS No. 820773, Final, FHW, *IA, Hachett Road Bypass, Black Hawk Rd to Rainbow Dr/I–380, Black Hawk Co., *Published FR 12/08/82—Incorrect State, Due: Jan. 7, 1983.
- EIS No. 820689, Draft, BLM, UT, Henry Mountain Livestock Grazing Mgmt. Plan, Wayne/Garfield/Kane Cos, *Published FR 10/29/82—Review extended, Due: Feb. 28, 1983.*

EIS No. 820573, Draft, BLM, CA, California Desert Plan and Eastern San Diego Co. Mgmt. Framework Plan, *Published FR 09/10/82—Review extended, Due: Jan. 10, 1983.*

Dated: December 20, 1982.

Paul C. Cahill,

Director, Office of Federal Activities.

[FR Doc. 82-34832 Filed 12-22-82; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-51446; BH-FRL 2273-8]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of interim policy published in the **Federal Register** of May 15, 1979 (44 FR 28558) and November 7, 1980 (45 FR 74378). This notice announces receipt of twenty-three PMNs and provides a summary of each.

DATES: Close of Review Period:

PMN 83-298, 83-299, 83-300, 83-301, 83-302, 83-303, 83-304, 83-305, 83-306, 83-307, 83-308, 83-309 and 83-310—March 9, 1983

PMN 83-311—March 12, 1983

PMN 83-312, 83-313, 83-314 and 83-315—March 13, 1983

PMN 83-316 and 83-317—March 14, 1983

PMN 83-318, 83-319 and 83-320—March 15, 1983

Written comments by:

PMN 83-298, 83-299, 83-300, 83-301, 83-302, 83-303, 83-304, 83-305, 83-306, 83-307, 83-308, 83-309 and 83-310—February 7, 1983

PMN 83-311—February 10, 1983

PMN 83-312, 83-313, 83-314 and 83-315—February 11, 1983

PMN 83-316 and 83-317—February 12, 1983

PMN 83-318, 83-319 and 83-320—February 13, 1983

ADDRESS: Written comments, identified by the document control number "[OPTS-51446]" and the specific PMN number should be sent to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M St., SW., Washington, DC 20460, (202-382-3532).

FOR FURTHER INFORMATION CONTACT: Margaret Stasikowski, Acting Chief, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-216, 401 M St., SW., Washington, DC 20460, (202-382-3729).

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the Public Reading Room E-107.

PMN 83-298

Manufacturer. Sun Refining and Marketing Company.

Chemical. (G) Toluene alkylate.

Use/Production. (S) Intermediates in the manufacture of surfactants for enhanced crude oil recovery from oils fields. Prod. range: Confidential.

Toxicity Data. Acute oral: >5.0 g/kg; Acute dermal: <2.0 g/kg Irritation: Skin—Non-irritant, Eye—Non-irritant; Ames Test: Positive.

Exposure. Manufacture: inhalation, a total of 9 workers, up to 24 hrs/da.

Environmental Release/Disposal. Less than 10 kg/yr released to air and land with 100/1,000 kg/yr to water. Disposal by approved landfill.

PMN 83-299

Manufacturer. Sun Refining and Marketing Company

Chemical. (G) Toluene alkylate.

Use/Production. (S) Intermediates in the manufacture of surfactants for enhanced crude oil recovery from oil fields. Prod. range: Confidential.

Toxicity Data. Acute oral: >5.0 g/kg; Acute dermal: <1.0 g/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant; Ames Test: Positive.

Exposure. Manufacture: inhalation, a total of 9 workers, up to 24 hrs/da.

Environmental Release/Disposal. Less than 10 kg/yr released to air and land with 100-1,000 kg/yr to water. Disposal by approved landfill.

PMN 83-300

Manufacturer. Sun Refining and Marketing Company.

Chemical. (G) Dialkyl benzene.

Use/Production. (S) Intermediates in the manufacture of surfactants for enhanced crude oil recovery from oil fields. Prod. range: Confidential.

Toxicity Data. Acute oral: 5.0 g/kg; Acute dermal: 2.0 g/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant; Ames Test: Positive.

Exposure. Manufacture: inhalation, a total of 9 workers, up to 24 hrs/da.

Environmental Release/Disposal. Less than 10 kg/yr released to air and land with 100-1,000 kg/yr to water. Disposal by approved landfill.

PMN 83-301

Manufacturer. Sun Refining and Marketing Company.

Chemical. (G) Dialkyl benzene.

Use/Production. (S) Intermediates in the manufacture of surfactants for enhanced crude oil recovery from oil fields. Prod. range: Confidential

Toxicity Data. Acute oral: >5.0 g/kg; Acute dermal: >2.0 g/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant; Ames Test: Positive.

Exposure. Manufacture: inhalation, a total of 9 workers, up to 24 hrs/da.

Environmental Release/Disposal. Less than 10 kg/yr released to air and land with 100-1,000 kg/yr to water. Disposal by approved landfill.

PMN 83-302

Manufacturer. Sun Refining and Marketing Company.

Chemical. (G) Alkyl benzene.

Use/Production. (S) Intermediates in the manufacture of surfactants for enhanced crude oil recovery from oil fields. Prod. range: Confidential.

Toxicity Data. Acute oral: 5.0 g/kg; Acutre dermal: 2.0 g/kg; Irritation: Skin—Nonirritant, Eye—Non-irritant; Ames Test: Positive.

Exposure. Manufacture: inhalation, a total of 9 workers, up to 24 hrs/da.

Environmental Release/Disposal. Less than 10 kg/yr released to air and land with 100-1,000 kg/yr to water. Disposal by approved landfill.

PMN 83-303

Manufacturer. Confidential.

Chemical. (S) Polymer of: trimethyl pentane diol, adipic acid and phthalic anhydride.

Use/Production. (G) Open use. Prod. range: 20,000-100,000 kg/yr.

Toxicity Data. No data on the PMN substance.

Exposure. Manufacturer and disposal: dermal and inhalation, a total of 11 workers, up to 8 hrs/da, up to 40 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air, 12 hrs/da, 40 da/yr. Disposal by approved landfill.

PMN 83-304

Importer. Amchem Products, Incorporate.

Chemical. (S) Bis (benzyl-thioureidoethyl)-dithio carbamic acid-s-propylester-ω-sulfonic acid sodium.

Use/Import. (S) Industrial brightener for cooper. Import range: 0-100 kg/hr.

Toxicity Data. Acute oral: 5,000 mg/kg.

Exposure. Processing: dermal and inhalation a total of 1 worker, less than 1 hr/da, up to 3 da/yr.

Environmental Release/Disposal. No release. Disposal by publicly owned treatment works (POTW).

PMN 83-305

Manufacturer. Thiokol Corporation.

Chemical. (G) Urethane polyester prepolymer acrylate capped.

Use production. (S) Industrial base for UV cured coatings. Prod. range: 20,000–300,000 kg/yr.

Toxicity Data. Acute oral: >5 gm/kg; Skin—Not an irritant, Eye—Not an irritant.

Exposure. Manfacture, processing and disposal: dermal, a total of 12 workers, up to 3 hrs/da, up to 4 da/yr.

Environmental Release/Disposal. 1000–10,000 to released to land. Disposal by incineration, approved landfill and on site deep well injections.

PMN 83-306

Manfacturer. Sun Refining and Marketing Company.

Chemical. (G) Poly alkyl benzene sulfonate.

Use/Production. (S) Surfactant for enhanced crude oil recovery from oil fields. Prod. range: Confidential.

Toxicity Data. Acute oral: >5.0 g/kg; Acute dermal: 2.0 g/kg; Irritation: Skin—>2.71, Eye—Irritant; Ames Test: Non-mutagenic.

Exposure. No exposure.

Environmental Release/Disposal. Less than 10 kg/yr released to air and land with more than 10,000 kg/yr to water. Disposal by POTW.

PMN 83-307

Manufacturer. Sun Refining and Marketing Company.

Chemical. (G) Poly alkyl benzene sulfonate.

Use/Production. (S) Surfactant for enhanced crude oil recovery from oil fields. Prod. range: Confidential.

Toxicity Data. Acute oral: >5.0 g/kg; Acute dermal: >2.0 g/kg; Irritation: Skin—>2.71, Eye—Irritant; Ames Test: Non-mutagenic.

Exposure. No exposure.

Environmental Release/Disposal. Less than 10 kg/yr released to air and land with more than 10,000 kg/yr to water, 24 hrs/da, 330 da/yr. Disposal by POTW.

PMN 83-308

Manufacturer. Sun Refining and Marketing Company.

Chemical. (G) Poly alkyl benzene sulfonate.

Use/Production. (S) Surfactant for enhanced crude oil recovery from oil fields. Prod. range: Confidential.

Toxicity Data. Acute oral: >5.0 g/kg; Acute dermal: >2.0 g/kg; Irritation: Skin—>2.71, Eye—Irritant; Ames Test: Non-mutagenic.

Exposure. No exposure.

Environmental Release/Disposal. Less than 10 kg/yr released to air and land with more than 10,000 kg/yr to water, 24 hrs/da, 330 da/yr. Disposal by POTW.

PMN 83-309

Manufacturer. Sun Refining and Marketing Company

Chemical. (G) Poly alkyl benzene sulfonate.

Use/Production. (S) Surfactant for enhanced crude oil recovery from oil fields. Prod. range: Confidential.

Toxicity Data. Acute oral: >5.0 g/kg; Acute dermal: 2.0 g/kg; Irritation: Skin—>2.71, Eye—Irritant; Ames Test: Non-mutagenic.

Exposure. No exposure.

Environmental Release/Disposal. Less than 10 kg/yr released to air and land with more than 10,000 kg/yr to water, 24 hrs/da, 330 da/yr. Disposal by POTW.

PMN 83-310

Manufacturer. Sun Refining and Marketing Company.

Chemical. (G) Benzene alkyl sulfonate.

Use/Production. (S) Surfactant for enhanced crude oil recovery from oil fields. Prod. range: Confidential

Toxicity Data. Acute oral: >5.0 g/kg; Acute dermal: >2.0 g/kg; Irritation: Skin—>2.17, Eye—Irritant; Ames Test: Non-mutagenic.

Exposure. No exposure.

Environmental Release/Disposal. Less than 10 kg/yr released to air and land with more than 10,000 kg/yr to water, 24 hrs/da, 330 da/yr. Disposal by POTW.

PMN 83-311

Manufacturer. U.S. Polymeric.

Chemical. (S) 3-dimethylureidylmethyl-3,5,5-trimethylcyclohexyl dimethyl urea.

Use/Production. (S) Site-limited catalyst for epoxy resin. Prod. range: 48–960 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture, processing, use and disposal: dermal, a total of 13 workers, up to 2 hrs/da, up to 25 da/yr.

Environmental Release/Disposal. No release.

PMN 83-312

Manufacturer. Confidential.

Chemical. (G) Aromatic aliphatic branched polyester resin.

Use/Production. (G) Open use. Prod. range: 10,000–80,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. No exposure.

Environmental Release/Disposal. Less than 5,000 kg/yr released. Disposal by incineration.

PMN 83-313

Manufacturer. Confidential.

Chemical. (G) Polymer of alkane polyols, alkane dioic acid and aromatic acid.

Use/Production. (S) Site-limited coatings. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. None.

Environmental Release/Disposal. No release. Disposal by incineration and sewage system.

PMN 83-314

Manufacturer. Confidential.

Chemical. (G) Ester of aromatic acids and aliphatic polyols.

Use/Production. (S) Site-limited and industrial intermediate used in metal coating. Prod. range: 10,000–500,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture, use, and disposal: dermal, a total of 12 workers, up to 2 hrs/da, up to 55 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to land. Disposal by incineration and approved landfill.

PMN 83-315

Manufacturer. Confidential.

Chemical. (G) 2-Substituted propanoic acid.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. Acute oral: >500 mg/kg; Acute dermal: >1,000 mg/kg; Irritation: Skin—Mild, Eye—Severe; Skin sensitization: No response.

Exposure. Manufacture: a total of 2 workers, 30 min/batch.

Environmental Release/Disposal. Disposal in accordance with all applicable regulations.

PMN 83-316

Manufacturer. Confidential.

Chemical. (G) Modified ethylene-chlorotrifluoroethylene polymer.

Use/Production. (G) Open use. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture, processing and disposal: dermal.

Environmental Release/Disposal. Greater than 1,000 kg/yr released to

land. Disposal by biological treatment system and approved landfill.

PMN 83–317

Manufacturer. Confidential.

Chemical. (G) Modified polyester polyurethane from substituted alkanediols, alkandioic acid and a diisocyanate.

Use/Production. (S) UV curable urethane coating. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture and use: dermal, a total of 8 workers, up to 4 hrs/da, up to 260 da/yr.

Environmental Release/Disposal. Less than 10 kg released to air with 1,000–10,000 kg/yr to land. Disposal by approved landfill.

PMN 83–318

Manufacturer. Confidential.

Chemical. (G) Acrylic copolymer of styrene and methacrylate monomers.

Use/Production. (G) Open use. Prod. range: 50,000–150,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture, processing and use: dermal, inhalation and eye, a total of 120 workers, up to 8 hrs/da, up to 250 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air and water with 100 to more than 10,000 kg/yr to land. Disposal by incineration.

PMN 83–319

Manufacturer. Confidential.

Chemical. (G) Modified alkyd polymer from mixed fatty oils, carbomonocyclic anhydride, carbomonocyclic acid and a substituted alkane diol.

Use/Production. (G) Open use. Prod. range: 20,000–500,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture, processing and use: dermal, inhalation and eye, a total of 111 workers, up to 8 hrs/da, up to 240 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air and water with 100 to more than 10,000 kg/yr to land. Disposal by incineration.

PMN 83–320

Manufacturer. Confidential.

Chemical. (G) Polymeric acrylates.

Use/Production. (S) Coatings intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral: 1.35 ml/kg; Acute dermal: 1.68 ml/kg; Eye irritation: Minor.

Exposure. Manufacture: dermal, a total of 10 workers, up to 12 hrs/da, up to 30 da/yr.

Environmental Release/Disposal. Release is minimal. Disposal by incineration.

Dated: December 17, 1982.

Woodson W. Bercaw,

Acting Director, Management Support Division.

[FR Doc. 82–34807 Filed 12–22–82; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–59112; BH–FRL 2273–7]

Certain Chemicals; Premanufacture Exemption Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA may upon application exempt any person from the premanufacturing notification requirements of section 5(a) or (b) of the Toxic Substance Control Act (TSCA) to permit the person to manufacture or process a chemical for test marketing purposes under section 5(h)(1) of TSCA. Requirements for test marketing exemption (TME) applications, which must either be approved or denied within 45 days of receipt, are discussed in EPA's revised statement of interim policy published in the **Federal Register** of November 7, 1980 (45 FR 74378). This notice, issued under section 5(h)(6) of TSCA, announces receipt of two applications for exemptions, provides a summary, and requests comments on the appropriateness of granting each of the exemptions.

DATE: Written comments by January 7, 1983,

ADDRESS: Written comments, identified by the document control number "[OPTS–59112]" and the specific TME number should be sent to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Management Support Division, Environmental Protection Agency, Rm. E–401, 401 M Street, SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Margaret Stasikowski, Acting Chief, Notice Review Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–216, 401 M Street, SW, Washington, DC 20460.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the TMSs received by EPA. The complete non-confidential document is available in the Public Reading Room E–107.

TME 83–16

Close of Review Period. Janaury 27, 1983.

Manufacturer. Confidential.

Chemical. (G) Substituted polyalkylene glycol quaternary ammonium chloride.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. Acute oral: Not relatively toxic based on range finding work; Acute dermal: >2.0 g/kg; Skin irritation: Mild; Eye irritation: Mild to moderate (irrigated), severe (nonirrigated).

Exposure. Manufacturer: A total of 35 workers, up to 8 hrs/da, up to 14 da; Use: 2–4 workers per site, up to 2 hrs/da, up to 10 da/site.

Environmental Release/Disposal. No release. Disposal by recovery.

TME 83–17

Close of Review Period. January 29, 1983.

Manufacturer. Confidential.

Chemical. (G) Modified copolymer of alkenoic esters and substituted alkenoic esters with styrene.

Use/Production. (G) Open use will release more than 50 but less than 500 kg per yr to environment. Prod. range: 1 Yr.—minimum 750 kg, maximum 7,850 kg.

Toxicity Data. No data submitted.

Exposure. Manufacturer—dermal and eye, a total of 27 workers, up to 6 hrs/da, up to 10 da/yr; Processing—dermal and eye, maximum of 4 workers, up to 6 hrs/da, 10 da/yr; Use—dermal and eye, maximum of 15 workers, 3 hr/da, 250 da/yr.

Environmental Release-Disposal. Less than 10 kg/yr released to air and water; 10–100 kg/yr to land. Disposal by incineration and recovery.

Dated: December 17, 1982.

Woodson W. Bercaw,

Acting Director, Management Support Division.

[FR Doc. 82–34808 Filed 12–22–82; 8:45 am]

BILLING CODE 6560–50–M

[ARP–FRL–2245–6]

Federal Radiation Protection Guidance for Public Exposure to Radiofrequency Radiation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Advance Notice of Proposed Recommendations (ANPR).

SUMMARY: We intend to develop radiation protection guidance for use by Federal Agencies to limit exposure of the general public to radiofrequency radiation. The guidance will not address occupational exposure or classes of sources that can be more easily

controlled through product performance standards. We plan to publish a Notice of Proposed Recommendations (NPR) in late 1983 and will invite public comments and announce details of public hearings then.

DATES: Comments regarding this ANPR must be received by February 22, 1983, in order to be considered by EPA in developing these recommendations.

ADDRESSES: Communications concerning this ANPR should be addressed to the Central Docket Section, Docket A–81–43, Mail Code A–130, U.S. Environmental Protection Agency, West Tower Lobby, Gallery 1, 401 M Street, SW, Washington, DC 20460.

The materials submitted in response to this Advance Notice of Proposed Recommendations may be reviewed between 8:00 AM and 4:00 PM, Monday through Friday. A reasonable fee may be charged for copies.

FOR FURTHER INFORMATION CONTACT: Norbert N. Hankin, Office of Radiation Programs (ANR–461), U.S. EPA, 401 M Street, SE, Washington, DC 20460, telephone (703) 557–7390.

SUPPLEMENTARY INFORMATION:

Introduction

We intend to develop guidance for Federal agencies to limit exposure of the public to radiofrequency (RF) radiation. Federal radiation protection guides will be developed by EPA under authority of 42 U.S.C. 2021(h), transferred to the Environmental Protection Agency (EPA) by Reorganization Plan No. 3 of 1970. The guidance will not include occupational exposure or apply to consumer products that can more easily be controlled through product performance standards.

The continuing and rapidly increasing number of radiofrequency radiation sources in communications, transportation, defense, industry, consumer products, security, and medical applications has produced a radiofrequency radiation environment to which the entire population is continuously exposed, has increased the magnitude of environmental levels to which members of the public are exposed, and has increased the number of persons exposed to higher environmental levels. Biological effects can be induced in animals exposed to radiofrequency radiation at exposure intensities that, while not generally characteristic, do exist in the general environment.

While there is a Federal standard for occupational exposure to RF radiation (29 CFR 1910.97) and a product performance standard to control leakage of radiation from microwave ovens (21 CFR 1020.10), there is no general Federal standard or guide for limiting public exposure to radiofrequency radiation.

Types of Exposure

Exposure of the public to radiofrequency radiation can be divided into two broad categories. Most people are expose far from individual sources and live in a complex radiofrequency environment produced by the superposition of electromagnetic fields from many sources operating at different frequencies and with various modulations. The second exposure category consists of people exposed very close to one strong source of radiation. We have extensively studied the multisource, multifrequency general radiofrequency environment. Sources with frequencies between 0.535 Megahertz (MHz) and 1.605 MHz (AM radio) and between 54 MHz and 806 MHz (FM radio and VHF and UHF–TV) are the principal contributors to the general radiofrequency environment. The general radiofrequency environment at broadcast frequencies has been measured at 486 sites in 15 urban areas. From these studies, we have estimated the distribution of exposure rates for more than 44 million people living in these cities. The estimates use census data and represent residential exposures, not occupational or workplace exposures.

The result of the study to estimate residential exposure is that over 99 percent of the total population of the 15 cities in which measurements were made is exposed to a total power density of less than 1 microwatt per square centimeter ($\mu W/cm^2$) at AM and FM–TV frequencies. The estimated median residential exposure, the maximum exposure for 50 percent of the population of these cities, is 0.005 $\mu W/cm^2$ at FM radio and TV frequencies and 0.019 $\mu W/cm^2$ at AM radio frequencies. For frequencies above 806 MHz, we estimate that residential exposures are much less than 1 $\mu W/cm^2$ for most of the population. Negligible amounts of other frequencies are found in the general radiofrequency environment.

The second kind of exposure occures so close to a particular source that the radiofrequency environment is dominated by that source. Exposure rates close to high-power transmitters can be considerably higher than those in the general radiofrequency environment. High-power sources include narrow-beam or directional sources such as radar systems and satellite communications systems, as well as the more omnidirectional radio and television broadcast sources. Measurements made at locations close to FM radio broadcast antennas have shown the existence of exposure power density levels as great as 350 $\mu W/cm^2$ in a residential neighborhood, 97 $\mu W/cm^2$ in a tall office building, and about 5000 $\mu W/cm^2$ in localized areas. Exposure of persons to power densities in the range from 10 to 100 $\mu W/cm^2$ can occur at distances up to 0.5 miles from some radar systems and satellite communication earth terminals.

Biological Effects of Radiofrequency Radiation

The Agency is preparing a critical and comprehensive review of the literatute on the biological effects of radiofrequency radiation. This review will consider: thermal physiological effects, cardiovascular system effects, cellular and subcellular effects, hematological and immunological effects, reproductive effects, nervous systems effects, behavioral effects, special sensory effects, metabolic effects, genetic effects, life span and carcinogenic effects, and human epidemiological studies. We intend to consider the following the establishing exposure limits: (1) Mechanisms of interactions of radiofrequency radiation with biological systems, (2) possible thresholds for effects, (3) reversibility of biological effects, (4) dependence of effects on duration of exposure, and (5) whether biological effects adversely effect human health.

Continuous exposure to high levels causes temperature increases that are injurious. The threshold for cataract production in humans is thought to be above 100 milliwatts per square centimeter (mW/cm^2, 1 mW/cm^2=1000 $\mu W/cm^2$) for exposure durations of more than a few hours. Heat exhaustion may occur for extended exposure above 30 mW/cm^2 at certain frequencies. Muscle tissue in humans can be damaged by temperatures produced by exposure to 10 mW/cm^2 for several hours at body resonance frequencies. Effects related to external energy input have been observed without detectable increases in temperature. It is predicted that the thermoregulatory response in humans could be activated at exposures much less than 10 mW/cm^2 for exposures near body resonant frequencies of 80 MHz. Whether or not this effect can pose a health risk needs to be determined.

Based on studies of occupationally exposed people, many investigators, especially those in the Soviet Union, Poland, and Czechoslovakia, have reported effects, principally behavioral and nervous system effects, at exposure levels less than 1 mW/cm^2. Their limited clinical data suggests that these effects

are reversible when given a respite from exposure to radiation. It is not known whether the long term, low-level exposures received by the general population can lead to irreversible adverse health effects, overt clinical disease, or whether adaption can occur.

Existing Standards

Exposure standards for radiofrequency radiation are usually expessed in terms of the rate at which energy flows through a given cross-sectional area. This rate is called power density and is commonly expressed in units of milliwatts (mW) or microwatts (μW) per square centimeter (cm^2).

Occupational exposure standards in most Western countries, which range from 1 mW/cm^2 to 10 $m2/cm^2$, limit the amount of heat generated when radiofrequency radiation is absorbed in human tissue. Most of these standards contain no special provisions for exposure of the public. However, Canada has proposed to limit exposure of the public to one-tenth of its occupational exposure limit of 10 mW/cm^2

Eastern European countries (e.g., USSR, Poland, and Czechoslovakia) have lower exposure standards for most occupational situations; for example 0.01 mW/cm^2 for microwave frequencies. Exposure standards for the public at these frequencies are even lower, i.e., 0.005mW/cm^2 in the USSR. These Eastern European standards are based on behavioral and clinical studies that, for the most part, have not been repeated or replicated elsewhere.

In 1971, the Occupational Safety and Health Administration (OSHA) adopted the 1966 version of the American National Standards Institute (ANSI) 10 mW/cm^2 occupational RF radiation exposure standard to protect workers.[1] More recently, ANSI has proposed a reduction of this standard to $1mW/cm^2$ for radio frequencies between 30 and 300 MHz.

Public Comment

1. The Agency plans to publish a Notice of Proposed Recommendations in late 1983 and will announce a schedule of public hearings. This Advance Notice of Proposed Recommendations invites comments on the scope of the recommendations. We specifically request comment on the following:

1. What conceptual approach should be used to develop limits for exposure? Examples of some possible approaches for establishing exposure limits include:

(a) Threshold for biological effects.

(b) As low as resonably achievable.

(c) Limit risk to a level comparable with that for other environmental pollutants.

(d) Use of best available or best achievable technology.

2. What range of frequencies should be included in the guidance?

3. Should different guidance be developed for partial-body and whole-body exposure?

4. Should the exposure limits take into account the fact that the rate of energy absorption varies with frequency?

5. Should limits be placed on maximum as well as average exposure?

6. Should limits be placed on instantaneous as well as time-averaged specific absorption rates?

We would appreciate comments on these questions and identification of other issues that should be considered in the development of this Guidance.

Dated: October 26, 1982.

Kathleen M. Bennett,

Assistant Administrator for Air, Noise, and Radiation.

[FR Doc 82-34831 Filed 12-22-82; 8:45 am]

BILLING CODE 6560-50-M

[1] ASNI is an nongovernmental organization which coordinates voluntary standards for use in the private sector. ASNI standards are developed by consensus and are intended as guides to aid the manufacturer, the consumer, and the general public.

FEDERAL COMMUNICATIONS COMMISSION

RCA American Communications, Inc., Revisions to Tariff FCC No. 1; Memorandum Opinion and Order, Instituting Investigation

[CC Docket No. 82-166; Transmittal No. 416]

Adopted: December 9, 1982.

Released: December 14, 1982.

1. Before the Bureau is a petition filed by Warner Amex Satellite Entertainment Company (Warner Amex) seeking to supersede and investigate the above-captioned tariff revisions filed by RCA American Communications, Inc. (RCAA).[1] These revisions, scheduled to become effective December 14, 1982, would offer leased preemptible satellite transponder service. For reasons discussed below, we decline to suspend the proposed revisions. We will, however, consolidate these revisions into the investigation in Docket No. 82-166.[2]

2. RCAA currently offers three classes of leased transponder services: "Fixed Term Transponder Service–1983 Term," "Fixed Term Transponder Service–1988 Term" and "Fixed Rate 1989 Term Transponder Service" (Fixed Rate Service). Under the terms of the current tariff, both Fixed Term Services are available only to those customers who began to receive service prior to March 27, 1982. These customers also are entitled to choose among three grades of service protection: protected, unprotected and preemptible.[3] For customers taking service after March 27, 1982, only fixed Rate Service is available. This service requires a uniform charge of $13 million for a lease term beginning with the commencement of service on the Cable Net II satellite and terminating on December 31, 1989 Although Fixed Rate service was initially provided on a preemptible basis, it will, according to RCAA, be upgraded to unprotected status by approximately January 1983 and to protected status by approximately June 1983. By order of the Commission, this offering is under investigation in Docket No. 82-166.[4]

3. In support of the instant revisions, RCAA asserts that there is a distinct need for preemptible transponder service on Cable Net II at least through 1988. Thus, RCAA now proposes to offer this service to new customers. The rates for each preemptible transponder would be approximately $58,333 per month through December 31, 1982, $62,500 through December 31, 1983 and approximately $66,666 thereafter. And, unlike Fixed Rate Service, RCAA may increase these rates during the service term.

4. Warner Amex, a subscriber to Fixed Rate Service on Cable Net II, contends that these revisions would be unjustly and unreasonably

[1] Also before the Bureau are Opposition to Warner Amex's petition filed by Spanish International Network (SIN) and a "reply" filed by RCAA.

[2] *See* RCA American Communications. Inc., 89 FCC 2d 1070 (1982).

[3] A customer taking protected service is assured of immediate replacement in the event that its assigned transponder fails, as long as a back-up transponder (i.e., one being used to provide preemptible service to another customer) is available. A customer taking unprotected service has no right to preempt another customer if its own leased transponder fails, but may not be preempted by a protected customer. A customer taking preemptible service is subject to interruption at any time as needed to restore service to a protected customer. Regardless of their protection grade, all fixed term transponder service customers are intitled to an allowance for interruptions proportionate to their duration, to be credited against the monthly service charge.

[4] RCA American Communications, Inc., *supra.* This investigation has been deferred pending resolution of the underlying issues in the Competitive Carrier Rulemaking proceeding in CC Docket No. 79-252. *See* Further Notice, 84 FCC 2d 445, 505-511 (1981). In RCA American Communications, Inc., Mimeo No. 5630 (released August 26, 1982), the Bureau allowed subsequent revisions to Fixed Rate Service proposed in Transmittal No. 386 to become effective but also consolidated those revisions into the investigation in Docket No. 82-166.

discriminatory against Fixed Rate Service customers in violation of Section 202(a) of the Communications Act. 47 U.S.C. 202(a). By proposing to offer preemptible service, RCAA is said to undermine its own rational for previoulsy discontinuing this service, namely, that such service is replete with disadvantages to customers. Moreover, Warner Amex assets that by proposing to offer this service to other customers at this time, RCAA fails to meet its obligation to treat all reasonable requests for service in a uniform and reasonable manner. In this regard, Warner Amex alleges that in early 1982 it requested from RCAA the type of service offered under the instant tariff proposal, RCAA, however, never responded to that request, presumably because that service was not to be available after March 27, 1982. Thus, warner Amex reasons that if RCAA is allowed to reinstate its preemptible Fixed Term Service, it should also be required to make that service available as a substitute to its current Fixed Rate Service customers.

5. Even if petitioner's contentions are accepted at face value, we cannot agree that suspension is the proper remedy. As explained, the offering to be made here is general in nature. Thus, if a suspension period were imposed, the effect would be denial of service to all potential customers. Under these circumstances, we fail to see what beneficial purpose would be served by the requested remedy. Nonetheless, we recognize that the tariff, as modified, may have some bearing on the concerns expressed by the Commission in its order designating Fixed Rate Service for investigation. Accordingly, on our own motion, we will consolidate these latest revisions into the investigation in Docket No. 82–166.

6. Accordingly, it is ordered, that the petition to suspend and investigate filed by Warner Amex Satellite Entertainment Corporation is granted to the extent indicated and is otherwise DENIED.

7. It is further ordered, That pursuant to Sections 4(i), 201–205 and 403 of the Communications Act of 1934, 47 U.S.C. 154(i), 201–205 and 403, an investigation is instituted of the above-captioned tariff revisions.

8. It is further ordered, that this investigation is consolidated into the investigation instituted by the Commission in *RCA American Communications, Inc.*, (CC Docket No. 82–166) 89 FCC 2d 1070 (1982).

9. It is further ordered, that this Memorandum Opinion and Order is effective on adoption.

Federal Communications Commission.

Gary M. Epstein

Chief, Common Carrier Bureau.

[FR Doc. 82-34776 Filed 12-23-82; 8:45 am]

BILLING CODE 6712-01-M

Telecommunications Industry Advisory Group; Expense Accounts Subcommittee Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of two meetings of the Telecommunications Industry Advisory Group's (TIAG) Expense Accounts Subcommittee scheduled to meet on Wednesday, January 12, 1983, and Wednesday, January 26, 1983. Each meeting will begin at 9:00 a.m. and will be open to the public. The meeting locations are as follows:

Wednesday, January 12, 1983

AT&T Conference Room A–B (10th Floor), 1120 20th Street, NW., Washington, D.C.

Wednesday, January 26, 1983

GTE Service Corporation, Suite 900, 1120 Connecticut Avenue, NW., Washington, D.C.

The agenda are as follow:

I. General Administrative Matters
II. Discussion of Assignments
III. Other Business
IV. Presentation of Oral Statements
V. Adjournment

With prior approval of Subcommittee Chairan John Howes, oral statements, while not favored or encouraged, may be allowed at the meeting if time permits and if the Chairman determines that an oral presentation is conducive to the effective attainment of Subcommittee objectives. Anyone not a member of the Subcommittee and wishing to make an oral presentation should contract Mr. Howes (212/393–4029) at least five days prior to the meeting date.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 82-34775 Filed 12-23-82; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-673-DR]

Amendment to Notice of Major-Disaster Declaration; Arkansas

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Arkansas (FEMA–673–DR), dated December 13, 1982, and related determinations.

DATE: December 17, 1982.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287–0501.

Notice

The notice of a major disaster for the State of Arkansas dated December 13, 1982 (47 FR 56720) is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of December 13, 1982:

For Individual Assistance Only:

The Counties of Baxter, Cleburne, Crawford, Fulton, Howard, Izard, Little River, Perry, Pike, Stone, Woodruff and Yell.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Dave McLoughlin,

Acting Associate Director, State and Local Program and Support, Federal Emergency Management Agency.

[FR Doc. 82-34780 Filed 12-22-82; 8:45 am]

BILLING CODE 6718-02-M

[FEMA-671-DR]

Major Disaster and Related Determinations; Hawaii

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This a notice of the Presidential declaration of a major disaster for the State of Hawaii (FEMA–671–DR), dated November 27, 1982, and related determinations.

DATE: November 27, 1982.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0501.

Notice

Pursuant to the authority vested in the Director of the Federal Emergency Management Agency by the President under Executive Order 12148, effective July 15, 1979, and delegated to me by the Director under Federal Emergency Management Agency Delegation of Authority, and by virtue of the Act of May 22, 1974, entitled "Disaster Relief

Act of 1974" (88 Stat. 143); notice is hereby given that, in a letter of November 27, 1982, the President declared a major disaster as follows:

I have determined that the damage in certain areas of the State of Hawaii resulting from the impact of Hurricane Iwa beginning on November 23, 1982, is of sufficient severity and magnitude to warrant a major-disaster declaration under Public Law 93–288. I, therefore, declare that such a major disaster exists in the State of Hawaii.

In order to provide Federal assistance, you are hereby authorized to allocate, from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under Public Law 93–288 for public assistance will be limited to 75 percent of total eligible costs in the designated area.

The time period prescribed for the implementation of Section 313(a), priority to certain applications for public facility and public housing assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of Federal Emergency Management Agency under Executive Order 12148, and delegated to me by the Director under the Federal Emergency Management Agency Delegation of Authority, I hereby appoint Mr. Tommie C. Hamner of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared major disaster.

I do hereby determine the following area of the State of Hawaii to have been affected adversely by this declared major disaster:

Kauai and Honolulu Counties for Individual Assistance and Public Assistance.

Dave McLoughlin,

Acting Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 82–34781 Filed 12–22–82; 8:45 am]

BILLING CODE 6718–02–M

[FEMA–674–DR]

Major Disaster and Related Determinations; Illinois

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Illinois (FEMA–674–DR), dated December 13, 1982, and related determinations.

DATE: December 13, 1982.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0501.

Notice

Pursuant to the authority vested in the Director of the Federal Emergency Management Agency by the President under Executive Order 12148, effective July 15, 1979, and delegated to me by the Director under Federal Emergency Management Agency Delegation of Authority, and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that, in a letter of December 13, 1982, the President declared a major disaster as follows:

I have determined that the damage in certain areas of the State of Illinois resulting from severe storms, tornadoes, and flooding beginning on or about December 2, 1982, is of sufficient severity and magnitude to warrant a major-disaster declaration under Public Law 93–288. I, therefore, declare that such a major disaster exists in the State of Illinois.

In order to provide Federal assistance, you are hereby authorized to allocate, from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance in the affected areas. You also are authorized to provide necessary Public Assistance in the affected areas when these requirements are known. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under Public Law 93–288 for public assistance will be limited to 75 percent of total eligible costs in the designated area.

The time period prescribed for the implementation of Section 313(a), priority to certain applications for public facility and public housing assistance, shall be for period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of Federal Emergency Management Agency under Executive Order 12148, and delegated to me by the Director under the Federal Emergency Management Agency Delegation of Authority, I hereby appoint Mr. Robert E. Connor of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared major disaster.

I do hereby determine the following area of the State of Illinois to have been affected adversely by this declared major disaster:

For Individual Assistance only, the Counties of:

Brown	Cass
Bureau	Clinton
Calhoun	Fulton
Greene	Morgan
Grundy	Peoria
Jersey	Pike
La Salle	Putnam
Livingston	Schuyler
Madison	Scott
Marshall	Tazewell
Mason	Woodford

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Jack W. McGraw,

Acting Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 82–34779 Filed 12–22–82; 8:45 am]

BILLING CODE 6718–02–M

National Emergency Training Center; Board of Visitors for the National Fire Academy; Notice of Open Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following committee meeting:

Name: Board of Visitors for the National Fire Academy
Dates of meeting: January 17–18, 1983
Place: National Fire Academy, Emmitsburg, MD
Time: 9:00 a.m. to 5:00 p.m.
Proposed Agenda: January 17–18: Approval of Minutes; Old Business; New Business; Admissions Policies; Annual Report (Finalize)

The meeting will be open to the public with approximately 20 seats available on a first-come, first-serve basis. Members of the general public who plan to attend the meeting should contact Mr. Joseph Donovan, Superintendent, National Fire Academy, 16825 South Seton Avenue, Emmitsburg, MD 21727 (telephone number 301–447–6771) on or before January 10, 1983.

Minutes of the meeting will be prepared by the Board and will be available for public viewing in the Associate Director's Office, Building N, National Emergency Training Center, Emmitsburg, MD. Copies of the minutes will be available upon request 30 days after the meetings.

Dated: December 7, 1982.

Joseph L. Donovan,

Superintendent, National Fire Academy.

[FR Doc. 82–34782 Filed 12–22–82; 8:45 am]

BILLING CODE 6718–02–M

FEDERAL MARITIME COMMISSION

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as

amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10327; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after the date of the **Federal Register** in which this notice appears. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No.: 50–40.

Filing party: Ralph M. Pais, Eqa., Graham & James, One Maritime Plaza—Third Floor, San Francisco, California 94111.

Summary: Agreement No. 50–40 would amend the Pacific/Australia-New Zealand Conference Agreement in order to permit conference members to rationalize sailings.

Agreement Nos. 9847–7, 10027–11, 10386–3, 10388–1.

Filing Party: John D. Straton, Jr., Director, Rates and Conferences, Moore McCormack Lines, Incorporated, 2 Broadway, New York, New York 10004.

Summary: The above-listed amendments modify the U.S. Atlantic/Brazil, Brazil/U.S. Atlantic, Argentina/U.S. Atlantic and U.S. Atlantic/Argentina Pooling Agreements, respectively, to formalize the April 30, 1982 withdrawal of Sea-Land Services, Inc. from membership in the basic agreements.

Agreement No. 10286–2.

Filing party: John R. Attanasio, Esq., Billig Sher & Jones, P.C., Suite 300, 2033 K Street, N.W., Washington, D.C. 20006.

Summary: Agreement No. 10286–2 modifies the U.S. North Atlantic-Italy Pool agreement as follows: (1) To allow any member to carry a designated amount of cargo for the pool account of a second line which will not be counted toward the carrying lines' share, such carriage to be on the unanimous vote of the membership and to take place within 90 days of the end of the pool period; (2) When the pool common fund does not cover compensation to be paid to undercarriers, half the shortfall will be paid by the overcarriers in proportion to their excess earnings; and (3) The permissible range of variation from each carrier pool share has been increased.

Dated: December 17, 1982.

Francis C. Hurney,

Secretary.

[FR Doc. 82–34707 Filed 2–22–82; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Acquisition of Bank Shares by Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Gravois Bancorp, Inc.*, St. Louis, Missouri; to acquire 100 percent of the voting shares or assets of Mehlville Bank, St. Louis Missouri. Comments on this application must be received not later than January 17, 1983.

B. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *American Bank Corporation*, Denver, Colorado; to acquire 100 percent of the voting shares or assets of American National Bank of Rock Springs, Rock Springs, Wyoming. Comments on this application must be received not later than January 17, 1983.

Board of Governors of the Federal Reserve System, December 17, 1982.

James McAfee

Associate Secretary of the Board.

[FR Doc. 82–34785 Filed 12–22–82; 8:45 am]

BILLING CODE 6210–01–M

Bank Holding Companies; Proposed de Novo Nonbank Activities

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo*, directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President), 33 Liberty Street, New York, New York 10045:

1. *Key Banks Inc.*, Albany, New York (trust activities Florida): To engage, through a *de novo* subsidiary of its existing subsidiary, Key Trust Company, in performing or carrying on any one or more of the functions or activities that may be performed or carried on by a trust company (including activities of a fiduciary, agency, or custodian nature),

in the manner authorized by Federal or State law, so long as the institution does not make loans or investments or accept deposits other than: deposits that are generated from trust funds not currently invested and are properly secured to the extent required by law, or deposits representing funds received for a special use in the capacity of managing agent or custodian for an owner of, or investor in, real property, securities, or other personal property, or for such owner or investor as agent or custodian of funds held for investment or escrow agent, or for an issuer of, or broker or dealer in securities, in a capacity such as paying agent, dividend disbursing agent, or securities clearing agent, and not employed by or for the account of the customer in the manner of a general purpose checking account or bearing interest, or making of call loans to securities dealers or purchase of money market instruments such as certificates of deposit, commercial paper, government or municipal securities, and bankers acceptances (such authorized loans and investments, however, may not be used as a method of channeling funds to non-banking affiliates of the trust company). These activities would be conducted from an office in Orlando, Florida, serving the Tampa-Orlando area of Florida. Comments on this application must be received not later than January 17, 1983.

B. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President), 701 East Byrd Street, Richmond, Virginia 23261:

1. *Union Trust Bancorp*, Baltimore, Maryland (financing and insurance activity; Greenville, South Carolina): To engage, through its subsidiary, Landmark Financial Services of South Carolina, in making installment loans to individuals for personal, family or household purposes; in purchasing sales finance contracts executed in connection with the sale of personal, family or household goods or services; in acting as agent in the sale of credit life and credit accident and health insurance directly related to its extensions of credit; in acting as agent in the sale of insurance protecting collateral held against the extensions of credit; and in making loans secured in whole or in part by mortgages or other leins on real estate. These activities will be conducted from an office located in Greenville, South Carolina, serving the town of Greenville and the surrounding area. Comments on this application must be received not later than January 14, 1983.

C. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President), 400 South Akard Street, Dallas, Texas 75222:

1. *First City Financial Corporation*, Albuquerque, New Mexico and its *de novo* subsidiary, First City Mortgage Company, Albuquerque, New Mexico (insurance activities; New Mexico, West Texas): To engage, directly and through its subsidiary, in insurance activities by acting as agent for the sale of life, accident and health insurance directly related to its extensions of credit from offices located in Albuquerque, Hobbs, Carlsbad, Ruidoso, Lovington and Roswell, New Mexico. Comments on this application must be received not later than January 11, 1983.

Board of Governors of the Federal Reserve System, December 17, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-34789 Filed 12-22-82; 8:45 am]

BILLING CODE 6210-01-M

Citicorp; Bank Holding Company

Citicorp, New York, New York, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to engage through a joint venture subsidiary, Harrison Credit Group, Inc.; (or indirectly through wholly-owned subsidiaries of the joint venture) in commercial lending, lease financing and servicing activities pertaining to Sperry New Holland equipment. The joint venture subsidiary would be owned equally by Citicorp Industrial Credit, Inc., a wholly-owned subsidiary of Citicorp, and Sperry Corporation. The joint venture subsidiary will engage in the following specific activities: the making or acquiring, for its own account or for the account of others, commercial loans and other extensions of credit, for the purchase of equipment manufactured by the Sperry New Holland Division of Sperry Corporation; the leasing of personal property, primarily equipment manufactured by the Sperry New Holland Division of Sperry Corporation, or acting as agent, broker or advisor in leasing such property and servicing such leases, subject to all of the qualifications specified in 12 CFR 115.4(a)(6)(a), where the lease serve as the functional equivalent of an extension of credit to the lessee of the property; and the servicing of loans and other extensions of credit for divisions and subsidiaries of Sperry Corporation. Such activities will be conducted from 11 regional offices located in following cities: Liverpool, New York; Charlotte, North Carolina; Columbus, Ohio; Memphis, Tennessee; Joliet, Illinois; St. Paul, Minnesota; Lenexa, Kansas; Arlington, Texas; Denver, Colorado; Portland, Oregon; and Fresno, California. Each of these offices will serve a multi-state regional area, which regional areas, in the aggregate, will encompass the entire United States. In addition, two head offices, located in Harrison, New York and New Holland, Pennsylvania, will each have a nationwide service area. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse affects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Bank of New York.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than January 17, 1983.

Board of Governors of the Federal Reserve System, December 17, 1982.

James McAfee

Associate Secretary of the Board.

[FR Doc. 82-34784 Filed 12-22-82; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares and/or assets of a bank. The factors that are considered in acting on the applications are set forth in 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Union Bancorp of Du Bois, Pennsylvania, Inc.*, Du Bois, Pennsylvania; to become a bank holding company by acquiring 100 percent of the voting shares of The Union Banking & Trust Company of Du Bois, Pennsylvania, Du Bois, Pennsylvania. Comments on this application must be received not later than January 17, 1983.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dryer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Financial Concepts Bancorp, Inc.*, Green Bay, Wisconsin; to become a bank holding company by acquiring 96 percent of the voting shares of University Bank, Green Bay, Wisconsin. Comments on this application must be received not later than January 17, 1983.

2. *Lake Country Holding Co., Inc.*, Hartland, Wisconsin; to become a bank holding company by acquiring 80 percent of the voting shares of State Bank of Hartland, Hartland, Wisconsin. Comments on this application must be received not later than January 17, 1983.

C. **Federal Reserve Bank of St. Louis** (Delmar P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Southern BancShares, Inc.*, West Helena, Arkansas; to become a bank holding company by acquiring 80.0 percent of the voting shares of Merchants & Farmers Bank, West Helena, Arkansas. Comments on this application must be received not later than January 17, 1983.

D. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *A & K Bancshares, Inc.*, Roby, Texas; to become a bank holding company by acquiring at least 80 percent of the voting shares of Citizens State Bank, Roby, Texas. Comments on this application must be received not later than January 12, 1983.

2. *Hugo Bankshares, Inc.*, Hugo, Oklahoma; to become a bank holding company by acquiring 88 percent of the voting shares of Security First National Bank, Hugo, Oklahoma. Comments on this application must be received not later than January 17, 1983.

E. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *Frontier Group Incorporated*, Buena Park, Calfornia; to become a bank holding company by acquiring 100 percent of the voting shares of Frontier Bank, N.A., Buena Park, California, a *de novo* bank. Comments on this application must be received not later than January 17, 1983.

F. **Board of Governors of the Federal Reserve System** (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *Augustana College Association*, Sioux Falls, South Dakota; to become a bank holding company by acquiring 87.4 percent of the voting shares of State Bank Hendricks, Hendricks, Minnesota. This application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Minnesota. Comments on this application must be received not later than January 17, 1983.

Board of Governors of the Federal Reserve System, December 17, 1982.

James McAfee

Associate Secretary of the Board.

[FR Doc. 82-34768 Filed 12-22-82; 8:45 am]

BILLING CODE 6210-01-M

Mellon National Corp.; Proposed Acquisition of Mortgage and Trust Inc. and Caroline Realty Company

Mellon National Corporation, Pittsburgh, Pennsylvania, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and§ 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Mortgage and Trust, Inc., Houston, Texas and Caroline Realty Company, Houston, Texas.

Applicant states that the proposed subsidiary would engage in the activities of making or acquiring for its own account or for the account of others loans and other extensions of credit such as would be made by a mortgage company; servicing loans and other extensions of credit for any person; acting as an investment or financial advisor to a real estate investment trust and acting as an insurance agent for the sale of insurance that is directly related to an extension of credit made by the mortgage company. These activities would be performed from offices of Applicant's subsidiary in Houston, Texas and Denver, Colorado, and the geographic area to be served is the southwestern United States. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Cleveland.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than January 17, 1983.

Board of Governors of the Federal Reserve System, December 17, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-34766 Filed 12-22-82; 8:45 am]

BILLING CODE 6210-01-M

Starbuck Bancshares, Inc.; Formation of Bank Holding Company

Starbuck Bancshares, Inc., Starbuck, Minnesota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842 (a)(1)) to become a bank holding company by acquiring 82.5 per cent or more of the voting shares of The First National Bank of Starbuck, Starbuck, Minnesota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Starbuck Bancshares, Inc., Starbuck, Minnesota, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and

§ 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Olson Insurance Agency of Starbuck, Starbuck, Minnesota.

Applicant states that the proposed subsidiary would engage in general insurance activities. These activities would be performed from offices of Applicant's subsidiary in Starbuck, Minnesota, and the geographic area to be served is Starbuck, Minnesota. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in acccordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. not later than January 17, 1983.

Boards of Governors of the Federal Reserve System, December 17, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-34767 Filed 12-22-82; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Advisory Committee to the Director, NIH; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the Advisory Committee to the Director, NIH, on January 19, 1983, at the National Institutes of Health, Bethesda, Maryland 20205. The meeting will take place from 9:00 a.m. to 5:00 p.m. in Building 31, Conference Room 10, C Wing. The meeting will be open to the public.

The meeting will open with a report by the Director of NIH on the status of biomedical research as it relates to programs, policies, and priorities of the National Institutes of Health. Discussions will cover such subjects as priorities to maintain the strength of the national research enterprise, training of new investigators, maintenance of high quality of effort, and relationships with universities and industry.

The Executive Secretary, Michael I. Goldberg, Ph. D., National Institutes of Health, Building 1, Room 137, Bethesda, Maryland, 301-496-3152, will furnish summaries of the meeting, rosters of Committee members and consultants, and substantive program information.

Date: December 1, 1982.

Betty J. Beveridge,

MIH Committee Management Officer.

[FR Doc. 82-34743 Filed 12-22-82; 8:45 am]

BILLING CODE 4140-01-M

Board of Scientific Counselors, Division of Resources, Centers, and Community Activities; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, Division of Resources, Centers, and Community Activities, National Cancer Institute, National Institutes of Health, January 20-21, 1983, Building 31, C Wing, Conference Room 10, Bethesda, Maryland 20205. The entire meeting will be open to the public from 8:30 a.m. through adjournment on January 20 and from 8:30 a.m. through adjournment on January 21, to discuss the current and future programs of the Division of Resources, Centers, and Community Activities. Attendance by the public will be limited to space available.

Mrs. Winifred Lumsden, the Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496-5708) will provide summaries of meetings and rosters of committee members upon request.

Dr. Robert G. Burnight, Executive Secretary, National Cancer Institute, National Institutes of Health, Blair Building, Room 3A01A, Bethesda, Maryland 20205 (301/427-8830) will furnish substantive program information.

Dated: December 5, 1982.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 82-34744 Filed 12-22-82; 8:45 am]

BILLING CODE 4140-01-M

Board of Scientific Counselors, Division of Cancer Treatment; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, DCT, National Cancer Institute, January 27-28, 1983, Bethesda Marriott Hotel, 5151 Pooks Hill Road, Bethesda, Maryland 20814. This meeting will be open to the public on January 27, 1983, from 8:30 a.m. until approximately 5:00 p.m., and again on January 28, 1983, from 8:30 a.m. until adjournment, to review program plans, contract recompetitions and budget for the DCT program. In addition, consultants will be invited to discuss two subjects: (1) Observational Studies and Randomized Trials, and (2) Studies on LH Releasing Hormones. Attendance by the public will be limited to space available.

Mrs. Winifred Lumsden, the Committee Management Officer, National Cancer Institute, Building 31, Room 10A-06, National Institutes of Health, Bethesda, Maryland 20205 (301/496-5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. Bruce A. Chabner, Director, Division of Cancer Treatment, National Cancer Institute, Building 31, Room 3A-52, National Institutes of Health, Bethesda, Maryland 20205 (301/496-4291) will furnish substantive program information.

Dated: December 15, 1982.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 82-34747 Filed 12-22-82; 8:45 am]

BILLING CODE 4140-01-M

National Digestive Diseases Advisory Board; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Digestive Diseases Advisory Board on January 25, 1983, 8:30 a.m. to adjournment, in Wilson Hall, Building 1, National Institutes of Health, Bethesda, Maryland. The Meeting, which will be open to the public, is being held to discuss the Board's activities and to continue the evaluation of the implementation of the current digestive diseases plan. Attendance by the public will be limited to space available.

Dr. Ralph Bain, Executive Director, National Digestive Diseases Advisory

Board, P.O. Box 30377, Bethesda, Maryland 20084, (301) 496–2232, will provide an agenda and roster of membrs. Summaries of the meeting may be obtained by contacting Carole A. Peters, Committee Management Office, NIADDK, National Institutes of Health, Room 9A46, Building 31, Bethesda, Maryland 20205, (301) 496–5765.

Dated: December 15, 1982.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 82–34748 Filed 12–22–82; 8:45 am]

BILLING CODE 4140–01–M

Division of Research Grants; Meetings

Pursuant to Pub. L. 92–463, notice is hereby given of the meetings of the following study sections for January 1983, and the individuals from whom summaries of meetings and rosters of committee members may be obtained.

These meetings will be open to the public to discuss administrative details relating to study section business for approximately one hour at the beginning of the first session of the first day of the meeting. Attendance by the public will be limited to space available. These meetings will be closed thereafter in accordance with the provisions set forth in Sections 522b(c)(4) and 522b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Grants Inquiries Office, Division of Research Grants, Westwood Building, National Institutes of Health, Bethesda, Maryland 20205, telephone 301–496–7441 will furnish summaries of the meetings and rosters of committee members. Substantive program information may be obtained from each executive secretary whose name, room number, and telephone number are listed below each study section. Since it is necessary to schedule study section meetings months in advance, it is suggested that anyone planning to attend a meeting contact the executive secretary to confirm the exact date, time and location. All times are A.M. unless otherwise specified.

Study section	January 1983 meetings	Time	Location
Behavioral and Neurosciences-1, Dr. Bertie Woolf, Rm. A23, Tel. 301–496–7286	Jan. 13–14	8:30	Holiday Inn, Georgetown, DC
Behavioral and Neurosciences-2, Dr. Laura Weinstein, Rm. A25, Tel 301–496–7286	Jan. 14	8:30	Holiday Inn, Bethesda, MD.
Behavioral and Neurosciences-3, Dr. Bertie Woolf, Rm. A23, Tel. 301–496–7286	Jan 28	8:30	Holiday Inn, Bethesda, MD
Behavioral and Neurosciences-4, Dr. Bertie Woolf, Rm. A23, Tel. 301–496–7286	Jan 28	8:30	Holiday Inn, Georgetown, DC
Behavioral and Neurosciences-5, Dr. Laura Weinstein, Rm. A25, Tel. 301–496–7286	Jan. 28	8:30	Holiday Inn, Bethesda, MD.
Biomedical Sciences-1, Ms. Joan D. Fredericks, Rm. A10, Tel. 301–496–1067	Jan. 17–19	8:30	Holiday Inn, Georgetown, DC
Biomedical Sciences-2, Dr. Charles Baker, Rm,. A10, Tel. 301–496–7150	Jan 25–26	8:30	Ramada Inn, Bethesda, MD
Biomedical Sciences-3, Ms. Joan D. Fredericks, Rm. A10, Tel. 301–496–1067	Jan. 24–26	8:30	Ramada Inn, Bethesda, MD
Biomedical Sciences-4, Dr. Charles Baker, Rm. A10, Tel. 301–496–7150	Jan. 18–19	8:30	Ramada Inn, Bethesda, MD
Clinical Sciences-1, Dr. Lynwood Jones, Rm. A19, Tel. 301–496–7510	Jan. 20–22	8:30	Holiday Inn, Georgetown, DC
Clinical Sciences-2, Dr. Bernice Lipkin, Rm. A19, Tel. 301–496–7477	Jan. 24–25	8:30	Highland Hotel, Washington, DC.
Clinical Sciences-3, Dr. Lynwood Jones, Rm. A19, Tel. 301–496–7510	Jan. 13–14	8:30	Holiday Inn, Georgetown, DC.
Clinical Sciences-4, Dr. Bernice Lipkin, Rm. A19, Tel. 301–496–7477	Jan. 27–28	8:30	Highland Hotel, Washington, DC.

(Catalog of Federal Domestic Assistance Program Nos. 13.306, 13.333, 13,337, 13.393–13.396, 13.837–13.844, 13.846–13.878, 13.892, 13.893, National Institutes of Health, HHS)

Dated: December 3, 1982.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 82–34737 Filed 12–22–82; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Neurological and Communicative Disorders and Stroke; Meeting of National Advisory Neurological and Communicative Disorders and Stroke Council and the Planning Subcommittee

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Advisory Neurological and Communicative Disorders and Stroke Council, January 20 and 21, 1983, at 9:00 a.m. in Building 31–C, Conference Room 6, National Institutes of Health, Bethesda, Maryland 20205. In addition, a meeting of the Planning Subcommittee of the above Council will be held on January 19, 1983, at 1:00 p.m. to approximately 5:00 p.m. in Building 31, Room 8A28, National Institutes of Health, Bethesda, Maryland 20205.

The meeting of the full Council will be open to the public from 9:00 a.m. until approximately 12:00 noon on January 20, 1983 to discuss administration, management and special reports. The meeting of the Planning Subcommittee will be open from 1:00 p.m. to approximately 3:00 p.m. on January 19 to discuss program planning and program accomplishments. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4), and 552b(c)(6) of Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the Advisory Council meeting will be closed to the public from approximately 1:00 p.m. on January 20, 1983, until the conclusion of the meeting that day, and from 8:30 a.m. until adjournment on January 21, 1983, for review, discussion and evaluation of Research Grant applications and applications for Teacher-Investigator Awards, Research Career Development Awards, and Institutional National Research Service Awards. The meeting of the Planning Subcommittee will be closed from approximately 3:00 p.m. to adjournment on January 19, 1983, also for the review, discussion and evaluation of individual grant applications. These applications and the discussion could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. John C. Dalton, Executive Secretary, Federal Building, Room 1016, Bethesda, Maryland 20205, telephone (301) 496–9248, will furnish substantive program information, summaries of the meeting and rosters of members.

(Catalog of Federal Domestic Assistance Program No. 13.851, Communicative Disorders Program; No. 13.852, Neurological

Disorders Program; No. 13.853, Stroke and Nervous System Trauma; No. 13.854, Fundamental Neurosciences Program, National Institutes of Health)

[FR Doc. 82-34738 Filed 12-22-82; 8:45 am]
BILLING CODE 4140-01

National Institute of Dental Research; Meeting of National Advisory Dental Research Council

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Advisory Dental Research Council, National Institute of Dental Research, on January 25–26, 1983, in Conference Room 10, Building 31–C, National Institutes of Health, Bethesda, Maryland. This meeting will be open to the public from 9:00 a.m. to adjournment on January 26 for general discussion and program presentations. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting of the Council will be closed to the public on January 25 from 9:00 a.m. to adjournment for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Dorothy Costinett, Committee Management Assistant, National Institute of Dental Research, National Institutes of Health, Building 31–C, Room 2C21, Bethesda, MD 20205, (phone 301 496–2883) will furnish rosters of committee members, a summary of the meeting, and other information pertaining to the meeting.

(Catalog of Federal Domestic Assistance Programs Nos. 13.840-Caries Research, 13.841-Periodontal Diseases Research, 13.842-Craniofacial Anomalies Research, 13.843-Restorative Materials Research, 13.844-Pain Control and Behavioral Studies, 13.845-Dental Research Institutes, 13.878-Soft Tissue Stomatology and Nutrition Research, National Institutes of Health)

Dated: December 3, 1982.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 82-34739 Filed 12-22-82; 8:45 am]
BILLING CODE 4140-01-M

National Institute of General Medical Sciences; Meeting of the National Advisory General Medical Science Council

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Advisory General Medical Science Council, National Institute of General Medical Science, National Institutes of Health, on January 27, and 28, 1983, Building 31, Conference Room 6, Bethesda, Maryland.

This meeting will be open to the public on January 27, 1983, from 9:00 a.m. to 1 p.m. for opening remarks; report of the Director, NIGMS; and other business of the Council. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Section 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code, and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on January 27 from approximately 2:00 p.m. to 5:00 p.m., and on January 28, 1983, from 8:30 a.m. until adjournment, for the review discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Wanda Warddell, Acting Public Information Officer, National Institute of General Medical Sciences, National Institutes of Health, Room 9A12, Westwood Building, Bethesda, Maryland 20205, Telephone: 301, 496–7301 will provide a summary of the meeting and a roster of council members. Dr. Ruth L. Kirschstein, Executive Secretary, NAGMS Council, National Institutes of Health, Westwood Building, Room 926, Bethesda, Maryland 20205, Telephone: 301 496–7891 will provide substantive program information.

(Catalog of Federal Domestic Assistance Programs Nos. 13–821, Physiology and Biomedical Engineering; 13–859, Pharmacology-Toxicology Research; 13–862, Genetics Research; 13–863, Cellular and Molecular Basis of Disease Research; and 13–880, Minority Access to Research Careers (MARC))

Dated: December 3, 1982.

Betty J. Beveridge,

Committee Management Officer, National Institutes of Health.

[FR Doc. 82-34740 Filed 12-22-82; 8:45 am]
BILLING CODE 4140-40-M

National Institute of Environmental Health Sciences; Meeting of Board of Scientific Counselors, NIEHS

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute of Environmental Health Sciences, January 25–26, 1983, in Building 101 Conference Room, South Campus, National Institute of Environmental Health Sciences, Research Triangle Park, North Carolina.

This meeting will be open to the public from 9 a.m. to 12 noon on January 25, for the purpose of presenting an overview of the organization and conduct of research in the Laboratory of Environmental Chemistry. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Section 552(c)(6) Title 5 U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on January 25 from approximately 1 p.m. to adjournment on January 26, 1983, for the evaluation of the programs of the Laboratory of Environmental Chemistry, including the consideration of personnel qualifications and performance, the competence of individual investigators, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Executive Secretary, Dr. Charles E. Carter, Scientific Director, National Institute of Environmental Health Sciences, Research Triangle Park, North Carolina 27709, telephone (919) 541–3205, FTS 629–3205, will furnish summaries of the meeting, rosters of committee members and substantive program information.

Dated: December 6, 1982.

Betty J. Beveridge,

Committee Management Officer, National Institute of Health.

[FR Doc. 82-34741 Filed 12-22-82; 8:45 am]
BILLING CODE 4140-01-M

National Institute of Child Health and Human Development; Meeting of the National Advisory Child Health and Human Development Council

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Advisory Child Health and Human Development Council, January 24–25, 1983, in Building 31, Conference Room 6, National Institutes of Health, Bethesda, Maryland.

This meeting will be open to the public on January 24 from 9:00 a.m. until 5:00 p.m. The agenda includes a report by the NICHD Director, Council

subcommittee reports, scientific presentations, and review of the Social and Behavioral Sciences Program. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on January 25 from 9:00 a.m. to adjournment for the review, discussion, and evaluation of individual grant applications. The applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Majorie Neff, Council Secretary, NICHD, Landow Building, Room 6C08, National Institutes of Health, Bethesda, Maryland 20205, Area Code 301, 496–1485, will provide a summary of the meeting and a roster of Council members as well as substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 130.864, Population Research, and 13.865, Research for Mothers and Children, National Institutes of Health)

Dated: December 3, 1982.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 82-34742 Filed 12-22-82; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Environmental Health Sciences; Meeting; National Advisory Environmental Health Sciences Council

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Advisory Environmental Health Sciences Council, National Institute of Environmental Health Sciences, February 7–8, 1983, at the National Institute of Environmental Health Sciences, Building 101 Conference Room, Research Triangle Park, North Carolina.

This meeting will be open to the public on February 7, 1983, from 9 a.m. to approximately 12 noon for the report of the Director, NIEHS, and for discussion of the NIEHS budget, program policies and issues, recent legislation, and other items of interest. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on February 7, from approximately 1:00 p.m. to adjournment on February 8, 1983, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Winona P. Herrell, Committee Management Officer, NIEHS, Building 31, Room 2B55, National Institutes of Health, Bethesda, Maryland 20205, (301) 496–3511, will provide summaries of the meeting and rosters of council members.

Dr. Wilford L. Nusser, Associate Director for Extramural Programs, National Institute of Environmental Health Sciences, P.O. Box 12233, Research Triangle Park, North Carolina 27709, (919) 541–7723, FTS 629–7723, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.892, Prediction, Detection and Assessment of Environmentally Caused Diseases and Disorders; 13.893, Mechanisms of Environmental Diseases and Disorders; 13.894, Environmental Health Research and Manpower Development Resources, National Institutes of Health)

Dated: December 3, 1982.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 82-34743 Filed 12-23-82; 8:45 am]

BILLING CODE 4140-01-M

National Heart, Lung, and Blood Institute; Meetings of the National Heart, Lung, and Blood Advisory Council and its Manpower Subcommittee and Research Subcommittee

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Heart, Lung, and Blood Advisory Council, National Heart, Lung, and Blood Institute, February 10–12, 1983, National Institutes of Health, 9000 Rockville Pike, Building 31, Conference Room 10, Bethesda, Maryland, 20205. In addition, meetings of the Manpower Subcommittee and the Research Subcommittee of the above Council will be February 9, 1983 at 8:00 p.m. in Building 31, Conference Rooms 9 and 10 respectively.

This meeting will be open to the public on February 10 from 9:00 a.m. to approximately 3:00 p.m., to discuss program policies and issues. Attendance by the public is limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code, and Section 10(d) of Pub. L. 92–463, the meeting of the Council will be closed to the public from approximately 3:00 p.m. on February 10 to adjournment of February 12 for the review, discussion and evaluation of individual grant applications. The meetings of the Manpower Subcommittee and the Research Subcommittee of the above Council will be closed from 8:00 p.m. to adjournment of February 9, 1983 for the review, discussion, and evaluation of individual grant applications.

These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Terry Bellicha, Chief, Public Inquiry Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20205, (301) 496–4236, will provide summaries of the meetings and rosters of the Council members.

Dr. Jerome G. Green, Executive Secretary of the Council, Westwood Building, Room 7A–17, National Institutes of Health, Bethesda, Maryland 20205, phone (301) 496–7416, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.837, Heart and Vascular Diseases Research; 13.838, Lung Diseases Research; and 13.839, Blood Diseases and Resources Research, National Institutes of Health.

Dated: December 3, 1982.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 82-34744 Filed 12-23-82; 8:45 am]

BILLING CODE 4140-01-M

National Heart, Lung, and Blood Institute; Meeting of Research Manpower Review Committee

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Research Manpower Review Committee, National Heart, Lung, and Blood Institute, National Institutes of Health on January 24–26, 1983, at the Linden Hill Hotel, 5400 Pooks Hill Road, Bethesda, Maryland 20814.

This meeting will be open to the public on January 24, 1983, from 8:00 p.m. to approximately 10:00 p.m., to discuss administrative details and to

hear reports concerning the current status of the National Heart, Lung, and Blood Institute.

In accordance with the provisions set forth in Sections 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on January 25 and 26, 1983, from 8:00 a.m. until adjournment for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal personal information concerning individuals associated with the applications, the disclosure of which would consititute a clearly unwarranted invasion of personal privacy.

Terry Bellicha, Chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda Maryland 20205, phone (301) 496–4236, will provide summaries of the meeting and rosters of the committee members.

Dr. Carol H. Letendre, Executive Secretary, NHLBI, Westwood Building, Room 548, Bethesda, Maryland 20205, phone (301) 496–7363, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.837, Heart and Vascular Diseases and Research; 13.838, Lung Diseases Research; and 13.839, Blood Diseases and Resources Research, National Institutes of Health)

Dated: December 3, 1982.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 82-34745 Filed 12-22-82; 8:45 am]

BILLING CODE 4140-01-M

Public Health Service

National Toxicology Program; Cancer Bioassay Reports on 2-Biphenylamine Hydrochloride, C.I. Solvent Yellow 14, and D-Mannitol; Availability

The HHS' National Toxicology Program today announces the availability of Technical Reports on carcinogenesis bioassays of 2-biphenylamine hydrochloride, C.I. Solvent Yellow 14, and D-mannitol.

The free amine, 2-biphenylamine, is a chemical intermediate used to make C.I. Acid Red 15. It is also a contaminant in both 4-biphenylamine, a rubber anti-oxidant, and diphenylamine, a dye intermediate, stabilizer in explosives, and a screw worm preventive agent.

Under the conditions of the bioassay, 2-biphenylamine hydrochloride was carcinogenic for female mice, causing hemangiosarcomas at various sites. For male mice, the evidence for a chemically-induced increase in the incidence of hemangiosarcomas was equivocal. 2-Biphenylamine hydrochloride was not carcinogenic for rats of either sex.

C.I. Solvent Yellow 14 is used to color hydrocarbon solvents, oils, fats, waxes, shoe and floor polish, varnishes, styrene resins, gasoline, and soap. It is no longer used in foods, drugs, or cosmetic. An estimated 381,000 pounds were produced in the United States in 1978.

C.I. Solvent Yellow 14 was carcinogenic for both male and female rats causing increased incidences of neoplastic nodules of the liver. It was not carcinogenic for mice of either sex.

D-Mannitol, which is used to make chewable tablets and as a sugar replacement, was found not to be carcinogenic for rats or mice of either sex. D-Mannitol is also found in algae, fungi, bacteria and a variety of other plants including pumpkins, strawberries, onions, celery, and cocoa beans.

Copies of these reports—*Carcinogenesis Biosassay of 2-Biphenylamine Hydrochloride* (T.R. 233), *C.I. Solvent Yellow 14* (T.R. 226) and *D-Mannitol* (T.R. 236)—are available without charge by writing to the NTP Public Information Office, M.D. B2–04, Box 1223, Research Triangle Park, NC 27709. Telephone: (919) 541–3991, FTS 629–3991.

Dated: December 14, 1982.

David P. Rall,

Director, National Toxicology Program.

[FR Doc. 82-34750 Filed 12-22-82; 8:45 am]

BILLING CODE 4140-01-M

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Normally, each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). However, since Friday, December 24, is a legal holiday, we are publishing this notice on December 23. The following are those packages submitted to OMB since the list was last published on December 17.

Public Health Service

Centers for Disease Control

Subject: National Self-Care Program Inventory—New.

Respondents: Facilities with programs related to self care.

OMB Desk Officer: Richard Eisinger.

National Institutes of Health

Subject: Multicenter Investigation for Limitation of Infarct Size (0925–0083)—Extension.

Respondents: Physicians.

Subject: An Epidemiologic Investigation of Cancer Risk in Radiologic Technologists (0925–0164)—Extension.

Respondents: Radiologic Technologists.

Subject: Study of the Major Prognostic Factors in Renal Transplantation—New.

Respondents: Renal transplant surgeons.

OMB Desk Officer: Richard Eisinger.

Social Security Administration

Subject: Evaluation of 1981 Aid to Families with Dependent Children Amendments—Follow-up Telephone Interview (SSA–87–BK (11–82))—New.

Respondents: Individuals or Households.

Subject: Physician's Medical Report for Individual with Childhood Impairment who is Requesting or Receiving Social Security Disability Benefits (SSA–3827 (11–82))—Revision.

Respondents: Businesses or other institutions.

Subject: States' Quarterly Estimate of Expenditures for their Aid to Families with Dependent Children Programs (SSA–65 (12–81))—Revision.

Respondents: State or local governments.

OMB Desk Officer: Milo Sunderhauf.

Office of Human Development Services

Subject: Instructions for Applying for Grants from Office of Human Development Services Programs (0980–0016)—Revision.

Respondents: States, local governments, social service agencies, and Indian tribes.

OMB Desk Officer: Milo Sunderhauf.

Health Care Financing Administration

Subject: Professional Standards Review Organization Grant Application (HCFA–95 and others)—Extension/no changes.

Respondents: Professional Standards review organizations.

Subject: Professional Standards Review Organization Routine Federal Reporting Requirements (HCFA–111 and others)—Extension/no changes.

Respondents: Professional standards review organizations.

Subject: Christian Science Sanatorium Inpatient Admission and Billing Form (HCFA–1486)—Revision.

Respondents: Christian Science Sanatoriums.

Subject: Reporting Requirements for Home and Community-Based Services Waivers (HCFA–8003)—New.

Respondents: State Medicaid Agencies.

OMB Desk Officer: Fay S. Iudicello.

Copies of the above information collection clearance packages can be obtained by calling the HHS Reports Clearance Officer on 202–245–6511.

Written comments and recommendations for the proposed information collections should be sent directly to both the HHS Reports Clearance Officer and the appropriate OMB Desk Officer designated above at the following addresses:

J. J. Strnad, HHS Reports Clearance Officer, Hubert H. Humphrey Building, Room 524–F, Washington, D.C. 20201

OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, D.C. 20503, Attn: (name of OMB Desk Officer)

Dated: December 16, 1982.

Dale W. Sopper,

Assistant Secretary for Management and Budget.

[FR Doc. 82–34683 Filed 12–22–82; 8:45 am]

BILLING CODE 4150–04–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Irrigation Operation and Maintenance Charges; Water Charges and Related Information on the Crow Irrigation Project, Montana

This notice of operation and maintenance rates and related information is published under the authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs in 209 DMB and redelegated by the Assistant Secretary—Indian Affairs to the Area Directors in 10 BIAM 3, and by authority delegated to the Project Engineer and to the Superintendents by the Area Director in 10 BIAM 7.0, Sections 2.70–2.75. The authority to issue regulations is vested in the Secretary of the Interior by 5 U.S.C. 301 and Sections 463 and 465 of the Revised Statutes (25 U.S.C. 2 and 9), and also under 25 CFR 191.1(e).

Pursuant to final rule published on June 14, 1977, in 42 FR 30361, this notice sets forth changes to the operation and maintenance charges and related information applicable to the Crow Irrigation Project, Crow Agency, Montana. These charges were proposed pursuant to the authority contained in the Acts of August 1, 1914, and March 7, 1928, (38 Stat. 583, 25 U.S.C. 385; 45 Stat. 210, 25 U.S.C. 387).

Interested persons were given 30 days in which to submit written comments, views or arguments regarding the proposed rates and related provisions. One written comment was received during the 30-day comment period.

The written comment did not object to the new rates, but did ask questions for more details concerning the rates.

Therefore, in compliance with the above, the operation and maintenance charges for the lands under the Crow Irrigation Project, Montana for the season of 1983 and subsequent years until further notice, are hereby fixed as follows:

Unit	Rate per acre
Two Leggins	[illegible]
Bozeman Trail	[illegible]
All Regular Units	7.90
All Units under Willow Creek Storage	[illegible]
Two Leggins Drainage	1.25

[illegible] Or minimum of $20 per land owner.

Neil A. MacKenzie,

Acting Superintendent, Crow Indian Agency.

[FR Doc. 82–34684 Filed 12–23–82; 8:45 am]

BILLING CODE 4310–02–M

Bureau of Land Management

Colorado and Wyoming; Tract Ranking and Environmental Impact Statement (EIS) Alternatives Meeting; Green River-Hams Fork Federal Coal Region

AGENCY: Bureau of Land Management, Interior.

ACTION: Ranking of tracts for proposed leasing of Federal coal and discussion of environmental impact statement alternatives.

SUMMARY: This notice advises the public that, pursuant to 43 CFR 3420.3–4, the regional coal team intends to rank Federal coal tracts in the Green River-Hams Fork Coal Production Region of Colorado and Wyoming for possible leasing beginning in June 1984 and for other coal management purposes.

Based upon the expressions of interest received from industry, 13 tracts in Colorado, and 12 tracts in Wyoming were delineated. All 25 tracts have been analyzed on a site-specific basis.

The regional coal team will rate these tracts on the basis of high, medium, and low desirability based upon three categories of considerations. These categories include coal economics, impacts upon the natural environment, and socio-economic impacts. The regional coal team determined a ranking scheme at their June, 1982 meeting. After the tracts have been ranked, the regional coal team will determine the Environmental Impact Statement Alternatives to be analyzed during the EIS.

DATES: The regional coal team will meet at 10:00 a.m., January 11, 1983. Arrangements have been made to meet January 12, 1983, if necessary.

ADDRESS: The team will meet at the Holiday Inn, 204 West Fox Farm Road, Cheyenne, Wyoming 82007.

FOR FURTHER INFORMATION CONTACT: Kenneth P. Smith, 1037 20th Street, Denver, Colorado 80202, (303) 837–3008.

SUPPLEMENTARY INFORMATION: The following tracts have been delineated and will be ranked at the above meeting:

Tract name	General location by county	mm of [illegible] recoverable
Wyoming:		
Tract 98	[illegible]	3.4
Byrne	[illegible]	17
Winton	Sweetwater	72.5
Leucite Hills	Sweetwater	17.7
Deadman	Sweetwater	[illegible]
Point of Rocks	Sweetwater	[illegible]
Pio	Sweetwater	11.1
Indian Springs	Carbon	[illegible]
Atlantic Rim	Carbon	178.1
N. E. Cow Creek	Carbon	[illegible]
Corral Canyon	[illegible]	72.2
Wild Horse Draw	Carbon	12.1
Colorado:		
Prairie Dog	Rio Blanco	[illegible]
Rattlesnake	Rio Blanco	36
Lay	Moffat	[illegible]
Signal Butte	Moffat	[illegible]
Horse Gulch	Moffat	7.1
Bell Rock	Moffat	[illegible]
Isac Mountain	Moffat	[illegible]
Williams Fork	Moffat and Routt	[illegible]
Peck Gulch	Moffat	[illegible]
Little Middle Creek	Routt	[illegible]
Fish Creek	Routt	[illegible]
Middle Creek	Routt	5.5
Trout Creek	Routt	10.2

All tonnages are estimates and subject to change.

The regional coal team will rank the tracts based upon the data contained in the tract delineation report, and the site-specific environmental analysis report, which will have been prepared for each tract prior to the ranking process, together with other considerations. Tract profile reports which summarize the above reports will be available from the involved District offices or

The recommendations of the regional coal team in ranking these tracts will be based upon consultation with Federal and state agencies. The above reports, written comments received in answer to this announcement, comments received at the regional coal team meeting and other considerations.

The regional coal team may modify tract boundaries at this time.

Tracts will be selected to meet or exceed the regional Federal coal leasing target to be set by the Secretary of the Interior.

Once the tracts have been selected and one or more acceptable tract combinations have been identified, the selected tracts and alternate combinations will be analyzed for their individual and cumulative impacts as part of an environmental impact statement.

Dated: December 17, 1982.

George C. Francis,

State Director, Colorado, Bureau of Land Management

[FR Doc. 82-34883 Filed 12-22-82; 8:45 am]

BILLING CODE 4310-84-M

Butte District, Montana; Multiple Use Advisory Council Meeting

Notice is hereby given in accordance with Pub. L. 94-579 and 43 CFR Part 1780 that a meeting of the Butte District Multiple Use Advisory Council will be held on Tuesday and Wednesday, February 1 and 2, 1983.

The meeting will begin at 1:00 p.m. on February 1 in the conference room of the Butte District Office at 106 N. Parkmont (Industrial Park), Butte, Montana. The agenda will include: (1) Orientation and election of officers; and (2) updates and discussion of the district's major program efforts.

The meeting is open to the public. Interested persons may make oral statements to the council or file written statements for the council's consideration. Anyone wishing to make an oral statement should make advance arrangements with the District Manager.

Summary minutes of the meeting will be maintained in the district office and be available for public inspection and reproduction during regular business hours within 30 days following the meeting.

Dated: December 17, 1982.

Jack A. McIntosh,

District Manager.

[FR Doc. 82-34886 Filed 12-22-82; 8:45 am]

BILLING CODE 4310-84-M

[N-892, N-892A]

Nevada; Classification Vacated

Correction

In FR Doc. 82-32910, beginning on page 54364, on Thursday, December 2, 1982, make the following changes:

1. On page 54365, in the first column, under T. 9 N., R. 64 E., the fourth line should read, "Sec. 11, E½E½;".

2. Also in the first column, under paragraph 3., "T. 4 S., R. 62 E.," should read "T. 1 S., R. 62 E.,".

BILLING CODE 1505-01-M

Canon City District Grazing Advisory Board; Meeting

Notice is hereby given under Pub. L. 92-463 that a meeting of the Canon City District Grazing Advisory Board will be held at 10:00 a.m., Thursday, February 10, 1983 at the Chaffee County Bank, 146 G Street, Salida, Colorado.

The purpose of the meeting is to review allotment management plan implementation and to initiate, conduct and settle business pertaining to expenditure of Range Betterment and Improvement Funds.

The meeting will be open to the public. However, facilities and space to accommodate members of the public are limited and a persons will be accommodated on a first come, first serve basis. Any person may file with the Board a written statement concerning matters to be discussed.

Persons wishing further information concerning this meeting may contact Melvin D. Clausen, District Manager, Bureau of Land Management, 3080 East Main Street, Canon City, Colorado 81212, at (303) 275-0631.

Minutes of the meeting will be made available for public inspection 30 days after the meeting.

Dated: December 14, 1982.

Stewart A. Wheeler,

Acting District Manager.

[FR Doc. 82-34723 Filed 12-22-82; 8:45 am]

BILLING CODE 4310-84-M

Casper District Advisory Council; Meeting

Notice is hereby given in accordance with Pub. L. 92-463 that a meeting of the Casper District Advisory Council will be held on January 19, 1983.

The meeting will convene at 9:00 a.m. in the conference room of the Casper District Office, Bureau of Land Management, 951 Rancho Road, Casper, Wyoming 82601.

The agenda will include: election of a chairman, a report of action taken on the recommendation of the previous advisory council, an orientation to Casper District programs and organization, and identification of issues for consideration in the Platte River Resource Area Resource Management Plan.

The meeting is open to the public. Interested persons may make oral statements or file written statements for the board's consideration. Anyone wishing to make an oral statement should notify the Casper District Manager at the above address by January 17, 1983. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

Summary minutes of the meeting will be available for public inspection within 30 days following the meeting.

Dated: December 13, 1982.

Leslie A. Oliver,

Acting District Manager.

[FR Doc. 82-34722 Filed 12-22-82; 8:45 am]

BILLING CODE 4310-84-M

Roswell Advisory Council; Meeting

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of Advisory Council Meeting.

SUMMARY: The Bureau of Land Management Rosewell District Advisory Council will meet January 26, 1983. The primary objectives of the meeting will be orientation for the new members, briefing on recent and upcoming District projects, and election of officers. The current members were appointed to the council in October, 1982, by the Secretary of Interior. The meeting will be held January 26, 1983, in the Roswell Inn, 1815 North Main, Roswell, New Mexico, beginning at 9:00 a.m. (Mountain Standard Time). There will be a one-hour lunch break around noon, an the meeting will be concluded by 3:30 p.m.

FOR FURTHER INFORMATION CONTACT: Hans Stuart, Public Information Specialist, Bureau of Land Management, Roswell District, P.O. BOX 1397, Roswell, NM 88201; telephone 505-622-7670.

SUPPLEMENTARY INFORMATION: The council is chartered by the Secretary of Interior to provide citizen advice to the Roswell District Manager in matters concerning BLM-administered lands and resources.

The meeting is open to the public. Any person may attend and/or file a written statement. During the meeting the public is encouraged to ask questions and participate in discussion. Written statements for the Council can be mailed to the Roswell District at the above address in the case of an inability to attend.

Minutes of the meeting will be prepared and made available for public review at the District Office.

The agenda for the meeting will include the following:

Welcome from Roswell District Manager;
Introduction of District staff;
Remarks by Bill Luscher, New Mexico State Director for BLM;
Short presentations by staff on current and upcoming initiatives;
Elections of Council Chairperson and Vice Chairperson for 1983.

John Gregg,

District Manager.

[FR Doc. 82-34724 Filed 12-22-82; 8:45 am]

BILLING CODE 4310-84-M

Battle Mountain District, Shoshone-Eureka Resource Area

AGENCY: Bureau of Land Management, Interior.

ACTION: Intent to prepare an environmental impact statement (EIS) concerning the Exxon Minerals Corporation (Exxon) application for land acquisition at MT. Hope north of Eureka, Nevada.

SUMMARY: In accordance with the National Environmental Policy Act of 1969 (NEPA), Exxon is working with the Bureau of Land Management to prepare an environmental impact statement on land acquisition for a large open pit molybdenum mine and overburden disposal sites, a process plant and general facilities, and a tailing disposal impoundment. These operations could require as much as 10,000 acres.

PRELIMINARY LIST OF ISSUES: The following is a preliminary list of issues as identified by the BLM and the applicant:

Air Quality	Cultural Resources
Groundwater Resources	Visual Effects
Socioeconomic Effects	Land Use Changes
Water Rights Acquisition	Seismic Effects
Erosion	Ecology

Rare and Endangered Species Natural Resources

ALTERNATIVES: Although the land purchase application is the action which occasions the EIS process, there are other federal decisions which must be made before the applicant may proceed. Among these are the granting of rights-of-way and the approval of a plan-of-operation. Based upon the provisions of Section 1508.25 of the Council on Environmental Quality (CEQ) regulations, all aspects of this project will be addressed in the same EIS. Alternatives to the proposed action that are being considered for analysis include:

1. No Action
2. Land Acquisition Alternatives, Individually and in Combination
   a. Federal Land Policy and Management Act (FLPMA) Exchange
   b. Federal Land Policy and Management Act (FLPMA) Use Permit
   c. Lode Claims and Millsite Claims
3. Alternative Rights-of-Way Routings
4. Mine/Process Plant Alternatives
   a. Alternative Mill Sites
   b. Alternative Overburden and Waste Rock Disposal Sites
   c. Alternative Tailing Pond Sites
   d. Housing Development

DATES AND ADDRESSES: Scoping meetings are scheduled in January to provide the public an opportunity to learn about the proposed action and to make comments. Meetings will be held as follows:

1. January 12, 1983, 7:00 to 9:00 p.m., Pioneer Inn, 221 South Virginia Street, Reno, Nevada.
2. January 13, 1983, 7:00 to 9:00 p.m., Eureka Courtroom, Eureka, Nevada. A public comment period will begin December 20, 1982, and extend through January 31, 1983.

FOR FURTHER INFORMATION CONTACT: Neil D. Talbot, Area Manager, Shoshone-Eureka Resource Area, P.O. Box 194, 2nd and Scott Streets, Battle Mountain, Nevada 89820 or telephone (702)635-5181.

Dated: December 15, 1982.

Michael C. Mitchel,

Acting District Manager, Battle Mountain, Nevada.

[FR Doc. 82-34720 Filed 12-22-82; 8:45 am]

BILLING CODE 4310-84-M

[CA 13268]

Realty Action-Exchange; Public Lands in Trinity County, Calif.

The Bureau of Land Management and J.H. Baxter & Co., together own (undivided one-half interest) a parcel of property along the Trinity River described as the N½SW¼, Section 13, T. 33 N., R. 9 W., M.D.M. The parcel has many valuable resources that cannot be managed without the consent of each controlling party. This joint ownership makes it difficult to manage the public's interest on the parcel.

The Bureau of Land Management and J.H. Baxter & Co. are proposing to divide the parcel (80 acres) through an exchange of interest.

The following described land has been determined to be suitable for disposal to J.H. Baxter & Co. under Section 206 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2756):

Mount Diablo Meridian

T. 33 N., R. 9 W.
Sec. 13, W½N½SW¼
Containing 40 acres (approximately)

The Bureau of Land Management will acquire J.H. Baxter & Co.'s one-half interest in the following parcel:

Mount Diablo Meridian

T. 33 N., R. 9 W.
Sec. 13, E½N½SW¼
Containing 40 acres (approximately)

For a period of 45 days from the date of this notice, interested parties may submit comments to the Area manager, 355 Hemsted Drive, Redding, California 96002. Any adverse comments will be evaluated by the State Director. In the absence of any action by the State Director, this realty action will become a final determination of the Bureau of Land Management.

Dated: December 15, 1982.

Robert C. Korfhage,

Area Manager.

[FR Doc. 82-34721 Filed 12-22-82; 8:45 am]

BILLING CODE 4310-84-M

[CA 13313]

Notice of Realty Action—Exchange

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action.

SUMMARY: The following described public land has been determined to be suitable for disposal under the provisions of Pub. L. 91-476, an Act to provide for the establishment of the King Range National Conservation Area (84 Stat. 1067), and Section 206 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2756).

Humboldt Meridian

T. 1 N., R. 4 E.,
Sec. 27, SE¼SE¼;
T. 4 N., R. 4 E.,
Sec. 21, SE¼SE¼;
Sec. 22, SW¼SW¼;
T. 9 N., R. 4 E.,
Sec. 1, Lot 15;
T. 10 N., R. 4 E.,
Sec. 29, SE¼NE¼;

Mount Diablo Meridian

T. 14 N., R. 16 W.,
Sec. 21, SE¼SW¼;
Sec. 28, NE¼NW¼;
Containing 282.58 acres.

Louisiana-Pacific Corporation, P.O. Box 158, Samoa, California 95564, has applied to acquire the above described lands in exchange for the following described privately owned lands:

Humboldt Meridian

T. 3 S., R. 1 W.,
Sec. 15, N½NW¼, NW¼NE¼.

T. 4 S., R. 1 E.,
Sec. 15, Lots 3 and 7;
Sec. 22, E½NE¼;
Sec. 23, Lots 1, 2, 3, and 4, SE¼NW¼, E½SW¼;
Sec. 26, Lot 4, SW¼NW¼;
Sec. 27, Lots 4 and 5;

T. 7 N., R. 3 E.,
Sec. 3, Lots 1 and 2, SW¼NE¼;

T. 8 N., R. 3 E.,
Sec. 34, SE¼SE¼;

Containing 897.83 acres.

DATES: For a period of 45 days from the first publication of this notice, interested parties may submit comments to the California State Director, Bureau of Land Management, Room E–2841, Federal Office Building, 2800 Cottage Way, Sacramento, California 95825. Any adverse comments will be evaluated by the California State Director, who may vacate or modify this realty action and issue a final determination. In the absence of a vacation or modification this realty action will become the final determination of the Bureau.

ADDRESSES: Detailed information concerning the exchange, including the environmental analysis and the record of non-Federal participation, is available for review at the Eureka Area Office, BLM, 1585 J Street, P.O. Box II, Arcata, California 95521.

FOR FURTHER INFORMATION CONTACT: Jack Lahr, Area Manager, Eureka Resource Area Office, Bureau of Land Management, 1585 J Street, P.O. Box II, Arcata, California 95521, phone: (707) 822–7648.

SUPPLEMENTARY INFORMATION: A mineral evaluation has been requested on the public land. If any minerals are identified, a reservation of identified minerals will be made to the United States. If no minerals are identified, the mineral estate of the public lands will be conveyed with the surface. The mineral estate of the privately owned lands will be conveyed with the surface.

The publication of this notice in the **Federal Register** shall segregate the applied for public lands from all other forms of appropriation under the public land laws, including the mining laws, for a period of two years. The exchange is expected to be consumated before the end of that period.

There will be reserved to the United States in the applied for lands, a right-of-way thereon for ditches and canals constructed by the authority of the United States (43 U.S.C. 945). A U.S. Forest Service right-or-way exists on T. 4 N., R. 4 E., H.M., Section 21, SE¼SE¼, and Section 22, SW¼SW¼. If continued need exists for the Forest Service, a reservation to the United States will be made in the Patent Deed.

The purpose of this exchange is to acquire non-Federal lands within the King Range National Conservation Area and to consolidate public land ownership for more effective management in the Scattered Blocks Planning Unit. This exchange is in conformance with Bureau planning and in the public interest.

Dated: December 16, 1982.

Van W. Manning,

District Manager.

[FR Doc. 82-34857 Filed 12-22-82; 8:45 am]

BILLING CODE 4310-84-M

Grand Junction Resource Management Plan and Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Scoping Meetings.

SUMMARY: The U.S. Department of the Interior, Bureau of Land Management, Grand Junction District, Grand Junction Resource Area will prepare a Resource Management Plan and associated Environmental Impact Statement. The plan area contains more than 2,000,000 acres of which about 60% is public land. The plan area is primarily located in Mesa County, Colorado, but also includes portions of Garfield, Delta, and Montrose Counties, Colorado, and Grand County, Utah.

The Resource Management Plan is a comprehensive land use plan which allocates lands to various uses under the multiple use concept. The plan will identify goals for resource management, use levels, and measures required to implement management decisions. The preliminary schedule identifies starting the Resource Management Plan on October 1, 1983, and completing the associated Environmental Impact Statement on September 30, 1985. All written comments or information should be submitted by March 15, 1983.

The purpose of the public scoping meetings is to identify issues to be addressed in the RMP. The public scoping meetings will be held at the following:

February 1, 1983, 7:00–10:00 p.m., Ramada Inn Roadside Hotel, 718 Horizon Drive, Grand Junction, CO 81501.

February 3, 1983, 7:00–10:00 p.m., Ramada Inn Foothills, 11595 W. 6th Ave., Lakewood, CO 80215.

The RMP will also address potential coal lease areas. Interested parties should submit necessary coal resource information at the public meetings or in writing. A statement identifying which lands should be considered and why they should be considered for potential coal leasing must be included with the coal resource information. Proprietary coal resource information should be submitted to the following address by March 15, 1983. Minerals Manager, Central Region, Mail Stop 609, Box 25165, Denver Federal Center, Denver, CO 80225.

FOR FURTHER INFORMATION CONTACT: L. Mac Berta, Area Manager, or Jim Keeton, RMP/EIS Team Leader, Bureau of Land Management, 764 Horizon Drive, Grand Junction, CO 81501, telephone: commercial (303) 243–6552, FTS 323–0011.

David A. Jones,

District Manager.

[FR Doc. 82-34859 Filed 12-22-82; 8:45 am]

BILLING CODE 4310-84-M

Idaho Falls and Salmon Districts, Big Lost-Mackay Environmental Impact Statement; Notice of Intent

The Idaho Falls and Salmon Districts are in the process of developing land use plans and environmental impact Statement (EIS) on a proposed range management program for the Big Lost and Mackay units. The draft EIS is scheduled for release in April 1983 and an open house to receive comments is tentatively scheduled May 9, 1983. This notice describes alternatives being developed for the draft EIS.

The Big Lost and Mackay units contain 175,000 and 111,549 acres of public land respectively including parts of Custer and Butte counties in central Idaho. Draft land use plans have been prepared and a draft EIS is being prepared by an interdisciplinary team on range management programs for the areas.

Issues identified during the scoping process and development of Step 2 MFP which will be addressed in the EIS are:

1. What is the appropriate level of livestock grazing use in the Big Lost and Mackay units to maintain and improve the vegetation resources, and what affects would this have on livestock operations?

2. What range improvements are needed to facilitate more intensive rangeland management?

3. Would more intensive rangeland management have adverse effects on other resources in the units?

Based on inventories completed and information gained through the scoping and planning process, four alternatives have been defined for analysis in the

draft EIS. A brief description of each alternative follows:

Alternative A. This alternative was developed through the planning process. The level of livestock grazing would be 15,832 AUMs (1 AUM is the amount of forage needed for 1 cow for 1 month) in the Big Lost and 8,468 AUMs in the Mackay unit for a total of 24,300 AUMs in the EIS area. Proposed improvements would include 24 ponds, 27 spring developments, 20 miles of pipeling, 23 miles of fence, 15,000 acreas of sagebrush control, and 5 water catchments. The 24,300 AUM level of grazing would be about 9 percent above the 5 year average use level of 22,376 AUMs.

Alternative B. This alternative was developed to improve range condition with a low level of range improvements. The level of livestock grazing would be 13,804 AUMs in the Big Lost and 7,860 AUMs in the Mackay units for a total of 21,664 AUMs in the EIS area. Proposed improvements would include 13 ponds, 12 spring developments, 8 miles of pipeline, 2 miles of fence, and 6,200 acres of sagebrush control. The 21,664 AUM level of grazing would be about 3 percent below the 5 year average use level of 22,376 AUMs.

Alternative C. This alternative was developed to show no action—it would maintain livestock grazing at the 5 year average use level. The level of grazing use would remain at 14,104 AUMs in the Big Lost and 8,272 AUMS in the Mackay units for a total of 22,376 AUMs in the EIS area. New range improvements could be constructed where required to insure current levels of livestock grazing or where funded by the range user or livestock organization. The level of range improvements would not exceed about 25 percent of those proposed in Alternative A.

Alternative D. This alternative was developed to show the effects of no livestock grazing. Under this alternative, 14,104 AUMs livestock grazing would be discontinued in the Big Lost and 8,272 AUMs in the Mackay units for a total of 22,376 AUMs in the EIS area. No new range improvements would be constructed.

This notice is in accordance with the Federal Land Policy and Management Act (Pub. L. 94–579), the National Evironmental Policy Act (Pub. L. 91–190) 40 CFR 1501.7, and 43 CFR 1601.

Planning documents are available at the Idaho Falls District Office, 940 Lincoln Road, Idaho Falls, ID and at the Salmon District Office, Hiway 93, Salmon, ID. For futher information contact O'dell A. Frandsen or Donald Watson, Bureau of Land Management, 940 Lincoln Road, Idaho Falls, ID 83401, telephone (208) 529–1020.

Dated: December 15, 1982.

O'dell A. Frandsen,

District Manager.

[FR Doc. 82–34855 Filed 12–22–82; 8:45 am]

BILLING CODE 4310–84–M

Idaho Falls District Grazing Advisory Board; Meeting

Notice is hereby given in accordance with Pub. L. 92–463 that the Idaho Falls District Grazing Advisory Board will meet February 26, 1983.

The meeting will begin at 9:00 a.m. in the conference room of the Bureau of Land Management Office, 940 Lincoln Road, Idaho Falls, Idaho 83401. The meeting is open to the public. Interested persons may make oral statements to the Board between 11:30 a.m. and 12:00 noon or file written statements for the Board's consideration. Anyone wishing to make an oral statement must notify the Idaho Falls BLM District Manager at the above address by February 2, 1983. Depending on the number of persons wishing to make oral statements, a per person time limit may be established.

The agenda for the meeting will include:

1. Election of officers.
2. District highlights.
3. Progress on maintenance agreements.
4. Range monitoring priorities.
5. Big Lost-Mackay Environmental Impact Statement.
6. Big Lost BLM/Forest Service coordinated AMP development.
7. Allotment Management Plans in the Quaking Aspen, Rudeen and Sunset Allotments.
8. FY '82 Range Improvement Summary.
9. Advisory Board fund projects.
10. Arrangements for the next meeting.

Summary minutes of the Board meeting will be kept in the District Office and be available for public inspection and reproduction, (during regular business hours) within 30 days following the meeting.

Dated: December 17, 1982.

O'dell A. Frandsen,

District Manager.

[FR Doc. 82–34856 Filed 12–22–82; 8:45 am]

BILLING CODE 4310–84–M

[M 10419]

Montana; Notice of Partial Termination of Proposed Withdrawal and Reservation of Lands

December 16, 1982.

The Department of Transportation filed application for withdrawal and reservation of lands from mineral entry for proposed highway construction. The Department has cancelled the application insofar as it affects the following described lands:

Principal Meridian

Lolo National Forest

T. 18 N. R. 28 W.,
Sec. 19, lot 1, S½NE¼, NE¼NW¼, and N½SE¼;
Sec. 21, SW¼SW¼;
Sec. 27, NE¼NE¼, W½NE¼, and S½NW¼.

The area described contains 478.14 acres in Mineral County, Montana.

Original application published in **Federal Register**, FR Document 68–15089, Volume 33, No. 246, pages 18948–49, December 19, 1968.

Therefore, pursuant to the Regulations contained in 43 CFR 2091.2–5(B)(1), at 8 a.m. on January 31, 1983, such lands will be relieved of the segregative effect of the above mentioned application.

Roland F. Lee,

Chief, Branch of Land Resources.

[FR Doc. 82–34854 Filed 12–22–82; 8:45 am]

BILLING CODE 4310–84–M

[U–52353]

Utah: Notice of Invitation to Participate in Coal Exploration Program—Getty Mining Co.

Getty Mining Company is inviting all qualified parties to participate in a program for the exploration of coal reserves in the Skyline North Prospect area near Scofield, Utah. The lands are located in Carbon and Sanpete Counties, Utah, and are described as follows:

T. 13 S., R. 6, E., SLM, Utah
Sec. 2, lots 1–4, S½N½, S½;
Sec.3, lots 1–4, S½N½, S½;
Sec. 4, lots 1–11, SE¼NW¼, E½SW¼, S½NE¼, SE¼;
Sec. 9, lots 1–11, N½NW¼, E½SE¼;
Sec. 10, lots 1 & 2, E½NW¼, NE¼;
Sec. 11, N½, N½S½;
Sec. 16, lots 1–8;
Sec. 21, lots 1, 3 & 4, E½E½;
Sec. 28, lots 1–8;
Sec. 33, lots N½N½, SE¼NW¼, E½SW¼, SW¼SW¼, SE¼, SE¼NE¼.
Containing 4,707.23 acres, more or less.

Any party electing to participate in this exploration program must send written notice of such election to the Bureau of Land Management, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111 and to Mark L. Adkins/James W. Osborn, Getty Mining Company, P.O. Box 7900, Salt Lake City, Utah 84107. Such written notice must be received within 30 days after the publication of this notice in the **Federal Register**.

Any party wishing to participate in this exploration program must be qualified to hold a lease under the provisions of 43 CFR 3472.1 and must share all cost on a pro rata basis. A copy of the exploration plan, as submitted by Getty Mining Company is available for public review during normal business hours, in the following office, under Serial Number U–52353: Bureau of Land Management, Room 1400, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111.

Robert Papworth,

Deputy State Director for Operations.

December 10, 1982.

[FR Doc. 82–34856 Filed 12–22–82; 8:45 am]

BILLING CODE 4310–84–M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Tenneco Oil Exploration and Production has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 3392, Block 50, Vermilion Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 7002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: December 15, 1982.

John L. Rankin,

Acting Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 82–34719 Filed 12–22–82; 8:45 am]

BILLING CODE 4310–31–M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Mobil Oil Exploration and Producing Southeast Inc. has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 3275, Block 331, West Cameron Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: December 15, 1982.

John L. Rankin,

Acting Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 82–34888 Filed 12–22–82; 8:45 am]

BILLING CODE 4310–MR–M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Tenneco Oil Exploration and Production has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 4550, Block 712, Matagorda Island Area, offshore Texas.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: December 17, 1982.

John L. Rankin,

Acting Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 82–34887 Filed 12–22–82; 8:45 am]

BILLING CODE 4310–31–M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Public Information Collection Requirements Submitted to OMB for Review

The International Development Cooperation Agency submitted the following public information collection requirement to OMB, for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of the submission may be obtained from the Agency for International Development Clearance Officer by calling (202) 632–0084.

Comments regarding this information collection should be addressed to the Reports Management Officer, Ms. Melita E. Yearwood, DM/IM, Room 714, SA–12, Washington, D.C. 20523; and to the OMB reviewer listed at the end of the entry no later than January 3, 1983.

Date Submitted: December 15, 1982.

Submitting Bureau: Agency for International Development.

OMB Number: 0412–0006.

Form Number: AID 1420–18.

Type of Submission: Extension.

Title: Offeror's Analysis of Cost Proposal.

Purpose: The form is used to obtain the cost and pricing data required in a manner directly suited to the needs of AID's contracting program.

OMB Reviewer: Francine Picoult (202) 395–7231, Office of Management and Budget, Room 3201, New Executive Office Building, Washington, D.C. 20503.

Dated: December 15, 1982.

Linwood A. Rhodes,

Chief, Information Management Division.

[FR Doc. 82–34726 Filed 12–22–82; 8:45 am]

BILLING CODE 6116–01–M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Decision-Notice; Finance Applications

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practiced (49 CFR 1100.240). See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349*, 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the Federal Register. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.241. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1100.241(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Agatha L. Mergenovich,

Secretary.

Note.—Please direct status inquires to Team 1, (202) 275–7992.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

Volume No. OP1–234

Decided: December 8, 1982.

MC–F–15012, file November 23, 1982. STOWERS AND SONS TRUCKING COMPANY (Route 1, Box 348, West Hamlin, WV 25571—PURCHASE (PORTION)—NELSON TRANSFER & STORAGE COMPANY(P.O. Box 708, Charleston, WV 25323). Representative: John M. Friedman, P.O. Box 426, Hurricane, WV 25526. Stowers weeks to purchase Nelson's Certificate No. MC–14751 (Sub–No. 4)(M1F) which authorizes the radial transportation of commodities which because of size or weight requires the use of special equipment, and mine machinery, equipment, and supplies, between points in WV, and, points in KY, OH, VA, WV, and those in that part of PA west of U.S. Hwy 15. Wylie Stowers, Lyle C. Stowers, and Gregory B. Stowers, who control Stowers, seek authority to acquire control of the said operating authority through the transaction. Stowers holds Certificate No. MC–156879.

Note.—Inasmuch as applicant elected not to file a directly related gateway application, it can not be granted authority to tack the authority sought with its existing authority.

Volume No. OP1–236

Decided: December 17, 1982.

By the Commission, Review Board No. 1, members Parker, Chandler, and Fortier. (Member Parker not participating.)

MC–F–15002, filed November 26, 1982. ROBERT H. CASTELLINI (Castellini)(2 Plum St., Cincinnati, OH 45202)—CONTINUANCE–IN–CONTROL—C.C. TRANSPORTATION COMPANY (CCT) (2 Plum St., Cincinnati, OH 45202). Representative: Philip B. Cochran, 50 West Broad St., Columbus, OH 43215. Castellini seeks authority to contique in control of CCT upon the institution by CCT of operations, in interstate or foreign commerce, as a motor common carrier. Castellini, an individual, controls CCT through 100 percent stock ownership of The Castellini Company, a non-carrier. Castellini also controls through 50 percent stock ownership, Riley Whittle, Inc., a common carrier in No. MC–117786.

Note.—CCT has filed its initial common carrier application in NO. MC–161150, published in the FR issue of April 8, 1982, and decision served on September 14, 1982, granting the authority as published.

[FR Doc. 82–34754 Filed 12–22–82; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice on 90-Day Intrastate Motor Common Carriers of Passengers

The following applications, filed on or after November 19, 1982, are governed by Part 1168 of the Commission's Rules of Practice. See 49 CFR Part 1168, published in the **Federal Register** on November 24, 1982, at 47 FR 53275. For compliance procedures, see 49 CFR 1168.6 and 49 U.S.C. 10922 (c)(2)(E).

Persons wishing to oppose an application must follow the rules under 49 CFR Part 1168. In addition to fitness grounds, applications may be opposed on the grounds that the transportation to be authorized would directly compete with a commuter bus operation and would have a significant adverse effect on all commuter bus service in the area in which the competing service will be performed. Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 25 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 30 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Agatha L. Mergenovich,

Secretary.

Note.— All applications are filed under 49 U.S.C. 10922(c)(2)(A) for authority to operate as a motor common carrier of passengers in intrastate commerce on a route over which applicant has interstate, regular-route authority on November 19, 1982.

Please direct status inquiries to Team 1 at 202–275–7992.

Volume No. OP1–235

Decided: December 16, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Parker not participating.)

MC 2890 (Sub-61), filed December 7, 1982. Applicant: AMERICAN BUSLINES, INC., 1500 Jackson St., Dallas, TX 75201. Representative: George W. Hanthorn (same address as applicant), (214) 655–7937. Applicant seeks authority in intrastate commerce to conduct service at all intermediate points on routes in MC–2890 and (Sub-Nos. 18, 55, and 58), as follows: (A) in MC–2890, in part, (1) Sheet Nos. 2 and 3, between Pittsburgh, PA, and Los Angeles, CA, to provide intrastate service between (a) the junction of the MO–OK State line and the Will Rogers Turnpike, and the junction of the OK–TX State line and U.S. Hwy. 77, and (b) San Diego, CA, and Los Angeles, CA, and (2) Sheet No. 5, (a) between Baltimore, MD, and Emmitsburg, MD, and (b) between Philadelphia, PA, and Pittsburgh, PA, (B) in MC–2890 (Sub-No. 18), in part, (1) Sheet No. 1, between Chicago, IL, and Los Angeles, CA, to provide intrastate service between (a) Chicago, IL, and Aurora, IL, and (b) the junction of Oskaloosa, IA, and IA Hwy 92, and Des Moines, IA, and (2) Sheet No. 13, between Salt Lake City, UT, and San Francisco, CA, to provide intrastate service between Roseville, CA, and San Francisco, CA, and (C) in MC–2890 (Sub-Nos. 55 and 58) over all the routes which traverse PA, OH, IN, IL, and MO.

Please direct status inquiries to Team 4 at 202–275–7669.

Volume No. OP4–080

Decided: December 17, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 29957 (Sub-100), filed December 7, 1982. Applicant: TRAILWAYS SOUTHERN LINES, INC., 327 Gayoso St., Memphis, TN 38103. Representative: George W. Hanthorn., 1500 Jackson St., Dallas, TX 75201, (214) 655–7937. Applicant seeks authority in intrastate commerce to conduct service at all intermediate points on a route in No. MC–29957, in part; over the entire route described as Route 36 on sheet 5, between Gulfport and Biloxi, MS, over U.S. Hwy 90 and Pass Christian Road.

[FR Doc. 82–34753 Filed 12–22–82; 8:45 am]

BILLING CODE 7035–01–M

[Volume No. OP4–078]

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Decided: December 16, 1982.

In the matter of Motor Common and Contract Carriers of Property (fitness-only); Motor Common Carriers of Passengers (fitness-only); Motor Contract Carries of Passengers; Property Brokers (other than household goods).

The following applications for motor common or contract carriage of property and for a broker of property (other than household goods) are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** on December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common or contract carriage of passengers filed on or after November 19, 1982, are governed by Subpart D of the Commission's Rules of Practice. See 49 CFR Part 1160, Subpart D, published in the **Federal Register** on November 24, 1982, at 49 FR 53271. For compliance procedures, see 49 CFR 1160.86. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E.

These applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication , (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board No. 2, Members Carleton, Williams, Ewing.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce, over irregular routes unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract."

Please direct status inquiries to Team Four at (202) 275–7669.

MC 13027 (Sub-29), filed December 7, 1982. Applicant: SHORTWAY LINES, INC., 1 Keeshin Dr., Toledo, OH 43612. Representative: Arthur Wagner, 342 Madison Ave., New York, NY 10173, (212) 755–9500. Transporting *passengers*, in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 111256 (Sub-2), filed December 7, 1982. Applicant: DONALD W. BUCKINGHAM d.b.a. BUCKINGHAM BUS AND TAXI SERVICE, Station Ave., Groton, MA 01450. Representative: Donald N. Dunham, P. O. Box 281, 1298 Commonwealth Ave., #30, Allston, MA 12134, (617) 731–0382. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded special and charter transportation.

MC 138297 (Sub-13), filed December 7, 1982. Applicant: CENTRAL FLORIDA COACH LINES, INC., P. O. Box 127, Mountaintop, PA 18707. Representative: Raymond Talipski, 121 S. Main St., Taylor, PA 18517, (717) 344–8030. Transporting *passengers*, in charter and special operations, beginning and ending at points, in FL, and extending to points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded Charter and special transportation.

MC 140247 (Sub-8), filed December 7, 1982. Applicant: ALLSTATE CHARTER LINES, INC., 3281 N. Marks, Fresno, CA 93790. Representative: Ellis Ross Anderson, 100 Bush St., Suite 410, San Francisco, CA 94104, (415) 421–6743. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 148796 (Sub-3), filed December 8, 1982. Applicant: MILLER BUS, INC., 52 Hackensack Heights Rd., Wappingers Falls, NY 12590. Representative: Harold Miller (same address as applicant), (914) 462–1791. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 153637 (Sub-1), filed December 8, 1982. Applicant: L.F.S. COACH, INC., 2200 Ridge Rd., Baltimore, MD 21207. Representative: Steven L. Weiman, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877, (301) 840–8565. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 162177, filed December 9, 1982. Applicant: SPORTS TRIPS, INC., 4061 Bringlewood Ct., Elgin, IL 60120. Representative: William L. Fairbank, 2400 Financial Center, Des Moines, IA 50309, (515) 282–3525. Transporting *passengers*, in special and charter operations, beginning and ending at points in Boone, Bureau, Cook, DeKalb, DuPage, Kane, Kendall, Lake, LaSalle, Lee, McHenry, Ogle, Will, and Winnebago Counties, IL, and extending to points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165067, filed December 7, 1982. Applicant: DASH TRANSPORTATION INC., 3950 Park Ave., Bronx, NY 10457. Representative: Arthur Wagner, 342 Madison Ave., New York, NY 10173, (212) 755–0500. Transporting *passengers*, in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165076, filed December 7, 1982. Applicant: GULF ATLANTIC & PACIFIC SHIPPERS SERVICES, INC., 2470 N. Hawk St., Simi Valley, CA 93056. Representative: Roy L. Larsen (same address as applicant), (805) 526–7240. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 165077, filed December 6, 1982. Applicant: DAOINE SIDHE, P.O. Box 68, Pembroke, ME 04666. Representative: Lawrence E. Lindeman, 4660 Kenmore Ave., Suite 1203, Alexandria, VA 22304, (703) 751–2441. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 165107, filed December 9, 1982. Applicant: GRANITE ENTERPRISES, INC., 11 Cloudland Rd., North Hartford, CT 06107. Representative: William R. Botticello, 3 Cobbs Rd., West Hartford, CT 06107, (203) 521–8636. As a *broker of general commodities* (except household goods) between points in the U.S. (except AK and HI).

[FR Doc. 82-34737 Filed 12-22-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

[Volume No. OP4-077]

Decided: December 16, 1982.

In the matter of Motor Common and Contract Carriers of Property (except fitness-only); Motor Common Carriers of Passengers (public interest); Freight Forwarders; Water Carriers; Household Goods Brokers.

The following applications for motor common or contract carriers of property, water carriage, freight forwarders, and household goods brokers are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common carriage of passengers, filed on or after November 19, 1982, are governed by Subpart D of 49 CFR Part 1160, published in the **Federal Register** on November 24, 1982 at 47 FR 53271. For compliance procedures, see 49 CFR 1160.86. Carriers operating pursuant to an intrastate certificate also must comply with 49 U.S.C. 10922(c)(2)(E). Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E. In addition to fitness grounds, these applications may be opposed on the grounds that the transportation to be authorized is not consistent with the public interest.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commissions regulations.

We make an additional preliminary finding with respect to each of the following types of applications as indicated: common carrier of property—that the service proposed will serve a useful public purpose, responsive to a public demand or need; water common carrier—that the transportation to be provided under the certificate is or will be required by the public convenience and necessity; water contract carrier, motor contract carrier of property, freight forwarder, and household goods broker—that the transportation will be consistent with the public interest and the transportation policy of section 10101 of chapter 101 of Title 49 of the United States Code.

These presumptions shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board No. 2, Members Carleton, Williams, Ewing.

Agatha L. Mergenovich,

Secretary.

Note:—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract." Applications filed under 49 U.S.C. 10922(c)(2)(B) to operate in intrastate commerce over regular routes as a motor carrier of passengers are duly noted.

Please direct status inquiries to Team Four at (202) 275–7669.

MC 29957 (Sub-99), filed December 7, 1982. Applicant: TRAILWAYS SOUTHERN LINES, INC., 327 Gayoso St., Memphis, TN 38103.Representative: George W. Hanthorn, 1500 Jackson St., Dallas, TX 75201, (214) 655–7937. Transporting *passengers,* over regular routes, between Houston, TX and Baton Rouge, LA, over Interstate Hwy 10, serving all intermediate points. Applicant states that it intends to track the authority herein with its present authorized operations.

Note.—Applicant seeks to provide regular route service in interstate or foreign commerce and in intrastate commerce under 49 U.S.C.10922(c)(2)(B).

MC 57927 (Sub-5), filed December 7, 1982. Applicant: LONGYEAR'S EXPRESS, INC., P.O. Box 487, 5950 Fisher Rd., E. Syracuse, NY 13057. Representative: Michael R. Werner, 241 Cedar Lane, Teaneck, NJ 07666, (201) 836–1144. Transporting *such commodities* as are dealt in or used by telephone companies, between points in CT, MA, ME, NH, NY, RI, and VT.

MC 61396 (Sub-407), filed December 7, 1982. Applicant: HERMAN BROS., INC., 2565 St. Mary's Ave., Omaha, NE 68101. Representative: William A. Gray, 2310 Grant Bldg., Pittsburgh, PA 15219, (412) 471–1800. Transporting *cement,* between points in Lehigh County, PA, on the one hand, and, on the other, points in the U.S. (except HI).

MC 85557 (Sub-6), filed December 8, 1982. Applicant: PAUL MUSSLEWHITE TRUCKING COMPANY, 1700 10th St., Levelland, TX 79336. Representative: James R. Boyd, 1000 Perry Brooks Bldg., Austin, TX 78701 (512) 476–8066. Transporting *Mercer commodities, metal products and machinery,* between points in AR, AZ, CO, KS, LA, MS, MT, NE, NM, ND, OK, SD, TX and WY.

MC 111397 (Sub-139), filed December 7, 1982. Applicant: DAVIS TRANSPORT, INC., 1345 South 4th St., Paducah, KY 42001. Representative: H. S. Melton, Jr., P.O. Box 7406, Paducah, KY 42001, (502) 442–5442. Transporting *food and related products,* between points in Marshall County, MS, on the one hand, and, on the other, points, in AL, GA, IA, IL, KS, KY, LA, MN, MO, TN, and TX.

MC 116077 (Sub-440), filed December 9, 1982. Applicant: DSI TRANSPORTS, INC., P.O. Box 1505, Houston, TX 77001. Representative: E. Stephen Heisley, 1919 Pennsylvania Ave., NW, Suite 500, Washington, DC 20006, (202) 828–5015. Transporting *general commodities* (execpt classes A and B explosives and household goods), between points in the

U.S. (except AK and HI), under continuing contract(s) with Shell Oil Company, of Houston, TX.

MC 124296 (Sub-5), filed December 6, 1982. Applicant: GEORGE L. BIGELOW TRUCKING, INC., 135 Wright St., P.O. Box 421, Delavan, WI 53115. Representative: Richard A. Westley, 4506 Regent St., Suite 100, P.O. Box 5086, Madison, WI 53705–0086, (608) 238–3119. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with Stolper Industries, Inc., of Walworth, WI, and Ajay Enterprises Corporation, of Delavan, WI.

MC 128117 (Sub-49), filed December 7, 1982. Applicant: NORTON-RAMSEY MOTOR LINES, INC., P.O. Box 896, Hickory, NC 28601. Representative: Edward T. Love, 4401 East West Hwy., Suite 404, Bethesda, MD 20814, (301) 986–9030. Transporting sugar, between points in Assumption Parish, LA, on the one hand, and, on the other, points in FL, GA, KY, MD, PA, TN and DC.

MC 134017 (Sub-11), filed December 2, 1982. Applicant: R.M. HENDERSON, d.b.a. H&M MOTOR LINES, P.O. Box 3585, Greenville, SC 29608. Representative: Mitchell King, Jr., P.O. Box 5711, Greenville, SC 29606, 803–288–6000. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk) between points in the U.S. (except AK and HI) under continuing contract(s) with Fabri–Kal Corp of Piedmont, SC.

MC 134167 (Sub-2), filed December 2, 1982. Applicant: CARRIER SERVICE CO. OF WISCONSIN, INC., 2621 South 5th Place, Milwaukee, WI 53207. Representative: Michael J.Wyngaard, 150 East Gilman Street, Madison, WI 53703, (608) 256–7444. Transporting *general commodities* (except commodities in bulk, household goods and Classes A and B explosives), between points in the U.S. (except AK and HI), under continuing contract(s) with Geuder Paeschke & Company, of Milwaukee, WI.

MC 134426 (Sub-11), filed December 7, 1982. Applicant: McCORT Drive-A-Way, Inc., P.O. Box 5057, Jacksonville, FL 32207. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202, (904) 632–2300, Transporting *transportation equipment*, between points in the U.S. (except HI).

MC 138216 (Sub-2), filed December 6, 1982. Applicant: THOMAS EGGERS, 2004 Franklin, Las Vegas, NV 89104. Representative: Richard C. Celio, 2300 Camino Del Sol, Fullerton, CA 92633, (714) 738–3889. Transporting *building materials*, between those points in the U.S. in and west of MT, WY, CO, OK, and TX.

MC 138627 (Sub-125), filed December 7, 1982. Applicant: SMITHWAY MOTOR XPRESS, INC., R.R. #5, Coalville, Blacktop Rd., P.O. Box 404, Fort Dodge, IA 50501. Representative: Arlyn L. Westergren, Suite 201, 9202 W. Dodge Rd., Omaha, NE 68114, (402) 397–7033. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 147727 (Sub-7), filed November 29, 1982. Applicant: SCOTT DAVIS TRANSPORT, INC., 611 N. Front St., Yakima, WA 98901. Representative: Scott Davis (same address as applicant). (509) 453–9549. Transporting *chemicals*, between points in WA, OR, CA, AZ, NV, UT, ID, and MT.

MC 15071 (Sub-4), filed December 3, 1982. Applicant: J.R.S. LEASING CHARTER, INC., 9445 South 51st Avenue, Oak Lawn, IL 60453. Representative: Joseph Winter, 29 South La Salle St., Chicago, IL 60603, (312) 263–2306. Transporting *such commodities* as are dealt in or used by manufacturers and converters of paper and wood products, between points in the U.S. (except AK and HI), under continuing contract(s) with Smurfit Diamond Packaging Corp., of Alton, IL.

MC 153277 (Sub-1), filed December 9, 1982. Applicant: TRINITY TRUCKING CO., INC., 105 Clubhouse Dr., Town Bank, NJ 08204. Representative: Raymond A. Thistle, Jr., Five Cottman Court, 426 Cottman St., Jenkintown, PA 19046, (215) 576–0131. Transporting *gypsum and gypsum products, building materials, paper and paper products, chemicals,* and *plastic products,* between points in the U.S. (except AK and HI).

MC 154306 (Sub-1), filed December 3, 1982. Applicant: COOPER AIR FREIGHT SERVICE, INC, 2810 Rudder Road, P.O. Box 16260, Memphis, TN 38118. Represenative: James F. Flint, 406 World Center Building, 918 16th Street, N.W. Washington, D.C. 20006, (202) 883–1170. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), between points in AR, MS, TN, MO, KY, IL, OH, MI, AL, and GA.

MC 158327, filed December 9, 1982. Applicant: EASTERN CONSOLIDATION AND DISTRIBUTION SERVICES, INC., P.O. Box 3157, Shiremanstown, PA 17011. Represenative: Edward N. Button, 635 Oak Hill Ave., Hagerstown, MD 21740, (301) 739–4860. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in PA, on the one hand, and, on the other, points in MD, VA, WV, DE, NJ, NY, OH, PA, and DC.

MC 160496, filed December 6, 1982. Applicant: HARTER TRANSFER CORP., Prairie Ave., Sturgis, MI 49091. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956, (414) 722–2848. Transporting *furniture and fixtures,* between points in Worcester County, MA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 165026, filed December 6, 1982. Applicant: G & H TRANSPORT, INC., 1535 Glendale, Sparks, NV 89431. Representative: Robert G. Harrison, 4299 James Dr., Carson City, NV 89701, (702) 882–5649. Transporting *mining and construction materials, equipment and supplies, metal products, pipe and Mercer commodities,* between points in NV, CA, WA, OR, ID, MT, WY, UT, CO, AZ, NM, OK and TX.

MC 165046, filed December 7, 1982. Applicant: NORTHEAST CARRIERS, INC., 2814 Main St., Rocky Hill, CT 06067. Representative: Gerald A. Joseloff, 410 Asylum St., Hartford, CT 06103, (203) 728–0700. Transporting *general commodities* (except classes A and B explosive, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Ames Department Stores, Inc., and its subsidiary, Eastern Retailers Service Corporation, both of Rocky Hill, CT.

MC 165066, filed December 6, 1982. Applicant: BESKAU TRUCKING, INC., 19500 Goodwin Ave., Hastings, MN 55033. Representative: Harold O. Orlofske, P.O. Box 368, Neenah, WI 54956, (414) 722–2848. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with The S & M Company, of Minneapolis, MN, Norris Creameries, Inc., of St. Paul, MN, and the Hastings Cooperative Creamery Company, of Hastings, MN.

[FR Doc. 82–34758 Filed 12–22–82; 8:45 am]

BILLING CODE 7035–01–M

[Ex Parte No. 387]

Soo Line Railroad Co. et. al; Exemptions for Contract Tariffs

AGENCY: Interstate Commerce Commission.

ACTION: Notices of Provisional Exemptions.

SUMMARY: Provisional exemptions are granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the below-listed contract tariffs may become effective on one day's notice. These exemptions may be revoked if protests are filed.

DATES: Protests are due within 15 days of publication in the Federal Register.

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington DC 20423.

FOR FURTHER INFORMATION CONTACT:

Douglas Galloway, (202) 275–7278;

or

Tom Smerdon, (202) 275–7277.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in these instances to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption requests meet the requirements of 49 U.S.C. 10505(a) and are granted subject to the following conditions:

These grants neither shall be construed to mean that the Commission has approved the contracts for purposes of 49 U.S.C. 10713(e) not that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review these contracts and to determine their lawfulness.

Sub-No.	Name of railroad, contract No., and specifics	Review board [1]	Decided date
480	Soo Line Railroad Co., ICC-SOO-C-0023, Supplement 1, (Molten sulphur)	2	12-15-82
481	Burlington Northern Railroad Co., ICC-BN-C-0156, Supplement 2, (Coal)	1	12-15-82
482	Burlington Northern Railroad Co., ICC-BN-C-0219, (Coal)	2	12-15-82
483	Burlington Northern Railroad Co., ICC-BN-C-0216, (Wheat)	1	12-15-82
484	Burlington Northern Railroad Co., ICC-BN-C-0215, (Food products)	1	12-15-82
485	Burlington Northern Railroad Co., ICC-BN-C-0214, (Grain and grain products)	1	12-15-82
486	Burlington Northern Railroad Co., ICC-BN-C-0020-A, (Soda Ash)	3	12-15-82
487	Burlington Northern Railroad Co., ICC-BN-C-0210,	1	12-15-82
488	Burlington Northern Railroad Co., ICC-BN-C-0162, (Coal)	2	12-15-82
489	Missouri Pacific Railroad Co., ICC-MP-C-0051, Supplement 2, (Grain and soybeans) Via Ports at Ama, Myrtle Grove, New Orleans, and Port Allen, LA and Beaumont, Corpus Christi, Galveston, and Houston, TX	1	12-15-82
490	Union Pacific Railroad Co., ICC-UP-C-0172, (Chemicals)	3	12-15-82
491	Union Pacific Railroad Co., ICC-UP-C-0162, 0164, 0168, and 0170, (Foodstuffs, frozen)	1	12-15-82
492	Union Pacific Railroad Co., ICC-UP-C-0176, 0177, 0178, 0179, and 0180, (Foodstuffs)	1	12-15-82
493	Union Pacific Railroad Co., ICC-UP-C-0174, (Coke, coal)	1	12-15-82
494	Bessemer and Lake Erie Railroad Co., ICC-BLE-C-0006, Supplement 1, (Bituminous coal)	1	12-15-82
495	Southern Pacific Transportation Co., ICC-SP-C-0284, (Petroleum lubricating oil, petroleum, partially refined for further processing)	2	12-15-82

[1] Review Board No. 1 Members Parker, Chandler, and Fortier. Review Board No. 2, Members Carleton, Williams, and Ewing. Review Board No. 3, Members Krock, Joyce, and Dowell.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-34685 Filed 12-22-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Finance Applications; Decision Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find: Each transaction is exempt from section 11343 of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsideration; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1181.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 20 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is ordered: The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission, Review Board No. 3, Members Krock, Joyce and Dowell.

Agatha L. Mergenovich,

Secretary.

Note.—Please direct status inquiries to Team 1, (202) 275–7992.

Volume No. OP1–FC–233

MC–FC–81059. By decision of December 14, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, Review Board Number 3 approved the transfer to Western States Trucking, Inc., of Salt Lake City, UT, of Certificate No. MC–145660 (Sub-No. 3) issued March 25, 1982, to George O. Bair, doing business as Western States Trucking, of Salt Lake City, UT, authorizing the transportation of lumber, lumber mill products and wood fiber building materials (1) from points in OR and WA to points in CO, UT, WY, and ID (except Ada, Blaine, Boise, Camas, Canyon, Elmore, Gem, Gooding, Jerome, Lincoln, Owyhee, Payette, Twin Falls and Washington Counties ID), and (2) from points in CA in and north of Calaveras, Napa, San Joaquin, Solano, Sonoma and Tuolumne Counties, CA, to points in UT, WY, and ID (except Ada, Blaine, Boise, Camas, Canyon, Elmore, Gem, Gooding, Jerome, Lincoln, Owyhee, Payette, Twin Falls and Washington Counties, ID). Applicant's representative: Irene Warr, 311 South State St., Suite 280, Salt Lake City, UT 84111.

For the following, please direct status calls to Team 3 (202) 275–5223.

Volume No. OP3–MC–FC–60

MC–FC–81064. By decision of December 15, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, Review Board Number 3

approved the transfer to GTS, Inc., Danielsville, PA, of a portion of Certificate No. MC 124535 (Sub-No. 4)X, issued July 19, 1982, to SWANSON BOAT TRANSPORT CORP., Rye, NY, authorizing the transportation of textile mill products, (a) between New York, NY, Westchester County, NY, and Fairfield County, CT, on the one hand, and, on the other, points in MA, RI, CT, NY, NJ, PA, DE, MD, VA, and DC; and (b) between points in MA, ME, NH, VT, RI, CT, NY, and NJ. An application for temporary authority has been filed. Condition: Upon consummation of this transaction, transferor's authority in MC 124535 is cancelled pursuant to his request. Representatives: Edward L. Nehez, P.O. Box Y, 7 Becker Farm Rd., Roseland, NJ 07068 for transferor, and George A. Olsen, P.O. Box 357, Gladstone, NJ 07934, for transferee.

[FR Doc. 82-34752 Filed 12-22-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-52 (Sub-No. 21)A]

Rail Carriers; Atchison, Topeka and Santa Fe Railway Company—Abandonment—In Livingston, LaSalle, Woodford and Tazewell Counties, Il; Notice of Findings

The Commission has issued a certificate authorizing the Atchison, Topeka and Santa Fe Railway Company (Santa Fe): (1) to abandon its rail line between milepost 48.3 west of Morton, IL to milepost 57.9 at Pekin, IL, a distance of approximately 9.6 miles and (2) to discontinue trackage rights operations over the Toledo, Peoria and Western Railroad Company between Streator Junction, IL (milepost 30.66) and Pekin Junction, IL (milepost 36.6) and over Consolidated Rail Corporation between milepost 56+3783' and milepost 57+3170 in Pekin. The certificate is subject to certain conditions. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) a financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to Louis E. Gitomer, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice. Any offer previously made must be remade within this 10 day period.

Information and procedures regarding financial assistance for continued rail service are contained in 10905 and § 1152.27(b) (2) and (3) (formerly 49 C.F.R. 1121.38(b) (2) and (3).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-34755 Filed 12-22-82; 8:45 am]

BILLING CODE 7035-01-M

[AB-52 (Sub-No. 20)]

Rail Carriers; Atchison, Topeka and Santa Fe Railway Company Abandonment in Carson County, TX; Notice of Findings

The Commission has issued a certificate authorizing The Atchison, Topeka and Santa Fe Railway Company to abandon its 10.4-mile rail line between White Deer Milepost 0.0 and Skellytown Milepost 10.4 in Carson County, Tx. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to Louis E. Gitomer, Room 5417, Interstate Commerce Commission, Washington, D.C. 20423, no later than 10 days from publication of this Notice. Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27 (formerly 49 CFR 1121.38).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-34758 Filed 12-22-82; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30070]

Rail Carriers; Louisville and Nashville Railroad Company—Abandonment Exemption—Between Tacoa and Gurnee Junction, AL

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirements of prior approval under 49 U.S.C. 10903 *et seq.* the abandonment by the Louisville and Nashville Railroad Company of 9.95 miles of track in Shelby County, AL, subject to standard labor protection.

DATES: This exemption will be effective on January 21, 1983. Petitions to stay the effectiveness of this decision must be filed by January 3, 1983, and petitions for reconsideration must be filed by January 12, 1983.

ADDRESSES: Send pleadings to: (1) Rail Section, Room 5349, Interstate Commerce Commission, Washington, DC 20423; and (2) Petitioners' representative: Fred R. Birkholz, 500 Water Street, Jacksonville, Florida 32202.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer; (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, contact T. S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289-4357 (D.C. Metropolitan area) or toll free (800) 424-5403.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-34761 Filed 12-22-82; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

National Institute of Justice Advisory Board; Meeting

Notice is hereby given that the Executive Committee of the National Institute of Justice Advisory Board will hold public hearings on January 10, 1983 from 1:00 p.m. to 5:00 p.m. at the Opryland Hotel, 2800 Opryland Drive, Nashville, Tennessee.

These hearings are being held in conjunction with the Midwinter Conference of the American Correctional Association. Executive officials of the American Correctional Association and correctional practitioners will present to the Executive Committee their views on current needs and research priorities for the corrections field.

The hearings are open to the public. For further information, please contact Betty M. Chemers, National Institute of Justice, U.S. Department of Justice, Washington, D.C. 20531 (202/724-2953).

Dated: December 14, 1982.

James K. Stewart,

Director.

[FR Doc. 82-34729 Filed 12-22-82; 8:45 am]

BILLING CODE 4410-18-M

Antitrust Division

United States v. British Columbia Forest Products Limited, et al.; Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. Sections 16(b)–(h), that a proposed Final Judgment, Stipulation and Competitive Impact Statement have been filed with the United States District Court for the District of Minnesota in *United States of America* v. *British Columbia Forest Products Limited and The Mead Corporation*, Civil Action No. 4–78–357. The Complaint in this case alleged that the acquistion of the Blandin Paper Company ("Blandin") by British Columbia Forest Products Limited ("BCFP") violated Section 7 of the Clayton Act, 15 U.S.C. 18. Named as defendants were BCFP, The Mead Corporation ("Mead"), and Noranda Mines Limited ("Noranda"). At the time the Complaint was filed, Mead and Noranda each owned, directly or indirectly, 28.5 percent of the outstanding common shares in BCFP and were competitors of Blandin in the manufacture and sale of coated groundwood paper. On January 28, 1982, Noranda was dismissed from the lawsuit following the sale on November 30, 1981, of all its stock interest in BCFP.

The proposed Consent Judgment orders that Blandin be maintained as a separate and distinct corporate entity. In addition, the Judgment enjoins Mead from acquiring any securities of Blandin; from acquiring substantially all of the assets of Blandin; from exercising or attempting to exercise any control, supervision, or influence over any policy, decision, or action regarding any aspect of Blandin's coated groundwood paper business; and from taking any action to obtain any competitively sensitive information concerning Blandin. The Judgment further prohibits Mead from designating more than three nominees for election to membership on BCFP's board of directors and prohibits members of Mead's board of directors from also serving as directors of BCFP after April 30, 1983. Mead and BCFP are required to establish a program to insure compliance with the proposed Judgment, and they must submit periodic reports to the Department of Justice describing the steps that they have taken to comply with the Judgment.

Public comment is invited within the statutory 60–day comment period. Such comments, and responses thereto, will be published in the **Federal Register** and filed with the Court. Comments should be directed to: John W. Poole, Jr., Chief, Special Litigation Section, Antitrust Division, Room 7218, U.S. Department of Justice, Washington, D.C. 20530, Telephone: 202/633–2425.

Joseph H. Widmar,

Director of Operations.

U.S. District Court, District of Minnesota, Fourth Division

United States of America, Plaintiff v. *British Columbia Forest Products Limited and the Mead Corporation*, Defendants.

Civil Action No. 4–78–357.

Filed: December 13, 1982.

Stipulation

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. The parties consent that a Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. 16), and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendants and by filing that notice with the Court.

2. In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pusuant to this Stipulation, this Stipulation shall be of no effect whatever and the making of this Stipulation shall be without prejudice to any party in this or any other proceeding.

Dated:

For the Plaintiff: William F. Baxter, *Assistant Attorney General;* Mark Leddy, John W. Poole, *Attorneys, Antitrust Division, U.S. Department of Justice;* Willie L. Hudgins, Jr., *Attorney, Antitrust Division, U.S. Department of Justice, Washington, D.C. 20530, Telephone: (202) 633–2574.*

For the Defendants: John D. French, John F. Beukema, *Faegre & Benson, 1300 Northwestern Bank Building, Minneapolis, Minnesota 55402, Telephone: (612) 371–5300, Attorney for Defendant British Columbia Forest Products Limited;* Terrence C. Sheehy, Peter E. Moll, *Howrey & Simon, 1730 Pennsylvania Avenue, NW, Washington, D.C. 20006, Telephone: (202) 783–0800, Attorney for Defendant, The Mead Corporation;* Matthew J. Levitt, *Levitt, Palmer, Bowen, Bearmon & Rotman, 500 Roanoke Building, Minneapolis, Minnesota 55402, Telephone: (612) 339–0661, Attorney for Defendant, The Mead Corporation.*

Stipulation approved for filing.

Dated:_____

United States District Judge.

U.S. District Court, District of Minnesota, Fourth Division

United States of America, Plaintiff v. *British Columbia Forest Products Limited and the Mead Corporation*, Defendants.

Civil Action No. 4–78–357.

Filed: December 13, 1982.

Final Judgment

Plaintiff United States of America having filed its complaint herein on August 17, 1978, and defendants The Mead Corporation ("Mead") and British Columbia Forest Products Limited ("BCFP") having answered the complaint and denied the allegations thereof, and plaintiff and defendants, by their respective attorneys, having consented to the entry of this Final Judgment, and without this Final Judgment constituting any evidence against, or any admission by, any party with respect to any issue of fact or law herein:

Now, therefore, before the taking of any testimony, and without trial or adjudication of any issue of fact or law herein, and upon consent of the parties hereto, it is hereby

Ordered, Adjudged and Decreed as follows:

I

This Court has jurisdiction over the subject matter herein and over the parties hereto. The complaint states a claim upon which relief may be granted under Section 7 of the Clayton Act (15 U.S.C. 18).

II.

As used in this Final Judgment:

(A) The term "Mead" shall mean the Mead Corporation, its subsidiaries and divisions, including, but not limited to, Brunswick Pulp and Paper Company and Northwood Pulp and Timber Limited. The term "Mead" shall also mean its officers, directors, agents, employees, and all other persons acting on behalf of Mead, Brunswick Pulp and Paper Company, Northwood Pulp and Timber Limited, or any of Mead's subsidiaries or divisions.

(B) The term "BCFP" shall mean British Columbia Forest Products Limited, its subsidiaries and divisions, excluding Blandin Paper Company; and also includes its officers, directors, agents, employees, and all other persons acting on behalf of BCFP or any of its subsidiaries or divisions, excluding Blandin Paper Company.

C) The term "Blandin" shall mean Blandin Paper Company, its successors, subsidiaries and divisions, which prior to August 31, 1977 were owned by the C. K. Blandin Trust, and since that date have been operated as a subsidiary of BCFP; and also includes its officers, directors, agents, employees, and all other persons acting on behalf of Blandin or any of its subsidiaries or divisions.

(D) The term "person" shall mean any individual, corporation, partnership, joint venture, firm, association, proprietorship, agency, board, authority, commission, or other such business or legal entity.

(E) "Coated groundwood paper" shall mean a type of printing paper which contains more than ten percent (10%) groundwood fiber in the base stock and is coated to improve its appearance and printing surface.

(F) "Competitively sensitive information" shall mean information on current or future production, current or future capacity, manufacturing processes, or the marketing or sales of coated groundwood paper which is not otherwise generally available to firms in the coated groundwood paper industry.

III

This Final Judgment applies to defendants and to their officers, directors, agents, employees, subsidiaries, successors, and assigns, and to all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise.

IV

Mead shall notify plaintiff by registered mail received by the Assistant Attorney General, Antitrust Division, United States Department of Justice, Washington, D. C., 20530 ten (10) days prior to acquiring, directly or indirectly, securities of BCFP or the voting rights to such securities (except shares received through a stock split, stock dividend or other proportional stock distribution) in addition to the 7,130,716 common shares it owns at this date directly and the 6,203,881 common shares it owns at this date indirectly through its 50% interest in Brunswick Pulp and Paper Company.

V

Mead shall not designate more than three nominees for election to membership on BCFP's board of directors and no more than two of the nominees so designated shall be officers or employees of Mead; provided that, in the event of a change in the total number of directors on BCFP's Board, the number of nominees which Mead may designate under this Final Judgment shall be changed, first to a proportionate decimal number and then rounded down to the next smaller integer. Effective no later than April 30, 1983, no member of BCFP's board of directors shall be a director of Mead.

VI.

(A) Blandin shall be maintained as a separate and distinct corporate entity, with its own board of directors and management.

(B) The officers, directors, employees, and representatives of Mead are enjoined from serving as officers, directors or employees of Blandin.

(C) Mead is enjoined from designating or otherwise participating in any way in the selection of officers, directors, employees or consultants of Blandin.

(D) Mead is enjoined from attending, voting or otherwise participating at any portion of any BCFP board meeting which deals with any matter relating, directly or indirectly, to Blandin's production, manufacture, capacity, marketing or sale of coated groundwood paper.

(E) Mead is enjoined from entering into or maintaining, any agreement or understanding with any other BCFP shareholder relating to the voting of BCFP securities, except for (1) the agreement relating to the voting of BCFP shares owned by Brunswick Pulp and Paper Company; and (2) the agreement among BCFP, Mead, Scott Paper Company, Alberta Energy Company Limited, Brunswick Pulp & Paper Company, and 233622 B.C. Ltd., dated June 18, 1981 (the so-called "Standstill Agreement") and any renewal without material modification of said "Standstill Agreement."

(F) Mead is enjoined from exercising or attempting to exercise, in any way, directly or indirectly, any control, supervision or influence over any policy, decision or action regarding any aspect of Blandin's production, capacity, marketing or sale of coated groundwood paper, including, but not limited to, the selection of personnel.

(G) Mead is enjoined from taking any action to obtain or attempt to obtain, directly or indirectly, from BCFP or Blandin any competitively sensitive information concerning Blandin, except that BCFP may provide information that is necessary for Mead to comply with the laws and regulations of the United States or Canada or any of their political subdivisions or agencies, requirements of any stock exchange, or the rules and regulations of the Canadian Institute of Chartered Accountants, the Financial Accounting Standards Board of the United States, or similar bodies to satisfy equity or other applicable accounting requirements.

(H) BCFP and Blandin are enjoined from providing to Mead any competitively sensitive information concerning Blandin, except that BCFP may provide information that is necessary for BCFP or Mead to comply with the laws and regulations of Canada or the United States or any of their political subdivisions or agencies, requirements of any stock exchange, or the rules and regulations of the Canadian Institute of Chartered Accountants, the Financial Accounting Standards Board of the United States, or similar bodies to satisfy equity or other applicable accounting requirements.

(I) Any information concerning Blandin provided to Mead pursuant to the above paragraphs (G) and (H), shall be provided only in writing and Mead and BCFP shall retain copies of all such information for a period of ten (10) years from date of entry of this Final Judgment. At the end of each twelve (12) month period from the date of entry of this Final Judgment until its termination, Mead and BCFP shall provide copies to the Department of Justice of all information provided pursuant to paragraphs (G) and (H).

VII

(A) Within sixty (60) days after the date of entry of this Final Judgment, BCFP, Blandin and Mead shall each furnish a conformed copy to: (1) Each of their respective officers and directors; and (2) each employee and managing agent having supervisory responsibility for or authority over the manufacture or sale of coated groundwood paper, and shall advise and inform each such person that violation of this Final Judgment could result in a conviction for contempt of court and imprisonment and/or fine.

(B) Within thirty (30) days after each such person becomes an officer, director, employee or managing agent as described in paragraph (A) above, BCFP, Blandin or Mead as the case may be shall furnish to such person a copy of this Final Judgment together with the advice specified by said paragraph (A).

(C) Within sixty (60) days after the date of entry of this Final Judgment, Mead, BCFP and Blandin shall each advise each of its respective officers, directors, employees or managing agents described in paragraph (A) above of its and their obligation under this Final Judgment and shall maintain a program to insure compliancle with this Final Judgment, which program shall include at a minimum the following with respect to the persons described above:

(1) The annual distribution to them of this Final Judgment or a summary thereof;

(2) The annual submission to them of a written directive setting forth Mead, BCFP, or Blandin's respective policy regarding compliance with this Final Judgment; and

(3) The holding of one or more meetings with them to review the terms of this Final Judgment and the obligations it imposes.

(D) Commencing with the date of entry of this Final Judgment, Mead and BCFP each shall file with the plaintiff, and under seal with the Court, an annual sworn statement by a responsible official designated by each of them to perform such duties setting forth all steps it has taken during the preceding twelve (12) months to discharge its obligations under this Section VII and that to the best of the official's knowledge and belief Mead (as to the certification by the Mead official) and BCFP and Blandin (as to the certification by the BCFP official) are in compliance with this Final Judgment. This statement shall be accompanied by copies of all written directives issued by each of them during the prior twelve (12) months with respect to compliance with this Final Judgment.

VIII

(A) For the purpose of determining or securing compliance with this Final Judgment, and subject to any legally reconized provilege, duly authorized representatives of the Department of Justice, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust division, and on reasonable notice to defendants made to their principal offices, shall be permitted:

(1) Access during office hours of defendants, which may have counsel present, to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of defendants, relating to any matters contained in this Final Judgment; and

(2) Subject to the reasonable convenience of defendants, and without restraint or interference from them, to interview the officers, directors, employees, and agents of defendants, who may have counsel present, regarding any matters contained in this Final Judgment.

(B) Defendants, upon the written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, shall submit such written reports, under oath if requested, with respect to any of the matters contained in this Final Judgment as may be requested.

(C) No information or documents obtained by the means provided in this Section VIII shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the executive branch of the United States Government, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

(D) If at the time information or documents are furnished by a defendant to plaintiff, such defendant represents and identifies in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and such defendant marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then 10 days notice shall be given by plaintiff to that defendant prior to divulging such material in any legal proceeding (other than a Grand Jury proceeding) to which such defendant is not a party.

IX

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders or directions as may be necessary or appropriate for the construction, implementation, or modification of all of the provisions hereof, for the enforcement of compliance herewith, and for the punishement of violations hereof.

X

This Final Judgment shall expire ten (10) years after the date of its entry. If BCFP should sell or otherwise dispose of all its interests in Blandin during said ten (10) year period, the defendants shall not be bound by Sections IV through VII of this Final Judgment immediately upon such sale or disposition; provided however, that if defendants have been so relieved of these obligations under this Final Judgment before the end of ten (10) years by operation of the preceding clause, and if BCFP thereafter (within such ten (10) year period) reacquires any interest in Blandin, all of the provisions of this Final Judgment shall again be applicable and shall apply for the remaining period until ten (10) years after the date of entry of this Final Judgment. Further, if Mead should sell or otherwise dispose of all of its interests in BCFP during said ten (10) year period, the defendants shall not be bound by Sections V through VII of this Final Judgment immediately upon such sale or disposition; provided however, that if defendants have been so relieved of these obligations under this Final Judgment before the end of ten (10) years by operation of the preceding clause, and if Mead thereafter (within such ten (10) year period) reacquires any interest in BCFP and if BCFP has an ownership interest in Blandin, all of the provisions of this Final Judgment shall again be applicable and shall apply for the remaining period until ten (10 years after the date of entry of this Final Judgment. Notwithstanding the above, and except for Mead's ownership interest in BCFP, at no time during the period ten (10) years after the date of entry of this Final Judgment shall Mead own or acquire, directly or indirectly, any securities, or the voting rights of such securities, of Blandin, nor shall Mead own or acquire, directly or indirectly, all or substantially all of the assets of Blandin. Nothing in this Final Judgment shall affect the obligations of any party under 15 U.S.C. 18a.

XI

The making and entry of this Final Judgment shall not constitute any bar or estoppel against any subsequent suit or proceeding which may be instituted by the plaintiff herein arising out of any further acquisition by Mead, directly or indirectly, of any additional securities or the voting rights of any additional voting securities of BCFP other than the BCFP securities owned by Mead as of December 7, 1982, except shares received through a stock split, stock dividend, or other proportional stock distribution.

XII

Entry of this Final Judgment is in the public interest.

Dated:

United States District Judge.

U.S. District Court, District of Minnesota, Fourth Division

United States of America, Plaintiff v. *British Columbia Forest Products Limited and The Mead Corporation,* Defendants.

Civil Action No. 4–78–357.

Filed: December 13, 1982.

Competitive Impact Statement

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), the United States files this Competitive Impact Statement relating to the proposed Final Judgment ("Judgment") submitted for entry in this civil antitrust proceeding.

I. Nature and Purpose of the Proceeding

On August 17, 1978, the United States filed a civil antitrust complaint under Section 15 of the Clayton Act, 15 U.S.C. 25, alleging that the acquisition of the Blandin Paper Company ("Blandin") of Grand Rapids, Minnesota by British Columbia Forest Products Limited ("BCFP") of Vancouver, British Columbia, Canada, violated Section 7 of the Clayton Act, 15 U.S.C. 18. At the time of the complaint, The Mead Corporation ("Mead") of Dayton, Ohio, and Noranda Mines Limited ("Noranda") of Toronto, Ontario, Canada each owned, directly or indirectly, 28.5 percent of the outstanding common shares in BCFP for a combined majority of 57 percent. Part of Mead's ownership in BCFP is based on its 50 percent ownership interest in Brunswick Pulp and Paper Company ("BP&P"), which owns 26 percent of the outstanding common shares in BCFP.

Mead and Noranda along with BCFP were named defendants. The complaint alleged that the effect of the acquisition may be substantially to lessen competition in the manufacture and sale of coated groundwood paper throughout the United States. The complaint sought divestiture of Blandin by BCFP or, in the alternative, that Mead and Noranda divest themselves of their respective stock in BCFP.

Plaintiff and defendants have stipulated that the Judgment may be entered after compliance with the Antitrust Procedures and Penalties Act. Entry of the Judgment will terminate the action, except that the Court will retain jurisdiction to construe, modify, or enforce the provisions of the Judgment, and to punish violations of the Judgment. This action was previously terminated against defendant Noranda on January 28, 1982, when Noranda was dismissed without prejudice following the sale by Noranda on November 30, 1981, of all its stock interest in BCFP.

II. Events Giving Rise to the Alleged Violation

Coated groundwood paper is a type of printing paper used primarily in the publication of magazines and catalogues. It is also used in book publishing, commercial printing, and for converting purposes. In 1976, approximately 2.2 million tons of coated groundwood paper, having a value of approximately $1 billion, were sold in the United States. In 1978, there were a total of twelve domestic producers of coated groundwood paper of which the top four accounted for 56.47 percent of total shipments from United States plants and the top eight accounted for 84.40 percent. The complaint alleged that the production and sale of coated groundwood paper is a relevant product market under Section 7 of the Clayton Act.

Blandin, Mead and Noranda are direct competitors in the manufacture and sale of coated groundwood paper. In 1978, Blandin was the third largest producer of coated groundwood paper with 12.23 percent of total shipments from United States plants; Mead was the seventh largest with 6.38 percent; and Noranda, through Fraser, Inc., a 55 percent owned subsidiary of Noranda, was the tenth largest with 3.89 percent.

The United States would have contended that Mead and Noranda, through their joint ownership of a majority of the outstanding BCFP shares, had the power to control and influence the policies and activities of Blandin.

The complaint alleged that the effect of the acquisition of Blandin by BCFP may be substantially to lessen competition in the manufacture and sale of coated groundwood paper in the United States.

III. Explanation of the Proposed Final Judgment

The United States and the defendants have stipulated that the Judgment may be entered by the Court at any time after compliance with the Antitrust Procedures and Penalties Act. The Judgment states that it does not constitute any evidence against or any admission by, any party as to any issue of fact or law. Under the provisions of the Antitrust Procedures and Penalties Act, entry of the Judgment is conditioned upon a determination by the Court that the Judgment is in the public interest.

The Judgment is designed to restore and maintain competition between Blandin and Mead in the manufacture and sale of coated

groundwood paper. The Judgment orders that Blandin be maintained as a separate and distinct corporate entity, with its own board of directors and management. In addition, the Judgment enjoins Mead from owning or acquiring any securities, or the voting rights to such securities, of Blandin; from owning or acquiring all of substantially all of the assets of Blandin; from exercising or attempting to exercise any control, supervision, or influence over any policy, decision, or action regarding any aspect of Blandin's coated groundwood paper operations; from voting or participating at any BCFP board meeting which deals with any matter relating to Blandin's coated groundwood paper operations; from designating or participating in the selection of officers, directors, or employees of Blandin; from designating more than three nominees for election to membeship on BCFP's board of directors; from acquiring additional stock in BCFP without first giving the plaintiff ten (10) days notice or such acquisition; * and from taking any action to obtain any competitively sensitive information concerning Blandin. Any information concerning Blandin given to Mead by Blandin or BCFP shall be provided only in writing, and Mead and BCFP shall provide the plaintiff with copies of all such information at the end of each twelve (12) month period from the date of entry of the Judgment.

Moreover, officers, directors, employees, and representatives of Mead are enjoined from serving as officers, directors or employees of Blandin. After April 30, 1983, no member of BCFP's board of directors can also be a director of Mead.

The Judgment requires Mead and BCFP to establish a program to insure compliance with the Judgment. Mead and BCFP must submit periodic reports to the plaintiff describing the steps that they have taken to comply with the Judgment.

The Judgment will remain in effect for ten (10) years from its date of entry and applies to the defendants and to their officers, directors, agents, employees, subsidiaries, successors and assigns, and to all other persons in active concert or participation with the defendants who have received actual notice of the Judgment.

IV. Remedies Available to Potential Private Litigants

Section 4 of the Clayton Act (15 U.S.C. 15) provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damage the person has suffered, as well as costs and reasonable attorney fees. Entry of the Judgment will neither impair nor assist the bringing of any private antitrust damage actions. Under the provisions of Section 5(a) of the Clayton Act (15 U.S.C. 16(a)), the Judgment has no *prima facie* effect in any private lawsuit that may be brought against the defendants.

V. Procedures Available for Modification of the Proposed Final Judgment

As provided by the Antitrust Procedures and Penalties Act, any person wishing to comment upon the Judgment may within the statutory 60-day comment period submit written comments to John W. Poole, Jr., Chief, Special Litigation Section, Antitrust Division, United States Department of Justice, Washington, D.C. 20530. These comments and the Department's responses will be filed with the Court and published in the **Federal Register**. All comments will be given due consideration by the Department, which remains free to withdraw its consent to the Judgment at any time prior to entry. The Judgment provides that the Court retains jurisdiction over this action, and any of the named parties may apply to the Court for any order necessary or appropriate for its modification, interpretation, or enforcement.

VI. Alternatives to the Proposed Final Judgment

The sale by Noranda of all its stock interest in BCFP provided a major portion of the relief sought by the complaint in this case. Divestiture by Mead of its BCFP stock was the only remaining objective necessary to fulfill completely the alternative form of relief sought in the complaint. A trial on the merits to obtain divestiture by Mead was considered by the United States as an alternative to the Judgment. However, the United States elected, for three reasons, not to pursue this alternative and to accept, instead, the relief obtained in this Judgment. First, the outcome of such a trial was uncertain since the anticompetitive effects would now have to be based on Mead's minority stock interest in BCFP. Second, a trial would have consumed a substantial portion of the Antitrust Division's resources, thereby diverting those resources from other important activities. Third, given Mead's minority stock interest in BCFP, the Noranda divestiture, and the decline in concentration in the manufacture and sale of coated groundwood paper that has occurred since the filing of the complaint, the injunctive relief accomplished by this Judgment should ameliorate the threat to competition posed by BCFP's acquisition of Blandin. For these reasons, the United States believes that the Judgment is a reasonable alternative to a trial on the merits seeking divestiture by Mead and that entry of the Judgment is in the public interest.

VIII. Determinative Materials and Documents

The Department did not consider any materials or documents of the type described in section 2(b) of the Antitrust Procedures and Penalties Act in formulating the Judgment. Consequently, no such materials or documents are being filed with this Competitive Impact Statement.

Dated: December 13, 1982.

Respectfully submitted,

Willie L. Hudgins, Jr.,

Attorney, Antitrust Division, Department of Justice, Washington, D.C. 20530, Telephone: (202) 633-2574

Certificate of Service

I, Willie L. Hudgins, Jr., counsel for the plaintiff, United States of America, hereby certify that a copy of the attached Competitive Impact Statement has been served this day of December, 1982, by first class mail, postage prepaid, upon the following:

John D. French, Esq., Faegre & Benson, 1300 Northwestern Bank Building, Minneapolis, Minnesota 55402, Attorney for Defendant BCFP

Terrence C. Sheehy, Esq., Howrey & Simon, 1730 Pennsylvania Avenue, NW., Washington, D.C. 20006, Attorney for Defendant Mead

Matthew J. Levitt, Esq., Levitt, Palmer, Bowen, Bearmon & Rotman, 500 Roanoke Building, Minneapolis, Minnesota 55402, Attorney for Defendant Mead

Willie L. Hudgins Jr.,

Attorney, Antitrust Division, U.S. Department of Justice.

[FR Doc. 82-34762 Filed 12-22-82; 8:45 am]

BILLING CODE 4410-01-M

* On December 7, 1982, pursuant to an offer by BCFP to sell 16,940,894 additional common shares, Mead purchased directly 2,533,132 shares of BCFP common stock and indirectly through BP&P 2,203,881 shares. Mead purchased a sufficient number of shares under the new offering to maintain its current ownership interest in BCFP at approximately 28 percent.

Proposed Consent Decree in Action To Enjoin Violations of the Clean Water Act by the City of Baton Rouge Louisiana

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on November 23, 1982, a proposed Consent Decree in *United States* v. *City of Baton Rouge*, Civil Action No. 82-1053-A, was lodged with the District Court for the Middle District of Louisiana.

The proposed consent decree requires the City to implement a remedial plan which will bring its Central Treatment Plant into compliance with its NPDES permit. In addition, the City will pay a civil penalty of $100,000.

The proposed decree may be examined at the office of the United States Attorney for the Middle District of Louisian in Baton Rouge, Louisiana; at the Region VI office of the Environmental Protection Agency, Enforcement Division, 1201 Elm Street, Dallas, Texas, 75270; and at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1515, 10th and Pennsylvania Avenue, N.W. Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting

a copy, please enclose a check in the amount of $1.00 (10 cents per page reproduction charge) payable to the Treasurer of the United States.

The Department of Justice will receive written comments relating to the proposed consent decree for a period of thirty (30) days from the date of this notice. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States v. City of Baton Rouge*, Civil Action No. 82–1053–A, D.J. Reference No. 90–5–1–1567.

Carol E. Dinkins,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 82–34731 Filed 12–22–82; 8:45 am]

BILLING CODE 4410–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Humanities Panel; Meeting

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended) notice is hereby given that the following meeting of the Humanities Panel will be held at 806 15th Street, NW., Washington, D.C. 20506.

DATE: January 8, 1983.

TIME: 9:00 a.m. to 5:30 p.m.

ROOM: 314.

PROGRAM: This meeting will review interdisciplinary Independent Study and Research applications, submitted to the Division of Fellowships and Seminars, for projects beginning after June 1, 1983.

The proposed meeting is for the purpose of Panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. Because the proposed meeting will consider information that is likely to disclose: (1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential; (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and (3) information the disclosure of which would significantly frustrate implementation of proposed agency action; pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that these meetings will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information about these meetings can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanties, Washington, D.C. 20506, or call (202) 724–0367.

Stephen J. McCleary,

Advisory Committee, Management Officer.

[FR Doc. 82–34801 Filed 12–22–82; 8:45 am]

BILLING CODE 7536–01–M

Music Advisory Panel (Opera-Musical Theater Section)

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the Music Advisory Panel (Opera-Musical Theater Section) to the National Council on the Arts will be held on January 5–7, 1983, from 9:00 a.m.–5:00 p.m. in room 1422 of the Columbia Plaza Office Complex. 2401 E Street NW., Washington, D.C. 20506.

A portion of this meeting will be open to the public on January 5, from 1:00 p.m.–5:00 p.m. and on January 6 and 7, from 9:00 a.m.–5:00 p.m. to discuss guidelines.

The remaining sessions of this meeting on January 5, from 9:00 a.m.–12:00 noon are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance undere the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

December 17, 1982.

[FR Doc. 82–34865 Filed 12–22–82; 8:45 am]

BILLING CODE 7537–01–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee on Regulatory Policy and Procedures; Meeting

The ACRS Subcommittee on Regulatory Policy and Procedures will hold a meeting on January 13 and 14, 1983, Room 1046, 1717 H Street, NW, Washington, D.C. The Subcommittee will continue its review of matters related to nuclear regulatory reform.

In accordance with the procedures outline in the **Federal Register** on October 1, 1982 (47 FR 4374), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee and its Staff. Persons desiring to make oral statements should notify the cognizant Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting will be as follows:

Thursday and Friday, January 13 and 14, 1983—8:30 a.m. until the conclusion of business.

During the initial portion of the meeting, the Subcommittee members may exchange preliminary views regarding matters to be considered during the balance of the meeting. The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff and others regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rerscheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Marvin C. Gaske

(telephone 202/634–3265) between 8:15 a.m. and 5:00 p.m., EST.

Dated: December 20, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82–34901 Filed 12–22–82; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards, Subcommittee on Class-9 Accidents; Meeting

The ACRS Subcommittee on Class-9 Accidents will hold a meeting on January 21, 1983, Room 1046 at 1717 H Street NW., Washington, DC. The Subcommittee will review the severe fuel damage research program.

In accordance with the procedures outlined in the **Federal Register** on October 1, 1982 (47 FR 43474), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance except for the session which will be closed to ensure the security of information identified and supplied by foreign governments in confidence (Sunshine Act Exemption 4). To the extent practicable, the closed session will be held so as to minimize inconvenience to members of the public in attendance.

The agenda for subject meeting shall be as follows:

Friday, January 21, 1983—8:30 a.m. until the conclusion of business

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepared telephone call to the cognizant Designated Federal Employee, Mr. Gary Quittschreiber or Mr. Don Bucci (Telephone 202/634–3267), between 8:15 a.m. and 5:00 p.m., EST.

I have determined, in accordance with Subsection 10(d) of the Federal Advisory Committee Act, that it may be necessary to close a session of this meeting to public attendance to protect information supplied by foreign governments. The authority for such closure is Exemption (4) to the Sunshine Act, 5 U.S.C. 552b(c)(4).

Dated: December 20, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82–34900 Filed 12–22–82; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF MANAGEMENT AND BUDGET

"Intergovernmental Review of Federal Programs;" Availability of Document on Final Regulatory Policy Issues and Decisions; Implementation of Executive Order 12372

AGENCY: Intergovernmental Affairs Division and Associate Director for Management, Office of Management and Budget.

ACTION: Notice of document availability.

SUMMARY: Executive Order 12372, "Intergovernmental Review of Federal Programs," was signed by President Reagan on July 14, 1982. Section 5 of the Order calls for final agency rules by April 30, 1983, governing the formulation, evaluation, and review of proposed Federal financial assistance and direct Federal development and OMB approval of these rules. A 21-agency task force, chaired by OMB, was established to assure consistent Government-wide implementation. A product of this group is a document on 31 regulatory policy issues and decisions.

Notice is given of the availability of this document in advance of joint publication of agency NPRMs on or about January 15, 1983. Early notice of regulatory decisions is made to highlight the policy change/opportunity for state and local governments and the Federal approach to minimum regulation of state and local governments. Any comments on this document should accompany comments on the NPRMs during the 60-day public comment period starting on or about January 15, 1983.

ADDRESS FOR COPY: Copies are available by calling James F. Kelly, (202) 395–3774 or writing to James F. Kelly, Deputy Associate Director for Intergovernmental Affairs, Office of Management and Budget, 726 Jackson Place, NW., Washington, D.C. 20503.

Harold I. Steinberg,

Associate Director for Management.

[FR Doc. 82–34763 Filed 12–22–82; 8:45 am]

BILLING CODE 3110–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 19342; File No. S7–433]

Receipt of Amendment to Consolidated Tape Association Plan

December 15, 1982.

On November 1, 1982, the participants in the Consolidated Tape Association ("CTA") submitted to the Commission, pursuant to Rules 11Aa3–1 and 11Aa3–2 under the Securities Exchange Act of 1934 ("Act"), an amendment to the Restated and Amended Plan ("CTA Plan").[1]

I. Description of the Amendment

The amendment increases the ticker, ticker display, interogation unit and ticker line charges contained in schedules A–1 through A–4, attached to the CTA Plan as Exhibit D. The CTA participants indicate that the increased charges are necessary to offset the increased costs of making available last sale information. The new rates will become effective on January 1, 1983.

II. Request for Comment

Pursuant to Rule 11Aa3–2(c)(3) under the Act, the amendment became effective upon filing with the Commission. The Commission, however, may summarily abrogate the amendment within 60 days of its filing and require refiling and approval of the amendment by Commission order pursuant to Rule 11Aa3–2(c)(2), if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanisms of, a national market system, or otherwise in furtherance of the purposes of the Act. Accordingly, in order to assist the Commission in determining whether to abrogate the amendment and to require refiling and further review, interested persons are invited to submit their views to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549, within 21 days from the date of publication of this notice in the

[1] *See* Securities Exchange Act Release No. 16983 (July 16, 1980), 45 FR 49414.

Federal Register. The amendment to the CTA Plan will be available for public inspection in the Commission's public reference room. All communications should refer to File No. S7–433.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[2]

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–34843 Filed 12–22–82; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 12905; 812–5319]

GIT Cash Trust; Filing of an Application

December 16, 1982.

In the matter of GIT Cash Trust, 1800 North Kent Street, Arlington, Virginia 22209 (812–5319).

GIT Cash Trust ("Applicant"), an open-end, diversified, management investment company registered under the Investment Company Act of 1940 ("Act"), filed an application and an amendment thereto for an order of the Commission pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of Rules 2a–4 and 22c–1 thereunder to the extent necessary to: permit Applicant to compute its net asset value per share to the nearest one cent on a share value of $1.00; and to permit Applicant to purchase variable rate instruments. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and are referred to the Act and the rules thereunder for further information as to the provisions to which the exemption applies.

Applicant represents that it is a Massachusetts business trust that will maintain two separate portfolios, the "Regular Money Market Portfolio" ("Regular Portfolio") and the "Government Money Market Portfolio" ("Government Portfolio"), and that each portfolio will invest exclusively in money market instruments. Applicant seeks to achieve high current income consistent with investments in high quality debt securities appropriate to each of its portfolios. Applicant's Government Portfolio may only invest in U.S. Government securities and repurchase agreements involving the same. Applicant's Regular Portfolio may invest in "high grade", conventional, money market instruments denominated in U.S. dollars and issued or guaranteed by domestic banks, foreign branches of domestic banks, foreign banks and their domestic branches, savings and loan associations, finance companies, insurance companies, and other corporations. "High grade" securities in which the Regular Portfolio may invest include: (1) All U.S. Government securities; (2) commercial paper rated Prime-1 by Moody's Investors Service, Inc. ("Moody's") or rated A–1 by Standard & Poor's Corporation ("S&P"), or, if not rated, possessing a credit standing deemed equivalent by the adviser pursuant to procedures approved by the board of trustees; (3) corporate obligations with a remaining maturity of not more than one year that are rated Aa or better by Moody's or rated AA or better by S&P, or, if not rated, possessing a credit rating deemed equivalent by the adviser pursuant to procedures approved by the board of trustees; (4) any obligation of a bank or savings and loan association having total assets of at least $750 million as of the end of its most recent fiscal year, provided it earned a profit during that year; (5) money market instruments issued, accepted, or guaranteed by foreign banks, corporations or other entities, provided the investment is denominated in U.S. dollars and meets the same quality standards applicable to domestic investments; and (6) appropriate repurchase agreements.

Applicant represents that any loans of portfolio securities will conform with applicable guidelines established by the Commission and Applicant's board of trustees. In determining whether to lend securities to a particular broker, dealer, or other financial institution, Applicant's adviser will consider the credit of the borrowing institution. Applicant will not enter into any securities lending agreement having a duration of greater than one year, and any securities with maturities in excess of one year that Applicant receives as collateral for a particular loan will not become part of Applicant's portfolio either at the time the loan is made or in the event the borrower defaults on its obligation to return the loaned securities.

Applicant proposes to acquire variable rate instruments for each of its portfolios having the following features: (1) Each instrument would have an interest rate determined by a prescribed formula and adjusted at periodic intervals which do not exceed one year; (2) Applicant could at any time demand prepayment of the unpaid principal balance plus accured interest thereon and would be entitled to prepayment within a prescribed notice period not to exceed seven calendar days; (3) issuers could, at their discretion, prepay the outstanding principal plus accrued interest thereon upon notice to Applicant within a period comparable to the notice periods required of Applicant for demand prepayments; (4) an adjustment feature which causes the variable rate instrument to have a current market value which approximates its par value whenever a new rate is established; (5) absent an earlier exercise by Applicant or an issuer of their respective prepayment privileges, the principal under each instrument would be payable on a date exceeding one year from the date of purchase by Applicant; and (6) each variable rate instrument acquired by Applicant will be determined under procedures prescribed by Applicant's board of trustees to present minimal credit risks and will be rated by a major rating service consistent with the Applicant's rating restrictions for its portfolios, or, if not rated, will be determined pursuant to procedures approved by the board of trustees to be comparable to money market instruments of "high grade". Applicant represents that its board of trustees will reevaluate, at least on a quarterly basis, its variable rate instruments to ensure that they are of high quality. Applicant further represents that it will dispose of any variable rate instrument if, due to an adverse change in the issuer's credit, the investment is no longer of high quality. Applicant agrees to consider the maturity of its variable rate instruments, for purposes of computing its dollar-weighted average maturity, as the longer of: (i) The period remaining until the next interest rate readjustment, or (ii) the notice period required before Applicant is entitled to prepayment.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision of the Act or of any rule or regulation under the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

In support of the relief requested, Applicant submits that the penny-rounding method of valuing its portfolio securities, including variable rate instruments, subject to the conditions enumerated above, will enable Applicant to offer the stability of principal and steady flow of predictable and competitive income that investors demand. The penny-rounding valuation

---

[2] 17 CFR 200.30–3(a)(27).

method will enable Applicant to maintain a constant net asset value of $1.00 per share for each of its portfolios under most circumstances and thereby permit it to serve the interests and requirements of shareholders. Applicant states that its board of trustees has determined in good faith that, absent unusual or extraordinary circumstances, the penny-rounding valuation method will be in the best interests of its shareholders. Finally, Applicant submits that the requested exemption satisfies the standards of Section 6(c) of the Act.

Applicant expressly agrees that the following conditions may be imposed in any order granting the exemptive relief requested:

1. In supervising Applicant's operations and delegating special responsibilities involving portfolio management to the Applicant's adviser, Applicant's board of trustees undertakes—as a particular responsibility within the overall duty of care owed to Applicant's shareholders—to assure, to the extent reasonably practicable, taking into account current market conditions affecting Applicant's investment objectives, that the net asset value per share of Applicant's Regular Portfolio and its Government Portfolio as computed for the purposes of distribution, redemption and repurchase, rounded to the nearest one cent, will not deviate from $1.00; and

2. Applicant will maintain a dollar-weighted average maturity of its Regular Portfolio and its Government Portfolio appropriate to its objective of maintaining a stable net asset value per share, and Applicant will not (a) purchase any instrument with a remaining effective maturity of greater than one year, or (b) maintain a dollar-weighted average effective maturity in excess of 120 days; and

3. Applicant will limit its portfolio investments, including repurchase agreements, to those U.S. dollar-denominated instruments which Applicant's board of trustees determined present minimal credit risks, and which are of high quality as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined under procedures approved by the board of trustees.

Notice is hereby given that any interested person may, not later than January 10, 1983, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his/her interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or such person may request notification should the Commission order a hearing therein. Any such communication should be addressed to: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the Applicant at the address stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. An order disposing of the application will be issued as of course following said date, unless the Commission thereafter orders a hearing upon request or upon its own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-31841 Filed 12-22-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12907; 812-4504]

IDS Cash Management Fund, Inc.; Filing of Application

December 16, 1982.

In the matter of IDS Cash Management Fund, Inc., 1000 Roanoke Building, Minneapolis, Minnesota 55402 (812-4504).

Notice is hereby given that IDS Cash Management Fund, Inc. ("Applicant"), registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application on November 26, 1982, requesting an order, pursuant to Section 6(c) of the Act, to amend a previous order of the Commission exempting Applicant from the provisions of Rule 2a-4 and 22c-1 under the Act to the extent necessary to permit Applicant to compute its price per share to the nearest one cent on one dollar. The amended order would restate the limitations on Applicant's portfolio investments. All interested persons are referred to the application on file with the Commission for statement of the representations contained therein, which are summarized below.

The application states that on August 24, 1979, the Commission issued an order (Investment Company Act Release No. 10838) ("previous order") exempting Applicant from the provisions of Rules 2a-4 and 22c-1 under the Act to the extent necessary to permit Applicant to compute its price per share to the nearest one cent on one dollar. Applicant now seeks to have the previous order amended to restate the limitations regarding the investments Applicant may purchase for its portfolio. Specifically, Applicant requests that the previous order be amended by deleting subparagraph 3 set forth on page 2 thereof and substituting therefore the following provision:

> 3. That Applicant will limit its purchase of portfolio instruments, including repurchase agreements, to those United States dollar-denominated instruments which its board of directors determines present minimal credit risks and which are of "high quality," as determined by any major rating service, or, in the case of any instrument that is not rated, of comparable quality as determined by Applicant's board of directors.

The application states that the previous order in all other respects shall remain unchanged.

The previous order limited Applicant's portfolio investments only to the following: (i) Obligations issued or guaranteed by the United States Government or its agencies or instrumentalities; (ii) bank certificates of deposit, bankers' acceptances and documented discount notes (letters of credit) of United States Banks and their branches outside of the United States and of the United States branches of foreign banks; (iii) repurchase agreements for securities in which Applicant is otherwise permitted to invest; and (iv) high-grade commercial paper of domestic issuers. Applicant states that is now wishes to expand its portfolio investments to include other high-quality instruments which its board of directors determines present minimal credit risks. The application states that although Applicant initially became interested in expanding its portfolio investments only to include the high-grade commercial paper of certain foreign issurers, Applicant desires broader investment authority so as to give it the flexibility to invest in other high-grade investments as market conditions change. As the yields on some of these high-quality instruments become increasingly attractive, it is contended that the proposed amendment will better enable Applicant to achieve its investment goal of maximum current income consistent with liquidity and conservation of capital. Applicant also submits that the proposed amendment is consistent with the provisions of proposed Rule 2a-7 under the Act, as set forth in Investment Company Act Release No. 12206 (February 1, 1982).

Section 6(c) of the Act provides, in part, that the Commission may, by order upon application, exempt any person, security or transaction, or any class or classes of persons, securities or transactions from any provision or provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than January 10, 1983, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. An order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon its own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-34839 Filed 12-22-82; 8:45 am]

BILLING CODE 8010-01-M

Midwest Stock Exchange, Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

December 16, 1982.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Hazleton Laboratories Corporation
Common Stock, $.10 Par Value (File No. 7-6394)

MGM/UA Home Entertainment Group, Inc.
Common Stock, $1 Par Value (File No. 7-6395)

American Century Corporation
Common Stock, $1 Par Value (File No. 7-6396)

McDermott International Inc.
Common Stock, $1 Par Value (File No. 7-6397)

Mesa Offshore Trust
Units of Beneficial Interest (File No. 7-6398)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before January 10, 1983 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-34840 Filed 12-22-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22785; 70-6816]

Mississippi Power & Light Co.; Proposal To Issue and Sell at Competitive Bidding First Mortgage Bonds and Preferred Stock

December 17, 1982.

In the matter of Mississippi Power & Light Company, P.O. Box 1640, Jackson, Mississippi 39205 (70-6816).

The Mississippi Power & Light Company ("MP&L"), an electric utility subsidiary of Middle South Services, Inc., a registered holding company, has filed a declaration with this Commission pursuant to Sections 6(a) and 7 of the Public Utility Holding Company Act of 1935 ("Act") and Rule 50 promulgated thereunder.

MP&L proposes to issue and sell at competitive bidding up to $80 million aggregate principal amount of first mortgage bonds and up to 100,000 shares of preferred stock, $100 par value, in one or more series and/or in one or more sales, from time to time, during the period ending December 31, 1983. Each series of bonds will have a term of not less than five nor more than thirty years and will be sold at a price to MP&L, exclusive of accrued interest, of not less than 98% nor more than 101¾% of the principal amount of each series of bonds. Each new series of preferred stock will be sold at a price to MP&L of not less than $100 nor more than $102.75 per share plus accumulated dividends, if any.

Each series of new bonds will be issued under a mortgage and deed of trust, dated September 1, 1944, as heretofore supplemented and as to be further amended by supplemental indentures dated as of the first day of the month in which a particular series is issued. Each supplemental indenture will contain a four or five-year restriction on the refundability or redemption of the bonds at a lower effective interest cost. The terms of each series of stock will include a similar five-year prohibition against redemption. MP&L may also provide for incremental redemption of the stock through the operation of a sinking fund commencing five or more years after the date of issuance.

The sales of the bonds and stocks are separate transactions not contingent one upon the other. MP&L may employ alternative competitive bidding procedures in accordance with the Commission's statement of policy pursuant to Rule 50(a)(5) under the Act (HCAR No. 22623, September 2, 1982). MP&L also indicates, however, that it may eventually request an exception from all competitive bidding requirements under Rule 50(a)(5) to offer the bonds and/or stock through either negotiated or private sales. The net proceeds from the issuance and sale of the bonds and stock will be used for the financing, in part, of MP&L's construction program and for other corporate purposes.

The declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by January 10, 1983, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy of the declarant at the address specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be

filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the declaration, as filed or as it may be amended, may be permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-34846 Filed 12-22-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12906, 812-5311]

Plaza One Money Market Fund; Filing of Application

December 16, 1982.

In the matter of The Plaza One Money Market Fund (Formerly, The Crossroads Fund), 82 Devonshire Street, Boston, Massachusetts 02109 (812-5311).

Notice is hereby given that The Plaza One Money Market Fund ("Applicant"), registered under the Investment Company Act of 1940 ("Act") as an open end, diversified, management investment company, filed an application on September 9, 1982, requesting an order of the Commission pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 thereunder to the extent necessary to permit Applicant to value its assets pursuant to the amortized cost method of valuation. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below. Such persons are also referred to the Act and the rules thereunder for the complete text of the provisions thereof from which an exemption is being sought.

According to the application, Applicant is a "series" money market fund offering to individuals, corporations, fiduciaries and institutions a means to invest in a professionally managed portfolio of certain money market instruments with the objective of seeking as high a level of current income as is consistent with the preservation of capital and liquidity. Applicant currently has only one "series" but may include additional series in the future. Applicant states that each series will be subject to the conditions specified in the order. Fidelity Management & Research Company will serve as investment adviser to Applicant and will receive a fee at an annual rate of .25 percent of the average net assets of Applicant. Fidelity Distributors Corporation will serve as general distributor for Applicant's shares. Merchants National Bank and Trust Company of Indianapolis ("Merchants") will serve as administrator for Applicant, performing services as custodian of Applicant's assets and as transfer, dividend disbursing and shareholders' servicing agent. Merchants will receive a monthly fee at an annual rate of .25 percent of the average daily net assets of Applicant plus reimbursement for its out-of-pocket expenses for performing these services. It is anticipated that Applicant's shares will be offered by Fidelity Distributors primarily to prospective investors who have an existing relationship with Merchants. Such prospective investors are expected to include those with a custody or agency relationship with Merchants or investors for whom Merchants serves as trustee. Merchants may provide cash management services to such customers by, for example, entering into agreements pursuant to which it would automatically invest excess cash balances of such customers in shares of Applicant or redeem shares to provide cash to such customers when needed. Merchants may charge a fee to the customer for providing this service. Applicant states that Merchants does not control the activities, investments or operations of the Applicant. Additionally, Applicant represents that the present policy of the Applicant is not to purchase any obligations of Merchants, Merchants National Corp. or any of their affiliates.

Applicant states that its one presently existing portfolio—a Money Market Portfolio—will invest in obligations of major banks, including United States dollar-denominated obligations of foreign branches of United States banks, prime commercial paper and obligations of the United States Government, its agencies or instrumentalities. The Applicant may also enter into repurchase agreements involving any security in which it is permitted to invest, and may purchase new issues of government securities on a "when-issued" basis. Applicant represents that all of its investments will consist of obligations maturing within one year from the date of acquisition and that the dollar-weighted average portfolio maturity thereof will be 120 days or less.

Applicant asserts that it must have a stable net asset value (preferably at $1.00 per share) and a constant and steady flow of investment income. Applicant further states that it is believed that the valuation of its portfolio securities on the amortized cost basis will benefit shareholders by enabling Applicant to maintain a constant $1.00 per share purchase and redemption price, while at the same time providing shareholders with a steady flow of investment income through daily dividends which reflect Applicant's net income as earned. Applicant represents that its trustees have determined in good faith that in light of its characteristics as described above and absent unusual or extraordinary circumstances, the amortized cost method of valuing portfolio securities is appropriate and preferable for Applicant and reflects the fair value of such securities.

Section 6(c) of the Act provides, in part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any provision or provisions of the Act or of the rules or regulations thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant submits that use of the amortized cost method of valuing its portfolio securities, subject to the conditions enumerated below, will benefit its shareholders by enabling the Applicant to more effectively maintain the $1.00 per share purchase and redemption price while simultaneously providing the opportunity for a steadier flow of investment income to shareholders. Applicant believes that the granting of the requested exemptions by the Commission is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Accordingly, the Applicant requests exemptions from Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 thereunder to the extent necessary to permit its use of the amortized cost method to value its portfolio securities.

Applicant expressly consents to the imposition of the following conditions in any order granting the relief it requests:

1. In supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, the board of trustees of Applicant undertakes—as a particular responsibility within the overall duty of care owed to its shareholders—to establish procedures reasonably

designed, taking into account current market conditions and the Applicant's investment objectives, to stabilize the net asset value per share of each portfolio, computed for the purpose of distribution, repurchase and redemption, at $1.00 per share.

2. Included within the procedures to be adopted by the board of trustees shall be the following:

(a) Review by the board of trustees, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from the $1.00 amortized cost price per share, and the maintenance of records of such review.[1]

(b) In the event such deviation from the $1.00 amortized cost price per share exceeds ½ of 1 percent, a requirement that the board of trustees will promptly consider what action, if any, should be initiated.

(c) If the board of trustees believes the extent of any deviation from Applicant's $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results which may include: selling portfolio instruments prior to maturity to realize capital gains or losses or to shorten the Applicant's average portfolio maturity of the relevant portfolio; withholding dividends; redemption of shares in kind; or utilizing a net asset value per share as determined by using available market quotations.

3. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that Applicant will not (a) purchase any instrument with a remaining maturity of greater than one year or (b) maintain in each portfolio a dollar-weighted average portfolio maturity which exceeds 120 days.[2]

4. Applicant will record, maintain, and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in condition 1 above; and Applicant will record, maintain, and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the board of trustees considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of the board of trustees' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act, as if such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit its portfolio investments in each portfolio, including repurchase agreements, to those United States dollar-denominated instruments which Applicant's board of trustees determines present minimal credit risks, and which are of high quality as determined by any major rating service, or in the case of any instrument that is not rated, of comparable quality as determined by its board of trustees.

6. Applicant will include in each quarterly report, as an attachment to Form N–1Q, a statement as to whether any action pursuant to condition 2(c) above was taken during the preceding fiscal quarter and, if any such action was taken, will describe the nature and circumstances of such action.

Notice is further given that any interested person may, not later than January 10, 1983, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. An order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon its own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–34847 Filed 12–22–82; 8:45 am]

BILLING CODE 8010–01–M

[1] To fulfill this condition, Applicant intends to use actual quotations or estimates of market value reflecting current market conditions chosen by the board of trustees in the exercise of its discretion to be appropriate indicators of value, which may include, inter alia, (1) quotations or estimates of market value for individual portfolio instruments, or (2) values obtained from yield data relating to classes of money market instruments furnished by reputable sources.

[2] In fulfilling this condition, Applicant agrees that, if the disposition of a portfolio instrument should result in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant will invest its available cash in such a manner as to reduce such average maturity to 120 days or less as soon as reasonably practicable.

[Release No. 34–19344; File No. SR–AMEX–82–22]

Self-Regulatory Organizations; Proposed Rule Change by the American Stock Exchange, Inc.; Relating to Options on Narrow-Based Stock Indices

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on November 23, 1982, the American Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The American Stock Exchange, Inc. ("Amex" or the "Exchange") is proposing to list options on narrow-based stock indices covering the following industry groups:

Aerospace/Air Transport
Drugs
Electronics/Instrumentation and Components
Financial Services
Hospital Management/Specialties/Supplies
Information Technology
Media/Entertainment
Merchandising
Metals
Oil and Gas
Oil Services

Transactions in these options would be governed by the rules of the Exchange which apply to stock index options generally (Part V, Section 11 of the Exchange's rules, captioned "Stock Index Options"). The terms of most of those rules already apply to narrow-based, as well as broad-based stock indices. However, a few rules require amendment in order to clarify or extend

their application to narrow-based stock index options. In this regard, the Exchange is proposing to establish position and exercise limits of 30,000 contracts for options on the stock index groups it is proposing to designate. The Exchange is also proposing to clarify its rules to establish that after approving options contracts in respect to a particular stock index group, the Exchange may occasionally alter the stocks included in the group if in the Exchange's opinion such an alteration is necessary or appropriate to maintain the quality and/or character of the index to which the group relates.

The Exchange is also proposing to delete a commentary which would list the specific stock index groups that the Exchange has approved for options trading.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), (C), below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

In File No. SR–AMEX–82–8, as amended by Amendment No. 1 thereto, the Exchange proposed to trade options on both broad-based and narrow-based stock indices. That submission set forth generic rules which would apply to transactions in options on either type of index, explained the economic uses of boty types of options, stated the Exchange's reasons for believing that the proposal was consistent with the purposes of the Securities Exchange Act of 1934 (the "Act"), and requested specific approval of options on the Amex Market Value Index ("Amex Index"), a broad-based index which takes into account all common stocks and warrants traded on the Exchange. Thus, the Commission's approval of SR–AMEX–82–8 on November 18, 1982, in addition to specifically authorizing the Exchange to list options on the Amex Index, constitutes an approval, in principle, of trading in options on narrow-based indices pursuant to the Exchange's new rules.

The purpose of the instant filing is to propose the 11 narrow-based indices listed above for specific approval by the Commission.

Each index will be market weighted (i.e., the price of each stock comprising the index would be weighted by the number of shares outstanding), and updated index values will be disseminated once per minute. The Exchange will establish a base value between 49 and 101 for each index (i.e., the aggregate market value of the stocks comprising each index will be set equal to a number between 49 and 101 on the date the index is initiated).

The contract specifications for options on each industry group index will be as follows:

- The numerical index value (defined in Exchange Rule 900C) will be the actual index value. For example, if an underlying index were at 75, the numerical index value would be 75 and the exercise price of an at-the-money option would also be 75.
- Exercise prices will be established at five point intervals below an exercise price of 100 and at ten point intervals above an exercise price of 100. These intervals are the same as those which now apply to options on individual stocks. Exercise prices will bracket the current numerical index value, and new exercise prices will be introduced as the numerical index value changes. The procedure for introducing new exercise prices will be the same as the procedure now used with respect to individual stock options.
- The index multiplier for each industry group index option contract will be 100.
- Options on each industry group index will be traded on a March-June-September-December expiration cycle, with three expiration dates available for trading at any given time (i.e., the options will be introduced with three, six and nine months to expiration).

In connection with proposing specific industry categories for narrow-based stock indices, the Exchange is proposing to amend Rule 901C (Designation of Stock Index Options), Rule 904C (Position Limits), and Rule 905C (Exercise Limits).

Proposed new paragraph (b) of Rule 901C is intended to make clear that the designation by the Exchange (and concomitant approval by the Commission) of an industry group index runs to the industry category and not to the specific stocks included in the category at the time of designation. Although the Exchange will make all reasonable effort to keep constant the particular stocks comprising an industry group on which an underlying index is based, it may be necessary or desirable to revise the group for various reasons. For example, a stock included in an underlying group might cease to meet the requirements for continued inclusion in the group set forth in Rule 916C; or, an issuer included in a particular industry category might diversify its operations in a manner which resulted in its no longer being representative of that category. In general, the Exchange will endeavor to keep constant the number of stocks included in an industry group; i.e., for each stock deleted, a substitute stock will generally be added. The Exchange may occasionally increase or decrease the total number of stocks in a group.

The Exchange is proposing to delete the Commentary under Rule 901C which would list the names of specific underlying indices in order to avoid confusion which might result from a discrepancy between the indices actually underlying options traded on the Exchange and those listed in its printed rules. This discrepancy would occur for a short period of time whenever the Exchange began trading options on a new index, because of the time lag between the new listing and the appearance of the reference to the new index in the Exchange's published rules. The deletion of the Commentary referring to specific indices would conform the Exchange's rules concerning stock index options to its rules concerning options on stocks and Government securities; the latter rules do not refer to specific securities which underlie listed options.

Rules 904C and 905C, as explained in File No. SR–AMEX–82–8, currently establish position and exercise limits of 40,000 contracts for options on stock indices based on 50 or more stocks. In the instant filing, the Exchange is proposing to establish position and exercise limits of 30,000 contracts for options on stock indices based on less than 50 stocks. Since the Exchange is proposing to establish a base value for each index no greater than 100 and an index multiplier of 100 for each option contract, the 30,000 contract position and exercise limits hereby proposed would cover a maximum value of $300,000,000 per underlying index at the Commencement of options trading. These limits seem well within reason, as the lowest market value of any of underlying industry groups proposed by this submission (as calculated on November 12, 1982) is approximately $17 billion.

The implementation of trading in options on the industry group stock

indices and the adoption of the rule amendments herein proposed by the Exchange would be consistent with the requirements of the Act and the rules and regulations thereunder applicable to the Exchange, and, in particular, Section 6(b)(5) of the Act. Such options will provide members of the public with useful new investment and hedging opportunities; and the rule changes proposed by this filing will facilitate the maintenance of fair and orderly markets, help to prevent fraudulent and manipulative acts and practices, and promote just and equitable principles of trade, thereby protecting investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule changes set forth herein will not impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Comments on the proposed rule changes set forth herein were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reason for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, Judiciary Plaza, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: December 16, 1982.

George A. Fitzsimmons,

Secretary.

Attachment A—Description of Proposed Stock Indices for Amex Narrow-Based Stock Index Options

In its filing of Amendment No. 1 to File No. SR–AMEX–82–8, the Amex stated that it contemplated introduction of options on stock index groups comprised of specific categories of stocks such as those representative of particular industries. It also explained how such options might be used by investors to achieve specific investment objectives. This memorandum now describes the particular industry groups which have been selected and the parameters involved in the selection.

The stock groups proposed herein are those which the Exchange believes cover important sectors of the U.S. economy and in which there are sufficient numbers of U.S. corporations which meet the Exchange's requirements for inclusion in the groups. The Exchange formulated these groups with reference to the requirements of Exchange Rule 901C, and also with reference to the following guidelines:

(1) The corporations included be representative of all segments of the particular category and in general be limited to those corporations having the larger stock market values in the group, and

(2) The group not include such a large number of stocks that replication of the index through holding a limited position in stocks included in the index would be difficult.

The parameter with respect to avoiding excessively large numbers of stocks in the groups is intended to facilitate trading between stocks and options thus serving to keep the two markets aligned. This is especially important in view of the cash settlement feature of the options.

Hereunder, we have listed the specific narrow-based stock groups on which we propose options.

Sub-index designation	No. of stocks	Market value Nov. 12, 1982	Percent [1]
Aerospace/air transport	11	$17.077	1.76
Drugs	14	48.1556	0.62
Electronic/instrumentation and components	34	28.8834	1.04
Financial services	30	57.5719	0.52
Hospital management/specialities s/supplies	14	31.6032	0.90
Information technology	33	91.0251	0.33
Media/entertainment	27	33.47	0.90
Merchandising	42	55.6726	0.53
Metals	27	20.2017	1.49
Oil and gas	20	142.5909	0.21
Oil services	18	[illegible]	1.13

[1] Proposed position limit as a percent of market value (assumes $10,000 underlying index value).

The proposed calculation system for the narrow-based stock indices utilizes market weighting similar to that used for the Amex Market Value Index, with the exception that no adjustments will be made for cash dividends. This is similar to the system used in calculate the NYSE and S&P 500 indices.

The initial index number for the new indices will be set at a level from 50 to 100 so that in utilizing the Exchange's multiplier of 100, the initial underlying dollar value of the indices will all be in the range of $5,000 to $10,000 per individual option contract.

An examination of the market values of the individual stocks in each of the proposed sub-index groups shows a relatively broad distribution of values, with the exception of the Information Technology group in which IBM accounts for over 50% of the market value of the group. However, even for this group, the proposed position limit of 30,000 contracts ($10,000 per contract) would constitute only 0.6% of the market value of IBM common stock, so that the proposed position limit can still be considered reasonable.

Dissemination of the new indices would be conducted in the same manner as described in File No. SR–AMEX–82–8 for the Amex Market Value Index.

[FR Doc. 82–34842 Filed 12–22–82; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 19332; File No. SR–OCC–82–2]

Options Clearing Corporation; Filing of Proposed Rule Change and Order Approving Proposed Rule Change

December 14, 1982.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) (the "Act") notice is hereby given that on December 10, 1982, The Options Clearing Corporation ("OCC") filed with the Commission a proposed rule change that would amend OCC's foreign currency options exercise settlement and buy-in procedures.

Specifically, OCC's proposal will provide clearing members with an additional means of satisfying foreign currency delivery obligations. Under OCC's current rules, foreign currecny delivery obligations are not satisfied until OCC receives the underlying foreign currency in its account at OCC's

foreign correspondent bank.[1] Under the proposed rule change, a clearing member can meet its foreign currency delivery obligations by delivery of a tested or guaranteed telex to OCC's foreign correspondent bank, from a bank guaranteeing that payment of foreign currency is forthcoming, provided OCC is allowed immediate use of, and redelivery rights with respect to, the foreign currency advanced by OCC's foreign correspondent bank on the basis of such a tested or guaranteed telex.

In addition, the propose rule change would permit OCC to settle option exercises with a receiving member, notwithstanding a failure by the delivering clearing member to make timely delivery of the foreign currency underlying the options contract. Under the proposed rule change, in addition to OCC's authority to require a receiving member to buy-in foreign currency, OCC will be able, in its discretion, to complete the foreign currency delivery even though a delivering clearing member has failed to meet its settlement obligations. To facilitate the delivery of foreign currency to the receiving clearing member under this alternative, OCC will be authorized to borrow foreign currency and/or U.S. dollars to meet the defaulting member's delivery obligation. In addition, the delivering clearing member will be obligated to pay OCC any fees, interest or other charges incurred by OCC in connection with borrowing foreign currency and/or U.S. dollars to meet the member's delivery obligations.[2] Finally, the proposed rule will grant OCC authority to buy-in foreign currency against the account of the delivering clearing member in the event OCC has borrowed foreign currency and delivered it to the receiving clearing member but has not received the foreign currency from the delivering clearing member. Consistent with OCC's existing rules respecting member buy-in's of foreign currency, OCC will be required to execute a buy-in no later than two days after OCC has delivered the borrowed foreign currency to the receiving clearing member.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days from the date of this publication. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Reference should be made to File No. SR–OCC–82–26.

Copies of the submission, with accompanying exhibits, and all written comments, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for public inspection at the Securities and Exchange Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. Copies of the filing will also be available at the principal office of the above-mentioned self-regulatory organization.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered clearing agencies, and, in particular, the requirements of Section 17A of the Act. By allowing delivering clearing members to settle by tested or guaranteed telex, the proposed rule change facilitates the cost-effective settlement of foreign currency options exercises. The proposal provides an additional means for clearing members to meet foreign currency delivery obligations and should facilitate members' ability to invest settlement funds overnight [3] without exposing OCC to any additional risk.[4]

The proposed rule change also facilitates the prompt and orderly settlement of foreign currency option exercises by enabling controlled and expeditious settlement of exercised options contracts notwithstanding delivery delays abroad. By permitting OCC to borrow foreign currency to meet a defaulting member's delivery obligations and then buy-in to cover the loan, the proposed rule change enables OCC to complete foreign currency settlement in a safe and timely manner. Under the rule change, OCC will buy-in foreign currency against the account of the defaulting clearing member whenever OCC has borrowed funds to meet that member's delivery obligations and has not received the foreign currency from the delivering clearing member on time, and it will charge the defaulting clearing member for any costs incurred in borrowing and buying-in. Moreover, because OCC is obligated under its existing rules to settle exercised foreign currency call options in the event the delivering member defaults, the proposed rule change enables OCC to control the performance of that obligation more effectively.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing in that trading of foreign currency options contracts began on the Philadelphia Stock Exchange on December 10, 1982. It is in the interest of prompt and accurate clearance and settlement of foreign currency option exercises and the efficient resolution of fails for OCC to have all of its major systems complete and available for use at the inception of foreign currency options trading. Because an option contract is exercisable upon issuance, a fail in foreign currency options could occur as early as December 17, 1982. For those reasons, OCC's complete settlement and buy-in procedures should be in place now.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change referenced above be, and hereby is approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–34846 Filed 12–22–82; 8:45 am]

BILLING CODE 8010–01–M

---

[1] OCC's foreign currency exercise settlement procedures consist of three steps. First, prior to the opening of business on the day before settlement date, clearing members who receive obligations must pay OCC the aggregate exercise price for all foreign currency option contracts due to settle the following day. Second, on the exercise settlement date, clearing members with delivery obligations must direct delivery of the underlying foreign currency from their respective foreign correspondent bank account to OCC's correspondent bank account. Third, after the first two steps are successfully completed and OCC receives notice from its correspondent bank that the specified foreign currency has been delivered, OCC will pay the delivering member the aggregate exercise price and concurrently cause OCC's foreign correspondent bank to deliver the foreign currency to the account of the receiving clearing member at that member's foreign correspondent bank.

[2] Under the proposed rule change, OCC will be authorized to withdraw such amounts from delivering clearing members' bank accounts.

[3] A member that chooses to meet foreign currency delivery requirements by delivering foreign currency to the account of OCC at OCC's foreign correspondent bank, in lieu of delivering a tested or guaranteed telex, may lose the overnight use of that foreign currency.

[4] A tested or guaranteed telex for delivery of foreign currency constitutes a transaction between two banks. OCC has indicated that neither the initiating nor the receiving bank has any recourse against OCC when funds are advanced to OCC pursuant to a tested or guaranteed telex and thereafter delivered at OCC's instructions.

[File No. SR–OCC–82–7]

Options Clearing Corporation; Order Approving Proposed Rule Change

December 14, 1982.

On March 9, 1982, OCC filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) (the "Act") and Rule 19b–4 thereunder, a proposed rule change that would empower OCC

to issue options on certain certificates of deposits ("CDs") issued by certain U.S. domiciled banks ("CD options"), to clear and settle CD options transactions, and to process and settle CD options exercises. OCC's filing is designed to facilitate the trading of CD options on the American Stock Exchange.[1]

Notice of the proposed rule change together with its terms of substance was provided by publication of a Commission Release (Securities Exchange Act Release No. 18885, July 14, 1982) and by publication in the Federal Register (47 FR 33353, August 2, 1982). The Commission received one letter of comment.[2] OCC did not solicit or receive any comments.

In addition, OCC filed several clarifying non-substantive amendments to the proposed rule change on October 1, 1982.[3]

Description of the Proposed Rule Change

In proposing rules that would provide for the issuance, clearance and settlement of CD options transactions and for processing and settlement of CD options exercises, OCC has, to the extent possible, paralleled the OCC rules approved by the Commission respecting options on several other debt instruments [i.e., options on Government National Mortgage Association securities ("GNMA options") and options on Treasury notes bonds and bills (collectively "Treasury options")].[4] Where OCC has varied from its systems established for processing GNMA and Treasury options, it has done so to accommodate the unique characteristics of CDs and to reflect the manner in which CDs are traded in the CD cash market.

1. CD Option Contracts

The proposed rule change provides for OCC's issuance of uncertificated options on certificates of deposits issued by any one of a small number of "top tier" banks that are regarded, in the CD dealer market, as highly credit-worthy and that are traded interchangeably in that market on a "no name" basis.[5] The underlying security in the case of a single CD put or call option contract will be a "90-day" certificate of deposit in a principal amount of one million dollars issued by any of the top tier banks.[6]

2. CD Clearing Members

In addition to meeting the financial and other requirements associated with membership in OCC, clearing members will have to receive special authorization from OCC to maintain positions at OCC in CD options. Consistent with the rules for becoming a GNMA and Treasury securities clearing member, to become a CD clearing member, at least two key employees will be required to attend OCC readiness review sessions and successfully complete OCC's operational and financial examinations relating to debt securities options. OCC believes that such special training is necessary because the processing of debt securities differs in important respects from the system used for stock options.

3. Processing of CD Options

OCC will process purchases and sales of CD options as well as CD option exercises. OCC will use the same systems to process purchases and sales of CD options that it uses to process purchases and sales of equity, GNMA and Treasury options and that the Commission recently approved for processing transactions in foreign currency options.[7] The processing of purchases and sales of CD options will entail receiving compared transactions from the American Stock Exchange, issuing and (in the case of closing transactions) cancelling the appropriate contracts and effecting the corresponding premium settlement. OCC will make and maintain book entries in clearing members' accounts representing the long and short positions in each account.

OCC will also process CD options exercises. Because delivery obligations are settled in a similar manner in both the GNMA and the CD cash markets, OCC has, for CD options, paralleled its GNMA options systems for processing exercised options contracts. Generally, under the proposed rule change, OCC will randomly assign exercise notices submitted to OCC by option holders to members with short positions in the exercised contracts.[8] OCC will net settlement obligations insofar as a clearing member is both a receiving and delivering member with respect to CD option contracts of the same type and having the same exercise price and settlement date. After deriving net positions OCC will "allocate" the settlement obligations of those clearing members that did not net out fully to clearing members with reciprocal obligations. A clearing member with a net delivery obligation will have to deliver CDs, against payment of the aggregate exercise price, to the receiving clearing member at the receiving clearing member's New York City office, unless another location is agreed to by both the delivering and receiving clearing member.[9] The requirement that

---

[1] The Commission approved the American Stock Exchange proposed rule change on November 22, 1982. *See* Securities Exchange Act Release No. 19263, 47 FR 53978 (November 30, 1982).

[2] Letter dated August 20, 1982 from Thomas R. Donavan, President, Chicago Board of Trade, to George A. Fitzsimmons, Secretary, Securities and Exchange Commission. That letter asserts that options on certificates of deposits are commodities and questions the Commission's jurisdiction to regulate such options. The jurisdictional issues have been resolved by legislative amendments to the Securities Exchange Act. *See* Securities Exchange Act Release No. 19125 (October 14, 1982).

[3] *See* File No. SR–OCC–81–7.

[4] The Commission approved OCC's GNMA and Treasury options rule on October 14, 1982. *See* Securities Exchange Act Release No. 19125, 47 FR 46934 (October 21, 1982).

[5] OCC will determine which banks qualify for inclusion in the list of top-tier banks by polling, at frequent intervals, the no name lists of a group of large CD cash market dealers. OCC will include on its list of top tier banks only those banks appearing on the lists of at least two-thirds of such dealers.

[6] CD's of "no-name" banks were chosen as the underlying CD for CD option contracts because of their fungibility. Unlike other CDs, because of the superlative credit rating of no name banks, CDs issued by no name banks are not separately identified by institutions for quotation purposes and generally are regarded as fungible for delivery purposes. Accordingly, the CDs issued by those banks will constitute "good delivery" on exercise.

More specifically, OCC's proposed Rule 1508 provides that the deliverable CD upon exercise of a CD option contract will be a CD that meets the following specifications:

(i) the CD was issued by a bank designated by OCC as of the opening of business on the exercise settlement date as top tier bank; (ii) the CD has a term to maturity at original issuance of not more than 185 days; (iii) the CD has a principal amount of $1 million; and (iv) the CD will mature three months after the exercise settlement date, during a two week "window" that corresponds to the same half month as the exercise (i.e., a CD must mature between either the 1st through the 15th or the 16th through 31st of the relevant month). For example, if a CD call option is exercised in December 1982 with an exercise settlement date in the first half of December, the writer will have to deliver a deliverable CD that will mature within the first 15 days of March 1983. This requirement is consistent with the quotation practice of CD dealers in the cash market. In the cash market, CD dealers quote no name CDs at the same rate for all maturity dates during each half-month period.

[7] *See* Securities Exchange Act Release No. 19274 (November 24, 1982).

[8] In contrast to its equity procedures, OCC has not proposed to implement an "automatic exercise" program for expiring CD options that are in-the-money by a specified amount. (Automatic exercise rules are intended to reduce the likelihood that a clearing member could inadvertently fail to exercise a profitable option prior to its expiration.) As is the case with OCC's other non-equity options, OCC does not believe it has sufficient experience at this time to determine appropriate exercise intervals for CD options. OCC, however, intends to establish an automatic exercise program for CD options once it gains sufficient trading experience in CD's. In anticipation of this, OCC's proposed rules would empower OCC to implement an automatic exercise program for CD options by establishing exercise intervals and giving clearing members 30 days advance notice.

[9] As is the case with GNMA options, once OCC has issued receive and deliver orders, OCC will end its direct involvement in the CD options settlement system. Under OCC's proposed rules it will be the responsibility of receiving and delivering clearing

settlement take place in New York City reflects the current practice in connection with cash market CD transactions and facilitates same-day turn-around.

In the event that clearing members fail to meet their exercise settlement obligations, OCC's proposed rules provide for "buy-ins" and "sell-outs" modeled after the buy-in and sell-out rules adopted by OCC for both equity and debt options. The proposed rule provides that if a delivering clearing member fails to deliver the underlying CD by a specified time,[10] the clearing member due to receive the CD must buy the CD in the cash market, holding the defaulting party liable for any loss resulting from adverse price movement plus the close-out transaction costs. Similarly, if the receiving clearing member refuses to accept proper tender of the underlying CD or refuses to pay for such delivery, the delivering clearing member must sell the CD in the cash market, and hold the defaulting party responsible for any loss. These provisions are intended to discourage fails, to provide uniform remedies for non-failing clearing members and to impose a fixed deadline by which settlement must be made, either in the normal fashion or through buy-ins or sell-outs.

4. *Alternative Settlement Procedures.*

In recognition of the possibility that the supply of top-tier CDs that are eligible for delivery under specific options contracts may become insufficient to permit assigned call writers to meet their delivery obligations, OCC has proposed "shortage of supply" rules.[11] Whenever OCC determines that deliverable CDs are in short supply,[12] OCC would be authorized to modify the rights and obligations that would ordinarily attach to exercise and assignment and to institute "alternative settlement procedures."[13] Specifically, with regard to CD call options, OCC would be entitled under the proposed rules (i) to establish cash settlement prices which assigned writers of CD call options who would otherwise be unable to meet their settlement obligations must pay, and exercising holders of CD call options must accept, in lieu of delivery of the underlying CDs, and (ii) to permit assigned writers of CD call options to settle by delivering specified top-tier CD's that differ from the underlying CD's ("alternative delivery") as to the term to maturity at original issuance and/or the half month period in which such CD's will mature. In the event alternative delivery is required, OCC would adjust the aggregate exercise price to reflect the value of the alternative delivery.[14]

Under the proposed rule change OCC also has authority, in the event of a shortage of deliverable CDs, to permit exercising holders of CD put options to settle by alternative delivery. However, consistent with OCC's rules and procedures in equity and approved non-equity options, OCC may prohibit the exercise of CD put options whenever the exercising member is unable to deliver the underlying CD specified in the contract.[15]

5. *Margin*

As the issuer of option contracts, OCC guarantees writers' performance to holders. To collateralize this guarantee OCC requires clearing members to deposit margin with OCC. OCC's margin requirements are designed to protect OCC against loss attributable to members' defaults on obligations to OCC.[16] The margin requirement is adjusted daily for each account, based on changes in each clearing member's aggregate positions and relevant changes in the market value of those positions.

The margin required with respect to unassigned short positions [17] in CD options is 100% of the current asked price of the option plus a "minimum margin amount" that functions as a protective cushion. The margin required with respect to an assigned short position is equal to 100% of the difference between the market value of the underlying CD and the aggregate exercise price plus a minimum margin amount. The minimum margin amount would be set contract-by-contract, at a point between $250 and $1,000 (or whatever higher limit OCC believes as necessary) [18] depending on the degree to which the contract is out-of-the-money.[19] Because contracts that are out-of-the-money are less likely to be exercised and therefore, pose a smaller risk to OCC than in-the-money contracts [20].

---

members to agree on the aggregate exercise settlement price based on a formula provided in OCC's proposed rule for calculating the exercise settlement price in respect of CD options. (The exercise settlement price for a CD option contract will be adjusted to reflect several factors: (i) the number of days to maturity of the delivered CD; (ii) the stated interest rate of the delivered CD; and (iii) the original time to maturity at issuance of the delivered CD.) OCC, however, will be empowered to intervene to resolve disputes between receiving and delivering clearing members that arise during the settlement process. OCC's determinations respecting such disputes will be final and binding on the parties.

[10] Although the exercise settlement date is the second business day after exercise, a receiving clearing member's right to buy-in, in the event the delivering clearing member fails to meet settlement obligations, does not commence until the close of business on the third business day following the exercise settlement date. This provision gives the delivering clearing member a one-day grace period in delivering the underlying CD and is intended to prevent premature and unnecessary buy-ins. The aggregate exercise settlement price, however, is calculated with reference to the exercise settlement date regardless of when delivery actually occurs and, as such, will not include any interest accrued after the exercise settlement date. OCC stated that the loss of interest penalty under the exercise price formula should act as an incentive for the delivering clearing member to deliver the certificates on the exercise settlement date.

[11] OCC stated that it believes that a shortage in the supply of deliverable CDs is unlikely because of the magnitude of no name CDs available for delivery (approximately 2.5 to 3.0 billion each half month) and because CD's are generally issued by banks upon demand of customers. *See* FRB Statistical Release G.9(410), *Maturity Distribution of Outstanding Time Certificates of Deposit at Large Commercial Banks* and order approving Amex proposal to trade options on CDs. Securities Exchange Act Release No. 19283 (November 22, 1982), 47 FR 53978 (November 30, 1982).

[12] OCC's Interpretations and Policies relating to shortages in the underlying CD provide that OCC may invoke the alternative settlement if there is a shortage of 90-day CDs, notwithstanding the availability of deliverable CDs, with shorter maturity periods.

[13] As in the case of stock and other non-equity options, in addition to measures OCC would be authorized to take pursuant to the shortage of supply rules, the Board of Directors of OCC could extend or postpone the settlement date for CD options, whenever, in its opinion, such action is required to meet unusual market conditions. OCC has indicated that it believes a shortage of securities to be such a condition.

[14] Although for routine settlement OCC will permit delivery of short maturity CDs without adjusting the exercise settlement price, OCC will not compel delivery of such CDs under the alternative delivery rule unless the alternative payment is adjusted to reflect their enhanced value.

[15] As in the case of equity and approved non-equity options, a clearing member that exercises a put, when such a prohibition is in effect, and that subsequently fails to deliver the underlying security, will be subject to disciplinary action under OCC's proposed rule.

[16] In addition to margin requirements, OCC imposes its own net capital requirement on clearing members and requires clearing members to contribute to one or more of OCC's clearing funds. OCC maintains two participants funds: the Stock Clearing Fund and the Non-Equity Securities Clearing Fund. (A participant's clearing fund deposit can be used when a participant is suspended and the clearing member's margin deposit proves insufficient to cover the member's outstanding obligations to OCC.)

[17] Under certain circumstances, as prescribed in OCC's rules, a short position in any OCC option may be offset by a corresponding long position, thereby eliminating the margin requirement on the short position.

[18] As a precaution, initially OCC has determined to set minimum margin ceiling for CD short positions that are in-the-money at $2,000. OCC intends to review this decision in light of experience as soon as practicable after trading begins.

[19] A contract is out-of-the-money if the exercise price exceeds (in the case of calls) or is less than (in the case of puts) the market price of the underlying security.

[20] A contract is in-the-money if the exercise price is less than (in the case of calls) or is greater than (in the case of puts) the market price of the underlying security.

OCC would impose a smaller minimum margin cushion on the out-of-the-money options.[21]

Unlike OCC's margin arrangements for equity options, the deposit of the underlying CD in respect of CD call options would not be permitted under the proposed rule change. At this time, OCC has not developed the systems necessary to administer a covered call writing program with respect to CD options. Also, OCC will not permit members, at this time, to cover short put positions by pledging Treasury bills in lieu of cash to secure their obligation to purchase the underlying CD. Although OCC allows clearing members to pledge Treasury bills in lieu of cash to cover short put positions with respect to equity options, OCC has not completed the necessary programming to effectuate covered puts on non-equity options. OCC has stated, however, that it will consider adding this feature for each of the non-equity option contracts in the future if demand warrants.

Under the proposed rule change OCC would also require margin on net exercised long option contracts that are out-of-the-money. The margin required on such out-of-the-money long contracts would be equal to 100% of the difference between the market value of the underlying CD and the aggregate exercise price plus a specified dollar amount determined by OCC (currently proposed to be $2,000).

Determinations Regarding OCC's Proposed CD Options Clearing Rules

Under Section 19(b)(2) of the Act, the Commission must approve OCC's proposed rule change if the Commission finds that it is consistent with the requirements of the Act and the rules thereunder applicable to registered clearing agencies. The principal provisions of the Act applicable to clearing agencies are contained in Section 17A. Paragraph (b)(3) of that Section requires that the rules of a clearing agency, among other things, be designed: (i) "to promote the prompt and accurate clearance and settlement of securities transactions," (ii) "to assure the safeguarding of funds and securities which are in the custody or control of the clearing agency," (iii) "to foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions," and (iv) "to remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions, and, in general, to protect investors and the public interest."

The Commission has determined that the proposed rules respecting CD options are consistent with the requirements of the Act. As discussed, OCC's proposed rules regarding CD options parallel the rules approved by the Commission for processing other non-equity options, particularly GNMAs,[22] and appear to be suitably designed to accommodate customary practices in the CD cash market.

In particular, the Commission believes that OCC's proposed systems for processing CD options transactions, as well as its proposed systems for processing and settling CD options exercises, appear reasonably designed to operate efficiently, accurately and safely. In making that determination, the Commission notes that OCC will use the same system for processing purchase and sales of CD options that it has successfully used to process purchases and sales of equity options. The Commission also notes that OCC's proposed rules for processing and settling CD option exercises are based on industry customs that have historically functioned well. The unique settlement arrangements (i.e., broker-to-broker settlement of CDs in New York City and calculation of the exercise settlement price by members) were approved by the Commission with respect to GNMA options. Further, the Commission believes that OCC's proposal to address and resolve disputes arising in the settlement process is well-designed and appropriate.

In addition to those general determinations, the Commission has carefully considered two areas of concern involved in OCC's proposal: (1) Adequacy of OCC margin on CD options and (2) alternative CD settlement procedures.

1. Adequacy of Margin Required on CD Options

In the GNMA rule change, OCC amended its margin rules to provide for margin on transactions in all debt securities. In this filing, as a result, OCC has proposed only minor changes in the margin rules to reflect technical differences between CD options and GNMA options.

In approving the GNMA margin rules, the Commission determined that it was appropriate with respect to debt securities: (i) To base margin for unassigned short positions on the current asked price of the option plus a minimum margin amount; (ii) to base margin for assigned short position on the difference between the market value of the underlying security and the aggregate exercise price plus a minimum margin amount; and (iii) to base margin for net long exercised positions that are out-of-the-money on the difference between the aggregate exercise price of the net long position and the market price of the underlying security plus a specified dollar amount. Accordingly, because the prices of GNMAs, Treasuries and CDs are largely controlled by interest rates and because those instruments display similar volatility characteristics, the Commission believes that the minimum margin approach is also appropriate for CD options.[23]

With respect to the minimum margin amount for CD options contracts, OCC stated that its election of a $2,000 minimum margin ceiling was based on a six month sample calculation run perfomed by OCC on CD transactions in the cash market. That run revealed that OCC would be fully protected against a one-day market movement in the price of the underlying CD on more than 97% of the days.[24] In those instances in which the market moves more than the minimum margin amount, OCC would invoke a same-day variation margin call pursuant to existing rules.[25]

---

[21] The maximum dollar amount that can be required as a minimum margin cushion is reduced by 25 for each percentage point a contract is out-of-the-money, down to a base of $250.

[22] As stated, the GNMA and CD cash market delivery customs are very similar.

[23] The formula for margin on short positions in debt securities differs from the formula used to calculate margin on short positions in equity securities. The "cushion" for the margin on equity securities is 30% of the current market price of the option. OCC has indicated to the Commission, however, that a specified dollar amount is more appropriate for debt options than a specified percentage of the market price for two reasons: (1) the adequacy of protection afforded by tying the protective cushion to premiums (as OCC does for equity options) depends on the relationship between premium levels and the price of the underlying security. If premium levels are high relative to the price of the underlying security (as is the case with stocks) the cushion should be adequate. If the premium levels are relatively low, however, (as is expected to be the case with CD's because of their relatively lower price volatility), it may not be adequate; and (2) a percentage-of-market-value approach can result in excessive margin for deep-in-the-money options, for which most of the market price is attributable to the intrinsic value of the option, rather than to volatility factors. *See* Order approving OCC's proposed GNMA options rules, Securities Exchange Act Release No. 19125 (October 14, 1982), 47 FR 46834 (October 21, 1982).

[24] Since trading in CD options has not begun, OCC can only project the relationship between market movement in the underlying currency and the volatility of premium levels. Nonetheless, OCC believes that its margin amounts for unassigned short positions are likely to be adequate in view of projected premium price movement.

[25] Existing OCC Rule 609 (variation margin) authorizes OCC to require the deposit of additional margin in respect of short positions whenever OCC believes it is necessary to adjust to significant changes in the market price.

In general, OCC's proposed margin rules with respect to CD options appear to be appropriate to protect OCC. The Commission, in the OCC's GNMA rule filing, has approved the minimum margin approach for options on debt securities. In addition, OCC's selection of the minimum margin amounts appears to be adequate to protect the interest of OCC and its members. We note in particular OCC's authority to require collateral as needed and OCC's plan to review the adequacy of the margin levels in light of experience and adjust them accordingly. Therefore, the Commission has determined that the proposed margin rules are consistent with the requirements of the Act.

2. Alternative Settlement Procedures

OCC's alternative settlement procedures for CD options are substantially similar to the "cash settlement" procedures for equity options and mirror the alternative settlement procedures approved by the Commission for GNMA and Treasury options. Each of those procedures requires OCC to make a determination, based on extraordinary circumstances in the maketplace, that a shortage in the supply of the underlying security exists that would prevent completion of all outstanding contracts if all such contracts were exercised. Although three of the provisions provided by the CD option proposal (cash settlement, suspension of settlement obligations and prohibition on the exercise of certain puts) parallel OCC's stock shortage rules,[26] an additional provision, "alternative delivery",[27] is unique to debt securities options. Alternative delivery is not used with respect to equity options because stocks of different classes and/or issuers are not fungible. However, the exercise settlement price of debt instruments with different interest rates and maturities may be adjusted to provide approximately equivalent yield to the instrument required to be delivered pursuant to the option contract. Accordingly, by requiring alternative delivery and simply adjusting the settlement price in the event of a shortage, OCC can give the holder approximately the same return it would have received had the option contract been specifically performed.

By their very nature, alternative settlement procedures are imperfect. For example, since clearing members may have redelivery obligations on the underlying CDs in the cash market, alternative delivery may cause that member's redelivery to fail. However, the ability to meet redelivery obligations in the cash market would also be in jeopardy whenever OCC invoked cash settlement or suspended settlement in response to a shortage in the supply of the underlying CD. Indeed, the shortage of supply could in theory frustrate delivery in any market for the underlying instrument. Moreover, both alternative delivery and cash settlement provide remedies to option writers and purchasers when ordinary performance is impossible, may serve as disincentives to manipulate the market by compounding a short squeeze, and can obviate any pricing dysfunctions that result from sudden market congestion. In addition, to the extent that receiving parties may avert adverse tax consequences through alternative delivery, that remedy may be preferable to cash settlement. Accordingly, the Commission believes that OCC's shortage of supply procedures are appropriate to protect OCC and the investing public in the event extraordinary market circumstances develop.

While OCC's alternative settlement procedures define the courses of action available to OCC in the event of a shortage of Treasury securities, the rule allows OCC a substantial range of discretion in directing alternative settlement procedures once such a determination is made. The proposed rule, for example, does not specify the standards to be used by OCC in pricing CDs delivered pursuant to alternative delivery directives or in determining a fair cash settlement price. Additionally, in contrast to the shortage of securities procedures respecting equity options, OCC has not adopted "interpretations" or "policies" that would shed light on the probable application of its alternative settlement procedures.

In support of the substantial discretion under the CD shortage of supply rules, OCC stated that the range of discretion it seeks should be measured in light of the absence of experience concerning CD options trading. The Commission believes that OCC's range of discretion is also supported by its need, as a guarantor of writers' performance, to limit exposure to OCC and its clearing members in the event deliveries are frustrated by a shortage in the supply of deliverable CDs.

The Commission has determined that both the provisions proposed for a CD shortage of supply and the degree of discretion afforded to OCC by its rule in this area are not inappropriate at this time. As noted above, three of the provisions proposed by this filing have been used appropriately in application to equity options. OCC has demonstrated a willingness with respect to equity options to amend its procedures and adopt interpretations and policies based on experience. Further, the Commission believes that any inconvenience in the market place caused by uncertainty as to the operation of the alternative settlement procedures [28] is outweighed by OCC's need, at the outset of CD options trading, to invoke measures that will protect investors and insure the financial integrity of OCC, consistent with the orderly processing and settlement of CD options exercises.

Conclusion

The Commission has carefully reviewed OCC's proposal and believes that the proposed rules appear suitably designed at the outset of trading to provide for the safe and efficient clearance and settlement of CD options. In particular, the Commission believes that the proposed margin levels for CD options are appropriately based on realistic volatility models of the underlying instruments and should help ensure that OCC is reasonably protected in processing and settling CD options transactions. OCC's proposed exercise settlement system appears well designed to accommodate present industry practices and, as such, is consistent with the orderly processing of CD option exercises. Finally, OCC's rule respecting alternative settlement procedures appear adequate to address a shortage in the underlying CDs.

In accordance with the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered clearing agencies, and, in particular, the requirements of Section 17A of the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change be, and it hereby is, approved.

---

[26] Those equity option rules were approved by the Commission in Securities Exchange Act Release No. 17124 (September 5, 1980). 45 FR 60100 (September 11, 1980).

[27] Alternative delivery permits an assigned call writer or an exercising put holder to make settlement by delivering top-tier CDs that differ from the CDs contracted for, as to the term to maturity at original issuance, and/or the half month period in which the certificates will mature.

[28] OCC has described its alternative settlement procedures in its Options Disclosure Document.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-34645 Filed 12-22-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 19341; File No. SR-Phlx-82-15]

Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc.

December 15, 1982.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. § 78s(b)(1), notice is hereby given that on December 6, 1982, the Philadelphia Stock Exchange, Inc. ("Phlx") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change provides for an increase in position and exercise limits to 3,000 contracts.[1] Currently, Phlx Rule 1001 provides that aggregated option positions may not exceed 2,000 contracts on the same side of the market in the same underlying equity security and Rule 1002 provides that the aggregate number of equity option contracts of a particular class exercised in any five consecutive days may not exceed 2,000 contracts. Phlx contends that the proposed rule change is necessary at this time because the current limits unduly constrict options trading to the detriment of market depth and liquidity. It argues that the potential for short squeezes should be controlled directly by imposing limitations on uncovered writing rather than indirectly by means of position and exercise limits. If further states that protection against financial exposure is better accomplished through suitability, margin and net capital rules rather than through imposition of position and exercise limits.[2]

In order to assist the Commission in determining whether to approve the proposed rule change or institute proceedings to determine whether the proposed rule change should be disapproved, interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the **Federal Register**. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, DC 20549. Reference should be made to File No. SR-PSE-82-13.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-34644 Filed 12-22-82; 8:45 am]

BILLING CODE 8010-01-M

---

[1] On October 22, 1982, the Commission approved position and exercise limit increases from 1,000 to 2,000 option contracts. *See* Securities Exchange Act Release No. 17237.

[2] The Chicago Board Options Exchange, Incorporated ("CBOE") and the Pacific Stock Exchange, Incorporated ("PSE") also have submitted proposals to increase position and exercise limits for options on equity securities from 2,000 to 3,000 contracts. *See* Securities Exchange Act Release Nos. 19209 (November 1, 1982), 47 FR 50793 (November 9, 1982) and 19250 (November 16, 1982), 47 FR 43554 (November 26, 1982). The CBOE recently has submitted a second proposal to increase limits to 5,000 contracts. *See* Securities Exchange Act Release No. 19252 (November 16, 1982), 47 FR 53550 (November 26, 1982).

SMALL BUSINESS ADMINISTRATION

[Application No. 03/03-5156]

Basic Investment Corp.; Application for a License To Operate as a Small Business Investment Company

An application for a license to operate as a small business investment company under the provisions of Section 301(d) of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 *et seq.*), has been filed by Basic Investment Corporation (Basic), with the Small Business Administration (SBA), pursuant to 13 CFR 107.102 (1982).

The officers, directors, and stockholders of Basic are as follows:

Name and address	Title	Percentage ownership of corporation
Frank F. Luwis, 1016 Towlston Road, McLean, Virginia 22102.	President and Chairman of the Board.	50
Ridgway B. Espy, Jr., 861 Canal Drive, McLean, Virginia 22102.	Vice President and General Manager.	.....
Brenda J. Luwis, 1016 Towlston Road, McLean, Virginia 22102.	Secretary and Director....	50
Edward A. Sandler, 7801 Lewinsville Road, McLean, Virginia 22102.	Treasurer and Director.....	.....

Basic, a Virginia corporation, with its principal place of business located at 6723 Whittier Avenue, McLean, Virginia 22101, will begin operations with $500,000 of private capital derived from the sale of common and preferred stock.

Basic will conduct its activities principally in Virginia, Maryland, and the District of Columbia.

As a small business investment company under Section 301(d) of the Act, the Applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Small Business Investment Act of 1958, as amended, from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the Applicant include the general business reputation and character of the proposed owners and management, and the probability of successful operation of the Applicant under this management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, not later than 15 days from the date of publication of this notice, submit to SBA written comments on the proposed Applicant. Any such communication should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in McLean, Virginia.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: December 20, 1982.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 82-34890 Filed 12-22-82; 8:45 am]

BILLING CODE 8025-01-M

[License No. 04/04-0105]

C & C Capital Corp.; License Surrender

Notice is hereby given that C & C Capital Corporation, 531 S. Gay Street, Knoxville, Tennessee 37901 has surrendered its license to operate as a small business investment company under the Small Business Investment Act of 1958, as amended (the Act). C & C Capital Corporation was licensed by the Small Business Administration on November 6, 1973.

Under the authority vested by the Act and pursuant to the regulations promulgated thereunder, the surrender of the license was accepted on December 14, 1982, and accordingly, all rights privileges, and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: December 20, 1982.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 82-34891 Filed 12-22-82; 8:45 am]

BILLING CODE 8025-01-M

[Application No. 03/03-0155]

Security Capital Corp.; Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1982)), under the name Security Capital Corporation, 1509 22nd Street, NW., Washington, D.C. 20037, for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (the Act), (15 U.S.C. 661 *et seq.*), and the Rules and Regulations promulgated thereunder.

The proposed officers, directors and shareholders of the Applicant are as follows:

Jacob I. Krampf, 412 Kimblewick Drive, Silver Spring, Maryland 20904.	President, Director, 16 percent shareholder.
William Hoffman, 4102 Windridge Road, Pikesville, Maryland 21208.	Vice President, Director, 25 percent shareholder.
Barry H. Deutschman, 11430 Strand Drive Rockville, Maryland 20852.	Secretary, Director, 34 percent shareholder.
Anthony D. Triplin, 12910 Manor Road, Glen Arm, Maryland 21057.	Treasurer, Director, 25 percent shareholder.

There is one class of stock authorized: 25,000 shares of common stock. Initially only 5,200 shares will be issued with a resultant private capital of $520,000. Applicant proposes to conduct its operations principally in Washington, D.C. and the Washington, D.C. Metropolitan area.

Matters involved in SBA's consideration of the application include the general business reputation and character of the propose owners and management, and the probability of successful operation of the Applicant under their management, including adequate profitability and financial soundness, in accordance with the Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, not later than fifteen (15) days from the date of publication of this Notice, submit to SBA, in writing, comments on the proposed licensing of this company. Any such communications should be addressed to: Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A copy of this notice will be published in a newspaper of general circulation in Washington, D.C.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: December 20, 1982

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 82-34892 Filed 12-22-82; 8:45 am]

BILLING CODE 8025-01-M

[Application No. 03/03-0154]

Suburban Capital Corp.; Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1982)), under the name of Suburban Capital Corporation, 6610 Rockledge Drive, Bethesda, Maryland 20817, for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (the Act), (15 U.S.C. 661 *et seq.*), and the Rules and Regulations promulgated thereunder.

The proposed officers, directors and sole shareholder of the Applicant are as follows:

G. J. Manderfield, 1098 Swan Point Road, Woodbridge, Virginia 22192	President, Director
Warren P. Rothe, 154 Cardamon Drive, Edgewater, Maryland 21037	Vice President, Secretary, General Manager, Director.
Dennis R. Hanson, 4992 Tall Oak Drive, Monrovia, Maryland 21770.	Vice President, Treasurer, Comptroller, Director
Suburban Bank, 6610 Rockledge Drive, Bethesda, Maryland 20817	Sole shareholder

Suburban Bank is a wholly-owned subsidiary of Suburban Bancorp, a multibank holding company headquartered in Bethesda, Maryland. On September 30, 1982, Suburban Bancorp had assets totalling $1.911 billion and had approximately 7,100 shareholders. Suburban Bank is the fourth largest bank in Maryland.

The Applicant has one class of stock authorized: 5,000 shares of common stock. Initially only 1,000 shares will be issued with a resultant private capital of $1.0 million. Applicant proposes to conduct its operations principally in the State of Maryland.

Matters involved in SBA's consideration of the application include the general business reputation and charter of the proposed owner and management, and the probability of successful operation of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, not later than fifteen (15) days from the date of publication of this Notice, submit to SBA, in writing, comments on the proposed licensing of this company. Any such communications should be addressed to: Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this notice will be published in a newspaper of general circulation in Bethesda, Maryland.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: December 8, 1982.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 82-34869 Filed 12-22-82; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 82-110]

Chemical Transportation Advisory Committee; Subcommittee on Chemical Vessels; Public Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Chemical Transportation Advisory Committee's Subcommittee on Chemical Vessels to be held: Wednesday, January 26, 1983, 9:00 a.m., Room 4234, Dept. of Transportation Headquarters Building, 400 Seventh St., SW., Washington, D.C.

The Subcommittee will review a draft revision of 46 CFR part 151. Attendance is open to the interested public. With advance notice to the Chairman, members of the public may present oral statements at the meeting. Persons requesting additional information or wishing to present oral statements should contact: Mr. R. M. Query, U.S. Coast Guard (G-MTH-1), 2100 Second St., SW., Washington, D.C. 20593, (202) 426-1217.

Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C., on December 16, 1982.

Clyde T. Lusk, Jr.,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc. 82-34819 Filed 12-22-82; 8:45 am]

BILLING CODE 4910-14-M

[CGD 82-111]

Chemical Transportation Advisory Committee; Subcommittee on Liquefied Gas Ships; Public Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Chemical Transportation Advisory Committee's Subcommittee on Gas Ships to be held: Tuesday, February 1, 1983, 9:00 a.m. Room 1303, Coast Guard Headquarters Building, 2100 Second St., SW., Washington, D.C.

The agenda for the meeting is as follows:

1. To review draft Coast Guard regulations which implement those standards of the International Maritime Organization (IMO) *Code for Existing Ships Carrying Liquefied Gases in Bulk* that exceed present U.S. regulations for *existing* liquefied gas ships.

2. To prepare a cost analysis for revision of U.S. regulations for existing liquefied gas ships.

Attendance is open to the interested public. With advance notice to the Chairman, members of the public may present oral statements at the meeting. Persons wishing to attend or to present oral statements should notify: Dr. Anthony Rowek, U.S. Coast Guard (G-MTH-1), 2100 Second St., SW., Washington, D.C. 20593, (202) 426-1217.

Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C., on December 16, 1982.

Clyde T. Lusk, Jr.,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc. 82-34820 Filed 12-22-82; 8:45 am]

BILLING CODE 4910-14-M

Federal Aviation Administration

Air Traffic Procedures Advisory Committee; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. T) notice is hereby given of a meeting of the Federal Aviation Administration Air Traffic Procedures Advisory Committee to be held from January 17, at 1 p.m., through January 21, 1983, at 1 p.m., at the FAA Southwest Region Headquarters, 4400 Blue Mound Road, Fort Worth, Texas.

The agenda for this meeting is as follows: A continuation of the Committee's review of present air traffic control procedures and practices for standardization, clarification, and upgrading of terminology and procedures

Attendance is open to the interested public but limited to the space available. With the approval of the Chairman, members of the public may present oral statments at the meeting. Persons desiring to attend and persons desiring to present oral statements should notify, not later than the day before the meeting, and information may be obtained from Mr. L. Lane Speck, Executive Director, Air Traffic Procedures Advisory Committee, Air Traffic Service, AAT-301, 800 Independence Avenue, S.W., Washington, D.C. 20591, telephone (202) 426-3725.

Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, D.C., on December 14, 1982.

L. Lane Speck,

Executive Director, Air Traffic Procedures Advisory Committee.

[FR Doc. 82-34476 Filed 12-22-82; 8:45 am]

BILLING CODE 4910-13-M

Radio Technical Commission for Aeronautics (RTCA), Executive Committee; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act. (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the RTCA Executive Committee to be held on January 12, 1983, in RTCA Conference Room, Suite 500, 1425 K Street, NW., Washington, D.C. commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Approval of Minutes of Meeting Held on November 17, 1982; (2) Chairman's Report on RTCA Administration and Activities; (3) Special Committee Activities Report for November and December, 1982; (4) Consideration of Establishing New Special Committees; (5) Report of Fiscal and Management Subcommittee; (6) Mid-Year Review of RTCA Budget; and (7) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, Suite 500, 1425 K Street, NW., Washington, D.C. 20005, (202) 682-0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C., on December 14, 1982.

Karl F. Bierach,

Designated Officer.

[FR Doc. 82-34477 Filed 12-22-82; 8:45 am]

BILLING CODE 4910-13-M

Radio Technical Commission for Aeronautics (RTCA), Special Committee 137—Airborne Area Navigation System; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of RTCA Special Committee 137 on Airborne Area Navigation Systems to be held on

January 25–27, 1983, in the RTCA Conference Room, Suite 500, 1425 K Street, NW., Washington, D.C. commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Approval of Minutes of Eleventh Meeting Held on September 14–16, 1982; (3) Review Status of Committee Report on Minimum Operational Performance Standards for VOR/DME Based Airborne Area Navigation Equipment; (4) Review Third Draft of Committee Report on Minimum Operational Performance Standards for Loran-C Based Area Navigation Equipment; (5) Review Third Draft of Committee Report on Minimum Operational Performance Standards for Omega Based Area Navigation Equipment; (6) Review Third Draft of Committee Report on Minimum Operational Performance Standards for Multi-Sensor Based Area Navigation Equipment; (7) Assignment of Tasks; and (8) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, Suite 500, 1425 K Street, NW., Washington, D.C. 20005; (202) 682–0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C., on December 16, 1982.

Karl F. Bierach,

Designated Officer.

[FR Doc. 82–34582 Filed 12–22–82; 8:45 am]

BILLING CODE 4910–13–M

Radio Technical Commission for Aeronautics (RTCA), Special Committee 147—Traffic Alert and Collision Avoidance Systems; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. I) notice is hereby given of a meeting of RTCA Special Committee 147 on Traffic Alert & Collision Avoidance Systems to be held on January 18–20, 1983, in the RTCA Conference Room, Suite 500, 1425 K Street, NW., Washington, D.C. commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Approval of Minutes of the Tenth Meeting Held on October 26–28, 1982; (3) Review of TCAS–I Working Group Activities; (4) Review of Third Draft Report on Minimum Operational Performance Standards for TCAS; (5) Review of European Organization for Civil Aviation Electronics (EUROCAE) Comments on Draft TCAS Performance Standard; (6) Review of Collision Avoidance Algorithm for Minimum TCAS–II Equipment; and (7) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, Suite 500, 1425 K Street, NW., Washington, D.C. 20005; (202) 682–0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C., on December 14, 1982.

Karl F. Bierach,

Designated Officer.

[FR Doc. 82–34475 Filed 12–22–82; 8:45 am]

BILLING CODE 4910–13–M

Reorganization of Engineering Functions

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice is hereby given that on October 4, 1982, the Federal Aviation Administration's engineering and maintenance organizations were restructured and consolidated into a new organization.

a. The Associate Administrator for Engineering and Development, the Associate Administrator for Air Traffic and Airway Facilities, the Airway Facilities Service, the Systems Research and Development Service, and the Office of Systems Engineering Management are abolished.

b. The Associate Administrator for Development and Logistics (ADL) is established. The Systems Engineering Service (AES) and the Program Engineering and Maintenance Service (APM) are established. The new services report to the new Associate Administrator. The FAA Technical Center (ACT) located near Atlantic City, New Jersey, also reports to the Associate Administrator for Development and Logistics.

c. The Air Traffic Service (AAT) reports directly to the Administrator.

d. The Logistics Service (ALG) is retitled the Acquisition and Materiel Sevice. However, functional responsibilities and routing symbol remain unchanged.

Under the reorganization, full responsibility and accountability to accomplish the National Airspace System Plan, other than the Advanced Automation Program, are vested in a single organization. The Program Engineering and Maintenance Service and the FAA Technical Center are responsible for managing, directing, and executing FAA's implementation and maintenance engineering and research and development activities related thereto. The Systems Engineering Service provides the overall system engineering and configuration management for the National Airspace System. It also identifies and translates user and system requirements; conducts system studies, and advanced technology and concepts development efforts. The new organizations became operational on October 4, 1982.

(Secs. 301, 302, 303, 307, and 313 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1341, 1342, 1343, and 1354); and the Administrative Procedure Act, as amended (5 U.S.C. 552(a)(1)))

Issued in Washington, D.C. on December 13, 1982.

J. Lynn Helms

Administrator.

[FR Doc. 82–34583 Filed 12–22–82; 8:45 am]

BILLING CODE 4910–13–M

Intent To Prepare an Environmental Impact Statement of Proposed Improvements, Alterations and Additions at Kenosha Municipal Airport, Kenosha, Wisconsin

The Federal Aviation Administration, Great Lakes Region, intends to prepare an Environmental Impact Statement for acquistion of approximately 494 acres of land to construct a new basic transport Runway 6L/24R with a full instrument landing system and extend Runway 14/32 600' to the northwest.

Alternatives to be considered are: Expand another airport, develop a new airport on a new site, widen and lengthen Runway 14/32 600' to the northwest as a secondary runway and construct a new primary runway 150' x 5500' with a precision instrument landing system, investigate alternative runway alignments and to do nothing.

No scoping meeting is planned.

Additional information concerning the proposed project may be obtained by contacting: Glen Orcutt, Airports Planner, Federal Aviation Administration, Airports District Office, 6301 34th Avenue South, Minneapolis, Minnesota, 55450. Telephone: (612) 725–3346.

Dated: November 24, 1982.

David Drystad,

Supervisor, Wisconsin Section, Minneapolis, Minnesota Airports District Office.

[FR Doc. 82-34668 Filed 12-22-82; 8:45 am]

BILLING CODE 4910-13-M

Eighth Annual FAA Aviation Forecast Conference; Meeting

Notice is hereby given that the Eighth Annual FAA Aviation Forecast Conference will be held at the Hyatt Regency Crystal City, Arlington, Virginia on February 24, 1983. Registration will begin at 8:00 a.m.

The theme of the conference is "Aviation Forecasting: The State of the Art". Three panels have been organized to address this topic. They are: (1) Air Carrier Forecast Models, (2) General Aviation Forecast Models, and (3) Helicopter Forecast Models. Each panel presentation will be followed by a question and answer period.

Attendance is open to all interested parties, but limited space is available. Persons wishing further information should contact Virginia Price at (202) 426-3103.

Issued in Washington, D.C. on December 17, 1982.

Thomas P. Messier,

Deputy Director of Aviation Policy and Plans.

[FR Doc. 82-34709 Filed 12-22-82; 8:45 am]

BILLING CODE 4910-13-M

National Airspace Review; Meeting

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of Meeting.

SUMMARY: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-283; 5 U.S.C. App. 1) notice is hereby given of a meeting of Task Group 1-1 of the Federal Aviation Administration (FAA) National Airspace Review Advisory Committee. The agenda for this meeting is as follows: review of National Security Areas and Flight Test Areas.

DATE: Beginning January 31, 1983 at 11 a.m., continuing daily, except Saturdays, Sundays and holidays, not to exceed three weeks.

ADDRESS: The meeting will be held at the Federal Aviation Administration, Rooms 9A and 9B, 800 Independence Avenue, SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: National Airspace Review Program Management Staff, room 1005, Federal Aviation Administration, 800 Independence Avenue, SW., AAT-30, Washington, D.C. 20591, (202) 426-3560.

Attendance is open to the interested public, but limited to the space available. To ensure consideration, persons desiring to make statements at the meeting should submit them in writing to the Executive Director, National Airspace Review Advisory Committee, Air Traffic Service, AAT-1, 800 Independence Avenue, SW., Washington, D.C. 20591, by January 24, 1983. Time permitting and subject to the approval of the chairman, these individuals may make oral presentations of their previously submitted statements.

Issued in Washington, D.C. on December 17, 1982.

Karl D. Trautmann,

Program, Manager, NARAC.

[FR Doc. 82-34711 Filed 12-22-82; 8:45 am]

BILLING CODE 4910-13-M

Maritime Administration

Notice of Approval of Applicant as Trustee

Notice is hereby given that The Bank of New York, with offices at 48 Wall Street, New York, New York, has been approved as Trustee pursuant to Public Law 89-346 and 46 CFR 221.21-221.30.

Dated: December 20, 1982.

By Order of the Maritime Administrator.

Georgia P. Stamas,

Assistant Secretary.

[FR Doc. 82-34695 Filed 12-22-82; 8:45 am]

BILLING CODE 4910-81-M

Notice of Approval of Applicant as Trustee

Notice was given in the Federal Register that on January 31, 1973, Hartford National Bank and Trust Company, Hartford, Connecticut was approved as a trustee pursuant to Public Law 89-346 and 46 CFR 221.21-221.30.

Effective October 30, 1982, The Connecticut National Bank of Bridgeport, Connecticut was merged into Hartford National Bank and Trust Company; The Connecticut National Bank of Bridgeport, Connecticut, ceased to exist, and Hartford National Bank and Trust Company was renamed The Connecticut National Bank.

Notice is hereby given that the merged bank, The Connecticut National Bank, with offices at 777 Main Street, Hartford, Connecticut, has been approved as a trustee pursuant to Pub. L. 89-346 and 46 CFR 221.21-221.30.

Dated: December 20, 1982.

By Order of the Maritime Administrator.

Georgia P. Stamas,

Assistant Secretary.

[FR Doc. 82-34694 Filed 12-22-82; 8:45 am]

BILLING CODE 4910-81-M

National Highway Traffic Safety Administration

Denial of Petition for Defect Hearing

This notice sets forth the reasons for the denial of a petition by Robert Spencer of North Pole, Alaska, to have a hearing to determine whether a manufacturer had reasonably met its obligation to notify purchasers of the existence of a safety-related defect (15 U.S.C. 1416).

On September 28, 1982, Mr. Spencer wrote NHTSA alleging a "situation of gasoline spraying out when the tank is full, or the very strong gasoline smell inside the vehicle, even when the tank is not full," on his Volkswagen Rabbit. He stated that he had been into his local dealer three times in response to the manufacturer's notification of campaign, and that the condition persisted. NHTSA contacted Volkswagen of America, Inc., who arranged for a further inspection and repair of Mr. Spencer's car. Mr. Spencer's complaint was found to be valid, but unrelated to the campaign, and the problem was corrected to his satisfaction. Because Volkswagen had met its responsibility to correct a safety-related defect in the vehicle in question, Mr. Spencer's petition was denied on December 1, 1982.

(Sec. 156, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1416); delegations of authority at 49 CFR 1.50 and 501.8)

Issued on December 15, 1982.

Lynn L. Bradford,

Associate Administrator for Enforcement.

[FR Doc. 82-34627 Filed 12-22-82; 8:45 am]

BILLING CODE 4910-59-M

Office of the Secretary

[Notice No. 82-11]

Administrative Recoveries of Overcharges Attributable to Fraud and Waste, Including Bid-Rigging, in DOT Financial Assistance Programs

AGENCY: Office of the Secretary (OST), (DOT).

ACTION: Policy statement.

SUMMARY: This notice sets forth the Department of Transportation's policy regarding recovery of overcharges caused by fraud and abuse and

reimbursing the Federal share of these recoveries to the Department.

FOR FURTHER INFORMATION CONTACT: Paul B. Larsen, Office of General Counsel, 400 Seventh Street, SW., Room 10424, Washington, D.C. 20950. (202) 426–4710.

SUPPLEMENTARY INFORMATION: Collusive bidding practices by private contractors on federally aided transportation contracts is a matter of grave concern to this Department. The Department of Justice, assisted by this Department's Office of Inspector General, has investigated antitrust and other criminal offenses involving federally assisted contracts in 17 states since 1979. Through these efforts, almost 300 convictions of contracting firms and individual company officers have been obtained for such offenses as bid-rigging, false statements, and mail fraud.

Many of these convictions were related to projects for which this Department provided substantial Federal financial assistance. In these cases, the Department has successfully pursued contract measures against involved firms and individuals. For example, since 1979 the Federal Highway Administration (FHWA) has found about 150 firms and individuals unacceptable for future contracting on Federal-aid highway projects for periods of six months to three years (Procedures are set out in 23 CFR Part 16). Additional actions have been taken by the Federal Aviation Administration (FAA), which does not have procedures on suspensions and debarments.

Collusive bidding schemes invariably result in higher bid prices, and, therefore, in higher costs to the public. Contractors who are assured of being the low bidder on a particular contract because of collusive bidding arrangements with their potential competitors have little incentive to pare their bid prices to a competitive minimum. The actual contract costs for federaly assisted transportation projects where bids have been rigged have probably been substantially higher than the costs of these same projects would have been, given effective competition.

Recipients of Department financial assistance programs include states, local governments, and other public agencies (e.g., transit and airport authorities). Under DOT grant programs, these recipients routinely enter into contracts with private firms and assume the responsibility for administering Federal bidding and other contractual requirements. Many of these grant recipients have brought independent criminal and civil actions against firms and individuals who have been implicated in illegal bidding and contracting activities, with resulting dollar recoveries for overpayments. The Department vigorously supports these actions by grant recipients to recover such overpayments.

Unfortunately, recent experience has demonstrated that some recipients of DOT financial assistance who have made substantial recoveries from bid riggers have failed to reimburse the Department for the proper Federal share of those recoveries. Such reimbursement is clearly appropriate, since the recipient's recovery has had the effect of reducing the total cost of the projects on which the bid rigging took place.

It is the policy of this Department that overcharges on DOT-assisted projects, whether through bid rigging or through any other form of fraud or waste, should be recouped to the maximum extent possible, and that the appropriate Federal share of these overcharges should be returned to the involved DOT element. To implement this policy, each element of this Department that conducts a grant program has been directed to prepare and publish specific guidelines and procedures for recovering such overcharges.

Issued in Washington, D.C., on December 16, 1982.

Andrew L. Lewis,

Secretary of Transportation.

[FR Doc. 82-34825 Filed 12-22-82; 8:45 am]

BILLING CODE 4910-62-M

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

[Docket No. 82-27]

Termination of Closed Receivership Fund; First Notice

AGENCY: Comptroller of the Currency, Treasury.

ACTION: Notice of termination.

SUMMARY: Notice is hereby given that all rights of depositors and other creditors of national banks which have been closed and for which the Comptroller has appointed a receiver other than the Federal Deposit Insurance Corporation to collect liquidating dividends from the "closed receivership fund" shall be barred after twelve months following the date of the fourth publication of this notice.

FOR FURTHER INFORMATION CONTACT: Howard J. Finkelstein, Attorney, Legal Advisory Services Division, Comptroller of the Currency, Washington, D.C. 20219, (202) 447–1880.

SUPPLEMENTARY INFORMATION: Pursuant to Section 409 of the Garn-St Germain Depository Institutions Act of 1982, Pub. L. 97–320 (October 15, 1982), notice is hereby given that all rights of depositors and other creditors of closed national banks to collect liquidating dividends from the "closed receivership fund" will be barred after twelve months following the date of the fourth publication of this notice.

Sections 721–723 of the Depository Institutions Deregulation and Monetary Control Act of 1980 clarified the status of the "closed receivership fund" by establishing a procedure for the satisfaction or cancellation of all outstanding claims for liquidating dividends and the termination of the fund. However, the 1980 law applied only to national banks closed on or before January 22, 1934. After the law was passed it came to the Office's attention that there had been at least one bank closed after the above date for which the Comptroller appointed a receiver other than the Federal Deposit Insurance Company. The Office therefore sought clarification of the 1980 law from Congress. Congress provided such clarification in Section 409 of Pub. L. 97–320 by striking the date of January 22, 1934 from the statute and substituting therefor the phrase "which have been closed and for which the Comptroller has appointed a receiver other than the Federal Deposit Insurance Corporation."

Under the provisions of the amended law, the Office will publish notices in the **Federal Register** once each week for four consecutive weeks that all rights of depositors and creditors of the fund will be barred after twelve months following the last date of publication of such notice. This is the first such notice. During this twelve month period, the Office will accept claims for liquidating dividends from the fund. A claim should consist of a Proof of Claim form received from the receiver at the time of the bank's closing or other acceptable evidence of an unsatisfied claim. Claims should be sent to the attention of Mr. Robert L. Teets, Manager, Accounting Programs, Office of the Comptroller of the Currency, 490 L'Enfant Plaza East, SW., Washington, D.C. 20219.

Following the close of the twelve month period, all unclaimed dividends, together with income earned on liquidating dividends and other moneys remaining in the fund, will be covered into the general funds of the Office.

Dated: December 2, 1982

C. T. Conover,
Comptroller of the Currency.

[FR Doc. 82-34793 Filed 12-22-82; 8:45 am]
BILLING CODE 4810-33-M

Customs Service

[T.D. 83-3]

Revocation of Customhouse Cartman's License No. 1816 Issued by District (Area) Director of Customs, Newark to Port Terminal Refrigerated Transport, Inc.

Notice is hereby given that on December 16, 1982, pursuant to the provisions of section 565, Tariff Act of 1930, as amended, and § 112.30 of the Customs Regulations (19 CFR 112.30), it was decided to revoke the Customhouse Cartman's License No. 1816 issued to Port Terminal Refrigerated Transport, Inc. of Port Newark, New Jersey. This revocation is effective as of January 6, 1982.

William von Raab,
Commissioner of Customs.

[FR Doc. 82-34860 Filed 12-22-82; 8:45 am]
BILLING CODE 4820-02-M

[T.D. 83-2]

Customhouse Cartman's License; Suspension of Customhouse Cartman's License, Number JFKIA-91, Issued by District (Area) Director of Customs, New York, to DRD Fast Freight, Inc.

Notice is hereby given that the Commissioner of Customs on December 16, 1982, pursuant to Section 565, Tariff Act of 1930, as amended (19 U.S.C. 1565), and Part 112 of the Customs Regulations, as amended (19 CFR 112), it was decided to suspend for a period of ninety days the customhouse cartman's license of DRD Fast Freight, Inc., Number JFKIA-91, dated May 5, 1981.

This suspension becomes effective as of January 1, 1983.

William von Raab,
Commissioner of Customs.

[FR Doc. 82-34849 Filed 12-22-82; 8:45 am]
BILLING CODE 4820-02-M

Fiscal Service

Renegotiation Board Interest Rate; Prompt Payment Interest Rate

The Renegotiation Board previously published the rate of interest determined by the Secretary of the Treasury pursuant to section 105(b)(2) of the Renegotiation Act of 1951, as amended. Since the Renegotiation Board is no longer in existence, the Department of the Treasury is publishing the current rate of interest. Also, pursuant to section 2(b)(1) of Pub. L. 97-177, dated May 21, 1982, the Secretary of the Treasury is responsible for computing and publishing the interest rate to be used in cases under the Prompt Payment Act.

Therefore, notice is hereby given that, pursuant to the above mentioned sections, the Secretary of the Treasury has determined that the rate of interest applicable for the purpose of said sections, for the period beginning January 1, 1983 and ending on June 30, 1983, is 11¼ per centum per annum.

Dated: December 20, 1982.

Gerald Murphy,
Acting Fiscal Assistant Secretary.

[FR Doc. 82-34902 Filed 12-22-82; 8:45 am]
BILLING CODE 4810-35-M

Office of the Secretary

Public Information Collection Requirements Submitted to OMB for Review

During the period December 10 through December 16, 1982, the Department of Treasury submitted the following public information collection requirements to OMB, for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of these submissions may be obtained from the Treasury Department Clearance Officer, by calling (202) 634-2179. Comments regarding these information collections should be addressed to the Treasury Reports Management Officer, Information Resources Management Division, Room 309, 1625 I St. NW., Washington, D.C. 20220; and to the OMB reviewer listed at the end of entry.

Date submitted: December 13, 1982.
Submitting bureau: Internal Revenue Service.
OMB No. 1545-0087.
Form No. 1040-ES, 1040-ES(NR), 1040-ES(Espanal) and 1040-ES(NMI)
Type of submission: Extension.
Title: Estimated Tax for (1) Individual, (2) for Nonresident Aliens, (3) for use in Puerto Rico and (4) for use in Northern Marland Islands.
Purpose: Form 1040-ES is used by individuals to make estimated tax payments for the taxable year of their gross income exceeds the limits of section 6015(a) unless their estimation tax is expected to be less than $300. The date is used to determine whether taxpayers are paying the correct tax during the year.
OMB reviewer: Michael Abrahams (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

* * * * *

Date submitted: December 13, 1982.
Submitting bureau: Internal Revenue Service.
OMB No. N/A (new submission).
Form No. W-4S.
Type of submission: New.
Title: Request for Federal Income Tax Withholding from Sick Pay.
Purpose: Section 3402(o) of the Internal Revenue Code extends income tax withholding to sick pay payments made by third parties upon request of the payee. The information is used to determine the amount to be withheld from the third party sick pay payments.
OMB reviewer: Michael Abrahams (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

* * * * *

Date submitted: December 13, 1982.
Submitting bureau: Internal Revenue Service.
OMB No. 1545-0363.
Form No. 6355.
Type of submission: Revision.
Title: Worksheet to Determine Withholding Allowances.
Purpose: Form 6355 is used in conjunction with Letters 1380, 1407 and 1658 (SC/DO) to contact employees who file Forms W-4 claiming 15 or more withholding allowances. The IRS this information to determine the number of withholding allowances the employee is entitled to claim.
OMB reviewer: Michael Abrahams (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Date submitted: December 14, 1982.
Submitting bureau: Alcohol, Tobacco and Firearms.
OMB No.: 1512-0112.
Form No.: ATF F 2105(5000.7).
Type of submission: Extension.
Title: Extension of Coverage of Bond.
Purpose: After an original bond gets filed, it may be necessary to extend the terms of the bond beyond the terms originally agreed upon by the surety. The form is used in those instances. It exceeds the bond protection on Federal taxes.
OMB reviewer: Arnold Strasser (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

* * * * *

Date submitted: December 14, 1982.

Submitting bureau: Alcohol, Tobacco and Firearms.
OMB No.: 1512–0142.
Form No.: ATF F 2734(5100.25).
Type of submission: Extension.
Title: Specific Export Bond-Distilled Spirit or Wine.
Purpose: This bond is necessary to ensure payment of tax in a specific shipment of spirits or wine until actually exported from the U.S. It describes the person (other than DSP proprietor), surety company, and particular conditions of the bond. Description of the shipments covered is also on the form. If the shipment is not exported lawfully, the form secures payment of the tax.
OMB reviewer: Arnold Strasser (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

* * * * *

Date submitted: December 14, 1982.
Submitting bureau: Alcohol, Tobacco and Firearms.
OMB No.: 1512–0145.
Form No.: ATF F 2737.
Type of submission: Extension.
Title: Continuing Transportation Bond—Distilled Spirits and Wines withdrawn for Transportation to Manufacturing Bonded Warehouse—Class Six.
Purpose: Form secures payment of tax on distilled spirits or wine to be shipped w/o payment of tax to a CBW in case of diversion for taxable uses or withdrawals. Describes the CBW, surety company amount of bond and coverage and conditions that the CBW (Customs bonded warehouse) and surety company must adhere to and pay the U.S. Government.
OMB reviewer: Arnold Strasser (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

* * * * *

Date submitted: December 14, 1982.
Submitting bureau: Alcohol, Tobacco and Firearms.
OMB No.: 1512–0038.
Form No.: ATF F 5030.6.
Type of submission: Extension.
Title: Authorization to Furnish Financial Information (Rights to Financial Privacy Act of 1978).
Purpose: Forms allows ATF to examine a bank account for investigation purposes and documents ATF Compliance with 27 U.S.C. 204. The form describes the bank account to be examined, authorization by the business or individual, and the purpose for which disclosure is to be made.
OMB reviewer: Arnold Strasser (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

* * * * *

Date submitted: December 14, 1982.
Submitting bureau: Alcohol, Tobacco and Firearms.
OMB No.: 1545–0081.
Form No.: ATF F 1566–A (5130.23).
Type of submission: Extension.
Title: Brewers Bond Continuation Certificate.
Purpose: If an existing brewers bond is filed on ATF 1566 is to be continued by the surety, then the brewer may submit in lieu of a new bond, this form ATF F 1566–A which will continue the bond for a succeeding period of not less than 4 years.
OMB Reviewer: Arnold Strasser, (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

* * * * *

Date submitted: December 14, 1982.
Submitting bureau: Alcohol, Tobacco and Firearms.
OMB No.: 1535–0209.
Form No.: ATF F 5110.50.
Type of submission: Extension.
Title: Tax Deferral Bond-Distilled Spirits (Puerto Rico).
Purpose: Bond secures payment of tax on distilled spirits brought into the U.S. from Puerto Rico without payment of Internal Revenue Tax. Bond describes person importing spirits, the surety company, amount and type of bond, and the conditions under which the surety company and principal are required to adhere to and pay the U.S.
OMB reviewer: Arnold Strasser, (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.
Date submitted: December 16, 1982.
Submitting bureau: Alcohol, Tobacco and Firearms.
OMB No.: 1512–0058.
Form No.: ATF F 698 (5120.25).
Type of submission: Extension.
Title: Application by Proprietor of Bonded Winery or Bonded Wine Cellar.
Purpose: Regulations require individuals wanting to establish a winery to provide information concerning ownership, equipment and premises. The information is submitted on this application.
OMB reviewer: Arnold Strasser, (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

* * * * *

Date submitted: December 16, 1982.
Submitting bureau: Alcohol, Tobacco and Firearms.
OMB No.: 1512–0054.
Form No.: ATF F 138 (5130.8).
Type of submission: Extension.
Title: Brewers Report of Meter Test.
Purpose: This form is used by Brewers to report the tests results of checks run on beer metering devices used with the brewery. The reporting of meter test results assures ATF that the Meters are operating within established tolerances.
OMB Reviewer: Arnold Strasser, (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

* * * * *

Date submitted: December 16, 1982.
Submitting bureau: Alcohol, Tobacco & Firearms.
OMB No.: 1512–0059.
Form No.: ATF F 698 (Suppl).
Type of submission: Extension.
Title: Formula and Process for Wine.
Purpose: The Federal Alcohol Administration Act prescribes standards of identity for wines and processes which wineries may employ in the production of wine. To ensure that the formulas and the process is in accordance with law, wineries complete this form and our Headquarters office approves or disapproves the wineries proposed formulation and process. This helps assure compliance with the law.
OMB Reviewer: Arnold Strasser (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

* * * * *

Date submitted: December 16, 1982.
Submitting bureau: Internal Revenue Service.
OMB No.: 1545–0617.
Form No.: CP–2000 and 6711.
Type of submission: Extension.
Title: Proposed Changes to Income, Payments or Credits.
Purpose: CP 2000 is sent to individual taxpayers who appear to have under reported income. Form 6711 is used to list information returns if we issue a manual notice. Taxpayers receiving CP 2000's are requested to agree with the IRS findings, or submit additional information if they disagree. Information submitted by taxpayers is used to adjust their tax in accordance with 26 U.S.C. 6011.
OMB Reviewer: Michael Abrahams (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

* * * * *

Date submitted: December 16, 1982.
Submitting bureau: Internal Revenue Service.
OMB No.: 1545–0810.
Form No.: 696 C.
Type of submission: Extension.

Title: No Longer in Business—Nonreceipt of Return Request Additional Information from Employer with no Employees.

Purpose: This letter is used to correspond with employers who are no longer in business. The taxpayer may be requested to provide additional information so that the name can be removed from the Mailing list.

OMB Reviewer: Michael Abrahams (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Ofice Building, Washington, D.C. 20503.

* * * * *

Date submitted: December 16, 1982.

Submitting bureau: Alcohol, Tobacco & Firearms.

OMB No.: 1512–0174.

Form No.: ATF F 4326 (5150.21).

Type of submission: Extension.

Title: Application for Limited Industrial Use and Withdrawal Permit.

Purpose: Form is used to determine whether a person is eligible to receive denatured spirits or alcohol free of tax for certain operations and limited amounts. Describes the person, business, intended use of denatured spirits or alcohol, and amount thereof needed and intended supplier. Form when approved, serves as an authority for the shipper to send the person denatured spirits or alcohol free of tax.

OMB Reviewer: Arnold Strasser (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Joy Tucker,

Departmental Reports Management Officer.

December 20, 1982.

[FR Doc. 82–34816 Filed 12–22–82; 8:45 am]

BILLING CODE 4810–25–M

[Supplement to Department Circular Public Debt Series No. 34–82]

Treasury Notes Series K–1986; Interest Rates

December 17, 1982.

The Secretary announced on December 16, 1982, that the interest rate on the notes designated Series K–1986, described in Department Circular—Public Debt Series—No. 34–82 dated December 9, 1982, will be 10 percent. Interest on the notes will be payable at the rate of 10 percent per annum.

John Kilcoyne,

Acting Fiscal Assistant Secretary.

[FR Doc. 82–34829 Filed 12–22–82; 8:45 am]

BILLING CODE 4810–40–M

[Supplement to Department Circular Public Debt Series No. 33–82]

Treasury Notes Series Z–1984; Interest Rates

December 16, 1982.

The Secretary announced on December 15, 1982, that the interest rate on the notes designated Series Z–1984, described in Department Circular—Public Debt Series—No. 33–82 dated December 9, 1982, will be 9⅞ percent. Interest on the notes will be payable at the rate of 9⅞ percent per annum.

John Kilcoyne,

Acting Fiscal Assistant Secretary.

[FR Doc. 82–34830 Filed 12–22–82; 8:45 am]

BILLING CODE 4810–40–M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 247
Thursday, December 23, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Civil Aeronautics Board	1
Federal Deposit Insurance Corporation	2, 3
National Mediation Board	4

CIVIL AERONAUTICS BOARD

[M–369 Amdt. 1; December 14, 1982]

Deletions From and Addition To the December 16, 1982 Meeting

TIME AND DATE: 9 a.m. (closed), 10 a.m. (open), December 16, 1982.

PLACE: Room 1012 (closed), room 1027 (open), 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT:

5. Conforming amendments to rules related to domestic baggage liability. (OGC)

6. Conforming changes to Part 250 to prepare for the end of the Board's domestic tariff authority. (OGC, BDA, OCCCA)

7. Discussion paper on the Board's voluntary submission of rulemakings to OMB. (OGC)

15. Docket EAS–791, Appeal of Moab, Utah concerning eligibility for inclusion in the small communities program. (BDA, OCCCA, OGC)

32a. Docket 408827, Dallas/Ft. Worth-London Case. (OGC)

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673–5068.

[S–1852–82 Filed 12–20–82; 5:07 pm]

BILLING CODE 6320–01–M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Change in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection(e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Monday, December 20, 1982, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Mr. Doyle L. Arnold, acting in the place and stead of Director C. T. Conover (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matter:

Request of Elizabeth Savings Bank, Elizabeth, New Jersey, an insured state mutual savings bank, for reconsideration of a previous denial of its application for consent to merge, upon its conversion to a state-chartered stock savings bank, with The Trust Company of New Jersey, Jersey City, New Jersey, under the charter of Elizabeth Savings Bank and with the title "The Trust Company of New Jersey for Savings"; to establish the twenty offices of The Trust Company of New Jersey as branches of the resultant bank; to designate the main office of The Trust Company of New Jersey as the main office of the resultant bank; and to exercise full trust powers.

The Board further determined, by the same majority vote, that no earlier notice of the change in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matter in a meeting open to public observation; and that the matter could be considered in a closed meeting by authority of subsections (c)(6), (c)(8) and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8) and (c)(9(A)(ii)).

Dated: December 21, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–1854–82 Filed 12–21–82; 3:05 pm]

BILLING CODE 6714–01–M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Changes is Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 2:00 p.m. on Monday, December 20, 1982, the Corporation's Board or Directors determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Mr. Doyle L. Arnold, acting in the place and stead of Director C. T. Conover (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Recommendations regarding the liquidation of a bank's assests acquired by the Corporation in its capacity as receiver, liquidator , or liquidating agent of those assets:

Case No. 45, 536–L—Franklin National Bank, New York, New York

Memorandum and Resolution re: American Bank & Trust, Orangeburg, South Carolina

Recommendation with respect to payment for legal services rendered and expenses incurred in connection with receivership and liquidation activities:

Colorado, Martinez, Odell, Calabria, & Sierra, Hato Rey, Puerto Rico, in connection with the liquidation of Banco Credito Y Ahoro Ponceno, Ponce, Puerto Rico.

By the same majority vote, the Board further determined that no earlier notice of these changes in the subject matter of the meeting was practicable.

Dated: December 21, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–1855–82 Filed 12–21–82; 3:05 pm]

BILLING CODE 6714–01–M

4.

NATIONAL MEDIATION BOARD

TIME AND DATE: 2 p.m., Wednesday, January 5, 1983.

PLACE: Board Hearing Room eighth floor, 1425 K Street, NW.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Ratification of Board actions taken by

notation voting during the month of December, 1982.

2. Other priority matters which may come before the Board for which notice will be given at earliest practicable time.

SUPPLEMENTARY INFORMATION: Copies of the monthly report of the Board's notation voting actions will be available from the Executive Secretary's office following the meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Rowland K. Quinn, Jr., Executive Secretary; tel: (202) 523–5920.

DATE OF NOTICE: December 20, 1982.

[S–1853 Filed 12–21–82; 12:42 pm]

BILLING CODE 7550–01–M

federal register

Thursday
December 23, 1982

Part II

Department of the Interior

Bureau of Land Management

Recreation Management; Prohibited Acts and Penalties; Proposed Rule

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 8360

Recreation Management; Prohibited Acts and Penalties

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rulemaking.

SUMMARY: The proposed rulemaking would provide regulations that set a minimum standard of conduct for persons using the public lands and the penalties that may be imposed for failure to obey the regulations. The rulemaking is needed to provide for consistency among the rules affecting recreation on the various kinds of Federal lands. The rulemaking would provide for safe, enjoyable and environmentally sound visitation on the public lands, free from unwarranted disturbance.

DATE: Comments by February 22, 1983.

ADDRESSES: Send comments to: Director (140), Bureau of Land Management, 1800 C Street, NW., Washington, D.C. 20240. Comments will be available for public review in Room 5555 of the above address during regular business hours (7:45 a.m. to 4:15 p.m.) Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Robert I. Conquergood (202) 343–9353.

SUPPLEMENTARY INFORMATION: This proposed rulemaking is similar to regulations of other Federal land management agencies, and would thus provide consistency among the rules with which visitors to national parks, national forests and pubic lands will have to comply. It would also provide protection not currently available to persons and property on the public lands.

The principal author of this proposed rulemaking is Robert I. Conquergood, Division of Recreation, Cultural and Wilderness Resources, assisted by the staff of the Office of Legislation and Regulatory Management, Bureau of Land Management.

It is hereby determined that the publication of this proposed rulemaking is not a major Federal action significantly affecting the quality of the human environment and that a detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is not required.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and that it will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (4 U.S.C. 601 *et seq.).*

The rulemaking would serve to protect the recreation resources and opportunities on the public lands. The rulemaking would only affect individuals using the public lands for recreation purposes, or those who would destroy, damage or impair the recreational opportunities of others.

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

List of Subjects in 43 CFR Part 8360

Environmental protection, Penalties, Public lands—recreation, Recreation, Traffic regulations.

Under the authority of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 *et seq.*), the Taylor Grazing Act (43 U.S.C. 315a), the Wild and Scenic Rivers Act (16 U.S.C. 1281c), the Act of September 15, 1960, as amended (16 U.S.C. 670 *et seq.*), the Land and Water Conservation Fund Act) (16 U.S.C. 460*l*–6a), and the National Trails System Act (16 U.S.C. 1241 *et seq.*), it is proposed to revise Part 8360, Group 8300, Subchapter H, Chapter II of Title 43 of the Code of Federal Regulations to read as set forth below:

PART 8360—VISITOR SERVICES

Subpart 8360—General

Sec.
8360.0–3 Authority
8360.0–7 Penalties

Subpart 8361—Emergency Services [Reserved]

Subpart 8362—Interpretive Services [Reserved]

Subpart 8363—Resource and Visitor Protection [Reserved]

Subpart 8364—Closures and Restrictions

8364.1 Closure and restriction orders.

Subpart 8365—Rules of Conduct

8365.0–1 Purpose.
8365.0–2 Objective.
8365.1 Public lands—general.
8365.1–1 Sanitation.
8365.1–2 Occupancy and use.
8365.1–3 Vehicles.
8365.1–4 Public health, safety and comfort.
8365.1–5 Property and resources.
8365.1–6 Supplementary rules.
8365.1–7 State and local laws.
8365.2 Developed recreation sites and areas.
8365.2–1 Sanitation.
8365.2–2 Audio devices.
8365.2–3 Occupancy and use.
8365.2–4 Vehicles.
8365.2–5 Public health, safety and comfort.

Authority: 43 U.S.C. 1701 *et seq.*, 43 U.S.C. 315a, 16 U.S.C. 1281c, 16 U.S.C. 670 *et seq.*, 16 U.S.C. 460*l*–6a, 16 U.S.C. 1241 *et seq.*

Subpart 8360—General

§ 8360.0–3 Authority.

The regulations of this part are issued under the provisions of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 *et seq.*), the Taylor Grazing Act (43 U.S.C. 315a), the Wild and Scenic Rivers Act (16 U.S.C. 1281c), the Act of September 18, 1960, as amended, (16 U.S.C. 877 et seq.), the Land and Water Conservation Fund Act (16 U.S.C. 460*l*–6a) and the National Trails System Act (16 U.S.C. 1241 *et seq.*).

§ 8360.0–7 Penalties.

Any person convicted of violating any regulations in this part may be subject to a fine not to exceed $1,000 and/or imprisonment not to exceed 12 months.

Subpart 8361—Emergency Services [Reserved]

Subpart 8362—Interpretive Services [Reserved]

Subpart 8363—Resource and Visitor Protection [Reserved]

Subpart 8364—Closures and Restrictions

§ 8364.1 Closure and restriction orders.

(a) To protect persons, property, and public lands and resources, the authorized officer may issue an order to close or restrict use of designated public lands.

(b) Each order shall:

(1) Identify the public lands, roads, trails or waterways that are closed to entry or restricted as to use.

(2) Specify the uses that are restricted;

(3) Specify the period of time during which the closure or restriction shall apply;

(4) Identify those persons who are exempt from the closure or restrictions;

(5) Be posted in the local Bureau of Land Management Office having jurisdiction over the lands to which the order applies; and

(6) Be posted at places near and/or within the area to which the closure or restriction applies.

(c) In issuing orders pursuant to this section, the authorized officer, in his/her discretion, may have them published in the **Federal Register.**

(d) Any person who fails to comply with a closure or restriction order issued under this subpart may be subject to the penalties provided in § 8360.0–7 of this title.

Subpart 8365—Rules of Conduct

§ 8365.0–1 Purpose.

The purpose of this subpart is to set forth rules of conduct for the protection of public lands and resources, and for the protection, comfort and well-being of the public in its use of recreation areas, sites and facilities on public lands.

§ 8365.0–2 Objective.

The objective of this subpart is to insure that recreation areas, sites and facilities on public lands can be used by the maximum number of people with minimum conflict among users and minimum damage to public lands and resources.

§ 8365.1 Public lands—general.

The rules in this subsection shall apply to use and occupancy of all public lands. Additional rules for developed sites and areas are found in § 8365.2 of this title.

§ 8365.1–1 Sanitation.

On all public lands, no person shall:

(a) Dispose of any cans, bottles and other nonflammable trash and garbage except in designated places or receptacles;

(b) Dispose of flammable trash or garbage except by burning in authorized fires, or disposal in designated places or receptacles;

(c) Drain or dump refuse or waste from any trailer or other vehicle except in places or receptacles provided for that purpose;

(d) Dispose of any household, commercial or industrial refuse or waste brought as such from private or municipal property;

(e) Pollute or contaminate water supplies or water used for human consumption; or

(f) Use a refuse container or disposal facility for any purpose other than for which it is supplied

§ 8365.1–2 Occupancy and use.

On all public lands, no person shall:

(a) Camp longer than the period of time permitted by the authorized officer; or

(b) Leave personal property unattended longer than 10 days (12 months in Alaska), except as provided under § 8365.2–3(b) of this title, unless otherwise authorized. Personal property left unattended longer than 10 days (12 months in Alaska), without permission of the authorized officer, is subject to disposition under the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 484(m)).

§ 8365.1–3 Vehicles.

When operating a vehicle on the public lands, no person shall exceed posted speeds, willfully endanger persons or property, or act in a reckless, careless or negligent manner.

§ 8365.1–4 Public health, safety and comfort.

No person shall cause a public disturbance or create a risk to other persons on public lands by engaging in activities which include, but are not limited to, the following:

(a) Making unreasonable noise;

(b) Creating a hazard or nuisance;

(c) Refusing to disperse, when directed to do so by an authorized officer;

(d) Threatening, resisting or interfering with any Bureau of Land Management employee or volunteer engaged in performance of official duties; or

(e) Knowingly giving any false or fraudulent report or other information to any Bureau of Land Management employee or volunteer engaged in the performance of official duties.

§ 8365.1–5 Property and resources.

(a) On all public lands, unless otherwise authorized, no person shall:

(1) Willfully deface, disturb, remove or destroy any property, scientific, cultural, archaeological or historic resource, natural object or area;

(2) Deface, disturb, remove or destroy plants or their parts, soil, rocks or minerals, except as permitted under paragraph (b) or (c) of this subsection; or

(3) Use on the public lands explosive, motorized or mechanical devices to aid in the collection of specimens permitted under paragraph (b) or (c) of this subsection.

(b) Except on developed recreation sites and areas, or where otherwise prohibited and posted, it is permissible to collect from the public lands reasonable amounts of the following for noncommercial purposes:

(1) Commonly available renewable resources such as flowers, berries, nuts, seeds, cones and leaves;

(2) Nonrenewable resources such as rocks, minerals specimens, common invertebrate fossils and semiprecious gemstones;

(3) Petrified wood as provided under subpart 3622 of this title; and

(4) mineral materials and forest products as provided under subpart 3621 and group 5500, respectively, of this title.

(c) The collection of renewable or nonrenewable resources from the public lands for sale or barter to commercial dealers may be done only after obtaining a contract or permit from an authorized officer in accordance with parts 3610 or 5400 of this title.

§ 8365.1–6 Supplementary rules.

The authorized officer may establish such supplementary rules as he/she deems necessary. These rules may provide for, but need not be limited to, the protection of persons, property, and public lands and resources.

(a) The rules shall be available for inspection in each local office having jurisdiction over the lands, sites or facilities affected;

(b) The rules shall be posted near and/or within the lands, sites or facilities affected; and

(c) The rules may, in the discretion of the authorized officer, be published in the **Federal Register**.

§ 8365.1–7 State and local laws.

Except as otherwise provided by Federal law or regulation, State and local laws and ordinances shall apply. This includes, but is not limited to, State and local laws and ordinances governing:

(a) Operation and use of motor vehicles, aircraft and boats;

(b) Hunting and fishing;

(c) Use of firearms or other weapons;

(d) Injury to persons, or destruction or damage to property;

(e) Air and water pollution;

(f) Littering;

(g) Sanitation; and

(h) Use of fire.

§ 8365.2 Developed recreation sites and areas.

§ 8365.2–1 Sanitation.

On developed recreation sites and areas, no person shall:

(a) Clean fish, game, other food, clothing or household articles at any outdoor hydrant, pump, faucet or fountain, or restroom water faucet;

(b) Deposit human waste except in toilet or sewage facilities provided for that purpose; or

(c) Bring an animal into such an area unless the animal is on a leash not longer than 6 feet or is otherwise physically restricted at all times.

§ 8365.2–2 Audio devices.

On developed recreation sites or areas, unless otherwise authorized, no person shall:

(a) Operate or use any audio device such as a radio, television, musical instrument, or other noise producing device such as a motor or engine, in a manner that makes unreasonable noise;

(b) Operate or use a public address system;

(c) Construct, erect or use an antenna or aerial for radiotelephone, radio or television equipment, other than on a vehicle or as an integral part of such equipment.

§ 8365.2–3 Occupancy and use.

In developed camping and picnicking facilities, no person shall:

(a) Pitch any tent, park any trailer, erect any shelter or place any other camping equipment in any area other than a designated campsite;

(b) Leave personal property unattended for more than 24 hours without permission of the authorized officer. Personal property left unattended for more than 24 hours, without permission of the authorized officer, is subject to disposition under the Federal Property and Administration Services Act of 1949, as amended (40 U.S.C. 484(m));

(c) Build any fire except in a stove, grill, fireplace or ring provided for such purpose;

(d) Enter or remain in campgrounds closed during established night periods except as an occupant or while visiting persons occupying the campgrounds for camping purposes;

(e) Enter or use a site or a portion of a site closed to public use; or

(f) Occupy a site with more people than permitted by the authorized officer.

§ 8365.2–4 Vehicles.

Within developed recreation sites or areas, no motor vehicle shall be driven where vehicles are prohibited.

§ 8365.2–5 Public health, safety and comfort.

On developed recreation sites and areas, unless otherwise authorized, no person shall:

(a) Discharge or use firearms, other weapons, or fireworks;

(b) Bring in or use an animal for saddle, pack or draft purposes; or

(c) Bring an animal, except a Seeing Eye or Hearing Ear dog, to a swimming area.

Garrey E. Carruthers,

Secretary of the Interior.

November 26, 1982.

[FR Doc. 82–34792 Filed 12–22–82; 8:45 am]

BILLING CODE 4310–84–M

federal register

Thursday
December 23, 1982

Part III

Department of the Interior

Minerals Management Service

Outer Continential Shelf Mid-Atlantic: Proposed Oil and Gas Lease Sale No. 76

Billing Code: 4310-MR

UNITED STATES
DEPARTMENT OF THE INTERIOR
MINERALS MANAGEMENT SERVICE

Outer Continental Shelf
Mid-Atlantic

Proposed Oil and Gas Lease Sale No. 76

With regard to oil and gas leasing on the Outer Continental Shelf (OCS), the Secretary of the Interior, pursuant to Sec. 19 of the OCS Lands Act, as amended, provides the affected States the opportunity to review the proposed notice of sale. The following is a proposed notice of sale for Sale No. 76 in the waters offshore the Mid-Atlantic States. This notice is hereby published as a matter of information to the public.

DEC 20 1982

Director, Minerals Management Service
Harold E. Doley, Jr.

Date: 12/20/82

Approved:

Secretary of the Interior
James G. Watt

Proposed Notice of Sale

Oil and Gas Lease Sale No. 76

1. Authority. This notice is published pursuant to the Outer Continental Shelf Lands Act of 1953 (43 U.S.C. 1331-1343), as amended, (92 Stat. 629), and the regulations issued thereunder (30 CFR 256, formerly 43 CFR Part 3300; see the Federal Register at 47 FR 47006, October 22, 1982). A revision of these regulations appeared in the Federal Register of June 16, 1982, at 47 FR 26031 and 25967.

2. Filing of Bids. Sealed bids will be received by the Regional Manager, Atlantic Outer Continental Shelf (OCS) Region, Jacob K. Javits Federal Building, 26 Federal Plaza, Suite 32-120, New York, New York 10278. Bids may be delivered, either by mail or in person, to the above address until 4:30 p.m., e.s.t., April 25, 1983. Bids will not be accepted on April 26, 1983, the day of the sale, at the sale site specified in paragraph 6. Bids received by the Regional Manager later than the times and dates specified above will be returned unopened to the bidders. Bids may not be modified or withdrawn unless written modification or withdrawal is received by the Regional Manager prior to 9:30 a.m., e.s.t., April 26, 1983. All bids must be submitted and will be considered in accordance with applicable regulations, including 30 CFR Part 256. The list of restricted joint bidders which applies to this sale was published in the Federal Register of October 6, 1982, at 47 FR 44166.

3. Method of Bidding. Because of new streamlining procedures, tract numbers will not be used. A separate bid in a sealed envelope, labeled, "Sealed Bid for Oil and Gas Lease (insert sale number, official protraction diagram number, Block number, official protraction diagram name (if available)), not to be opened until 10 a.m., e.s.t., April 26, 1983," must be submitted for each block. For example, a bid on the first block appearing on the block list for this sale would identify the blank as follows: 76-NK 18-12 Block 701 (New York). Paragraph 12, "Block Descriptions," lists which blocks must be bid on together as a single "bidding unit." For a bid on a "bidding unit," the sealed envelope containing the bid must be labeled with all blocks included in the "bidding unit." A suggested bid form appears in 30 CFR Part 256, Appendix A. Bidders must submit with each bid one-fifth of the cash bonus, in cash or by cashier's check, bank draft, or certified check, payable to the order of the Minerals Management Service. No bid for less than all the unleased area of a block or bidding unit as described in paragraph 12 will be considered. Bidders submitting joint bids must state on the bid form the proportionate interest of each participating bidder, in percent to a maximum of five decimal places after the decimal point, e.g., 50.12345 percent. Other documents may be required of bidders under 30 CFR 256.46. Partnerships also need to submit a list of signatories authorized to bind the partnership. All documents must be executed in conformance with signatory authorizations on file. Bidders are warned against violation of 18 U.S.C. 1860, prohibiting unlawful combination or intimidation of bidders.

4. Bidding Systems. All leases awarded for this sale will provide for a yearly rental payment of $8 per hectare or fraction thereof. Leases awarded under 4(b), (c), and (d) will provide for a minimum royalty of $8 per hectare or fraction thereof. The following systems will be utilized:

(a) Bonus Bidding with a Fixed Net Profit Share. Bids on the following blocks must be submitted on a cash bonus basis with a fixed net profit share rate of 30 percent and a capital recovery factor of 1.50:

Official Protraction Diagram No. NJ 18-6.

412	499
456	629

The net profit share payment shall be calculated according to the regulations currently codified in 10 CFR 390 (originally promulgated by the Department of Energy, 45 FR 36784, May 30, 1980). The Department of the Interior is in the process of redesignating those regulations.

(b) Bonus Bidding with a Fixed Sliding Scale Royalty. Bids on the following blocks must be submitted on a cash bonus basis with a percent royalty due in amount or value of production fixed according to the sliding scale formula described following the list of blocks:

Official Protraction Diagram No. NJ 18-3.

17-35	293-299	466
61-79	337-342	
105-123	378	
149-162, 165-167	381-385	
193-205, 209-211	422	
246-255	428	

Official Protraction Diagram No. NJ 18-5.

603-613	911-921
647-657	955-965
691-701	999-1009
735-745	
779-789	
823-833	
867-877	

Official Protraction Diagram No. NJ 19-1.

10-16	142-144
54-58	186-187
98-101	230

Official Protraction Diagram No. NJ 18-6.

490	837
534	881
573-578	884
617-622	925
661-666	926-927
705-709	969
749	
752	
793	

Official Protraction Diagram No. NJ 18-8.

764-778	894-906
808-822	938-950
852-866	982-996

Official Protraction Diagram No. NJ 18-11.

14-28	277-292
58-72	321-335
101-116	365-379
145-160	409-423
189-204	453-467
233-248	497-511

Official Protraction Diagram No. NK 18-12.

701-702	872-878
744-746	915-922
787-790	958-966
829-834	1001-1010

Official Protraction Diagram No. NK 19-10.

242-247	627-643
285-291	669-687
327-335	713-731
370-379	757-775
413-423	801-819
456-467	845-863
499-511	889-902
541-555	933-944
584-599	977-986

The following formula fixes the percent royalty at a level determined by the value of leases production during each calendar quarter. For purposes of determining the royalty percent due on production during a quarter, the value of production during the quarter will be adjusted for inflation as described below. The determination of the value of the production on which royalty is due will be made pursuant to 30 CFR 250.64.

The fixed sliding scale formula operates in the following way: When the quarterly value of production, adjusted for inflation, is less than or equal to $15.929025 million, a royalty of 16.66667 percent in amount or value of production will be due on the unadjusted value or amount of production. When the adjusted quarterly value of production is equal to or greater than $15.929026 million, but less than or equal to $3423.822696 million, the royalty percent due on the unadjusted value or amount of production is given by:

$$Rj = b\ [Ln\ (Vj/S)]$$

Where

Rj = the percent royalty that is due and payable on the unadjusted amount or value of all production in quarter j

b = 8.0

Ln = natural logarithm

Vj = the value of production in quarter j, adjusted for inflation, in millions of dollars

S = 2.50

When the adjusted quarterly value of production is equal to or greater than $3423.822697 million, a royalty of 65.00000 percent in amount or value of production will be due on the unadjusted quarterly value of production. Thus, in no instance will the quarterly royalty due exceed 65.00000 percent in amount or value of quarterly production.

In determining the quarterly percent royalty due, Rj, the calculation will be carried to five decimal places (for example, 22.11425

percent). This calculation will incorporate the adjusted quarterly value of production, Vj, in millions of dollars rounded to the sixth digit, i.e., the nearest dollar (for example, $29.178435 million).

The form of the sliding scale royalty schedule is illustrated in Figure 1. Note that the effective quarterly royalty rate depends upon the inflation adjusted quarterly value of production. However, this rate is applied to the unadjusted quarterly value of production to determine the royalty payments due.

In adjusting the quarterly value of production for use in calculating the percent royalty due on production during the quarter, the actual value of production will be adjusted to account for the effects of inflation by dividing the actual value of production by the following inflation adjustment factor. The inflation adjustment factor used will be the ratio of the GNP fixed weighted price index for the calendar quarter preceding the quarter of production to the value of that index for the quarter preceding the issuance of the lease. The GNP fixed weighted price index is published monthly in the Survey of Current Business by the Bureau of Economic Analysis, U.S. Department of Commerce. The percent royalty will be due and payable on the actual amount or value of production as determined pursuant to 30 CFR 250.64. The timing of procedures for inflation adjustments and determinations of the royalty due will be specified at a later date. Table 1 provides hypothetical examples of quarterly royalty calculations using the sliding scale formula just described under two different values for the quarterly price index.

(c) Bonus Bidding with a 16-2/3 Percent Royalty. Bids on the following blocks must be submitted on a cash bonus basis with a fixed royalty of 16-2/3 percent:

Official Protraction Diagram No. NJ 18-3.

237-245	630-641, 644-645	978-989
281-289	673-688	
325-333	716-725, 727-731	
369-377	760-769, 771-775	
412-421	804-814	
454-465	816	
497-512	847-857	
541-557	891-902	
585-597, 600-602	934-946	

Official Protraction Diagram No. NJ 18-5.

349		
392-393		
436-437		
479-481		
515-525		
559-569		

Official Protraction Diagram No. NJ 18-6.

10-19, 21	266-280	485-489
53-62, 65	309-321	529-533
92-102, 104-106	324	
138-148	353-365	
181-191	397-406	
224-233, 235	441-450	

Official Protraction Diagram No. NJ 18-8.

36-41	212-213
80-84	256
124-126	300
168-170	344

Official Protraction Diagram No. NJ 18-9.

1, 45

(d) Bonus Bidding with a 12-1/2 Percent Royalty. Bids on the remaining blocks to be offered at this sale must be submitted on a cash bonus basis with a fixed royalty of 12-1/2 percent.

5. Equal Opportunity. Each bidder must have submitted by 4:30 p.m., e.s.t., April 25, 1983, the certification required by 41 CFR 60-1.7 (b) and Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, on the Compliance Report Certification Form, Form 1140-8 (June 1982) and the Affirmative Action Representation Form, Form 1140-7 (June 1982). See Item 14, "Information to Lessees."

Figure 1
Form of the Sliding Royalty Schedule

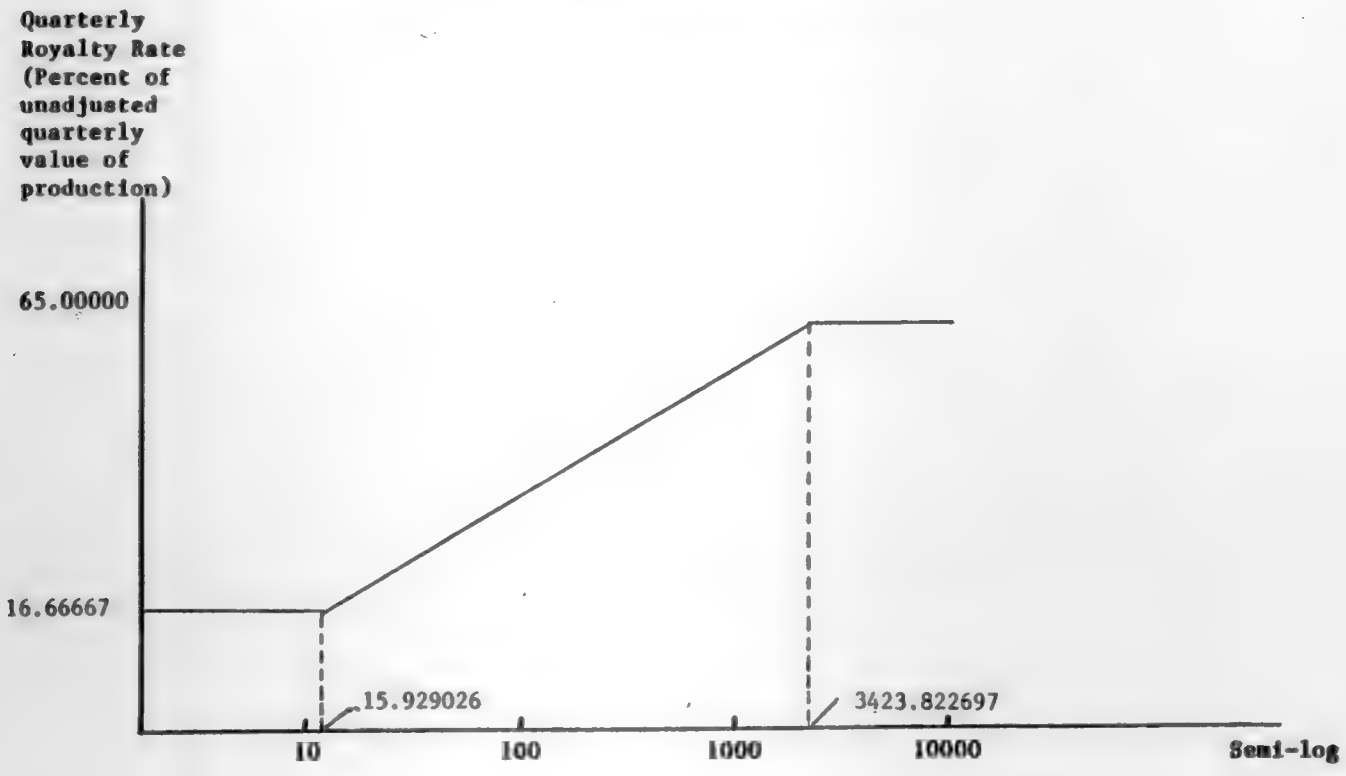


TABLE 1. HYPOTHETICAL QUARTERLY ROYALTY CALCULATIONS

(A)	(B)	(C)	(D)	(E)	(F)
Actual Value of Quarterly Production (Millions of Dollars)	GNP Fixed Weighted Price Index	Inflaction Factor[1]	Adjusted Value of Quarterly Production[2] (Vi, Millions of $)	Percent Royalty Rate (Ri)	Royalty Payment[3] (Millions of Dollars)
10.000000	200.0	4/3	7.500000	16.66667	1.66667
30.000000	200.0	4/3	22.500000	19.77502	5.93251
90.000000	200.0	4/3	67.500000	29.66253	26.69628
270.000000	200.0	4/3	202.500000	39.55004	106.78511
810.000000	200.0	4/3	607.500000	49.43755	400.44416
10.000000	250.0	5/3	6.000000	16.66667	1.66667
30.000000	250.0	5/3	18.000000	17.76673	5.33002
90.000000	250.0	5/3	54.000000	27.65424	24.88882
270.000000	250.0	5/3	162.000000	37.54175	101.36272
810.000000	250.0	5/3	486.000000	47.42926	384.17701

1 Column (B) divided by 150.0 (assumed value of GNP fixed weighted price index at time leases are issued).

2 Column (A) divided by Inflation Factor.

3 Column (A) times Column (E) divided by 100. All values are rounded for display purposes only.

6. Bid Opening. Bids will be opened on April 26, 1983, beginning at 10:00 a.m., e.s.t., at (sale site to be announced). The opening of the bids is for the sole purpose of publicly announcing bids received, and no bids will be accepted or rejected at that time. If the Department is prohibited for any reason from opening any bid before midnight, April 26, 1983, that bid will be returned unopened to the bidder, as soon thereafter as possible.

7. Deposit of Payment. Any cash, cashier's checks, certified checks, or bank drafts submitted with a bid may be deposited by the Government in a suspense account in the U.S. Treasury during the period the bids are being considered. Such a deposit does not constitute and shall not be construed as acceptance of any bid on behalf of the United States.

8. Withdrawal of Blocks. The United States reserves the right to withdraw any block from this sale prior to issuance of a written acceptance of a bid for the block.

9. Acceptance or Rejection of Bids. The United States reserves the right to reject any and all bids for any block. In any case, no bid for any block will be accepted and no lease for any block will be awarded to any bidder unless:

(a) the bidder has complied with all requirements of this notice and applicable regulations;

(b) the bid is the highest valid bid; and

(c) the amount of the bid has been determined to be adequate by the Secretary of the Interior.

No bonus bid will be considered for acceptance unless it provides for a cash bonus in the amount of $371 or more per hectare or fraction thereof.

10. Successful Bidders. Each person who has submitted a bid accepted by the Secretary of the Interior will be required to execute copies of the lease specified below, pay the balance of the cash bonus together with the first year's rental and satisfy the bonding requirements of 30 CFR Part 256 Subpart I within the time provided in 30 CFR 256.47. A modification of the payments procedure for successful bidders appears in the revision of regulations discussed in paragraph 1, above. These changes do not apply to the submission of the one-fifth bonus with bids, described in paragraph 3, above.

11. Official Protraction Diagrams. Blocks offered for lease may be located on the following official protraction diagrams which may be purchased for $2.00 each from the Regional Manager, Atlantic OCS Region, Minerals Management Service, 1951 Kidwell Drive, Suite 601, Vienna, Virginia 22180 or from the Regional Manager, Atlantic Outer Continental Shelf (OCS) Region, Jacob K. Javits Federal Building, 26 Federal Plaza, Suite 3E-120, New York, New York 10278.

(a) Outer Continental Shelf Official Protraction Diagram No. NK 18-12, New York (Approved October 31, 1974).

(b) Outer Continental Shelf Official Protraction Diagram No. NK 19-10, Block Island Shelf (Approved June 22, 1977).

(c) Outer Continental Shelf Official Protraction Diagram No. NJ 18-3 (Approved October 31, 1974).

(d) Outer Continental Shelf Official Protraction Diagram No. NJ 19-1, Block Canyon (Approved June 22, 1977).

(e) Outer Continental Shelf Official Protraction Diagram No. NJ 19-2, Veatch Canyon (Approved January 25, 1979).

(f) Outer Continental Shelf Official Protraction Diagram No. NJ 18-5, Salisbury (Approved October 31, 1974).

(g) Outer Continental Shelf Official Protraction Diagram No. NJ 18-6 (Approved October 31, 1974).

(h) Outer Continental Shelf Official Protraction Diagram No. NJ 19-4 (Approved October 31, 1974).

(i) Outer Continental Shelf Official Protraction Diagram No. NJ 19-5 (Approved June 2, 1980).

(j) Outer Continental Shelf Official Protraction Diagram No. NJ 18-8, Chincoteague (Approved December 2, 1976).

(k) Outer Continental Shelf Official Protraction Diagram No. NJ 18-9, Baltimore Rise (Approved December 6, 1976).

(l) Outer Continental Shelf Official Protraction Diagram No. NJ 18-11, Currituck Sound (Approved April 25, 1978).

(m) Outer Continental Shelf Official Protraction Diagram No. NJ 18-12, (Approved April 18, 1979).

12. Block Descriptions. Note: All blocks contain 2304 hectares, unless otherwise indicated on the lists which appear as items (b) and (c) of this section. A listing of currently leased blocks appears as item (d) of this section.

(a) All full blocks within the following list are offered for bid:

Official Protraction Diagram No. NK 18-12, New York (Approved October 31, 1974).

701-702	787-790	872-878	958-966
744-746	829-834	915-922	1001-1010

Official Protraction Diagram No. NK 19-10, Block Island Shelf (Approved June 22, 1977).

242-247	456-467	669-687	889-907
285-291	499-511	713-731	933-944
327-335	541-555	757-775	947-951
370-379	584-599	801-819	977-988
413-423	627-643	845-863	991-995

Official Protraction Diagram No. NJ 18-3 (Approved October 31, 1974).

17-35	281-289	412-422	541-557	760-784
61-79	293-299	428-431	560-563	804-814
105-123	325-333	454-466	585-607	816-828
149-167	337-343	473-475	630-651	847-857
193-211	369-378	497-512	673-695	860-872
237-255	381-387	516-519	716-739	891-916
				934-960
				978-1004

Official Protraction Diagram No. NJ 19-1, Block Canyon (Approved June 22, 1977).

10-27	274-291	538-555	801-819
54-71	318-335	582-599	845-863
98-115	362-379	626-643	889-907
142-159	406-423	670-687	933-951
186-203	450-467	714-731	977-1017
230-247	494-511	757-775	

Official Protraction Diagram No. NJ 19-2, Veatch Canyon (Approved January 25, 1979).

969-974

Official Protraction Diagram No. NJ 18-5, Salisbury (Approved October 31, 1974).

349	515-525	691-701	867-877
392-393	559-569	735-745	911-921
436-437	603-613	779-789	955-965
479-481	647-657	823-833	999-1009

Official Protraction Diagram No. NJ 18-6 (Approved October 31, 1974).

10-36	266-300	493-520	705-740	884-916
53-62	309-321	529-534	749	925-960
64-80	324-344	537-564	752-784	969-1004
96-124	353-365	573-578	793	
138-168	368-388	581-608	795-818	
181-192	397-432	617-623	837	
195-212	441-476	626-652	839-872	
224-256	485-490	661-696	881	

Official Protraction Diagram No. NJ 19-4 (Approved October 31, 1974).

9-44	229-259	449-470	669-682	
53-88	273-301	493-513	716-724	
97-132	317-343	537-555	761-766	
141-174	361-386	581-597		
185-217	405-428	625-639		

Official Protraction Diagram No. NJ 19-5 (Approved June 2, 1980).

1-2
45-46

Official Protraction Diagram No. NJ 18-8, Chincoteague (Approved December 2, 1976).

26-41	300-305	564-569	808-833	982-996
80-85	344-349	608-613	852-877	998-1009
124-129	388-393	652-657	894-906	
168-173	432-437	696-701	910-921	
213-217	476-481	740-745	938-950	
256-261	520-525	764-789	954-965	

Official Protraction Diagram No. NJ 18-9, Baltimore Rise (Approved December 6, 1976).

1-36	265-301	529-565	793-829
45-80	309-345	573-609	837-873
89-125	353-389	617-653	881-917
133-169	397-433	661-697	925-961
177-213	441-477	705-741	969-1005
221-257	485-521	749-785	

Official Protraction Diagram No. NJ 18-11, Currituck Sound (Approved June 25, 1978).

14-41	145-173	277-305	409-437
58-85	189-217	321-349	453-481
101-129	233-261	365-393	497-525

Official Protraction Diagram No. NJ 18-12 (Approved April 18, 1979).

1-14	133-144	265-274	397-404
45-57	177-187	309-317	441-447
89-100	221-230	353-361	485-491

(b) All partial blocks within the following list are offered for bid:

Partial Block List

Official Protraction Diagram No. NJ 18-3 (Approved October 31, 1974).

Block	Hectares	Block	Hectares	Block	Hectares
167	1191.12	387	1576.64	563	1883.79
211	1268.36	431	1653.53	607	1960.41
255	1345.54	475	1730.36	651	2036.95
299	1422.64	519	1807.11	695	2113.42
343	1499.67			739	2189.82

Official Protraction Diagram No. NJ 19-1, Block Canyon (Approved June 22, 1977).

Block	Hectares	Block	Hectares	Block	Hectares
142	1191.12	362	1576.64	538	1883.79
186	1268.36	406	1653.53	582	1960.41
230	1345.54	450	1730.36	626	2036.95
274	1422.64	494	1807.11	670	2113.42
318	1499.67			714	2189.82

Official Protraction Diagram No. NJ 18-6 (Approved October 31, 1974).

Block	Hectares	Block	Hectares	Block	Hectares
476	1173.80	652	1473.87	828	1772.79
520	1248.93	696	1548.71	872	1847.34
564	1323.98	740	1623.47	916	1921.82
608	1398.96	784	1698.17	960	1996.23
				1004	2070.57

Official Protraction Diagram No. NJ 19-4 (Approved October 31, 1974).

Block	Hectares	Block	Hectares	Block	Hectares
449	1173.80	537	1323.98	625	1473.87
493	1248.93	581	1398.96	669	1548.71

Official Protraction Diagram No. NJ 18-9, Baltimore Rise (Approved December 6, 1976).

Block	Hectares	Block	Hectares	Block	Hectares
36	2144.83	829	1165.26	917	1310.97
80	2219.02	873	1238.15	961	1383.71
				1005	1456.39

(c) The following blocks must be bid on together, as grouped into numbered bidding units:

	OFFICIAL PROTRACTION DIAGRAM	BLOCK	BLOCK HECTARES	BIDDING UNIT HECTARES
1)	NK 18-12	702	336.81	
		746	414.83	
	NK 19-10	669	336.81	
		713	414.83	1503.28
2)	NK 18-12	790	492.77	
		834	570.64	
	NK 19-10	757	492.77	
		801	570.64	2126.82
3)	NK 18-12	878	548.45	
	NK 19-10	845	548.45	1296.90
4)	NK 18-12	922	726.18	
	NK 19-10	889	726.18	1452.36
5)	NK 18-12	966	803.84	
	NK 19-10	933	803.84	1607.68
6)	NK 18-12	1010	881.44	
	NK 19-10	977	881.44	1762.88
7)	NJ 18-3	35	958.96	
	NJ 19-1	10	958.96	1917.92
8)	NJ 18-3	79	1036.42	
	NJ 19-1	54	1036.42	2072.84
9)	NJ 18-3	123	1113.80	
	NJ 19-1	98	1113.80	2227.60
10)	NJ 18-3	783	2266.15	
		784	0.0005	2266.1505
11)	NJ 18-3	828	38.41	
		872	114.60	
		916	190.72	
		960	266.76	
	NJ 18-3 (Cont'd)	1004	342.74	
		801	38.41	
		845	114.60	
		889	190.72	
		933	266.76	
		977	342.74	1906.46
12)	NJ 19-1	757	0.0005	
		758	2266.15	2266.1505
13)	NJ 18-6	36	418.65	
		80	494.48	
	NJ 19-4	9	418.65	
		53	494.48	1826.26
14)	NJ 18-6	124	570.25	
	NJ 19-4	97	570.25	1140.50
15)	NJ 18-6	168	645.94	
	NJ 19-4	141	645.94	1291.88
16)	NJ 18-6	212	721.56	
	NJ 19-4	185	721.56	1443.12
17)	NJ 18-6	256	797.11	
	NJ 19-4	229	797.11	1594.22
18)	NJ 18-6	300	872.59	
	NJ 19-4	273	872.59	1745.18
19)	NJ 18-6	344	948.00	
	NJ 19-4	317	948.00	1896.00
20)	NJ 18-6	348	1023.34	
	NJ 19-4	361	1023.34	2046.68

OFFICIAL PROTRACTION DIAGRAM	BLOCK	BLOCK HECTARES	BIDDING UNIT HECTARES
21) NJ 18-6	432	1098.61	
NJ 19-4	405	1098.61	2197.22
22) NJ 18-9	124	2288.52	
	125	4.63	2293.15
23) NJ 18-9	169	63.19	
	213	137.17	
	257	211.07	
	301	284.91	
	345	358.67	
	389	432.36	1487.37
24) NJ 18-9	433	505.97	
	477	579.52	
	521	652.99	1738.48
25) NJ 18-9	565	726.39	
	609	799.71	1526.10
26) NJ 18-9	653	872.97	
	697	946.15	1819.12
27) NJ 18-9	741	1019.26	
	785	1092.29	2111.55

(d) No bid will be considered for the following blocks. Any bid submitted on the following blocks will be returned unopened to the bidder.

Leased Block List

Official Protraction Diagram No. NJ 18-3 (Approved October 31, 1974).

163	598	693	737
164	599	694	770
206	642	726	780
207	643	736	953
208			

Official Protraction Diagram No. NJ 18-6 (Approved October 31, 1974).

20	371	581	801
64	372	582	802
103	413	585	839
107	414	586	840
112	415	587	843
149	451	623	844
150	457	628	845
151	458	630	885
192	493	671	886
199	494	672	887
234	495	673	888
243	500	715	889
284	501	716	928
285	537	753	929
326	538	754	931
327	539	757	932
328	541	758	972
329	542	795	973
369	543	796	974
370	544	797	

Official Protraction Diagram No. NJ 18-8, Chincoteague, (Approved. December 2, 1976).

85			
347			

Official Protraction Diagram No. NJ 18-9, Baltimore Rise, (Approved. December 6, 1976).

4	48	92	134
5	49	93	177
6			

13. Lease Terms and Stipulations.

(a) Leases resulting from this sale for the following blocks will be for an initial term of 5 years:

Official Protraction Diagram No. NK 18-12, New York.

All Blocks

Official Protraction Diagram No. NK 19-10, Block Island Shelf.

All Blocks

Official Protraction Diagram No. NJ 18-3.

17-35	281-289	412-422	517-519	716-736	891-904
61-79	293-299	428-431	541-557	760-779	934-947
105-123	325-333	454-466	562-563	804-814	978-991
149-167	337-343	473-475	585-604	816-821	
193-211	369-378	497-512	630-649	847-857	
237-255	381-387		673-693	860-863	

Official Protraction Diagram No. NJ 19-1, Block Canyon.

10-27	98-115	186-193	318-321
54-71	142-153	230-235	362-364
		274-279	40[illegible]

Official Protraction Diagram No. NJ 18-5, Salisbury.

All blocks

Official Protraction Diagram No. NJ 18-6.

10-31	266-281	529-534	749	925-927
53-62	309-321	537-540	752-754	969-970
64-65	324	573-578	793	
96-108	353-365	580-583	795-798	
138-151	397-410	617-623	837	
181-194	441-454	626	839-841	
224-238	485-490	661-668	881	
	493-497	705-711	884	

Official Protraction Diagram No. NJ 18-8, Chincoteague.

36-41	256-259	520	938-950
86-85	300-302	764-780	954-955
124-129	344-346	808-824	982-996
168-173	388-389	852-867	998-999
212-215	432	894-906	
217	476	910-911	

Official Protraction Diagram No. NJ 18-9, Baltimore Rise.

1-2	45	88	

Official Protraction Diagram No. NJ 18-11, Currituck Sound.

14-30	145-161	277-293	409-424
58-74	189-205	321-337	453-468
101-118	233-249	365-381	497-512

All other leases issued as a result of this sale will be for an initial term of 10 years. Leases issued as a result of this sale will be on Form MMS-2005 (August 1982), available from the Regional Manager, at the address stated in paragraph 2.

(b) For leases resulting from this sale for blocks offered on a cash bonus basis with a fixed sliding scale royalty, listed in paragraph 4(b), Form MMS-2005 will be amended as follows:

Sec. 6. Royalty on Production. The lessee agrees to pay the lessor a royalty of that percent in amount or value of production from the leased area as determined by the sliding scale royalty formula as follows: when the quarterly value of production, adjusted for inflation, is less than or equal to $15.929025 million, a royalty of 16.66667 percent in amount or value of production will be due on the unadjusted value or amount of production. When the adjusted quarterly value of production is equal to or greater than $15.929026 million, but less than or equal to $3423.822696 million, the royalty percent due on the unadjusted value or amount of production is given by

$Rj = b\ [Ln\ (Vj/S)]$

where

Rj = the percent royalty that is due and payable on the unadjusted amount or value of all production in quarter j

b = 9.0

Ln = natural logarithm

Vj = the value of production in quarter j, adjusted for inflation, in millions of dollars

S = 2.50

When the adjusted quarterly value of production is equal to or greater than $3423.822697 million, a royalty of 65.00000 percent in amount or value of production will be due on the unadjusted quarterly value of production. Thus, in no instance will the quarterly royalty due exceed 65.00000 percent in amount or value of quarterly production.

In determining the quarterly percent royalty due, Rj, the calculation will be carried to five decimal places (for example, 22.11425 percent). This calculation will incorporate the adjusted quarterly value of production, Vj, in millions of dollars, rounded to the sixth digit, i.e., the nearest dollar (for example, $29.178436 millions of dollars). Gas of all kinds (except helium) is subject to royalty. The lessor shall determine whether production royalty shall be paid in amount or value.

(c) For leases resulting from this sale for blocks offered on a cash bonus basis with a fixed net profit share, as listed in paragraph 4(a), Form MMS-2005 will be amended as follows:

Sec. 4. Rentals. The phrase, "which commences prior to a discovery in paying quantities of oil or gas on the leased area," is hereby deleted and replaced by, "which commences prior to the date the first net profit share payment becomes due."

Sec. 5. Minimum Royalty. Hereby deleted.

Sec. 6. Royalty on Production. Hereby replaced by Net Profit Share. The lessee agrees to pay a net profit share rate of 30 percent with a 1.50 capital recovery factor, calculated pursuant to 10 CFR 390.

(d) Except as otherwise noted, the following stipulations will be included in each lease resulting from this sale. In the following stipulations, the term RS refers to the Regional Supervisor, Offshore Field Operations, Atlantic OCS Region, Minerals Management Service.

Stipulation No. 1

The lessee agrees that if any site, structure, or object of possible historical or archeological significance, hereinafter referred to as a "cultural resource," should be discovered during the conduct of any drilling activity or the construction or placement of any structure for exploration or development on the lease, including, but not limited to, well drilling and pipeline and platform placement, hereinafter in this stipulation referred to as "operation," he shall report immediately such findings to the RS and make every reasonable effort to protect the cultural resource from damage until the RS has given directions as to its protection.

If the RS has reason to believe that a cultural resource may exist in the leased area and gives the lessee written notice that the lessor is enforcing the provisions of this stipulation, the lessee shall, upon receipt of such notice, comply with the following requirements:

(1) Prior to any operation, the lessee shall conduct remote sensing surveys and/or prepare a report, as specified by the RS, to determine the potential existence of any cultural resource that may be affected by such operation. All data produced as well as other pertinent natural and cultural environmental data shall be examined by an archeologist and geophysicist to determine if indicators are present suggesting the existence of a cultural resource that may be adversely affected by any lease operation. A report of such surveys and assessments prepared by an archeologist and geophysicist shall be submitted by the lessee to the RS.

(2) 'If such cultural resource indicators are present, the lessee shall: (a) locate the site of such operation so as not to adversely affect the identified location; or (b) establish to the satisfaction of the RS, on the basis of further archeological investigation conducted by an archeologist and geophysicist using such survey equipment and techniques as deemed necessary by the RS, either that such operation will not adversely affect the location identified or that the potential cultural resource suggested by the occurrence of the indicators does not exist.

(3) A report of this investigation prepared by the archeologist and geophysicist shall be submitted to the RS for review. Should the RS determine that the existence of a cultural resource which may be adversely affected by such operation is sufficiently established to warrant protection, the lessee shall take no action that may result in an adverse effect on such cultural resource until the RS has given directions as to its protection.

Stipulation No. 2

To be included in all leases resulting from this sale except for the following blocks:

Official Protraction Diagram No. NJ 18-1.

17-35	193-205	325-333	428-431	541-557	644-648	771-777	934-947
61-79	209-211	337-343	454-466	560-563	673-692	804-814	978-990
105-123	237-255	369-378	473-475	585-597	716-725	816-819	
149-162	281-289	381-387	497-512	600-604	727-734	847-861	
165-167	293-299	412-422	516-519	630-641	760-769	891-903	

Official Protraction Diagram No. NJ 18-5.

349	603-613	867-877
392-393	647-657	911-921
436-437	691-701	955-965
479-481	735-745	999-1009
515-525	779-789	
559-569	823-833	

Official Protraction Diagram No. NJ 18-6.

10-19	181-191	441-450	617-622	881
21	224-233	452	661-667	925-927
53-62	235-237	453	705-711	969-970
96-102	266-281	485-490	749	
104-106	309-321	496	752	
108	353-365	529-534	793	
138-148	397-410	573-578	837	

Official Protraction Diagram No. NJ 18-8.

36-41	256-259	476	910
80-84	300-302	764-779	938-950
124-129	344-345	808-823	954
168-173	388-389	852-867	982-996
212-215	432	894-906	

Official Protraction Diagram No. NJ 18-11.

14-30	233-249	453-468
58-74	277-293	497-512
101-117	321-336	
145-161	365-380	
189-205	409-424	

Official Protraction Diagram No. NJ 19-1.

10-27	230-235	406
54-67	274-277	
98-107	318-319	
142-149	362	
186-190	363	

Official Protraction Diagram No. NK 18-12.

701-702	872-878
744-746	915-922
787-790	958-966
829-834	1001-1010

Official Protraction Diagram No. NK 19-10.

242-247	456-467	669-687	889-907
285-291	499-511	713-731	933-944
327-335	541-555	757-775	947-951
370-379	584-599	801-819	977-988
413-423	627-643	845-863	991-995

If available environmental information indicates that biological populations or habitats which require special protection may exist in proximity to a proposed drill site, the RS may require the lessee to conduct environmental surveys or studies, which may include field sampling or monitoring, as approved by the RS, to determine existing environmental conditions, the extent and composition of the populations or habitats, and the effects of proposed or existing operations on those populations or habitats which might require additional protective measures. Special biological resources include, but are not limited to: (1) very unusual, rare, or uncommon ecosystems; (2) a species of limited regional distribution that may be adversely affected by any lease operation. The RS shall provide written notice to the lessee of his decision to require such surveys. The nature and extent of any surveys or studies will be determined by the RS on a case-by-case basis.

If the RS determines, based on available environmental information, including any surveys or studies which the RS may require of the lessee, that biological populations or habitats requiring special protection do exist in proximity to a proposed drill site, the lessee will be required to undertake protective measures that may include, but are not limited to: (1) relocating the site of operations so as not to adversely affect the biological populations or habitats identified; or (2) modifying operations, such as the disposal of drilling muds and cuttings, in such a way so as not to adversely affect the biological populations or habitats; or (3) establishing to the satisfaction of the RS that such operations will not adversely affect the biological populations or habitats identified. The lessee shall submit all data obtained in the course of surveys or monitoring programs to the RS, with the locational information for drilling or other activity.

Operations, including siting, must be conducted to insure the protection and continued viability of the populations or habitats deserving protection in a manner consistent with the other purposes of the Outer Continental Shelf Lands Act, as amended. The lessee may take no action that might result in any adverse effect on the biological populations or habitats identified, until the RS provides written directions to the lessee with regard to permissible actions.

In the event that populations or habitats deserving protection are identified subsequent to commencement of or during operations, the lessee shall make every reasonable effort to preserve and protect all such biological populations and habitats within the leased area from damage until the RS provides written instructions to the lessee with regard to the biological populations or habitats identified.

Stipulation No. 3.

Pipelines will be required, (1) if pipeline rights-of-way can be determined and obtained, (2) if laying such pipelines is technologically feasible and environmentally preferable, and (3) if, in the opinion of the lessor, pipelines can be laid without net social loss, taking into account any incremental costs of pipelines over alternative methods of transportation and any incremental benefits in the form of increased environmental protection or reduced mutliple use conflicts. The lessor specifically reserves the right to require that any pipeline used for transporting production to shore be placed in certain designated management areas. In selecting the means of transportation, consideratiun will be given to any recommendation of the Intergovernmental Planning Program for Outer Continental Shelf Oil and Gas Leasing, Transportation and Related Facilities, with the participation of Federal and State governments, industry, and private interests. Where feasible and environmentally preferable, all pipelines, including both flow lines and gathering lines for oil and gas, shall be buried to a depth suitable for adequate protection from water currents, sand waves, storm scouring, fisheries trawling gear, and other factors as determined on a case-by-case basis.

All valves, taps or other irregular surfaces that might be vulnerable or might damage fishing gear will be buried to a minimum of one foot or to a depth suitable for adequate protection or covered with an approved protective dome which will allow commercial trawling gear to pass over the structure without snagging or damaging the structure or fishing gear, as determined on a case-by-case basis.

Following the completion of pipeline installation, no crude oil production will be transported by surface vessel from offshore production sites, except in the case of emergency. Determinations as to emergency conditions and appropriate responses to these conditions will be made by the RS. Where the three criteria set forth in the first sentence of this stipulation are not met and surface tranportation must be employed, all vessels used for carrying hydrocarbons to shore from the leased area will conform with all applicable sections of Titles 33 and 46 of the U.S. Code and the regualtions issued thereunder by the U.S. Coast Guard.

Stipulation No. 4

The RS may require the lessee to dispose of drill cuttings and drilling muds by shunting the material to a depth and location below the ocean surface as specified by the RS, or by transporting the material to disposal sites approved by the Environmental Protection Agency. After consultation with the Environmental Protection Agency, the RS shall determine the method of disposal based upon review of relevant sources of information.

Based upon the composition of produced formation waters, the site-specific environmental conditions in a leasing area, and the data from relevant sources, the RS may require the lessee to reinject formation waters. The RS shall provide written notice to the lessee of a decision to require reinjection of such formation waters.

Stipulation No. 5

To be included only in leases resulting from this sale for the following blocks:

Official Protraction Diagram No. NK 18-12, New York.

701-702	787-790	872-878	958-966
744-746	829-834	915-922	1001-1010

Official Protraction Diagram No. NK 19-10, Block Island Shelf.

242-247	456-467	669-687	889-907
285-291	499-511	713-731	933-944
327-335	541-555	757-775	947-951
370-379	584-599	801-819	977-998
413-423	627-643	845-863	991-995

Official Protraction Diagram No. NJ 18-3.

19-35	245-255	454-458	585-592	716-728
64-79	293-299	473-475	605-607	737
109-123	337-343	497-503	630-637	738-739
154-162	381-387	516-519	649-651	760-769
165-167	412-413	541-548	673-682	771-772
199-205	428-431	561-563	695	781-784
209-211				
804-814	847-857	869-872	934-952	1001-1004
816-817	860-862	891-907	957-960	
825-828		913-916	978-997	

Official Protraction Diagram No. NJ 18-1, Block Canyon.

10-27	274-291	538-555	801-819
54-71	318-335	582-599	845-863
98-115	362-379	626-643	889-907
142-159	406-423	670-687	933-951
186-203	450-467	714-731	977-1017
230-247	494-511	757-775	

Official Protraction Diagram No. NJ 18-2, Veatch Canyon.

969-974

Official Protraction Diagram No. NJ 18-5, Salisbury.

392-393	559-569	735-745	911-921
436-437	603-613	779-789	955-965
479-481	647-657	823-833	999-1009
515-525	691-701	867-877	

Official Protraction Diagram No. NJ 18-6.

10-19	108-111	200-205	297-300	385-388	504-509
21-30	113-119	209-212	319-321	397	529-533
33-36	121-124	226-233	324-325	411-412	550-552
53-62	138-148	235-242	330-335	416-422	573-578
65-75	152-162	244-249	341-344	429-432	617-622
77-80	165-168	253-256	365	441-443	661-668
96-102	181-191	272-283	368	459-465	705-713
104-106	195-198	286-292	373-379	485-488	749
752	759	837	884	933-940	
755-756	793	841-842	890-894	969-971	
	798-800	846-849	925-927	975-985	
	803-804	881	930		

Official Protraction Diagram No. NJ 19-4.

9-44	229-259
53-88	273-301
97-132	317-343
141-174	361-386
185-217	405-428

Official Protraction Diagram No. NJ 19-5.

1-2	
45-46	

Official Protraction Diagram No. NJ 18-8, Chincoteague.

36-41	256-261	432-437	652-657	894-906
80-84	300-305	476-481	696-701	910-921
124-129	344-346	520-525	740-745	938-950
168-173	348-349	564-569	764-789	954-965
213-217	388-393	608-613	808-833	982-996
			852-877	998-1009

Official Protraction Diagram No. NJ 18-9, Baltimore Rise.

1-3	265-289	661-685
7-18	309-333	705-729
45-47	353-377	749-773
50-63	397-421	793-817
89-91	441-465	837-861
94-108	485-509	881-905
133	529-543	925-949
135-153	573-597	969-993
178-188	617-641	
221-244		

Official Protraction Diagram No. NJ 18-11, Currituck Sound.

14-41	145-173	277-305	409-437
58-85	189-217	321-349	453-481
101-129	233-261	365-393	497-525

Official Protraction Diagram No. NJ 18-12.

1-14	133-144	265-274	397-404
45-57	177-187	309-317	441-447
89-100	221-230	353-361	485-491

(a) Whether or not compensation for such damage or injury might be due under a theory of strict or absolute liability or otherwise, the lessee assumes all risks of damage or injury to persons or property, which occur in, on, or above the Outer Continental Shelf, to any person or persons, or to any property of any person or persons who are agents, employees, or invitees of the lessee, its agents, independent contractors or subcontractors doing business with the lessee in connection with any activities being performed by the lessee in, on, or above the Outer Continental Shelf, if such injury or damage to such person or property occurs by reason of the activities of any agency of the U.S. Government, its contractors, or subcontractors, or any of their officers, agents or employees, being conducted as a part of, or in connection with, the programs and activities of the Commanding Officer, Fleet Area Control and Surveillance Facility, Virginia Capes OPAREA, Naval Air Station Oceana, Virginia Beach, Virginia. The lessee assumes this risk whether such injury or damage is caused in whole or in part by any act or omission, regardless of negligence or fault, of the United States, its contractors or subcontractors, or any of their officers, agents, or employees.

Notwithstanding any limitations of the lessee's liability in section 14 of the lease, the lessee assumes this risk whether such injury or damage is caused in whole or in part by any act or omission, regardless of negligence or fault of the United States, its contractors or subcontractors, or any of their officers, agents, or employees. The lessee further agrees to indemnify and save harmless the United States against all claims for loss, damage, or injury sustained by the lessee, and to indemnify and save harmless the United States against all claims for loss, damage, or injury sustained by the agents, employees, or invitees of the lessee, its agents or any independent contractors or subcontractors doing business with the lessee in connection with the programs and activities of the aforementioned military installation, whether the same be caused in whole or in part by the negligence of fault of the United States, its contractors, or subcontractors, or any of their officers, agents, or employees and whether such claims might be sustained under theories of strict or absolute liability or otherwise.

(b) The lessee, when operating or causing to be operated on its behalf, boat or aircraft traffic into the individual designated warning areas, shall enter into an agreement with the Commanding Officer, Fleet Area Control and Surveillance Facility, Virginia Capes OPAREA, Naval Air Station Oceana, Virginia Beach, Virginia, on utilizing an individual designated warning area prior to commencing such traffic. Such agreement will provide for positive control of boats and aircraft operating into the warning areas at all times.

(c) The lessee agrees to control his own electromagnetic emissions and those of his agents, employees, invitees, independent contractors or subcontractors emanating from individual, designated defense warning areas in accordance with requirements specified by the Commanding Officer, Fleet Area Control and Surveillance Facility, Virginia Capes OPAREA, Naval Air Station Oceana, Virginia Beach, Virginia, to the degree necessary to prevent damage to, or unacceptable interference with,

Department of Defense flight, testing or operational activities conducted within individual, designated warning areas. Necessary monitoring, control, and coordination with the lessee, its agents, employees, invitees, independent contractors or subcontractors, will be effected by the Commander of the appropriate onshore military installation conducting operations in the particular warning area: provided, however, that control of such electromagnetic emissions shall permit at least one continuous channel of communication between a lessee, its agents, employees, invitees, independent contractors or subcontractors and onshore facilities.

Stipulation No. 6

To be included only in leases resulting from this sale for all blocks offered within Official Protraction Diagram Nos. NJ 18-5, NJ 18-6, NJ 18-8, NJ 18-9, NJ 18-11, NJ 18-12, NJ 19-4, and NJ 19-5.

(a) Whether or not compensation for such damage or injury might be due under a theory of strict or absolute liability or otherwise, the lessee assumes all risks of damage or injury to persons or property, which occur in, on, or above the Outer Continental Shelf, to any person or persons or to any property of any person or persons who are agents, employees or invitees of the lessee, its agents, independent contractors or subcontractors doing business with the lessee in connection with any activities being performed by or on behalf of the lessee in, on, or above the Outer Continental Shelf, if such injury or damage to such person or property occurs by reason of the activities of any agency of the U.S. Government, its contractors, or subcontractors, or any of their officers, agents or employees, being conducted as a part of, or in connection with, the programs and activities of the National Aeronautics and Space Administration (NASA) Wallops Flight Center. The lessee assumes this risk whether such injury or damage is caused in whole or in part by any act or omission, regardless of negligence or fault, of the United States, its contractors or subcontractors, or any of their officers, agents, or employees.

Notwithstanding any limitations of the lessee's liability in section 14 of the lease, the lessee assumes this risk whether such injury or damage is caused in whole or in part by any act or omission, regardless of negligence or fault of the United States, its contractors or subcontractors, or any of their officers, agents, or employees. The lessee further agrees to indemnify and save harmless the United States against all claims for loss, damage, or injury sustained by the lessee, and to indemnify and save harmless the United States against all claims for loss, damage, or injury sustained by the agents, employees, or invitees of the lessee, its agents or any independent contractors or subcontractors doing business with the lessee in connection with the programs and activities of the NASA Wallops Flight Center, whether the same be caused in whole or in part by the negligence or fault of the United States, its contractors, or subcontractors, or any of their officers, agents, or employees and whether such claims might be sustained under theories of strict or absolute liability or otherwise.

(b) The lessee, when operating or causing to be operated on its behalf, boat, ship, or aircraft traffic into the leased area or surrounding area of the lease, including any part of the Outer Continental Shelf between the 35th and 39th parallels, shall enter into an agreement with the Director, Wallops Flight Center, prior to commencing such traffic. Such agreement shall provide for positive control of boats, ships, and aircraft operating in the above designated areas and will provide for the avoidance of interference with the programs and activities of the NASA Wallops Flight Center.

(c) Upon recommendation by the Director, Wallops Flight Center, when the activities of the NASA Wallops Flight Center may endanger personnel or property, the lessee agrees, upon receipt of notice from the RS, to evacuate all personnel from all structures on the lease and to shut-in and secure all wells and other equipment, including pipelines on the lease, within forty-eight (48) hours or within such longer period as may be specified by the RS. The RS shall not require evacuation of personnel and shutting-in and securing of equipment for a period of time greater than seventy-two (72) hours; however, such period of time may be extended by subsequent notice from the RS. Equipment and structures may remain in place on the lease during such time as the evacuation remains in effect.

The lessee agrees to control his own electromagnetic emissions and those of his agents, employees, invitees, independent contractors or subcontractors emanating from the leased area or surrounding area of the lease, including any part of the Outer Continental Shelf between the 35th and 39th parallels, in accordance with the requirements specified by the Director, Wallops Flight Center, to the degree necessary to prevent damage to, or unacceptable interference with, the programs and activities of the NASA Wallops Flight Center.

Necessary monitoring, control, and coordination with the lessee, his agents, employees, invitees, independent contractors or subcontractors, will be effected by the Director, Wallops Flight Center, provided, however, that control of such electromagnetic communication shall in no instance prohibit all manner of electromagnetic communications during any period of time between a lessee, its agents, employees, invitees, independent contractors or subcontractors and onshore facilities.

Stipulation No. 7

This stipulation will apply to the following blocks which have been identified, in conjunction with Sale No. 59, as having potential for undetonated explosives: Official Protraction Diagram No. NJ 18-3, blocks 905-911, 949-952, 954, and 993-997; Official Protraction Diagram No. NJ 18-6, blocks 25-28, 69-71, 113, 114, and 157. In addition, this stipulation may apply to other blocks in the Sale No. 76 area with a high probability of containing undetonated explosives or radioactive wastes. Any additional blocks will be listed in the final notice of sale.

If the RS believes any undetonated explosives or radioactive materials may exist in the lease area, the lessee shall conduct surveys as specified by the RS to determine the location of any such materials. Upon completion of such surveys, the lessee shall forward a report and all pertinent data to the RS for review. Should the RS determine that the existence of undetonated explosives or radioactive materials may adversely affect any activity or operation, such as the construction or placement of any structure for exploration or development on the lease, or pose an environmental hazard such as the release of radioactive materials from drums or canisters, the lessee shall take no action until the RS has given directions as to the conduct of that operation.

Stipulation No. 8.

No structures or drilling rigs will be allowed west of 74° 15' west longitude within the following blocks: Official Protraction Diagram No. NJ 18-8, blocks 36, 80, 124, 168, 212, 256, 300, 344, 388, 432, 476, 520, 564, 608, 652, 696, and 740.

14. Information to Lessees. In the enforcement of the Biological Resources Stipulation (Stipulation No. 2), the RS will receive recommendations from a Biological Task Force (BTF) composed of designated representatives of the Minerals Management Service, the U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and the Environmental Protection Agency. The BTF will consult with the affected States. The RS will consult with the BTF on the conduct of biological surveys by lessees, the appropriate course of action after surveys have been conducted, and on the administration of the biological/environmental aspects of the above-mentioned stipulation.

Revisions of Department of Labor regulations on affirmative action requirements for Government contractors (including lessees) have been deferred, pending review of those regulations (see Federal Reister of August 25, 1981, at 46 FR 42865 and 42968). Should those changes become effective at any time before the issuance of leases resulting from this sale, section 18 of the lease form, MMS-2005 (August 1982) would be deleted from leases resulting from this sale. In addition, existing stocks of the affirmative action forms described in paragraph 5 of this notice contain language that would be superseded by the revised regulations at 41 CFR 60-1.5 (a) (1) and 60-1.7 (a) (1).

Pending the issuance of revised versions of Forms 1140-7 and 1140-8, submission of Form 1140-7 (June 1982) and Form 1140-8 (June 1982) will not invalidate an otherwise acceptable bid, and the revised regulations' requirements will be deemed to be part of the existing affirmative action forms.

Operations on some of the blocks offered for lease may be restricted by designation of fairways, precautionary zones, or traffic separation schemes established by the Coast Guard pursuant to the Ports and Waterways Safety Act (33 U.S.C. 1221 et seq.). Corps of Engineers permits are required for construction of any artificial islands, installations and other devices permanently or temporarily attached to the seabed located on the OCS in accordance with section 4 (e) of the Outer Continental Shelf Lands Act of 1953, as amended.

At least 20 days prior to moving a rig on-site, the lessee must notify the Chief, Marine and Wetlands Protection Branch, U.S. Environmental Protection Agency, Region II, Jacob K. Javits Federal Building, New York, N.Y. 10278, in writing, stating on what date a rig is

to be moved on-site. This would apply to lessees of the following blocks identified, in conjunction with Sale No. 59, as having a high probability of containing undetonated explosives: Official Protraction Diagram No. NJ 18-3, blocks 905, 906, 907, 908, 909, 910, 911, 949, 950, 951, 952, 954, 993, 994, 995, 996, and 997; Official Protraction Diagram No. NJ 18-6, blocks 25, 26, 27, 28, 69, 70, 71, 113, 114, and 157. It may also apply to additional blocks in the Sale No. 70 area identified as having undetonated explosives or radioactive wastes. Any additional blocks will be listed in the final notice of sale.

Bidders are advised that the Departments of the Interior and Transportation have entered into a Memorandum of Understanding dated May 6, 1976, concerning the design, installation, operation and maintenance of offshore pipelines. Bidders should consult both Departments for regulations applicable to offshore pipelines.

Bidders are advised that in accordance with section 16 of each lease offered at this sale, the lessor may require a lessee to operate under a unit, pooling, or drilling agreement, and that the lessor will give particular consideration to requiring unitization in instances where one or more reservoirs underlie two or more leases with either a different royalty rate, a royalty rate based on a sliding scale, or a net profit share payment.

The following list of blocks were offered in Sale No. 59 and reoffered in Sale No. RS-1, but were not leased:

- Mass Movement

NJ 18-3:

733 NW1/4SW1/4, S1/2SE1/4, NE1/4SW1/4
734 W1/2SW1/4
735 SW1/4
777 N1/2NE1/4
781 SE1/4, E1/2SW1/4, SW1/4SW1/4, S1/2NE1/4,SE1/4NW1/4
824 SE1/4, SW1/4, S1/2NE1/4, S1/2NW1/4
867 SE1/4NW1/4,NE1/4SW1/4, S1/2NE1/4, N1/2SE1/4
910 W1/2NW1/4, NE1/4NW1/4, NE1/4, SE1/4, SE1/4SW1/4
911 S1/2, S1/2NW1/4, NW1/4NW1/4, S1/2NE1/4, NE1/4NE1/4
954 NW1/4SW1/4, NE1/4NW1/4, N1/2NE1/4, SE1/4NE1/4
990 SW1/4NW1/4, N1/2SW1/4
993 NE1/4SE1/4

NJ 18-6:

22 E1/2NE1/4
23 S1/2NW1/4, NW1/4NW1/4, N1/2SW1/4, W1/2SE1/4
28 SE1/4SE1/4
63 NE1/4SE1/4
108 SW1/4NE1/4, NW1/4NE1/4
114 SW1/4SW1/4
157 NE1/4NE1/4
453 SE1/4
454 S1/2NW1/4
496 NE1/4SE1/4
497 NW1/4, NW1/4NE1/4, NW1/4SW1/4
546 S1/2SW1/4, NE1/4SW1/4
627 N1/2NW1/4
800 SW1/4SE1/4
975 SW1/4SW1/4

NJ 18-8:

304 SE1/4SE1/4
305 SW1/4SW1/4
348 E1/2NE1/4, E1/2SE1/4

NJ 18-9:

50 N1/2NE1/4
90 SE1/4SW1/4
133 E1/2NE1/4, NE1/4SE1/4

In the Sale No. 59 and RS-2 offering, these blocks were assigned a geologic hazards stipulation due to possible mass movement of sediments and shallow faulting.

In this sale, Sale No. 76, lessees are informed that these blocks will not be assigned a geologic hazards stipulation, but the lessees are alerted to the possibility that mass movement of sediments could occur and shallow faults are present on the blocks listed. The lessees are also informed that this list may not be all inclusive as other blocks in the Sale No. 76 offering may contain these same geohazards.

Lessees are also informed that seismic reflection data indicate that clathrates (solid gas hydrates) may exist in upper sedimentary layers of the continental slope and rise in the Sale No. 76 area in water depths exceeding 2,000 meters. Special drilling procedures may be required in these areas.

For those blocks listed in paragraph 13 providing for lessees with an initial period of more than five years, bidders are advised that pursuant to 30 CFR 250.34-1(a) (3), the lessee shall submit to the Minerals Management Service either an exploration plan or a general statement of exploration intentions prior to the end of the ninth lease year.

15. OCS Orders. Operations on all leases resulting from this sale will be conducted in accordance with the provisions of all Mid-Atlantic OCS Orders, as of their effective dates, and any other applicable OCS Order as it becomes effective.

[FR Doc. 82-34803 Filed 12-22-82; 8:45 am]
BILLING CODE 4310-MR-C

federal register

Thursday
December 23, 1982

Part IV

Department of Commerce

National Oceanic and Atmospheric Administration

Fisheries Obligation Guarantee Program; Final Rule

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 255

[Docket No. 21 117-233]

Fisheries Obligation Guarantee Program

AGENCY: National Oceanic and Atmospheric Administration (NOAA), National Marine Fisheries Service, Commerce.

ACTION: Final rule.

SUMMARY: NOAA issues a final rule to implement the American Fisheries Promotion Act amendments to Title XI of the Merchant Marine Act, 1936. This final rule is a modification of the rule proposed on August 3, 1982 (47 FR 33648). The modification is in response to public comment and for clarification. This rule will extend the availability of guaranteed financing under the Title XI Program to fisheries shoreside facilities and make other changes in the existing vessel financing program.

EFFECTIVE DATE: December 23, 1982.

FOR FURTHER INFORMATION CONTACT: Michael L. Grable, Chief, Financial Services Division, National Marine Fisheries Service, 202–634–7496.

SUPPLEMENTARY INFORMATION: The Fisheries Obligation Guarantee Program provides a Federal guarantee of the debt portion of the cost of constructing, reconstructing, reconditioning, or (under limited circumstances) purchasing fishing vessels and fisheries shoreside facilities. The Agency is authorized to guarantee financing of up to 87½ percent of the cost of such vessels or facilities. Guaranteed debt maturities may be up to 25 years. In order to secure its guarantee, the Federal Government holds and services (as mortgagee) a mortgage on the property financed and such other collateral as the Agency deems necessary. The security for the private obligee (the lender or investor) who funds the guaranteed financing is the Federal guarantee of the debt obligation held and serviced by that private obligee.

The following is a description of how the Program works:

(1) An obligor (the borrower) applies to the Agency. A filing and commitment fee, 75 percent of which is nonrefundable, is required at the time of application.

(2) The Agency conducts an investigation of the obligor and an analysis of the project to determine eligibility for a guarantee. This is a standard risk assessment evaluation, involving such factors as the obligor's demonstrated fisheries ability and experience, character and reputation, past record of operations, and financial condition; and the financial, economic, and technical feasibility of the project.

(3) If the project is approved for a guarantee, the Agency issues a letter approving in principle the issuance of a guarantee for financing. This letter states all the terms and conditions under which a guarantee will be issued. The remaining 25 percent of the obligor's filing and commitment fee is earned by the Agency at this point. If the project is not approved for a guarantee, the Agency issues a declination letter and returns to the applicant the remaining 25 percent of the filing and commitment fee.

(4) The obligor accepts the Agency's terms and conditions as stated in the Approval in Principle letter.

(5) The obligor and the Agency cooperate in selecting a private obligee (the lender or investor) willing, with the Agency's guarantee, to fund the financing under terms acceptable to the obligor and the Agency.

(6) Once a private obligee has agreed to commit funds to the obligor, under terms acceptable to the Agency and the obligor, the Agency issues a guarantee commitment which is signed by the obligor, the private obligee, and the Agency. At this point, all three parties are bound to the terms and conditions of the financing and the guarantee.

(7) Closing documents are prepared and approved as to form, the financing is closed, and the proceeds are disbursed. The private obligee receives a debt obligation from the obligor and a guarantee of repayment from the Federal Government. The Agency receives from the obligor a mortgage on the property financed and such other collateral as has been required. The obligor receives from the private obligee the proceeds of the financing.

(8) Payments on the debt obligation are made by the obligor to the private obligee. Annual guarantee fees are paid by the obligor to the Agency.

(9) If the obligor fails to pay the private obligee as provided in the guaranteed debt obligation, the private obligee may demand payment under the Agency's guarantee.

(10) Once the Agency is required to make payment under the guarantee, the Agency liquidates the debt obligation by foreclosing on its collateral and/or by pursuing all other collection remedies available to the Agency.

Prior to enactment of the American Fisheries Promotion Act (AFPA), the Agency was authorized to guarantee financing only for the construction, reconstruction, or reconditioning of fishing vessels. The American Fisheries Promotion Act made the following changes in the fisheries portion of the Title XI Program:

(1) Authorized guaranteed financing of the cost of constructing, reconstructing, or reconditioning fisheries shoreside facilities.

(2) Authorized, under certain limited conditions, guaranteed financing of the cost of purchasing used fishing vessels or fisheries shoreside facilities.

(3) Authorized guaranteed financing for fishing vessels and fisheries shoreside facilities to be used in developing fisheries, where risks may be greater than in more traditional fisheries.

(4) Created separate subfunds in the Federal Ship Financing Fund for income/expenses related to traditional financing risks and income/expenses related to higher-risk developing fisheries.

(5) Expanded the definitions of reconstruction and reconditioning, but excluded routine minor repairs and maintenance.

(6) Extended eligibility for guarantees to nationals of the United States and citizens of the Northern Mariana Islands.

(7) Made it clear that, for the purposes of determining eligibility for guarantees, the term "State" as used in section 2 of the Shipping Act, 1916 (46 U.S.C. 802) includes any State, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands of the United States, the Northern Mariana Islands, or any other Commonwealth, territory, or possession of the United States.

(8) Authorized guaranteed financing for the purchase, reconstruction, or reconditioning of previously guaranteed vessels or facilities which are sold at a foreclosure sale instituted by the Agency or sold by the Agency itself after purchase of such collateral at a foreclosure sale.

A notice of proposed rulemaking relative to these changes in Title XI was published on August 3, 1982 (47 FR 33648). Sixty-six comments were received in response to this notice. After considering these comments, the Agency has decided to make the following changes in the proposed rulemaking.

Comments and responses:

(1) Several parties commented that filing and commitment fees based on a flat percentage of project cost could produce higher than warranted filing and commitment fees in connection with higher-cost projects.

In general, higher-cost projects do involve higher processing costs. Since the risk of loss is higher, the degree of investigation is also higher. Higher-cost projects also most often involve more complicated closing, and this will be particularly true when the Agency is ready to begin using guaranteed bonds, rather than guaranteed notes, for the higher-cost financings. The Agency does agree, however, that the proposed fee basis could produce fees higher than warranted in the case of very high cost projects. The proposed filing and commitment fee has, consequently, been reduced from ½ of 1 percent of the total project cost to ½ of 1 percent of the first $2,000,000 (or any portion thereof) of project cost and ¼ of 1 percent of all project cost over $2,000,000.

(2) One party commented that the filing fee should be partially refundable if changed circumstances required withdrawing an application.

Nonrefundability of the Agency's filing fee is one way of controlling the incidence of speculative applications. The Agency desires to keep the filing fee nonrefundable. The commitment fee (which is 25 percent of the total filing and commitment fee) is refundable if an application is declined or if an application is withdrawn before issuance of an approval in principle letter.

(3) Several parties commented that the proposed rules should specifically cover inland fisheries facilities which involve freshwater fish.

The rules, as proposed, include inland fisheries facilities whether they involve saltwater or freshwater fish. The word "shoreside" was not intended to mean that a facility needed to be in proximity to a shoreline.

(4) One party commented that the proposed rules should: (a) Provide for "call" protection on guaranteed financings, (b) provide additional information on the method of calculating interest on guaranteed financings, and (c) revise the current guarantee termination provisions.

These are contractual matters which need not appear in the rules. In general, reasonable "call" provisions acceptable to the borrower are permissable, but prepayment penalties are not part of the amount guaranteed. The Agency is now revising its contracts to (a) provide for a uniform method of calculating interest and (b) revise the current guarantee termination provisions by restricting termination to the defaulted payments for which demand has not been timely (rather than termination of the entire guarantee).

(5) One party commented that domestic corporation whose stock is owned by noncitizens of the United States should be eligible for the Program.

The term "citizen or national of the United States" is defined by Title XI. In the case of fishing vessels, U.S. citizen corporations must meet the coastwise trade requirements of section 2 of the Shipping Act, 1916; this means, among other things, that 75 percent of the corporation's stock must be owned by U.S. citizens or nationals. In the case of fisheries shoreside facilities, Title XI itself requires that 75 percent of a corporate obligors stock must be owned by U.S. citizens or nationals. This comment cannot, consequently, be adopted.

(6) One party commented that excess proceeds realized from the resale of collateral previously acquired by the Agency at a foreclosure sale should be credited to the previous obligor.

Once the Agency has acquired collateral at a foreclosure sale, its resale risk is borne by the Agency and no portion of the resale proceeds will be credited to the previous obligor.

(7) Two parties commented that equity investors without demonstrated fisheries ability and experience should be limited to a minority interest in a project eligible for program financing, rather than the proposed rules' requirement that the person with the demonstrated fishing industry ability and experience have a "significant" equity interest in the project.

This suggestion could adversely affect a few projects which were highly desirable even though outside equity investors would own more than 49 percent of the project. Nevertheless, the Agency so strongly believes that the commitment of solid fisheries experience is such a prime requirement of success in the fishing industry that this comment has been adopted. Outside equity investors will, consequently, be restricted to *no more than* 49 percent ownership of a project eligible for Program financing.

(8) One party commented that political subdivisions of the states should be included in the definition of "citizen or national of the United States."

This comment has been adopted.

(9) One party commented that the Program should provide short-term financing of construction costs during the property's construction interim.

The proposed rules do not preclude this. Because the program's staff is presently limited, however, applications will for the foreseeable future by limited to long-term financing. Should circumstances permit it in the future, applications will also be accepted for short-term financing during the construction interim. The reasonable interest cost of non-guaranteed, short-term financing during the construction interim can, however, presently be included in the amount of the guaranteed financing.

(10) One party commented that irrevocable letters of credit might be acceptable in lieu of guarantees from parties whose net worths would otherwise have to be pledged.

This comment has been adopted.

(11) One party commented about the lack of loss payee and other mortgagee provisions concerning casualty insurance on program collateral.

Although this is a matter of standard contractual procedure, the Agency has included its standard mortgagee requirements in the insurance section of the final rules.

(12) One party commented that provisions should be made for trustees in the paying agency section of the rules.

This comment has been adopted.

(13) One party commented that: (a) Provision should be made for trustees, acting on behalf of guaranteed obligees, to tender those obligees' demands, (b) the time limits within which demands must be made should be specified, and (c) provision should be made with respect to the avoidable preference provisions of the Bankruptcy Act.

The Agency has made it clear in the final rules that the word "obligees" in the demands and payment section includes obligees' agents and trustee. The time limits within which demands must be made are established by Title XI and specified in each guarantee contract, and this need not be addressed by these final rules. It is not the Agency's intent that payment of any demand be avoided by the avoidable preference provisions of the Bankruptcy Act, but the Agency cannot predict what a Bankruptcy Court might or might not do.

(14) One party commented that dredging costs should be specifically included as eligible.

This comment has been adopted.

(15) Several parties commented that the exclusion from program financing of local distribution facilities was undesirable. One of these parties, representing 1,200 seafood companies, commented that this exclusion was contrary to Title XI and inconsistent with its legislative history.

The Agency has revised this section of the final rules to make program financing available to local fisheries distribution facilities.

(16) One party commented that fisheries shoreside facilities for

commercial passenger carrying fishing vessel operations should be eligible for program financing, but would often be excluded by the definition of fisheries shoreside facilities in the proposed rules.

The definition of fisheries shoreside facilities follows Title XI's language and must, consequently, stay as it was proposed.

(17) Several parties commented that the definition of "underutilized fishery" should be broadened.

The Agency believes the definition of underutilized fisheries, as proposed, is adequate. The final rules have, however, been modified to make it clear that a State's determination of underutilized status for a fisheries resource within that State's fishery management jurisdiction is sufficient to qualify that resource as underutilized for the purpose of program financing.

(18) One party commented that Title XI prohibits financing fisheries processing vessels built in foreign countries, and requested modification of the proposed rules to reflect the same.

A fisheries processing vessel can fall under the Title XI definition either of "fishing vessel" or "fishery facility," since both definitions are clearly broad enough to encompass fisheries processing vessels. If fisheries processing vessels were in every case to be considered as falling under the Title XI definition of "fishery facility," then they clearly would have to be built in the United States because the statutory definition of "fishery facility" requires that vessels eligible as fishery facilities be built in the United States. If fisheries processing vessels were in every case to be considered as falling under the Title XI definition of "fishing vessel," then they clearly would not have to be built in the United States because the statutory definition of "fishing vessel" requires only that eligible fishing vessels (a) meet the *citizenship* requirements for documenting vessels in the coastwise trade and (b) fall within the statutory definition of "fishing vessel" established in the Fishery Conservation and Management Act of 1976. Moreover, the Title XI language pertaining to program financing of the purchase (as opposed to the construction, reconstruction, or reconditioning) of used fishing vessels or fisheries shoreside facilities permits program financing of the purchase price of used equipment when (a) the equipment "* * * will be reconstructed or reconditioned in the United States and contribute to the development of the United States fishing industry * * *" or (b) will be used in connection with an underutilized fishery. The Agency's conclusion is that all fisheries vessels must have been constructed in U.S. shipyards in order to be eligible for program financing, with the exception of *used, noncatching* fisheries vessels which will "contribute to the development of the U.S. fishing industry" or be used in connection with an underutilized fishery. In the latter instance, the purchase price of *used, noncatching* fisheries vessels built in foreign shipyards may be financed under the program if those vessels are also to be reconstructed or reconditioned in the United States and are properly documented as U.S. vessels.

The final rules will be modified to incorporate this conclusion.

(19) One party commented that the proposed rules' requirement that all partners in a partnership owning a fishing vessel be U.S. citizens is not consistent with either Title XI or Federal documentation requirements for vessels engaged in the coastwise trade.

The final rules will be changed to provide that, although all *general* partners in a partnership eligible for Program financing of a fishing vessel or fisheries shoreside facility must be U.S. citizens, up to 25 percent of the partnership may be owned by *limited* partners who are not U.S. citizens.

(20) One party commented that the requirement that reconstructed or reconditioned property have an economically useful life of at least 10 years could be counterproductive in the instance of modern processing equipment which might have an economically useful life of less than 10 years. This party suggested that the 10-year requirement be reduced to a 5-year requirement.

The final rules have been modified to accommodate this comment.

(21) One party requested clarification of the exclusion from program financing of fisheries shoreside facilities not "primarily" engaged in wholesale operations.

The final rules provide clarification.

(22) Several parties commented that heavy, product-transportation equipment not intended for highway operation should not have been excluded from the definition of fisheries shoreside facilities.

This comment has been accommodated.

(23) One party commented that the weighted average method of determining financing maturity where equipment with differing economically useful lives is involved should be optional because other methods might be more desirable.

This comment has been adopted.

(24) One party commented that minimum working capital requirements should be based on an applicant's consolidated operation to prevent transferring assets from one affiliate to another in order to meet minimum requirements for the project proposed for program financing.

The general intent of this comment has been adopted.

(25) One party commented that the minimum working capital requirements should be based upon the projected amount of the financing's first annual principal and interest payment rather than upon a flat percentage of a project's total capitalizable cost.

This comment has not been adopted.

(26) Several parties commented on the conditional fisheries issue. One party opposed any change in the present conditional fisheries policy. One party suggested that the conditional fisheries concept be applied to fisheries processing facilities. Another party suggested exactly the opposite.

There is no authority in Title XI for applying the conditional fisheries concept to fisheries processing facilities (the Title XI authority upon which the conditional fisheries concept is based is limited specifically to fishing vessels). Even if there were Title XI authority to extend the conditional fisheries concept to fisheries processing facilities, the Agency does not believe doing so would be productive. In order to remain economically viable, fisheries processing facilities need the flexibility to vary their operating plans consistently with supply and demand factors. The Agency believes that the best way to make sound financing decisions is through the risk assessment process. The degree of commitment of principals with solid experience in the fishing industry, the financial condition of the principals and the project, and the project's profit potential in the operation intended are the best criteria for financing decisions.

The conditional fisheries mechanism for fishing vessels has been slightly modified to provide a greater program ability to finance vessels with a strong fisheries development potential. The Agency believes this is consistent both with the American Fisheries Promotion Act amendments to Title XI and with the results of a previously published Advance Notice of Proposed Rulemaking regarding the conditional fisheries issue. The great majority of the extensive comment received as a result of that Notice favored complete elimination of the conditional fisheries concept. The Agency has, however, made the least change possible in the conditional fisheries concept consistent

with the fisheries development initiative in Title XI.

(27) Several parties commented that the Fishing Vessel Capital Construction Fund Program should be made available to fisheries shoreside facilities.

The legislative authority for the Fishing Vessel Capital Construction Fund Program limits that program to vessels. No change can, consequently, be made through a rulemaking.

(28) Several parties suggested that the program should guarantee tax-exempt industrial revenue bonds.

This is not consistent with overall Administration policy.

(29) Two parties opposed implementation of the Fisheries Obligation Guarantee Program.

(30) One party expressed a strong view that the Fisheries Obligation Guarantee Program does not go nearly far enough in addressing the fishing industry's economic problems.

This final rulemaking has been reviewed in accordance with Executive Order 12291 ("Federal Regulation") and the Commerce Department guidelines implementing that Order. The Agency has determined that this final rulemaking is not "major" within the context of the Order or its implementing guidelines because the final rulemaking does not significantly affect the economy, costs or prices, competition, employment, investment, or productivity. Accordingly, no regulatory impact analysis is required.

This rulemaking was initially exempt from the notice and comment provisions of the Administrative Procedure Act. Therefore, it is exempt from regulatory flexibility analysis under the Regulatory Flexibility Act.

Because the AFPA authorizes guaranteed financing of previously ineligible projects, the collection of additional information from applicants will be required. The collection of this additional information is necessary for determining eligibility. This final rulemaking has, consequently, been submitted to the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1980.

This final rulemaking will affect only those who choose to apply for guaranteed financing. This final rulemaking will, consequently, not have a significant economic impact on a substantial number of small entities. The Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, has also determined that these regulations do not require the preparation of an environmental impact analysis under the National Environmental Policy Act.

This final rulemaking establishes rules for those provisions of Title XI of the Merchant Marine Act, 1936, as amended by the American Fisheries Promotion Act, which authorize the Secretary of Commerce to guarantee financing for fishing vessels and fisheries shoreside facilities. Elements of Title XI which did not need to be elaborated in this final rulemaking have not been included. Additional details of program administration not addressed by this final rulemaking will be covered by guidance issued from time-to-time by the Chief, Financial Services Division, National Marine Fisheries Service.

List of Subjects in 50 CFR Part 255

Fisheries, Fishing vessels, Financing, Business.

Dated: December 20, 1982.

William G. Gordon,

Assistant Administrator for Fisheries.

For the reasons stated in the preamble, 50 CFR Part 255 is revised to read as follows:

PART 255—FISHERIES OBLIGATION GUARANTEE PROGRAM

Sec.

255.1 Purpose.
255.2 Definitions.
255.3 Applications.
255.4 Citizenship requirements.
255.5 Project requirements.
255.6 Guarantee limits, debt maturities, and interest rates.
255.7 Fishing industry ability and experience.
255.8 Economic soundness.
255.9 Financial requirements.
255.10 Collateral.
255.11 Miscellaneous requirements.
255.12 Fees.
255.13 Demands and payment.
255.14 Default/liquidation of collateral.
255.15 Program guidelines.
255.16 Applicability of rules.

Authority: Title XI, Merchant Marine Act, 1936, as amended (46 U.S.C. 1271–1279, Pub. L. 96–561) and Reorganization Plan No. 4 of 1970 (86 Stat. 909).

§ 255.1 Purpose.

These rules govern guaranteed financing for fishing vessels and fisheries shoreside facilities under the provisions of Title XI of the Merchant Marine Act, 1936 (46 U.S.C. 1271–1279), as amended by the American Fisheries Promotion Act (Pub. L. 96–561). The purpose of the Fisheries Obligation Guarantee Program is to make long-term financing available to the United States fishing industry by providing a U.S. Government guarantee of repayment of the debt portion of fishing vessel and shoreside facility construction, reconstruction, reconditioning, or (where eligible) purchasing costs.

§ 255.2 Definitions.

(a) *Act* means Title XI of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1271–1279).

(b) *Actual cost* means the total amount paid or owed by an obligor for the construction, reconstruction, reconditioning or (where eligible) purchase of fishing vessels or fisheries shoreside facilities.

(c) *Agency* means the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

(d) *Chief, Financial Services Division* means the Chief, Financial Services Division, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, or his designee.

(e) *Citizen of the Northern Mariana Islands* means:

(1) Any individual who is a citizen of the Northern Mariana Islands (and qualifies as such under Section 8 of the Schedule on Transitional Matters attached to the Constitution of the Northern Mariana Islands);

(2) Any corporation formed under the laws of the Northern Mariana Islands, if at least 75 percent of it is owned by individuals specified in paragraph (e)(1) of this section or citizens or nationals of the United States; or

(3) Any partnership or other form of association, if all the general partners, and at least 75 percent of all partners, are individuals specified in paragraph (e)(1) of this section or citizens or nationals of the United States.

(f) *Citizen or national of the United States* means:

(1) Any individual who is a citizen of the Northern Mariana Islands or a citizen or national of the United States of America;

(2) Any corporation, if at least 75 percent of it is owned by citizens of the Northern Mariana Islands or by citizens or nationals of the United States of America within the meaning of the provisions of Section 2 of the Shipping Act, 1916 (46 U.S.C. 802); or

(3) Any partnership or association, if all the general partners, and at least 75 percent of all partners, are citizens of the Northern Mariana Islands or citizens or nationals of the United States of America.

(g) *Conditional fishery* means any fishery which has been declared as conditional under 50 CFR Part 251.

(h) *Contribute to the development of the U.S. fishing industry* means any project which:

(1) Enables fishing vessels to reduce harvests in conditional fisheries;

(2) Applies new technology;

(3) Makes any fisheries operation afloat or ashore more efficient, productive, or competitive;

(4) Has a potential for increasing fisheries exports;

(5) Aids in the development of an underutilized fishery; or

(6) In any other demonstrable way, contributes to the stability, growth, productivity, or development of the U.S. fishing industry.

(i) *Depreciated actual cost* means the actual cost of a fishing vessel or fisheries shoreside facility, depreciated (excluding land, which is not depreciable) on a straightline basis at one-year intervals over the vessel or facility's economically useful life, less a 10 percent salvage value.

(j) *Economically useful life* means the period during which the fishing vessel or fisheries shoreside facility, with proper maintenance, will remain economically productive.

(k) *Fish* means all forms of aquatic animal and plant life other than marine mammals and birds.

(l) *Fisheries shoreside facility* means any land, or structure or equipment on land, used for unloading, receiving, holding, processing, or distributing fish of every kind (including fish caught as a result of commercial passenger carrying fishing operations). This term does not include:

(1) Office furniture, equipment, or supplies;

(2) Any rolling equipment which will be used outside the primary production site;

(3) Any other non-fixed equipment which should be financed either from working capital or by the proceeds of short-term financing from other sources; or

(4) Any facility where more than 49 percent of the gross income is projected to be from the retail selling of fish or fisheries products or from anything else other than the unloading, receiving, holding, processing, or distribution of fish.

(m) *Fishing vessel* means any vessel, boat, ship, or other craft which is documented under United States law and is used for, equipped to be used for, or of a type which is normally used for commercial fishing (including commercial passenger carrying fishing vessels) or aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing (including, but not limited to, preparation, supply, storage, refrigeration, transportation, or processing).

(n) *Obligee* means the party who lends the proceeds of a guaranteed obligation or invests in a guaranteed obligation.

(o) *Obligor* means the party who borrows the proceeds of a guaranteed obligation.

(p) *Program* means the Fisheries Obligation Guarantee Program under Title XI of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1271–1279).

(q) *Project* means a construction, reconstruction, reconditioning, or (where eligible) purchase of fishing vessels or fisheries shoreside facilities, whose financing will be guaranteed under the Program.

(r) *Reconstruction or reconditioning* means any improvements of used fishing vessels or fisheries shoreside facilities provided that:

(1) At least 75 percent of improvement expenditures are capital, rather than expense, items;

(2) The improved vessel or facility will have an economically useful life of at least 10 years (or longer if the term of the proposed financing for which a guarantee is sought is longer), but specific equipment involved in a reconstruction or reconditioning may individually have economically useful lives of less than 10 years;

(3) The improved vessel or facility will be fit and sufficient for its intended operation; and

(4) The improvement project involves more than routine repair or maintenance.

(s) *Secretary of Commerce* means the Secretary of Commerce, or his designee.

(t) *State* means any State of the United States of America, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands of the United States, Guam, the Northern Mariana Islands, any other commonwealth, territory, or possession of the United States of America, or any political subdivision of any of the above.

(u) *Underutilized fishery* means:

(1) Any species of fish for which foreign fishing within the U.S. Fishery Conservation Zone is permitted or any species of fish within or without such zone for which a demonstration can be made that such species is not fully utilized by U.S. fishing vessels (including species designated as underutilized by states under whose fishery management jurisdiction those species fall); or

(2) For fisheries shoreside facilities, any facility which will utilize the species defined in paragraph (u)(1) of this section, or any facility for which a demonstration can be made that existing fisheries shoreside facilities are inadequate to fully, properly, or efficiently utilize fishing vessel production, regardless of the species involved.

§ 255.3 Applications.

Applications for a program guarantee should be submitted to the Agency office listed below which corresponds to the region in which the proposed project will operate:

National Marine Fisheries Service, Northeast Region, Financial Services Branch, Post Office Building, Box 1109, Gloucester, Massachusetts 01930 (617) 281–3600

National Marine Fisheries Service, Northwest Region, Financial Services Branch, 7600 Sand Point Way, NE., Bin C15700, Seattle, Washington 98115 (206) 527–6122

National Marine Fisheries Service, Southwest Region, Financial Services Branch, 9450 Koger Blvd., Duval Bldg., St. Petersburg, Florida 33702 (813) 893–3148

National Marine Fisheries Service, Southwest Region, Financial Services Branch, 300 South Ferry Street, Terminal Island, California 90731 (213) 548–2478

Application forms are obtainable from the offices listed above. *All potential applicants should discuss their project with a regional Program officer before submitting an application.*

§ 255.4 Citizenship requirements.

Any citizen or national of the United States is eligible to apply for a guarantee under the Program.

§ 255.5 Project requirements.

(a) *Qualifications for program guarantees.* Program guarantees are availale for financings (including reimbursement of obligors for expenditures previously made) for the construction, reconstruction, reconditioning, or (where eligible) purchase of any fishing vessel documented under United States law or any fisheries shoreside facility located anywhere in any State of the United States.

(b) *Used fishing vessels and fisheries shoreside facilities.* Financing of the purchase cost of any used fishing vessel or fisheries shoreside facility may be guaranteed only if the vessel or facility will (1) aid in the development of an underutilized fishery or (2) contribute to the development of the U.S. fishing industry and be reconstructed or reconditioned in the United States.

(c) *Conditional fisheries.* Program guarantees are available for financing the construction of a new fishing vessel which will operate in a conditional fishery, or which will result in the

transfer of a used vessel into operation in a conditional fishery, only if one of the following conditions is met:

(1) The vessel whose financing is guaranteed (despite the fact that it will operate in a conditional fishery) is also fully equipped for, and fully capable of, operating in an underutilized fishery;

(2) The vessel involved will replace a vessel of comparable fishing capacity which had operated in the conditional fishery prior to the designation of such fishery as conditional;

(3) The vessel whose financing is guaranteed was contracted for prior to the designation of the fishery in which it will be operated as conditional;

(4) The financing to be guaranteed will be used for the reconstruction or reconditioning of a vessel already operating in the conditional fishery; or

(5) The application for Program guarantee had been submitted prior to the designation as conditional of the fishery in which the vessel will be operated. See 50 CFR Part 251 for those fisheries which are designated as conditional.

(d) *Eligibility for vessels or facilities which will be used in underutilized fisheries.* In order for the financing of a fishing vessel or fisheries shoreside facility to be eligible for a Program guarantee because such vessel or facility will be used in an underutilized fishery (including the underutilized fisheries aspects of the conditional fisheries requirements), such vessel or facility must be fully equipped for, and be fully capable of, operating in an underutilized fishery. This determination will be made by the Chief, Financial Services Division, at the time of Program guarantee approval. The Obligor will be required to execute an agreement to operate the vessel in the underutilized fishery.

§ 255.6 Guarantee limits, debt maturities, and interest rates.

(a) *Actual cost.* In addition to the cost of construction, reconstruction, reconditioning, or (where eligible) purchase of a fishing vessel or fisheries shoreside facility, the actual cost of such a vessel or facility may also include:

(1) Reasonable architectural, engineering, or inspection expenses incurred with regard to the vessel or facility before completion;

(2) Reasonable expenses for interest on debt incurred to finance the vessel or facility during its construction, reconstruction, or reconditioning;

(3) The reasonable expenses of any contract for consulting services to assess the financial, economic, or technical feasibility of a vessel or facility or its fitness and sufficiency, *if such services are required by the Chief, Financial Services Division, as a precondition to a decision about the approval of a guarantee.*

(4) Dredging or other costs deemed by the Program to be necessary. Actual costs do not include any other expenses which cannot be capitalized under generally accepted accounting principles (except acceptable items for repair or maintenance *associated with* reconstruction or reconditioning).

(b) *Guarantee limits.* The Program may guarantee financing representing up to 87½ percent of the actual cost or depreciated actual cost of the construction, reconstruction, reconditioning, or (where eligible) purchase of fishing vessels or fisheries shoreside facilities. Consideration of the risk involved may, however, result in a guarantee approval for less than 87½ percent of actual cost.

(c) *Debt maturities.* Debt maturities on obligations guaranteed under this Program may not exceed 25 years. No debt maturity may, however, exceed the economically useful life of the fishing vessel or fisheries shoreside facility involved. The economically useful life will be determined by the Chief, Financial Services Division, on a case-by-case basis.

(1) *Fishing vessels.* Generally, 25-year maturities for obligations on fishing vessels guaranteed under the Program will be restricted to financings for the construction of large and expensive fishing vessels with economically useful lives supporting a 25-year maturity. Debt maturities on guaranteed obligations for financing smaller and less expensive fishing vessels will generally be restricted to 15–20 years (or less, if their economically useful lives are less or if risk considerations require less).

(2) *Fisheries shoreside facilities.* Debt maturities on guaranteed obligations for financing major fisheries shoreside facilities construction Projects may generally be up to 25 years if the economically useful life of the facility is at least that long. If a major facility Project involves a significant amount of financing for fixed equipment which has a shorter economically useful life than that of the structure which houses it, an acceptable maturity date for the whole Project will be determined by a weighted average of the differing economically useful lives involved or by such other method as the Chief, Financial Services Division, deems appropriate (including separate financings if that is warranted). More minor facilities Projects will generally be restricted to debt maturities of 15–20 years (or less, if their economically useful lives are less or if risk considerations require less).

(3) *Reconstruction and reconditioning.* The debt maturity of guaranteed financing for reconstruction or reconditioning will not extend beyond the economically useful life of the vessel or facility in its reconditioned or reconstructed state. The economically useful life of a reconstructed or reconditioned vessel or facility will be determined by the Chief, Financial Services Division, on a case-by-case basis.

(d) *Interest rates.* Interest rates on obligations to be guaranteed under the Program shall be approved by the Program and shall not exceed the rate determined to be reasonable, taking into account the range of interest rates prevailing in the private market for similar transactions.

(e) *Refinancing.* Refinancings may be guaranteed if the financing which is being refinanced would itself have been eligible for a Program guarantee.

(f) *Foreclosure purchase.* The financing of the purchase price of a vessel or facility whose previous financing was guaranteed under the Program and which is then sold at a foreclosure sale (or sold subsequent to the foreclosure sale after the Program purchases the vessel or facility at foreclosure) may be guaranteed under the Program.

§ 255.7 Fishing industry ability and experience.

(a) *Owner-operated Projects.* Fishing vessel and fisheries shoreside facility owners must possess the necessary ability, experience, resources, character, reputation, and other qualifications to operate properly and maintain the vessel or facility and protect the Program against undue risk. Owners who cannot demonstrate a successful background of ability and experience *in the fishing industry* of an appropriate duration, degree, and nature considering the type and magnitude of the Project for which financing is being sought will not be eligible for a Program guarantee. Under appropriate circumstances, and at the Program's sole discretion, the lessee of a financing lease may be considered as an "owner" for the purposes of meeting the requirements of this section.

(b) *Equity contributors.* Equity contributors without this demonstrated fishing industry ability and experience may be allowed to own a portion, not to exceed 49 percent, of the vessel or facility for which guaranteed financing is sought only if:

(1) At least 51 percent of the vessel or facility is owned by persons who do possess the requisite fishing industry ability and experience, and such persons have made a full pro-rata equity contribution, are severally 100 percent liable for the debt obligation, and are responsible for the management and operation of the Project; and

(2) The vessel or facility being financed is so large and so expensive as to be beyond the normal equity funding capability of an owner with the requisite fishing industry ability and experience.

(c) *Limitation of liability.* In no event will equity contributors be permitted to limit their liability to the amount of their original equity contribution. Each equity contributor shall, additionally, be jointly and severally liable for *at least* the amount of the guaranteed debt obligation which corresponds to the percentage of such equity contributor's ownership interest in the vessel or facility. This limitation of liability provision shall apply to all equity contributors in closely-held corporations, partnerships, and joint ventures.

§ 255.8 Economic soundness.

(a) *Income and expense projections.* Conservative income and expense projections must reasonably assure adequate net earnings from operation of the vessel or facility. This projection must allow the prospective accumulation of net retained earnings sufficient to provide for operational contingencies, to establish a reasonable reserve for depreciation, and to protect the Project against cyclical economic conditions in the fishing industry.

(b) *Underutilized fisheries.* An economic soundness test for vessels or facilities to be operated in underutilized fisheries that is less stringent than the requirements for vessels or facilities to be operated in more developed fisheries may, at the Program's discretion, be applied. This less stringent economic soundness test will, however, not extend to factors beyond the uncertainty of cash-flow projections in an underutilized fishery. Moreover, the Program will otherwise only guarantee financing for vessels or facilities which are to operate in the *initial* development stages of an underutilized fishery if the owners of those vessels or facilities adequately share with the Program a higher degree than ordinary of the greater financial risk. Demonstrated fisheries ability and experience requirements, financial condition requirements, and collateral requirements all may be stringent when the vessel or facility financed is to operate in the *initial* development stages of an underutilized fishery rather than in a more developed fishery. Owners of vessels or facilities which are to operate in the *initial* development stages of an underutilized fishery must possess *exceptional* fisheries ability and experience.

(c) *Consultant services.* The Program may require, as a pre-condition to a decision about approving a guarantee, that expert consulting services be provided. This requirement will generally be restricted to situations where a guarantee is sought for financing for larger and more expensive vessels to be operated in underutilized fisheries, or for larger and more expensive fisheries shoreside facilities, but may also be imposed where a guarantee is sought for financing for larger and more expensive vessels to be operated in more developed fisheries. The expert consulting services may be required to assist in assessing economic, technical, and financial feasibility, property design and engineering or other factors. When such a requirement is imposed, the Program (under conditions acceptable to the Obligor) will choose the consultant and specify the consultant's duties, and the Obligor will reimburse the Program for the Program's payment of the consultant,s services. No approved application will be closed until satisfactory arrangements have been made for such reimbursement. If an application is declined, the 25 percent commitment fee may be used by the Program for such reimbursement. *When such a requirement is imposed by the Program,* the cost of such consulting services may be included in the actual cost of the Project (if approved) for purposes of determining the amount of the guarantee.

§ 255.9 Financial requirements.

(a) *Working capital.* The vessel or facility owner must be in sufficiently sound financial condition to meet obligations, to continue to operate successfully the vessel or facility and all other business operations, and to protect the Program against undue risk. Audited financial statements will ordinarily be required in applications for guaranteed financing for large fisheries shoreside facilities Projects, and may be required in applications for other purposes. Working capital (current assets minus current liabilities) requirements will be established on a case-by-case basis, but must in all cases be sufficient to fund vessel or facility operations until the vessel or facility can generate sufficient income to do so. Working capital must be sufficient not only for the Project for which guaranteed financing is sought, but for all other affiliated projects, businesses, or interests. The *minimum* working capital from *equity* sources must in the case of fishing vessel construction equal at least 8 percent of the total capitalizable cost of the vessel. In the case of fisheries shoreside facility construction, the minimum working capital required from equity sources will be determined on a case-by-case basis, but will ordinarily be considerably greater than that required for fishing vessels. Minimum working capital requirements for reconstruction, reconditioning, and (where eligible) purchasing Projects will be decided on a case-by-case basis. *Additional* working capital may be required on a case-by-case basis and may, at the Program's discretion, consist of readily convertible investments, other assets readily capable of being used to generate working capital, lines or letters of credit, or the presence of a co-maker or guarantor with sufficient financial resources.

(b) *Equity.* No financing shall be approved for a guarantee unless the Obligor can demonstrate that, at the time of the financing's closing, *minimum* capital provided from *equity* sources is equal to at least the total of the following:

(1) 12½ percent of the total capitalizable cost of the construction, reconstruction, reconditioning, or (where eligible) purchase of the vessel or facility (the downpayment);

(2) The Program's first-year guarantee fee;

(3) The first year's premium for all required insurance;

(4) The minimum working capital requirement; and

(5) Such other *additional* amounts as the Program may deem necessary on a case-by-case basis.

(c) *Guarantees of financing for fisheries shoreside facilities or processing vessels.* Applicants for guarantees for financing of fisheries shoreside facilities and processing vessels will be required to obtain acceptable lines or letters of credit (some may be required to be in the form of irrevocable letters of credit) for all foreseeable inventory financing needs (beyond those to be met by the working capital available from equity sources) during at least the first year of operation of the facility or vessel.

§ 255.10 Collateral.

(a) *Mortgage.* The vessel of facility for which the financing is to be guaranteed should always be collateral for the Program guarantee. This property ordinarily will be secured by a first mortgage or, and in the case of vessels,

by a first preferred ship mortgage in favor of the Secretary of Commerce. In the case of equipment, the security interest may be perfected by a filing in accordance with the Uniform Commercial Code and/or by the recording of any form of security agreement or mortgage (e.g. chattel mortgage) necessary in a jurisdiction where the Uniform Commercial Code has not been adopted.

(b) *Guarantees.* If, in considering the risk involved in guaranteeing a financing, net worth is a significant factor relied on to offset other risks, such net worth must ordinarily be pledged as additional collateral for the program guarantee (an irrevocable letter of credit may be substituted under terms and conditions acceptable to the Program). If a closely-held corporation will be the Obligor, all major stockholders will ordinarily be required to provide their personal guarantees as additional collateral for the Program guarantee. If a subsidiary corporation, without substantial assets in addition to the vessel or facility is Obligor, the parent corporation will ordinarily be required to provide its guarantee as additional collateral for the Program guarantee. Personal or entity guarantees will always be required as additional collateral for Program guarantees where necessary to assure that the principal parties in interest, who ultimately stand most to benefit from the Project, are held accountable for the performance and operation of the Project.

(c) *Limitation of liability.* In no instance will equity contributors be permitted to limit their liability on a guarantee only to the amount of their initial equity contribution. Equity contributors will, additionally, be required to be *at least* jointly and severally liable for the amount of the guaranteed obligation which corresponds to the percentage of their ownership interest in the Project. Such equity contributors may, however, be required to be liable for more than such percentage. Under appropriate circumstances, and at the Program's sole discretion, the lessor of a financing lease may be treated differently.

(d) *Dual-use Capital Construction Fund agreement.* In the case of fishing vessels, the Program may require, as additional collateral, execution of a dual-use Capital Construction Fund Program agreement, and annual deposit into such fund (on a tax-deferred basis) of a reasonable portion of the net income of the vessel. Dual-use agreements provide for all the normal benefits of the Capital Construction Fund Program, but also give the Program control of withdrawals from a Capital Construction Fund and allow the Program to use these reserved funds, in the event of a default, to repay the debt obligation involved in the guaranteed financing. This control insures that the Obligor will have an emergency reserve of funds, as well as a reserve for reconditioning of the vessel. At the Program's discretion, reserved funds not required in connection with the vessel for which financing is guaranteed may be withdrawn for other qualified purposes.

(e) *Reconstruction or reconditioning.* The Chief, Financial Services Division, may, in his discretion, require such additional security or collateral as may be necessary to secure the Program's interest.

§ 255.11 Miscellaneous requirements.

(a) *Insurance.* All vessels and facilities for which financing is guaranteed shall be continuously insured during the term of the Program guarantee with such casualty, liability, breach of warranty, keyman, title, and/or other insurance in such form and amounts as the Program deems necessary. The Program shall ordinarily be the sole loss payee on all such insurances. No such insurances may be cancelled without 20 days prior written notice to the Chief, Financial Services Division. The Program's standard endorsements regarding the insured's breach of warranties, negligence, omission, etc., as well as an admission of seaworthiness or property soundness, shall be a part of all such insurances.

(b) *Bids and project costs.* If application for Program guarantee is first made before a contract for the vessel or facility to be financed is executed, not less than three responsive bids for the vessel or facility will ordinarily be required. Ordinarily, the lowest bid will be accepted, unless the Obligor and the Program agree that it is advisable to accept a higher bid. If application for a Program guarantee is first made after a contract for the vessel or facility has been executed, the Program may not guarantee a financing in an amount higher than would fairly and reasonably have resulted if competitive bidding had occurred. All applicants are encouraged to obtain at least three competitive bids, and applicants without such bids who first apply after a contract has been executed may be required by the Program to establish, at their expense, independent confirmation acceptable to the Program that the contract cost is both fair and reasonable. Approvals and commitments for Program guarantees will be based on the initial contract cost, and contract cost overruns may or may not, at the sole discretion of the Program, be added to the amount of the guaranteed financing.

(c) *Property inspection.* The Program will require inspection and approval of all vessels and facilities before providing a financing guarantee. For all guarantees involving financings of more than $500,000, the Program, where appropriate, will require inspection and approval by certified architects or engineers (either marine or real property architects or engineers). For program guarantees for financing of less than $500,000, the required property inspection and approval may, at the Program's discretion, be made by any competent authority acceptable to the Program. The required property inspection and approval should involve assessment of at least the following:

(1) Adequacy of workmanship;

(2) Fitness and sufficiency for the intended purpose;

(3) Reasonableness of cost;

(4) Compliance with basic contract specifications regarding the property; and

(5) The identification and recommended resolution of any significant deficiencies.

Where financing for used vessels or facilities is to be guaranteed, the inspection and approval assessment will be adjusted to provide the normal assurances associated with financing the acquisition of used property. Issuance of guarantees of financings involving more than $5,000,000 may be conditioned upon additional requirements regarding the inspection and approval of a vessel or facility. Program guarantees of financings involving more than $5,000,000 should always be conditioned on comprehensive *on site* inspection, by certified architects and engineers, and inspection of the vessel or facility to be financed at appropriate times during construction, reconstruction, or reconditioning. The Program may require American Bureau of Shipping *classification* requirements for all Program guarantees involving fishing vessels costing more than $5,000,000, and applicants are urged presently to consider voluntary use of the American Bureau of Shipping *classification* program for the construction of all fishing vessels costing over $5,000,000. All required property inspections and approvals must be conducted by competent and impartial authorities acceptable to the Program. Architects, engineers, surveyors, or appraisers employed by contractors constructing, reconstructing, or reconditioning a vessel or facility, or by parties selling

used vessels or facilities, are not acceptable for meeting this requirement. The cost of inspection and approval services in connection with a vessel or facility may be included in the actual cost of the vessel or facility and, thus, guaranteed by the Program.

(d) *Maintenance reviews.* All vessels and facilities for which financing is guaranteed under the Program shall be inspected at least once every three years by a competent and impartial authority acceptable to the Program. A full inspection report, identifying deficiencies and recommending the action necessary for their correction, will be provided to the Obligor and to the Program. Failure to provide this tri-annual inspection, or correct deficiencies identified by it, will constitute a default of the terms and conditions of mortgages securing the Program's guarantee and a cause, at the Program's discretion, for acceleration and liquidation of the debt obligation. Special property inspections may be required whenever the Program deems it necessary to preserve its collateral. All such inspections shall be at the expense of the Obligor. This requirement extends to all supplementary collateral for Program guarantees.

(e) *Terms and conditions of Program guarantees.* The Program will, on a case-by-case basis, specify in detail the precise terms and conditions prerequisite to the Program's willingness to provide a guarantee. These terms and conditions are at the Program's sole discretion, and an applicant's failure to comply with them will result in nonqualification for a Program guarantee.

(f) *Program Obligees.* The applicant may choose the Obligee to fund the debt to be guaranteed by the Program. Obligees may be any financial institution, public agency, or other party. The Program may, however, refuse to guarantee financing unless it has approved the terms and conditions of the financing (including particularly the interest rate and other amortization provisions) *before* the Obligor makes a firm commitment to an Obligee. Failure to first obtain the Program's approval may result in the Program's refusal to issue the guarantee despite the fact that the Obligor may have created a binding contract with an Obligee, abrogation of which may result in loss to the Obligor. The Program will assist those whose applications for Program guarantees are approved to gain access to the private market for appropriate financing, but only as a gratuitous service. Arrangements between the Obligor and the Obligee are a matter of private contract between those two parties, and the Program will not in any way be responsible to either for nonperformance by the other.

(g) *Closing*—(1) *Contracts.* All debt obligations and associated contractual arrangments which comprise the financing will be documented by *standard Program forms,* which may not be altered or amended in any way by insertion, deletion, or variation without prior Program approval (which will be sparingly granted).

(2) *Closing schedules.* The Program will attempt to meet the closing schedules (where reasonable) of Obligors and Obligees. The Program, however, accepts no responsibility for adverse interest-rate fluctuations, loss of commitments, or other consequences of non-compliance with Obligors' or Obligees' closing schedules. Obligors and Obligees should work closely with the Program to assure reasonable closing schedules, since internal workload and personnel considerations sometimes affect the Program's ability to meet otherwise desirable schedules.

(3) *Closing vessel financings.* The Program will attempt to close guarantees on financings involving fishing vessels with minimal services from private attorneys and/or other private contractors.

(4) *Closing shoreside facilities financings.* Closings for guarantees of financing for fisheries shoreside facilities will require substantial services from private attorneys and/or other contractors at the expense of the Obligor. The choice of such private contractors for any portion of the closing process is subject to Program approval. Services required to be provided by private contractors may include: title searches; preparation of legal documents; actual closing, escrow, and disbursement services; and the provision of a *legal opinion* from acceptable counsel regarding the validity and binding effect of transactions, compliance with procedures specified by the Program, and other assurances.

(5) *Paying agents.* The Chief, Financial Services Division, in his discretion, may require the use of a paying agent or trustee. Where paying agents are used, Obligors or Obligees will be responsible for their cost.

§ 255.12 Fees.

(a) *Filing and commitment fees.* The Program's filing and commitment fee shall be ½ of 1 percent of the first $2,000,000 principal amount (or portion thereof) of the Program guarantee for which application is made and ¼ of 1 percent of all principal amount over $2,000,000. The fee shall be due at the time an application is submitted, and no application for guarantee shall be accepted unless the full filing and commitment fee accompanies it. The filing fee shall be 75 percent of the filing and commitment fee, and once an application for a guarantee is accepted, no portion of the filing fee shall be returned for any reason. The commitment fee shall be the remaining 25 percent of the filing and commitment fee, and shall be returnable only if a refund is requested *before* the Program issues an Approval in Principle letter or if the application is declined.

(b) *Guarantee fee.* The Agency guarantee fee shall be:

(1) For guarantees on financings not involving underutilized fisheries risks, ¾ of 1 percent of the average unpaid principal balance of the debt obligation for which the guarantee is outstanding during each year of the life of the guarantee; and

(2) For guarantees on financings involving underutilized fisheries risks, 1 percent of the average unpaid principal balance of the debt obligation for which the guarantee is outstanding during each year of the life of the guarantee.

The guarantee fee shall be due in advance based upon the financing's amortization schedule. The first annual guarantee fee shall be due at closing of the guarantee. Each subsequent annual guarantee fee shall be due on the anniversary date of the closing of the guarantee. No refund of guarantee fees shall be made regardless of the status of the financing or the guarantee during the year to which the guarantee fee relates.

(c) *Refinancing/assumption fee.* The Program's refinancing/assumption fee shall be ¼ of 1 percent of the principal amount of the debt obligation to be refinanced or assumed, and is due upon application for a guarantee for the refinancing/assumption. The refinancing/assumption fee is non-returnable regardless of the subsequent disposition of an application. The Chief, Financial Services Division, may, however, (1) waive the refinancing/assumption fee where the refinancing/assumption is primarily to protect the Program's interest or (2) charge an actual cost fee, not to exceed $1,000, where the refinancing/assumption does not substitute a wholly different obligor for the initial obligor.

(d) *Where payable.* Fees shall be paid by check mailed to: U.S. Department of Commerce, National Oceanic and Atmospheric Administration, NBOC 1, Room 122, 11420 Rockville Pike, Rockville, Maryland 20852. Checks shall be made payable to: "NMFS/FSFF".

§ 255.13 Demands and payment.

All demands by Obligees, whose debt has been guaranteed under the provisions of this Program, for payment of all or any portion of a guaranteed obligation in default shall be made in writing to the Chief, Financial Services Division, F/UD5, 3300 Whitehaven St., NW., Washington, D.C. 20235, by certified mail, return receipt requested. In the event the Program does not acknowledge timely receipt of a demand alleged to have been timely made, the demander must possess evidence of the demand's timely delivery to the Program. Payment of demands shall be made within 30 days after receipt of a timely demand by the Chief, Financial Services Division. Demands may be made by Obligees' duly authorized agents or trustees.

§ 255.14 Default/liquidation of collateral.

(a) *Default.* In the event of default by an Obligor which results in the payment by the Program to an Obligee of the guaranteed debt, the Program shall ordinarily foreclose on its collateral and institute personal collection proceedings against the Obligor and the guarantors of the financing. At the Program's sole discretion, other remedies which are deemed most appropriate to protect the Program's interest may be pursued.

(b) *Liquidation of collateral.* If the Program is the highest bidder at a foreclosure sale of collateral, the Program (as the new owner of the collateral) may, in its sole discretion, subsequently complete, recondition, reconstruct, renovate, repair, maintain, operate, charter, lease, or sell such collateral. In the event there is a willing buyer for such collateral at an amount at least equal, or almost equal, to the amount owed the Program, the Program may convey title to such collateral, upon proper payment, without competitive bidding or other contracting procedures. If there is not a willing buyer for such collateral at an amount equal, or almost equal, to the amount owed the Program, the collateral will ordinarily be disposed of by competitive bidding—unless the Program decides that it can best recover without competitive bidding. Any deficiency resulting from the Program's purchase of collateral at a foreclosure sale shall not be offset by receipts from a subsequent sale of such collateral in the event the Program purchases the collateral and sells it for an amount greater than that owed the Program; the original Obligors and guarantors of the guaranteed financing remain liable for such deficiency.

§ 255.15 Program guidelines.

The Chief, Financial Services Division, will issue Program guidelines from time to time, as the need arises, to govern national Program policy and administrative issues which are not addressed by these rules.

§ 255.16 Applicability of rules.

These rules will be applicable to all Program applications first accepted after the rules' effective date.

[FR Doc. 82-34903 Filed 12-22-82; 8:45 am]

BILLING CODE 3510-22-M

Reader Aids

Federal Register

Vol. 47, No. 247

Thursday, December 23, 1982

INFORMATION AND ASSISTANCE

PUBLICATIONS

Code of Federal Regulations

CFR Unit	202-523-3419 523-3517
General information, index, and finding aids	523-5227
Incorporation by reference	523-4534
Printing schedules and pricing information	523-3419

Federal Register

Corrections	523-5237
Daily Issue Unit	523-5237
General information, index, and finding aids	523-5227
Privacy Act	523-5237
Public Inspection Desk	523-5215
Scheduling of documents	523-3187

Laws

Indexes	523-5282
Law numbers and dates	523-5282 523-5266
Slip law orders (GPO)	275-3030

Presidential Documents

Executive orders and proclamations	523-5233
Public Papers of the President	523-5235
Weekly Compilation of Presidential Documents	523-5235

United States Government Manual	523-5230

SERVICES

Agency services	523-5237
Automation	523-3408
Library	523-4986
Magnetic tapes of FR issues and CFR volumes (GPO)	275-2867
Public Inspection Desk	523-5215
Special Projects	523-4534
Subscription orders (GPO)	783-3238
Subscription problems (GPO)	275-3054
TTY for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, DECEMBER

54053-54268.....1
54269-54418.....2
54419-54758.....3
54759-54924.....6
54925-55198.....7
55199-55378.....8
55379-55454.....9
55455-55626.....10
55627-55902.....13
55903-56128.....14
56129-56308.....15
56309-56468.....16
56469-56616.....17
56617-56810.....20
56811-56978.....21
56979-57252.....22
57253-57442.....23

CFR PARTS AFFECTED DURING DECEMBER

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Administrative Orders:

Memorandums:
November 29, 1982.....54053

Executive Orders:
10621 (Amended by EO 12396).....55897
11390 (Amended by EO 12396).....55897
12239 (Revoked by EO 12396).....55897
12396.....55897

Proclamations:
4941 (Amended by Proc. 5002).....54269
5002.....54269
5003.....55899
5004.....55901
5005.....56309
5006.....56617
5007.....56811

4 CFR

2.....56979
3.....56979
4.....56979
5.....56979
6.....56979
7.....56979
8.....56979
9.....56979
11.....56979
21.....56979
22.....56979
27.....56980
28.....56980
30.....56979
31.....56979
32.....56979
33.....56979
34.....56979
35.....56979
36.....56979
52.....56979
53.....56979
75.....56979
81.....56979
82.....56979
91.....56979
92.....56979
93.....56979

Proposed Rules:
28.....54972

5 CFR

1201.....54419
2429.....55379, 55903

Proposed Rules:
213.....54974
890.....54974

7 CFR

2.....56619
16.....57253
52.....55455
53.....54925
55.....54420
56.....54420
59.....54420
68.....54271
70.....54420
271.....55903, 56469
272.....55463, 55903
273.....55463, 55903
278.....56469
279.....56469
319.....54273, 55199
400.....55886, 55888
421.....56813
431.....56820
432.....56827
610.....56472
725.....56473
800.....54055, 54275, 55469
905.....54926, 55199, 56619, 56982
906.....56311
907.....54281, 55379, 56312, 57253
910.....54421, 55469, 56473
926.....55910
982.....56312
1046.....56486
1065.....55200
1098.....56486
1126.....54421
1132.....54421
1139.....55201
1421.....54281
1497.....54284
1822.....55627
1901.....54422
1922.....55380
1942.....54422
1944.....54422, 55627
1948.....54422

Proposed Rules:
52.....54086
915.....56900
967.....54975
983.....57222
987.....54307
1106.....54977
1124.....55490
1135.....54978
1207.....55245
1430.....56505
1700.....56505

8 CFR

214.....55202, 56488
238.....55388

9 CFR

71.....55636, 56982
78.....55636
91.....56983
92.....54285, 55388, 57254
317.....54286
381.....54286

Proposed Rules:

92.....57288, 57291
113.....54090, 54307, 55246, 57054
166.....57292

10 CFR

2.....56314
9.....56314
50.....55203
55.....56984
430.....57198

Proposed Rules:

50.....57054
70.....55951
170.....56505

12 CFR

9.....57255
29.....55911
201.....54424
204.....55204–55209
211.....54057
217.....54759
220.....55912
523.....56314, 56985
531.....56316
541.....56985
543.....56985
544.....56985
545.....55656, 56985
546.....56985
547.....56985
549.....56985
552.....56985
561.....56985
563.....56985
563b.....56985
564.....56318, 56985
565.....56985
569a.....56985
575.....56985
576.....56985
577.....56985
578.....56985
583.....56985
584.....56985
614.....54760
701.....54424
745.....54424
1204.....56319–56323

Proposed Rules:

3.....56862
6.....56862
7.....56862
8.....56652
207.....54980
220.....54980
221.....54980
224.....54980
534.....57293
543.....56363
612.....56140
1204.....56364

13 CFR

101.....56129
301.....57256

14 CFR

21.....54287, 54288
39.....54289–54291, 54760, 54761, 55657, 55658, 56620–56622, 57257
71.....54291, 54762, 54763 55389, 55659, 56623, 56624, 57259–57262
73.....54763, 55390
75.....54763
91.....56324, 57262
97.....54292, 55659, 57265
121.....56327, 56460
253.....54764
302.....56129
387.....56130

Proposed Rules:

Ch. I.....54829
23.....56456
39.....54830, 56653, 57295
61.....54414, 56654
71.....54308, 54309, 54831, 55687, 56654–56656
73.....56656
75.....54309, 55688, 56365, 56658
120.....56366
121.....56366
135.....56366

15 CFR

904.....54429, 56131

Proposed Rules:

325.....56972
929.....56506

16 CFR

13.....55210, 55211
1000.....54927

Proposed Rules:

13.....54452, 55398
1101.....57296

17 CFR

1.....56996
3.....56996, 57266
4.....56996
15.....56996
16.....56996
18.....56996
21.....56996
32.....56996
33.....56996
145.....56996
147.....56996
155.....56996
170.....56996
180.....56996
200.....54764, 55211, 56843
210.....54764, 56835
229.....54764, 55661
230.....54764
239.....54764, 55661
240.....54057, 54764, 55661, 57267
249.....54764, 55661
260.....54764
270.....56835

Proposed Rules:

1.....57055
240.....55491
270.....56509

18 CFR

2.....57268
3.....57270
271.....54928, 57270
274.....54063

Proposed Rules:

271.....55246, 57056–57060
385.....54981
1300.....57297

19 CFR

4.....54064
10.....55470
18.....55470
19.....55470
22.....55470
24.....55470
101.....55913
113.....55470
125.....55470
127.....55470
132.....55470
142.....55470
144.....55470

Proposed Rules:

4.....54092
148.....54092
177.....55400

20 CFR

416.....55212
609.....54686
614.....54696

21 CFR

5.....54750, 55470
74.....54429, 56489
81.....54429, 56489
82.....54429, 56489
145.....55471, 56845
172.....55475
175.....54430
176.....56845
193.....55214, 56845
201.....54750
330.....54750
444.....56489
510.....56845
520.....55472
522.....55472, 56845
558.....54929, 56846
866.....56846

Proposed Rules:

145.....55496
182.....54454, 56513
184.....54454, 54456, 56513, 56871
186.....54454
310.....55497
314.....56871
333.....54981
348.....54982
357.....55076, 55497, 56871
358.....54646
886.....55497

22 CFR

9.....55594
22.....56328
51.....56329

23 CFR

Proposed Rules:

1209.....57298

24 CFR

10.....56624
15.....55669
50.....56266
200.....54790
203.....54790
204.....54790
213.....54790
220.....54790
221.....54790
222.....54790
226.....54790
227.....54790
233.....54790
235.....54430, 54790
237.....54790
240.....54790
300.....55669
804.....54293, 54790
805.....54293, 54790, 55136
812.....54790
841.....54790, 55136
860.....54293
880.....54293
881.....54293
882.....54293
883.....54293
884.....54293
885.....56490
886.....54293
888.....56133
890.....54431, 57270

Proposed Rules:

16.....56660
571.....55868
860.....55689
866.....55689
888.....55764

25 CFR

273.....57274

26 CFR

1.....54296, 54791, 54803, 55477, 56330, 56490
35.....54065, 55215, 57021
601.....56330

Proposed Rules:

1.....54093, 55247, 55696, 55697, 56367
11.....54093
31.....55248
54.....54093
601.....54459, 54461

27 CFR

9.....55915

Proposed Rules:

9.....55492, 55954–55961, 56369

28 CFR

2.....56334, 56846
540.....55128, 56134

Proposed Rules:

2.....54982
540.....55131
551.....55131, 56144

29 CFR

102.....54432
1903.....55478
1910.....54433
2510.....56847

2610.....55670
2619.....56134, 57021
2621.....55672
2622.....55670

30 CFR

901.....56492
906.....56342
914.....56493
931.....56800
944.....55672
946.....55675

Proposed Rules:

55.....55499
56.....55499
57.....55499
75.....55499
77.....55499
221.....54462, 56871
250.....56871
903.....55249
916.....57299
927.....57236
934.....55499
936.....54472
939.....57246
942.....54474

31 CFR

53.....55481, 56351
55.....56351
81.....56351
90.....56351
92.....56351
93.....56351
120.....56351
121.....56351
122.....56351
127.....56351

Proposed Rules:

1.....54475
10.....56144

32 CFR

166.....56847
1285.....54929
1662.....56494

Proposed Rules:

701.....54104

33 CFR

1.....54298
2.....54298
110.....56354
114.....54298
115.....54298
117.....54298–54301
165.....54301, 55391
209.....55916

Proposed Rules:

110.....54310, 56661
117.....55400
157.....56786
165.....56370
207.....54832

34 CFR

Proposed Rules:

64.....56871
201.....54718
202.....54718
203.....54718
204.....54718
300.....54311
302.....54718

35 CFR

103.....54071
105.....54071
107.....54071
109.....54071
111.....54071
113.....54071
119.....54071
123.....54071

Proposed Rules:

103.....54105
113.....54105
119.....54105
123.....54105

36 CFR

7.....54930–54932, 55391, 55917

Proposed Rules:

7.....57300

38 CFR

3.....54435
17.....55482

Proposed Rules:

3.....56880, 56881

39 CFR

3.....56495
4.....56495
6.....56495
8.....56495
3001.....55392

Proposed Rules:

3001.....55698

40 CFR

50.....54896
52.....54072, 54312, 54808, 54933–54936, 55393, 55678, 55919, 56497, 56625
60.....54073, 54258, 54259
61.....56628
81.....54080, 56625
123.....55680, 57022
180.....55221–55225, 56135, 56138
300.....55488
415.....55226
440.....54598
465.....54232
716.....54642, 56850, 57023
761.....54436

Proposed Rules:

Ch. I.....55880
35.....56372
52.....54476, 54984, 55400, 55500, 55964, 55965, 56516, 56518, 56882,
60.....55966, 56118
65.....56883
86.....54250, 56662
123.....56520, 57301, 57302
130.....56372
158.....56884
162.....55967
180.....54106, 55249, 55699
201.....54107, 54313
202.....54313
204.....54108
205.....54108–54111
228.....54834, 56663, 56665
403.....54477
439.....56373
455.....56373
461.....55502
464.....55502
467.....56373
468.....55502

41 CFR

1–3.....57023
1–16.....57023
1–30.....57023
101–36.....54810, 54937
101–47.....56499

Proposed Rules:

Ch. 9.....56256

42 CFR

52d.....55227
55a.....55227
57.....54437
58.....54437
86.....55227
401.....54939
405.....54302, 54811, 54939, 56282
488.....56282
489.....56282

Proposed Rules:

124.....54314
405.....54113
447.....54113

43 CFR

3833.....56300

Proposed Rules:

4.....56521
3200.....56151
4100.....55402
8360.....57404

Public Land Orders:

6342.....57275

44 CFR

2.....56850
6.....54815
64.....54816, 55921, 55922, 56850
65.....54941
67.....54941, 55228, 55241, 56627
70.....54440–54444, 56629–56636
205.....55756, 57275

Proposed Rules:

59.....55752
60.....55752
67.....54477, 54478, 54835, 55251, 56668–56671, 56884, 57061

45 CFR

80.....57040
74.....55227
97.....56466
301.....57277
302.....57277
303.....57277, 57282
304.....57277, 57282
305.....57277, 57282
600.....54081
601.....57284
612.....54943
680.....54081
681.....54081
682.....54081
683.....54081
684.....54081
1300.....56466
1336.....55227
1601.....54943

Proposed Rules:

1180.....56671

46 CFR

67.....54305
536.....56138

Proposed Rules:

507.....55969

47 CFR

Ch. I.....57040
0.....55924, 56852
1.....56636, 57049
2.....55241, 56852, 57286
22.....56856
63.....54944
67.....55681
73.....54444, 54446, 55242, 55243, 55681–55683, 55924, 56355, 56356, 56638
74.....54446, 55931,
87.....54449, 56636, 56852
90.....54450, 57049
95.....57049
97.....55241

Proposed Rules:

15.....56251
34.....55974
35.....55974
67.....54479, 55699
73.....54519–54522, 55256, 55974, 56672
76.....54523
81.....54836, 56673
83.....56673
95.....56677

49 CFR

Ch. X.....54081, 55686
1.....57286
7.....55683
171.....54817, 54824
172.....54817, 54824
173.....54817, 54824
175.....54817, 54824
177.....54824
178.....54824
195.....55396
225.....56357
450.....57287
451.....57287
452.....57287
453.....57287
531.....55684
581.....56640
601.....55683
1003.....55939
1011.....55950
1033.....57287
1043.....55939
1057.....54083
1249.....56359
1306.....54083

Proposed Rules:

Ch. X.....54985, 55975
29.....55700
571.....54839, 57302
1000.....56685
1003.....55976
1039.....55257

1043	55976, 55980
1084	55976, 55980
1162	57303
1220	56152
1306	57303
1307	57303

50 CFR

11	56856
12	56856
16	56360
20	55397
23	54968
255	57432
540	55488
611	56650,
663	56138
671	54451, 57052

Proposed Rules:

29	54840
611	54841, 57306
652	54985
663	57079
671	54125,
675	54841, 57306

List of Public Laws

Last Listing December 22, 1982

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (phone 202–275–3030).

H.R. 6403 / Pub. L. 97–371. To provide for the use and distribution of funds to the Wyandot Tribe of Indians in docket 139 before the Indian Claims Commission and docket 141 before the United States Court of Claims, and for other purposes. (December 20, 1982; 96 Stat. 1813) Price: $1.75.

H.R. 5795 / Pub. L. 97–372. To provide for the use and distribution of the funds awarded to the Shawnee Tribe of Indians in dockets 64, 335, and 338 by the Indian Claims Commission and docket 64–A by the United States Court of Claims, and for other purposes. (December 20, 1982; 96 Stat. 1815) Price: $1.75.

S. 2177 / Pub. L. 97–373. To amend title III of the Colorado River Basin Project Act, Public Law 90–537 (82 Stat. 885), as amended by Public Law 95–578 (92 Stat. 2471), and Public Law 96–375 (94 Stat. 1505). (December 20, 1982; 96 Stat. 1817) Price: $1.75.

S. 764 / Pub. L. 97–374. To provide for protection of the John Sack cabin, Targhee National Forest in the State of Idaho. (December 20, 1982; 96 Stat. 1818) Price: $1.75.

12-27-82
Vol. 47 No. 248
Pages 57443-57650

federal register

Monday
December 27, 1982

Selected Subjects

Administrative Practice and Procedure
Postal Rate Commission

Authority Delegations (Government Agencies)
Small Business Administration

Aviation Safety
Federal Aviation Administration

Bridges
Coast Guard

Coal Mining
Surface Mining Reclamation and Enforcement Office

Credit
Federal Reserve System

Endangered and Threatened Wildlife
Fish and Wildlife Service

Flood Insurance
Federal Emergency Management Agency

Government Procurement
Agency for International Development
Environmental Protection Agency
Health and Human Services Department

Government Property Management
Air Force Department
General Services Administration

Health Insurance
Defense Department

Income Taxes
Internal Revenue Service

CONTINUED INSIDE

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The **Federal Register** will be furnished by mail to subscribers, free of postage, for $300.00 per year, or $150.00 for six months, payable in advance. The charge for individual copies is $1.50 for each issue, or $1.50 for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the **Federal Register**.

Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

Selected Subjects

Insulation
Consumer Product Safety Commission

Labeling
Consumer Product Safety Commission

Marketing Agreements
Agricultural Marketing Service

Milk Marketing Orders
Agricultural Marketing Service

Nuclear Materials
Nuclear Regulatory Commission

Pesticides and Pests
Environmental Protection Agency

Public Lands—Mineral Resources
Land Management Bureau

Trade Practices
Federal Trade Commission

Contents

Federal Register

Vol. 47, No. 248

Monday, December 27, 1982

Agency for International Development
RULES
57494 Procurement; contractor performance evaluation report deletion

Agricultural Marketing Service
RULES
57443 Lemons grown in Ariz. and Calif.
Milk marketing orders:
57443 Oklahoma Metropolitan
57445 Southwestern Idaho-Eastern Oregon

Agriculture Department
See Agricultural Marketing Service; Forest Service; Soil Conservation Service.

Air Force Department
RULES
57493 Air Force technical order system; CFR Part removed

Arms Control and Disarmament Agency
NOTICES
57529 Hubert H. Humphrey Fellowship competition

Army Department
NOTICES
Meetings:
57564 Command and General Staff College Advisory Committee

Arts and Humanities, National Foundation
NOTICES
Meetings:
57590 Humanities National Council Advisory Committee

Civil Aeronautics Board
NOTICES
57530 Certificates of public convenience and necessity and foreign air carrier permits; weekly applications
Hearings, etc.:
57529 Newark-London back-up case (3 documents)
57530 Taino International Airways, Inc.; fitness investigation

Civil Rights Commission
NOTICES
Meetings; State advisory committees:
57531 Connecticut
57531 District of Columbia
57531 Indiana
57531 New Hampshire

Coast Guard
RULES
Drawbridge operations:
57493 Florida (2 documents)

Commerce Department
See also International Trade Administration; National Oceanic and Atmospheric Administration.
NOTICES
Organization, functions, and authority delegations:
57555, 57558 International Trade Under Secretary (4 documents)
57555 Organization and Management Systems Office et al.

Commodity Futures Trading Commission
NOTICES
Contract market proposals:
57560 New York Mercantile Exchange; round white potato
Senior Executive Service:
57560 Performance Review Board; membership

Consumer Product Safety Commission
RULES
Hazardous substances and articles; administration and enforcement:
57489 Preemption of State and local labeling requirements; revocation
57488 Urea-formaldehyde foam insulation; ban; effective date confirmed
NOTICES
57563 Agency forms submitted to OMB for review

Customs Services
NOTICES
Vessels in foreign and domestic trades:
57599 Fees schedule for services

Defense Department
See also Air Force Department; Army Department.
RULES
Civilian health and medical program of uniformed services (CHAMPUS):
57491 Morbid obesity; surgical treatment
NOTICES
57564 Agency forms submitted to OBM for review

Drug Enforcement Administration
NOTICES
Registration applications, etc.; controlled substances:
57584 Endo Laboratories, Inc.

Employment and Training Administration
NOTICES
Unemployment compensation; extended benefit periods:
57585 Kentucky
57585 Wisconsin

Employment Standards Administration
NOTICES
57606 Minimum wages for Federal and federally-assisted construction; general wage determination decisions, modification, and supersedeas decisions (Ariz., Colo., Minn., Mo., Nev., N.J., Pa., R.I., S.Dak., Tex., and W. Va.)

Energy Department
See also Energy Information Administration; Energy Research Office; Federal Energy Regulatory Commission; Hearings and Appeals Office, Energy Department.
NOTICES
Environmental statements; availability, etc.:
57570 Savannah River Plant, Aiken, S.C.; borosilicate glass selection as defense waste processing facility waste form for high-level radioactive wastes

Energy Information Administration
NOTICES
58565 Natural gas, high cost; alternative fuel price ceilings and incremental price threshold; correction

Energy Research Office
NOTICES
Meetings:
57565 DOE/NSF Nuclear Science Advisory Committee

Environmental Protection Agency
RULES
Procurement:
57495 Small purchases; elimination of duplicative regulations
PROPOSED RULES
Air pollution; standards of performance for new stationary sources:
57515 Synthetic fiber production facilities; correction
Pesticide programs:
57635 Compensation for use of data
57624 Conditional registration

Federal Aviation Administration
RULES
Airworthiness directives:
57484 Boeing
57485 Pratt & Whitney
57486, 57487 Control Zone (2 documents)
PROPOSED RULES
57498 Control zones
57497 Control zones and transition areas

Federal Deposit Insurance Corporation
NOTICES
57602 Meetings; Sunshine Act (3 documents)

Federal Emergency Management Agency
RULES
Flood insurance; special hazard areas:
57495 Florida et al.
PROPOSED RULES
Flood elevation determination:
57523 New Jersey
57522 Wisconsin

Federal Energy Regulatory Commission
NOTICES
Hearings, etc.:
57565 Appalachian Power Co.
57566 Central Power & Light Co.
57566 Idaho Power Co.
57567 Illinois Power Co.
57567 Kansas City Power & Light Co.
57567 Montana Power Co.
57567 Mundt, Donald K.
57568 Pacific Gas & Electric Co.
57568 Pacific Power & Light Co.
57568 Safe Harbor Water Power Corp.
Small power production and cogeneration facilities; qualifying status; certification applications, etc.:
57566 Hotel Del Coronado

Federal Railroad Administration
NOTICES
Petitions for exemptions, etc.:
57598 Great Western Railroad Co.
57598 Little Rock & Western Railroad Co.
57599 Ontario Central Railroad Co.
57599 Ontario Midland Railroad Co.

Federal Reserve System
RULES
Credit extensions by Federal Reserve Banks (Regulation A):
57482 Discount rate changes
NOTICES
Applications, etc.:
58571 First Fidelity Bancorp, Inc., et al.
57571 Marshall & Ilsley Corp. et al.

Federal Trade Commission
RULES
Prohibited trade practices:
57488 BATUS Inc.
PROPOSED RULES
Prohibited trade practices:
57499 Meredith Corp.
NOTICES
Premerger notification waiting periods; early terminations:
57572 Manufacturers Life Insurance Co. et al.

Fish and Wildlife Service
PROPOSED RULES
Endangered Species Convention:
57524 Appendixes; amendments

Forest Service
NOTICES
Environmental statements; availability, etc.:
57528 Tongass National Forest, Ketchikan, Alaska; Quartz Hill Molybdenum Mine

General Services Administration
PROPOSED RULES
Property management:
57520 Buildings and grounds management; standard level of protective services
NOTICES
57572 Agency forms submitted to OMB for review

Health and Human Services Department
See also Health Resources and Services Administration; Human Development Services Office.
PROPOSED RULES
Procurement:
57515 Cost reimbursement type contracts; billing and financial reporting requirements, form illustrations, and form and invoice instructions

NOTICES
Medicare:
57574 Uninsured aged; monthly hospital insurance premium rate

Health Resources and Services Administration
NOTICES
Meetings; advisory committees:
57573 January (1983)

Hearings and Appeals Office, Energy Department
NOTICES
Applications for exception:
57570 Cases filed
57569 Decisions and orders
Remedial orders:
57569 Objections filed

Human Development Services Office
NOTICES
Meetings:
57573 Child Abuse and Neglect Advisory Board

Interior Department
See also Fish and Wildlife Service; Land Management Bureau; Minerals Management Service; Surface Mining Reclamation and Enforcement Office.
NOTICES
57575 Harry S Truman National Historic Site, Mo.; designation

Internal Revenue Service
RULES
Income taxes:
57489 Foreign corporations; stock transfers; temporary
PROPOSED RULES
Income taxes:
57502 Foreign corporations; stock transfers; cross reference
57502 Motor vehicle agreements; terminal rental adjustment clauses; hearing
Income taxes and procedure and administration:
57503 Foreign corporations, transfers by U.S. persons; ruling requests requirement

International Development Cooperation Agency
See Agency for International Development.

International Trade Administration
NOTICES
Antidumping:
57544 Elemental sulphur from Canada
57546 Fish netting of man-made fibers from Japan
Countervailing duties:
57550 Float glass from United Kingdom
57549 Float glass from West Germany
57551 Small diameter welded carbon steel pipes and tubes from Brazil; suspension
57535 Steel products from Korea
57532 Toy ballons (including punchballs) and playballs from Mexico

Interstate Commerce Commission
NOTICES
Motor carriers:
57576, 57583 Finance applications (2 documents)
57576, 57578 Permanent authority applications (2 documents)
57581 Temporary authority applications
Rail carriers; contract tariff exemptions:
57582 Missouri Pacific Railroad Co. et al.

Justice Department
See Drug Enforcement Administration.

Labor Department
See also Employment and Training Administration; Employment Standards Administration; Occupational Safety and Health Administration.
NOTICE
57589 Agency forms submitted to OMB for review
57584 Black Lung and Longshore Desk Books; direction as to citations in pleadings not acceptable to Benefits Review Board
Meetings:
57589 Trade Negotiations and Trade Policy Labor Advisory Committee

Land Management Bureau
PROPOSED RULES
57521 Mining, acquisition of rights and mineral resources development; revision of existing regulations; notice of intent
NOTICES
Environmental statements; availability, etc.:
57574 Green River/Hams Fork Region, Colo. and Wyo.; proposed second round leasing of Federal coal; scoping meetings
Meetings:
57575 Susanville District Grazing Advirsory Board

Management and Budget Office
NOTICES
57595 Debt Collection Act; Federal loan program identification

Minerals Management Service
NOTICES
Outer Continental Shelf; oil, gas, and sulphur operations; development and production plans:
57575 Texaco U.S.A.

National Credit Union Administration
RULES
Federal credit unions:
57483 Organization and operations; statutory lien; interpretive ruling and policy statement
NOTICES
57603 Meetings; Sunshine Act

National Oceanic and Atmospheric Administration
NOTICES
Meetings:
57559 South Atlantic Fishery Management Council

National Transportation Safety Board
NOTICES
57603 Meetings; Sunshine Act

Nuclear Regulatory Commission
RULES
57482 Nondiscrimination in Federally assisted programs; civil rights enforcement program; availability and inquiry
57446 Radioactive wastes; licensing requirements for land disposal

NOTICES

57594 Agency forms submitted to OMB for review

Applications, etc.:

57590 Carolina Power & Light Co.

57590, 57591 Commonwealth Edison Co. (2 documents)

57591 Florida Power & Light Co.

57591 Portland General Electric Co. et al.

57594 Yankee Atomic Electric Co.

Reports; availability, etc.:

57595 Generic safety issues prioritization; draft

Occupational Safety and Health Administration

NOTICES

Variance applications, etc.:

57586 Zurn Industries, Inc./Tileman & Co., Ltd.

Pacific Northwest Electric Power and Conservation Planning Council

NOTICES

Environmental statements; availability, etc.:

57596 Columbia River Basin fish and wildlife program

Pension Benefit Guaranty Corporation

NOTICES

Multiemployer pension plans; bond/escrow exemption requests:

57597 Johanna Farms, Inc., et al.

Postal Rate Commission

PROPOSED RULES

Practice and procedure rules:

57514 Release of in camera information to Government agencies; notice provisions

Postal Service

NOTICES

57603 Meetings; Sunshine Act (2 documents)

Small Business Administration

RULES

Organization, functions, and authority delegations:

57484 Authority delegations to conduct program activities in field offices

Soil Conservation Service

NOTICES

Environmental statements; availability, etc.:

57529 Magnolia Independent School District Critical Area Treatment RC&D Measure, Tex.

Watershed projects; deauthorization funds:

57528 Beasha Creek Watershed, Miss.

Surface Mining Reclamation and Enforcement Office

PROPOSED RULES

Permanent program submission; various States:

57511 Alaska; comment period reopened

57511 Indiana

57513 Virginia; public disclosure of comments

Textile Agreements Implementation Committee

NOTICES

Cotton, wool, or man-made textiles:

57559 Maldives

57559 Export visa requirements and quotas during 1983; man-made fiber luggage and related products; exemption

Transportation Department

See Coast Guard; Federal Aviation Administration; Federal Railroad Administration.

Treasury Department

See Customs Service; Internal Revenue Service.

United States Information Agency

NOTICES

Authority delegations:

57600 General Counsel; immunity from judicial seizure of culturally significant objects imported for temporary exhibition

Veterans Administration

NOTICES

57600 Agency forms submitted to OMB for review

Meetings:

57601 Former Prisoners of War Advisory Committee

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

7 CFR
910.....57443
1106.....57443
1135.....57445

10 CFR
2.....57446
4.....57482
19.....57446
20.....57446
21.....57446
30.....57446
40.....57446
51.....57446
61.....57446
70.....57446
73.....57446
170.....57446

12 CFR
201.....57482
701.....57483

13 CFR
101.....57484

14 CFR
39 (2 documents).....57484, 57485
71 (2 documents).....57486, 57487

Proposed Rules:
71 (2 documents).....57497, 57498

16 CFR
13.....57488
1306.....57488
1500.....57489

Proposed Rules:
13.....57499

26 CFR
7.....57489

Proposed Rules:
1 (3 documents).....57502, 57503
7.....57503
301.....57503

30 CFR

Proposed Rules:
902.....57511
914.....57511
946.....57513

32 CFR
199.....57491
802.....57493

33 CFR
117 (2 documents).....57493

39 CFR

Proposed Rules:
3001.....57514

40 CFR

Proposed Rules:
60.....57515
162 (2 documents).....57624, 57635

41 CFR
Ch. 7.....57494
15–3.....57495

Proposed Rules:
3–16.....57515
3–50.....57515
101–20.....57520

43 CFR

Proposed Rules:
3710.....57521
3720.....57521
3730.....57521
3740.....57521
3800.....57521
3810.....57521
3820.....57521
3830.....57521
3840.....57521
3850.....57521
3860.....57521
3870.....57521

44 CFR
65.....57495

Proposed Rules:
67 (2 documents).....57522, 57523

50 CFR

Proposed Rules:
23.....57524

Rules and Regulations

Federal Register
Vol. 47, No. 248
Monday, December 27, 1982

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 391]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period Dec. 26, 1982–Jan. 1, 1983. Such action is needed to provide for orderly marketing of fresh lemons for the period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: December 26, 1982.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291, and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This action is designed to promote orderly marketing of the California-Arizona lemon crop for the benefit of producers, and will not substantially affect costs for the directly regulated handlers.

This final rule is issued under Marketing Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1981–82. The marketing policy was recommended by the committee following discussion at a public meeting on July 6, 1982. The committee met again publicly on December 21, 1982, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons is easier.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

PART 910—[AMENDED]

Section 910.691 is added as follows:

§ 910.691 Lemon Regulation 391.

The quantity of lemons grown in California and Arizona which may be handled during the period December 26, 1982, through January 1, 1983, is established at 240,000 cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: December 22, 1982.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 82-35132 Filed 12-23-82; 8:45 am]
BILLING CODE 3410-02-M

7 CFR Part 1106

[Milk Order No. 106]

Milk in the Oklahoma Metropolitan Marketing Area; Order Suspending Certain Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rules.

SUMMARY: This action suspends certain provisions concerning the shipping standards for supply plants and the limits on the amount of milk from individual producers that may be diverted directly to nonpool plants and still be priced under the order. For the month of December 1982, the suspension reduces the amount of milk that a supply plant must ship to pool distributing plants in order to qualify as a pool plant. Also, the amount of milk that may be moved directly from farms to nonpool plants for manufacturing is increased. The action was requested by two cooperative associations because of increased milk production and an anticipated decline in fluid milk sales due to school closings during the Christmas holidays. The suspension is necessary to assure the efficient disposition of reserve milk supplies that are now available and to assure that dairy farmers who have regularly supplied the fluid milk needs of the market will continue to have their milk pooled and priced under the order.

EFFECTIVE DATE: December 27, 1982.

FOR FURTHER INFORMATION CONTACT: Robert F. Groene, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–4824.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notice of Proposed Suspension; Issued December 2, 1982; published December 7, 1982 (47 FR 54977).

This action has been reviewed under USDA procedures established to implement Executive Order 12291 and

has been classified as a "non-major" action.

It has been determined that any need for suspending certain provisions of the order on an emergency basis precludes following certain review procedures set forth in Executive Order 12291. Such procedures would require that this document be submitted for review to the Office of Management and Budget at least 10 days prior to its publication in the **Federal Register**. However, this would not permit the completion of the required suspension procedures on the timely basis necessary to make the suspension effective for the month of December 1982. In this instance, the initial request for the action was received on November 29, 1982. A notice of proposed suspension was issued on December 2, 1982, inviting interested parties to submit comments on the proposed action on or before December 14, 1982.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This action lessens the regulatory impact of the order on certain milk handlers and tends to insure that dairy farmers will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and of the order regulating the handling of milk in the Oklahoma Metropolitan marketing area.

Notice of proposed rulemaking was published in the **Federal Register** (47 FR 54977) concerning a proposed suspension of certain provisions of the order. Interested persons were afforded opportunity to file written data, views, and arguments thereon.

After consideration of all relevant material, including the proposal set forth in the aforesaid notice, data, views, and arguments filed thereon, and other available information, it is hereby found and determined that for the month of December 1982 the following provisions of the order do not tend to effectuate the declared policy of the Act:

1. In § 1106.7(b), that part of the provisions that reads "in an amount not less than 50 percent of milk received at the supply plant from dairy farmers who would be eligible as producers under § 1106.12 if such plant qualifies pursuant to this paragraph and milk of such dairy farmers diverted from such plant by the plant operator".

2. In § 1106.13(e)(1), that part of the provisions that reads ", subject to the conditions of paragraph (e)(3) of this section, a total quantity of milk not in excess of total" and "received at all pool plants during the month. Diversions in excess of such quantity shall not be eligible under this section and the diverting cooperative shall specify the dairy farmers whose diverted milk is not so eligible. If the cooperative association fails to designate such persons, status under this section shall be forfeited with respect to all milk diverted by such cooperative association".

3. In § 1106.13(e)(2), that part of the provisions that reads ", subject to the conditions of paragraph (e)(3) of this section," and ", in a total quantity not in excess of the milk of producers not members of such cooperative association received at such pool plant(s) during the month. Milk diverted in excess of such quantity shall not be eligible under this section and the diverting handler shall specify the dairy farmers whose diverted milk is not so eligible. If a handler fails to designate such persons, status under this section shall be forfeited with respect to all milk diverted by such handler".

4. In § 1106.13, paragraph (e)(3).

Statement of Consideration

This action reduces the amount of milk that supply plants must ship to pool distributing plants to attain pool plant status under the order. Under the suspension, a supply plant needs to make but one shipment to a pool distributing plant to qualify as a pool plant.

The action also increases the amount of milk that may be moved directly from farms to nonpool manufacturing plants and still be priced under the order. Without the suspension, diversions would be limited to producers who deliver not less than 15 percent of their producer milk to pool plants. In addition, diversions to nonpool plants by proprietary handlers and cooperatives could not exceed the quantity of milk received at pool plants.

This action was requested by two cooperative associations that represent producers supplying the market. The cooperatives indicated that the suspension is needed because increases in fluid milk sales have not kept pace with increases in production. The cooperatives further stated that the imbalance between fluid milk sales and producer receipts will become worse because of a decline in Class I sales to schools as a result of school closings for the Christmas holidays.

As a result of the imbalance between fluid milk sales and production, greater than normal supplies of milk will have to be moved to manufacturing outlets for surplus disposal during December. In the absence of any suspension action, costly and inefficient movements of milk would have to be made by handlers solely for the purpose of assuring that the milk of dairy farmers who have regularly supplied the fluid milk needs of the market would continue to be pooled under the order.

Interested parties were given an opportunity to submit written data, views, or arguments concerning the suspension and no views in opposition to the suspension were received. The operator of a proprietary pool supply plant supported the suspension in order to avoid uneconomic movements of milk or loss of pool status for producers and handlers associated with the market.

It is hereby found and determined that thirty days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) This suspension is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area in that without this action uneconomic movements of milk would be made solely for the purpose of pooling the milk of dairy farmers who have regularly been associated with the market.

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rulemaking was given interested parties and they were afforded opportunity to file written data, views or arguments concerning this suspension.

Therefore, good cause exists for making this order effective upon publication in the **Federal Register**.

List of Subjects in 7 CFR Part 1106

Milk marketing orders, Milk, Dairy products.

It is therefore ordered, That the aforesaid provisions in §§ 1106.7(b) and 1106.13(e) of the order are hereby suspended for the month of December 1982.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Effective date: December 27, 1982.

Signed at Washington, D.C., on: December 20, 1982.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 82-34949 Filed 12-23-82; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 1135

[Docket No. AO-380-A3]

Milk in the Southwestern Idaho-Eastern Oregon Marketing Area; Order Amending Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action amends the Southwestern Idaho-Eastern Oregon Federal milk order by providing for the indefinite continuation of the present Class I pricing provisions. The order became fully effective on July 1, 1981, and the Class I price provisions were established on a temporary basis through December 31, 1982, so that the appropriateness of the price level could be reviewed in light of market experience. The action is based on an industry proposal considered at a public hearing held on October 21, 1982. The change, which has been approved by more than two-thirds of the producers in the market, is necessary to reflect current marketing conditions and to assure continued orderly marketing in the area.

EFFECTIVE DATE: January 1, 1983.

FOR FURTHER INFORMATION CONTACT: Maurice M. Martin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C. 20250, (202/447-7183).

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of Sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

Prior documents in this proceeding:

Notice of Hearing: Issued October 8, 1982; published October 14, 1982 (47 FR 45884).

Final Decision: Issued December 1, 1982; published December 7, 1982 (47 FR 54978).

Findings and Determinations

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of the said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Southwestern Idaho-Eastern Oregon marketing area.

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective not later than January 1, 1983. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

The provisions of this order are known to handlers. The decision of the Assistant Secretary containing all amendment provisions of this order was issued December 1, 1982 (47 FR 54978). The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective January 1, 1983, and that it would be contrary to the public interest to delay the effective date of this order for 30 days after its publication in the Federal Register. (Sec. 553(d), Administrative Procedure Act, 5 U.S.C. 551-559).

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in Sec. 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the respective orders; and

(3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

List of Subjects in 7 CFR Part 1135

Milk marketing orders, Milk, Dairy products.

Order Relative To Handling

PART 1135—MILK IN THE SOUTHWESTERN IDAHO-EASTERN OREGON MARKETING AREA

It is therefore ordered, That on and after the effective date hereof, the handling of milk in the Southwestern Idaho-Eastern Oregon marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended as follows:

1. In § 1135.50, paragraph (a) is revised to read as follows:

§ 1135.50 Class prices.

* * * * *

(a) The Class I price shall be the basic formula price for the preceding month plus $1.50.

* * * * *

(Secs. 1-19, 48 Stat. 31, as amended; (7 U.S.C. 601-674))

Effective date: January 1, 1983.

Signed at Washington, D.C., on December 20, 1982.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 82-34948 Filed 12-23-82; 8:45 am]

BILLING CODE 3410-02-M

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 2, 19, 20, 21, 30, 40, 51, 61, 70, 73 and 170

Licensing Requirements for Land Disposal of Radioactive Waste

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is issuing regulations that set out licensing procedures, performance objectives and technical requirements for the licensing of facilities for the land disposal of low-level radioactive waste. The regulation is necessary to provide comprehensive national criteria applicable to the land disposal of radioactive waste. This action is taken in response to the needs and requests of the public, Congress, industry, the states, the Commission, and other Federal agencies for codified regulations to govern the disposal of low-level radioactive waste.

DATES: 10 CFR 20.311 of Part 20 effective date is December 27, 1983; 10 CFR Part 61 and all other changes effective January 26, 1983.

ADDRESSES: Documents referred to in this regulation may be examined at the Commission's Public Document Room, 1717 H Street NW., Washington, DC. Copies of NUREG's may be obtained by writing the Superintendent of Documents, U.S. Government Printing Office, CIB, SSOS, UCP, Washington, DC 20401 or the NRC/GPO Sales Program, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Copies of Branch Technical Positions may be obtained from the Low Level Waste Licensing Branch, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

FOR FURTHER INFORMATION CONTACT: Paul H. Lohaus, Low-Level Waste Licensing Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301)427–4500.

SUPPLEMENTARY INFORMATION:

Introduction

The NRC is amending its regulations to provide specific requirements for licensing the land disposal of low level radioactive wastes containing source, special nuclear, or byproduct material. The amendments provide licensing procedures, performance objectives, and technical criteria for licensing facilities for the land disposal of radioactive waste. Specifically, the regulations establish performance objectives for land disposal of waste; technical requirements for the siting, design, operations, and closure activities for a near-surface disposal facility; technical requirements concerning the waste form that waste generators must meet for the land disposal of waste; classification of waste; institutional requirements; and administrative and procedural requirements for licensing a disposal facility. Amendments to other parts are established to govern the certification and use of shipping manifests to track waste shipments and clarify, but not substantially modify, the requirements of existing regulations. Provisions for consultation and participation in license reviews by State governments and Indian tribes are also included. Specific requirements for licensing facilities for the disposal of radioactive wastes other than high level waste by alternative land disposal methods will be proposed in subsequent rulemakings. Disposal of radioactive wastes by an individual licensee will continue to be governed by 10 CFR Part 20.

Background

On October 25, 1978, the Commission published an Advance Notice of Proposed Rulemaking (43 FR 49811) regarding the development of specific regulations for the disposal of low-level radioactive wastes (LLW). The development of these regulations was in response to needs and requests expressed by the public, the Congress, industry, the States, the Commission, and other Federal agencies for codification of regulations for the disposal of LLW. The respondents to the advance notice strongly supported the Commission's development of specific criteria and standards for the disposal of low-level waste. The comments received by the Commission on the advance notice were used by the Commission in scoping the form and content of the draft Environmental Impact Statement (EIS) (NUREG–0782) and the regulation.

On February 28, 1980, the Commission also published a Notice of Availability of a preliminary draft regulation, dated November 5, 1979, announcing availability of the draft for public review and comment (45 FR 13104). This was done to help ensure wide distribution and early public review and comment on the development of the rule. Copies of this draft regulation were distributed to all of the States.

During the summer and fall of 1980, the Commission also sponsored four regional workshops to provide an opportunity for open dialogue among representatives of the States, public interest groups, industry, and others on the issues to be addressed in the Part 61 rulemaking. These workshops were particularly useful in formulating our positions on the more judgmental aspects of the rule and underlying assumptions (such as the length of time we should assume that active governmental controls could reasonably be relied on).

Proposed 10 CFR Part 61 and conforming amendments were published on July 24, 1981 (46 FR 38081). The original comment period was due to expire October 22, 1981, but was extended to January 14, 1982 to coincide with the 90-day comment period for the supporting draft EIS (NUREG–0782). The availability of the draft EIS was announced on October 22, 1981 (46 FR 51776). The proposed rule was sent to all Commission licensees and copies were provided to Agreement State officials to distribute to their licensees.

Public comments were received on both the rule and draft EIS and may be examined at the Commission's Public Document Room (PDR) located at 1717 H Street NW., Washington, D.C. Comments on the rule are available at the PDR Docket No. PR–2 *et al.* (46 FR 38081). Comments on the draft EIS are available at the PDR referencing Docket No. PR–61 (46 FR 51776).

A total of 42 persons commented on the draft EIS. These commenters represented a variety of interests. Comments were received from 21 States, 8 industry/utilities, 8 Federal agencies/laboratories, 3 individuals and 2 broker/disposal firms. The comments generally raised or echoed the same issues raised concerning the rule except that some questions on the methodologies and presentation of results were raised. A detailed analysis of the comments on the draft EIS will be included as an appendix to the final EIS (NUREG–0945) which is being prepared[1]

Overview of Comments on 10 CFR Part 61

A total of 107 different persons submitted comments on the proposed 10 CFR Part 61. The commenters represented a variety in interests. Comments were received from: 19 industrial groups, 17 state groups, 15 individuals, 13 utilities, 9 federal agencies or laboratories, 6 universities, 4 medical groups, 4 engineering firms, 4 public interest groups, 4 professional organizations, 3 broker/disposal firms, 2

[1] Copies of this report may be obtained by written request to the Division of Technical Information and Document Control, Washington, D.C. 20555. Copies will also be made available for inspection or copying for a fee at the NRC Public Document Room, 1717 H Street NW., Washington, D.C.

legal groups, 2 surety groups, and 5 others. Commenters offered from one to over 20 comments each. The topics addressed a wide range of issues and all parts of the rule.

The general response was quite favorable. Almost half (47) expressed explicit support of the rule or overall approach. Many of these commenters expressed some concern about one or a few specific provisions and most offered suggestions for improvements. Many expressed the view that the rule provides a needed and adequate framework for establishing additional low-level waste disposal capacity. The importance, reasonableness, and clarity of the rule were noted. Support was expressed by almost every sector.

Only 15 commenters expressed any outright opposition to the rule or some significant portion of the rule. Most were individuals. No state group or current disposal site operator expressed opposition. The opposition expressed appeared to stem from objections to nuclear power and use of radioactive materials, opposition to shallow land burial as a disposal method in general and for TRU wastes in particular, opposition to perceived increase in costs to waste generators, the regulatory burden of the licensing process, and the technical requirements in Subpart D of the proposed rule. Several of the commenters that expressed opposition offered suggestions for improving the rule, however.

Most of the remaining commenters (45) offered constructive comments without taking a general position on the rule, or offered support with reservations about one or more aspects of the rule.

All concerns expressed by all commenters are discussed in detail in a staff analysis of comments which is available in the PDR. Because the volume of comments and analysis in detail occupy several hundred pages, the following discussion summarizes and responds to all comments of major and generic significance. For example, comments on Part 61 standard provisions that are common to all Commission regulations are not discussed in this summary, but are covered in the document available in the PDR.

Summary of Comments for Proposed Part 61

Subpart A: General Provisions. A variety of comments were received that related to the scope of the rule. Two clarifying changes were made to make it clearer that uranium and thorium tailings as defined in Section 11e(2) of the Atomic Energy Act of 1954, as amended, are not subject to the requirements of Part 61, but are disposed of according to requirements in 10 CFR Part 40. In addition, clarifying changes were made to state that the requirements of Part 61 do not apply to persons who are licensed by an Agreement State pursuant to authority relinquished to that State by the Commission in accordance with Section 274 of the Atomic Energy Act of 1954, as amended.

Some commenters felt that provisions should be made for an individual to dispose of his or her own waste. Private waste disposal may be licensed under current provisions of 10 CFR Part 20. The Commission feels that these provisions are adequate and that no change to Part 61 to accommodate private disposal is warranted.

At least two State commenters asked about Agreement State requirements being compatible with Part 61. The Commission is preparing guidance for States that will consider Section 61.2, Definitions; Subpart C, Performance Objectives; Subpart D, Technical Requirements for Land Disposal Facilities; those portions of Subpart B that are necessary to implement the provisions of Subparts C and D; Section 20.311, Transfer for disposal and manifests; and that portion of Subpart E requiring closure funding arrangements as a matter of compatibility for the Agreement States. Guidance will identify those aspects where uniformity in desirable and those aspects where States would have flexibility in establishing their own requirements.

It was suggested that construction of a disposal facility should be permitted to begin before a license is issued. The Commission believes that to do so would have a detrimental effect on the decisionmaking process and therefore no change is being made to this provision.

In the proposed rule, near surface disposal was defined in § 61.2 and discussed in § 61.7 as disposal in the upper 15–20 meters of the earth's surface. Based on comments received, the wording could be misinterpreted to mean that disposal was allowed only between 15 and 20 meters or that deeper disposal was prohibited. The wording was clarified to make it consistent with the waste classification requirements. (Class A and B wastes have no minimum depth requirement and Class C wastes have a 5 meter depth requirement when relying on depth alone.) Disposal at a depth greater than 5 meters would also be acceptable.

Subpart B: Licenses. Comments received on Subpart B covered a wide range of issues. Many were concerned with clarification and intent. There were, however, several issues that were more substantive and addressed by a large group of commenters.

Several commenters were concerned that the language in several places required the applicant to demonstrate in the application that certain objectives were met. Their concerns were over what would constitute a demonstration, and the impossibility of meeting an objective with complete certainty as implied by the language in the rule. The Commission agrees with these commenters and changes have been made in appropriate places to indicate that what the Commission wants is information or analyses that will provide reasonable assurance that the objective or requirement will be met. Other minor changes were made for purposes of clarification.

An advisory statement in § 61.13 that the ground water pathway was generally the most significant for near surface disposal, in terms of releases of radioactivity, was deleted. This section requires an analysis of all potential pathways and two commentators objected to singling out ground water.

Several commenters expressed concern over the length of time that the licensing process might take and suggested limits be established in the regulations. The Commission does not believe that this is practicable, considering the uncertainties in predicting the quality of future applications, the availability of staff resources at critical times, and the potential for hearings. The licensing process must be in accordance with the Commission's mission to protect public health and safety but the Commission does agree that the licensing process must be carried out in the minimum amount of time consistent with this mission. Some changes in the procedural aspects of the rule are being made with this in mind (see comments, Subpart F). The Commission staff is developing technical positions to assist applicants in preparing their applications and is developing performance assessment capabilities that will enable the staff to perform timely reviews.

Nine commenters addressed the language in § 61.25 that prevents the licensee from making any changes in the facility or procedures described in the application except as provided for in specific license conditions. The commenters felt that this was unnecessarily restrictive, in that there may be aspects of the facility or procedures that were described in the application, but which are not important to public health and safety and the

licensee should be free to change them. The Commission agrees, since it was not intended that all changes be subject to Commission review or approval, only those important to public health and safety. Section 61.25 is changed accordingly.

Over a dozen commenters raised objections to the requirement that the license be renewed on the usual five-year interval with a concomitant public notice on the opportunity to request a public hearing. The dominant reason for these objections is the burden that is perceived if public hearings were held every five years at the time of license renewal. The Commission believes that a periodic reassessment by the licensee and the Commission staff is necessary. This reassessment should factor in the past operating experiences of the disposal facility, the results of monitoring data, changing economic conditions that might affect financial assurances, advances in technology, etc. While there are alternatives to license renewal in order to ensure these periodic reappraisals, the Commission has found through its experience that periodic license renewal is the most effective method. As for the public notice of the renewal and the notice of opportunity to request a public hearing, the Commission agrees that this is not necessary and it has been deleted. Deleting this requirement will not have an adverse effect on the public's interest and rights. According to revised § 61.25, any changes to the license conditions from a license renewal process would be subject to notice and opportunity to request hearings if the conditions were in the highest category specified in that section (paragraph 61.25(a)(1)).

Two commenters suggested not subjecting the licensee to an opportunity for hearings at the time of site closure. The Commission believes that this is an important and worthwhile time to provide for public participation. No changes were made.

While none of the commenters took exception with the need for a period of post-closure observation and maintenance by the licensee, a number did object to the open-endedness of the requirements that this period be for "a minimum of five years." This provision has been changed to state that the period will normally be five years, but that shorter or longer periods may be approved by the Commission in connection with the approval of the site closure plan for a specific site.

Several commenters, including Chem-Nuclear Systems, Inc., and U.S. Ecology, the operators of the existing disposal facilities, were concerned about possible delays in transfer of the license to the site owner at the end of the post-closure observation period. They foresee the possibility of more stringent requirements being imposed at this time, thereby delaying the transfer with an adverse effect on the ability of the licensee to effect proper closure due to changes beyond the financial requirements initially established. The Commission recognizes this possibility, but it is beyond the Commission's authority to control or regulate the site owner and force the transfer to take place. Any requirements for transfer that are outside the public health and safety considerations prescribed by Part 61 became a matter of contract or agreement between the site owner and the site operator. With the Low Level Radioactive Waste Policy Act laying the responsibility for disposal of low level waste on the States, it is obvious that the States will play an increasingly important role. State authorities, who in all likelihood will be the site owners, should become active participants in the disposal activities from the earliest stages of development through site closure and stabilization so that at the time of site transfer to them for institutional control, there are no unforeseen obstacles to the orderly and timely transfer. Part 61 provides for this participation in the licensing process, and as landlord, there are other avenues of participation.

Subpart C: Performance Objectives. A dozen commenters addressed the approach taken in Part 61 to establish performance objectives supplemented by some minimum technical requirements. All commenters except three supported the approach of addressing disposal from an overall systems standpoint, i.e., establishing overall performance objectives and minimum technical requirements and leaving considerable flexibility on how an applicant or licensee would design and operate a site. Of the three who disagreed, one felt that the concern for public health and safety is so great that the rule should be based on prescriptive requirements; one felt that there should be no technical requirements in the rule, only performance objectives; and the third felt that the rule is restrictive by establishing both performance objectives and technical requirements. On balance, the comments were judged to be supportive of the mix of objectives and requirements and no changes have been made in this regard.

One commenter challenged the performance objectives in Part 61 as being premature in advance of relevant EPA standards and beyond the agency's authority to the extent that they are not already embodied in 10 CFR Part 20 and that they are unduly stringent and unsupported. With respect to this comment, EPA, under its ambient environmental standards setting authority assigned by Reorganization Plan No. 3 of 1970 has the authority to prepare a standard that will set limits for releases of radioactivity to the general environment from disposal facilities. Presently there is no such EPA standard. In the absence of such a standard, the Commission examined a range of limits which bound that expected for the EPA standard and selected a proposed performance objective that establishes a release limit for the site boundary, a regulatory action within the limits of NRC authority. In a rulemaking action, the Commission is not solely limited to existing standards in Part 20 and the Commission does not intend to withdraw any portion of the rule that may be related to the performance objectives.

With regard to the specific performance objective for releases to the environment, the Environmental Protection Agency commented that the establishment of an individual exposure limit at the site boundary for releases as proposed in § 61.41 is appropriate. They stated that the range of 1 to 25 mrem/yr analyzed by the Commission was a reasonable range that should encompass any standard which EPA might derive for low level waste disposal facilities. Based on the Commission's analysis, NRC does not anticipate any need to change the technical requirements of Part 61 to meet a future EPA standard. In their comments, EPA stated their opinion that it was inappropriate to apply the EPA drinking water standard as proposed in § 61.41. Accordingly, this part of the performance objective has been deleted. However, this does not diminish the Commission's concern over protecting sources of drinking water. The Commission will assess the potential impact on drinking water supplies as part of its licensing review.

Reaction to the proposed performance objective to protect potential inadvertent intruders was mixed. There were some who felt the proposed 500 mrem whole body dose to the intruder was too high, some felt that it was the right value for a standard, and others felt that higher values were in order. Those that felt that the standard should be higher suggested values of 5 rem or 25 rem (the Department of Energy) to correspond to limits for occupational exposure or one-time exposures to workers from potential accidents. A number of commenters, in their comments about considering the

probability that intrusion will occur, expressed concern about weighting too heavily the protection against inadvertent intrusion in determining disposal requirements for waste. Based on these comments, the Commission believes that the primary concern of those who feel that the intruder protection objective is too restrictive is the effect that this has on the concentrations of certain nuclides that are acceptable for disposal in a near surface facility and the need to meet additional requirements such as stability for some wastes. With this in mind, and in response to other comments, the Commission has reevaluated the calculations that establish the waste classification concentration limits to eliminate unnecessarily conservative assumptions with the result that the analysis is more realistic and the limits for several important isotopes have been raised. With this action, the Commission believes that most of the concerns of those who encouraged higher exposure limits or less emphasis on protection of intruders will have been met.

With respect to those who suggested that lower limits would be appropriate, there were no compelling arguments or technical demonstrations presented that persuaded the Commission to lower the dose limit for intruders.

The EPA recommended that the 500 mrem dose limit be deleted from the performance objective, since the licensee would not be able to monitor or demostrate compliance with a specific dose limit that applies to an event that might occur hundreds of years from now. They did recommend use of the 500 mrem whole body dose limit coupled with ALARA as the basis for determining the concentration limits in Table 1 of Part 61. The 500 mrem dose limit has been deleted from the performance objective but retained as the basis of the waste classification limits.

Comments were offered that more emphasis should be placed on requirements, such as the use of durable monuments to warn potential intruders. This concept is incorporated in the regulation.

Acts of terrorism and sabotage were identified as possible intrusion problems and suggestions were made for protecting against such acts. The Commission does not feel that the likelihood of such events or the magnitude of the effects of such acts are sufficient to warrant requirements in this regard.

EPA asked for a clarification of the intent of the performance objective in § 61.43 as it pertains to effluents from the site. This performance objective states that operations at the land disposal facility must be conducted in compliance with the standards for radiation protection set out in Part 20. Part 20 contains standards for concentrations of radioisotopes in air and water released from a licensed facility. Section 61.41 sets forth limits on concentrations of radioisotopes released from a land disposal facility which are lower than those in Part 20. It is the Commission's intent that the provisions of Part 20 will apply to all aspects of radiation protection during operation except for releases of radioactivity from the site which will be governed by the more stringent requirements of § 61.41. The rule has been modified to clarify this point.

Commenters pointed out a need to be clearer in the rule on how the principle of maintaining radiation exposures to a level that is as low as reasonably achievable (ALARA) will be handled. The Commission intends that the ALARA principle apply to the performance objectives for long-term environmental release and protection of individuals during site operations. It cannot apply to the intruder performance objective, since Part 61 sets out the requirements for protection and intrusion which is beyond the disposal facility licensee's control. Appropriate changes have been made in §§ 61.41 and 61.43 to reflect the ALARA principle.

Subpart D: § 61.50, Disposal Site Suitability for Near-Surface Disposal. Approximately two dozen commenters offered comments on various aspects of § 61.50, addressing disposal site suitability requirements. These comments address eight subject areas which are discussed below.

Eight comments were received on the requirement that the disposal site shall be capable of being characterized, modeled, analyzed, and monitored. The comments were directed to the perceived vagueness of the requirement, i.e., what does it mean to be capable of being characterized, modeled, analyzed, and monitored? Some commenters offered suggested rewording or examples. The Commission has issued a staff technical position (NUREG–0902) that provides interpretation and explanation of the meaning and intent of this requirement. In the technical position, it is explained that the site characteristics must be such that limited site characterization can adequately define the site characteristics spatially across the disposal site and that site characteristics should vary with a sufficiently narrow range so that the input to modeling is representative of the hydrogeologic units and the assumptions underlying the modeling are valid. Further, natural processes affecting the disposal site should be occurring at a consistent and definable rate such that the modeling of the site will represent both present and anticipatable site conditions after closure. Finally, site characteristics must be such that a reasonable number of monitoring points can adequately describe the extent to which radionuclides have migrated from the waste disposal units. In addition, the Commission's staff is developing an in-house modeling capability and will share that capability through pre-qualification of prospective computer codes. The Commission believes that a concise statement in the rule along with guidance on these subjects provided by technical position papers and Regulatory Guides is appropriate.

Several aspects related to ground water were addressed in the comments. Three commenters (Ontario Hydro, the Department of Interior, and the Department of Energy) endorsed the provision in § 61.50(a)(7) that permits disposal below the water table where diffusion dominated the ground water flow system.

The Department of Interior recommended using the term, "molecular diffusion" and both they and Ontario Hydro suggested specifying a limit for soil hydraulic conductivity of less than 10^{-6} cm/sec, as appropriate. There were several commenters who disagreed with this provision and recommended total containment or some minimum depth to the water table.

The Commission envisions a site that would satisfy the exception in section 61.50(a)(7) as one with an inactive flow system so that the water which would contact the wastes would move on the order of less than one foot per year. Given the low hydraulic conductivity and effective porosity of the soils, very little water would actually contact the waste or flow from the disposal units. The travel time will result in sufficient reduction of concentration of the small amounts released and fine-grained soils will typically provide significant attenuation for most radionuclides. No change has been made to this provision of the rule.

Several commenters suggested requirements on retardation properties for soils, both impervious and porous. One suggested a leachate collection and treatment system for the impervious soils. The Commission does not consider it appropriate to set forth specific values for characteristics which promote attenuation of radionuclides. Whereas attenuation is advantageous for some radionuclides, others such as H–3, C–14,

and I-129 may not be significantly attenuated. The Commission believes that reliance should be placed on siting requirements which will keep water away from wastes, result in low volumes of contaminated water being released, and provide a long travel time for decay. The Commission takes exception to any design which relies on a leachate collection and treatment system to reduce migration. Such a design is expected to result in a requirement for continued active site maintenance, therefore violating the performance objective in § 61.44.

Several comments recommended that the natural resources considered under § 61.50(a)(4) specifically include ground water and aquifers underlying the site and that the resources of significance were not limited to "economic" significance. Another suggested that the resources be "known" resources so that the applicant would not have to engage in an extensive exploration program to assure that there were no significant natural resources. The Commission considers ground water and aquifers to be natural resources in the context of this requirement. The Commission also agrees that it should not be necessary to conduct extensive exploration studies to prove that no resources exist. Several changes have been made in the sections relating to ground water to reflect these comments.

Commenters raised four questions on the siting requirements related to surface water drainage. These can be summarized as (1) definition of certain terms such as upstream drainage areas, coastal high-hazard area and wetland; (2) the adequacy of the exclusion of waste disposal based on the 100-year floodplain; (3) whether engineering drainage modifications can be made in order to meet the requirements; and (4) the vagueness of some terms.

With respect to the terms "coastal high-hazard area" and "wetland," these are defined in Executive Order 11988 (42 FR 26951, May 25, 1977), *Floodplain Management Guidelines* which is noted in the rule. The term "upstream drainage area" can be defined in conventional hydrologic terms as all the land surface which drains, either by channel flow or sheetwash, across the disposal facility.

The 100-year floodplain is that land which would be inundated by a flood having a 1 in 100 chance of occurring in any particular year. The Commission feels the major hazard due to flooding is associated with the period of site operations when disposal units are open. Because of other provisions of the rule, the disposal units will be open a comparatively short time. Once closed, the covers and site drainage system will provide protection against the effects of flooding. The Commission considers 300 or 500-year floodplains to be unnecessarily restrictive; and questions whether an adequate data base or standard methods of determining such floodplains exist.

The question on engineering modifications will be addressed more fully in staff technical positions related to site suitability, selection and characterization and to site design and operations. Engineering features may be used to improve site drainage and protect against flooding during operations.

With respect to the vagueness, or non-prescriptive, nature of the requirements, the Commission considers the siting requirements as site screening tools which will be met in most cases and which, if not met fully, would require a site-specific evaluation to determine whether an exemption is warranted. The Commission finds this preferable to treating more prescriptive siting requirements as exclusionary.

Minor changes of a clarifying nature have been made to the requirements related to flooding.

Several commenters suggested that radioactive waste disposal facilities could be colocated with hazardous waste disposal facilities. The Commission does not object to this as long as the facilities are separated from one another and the wastes are not commingled. The provisions of § 61.50 pertaining to nearby facilities not adversely impacting the ability of the site to meet the performance objectives or significantly masking the environmental monitoring program would have to be met.

Several commenters raised the question of relevance of seismic or volcanic hazards to low level waste disposal, given the orders of magnitude difference between the time frames for those geologic phenomena and the hazard of the low-level wastes. Concern was also expressed that certain areas, such as California, would have all potential sites eliminated by the requirement to avoid seismic areas.

The requirement, as written, provides the Commission a mechanism for site specific evaluation of such factors as recurrence intervals, probabilities, liquefaction potential, and ground accelerations to compare against a long-term (500-year) radiological hazard and the disposal requirements of Part 61. This minimum technical requirement would not arbitrarily eliminate potential sites so much as it would provide a site screening test which will be met in most cases and will mandate a thorough evaluation of site performance in areas of known tectonic hazards.

Several persons commented on the reliability of long term projections of population growth. The Commission recognizes such projections have a degree of uncertainty. Part of the staff review of any projection focuses on this uncertainty and how it has been handled by the applicant. Previous experience with commercial low-level disposal sites illustrate that suitable sites can reasonably be found in areas of low population density and minimal population growth potential.

Two commenters suggested a siting requirement based on accessibility to major transportation routes. This issue becomes a consideration in site selection and the evaluation of alternatives required under NEPA and is not necessary in the rule.

Individual comments were received suggesting siting requirements related to mechanical and physical properties of soils to make them suitable for compaction and supporting construction equipment, and requirements to avoid areas of high natural radioactivity. Changes to the rule were not deemed necessary. The mechanical and physical characteristics of soils are factors to be addressed in the site design and operations in order to meet stabilization requirements and objectives. With respect to areas of high natural radioactivity, these areas would be excluded if they could be shown to violate the ability to carry out a monitoring program. Otherwise, the Commission sees no valid reason for excluding these areas.

Several commenters raised the general question of the length of time the various siting or design requirements have to be satisfied. Others requested that the design basis natural events or phenomena be identified and that the length of time for consideration associated with these be stated.

The siting, design, and waste-form requirements relate to both stability of the disposal site and control of releases within acceptable limits. Reliance must be placed for a longer time on the site since the waste form and design features will decrease in effectiveness over time. Therefore, each of the siting requirements should be considered applicable over the indefinite future and should be evaluated for at least a 500-year time frame. A 500-year time frame for design basis natural events or phenomena should also be applied.

Subpart D: § 61.51, Disposal Site Design for Land Disposal. Five commenters objected to the absoluteness of the requirements in

§ 61.51 relative to preventing infiltration and eliminating the contact of water with waste. Comments were also expressed requesting preferential consideration be given to progressive slope design for burial and concern was expressed that the rule does not provide specific guidance for engineered features. Commenters also expressed concern that site areas used for disposal of Class A waste will require more maintenance.

The requirements referred to are expressed as design objectives. Given that these are design objectives, the actual achievement will be to minimize, rather than absolutely prevent or eliminate. The achievement level should be as near the design objectives as is practicable. The wording of these paragraphs has been changed to reflect this. With respect to progressive slope design for burial, the regulation does not specify the type of disposal unit. The site designer should give particular attention to the design of that portion of the facility used for the disposal of Class A wastes so that the inherently unstable Class A wastes will not interfere with the long-term stability of the site.

Four commenters recommended that warning signs or permanent identification monuments be employed as a deterrent to inadvertent intrusion. Several suggested a design lifetime of 500 years for such markers.

Although there are few "signs" in the traditional sense that have design lives approaching 500 years, the Commission would consider such things as granite monuments near the survey marker control points as an appropriate adjunct to the physical intruder barriers employed in the disposal of the waste. A change to the rule has been made to require such monuments at the time the license is terminated.

Subpart D: § 61.52, Land Disposal Facility Operation and Disposal Site Closure. There were several issues related to facility operation and site closure identified by about thirty commenters. A half dozen commenters raised questions with respect to the requirement that Class A waste be segregated from other classes of waste. Questions also addressed the need for segregation during transportation, the meaning and intent of the term "interaction," and the need for segregation in arid sites.

The intent of the rule is not to prohibit waste from more than one class from being shipped on the same transport vehicle. Consistent with appropriate transportation regulations, the Commission has no objection to commingling different classes of waste in transport.

In identifying the need to clarify the term "interaction," the commenters noted that it was vague and unenforceable, could include migration, and could be physical or chemical interaction.

The intent of the rule is to protect Class B and C wastes. Class A wastes could interact with other wastes directly through the release of absorbed liquids, solvents, or other mobile components that might be present in Class A waste. Indirect interaction could result from degradation of Class A waste and its lack of stability. Consolidation of Class A wastes would provide a less stable support which could contribute to failure of the disposal unit cover leading to increased precipitation infiltration and surface water intrusion. The degree to which these interactions could occur depends to a large extent on site specific characteristics and the Commission does not believe that it is appropriate to set a prescriptive requirement in this area in the rule. The wording of this requirement has been changed to define the purpose for the segregation and minimization of interaction between the segregated wastes. The rule also permits Class A waste that meets the stability requirements to be placed with Class B and C wastes.

The State of Washington regulates the disposal site located in an arid region near Richland, Washington. The State noted that without the likelihood of ground water or surface water being factors at arid sites, segregation of Class A wastes seems to be unnecessary. They also noted that commingling Class A and B wastes would dilute the Class B wastes and have potential benefit.

The State's observations may have merit for arid sites but are difficult to adopt in a rule that must address sites located in all parts of the country. The Commission anticipated the need to consider alternative disposal requirements and included § 61.54, "Alternative requirements for design and operations" to provide for consideration of such alternatives.

A number of commenters noted that factors other than waste form play a role in assuring the stability of the site. In the area of site operations, these factors are identified as the way in which waste is emplaced and the filling of voids in between waste packages after emplacement. Several pointed out the stability problems (slumping, etc.) that could still be associated with disposal units containing the segregated and unstable Class A waste. A number of commenters objected to the requirement that wastes must be emplaced in an orderly manner because of perceived increased exposures. The requirement that was proposed in paragraph (4) of § 61.52(a) was intended to assure that the placement of packages into a disposal unit did not destroy the integrity of the package in order to minimize the possibility of releases of contamination, and also to minimize the void spaces between packages so that this would not be a contributor to site instability. It has been a common practice at waste disposal facilities to dump some wastes over the edge of a disposal trench with the packages falling and tumbling to the trench bottom where they ended up a random arrangement. This practice jeopardizes package integrity and does not permit access to voids between packages so that they could be backfilled. The assumption by the commenters that orderly emplacement necessitates increased handling by site operators with resultant higher radiation exposures is not necessarily the case. Lifting and stacking devices are currently in use for low level waste disposal that permit remote lifting and emplacement in the disposal trench without increased occupational exposure. The resulting emplacement meets the intent of protection of packaging integrity and access to void spaces. Since the term "orderly" was subject to misinterpretation, the requirement has been rewritten to remove the term and to specify the objectives of emplacement.

Six commenters addressed the requirement for maintaining a buffer zone of at least 100 feet. These comments generally supported the concept and purposes of a buffer zone, but questioned whether the specified 100 feet was sufficient. The Department of the Interior suggested that the buffer zone should be three dimensional to include some distance below the disposal site.

In response to these comments, the Commission has restated the requirement in terms of the objective to carry out monitoring activities and take mitigative measures if needed, and has made the buffer zone three dimensional.

Several persons commented on the need to conduct ancillary activities at the disposal facility such as storage, waste treatment, truck terminals, etc. Concern was expressed over the language in § 61.51(a)(7) that would seem to preclude such activities. Others felt that provisions should be made in Part 61 for the description and licensing of such activities.

The provision of § 61.51 that caused the concern was that the disposal site shall be used exclusively for the disposal of radioactive wastes. The

intent of this provision was to prevent the disposal of wastes such as toxic or hazardous chemicals which do not contain radioactive material at the facility. It was not intended, as could easily be inferred from the way the requirement was worded, that disposal is the only activity that could take place. Corrective word changes have been made to clarify this. The purpose of Part 61 is to specify the regulatory requirements for the disposal of radioactive waste. Existing requirements in Parts 30, 40, 70, *et al.*, would govern the licensing of other activities involving licensed radioactive materials, such as waste treatment or storage.

Several comments questioned the meaning of the term "a few percent above background" as applied to the requirement that limits radiation levels at the surface of the disposal unit cover. Some suggested values from as low as 1 percent of background to as high as 1 mrem/hour (about 5,000 percent of background). One commenter suggested that the radiation limit should not be confined to gamma radiation, but should be expressed as a dose rate to include other types of radiation.

The rules in Part 20 contain provisions for premissible levels of radiation in unrestricted areas in § 20.105. The Commission considers these to be appropriate for application at the time that the disposal facility license is transferred to the site owner for the period of institutional control. Although access to the site will be controlled to prevent inadvertent intrusion and the site could be viewed as a restricted area, the Commission believes it is not proper to consider those who do have access, such as caretakers and site maintenance personnel, as radiation workers who could receive much higher occupational exposures. Therefore, § 61.52(a)(6) has been changed to reflect the Part 20 unrestricted limits.

A number of other individual comments and suggestions were considered and were addressed in the detailed analysis of comments. Some clarifying changes were made to the rule as a result.

Subpart D: § 61.53, Environmental Monitoring. Only nine commenters addressed the provisions for environmental monitoring. One commenter observed that analyses of release pathways should be conducted so that they may be validated by data acquired from subsequent monitoring, a point with which the Commission agrees. Two comments addressed the 12-month preoperational monitoring requirement: one thought it too long, the other too short. While a one-year period of site specific data may not provide the range of fluctuations in data expected over a longer period, the site specific data can be augmented by reconnaissance level data or regional data that can be correlated with the site-specific data. These activities should be started early enough in the site development process that they do not interfere with a timely submittal of an application. Additional data may be obtained as the licensing process continues which can be used to update the application.

It was noted that the environmental monitoring requirements are not detailed or specific and at least one commenter suggested that highly detailed prescriptive requirements be set forth. Because of the wide variety of site-specific conditions, and a desire to avoid overly prescriptive requirements in Part 61, the Commission does not feel that this suggestion is practicable. A Branch Technical Position on Monitoring is being prepared and will provide additional guidance.

It was pointed out that one important purpose of a monitoring system is to provide early warning of migration of radionuclides from the disposal site before they leave the site boundary. The Commission agrees, and has made a clarifying change to that effect.

The Department of Interior recommended that "geochemistry" be added to the site characteristics to be studied. This has been done.

Subpart D: § 61.55, Waste Classification. Over half of the commenters on Part 61 offered comments on one aspect or another of the waste classification provisions. Nearly 20 different issues were identified and addressed in the staff's detailed analysis of comments. In general, there was support for the concept of identifying wastes that were generally acceptable for near-surface disposal and further dividing this general category into more specific classes. Most of the comments were related to understanding how these categories were established and the basis for them; support for further identifying a class of waste that would not be of any regulatory concern because of its low radioactivity, i.e., a "de minimis" level; what should the upper limits be particularly for certain radioisotopes such as the transuranic elements; what provisions will be made for disposal of waste that exceed the limits for near-surface disposal; and how does a waste generator show compliance with the waste classification requirements. There were a large number of comments requesting clarification and restructuring of the requirements to make them more understandable, as well as a number of miscellaneous comments.

With respect to those comments that the numbers used to define waste classification were not adequately explained or supported in Part 61, it should be noted that most such comments were submitted before the supporting Draft Environmental Impact Statement (DEIS) for Part 61 became generally available. Since a considerable part of the DEIS is devoted to the derivation of the waste classification numbers, the Commission does not feel that the basis needs to be repeated in detail in the rule. The Commission is preparing an analysis of the comments received on the DEIS and these comments will be factored into the final EIS to make the basis for waste classification values more understandable. Other commenters on the numerical values suggested the use of values reported in an earlier NRC contractor document, NUREG/CR-1005. The present waste classification scheme proposed in Part 61 drew on this and other earlier work; however, the earlier approaches to waste classification did not consider the effects of stability or waste form.

Table 1 Proposed values for several radionuclides that were the same value regardless of the class of waste. This has lead to some confusion and misunderstanding. In the disposal of wastes, precautions are taken to provide protection against intrusion for the first several hundred years. These precautions include institutional controls, waste form requirements, and intruder barriers. There are certain radionuclides common to waste that are of such a long half-life that they will be present several hundred years from now in essentially the same concentration as when they were originally disposed. Therefore, the rule limits the initial concentrations of these radionuclides to values that will be acceptable after several hundred years when the intrusion protection measures are not considered to be effective.

Over one fourth of all commenters endorsed the concept of setting levels for wastes below which there is no regulatory concern, the so-called "de minimis" level. Some of the commenters supporting the de minimis concept made direct reference to the Commission's position that exempting particular waste streams from compliance with the Part 61 regulations was preferable to setting generic levels for all isotopes. Several disagreed with this position, although at least one of these commenters remarked that as there is not yet a consensus on a

generic de minimis level, any level chosen would be premature. A number of other commenters suggested that a de minimis classification be added to the Part 61 regulations, perhaps as an additional column in Table 1.

Several commenters suggested that NRC permit case-by-case review of requests for specific application of the de minimis concept during the period criteria are being developed. Others suggested specific values for specific waste streams or radioisotopes.

The fundamental concern of practicially all commenters was not as much whether a generic or a case-by-case approach be taken, but rather that action to develop de minimis standard should be taken as soon as possible.

The Commission agrees with the importance of setting timely standards for disposal of certain wastes by less restrictive means. The Commission agrees with the commenters that establishment of such de minimis levels would reduce costs of disposal for many licensees and would also conserve space in disposal facilities which are otherwise designed for wastes having much higher activities. The Commission also believes that establishment of de minimis levels is important in enhancing overall stability of a disposal facility, and therefore in reducing potential long-term site maintenance and corresponding costs, since de minimis levels would reduce the volume of Class A waste. This would also tend to reduce ground water migration impacts, since subsidence and water infiltration would be reduced.

Regarding the issue of setting de minimis levels on a generic or on a case-by-case basis, the Commission still believes that the current policy of examining waste streams on a case-by-case basis will result in the quickest and best results. It is recognized that setting generic limits may be a desirable goal, and the Commission Plans to work this goal over the next few years. Meanwhile, the Commission believes that the process of examining a few specific waste streams will facilitate the development of generic requirements and is accelerating its efforts on setting standards for disposal of wastes by less restrictive means. In this regard, the Commission staff is willing to accept petitions for rulemaking from licensees, licensee organizations, or others for declaring certain waste streams to be of no regulatory concern. Such petitions should provide at least the following information:

- A description of the process by which the waste is generated;
- A description of the waste generated, including chemical characteristics;
- The radionuclide content of the waste, including principal *as well as* trace contaminants;
- A description of the potential change in the radionuclide content as a function of process variations;
- A description of the process control and quality control programs by which the licensee would ensure compliance.

Waste streams common to a number of licensees and in which the radionuclide content is well known and relatively nonvarient are generally preferred. Individual licensees may also continue to request amendments for alternative disposal methods for the licensee's own waste pursuant to § 20.302.

Of all the values proposed in Table 1, the limits for contamination by alpha emitting transuranic elements received the most attention and comments. There were a number of issues raised related to the allowable concentration, ranging from its validity to the impacts of meeting the limit. By far the most comments were related to the magnitude of the limit. Of the 23 commenters on the transuranic issue, four thought the 10 nCi/gm limit should be retained or lowered, while the remaining 19 suggested that the limit be raised. Those who suggested that the limit be raised presented a number of supporting arguments. Many, if not most, of the commenters suggested that the limit could be safely raised to 100 nCi/gm. One argument given is the advantage of enforceability of the higher limit. With current measurement techniques, it is argued that it is very difficult if not impossible to certify that waste contains less than 10 nCi/gm, but much less difficult to certify that it is less than 100 nCi/gm. Others pointed out that a 100 nCi/gm limit would encourage volume reduction through incineration and other means while conversely, the 10 nCi/gm limit would discourage volume reduction, contrary to the Commission's policy on volume reduction. The commenters cited a number of reports, documents, and ongoing activities as providing justification for their contentions, including a proposed revision to the Department of Energy Manual Chapter 0511. Some commenters felt that the Commission's calculations were excessively conservative. The most common comment in this regard was that the analysis did not consider dilution by other wastes, and if that dilution were considered, the allowable concentration could be increased by an order of magnitude or more.

The commenters that supported the 10 nCi/gm limit or did not want it raised generally made statements of endorsement for the value because of prior use or because of the view that wastes exceeding this limit should not be buried at commercial low-level waste disposal sites. Concern in this regard was also expressed over the provision in § 61.58 that the Commission could, on a case-by-case basis, grant exemptions to the waste classification requirement, thereby permitting disposal of higher concentrations of transuranic radionuclides.

In response to these comments, the Commission has reevaluated the analyses for disposal of waste containing transuranic nuclides, in an attempt to temper unnecessarily conservative assumptions, such as not considering the dilution by other wastes that decay to essentially inert levels with time, so that more realistic estimates of consequences will result. As a result, disposal limits for Class C, waste have been raised to 100 nCi/gm for long lived alpha emitting transuranic nuclides. For Class A wastes, the limit remains at 10 nCi/gm. The details and results of these analyses are presented in the Final Environmental Statement supporting Part 61.

Several commenters wanted to know what to do with waste containing Radium-226, a radioisotope which is not currently listed. It appears that there are two types of radium wastes to be considered: (1) small concentrated sources of radium such as radiation sources or luminescent dials, and (2) wastes which contain small amounts of radium incidental to other radioisotopes, such as radium contained in wastes from uranium separation processes. The former is not subject to regulation by the Commission, since radium is a naturally-occurring isotope and is not included in the provisions of the Atomic Energy Act of 1954, as amended. The Environmental Protection Agency has a program for collection of radium sources. This program may be phased out in the next few years. Such sources are expected to be transferred to the Department of Energy for storage and disposal. As for radium incidental to other types of waste, the Commission has made provisions for disposal of small quantities of uranium tailings as Class A waste. For purposes of this provision, a small quantity is defined as 10,000 kilograms containing not more than 5 millicuries of radium-226. This concentration is typical of uranium mill tailings (0.5 nanocuries per gram). The quantity of radium-226 is that contained in 150 pounds of natural uranium at

equilibrium with its daughter products. 10 CFR Part 40 permits any person to possess and use under general license 150 pounds of source material per year. Permitting the disposal of such a quantity in a near-future disposal facility is judged to be acceptable. For larger amounts, specific approval would be required.

Several commenters expressed concern with a footnote in Table 1 and § 61.55(d) which indicate that greater concentrations than Class C limits may be determined to be acceptable for near-surface disposal under certain conditions. Commenters were either opposed to permitting any higher concentrations or asked for clarification of what the requirements would be for higher concentrations.

The Commission established the Class C limits using the performance objectives as criteria to ensure safe disposal of waste considering the degree of protection provided by "normal" near-surface disposal. To ensure that the performance objectives are met, disposal of higher concentrations of isotopes than those listed in Table 1 would have to be by disposal technologies having greater confinement capacity or protection than "normal" near-surface disposal. Such improved disposal technologies could, depending on the particular radioisotopes, involve better waste forms or packaging, or disposal by methods having additional barriers against intrusion (e.g., burial at depths greater than 5 meters). The Commission believes that some flexibility should be permitted, provided the performance objectives are met, and therefore will evaluate exceptions on a case-by-case basis. In the meantime, the Commission is beginning studies to establish criteria for the disposal of wastes that are not normally suited for near-surface disposal. These would be the subject of future rulemaking.

Over one dozen commenters, nearly all of which were nuclear utilities or industry groups, expressed concern with how one determines compliance with the waste classification requirements. Most were concerned that the regulations would require them to routinely measure for every isotope in Table 1 within each package of waste. Many examples were given of the difficulty that this would present, citing heterogeneous waste mixtures, difficult to measure radioisotopes, increased costs, radiation exposures to personnel, etc. A number of suggestions were offered related to means of classifying the waste by its source, measuring key isotopes to infer quantities of more difficult-to-measure isotopes, and establishing different limits for every disposal site.

The Commission expects licensees to carry out individual programs to assure proper classification of waste. However, the Commission does not feel that detailed measurements routinely made on all waste packages are necessary or desirable. The Commission staff is developing guidance to licensees on a number of alternative methods by which compliance can be shown. At present, the Commission staff has identified four basic programs which may be used either individually or in combination by licensees. They are: materials accountability; classification by source; gross radioactivity measurements; and direct measurement of individual radionuclides including scaling some radionuclides based upon measurement of others. These methods are discussed in the Branch Technical Position on Waste Classification being prepared.

Several commenters also raised the issue of averaging concentrations to comply with the concentration limits. One expressed concern about the potential for concentrated or "hot spots" of transuranic nuclides permitted under the proposed provision to allow concentrations to be averaged over the volume of the package. Since the trace transuranic nuclides in most shipments will be homogeneously distributed and incidental to the total activity, averaging over the packages is physically representative of the majority of wastes. Reprocessing or other future changes in waste streams which might change the transuranic character of the waste can be addressed in subsequent rule changes. Other commenters were concerned about potential ground water restricted inventory limits on radionuclides which are present in wastes in very low concentrations. Assay of individual packages for these nuclides is difficult as discussed in the preceding paragraph. Averaging the concentration of radionuclides such as Tc-99 or I-129 over the waste shipment or control on a total site inventory basis was suggested to minimize conservative over-reporting. Such over-reporting could exhaust site inventory limits and lead to inefficient use of the site. The Commission agrees. This issue will also be addressed in the Branch Technical Position on Waste Classification which will be available in early 1983. The concentration averaging language in the final rule was changed to provide additional flexibility for the specific guidance being developed in the Branch Technical Position.

In a related issue, a few commenters remarked on the difficulty of inspection and enforcement to ensure compliance with the Part 61 requirements, citing past history of waste shippers not complying with the present DOT and NRC shipping requirements.

The Commission has recognized the importance of increasing inspection and enforcement activities in the processing, packaging, and transportation of waste. A number of programs have been initiated to improve compliance. At the present time, enforcement comes largely on the basis of provisions in the existing regulations (e.g., 10 CFR Parts 30, 40, and 70) that no licensee may transfer licensed material to another person unless that person is properly licensed to receive it. Requirements on waste form, concentrations, etc., are a part of the disposal site licensee's license. The Commission believes that issuing regulations to which all waste generators and disposal site operators would be subject will give the Commission a stronger basis for inspection and enforcement. Adoption of uniform requirements by Agreement States will greatly bolster the effectiveness of a national system of inspection and enforcement.

There were several commenters who argued that the waste classification scheme tends to discourage volume reduction, since this increases concentrations of radioisotopes and may result in a change in classification, or at the extreme, make the waste unacceptable for near-surface disposal. As long as the resulting concentrations of radioisotopes are within the limits set by Part 61, the Commission does not feel that waste classification necessarily discourages volume reduction. While a higher classification of waste might result in more stringent requirements on waste form and disposal methods, there are economic considerations that need to be considered by the waste generator. The cost of processing, shipping, and disposal of a small volume of higher classification waste needs to be compared with the transportation and disposal of a larger volume of a lower classification waste. There is no reason to believe that the balance will always be against volume reduction. For wastes with concentrations that would place them not generally acceptable for near-surface disposal if they were volume reduced, the provisions for specific Commission approval of the disposal of such wastes provides a potential alternative for licensees considering volume reduction.

Several commenters were concerned with materials which may be present in low-level radioactive waste which may be chemically toxic or hazardous. Some

suggested that the Commission's waste classification system incorporate a "total hazard" approach that would consider both the radiological and chemical hazard of wastes. At least one comment did not favor the total hazard approach because of the very complex classification system that the commenter perceived would result.

The Commission has stated publicly on several occasions that if it were technically feasible to classify waste by total hazard, then it would make eminently good sense to do so. We do not now know of any scheme for such classification; however, the Department of Energy intends to support research into the development of a classification system for hazardous waste that might be compatible with Part 61. In the meantime, the Commission will study the chemical toxicity of low-level waste, with special emphasis on identifying any licensees who generate hazardous wastes subject to requirements of the Environmental Protection Agency. We will look then at what could be done, perhaps through processing, to minimize the hazard.

Furthermore, the Commission believes that the technical provisions of Part 61 generally meet or exceed those expected in the Environmental Protection Agency's rules for the disposal of hazardous wastes. Although it is not the Commission's intent to allow disposal of hazardous wastes in a radioactive waste disposal facility, as is noted in the regulation, the Commission recognizes that such wastes may be present in low-level radioactive wastes. It is the Commission's view that disposal of these combined wastes in accordance with the requirements of Part 61 will adequately protect the public health and safety. Such hazardous wastes are expected to be such a small percentage of the total volume that dilution by other wastes would greatly minimize any risks. The Commission intends to work closely with the Environmental Protection Agency to assure continued compatibility. Further, EPA in its response to a resolution of the Conference of Radiation Control Program Directors indicated their willingness to work with other Federal agencies to address this problem.

Several commenters raised questions on the basis or criteria for setting site inventory limits for certain radionuclides, as was indicated in Table 1 of the proposed rule. Some correctly noted that such inventory limits would be site specific. The Commission established concentration limits for radionuclides based on a number of considerations, including protection of a potential intruder, operational safety, and long-term site stability. In addition to concentration limits, the Commission desires the ability to limit maximum site inventories for some isotopes that are of concern from a ground water point of view. Isotopes which are both mobile and long-lived are iodine-129, technetium-99, and carbon-14. Tritium is of concern due to its extreme mobility and its presence in waste in large quantities. Establishment of inventory limits through site-specific license conditions for such radionuclides will help ensure that the performance objectives for ground water migration are not exceeded. The Commission does not plan, as was suggested by a few commenters, to establish site inventory limits for every isotope to protect against potential intrusion. Inadvertent intruder exposures are mainly controlled by the concentration of a particular isotope, and to a lesser degree by the site inventory.

Several commenters raised specific points about the cost and regulatory burden of the waste classification requirements. Much of the concern was related to the issue of costs for determining compliance with the concentration limits, as discussed earlier. The basis of the concentrations, in particular the 10 nanocurie per gram limit for transuranic nuclides was of concern and is discussed elsewhere. One commenter expressed the view that the classification requirements would raise the cost of disposal because of perceived increased cost for disposal of Class A waste and the cost of quality control activities.

While some costs will be associated with these concerns, when they are weighed against the longer term costs and institutional burdens that may result if the requirements are not adopted, the Commission judges the short-term costs to be warranted.

The State of Nevada, who regulates the Beatty site, expressed the view that the rule will increase the burden and expenses of the regulatory agencies. Two reasons cited related to monitoring the adequacy of site maintenance funds and inspection of waste generator packaging and classification activities.

Monitoring the adequacy of funding is already a part of the program for regulating disposal sites and is only peripherally related to waste classification in that stability is not assumed for Class A wastes. This is not different from the existing situation at disposal facilities where a large percentage of waste is not in a stable form. Thus, this does not appear to be a significant increase in regulatory burden. Inspection of waste generators for compliance with waste classification is more the responsibility of the Commission or the Agreement State regulating the generator. Existing regulatory responsibilities include inspection of the packaging and shipment of radioactive waste. The incremental burden of reviewing a licensee's program for classifying these wastes should be small.

In addition to the above issues, a large number of commenters offered individual comments on a variety of points of clarification, format, definition, and completeness of the provisions for waste classification. While not summarized here, they are addressed in the detailed analysis of comments by the Commission staff, and to the extent practicable, these comments were reflected in the revision of § 61.55.

As a result of these comments, § 61.55 has been revised to present the classification values in two tables rather than one. Those radio-nuclides with long half-lives, along with some shorter-lived precursors of long-lived nuclides, are now listed separately in a new Table 1. The presence of these long-lived radionuclides will dominate the classification of the waste. If waste contains less than one tenth the concentration of such a nuclide listed in Table 1, it is Class A waste; greater than that, it is judged to be Class C waste provided the concentration does not exceed the value shown in Table 1. Shorter-lived radionuclides are listed with a range of concentrations in Table 2. Depending on the concentration, wastes containing only these shorter-lived nuclides will be judged to be Class A, B, or C. If waste contains nuclides listed in both tables, the mixture must be considered in determining the waste class. If Table 1 nuclides are present in concentrations less than one tenth the Table 1 limits, the class is determined by the Table 2 nuclide concentration. If Table 1 nuclides exceed one tenth of the Table 1 limits the waste is Class C regardless of the Table 2 concentrations.

The phrase "theoretical maximum specific activity" has been eliminated and replaced with a notation of "no limit." A footnote to Table 2 explains that while there is no theoretical limit for concentrations of certain nuclides in Class B and C wastes, practical considerations such as radiation and heat generation will determine the limits.

Several radionuclides have been removed from the originally proposed table. Cesium-135 was removed because it is present in wastes in very small concentrations and classification will be

determined by the presence of Cs-137 and because Cs-135 is a pure beta emitter which is very difficult to measure. Similarly, the radionuclides Ni-59 and Nb-94 have been removed except as they may be contained in activated metals. As examined in the draft environmental impact statement of Part 61, these nuclides are present in reactor wastes (other than activated metals) in such small concentrations as to be insignificant. Uranium has been removed as a radionuclide that must be considered for waste classification. The Commission's analysis shows that the types of uranium-bearing wastes being disposed of do not present a sufficient hazard to warrant limitation on the concentration of this naturally occurring material. Both depleted and enriched uranium do not contain daughter products in any quantity because of the relatively short time since the uranium was refined from ore, compared to the half-lives of the uranium isotopes. The daughter products are disposed of primarily as uranium mill tailings. Primarily for these reasons, the uranium limits were dropped.

For a number of radionuclides, the maximum allowable concentrations in Class C waste have been increased by a factor of ten. This came in response to a number of comments received on the proposed rule and the draft environmental impact statement that pointed out where unnecessarily conservative assumptions had been incorporated into the calculations for intruder protection. These comments pointed out that waste disposed beneath five meters of cover would be difficult to contact even at 500 years and that such waste would be diluted by the other wastes whose radioactivity had decayed to extremely low levels. Additionally, the average concentrations tend to be only a fraction of the maximum permissible. At the present time, these are recognized by the Commission as conservative assumptions and the Commission has found that an order of magnitude increase in Class C limits is warranted. This order of magnitude increase has not changed the established framework of factors such as relying on up to 100 years of institutional control and a 500 mrem whole body limit for intruders.

The radionuclide, curium-242, was added to the nuclides in Table 1. While Cm-242 is a relatively short-lived nuclide (163 days) it decays to plutonium-238, a transuranic nuclide with a half life of nearly 90 years. The concentration of 20,000 nanocuries per gram for Cm-242 will result in a concentration of 100 nanocuries per gram of Pu-238.

To the extent practicable, the numerous footnotes originally found in the proposed Table 1 were eliminated and have been incorporated, where appropriate, into the textual part of the section on waste classification.

In response to a number of comments, a statement is made that permits the concentrations of nuclides in waste to be determined by means other than direct measurement. These methods may include such things as material accountability, where records of receipts, shipments, and inventories can confirm that waste concentrations could not exceed permissible concentrations. Other indirect methods might include "inferential" measurements where a ratio is established between nuclides in a mixture and the concentrations of the difficult-to-measure nuclide is inferred based on measurement of some easier-to-measure nuclide. Whatever the indirect method used, there should be reasonable assurance that the values determined could be correlated with actual measurements. For example, in the case of inferential measurements, the ratio on which the value is determined should be based on previous actual measurements. In the other example above, the receipts, shipments, and inventories should be based on measured value.

Subpart D: § 61.56, Waste Characteristics. A large number of comments were received addressing both the minimum and the stability requirements for waste form characteristics in § 61.56. The following summarizes the comments on the minimum requirements.

One commenter objected to the use of absorbent material to immobilize liquids contained in Class A waste, stating that using absorbent materials was an obsolete technique. The State of South Carolina recommended that this requirement apply only to institutionally generated aqueous or biological waste forms. Since various absorbents have been shown to be effective with liquids, such as organic solvents, oils, etc., the Commission sees no reason to restrict the use of absorbent material to aqueous or biological waste. The Commission does not see any reason to restrict the use of absorbents to institutional generators.

Eighteen commenters stated that the requirement (proposed in Table 1, § 61.55) to obtain specific approval to dispose of wastes containing greater than 0.1 percent chelating agents was too restrictive, and stated that utilities might decide against performing decontamination operations which could reduce occupational exposures. Several commenters requested the basis for the 0.1 percent limit. One commenter recommended that no chelating agents be permitted.

Since chelating agents have been shown to increase the migration of certain radionuclides at certain sites, the Commission desired to evaluate the disposal of large quantities of wastes containing high concentrations of chelating agents on a case-by-case basis. This approach was used when the Commission staff reviewed the disposal of wastes that would be generated in the decontamination operations at the Dresden Unit 1 Station. Because the disposal of wastes containing chelating agents is dependent on the characteristics of the disposal facility and on the properties of the waste form, the Commission has modified the chelating agent disposal requirements to reflect this. The Commission has placed on the disposal site license applicant the responsibility for describing the conditions for disposal of waste containing chelating agents. If approved by the Commission, site specific requirements will be placed on the disposal facility licensee. At this time the waste generator will be required only to identify such wastes in the information contained on the shipping manifest.

At the request of comments, definitions have been added for the terms, "hazardous," "pyrophoric," and "explosive."

Of five comments received on the prohibition against packaging waste in cardboard or fiberboard boxes, four felt the prohibition is unnecessary. One commenter supported the provision. After reviewing the comments, including the reasons presented, the Commission still believes that such a prohibition is needed. The experience cited by the Department of Energy, of successfully using cardboard containers for waste packages at their sites, does not include extensive handling and transportation that commercially generated wastes might encounter. The existing prohibition against cardboard and fiberboard containers at existing disposal facilities came about as a result of unfavorable experience in receiving, handling, and disposing of wastes in such containers. No change has been made in this requirement.

Ten commenters addressed the requirements relating to waste in a gaseous form. Several noted an inconsistency between the provisions in §§ 61.56(a)(5) that prohibits wastes capable of generating toxic gases, and

61.56(a)(7) that permits up to 100 curies of activity in waste in a gaseous form. Several requested the basis for the 100 curie limit. A recommendation was made that gases should be processed into liquid or solid forms, and another felt that gases should be limited to several microcuries. The Department of Energy recommended that krypton 85 immobilized by zeolite encapsulation or ion implantation into metal be permitted with concentrations up to five million curies per cubic meter.

The intent of § 61.56(a)(5) is to prohibit the disposal of wastes that are chemically reactive under ambient conditions and produce toxic gaseous reaction products. This section is not intended to prohibit the disposal of properly packaged gases such as H-3 or Kr-85 which occasionally require disposal. This section has been reworded to clarify the intent. The 100 curie limit derives from the existing limits at commercial disposal facilities. The Commission has studies underway to determine whether higher limits would be appropriate. Such limits, if justified, would be proposed in a future rulemaking. In lieu of a requirement that gases be converted to a liquid or a solid, the Commission is evaluating the significant generators of tritium wastes and investigating improved package designs for tritium wastes which would be capable of retaining the contents until they had decayed to innocuous levels. The requirements of Part 61 do not contemplate the disposal of millions of curies of Kr-85 as suggested by the Department of Energy. The Commission is not prepared to set disposal requirements for this waste at this time, and since this waste is not liable to be generated by Commission licensees in the near future, the Commission believes there is ample time to assess the still emerging technology for krypton fixation and establish suitable disposal requirements through future technical guidance or rulemaking action.

Some commenters felt that the requirement in § 61.56(a)(1) that waste packages presented for disposal must comply with NRC and DOT transportation regulations implied that outer packaging such as shipping casks must also be disposed. This was not the Commission's intent. Since proper packaging for transportation purposes is specified in regulations elsewhere, the Commission feels that it is not necessary to restate them in Part 61, particularly in view of the confusion created. This requirement has been deleted.

As discussed earlier, the Commission is concerned with the possible hazards presented by non-radiological components of the radioactive waste. This was recognized in the requirement proposed that wastes containing biological, pathogenic, or infectious material must be treated to reduce the potential hazard to the maximum extent practicable. The Commission believes it is prudent to add hazardous properties to this requirement and has done so.

A variety of comments were received on the proposed requirements in § 61.56(b) that pertain to the stability of Class B and C wastes. These are discussed below for the various aspects of the requirement.

Nine commenters commented on the statement that the requirements were intended to provide stability for at least 150 years. Three thought that the 150 years was overly restrictive and two recommended 100 years to correspond to the institutional control period. Others observed that some nuclides would not decay to low levels during the 150 years, that Class A waste should also be stable because of the presence of Cs-137 and Sr-90, that steel drums could not be expected to last this long, and that high integrity containers have not been tested for 150 years.

The Commission has reviewed the 150 year stability requirement with respect to the scenarios used to calculate the waste classification values. The property of stability contributes to meeting successfully several of the performance objectives set forth in Part 61. A waste that is stable for a long period helps assure the long term stability of the site, eliminating the need for active maintenance after the site is closed. This stability helps to assure against water infiltration due to failure of the disposal unit covers and, with the improved leaching properties implicit in a stable waste form, minimizes the potential for radionuclide migration in groundwater. Stability also plays an important role in protecting an inadvertent intruder, since the stable waste form is recognizable for a long period of time and minimizes any effects from dispersion of the waste upon intrusion.

The 150 year period was initially chosen to approximate the active life of a near-surface disposal facility, along with the periods of post-closure observation and institutional controls. At the end of this period, the intrusion scenario is based on the intruder readily recognizing any uncovered waste as something out of the ordinary with the result that no further attempts at construction or agriculture would be attempted. When other aspects of the performance objectives are considered, however, a longer design life is called for. The waste should continue to maintain its gross physical properties and maintain a measure of its identity for several hundred years more to provide site stability and to keep the Class B and C waste recognizable and unsuited to the construction and agriculture scenarios postulated. Consistent with its desire to avoid prescriptive requirements where possible, the 150 year specification has been removed. It is the Commission's belief, however, that to the extent that it is practicable, waste forms or containers should be designed to maintain gross physical properties and identity over 300 years, approximately the time required for Class B waste to decay to innocuous levels. This is reflected in Commission staff technical positions.

Fourteen commenters indicated that the proposed requirement that a stable waste form maintain its physical dimensions within five percent was overly restrictive and impossible to achieve due to the impracticality of filling containers to 95 percent capacity. Commenters also noted that asphalt and polymeric solidification agents would be incapable of meeting this requirement because of their viscoelastic creep properties. Commenters also observed that the limit could entail added expenses.

Upon review of the proposed requirement, the Commission has concluded that there is not sufficient basis at this time to support a numerical limit for deformation of stable waste. The five percent value has been removed from this requirement. Reliance will be placed on the requirements that void spaces within packages must be minimized, that wastes must be emplaced in a manner that permits void spaces between containers to be filled, and that these spaces must be filled.

With respect to void spaces in waste containers being reduced to the extent practicable, six comments were received. Several requested specific criteria on how this would be met and if filler materials were needed. Two felt that economics would drive waste generators to package the maximum volume of waste into a container and that this requirement in the rule is unnecessary.

Due to the highly variable nature of wastes, the Commission believes that it is not possible or desirable to include specific criteria for minimizing voids. To the extent that void spaces can contribute to eventual instability of the waste, they should be eliminated or reduced as much as possible. This might be done in some cases by filling void

spaces with other wastes or inert materials.

Eleven commenters objected to the specific requirement that the stability of waste be maintained under a compressive load of 50 pounds per square inch (psi). Most felt that the specific requirement should be deleted and replaced by a more general requirement to reflect actual disposal site conditions and operations.

In response to these comments, the 50 psi specification has been removed from the rule. The specification was based on conservatively assuming maximum burial depths up to 45 feet and waste or overburden densitity of 150 lb/ft.^{3}. Testing performed on acceptable solidified waste specimens indicate that 50 psi compressive strength should be easily obtained. The Commission believes that while this is achievable, some latitute should be allowed for the design of waste forms and containers to reflect site conditions where burial depths may be less.

Since § 61.56(b) permits the stability of waste to be achieved by placing the waste in a suitable container for disposal, a number of comments addressed the properties such a container should exhibit and the uses to which it should be put. It was suggested that the Commission reexamine design criteria for a high integrity container for highly dispersible forms, and one suggested that such container should be used for both high and low concentration wastes. A major supplier of waste solidification technology questioned whether the use of a container reflected the best available technology and the concepts of ALARA.

Three commenters, two of whom are suppliers of waste solidification technology and services, felt that ion exchange resins should all be solidified and that disposal of ion exchange media by dewatering is not within the concepts of ALARA and use of the best available technology.

The Commission staff is preparing a technical position on waste form criteria, including design criteria for a high integrity container. Draft copies have been made available to interested parties for their review and comment. In short, the technical position states that the container must provide as much assurance of stability for as long as required for a stable waste form or product. It should be designed, to the extent that it is practicable, to contain the waste and maintain gross physical properties and identity over 300 years, under the conditions of disposal. The Commission believes that the use of containers to achieve stability is consistent with the concept of ALARA and the use of the best available technology. Occupational exposures in using high integrity containers are expected to be similar to or less than waste solidification, either with mobile or installed systems.

Several commenters addressed the proposed limitation of free standing liquid which would require that such liquids be reduced to as low a level as is reasonably achievable, but in no case to exceed 1 percent. Further, the proposed rule stated that the liquid should be noncorrosive. There were no requests to increase the value. However, one waste solidification service supplier recommended a limit of zero, while the State of South Carolina recommended implementing the limits in the license for the Barnwell disposal facility, i.e., 0.5 percent for solidified wastes, 1 percent for waste in high integrity containers. Several commenters asked for a definition of the term "noncorrosive."

The Commission has reexamined the proposed limit on free standing liquid and judged that solidified wastes and wastes in high integrity containers should be addressed separately. The Commission has concluded that existing waste solidification technology can produce a waste form that is essentially free of free standing liquid. In order to compensate for potential condensation of water vapor sealed in containers, the Commission believes that a limit of 0.5 percent by volume is appropriate for solidified wastes. For dewatered products, such as ion exchange resins, that are in a container designed to ensure stability, it is very difficult to ensure that such products would meet a 0.5 percent requirement following transport to a burial site. Therefore, for dewatered products, 1 percent should be allowed to account for settling during the transport period. The non-corrosive properties of the liquids will be defined and discussed in a staff technical position, rather than in the regulation. To provide a degree of consistency between Class A wastes and the Class B and C wastes, the limitations on liquids in Class A wastes have been modified. Liquid waste must be packaged with sufficient absorbent material to absorb twice the volume of the liquid. Solid wastes with incidental liquids must meet the 1 percent free standing liquid requirement.

Two commenters pointed out what they perceived as inconsistencies between Part 61 and other Commission rules or guides. One of the guides referenced is the Effluent Treatment Systems Branch Technical Position 11–3. This document was revised in July 1981 and is consistent with Part 61 requirements. The Commission fails to see inconsistency between Part 61 and its supporting EIS, with Appendix I of Part 50, or guidelines for storage of waste, as claimed by the commenters.

Subpart D: § 61.57, Labeling. Several commenters offered suggestions or raised questions on the requirement that waste packages be labeled to show the classification of the contents. The commenters suggested color coding, different wording, consistency with DOT labeling, minimum standards, and asked for clarification of responsibilities.

The requirement for labeling is to provide the disposal facility operator with information as to whether the contents are Class A, B, or C wastes so that he will be able to dispose of them in the proper manner. The Commission does not feel that a Federal standard for such labeling is warranted, only that it be clear and legible. Individual facility operators may have operating procedures that could be enhanced by label location, size, color, etc. Since the label is to benefit the operator, it is more appropriate for him to set specifications through contractual arrangement. A suggestion to simplify the nomenclature on the labels was adopted and a minor change was made in § 61.57.

Waste classification labeling is in addition to labels required by DOT for transportation purposes. There is a similarity in nomenclature between the Class A and B wastes and the Type A and B packages used by DOT. DOT requires that packages be labeled as to whether they are Type A or B, therefore, there could be some confusion if the packages are labeled to indicate the waste classification. However, DOT has a variety of numerical and alphabetical designations and it is difficult to avoid some similarity in designation.

Subpart D: § 61.59, Institutional Requirements. There were few comments on the requirement for State or Federal ownership of the disposal site. Those commenting expressed general support. One commenter suggested that the State should have an option to turn ownership and responsibility for long-term custody over to the Federal government. Such an option is not available under current law. In related comments, two commenters expressed concern over the State's responsibility and liability after accepting the disposal site for custodial care. Since the State does become responsible for the site, the State must be involved and aware of the operations and conditions at the site during its operation. This could be done through some independent oversight as landlord, or through participation with NRC in the

review of the initial application as provided in Subpart F of Part 61.

About twenty commenters addressed the appropriateness of the 100 year limit on institutional controls and its effect on wastes acceptable for disposal under the conditions prescribed by Part 61. All commenters expressed support in one way or another for defining a time frame for institutional control related either to the hazard duration of the waste or assurance of continued government stability or concern. It was generally agreed that waste that was potentially hazardous after the end of the assured institutional controls should be disposed of by methods providing greater controls and assurances against potential exposure. These comments are judged to support the provisions of Part 61 that combine institutional controls with waste form, site characteristics, and site design and operations to provide assurances that potential exposures will be with acceptable limits. Class A waste that is potentially accessible and unrecognizable is no longer hazardous after 100 years. Special provisions for waste being in a stable form and in some cases buried deep assure against potentially unacceptable exposures or releases for up to 500 years.

There were a number of suggestions that the period of institutional control should be raised from 100 to 300 years. There appear to be two basic reasons for these suggestions. One reason is that institutions such as a state or the Federal government can reasonably be expected to survive for much longer than 100 years. A second reason is that the 100 year restriction on institutional care affects the waste concentrations acceptable for disposal as Class A waste with resultant higher costs to the waste generator. With respect to the first reason, the Commission feels that it is not a question of how long the government can survive, but how long should they be expected to provide custodial care. Based on work done by EPA, public comments on a preliminary draft of Part 61 and an advanced notice of proposed rulemaking, and four regional workshops, a clear consensus was developed which supported the 100 year limit. The Commission has not seen any compelling reasons to change its view on the 100 year limit.

Some commenters expressed the view that the government landowner should have flexibility in controlling site access during the institutional control period and that productive uses of the land which would not affect site integrity should be permitted. The Commission agrees and words to that effect have been added to the Concepts section, 61.7.

Subpart E: Financial Assurances. Approximately two dozen commenters responded to the proposed financial assurance requirements for closure and post-closure care. In general, the commenters expressed support for the rule's establishment of financial assurances for closure and for long term care of a LLW disposal site. Commenters mentioned that the existing history of LLW disposal sites revealed a strong need to require licensees to demonstrate evidence of financial responsibility so that the public health and safety were protected and also so that potential liabilities do not rest with state taxpayers.

Several commenters felt that the financial requirements should provide more detail. The Commission agrees and has prepared a draft Branch Technical Position on Funding Arrangements for Closure and for Long-Term Care of a LLW Disposal Site that provides definitive guidance for evaluating all financial assurances, including surety bonds.

One of the major points raised by a variety of commenters was that the proposed regulation failed to address financial responsibility for unanticipated contingencies at a LLW disposal site. One group expressed concern that the regulations set the stage for a "tax-payer funded bail-out" of poorly-run disposal sites. They felt the industry should bear these costs, and that the regulations should be written to make this explicit. Another commenter noted that the experience of the State of Kentucky with Maxey Flats emphasized the importance of making contingency funds available in the event that serious problems occur. They felt this issue should be addressed in the rulemaking. One State further noted that the rule failed to mention who would be financially responsible if problems occur at the site that cost more than were budgeted on an assumption of normal operation. These questions cover such a variety of different scenarios (i.e., Acts of God, licensee negligence, etc.) that it is not possible to specifically respond to all of the potential contingencies. However, a general response to the overall issue of responsibility for contingencies at a low-level waste disposal site is possible. These comments cover two different time periods—the post-closure period, when the original licensee is still responsible at the site, and the institutional control period, when the license has been transferred to the landowner of the site for a period of up to one hundred years. In the case of the post-closure care period, the licensee would be responsible for all activities at the site found necessary by the Commission to protect the public health and safety. Financial responsibility for activities during the institutional control period are a matter to be worked out between the site owner (i.e., the State or Federal Government) and the licensee in their lease or other legally binding arrangement. It is possible that if the site owner were a state, they would work out an arrangement whereby the site operator would collect a surcharge from waste generators for the institutional control period. The rights and responsibilities of the State and the licensee would be determined at such a time.

With regard to contingencies, one commenter also asked who would assume responsibility for a site and its accompanying waste when it was closed prematurely by the NRC, due to rule violation. Responsibility for a site closed prematurely by the NRC would depend on the situation. Additionally, closure would be a last resort of the Commission, since the agency has other authorities, such as civil penalties, to require licensee compliance. In the event it would become necessary to close the site for health and safety reasons, the rule provides that the licensee continues to be responsible until the license is terminated. In the event that the licensee's financial condition deteriorated so that he was unable to maintain the site to protect the public health and safety, then the Commission would probably require the site owner (either the State or Federal government) to assume responsibility at the site.

Regardless of who assumed responsibility for a prematurely closed site, the rules require that a licensee have available at all times during the site life, sufficient financial guarantees to ensure that sufficient funds are available for site closure and decommissioning. These funds would be available for properly maintaining the site if the original licensee were unable to do so.

Several commenters considered that the rule should resolve the issue of financial responsibility for contingencies by requiring liability insurance or specific language that licensees would be required to indemnify property owners in case of off-site migration. Although not proposed in the original rule, the staff evaluation of these public comments indicates there is a need for licensees to provide financial responsibility for liability coverage for

off-site bodily injury and property damage. The Commission thinks the public health and safety and the environment would be protected from unanticipated contingencies by such coverage, as well as assisting the States in establishing disposal sites. Four existing LLW disposal facilities currently carry this type of liability coverage, and several other State and Federal agencies, including EPA have imposed similar requirements for hazardous and radio-active waste facilities in order to protect the public health and safety and the environment. However, at the present time, the Commission's only statutory framework for establishing such a requirement is Section 170 of the Atomic Energy Act, also known as the "Price-Anderson" Act. This type of coverage is designed to cover "catastrophic events" primarily for nuclear reactor licensees, and the Commission feels this coverage would be in excess of the risk at a low-level waste facility. Therefore, the Commission has not established a third party liability requirement in this regulation. The Commission will strongly encourage licensees to continue to carry third party liability insurance coverage through the conventional insurance market.

A variety of comments were received concerning the short term financial assurances required for closure and decomissioning. Several commenters supported the rule's use of a variety of different options for closure, noting that flexibility was crucial if the proposed rule was to function in a reasonable manner.

Other commenters expressed support for the rule's provision requiring that the amount of surety liability change with changes in cost estimates. One commenter also was concerned that the financial surety arrangements increase in value over time to compensate for the effects of inflation. The rule allows the Commission to periodically assess the amount of funds collected for both closure and post-closure care of the site and if necessary, the Commission could require the financial assurances to be increased to account for inflation, unforeseen problems, and unanticipated costs.

Commenters expressed support for the variety of alternatives allowed to demonstrate short term financial responsibility. However, several commenters mentioned that no commercial market exists to provide surety bonds of the type mentioned in the rule. In developing the rule, the Commission is aware that surety bonds of the type proposed in the rule may be unavailable at this time. However, the Commission included this alternative in the rule in the event that this type of coverage becomes available in the insurance market at a later time.

Commenters were also divided about whether the Commission should allow self-insurance as a financial assurance for closure. Several commenters felt that self-insurance would not satisfy the surety requirements, and they recommended that licensees should be required to place specific funds in escrow to cover costs of decontamination, closure and stabilization. Another commenter suggested that self-insurance be based on an annual submittal of financial reports, i.e., a financial test.

The Commission rejected the use of stand alone "self-insurance" based on the Commission's lack of confidence in this method to provide adequate assurances. Further, state officials have informally expressed the need to have tangible funds available from the licensee for site closure, so the State as landowner would not be left financially responsible. While not specifically allowing its use on a generic basis in the rule, the Commission will evaluate the use of financial tests proposed by licensees on a case-by-case basis.

Commenters also expressed support for the need to have a long-term care fund established at the time a license is issued. Some commenters wanted the rule to explicitly require the licensee to set aside funds for long-term care. However, the Commission currently lacks the authority to require a licensee to establish a fund to provide for long-term care of the site after the license is terminated. Instead, the Commission can only require a licensee to provide evidence of entering into a lease or other binding arrangement with the site owner indicating that the two parties have established financial responsibility for long-term care between themselves. With regard to the lack of authority, one person suggested that the Commission ask Congress for authority to require financial assurances for licensees for the active institutional control period. The NRC has raised this issue with Congress both in testimony and in a letter commenting on waste legislation.

Subpart F: Participation by State Governments and Indian Tribes. Many of the comments on Subpart F were concerned with interpretations and clarifications. These have been answered in the detailed analysis of comments. Two noteworthy changes were made. In § 61.71, a change was made to ensure that the Director shall make Commission staff available for discussion with the State or tribal governing body. At the request of the Department of the Interior, a statement was added to § 2.101 to indicate that the Commission will inform the U.S. Bureau of Indian Affairs when tribes have been notified of the filing of an application.

The Commission has been examining ways by which the licensing process can be shortened in time. One way is to conduct activities in parallel where possible, rather than sequentially. One such area is in the submittal and evaluation of proposals by States and Indian tribes for participation in the NRC license review, as provided by Subpart F. As proposed, § 61.72 would provide up to 120 days after an application was docketed for a State or tribe to submit a proposal for participation. The time from initial submittal of the application until it has been docketed is estimated to be 60 days or more. Thus, there is a potential delay of 180 days between the time NRC would receive a proposal and could begin the serious consideration of the proposal. Until resolution were reached on the role a State or tribes would play in the review, the NRC's review of the application could be significantly hampered.

The Low Level Radioactive Waste Policy Act of 1980 clearly states that it is a State's responsibility to provide for the disposal of low level waste. The Act also provides for the formation of interstate compacts for this purpose, subject to Congressional approval. Thus, any application for a disposal facility license will have had State or compact participation and backing for a significant period of time before submittal. During this time, the Commission believes that the State will have had ample opportunity to determine what role it wants to play in the review of the application. This also holds true for other States that are parties to an interstate compact. Therefore, § 61.72 is being changed to require that a proposal from the State in which the facility is proposed, or from any State involved in a compact with the State, must be submitted within 45 days after the application has been tendered. However, the Commission notes that a more prompt submittal by the State would help reduce delays.

Although it is to be hoped that the States will inform Indian tribes of plans for disposal facilities and provide them with sufficient information to permit them to make a proposal at an early time, there is no way of ensuring this. Therefore, Indian tribes and States not covered above will be given 120 days from the tendering of an application to

submit their proposal. It is anticipated that the participation of Indian tribes and non-compact States will not impact the schedule of the licensing process as much and this additional time can be accommodated.

The Commission believes that there should be sufficient information in the tendered application on which to base a proposal and that it is not necessary to wait until the acceptance review is completed and the docketing procedure carried out.

By making these changes, review of proposals can be carried out earlier and in parallel with the other reviews. It is expected that this could reduce the licensing time by up to six months.

It shoud be noted that participation by States and Indian tribes pursuant to Subpart F of Part 61 is not through an adjudicatory hearing. If an adjudicatory hearing is requested, then 10 CFR Part 2 applies.

A provision was added to § 61.25 to ensure that State, local, and Indian officials were notified of the opportunity for a hearing for certain types of amendments to the disposal facility license.

Subpart G: Records, Reports, Tests, and Inspections. Several commenters made suggestions on records and reports and the need for resident inspectors. Comments were also offered encouraging state involvement in records review and inspections. Two suggestions, relative to reporting any release of radioactivity and a requirement for maintaining duplicate sets of records were rejected as being impracticable. The Commission, however, would encourage protection of records so that they would not be vulnerable to loss because of fire, flood, or other occurrence. The other suggestions did not require modification of the regulations in order to accomplish what was suggested.

10 CFR Part 2: Rules of Practice. No major issues were raised by the several comments on the proposed amendments to Part 2.

10 CFR Part 20: § 20.311 Transfer for Disposal and Manifests. Because any licensee might make a waste shipment and thus be subject to the proposed manifest system requirements, the Commission mailed copies of the proposed rules to each of the Commission's approximately 9,000 licensees. In addition, some 12,000 copies were furnished to the Agreement States for distribution to their licensees. Out of this large group came a total of 29 letters commenting on the manifest system. These comments were wide ranging, with the majority of questions or suggestions being raised by only one commenter. Only a handful of issues drew more than one comment, with four being the largest number of comments on any issue. As a result of these comments, several changes were made to the proposed requirements to clarify some aspects.

To deal with the situation where a waste collector picks up waste directly from the generator, provisions are made for delivering the manifest to the collector at that time. The waste collector will not be required to attach copies of all waste generator manifests to his, as long as the collector's manifest has the information for each package that is required by § 20.311(b). The person transferring wastes will be required to maintain a signed copy of the manifest or equivalent documentation such as a computer generated printout from the transferee containing the same information and binding acknowledgement as the record required by Parts 30, 40 and 70 governing transfer of licensed material. This was done to provide inspectable records at the waste generator's facility which demonstrate compliance with the manifest requirements.

Changes were made in the requirements dealing with quality assurance. The term quality "assurance" has been changed to quality "control" and management's role has been modified to require evaluation of audits rather than the conduct of such audits.

Of note is that only one commenter, a midwest utility, addressed the question of the burden that the manifest would represent to small entities. When the manifest requirements were proposed, the Commission judged that they would not have significant economic impact on small entities. Pursuant to the Regulatory Flexibility Act, the Commission solicited comments on this matter.

General Comments

Seventeen commenters expressed concern with the use of absolute terms in the rule such as "eliminate" and "prevent." One was concerned about the lack of absoluteness of "reasonable assurance."

As discussed elsewhere, most of the places where such terms were used were in the context of design objectives. Since total achievement of such absolute objectives is unlikely, modifications have been made to the requirements to require minimization or prevention to the extent practicable.

Twelve commenters made suggestions on the kinds of additional regulatory guidance they felt was needed. The Commission agrees with the need for regulatory guidance and has a program underway to provide such guidance, first in the form of staff technical positions, then as Regulatory Guides. Most of the topics addressed by the commenters are already under development. Consideration is being given to the development of guidance on other topics suggested by the commenters.

One commenter suggested exempting wastes in storage prior to the effective date of the regulation from the packaging and labeling requirements. This comment touches on a subject with broader implications, the phasing in of the Part 61 requirements, consistent with the ability of licensees, Agreement States, and applicants to make necessary changes to assure compliance.

The following sections and subparts will be considered a matter of compatibility for the Agreement States when the rule is adopted: Section 61.2, Definitions; Subpart C, Performance Objectives; Subpart D, Technical Requirements for Land Disposal Facilities; those portions of Subpart B that are necessary to implement the provisions of Subparts C and D; that portion of Subpart E requiring closure funding arrangements; and Section 20.311, Transfer for disposal and manifests. Meetings were held with Agreement State representatives and agreement was reached on a method for uniform implementation of the manifest requirements, waste classification, waste form, and the effective date of Section 20.311 which was set at 365 days after publication in the Federal Register.

Since all other provisions of the proposed rules would pertain only to applicants for new Commission-licensed disposal facilities, there are no reasons to delay the effective date of these requirements. The Commission is working with the Agreement States to develop model regulations to be adopted by the Agreement States in accordance with their agreements to maintain compatible state regulations.

Applicability of the requirements in Part 61 to Commission disposal facility licenses in effect on the effective date of the rule will be determined on a case-by-case basis and implemented through terms and conditions of the license or by orders issued by the Commission.

There were a variety of comments related to commenters questions about the development of new sites, concerns over nuclear facilities becoming *de facto* disposal sites, the need for an environmental impact statement, and an extension of the comment period for Part 61 to correspond with that of the environmental impact statement. These comments are addressed in the detailed

analysis of comments and had no effect on the rule. The comment period was, in fact, extended from October 22, 1981 to January 14, 1982 to correspond with that for the EIS.

About one third of all commenters offered editorial suggestions that were aimed at improving clarity, correcting grammatical errors, and noting typographical errors. These were very helpful in preparing the final version of the rule.

Employee Protection

A new 10 CFR 61.9 has been added concerning job protection for employees who provide information to the Commission. The new section is included in this final rulemaking to carry out the Commission's intent that all specific licensees will have similar responsibilities under its employee protection regulations. See the **Federal Register** notice (47 FR 30452) dated July 14, 1982 for the basis for this action.

New 10 CFR 61.9 emphasizes to employers—that is, licensees, applicants, and their contractors and subcontractors—that termination or other acts of job discrimination against employees who engage in activities furthering the purposes of the Atomic Energy Act and the Energy Reorganization Act is prohibited. In addition, new 10 CFR 61.9 makes the employee aware that if discrimination of this nature is believed to have occurred, a remedy is available through the Wage and Hour Division of the Department of Labor. To ensure that employees of licensees and applicants are aware of these amendments, these organizations are required to post their premises with explanatory material related to the prohibition of discrimination and availability of a remedy in the event of discrimination.

Paperwork Reduction Act

As required by the Paperwork Reduction Act, Pub. L. 96–511, the recordkeeping and reporting requirements in the proposed amendments to 10 CFR 20 incorporated in the 10 CFR 61 rulemaking were submitted to the Office of Management and Budget and were approved. The proposed amendments to 10 CFR Part 20 were not significantly altered as a result of public comments so that approval remains valid. The application, reporting, and recordkeeping requirements contained in 10 CFR 61 apply only to land disposal facility operators and affect fewer than 10 persons and, therefore, are not subject to OMB clearance.

Regulatory Flexibility Act

Based upon the information available and on the public comments received on the proposed rule, and in accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission hereby certifies that this rulemaking will not, if promulgated, have a significant economic impact upon a substantial number of small entities.

The Regulatory Flexibility Act (Pub. L. 96–345) was signed into law in September 1980. The Act's principal objective is to make certain that Federal agencies try, where possible, to fit regulatory requirements to the scale of the affected activity. Significant economic impacts on a substantial number of small entities is a major concern. Part 61 and accompanying rule changes will potentially impact a significant number of persons licensed by the Commission and the Agreement States. The following discussion addresses the factors in the analyses required by the Act and the public comments received. The draft and final EIS's for Part 61 provide additional background information and analysis of the impacts of this rulemaking action.

Section 604 of the Regulatory Flexibility Act requires that the need for the regulatory action be clearly established. The need for standards to govern the disposal of low-level radioactive wastes and new regulations to implement these standards was discussed in detail in the draft EIS. The majority of the public comments supported the rule and thus affirmed the need for the rule and the regulator framework it establishes.

Section 609 of the Regulatory Flexibility Act requires that small entities have an opportunity to participate in the rulemaking when the rule will have a significant economic impact on a substantial number. Since the Commission's initial certification of no significant impact was a qualified one, special efforts to reach small entities were made. For example, the proposed rule was distributed to all Commission licensees (9,000) and made available to Agreement States (12,000 licensees) with a cover letter highlighting the points that might impact them. Comments were solicited from groups such as the Health Physics Society, a national organization of professionals concerned with radiation safety, many of whose members will have to prepare manifests and coordinate compliance with the rule. The Health Physics Society publicized the rule in its newsletters to members. Of some 107 different commenters responding, none specifically addressed the Regulatory Flexibility Act or the summary analysis. One utility (which is not a small entity) did make a general qualitative reference to burdens on small entities. Twelve commenters representing a variety of sectors (not just small entities) addressed the potential burden of the manifest system.

Section 604 of the Regulatory Flexibility Act further requires a summary of the issues and a statement of any changes made in the proposed rule as a result of the comments. Two commenters were concerned about the burden of specifying chemical form. Four commenters objected to shipper responsibility for tracking shipments. Three commenters including one broker considered the system to be a paperwork burden and two, a general burden. Three supported the system and one indicated no problems in complying. Two objected to forwarding a copy of the manifest and one was concerned about the implications of generator certifications.

The proposed rule included relief language "as completely as practicable" for specifying chemical form. Small entities generate a significant percent of wastes and data on these wastes is needed, so no further relief was provided. Objections to shipper tracking and forwarding manifests stemmed primarily from the need to clarify intent of the rule on waste broker or collector role and responsibility. The transfer of papers and tracking responsibility is more clearly addressed in the final rule. The recommendation for simplifying the paperwork for brokers was adopted. These issues and concerns are addressed in more detail in the staff analysis of comments in the final EIS.

The comments on waste classification were discussed in the preceding summary and resulted in extensive revision of this portion of the rule to simplify and clarify the requirements. The detailed staff analysis in the final EIS provides further discussion of the issues raised.

Federal rules that overlap the proposed rule are primarily those of the Department of Transportation (DOT). The Commission and DOT have an established working relationship implemented through a formal Memorandum of Understanding. The rule itself acknowledges the need to comply with DOT rules, and the Commission currently inspects licensees for compliance with DOT requirements. The manifest required by this rulemaking is consistent with DOT shipping paper requirements, and the same document may be used by licensees to meet requirements of both

agencies. Neither NRC nor DOT require a specific form and both allow such dual use. The waste form and packaging requirements are in addition to and compatible with DOT rules. In addition, the manifest terminology and requirements were compared to those in the proposed Uniform Hazardous Waste Manifest, the joint EPA/DOT proposed form published March 4, 1982 (47 FR 9336). A few minor procedural and terminology changes were made to conform to this proposed form. Licensees may use the Uniform Hazardous Waste Manifest, once it is implemented, as both a DOT shipping paper and a NRC manifest for radioactive wastes by using additional spaces to describe wastes and adding information to the back. These changes were made based on consultation with EPA and DOT staff and will help to reduce the burden on all licensees.

The following comment was received from EPA on possible duplicative requirements:

> NRC solicited comments on possible duplicative requirements for effluent releases and broker activities under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA). This "Superfund" law exempts from notification "any release of source, special nuclear, or byproduct material . . . in compliance with a legally enforceable license, permit, regulations, or order issued pursuant to the Atomic Energy Act of 1954" (CERCLA Section 101(10)(K)). Radioactive releases from nuclear waste disposal facilities which are not in compliance with an NRC license, permit, regulation, or order fall within the reporting requirements of CERCLA. Furthermore, as part of the notification regulations under CERCLA, EPA is planning to develop a notification scheme for releases of radioactive materials not licensed under the Atomic Energy Act of 1954 or the Uranium Mill Tailings Radiation Control Act of 1978. EPA wishes to minimize duplicative reporting requirements for releases reported to other agencies. EPA intends to work with NRC to minimize duplicative reporting requirements to the extent possible.

The EPA also addressed the potential for duplicative costs to the two agencies for wastes that are a mixture of hazardous chemicals and radioactive materials. Close coordination and a memorandum of understanding were suggested. EPA has regulatory responsibility for the disposal of hazardous wastes under the Resource Conservation and Recovery Act (RCRA). NRC agrees that the two regulatory programs need to be coordinated, and will take action in that regard.

The Regulatory Flexibility Act also requires discussion of alternatives to the proposed action. The recordkeeping and reporting requirements impose such a minor incremental burden that no exemption was considered. Initial estimates were that about 2,000 of the Commission's 9,000 licensees are waste generators who might make waste shipments. Waste generators must provide more complete information on the manifest than is currently required to meet DOT shipping paper requirements and must report on investigations of missing shipments. The additional information required in the manifest includes the identities of solidification agents; presence of any chelating agents; whether the waste is Class A, B, or C; and the total quantity of H-3, C-14, Tc-99, and I-129. The annual public burden for all licensees should be no more than about 4,500 staff hours for the preparation of the manifest instead of just preparation of DOT shipping papers and 1,000 hours for investigating and reporting on late or missing shipments. Reactor licensees, who are not small entitites, ship at least half the waste now shipped to disposal sites. The remainder is shipped by hospitals, universities, industrial firms, etc., who may or may not be small entities. Thus, less than half this burden should fall on small entities based on relative volumes of wastes shipped. The waste classification and characteristics portion of the rule does provide relief for most wastes produced by the small entities, i.e., Class A wastes. Where radiological hazard permits, segregated disposal has been provided as an option to complying with more restrictive waste acceptance requirements for Class B and C wastes.

The incremental burdens were initially judged small. Based on further staff evaluations and public comments on the rule, this initial judgment was correct and the rule will not have a significant economic impact. The rulemaking will not affect economic factors such as employment, business viability, or ability of affected entities to compete. The improvements in waste disposal practices and the contribution of those improvements to establishing new disposal capacity are judged to significantly outweigh the small economic impact on small entities.

List of Subjects in 10 CFR Part 61

Low-level waste, Nuclear materials, Penalty, Waste treatment and disposal.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and section 553 of title 5 of the United States Code, the following new 10 CFR Part 61 and the following amendments to 10 CFR Parts 2, 19, 20, 21, 30, 40, 51, 70, 73, and 170 to Chapter 1 of Title 10, of the Code of Federal Regulations are published as a document subject to codification.

A new Part 61 is added to 10 CFR to read as follows:

PART 61—LICENSING REQUIREMENTS FOR LAND DISPOSAL OF RADIOACTIVE WASTE

Subpart A—General Provisions

Sec.
61.1 Purpose and scope.
61.2 Definitions.
61.3 License required.
61.4 Communications.
61.5 Interpretations.
61.6 Exemptions.
61.7 Concepts.
61.8 Reporting, recordkeeping, and application requirements: OMB approval not required.
61.9 Employee protection.

Subpart B—Licenses

61.10 Content of application.
61.11 General information.
61.12 Specific technical information.
61.13 Technical analyses.
61.14 Institutional information.
61.15 Financial information.
61.16 Other information.
61.20 Filing and distribution of application.
61.21 Elimination of repetition.
61.22 Updating of application and environmental report.
61.23 Standards for issuance of a license.
61.24 Conditions of licenses.
61.25 Changes.
61.26 Amendment of license.
61.27 Application for renewal or closure.
61.28 Contents of application for closure.
61.29 Post-closure observation and maintenance.
61.30 Transfer of license.
61.31 Termination of license.

Subpart C—Performance Objectives

61.40 General requirement.
61.41 Protection of the general population from releases of radioactivity.
61.42 Protection of individuals from inadvertent intrusion.
61.43 Protection of individuals during operations.
61.44 Stability of the disposal site after closure.

Subpart D—Technical Requirements for Land Disposal Facilities

61.50 Disposal site suitability requirements for land disposal.
61.51 Disposal site design for land disposal.
61.52 Land disposal facility operation and disposal site closure.
61.53 Environmental monitoring.
61.54 Alternative requirements for design and operations.
61.55 Waste classification.
61.56 Waste characteristics.
61.57 Labeling.
61.58 Alternative requirements for waste classification and characteristics.
61.59 Institutional requirements.

Subpart E—Financial Assurances

Sec.
61.61 Applicant qualifications and assurances.
61.62 Funding for disposal site closure and stabilization.
61.63 Financial assurances for institutional controls.

Subpart F—Participation by State Governments and Indian Tribes

61.70 Scope.
61.71 State and Tribal government consultation.
61.72 Filing of proposals for State and Tribal participation.
61.73 Commission approval of proposals.

Subpart G—Records, Reports, Tests, and Inspections

61.80 Maintenance of records, reports, and transfers.
61.81 Tests at land disposal facilities.
61.82 Commission inspections of land disposal facilities.
61.83 Violations.

Authority: Secs. 53, 57, 62, 63, 65, 81, 161, 182, 183, 68 Stat. 930, 932, 933, 935, 948, 953, 954, as amended (42 U.S.C. 2073, 2077, 2092, 2093, 2095, 2111, 2201, 2232, 2233); Secs. 202, 206, 88 Stat. 1244, 1246, (42 U.S.C. 5842, 5846); Secs. 10 and 14, Pub. L. 95-601, 92 Stat. 2951 (42 U.S.C. 2021a and 5851).

For the purposes of Sec. 223, 68 Stat. 958, as amended, (42 U.S.C. 2273): Tables 1 and 2, §§61.3, 61.24, 61.25, 61.27(a), 61.41 through 61.43, 61.52, 61.53, 61.55, 61.56, and 61.61 through 61.63 issued under Sec. 161b, 68 Stat. 948 as amended (42 U.S.C. 2201(b)); §§ 61.10 through 61.16, 61.24, and 61.80 issued under Sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

Subpart A—General Provisions

§ 61.1 Purpose and scope.

(a) The regulations in this part establish, for land disposal of radioactive waste, the procedures, criteria, and terms and conditions upon which the Commission issues licenses for the disposal of radioactive wastes containing byproduct, source and special nuclear material received from other persons. Disposal of waste by an individual licensee is set forth in Part 20 of this chapter. Applicability of the requirements in this Part to Commission licenses for waste disposal facilities in effect on the effective date of this rule will be determined on a case-by-case basis and implemented through terms and conditions of the license or by orders issued by the Commission.

(b) Except as provided in Part 150 of this chapter, which addresses assumption of certain regulatory authority by Agreement States, and § 61.6 "Exemptions," the regulations in this part apply to all persons in the United States. The regulations in this part do not apply to (1) disposal of high-level waste as provided for in Part 60 of this chapter; (2) disposal of uranium or thorium tailings or wastes (byproduct material as defined in § 40.4(a–1)) as provided for in Part 40 of this chapter in quantities greater than 10,000 kilograms and containing more than five (5) millicuries of radium-226; or (3) disposal of licensed material as provided for in Part 20 of this chapter.

§ 61.2 Definitions.

As used in this part:

"Active maintenance" means any significant remedial activity needed during the period of institutional control to maintain a reasonable assurance that the performance objectives in §§ 61.41 and 61.42 are met. Such active maintenance includes ongoing activities such as the pumping and treatment of water from a disposal unit or one-time measures such as replacement of a disposal unit cover. Active maintenance does not include custodial activities such as repair of fencing, repair or replacement of monitoring equipment, revegetation, minor additions to soil cover, minor repair of disposal unit covers, and general disposal site upkeep such as mowing grass.

"Buffer zone" is a portion of the disposal site that is controlled by the licensee and that lies under the disposal units and between the disposal units and the boundary of the site.

"Chelating agent" means amine polycarboxylic acids (e.g., EDTA, DTPA), hydroxy-carboxylic acids, and ploycarboxylic acids (e.g., citric acid, carbolic acid, and glucinic acid).

"Commencement of construction" means any clearing of land, excavation, or other substantial action that would adversely affect the environment of a land disposal facility. The term does not mean disposal site exploration, necessary roads for disposal site exploration, borings to determine foundation conditions, or other preconstruction monitoring or testing to establish background information related to the suitability of the disposal site or the protection of environmental values.

"Commission" means the Nuclear Regulatory Commission or its duly authorized representatives.

"Custodial Agency" means an agency of the government designated to act on behalf of the government owner of the disposal site.

"Director" means the Director, Office of Nuclear Material Safety and Safeguards, U. S. Nuclear Regulatory Commission.

"Disposal" means the isolation of radioactive wastes from the biosphere inhabited by man and containing his food chains by emplacement in a land disposal facility.

"Disposal site" means that portion of a land disposal facility which is used for disposal of waste. It consists of disposal units and a buffer zone.

"Disposal unit" means a discrete portion of the disposal site into which waste is placed for disposal. For near surface disposal the unit is usually a trench.

"Engineered barrier" means a man-made structure or device that is intended to improve the land disposal facility's ability to meet the performance objectives in Subpart C.

"Explosive material" means any chemical compound, mixture, or device, which produces a substantial instantaneous release of gas and heat spontaneously or by contact with sparks or flame.

"Government agency" means any executive department, commission, independent establishment, or corporation, wholly or partly owned by the United States of America which is an instrumentality of the United States; or any board, bureau, division, service, office, officer, authority, administration, or other establishment in the executive branch of the government.

"Hazardous waste" means those wastes designated as hazardous by Environmental Protection Agency regulations in 40 CFR Part 261.

"Hydrogeologic unit" means any soil or rock unit or zone which by virtue of its porosity or permeability, or lack thereof, has a distinct influence on the storage or movement of groundwater.

"Inadvertent intruder" means a person who might occupy the disposal site after closure and engage in normal activities, such as agriculture, dwelling construction, or other pursuits in which the person might be unknowingly exposed to radiation from the waste.

"Indian Tribe" means an Indian tribe as defined in the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450).

"Intruder barrier" means a sufficient depth of cover over the waste that inhibits contact with waste and helps to ensure that radiation exposures to an inadvertent intruder will meet the performance objectives set forth in this part, or engineered structures that provides equivalent protection to the inadvertent intruder.

"Land disposal facility" means the land, buildings, and equipment which is intended to be used for the disposal of radioactive wastes into the subsurface of the land. For purposes of this chapter, a geologic repository as defined in Part 60 is not considered a land disposal facility.

"License" means a license issued under the regulations in Part 61 of this chapter. "Licensee" means the holder of such a license.

"Monitoring" means observing and making measurements to provide data to evaluate the performance and characteristics of the disposal site.

"Near-surface disposal facility" means a land disposal facility in which radioactive waste is disposed of in or within the upper 30 meters of the earth's surface.

"Person" means (1) any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, government agency other than the Commission or the Department of Energy, (except that the Department of Energy is considered a person within the meaning of the regulations in this part to the extent that its facilities and activities are subject to the licensing and related regulatory authority of the Commission pursuant to section 202 of the Energy Reorganization Act of 1974 (88 Stat. 1244)), any State or any political subdivision of or any political entity within a State, any foreign government or nation or any political subdivision of any such government or nation, or other entity; and (2) any legal successor, representative, agent, or agency of the foregoing.

"Pyrophoric liquid" means any liquid that ignites spontaneously in dry or moist air at or below 130°F (54.5°C). A pyrophoric solid is any solid material, other than one classed as an explosive, which under normal conditions is liable to cause fires through friction, retained heat from manufacturing or processing, or which can be ignited readily and when ignited burns so vigorously and persistently as to create a serious transportation, handling, or disposal hazard. Included are spontaneously combustible and water-reactive materials.

"Site closure and stablization" means those actions that are taken upon completion of operations that prepare the disposal site for custodial care and that assure that the disposal site will remain stable and will not need ongoing active maintenance.

"State" means any State, Territory, or possession of the United States, Puerto Rico, and the District of Columbia.

"Stability" means structural stability.

"Surveillance" means observation of the disposal site for purposes of visual detection of need for maintenance, custodial care, evidence of intrusion, and compliance with other license and regulatory requirements.

"Tribal Governing Body" means a Tribal organization as defined in the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450).

"Waste" means those low-level radioactive wastes containing source, special nuclear, or byproduct material that are acceptable for disposal in a land disposal facility. For the purposes of this definition, low-level waste has the same meaning as in the Low-Level Waste Policy Act, that is radioactive waste not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel, or byproduct material as defined in section 11e.(2) of the Atomic Energy Act (uranium or thorium tailings and waste).

§ 61.3 License required.

(a) No person may receive, possess, and dispose of radioactive waste containing source, special nuclear, or byproduct material at a land disposal facility unless authorized by a license issued by the Commission pursuant to this part, or unless exemption has been granted by the Commission under § 61.6 of this part.

(b) Each person shall file an application with the Commission and obtain a license as provided in this part before commencing construction of a land disposal facility. Failure to comply with this requirement may be grounds for denial of a license.

§ 61.4 Communications.

Except where otherwise specified, all communications and reports concerning the regulations in this part and applications filed under them should be addressed to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Communications, reports, and applications may be delivered in person at the Commission's offices at 1717 H Street NW., Washington, D.C. or 7915 Eastern Avenue, Silver Spring, Maryland.

§ 61.5 Interpretations.

Except as specifically authorized by the Commission in writing, no interpretation of the meaning of the regulations in this part by any officer or employee of the Commission other than a written interpretation by the General Counsel will be considered binding upon the Commission.

§ 61.6 Exemptions.

The Commission may, upon application by any interested person, or upon its own initiative, grant any exemption from the requirements of the regulations in this part as it determines is authorized by law, will not endanger life or property or the common defense and security, and is otherwise in the public interest.

§ 61.7 Concepts.

(a) *The Disposal Facility.* (1) Part 61 is intended to apply to land disposal of radioactive waste and not to other methods such as sea or extraterrestrial disposal. Part 61 contains procedural requirements and performance objectives applicable to any method of land disposal. It contains specific technical requirements for near-surface disposal of radioactive waste which involves disposal in the uppermost portion of the earth, approximately 30 meters. Burial deeper than 30 meters may also be satisfactory. Technical requirements for alternative methods will be added in the future.

(2) Near-surface disposal of radioactive waste takes place at a near-surface disposal facility, which includes all of the land and buildings necessary to carry out the disposal. The disposal site is that portion of the facility which waste is used for disposal of waste and consists of disposal units and a buffer zone. A disposal unit is a discrete portion of the disposal site into which waste is placed for disposal. For near-surface disposal, the disposal unit is usually a trench. A buffer zone is a portion of the disposal site that is controlled by the licensee and that lies under the site and between the boundary of the disposal site and any disposal unit. It provides controlled space to establish monitoring locations which are intended to provide an early warning of radionuclide movement, and to take mitigative measures if needed. In choosing a disposal site, site characteristics should be considered in terms of the indefinite future and evaluated for at least a 500 year time frame.

(b) *Waste Classification and Near-Surface Disposal.* (1) Disposal of radioactive waste in near-surface disposal facilities has the following safety objectives: protection of the general population from releases of radioactivity, protection of individuals from inadvertent intrusion, and protection of individuals during operations. A fourth objective is to ensure stability of the site after closure.

(2) A cornerstone of the system is stability—stability of the waste and the disposal site so that once emplaced and covered, the access of water to the waste can be minimized. Migration of radionuclides is thus minimized, long-term active maintenance can be avoided, and potential exposures to intruders reduced. While stability is a

desirable characteristic for all waste much radioactive waste does not contain sufficient amounts of radionuclides to be of great concern from these standpoints; this waste, however, tends to be unstable, such as ordinary trash type wastes. If mixed with the higher activity waste, their deterioration could lead to failure of the system and permit water to penetrate the disposal unit and cause problems with the higher activity waste. Therefore, in order to avoid placing requirements for a stable waste form on relatively innocuous waste, these wastes have been classed as Class A waste. The Class A waste will be disposed of in separate disposal units at the disposal site. However, Class A waste that is stable may be mixed with other classes of waste. Those higher activity wastes that should be stable for proper disposal are classed as Class B and C waste. To the extent that it is practicable, Class B and C waste forms or containers should be designed to be stable, i.e., maintain gross physical properties and identity, over 300 years. For certain radionuclides prone to migration, a maximum disposal site inventory based on the characteristics of the disposal site may be established to limit potential exposure.

(3) It is possible but unlikely that persons might occupy the site in the future and engage in normal pursuits without knowing that they were receiving radiation exposure. These persons are referred to as inadvertent intruders. Protection of such intruders can involve two principal controls: institutional control over the site after operations by the site owner to ensure that no such occupation or improper use of the site occurs; or, designating which waste could present an unacceptable risk to an intruder, and disposing of this waste in a manner that provides some form of intruder barrier that is intended to prevent contact with the waste. This regulation incorporates both types of protective controls.

(4) Institutional control of access to the site is required for up to 100 years. This permits the disposal of Class A and Class B waste without special provisions for intrusion protection, since these classes of waste contain types and quantities of radioisotopes that will decay during the 100-year period and will present an acceptable hazard to an intruder. The government landowner administering the active institutional control program has flexibility in controlling site access which may include allowing productive uses of the land provided the integrity and long-term performance of the site are not affected.

(5) Waste that will not decay to levels which present an acceptable hazard to an intruder within 100 years is designated as Class C waste. This waste is disposed of at a greater depth than the other classes of waste so that subsequent surface activities by an intruder will not disturb the waste. Where site conditions prevent deeper disposal, intruder barriers such as concrete covers may be used. The effective life of these intruder barriers should be 500 years. A maximum concentration of radionuclides is specified for all wastes so that at the end of the 500 year period, remaining radioactivity will be at a level that does not pose an unacceptable hazard to an intruder or public health and safety. Waste with concentrations above these limits is generally unacceptable for near-surface disposal. There may be some instances where waste with concentrations greater than permitted for Class C would be acceptable for near-surface disposal with special processing or design. These will be evaluated on a case-by-case basis. Class C waste must also be stable.

(c) *The Licensing Process.* (1) During the preoperational phase, the potential applicant goes through a process of disposal site selection by selecting a region of interest, examining a number of possible disposal sites within the area of interest and narrowing the choice to the proposed site. Through a detailed investigation of the disposal site characteristics the potential applicant obtains data on which to base an analysis of the disposal site's suitability. Along with these data and analyses, the applicant submits other more general information to the Commission in the form of an application for a license for land disposal. The Commission's review of the application is in accordance with administrative procedures established by rule and may involve participation by affected State governments or Indian tribes. While the proposed disposal site must be owned by a State or the Federal government before the Commission will issue a license, it may be privately owned during the preoperational phase if suitable arrangements have been made with a State or the Federal government to take ownership in fee of the land before the license is issued.

(2) During the operational phase, the licensee carries out disposal activities in accordance with the requirements of this regulation and any conditions on the license. Periodically, the authority to conduct the above ground operations and dispose of waste will be subject to a license renewal, at which time the operating history will be reviewed and a decision made to permit or deny continued operation. When disposal operations are to cease, the licensee applies for an amendment to his license to permit site closure. After final review of the licensee's site closure and stabilization plan, the Commission may approve the final activities necessary to prepare the disposal site so that ongoing active maintenance of the site is not required during the period of institutional control.

(3) During the period when the final site closure and stabilization activities are being carried out, the licensee is in a disposal site closure phase. Following that, for a period of 5 years, the licensee must remain at the disposal site for a period of post-closure observation and maintenance to assure that the disposal site is stable and ready for institutional control. The Commission may approve shorter or require longer periods if conditions warrant. At the end of this period, the licensee applies for a license transfer to the disposal site owner.

(4) After a finding of satisfactory disposal site closure, the Commission will transfer the license to the State or Federal government that owns the disposal site. If the Department of Energy is the Federal agency administering the land on bahalf of the Federal government the license will be terminated because the Commission lacks regulatory authority over the Department for this activity. Under the conditions of the transferred license, the owner will carry out a program of monitoring to assure continued satisfactory disposal site performance, physical surveillance to restrict access to the site and carry out minor custodial activities. During this period, productive uses of the land might be permitted if those uses do not affect the stability of the site and its ability to meet the performance objectives. At the end of the prescribed period of institutional control, the license will be terminated by the Commission.

§ 61.8 Reporting, recordkeeping, and application requirements: OMB approval not required.

The information collection requirements contained in this part affect fewer than ten persons. Therefore, under section 3506(c)(5) of the Paperwork Reduction Act of 1980 (Pub. L. 96–511), OMB clearance is not required for these information collection requirements.

§ 61.9 Employee protection.

(a) Discrimination by a Commission licensee, an applicant for a Commission licensee, or a contractor or subcontractor of a Commission licensee or applicant against an employee for engaging in certain protected activities is prohibited. Discrimination includes discharge and other actions that relate to compensation, terms, conditions, and privileges of employment. The protected activities are established in Section 210 of the Energy Reorganization Act of 1974, as amended, and in general are related to the administration or enforcement of a requirement imposed under the Atomic Energy Act or the Energy Reorganization Act.

(1) The protected activities include but are not limited to—(i) Providing the Commission information about possible violations of requirements imposed under either of the above statutes;

(ii) Requesting the Commission to institute action against his or her employer for the administration or enforcement of these requirements; or

(iii) Testifying in any Commission proceeding.

(2) These activities are protected even if no formal proceeding is actually initiated as a result of the employee assistance or participation.

(3) This section has no application to any employee alleging discrimination prohibited by this section who, acting without direction from his or her employer (or the employer's agent), deliberately causes a violation of any requirement of the Energy Reorganization Act of 1974, as amended, or the Atomic Energy Act of 1954, as amended.

(b) Any employee who believes that he or she has been discharged or otherwise discriminated against by any person for engaging in the protected activities specified in paragraph (a)(1) of this section may seek a remedy for the discharge or discrimination through an administrative proceeding in the Department of Labor. The administrative proceeding must be initiated within 30 days after an alleged violation occurs by filing a complaint alleging the violation with the Department of Labor, Employment Standards Administration, Wage and Hour Division. The Department of Labor may order reinstatement, back pay, and compensatory damages.

(c) A violation of paragraph (a) of this section by a Commission licensee, an applicant for a Commission licensee, or a contractor or subcontractor of a Commission licensee or applicant may be grounds for—

(1) Denial, revocation, or suspension of the license.

(2) Imposition of a civil penalty on the licensee or applicant.

(3) Other enforcement action.

(d) Actions taken by an employer, or others, which adversely affect an employee may be predicated upon nondiscriminatory grounds. The prohibition applies when the adverse action occurs because the employee has engaged in protected activities. An employee's engagement in protected activities does not automatically render him or her immune from discharge or discipline for legitimate reasons or from adverse action dictated by non-prohibited considerations.

(e) Each licensee and each applicant shall post Form NRC–3, "Notice to Employees," on its premises. Posting must be at locations sufficient to permit employees protected by this section to observe a copy on the way to or from their place of work. Premises must be posted not later than 30 days after an application is docketed and remain posted while the application is pending before the Commission, during the term of the license, and for 30 days following license termination.

Note.—Copies of Form NRC–3 may be obtained by writing to the Regional Administrator of the appropriate U.S. Nuclear Regulatory Commission Regional Office listed in Appendix D, Part 20 of this chapter or the Director, Office of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Subpart B—Licenses

§ 61.10 Content of application.

An application to receive from others, possess and dispose of wastes containing or contaminated with source, byproduct or special nuclear material by land disposal must consist of general information, specific technical information, institutional information, and financial information as set forth in §§ 61.11 through 61.16. An environmental report prepared in accordance with Part 51 of this chapter must accompany the application.

§ 61.11 General information.

The general information must include each of the following:

(a) Identity of the applicant including:

(1) The full name, address, telephone number and description of the business or occupation of the applicant;

(2) If the applicant is a partnership, the name, and address of each partner and the principal location where the partnership does business;

(3) If the applicant is a corporation or an unincorporated association, (i) the state where it is incorporated or organized and the principal location where it does business, and (ii) the names and addresses of its directors and principal officers; and

(4) If the applicant is acting as an agent or representative of another person in filing the application, all information required under this paragraph must be supplied with respect to the other person.

(b) Qualifications of the applicant:

(1) The organizational structure of the applicant, both offsite and onsite, including a description of lines of authority and assignments of responsibilities, whether in the form of administrative directives, contract provisions, or otherwise;

(2) The technical qualifications, including training and experience, of the applicant and members of the applicant's staff to engage in the proposed activities. Minimum training and experience requirements for personnel filling key positions described in Paragraph 61.11(b)(1) must be provided;

(3) A description of the applicant's personnel training program; and

(4) The plan to maintain an adequate complement of trained personnel to carry out waste receipt, handling, and disposal operations in a safe manner.

(c) A description of:

(1) The location of the proposed disposal site;

(2) The general character of the proposed activities;

(3) The types and quantities of radioactive waste to be received, possessed, and disposed of;

(4) Plans for use of the land disposal facility for purposes other than disposal of radioactive wastes; and

(5) The proposed facilities and equipment.

(d) Proposed schedules for construction, receipt of waste, and first emplacement of waste at the proposed land disposal facility.

§ 61.12 Specific technical information.

The specific technical information must include the following information needed for demonstration that the performance objectives of Subpart C of this part and the applicable technical requirements of Subpart D of this part will be met:

(a) A description of the natural and demographic disposal site characteristics as determined by disposal site selection and characterization activities. The description must include geologic, geotechnical, hydrologic, meteorologic, climatologic, and biotic features of the disposal site and vicinity.

(b) A description of the design features of the land disposal facility and

the disposal units. For near-surface disposal, the description must include those design features related to infiltration of water; integrity of covers for disposal units; structural stability of backfill, wastes, and covers; contact of wastes with standing water; disposal site drainage; disposal site closure and stabilization; elimination to the extent practicable of long-term disposal site maintenance; inadvertent intrusion; occupational exposures; disposal site monitoring; and adequacy of the size of the buffer zone for monitoring and potential mitigative measures.

(c) A description of the principal design criteria and their relationship to the performance objectives.

(d) A description of the design basis natural events or phenomena and their relationship to the principal design criteria.

(e) A description of codes and standards which the applicant has applied to the design and which will apply to construction of the land disposal facilities.

(f) A description of the construction and operation of the land disposal facility. The description must include as a minimum the methods of construction of disposal units; waste emplacement; the procedures for and areas of waste segregation; types of intruder barriers; onsite traffic and drainage systems; survey control program; methods and areas of waste storage; and methods to control surface water and groundwater access to the wastes. The description must also include a description of the methods to be employed in the handling and disposal of wastes containing chelating agents or other non-radiological substances that might affect meeting the performance objectives in Subpart C of this part.

(g) A description of the disposal site closure plan, including those design features which are intended to facilitate disposal site closure and to eliminate the need for ongoing active maintenance.

(h) An identification of the known natural resources at the disposal site, the exploitation of which could result in inadvertent intrusion into the low-level wastes after removal of active institutional control.

(i) A description of the kind, amount, classification and specifications of the radioactive material proposed to be received, possessed, and disposed of at the land disposal facility.

(j) A description of the quality control program for the determination of natural disposal site characteristics and for quality control during the design, construction, operation and closure of the land disposal facility and the receipt, handling, and emplacement of waste. Audits and managerial controls must be included.

(k) A description of the radiation safety program for control and monitoring of radioactive effluents to ensure compliance with the performance objective in § 61.41 of this part and occupational radiation exposure to ensure compliance with the requirements of Part 20 of this chapter and to control contamination of personnel, vehicles, equipment, buildings, and the disposal site. Both routine operations and accidents must be addressed. The program description must include procedures, instrumentation, facilities, and equipment.

(l) A description of the environmental monitoring program to provide data to evaluate potential health and environmental impacts and the plan for taking corrective measures if migration of radionuclides is indicated.

(m) A description of the administrative procedures that the applicant will apply to control activities at the land disposal facility.

§ 61.13 Technical analyses.

The specific technical information must also include the following analyses needed to demonstrate that the performance objectives of Subpart C of this part will be met:

(a) Pathways analyzed in demonstrating protection of the general population from releases of radioactivity must include air, soil, groundwater, surface water, plant uptake, and exhumation by burrowing animals. The analyses must clearly identify and differentiate between the roles performed by the natural disposal site characteristics and design features in isolating and segregating the wastes. The analyses must clearly demonstrate that there is reasonable assurance that the exposure to humans from the release of radioactivity will not exceed the limits set forth in § 61.41.

(b) Analyses of the protection of individuals from inadvertent intrusion must include demonstration that there is reasonable assurance the waste classification and segregation requirements will be met and that adequate barriers to inadvertent intrusion will be provided.

(c) Analyses of the protection of individuals during operations must include assessments of expected exposures due to routine operations and likely accidents during handling, storage, and disposal of waste. The analyses must provide reasonable assurance that exposures will be controlled to meet the requirements of Part 20 of this chapter.

(d) Analyses of the long-term stability of the disposal site and the need for ongoing active maintenance after closure must be based upon analyses of active natural processes such as erosion, mass wasting, slope failure, settlement of wastes and backfill, infiltration through covers over disposal areas and adjacent soils, and surface drainage of the disposal site. The analyses must provide reasonable assurance that there will not be a need for ongoing active maintenance of the disposal site following closure.

§ 61.14 Institutional information.

The institutional information must include:

(a) A certification by the Federal or State government which owns the disposal site that the Federal or State government is prepared to accept transfer of the license when the provisions of § 61.30 are met, and will assume responsibility for custodial care after site closure and postclosure observation and maintenance.

(b) Where the proposed disposal site is on land not owned by the Federal or a State government, the applicant must submit evidence that arrangements have been made for assumption of ownership in fee by the Federal or a State government before the Commission issues a license.

§ 61.15 Financial information.

The financial information must be sufficient to demonstrate that the financial qualifications of the applicant are adequate to carry out the activities for which the license is sought and meet other financial assurance requirements as specified in Subpart E of this part.

§ 61.16 Other information.

Depending upon the nature of the wastes to be disposed of, and the design and proposed operation of the land disposal facility, additional information may be requested by the Commission including the following:

(a) Physical security measures, if appropriate. Any application to receive and possess special nuclear material in quantities subject to the requirements of Part 73 of this chapter shall demonstrate how the physical security requirements of Part 73 will be met. In determining whether receipt and possession will be subject to the requirements of Part 73, the applicant shall not consider the quantity of special nuclear material that has been disposed of.

(b) Safety information concerning criticality, if appropriate.

(1) Any application to receive and possess special nuclear material in quantities that would be subject to the requirements of § 70.24, "Criticality accident requirements" of Part 70 of this chapter shall demonstrate how the requirements of that section will be met, unless the applicant requests an exemption pursuant to § 70.24(d). In determining whether receipt and possession would be subject to the requirements of § 70.24, the applicant shall not consider the quantity of special nuclear material that has been disposed of.

(2) Any application to receive and possess special nuclear material shall describe proposed procedures for avoiding accidental criticality, which address both storage of special nuclear material prior to disposal and waste emplacement for disposal.

§ 61.20 Filing and distribution of application.

(a) An application for a license under this part, and any amendments thereto, shall be filed with the Director, must be signed by the applicant or the applicant's authorized representative under oath, and must consist of 1 signed original and 2 copies.

(b) Another 85 copies of the application and environmental report must be retained by the applicant for distribution in accordance with written instructions from the Director or designee.

(c) *Fees.* Application, amendment, and inspection fees applicable to a license covering the receipt and disposal of radioactive wastes in a land disposal facility are required by Part 170 of this chapter.

§ 61.21 Elimination of repetition.

In its application or environmental report, the applicant may incorporate by reference information contained in previous applications, statements, or reports filed with the Commission if these references are clear and specific.

§61.22 Updating of application and environmental report.

(a) The application and environmental report must be as complete as possible in the light of information that is available at the time of submittal.

(b) The applicant shall supplement its application or environmental report in a timely manner, as necessary, to permit the Commission to review, prior to issuance of a license, any changes in the activities proposed to be carried out or new information regarding the proposed activities.

§ 61.23 Standards for issuance of a license.

A license for the receipt, possession, and disposal of waste containing or contaminated with source, special nuclear, or byproduct material will be issued by the Commission upon finding that the issuance of the license will not be inimical to the common defense and security and will not constitute an unreasonable risk to the health and safety of the public, and:

(a) The applicant is qualified by reason of training and experience to carry out the disposal operations requested in a manner that protects health and minimizes danger to life or property.

(b) The applicant's proposed disposal site, disposal design, land disposal facility operations (including equipment, facilities, and procedures), disposal site closure, and postclosure institutional control are adequate to protect the public health and safety in that they provide reasonable assurance that the general population will be protected from releases of radioactivity as specified in the performance objective in § 61.41, Protection of the general population from releases of radioactivity.

(c) The applicant's proposed disposal site, disposal site design, land disposal facility operations (including equipment, facilities, and procedures), disposal site closure, and postclosure institutional control are adequate to protect the public health and safety in that they will provide reasonable assurance that individual inadvertent intruders are protected in accordance with the performance objective in § 61.42, Protection of individuals from inadvertent intrusion.

(d) The applicant's proposed land disposal facility operations, including equipment, facilities, and procedures, are adequate to protect the public health and safety in that they will provide reasonable assurance that the standards for radiation protection set out in Part 20 of this chapter will be met.

(e) The applicant's proposed disposal site, disposal site design, land disposal facility operations, disposal site closure, and postclosure institutional control are adequate to protect the public health and safety in that they will provide reasonable assurance that long-term stability of the disposed waste and the disposal site will be achieved and will eliminate to the extent practicable the need for ongoing active maintenance of the disposal site following closure.

(f) The applicant's demonstration provides reasonable assurance that the applicable technical requirements of Subpart D of this part will be met.

(g) The applicant's proposal for institutional control provides reasonable assurance that institutional control will be provided for the length of time found necessary to ensure the findings in paragraphs (b)–(e) of this section and that the institutional control meets the requirements of § 61.59, Institutional requirements.

(h) The information on financial assurances meets the requirements of Subpart E of this part.

(i) The applicant's physical security information provides reasonable assurance that the requirements of Part 73 of this chapter will be met, insofar as they are applicable to special nuclear material to be possessed before disposal under the license.

(j) The applicant's criticality safety procedures are adequate to protect the public health and safety and provide reasonable assurance that the requirements of § 70.24, Criticality accident requirements, of Part 70 of this chapter will be met, insofar as they are applicable to special nuclear material to be possessed before disposal under the license.

(k) Any additional information submitted as requested by the Commission pursuant to § 61.16, Other information, is adequate.

(l) The requirements of Part 51 of this chapter have been met.

§ 61.24 Conditions of licenses.

(a) A license issued under this part, or any right thereunder, may be transferred, assigned, or in any manner disposed of, either voluntarily or involuntarily, directly or indirectly, through transfer of control of the license to any person, only if the Commission finds, after securing full information, that the transfer is in accordance with the provisions of the Atomic Energy Act and gives its consent in writing in the form of a license amendment.

(b) The licensee shall submit written statements under oath upon request of the Commission, at any time before termination of the license, to enable the Commission to determine whether or not the license should be modified, suspended, or revoked.

(c) The license will be transferred to the site owner only on the full implementation of the final closure plan as approved by the Commission, including postclosure observation and maintenance.

(d) The licensee shall be subject to the provisions of the Atomic Energy Act now or hereafter in effect, and to all rules, regulations, and orders of the Commission. The terms and conditions of the license are subject to amendment,

revision, or modification, by reason of amendments to, or by reason of rules, regulations, and orders issued in accordance with the terms of the Atomic Energy Act.

(e) Any license may be revoked, suspended or modified in whole or in part for any material false statement in the application or any statement of fact required under Section 182 of the Act, or because of conditions revealed by any application or statement of fact or any report, record, or inspection or other means which would warrant the Commission to refuse to grant a license to the original application, or for failure to operate the facility in accordance with the terms of the license, or for any violation of, or failure to observe any of the terms and conditions of the Act, or any rule, regulation, license or order of the Commission.

(f) Each person licensed by the Commission pursuant to the regulations in this part shall confine possession and use of materials to the locations and purposes authorized in the license.

(g) No radioactive waste may be disposed of until the Commission has inspected the land disposal facility and has found it to be in conformance with the description, design, and construction described in the application for a license.

(h) The Commission may incorporate in any license at the time of issuance, or thereafter, by appropriate rule, regulation or order, additional requirements and conditions with respect to the licensee's receipt, possession, and disposal of source, special nuclear or byproduct material as it deems appropriate or necessary in order to:

(1) Promote the common defense and security;

(2) Protect health or to minimize danger to life or property;

(3) Require reports and the keeping of records, and to provide for inspections of activities under the license that may be necessary or appropriate to effectuate the purposes of the Act and regulations thereunder.

(i) Any licensee who receives and possesses special nuclear material under this part in quantities that would be subject to the requirements of § 70.24 of Part 70 of this chapter shall comply with the requirements of that section. The licensee shall not consider the quantity of special nuclear material that has been disposed of.

(j) The authority to dispose of wastes expires on the date stated in the license except as provided in § 61.27(a) of this part.

§ 61.25 Changes.

(a) Except as provided for in specific license conditions, the licensee shall not make changes in the land disposal facility or procedures described in the license application. The license will include conditions restricting subsequent changes to the facility and the procedures authorized which are important to public health and safety. These license restrictions will fall into three categories of descending importance to public health and safety as follows: (1) those features and precedures which may not be changed without (i) 60 days prior notice to the Commission, (ii) 30 days notice of opportunity for a prior hearing, and (iii) prior Commission approval; (2) those features and procedures which may not be changed without (i) 60 days prior notice to the Commisson, and (ii) prior Commission approval; and (3) those features and procedures which may not be changed without 60 days prior notice to the Commission. Features and procedures falling in paragraph (a)(3) of this section may not be changed without prior Commission approval if the Commission, after having received the required notice, so orders.

(b) Amendments authorizing site closure, license transfer, or license termination shall be included in paragraph (a)(1) of this section.

(c) The Commission shall provide a copy of the notice for opportunity for hearings provided in paragraph (a)(1) of this section to State and local officials or tribal governing bodies specified in § 2.104(e) of Part 2 of this chapter.

§ 61.26 Amendment of license.

(a) An application for amendment of a license must be filed in accordance with § 61.20 and shall fully describe the changes desired.

(b) In determining whether an amendment to a license will be approved, the Commission will apply the criteria set forth in § 61.23.

§ 61.27 Application for renewal or closure.

(a) Any expiration date on a license applies only to the above ground activities and to the authority to dispose of waste. Failure to renew the license shall not relieve the licensee of responsibility for carrying out site closure, postclosure observation and transfer of the license to the site owner. An application for renewal or an application for closure under § 61.28 must be filed at least 30 days prior to license expiration.

(b) Applications for renewal of a license must be filed in accordance with §§ 61.10 through 61.16 and § 61.20. Applications for closure must be filed in accordance with §§ 61.20 and 61.28. Information contained in previous applications, statements or reports filed with the Commission under the license may be incorporated by reference if the references are clear and specific.

(c) In any case in which a licensee has timely filed an application for renewal of a license, the license for continued receipt and disposal of licensed materials does not expire until the Commission has taken final action on the application for renewal.

(d) In determining whether a license will be renewed, the Commission will apply the criteria set forth in § 61.23.

§ 61.28 Contents of application for closure.

(a) Prior to final closure of the disposal site, or as otherwise directed by the Commission, the applicant shall submit an application to amend the license for closure. This closure application must include a final revision and specific details of the disposal site closure plan included as part of the license application submitted under § 61.12(g) that includes each of the following:

(1) Any additional geologic, hydrologic, or other disposal site data pertinent to the long-term containment of emplaced radioactive wastes obtained during the operational period.

(2) The results of tests, experiments, or other analyses relating to backfill of excavated areas, closure and sealing, waste migration and interaction with emplacement media, or any other tests, experiments, or analysis pertinent to the long-term containment of emplaced waste within the disposal site.

(3) Any proposed revision of plans for:

(i) Decontamination and/or dismantlement of surface facilities;

(ii) Backfilling of excavated areas; or

(iii) Stabilization of the disposal site for post-closure care.

(4) Any significant new information regarding the environmental impact of closure activities and long-term performance of the disposal site.

(b) Upon review and consideration of an application to amend the license for closure submitted in accordance with paragraph (a) of this section, the Commission shall issue an amendment authorizing closure if there is reasonable assurance that the long-term performance objectives of Subpart C of this part will be met.

§ 61.29 Post-closure observation and maintenance.

Following completion of closure authorized in § 61.28, the licensee shall observe, monitor, and carry out

necessary maintenance and repairs at the disposal site until the license is transferred by the Commission in accordance with § 61.30. Responsibility for the disposal site must be maintained by the licensee for 5 years. A shorter or longer time period for post-closure observation and maintenance may be established and approved as part of the site closure plan, based on site-specific conditions.

§ 61.30 Transfer of license.

(a) Following closure and the period of post-closure observation and maintenance, the licensee may apply for an amendment to transfer the license to the disposal site owner. The license shall be transferred when the Commission finds:

(1) That the closure of the disposal site has been made in conformance with the licensee's disposal site closure plan, as amended and approved as part of the license;

(2) That reasonable assurance has been provided by the licensee that the performance objectives of Subpart C of this part are met;

(3) That any funds and necessary records for care will be transferred to the disposal site owner;

(4) That the post-closure monitoring program is operational for implementation by the disposal site owner; and

(5) That the Federal or State government agency which will assume responsibility for institutional control of the disposal site is prepared to assume responsibility and ensure that the institutional requirements found necessary under § 61.23(g) will be met.

(b) [Reserved]

§ 61.31 Termination of license.

(a) Following any period of institutional control needed to meet the requirements found necessary under § 61.23, the licensee may apply for an amendment to terminate the license.

(b) This application must be filed, and will be reviewed, in accordance with the provision of § 61.20 and of this section.

(c) A license is terminated only when the Commission finds:

(1) That the institutional control requirements found necessary under § 61.23(g) have been met; and

(2) That any additional requirements resulting from new information developed during the institutional control period have been met, and that permanent monuments or markers warning against intrusion have been installed.

Subpart C—Performance Objectives

§ 61.40 General requirement.

Land disposal facilities must be sited, designed, operated, closed, and controlled after closure so that reasonable assurance exists that exposures to humans are within the limits established in the performance objectives in §§ 61.41 through 61.44.

§ 61.41 Protection of the general population from releases of radioactivity.

Concentrations of radioactive material which may be released to the general environment in ground water, surface water, air, soil, plants, or animals must not result in an annual dose exceeding an equivalent of 25 millirems to the whole body, 75 millirems to the thyroid, and 25 millirems to any other organ of any member of the public. Reasonable effort should be made to maintain releases of radioactivity in effluents to the general environment as low as is reasonably achievable.

§ 61.42 Protection of individuals from inadvertent intrusion.

Design, operation, and closure of the land disposal facility must ensure protection of any individual inadvertently intruding into the disposal site and occupying the site or contacting the waste at any time after active institutional controls over the disposal site are removed.

§ 61.43 Protection of individuals during operations.

Operations at the land disposal facility must be conducted in compliance with the standards for radiation protection set out in Part 20 of this chapter, except for releases of radioactivity in effluents from the land disposal facility, which shall be governed by § 61.41 of this part. Every reasonable effort shall be made to maintain radiation exposures as low as is reasonably achievable.

§ 61.44 Stability of the disposal site after closure.

The disposal facility must be sited, designed, used, operated, and closed to achieve long-term stability of the disposal site and to eliminate to the extent practicable the need for ongoing active maintenance of the disposal site following closure so that only surveillance, monitoring, or minor custodial care are required.

Subpart D—Technical Requirements for Land Disposal Facilities

§ 61.50 Disposal site suitability requirements for land disposal.

(a) Disposal site suitability for near-surface disposal.

(1) The purpose of this section is to specify the minimum characteristics a disposal site must have to be acceptable for use as a near-surface disposal facility. The primary emphasis in disposal site suitability is given to isolation of wastes, a matter having long-term impacts, and to disposal site features that ensure that the long-term performance objectives of Subpart C of this part are met, as opposed to short-term convenience or benefits.

(2) The disposal site shall be capable of being characterized, modeled, analyzed and monitored.

(3) Within the region or state where the facility is to be located, a disposal site should be selected so that projected population growth and future developments are not likely to affect the ability of the disposal facility to meet the performance objectives of Subpart C of this part.

(4) Areas must be avoided having known natural resources which, if exploited, would result in failure to meet the performance objectives of Subpart C of this part.

(5) The disposal site must be generally well drained and free of areas of flooding or frequent ponding. Waste disposal shall not take place in a 100-year flood plain, coastal high-hazard area or wetland, as defined in Executive Order 11988, "Floodplain Management Guidelines."

(6) Upstream drainage areas must be minimized to decrease the amount of runoff which could erode or inundate waste disposal units.

(7) The disposal site must provide sufficient depth to the water table that ground water intrusion, perennial or otherwise, into the waste will not occur. The Commission will consider an exception to this requirement to allow disposal below the water table if it can be conclusively shown that disposal site characteristics will result in molecular diffusion being the predominant means of radionuclide movement and the rate of movement will result in the performance objectives of Subpart C of this part being met. In no case will waste disposal be permitted in the zone of fluctuation of the water table.

(8) The hydrogeologic unit used for disposal shall not discharge ground water to the surface within the disposal site.

(9) Areas must be avoided where tectonic processes such as faulting, folding, seismic activity, or vulcanism may occur with such frequency and extent to significantly affect the ability of the disposal site to meet the performance objectives of Subpart C of this part, or may preclude defensible modeling and prediction of long-term impacts.

(10) Areas must be avoided where surface geologic processes such as mass wasting, erosion, slumping, landsliding, or weathering occur with such frequency and extent to significantly affect the ability of the disposal site to meet the performance objectives of Subpart C of this part, or may preclude defensible modeling and prediction of long-term impacts.

(11) The disposal site must not be located where nearby facilities or activities could adversely impact the ability of the site to meet the performance objectives of Subpart C of this part or significantly mask the environmental monitoring program.

(b) Disposal site suitability requirements for land disposal other than near-surface (reserved).

§ 61.51 Disposal site design for land disposal.

(a) Disposal site design for near-surface disposal.

(1) Site design features must be directed toward long-term isolation and avoidance of the need for continuing active maintenance after site closure.

(2) The disposal site design and operation must be compatible with the disposal site closure and stabilization plan and lead to disposal site closure that provides reasonable assurance that the performance objectives of Subpart C of this part will be met.

(3) The disposal site must be designed to complement and improve, where appropriate, the ability of the disposal site's natural characteristics to assure that the performance objectives of Subpart C of this part will be met.

(4) Covers must be designed to minimize to the extent practicable water infiltration, to direct percolating or surface water away from the disposed waste, and to resist degradation by surface geologic processes and biotic activity.

(5) Surface features must direct surface water drainage away from disposal units at velocities and gradients which will not result in erosion that will require ongoing active maintenance in the future.

(6) The disposal site must be designed to minimize to the extent practicable the contact of water with waste during storage, the contact of standing water with waste during disposal, and the contact of percolating or standing water with wastes after disposal.

(b) Disposal site design for other than near-surface disposal (reserved).

§ 61.52 Land disposal facility operation and disposal site closure.

(a) Near-surface disposal facility operation and disposal site closure.

(1) Wastes designated as Class A pursuant to § 61.55, must be segregated from other wastes by placing in disposal units which are sufficiently separated from disposal units for the other waste classes so that any interaction between Class A wastes and other wastes will not result in the failure to meet the performance objectives in Subpart C of this Part. This segregation is not necessary for Class A wastes if they meet the stability requirements in § 61.56(b) of this part.

(2) Wastes designated as Class C pursuant to § 61.55, must be disposed of so that the top of the waste is a minimum of 5 meters below the top surface of the cover or must be disposed of with intruder barriers that are designed to protect against an inadvertent intrusion for a least 500 years.

(3) All wastes shall be disposed of in accordance with the requirements of paragraphs (a)(4) through (11) of this section.

(4) Wastes must be emplaced in a manner that maintains the package integrity during emplacement, minimizes the void spaces between packages, and permits the void spaces to be filled.

(5) Void spaces between waste packages must be filled with earth or other material to reduce future subsidence within the fill.

(6) Waste must be placed and covered in a manner that limits the radiation dose rate at the surface of the cover to levels that at a minimum will permit the licensee to comply with all provisions of § 20.105 of this chapter at the time the license is transferred pursuant to § 61.30 of this part.

(7) The boundaries and locations of each disposal unit (e.g., trenches) must be accurately located and mapped by means of a land survey. Near-surface disposal units must be marked in such a way that the boundaries of each unit can be easily defined. Three permanent survey marker control points, referenced to United States Geological Survey (USGS) or National Geodetic Survey (NGS) survey control stations, must be established n the site to facilitate surveys. The USGS or NGS control stations must provide horizontal and vertical controls as checked against USGSD or NGS record files.

(8) A buffer zone of land must be maintained between any buried waste and the disposal site boundary and beneath the disposed waste. The buffer zone shall be of adequate dimensions to carry out environmental monitoring activities specified in § 61.53(d) of this part and take mitigative measures if needed.

(9) Closure and stabilization measures as set forth in the approved site closure plan must be carried out as each disposal unit (e.g., each trench) is filled and covered.

(10) Active waste disposal operations must not have an adverse effect on completed closure and stabilization measures.

(11) Only wastes containing or contaminated with radioactive materials shall be disposed of at the disposal site.

(b) Facility operation and disposal site closure for land disposal facilities other than near-surface (reserved).

§ 61.53 Environmental monitoring.

(a) At the time a license application is submitted, the applicant shall have conducted a preoperational monitoring program to provide basic environmental data on the disposal site characteristics. The applicant shall obtain information about the ecology, meteorology, climate, hydrology, geology, geochemistry, and seismology of the disposal site. For those characteristics that are subject to seasonal variation, data must cover at least a twelve month period.

(b) The licensee must have plans for taking corrective measures if migration of radionuclides would indicate that the performance objectives of Subpart C may not be met.

(c) During the land disposal facility site construction and operation, the licensee shall maintain a monitoring program. Measurements and observations must be made and recorded to provide data to evaluate the potential health and environmental impacts during both the construction and the operation of the facility and to enable the evaluation of long-term effects and the need for mitigative measures. The monitoring system must be capable of providing early warning of releases of radionuclides from the disposal site before they leave the site boundary.

(d) After the disposal site is closed, the licensee responsible for post-operational surveillance of the disposal site shall maintain a monitoring system based on the operating history and the closure and stabilization of the disposal site. The monitoring system must be capable of providing early warning of releases of radionuclides from the

disposal site before they leave the site boundary.

§ 61.54 Alternative requirements for design and operations.

The Commission may, upon request or on its own initiative, authorize provisions other than those set forth in §§ 61.51 through 61.53 for the segregation and disposal of waste and for the design and operation of a land disposal facility on a specific basis, if it finds reasonable assurance of compliance with the performance objectives of Subpart C of this part.

§ 61.55 Waste classification.

(a) Classification of waste for near surface disposal.

(1) *Considerations.* Determination of the classification of radioactive waste involves two considerations. First, consideration must be given to the concentration of long-lived radionuclides (and their shorter-lived precursors) whose potential hazard will persist long after such precautions as institutional controls, improved waste form, and deeper disposal have ceased to be effective. These precautions delay the time when long-lived radionuclides could cause exposures. In addition, the magnitude of the potential dose is limited by the concentration and availability of the radionuclide at the time of exposure. Second, consideration must be given to the concentration of shorter-lived radionuclides for which requirements on institutional controls, waste form, and disposal methods are effective.

(2) *Classes of waste.* (i) Class A waste is waste that is usually segregated from other waste classes at the disposal site. The physical form and characteristics of Class A waste must meet the minimum requirements set forth in § 61.56(a). If Class A waste also meets the stability requirements set forth in § 61.56(b), it is not necessary to segregate the waste for disposal.

(ii) Class B waste is waste that must meet more rigorous requirements on waste form to ensure stability after disposal. The physical form and characteristics of Class B waste must meet both the minimum and stability requirements set forth in § 61.56.

(iii) Class C waste is waste that not only must meet more rigorous requirements on waste form to ensure stability but also requires additional measures at the disposal facility to protect against inadvertent intrusion. The physical form and characteristics of Class C waste must meet both the minimum and stability requirements set forth in § 61.56.

(iv) Waste that is not generally acceptable for near-surface disposal is waste for which waste form and disposal methods must be different, and in general more stringent, than those specified for Class C waste. In the absence of specific requirements in this part, proposals for disposal of this waste may be submitted to the Commission for approval, pursuant to § 61.58 of this part.

(3) Classification determined by long-lived radionuclides. If radioactive waste contains only radionuclides listed in Table 1, classification shall be determined as follows:

(i) If the concentration does not exceed 0.1 times the value in Table 1, the waste is Class A.

(ii) If the concentration exceeds 0.1 times the value in Table 1 but does not exceed the value in Table 1, the waste is Class C.

(iii) If the concentration exceeds the value in Table 1, the waste is not generally acceptable for near-surface disposal.

(iv) For wastes containing mixtures of radionuclides listed in Table 1, the total concentration shall be determined by the sum of fractions rule described in paragraph (a)(7) of this section.

TABLE 1

Radionuclide	Concentration, curies per cubic meter
C-14	[illegible]
C-14 in activated metal	[illegible]
Ni-59 in activated metal	220
Nb-94 in activated metal	0.2
Tc-99	3
I-129	[illegible]
Alpha emitting transuranic nuclides with half-life greater than five years	[1] 100
Pu-241	[1] 3,500
Cm-242	[1] 20,000

[1] Units are nanocuries per gram.

(4) Classification determined by short-lived radionuclides. If radioactive waste does not contain any of the radionuclides listed in Table 1, classification shall be determined based on the concentrations shown in Table 2. However, as specified in paragraph (a)(6) of this section, if radioactive waste does not contain any nuclides listed in either Table 1 or 2, it is Class A.

(i) If the concentration does not exceed the value in Column 1, the waste is Class A.

(ii) If the concentration exceeds the value in Column 1, but does not exceed the value in Column 2, the waste is Class B.

(iii) If the concentration exceeds the value in Column 2, but does not exceed the value in Column 3, the waste is Class C.

(iv) If the concentration exceeds the value in Column 3, the waste is not generally acceptable for near-surface disposal.

(v) For wastes containing mixtures of the nuclides listed in Table 2, the total concentration shall be determined by the sum of fractions rule described in paragraph (a)(7) of this section.

TABLE 2

Radionuclide	Concentration, curies per cubic meter		
	Col. 1	Col. 2	Col. 3
Total of all nuclides with less than 5 year half life	700	[1]	[1]
H-3	40	[1]	[1]
Co-60	700	[1]	[1]
Ni-63	3.5	70	700
Ni-63 in activated metal	35	700	7000
Sr-90	0.04	150	7000
Cs-137	1	44	4600

[1] There are no limits established for these radionuclides in Class B or C wastes. Practical considerations such as the effects of external radiation and internal heat generation on transportation, handling, and disposal will limit the concentrations for these wastes. These wastes shall be Class B unless the concentrations of other nuclides in Table 2 determine the waste to the Class C independent of these [illegible].

(5) Classification determined by both long- and short-lived radionuclides. If radioactive waste contains a mixture of radionuclides, some of which are listed in Table 1, and some of which are listed in Table 2, classification shall be determined as follows:

(i) If the concentration of a nuclide listed in Table 1 does not exceed 0.1 times the value listed in Table 1, the class shall be that determined by the concentration of nuclides listed in Table 2.

(ii) If the concentration of a nuclide listed in Table 1 exceeds 0.1 times the value listed in Table 1 but does not exceed the value in Table 1, the waste shall be Class C, provided the concentration of nuclides listed in Table 2 does not exceed the value shown in Column 3 of Table 2.

(6) Classification of wastes with radionuclides other than those listed in Tables 1 and 2. If radioactive waste does not contain any nuclides listed in either Table 1 or 2, it is Class A.

(7) The sum of the fractions rule for mixtures of radionuclides. For determining classification for waste that contains a mixture of radionuclides, it is necessary to determine the sum of fractions by dividing each nuclide's concentration by the appropriate limit and adding the resulting values. The appropriate limits must all be taken from the same column of the same table. The sum of the fractions for the column must be less than 1.0 if the waste class is to be determined by that column. Example: A waste contains Sr-90 in a

concentration of 50 Ci/m³ and Cs-137 in a concentration of 22 Ci/m³. Since the concentrations both exceed the values in Column 1, Table 2, they must be compared to Column 2 values. For Sr-90 fraction 50/150=0.33; for Cs-137 fraction, 22/44=0.5; the sum of the fractions=0.83. Since the sum is less than 1.0, the waste is Class B.

(8) *Determination of concentrations in wastes.* The concentration of a radionuclide may be determined by indirect methods such as use of scaling factors which relate the inferred concentration of one radionuclide to another that is measured, or radionuclide material accountability, if there is reasonable assurance that the indirect methods can be correlated with actual measurements. The concentration of a radionuclide may be averaged over the volume of the waste, or weight of the waste if the units are expressed as nanocuries per gram.

§ 61.56 Waste characteristics.

(a) The following requirements are minimum requirements for all classes of waste and are intended to facilitate handling at the disposal site and provide protection of health and safety of personnel at the disposal site.

(1) Waste must not be packaged for disposal in cardboard or fiberboard boxes.

(2) Liquid waste must be solidified or packaged in sufficient absorbent material to absorb twice the volume of the liquid.

(3) Solid waste containing liquid shall contain as little free standing and noncorrosive liquid as is reasonably achievable, but in no case shall the liquid exceed 1% of the volume.

(4) Waste must not be readily capable of detonation or of explosive decomposition or reaction at normal pressures and temperatures, or of explosive reaction with water.

(5) Waste must not contain, or be capable of generating, quantities of toxic gases, vapors, or fumes harmful to persons transporting, handling, or disposing of the waste. This does not apply to radioactive gaseous waste packaged in accordance with paragraph (a)(7) of this section.

(6) Waste must not be pyrophoric. Pyrophoric materials contained in waste shall be treated, prepared, and packaged to be nonflammable.

(7) Waste in a gaseous form must be packaged at a pressure that does not exceed 1.5 atmospheres at 20°C. Total activity must not exceed 100 curies per container.

(8) Waste containing hazardous, biological, pathogenic, or infectious material must be treated to reduce to the maximum extent practicable the potential hazard from the non-radiological materials.

(b) The requirements in this section are intended to provide stability of the waste. Stability is intended to ensure that the waste does not structurally degrade and affect overall stability of the site through slumping, collapse, or other failure of the disposal unit and thereby lead to water infiltration. Stability is also a factor in limiting exposure to an inadvertent intruder, since it provides a recognizable and nondispersible waste.

(1) Waste must have structural stability. A structurally stable waste form will generally maintain its physical dimensions and its form, under the expected disposal conditions such as weight of overburden and compaction equipment, the presence of moisture, and microbial activity, and internal factors such as radiation effects and chemical changes. Structural stability can be provided by the waste form itself, processing the waste to a stable form, or placing the waste in a disposal container or structure that provides stability after disposal.

(2) Notwithstanding the provisions in §§ 61.56(a) (2) and (3), liquid wastes, or wastes containing liquid, must be converted into a form that contains as little free standing and noncorrosive liquid as is reasonably achievable, but in no case shall the liquid exceed 1% of the volume of the waste when the waste is in a disposal container designed to ensure stability, or 0.5% of the volume of the waste for waste processed to a stable form.

(3) Void spaces within the waste and between the waste and its package must be reduced to the extent practicable.

§ 61.57 Labeling.

Each package of waste must be clearly labeled to identify whether it is Class A waste, Class B waste, or class C waste in accordance with § 61.55.

§ 61.58 Alternative requirements for waste classification and characteristics.

The Commission may, upon request or on its own initiative, authorize other provisions for the classification and characteristics of waste on a specific basis, if, after evaluation, of the specific characteristics of the waste, disposal site, and method of disposal, it finds reasonable assurance of compliance with the performance objectives in Subpart C of this part.

§ 61.59 Institutional requirements.

(a) *Land ownership.* Disposal of radioactive waste received from other persons may be permitted only on land owned in fee by the Federal or a State government.

(b) *Institutional control.* The land owner or custodial agency shall carry out an institutional control program to physically control access to the disposal site following transfer of control of the disposal site from the disposal site operator. The institutional control program must also include, but not be limited to, carrying out an environmental monitoring program at the disposal site, periodic surveillance, minor custodial care, and other requirements as determined by the Commission; and administration of funds to cover the costs for these activities. The period of institutional controls will be determined by the Commission, but institutional controls may not be relied upon for more than 100 years following transfer of control of the disposal site to the owner.

Subpart E—Financial Assurances

§ 61.61 Applicant qualifications and assurances.

Each applicant shall show that it either possesses the necessary funds or has reasonable assurance of obtaining the necessary funds, or by a combination of the two, to cover the estimated costs of conducting all licensed activities over the planned operating life of the project, including costs of construction and disposal.

§ 61.62 Funding for disposal site closure and stabilization.

(a) The applicant shall provide assurance that sufficient funds will be available to carry out disposal site closure and stabilization, including: (1) Decontamination or dismantlement of land disposal facility structures; and (2) closure and stabilization of the disposal site so that following transfer of the disposal site to the site owner, the need for ongoing active maintenance is eliminated to the extent practicable and only minor custodial care, surveillance, and monitoring are required. These assurances shall be based on Commission-approved cost estimates reflecting the Commission-approved plan for disposal site closure and stabilization. The applicant's cost estimates must take into account total capital costs that would be incurred if an independent contractor were hired to perform the closure and stabilization work.

(b) In order to avoid unnecessary duplication and expense, the Commission will accept financial sureties that have been consolidated with earmarked financial or surety arrangements established to meet

requirements of other Federal or State agencies and/or local governing bodies for such decontamination, closure and stabilization. The Commission will accept this arrangement only if they are considered adequate to satisfy these requirements and that the portion of the surety which covers the closure of the disposal site is clearly identified and committed for use in accomplishing these activities.

(c) The licensee's surety mechanism will be annually reviewed by the Commission to assure that sufficient funds are available for completion of the closure plan, assuming that the work has to be performed by an independent contractor.

(d) The amount of surety liability should change in accordance with the predicted cost of future closure and stabilization. Factors affecting closure and stabilization cost estimates include: inflation; increases in the amount of disturbed land; changes in engineering plans; closure and stabilization that has already been accomplished and any other conditions affecting costs. This will yield a surety that is at least sufficient at all times to cover the costs of closure of the disposal units that are expected to be used before the next license renewal.

(e) The term of the surety mechanism must be open ended unless it can be demonstrated that another arrangement would provide an equivalent level of assurance. This assurance could be provided with a surety mechanism which is written for a specified period of time (e.g., five years) yet which must be automatically renewed unless the party who issues the surety notifies the Commission and the beneficiary (the site owner) and the principal (the licensee) not less than 90 days prior to the renewal date of its intention not to renew. In such a situation the licensee must submit a replacement surety within 30 days after notification of cancellation. If the licensee fails to provide a replacement surety acceptable to the Commission, the site owner may collect on the original surety.

(f) Proof of forfeiture must not be necessary to collect the surety so that in the event that the licensee could not provide an acceptable replacement surety within the required time, the surety shall be automatically collected prior to its expiration. The conditions described above would have to be clearly stated on any surety instrument which is not open-ended, and must be agreed to by all parties. Liability under the surety mechanism must remain in effect until the closure and stabilization program has been completed and approved by the Commission and the license has been transferred to the site owner.

(g) Financial surety arrangements generally acceptable to the Commission include: surety bonds, cash deposits, certificates of deposits, deposits of government securities, escrow accounts, irrevocable letters or lines of credit, trust funds, and combinations of the above or such other types of arrangements as may be approved by the Commission. However, self-insurance, or any arrangement which essentially constitutes pledging the assets of the licensee, will not satisfy the surety requirement for private sector applicants since this provides no additional assurance other than that which already exists through license requirements.

§ 61.63 Financial assurances for institutional controls.

(a) Prior to the issuance of the license, the applicant shall provide for Commission review and approval a copy of a binding arrangement, such as a lease, between the applicant and the disposal site owner that ensures that sufficient funds will be available to cover the costs of monitoring and any required maintenance during the institutional control period. The binding arrangement will be reviewed periodically by the Commission to ensure that changes in inflation, technology and disposal facility operations are reflected in the arrangements.

(b) Subsequent changes to the binding arrangement specified in paragraph (a) of this section relevant to institutional control shall be submitted to the Commission for approval.

Subpart F—Participation by State Governments and Indian Tribes

§ 61.70 Scope.

This subpart describes mechanisms through which the Commission will implement a formal request from a State or tribal government to participate in the review of a license application for a land disposal facility. Nothing in this subpart may be construed to bar the State or tribal governing body from participating in subsequent Commission proceedings concerning the license application as provided under Federal law and regulations.

§ 61.71 State and Tribal government consultation.

Upon request of a State or tribal governing body, the Director shall make available Commission staff to discuss with representatives of the State or tribal governing body information submitted by the applicant, applicable Commission regulations, licensing procedures, potential schedules, and the type and scope of State activities in the license review permitted by law. In addition, staff shall be made available to consult and cooperate with the State or tribal governing body in developing proposals for participation in the license review.

§ 61.72 Filing of proposals for State and Tribal participation.

(a) A State or tribal governing body whose interest is affected by a near-surface disposal facility at the proposed site may submit to the Director a proposal for participation in the review of a license application. Proposals must be submitted within the following time periods:

(1) For the State in which the disposal facility will be located, or any State that is member of an interstate compact that includes the State in which the disposal facility is located, no later than 45 days following publication in the **Federal Register** of the notice of tendering of an application submitted under § 61.20.

(2) For any other State, or for a tribal governing body, no later than 120 days following publication in the **Federal Register** of the notice of tendering of an application submitted under § 61.20.

(b) Proposals for participation in the licensing process must be made in writing and must be signed by the Governor of the State or the official otherwise provided for by State or tribal law.

(c) At a minimum, proposals must contain each of the following items of information:

(1) A general description of how the State or tribe wishes to participate in the licensing process specifically identifying those issues it wishes to review.

(2) A description of material and information which the State or tribe plans to submit to the Commission for consideration in the licensing process. A tentative schedule referencing steps in the review and calendar dates for planned submittals should be included.

(3) A description of any work that the State or tribe proposes to perform for the Commission in support of the licensing process.

(4) A description of State or tribal plans to facilitate local government and citizen participation.

(5) A preliminary estimate of the types and extent of impacts which the State expects, should a disposal facility be located as proposed.

(6) If desired, any requests for educational or information services (seminars, public meetings) or other

actions from the Commission such as establishment of additional Public Document Rooms or exchange of State personnel under the Intergovernmental Personnel Act.

§ 61.73 Commission approval of proposals.

(a) Upon receipt of a proposal submitted in accordance with § 61.72, the Director shall arrange for a meeting between the representatives of the State or tribal governing body and the Commission staff to discuss the proposal and to ensure full and effective participation by the State or tribe in the Commission's license review.

(b) If requested by a State or tribal governing body, the Director may approve all or any part of a proposal if the Director determines that:

(1) The proposed activities are within the scope of Commission statutory responsibility and the type and magnitude of impacts which the State or tribe may bear are sufficient to justify their participation; and

(2) The proposed activities will contribute productively to the licensing review.

(c) The decision of the Director will be transmitted in writing to the governor or the designated official of the tribal governing body.

(d) Participation by a State or Indian tribe shall not affect their rights to participate in an adjudicatory hearing as provided by Part 2 of this chapter.

Subpart G—Records, Reports, Tests, and Inspections

§ 61.80 Maintenance of records, reports, and transfers.

(a) Each licensee shall maintain any records and make any reports in connection with the licensed activities as may be required by the conditions of the license or by the rules, regulations, and orders of the Commission.

(b) Records which are required by the regulations in this part or by license conditions must be maintained for a period specified by the appropriate regulations in this chapter or by license condition. If a retention period is not otherwise specified, these records must be maintained and transferred to the officials specified in paragraph (e) of this section as a condition of license termination unless the Commission otherwise authorizes their disposition.

(c) Records which must be maintained pursuant to this part may be the original or a reproduced copy or microfilm if this reproduced copy or microfilm is capable of producing copy that is clear and legible at the end of the required retention period.

(d) If there is a conflict between the Commission's regulations in this part, license condition, or other written Commission approval or authorization pertaining to the retention period for the same type of record, the longest retention period specified takes precedence.

(e) Notwithstanding paragraphs (a) through (d) of this section, copies of records of the location and the quantity of radioactive wastes contained in the disposal site must be transferred upon license termination to the chief executive of the nearest municipality, the chief executive of the county in which the facility is located, the county zoning board or land development and planning agency, the State governor and other State, local and Federal governmental agencies as designated by the Commission at the time of license termination.

(f) Following receipt and acceptance of a shipment of radioactive waste, the licensee shall record the date of disposal of the waste, the location in the disposal site, the condition of the waste packages as received, any discrepancies between materials listed on the manifest and those received, and any evidence of leaking or damaged packages or radiation or contamination levels in excess of limits specified in Department of Transportation and Commission regulations. The licensee shall briefly describe any repackaging operations of any of the waste packages included in the shipment, plus any other information required by the Commission as a license condition.

(g) Each licensee shall comply with the safeguards reporting requirements of §§ 30.55, 40.64, 70.53 and 70.54 of this chapter if the quantities or activities of materials received or transferred exceed the limits of these sections. Inventory reports required by these sections are not required for materials after disposal.

(h) Each licensee authorized to dispose of radioactive waste received from other persons shall file a copy of its financial report or a certified financial statement annually with the Commission in order to update the information base for determining financial qualifications.

(i)(1) Each licensee authorized to dispose of waste materials received from other persons, pursuant to this part, shall submit annual reports to the appropriate Commission regional office shown in Appendix D of Part 20 of this chapter, with copies to the Director of the Office of Inspection and Enforcement and the Director of the Division of Waste Management, USNRC, Washington, D.C., 20555. Reports shall be submitted by the end of the first calendar quarter of each year for the preceding year; (2) The reports shall include (i) specification of the quantity of each of the principal radionuclides released to unrestricted areas in liquid and in airborne effluents during the preceding year, (ii) the results of the environmental monitoring program, (iii) a summary of licensee disposal unit survey and maintenance activities, (iv) a summary, by waste class, of activities and quantities of radionuclides disposed of, (v) any instances in which observed site characteristics were significantly different from those described in the application for a license; and (vi) any other information the Commission may require. If the quantities of radioactive materials released during the reporting period, monitoring results, or maintenance performed are significantlly different from those expected in the materials previously reviewed as part of the licensing action, the report must cover this specifically.

(j) Each licensee shall report in accordance with the requirements of § 70.52 of this chapter.

(k) Any transfer of byproduct, source, and special nuclear materials by the licensee is subject to the requirements in §§ 30.41, 40.51, and 70.42 of this chapter. Byproduct, source and special nuclear material means materials as defined in these parts, respectively.

§ 61.81 Tests at land disposal facilities.

(a) Each licensee shall perform, or permit the Commission to perform, any tests as the Commission deems appropriate or necessary for the administration of the regulations in this part, including tests of:

(1) Radioactive wastes and facilities used for the receipt, storage, treatment, handling and disposal of radioactive wastes.

(2) Radiation detection and monitoring instruments; and

(3) Other equipment and devices used in connection with the receipt, possession, handling, treatment, storage, or disposal of radioactive waste.

(b) [Reserved]

§ 61.82 Commission inspections of land disposal facilities.

(a) Each licensee shall afford to the Commission at all reasonable times opportunity to inspect radioactive waste not yet disposed of, and the premises, equipment, operations, and facilities in which radioactive wastes are received, possessed, handled, treated, stored, or disposed of.

(b) Each licensee shall make available to the Commission for inspection, upon

reasonable notice, records kept by it pursuant to the regulations in this chapter. Authorized representatives of the Commission may copy and take away copies of, for the Commission's use, any record required to be kept pursuant to this part.

§ 61.83 Violations.

An injunction or other court order may be obtained prohibiting any violation of any provision of the Atomic Energy Act of 1954, as amended, or any regulation or order issued thereunder. A court order may be obtained for the payment of a civil penalty imposed pursuant to section 234 of the Act for violation of section 53, 57, 62, 63, 81, 82, 101, 103, 104, 107, or 109 of the Act, or section 206 of the Energy Reorganization Act of 1974, or any rule.

The following amendments are also made to existing parts of the regulations in this chapter.

PART 2—RULES OF PRACTICE

2. In § 2.101, paragraph (a)(2), (b), and (d) are revised and a new (g) is added to read as follows:

§ 2.101 Filing of application.

(a) * * *

(2) Each application for a license for a facility or for receipt of waste radioactive material from other persons for the purpose of commercial disposal by the waste disposal licensee will be assigned a docket number. However, to allow a determination as to whether an application for a construction permit or operating license for a production or utilization facility is complete and acceptable for docketing, it will be initially treated as a tendered application after it is received and a copy of the tendered application will be available for public inspection in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Generally, that determination will be made within a period of thirty (30) days. However, in selected construction permit applications, the Commission may decide to determine acceptability on the basis of the technical adequacy of the application as well as its completeness. In such cases, the Commission, pursuant to § 2.104(a), will direct that the notice of hearing be issued as soon as practicable after the application has been tendered, and the determination of acceptability will generally be made within a period of sixty (60) days. For docketing and other requirements for applications pursuant to Part 61 of this chapter, see paragraph (g) of this section.

* * * * *

(b) After the application has been docketed each applicant for a license for receipt of waste radioactive material from other persons for the purpose of commercial disposal by the waste disposal licensee except applicants under Part 61 of this chapter, who must comply with paragraph (g) of this section, shall serve a copy of the application and environmental report, as appropriate, on the chief executive of the municipality in which the activity is to be conducted or, if the activity is not to be conducted within a municipality on the chief executive of the county, and serve a notice of availability of the application or environmental report on the chief executives of the municipalities or counties which have been identified in the application or environmental report as the location of all or part of the alternative sites, containing the following information: Docket number of the application; a brief description of the proposed site and facility; the location of the site and facility as primarily proposed and alternatively listed; the name, address, and telephone number of the applicant's representative who may be contacted for further information; notification that a draft environmental impact statement will be issued by the Commission and will be made available upon request to the Commission; and notification that if a request is received from the appropriate chief executive, the applicant will transmit a copy of the application and environmental report, and any changes to such documents which affect the alternative site location, to the executive who makes the request. In complying with the requirements of this paragraph (b) the applicant should not make public distribution of those parts of the application subject to § 2.790(d). The applicant shall submit to the Director of Nuclear Material Safety and Safeguards an affidavit that service of the notice of availability of the application or environmental report has been completed along with a list of names and addresses of those executives upon whom the notice was served.

* * * * *

(d) The Director of Nuclear Reactor Regulation or Director of Nuclear Material Safety and Safeguards, as appropriate, will give notice of the docketing of the public health and safety, common defense and security, and environmental parts of an application for a license for a facility or for receipt of waste radioactive material from other persons for the purpose of commercial disposal by the waste disposal licensee, except that for applications pursuant to Part 61 of this chapter paragraph (g) of this section applies, to the Governor or other appropriate official of the State in which the facility is to be located or the activity is to be conducted and will cause to be published in the **Federal Register** a notice of docketing of the application which states the purpose of the application and specifies the location at which the proposed activity would be conducted.

* * * * *

(g) Each application for a license to receive radioactive waste from other persons for disposal under Part 61 of this chapter and the accompanying environmental report shall be processed in accordance with the provisions of this paragraph.

(1) To allow a determination as to whether the application or environmental report is complete and acceptable for docketing, it will be initially treated as a tendered document, and a copy will be available for public inspection in the Commission's Public Document Room 1717 H Street NW., Washington, D.C. One original and two copies shall be filed to enable this determination to be made.

(i) Upon receipt of a tendered application, the Commission will publish in the **Federal Register** notice of the filed application and will notify the governors, legislatures and other appropriate State, county, and municipal officials and tribal governing bodies of the States and areas containing or potentially affected by the activities at the proposed site and the alternative sites. The Commission will inform these officials that the Commission staff will be available for consultation pursuant to § 61.71 of this chapter. The **Federal Register** notice will note the opportunity for interested persons to submit views and comments on the tendered application for consideration by the Commission and applicant. The Commission will also notify the U.S. Bureau of Indian Affairs when tribal governing bodies are notified.

(ii) The Commission will also post a public notice in a newspaper or newspapers of general circulation in the affected States and areas summarizing information contained in the applicant's tendered application and noting the opportunity to submit views and comments.

(iii) When the Director of Nuclear Material Safety and Safeguards determines that the tendered document is complete and acceptable for docketing, a docket number will be assigned and the applicant will be notified of the determination. If it is determined that all or any part of the

tendered document is incomplete and therefore not acceptable for processing, the applicant will be informed of this determination and the aspects in which the document is deficient.

(2) With respect to any tendered document that is acceptable for docketing, the applicant will be requested to (i) submit to the Director of Nuclear Material Safety and Safeguards such additional copies as the regulations in Parts 61 and 51 of this chapter require, (ii) serve a copy of the chief executive of the municipality in which the waste is to be disposed of or, if the waste is not be be disposed of within a municipality, serve a copy on the chief executive of the county in which the waste is to be disposed of, (iii) make direct distribution of additional copies to Federal, State, Indian Tribe, and local officials in accordance with the requirements of this chapter and written instructions from the Director of Nuclear Material Safety and Safeguards, and (iv) serve a notice of availability of the application and environmental report on the chief executives or governing bodies of the municipalities or counties which have been identified in the application and environmental report as the location of all or part of the alternative sites if copies are not distributed under paragraph (g)(2)(iii) of this section to the executives or bodies. All distributed copies shall be completely assembled documents identified by docket number. Subsequently distributed amendments, however, may include revised pages to previous submittals and, in such cases, the recipients will be responsible for inserting the revised pages. In complying with the requirements of paragraph (g) of this section the applicant shall not make public distribution of those parts of the application subject to § 2.790(d).

(3) The tendered document will be formally docketed upon receipt by the Director of Nuclear Material Safety and Safeguards of the required additional copies. Distribution of the additional copies shall be deemed to be complete as of the time the copies are deposited in the mail or with a carrier prepaid for delivery to the designated addressees. The date of docketing shall be the date when the required copies are received by the Director of Nuclear Material Safety and Safeguards. Within ten (10) days after docketing, the applicant shall submit to the Director of Nuclear Material Safety and Safeguards a written statement that distribution of the additional copies to Federal, State, Indian Tribe, and local officials has been completed in accordance with requirements of this section and written instructions furnished to the applicant by the Director of Nuclear Material Safety and Safeguards.

(4) Amendments to the application and environmental report shall be filed and distributed and a written statement shall be furnished to the Director of Nuclear Material Safety and Safeguards in the same manner as for the initial application and environmental report.

(5) The Director of Nuclear Material Safety and Safeguards will cause to be published in the **Federal Register** a notice of docketing which identifies the State and location of the proposed waste disposal facility and will give notice of docketing to the governor of that State and other officials listed in paragraph (g)(3) of this section and, in a reasonable period thereafter, publish in the **Federal Register** a notice pursuant to § 2.105 offering opportunity to request a hearing to the applicant and other affected persons.

3. Section 2.103(a) is revised to read as follows:

§ 2.103 Action on applications for byproduct, source, special nuclear material, and operator licenses.

(a) If the Director of Nuclear Reactor Regulation or the Director of Nuclear Material Safety and Safeguards, as appropriate, finds that an application for a byproduct, source, special nuclear material, or operator license complies with the requirements of the Act, the Energy Reorganization Act, and this chapter, he will issue a license. If the license is for a facility, or for receipt of waste radioactive material from other persons for the purpose of commercial disposal by the waste disposal licensee, or if it is to receive and possess high-level radioactive waste at a geologic repository operations area pursuant to Part 60 of this chapter, the Director of Nuclear Reactor Regulation or the Director of Nuclear Material Safety and Safeguards, as appropriate, will inform the State, tribal and local officials specified in § 2.104(e) of the issuance of the license. For notice of issuance requirements for licenses issued pursuant to Part 61 of this chapter, see § 2.106(d) of this part.

* * * * *

4. Section 2.104(e) is revised to read as follows:

§ 2.104 Notice of hearing.

* * * * *

(e) The Secretary will give timely notice of the hearing to all parties and to other persons, if any, entitled by law to notice. The Secretary will transmit a notice of hearing on an application for a facility license or for a license for receipt of waste radioactive material from other persons for the purpose of commercial disposal by the waste disposal licensee and all applications for disposal under Part 61 of this chapter or for a license to receive and possess high-level radioactive waste at a geologic repository operations area pursuant to Part 60 of this chapter to the governor or other appropriate official of the State and to the chief executive of the municipality in which the facility is to be located or the activity is to be conducted or, if the facility is not to be located or the activity conducted within a municipality, to the chief executive of the county (or to the Tribal organization, if it is to be so located or conducted within an Indian reservation).

5. Section 2.105(a)(2) is revised to read as follows:

§ 2.105 Notice of proposed action.

(a) * * *

(2) A license for receipt of waste radioactive material from other persons for the purpose of commercial disposal by the waste disposal licensee. All licenses issued under Part 61 of this chapter shall be so noticed.

* * * * *

6. Section 2.106 is amended by adding a new paragraph (d) to read as follows:

§ 2.106 Notice of issuance.

* * * * *

(d) The Director of Nuclear Material Safety and Safeguards will also cause to be published in the **Federal Register** notice of, and will inform the State and local officials or tribal governing body specified in § 2.104(e) of any licensing action with respect to a license to receive radioactive waste from other persons for disposal under Part 61 of this chapter or the amendment of such a license for which a notice of proposed action has been previously published.

7. A new Section 2.765 is added to read as follows:

§ 2.765 Immediate effectiveness of initial decision directing issuance or amendment of licenses under Part 61 of this chapter.

An initial decision directing the issuance of a license under Part 61 of this chapter (relating to land disposal of radioactive waste) or any amendment to such a license authorizing actions which may significantly affect the health and safety of the public, will become effective only upon order of the Commission. The Director of Nuclear Material Safety and Safeguards may not issue a license under Part 61 of this chapter, or any amendment to such a license which may significantly affect the health and safety of the public, until expressly authorized to do so by the Commission.

PART 19—NOTICES, INSTRUCTIONS AND REPORTS TO WORKERS; INSPECTIONS

§ 19.2 [Amended]

8. Section 19.2 is amended by adding "61," following "40, 60."

§ 19.3 [Amended]

9. In § 19.3, paragraph (d) is amended by adding "61," following "40, 60."

PART 20—STANDARDS FOR PROTECTION AGAINST RADIATION

§ 20.2 [Amended]

10. Section 20.2 is amended by adding "61," following "40, 60."

§ 20.3 [Amended]

11. In § 20.3, paragraph (a)(9) is amended by adding "61," following "40, 60."

12. In § 20.301 paragraph (a) is amended by adding "61," following "40, 60," and paragraph (b) is revised to read as follows:

§ 20.301 General requirement.

* * * * *

(b) As authorized under § 20.302 or Part 61 of this chapter; or

* * * * *

§ 20.302 [Amended]

13. In §20.302, paragraph (b) is removed and paragraph (c) is redesignated as paragraph (b).

14. A new § 20.311 is added to read as follows:

§ 20.311 Transfer for disposal and manifests.

(a) Purpose. The requirements of this section are designed to control transfers of radioactive waste intended for disposal at a land disposal facility and establish a manifest tracking system and supplement existing requirements concerning transfers and recordkeeping for such wastes. The reporting and recordkeeping requirements contained in this section have been approved by the Office of Management and Budget; OMB approval No. 3150–0014.

(b) Each shipment of radioactive waste to a licensed land disposal facility must be accompanied by a shipment manifest that contains the name, address, and telephone number of the person generating the waste. The manifest shall also include the name, address, and telephone number or the name and EPA hazardous waste identification number of the person transporting the waste to the land disposal facility. The manifest must also indicate as completely as practicable: a physical description of the waste; the volume; radionuclide identity and quantity; the total radioactivity; and the principal chemical form. The solidification agent must be specified. Waste containing more than 0.1% chelating agents by weight must be identified and the weight percentage of the chelating agent estimated. Wastes classified as Class A, Class B, or Class C in § 61.55 of this chapter must be clearly identified as such in the manifest. The total quantity of the radionuclides H–3, C–14, Tc–99 and I–129 must be shown. The manifest required by this paragraph may be shipping papers used to meet Department of Transportation or Environmental Protection Agency regulations or requirements of the receiver, provided all the required information is included. Copies of manifests required by this section may be legible carbon copies or legible photocopies.

(c) Each manifest must include a certification by the waste generator that the transported materials are properly classified, described, packaged, marked, and labeled and are in proper condition for transportation according to the applicable regulations of the Department of Transportation and the Commission. An authorized representative of the waste generator shall sign and date the manifest.

(d) Any generating licensee who transfers radioactive waste to a land disposal facility or a licensed waste collector shall comply with the requirements in paragraphs (d)(1) through (8) of this section. Any generating licensee who transfers waste to a licensed waste processor who treats or repackages waste shall comply with the requirements of paragraphs (d)(4) through (8) of this section. A licensee shall:

(1) Prepare all wastes so that the waste is classified according to § 61.55 and meets the waste characteristics requirements in § 61.56 of this chapter;

(2) Label each package of waste to identify whether it is Class A waste, Class B waste, or Class C waste, in accordance with § 61.55 of this chapter;

(3) Conduct a quality control program to assure compliance with §§ 61.55 and 61.56 of this chapter; the program must include management evaluation of audits;

(4) Prepare shipping manifests to meet the requirements of §§ 20.311 (b) and (c) of this part;

(5) Forward a copy of the manifest to the intended recipient, at the time of shipment; or, deliver to a collector at the time the waste is collected, obtaining acknowledgement of receipt in the form of a signed copy of the manifest or equivalent documentation from the collector;

(6) Include one copy of the manifest with the shipment;

(7) Retain a copy of the manifest and documentation of acknowledgement of receipt as the record of transfer of licensed material as required by Parts 30, 40, and 70 of this chapter; and,

(8) For any shipments or any part of a shipment for which acknowledgement of receipt has not been received within the times set forth in this section, conduct an investigation in accordance with paragraph (h) of this section.

(e) Any waste collector licensee who handles only prepackaged waste shall:

(1) Acknowledge receipt of the waste from the generator within one week of receipt by returning a signed copy of the manifest or equivalent documentation;

(2) Prepare a new manifest to reflect consolidated shipments; the new manifest shall serve as a listing or index for the detailed generator manifests. Copies of the generator manifests shall be a part of the new manifest. The waste collector may prepare a new manifest without attaching the generator manifests, provided the new manifest contains for each package the information specified in paragraph (b) of this section. The collector licensee shall certify that nothing has been done to the waste which would invalidate the generator's certification;

(3) Forward a copy of the new manifest to the land disposal facility operator at the time of shipment;

(4) Include the new manifest with the shipment to the disposal site;

(5) Retain a copy of the manifest and documentation of acknowledgement of receipt as the record of transfer of licensed material as required by Parts 30, 40, and 70 of this chapter, and retain information from generator manifests until disposition is authorized by the Commission; and,

(6) For any shipments or any part of a shipment for which acknowledgement of receipt is not received within the times set forth in this section, conduct an investigation in accordance with paragraph (h) of this section.

(f) Any licensed waste processor who treats or repackages wastes shall:

(1) Acknowledge receipt of the waste from the generator within one week of receipt by returning a signed copy of the manifest or equivalent documentation;

(2) Prepare a new manifest that meets the requirements of paragraphs (b) and (c) of this section. Preparation of the new manifest reflects that the processor is responsible for the waste;

(3) Prepare all wastes so that the waste is classified according to § 61.55

and meets the waste characteristics requirements in § 61.56 of this chapter;

(4) Label each package of waste to identify whether it is Class A waste, Class B waste, or Class C waste, in accordance with §§ 61.55 and 61.57 of this chapter;

(5) Conduct a quality control program to assure compliance with §§ 61.55 and 61.56 of this chapter. The program shall include management evaluation of audits;

(6) Forward a copy of the new manifest to the disposal site operator or waste collector at the time of shipment, or deliver to a collector at the time the waste is collected, obtaining acknowledgement of receipt in the form of a signed copy of the manifest or equivalent documentation by the collector;

(7) Include the new manifest with the shipment;

(8) Retain copies of original manifests and new manifests and documentation of acknowledgement of receipt as the record of transfer of licensed material required by Parts 30, 40, and 70 of this chapter; and

(9) For any shipment or part of a shipment for which acknowledgement is not received within the times set forth in this section, conduct an investigation in accordance with paragraph (h) of this section.

(g) The land disposal facility operator shall:

(1) Acknowledge receipt of the waste within one week of receipt by returning a signed copy of the manifest or equivalent documentation to the shipper. The shipper to be notified is the licensee who last possessed the waste and transferred the waste to the operator. The returned copy of the manifest or equivalent documentation shall indicate any discrepancies between materials listed on the manifest and materials received;

(2) Maintain copies of all completed manifests or equivalent documentation until the Commission authorizes their disposition; and

(3) Notify the shipper (i.e., the generator, the collector, or processor) and the Director of the nearest Commission Regional Office listed in Appendix D of this part when any shipment or part of a shipment has not arrived within 60 days after the advance manifest was received.

(h) Any shipment or part of a shipment for which acknowledgement is not received within the times set forth in this section, must:

(1) Be investigated by the shipper if the shipper has not received notification of receipt within 20 days after transfer; and

(2) Be traced and reported. The investigation shall include tracing the shipment and filing a report with the nearest Commission Regional Office listed in Appendix D of this part. Each licensee who conducts a trace investigation shall file a written report with the nearest Commission's Regional office within 2 weeks of completion of the investigation.

15. In § 20.401, paragraphs (b) and (c)(3) are revised to read as follows:

§ 20.401 Records of surveys, radiation monitoring, and disposal.

* * * * *

(b) Each licensee shall maintain records in the same units used in this part, showing the results of surveys required by § 20.201(b), monitoring required by §§ 20.205(b) and 20.205(c), and disposals made under §§ 20.302, 20.303, removed § 20.304,[1] and Part 61 of this chapter.

(c) * * *

(3) Records of disposal of licensed materials made pursuant to §§ 20.302, 20,303, removed § 20.304,[1] and Part 61 of this chapter are to be maintained until the Commission authorizes their disposition.

* * * * *

16. Section 20.408 is amended by adding a new paragraph (a)(7) to read as follows:

§ 20.408 Reports of personnel monitoring on termination of employment or work.

(a) * * *

(7) Receive radioactive waste from other persons for disposal under Part 61 of this chapter.

* * * * *

PART 21—REPORTING OF DEFECTS AND NONCOMPLIANCE

§ 21.2 [Amended]

17. Section 21.2 is amended by inserting "61," after "40, 60," in both the first and second sentences.

§ 21.3 [Amended]

18. In § 21.3, paragraphs (a)(2), (a–1)(1), (a–1)(2), and (k) are amended by adding "61," after "50, 60."

§ 21.21 [Amended]

19. Section 21.21 is amended by adding "61," after "50, 60," in paragraphs (b)(1)(i) and (b)(1)(ii).

[1] Section 20.304 provided for burial of small quantities of licensed materials in soil. Notice of its removal appears in the Federal Register of October 30, 1980 (45 FR 71762).

PART 30—RULES OF GENERAL APPLICABILITY TO DOMESTIC LICENSING OF BYPRODUCT MATERIAL

20. A new paragraph (d) is added to § 30.11 to read as follows:

§ 30.11 Specific exemptions.

* * * * *

(d) Except as specifically provided in Part 61 of this chapter, any licensee is exempt from the requirements of this part to the extent that its activities are subject to the requirements of Part 61 of this chapter.

21. In § 30.32, paragraph (f) is amended to read as follows:

§ 30.32 Application for specific licenses.

* * * * *

(f) An application for a license to receive and possess byproduct material for the conduct of any activity which the Commission determines will significantly affect the quality of the environment shall be filed at least 9 months prior to commencement of construction of the plant or facility in which the activity will be conducted and shall be accompanied by any Environmental Report required pursuant to Part 51 of this chapter.

22. In § 30.33, paragraph (a)(5) is revised to read as follows:

§ 30.33 General requirements for issuance of specific licenses.

(a)* * *

(5) In the case of an application for a license to receive and possess byproduct material for the conduct of any activity which the Commission determines will significantly affect the quality of the environment, the Director of Nuclear Material Safety and Safeguards or his designee, before commencement of construction of the plant or facility in which the activity will be conducted, on the basis of information filed and evaluations made pursuant to Part 51 of this chapter, has concluded, after weighing the environmental, economic, technical, and other benefits against environmental costs and considering available alternatives, that the action called for is the issuance of the proposed license, with any appropriate conditions to protect environmental values. Commencement of construction prior to such conclusion shall be grounds for denial of a license to receive and possess byproduct material in such plant or facility. As used in this paragraph the term "commencement of construction" means any clearing of land, excavation, or other substantial action that would adversely affect the

environment of a site. The term does not mean site exploration, necessary roads for site exploration, borings to determine foundation conditions, or other preconstruction monitoring or testing to establish background information related to the suitability of the site or the protection of environmental values.

* * * * *

PART 40—DOMESTIC LICENSING OF SOURCE MATERIAL

23. In § 40.14, a new paragraph (d) is added to read as follows:

§ 40.14 Specific exemptions.

* * * * *

(d) Except as specifically provided in Part 61 of this chapter any licensee is exempt from the requirements of this part to the extent that its activities are subject to the requirements of Part 61 of this chapter.

24. In § 40.31, paragraph (f) is revised to read as follows:

§ 40.31 Applications for specific licenses.

* * * * *

(f) An application for a license to possess and use source material for uranium milling, production of uranium hexafluoride, or for the conduct of any other activity which the Commission determines will significantly affect the quality of the environment shall be filed at least 9 months prior to commencement of construction of the plant or facility in which the activity will be conducted and shall be accompanied by any Environmental Report required pursuant to Part 51 of this chapter.

* * * * *

25. In § 40.32, paragraph (e) is revised to read as follows:

§ 40.32 General requirements for issuance of specific licenses.

* * * * *

(e) In the case of an application for a license to possess and use source and byproduct material for uranium milling, production of uranium hexafluoride, or for the conduct of any other activity which the Commission determines will significantly affect the quality of the environment, the Director of Nuclear Material Safety and Safeguards or his designee, before commencement of construction of the plant or facility in which the activity will be conducted, on the basis of information filed and evaluations made pursuant to Part 51 of this chapter, has concluded, after weighing the environmental, economic, technical and other benefits against environmental costs and considering available alternatives, that the action called for is the issuance of the proposed license, with any appropriate conditions to protect environmental values. Commencement of construction prior to such a conclusion shall be grounds for denial of a license to possess and use source and byproduct material in such plant or facility. As used in this paragraph the term "commencement of construction" means any clearing of land, excavation, or other substantial action that would adversely affect the environment of a site. The term does not mean site exploration, necessary roads for site exploration, borings to determine foundation conditions, or other preconstruction monitoring or testing to establish background information related to the suitability of the site or the protection of environmental values.

* * * * *

PART 51—LICENSING AND REGULATORY POLICY AND PROCEDURES FOR ENVIRONMENTAL PROTECTION

26. In §51.5, paragraphs (a)(6) and (b)(4)(iii) are revised, paragraph (b)(6) is amended by inserting "61" following "50, 60,", and (d)(3) is amended by inserting "61" following "50, 60." The revised paragraphs read as follows:

§ 51.5 Actions requiring preparation of environmental impact statements, negative declarations, environmental impact appraisals; actions excluded.

(a) * * *

(6) Issuance of a license authorizing receipt and disposal of radioactive waste from other persons under Part 61 of this chapter;

* * * * *

(b) * * *

(4) * * *

(iii) Authorizing receipt and disposal of radioactive waste from other persons under Part 61 of this chapter.

* * * * *

§ 51.40 [Amended]

27. In § 51.40, paragraph (c) is amended by inserting "61" after "30, 40."

PART 70—DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

28. In § 70.14, a new paragraph (d) is added to read as follows:

§ 70.14 Specific exemptions.

* * * * *

(d) Except as specifically provided in Part 61 of this chapter, any licensee is exempt from the requirements of the regulations in this part to the extent that its activities are subject to the requirements of Part 61 of this chapter.

29. In § 70.21, paragraph (f) is revised to read as follows:

§ 70.21 Filing.

* * * * *

(f) An application for a license to possess and use special nuclear material for processing and fuel fabrication, scrap recovery or conversion of uranium hexafluoride, or for the conduct of any other activity which the Commission determines will significantly affect the quality of the environment shall be filed at least 9 months prior to commencement of construction of the plant or facility in which the activity will be conducted, and shall be accompanied by an Environmental Report required under Part 51 of this chapter.

* * * * *

30. In § 70.23, paragraph (a)(7) is revised to read as follows:

§ 70.23 Requirements for the approval of applications.

(a) * * *

(7) Where the proposed activity is processing and fuel fabrication, scrap recovery, conversion of uranium hexafluoride, or any other activity which the Commission determines will significantly affect the quality of the environment, the Director of Nuclear Material Safety and Safeguards or his designee, before commencement of construction of the plant or facility in which the activity will be conducted, on the basis of information filed and evaluations made pursuant to Part 51 of this chapter, has concluded, after weighing the environmental, economic, technical, and other benefits against environmental costs and considering available alternatives, that the action called for is the issuance of the proposed license, with any appropriate conditions to protect environmental values. Commencement of construction prior to such conclusions shall be grounds for denial to possess and use special nuclear material in such plant or facility. As used in this paragraph the term "commencement of construction" means any clearing of land, excavation, or other substantial action that would adversely affect the environment of a site. The term does not mean site exploration, necessary roads for site exploration, borings to determine foundation conditions, or other preconstruction monitoring or testing to establish background information related to the suitability of the site or the protection of environmental values.

* * * * *

PART 73—PHYSICAL PROTECTION OF PLANTS AND MATERIALS

31. In § 73.1, paragraph (b)(1)(iii) is revised to read as follows:

§ 73.1 Purpose and scope.

* * * * *

(b) * * *

(1) * * *

(iii) the physical protection of special nuclear material by any person who, pursuant to the regulations in Part 61 or 70 of this chapter, possesses or uses at any site or contiguous sites subject to the control by the licensee, formula quantities of strategic special nuclear material or special nuclear material of moderate strategic significance or special nuclear material of low strategic significance.

* * * * *

PART 170—FEES FOR FACILITIES AND MATERIALS LICENSES AND OTHER REGULATORY SERVICES UNDER THE ATOMIC ENERGY ACT OF 1954; AS AMENDED

32. Section 170.2 is revised to read as follows:

§ 170.2 Scope.

Except for persons who apply for or hold the permits, licenses, or approvals exempted in § 170.11, the regulations in this part apply to a person who is an applicant for, or holder of, a specific byproduct material license issued pursuant to Parts 30 and 32–35 of this chapter, a specific source material license issued pursuant to Part 40 of this chapter, a specific materials license issued under Part 61 of this chapter, a specific special nuclear material license issued pursuant to Part 70 of this chapter, a specific license for the storage of spent fuel issued pursuant to Part 72 of this Chapter, a specific approval of spent fuel casks and shipping containers issued pursuant to Part 71 of this chapter, a specific request for approval of sealed sources and devices containing byproduct material, source material, or special nuclear material, or a production or utilization facility construction permit and operating license issued pursuant to Part 50 of this chapter, to routine safety and safeguards inspections of a licensed person, to a person who applies for approval of a reference standardized design of a nuclear steam supply system or balance of plant, for review of a facility site prior to the submission of an application for a construction permit, for review of an independent spent fuel storage installation pursuant to Part 72 of this chapter, and for a special project review which the Commission completes or makes whether or not in conjunction with a license application on file or which may be filed.

(Amendments to all parts are issued pursuant to citations of authority presently codified or, in the case of 10 CFR Part 61, as set out after the list of sections in the new Part 61.)

Dated at Washington, D.C. this 9th day of December, 1982.

For the U.S. Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 82-33961 Filed 12-23-82; 8:45 am]

BILLING CODE 7590-01-M

---

10 CFR Part 4

Nondiscrimination in Federally Assisted Programs; Civil Rights Enforcement Program

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of Availability and Request for Comments.

SUMMARY: The Nuclear Regulatory Commission (NRC) has developed an Implementation Plan as required by Executive Order 12250, "Leadership and Coordination of Nondiscrimination Laws", Section 1–403 (45 FR 72995). The Plan describes how NRC intends to meet its enforcement responsibilities regarding nondiscrimination in federally assisted programs.

DATE: Comments should be submitted by Februrary 28, 1983.

ADDRESS: Comments should be submitted to Nuclear Regulatory Commission, Office of Small and Disadvantaged Business Utilization/Civil Rights, MAIL STOP: MNBB 7203, Washington, DC 20555.

FOR FURTHER INFORMATION CONTACT: Mr. Edward E. Tucker, Office of Small and Disadvantaged Business Utilization/Civil Rights, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone (301) 492–7697.

SUPPLEMENTARY INFORMATION: The NRC has authority to fund assistance in the form of training for State and local government personnel under the State Agreements Program which provides for State assumption of certain areas of NRC regulatory activity. This program has been in effect since the inception of the Agency in 1975.

Beginning with Fiscal Year 1981, the NRC has also been entering into assistance relationships with a variety of eligible recipients to stimulate research and information exchange in technical areas related to nuclear safety assessment. The recipients for Fiscal Year 1981 were educational institutions and various nonprofit organizations.

Persons interested in submitting comments on NRC's Implementation Plan may request a copy by telephone or by writing to the address given above.

Dated at Bethesda, Maryland, this 15 day of December 1982.

For the Nuclear Regulatory Commission.

W. B. Kerr,

Director, Office of Small and Disadvantaged Business Utilization/Civil Rights.

[FR Doc. 82-35011 Filed 12-23-82; 8:45 am]

BILLING CODE 7590-01-M

FEDERAL RESERVE SYSTEM

12 CFR Part 201

Extensions of Credit By Federal Reserve Banks; Changes in Discount Rate

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors has amended its Regulation A, "Extensions of Credit by Federal Reserve Banks," for the purpose of adjusting discount rates. The further half-point reduction in the discount rate was taken in the light of current business conditions, strong competitive pressures on prices and further moderation of cost increases, a slowing of private credit demands, and present indications of some tapering off in growth of the broader monetary aggregates.

EFFECTIVE DATE: The changes were effective on the dates specified below.

FOR FURTHER INFORMATION CONTACT: William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202/452–3257).

SUPPLEMENTARY INFORMATION: Pursuant to the authority of 5 U.S.C. 553(b)(3)(B) and (d)(3), these amendments are being published without prior general notice of proposed rulemaking, public participation, or deferred effective date. The Board has for good case found that current economic and financial considerations required that these amendments must be adopted immediately.

List of Subjects in 12 CFR Part 201

Banks, banking, Credit, Credit unions, Foreign banks.

PART 201—[AMENDED]

Pursuant to section 10(b) and 14(d) of the Federal Reserve Act (12 U.S.C. 347b

and 357) Part 201 is amended as set forth below:

1. Section 201.51 is revised to read as follows:

§ 201.51 Short term adjustment credit for depository institutions.

The rates for short term adjustment credit provided to depository institutions under § 201.3(a) of Regulation A are:

Federal Reserve Bank	Rate	Effective
Boston	8½	Dec. 14, 1982
New York	8½	Dec. 15, 1982
Philadelphia	8½	Dec. 17, 1982
Cleveland	8½	Dec. 15, 1982
Richmond	8½	Do.
Atlanta	8½	Dec. 14, 1982
Chicago	8½	Do
St. Louis	8½	[illegible]
Minneapolis	8½	Do.
Kansas City	8½	Dec 15, 1982
Dallas	8½	Dec. 14, 1982.
San Francisco	8½	Do.

2. Section 201.52 is revised to read as follows:

§ 201.52 Extended credit to depository institutions.

(a) The rates for seasonal credit extended to depository institutions under § 201.3(b)(1) of Regulation A are:

Federal Reserve Bank	Rate	Effective
Boston	8½	Dec. 14, 1982.
New York	8½	Dec. 15, 1982.
Philadelphia	8½	Dec. 17, 1982.
Cleveland	8½	Dec. 15, 1982.
Richmond	8½	Do.
Atlanta	8½	Dec. 14, 1982.
Chicago	8½	Do.
St. Louis	8½	Do.
Minneapolis	8½	Do.
Kansas City	8½	Dec. 15, 1982.
Dallas	8½	Dec. 14, 1982
San Francisco	8½	Do.

(b) The rates for other extended credit provided to depository institutions under sustained liquidity pressures or where there are exceptional circumstances or practices involving a particular institution under § 201.3(b)(2) of Regulation A are:

Federal Reserve Bank	Rate	Effective
Boston	8½	Dec. 14, 1982.
New York	8½	Dec. 15, 1982.
Philadelphia	8½	Dec. 17, 1982.
Cleveland	8½	Dec. 15, 1982.
Richmond	8½	Do.
Atlanta	8½	Dec. 14, 1982.
Chicago	8½	Do.
St. Louis	8½	Do.
Minneapolis	8½	Do.
Kansas City	8½	Dec. 15, 1982.
Dallas	8½	Dec. 14, 1982.
San Francisco	8½	Do.

Note.—These rates apply for the first 60 days of borrowing. A 1 percent surcharge applies for borrowing during the next 90 days, and a 2 percent surcharge applies for borrowing thereafter.

By order of the Board of Governors of the Federal Reserve System, December 20, 1982.

William W. Wiles,

Secretary of the Board.

[FR Doc. 82-34941 Filed 12-23-82; 8:45 am]

BILLING CODE 6210-01-M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

Statutory Lien; Final Interpretive Ruling and Policy Statement

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final interpretive ruling and policy statement.

SUMMARY: Even if a member's loan is not secured by shares, under the Federal Credit Union Act a Federal credit union has the power to impress and enforce a lien upon that member's shares and dividends. NCUA is interpreting the Federal Credit Union Act to authorize a Federal credit union: (a) to impress a lien at the time the loan is granted, for instance, by noting the existence of the lien in its records at the same time the loan is granted, by reciting in the loan documents that shares and dividends are subject to the lien or are pledged to secure the loan, or by adopting a bylaw or board policy to the same effect; and (b) to enforce the lien by applying the shares and dividends directly to the amount due on the loan without obtaining a court judgment, even if the credit union has allowed the member to make withdrawals and even if a court judgment would be required under state law before a statutory lien could be enforced.

EFFECTIVE DATE: December 16, 1982.

FOR FURTHER INFORMATION CONTACT: Robert M. Fenner, Deputy General Counsel, or John L. Culhane, Jr., Senior Attorney, Department of Legal Services, National Credit Union Administration, 1776 G Street, NW., Washington, D.C. 20456 or telephone: (202) 357-1030.

SUPPLEMENTARY INFORMATION: Section 107(11) of the Federal Credit Union Act states that a Federal credit union "shall have the power * * * to impress and enforce a lien upon the shares and dividends of any member to the extent of any loan made to him and any dues or charges payable by him." 12 U.S.C. 1757(11). Since 1979, NCUA had taken the position that before a Federal credit union could enforce this lien it had to obtain a court judgment on the debt, unless state law would allow the credit union to enforce the lien without going to court; once the credit union were to obtain a court judgment, it could then apply the member's shares to the outstanding loan balance. *Credit Manual for Federal Credit Unions* 29 (Dec. 1979 ed.).

A credit union trade association and an attorney who represented several credit unions asked NCUA to reconsider this interpretation, noting that it placed a credit union at a disadvantage with respect to any other financial institution, which can usually offset a borrower's loan without going to court. After examining the legislative history of and prior administrative interpretations of the statute, NCUA proposed to interpret section 107(11) of the Federal Credit Union Act to preempt state law and to authorize a credit union to enforce the lien on the shares and dividends of a member by applying those shares and dividends to the outstanding loan balance, as that interpretation appeared to be more consistent with Congressional intent and with the contemporaneous administrative interpretations of the statutory language. 47 FR 44340 (1982).

Comments on the proposed interpretation were submitted by 31 credit unions, 4 state credit union leagues, 2 national credit union trade associations, and 3 attorneys (two of the attorneys represent state credit union leagues, the other attorney represents a number of credit unions). The commentors unanimously supported NCUA's proposed interpretation, although one of the attorneys and one of the trade associations requested that rather than limiting the interpretation to enforcement of the lien in the event of default, NCUA expand the interpretation to discuss when the lien may be impressed and to discuss the consequences of permitting withdrawals. The NCUA Board concurs with these commentors that it would be best to address these related issues in one interpretive ruling and policy statement.

Based on an examination of the legislative history and the contemporaneous administrative interpretations of the statutory language, NCUA believes that Congress intended for the statutory lien to be a "floating" lien. That is, a Federal credit union that has impressed a lien on a member's accounts possesses a lien on those accounts at any time to the extent of the unpaid loan balance together with interest, fees, and other charges. The lien "floats" as outstanding obligations, as well as account balances, vary from time to time. The lien enables a credit

union to take priority over other creditors when claims are asserted against a member's accounts. *See* D. Bridewell, *Bridewell on Credit Unions* 710 (1942 ed.) (quoting from the May–June, 1940 edition of *Cooperative Savings,* an official publication of the Farm Credit Administration, the agency then charged with administering the Federal Credit Union Act).

If the credit union evidences its intent to do so, it may impress the lien when the loan is granted. This may be done, for instance, by noting the existence of the lien in the credit union's records at the same time the loan is granted, by reciting in the loan documents that shares and dividends are subject to the lien or are pledged to secure the loan, or by adopting a bylaw or board policy to the same effect. *See Credit Manual for Federal Credit Unions,* 16, 17 (May 1972 ed.); *Handbook for Federal Credit Unions* 18 (July 1947 ed.). Further, even though the lien has been impressed, the credit union may permit routine withdrawals from a member's account without waiving the statutory lien, even if the withdrawals would reduce the account balance to a level below the outstanding indebtedness.

Generally, a credit union may enforce the lien on the shares and dividends of the member by applying those shares to the outstanding indebtedness. Section 107(11) of the Federal Credit Union Act preempts state law; the credit union does not have to obtain a court judgment to enforce the lien, even if a court judgment is usually required under state law before a statutory lien can be enforced. However, if the outstanding indebtedness is the result of extensions of credit under a credit card program, Section 169 of the Truth in Lending Act, 15 U.S.C. 1666h, and § 226.12(d) of Regulation Z, 12 CFR 226.12(d), will apply; these provisions generally prohibit a Federal credit union from offsetting a borrower's indebtedness arising from a consumer credit transaction under a credit card plan against funds held by the credit union.

PART 701—[AMENDED]

Accordingly, the NCUA Board is adopting a final interpretive ruling and policy statement to read as follows:

Interpretive Ruling and Policy Statement (IRPS) 82–5

Section 107(11) of the Federal Credit Union Act states that a Federal credit union "shall have the power * * * to impress and enforce a lien upon the shares and dividends of any member, to the extent of any loan made to him and any dues or charges payable by him." If a credit union evidences its intent to do so, it may impress the lien when the loan is granted. This may be done, for instance, by noting the existence of the lien in the credit union's records at the same time the loan is granted, by reciting in the loan documents that shares and dividends are subject to the lien or are pledged to secure the loan, or by adopting a bylaw or board policy to the same effect. The lien dates from the time it is impressed and applies to all of the member's shares outstanding at the time the loan is made. If during the loan term the member's shares are reduced by withdrawal or increased by deposit or dividend payments, the lien will apply to the balance of the same from time to time and may be enforced with respect to any shares in existence at the time of enforcement. The credit union may enforce the lien on the shares and dividends of the member by applying those funds directly to the outstanding indebtedness, which may include the unpaid loan balance together with interest, fees, and other charges. The credit union does not need to obtain a court judgment to enforce the lien, even if a court judgment is usually required under state law before a lien can be enforced.

By the National Credit Union Administration Board, December 16, 1982.

Rosemary Brady,

Secretary, National Credit Union Administration Board.

[FR Doc. 82–34604 Filed 12–23–82; 8:45 am]

BILLING CODE 7535–01–M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 101

[Amdt. 25; Rev. 2]

Delegation of Authority To Conduct Program Activities in Field Offices

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: The Regional Administrator in Region III has proposed a change to the Delegations of Authority for Field Offices which consolidates the Surety Bond Guarantee Program at the regional office level in his region. The change was approved. It adds the position of Supervisory Surety Bond Guarantee Specialist in the regional office and eliminates all surety guarantee authority for district offices in Region III.

EFFECTIVE DATE: December 27, 1982.

FOR FURTHER INFORMATION CONTACT: Ronald Allen, Paperwork Management Branch, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416. Telephone No. (202) 653–6538.

SUPPLEMENTARY INFORMATION: Part 101 consists of rules relating to the Agency's organization and procedures; therefore, notice of proposed rulemaking and public participation thereon as prescribed in 5 U.S.C. 553 is not required and this amendment to Part 101 is adopted without resort to those procedures. For the reasons set forth in the preamble and pursuant to authority in Section 5(b)(6) of the Small Business Act, 15 U.S.C. 634, Part 101, 13 CFR 101.3–2 is amended, following the index terms, as set forth below:

List of Subjects in 13 CFR Part 101

Authority delegations (Government agencies), Administrative practice and procedure, Organization and functions (Government agencies).

PART 101—[AMENDED]

§ 101.3–2 [Amended]

Part III, Section C, paragraph 1., subparagraphs d. through i. of § 101.3–2 are revised to read as follows:

d. Supervisory Surety Bond Guarantee Specialist, Philadelphia R. O.	500,000
e. District Director and Deputy District Director, San Francisco and all Region IV district offices only	500,000
f. Assistant District Director/F & I, San Francisco and all Region IV district offices only	500,000
g. Surety Bond Coordinator	250,000
h. Senior Surety Bond Guarantee Specialist	250,000
i. Surety Bond Officer	250,000

Dated: December 10, 1982.

Heriberto Herrera,

Deputy Administrator.

[FR Doc. 82–34680 Filed 12–23–82; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 82–ASW–76; Amdt. 39–4522]

Boeing Vertol Company Model 107–II and Kawasaki Heavy Duty, Ltd. Model KV107–II and KV107–IIA Series Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires initial and repetitive inspections and replacement as necessary of the main rotor hubs on

Boeing Vertol Model 107–II and Kawasaki Model KV107–II and KV107–IIA series helicopters. The inspection is needed to detect and correct structural fatigue cracks in the forward and aft main rotor hub which could result in failure of the rotor hub. The AD also limits use of the hub on the forward main rotor to prevent fatigue cracks in the hub.

DATE: Effective January 7, 1983.

Compliance required within the next 50 hours after the effective date of this AD unless already accomplished for all main rotor hubs with more than 2500 hours' time in service.

ADDRESSES: The applicable service information may be obtained from Boeing Vertol Company, A Division of the Boeing Company, P.O. Box 16858, Philadelphia, Pennsylvania 19142. These documents may be examined at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas 76106, or at the Rules Docket in Room 916, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Joseph E. Chrastil, ANE–172, New York Aircraft Certification Office, Federal Aviation Administration, 181 South Franklin Avenue, Valley Stream, New York 11581, Telephone No. 516–791–6221.

SUPPLEMENTARY INFORMATION: There have been reports of fatigue cracks in the splined area of seven forward main rotor hubs on Boeing Vertol 107–II and Kawasaki KV107–II and KV107–IIA helicopters which could have caused rotor hub failure. Total time in service for the cracked hubs varied from 3500 hours to 14,807 hours, and time since last magnaflux inspection of these hubs varied from 395 hours to 3005 hours. Since this condition is likely to exist or develop on other helicopters of the same type designs, an Airworthiness Directive is being issued which requires initial and repetitive inspections of both forward and aft main rotor hubs for cracks and replacement as necessary on Boeing Vertol Model 107–II and Kawasaki Heavy Industries Model KV107–II and KV107–IIA helicopters.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

Approximately 11 aircraft could be affected by the requirements of this AD for an estimated impact of 3500.00 per aircraft.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding the following new Airworthiness Directive.

Boeing Vertol Company and Kawasaki Heavy Industries, Ltd.: Applies to Boeing Vertol Model 107–II and Kawasaki Model KV107–II and KV107–IIA helicopters certificated in all categories equipped with main rotor hubs, P/N's 107R2550–3, –5.

Compliance is required as indicated unless already accomplished.

To detect possible cracks in each main rotor hub, inspect both hubs within the next 50 hours' time in service from the effective date of this AD, or before the accumulation of 2500 hours' time in service on the main rotor hubs, whichever comes later, and thereafter at intervals not to exceed 2000 hours' time in service from the last inspection, accomplish the following:

(a) Remove the forward and aft rotor hubs from the aircraft. Inspect for cracks on the bottom surface of the hubs from the splines to a distance .75 inch out from the splines, using an eddy current inspection method. Inspect the bottom surface as stated above and the splined area from the lower surface upward for 1.0 inch using dye penetrant or equivalent inspection method.

(b) Remove from service hubs having cracks and replace with a serviceable part prior to further flight.

(c) Forward hubs that have 2500 or more hours' time in service and inspected in accordance with paragraph (a) and found free of cracks may not be re-installed on the forward head, however, they may be inverted and installed on the aft head.

(d) Aft hubs that are inspected in accordance with paragraph (a) and found free of cracks may remain on the aft head or may be installed on the forward head for 2500 additional hours' time in service; they may be re-installed on the aft head after accumulating 2500 hours' time in service on the forward head if inspected in accordance with paragraph (a) and found free of cracks.

(e) For the forward and aft rotor hubs, conduct the inspections contained in paragraph (a) at intervals not to exceed 2000 hours and comply with paragraphs (b), (c), and (d).

(f) New rotor hubs when installed must comply with paragraphs (c), (d), and (e).

(g) Boeing Vertol Service Bulletin Number 107–353 pertains to this subject.

(h) An equivalent method of compliance with this AD may be approved by the Manager, New York Aircraft Certification Office, 181 South Franklin Avenue, Valley Stream, New York 11581.

This amendment becomes effective January 7, 1983.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); 14 CFR 11.89)

Note.—The FAA has determined that this document involves a regulation that is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final regulatory evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified under the caption "For Further Information Contact."

This rule is a final order of the Administrator. Under Section 1006(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1486(a)), it is subject to review by the various courts of appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Forth Worth, Texas, on December 10, 1982.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 82–34925 Filed 12–23–82; 8:45 am]

BILLING CODE 4910–13–M

---

14 CFR Part 39

[Docket No. 82–ANE–31; Amdt. 39–4523]

Pratt & Whitney Aircraft Models JT9D–7, –7H, –7A, –7AH, –7F, and –7J Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) which requires replacement of the bleed control fuel signal manifold assembly on JT9D–7, –7H, –7A, –7AH, –7F, and –7J turbofan engines. This action provides for a more flexible bleed valve control fuel signal manifold assembly which minimizes the likelihood of cracking. Tube cracking during operation and subsequent fuel leakage may result in an engine fire that may be difficult to extinguish.

DATES: Effective date—January 27, 1983.

Compliance schedule—as prescribed in the text of the AD.

ADDRESSES: The applicable service bulletins may be obtained from Pratt & Whitney Aircraft, Commercial Products Division, 400 Main Street, East Hartford, Connecticut 06108.

A copy of each of the service bulletins is contained in the Rules Docket, FAA, Office of the Regional Counsel, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, and may be examined weekdays, except Federal

holidays, between 8:00 a.m. and 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: Gordon Vertescher, Transport Engine Section, ANE–141, Engine Certification Branch, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone: (617) 273–7347.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations (14 CFR Part 39) by adding a new AD applicable to Pratt & Whitney Aircraft JT9D–7, –7H, –7A, –7AH, –7F, and –7J turbofan engines was published in the **Federal Register** on September 16, 1982 (47 FR 40811).

There have been at least 25 reports of fuel signal manifold cracking resulting in fuel leakage. Two of these leaks resulted in engine fires. In both cases the crew, after actuating both fire bottles, was not successful in extinguishing the fire. The cause of tube assembly fracture was high bending stresses due to installation tolerance, thermal, and vibratory loads. To reduce these loads, a design change providing a more durable tube was issued. The new design reduces stresses and minimizes the likelihood of cracking, which reduces chances of fuel leakage and engine fire. Removal of the old tube and the installation of a new tube, bracket, and clamp are required by the proposed AD.

Interested parties were invited to participate in this rulemaking by submitting written comments on the proposal to the FAA. Seven comments were received in response to the Notice of Proposed Rulemaking (NPRM). Four commentators confirmed that the affected engines in their fleets have been modified. Another confirmed that the completion of the proposed AD would not be a problem by the proposed compliance date. However, one commentator felt that a greater margin of safety exists when the tube is replaced on a shop visit instead of on wing. Accordingly, a compliance date of March 31, 1983, was suggested which would allow their engines to be modified during a shop visit.

Another commentator provided a more accurate estimate of cost to United States and foreign airlines to modify the remaining population. The original $138,000 estimated cost was the summation of labor and material costs. However, material costs are being incurred by Pratt & Whitney Aircraft under Financial Support Program #80377. Removal of material costs from the original estimate reduces the total cost by $103,000.

The FAA has given consideration to extending the AD compliance date to March 31, 1983, and has determined that sufficient evidence exists in the public interest of aviation safety to adopt the proposed rule with only the minor changes to the industry cost figure and compliance date. The compliance date change is in accordance with the Administrative Procedures Act. Since these changes are clarifying and relaxatory in nature, additional notice and public procedure hereon are unnecessary.

Approximately 298 engines will be affected by this AD. The estimated cost to United States and foreign airlines to modify these engines is $35,000. This cost is for labor. Therefore, the proposed rule is not considered to be major under the criteria of Executive Order 12291. Few, if, any, small entities within the meaning of the Regulatory Flexibility Act would be affected since the rule affects only B747 aircraft in which JT9D–7, –7H, –7A, –7AH, –7F, and –7J engines are installed, none of which are believed to be small entities.

List of Subjects in 14 CFR Part 39

Engines, Aircraft, and Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new AD:

Pratt & Whitney Aircraft: Applies to Pratt & Whitney Aircraft models.

JT9D–7, –7H, –7A, –7AH—Engines prior to and including S/N 695827.

JT9D–7F—Engine S/Ns 695600 through 695614, S/N 702000, S/N 702001, S/N 702550 through 702557 and all engines prior to and including S/N 689635.

JT9D–7J—Engines prior to S/N 701697.

Note.—This directive does not apply to JT9D engines obtained by conversion which do not incorporate Service Bulletin 3741.

Compliance required prior to February 27, 1983, unless already accomplished.

To prevent fuel signal manifold cracking in operation replace manifold assembly P/N 711391 with assembly P/N 783391, bracket P/N 5003038–01, and clamp P/N ST1104–06 in accordance with Pratt & Whitney Aircraft Service Bulletin Number 5202, Revision 2, dated August 16, 1982, or later revision approved by the Manager, Engine Certification Branch, New England Region.

All persons affected by this directive who have not already received the referenced service bulletin from the manufacturer may obtain copies upon request to Pratt & Whitney Aircraft, Division of United Technologies Corporation, 400 Main Street, East Hartford, Connecticut 06108. This document may also be examined at FAA, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803. A historical file on this AD which includes the material in full is maintained by the FAA at the New England Region office.

This amendment becomes effective on January 27, 1983:

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.89, Federal Aviation Regulations (14 CFR 11.89))

Note.—For reasons discussed earlier in the preamble, the FAA has determined that this document: (1) involves a regulation which is not major under Executive Order 12291 and (2) is not a significant rule under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified that the rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A regulatory evaluation has been prepared for this regulation and has been placed in the docket. A copy of it may be obtained by contacting the person identified under the caption "**FOR FURTHER INFORMATION CONTACT.**"

Issued in Burlington, Massachusetts, on December 10, 1982.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 82–34928 Filed 12–23–82; 8:45 am]

BILLING CODE 4910–13–M

---

14 CFR Part 71

[Airspace Docket No. 82–ASO–56]

Alteration of Control Zone, Anderson, South Carolina

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment alters the Anderson, South Carolina, control zone by correcting the geographical coordinates of the Anderson County Airport and correcting the description of an arrival extension to coincide with a change to an instrument approach procedure which serves the airport. No significant change in airspace is intended by this action.

DATES: Effective date: 0901 G.M.T., February 17, 1983.

Comments must be received on or before January 17, 1983.

ADDRESSES: Send comments on the rule in triplicate to: Federal Aviation Administration, Manager, Airspace and Procedures Branch, ASO–530, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320

The official docket may be examined in the Office of the Regional Counsel, Room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, telephone: (404) 763–7646.

FOR FURTHER INFORMATION CONTACT:
Donald Ross, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763–7646.

SUPPLEMENTARY INFORMATION:

Request for Comments on the Rule

Although this action is in the form of a final rule, which involves correcting the geographical coordinates of the Anderson County Airport and correcting the description of an arrival extension due to realignment of the final approach course from 171° to 176° true and, thus, was not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the rule that might suggest the need to modify the rule.

The Rule

The purpose of this amendment to § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to alter the description of the Anderson, South Carolina, control zone by correcting the geographical coordinates of the airport and by realigning the arrival area extension for an instrument approach procedure serving the airport. Section 71.171 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70–3 dated January 29, 1982. Under the circumstances presented, the FAA concludes that there is a need for a regulation to alter the control zone so that the arrival extension is aligned properly with the instrument approach procedure final approach course. Therefore, I find that notice or public procedure under 5 U.S.C. 553(b) is unnecessary and that good cause exists for making this amendment effective in less than 60 days after its publication in the **Federal Register.**

List of Subjects in 14 CFR Part 71

Aviation safety, Airspace, Control zone.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) (as amended) is further amended, effective 0901 G.M.T., February 17, 1983, as follows:

Anderson County Airport, SC—Amended

By deleting the words, "* * * (latitude 34°39'40" N., longitude 82°42'30" W.) * * *" and "* * * 171° * * *", and substituting for them the words, "* * * (Lat. 34°39'42" N., Long. 82°42'33" W.) * * *" and "* * * 176° * * *".

(Secs. 307(a) and 313 (a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)), and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in East Point, Georgia, on December 15, 1982.

George R. LaCaille,
Acting Director, Southern Region.

[FR Doc. 82-34928 Filed 12-23-82; 8:45 am]
BILLING CODE 4910-13-M

---

14 CFR Part 71

[Airspace Docket No. 82-AEA-12]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Alteration of Control Zone, Beaver Falls, Pennsylvania

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the control zone over Beaver County Airport, Beaver, Pennsylvania by permitting a variation of the hours of operation of the control zone. This will permit a more efficient utilization of the tower for training of airmen by the Community College. The authorization allows the hours to be varied by publication of a notice in the Notices to Airmen (NOTAMS).

EFFECTIVE DATE: December 27, 1982.

FOR FURTHER INFORMATION CONTACT:
Glenn Bales, Airspace and Procedures Branch, AEA–530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430, Telephone (212) 917–1228.

SUPPLEMENTARY INFORMATION: The Beaver County Airport is operated by the Community College of Beaver County and is used for training students to qualify for a control tower operator's certificate. The present need for a rule change resulted from a requirement for more available hours of control zone operation to increase the amount of training time available. It appears that a more flexible method of extending or even reducing hours of operation would be to give such authority to vary the hours to meet training requirements by merely requiring publication of Notices to Airmen. Since this amendment will not burden any parties and the Community College is preparing its curriculum for the start of the new calendar year, good cause exists for waiving the notice and public comment procedures and the amendment may be made effective in less than 30 days.

List of Subjects in 14 CFR Part 71

Control zones.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective December 27, 1982, as follows:

1. Amend § 71.171 of Part 71, Federal Aviation Regulations, by altering the text of the description of the Beaver Falls, Pennsylvania, Control Zone by deleting, "this control zone is effective from 0900 to 2100 hours, local time daily, June 1 through August 31, and from 0900 to 1700 hours, local time daily, September 1 through May 31" and by substituting, "this control zone is effective from 0900 to 2100 hours, local time daily, June 1 through August 31, and from 0900 to 1900 hours, local time daily, September 1 through May 31, or during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory," therefore.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this amendment only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore (1) Is not a "major rule" under

Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Jamaica, New York on December 21, 1982.

Timothy L. Hartnett,

Acting Director, Eastern Region.

[FR Doc. 82-35081 Filed 12-23-82; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket C-3099]

BATUS Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement requires, among other things, that a Louisville, Kentucky management and holding company timely divest 200,000 square feet of its retail floor space, and reduce the volume of its retail sales by $20 million of 1981 sales. Further, the company is barred from making certain acquisitions in prescribed areas without prior Commission approval.

DATE: Complaint and order issued December 6, 1982.*

FOR FURTHER INFORMATION CONTACT: FTC/CS-4, Daniel P. Ducore, Washington, D.C. 20580. (202) 724-1268.

SUPPLEMENTARY INFORMATION: On Tuesday, July 20, 1982, there was published in the **Federal Register**, 47 FR 31392, a proposed consent agreement with analysis In the Matter of BATUS Inc., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

A comment was filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Acquiring Corporate Stocks or Assets: Section 13.5 Acquiring corporate stocks or assets; 13.5-20 Federal Trade Commission Act. Subpart—Corrective Actions and/or Requirements: Section 13.533 Corrective Actions and/or Requirements.

List of Subjects in 16 CFR Part 13

Department stores.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 45, 18)

Carol M. Thomas,

Secretary.

[FR Doc. 82-34890 Filed 12-23-82; 8:45 am]

BILLING CODE 6750-01-M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1306

Ban of Urea-Formaldehyde Foam Insulation; Confirmation of Effective Date

AGENCY: Consumer Product Safety Commission.

ACTION: Confirmation of effective date of final rule.

SUMMARY: The Commission confirms that the effective date of the ban of new installations of urea-formaldehyde foam insulation in schools and residences was August 10, 1982, as estimated when the ban was originally promulgated. This announcement is made at this time since at the time of the original announcement of the effective date, the Commission stated that the ban would not go into effect until the day after the expiration of the period provided by law for consideration of a congressional veto if that date was later than August 10, 1982. Also, the effective date could have been stayed by a court pending judicial review of the ban. Since neither of these events occurred, the ban went into effect as originally scheduled.

DATE: The ban applies to all urea-formaldehyde foam insulation installed after August 10, 1982, in residences or schools.

ADDRESSES: All materials relevant to this proceeding may be seen in, or copies obtained from, the Office of the Secretary, Consumer Product Safety Commission, Third Floor, 5401 Westbard Avenue, Bethesda, Maryland 20207, telephone (301) 492-6800.

FOR FURTHER INFORMATION CONTACT: Paul Galvydis, Directorate for Compliance and Administrative Litigation, Consumer Product Safety Commission, Washington, D.C. 20207, telephone (301) 492-6400.

SUPPLEMENTARY INFORMATION: On April 2, 1982, the Commission published in the **Federal Register** a rule banning urea-formaldehyde foam insulation installed in schools and residences after August 10, 1982 (47 FR 14366). The ban was issued because the Commission concluded that there was an unreasonable risk of injury from irritation, sensitization, and cancer from the release of formaldehyde gas from the product after it is installed and because no feasible standard, including labeling or information disclosure, would adequately protect the public from these risks of injury. A detailed explanation of the Commission's reason for issuing the ban is contained in the preamble of the **Federal Register** notice that issued the ban.

However, during the 90 calendar day period of continuous session following promulgation of the ban, Congress could have exercised its right to disapprove the ban pursuant to section 36 of the Consumer Product Safety Act, 15 U.S.C. 2083. Therefore, the ban was made effective August 10, 1982, or the day after the expiration of the time provided for Congress to consider its right to disapprove the rule, whichever is later. The August 10, 1982, date was selected because the Commission estimated that the time for consideration of the congressional veto provision would have expired by that time. However, since there was some possibility that changes in the congressional schedule would extend the 90 calendar days of continuous session past the August 10 date, the Commission indicated that it would publish a document at a later time confirming the effective date of the ban. In fact, the 90 calendar days of continuous session expired prior to August 10, 1982, and the installation of urea-formaldehyde foam insulation in residences and schools has been prohibited, beginning on August 11, 1982.

Another reason for confirming the effective date of the ban at this time is that several actions challenging the Commission's ban are now pending in the United States Court of Appeals for the Fifth Circuit,* and the court could

* Copies of the Complaint and the Decision and Order filed with the original document.

*Case numbers 82-4135, 82-4136, 82-4210 and 82-4311.

have ordered that the effective date of the ban be stayed pending the judicial review of the Commission's ban. However, the court denied the requests for a stay that were made in some of those cases, and the ban is currently in effect.

List of Subjects in 16 CFR Part 1306

Cancer, Consumer protection, Educational facilities, Housing standards, Insulation, School construction.

Dated: December 21, 1982.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 82-35044 Filed 12-23-82; 8:45 am]

BILLING CODE 6355-01-M

---

16 CFR Part 1500

Federal Preemption of State and Local Labeling Requirements; Revocation of Rule

AGENCY: Consumer Product Safety Commission.

ACTION: Revocation of Rule.

SUMMARY: The Commission is revoking a regulation concerning the preemption of state and local labeling requirements. The regulation is no longer valid because it is based on a provision of the Federal Hazardous Substances Act that was substantially amended in 1976.

EFFECTIVE DATE: The revocation will become effective on January 26, 1983.

FOR FURTHER INFORMATION CONTACT: Alan Shakin, Office of the General Counsel, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 492-6980.

SUPPLEMENTARY INFORMATION: In 1966 Congress amended the Federal Hazardous Substances Labeling Act, 15 U.S.C. 1261, *et seq.;* Pub. L. 89-756. Among other changes—including a name change to the Federal Hazardous Substances Act (FHSA)—a preemption provision was added to the statute as section 18(b).

The Food and Drug Administration, the agency that then administered the FHSA, subsequently issued a regulation that implemented this preemption provision. 21 CFR Part 191. When the Consumer Product Safety Commission came into existence in May 1973, it took over the responsibility for administering the FHSA. In September 1973 the Commission re-issued the FHSA premption regulation, with minor modification, and transferred it to 16 CFR 1500.7. 38 FR 27012, Sept. 27, 1973.

In May 1976 Congress amended the FHSA preemption provision, section 18(b), significantly. Consumer Product Safety Commission Improvements Act of 1976; Pub. L. 94-284. The regulation that implemented the 1966 version, 16 CFR 1500.7, became incompatible with the new statutory provision. Therefore, the Commission is now revoking this regulation.

Under the Administrative Procedure Act, the issuance of rules must generally be preceded by a notice of proposed rulemaking and an opportunity for submission of written comments. An exception exists when "the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impractical, unnecessary, or contrary to the public interest." 5 U.S.C. 553(b). In this case, the Commission finds that a notice and comment rulemaking procedure is unnecessary because the statutory basis of the existing FHSA preemption regulation no longer exists.

PART 1500—[AMENDED]

§ 1500.7 [Removed and reserved]

Therefore, pursuant to provisions of the Administrative Procedure Act, 5 U.S.C. 553, § 1500.7 of Title 16, Chapter II, Subchapter C of the Code of Federal Regulations is revoked, removed, and reserved. *Effective date*: The revocation shall become effective on January 26, 1983.

(5 U.S.C. 553; 15 U.S.C. 1261 *et seq.*)

List of Subjects in 16 CFR Part 1500

Consumer protection, Labeling, Preemption.

Dated: December 21, 1982.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 82-35045 Filed 12-23-82; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 7

[T.D. 7863]

Transfers Involving Foreign Corporations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document provides temporary income tax regulations that amend the existing temporary regulations relating to the treatment of certain exchanges of stock in a foreign corporation for stock in another foreign corporation by a United States person that are described in section 367 of the Internal Revenue Code of 1954. The temporary regulations are necessary to provide the public with the immediate guidance needed to meet the requirements of section 367. The regulations are also necessary to provide guidance to officers and employees of the Internal Revenue Service with respect to the requirements of that section. The text of the temporary regulations set forth in this document also serves as the text of proposed regulations cross-referenced in the Proposed Rules section of today's **Federal Register**.

DATES: The amendments are effective for certain exchanges that are described in both section 354 and in either section 351 or 361 and that begin after January 26, 1983 and, at the option of the taxpayer, to any other such exchange that begins after December 31, 1977, and during an open taxable year.

FOR FURTHER INFORMATION CONTACT: Martha E. Kadue of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, Attention: CC:LR:T (202-566-3238).

SUPPLEMENTARY INFORMATION:

Background

On December 27, 1977, temporary income tax regulations under section 367 were adopted (42 FR 65152). On October 2, 1979, those regulations were amended to provide examples (44 FR 57390). Under § 7.367(b)-4(b), the temporary regulations provided that, in the event of an overlap between section 351 or 361 and a section 368(a)(1)(B) reorganization (hereinafter referred to as an "overlap transaction"), the transaction was to be considered as a section 351 or 361 exchange and not as a section 368(a)(1)(B) reorganization. As a consequence, the transaction was considered to be governed by the rules pertaining to section 367(a) and not by the rules pertaining to section 367(b). Two overlap transactions were illustrated in § 7.367(b)-13, example (14). The temporary regulations provided in this document change the rule of the previous temporary regulations and treat overlap transactions as exchanges described in section 367(b).

The temporary regulations set forth herein provide that the rules of § 7.367(b)-7 are applicable to overlap transactions if the exchanging shareholder is a United States shareholder (within the meaning of

§ 7.367(b)–2(b)) of the corporation whose stock is exchanged. Gain realized, if any, on the exchange in excess of the section 1248 amount taken into account under § 7.367(b)–7 must be included, as a general rule, in gross income.

In overlap transactions in which the exchanging shareholder is not a United States shareholder (within the meaning of § 7.367(b)–2(b)) of the corporation whose stock is exchanged, these temporary regulations provide that, as a general rule, all gain realized in connection with the exchange will be currently included in gross income.

A United States person (whether or not a United States shareholder) can avoid current inclusion of gain in gross income (but only to the extent the gain exceeds the section 1248 amount, if any, in the case of a United States shareholder) if such person treats the exchange as an exchange to which the rules of section 367(a) apply and if, under the regulations applicable to section 367(a), the gain would not be currently recognized (i.e., if a favorable ruling is received or if the exchange is an exchange exempted from the ruling requirement procedure by regulations, when issued, under section 367(a)(2)). Moreover, if the transferee corporation is a controlled foreign corporation after the transfer and if the exchanging shareholder is a United States shareholder (within the meaning of § 7.367(b)–2(b)) of the transferee corporation after the transfer and of the corporation whose stock is transferred both before and after the transfer, then the attribution rules of § 7.367(b)–9 apply, as provided by § 7.367(b)–7, and the excess gain inclusion rules of § 7.367(b)–4(b) do not apply. These rules apply only to exchanges that are reorganizations described in section 368(a)(1)(B), and any intention on the part of the transferee corporation at the time of the transaction to dispose of the acquired stock may adversely affect the qualification of the exchange as a reorganization.

This document also contains an amendment to example (14) of § 7.367(b)–13 to illustrate the application of this new rule. Since these overlap transactions are considered to be transfers described in section 367(b) and not in section 367(a), under these temporary regulations section 7477 does not apply. These regulations are issued under the authority contained in sections 367(b) (90 Stat. 1634; 26 U.S.C. 367(b)) and 7805 (68A Stat. 917; 26 U.S.C. 7805) of the Internal Revenue Code of 1954.

Need for Temporary Regulations

In general, under section 367, a foreign corporation will not be considered to be a corporation unless the requirements of that section and the regulations thereunder are met. If a foreign corporation is not considered to be a corporation, then various nonrecognition rules applicable to transfers involving corporations will not apply. Therefore, for taxpayers and officers and other employees of the Internal Revenue Service to be able to determine whether a nonrecognition provision will apply to a transaction, it is essential that the consequences of the transaction be clearly defined. Because of the importance of this matter and in response to comments received from taxpayers with respect to the earlier notice of proposed rulemaking, the Internal Revenue Service is adopting on a temporary basis the rules contained in these temporary regulations. In addition, because of the need for immediate guidance with respect to these provisions, the Internal Revenue Service has found it to be necessary to issue these regulations prior to giving notice and providing for public procedures as outlined under section 553(b) of Title 5 of the United States Code.

Drafting Information

The principal author of these temporary regulations is Martha E. Kadue of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and the Treasury Department participated in developing the regulations on matters of substance and style.

List of Subjects in 26 CFR Part 7

Income taxes, Tax Reform Act of 1976.

PART 7—[AMENDED]

Adoption of Amendments to the Temporary Regulations

Accordingly, 26 CFR Part 7 is amended as follows:

Paragraph 1. Section 7.367(b)–4 is amended by revising paragraph (b) to read as follows:

§ 7.367(b)–4 Certain exchanges described in more than one Code provision.

* * * * *

(b) *Treatment of certain exchanges described in both section 354 and in either section 351 or 361*—

(1) *In general.* If an exchange of stock in a foreign corporation (whether or not a controlled foreign corporation) by a United States person (whether or not a United States shareholder within the meaning of § 7.367(b)–2(b)) pursuant to a reorganization described in section 368(a)(1)(B) involving a foreign corporation transferee is described in section 351 or section 361 as well as in section 354, such exchange is not an exchange described in section 367(a)(1) and—

(i) If the exchanging shareholder is a United States shareholder (within the meaning of § 7.367(b)–2(b)) of the corporation whose stock is exchanged—

(A) The exchange shall be subject to the rules of § 7.367(b)–7, and

(B) The excess of the gain realized (i.e., the fair market value of the stock received over the adjusted basis of the stock exchanged) over the section 1248 amount taken into account under § 7.367(b)–7 shall be included in the gross income of the exchanging shareholder as gain recognized from the sale or exchange of the stock exchanged; or

(ii) If the exchanging shareholder is not a United States shareholder (within the meaning of § 7.367(b)–2(b)) of the corporation whose stock is exchanged, the entire amount of gain realized (i.e., the fair market value of the stock received over the adjusted basis of the stock exchanged) shall be included in the gross income of the exchanging shareholder as gain recognized from the sale or exchange of the stock exchanged.

(2) *Exceptions.* This subparagraph (2) applies only to the gain treated as gain recognized on the sale or exchange of the stock exchanged and does not apply to any amount subject to the rules of § 7.367(b)–7, as provided in paragraph (b)(1)(i)(A) of this section.

(i) *Specified treatment.* If the United States person treats its exchange of stock in the foreign corporation as an exchange to which the rules under section 367(a) apply and—

(A) Pursuant to a request filed in accordance with the regulations pertaining to transfers under section 367(a)(1), it is established to the satisfaction of the Commissioner that such exchange is not in pursuance of a plan having as one of its principal purposes the avoidance of Federal income taxes, then the gain otherwise required to be included in gross income under paragraph (b)(1)(i)(B) or paragraph (b)(1)(ii) of this section shall not be currently recognized and shall not be included in gross income; or

(B) The exchange of stock is the type of exchange designated by the Secretary pursuant to regulations (not as yet issued) under section 367(a)(2) as not requiring the filing of a request under section 367(a)(1), then the gain required

to be included in gross income under paragraph (b)(1)(i)(B) or paragraph (b)(1)(ii) of this section shall be treated instead in accordance with the regulations under section 367(a)(2).

(ii) *Controlled foreign corporations.* If—

(A) The transferee corporation is a controlled foreign corporation after the transfer, and

(B) The exchanging shareholder is a United States shareholder (within the meaning of § 7.367(b)–2(b)) of the corporation whose stock is exchanged both before and after the transfer and of the transferee corporation after the transfer, then paragraph (b)(1)(i)(B) of this section shall not apply.

(3) *Effective date.* The rules of this paragraph (b) apply to exchanges that begin after January 26, 1983. For the rules applicable to exchanges that began before that date, see 26 CFR 7.367(b)–4(b) as it appeared in the Code of Federal Regulations revised as of April 1, 1982. However, the rules contained in paragraph (b) (1) and (2) of this section for the treatment of certain exchanges described in that paragraph may, at the option of the taxpayer, apply also to any exchange beginning after December 31, 1977, and during a taxable year with respect to which action by the Internal Revenue Service is not barred by any statute of limitations.

* * * * *

Par. 2. Example (14) of § 7.367(b)–13 is revised to read as follows:

§ 7.367(b)–13 Examples. * * *

Example (14). (a) F is a foreign corporation that was organized in country C on January 1, 1978. At all times since that date, A, a domestic corporation, has owned 100 percent of the outstanding stock of F. All of F's assets are used in a manufacturing business. The F stock does not comprise substantially all of A's assets. On January 1, 1983, A exchanges all of its stock of F for 80 percent of the outstanding voting stock of Y, an unrelated foreign corporation organized in country C. At the time of the exchange, A's Y stock received in the exchange has a fair market value of $600, A's adjusted basis in its F stock is $300, and A's section 1248 amount attributable to its F stock is $200. The exchange of stock of F by A would be described in section 351 if the status of Y as a corporation is recognized. This exchange would also be described in section 354 (a reorganization described in section 368(a)(1)(B)) if the status of F and Y as corporations is recognized. Under § 7.367(b)–4(b)(1)(i)(A), the exchange is considered to be one to which § 7.367(b)–7 applies. Under § 7.367(b)–7(b), the exchange is treated as one to which § 7.367(b)–0 applies, and under that latter section the section 1248 amount of $200 must be attributed to the Y stock received in the exchange. If § 7.367(b)–4(b)(2)(i) or (ii) did not apply, then under § 7.367(b)–4(b)(1)(i)(B), A would have to include $100 in gross income as gain from the exchange of the F stock. This amount is equal to the excess of the gain realized, or $300 ($600 minus $300), over the section 1248 amount taken into account under § 7.367(b)–4(b)(1)(i)(A), or $200. However, since Y is a controlled foreign corporation after the transfer and since A is a United States shareholder (within the meaning of § 7.367(b)–2(b)) of F both before and after the transfer and of Y after the transfer, by reason of § 7.367(b)–4(b)(2)(ii) no gain is recognized on the transfer under § 7.367(b)–4(b)(1)(i)(B), but the section 1248 amount of $200 must be attributed to the Y stock received in the exchange under § 7.367(b)–4(b)(1)(i)(A).

(b) The facts are the same as in paragraph (a) of this example, except that A receives only 30 percent of the Y stock, unrelated foreign persons receive an additional 50 percent of the Y stock in exchange for their contribution of property to Y, and Y is not a controlled foreign corporation after the exchange. Under § 7.367(b)–7(c)(1)(i), A must include in gross income the $200 section 1248 amount attributable to the F stock exchange. Unless § 7.367(b)–4(b)(2)(i) applies, under § 7.367(b)–4(b)(1)(i)(B) of this section, A must also include $100 in gross income as gain from the exchange of the F stock.

(c) The facts are the same as in paragraph (b) of this example, except that under § 7.367(b)–4(b)(2)(i)(A), A receives a favorable ruling that the exchange is not considered to be in pursuance of a plan having as one of its principal purposes the avoidance of Federal income taxes. As a result, A is only required to include in gross income the $200 section 1248 amount determined pursuant to § 7.367(b)–4(b)(1)(i)(A) and is not required to include in gross income the $100 determined pursuant to § 7.367(b)–4(b)(1)(i)(B).

(d) The facts are the same as in paragraph (a) of this example, except that A owns only five percent of the outstanding S stock, B (an unrelated domestic corporation) owns 75 percent of the outstanding F stock, and both A and B exchange their F stock for F and 75 percent, respectively, of the outstanding stock in Y. Although A is a United States person at the time of the exchange, A is not and has never been a United States shareholder (within the meaning of § 7.367(b)–2(b)) of F. Therefore, A's section 1248 amount with respect to its F stock is zero. Unless § 7.367(b)–4(b)(2)(1) applies, under § 7.367(b)–4(b)(1)(ii) A must include $300 in gross income as gain from the exchange of its F stock.

(e) The facts are the same as in paragraph (a) of this example, except that the F stock does comprise substantially all of A's assets. A transfers all of its stock in F to Y in exchange for 70 percent of Y's outstanding stock, and A remains in existence and does not distribute the Y stock received in the exchange to its shareholders. The exchange of stock of F by A would be described in section 361 (a reorganization described in section 368(a)(1)(C)) if the status of Y as a corporation is recognized. This exchange would also be described in section 354 (a reorganization described in section 368(a)(1)(B)) if the status of F and Y as corporations is recognized. Under § 7.367(b)–4(b), the exchange is considered to be one to which section 367(b) applies. The remaining tax consequences of this exchange are the same as the consequences illustrated in paragraph (a) of this example.

(f) The facts are the same as in paragraph (a) of this example, except that on January 1, 1982, A sells 60 percent of the voting stock of F to a foreign corporation at a gain and reports such gain as required under the Code. At the time of the January 1, 1983 exchange of F stock by A for Y stock, A's adjusted basis in the retained stock of F is $300 and A's section 1248 amount attributable to the retained stock of F is $200. While F is no longer a controlled foreign corporation, A is treated as a United States shareholder of F for five years following the sale of F stock under § 7.367(b)–2(b). Therefore, § 7.367(b)–4(b)(1)(i)(A) and the exception of § 7.367(b)–4(b)(2)(ii) apply to the January 1, 1983 exchange of F stock by A for Y stock, and the tax consequences of that exchange are the same as the consequences illustrated in paragraph (a) of this example.

* * * * *

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: December 13, 1982.

John E. Chapoton,

Assistant Secretary of the Treasury.

[FR Doc. 82–35038 Filed 12–23–82; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

[DOD Reg. 6010.8–R, Amdt. No. 18]

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Morbid Obesity

AGENCY: Office of the Secretary of Defense, DOD.

ACTION: Final rule.

SUMMARY: This amendment clarifies the Program exclusion of all services related to obesity, permitting consideration only for surgical treatment of morbid obesity. This clarification is necessary to set forth very limited criteria which will permit individual case review of life-endangering instances. This exception applies to gastric bypass, gastric stapling or gastroplasty for those individuals who are morbidly obese. Program payment may not be made for any other surgical or nonsurgical treatment, even if morbid obesity is present.

EFFECTIVE DATE: December 27, 1982.

FOR FURTHER INFORMATION CONTACT: Ms. Rose M. Sabo, Policy Branch, OCHAMPUS, telephone (303) 361–8608.

SUPPLEMENTARY INFORMATION: The proposed amendment was published in 46 FR 34352–34353, July 1, 1981, and invited comments for 30 days. Comments were received from three interested organizations and agencies.

1. All of the comments endorsed the proposal but suggested we delete the intestinal bypass from coverage because of serious complications that have been documented. We have accepted the recommendation and deleted the intestinal bypass from coverage.

2. One of the comments recommended there be no requirement for an associated complication because the incidence of sudden death is significantly increased by the 100 pound increase in weight. The commenter felt that complications should be prevented by early treatment when possible. The commenter also felt that a somewhat lower weight should be accepted when there are medical complications, for example, 75% or 75 pounds above ideal.

The morbid obesity benefit actually provides payment for the following two categories of patients:

—Those with a specific severe medical condition who are 100 pounds over their ideal weight; and

—Those who are 200% or more over their ideal weight. (This category does not require medical complications to be present.)

These criteria were professionally developed, and the definition of morbid obesity reflects the general opinion as to which cases justify surgical intervention. We have found it necessary to be very specific in benefit parameters as a matter of fiscal responsibility and to protect Program beneficiaries. Surgical intervention is not intended to be the treatment of choice for obesity. The definition of morbid obesity developed for CHAMPUS is very similar to the definition used by other major health care plans. Because of these considerations, it does not seem appropriate to revise the definition.

3. Some comments recommended that individual consideration be given to cases for which surgery is usually contraindicated and for which the patient does not fall within the age 18 to 50 category. The commenters felt this would allow consideration of unique cases in which surgery would be medically appropriate.

We have accepted this recommendation and deleted the previous restriction. Instead of denying automatically those cases that do not fall within the specified age limits and those cases for which surgery would usually be contraindicated, we will permit individual case review. This will allow for special consideration of those unique cases in which surgery may indeed be the appropriate course of treatment.

Numerous studies, as well as medical literature, report a large number of intestinal bypasses (such as the jejunoileal) which later require a second surgery because of the serious complications that result. The surgeon will, in many cases, do a gastric bypass, gastric stapling or gastroplasty to help the patient avoid regaining the weight that was lost. In this situation, even though the patient's condition may not meet technically the definition of morbid obesity because of the weight that has already been lost, payment will be made. This amendment is being revised to provide special benefit consideration for those cases.

In addition to the substantive changes, the language of the morbid obesity section is being simplified.

List of Subjects in 32 CFR Part 199

Health insurance, Military personnel, Handicapped.

Accordingly, 32 CFR, Chapter I, is amended as follows:

PART 199—IMPLEMENTATION OF THE CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES

1. Section 199.6 is amended by adding, following paragraph (b)(108), *Missing in Action,* a new paragraph (b)(109), *Morbid Obesity,* as set forth below and by redesignating present paragraphs, (b)(109) through (179) as (b)(110) through (180).

§ 199.6 Definitions.

* * * * *

(b) *Specific definitions.*

* * * * *

(109) *Morbid Obesity.* "Morbid Obesity" means the body weight is 100 pounds over ideal weight for height and bone structure, according to the most current Metropolitan Life Table, and such weight is in association with severe medical conditions known to have higher mortality rates in association with morbid obesity; or, the body weight is 200% or more over ideal weight for height and bone structure according to the most current Metropolitan Life Table. The associated medical conditions are diabetes mellitus, hypertension, cholecystitis, narcolepsy, pickwickian syndrome (and other severe respiratory diseases), hypothalmic disorders, and severe arthritis of the weight-bearing joints.

* * * * *

2. Section 199.10 is amended by adding a new paragraph (e)(15) and revising paragraph (g)(28) as set forth below:

§ 199.10 Basic program benefits.

* * * * *

(e) *Special benefit information.*

* * * * *

(15) *Morbid obesity.* The CHAMPUS morbid obesity benefit is limited to the gastric bypass, gastric stapling or gastroplasty method.

(i) *Conditions for coverage.* Payment may be extended for the gastric bypass, gastric stapling or gastroplasty method only when one of the following conditions is met:

(*a*) The patient is 100 pounds over the ideal weight for height and bone structure and has an associated severe medical condition. These associated medical conditions are diabetes mellitus, hypertension, cholecystitis, narcolepsy, pickwickian syndrome (and other severe respiratory diseases) hypothalmic disorders and severe arthritis of the weight-bearing joints.

(*b*) The patient is 200% or more over the ideal weight for height and bone structure. An associated medical condition is not required for this category.

(*c*) The patient has had an intestinal bypass or other surgery for obesity and, because of complications, requires a second surgery (a takedown). The surgeon will, in many case, do a gastric bypass, gastric stapling or gastroplasty at the same time as the takedown to help the patient avoid regaining the weight that was lost. In this situation payment is authorized, even though the patient's condition may not technically meet the definition of morbid obesity because of the weight that was already lost following the initial surgery.

(ii) *Exclusions.* (*a*) CHAMPUS payment may not be made for nonsurgical treatment of obesity or morbid obesity, for dietary control or weight reduction.

(*b*) CHAMPUS payment may not be made for surgical procedures other than the gastric bypass, gastric stapling or gastroplasty, even if morbid obesity is present.

* * * * *

(g) *Exclusions and limitations.* * * *

(28) *Obesity: weight reduction.* Services and supplies related to obesity or weight reduction whether surgical or nonsurgical; wiring of the jaws or any

procedure of similar purpose regardless of the circumstances under which performed; except that benefits may be provided for the gastric bypass, gastric stapling and gastroplasty procedures in connection with "morbid obesity" as provided in paragraph (e)(15) of this part.

* * * * *

(10 U.S.C. 1079, 1086; 5 U.S.C. 301)

December 16, 1982.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

[FR Doc. 82-34844 Filed 12-23-82; 8:45 am]

BILLING CODE 3810-01-M

Department of the Air Force

32 CFR Part 802

Air Force Technical Order System

AGENCY: Air Force Department, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Air Force is amending its administration regulations by removing Part 802 on Air Force technical order system of Chapter VII, Title 32. The source document, Air Force Regulation (AFR) 8-2, has been revised. It is intended for internal guidance and has limited applicability to the general public. This action is a result of departmental review in an effort to insure that only regulations which substantially affect the public are maintained in the Air Force portion of the Code of Federal Regulations.

EFFECTIVE DATE: December 27, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Stiegmann, USAF, AF/LEYE, Pentagon, Washington, D.C., telephone (202) 697-9179.

SUPPLEMENTARY INFORMATION:

PART 802—[REMOVED]

Accordingly, 32 CFR is amended by removing Part 802.

List of Subjects in 32 CFR Part 802

Government property management, Government procurement, Safety.

(Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012.)

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 82-34817 Filed 12-23-82; 8:45 am]

BILLING CODE 3910-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD7 82-14]

Drawbridge Operation Regulations; Atlantic Intracoastal Waterway, Indian River, Brevard County, Florida and Atlantic Intracoastal Waterway, Halifax River, Volusia County, Florida

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This amendment revokes the regulations for the drawbridge across the AIWW (Halifax River), mile 824.9, Granada Avenue (State Road 40), Ormond Beach and the drawbridge across the AIWW (Indian River), mile 918.2, State Road 518 at Melbourne because adjacent high level fixed bridges have been opened to vehicular traffic and demolition of the drawbridges is in progress. Notice and public procedure have been omitted from this action due to the removal of the bridges concerned.

EFFECTIVE DATE: This amendment becomes effective on January 26, 1983.

FOR FURTHER INFORMATION CONTACT: J. R. Kretschmer, Seventh Coast Guard District, telephone (305) 350-4108.

SUPPLEMENTARY INFORMATION: This action has no economic consequences. It merely revokes regulations that are now meaningless because they pertain to drawbridges that remain open to navigation. Consequently, this action cannot be considered to be a major rule under Executive Order 12291. Furthermore, it has been found to be nonsignificant under the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of May 22, 1980), and does not warrant preparation of an economic evaluation. Because no notice of proposed rulemaking is required under 5 U.S.C. 553, this action is exempt from the Regulatory Flexibility Act (5 U.S.C. 605(b)). However, this action will not have a significant effect on a substantial number of small entities.

Drafting Information:

The drafters of this rule are: J. R. Kretschmer, Project Officer, and Lieutenant Michael T. Harris, Project Attorney.

List of Subjects in 33 CFR Part 117

Bridges.

PART 117—[AMENDED]

§§ 117.433 and 117.436 [Amended]

In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations, is amended by removing § 117.433(a) and § 117.436(b)(1).

(33 USC 499; 49 USC 1655(g)(2); 49 CFR 1.46(c)(5); 33 CFR 1.05-1(g)(3)).

Dated: December 8, 1982.

A. D. Breed,

Deputy Commander, U.S. Coast Guard, Seventh District.

[FR Doc. 82-34934 Filed 12-23-82; 8:45 am]

BILLING CODE 4910-14-M

---

33 CFR Part 117

[CGD7 82-12]

Drawbridge Operation Regulations; St. Lucie River, Okeechobee Waterway, Mile 7.5 at Stuart, Martin County, Florida

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the City of Stuart, the Coast Guard is changing the regulations governing the Roosevelt drawbridge at Stuart, Florida by permitting the number of openings to be limited during certain periods. This change is being made because periods of peak vehicular traffic have changed. This action will accommodate the needs of vehicular traffic and still provide for the reasonable needs of navigation.

EFFECTIVE DATE: This rule becomes effective on January 26, 1983.

FOR FURTHER INFORMATION CONTACT: James R. Kretschmer, Bridge Administrator, Seventh Coast Guard District, telephone (305) 350-4108.

SUPPLEMENTARY INFORMATION: On August 30, 1982, the Coast Guard published a proposed rule (47 FR 38154) concerning this amendment. The Commander, Seventh Coast Guard District, also published these proposals as a Public Notice dated September 24, 1982. In each notice, interested persons were given until October 14, 1982 to submit comments.

Drafting Information:

The principal persons involved in drafting this rule are: James R. Kretschmer, Project Officer, and Lieutenant Michael T. Harris, Project Attorney.

Discussion of Comments

No comments were received in response to publication in the Federal Register. Sixteen responses to the public

notice were received. Ten comments agreed with the proposed rule. Three commentors suggested that the restricted hours be extended throughout the day. Since the bridge presently opens less than twice per hour outside the restricted periods, further restrictions are not considered justified. One commentor suggested that the bridge not open at all during morning and evening rush hours. Since the bridge presently opens an average of one time during the morning and evening rush hours, this additional restriction to navigation is not considered justified. Two commentors objected to the proposed rule limiting openings to the hour and half-hour between noon and 2 p.m. indicating that when the adjacent railway bridge is in a down position, waterborne traffic will be subject to long delays during the restricted periods. An additional paragraph has been added to the final rule to provide that if the adjacent railway bridge is in a "down" or closed position, the highway bridge need not open for east bound vessels. However, the bridge shall open as soon as the railway bridge resumes its "up" or open position if any vessels are waiting to pass. This a non-substantive addition to the rule and requires no additional comment since the railroad bridge is remotely operated, and provides a lesser vertical clearance in a closed position than the highway bridge. Since this rule exempts tugs with tows, the major commercial users of the waterway, it is expected that there will be only minimal economic impact.

Economic Assessment and Certification

These final regulations have been reviewed under the provisions of Executive Order 12291, and have been determined not to be major rules. They are considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of May 22, 1980). As explained above, an economic evaluation has not been conducted since its impact is expected to be minimal. In accordance with 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), it is also certified that these rules will not have a significant impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

PART 117—DRAWBRIDGE OPERATION REGULATIONS

In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations, is amended by revising § 117.438b to read as follows:

§ 117.438b St. Lucie River, Okeechobee Waterway, mile 7.5, Roosevelt Bridge, U.S. Highway No. 1, Stuart, Florida.

(a) From 7:30 a.m. to 9:00 a.m.; 12 noon to 2:00 p.m.; and 4:00 p.m. to 6:00 p.m., Monday through Friday, the draw need not open for passage of vessels except that on the hour and half-hour the draw shall open to pass all accumulated vessels. At all other times the draw shall open on signal.

(b) When the adjacent Florida East Coast Railway bridge is in a closed position on the hour or half-hour, during the restricted periods, the draw need not open for eastbound vessels. When the railway bridge opens, the draw shall open upon signal to pass all accumulated vessels.

(c) The draw shall open at any time for the passage of public vessels of the United States; state, or local government vessels used for public service, tugs with tows; and vessels in distress. The opening signal from these vessels is five short blasts of a whistle, horn, other sound producing device, or by shouting.

(d) The owner of or agency controlling the bridge shall conspicuously post notices containing the substance of these regulations both upstream and downstream, on the bridge or elsewhere, in such a manner that they can easily be read at all times from an approaching vessel.

(33 U.S.C. 499; 49 U.S.C. 1655(g)(2); 49 CFR 1.46 (c)(5); 33 CFR 1.05–1(g)(3))

Dated: December 8, 1982.

A. D. Breed,

Deputy Commander, U.S. Coast Guard Seventh District.

[FR Doc. 82–34035 Filed 12–23–82; 8:45 am]

BILLING CODE 4910–14–M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

41 CFR Ch. 7

[AIDPR Notice 83–3]

Deletion of AID Procurement Regulation (AIDPR) Appendix C; Contractor Performance Evaluation Report

AGENCY: Agency for International Development.

ACTION: Final rule.

SUMMARY: This Agency for International Development Procurement Regulation (AIDPR) Notice deletes the title and text of AIDPR Appendix C relating to Contractor Performance Evaluation Report, reserving Appendix C for future use. This action represents a change in the Agency's internal procedures for the handling of contractor performance evaluation information.

EFFECTIVE DATE: This AIDPR notice is effective on Nov. 26, 1982.

FOR FURTHER INFORMATION CONTACT: V. Henry Walker, M/SER/CM/SD/POL, Agency for International Development, Washington, D.C. 20523. Telephone (703) 235–9107.

SUPPLEMENTARY INFORMATION: This AIDPR Notice is a procurement regulation, and has been exempted from the requirements of Executive Order 12291 of February 17, 1981, pursuant to Section 8(b) of the Order, by the Director, OMB, in a letter dated April 8, 1981, as amended December 2, 1981. The determination required by paragraph 4a of OFPP Policy Letter 80–5, and the certification required by the Regulatory Flexibility Act have been made and are included in the body of this AIDPR Notice.

List of Subjects in 41 CFR Ch. 7

Government procurement.

Appendix C to Ch. 7—[Removed and Reserved]

1. The Table of Contents of the Appendices, which commence at the end of the AIDPR text, is amended as follows: "Appendix C—Contractor Performance Evaluation Report," is revised to read as follows: "Appendix C—[Reserved]."

Appendix C—[Removed and Reserved]

2. The title and text of Appendix C is removed and reserved.

Determination

As required by paragraph 4a of OFPP Policy Letter 80–5, I hereby determine that this AIDPR Notice has been reviewed against the policies set forth in paragraphs (1) through (8) of Section 2 of the Office of Federal Procurement Policy Act (Pub. L. 93–400, as amended by Pub. L. 96–83, hereinafter referred to as the Act), and policy directives issued by OFPP under Section 6(h) of the Act.

Based on this review, I hereby determine that this AIDPR Notice is not inconsistent with the policies set forth in paragraphs (1) through (8) of Section 2 of the Act, and policy directives issued by OFPP under Section 6(h) of the Act.

Certification

Pursuant to the Regulatory Flexibility Act, I hereby certify as head of the Agency, under AIDPR 7–1.204, that this regulation will not have a significant economic impact on a substantial

number of small entities, including small businesses, small organizational units and small governmental jurisdictions.

Authority: This AIDPR Notice is issued under 41 CFR 7-1.008-51.

Dated: December 7, 1982.

John F. Owens,

Deputy Assistant to the Administrator for Management.

[FR Doc. 82-35027 Filed 12-23-82; 8:45 am]

BILLING CODE 6116-01-M

ENVIRONMENTAL PROTECTION AGENCY

41 CFR Part 15-3

[OA-FRL-2274-1]

Procurement by Negotiation; Small Purchases

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is amending its procurement regulation relating to small purchases. The intended effect of this revision is to eliminate Agency regulations duplicating the Federal Procurement Regulations (FPR).

EFFECTIVE DATE: December 27, 1982.

FOR FURTHER INFORMATION CONTACT: Pamela John, Procurement and Contracts Management Divison (PM-214), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, (202/382-5026).

SUPPLEMENTARY INFORMATION: (a) EPA's procurement regulation prescribes policies and procedures relating to small purchases. This rule removes these policies and procedures as they duplicate guidance in the FPR.

(b) The Agency has not invited public comments on this rule as its purpose is to reduce the proliferation of regulations on small purchases.

(c) The Office of Management and Budget (OMB) has exempted this regulation from the requirements of Executive Order 12291 pursuant to Section 8(b) of that Order.

List of Subjects in 41 CFR Part 15-3

Government procurement.

PART 15-3—[AMENDED]

For the reasons set out in the preamble, 41 CFR Part 15-3 is amended as follows:

Subpart 15-3.6—[Removed]

1. The table of contents for Part 15-3 is amended by removing the entries for Subpart 15-3.6.

2. Part 15-3 is amended by removing Subpart 15-3.6, consisting of §§ 15-3.600, 15-3.601, 15-3.602, 15-3.603, 15-3.603-1, 15-3.603-2, 15-3.604, 15-3.605, 15-3.605-1, 15-3.605-2, and 15-3.606.

(Sec. 205(c), 63 Stat. 390, 40 U.S.C. 486(c))

Dated: November 26, 1982.

John P. Horton,

Assistant Administrator for Administration.

[FR Doc. 82-34965 Filed 12-23-82; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

[Docket No. FEMA 6471]

List of Withdrawal of Flood Insurance Maps Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule lists communities where Flood Insurance Rate Maps or Flood Hazard Boundary Maps published by the Director, Federal Emergency Management Agency, have been temporarily withdrawn for administrative or technical reason. During that period that the map is withdrawn, the insurance purchase requirement of the National Flood Insurance Program is suspended.

EFFECTIVE DATES: The date listed in the fifth column of the table.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, National Flood Insurance Program, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0237.

SUPPLEMENTARY INFORMATION: The list includes the date that each map was withdrawn, and the effective date of its republication, if it has been republished. If a flood-prone location is now being identified on another map, the community name for the effective map is shown.

The Flood Disaster Protection Act of 1973 (Pub. L. 93-234), as amended, requires, at Section 102, the purchase of flood insurance as a condition of Federal financial assistance if such assistance is:

(1) For acquisition and construction of buildings, and

(2) For buildings located in a special flood hazard area identified by the Director of Federal Emergency Management Agency.

The insurance purchase requirement with respect to a particular community may be altered by the issuance or withdrawal of the Federal Emergency Management Agency's (FEMA) official Flood Insurance Rate Map (FIRM) or the Flood Hazard Boundary Map (FHBM). A FHBM is usually designated by the letter "E" following the community number. If the FEMA withdraws a FHBM for any reason the insurance purchase requirement is suspended during the period of withdrawal. However, if the community is in the Regular Program and only the FIRM is withdrawn but a FHBM remains in effect, then flood insurance is still required for properties located in the identified special flood hazard areas shown on the FHBM, but the maximum amount of insurance available for new applications or renewal is first layer coverage under the Emergency Program, since the community's Regular Program status is suspended while the map is withdrawn. (For definitions see 44 CFR Part 59 et seq.).

List of Subjects in 44 CFR Part 65

Flood insurance, Flood plains.

This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities. As the purpose of this revision is the convenience of the public, notice and public procedure are unnecessary, and cause exists to make this amendment effective upon publication.

PART 65—[AMENDED]

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated will not have a significant economic impact on a substantial number of small entities. Accordingly, Subchapter B of Chapter 1 of Title 44 of the Code of Federal Regulations is amended as follows:

1. Present § 65.6 is revised to read as follows:

§ 65.6 Administrative withdrawal of maps.

(a) *Flood Hazard Boundary Maps (FHBM's).*

The following is a cumulative list of withdrawals pursuant to this Part:

40 FR 5149
40 FR 17015
40 FR 20798
40 FR 46102
40 FR 53579
40 FR 56672
41 FR 1478
41 FR 50990
41 FR 13352
41 FR 17726
42 FR 8895
42 FR 29433
42 FR 46226
42 FR 64076
43 FR 24019
44 FR 815
44 FR 6383
44 FR 18485
44 FR 25636
44 FR 34120
44 FR 52835
44 FR 57094
45 FR 12421
45 FR 26051
45 FR 31318
45 FR 34120
45 FR 49570
45 FR 52385
46 FR 13695
46 FR 20176
46 FR 26776
46 FR 46810
47 FR 3121
47 FR 18869
47 FR 28657
47 FR 47563
47 FR 57495

(b) *Flood Insurance Rate Maps (FIRM's).* The following is a cumulative list of withdrawals pursuant to the Part:

40 FR 17015
41 FR 1478
42 FR 49811
42 FR 64076
43 FR 24019
44 FR 25636
45 FR 12421
45 FR 49570
46 FR 20176
46 FR 46810
47 FR 3121
47 FR 18869
47 FR 28657

2. The following additional entries (which will not appear in the Code of Federal Regulations) are made pursuant to § 65.6:

State	Community name and number	County	Hazard ID date	Rescission date	Reason
FL	Town of Afford, 120580	Jackson	2-9-79	Dec. 1, 1982	2
FL	Town of Brooker,120016	Branford	8-30-74	do	2
FL	City of Campbellton,120126	Jackson	10-26-79	do	2
FL	City of Cottondale,120583	Jackson	11-24-78	do	2
MI	Township of Holland, 260462	Missaukee	8-17-5	do	2
MI	Township of Lake, 260496	Roscommon	11-26-76	do	2
MI	Township of Lincoln, 260014	Arenac	6-14-74	do	2
MI	Township of London, 260149	Monroe	8-20-76	do	2
MI	Village of Mackinaw City, 260675	Cheboygan and Emmet	8-12-77	do	2
MI	Township of Mills, 260486	Ogemaw	7-25-75	do	2
MI	Township of Moran, 260443	Mackinac	3-25-77	do	2
MI	Township of North Plains, 260420.	Ionia	6-17-77	do	2
MI	Township of Ovid, 260362	Branch	11-5-76	do	2
MI	Township of Pokagon, 260366	Cass	5-25-77	do	2
MI	Township of Republic, 260453	Marquette	5-12-78	do	2
MI	Township of Roscommon, 260497.	Roscommon	3-18-77	do	2
MI	Township of Wilber, 260547	Iosco	11-26-76	do	2

KEY TO SYMBOLS:
E. The community is participating in the Emergency Program. It will remain in the Emergency Program without a FHBM.
R. The community is participating in the Regular Program.
1. The Community appealed its flood-prone designation and FIA determined the Community would not be inundated by a flood having a one-percent chance of occurrence in any given year.
2. FIA determined the Community would not be inundated by a flood having a one-percent chance of occurrence in any given year.
3. The Flood Hazard Boundary Map (FHBM) contained printing errors or was improperly distributed. A new FHBM will be prepared and distributed.
4 The community lacked land-use authority over the special flood hazard area.
5. The FHBM does not accurately reflect the Community's special flood hazard areas (i.e., sheet flow flooding, extremely inaccurate map, etc.). A new FHBM will be prepared and distributed.
6. The Flood Insurance Rate Map was rescinded because of inaccurate flood elevations contained on the map.
7. The Flood Insurance Rate Map was rescinded in order to re-evaluate the mudslide hazard in this Community.
8. The T&E or H&E Map was rescinded.
9. A revision of the FHBM within a reasonable period of time was not possible. A new FHBM will be prepared and distributed.
10. Miscellaneous.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: December 6, 1982.

Dave McLoughlin,

Acting Associate Director, State and Local Programs and Support.

[FR Doc. 82-34784 Filed 12-23-82; 8:45 am]
BILLING CODE 6718-03-M

Proposed Rules

Federal Register
Vol. 47, No. 248
Monday, December 27, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 82-AGL-25]

Proposed Alteration of Transition Area and Control Zone

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The nature of this Federal action redescribes both the control zone and transition area designated for Brainerd, Minnesota. The intended effect of this action is to accommodate a new NDB Runway 23 instrument approach procedure while, at the same time, returning some designated airspace to a non-controlled status. Also, it is to ensure segregation of aircraft using instrument approach procedures in instrument weather conditions from other aircraft operating under visual weather conditions.

DATE: Comments must be received on or before January 23, 1983.

ADDRESS: Send comments on the proposal in triplicate to FAA Office of Regional Counsel, AGL-7, Attention: Rules Docket Clerk, Docket No. 82-AGL-25, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

An informal docket will also be available for examination during normal business hours in the Airspace, Procedures, and Automation Branch, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Airspace, Procedures, and Automation Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-7360.

SUPPLEMENTARY INFORMATION: The development of an NDB Runway 23 approach procedure for Brainerd-Crow Wing County Airport requires that the current designated airspace for Brainerd, Minnesota, be altered to ensure the procedure is contained within controlled airspace although the minimum descent altitude for the procedure may be established below the floor of the 700 foot controlled airspace. During the review of the alteration, it was noted that current procedures at Brainerd-Crow Wing County Airport do not require all of the designated airspace in effect. This action returns designated airspace to a non-controlled status involving two main areas approximately 6 miles by 6 miles in size. One area is located northwest of Brainerd-Crow Wing and the other is southeast of Brainerd-Crow Wing. Both areas extend approximately from the 8 mile radius to the 14 mile radius of Brainerd Crow Wing County Airport. Aeronautical maps and charts will reflect the defined areas which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 82-AGL-25." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2, which describes the application procedures.

Proposal

The FAA is considering an amendment to Sections 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the control zone and transition area near Brainerd, Minnesota.

Sections 71.171 and 17.181 of Part 71 of the Federal Aviation Regulations were published in Advisory Circular AC 70-3 dated January 29, 1982.

List of Subjects in 14 CFR Part 171

Control zones, Transition areas, Aviation safety.

Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

§ 71.171 [Amended]

Brainerd, Minnesota

Within a 5-mile radius of Brainerd-Crow Wing County Airport (latitude 46°23'52"N, longitude 94°08'12"W.); within 2 miles each side of the Brainerd Runway 23 localizer course extending from the 5-mile radius zone to 5.5 miles northeast of the airport. This control zone will be effective during the

specific dates and times established in advance by a Notice to Airmen and continuously published in the Airport/Facility Directory.

§ 71.181 [Amended]

Brainerd, Minnesota

That airspace extending upward from 700 feet above the surface within a 8.5-mile radius of the Brainerd-Crow Wing County Airport (latitude 46°23'52"N, longitude 94°08'12"W.).

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(C)); and 14 CFR 11.65.)

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It is certified that this—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Des Plaines, Illinois, on December 6, 1982.

Monte R. Belger,

Acting Director, Great Lakes Region.

[FR Doc. 82-38715 Filed 12-23-82; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 71

[Airspace Docket No. 82-ASO-57]

Proposed Alteration of Control Zone, Anniston, Alabama

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the Anniston, Alabama, control zone by correcting the geographical coordinates of the airport and increasing the size of the control zone arrival extension. The arrival extension presently established is not of sufficient size to contain aircraft while they are executing the nondirectional radio beacon instrument approach procedure to Runway 5 (NDB RWY 5). This proposed action will provide the required controlled airspace.

DATE: Comments must be received on or before January 30, 1983.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Attn: Manager, Airspace and Procedures Branch, ASO-530, P.O. Box 20636, Atlanta, Georgia 30320. The official docket may be examined in the Office of Regional Counsel, Room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, telephone: (404) 763-7646.

FOR FURTHER INFORMATION CONTACT: Donald Ross, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763-7646.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No.——." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAS personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace and Procedures Branch (ASO-530), Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should slao request a copy of Advisory Circular No. 11-2 which describes the application procedures.

Proposal

The FAA is considering an amendment to §71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) that will correct the geographical coordinates for Anniston-Calhoun County Airport and increase the size of the control zone arrival extension associated with the NDB RWY 5 instrument approach procedure. The present size of the extension is not sufficient for containment of aircraft while executing the instrument approach procedure. Section §71.171 Part 71 of the Federal Aviation regulations was republished in Advisory Circular AC 70-3 dated January 29, 1982.

List of Subjects in 14 CFR Part 71

Aviation safety, Airspace, Control zone.

Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend §71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Anniston-Calhoun County Airport, AL [Amended]

By deleting the words, "* * * (latitude 33°35'23"N., longitude 85°51'20"W.); within 1 mile each side of the ILS localizer SW course, extending from the 5-mile zone to the OM * * *", and substituting for them the words, "* * * (Lat. 33°35'24"N., Long. 85°51'20"W); within 3 miles each side of the 235° bearing from the Anniston RBN, extending from the 5-mile radius zone to 8.5 miles southwest of the RBN * * *".

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in East Point, Georgia, on December 15, 1982.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 82-34827 Filed 12-23-82; 8:45 am]
BILLING CODE 6810-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[File No. 812 3006]

Meredith Corp.; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require a Des Moines, Iowa franchisor and operator of the Better Homes and Gardens Real Estate Service (Service), among other things, to cease making false or misleading representations regarding the Service, its members, or services offered. The order would prohibit the dissemination of advertisements and promotional materials which represent that all Service members offer consumers "settling-in" services; participate in a home-building program; and offer "exclusive" home-protection insurance, unless the advertisement clearly discloses that not all members offer these services. The corporation would also be barred from making unsubstantiated representations concerning the Service's selectivity in choosing members; training of sales associates of Service members; market size, rank and leadership in terms of sales volume of Service members; or any statement which compares Service members to other real estate franchisors as to calibre of members or membership standards. Further, the order would require the corporation to send to all members of the Better Homes and Gardens Real Estate Service a letter recalling certain advertising and promotional materials, and an acknowledgement form.

DATE: Comments must be received on or before February 25, 1983.

ADDRESS: Comments should be directed to: FTC/S, Office of the Secretary, Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: FTC/PA, Andrew B. Sacks, Washington, D.C. 20580. (202) 724-1490.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)).

List of Subjects in 16 CFR Part 13

Real estate services.

Before Federal Trade Commission

[File No: 812-3006]

MEREDITH Corp., a corporation; Agreement Containing Consent Order To Cease and Desist

The Federal Trade Commission having initiated an investigation of certain acts and practices of Meredith Corporation, a corporation, and it now appearing that Meredith Corporation, hereinafter sometimes referred to as proposed respondent, is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated:

It is hereby agreed by and between Meredith Corporation, by its duly authorized officer and its attorney, and counsel for the Federal Trade Commission, that:

1. Proposed respondent Meredith Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Iowa with an office and principal place of business located at 1716 Locust Street, Des Moines, Iowa.

2. Proposed respondent admits all the jurisdictional facts set forth in the proposed complaint here attached.

3. Proposed respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft of complaint contemplated thereby and related material pursuant to Rule 2.34, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated or that any of the facts alleged in the draft complaint here attached are true, except for jurisdictional facts, which are hereby admitted.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby, and it understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order, and that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

I

It is ordered that respondent Meredith Corporation ("Meredith"), a corporation, its successors and assigns, and its officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with advertising and promotional materials for Better Homes and Gardens Real Estate Service ("respondent's real estate service"), in or affecting "commerce" as defined in the FTC Act, do forthwith cease and desist from making the statements or representations, directly or by implication, listed below, contrary to fact at the time of their dissemination:

(A) The following statements or representations concerning services offered consumers by respondent's real estate service members:

1. All respondent's real estate service members offer consumers "settling-in" services.

2. All respondent's real estate service members participate in home-building progam, and offer this program to consumers.

3. All respondent's real estate service members offer consumers a home-protection insurance plan, in states where it is legal to do so.

4. The home-protection plan offered by respondent's real estate service members is "exclusive," provided that, for purposes of this order, a representation, direct or indirect, that a home-protection plan is exclusive shall mean that home-protection insurance providing comparable coverage is not available from other sources.

5. Any statements or representations that settling-in services, the home-building program, or the home-protection plan are offered to consumers by respondent's real estate service members, unless it is clearly and prominently disclosed within the advertisement where the representation appears that not all members offer the services. Such disclosure shall be in close proximity to the representation or noted by an asterisk to the representation referring to the disclosure.

(B) The following statements or representations concerning respondent's real estate service selection of members.

1. Included in the selection process for all prospective members is screening based on: the prospective firm's training programs for its sales associates, the excellence in training of sales associates employed by the prospective member; or the firm's ability to obtain financing for consumers.

2. Respondent's real estate service received over 18,000 "inquiries" from prospective members.

3. Only one out of every seventy-two "inquiries" or "applicants is "good enough" to become, or only one out of 72 "inquiries" or "applicants" did become a member of respondent's real estate service.

(C) That all members of respondent's real estate service are "market leaders" in terms of sales volume in their respective communities.

(D) That the sales associates of members of respondent's real estate service all receive training in addition to the basic training required to obtain and retain a real estate license.

II

(A) It is further ordered that Meredith, a corporation, its successors and assigns, and its officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with advertising and promotional materials, for Better Homes and Gardens Real Estate Service, an operating group of Meredith Corporation, in or affecting commerce as defined in the Federal Trade Commission Act, do forthwith cease and desist from making any statements or representations, directly or by implication, concerning: programs offered by respondent's real estate service members; respondent's real estate service's selection process or slectivity in choosing members; market size, market rank, or market leadership in terms of sales volume of respondent's real estate service members; training of sales associates of respondent's real estate service members; or any statement or representations comparing, directly or by implication, respondent's real estate service to other real estate franchisors as to membership standards or member calibre, unless respondent possesses and relies upon a reasonable basis for such statements or representations.

(B) (1) For purposes of paragraph II(A), a reasonable basis shall consist of reliable and competent evidence that substantiates such statements.

(2) To the extent the evidence of a reasonable basis consists of scientific or professional tests, analyses, research, studies or any other evidence based on expertise of professionals in the relevant area, such evidence shall be "reliable and competent" for purposes of paragraph II(B)(1) only if those tests, analyses, research, studies, or other evidence,

(a) are conducted and evaluated in a disinterested and sufficiently skilled fashion; and

(b) use procedures generally accepted in the profession or science, so that accurate and reliable results are best insured.

III

It is further ordered that the respondent shall initiate and pay the cost of sending, within thirty (30) days of the date this Order is final, to all members of the real estate service, a copy of this order and consent agreement, an accompanying cover letter (attached, and hereto incorporated, as Attachment A,) and an acknowledgment form (attached, and hereto incorporated, as Attachment B). No liability will be imposed on respondent on account of any member of respondent's real estate service which willfully, or otherwise, refuses, in any manner to comply with said request, or which engages in any advertising or utilizes promotional material which respondent is prohibited from disseminating or utilizing under Paragraph I above, provided respondent has complied with this paragraph, and paragraph IV (D) of this order.

IV

(A) It is further ordered that respondent notify the Commission at least thirty (30) days prior to any proposed change in respondent such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation of dissolution of subsidiaries of any other chance in the corporation which may affect compliance obligations arising out of the Order.

(B) It is further ordered that respondent shall, within ninety (90) days after this Order becomes final, file with the Commission a report, in writing, signed by respondent, setting forth in detail the manner and form of its compliance with this Order.

(C) Is it further ordered that respondent shall maintain files and records of all substantiation related to the requirements of this Order for a period of three (3) years after the dissemination of any advertisement, which shall be made available to the Commission upon request for inspection and copying.

(D) It is further ordered that respondent shall maintain files and records of all acknowledgment forms (Attachment B) and advertising and promotional materials returned to it by its real estate service's members pursuant to Paragraph III of this order for a period of six (6) months after this order becomes final, which shall be made available to the Commission upon request for inspection and copying.

Attachment A

Dear: _____

Enclosed please find a copy of a provisionally accepted consent order entered into between Meredith Corporation and the Federal Trade Commission. The agreement stems from an FTC investigation of certain advertisements and promotional materials for Better Homes and Gardens Real Estate Service. The agreement is for settlement purposes only and does not constitute an admission by Meredith Corporation or the Real Estate Service that the law has been violated or that the facts are true as alleged in a proposed complaint submitted by the Federal Trade Commission to Meredith.

Please review the enclosed consent order which we have entered into with the Federal Trade Commission. As part of our settlement, we request that you no longer use, and return to us, the following promotional and advertising materials:

I. *Ads To Be Returned:*

A. *Openings/Anniversaries*

1. "Important News"—60-second radio

B. *Front Yard*

1. "Front Yard"—60-second radio

C. *Myth/Fact*

1. "Five Myths" (1–5)—print—local and national

2. "More Myths" (6–10), (11–15)—print—local and national

3. "Four Myths" (1–4)—print—local

D. *Selection*

1. "Crowd"—30-second-television—local and national

2. "Crowd"—10-second-television—local

3. "Finance II"—30-second radio

4. "Finance III"—60-second radio

5. "Mortgage"—60-second radio

6. "Leaders"—30-second radio

7. "Good Selection"—60-second radio

8. "Out Of Every 72 . . ." crowd print—national

9. "He Seemed Like . . ." crossed fingers print—national

10. "The Way A Lot Of Americans . . ." coin print—ational

11. "Out Of Every 72 . . ." crowd print—local

12. "He Seemed Like A Nice Guy . . ." crossed fingers print—local

13. "The Way A Lot Of Americans . . ." coin print—local

14. "It's A Buyer's Market" print—local

15. "Seven Tough Questions . . ." print—local

16. "We Can Help You Find Financing" print—local

II. *Promotional Materials To Be Returned:*

1. "Selecting A Real Estate Firm" coin brochure—local

2. "Out Of Every 72 . . ." ad reprints

3. "He Seemed Like A Nice Guy . . ." ad reprints
4. "The Way A Lot Of Americans . . ."ad reprints
5. "The Home Protection Plan . . ." (buyer) brochure
6. "The Home Protection Plan . . ." (seller) brochure
7. "Fifty-six Years Of Trust" ad reprints
8. "This Means A Lot More . . ." (clock) print—national

You should be advised that the Federal Trade Commission may treat the dissemination of any such advertising or promotional materials as a violation of Section 5 of the Federal Trade Commission Act. We further request that you return the attached acknowledgement form, which must be made available to the Federal Trade Commission staff upon request.

Thank you for your prompt attention to this matter.

Sincerely,

Meredith Corporation

Attachment B

I hereby acknowledge receipt of the consent agreement entered into between Meredith Corporation and the Federal Trade Commission. Pursuant to that order, I am returning to Meredith Corporation the following advertising and promotional materials (identified by number):

I understand that dissemination of any of the advertising or promotional material covered by the order may be found to violate the Federal Trade Commission Act.

By _____

For _____

(Name of Member Firm)

IN THE MATTER OF MEREDITH CORPORATION

[File No. 812–3006]

Analysis of Proposed Consent Order To Aid Public Comment

AGENCY: Faderal Trade Commission.

ACTION: Provisional Acceptance of Consent Order In the Matter of Meredith Corporation, File No. 812–3006.

SUMMARY: This document contains an analysis of a proposed consent order to aid public comment on the Federaal Trade Commission's provisisonal acceptance of a consent order in the matter of Meredith Corporation, File No. 812–3006.

SUPPLEMENTARY INFORMATION: The Federal Trade Colmmission has provisionally accepted an agreement to a proposed consent order from the Meredith Corporation relating to advertisements for Better Homes and Gardens Real Estate Service, an operating group of the Meredith Corporation.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public recored. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreements's proposed order.

The complaint charged the respondent with disseminating advertisements containing several false, misleading, or unsubstantiated representations regarding Better Homes and Gardens Real Estate Service, ("The Service".) The complaint alleged that, contrary to fact, these advertisements claimed that (1) all Service members are market leaders in their respective communities in terms of sales volume; (2) all prospective franchise members are screened on the basis of their ability to obtain financing for consumers and training of sales associates; (3) that the Service has received 18,000 "inquiries" from prospective members, and only one out of every seventy-two "inquiries" or "applicants" are "good enough" to become, or otherwise become, members of the Better Home & Gardens Real Estate Service; (4) all franchise members of the Better Homes & Gardens Real Estate Service offer consumers "settling-in" services, a home building program, and an exclusive home protection insurance plan: and (5) all sales associates of franchise members in the Service receive special training.

Based upon its investigation, staff alleges:

(1) Not all franchise members are leaders in their respective markets in terms of sales volume. Company documents indicate that while many members are among the top three firms in their respective markets in terms of sales volume, a substantial number of members are not. In fact, a significant number of members are not within the top six in their respective markets in terms of sales volume;

(2) Training of sales associates and a real estate firm's ability to obtain financing are not systematically applied as criteria by Better Homes & Gardens Real Estate Service in the process of selecting franchise members;

(3) The actual number of inquiries received is very much smaller than 18,000, and the adtual ratio of members to "inquiries" or "applicants" is very much smaller than one out of seventy-two;

(4) Participation in the "settling-in," home-protection, and home-building programs is optional for service members. A substantial number of members do not participate in each program and, therefore, do not offer these services. In addition, the home-protection insurance plan is not "exclusive," in that comparable insurance is available through other real estate franchise services;

(5) Not all sales associates of franchise member firms receive special training. A significant number of these sales associates have received no training in addition to the basic training needed to acquire a real estate license.

The consent order contains various provisions designed to remedy the alleged advertising violations.

Paragraph I of the order prohibits dissemination of each of the statements or representations, discussed above, which the complaint alleges were contrary to fact, as long as those statements or representations remain contrary to fact.

In addition, Paragraph I(A)(5) prohibits any statements or representation that settling-in services, the home building program, or the home protection plan are offered to consumers by members of the Service, unless it is clearly and prominently disclosed within the advertisement that not all members offer these services.

Paragraph II(A) of the order prohibits the following statements or representations, unless respondent possesses and relies upon a reasonable basis for such statements or representations: statements concerning: services offered by Service members; the Service's selection process or selectivity in choosing members; market size, market rank or market leadership in terms of sales volume of Service members; training to sales associates of Service members; or any statements or representations comparing Service members to other real estate franchisors as to caliber of members of membership standards.

Paragraph II(B)(1) defines a reasonable basis for purposes of Paragraph (II)(A) as reliable and competent evidence substantiating the statements. Part II(B)(2) requires that evidence of a reasonable basis in the form of scientific or professional tests, analyses, research, studies or any other evidence based on expertise of professionals, be conducted and evaluated in a disinterested and sufficiently skilled fashion, and use procedures generally accepted in the profession or science.

Paragraph III of the order requires that respondent initiate, and pay the cost of, sending within thirty (30) days of the date the order is final, to all service members, a copy of the order and consent agreement, an accompanying cover letter (Attachment A to the order), and an acknowledgement form (Attachment B to the order). Attachment A requests that certain advertisements and promotional materials in the possession of members be returned to respondent, advises members that the Federal Trade Commission may treat use of such materials as a violation of the Federal Trade Commission Act, and requests return of the acknowledgement form. Attachment B acknowledges receipt of the consent agreement by individual members and indicates which materials are being returned by the member returning the form. Part III further provides that no liability will be imposed on respondent from any members use of advertising or promotional materials prohibited by the order, provided respondent has complied with Parts III and IV(D) of the order.

Paragraph IV(A) requires respondent to notify the Commission at least thirty (30) days prior to any proposed change in respondent which may affect compliance obligations arising out of the order.

Paragraph IV(B) requires respondent to file a compliance report with the Commission within ninety (90) days after the order becomes final.

Paragraph IV(C) requires respondent to maintain files of all substantiation related to the requirements of this order for three years after dissemination of any advertisement, which shall be made available to the Commission upon request for inspection and copying.

Paragraph IV(D) requires respondents to maintain files of all acknowledgement forms (Attachment B) which are returned by members for six months after the order becomes final.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the complaint, agreement and proposed order or to modify in any way their terms.

Carol M. Thomas,

Secretary.

[FR Doc. 82-34981 Filed 12-23-82; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-2-78]

Transfers Involving Foreign Corporations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of Proposed Rulemaking by cross-reference to temporary regulations.

SUMMARY: This document contains a notice of proposed rulemaking with respect to the treatment of certain exchanges of stock in a foreign corporation for stock in another foreign corporation by a United States person that are described in section 367 of the Internal Revenue Code of 1954. In the Rules and Regulations portion of this Federal Register, temporary income tax regulations relating to the same subject are published. Those temporary regulations are incorporated herein and also serve as part of this notice of proposed rulemaking for final income tax regulations.

DATE: Written comments and requests for a public hearing must be delivered or mailed before February 25, 1983.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-2-78), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Martha E. Kadue of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, Attention: CC:LR:T (LR-2-78), 202-566-3228.

SUPPLEMENTARY INFORMATION:

Background

The temporary regulations published in the Rules and Regulations portion of this issue of the Federal Register amend 26 CFR Part 7 and relate to temporary income tax regulations under section 367(b) of the Internal Revenue Code. The final regulations that are proposed to be based on the temporary regulations would amend 26 CFR Part 1 to add regulations under section 367 of the Internal Revenue Code of 1954.

On December 27, 1977, temporary income tax regulations under section 367 were adopted (42 FR 65152). On October 2, 1979, those temporary regulations were amended to provide examples illustrative of the rules contained in thjose temporary regulations (44 FR 57390). Both of those temporary regulations were issued simultaneously as notices of proposed rulemaking. This document, therefore, also serves to amend both notices of proposed rulemaking. These regulations are proposed to be issued under the authority contained in sections 367(b) (90 Stat. 1634; 26 U.S.C. 367(b)) and 7805 (68A Stat. 917; 26 U.S.C. 7805) of the Internal Revenue Code of 1954.

Description of Proposed Regulations

For a description of the subject matter of these proposed regulations relating to the treatment of certain exchanges by a United States person described in section 367, see the description and text of the temporary regulations incorporated in this notice as §§ 7.367(b)-4(b) and 7.367(b)-13 (Example (14)) FR Doc. 82-35038, [T.D.7863] published in the Rules and Regulations portion of this issue of the Federal Register.

Comments and Requests for a Public Hearing

Before adopting as final regulations the proposed regulations referred to in this document, consideration will be given to any written comments that are submitted (preferably seven copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the Federal Register.

Certification of Nonapplicability of Regulatory Flexibility Act of 1980 and Executive Order 12291

This regulation will not have a significant economic impact on a substantial number of small entities and is, therefore, not subject to the requirements of the Regulatory Flexibility Act of 1980 (5 U.S.C. chapter 6). This regulation will generally only affect large U.S. corporations that have significant holdings in foreign corporations. The Commissioner of Internal Revenue has determined that this proposed rule is not subject to Executive Order 12291.

Drafting Information

The principal author of these regulations is Martha E. Kadue of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations on matters of substance and style.

List of Subjects in 26 CFR 1.301-1 Through 1.385-6

Income taxes, Corporations, Corporate distributions, Corporate adjustments, Reorganizations.

Proposed Amendments to the Regulations

For the text of the proposed amendments to 26 CFR Part 1, see the temportary regulations for §§ 7.367(b)-4(b) and 7.367(b)-13 (Example (14)) appearing in the Rules and Regulations portion of this issue of Federal Register.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 82-35040 Filed 12-23-82; 8:45 am]

BILLING CODE 4830-01-M

26 CFR Part 1

[LR-187-82]

Terminal Rental Adjustment Clauses in Certain Motor Vehicle Agreements; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to terminal rental adjustment clauses in certain motor vehicle agreements.

DATES: The public hearing will be held on February 10, 1983, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by January 27, 1983.

ADDRESS: The Public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Intenal Revenue Building, 1111 Constitution Avenue, NW., Washington, D.C. The outlines should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (LR-187-82), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Charles Hayden of the Legislation and Regulations Division, Office of Chief Counsel, Intenal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, 202–566–3935, not a toll-free call.

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under sections 168(f)(8) of the Internal Revenue Code of 1954. The proposed regulations appeared in the **Federal Register** for Tuesday, November 23, 1982 (47 FR 52729).

The rules of § 601.601(a)(3) of the Statement of Procedural Rules (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and also desire to present oral comments at the hearing on the proposed regulations should submit an outline of the comments to be presented at the hearing and the time they wish to devote to each subject by January 27, 1983.

Each speaker will be limited to 10 minutes for an oral presentation exclusive of time consumed by questions from the panel for the government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

By direction of the Commissioner of Internal Revenue.

George H. Jelly,

Acting Director, Legislation and Regulations Division.

[FR Doc. 82–35042 Filed 12–23–82; 8:45 am]

BILLING CODE 4830–01–M

---

26 CFR Parts 1, 7 and 301

Ruling Requests Relating to Certain Transfers by United States Persons to Foreign Corporations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the requirement that a ruling be obtained in order for a foreign corporation to be treated as a corporation for purposes of determining the amount of gain to be recognized on certain transfers by United States persons to foreign corporations. Changes to the applicable tax law were made by the Tax Reform Act of 1976. The regulations would provide the public with the guidance needed to obtain a ruling and would affect United States persons transferring property to foreign corporations in exchanges, reorganizations, and certain liquidations and distributions. This notice supersedes a portion of the notice of proposed rulemaking published on December 30, 1977, but does not supersede temporary regulations published on the same date (42 FR 65152).

DATE: Written comments and requests for a public hearing must be delivered or mailed by February 25, 1983. These amendments are proposed to be effective with respect to transfers of property made after the date which is 30 days after publication of final regulations by a Treasury decision in the **Federal Register**.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T, (LR–24–81), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Martha E. Kadue of the Legislation and Regulations Division of the Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, Attention: CC:LR:T, 202–566–3238, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) and the Temporary Income Tax Regulations under the Tax Reform Act of 1976 (26 CFR Part 7) under section 367(a)(1), and the Regulations on Procedure and Administration (26 CFR Part 301) under section 7477, both of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to section 1042 of the Tax Reform Act of 1976 (90 Stat. 1634) and would be issued under the authority contained in sections 367(a)(1) (90 Stat. 1634; 26 U.S.C. 367(a)(1)) and 7805 (68A Stat. 917; 26 U.S.C. 7805) of the Internal Revenue Code of 1954.

A notice of proposed rulemaking and temporary regulations containing provisions relating to the amount of gain to be recognized on certain transfers of property by United States persons to foreign corporations were published in the **Federal Register** on December 30, 1977 (42 FR 65152). Many interested parties have commented on that proposal. These comments have been considered and taken into account as appropriate in the preparation of the proposed regulations contained in this document. The temporary regulations published on December 30, 1977, will continue in effect until final regulations become effective.

Discussion; Statutory Provisions

Section 367(a)(1), as added by section 1042 of the Tax Reform Act of 1976, relates to transfers of property by United States persons to foreign corporations in connection with an exchange described in section 332, 351, 354, 355, 356, or 361. The foreign corporation will not be considered to be a corporation for purposes of determining the amount of gain to be recognized on such a transfer unless it is established to the satisfaction of the Secretary or his delegate that the exchange is not pursuant to a plan having the avoidance of Federal income taxes as one of its principal purposes. A determination is made pursuant to a ruling request filed not later than the close of the 183rd day after the beginning of the transfer. Transfers by a United States person of stock in a foreign corporation that is a party to the exchange or a party to the reorganization are subject to section 367(b) and the regulations issued pursuant to that section. To the extent exchanges and transfers are exempt from the section 367(a)(1) ruling requirement by regulations that may be issued under section 367(a)(2), section 367(a)(1) and these proposed regulations will not apply.

Proposed Regulations

The proposed regulations reorganize, modify, and ampify the rules contained in the notice of proposed rulemaking under section 367(a)(1) published on December 30, 1977. Rules relating solely to transfers and exchanges beginning before January 1, 1978, are not included in the proposed regulations.

Section 1.367(a)–1(a) of the proposed regulations sets forth a general description of the operation of section 367(a)(1). Paragraph (a)(2) states that exceptions to the ruling requirement of section 367(a)(1) may be provided by regulations issued under section 367(a)(2).

Paragraph (b)(1) describes the transfers made directly, indirectly, or constructively by a United States person to a foreign corporation that are subject to section 367(a)(1). Transfers of stock or securities of a foreign corporation that is a party to the exchange or a party to the reorganization are not subject to section 367(a)(1) but are subject to section 367(b). If a foreign corporation's stock is

transferred by a United States person to a foreign corporation in a transaction that qualifies as a reorganization and that foreign corporation is a party to the reorganization, the transfer is subject to section 367(b). This result occurs even though the transaction also qualifies as another type of reorganization or exchange to which such foreign corporation is not a party. See, § 7.367(b)–4(b).

Certain reorganizations involving a domestic target corporation and a domestic acquiring corporation result in indirect transfers described in section 367(a)(1) when stock of a foreign corporation is used as consideration.— These transactions are described in paragraph (b)(2). In a merger of one domestic corporation into another domestic corporation to which section 368(a)(2)(D) applies, a transfer of assets by the target corporation is a transfer subject to section 367(a)(1) if the corporation that is in control of the acquiring corporation is a foreign corporation. An indirect outbound transfer of assets also results from the acquisition of the properties of one domestic corporation by another domestic corporation in a reorganization described in section 368(a)(1)(C) when the stock of the foreign corporation in control of the acquiring corporation is received by the target corporation, whether or not that stock is distributed to shareholders of the target corporation and whether or not such shareholders are United States persons. An indirect outbound transfer of stock in a domestic corporation by a United States person results from a reorganization described in section 368(a)(1)(B) when a United States shareholder receives stock of a foreign corporation that controls the acquiring domestic corporation. A merger of two domestic corporations to which section 368(a)(2)(E) applies may involve a transfer described in section 367(a)(1) if voting stock of a foreign corporation in control of one of the domestic corporations is used in the transaction. However, the proposed regulations reserve the issue of whether the shareholders of the domestic surviving corporation who are United States persons (if any) or the surviving corporation itself is the transferor for purposes of section 367(a)(1) and is thus the party required to request a ruling. The rules of paragraph (b)(2) are based on the language and reasoning in H.R. Rep. No. 94–658, 94th Cong., 1st Sess. 243 n.38 (1975), and S. Rep. No. 94–938, 94th Cong., 2d Sess. 265 n. 32 (1976) (Committee Reports for Tax Reform Act of 1976).

Paragraph (b)(3) contains the rule for determining whether a transfer made by a domestic or foreign partnership to a foreign corporation is a transfer described in section 367(a)(1). As a partnership is not a taxable entity, a transfer of property by a partnership to a foreign corporation is treated for purposes of section 367(a)(1) as an indirect transfer of the property by the partners, with each partner indirectly transferring the portion of each asset transferred that is attributable to that partner's interest in the partnership. The indirect transferor can not be a partnership. Thus, if a partnership is a partner in the transferor partnership, the transfer is considered to be made by the partners of the first partnership who would be required to include any recognized gain from the transfer in their gross income. Sections 701 through 761 and the regulations thereunder provide guidance for determining the portion of partner's interest. Section 367(a)(1) applies only to the indirect transfers by partners who are United States persons.

Paragraph (b) (4) and (5) relate to transfers by trusts and estates. Transfers made by domestic trusts, other than grantor trusts, and by domestic estates are considered transfers by United States persons, regardless of whether the beneficiaries of the trust or estate are United States or foreign persons. Transfers by foreign trusts, other than grantor trusts, or foreign estates are considered transfers by foreign persons. A transfer by a trust of a portion or all the property of such trust which is treated as owned by a grantor or other person under sections 671 through 679 is considered to be a transfer of such portion or all of the property of the trust by that grantor or other person.

Paragraph (b)(6) treats the termination of a section 1504(d) election as a constructive transfer of property by a domestic corporation to a foreign corporation for purposes of section 367(a)(1). A corporation organized in Canada or Mexico that meets the requirements of section 1504(d) is treated as a domestic corporation for all purposes of subtitle A of the Code. Thus, upon the loss of section 1504(d) status the corporation regains its status as a foreign corporation, with the result that the constructive transfer is a transfer described in section 367(a)(1) if the facts and circumstances cause it to be characterized as part of an exchange described in section 332, 351, 354, 355, 356, or 361.

The constructive transfer resulting from a change in classification of a foreign entity due to a change in the governing documents is described in paragraph (b)(7). If the characteristics of the entity are altered due to changes in the documents governing the entity so that an entity previously considered a partnership, a trust, or an estate under the Code is treated as an association taxable as a corporation, a constructive exchange described in section 351 occurs (*i.e.*, a constructive transfer of the assets of the old entity to the new corporation in exchange for all its stock). The transferor for purposes of section 367(a)(1) is determined under the rules contained in paragraph (b) (3) through (5) of these proposed regulations.

Paragraph (c) contains rules concerning the time and manner of submitting a request for a section 367(a)(1) ruling. A request must be filed no later than the close of the 183rd day following the beginning of a transfer. Paragraph (c)(2) provides the address to which requests for section 367(a)(1) rulings must be delivered and the rules for determining when a request is delivered and filed. The request will be treated as filed only when the information and materials submitted meet the minimum standards described in paragraph (c)(3)(i). If the minimum standards relating to the relevant facts and circumstances and to the description of the plan are not satisfied, the person requesting the ruling may supply the necessary information or materials within sixty days of the notice describing such deficiency, and the later submission will relate back to the original submission date for purposes of determining the timeliness of the request. Any submissions made to satisfy the minimum standards after the sixty day period will not relate back, and the date the request will be considered as filed is determined by reference to the date of such later submission. Requests for information or materials in addition to those required to satisfy the minimum standards will not affect the date the request is considered to be filed, but the Internal Revenue Service may decline to issue a ruling until the requested data is submitted.

Paragraph (c)(4) defines the date on which a transfer begins for purposes of determining whether a ruling request was filed not later than the close of the 183rd day after the beginning of the transfer. Generally a transfer begins on the earliest date the transfer of title, possession, or the right to the use of the property pursuant to the plan takes effect. Special rules for transfers by persons who have made an election

under section 6013 (g) or (h), or for constructive transfers due to a change in entity classification are included to insure that a taxpayer has an opportunity to file a timely ruling request. The fact that a transfer is subject to a condition that the exchange will be rescinded if an unfavorable ruling is issued does not affect the date on which the beginning of the transfer is considered to occur.

Paragraph (c)(5) describes the transfers made pursuant to a single plan. This description is important in determining which transfers must be described in the ruling request. Generally, any transfer of property necessary and germane to an exchange described in sections 332, 351, 354, 355, 356, or 361 is pursuant to the plan of the exchange. The concept of the scope of a "plan" is based on § 1.368–2(g).

Paragraph (d) describes persons who must request a ruling to obtain the nonrecognition of gain provided by sections 332, 351, 354, 355, 356, or 361. Generally, any United States person who makes a transfer described in section 367(a)(1) that is not excepted from the ruling requirement pursuant to the section 367(a)(2) regulations must request a ruling to obtain the benefits of section 332, 351, 354, 355, 356, or 361.

Paragraph (d)(2) allows a corporation to request a ruling on behalf of its shareholders who are transferors of its stock pursuant to a single plan and for whom the tax consequences (such as gain realized, gain recognized, and basis in property received) can be determined in the same manner. Thus, the corporation can obtain a ruling on behalf of its shareholders who can determine their gain and basis by using the same mathematical formula. A corporation may request a ruling on behalf of a group of its shareholders to which this rule applies even if other exchanging shareholders will have different tax consequences and cannot be covered by the ruling request. A partnership may request a ruling on behalf of its partners for whom the tax consequences are determined in the same manner. Notwithstanding the foregoing, each shareholder and partner retains the option to file a separate ruling request rather than relying on a ruling obtained on his or her behalf. A ruling obtained by a corporation or partnership on behalf of its shareholders or partners will not be effective with respect to a shareholder or partner who files a separate request.

When a corporation or partnership requests a ruling on behalf of its shareholders or partners, the corporation or partnership may also file an administrative protest to an unfavorable ruling on behalf of its shareholders or partners. However, as section 7477 requires a petition for a declaratory judgment to be filed with the United States Tax Court by the transferor or transferee, the shareholders or partners must file any such petition on their own behalf.

The ruling obtained by or on behalf of a United States person has effect only if the United States person complies with the requirements of paragraph (d)(3). That paragraph describes the document or statement that must be attached by the United States person to the return for the period in which the transfer described in section 367(a)(1) began. The failure to attach this information to a return for the period in which a transfer described in section 367(a)(1) begins will cause the favorable ruling to be void and of no effect.

A failure to comply with section 367(a)(1) is described in paragraph (e)(1) to include: (1) the failure to obtain a favorable ruling, whether due to the failure to request a ruling in a timely manner or due to a ruling that the avoidance of Federal income taxes is one of the principal purposes of the plan, (2) the failure to comply with terms and conditions to which a favorable ruling is subject, or (3) the carrying out of the plan in a manner that varies materially from the description of the plan contained in the ruling request.

Paragraph (e)(2) states that the failure to comply with section 367(a)(1) with respect to a transfer described in that section will generally result in the foreign corporation not being considered a corporation for purposes of determining the amount of gain to be recognized and the basis in property transferred or received. For all other purposes, however, such as the determination of whether a loss shall be recognized and the operation of section 381, the foreign corporation will be considered to be a corporation. The amount of loss realized but not recognized on one transfer does not reduce the amount of gain recognized on another transfers, even though both transfer are pursuant to the same plan.

A material variance is defined in paragraph (e)(3) to include any variance which would influence the Commissioner in determining whether a favorable ruling should be issued. If the plan is carried out in a manner that varies materially from the description in the ruling request, the ruling has no effect for any transfers. If a particular transfer is disclosed in a ruling request but is not accorded nonrecognition treatment because the ruling request was not timely filed with respect to such transfer, the execution of such transfer nevertheless will not be considered to constitute a variance from the plan as described in the ruling request.

In the case of multiple transfers pursuant to the same plan, the general material variance rule would negate the effect of a favorable ruling if a material transfer was omitted from the request. Paragraph (e)(3)(iii) contains an exception to this general rule based on the Conference Committee Report, H.R. Rep. No. 94–1515, 94th Cong., 2d Sess. (1976), as reported in 122 Cong. Rec. 30120 (1976). If a separate favorable ruling is obtained for the omitted transfer and the request for that ruling describes the entire plan, that separate favorable ruling will apply to each transfer pursuant to the plan for which a ruling request was timely filed. A favorable ruling may be obtained with respect to transfers that begin no more than 183 days before the request is filed, even though another transfer pursuant to the same plan begins more than 183 days before the request is filed and is taxable.

Paragraph (e)(4) contains an exception to the general rule on the consequences of failure to comply with section 367(a)(1). In situations he deems appropriate, the Commissioner has discretion to treat the foreign corporation as a corporation even though the taxpayer fails to comply with section 367(a)(1). This rule is based on the Report of the Conference Committee, H.R. Rep. No. 94–1515, *supra*.

Paragraph (f) describes the administrative and judicial appeals available. An administrative protest may be filed if an unfavorable ruling is issued or if terms and conditions are imposed on a favorable ruling. Additional details may be found in § 601.201(e)(19) of the Statement of Procedural Rules and in Rev. Proc. 77–5, 1977–1 C.B. 536. The rules for appeals to the United States Tax Court are contained in section 7477 and the regulations under that section.

Paragraph (h)(1) defines a "United States person" to include those persons described in section 7701(a)(30). The provision also provides that an individual who elects to be treated as a resident of the United States under section 6013 (g) or (h) (relating to nonresident alien individuals married to residents or citizens of the United States) is a United States person for purposes of section 367(a)(1). The actual or deemed conduct of a U.S. trade or business during a taxable year does not cause a foreign corporation or nonresident alien individual to be considered a United States person for purposes of section 367. Nor does the

fact that a nonresident alien individual has been in the United States for 183 days or more during the taxable year cause that individual to be a United States person for purposes of section 367(a)(1).

Paragraph (h)(2) defines the term "favorable ruling." This definition is included solely to simplify the language for the proposed regulations and does not have any effect on administrative or judicial appeal procedures.

The proposed amendments to regulations under section 7477 are made to conform those regulations, relating to the declaratory judgment procedure in the United States Tax Court, to the proposed regulations under section 367(a)(1).

Withdrawal of Notice of Proposed Rulemaking

The portion of the notice of proposed rulemaking relating to section 367(a)(1) published in the **Federal Register** (42 FR 65152) on December 30, 1977, is hereby withdrawn. The temporary regulations published in the **Federal Register** (42 FR 65152) on December 30, 1977, continue in effect, however, until final regulations take effect.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably seven copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register**.

Regulatory Flexibility Act And Executive Order 12291

Although this document is a notice of proposed rulemaking which solicits public coment, the Internal Revenue Service has concluded that the proposed regulations are interpretative and that the notice and public comments procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6). The Commissioner of Internal Revenue has determined that this proposed rule is not subject to Executive Order 12291.

Drafting Information

The principal author of these proposed regulations is Martha E. Kadue of the Legislation and Regulations Divison of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing these regulations both on matters of substance and style.

List of Subjects

26 CFR 1.301–1 through 1.385–6

Income taxes, Corporations, Corporate distributions, Corporate adjustments, Reorganizations.

26 CFR Part 7

Income taxes, Tax Reform Act of 1976.

26 CFR Part 301

Administrative practice and procedure, Bankruptcy, Courts, Crime, Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Investigations, Law enforcement, Penalties, Pensions, Statistics, Taxes, Disclosure of information, Filing requirements.

Proposed amendments to the regulations.

The proposed amendments to 26 CFR Parts 1, 7, and 301 are as follows:

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Paragraph 1. A new § 1.367(a)–1 is added, immediately after § 1.362–2, to read as follows:

§ 1.367(a)–1 Ruling requests under section 367(a)(1) relating to certain transfers to a foreign corporation.

(a) *Introduction*—(1) *General rule.* For purposes of determining the amount of gain to be recognized on a transfer of property by a United States person to a foreign corporation in connection with an exchange described in section 332, 351, 354, 355, 356, or 361, the foreign corporation shall not be considered a corporation unless, pursuant to a request for a ruling filed not later than 183 days after the beginning of the transfer, it is established to the satisfaction of the Commissioner that the exchange is not pursuant to a plan having the avoidance of Federal income taxes as one of its principal purposes. Transfers subject to this section are described in paragraph (b) of this section. The time and manner for filing ruling requests is set forth in paragraph (c) of this section. Persons who are to request rulings are described in paragraph (d) of this section. The consequences of failure to comply with this section are described in paragraph (e) of this section. The procedure for the protest and appeal of a ruling is described in paragraph (f) of this section. Terms used in this section are defined in paragraph (g) of this section.

(2) *Section 367(a)(2) exception.* This section shall not apply to exchanges and transfers described in regulations that may be issued under section 367(a)(2) to the extent such regulations except the exchanges and transfers from the requirements of this section.

(b) *Transfers described in section 367(a)(1)*—(1) *General rule.* A transfer described in section 367(a)(1) is a transfer of property, other than stock or securities of a foreign corporation that is a party to the exchange or a party to the reorganization (as defined in section 368(b)), made directly, indirectly, or constructively by a United States person (as defined in paragraph (g)(1) of this section) to a foreign corporation in connection with an exchange described in section 332, 351, 354, 355, 356, or 361. Thus, a transfer of stock of a foreign corporation by a United States person to another foreign corporation pursuant to a reorganization described in section 368(a)(1)(B) is not a transfer described in section 367(a)(1) because the foreign corporation whose stock is transferred is a party to the reorganization, even though that foreign corporation may not be a party to other types of reorganizations or exchanges for which the transaction also qualifies. Such transfer is subject to the rules of § 7.367(b)–4(b). The following special rules apply in determining whether a transfer of property is a transfer described in section 367(a)(1).

(2) *Reorganizations*—(i) *Mergers.* A transfer in connection with a reorganization described in section 368(a)(1)(A) to which either section 368(a)(2) (D) or (E) applies may be a transfer described in section 367(a)(1) if the reorganization involves the merger of two domestic corporations and if stock of a foreign corporation which controls one of such domestic corporations is exchanged in such reorganization. The transfers in connection with such a reorganization that are described in section 367(a)(1) are as follows—

(A) *Reorganizations described in section 368(a)(1)(A) to which section 368(a)(2)(D) applies.* A domestic corporation is considered to make a transfer of property described in section 367(a)(1) if it transfers substantially all its properties to another domestic corporation in connection with a reorganization described in section 368(a)(1)(A) to which section 368(a)(2)(D) applies and if the controlling corporation (within the meaning of section 368(a)(2)(D)) is a foreign corporation. The rule of this

paragraph (b)(2)(i)(A) is illustrated by the following example.

Example. F, a foreign corporation, owns all the stock of S, a domestic corporation. In a reorganization described in section 368(a)(1)(A) to which section 368(a)(2)(D) applies, S acquires substantially all the properties of W, a domestic corporation, in a merger of W into S. The stock of F is used as consideration. The reorganization includes an indirect asset transfer described in section 367(a)(1) by W.

(B) *Reorganizations described in section 368(a)(1)(A) to which section 368(a)(2)(E) applies.* [Reserved].

(ii) *Reorganizations described in section 368(a)(1)(B).* An exchanging shareholder who is a United States person is considered to make a transfer described in section 367(a)(1) if, in connection with a reorganization described in section 368(a)(1)(B), such shareholder exchanges his stock in a domestic corporation for voting stock of a foreign corporation that is in control (as defined in section 368(c)) of the domestic acquiring corporation. The rule of this paragraph (b)(2)(ii) is illustrated by the following example.

Example. F, a foreign corporation, owns all the stock of S, a domestic corporation. In a reorganization described in section 368(a)(1)(B), S acquires all the stock of domestic corporation Y, and the shareholders of Y receive voting stock of F. The reorganization includes an indirect stock transfer described in section 367(a)(1) by those shareholders of Y who are United States persons.

(iii) *Reorganizations described in section 368(a)(1)(C).* A domestic corporation is considered to make a transfer described in section 367(a)(1) if it transfers substantially all of its properties to another domestic corporation in connection with a reorganization described in section 368(a)(1)(C) and if it receives voting stock in a foreign corporation that is in control (as defined in section 368(c)) of the acquiring corporation. The rule of this paragraph (b)(2)(iii) is illustrated by the following example.

Example. F, A foreign corporation, owns all the stock of S, a domestic corporation. In a reorganization described in section 368(a)(1)(C), S acquires substantially all the properties of Z, a domestic corporation, and Z receives voting stock of F. The reorganization includes an indirect asset transfer described in section 367(a)(1) by Z, whether Z retains the stock of F or distributes the stock to its shareholders and whether the shareholders of Z are United States persons or foreign persons.

(3) *Transfers by partnerships.* A transfer of property by a United States person indirectly to a foreign corporation results from a transfer of property by a partnership (whether foreign or domestic) to a foreign corporation in an exchange described in section 367(a)(1), to the extent that the partnership property transferred to the foreign corporation is attributable to partnership interests held by one or more United States persons. Attribution of partnership assets to interests held by United States persons shall be determined under the rules and principles of sections 701 through 761 of the Internal Revenue Code and the regulations thereunder. The rule of this paragraph (b)(3) is illustrated by the following example.

Example. P is a partnership having five equal general partners, two of whom are United States persons. P transfers property to F, a foreign corporation, in connection with an exchange described in section 351. The exchange includes an indirect transfer of property by the partners to F. The transfers of property attributable to those partners who are United States persons, that is, 40 percent of each asset transferred to F, are transfers described in section 367(a)(1).

(4) *Transfers by trusts and estates.* Except as otherwise provided in paragraph (b)(5) of this section, a transfer of property by a trust or an estate to a foreign corporation in an exchange described in section 37(a)(1) is considered a direct, indirect, or constructive transfer by a United States person only if the trust or estate is a domestic trust or a domestic estate. Except as otherwise provided in paragraph (b)(5) of this section, a transfer by a foreign trust or foreign estate (as defined in section 7701(a)(31)) is not a transfer described in section 367(a)(1). These rules apply irrespective of whether the beneficiaries of the trust or estate are United States persons or foreign persons.

(5) *Transfers by grantor trusts.* A transfer of a portion or all of the assets of a foreign or domestic trust to a foreign corporation in an exchange described in section 367(a)(1) is considered a transfer by any United States person who is treated as the owner of any such portion or all of the assets of the trust under section 671 through 679.

(6) *Termination of election under section 1504(d).* The termination of an election under section 1504(d), relating to treatment of certain contiguous country corporations as domestic corporations, shall be considered to be a transfer of property by a domestic corporation to a foreign corporation. The characterization of the transfer for purposes of section 367(a)(1) depends on the facts and circumstances. The rule of this paragraph (b)(6) is illustrated by the following examples.

Example 1. Domestic corporation Y previously made a valid election under section 1504(d) to have its wholly owned Canadian subsidiary, C, treated as a domestic corporation. On July 1, 1983, C fails to continue to qualify for the election under section 1504(d). A constructive reorganization described in section 386(a)(1)(D) occurs, and the constructive transfer of assets by "domestic" corporation C to Canadian corporation C included in that reorganization is a transfer described in section 367(a)(1).

Example 2. Domestic corporation Z previously made a valid election under section 1504(d) to have its wholly owned Canadian subsidiary, S, treated as a domestic corporation. On August 1, 1983, Z sells all the stock of S to an unrelated United States person. Because S is no longer directly or indirectly wholly owned or controlled by Z, it is no longer subject to the section 1504(d) election. No direct, indirect, or constructive transfer described in section 367(a)(1) has occurred.

(7) *Changes in classification of an entity.* If a foreign entity is classifed as an entity other that an association taxable as a corporation for United States tax purposes, and subsequently a change is made in the governing documents, ariticles, or agreements of the entity so that the entity is thereafter classified as an association taxable as a corporation, the change in classification is considered a transfer of property to a foreign corporation in connection with an exchange described in section 351. For purposes of section 367(a)(1), the transfer of property is considered as made by the persons determined under the rules set forth in paragraph (b)(3) of this section, with respect to partnerships, and paragraph (b) (4) or (5), with respect to trusts and estates, and the rules of such paragraphs apply in determining whether a transfer described in section 367(a)(1) has been made.

(8) *Contributions to capital.* For rules with respect to treating a contribution to the capital of a foreign corporation as a transfer described in section 376(a)(1), see section 367(c)(2) and the regulations thereunder.

(c) *Time and manner of filing a request for a section 367(a)(1) ruling—* (1) *In general.* A request for a ruling that a transfer of property in connection with an exchange described in section 367(a)(1) is not a transfer pursuant to a plan (as defined in paragraph (c)(5) of this section) having the avoidance of Federal income taxes as one of its principal purposes must be filed no later than the close of the 183d day after the beginning of the transfer (as defined in paragraph (c)(4) of this section). A favorable ruling (as defined in paragraph (g)(2) of this section) will not be issued with respect to a ruling

request that does not meet the requirements of this paragraph (c).

(2) *Delivery and filing.* A request for a ruling under this section shall be delivered during regular business hours to the Commissioner of Internal Revenue, Attn: CC:IND:S, 1111 Constitution Avenue, NW., Washington, D.C. 20224. If the ruling request is delivered by United States mail, the provisions of section 7502 and the regulations thereunder shall apply in determining the date of delivery. A request for a ruling under this section is considered to be filed on the date that the documents which satisfy the minimum standards described in paragraph (c)(3) of this section are delivered to the Commissioner.

(3) *Minimum standards*—(i) *Requirements.* A request for a ruling under section 367(a)(1) must—

(A) Set forth all the facts and circumstances relating to the plan in sufficient detail to apprise the Commissioner of nature of the plan and the purpose for which the request is submitted,

(B) Be accompanied by a written copy (if any) of the plan of reorganization or exchange, including a description of all property (other than U.S. currency if its transfer does not affect the type of exchange or reorganization that occurs) to be transferred,

(C) Be submitted in accordance with the procedural rules set forth in 26 CFR 601.201(e) (Statement of Procedural Rules) and in substantial compliance with any revenue procedures relating to the submission of ruling requests, and

(D) Be executed by the person filing the request or the corporation or partnership described in paragraph (d) of this section, under penalties of perjury.

(ii) *Failure to satisfy minimum standards.* A request for a ruling that does meet the minimum standards of paragraph (c)(3)(i) (C) and (D) of this section but does not meet the minimum standards of paragraph (c)(3)(i) (A) or (B) of this section will be acknowledged and the person submitting the request will be notified in writing of the minimum standards that have not been satisfied. If the information or materials necessary to satisfy the minimum standards are then delivered to the Internal Revenue Service within 60 days of the date of the letter notifying the taxpayer of the failure, that information or materials will be treated as if received with the original submission of the request for a ruling. If the information or materials necessary to satisfy the minimum standards are not delivered within the 60-day period, the ruling request will not be treated as filed on the date the original ruling was delivered. Such additional information or materials delivered after the 60-day period will instead be treated (together with the original submission) as a new request for a ruling delivered and filed on the date the additional information or materials are received, but only if the minimum standards of paragraph (c)(3)(i) of this section are satisfied by all the information and materials submitted. The date on which the additional information or materials required by this paragraph (c)(3)(ii) are considered to be delivered shall be determined by the same rules as those set forth in paragraph (c)(2) of this section, which apply to the delivery and filing of ruling requests.

(iii) *Requests for additional information.* If the minimum standards described in paragraph (c)(3)(i) of this section are satisfied but additional information or materials are required to make a determination under this section, the Internal Revenue Service will request the additional information or materials. The person requesting the ruling shall deliver the information or materials to the Internal Revenue Service within 30 days of the date of the request for such information or materials, or shall deliver within such 30-day period a written statement explaining why the information or materials are unavailable. The request for additional information or materials will not alter the date the ruling request is considered as filed. However, unless the taxpayer establishes reasonable cause for not timely providing the information or materials, the Commissioner may decline to make a determination until the requested information or materials are provided or may issue an unfavorable ruling. In determining whether reasonable cause exists for failure to provide the additional information or materials, the significance of such information or materials to the determination of the Commissioner as to whether a favorable ruling should be issued shall be taken into account. The date on which the additional information or materials or statement required by this paragraph (c)(3)(iii) are considered to be delivered shall be determined pursuant to the same rules as those set forth in paragraph (c)(2) of this section, which apply to the delivery and filing of ruling requests.

(4) *Beginning of a transfer*—(i) *In general.* A transfer described in section 367(a)(1) will be considered to begin on the earliest date on which title, possession of, or right to the use of stock, securities, or other property passes pursuant to the plan for purposes of subtitle A of the Internal Revenue Code. A transfer will not be considered to begin with a decision of a board of directors or similar action unless the transaction otherwise takes effect for tax purposes on that date.

(ii) *U.S. resident under section 6013 (g) or (h).* A transfer made by an alien individual who is considered to be a United States resident by reason of a timely election made under section 6013 (g) or (h) will be considered to begin—

(A) On the date such election under section 6013 (g) or (h) is made, if such date is later than the date the transfer otherwise would be considered to begin under this section, or

(B) On the date the transfer otherwise would be considered to begin under this section, if such date is later than the date the election under section 6013 (g) or (h) is made.

The rule of this paragraph (c)(4)(ii) is illustrated by the following example.

Example. D is a nonresident alien individual who is married to a United States citizen. On March 1, 1983, D transfers property to a foreign corporation in an exchange described in section 351. On April 15, 1984, D and the spouse timely file an election under section 6013(g) with their tax return for the taxable year ended December 31, 1983, for D to be treated as a United States resident. The election is effective on January 1, 1983. The transfer described in section 367(a)(1) made by D in connection with the section 351 exchange is considered to begin on April 15, 1984, the date on which the timely election was made under section 6013(g).

(iii) *Termination of section 1504(d) election.* A transfer deemed to occur as a result of the termination of an election under section 1504(d) will be considered to begin on the date the contiguous country corporation first fails to continue to qualify for the election under section 1504(d). The rule of this paragraph (c)(4)(iii) is illustrated by the following example.

Example. Domestic corporation W previously made a valid election under section 1504(d) to have its Mexican subsidiary, S, treated as a domestic corporation. On August 1, 1984, W disposes of its right, title, and interest in 10 percent of the stock of S by selling such stock to an unrelated United States person who is not a director of S. S first fails to continue to qualify for the election under section 1504(d) on August 1, 1984, since on such date it ceases to be directly or indirectly wholly owned or controlled by W. The constructive transfer of assets from "domestic" corporation S to Mexican corporation S is considered to begin on that date.

(iv) *Change in classification.* A transfer deemed to occur as a result of a change in classification of an entity

caused by a change in the governing documents, articles, or agreements of the entity (as described in paragraph (b)(7) of this section) will be considered to begin on the date such changes take effect for purposes of subtitle A of the Internal Revenue Code.

(v) *Conditional transfers.* A transfer will be considered to begin on the date otherwise determined under paragraph (c)(4) (f) through (iv) of this section even though it is made subject to a condition that if there is a failure to obtain a favorable ruling from the Commissioner, the transaction will not be consummated and to the extent possible the assets transferred will be returned. For purposes of the preceding sentence, a ruling that an exchange is not pursuant to a plan having the avoidance of Federal income taxes as one of its principal purposes may be treated as an unfavorable ruling if it imposes conditions in addition to any already agreed to in the ruling request. The rule of this paragraph (c)(4)(v) relates only to determining the date on which a transfer is considered to begin for purposes of section 367(a)(1) and does not have any substantive effect on the tax consequences arising from the rescission of or failure to consummate a transaction.

(5) *Transfers pursuant to a plan.* For purposes of this section, transfers pursuant to a plan are direct, indirect, and constructive transfers of property in connection with an exchange described in section 332, 351, 354, 355, 356, or 361. A transfer may be pursuant to a plan even though it is not described in any document relating to the plan, and a transfer described in a document relating to a plan is not necessarily made pursuant to the plan. The rule of this paragraph (c)(5) is illustrated by the following example.

Example. X, a domestic corporation, exchanges stock of Y corporation for voting stock of F, a foreign corporation, in a reorganization described in section 368(a)(1)(B). The documents describing the exchange also describe a lease of Blackacre by X to F for a five-year term at a fair market rental value. The exchange of Y stock for F voting stock is pursuant to the plan of reorganization. The transfer of the leasehold interest in Blackacre to F is not pursuant to the plan of reorganization.

(d) *Persons who must request rulings*—(1) *In general.* Any United States person who makes a direct, indirect, or constructive transfer of property to which this section applies must request a ruling as provided in paragraph (c) of this section, receive a favorable ruling, and comply with paragraph (d)(3) of this section for the foreign corporation to be considered to be a corporation, within the meaning of sections 332, 351, 354, 355, 356, or 361, for purposes of determining the amount of gain to be recognized by the United States person.

(2) *Special rules for shareholders and partners*—(i) *Shareholders.* A corporation may request a ruling on behalf of its shareholders who are transferors of its stock with respect to a single plan and for whom the tax consequences of the transfers will be determined in the same manner. Each such shareholder who satisfies the requirements of paragraph (d)(3) of this section will be considered to be a person who requested the ruling, except that any shareholder who requested a separate ruling cannot be so considered. The rule of this subdivision (i) is illustrated by the following example.

Example. All the shareholders of domestic corporation X transfer their stock of X to foreign corporation F solely in exchange for voting stock of F in a reorganization described in section 368(a)(1)(B). X may request a ruling with respect to the plan on behalf of all of its shareholders who are United States persons, since the grain or loss realized by each such shareholder onthe exchange of stock and basis in the stock of F received is determined in the same manner, even though each such shareholder may have a different basis and holding period with respect to stock of X. Each such shareholder who satisfies the requirements of paragraph (d)(3) of this section will be treated as a person who requested the ruling. Each such shareholder also has the opportunity to request a separate ruling that will have effect only for that shareholder; but if a separate request is made, the shareholder cannot be treated as requesting the ruling obtained by the corporation on behalf of its shareholders. If neither a shareholder nor the corporation on behalf of the shareholder timely requests a ruling and receives a favorable ruling, the shareholder will not be entitled to nonrecognition of gain under section 354.

(ii) *Partners.* A partnership may request a ruling on behalf of its partners who are considered transferors either of property of the partnership or of interests in the partnership pursuant to a single plan and for whom the tax consequences of the transfers will be determined in the same manner. Each such partner who satisfies the requirements of paragraph (d)(3) of this section will be considered to be a person who requested the ruling, except that any partner who requested a separate ruling cannot be so considered.

(3) *Attachments to tax return.* Any taxpayer to whom this section applies shall file with its income tax return for any period during which one or more transfers subject to section 367(a)(1) and this section begins either—

(i) A copy of any ruling relating to the transfer that is received by or on behalf of the taxpayer prior to filing the return,

(ii) If a ruling has been requested but has not been received prior to filing the return, a written summary of any ruling request relating to the transfer that has been filed by or on behalf of the taxpayer, indicating the date it was filed, or

(iii) If no ruling request relating to the transfer has been filed, a written statement disclosing—

(A) That the transfer is subject to section 367(a)(1),

(B) That no ruling relating to the transfer has been requested by or on behalf of the taxpayer,

(C) The date of the beginning of the transfer (as defined in paragraph (c)(4) of this section), and

(D) Whether the taxpayer intends to file a request for a ruling relating to the transfer within the time limit specified in paragraph (c)(1) of this section.

A copy of any ruling received after the return is filed or a statement that the ruling request has been withdrawn shall be forwarded by the person who requested the ruling to the district director or the service center where the return was filed within 60 days of the receipt or withdrawal, together with an identification of the return to which the ruling or statement relates. Any amended return that is required due to the ruling or the withdrawal of the ruling request must also be submitted with the ruling or statement. The failure to satisfy the requirements of this paragraph (d)(3) results in any favorable ruling being void and having no effect with respect to the transfers that began during the taxable year for which the return is filed.

(e) *Failure to comply with section 367(a)(1)*—(1) *Action or inaction constituting a failure to comply.* A taxpayer fails to comply with section 367(a)(1) and this section if, with respect to a transfer described in section 367(a)(1) to which this section applies, either—

(i) The taxpayer fails to obtain a favorable ruling (as defined in paragraph (g)(3) of this section) with respect to the transfer,

(ii) The taxpayer fails to comply with all of the terms and conditions imposed as part of a favorable ruling, or

(iii) The plan is carried out in a manner that constitutes a material

variance (as defined in paragraph (e)(3) of this section) from the plan as described in the ruling request.

(2) *Consequences of failure to comply.* Except as provided in paragraph (e)(4) of this section, if a taxpayer fails to comply with section 367(a)(1) and this section with respect to a transfer described in section 367(a)(1) a foreign corporation shall not be considered to be a corporation for purposes of determining the amount of gain to be recognized on the transfer and of determining the basis of property transferred or received. For all other purposes, including the determination of whether a loss shall be recognized and whether corporate attributes shall be carried over pursuant to section 381, the foreign corporation shall be considered to be a corporation. Any loss realized but not recognized on a transfer described in section 367(a)(1) does not reduce the amount of gain realized or recognized on any other transfer described in section 367(a)(1), regardless of whether both transfers are made pursuant to the same plan.

(3) *Material variance*—(i) *In general.* A material variance is a variance to which the Commissioner would reasonably attach importance in determining whether the transfer was pursuant to a plan having the avoidance of Federal income taxes as one of its principal purposes. A variance is material if, had it been known by the Commissioner, it would have had an influence or bearing on his determination. The variance need not directly control the determination contained in the ruling to be material. Examples of a variance that is not material may include a relatively insignificant overstatement or understatement of the value of assets transferred if such overstatement or understatement does not affect the type of exchange or reorganization that occurs.

(ii) *Taxable transfers disclosed in a ruling request.* If a transfer is disclosed in a ruling request that is filed more than 183 days after the transfer began, such transfer (although taxable) will not constitute a variance from the plan as described in the ruling request. A favorable ruling may be issued with respect to other transfers pursuant to the same plan which begin no more than 183 days before the ruling request is filed.

(iii) *Transfers covered by separate or amended ruling request.* If a material variance would result from the execution of a particular transfer pursuant to a plan, which transfer is not described in a ruling request that is filed timely with respect to other transfers pursuant to the same plan, a favorable ruling may nevertheless be obtained with respect to all transfers pursuant to the plan—

(A) If a separate ruling request is timely filed with respect to the omitted transfer and if all other transfers described in the initial ruling request are also described in such separate ruling request, or

(B) If the initial ruling request is still pending, an amendment to the initial ruling request describing the omitted transfer is filed timely with respect to such transfer.

The rules of this subdivision (iii) apply only if the omitted transfer is described in accordance with the minimum standards set forth in paragraph (c)(3) of this section.

(iv) *Cash transfers.* No ruling under section 367(a)(1) is required with respect to the transfer of solely U.S. currency to a foreign corporation. The undisclosed transfer of U.S. currency to a foreign corporation in connection with an exchange described in section 367(a)(1) generally will not constitute a material variance from the plan as described in the ruling request. However, if the transfer of U.S. currency affects the type of exchange or reorganization that occurs, the undisclosed transfer of U.S. currency will result in a material variance.

(4) *Exception.* The failure to comply with section 367(a)(1) and this section may not be used by the taxpayer to its advantage. In those situations the Commissioner deems appropriate, a foreign corporation will be treated as a corporation even if the taxpayer fails to comply with section 367(a)(1).

(f) *Protests and appeals*—(1) *Administrative remedies.* A person requesting a ruling under this section (including a corporation or partnership that requests a ruling on behalf of its shareholders or partners under paragraph (d) of this section) may file an administrative protest of a ruling not later than the 45th day after the date of the ruling letter. The protest must include a copy of the ruling letter, the reason for the protest (including the grounds of the protest and arguments in support thereof), a statement as to whether a conference is requested, and the names of the persons expected to attend the conference if one is requested. A protest that meets the requirements of this paragraph (f)(1) is considered to be filed upon delivery to the Commissioner pursuant to the rules of paragraph (c)(2) of this section, which apply to the delivery and filing of ruling requests.

(2) *Judicial appeals.* Provisions for petitioning the United States Tax Court with respect to a transfer subject to section 367(a)(1) and this section are set forth in section 7477 and the regulations thereunder. Such a proceeding is the exclusive means for obtaining judicial review of the determination of the Commissioner.

(g) *Definitions.* The following definitions apply for purposes of this section.

(1) *United States person.* The term "United States person" includes those persons described in section 7701(a)(30). Such term includes a citizen or resident of the United States, a domestic partnership, a domestic corporation, and any estate or trust other than an estate or trust described in section 7701(a)(31) as a foreign estate or foreign trust. For purposes of this section, an individual with respect to whom an election has been made under section 6013 (g) or (h) is considered to be a resident of the United States while such election is in effect. A nonresident alien or a foreign corporation will not be considered a United States person merely because of its actual or demed conduct of a trade or business within the United States during a taxable year. Nor will a nonresident alien individual be considered to be a United States person solely on the basis that such individual has been present in the United States for 183 days or more during the taxable year.

(2) *Favorable ruling.* A favorable ruling is a ruling that a transfer described in section 367(a)(1) is not in connection with an exchange pursuant to a plan having the avoidance of Federal income taxes as one of its principal purposes, including such a ruling that is subject to terms and conditions.

PART 7—TEMPORARY INCOME TAX REGULATIONS UNDER THE TAX REFORM ACT OF 1976

§§ 7.367(a)-1 and 7.367-2 [Removed]

Par. 2. Sections 7.367(a)-1 and 7.367-2 are removed.

PART 301—PROCEDURE AND ADMINISTRATION

Par. 3. Section 301.7477-1 is amended by revising paragraph (a)(3) and the last sentence of paragraph (b)(2) to read as follows:

§ 301.7477-1 Declaratory judgments relating to transfers of property from the United States.

(a) *Petition*— * * *

(3) *Beginning of exchange.* An exchange generally shall be considered to begin upon the beginning of the first transfer of property pursuant to the plan

under which the exchange is to be made. For rules determining the beginning of a transfer, see § 1.367(a)–(c)(4).

* * * * *

(b) *Judgment*— * * *

(2) *Exhaustion of administrative remedies.* * * * In no event shall the Internal Revenue Service be deemed to have had a reasonable time to act if a failure to act has occurred because the petitioner did not proceed with due diligence or because the petitioner has not provided all available information or materials reasonably requested by the Internal Revenue Service.

* * * * *

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 82–35039 Filed 12–23–82; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 902

Submission of the Alaska Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Reopening of public comment period.

SUMMARY: OSM is reopening the period for review and comment on portions of the submission by Alaska of its program for the regulation of surface coal mining and reclamation in the State. OSM is reopening the comment period to allow the public sufficient time to consider and comment on additional materials submitted by Alaska subsequent to the close of the initial public comment period. Comments on program portions not affected by the additional documents will not be considered.

DATE: Written comments, data or other relevant information must be received on or before 4:00 p.m. January 26, 1983 to be considered.

ADDRESSES: Comments on the supplemental material to the program submission should be sent or hand-delivered to: Office of Surface Mining, Administrative Record Office, Room 5315, 1100 L Street, NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Arthur W. Abbs, Chief, Division of State Program Assistance, Office of Surface Mining, Interior South Building, Room 210, 1951 Constitution Avenue, NW., Washington, D.C. 20240. Phone: (202) 343–5351.

SUPPLEMENTARY INFORMATION: On August 3, 1982, at 47 FR 33520–33522, the Office of Surface Mining published a notice of the public hearing and the public comment period on the Alaska program submission. The public hearing was held September 24, 1982, and the public comment period ended September 30, 1982. On September 9 and 23, 1982, OSM personnel and Alaska State regulatory officials met in executive session. Subsequent to those meetings, Alaska submitted certain material to OSM, dated December 13, 1982, including the State's final surface mining regulations, a Supplemental Narrative and an Attorney General's Opinion. Certain portions of the submission were also discussed in a telephone conversation between OSM and State personnel on October 27, 1982.

OSM is reopening the public comment period to allow the public sufficient time to review and comment on the summaries of the above two meetings and telephone conversation, and the new material submitted by Alaska.

This announcement is made in keeping with OSM's commitment to public participation as a vital component in fulfilling the purposes of the Surface Mining Control and Reclamation Act of 1977.

Dated: December 20, 1982.

J. Steven Griles,

Acting Director, Office of Surface Mining.

[FR Doc. 82–35031 Filed 12–23–82; 8:45 am]

BILLING CODE 4310–05–M

30 CFR Part 914

Permanent State Regulatory Program of Indiana

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule.

SUMMARY: OSM is announcing procedures for the public comment period and for a public hearing on the substantive adequacy of a program amendment submitted by Indiana to satisfy certain conditions imposed by the Secretary of the Interior on the approval of the Indiana State Program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

The amendment consists of a set of modifications to Indiana's surface and underground coal mining regulations and is intended to satisfy the specific conditions found at 30 CFR 914.11(a), (b)(1), (b)(3) in part, (b)(4)–(6), (c), (d), (e), (f), (g)(2), and (i). The amendment also consists of other changes to seven Indiana rules which are not related to the conditions of approval.

OSM is also proposing that the deadline for meeting condition 914.11(b)(3) in part be extended to July 1, 1983, for reasons set forth later in this document.

This document sets forth the times and locations that the Indiana program and proposed amendment are available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendment (IN–291) and information pertinent to the public hearing.

DATE: Written comments relating to Indiana's proposed modification of its program not received on or before 4:00 p.m. on January 26, 1983, will not necessarily be considered in the Secretary's decision on whether the proposed program amendment satisfies the above conditions.

If requested, a public hearing will be held on January 17, 1983, beginning at 10:00 a.m. at the location shown below under "**ADDRESSES**".

ADDRESSES: Written comments should be mailed or hand-delivered to: Mr. Richard D. McNabb, Director, Indiana Field Office, Office of Surface Mining Reclamation and Enforcement, Federal Building and U.S. Courthouse, Room 522, 46 East Ohio Street, Indianapolis, Indiana 46204, Telephone: (317) 269–2600.

If a public hearing is held, its location will be at: OSM Indiana Field Office, Federal Building and U.S. Courthouse, Room 522, 46 East Ohio Street, Indianapolis, Indiana 46204.

FOR FURTHER INFORMATION CONTACT: Mr. Richard D. McNabb, Director, Indiana Field Office, Office of Surface Mining Reclamation and Enforcement, Federal Building and U.S. Courthouse, Room 522, 46 East Ohio Street, Indianapolis, Indiana 46204, Telephone: (317) 269–2600.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

Availability of Copies

Copies of the Indiana program, a listing of any scheduled public meeting and all written comments received in response to this notice will be available for review at the OSM offices and the Office of the State Regulatory Authority listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays:

Office of Surface Mining Reclamation and Enforcement, Room 5315, 1100 L Street NW., Washington, D.C. 20240

Office of Surface Mining Reclamation and Enforcement, Federal Building and U.S. Courthouse, Room 522, 46 East Ohio Street, Indianapolis, Indiana 46204

Indiana Department of Natural Resources, 608 State Office Building, Indianapolis, Indiana 46204.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under "DATES" or at locations other than Indianapolis, Indiana, will not necessarily be considered and included in the Administrative Record for the final rulemaking.

Public Hearing

Persons wishing to comment at the public hearing should contact the person listed under "FOR FURTHER INFORMATION CONTACT" by the close of business three working days before the date of the hearing. If no one requests to comment at the public hearing, the hearing will not be held.

If only one person requests to comment, a public meeting, rather than a public hearing, may be held and the results of the meeting included in the Administrative Record.

Filing of a written statement at the time of the hearing is requested and will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment and wish to do so will be heard following those scheduled. The hearing will end after all persons scheduled to comment and persons present in the audience who wish to comment, have been heard.

Public Meeting

Persons wishing to meet with OSM representatives to discuss the proposed amendment may request a meeting at the OSM office listed in "ADDRESSES" by contacting the person listed under "FOR FURTHER INFORMATION CONTACT."

All such meetings are open to the public and, if possible, notices of meetings will be posted in advance in the Administrative Record. A written summary of each public meeting will be made a part of the Administrative Record.

II. Background on Conditional Approval

Under 30 CFR 737.13(j), the Secretary may conditionally approve a state permanent regulatory program which contains minor deficiencies where the deficiencies are of such a size and nature as to render no part of the program incomplete, the State is actively proceeding with the steps to correct the deficiencies, and the State agrees to correct the deficiencies according to a schedule set in the notice of conditional approval.

III. Background on the Indiana State Program

Information regarding the general background on the Indiana State Program, including the Secretary's Findings, the disposition of comments and a detailed explanation of the conditions of approval of the Indiana program can be found in the July 26, 1982, **Federal Register** (47 FR 32071–32108).

The nine minor conditions of approval agreed to by the Secretary and the State of Indiana are set forth below:

Condition (a) requires Indiana to submit copies of promulgated rules or otherwise amend its program to:

(1) Require productivity levels for post-mining land use as required by 30 CFR 817.111(b);

(2) Require the design criteria for diversions as required by 30 CFR 816.43 and 817.43;

(3) Provide criteria for steep slope mining and variance from approximate original contour in a manner no less effective than the requirements of 30 CFR 826.15 and assure that no general variance for approximate original contour will be allowed.

(4) Delete the provisions for hilltop removal found in 310 IAC 12–5–149; and assure that no permits for hilltop removal are granted; and

(5) Require the protection of fish and wildlife in a manner no less effective than that required by 30 CFR 816.97(a), (c) and (d) and 817.97 (a), (c) and (d).

Condition (b) requires Indiana to submit copies of promulgated rules or otherwise amend its program to:

(1) Require a plan for control and treatment of surface and ground water drainage and impose ground water limits on pollutants in the discharges as required by 30 CFR 780.21(b);

(2) Require that each permit application require the applicant to certify that all reclamation fees due under 30 CFR 870.12 have been paid;

(3) Require that each permit application contain a list of all other licenses and permits needed by the applicant to conduct the proposed surface or underground mining activities including all the information required by 30 CFR 778.19 and 782.19;

(4) Require the narrative analysis of "the known history of any previous uses before mining," as required by 30 CFR 779.22 and 30 CFR 783.22;

(5) Require information concerning utility and capacity of reclaimed land for all lands, and not just those where an alternative land use is proposed as required by 30 CFR 780.23;

(6) Provide criteria for permit requirements for steep slope mining and variance from approximate original contour in a manner no less effective than 30 CFR 785.16.

Condition (c) requires Indiana to submit copies of promulgated rules or otherwise amend its program to:

(1) Require that the notice of intent to explore, when less than 250 tons of coal will be removed, include a description of the practices proposed to be followed to protect the environment as required by 30 CFR 776.11(b)(6);

(2) Require that core drilling and drilling of boreholes during coal exploration activities be conducted in accordance with Section 512(a)(2) or SMCRA and in manner no less effective than 30 CFR 815.15(j).

Condition (d) requires Indiana to submit copies of promulgated rules or otherwise amend its program to:

(1) Require that the criteria for the determination that a pattern of violations exists or has existed meet the requirements of 30 CFR 843.13 and require that lack of diligence be considered with regard to unwarranted failure to comply;

(2) Require that the conference officer have the authority to increase a penalty as required by 30 CFR 845.16(b)(3);

Condition (e) requires Indiana to submit copies of promulgated rules or otherwise amend its program to:

(1) Require the replacement of a bond for long term operations 120-days prior to the expiration of the existing permit as required by 30 CFR 801.13(b);

(2) Change the phrase "suspension of revocation" to "suspension or revocation" in Indiana rule 310 IAC 12–4–10(e)(1) to correct the typographical error and make the Indiana rule no less effective than 30 CFR 806.12(e)(6)(i);

(3) Require that the advertisement published by the bond release applicant contain notice of the public right of participation as required by 30 CFR 807.11(b)(7).

Condition (f) requires Indiana to submit copies of promulgated rules or otherwise amend its program to:

(1) Require that no extension of an abatement period will be allowed unless it meets the criteria of 30 CFR 843.12(f).

(2) Require the issuance of a cessation order where the operation fails to meet an interim step in abatement as required by 30 CFR 843.12(d).

Condition (g) requires Indiana to submit:

(1) Copies of a statutory amendment or to otherwise amend its program to require that a petitioner would only have to present evidence which would "tend to establish allegations of fact," to be in accordance with Section 522(c) of SMCRA and no less effective than 30 CFR 764.13(b)(2).

(2) Copies of promulgated rules or otherwise amend its program to require that the Director, IDNR, must use the information in the data base and inventory system in reaching decisions to designate lands unsuitable as required by 30 CFR 764.19, and to provide for the right for any person to intervene up to within three days prior to the hearing as required by 30 CFR 764.16(c).

Condition (h) requires Indiana to submit statutory amendments or otherwise amend its program to:

(1) Provide for the award of attorney and expert witness fees in surface mining related common law damage actions as required by Section 510(f) of SMCRA.

(2) Provide for administrative review of a permit on any final decision of the regulatory authority in accordance with the provisions of Section 514(c) of SMCRA and in a manner no less effective than the requirements of 30 CFR Part 787.

Condition (i) requires Indiana to submit copies of promulgated rules or otherwise amend its program to provide for justification of positions exempted from conflict of interest requirements and makes its provision no less effective than 30 CFR 705.11(d).

In accepting the Secretary's conditional approval, Indiana agreed to satisfy conditions (a), (b)(1), (b)(3)–(6), (c), (d), (e), (f), (g)(2), and (i) by December 31, 1982.

Condition (b)(2l) was to have been met by September 1, 1982. On September 1, 1982, Indiana submitted its amended permit application forms to meet condition (b)(2). See IN–*0290*. The Secretary's decision on the amendment to meet that condition is being published separately.

Conditions (g)(1) and (h) require legislative action and are scheduled to be met by September 30, 1983.

IV. Discussion of the Proposed Amendment and Proposed Deadline Extention for One Condition

On December 9, 1982, OSM received a set of regulation amendments from the Indian Department of Natural Resources intended to meet conditions (a), (b)(1), (b)(3) in part, (b)(4–(6), (c), (d), (e), (f), (g)(2), and (i). See IN–*291*.

In the State's transmittal letter, the Director of the Department of Natural Resources stated that due to an error, the revisions to Indiana rule 310 IAC 12–3–63 was omitted. That change was necessary to comply with that part of condition 30 CFR 914–11(b)(3) requiring each underground permit application to contain a list of all other licenses and permits needed by the applicant to conduct the proposed underground mining activities as required by 30 CFR 782.19.

The Director of the Department of Natural Resources also indicated that the required state procedure to make that change was initiated on November 19, 1982, with an anticipated promulgation date as early as May 30, 1983.

In response to the information expressed by the Director of the Department of Natural Resources, OSM is hereby proposing to extend the deadline to July 1, 1983, for Indiana to meet that part of condition (b)(3) concerning 30 CFR 782.19.

Additionally, the proposed modification contains changes to seven other State rules that are not related to the conditions of approval. These rules are: 310 IAC 12–3–1, 12–3–21, 12–3–59, 12–3–81, 12–3–102, 12–5–24, and 12–5–90

Thus, the Secretary request comments on the substantive adequacy of the proposed amendment (IN–0291) to satisfy the conditions listed above, on the proposed deadline extension for part of condition (b)(3) and on the substantive adequacy of the proposed changes to the other seven Indiana rules.

Procedural Matters

Paperwork Reduction Act.

There are no information collection requirements in 30 CFR 914.11 requiring approval by the Office of Management and Budget under 44 U.S.C. 3507.

National Environmental Policy Act.

The Secretary has determined that pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no Environmental Impact Statement need be prepared on this rulemaking.

Executive Order 12291

On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval of conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, Pub L. 96–354, I have certified that this proposed rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 30 CFR Part 914

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: December 20, 1982.

J. Steven Griles,

Acting Director, Office of Surface Mining Reclamation and Enforcement.

[FR Doc. 82–35032 Filed 12–23–82; 8:45 am]

BILLING CODE 4310-05-M

---

30 CFR Part 946

Public Disclosure of Comments Received From Federal Agencies on the Virginia Proposed Program Amendments

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Disclosure of comments on the Virginia proposed program amendments from Federal agencies.

SUMMARY: Before the Director, OSM, may approve State regulatory program amendments submitted under Section 503(a) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), the views of certain Federal agencies must be solicited and disclosed. The Director has solicited comments from these agencies, and is today announcing their public disclosure.

ADDRESSES: Copies of the comments received are available for public review during business hours at:

Office of Surface Mining Reclamation and Enforcement, Room 5315, 1100 "L" Street, NW., Washington, D.C.

Office of Surface Mining Reclamation and Enforcement, Highway 23, South, Big Stone Gap, Virginia 24219

Office of Surface Mining Reclamation and Enforcement, Flannagan and Carroll Streets, Lebanon, Virginia 24266

Virginia Division of Mined Land Reclamation, 630 Powell Avenue, Big Stone Gap, Virginia 24219

FOR FURTHER INFORMATION CONTACT: Mr. Arthur Abbs, Chief, Division of State Program Assistance, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, South Building, 1951 Constitution Avenue, NW., Washington, D.C. 20240, Telephone: (202) 343–5351.

SUPPLEMENTARY INFORMATION: The Director is evaluating the proposed amendments submitted by Virginia for his review on September 30, 1982 (Administrative Record No. VA 431). See the November 1, 1982 **Federal Register** (47 FR 49412). In accordance with Section 503(b)(1) of SMCRA and 30 CFR 732.17(h)(10)(i), these amendments to Virginia's program may not be approved until the Director has solicited and publicly disclosed the views of the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the heads of other Federal agencies concerned with or having special expertise relevant to the program amendment as proposed. In this regard, the following Federal agencies were invited to comment on the Virginia program amendments:

Department of Agriculture:

Soil Conservation Service
Forest Service

Advisory Council on Historic Preservation

Department of Labor:

Mine Safety and Health Administration

Environmental Protection Agency

Department of the Interior:

Bureau of Land Management
Bureau of Mines
Fish and Wildlife Service
National Park Service
Geological Survey

U.S. Army Corps of Engineers of those agencies invited to comment, OSM received comments from the following offices:

Department of the Interior:

Minerals Management Services
Fish and Wildlife Service

Department of Labor:

Mine Safety and Health Administration

U.S. Army Corps of Engineers

Environmental Protection Agency

These comments are available for review and copying during business hours at the locations listed above under "Addresses".

Dated: December 17, 1982.

William B. Schmidt,

Assistant Director, Program Operations and Inspection, Office of Surface Mining.

[FR Doc. 82-35030 Filed 12-23-82; 8:45 am]

BILLING CODE 4310-05-M

POSTAL RATE COMMISSION

39 CFR Part 3001

[Docket No. RM83-3]

Rules of Practice; Release of In Camera Orders

December 21, 1982.

AGENCY: Postal Rate Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Postal Rate Commission, pursuant to 39 U.S.C. 3603, proposes a change in its rules of practice. The Commission proposes to change rule 31a(c) so that notice will be provided in cases of release of in camera information to government agencies. It also provides that such notice be waived in extraordinary circumstances and for good cause.

DATE: Comments responsive to this Notice should be filed on or before January 31, 1983.

ADDRESSES: Comments and other correspondence relating to this Notice should be sent to David F. Harris, Secretary of the Commission, 2000 L Street, NW., Washington, D.C. 20268 (telephone: 202/254–3880).

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, Assistant General Counsel, 2000 L Street, NW., Washington, D.C. 20268 (telephone: 202/254–3836).

SUPPLEMENTARY INFORMATION: This rulemaking is an outgrowth of a rule change establishing rule 42a regarding FOIA requests, Docket No. RM83–1. In that rule, we stated that documents generated pursuant to proceedings under our rules of practice were protected by rule 31a. The Postal Service submitted its comments and suggested that the Commission delete the last line of rule 31a(c) which allows the release of in camera information to government agencies. The Service stated: "Government agencies should not be in a more favorable position than other intervenors." Postal Service Comments at 2.

In Docket No. RM83–1, the Commission did not pass on the Service's request but noted it was a proposal that would be considered at a later date. This rulemaking is in response to that request.

Rather than delete the last line of rule 31a(c), as the Service suggests, the following proposed rule is designed to provide additional protections when release to a government agency is in question. First, it provides that "reasonable notice of the impending disclosure" be provided to the affected party. In present rule 31a(c), information may be released to a government agency without notice. The rule does, however, contain a caveat. It provides that this notice may be waived "in extraordinary circumstances for good cause." Thus, the proposed rule contains sufficient flexibility for the Commission to release information immediately to a government agency where appropriate.

We also note that the proposed rule 31a(c) allows release of information when requested by another government agency, rather than on the Commission's motion alone.

List of Subjects in 39 CFR Part 3001

Administrative practice and procedure.

PART 3001—RULES OF PRACTICE AND PROCEDURE

Accordingly, under the authority of 39 U.S.C. 3603, and for the reasons set out above, we propose to amend Title 39 of the Code of Federal Regulations, Part 3001, by revising § 300.131a(c) to read as follows:

§ 3001.31a In camera orders

* * * * *

(c) Release of *in camera* information. *In camera* documents and testimony shall constitute a part of the confidential records of the Commission and shall be subject to the provisions of § 3001.42 of this chapter. However, the Commission, on its own motion or pursuant to a request, may make *in camera* documents and testimony available for inspection, copying, or use by any other governmental agency. The Commission shall, in such circumstances, give reasonable notice of the impending disclosure to the affected party. However, such notice may be waived in estraordinary circumstances for good cause.

* * * * *

By the Commission.

David F. Harris,

Secretary.

[FR Doc. 82-35004 Filed 12-23-82; 8:45 am]

BILLING CODE 7715-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL-2173-2]

Standards of Performance for New Stationary Sources; Synthetic Fiber Production Facilities

Correction

In FR Doc. 82-31920 beginning on page 52932 in the issue for Tuesday, November 23, 1982, make the following changes:

(1) On page 52936, second column, fifth line from the bottom, insert the following after "data": "taken at the acrylic fiber plant indicates that enclosures provide".

(2) On page 52939, second column, second full paragraph, second line, insert the following after "rate": "in kilograms per hour for example) has an advantage in that it is a".

(3) On page 52944, third column, § 60.600(c), the date "November 23, 1982" should have been inserted where the words "(date of publication in the Federal Register)" appear (two places).

(4) On page 52945, second column, § 60.602(a), thirteenth line, remove the word "only" and insert the following after "produce": "both acrylic and".

(5) On page 52945, second column, § 60.603(b)(1), eighth line, "92)" should read "(2)".

BILLING CODE 1505-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

41 CFR Parts 3-16 and 3-50

Procurement Forms and Administrative Matters

AGENCY: Office of the Secretary, HHS.

ACTION: Proposed rule.

SUMMARY: The Office of the Secretary, Department of Health and Human Services, is proposing to amend 41 CFR Part 3-50, Administrative Matters, by adding a new subpart, 3-50.8, Determination of Adequacy of Contractors' Accounting and Billing Systems and Preparation of Invoices.

This new subpart will establish uniform Departmental billing and financial reporting requirements for inclusion in cost-reimbursement type contracts. The objective of the new subpart are: (a) Streamlining the reporting of financial data; (b) establishing the requirements for determination of the adequacy of a contractor's accounting and billing system; and (c) establishing guidelines for the preparation of invoices for cost-reimbursement type contracts.

Part 3-16, Procurement Forms, will be amended by the addition of three subsections to Subpart 3-16.9, Illustration of Forms. These subsections illustrate the financial reporting form and contain instructions for filling out the form and preparing invoices under cost reimbursement type contracts.

When issued as a final rule, this regulation will supersede Procurement Circular HEW-78.1, Billing Instructions and Financial Reporting Requirements dated April 12, 1978, except for § 3-50.803(b).

Paragraph 3-50.803(b) has been superseded by Procurement Circular HHS 82.04, Prompt Payment, dated October 1, 1982.

DATE: Comments must be received by February 10, 1983. Any person or organization wishing to submit data, views, or comments pertaining to the proposed amendment may do so by filing them, at the address listed in "For Further Information Contact".

FOR FURTHER INFORMATION CONTACT: Charles M. Lord, Division of Procurement Policy, OPAP-OPAL-OS, Room 539H, Hubert H. Humphrey Building, Department of Health and Human Services, Washington, D.C. 20201 (202-245-6154).

List of Subjects

41 CFR Part 3-16

Government procurement.

41 CFR Part 3-50

Government procurement.

It is therefore proposed to amend 41 CFR Chapter 3, Parts 3-16 and 3-50 in the manner set forth below.

Dated: December 7, 1982.

Henry G. Kirschenmann, Jr.,

Deputy Assistant Secretary for Procurement, Assistance and Logistics.

PART 3-50—[AMENDED]

1. Under Part 3-50, Administrative Matters, Subpart 3-50.8, Determination of Adequacy of Contractors' Accounting and Billing Systems and Preparation of Invoices, is added. In addition, the table of contents for Part 3-50 is amended to add the following:

Subpart 3-50.8—Determination of Adequacy of Contractors' Accounting and Billing Systems and Preparation of Invoices

Sec.
3.50.800 Scope of subpart.
3.50.801 Applicability.
3.50.802 Purpose.
3.50.803 Adequacy of accounting and billing systems.
3.50.804 Preparation of invoices/vouchers.
3.50.805 Financial reporting requirements.

Subpart 3-50.8—Determination of Adequacy of Contractors' Accounting and Billing Systems and Preparation of Invoices

§ 3-50.800 Scope of subpart.

This subpart establishes the requirement for a written determination concerning the adequacy of a contractor's accounting and billing systems. It also contains invoice preparation procedures and financial reporting requirements to be included in cost-reimbursement type contracts and prescribes the use of forms for these purposes.

§ 3-50.801 Applicability.

This subpart is applicable to all cost-reimbursement type contracts, including the cost-reimbursement portion of fixed-price contracts, letter contracts which provide for reimbursement of costs, time and material contracts and labor-hour contracts.

§ 3-50.802 Purpose.

The purpose of this subpart is to require a written determination of compliance with § 1-3.405-1(b)(1), to establish uniform Departmental billing procedures which satisfy contractual payment provisions and to streamline finacial reporting requirements.

§ 3-50.803 Adequacy of accounting and billing systems.

(a) Prior to the award of all cost-reimbursement type contracts, including those approved for payment under a letter of credit, the contracting officer shall determine whether the prospective contractor's accounting system is adequate for determining costs applicable to such contracts (see § 1-3.405-1(b)) and whether the prospective contractor's procedures for preparing reimbursement claims provide assurance that such claims will be prepared in accordance with the terms of the contract.

(b) The contracting officer shall base this judgment on current preaward surveys or audit reports which assess the adequacy of the prospective contractor's accounting and billing systems. When current information is not available, such data shall be requested from the office providing cost advisory services.

(c) If a prospective contractor's accounting and billing systems are judged to be adequate for the purposes stated above, the contract file shall be

documented to show the basis for the judgment.

(d) Except as provided for in paragraph (f) of this section, if a prospective contractor's accounting or billing system (or both) is determined to be inadequate, corrective action must be taken before that organization is awarded a contract. (See § 1–3.801–3(b)(3)).

(e) When dealing with high risk organizations, i.e., new organizations, those with known problems, and those with accounting system deficiencies, the contracting officer shall utilize every reasonable means available to protect the Government from the improper expenditure of Federal funds. Actions should include at least one of the following: preaward and postaward audits; direct idenfification of cost with deliverables; billing by contract phases or tasks; fidelity bonding or other guarantees by the parent company or principals of the organization; increased scrutiny of vouchers and financial reports; or frequent site visits to verify the incurrence of specific costs and the relationship of technical progress with the amount billed.

(f) When it is determined that corrective action cannot be completed until after the award, but the contracting officer determines that the award must be made, he/she shall consult with cognizant cost advisors and take the appropriate actions set forth in § 1–3.403(a) to assure that the Government's interests will be protected and the contract will be adequately costed and administered. Such awards may only be made with the written approval of the principal official responsible for procurement as defined in § 3–1.250.

§ 3–50.804 Preparation of invoices/vouchers.

(a) Pursuant to the invoice article of the contract, the contractor should prepare vouchers in accordance with Form HHS–647, Guide for Preparing Vouchers Under Cost Reimbursement Type Contracts.

(b) Contracts to be financed under the letter of credit method of payment need not contain the billing instructions which will be set forth in Form HHS–647. Interim vouchers shall not be required of such contractors since they provide financial data on Form HHS–646, Financial Report of Individual Project/Contract. However, these contracts shall require the submission of completed and final vouchers.

(c) Pursuant to Form HHS–647, the contractor may attach to the SF–1034, Public Voucher for Purchases and Services Other than Personal, Form HHS–646, or SF–1035, Continuation Sheet.

§ 3–50.805 Financial reporting requirements.

(a) The contracting officer shall require the contractor to submit reasonable and necessary data to achieve effective technical and financial contract monitoring and administration. This data shall be submitted on Form HHS–646 in accordance with the instructions in Form HHS–646A, Instructions for Completing Form HHS–646, Financial Report of Individual Project/Contract, and the requirements set forth in the clause in § 3–7.5003, HHS contract financial report. However, submission of both the SF–1035 and Form HHS–646 shall not be required.

(b) It is the policy of HHS to require contractors to furnish only that amount of financial data which is reasonably needed to assure effective monitoring and administration and to avoid excessive reporting which multiplies the administrative costs of the contractor without commensurate improvement in contract management. Therefore, prior to the release of any RFP which will contain the clause set forth in § 3–7.5003, the contracting officer and project officer shall agree on the frequency and amount of detail to be submitted by the contractor on Form HHS–646. Under no conditions will the RFP merely require the contractor to complete the form in accordance with the attached instructions. Each RFP and resultant contract shall specify the expenditure categories to be reported. The contractor shall be required to report only totals for each column unless the contract specifically identifies detailed expenditure categories to be reported within each column. Reporting of the percentage of effort should be requested, when necessary, for effective contract monitoring. The data to be reported shall be included in the RFP so that offerors may give it consideration in the development of their proposals. Necessary reporting requirements will be established by agreement between the contracting officer and the prospective contractor prior to award. This information will become part of the contract when executed.

(c) Upon receipt of Form HHS–646, the contracting officer, in consultation with the project officer, shall review the form to determine if the nature of the items reported is in consonance with the contract terms and whether the financial report reflects expenditure levels commensurate with technical progress under the contract. This may entail additional site visits to verify accuracy of technical and financial reporting. If any deficiencies are found, the contracting officer shall document whatever action is taken to correct them. The contracting officer should initial the Form HHS–646 and indicate on it the dates received and reviewed.

(d) With regard to contracts where work is to be performed by phases or tasks, Form HHS–646 should require reporting by phases or tasks.

PART 3–16—[AMENDED]

2. Under Subpart 3–16.9, Illustration of Forms of Part 3–16, Procurement Forms, §§ 3–16.950–646, –646A and –647 are added. In addition, the table of contents of Part 3–16 is amended to add the following:

Subpart 3–16.9—Illustration of Forms

* * * * *

Sec.

3–16.950–646 Financial report of individual project/contract.
3–16.950–646A Instructions for completing form HHS–646, financial report of individual project/contract.
3–16.950–647 Guide for preparing invoices under cost-reimbursement type contracts.

§ 3-16.950-646 Financial report of individual project/contract.

OMB No. 0990-0991
Exp. date: 7/31/84

Department of Health and Human Services Financial Report of Individual Project/Contract	Project Task:	Contract No.:	Date of Report:
Note: Complete this Form in Accordance with Accompanying Instructions.	Reporting Period	Contractor Name and Address:	

Expenditure Category	Percentage of Effort/Hours		Cumulative Incurred Cost at End of Prior Period	Incurred Cost Current Period	Cumulative Cost to Date (D + E)	Estimated Cost to Complete	Estimated Cost at Completion (F + G)	Funded Contract Amount	Variance (Over or Under) (I - H)
	Funded	Actual							
A	B	C	D	E	F	G	H	I	J

HHS-646

3-16.950-646A Instructions for Completing Form HHS-646 (OMB No. 0990-0991), Financial Report of Individual Project/Contract.

General Information

Form HHS-646 is designed to: (1) Provide a management tool for use by HHS in monitoring the application of financial and manpower resources to HHS contracts, (2) provide contractors with financial and manpower management data which is usable in their management processes, (3) indicate promptly potential areas of contract underruns or overruns by making possible comparisons of actual performance and projections with prior estimates on individual elements of cost and manpower, and (4) obtain contractor's analyses of cause and effect of significant variations between actual and prior estimates of financial and manpower performance.

Reporting Requirements

(a) *Scope.* Necessary reporting requirements will be established by agreement between the contracting officer and contractor prior to contract aware. The Government will limit frequency and details of the reporting requirements to those which are necessary to accomplish the goal of contract management without being unduly burdensome on the contractor.

(b) *Number of copies and mailing address.* An original and three (3) copies of the report(s) shall be sent to the contracting officer at the address shown on the face page of the contract no later than the 30th day after the end of the period to be reported.

Reporting Statistics

A modification which extends the period of performance of an existing contract will not require reporting on a separate Form HHS-646, except where it is determined by the contracting officer that separate reporting is necessary. Furthermore, when incrementally funded contracts are involved, each separate allotment is not considered a separate contract entity (only a funding action). Therefore, the statistics under incrementally funded contracts should be reported cumulatively from the inception of the contract through completion.

Guidelines for Completing Form HHS-646

The contractor shall insert in column A the expenditure categories specifically identified in the clause of the contract entitled Contract Financial Report. In the remainder of the columns, the contractor shall report data on expenditures. The following guidelines are applicable to Form HHS-646.

(a) *Personnel—Professional.* Include by name and job title all personnel listed in the key personnel clause. The listing must be kept up to date.

(b) *Personnel—Other.* Do not include names and job titles. Report as one amount unless otherwise required by the contract.

(c) *Fringe benefits.* Include allowances and services provided by

the contractor to employees as compensation in addition to regular salaries and wages. If a fringe benefit rate has been established, the rate will be applied to the base agreed upon. If a rate has not been established, the various fringe benefits costs may be required to be shown separately. Fringe benefits which are included in the indirect cost rate should not be shown here.

(d) *Supplies.* Include the cost of supplies and material and equipment charged directly to the contract, but exclude the cost of capitalized nonexpendable equipment, as defined in subparagraph (k) below.

(e) *Travel.* Include in the detail required by the contract all direct costs of travel, i.e., transportation, subsistence and miscellaneous expenses. The following items shall be listed separately:

(1) Travel of consultants;

(2) Travel of contractor's staff;

(3) Domestic travel; and

(4) Foreign travel.

(f) *Premium pay.* Include the amount of salaries and wages over and above the basic rate of pay.

(g) *Other direct costs.* Include any direct costs which are not reported under individual line items. Depending upon the contractor's accounting system, other direct costs may include some of the above categories.

(h) *Overhead/Indirect costs.* Cite the rate and the base.

(i) *General and Administrative expense.* Cite the rate and the base. In the case of nonprofit organizations, this item will usually be included in the indirect cost.

(j) *Fee.* If any, include the fee earned in the appropriate column(s).

(k) *Capitalized nonexpendable equipment.* Include personal property of a capital nature; i.e., property acquired at a cost of $300 or more that has a service life of more than one year. However, if the contractor is an educational institution, the definition of capitalized nonexpendable equipment is changed to property acquired at an acquisition cost of $500 or more and a service life of 2 years or more. If required by the contract, Form 565, Report of Capitalized Nonexpendable Equipment, as outlined in the Departmental Manual "Control of Property in Possession of Contractors," will accompany the contractor's public voucher (SF 1034/1035),[1] or the Form HHS–646, if the Form HHS–565 was not previously submitted.

(l) *Inpatient Care.* Include costs associated with a patient occupying a bed in a patient care setting (e.g., hospitals, clinics, infirmaries and sanatoria). These costs will include both routine and ancillary costs. (Routine costs are those costs associated with occupying a bed.)

(m) *Outpatient Care.* Include costs associated with a patient while not occupying a bed in a patient care setting.

(n) *Consultant Fees.* Include fees paid to consultants.

(o) *Total Costs to the Government.* Include total costs to the Government as the last entry in the column. This is not an expenditure category *per se,* but, a total of the expenditures.

Preparation Instructions

These instructions are keyed to the columns on Form HHS–646.

Column A—Expenditure Category. Enter in column A the expenditure categories required by the contract.

Column B—Percentage of Effort/ Hours Funded. Enter in column B the percentage of effort or number of hours agreed to during contract negotiations for each expenditure category listed in column A.

Column C—Percentage of Effort/ Hours-Actual. The contractor will enter the cumulative percentage of effort or number of hours worked by each employee or group of employees listed in column A.

Column D—Cumulative Incurred Cost at End of Prior Period. This column should show the cumulative incurred costs up to the end of the prior reporting period. This column will be blank at the time of the submission of the initial report.

Column E—Incurred Cost Current Period. The contractor should enter the costs which were incurred during the current period.

Column F—Cumulative Incurred Cost to Date. The contractor should enter the combined total of columns D and E.

Column G—Estimated Cost to Complete. Entries need only be made when the contractor estimates that a particular expenditure category will vary from the amount funded in which case all expenditure categories must be filled in.

Column H—Estimated Cost at Completion. Entries shall only be made in column H if entries are made in column G. The contractor should enter the combined total of columns F and G.

Column I—Funded Contract Amount. Enter in this column the costs agreed to during contract negotiations for all expenditure categories listed in column A.

Column J—Variance (Over or Under). This column need not be filled in when column H is blank. When entries have been made in column H, this column should show the difference between the estimated costs at completion (column H) and funded costs (column I). When a line item varies by plus or minus 15%, i.e., the percentage arrived at by dividing column J by column I, an explanation of the variance should be submitted. Any variance projected on this form shall not be considered by the contractor to have satisfied its notice obligations under the Limitation of Cost (Funds) clause of the contract.

Note.—Any modification in the amount funded for an item since the preceding report should be listed in the appropriate cost category with the word "modification" immediately following the listed element in column A and with all columns filled in including the new funded amount. A line should be drawn through the old cost element. Subtotals among cost categories should be changed where necessary.

Note.—An expenditure made at the discretion of the contractor in the performance of its contract for an item for which no amount was funded should be listed in the appropriate cost category and all columns filled in except for I. Column J will, of course, show a 100% variance and will be eplained along with those identified under J above.

§ 3–16.950–647 Guide for Preparing Invoices Under Cost-Reimbursement Type Contracts

I. Introduction

General

This Guide presents recommended procedures for the preparation of the contractor's reimbursement claims under: (1) Cost-reimbursement type contracts; (2) the cost-reimbursement portions of fixed-price contracts; (3) letter contracts which provide for reimbursement of cost; (4) time and material contracts; and (5) labor-hour contracts.

Desk Audit

To expedite final payment on contracts subject to desk audit, the contractor may be required to provide the information set forth in III, C., of this Guide.

Prescribed Government Forms

Standard Form 1034, Public Voucher for Purchases and Services Other Than Personal (Figure 1), and Standard Form 1035, Public Voucher for Purchases and Services Other Than Personal—

[1] Filed as part of the original document.

Continuation Sheet (Figure 2), should be utilized by contractors to show the amount claimed for reimbursement and to provide the necessary supporting detail, respectively. The contractor may attach to the SF–1034, Public Voucher for Purchases and Services Other Than Personal, Form HHS–646, Financial Report of Individual Project/Contract, or SF–1035, Continuation Sheet. The SF–1035 may also be used to furnish any additional information as may be required by the contracting officer in accordance with the terms of the contract. The invoice and continuation sheet may be submitted on reproduced copies of the firms providing they conform to the official Government forms in format and are marked "Original."

Time for Submission

Invoices may be submitted at the beginning of each billing period for costs incurred during the preceding billing period. Costs incurred earlier than the preceding billing period, but the amount and month(s) in which such costs were incurred must be stated in the SF–1035 or equivalent form. Invoices shall not be submitted more frequently than once each month unless arrangement is made with the contracting officer.

Cost Incurrence Period

Costs must be incurred within the contract performance period or the period covered by precontract cost provisions.

Contractor's Fiscal Year

Invoices must be prepared in such a manner that costs claimed can be associated or identified with the contractor's fiscal year. This will ensure proper application of indirect cost rates to the direct costs of a particular fiscal year.

II. Preparation of Public Vouchers

General

The information which a contractor should submit in its public invoices (SF–1034 and SF–1035) is set forth in the explanation notes which follow. These notes are keyed to the entries on the illustrative public vouchers, Figures 1 and 2.

Completion of SF–1034

The following information should be submitted on SF–1034 or equivalent (Refer to Figure 1):

(a) U.S. Department, Bureau or Establishment and Location—enter the complete address as shown in the contract.

(b) Date Voucher Prepared—insert the date on which the voucher was prepared.

(c) Contract Number and Date—insert the number and the date of the contract under which reimbursement is claimed.

(d) All blocks lettered (d) should normally be left blank.

(e) Voucher No.—insert the appropriate serial number of each voucher including the completion and final voucher. A separate series of consecutive numbers, beginning with number 1, shall be used by the contractor for each contract.

(f) Payee's Name and Address—Name where practicable, title, phone number, and complete mailing address of responsible official to whom payments will be sent. In the case of an assignment of claims, also insert the organization to which payments have been assigned.

(g) Payee's Account Number—this space may be used by the contractor to record the account or job number assigned to the contract.

(h) Number and Date of Order—enter the number and date of the applicable order. (Applicable only when billings are subsequent to work assignments or task orders.)

(i) Date of Delivery/Service—show the month and year, beginning and ending dates of the cost incurrence period.

(j) Articles or Services—insert the following: "For detail see attached page(s)."

(k) Amount and Total—insert the amount claimed for the period indicated in (i) above.

(l) Identification—each voucher submitted must be prominently identified as one of the following:

(1) "Interim Voucher;"

(2) "Completion Voucher;" or

(3) "Final Voucher."

(m) Type the following certification, signed by an authorized official, on the face of the SF–1034.

"I certify that all payments requested are for appropriate purposes and in accordance with the contract."

(Name of Official) _____

(Title) _____

Completion of SF–1035

The following information should be submitted on SF–1035 or equivalent (Refer to Figure 2):

(a) Insert the name of the Government Agency as shown under (a) of the SF–1134.

(b) Insert the voucher number as shown on the SF–1034.

(c) Schedule No.—leave blank.

(d) If more than one sheet is used, insert the sheet number in numerical sequence, showing Sheet No. —— of ——." Use as many sheets as necessary to show the required information.

(e) Insert Payee's name and address as on the SF–1034.

(f) Insert the contract number as shown on the SF–1034.

(g) Insert the latest: Total Estimated Cost; Total Fee (if applicable); Total Contract Value; and Amount of Fee Payable (if applicable).

(h) Insert: "Summary of Claimed Current and Cumulative Costs" (and "Fee Earned" if applicable).

(i) Unless otherwise required by the contract, insert the major elements of incurred cost which was defined as follows:

Major Cost Elements

(1) *Direct Labor.* This consists of salaries and wages for direct performance of the contract.

(2) *Fringe Benefits.* This represents fringe benefits applicable to direct labor and billed as a direct cost. Fringe benefits included in indirect costs should not be identified here.

(3) *Capitalized Nonexpendable Equipment.* This represents personal property of a capital nature, i.e., property acquired at a cost of $300 or more that has a service life of more than one year. However, if the contractor is an educational institution the definition of capitalized nonexpendable equipment is changed to property acquired at an acquisition cost of $500 or more and a service life of 2 years or more. Form HHS–565, Report of Capitalized Nonexpendable Equipment, as outlined in the HHS manual "Control of Property in Possession of Contractors" will accompany the contractor's public voucher (SF–1034–SF–1035) as required.

(4) *Materials, Supplies, and Non-capitalized Equipment.* These are consumable materials, supplies and equipment other than those described in (c) of this section.

(5) *Premium Pay.* This renumeration in excess of the basic hourly rate.

(6) *Consultants Fee.* These are fees paid to consultants. List names, time and charges for the current billing period.

(7) *Travel.* Domestic travel is travel within the United States, its territories, possessions, and Canada. It should be billed separately from foreign travel.

(8) *Other.* List all other direct costs in total unless significant in amount. If significant, list cost elements and dollar amount separately, e.g., subcontracts.

(9) *Subcontracts.* Costs claimed for cost-type subcontracts must be supported by information similar to the SF–1035 for each subcontractor. Costs

claimed for fixed-price subcontracts must be on the basis of items delivered or services received, accepted and paid for by the prime contractor.

(10) *Total Direct Costs.* This is the sum of items (i)(1) through (i)(9) of this section.

(11) *Overhead/Indirect Costs (cite formula).* Cite the formula (rate and base) in effect during the time the cost was incurred and for which reimbursement is claimed.

(12) *Total Costs Exclusive of G&A.* This is the sum of (i)(10) and (i)(11) of this section.

(13) *G&A Expense (cite formula).* Cite the formula (rate and base) in effect during the time the cost was incurred and for which reimbursement is claimed.

(j) Insert the current costs claimed by major cost elements. Costs claimed for reimbursement can be only those amounts that are consistent with the term cost as defined in the "Allowable Cost and Payment" clause. Where it is found that amounts claimed do not meet this definition, such costs together with their associated costs and fee will be disallowed. All adjustments included herein must be explained in detail.

(k) Insert the cumulative costs claimed by major cost elements.

(l) Insert the total costs claimed for the current and cumulative periods.

(m) If the contract provides for an incentive or fixed-fee, insert the fee earned for the current and cumulative periods and the formula for such computation.

(n) Insert the total costs claimed and the fixed fee due for the current and cumulative periods.

(o) Insert the amount previously reimbursed.

(p) Insert the total costs claimed and the fee due for the current and cumulative periods.

(q) If applicable, resubmission of any previously claimed amounts which were suspended should be shown below the current amount claimed and footnoted to cite the number of the public voucher on which the deduction was made and the date and number of the related suspension notice. Suspensions from which the contractor has successfully appealed shall be identified by referencing contracting officer's letter of approval.

(r) Insert current amount claimed. Transfer this amount to SF–1034.

III. General Instructions

Cost Requiring Prior Authorization and Approval

The contractor should be aware of the requirement for prior written approval from the contracting officer for certain contract costs (e.g., premium pay, foreign travel). Whenever the voucher includes such costs not authorized by the contract, reference must be made to the contracting officer's authorization letter.

Withholding of Fixed Fee

After payment of 85% of the fee, the contracting officer may withhold further payment of fee to establish a reserve to protect the interests of the Government. This reserve may not exceed 15% of the total fee, or $100,000, whichever is less. Any fee withheld is payable upon submission of appropriate closing documents after final audit of the contract has been completed and all audit exceptions have been resolved. (See HSSPR § 3–50.502–3.)

Withholding and Release of Contract Reserves

Contractual provisions covering fees, patents, royalties, etc. usually provide for the accumulation of reserves until certain contract requirements are met to the satisfaction of the contracting officer. It is the contractor's responsibility to include appropriate adjustments in its reimbursement claims to cover the required accumulation and release of contract reserves. The contractor should resolve any questions regarding the amount of these reserves with the contracting officer.

Contractor's Completion Invoice

After all costs have been alloted to the contract and all contract performance provisions have been completed, the contractor shall promptly submit, but in any event within twelve (12) months to the office designated in the contract (and an additional copy directly to the contracting officer, if that office is not designated in the contract as the office to which invoices are to be sent by the contractor) in order to finalize the financial settlement of the contract. This invoice must be specifically identified as the completion invoice and should include the remaining costs, fees, and reserves claimed to be due to the contractor. It will not include items and amounts which may be set out in any qualifications in the contractor's release of claims. A separate completion invoice shall be submitted for each individual project or task order for which a separate series of public vouchers has been submitted. Final payment on certain contracts may be made on the basis of a desk audit. (See HHSPR § 3–50.502–3 for determination of which contracts.)

Contractor's Final Invoice and Closing Documents

After completion of the final audit and all suspensions and/or audit exceptions have been resolved and there is mutual agreement between the contractor and the contracting officer on the final allowable cost and fee, if any, the contractor shall submit its final invoice and the appropriate closing documents to the office designated in the contract. This invoice shall be specifically identified as the final invoice, and must be supported by the following documents:

(a) Contractor's Release.

(b) Assignee's Release, if applicable.

(c) Contractor's Assignment of Refunds, Rebates, Credits and Other Amounts.

(d) Assignee's Assignment of Refunds, Rebates, Credits, and Other Amounts, if applicable.

(e) Contractor's Affidavit or Waiver of Lien, when required by the contract.

Government Liaison

Any questions concerning delays in payment of contractor's invoices should be addressed to the office designated to receive the invoice; questions concerning performance under the contract or the instructions set forth in this Guide should be addressed to the contracting officer.

[FR Doc. 82–34063 Filed 12–23–82; 8:45 am]
BILLING CODE 4110–12–M

GENERAL SERVICES ADMINISTRATION

Public Buildings Service

41 CFR Part 101–20

Management of Buildings and Grounds; Standard Level of Protection Services

AGENCY: Public Buildings Service, General Service Administration.

ACTION: Proposed rule.

SUMMARY: The General Services Administration proposes to amend its regulations regarding the standard level of protective services to be provided occupants of GSA-owned or -controlled space as part of the standard level user charge. The present definition of standard level protective services is ambiguous and leads to disputes concerning what services are to be provided to occupants. The proposed regulation is intended to provide a more definitive description of standard level protective services in keeping with current program emphases.

DATE: Comments must be received by January 26, 1983.

ADDRESS: Comments should be addressed to General Services Administration (PS), Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: James R. Boyd, Planning Specialist, Program, Planning and Coordination Staff (202–566–0244).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. The General Services Administration has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society for this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

List of Subjects in 41 CFR Part 101–20

Blind, Concessions, Crime, Federal buildings and facilities, Fire prevention, Government property management, Safety, Security measures.

GSA proposes to amend Part 101–20 as follows:

1. The table of contents for Part 101–20 is amended to revise or reserve the following entries:

PART 101–20—MANAGEMENT OF BUILDINGS AND GROUNDS

Sec.

* * * * *

101–20.003–10 [Reserved]
101–20.003–11 [Reserved]

Subpart 101–20.1—Building Operations, Maintenance, Protection, and Alterations

* * * * *

101–20.104 Protection.

Subpart 101–20.5—Protection

* * * * *

101–20.502 [Reserved]
101–20.503–1 Protection.

§§ 101–20.003–10 and 101–20.003–11 [Reserved]

2. Sections 101–20.003–10 and 101–20.003–11 are removed and reserved as follows:

Subpart 101–20.1—Building Operations, Maintenance, Protection, and Alterations

3. Section 101–20.104 is revised to read as follows:

§ 101–20.104 Protection.

GSA will provide or arrange for the provision of protective services to ensure the safety of all visitors and occupants, to maintain order, to safeguard the Government's real and personal interest, and to prevent interference with or the disruption of the normal process of Government. Supart 101–20.5 prescribes the policies and procedures regarding the protection of GSA-owned or -controlled space.

4. Sections 101–20.105 (b) and (c) are revised to read as follows:

§ 101–20.105 Reimbursable service.

* * * * *

(b) Specialized security services performed by uniformed and other personnel which result because of an occupant's mission or the nature of the business conducted within a building, to include guarding as well as ingress-egress control, inspection of packages, directed security patrols, special physical security surveys, and other similar activities.

(c) Design, installation, maintenance, and operation of sophisticated electronic monitoring and communications systems such as intrusion-detection devices, duress-holdup alarms, and remote monitoring systems. Additionally, various target hardening procedures that may include, but not be limited to, the use of architectural and other barriers, access restrictions, and controlled vehicular and personnel traffic flows.

* * * * *

Subpart 101–20.5—Protection

5. Sections 101–20.500 and 101–20.501 are revised to read as follows:

§ 101–20.500 Scope of subpart.

This subpart prescribes the policies and requirements for the protection of persons and property under the charge and control of GSA; delineates GSA and occupant responsibilities; requires the active participation of occupant agencies in establishing tenant awareness programs and accomplishing crime prevention activities; requires that occupant and user agencies report crime on GSA property to the Federal Protective Service; and establishes an occupant emergency program mandating occupant participation in planning and organizing to deal with emergency situations in buildings or facilities.

§ 101–20.501 Basic policy.

For all buildings and grounds under its charge and control, GSA will provide standard level protective services consisting of timely responses to criminal occurrences, incidents, and life-threatening events; investigation of crimes and violations of Federal statutes; implementation of crime prevention activities, including tenant awareness programs; coordination of a comprehensive occupant emergency program; installation and maintenance of perimeter security devices and systems; performance of physical security surveys and vulnerability assessments of all properties on a recurring basis; and a wide range of physical security advisory and consulting services. Protective and security services above these levels engendered by an agency's mission and other special requirements may be provided on a reimbursable basis in accordance with Subpart 101–21.4.

5. Section 101–20.502 is removed and reserved as follows:

§ 101–20.502 [Reserved]

6. Section 101–20.503–1 is retitled and revised to read as follows:

§ 101–20.503–1 Protection.

GSA provides standard level protective services as defined in § 101–20.501 through the use of personnel resources (consisting of uniformed Federal Protective Officers and other qualified security professionals), technical resources (comprising technical equipment, security devices, and communications networks), and arrangements with other law enforcement agencies. Other protective services which may include, but are not limited to, security guarding; specialized security patrols; and installing and maintaining specialized security systems and devices, may be performed on a reimbursable basis.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486 (c))

Dated: November 23, 1982.

Richard O. Haase,

Commissioner.

[FR Doc. 82–34066 Filed 12–23–82; 8:45 am]
BILLING CODE 6820–23–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 3710, 3720, 3730, 3740, 3800, 3810, 3820, 3830, 3840, 3850, 3860 and 3870

Intent to Propose Rulemaking

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent to propose rulemaking.

SUMMARY: As part of the Department of the Interior's ongoing effort to

streamline existing regulations, the Bureau of Land Management is considering the revision of regulations found at 43 CFR Groups 3700 and 3800 dealing with acquisition of rights and development of mineral resources under the mining laws, 30 U.S.C. 22 *et seq.*, and other special Acts of Congress. Public comment is invited as to how the regulations found at 43 CFR Groups 3700 and 3800, other than subparts 3802, 3809, and 3833, could be improved, whether by elimination of unnecessary or burdensome provisions, by the clarification or amplification of ambiguous provisions, or by the inclusion of standards or procedures not now found in the regulations. In furtherance of the Department of the Interior's policy of seeking public input, the public is invited to arrange meetings with representatives of the Director, Bureau of Land Management, to discuss, for the record, their comments.

DATE: Comments should be submitted by February 1, 1983. Comments received or postmarked after that date will be considered if it is practical to do so, but assurance cannot be given that any comments except those received or postmarked on or before this date will be given consideration.

ADDRESS: Written comments should be addressed to: Director (140), Bureau of Land Management, 18th and C Streets, NW., Washington, D.C. 20240. Comments will be available for public review in Room 5555 of the above address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

Those wishing to arrange meetings to present comments should contact the Assistant Director, Mineral Resources at (202) 343–5554 to schedule their presentation. A record will be made of all meetings, will be made part of the comment docket, and will be available for public review. The record will include the name, address and organizational affiliation of any individual participating in the meetings concerning this proposal.

FOR FURTHER INFORMATION CONTACT: William Condit, Bureau of Land Management, 18th and C Streets, NW., Washington, D.C. 20240; telephone (202) 343–8537.

SUPPLEMENTARY INFORMATION: The public is invited to submit comments on, but not limited to, the following issues:

1. Procedures for patenting mining claims and mill sites under the mining laws;

2. Definition, consistent with existing case law, of discovery of a valuable mineral deposit (including the concepts of the prudent man rule and marketability);

3. Definition of the term "valid mining claim";

4. Clarification of the distinction between an amended location and a relocation;

5. Method of showing a patent applicant's title to a claim; and

6. Definition of the showing to be made to support a mining claimant's allegation of discovery.

Because of their special interest, members of the public who conduct mining activities that may be affected by the regulations in 43 CFR Groups 3700 and 3800, other than Subparts 3802, 3809 and 3833, are asked to give careful consideration to these parts and submit their comments for consideration.

Because the regulations found at 43 CFR Subparts 3802, 3809, and 3833 have been the subject of recent rulemaking and proposed rulemaking, the Bureau of Land Management will review those regulations separately from this notice of intent. Accordingly, comments on those parts are not specifically solicited.

List of Subjects

43 CFR Part 3710

Administrative practice and procedure, Mines, Public lands—Mineral resources.

43 CFR Part 3720

Coal, Mineral royalties, Mines, Public lands—Mineral resources.

43 CFR Part 3730

Environmental protection, Mines, Public lands—Mineral resources.

43 CFR Part 3740

Administrative practice and procedure, Mines, Public lands—Mineral resources.

43 CFR Part 3800

Administrative practice and procedure, Environmental protection, Intergovernmental relations, Mines, Public lands, Surety bonds, Wilderness areas.

43 CFR Part 3810

Mines, Public lands—Classification, Public lands—Mineral resources.

43 CFR Part 3820

Mines, Monuments and memorials, National forests, National parks, Public lands—Mineral resources.

43 CFR Part 3830

Mines, Public lands—Mineral resources.

43 CFR Part 3840

Mines, Public lands—Mineral resources.

43 CFR Part 3850

Mines, Public lands—Mineral resources.

43 CFR Part 3860

Administrative practice and procedure, Mines, Public lands—Mineral resources.

43 CFR Part 3870

Administrative practice and procedure, Mines, Public lands—Classification, Public lands—Mineral resources.

Dated: December 21, 1982.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 82-34964 Filed 12-23-82; 8:45 am]

BILLING CODE 4310-84-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-6286]

National Flood Insurance Program; Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule; revision.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Delavan, Walworth County, Wisconsin.

Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published in the *Delavan Enterprise* on July 8, 1982 and July 15, 1982, and at 45 FR 19393 on May 5, 1982, and hence supersedes those previously published rules.

DATES: The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in the above named community.

ADDRESSES: See table below:

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: Proposed base (100-year) flood elevations are listed below for selected locations in the City of Delavan, Walworth County, Wisconsin, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a)).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the (proposed) flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

The proposed base (100-year) flood elevations for selected locations are:

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS

[illegible]	City/town/county	Source of flooding	[illegible]	#Depth in feet above ground. *Elevation in feet (NGVD)
Wisconsin	(C) Delavan Walworth County	Turtle Creek	About 2,300 feet downstream of Richmond Road	*879
			Just downstream of Dam at Comus Lake	*885
		Swan Creek	At mouth	*881
			About 700 feet upstream of Richmond Road	[illegible]
			Abut 500 feet downstream of Walworth Street	*892
			Just upstream of Washington Street	*900
			At southern corporate limit about 3,300 feet downstream of Milwaukee, St. Paul and Pacific Railroad	*912
		Comus Lake	Shoreline	*891

Maps available for inspection at Director of Public Work's Office, Municipal Building, Delavan, Wisconsin.

Send comments to Honorable A. A. Lagg, Mayor, City of Delavan, Municipal Building, Delavan, Wisconsin 53115.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: December 3, 1982.

Dave McLoughlin,

Acting Associate Director, State and Local Programs and Support.

[FR Doc. 82-34788 Filed 12-23-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA–6449]

National Flood Insurance Program; Revision of Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Borough of Brielle, Monmouth County, New Jersey.

Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published in the Federal Register at 47 FR 52478 on November 22, 1982, and hence supersedes those previously published rules.

DATES: The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in each community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Municipal Building, 601 Union Lane, Brielle, New Jersey.

Send comments to: Honorable Victor J. DeMarco, Acting Mayor of Brielle, 601 Union Lane, Brielle, New Jersey 08730.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: Proposed base (100-year) flood elevations are listed below for selected locations in the Borough of Brielle, Monmouth County, New Jersey, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect

in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

The proposed base (100-year) flood elevations are:

Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Atlantic Ocean	Entire shoreline of Manasquan River	*10 *10
	Glimmer Glass shoreline at Fisk Avenue	*8
Roberts Swamp Brook.	Roberts Swamp Brook upstream side of CONRAIL crossing.	*11
	Upstream side of Union Avenue Downstream side of Old Bridge Road.	*12

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: December 10, 1982.

Dave McLoughlin,

Acting Associate Director, State and Local Programs and Support.

FR Doc. 82-34787 Filed 12-23-82; 8:45 am]

BILLING CODE 6718-03-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 23

Proposed Additions to the Appendices to the Convention on International Trade in Endangered Species of Wild Fauna and Flora

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of United States proposals.

SUMMARY: The convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) regulates international shipment of certain wildlife and plant species, which are listed in appendices to this treaty. The United States, as a Party to CITES, may propose amendments to Appendix I or II for consideration by the other Parties.

This notice announces the Service's decisions on proposals that are being submitted by the United States for considertion by CITES Party national at their next regular meeting. This notice addresses proposals other than those resulting from a review of North American animal and plant species that are already listed in the appendices, which were addressed in a separate notice.

ADDRESS: Please send correspondence concerning this notice to the Office of the Scientific Authority, U.S. Fish and Wildlife Service, Washington, D.C. 20240. Materials received will be available for public inspection from 7:45 a.m. to 4:15 p.m., Monday through Friday, in room 537, 1717 H Street, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Dr. Richard L. Jachowski, Office of the Scientific Authority, U.S. Fish and Wildlife Service, Washington, D.C. 20240, telephone (202) 653–5948.

SUPPLEMENTARY INFORMATION:

Background

CITES regulates import, export, reexport, and introduction from the sea of certain animal and plant species. Species for which trade is controlled are included in three appendices. Appendix I includes species threatened with extinction that are or may be affected by trade. Appendix II includes species that although not necessarily threatened with extinction may become so unless trade in them is strictly controlled. It also lists species that must be subject to regulation in order that trade in other currently or potentially threatened species may be brought under effective control. Such listings frequently are required because of difficulty in distinguishing specimens of currently or potentially threatened species from other species at ports of entry. Appendix III includes species that any Party nation identifies as being subject to regulation within its jurisdiction for purposes of preventing or restricting exploitation, and for which it needs cooperation of other Parties in controlling trade.

Any Party nation may propose amendments to Appendices I and II for consideration at meetings of the Conference of the Parties. The text of any proposal must be communicated to the CITES Secretariat at least 150 days before the meeting. The Secretariat must then consult the other Parties and interested intergovernmental bodies, and communicate their responses to all Parties no later than 30 days before the meeting. Amendments are adopted by a two-thirds majority of the Parties present and voting.

The purpose of this notice is to announce results of the Service's review of certain animal and plant species that were identified in previous notices (47 FR 6772, February 16, 1982, and 47 FR 39219, September 7, 1982) as candidates for United States proposals. The Service considered comments and information received in response to the notices and views of authorities in the various countries where these species occur, in determining if proposals described below should be submitted to the CITES Secretariat for consideration by the Parties in April 1983 at their fourth regular meeting.

Candidate Animal Species

The Service's notices of February 16 and September 7, 1982, identified the following species as candidates for proposals. This section presents a discussion of the species, comments received on them, and reasons for the Service's final decisions.

1. Indian pangolin (*Manis crassicaudata*)—Based on data indicating a rapidly increasing trade in skins of this species, which occurs in Pakistan, India, Yunnan Province of China, and Sri Lanka, TRAFFIC (U.S.A.) asked the Service to consider proposing its transfer from CITES Appendix II to I. Dr. Wang Sung of the Academia Sinica

in China informed the Service that the species is thought to be rare in that country, but that he would prefer retaining it in Appendix II. India does not allow the export of pangolin skins, even under CITES Appendix II. The Service has not obtained information about the population status of this species that is needed to determine if it is threatened with extinction. Informal discussion of the proposal with the CITES Central Committee confirmed the lack of such information. Therefore, the Service has decided not to submit this proposal.

2. Malayan pangolin (*Manis javanica*)—A rapid increase in trade in this species led TRAFFIC (U.S.A.) to suggest that it also be proposed for transfer from Appendix II to I. There is a similar lack of population status information on this species, which occurs in Burma, Thailand, Indochina, Sumatra, Java, Borneo, and S.W. Philippines. Dr. Boonsong Lekagul (Association for the Conservation of Wildlife, Thailand) informed the Service that both this species and *M. pentadactyla* are hunted illegally for meat in Thailand and that they are becoming increasingly rare in that country. He wrote that he would support the transfer of these species to Appendix I. The Assistant Director of the Philippines Bureau of Forest Development commented that pangolins are protected in that country, although they are collected in Palawan Province for meat and scales. His agency would support the transfer of *M. javanica* to Appendix I. However, without information on population status indicating this species to be threatened with extinction, the Service cannot make this proposal.

3. Chinese pangolin (*Manis pentadactyla*)—TRAFFIC (U.S.A.) suggested that this species be proposed for transfer from Appendix II to I for the same reason as the species discussed above. Population status information also is lacking on this species, which occurs in Nepal, South China from Yunnan eastward to Fukien Province, N. Indochina, and Taiwan. Dr. Wang Sung of the Academia Sinica wrote that it is a common species in China, but its population has declined in the last decades due to over-collection for meat and scales. He stated that he would consider its status as threatened or vulnerable, but that he would prefer retaining it in Appendix II. Dr. Boonsong Lekagul informed the Service that he believed the species to be threatened in Thailand. Without more definitive information on population status, the Service cannot determine if this species should be transferred to Appendix I. However, in the case of these three pangolin species, the Service will urge the Parties to control trade more effectively under the current Appendix II listing.

4. White-lipped peccary (*Tayassu pecari*)—TRAFFIC (U.S.A.) recommended that this species be considered for inclusion in Appendix II, on the basis of information showing a substantial international trade in skins from South America and reports of declining populations of the species. The species occurs from Mexico to W. Ecuador, Brazil, and N.E. Argentina.

Various reports mention loss of habitat and hunting for local consumption as factors affecting the species. The CITES Scientific Authority for Paraguay stated that there does not seem to be great demand on this species or on *T. tajacu* for trade in hides. The Director General of Forests and Wildlife in Peru informed the Service that although both species of *Tayassu* occur in the Amazonian region, where they are hunted for local consumption, they are not in danger and should not be listed in Appendix I or II. Commercial harvesting of them is controlled under a quota system in Peru. On the other hand, the Acting Director of the Department of National Parks and Equivalent Reserves in Brazil commented that both species of *Tayassu* are hunted because their skins have commercial value, so populations might be reduced. He approved their inclusion in Appendix II. The Scientific Authority for Ecuador wrote that these species are subject to commercial skin trade as well as habitat destruction and local consumption. He recommended listing *T. pecari* in Appendix I or II, but not listing *T. tajacu* in either appendix insofar as Ecuador is concerned. It appears that *T. pecari* might benefit from inclusion in Appendix II, but information on population status is not adequate to justify a proposal at this time.

5. Collared peccary or javelina (*Tayassu tajacu*)—The comments summarized above also apply to this species. It occurs from N. Argentina and N.W. Peru to N.C. Texas, S.W. New Mexico, and Arizona. Generally, reports suggest that this species is more abundant and resistant to human disturbance than *T. pecari*. The Director of the Arizona Game and Fish Department commented that *T. tajacu* is managed as a big game species and is not threatened in Arizona, New Mexico, and Texas. The Service has decided not to propose listing it in Appendix II.

6. Africa wild ass (*Equus asinus*)—The Service received a request from Mr. Bill Clark of the Hai-bar Arava Wildlife reserve in Israel to propose the listing of this species in Appendix I. The wild form of this species, as distinct from domesticated stock, now occurs only in N.E. Ethiopia, N. Somalia and Sudan. Wild populations are estimated at 3,400 to 4,600 animals in all. The species is much reduced in distribution and subject to hunting, although it is afforded legal protection in the countries of origin. There is a documented potential for international trade in live specimens. The Director of the Wildlife Conservation Organization of the Ethiopian Government and the CITES Scientific Authority for Israel both support the listing of this species in Appendix I. The Service has decided to submit this proposal, excluding domesticated stock from the listing.

7. Caninde macaw (*Ara caninde*)—TRAFFIC (U.S.A.) requested the Service to consider proposing the transfer of this species from Appendix II to I. The Service had considered a similar request from the International Council for Bird Preservation (U.S. Section) in 1980, and decided then that the information on population status was inadequate to show that the species was threatened with extinction. Since then, Mr. D. V. Lanning conducted a survey of *A. caninde* and *A. rubrogenys* in Bolivia. This is the only country in which both species are now known to occur. Mr. Lanning estimated the total population of *A. caninde* to be 500–1,000 birds, and he reported that trapping for the export trade is the major threat to this species. He added that only a few were trapped and exported until 1981, when about 60 adults and young were exported. The Service has requested comments from Bolivian CITES authorities on this species and others discussed in this notice, but has not yet received a reply. Based on evidence of low numbers, restricted distribution, and growing international trade, the Service has decided to propose transferring this species from Appendix II to I.

8. Red-fronted macaw (*Ara rubrogenys*)—The preceding discussion also applies to this species. Mr. Lanning estimated the total population of *A. rubrogenys* to be 3,000–5,000 birds, and he stated that trapping for the export trade is the major threat to this species. Data from the United States and United Kingdom show a rapid increase in the numbers of birds imported each year since the first records in 1977. Exports to only these two countries amounted to about 460 birds in 1981. The Service has decided to propose transferring this species from Appendix II to I for the

same reasons given in the case of *A. caninde.*

9. Wattled crane (*Bugeranus carunculatus*)—Dr. George Archibald suggested the listing of this species in Appendix I on the grounds that it is acutely endangered and in trade. Information given to the Service by W. Tarburton of the Transvaal Provincial Administration (South Africa) and by D. H. Day of the Southern Africa Ornithological Society indicates that the species is threatened in South Africa and Zimbabwe. However, wattled cranes are distributed over the southern third of Africa with a small isolated population in Ethiopia. a survey by P. M. Konrad in 1978–79 of six large wetlands in Zambia and two in Botswana revealed from 250 to 3,000 birds in individual wetlands during the peak season. Konrad reported the species to be declining in numbers throughout its historic range due to alteration of its riverine wetland habitat by man in combination with low reproductive rates. From 6 to 12 of the birds are captured for trade in Botswana each year, according to Konrad. The Service has decided not to propose listing this species in Appendix I. The species is not yet threatened with extinction, although it may become so in the future unless measures are taken to protect its habitat. International trade does not appear to be a significant factor in the decline of wattled cranes.

10. Yacare (*Caiman crocodilus yacare*)—TRAFFIC (U.S.A.) suggested that the Service consider proposing the transfer of this subspecies to Appendix I on the basis of reports that its populations are declining as the result of hunting for international trade. There is extensive international trade in skins and manufactured products of *C. crocodilus,* some of which involves this subspecies. TRAFFIC (U.S.A.) stated, however, that there does not appear to be enough information on the population status of the yacare to support this proposal. The Service has contacted authorities in Brazil, Bolivia, and Paraquay about further research. The Acting Director of the Department of National Parks and Equivalent Reserves in Brazil informed the service that his agency approves the listing of yacare in Appendix I because its population is decreasing as a result of illegal hunting and clandestine trade. He added that the related subspecies *C. c. crocodilus* also should be included in Appendix I. The Service has decided not to submit this proposal, pending the results of further research.

11. Black softshell turtle (*Trionyx ater*)—Dr. F. W. King, Deputy Chairman of the Species Survival Commission, IUCN, and Dr. R. E. Honegger of the Zurich Zoo, Switzerland, suggested that the Service propose removing this species from Appendix I. The basis for the suggestion is a report that this species is becoming genetically swamped by *T. spiniferus.* It occupies a highly restricted range in Coahuila, Mexico. The Service has obtained no data to determine whether genetic swamping has actually occurred. Therefore, the Service has decided it would be premature to propose delisting *T. ater* at this time.

Candidate Plant Species

On February 16, 1982, the Service published a list of 111 individual plant species and two plant genera (*Dudleya* and *Echeveria*) that it felt to be potential candidates for adding to the CITES appendices (47 FR 6772–6773). The notice sought population and trade status information for each species and comments from the public on the appropriateness of each listing. On September 7, 1982, after a thorough review of the large volume of information and comments received in response to the February 16 notice, the Service published a reduced list of 30 plant species and single plant genus (*Dudleya*) which it then considered to be viable candidates for possible addition to the CITES appendices. In that notice, the Service requested detailed population data and trade statistics on each of these species in order to develop final proposals to submit to the CITES Secretariat for consideration at the meeting of the Parties in April 1983. The Service contacted a number of knowledgeable individuals by phone or letter in its search for the most accurate and up-to-date information on each species.

The current notice presents a list of those species for which the Service has received population and trade data that it considers to be sufficient to clearly warrant addition to the CITES appendices. The volume of information and comments received by the Service in response to its two previous notices, both verbally and in writing, is too great to discuss in detail in the current notice. However, written information is available for public inspection at the Office of the Scientific Authority. The Service has prepared proposals to add each of the following plant species to the CITES appendices and is submitting them for consideration by the CITES Parties:

Add to Appendix I:

Agavaceae (Agave family)

Agave arizonica (New River agave)—AZ
A. parviflora (Santa Cruz striped agave)—AZ, Mex.
Nolina interrata (Dehesa bear-grass)—CA, Mex.

Berberidaceae (Barberry family)

Mahonia nevinii (Nevin's barberry)—CA
M. sonnei (Truckee barberry)—CA

Crassulaceae (Orpine family)

Dudleya stolonifera (Laguna Beach dudleya)—CA
D. traskiae (Santa Barbara Island dudleya)—CA

Ericaceae (Health family)

Rhododendron chapmanii (Chapman's rhododendron)—FL
R. prunifolium (Plumleaf azalea)—AL, GA

Fouquieriaceae (Candlewood family)

Fouquieria fasciculata (Abrol de Barril)—Mex.
F. purpusii)—Mex.

Liliaceae (Lily family)

Lilium grayi (Gray's lily)—NC, TN, VA
L. iridollae (Pot-of-gold lily)—AL, FL
L. occidentale (Western lily)—CA, OR
L. pitkinense (Pitkin Marsh lily)—CA

Add to Appendix II:

Agavaceae (Agave family)

Agave victoriae-reginae (Queen Victoria agave)—Mex.

Diapensiaceae (Diapensia family)

Shortia galacifolia (Oconee-bells)—GA, NC, SC

Ericaceae (Heath family)

Kalmia cuneata (White wicky)—NC, SC

Fouquieriaceae (Candlewood family)

Fouquieria columnaris (Boojum tree)—Mex.

Liliaceae (Lily family)

Lilium parryi (Parry's lemon lily)—AZ, CA

Portulacaceae (Purslane family)

Lewisia cotyledon (Siskiyou lewisia)—CA, OR
L. maguirei (Maguire's lewisia)—NV
L. serrata (Saw-toothed lewisia)—CA
L. tweedyi (Tweedy's lewisia)—WA, Can.

Copies of animal and plant proposals that the Service decided to submit are available upon request from the Office of the Scientific Authority at the above address.

This notice is issued under authority of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.; 87 Stat., 884, as amended). It was prepared by Richard L. Jachowski and Joseph J. Dowhan, Office of the Scientific Authority.

List of Subjects in 50 CFR Part 23

Endangered and threatened wildlife, Exports, Fish, Imports, Plants (agriculture), Treaties.

Dated: December 16, 1982.

G. Ray Arnett,

Assistant Secretary for Fish, and Wildlife and Parks.

[FR Doc. 82-34837 Filed 12-23-82; 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register
Vol. 47, No. 248
Monday, December 27, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Quartz Hill Molybdenum Mine; Tongass National Forest, Ketchikan Area, Ketchikan, Alaska; Intent To Prepare an Environmental Impact Statement

The Department of Agriculture, Forest Service will prepare, through a third party consultant, an Environmental Impact Statement for the development of a proposed Molybdenum Mine at Quartz Hill within the non-wilderness portion of Misty Fiords National Monument. The Plan of Operations submitted by the U.S. Borax and Chemical Corporation on behalf of Pacific Coast Molybdenum includes:

1. Contruction and operation of an open pit capable of producing 60,000 tons of ore per day for more than 70 years.

2. Contruction and use of an access road suitable for mine development.

3. Contruction and operation of a mill capable of processing 60,000 tons of ore per day.

4. Contruction and and operation of a 100 megawatt power plant.

5. Contruction and use of tunnels for transportation of crushed ore and tailings.

6. Disposal of tailings in the marine environment of the Boca de Quadra Fiord.

7. Contruction and use of a town adjacent to Bakewell Arm.

8. Contruction and use of a wharf and docking facility.

Possible alternatives that will be discussed include, townsite locations, townsite vs. commute, water supply sources, processing capacity, power source, the method of tailings disposal and the location of tailings disposal areas.

The scoping process for this proposal will begin in December 1982 and end in February 1983. The scoping process will consist of:

1. A public scoping meeting in Ketchikan in the latter part of January 1983.

2. Letters will be sent to individuals and organizations who have expressed an interest in the project, soliciting their comments on concerns, issues and opportunities.

3. Interdisciplinary Team meetings will be held to discuss agency concerns, issues and opportunities.

All interested parties are invited to participate in the scoping process. The scoping process will:

1. Identify those issues, concerns and opportunities to be addressed.

2. Identify those issues, concerns and opportunities to be addressed in depth.

3. Eliminate insignificant issues, concerns, and opportunities or those that have been covered by a previous environmental review.

The following groups have been invited to be members of the Interdisciplinary Team preparing the Environmental Impact Statement:

Alaska Department of Transportation and Public Facilities
Alaska Department of Community and Regional Affairs
Alaska Department of Environmental Conservation
Alaska Department of Natural Resources
Alaska Department of Commerce and Economic Development
Alaska Department of Fish and Game
National Marine Fisheries Service
U.S. Bureau of Mines
U.S. Fish and Wildlife Service
Southern Southeast Regional Aquaculture Association
U.S. Army Corps of Engineers
U.S. Environmental Protection Agency
Ketchikan Gateway Borough
U.S. Borax and Chemical Corporation

John Sandor, Regional Forester of the Alaska Region, located in Juneau, Alaska, is the responsible official.

The analysis is expected to take about 10 months. The draft environmental impact statement shold be available for public review by October 1983. The final environmental impact statement is scheduled to be completed in March 1984.

Written comments and suggestions should be sent to Win Green, Forest Supervisor, Ketchikan Area, Tongass National Forest, Department QH, Federal Building, Ketchikan, Alaska 99901.

Questions about the proposed action and environmental impact statement should be directed to Ed Johnson, Minerals and Watershed Staff Officer/ Borax IDT Leader, Ketchikan Area, Tongass National Forest, phone (907) 225–3101.

Dated December 15, 1982.

John Sandor,

Regional Forester.

[FR Doc. 82–34912 Filed 12–23–82; 8:45 am]
BILLING CODE 3410–11–M

Soil Conservation Service

Beasha Creek Watershed, Mississippi; Intent To Deauthorize Federal Funding

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of Intent to Deauthorize Federal Funding.

SUMMARY: Pursuant to the Watershed Protection and Flood Prevention Act, Pub. L. 83–566, and the Soil Conservation Service Guidelines (7 CFR Part 622), the Soil Conservation Service gives notice of the intent to deauthorize Federal funding for the Beasha Creek Watershed project, Leake and Neshoba Counties, Mississippi.

FOR FURTHER INFORMATION CONTACT: Billy C. Griffin, State Conservationist, Soil Conservation Service, Suite 1321, Federal Building, 100 West Capitol Street, Jackson, Mississippi 39269, telephone 601–960–5205.

SUPPLEMENTARY INFORMATION: A determination has been made by Billy C. Griffin that the proposed works of improvement for the Beasha Creek Watershed project will not be installed. The sponsoring local organizations have concurred in this determination and agree that Federal funding should be deauthorized for the project. Information regarding this determination may be obtained from Billy C. Griffin, State Conservationist, at the above address and telephone number.

No administrative action on implementation of the proposed deauthorization will be taken until 60 days after the date of this publication in the **Federal Register.**

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention. Office of Management

and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable.)

Dated: December 15, 1982.

Billy C. Griffin,

State Conservationist.

[FR Doc. 82-34727 Filed 12-23-82; 8:45 am]

BILLING CODE 3410-16-M

Sam Houston RC & D Area; Magnolia Independent School District, Critical Area Treatment RC & D Measure, Texas

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Magnolia Independent School District Critical Area Treatment RC & D Measure, Montgomery County, Texas.

FOR FURTHER INFORMATION CONTACT: George C. Marks, State Conservationist, Soil Conservation Service, W. R. Poage Federal Building, 101 South Main, Temple, Texas 76503, telephone 817-774-1214.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, George C. Marks, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for treatment of erosion and reducing sedimentation problems in about 4,800 feet of drainageways by installing 1,150 feet of concrete-block channel blanket and 2,775 feet of grassed waterway. This will require 2.58 acres of land to be shaped for 0.41 acre (18,002 square feet) of concrete-block channel blanket and 2.17 acres for grass vegetation.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and intersted parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting George C. Marks.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: December 9, 1982.

Charles W. Conklin,

State Administrative Officer.

[FR Doc. 82-34861 Filed 12-23-82; 8:45 am]

BILLING CODE 3410-16-M

ARMS CONTROL AND DISARMAMENT AGENCY

Hubert H. Humphrey Fellowship Competition

The U.S. Arms Control and Disarmament Agency will conduct a competition in 1983 for one year Hubert H. Humphrey Fellowships in arms control and disarmament. The fellowships will support unclassified doctoral dissertation research in the field. Law candidates for the Juris Doctor or any higher degree are also eligible, if they are writing a substantial paper in partial fulfillment of degree requirements. The fellowship stipends for Ph.D. candidates will be $5,000, plus applicable tuition and fees up to a maximum of $3,400. Stipends and tuition for law candidates will be prorated according to the credits given for the research paper. Fellows must be citizens or nationals of the U.S. and degree candidates at a U.S. university. The application deadline for the awards, which are for a 12-month period beginning either September, 1983 or January 1, 1984, is March 1, 1983 and announcement of final selection will be on May 15, 1983. For information and application materials write: Hubert H. Humphrey Fellowship Program, Office of Congressional and Public Affairs, U.S. Arms Control and Disarmament Agency, Washington, D.C. 20451.

Dated: December 17, 1982.

Joseph Lehman,

Public Affairs Advisor.

[FR Doc. 82-34950 Filed 12-23-82; 8:45 am]

BILLING CODE 6820-32-M

CIVIL AERONAUTICS BOARD

[Docket 41163]

Newark-London Back-Up Case; Prehearing Conference

Notice is hereby given that a prehearing conference in the above-titled matter is assigned to be held on December 29, 1982, at 10:00 a.m. (local time), in Room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before the undersigned.

Board Order 82-12-88 instituting this proceeding contained a proposed request for information and evidence and proposed procedural dates. The order set December 23, 1982, as the date for answers to the proposed evidence request and December 27, 1982, as the date for responses thereto. Such answers and responses shall be served on each party and prospective party with six copies to the Judge. The answers shall contain (1) proposed statements of issue, (2) proposed stipulations, (3) suggested amendments to the Board's proposed information and evidence requests, (4) statements of position, and (5) proposed amendments to the procedural dates suggested in the Board's order.

Dated at Washington, D.C., December 20, 1982.

William A. Kane, Jr.,

Administrative Law Judge.

[FR Doc. 82-35020 Filed 12-23-82; 8:45 am]

BILLING CODE 6320-01-M

[Docket 41163]

Newark-London Back-Up Case; Assignment of Proceeding

This proceeding has been assigned to Administrative Law Judge William A. Kane, Jr. Future communications should be addressed to him.

Dated at Washington, D.C., December 20, 1982.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 82-35019 Filed 12-23-82; 8:45 am]

BILLING CODE 6320-01-M

[Docket 41163]

Newark-London Back-Up Case; Order Instituting Investigation

AGENCY: Civil Aeronautics Board.

ACTION: Notice or Order Instituting Investigation; Order 82-12-88, Docket 41163.

SUMMARY: The Board is instituting the *Newark-London Back-Up Case* to select a back-up carrier to provide scheduled service between Newark and London in the event that Air Florida, the primary certificate holder, fails to institute service on or before July 4, 1983. The complete text of Order 82–12–88 is available as noted below.

DATES: Applications, motions to consolidate applications conforming to the scope of this proceeding, petitions from interested parties, and petitions for reconsideration shall be filed by December 23, 1982. Answers shall be filed by December 27, 1983.

ADDRESSES: All pleadings should be filed in the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428 in Docket *Newark-London Back-Up Case.*

FOR FURTHER INFORMATION CONTACT: Don Hainbach, Bureau of International Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673–5035.

SUPPLEMENTARY INFORMATION: The complete text of Order 82–12–88 table from the Distribution Section, Room 100, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

By the Civil Aeronautics Board: December 17, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82–35017 Filed 12–23–82; 8:45 am]

BILLING CODE 6320–01–M

[Docket 40987]

Taino International Airways, Inc., Fitness Investigation; Prehearing Conference and Hearing

Notice is hereby given that as requested by Taino International Airways, Inc., the prehearing conference in the above-entitled proceeding scheduled to be held on December 22, 1982 (47 FR 55260, December 8, 1982), is hereby postponed until January 14, 1983, at 9:30 a.m. (local time), in Room 1027, Main Universal Building, 1825 Connecticut Ave., N.W., Washington, D.C., before the undersigned Chief Administrative Law Judge.

Notice is further given that a hearing in the above-entitled proceeding is assigned to be held on January 14, 1983, in Room 1027, Main Universal Building, 1825 Connecticut Avenue, N.W., Washington, D.C., before the undersigned Chief Administrative Law Judge immediately following the conclusion of the prehearing conference.

Dated at Washington, D.C., December 20, 1982.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 82–35018 Filed 12–23–82; 8:45 am]

BILLING CODE 6320–01–M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits; Week Ended December 17, 1982

Subpart Q Applications

The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period, the board may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings (see 14 CFR 302.1701 et seq.).

Date filed	Docket No.	Description
Dec. 16,1982	41151	Classic Air, Inc., c/o George L. Sellers, 18915 Nordhoff St., Suite 3, Northridge, California 91324. Application of Classic Air, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests permanent authority to provide foreign charter air transportation of persons, property and mail as follows: (a) Between any point in any State in the United States or in the District of Columbia, or any territory or possession of the United States, on the one hand, and Canada on the other; and (b) Between any point in any States in the United State or in the District of Columbia, or any territory or possession of the United States, on the one hand, and Mexico on the other; and (c) In foreign air transportation, pursuant to contracts with the Department of Defense. Conforming Applications, Motions to Modify Scope, and Answers may be filed by January 13, 1983.
Do.	41152	Classic Air, Inc., c/o George L. Sellers, 18915 Nordhoff St., Suite 3, Northridge, California 91324. Application of Classic Air, Inc. pursuant to Section 401(d)(3) of the Act and Subpart Q of the Act requests permanent authority to engage in interstate and overseas charter air transportation of persons, property and mail as follows: (a) Between any point in any State in the United States or in the District of Columbia, or any territory or possession of the United States, and any other point in any State of the United States or the District of Columbia, or any territory or possession of the United States; and (b) In interstate and overseas air transportation pursuant to contracts with the Department of Defense. Conforming Applications, Motions to Modify Scope, and Answers may be filed by January 13, 1983.
Do.	41153	Pan American World Airways, Inc., c/o Richard D. Mathias, 1660 L Street, N.W., Suite 901, Washington, D.C. 20036. Application of Pan American World Airways, Inc., pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests that it be issued a new certificate authorizing service: "Between the terminal point Erie, Pennsylvania and the terminal point Toronto, Ontario, Canada". Conforming Applications, Motions to Modify Scope, and Answers may be filed by January 13, 1983.
Do.	41156	South Pacific Island Airways, Inc., c/o Stephen A. Alterman, 1050 Seventeenth Street, N.W., 12th Floor, Washington, D.C. 20036. Application of South Pacific Island Airways, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests a certificate of public convenience and necessity authorizing it to provide scheduled, large aircraft service between Pago Pago, American Samoa and Auckland, New Zealand. Conforming Applications, Motions to Modify Scope, and Answers may be filed by January 13, 1983.
Do.	41157	Continental Air Lines, Inc. and Texas International Airlines, Inc., c/o Emory N. Ellis, Fulbright & Jaworski, 1150 Connecticut Avenue, N.W., Washington, D.C. 20036 Joint Conforming Application of Continental Air Lines, Inc. and Texas International Airlines, Inc. pursuant to Section 401 of the Act and Subpart Q to the Board's Procedural Regulations Continental requests the Board to amend its certificate of public convenience and necessity for Route 29–F, and TI requests amendment of Route 82–F to read as follows: Between the coterminal points Houston and Mission-McAllen-Edinburg, Texas and the coterminal points Monterrey, Guadalajara, and Mexico City and Acapulco, Mexico; points in Belize, El Salvador, Guatemala, Honduras, Nicaragua, Costa Rica, Panama, Chile, and terminal points in Colombia and Argentina. A new condition would be added to read as follows: "Service to points in countries south of Mexico over this segment must serve either Houston or McAllen and may serve no points in Mexico other than Mexico City or Acapulco." Answers to Conforming Application may be filed by December 30, 1982.
Do.	41158	Continental Air Lines, Inc. c/o Emory N. Ellis, Fulbright & Jaworski, 1150 Connecticut Avenue, N.W., Washington, D.C. 20036 Conforming Application of Continental Air Lines, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests the Board to amend its certificate of public convenience and necessity for route 29–F by adding a segment as follows: Between the coterminal points Dallas/Ft. Worth/San Antonio-Mexico City/Acapulco, points in Belize, El Salvador, Guatemala, Honduras, Nicaragua, Costa Rica, Panama, Chile, and terminal points in Colombia and Argentina. Answers to Conforming Application may be filed by December 30, 1982.
Do.	41159	Continental Air Lines, Inc. c/o Emory N. Ellis, Fulbright & Jaworski, 1150 Connecticut Avenue, N.W., Washington, D.C. 20036

Date filed	Docket No.	Description
Dec. 17, 1982	41161	Conforming Application of Continental Air Lines, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests the Board to issue it a certificate of public convenience and necessity to engage in foreign air transportation of persons, property and mail: Between the terminal points in the United States, the intermediate points Mexico City and Acapulco, Mexico, points in Belize, El Salvador, Guatemala, Honduras, Nicaragua, Costa Rica, Panama, Chile, and terminal points in Colombia and Argentina. Answers to Conforming Application may be filed by December 30, 1982. Eastern Air Lines, Inc., Miami International Airport, Miami, Florida 33148. Conforming Application of Eastern Air Lines, Inc. with respect to Pan American World Airways' Docket 41104, pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations applies for amendment of its certificate of public convenience and necessity for Route 131 so as to authorize Eastern to engage in foreign air transportation with respect to persons, property and mail: Between the coterminal points Miami and Tampa, Florida and the terminal point Mexico City, Mexico. Answers may be filed by January 3, 1983.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-35016 Filed 12-23-82; 8:45 am]

BILLING CODE 6320-01-M

COMMISSION ON CIVIL RIGHTS

Connecticut Advisory Committee; Agenda and Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Connecticut Advisory Committee to the Commission will convene at 7:30 p.m. and will end at 9'30 p.m., on January 25, 1983, at the Howard Johnson's Motor Lodge, Long Wharf, 400 Sargent Drive, (off of Interstate 95), New Haven, Connecticut 06511. The purpose of this meeting is for the Advisory Committee to develop program plans for 1983.

Persons desiring additional information or planning a presentation to the Committee, should contact the Vice Chairperson, Ms. Judith H. Holmes, 24 Towne HouseLane Wethersfield, Connecticut 06109, (203) 247–9211 or the New England Regional Office, 55 Summer Street, 8th Floor, Boston, Massachusetts 02110, (617) 223–4671.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., December 20, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-35036 Filed 12-23-82; 8:45 am]

BILLING CODE 6335-01-M

District of Columbia Advisory Committee; Agenda and Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the District of Columbia Advisory Committee to the Commission will convene at 3:00p and will end at 5:00p, on January 27, 1983, at the Carnegie Library, University of the District of Columbia, 800 Mt. Vernon Place, N.W., Washington, D.C. 20008. The purpose of this meeting is to discuss the status of the project on housing opportunity, report on the National Conference of Chairpersons, status reports on hate group monitoring, progress of subcommittee activity, program planning.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Mr. Walter E. Washington, 1025 15th Street, NW., Washington, D.C. 20005, (202) 659–3300; or the Mid-Atlantic Regional Office, 2120 L Street, NW., Washington, D.C. 20037 (202) 254–6670.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., December 20, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-35035 Filed 12-23-82; 8:45 am]

BILLING CODE 6335-01-M

Indiana Advisory Committee; Agenda and Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Indiana Advisory Committee to the Commission will convene at 7:00p and will end at 10:00p, on January 20, 1983, at the Mayflower Corporation, P.O. Box 107B, Indianapolis, Indiana 46206. The purpose of this meeting is the approval of previous SAC minutes; review of housing discrimination draft report; status of block grants new approach committee; staff report on present and future projects and new business.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Mr. Joseph J. Russell, 4165 Gran Haven Drive, Bloomington, Indiana 47401, (812) 337–9632; or the Midwestern Regional Office, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois 60604, (512) 353–7479.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., December 20, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-35037 Filed 12-23-82; 8:45 am]

BILLING CODE 6335-01-M

New Hampshire Advisory Committee; Agenda of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the New Hampshire Advisory Committee to the Commission will convene at 7:30p and will end at 9:30p, on February 2, 1983, at Norris Cotton Federal Building, 3rd Floor, 275 Chestnut Street, Manchester, New Hampshire 03103. The purpose of this meeting is for the Advisory Committee to discuss project ideas for 1983, and followup activities to the report on Manchester's language-minority students.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Mr. Andrew T. Stewart, Moose Mountain, Enfield, New Hampshire 03748, (603) 523–4882; or the New England Regional Office, 26 Federal Plaza, Room 1639, New York, New York 10278, (617) 223–4671.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., December 20, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-35094 Filed 12-23-82; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Final Affirmative Countervailing Duty Determinations and Countervailing Duty Orders; Toy Balloons (Including Punchballs) and Playballs From Mexico

AGENCY: International Trade Administration, Commerce.

ACTION: Final affirmative countervailing duty determinations and countervailing duty orders.

SUMMARY: We have determined that certain benefits which constitute bounties or grants within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Mexico to toy balloons (including punchballs) and playballs as described in the "Scope of Investigations" section of this notice. The net bounty or grant is 5.97 percent *ad valorem* for toy ballons (including punchballs) and 6.23 percent *ad valorem* for playballs.

EFFECTIVE DATE: December 27, 1982.

FOR FURTHER INFORMATION CONTACT: Mary A. Martin, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, telephone (202) 377-1276.

SUPPLEMENTARY INFORMATION:

Final Determinations and Final Orders

Based upon our investigations and in accordance with section 705(a) of the Tariff Act of 1930, as amended (the Act), we have determined that the government of Mexico provides certain benefits which constitute bounties or grants within the meaning of section 303 of the Act to manufacturers, producers, or exporters in Mexico of toy balloons (including punchballs) and playballs, as described in the "Scope of Investigations" section of this notice. We have determined the net bounty or grant to be 5.97 percent *ad valorem* for toy balloons (including punchballs) and 6.23 percent *ad valorem* for playballs.

Case History

On may 18, 1982, we received a petition from National Latex Products Company of Ashland, Ohio, on behalf of the U.S. industry producing toy balloons (Including punchballs) and playballs. The petition alleged that certain benefits which constitute bounties or grants within the meaning of section 303 of the Act are being provided, directly or indirectly, to the manufacturers, producers, or exporters of toy balloons (including punchballs) and playballs in Mexico.

Since Mexico is not a "country under the Agreement" within the meaning of section 701(b) of the Act, section 303 of the Act applies to these investigations. Although the subject merchandise is nondutiable, there is no "international obligation" within the meaning of section 303(a)(2) of the Act which requires an injury determination for nondutiable merchandise from Mexico. Therefore, the domestic industry is not required to allege that, and the U.S. International Trade Commission is not required to determine whether, imports of these products cause or threaten to cause material injury to a U.S. industry.

We reviewed the petition and on May 26, 1982, determined that investigations should be initiated (47 FR 23798).

On June 8, 1982, we presented a questionnaire concerning the allegations to the government of Mexico at its embassy in Washington, D.C. On July 21, 1982, we determined that the case was extrordinarily complicated within the meaning of section 703(c)(1)(B) of the Act, and we published a notice of the postponement of the preliminary countervailing duty determinations (47 FR 32557). On September 8, 1982, we received a partial response to the questionnaire. No information was provided by the Mexican government on the use by the manufacturers, producers, and exporters of the subject merchandise of pre-export financing loans from the Fund for the Promotion of Mexican Manufactured Products (FOMEX).

The government of Mexico requested that its response to our questionnaire be classified pursuant to Executive Order 12356 (effective August 1, 1982). In a letter dated September 27, 1982, we declined to accept the response as classified confidential foreign government information and returned the response to the government of Mexico. On October 6, 1982, the Mexican government submitted its earlier response on a non-confidential basis. No request for classification pursuant to Executive Order 12356 was included. In a response dated October 25, 1982, the government of Mexico provided information modifying its earlier submission on Industrias Salver's exports and FOMEX export loans.

On October 15, 1982, we issued our preliminary determinations in these investigations (47 FR 46874). These stated that the government of Mexico provided certain benefits which constitute bounties or grants within the meaning of section 303 of the Act to manufacturers, producers, or exporters in Mexico of toy balloons (including punchballs) and playballs. The programs preliminarily determined to bestow countervailable benefits were the preferential financing programs of the FOMEX.

Scope of Investigations

The merchandise covered by these investigations consists of toy balloons (including punchballs) and playballs. Balloons and punchballs are inflatable, thin-walled articles made by dipping non-porous forms (called "mandrels") in natural latex. Punchballs have slightly thicker walls than balloons and are sold packaged with bands. A playball is a hollow sphere produced from polyvinyl chloride (a thermoplastic resin) and other thermoplastics that will bounce when inflated with air and which yields diameters from 4 to 20 inches. Playballs are not nylon-wound or made of rubber, and are not to be confused with sportballs (used in athletic activities). Playballs are not an athletic product, because they are lighter in weight and smaller in size; however, styles of the vinyl playballs include models resembling footballs, basketballs, and other sports-oriented items. Balloons and punchballs are currently classifiable under item number 737.9536 and playballs under item number 735.0990 of the *Tariff Schedules of the United States Annotated.*

Latex Occidental, S.A., is the only know producer and exporter of balloons and punchballs; and Industrias Slaver, S.A. is the only known producer and exporter of playballs. The period for which we are measuring subsidization is the first half of 1982. In its responses, the government of Mexico provided data for the applicable periods. Latex Occidental and Industrias Salver provided information on their use of FOMEX pre-export financing loans.

Analysis of Programs

Based upon our analysis of the petition, the responses to our questionnaire, our verification and oral and written comments by interested parties, we determine the following.

I. Programs Determined To Confer Bounties or Grants

We have determined that bounties or grants are being provided to manufacturers, Producers, or exporters in Mexico of toy ballons (including

punchballs) and playballs under the FOMEX programs.

FOMEX is a trust established by the government of Mexico to promote the manufacture and sale of exported products. The fund is administered by the Mexican Treasury Department, with the Bank of Mexico acting as the trustee. The Bank of Mexico administers the financing of FOMEX loans through financial institutions. The financial institutions establish contracts for lines of credit with manufacturers and exporters of merchandise.

Latex Occidental and Industrias Salver obtained loans from FOMEX for two purposes: pre-export (production) financing and export financing.

In order for a company to be eligible for FOMEX financing for exports, the following requirements must be met: (1) The product to be manufactured must be included on a list made public by FOMEX; (2) the articles to be exported must have a minimum of 30 percent national content in direct production costs; (3) loans granted for pre-export must be in Mexican currency, while loans for export sales are established in U.S. dollars or any other foreign currency acceptable to the Bank of Mexico; and (4) the exporter must carry insurance against commercial risks to the extent of the loans. The maximum annual interest rate that credit institutions may charge borrowers for FOMEX pre-export financing is 8 percent in Mexican pesos. The maximum annual interest rate for FOMEX export financing is 6 percent in the currency of the country of importation. Both Latex Occidental and Industrias Salver receive some FOMEX loans at rates below the maximum rates.

We used as benchmarks for the commercial rate of interest in Mexico the national average commercial rate for comparable short-term peso or dollar-denominated loans, as applicable during the first half of 1982. We have determined that during the first six months of 1982, comparable peso-denominated loans were available at 48.95 percent, and comparable dollar-denominated loans were available at 18.7 percent. The peso rate was determined from information on comparable short-term commercial loans supplied by the Department of the Treasury and the dollar rate was determined from information on comparable short-term commercial loans supplied by the Federal Reserve Board. This source of dollar rates in Mexico was used because access to U.S. dollars in Mexico is generally at terms and rates reflected in the U.S. market.

For those FOMEX loans obtained by manufacturers during the period January 1, 1982–June 30, 1982, we computed the difference in interest rates between the FOMEX loans and that which would have been incurred had the loans been made at the commercial benchmark rates of interest. We allocated the amount of benefits for all pre-export FOMEX loans for the merchandise under investigation over the value of total exports of that merchandise, because the loans were for exports to all countries and the companies were unable to segregate loans which were associated only with merchandise exported to the United States. We then allocated the amount of benefit for export financing FOMEX loans to the United States for the merchandise under investigation over the value of exports to the United States of the subject merchandise during the same period.

We determined the net amount of the benefit for loans granted for pre-export financing of ballons (including punchballs) to be 2.65 percent *ad valorem* and the net amount of the benefit for export financing to be 3.32 percent *ad valorem*, for a total bounty or grant under the two programs of 5.97 percent *ad valorem* for the subject merchandise. We determine the net amount of benefit for loans granted for pre-export financing of playballs to be 2.81 percent *ad valorem* and the net amount of the benefit for export financing to be 2.1 percent *ad valorem*, for a total bounty or grant under the two programs of 6.23 percent *ad valorem*.

II. Program Determined Not To Confer Bounties or Grants

We determined that bounties or grants are not being provided to manufacturers, producers, or exporters in Mexico of toy balloons (including punchballs) and playballs under the export insurance program.

The petition alleges that the Mexican Credit Insurance Company (COMESEC) provides subsidized export insurance premium rates. COMESEC, which is a company funded by law and owned by private insurance companies, insured the exports to the United States of the merchandise under investigation. We verified that COMESEC experienced and operating profit on insurance activities.

III. Program Determined To Be Suspended and Not Used Recently

The CEDI is a tax certificate issued by the government of Mexico in an amount equal to a percentage of the f.o.b. value of the exported merchandise or, if national insurance and transportation are used, a percentage of the c.i.f. value of the exported product. The Secretary of Commerce of Mexico is responsible for setting the CEDI rate, which is not published. Exporters are required to apply for each CEDI by providing to the Ministry of Commerce (SECOM) documentation with respect to each individual shipment of qualifying exports. SECOM processes the application and, on approval, instructs the Ministry of the Treasury to issue the CEDIs in the amount specified. The CEDIs are non-transferable and may be applied against a wide range of federal tax liabilities (including payroll taxes, value added taxes, federal income taxes, and import duties) over a period of five years from the date of issuance. In prior investigations, we have concluded that benefits bestowed under the CEDI program are countervailable. See *Final Affirmative Countervailing Duty Determination; Ceramic Tile from Mexico and Countervailing Duty Order*, 47 FR 20012 (1982).

The government of Mexico suspended the eligibility of the products under investigation for CEDI tax rebates by an executive order published on August 25, 1982, in the *Diario Oficial de la Federacion* (Official Gazette). The order abrogates prior executive orders which contained the lists of products eligible to receive CEDI certificates. Suspension of the eligibility to apply for the CEDI was effective one day after publication of the executive order in the *Diario Oficial*.

Although exporters of the merchandise under investigation received benefits under the CEDI program during the first half of 1982, the CEDIs ceased to be available after August 25, 1982. Because the exporters used the CEDI certificates on a current basis, the toy balloons (including punchballs) and playballs that we accorded benefits under this program are not likely to enter the United States on or after the date of suspension of liquidation of the merchandise. Therefore, although the CEDI program is countervailable, the cash deposit rate established by these determinations and orders does not reflect a rate for CEDI. if this program is reactivated, the Department will review its application to respondents in the annual reviews under section 751 of the Act.

IV. Programs Determined Not To Be Used

We determined that the programs listed below which were listed in the notice of "Initiation of Countervailing Duty Investigation, Toy Balloons (Including Punchballs) and Playballs from Mexico" are not being used by the manufactures, producers, or exporters in Mexico of toy balloons (including punchballs) and playballs.

A. Other Preferential Financing Programs

Petitioner alleged that producers, manufacturers, or exporters in Mexico of toy ballons (including punchballs) and playballs received a bounty or grant through the receipt of preferential loans from the Guarantee Fund for the Development of Small and Medium sized Industries (FOGAIN), the Industrial Equipment Fund (FONEI), and the National Fund for Industrial development (FOMIN).

We verified the government of Mexico's response that neither of the companies producing or exporting the merchandise under investigation received loans under the FOGAIN, FONEI, and FOMIN programs.

B. The CEPROFI Program

In 1979, the government of Mexico introduced a four-year National Industrial Development Plan (NIDP) which spells out broad economic goals for the country. Tax credits, which are called Certificates of Fiscal Promotion (CEPROFIs), are used to promote the NIDP goals, which include increased employment, the promotion of regional decentralization, and industrial development, particularly of small and medium sized firms. We verified the government of Mexico's response that neither of the companies producing or exporting the merchandise under investigation received CEPROFIs.

C. Trade Development Services

The petition alleges that the Mexican Foreign Trade Institute (IMCE) has aided firms producing and exporting the merchandise under investigation by providing services in helping to develop foreign markets for their products. We verified the government of Mexico's response to our questionnaire that neither of the companies producing or exporting the merchandise under investigation received or requested services from IMCE.

D. Free Zone and In-Bond Assembly Programs

The petition alleges that the Mexican manufacturers of toy balloons (including punchballs) and playballs may qualify for free zone and in-bond assembly benefits. We verified the government of Mexico's response that neither of the companies producing or exporting the subject merchandise participated in the free zone or the in-bond assembly programs.

E. Rail Freight Rebates

The petition alleges that some Mexican companies have benefitted in the past from rebates on railroad freight rates. We verified that neither of the companies producing the merchandise under investigation uses the railroad to transport the subject merchandise.

V. Petitioner's comments

Comment 1. The Department erred in not determining that the CEDI program is a subsidy.

DOC Position. In earlier investigations, we determined that the CEDI program is countervailable. Because the program has been suspended since August 25, 1982, and the exporters used the CEDIs on a current basis, we are not countervailing against this program at this time. As noted above, the continuing status of CEDI will be reviewed during our annual reviews under section 751 of the Act.

Comment 2. The Department should seek further information from the government of Mexico regarding the Mexican Industrial Development Plan of 1979. The period of inquiry should be lengthened to determine whether CEPROFIs were received in an earlier time period.

DOC Position. We verified that neither Latex Occidental nor Industrias Salver has ever received a CEPROFI.

Comment 3. The Department should determine whether the government Mexico is maintaining dual exchange rates as a stimulant to exports.

DOC Position. This allegation was not made in a timely manner permitting its thorough investigation and verification. Accordingly, we cannot consider this issue until we conduct administrative reviews under section 751 of the Act. If the allegations prove to be true at that time, the benefit conferred as a result of this program will be reflected in the amount of countervailing duties actually assessed upon liquidation.

Comment 4. Export insurance fees cannot be considered as an offset against FOMEX preferential financing subsidies.

DOC Position. We agree. See DOC position in response to respondent's Comment 2 discussed below.

VI. Respondent's Comments

Comment 1. Latex Occidental asserts that the appropriate benchmarks for comparison with FOMEX pre-export and export financing should be the company's commercial loans rates for peso and dollar-dominated loans.

DOC Position. We have used as a benchmark, for pre-export loans a comparable countrywide peso loan rate of 46.95 percent and as a benchmark for export loans a comparable countrywide dollar-denominated loan rate of 18.7 percent. Since FOMEX is part of a broad, national lending program, we use national average commercial interest rates on comparable loans as our benchmarks rather than the rates at which individual companies received loans. Loans in the national currency of the country are not considered comparable to loans in a foreign currency. Accordingly, we have considered pre-export and export financing FOMEX loans separately.

Comment 2. Respondents contend that the FOMEX rate for export financing should be increased by the fee for commercial risk insurance because the FOMEX Rules of Operation list as a requirement that the exporter have an insurance policy to cover the credit issued by a company authorized to insure against commercial risks.

DOC Position. It is common commercial practice in Mexico for exporters to obtain commercial risks insurance on their shipments to the United States. While banks may not explicitly require such insurance as a condition to receipt of a commercial export loan, it is reasonable to expect that the terms would be adjusted accordingly in the absence of insurance.

The Department has no evidence to indicate that exporters of this merchandise: (a) Do not normally obtain commercial risk insurance for their non-FOMEX export loans, or (b) that the terms for obtaining a commercial export loan would not be adjusted to reflect the fact that the shipments are uninsured.

Verification

In accordance with section 776(a) of the Act, we verified the data used in making our final determinations. During this verification, we followed normal procedures, including inspection of documents, discussions with government officials and on-site inspection of manufacturer's operations and records.

Administrative Procedures

The Department has afforded interested parties an opportunity to present oral views in accordance with its regulations (19 CFR 355.35). No request for a public hearing was received in these investigations. In accordance with the Department's regulations (19 CFR 355.34(a)), written views have been received and considered.

The suspension of liquidation ordered in our preliminary affirmative countervailing duty determinations shall remain in effect until further notice. The net bounty or grant is 5.97 percent *ad valorem* for balloons (including punchballs) and 6.23 percent *ad valorem*

for playballs. We are directing the United States Customs Service to require a cash deposit in the amount indicated above for each entry of the subject merchandise entered or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register.**

The Department intends to conduct administrative reviews within 12 months of the publication of these determinations as provided in section 751 of the Act.

(Secs. 303 and 706 of the Act (19 U.S.C. 1303, 1671e)).

Dated: December 17, 1982.

Lawrence J. Brady,

Assistant Secretary for Trade Administration.

[FR Doc. 82-34852 Filed 12-23-82; 8:45 am]

BILLING CODE 3510-25-M

Final Affirmative Countervailing Duty Determinations; Certain Steel Products From the Republic of Korea

AGENCY: International Trade Administration, Commerce.

ACTION: Final affirmative countervailing duty determinations.

SUMMARY: We have determined that certain benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in the Republic of Korea (Korea) of certain steel products as described in the "Scope of the Investigations" section of this notice. The estimated net subsidy for each firm and for each product is indicated under the "Suspension of Liquidation" section of this notice. The U.S. International Trade Commission (ITC) will determine whether these imports are materially injuring or threatening to materially injure a U.S. industry, before the later of 120 days after the Department made its preliminary affirmative determinations or 45 days after the publication of this notice.

EFFECTIVE DATE: December 27, 1982.

FOR FURTHER INFORMATION CONTACT: Richard Rimlinger, or Steven Lim, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., N.W., Washington, D.C. 20230; telephone (202) 377-1276.

SUPPLEMENTARY INFORMATION:

Final Determinations

Based upon our investigations, we have determined that certain benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers, or exporters in Korea of certain steel products, as described in the "Scope of Investigations" section of this notice. The following programs are found to be subsidies: (1) Preferential export financing; (2) preferential tax incentives for exporters; (3) special tax exemptions for government-owned firms; (4) special tax exemptions for steel producers; (5) preferential utility rates and port charges for steel producers; (6) tariff incentives, and (7) Masan Free Export Zone or Foreign Capital Inducement Law benefits. The estimated net subsidy for each firm and for each product is indicated under the "Suspension of Liquidation" section of this notice.

Case History

On May 7, 1982, we received a petition from the United States Steel Corporation on behalf of the U.S. industry producing small diameter (16" and under) welded carbon steel pipes and tubes, hot-rolled carbon steel plate, cold-rolled carbon steel sheet, hot-rolled carbon steel sheet and galvanized carbon steel sheet. The petition alleged that certain benefits which constitute subsidies within the meaning of section 701 of the Act are being provided directly or indirectly to the manufacturers, producers, or exporters in Korea of this merchandise.

We found the petition to contain sufficient grounds upon which to initiate countervailing duty investigations, and initiated these investigations on May 27, 1982 (47 FR 24166). We stated that we expected to issue preliminary determinations by August 2, 1982. We subsequently determined that these investigations are "extraordinarily complicated" as defined in section 703(c) of the Act, and on July 22, 1982, we postponed our preliminary determinations for 65 days, until October 4, 1982 (47 FR 32758). On June 21, 1982, the ITC found that there is a reasonable indication that these imports of certain steel products from Korea, with the exception of imports of cold-rolled carbon steel sheet, are materially injuring, or threatening to materially injure, a U.S. industry. The ITC found no reasonable indication that imports of cold-rolled carbon steel sheet from Korea are materially injuring, or threatening to materially injure, a U.S. industry, and the investigation was terminated with respect to this particular merchandise. The ITC published its determinations in the **Federal Register** on June 30, 1982 (47 FR 28481 and 28488).

We presented questionnaires concerning the allegations to the government of Korea in Washington, D.C. By August 31, 1982, we had received responses from the government of Korea, and eight Korean manufacturers of the remaining products under investigation. We believe that these eight manufacturers account for virtually all current exports of the products under investigation to the United States.

On October 4, 1982 we preliminarily determined that the government of Korea was providing its manufacturers, producers, or exporters of certain steel products with benefits that are subsidies within the meaning of the countervailing duty law (47 FR 44807).

On November 3-14, 1982, we verified in Korea the questionnaire responses submitted by the government of Korea and the Korean steel producers.

Our notice of preliminary determination gave interested parties an opportunity to submit written and oral views, and on November 23, 1982, we held a public hearing.

Scope of the Investigations

The merchandise covered by these investigations is:

- Small diameter welded carbon steel pipes and tubes;
- Hot-rolled carbon steel plate;
- Hot-rolled carbon steel sheet;
- Galvanized carbon steel sheet.

For a further description of these products see the Appendix to this notice.

The period for which we are measuring subsidization is calendar year 1981. In addition to receiving a questionnaire response from the government of Korea, we have also received questionnaire responses from the following:

Firms	*Carbon steel products*
Pohang Iron and Steel Co., Ltd (POSCO).	Hot-rolled carbon steel plate, hot-rolled carbon steel sheet and galvanized carbon steel sheet.
Union Steel Mfg., Co., Ltd. (Union Steel).	Galvanized carbon steel sheet, and small diameter welded carbon steel pipes and tubes.
Dong Kuk Heavy Industries, Ltd. (DHI).	Small diameter welded carbon steel pipes and tubes.
Fuji Works Korea, Ltd. (Fuji)	Small diameter welded carbon steel pipes and tubes.
Hyundai Pipe Co., Ltd. (Hyundai).	Small diameter welded carbon steel pipes and tubes.
Korea Steel Pipe Co., Ltd. (Korea Pipe).	Small diameter welded carbon steel pipes and tubes.
Masan Steel Tube Co., Ltd. (Masan Tube).	Small diameter welded carbon steel pipes and tubes.

Firms	Carbon steel products
Pusan Steel Pipe Ind., Co. Ltd. (Pusan Pipe).	Small diameter welded carbon steel pipes and tubes.

Analysis of Programs

The following programs were alleged in the petition to be subsidies: (1) Preferential export financing; (2) preferential tax incentives for exporters; (3) special tax exemptions for government-owned firms; (4) special tax exemptions for steel producers; (5) preferential utility rates and port chargers for steel producers; (6) tariff incentives; (7) preferential financing and government loan guarantees for steel producers; (8) wage controls for government-run firms; (9) government purchases of steel at inflated prices; (10) government capital grants; (11) a "special steel export subsidy"; (12) indirect subsidies to purchasers of machinery used to make iron and steel; (13) indirect subsidies to purchasers of hot-rolled sheet or coil, and (14) loans at favorable foreign currency exchange rates. Based on our experience in other Korean cases, we also included in our investigation special benefits offered to firms located in the Masan Free Export Zone or offered throught the Foreign Capital Inducement Law. We also investigated POSCO's dual pricing system for hot-rolled sheet or coil sold to producers of small diameter welded carbon steel pipes and tubes.

In their responses, the government of Korea and the eight Korean steel producers provided data for the applicable period. Based upon our analysis of the petition and responses to our questionnaires, we have determined the following:

Programs Determined To Confer Subsidies

We have determined that subsidies are being provided under the programs listed below to manufacturers, producers, or exporters in Korea of small diameter welded carbon steel pipes and tubes, hot-rolled carbon steel plate, hot-rolled carbon steel sheet, or galvanized carbon steel sheet.

Preferential Export Financing

Under the "Regulations for Export Financing," promulgated by the Korean government on February 25, 1972, short-term financing of up to 90 days is provided to exporters at interest rates which are less than the generally available commercial rates. During 1981, the interest rate for short-term export financing was 12 percent (27 percent if late payment is made), as opposed to normal commercial rates, which ranged between 15–20 percent for most of 1981. This rate also varied depending on the credit rating of the borrower.

Export financing was available for production expenses and for the purchase of raw materials for export production. A loan ceiling for short-term export loans was established based upon the value of a company's total exports in a preceding period.

The government's response indicates that financing was provided by individual private foreign exchange banks and not by the Korean government, that no government guarantees are involved and that the banks are acting in conformance with the regulations. We determine that, regardless of the private ownership of the banks, this program is countervailable because the preferential financing is the direct result of a government mandate. All firms investigated took advantage of this program.

In addition, several firms reported long-term preferential export loans under a special fund for export industries set up by government direction. These loans, which were funded and transacted in 1981, are secured with the firm's assets through a commercial bank and no government guarantees are involved. The responses indicate that a firm must export to qualify for this loan; however, the loan rate is not dependent on continued exportation by the firm. Since this program is also traceable to government mandate, we determine it to be countervailable.

In order to calculate the amount of the benefit to each steel producer resulting from these preferential short-term export financing programs, we computed the total difference between the amount of interest paid on all short-term export loans which were transacted in 1981, and the amount of interest that the firm would have to pay on a comparably timed and sized loan under normal commercial financing. The short-term commercial rates which we used are national rates which are published in monthly bulletins issued by the Bank of Korea. The amount of the total benefit received under this program was divided by that firm's total value of export sales for 1981 to determine the *ad valorem* subsidy to that firm. Since long-term preferential export loans were transacted in 1981 and interest payments were made monthly, we calculated the benefit to each steel producer from these loans beginning in 1981 (when repayments began).

On an overall basis we found that the net benefits, attributable to preferential export loans, to the Korean steel producers, based on the f.o.b. value of the exported merchandise, were as follows:

Product	Ad valorem rate
Small diameter welded carbon steel pipes and tubes	1.16
Hot-rolled carbon steel plate	0.52
Hot-rolled carbon steel sheet	0.52
Galvanized carbon steel sheet	0.60

Subsequent to the period for which subsidization is being measured, on June 28, 1982, the government of Korea reduced the maximum allowable interest rate to be charged by commercial banks on all commercial loans, including export loans, to ten percent. In taking this action, the government eliminated interest rate preferences that previously existed for exporters. Therefore, we note that the *ad valorem* subsidy amounts shown in the "Suspension of Liquidation" section of this notice do not reflect the above listed percentages since loan preferences have not been in effect since June 28, 1982. Consequently, entries which would be subject to suspension of liquidation would not benefit from this program.

Preferential Tax Incentives for Exporters

Article 25 of the Korean Tax Exemption Regulations Law permits a firm earning more than 50 percent of its total proceeds from foreign exchange to increase its normal depreciation by 30 percent. If the corporation has received less than 50 percent of its total proceeds from foreign exchange, it can still claim some accelerated depreciation which is determined by a formula based on the firm's foreign exchange earnings and total business earnings. Of the firms investigated, Hyundai, Masan Tube, POSCO and Pusan Pipe used accelerated depreciation in 1981, and only Masan Tube and POSCO used accelerated depreciation in 1980.

To calculate the benefits from the accelerated depreciation program for the period for which we are measuring subsidization (calendar year 1981), we have determined the tax savings received in 1981 based on accelerated depreciation which has been deducted from 1980 income taxes. We used this method because the exact amount of tax and tax benefit for 1980 is not known until 1981 when a firm's operational results are known and tax liability must be settled. The amount of the tax

savings received under this program was divided by the total value of sales in 1981 to determine the *ad valorem* subsidy.

In addition, Article 12 of the Corporate Tax Law provides for the deduction from taxable income of a number of different reserves relating to export activities. These reserves cover export losses, overseas market development and price fluctuation losses.

Under the program governing export losses, a corporation engaged in export or tourist activities may establish a reserve amounting to one percent of foreign exchange earnings, or 50 percent of net income in the applicable period, whichever is smaller. If certain export losses occur, they are offset from the reserve funds. If there are no offsets for export losses, the reserve is credited to income and taxed, after a one-year grace period, over a three-year period.

Under the program governing overseas market exploration expenses, a corporation engaged in export activities may establish a reserve fund amounting to one percent of its foreign exchange earnings in the export business for the respective business year. Expenses incurred in exploring overseas markets are offset from the reserve fund. As in the case of the export loss reserve fund, if there are no offsets for expenses, the reserve is credited to income and taxed, after a one-year grace period, over a three year period.

With respect to the price fluctuation loss program, a corporation engaged in export activities may establish reserves equivalent to five percent of the book value of the products and works in progress to be exported at the close of the business year. This reserve may be used to offset losses incurred from the fluctuation of prices for export goods. These losses may be offset by returning an amount equivalent to the losses to the income account. If not so utilized, the reserve is returned to the income account the following business year.

The balance in all three reserve funds is not subject to corporate tax, although all moneys in the reserve funds are eventually reported as income and subject to corporate tax either by means of offsetting export losses or by the expiration of the one-year grace period. All export reserve programs serve as an interest free loan to the corporation of the tax savings on these funds. Accordingly, we have quantified the benefits from these reserve funds to each applicable steel producer by calculating the amount of taxes that normally would be due on these funds under Korean law and applying a rate of interest which the firm would have had to pay on a comparably timed and sized loan under normal commercial financing. The amount of the total benefit received umder this program was divided by that firm's total value of export sales for 1981 to determine the *ad valorem* subsidy to that firm. Hyundai, Korea Pipe, and Pusan Pipe reported using export activity reserve funds. On an overall basis, we found that the net benefit to the Korean steel producers under these programs, based on the f.o.b. value of the exported merchandise was as follows:

Product	Ad valorem rate
Small diameter welded carbon steel pipes and tubes	0.08
Hot-rolled carbon steel plate	1.45
Hot-rolled carbon steel sheet	1.45
Galvanized carbon steel sheet	1.31

Special Tax Exemptions for Government-Owned Firms

Of the firms investigated, POSCO was the only firm owned either directly or indirectly by the government of Korea.

POSCO's questionnaire response indicates that, under Korea's tax exemption control law, the firm was exempt from corporation tax until December 31, 1981. However, because POSCO was exempt from paying corporation taxes, the firm was obliged to pay a higher defense tax than was paid by other corporations. POSCO also indicates that it was exempt, until December 31, 1981, from the following additional taxes:

- Residence tax;
- Property tax;
- Registration tax;
- Property acquistion tax.

To calculate the benefits from the corporation and residence tax exemption programs for the period for which we are measuring subsidization (calendar year 1981), we have determined POSCO's tax savings received in 1981 based on 1980 income. We used this method because the exact amount of POSCO's tax benefit for 1980 is not known until 1981 when POSCO's operational results are known and tax liability must be settled. To calculate the benefits from the property, registration and property acquistion tax exemption programs for the period for which we are measuring subsidization, we have determined POSCO's tax savings based on taxes actually exempted in 1981. We used this method because POSCO knows in 1981 how much tax is due that year and would actually pay the tax in 1981 if the firm was not exempted.

We have quantified the benefits from these tax exemptions to POSCO by calculating the amount of each tax that normally would be due if the tax exemption was not granted. In the case of corporation tax, we adjusted for the additional defense tax which had to be paid in order to receive the corporation tax exemption. The value of these tax exemptions was allocated over POSCO's total sales in 1981. The tax exemptions resulted in a total subsidy to POSCO of 0.46 percent of the f.o.b. value of the exported merchandise. Although POSCO's tax exemptions expired on December 31, 1981, the firm received benefits from the corporation and residence tax exemption programs which cannot be quantified and known until 1982. Therefore, we have included 0.33 percent of the above amount (that which is attributable to these two programs) in the "Suspension of Liquidation" section of this notice.

Special Tax Incentives for Steel Producers

Under Article 24–5 of the Corporation Tax Act (which was deleted as of December 31, 1981, from this statute and transferred to the Tax Exemption and Control Law under Article 72), the government provides special investment tax credits on a case-by-case basis, if the government decides that a particular investment is needed. Among the investments covered by this tax credit are those investments made by small and medium enterprises between July 1, 1980, and June 30, 1981, in machinery and equipment used directly for manufacturing and mining purposes.

Only one firm investigated, Masan Tube, reported benefits under this provision during the period for which we are measuring subsidization. Masan Tube received an eight percent tax credit on an investment in machinery and equipment.

Although this program is not expressly intended solely for steel producers, we find that its implementation was preferential and confers a subsidy. Since this tax benefit was received in 1982, which is outside the period for which we are measuring subsidization, we have not quantified this benefit nor included an amount for this program in the "Suspension of Liquidation" section of this notice. We will review and quantify, as appropriate, this program in the context of a future section 751 administrative review.

Preferential Utility Rates and Port Charges for Steel Producers

Petitioner alleges that Korean steel producers are eligible for reduced rates

for utilities and related services as "designated companies" under the Iron and Steel Industry Rehabilitation Order (Presidential decree No. 10,002, August 23, 1980). It is further alleged that steel producers qualify for a deferred payment plan with the Korea Electric Company.

During the period for which we are measuring subsidization, POSCO received a 50 percent reduction on its port charges under this program. The program is discretionary and can be implemented by the authority of the applicable tax ministry. However, POSCO is the only firm under investigation which is known to have benefited from this program with respect to its reduced port charges. We had preliminarily determined POSCO's port charge reduction to be a subsidy, but did not know at that time that the benefits were received under the above-cited provision.

We do not know how much of the reduction in port charges is attributable to exports and how much to domestic sales. Therefore, for this final determination, we have allocated the reduction in port charges to both export and total sales according to the percentages that export and domestic sales form of total sales of POSCO as the best evidence available. We found POSCO's net benefit under this program to be 0.05 percent of the f.o.b. value of the exported merchandise.

Tariff Incentives

Article 29 of the Korean Foreign Trade Enforcement Ordinance authorizes rebates of tariffs to cover wastage or imported raw materials to be incorporated into manufactured items for export. Petitioner alleged that wastage allowances are being claimed which are higher than the actual wastage levels. Petitioner further alleges that steel producers importing capital equipment are permitted to pay tariffs on an installment basis.

The government's response indicates that wastage allowance is based upon data submitted to the government by the Korean industry showing the amount of raw material necessary to produce any given finished product. The wastage allowance used by the government is the average of all producers. The wastage allowance is updated periodically by the government and the information submitted by the producers is verified by the tax office. Our review of the responses submitted by the steel producers under investigation indicates that the wastage allowance of the government accurately reflected the actual wastage rates incurred by these firms, and we determine that no subsidy exists with respect to this program.

The government's response did indicate that deferred payment of import duties is allowed, if the private sector applies with the Ministry of Finance for approval. While the government encourages payment of customs duties on all imports as rapidly as possible, exceptions are made to ease the burden of Korean industry. Copies of the Korean Customs Act and an annex listing eligible industries were obtained at the time of verification. Based on our review of these materials we have concluded that the program is written to benefit only certain industries and it appears that certain industries benefit to a greater extent than others. Since use of this program is not freely available to all Korean industries and the benefits from this program flow to certain industries more than others, we determine that it confers a subsidy on these steel producers which have received approval to defer duty payments. The deferred duty program serves as an interest free loan to the corporation of the amount of duty deferred. Accordingly, we have quantified the benefits from this program to each applicable steel producer by calculating the amount of interest that normally would be due if the deferred duties had been borrowed at a rate of interest which the firm would have had to pay on a comparably timed and sized loan under normal commercial financing. The amount of the total benefit received under this program was divided by the firm's total value of sales for 1981 to determine the *ad valorem* subsidy to that firm. Of the firms investigated, Hyundai, Korea Pipe, POSCO, Pusan Pipe and Union Steel reported using deferred duty payments. Masan Pipe and Fuji are located in the duty-free Masan Zone and do not benefit from this program. On an overall basis we found that the net benefits to the Korean steel producers under this program, based on the f.o.b. value of the exported merchandise, were as follows:

Product and manufacturer/producer/exporter	Ad valorem rate
Small diameter welded carbon steel pipes and tubes	0.05
Hot-rolled carbon steel plate	0.05
Hot-rolled carbon steel sheet	0.05
Galvanized carbon steel sheet	0.05

Masan Free Export Zone or Foreign Capital Inducement Law Benefits

The government's response indicates that the benefits granted to firms located in the Masan Free Export Zone are, essentially, tax incentives of a temporary nature. Only foreign investors and joint ventures (the portion owned by foreign partners) are eligible to receive such benefits. Firms which are wholly or partially foreign owned and located outside the Masan Free Export Zone still receive these tax benefits under the Foreign Capital Inducement Law. Of the eight firms investigated, only Masan Tube was eligible to receive benefits during the period for which we are measuring subsidization. In 1980, the firm received 50 percent exemptions from the following taxes:

Corporation tax
Defense tax
Corporate residence tax
Property tax

We have determined Masan Tube's tax savings in 1981 based on 1980 income. We used this method because the exact amount of Masan Tube's tax benefit is not known until 1981 when Masan Tube's operational results are known and tax liability must be settled. At the time of our preliminary determination, we have calculated tax benefits of 2.93 percent of the total f.o.b. value of Masan Tube's exports in 1981. However, erroneously included in our tax benefit totals were corporation and resident taxes assessed on dividends which foreign stockholders were liable for—not Masan Tube. Masan Tube was merely withholding these taxes on behalf of foreign stock owners as required by Korean law. Therefore, we have deducted from our tax benefit totals the amount of taxes Masan Tube withheld on behalf of foreign shareholders and have revised the amount of our *ad valorem* subsidy to 1.72 percent of the total f.o.b. value of Masan Tube's exports in 1981. Masan Tube indicated that its eligibility for benefits under this program expired on August 23, 1982.

Programs Determined Not To Confer Subsidies

We have determined that subsidies are not being provided to manufacturers, producers, or exporters in Korea of small diameter welded carbon steel pipes and tubes, hot-rolled carbon steel plate, hot-rolled carbon steel sheet, or galvanized carbon stell sheet under the following programs.

Preferential Financing and Government Loan Guarantees For Steel Producers

Petitioner alleged that government-owned or controlled banks are directed to provide credit to stragegic industries such as steel in preference to other non-strategic industries. Petitioner further alleged that government loans at

preferential rates or government guaranteed loans are being supplied to the steel industry either directly or through commercial banks.

The government's response, which we verified, indicates that it does not direct banks to supply credit to strategic industries, such as the steel industry, in preference to other industries, but that banks in Korea are allowed to lend funds to all industrial and agricultural sectors on a commercial basis. In this regard, all manufacturing sectors can borrow from banks at commercial rates of interest. Decisions by individual banks concerning whether to lend to particular enterprises and what rate to charge are based upon the commercial assessment by the bank of the creditworthiness of the customer, and other circumstances surrounding any particular loan. General loans of this type are available at commercial, not preferential, rates. The government does not participate in the particular lending decisions of the individual banks. Based on our investigation, we have determined that there are no preferential loans for the steel industry and that the government did not guarantee any loans received by the steel producers.

Wage Controls for Government-Run Firms

Petitioner alleged that the Korean government limits wage increases for government-run firms such as POSCO, resulting in lower production costs for this segment (state-owned organizations) of the Korean industry.

Based on our investigation, we have determined that there are no mandatory wage controls for any industry in Korea. The government does not control or influence the wages paid to POSCO workers, nor does it control or regulate the wages paid by private companies. Furthermore, POSCO's response indicates that its wage levels compare favorably with other national wage indicators.

Government Purchases of Steel at Inflated Prices

Petitioner alleged that the Office of Supply of the Republic of Korea (OSROK) purchases large quantities of steel at inflated prices to eliminate excess inventories of steel producers. Petitioner also alleged that OSROK agrees to advanced payment before actual product delivery to supply funds to steel producers for operation and investment.

With respect to the products under investigation, OSROK purchased only pipe in 1981. The government's response indicates that OSROK purchases steel strictly to meet its own needs. Based on our investigation, we have verified that OSROK does not make advance payment, and that the prices and terms of sale to OSROK are comparable to the prices and terms of sale to other customers.

Government Capital Grants

Petitioner alleged that the Korean government provides substantial capital grants to the Korean steel industry. Petitioner further cites past government equity investments in POSCO and contends that, since the firm does not pay cash dividends and prospects in the steel industry have not been bright in recent years, such investments are not "arms-length" transactions at market value, but represent a subsidization scheme of capital grants.

The responses received from the government and the steel producers under investigation indicate that the government has never provided a grant to any steel producer and, with one exception, has never assumed an expense on behalf of a steel producer. The one exception indicated is the assumption by the government of interest expenses incurred by POSCO on a loan during the period February 22, 1973, through December 31, 1974. Because this interest charge is normally expensed, this program does not confer benefits to POSCO on sales made during the period for which we are measuring subsidization. Also, all interest has been paid by POSCO each year since December 31, 1974, with no reimbursement by the government.

With respect to the government's equity participation in POSCO, the record indicates the following facts. POSCO was incorporated in April 1968. The government has had substantial participation in the ownership of POSCO since its inception. POSCO's first plate and hot strip mills were completed in 1972, but its first blast furnace did not begin production until 1973. The company has grown steadily during the past decade, increasing raw steel capacity from 1.03 million tons in 1973 to 8.5 million tons at the end of 1981. POSCO is a closed corporation whose stock is not traded on any organized stock market.

Under the statute, government equity ownership gives rise to a potential subsidy only when such ownership is on terms which are inconsistent with commercial considerations. We do not believe this is the case with respect to POSCO. Our review of all financial statements issued by POSCO since 1972 indicates that the firm has been profitable since completion of its initial pouring facilities in 1973. Key indicators such as debt to equity ratios, interest coverage, etc., have all been healthy. Furthermore, government studies used in the decision to invest in POSCO projected a strongly profitable operation; the firm's continuous access to both domestic and foreign capital private markets attests to its commercial viability. For these reasons we have determined that the purchase of equity in POSCO by the government is not inconsistent with commercial considerations and, therefore, does not give rise to a potential subsidy.

Special Steel Export Subsidy

The petitioner alleged the existence of a special steel export subsidy and has cited the December 1980 issue of the Kosa Bulletin, published by the Korea Iron and Steel Association, which makes reference to such a program.

The questionnaire responses received from the government and the steel producers under investigation indicate that no such program exists. At the verification, we found no evidence of such a program.

Indirect Subsidies To Purchasers of Machinery Used To Make Iron and Steel

Petitioner alleged that, until December 31, 1981, producers of machinery for iron and steel manufacturing enjoyed special tax deductions and exemptions which reduced the capital costs to iron and steel producers.

The question presented is whether the products under investigation have benefited from subsidies, not whether producers of machinery for iron and steel manufacturing have received subsidies. As we stated in our final determination in the countervailing duty investigation of certain steel wire nails from Korea, which was announced on September 8, 1982 (47 FR 39549), we believe that benefits bestowed upon the manufacturer of an input do not necessarily flow down to the purchaser of that input, if the sale is transacted at arm's length. In an arm's length transaction and a general equilibrium situation, we believe it is reasonable to assume that the seller generally attempts to maximize its total revenue by charging as high a price and selling as large a volume as the market will bear. Thus, it is not likely the seller will pass countervailable benefits through to the purchaser. In the absence of evidence to the contrary, we have determined that purchasers of machinery for iron and steel manufacturing machinery do not receive indirect benefits as a result of subsidies to producers of such machinery.

Indirect Subsidies To Purchasers of Hot-Rolled Sheet or Coil

The petitioner alleged that producers of welded carbon steel pipes and tubes benefit from the purchase of Korean hot-rolled sheet or coils at subsidized prices. Petitioner contended the government's domestic subsidies to POSCO and other hot-rolled plate and sheet producers constitute an indirect subsidy on raw materials used by the Korean pipes and tubes producers.

As indicated above, we believe that benefits bestowed upon the manufacturer of an input do not flow down to the purchaser of that input if the sale is transacted at arm's length. However, our investigation of POSCO's dual pricing systems is related to this allegation and is discussed below.

POSCO's Dual Pricing System

In our countervailing duty investigation of certain steel wire nails from Korea, a dual pricing system used by POSCO to sell rod to nail producers was examined by the Department to determine if this system, as implemented by a government-owned firm, conferred a subsidy to the nail producers that purchase rod, Since this dual pricing system also applies to sales of hot-rolled sheet or coil (coil) to pipe and tube producers, we have examined POSCO's pricing for purposes of this investigation a well.

As in the case of rod, coil is purchased on a cash or local letter of credit basis. The letter of credit price is stated in U.S. dollars but paid for in Korean won at the official Bank of Korea exchange rate prevailing on the date of delivery. All cash purchases are made in Korean won. Coil purchased on the basis of a local letter of credit must be used to produce an export product, and POSCO requires evidence that such coil is destined for export use. Coil purchased on a cash basis can be used for both domestic or export sales. The letter of credit price is generally lower than the cash price, though there are exceptions.

The result is a dual pricing system, one for coil used in products which must be exported, the other for coil in products for either domestic or export use.

The government of Korea attributes the differences in prices in both markets to Korea's import duties. The Korean domestic market for coil is protected by a tariff. The market for coil used for export production, however, is unprotected as a result of a duty drawback system which generally results in a more competitive market for inputs destined for export.

Imported steel in Korea is subject to normal customs duties. As is commonly the practice, these duties are refunded if the steel is exported, whether or not further processing occurs. This is known as duty drawback, and does not confer a subsidy within the meaning of the countervailing duty law. However, this practice can create a dual pricing structure with respect to imported inputs, because the price for imported inputs used for products destined for the domestic market will include customs duty, while the duty will not be included in the price of imported inputs used in products destined for export. Since a domestic producer of the inputs acts to maximize revenues, his price to producers for the domestic market will be increased by an amount equal to the effective protection afforded by the tariff. The domestic producer of the inputs will not include that amount is its price to exporters of products using those imputs since no effective protection is afforded where duty drawback applies. Were he to do otherwise the exporters would turn to foreign sources for their inputs.

We have therefore determined that the different prices for purchases do not arise from a scheme to subsidize exports, but rather are a commercial response to a segmented market, one segment being protected and the other fully open to foreign competition.

Information on the record indicates that POSCO faces competition from producers of coil in Australia, France, and Japan who sell in the Korean market at comparable prices to POSCO's letter of credit prices. Our conclusion that POSCO's dual coil pricing system does not confer any countervailable benefit is consistent with the illustrative list of Export Subsidies (the List), annexed to the *Agreement on Interpretation and Application of Article VI, XVI and XXIII of the General Agreement on Tariffs and Trade.* Under item (d) of the List, price preferences for inputs to be used in the production of export goods constitute a subsidy only if the preference lowers the price of the input below that which the input purchaser would pay on world markets. *See* the list, item (d). Although this item applies specifically to subsidies provided by governments or their agencies, the principle contained in item (d) applies with equal force to these circumstances.

Loans at Favorable Foreign Currency Exchange Rates

The petitioner alleged that loans are made to Korean steel producers at fixed or manipulated rates of exchange that are more favorable than official or actual exchange rates.

Based on our investigation and verification, the Department has found no evidence of the existence of such a program.

Petitioner's Comments

Comment 1. Petitioner disputes International Trade Administration's (ITA) finding that the Korean government did not make preferential loans to steel producers and cites a large, long-term loan to POSCO at a 3.5 percent rate as evidence that such loans are being made.

DOC Position, Verified information indicates that the source of this loan was a war reparations fund negotiated between Japan and the government of Korea. The transaction in question was not a loan of funds to POSCO, but rather an installment purchase of Japanese steelmaking equipment in which the Japanese government supplied equipment to POSCO, but rather an installment purchase of Japanese steelmaking equipment in which the Japanese government supplied equipment to POSCO through the Korean government. POSCO paid the Korean government which in turn repaid the Japanese government. This program provides for the payment of war reparations by the government of Japan to the government of Korea through low-interest Japanese supplier's credits on a project by project basis. While each project is evaluated by the government of Japan for economic viability, there are no restrictions on the types of projects which may receive approval. In fact, evidence on the record indicates that a wide range of projects have been approved, including public works projects as well as commercial projects. Thus, assistance flowing from the war reparations fund is not restricted to an industry or group of industries, but rather is generally available. Therefore, we find that no subsidy exists with respect to this program.

In addition to this conclusion, the Department also notes that war reparations are the result of unique circumstances and reflect political and economic considerations which are outside of the realm of activities which are contemplated by the countervailing duty statute. Thus, the Department cannot envision an instance in which benefits flowing from payments made by one country to another as a result of war reparations confer countervailable subsidies within the meaning of the Act. Certainly in this case we find that there is no countervailable subsidy arising from war reparations.

Comment 2. Petitioner disputes ITA's finding that the Korean government did not guarantee any loans received by the steel producers and cites a loan from an Austrian source to POSCO in which the government-owned Korean Development Bank had guaranteed the repayment of the loan on behalf of POSCO.

DOC Position. Our investigation indicates that the loan in question was actually an installment purchase of equipment at a rate of interest negotiated on an arm's-length basis between POSCO and the Austrian lender. As part of the agreement, POSCO was required to obtain a loan guarantee which the Korean Development Bank granted in exchange for a loan guarantee fee. We have determined that the fee paid by POSCO was equivalent to that which the Korean Development Bank would charge other customers in similar circumstances. Therefore, since POSCO's loan guarantee does not appear to be preferential, we do not find it to confer a subsidy.

Comment 3. Petitioner objects to ITA's decision not to countervail preferential export loans as a result of the action taken by the Korean government on June 28, 1982, at which time all preferential interest rates were eliminated. Petitioner argues that ITA's decision is contrary to the ITA's methodology for measuring subsidization during calendar year 1981. Petitioner also argues that ITA's decision is inconsistent with its decision not to countervail a special investment tax credit by Masan Tube which was based on a 1981 investment but considered quantifiable in 1982.

DOC Position. The Department's policy is to encourage foreign governments to eliminate all forms of subsidization. In this case, since benefits were eliminated on June 28, 1982, and suspension of liquidation did not take place until October 12, 1982, the entires subject to potential countervailing duty liabilities were no longer benefiting from preferential financing and the previous benefits quantified in 1981 should not be considered in establishing the estimated duty deposit rate for future entries.

This issue is distinguishable from our decision regarding investment tax credits; in that instance, we do not believe the subsidy can be quantified until 1982 when company books are closed for the tax year 1981. We will quantify any subsidy received under this program for assessment purposes within the context of a section 751 review.

Comment 4. Petitioner argues that the ITA cannot use commercial bank interest rates to determine the interest rate that recipients of preferential government financing would pay absent government subsidies. Petitioner contends that Korean commercial banks are largely government controlled and generally carry out the government policy of providing subsidized credit to favored industries. Therefore, absent preferential government financing, Korean steel producers would be forced to obtain at least some, if not all, of their funds from the private or "curb" market at substantially higher rates than those charged by commercial banks. Therefore, petitioner argues that "curb" market interest rates should be used as the benchmark for quantifying any subsidies attributable to preferential financing.

DOC Position. Verified information obtained in this and our recently completed countervailing duty investigation involving certain steel wire nails from Korea indicates that the government of Korea does not require commercial banks to make available credit to certain borrowers. Lending decisions are left to individual banks, which decide whether to grant each loan on the basis of their individual assessment of a loan applicant's creditworthiness. Also, we verified that the government of Korea does not control the amount of funds an individual bank allocates to export loans and normal commercial loans. This decision is also made by individual banks. Banks may give preferences to Korea's production industries and export industries. However, these preferences do not result from government direction or subsidization, but from each bank's own evaluation of how its loan funds can best be secured and effectively used.

Furthermore, the "curb" market has serviced, in the past, those high risk borrowers which are normally excluded from Korea's primary and secondary sources of credit. Recently, the Korean government has restricted the activities of the "curb" market and taken steps to permit borrowers to obtain loans through authorized Korean financial institutions. Since the steel producers under investigation indicate that commercial loans were their alternate source of credit to export loans, and since these loans were freely administered by commercial banks, we believe that the rates on these loans were properly used to quantify the amount of subsidies received from the preferential export financing programs.

Comment 5. Petitioner argues that, since no cash dividends have been paid by POSCO since the date of its establishment, the Korean government's provision of equity capital to POSCO is inconsistant with commercial considerations because Korean investors demand cash dividends. Therefore, petitioner argues the government's equity investment in POSCO constitutes a countervailable subsidy.

DOC Position. We have learned that it is not uncommon in Korea for a closed corporation, such as POSCO, to elect not to pay cash dividends but, rather, to retain earnings for capital expansion. Our principal consideration in judging whether a government's participation in a firm is consistent with commercial considerations is the firm's profitability and commercial viability during the period under consideration. We find that POSCO has shown consistent profits since it became fully operational in 1973 and our examination of its financial ratios (see above section on "Governmental Capital Grants") shows a healthy firm. Therefore, we find the government's equity investments to be commercially acceptable. The fact that the government chose not to take capital out of the firm in the form of dividends is not enough, in and of itself, to lead us to change our position.

Comment 6. Petitioner challenges the ITA's assumption that, in the case of subsidies paid to an upstream supplier, the seller generally attempts to maximize its total revenues, and that benefits, bestowed upon the manufacturer of an input, do not necessarily flow down to the purchaser of that input, if the sale is transacted at arm's length. Petitioner contends that, in the absence of monopolistic power, a firm maximizes profits and not revenues. Furthermore, subsidies to an industry induce new entry into that industry and force prices down. Petitioner further asserts that the Department cannot consider the availability of alternate, unsubsidized sources of raw materials.

DOC Position. The position of the petitioner rests upon a faulty interpretation of the legislative history of the Trade Agreements Act of 1979 (TAA). Nothing in the legislative history of the TAA precludes the Department from considerations of this type. The floor debates cited by petitioner relate to the question of regional development programs and comparative advantage, not the question of alternate sources of supply. It makes no economic sense for the Department to find that a subsidy exists simply because an exporter chose one source of supply over another where no price differential exists. Since alternate supplies are available to producers of pipe and tube, and there is no evidence of a pricing pattern by POSCO which undercuts f.o.b. prices

available from other suppliers, inlcuding non-Korean suppliers, there is no reason to believe that any subsidies which may have been conferred upon POSCO have been passed through to procedures of pipe and tube.

Comment 7. Petitioner contends that benefits derived from deferred payment of tariffs on imported equipment or from reduced port charges should be divided by a firm's total value of export sales instead of the firm's total value of sales to arrive at the *ad valorem* benefit for that firm. Petitioner asserts that these subsidies particularly benefit exports.

DOC Position. We have determined that these benefits are related to domestic and export sales. Therefore, for allocation purposes, we have separated the subsidy according to the percentages that domestic and export sales represent of total sales. The portion allocated to export sales is considered an export subsidy and divided by total exports; the other portion is divided by total sales.

Comment 8. Petitioner states that there is no legal basis for ITA to adjust the benefit to POSCO from its exemption from corporate tax for any additional defense taxes paid by that firm.

DOC Position. Under Korean tax law, a firm cannot receive a corporate tax exemption unless it pays additional defense tax. Section 771 of the Act allows an offset to benefits for any payment made in order to qualify for, or to receive the benefit of, the subsidy.

Comment 9. Petitioner asserts that POSCO has enjoyed massive government infrastructure aid in the form of road, rail and harbor construction.

DOC Position. Our investigation indicates that government infrastructure aid to Pohang area was not earmarked especially for POSCO but for all industries using these facilities. Under these circumstances, we do not consider government infrastructure expenditure to be countervailable.

Comments of Other Domestic Parties To the Proceeding.

Comments were received from counsel on behalf of Bethlehem Steel Corporation (Bethlehem Steel), a party to this proceeding. These comments extensively paralleled the comments submitted by U.S. Steel which were addressed above. However, there were certain additional comments submitted by bethlehem steel which are addressed below.

Comment 1. Bethlehem Steel argues that all benefits attributable to preferential export financing are not exhausted during the year in which they were received and their effect continues throughout subsequent years—in the form of increased equity capital, increased market value of the stock, increased working capital or increased asset base. Bethlehem Steel concludes that a subsidy such as preferential interest rates must be treated by the ITA as an infusion of capital and amortized or capitalized for a period of time after their receipt.

DOC Position. Since the loans in question were either short-term (90 days or less) or long-term loans with preferential treatment which was of short-term duration (less than one year), the department allocated these benefits over the year in which these loans were transacted. We believe that such programs which offer only limited short-term benefits are properly allocated in the year of their receipt.

Comment 2. Bethlehem Steel indicates that there is a possibility that shipments of this merchandise, which have received preferential interest rate financing, entered the United States after the notice of suspension of liquidation and that the correct deposit rate for at least these shipments must include the *ad valorem* equivalent of the preferential interest rates received.

DOC Position. Information available to the department indicates that, on the average, this merchandise enters the United states approximately 90 days after purchase.Although it is conceivable that some individual shipments of this merchandise may have taken longer to enter the United States, we are satisfied that our bonding requirements accurately reflect the overall economic impact of the subsidies received by Korean producers.

Comment 3. Bethlehem Steel argues that the government either directly or indirectly controls wages in the steel sector and that this is evidenced by comparing the average percentage of monthly income increase for workers reported by POSCO in its response to published country-wide average labor statistics.

DOC Position. Comparisons of varying percentage figures can be misleading in that many different variables affect the total compensation paid by a firm to its employees. ITA has uncovered no evidence of either direct or indirect government control of steel sector wages.

Comment 4. Bethlehem Steel alleges that Korean steel producers may have benefitted from preferential financing from the Korean Long-Term Credit Bank (KLB).

DOC Position. The Department has found no evidence of Korean steel producers receiving preferential loans from the KLB.

Comment 5. Bethlehem Steel indicates that Korean steel producers may be receiving special infrastructure aid from the government under Korea's Fourth Five-Year economic development plan.

DOC Position. Although Korea's Fourth Five-Year economic development plan includes plans for infrastructure improvements, ITA has no evidence on record that this infrastructure aid is being targeted to a particular company or industry and therefore it is not considered countervailable.

Respondent's Comments

Comment 1. Counsel for respondents argues that the Department incorrectly calculated the benefit received by steel producers attributable to the program providing accelerated depreciation for exporters. Respondents contend that any manufacturer operating its facilities more than 12 hours a day, on an annual basis, is eligible for an additional 20 percent accelerated depreciation. Since the export depreciation program provides for an additional 30 percent accelerated depreciation, respondents contend that ITA should have countervailed only 10 percent of the accelerated depreciation instead of the entire 30 percent.

DOC Position. Since ITA cannot determine with certainty whether the steel producers which used the special export depreciation program would have received benefits under the other program in question, we have not made this hypothetical adjustment and have considered the entire 30 percent to be a countervailable subsidy.

Comment 2. Respondents dispute ITA's methodology of attributing tax benefits for POSCO to 1982 despite the fact that the tax exemptions expired on December 31, 1981.

DOC Position. It is our opinion that tax benefits should be attributable to the year in which their exact amounts become known by the recipients. Since POSCO did not settle its tax liabilities for 1981 until April 1982, we believe a benefit under this program may have continued in 1982 and have thus included this subsidy in our estimated duty deposit rate for future entries.

Comment 3. Respondents argue that almost all industries in Korea are eligible for deferred payment of customs duties and that ITA should not consider this program to be a subsidy

DOC Position. Our review of the law on which this deferral is based showed that there are definite limiting criteria by which certain industries, and certain companies within industries, benefit to a

greater extent than others. Therefore we consider this program to confer a domestic subsidy.

Comment 4. Union Steel objects to the Department calculating benefits on an industry-wide basis, for programs available to all firms within that industry, when not all firms have utilized the program.

DOC position. In general, it has been our long-standing administrative practice to calculate benefits on a country-wide basis except in cases in which a countervailable program is company-specific.

Comment 5. Respondents object to the use of the Masan Tube bonding rate for bonding requirements of any other pipe and tube producer not investigated. Respondents argue that Masan Tube benefited from special Masan Free Export Zone benefits which are not available to all pipe and tube producers. Respondents cite the example of Dong Jin Steel Co., Ltd. (Dong Jin), a new subsidiary of POSCO, which does not qualify for these benefits.

DOC Position. The Department cannot know in advance whether any new pipe and tube producers are located in the Masan Zone or have foreign ownership and are eligible for benefits under the Foreign Capital Inducement Law. Until an investigatory record can be established for new firms, we must continue to assume possible receipt of benefits from all existing programs. Since we have investigated Dong Jin's situation during the course of verifying the responses, we will set that firm's bonding rate equivalent to that of POSCO's bonding rate based on the best available information. Dong Jin will also be listed with POSCO in our "Suspension of Liquidation" section. We are also listing POSCO and Dong Jin within the pipe and tube industry should the firm commence exportation of this merchandise to the United States in the future. POSCO's rate will also be applied to all other manufacturers, producers, or exporters of pipe and tube which were not investigated.

Comment 6. Respondents object to the failure of the Department to exclude certain pipe and tube producers from this determination in spite of a "zero" bonding requirement.

DOC Position. During the period for which we are measuring subsidization, pipe and tube producers received benefits from perferential export financing in amounts which were greater than *de minimis*. We have waived bonding requirements for these producers since the Korean government eliminated all preferential financing rates on June 28, 1982. However, since the program still exists, and preferential rates can still be reinstated in the future, we are not excluding any firms which may receive future benefits.

Verification

In accordance with section 776 (a) of the Act, we verified the data relied upon in our final determinations. During this verification, we followed standard procedures, including inspection of documents, discussions with government officials and on-site inspection of manufacturers' operations and records. We also spoke with officials of a private commercial bank in Korea during this investigation.

Suspension of Liquidation

The suspension of liquidation ordered in our preliminary determinations shall remain in effect until further notice. The estimated net subsidy for each product is as follows:

Products and manufacturer/producer/exporter	Ad valorem rate
Hot-rolled carbon steel plate: All manufacturers/ producers/exporters	1.88
Hot-rolled carbon steel sheet: All manufacturers/ producers/exporters	[illegible]
Galvanized carbon steel sheet:	
POSCO (Dong Jin)	1.74
Union Steel	1.36
All other manufacturers/producers/exporters	1.74
Small diameter welded carbon steel pipes and [illegible]:	
Masan Tube	1.86
POSCO (Dong Jin)	1.88
Other manufacturers investigated	[illegible]
All other manufacturers/producers/exporters	1.88

We are using a zero cash deposit or bonding rate for all firms investigated which produce pipes and tubes, except for Masan Tube and Dong Jin, because they received benefits of 0.14 percent which is *de minimis*. However, they are not excluded from these final affirmative determinations.

Our reason for not excluding these firms is that all of them had received benefits, which were more than *de minimis*, from preferential short-term export financing programs during the period for which we are measuring subsidization. We did not include these totals in the above estimated subsidy rates because the government subsequently eliminated the preferential loan rate for export loans on June 28, 1982. However, the programs themselves have not been eliminated and there remains a possibility that preferential rates will be resumed in the future.

With respect to these preferential short-term export financing programs, we have concluded that no entries subject to this suspension of liquidation have benefited from these programs and we have not included the amounts of subsidies found on these programs in 1981 in the subsidy amounts shown above.

We are directing the U.S. Customs Service to require a cash deposit or bond in the amount indicated above for each entry of the subject merchandise entered on or after the date of the publication of this notice in the **Federal Register**.

Where the manufacturer is not the exporter, and the manufacturer is known, the rate for the manufacturer shall be used in determining the cash deposit or bond amount. If the manufacturer is unknown, the rate for all other manufacturers/producers/exporters shall be used.

Where a company specifically listed above, with the exception of POSCO and Dong Jin, has not exported a particular product during the period for which we are measuring subsidization, the cash deposit or bond amount shall be based on the highest rate for products that were exported by that company. We are directing the U.S. Customs Service to require a cash deposit or bond in the amount indicated above for each entry of the subject merchandise entered on or after the date of publication in the **Federal Register**.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of this action and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under any administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

This notice is published pursuant to section 705(d) of the Act and section 355.33 of the Department of Commerce Regulations (19 CFR 355.33).

Lawrence Brady,

Assistant Secretary for Trade Administration.

December 16, 1982.

APPENDIX

Description of Products

For purpose of this investigation:

1. The term *"hot-rolled carbon steel plate"* covers carbon steel products, whether or not corrugated or crimped; not pickled; not cold-rolled; not in coils; not cut, not pressed, and not stamped to non-rectangular shape; 0.1875 of an inch or more in thickness and over 8 inches in width; as currently provided for in items 607.6615, or 607.94, of the *Tariff Schedules of the United States*

Annotated ("TSUSA"); and hot- or cold-rolled carbon steel plate which has been coated or plated with zinc including any material which has been painted or otherwise covered after having been coated or plated with zinc, as currently provided for in items 608.0710 or 608.11 of the TSUSA. Semi-finished products of solid rectangular cross section with a width at least four times the thickness in the cast condition or processed only through primary mill hot-rolling are not included.

2. The term *"hot-rolled carbon steel sheet"* covers the following hot-rolled carbon steel products. Hot-rolled carbon steel sheet is a hot-rolled carbon steel product, whether or not corrugated or crimped and whether or not pickled; not cold-rolled; not cut, not pressed, and not stamped to non-rectangular shape; not coated or plated with metal; over 8 inches in width and in coils or if not in coils under 0.1875 of an inch in thickness and over 12 inches in width; as currently provided for in items 607.6610, 607.6700, 607.8320, 607.8342, or 607.9400 of the *Tariff Schedules of the United States Annotated "TSUSA". Please note that the definition of hot-rolled carbon steel sheet includes some products classified as "plate" in the TSUSA (Items 607.6610 and 607.8320.*

3. The term *"cold-rolled carbon steel sheet"* covers the following cold-rolled carbon steel products. Cold-rolled carbon steel sheet is a cold-rolled carbon steel product, whether or not corrugated or crimped and whether or not pickled; not cut, not pressed, and not stamped to non-rectangular shape; not coated or plated with metal; over 8 inches in width and in coils or if not in coils under 0.1875 of an inch in thickness and over 12 inches in width; as currently provided for in items 607.8320 or 607.8344 of the *Tariff Schedules of the United States Annotated ("TSUSA"). Please note that the definition of cold-rolled carbon steel sheet includes some products classified as "plate" in the TSUSA (Item 607.8320).*

4. The term *"Galvanized carbon steel sheet"* covers hot- or cold-rolled carbon steel sheet which has been coated or plated with zinc including any material which has been painted or otherwise covered after having been coated or plated with zinc, as currently provided for in items 608.0710, 608.0730, 608.11 or 608.13 of the *Tariff Schedules of the United States Annotated ("TSUSA"). Note that the definition of galvanized carbon steel sheet includes some products classified as "plate" in the TSUSA (Item 608.0710 and 608.11).* Hot- or cold-rolled carbon steel sheet which has been coated or plated with metal other than zinc is not included.

5. The term *"small diameter welded carbon steel pipes and tubes"* covers welded carbon steel pipes and tubes with walls not thinner than 0.065 of an inch, of circular cross section and 0.375 of an inch or more in outside diameter but not more than 16 inches as currently provided for in items 610.3208, 610.3209, 610.3231, 610.3232, 610.3241, 610.3244, and 610.3247, of the *Tariff Schedules of the United States Annotated ("TSUSA").* Pipes or tubes suitable for use in boilers, superheaters, heat exchangers, condensers, and feedwater heaters, or conforming to A.P.I. specifications for oil well tubing, with or without couplings, cold drawn pipes and tubes and cold-rolled pipes and tubes with wall thickness not exceeding 0.1 inch are *not included.*

[FR Doc. 82-34851 Filed 12-23-82; 8:45 am]

BILLING CODE 3510-25-M

Elemental Sulphur From Canada; Preliminary Results of Administrative Review of Antidumping Finding and Tentative Determination To Revoke in Part

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Preliminary Results of Administrative Review of Antidumping Finding and Tentative Determination to Revoke in Part.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping finding on elemental sulphur from Canada. The review covers 43 of the 49 known producers and/or exporters of this merchandise to the United States currently covered by the finding, generally for the period December 1, 1980 through November 30, 1982. The review indicates the existence of dumping margins in particular periods for certain exporters.

As a result of this review the Department has preliminarily determined to assess dumping duties for individual exporters equal to the calculated differences between United States price and foreign market value on each of their shipments during the period of review. Where company-supplied information was inadequate or no information was received, the Department has used the best information available. The Department has also tentatively determined to revoke the finding with respect to the following companies: Tiger Chemicals, Ltd., Pan Canadian Petroleum, Ltd., Amoco Canada Petroleum Company, Ltd., Exxon Chemical Americas, Inc. (merchandise manufactured by Imperial Oil, Ltd. and exported by Exxon Chemical), Canterra Energy, Ltd. (formerly known as Aquitaine Company of Canada, Ltd.), CDC Oil & Gas, Ltd., and Dome Petroleum, Ltd.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: December 27, 1982.

FOR FURTHER INFORMATION CONTACT: Jonathan Seiger or Robert J. Marenick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377-5255.

SUPPLEMENTARY INFORMATION:

Background

On April 5, 1982, the Department of Commerce ("the Department") published in the Federal Register (47 FR 14507) the final results of its last administrative review of the antidumping finding on elemental sulphur from Canada and announced its intent to conduct the next administrative review by the end of December 1982. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are shipments of elemental sulphur, currently classifiable under item 415.4500 of the Tariff Schedules of the United States Annotated (TSUSA).

The Department knows of a total of 49 producers and/or exporters to the United States of elemental sulphur from Canada still covered by the finding, 43 of which are covered by this notice. For three of the six other firms, Hudson's Bay Oil & Gas, Ltd., Chevron Standard, Ltd., and Gulf Oil Canada, Ltd., we published the preliminary results of our first administrative review and tentative determination to revoke the finding on April 9, 1981 (46 FR 21214). We made those results final on July 23, 1982 (47 FR 31911).

For Mobil Oil Canada, Ltd. and Union Oil Company of Canada, Ltd., we published the preliminary results of our first administrative review on September 15, 1982 (46 FR 45789). In view of the Department's failure to obtain information from Cansulex, Ltd. concerning third country sales made on behalf of Mobil and Union, the Department is considering alternative assessment approaches for these two firms.

Therefore, the results of our first administrative review for Mobil and

Union have not yet been made final. For Home Oil Company, Ltd. we published the preliminary results of our second administrative review and intent to revoke in part on April 27, 1982 (47 FR 18016). We made those results final on July 22, 1982 (47 FR 31716). Our current review generally covers the period from December 1, 1980 through November 30, 1981. The applicable periods are indicated for each firm under *Preliminary Results of the Review*. For each firm, periods not listed were covered either in our first administrative review or by the Treasury Department.

Seventeen exporters did not export elemental sulphur to the U.S. during the period December 1, 1980 through November 30, 1981. The estimated duty deposit rates for these firms will be the most recent information for each firm. Ten exporters failed to respond to our questionnaire or gave inadequate information. For these non-responsive exporters we used the best information available to determine the assessment and estimated duty deposit rates. The best information available is the most recent rate for each firm, or the highest current rate among all responding firms with shipments during the review period, whichever is higher.

Petrofina Canada was acquired by Petro-Canada Exploration, Inc. on February 1, 1981. Petro-Canada stated in its response that it was unable to provide information on sales made by Petrofina prior to the acquisition. Therefore, we have used the best information available with regard to Petrofina for sales made prior to February 1, 1981.

Pacific Petroleum was acquired by Petro-Canada on September 30, 1979. In our last review we completed review of all Pacific entries made prior to the acquisition. Therefore, with the exception of merchandise produced by Pacific and shipped by Canamex during 1974 and 1975, we are not covering pacific in this review or future section 751 reviews. This is not a proposal to revoke the finding with respect to Pacific. Should Pacific begin exporting the covered merchandise to the U.S., we shall treat the firm as a new exporter.

United States Price

In calculating United States price the Department used purchase price or exporter's sales price, as appropriate, as defined in section 772 of the Tariff Act or sections 203 or 204 of the Antidumping Act of 1921 ("the 1921 Act"). Purchase price was based either on the packed, delivered price to an unrelated purchaser in the U.S. or to an unrelated trading company for export to the U.S. Exporter's sales price was based on the ex-factory, packed price to the first unrelated purchaser in the United States. Where applicable, we deducted U.S. and Canadian inland freight. No other adjustments were claimed or allowed.

With regard to merchandise shipped by Canamex Commodity Corporation, the Department has reversed its position outlined in Comments 12 and 13 of its notice of final results of administrative review of the finding of April 5, 1982 (47 FR 14507). Accordingly, the Department has used the price to Canamex from the manufacturer to establish United States price.

Foreign Market Value

In calculating foreign market value the Department used home market price, sales to third countries, or constructed value, as appropriate, all as defined in section 773 of the Tariff Act or sections 205 and 206 of the 1921 Act. For companies where we used home market price, at least 5.12 percent of total sulphur sales (and at least 6.98 percent of the amount sold to third countries) was sold in the home market during the covered period. The Department based home market prices on the packed, delivered price to unrelated customers, with deductions, where applicable, for Canadian inland freight and remelting costs. The Department adjusted third-country prices, where applicable, for ocean freight, Canadian inland freight, and handling charges. No other adjustments were claimed or allowed. For Canamex, the Department has used the manufacturer's prices to home market customers to establish foreign market value.

Preliminary Results of the Review and Tentative Determination to Revoke in Part

As a result of our comparison of United States price to foreign market value, we preliminarily determine that the following margins exist:

Manufacturer and exporter	Time period	Margin (percent)
Amerada Minerals	12/01/80–11/30/81	'28.90
Amoco Canada	12/01/80–11/30/81	0
BP/Canamex	01/01/73–12/31/73	[illegible]
	01/01/74–12/31/74	0.54
	01/01/75–12/31/75	[illegible]
	01/01/76–12/31/76	[illegible]
	01/01/77–12/31/77	15.50
	01/01/78–12/31/78	[illegible]
	01/01/79–05/31/79	15.24
	12/01/80–11/30/81	[illegible]
Canterra Energy (formerly Aquitaine Co. of Canada, Ltd.)	12/01/80–11/30/81	'0
Canterra/Canamex	12/01/80–11/30/81	[illegible]
Canterra/Brimstone	01/01/73–12/31/73	87.65
	01/01/74–12/31/74	[illegible]
	01/01/75–12/31/75	[illegible]
	01/01/76–12/31/76	[illegible]
All other mfrs /Brimstone	01/01/73–12/31/73	[illegible]
	01/01/74–12/31/74	[illegible]
	01/01/75–12/31/75	[illegible]
	01/01/76–12/31/76	[illegible]
	01/01/77–12/31/77	15.50
	01/01/78–12/31/78	[illegible]
	01/01/79–05/31/79	15.24
	12/01/80–11/30/81	[illegible]
Canadian Bright	12/01/80–11/30/81	26.95
Canadian Reserve	12/01/80–11/30/81	'19.06
Canadian Reserve/Canamex	04/01/73–12/31/73	[illegible]
	01/01/74–12/31/74	0.54
	01/01/75–12/31/75	[illegible]
	01/01/76–12/31/76	[illegible]
	01/01/77–12/31/77	15.50
	01/01/78–10/31/78	18.66
	11/01/78–05/31/79	15.24
	12/01/80–11/30/81	'15.24
CDC Oil & Gas	12/01/80–11/30/81	'0
Cities Service	10/01/79–11/30/80	7.49
	12/01/80–11/30/81	[illegible]
Cornwall Chemicals	12/01/80–11/30/81	'3.84
Delta/Canamex	12/01/80–11/30/81	4.64
Dome Petroleum	12/01/80–11/30/81	0
Fanchem	03/01/78–12/31/79	[illegible]
	01/01/80–12/31/80	1.19
	01/01/81–11/30/81	[illegible]
Home Oil/Canamex	01/01/78–12/31/78	[illegible]
	01/01/79–05/31/79	15.54
	12/01/80–11/30/81	'15.54
Hudson's Bay/Sulbow Minerals	12/01/80–11/30/81	0
Hudson's Bay/Canamex	06/01/74–04/30/76	0
	05/01/76–05/31/79	'0
	12/01/80–11/30/81	0
Imperial Oil	12/01/80–11/30/81	2.36
Imperial Oil/Exxon Chemical	12/01/80–11/30/81	[illegible]
Koch Hydrocarbons	12/01/80–11/30/81	26.95
Marathon Oil	12/01/80–11/30/81	26.90
Marathon/Canamex	11/01/78–05/31/79	15.24
	12/01/80–11/30/81	'15.24
Pacific/Canamex	10/01/74–10/31/75	[illegible]
	11/01/75–05/31/79	'20.28
	12/01/80–11/30/81	'20.28
Pan Canadian	12/01/80–11/30/81	0.35
Pan Canadian/Canamex	12/01/80–11/30/81	[illegible]
Petro-Canada Exploration	08/01/76–06/30/78	0
	12/01/80–11/30/81	0.49
Petrofina	12/01/80–01/31/81	26.90
Petrofina/Canamex	12/01/80–11/30/81	0.05
Petrogas Processing	12/01/73–02/28/74	0
	03/01/74–06/30/78	'0
	12/01/80–11/30/81	'26.90
Petrosul	05/01/78–11/30/81	0
Rampart Resources/Sulbow Minerals	12/01/80–11/30/81	0
Real International	12/01/80–11/30/81	0.81
Sulmar Canada	12/01/80–11/30/81	5.51
Sulpetro (formerly Candel Oil, Ltd.)	12/01/80–11/30/81	'26.90
Suncor, Inc.	12/01/80–11/30/81	26.95
Suncor/Canamex	06/01/75–12/31/75	[illegible]
	01/01/76–05/31/79	'20.28
	12/01/80–11/30/81	20.28
Texaco Canada	12/01/80–11/30/81	26.90
Tiger Chemicals	12/01/80–11/30/81	0
Union Texas	12/01/80–11/30/81	[illegible]
West Decalta Petroleum	12/01/80–11/30/81	'6.90
Westcoast Transmission	12/01/80–11/30/81	'26.90

'No shipments during the period

The Department has concluded that, for the period July 1, 1978 through November 30, 1981, all sales by Canterra Energy, Ltd. were made at not less than fair value. All sales by Pan Canadian Petroleum, Ltd. and Tiger Chemicals, Ltd., with the exception of a few for which we found *de minimis* margins, were made at not less than fair value from January 1, 1979 through November 30, 1981, and from November 1, 1978 through November 30, 1981, respectively.

All sales by Amoco Canada were made at not less than fair value from January 1, 1979 through November 30, 1981. Prior Treasury Department review found that all sales by Amoco were made at not less than fair value from July 1, 1978 through December 31, 1978. All sales of elemental sulphur manufactured by Imperial Oil and exported by Exxon Chemical Americas were made at not less than fair value from March 1, 1977 through November 30, 1981. There have been no known shipments of elemental sulphur to the U.S. from Canada by CDC Oil & Gas, Ltd. since the date of the finding, December 17, 1973, through November 30, 1981. Lastly, Dome Petroleum has not shipped elemental sulphur from Canada to the U.S. from December 17, 1973 through November 30, 1980, and all sales by Dome were made at not less than fair value from December 1, 1980 through November 30, 1981. There is no evidence of any sales at less than fair value by these seven companies since November 30, 1981. As provided for in § 353.54(e) of the Commerce Regulations, all seven firms have agreed in writing to an immediate suspension of liquidation and reinstatement of the finding if circumstances develop which indicate that elemental sulphur produced and/or exported by these companies and thereafter imported into the United States is being sold by them at less than fair value.

Therefore, as a result of our review we also tentatively determine to revoke the finding on elemental sulphur from Canada with respect to Canterra Energy, Ltd., Pan Canadian Petroleum, Ltd., Tiger Chemicals, Ltd., CDC Oil & Gas, Ltd., Dome Petroleum, Ltd., Amoco Canada Petroleum Ltd., and elemental sulphur manufactured by Imperial Oil, Ltd. and exported by Exxon Chemical Americas, Inc. If this partial revocation is made final it will apply to entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 30 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made within 5 days of the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

The Department shall determine, and the U.S. Customs Service shall assess, dumping duties on all appropriate entries made with purchase or export dates during the time periods involved. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue assessment instructions on each exporter directly to the Customs Service.

Further, as provided for in § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties based upon the most recent of the margins calculated above shall be required on all shipments of elemental sulphur by these firms entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results. Since CDC Oil & Gas has not shipped elemental sulphur to the U.S. since the date of the finding, the Department intends not to require cash deposits on shipments by CDC entered after publication of this notice. The Department also intends to waive the cash deposit requirement for Pan Canadian Petroleum, Petro-Canada Exploration, Brimstone Export (except for elemental sulphur produced by Canterra Energy), and Petrofina/Canamex since the weighted-average margins for these firms are less than 0.5 percent and, therefore, *de minimis*. These deposit requirements and waivers shall remain in effect until publication of the final results of the next administrative review.

This administrative review, tentative determination to revoke in part, and notice are in accordance with section 751(a)(1) and (c) of the Tariff Act (19 U.S.C. 1675(a)(1), (c)) and §§ 353.53 and 353.54 of the Commerce Regulations (19 CFR 353.53, 353.54).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

December 17, 1982.

[FR Doc. 82-34972 Filed 12-23-82; 8:45 am]

BILLING CODE 3510-25-M

Fish Netting of Man-Made Fibers From Japan; Revised Preliminary Results of Administrative Review of Antidumping Finding and Tentative Determination to Revoke in Part

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of revised Preliminary Results of Administrative Review of Antidumping Finding and Tentative Determination to Revoke in Part.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping finding on fish netting of man-made fibers from Japan. The review covers 74 of the 81 known manufacturers, exporters, and third-country resellers of this merchandise to the United States and varying time periods through May 31, 1980.

We originally published preliminary results of this review on May 5, 1981. interested parties were given an opportunity to comment and we held a hearing on June 12, 1981. Based on the comments received we permitted various firms to rectify specific deficiencies in their responses or, in the cases of firms initially not responding, to furnish the Department with the requested information.

As a results of the review of all of the information submitted (including the supplemental responses), the Department has preliminarily determined to assess dumping duties for certain firms equal to the calculated differences between United States price and foreign market value on each of their shipments during the periods reviewed. Where company-supplied information was inadequate or no information was received, the Department has used the best information available. The Department also has tentatively determined to revoke the finding with respect to such fish netting manufactured and exported by Moribun Shoten. This firm made all sales to the United States at not less than fair value for at least two years. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: December 27, 1982.

FOR FURTHER INFORMATION CONTACT: Harry A. Patrick or David R. Chapman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, Telephone: (202) 377-2923.

SUPPLEMENTARY INFORMATION:

Background

On June 9, 1972, a dumping finding with respect to fish netting of man-made fibers from Japan was published in the **Federal Register** as Treasury Decision 72-158 (37 FR 11560). On May 5, 1981 the Department of Commerce ("the Department") published in the **Federal Register** (46 FR 25118-20) its preliminary results of its administrative review of this finding. Interested parties were given an opportunity to comment on the preliminary results and the Department

held a hearing on June 12, 1981. As a result of comments received, the Department decided to allow certain firms to submit additional data. These revised preliminary results incorporate changes on the supplementary submissions. The substantive provisions of the Antidumping Act of 1921 ("the 1921 Act") and the appropriate Customs Service regulations apply to all unliquidated entries made prior to January 1, 1980.

Scope of the Review

Imports covered by the review are shipments of fish netting of man-made fibers, currently classifiable under items 355.4520 and 355.4530 of the Tariff Schedules of the United States Annotated (TSUSA).

The Department knows of a total of 81 manufacturers, exporters, and third-country resellers of Japanese fish netting of man-made fibers to the United States. This review covers 74 of them for various time periods through May 31, 1980. Different time periods are involved for different firms. We will cover the remaining 7 firms in subsequent reviews. Shipments by the seven firms not covered occurred subsequent to May 31, 1980.

Twelve firms did not export fish netting of man-made fibers to the U.S. during the periods reviewed. The rate for cash deposit of estimated antidumping duties for these firms shall be based on the most recent information for each firm. In the absence of a prior rate for a firm, the cash deposit rate shall be based on the highest rate for responding firms with shipments during the most recent period reviewed.

Forty-four firms failed to respond or provided inadequate responses to our questionnaire. For these non-responsive exporters we used the best information available to determine the assessment rates. The best information available generally is the highest rate for responding firms in each period of non-response or the most recent previous rate for each non-responding firm, whichever is higher. The cash deposit rate shall be based on the most recent rate listed below for each firm.

We received requests from nine importers for revocation of the finding for shipments to them from eleven manufacturers and two trading companies. Three of the eleven manufacturers, Momoi Net Manufacturing Co., Ltd., Moribun Shoten, and Amikan Fishing Net Mfg. Co., Ltd., also requested revocation. Moribun Shoten made all sales to the United States at not less than fair value for at least a two-year period. As provided for by § 353.54(e) of the Commerce Regulations, Moribun Shoten has agreed in writing to an immediate suspension of liquidation and reinstatement of the finding if circumstances develop which indicate that fish netting of man-made fibers manufactured by Moribun Shoten and thereafter imported into the United States is being sold by Moribun at less than fair value. The other two manufacturers, Momoi Net Manufacturing Co., Ltd. and Amikan Fishing Net Mfg. Co., Ltd., did not meet the criteria set forth in § 353.54 of the Commerce Regulations requiring at least a two-year period of sales at not less than fair value. The Department therefore will not consider revocation for these two firms at this time. It is not our practice to revoke when presented with applications by importers because such firms have no control over, nor knowledge of, the prices at which a manufacturer, exporter, or third-country reseller sells the merchandise in its home market or to third countries. The importers therefore cannot assure us that there will be no sales at less than fair value.

United States Price

In calculating United States price the Department used purchase price, as defined in section 772 of the Tariff Act of 1930 ("the Tariff Act") or section 203 of the 1921 Act. Purchase price was based on the CIF, packed price to unrelated purchasers in the United States. Where applicable, deductions were made for ocean freight, marine insurance, and shipping charges. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used the price to unrelated purchasers in Japan, or to unrelated purchasers in countries other than Japan when home market sales were insufficient to be used as a basis for comparison, as defined in section 773 of the Tariff Act or section 205 of the 1921 Act, as appropriate. Foreign market value was based on the packed price with deductions, where applicable, for inland freight, differences in credit, and shipping charges. Further adjustments were made, where applicable, for differences in packing costs and differences in physical characteristics, in accordance with § 353.16 of the Commerce Regulations or § 153.11 of the Customs Regulations. Claimed adjustments for differences in physical characteristics were denied when they were not adequately quantified. An adjustment was claimed for a commission, but not adequately explained; therefore, the claim was disallowed. A claim for differences in profit between sales to the United States and sales in Japan was disallowed because there is no provision in the statute or our regulations for making such an adjustment.

Preliminary Results of the Review and Tentative Determination To Revoke in Part

As a result of our comparison of United States price to foreign market value, we preliminarily determine that the following margins exist:

T2Manufacturer/exporter	Time period	Margin (percent)
Amikan Fishing net Mfg. Co., Ltd.	12/1/78–5/31/79	0.53
	6/1/79–5/31/80	0
Amsho Kabushiki Kaisha, Ltd	5/1/71–5/31/80	[1]4.30
Amita Company, Ltd.	9/1/76–12/31/76	7.70
	1/1/77–5/31/80	19.19
Arai Gomi K.K.	5/1/71–5/31/80	[1]4.30
Daiei Housing Co., Ltd.	1/1/76–8/31/76	4.30
	9/1/76–12/31/76	7.70
	1/1/77–5/31/80	19.19
Fukuda Shoten	5/1/71–5/31/80	[1]4.30
Fukui Fishing Net Co., Ltd.	4/1/78–5/31/79	2.41
	6/1/79–5/31/80	1.94
Hakodate Seimo Sengu Co., Ltd.	10/1/76–5/31/79	[illegible]
	6/1/79–5/31/80	0.66
Hakodate Seimo Sengu Co., Ltd., Mitsui & Co., Ltd.	9/1/76–9/30/76	7.70
	10/1/76–5/31/79	[illegible]
	6/1/79–5/31/80	0.66
Hashimoto	5/1/71–8/31/76	4.30
	9/1/76–12/31/76	7.70

T2Manufacturer/exporter	Time period	Margin (percent)
	1/1/77-5/31/80	19.19
Hiraga Fishing Net Mfg. Co., Ltd	5/1/71-5/31/80	[illegible]4.30
Hiraga Fishing Mfg. Co., Ltd./Sanyo Enterprises Co., Ltd	5/1/1-8/31/76	4.30
	9/1/76-12/31/76	7.70
	1/1/77-5/31/80	19.19
Hiraga Fishing Net Mfg. Co., Ltd./Yamada Trading Co., Ltd	1/1/77-5/31/80	0
Hirata Spinning Co., Ltd	4/1/78-5/31/80	6.07
Hirata Spinning Co., Ltd./Nichimen Co., Ltd	4/1/75-8/31/76	[illegible]
	9/1/76-12/31/76	7.70
	1/1/77-5/31/80	19.19
Hirose Tankichi Shoten	5/1/71-5/31/80	[illegible]4.30
Ikesen K.K	5/1/71-8/31/76	4.30
	9/1/76-12/31/76	7.70
	1/1/77-5/31/80	19.19
I.K.K. International Corp	1/1/79-5/31/80	6.07
Inagaki Fishing Net Mfg. Co., Ltd.	9/1/76-5/31/80	[illegible]4.30
Inagaki Fishing Net Mfg. Co., Ltd./Nichimen Co., Ltd	9/1/76-5/31/80	[illegible]
Ideka General Kogyo	9/1/76-12/31/76	7.70
	1/1/77-5/31/80	19.19
Itoh-Seni Mfg. Co., Ltd	5/1/71-5/31/80	0
Itoh-Seni Mfg. Co., Ltd./Yamada Trading Co., Ltd	1/1/77-5/31/80	[illegible]
Japan Manne Material Co., Ltd	1/1/79-5/31/80	6.07
Japan Mdse., Ltd	6/1/73-8/31/76	4.30
	9/1/76-12/31/76	7.70
	1/1/77-5/31/80	19.19
Kanematsu Trading, Ltd	1/1/80-5/31/80	1.94
Kasumi Fishing Net Mfg., Ltd	5/1/71-8/31/76	4.30
	9/1/76-12/31/76	7.70
	1/1/77-5/31/80	19.19
Kasumi Fishing Net Mfg. Co., Ltd./Sanyo Enterprises Co., Ltd	5/1/71-8/31/76	[illegible]
	9/1/76-12/31/76	7.70
	1/1/77-5/31/80	19.19
Kataoka Seimo Co., Ltd./Horunike Seimo Co., Ltd./K.Y. Corp	5/1/71-5/31/80	0
Kinoshita Fishing Net Mfg. Co., Ltd	4/1/79-5/31/80	[illegible]4.30
Kinoshita Fishing Net Mfg. Co., Ltd/Nissho Iwai Corp	4/1/79-5/31/80	[illegible]
Kyoto Netting Co., Ltd	4/1/78-5/31/80	[illegible]6.70
Makino	5/1/71-8/31/76	4.30
	9/1/76-12/31/76	7.70
	1/1/77-5/31/80	19.19
Maruhei & Co	6/1/73-8/31/76	4.30
	9/1/76-12/31/76	7.70
	1/1/77-5/31/80	19.19
Miye Seimo Co., Ltd	4/1/79-5/31/80	0.11
Miye Seimo Co., Ltd./Nichimen Co., Ltd	7/1/73-8/31/76	4.30
	9/1/76-12/31/76	7.70
	1/1/77-5/31/80	19.19
Momoi Fishing Net Mfg. Co., Ltd	9/1/76-5/31/80	7.70
Monbun Shoten	5/1/71-5/31/80	[illegible]
Monnin Co., Ltd	5/1/71-8/31/76	4.30
	9/1/76-12/31/767.70	
	1/1/77-5/31/80	19.19
Morishita Fishing Net Mfg. Co., Ltd	6/1/73-8/31/76	4.30
	9/1/76-12/31/76	7.70
	1/1/77-5/31/80	19.19
Morishita Fishing Net Mfg. Co., Ltd./Mitsui & Co., Ltd	9/1/76-12/31/76	7.70
	1/1/77-5/31/80	19.19
Morishita Fishing Net Mfg. Co., Ltd./Nissho Iwai Corp	4/1/78-5/31/79	0.52
	6/1/79-5/31/80	[illegible]0.52
Nagaura Seimosho Co., Ltd	5/1/71-5/31/80	[illegible]
Nakazawa Gyomo Co., Ltd	7/1/78-5/31/80	6.70
Nichimo Co., Ltd	9/1/76-5/31/79	6.07
	6/1/79-5/31/80	0
Nikka (Mitsui)	7/1/75-8/31/76	4.30
	9/1/76-9/31/76	7.70
	10/1/76-5/31/79	[illegible]
	6/1/79-5/31/80	[illegible]
Nippon Kenmo Co., Ltd	1/1/77-5/31/80	19.19
Nitto Seimo Co., Ltd	4/1/78-5/31/80	[illegible]0
Ogura Trading Co., Ltd	9/1/76-5/31/80	[illegible]4.30
Ohmi Netting Co., Ltd	9/1/76-5/31/80	[illegible]
Ohmi Netting Co., Ltd./Mitsui & Co., Ltd	9/1/76-5/31/80	[illegible]
Ono Trading	4/1/78-5/31/80	[illegible]6.07
Onu Netting	9/1/76-12/31/76	7.70
	1/1/77-5/31/80	19.19
Osada Fishing Net Mfg. Co., Ltd	9/1/76-5/31/80	[illegible]4.30
Osada Fishing Net Mfg. Co., Ltd./Nichimen Co., Ltd	4/1/76-5/31/80	[illegible]
Sakakura Net Kogyosho	9/1/76-12/31/76	7.70
	1/1/77-5/31/80	[illegible]
Shindo Kogyo, K.K	9/1/76-12/31/76	7.70
	1/1/77-5/31/80	[illegible]
Shinwa Trading Co., Ltd	7/1/78-5/31/80	0
Taito Seiko Co., Ltd	9/1/76-12/31/76	7.70
	1/1/77-5/31/80	[illegible]
Taiyo Gyogyo Kabushiki Kaisha	1/1/80-5/31/80	6.07
Tame Bussan Co., Ltd	7/1/78-5/31/80	6.07
Tecneta Co	5/1/71-5/31/80	0
Toyama Fishing Net Mfg. Co., Ltd	4/1/78-5/31/80	0
Toyonen Co., Ltd	4/1/78-5/31/80	[illegible]
Wako Boeki K.K	5/1/71-5/31/80	[illegible]
Watanabe Chozen Shoten	9/1/76-12/31/76	7.70
	1/1/77-5/31/80	19.19
Yagi Fishing Net Co., Ltd	5/1/71-8/31/76	[illegible]
	9/1/76-12/31/76	7.70

T2Manufacturer/exporter	Time period	Margin (percent)
	1/1/77–5/31/80	[illegible]
Yamagen	5/1/71–8/31/76	[illegible]
	9/1/76–12/31/76	[illegible]
	1/1/77–5/31/80	[illegible]
Yamaji Fishing Net Mfg. Co., Ltd	2/1/76–8/31/76	[illegible]
	9/1/76–12/31/76	[illegible]
	1/1/77–5/31/80	[illegible]
Third-Country Reseller (Canada)		
Abco Acadia	7/1/78–5/31/80	[illegible]
Atlantic Netting, Rope & Twine, Ltd	1/1/77–5/31/80	[illegible]
Bay Bulls Trading Co., Ltd	1/1/80–5/31/80	[illegible]
Dennis Ross	7/1/78–5/31/80	[illegible]
Gourock Division, Wire Rope Ind., Ltd	7/1/74–8/31/76	[illegible]
	9/1/76–12/31/76	7.70
	1/1/77–5/31/80	[illegible]
Industrial Marine Products	1/1/72–8/31/76	[illegible]
	9/1/76–12/31/76	7.70
	1/1/77–5/31/80	[illegible]
John Leckie, Ltd	1/1/76–8/31/76	[illegible]
	9/1/76–12/31/76	7.70
	1/1/77–5/31/80	19.19
J. P. Forgie, Ltd	1/1/76–8/31/76	[illegible]
	9/1/76–12/31/76	7.70
	1/1/77–5/31/80	19.19
Maxwell Calder	7/1/78–5/31/80	[illegible]
Prince Rupert Fishermen's Co-operative Ass'n	1/1/79–5/31/80	[illegible]
Puretec Supplies Co., Ltd	1/1/75–8/31/76	4.30
	9/1/76–12/31/76	7.70
	1/1/77–5/31/80	19.19

[1] No shipments during the period.

Also as a result of our review we tentatively determine to revoke the antidumping finding on fish netting of man-made fibers from Japan with regard to such fish netting manufactured and exported by Moribun Shoten. If this revocation is made final, it shall apply to all unliquidated entries of this merchandise manufactured and exported by Moribun Shoten entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 30 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

The Department shall determine, and the U.S. Customs Service shall assess, dumping duties on all appropriate entries with purchase dates during the time periods involved. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue assessment instructions on each exporter directly to the Customs Service.

Further, as provided for in § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties based upon the most recent of the margins calculated above shall be required on all shipments of Japanese fish netting of man-made fibers from these firms entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results. The Department waives the deposit requirements for Inagaki Fishing Net Mfg. Co., Ltd. (exporter Nichimen Co., Ltd.) and Miye Seimo Co., Ltd. since their margins are less than 0.5 percent and therefore *de minimis*. These deposit requirements and waivers shall remain in effect until publication of the final results of the next administative review.

This administrative review, tentative determination to revoke in part, and notice are in accordance with sections 751(a)(1) and (c) of the Tarriff Act (19 U.S.C. 1675(a)(1), (c)) and §§ 353.53 and 353.54 of the Commerce Regulations (19 CFR 353.53, 353.54).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

December 17, 1982.

[FR Doc. 82-34971 Filed 12-23-82; 8:45 am]

BILLING CODE 3510-25-M

Float Glass From the Federal Republic of Germany; Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Countervailing Duty Order.

SUMMARY: The Department of Commerce is issuing a countervailing duty order regarding imports of float glass from the Federal Republic of Germany. A cash deposit of estimated duties will be required in the amount of 1.20 percent of the f.o.b. invoice price on future entries of float glass from the Federal Republic of Germany.

EFFECTIVE DATE: December 27, 1982.

FOR FURTHER INFORMATION CONTACT: Stephen Nyschot or Richard Moreland, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377–2786.

SUPPLEMENTARY INFORMATION:

Background

On January 7, 1976, the Treasury Department published a negative "Notice of Final Countervailing Duty Determination" with respect to float glass from the Federal Republic of Germany ("the FRG") (41 FR 1300). The petitioners challenged that determination in court and on November 19, 1979, the Court of Customs and Patent Appeals ("the C.C.P.A.") ruled that bounties or grants within the meaning of section 303 of the Tariff Act of 1930 ("the Tariff Act") had been given on float glass from the FRG, and remanded the case to the Customs Court, now the Court of International Trade ("the C.I.T."), for action not inconsistent with its decision (67 C.C.P.A. 11, C.A.D. 1237, 610 F.2d 770 (1979)). Liquidation of entries was suspended following the C.C.P.A.'s decision.

In a subsequent decision of August 21, 1981 (69 C.C.P.A. ——, 657 F.2d 1226),

the C.C.P.A. clarified its earlier opinion, stating that the C.I.T. is the appropriate forum for determining "what the net bounty or grant is or, at least, the method by which it is to be determined." The case has been pending before the C.I.T. since that time.

The authority for administering the countervailing duty law was transferred from the Treasury Department to the Department of Commerce ("the Department") by Reorganization Plan No. 3 of 1979, effective January 2, 1980.

Section 104(b) of the Trade Agreements Act of 1979 ("the TAA") provides that the government of a "country under the Agreement," as defined by section 701(b) of the Tariff Act, or exporters of merchandise covered by certain countervailing duty orders, may request an injury determination by the International Trade Commission ("the ITC"). Section 104(b)(1)(C) of the TAA states that a countervailing duty order "which is in effect on January 1, 1980, or which is issued pursuant to a court order in an action brought under section 516(b) of [the Tariff Act] before that date" is eligible for an injury determination.

Since the FRG is a "country under the Agreement," and the pending litigation was commenced prior to January 1, 1980, any order issued pursuant to the C.C.P.A. decision in this case would be eligible for an injury determination under section 104(b) of the TAA. However, the request for an injury review must be submitted to the ITC within three years after the effective date of title VII of the Tariff Act, which became effective on January 1, 1980.

Scope of the Proceeding

The merchandise covered by this proceeding is flat glass manufactured by the float process. Such glass may be either tinted or clear and is produced in a wide variety of sizes ranging from 0.125" to 1' in thickness. Such glass is currently classifiable under items 543.2100 through 543.6900 of the Tariff Schedules of the United States Annotated. Entries of float glass which has been substantially further manufactured or modified (e.g., into tempered glass or laminated glass) are not subject to this countervailing duty proceeding.

The programs which form the basis for the estimated deposit of countervailing duties identified below are:

Tax credits under the Coal Mining Adjustment Law

Grants from the Land Government of North Rhine-Westphalia

Loans under the European Recovery Program

Loans from the Federal Department of Labor

Countervailing Duty Order

The Department issues this countervailing duty order with respect to float glass form the FRG to remove any procedural impediments to a section 104(b) review which might exist if an order is not issued before January 1, 1983. Moreover, in issuing an order and requiring that estimated duties be collected on future entries, the revenues of the United States will be preserved pending the outcome of the present litigation. This order is based on the C.C.P.A.'s opinion in C.A.D. 1237, which held that a bounty or grant had been bestowed, directly or indirectly, upon the manufacture, production, or exportation of float glass from the FRG.

We are also instructing the Customs Service to collect a cash deposit of countervailing duties in the amount of 1.20 percent of the f.o.b. invoice price on shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. Customs officers shall continue the suspension of liquidation of entries of float glass from the FRG.

Order Subject to Modifications by the Court

We are mindful that the C.C.P.A. explicitly held that the C.I.T. must determine either the actural amount of the bounty or grant bestowed upon the subject merchandise or the methodology to be applied in calculating that amount. The C.C.P.A. also stated that while these matters were pending before the C.I.T., "we assume that no administrative action will be taken to determine the net bounty or grant." This notice does not determine the net amount to be assessed. The estimated duties set in this order are simply to be collected while the issues are pending before the C.I.T. The actual duties will not be determined until the Department conducts a section 751 review, and the Department will defer such a review until the litigation in the C.I.T. is concluded. Any rights of the domestic producers who originally petitioned for relief in this proceeding and who are the plaintiffs in the pending litigation will not be prejudiced in any way because no assessment of duties or liquidation of entries will occur until the referenced litigation ends. Rather, this order will only have the effect of allowing the government of the FRG and exporters of the subject merchandise an opportunity to exercise legal rights which might otherwise expire.

Dated: December 21, 1982.

Lawrence J. Brady,

Assistant Secretary for Trade Administration.

[FR Doc. 82-34974 Filed 12-23-82; 8:45 am]

BILLING CODE 3510-25-M

Float Glass From the United Kingdom; Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Countervailing Duty Order.

SUMMARY: The Department of Commerce is issuing a countervailing duty order regarding imports of float glass from the United Kingdom. A cash deposit of estimated duties will be required in the amount of 1.54 percent of the f.o.b. invoice price on future entries of float glass from the United Kingdom.

EFFECTIVE DATE: December 27, 1982.

FOR FURTHER INFORMATION CONTACT: Stephen Nyschot or Richard Moreland, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On December 22, 1975, the Treasury Department published a negative "Notice of Final Countervailing Duty Determination" with respect to float glass from the United Kingdom (40 FR 59227). The petitioners challenged that determination in court and on November 19, 1979, the Court of Customs and Patent Appeals ("the C.C.P.A.") ruled that bounties or grants within the meaning of section 303 of the Tariff Act of 1930 ("the Tariff Act") had been given on float glass from the United Kingdom, and remanded the case to the Customs Court, now the Court of International Trade ("the C.I.T."), for action not inconsistent with its decision (67 C.C.P.A. 31, C.A.D. 1238, 610 F.2d 785 (1979)). Liquidation of entries was suspended following the C.C.P.A.'s decision.

In a related decision of August 21, 1981 (68 C.C.P.A. ——, 657 F.2d 1226), regarding float glass from the Federal Republic of Germany, the C.C.P.A. clarified its opinion in C.A.D. 1237, which was a companion case of C.A.D. 1238, stating that the C.I.T. is the appropriate forum for determining "what the net bounty or grant is or, at least, the method by which it is to be determined." The case has been pending before the C.I.T. since that time.

The authority for administering the countervailing duty law was transferred from the Treasury Department to the Department of Commerce ("the Department") by Reorganization Plan No. 3 of 1979, effective January 2, 1980.

Section 104(b) of the Trade Agreements Act of 1979 ("the TAA") provides that the government of a "country under the Agreement," as defined by section 701(b) of the Tariff Act, or exporters of merchandise covered by certain countervailing duty orders, may request an injury determination by the International Trade Commission ("the ITC"). Section 104(b)(1)(C) of the TAA states that a countervailing duty order "which is in effect on January 1, 1980, or which is issued pursuant to a court order in an action brought under section 516(b) of [the Tariff Act] before that date" is eligible for an injury determination.

Since the United Kingdom is a "country under the Agreement," and the pending litigation was commenced prior to January 1, 1980, any order issued pursuant to the C.C.P.A. decision in this case would be eligible for an injury determination under section 104(b) of the TAA. However, the request for an injury review must be submitted to the ITC within three years after the effective date of title VII of the Tariff Act, which became effective on January 1, 1980.

Scope of the Proceeding

The merchandise covered by this proceeding is flat glass manufactured by the float process. Such glass may be either tinted or clear and is produced in a wide variety of sizes ranging from 0.125" to 1" in thickness. Such glass is currently classifiable under items 543.2100 through 543.6900 of the Tariff Schedules of the United States Annotated. Entries of float glass which has been substantially further manufactured or modified (e.g., into tempered glass or laminated glass) are not subject to this countervailing duty proceeding.

The programs which form the basis for the estimated deposit of countervailing duties identified below are:

Investment grants
Building grants
Regional development grants
Selective assistance grants (worker training and location)

Countervailing Duty Order

The Department issues this countervailing duty order with respect to float glass for the United Kingdom to remover any procedural impediments to a section 104(b) review which might exist if an order is not issued before January 1, 1983. Moreover, in issuing an order and requiring that estimated duties be collected on future entries, the revenues of the United States will be preserved pending the outcome of the present litigation. This order is based on the C.C.P.A.'s opinion in C.A.D. 1238, which held that a bounty or grant had been bestowed, directly or indirectly, upon the manufacture, production, or exportation of float glass from the United Kindom.

We are also instructing the Customs Service to collect a cash deposit of countervailing duties in the amount of 1.54 percent of the f.o.b. invoice price on shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. Customs officers shall continue the suspension of liquidation of entries of float glass from the United Kingdom.

Order Subject to Modification by the Court.

We are mindful that the C.C.P.A. explicity held at the C.I.T. must determine either the actual amount of the bounty or grant bestowed upon the subject merchandise or the methodology to be applied in calculating that amount. The C.C.P.A. also stated that while these matters were pending before the C.I.T., "we assume that no administrative action will be taken to determine that net bounty or grant." This notice does not determine the net amount to be assessed. The estimated duties set in this order are simply to be collected while the issues are pending before the C.I.T. The actual duties will not be determined until the Department conducts a section 751 review, and the Department will defer such a review until the litigation in the C.I.T. is concluded. Any rights of the domestic producers who originally petitioned for relief in this proceeding and who are the plaintiffs in the pending litigation will not be prejudiced in any way because no assessment of duties or liquidation of entries will occur until the referenced litigation ends. Rather, this order will only have the effect of allowing the government of the United Kingdom and exporters of the subject merchandise an opportunity to exercise legal rights which might otherwise expire.

Dated: December 21, 1982.

Lawrence J. Brady,

Assistant Secretary for Trade Administration.

[FR Doc. 82-34973 Filed 12-23-82; 8:45 am]

BILLING CODE 3510-25-M

Small Diameter Welded Carbon Steel Pipes and Tubes From Brazil; Suspension of Investigation

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Suspension of Investigation.

SUMMARY: The Department of Commerce has decided to suspend the countervailing duty investigation involving small diameter welded carbon steel pipes and tubes welded pipe and tube) from Brazil. The basis for the suspension is an agreement by the government of Brazil to offset with an export tax all benefits which we find to be subsidies on exports of the subject product to the United States.

EFFECTIVE DATE: December 27, 1982.

FOR FURTHER INFORMATION CONTACT: Francis R. Crowe, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, telephone: (202) 377-3003.

SUPPLEMENTARY INFORMATION:

Case History

On May 7, 1982, the Department of Commerce (the Department) received a petition from United States Steel Corporation (U.S. Steel) filed on behalf of the U.S. industry producing small diameter welded carbon steel pipes and tubes. The petition alleged that certain benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act), are being provided, directly or indirectly, to the manufacturers, producers, or exporters in Brazil of welded pipe and tube.

We found the petition to contain sufficient grounds upon which to initiate a countervailing duty investigation, and on May 27, 1982, we initiated a countervailing duty investigation (47 FR 24168). We stated that we expected to issue a preliminary determination by August 2, 1982. We subsequently determined that the investigation was "extraordinarily complicated," as defined in section 703(c) of the Act, and postponed our preliminary determination for 65 days until October 4, 1982 (47 FR 32758).

We presented a questionnaire concerning the allegations to the government of Brazil in Washington, D.C. On September 9, 1982, we received the response to the questionnaire. During November 10–12, 1982, we verified this information by a review of government documents and company

books and records of Persico Pizzamiglio S.A. (PERSICO) and Industria Brasileira de Tubos S.A. (IBT), which represented over 90 percent of exports of welded pipe and tube to the United States.

On October 4, 1982, we preliminarily determined that the government of Brazil was providing subsidies to manufacturers, producers, or exporters of welded pipe and tube under four programs. The programs preliminarily found to confer subsidies were the IPI export credit premium, preferential working capital financing for exports, an income tax exemption for export earnings, and long-term loans.

Notice of the preliminary affirmative countervailing duty determination was published in the **Federal Register** on October 12, 1982 (47 FR 44814). We directed the U.S. Customs Service to suspend liquidation of all entries of the subject merchandise, entered or withdrawn from warehouse, for consumption on or after October 12, 1982, and to require a cash deposit or bond in the amount of 12.95 percent of the f.o.b. value of the merchandise.

On November 19, 1982, the Department initiated a proposed agreement to suspend the countervailing duty investigation involving welded pipe and tube from Brazil. The basis for the proposed agreement to suspend was that the government of Brazil would offset by an export tax the entire amount of benefits we found to confer subsidies on exports of welded pipe and tube to the United States.

On the same date, in compliance with the procedural requirements of section 704(e) of the Act, we discussed with the petitioner and counsel for Bethlehem Steel the terms of the proposed agreement and provided a copy of the proposed agreement to them.

Scope of the Investigation

The product covered by this investigation is small diameter welded carbon steel pipes and tubes manufactured in Brazil and exported, directly or indirectly, from Brazil to the United States. The term *"small diameter welded carbon steel pipes and tubes"* covers welded carbon steel pipes and tubes with walls not thinner than 0.065 of an inch, of circular cross section and 0.375 of an inch or more in outside diameter but not more than 16 inches as currently provided for in items 610.3206, 610.3209, 610.3231, 610.3232, 610.3241, 610.3244, and 610.3247 of the *Tariff Schedules of the United States Annotated (TSUSA).* Pipes or tubes suitable for use in boilers, superheaters, heat exchangers, condensers, and feedwater heaters, or conforming to A.P.I. specifications for oil well tubing, with or without couplings, cold drawn pipes and tubes and cold-rolled pipes and tubes with wall thickness not exceeding 0.1 inch are *not included.*

The period for which we are measuring subsidization is calendar year 1981.

Changes Since the Preliminary Determination

A. *IPI export credit premium.* Our preliminary determination on this program was based on IPI credits recieved November 1981. The credits received in that month were traced to the appropriate shipment which may have taken place two to three months before. At the verification we sampled a second month, January 1982, in order to substantiate the calculation of the "adjusted" f.o.b. value of shipments which serves as the basis for determining the amount of IPI credits that can be received for those shipments. Because of the two to three month period between shipment and receipt of the credit, receipts for January 1982 represented shipments in the period of investigation. The value of the IPI credits received for November 1981 and January 1982 (based on a nominal rate of 15 percent) were 10.02 and 11.27 percent, respectively. Based upon this information we calculated a weighted-average subsidy value of 10.82 percent.

For purposes of the suspension agreement, we are calculating the appropriate export tax by prorating the IPI credit found on all welded pipe and tube shipments by the current rate for the IPI credit of 11.0 percent.

B. *Long-term loans.* We stated in our preliminary determination that the benefit of certain partially-indexed long-term loans was the amount of interest payments saved during the period of investigation because of the favorable terms of the loans. We have since discovered that recipients of these loans also benefit from forgiveness of some of the principal over the life of the loan. The subsidy amount for these partially-indexed long-term loans was calculated by comparing the principal and interest actually paid by the company in 1981 with the principal and interest that would have been paid if the loan had been fully indexed. The fact that the amounts of loan payments are adjusted on a quarterly basis, because of indexing, requires that they be valued on a year-by-year basis as opposed to taking the present value of the stream of benefits in the year the preferential loan was made. We determined the subsidy amount of a partially-indexed loan on a year-by-year basis, accounting for the indexation and the forgiveness of principal.

Petitioner's Comments

The Department has consulted with the petitioner, United States Steel Corporation, as well as counsel for Bethlehem Steel Corporation, an interested party, and received the following comments from U.S. Steel objecting to the proposed suspension agreement. Our responses are shown for each comment.

Procedural Issues

Comment 1

U.S. Steel contends that the Department does not have authority to suspend the investigation since we have not complied with the notice requirements of subsections 704 (e) (1) and (2) of the Act. The petitioner takes the view that the Department must give the required notice and explanation before the petitioner's right to consult arises. Further, U.S. Steel contends that actual consultation between petitioners and the Department must take place not less than 30 days before the investigation is suspended.

DOC Position

We have complied fully with the requirements of subsection 704(e) (1) and (2) of the Act. These provisions require that the Department notify the petitioner of, and consult with petitioner concerning, its intention to suspend the investigation not less than 30 days before the date of suspension, and provide a copy of the proposed agreement to the petitioner at the time of notification, together with the required explanation. The proposed suspension agreement was initialed on November 19, 1982, 31 days before the last day on which the Department could suspend the investigation. On November 19, the date of initialing, DOC staff telephoned the petitioner (and counsel for Bethlehem Steel) to discuss with them the proposed agreement, and to answer any questions about the proposed agreement (including questions on methodology). The petitioner and counsel for Bethlehem Steel were provided a copy of the proposed agreement on November 19.

By its terms, the suspension agreement will offset completely the net subsidy, and *a fortiori* eliminates any injury caused by the net subsidy, without the added expense to U.S. taxpayers, the petitioner, and respondent of completing the investigation. Effective monitoring is practicable under paragraph C of the agreement which requires the

government of Brazil to permit such verification and data collection as the Department requests to monitor the agreement. Paragraph C also imposes comprehensive reporting requirements on the government of Brazil which will help ensure effective monitoring. The Department's monitoring efforts for the most part will occur during yearly section 751 administrative reviews. These are conducted in the same manner as reviews of a countervailing duty order. The statutory requirements of notice, consultation and explanation were met in this case.

Comment 2

U.S. Steel asserts that the suspension agreement does not ban outright any new subsidies and that the prohibition of substitute subsidies serves only to deter the Brazilian government from returning to Brazilian welded pipe and tube producers the proceeds of the export tax.

DOC Position

The suspension agreement requires the government of Brazil to offset *completely*, by the imposition of an export tax, the amount of the net subsidy determined by the Department in this proceeding to exist with respect to welded pipe and tube exports to the United States.

Under paragraph C.5 of the agreement the government of Brazil is required to promptly notify the Department, with appropriate documentation, of any change in the amount of benefits to the subject product, of any change in the rate of the export tax, or if it decides to alter or terminate its obligations with respect to any of the terms of the agreement. Pursuant to paragraph B.1 the Department is required to officially notify the government of Brazil of any determination that affects the amount of the export tax.

Thus, the Department, through its quarterly monitoring and section 751 administrative reviews, will periodically redetermine whether particular programs constitute subsidies. If the Department determines that the agreement has been violated, the Department may terminate the agreement and resume the investigation, or issue an order.

Subsidy Issues.

Comment 1

U.S. Steel and counsel for Bethlehem Steel contend that the Department's elasticity analysis, correctly applied, demonstrates that subsidies to Brazilian welded pipe and tube producers' domestic suppliers of carbon steel coil are passed through to the pipe producers. Further, petitioner cites the case on *Tomato Products from Greece* where the Department imposed a countervailing duty on the products of tomato processors equal to the amount of aid received to compensate for the difference in price between the EC tomatoes purchased and the cheaper non-EC tomatoes.

DOC Position

Benefits bestowed upon the manufacture of an input do not necessarily flow down to the purchaser of that input if the sale is transacted at arm's length. When sales transactions are made at arm's length, economic considerations are also taken into account to determine if a benefit received by a seller would be passed on to the purchaser.

At verification we determined that the price charged for coil manufactured in Brazil is equal to or greater than the price for imported coil. It makes no economic sense for the Department to find that a subsidy exists simply because an exporter chose one source of supply over another where no price differential exists. Since alternate suppliers are availabe to producers of welded pipe and tube, and there is no evidence of a pricing pattern by Brazilian producers of coil which undercuts f.o.b. prices available from foreign suppliers, there is no reason to believe that any subsidies which may have been conferred upon producers of coil have been passed through to producers of welded pipe and tube. This situation is quite distinct from the facts in the case on *Tomato Products from Greece* where the Department imposed a countervailing duty on the products of tomato processors equal to the amount of aid received by such producers to compensate for the difference in price between the EC tomatoes purchased and the cheaper non-EC tomatoes. The Brazilian government does not compensate domestic producers of welded pipe and tube for the difference in purchase price between the Brazilian coil and the cheaper non-Brazilian coil.

Comment 2

U.S. Steel asserts that in calculating the net subsidy under Resolution 674 financing the Department used an incorrect benchmark. They state that when using the rate for discounting accounts receivable the Department must factor in a compensating balance (although illegal in Brazil) to determine an effective interest rate.

DOC Position

In determining a national benchmark, the Department chose the Banco do Brasil rate because prior case precedent and statements of the government of Brazil suggests that this is the appropriate standard. As the largest single banking entity in Brazil (representing 35–40 percent of all banking assets), the Banco do Brasil acts as a price leader from which the rates of other banks vary. Documents received at verfication support our preliminary determination in several respects. First, the annual Banco do Brasil discount rate is 59.6 percent, as claimed; numerous banks, both state-owned and private, discount receivables at rates near (both above and below) the rate set by the Banco do Brasil. During the period of investigation both companies discounted a significant percentage of their domestic accounts receivable with a wide variety of banks, and used this facility as the chief method of raising working capital. During verification, we found no evidence of compensating balances in company records; the amount received by the company after discounting a receivable was the value of the receivable minus the discount rate, the Tax on Financial Transactions (IOF) and small commission.

Comment 3

In its post-hearing brief, U.S. Steel made a claim that the Department's benchmark for long-term loans does not account for all of the costs to Brazilian companies of borrowing abroad. U.S. Steel cites two examples: the government of Brazil's periodic restrictions on the disbursement of foreign loans including compulsory deposits for several months and staggered release of funds, and the hedging engaged in by Brazilian companies against the risk of maxidevaluation.

DOC Position

In constructing our benchmark for long-term loans, we did not examine such additional costs as commitment fees, delayed disbursement, contracting and closing expenses, etc. Absent an allegation by the time of the verification that such costs would cause a distortion in our comparison between long-term cruzeiro loans and the benchmark, we did not investigate the impact of these costs. Should we determine that this issue requires further investigation, we will address it during our section 751 administrative review.

Comment 4

U.S. Steel and counsel for Bethlehem Steel argue that, without the availability of long-term cruzeiro loans from BNDE and FINAME, firms would have to borrow short-term. In particular, they claim that a short-term line of credit can be transformed into a longer-term arrangement because short-term financing is often rolled over, effectively turning it into long-term, variable-rate financing. Therefore, in the absence of a benchmark for long-term cruzeiro loans, the Department should use as a benchmark the interest rate on short-term cruzeiro loans, which serve as a measure of long-term interest rates.

DOC Position

We do not consider short-term interest rates and long-term interest rates comparable because they reflect different types of borrower needs and different degrees of risk on the part of the lender.

A short-term line of credit, even if constantly renewed over a long period of time, is still short-term financing. It provides working capital on an ongoing basis, and the borrower's need, the lender's risk and the rate of interest are subject to constant re-evaluation which may lead to readjustments. Such is not the case with a long-term loan. At the outset, need and risk must be determined. Generally, the funds from a long-term loan are disbursed early on to finance major expenditures, such as capital equipment with a long useful life, and a borrower cannot meet these needs through short-term credit lines.

Further, short-term interest rates may be very volatile, reflecting ongoing changes in the credit markets and government monetary policy. Long-term interest rates change more gradually and, as one would expect, the rise in interest rates for short-term borrowing in Brazil since early 1981 has also led to a notable, though less dramatic, rise in the real interest rate on long-term loans.

Comment 5

Counsel for Bethlehem Steel has noted that with the decline in imports of steel into Brazil in 1982, it is unlikely that the import content of exports of welded pipe and tube, in 1982, has exceeded the 25 percent level that would lead to a reduction in the value of the IPI export credit premium on these exports. Accordingly, counsel urged that we use the nominal rate of the IPI export credit premium, verified by the Department to be received by welded pipe and tube manufacturers in 1982, in determining the benefits bestowed under this program.

DOC Position

General statistics of imports of steel into Brazil are not a relevant indicator of the import content of welded pipe and tube exports. The average import content of total exports does not determine the amount of the IPI export credit premium received on exports of a product. The deduction for imported coil in the calculation of the amount of the IPI export credit premium received is done on a *shipment-by-shipment* basis. The amount of the benefit received under this program is the sum of the IPI credits earned on all shipments divided by the total value of those shipments.

Further, we cannot take into account conjecture about what may have occurred with respect to the import content of a company's welded pipe and tube exports in 1982. Whatever the situation, it will be addressed during a section 751 administrative review.

In sum, we believe that the criteria for suspension of an investigation pursuant to section 704 of the Act have been satisfied. If signed, this agreement will offset the subsidies completely with respect to the subject product exported directly or indirectly from Brazil to the United States. The agreement can also be monitored effectively, and is in the public interest.

Suspension of the Investigation

The Department consulted with the petitioner and has considered the comments submitted with respect to the proposed suspension agreement. We have determined that the agreement will offset the subsidies completely with respect to the subject merchandise exported directly or indirectly to the United States, that the agreement can be monitored effectively, and that the agreement is in the public interest. We find, therefore, that the criteria for suspension of an investigation pursuant to section 704 of the Act have been met. The terms and conditions of the agreement, signed December 20, 1982, are set forth in Annex 1 to this notice.

Pursuant to section 704(f)(2)(A) of the Act, the suspension of liquidation of all entries, entered or withdrawn from warehouse, for consumption of welded pipe and tube from Brazil effective October 12, 1982, as directed in our notice of "Preliminary Affirmative Countervailing Duty Determination, Small Diameter Welded Carbon Steel Pipes and Tubes from Brazil" is hereby terminated.

Any cash deposits on entries of welded pipe and tube from Brazil pursuant to that suspension of liquidation shall be refunded and any bonds shall be released.

The Department intends to conduct an administrative review within twelve months of the anniversary date of publication of this suspension as provided in section 751 of the Act.

Notwithstanding the suspension agreement, the Department will continue the investigation if we receive such a request in accordance with section 704(g) of the Act within 20 days after the date of publication of this notice.

This notice is published pursuant to section 704(f)(1)(A) of the Act.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

December 20, 1982.

Annex I.—Suspension Agreement

Small Diameter Welded Carbon Steel Pipes and Tubes From Brazil

Pursuant to section 704 of the Tariff Act of 1930, as amended (the Act), and §355.31 of the Commerce Regulations, the United States Department of Commerce (the Department) and the government of Brazil enter into the following suspension agreement (the agreement) on the basis of which the Department shall suspend its countervailing duty investigation initiated on May 27, 1982 (47 FR 24168) with respect to small diameter welded carbon steel pipes and tubes from Brazil. The agreement shall be in accordance with the terms and provisions set forth below.

A. Scope of the Agreement

The agreement applies to all small diameter welded carbon steel pipes and tubes manufactured in Brazil and exported, directly or indirectly, from Brazil to the United States (hereinafter referred to as the "subject product"). The term *"small diameter welded carbon steel pipes and tubes"* covers welded carbon steel pipes and tubes with walls not thinner than 0.065 of an inch, of circular cross section and 0.375 of an inch or more in outside diameter but not more than 16 inches as currently provided for in items 610.3208, 610.3209, 610.3231, 610.3232, 610.3241, 610.3244, and 610.3247, of the *Tariff Schedules of the United States Annotated.* Pipes or tubes suitable for use in boilers, superheaters, heat exchangers, condensers, and feedwater heaters, or conforming to A.P.I. specifications for oil well tubing, with or without couplings, cold drawn pipes and tubes and cold-rolled pipes and tubes with wall thickness not exceeding 0.1 inch are *not included.*

B. Basis of the Agreement

1. The government of Brazil hereby agrees to offset completely the amount of the net subsidy determined by the Department in this proceeding to exist with respect to the subject product. The offset shall be accomplished by an export tax applicable to the subject product exported on or after February 16, 1983. The export tax shall be utilized to offset completely any benefits found to exist with respect to the following programs:

(a) The IPI export credit premium,
(b) Resolution 674 financing,
(c) The income tax exemption for export earnings,
(d) Long-term loans, and
(e) Any other program subsequently determined by the Department to constitute a subsidy under the Act to the subject product.

The Department shall officially notify the government of Brazil of any determination made with respect to items (a) through (e) above.

2. The government of Brazil certifies that no new or equivalent benefits shall be granted on the subject product as a substitute for any benefits offset by the agreement.

3. The offset of these benefits does not constitute an admission by the government of Brazil that such benefits are subsidies within the meaning of the U.S. countervailing duty law.

4. The government of Brazil agrees that from the effective date of the suspension of the investigation and until the imposition of an export tax no later than February 10, 1983 that completely offsets the net subsidy determined by the Department to exist, the rate of exports of the subject product will not exceed the average monthly rate of exports to the United States in the period May 1981–April 1982. Exports in excess of this quantity will constitute a violation of the agreement pursuant to section 704(i) of the Act.

C. Monitoring of the Agreement

1. The government of Brazil agrees to supply to the Department such information as the Department deems necessary to demonstrate that it is in full compliance with the agreement.

2. The Government of Brazil shall notify the Department if any exporters of the subject product transship the subject product through third countries or apply for or receive, directly or indirectly, the benefits of the programs described in paragraph B.1 regarding the manufacture, production or export of the subject product:

3. The Government of Brazil shall certify to the Department within 15 days after the first day of each three-month period beginning on April 1, 1983 whether it continues to be in compliance with the agreement by offsetting the net subsidy referred to in paragraph B.1 and whether it has substituted any new or equivalent benefits for the benfits offset by the agreement. Failure to supply such information or certification in a timely fashion may result in the immediate resumption of the investigation or issuance of a countervailing duty order.

4. The Government of Brazil shall permit such verification and data collection as is requested by the Department in order to monitor the agreement. The Department will request such information and perform such verification periodically pursuant to administrative reviews conducted under section 751 of the Act.

5. The government of Brazil shall promptly notify the Department, with appropriate documentation, of any change in the amount of benefits to the subject product, of any change in the rate of the export tax, or if it decides to alter or terminate its obligations with respect to any of the terms of the agreement.

D. Violation of the Agreement

If the Department determines that the agreement is being or has been violated or no longer meets the requirements of section 704(b) or (d) of the Act, then section 704(i) shall apply.

E. Effective Date

The effective date of the agreement is the date of publication.

Signed on this 20th day of December 1982, for the Government of Brazil.

Luiz Felipe P. Lampreia,

Minister-Counselor, Brazilian Embassy.

I have determined that the provisions of paragraph B completely offset the subsidies that the government of Brazil is providing with respect to small diameter welded carbon steel pipes and tubes exported directly or indirectly from Brazil to the United States and that the provisions of paragraph C ensure that this agreement can be monitored effectively pursuant to section 704(d) of the Act. Furthermore, I have determined that the agreement meets the requirements of section 704(b) of the Act and suspension of the investigation is in the public interest.

U.S. Department of Commerce.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 82-34970 Filed 12-23-82; 8:45 am]

BILLING CODE 3510-25-M

Office of the Secretary

Office of Organization and Management Systems, Office of the Assistant Secretary for Administration; Notice of Organizational Changes

This notice provides information on major organizational changes implemented by the Department of Commerce, as of October 1, 1982 to date. This notice will be updated periodically to include all reorganizations occurring during the current fiscal year. Guidance is also given on how more information can be obtained for one or all reorganizations listed below.

The following major reorganizations have been implemented by the Department of Commerce since October 1, 1982:

(1) The Minority Business Development Agency—reorganized by Department Organization Order 25–4B of November 9, 1982.

(2) The National Oceanic and Atmospheric Administration—reorganized by Department Organization Order 25–5B of November 23, 1982.

(3) The Office of Procurement Services—reorganized by Department Organization Order 20–17 of November 23, 1982.

(4) The Bureau of Economic Analysis—reorganized by Department Organization Order 35–1B of December 6, 1982.

(5) The Bureau of Industrial Economics—reorganized by Department Organization Order 35–5B of December 6, 1982.

FOR FURTHER INFORMATION:

Copies of the Department Organization Orders cited above can be obtained by writing to the: Department of Commerce, Office of Information Services, Internal Distribution Branch (Room 1617A), 14th and Constitution Avenue, NW., Washington, D.C. 20230. Telephone requests should be directed to the Internal Distribution Branch at (202) 377–2533.

Hugh L. Brennan,

Director, Office of Organization and Management Systems.

[FRDoc.82-34979Filed12-23-82;8:45am]

BILLING CODE 3510-DK-M

[Transmittal 579; Dept. Organization Order 10–3; Effective February 15, 1982]

Organization Order; Under Secretary for International Trade

This Order effective February 15, 1982 supersedes the materials appearing at 45 FR 6141 of January 25, 1980 and 45 FR 69536 of October 21, 1980.

Section 1. Purpose

.01 This order prescribes the scope of authority and the functions of the Under Secretary for International Trade. The organizational structure and the assignment of functions are prescribed in Department Organization Order 40–1, "International Trade Administration".

.02 This revision: (1) abolishes the positions of Deputy Assistant Secretary for the U.S. Commercial Service, Deputy Assistant Secretary for East-West Trade, Deputy Assistant Secretary for Trade Agreements, Deputy Assistant Secretary for Finance, Investment and Services, Deputy Assistant Secretary for Policy, Planning and Analysis, and Director General of the Foreign Commercial Service; and (2) establishes the positions of Director General of the Commercial Services, Deputy Assistant Secretary for the Commercial Services, Deputy Assistant Secretary for Europe, Deputy Assistant Secretary for the Western Hemisphere, Deputy Assistant Secretary for East Asia and the Pacific, Deputy Assistant Secretary for Africa,

the Near East and South Asia, Deputy Assistant Secretary for Industry Projects, and Deputy Assistant Secretary for Trade Information and Analysis. Outstanding amendments to the Order are also incorporated.

.03 The International Trade Administration (ITA) is continued as a primary operating unit of the Department of Commerce.

Section 2. Administrative Designation

.01 The Under Secretary for International Trade, established by section 2(c) of Reorganization Plan No. 3 of 1979, shall be head of the International Trade Administration. The President made the provision of the Reorganization Plan effective by Executive Order 12188 of January 2, 1980. The Under Secretary is appointed by the President by and with the advice and consent of the Senate.

.02 The position of Assistant Secretary of Commerce, established by Public Law (P.L.) 80–191 (15 U.S.C. 1505) is designated the Assistant Secretary for Trade Administration. The two Assistant Secretaries of Commerce established by section 2(d) of Reorganization Plan No. 3 of 1979, which was made effective by Executive Order 12188 of January 2, 1980, are designated the Assistant Secretary for International Economic Policy and the Assistant Secretary for Trade Development, respectively. The Assistant Secretaries are appointed by the President by and with the advice and consent of the Senate.

Section 3. Structure and Scope of Authority

.01 The Under Secretary for International Trade shall be assisted in carrying out his/her responsibilities by:

a. The Deputy Under Secretary for International Trade;

b. The Assistant Secretary for Trade Administration;

c. The Assistant Secretary for International Economic Policy;

d. The Assistant Secretary for Trade Development; and

e. The Director General of the Commercial Services.

.02 The Assistant Secretary for Trade Administration shall be assisted in carrying out his/her responsibilities by:

a. The Deputy Assistant Secretary for Import Administration; and

b. The Deputy Assistant Secretary for Export Administration.

.03 The Assistant Secretary for International Economic Policy shall be assisted in carrying out his/her responsibilities by:

a. The Deputy Assistant Secretary for International Economic Policy;

b. The Deputy Assistant Secretary for Europe;

c. The Deputy Assistant Secretary for the Western Hemisphere;

d. The Deputy Assistant Secretary for East Asia and the Pacific; and

e. The Deputy Assistant Secretary for Africa, the Near East and South Asia.

.04 The Assistant Secretary for Trade Development shall be assisted in carrying out his/her responsibilities by:

a. The Deputy Assistant Secretary for Trade Development;

b. The Deputy Assistant Secretary for Export Development;

c. The Deputy Assistant Secretary for Industry Projects;

d. The Deputy Assistant Secretary for Trade Information and Analysis;

e. The Deputy Assistant Secretary for Textiles and Apparel; and

f. The Deputy Assistant Secretary for Trade Adjustment Assistance.

.05 The Director General of the Commercial Services shall be assisted in carrying out his/her responsibilities by the Deputy Assistant Secretary for the Commercial Services.

Section 4. Delegation of Authority

.01 Pursuant to the authority vested in the Secretary of Commerce, the Under Secretary for International Trade is hereby delegated the following authorities of the Secretary of Commerce; provided, however, that the Secretary reserves authority to provide policy guidance and direction to the Under Secretary (and delegates) and, at the Secretary's initiative or at the request of the Under Secretary, to consult with the Under Secretary (and delegates) to the extent permitted by law concerning the exercise of the authorities delegated by this section:

a. The Act of February 14, 1903, as amended (15 U.S.C. 1512 *et seq.*; 15 U.S.C. 171 *et seq.*) to foster, promote, and develop the foreign and domestic commerce of the United States, to the extent necessary for the performance of ITA's functions;

b. The Defense Production Act of 1950, as amended (50 U.S.C. app. 2061 *et seq.*) conferred on the Secretary under: (1) Executive Order 10480 of August 14, 1953, as amended, including authority to restrict surface transportation and discharge of commodities or to prohibit movement of American carriers to designated destinations, except the authority to create new agencies within the Department of Commerce; and (2) Executive Order 11912 of April 13, 1976;

c. Executive Order 11490 of October 28, 1969, as amended, as it relates to the development, as required for the programs of the Director, Federal Emergency Management Agency, of national emergency plans and preparedness programs covering production and distribution of materials, use of production facilities, control of construction materials, the furnishing of basic industries services, and regulation and control of exports and imports;

d. The National Security Act of 1947, as amended, (50 U.S.C. 401 *et seq.*) and Executive Order 11490 of October 28, 1969, as amended, relating to mobilization preparedness;

e. Executive Order 11179 of September 22, 1964, as amended, with respect to the establishment and training of the National Defense Executive Reserve;

f. Executive Order 10421 of December 31, 1952, providing for the physical security of facilities important to the national defense;

g. Section 1441 of the Public Health Service Act, as amended by the Safe Drinking Water Act (42 U.SC. 300j) conferred on the Secretary under Executive Order 11879 of September 17, 1975, involving materials allocation of chemicals or substances necessary for treatment of water;

h. The Export Administration Act of 1979 (50 U.S.C. app. 2401 *et seq.*) and the authority under that Act conferred on the Secretary under Executive Order 12214 of May 2, 1980, and Executive Order 12002 of July 7, 1977, except that the following power, authority, and discretion shall be reserved to the Secretary:

1. The determination required by Section 12(c) with respect to the publication or disclosure of confidential information obtained under the Act, and

2. The submission of reports to the Congress required by Section 14 of the Act;

i. Executive Order 11958 of January 18, 1977, as it relates to the carrying out, on behalf of the Department of State, of functions under Section 38(e) of the Arms Export Control Act (22 U.S.C. 2751 *et seq.*) as agreed to by the Departments of Commerce and State;

j. Executive Order 11322 of January 5, 1967, and Executive Order 11419 of July 29, 1968, relating to the Rhodesian sanctions with respect to transactions occurring prior to December 16, 1979 (Executive Order 12183 of December 16, 1979 revoked the provisions of Executive Order 11322 and 11419 with respect to transactions occurring after December 16, 1979);

k. The Nuclear Non-Proliferation Act of 1978 (22 U.S.C. 3201 *et seq.*) and the authority under that Act conferred on the Secretary under Executive Order

12058 of May 11, 1978, pertaining to nuclear exports and related matters;

l. Sections 103 and 251 of the Energy Policy and Conservation Act (42 U.S.C. 6201 *et seq.*) conferred on the Secretary under Executive Order 11912 of April 13, 1976, relating to: (1) export restrictions of coal, petroleum products, natural gas, or petrochemical feedstocks and supplies of material or equipment necessary to maintain or further exploration, production, refining, or transportation of energy supplies or for the construction or maintenance of energy supplies or for the construction or maintenance of energy facilities within the United States; and (2) rules to authorize the export of petroleum and petroleum products as may be necessary for implementation of the obligations of the United States under the International Energy Program;

m. Section 303 of Title VII (including Section 771(1)) of the Tariff Act of 1930 (19 U.S.C. 1303, 1671 *et seq.*) in accordance with Section 5(a)(1)(C) of Reorganization Plan No. 3 of 1979 (44 FR 69273, December 3, 1979), relating to antidumping and countervailing duties, except that the authority to make final determinations as "Secretary" or "administering authority" may not be redelegated beyond the Assistant Secretary for Trade Administration;

n. Sections 514, 515, and 516 of the Tariff Act of 1930 (19 U.S.C. 1514, 1515, and 1516) and section 5(a)(1)(D) of Reorganization Plan No. 3 of 1979, insofar as they relate to any protest, petition, or notice of desire to contest described in section 1002(b)(1) of the Trade Agreements Act of 1979;

o. Sections 318, 502(a) and (b), and 617 of the Tariff Act of 1930 (19 U.S.C. 1318, 1502 (a) and (b), and 1617) and sections 5(a)(1)(E), 5(a)(1)(F), and 5(a)(1)(G), respectively, of Reorganization Plan No. 3 of 1979, insofar as they relate to antidumping and countervailing duty investigations and the assessment of duties;

p. Section 2632(e) of Title 28 of the United States Code and section 5(a)(1)(H) of Reorganization Plan No. 3 of 1979, insofar as they relate to actions taken by the Secretary reviewable under section 516A of the Tariff Act of 1930 (19 U.S.C. 1516a);

q. Section 402 of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 512), relating to the importation of foreign excess property;

r. The Educational, Scientific and Cultural Materials Importation Act of 1966 (19 U.S.C. 1202);

s. Headnote 6(d) of Schedule 7, part 2, subpart E of the Tariff Schedules of the United States (19 U.S.C. 1202), added by P.L. 89–805, pertaining to the allocation of quotas for duty-free importation into the customs territory of the United States of watches and watch movements;

t. The Foreign-Trade Zones Act of 1934, as amended (19 U.S.C. 81a *et seq.*), as it relates to the Secretary's authority to designate an alternate to chair the Committee of Alternates of the Foreign-Trade Zones Board and to appoint an Executive Secretary of the Board (see 15 CFR Part 400);

u. Section 232 of the Trade Expansion Act of 1962 (19 U.S.C. 1862) and section 5(a)(1)(B) of Reorganization Plan No. 3 of 1979, relating to the conduct of national security investigations on imports;

v. Section 104 of the Trade Act of 1974 (19 U.S.C. 2114) and Section 135 of the Trade Act of 1974, as amended by Section 1103 of the Trade Agreements Act of 1979 (19 U.S.C. 2155) and Section 4(d) of Executive Order 11846 of March 27, 1975, relating to the industry consultations program;

w. Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, regarding Textile Trade Agreements;

x. Executive Order 11858, of May 7, 1975, relating to foreign investment in the United States;

y. Section 2(8) of the Small Business Act, as amended (15 U.S.C. 637(e)) relating to obtaining and publishing notices of U.S. government procurement;

z. Section 601(b)(1) of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2351(b)(1)) conferred on the Secretary under Executive Order 12163 of September 29, 1979, relating to drawing the attention of private enterprise to opportunities for investment and development in less developed friendly countries and areas;

aa. The delegation of authority, dated June 25, 1962, from the United States Information Agency under Section 5(e) of Executive Order 11034 of June 25, 1962, as amended by Executive Order 11380 of November 8, 1967, with respect to U.S. participation in trade missions abroad under the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451 *et seq.*);

bb. The Act of October 18, 1962, as amended (46 U.S.C. 1122b), which authorized mobile trade fairs;

cc. The China Trade Act of 1922, as amended (15 U.S.C. 141 *et seq.*);

dd. Executive Order 10978 of December 5, 1961 regarding the Presidential "E" Award, "E" Certificate of Service, and "E Star" Award, except final selection of recipients;

ee. The Act of May 27, 1970 (P.L. 91–269, 22 U.S.C. 2801 *et seq.*), relating to participation of the United States in international expositions;

ff. Section 4221 of the Internal Revenue Code of 1954 (26 U.S.C. 4221) and Section 309 of the Tariff Act of 1930, as amended (19 U.S.C. 1309), insofar as they relate to findings with respect to exemptions from taxes and import duties on supplies and equipment for aircraft;

gg. Sections 5(b) 5(c) of Executive Order 11846 of March 27, 1975, relating to quantitative import restrictions and monitoring of imports under orderly market agreements;

hh. Sections 3 and 4 of Executive Order 11961 of January 19, 1977, as amended by Executive Order 12013 of October 7, 1977, which delegates to the Secretary of Commerce the authority of the President under Sections 4(a), 4(b), and 5(c) of the International Investment Survey Act of 1976, (P.L. 94–472, 90 Stat. 2059, 22 U.S.C. 3103(a) and (b) and 3104(c)); and Section 4(e) of the International Investment Survey Act, as amended by P.L. 97–33 (95 Stat. 170, to be codified at 22 U.S.C. 3101(e)). The functions thereunder shall be carried out in coordination with the Bureau of Economic Analysis (Department Organization Order 35–1A), including, to the extent feasible, the division or assignment of responsibilities. All regulations established by ITA to carry out its functions under the Act shall be issued by the Under Secretary for International Trade in consultation with the Director, Bureau of Economic Analysis. All reports to be submitted to the Congress required to the undertaken pursuant to the Act, shall be issued by the Secretary;

ii. The trade promotion and commercial functions transferred to the Secretary from the Department of State or the Secretary of State by section 5(b)(1) of Reorganization Plan No. 3 of 1979 and by section 1–104 of Executive Order 12188 of January 2, 1980, as amended;

jj. The Foreign Service Act of 1980 (22 U.S.C. 3901 *et seq.*) and such laws the exercise of which are authorized to the Secrtary under section 5(b)(2) of Reorganization Plan No. 3 of 1979 and by section 1–104 of Executive Order 12188 of January 2, 1980, as amended. This delegation is in addition to, and not in lieu of, the general delegation of personnel management authority to the Assistant Secretary for Administration, and is to be exercised and redelegated in consonance with the Departmental policies issued by the Assistant Secretary for Administration;

kk. Title III of P.L. 96–481 (15 U.S.C. 649a–649d), relating to making grants

(including contracts and cooperative agreements) for small business international marketing programs;

ll. The Act of December 29, 1979 (P.L. 96–169, 93 Stat. 1281) regarding the participation of the United States in the International Energy Exposition to be held in Knoxville, Tennessee in 1982; and

mm. Chapters 3 and 4 of Title II of the Trade Act of 1974, as amended, (19 U.S.C. 2341 *et seq.*, 2371 *et seq.*), pertaining to trade adjustment assistance to firms, industries, and communities, except the provisions of 19 U.S.C. 2354 pertaining to studies and reports and information activities in response to investigations and findings of the International Trade Commission (see DOC 35-5A). The Assistant Secretary for Economic Development retains this authority through September 30, 1981, with respect to adjustment assitance projects in process prior to September 20, 1981, and thereafter such authority to perform all functions related to the furnishing of adjustment assistance (excluding additional assistance or increasing the Government's liability) with respect to those adjustment assistance projects approved prior to October 1, 1981 (see DOO 10–4).

.02 The Under Secretary may exercise other authorities of the Secretary as applicable to performing the functions assigned in this Order.

.03 Except as otherwise provided in this Order, the Under Secretary may redelegate his/her authority, subject to such conditions in the exercise of such authority as he/she may prescribe.

Section 5. Functions

The Under Secretary for International Trade, acting as such and as head of the International Trade Administration, shall be the principal officer of the Department for carrying out the policies and programs of the Department to promote world trade and to strength the international trade and investment position of the U.S. In this respect he/she shall carry out programs to:

.01 Promote U.S. exports and strengthen the international trade and investment position of the U.S.; develop, maintain and disseminate economic and commercial information and analyses; provide trade adjustment assistance to industries, communities and firms adversely affected by imports; and assist U.S. exporters through the facilities of the U.S. Commercial Service and the Foreign Commercial Service.

.02 Administer U.S. import and export laws relating to export licensing and enforcement, regulatory programs for antiboycott compliance, antidumping and countervailing duty investigation and enforcement, industrial mobilization, foreign-trade zones, national security import investigations, and other special import programs.

.03 Develop international economic, trade and investment policy strategies and objectives, including those of a bilateral, multilateral or regional nature, and maintain in-depth commercial and economic expertise on individual countries and regions throughout the world.

Arlene Triplett,

Assistant Secretary for Administration.

[FR Doc. 82–34975 Filed 12–23–82; 8:45 am]

BILLING CODE 3510–OK–M

[Transmittal 616; Dept. Organization Order 10–3 Amdt. 1; Effective May 7, 1982]

Organization Order; Under Secretary for International Trade

Amendment 1

This Order is effective May 7, 1982.

Department Organization Order 10–3 dated February 16, 1982 is hereby amended as shown below. The purpose of this amendment is to establish the position of Deputy Assistant Secretary for Export Enforcement and change the titles of the Director general of the Commerical Services and the deputy.

Section 3. Structure and scope of Authority. a. Subparagraph. Ole. is revised to read as follows:

"e. The Director General of the U.S. and Foreign Commercial Services."

"b. In pen and ink, at the end of subparagraph .02a. delete the word "and." At the end of subparagraph .02b delete the period and add "; and."

c. A new subparagraph .02c. is added to read as follows:

"c. The Deputy Assistant Secretary for Export Endorcement."

"d. Paragraph .05 is revised to read as follows:

".05 The Director General of the U.S. and Foreign Commercial Services shall be assisted in carrying out his-her responsibilities by the Deputy Assistant Secretary for the U.S. and Foreign Commercial Serives."

Arlene Triplett,

Assistant Secretary for Administration.

[FR Doc. 82–34976 Filed 12–23–82; 8:45 am]

BILLING CODE 3510–OK–M

[Transmittal 625; Dept. Organization Order 10–3, Amdt. 2; Effective June 15, 1982]

Organization Order; Under Secretary for International Trade

Amendment 2

This Order is effective June 15, 1982.

Department Organization Order 10–3, dated February 16, 1982 is hereby further amended as shown below. The purpose of this amendment is to establish the position of Deputy Assistant Secretary for Trade Administration, and to delegate to the Under Secretary the Secretary's authority to establish a clearinghouse for the dissemination of business and international economic information.

1. *Section 3. Structure and Scope of Authority.* In pen and ink, reletter subparagraphs .02 a., b., and c. as .02 b., c. and d., respectively. A new subparagraph .02a. is added to read as follows:

"a. The Deputy Assistant Secretary for Trade Administration."

2. *Section 4. Delegation of Authority.* a. In pen and ink, at the end of subparagraph .0111 delete the word "and." At the end of subparagraph .01mm. delete the period and add "; and."

b. A new subparagraph .01nn. is added to read as follows:

"nn. Chapter 23 of Title 15, U.S.C., which pertains to a clearinghouse for technical information, as is necessary for the preparation and dissemination of business and international economic information."

Arlene Triplett,

Assistant Secretary for Administration.

[FR Doc. 82–34977 Filed 12–23–82; 8:45 am]

BILLING CODE 3510–OK–M

[Transmittal 647; Dept. Organization Order 10–3, Amdt. 3; Effective October 8, 1982]

Organization Order; Under Secretary for International Trade

Amendment 3

This order is effective October 8, 1982.

Department Organization Order 10–3, dated February 16, 1982 is hereby further amended as shown below. The purpose of this amendment is to broaden the authority of the Under Secretary to act in Foreign-Trade Zones Board matters and make it clear that the "administering authority" under Title VII of the Tariff Act of 1930 is authorized to determine subsidies on articles of quota cheese.

SECTION 5. DELEGATION OF AUTHORITY. Subparagraphs .01m. and .01t. are revised to read as follows:

"m. Section 303 and Title VII (including Section 771(1)) of the Tariff Act of 1930 (19 U.S.C. 1303, 1671 *et seq.*) in accordance with section 5(a)(1)(C) of Reorganization Plan No. 3 of 1979 (44 FR 69273, December 3, 1979), relating to: (1) antidumping and countervailing duties, except that the authority to make final determinations as 'Secretary' or 'administering authority' may not be redelegated beyond the Assistant Secretary for Trade Administration; and (2) determination, as 'administering authority', of subsidies on articles of quota cheese under Section 702 of the Trade Agreements Act of 1979 (93 Stat. 269);"

"t. The Foreign-Trade Zones Act of 1934, as amended (19 U.S.C. 81a *et seq.*), and the implementing regulations in 15 CFR Part 400, including authority to act for the Secretary in all Foreign-Trade Zones Board matters except grants of authority to establish new zones;"

Arlene Triplett,

Assistant Secretary for Administration.

[FR Doc. 34978 Filed 12-23-82; 8:45 am]

BILLING CODE 3510-DK-M

National Oceanic and Atmospheric Administration

South Atlantic Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

SUMMARY: The South Atlantic Fishery Management Council, established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94–265), will meet to review comments from the Snapper-Grouper Fishery Management Plan (FMP) public hearings; update the Swordfish, Calico Scallop and Billfish FMP's; receive a presentation from the National Marine Fisheries Service on a turtle excluder device, and discuss other management and administrative matters as necessary.

DATES: The public meetings will convene on Monday, January 24, 1983, at approximately 1:30 p.m., and will adjourn on Thursday, January 27, 1983, at approximately noon.

ADDRESS: The public meetings will take place at the Sea Palms, Frederica Road, St. Simons Island, Georgia.

FOR FURTHER INFORMATION CONTACT: South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, South Carolina 29407, Telephone: (803) 571–4366.

Dated: December 2, 1982.

Joe P. Clem,

Acting Chief, Operations Coordination Group, National Marine Fisheries Service.

[FR Doc. 82-35033 Filed 12-23-82; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Exemption of Certain Man-Made Fiber Luggage and Related Products From Quota and Export Visa Requirements

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Exempting during 1983 and until further notice certain luggage, handbags, and flat goods of man-made fibers in Category 669 pt. (Only T.S.U.S.A. numbers 706.3400, 706.3900, 706.4140, and 706.4150), from the levels of restraint and export visa requirements currently in effect for certain cotton, wool, and man-made fiber textile products, regardless of the date of export.

A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709).

SUMMARY: Man-made fiber luggage, handbags, and flat goods in Category 669 pt. (only T.S.U.S.A. numbers 706.3400, 706,3900, 706.4140, and 706.4150) were not included in the U.S. bilateral textile and apparel agreements when those agreements were negotiated. Effective on January 1, 1983, these products will be included in a newly-established category, Category 670, and are not intended to be subject to the limits of any bilateral textile and apparel agreements or export visa requirements. To prevent denial of entry of these products, the Chairman of the Committee for the Implementation of Textile Agreements, in the letter published below, directs the Commissioner of Customs to exempt from levels of restraint and export visa requirements man-made fiber textile products in Category 670 (T.S.U.S.A. numbers 706.3400, 706.3900, 706.4140, and 706.4150) during the twelve-month period beginning on January 1, 1983 and until further notice.

EFFECTIVE DATES: January 1, 1983.

FOR FURTHER INFORMATION CONTACT: Claire McDermott, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–4212).

Dated: December 21, 1982.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

December 21, 1982.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: To facilitate implementation of the U.S. textile import restraint program, it would be appreciated if, effective on January 1, 1983 and until further notice, you would exempt from the levels of restraint and export visa requirements man-made fiber textile products in Category 670 [1] (formerly Category 669 pt.) from all countries, regardless of the date of export.

This letter will be published in the **Federal Register.**

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 82-35026 Filed 12-23-82; 8:45 am]

BILLING CODE 3510-25-M

Announcing an Import Restraint Level for Certain Wool Textile Products Exported From the Republic of the Maldives

On October 7, 1982, there was published in the **Federal Register** (47 FR 44365) a notice announcing that, on September 29, 1982, the United States Government, pursuant to the Section 204 of the Agricultural Act of 1956, as amended, (7 U.S.C. 1864), as requested that Government of the Republic of the Maldives to enter into consultations concerning exports to the United States of women's girls', and infants' wool sweaters in Category 446, produced or manufactures in the Republic of the Maldives.

During the period November 30–December 3, 1982, consultations were held between representatives of the two governments. No mutually satisfactory agreement was reached on a solution to this problem; however, the United States Government will continue to consult with the Government of the Republic of the Maldives. In the meantime, under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), the Government of the United States has informed the Government of the Republic of the Maldives, that, beginning on September

[1] T.S.U.S.A. Numbers 706.3400, 706.3900, 706.4140, and 706.4150.

29, 1982 and extending through September 28, 1983, imports of wool textile products in Category 446 will be limited to a level of 15,210 dozen.

Accordingly, in the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry in the United States for consumption, or withdrawal from warehouse for consumption, of wool textile products in Category 446 during the twelve-month period which began on September 29, 1982 in excess of the designated level of restraint.

EFFECTIVE DATE: December 28, 1982.

FOR FURTHER INFORMATION CONTACT: Ronald J. Sorini, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–4212).

Dated: December 21, 1982.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

December 21, 1982.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed, effective on December 28, 1982 and for the twelve-month period which began on September 29, 1982 and extends through September 28, 1983 to prohibit entry into the United States for consumption and withdrawal from warehouse for consumption of wool textile products in Category 446, produced or manufactured in the Republic of Maldives and exported during the twelve-month period which began on September 29, 1982, in excess of 15,210 dozen.[1]

Wool textile products in Category 446 which have been exported to the United States prior to September 29, 1982 shall not be subject to this directive.

Wool textile products in Category 446 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the Republic of the Maldives and with respect to imports of wool textile products from the Maldives have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Walter C. Lenahan,

Implementation of Textile Agreements.

[FR Doc. 82–35025 Filed 12–23–82; 8:45 am]

BILLING CODE 3510-25-M

COMMODITY FUTURES TRADING COMMISSION

Membership of the Commission's Performance Review Board

In accordance with Office of Personnel Management guidance under the Civil Service Reform Act, the Commodity Futures Trading Commission is publishing the following list of its officials who will henceforth serve as the members of the Commission's Performance Review Board.

Acting Chairperson: Donald L. Tendick, Acting Executive Director
Andrea M. Corcoran, Director, Division of Trading and Markets
James A. Culver, Director, Division of Economics and Education
Dennis A. Dutterer, General Counsel
Thomas J. Loughran, Director, Division of Enforcement

Issued by the Commission in Washington D.C., on December 21, 1982.

Jean A. Webb,

Deputy Secretary of the Commission.

[FR Doc. 82–34960 Filed 12–23–82; 8:45 am]

BILLING CODE 6351-01-M

New York Mercantile Exchange; Proposed Amendments Relating to the Round White Potato Futures Contract

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed contract market rule changes.

SUMMARY: The New York Mercantile Exchange ("NYMEX" or "Exchange") has submitted a proposal to amend its round white potato futures contract. The Exchange has proposed to replace the current procedure for delivery of the underlying physical commodity with a cash settlement mechanism. The Commodity Futures Trading Commission ("Commission") has determined that the proposal is of major economic significance and that, accordingly, publication of the proposal is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATE: Comments must be received on or before Jaunary 26, 1983.

ADDRESS: Interested persons should submit their views and Comments to Jane K. Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Reference should be made to the New York Mercantile Exchange round white potato futures contract.

FOR FURTHER INFORMATION CONTACT: Robert Clark, Division of Economics and Education, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581 (202) 254–7303.

SUPPLEMENTARY INFORMATION: The NYMEX has submitted a proposal to amend its round white potato futures contract. The Exchange has proposed to replace the current procedure for delivery of the underlying physical commodity with a cash settlement mechanism. Under the existing procedure, all positions remaining open on the last trading day for a delivery month are settled through delivery of U.S. No. 1, size A, round white potatoes grown in Maine, Connecticut or New York. At the buyer's option, delivery is made either: (1) F.O.B. origin point, inspection final, with seller allowing buyer a transportation allowance to Hunts Point Market, New York, New York, or, (2) delivered at the Hunts Point Market. Under the proposed cash settlement mechanism, each open position at the termination of trading in a contract month will be settled using a calculated final cash settlement price. The proposed settlement price is intended to reflect the value of 50-pound sacks of U.S. No. 1, size A, round white Maine potatotes delivered at Hunts Point Market, New York.

The exchange proposes to calculate the final cash settlement price using daily prices at five terminal markets and daily Maine F.O.B. prices reported by the U.S. Department of Agriculture.[1] As proposed by the exchange, the final cash settlement price would be calculated as the sum of two components: (1) A calculated Maine F.O.B. price and (2) an exchange published truck allowance to

[1] The level of restraint has not been adjusted to reflect any imports after September 28, 1982.

[1] The five terminal markets include: Baltimore, Maryland; Boston, Massachusetts; New York, New York; Philadelphia, Pennsylvania; and Pittsburgh, Pennsylvania.

reflect the cost of shipping potatoes from Maine to the Hunts Point Market. The calculated Maine F.O.B. price equals an estimated "Terminal Markets Price" less an estimated "Freight Differential and Wholesale Markup" factor. The "Terminal Markets Price" is the average price reported during the last five trading days of the maturing contract at the five terminal markets. The "Freight Differential and Wholesale Markup" factor equals the average difference between prices reported at the five terminal markets and the reported Maine F.O.B. price during the last ten trading days of the maturing contract. The truck allowance is the allowance from Aroostook County, Maine to the Hunts Point Market as is published by the exchange from time to time.

The Exchange has indicated that the proposal to replace the current delivery procedure with a cash settlement mechanism is expected to eliminate the transaction costs and potential problems associated with physical delivery. The NYMEX believes that the proposed cash settlement mechanism will ensure the convergence between cash and futures prices at the termination of trading, and will provide for continued use of the potato contract for hedging and price basing.

The proposed amendments to the round white potato contract would become effective immediately after Commission approval for all contract months subsequently listed by the Exchange for trading, but would not be applicable to currently listed months.

In accordance with Section 5a(12) of the Commodity Exchange Act, 7 U.S.C. 7a(12) (Supp. V 1981), the Commission has determined that the proposal submitted by the NYMEX concerning its round white potato futures contract is of major economic significance. Accordingly, the NYMEX's proposed amendments to Rules 60.06, 60.07 and 60.09 are printed below, using italics to indicate additions and bracketing to indicate deletions.

* * * * *

60.06 SETTLEMENT

Each round white potato futures contract remaining open at the close of business on the last day of trading in the current contract month shall be settled in cash by 4:30 p.m. of the next business day at the final settlement price calculated by the Exchange according to the formula set forth in Rule 60.07. Such settlement shall occur in accordance with the provisions of Exchange Rule 41.07.

60.07 FINAL SETTLEMENT PRICE

The final settlement price shall be that price which is the Terminal Markets Price less the Calculated Freight Differential and Wholesale Markup plus the NYMEX published truck allowance, based upon the definitions.

The five terminal markets referred to in this section are: Baltimore, Maryland; Boston, Massachusetts; New York, New York; Philadelphia, Pennsylvania: and Pittsburgh, Pennsylvania.

All terminal market prices and Maine Free on Board (F.O.B.) prices will be the daily quotes as reported by the Federal State Market News Service of the United States Department of Agriculture for 50 pound sacks of U.S. No. 1, Size A, round white Maine potatoes.

(A) Determination of Terminal Market Price

(1) Individual Terminal Market Averages

The Individual Terminal Market Averages shall be that price which is the mean of the prices within each terminal market for the last five trading days of that contract month (or, if price quotes are unavailable on any day, the mean of prices on those days for which prices are available) for each of the five terminal markets;

(2) Terminal Markets Price

The Terminal Markets Price shall be that price which is the mean of the Individual Terminal Market Averages (determined in 60.07(A)(1)) for the five terminal markets.

(B) Determination of Calculated Freight Differential and Wholesale Markup

(1) Individual Markets Calculated Freight Differential and Wholesale Markup

The Individual Markets Calculated Freight Differential and Wholesale Markup shall be that amount which is the mean of the difference between the terminal market price and the Maine F.O.B. price for the last ten trading days of that contract month (or, if price quotes are unavailable for either the terminal market price or Main F.O.B. price on any day, the mean of the difference between the terminal market price and the Maine F.O.B. price for those days on which both prices are available) for each of the five terminal markets;

(2) Calculated Freight Differential and Wholesale Markup

The Calculated Freight Differential and Wholesale Markup shall be that amount which is the mean of the Individual Markets Calculated Freight Differential and Wholesale Markup (determined in 60.07(B)(1)) for the five terminal markets.

(C) Exchange Published Truck Allowance

The truck allowance is the allowance from Aroostook County South of Van Buren and Guerette to Hunts Point Market, Bronx, New York as is published by the Exchange from time to time.

[60.09 DELIVERY PROCEDURE

(A) Open Longs

Clearing Members having open long positions shall give the Clearing House written notice of such positions by 5:00 p.m. on the last trading day established for the delivery month. The notice shall list the purchase price and the date of purchase for each open long position in the delivery month and shall indicate whether each contract is a House or a Customer Account.

(B) Intention to Deliver Notice

(1) An Intention to Deliver Notice shall be given by the seller to the Clearing House by 3:00 p.m. on any business day following the last trading day established for the delivery month, but not later that the 15th business day of the delivery month in the case of delivery months other than November or the last business day of November in the case of the November delivery month.

(2) The Intention to Deliver Notice shall be on the form prescribed by the Clearing House, which form shall be properly completed, signed and delivered to the Clearing House.

(3) Upon receipt of the Intention to Deliver Notice, the Clearing House shall promptly pass it to the oldest buyer.

(C) Delivery Instructions

(1) By 12:00 noon on the calendar day following receipt by the buyer of the Intention to Deliver Notice, either:

(a) The buyer shall notify the Clearing House and the seller in writing whether he elects to take delivery at point of origin or at a final inspection point. If he elects to take delivery at point of origin, he shall indicate the destination point. If he elects to take delivery at a final inspection point, he shall indicate the final inspection and the destination points; or

(b) The buyer and seller shall each notify the Clearing House in writing of an agreement pursuant to Rule 60.12.

(2) If no notice has been given to the Clearing House pursuant to section (1)(b) above and the buyer fails to give delivery instructions pursuant to section

(1)(a) above within the prescribed time period, he shall be charged $100.00 per contract. The Exchange shall bill the buyer for such charge and, when collected, shall remit it to the seller. If the buyer fails to give such delivery instructions by 12:00 noon on the second calendar day after receiving the Intention to Deliver Notice, he shall be delinquent in performance.

(3) The seller shall make himself available to receive the buyer's delivery instructions until 12:00 noon of each calendar day on which such instructions may be given by the buyer.

(D) Delivery Notice

(1) The seller shall give the Clearing House a Delivery Notice corresponding to the Intention to Deliver Notice by 3:00 p.m. on any business day not later than the second business day following his receipt of the buyer's delivery instructions, provided, however, that if the buyer gives his delivery instructions on the same day as he receives the Intention to Deliver Notice, the time of the seller to give the Delivery Notice to the Clearing House shall be computed under this section and section (3) below as if the buyer had given his delivery instructions on the following calendar day.

(2) The seller shall cause the truck or car to move no later than the business day after he gives the Delivery Notice to the Clearing House.

(3) If the seller fails to give a Delivery Notice or if the seller fails to cause the truck or the car to move within the prescribed time periods, he shall be charged $100.00 per contract for each subsequent business day that such failure continues, not to exceed two business days. The Exchange shall bill the seller for such charge, and, when collected, shall remit it to the buyer. If the seller fails to give a Delivery Notice by the fourth business day following his receipt of the buyer's delivery instructions, he shall be delinquent in performance. If the seller fails to cause the truck or car to move by the calendar day after the fifth business day following his receipt of the buyer's delivery instructions, he shall be delinquent in performance.

(4) The Delivery Notice shall be on the form prescribed by the Clearing House, which form shall be properly completed, signed and delivered to the Clearing House. The Delivery Notice shall set forth a valid ("live") original Federal-State inspection certificate number applicable to the potatoes to be delivered and the amount to be paid by the buyer.

(5) Upon receipt of the Delivery Notice, the Clearing House shall promptly pass it to the corresponding buyer.

(6) The day the buyer receives the Delivery Notice shall be referred to as the Notice Day.

(E) Shipment and Shipping Documents

(1) Truck Delivery Option

(a) The seller shall ensure that the shipping documents include (i) the final inspection and/or destination points as specified in the buyer's delivery instructions; (ii) a statement that ten extra bags have been included in the shipment; (iii) a statement that the shipment is a New York Mercantile Exchange tender; and (iv) instructions to the trucking company that the truck must arrive at the final inspection point on a business day by 2:00 p.m.; and (v) instructions to the trucking company that it is the buyer's responsibility to unload the truck.

(b) The seller shall be responsible for obtaining a truck for delivery to the final inspection point and notifying the trucking company of the destination point specified in the buyer's delivery instructions prior to the loading of the truck.

(c) The seller shall cause the truck to move to the final inspection point over a commercially acceptable route.

(d) The seller shall promptly notify the Clearing House and the buyer of the anticipated time and date of arrival of the truck at the final inspection point.

(e) the seller shall agree with the trucking company that after completion of a final inspection in New York the trucking company will move the truck to any point within the Hunts Point Market free of charge to the buyer, or, at the option of the buyer, to a point within a thirty mile radius of the final inspection point at a charge to the buyer of $25.00 to be paid by the seller and charged to the buyer.

(f) The buyer shall be responsible for unloading the truck at the destination point. The seller shall allow $50.00 for such unloading.

(2) Rail Delivery Option

(a) The seller shall ensure that the shipping documents include (i) the final inspection and/or destination points as specified in the buyer's delivery instructions; (ii) a statement that ten extra bags have been included in the shipment; and (iii) a statement that the shipment is a New York Mercantile Exchange tender.

(b) Every delivery shall carry storage-in-transit privileges as permitted by the railroad concerned.

(c) The seller shall take such action as is necessary to assure that any through freight rate allowed by the originating railroad upon reconsignment to destination point other than the final inspection point is made available to the buyer.

(d) Adjustment for any charges which are borne by the seller pursuant to these rules, including turn-over and protection charges (heating or icing) when applicable, shall be made promptly upon presentation by the buyer to the seller of an invoice for such charges.

(e) Protection charges (i.e, heating or icing) accruing after risk of loss is assumed by the buyer shall be borne by the buyer.

(F) Replacement Delivery

(1) In the event the truck or car fails to grade at the final inspection point the seller must within four business days after notification of failure to grade, but no later than the last business day of the delivery month in the case of delivery months other than November or the fifth business day of December in the case of the November delivery month, issue a replacement Delivery Notice and make delivery which meets the requirements of this contract provided, however, that the final inspection must be completed by the time specified in Rule 60.11(B)(4). Replacement Delivery Notices may be given to the Clearing House until 4:00 p.m. on any business day. The seller has the option of tendering a replacement delivery by truck, or by rail, as follows:

(a) Replacement Delivery by Truck

(i) The seller may tender a truck replacement, with a valid ("live") original inspection certificate, from any point of origin, routed to the final inspection point originally designated by the buyer, subject to a final inspection at such final inspection point; or (ii) the seller may tender a truck replacement, from any point of origin, at the final inspection point originally designated by the buyer, with a valid ("live") final inspection certificate issued at such final inspection point; or (iii) the seller may tender a truck replacement at any point of origin FOB inspection final at a 2½% discount from the last settling price with a valid ("live") original inspection certificate provided that: (aa) the original inspection is conducted on a continuous basis; (bb) the lot inspected grades U.S. No. 1, Size A, 2 inch minimum–4 inch maximum; and (cc) the lot inspection has no more than a total of 8 percent of the potatoes by weight which fail to meet the requirements for the grade, provided further (i) that included within such eight percent tolerance, the following maximums for specific defects shall apply—four

percent for external defects; four percent for internal defects; and three percent for potatoes which are affected by freezing, southern bacterial wilt, ring rot or late blight, with no more than double said percentages in any one sample; and (ii) that the potatoes are free of soft rot, wet breakdown and freezing.

(b) Replacement Delivery by Rail

(i) The Seller may tender a car replacement with a vaild ("live") original inspection certificate, from any point of origin, routed to the final inspection point originally designated by the buyer, subject to a final inspection at such final inspection point; or (ii) the seller may tender as car replacement, from any point of origin, at the final inspection point originally designated by the buyer, with a vaild ("live") final inspection certificate issued at such final inspection point; or (iii) the seller may tender a car replacement at any point of original FOB inspection final at a 2½% discount from the last settling price with a valid ("live") original inspection certificate provided that: (aa) the original inspection is conducted on a continous basis; (bb) the lot inspected grades U.S. No. 1, Size A, 2 inch mininum–4 inch maximum; and (cc) the lot inspected has no more than a total of 8 percent of the potatoes by weight which fail to meet the requirements for the grade, provided further (i) that included within such eight percent tolerance, the following maximums for specific defects shall apply—four percent for external defects; four percent for internal defects; and three percent for potatoes which are affected by freezing, southern bacterial wilt, ring rot, or late blight; with no more than double said percentages in any one sample; and (ii) that the potatoes are free of soft rot, wet breakdown and freezing.

(2) In lieu of replacement deliveries under section (F)(1) above, the seller may enter into an agreement with the corresponding buyer pursuant to Rule 60.12.

(G) Settling Price

The last settling price for the delivery month shall be the basis for delivery.

(H) Non-Transferable

The buyer who receives a Delivery Notice from the Clearing House shall be deemed to have agreed to accept delivery. Intention to Deliver Notices and Delivery Notices are not transferable.

(I) Delivery Day

The Delivery Day shall be the day on which delivery is completed. Delivery is completed at the following times:

(1) if the buyer has elected to take delivery at a final inspection point, when the truck or car has passed the final inspection;

(2) if the buyer has elected to take delivery at point of origin, thereby waiving final inspection, when the buyer receives the Delivery Notice;

(3) if the buyer has been given a replacement Delivery Notice which requires final inspection to be made at a final inspection point, when the truck or car has passed final inspection;

(4) if the buyer has been given a replacement Delivery Notice which has a valid ("live") final inspection certificate, when the buyer receives the replacement Delivery Notice.

(5) If the buyer has been given a replacement Delivery Notice which provides for delivery FOB point of origin, when the buyer receives the replacement Delivery Notice.

(j) Risk of Loss

The risk of loss for the potatoes delivered hereunder shall pass from seller to buyer when delivery is completed in accordance with section (I) above.

(K) Payment

The buyer shall pay the seller by certified check by 12:00 noon of the business day following the Delivery Day.

Payment shall be based on the total weight of the potatoes delivered as indicated on the Delivery Notice. Payment shall not be required for any quantity delivered in excess of 50,000 pounds.]

* * * * *

Other materials submitted by the NYMEX in support of the proposed rules may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1981)). Requests for copies of such materials should be made to the FOIA, Privacy and Sunshine Acts Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFT 145.7 and 145.8.

Any person interested in submitting written data, views or arguments on the proposed amendments should send such comments to Jane K. Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, by January 26, 1983. Such comment letters will be publicly available except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9.

Issued in Washington, D.C., on December 21, 1982.

Jean A. Webb,

Deputy Secretary of the Commission.

[FR Doc. 82-34881 Filed 12-23-82; 8:45 am]

BILLING CODE 6351-01-M

CONSUMER PRODUCT SAFETY COMMISSION

Consumer Product Safety Standard for Rotary Walk-Behind Power Lawn Mowers; Information Collection Request

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of information collection request.

SUMMARY: The Commission is seeking Office of Management and Budget clearance for information collection in a study mandated by Congress to assess the impact on consumers of a Congressionally prescribed amendment to the Commission's safety standard for rotary walk-behind power lawn mowers.

SUPPLEMENTARY INFORMATION: On February 15, 1979, the Commission published a final consumer product safety standard to reduce the estimated 77,000 injuries that occur each year from contact with the moving blades of walk-behind power lawn mowers (44 FR 9990) (16 CFR Part 1205). The effective date of the standard was originally to be December 31, 1981. However, in the 1980 appropriations bill (Pub. L. 96–526), the Congress delayed the effective date until June 30, 1982.

A detailed explanation of the background and rationale for the standard is given in the **Federal Register** notice that issued the standard. Briefly, the standard reduces the risk of injury from blade contact with rotary power lawn mowers by mandating two main performance requirements. First, in order to reduce injuries to the hand of the operator, § 1205.5(a)(1) of the standard requires that the mower have a blade control that will stop the blade within 3 seconds of the time that the operator releases the handle of the mower. This is intended to ensure that when the operator's hands leave the handle, the blade will stop before the operator can put his or her hands in the vicinity of the blade. This requirement will also reduce foot injuries that occur when the operator is working or moving around the mower and is not holding on to the handle.

In order to further reduce foot injuries, § 1205.4(a) of the standard requires that areas of the mower that can be reached

by the operator's foot when he or she is holding the handle (the rear 120° of the mower) shall be constructed so that a specified probe that approximates the human foot cannot be brought into contact with the blade from these areas.

The requirement that the blade stop within 3 seconds of the release of the handle can be accomplished in two ways. First, the blade can be disconnected from the mower's power source and brought to a stop while the power source continues to operate. This approach is usually expected to involve a brake-clutch unit to disconnect the blade and brake it to a stop within the allowable 3 seconds. The other way of accomplishing this requirement is to turn off the power source, thereby bringing the blade and the power source to a stop together.

If the blade is stopped the engine ("engine-kill"), § 1205(a)(1)(iv) of the standard originally required that the mower have a power restart mechanism. This requirement was included because it seemed likely that users inconvenienced by the need to manually restart a mower that stopped every time the handle was released would attempt to disable the blade-stop control.

Congress, however, in subsection 1212(a) of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35; 95 Stat. 724), required the Commission to amend its lawn mower standard so that rotary-type lawn mowers which stop the engine within three seconds of release of the handle by the operator and which have only a manual restart of the engine would be deemed in compliance with the standard, provided that the engine starting controls are within 24 inches of the top of the mower's handles or, alternatively, that the mower is equipped with a 360° protective foot shield. See 46 FR 54932; November 5, 1981.

Further, subsection 1212(b) of the Omnibus Budget Reconciliation Act of 1981 requires the Commission to conduct a study of the effect on consumers of the amendment prescribed by subsection 1212(a) and to report the results of such study by June 30, 1984. This information collection proposal is in response to that Congressional mandate. The information for the study will be collected by a private contractor that will screen 70,000 to 90,000 members of its national consumer panel through a short mail questionnaire to identify about 1,500 consumers who have purchased a new mower since July 1, 1982. The members of the panel who are selected for the follow-up telephone interview will be asked about the safety features on their new mowers and the manner in which they have utilized those features. This study will enable the Commission and Congress to evaluate and compare the degree to which consumers operate complying walk-behind power mowers in the manner intended.

DATE: Comments on this review/clearance application must be submitted on or before January 27, 1983.

ADDRESS: Send comments to Ms. Gwen Pla, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3001, Washington, D.C. 20503. Copies of the request for OMB review and clearance may be obtained from the Reading Room, Consumer Product Safety Commission, 1111 18th Street, NW., Washington, D.C. 20207.

FOR FURTHER INFORMATION CONTACT: Charles R. Casper, Jr., Office of Budget and Program Implementation, Consumer Product Safety Commission, Washington, D.C. 20207, (301) 492–6529.

Dated: December 21, 1982.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 82–35043 Filed 12–23–82; 8:45 am]

BILLING CODE 6355–01–M

DEPARTMENT OF DEFENSE

Department of the Army

Command and General Staff College Advisory Committee; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463) announcement is made of the following committee meeting:

Name: Command and General Staff College (CGSC) Advisory Committee.

Date: January 11–13, 1983.

Place: College Conference Room, Bell Hall, Ft. Leavenworth, KS 66027, Phone 913–684–2741.

Time: 2000–2200, January 11, 1983; 0900–1630, January 12, 1983; 0900–1400, January 13, 1983.

Proposed Agenda: 2000–2200, January 11, 1983: Review of CGSC educational program; 0900–1630, January 12, 1983: Continuation of review; 0900–1000, January 13, 1983: Continuation of review; 1000–1130, January 13, 1983: Executive session; and 1300–1430, January 13, 1983: Report to the Commandant.

The purpose of the meeting is for the Advisory Committee to examine the entire range of College operations and, where appropriate, to provide advice and recommendations to the College Commandant and Faculty.

The meeting will be open to the public to the extent that space limitations of the meeting location permit. Because of these limitations, interested parties are requested to reserve space by contacting the Committee's Executive Secretary.

Philip J. Brookes,

Executive Secretary, CGSC Advisory Committee.

[FR Doc. 82–35050 Filed 12–23–82; 8:45 am]

BILLING CODE 3710–08–M

Office of the Secretary

Public Information Collection Requirement—Request Submitted to OMB for Review

The Department of Defense has submitted to OMB for review the following request for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains: (1) Type of Submission; (2) Title of Information Collection and Form Number if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; and (8) The point of contact from whom a copy of the information proposal may be obtained.

New

1983 Applicant Survey

To determine the program knowledge, recruiting/enlistment experiences, attitudes, and other characteristics of applicants to the All-Volunteer Force, to obtain information essential to the interpretation of results of the Congressionally mandated Enlistment Bonus Test being conducted by DOD. Information will permit profiling of applicants and their reasons for enlisting or not enlisting. Information will assist in policy planning and other manpower planning efforts.

Individuals and households; 5,030 respondents; 2,515 burden hours.

Forward comments to Mr. Edward Springer, OMB Desk Officer, Room 3235, NEOB, Washington, DC 20503, and Mr. John V. Wenderoth, DoD Clearance Officer, OASD(C), DIRMS, IRAD, Room 1A658, Pentagon, Washington, DC 20301, telephone (202) 697–1195.

A copy of the information collection request may be obtained from Mr. Robert L. Newhart, OASD, MRA&L(PI), Room 3C800, Pentagon, Washington, DC

20301, telephone (202) 695–0643. This survey is under contract.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

December 20, 1982.

[FR Doc. 82–34942 Filed 12–23–82; 8:45 am]

BILLING CODE 3801–10–M

DEPARTMENT OF ENERGY

Energy Information Administration

Revision of Alternative Fuel Price Ceilings and Incremental Price Threshold for High Cost Natural Gas; Correction

The Energy Information Administration (EIA) published in the December 20, 1982 **Federal Register** (47 FR 56699) on behalf of the Federal Energy Regulatory Commission (FERC) the incremental pricing threshold for high cost natural gas, to be effective January 1, 1983. Subsequent to the publication the EIA discovered an error in column three of the notice for the volume-weighted average price for No. 2 distillate fuel oil landed in the greater New York City Metropolitan Area during October 1982. The correct volume-weighted average price is $42.04 per barrel. This error does not change the threshold price that was previously published.

FOR FURTHER INFORMATION CONTACT: Leroy Brown, Jr., Energy Information Administration, 1000 Independence Avenue, SW., Room BE–034, Washington, D.C. 20585, Telephone: (202) 252–6077

Issued in Washington, D.C., December 21, 1982.

Albert H. Linden, Jr.,

Deputy Administrator, Energy Information Administration.

[FR Doc. 82–35046 Filed 12–22–82; 10:12 am]

BILLING CODE 6450–01–M

Office of Energy Research

DOE/NSF Nuclear Science Advisory Committee; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: DOE/NSF Nuclear Science Advisory Committee.

Date and time: Wednesday, January 12, 1983—9:00 a.m.–6:00 p.m.

Place: The National Science Foundation, Room 338, 1800 G Street, NW., Washington, DC.

Contact: John R. Erskine, U.S. Department of Energy, Division of Nuclear Physics, ER–23 GTN, Washington, DC 20545. Telephone: 301–353–3613, FTS 233–3613.

Purpose of Committee: To provide advice to the Department of Energy and the National Science Foundation on the management of and long range planning for basic nuclear research programs.

Tentative agenda: Discussion of procedure for evaluating facility proposals; Planning for revision of Long Range Plan; Discussion of status of subcommittees; Discussion of DOE and NSF fuding; and Public Comment.

Public participation: The meeting is open to the public. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so, either before or after the meeting. Member of the public who wish to make oral statements pertaining to agenda items should contact Gloria Decker at 202–252–8990. Requests must be received at least five days prior to the meeting and reasonable provisions will be made to include the presentation on the agenda.

Transcripts: Available for public review and copying at the Public Reading Room, Room 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, D.C. between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on December 20, 1982.

Howard H. Raiken,

Deputy Advisory Committee Management Officer.

[FR Doc. 82–34919 Filed 12–23–82; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. ER83–63–000]

Appalachian Power Co.; Order Accepting Rates for Filing, Noting Interventions and Terminating Docket

Issued: December 17, 1982.

On October 26, 1982, the American Electric Power Service Corporation, on behalf of Appalachian Power Company (APCO), tendered for filing Modification No. 18, Service Schedule I, to an existing Interconnection Agreement between APCO and Virginia Electric and Power Company (VEPCO).[1]

[1] *See* Attachment A for rate schedule designation.

APCO currently provides VEPCO with 600 MW of power and associated energy from its Tanners Creek Unit Nos. 1 through 3; its Gavin Unit Nos. 1 and 2; and its Amos Unit No. 3 under an Interconnection Agreement which expires on December 31, 1982. The instant filing establishes a replacement service for the expiring service. APCO states that the new service will give VEPCO greater flexibility in purchasing capacity and energy than was provided under the expiring Service Schedule H. The modified agreement will provide 600 MW of capacity and energy to VEPCO for a two-year period beginning January 1, 1983, the proposed effective date, and expiring on December 31, 1984.

The filing provides that APCO will charge VEPCO a fixed monthly demand charge of $2.8 million which will be effective for the entire two-year contract period. Energy will be provided in two parts: (1) Part I energy equal to 150 MWh per hour on a take-or-pay basis, and (2) Part II energy of up to 450 MWh per hour at VEPCO's discretion. Part I energy will be billed at 1 mill per kWh plus the average monthly fuel cost at the Tanners Creek Unit Nos. 1, 2, and 3 during the billing month, as adjusted for transmission losses. Part II energy will be billed at 1 mill per kWh plus the average monthly fuel cost at Amos Unit No. 3 and at Gavin Unit Nos. 1 and 2 during the billing period again adjusted for transmission losses. This proposed service is considered firm except for two contingencies associated with the sellers' coal supply. The purpose of the purchase by VEPCO is for the displacement of oil-fired power with cheaper coal-fired power

Notice of the filing was published in the **Federal Register** with comments due on or before November 22, 1982. A motion to intervene and request for a one day suspension was filed by the North Carolina Eastern Municipal Power Agency (Power Agency) and the ElectriCities of North Carolina (ElectriCities).

These entities seek a one day suspension and a hearing so that an investigation of the rates and charges may be conducted and the amounts collected will be subject to refund. The Power Agency is a partial requirements customer of VEPCO while ElectriCities' members are full requirements VEPCO customers. The customers contend that any purchased power contracts entered into by VEPCO will ultimately be reflected in their wholesale rates. Specifically, the intervenors contend that they must be assured that APCO is properly assigning the high-cost coal developed from subsidiary resources,

and that APCO is not assigning all such fuel costs to interchange transactions such as that contemplated by the instant filing.

Discussion

Under Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214), the motion to intervene filed by the Power Agency and ElectriCities serves to make them parties to this proceeding absent opposition within 15 days.

With respect to the intervenors' request for suspension and a hearing based on their desire to be assured that APCO is not assigning all of the high-cost coal from its subsidiaries as fuel costs in this purchased power transaction, we find that the intervenors have not raised an issue which warrants suspension or hearing. Our analysis indicates that in 1981, the six designated operating units supplying power to VEPCO were only partially fueled by subsidiary coal. In addition, the power purchased by VEPCO will be priced at the average monthly cost of fuel consumed at the supplying generating units. Consequently, we believe that the intervenors' concern that the subsidiary coal will be assigned exclusively to the VEPCO sale is unwarranted and does not serve as a basis for initiating a hearing.

We also note that the Power Agency and ElectriCities do not question the prudence of APCO's coal purchases from its subsidiary, but limit their concern strictly to the assignment of such purchases to the interchange transaction. Because the six generating units furnishing the power for this sale are among the highest fuel cost units on the American Electric Power System,[1] these units are precisely the ones which would be expected to provide the energy for any off-system sale to VEPCO or others, and these units form a proper basis for pricing the interchange service. We believe that it is both appropriate, and a common industry practice to assign the highest fuel cost to off-system sales, while lower fuel cost resources are reserved for the benefit of the APCO native load customers who, through their rates, provide for the construction and operation of the generating facilities.

Since the Power Agency and ElectriCities have raised no issues of law or fact which would warrant an evidentiary hearing, and furthermore, since our analysis indicates that the rates tendered for filing by APCO are not excessive, APCO's submittal will be accepted for filing to become effective on January 1, 1983, as requested.

The Commission orders:

(A) Appalachian Power Company's submittal in this docket is hereby accepted for filing to become effective on January 1, 1983, without suspension.

(B) The request by North Carolina Eastern Municipal Power Agency and ElectriCities of North Carolina to suspend APCO's filing for one day and initiate a hearing is hereby denied.

(C) Docket No. ER83-63-000 is hereby terminated.

(D) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb.

Secretary.

Attachment A—Appalachian Power Company

Supplement No. 16 to Rate Schedule FPC No. 16 (Supersedes Supplement No. 11).

[FR Doc. 82-34993 Filed 12-23-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER81-387-002]

Central Power and Light Co.; Refund Report

December 20, 1982.

Take notice that on December 2, 1982, Central Power and Light Company filed a refund report pursuant to the Commission's letter order dated March 11, 1982.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before December 30, 1982. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-34994 Filed 12-23-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-11-000]

Hotel Del Coronado; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

December 20, 1982.

On October 15, 1982, Hotel Del Coronado of 1500 Orange Avenue Coronado, California 92118, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules. The application was completed on December 9, 1982.

The topping-cycle cogeneration facility will be located in Coronado, California. The primary energy source will be natural gas. The electric power production capacity will be 800 kilowatts. The waste heat recovery boiler is capable of producing 6000 pounds of steam per hour at 100 PSI. The turbine is a dual fuel unit capable of operating in parallel with the power utility or separately as a stand-by system. Installation of the facility began April, 1982. No electric utility, electric holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-34995 Filed 12-23-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-161-000]

Idaho Power Co.; Filing

December 21, 1982.

Take notice that on December 7, 1982, Idaho Power Company (Idaho) tendered for filing in compliance with the Federal Energy Regulatory Commission's Order of October 7, 1978, a summary of sales made under the Company's 1st Revised FERC Electric Tariff, Volume No. 1 (Supersedes Original Volume No. 1) during October 1982, along with cost justification for the rate charged. The filing included the following supplements:

Utah Power & Light Company—Supplement 12
Sierra Pacific Power Company—Supplement 10
Portland General Electric Company—Supplement 9

[1] APCO is an operating company within the AEP system.

Washington Water Power Company—Supplement 9
Puget Sound Power & Light Company—Supplement 3
San Diego Gas & Electric Company—Supplement 6
Los Angeles Water and Power Company—Supplement 8
Southern California Edison Company—Supplement 9
City of Burbank—Supplement 8
City of Pasadena—Supplement 8
City of Glendale—Supplement 8

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 5, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-34996 Filed 12-23-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ES83-18-000]

Illinois Power Co.; Application

December 20, 1982.

Take notice that on December 15, 1982, Illinois Power Company (Applicant) filed an application seeking an order pursuant to Section 204 of the Federal Power Act authorizing the issuance of not more than $400 million of short-term notes to be issued from time to time with a final maturity date of not later than December 31, 1984.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 385.211 or 385.214 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before December 29, 1982. Copies of this filing is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-34997 Filed 12-23-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER83-186-000]

Kansas City Power & Light Co.; Filing

December 21, 1982

Take notice that Kansas City Power & Light Company (KCPL) on December 8, 1982, tendered for filing a new Municipal Wholesale Firm Power Contract between KCPL and the City of Slater, Missouri (City) dated October 12, 1982. This contract replaces a similar contract (Rate Schedule FPC No. 81 and supplements thereto) which was cancelled by the Commission effective May 31, 1982, in Docket No. ER82-439-000.

The purpose for this rate schedule filing is to provide for Wholesale Firm Power Service from KCPL to the City during the time in which the City is arranging to receive service from an alternate power source. The contract is for a term of one year through May 31, 1983.

KCPL requests an effective date of June 1, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served upon the City and the Missouri Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 5, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-34998 Filed 12-23-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER83-183-000]

Montana Power Co.; Filing

December 21, 1982.

Take notice that Montana Power Company (Montana) on December 7, 1982, tendered for filing a letter agreement between PUD No. 1 of the Chelan County (Chelan) and Montana. Montana states that this letter agreement is for storage of energy in Montana's reservoirs with right of first refusal for Montana to acquire this energy if Chlelan elects not to have the storage energy returned.

Montana indicates that as of the date of filing no jurisdictional transactions under the proposed Letter Agreement had occurred; and, therefore, estimates of transactions and revenues that may occur would be conjecture.

Montana requests an effective date of September 1, 1982, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 5, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-34999 Filed 12-23-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ID-2027-000]

Donald K. Mundt; Application

December 21, 1982.

Take notice that on December 13, 1982, Donald K. Mundt, filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Director—Wisconsin Electric Power Company
Executive Vice President, Trustee—Northwestern Mutual Life Insurance Company

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 7, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to

the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-35000 Filed 12-23-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER80-214-003]

Pacific Gas and Electric Co.; Compliance Filing

December 20, 1982.

Take notice that on December 6, 1982, Pacific Gas and Electric Company submitted for filing revised tariff sheets in compliance with Commission Opinion No. 147, issued September 22, 1982.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before December 30, 1982. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-35001 Filed 12-23-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EC83-5-000]

Pacific Power & Light Co.; Application

December 21, 1982.

Take notice that on December 9, 1982, Pacific Power & Light Company (Pacific) submitted for filing an application, pursuant to section 203 of the Federal Power Act, for authority to sell utility plant at Sheridan, Wyoming to Montana-Dakota Utilities Co. (Montana).

Pacific proposes to sell its Sheridan substation facilities and property located near Sheridan, Wyoming. Montana currently owns a portion of the Sheridan substation and wishes to purchase Pacific's portion to allow Montana the flexibility it needs to serve the increasing requirements of its customers.

The consideration for the proposed transaction is $360,000.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rule 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR and 385.211, 385.214). All such petitions or protests should be filed on or before January 10, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-35002 Filed 12-23-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-763-000

Safe Harbor Water Power Corp.; Order Accepting for Filing and Suspending Rates, Noting Intervention, and Establishing Hearing Procedures

Issued: December 17, 1982.

On August 31, 1982, as completed on October 22, 1982,[1] Safe Harbor Water Power Corporation (Safe Harbor) tendered for filing a superseding contract with Baltimore Gas and Electric Company (BG&E) and Pennsylvania Power and Light Company (PP&L) which would raise the rate of return component of the formula rate under which Safe Harbor sells its Hydroelectric output to BG&E and PP&L.[2] The proposed increase in the rate of return would result in an increase in revenues of approximately $897,687 (9.98%) for the calendar year 1981 test period. Safe Harbor also proposes to modify the formula rate to provide for normalization accounting as required by section 35.25 of the commission's regulations and to qualify for the income tax deductions associated with the use of ACRS under the Economic Recovery Tax Act of 1981. Safe Harbor requests a November 1, 1982 effective date for the proposed changes.

Safe Harbor is a subsidiary of BG&E and PP&L.[3] Its only plant in service is a hydroelectric project on the Susquehanna River at Safe Harbor, Pennsylvania, that consists of seven main and two auxiliary generators having an aggregate capacity of 230 MW.[4] Under the terms of the agreement, BG&E purchases two-thirds and PP&L purchases one-third of the plant output. In return for this capacity and energy, Safe Harbor receives payments for all operation and maintenance expenses, general expenses, taxes, depreciation and a return on rate base. Payments are made in proportion to BG&E's and PP&L's respective shares of the output.

Notice of the instant filing was published in the **Federal Register**, with comments due on or before September 28, 1982. The Public Service Commission of Maryland filed a timely notice of intervention, but raised no specific substantive issues.

Discussion

The timely notice of intervention filed by the Maryland Commission is sufficient, pursuant to Rule 214(a)(2) of the Commission's Rules of Practice and Procedure (18 CFR 385.214), to make it a part to this proceeding.

Our preliminary review of Safe Harbor's filing indicates that the proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept the changes to the formula rate for filing and suspend them as ordered below.

In *West Texas Utilities Company*, 18 CFR ¶ 61,189 (1982), we noted that rate filings would ordinarily be suspended for five months where preliminary review indicates that the proposed increase may be unjust or unreasonable and may generate substantially excessive revenues, as defined in *West Texas*. Because our preliminary review indicates that Safe Harbor's proposed increase may yield substantially excessive revenues, we shall suspend Safe Harbor's proposed formulary rate for five months from sixty days after filing, to become effective, subject to refund, on May 22, 1983.

As a final matter, the Commission observes that Safe Harbor has utilized full tax normalization with respect to Accelerated Cost Recovery System (ACRS) property. According to our review, the instant filing reflects a normalization method of accounting for all post-1980 property additions, Safe Harbor has correctly reflected the effects of normalization, and the submittal satisfies the requirements of the Economic Recovery Tax Act of 1981.

---

[1] Although Safe Harbor originally submitted its filing on August 31, 1982, the filing was completed upon receipt of additional information on October 22, 1982 concerning the company's proposed normalization accounting. The additional information was filed in response to a deficiency letter dated September 29, 1982.

[2] *See* Attachment A for rate schedule designations.

[3] PP&L owns one-third and BG&E owns two-thirds of Safe Harbor's common equity.

[4] Safe Harbor has began construction of five additional generating units with an aggregate capacity of 187.5 MW and expected in-service dates in 1985.

The Commission orders

(A) Safe Harbor's submittal is hereby accepted for filing and suspended for five months sixty days after filing, to become effective, subject to refund, on May 22, 1982.

(B) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of Safe Harbor's rates.

(C) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately thirty (30) days of the date of this order, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. Such conference shall be held for purposes of establishing a procedural schedule including the submittal of testimony and exhibits by Safe Harbor. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(D) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

Attachment A—Safe Harbor Water Power Corporation

Docket No. ER82–763–000—Rate Schedule Designations

Rate Schedule FERC No. 7 (supersedes Rate Schedule FPC No. 6, as supplemented)
Supplement No. 1 to Rate Schedule FERC No. 7 [Amended Article 7 to reflect full normalization of timing differences covered by section 35.25 of the Commission's regulations]

[FR Doc. 82-35003 Filed 12-23-82; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Issuance of Proposed Decision and Order; Week of October 25 through October 29, 1982

During the week of October 25 through October 29, 1982, the proposed decision and order summarized below was issued by the Office of Hearings and Appeals of the Department of Energy with regard to an application for refund in a Subpart V proceeding.

Under the procedural regulations that apply to exception proceeding (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these proposed decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1111, New Post Office Building, 12th and Pennsylvania Ave., NW. Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays.

George B. Breznay,

Director, Office of Hearings and Appeals.

December 15, 1982.

Aluminum Company of America, Tenneco Oil Company, Houston, Texas; RF4–1, RF4–2.

Tenneco Oil Company filed an Application for Refund in connection with a consent order that the Aluminum Company of America entered into with the Economic Regulatory Administration. In its Application, Tenneco requests a refund equal to the total amount of monies that Alcoa paid pursuant to the consent order, on the grounds that Tenneco was the only first purchaser of the natural gas liquids that Alcoa sold during the consent order period, and that it maintained cost banks in excess of the consent order monies. The OHA found that the prices Alcoa charged Tenneco were higher than average market prices, and determined that Tenneco was injured by the alleged overcharges. The OHA therefore tentatively decided to approve Tenneco's refund request.

Objection To Proposed Remedial Orders Filed; Week of November 29 through December 3, 1982

During the week of November 29 through December 3, 1982, the notices of objection to proposed remedial orders listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wished to participate in the proceeding the Department of Energy will conduct concerning the proposed remedial orders described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR 205.194 within 20 days after publication of this Notice. The Office of Hearings and Appeals will then determine those persons who may participate on an active basis in the proceeding and will prepare an official service list, which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests to participate in these proceedings should be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

George B. Breznay,

Director, Office of Hearings and Appeals.

December 15, 1982.

Vantage Petroleum Corporation, Bohemia, New York; HRO–0100 Motor Gasoline.

On December 2, 1982, the New York State Energy Office, Rockefeller Plaza, Albany, New York 12223 filed a Notice of Objection to a Proposed Remedial Order issued to Vantage Petroleum Corp., 515 Johnson Avenue, Bohemia, NY 11716 by the Office of Special Counsel (OSC) of the Economic Regulatory Administration (ERA), Philadelphia Field Office, on November 5, 1982. In the PRO, the OSC found that during the period April 1, 1979 through August 31, 1979, Vantage committed pricing violations connected with the sale of regular and unleaded motor gasoline at its company operated retail stations and to its wholesale unbranded retail dealer customers.

According to the PRO, the Vantage violation resulted in $1,274,886.72 of overcharges.

Winston Refining Co., Fort Worth Texas; HRO–0099 Refined Petroleum Products.

On November 30, 1982, Winston Refining Co. of Fort Worth, Texas filed a Notice of Objection to a Proposed Remedial Order which the DOE Southwest District Office of Enforcement issued to the firm on October 19, 1982. In the PRO, the Southwest District found that during the period September 1973 to January 1976, Winston sold gasolines, distillates, and general refinery products at prices in excess of those allowed by 10 CFR Part 212, Subpart E.

According to the PRO, the Winston violation resulted in $1,651,046.00 of overcharges.

[FR Doc. 82-34985 Filed 12-23-82; 8:45 am]

BILLING CODE 6450-01-M

Cases Filed, Week of December 3 Through December 10, 1982

During the Week of December 3 through December 10, 1982, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

George B. Breznay,

Director, Office of Hearings and Appeals.

December 20, 1982.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of Dec. 3 through Dec. 10, 1982]

Date	Name and location of applicant	Case No.	Type of submission
Dec. 3, 1982	Powerine Oil Co., Washington, D.C.	HRO-0094 and HRH-0094.	Motions for Discovery and Evidentiary Hearing. If granted: Discovery would be granted and an evidentiary hearing would be convened in connection with the Statement of Objections submitted by Powerine Oil Company in response to the July 22, 1982 Proposed Remedial Order issued to Powerine (Case No. HRO-0085).
Dec. 6, 1982	Huntway Refining Co., Los Angeles, Calif.	HCX-0059	Supplemental Order. If granted: The September 30, 1980, Decision and Order (Case No. BEE-0392) issued to Huntway Refining Company by the Office of Hearings and Appeals would be modified in connection with the November 15, 1982, Order of Remand issued by the U.S. District Court, Central District of California.
Dec. 8, 1982	Atlantic Richfield Co., Washington, D.C.	HRX-0060	Supplemental Order. If granted: The Office of Special Counsel would be ordered to release certain documents which it submitted to the Office of Hearings and Appeals for *in camera* review pursuant to the November 29, 1982, Decision and Order (Case No. HRZ-0071) issued to Atlantic Richfield Company.
Dec. 8, 1982	Gulf Oil Corp., Washington, D.C.	HRX-0061	Supplemental Order. If granted: The Office of Special Counsel would be ordered to release certain documents which it submitted to the Office of Hearings and Appeals for *in camera* review pursuant to the November 29, 1982, Decision and Order (Case No. HRZ-0071) issued to Atlantic Richfield Company.
Dec. 8, 1982	Marathon Oil Co., Washington, D.C.	HRX-0062	Supplemental Order. If granted: The Office of Special Counsel would be ordered to release certain documents which it submitted to the Office of Hearings and Appeals for *in camera* review pursuant to the November 29, 1982, Decision and Order (Case No. HRZ-0071) issued to Atlantic Richfield Company.
Dec. 8, 1982	Texaco, Inc., Washington, D.C.	HRX-0063	Supplemental Order. If granted: The Office of Special Counsel would be ordered to release certain documents which it submitted to the Office of Hearings and Appeals for *in camera* review pursuant to the November 29, 1982, Decision and Order (Case No. HRZ-0071) issued to Atlantic Richfield Company.
Dec. 8, 1982	Louisiana Land and Exploration Co., Washington, D.C.	HRX-0064	Supplemental Order. If granted: The Office of Special Counsel would be ordered to release certain documents which it submitted to the Office of Hearings and Appeals for *in camera* review pursuant to the November 29, 1982, Decision and Order (Case No. HRZ-0071) issued to Atlantic Richfield Company.
Dec. 9, 1982	Crown Central Petroleum Corp., Baltimore, Md.	HRD-0095 and HRH-0095.	Motions for Discovery and Evidentiary Hearing. If granted: Discovery would be granted and an evidentiary hearing would be convened in connection with the Statement of Objections submitted by Crown Central Petroleum Corporation in response to the Proposed Remedial Order issued to Crown Central (Case No. HRO-0072).
Dec. 9, 1982	Rogers Fuels, Inc., Middlebury, Vt.	HEE-0054	Exception to the Reporting Requirements. If granted: Rogers Fuels, Inc. would not be required to file Form EIA-9A, "No. 2 Distillate Price Monitoring Report."
Dec. 10, 1982	McGraw-Hill Publications Co., Washington, D.C.	HFA-0103	Appeal of an Information Request Denial. If granted: The November 9, 1982, Information Request Denial issued by the Office of Procurement Operations would be rescinded and McGraw-Hill Publications would receive access to information relating to the DOE's purchase of Mexican crude oil form PEMEX.
Dec. 10, 1982	Teledyne Laars and Raypak, Inc., San Dimas, Calif.	HXE-0055	Exception from the Energy Conservation Program for Consumer Products. If granted: Teledyne Laars & Raypak, Inc. would continue to receive an exception from the provisions of 10 CFR Part 430 which would permit the firm to modify the energy efficiency test procedures applicable to finned copper tube boilers.

REFUND APPLICATION RECEIVED

[Week of Dec. 3 to Dec. 10, 1982]

Date	Name of refund proceeding/name of refund applicant	Case No.
Dec. 7, 1982	Arcone Oil Co/Agway, Inc.	RF 20-1

[FR Doc. 82-34982 Filed 12-23-82; 8:45 am]

BILLING CODE 6450-01-M

Office of the Secretary

Compliance With the National Environmental Policy Act; Finding of No Significant Impact; Selection of Borosilicate Glass as the Defense Waste Processing Facility Waste Form for High-Level Radioactive Wastes, Savannah River Plant, Aiken, South Carolina

SUMMARY: The Department of Energy (DOE) has prepared an environmental assessment (DOE/EA-0179) on the proposed selection of borosilicate glass as the Defense Waste Processing Facility (DWPF) waste form for the immobilization of the high-level radioactive wastes generated and stored at the DOE Savannah River Plant (SRP), Aiken, South Carolina. Based upon the analyses in the environmental assessment and in the environmental impact statement for the DWPF (DOE/EIS-0082), and after consideration of comments received during the public review period on a proposed finding of no significant impact, the Department has determined that the proposed action will not have a significant impact on the environment and that the preparation of an environmental impact statement is not required.

Background

The proposed action is to select borosilicate glass as the DWPF waste form for immobilizing SRP high-level radioactive wastes. High-level radioactive wastes have been generated at the SRP since 1954 as a byproduct of U.S. defense material production activities. These wastes result from the chemical processing of reactor fuel and target elements and typically consist of reactor fission products, unrecovered uranium and plutonium, activation products, aluminum compounds, and most of the processing chemicals. About 110,000 cubic meters (28 million gallons) of high-level radioactive wastes are temporarily stored in large underground tanks at the SRP.

The environmental impacts of immobilizing the SRP high-level wastes in the borosilicate glass waste form, temporarily storing the immobilized wastes on site until a geologic repository becomes available, and transporting the immobilized wastes to a geologic repository are assessed in the DWPF EIS. Borosilicate glass was selected as the reference waste form for the DWPF EIS analyses based on an evaluation program which began in 1973.

A notice of availability of the environmental assessment and a proposed finding of no significant impact on the selection of borosilicate glass as the DWPF waste form published in the **Federal Register** on July 29, 1982. The proposed finding and copies of the environmental assessment were distributed to interested individuals and organizations. Seven letters (including 4 no comments) were received. The comments received support the Department's preliminary finding that the selection of borosilicate glass as the waste form for SRP wastes will not result in any significant impacts. Repository site selection, construction, and operation will require the development of further technical information and further environmental review.

FOR FURTHER INFORMATION CONTACT: Raymond Pelletier, Office of Environmental Compliance, Office of the Assistant Secretary for Environmental Protection, Safety, and Emergency Preparedness, U.S. Department of Energy, Room 4G–047, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252–4610.

Finding

The selection of borosilicate glass as the DWPF waste form is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act. Therefore, an environmental impact statement for the action is not required. This finding is based on the following, which are supported by the analyses in the waste form EA and DWPF EIS:

1. Givern the decision to immobilize the SRP wastes at the DWPF and to dispose of them in a Federal geologic repository, the selection of the specific waste form, i.e., borosilicate glass, will not result in significant environmental impacts.

2. Differences in environmental effects and risks between borosilicate glass and available alternative waste forms such as crystalline ceramic SYNROC–D are not significant.

3. Borosilicate glass is capable of meeting draft and proposed Environmental Protection Agency and Nuclear Regulatory Commission repository performance specifications as a part of the repository waste form package.

4. The environmental effects and risks of immobilizing the SRP wastes with borosilicate glass, transporting these immobilized wastes to a geologic repository, and emplacing the immobilized wastes in a geologic repository are addressed in the DWPF EIS. Completion of the waste form EA has identified no new information which would affect the DWPF EIS analyses.

Date issued: December 21, 1982.

William A. Vaughan,

Assistant Secretary, Environmental Protection, Safety, and Emergency Preparedness

[FR Doc. 82–34984 Filed 12–23–82; 8:45 am]

BILLING CODE 6450–01–M

FEDERAL RESERVE SYSTEM

Acquisition of Bank Shares by Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Marshall & Ilsley Corporation*, Milwaukee, Wisconsin; to acquire 90 percent of the voting shares or assets of Central Bank & Trust, Marshfield, Wisconsin. Comments on this application must be received not later than January 19, 1983.

2. *Old Second Bancorp, Inc.*, Aurora, Illinois; to acquire 100 percent of the voting shares or assets of Bank of North Aurora, North Aurora, Illinois. Comments on this application must be received not later than January 19, 1983.

Board of Governors of the Federal Reserve System, December 20, 1982.

James McAfee

Associate Secretary of the Board.

[FR Doc. 82–34980 Filed 12–23–82; 8:45 am]

BILLING CODE 6210–01–M

Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, indentifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *First Fidelity Bancorp, Inc.*, Fairmont, West Virginia; to become a bank holding company by acquiring 100 percent of the voting shares of First National Bank in Fairmont, Fairmont, West Virginia. Comments on this

application must be received not later than January 11, 1983.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *FNB Banking Company,* Griffin, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of First National Bank of Griffin, Griffin, Georgia. Comments on this application must be received not later than January 19, 1983.

C. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Tanco, Ltd.,* Guttenberg, Iowa; to become a bank holding company by acquiring 80 percent or more of the voting shares of Security State Bank, Guttenberg, Iowa. Comments on this application must be received not later than January 19, 1983.

D. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *United Bancorp of Princeton, Inc.,* Princeton, Kentucky; to become a bank holding company by acquiring 100 percent of the voting shares of the successor by merger to Farmers Bank and Trust Company, Princeton, Kentucky. Comments on this application must be received not later than January 19, 1983.

E. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Evco, Inc.,* Caster, Wyoming; to become a bank holding company by acquiring 100 percent of the voting shares of First National Bank in Evanston, Evanston, Wyoming. Comments on this application must be received not later than January 17, 1983.

F. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *DeAnza Bancorp,* Sunnyvale, California; to become a bank holding company by acquiring 100 percent of the voting shares of DeAnza Bank, Sunnyvale, California. Comments on this application must be received not later than January 19, 1983.

2. *Mid City Bancorp,* Los Angeles, California; to become a bank holding company by acquiring 100 percent of the voting shares of Mid City Bank, N.A., Los Angeles, California. Comments on this application must be received not later than January 19, 1983.

Board of Governors of the Federal Reserve System, December 20, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-34939 Filed 12-23-82; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period:

Transaction	Waiting period terminated effective
(1) The Manufacturers Life Insurance Company's proposed acquisition of all voting securities of Maine Fidelity Life Insurance Company.	Dec. 10, 1982.
(2) Medtronic, Inc.'s proposed acquisition of all voting securities of International Medical Corporation.	Dec. 9, 1982.
(3) Conrac Corporation's proposed acquisition of all assets of Ford Industries, Inc..	Dec. 9, 1982
(4) Sirius Systems Technology, Inc.'s proposed acquisition of all voting securities of Victor United, Inc..	Dec. 9, 1982.
(5) Star International Company, Inc.'s proposed acquisition of certain voting securities of American International Group.	Dec. 9, 1982.
(6) McDonnell Douglas Corporation's proposed acquisition of substantially all the assets of The Brind Corporation.	Dec. 9, 1982.
(7) J. P. Stevens & Company, Incorporated's proposed acquisition of all voting securities of Stevcoknit, Inc..	Dec. 9, 1982.
(8) The Securities Group's proposed acquisition of all voting securities of Southern California Savings and Loan Association.	Dec. 8, 1982
(9) Petro Lewis Corporation's proposed acquisition of certain assets of E.I. DuPont de Nemours and Company.	Dec. 9, 1982
(10) Charter Consolidated PLC's proposed acquisition of all voting securities of B&LS Contracting Inc. and Tri-Angle Construction, Company, Inc..	Dec. 9, 1982.
(11) A. Johnson & Company's proposed acquisition of all voting securities and certain assets of ITT Holding Company.	Dec. 10, 1982.
(12) Great Western Coca-Cola Bottling Company's proposed acquisition of all voting securities of Florida Coca-Cola Bottling Company.	Dec. 10, 1982.
(13) Bristol-Myers Company's proposed acquisition of all voting securities of Medical Engineering Corporation.	Dec. 14, 1982.
(14) DWG Corporation's proposed acquisition of all voting securities of Wilson Brothers.	Dec. 14, 1982.
(15) TKR Cable Company's proposed acquisition of substantially all assets of Cablevision, Inc. and Good-Vue CATV.	Dec. 14, 1982.
(16) NVF Company's proposed acquisition of certain voting securities of City Investment Company.	Dec. 2, 1982
(17) Fuqua Industries, Inc.'s proposed acquisition of all voting securities of American Seating Company.	Dec. 2, 1982.
(18) Time Incorporated's proposed acquisition of all voting securities of Great American Reserve Insurance Company.	Dec. 3, 1982.
(19) Spencer Hays' proposed acquisition of certain assets of The Times Mirror Company.	Dec. 2, 1982.
(20) Warner Communications, Inc.'s proposed acquisition of all voting securities of Madison Fund, Inc..	Dec. 1, 1982
(21) Roxboro Investments (1976) Ltd.'s proposed acquisition of certain voting securities of Suburban Propane Gas Corporation.	Dec. 1, 1982.

FOR FURTHER INFORMATION CONTACT: Patrica A. Foster, Compliance Specialist, Premerger Notification Office, Burerau of Competition, Room 301, Federal Trade Commission, Washington, D.C. 20580, (202) 523-3894.

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 82-34954 Filed 12-23-82; 8:45 am]

BILLING CODE 6750-01-M

GENERAL SERVICES ADMINISTRATION

Statement of Witness (Standard Form 94)

AGENCY: General Services Administration.

ACTION: Notice of information collection; reinstatement.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the General Services Administration (GSA) plans to request Office of Management and Budget review and approval for the reinstatement of an information collection request for the collection of data.

DATE: Comments on the information collection must be submitted on or before January 14, 1983.

ADDRESSES: Send comments to Franklin S. Reeder, GSA Desk Officer, OMB, Room 3235, NEOB, Washington, DC

20503, and to Anthony Artigliere, GSA Clearance Officer, GSA (ORAI), Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Sigrid Staton, GSA (703–557–1288).

SUPPLEMENTARY INFORMATION: The Standard Form 94 provides the Federal Government data on motor vehicle accidents. The information is furnished by persons who have witnessed an accident. The estimated reporting burden is 416 hours annually. A copy of the information collection proposal may be obtained from the Directives and Reports Management Branch (ORAI), Room 3011, GS Building, Washington, DC 20405, telephone 202–566–1164.

Dated: December 15, 1982.

Clarence A. Lee, Jr.,

Director of Administrative Services.

[FR Doc. 82–34987 Filed 12–23–82; 8:45 am]

BILLING CODE 6820–34–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Committees; Meetings

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following National Advisory bodies scheduled to meet during the month of January 1983:

Name: Joint Meeting of the National Advisory Council on Health Professions Education and the National Advisory Council on Nurse Training

Date and Time: Monday, January 17, 1983, 9:00 a.m.

Place: Conference Room 10, Building 31, C-Wing, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205

Meeting is open to the public.

Purpose: The Councils advise the Secretary concerning general regulations and policy matters arising in the administration of Title VII and VIII of the Public Health Service Act. The Councils also perform final reviews of grant applications for Federal assistance and make recommendations to the Secretary.

Agenda: Agenda items will cover announcements, report of the Administrator, HRSA, report of the Director, BHPr, financial management update, report from the Deputy Assistant Secretary for Health and the Director, Office Disease Prevention and Health Promotion, discussion of Health Promotion/Disease Prevention, and exploration of issures in the training and practice of health professionals.

* * * * *

Name: National Advisory Council on Health Professions Education

Date and Time: January 18–19, 1983, 9:00 a.m.

Place: Conference Room 10, Building 31, C-Wing, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205

Open on January 18, 9:00 a.m.–11:30 a.m.

Closed for the remainder of meeting.

Purpose: The Council advises the Secretary with respect to the administration of programs of financial assistance for the health professions and makes recommendations based on its review of applications requesting such assistance. This also involves advice in the preparation of regulations with respect to policy matters.

Agenda: The open portion of the meeting will cover: welcome and opening remarks; presentation on Humanistic Health Care, update on Report to Congress on Physician Exchange Visitor Program, and future agenda items. The meeting will be closed to the public on January 18, 1983, 11:30 a.m. for the remainder of the meeting for the review of grant applications for the Graduate Training in Family Medicine. The closing is in accordance with the provisions set forth in section 552(b)(6), Title 5, U.S. Code, and the Determination by the Administrator, Health Resources and Services Administration pursuant to Public Law 92–463.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should write to or contract MR. ROBERT L. BELSLEY, Executive Secretary, National Advisory Council on Health Professions Education, Bureau of Health Professions, Health Resources and Services Administration, Room 4–27, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782. Telephone (301) 436–6564.

* * * * *

Name: National Advisory Council on Nurse Training

Date and Time: January 18–19, 1983, 9:00 a.m.

Place: Conference Room G–20, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782

Open January 18, 1983, 9:00 a.m. to 10:00 a.m.

Closed for remainder of meeting

Purpose: The Council advises the Secretary and Administrator, Health Resources and Services Administration, concerning general regulations and policy matters arising in the administration of Title XXVII, National Health Service Corps, Health Professions Education, Nurse Training Omnibus Budget Reconciliation Act of 1981 (P.L. 97–35). The Council also performs final review of grant applications for Federal assistance, and makes recommendations to the Administrator, HRSA.

Agenda: Agenda items for open portion of meeting will cover announcements; consideration of minutes of previous meeting; reports by the Administrator, the Director, Bureau of Health Professions (BHPr), the Financial Management Officer, BHPr, the Director, Division of Nursing, and staff reports. The meeting will be closed to the public on January 18, 1983, at 10:00 a.m., for the remainder of the meeting for the review of grant applications for advanced nurse training grants, nurse practitioner grants, special project grants, and research project grants. The closing is in accordance with the provision set forth in section 552b(c)(6), Title 5, U.S. Code, and the Determination by the Administrator, Health Resources and Services Administration, pursuant to section 10(d) of Public Law 92–463.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should write to or contact DR. MARY S. HILL, Bureau of Health Professions, Health Resources and Services Administration, Room 3–50, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782, Telephone (301) 436–6681.

Agenda items are subject to change as priorities dictate.

Dated: December 21, 1982.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 82–34989 Filed 12–23–82; 8:45 am]

BILLING CODE 4160–15–M

Office of Human Development Services

Advisory Board on Child Abuse and Neglect; Meeting

Notice is hereby given, pursuant to Pub. L. 92–463, of the meeting of the Advisory Board on Child Abuse and Neglect on January 20, 1983, from 9:30 a.m. to 3:30 p.m., Hubert H. Humphrey Building, Room 503–529A, 200 Independence Avenue, SW., Washington, D.C.

The Advisory Board on Child Abuse and Neglect was established by the Department of Health and Human Services to assist the Secretary in coordinating programs and activities related to child abuse and neglect planned, administered, or assisted by the Federal agencies whose representatives are members of the Advisory Board. The Advisory Board shall also assist the Secretary in the development of Federal standards for child abuse and neglect prevention and treatment programs and projects.

At this meeting, the Advisory Board will discuss Interagency Child Abuse and Neglect Initiatives; Status of Child Abuse and Neglect Legislation; Plans for the Sixth National Conference on Child Abuse and Neglect; and Federal Coordination Issues and Plans.

Further information on the Advisory Board meeting may be obtained from Ms. Arlene Taylor, National Center on Child Abuse and Neglect, Room 2008E, Donohoe Building, P.O. Box 1182,

Washington, D.C. 20013 or call on (202) 245–2840.

Advisory Board meetings are open for public observation.

Dated: December 20, 1982.

Mamie J. Welborne,

Committee Management Officer.

[FR Doc. 82–34987 Filed 12–23–82; 8:45 am]

BILLING CODE 4130–01–M

Office of the Secretary

Medicare Program; Premium Rate for the Uninsured Aged

AGENCY: Office of the Secretary, HHS.

ACTION: General notice.

SUMMARY: This notice announces Medicare's monthly hospital insurance premium for the uninsured aged for the 12 months beginning July 1, 1983.

EFFECTIVE DATE: July 1, 1983.

FOR FURTHER INFORMATION CONTACT: Sol Mussey, Supervisory Actuary, Office of Financial and Actuarial Analysis, 1–C–11 Oak Meadows Building, Baltimore, Maryland 21207, Telephone: (301) 594–1024.

SUPPLEMENTARY INFORMATION: Under the authority in section 1818(d)(2) of the Social Security Act (42 U.S.C. 1395i–2(d)(2)), I have determined that the monthly Medicare hospital insurance premium for the uninsured aged for the 12 months beginning July 1, 1983, is $132.

Section 1818 of the Social Security Act provides for voluntary enrollment in the hospital insurance program (Part A of Medicare), subject to payment of a monthly premium, of certain persons age 65 and older who are uninsured for social security or railroad retirement benefits and do not otherwise meet the requirements for entitlement to hospital insurance. (Persons insured under the Social Security or Railroad Retirement Acts need not pay premiums for hospital insurance.)

Section 1818(d)(2) of the Act requires the Secretary to determine and publish, during the last quarter of each calendar year, the amount of the monthly Part A premium for voluntary enrollment for the 12-month period beginning with the following July 1. The formula specified in this section also requires that, for the period beginning July 1, 1983, the 1973 base year premium ($33) be multiplied by the ratio of (1) the 1983 inpatient hospital deductible to (2) the 1973 inpatient hospital deductible, rounded to the nearer multiple of $1 or, if midway between multiples of $1, to the next higher multiple of $1.

Under section 1813(b)(2) of the Act, the 1983 inpatient hospital deductible was determined to be $304. (See 47 FR 43631, October 1, 1982.) The 1973 deductible was actuarially determined to be $76, although the 1973 deductible was actually promulgated to be only $72, to comply with a ruling of the Cost of Living Council. (See 37 FR 21452, October 11, 1972.) The monthly premium for the 12-month period beginning July 1, 1983 has been calculated using the $76 deductible for 1973, since this more closely satisfies the intent of the law. Thus the monthly hospital insurance premium is $33×(304/76)=$132.

Impact Analyses

The monthly hospital insurance premium for the uninsured aged for the 12-month period beginning July 1, 1983 will increase to $132. That amount is 17 percent higher than the $113 monthly premium amount for the previous 12-month period.

The estimated cost of this increase to the approximately 24 thousand enrollees who do not otherwise meet the requirements for entitlement to hospital insurance will be about $5 million.

Because this notice merely announces an amount required by the formula specified in section 1818(d)(2) of the Act, and does not alter any regulation or policy, no analyses under Executive Order 12291 or the Regulatory Flexibility Act, Pub. L. 96–354, are required.

(Sec. 1818(d)(2) of the Social Security Act (42 U.S.C. 1395i–2(d)(2))

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare—Hospital Insurance)

Dated: December 17, 1982.

Richard S. Schweiker,

Secretary.

[FR Doc. 82–34988 Filed 12–23–82; 8:45 am]

BILLING CODE 4120–03–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Colorado and Wyoming; Intent To Hold Public Scoping Meetings and To Prepare a Regional Environmental Impact Statement for the Second Round of Proposed Leasing of Federal Coal in the Green River/Hams Fork Region

AGENCY: Bureau of Land Management, Interior.

ACTION: Public scoping meetings and notice to prepare an EIS.

SUMMARY: This notice advises the public that the Bureau of Land Management intends to hold meetings to gather information and seek assistance in defining the range of issues and concerns for preparation of a regional Environmental Impact Statement (EIS) for the second round of proposed leading of Federal coal within the Green River/Hams Fork coal production region. This notice is made in accordance with the National Environmental Policy Act (NEPA) and the Council on Environmental Quality regulations (40 CFR 1501.7 and CFR 1508.22) to obtain suggestions and information from other agencies and the public on the scope of issues to be addressed in the EIS. Comments and participation in this scoping process are solicited.

Public meetings will be held in Denver and Craig, Colorado, and Rawlins and Rock Springs, Wyoming. An information packet and tract location map will be available upon request from the Little Snake Resource Area Office at the address given below after January 10, 1983, and at the public meetings. Meeting dates and places are listed below under **SUPPLEMENTARY INFORMATION.**

Oral testimony and submission of written comments will be received at the meetings or can be mailed to the Little Snake Resource Area Office.

DATES: Public hearings will be held on January 24, 25, 26, and 27, 1983. Written comments will be accepted through February 11, 1983.

ADDRESS: Comments should be addressed to David Bray, Regional Coal EIS Acting Team Leader, Bureau of Land Management, Little Snake Resource Area, P.O. Box 1136, Craig, Colorado, 81626.

SUPPLEMENTARY INFORMATION. The tracts proposed for leasing are within Routt, Moffat, and Rio Blanco counties in Colorado, and Sweetwater, Lincoln, Uinta, and Carbon counties in Wyoming. The Regional Coal Team will rank, select, and define leasing alternatives for the coal tracts identified in accordance with the provisions of 43 CFR 3420.3–4 of the Federal coal management regulations. Alternatives that have been tentatively identified include the following: (1) The No Action Alternative or not leasing additional coal, and (2) Leasing various combinations of tracts to achieve different leasing levels.

The purpose of the public meetings is to encourage participation from interested persons in defining the significant environmental issues and concerns that relate to the leasing of coal to meet the Federal coal leasing target for the Green River/Hams Fork region.

Public scoping meetings will be held as follows:

Place	Date	Address
Denver, Colo	Jan. 24, 1983 [1]	Marriott Hotel (Lower Level 2), 1701 Calif. St., Denver, Colorado.
Rawlins, Wyo	Jan. 25, 1983 [1]	BLM District Office, 1300 3rd Street, Rawlins, Wyoming.
Rock Springs, Wyo	Jan. 26, 1983 [1]	Holiday Inn, 1675 Sunset Drive, Rock Springs, Wyoming.
Craig, Colo	Jan. 27, 1983 [1]	Craig-Moffat County Library, 570 Green Street, Craig, Colorado.

[1] Meetings will start at 7:00 p.m.

Each witness will be limited to a maximum of 10 minutes of oral presentation. Oral presentations can be made in lieu of or in addition to any written comments submitted. The text of any prepared presentation materials may be given to the EIS Team Leader at the meetings.

The agenda for the scoping meeting will be as follows:

1. Introduction

a. Purpose and intent of meeting.
b. Location and description of tracts.
c. Description of previously defined issues identified during pre-analysis to be considered in the EIS.
d. Discussion of possible alternatives to be considered in the EIS.
e. Information available from the BLM for public use in commenting on the EIS process.

2. Solicitation of public comment, recommendations, and issues of major concern to be considered and addressed in the EIS. Protential issues include: social and economic concerns, air quality, water, and wildlife.

Preparation of the EIS will be conducted in accordance with the requirements of the National Environmental Policy Act of 1969, Council on Environmental Quality regulations, other required Federal laws and regulations, and Department of the Interior policies and procedures.

Dated: December 17, 1982.

George C. Francis,

State Director, Colorado, Bureau of Land Management.

[FR Doc. 82-34862 Filed 12-23-82; 8:45 am]

BILLING CODE 4310-84-M

District Grazing Advisory Board, Susanville, California; Meeting

Notice is hereby given in accordance with Pub. L. 94-579 (FLPMA) that a meeting of the Susanville District Grazing Advisory Board will be held on February 1, 1982.

The meeting will begin at 10:00 a.m. at Cal Pines, Alturas, California.

The Agenda will include:

1. Ranking projects in accordance with the Final Rangeland Improvement Policy.
2. How the Grazing Fee Credit works.
3. 1983 Projects.
4. Priority for FY 84 projects.
5. Allocation of 84 project dollars.
6. Report on Project Maintenance Agreements.
7. Report on maintenance liability.
8. Discussion of on the shelf projects.
9. Report on the wild horse and burro program.
10. Other items as appropriate.

The meeting is open to the public. Interested persons may make oral statements to the Board between 4:30 p.m. and 4:00 p.m. or file a written statement for the Board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, P.O. Box 1090, Susanville, California 96130 by January 25, 1983. Depending upon the number of persons wishing to make oral statements, a per person list limit may be established.

Summary minutes of the Board Meeting will be maintained in the District Office and will be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Dated: December 17, 1982.

C. Rex Cleary,

District Manager.

[FR Doc. 82-34877 Filed 12-23-82; 8:45 am]

BILLING CODE 4310-84-M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Texaco U.S.A. has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS-G 4437, Block 236, South Timbalier Area, offshore Louisiana.

The purpose of this Notice is to inform the Public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837-4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: December 14, 1982.

John L. Rankin,

Acting Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 82-34861 Filed 12-23-82; 8:45 am]

BILLING CODE 4310-31-M

Office of the Secretary

Harry S Truman National Historic Site

December 15, 1982.

Notice is hereby given that the Secretary of the Interior has issued Order Number 3088 dated December 8, 1982 designating the Harry S Truman National Historic Site. The order is published in its entirety below.

Additional information regarding the order may be obtained from Mr. Phil Million, Office of Public Affairs, U.S. Department of the Interior, Washington, D.C. 20240, telephone 202-343-3171.

G. Ray Arnett,

Assistant Secretary of the Interior.

[Order No. 3088]

Subject: Designation of Harry S Truman National Historic Site.

Sec. 1. *Purpose.* The Congress has declared it to be a national policy to preserve for the public use historic sites, buildings, and objects of national significance for the inspiration and benefit of the people of the United States. The former home of Harry S Truman, thirty-third President of the United States, in Independence, Missouri, was on November 11, 1971, designated a national landmark, in furtherance of that policy, and is listed on the National Register of Historic Places as being nationally significant. The home is left to the United States of America under the will of Bess Wallace Truman. It is, therefore, the purpose of this Order to

establish the former home of Harry S Truman as a national historic site, to be administered by the National Park Service.

Sec. 2. *Authority.* This Order is issued under the authority of section 2 of the Act of August 21, 1935 (49 Stat. 666).

Sec. 3. *Designation.* The real property known as 219 North Delaware Street, in the city of Independence, Missouri, including such of the personal property therein as passed to the United States under the will of Bess Wallace Truman, is hereby designated as the Harry S Truman National Historic Site.

Sec. 4. *Administration.* For so long as this national historic site shall remain in private ownership, it shall be administered and protected by the Secretary of the Interior in accordance with the terms of a cooperative agreement to be entered into between the United States of America and the legal representative of the Estate of Bess Wallace Truman under authority of the Act of August 21, 1935 (49 Stat. 666), as amended and supplemented. Upon conveyance of this national historic site to Federal ownership, it shall be administered and protected by the National Park Service in accordance with the Act of August 21, 1939 (49 Stat. 666), as amended and supplemented, and other applicable law, subject to necessary jurisdictional actions under the terms of the conveyance.

Sec. 5. *Expenditure of Funds for Development.* No funds appropriated to the Department of the Interior may be expended for the development of this national historic site, unless and until such funds are authorized by Act of Congress. All Federal expeditures under the terms of the cooperative agreement decribed in section 4 of this Order are subject to the availability of appropriated funds.

Sec. 6. *Effective Date.* This Order is effective immediately and will remain in effect until it is amended, superceded, or revoked, whichever occurs first.

Dated: December 8, 1982.

James G. Watt,

Secretary of the Interior.

[FR Doc. 82-34858 Filed 12-23-82; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Finance Applications; Decision-Notice

Decided: December 17, 1982.

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find: Each transaction is exempt from section 11343 of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsideration; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1181.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 20 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is ordered: The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission, Review Board No. 3, Member Krock, Joyce, Dowell.

Agatha L. Mergenovich,

Secretary.

Please direct status inquiries to Team Four at (202) 275-7669.

Volume No. OP4-FC-079

MC-FC-81039, filed November 12, 1982. By decision of December 15, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, Review Board Number 3 approved the transfer to American Van Lines, Inc., Elk Grove Village, IL, of Certificate Nos. MC-52196, issued July 7, 1963, MC-52196 (Sub-No. 2), issued August 3, 1981, and MC-52196 (Sub-No. 3), issued April 8, 1982, to Nelson-Westerberg, Inc., Elk Grove Village, IL, authorizing the transportation of household goods, over irregular routes, (1) between points in Cook County, IL, on the one hand, and, on the other, points in WI, IA, IN, OH, and MI, (2) between Hackensack, NJ, and points in NJ within 60 miles thereof, on the one hand, and, on the other, points in CT, ME, MA, NY, PA, and RI, and (3) between points in NJ, CT, ME, MA, PA, and RI, on the one hand, and, on the other, points in IL, WI, IA, IN, OH, and MI. Representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Washington, DC 20036.

Volume No. OP4-FC-084

(Member Krock not participating.)

MC-FC-81091. By decision of December 17, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, Review Board No. 3 approved the transfer to Conner and McKinley Trucking, Inc., Perryton, TX of Certificate No. MC-152386, issued to Lacinda Lynn, Inc., d/b/a Ladd Trucking Company, Canadian, TX, on February 8, 1982, authorizing the transportation of *Mercer commodities,* between points in nine named counties in TX, on the one hand, and on the other, points in OK, KS and NM. Representative: Mike Cotton, P.O. Box 1148, Austin, TX 78767.

[FR Doc. 82-34829 Filed 12-23-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

In the matter of Motor Common and Contract Carriers of Property (fitness-only); Motor Common Carriers of Passengers (fitness-only); Motor Contract Carriers of Passengers; Property Brokers (other than household goods).

The following applications for motor common or contract carriage of property and for a broker of property (other than household goods) are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** on December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common or contract carriage of passengers filed on or after November 19, 1982, are governed by Subpart D of the Commission's Rules of Practice. See 49 CFR Part 1160, Subpart D, published in the **Federal Register** on November 24, 1982, at 49 FR 53271. For compliance procedures, see 49 CFR 1160.86 Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E.

These applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon

payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce, over irregular routes unless noted otherwise. Applications for motor contract carrier authority are those where service in for a named shipper "under contract."

Please direct status inquiries to Team Five at 202–275–7289.

Volume No. OP5–291

Decided: December 14, 1982.

MC 144979 (Sub-2), filed December 2, 1982. Applicant: ATLANTIC LIMOUSINE, INC., 11 East Decatur Ave., Pleasantville, NJ 08232. Representative: L. C. Major, Jr., Suite 304, Overlook Bldg., 6121 Lincolnia Rd., P.O. Box 11278, Alexandria, VA 22312, 703–750–1112. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 150058 (Sub-3(B)), filed December 2, 1982. Applicant: PHILPOTT CARTAGE CO., 6658 West 99th St., Chicago, IL 60415. Representative: Joseph Winter, 29 South LaSalle St., Chicago, IL 60603, (312) 263–2306. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

Note.—Applicant also seeks nationwide general commodities authority in MC–150058 Sub 3(A) published this same date.

MC 154238 (Sub-3), filed December 6, 1982. Applicant: WESTERN CARRIER EXPRESS INCORPORATED, 2800 Brighton Blvd., Denver, CO 80216. Representative: Jerald D. Watters (same address as applicant), (303) 294–0400. Transporting (1) *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI) and (2) for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 160358 (Sub-1), filed December 6, 1982. Applicant: DALE E. SMITH, d.b.a. DALE'S CHARTER SERVICE, R.R. #3 McCue Rd., Sterling, IL 61081. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701, 217–544–5468. Transporting *passengers in charter and special operations*, between points in the U.S. (except AK and HI).

Note.—Aplicant seeks to provide privately-funded charter and special transportation.

MC 164919, filed November 29, 1982. Applicant: DANIEL J. MURDOCH, d.b.a. MURDOCH TRUCKING, R.R. 1 Box 6, Murdock, NE 68407. Representative: Daniel J. Murdoch (same address as applicant), 402–867–2973. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

Volume No. OP5–294

Decided: December 15, 1982.

MC 29948 (Sub-14), filed December 7, 1982. Applicant: EMPIRE LINES, INC., 910 West Sprague Ave., P.O. Box 2205, Spokane, WA 99210. Representative: Jeremy Kahn, 1511 K St., NW. Suite 733, Investment Bldg., Washington, D.C. 20005, 202–783–3525. Transporting *passengers*, in special and charter operations, beginning and ending at points in WA, ID, MT, OR, WY, CA, NV, UT, CO, AZ, and extending to points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 65639 (Sub-6), filed December 7, 1982. Applicant: E. VANDERHOO F & SONS, 18 Wilfred St., West Orange, NJ 07052. Representative: Ronald I. Shapss, 450 Seventh Ave., New York, NY 10123, 212–239–4610. Transporting *passengers* in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 163969, filed November 29, 1982. Applicant: MANHATTAN TRANSIT, INC., 217 McCall Road, Manhattan, KS 66502. Representative: Tom Abbott (same address as applicant), (913) 776–9124. Transporting *passengers*, in charter and special operations, beginning and ending at points in Riley County, KS, and extending to points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165058, filed December 7, 1982. Applicant: SULLIVAN CONSOLIDATION, INC., 655 Page Boulevard, Springfield, MA 01104. Representative: David M. Marshall, 101 State St., Suite 304, Springfield, MA 01103, (413) 732–1136. To operate as a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 165059 filed December 7, 1982. Applicant: LEO J. KELLY, 301 Chautauga St., Oakland, IA 51560. Representative: Edward A. O'Donnell, 1004 29th St., Sioux City, IA 51104, (712) 255–3127. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor

vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 165068, filed December 7, 1982. Applicant: ECONOWAY MOTOR COACH, INC., R.R. 2, Box 120, Daleville, IN 47334. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240, 317–846–6655. Transporting *passengers in charter operations,* between points the U.S. (AK and HI).

Note.—Applicant seeks to provide privately-funded charter transportation.

MC 165078, filed December 6, 1982. Applicant: RANDALL TRANSFER CO., 829 Eighth St. Wahpeton, ND 58075. Representative: Lawrence E. Lindeman, 4660 Kenmore Ave., Suite 1230, Alexandria, VA 22304, 703–751–2441. Transporting *passengers in charter and special operations,* between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165079, filed December 7, 1982. Applicant: FREDERICK A. LONG, 17 Foran Rd., 37 Milford, CT 06460. Representative: Barry Weintraub, Suite 510, 8133 Leesburg Pike, Vienna, VA 22180, 703–442–8330. As a *broker* of *general commodities* (except houshold goods), between points in the U.S.

[FR Doc. 82–34931 Filed 12–23–82; 8:45 am]

BILLING CODE 7535–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

In the matter of Motor Common and Contract Carriers of Property (except fitness-only); Motor Common Carriers of Passengers (public interest); Freight Forwarders; Water Carriers; Household Goods Brokers.

The following applications for motor common or contract carriers of property, water carriage, freight forwarders, and household goods brokers are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common carriage of passengers, filed on or after November 19, 1982, are governed by Subpart D of 49 CFR Part, 1160, published in the **Federal Register** on November 24, 1982 at 47 FR 53271,. For compliance procedures, see 49 CFR 1160.86. Carriers operating pursuant to an intrastate certificate also must comply with 49 U.S.C. 10922(c)(2)(E). Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E. In addition to fitness grounds, these applications may be opposed on the grounds that the transportation to be authorized is not consistent with the public interest.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations.

We make an additional preliminary finding with respect to each of the following types of applications as indicated: common carrier of property-that the service proposed will serve a useful public purpose, responsive to a public demand or need; water common carrier-that the transportation to be provided under the certificate is or will be required by the public convenience and necessity; water contract carrier, motor contract carrier of property, freight forwarder, and household goods broker-that the transportation will be consistent with the public interest and the transportation policy of section 10101 of chapter 101 of Title 49 of the United States Code.

These presumptions shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from the date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.–All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract." Applications filed under 49 U.S.C. 10922(c)(2)(B) to operate in intrastate commerce over regular routes as a motor common carrier of passengers are duly noted.

Please direct status inquiries to Team 2, (202) 275–7030.

Volume No. OP2–326

Decided: December 17, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Parker not participating.)

MC 112713 (Sub-334), filed November 24, 1982. Applocant: YELLOW FREIGHT SYSTEM, INC., 10990 Roe Ave. P.O. Box 7270, Overland Park, KS 66207. Representative: William F. Martin, Jr., (same address as applicant), 913–383–3000. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with Phillips Petroleum Company, of Bartlesville, OK, and its subsidiaries (a) Phillips Driscopipe, Inc., of Dallas, TX, (b) American Fertilizer & Chemical Co., of Henderson, Co, (c) American Thermoplastics Corporation, of Houston, TX, (d) Phillips Fibers Corporation, of Greenville, SC, (e) H.P. Smith Paper Co., of Albuquerque, NM, (f) Phillips Uranium Corporation, Applied Automation, Inc., Phillips pipeline Company, Inc., Phillips Chemical Company, Phillips Natural Gas Company, and Drilling Specialties Company, Division of Phillips Chemical Company, all of Bartlesville, OK, (g) Phillips Puerto Rico Core, Inc., of Guayama, Puerto Rico, (h) Phillips Extruded Products—Les Produits Extrude's Phillips Ltee, Ltd., of

Boucherville, Quebec, (i) Phillips Pacific Chemical Company, of Spokane, WA, (j) Phillips Coal Company, of Richardson, TX, and (k) Catalyst Resources, Inc., of Houston, TX.

MC 123063 (Sub-11), filed december 9, 1982. Applicant: KIRBERY TRANSPORTATION, INC., 425 Main St., Woodbridge, NY 07095. Representative: A. David Millner, Seven Becker Farm Road, P.O. Box Y, Roseland, NY 07068, (201)992–2200. Transporting *Building materials, coal and coal products, and petroleum natural gas and their products,* between points in NY, NJ, PA, CT, MA, RI, DE, MD, VA and DC.

MC 147553 (Sub-20), filed December 9, 1982. Applicant: DENNIS MOSS AND GARY MOSS, d.b.a. MOTOR WEST P.O. Box 1405, Caldwell, ID 83605. Representative: Timothy R. Stivers, P.O. BOX 1576, Boise, ID 83701, (208) 343–3071. Transporting *general commodities,* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 165172, filed December 13, 1982. Applicant: ALASKA COMMERCIAL FREIGHTLINES, 2807 Eureka Ave., Anchorage, AK 99503. Representative: James P. Richmond, 717 K St., Anchorage, AK 99501, 907–274–3576. Transporting *general commodities* (except classes A and B explosives and household goods) (1) between points in AK, and (2) between points in AK, on the one hand, and, on the other, points in the U.S.

For the following, please direct status inquiries to Team 4 at 202–274–7669.

Volume No. OP4–082

Decided: December 17, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

FF 636, filed December 9, 1982. Applicant: ADEPT FORWARDING, INC., P.O. Box 6169, San Rafael, CA 94903. Representative: Alan F. Wohlstetter, 1700 K St., NW., Washington, D.C. 20006. As a *freight forwarder* in connection with the transportation of used *household goods, unaccompanied baggage and used automobiles,* between points in the U.S.

MC 63837 (Sub-12), filed December 10, 1982. Applicant: DIGGINS AND ROSE, INC., 3 Sagamore Park Rd., Hudson, NH 03051. Representative: James M. Burns, 1365 Main St., Suite 403, Springfield, MA 01103, (413) 781–8205. Transporting *household goods, furniture and fixtures,* between points in DE and DC, on the one hand, and, on the other, points in AL, AR, DE, DC, CT, FL, GA, IL, IN, IA, KY, LA, ME, MD, MA, MI, MN, MS, MO, NH, NJ, NY NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV and WI.

MC 07296 (Sub-1), filed December 9, 1982. Applicant: PINAL WAREHOUSE COMPANY, INC., P.O. Box 955, Casa Grande, AZ 95222. Representative: Thomas E. Erwin (same address as applicant), (602) 836–8647. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in AZ.

MC 107586 (Sub-27), filed December 7, 1982. Applicant: TRAILWAYS BUS SYSTEM, INC., 1500 Jackson St., Dallas, TX 75201. Representative: George W. Hanthorn (Same address as applicant), (214) 655–7937. Transporting *passengers,* between San Marcos, TX and San Antonio, TX, over Interstate Hwy 35 serving all intermediate points.

Note.—Applicant intends to tack and seeks to provide regular-route service in interstate or foreign commerce and in intrastate commerce under 49 U.S.C. 10922 (c)(2)(B) over the same route.

MC 134806 (Sub-84), filed December 7, 1982. Applicant: B–D–R TRANSPORT, INC., P.O. Box 1277, Vernon Drive, Brattleboro, VT 05301. Representative: Edward T. Love, 4401 East-West Hwy, Suite 404, Bethesda, MD 20814, (301) 986–9030. Transporting (1) *emergency lighting equipment* and *batteries,* under continuing contract(s) with Sure-Lites, Inc., of Oxford, CT (2) floormats, under continuing contracts(s) with Eldo, Inc., of Los Angeles, CA, (3) *stove boards* and *woodstove accessories,* under continuing contract(s) with Hearthshield Heat Safe, Inc., of Woodinville, WA, and (4) *smokestacks,* under continuing contract(s) with Heat-Fab, Inc., of Greenfield, MA, between points in the U.S. (except AK and HI).

MC 144927 (Sub-50), filed December 10, 1982. Applicant: REMINGTON FREIGHT LINES, INC., 315, US 24 West, Remington, IN 47977. Representative: Steve Martin, (same address as applicant); (219) 261–3461. Transporting *food and related products,* between points in Passaic County, NJ, and CA, IL, AL, GA, OH, MI, PA, AZ, IA, NY, TX, WI, MN, OR, WA, CO, FL, and LA.

MC 150766 (Sub-3), filed December 9, 1982. Applicant: OLDLAND DISTRIBUTING, INC., P.O. Box 3241, Central Point, OR 97502. Representative: Peter H. Glade, 1 SW Columbia, Suite 555, Portland, OR 97258, (503) 227–1681. Transporting machinery, equipment, and, supplies used in the manufacture, repair and maintenance of automobiles, trucks, trailers, recreational vehicles and motorcycles, between points in OR, WA and CA.

MC 153677 (Sub-4), filed December 10, 1982. Applicant: BILLY HARRIS TRUCKING CO., Rte. 4, Box 139A, Henderson, NC 27536. Representative: Henry E. Seaton, 1024 Pennsylvania Bldg., 425 13th St, NW, Washington, DC 20004, (202) 347–8862. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in Vance County, NC, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 164607, filed November 8, 1982, published in the **Federal Register** issue of November 24, 1982, and republished this issue. Applicant: GERALD E. ORT TRUCKING, INC., Rt. 1, Dreier Rd., New London, WI 545961. Representative: Charles E. Dye, Swan Lake Village, Saddle Ridge #832, Portage, WI 53901, (608) 742–3579. Transporting *food and related products,* between Milwaukee, WI, points in Outagamie, Winnebago and Brown Counties, WI and Chicago, IL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Note.—The purpose of this republication is to correct the territorial description.

MC 165117, filed December 9, 1982. Applicant: REICHKITZER TRANSPORTATION, INC., Route 2, Harris, MN 5032. Representative: Stanley C. Olsen, Jr., 5200 Willson Rd., Suite 307, Edina, MN 55424, (612) 927–8855. Transporting *machinery,* between points in the U.S. (except AK and HI).

MC 165127, filed December 10, 1982. Applicant: DONALD E. PEPIN, 27 Main St., P.O. Box 401, Goffstown, NH 03045. Representative: Donald E. Pepin (same address as applicant) (603) 529–2304. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in NH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

For the following, please direct status inquiries to Team 5 at 202–275–7289.

Volume No. OP5–290

Decided: December 14, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 115648 (Sub-42), filed December 6, 1982. Applicant: LOCK TRUCKING, INC., P.O. Box 278, Wheatland, WY 82201. Representative: Ward A. White, 1600 Van Lennen, Ave., P.O. Box 568 Cheyenne, WY 82001. (307) 634–2184. Transporting *general commodities* (except classes A and B explosives and household goods), between those points in the U.S. in and west of WI, IL, MO, AR, and LA (except AK and HI).

MC 119619 (Sub-154), filed November 26, 1982. Applicant: DISTRIBUTORS SERVICE CO., 2000 West 43rd St., Chicago, IL 60609. Representative: Piken & Piken, Queens Office Tower, 95–25 Queens Blvd. Rego Park, NY 11374 (212) 275–1000. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between those points in the U.S. in and east of MT, WY, CO, and NM.

MC 136939 (Sub-5), filed December 2, 1982. Applicant: CLAYTON'S INC., P.O. Box 38, Ucon, ID 83454. Representative: David E. Wishney, P.O. Box 837, Boise, ID 83701, 208–336–5955. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Packaging Corporation of America of Salt Lake City, UT.

MC 140149 (Sub-7), filed December 7, 1982. Applicant: M.C. BUNCH, INC., Route 1, Box 52, Lake City, AR 72437. Representative: James M. Duckett, 221 W. 2nd, Suite 411, Little Rock, AR 72201, 501–375–3022. Transporting *lumber and wood products,* between points in AR, LA, AL, and MS, on the one hand, and, on the other, points in MO, KS, IN, IA, OK, IL, OH, MI and MN.

MC 144858 (Sub-52), filed December 6, 1982. Applicant: DENVER SOUTHWEST EXPRESS, INC., 11900 Stagecoach Rd., Little Rock, AR 72219. Representative: Scott E. Daniel (Same address as applicant) 501–455–4911. Transporting *such commodities* as are dealt in by wholesale and retail grocery and food business houses (except in bulk), between points in the U.S. (except AK and HI).

MC 146668 (Sub-8), filed December 6, 1982. Applicant: MICHAEL BENNETT TRUCKING, INC., 16 E. Armador, Seneca, KS 665438. Representative: Clyde N. Christey, 1010 Tyler, Suite 110–L, KS Credit Union Bldg., Topeka, KS 66612, 913–233–9629. Transporting *food and related products,* between points in KS, TX, OK, NE, IA, MO, AR, CO, SD, MN, and WY.

MC 146788 (Sub-4), filed November 22, 1982. Applicant: JOHNSON TRUCKING, 913 South 13th Place, Norfolk, NE 68701. Representative: Norman Johnson (same address as applicant) (402) 371–4023. Transporting *chemicals and minerals,* between points in the U.S. (except AK and HI), under continuing contract(s) with Baker Chemicals, Inc., of Houston, TX.

MC 150058 (Sub-3(A)), filed December 2, 1982. Applicant: PHILPOTT CARTAGE CO., 6658 West 99th St., Chicago Ridge, IL 60415. Representative: Joseph Winter, 29 South LaSalle St., Chicago, IL 60603 (312) 263–2306. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

Note.—Applicant also seeks property broker authority in MC–150058 Sub 3(B) published this same date.

MC 153909 (Sub-1), filed December 6, 1982. Applicant: FREIGHT SERVICE, INC., P.O. BOX 96, Main St., Smithboro, IL 62284. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701 (217) 544–5468. Transporting *fertilizer and ammonia,* between points in IL, IN and MO.

MC 161619, filed December 6, 1982. Applicant: ACCA TRUCKING, INC., 194 East Kinney St., Newark, NJ 07105. Representative: Peter Wolff, 722 Pittston Ave., Scranton, PA 18505, 717–342–7595. Transporting *furniture and fixtures,* between points in Essex County, NJ, on the one hand, and, on the other, points in CT, DE, MD, MA, NY, PA, RI, VA, and DC.

MC 163598, filed December 1, 1982. Applicant: 4–D HOT SHOT SERVICE, INC., 155 Sherwood Circle, Casper, WY 82601. Representative: Eric A. Distad, Suite 305, 120 West 1st., P. O. Box 2314, Casper, WY 82602, 307–266–4245. Transporting *Mercer commodities,* and *earth drilling equipment,* between points in WY, MT, ND, SD, NE, CO, UT, NM, ID, NV, OR, WA, and AZ.

MC 163958, filed December 3, 1982. Applicant: AL–RAD INTERNATIONAL, INC., 5625 North Pearl Street, Rosemont, IL 60018. Representative: Daniel O. Hands, 104 South Michigan Avenue, Suite 410, Chicago, IL 60603 (312) 641–1944. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between Chicago, IL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 164989, filed December 2, 1982. Applicant: TRINITY TRANSPORT, INC., 151 S.W. 61st Ave., Plantation, FL 33317. Representative: Bernard C. Pestcoe, 1500 Alfred I. DuPont Bldg., Miami, FL 33131, 305–371–1723. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in FL.

MC 165008 , filed December 3, 1982. Applicant: KAT–B TRANSCON, INC., 6938 Clinton Dr., Houston, TX 77020. Representative: John G. Wentz, Jr., 7863 Cook Rd., Houston, TX 77072, 713–228–7447. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in LA and TX.

Volume No. OP5–293

Decided: December 15, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 128618 (Sub-3), filed December 7, 1982. Applicant: MARTINO TRUCKING, INC., Railroad St., Rochester, PA 15074. Representative: William A. Gray, 2310 Grant Bldg., Pittsburgh, PA 15219, 412–471–1800. Transporting *commodities in bulk,* between points in Hancock County, WV, on the one hand, and, on the other, points in Washington, Westmoreland, Beaver, Butler and Allegheny Counties, PA.

MC 146208 (Sub-3), filed December 7, 1982. Applicant: SHIVES, INC., P.O. Box 100, Armington, IL 61721. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701, 217–544–5468. Transporting *machinery* and *metal products,* between points in AR, IL, IN, IA, KY, MO, MI, MN, and WI.

MC 151089 (Sub-10), filed December 6, 1982. Applicant: BLUE RIBBON TRUCKING, INC., P.O. Box 188, Putnam, CT 06260. Representative: Michael R. Werner, 241 Cedar Lane, Teaneck, NJ 07666 (201) 836–1144. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 155398 (Sub-2), filed December 7, 1982. Applicant: TISCHHAUSER TRUCKING, INC., Rural Route 1, Wilsey, KS 66873. Representative: Brad T. Murphree, 814 Century Plaza Bldg., Wichita, KS 67202, 316–265–2634. Transporting *fertilizer,* between points in the U.S. (except AK and HI).

MC 158288 (Sub-8), filed December 7, 1982. Applicant: TOMAHAWK TRANSPORTATION, A DIVISION OF TOMAHAWK SERVICES, INC., 5400 Laurel Rd., Billings, MT 59101. Representative: Joel E. Guthals, P.O. Box 1977, Billings, MT 59103 (406) 245–3071. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract with International NU-Way Shippers Association, Inc., of Chicago, IL.

MC 164899, filed November 29, 1982. Applicant: UNITED STATES MOVING AND STORAGE CORP., 350 Coney Island Ave., Brooklyn, NY 11218. Representative: Ronald I. Shapss, 450 Seventh Ave., New York, NY 10123, 212–

239–4610. Transporting *household goods*, between points in the U.S. (except AK and HI).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–34932 Filed 12–23–82; 8:45 am]

BILLING CODE 7035–01–M

Motor Carrier Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the Federal Register publication no later than the 15th calendar day after the date of the notice of the filing of the application is published in the Federal Register. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestants shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F–224

The following applications were filed in region I: Send protests to: Interstate Commerce Commission; Regional Authority Center, 150 Causeway Street, Room 501, Boston, MA 02114.

MC 140116 (Sub-1–1TA), filed: December 9, 1982. Applicant: ATLAS TRUCKING CO., LTD., 5005 Irwin Avenue, LaSalle, Quebec, CD H8N 2G9. Representative: Thomas E. Acey, Jr., Suite 1100, 1660 L Street NW., Washington, DC 20036. *Structural steel* from points on the International Boundary between the U.S. and CD, located in the State of NY, to Stamford, CT. Supporting shipper: Dominion Bridge—Sulzer, Inc., 555 Notre Dame, Lachine, Quebec, CD.

MC 157479 (Sub-1–1TA), filed: December 14, 1982. Applicant: COBRA COACH LINES, INC., 3233 Laconia Avenue, Bronx, NY 10469. Representative: Edward F. Bowes, Esq., 7 Becker Farm Road, P.O. Box Y, Roseland, NJ 07068. *Common carrier:* regular routes: *Passengers and their baggage, in the same vehicle,* between Bronx, NY and Atlantic City, NJ as follows: From NY over the George Washington Bridge to jct Int. Hwy 95, they over Int. Hwy 95 to jct NJ Turnpike, then over NJ Turnpike to jct Garden State Parkway in Woodbridge, NJ, then over Garden State Parkway to jct Atlantic City Expressway, then over Atlantic City Expressway to Atlantic City, NJ and return over the same routes serving no intermediate points. Supporting shipper: La-Mar Travel & Tours, Inc., 1738 Edison Avenue, Bronx, NY.

MC 164041 (Sub-1–1TA), filed: December 14, 1982. Applicant: ENGLE INTERNATIONAL, INC., 901 Julia Street, Elizabeth, NJ 07201. Representative: Robert J. Gallagher, Esq., 1000 Connecticut Avenue NW., Suite 1200, Washington, DC 20036. *(1) Household goods, as defined by the Commission, and (2) General commodities (except Class A & B explosives) restricted to transportation for the United States Government,* between points in AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, OH, OK, OR, PA RI, SC, TN, TX, UT, VT, VA, WA, WV, WI, WY. Supporting shipper: There are seventeen statements in support attached to this application which may be examined at the I.C.C. Regional Office in Boston, MA.

MC 148325 (Sub-1–1TA), filed: December 10, 1982. Applicant: ROBERT K. FARR d.b.a. FARR'S TRUCKING, Box 144, RR 1, Underhill, VT 05489. Representative: Robert K. Farr (same as applicant). *Contract carrier:* irregular routes: *Bakery products and equipment, materials, and supplies used in the manufacture, sale and distribution of such commodities,* between points in VT, on the one hand, and, on the other, points in MA and Claremont, NH, under continuing contract(s) with Koffee Kup Bakery, Inc., Burlington, VT. Supporting shipper: Koffee Kup Bakery, Inc., 436 Riverside Avenue, Burlington, VT 05401.

MC 147811 (Sub-1–9TA), filed: December 9, 1982. Applicant: FLO-JO CONTRACTING, INC., P.O. Box 283, Belgrade Lakes, ME 04918. Representative: Karl A. Johnson (same as applicant). *General commodities (except class A & B explosives)* between points in the U.S. on and east of the Mississippi River. Supporting shipper(s): Brandywine Paper Co., Downington, PA; W. H. Shurtleff Co., P.O. Box 2800, South Portland, ME 04106; United Paper Stock Co., 33 India Street, Pawtucket, RI 02860.

MC 148141 (Sub-1–7TA), filed: December 9, 1982. Applicant: GOODY PRODUCTS, INC., 969 Newark Turnpike, Kearny, NJ 07032. Representative: William Jacobs (same as applicant). *Contract carrier:* irregular routes: *Insulating material* from Fort Wayne, IN and Allentown, PA, to all points in GA, NC, and SC, under continuing contract(s) with S & S Insulation Supply Co., Columbus, GA. Supporting shipper: S & S Insulation Supply Co., 3435 Tewson Drive, Columbus, GA 31904.

MC 161210 (Sub-1–1TA), filed: December 9, 1982. Applicant: J-R TRANSPORTATION SERVICES, INC., R.D. 6, Box 385, Hammonton, NJ 08037. Representative: James H. Sweeney, P.O. Box 9023, Lester, PA 19113. *Contract carrier:* irregular route: *General commodities, except classes A and B explosives, household goods and commodities in bulk,* between points in the U.S. under continuing contract(s) with DA-RON Services, Inc., of East Rutherford, NJ and C-J Transportation Services, Williamstown, NJ. Supporting shipper(s): DA-RON Services, Inc., 375 Murray Hill Parkway, E. Rutherford, NJ 07073; C-J Transportation Services, Inc., Box B, Williamstown, NJ 08094.

MC 123063 (Sub-1–3TA), filed: December 14, 1982. Applicant: KIRBERY TRANSPORTATION, INC., Woodbridge, NJ 07095. Representative: A. David Millner, Seven Becker Farm Road, P.O. Box Y, Roseland, NJ 07068. . *Petroleum and coal products,* between points and places in NJ, PA and NY on the one hand, and, on the other points and places in MD and DE. SUPPORTING SHIPPER: There are eight statements in support of this application which may be examined at the Regional Office of the I.C.C. in Boston, MA.

MC 165131 (Sub-1–1TA), filed: December 10, 1982. Applicant: STEVEN CIANCIOTTA d.b.a. J & S TRUCKING & LEASING CO., 65 Virginia Avenue, P.O. Box 242, Lake Ronkonkoma, NY 11779. Representative: Jack L. Schiller, 111–56

76th Drive, Forest Hills, NY 11375. *Contract carrier:* irregular routes: *(1) Cleaning compounds, shoe polish, toilet preparations, dye coal tar, and fabric softeners,* from the facilities of Knomark, Inc., located at Jamaica, NY, to Chicago, IL and points in CA, and *(2) Meat and meat products* from the facilities of Strauss Brothers Packing, located at Franklin, WI, to Los Angeles, CA; New York, NY; and points in FL, under continuing contract(s) with (1) Knomark, Inc. of Jamaica, NY and (2) with Strauss Brothers Packing of Franklin, WI. Supporting shipper(s): Knomark, Inc. 132–20 Merrick Blvd., Jamaica, NY 11434; Strauss Brothers Packing, P.O. Box 342, Hales Corner, WI 53130.

MC 97658 (Sub-1–1TA), filed December 9, 1982. Applicant: N & B EXPRESS, INC., Deerfield Industrial Park, South Deerfield, MA 01373. Representative: George E. Allen, 131 Forest Avenue, Athol, MA 01331. *Contract carrier:* irregular routes: *Electrical and electronic equipment and other commodities,* between points in the U.S. (except AK and HI), under continuing contract(s) with Digital Equipment Corporation of Maynard, MA. Supporting Shipper: Digital Equipment Corporation, 146 Main Street, Maynard, MA 01754.

MC 106207 (Sub-1–2TA), filed December 10, 1982. Applicant: NEW YORK KEANSBURG LONG BRANCH BUS CO. INC., 50 Highway 39, Leonardo, NJ 07730. Representative: Sidney J. Leshin, 3 East 54th Street, New York, NY 10022. *Common carrier:* regular routes: *Passengers and their baggage,* between Freehold, NJ and World Trade Center, New York, NY. From Freehold, NJ at George Street and Route 33; west on Route 33 to the Freehold Circle at intersection of Route 9; north on Route 9 to Garden State Parkway; north on Garden State Parkway to NJ Turnpike; on the NJ Turnpike to the Pulaski Skyway; on the Pulaski Skyway to the Holland Tunnel; across the Hudson River to the Borough of Manhattan, New York, NY; then over city streets to the World Trade Center, New York, NY and return over the same route, serving all intermediate points. Supporting shipper(s): There are ten statements in support of this application which may be examined at the Regional Office of the I.C.C. in Boston, MA.

MC 147573 (Sub-1–5TA), filed December 14, 1982. Applicant: OAK ISLAND EXPRESS, 2 Sixth Street, Jersey City, NJ 07302. Representative: Peter Wolff, 722 Pittston Avenue, Scranton, PA 18505. *Contract carrier:* irregular routes: *General commodities (except Classes A and B explosives, commodities in bulk, and household goods)* between Jersey City, NJ and Manchester, CT on the one hand, and, on the other, points in CT, NJ, NY and PA, under continuing contract(s) with J. C. Penney Company, Inc., New York, NY. Supporting shipper: J. C. Penney Company, Inc., 1301 Avenue of the Americas, New York, NY 10019.

MC 151583 (Sub-1–6TA), filed December 9, 1982. Applicant: UTF CARRIERS, INC., Benson Road, Middlebury, CT 06749. Representative: James M. Burns, 1365 Main Street, Suite 403, Springfield, MA 01103. *Contract carrier:* irregular routes: *General commodities,* between points in the U.S. (except AK and HI) under continuing contract(s) with Tarkett Inc., Parsippany, NJ. Supporting shipper: Tarkett Inc., 800 Lanadex Plaza, P.O. Box 264, Parsippany, NJ 07054.

MC 165201 (Sub-1–1TA), filed December 14, 1982. Applicant: PAUL VIGNOLA TRANSPORT, INC., 160 Bourassa C.P. 217, St. Luc, Quebec, CD J0J 2A0. Representative: Frank M. Cushman, 36 South Main Street, Sharon, MA 02067. *Contract carrier:* irregular routes: *Pet supplies, furnishings, and equipment* between all points on the common border of the Province of Quebec, CD and the U.S. on the one hand, and, on the other, points in the States of ME, MA, and NJ, under continuing contract(s) with Rolf C. Hagen, Inc./Hagen Industries, Ltd., Montreal, Quebec, CD. Supporting shipper: Rolf C. Hagen, Inc./Hagen Industries, Ltd., 3225 Sartelon Street, Montreal, Quebec, CD H4R 1E8.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82–39430 Filed 12–23–82; 8:45 am]
BILLING CODE 7035–01–M

[Ex Parte No. 387]

Exemptions for Contract Tariffs

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Provisional Exemptions.

SUMMARY: Provisional exemptions are granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the below-listed contract tariffs may become effective on one day's notice. These exemptions may be revoked if protests are filed.

DATES: Protests are due within 15 days of publication in the **Federal Register.**

ADDRESSES: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT:
Douglas Galloway, (202) 275–7278
or
Tom Smerdon, (202) 275–7277.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in these instances to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption requests meet the requirements of 49 U.S.C. 10505(a) and are granted subject to the following conditions:

These grants neither shall be construed to mean that the Commission has approved the contracts for purposes of 49 U.S.C. 10713(e) not that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review these contracts and to determine their lawfulness.

Sub-No.	Name of railroad, contract No. and specifics	Review Board	Decided Date
477	Missouri Pacific Railroad Co., ICC–MP–C–0209, (Whole grains and soybeans), via ports served by MP in LA and TX	[1]1	12–17–82
497	Union Pacific Railroad Co., ICC–UP–C–0175, (Paper and paper articles)	[1]1	12–16–82
499	Southern Pacific Transportation Co., ICC–SP–C–0282, (Rice)	[1]3	12–16–82
500	Consolidated Rail Corp. ICC–CR–C–0201, (Petroleum coke)	[1]3	12–16–82
501	Missouri Pacific Railroad Co., ICC–MP–C–0211, (Liquid butane gas)	[1]1	12–16–82
502	Soo Line Railroad Co, ICC–COO–C–0007, Supplement 1, (Molten sulphur)	[1]2	12–17–82
503	Missouri Pacific Railroad Co., ICC–MP–C–0213, (Chemicals)	[1]3	12–17–82
504	Missouri Pacific Railroad Co., ICC–MP–C–0212, (Plastics)	[1]1	12–17–82
505	Chicago and North Western Transportation Co., ICC–CNW–C–0396, (Malt)	[1]2	12–17–82
506	Missouri-Kansas-Texas Railroad Co., ICC–MKT–C–0108, Amendment 1, (Soda ash)	[1]3	12–17–82
507	Southern Pacific Transportation Co, ICC–SP–C–0292, (Pulpboard or fiber board	[1]1	12–17–82
508	Southern Pacific Transportation Co., ICC–SP–C–0283, (Newsprint)	[1]2	12–17–82
509	Burlington Northern Railroad Co., ICC–BN–C–0217, (Molten sulphur)	[1]3	12–17–82
510	Green Mountain Railroad Corp., ICC–GMRC–C–0003, (Grain and grain products)	[1]1	12–17–82

Sub-No.	Name of railroad, contract No. and specifics	Review Board	Decided date
511	Consolidated Rail Corp. ICC–CR–C–0022, Supplement 1, (Canned or preserved foodstuffs)	[1]	12–17–82
512	Baltimore and Ohio Railroad Co., ICC–BO–C–0094, (Industrial sand)	[2]	12–17–82
513	Baltimore and Ohio Railroad Co., ICC–BO–R–0093, (Industrial sand)	[3]	12–17–82
514	Atchison, Topeka and Santa Fe Railway Co., ICC–ATSF–C–0130, Amendment 1, (Wine)	[1]	12–17–82
515	Chicago and North Western Transportation Co., ICC–CNW–C–0397, (Molten sulphur)	[2]	12–17–82

[1] Review Board No. 1, Members Parker, Chandler, and Fortier. Member Parker not participating. Review Board No. 2, Members Carleton, Williams, and Ewing. Review Board No. 3, Members Krock, Joyce, and Dowell.
[2] Review Board No. 3, Members Krock, Joyce, and Dowell. Member Krock not participating.

This action will not significantly affect the quality of the human environment or conservation of energy resources. (49 U.S.C. 10505)

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82–34780 Filed 12–23–82; 8:45 am]
BILLING CODE 7035–01–M

Motor Carriers; Finance Applications; Decision-Notice

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by 49 CFR 1182.1 of the Commission's Rules of Practice. See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349*, 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register**. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1182.2. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1182.2(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board No. 3 Members Krock, Joyce and Dowell.

Agatha L. Mergenovich,
Secretary.

Note: Please direct status inquires to Team 1, (202) 275–7992.

Volume No. OP1–237

MC–F–15016, filed November 30, 1982. GLEN FREIGHT SYSTEMS, INC. (Transferee), 124 South 123rd East Place, Tulsa, OK 74128—PURCHASE—TOM INMAN TRUCKING, INC. (LONNIE D. ECK, TRUSTEE-IN-BANKRUPTCY) (Transferor), 4143 East 31st St., Tulsa, OK 74135. Representatives: Ralph W. Pulley, Jr., 102 Metropolitan Savings Tower, 5944 Luther Lane, Dallas, TX 75225; and Fred Rahal, Jr., 305 Reunion Center, 9 East 4th St., Tulsa, OK 74103. Transferee, a non-carrier, seeks authority to purchase all of the interstate operating rights of Transferor, through the Trustee of the bankruptcy estate. Robert E. King, sole stockholder of Transferee, seeks authority to acquire control of said operating rights through the transaction. Robert E. King also controls Glen Bros. Trucking, Inc., which is both a contract and common carrier pursuant to permit No. MC–142954 and Certificate No. MC–144622 and sub-numbers thereunder. Transferee is purchasing all of the authority contained in Transferor's Permit No. MC–146220F, and in Certificates No. MC–129032 (Sub-Nos 100F, 106F, 132, and including the restriction removal authority in 133X, which supersedes former Sub-Nos. 3, 4, 8, 11, 12, 14, 18, 19, 23, 26, 28, 29, 30, 32, 34, 35, 36, 39, 41, 44F, 45F, 48F, 49F, 50F, 51F, 53F, 55F, 56F, 62F, 63F, 65F, 66F, 67F, 68F, 70F, 75F, 76F, 77F, 78F, 81F, 83F, 84F, 87F, 89F, 94F, 95F, 96F, 99F, 103F, 104F, 105F, 116F, 117F, 118F, 120F, 121F, 123F, 124F, 125F, 126F, 127F, 128F, 129, 130, and 131). The permit authorize *such commodities as are dealt in by grocery and food business houses,* except in bulk, and equipment, materials, and supplies, in vehicles equipped with mechanical refrigeration, from Los Angeles and Ontario, CA, to AZ, CO, ID, MT, NV, NM, OR, UT, WA, and WY, under contract with a named shipper. The certificates authorize the following: Sub 100F, *such commodities as are dealt*

in by grocery and food business houses and agricultural feed business houses, soy products, paste, flour products, and *dairy based products,* except in bulk, between all points in the U.S., restricted to traffic originating at or destined to the facilities of a named company. 106F, *kitchen and storage cabinets* and *new furniture,* knocked down, and *parts and accessories,* from the facilities of a named company at or near Portland, OR, to all points in the U.S. (except AK and HI), restricted to traffic originating at the named facility and destined to the named destination points. 132, *building materials,* between Tulsa County, OK, on the one hand, and, on the other, ID, MT, OR, WA, and WY. 133X, *food and related products, such merchandise as is dealt in by grocery and food business houses, rubber and plastic products, pulp, paper and related products, clay, concrete, glass or stone products, petroleum, natural gas and their products, lumber and wood products, metal products, machinery, transportation equipment, miscellaneous products of manufacture,* and *miscellaneous mixed shipments,* which commodity authorizations are set forth in separate authorizing paragraphs. Collectively, the involved territories show radial movement between multifarious points, on the one hand, and, on the other, designated cities, counties and States scattered throughout the U.S., as well as non-radial movement between all points in the U.S., with traffic, in a few instances, limited to that originating at and destined to the facilities of a named company.

Note.—(1) The transferee holds no authority from the Commission; (2) an application for temporary authority has been filed; and (3) any duplication in the authority which may be transferred does not confer more than one operating right.

For the following, please direct status to Team 5 at 202–275–7289.

Volume No. OP5–MCF–282

Dated: December 16, 1982.

MC–F–15014, filed November 24, 1982. RYDER INTERSTATE CARRIER, INC. (RICI) (3600 NW 82nd Avenue, Miami, FL 33152)—CONTROL—INTERSTATE CONTRACT CARRIER CORPORATION, (ICCC), ET AL. (2156 W. 220 South, P.O. Box 30303, Salt Lake City, UT 84125). Representative: Harry J. Jordan, Suite 502, Solar Building, 1000 16th Street, N.W. Washington, DC 20036. RICI, a non-carrier, wholly-owned subsidiary of Ryder System, Inc. (Ryder), seeks authority to acquire control of the interstate operating rights and property of ICCC through the purchase by RICI of all the issued and outstanding capital stock of ICCC's non-carrier parent, Transport Service, Inc., and R&J Investment Company, as well as assets of John C. Williams and Roger J. Furness, who own all the capital stock of Transport and as partners control Carrier, Power Trail, and R&J. Ryder seeks authority to acquire indirect control of ICCC through the transaction and to commonly control ICCC and the following carriers in its system: Commercial Carriers, Inc.; Complete Auto Transit, Inc., Janesville Auto Transport, Inc., M&G Convoy, Inc., Customized Parts Distribution, Inc., DPD, Inc., Jack Rabbit Express, RDR, Inc., RPD, Inc., F. J. Boutell Driveaway Co., Inc., holding authority in Nos. MC–43038, 49368, 119642, 20722, 136291, 140902, 125674, 149011, 136051, and 3468, respectively. Collectively, the Ryder motor carrier subsidiaries provide common and contract carrier service, or both, transporting general commodities, with exceptions, motor vehicles, auto parts and accessories, limited weight shipments, and a variety of specified commodities throughout the US, (except AK and HI). ICCC holds permits in MC–134599 for named shippers and certificates in MC–139906 to transport general specified commodities throughout the United States, except Alaska and Hawaii. Condition: Ryder shall continue to be required, as previously subjected in MC–F–12809, served November 23, 1976, from time to time to file such special accounting and other reports as may be required so that its relationship with carriers under its control may be observed and jurisdiction will be reserved in this respect for the imposition of such further requirements as may be necessary.

[FR Doc. 82–34933 Filed 12–23–82; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Application

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on August 23, 1982, Endo Laboratories, Inc., 1000 Stewart Avenue, Garden City, New York 11530, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Oxycodone (9143)	II
Hydrocodone (9193)	II
Oxymorphone (9652)	II

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Acting Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, NW., Washington, D.C. 20537, Attention: DEA Federal Register Representative (Room 1203), and must be filed no later than January 26, 1983.

Dated: December 15, 1982.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 82–34991 Filed 12–23–82; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Benefits Review Board; Citation of Black Lung and Longshore Desk Books; Direction as to Citations to Black Lung and Longshore Desk Books in Pleadings

Notice is hereby given that, pursuant to the authority contained in Section 21 (b) of the Longshoremen's and Harbor Workers' Compensation Act (33 U.S.C. 921(b)) and § 801.302 of the Board's Rules and Regulatons (20 CFR 801.302), citations to the Black Lung Desk Book and to the Longshore Desk Book in briefs and memorandum submitted pursuant to §§ 802.210(b), 802.211 and 802.212 of the Board's Rules and Regulations (20 CFR 802.210(b), 802.211 and 802.212) will not be accepted by the Benefits Review Board as citations to the applicable law. While these Desk Books have received widespread circulation, the Desk Books were created solely to assist the staff of the Benefits Review Board in researching cases arising under Title IV of the Federal Coal Mine Health and Safety Act of 1969, as amended, and under the Longshoremen's and Harbor Workers' Compensation Act, as amended. These Desk Books in no way constitute the official opinion of the Board or any of its members on any subject. The Desk Books do not contain an exhaustive or a

current treatment of Board holdings, and should, under no circumstances, substitute for a party's own research on any given subject referred to therein. They are intended simply as a research tool; and are not intended as final legal authority and should not be cited or relied upon as such.

EFFECTIVE DATE: This notice shall become effective December 27, 1982.

FOR FURTHER INFORMATION CONTACT: Brian E. Meyers, Senior Board Attorney, U.S. Department of Labor, Benefits Review Board, Suite 757, 1111 20th Street, NW., Washington, D.C. 20036. Telephone 202/653–5060.

Robert L. Ramsey,

Chief, Administrative Appeals Judge.

Julius Miller,

Administrative Appeals Judge.

Ismene M. Kalaris,

Administrative Appeals Judge.

[FR Doc. 82–34920 Filed 12–22–82; 8:45 am]

BILLING CODE 4510–35–M

Employment and Training Administration

Federal-State Unemployment Compensation Program; New Extended Benefit Period in State of Kentucky

This notice announces the beginning of a new Extended Benefit Period in the State of Kentucky, effective on December 5, 1982.

Background

The Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) established the Extended Benefit Program as a part of the Federal-State Unemployment Compensation Program. The Extended Benefit Program takes effect during periods of high unemployment in a State, to furnish up to 13 weeks of extended unemployment benefits to eligible individuals who have exhausted their rights to regular unemployment benefits under permanent State and Federal unemployment compensation laws. The Act is implemented by State unemployment compensation laws and by Part 615 of Title 20 of the Code of Federal Regulations (20 CFR Part 615).

In accordance with section 203(d) of the Act, each State unemployment compensation law provides that there is a State "on" indicator in the State for a week if the head of the State employment security agency determines that, for the period consisting of that week and the immediately preceding 12 weeks, the rate of insured employment under the State unemployment compensation law equalled or exceeded the State trigger rate. The Extended Benefit Period actually begins with the third week following the week for which there is an "on" indicator. A benefit period will be in effect for a minimum of 13 consecutive weeks, and will end the third week after there is an "off" indicator.

Determination of "on" Indicator

The head of the employment security agency of the State named above has determined that the rate of insured unemployment in the State, for the period consisting of the week ending on November 20, 1982, and the immediately preceding 12 weeks, rose to a point that equals or exceeds the State trigger rate, so that for that week there was an "on" indicator in the State.

Therefore, a new Extended Benefit Period commenced in the State with the week beginning on December 5, 1982.

Information for Claimants

The duration of extended benefits payable in the new Extended Benefit Period, and the terms and conditions on which they are payable, are governed by the Act and the State unemployment compensation law. The State employment security agency will furnish a written notice of potential entitlement to extended benefits to each individual who has established a benefit year in the State that will expire after the new Extended Benefit Period begins, and who has exhausted all rights under the State unemployment compensation law to regular benefits before the beginning of the new Extended Benefit Period. 20 CFR 615.13(d)(1). The State employment security agency also will provide such notice promptly to each individual who exhausts all rights under the State unemployment compensation law to regular benefits during the Extended Benefit Period, including exhaustion by reason of the expiration of the individual's benefit year. 20 CFR 615.13(d)(2).

Persons who believe they may be entitled to extended benefits in the State named above, or who wish to inquire about their rights under the Extended Benefit Program, should contact the nearest State employment office or unemployment compensation claims office in their locality.

Signed at Washington, D.C., on December 16, 1982.

Albert Angrisani,

Assistant Secretary of Labor.

[FR Doc. 82–35023 Filed 12–23–82; 8:45 am]

BILLING CODE 4510–30–M

Federal-State Unemployment Compensation Program; Ending of Extended Benefit Period in State of Wisconsin

This notice announces the ending of the Extended Benefit Period in the State of Wisconsin, effective on December 11, 1982.

Background

The Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) established the Extended Benefit Program as a part of the Federal-State Unemployment Compensation Program. The Extended Benefit Program takes effect during periods of high unemployment in a State, to furnish up to 13 weeks of extended unemployment benefits to eligible individuals who have exhausted their rights to regular unemployment benefits under permanent State and Federal unemployment compensation laws. The Act is implemented by State unemployment compensation laws and by Part 615 of Title 20 of the Code of Federal Regulations (20 CFR Part 615).

Extended Benefits are payable in a State during an Extended Benefit Period, which is triggered "on" when the rate of insured unemployment in the State reaches the State trigger rate set in the Act and the State law. During an Extended Benefit Period individuals are eligible for a maximum of up to 13 weeks of benefits, but the total of Extended Benefits and regular benefits together may not exceed 39 weeks.

The Act and the State unemployment compensation laws also provide that an Extended Benefit Period in a State will trigger "off" when the rate of insured unemployment in the State is no longer at the trigger rate set in the law. A benefit period actually terminates at the end of the third week after the week for which there is an off indicator, but not less than 13 weeks after the benefit period began.

An Extended Benefit Period commenced in the State of Wisconsin on January 3, 1982 and has now triggered off.

Determination of "Off" Indicator

The head of the employment security agency of the State named above has determined that the rate of insured unemployment in the State for the period consisting of the week ending on November 20, 1982, and the immediately preceding twelve weeks, fell below the State trigger rate, so that for the week there was an "off" indicator in the State.

Therefore, the Extended Benefit Period in the State terminated with the week ending on December 11, 1982.

Information for Claimants

The State employment security agency will furnish a written notice to each individual who is filing claims for Extended Benefits at the end of the Extended Benefit Period and its effect on the individual's right to Extended Benefits. 20 CFR 615.13(d)(3).

Persons who wish information about their rights to Extended Benefits in the State named above should contact the nearest State employment service office, or unemployment compensation claims office in their locality.

Signed at Washington, D.C. on December 17, 1982.

Albert Angrisani,

Assistant Secretary of Labor.

[FR Doc. 82-35022 Filed 12-23-82; 8:45 am]

BILLING CODE 4510-30-M

Occupational Safety and Health Administration

[V-82-7]

Zurn Industries, Inc./Tileman & Co., Ltd. (A partnership)

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Notice of application for variance and interim order and grant of interim order.

SUMMARY: This notice announces the application of Zurn Industries, Inc./Tileman & Co., Ltd (A Partnership) for a variance and an interim order pending a decision on the application for a variance from the standards prescribed in 29 CFR 1926.552(c)(1),(2),(3), and (14)(i) concerning personnel hoist and 29 CFR 1926.451(l)(5) concerning boatswain's chairs. This notice also announces the granting of an interim order until a decision is rendered on the application for variance.

DATES: The effective date of the interim order is December 27, 1982. The last date for interested persons to submit comments is January 26, 1983. The last date for affected employers and employees to request a hearing on the application is January 26, 1983.

ADDRESS: Send comments or request for a hearing to: Office of Variance Determination, Occupational Safety and Health Administration, U.S. Department of Labor, Third Street and Constitution Avenue, NW., Room N-3651, Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: James J. Concannon, Director, Office of Variance Determination, at the above address, telephone (202) 523-7183; or the following Regional and Area Offices:

U.S. Department of Labor, OSHA, 1375 Peachtree Street, N.E., Suite 587, Atlanta, GA 30367;

U.S. Department of Labor, OSHA, 700 Twiggs Street, Room 624, Tampa, FL 33602.

Notice of Application

Notice is hereby given that Zurn Industries, Inc./Tileman & Co., Ltd. (A Partnership), 405 North Reo Street, Tampa, Fla. 33609, has made application pursuant to Section 6(d) of the Occupational Safety and Health Act of 1970 (84 Stat. 1526; 29 U.S.C. 655) and 29 CFR 1905.11 for a variance from 29 CFR 1926.552 (c)(1),(2),(3), and (14)(i) concerning personnel hoists and 29 CFR 1926.451(l)(5) concerning boatswain's chairs.

Although the applicant's principal office for construction is located at 405 Reo Street, Tampa, Fla., the places of employment affected by the application are all of the applicant's future construction projects (chimneys, towers, and similar tall structures) in States under Federal jurisdiction.

The applicant certified that employees who would be affected by the variance will be notified of the application by providing copies to their authorized employees' representative, and by posting copies at all places where notices to employees are normally posted. Employees will also be informed of their right to petition the Assistant Secretary for a hearing.

Regarding the merits of the application, the applicant contends that it is providing safety equivalent to that provided by §§ 1926.552 (c)(1), (2), (3), (14)(i) and 1926.451(l)(5) which contain regulations for personnel hoisting.

The applicant is engaged in the construction of chimneys, towers, and similar tall structures (hereinafter called structures or composite structures), which necessitates the continuous hoisting of men and materials to and from an elevated work platform. The applicant explains that in constructing a composite structure the elevated work platform is moved upward with the construction. In order for the employees to reach such a platform, an access ladder or an equivalent safe means must be provided as required by 29 CFR 1926.451(a)(13). However, as the height of the construction increases to 400 feet or more, it becomes impractical to use an access ladder and another safe means of access must be provided.

Section 1926.552(c) sets forth the requirements for personnel hoisting from one elevation to another. The purpose of the standard is to provide requirements to safely transport employees to and from the elevated work platform by mechanical means during the construction, alteration, repair, maintenance, or demolition of a structure, building, or other work. However, this standard does not include specific safety requirements for hoisting personnel to and from elevated work platforms of a composite structure which has constantly changing diameters throughout the height of the structure. As a result, the applicant contends that it is unable to comply with the requirements for constructing a hoist tower outside or inside of a structure, anchoring the hoist tower to the structure, and using a minimum of two wire ropes for drum-type hoists, § 1926.552 (c)(1), (2), (3), and (14)(i) respectively.

A hoist tower located outside of a composite structure is impractical and hazardous. According to the applicant, it is difficult to provide safe access from an outside hoist tower to the composite structure because of the tapering of the structure at the top. An outside tower also prevents access to the movable or jack scaffolds used in constructing a brick liner. In addition, the frequent extension of the outside tower would interfere with guying a tower over 600 feet, and with erecting, bracing, and maintaining rigidity of the tower. Moreover, extending the outside tower above the structure exposes the employees to high wind loads.

Because the diameter of a composite structure decreases, there is insufficient room to accommodate a hoist tower inside of the structure which is enclosed on all four sides throughout the full height of the structure as required by the standard.

Accordingly, in lieu of constructing a hoist tower as specified in 29 CFR 1926.552 (c)(1) or (c)(2), the applicant proposes to install a hoist tower inside the composite structure in the portion of the structure under construction and at the bottom landing which meets the requirements of § 1926.552(c)(2), and has designed and developed a rope guided hydraulic personnel hoist system to transport employees to and from the elevated work platform.

The rope guided hoist system consists of a hoist drum hauling a rope suspended cage between ground level and one or more elevated platforms. The cage also runs on a pair of taut guide ropes which permits smooth motion at all stages of loading and running speed. The hydraulic hoist system has a dual purpose rating to carry materials or personnel.

Control of the hoist is affected remotely, either from within the cage or from the platforms, depending upon the mode of operation selected. Various safety features are incorporated in the controls to ensure that the maximum level of worker protection is maintained under all conditions. For instance, the safety clamps grip the safety cable in the event of any failure of the hoisting cable, limit switches prevent overtravel of the cage at both the top and bottom landings, and two independently operated fail-safe braking systems ensure that occurrence of a failure will leave the system unaffected or correct it to a state in which no injury or damage can result.

The applicant also contends that because the cage operates on the inside of the composite structure it is not practical to use it to transport employees to and from the elevated scaffolds when constructing a composite structure of small diameter, or to transport employees to the bracket scaffold on the outside of the structure. When it is not feasible to use the cage, the applicant raises and lowers employees, one at a time, on a boatswain's chair. Because the height of the composite structure makes block and falls difficult to manage, the applicant proposes to substitute a patented descent device for the block and falls required by § 1926.451(1)(5) to provide employees with a safe means of controlling their descent while being transported in the boatswain's chair. The patented descent device will be evaluated by OSHA during a variance inspection to take place in the initial construction stage of this project prior to the use of the device. A determination as to acceptability of the patented descent device will be made at that time.

The boatswain's chair is securely fixed to the engineered support frame assembly or liner of the composite structure. To further ensure the safety of the employee in the boatswain's chair, the employee's safety belt is attached to a suitable lifeline securely attached to the rigging at the top and to a weight at the bottom.

The applicant bases its variance application on many years of past experience using safe practices in erecting composite structures. According to the applicant, its rope guided hoist system has been used since 1915 to construct over 3000 composite structures, many over 1000 feet in height. Moreover, although this system has not been used in the United States, it has been approved and accepted worldwide in such countries as Canada, Australia, and the United Kingdom. The applicant also submitted detailed specifications and drawings, in further support of its application, which describe the function of various components and safety devices provided on the system to protect employees being transported in the cage.

Copies of the application for variance will be made available for inspection and copying upon request at the OSHA offices listed above. All interested persons, including employers and employees, who believe they would be affected by the grant or denial of the application for variance are invited to submit written data, views and arguments relating to the application not later than January 26, 1983. In addition, employers and employees who believe they would be affected by a grant or denial of the variance may request a hearing on the application nor later than January 26, 1983, in conformance with the requirements of 29 CFR 1905.15

Submission of written comments and requests for a hearing should be in quadruplicate, and must be addressed to the Office of Variance Determination at the above address.

Grant of Inrterim Order

It appears from the application and supporting data that an interim order is necessary to prevent undue hardship on the applicant and the employees pending a decision on the application for variance. Therefore, it is ordered, pursuant to the authority in 6(d) of the Occupational Safety and Health Act of 1970, in the Secretary of Labor's Order No. 8–76 (41 FR 25059), and in 29 CFR Part 1905, that Zurn Industries, Inc./ Tileman & Co., Ltd. (A Partnership) are hereby authorized to comply with the requirements of the interim order set forth below in lieu of complying with the personnel hoisting requirements in §§ 1926.552(c)(1),(2), (3), and (14)(i) and 1926.451(1)(5). All other applicable provisions of § 1926.552(c) and ANSI A10.4–1963, are unaffected by this order and must be complied with in conjunction with the terms of this order.

The terms of the interim order are as follows:

A. *Qualified Person.*

(1) A qualified person shall be responsible for the design and maintenance and inspection of the personnel hoisting system.

(2) A qualified person shall remain at ground level at all times whenever employees are being transported to and from elevated work platforms to assist in the event of an emergency.

B. *Hoist Machine.*

(1) The hoist machine shall be a type designed as a portable man hoist.

(2) The hoist machine shall be a base mounted hoist designed such that linespeed is controlled.

(3) Power up/power down requirements are described as follows:

(i) Lowering by disengagement of the driving components shall not be allowed;

(ii) The drive system for the hoist shall be such that the system is continuously interconnected; and

(iii) Belt drives shall not be permitted.

(4) The hoist machine may be powered by any air, electric, hydraulic or internal combustion drive mechanism, but shall be equipped with the following:

(i) A constant pressure control switch (deadman control switch) shall be provided with appropriate covers to prevent it from activating in the event it is struck by falling or moving objects;

(ii) A winding drum not less than 28 times the diameter of the rope used, and flange diameter approximately 1½ times the drum diameter; and

(iii) A line speed control system shall be working in the up and down modes and shall not permit the cage to operate if speeds greater than 250 ft./min/ (+10%) are exceeded when hoisting personnel. If the drive mechanism is disengaged, it shall be reset manually.

(5) The hoist shall be provided with two independently operated, automatically activated, fail safe braking systems, each capable of stopping and holding 150 percent of the maximum line-load for personnel hoisting.

(6) The hoist machine frame shall be a self-supporting, rigid, welded steel structure with skid base. Holding brackets for anchor lines shall be located at corners as well as legs for anchor bolts.

(7) The hoist machine shall be located far enough from the footblock to obtain correct fleet angle or proper spooling of the drum.

(8) The rope shall not be spooled closer than 2 inches from the edge of the hoist drum flange radius.

(9) All electric equipment shall be weatherpooof.

(10) The hoisting system shall be equipped with limit switches to automatically control overtravel at the top supporting structure and at the base of the structure.

C. *Methods of Operation.*

(1) The hoist may be controlled:

(i) At the hoist panel;

(ii) From inside of the passenger cage; or

(iii) At the lower and upper landings.

(2) The mode of operating the controls shall be selected at the hoist control

panel with directional contractors remotely operated by trained personnel by means of a key switch.

(3) The various audio frequencies amplified from the cage to ground level, which enables hoist control from within the cage, shall be kept free from all external interference.

(4) All keys shall be kept where thay are readily accessible only to authorized personnel.

D. *Operating Controls and Devices.*

(1) Only trained employees knowledgeable in the operation of the hoist system shall control the hoist machine.

(2) The hoist shall not be operated in excess of 250 ft./min. when carrying personnel, and in excess of 500 ft./min. when carrying material.

(3)(i) Communication between all working platforms shall be maintained by an intercommunication system; and

(ii) communication between the working platform and the moving cage shall be conducted by two-way radio.

E. *Hoist Rope.*

(1) The hoisting rope shall be extra improved plow steel or equivalent grade of nonrotating type or regular lay rope with proper swivel and shall be less than one-half inch diameter, and free of damage at all times.

(2) The rope shall be attached to the cage by a shackle or position locking connecting link.

(3) Where wire-rope fastenings are used:

(i) There shall be at least three clips used at each fastening;

(ii) Clips shall be installed with "U" of clips on deadend of rope; and

(iii) Spacing clip-to-clip shall be six times the diameter of the rope.

F. *Footblock.*

(1) Footblocks shall be:

(i) Construction-type blicks of solid single piece bail or equivalent;

(ii) Ground for the size of rope being used;

(iii) Designed with a guard to guarantee containment of the rope within the sheave groove;

(iv) Equipped with a slack rope switch to prevent further rotation of the hoist in slack rope condition;

(v) Rigidly bolted down; and

(vi) serve to turn the incoming horizontal rope vertically upward.

(2) The change from the horizontal direction of the hoist rope at the footblock to the vertical direction shall be approximately 90°.

(3) The line diameter of the footblock shall be not less than 24 times the rope diameter.

G. *Hoist Tower.*

(1) The hoist tower shall be located in the position of the structure under construction and at the bottom landing.

(2) The tower shall be designed and installed to support the load and forces specified.

(3) The hoist enclosure shall be screened off by a surrounding wire mesh with one or two landing gates.

(4) Landing gates, either hinged type or vertical slide type, shall be electrically interlocked when hoisting employees to prevent the gate from opening in the absence of the cage and to prevent the hoist from operating if the gates remain open.

(5) The hoist tower shall conform to the requirements of ANSI A–10.4–1963.

H. *Cathead.*

(1) A qualified person shall be responsible for the design and maintenance of the cathead (overhead structure).

(2) The cathead shall consist of two steel channel sections securely bolted back-to-back to prevent spreading.

(3) The channel sections shall straddle the top of the hoist tower.

(4) There shall be two sheaves revolving on shafts attached to the cathead. Only sealed bearings shall be used.

(5) Sheaves shall be provided with timber blocks to prevent the hoist rope from leaving the sheave grooves in case of abnormal vibration or swing of the hoist rope.

(6) The cathead sheaves shall have a minimum diameter equal to 24 times the diameter of the rope when travel of rope on the sheave is approximately 90°.

I. *Guide Ropes.*

(1) Two guide ropes (steel safety cables) shall be fixed by swivels to the cathead and free of damage at all times.

(2) One end of each cable shall be securely and properly fastened to the overhead support with appropriate tension applied at the foundation.

(3) Safety clamps shall be a minimum 3/4 inch diameter.

(4) Clamping device used for tension shall be of a type that will not damage the ropes.

(5) The guide ropes shall run the height of the structure.

(6) Flares shall be fixed at the top and bottom of the guide ropes for easy entry of the cage into the landing positions.

(7) A spacebar shall be provided to align the guide ropes and to allow the approaching cage to enter the flares squarely.

J. *Cage.*

(1) The cage shall be constructed with a steel frame.

(2) Where a hoisting-rope sheave is mounted on the cage frame the construction shall conform to the following:

(i) Where the sheave shaft extends through the web of the cage frame member, the reduction in area of the member shall not reduce the strength of the member below that required. Where necessary, reinforcing plates shall be welded or riveted to the member to provide the required strength. The bearing pressure shall in no case be more than that permitted in ANSI A10.4–1963, Table 1; and

(ii) Where the sheave is attached to the cage crosshead by means of a single threaded rod or specially designed members or members in tension, the single rod member or members shall have a factor of safety 50 percent higher than the factor of safety required for the suspension wire ropes, but in no case less than a factor of safety of 15.

(3) The floor shall be securely fastened in place with a loading factor of 4.

(4) The walls shall be sheeted out in expanded metal and steel panels.

(5) The roof shall be constructed of ⅛ inch plated steel.

(6) The cage shall be permanently enclosed on the tip and all sides except the entrance and exit, and emergency exit.

(7) There shall be two entrances provided on opposite sides of the cage.

(8) Each entrance shall have vertical sliding gates electrically interlocked with the hoist panel to prevent the cage gates from opening unless it is at a landing and to prevent the hoist from operating if the cage gates remain open.

(9) The gates shall guard the full height of the entrance openings.

(10) Procedures for operating the cage shall be consipicuously displayed in the cage near the cage push button switch control and at the key switch control located at the hoist panel.

(11) All cage push button switches shall be of the constant pressure type (deadman control type) to stop the cage immediately upon release of the button.

(12) The cage shall be equipped with a hand hold to accommodate each occupant.

(13) A lever shall be located inside of the cage to manually activate the safety clamps.

(14)(i) The maximum load for personnel hoisting for the five-man cage shall be 5 men or 1250 pounds, and for the eight-man cage 8 men or 2000 pounds,

(ii) The maximum load for material hoisting for the five-man cage shall be 4200 pounds, and for the eight-man 5600 pounds;

(iii) The weight of the cage and all auxiliary equipment attached to the cage shall be included in the maximum rated load for material hoisting; and

(iv) A sign stating the capacity shall be posted in the cage.

K. *Safety Clamps.*

(1) Safety clamps shall be attached to the cage for gripping the guide ropes and shall operate on the broken rope principle.

(2) The safety clamps shall be capable of stopping and holding the cage at the maximum allowable speed and load.

(3) The clamping force required for each individual hoisting system shall be pre-determined and pre-set.

(4) The safety clamp assemblies shall be kept clean and in functional condition at all times.

L. *Emergency Escape Exit and Device.*

(1) An emergency exit, with a cover, shall be provided in the top of the cage and shall conform to the following:

(i) The exit opening shall have an area of not less than 400 square inches and shall measure not less than 16 inches on any one side;

(ii) The exit opening shall be so located as to provide a clear passageway unobstructed by fixed hoist equipment located in or on top of the cage; and

(iii) The exit cover shall open outward.

(2) An emergency escape device shall be provided in the cage or at the bottom landing. The device shall conform to the following requirements:

(i) If the emergency escape device is stored in the cage it shall be long enough to reach the bottom landing from the highest escape point;

(ii) If the emergency escape device is stored at the bottom landing it shall have a means provided in the cage for raising the device to the highest escape point; and

(iii) Operating instructions shall be attached to the emergency escape device.

(3) All employees to be transported in the cage shall be instructed in the use of the emergency escape system prior to being transported in the cage. All employees shall be given periodic instructions on the hoisting and emergency escape systems.

M. *Welding.* All field welding shall be done by qualified welders in accordance with § 1926.556(b)(5).

N. *Safeties.* The hoisting system shall be provided with the following additional safeties:

(1) Top and Bottom Ultimate Limit Switches;

(2) Changeover Limit Switch;

(3) Lower and Upper Slowing Limit Switches;

(4) Lower and Upper Timed Stops; and

(5) Overspeed Governor.

Zurn Industries, Inc./Tileman & Co., Ltd. (A Partnership) shall give notice of this grant of interim order to all affected employees by the same means required to inform them of the application for variance.

The Assistant Secretary may revoke this order at any time if the applicant does not comply with any requirements of the order or the relevant standards, or if other information indicates that revocation of the interim order is warranted. Unless revoked, the interim order will remain in effect until a decision is rendered on the application for variance.

Signed at Washington, D.C., on this 17th day of December 1982.

Thorne G. Auchter,

Assistant Secretary of Labor.

[FR Doc. 82-34618 Filed 12-17-82; 11:50 am]

BILLING CODE 4510-26-M

Office of the Secretary

Agency Forms Under Review by the Office of Management and Budget (OMB)

Background: The Department of Labor, in carrying out its responsibility under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the proposed forms and recordkeeping requirements that will affect the public.

List of Forms Under Review: On each Tuesday and/or Friday, as necessary, the Department of Labor will publish a list of the Agency forms under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new forms, revisions, extensions (burden change), extensions (no change), or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of any particular revision they are interested in. Each entry will contain the following information:

The Agency of the Department issuing this form.

The title of the form.

The Agency form number, if applicable.

How often the form must be filled out.

Who will be required to or asked to report.

Whether small business or organizations are affected.

The standard industrial classification (SIC) codes, referring to specific respondent groups that are affected.

An estimate of the number of responses.

An estimate of the total number of hours needed to fill out the form.

The number of forms in the request for approval.

An abstract describing the need for and uses of the information collection.

Comments and Questions: Copies of the proposed forms and supporting documents may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, Telephone 202-523-6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, N.W., Room S-5526, Washington, D.C. 20210. Comments should also be sent to the OMB reviewer, Norman Frumkin, Telephone 202-395-6880, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, NEOB, Washington, D.C. 20503.

Any member of the public who wants to comment on a form which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

New

Labor Management Services Administration

Proposed Class Exemption Relating to the Recapture of Brokerage Commissions on Behalf of Insurance Company Pooled Separate Accounts

Quarterly

Businesses or other institutions

SIC: 635

38,500 responses; 5,600 hours

This is a proposed class exemption from certain restrictions of ERISA. The proposed class exemption would permit an insurance company to utilize its affiliates to effect or execute securities transactions in order to recapture brokerage commissions for the benefit of employee benefit plans whose assets are maintained in pooled separate accounts managed by the insurance company.

Signed at Washington, D.C. this 21st day of December 1982.

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 82-35024 Filed 12-23-82; 8:45 am]

BILLING CODE 4510-29-M

Steering Subcommittee, Labor Advisory Committee for Trade Negotiations and Trade Policy; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463 as amended), notice is hereby given of a meeting of the Steering Subcommittee of the Labor Advisory

Committee for Trade Negotiations and Trade Policy.

Date, time and place: January 11, 1983, 9:30 a.m., Rm. N3437 A&B Frances Perkins Department of Labor Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Purpose: To discuss trade negotiations and trade policy of the United States.

This meeting will be closed under the authority of Section 10(d) of the Federal Advisory Committee Act. The Committee will hear and discuss sensitive and confidential matters concerning U.S. trade negotiations and trade policy.

FOR FURTHER INFORMATION CONTACT: Joseph S. Papovich, Executive Secretary, Labor Advisory Committee, Phone: (202) 523–6171, December 20, 1982.

Signed at Washington, D.C. this 20th day of December 1982.

Robert W. Searby,

Deputy Under Secretary, International Affairs.

[FR Doc. 82–35021 Filed 12–23–82; 8:45 am]

BILLING CODE 4510–28–M

NATIONAL FOUNDATION ON ARTS AND THE HUMANITIES

National Council on the Humanities Advisory Committee; Meeting

December 20, 1982.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that a meeting of the Jefferson Lecture Committee of the National Council on the Humanities will be held on Monday, January 17, 1983 at 10:00 a.m. to 5:00 p.m. in Room 1023 in the Shoreham Building, 806 15th Street, NW., Washington, D.C. 20506.

The purpose of the meeting is to advise the Chairman of the National Endownment for the Humanities with respect to the purpose, nature and function of the Jefferson Lecture. The meeting will be open to the public.

The agenda will be: (1) Review of solicited comments from Council members and others; (2) Discussion of the future of the Lecture; (3) Discussion of recommendations to the full Council; and (4) Preparation of the Committee report to the full Council to be presented in February.

Further information about this meeting can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, Washington, D.C. 20506, or call area code 202–724–0367.

Stephen J. McCleary,

Advisory Committee, Management Officer.

[FR Doc. 82–34959 Filed 12–23–82; 8:45 am]

BILLING CODE 7536–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–325 and 50–324]

Carolina Power & Light Co.; Issuance of Amendments to Facility Operating Licenses

The U. S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 52 and 77 to Facility Operating License Nos. DPR–71 and DPR–62 issued to Carolina Power & Light Company (the licensee) which revised the Operating License and Technical Specifications for operation of the Brunswick Steam Electric Plant, Units Nos. 1 and 2 (the facility), located in Brunswick County, North Carolina. The amendments are effective as of the date of issuance

The amendments revise the Technical Specifications to institute reporting requirements for challenges to safety valves and relief valves per NUREG–0737, Item II.K.3.3., and introduce specific, standardized terminology for the reactor vessel water level reference point. The amendments also change the license conditions formerly titled "Guard Training and Qualification Plan" to "Security Personnel Training and Qualification Plan" and change the tile of the plan specified in those license conditions in order to maintain consistent terminology.

The applications for the amendments comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter, I, which are set forth in the license amendments. Prior public notice of the amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of the amentiments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4), an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendments.

For further details with respect to this action, see (1) the applications for amendments dated September 25, 1981 (supplemented April 7, 1982 and October 22, 1982) and November 18, 1981, (2) Amendment Nos. 52 and 77 to License Nos. DPR–71 and DPR–62, and (3) the Commission's related Safety Evaluation. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N. W., Washington, D. C. and at the Southport-brunswick County Library, 109 West Moore Street, Southport, North Carolina 28461. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D. C. 20555, Attention: Director, Division of Licensing

Dated at Bethesda, Maryland this 16th day of December, 1982.

For the Nuclear Regulatory Commission.

Domenic B. Vassallo,

*Chief, Operating Reactors Branch *2, Division of licensing.*

[FR Doc. 82–35006 Filed 12–23–82; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–373]

Commonwealth Edison Co.; Issuance of Amendment of Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 11 to Facility Operating License No. NPF–11, issued to Commonwealth Edison Company, which adds License Condition 2.C.(34) for operation of the La Salle County Station, Unit No. 1 (the facility) located in Brookfield Township, La Salle County, Illinois.

The Amendment authorizes the operation of La Salle County Station, Unit 1 with one recirculation loop out of service for the first fuel cycle only. Also, the Amendment adds a license condition limiting a power level of 50 percent of full power or less during the operation with one recirculation loop out of service.

The application for amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this Amendment was not required since the Amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this Amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this Amendment.

For further details with respect to this action, see (1) The application for Amendment dated December 6, 1982; (2) Amendment No.11 to License No. NPF–11 dated December 16, 1982; (3) the Commission's related safety evaluation. All of these items are available for public inspection at the Commission's Public Document Room located at 1717 H Street, NW, Washington, DC 20555, and the Public Library of Illinois Valley Community College, Rural Route No. 1, Ogelsby, Illinois 61348. A copy of items (1), (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 16th day of December 1982.

For The Nuclear Regulatory Commission.

A. Schwencer,

Chief, Licensing Branch No. 2, Division of Licensing

[FR Doc. 82–35007 Filed 12–23–82; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–373]

Commonwealth Edison Co.; Issuance of Amendment of Facility Operating License and Notice of Exemption

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 12 to Facility Operating License No. NPF–11, issued to Commonwealth Edison Company, and a related exemption from 10 CFR 50.44 for operation of the La Salle County Station, Unit No. 1 (the facility) located in Brookfield Township, La Salle County, Illinois.

The regulation 10 CFR 50.44 requires that all reactors with Mark I or II containment must be inerted 6 months after initial criticality. La Salle Unit I has a Mark II containment and its initial critically was performed on June 21, 1982. It is presently completing its startup program and Commonwealth Edison requested an exemption from this regulation to avoid any potential negative impact on the startup program. The exemption is authorized until either the required 100 percent rated thermal power trip test has been performed or the reactor has operated for 120 effective full power days, whichever is first. The Amendment and exemption are effective as of the date of issuance.

The application for amendment and exemption comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment and in the safety evalution in support of the Amendment and exemption. Prior public notice of the license amendment was not required since the Amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this Amendment and the exemption will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this Amendment and exemption.

For further details with respect to this action, see (1) The application for amendment and exemption dated November 18, 1982 and December 7, 1982; (2) Amendment No. 12 to License No. NPF–11 dated December 20, 1982; and (3) the related safety evaluation in support of the Amendment and exemption. All of these items are available for public inspection at the Commission's Public document Room, 1717 H Street, NW, Washington, DC 20555, and the Public Library of Illinois Valley Community College, Rural Route No. 1, Ogelsby, Illinois 61348. A copy of items (1), (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland this 20th day of December 1982.

For the Nuclear Regulatory Commission.

A. Schwencer,

Chief Licensing Branch No. 2, Division of Licensing.

[FR Doc. 82–35008 Filed 12–23–82; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–335]

Florida Power & Light Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 55 to Facility Operating License No. DPR–67, issued to Florida Power & Light Company (the licensee), which revised Technical Specifications for operation of the St. Lucie Plant, Unit No. 1 (the facility), located in St. Lucie County, Florida. The amendment is effective as of the date of issuance.

This amendment updates the offsite and facility organization figures and the membership of the Company Nuclear Review Board in the Administrative Conrtols section of the Technical Specifications.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter 1, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not invlove a significant hazards consideration.

The Commission has determined that issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative delcaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) The application for amendment dated Auguest 11, 1982, (2) Amendment No. 55 to License No. DPR–67 and (3) the Commission's letter dated December 14, 1982. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and the Indian River Junior College Library, 3209 Virginia Avenue, Ft. Pierce, Florida. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 14th day of December, 1982.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch #3 Division of Licensing.

[FR Doc. 82–35010 Filed 12–23–82; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–344]

Portland General Electric Co. et al.; Exemption

In the matter of; PORTLAND GENERAL ELECTRIC CO., CITY OF EUGENE, ORE.; PACIFIC POWER &

LIGHT CO.; (Trojan Nuclear Plant); exemption.

I

Portland General Electric Company, the City of Eugene, Oregon and Pacific Power & Light Company (the licensee) are the holders of Facility Operating License No. NPF–1 which authorizes the operation of the Trojan Nuclear Plant (the facility) at reactor power levels not in excess of 3411 megawatts thermal. The facility consists of a Westinghouse Electric Corporation designed pressurized water reactor located at the licensee's site in Columbia County, Oregon.

The license is subject to all rules and regulations of the Commission.

II

10 CFR 50.48, "Fire protection", and Appendix R to 10 CFR Part 50, "Fire Protection Program for Nuclear Power Facilities Operating Prior to January 1, 1979" set forth certain specific fire protection features required to satisfy the General Design Criterion related to fire protection (Criterion 3, Appendix A to 10 CFR 50).

Section III.G of Appendix R requires fire protection for equipment important to safe shutdown. Such fire protection is achieved by various combinations of fire barriers, fire suppression systems, fire detectors, and separation of safety trains (III.G2) or alternative safe shutdown equipment free of the fire area (III.G.3). The objective of this protection is to assure that one train of equipment needed for hot shutdown would be undamaged by fire, and that systems needed for cold shutdown could be repaired within 72 hours (III.G.1). The criterion for alternative shutdown capability is contained in Section III.L

Section III.J of Appendix R, "Emergency lighting", requires emergency lighting units with at least an 8-hour battery power supply to be provided in all areas needed for operation of safe shutdown equipment and in routes thereto.

III

By letters dated March 19, 1981, as supplemented and amended by letters dated May 5 and August 21, 1981, March 29, July 13 and September 21, 1982 the licensee requested nine specific exemptions from the requirements of Appendix R, involving III.G, III. J and III.L, as follows:

III.G.2 Fuel Building, elevation 45', Auxiliary Building, elevation 45', Cable penetration area outside Containment

III.G.3 Intake Structure, Control Room, Manholes NM–3 and NM–4

III.J Emergency lighting

III.L Alternative shutdown for Intake Structure and Manholes NM–3 and NM–4.

The acceptability of these requests is addressed below. More details are contained in the NRC staff's related Safety Evaluation (SE) dated December 14, 1982, which is included herein by reference.

IV

Axiliary and Fuel Buildings, el. 45-feet

The licensee requested exemptions from Section III.G.2 to the extent it requires one-hour fire rated barriers, an automatic fire suppression system and total area automaitc fire detection. This area contains the redundant component cooling water pumps and the redundant service water booster pumps. Ionization smoke detectors have been installed only near each component cooling water and service water booster pump to provide localized early warning detection in these two areas.

The in-situ combustibles in the Auxiliary and Fuel Building consist of lubrication oil and cable insulation. The objective for the fire protection of safe shutdown cabling and equipment is to ensure that at least one means of achieving and maintaining safe shutdown conditions will remain available during and after any postulated fire. Because it is not possible to predict the specific condition under which fire may occur and propagate, Section III.G of Appendix R requires specific fire protective features for this area, e.g., an area fire detection system, an automatic fire suppression system and a one-hour fire barrier.

Based, in part, on an on-site survey of the area, we find that a postulated exposure fire could result in the loss of the ability to achieve safe shutdown conditions due to the lack of separation and fire protection provided for safe shutdown systems. Localized smoke detection and manual fire fighting do not provide adequate assurance that one means of achieving and maintaining safe shutdown conditions would be free of damage in the event of a fire.

Based on our evaluation we conclude that modification to meet Section III.G of Appendix R would enhance fire protection safety above that provided by the existing systems. Therefore the licensee's request for exemption is denied.

However, as to the schedule for meeting these requirements, some relief in the form of an exemption from the implementation schedules of § 50.48 is appropriate, since fire protection at Trojan has been substantially upgraded generally and, except for this item, is essentially complete. Further, manual fire suppression capability is provided by standpipe hose stations and portable fire extinguishers, and localized ionization smoke detectors are installed. In view of this, the licensee is granted additional time to make fire protection improvements to meet Section III.G for these areas. The licensee shall complete such modifications by not later than startup of Fuel Cycle 6 (approximately July 1983).

Cable Penetration Area Outside Containment

The licensee requested an exemption from Section III.G.2 to the extent it requires 1-hour fire rated barriers to enclose one train of safe shutdown cabling.

The cable penetration area outside containment includes the area between the Auxiliary and Containment Buildings from elevation 45-feet through elevation 93-feet. The area is triangular in shape with approximately a 5000 square feet floor area and a 50 foot high ceiling. The area is open on two sides to the yard area.

Nonsafety-related cable trays run between the redundant shutdown cable trays. No conduit crossovers exist involving the redundant shutdown cables. A fire in the nonsafety-related cable trays would have to propagate a horizontal distance of 43 ft. to affect redundant safe-shutdown cables. To assure that redundant safe shutdown cables are not affected by a fire in a non-safety related cable tray, fire stops have been installed in the non-safety related cable trays.

An automatic deluge water spray system has been installed to protect the cable trays in the area. Ionization and photoelectric smoke detectors have been installed to provide early warning detection and to actuate the water spray system.

The in-situ fuel load in the form of cable insulation is located in horizontal cable trays 28 to 42 feet above the floor level. There are no vertical cable trays in the area. Because the combustibles at the floor level are small and the redundant cables are located considerably above the floor level, any postulated exposure fire would not result in the loss of the ability to safely shut down the plant.

Based on our evaluation, we conclude that the installation of 1-hour fire rated barriers will not significantly increase the level of fire safety. Therefore the licensee's request for exemption is granted.

Intake Structure (23-foot level)

The licensee requested an exemption from Section III.G.3 to the extent it requires a fixed fire suppression system in this fire area.

The fire area contains the three redundant service water pumps and the cabling essential for their operation.

Ionization smoke detectors have been provided above each service water pump to provide early warning detection and alarm in the control room. Manual fire suppression capability is provided by portable fire extinguishers and a fire hydrant with hose house approximately 30 feet from the Intake Structure.

In the event all three of the service water pumps were destroyed by a fire, the circulating water system could supply water to the service water system. Therefore the circulating water system provides alternative shutdown capability for this area.

The requirement for a fixed fire suppression system applies for fire areas which have a large concentration of combustibles. In this instance the in-situ fire load is low (8000 BTU/sq. ft.). The fire load is due to the lubricating oil contained in the service water pumps and the cable insulation located in horizontal cable trays 20 feet above the floor. There are no vertical cable trays in this area. In a site visit, it was determined that, based on the configuration and limited amount of combustibles in the fire area, redundant systems are not vulnerable to single exposure fires.

We conclude that the installation of a fixed suppression system in the intake structure would not significantly increase the level of fire safety. Therefore, the licensee's request for exemption is acceptable and is granted.

Control Room

The licensee requested an exemption from Section III.G.3 to the extent it requires a fixed suppression system in this fire area.

The objective for the protection of safe shutdown capability is to ensure that at least one means of achieving and maintaining safe shutdown conditions will remain available during and after any postulated fire in any area in the plant. The licensee's alternate shutdown panel provides this objective in case of a fire in the control room. In addition, the control room is continually manned by the operators, and thus, a fire would be immediately identified. A fire detection system, portable fire extinguishers, and hose stations have been provided.

Therefore, we find that the licensee's request to be exempted from the requirement to provide a fixed fire suppression system in the control room is acceptable, and is granted.

Manholes NM–3 and NM–4

The licensee requested an exemption from Section III.G.3 to the extent it requires a fixed suppression system and automatic fire detection in these areas.

Manholes NM–3 and NM–4 provide access to the duct bank which runs between the Fuel Building and the Intake Structure. The duct bank routes the redundant power cables for the service water pumps.

In fire areas for which alternative shutdown capability is provided, Section III.G.3 requires the installation of a fire detection and a fixed fire suppression system. The requirement for these systems applies for fire areas which have large concentration of combustibles and require early warning detection to suppress fires quickly, so as to limit damage to other areas of the plant. In this instance, a fire in either manhole will not pose a threat to other safe shutdown systems or affect the ability to safely shut down the plant. Alternative shutdown capability has been provided, radiant energy shields are installed between redundant cables, and the cables are wrapped with asbestos tape.

Based on our evaluation, we conclude that the installation of fire detection and fixed fire suppression systems in Manholes NM–3 and NM–4 would not significantly increase the level of fire safety. Therefore, the licensee's request for exemption is granted.

Emergency Lighting

Section III.J of Appendix R to 10 CFR states, "Emergency lighting units with at least an 8-hour battery power supply shall be provided in all areas needed for operation of safe shutdown equipment and in access and egress routes thereto."

The licensee requested an exemption from the Section III.J requirement for battery-power emergency lighting for the Trojan Nuclear Plant.

The plant lighting system consists of normal lighting, essential lighting, and emergency lighting. All areas of the plant requiring manual safe shutdown operation are supplied with either essential lighting or emergency lighting. In most areas both lighting systems are available. The essential lighting is powered by the emergency diesel generators and the emergency lighting is powered from the station batteries. The emergency lighting is automatically energized upon failure of the AC supply. Additionally, fixed sealed-beam units with an 8-hour battery power supply provide lighting for access and egress in the Turbine, Control, Auxiliary, and Fuel Buildings which house the safe shutdown equipment.

In its review of emergency lighting circuits, the licensee indicated that a fire in the main control room or cable spreading room could affect lighting in the hallway and stairway outside the main control room. Therefore, by letter dated July 13, 1982, the licensee committed to either reroute cables or install emergency lighting units in the area outside of the main control room so that lighting would be available along the entire pathway between the main control room, emergency diesel generators rooms and the safe shutdown panel, in the event of a fire in the main control room or cable spreading room.

Lighting powered from either 8-hour battery-power sources or the diesel generators will be available for safe shutdown operations and if plant lighting is disabled by fire, lighting for safe shutdown operations will be available. We therefore conclude that the licensee has provided an acceptable alternative to the III.J requirement. Therefore, exemption from the battery-powered emergency lighting requirement of Section III.J of Appendix R to 10 CFR 50 is acceptable and is granted. This exemption is conditioned on the licensee completing the cable rerouting or installation of emergency lighting units discussed above as soon as practicable but by no later than plant startup for Fuel Cycle 6 (approximately July 1983).

Alternative Shutdown for the Intake Structure and Manholes NM–3 and NM–4

The licensee provided additional information based on the criteria of Section III.L to the extent that the alternative shutdown system for these areas is not capable of achieving cold shutdown of the reactor coolant system within 72 hours.

The licensee indicated that should a fire in the intake structure or manholes NM–3 and NM–4 result in loss of all service water pumps, an alternate shutdown capability is available utilizing gravity flow through the service water system from the circulating water system cooling tower basin. This arrangement is sufficient to provide cooling to safe shutdown equipment assuming loss of offsite power for 21 hours when spent fuel pool cooling is maintained or 40 hours if the spent fuel pool is isolated. Once the cooling tower basin water capacity is depleted, the station fire pumps can be connected to the service water system header by means of hoses to existing connections and can provide cooling water from the

Columbia River indefinitely assuming loss of offsite power. A cooldown to the residual heat removal system initiation temperature (350°F) can be accomplished within 72 hours, however, the residual heat removal system cannot be initiated prior to 80 hours after shutdown because of the limited flow to the service water system provided by the alternate system. Cold shutdown cannot be achieved for approximately 150 hours when the above alternate is employed.

Additional alternative capability is provided by utilizing the cooling tower makeup pumps which can be powered from the emergency diesel generators. These pumps recirculate a portion of the circulating water system flow discussed above, thus further extending the time the circulating water system can be used as an alternative to service water cooling. As with the previously discussed arrangement, this alternative method also cannot be used to accomplish cold shutdown within 72 hours.

Based on our review, we conclude that although the above alternatives do not provide the capability to achieve cold shutdown within 72 hours as identified in the criteria of Section III.L, we believe they represent an acceptable means for assuring safe plant cooldown assuming loss of offsite power in the event of fires in the intake structure or manholes NM–3 and NM–4 which result in loss of all service water pumps. We therefore conclude that an exemption from the requirements of Section III.L should be granted.

V

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, the exemptions requested by licensee's letters as referenced and discussed in III. and IV. above are authorized by law, will not endanger life or property or the common defense and security, are otherwise in the public interest, and are hereby granted.

The Commission has determined that the granting of these exemptions will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

A copy of the Safety Evaluation dated December 14, 1982 related to this action is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the local public document room located at the Multnomah County Library, Social Science and Science Department, 801 S.W. 10th Avenue, Portland, Oregon 97205. A copy may be obtained upon request addressed to the U. S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

This Exemption is effective upon issuance.

Dated at Bethesda, Maryland this 14th day of December, 1982.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing.

[FR Doc. 82–35012 Filed 12–23–82; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–29]

Yankee Atomic Electric Co., Yankee Nuclear Power Station; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 78 to Facility Operating License No. DPR–3, issued to Yankee Atomic Electric Company (the licensee), which revised the Technical Specifications for operation of the Yankee Nuclear Power Station (Yankee) (the facility) located in Franklin County, Massachusetts. The amendment is effective as of its date of issuance.

The amendment incorporates changes to the Technical Specifications revising the maximum allowable peak rod linear heat generation rate limits as determined by the Core XVI LOCA analysis.

The application for amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact appraisal need not be prepared in connection with the issuance of this amendment.

For further details with respect to this action, see (1) The application for amendment dated November 26, 1982, (2) Amendment No. 78 to License No. DPR–3, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC. and at the Greenfield Community College, 1 College Drive, Greenfield, Massachusetts 01301. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC. 20555, Attention: Director, Division of Licensing.

Dated in Bethesda, Maryland, this 17th day of December 1982.

For the Nuclear Regulatory Commission.

Thomas V. Wambach,

Acting Chief, Operating Reactors Branch #5, Division of Licensing.

[FR Doc. 82–35014 Filed 12–23–82; 8:45 am]

BILLING CODE 7590–01–M

Reporting or Recordkeeping Requirements Document; Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: The Nuclear Regulatory Commission has recently submitted to the Office of Management and Budget (OMB) for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. Type of submission, new, revision or extension: Extension.

2. The title of the information collection: Department Duplication Request; Microform Duplication Request; Microform Blowback Request.

3 The form number if applicable: 171; 171A; 171B.

4. How often the collection is required: On occasion.

5. Who will be required or asked to report: Individuals.

6. An estimate of the number of responses: 8,000; 1,000; 2.000.

7. An estimate of the total number of hours needed to complete the requirement or request: 553; 66; 133.

8. Section 3504(h), Pub. L. 96–511 not applicable.

9. Abstract: These forms are used by the public in requesting reproduction of documents through the Public Document Room in Washington, D.C. NRC has a private contractor providing reproduction services and these forms provide the necessary controls.

ADDRESSES: Copies of the submittal will be made available for inspection or copying for a fee at the NRC Public Document Room, 1717 H Street, NW., Washington, D.C. 20555.

FOR FURTHER INFORMATION CONTACT: Comments and questions should be

directed to the OMB reviewer, Jeff Hill, (202) 395–7340.

NRC Clearance Officers R. Stephen Scott, (301) 492–8585. Dated at Bethesda, Maryland, this 20th day of December 1982.

For the Nuclear Regulatory Commission.

Patricia G. Norry,

Director, Office of Administration.

[FR Doc. 82–35009 Filed 12–23–82; 8:45 am]

BILLING CODE 7590–01–M

Prioritization of Generic Safety Issues; Availability of Draft Prioritization of Generic Safety Issues

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of Availability of Draft NUREG–0933; A Prioritization of Generic Safety Issues; Request for Comments.

SUMMARY: The Office of Nuclear Reactor Regulation has prepared a draft report, NUREG–0933, *"A Prioritization of Generic Safety Issues."* The report contains estimates of the potential safety benefits and impacts that would result if the listed generic safety issues were resolved and new requirements approved and implemented. Although the report does conceptually identify a possible resolution for each issue, this is only for the purpose of analyzing the associated benefits and impacts and is not meant to imply any proposed new requirement. The purpose of the report is to aid the Office of Nuclear Reactor Regulation in allocating its resources to resolving those generic safety issues that might have significant safety benefit or could be cost effective. Comments on the technical accuracy and completeness of the descriptions of the issues, their safety significance and the costs, and other impacts associated with the issues may be submitted and will be considered.

DATES: Comments may be submitted at any time. Although the report is scheduled to be published in February 1983, revision will be made, if and when warranted.

ADDRESSES: Interested persons may submit written comments and suggestions to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch. Copies of the draft report and the comments may be examined in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: W. Minners, Office of Nuclear Reactor Regulations, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Telephone 301–492–7827.

SUPPLEMENTARY INFORMATION: The Office of Nuclear Reactor Regulation is instituting a method of determining the safety priority ranking of generic safety issues based on the safety benefits and costs and other impacts associated with the issues. The method is described in the draft report, NUREG–0933, *A Prioritization of Generic Safety Issues.* Individual assessments of the issues are also provided in the report, along with the recommended safety priority ranking. Issues determined to have a high or medium safety priority ranking will be resolved on a schedule commensurate with their priority ranking. Issues determined to have low priority ranking or determined to warrant being dropped will not be scheduled for resolution. As other issues are identified, they will be prioritized and scheduled commensurate with their priority ranking. Supplements to NUREG–0933 will be issued to incorporate assessments of additional generic issues and revisions of assessments as necessary.

Any requirements that may be proposed based on the resolution of any of these generic issues will be subject to the NRC review and approval process prior to being issued. This will generally include a more complete and thorough assessment of the safety benefits, other values and impacts (including costs associated with implementing the requirement), a review by the Committee for Review of Generic Requirement, and public comment.

Dated at Bethesda MD, this 17th day of December 1982.

For the Nuclear Regulatory Commission.

Warren Minners,

Acting Chief, Safety Program Evaluation Branch, Division of Safety Technology, NRR.

[FR Doc. 82–35013 Filed 12–23–82; 8:45 am]

BILLING CODE 1590–01–M

OFFICE OF MANAGEMENT AND BUDGET

Identification of Included Federal Loan Programs for the Purposes of Public Law 97–365, the Debt Collection Act of 1982

AGENCY: Office of Management and Budget.

ACTION: Notice.

SUMMARY: Section 7 of the Debt Collection Act of 1982, Pub. L. 97–365, requires the Office of Management and Budget (OMB) to determine those direct, insured and guaranteed Federal loan programs to which Section 4 and Section 7 of the Act apply. The Act refers to these programs as "included Federal loan programs."

Under Section 4 of the Act, agencies which administer included Federal loan programs will have to require applicants to furnish their taxpayer identifying number on their loan applications. The taxpayer identifying number is the number an individual or business is required to furnish on a return filed with the Internal Revenue Service (IRS). In the case of individuals, the number is the social security number. Under the Act, agencies will use the number to verify the identity of loan applicants and to locate individuals and businesses should the loans become delinquent.

The application of Section 4 to all currently authorized loan programs will prevent and reduce future delinquencies substantially. Based on past experience, the broad application of Section 4 will not result in undue administrative costs or burdens being placed on credit applicants or the agencies administering the loan programs.

Section 7 of the Debt Collection Act of 1982 permits the Internal Revenue Service (IRS) to disclose to the head of a Federal agency administering an included Federal loan program whether or not a loan applicant has a tax delinquent account. A tax delinquent account for an individual generally arises after a taxpayer has received four notices that tax is due. A similar but not identical procedure is followed in the case of business taxpayers. Under the Act, disclosure of this information can only be made for the purpose of determining the credit worthiness of a loan applicant. Redisclosure of this information by the receiving agency is not authorized.

The extent to which agenices will utilize the screening authority contained in Section 7 will vary from agency to agency. For example, while it is unlikely that recent high school graduates applying for educational loans would have outstanding tax liabilities, it may be necessary in certain circumstances to screen applicants for educational loans against IRS records of tax delinquencies. On the other hand, applicants for Federal housing and business loans are more likely to have outstanding tax liabilities, and it is expected that these programs will use the screening authority more frequently than educational loan programs. The degree to which progams use the screening authority will also be influenced by other factors, such as the amount of credit involved, other credit information available on the applicant, and the

administrative costs associated with screening IRS records.

While a substantial number of Federal loan programs are included on the following list, it is important to remember that the Act permits but does not require agencies to utilize the screening authority. Depending on such factors as the amount of credit involved and the availability of other credit information on the applicant, an agency may elect not to utilize the screening authority.

The application of the screening authority will enhance the Government's debt collection efforts and will substantially prevent and reduce future delinquencies in these programs in two ways. Initially, the knowledge that a loan applicant has an outstanding tax liabililty will allow agenices to exercise sounder judgment in determining the potential abililty of a loan applicant to repay the debt. This will in turn lead to more informed decisions concerning the extension of Federal credit assistance and will reduce the possibility that a loan is inadvertently granted to an individual or business who is a poor credit risk. In addition, the screening authority will provide an incentive for Federal loan applicants to clear any outstanding tax debts prior to seeking Federal credit assistance. In 1982, over $27 billion in delinquent taxes was owed to the IRS. The diligent use of the screening authority will be of great assistance to the IRS in its efforts to collect delinquent taxes.

The direct, insured and guaranteed loan program authorized by the following statutes are included Federal loan programs for the purposes of Section 7 of the Debt Collection Act of 1982:

Department of Agriculture

—Commodity Credit Corporation Charter Act, as amended
—Agriculture Act of 1949, as amended
—Agriculture Adjustment Act of 1938, as amended
—Rural Electrification Act of 1936, as amended
—Consolidated Farm and Rural Development Act, as amended
—Housing Act of 1949, as amended
—Emergency Agriculture Credit Adjustment Act of 1978, as amended
—Bankhead-Jones Farm Tenant Act (Title III), as amended
—25 U.S.C. 488–492, as amended

Department of Commerce

—Trade Act of 1974, as amended
—Public Works and Economic Development Act of 1965 as amended
—Costal Zone Management Act of 1972, as amended
—Merchant Marine Act of 1936, as amended
—Fish and Wildlife Act of 1956, as amended

Department of Education

—Higher Education Act of 1965, as amended
—Housing Act of 1950 (Title IV), as amended

Department of Energy

—Electric and Hybrid Vehicle Research, Development and Demonstration Act of 1976, as amended
—Energy Policy and Conservation Act of 1975, as amended
—Geothermal Energy Research, Development and Demonstration Act of 1974, as amended
—Energy Security Act of 1980, as amended
—Federal Nonnuclear Energy Research and Development Act of 1974, as amended
—Energy Conservation and Production Act, as amended
—National Energy Conservation Policy Act of 1978, as amended
—Power Plant and Industrial Fuel Use Act of 1978, as amended
—Public Utility Regulatory Policies Act of 1978, as amended
—Pacific Northwest Electric Power Planning and Conservation Act, as amended

Department of Health and Human Services

—Public Health Service Act, as amended

Department of Housing and Urban Development

—National Housing Act, as amended
—United States Housing Act of 1937, as amended
—Housing Act of 1959, as amended
—Independent Offices Appropriation Act of 1955, as amended
—Solar Energy and Energy Conservation Bank Act of 1980, as amended
—Housing and Urban Development Act of 1968, as amended
—Housing Act of 1964, as amended

Department of Interior

—Indian Financing Act of 1974, as amended
—Indian Reorganization Act of 1934, as amended

Department of Labor

—Employee Retirement Income Security Act of 1974 (29 U.S.C. 1431), as amended

Department of Transportation

—Emergency Rail Services Act of 1970, as amended
—Regional Rail Reorganization Act of 1973, as amended
—Rail Passenger Service Act, as amended
—Railroad Revitalization and Regulatory Reform Act of 1976, as amended
—Urban Mass Transportation Act of 1964, as amended
—the Act of September 7, 1957, as amended
—Merchant Marine Act of 1936, as amended

Veterans Administration

—38 U.S.C. Chapters 31, 34 and 37, as amended
—National Service Life Insurance Act of 1940, as amended

Small Business Administration

—Small Business Act, as amended
—Public Law 94–305, as amended
—Small Business Investment Act of 1958, as amended

Overseas Private Investment Corporation

—Foreign Assistance Act of 1961, as amended
—Agriculture Trade Development and Assistance Act of 1954, as amended
—Foreign Assistance Act of 1969, as amended

Export-Import Bank

—Export-Import Bank Act of 1945, as amended

Tennessee Valley Authority

—Tennessee Valley Authority Act of 1933, as amended.

FOR FURTHER INFORMATION CONTACT: Inquiries should be directed to the Office of Management and Budget, Debt Collection Staff, Room 10236 NEOB, 726 Jackson Place, N.W., Washington, D.C. 20503. (Telephone: 202/395–3967)

Joseph R. Wright, Jr.,

Deputy Director, Office of Management and Budget.

[FR Doc. 82–34986 Filed 12–23–82; 8:45 am]

BILLING CODE 3110–9–M

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

Columbia River Basin Fish and Wildlife Program; Distribution and Availability Environmental Document

AGENCY: Pacific Northwest Electric Power and Conservation Planning

Council (Northwest Power Planning Council).

ACTION: Notice of distribution of environmental document on Columbia River Basin Fish and Wildlife Program.

SUMMARY: On November 15, 1982, the Pacific Northwest Electric Power and Conservation Planning Council ("the Council") adopted a Columbia River Basin Fish and Wildlife Program. The Council has prepared an environmental document summarizing its consideration of environmental factors throughout development of that program. The document will be forwarded to the Bonneville Power Administration and the Federal Energy Regulatory Commission in the U.S. Department of Energy; the Corps of Engineers, U.S. Department of the Army; and the Bureau of Reclamation, U.S. Department of the Interior. Copies of the document also will be provided, upon request, to any interested organization or individual.

ADDRESSES: Those organizations or individuals wishing to receive a copy of the document should contact Janie Pearcy by writing her at the Council's central office, Suite 200, 700 S.W. Taylor Street, Portland, Oregon, 97205, or by calling her at (toll free) 1–800–547–0134 in Montana, Idaho, Washington and California or (toll free) 1–800–452–2323 in Oregon. From all other states, call (503) 222–5161.

The environmental document is available for inspection and copying in the Public Reading Room of the Council's central office, Suite 200, 700 SW. Taylor Street, Portland, Oregon, 97205, on weekdays between 8:30 a.m. and 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: Curt Marshall, Fish and Wildlife Program Manager (toll free) 1–800–547–0134 in Montana, Idaho, Washington and California or (toll free) 1–800–452–2324 in Oregon. From all other states, call (503) 222–5161.

SUPPLEMENTARY INFORMATION: The Council adopted its Columbia River Basin Fish and Wildlife Program on November 15, 1982, and published a Federal Register notice of adoption on November 30, 1982 (47 FR 53976–7). Because the Council is not a federal agency, it is not subject to the National Environmental Policy Act (NEPA), 42 U.S.C. 4321, *et seq.* However, the process the Council followed in developing its program paralleled the requirements of NEPA. The document demonstrates how the Council considered environmental factors as it drafted its program. The federal agencies that are to implement the Council's program must comply with NEPA. This document provides those agencies with a foundation for their environmental review to help them expedite the process and implement the program as soon as possible.

Edward Sheets,

Executive Director.

[FR Doc. 82-34913 Filed 12-23-82; 8:45 am]

BILLING CODE 0000-00-M

PENSION BENEFIT GUARANTY CORPORATION

Pendency of Request for Exemption From Bond/Escrow Requirement Relating to Sale of Assets by an Employer That Contributes to a Multiemployer Plan; Johanna Farms, Inc. et al.

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of pendency of request.

SUMMARY: This notice advises interested persons that the Pension Benefit Guaranty Corporation has received a request from Johanna Farms, Inc., and its wholly owned subsidiary, Dairy Center, Inc. for an exemption from the bond/escrow requirement of section 4204(a)(1)(B) of the Employee Retirement Income Security Act of 1974, as amended. Section 4204(a)(1) provides that the sale of assets by an employer that contributes to a multiemployer pension plan will not constitute a complete or partial withdrawal from the plan if certain conditions are met. One of these conditions is that the purchaser post a bond or deposit money in escrow for five plan years, beginning after the sale. The PBGC is authorized to grant exemptions from this requirement. Prior to granting an exemption, the PBGC is required to give interested persons an opportunity to comment on the exemption request. The effect of this notice is to advise interested persons of this exemption request and to solicit their views on it.

DATE: Comments must be submitted on or before February 10, 1983.

ADDRESSES: All written comments (at least three copies) should be addressed to: Assistant Executive Director for Policy and Planning (140), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006. The request for exemption and the comments received will be available for public inspection at the PBGC Public Affairs Office, Suite 7100, at the above address, between the hours of 9:00 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: James M. Graham, Office of the Executive Director, Policy and Planning (140), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006; (202) 254–4862. [This is not a toll-free number.]

SUPPLEMENTARY INFORMATION:

Background

Section 4204(a)(1) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), 29 U.S.C. 1384, provides that a bona fide arm's-length sale of assets of a contributing employer to an unrelated party will not be considered a withdrawal if three conditions are met. These conditions, enumerated in section 4204(a)(1)(A)–(C), are that—

(A) The purchaser has an obligation to contribute to the plan for substantially the same number of contribuition base units for which the seller was obligated to contribute;

(B) The purchaser obtains a bond or places an amount in escrow, for a period of five plan years after the sale, in an amount equal to the greater of the seller's average required annual contribution to the plan for the three plan years preceding the year in which the sale occurred or the seller's required annual contribution for the plan year preceding the year in which the sale occurred; and

(C) The contract of sale provides that if the purchaser withdraws from the plan within the first five years beginning after the sale and fails to pay any of its liability to the plan, the seller shall be secondarily liable for the liability it (the seller) would have had but for section 4204.

The bond or escrow described above would be paid to the plan if the purchaser withdraws from the plan or fails to make any required contributions to the plan within the first five plan years beginning after the sale.

Section 4204(c) of ERISA authorizes the Pension Benefit Guaranty Corporation ("PBGC") to grant individual or class variances or exemptions from the purchaser's bond/escrow requirement of section 4204(a)(1)(B) and the contract-provision requirement of section 4204(a)(1)(C). The legislative history of section 4204 indicates a Congressional intent that the sales rules be administered in a manner that assures protection of the plan with the least practicable intrusion into normal business transactions. The granting of an exemption of variance from the requirements of section 4204(a)(1)(B) or (C) does not constitute a

finding by PBGC that the transaction satisfies the other requirements of section 4204(a)(1).

Under § 2643.3(a) of the PBGC's regulation on procedures for variances for sales of assets (46 FR 46127, September 17, 1981), the PBGC shall approve a request for a variance or exemption if it determines that approval of the request is warranted, in that it—

(1) Would more effectively or equitably carry out the purposes of Title IV of the Act; and

(2) Would not significantly increase the risk of financial loss to the plan.

Section 4204(c) of ERISA and § 2643.3(b) of the regulation require the PBGC to publish a notice of the pendency of a request for a variance of exemption in the **Federal Register**, and to provide interested parties with an opportunity to comment on the proposed variance or exemption.

The Request

The PBGC has received a request from Johanna Farms, Inc. ("Johanna") and its wholly owned subsidiary, Dairy Center, Inc. ("Diary") to waive the bond/escrow requirement of section 4204(a)(1)(B) of ERISA. In the request, the applicants represent among other things, that:

1. On May 27, 1982, Dairy purchased certain operating assets of the Great Atlantic and Pacific Tea Company, Inc. ("A&P"). Johanna was a guarantor to the sales contract.

2. Dairy has assumed A&P's responsiblities under a collective bargaining agreement with Food Drivers, Salesmen, Dairy and Ice Cream Workers Union Local 463, which obligated A&P to contribute to the Dairy Industry-Union Pension Plan for Philadelphia and Vicinity (the "Plan"). Prior to the sale, A&P's potential withdrawal liability had been estimated by the Plan to be $1,402,457.

3. The amount of the bond or escrow required under section 4204(a)(1)(B) is $269,105 (the estimated annual amount of A&P's required annual contribution for the Plan year preceding the year in which the sale occurred.)

4. According to its consolidated financial statements, Johanna and its subsidiaries had total net assets for its fiscal year ended May 31, 1981 of approximately $13 million, and an average net income for its fiscal years 1979–1981 of about $1.6 million. Johanna has asserted that all other financial information submitted as part of this request is exempt from disclosure under the Freedom of Information Act, 5 U.S.C. 522(b)(4).

5. The applicants have sent a copy of this request (excluding thefinancial information) to the Fund and the collective bargaining representative of A&P's former employees by certified mail, return receipt requested.

Comments

All interested persons are invited to submit written comments on the pending exemption the above address, by February 10, 1983. All comments will be made a part of the record. Comments received, as well as the application for exemption, will be available for public inspection at the address set forth above.

Issued at Washington, D.C. on this 17th day of December, 1982.

Edwin M. Jones,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 82-34921 Filed 12-23-82; 8:45 am]

BILLING CODE 7708-01-M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[FRA Waiver Petition Docket HS-82-24]

Great Western Railroad Co.; Petition for Exemption From the Hours of Service Act

In accordance with 49 CFR 211.41 and Section 211.9, notice is hereby given that the Great Western Railroad Company(GW) has petitioned the Federal Railroad Administration (FRA) for an exemption from the Hours of Service Act (83 Stat. 464, Pub. L. 91–169, 45 U.S.C. 64-A(e)). That petition requests that the GW be granted authority to permit certain employees to continuously remain on duty for in excess of twelve hours.

The Hours of Service Act currently makes it unlawful for a railroad to require or permit specified employees to continuously remian on duty for a period in excess of twelve hours. However, the Hours of Service Act contains a provision that permits a railroad, which employs no more than fifteen employees who are subject to the statute, to seek an exemption from this twelve hour limitation.

The GW seeks this exemption so that it can permit certain employees to remain continuously on duty for period not to exceed sixteen hours. The petitioner indicates that granting this exemption is in the public interest and will not adversely affect safety. Additionally, the petitioner asserts that it employs no more than fifteen employees and has demonstrated good cause for granting this exemption.

Interested persons are invited to participate in this proceeding by submitting written views or comments. FRA has not scheduled an opportunity for oral comment since the facts do not appear to warrant it. Communications concerning this proceeding should identify the Docket Number, Docket Number HS–82–24, and must be submitted in triplicate to the Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590. Communications received before January 14,1 1983, will be considered by the FREA before final action is taken. Comments received after that date will be considered as far as practicable. All comments received will be available for examination both before and after the closing date for comments, during regular business hours in Room 7321A, Nassif Building 400 Seventh Street, S.W., Washington, D.C. 20590.

(Section 5 of the Hours of Service Act of 1969 (45 U.S.C. 64a), 1.49(d) of the regulations of the Office of the Secretary, 49 CFR 1.49 (d).

Issued in Washington, D.C., on December 21, 1982.

Joseph W. Walsh,

Chairman, Railroad Safety Board.

[FR Doc. 82-34955 Filed 12-23-82; 8:45 am]

BILLING CODE 4910-06-M

[FRA Waiver Petition Docket HS–82–25]

Little Rock and Western Railroad Co.; Petition for Exemption From the Hours of Service Act

In accordance with 49 CFR 211.41 and Section 211.9, notice is hereby given that the Little Rock and Western Railroad Company (LR & W) has petitioned the Federal Railroad Administration (FRA) for an exemption from the Hours of Service Act (83 Stat. 464, Pub. L. 91–169, 45 U.S.C. 64A(e)). That petition requests that the LR & W be granted authority to permit certain employees to continuously remain on duty for in excess of twelve hours.

The Hours of Service Act currently makes it unlawful for a railroad to require or permit specified employees to continuously remain on duty for a period in excess of twelve hours. However, the Hours of Service Act contains a provision that permits a railroad, which employs no more than fifteen employees who are subject to the statute, to seek an exemption from this twelve hour limitation.

The LR & W seeks this exemption so that it can permit certain employees to remain continuously on duty for period not to exceed sixteen hours. The petitioner indicates that granting this exemption is in the public interest and will not adversely affect safety. Additionally, the petitioner asserts that it employs no more than fifteen

employees and has demonstrated good cause for granting this exemption.

Interested persons are invited to participate in this proceeding by submitting written views or comments. FRA has not scheduled an opportunity for oral comment since the facts do not appear to warrant it. Communications concerning this proceeding should identify the Docket Number, Docket Number HS–82–25, and must be submitted in triplicate to the Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590.
Communications received before January 31, 1983, will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All comments received will be available for examination both before and after the closing date for comments, during regular business hours in Room 7321A, Nassif Building 400 Seventh Street, S.W., Washington, D.C. 20590.

Section 5 of the Hours of Service Act of 1969 (45 U.S.C. 64a), 1.49(d)) of the regulations of the Office of the Secretary, 49 CFR 1.49(d)

Issued in Washington, D.C., on December 20, 1982.

Joseph W. Walsh,

Chairman, Railroad Safety Board.

[FR Doc. 82–34956 Filed 12–23–82; 8:45 am]
BILLING CODE 4910–06–M

[FRA Waiver Petition Docket HS–82–26]

Ontario Midland Railroad Co.; Petition for Exemption From the Hours of Service Act

In accordance with 49 CFR 211.41 and Section 211.9, notice is hereby given that the Ontario Midland Railroad Company (OMR) has petitioned the Federal Railroad Administration (FRA) for an exemption from the Hours of Service Act (83 Stat. 464, Pub. L. 91–169, 45 U.S.C. 64A(e)). That petition requests that the OMR be granted authority to permit certain employees to continuously remain on duty for in excess of twelve hours.

The Hours of Service Act currently makes it unlawful for a railroad to require or permit specified employees to continuously remain on duty for a period in excess of twelve hours. However, the Hours of Service Act contains a provision that permits a railroad, which employs no more than fifteen employees who are subject to the statute, to seek an exemption from this twelve hour limitation.

The OMR seeks this exemption so that it can permit certain employees to remain continuously on duty for a period not to exceed sixteen hours. The petitioner indicates that granting this exemption is in the public interest and will not adversely affect safety. Additionally, the petitioner asserts that it employs no more than fifteen employees and has demonstrated good cause for granting this exemption.

Interested persons are invited to participate in this proceeding by submitting written views or comments. FRA has not scheduled an opportunity for oral comment since the facts do not appear to warrant it. Communications concerning this proceeding should identify the Docket Number, Docket Number HS–82–26, and must be submitted in triplicate to the Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590.
Communications received before January 31, 1983 will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All comments received will be available for examination both before and after the closing date for comments, during regular business hours in Room 7321A, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590.

(Section 5 of the Hours of Service Act of 1969 (45 U.S.C. 64a), 1.49(d) of the regulations of the Office of the Secretary, 49 CFR 1.49(d))

Issued in Washington, D.C., on December 20, 1982.

Joseph W. Walsh,

Chairman, Railroad Safety Board.

[FR Doc. 82–34957 Filed 12–23–82; 8:45 am]
BILLING CODE 4910–06–M

[FRA Waiver Petition Docket HS–82–27]

Ontario Central Railroad Co.; Petition for Exemption From the Hours of Service Act

In accordance with 49 CFR 211.41 and Section 211.9, notice is hereby given that the Ontario Central Railroad Company (OCR) has petitioned the Federal Railroad Administration (FRA) for an exemption from the Hours of Service Act (83 Stat. 464, Pub. L. 91–169, 45 U.S.C. 64A(e)). That petition requests that the OCR be granted authority to permit certain employees to continuously remain on duty for in excess of twelve hours.

The Hours of Service Act currently makes it unlawful for a railroad to require or permit specified employees to continously remain on duty for a period in excess of twelve hours. However, the Hours of Service Act contains a provision that permits a railroad, which employs no more than fifteen employees who are subject to the statute, to seek an exemption from this twelve hour limitation.

The OCR seeks this exemption so that it can permit certain employees to remain continously on duty for period not to exceed sixteen hours. The petitioner indicates that granting this exemption is in the public interest and wil not adversely affect safety. Additionally, the petitioner asserts that it employs no more than fifteen employees and has demonstrated good cause for granting this exemption.

Interested persons are invited to participate in this proceeding by submitting written views or comments. FRA has not scheduled an opportunity for oral comment since the facts do not appear to warrant it. Communications concerning this proceeding should identify the Docket Number, Docket Number HS–82–27, and must be submitted in triplicate to the Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590.
Communications received before January 31, 1983, will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All comments received will be available for examination both before an after the closing date for comments, during regular business hours in Room 7321A, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590.

(Section 5 of the Hours of Service Act of 1969 (45 U.S.C. 64a), 1.49(d) of the regulations of the Office of the Secretary, 49 CFR 1.49(d))

Issued in Washington, D.C. on December 20, 1982.

Joseph W. Walsh,

Chairman, Railroad Safety Board.

[FR Doc. 82–34958 Filed 12–23–82; 8:45 am]
BILLING CODE 4910–06–M

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 83–4]

Vessels in Foreign and Domestic Trades; Fee Schedule for Vessel Services

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: General notice.

SUMMARY: The "Customs Procedural Reform and Simplification Act of 1978" repealed several statutes under which

Customs charged and collected fees for specific services provided to vessels by Customs officers. That Act authorized the Secretary of the Treasury to establish a new schedule of fees to return to the Government the approximate costs of the service provided. This document sets forth the revised schedule of fees to be charged and collected for 1983 for the specified services.

EFFECTIVE DATE: January 1, 1983.

FOR FURTHER INFORMATION CONTACT: Jerry Laderberg, Carriers, Drawback and Bonds Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202–566–5706).

SUPPLEMENTARY INFORMATION:

Background

Public Law 95–410, the "Customs Procedural Reform and Simplification Act of 1978," approved October 3, 1978 (the "Act"), repealed sections 2654, 4381, 4382, and 4383 of the Revised Statutes of the United States (19 U.S.C. 58; 46 U.S.C. 329, 330, and 333), the statutory authority under which customs had been charging and collecting fees for specific services provided to vessels by Customs officers.

Because these "Navigation Fees," which are set forth in section 4.98(a), Customs Regulations (19 CFR 4.93(a)), did not cover the costs of providing the services, section 214 of the Act authorized the Secretary of the Treasury to establish a new schedule of fees to be charged and collected for furnishing these services. The fees are to be consistent with 31 U.S.C. 9701, which provides that the costs of specific services for private interests shall be reimbursed to the Government.

By Treasury Decision 80–25, published in the **Federal Register** on January 16, 1980 (45 FR 3570), Customs established a fee schedule to be used for 1980, and amended § 4.98(a), Customs Regulations, to provide that a revised fee schedule will be published in the **Federal Register** and Customs Bulletin in December of each year setting forth a revised schedule of navigation fees for the specified vessel services to be performed during the following year. The revised fee schedule is to reflect changes in the rate of compensation paid to the Customs officer performing the service. The fees are to be calculated in accordance with § 24.17(d), Customs Regulations (19 CFR 24.17(d)), and based upon the amount of time the average service requires of a Customs officer in the fifth step of GS–9.

Fee No. 6 of § 4.98(a)(1) was removed and reserved by T.D. 82–224, published in the **Federal Register** on November 29, 1982 (47 FR 53725).

Because of the recent Federal pay increase, it is necessary for Customs to revise the schedule of fees for 1983 to take into account this increased cost in accordance with § 4.98(a), Customs Regulations. The hourly rate utilized is $15.12, thereby reflecting the change in the rate of compensation paid to a Customs officer in the fifth step of GS–9 performing the service. The fees have been rounded off to the nearest tenth of a dollar.

Action

The following revised schedule of navigation fees shall be effective during 1983:

Fee No. and description of services	Fee
1 Entry of vessel, including American, from foreign port:	
(a) Less than 100 net tons	57.80
(b) 100 net tons and over	15.10
2 Clearance of vessel, including American to foreign port:	
(a) Less than 100 net tons	7.60
(b) 100 net tons and over	15.10
3 Issuing permit to foreign vessel to proceed from district to district, and receiving manifest	15.10
4 Receiving manifest of foreign vessel on arrival from another district, and granting a permit to unlade	15.10
5 Receiving post entry	7.60
6 Reserved	
7 Certifying payment of tonnage tax for foreign vessel only	8.80
8 Furnished copy of official document, including certified outward foreign manifest, and others not elsewhere enumerated	15.10

Authority

R.S. 251, as amended, 96 Stat. 1051, 92 Stat. 888 (19 U.S.C. 66, 31 U.S.C. 9701, Pub. L. 95–410).

Drafting Information

The principal author of this document was Charles D. Ressin, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

George C. Corcoran, Jr.,

Acting Commissioner of Customs.

Approved: December 9, 1982

John M. Walker, Jr.,

Assistant Secretary of the Treasury.

[FR Doc. 82-34869 Filed 12-27-82; 8:45 am]

BILLING CODE 4820-02-M

UNITED STATES INFORMATION AGENCY

Immunity From Judicial Seizure of Culturally Significant Objects Imported for Temporary Exhibition; Delegation of Authority

By virtue of the authority vested in me by Executive Order 12047, March 27, 1978, I hereby delegate to the General Counsel of this Agency the authority to make any and all determinations authorized in pursuance of Pub. L. 89–259 (22 U.S.C. 2459), and to publish such determinations and modifications thereof in the **Federal Register**. In the event of a vacancy in the office, or during the incapacity or absence of the General Counsel, the authority delegated hereunder may be exercised by the Acting General Counsel.

Notwithstanding any other provision of this delegation, the Director may at any time exercise any function or authority delegated herein.

This delegation is effective immediately.

Dated: December 17, 1982.

Charles Z. Wick,

Director, United States Information Agency.

[FR Doc. 82-34922 Filed 12-23-82; 8:45 am]

BILLING CODE 8230-01-M

VETERANS ADMINISTRATION

Agency Forms Under OMB Review

AGENCY: Veterans Administration.

ACTION: Notice.

SUMMARY: The Veterans Administration has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document lists new, revised, and extended forms. Each entry contains the following information: (1) The department or staff office issuing the form; (2) The title of the form; (3) The agency form number, if applicable; (4) How often the form must be filled out; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to fill out the form; and (8) An indication of whether section 3504(H) of Pub. L. 96–511 applies.

ADDRESSES: Copies of the proposed forms and supporting documents may be obtained from Patricia Viers, Agency Clearance Officer (004A2), Veterans Administration, 810 Vermont Avenue, NW., Washington DC, 20420 (202) 389–2146. Comments and questions about the items on this list should be directed to the VA's OMB Desk Officer, Andy Usher, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, (202) 395–7316.

DATES: Comments on the forms should be directed to the OMB Desk Officer within 60 days of this notice.

Dated: December 16, 1982.

By direction of the Administrator.

Dominick Onorato,

Associate Deputy Administrator for Information Resources Management.

Revision

1. Department of Veterans Benefits
2. Request for change of program or place of training
3. 22–1995
4. On occasion
5. Veterans and servicepersons
6. 200,000 responses
7. 66,667 hours
8. Not applicable under 3504(H)

* * * * *

1. Department of Veterans Benefits
2. Application for cash surrender value or policy loan. (Government Life Insurance)
3. 29–1546
4. On occasion
5. Insured veterans
6. 28,000 responses
7. 4,667 hours
8. Not applicable under 3504(H)

* * * * *

1. Department of Veterans Benefits
2. Designation of certifying official (s)
3. 22–8794
4. On occasion
5. Educational institutions
6. 6,000 responses
7. 1,000 hours
8. Not applicable under 3504(H)

* * * * *

1. Department of Veterans Benefits
2. Federal fiduciary's account
3. 27–4706b
4. On occasion
5. Federal fiduciaries
6. 7,000 responses
7. 3,500 hours
8. Not applicable under 3504(H)

Extensions

1. Department of Veterans Benefits
2. Monthly certification of on-the-job and apprenticeship training
3. 22–6553d
4. Monthly
5. Veterans
6. 240,000 responses
7. 40,000 hours
8. Not applicable under 3504(H)

* * * * *

1. Department of Veterans Benefits
2. Veterans Application for Assistance in Acquiring Special Housing Adaptations
3. 26–4555d
4. On occasion
5. Disabled Veterans
6. 400 responses
7. 133 hours
8. Not applicable under 3504(H)

* * * * *

1. Department of Veterans Benefits
2. Trainee Interview Sheet
3. 22–8662
4. On occasion
5. Trainees
6. 20,000 responses
7. 5,000 hours
8. Not applicable under 3504(H)

New

1. Department of Veterans Benefits
2. Claim for Repurchase of Loan
3. 26–8084
4. On occasion
5. Loan Holders
6. 500 responses
7. 250 hours
8. Not applicable under 3504(H)

* * * * *

1. Department of Veterans Benefits
2. Estimated Expenses for counseling services
3. 28–1989
4. Annually
5. Guidance Centers
6. 35 responses
7. 77 hours
8. Not applicable under 3504(H)

[FR Doc. 82–34936 Filed 12–26–82; 8:45 am]

BILLING CODE 8320–01–M

Advisory Committee on Former Prisoners of War; Meeting

The Veterans' Administration gives notice under 38 U.S.C. 211 that a meeting of the Advisory Committee on Former Prisoners of War will be held in the Omar N. Bradley Conference Room at the Veterans' Administration Central Office, 810 Vermont Avenue, NW, Washington, DC 20420, February 1 through 3, 1983. The purpose of the Committee is to consult with and advise the Administration of Veterans' Affairs on the administration of benefits under title 38, United States Code, for veterans who are former prisoners of war and on the needs of such veterans with respect to compensation, health care, and rehabilitation.

The sessions will convene at 9 a.m. each day. These sessions will be open to the public up to the seating capacity of the room. Because this capacity is limited, it will be necessary for those wishing to attend to contact Miss Linda Gardner, Administrative Assistant to the Chief Benefits Director, Veterans' Administration Central Office (phone 202/389–2455) prior to January 21, 1983.

Members of the public may direct questions or submit prepared statements for review by the Committee in advance of the meeting, in writing only, to Mr. H. B. Mars, Deputy Director, Compensation and Pension Service, Department of Veterans Benefits, Room 400, Veterans' Administration Central Office. Submitted material must be received at least five days prior to the meeting. Such members of the public may be asked to clarify submitted material prior to consideration by the Committee.

Summary minutes of the meeting and rosters of the Committee members may be obtained from Miss Linda Gardner at the aforementioned address.

Dated: December 10, 1982.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 82–35015 Filed 12–23–82; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 248
Monday, December 27, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Federal Deposit Insurance Corporation	1, 2, 3
National Credit Union Administration	4
National Transportation Safety Board	5
Postal Service	6, 7

1

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 10:30 a.m. on Thursday, December 23, 1982, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, and is expected to consider the following matters:

Application for consent to purchase assets and assume liabilities and to establish two branches:

Goldome Bank for Savings, Buffalo, New York, an insured mutual savings bank, for consent to purchase certain assets of and assume the liability to pay certain deposits made in the Dunkirk branch and the Gowanda Branch of The Permanent Savings Bank, Niagara Falls, New York, and to establish those two branches as branches of Goldome Bank for savings.

Application for consent to convert to membership in the Federal Savings and Loan Insurance Corporation:

The Long Island Savings Bank, Syosset, New York, an insured mutual savings bank.

Recommendation regarding the Corporation's assistance agreement with an insured bank pursuant to section 13(e) of the Federal Deposit Insurance Act.

Application for assistance pursuant to section 13(i) of the Federal Deposit Insurance Act and the FDIC's Capital Assistance Plan:

Name and location of bank authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(60, (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii).

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 45,548–L—Metropolitan Bank & Trust Company, Tampa, Florida

Memorandum and Resolution re: Farmers and Mechanics Savings Bank, Minneapolis, Minnesota

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation at (202) 389–4425.

Dated: December 21, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–1857–82 Filed 12–22–82; 11:09 am]

BILLING CODE 6714–01–M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 10:00 a.m. on Thursday, December 23, 1982, and is expected to consider the following matters:

Memorandum re: Accounting and Capital Adequacy Concerns Regarding Intangible Assets Resulting from Bank Mergers and Acquisitions.

Memorandum re: Purchase of Office Space in the Ecker Square Condominium Office Building, San Francisco, California.

Memorandum re: Budget of Liquidation Expenses for Budget Year 1983.

Resolution re: Amended delegations of authority relating to FDIC's Capital Assistance Plan.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: December 21, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–1858–82 Filed 12–23–82; 11:12 am]

BILLING CODE 6714–01–M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 3:00 p.m. on Tuesday, December 21, 1982, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to consider the application submitted by Heritage Bank-Mayfair, Wauwatosa, Wisconsin, an insured State nonmember bank, for consent to consolidate, under its charter and title, with Jacobus National Bank, Brookfield, Wisconsin, a new national bank, in organization, chartered to acquire the assets of and assume the liability to pay deposits made in Regency National Exchange Bank, Brookfield, Wisconsin, and to establish the sole office of Regency National Exchange Bank as a branch of the resultant bank.

In calling the meeting, the Board determined, on motion of Chairman

William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matter on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matter in a meeting open to public observation; and that the matter could be considered in a closed meeting pursuant to subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Dated: December 22, 1982.

Federal Deposit Insurance Corporation.

Alan J. Kaplan,

Deputy Executive Secretary.

[S-1861-82 Filed 12-22-82; 3:29 pm]

BILLING CODE 6714-01-M

4

NATIONAL CREDIT UNION ADMINISTRATION

TIME AND DATE: 9:30 a.m., Thursday, December 30, 1982.

PLACE: 7th floor board room, 1776 G Street, N.W., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Requests for merger with special assistance under Section 208(a)(2) of the Federal Credit Union Act. Closed pursuant to exemptions (8) and (9)(A)(ii).
2. Personnel Actions. Closed pursuant to exemptions (2) and (6).

FOR MORE INFORMATION CONTACT: Rosemary Brady, Secretary of the Board, telephone (202) 357-1100.

[S-1862-82 Filed 12-22-82; 3:58 pm]

BILLING CODE 7535-01-M

5

NATIONAL TRANSPORTATION SAFETY BOARD

[NM-82-30]

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 55453, December 9, 1982.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9 a.m., Thursday, December 16, 1982.

CHANGE IN MEETING: A majority of the Board determined by recorded vote that the business of the Board required cancelling this meeting and that no earlier announcement was possible.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming (202) 382-6525.

December 21, 1982.

[S-1856-82 Filed 12-22-82; 9:37 am]

BILLING CODE 4915-58-M

6

POSTAL SERVICE

Notice of Meeting

The Board of Governors of the United States Postal Service, pursuant to its Bylaws (39 CFR 7.5) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice that it intends to hold a meeting at 8:30 a.m. on Thursday, January 6, 1983, in the Benjamin Franklin Room, 11th Floor, Postal Service Headquarters, 475 L'Enfant Plaza, S.W., Washington, D.C. As indicated in the following paragraphs, a portion of the meeting is closed to public observation. The Board expects to discuss the matters stated in the agenda which is set forth below. Requests for information about the meeting should be addressed to the Secretary of the Board, Louis A. Cox, at (202) 245-4632.

At its meetings on December 7 and December 20, 1982, the Board voted to close to public observation two portions of its meeting scheduling for January 6, 1983.

One portion of the meeting to be closed will consist of a discussion of Postal Service strategic planning. The other will consist of a discussion of the recommended decision of the Postal Rate Commission on third-class bulk rates in Docket No. R80-1, which is expected to be used by the Commission by December 23, 1982.

Agenda

1. Minutes of the Previous Meetings.
2. Remarks of the Postmaster General.
   (In keeping with its consistent practice, the Board's agenda provides this opportunities for the Postmaster General to inform the members of miscellaneous current developments concerning the Postal Service. Nothing that requires a decision by the Board is brought up under this item.)
3. Election of Chairman and Vice Chairman.
   (Under the Board's Bylaws, the first regular meeting of each calendar year is designated as the Annual Meeting. The terms of the Chairman and Vice Chairman of the Board expire at the end of the first Annual Meeting following the meeting at which they were elected. Accordingly, the Board will consider the election of a Chairman and Vice Chairman.)
4. Appointment of Committee Members by Chairman.
   (The Bylaws also provide that the terms of the Chairmen and members of the several Committees of the Board expire at the end of this meeting.)
5. Annual Report on Open Meetings Compliance.
   (Mr. Cox will present for approval of the Board the Annual Report to Congress that is required by the Government in the Sunshine Act regarding the Board's compliance with the Act.)
6. Possible Officer Compensation Adjustments.
   (The Board will consider approval of a recommendation by the Postmaster General regarding adjustments in compensation for officers.)
7. Review of Audited Financial Statements.
   (The Board will continue its review of the audited financial statements which were discussed at the December 7, 1982, meeting.)
8. Annual Report of the Postmaster General.
   (The Board will continue its consideration of the Annual Report of the Postmaster General to the Board concerning the operations of the Postal Service, as required by 39 U.S.C. 2402. Upon approval thereof, or after making such changes as it consider appropriate, the Board is to transmit this report to the President and the Congress.)
9. Capital Investment Project—Southern Maryland General Mail Facility.
   (Mr. Biglin, Senior Assistant Postmaster General, Administration Group, will present a proposal for Board approval of a capital investment for a proposed new General Mail Facility for Southern Maryland.)
10. Consideration of January 31/February 1 Meeting Agenda.
11. Discussion of Strategic Planning.
    (As stated above, this portion of the meeting will be closed to public observation.)
12. Discussion of Postal Rate Commission Decision on Third-Class Bulk Rates (Docket No. R80-1).
    (As stated above, this portion of the meeting will be closed to public observation.)

Louis A. Cox,

Secretary.

[S-1859-82 Filed 12-22-82; 2:26 p.m.]

BILLING CODE 7710-12-M

7

POSTAL SERVICE

Vote to Close Meeting

At its meeting on December 20, 1982, the Board of Governors of the United States Postal Service voted to close to public observation a portion of its meeting scheduled for January 6, 1983. All of the members except Mr. Babcock, who did not attend the meeting, voted in favor of this action. The portion of the meeting to be closed will consist of a discussion of the recommended decision of the Postal Rate Commission on third-class bulk rates in Docket No. R80-1, which is expected to be issued by December 23, 1982.

The Board is of the opinion that public access to this discussion would be likely to disclose information that will become

involved in current and future rate litigation.

Accordingly, the Board of Governors has determined that, pursuant to section 552b(c)(3) of title 5, United States Code, and section 7.3(c) of title 39, Code of Federal Regulations, this portion of the meeting is exempt from the open meeting requirement of the Government in the Sunshine Act (5 U.S.C. 552b(b)), because it is likely to disclose information in connection with proceedings under chapter 36 of title 39 (having to do with postal ratemaking, mail classification, and changes in postal services), which is specifically exempted from disclosure by section 410(c)(4) of title 39, United States Code. The Board determined further that, pursuant to section 552b(c)(10) of title 5 and section 7.3(j) of title 39, Code of Federal Regulations, the discussion is exempt because it is likely to specifically concern the participation of the Postal Service in a civil action or proceeding or the litigation of a particular case involving a determination on the record after opportunity for a hearing. The Board further determined that the public interest does not require the Board's discussion of this matter to be open to the Public.

In accordance with section 552b(f)(1) of title 5, United States Code, and section 7.6(a) of title 39, Code of Federal Regulations, the General Counsel of the United States Postal Service has certified that in his opinion the portion of the meeting to be closed may properly be closed to public observation, pursuant to sections 552b(c) (3) and (10) of title 5 and section 410(c)(4) of title 39, United States Code, and sections 7.3(c) and (j) of title 39, Code of Federal Regulations.

Louis A. Cox,

Secretary

[S-1880-82 Filed 12-22-82; 2:28 pm]

BILLING CODE 7710-12-M

Federal Register

Monday
December 27, 1982

Part II

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Government Contract Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

Modifications to General Wage Determination Decision

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

Arizona: AZ82–5109	Apr. 25, 1982.
Colorado: CO82–5107	Apr. 9, 1982.
Nevada:	
NV82–5116	Aug. 6, 1982.
NV82–5113	Aug. 6, 1982.
NV82–5114	Aug. 6, 1982.
New Jersey:	
NJ81–3053	Oct. 9, 1981.
NJP82–3006	Feb. 26, 1982.
NJ81–3063	Dec. 29, 1981.
Pennsylvania:	
PA82–3008	Feb. 26, 1982.
PA82–3012	Mar. 5, 1982.
PA82–3016	May 14, 1982.
PA82–3027	Oct. 8, 1982.
PA81–3042	July 6, 1981.
PA81–3066	Oct. 23, 1981.
PA81–3069	Sept. 25, 1981.
PA81–3080	Oct. 23, 1981.
South Dakota:	
SD81–5150	Sept. 4, 1981.
SD81–5151	Sept. 4, 1981.
Texas (Reprint of Mod. #2:) TX82–4054	Nov. 5, 1982.
Rode Island: RI81–3042	Aug. 21, 1981.
West Virginia: WV82–3003	May 14, 1982.

Supersedeas Decisions To General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

Minnesota: MN82–2046(MN82–2069)	Sept. 10, 1982.
Missouri:	
MO81–4061 (MO82–4066)	July 24, 1981.
MO81–4062 (MO82–4067)	July 24, 1981.
MO81–4063 (MO82–4068)	July 24, 1981.

Cancellation of General Wage Determination Decision

This is to advise all interested parties that the Department of Labor intends to withdraw 14 days from the date of this notice the following general wage determination:

TX80–4002—Bee, Kleberg and Nueces Counties, Texas, dated January 4, 1980, in 45 FR 1379—Building Construction.

Signed at Washington, D.C., this 17th day of December 1982.

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

BILLING CODE 4510-27-M

MODIFICATION PAGE 1

DECISION NO.AZ82-5109-Mod.#3
(47 FR 17723 - April 23,1982)

STATEWIDE, ARIZONA

	Basic Hourly Rates N AREA	Basic Hourly Rates C & S AREAS
Change:		
Power Equipment Operators		
Group 1	$10.875	$ 8.75
Group 2	12.875	10.75
Group 3	13.335	11.21
Group 4	13.885	11.76
Group 5	14.545	12.42
Group 6	15.185	13.06
Group 7	15.565	13.44
Group 8	15.975	13.85
Group 9	16.715	14.59
Fringe Benefits: $1.78		

AREA DESCRIPTIONS:

NORTHERN AREA: Area north of a straight line drawn between a point 35 miles due north of the City Hall in Flagstaff and a point 35 miles due north of the City Hall in Kingman, extending to the Arizona/Nevada State Line on the west; and connecting to a point 35 miles due north of the City Hall in Holbrook, thence due east to the intersection of the Arizona/New Mexico State Line

CENTRAL and SOUTHERN AREAS: All Areas not included in the Northern Area

GROUP DESCRIPTIONS

Group 1: Air Compressor Operator; Pump Operator; Conveyor Operator; Generator Operator (all); Power Grizzly Operator; Fireman (all); Welding Machine Operator; Tripper Operator; Concrete Mixer Operator, Skip type; Highline Cableway Signalman

Group 2: Oiler; Forklift and Ross Carrier Operator; Skiploader, 1½ cu. yd. and less; Pavement Breaker; Roller Operator (except as otherwise classified); Wheel-type Tractor Operator (Ford-Ferguson type); Slurry Seal Machine Operator (driver Moto-paver); Power Sweeper

Group 3: Self-propelled Chip Spreading Machine Conveyor Operator; Dinky Operator, under 20 ton; Elevator Hoist Operator, Husky and similar

Group 4: Motor Crane Driver; Beltcrete Operator; Curing Machine Operator, Boring Bridge and Texture; Cross Tineing and Pipe Float; Straw Blower; Hydrographic Seeder; Hydrographic Mulcher; Jumbo Finishing Machine; Joint Inserter

Group 5: A-Frame Boom Truck or Winch Truck Operator; Grade Checker (excluding Civil Engineer); Multiple Power Concrete Saw Operator; Screed Operator; Stationary Pipe Wrapping and Cleaning Machine Operator; Tugger Operator

MODIFICATION PAGE 2

DECISION NO. AZ82-5109 (Cont'd)

Group 6: Aggregate Plant Operator (including crushing, screening and sand paints, etc.); Asphalt Laydown Machine Operator; Asphalt Plant Mixer Operator; Boring Machine Operator; Concrete Mechanical Tamping, Spreading or Finishing Machine Operator (including Clary, Johnson or similar types); Concrete Pump Operator; Concrete Batch Plant Operator, all types and sizes; Conductor, Brakeman, or Handler; Drilling Machine Operator, all types and sizes except as otherwise classified; Field Equipment Serviceman; Kolman Belt Loader Operator or similar type, with belt width 48" or over; Locomotive Engineer (including Dinky 20 tons weight and over); Moto-paver and similar type equipment Operator; Operating Engineer Rigger; Pneumatic-tired Scraper Operator, up to and including 12 cu. yds. (Turnapull, Euclid, Cat, D.W. Hancock, and similar equipment); Power Jumbo Form Setter Operator; Pressure Grout Machine Operator (as used in heavy engineering construction); Road Oil Mixing Machine Operator; Roller Operator, on all type asphalt pavement; Self-propelled Compactor, with blade; Skip Loader Operator, all types with a rated capacity over 1½ but less than 4 cu. yds.; Slip Form Operator (power driven lifting device for concrete forms); Soil Cement Road Mixing Machine Operator, single pass type; Stationary Central Generating Plant Operator, rated 300 K.W. or more; Surface Heater and Planer Operator; Traveling Pipe-wrapping Machine Operatmr

Group 7: Pneumatic-tired Scraper Operator, all sizes and types over 12 cu. yds. MRC (Turnapull, Euclid, Cat, D.W. Hancock, and similar equipment); Tractor Operator (Pusher, Bulldozer, Scraper); Trenching Machine Operator

Group 8: Asphalt or Concrete Planing, Rotomill, and Milling Machine Operator; Auto Grade Machine Operator (CMI and similar equipment); Boring Machine Operator (including Mole, Badger and similar type); Concrete Mixer Operator, paving type and Mobile Mixers; Concrete Pump Operator, with boom attached (truck mounted); Crane Operator, Crawler and Pneumatic type under 100 ton capacity MRC; Crawler-type Tractor Operator, with boom attachment or Slope Bar; Derrick Operator; Forklift Operator for hoisting personnel; Gradall Operator; H. D. Mechanic and/or Welder; Helicopter Hoist Operator; Highline Cableway Operator (less than 20 tons rated capacity); Mass Excavator Operator (150 Bucyrus Erie and similar types); Mechanical Hoist Operator (two or more drums); Motor Grader Operator, any type power blade; Motor Grader Operator, with Elevating Grader attachment; Mucking Machine Operator; Operating Engineers Electrician, including Lineman, Tower Erector, Cable Splicer, etc.; Overhead Crane Operator; Piledriver Engineer (portable, stationary or skid rig); Pneumatic-tired Scraper Operator, all sizes and types (Turnapull, Euclid, Cat, D.W. Hancock and similar equipment over 45 cu. yds. MRC; Power driven Ditch Lining or Ditch Trimming Machine Operator; Skip Loader Operator, all types rated capacity 4 cu. yd. but less than 8 cu. yd.; Slip Form Paving Machine Operator (including Gunnert, Zimmerman and similar types); Specialized Power Digger Operator, attached to wheel-type tractor; Tower Crane (or similar type) Operator; Tugger Operator (two or more); Universal Equipment Operator, Shovel, Backhoe, Dragline, Clamshell, etc., up to 8 cu. yds.

DECISION NO. AZ82-5109 (Cont'd)

Group 9: Crane Operator, Pneumatic or Crawler, 100 ton hoisting capacity and over MRC rating; Helicopter Pilot, FAA qualified, when used in construction work other than executive travel and single casual rental; Highline Cableway Operator, over 20 ton rated capacity and using traveling head and tail tower; Remote-controll Earth Moving Equipment Operator; Skip Loader Operator, all types with rated capacity of 8 cu. yds. or more; Universal Equipment Operator, Shovel, Backhoe, Dragline, Clamshell, etc., 8 cu. yds. and over

DECISION NO. CO82-5107 - Mod. #4
(47 FR 15491-April 9, 1982)
Delta, Garfield, Gunnison, Mesa, Montrose, and Pitkin Counties, Colorado

	Basic Hourly Rates	Fringe Benefits
Change:		
Carpenters:		
Zone 1	$13.57	$3.36
Zone 2	14.07	3.36
Zone 3	14.32	3.36

DECISION NO. NV82-5116 - Mod. #4
(47 FR 34303 - August 6, 1982)
Statewide (does not include the Nevada Test Site and Tonopah Test Range, and Highway Construction in Douglas County), Nevada

	Basic Hourly Rates	Fringe Benefits
Change:		
Glaziers	$20.42	$2.35
Power Equipment Operators:		
Clark, Esmeralda, Lincoln, and Nye Cos.:		
Group 1	16.15	6.51
Group 2	16.43	6.51
Group 3	16.72	6.51
Group 4	16.86	6.51
Group 5	17.08	6.51
Group 6	17.19	6.51
Group 7	17.31	6.51
Group 8	17.48	6.51
Group 9	17.61	6.51
Sheet Metal Workers:		
Area 1	20.02	5.61
Area 2	16.48	5.67

DECISION NO. NV82-5113 - Mod. #4
(47 FR 34300 - August [illegible], 1982)
Clark County (does not include the Nevada Test Site), Nevada

	Basic Hourly Rates	Fringe Benefits
Change:		
Glaziers	$ 7.78	$2.35
Power Equipment Operators: (Except Piledriving and Steel Erection):		
Group 1	16.15	6.51
Group 2	16.43	6.51
Group 3	16.72	6.51
Group 4	16.96	6.51
Group 5	17.08	6.51
Group 6	17.19	6.51
Group 7	17.31	6.51
Group 8	17.48	6.51
Group 9	17.61	6.51
Sheet Metal Workers	20.02	5.61

DECISION NO. NV82-5114 - Mod. #3
(47 FR 34312-August 6, 1982)
Nevada Test Site including Tonopah Test Range in Clark, Lincoln and Nye Counties, Nevada

	Basic Hourly Rates	Fringe Benefits
Change:		
Ironworkers: Ornamental; Reinforcing; Structural	$18.26	$5.93
Power Equipment Operators: (Except Piledriving and Steel Erection):		
Group 1	15.08	5.79
Group 2	15.32	5.79
Group 3	15.56	5.79
Group 4	15.67	5.79
Group 5	15.86	5.79
Group 6	15.96	5.79
Sheet Metal Workers	18.15	5.22

DECISION NO. NJ81-3053 - MOD. #16
(46 FR 50283 - October 9, 1981)
BERGEN, ESSEX, HUDSON, HUNTERDON, MIDDLESEX, MORRIS, PASSAIC, SOMERSET, SUSSEX, UNION AND WARREN COUNTIES, NEW JERSEY

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
LABORERS, BUILDING CONSTRUCTION:		
ZONE 8		
Laborers	10.80	2.60
Vibrator handlers, power handlers, tamper, fork lift operators	11.05	2.60
LINE CONSTRUCTION (EXCLUDING RAILROAD CONSTRUCTION):		
ZONE 12		
Linemen	15.42	25%
Line Equipment Operators	14.73	25%
Groundman winch operator, truck operator	11.88	25%
Groundman	10.05	25%
Dynamite man	12.91	25%
Street light mechanic	12.51	25%
Line equipment mechanic	11.73	25%

DECISION NO. NJ82-3008 - MOD. #4
(47 FR 8523 - February 26, 1982)
BERGEN, ESSEX, HUDSON AND PASSAIC COUNTIES, NEW JERSEY

CHANGE:		
CARPENTERS & INSULATORS & MILLWRIGHTS:		
AREA 2		
CARPENTERS & INSULATORS	16.01	20.5%
MILLWRIGHTS	16.51	20.5%
AREA 4		
CARPENTERS & INSULATORS	11.88	20.5%

DECISION NO. NJ81-3063 - MOD. #11
(46 FR 62746 - Dec. 28, 1981)
ATLANTIC, BURLINGTON, CAMDEN, CAPE MAY, CUMBERLAND, GLOUCESTER, MERCER, MONMOUTH, OCEAN AND SALEM COUNTIES, NEW JERSEY

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
LABORERS, BUILDING CONSTRUCTION:		
ZONE 8		
Laborers	10.80	2.60
Vibrator handlers, power hammer handlers tamper, fork lift operators	11.05	2.60
LINE CONSTRUCTION (EXCLUDING RAILROAD CONSTRUCTION):		
ZONE 12		
Linemen	15.42	25%
Line Equipment Operators	14.73	25%
Groundman winch operator, truck operator	11.88	25%
Groundman	10.05	25%
Dynamite man	12.91	25%
Street Light Mechanic	12.51	25%
Line equipment mechanic	11.73	25%

DECISION NO. NJ81-3063 -

(CONT'D)

ADD:

AREA COVERED BY LINE CONSTRUCTION ZONES

ZONE 1 - Monmouth & Ocean Counties

ZONE 2 - Burlington (that portion north of a line following the west and south limits of Burlington Borough from the Delaware River in a southeasterly direction to the Burlington - Mt. Holly Road, south - southeast along this road to and including the town of Mt. Holly, east along the Pennsylvania Railroad to and including New Lisbon, and continuing along the Pennsylvania Railroad to the Ocean County Line) & Mercer Counties

ZONE 3 - Burlington (Edgewater Park, Delanco, Delran, Cinnaminson, Moorestown, Mount Laurel, Willingsboro, Hainesport, Lumberton, Medford, Evesham Twps. in the county and that portion of Shamong, Tabernacle, Woodland Twps north of the Central Railroad of New Jersey Line and that portion of Burlington, Westhampton, Easthampton, South Hampton and Pemberton Twps. in the county sourth of a line starting at the Delaware River and following the southern boundary of Burlington Borough to the Burlington, Mouth Holly Road, along this road to Mount Holly around but excluding Mount Holly to the Pennsylvania Railroad along the Pennsylvania Line through, but excluding Pemberton, through but excluding New Lisbon to the Ocean County Line), Camden, Gloucester (Washington, Deptford, West Deptford, Greenwich, East Greenwich, Manute, Harrison, South Harrison, Woolwich, and Logan Twps. and Pittman Borough) and Salem (from Lower Penns Neck, Upper Penns Neck, Oldmans Twps. and that portion of Mannington and Pilesgrove Twps. North of a line following State Hwy. #45 northeast from Fenswick Creek to the Borough of Woodstown, around and including Woodstown to U. S. Hwy #40 and east on #40 to Upper Pittsgrove Twps. line) Counties

ZONE 4 - Atlantic (that portion south and west of a line following the White Horse Pike (U. S. Hwy. #30) in a southeasterly direction from Camden County to the Mays Landing-DaCosta Road, continuing south along that road to the to the Great Egg Harbor River near Weymouth along that river to the Harding Hwy. to the Mays Landing - Tuckahoe Road, south on that road to the north limits of Corbin City to the Tuckahoe River), Cumberland, Gloucester (remainder of county) and Salem (remainder of county) Counties

ZONE 5 - Atlantic (remainder of county), Burlington (remainder of county) and Cape May Counties

DECISION NO. PA81-3008 - MOD. #4 (47 FR 8487 - February 26, 1982) BUCKS, CHESTER, DELAWARE, MONTGOMERY & PHILADELPHIA COUNTIES, PENNSYLVANIA	Basic Hourly Rates	Fringe Benefits
CHANGE:		
LINE CONSTRUCTION:		
Journeyman Lineman	17.84	.60+3 3/8%
Winch truck op.	12.49	.60+3 3/8%
Groundman	10.70	.60+3 3/8%

DECISION NO. PA82-3011 - MOD. #1 (47 FR 9681 - March 5, 1982) COLUMBIA, MONTOUR & SNYDER COUNTIES, PENNSYLVANIA	Basic Hourly Rates	Fringe Benefits
CHANGE:		
ASBESTOS WORKERS:		
Snyder County	15.76	2.04
BOILERMAKERS	17.87	2.415

DECISION NO. PA81-3018 - MOD. #2 (47 FR 20930 - May 14, 1982) NORTHAMPTON COUNTY, PA.	Basic Hourly Rates	Fringe Benefits
CHANGE:		
ASBESTOS WORKERS	15.76	2.04
BOILERMAKERS	17.88	2.415
CARPENTERS	14.85	2.53

DECISION NO. PA82-3027 - MOD. #3 (47 FR 44670 - October 6, 1982) BEDFORD, CAMBRIA, CAMERON, CLARION, CLEARFIELD, JEFFERSON, CRAWFORD & VENANGO COUNTIES, PENNSYLVANIA	Basic Hourly Rates	Fringe Benefits
CHANGE:		
IRONWORKERS:		
Zone 3	15.50	3.02

DECISION NO. PA81-3042 - MOD. #9
(46 FR 34934 - July 6, 1981)
ALLEGHENY, ARMSTRONG, BEAVER, BEDFORD, BLAIR, BUTLER, CAMBRIA, CAMERON, CENTRE, CLARION, CLEARFIELD, CLIN TON CRAWFORD, ELK, ERIE, FAYETTE, FOREST, FRANKLIN, FULTON, GREENE, HUNTINGDON, INDIANA, JEFFERSON, MERCER, LAWRENCE, McKEAN, MIFFLIN, POTTER, SOMERSET, VENANGO, WARREN, WASHINGTON & WESTMORELAND COUNTIES, PENNSYLVANIA

CHANGE:

	Basic Hourly Rates	Fringe Benefits
IRONWORKERS Zone 3	15.84	3.88
PLUMBERS (BRIDGE-DRAIN PIPE) Allegheny, Washington, Greene, Armstrong Cos.	15.80	3.45

DECISION NO. PA81-3061 - MOD. #5
(46 FR 42082 - September 21, 1981)
DAUPHIN, CUMBERLAND, PERRY, JUNIATA, NEW CUMBERLAND DEPOT, IN YORK COUNTY, PENNSYLVANIA

CHANGE:

	Basic Hourly Rates	Fringe Benefits
LINE CONSTRUCTION		
Lineman	11.25	.60+3 3/8%
Groundman	8.55	.60+3 3/8%
Cable Splicers	11.25	.60+3 3/8%
Winch truck op.	9.98	.60+3 3/8%
ASBESTOS WORKERS	15.76	2.04
BOILERMAKERS	17.88	2.415

DECISION NO. PA81-3061 - MOD. #6
(46 FR 47401 - Sept. 25, 1981)
BERKS COUNTY, PA.

CHANGE:

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	15.76	2.04
BOILERMAKERS	17.88	2.415
ELECTRICIANS:		
Remainder of County	15.59	1.81+3%
STEAMFITTERS	17.41	3.56

DECISION NO. PA81-3080 - MOD. #1
(46 FR 52078 - October 23, 1981)
LEHIGH COUNTY, PENN.

CHANGE:

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	15.76	2.04
BOILERMAKERS	17.88	2.415
CARPENTERS	14.85	2.53
STEAMFITTERS	17.41	3.56

DECISION NO. SD81-5150 - Mod. 45
(47 FR 44656 - September 4, 1981)
Minnehaha County, South Dakota

Change:

	Basic Hourly Rates	Fringe Benefits
Boilermakers	$16.12	$3.575
Sheet Metal Workers	13.44	1.85+ 3%

DECISION NO. SD81-5151 - Mod. #4
(46 FR 44657 - September 4, 1981)
Meade and Pennington Counties, South Dakota

Change:

	Basic Hourly Rates	Fringe Benefits
Boilermakers	16.12	3.575
Ironworkers	14.15	3.15
Sheet Metal Workers	13.59	1.22+ 3%

NOTE: The following modification is reprinted due to the fact that it was not clear when printed in Vol. 47, page 54742 of the Federal Register dated December 3, 1982

DECISION NO. TX82-4054 - MOD #2 - 12/3/82
(47 FR 50430 - 11/5/82)
Collin, Dallas, Denton, Ellis, Grayson, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Rockwall, Tarrant & Wise Counties, Texas

CHANGE:

	Basic Hourly Rates	Fringe Benefits
Line Construction:		
Linemen	$17.10	60+8%
Cable Splicers	17.77	60+8%
Operators	17.96	60+8%
Groundman	11.97	60+8%
Electricians:		
Zone 1-Electrician	15.90	80+8%
Cable Splicers	16.15	80+8%
Zone 2-Electrician	17.10	80+9%
Cable Splicers	18.81	80+9%

DECISION NO. RI81-3042
MOD. NO. 9
(46 FR 42615 - August 21, 1981)
Statewide, Rhode Island

CHANGE:

	Basic Hourly Rates	Fringe Benefits
BUILDING CONSTRUCTION		
Bricklayers & Stonemasons:		
Remainder of State	$14.42	3.48
Cement masons & Plasterers:		
Remainder of State		
Cement masons	14.85	1.90
Plasterers	15.65	1.90
Electricians:		
Remainder of State	15.00	29%+ .04
Marble Setters, Terrazzo Workers &Tile Setters	13.62	3.23
Marble Setters Finishers, Terrazzo Workers Finishers & Tile Setters Finishers	12.80	2.62
Sprinkler Fitters	16.86	2.76
HEAVY AND HIGHWAY CONSTRUCTION		
TRUCK DRIVERS		
Class 1	10.44	2.545+ a+b
Class 2	10.59	2.545+ a+b
Class 3	10.64	2.545+ a+b
Class 4	10.74	2.545+ a+b
Class 5	10.84	2.545+ a+b
Class 6	11.09	2.545+ a+b
Class 7	11.34	2.545+ a+b

MODIFICATION PAGE 7

DECISION NO. WV82-3003 - MOD. #2
(47 FR 20992 - May 14, 1982)
STATEWIDE, WEST VIRGINIA

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
CEMENT MASONS:		
Heavy Construction	$13.32	1.0a
Highway Construction	13.07	1.0a
LABORERS:		
Heavy Construction:		
Group 1	11.43	2.15
Group 2	10.96	2.15
Group 3	10.62	2.15
Group 4	10.25	2.15
Group 5	9.98	2.15
Highway Construction:		
Group 1	11.21	2.15
Group 2	10.74	2.15
Group 3	10.38	2.15
Group 4	10.02	2.15
Group 5	9.68	2.15
POWER EQUIPMENT OPERATORS:		
Heavy Construction:		
Group 1	13.28	2.35
Group 2	12.37	2.35
Group 3	11.54	2.35
Group 4	11.26	2.35
Group 5	10.53	2.35
Group 6	11.90	2.35
Highway Construction:		
Group 1	13.09	2.35
Group 2	12.15	2.35
Group 3	11.31	2.35
Group 4	11.04	2.35
Group 5	10.31	2.35
Group 6	11.68	2.35
TRUCK DRIVERS:		
Heavy Construction:		
Area 1: All counties except Grant, Hampshire, Hardy, Mineral, Morgan and Pendleton		
Group 1	10.80	b+c
Group 2	10.99	b+c
Group 3	11.26	b+c
Group 4	11.64	b+c
Group 5	11.73	b+c
Group 6	11.94	b+c
Group 7	12.16	b+c
Group 8	$12.21	b+a
Area 2: Grant, Hardy, Hampshire, Mineral, Morgan, and Pendleton Counties:		
Group 1	10.80	2.30
Group 2	10.99	2.30
Group 3	11.26	2.30
Group 4	11.64	2.30
Group 5	11.73	2.30
Group 6	11.94	2.30
Group 7	12.16	2.30
Group 8	12.21	2.30
TRUCK DRIVERS:		
Highway Construction:		
Area 1: All counties except Grant, Hampshire, Hardy, Mineral, Morgan & Pendleton		
Group 1	10.57	b+c
Group 2	10.75	b+c
Group 3	11.02	b+c
Group 4	11.43	b+c
Group 5	11.50	b+c
Group 6	11.70	b+c
Group 7	11.87	b+c
Group 8	11.97	b+c
Area 2: Grant, Hampshire, Hardy, Mineral, Morgan & Pendleton Counties:		
Group 1	10.57	2.30
Group 2	10.75	2.30
Group 3	11.02	2.30
Group 4	11.43	2.30
Group 5	11.50	2.30
Group 6	11.70	2.30
Group 7	11.87	2.30
Group 8	11.97	2.30

FOOTNOTES:

a. Employer contributes $145.17 per month per employee.

c. Employer contributes $24.00 per week.

SUPERSEDEAS DECISION

STATE: Minnesota
DECISION NUMBER: MN82-2069
COUNTIES: Benton, Sherburne, & Stearns
DATE: Date of Publication
Supersedes Decision No. MN82-2046 dated September 10, 1982 in 47 FR 39969
DESCRIPTION OF WORK: Building (Including Residential) Construction Projects

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$17.08	$3.00
BOILERMAKERS	14.97	2.575
BRICKLAYERS; Stonemasons	13.24	.50
CARPENTERS:		
Building Construction:		
Benton (Little Rock & Skaja) Co.:		
Carpenters	11.45	
Millwrights	15.01	3.12
Benton (Rem. of Co.), Sherburne (Except Southern Tip), & Stearns Cos.:		
Carpenters; Millwrights; & Piledrivermen	14.18	.70
Sherburne (Southern Tip) Co.:		
Carpenters; Piledrivermen	14.51	3.10
Soft Floor Layers	14.53	2.77
Millwrights	15.01	3.12
Residential	12.81	3.10
Site Preparation, Excavation, & Incidental Paving:		
Benton (Northern ½, exclu. Foley) Co.	15.02	
Benton (Southern 3/4, inclu. Foley), Sherburne (NW 3/4, inclu. Clear Lake & Becker), & Stearns Cos.	13.57	1.45
Sherburne (SE ½, inclu. Big Lake, Elk River & Zimmerman) Co.	15.56	2.05
CEMENT MASONS; Plasterers:		
Building Construction:		
Benton & Stearns Cos.	12.45	.50
Sherburne Co.:		
Cement Masons	15.43	1.87
Plasterers	14.90	2.87
CEMENT MASONS:		
Site Preparation, Excavation, & Incidental Paving:		
Sherburne Co.	15.43	1.82
ELECTRICIANS:		
Benton, Sherburne (Haven, Palmer, Santiago, Becker & Clear Lake Twps.), & Stearns Cos.:		
Installations over $75,000	15.75	3.45
Installations under $75,000	13.31	3.12
ELECTRICIANS (CONT'D):		
Sherburne (Rem. of Co.) Co.:		
Electricians	$15.75	3.70
Cable Splicers	16.35	3.77
GLAZIERS:		
Sherburne (S. part, inclu. Big Lake & Elk River) Co.	15.80	1.31
Remaining Area	11.47	.40
IRONWORKERS	16.05	2.59
LABORERS:		
Building Construction:		
Benton & Stearns Cos.:		
General; Demolition & Wrecking; & Concrete Joint Saw Operator	11.75	.85
Power Buggy Operators	11.80	.85
Mortar Mixers; Plasterers' Tenders	11.85	.85
Jackhammer Men	11.90	.85
Underground; Caisson; Cofferdam; & Tunnel Work	12.00	.85
Dynamite Men & Pipelayers	12.05	.85
Sherburne Co.:		
Common; Carpenters' Tenders	12.55	2.25
Wrecking & Demolition	12.70	2.25
Vibrator Operator; Jackhammermen; & Mortar Mixers	12.70	2.25
Underground Work	12.95	2.25
Pipelayers	12.45	2.25
Caisson Work - Underpinning	12.95	2.25
LATHERS	15.05	2.61
MARBLE SETTERS	15.45	1.79
MARBLE SETTERS' FINISHERS	11.40	1.12
PAINTERS:		
Benton, Sherburne (Western 1/3 of Co.), & Stearns Cos.:		
Sanders	9.35	1.59
Brush	10.98	1.59
Spray; Steel	11.88	1.59
Tapers	12.47	1.59
Sherburne (Eastern 2/3) Co.:		
Brush; Paperhangers; & Rollers	15.06	1.93
Sandblasting; Spray; Steel; & Tapers	15.76	1.93
Sanders	11.82	1.93

	Basic Hourly Rates	Fringe Benefits
PLUMBERS; Steamfitters:		
Benton, Sherburne (Western ½), & Stearns Cos.	$15.61	2.54
Sherburne (Eastern ½) Co.:		
Plumbers	14.35	5.58+a
Steamfitters	16.24	3.56
ROOFERS	13.07	1.48
SHEET METAL WORKERS	16.01	1.72
SPRINKLER FITTERS	16.47	2.83
TERRAZZO WORKERS	16.50	.89
TERRAZZO WORKERS' FINISHERS	15.85	.65
TILE SETTERS	15.40	1.72
TILE SETTERS' FINISHERS	13.50	1.32+b
TRUCK DRIVERS (Building):		
Benton & Stearns Cos.	11.73	
Sherburne Co.:		
Boom Truck Operator	13.43	1.95
Ready-Mix; Tractor Trailer Mechanic; Fork Lift Operator; Tandem or 3 Axle	13.10	1.95
Farm Tractor; Single or 2 Axle; Dumpman	12.95	1.95
	12.45	1.95
LABORERS (All work, except Residential of 4 units or less):		
Landscape & Sod Layers	9.00	1.00
LABORERS:		
Site Preparation, Excavation, & Incidental Paving:		
Benton & Stearns Cos.:		
Class 1	11.42	2.15
Class 2	11.60	2.15
Class 3	11.63	2.15
Class 4	11.80	2.15
Class 5	11.90	2.15
Class 6	12.15	2.15
Sherburne Co.:		
Class 1	12.35	2.25
Class 2	12.50	2.25
Class 3	12.55	2.25
Class 4	12.70	2.25
Class 5	12.80	2.25
Class 6	13.05	2.25

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS:		
Building Construction:		
Class 1	$17.57	$1.90
Class 2	17.26	1.90
Class 3	16.52	1.90
Class 4	15.96	1.90
Class 5	15.65	1.90
Class 6	15.50	1.90
Class 7	14.26	1.90
Class 8	13.22	1.90
Class 9	12.70	1.90
Site Preparation, Excavation, & Incidental Paving:		
Benton (East of the Western Right-of-Way of Hwy #10), Sherburne (Exclu. area South of the Northern Boundary of T-33-N & East of the Western Boundary of R-27-W), & Stearns (East of the Western Right-of-Way of Minn. Hwy #15) Cos.:		
Group 1	13.33	1.90
Group 2	14.82	1.90
Group 3	14.67	1.90
Group 4	14.55	1.90
Group 5	12.60	1.90
Group 6	11.90	1.90
Benton (Rem. of Co.) & Stearns (Rem. of Co.) Cos.:		
Group 1	13.67	1.90
Group 2	12.81	1.90
Group 3	12.63	1.90
Group 4	12.53	1.90
Group 5	11.22	1.90
Group 6	10.74	1.90
Sherburne (Rem. of Co.) Co.:		
Group 1	15.85	1.90
Group 2	15.35	1.90
Group 3	15.18	1.90
Group 4	15.07	1.90
Group 5	13.11	1.90
Group 6	12.40	1.90

LABORERS CLASSIFICATIONS (Site Preparation, Excavation, & Incidental Paving):
CLASS 1: Unskilled; Bituminous Batcherman (stationary plant); Blacksmith Tenders; Cement Coverman Batch Truck; Cement Handler - Bulk, Bag; Carpenter Tender; Concrete Batcherman; Concrete Handler, Caisson, Footings, Columns, Piling, Slabs, etc.; Concrete Shoveler, Tamper & Puddler (paving); Concrete Longitudinal Finisher Man (manual bullfloat on paving); Damp Proofer below grade; Drill Runner Tender; Dumpman (dozer, paver, dumping batchtrucks, etc.); Hydrant & Valve Setter; Joint Filler (concrete pavement); Kettleman (bituminous or lead); Labor Wrecking Demolition; Landscape Gardener, sod, etc.; Pipe Derrickman (tripod, manual); Pipe Handler; Power Buggy Operator; Powder Monkey; Reinforced Steel Laborer; Reinforced Steel Setter (paving); Service Connection Maker (water, gas); Squeegeeman; Stabilizing Batcherman (stationary plant); Temporary Heater & Blower Tender; Tool Crib Checker; Top Man (sewer, water or gas trench); Winch Handler (manual)
CLASS 2: Bituminous Worker - Shoveler, Raker, Floater, Squeegee, Utility; Brick Tender; Compaction Equipment (hand operated); Conduit Layer; Curb Setter; Mortar Mixer; Sand Cushion Bedmaker; Torchman - gas, electric, thermal or similar device
CLASS 3: Chain Saw; Concrete Drilling; Concrete Mixer Operator; Concrete Saver; Concrete Vibrator; Ditch & other work more than 8 ft. below starting level of manual work; Formsetter; Joint Sawer, Mortar; Pneumatic Tools, Jackhammer, Paving Buster, Chipping Hammer, etc.; Stone Tender; & Mason Tender
CLASS 4: Bottom Man (sewer, water or gas trench) (more than 8 ft. below starting level of manual work); Brick or Block Paving Setter; Caisson Work; Coffordam Work; Tunnel Laborer; Underground Laborer; & Underpinning
CLASS 5: Cement Gun Operator (1½" or over); Driller - Air Track or similar; Nozzleman (gunite, sandblasting, cement); & Pipelayer, Laser Beam (sewer, water, gas)
CLASS 6: Blaster Powder Man (dynamite or substitute products); Tunnel Miner (atmospheric); & Tunnel Miner Tender

POWER EQUIPMENT OPERATORS CLASSIFICATIONS (Building Construction):
CLASS 1 - Helicopter Operator; Truck & Crawler Cranes with 300' of Boom and over, including jib; Tower Crane 300' & over
CLASS 2 - Truck & Crawler Crane w/200' of Boom, up to and not including 300' of Boom, including jib; Tower Crane 250' & over
CLASS 3 - Truck & Crawler Cranes with 150' of Boom, up to and not including 200' of Boom, including jib; Tower Crane 200' & over
CLASS 4 - Traveling Tower Crane; Master Mechanic; Pile Driving Operator; Tower Crane 150' & over
CLASS 5 - Truck & Crawler Cranes up to & not including 150' of Boom, including jib; Derrick (Guy & Stiffleg); Hoist Engineer (3 drums or more); Locomotive Operator; Overhead Crane Operator (Inside Building Perimeter); Tower Cranes - Stationary 100' & over; Tractor Operator with Boom; All Terrain Vehicle Cranes; Fireman, Chief License.
CLASS 6 - Air Compressor Operator, 450 CFM or over, Pump Operator and/or Conveyor Operator (2 or more machines); Hoist Engineer (2 drum); Mechanic or Welder; Pumperete or Complaco-type Machine Operator; Forklift; Boom Truck Operator; Concrete Mixer Op.; Drill Rigs - Heavy Rotary or Churn when used for caisson drilling for Elevator Cylinder or Building Construction; Front End Loader Operator; Hoist Engineer (one drum); Straddle Carrier Operator; Power Plant Engineer (100 KW and over on multiples equal to 100 KW and over); Tractor Operator over D2; Well Point Pump Operator

POWER EQUIPMENT OPERATORS CLASSIFICATIONS (Building Construction) CONT'D:

CLASS 7 - Concrete Batch Plant Operator; Fireman, First Class License; Gunite Operator; Tractor Operator D-2 or similar size; Front End Loader Operator, up to 1 cu. yd.
CLASS 8 - Air Compressor Operator, 450 CFM or over, Pump and/or Conveyor Operator; Fireman, Temporary Heat; Brakeman; Pick-up Sweeper (1 cu. yd. and over hopper capacity); Truck Crane Oiler; Welding Machine Operator
CLASS 9 - Mechanical Space Heater (temporary heat); Oiler or Greaser; Elevator Operator

POWER EQUIPMENT OPERATORS CLASSIFICATIONS (Site Preparation, Excavation, & Incidental Paving):

CLASS 1: Helicopter Pilot; Crane with over 155' Boom, excluding jib; Dragline and/or other similar equipment with Shovel-type controls 3 cu. yds. & over Mfg. rated cap.; Pile Driving when 3 Drums are in use
CLASS 2: Cableway; Concrete Mixer, Stationary Plant over 34E; Derrick (Guy or Stiffleg) (Power) (Skids or stationary); Dragline and/or similar equipment with Shovel-type controls, up to 3 cu. yds. Mfg. rated cap.; Dredge or Engineers, Dredge (power) & Engineer; Front End Loader, 5 cu. yds. & over; Grader or Motor Patrol, Finishing Earthwork & Bituminous; Locomotive Crane; Master Mechanic; Mixer (Paving) Concrete Paving, Road; Mole, inclu. Power Supply; Mucking Machine, inclu. Mucking Operations, Conway or similar type; Piledriving; Refrigeration Plant Engineer; Tandem Scraper; Tractor - Boom type; Truck Crane - Crawler Crane; & Tugboat - 100 HP & over
CLASS 3: Dual Tractor; Elevating Grader; Pumpcrete; Scraper - Struck Cap. 32 cu. yds. & over; Self-propelled Traveling Soil Stabilizer
CLASS 4: Air Track Rock Drill; Asphalt Bituminous Stabilizer Plant; Automatic Road Machine (CMI or similar); Backfiller; Batch Plant (Concrete); Bituminous Spreader & Finishing (Power); Boom Truck (Power operated Boom); Cat Tractors with Rock Wagons or similar types; Chip Harvester & Tree Cutter over 150 HP; Concrete Mixer on jobsite over 14S; Concrete Mobile; Crushing Plant (gravel & stone) or Gravel Washing, Crushing & Screening Plant; Curb Machine; Dope Machine (Pipeline); Drill Rigs, Heavy Rotary or Churn or Cable Drill; Fork Lift or Straddle Carrier; Fork Lift or Lumber Stacker; Front End Loader, over 1 cu. yd.; Hoist Engineer (power); Launcherman (Tankerman or Pilot License); Lead Greaser; Locomotive; Mechanic or Welder; Multiple Machines, such as Air Compressors, Welding Machines, Generators, Pumps; Paving Breaker or Tamping Machine (Power Driven) Mighty Mite or similar type; Paving Milling Machine; Pickup Sweeper, 1 cu. yd. & over Hopper cap.; Pipeline Wrapping, Cleaning or Bending Machine; Power Plant Engineer, 100 K.W.H. & over; Power Actuated Horizontal Boring Machine, over 6"; Pugmill; Roller, 8 tons & over; Rubber-tired Farm Tractor, Backhoe Attach.; Sheep Foot Rollers; Slip Form (Power Driven) (paving); Tie Tamper & Ballast Machine; Tractor, over D2, TD6 or similar HP with Power Take-off; Tractor, over 50 HP without Power Take-off; Trenching Machine (sewer, water, gas); Turnapull (or similar type); Well Point Installation, Dismantling or Repair Mechanic; Hydraulic Tree Planter
CLASS 5: Air Compressor, 450 CFM or over; Bituminous Spreader & Bituminous Finishing Machine (Tender) (Power); Concrete Distributor & Spreader Finishing Machine; Longitudinal Float, Joint Machine, & Spray; Concrete Mixer on jobsite 14S & under; Concrete Saw (multiple blade) (power operated); Form Trench Digger (power); Front End Loader, up to & inclu. 1 cu. yd.; Grader (motor patrol); Gunite Gunall; Hydraulic Log Splitter; Loader (Barber Greene or similar type); Payhauler or similar type; Power Actuated Augers & Boring Machine; Power Actuated Jacks; Pump; Roller; Self-propelled Chip Spreader (Flaherty or similar); Shouldering Machine (Power) Apsco or similar type inclu. self-propelled Sand & Chip Spreader; Stump Chipper; Tractor, D2, TD6 or similar HP without power take-off; & Tree Farmer
CLASS 6: Conveyor; Dredge Deck Hand; Fireman or Tank Car Heater; Gravel Screening Plant (portable not crushing or washing); Greaser (Truck or Tractor); Leverman; Mechanic Tender; Mechanic, Space Heater (Temporary Heat); Oiler (Power Shovel, Crane, Dragline); Self-Propelled Vibrating Packer (Pad type) (35 HP & over); Tractor, 50 HP or less w/o Power take-off; & Truck Crane Oiler

TRUCK DRIVERS CLASSIFICATIONS (Site Preparation, Excavation, & Incidental Paving):

GROUP 1: Truck Driver (Operation of Hand & Power Operated winches); Truck Trains; Mechanic-Welder; Tractor Trailer; & Off Road
GROUP 2: Tri Axle (Inclu. 4 Axles)
GROUP 3: Bituminous Distributor; & Tandem Axle
GROUP 4: Bituminous Distributor Spray Operator (Rear End Oiler); Dumpman; Tank Truck Tender (gas, oil, road oil & water); Teamster & Stableman; Tractor Operator (Wheel type used for any purpose); Pilot Car; Self-propelled Packer; Slurry Operator; Single Axle; Dump; Dry Batch Haulers; Boom & "A" Frame; & Ready-Mix Concrete

FOOTNOTES:
a. One Paid Holiday: Labor Day
b. 2 Weeks' Paid Vacation

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).

SUPERSEDEAS DECISION

STATE: Missouri
DECISION NUMBER: MO82-4066
Supersedes Decision No. MO81-4061 dated July 24, 1981, in 46 FR 38273
DESCRIPTION OF WORK: Building Projects (excluding single family homes and apartments up to and including 4 stories)

COUNTIES: Boone, Cooper, and Howard
DATE: Date of Publication

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$16.49	$2.60
BOILERMAKERS	16.12	2.825
BRICKLAYERS; STONEMASONS and TILE LAYERS	13.90	.35
CARPENTERS:		
Carpenters and Lathers	13.45	.91
Millwrights	14.10	.91
Piledrivers	13.85	.91
CEMENT MASONS	14.60	
ELECTRICIANS:		
Area 1:		
Electricians	14.84	2.41+ 10%
Cable Splicers	15.19	2.41+ 10%
Area 2:		
Electricians (contracts exceeding 2000 man hrs.)	16.18	2.31+ 10%
Electricians (contracts not exceeding 2000 man hrs.)	14.58	2.31+ 10%
ELEVATOR CONSTRUCTORS:		
Area 1:		
Mechanics	16.53	2.465+ a
Helpers	70%JM	2.465+ a
Probationary Helpers	50%JM	
Area 2:		
Mechanics	14.19	2.645+ a
Helpers	70%JR	2.645+ a
Probationary Helpers	50%JM	
GLAZIERS:		
Area 1	14.72	2.66+ 15.48%
IRONWORKERS	15.15	3.75
LINE CONSTRUCTION:		
Lineman and Cable Splicers	$14.79	$ .45+ 23-3/4%
Groundman, Winch Drivers	10.87	.45+ 23-3/4%
Groundman Driver	10.48	.45+ 23-3/4%
Equipment Operators	13.23	.45+ 23-3/4%
Groundman	10.48	.45+ 23-3/4%
PAINTERS:		
Area 1:		
Brush	13.20	.20
Spray, Structural Steel, Sandblasting	13.70	.20
Area 2:		
Brush	12.25	
Spray	13.25	
PLASTERERS	14.10	
PLUMBERS; PIPEFITTERS	15.63	1.42
ROOFERS:		
Roofers	15.10	.65
Roofers in Coal Tar Pitch	15.60	.65
SHEET METAL WORKERS:		
Area 1	12.86	.91
Area 2	16.65	2.63
SPRINKLER FITTERS	18.86	2.75
LABORERS:		
Group 1	11.80	1.10
Group 2	12.05	1.10
Group 3	12.15	1.10
POWER EQUIPMENT OPERATORS		
Cooper & Howard Counties:		
Group 1	15.46	3.75
Group 2	15.11	3.75
Group 3:		
(a)	10.05	3.75
(b)	13.21	3.75
(c)	10.85	3.75
(d)	13.46	3.75

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS: (Cont'd)		
Cooper and Howard Counties:		
Group 4	$15.71	$3.75
Group 5	15.36	3.75
Group 6	15.96	3.75
Group 7:		
(a)	15.21	3.75
(b)	14.96	3.75
(c)	12.96	3.75
Group 8	16.46	3.75
Group 9	15.96	3.75
Boone County:		
Group 1	15.17	3.00
Group 2	15.17	3.00
Group 3	13.92	3.00
Group 4	13.47	3.00
Group 5:		
(a)	15.87	3.00
(b)	16.72	3.00
(c)	17.17	3.00
(d)	17.92	3.00
(e)	15.67	3.00
(f)	17.07	3.00
(g)	17.57	3.00
(h)	18.07	3.00
TRUCK DRIVERS:		
Boone County:		
Group 1	$12.30	$1.25+b
Group 2	12.45	1.25+b
Group 3	12.95	1.25+b

FOOTNOTES:
a. Employer contributes 8% of basic hourly rate for over 5 years' service and 6% of basic hourly rate for 6 months' to 5 years' service as Vacation Pay Credit, also 7 Paid Holidays
b. After 1 year a weeks vacation, also 7 Paid Holidays

AREA DESCRIPTIONS

ELECTRICIANS:
Area 1: Boone and Howard Counties
Area 2: Cooper County

ELEVATOR CONSTRUCTORS:
Area 1: Cooper and Howard Counties
Area 2: Boone County

GLAZIERS:
Area 1: Cooper and Howard Counties

PAINTERS:
Area 1: Boone and Howard Counties
Area 2: Cooper County

SHEET METAL WORKERS:
Area 1: Boone and Cooper Counties
Area 2: Howard County

LABORERS CLASSIFICATIONS

Group 1: General Laborer; Heaters; Material Plant Man; Carpenter Tender; Landscaper; Signalman; Wrecker (old/new structures); Form Handler; Post Hole Diggers; Cleaning and clearing of all debris for all crafts; Loading and unloading, conveying, distributing, collecting and hoisting of construction material and debris; Backfilling, Grading and Landscaping; Covering of tanks, structures and material piles with Tarpaulins or other materials; Handling and cleaning of Concrete Chutes; Cleaning of Concrete Spills and Chipping where hand tools are required; Cleaning of masonry and other type walls and windows; Signal and Hoisting Concrete Buckets; Rodman; All tools run by gas, electricity, or air except Vibrator, Jackhammer and Paving Breaker; Air Compressors; Motor Buggies; Pumps, except Set-up Men and Nozzle Men; Unloading and handling steel; Chipping Tool Operator; Concrete Mixer Operator

Group 2: First Semi-skill - Brickmason, Plasterer and Cement Finishers' Tenders; Mortarmen; Scaffold Builders for brick; Plasterer and Cement Masons; Forklift (walk-behind or other similar types)

LABORERS CLASSIFICATIONS (Cont'd)

Group 3: Second Semi-skill - Concrete Pumps Set-up Men and Nozzle Men; Tile Layers, Bottom Men, Sewers and Drains; Cutting Torch; Burning Bar; Trench or Pier Holes 12' or over; Wagon Drill; Air Track or any mechanical Drill; Powder Man; Tamper, 100 lbs. or over; Paving Breaker; Jackhammer and Vibrator; Laser Beam Man for Sewer; Grade Checker for roads and railroads

POWER EQUIPMENT OPERATORS CLASSIFICATIONS
Cooper and Howard Counties

Group 1: Asphalt Paver and Spreader; Asphalt Plant Mixer Operator; Asphalt Plant Operator; Back Fillers; Backhoe; Barber-Greene Loader; Blade, power; Boats, power; Boilers (2); Boring Machines; Cableways; Cherry Pickers; Chip Spreader; Concrete Ready-mix Plant, portable (job site); Concrete Mixer Paver; Crane, Overhead; Crusher, rock; Derricks and Derricks Cars (power operated); Ditching Machines; Dozers; Dredges, any type power; Grade-all, similar type; Hoist; Endless Chain, power operated with power travel; Loaders; Mechanic and Welder; Mucking Machine; Orange Peels; Pumps, material; Push Cats; Scoops; Self-propelled Rotary Drill; Shovel, power; Side Boom; Skimmer Scoop; Testhole Machine; Throttle Man

Group 2: Boilers (1); Brooms, power operated; Chip Spreader (Front Man; Clef Plane Operator; Compressors (1) 125' or over; Concrete Saws, self-propelled; Crab, power operated; Curb Finishing Machine; Fireman on Rigs; Flex Plane; Floating Machine; Form Grader; Greaser; Hoist, Endless Chain, power operated; Hopper, power operated; Hydra Hammer; Lad-a-vator, similar type; Rollers; Siphons, Jets, and Jennies, Sub-grader; Tractors over 50 H.P.; Compressors (2) 125' or over not more than 20' apart, Compressors, Tandem; Compressors, single, truck mounted; Elevator; Finishing Machine

Group 3:
(a) Oilers
(b) Fork Lift, masonry
(c) Oiler Driver
(d) A-frame Trucks; Fork Lift, all types (except masonry); Mixers (with Side Loaders); Pumps (with Well Points) Dewatering Systems, Test or Pressure Pumps; Tractors (except when hauling material) less than 50 H.P.

Group 4: Clamshells, 80 feet of boom or over (including jib); Crane or Rigs, 80 feet of boom or over (including jib); Draglines, 80 feet of boom or over (including jib); Pile Drivers, 80 feet of boom or over (including jib)

Group 5: Hoists, each additional drum over 1 drum

Group 6: Crane or Rigs over 200 feet of b[illegible]

POWER EQUIPMENT OPERATORS CLASSIFICATIONS (Cont'd)
Cooper and Howard Counties (Cont'd)

Group 7: Ready Mixed Concrete Plants:
(a) Crane Operator
(b) Loader Operator and Plant Man
(c) Conveyor Operator

Group 8: Master Mechanic

Group 9: Crane, Tower or Climbing

Boone County

Group 1: Backhoe, Cableway; Crane, Crawler or Truck; Crane, Hydraulic Truck or Cruiser mounted 16 tons and over; Crane, Locomotive, Derrick, Steam; Derrick Car and Derrick Boat; Dragline; Dredge; Gradall, Crawler or tire mounted; Locomotive, gas, steam and other power; Piledriver, Land or Floating; Scoop Skimmer; Shovel, power (steam, gas, electric or other powers); Switch Boats; Whirley

Group 2: Air Tugger, with Air Compressor; Anchor Placing Barge; Asphalt Spreader; Atley Force Feeder Loader (self-propelled); Backfilling Machine; Boat Operator; Push Boat or Tow Boat (job site); Boiler, high pressure breaking in period; Boom Truck, placing or erecting; Boring Machine; Footing Foundation; Bullfloat; Cherry Picker; Combination Concrete Hoist and Mixer such as Mixer-mobile; Compressor (when operator runs throttle); Compressors, two not more than 50' apart; Compressor Generator Combination; Compressor Pump Combination; Compressor Welder Combination; Concrete Breaker (truck or tractor mounted); Concrete Pump, such as Pumpcrete Machine; Concrete Spreader; Conveyor, large (not self-propelled) Hoisting or moving brick and concrete into, or into and on floor level, one or both; Crane, Hydraulic Rough Terrain, self-propelled; Crane; Hydraulic Truck or Cruiser mounted under 16 tons; Drilling Machines, self-powered, used for earth or rock drilling or boring (Wagon Drills and any Hand Drills obtaining power from other sources including Concrete Breakers, Jackhammers and Barco Equipment no engineer required); Elevating Grader, Engine Man, Dredge; Excavator or Powerbelt Machine; Finishing Machine, self-propelled Oscillating Screed; Fork Lift; Grader, road with power blade; Highlift; Hoist, concrete and brick (Brick Cages or Concrete Skips operating in or on tower, Towermobile, or similar equipment; Hoist, Stack; Hydro-hammer; Lad-a-vator, hoisting brick or concrete; Loading Machine (such as Barber-Greene); Mechanic, on job site; Mixer, paving; Mixer-mobile; Mucking Machine; Pipe Wrapping Machine; Plant, asphalt; Plant, concrete producing or Ready-mix job site; Plant, heating job site; Plant, mixing job site; Plant, power generating job site; Pumps, two self-power over 2" through 6"; Pumps, electric submersible, one through three, over 4"; Quad-Track; Roller, Asphalt, Top or Subgrader; Scoop, tractor drawn; Spreader Box; Subgrader; Tie Tamper; Tractor, Crawler, or wheel type with or without power unit, power take offs and attachments regardless of size; Trenching Machine, Tunnel Boring Machine, Vibrating Machine, automatic, propelled; Welding Machines (gasoline or diesel) more than one but not over four (regardless of size); Well Drilling Machine

POWER EQUIPMENT OPERATORS (Cont'd)
Boone County (Cont'd)

Group 3: Air Tugger with plant air; Boiler for power or heating shell of buildings or temporary enclosures in connection with construction work; Boiler, temporary; Compressor, air one; Compressor, air (mounted on truck); Concrete Saw (self-propelled); Conveyor, large (not self-propelled); Conveyor, large (not self-propelled moving brick and concrete distributing) on floor level; Curb Finishing Machine, Ditch Paving Machine; Elevator (building construction or alteration); Endless Chain Hoist; Fireman; Form Grader; Generator, one over 30 KW or any number developing over 30 KW; Greaser; Hoist, one drum regardless of size (except brick or concrete); Lad-a-vator; Manlift; Mixer, Asphalt, over 8 cubic feet capacity; Mixer, if two or more mixers of one bag capacity or less are used by one Employer on job, an Operator is required; Mixer, without Side Loader, 2 bag capacity or more; Mixers, with Side Loader, 2 bag capacity of more; Mixer, with Side Loader, regardless of size, not Paver; Oiler on Dredge; Oiler on Truck Crane; Pug Mill Operator; Pump, Sump-self powered, automatic controlled over 2" during use in connection with construction work; Scissor Lift (used for hoisting); Sweeper, street; Tractor small wheel type 50 HP and under with Grade-blade and similar equipment; Welding Machine, one over 400 amp.; Winch operating from Truck; Mechanic in shop

Group 4: Boat Operator Outboard Motor (job site); Conveyors, (such as Con-vay-it) regardless of how used; Oiler; Sweeper, floor

Group 5:
(a) Air-pressure; Oiler Engineer operating under 10 lbs.
(b) Air-pressure; Oiler Engineer operating over 10 lbs.
(c) Air-pressure Engineer operating under 10 lbs.
(d) Air-pressure Oiler Engineer operating over 10 lbs.
(e) Crane, climbing (such as Linden); Crane, Pile driving and Extracting; Crane, using Rock Socket Tool; Derrick, diesel, gas or electric, hoisting material erecting steel (150' or more above ground); Dragline, 7 cu. yds. and over; Hoist, three or more drums in use; Scoop, Tandem; Shovel, power, 7 cu. yds. and over; Tractor, Tandem Crawler Tunnel Man assigned to work in tunnel or tunnel shaft; Wrecking, when machine is working on second or higher; Crane, Booms (including jib) 100 feet to 150 feet
(f) Crane, Boom (including jib) 150 feet to 200 feet
(g) Crane, Boom (including jib) 200 feet to 250 feet
(h) Crane, Boom (including jib) 250 feet to 300 feet

TRUCK DRIVERS
Boone County

Group 1: Warehouseman; Dump Truck; Flat Bed; Pick-up; Farm Tractor; Single-axle Water Truck; Fuel Truck, single axle

Group 2: Tandem; Tractor-trailer; Winch Truck; Forklift; Tandem Water Truck; Tandem Fuel Truck

Group 3: Pitman; Hydro Boom Truck; Tandem-slip bed operation; Transit Mixer; Euclid; Belly Dump; Cat Wagon; Mechanic; Oil Distributor; Water Pull; Ross Carrier; Dumpster; Halftruck

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii))

SUPERSEDEAS DECISION

STATE: Missouri
DECISION NUMBER: MO82-4067
COUNTIES: Jasper, McDonald and Newton
DATE: Date of Publication
Supersedes Decision No. MO81-4062 dated July 24, 1981, in 46 FR 38263
DESCRIPTION OF WORK: Building Projects (excluding single family homes and apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$17.42	$1.79
BOILERMAKERS	16.12	2.825
BRICKLAYERS; STONEMASONS	13.00	1.45
CARPENTERS:		
Carpenters and Lathers	12.43	1.10
Millwrights and Piledrivermen	12.87	1.10
ELECTRICIANS	13.09	1.67+ 8%
ELEVATOR CONSTRUCTORS:		
Mechanics	15.435	1.465+ a
Helpers	70%JR	1.465+ a
Probationary Helpers	50%JR	
GLAZIERS	12.94	.25
IRONWORKERS	13.35	1.07
LINE CONSTRUCTION:		
Lineman	16.86	.70+ 3½%
Linemen Operators	15.77	.70+ 3½%
Groundman	10.59	.70+ 3½%
Groundman, Powderman	11.47	.70+ 3½%
PAINTERS:		
Brush, Roller, Tapers, Floor Tile and Carpet Layers, Paperhangers	12.72	.60
Spray	13.22	.60
PLASTERERS	13.05	
PLUMBERS and PIPEFITTERS	$13.72	$2.13
ROOFERS	12.00	.66
SHEET METAL WORKERS	14.65	1.83
LABORERS:		
Group 1	10.25	1.45
Group 2	10.50	1.45
Group 3	10.65	1.45
POWER EQUIPMENT OPERATORS:		
Group 1	13.63	2.10
Group 2	13.15	2.10
Group 3	12.55	2.10
Group 4	11.95	2.10

FOOTNOTE
a. Employer contributes 8% of basic hourly rate for over 5 years' service and 6% of basic hourly rate for 6 months' to 5 years' service as Vacation Pay Credit, also 7 Paid Holidays.

LABORERS CLASSIFICATIONS

Group 1: General Laborers, Carpenter Tenders, Trackmen, Wreckers handling and carrying of reinforced steel

Group 2: Pipelayers (conduit pipe, sewer tile, drain tile, duct line with mains); Air Tool Operators; Pier Hole Diggers (over 10'); Vibrators; Jackhammer; Chipping Hammer Operator (air or electric); Asphalt Rakers; Mastic Kettlemen; Sandblasting; Gunnite Nozzlemen; Cutting Torch and Welders; Barco; Jackson or similar Tamp Operators; Powderman

Group 3: Plasterers and Mason Tenders

POWER EQUIPMENT OPERATORS CLASSIFICATIONS

Group 1: Crane; Dragline; Derrick; Drum or Tower Hoist (2 drum); Power Shovel or Back Hoe (on tracks); Piledriver; Power Blade; Motor Patrol; Mechanic; Hydraulic, self-propelled Crane; Stringer or Cherry Picker Crane

Group 2: Bulldozer; Dirt Scoop or Pan; Elevating Grader; Drum or Tower Hoist (1 drum); Loader (track or rubber tire); Tractor, Pusher Roller (asphalt); Tractor or Back Hoe (on rubber tires); Tractor (Compaction Roller or Pull Blade Track)

Group 3: Fork Lift; Roller; Industrial Tractor; Tractor (Compaction Roller or Pull Blade, rubber tire); Distributor (Bituminous); Finishing Machine (concrete paving); Concrete Saw (self-propelled); Air Compressor (600 cu. ft. or over)

Group 4: Oiler; Oiler, driver

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii))

SUPERSEDEAS DECISION

STATE: Missouri COUNTY: Cole
DECISION NUMBER: MO82-4068 DATE: Date of Publication
Supersedes Decision No. MO81-4063 dated July 24, 1981, in 46 FR 38269
DESCRIPTION OF WORK: Building Projects (excluding single family homes and apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$18.99	2.76
BOILERMAKERS	18.27	2.825
BRICKLAYERS; STONEMASONS; TILE LAYERS	13.90	.35
CARPENTERS:		
Carpenters and Lathers	13.45	1.11
Millwrights	14.20	1.11
Piledrivers	13.85	1.11
CEMENT MASONS	14.60	
ELECTRICIANS:		
Electricians	18.84	2.41+ 10%
Cable Splicers	15.10	2.41+ 10%
ELEVATOR CONSTRUCTORS:		
Mechanics	18.19	2.485 +a
Helpers	70%JR	2.645 +a
Probationary Helpers	50%JR	
IRONWORKERS	18.385	8.24
PAINTERS:		
Brush	13.20	.20
Spray; Structural Steel; Stage or Saddle; Blasting	13.70	.20
PIPEFITTERS	16.85	4.875
PLASTERERS	14.05	
PLUMBERS	15.40	3.35
ROOFERS:		
Roofers	13.80	.65
Roofers in coal tar pitch	15.60	.65
SHEET METAL WORKERS	12.86	.91
SPRINKLER FITTERS	16.67	2.83

	Basic Hourly Rates	Fringe Benefits
LABORERS:		
Group 1	$11.80	$1.10
Group 2	12.05	1.10
Group 3	12.15	1.10
POWER EQUIPMENT OPERATORS		
Group 1	15.17	3.00
Group 2	15.17	3.00
Group 3	13.92	3.00
Group 4	13.47	3.00
Group 5:		
(a)	15.87	3.00
(b)	16.72	3.00
(c)	17.17	3.00
(d)	17.92	3.00
(e)	15.67	3.00
(f)	17.07	3.00
(g)	17.57	3.00
(h)	18.07	3.00
TRUCK DRIVERS:		
Group 1	11.30	1.75+ d
Group 2	11.70	1.75+ d
Group 3	12.00	1.75+ d

FOOTNOTES:
a. Employer contributes 8% of basic hourly rate for over 5 years' service and 6% of basic hourly rate for 6 months' to 5 years' service as Vacation Pay Credit, also 7 Paid Holidays
d. After 1 year a week's vacation

LABORERS CLASSIFICATIONS

Group 1: General Laborer; Heaters; Material Plant Man; Carpenter Tender; Landscaper; Signalman; Wrecker (old/new structures); Form Handler; Post Hole Digger; Cleaning and Clearing of all debris for all crafts; Loading and unloading, conveying, distributing, collecting and hoisting of construction material and debris; Backfilling, Grading and Landscaping; Covering of tanks, structures and material piles with Tarpaulins or other materials; Handling and cleaning of concrete chutes; Cleaning of concrete spills and chipping where hand tools are required; Cleaning of masonry and other type walls and windows; Signal and Hoisting Concrete Buckets; Rodman; All tools run by gas, electricity, or air except Vibrator, Jackhammer and Paving Breaker; Air Compressors; Motor Buggies; Pumps, except Set-up Men and Nozzle Men; Unloading and handling steel; Chipping Tool Operator; Concrete Mixer Operator

Group 2: First Semi-Skill - Brick Mason, Plasterer and Cement Finishers Tenders; Mortarmen; Scaffold Builders for Brick, Plasterer and Cement Masons; Forklifts (walk-behind or other similar types)

Group 3: Second Semi-Skiller - Concrete Pumps Set-up Men and Nozzle Men; Tile Layers, Bottom Men, Sewers and Drains; Cutting Torch; Burning Bar; Trench or Pier Holes 12' or over; Wagon Drill; Air Track or any Mechanical Drill; Power Man; Tamper 100 lbs. or over; Paving Breaker; Jackhammer and Vibrator; Laser Beam Man for Sewer; Grade checker

POWER EQUIPMENT OPERATORS CLASSIFICATIONS

Group 1: Backhoe, Cableway; Crane, Crawler or Truck; Crane, Hydraulic Truck or Cruiser mounted 16 tons and over; Crane, Locomotive, Derrick, Steam; Derrick Car and Derrick Boat; Dragline; Dredge; Gradall; Crawler or tire mounted; Locomotive, gas, steam and other powers; Piledriver, land or floating; Scoop, Skimmer; Shovel, power (steam, gas, electric or other powers); Switch Boat; Whirley

POWER EQUIPMENT OPERATORS: (Cont'd)

Group 2: Air Tugger with Air Compressor; Anchor placing Barge; Asphalt Spreader; Athey Force Feeder Loader (self-propelled); Backfilling Machine; Boat Operator Push Boat or Tow Boat (job site); Boiler, High Pressure Breaking in period; Boom Truck, placing or erecting; Boring Machine, Footing Foundation; Bullfloat; Cherry Picker; Combination Concrete Hoist and Mixer such as Mixermobile; Compressor (when operator runs throttle); Compressors, two not more than 50' apart; Compressor, Generator Combination; Compressor Pump Combination; Compressor Welder Combination; Concrete Breaker (truck or tractor mounted); Concrete Pump, such as Pumpcrete Machine; Concrete Spreader; Conveyor, large (not self-propelled) Hoisting or moving brick and concrete into, or into and on floor level, one or both; Crane, Hydraulic Rough Terrain, self-propelled; Crane, Hydraulic Truck or Cruiser mounted under 16 tons; Drilling Machines, self-powered, used for earth or rock drilling or Boring (Wagon Drills and any Hand-drills obtaining power from other sources including Concrete Breakers, Jackhammers and Barco equipment on engineer required); Elevating Grader, Engine Man, Dredge; Excavator or Powerbelt Machine; Finishing Machine, self-propelled Oscillating Screed; Fork Lift; Grader Road with power blade; Highlift; Hoist, concrete and brick (Brick Cages or Concrete Skips operating in or on Tower, Tower-mobile, or similar equipment); Hoist, stack; Hydrohammer; Lad-a-vator, hoisting brick or concrete; Loading Machine (such as Barber-Greene); Mechanic, on job site; Mixer, paving; Mixer-mobile; Mucking Machine; Pipe Wrapping Machine; Plant, asphalt; Plant Concrete producing or Ready-mix job site; Plant, Mixing job site; Plant, power, generating job site; Pumps, two self-power over 2" through 6"; Pumps, electric submersible, one through three, over 4" Quad-Track; Roller, Asphalt, Top or Subgrade; Scoop, tractor drawn; Spreader Box; Subgrader; Tie Tamper; Tractor-Crawler, or wheel type with or without power unit, power Take Off, and attachments regardless of size; Trenching Machine, Tunnel Boring Machine; Vibrating Machine, Automatic propelled; Welding Machines (gasoline or diesel) more than one but not over four (regardless of size); Well Drilling Machines; plant heating job site.

Group 3: Air Tugger with plant air; Boiler, for power or heating shell of buildings or temporary enclosures in connection with construction work; Boiler, temporary; Compressor, air one; Compressor, air (mounted on truck); Concrete Saw, (self-propelled); Conveyor, large (not self-propelled); Conveyor, large (not self-propelled) moving brick and concrete (distributing) on floor level; Curb Finishing Machine, Ditch Paving Machine; Elevator (building construction or alteration); Endless Chain Hoist; Fireman; Form Grader; Generator, one over 30 KW or any number developing over 30 KW; Greaser; Hoist, one drum regardless of size (except brick or concrete); Lad-a-vator; Manlift; Mixer, aspahlt, over 8 cu. ft. capacity; Mixer, if two or more of one bag capacity or less are used by one Employer on job, an Operator is required; Mixer, without Side Loader 2 bag capacity or more; Mixers, with Side Loader, 2 bag capacity or more; Mixers, with Side Loader, regardless of size, not Paver; Oiler on Dredge; Oiler on Truck Crane; Pug Mill Operator; Pump; Pump-self powered, automatic controlled over 2" during use in connection with construction work; Scissor Lift (used for hoisting); Sweeper, street; Tractor small wheel type 50 HP and under with Grader Blade and similar equipment; Welding Machine, one over 400 amp.; Winch Operating from truck; Mechanic in shop

POWER EQUIPMENT OPERATORS (Cont'd)

Group 4: Boat Operator Outboard Motor (job site); Conveyors (such as Con-Vay-it) regardless of how used; Oiler; Sweeper, floor

Group 5:
(a) Air-pressure; Oiler Engineer operating under 10 lbs.
(b) Air-pressure; Oiler Engineer operating over 10 lbs.
(c) Air-pressure Engineer operating under 10 lbs.
(d) Air-pressure Oiler Engineer operating over 10 lbs.
(e) Crane, Climbing (such as Linden); Crane, Pile Driving and extracting; Crane, using Rock Socket Tool; Derrick; Diesel, gas or electric, hositing material erecting steel (150' or more above ground); Dragline, 7 cu. yds. and over; Hoist, 3 or more drums in use; Scoop, Tandem; Shovel, power 7 cu. yds. and over; Tractor, Tandem, Crawler, Tunnel Man assigned to work in tunnel or tunnel shaft; Wrecking, when machine is working on second or higher; Crane - Booms (including jib) 100 ft. to 150 ft.
(f) Crane, Boom (including jib) 150 ft. to 200 ft.
(g) Crane, Boom (including jib) 200 ft. to 250 ft.
(h) Crane, Boom (including jib) 250 ft. to 300 ft

TRUCK DRIVERS CLASSIFICATIONS

Group 1: Warehousemen; Dumper; Flat Bed and Pick-up; Farm Tractor; Water Truck, single-axle; Fuel Truck, single axle

Group 2: Tandem; Tractor Trailer; Winch; Fork Lift; Tandem Water Truck; Tandem Fuel Truck

Group 3: Tandem-slip-bed operation Pitman; Hydro Broom Truck; Transit Mixer; Euclid, Belly Dump; Cat Wagon; Oil Distributor; Ross Carrier; Dumpster; Half Track; Water Pull; Mechanic

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii))

[FR Doc. 82-34643 Filed 12-23-82; 8:45 am]
BILLING CODE 4510-27-C

federal register

Monday
December 27, 1982

Part III

Environmental Protection Agency

Enforcement of the Federal Insecticide, Fungicide and Rodenticide Act; Conditional Registration and Compensation for Use of Data; Proposed Regulations

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 162

[OPP-30067; FRL 2225-3a; PH-FRL 2225-3a]

Regulations for the Enforcement of the Federal Insecticide, Fungicide and Rodenticide Act; Conditional Registration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This proposed regulation would govern the conditional registration of pesticide products which are identical or substantially similar to those currently registered, and the conditional registration of new uses of existing pesticides, by the Environmental Protection Agency (EPA or Agency). This proposed rule sets forth the applicable definitions, the data requirements for obtaining conditional registration, the conditions under which such applications would be approved or denied, and the mechanism for cancellation of conditional registrations. The Agency also proposes revisions to 40 CFR 162.7 and 162.8 of its regulations as they existed prior to 1978. These regulations are proposed for comment at this time because a United States Court of Appeals has ruled that the promulgation of these regulations as interim final regulations on May 11, 1979, was invalid because of the Agency's failure to fully comply with the procedural requirements of the Administrative Procedure Act.

DATE: Written comments must be submitted by February 25, 1983.

ADDRESSES: Submit written comments to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Rm. E-409, 401 M St., SW., Washington, D.C. 20460. Comments should bear the identifying notation OPP-30067.

FOR FURTHER INFORMATION CONTACT: Jean M. Frane, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 1114, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22201, (703-557-0592).

SUPPLEMENTARY INFORMATION: This regulation proposes to implement sections 3(c)(7)(A) and 3(c)(7)(B) of the Federal Insecticide, Fungicide, and Rodenticide Act ("FIFRA"or "the Act"), 7 U.S.C. 136 et seq., as amended by the Federal Pesticide Act of 1978 (Pub. L. 95-396, 92 Stat. 819), as well as related provisions of FIFRA sections 3(c)(5) and 6(e). Final regulations(40 CFR Part 162) for the registration, reregistration, and classification of pecticides were issued in the **Federal Register** of July 3, 1975 (40 FR 28242). This regulaton would amend Part 162 by adding new sections designated §§ 162.160, 162.163, 162.165, 162,167, and 162.177 and by revising §§ 162.7 and 162.8. Regulations proposed under FIFRA section 3(c)(1)(D)(ii) appear elsewhere in this issue of the **Federal Register**.

This regulation was originally issued as §§ 162.18-1 through 162.18-5 of Subpart A of Part 162. In issuing this proposal, the Agency is grouping and redesignating these sections as Subpart E of Part 162. The following table correlates the new section numbers with the original sections.

Old section	New section
162.18-1	162.160
162.18-2	162.163
162.18-3	162.165
162.18-4	162.167
162.18-5	162.177

Hereafter, this proposal will reference only the new sections.

I. Development of Conditional Registration

On May 11, 1979, EPA promulgated this conditional registration regulation as an interim final rule which was made immediately effective. The Administrator had determined that there were compelling public interest reasons for this regulation to be published as an interim final regulation in 1979. Because the conditional registration regulation permitted the Agency to eliminate an existing double standard for registration and to resume a full registration program, the Administrator believed that the public interest was best served by making the regulation effective upon publication.

Even though this regulation was not published as a proposed rule, the Agency did provide considerable opportunity for public comment prior to issuing it as an interim final regulation. An Advance Notice of Interim Final Rulemaking, published in the **Federal Register** on July 25, 1978 (43 FR 32154), invited comments from interested persons on the general aspects of conditional registration, compensation, efficacy data waiver, and other issues associated with the 1978 amendments to FIFRA, then pending before Congress. A working draft of the regulation was circulated (October 6, 1978) to over 2500 interested industry, environmental and consumer groups State and local agencies, agricultural organizations and individuals. Specific comments on the issues involved were solicited. A three-day public meeting was held in Washington, D.C., on November 6-8, 1978, to receive comments on the major issues identified in the draft regulation.

As a result of the several opportunities accorded to interested persons for commenting on this regulation prior to May of 1979, a number of valuable comments were received and considered in developing the regulation. The major comments received during that period are addressed in portions of this document.

After promulgation of this regulation, Mobay Chemical Company filed challenges to the regulations on substantive and procedural grounds. The *Mobay* case, which was brough in the United States District Court for the Western District of Pennsylvania, resulted in an evidentiary trial and a decision by the district court that the conditional registration regulation was a valid implementation of the 1978 amendments to FIFRA permitting conditional registration and that the Agency had properly invoked the "good cause" exception of the Administrative Procedure Act to justify making this regulation immediately effective when it was first published in May of 1979. *Mobay Chemical Company* v. *Gorsuch*, 517 F. Supp. 254 (W.D. Pa. 1981). On appeal, the Court of Appeals for the Third Circuit held that the regulation was promulgated in violation of the notice-and-comment and effective date requirements of the Administrative Procedure Act. *Mobay* v. *Gorsuch*, C.A. No. 81-2190 (Third Circuit, June 22, 1982). In so ruling, the court of appeals did not address or decide the issue of whether the conditional registration regulation is a reasonable interpretation of FIFRA. The court also delayed for a period of six months the issuance of its mandate which would invalidate the regulation.

As a result of these developments, EPA is faced with determining what regulation should now be proposed to implement the conditional registration under FIFRA sections 3(c)(7)(A) and 3)(c)(7)(B). During the period between May of 1979 and the present, the Agency has amassed considerable experience working with the regulation proposed here and has preceived no significant problems in registering large numbers of pesticide products under the 1979 regulation. If fact, the only substantive objection to this regulation of which EPA is aware is the objection pressed by Mobay in its lawsuit. Mobay charged that this regulations abridges its rights under sections 3(c)(3) and 3(c)(5) of FIFRA to have an application for a

pesticide product fully reviewed to determine "as expeditiously as possible" whether the supporting data demonstrate that it does not cause unreasonable adverse effects on the environment. Apparently Mobay felt that a conditional registration under this regulation (i.e., under FIFRA section 3(c)(7)) is somehow less valuable to them than a registration granted under FIFRA section 3(c)(5). In fact, however, there are no differences between the two types of registration in the marketplace. Indeed, nothing in the labeling of the pesticide product indicates what type of registration a product has. The district court in *Mobay* described Mobay's objections and evaluated them by stating.

> Mobay apparently views conditional registration as tenuous privileges, having less permanence than an unconditional registration. It fears that it will forever be required to supply EPA with additional data, upon pain of cancellation for non-compliance with a condition. But this ignores the existence of section 3(c)(2)(B), which subjects even unconditional registrants to requests for additional data.

Indeed, EPA's experience has borne out that data requirements imposed upon pesticide registrants are virtually always imposed on a generic or active-ingredient basis and fall alike on conditional and unconditional registrants.

In light of the absence of persuasive reasons to alter EPA's basic approach of granting conditional registrations so that it can fully evalute pesticide products by an orderly priority rather than in the order in which applications are presented, EPA has decided to propose this conditional registration regulation in the form it has been used for registration of pesticides since May of 1979. To assure clarity and assist those who wish to comment on this proposed regulation, EPA has substantially repeated here much of the material contained in the preamble to the regulations published on May 11, 1979, at 44 FR 27932 et seq.

II. Purposes of Conditional Registration

Prior to enactment of the Federal Pesticide Act of 1978, FIFRA sec. 3(c)(5) set forth the only test for registrability of a pesticide. It states, in part:

> "(5) *Approval of registration.*—The Administrator shall register a pesticide if he determines that, when considered with any restrictions imposed under subsection (d)—
>
> "(A) its composition is such as to warrant the proposed claims for it;
>
> "(B) its labeling and other material required to be submitted comply with the requirements of this Act;
>
> "(C) it will perform its intended fuction without unreasonable adverse effects on the environment; and
>
> "(D) when used in accordance with widespread and commonly recognized practice it will not generally cause unreasonable adverse effects on the environment.

Before the Agency registers a product or amends an existing registration under FIFRA section 3(c)(5), the Agency must conclude, based on a review of sufficient data, that neither the product itself nor any of its uses would cause an unreasonable adverse effect on the environment. Data requirements designed to allow the Agency to make section 3(c)(5) determinations have increased over the years. Moreover, the Agency has concluded that data submitted in support of earlier pesticide registrations should be subject to validation under modern standards. In most cases, therefore, the Agency can grant a registration under FIFRA section 3(c)(5) only after it has determined that all required data have been submitted, and only after a comprehensive review of that data has been completed.

Congress has directed the Agency to conduct reevaluations of all previously registered pesticides (a process called reregistration). See FIFRA section 3(g). The Agency intends to conduct these evaluations systematically and to issue "registration standards" setting forth the Agency's regulatory position on each pesticide. Since 1979, the Agency has put into effect the Registration Standards program, and has issued in the **Federal Register** of April 18, 1980 (45 FR 2370) a document requesting information on the first 55 chemicals proposed for standards, and, in the **Federal Register** of January 18, 1982 (47 FR 3770), a notice of availability of a final scheme for grouping chemicals in clusters for systematic review. Forty registration standards have been issued since May 1979.

Under the pre-1978 FIFRA, the Agency had concluded that it was required to deny registration of new products, even those containing only "old" ingredients, until all required testing of the pesticide had been done and the results reviewed. This created major problems for firms seeking to enter the market with products essentially like those already being sold legally, and also made it very difficult to obtain approval for new uses of already registered products. This class of problems was referred to as a "double standard," and was of great concern to EPA, the Congress, and the industry.

In addition, the Agency believes that even where most or all of the data required for a "no unreasonable adverse effects" determination are available, it is imperative that the Agency's limited resources for data review be used in the most productive manner. This requires that the scheduling of chemicals for comprehensive review be based on factors such as the type, use pattern, and volume of use of the various chemicals. The Agency does not intend immediately to conduct a comprehensive data review merely because an application for registration has been submitted. But a system which would indefinitely deny registration to products containing chemicals low on the review priority list would be unacceptable. A mechanism to overcome these various problems was needed. The Agency thus requested, and Congress in 1978 enacted, legislation "authorizing the Administrator to conditionally register * * * products in certain situations, even though certain of the data that were required for complete registration [under section 3(c)(5)] * * * had not yet been generated, or, if on file with the Agency, had not yet been reviewed for validity or sufficiency." [Report of the Senate Committee on Agriculture, Nutrition, and Forestry. S. Rep. No. 95-334, 95th Cong., 1st Sess. (July 6, 1977), at page 20.]

Conditional registration is a discretionary authority with a twofold purpose: (1) To eliminate barriers to registration and market entry resulting from the previously mentioned double standard; and (2) to provide a needed transition phase between the case-by-case approach under which the Agency has operated in the past and the new registration standards process. The Agency's objective is that all currently registered products, which are subject to reregistration, and similar products for which new registrations are sought, should be allowed to progress in an orderly fashion into a systematic and all-encompassing standards-setting program.

These goals must, however, be pursued in a manner consistent with the Agency's fundamental mission of protecting human health and the environment from unreasonable adverse effects of pesticides. The Agency is authorized to issue conditional registrations, but is not obligated to do so, and will not do so where a conditional registration would significantly increase the risk of unreasonable adverse environmental effects.

Conditional registration will be used to register new products and to amend existing registrations of products containing a particular active ingredient until a registration standard for that active ingredient is published. If a registration standard states that additional data are needed on an active ingredient, the products containing that active ingredient will be subject to a data submission requirement under

FIFRA section 3(c)(2)(B) as part of their reregistration.

Under the conditional registration authority granted to the Agency in 1978, a product may be registered, or its registration amended, if the Agency concludes that the action would not significantly increase the risk of unreasonable adverse effects on the environment, provided certain conditions are met. The regulations proposed here describe how EPA would exercise its conditional reregistration authority under FIFRA sections 3(c)(7)(A) and 3(c)(7)(B). FIFRA section 3(c)(7)(C) deals with conditional registration of products containing new active ingredients. The regulations proposed here do not concern section 3(c)(7)(C); applications for registration under that authority will be handled on a case-by-case basis.

Proposed §§ 162.160 through 162.177 set forth the Agency's standards and procedures for conditional registration under FIFRA sections 3(c)(7)(A) and 3(c)(7)(B). Section 162.160 addresses the scope of the regulations, and contains necessary definitions. Section 162.163 establishes data requirements for the various types of products. Section 162.165 sets forth the requirements for applications for conditional registration. Section 162.167 describes the disposition of applications for conditional registration and the criteria for approval of such applications. Section 162.177 describes Agency procedures for cancellations of conditional reregistrations as specified in FIFRA section 6(e).

Portions of 40 CFR 162.7 and 162.8 (as they existed prior to May 11, 1979, would also be revised to conform previous regulations to the conditional registration authority, to delete obsolete provisions, and to acknowledge that the registration standards process will be used for reregistration.

III. Submission and Review of Data

As noted earlier, a conditional registration may be granted despite the fact that not all data required for a section 3(c)(5) registration have been submitted to EPA, or despite the fact that EPA has not yet reviewed all the data that have been submitted concerning the pesticide. If data required for an unconditional registration have not been submitted to the Agency, a conditional registrant must agree to submit the data when other registrants of similar pesticides must submit data—either at the time the product is reregistered or when the Administrator requires data submission. However, the Agency will not grant even a conditional registration unless data sufficient to make the findings required by FIFRA section 3(c)(7) are available for review by the Agency.

In general the Agency intends to review data for one or more of the following purposes in connection with the application for conditional registration:

1. To demonstrate that the product is identical to a currently registered product (refer to the preamble unit entitled Incremental Risk Assessment, Part A, Indentical Products and Uses).

2. To evaluate the incremental risk posed by the product or its uses (refer to the preamble unit entitled Incremental Risk Assessment).

3. To establish that the product is efficacious, in certain instances (refer to the preamble unit entitled Waiver of Efficacy Data Requirement).

4. To determine whether a new use should be classified for Restricted use (refer to the preamble unit entitled Classification).

For these purposes, the Agency must have data available prior to issuance of conditional registration; such data may not be deferred under the conditional registration.

It is readily apparent, and stated in § 162.163(d), that the formulator of an end-use product might be required to provide chemistry, efficacy, or acute toxicity data to satisfy requirements for obtaining conditional registration.

The responsibilities of an end-use formulator for data concerning his product's active ingredient are covered by FIFRA section 3(c)(2)(D). An applicant who purchases a registered manufacturing use product from another person in order to use it to formulate an end-use product is not responsible for the submission or citation of data pertaining to the safety of the purchased product. He should not assume, however, that the Agency is obligated to register his end-use product, or any product, when chronic toxicity data required to make an incremental risk assessment are lacking. The Agency must have sufficient information to make a finding of no incremental risk before conditional registration can be issued. The end-use formulator seeking conditional registration may find that unless he chooses to produce the data himself, he will be unable to obtain conditional registration.

In connection with the conditional registration of indentical products and identical or substantially similar uses, the Agency generally does not intend to review any data currently in its files beyond that needed to establish identicality. For other applications, the Agency may review data currently in its files to the extent necessary to evaluate the incremental risk associated with a new use or new product. The Agency would, however, review at the time of conditional registration all data which are required to be submitted by the applicant in accordance with § 162.163.

IV. Incremental Risk Assessment

Incremental risk assessment is central to the conditional registration program. The purposes of this section are to describe the risk assessment process and the underlying assumptions and rationales on which it is based, and to give some insight into the factors the Agency will weigh in evaluating whether the FIFRA section 3(c)(7) requirement of "no significant increase in the risk of unreasonable adverse effects" has been met. The Agency's conditional registration program addresses the incremental risks of a proposed product or use. In contrast, the risks associated with current uses of a pesticide are addressed through the registration standards program and, if necessary, the Rebuttable Presumption Against Registration (RPAR) program.

Conditional registration of products and uses is premised on an acknowledgment that certain risks, both known and unknown, are posed by pesticide products and uses already registered and in the marketplace. The Agency recognizes the potential for these risks, but generally has no basis upon which to quantify them or to believe that they outweigh the benefits of continued use. Until these risks can be identified and addressed systematically through the registration standards process and, if necessary, the RPAR procedure (see 40 CFR 162.11), little or no environmental protection is achieved by discriminating between products registered prior to 1975 and other prospective pesticide products. At the time a pesticide is reviewed for registration standards development, all registered products and uses will be included in the overall assessment of adverse effects. Risks and benefits will be weighed against the unreasonable adverse effects standard of FIFRA section 3(c)(5).

Sections 3(c)(7) (A) and (B) of the FIFRA direct the Agency to focus its attention only on the increase in risks (incremental risks) posed by the registration of new products containing, or new uses of, "old" pesticides. Specifically, conditional registration of both identical/substantially similar products and uses [section 3(c)(7)(A)] and new uses [section 3(c)(7)(B)] is authorized only if the new product or use "would not significantly increase the risk of unreasonable adverse effects on

the environment." Properly administered, this test of approval will assure adequate protection of the public and the environment from adverse effects attributable to any increased exposure that might result from the conditional registration of a pesticide.

The Agency has carefully considered how best to assess the incremental risks associated with additional pesticide use. Incremental risk becomes significant only when conditional registration would involve either exposure to non-target populations not previously exposed, or increased exposure to the populations that are at risk from current pesticide usage. As previously stated, it is clear that the Agency is required to assess the incremental risk of each product and each use as a part of the review of all applications for conditional registration. As the potential for risk from the added product or use grow, the need for new data and Agency review of such data will increase. The risk assessment program set forth below is structured to incorporate this concept.

A. Identical Products and Uses

The Agency has concluded that conditional registration of products identical to already registered products in composition and uses, or amendments to existing registrations to add uses already registered for other identical products, poses no risks beyond those which may be present as a result of existing pesticide usage. The market for a pesticide is essentially finite, governed largely by the acreages and available sites to which end-use products can be applied, and by the demands of users for those products.

As stated in testimony before Congress,[1] the Agency expects that the entry into the market of additional identical products for any already registered use will divide the existing market among a larger number of pesticide products and registrants, but will not significantly increase overall pesticide usage. No increase in risks will result if existing exposure remains constant. Consequently, no further incremental risk assessment is necessary. The Agency is prepared to conditionally approve applications of this type for new and amended registrations without individual risk assessments, provided that other requirements of these conditional registration regulations are met.

The Agency recognizes that, in reality, there are few products that are "identical" to others. Moreover, applicants for new registration will not generally be able independently to ascertain identicality. The definition of identical product in § 162.160 is restrictive with respect to inert ingredients and many products will not meet the criteria. Products that are repackaged from other registered products are obvious exmaples of identical products. There also will be instances when a registrant authorizes a second applicant to manufacture an identical product, according to precise specifications. The Agency will determine identicality by a comparison of active ingredients, inert ingredients, impurities, and uses appearing on the label.

General chemistry data are required to be submitted for all new products to enable the Agency to determine whether a product is identical to a currently registered product. For end-use products the chemistry data needed for this purpose are minimal and routine; a Confidential Statement of Formula, completely and accurately filled out, will normally suffice to meet the requirement.

Based on comments on the October 6, 1978, public draft, the Agency deleted several items of chemistry data originally required for end-use products, since those data were unnecessary to a determination of identicality of products. Section 162.163(d)(1)(i) now reflects this reduced data requirement. With respect to technical and manufacturing use products, the Agency is concerned about the presence of harmful impurities in such products, and thus requires information related to identity of, and analysis for, impurities. When the type and/or level of impurities differs from that found in the currently registered product, a risk assessment is required to evaluate the significance of the variation.

B. New Products and Uses That Are Not Identical

Products that are not identical may result from any of a number of variations:

1. Variation in percentages of active and inert ingredients.
2. Variation in inert ingredients, including impuities in technical and manufacturing-use products.
3. Variation in formulation type.
4. Different uses (excluding "new uses" which are discussed in the next unit).

For some products in these categories, risks associated with the new product will not be significantly different from those associated with the currently registered similar product. An example is a product that, although not an identical product as defined in this regulation, has a composition and uses that fall within the range of currently registered products. Products with similar risks, together with identical products, are commonly considered "me-too" products and no data are required to be submitted for risk assessment purposes.

However, there will be a number of products that will raise questions of risk that cannot be resolved solely by comparison with currently registered products. The applicant may be required to submit acute toxicity data to determine the appropriate precautionary labeling. Products listed in items 1 through 3 above may fall into this category.

A variation in the use pattern of a product may be characterized in one of two ways: either it is a "new use" which may generate a requirement of toxic effects data which are essential to the incremental risk assessment, or it is a "substantially similar use," as listed in item 4 above. This latter category of use does not generate the same requirement for toxic effects data, since it does not invlove exposure to new organisms, or exposure by different routes than currently exist.

However, when a specific "substantially similar use" (new site or pest) has never been registered in conjunction with the active ingredient contained in the new product, incremental risk assessment entails an evaluation of the additional exposure to the product, corresponding to that encountered with some new uses. Addition of a new pest on the same site or expansion of the site may significantly increase exposure to applicators, to other people, or to fish and wildlife. This aspect of risk assessment is more fully addressed STEP 5 of the discussion of new uses below. The factors enumerated in STEP 5 of new use risk assessment will be applied to such substantially similar uses. Consequently, it is possible that the applicant may be required to submit the data described in STEP 5 on the potential for increased exposure related to the added use.

C. New Uses

New uses pose incremental risks, the significance of which must be assessed to determine whether the use is acceptable for conditional registration. The Agency will proceed through the following steps to evaluate incremental risk of new uses.

Step 1: Determine whether the new use is a food or feed use requiring the establishment of a tolerance.

[1] Statement of Douglas M. Costle, Administrator, EPA, before the House Committee on Agriculture, April 27, 1977.

If a proposed new use is a food or feed use, the Agency must determine whether the use would require establishment of a new tolerance or an increase in an already established tolerance, in which case the evaluation proceeds to Step 2.

If the new use is not a food or feed use, the Agency will determine whether the use is a "changed use pattern" as defined in § 162.3(k) of the regulations. A changed use pattern involves significant new exposures to human or fish and wildlife populations not previously exposed or exposures by different routes than result from current use patterns. Determination that a use is a "changed use pattern" moves the risk assessment to Step 4.

A use which is neither a new food or feed use nor a changed use pattern is by definition a similar or "me-too" use and may be conditionally registered with the less exhaustive level of risk assessment discussed in B above.

Step 2: Exclude new uses presenting a significant incremental risk: apply the statutory prohibitions against conditional registration.

The FIFRA specifically prohibits conditional registration of new uses that meet certain criteria. If the new use is a major food or feed crop use, dietary exposure may be significantly increased. If RPAR evaluation has revealed that toxic effects may be expected to occur at existing levels of dietary exposure to a chemical, then increasing dietary exposure by conditionally registering a new major food use for the chemical is prohibited by the statute.

Minor food and feed uses under RPAR raise similar concerns, but of lesser degree since the increases in dietary exposure from a minor use compared to the existing level of exposure is likely to be insignificant. Moreover, there are offsetting benefits that accrue in making a pesticide available for a minor use. Alternative pesticides may not be available to cope with a particular pest problem on minor crops or, if available, they may not be effective. The law thus provides that where dietary exposure is low, and alternatives are either not available or not effective, conditional registration of a minor use is not automatically precluded by the existence of an RPAR for dietary effects. The law does not, however, provide that conditional registration necessarily be granted in these circumstances. The Agency will grant such registrations only if persuaded that benefits of a proposed use exceed its risks.

The statutory prohibitions apply to issued RPAR's, that is, where the agency has concluded publicly that available evidence demonstrates that risk criteria have been exceeded. The statutory prohibition does not apply to pesticides which are in the RPAR review process (candidate RPAR's), where no finding has yet been made that risk criteria have been met or exceeded.

Step 3: Assess the incremental dietary exposure from food uses: can a tolerance be established?

Tolerance-setting procedures and principles under the Federal Food, Drug and Cosmetic Act have been well established over the last two decades. Some tolerances have been established in the past without the complete set of data that are currently desirable in the Registration Guidelines. The Agency will continue this practice for conditional registration. However, no additional tolerance is now granted (or would be granted) when a significant data gap exists unless the incremental residue contribution from the new use is calculated to be insignificant or unless it can be demonstrated that there are no detectable residues from application to a new crop. The Agency generally considers as insignificant an increase in the Theoretical Maximal Residue Contribution (TMRC) of 1 percent or less for the new crop. The TMRC is a "worst case estimate" of the exposure of the United States population to residues of a pesticide in food. This additional criterion of acceptability has been applied to tolerances established in the absence of a complete toxicity data base. By limiting the permissible incremental residues in this manner, the Agency can assure that significant increases in dietary exposure will not occur for a chemical whose toxicity is incompletely characterized. In some cases, the Agency will continue to require evidence that missing studies will be initiated (or are under way) before establishing a tolerance.

The need for establishment of a tolerance in conjunction with conditional registration of a new use would impose certain additional data requirements on the applicant. Generally, only residue chemistry data and certain rotational crop data to assess the potential for residue uptake by subsequent crops would be required. In most cases, the toxicity data on which previous tolerances were based would suffice to meet the requirements. Evaluation of incremental risk for chemicals that proceed through this step will be carried forward to Step 4.

Step 4: Assess the risks associated with "new" toxic effects solely attributable to the new use: are RPAR criteria exceeded?

The Agency must assess the toxic effects to new organisms or populations from exposures to the pesticide that would be introduced into the environment by conditional registration of a new use. The applicant must submit satisfactory data pertaining to the new use to enable the Agency to evaluate any "new" toxic effects.

A general rule of thumb for determining which data would be required to be submitted for a particular new use is to compare proposed data requirements for all uses of the active ingredient, including the new use, with data requirements for all existing uses. The differences between the two are those requirements that pertain solely to the new use. These studies must be submitted by the applicant so the Agency can determine whether the new use will pose adverse effects.

If the new use proposes the first change from indoor to outdoor use for the active ingredient(s), new data requirements would include fish and wildlife data and environmental chemistry data. A change from terrestrial use to aquatic use would necessitate data on toxic effects to fish and aquatic life. A change from non-domestic to domestic use would create a need for inhalation studies and long-term chronic studies because of the potential for repeated and prolonged exposure to people. A change from non-food uses to food crops would trigger a requirement for data necessary to establish tolerances, including the full range of toxicity data as well as data to characterize applicator exposure. It is impossible to specify here all situations that could arise. In general, if a new use can be expected to expose human sub-populations not previously exposed (such as women of child-bearing age, children, applicators, food consumers, or field workers), or non-target organisms (such as fish, birds, or other wildlife), data to evaluate the toxic effects of that exposure would be required.

The Agency will review the submitted data to see if the results meet or exceed any of the criteria for RPAR referral. If so, the Agency will proceed with a complete evaluation of the pesticide through the RPAR process. Referral to the RPAR process, however, does not necessarily preclude conditional registration of the new use in question or of other new uses which may be proposed. If the new use offers benefits which outweigh the new risks, the new use may proceed through the remaining steps of the risk assessment. Benefit considerations may lead to conditional registration of a minor use for which no alternatives are available, or of a pesticide product relatively less hazardous than the alternative it would displace.

If the new use is ultimately conditionally registered, its RPAR status notwithstanding, its continued registrability will be subject to the outcome of the RPAR review of the total risks and benefits of the pesticide.

Step 5: Assess the increase in "old" (existing) toxic effects resulting from increased exposure to the pesticide.

This last step of risk assessment involves a consideration of the known toxic effects of the pesticide to populations and organisms which have been previously exposed, and the risks associated with extending these effects by the introduction of more pesticide into the environment. The Agency anticipates that the bulk of the new uses proposed for conditional registration will be new crop uses. Thus the major portion of the additional exposure will be dietary exposure from pesticide application to new food crops. Establishment of tolerances, discussed earlier, will adequately cover this aspect of incremental risk assessment.

The known toxic effects of a pesticide have been identified and evaluated in conjunction with the registration of the product for previously accepted uses. Some of the effects data have been further reviewed through the RPAR process, providing greater certainty about the risks that pesticide presents.

Incremental risk assessment of "old" toxic effects may be viewed as an evaluation solely of the increased exposure to "old" non-target organisms attributable to the new use of the pesticide. Insofar as the Agency's stated intent is not to review previously submitted toxic effects data at the time of conditional registration, the toxic effects are factors that are constant in the risk equation. Incremental exposure is therefore a measure of incremental risk. Where effects data have been reviewed according to current standards, as in the RPAR process, the Agency will have greater assurance that incremental risk has been accurately characterized. Where an RPAR has been issued on the basis of a toxic effect that may be expected to result from the new use, any increased exposure takes on added significance and may preclude conditional registration.

Exposure analysis includes the use of judgmental factors. Because there is such a wide variety of types and routes of exposure, each individual new use offers a distinct exposure pattern which must be separately evaluated. In addition, most forms of exposure cannot be easily quantified or judged against a single standard of acceptability, such as exists for dietary exposure in the tolerance-setting process. The Agency will assess the anticipated pattern of exposure and the relative significance of the various routes of exposure on a case-by-case basis.

In addition to the dietary exposure for food uses discussed earlier, the following types of exposure will be evaluated for each new use:

1. *Applicator exposure.* Registration of a new major crop may result in the exposure of a significant number of applicators not previously exposed to the pesticide. Moreover, some use patterns may require a higher concentration or more frequent application of the pesticide, resulting in individual applicators being exposed to higher levels of pesticides that did not exist for previously registered uses. The Agency may require that applicants submit information on which to base an evaluation of such increased hazards.

2. *Field worker exposure.* For crops which are hand-picked or hand-cultivated routinely, determining whether they is an increase exposure to field workers may involve consideration of the preharvest interval for application to the crop. The method of application must also be considered—some application techniques may expose field workers more than others.

3. *Incidental human exposure other than applicator or field worker exposure.* To some extent, incidental exposure to humans accompanies almost every use situation. Moreover, large numbers of people may be exposed to pesticides without being aware that they have been exposed or without being able to avoid such exposure: the aged or infirm in hospital environments, persons in homes and schools areas, outdoor recreational areas, lakes and streams, and urban areas. Each situation offers some potential for exposure to unprotected humans. The Agency will consider such exposures in risk assessment of specific uses.

4. *Fish, wildlife and other non-target species exposure.* Fish and wildlife exposure is of concern for all applications to new crops and other outdoor areas such as forest and aquatic sites. Certain croplands are important wildlife habitats. Possible harm to fish and aquatic invertebrates is of concern when a new aquatic use is proposed. The drift potential of air application, and the time of the application (spring, summer, fall) may be of great significance in determining the extent of exposure. A further consideration is the status of endangered species within the application area.

The Agency will use whatever information sources are necessary to determine the extent of incremental exposure, We anticipate that much information will be available from published sources, such as Department of Agriculture statistics for agricultural uses, or from knowledgeable experts. In the absence of complete data on incremental exposure, the scientific reviewer's knowledge and experience may on occasions be sufficient to judge the extent and significance of additional pesticide exposure from a new use.

However, the Agency could require that the applicant submit data on the extent of the proposed use to fully evaluate exposure from smaller or less easily defined uses. Market analyses or projections are the primary types of information that might be requested in this context. Such data will be eligible for trade secret protection to the extent provided by FIFRA sec. 10. The Agency will make every effort to obtain sufficient information from sources which are more readily accessible and available to the public, but applicants are ofter the only source of exposure information essential to the incremental risk assessment.

Step 6: Issuance or denial of conditional registration: reduction of exposure potential.

When all of the above steps have been completed, the Agency will make a decision whether to issue or deny the conditional registration of the new use. If the decision is to issue the conditional registration, the Agency may review the labeling of the product, seeking ways to further reduce exposure. Proper labeling of the product with precautionary statements for protection of humans and fish and wildlife, use restrictions such as geographical or timing restrictions, requirements for protective clothing and respirators, reentry intervals for field workers, storage and disposal requirements and packaging can be effective means of reducing the exposure potential of the product from intended application, misuse or accident.

In addition, if the product has previously been classified restricted by regulation (a systematic review of all uses of the product—primarily involving acute human and fish and wildlife data), the new use must be classified in accordance with § 162.11.

D. Documentation of the Incremental Risk and Conditional Registration Decision Process

The Agency is required by FIFRA section 3(c)(2) to make available to the public all data and other scientific information used in support of a registration, including conditional registration, consistent with the trade secrecy provisions of FIFRA sec. 10.

The establishment of tolerances under the Federal Food, Drug and Cosmetic Act is accomplished by publication of a regulation in the **Federal Register**. Such publication includes a discussion of the safety of the dietary exposure resulting from a new food use. Notice of receipt of applications for changed use patterns must also be published in the **Federal Register**. These provisions ensure that the public will be fully informed about the conditional registration of new uses and the factors used in evaluating the incremental risks associated with their use.

V. Waiver of Efficacy Data Requirement

Section 3(c)(5) of the Act provides that the Administrator may waive data requirements pertaining to efficacy of a product under consideration for registration, and that if he waives the requirement for data, he may also waive the finding of efficacy required by FIFRA section 3(c)(5)(A).

The decision to pursue efficacy waiver as an Agency policy stemmed from a need to reduce the resources devoted to reviewing product performance so that additional effort could be devoted to the evaluation of health and safety data, and from a desire to reduce regulatory burdens in pesticide registration. Data review obligations placed on the Agency by the requirements for registration were an important factor influencing the decision. Maintenance of a rigorous efficacy data submission and review posture for registration and reregistration would require the reevaluation of much of the 1.5 million items of product performance data that have been amassed by the EPA. Because many of these studies are quite old, their value as tools for assessing current levels of product performance is questionable in many cases. Therefore, commitment of the resources needed to fully evaluate these data for purposes of reregistration was determined to be less than an ideal use of limited resources for pesticide regulation.

The Agency's viewpoint concerning waiver of efficacy data requirements is in line with a general belief among persons in the pesticide industry, the U.S. Department of Agriculture and others that the efficacy of pesticides can be effectively regulated by the marketplace (in conjunction with extension services, university research personnel, user groups and public health authorities). As originally proposed in the draft Conditional Registration regulation of October 6, 1978, the efficacy waiver was to apply to all product uses except for those deemed "public health uses". These public health uses were restricted to certain disinfectant uses and a limited number of vertebrate and invertebrate control agents aimed at potential disease vectors such as bats, rats, and mosquitoes. In the interim final rule published May 11, 1979, the Agency expanded public health uses to include additional disinfectant, rodenticide and insecticide uses, and one fungicide use.

At the time the Administrator made effective the efficacy data waiver provisions, he stated:

> Since efficacy data waiver is a major deregulation action, the Agency will consider the waiver policy enunciated in these regulations as an experiment in public policy. If there is sufficient evidence to clearly establish that this deregulation is being abused (such as a significant increase in complaints from the agricultural community, other user groups, or the general public about ineffective products), the Administrator may take any steps necessary to correct the abuses, including withdrawal of any or all waivers of efficacy data requirements.

In the period following promulgation of the efficacy data waiver regulation, the Agency has encountered no serious problems of widespread abuses and has found that its authority to enforce the statutory prohibitions against misbranded pesticide products has provided a sufficient regulatory response for the occasional abuses which have occurred. No substantive challenges to this regulation have been brought in the federal courts and no petitions or other formal complaints have been brought to the Agency. Indeed, since 1979, the Agency has proposed to expand its efficacy data waiver. Refer to the **Federal Register** of September 15, 1982 (47 FR 40659), for this proposal. In its expanded form, the waiver would include all uses except those where effectiveness or control cannot be adequately determined by the user. The extended waiver has been included in this reproposal simply to avoid inconsistency. The Agency is not soliciting comment on the expanded efficacy waiver at this time because it expects that comments will be submitted in response to the proposal of September 15, 1982.

The Agency expects that all registrants will perform the tasks necessary to assure themselves that the products they market will perform their intended functions when applied in accordance with label directions and commonly accepted pest control practices. The Agency must rely upon the integrity of the industry, the soundness of extension service recommendations and the good judgment of pesticide users to insure that abuses seldom occur. The Administrator reserves the right to request submission of efficacy data in support of label claims for any product if a pattern of inadequate performance has been reported, for evaluation of product benefits when risks are substantial, or when other factors exist that make submisssion of efficacy data necessary or desirable. Products which are not effective do not meet the standard set by FIFRA section 3(c)(5)(A). Applications to register such products will be denied; existing registrations of products shown to be ineffective may be cancelled or the products may be deemed misbranded under FIFRA section 2(q)(1)(A).

Some comments received prior to the promulgation of this regulation expressed fears that efficacy data waivers would lead to a lack of sound information on the "benefits" side of the risk/benefit analyses performed as part of the RPAR or cancellation processes. Benefits analysis in the RPAR process entails substantially more than reconsideration of efficacy data supporting the original registration. Concern in the benefits analysis is not with historical but with current product performance. In addition, economic factors pertaining to the current use of the pesticide and efficacy of alternative chemicals or non-chemical control practices must be considered. Front-end efficacy review does not provide useful information on the suitability of alternatives. However, when a substantial risk of unreasonable adverse effects has been identified via the RPAR or cancellation/suspension processes for old use patterns of a pesticide, it is incumbent upon the Agency to more carefully scrutinize new or added uses of the pesticide, weighing those risks with the benefits they offer. Thus, the waiver policy contains a requirement for efficacy data for new or added uses of products which have been RPAR'd, cancelled or suspended for adverse effects of other uses, if the identified adverse would also be expected to occur with the new use.

The Agency is limiting its direct concern to, and requiring efficacy data for, human health-related use patterns where control cannot be observed by the user, and new and added uses of chemicals which have been identified as posing a risk of unreasonable adverse effects. Specifically, the Agency will require product performance data in support of registration for the following uses:

1. Disinfectant uses. Performance data will be required for all products intended to control microorganisms

infectious to man in any area of the inanimate environment.

2. Fungicide uses. Performance data will be required for products intended for control of organisms that produce mycotoxins.

3. New uses of pesticides containing active ingredients, some uses of which have been:

a. Suspended or cancelled by the Agency for reasons of human or environmental safety (if the risks identified in the suspension/cancellation action also apply to the new or added use).

b. The subject of a Notice of Rebuttable Presumption Against Registration (if the risks identified in the RPAR notice also apply to the new or added use).

If efficacy data are required, the applicant may in all cases satisfy the requirement by submitting data developed in accordance with Subdivision G of the Registration Guidelins. In some cases, the applicant may choose instead to cite all applicable data in Agency files, in accordance with Subpart F.

For disinfectant products, efficacy data, when required, must be developed and submitted for the individual formulation proposed by the applicant. The applicant generally may not rely on, and need not offer to pay compensation for, data already in our files pertaining to similar formulations. It has been the Agency's experience, borne out by data submitted in the past, that factors such as variations in manufacturing process, and additions, deletions, or substitutions of inert ingredients, can substantially affect the efficacy of the product.

However, as it has done in the past, on a case-by-case basis the Agency will assess the probable impact of changes or differences in product chemistry on the antimicrobial effectiveness of formulations. If the potential imapct is believed to be negligible, the Agency may rely on previously submitted efficacy data and/or require a reduced subset of efficacy data for the new formulation in order to determine that the presumption of biological equivalency was correct. This subset of confirmatory data represents the bridging link which will allow the Agency to determine that the performance of two or more formulations is supported by the same data base. Efficacy data used in support of other formulations would then be subject to the data compensation provisions of the Act. The use of confirmatory data in support of an antimicrobial product will be acceptable only if the Agency has in its files previouly submitted data which fully support all claims and uses of the already registered product using the most recent, scientifically acceptable standards of performance.

Efficacy data will generally not be required for products of the following types:

1. Nearly all agricultural pesticide products (including forest and crop uses). Exceptions include products falling into category 3 above.

2. Disinfectant products used to control bacteria-producing odor or deterioration and spoilage of products such as paint, industrial fluids, or leather, where product failure does not have human health consequences.

3. Algaecides and slimicides, insecticides, herbicides, fungicides, nematicides, and rodenticides, except as mentioned earlier.

Notwithstanding the waiver of efficacy data, the Agency must have sufficient information about the use patterns proposed to permit evaluation of the hazards of the product to humans and fish and wildlife. In the past, efficacy data have served the purpose of providing supplementary information to the labeling use directions, enabling the Agency to assess accurately the hazards of the proposed use, and to label and classify the product to protect the public and the environment.

If labeling submitted with an application for conditional registration is not sufficiently detailed as to the use pattern proposed, the Agency will request more detailed information on the use pattern. Any such information may be required to be placed on the label in the form of use directions, precautionary statements, or use restrictions if it is deemed essential to the proper use of the pesticide or if lack of such information could potentially result in adverse effects from use of the pesticide.

VI. Classification

Most products and uses will not be classified until reregistration under a registration standard or by regulation under § 162.31. Under conditional registration, the Agency would classify individual products only to maintain consistency with current registrations and to avoid a double standard.

New products which are identical to products currently classified for restricted use would also be classified for restricted use. Other products would be classified for restricted use if all products containing the same active ingredient(s) have been so classified under § 162.30.

New uses would be classified for restricted use if the data submitted for the incremental risk assessment indicate that such a classification is needed. Other uses would generally not be classified separately from the uses of the product being amended.

VII. Other Revisions

For convenience to the reader, the Agency is reprinting all of 40 CFR 162.7. However, the Agency would like to draw commenters attention to the fact that comment is being solicited at this time only on § 162.7 (d)(1), and (d)(2), and (e), which were the sections revised in 1979. Section 162.8 was revised in its entirety and comments are requested on the entire section.

VIII. Statutory Review

Copies of this proposal have been provided to the U.S. Department of Agriculture for comment in accordance with FIFRA section 25(a) and to the appropriate committees of the U.S. Congress.

The U.S. Department of Agriculture, in a letter of November 3, 1982, had the following comments on this proposal:

The conditional registration regulation does not adequately describe data requirements for submission of an application. The conditional registration regulation does not show clearly the stepwise relationship to full registration. It is not apparent that the conditional registration regulations, as written will result in lower costs for registration.
EPA response: The minimum data that must actually be submitted by the application at the time of application are product chemistry data, acute toxicity tests, and efficacy data in some cases, all being conducted with, and specific to, the product being proposed for registration. The remaining required data, specified either in 40 CFR Part 158 or an applicable Registration Standard, are made available to the Agency by referring to, and offering to pay for, the data in the Agency's files, augmented if desired by the applicant's own data. (An exemption for end-use producers who purchase a registered product to formulate their own limits the data that they are responsible for.)

If the Agency does not have available all the data necessary to make a determination of "no unreasonable adverse effects," i.e., data identified in a Standard or in Part 158, then an unconditional registration cannot be granted. If some of the data specified by the Standard or part 158 are not available, the Agency will evaluate the application against the "incremental risk" standard of FIFRA Section 3(c)(7), and, if the "no incremental risk" finding can be made, will grant a conditional registration. If the data are insufficient

even to determine whether there are incremental risks, no registration can be granted until the necessary data are submitted to the Agency.

There is no stepwise relationship between conditional registration and full registration. Conditional registration is a registration in the circumstance when some of the required data have not been developed, or when the Agency has not completely reviewed the available data. In the marketplace there is no distinction between products for which the Agency's finding has been "no unreasonable adverse effects," and one for which the determination has been "no significant increase in unreasonable adverse effects."

The question of cost was addressed when the regulations were originally issued in 1979. The Agency's conclusions have not changed.

Congressional Committees had no comment specific to this proposal.

IX. Regulatory Impact Analysis

Under Executive Order 12291, EPA must judge whether regulations are major and conduct an appropriate Regulatory Impact Analysis. The conditional registration regulation is not major in terms of the annual cost impacts on the economy or terms of cost or price increases for consumers or farmers. This regulations is significant in that it will have a positive impact on competition among producers of pesticide products and will increase the availability of pest control products to pesticide users.

Conditional registration has significantly increased the number of pesticide product registration per year. In 1977, which was characteristic of the slowdown in registration activity highlighting the need for the 1978 amendments to FIFRA, the number of approved new products containing previously registered active ingredients was about 250. In fiscal year 1981, the number of registrations has increased almost ten-fold to 2,350. Most of these newly registered products are either identical or substantially similar to existing products. The bulk of the current registration activity for new products and amendments consists of conditional registrations.

The effect of conditional registration is to increase competition and to provide better selection of pest control alternatives. These forces should tend to lower prices for pesticide products and decrease costs of pest protection for pesticide users. Conditional registration is designed to not result in an incremental risk to consumers and pesticide users because the data base on conditionally registered products (upon which Agency decisions are made) is equivalent to the data base on the existing registrations. When conditionally registered products are safer than the products currently registered, risks may actually be reduced. Further, the statutory restrictions on conditional registration of high-risk pesticides (those under RPAR) means that additional conditionally registered products will on the whole pose fewer risks than current products as a whole.

This proposed rule has been reviewed under Section 3(a) of the Regulatory Flexibility Act of 1980 (Public Law 96-354; 94 Stat. 1165, 5 U.S.C. 60 et seq.), and it has been determined that it will not have a significant economic impact on a substantial number of small businesses, small governments, or small organizations. This conclusion is based on the Agency's preliminary analysis as required under Executive Order 12291. The conditional registration regulation would have a positive impact on the small formulator's ability to register products and would provide easier access to the pesticide market for small formulators. Accordingly, I certify that this regulation does not require a separate regulatory flexibility analysis under the Regulatory Flexibility Act.

This regulation was submitted to the office of management and budget for review as required by Executive Order 12291.

Under the Paperwork Reduction Act, EPA must identify any information collection burdens which would be imposed by this proposed regulation and must obtain clearance from the Office of Management and Budget for any such data collection activities. The conditional registration regulation does not impose any new information collection burdens.

List of Subjects in 40 CFR Part 162

Intergovermental relations, Labeling, Packaging and containers, Pesticides and pests, Administrative practices and procedures.

Dated: December 17, 1982.

Anne M. Gorsuch,

Administrator.

PART 162—[AMENDED]

Therefore, it is proposed that 40 CFR Part 162 be amended as follows:

1. By revising § 162.7 to read as follows:

§ 162.7 Disposition of applications.

(a) *General.* All applications for new registration, reregistration, amended registration, or supplemental registration, and all resubmission of such applications will be processed as described below.

(b) *Notice of receipt of application for registration.* The Agency will acknowledge receipt of each application for registration by returning to the applicant a notification of the date of receipt by the Agency.

(c) *Time for action with respect to application.* As expeditiously as possible, the Agency shall approve or deny all applications for registration. Where practicable the Agency shall make its determination within 90 days after the receipt of the application. Registration application which require consultation with other Federal agencies may take longer.

(d) *Unconditional approval of applications under FIFRA section. 3(c)(5).* (1) The Agency will conduct complete data evaluations required for issuance of unconditional registration under FIFRA section 3(c)(5) only:

(i) As part of the process of reregistering currently registered products; or

(ii) When acting on applications for registration of products containing new chemicals; or

(iii) When the Agency determines that it would otherwise serve the public interest.

(2) The Agency will approve a request for the unconditional registration, reregistration, or amendment of a registration, under FIFRA section 3(c)(5):

(i) Only after a comprehensive review of all available, pertinent data; and

(ii) Only after it has determined that sufficient data are available to satisfy the minimum requirements set forth in 40 CFR Part 158; and

(iii) Only after it has determined that the product meets the criteria in paragraph (d)(3) of this section.

(3) The Administrator will register a pesticide product or approve amended and supplemental registration if he determines that, when considered with any restrictions imposed:

(i) The composition is such as to be effective for all uses set forth on the label;

(ii) The product is not misbranded as defined in section 2(q) of the Act, and its labeling complies with the applicable requirements of the Act, and § 162.10;

(iii) The test data and other material required to be submitted with the registration application comply with the requirements of the Act, § 162.8, and the data requirements of 40 CFR Part 158;

(iv) The pesticide will perform its intended function without unreasonable adverse effects on the environment and when used in accordance with widespread and commonly recognized

practice will not generally cause unreasonable adverse effects on the environment. The criteria for determining unreasonable adverse effects on the environment are set forth in § 162.11.

(v) A tolerance or exemption from the tolerance requirements has been obtained, as provided in sections 406, 408, or 409 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346, 346a, and 348) if the proposed labeling bears directions for use on food or if the intended use of the pesticide results or may reasonably be expected to result, directly or indirectly, in residues of the pesticide becoming a component of food; and

(vi) EPA has been notified by FDA that the product complies with the requirements of the Food and Drug Administration if the product, in addition to be a pesticide, is a "drug" within the meaning of section 201(g) of that Act, but is not a "new drug" or "new animal drug" under sections 201(p) and 201(w) respectively of the Federal Food, Drug, and Cosmetic Act.

(4) *Notice of approval.* The Administrator will promptly issue in the **Federal Register** a notice of approval of the registration for any pesticide product for which notice of application was issued under § 162.6(b)(6).

(e) *Conditional registration.* Any application for which a review of scientific data is needed, other than an application which may be considered for unconditional registration under paragraph (d) of this section, will be considered as an application for conditional registration under FIFRA sec. 3(c)(7) and will be reviewed and acted upon as set forth in Subpart F.

(f) *Denial of registration.*—(1) *Notification.* The Administrator shall deny registration if the pesticide product fails to meet any of the requirements of paragraph (d) of this section or if there is insufficient data to make the required determination. Promptly after making such a determination, he shall notify the applicant by certified letter of the denial of registration and shall set forth the reasons and factual basis for the determination and the conditions, if any, which must be satisfied in order for the registration to be approved.

(2) *Opportunity for remedy by applicant.* (i) The applicant will have 30 days from the date of receipt of the certified letter to take the specified corrective action.

(ii) The applicant may petition the Administrator to withdraw his application. The Administrator may, in his discretion, deny any petition for withdrawal and proceed to issue notice of denial in accordance with paragraph (f)(3) of this section.

(3) *Federal Register publication.* If the applicant fails to remedy the deficiency of his registration application, the Administrator shall promptly issue in the **Federal Register** a notice of denial of registration. Such notice shall set forth the reasons and factual basis for the denial and shall contain the name and address of the applicant, the product name, the name and percentage by weight of each active ingredient in the product, the proposed patterns of use, and the proposed classification.

(4) *Hearing rights.* Within 30 days following publication of the denial in the **Federal Register**, the applicant or any interested party with the written authorization of the applicant may request a hearing pursuant to section 6(b) of the Act and Part 164 of these regulations. If no hearing is requested, the denial shall become effective at the end of the 30 days.

(g) *Disposition of material submitted in support of registration.* The test data and other information submitted in support of the registration application shall become a part of the official file of the Agency for that application or registration. Except as provided by section 10 of the Act, within 30 days after the registration of a pesticide, the data called for in the registration statement together with such other scientific information as the Administrator deems relevant to his decision shall be made available for public inspection.

2. By revising § 162.8 to read as follows:

§ 162.8 Data in support of registration and classification.

(a) An applicant for registration, reregistration, or amendment of an existing registration shall, in his application and as a prerequisite to approval of this application:

(1) Furnish or refer to data adequate to demonstrate that his application may be approved under this Part; and

(2) Comply with paragraph (b) of this section; and

(3) Furnish additional information as requested by the Agency under paragraph (c) of this section.

(b) An applicant shall submit with his application any factual information regarding adverse effects of the pesticide on the environment or man that:

(1) Has been obtained by him or has come to his attention; and

(2) Insofar as he is aware, has not previously been submitted to the Agency.

Such information shall include, but shall not be limited to, published or unpublished laboratory stuties and accident experience.

(c) An applicant shall submit any additional data, other than those required by this Part and other Agency documents which the Agency has requested as necessary to support the registration application.

§§ 162.18–1, 162.18–2, 162.18–3, 162.18–4, 162.18–5, [Removed]

3. By removing §§ 162.18–1, 162.18–2, 162.18–3, 162.18–4, and 162.18–5.

4. By adding a new Subpart E to read as follows:

Subpart E—Conditional Registration Procedures

Sec.

162.160 Conditional registration overview.
162.163 Data required to be made available for agency review in support of conditional registration.
162.165 Application for conditional registration.
162.167 Disposition of applications.
162.177 Cancellation of conditional registration.

Authority: Secs. 3(c)(7) and 25, Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975 and 1978 (92 Stat. 819; 7 U.S.C. 136 et seq.).

Subpart E—Conditional Registration Procedures

§ 162.160 Conditional registration overview.

(a) *General.* FIFRA sec. 3(c)(7) authorizes the Agency to conditionally register a pesticide product despite the fact that certain of the data required by the Act or other Agency documents may not have been submitted or evaluated comprehensively by EPA. A conditional registration is a registration for which the submission (or Agency review) of some supporting data has been deferred to a future date. These sections describe the requirements for submission of an application for conditional registration, the disposition of applications, the conditions under which applications will be approved or denied, and the cancellation of conditional registrations.

(b) *Scope.* This Subpart E applies to all applications for registration and amended registration except for:

(1) Any application for registration of a product containing a new chemical;

(2) Any application for amendment of a registration of a type listed in § 162.180(b) (which addresses applications that may be approved without review of data); and

(3) Any application for registration or amended registration of a product that

may be unconditionally registered under § 162.7(d).

(c) *Definitions.* All words and terms shall have the same meanings as given in the Act and § 162.3. In addition, the following terms are defined for the purposes of Subpart E:

(1) The term "new chemical" means an active ingredient that is not listed in the ingredients statement of any currently registered pesticide product.

(2) The term "new use" means a use pattern, not included on labeling of any currently registered pesticide product containing the same active ingredient(s), that:

(i) Is a "changed use pattern" within the meaning of § 162.3(k); or

(ii) To be approved, requires the establishment of, or an increase in the level of, a tolerance or food additive regulation under the provisions of the Federal Food, Drug and Cosmetic Act, as amended, for the active ingredient(s) involved, or requires the establishment of an exemption from the requirement of such a tolerance.

(3) The term "identical product" means a product that, when compared to a currently registered product:

(i) Contains the same active and intentionally added inert ingredients, and, in the case of a manufacturing use product, the same impurities, each ingredient being in the same percentage; and

(ii) Bears identical or substantially similar uses.

§162.163 Data required to be made available for agency review in support of conditional registration.

(a) *Data available for review.* An item of data is available to the Agency for use in connection with an application if:

(1) It is submitted by the applicant in support of the application, or is already in the Agency's files; and

(2) The applicant has submitted any written authorization from the original data submitter required by FIFRA section 3(c)(1)(D)(i).

(b) *Manufacturing use products.* Application for conditional registration or amendment of a manufacturing use product may not be approved unless the following data are available to the Agency.

(1) *Chemistry data specific to the product.* (i) Product identity and disclosuure of ingredients, including impurities;

(ii) A description of the manufacturing process, including composition and purity of starting and intermediate materials;

(iii) Analytical methods and sample assays for the impurities;

(iv) Physical and chemical properties; and

(v) If requested by the Agency, a sample of the technical product.

(2) *Hazard data.* Data sufficient to allow the Agency to determine that approval of the application would not cause a significant increase in the risk of any unreasonable adverse effect on the environment.

(i) If the Agency determines that the product is an identical product, or that it contains impurities and inert ingredients that differ from those of a registered product only in ways that would not significantly increase the risk of unreasonable adverse effects on the environment, the Agency will not require any additional hazard data other than those data currently in the Agency files.

(ii) For any other manufacturing use product, the Agency may require additional data concerning the toxicity of the product, its ingredients and impurities, and the extent of exposure of populations and organisms to the toxic effects of the product, its ingredients and impurities.

(c) *End-use products.* Application for conditional registration or amendment of an end-use product may not be approved unless the following data are available to the Agency:

(1) *Chemistry data specific to the product.* (i) Product identity and disclosure of ingredients; and

(ii) If requested by the Agency, a sample of the product proposed for registration; and

(iii) If any active ingredient of the formulated product is derived from any substance other than a registered product, data required by paragraph (b) of this section

(2) *Efficacy data.* (i) Efficacy data for each product that bears a claim to control pest microorganisms that pose a threat to human health and whose presence cannot be observed by the user, including, but not limited to, micoorganisms infectious to man in any area of the inanimate environment; and

(ii) Efficacy data for each product for which a new or added use is proposed, if the product contains an active ingredient, some uses of which have been suspended, cancelled, or are the subject of a Notice issued under § 162.11(a)(3)(ii) and the risks identified in the Notice or suspension/cancellation action may reasonably be anticipated as a result of the new use.

(iii) Efficacy data otherwise specifically requested by the Agency for any product.

(3) *Hazard data.* Data sufficient to allow the Agency to determine that approval of the application would not cause a significant increase in the risk of unreasonable adverse effects on the environment.

(i) If the Agency determines that a product is identical to a currently registered product, the new product will be regarded as one which would not cause a significant increase in the risk of any unreasonable adverse effect on the environment, and the agency will not require any additional hazard data other than those data currently in Agency files.

(ii) For any other product, the Agency may require data concerning the product and the toxicity of the product or its ingredients to organisms that would be newly exposed to the product, or that would be exposed by routes of exposure different from those associated with already registered products or uses, and the extent of additional exposure to the product that likely would result from use of the product as proposed. Applicants are encouraged to consult with the Agency to determine the data requirements applicable to a risk assessment of specific products and uses.

§ 162.165 Application for conditional registration.

(a) *General.* All provisions of §§ 162.1 through 162.17 apply to all applications submitted for conditional registration under FIFRA sections 3(c)(7) (A) and (B) except the following:

(1) Section 162.6(b)(5), Completeness of Applications;

(2) Section 162.6(b) (1), (2), and (5) Applications for Registration [under FIFRA section 3(c)(5)];

(3) Section 162.6(c), Five-Year Cancellation;

(4) Section 162.7(c), Time for Action with Respect to Application;

(5) Section 162.7(d), Approval of Registration [under FIFRA section 3(c)(5)];

(6) Section 162.7(f), Denial of Registration;

(7) Section 162.11 (a) and (b), Rebuttable Presumption Against Registration, except as provided in § 162.163(b); and

(8) Section 162.11 (c) and (d), Use Classification, except to the extent provided by § 162.162(b)(5).

(b) *Submission of applications.* (1) A separate application for conditional registration must be submitted (on forms provided by the Agency) for each conditional registration desired. Applications shall include the supporting information prescribed in paragraphs (b) (2) through (5) of this section.

(2) Each application must be accompanied by proposed labeling in accordance with § 162.6(b)(2)(i)(A) and § 162.10.

(3) Each application must be supported by the data prescribed in § 162.163 as applicable.

(4) Each application must comply with Subpart F.

(5) Classification requirements for end-use products (manufacturing use products are excluded):

(i) An end-use product must be labeled for Restricted use:

(A) If an identical product is labeled for Restricted use; or

(B) If Restricted use labeling is required by § 162.31.

(ii) The applicant shall request that a use not previously accepted on a registered product containing the same active ingredients be classified in accordance with § 162.11.

(iii) Applicants not required to label their products for Restricted use under paragraph (b)(5)(i) of this section and not seeking to add a use as described in paragraph (b)(5)(ii) of this section shall request that the product be classified at reregistration or when uses of other similar products are classified, whichever occurs sooner, and shall propose a classification for the product or added use(s).

§ 162.167 Disposition of applications.

(a) *Criteria for approval of conditional registration.* The Agency will approve a request for conditional registration under FIFRA sec. 3(c)(7) (A) or (B) if it determines that, when considered with any restrictions or conditions imposed:

(1) The product is not misbranded, as defined in FIFRA section 2(q), and its labeling complies with § 162.10; and

(2) The test data and other materials required to be submitted comply with the requirements of the Act, § 162.163, § 162.165, and Subpart F; and

(3) The use of the product will not cause a significant increase in the risk of unreasonable adverse effects on the environment; and

(4) Any tolerance, food additive regulation, exemption or other clearance required by the Federal, Food, Drug & Cosmetic Act (including clearance for pesticide uses which are also drug uses), has been obtained.

(b) *Conditional registration prohibition.* Notwithstanding the provisions of paragraph (a) of this section, the Agency will not approve the conditional amended registration of any new use if:

(1) A notice of Rebuttable Presumption Against Registration under § 162.11(a)(3)(ii) has been issued; and

(2) The proposed new use involves a major food or feed crop, or involves a minor food or feed crop for which there is an available and effective alternative pesticide registered which does not meet the criteria of § 162.11(a)(3)(ii). The determination of available and effective alternatives shall be made with the concurrence of the Secretary of Agriculture.

(c) *Conditions of conditional registration.* (1) Data not available at the time of application for conditional registration must be submitted or cited when all products containing the same active ingredients are reregistered, or at such other time as the Agency may specify.

(2) The Agency may establish other terms and conditions as necessary.

(3) If the terms or conditions of conditional registration are not satisfied, the Agency will cancel the conditional registration in accordance with § 162.177.

(d) *Notices regarding changed use pattern.* The Agency shall promptly issue in the **Federal Register** a Notice of receipt of each application that involves a changed use pattern, as required by FIFRA section 3(c)(4).

(e) *Denial of conditional registration.* The Agency will deny conditional registration if the application for conditional registration fails to meet any of the requirements of § 162.167(a) or if there are insufficient data to make the required determination. Denial of conditional registration will be in accordance with the provisions set forth in § 162.7(f).

§ 162.177 Cancelation of conditional registration.

(a) *General.* FIFRA section 6(e) pertains to the cancellation of conditional registrations for failure to satisfy the conditions imposed by the Agency at the time of registration. The Agency will issue a notice of intent to cancel the conditional registration of a product if the registrant fails to meet the conditions imposed under § 162.167(c). Cancellation under FIFRA sec. 6(e) may be accomplished by means of an expedited hearing.

(b) *Notice of intent to cancel.* The Agency will notify the registrant by certified mail, and subsequently notify the public by **Federal Register** notice, of his intent to cancel a conditional registration. The notice will provide that the registrant or any person adversely affected by the cancellation may, within 30 days from receipt by the registrant of the notice, request that a hearing be held.

(c) *Effective date of cancellation.* If no hearing request if received, the cancellation will become effective at the end of the 30-day period. The Agency will notify the registrant by certified mail of the final cancellation.

(d) *Continued sale and use of existing stocks.* The Agency may permit the continued sale and use of existing stocks of a pesticide whose conditional registration has been cancelled under such conditions and for such uses as it may specify. The Agency may permit such sale and use only if it determines that:

(1) Such sale and use is not inconsistent with the purposes of the Act and the regulations promulgated thereunder; and

(2) Such sale and use will not result in unreasonable adverse effects on man or the environment.

(e) *Hearing.* (1) If a request for hearing is received, the hearing will be conducted according to FIFRA section 6(d), and 40 CFR Part 164.

(2) Such hearing will be limited to the issue of whether the registrant complied with the conditions referred to in § 162.167(c), and whether the Agency's determination regarding sale and use of existing stocks of the product is correct.

(3) A hearing shall be conducted and a decision made within 75 days from request for such hearing.

(4) The Administrator's decision upon completion of the hearing shall be final.

[FR Doc. 82-34982 Filed 12-22-82; 9:47 am]

BILLING CODE 6560-50-M

---

40 CFR Part 162

[OPP-30066; PH FRL 2225-3b]

Regulations for the Enforcement of the Federal Insecticide, Fungicide and Rodenticide Act; Compensation for Use of Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This proposed rule would implement the data compensation provisions of section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (FIFRA), 7 U.S.C. 136a(c)(1)(D). The rule proposes a system under which applicants for pesticide registration who wish to rely on data submitted by other applicants would be required to offer to pay for use of the data. This regulation is proposed for comment at this time because a United States Court of Appeals has ruled that the promulgation of this regulation as an interim final regulation on May 11, 1979, was invalid because of the Agency's failure to comply fully with

the procedural requirements of the Administrative Procedure Act.

DATE: Written comments must be submitted on or before February 25, 1983.

ADDRESS: Submit written comments to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–409, 401 M St., SW., Washington, D.C. 20460.

Comments should bear the identifying notation OPP–30066. The administrative record supporting this action is available for public inspection in Rm. E–107 at the address noted above from 8 a.m. to 4 p.m. Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Edward C. Gray, Office of General Counsel (A–132), Environmental Protection Agency, Rm. W–535C, 401 M St., SW., Washington, D.C. 20460 (202–755–0638).

SUPPLEMENTARY INFORMATION:

I. Introduction and Development of Regulation

FIFRA section 3(c)(1)(D) was originally enacted in 1972 and has since been amended twice. It imposes restrictions on the use of the data in Agency files which have been submitted under FIFRA by one person, when the Agency is deciding whether to approve another person's application for registration, reregistration, or amended registration of a pesticide product. The Agency spent considerable time analyzing the manner in which the 1978 amendments to FIFRA could be most rapidly and smoothly implemented and analyzing what the Agency's capabilities and resources would and would not allow in such areas as scientific review of data retrieval, and data cataloging. A regulation, ultimately codified as 40 CFR 162.9–1 through 162.9–8, governing the data compensation aspects of registration actions taken after the effective date of the Federal Pesticide Act, September 30, 1978, was developed to reflect these considerations.

The Environmental Protection Agency issued in the **Federal Register** of June 20, 1977 (42 FR 31284) proposed rules to implement section 3(c)(1)(D) of the Federal Insecticide, Fungicide and Rodenticide Act, as amended (FIFRA), 7 U.S.C. 136 et seq. This proposal required substantial modifications because of the significant changes to section 3(c)(1)(D) enacted in 1978.

Working drafts of the regulation designed to implement the 1978 compensation amendments were circulated to more than 2500 interested persons, agencies, and organizations, and open public meetings were conducted on November 6–8, 1978, to solicit comments on this regulation. The EPA Administrator issued the data compensation regulation proposed here as a final regulation in the **Federal Register** of May 11, 1979 (44 FR 27932). He concluded that there was good cause to dispense with the notice and comment procedures required by the Administrative Procedure Act.

After promulgation of this regulation, Mobay Chemical Company filed challenges to the regulation on substantive and procedural grounds. The *Mobay* case, which was brought in the U.S. District Court for the Western District of Pennsylvania, resulted in an evidentiary trial and a decision by the District court that the compensation regulation was a valid implementation of the 1978 amendments to FIFRA, and that the Agency had properly invoked the "good cause" exception of the Administrative Procedure Act to justify making this regulation immediately effective when it was first published in May of 1979. *Mobay* v. *Gorsuch*, 517 F. Sup. 254 (W.D. Pa. 1981). On appeal, the U.S. Court of Appeals for the Third Circuit held that the regulation was promulgated in violation of the notice-and-comment and effective date requirements of the Administrative Procedure Act. *Mobay* v. *Gorsuch*, C.A. No. 81–2190 (Third Circuit, June 22, 1982). In so ruling, the court did not decide the issue of whether the compensation regulation is a reasonable interpretation of FIFRA. The court also delayed for a period of six months the issuance of its mandate which would invalidate the regulation.

In issuing this proposal, the Agency is redesignating these sections as Subpart F of Part 162. The following table correlates the new sections with the original sections:

Old Section	*New Section*
162.9–1	162.180
162.9–2	162.182
162.9–3	162.185
162.9–4	162.187
162.9–5	162.190
162.9–6	162.192
162.9–7	162.195
162.9–8	162.197

Hereafter, this proposal will refer only to the new sections.

Under the 1978 amendments to section 3(c)(1)(D), the Agency's principal duty is to ensure that no application for a registration action is approved unless the applicant has taken certain steps to initiate the process of compensation. As amended, section 3(c)(1)(D) provides that an applicant for registration shall file with the Administrator an application which includes:

> a full description of the tests made and the results thereof upon which the claims are based, or alternatively a citation to data that appears in the public literature or that previously had been submitted to the Administrator and that the Administrator may consider in accordance with the following provisions:
>
> "(i) with respect to pesticides containing active ingredients that are initially registered under this Act after September 30, 1978, data submitted to support the application for the original registration of the pesticide, or an application for an amendment adding any new use to the registration and that pertains solely to such new use, shall not, without the written permission of the original data submitter, be considered by the Administrator to support an application by another person during a period of ten years following the date the Administrator first registers the pesticide: Provided, That such permission shall not be required in the case of defensive data;
>
> "(ii) except as otherwise provided in subparagraph (D)(i) of this paragraph, with respect to data submitted after December 31, 1969, by an applicant or registrant to support an application for registration, experimental use permit, or amendment adding a new use to an existing registration, to support or maintain in effect an existing registration, or for reregistration, the Administrator may, without the permission of the original data submitter, consider any such item of data in support of an application by any other person (hereinafter in this subparagraph referred to as the 'applicant') within the fifteen-year period following the date the data were originally submitted only if the applicant has made an offer to compensate the original data submitter and submitted such offer to the Administrator accompanied by evidence of delivery to the original data submitter of the offer.

In order to carry out these obligations, and to assist applicants in filing approvable applications, the Agency must:

(1) State which kinds of applications are subject to the requirements of FIFRA section 3(c)(1)(D);

(2) Describe the data set for which applicants for various kinds of registration actions must offer to pay compensation;

(3) Describe the required wording for the offer to pay compensation;

(4) Provide that applicants furnish the compensation offer to the Agency, and to the original data submitters (to the extent they can be identified) as well;

(5) Identify the original data submitters so that the applicant will know to whom the offers to pay compensation must be furnished; and

(6) Provide some workable mechanism to ensure that if an applicant inadvertently or deliberately fails to furnish notice to an original data submitter who should have been notified, the latter will nonetheless be able to avail himself of the compensation mechanism or other rights he has under section 3(c)(1)(D).

After carefully weighing alternative options to implement these requirements, the Agency in 1978 developed the mechanism and procedures contained in this proposed regulation as the best means to balance all of the considerations relevant to implementation of the statutory requirements. Although significant opposition has been evident from certain portions of the affected industry, the rationale which prompted the choice of regulation at that time remains persuasive today. Accordingly, the Agency is proposing at this time to readopt the rule which was initially

adopted by the Agency to implement the 1978 compensation amendments. In order to assist those who may wish to comment on this proposal, much of the material contained in the preamble accompanying the May 11, 1979, publication is repeated here. The primary arguments advanced in opposition to the rule are also identified and addressed.

II. Registration Actions to Which the Regulations Apply

The duty to comply with the provisions of section 3(c)(1)(D) applies to any applicant who seeks to register a new product, to reregister a product, or (with certain exceptions) to amend the registration of an already registered product, as stated in § 162.180.

By their very nature, some kinds of proposed amendments of existing registrations normally involve neither consideration of data by the Agency nor reliance by the Agency on the fact that data were considered earlier. These types of amendments are listed in § 162.180(b)(1) through (16). Applicants who seek to amend an existing registration for the sole purpose of making such a change need not comply with section 3(c)(1)(D)(ii) or with Subpart F of Part 162.

In some cases the Agency requires registrants to submit proposed amendments to their registered label as an alternative to the Agency's initiation of cancellation proceedings against the registered product. The Agency has concluded that "involuntary" amendments of this type are not subject to the requirement to pay compensation under section 3(c)(1)(D). Accordingly, under 40 CFR 162.180(b)(17), applicants who seek to amend an existing registration for the sole purpose of complying with an Agency announcement that failure to request the amendment will result in initiation of a cancellation proceeding under FIFRA sec. 6(b), or a suspension proceeding under FIFRA sec. 6(c), need not comply with 40 CFR 162.180 through 162.197.

III. Data Upon Which Various Kinds of Registration Decisions Are Based

Prior to 1978 the Agency had, for the most part, required an applicant to comply with the data requirements either by submitting data he generated or by citing specific items of data already in Agency files. The Agency's position was that it would "consider" an item of data only if the applicant requested that the Agency consider that specific item. If several studies concerning the same subject were in the Agency's files, the applicant theoretically could choose which ones he desired the Agency to "consider."

When the Agency initially promulgated the data compensation rule, it decided to no longer allow this "pick-and-choose" approach. Instead, the Agency adopted an approach which assumes that the Agency normally will consider, and the applicant thus must rely on, all available data which are pertinent to the registrability of a particular product. Use of this approach is required for some kinds of applications under this proposed regulation. For others, applicants have the option of either using the "cite-all" method or relying on data they have submitted themselves. A discussion of the manner in which this regulation has worked and of the principal opposition to the regulation is set forth below.

A. Unconditional Registration Under FIFRA Section 3(c)(5)

The Agency grants unconditional registrations under FIFRA section 3(c)(5) only when it is satisfied that no unreasonable adverse effects will be caused by the product's intended uses. This involves Agency determinations that all required data have been submitted, that all available data have been reviewed, and that the benefits of registration outweigh the risks.

Such in-depth data reviews will normally be done by the Agency as part of:

1. Preparation of registration standards, each covering some or all types of products containing a particular active ingredient.
2. RPAR reviews under § 162.11.
3. Reviews of applications for registration of products containing active ingredients not contained in any currently registered product.

By themselves these three kinds of review processes could usefully occupy more scientific resources than the Agency now has available in the pesticides program. It is important that the Agency be able to use its resources in an efficient manner and to be able to plan their use in advance so it can devote the earliest attention to pesticides which most urgently need review. It is also important, therefore, to avoid using resources for unschedulable, ad hoc reviews of portions of the data base concerning any one chemical.

The Agency has also concluded that it would be improper as a matter of scientific logic to operate a registration process geared to making unconditional section 3(c)(5) findings on risks and benefits while deliberately ignoring pertinent data which the applicant did not choose to have the Agency review. In comments on a draft version of this regulation, some persons argued that language in section 3(c)(1)(D)'s introductory phrase suggests that the statute does not allow the Agency to require applicants for unconditional registration to acknowledge reliance on all pertinent data in Agency files. The introductory phrase states that each applicant for registration shall file with the Administrator an application which includes:

> * * *[I]f requested by the Administrator, a full description of the tests made and the results thereof upon which the claims are based, or alternatively a citation to data that appears in the public literature or that previously had been submitted to the Administrator and that the Administrator may consider in accordance with [section 3(c)(1)(D) (i) and (ii)]* * *

The commenters argued that this language means that an applicant has the option of submitting all required data himself or, instead, relying on previously submitted data.

At the time of first promulgation of this rule in 1979, the Agency stated:

> These comments appear to be premised on the idea that if the Agency has specified (in data guidelines or elsewhere) the minimum number of tests for various toxic effects that must be conducted, and the applicant has furnished test reports complying with those minimums, and showing no unreasonable adverse effect, then the Agency should unconditionally register the product based solely on the data submitted, even though other pertinent data are available. What this premise overlooks is that the Agency, for good reason, is unwilling to confine its section 3(c)(5) review to what the applicant presents if, in fact, a broader range of data exist[s]. In toxicity testing, for instance, the issue often is not merely whether a pesticide causes a particular toxic effect or how toxic the pesticide is but also how certain we are of the validity of a set of findings. If a second test of a pesticide for some toxic effect produces results which corroborate the findings of an earlier test, each set of test results gains credibility from the other. On the other hand, if the second test results are significantly different (as is not uncommon in some kinds of toxicity testing), careful review is required to attempt to explain the differences and to decide what the Agency's position should be. Thus, the more data of a given type there are for comparison, the more confident the Agency can be that its regulatory decision is sound.
>
> Moreover, the quoted portion of section 3(c)(1)(D) does not direct the Agency to grant a section 3(c)(5) registration based on consideration of less than all the available pertinent data, nor do we believe Congress would desire this. We read the language in question, rather as a Congressional recognition that in some cases (e.g., application for registration of products containing newly discovered active ingredients) the only available data are those which the discoverer submits with his

application, and that in such a case the applicant must submit a full description of the tests made and the results thereof upon which the claims are based. This phrase appeared in the 1947 FIFRA, and was retained in the 1972 FIFRA amendments. A 1972 Report of the Senate Committee on Agriculture and Forestry said, in rejecting a proposed amendment to this language: "The major purpose of the act is to protect the public from pesticides which are not efficacious or which endanger health or the environment. The Administrator should be able to request and obtain a full description of the tests upon which claims for the pesticide are based. He should not be restricted to such tests as the applicant may choose to offer. There should be no question about this. The Administrator must make a decision, which is subject to judicial review, on the basis of the information available to him. For the protection of the public and as a simple matter of reasonable administration, all relevant information should be available to him."

(S. Rep. No. 92–838, 92d, Cong., 2d Sess., Supplement p. 34 (October 3, 1972))

It would be ironic indeed if this same "full description" language were to be transformed into a justification for obtaining unconditional registration on the basis of some portion of the available data chosen by the applicant.

What is newly added [by the 1978 amendments] to the introductory portion of section 3(c)(1)(D) is the language concerning support of applications by citation of data. EPA does not believe this new language was added because Congress wished to affect the scope of the scientific review EPA should conduct in connection with section 3(c)(5) registrations. EPA believes instead that Congress intended it as a way of acknowledging that most applications do in fact rely on previously submitted data, and indicating clearly that such reliance is subject to the immediately following provision on "exclusive use" [section 3(c)(1)(D)(i)] and data compensation [section 3(c)(1)(D)(ii)].

There remains for resolution the issue of just which data are scientifically pertinent to a given application for registration. With respect to manufacturing-use products, it is clear that any data from tests concerning the safety, properties, or behavior of the active ingredient of one such product generally would be scientifically pertinent to EPA's consideration of the registrability of any other such product having the same active ingredient. The only exception to this statement would arise if the Agency were to allow a product to be registered under FIFRA section 3(c)(5) for use in manufacturing end-use products, with restrictions as to the use patterns that could appear on the label of any end-use product made from that particular manufacturing-use product. EPA is considering, but has not yet adopted, such an option.

In the case of end-use products, however, the issue of scientific pertinence of particular items of data is a good deal more complex. Some types of tests must be performed using the particular formulated product as the test substance, because the product's toxicity, efficacy, or environmental behavior may depend not only on the product's active ingredient, but also on the nature and relative amounts of the various deliberately-added inert ingredients that the particular product contains. Accordingly, data from tests of end-use product A may not be pertinent to the registrability of end-use product B, even though both products are intended to be used in the same way and contain the same amounts of the same active ingredients. Of course, if products A and B are sufficiently similar in composition, the product A data may be pertinent to product B's registrability.

Further complicating the matter is the fact that the formula of an end-use product on file with the Agency normally would be entitled to confidential treatment (with certain exceptions). Thus, EPA normally could not disclose the identities or percentages of product A's deliberately-added inert ingredients to the person seeking to register product B. There thus would be no simple method for an applicant to unilaterally determine which if any end-use product data submitted by other firms may be scientifically pertinent to his application.

The elimination of the opportunity for most applicants to attempt to meet minimum data requirements sufficient for FIFRA section 3(c)(5) registration without reliance on some or all of the relevant data previously submitted to the Agency on the same active ingredient has been vigorously opposed by certain pesticide producers or their representatives. Mobay Chemical Company expressed its opposition through a challenge to the compensation provisions brought in the district court for the Western District of Pennsylvania, in which Mobay claimed that the regulation is arbitrary and capricious and fails to comport with the language of the statute. That court upheld the "cite-all" requirement of the regulation, stating:

> Under [section 3(c)(1)(D)], an applicant must, if requested by the Administrator, either submit its own data or cite other data. Section 3(c)(1)(D) gives EPA a selection of three methods for supporting applications, and EPA, by its "cite-all" regulations, can be said to have "requested" that applicants use all three * * *. We also believe that the "cite all" method is consistent with the philosophy of the developing generic standards program * * * [and] Mobay's compensation rights are protected under "cite-all".

Mobay v. *Gorsuch*, 517 F. Supp. 254 (W.D. Pa. 1981). On appeal, the Court of Appeals for the Third Circuit did not reach the issue of whether the district court had ruled correctly on Mobay's substantive challenges to the "cite-all" regulation because it invalidated the regulation on procedural grounds. Similar substantive challenges to the "cite-all" regulation are pending [*NACA et al. v. the EPA*, C.A. No. 79–2063 (D.D.C.) and *American Cyanamid v. Gorsuch*, C.A. No. 77–226 (D.N.J.)].

The Agency fully understands the objection to its current requirement that even companies who develop and submit extensive data to support applications for registration must offer to compensate any others who may have submitted data which would be acceptable to the Agency to support the application. However, the development of an alternative method for determining what previously submitted data are subject to compensation in those circumstances would be exceedingly difficult and fraught with potential error if the Agency attempted it under the present statutory scheme. The statute does not contain any express authority allowing the Agency to distinguish between data required for registration (i.e., minimum sufficient data) and data considered and evaluated by the Agency because it is relevant to the registration decision which the Agency must make. Moreover, the deceptively simple-sounding task of determining the minimal, legally sufficient data required to support each application is likely to lead to frequent disputes. Some applicants can be expected to disagree with an Agency determination that certain previously submitted data are necessary to support the application and therefore are compensable; some previous data submitters likely will disagree with a determination that the data submitters likely will disagree with a determination that the data submitted with an application are sufficient. The Agency cannot by regulation adopt procedural mechanisms (such as administrative hearings or binding arbitration) to resolve finally such disputes. After any administrative resolution of such disputes, the Agency could be required to participate in *de novo* court trials regarding each such dispute.

These and other problems stemming from the present statutory uncertainties and from concerns about competing interests of data submitters and registration applicants have prompted the Agency to work extensively with industry representatives to present legislative initiatives to the Congress which would provide the statutory framework for approval of registration applications supported by data which can be judged sufficient for regislation without any duty on the part of the applicant to compensate for relevant additional data which the Agency may consider in evaluating the application. The House of Representatives has passed a bill containing amendments to FIFRA which, if it were to become law, would implement a complete statutory scheme for this kind of handling of data

review and data compensation. (H.R. 5203, passed by the House on August 11, 1982.) The full Senate has not yet acted on any comparable bill.

Illustrative of the kind of statutory provisions which the Agency feels would be required to implement this kind of system are (1) the provision in H.R. 5203 which distinguishes for compensation purposes between data required for registration and data considered by the Agency in evaluating the registration application, and (2) the provision which establishes a statutory mechanism to identify potentially compensable data previously submitted in a manner suited to use by applicants of a "pick and choose" approach. Particularly instructive of the sort of statutory changes necessary to implement this kind of compensation scheme is the provision of H.R. 5203 for resolution of disputes about whether an applicant has submitted or cited specific data sufficient to satisfy minimum data requirements:

BILLING CODE 6560-50-M

"(K) Each application for registration of a new product for reregistration, for an experimental use permit, or for amendment of an existing registration to add a use shall include a list of the applicable data requirements, a list of the data the applicant is submitting or citing to satisfy each such requirement, and a certification that the applicant is not precluded by subparagraph (A), (B), (C), or (D) of this paragraph from relying on any of the data listed with the application. After the Administrator has approved an application, the lists and certification shall be available to the public. Any person who claims that such an applicant has incorrectly listed the applicable data requirements, has not submitted or cited data sufficient to satisfy those requirements, has not submitted a required authorization from a data submitter or otherwise has failed to comply with subsection (c)(1)(D) or (h) of this section, and who claims, in that person's capacity as the original submitter of data included on an index described by subsection (h)(2)(I) of this section, to have been adversely affected by the approval of the application may petition the Administrator to hold a hearing to determine whether the registration should be canceled. Such petition shall be in writing and shall contain a detailed statement of reasons why the registration should be canceled. Upon receipt of the petition, the Administrator shall afford the registrant a reasonable period of time, not to exceed 60 days, to respond to the petitioner's allegations. The Administrator shall then decide in writing within 30 days what action to take on the petition.

"(i) If the Administrator finds that the petition and any response show that there is no reasonable possibility that a hearing would lead to cancellation of the registration for the reasons set forth in the petition, the Administrator shall deny the petition. Any such denial shall be a final

Agency action for purposes of judicial review under section 16(a) of the Act. The reviewing court shall not allow discovery proceedings nor receive testimony or evidence, and shall base its review solely on the petition, the registrant's response, the Administrator's decision, and the pleadings and briefs filed with the court. If the court finds that the Administrator's decision was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law, the court shall remand the matter to the Administrator for purposes of holding a hearing under this subparagraph. If the court does not so find, the case shall be dismissed.

"(ii) If the Administrator finds that the petition and any response indicate that there is a reasonable possibility that a hearing may lead to cancellation of the registration for the reasons set forth in the petition, or if the Administrator is ordered by a court to hold a hearing, the Administrator shall issue a notice of intent to hold a hearing to determine whether the product's registration should be canceled, which notice shall be furnished by certified mail to the registrant and the petitioner. The hearing shall be held in the manner provided by section 6(d) of the Act: *Provided*, That the provisions of that section regarding referral of matters to a Committee of the National Academy of Sciences shall not apply to such a hearing: *And provided further*, That the petitioner shall have the burden of proving that the registration should be canceled. The Administrator's order following such a hearing shall be issued within 90 days from the date of the notice of intent to hold a hearing. An order following such a hearing that cancels the registration of a product shall take effect immediately upon issuance. Review of the Administrator's order following such a hearing shall be governed by section 16(b) of the Act. The provisions of this subparagraph and of subparagraph (L) of this paragraph shall constitute the sole and exclusive means of review, at the behest of any person other than the Administrator, of the extent to which an application for registration complies with subsection (c)(1)(D) or (h) of this section, notwithstanding the other provisions of this Act, chapters 5 and 7 of title 5 of the United States Code, or any other statute.

BILLING CODE 6560-50-C

A careful evaluation of this proposed statutory language contained in the bill passed by the House of Representatives should inform possible commenters of the potential problems facing the Agency if the "cite-all" approach were abandoned without new legislation. The Agency strongly encourages commenters to address the question of what mechanisms would be available to the Agency to resolve all the problems associated with data submitters' rights if commenters feel that the "cite-all" approach should be modified by regulation alone.

B. Conditional Registration Under FIFRA Section 3(c)(7)

The other type of registration the Agency is authorized to issue is conditional registration under FIFRA section 3(c)(7). Issuance of conditional registration is not required by the statute, but is within the Administrator's discretion subject to the restrictions in section 3(c)(7). Conditional registrations will be issued on the following basis:

1. *Registration under section 3(c)(7)(A) for products whose composition and proposed uses are identical or substantially similar to already registered products, or which differ only in ways which would not significantly increase the risk of unreasonable adverse effects on the environment.* In considering applications of this type, the Agency will actually review only those data necessary to establish that the product's composition and proposed uses would not significantly increase the risk of unreasonable adverse effects on the environment. (Under FIFRA sec. 3(c)(7)(A), the risk posed by already registered uses are considered as "givens." Other procedures are available for evaluating whether those risks are acceptable, e.g., reregistration, "RPAR" proceedings under 40 CFR 162.11, suspension, cancellation, and classification.) This incremental risk review will involve examination of the identity and amount of the product's active ingredients and the type of formulation (e.g., granular) in comparison to other products, evaluation of the risks that the product's active ingredients may pose, and evaluation of the incremental risks posed by the proposed uses. If no significant increase in risk if found, the product will be deemed registrable under section 3(c)(7)(A).

Section 3(c)(7)(A) requires an applicant to submit or cite "such data as would be required to obtain registration of a similar pesticide under [section3(c)(5)]." The legislative history [1] makes it clear that this requirement was incorporated to protect the economic rights of original data submitters under section 3(c)(1)(D).

As discussed above, an applicant for a section 3(c)(5) registration of a technical-grade or manufacturing-use product would be required to acknowledge reliance on all scientifically pertinent data. Accordingly, an applicant for a section 3(c)(7)(A) conditional registration must do the same. Any regulatory approach which varied this requirement for conditional registration would encounter all of the problems identified above in the discussion of unconditional registrations.

Applicants seeking to register (or amend the registration of) an end-use product under section 3(c)(7)(A) can also satisfy their section 3(c)(1)(D)(ii) obligation by acknowledging their reliance on all scientifically pertinent data. The Agency recognizes, however, that there are considerations favoring an alternative method of complying with section 3(c)(1)(D) for persons seeking to register or amend registration of end-use products. The problem of establishing just which data are pertinent to end-use product registrations has already been mentioned. In addition, the Agency has considered the transaction costs of using the cite-all approach (costs of identifying data submitters, making required compensation offers, and negotiating or arbitrating disputed matters). These costs generally would be proportionate to the number of data submitters an applicant would have to deal with. Because relatively large numbers of persons have submitted data to support end-use product registrations, transaction costs for registration of these products under the cite-all method could be high. In contrast, only a few persons will have submitted data concerning the safety of any particular active ingredient, and transaction costs would be correspondingly low for manufacturing-use products registrations.

Because of these problems, which are peculiar to applicants for registration of end-use products, EPA is providing in § 162.197 an alternate method which many of these applicants may choose to use. An applicant using the alternate method of supporting an application will not be required to acknowledge reliance on all the data in EPA's files which ultimately might prove to be relevant to the merits of his application. Instead, the applicant may provide a copy of all data necessary to satisfy the minimum requirements for data pertaining to the safety, efficacy, and other properties of his own product (as these requirements are specified in proposed 40 CFR Part 158 or by instructions to the applicant), including both old and new uses, and may direct EPA not to consider other data in support of the application (except data which, under FIFRA section 3(c)(2)(D), may be considered without regard to section 3(c)(1)(D)). If EPA concludes that the application cannot be approved on that basis, the application will be denied, unless the applicant chooses to withdraw the application or to amend it to acknowledge reliance on all information in the Agency's files.

To qualify for the alternate method of support, the data the applicant submits must be derived from tests performed on the applicant's own product (in the precise formulation for which approval is sought) or on another product of identical composition. Results from tests on similar but unidentical formulations will not be acceptable, because to accept such results would require further and complicated evaluations of scientific pertinence. The test data that will be required will vary according to the type of product and its use pattern, but generally will cover acute mammalian toxicity, some aspects of environmental chemistry and fish and wildlife toxicity, and product chemistry.

This alternate method of supporting an application can be used by all persons who desire to register (or amend the registration of) an end-use product. It can be used only, however, to satisfy those data requirements pertaining to the properties, safety, or efficacy of the formulated product itself. To the extent that an applicant is not exempted by FIFRA section 3(c)(2)(D) from submitting or citing data pertaining to the safety of one or more of the product's active ingredients, the applicant must acknowledge his reliance on all available data concerning the safety of each such active ingredient, by the means set out in 40 CFR 162.187 and 162.190.

Many end-use products, however, derive their active ingredients solely from other registered products purchased by the formulator from other producers. Applicants seeking registration of such products could comply with section 3(c)(1)(D) merely by use of the alternate procedure set out in § 162.197.

[1] See Report to Accompany S. 1678, Report No 95-334, Senate Committee on Agriculture, Nutrition & Forestry, 95th cong., 1st Sess., July 6, 1977 at 20-21; Report to Accompany H. R. 6881, Report No. 95-663, House Committee on Agriculture, 95th Cong., 1st Sess. October 5, 1977, at 28

2. *Amending registrations under section 3(c)(7)(B) to add previously unregistered uses.* The Agency will actually review only those data which are necessary to determine whether the proposed new use would significantly increase the risk of unreasonable adverse effects. Normally, we will not review previously submitted data which pertain to the risk posed by already registered uses. For purposes of determining the significance of the incremental risk posed by the new use, the risk posed by "old" uses again will be regarded as a "given."

FIFRA section 3(c)(7)(B), like section 3(c)(7)(A), indicates that for data compensation purposes, an applicant must submit or cite all data required to obtain registration of a similar pesticide under section 3(c)(5), and states that this includes data "other than data pertaining to the proposed additional use." The Agency interprets this as meaning that the data upon which the applicant must rely for 3(c)(1)(D) purposes are the data required to obtain a section 3(c)(5) registration of a new product with uses identical to all uses (old and new) that the applicant's product will have if the request for the amendment is approved.

Applicants for registration under section 3(c)(7)(B) will satisfy their section 3(c)(1)(D) obligations in the same manner as applicants for section 3(c)(7)(A) registration. Any applicant may acknowledge reliance on all pertinent data. Applicants seeking to add new uses to registered end-use products may instead use only the alternate method described in 40 CFR 162.197. Applicants for amendments of other end-use product registrations may use the alternate method with respect to data requirements applicable to the properties, safety and efficacy of the end-use product itself, but must acknowledge reliance on all data pertinent to safety of active ingredients to the extent that FIFRA section 3(c)(2)(D) does not exempt the applicant from this requirement.

IV. Method of Acknowledging Reliance on Data

Under the regulation proposed here, the method of acknowledging reliance on data to be used depends on whether the product's active ingredients have or have not been covered by a published registration standard. If such a standard has been issued for an active ingredient, all the data which form the basis for the standard will be listed in a bibliography that is part of the standard itself; applicants will merely have to indicate that they rely on all data listed in that bibliography (or on those portions of the bibliography pertinent to the uses for which the product will be labeled).

In other cases (except to the extent that the alternate method described in § 162.197 is used) the applicant is required to state that his application is based on (and that any resulting registration or amended registration should be regarded as if it were based on the Administrator's actual review of) the following categories of data:

1. All data actually submitted or specifically cited by the applicant in support of the application.

2. All other data in the Agency's files which would be pertinent to the registrability of the applicant's product (with the uses appearing on the labeling for which applicant seeks approval) if EPA were to conduct a full scientific review of the registrability of that product and its uses under FIFRA sec. 3(c)(5) (whether or not such a review actually is conducted in connection with the particular application).

The lack of a listing, in such an application, of all the individual studies of data upon which the registration "relies" should be of no concern to the original submitters of the data relevant to the registration action. Original data submitters know (or should know) which data they have submitted. Once they know what active ingredients a product contains and what its uses are, they can by reference to the Agency's data requirements, determine whether any of their data are relevant to the Agency's decision to register the product.

Some persons have commented that applicants would be required to offer to pay for a set of data, the scope and value of which are not known to the applicant at the time registration is granted and the obligation to pay compensation becomes fixed. This, they say, makes it impossible for them to know whether the compensation payable will be too large to justify their entry into the market. There are several ways by which the applicant may reduce or eliminate this uncertainty. First, he may consult the Agency's data catalogs. Although the listings are not complete, a considerable body of information is available and the applicant can learn much about what data the Agency has on file. Second, instead of first obtaining a registration and later negotiating, he can first contact the firms that have submitted data to EPA concerning his product's active ingredients, and negotiate compensation matters prior to actually seeking registration.

The Agency believes that many firms in the pesticide business will find it advantageous to enter into broad, long-term negotiated agreements concerning the use of data, thereby eliminating or reducing the need for application-specific negotiations.

A third way that an applicant can reduce or eliminate uncertainty concerning the compensation payable is by obtaining a decision under the arbitration provisions of section 3(c)(1)(D)(ii) before the registration issues. This could be accomplished by furnishing the listed data submitters a notification of intent to rely on data and an offer to pay compensation, either well before the application to the Agency is made or after application is made but before the registration issues. If, within the 90-day period after the data submitter receives such a notice, the parties are unable to reach agreement, either party may request a decision by an arbitrator. The statute does not state or imply that this 90-day period may commence only upon the Agency's receipt of an application for registration. The statute and its legislative history contemplate that in some cases the arbitration decision will precede the issuance of a registration, and that the duty to pay compensation fixed by arbitration awards will be contingent upon the issuance of the registration in question.

Of course, if an applicant seeks to fix the amount and terms of compensation prior to registration, in some cases he may have to disclose to the original data submitter(s) the proposed uses of the product in question well before registration, in order that the parties can determine which data are pertinent to the application. Some applicants may wish to avoid disclosing such information at that stage.

It should be noted that an applicant may have no duty actually to pay compensation for much of the data upon which an application is based. The statute places in the non-compensable category all data submitted to the Agency or its predecessors prior to January 1, 1970 (and all data submitted more than 15 years before the approval of the application in question, although this provision will be meaningful only after January 1, 1985). Moreover, the only data for which compensation is due are those which were submitted by an applicant or registrant, to support an application for registration, reregistration, or amendment of a registration to add new uses, to support an application for an experimental use permit, or to satisfy a requirement

imposed by the Administrator. See also the discussion in the following unit on FIFRA section 3(c)(2)(D). Finally, the Agency assumes that arbitration decisions will not award compensation in cases where the data submitter incurred no expenses in developing (or acquiring rights to) the data (see Conference Report on the FPA, S. Rep. No. 95–1188, 95th Cong., 2d Sess., September 12, 1978, at 29).

An applicant who chooses to use solely the alternate method of supporting his application set forth in § 162.197 will submit copies of data sufficient to satisfy the minimum requirements for unconditional registration of his product, and will direct the Agency to consider as supporting his application only those data, plus the data pertaining to the safety of the active ingredients which are exempt from compensation under FIFRA section 3(c)(2)(D).

V. Nature of the Offer To Pay Compensation

Once there is an identification of the data which are relevant to the Agency's decision to approve a registration, the statute itself is quite clear regarding the persons who may be eligible to receive compensation and regarding the data which, despite their relevance, are not compensable. Accordingly, the Agency's responsibility simply is to ensure that the offer to pay compensation which accompanies the application for registration is as broad as the law requires. The regulation would require each application to include the following statement:

> (Name of applicant) hereby offers and agrees to pay compensation to other persons, with regard to the approval of this application, to the extent required by section 3(c)(1)(D) of the Federal Insecticide, Fungicide and Rodenticide Act as amended, 7 U.S.C. sec. 136a(c)(1)(D).

The inclusion of a generalized offer to pay compensation in the application itself will ensure that even if, for whatever reason, the applicant fails to furnish a data submitter with an offer to pay compensation that should have been furnished, the obligation contemplated by the statute will still exist.

An applicant who uses the § 162.197 alternate method of support still must submit the generalized offer to pay compensation with his application, in order to protect any rights that other data submitters may have with respect to data the applicant has relied on.

VI. Notification of Data Submitters by Applicant

A. Applications Concerning Products With Active Ingredients for All of Which a Registration Standard Has Been Issued

The registration standard will list the data upon which the standard is based, and the identity of the original data submitters. A registration or reregistration will be issued only if the applicant states he has furnished a compensation offer to each such submitter of any item of data (except for data submitted before 1970, and data with respect to which the applicant and the original submitter have reached written agreement permitting the applicant's use of the data to support the application).

B. Applications Concerning Products With Active Ingredients for Which a Registration Standard Has Not Been Issued

1. *Applicants who have acknowledged reliance on all pertinent data.*

The Agency will prepare and publish a listing called "Pesticide Data Submitters by Chemical," which will consist of a computer scan of the Agency's so-called "Level 2" data catalog, by active ingredient, for names of companies which, according to the computerized data base, have submitted any item of data pertaining to each particular active ingredient. This publication will be available for use by applicants, and will be updated periodically.

A registration will be issued only if the applicant has furnished to the Agency a certification that he has examined this listing, and that he has furnished a compensation offer to all persons listed as the original submitters of the data pertaining to each of the active ingredients this product contains. (Compensation offers need not be sent, of course, to any person with whom the applicant already has reached written agreement concerning the amount and terms of payment of compensation payable with regard to approval of the application.)

The compensation offer the applicant is to furnish the original data submitter(s) prior to registration must include the name of the applicant's product, identification of each of its active ingredients, its intended uses, the applicant's name, address, and telephone number, a statement that the applicant offers to pay compensation as required by FIFRA, and an offer to commence negotiations with the data submitter.

The applicant's certification concerning the compensation offers he has made to original data submitters may accompany the application when it is first sent to EPA, or the applicant may instead furnish it later. However, no application to which the requirement applies will be approved until the applicant's certification has been received.

The Congress modified FIFRA section 3(c)(2) by adding a new paragraph (D), which states:

> "(D) *Exemption.*—No applicant for registration of a pesticide who proposes to purchase a registered pesticide from another producer in order to reformulate such purchased pesticide into an end-use product shall be required to—
>
> "(i) submit or cite data pertaining to the safety of such purchased product; or
>
> "(ii) offer to pay reasonable compensation otherwise required by paragraph (1)(D) of this subsection for the use of any such data."

This provision clearly relieves certain applicants of the duty to offer to pay, or pay, for certain data for which compensation might otherwise be owed. At the present time, however, EPA's data catalogs are not complete enough to allow an applicant to ascertain whether or not a particular original data submitter has submitted only data which pertain solely to "the safety of (a particular) purchased product." Whether or not this provision exempts an applicant from a duty actually to pay compensation to a particular data submitter can best be determined by asking the submitter what kinds of data he submitted. EPA advises applicants not to rely on FIFRA section 3(c)(2)(D) as an exemption from the requirement that offers to pay compensation must be furnished to each person who is listed in the pertinent portion of the Listing of Pesticide Data Submitters.

2. *Applications using the alternate method of support described in § 162.197.* We expect that few applicants using solely this method of satisfying FIFRA section 3(c)(1)(D) will have any duty to offer to pay compensation to other data submitters, because in most cases the data upon which the applicant relies will have been generated by the applicant himself or by someone who has already consented to the applicant's use of the data to support the application. (We expect this because the data must be derived from tests using the applicant's own product, or a product of identical composition as the substance tested.)

However, it is conceivable that an applicant using this method may rely on "compensable" data originally submitted by a firm which has not consented to its use by the applicant. To the extent the applicant knows of this, FIFRA section 3(c)(1)(D) requires him to

offer to compensate the original data submitter. If the applicant does not know the data are "compensable" or does not know who originally submitted them to EPA, he need not offer to compensate for their use unless the original data submitter contacts him.

An applicant who uses the § 162.197 method of support but whose product contains any active ingredient other than ones derived from purchased, registered pesticide products must comply with §§ 162.187 and 162.190 insofar as each such active ingredient is concerned. Thus if a formulator/applicant intends to buy from another person a registered technical grade product containing active ingredient A, and to combine it with another active ingredient B which the formulator himself produces, the formulator/applicant must send an offer to pay compensation to each person the listing of "Pesticide Data Submitters by Chemical" shows as having submitted data concerning ingredient B, but he need not send offers to persons listed as having submitted data concerning ingredient A. Under FIFRA section 3(c)(2)(D), he will have an actual duty to pay compensation only for data concerning the safety of ingredient B, not for data pertinent only to the safety of efficacy of end-use products containing ingredient B.

VII. Statutory Review

Copies of this proposal were provided to the Secretary of Agriculture and appropriate committees of Congress, in accordance with FIFRA sec. 25(a). The Secretary of Agriculture submitted the following comments pertaining to this proposal:

Comment 1

"With regard to the data compensation provisions under Section 3(c)(1)(D), we have comments on exclusive use of publicly produced data, and compensation to other data submitters when an applicant has submitted all the data required. We strongly believe that it is neither appropriate nor proper for a private company to be granted, pursuant to FIFRA regulation, exclusive use of data produced by public agencies or institutions unless the data have been sold or exclusive rights have been assigned to that company in order to generate interest in a new pesticide or a new use for a currently registered pesticide. The legislative history of Section 3(c)(1)(D) does not support any argument that Congress intended to automatically grant exclusive rights on publicly funded data to one competitor at the taxpayers' expense. Therefore, we propose that the following italic language be added to proposed 40 CFR 162.2(g)(1) at page 41, line 12:

"* * * are entitled to a 10-year period of protection, commencing on the data the product is first registered *unless the data have been produced by a public agency or institution. Such publicly produced data are not entitled to this period of protection unless exclusive rights have been granted to the applicant by the public agency or institution producing the data* * * *"

Comment 2

We are convinced that it is inappropriate to require an applicant to automatically acknowledge reliance on data in EPA files for compounds with identical or similar composition (§§ 162.173 and 162.174). We do not agree that FIFRA mandated such reliance. Submissions should be required to be complete either by providing all necessary data with the application or by citing data in EPA files. If a company wants to cite data in EPA files to augment their registration application, then requiring compensation is logical. We also agree that EPA may consider all relevant data in making a registration decision. However, compensation should not be required if an applicant's data meet the requirements for registration. If in a comparative review of file versus submitted data, EPA identifies differences in results, the agency can then approach the applicant to resolve the differences. In such cases, the applicant may then wish to cite file data and pay compensation or may provide another new set on data.

Comment 3

We believe that it is illogical to have two different sets of standards for conditional and unconditional registration. The preamble states at page 25 that, "The applicant may provide a copy of all data necessary to satisfy the minimum requirements for data pertaining to the safety, efficacy, and other properties of his own product * * * including both old and new uses, and may direct EPA not to consider other data in support of the application * * *" While the quote appears only to apply to conditional registration we believe it should apply across the board."

EPA response to comments 1 and 2

The Agency acknowledges the problem pointed out by USDA and believes that possible solutions may be developed in the course of this rulemaking. EPA welcomes any comments on USDA's proposed language, but would note that such language would be more appropriately located in another section of the regulation than in 162.2(g). That section simply describes the requirements and provisions of FIFRA, and cannot be used to modify those provisions. EPA does not interpret the exclusive use provisions as applying to publicly generated data, but admits that a clear statement to that effect may be in order.

EPA response to comment 3

EPA agrees and has revised the language of the section to eliminate reference to conditional registration.

The House Subcommittee on Department Operations, Research, and Foreign Agriculture of the Committee on Agriculture, submitted the following letter to Dr. John A. Todhunter, the Assistant Administrator for Pesticides and Toxic Substances:

November 5, 1982.

Dear Dr. Todhunter: I am writing in response to your letter of October 6, 1982, to the House Committee on Agriculture soliciting comments on the Agency's proposed Section 3 regulations. I commend the Agency for moving forward expeditiously to rectify the procedural issues raised by the Third Circuit District Court' order in the Mobay case. In light of the deadlines imposed by the Court and the statutory procedures which the Agency must follow in promulgating rules under the Federal Insecticide, Fungicide, and Rodenticide Act, your decision to initiate the rule-making by proposing your existing Section 3 regulations is well advised. I would urge the Agency, however, to proceed in a very deliberate fashion, especially with respect to the procedures followed by the Agency during the course of the rule-making.

The regulations adopted pursuant to Section 3 of FIFRA exert an tremendous influence on the type of pesticide registration program your Agency administers, and on the business practices and investment strategies pursued by the regulated industry. I also believe, although I recognize it is difficult to prove in a quantitative sense, that the Agency's Section 3 regulations play a major role in determining the overall efficency and environmental sophistication of pest control technologies as practiced throughout U.S. Agriculture, in homes and businesses, and almost every other niche of the natural environment where man and pests of all sorts interact. accordingly, I think it is important that the Agency realistically appraise, based upon the best information available at this time, how the Section 3 regulations should be modified to encourage more rapid commercial development and adoption of chemically sophisticated, information intensive pest control technologies.

I know that the Agency has helped support the research and development work underlying several well-documented and proven integrated pest management strategies which have greatly benefited this Nation. The key benefits achieved thus far have been lower cash production costs for farmers and enhanced environmental quality brought about by a redution in the volume of persistent, broad spectrum pesticides needed to attain an adequate level of control. I believes that the Section 3 regulations can, and should be modified in several ways in order to remove existing barriers and inequities within the regulatory framework which are acting as unnecessary and unintended deterrents to technological progress. As the rulemaking proceeds, I request that you keep me informed of your progress in the regard. Also, I will be offering at a later date additional recommendations in this regard for the Agency's consideration.

While I appreciate the practical necessity of proposing the existing Section 3 regulations, I hope that the Agency seizes upon the opportunity afforded by the rule-

making to adopt several long-overdue changes in the regulations governing the registration process. The most critical change, I believe, is eliminating cite-all. During the course of deliberations on H.R. 5203, the Agency and regulated community reached what I felt to be a realistic and workable solution to the cite-all problem. I am convinced that the essence of the legislative language addressing cite-all can be adopted by the Agency during the rule-making, and I respectfully urge you to do so.

Certain modest changes can, and should be made to the Section 3 regulations during the rule-making. Two procedural issues, though, are of great concern to me. First, the Agency should avoid becoming engaged in a protracted series of complex negotiations in an effort to render major reforms to the registration process. Your Agency, and the Office of Pesticide Programs, has already incurred substantial budget and personnel cuts which are straining considerably the ability of OPP to carry out its legislative mandates. I am deeply concerned by what I, and many others, perceive to be a slackening in the thoroughness of the Agency's scientific reviews of pesticide data and environmental hazards. This is, I recognize, and inevitable result of budget cuts and the new emphasis on completing registration actions on time and in great numbers. Hence, I think it would be ill-advised for the Agency to devote its limited resources to the typically endless, and often futile, task of reaching consensus among all interested parties on a major, far-reaching set of Section 3 regulations.

Last, I urge the Agency to carefully avoid proposing and adopting changes in the Section 3 regulations that would complicate or jeopardize early resolution of pending lawsuits involving the constitutionality of Section 3. I think it is vitally important that the registration process proceed even if flawed in certain respects, without major interruptions from any quarter, including the Congress and Courts. I an confident that the Agency's legal position will ultimately prevail in pending litigation, and urge you to carefully consider the possible legal consequences of procedural and substantive actions taken by the Agency during the course of the rule-making.

Sincerely,

George E. Brown, Jr.,

Chairman.

EPA response: EPA solicits any comments from interested parties on the points in the Subcommittee's letter that are pertinent to this proposal. In particular, the Agency is interested in comments on the interaction of the cite-all and exclusive use provisions as it affects subsequent applicants for registration of new chemicals.

In addition, the Agency has received a pre-publication submission from Rhone-Poulenc, Inc., offering for our consideration an alternate approach to cite-all. The "Description of Proposal" submitted by Rhone-Poulenc reads, in part,

We urge that EPA amend its current cite-all regulation to assure that an applicant who submits a request for a registration, reregistration, amended registration, conditional registration, (hereinafter "a registration") and experimental use permit (hereinafter "a permit"), and who chooses to rely entirely upon data developed and submitted by the applicant itself, may obtain a registration or permit provided the data submitted meet all of the necessary EPA criteria. In addition, however, prior to reaching a final decision on the application, EPA would be authorized, consistent with its historic practice, to review all other data in its files to corroborate its findings and assure that the registration or permit would not cause, or significantly increase the risk of, unreasonable adverse effects on the environment. If it would, the application could then be denied if appropriate.

The principal difference between our proposal and the current cite-all regulation is that under our proposal a subsequent applicant relying entirely upon its own data would no longer be blocked by the combined effect of the FIFRA exclusive use provision and the cite-all regulation from obtaining a registration or permit, and would no longer be required to offer to pay compensation to other registrants with similar data on file. However, under our proposal, as at present, no applicant could obtain the benefit of another registrant's data, rely on them, or cite them without full compliance with any applicable exclusive use and data compensation provisions.

We propose that the effective date of our changes largely conform to the legislation passed by the House of Representatives and the Senate Agriculture Committee. In short, since our proposal in its entirety addresses only those situations involving applicants who choose to rely solely on their own data, we urge that cite-all in these circumstances be abolished immediately. This is particularly important in the context of the combined effect of the exclusive use provision and cite-all. While we would urge that EPA similarly effectuate immediately the abolition of the current requirement that applicants who rely solely on their own data offer to pay compensation to others, we would acknowledge that EPA may feel it needs more time to make appropriate changes in this latter circumstance.

Finally, we understand EPA's concern that in the absence of a clear dispute resolution mechanism, new litigation may occur over any changes in data review procedures implemented administratively by EPA. However, we believe EPA has the authority to adopt in substantial part the data dispute resolution provisions set forth in H.R. 5203, Section 3(K). While the Agency obviously lacks authority to limit judicial review, it can require the development of an administrative record on data submissions in support of registration applications in such a manner that final Agency decisions on data review will be extremely difficult to overturn. Moreover, if EPA is correct that litigation will occur no matter how data review is handled, we would urge that the Agency abolish cite-all in the manner suggested in this proposal in order to be consistent with recent congressional and EPA efforts to amend Section 3. The Agency would then be in the position of defending data review procedures which do not sacrifice public safety but do facilitate entry into the marketplace for companies who can independently satisfy all the necessary data requirements for registration.

A copy of the full submission may be obtained from Jean M. Frane, Registration Division (TS–767–C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 1114, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22201, (703–557–0592). Comments are welcomed on Rhone-Poulenc's submission.

VIII. Regulatory Impact Analysis

Under Executive Order 12291, EPA must judge whether regulations are major and therefore ned a full Regulatory Impact Analysis. The compensation regulations are not major in terms of the annual cost impacts on the economy or in terms of cost of price increases for consumers or farmers. This regulation is significant in that it permits a registrant to cite other available data and thereby eliminate duplicative testing.

The transactional costs of data compensation to EPA and registrants have been small. EPA's role is mainly limited to explaining the options available to registrants regarding data compensation and ensuring that applicants comply with one option. The cost of administration to the Agency is minimal, e.g., about one person-year of effort per year. The transactional costs to registrants, consisting primarily of correspondence offering to pay compensation, usually are low because few letters are involved for a typical registrant and these can be handled by clerical staff due to their routine nature. Binding arbitration under the Act could result in higher expenses to applicants, but the Agency is aware of few instances where binding arbitration has been sought.

In general, registrants have not been involved in many actual data compensation payments. Much of the existing data are not compensable, because they were developed before 1970, or they are efficacy data that are no longer reviewed by the Agency. Most offer to pay statements involve data compensation for end-use products. Because the costs of these data are low, it is frequently not worth a great deal of effort to litigate in order to collect a payment. Moreover, the conditional registrant has access to the market prior to an agreement on data compensation being worked out. Thus, it is difficult for the owner of data on a formulated product to force negotiation of amounts

due. Apparently, the majority of end-use data owners do not seek compensation for their data because of the expense of exacting what would normally be a relatively small amount of money.

The compensation regulation effects transfers of funds among firms, not an out-of-pocket expenditure to the industry as a whole. Aside from transaction costs, such payments should not directly increase aggregate prices or affect aggregate production.

This rule has been reviewed under section 3(a) of the Regulatory Flexibility Act of 1980 (Pub. L. 96–354; 94 Stat. 1165, 5 U.S.C. 60 et seq.), and it has been determined that it will not have a significant economic impact on a substantial number of small businesses, small governments, or small organizations. This conclusion is based on the Agency's preliminary analysis as required under Executive Order 12291.

This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

Provided in the data compensation regulation is an alternate method to cite-all for the formulator of an end-use product. This special provision has been made for small businesses to minimize the potential adverse impacts of the large number of offer to pay letters that could be required under the cite-all option. Accordingly, I certify that this regulation does not require a separate regulatory flexibility analysis under the Regulatory Flexibility Act.

Under the Paperwork Reduction Act, EPA must identify any information collection burdens which would be imposed by this proposed regulation and must obtain clearance from the Office of Management and Budget for any such data collection activities. Because these regulations are currently in effect, EPA has already obtained OMB clearance for the various forms involved in compensation.

List of Subjects in 40 CFR Part 162

Intergovernmental relations, Labeling, Packaging and containers, Pesticides and pests, Administrative practices and procedures.

Dated: December 17, 1982.

Anne M. Gorsuch,

Administrator.

PART 162—[AMENDED]

Therefore, it is proposed that 40 CFR Part 162 be amended as follows:

1. In § 162.2, by revising paragraph (g) to read as follows:

§ 162.2 Principal statutory provisions.

* * * * *

(g) *Exclusive use of data; data compensation.*—(1) *Exclusive use.* FIFRA section 3(c)(1)(D)(i) provides that data submitted in support of an application for registration of a product containing an active ingredient not contained in any currently registered or formerly registered product, and pertaining to that ingredient (or to a new combination of active ingredients) are entitled to a 10-year period of protection, commencing on the date the product is first registered. Data supporting applications which resulted in registrations of or before September 30, 1978, are not entitled to this period of protection. During the 10-year period the Administrator may not grant any application for registration which relies on the protected date unless the original submitter of the data has consented in writing. Data submitted during the 10-year period to support an application for an amendment adding a new use of such a product are entitled to the same kind of protection, for the balance of the 10-year period. However, "defensive" data, i.e., data which the Administrator has required the applicant to submit to maintain registration, and data pertaining solely to individual ingredients which were contained in products registered on or before September 30, 1978, are not entitled to such protection.

(2) *Data compensation.* FIFRA section 3(c)(1)(D)(ii) requires that applicants whose applications rely on certain data submitted by others after December 31, 1969, in support of requests for registration, reregistration, amended registration, or experimental use permits, or to maintain in effect an existing registration, must offer to pay compensation to the original data submitter. The statute further provides a mechanism for determining the amount and terms of any such compensation. FIFRA section 3(c)(2)(D) exempts certain data from this compensation requirement when the applicant seeks a registration action concerning an end-use product produced from a purchased, registered product. The requirements for compliance with FIFRA section 3(c)(1)(D)(ii) and section 3(c)(2)(D) are set forth in §§ 162.180 through 162.197.

* * * * *

§§ 162.9–1, 162.9–2, 162.9–3, 162.9–4, 162.9–5, 162.9–6, 162.9–7, 162.9–8 [Removed].

2. By removing §§ 162.9–1, 162.9–2, 162.9–3, 162.9–4, 162.9–5, 162.9–6, 162.9–7, and 162.9–8.

3. By adding a new Subpart F. to read as follows:

Subpart F—Compensation Procedures

Sec.
162.180 Registration actions to which compensation requirements apply.
162.182 Generalized offer to pay compensation.
162.185 Data compensation in cases where a registration standard exists for an active ingredient.
162.187 Acknowledgment of reliance on data for products with active ingredients for which no registration standard exists.
162.190 Offer to pay when relying on data for products with active ingredients for which no registration standard exists.
162.192 When required statements must be furnished.
162.195 Exemption.
162.197 Alternate procedure for certain applicants for registration of end-use products.

Authority: Sec. 3, 6 and 25 of FIFRA, as amended, 7 U.S.C. section 136 et seq.

Subpart F—Compensation Procedures

§ 162.180 Registration actions to which compensation requirements apply.

(a) Unless the Administrator first finds that the applicant has complied with Subpart F, the Administrator will deny any application for reregistration, for registration of a new product, or for an amendment to an existing registration, except as provided by paragraph (b) of this section.

(b) Sections 162.182 through 162.197 do not apply to applications to make only one or more of the following types of amendments to existing registrations, unless the Administrator or his designee finds that Agency consideration of scientific data would be necessary in order to approve the amendment under FIFRA section 3(c)(5):

(1) An increase or decrease in the percentage in the product of one or more of its active ingredients or deliberately added inert ingredients;

(2) A revision of the identity or amount of impurities present in the product;

(3) The addition or deletion of one or more deliberately added inert ingredients;

(4) The deletion of one or more active ingredients;

(5) A change in the source of supply of one or more of the active ingredients used in the product, if the new source of the active ingredient is a product which is registered under FIFRA section 3;

(6) Deletion of approved uses of claims;

(7) Redesign of the label format involving no substantive changes, express or implied, in the directions for use, claims, representations, or precautionary statements;

(8) Change in the product name or addition of an additional brand name, if no additional claims, representations, or uses are expressed or implied by the changes;

(9) Clarification of directions for use;

(10) Correction of typographical errors;

(11) Changes in the registrant's name or address;

(12) Adding or deleting supplemental registrants under § 162.6(b)(4);

(13) Changes in the package or container size;

(14) Changes in warranty, warranty disclaimer, or liability limitation statements, or addition to or deletion of such statements;

(15) "Splitting" a label for the sole purpose of facilitating the marketing of a product in different geographic regions with appropriate labels, where each amended label will contain previously approved use instructions (and related label statements) appropriate to a particular geographic region;

(16) Any other type of amendment, if the Administrator or his designee determines, by written finding, that Agency consideration of scientific data would not be necessary in order to approve the amendment under FIFRA section 3(c)(5); and

(17) Compliance with Agency regulations, adjudicatory hearing decisions, notices, or other Agency announcements that unless the registration is amended in the manner the Agency proposes, the product's registration will be suspended or cancelled, or that a hearing will be held under FIFRA section 6. (However, this paragraph does not apply to amendments designed to avoid cancellation or suspension threatened under FIFRA section 3(c)(2)(B) or because of failure to submit data.)

§ 162.182 Generalized offer to pay compensation.

Except as provided in § 162.180(b), each application for any registration action shall include the following statement:

(Name of applicant) hereby offers and agrees to pay compensation to other persons, with regard to the approval of this application, to the extent required by section 3(c)(1)(D) and 3(c)(2)(D) of the Federal Insecticide, Fungicide and Rodenticide Act, as amended, 7 U.S.C. sections 126a(c) (1)(D) and (2)(D).

§ 162.185 Data compensation in cases where a registration standard exists for an active ingredient.

Except as provided in § 162.180(b), each application for any registration action concerning a product containing any active ingredient for which the Agency has published a registration standard shall include:

(a) A citation of each such standard;

(b) The registrable uses listed in the standard(s) (or additional registrable uses, in the case of amendments) for which approval is sought;

(c) An acknowledgment that the application relies on all data which, according to the standards(s), support the registrability of each such use;

(d) A statement that the applicant has furnished to each person who, according to the cited standard(s), is an original submitter of an item of data submitted on or after January 1, 1970, which supports the registrability of the applicant's product (other than persons with whom the applicant has agreed in writing on the amount and terms of payment of any compensation that may be payable under FIFRA section 3 with regard to approval of the application);

(1) A notification of the applicant's intent to apply for registration, including the proposed product name, a listing of the product's active ingredients, and the product's intended uses (or proposed additional uses, in the case of amendments);

(2) An offer to pay the person compensation, with regard to the approval of the application, to the extent required by FIFRA sections 3(c)(1)(D) and (2)(D);

(3) An offer to commence negotiations to ascertain the amount and terms of compensation to be paid; and

(4) The applicant's name, address, and telephone number.

§ 162.187 Acknowledgement of reliance on data for products with active ingredients for which no registration standard exists.

Except as provided in §§ 162.180(b) and 162.197, each application for any registration action concerning a product containing any active ingredient for which EPA has not published a registration standard shall include an acknowledgement that for purposes of FIFRA section 3(c)(1)(D) the application relies on (and any resulting registration should be regarded as if it were based on the Administrator's consideration of) the following data:

(a) All data submitted or specifically cited by the applicant in support of the registration; and

(b) Each other item of data in the Agency's files which:

(1) Concerns the properties or effects of:

(i) Applicant's product;

(ii) A product which is identical or substantially similar in composition to applicant's product; or

(iii) One or more of the active ingredients of applicant's product for which EPA has not yet published a final registration standard; and

(2) Is one of the types of data that EPA would require to be submitted for scientific review by EPA if the application sought the initial registration under FIFRA section 3(c)(5) of a product with composition and intended uses identical or substantially similar to those of the applicant's product, under the data requirements in effect on the data EPA approves the applicant's present application.

§ 162.190 Offer to pay when relying on data for products with active ingredients for which no registration standard exists.

Each application to which § 162.187 applies shall also include a statement that the applicant has carefully examined the most recently published version of the EPA publication entitled "Pesticide Data Submitters by Chemical," and has furnished the following to each person listed as the original submitter of any data concerning any active ingredient of applicant's product for which EPA has not yet published a final registration standard (other than persons with whom the applicant has agreed in writing on the amount and terms of payment of any compensation that may be payable under FIFRA section 3 with regard to approval of the application):

(a) A notification of the applicant's intent to apply for registration, including the proposed product name, a listing of the product's active ingredients, and the uses (or a summary of those uses) which will appear on the product's labeling if the application is approved (including previously approved uses and proposed added uses);

(b) An offer to pay the person compensation, with regard to the approval of the application, to the extent required by FIFRA section 3(c)(1)(D) and (2)(D);

(c) An offer to commence negotiations to ascertain which data is subject to the compensation requirement of FIFRA section 3(c)(1)(D) and the amount and terms of compensation, if any, to be paid; and

(d) The applicant's name, address, and telephone number.

§ 162.192 When required statements must be furnished.

The materials required under §§ 162.185(d), 162.190, and 162.197(e) may be furnished to EPA with the original application or at any later time prior to EPA's approval of the application.

§ 162.195 Exemption.

(a) Under FIFRA section 3(c)(2)(D), an applicant who seeks registration, reregistration, or amended registration of an end-use product (as defined in paragraph (c) of this section) is exempt from the compensation requirement imposed by FIFRA section 3(c)(1)(D) with respect to data which pertain to the safety of any other registered pesticide product which the applicant purchases from another producer and uses in formulating his product.

(b) Data pertain to the safety of a purchased product if they would be scientifically pertinent to an Agency evaluation of the safety of the purchased product or one or more of its ingredients, rather than pertinent merely to an evaluation of the safety of an end-use product. To be pertinent to the purchased product's safety, the data need not have come from a test using the particular producer's product. For instance, any toxicity data from a test in which a reagent-grade, laboratory-grade, or technical-grade active ingredient was the substance tested normally would be scientifically pertinent to an evaluation of the safety of any pesticide product containing that active ingredient (with certain exceptions dependent on use patterns). However, toxicity data from a test in which the substance tested was a formulated, end-use product (whether or not use-diluted) normally would pertain only to the safety of the same end-use product, closely similar end-use products, or their ingredients, but not to the safety of other end-use products.

(c) As used in this section, the term "end-use product" means a pesticide product whose labeling bears instructions for using or applying the products (as packaged and sold, or after dilution by the applicator) for controlling pests or regulating plant growth. The term excludes products whose labeling allows use of the product to formulate other pesticide products.

(d) FIFRA section 3(c)(2)(D) does not provide an exemption from the FIFRA section 3(c)(1)(D) compensation requirements to the extent that an application relies on efficacy data, or on safety data not pertinent to the purchased product's safety (e.g., data concerning the safety of similar end-use products). FIFRA section 3(c)(1)(D) requires the applicant to furnish a compensation offer to the original submitters of such data. The list of "Pesticide Date Submitters by Chemical" (see § 162.190) does not at this time differentiate between types of data submitted. Accordingly, applicants for registration actions on end-use products should comply with the requirements in § 162.190 (furnish compensation offers to all listed data submitters with whom no written agreement has been reached), to avoid the risk of summary cancellation or denial as provided in FIFRA section 3(c)(1)(D)(ii). Negotiations with listed data submitters should disclose which data are exempt from the compensation requirement.

§ 162.197 Alternate procedure for certain applicants for registration of end-use products.

(a) An applicant for registration of a new product (or for amendment of an existing registration) need not comply with §§ 162.187 and 162.190 if:

(1) Each of the product's active ingredients is contained in some product currently registered under FIFRA;

(2) The product will be labeled as an end-use product, as defined in § 162.195(c); and

(3) The applicant complies with paragraphs (b) through (f) of this section. This section does not apply to other applicants.

(b) The applicant must furnish to EPA, with his application, a copy of each item of test data required to satisfy the minimum requirements for data that apply to the applicant's product and all of its uses, according to 40 CFR Part 158 (or instructions to the applicant by EPA), except that the applicant need furnish only data which are to be derived from tests using a formulated product as the test substance. All such data shall be derived from tests using the applicant's product (or another product with identical composition) as the substance tested.

(c) The applicant shall furnish with the data he submits a statement setting forth, to the best of his knowledge, the name and address of each person at whose expense each submitted item of data was generated, and how the applicant came into possession of each of the items of data (e.g., applicant generated the data; applicant obtained the data from another firm [identify]; applicant copied data from a publication; applicant obtained a copy of the data from EPA).

(d) The applicant shall submit with his application a statement that EPA, in its evaluation of the properties, efficacy, and safety of the formulated end-use product, may not consider any data as supporting the application, except the following data:

(1) The data the applicant has submitted to EPA under paragraph (b) of this section;

(2) Other data pertaining to the safety of the product's active ingredients, rather than to the safety of the end-use product; and

(3) Existing tolerances, food additive regulations, exemptions, and other clearances issued under the Federal Food, Drug, and Cosmetic Act.

(e) If the applicant knows that any item of data he submitted under this section was generated by (or at the expense of) another person who originally submitted the data to EPA (or predecessor, USDA) on or after January 1, 1970, to support an application for registration, experimental use permit, or amendment adding a new use to an existing registration, or for reregistration (unless the applicant and the original data submitter have reached written agreement on the amount and the terms of payment of any compensation that may be payable under FIFRA section 3(c)(1)(D)(ii) with regard to approval of the application), the applicant shall submit to EPA a statement that he has furnished to each such identified original data submitter:

(1) A notification of the applicant's intent to apply for registration, including the proposed product name;

(2) An offer to pay the person compensation, with regard to the approval of the application, to the extent required by FIFRA section 3(c)(1)(D) and 3(c)(2)(D);

(3) An identification of the item(s) of data to which the offer applies;

(4) An offer to commence negotiations to ascertain the amount and terms of compensation to be paid; and

(5) The applicant's name, address, and telephone number.

(f) If the applicant's product contains any active ingredient other than those that are present solely because of the incorporation into the product, during formulation, of one or more other registered pesticide products purchased from another producer, then applicant shall also comply with § 162.190 as to such active ingredient, and the application shall contain an acknowledgment that for purposes of FIFRA section 3(c)(1)(D) the application

relies on (and any resulting registration should be regarded as if it were based on the Administrator's consideration of) the following data:

(1) All data submitted or specifically cited by the applicant in support of the registration; and

(2) Each other item of data in the Agency's files that:

(i) Concerns the properties or effects of any such active ingredient; and

(ii) Is one of the types of data that EPA would require to be submitted for scientific review by EPA if the applicant sought the initial registration under FIFRA section 3(c)(5) of a product with composition and intended uses identical to those proposed for the applicant's product, under the data requirements in effect on the date EPA approves the applicant's present application.

FR Doc. 82-34963 Filed 12-22-82; 9:47 am]
BILLING CODE 6560-50-M

Reader Aids

Federal Register

Vol. 47, No. 248

Monday, December 27, 1982

INFORMATION AND ASSISTANCE

PUBLICATIONS

Code of Federal Regulations

CFR Unit	202-523-3419 523-3517
General information, index, and finding aids	523-5227
Incorporation by reference	523-4534
Printing schedules and pricing information	523-3419

Federal Register

Corrections	523-5237
Daily Issue Unit	523-5237
General information, index, and finding aids	523-5227
Privacy Act	523-5237
Public Inspection Desk	523-5215
Scheduling of documents	523-3187

Laws

Indexes	523-5282
Law numbers and dates	523-5282 523-5266
Slip law orders (GPO)	275-3030

Presidential Documents

Executive orders and proclamations	523-5233
Public Papers of the President	523-5235
Weekly Compilation of Presidential Documents	523-5235

United States Government Manual 523-5230

SERVICES

Agency services	523-5237
Automation	523-3408
Library	523-4986
Magnetic tapes of FR issues and CFR volumes (GPO)	275-2867
Public Inspection Desk	523-5215
Special Projects	523-4534
Subscription orders (GPO)	783-3238
Subscription problems (GPO)	275-3054
TTY for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, DECEMBER

54053-54268.....1
54269-54418.....2
54419-54758.....3
54759-54924.....6
54925-55198.....7
55199-55378.....8
55379-55454.....9
55455-55626.....10
55627-55902.....13
55903-56128.....14
56129-56308.....15
56309-56468.....16
56469-56616.....17
56617-56810.....20
56811-56978.....21
56979-57252.....22
57253-57442.....23
57443-57650.....27

CFR PARTS AFFECTED DURING DECEMBER

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Administrative Orders:

Memorandums:
November 29, 1982.....54053

Executive Orders:
10621 (Amended by EO 12396).....55897
11390 (Amended by EO 12396).....55897
12239 (Revoked by EO 12396).....55897
12396.....55897

Proclamations:
4941 (Amended by Proc. 5002).....54269
5002.....54269
5003.....55899
5004.....55901
5005.....56309
5006.....56617
5007.....56811

4 CFR

2.....56979
3.....56979
4.....56979
5.....56979
6.....56979
7.....56979
8.....56979
9.....56979
11.....56979
21.....56979
22.....56979
27.....56980
28.....56980
30.....56979
31.....56979
32.....56979
33.....56979
34.....56979
35.....56979
36.....56979
52.....56979
53.....56979
75.....56979
81.....56979
82.....56979
91.....56979
92.....56979
93.....56979

Proposed Rules:
28.....54972

5 CFR

1201.....54419
2429.....55379, 55903

Proposed Rules:
213.....54974
890.....54974

7 CFR

2.....56619
16.....57253
52.....55455
53.....54925
55.....54420
56.....54420
59.....54420
68.....54271
70.....54420
271.....55903, 56469
272.....55463, 55903
273.....55463, 55903
278.....56469
279.....56469
319.....54273, 55199
400.....55886, 55888
421.....56813
431.....56820
432.....56827
610.....56472
725.....56473
800.....54055, 54275, 55469
905.....54926, 55199, 56619, 56982
906.....56311
907.....54281, 55379, 56312, 57253
910.....54421, 55469, 56473, 57443
926.....55910
982.....56312
1046.....56486
1065.....55200
1098.....56486
1106.....57443
1126.....54421
1132.....54421
1135.....57445
1139.....55201
1421.....54281
1497.....54284
1822.....55627
1901.....54422
1922.....55380
1942.....54422
1944.....54422, 55627
1948.....54422

Proposed Rules:
52.....54086
915.....56500
967.....54975
983.....57222
987.....54307
1106.....54977
1124.....55490
1135.....54978
1207.....55245
1430.....56505
1700.....56505

8 CFR

214.....55202, 56488

238.....55388

9 CFR

71.....55636, 56982
78.....55636
91.....56983
92.....54285, 55388, 57254
317.....54286
381.....54286

Proposed Rules:

92.....57288, 57291
113.....54090, 54307, 55246, 57054
166.....57292

10 CFR

2.....56314, 57446
4.....57482
9.....56314
19.....57446
20.....57446
21.....57446
30.....57446
40.....57446
50.....55203
51.....57446
55.....56984
61.....57446
70.....57446
73.....57446
170.....57446
430.....57198

Proposed Rules:

50.....57054
70.....55951
170.....56505

12 CFR

9.....57255
29.....55911
201.....54424, 57482
204.....55204–55209
211.....54057
217.....54759
220.....55912
523.....56314, 56985
531.....56316
541.....56985
543.....56985
544.....56985
545.....55656, 56985
546.....56985
547.....56985
549.....56985
552.....56985
561.....56985
563.....56985
563b.....56985
564.....56318, 56985
565.....56985
569a.....56985
575.....56985
576.....56985
577.....56985
578.....56985
583.....56985
584.....56985
614.....54760
701.....54424, 57483
745.....54424
1204.....56319–56323

Proposed Rules:

3.....56862
6.....56862
7.....56862
8.....56652
207.....54980
220.....54980
221.....54980
224.....54980
534.....57293
543.....56363
612.....56140
1204.....56364

13 CFR

101.....56129, 57484
301.....57256

14 CFR

21.....54287, 54288
39.....54289–54291, 54760, 54761, 55657, 55658, 56620–56622, 57257, 57484, 57485
71.....54291, 54762, 54763, 55389, 55659, 56623, 56624, 57259–57262, 57486, 57487
73.....54763, 55390
75.....54763
91.....56324, 57262
97.....54292, 55659, 57265
121.....56327, 56460
253.....54764
302.....56129
387.....56130

Proposed Rules:

Ch. I.....54829
23.....56456
39.....54830, 56653, 57295
61.....54414, 56654
71.....54308, 54309, 54831, 55687, 56654–56656, 57497, 57498
73.....56656
75.....54309, 55688, 56365, 56659
120.....56366
121.....56366
135.....56366

15 CFR

904.....54429, 56131

Proposed Rules:

325.....56972
929.....56506

16 CFR

13.....55210, 55211, 57488
1000.....54927
1306.....57488
1500.....57489

Proposed Rules:

13.....54452, 55398, 57499
1101.....57296

17 CFR

1.....56996
3.....56996, 57266
4.....56996
15.....56996
16.....56996
18.....56996
21.....56996
32.....56995
33.....56996
145.....56995
147.....56996
155.....56996
170.....56996
180.....56996
200.....54764, 55211, 56843
210.....54764, 56835
229.....54764, 55661
230.....54764
239.....54764, 55661
240.....54057, 54764, 55661, 57267
249.....54764, 55661
260.....54764
270.....56835

Proposed Rules:

1.....57055
240.....55491
270.....56509

18 CFR

2.....57268
3.....57270
271.....54928, 57270
274.....54063

Proposed Rules:

271.....55246, 57056–57060
385.....54981
1300.....57297

19 CFR

4.....54064
10.....55470
18.....55470
19.....55470
22.....55470
24.....55470
101.....55913
113.....55470
125.....55470
127.....55470
132.....55470
142.....55470
144.....55470

Proposed Rules:

4.....54092
148.....54092
177.....55400

20 CFR

416.....55212
609.....54686
614.....54696

21 CFR

5.....54750, 55470
74.....54429, 56489
81.....54429, 56489
82.....54429, 56489
145.....55471, 56845
172.....55475
175.....54430
176.....56845
193.....55214, 56845
201.....54750
330.....54750
444.....56489
510.....56845
520.....55472
522.....55472, 56845
558.....54929, 56846
866.....56846

Proposed Rules:

145.....55496
182.....54454, 56513
184.....54454, 54456, 56513, 56871
186.....54454
310.....55497
314.....56871
333.....54981
348.....54982
357.....55076, 55497, 56871
358.....54646
886.....55497

22 CFR

9.....55594
22.....56328
51.....56329

23 CFR

Proposed Rules:

1209.....57298

24 CFR

10.....56624
15.....55669
50.....56266
200.....54790
203.....54790
204.....54790
213.....54790
220.....54790
221.....54790
222.....54790
226.....54790
227.....54790
233.....54790
235.....54430, 54790
237.....54790
240.....54790
300.....55669
804.....54293, 54790
805.....54293, 54790, 55136
812.....54790
841.....54790, 55136
860.....54293
880.....54293
881.....54293
882.....54293
883.....54293
884.....54293
885.....56490
886.....54293
888.....56133
890.....54431, 57270

Proposed Rules:

16.....56660
571.....55868
860.....55689
866.....55689
888.....55764

25 CFR

273.....57274

26 CFR

1.....54296, 54791, 54803, 55477, 56330, 56490
7.....57489
35.....54065, 55215, 57021
601.....56330

Proposed Rules:

1.....54093, 55247, 55696, 55697, 56367, 57502, 57503
7.....57503
11.....54093
31.....55248
54.....54093
301.....57503
601.....54459, 54461

27 CFR

9 55915

Proposed Rules:

9 ..... 55492, 55954–55961, 56369

28 CFR

2 ..... 56334, 56846
540 ..... 55128, 56134

Proposed Rules:

2 54982
540 55131
551 ..... 55131, 56144

29 CFR

102 54432
1903 55478
1910 54433
2510 56847
2610 55670
2619 ..... 56134, 57021
2621 55672
2622 55670

30 CFR

901 56492
906 56342
914 56493
931 56800
944 55672
946 55675

Proposed Rules:

55 55499
56 55499
57 55499
75 55499
77 55499
221 ..... 54462, 56871
250 56871
902 57511
903 55249
914 57511
916 57299
927 57236
934 55499
936 54472
939 57246
942 54474
946 57513

31 CFR

53 ..... 55481, 56351
55 56351
81 56351
90 56351
92 56351
93 56351
120 56351
121 56351
122 56351
127 56351

Proposed Rules:

1 54475
10 56144

32 CFR

166 56847
199 57491
802 57493
1285 54929
1662 56494

Proposed Rules:

701 54104

33 CFR

1 54298
2 54298
110 56354
114 54298
115 54298
117 ..... 54298–54301, 57493
165 ..... 54301, 55391
209 55916

Proposed Rules:

110 ..... 54310, 56661
117 55400
157 56786
165 56370
207 54832

34 CFR

Proposed Rules:

64 56871
201 54718
202 54718
203 54718
204 54718
300 54311
302 54718

35 CFR

103 54071
105 54071
107 54071
109 54071
111 54071
113 54071
119 54071
123 54071

Proposed Rules:

103 54105
113 54105
119 54105
123 54105

36 CFR

7 ..... 54930–54932, 55391, 55917

Proposed Rules:

7 57300

38 CFR

3 54435
17 55482

Proposed Rules:

3 ..... 56880, 56881

39 CFR

3 56495
4 56495
6 56495
8 56495
3001 55392

Proposed Rules:

3001 ..... 55698, 57514

40 CFR

50 54896
52 ..... 54072, 54312, 54808, 54933–54936, 55393, 55678, 55919, 56497, 56625
60 ..... 54073, 54258, 54259
61 56626
81 ..... 54080, 56625
123 55680
180 ..... 55221–55225, 56135, 56136
300 55488
415 55226
440 54598
465 54232
716 ..... 54642, 56850, 57023
761 54436

Proposed Rules:

Ch. I 55880
35 56372
52 ..... 54476, 54984, 55400, 55500, 55964, 55965, 56516, 56518, 56882,
60 ..... 55966, 56118, 57515
65 56883
86 ..... 54250, 56662
123 ..... 56520, 57022, 57301, 57302
130 56372
158 56884
162 ..... 55967, 57624, 57635
180 ..... 54106, 55249, 55699
201 ..... 54107, 54313
202 54313
204 54108
205 54108–54111
228 ..... 54834, 56663, 56665
403 54477
439 56373
455 56373
461 55502
464 55502
467 56373
468 55502

41 CFR

Ch. 7 57494
1–3 57023
1–16 57023
1–30 57023
15–3 57495
101–36 ..... 54810, 54937
101–47 56499

Proposed Rules:

Ch. 9 56256
3–16 57515
3–50 57515
101–20 57520

42 CFR

52d 55227
55a 55227
57 54437
58 54437
86 55227
401 54939
405 ..... 54302, 54811, 54939, 56262
488 56282
489 56282

Proposed Rules:

124 54314
405 54113
447 54113

43 CFR

Public Land Orders:

503 (Revoked in part by PLO 6342) 57275
3833 56300
6342 57275

Proposed Rules:

4 56521
3200 56151
3710 57521
3720 57521
3730 57521
3740 57521
3800 57521
3810 57521
3820 57521
3830 57521
3840 57521
3850 57521
3860 57521
3870 57521
4100 55402
8360 57404

44 CFR

2 56850
6 54815
64 ..... 54816, 55921, 55922, 56850
65 ..... 54941, 57495
67 ..... 54941, 55228, 55241, 56627
70 ..... 54440–54444, 56629–56636
205 ..... 55756, 57275

Proposed Rules:

59 55752
60 55752
67 ..... 54477, 54478, 54835, 55251, 56668–56671, 56884, 57061, 57522, 57523

45 CFR

5b 57040
74 55227
97 56466
301 57277
302 57277
303 ..... 57277, 57282
304 ..... 57277, 57282
305 ..... 57277, 57282
600 54081
601 57284
612 54943
680 54081
681 54081
682 54081
683 54081
684 54081
1300 56466
1336 55227
1601 54943

Proposed Rules:

1180 56871

46 CFR

67 54305
536 56138

Proposed Rules:

507 55969

47 CFR

Ch. I 57040
0 ..... 55924, 56852
1 ..... 56636, 57049
2 ..... 55241, 56852, 57286
22 56856
63 54944
67 55681
73 ..... 54444, 54446, 55242, 55243, 55681–55683, 55924, 56355, 56356, 56636
74 ..... 54446, 55931,
87 ..... 54449, 56636, 56852
90 ..... 54450, 57049
95 57049
97 55241

Proposed Rules:
15..... 55251
34..... 55974
35..... 55974
67..... 54479, 55699
73..... 54519–54522, 55256, 55974, 56672
76..... 54523
81..... 54836, 56673
83..... 56673
95..... 56677

49 CFR

Ch. X..... 54081, 55686
1..... 57286
7..... 55683
171..... 54817, 54824
172..... 54817, 54824
173..... 54817, 54824
175..... 54817, 54824
177..... 54824
178..... 54824
195..... 55396
225..... 56357
450..... 57287
451..... 57287
452..... 57287
453..... 57287
531..... 55684
581..... 56640
601..... 55683
1003..... 55939
1011..... 55950
1033..... 57287
1043..... 55939
1057..... 54083
1249..... 56359
1306..... 54083

Proposed Rules:
Ch. X..... 54985, 55975
29..... 55700
571..... 54839, 57302
1000..... 56885
1003..... 55976
1039..... 55257
1043..... 55976, 55980
1084..... 55976, 55980
1162..... 57303
1220..... 56152
1306..... 57303
1307..... 57303

50 CFR

11..... 56856
12..... 56856
16..... 56360
20..... 55397
23..... 54968
255..... 57432
540..... 55488
611..... 56650,
663..... 56138
671..... 54451, 57052

Proposed Rules:
23..... 57524
29..... 54840
611..... 54841, 57306
652..... 54985
663..... 57079
671..... 54125,
675..... 54841, 57306

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.) Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/MA	LABOR		DOT/MA	LABOR
DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
DOT/RSPA			DOT/RSPA	
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last Listing December 23, 1982

New Publication

List of CFR Sections Affected

(1964 through 1972)

A Research Guide

These two volumes contain a compilation of the "List of CFR Sections Affected (LSA)" for the years 1964 through 1972. Reference to these tables will enable the user to find the precise text of CFR provisions which were in force and effect on any given date during the period covered.

Volume I (Titles 1 through 27) $15.00
Volume II (Titles 28 through 50) $14.00

ORDER FORM Mail to: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402

Enclosed is $ _____ ☐ check,
☐ money order, or charge to my
Deposit Account No.
☐☐☐☐☐☐☐–☐

Order No._____

VISA

MasterCard

Credit Card Orders Only

Total charges $_____ Fill in the boxes below.

Credit Card No. ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

Expiration Date Month/Year ☐☐☐☐

Please send me____copies of the CODE OF FEDERAL REGULATIONS
Volume I $15.00 Stock No. 022-003-94233-5
Volume II $14.00 Stock No. 022-003-94234-3

Name—First, Last

Street address

Company name or additional address line

City State ZIP Code

(or Country)

PLEASE PRINT OR TYPE

For Office Use Only

Quantity	Charges
_____ Enclosed	
_____ To be mailed	
Subscriptions	
Postage	
Foreign handling	
MMOB	
OPNR	
_____ UPNS	
_____ Discount	
_____ Refund	

12-28-82
Vol. 47 No. 249
Pages 57651-57906

federal register

Tuesday
December 28, 1982

Selected Subjects

Aged
Health and Human Services Department

Animal Drugs
Food and Drug Administration

Banks, Banking
Depository Institutions Deregulation Committee

Coal Mining
Surface Mining Reclamation and Enforcement Office

Color Additives
Food and Drug Administration

Exports
International Trade Administration

Food Grades and Standards
Food and Drug Administration

Food Stamps
Food and Nutrition Services

Health Care
Veterans Administration

Health Records
Occupational Safety and Health Administration

Labeling
Food and Drug Administration

Marine Resources
National Oceanic and Atmospheric Administration

Milk Marketing Orders
Agricultural Marketing Service

CONTINUED INSIDE

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The **Federal Register** will be furnished by mail to subscribers, free of postage, for $300.00 per year, or $150.00 for six months, payable in advance. The charge for individual copies is $1.50 for each issue, or $1.50 for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the **Federal Register**.

Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

Selected Subjects

Motor Vehicles
Environmental Protection Agency

Noise Control
Environmental Protection Agency

Nuclear Power Plants and Reactors
Nuclear Regulatory Commission

Organization and Functions (Government Agencies)
Agriculture Department

Political Activities (Government Employees)
Personnel Management Office

Prescription Drugs
Drug Enforcement Administration

Recreation Areas
Engineers Corps

Reporting and Recordkeeping Requirements
Civil Aeronautics Board

Securities
Securities and Exchange Commission

Wine
Alcohol, Tobacco and Firearms Bureau

Contents

Federal Register
Vol. 47, No. 249
Tuesday, December 28, 1982

The President
ADMINISTRATIVE ORDERS
57653 China, renewal of trade agreements (Memorandum of Dec. 23, 1982)
EXECUTIVE ORDERS
57651 Social Security Reform, National Commission on (EO 12397)

Executive Agencies

Agricultural Marketing Service
PROPOSED RULES
Milk marketing orders:
57728 Tennessee Valley

Agriculture Department
See also Agricultural Marketing Service; Food and Nutrition Service.
RULES
Organization and functions:
57656 Contract Appeals Board

Alcohol, Tobacco and Firearms Bureau
RULES
Alcohol; viticultural area designations:
57694 California Shenandoah Valley, Calif.
57696 Shenandoah Valley, Va. and W.Va.

Army Department
See also Engineers Corps.
NOTICES
57749 Agency forms submitted to OMB for review
Meetings:
57749 Science Board (2 documents)
57750 Privacy Act; systems of records

Centers for Disease Control
NOTICES
Grants and cooperative agreements:
57774 Occupational safety and health field research projects (NIOSH); surveillance program; correction
Meetings:
57774 Immunization Practices Advisory Committee

Civil Aeronautics Board
PROPOSED RULES
57733 Foreign air freight forwarders and cooperative shippers associations, all-cargo carriers, and certificated air carriers; reduction of reporting and recordkeeping requirements
NOTICES
57744 Commuter fitness determinations
Hearings, etc.:
57744 Newark-London back-up case

Civil Rights Commission
NOTICES
Meetings; State advisory committees:
57744 Alabama
57744 South Carolina

Commerce Department
See also International Trade Administration; National Bureau of Standards; National Oceanic and Atmospheric Adminstration.
NOTICES
57747 Advisory committees; availability of report on closed meetings
57746 Agency forms submitted to OMB for review

Copyright Royalty Tribunal
NOTICES
Cable royalty fees:
57748 Distribution procedures (1980)

Defense Department
See also Army Department; Engineers Corps.
NOTICES
Meetings:
57756 Science Board task forces
57755 Privacy Act; systems of records

Depository Institutions Deregulation Committee
PROPOSED RULES
Interest on deposits:
57729 Deposit rate ceilings deregulation

Drug Enforcement Administration
RULES
Schedules of controlled substances:
57693 Triazolam

Economic Regulatory Administration
NOTICES
57756 Natural gas imports; Canadian and Mexican importation; inquiry and conference

Employment and Training Administration
NOTICES
Adjustment assistance:
57787 Canton Malleable Iron Co.
Unemployment compensation; extended benefit periods:
57788 Oregon

Energy Department
See Economic Regulatory Administration; Energy Research Office; Federal Energy Regulatory Commission.

Energy Research Office
NOTICES
57762 Nuclear-related activities, occupational employment survey (Form ER–828), proposed; inquiry

Engineers Corps
RULES
57703 Falls of the Ohio National Wildlife Conservation Area; protection, use, and management; interim rule

Environmental Protection Agency
RULES
Noise abatement programs:
57709 Portable air compressors, trucks, hearing protectors, truck mounted solid waste compactors, and motorcycles, etc.; product verification testing and reporting and recordkeeping requirements revoked
PROPOSED RULES
Hazardous waste programs; interim authorizations; various States:
57741 Washington; hearing; correction
Motor vehicle fuel economy:
57742 Retrofit devices; test procedures and evaluation criteria; amendment and clarification

Federal Energy Regulatory Commission
NOTICES
Hearings, etc.:
57757 Algonquin Gas Transmission Co.
57758 Atkins, Callis H.
57758 Barrett, Harold T., Jr.
57759 Cliffs Electric Service Co.
57759 Consumers Power Co.
57759 Gas Gathering Corp.
57758 Kansas City Board of Public Utilities
57760 Montana Power Co.
57760 Natural Gas Pipeline Co. of America
57761 New England Power Pool
57761 Pennsylvania Power & Light Co.
57761, 57762 United Gas Pipe Line Co. (2 documents)
Small power production and cogeneration facilities; qualifying status; certification applications, etc.:
57762 Coronado Shores Condominium Association No. 1
57762 Genstar Building Materials Co.

Federal Home Loan Bank Board
NOTICES
Federal home loan bank system:
57768 Processing and settlement of items and demand deposit services; fee schedule

Federal Reserve System
NOTICES
57773 Agency forms submitted to OMB for review
Applications, etc.:
57773 Arthur Bancshares Corp. et al.
57773 Mellon National Corp.

Fish and Wildlife Service
NOTICES
57779 Endangered and threatened species permit applications

Food and Drug Administration
RULES
Animal drugs, feeds, and related products:
57692 Nitrofurazone solution
Color additives:
57681 D&C Red No. 6 and D&C Red No. 7; permanent listing
57691 D&C Red No. 6 and D&C Red No. 7; provisional listing; postponement of closing date
Food additives:
57692 Adjuvants, production aids, and sanitizers; tetrakis(methylene(3,5-di-tert-butyl-4-hydroxyhydrocinnamate)) methane; correction
Food for human consumption:
57692 Grapefruit juice; identity standard; effective date confirmed
57692 Pears, canned; identity and quality standards; effective date confirmed
PROPOSED RULES
Drug labeling:
57886 Salicylate-containing products; Reye syndrome warning; advance notice
GRAS or prior-sanctioned ingredients:
57738 Ammonium bicarbonate, ammonium carbonate, ammonium chloride, ammonium hydroxide, and mono and dibasic ammonium phosphate; tentative final rule; correction
Human drugs:
57738 Oral health care products (OTC); monograph establishment; extension of time
57738 Topical antifungal, topical antimicrobial, external analgesic, and skin protectant drug products (OTC); monograph establishment; advance notice; extension of time
NOTICES
Food additives, petitions filed or withdrawn:
57774 Ciba-Geigy Corp.
57775 M & T Chemicals, Inc.
57775 Toyo Seikan Kaisha, Ltd.; amendment
Meetings:
57775 Consumer information exchange

Food and Nutrition Service
RULES
Food stamps:
57666 State agency liabilities and Federal sanctions, performance reporting system, etc.; corrections and clarifications
PROPOSED RULES
Food stamp program:
57725 Adverse action and mass change notification

General Accounting Office
RULES
57655 Conflict of interests: CFR Part removed

Health and Human Services Department
See also Centers for Disease Control; Food and Drug Administration; Health Care Financing Administration.
RULES
57850 Nondiscrimination on basis of age in federally assisted programs

Health Care Financing Administration
NOTICES
Medicare and Medicaid:
57775 Eligibility, benefits, reimbursement, and administration

Interior Department
See Fish and Wildlife Service; Land Management Bureau; National Park Service; Reclamation Bureau; Surface Mining Reclamation and Enforcement Office.

Internal Revenue Service
NOTICES
Authority delegations:
57815 Chief Counsel et al.; execute consents fixing period of limitation on assessment or collection

International Trade Administration
RULES
Export licensing:
57671 Enforcement provisions
NOTICES
Export privileges, actions affecting:
57744 Toshiba Ampex Co., Ltd.

Interstate Commerce Commission
NOTICES
Motor carriers:
57780, 57781 Finance applications (2 documents)
57781, 57784 Permanent authority applications (2 documents)
57785 Permanent authority applications; operating rights republication
57785 Permanent authority applications; restriction removals
Railroad operation, acquisition, construction, etc.:
57786 Angelina & Neches River Railroad Co.; trackage rights exemption
57786 Chicago & North Western Transportation Co.; abandonment exemption
57786 Soo Line Railroad Co.; abandonment exemption

Justice Department
See Drug Enforcement Administration; Juvenile Justice and Delinquency Prevention Office.

Juvenile Justice and Delinquency Prevention Office
NOTICES
Meetings:
57787 Juvenile Justice and Delinquency Prevention National Advisory Committee; location change

Labor Department
See also Employment and Training Administration; Mine Safety and Health Administration; Occupational Safety and Health Administration; Pension and Welfare Benefit Programs Office.

Land Management Bureau
RULES
Public Land orders:
Alaska [Editorial Note: This document, appearing at page 57275 in the **Federal Register** of December 23, 1982, was mistakenly listed under Interior Department in that issue's table of contents.]

Merit Systems Protection Board
NOTICES
57792 Privacy Act; systems of records; annual publication

Mine Safety and Health Administration
PROPOSED RULES
Metal and nonmetallic mine safety:
57883 Fire prevention and control safety standards; preproposal draft availability

National Bureau of Standards
NOTICES
Information processing standards, Federal:
57745 Hydrologic units in U.S. and Caribbean outlying areas, codes for identification; inquiry

National Oceanic and Atmospheric Administration
PROPOSED RULES
57904 Deep seabed mining; commercial recovery of hard mineral resources; advance notice
NOTICES
Fishery conservation and management:
57746 Alaska halibut fishery moratorium; North Pacific Fishery Management Council; hearings

National Park Service
NOTICES
Historic Places National Register; pending nominations:
57779 Florida et al.

National Science Foundation
NOTICES
Meetings:
57805 Precollege Education in Mathematics, Science, and Technology Commission

Nuclear Regulatory Commission
RULES
Production and utilization facilities, domestic licensing:
57670 Emergency plans and procedures; filing of copies of changes
NOTICES
Applications, etc.:
57806 Commonwealth Edison Co.
57806 Connecticut Yankee Atomic Power Co.
57807 Public Service Electric & Gas Co. et al.
Environmental statements; availability, etc.:
57807 Public Service Co. of New Hampshire et al.
Meetings:
57805 Nuclear Reactor Licensing Reform Proposals Ad Hoc Review Committee
57805 Reactor Safeguards Advisory Committee

Occupational Safety and Health Administration
RULES
57699 Occupational injuries and illnesses; exemption from recordkeeping requirements
PROPOSED RULES
Health and safety standards:
57739 Rim wheels, multi-piece and single piece; servicing; extension of time

Pension and Welfare Benefit Programs Office
NOTICES
Employee benefit plans; prohibited transaction exemptions:
57702 Girard Bank Retirement Plan et al.

Pension Benefit Guaranty Corporation
RULES
Single-employer plans:
57768 Maximum guaranteeable benefit; correction

Personnel Management Office
RULES
57655 Authority citation and technical corrections

PROPOSED RULES
57724 Political activity of Federal employees; workplace solicitation and collection of political contributions prohibited
Reemployment rights:
57724 Senate Committee on Appropriations and Economic Stabilization Program employees; correction
NOTICES
Excepted service:
57807 Schedules A, B, and C; positions placed or revoked, update

Postal Service
NOTICES
Rates and fees:
57811 Preferred-rate mailers; rate increase

Reclamation Bureau
NOTICES
Environmental statements; availability, etc.:
57778 Yellowstone Diversion Project, Mont.; hearing

Securities and Exchange Commission
RULES
Securities:
57679 Pro rata rule
NOTICES
Hearings, etc.:
57812 Consolidated Natural Gas Company et al.
57813 Sonat Offshore Drilling Inc.
57818 Meetings; Sunshine Act
Self-regulatory organizations; proposed rule changes:
57812 National Association of Securities Dealers, Inc.
57813 Philadelphia Stock Exchange, Inc.

State Department
NOTICES
Meetings:
57814 International Telegraph and Telephone Consultative Committee (2 documents)

Surface Mining Reclamation and Enforcement Office
PROPOSED RULES
Permanent program submission; various States:
57739 Illinois
57741 Oklahoma; cancellation of comment period and hearing

Synthetic Fuels Corporation
NOTICES
57814 Project proposals; third solicitation; programmatic objectives statement; microfiche copies submission; extension of time

Textile Agreements Implementation Committee
NOTICES
Cotton, wool, or man-made textiles:
57746 China

Trade Representative, Office of United States
NOTICES
Generalized System of Preferences:
57814 Articles eligible for duty-free treatment, etc.

Treasury Department
See also Alcohol, Tobacco and Firearms Bureau; Internal Revenue Service.
NOTICES
Organization, functions, and authority delegations:
57815 Internal Revenue Commissioner; conduct tax audits, tax checks, and income filing record checks

Veterans Administration
RULES
Medical benefits:
57705 Alcohol and drug dependence or abuse treatment and rehabilitation in residential and nonresidential facilities by contract

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR
Administrative Orders:
Memorandums:
December 23, 1982.....57653
Executive Orders:
12335 (Amended by EO 12397).....57651
12397.....57651

4 CFR
12.....57655

5 CFR
213.....57655
315.....57655
351.....57655
551.....57655
734.....57655
738.....57655
752.....57655
950.....57655
Proposed Rules:
352.....57724
733.....57724

7 CFR
24.....57656
273.....57666
274.....57666
275.....57666
276.....57666
Proposed Rules:
272.....57725
273.....57725
1011.....57728

10 CFR
50.....57670

12 CFR
Proposed Rules:
1204.....57729

14 CFR
Proposed Rules:
241.....57733
248.....57733
291.....57733
297.....57733

15 CFR
368.....57671
369.....57671
370.....57671
372.....57671
373.....57671
387.....57671
388.....57671
Proposed Rules:
971.....57904

17 CFR
240.....57679

21 CFR
74.....57681
81 (2 documents).....57681, 57691
82.....57681
145.....57692
146.....57692
178.....57692
524.....57692
1308.....57693
Proposed Rules:
184.....57738
201.....57886
333.....57738
347.....57738
348.....57738
356.....57738

27 CFR
9 (2 documents).....57694, 57696

29 CFR
1904.....57699
2621.....57702
Proposed Rules:
1910.....57739

30 CFR
Proposed Rules:
55.....57883
56.....57883
57.....57883
913.....57739
936.....57741

35 CFR
331.....57703

38 CFR
17.....57705

40 CFR
204.....57709
205.....57709
211.....57709
Proposed Rules:
123.....57741
610.....57742

45 CFR
91.....57850

Federal Register
Vol. 47, No. 249
Tuesday, December 28, 1982

Presidential Documents

Title 3—

The President

Executive Order 12397 of December 23, 1982

National Commission on Social Security Reform

By the authority vested in me as President by the Constitution and laws of the United States of America, and specifically the Federal Advisory Committee Act, as amended (5 U.S.C. App. I), it is hereby ordered that Section 2(b) of Executive Order No. 12335, establishing the National Commission on Social Security Reform, is hereby amended to provide as follows:

"The Commission shall make its report to the President by January 15, 1983.".

Ronald Reagan

THE WHITE HOUSE,
December 23, 1982.

[FR Doc. 82-35230
Filed 12-23-82; 1:21 pm]
Billing code 3195-01-M

Presidential Documents

Memorandum of December 23, 1982

Renewal of Trade Agreements With the People's Republic of China—Finding and Determination Under Subsection 405(b)(1) of the Trade Act of 1974

Memorandum for the United States Trade Representative

Pursuant to my authority under Section 405 of the Trade Act of 1974 (19 U.S.C. 2435), I find that a satisfactory balance of concessions in trade and services has been maintained during the life of the Agreement on Trade Relations between the United States of America and the People's Republic of China. I further determine that actual or foreseeable reductions in United States tariffs and nontariff barriers to trade resulting from multilateral negotiations have been satisfactorily reciprocated by the People's Republic of China.

This finding and determination shall be published in the **Federal Register**.

Ronald Reagan

THE WHITE HOUSE,
Washington, December 23, 1982.

[FR Doc. 82-35311
Filed 12-27-82; 10:45 am]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 47, No. 249
Tuesday, December 28, 1982

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

GENERAL ACCOUNTING OFFICE

4 CFR Part 12

General Procedures; Code of Ethics

AGENCY: General Accounting Office.
ACTION: Final rule.

SUMMARY: This rule removes from the CFR, regulations setting forth the code of ethics of the General Accounting Office. Because of frequently changing requirements in GAO, these regulations will no longer be published in the **Federal Register**; instead, they will be set forth in GAO Orders 2735.1, 2735.2, and 2735.3. This will simplify the process for revising these regulations.

EFFECTIVE DATE: December 28, 1982.

FOR FURTHER INFORMATION CONTACT: Frances A. McCoy, Personnel Management Specialist, Personnel, United States General Accounting Office, Washington, D.C. (Area Code 202–275–5949).

Accordingly, Title 4 CFR, Part 12 is removed.

PART 4—[REMOVED]

(Sec. 311, 42 Stat. 25, as amended (31 U.S.C. 52; interpret or apply 18 U.S.C. 201–218)).

Charles A. Bowsher,
Comptroller General of the United States.

[FR Doc. 82–35154 Filed 12–27–82; 8:45 am]
BILLING CODE 1610–01–M

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 213, 315, 351, 551, 734, 738, 752, and 950

Corrections; Technical Amendments

AGENCY: Office of Personnel Management.
ACTION: Final rule, corrections.

SUMMARY: The Office of Personnel Management is correcting minor inaccuracies and incomplete authority citations in its regulations under Title 5 of the Code of Federal Regulations (5 CFR). These amendments make no substantive changes to the regulations, but are issued to improve the technical integrity of 5 CFR by eliminating errors caused through administrative oversight.

EFFECTIVE DATE: December 28, 1982.

FOR FURTHER INFORMATION CONTACT: Laurel M. Burcham, (202) 254–5966.

SUPPLEMENTARY INFORMATION: In order to correct inaccuracies and omissions in its regulations, the Office of Personnel Management is making the following changes to Title 5 of the Code of Federal Regulations:

(1) In the heading of § 213.3201, the word "possible" is being replaced by the word "practicable." In final regulations published by OPM on April 3, 1982, (46 FR 20146) the word "practicable" appeared correctly in the table of contents but the word "possible" was inadvertently used in the section heading.

(2) In § 351.301, a reference to § 351.203(i)(1) is being changed to § 351.203(h) due to a redesignation of that paragraph published on April 29, 1982 (45 FR 28301).

(3) A final rule correction published on August 21, 1981, (46 FR 42437) amended § 752.401 by revising paragraph (c)(8) rather than redesignating it as (c)(9). The paragraph replaced by the revision is being reincorporated as (c)(9).

(4) The authority citations for several parts are being revised to reference the applicable sections of the United States Code or to correct Executive order citations.

Pursuant to section 553 of title 5 of the United States Code, the Director finds that good cause exists for waiving the general notice of proposed rulemaking and the 30-day delay in effectiveness. The amendments are being made effective immediately because the changes involved are technical and clarifying in nature, and make no substantive alterations to the regulations. Publication before December 31, 1982, would enable the amendments to be incorporated in the 1983 edition of 5 CFR.

U.S. Office of Personnel Management.
Donald J. Devine,
Director.

Accordingly, OPM is amending Title 5 of the Code of Federal Regulations as follows:

PART 213—EXCEPTED SERVICE

§ 213.3201 [Amended]

1. The heading for § 213.3201 is amended by removing the word "possible" and inserting in its place the word "practicable."

PART 315—CAREER AND CAREER-CONDITIONAL EMPLOYMENT

2. The authority for § 315.708 is revised to read as follows:

§ 315.708 Conversion based on service as a Presidential Management Intern.

* * * * *

(E.O. 12364, 47 FR 22931, May 24, 1982)

PART 351—REDUCTION IN FORCE

§ 351.301 [Amended]

3. In § 351.301, the reference to section "351.203(i)(1)" is removed and section "351.203(h)" is inserted in its place.

PART 551—PAY ADMINISTRATION UNDER THE FAIR LABOR STANDARDS ACT

4. In Part 551, the authority for Subpart B is revised to read as follows:

Subpart B—Exemptions

Authority: Sec 4(f) of the Fair Labor Standards Act as amended by Pub. L. 93–259, enacted April 8, 1974; 29 U.S.C. 204f.

PART 734—EXECUTIVE PERSONNEL FINANCIAL DISCLOSURE REQUIREMENTS

5. The authority for Part 734 is revised to read as follows:

Authority: Titles II and IV of Pub. L. 95–521 (October 26, 1978), as amended by Pub. L. 96–19 (June 13, 1979); 5 U.S.C. Appendix 201.

PART 738—OFFICE OF GOVERNMENT ETHICS

6. The authority for Part 738 is revised to read as follows:

Authority: Titles II and IV of Pub. L. 95–521 (October 26, 1978), as amended by Pub. L. 96–19 (June 13, 1979) and Pub. L. 96–28 (June 22, 1979); 5 U.S.C. Appendix 401.

PART 752—ADVERSE ACTIONS

7. In § 752.401(c), subparagraphs (9) through (14) are redesignated as subparagraphs (10) through (15) respectively; and a new subparagraph (9) is added to read as follows:

§ 752.401 Coverage.

* * * * *

(c) * * *

(9) Cancellation of a promotion to a position not classified prior to the promotion;

* * * * *

PART 950—SOLICITATION OF FEDERAL CIVILIAN AND UNIFORMED SERVICE PERSONNEL FOR CONTRIBUTIONS TO PRIVATE VOLUNTARY ORGANIZATIONS

8. The authority citation for Part 950 is revised to read as follows:

Authority: E.O. 12353, 47 FR 12785, March 25, 1982.

(5 U.S.C. 1103)

[FR Doc. 82-35052 Filed 12-27-82; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 24

Organization and Functions; Rules of Procedure of Board of Contract Appeals, Department of Agriculture

AGENCY: Office of the Secretary, USDA.

ACTION: Final rule.

SUMMARY: This rule revises the jurisdiction of the Agriculture Board of Contract Appeals by deleting that provision related to referrals to the Board from the Commodity Credit Corporation and by excluding from the jurisdiction of the Board appeals from decisions of Forest Service officers with respect to disputes arising under grazing and special use permits issued by the Forest Service. Rules of Procedure to be followed in proceedings governed by the Contract Disputes Act are added to the presently published rules governing proceedings under the Board's nonstatutory jurisdiction. These changes result from the enactment of the Contract Disputes Act, review of existing procedures, and consideration of USDA and public experience since 1974 with current procedures.

EFFECTIVE DATE: January 27, 1983.

FOR FURTHER INFORMATION CONTACT: Administrative Judge Jewel F. Lewis, Chair, USDA Board of Contract Appeals, (202) 447-2066 or (202) 447-7023.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was published on pages 36554-36564 of the **Federal Register** of August 20, 1982, and invited comments for 60 days ending October 19, 1982. No public comments were received.

Only one change has been made to the proposed rules. An exclusion to the Board's nonstatutory jurisdiction has been reinstated at section 24.4(b)(2) to clarify that management and policy decisions reviewable under Forest Service administrative appeal procedures found at 36 CFR 211.19 (proposed to be revised as 36 CFR 211.18) are not within the Board's jurisdiction. The language used is identical to the exclusion presently found at § 24.4(e)(2) and was reinstated to make clear no change is intended in this regard.

This rule will clarify the Agriculture Board of Contract Appeal's jurisdiction and procedures as well as remove confusion about the jurisdictional responsibility within the U.S. Department of Agriculture for review of disputes on grazing and special use permits by placing under 36 CFR 211.18 all aspects of appeals relating to grazing and special use permits which currently would be brought under § 24.4(e).

Regulatory Impact

This action is a delegation of administrative authority and is, therefore, exempt from the requirements of Executive Order 12291.

Small Entity Impact

This rule will not have a significant economic impact on a substantial number of small entities. Therefore, an analysis of impacts on small entities is not required.

Environmental Impact

This rule relates to delegation of authority and the internal administration of the U.S. Department of Agriculture. Therefore, it does not constitute a major federal action affecting the quality of the human environment.

Paperwork Burden

This rule will impose no additional paperwork requirements on individuals or groups who appeal decisions of the Department of Agriculture to the Board of Contract Appeals, Department of Agriculture.

List of Subjects in 7 CFR Part 24

Administrative practice and procedure, Agriculture, Government contracts, Organization and functions (Government agencies).

For the reasons set forth above, Part 24, Subpart A—Organization and Functions, and Subpart B—Rules of Procedure, of Subtitle A of Title 7, Code of Federal Regulations is revised to read as follows:

PART 24—BOARD OF CONTRACT APPEALS, DEPARTMENT OF AGRICULTURE

Subpart A—Organization and Functions

Sec.
24.1 General.
24.2 Composition of the Board.
24.3 Presiding Administrative Judge.
24.4 Jurisdiction.
24.5 Time for filing notice of appeal.
24.6 Board location and address.
24.7 Public information.
24.8 Rules of procedure.
24.9 Definitions.

Subpart B—Rules of Procedure

24.21 Rules of Procedure of Agriculture Board of Contract Appeals—AGBCA.

Authority: 5 U.S.C. 301; 40 U.S.C. 486(c) sec. 4, 62 Stat. 1070, as amended (15 U.S.C. 714b); 30 Stat. 35, as amended (16 U.S.C. 551); 50 Stat. 525, as amended (7 U.S.C. 1011(f)); secs. 9, 10, 62 Stat. 1072, 1073 (15 U.S.C. 714g, 714h); sec. 8, 92 Stat. 2383 (41 U.S.C. 601-613).

Subpart A—Organization and Functions

§ 24.1 General.

The Board of Contract Appeals, United States Department of Agriculture (referred to as the "Board") is an agency of the Department established by the Secretary of Agriculture in accordance with the requirements of the Contract Disputes Act of 1978 (Pub. L. 95-563, 41 U.S.C. 601-613). The provisions of 5 U.S.C. 551-559 (Administrative Procedure Act, 80 Stat. 378, as amended) are not applicable to proceedings before the Board except for the requirements under 5 U.S.C. 552 (61 Stat. 54) respecting public information, agency rules, opinions, orders, and records.

§ 24.2 Composition of the Board.

The Board consists of a Chair, Vice Chair, and other members, all of whom are attorneys at law duly licensed by a state, commonwealth, territory, or the District of Columbia. The Chair shall manage the business and operations of the Board, assign cases to members, and establish panels for cases. Except as provided in Rule 12.2 the Small Claims (Expedited) Procedure, and Rule 12.3 the Accelerated Procedure, § 24.21(b), and in Rule 9, Accelerated Procedure, § 24.21(c), decisions of the Board will be rendered by a panel of three Administrative Judges, and the decision

of the majority of the panel will constitute the decision of the Board. The Vice Chair shall perform the functions of the Chair upon request of the Chair or in the event of absence or inability of the Chair to act. Members are designated Administrative Judges.

§ 24.3 Presiding Administrative Judge.

The Chair acts as Presiding Administrative Judge, or designates a member of the Board to so act, in each proceeding. The Presiding Administrative Judge has power to:

(a) Rule upon motions and requests;

(b) Adjourn the hearing from time to time and change the time and place of hearing;

(c) Administer oaths and affirmations and take affidavits;

(d) Receive evidence;

(e) Order the taking of depositions;

(f) Admit or exclude evidence;

(g) Hear oral argument on facts or law;

(h) Consolidate appeals filed by two or more appellants; and

(i) Do all acts and take all measures necessary for the maintenance of order at the hearing and the efficient conduct of the proceeding.

In cases considered by the Board under § 24.4(b) the Chair is hereby delegated authority to request subpoenas pursuant to 5 U.S.C. 304.

§ 24.4 Jurisdiction.

(a) *Statutory.* Pursuant to the Contract Disputes Act of 1978 (Pub. L. 95–563, 41 U.S.C. 601–613), the Board shall consider and determine appeals from decisions of contracting officers relating to contracts entered into on or after March 1, 1979, and, at the contractor's election, contracts entered into prior to March 1, 1979, with respect to claims pending before the contracting officer on March 1, 1979, or initiated thereafter. For purposes of this paragraph (a) the term "contracts" shall mean express or implied contracts made by the Department of Agriculture, agencies of the Department and the Commodity Credit Corporation, or by any other executive agency when such agency or the Administrator for Federal Procurement Policy has designated the Board to decide the appeal, for:

(1) The procurement of property, other than real property in being;

(2) The procurement of services;

(3) The procurement of construction, alteration, repair or maintenance of real property; or

(4) The disposal of personal property.

(b) *Non-statutory.* (1) Pursuant to the Disputes Article of contracts, other than timber sale contracts, entered into prior to March 1, 1979, made by the Department of Agriculture, agencies of the Department and the Commodity Credit Corporation, the Board shall consider and determine appeals from decisions of contracting officers arising under such contracts, unless election by the contractor brings the appeal under the statutory jurisdiction described in paragraph (a) of this section.

(2) The Board shall have jurisdiction of appeals from decisions of contracting officers of the Forest Service (as defined in § 24.9), in which the issue under appeal arises under the terms or provisions of timber sale contracts, except that:

(i) Appeals subject to Board jurisdiction involving Forest Service decisions under § 24.4(a), (c) or (d) shall be excluded from jurisdiction under this paragraph.

(ii) Appeals subject to administrative review under 36 CFR 211.18 involving management and policy decisions and not involving breach of contract shall be excluded from jurisdiction under this paragraph, and

(iii) No appeal under this paragraph shall lie where the relief sought is reformation of contract, monetary damages or amendment of contract at the discretion of the Forest Service to extend the term of the contract.

(c) *Contract Work Hours Standards Act.* The Board shall have jurisdiction of appeals taken from decisions of contracting officers of the Department of Agriculture under the Contract Work Hours Standards Act (Pub. L. 87–581, August 13, 1962, 76 Stat. 357; 40 U.S.C. 327–332).

(d) *Debarment.* The Board shall have jurisdiction to hear and determine the issue of debarment and the period thereof, if any, on an appeal by a person debarred: (1) By an authorized official of the Commodity Credit Corporation under 7 CFR 1407.6(d), or (2) by an authorized official of the Department of Agriculture, under 41 CFR 4–1.604–1(b), or (3) by an authorized official of the Farmers Home Administration, under Subpart C of Part 1918, Chapter XVIII of this title.

§ 24.5 Time for filing notice of appeal.

A notice of appeal under § 24.4(a) shall be filed within 90 days from the date of receipt of a contracting officer's decision. (41 U.S.C. 606.) a notice of appeal under § 24.4(b)(1) shall be filed within 30 days from the date of receipt of the decision of the contracting officer or within such different time as may be prescribed in the contract or other applicable regulation of the Department. A notice of appeal under § 24.4(b)(2) shall be filed within 30 days from the date of receipt of the decision of the contracting officer of the Forest Service. The time for filing a notice of appeal shall not be extended by the Board.

§ 24.6 Board location and address.

The Board of Contract Appeals is located in Washington, D.C. All correspondence and all documents to be filed with the Board should be addressed to the Board of Contract Appeals, United States Department of Agriculture, Washington, D.C. 20250. The Board's telephone number is 202–447–7023.

§ 24.7 Public information.

(a) The records of the Board are open to the public for inspection and copying at the office of the Board. Decisions and rulings of the Board shall be published from time to time and copies made available to the public upon request at cost of duplication except that the Board shall, in its discretion, have authority to make copies of decisions and rulings available at no charge in accordance with the Record Copying Policy and Procedures of the Department (39 FR 26050). Hearings before the Board shall be open to the public.

(b) Information which is to be made available for public inspection and copying under provisions of 5 U.S.C. 552(a)(2) and 7 CFR 1.2 may be obtained at the office of the Board. The address of the Board is set forth in § 24.6. Except for such information as is generally available to the public, requests should be in writing and submitted in accordance with 7 CFR 1.3 and paragraphs (c) and (d) of this § 24.7.

(c) Facilities for copying are available at the office of the Board.

(d) Facilities for inspection and copying are available during established office hours for the Board, usually 8:30 a.m. to 5:00 p.m., Monday through Friday. The Department of Agriculture has established a schedule of fees for copies of information. The Board charges for copies of records in accordance with the Department fee schedule.

(e) The Vice Chair is authorized to receive requests for records submitted in accordance with 7 CFR 1.3(a), and to make determinations regarding whether to grant or deny requests for records exempt from mandatory disclosure under the provisions of 5 U.S.C. 552(b). This official is authorized to (1) Extend the ten-day administrative deadline for reply pursuant to 7 CFR 1.8, (2) make discretionary releases pursuant to 7 CFR 1.11(b) of records exempt from mandatory disclosure, and (3) make determinations regarding the charging of fees.

(f) Appeals from denials of requests submitted under paragraph (c) of this section shall be submitted in accordance with 7 CFR 1.3(e) to the Chair, Board of Contract Appeals, Department of Agriculture, 12th Street and Independence Avenue, SW, Washington, D.C. 20250. The Chair shall determine whether to grant or deny the appeal and shall also make all necessary determinations relating to an extension of the twenty-day administrative deadline for reply pursuant to 7 CFR 1.8, discretionary release pursuant to 7 CFR 1.11(b) of records exempt from mandatory disclosure under 5 U.S.C. 552(b), and the charging of appropriate fees.

§ 24.8 Rules of procedure.

The Chair of the Board shall prescribe its Rules of Procedure and publish such Rules in Subpart B of this Part 24 and may prescribe and so publish amendments from time to time. The Rules of Procedure and any amendments thereto shall be consistent with this subpart.

§ 24.9 Definitions.

"Board" means the Board of Contract Appeals established under this Subpart.

"Contract" means any agreement entered into the Department or its agencies or authorized officials with any person having the legal effect of a contract between the Department and such person.

"Contracting officer" means any person who, by appointment in accordance with applicable regulations, has the authority to enter into and administer contracts and make determinations and findings with respect thereto and includes the authorized representative of the contracting officer, acting within the limits of his/her authority. For purposes of appeals under § 24.4(b)(2), "contracting officer of the Forest Service" means a Forest Supervisor, Forest and Range Experiment Station Director, Forest Products Laboratory Director, Area Director, Regional Forester, or the Chief, Forest Service, as the case may be, who is the person designated as the contracting officer under the contract, or any officer or employee of the Forest Service who is authorized to act in his/her stead.

"Department" means the United States Department of Agriculture.

"Government attorney" means the attorney of the Department designated to handle a particular appeal on behalf of the contracting officer.

"Person" means any individual, partnership, public or private corporation, association, agency or other legal entity.

Subpart B—Rules of Procedure

§ 24.21 Rules of Procedure of Agriculture Board of Contract Appeals—AGBCA.

(a) *Preface to Rules.*—(1) *Time, computation and extensions.* (i) All time limitations specified for various procedural actions are computed as maximums and are not to be fully exhausted if the action described can be accomplished in a lesser period. Where appropriate and justified, however, extensions of time will be granted. All requests for extensions of time by either party shall be in writing and state good cause for the requested extension. The Board may grant such extensions on good cause shown except that the Board shall not extend the time prescribed under 7 CFR 24.5 for taking an appeal.

(ii) Except as otherwise provided by law, in computing any period of time prescribed by these rules or any order of the Board, the day of the event from which the designated period of time begins to run shall not be included, but the last day of the period shall be included unless it is a Saturday, Sunday, or a legal holiday, in which event the period shall run to the end of the next business day. If mailing is required, the date of the postmark shall be treated as the date action was taken.

(2) *Ex parte Communications.* No member of the Board or of the Board's staff shall entertain, nor shall any person directly or indirectly involved in an appeal submit to the Board or the Board's staff, off the record any evidence, explanation, analysis, or advice, whether written or oral, regarding any matter at issue in an appeal. This provision does not apply to consultation among Board members not to ex parte communication concerning the Board's administrative functions or procedures.

(b) *Rules of Procedure Applicable to Appeals under the Contract Disputes Act of 1978, 41 USC 601 et seq.* (7 CFR 24.4(a)).

INDEX

Preliminary Procedures

Rule 1. Appeals, How and When Taken.
Rule 2. Notice of Appeal, Contents of.
Rule 3. Docketing of Appeals.
Rule 4. Preparation, Content, Organization, Forwarding, and Status of Appeal File.
Rule 5. Dismissal for Lack of Jurisdiction.
Rule 6. Pleadings.
Rule 7. Amendments of Pleadings or Record.
Rule 8. Hearing Election.
Rule 9. Prehearing Briefs.
Rule 10. Prehearing or Presubmission Conference.
Rule 11. Submission Without a Hearing.
Rule 12. Optional SMALL CLAIMS (EXPEDITED) and ACCELERATED Procedures.
Rule 12.1. Elections To Utilize SMALL CLAIMS (EXPEDITED) and ACCELERATED Procedures.
Rule 12.2. The SMALL CLAIMS (EXPEDITED) Procedure.
Rule 12.3. The ACCELERATED Procedure.
Rule 12.4. Motions for Reconsideration in Rule 12 cases.
Rule 13. Settling the Record.
Rule 14. Discovery—Depositions.
Rule 15. Interrogatories to Parties, Admission of Facts, and Production and Inspection of Documents.
Rule 16. Service of Papers other than Subpoenas.

Hearings

Rule 17. Where and When Held.
Rule 18. Notice of Hearings.
Rule 19. Unexcused Absence of a Party.
Rule 20. Hearings: Nature; Examination of Witnesses.
Rule 21. Subpoenas.
Rule 22. Copies of Papers.
Rule 23. Posthearing Briefs.
Rule 24. Transcript of Proceedings.
Rule 25. Withdrawal of Exhibits.

Representation

Rule 26. The Appellant
Rule 27. The Government.

Miscellaneous

Rule 28. Decisions.
Rule 29. Motion for Reconsideration.
Rule 30. Dismissal without Prejudice.
Rule 31. Dismissal or Default for Failure To Prosecute or Defend.
Rule 32. Remand from Court.
Rule 33. Sanctions.
Rule 34. Applicability of These Rules.

RULES

Preliminary Procedures

Rule 1. Appeals, How and When Taken

(a) Notice of Appeal—90 days. Notice of an appeal shall be in writing and mailed or otherwise furnished to the Board within 90 days from the date of receipt of a contracting officer's decision. A copy thereof shall be furnished to the contracting officer from whose decision the appeal is taken.

(b) Failure to Issue CO decision—60 days—$50,000 or less. Where the contractor has submitted a claim of $50,000 or less to the contracting officer and has requested a written decision within 60 days from receipt of the request, and the contracting officer has not done so, the contractor may file a notice of appeal as provided in paragraph (a) of this Rule 1, citing the failure of the contracting officer to issue a decision.

(c) Failure to Issue CO decision—Reasonable Time—more than $50,000. Where the contractor has submitted a claim in excess of $50,000 to the contracting officer and the contracting officer has failed to issue a decision within a reasonable time, the contractor may file a notice of appeal as provided in paragraph (a) of this Rule 1, citing the failure to issue a decision.

(d) Stay Pending Final CO Decision. Upon docketing of appeals filed pursuant to paragraphs (b) or (c) of this Rule 1, the Board may, at its option, stay further proceedings pending issuance of a final decision by the contracting officer within such period of time as is determined by the Board.

Rule 2. Notice of Appeal, Contents of

A notice of appeal should indicate that an appeal is being taken and should identify the contract (by number), the department and agency or bureau involved in the dispute, the decision from which the appeal is taken, and the amount in dispute if known. The notice of appeal should be signed by the appellant (the contractor making the appeal), or by the appellant's duly authorized representative or attorney. The complaint referred to in Rule 6 may be filed with the notice of appeal, or the appellant may designate the notice of appeal as a complaint, if it otherwise fulfills the requirements of a complaint.

Rule 3. Docketing of Appeals

When a notice of appeal in any form has been received by the Board, it shall be docketed promptly. Notice in writing shall be given to the appellant, with a copy of these rules, and to the contracting officer.

Rule 4. Preparation, Content, Organization, Forwarding, and Status of Appeal File

(a) Duties of Contracting Officer. Within 30 days of receipt of a letter from the Board transmitting the complaint, the contracting officer shall assemble and transmit to the Board through agency channels an appeal file in triplicate consisting of all documents pertinent to the appeal, including:

(1) The decision from which the appeal is taken;

(2) The contract, including specifications and pertinent amendments, plans, and drawings;

(3) All correspondence between the parties relevant to the appeal, including the letter or letters of claim in response to which the decisions was issued;

(4) Transcripts of any testimony taken during the course of proceedings, and affidavits or statements of any witnesses on the matter in dispute made prior to the filing of the notice of appeal with the Board; and

(5) Any additional information considered relevant to the appeal.

(b) Duties of the Appellant. Within 30 days after receipt from the Board of a copy of the appeal file assembled by the contracting officer, the appellant shall transmit to the Board in triplicate any documents not contained therein which the appellant considers relevant to the appeal.

(c) Organization of Appeal File. Documents in the appeal file may be originals or legible facsimiles or authenticated copies, and shall be arranged in chronological order where practicable, numbered sequentially, tabbed, and indexed to identify the contents of the file.

(d) Lengthy Documents. Upon request by either party, the Board may waive the requirement to furnish to the other party through the Board copies of bulky, lengthy, or out-of-size documents in the appeal file when inclusion would be burdensome. At the time a party files with the Board a document as to which such a waiver has been granted such party shall notify the other party that the document or a copy is available for inspection at the offices of the Board or of the party filing same.

(e) Status of Documents in Appeal File. Documents contained in the appeal file are considered, without further action by the parties, as part of the record upon which the Board will render its decision. However, a party may object, for reasons stated, to consideration of a particular document or documents reasonably in advance of hearing, or if there is no hearing, of settling the record. If such objection is made the Board shall remove the document or documents from the appeal file and permit the party offering the document to move its admission as evidence either prior to hearing or prior to closing the record if there is no hearing, in accordance with Rules 13 and 20.

(f) Dispensing with Appeal File requirements. Notwithstanding the foregoing, the filing of the Rule 4(a) and (b) documents may be dispensed with by the Board either upon request of the appellant in the notice of appeal or thereafter upon stipulation of the parties.

Rule 5. Dismissal for Lack of Jurisdiction

Any motion addressed to the jurisdiction of the Board shall be promptly filed. Hearing on the motion shall be afforded on application of either party. However, the Board may defer its decision on the motion pending hearing on both the merits and the motion. The Board shall have the right at any time and on its own initiative to raise the issue of its jurisdiction to proceed with a particular case, and shall do so by an appropriate order, affording the parties an opportunity to be heard thereon.

Rule 6. Pleadings

(a) Appellant—Complaint. Except as provided in Rule 12.2(b) and Rule 12.3(b), within 30 days after receipt of notice of docketing of the appeal, the appellant shall file with the Board an original and two copies of a Complaint setting forth simple, concise and direct statements of each of its claims. Appellant shall also set forth the basis, with appropriate reference to contract provisions, of each claim and the dollar amount claimed, to the extent known. This pleading shall fulfill the generally recognized requirements of a Complaint, although no particular form is required. Upon receipt of the Complaint, the Board shall serve a copy of it upon the Government. Should the Complaint not be filed within 30 days, appellant's claim and appeal may, if in the opinion of the Board the issues before the Board are sufficiently defined, be deemed to set forth its Complaint and the Government shall be so notified.

(b) Government—Answer. Within 30 days from receipt of the Complaint, or the aforesaid notice from the Board, the Government, shall prepare and file with the Board an original and two copies of an Answer thereto. The Answer shall set forth simple, concise and direct statements of Government's defenses to each claim asserted by appellant, including any affirmative defenses available. Upon receipt of the Answer, the Board shall serve a copy upon appellant. Should the Answer not be filed within 30 days, the Board may, in its discretion, enter a general denial on behalf of the Government, and the appellant shall be so notified.

Rule 7. Amendments of Pleadings or Record

The Board upon its own initiative or upon application by a party may order a party to make a more definite statement of the Complaint or Answer, or to reply to an Answer. The Board may, in its discretion, and within the proper scope of the appeal, permit either party to amend its pleading upon conditions fair to both parties. When issues within the proper scope of the appeal, but not raised by the pleadings, are tried by express or implied consent of the parties, or by permission of the Board, they shall be treated in all respects as if they had been raised therein. In such instances, motions to amend the pleadings to conform to the proof may be entered, but are not required. If evidence is objected to at a hearing on the ground that it is not within the issues raised by the pleadings, it may be admitted within the proper scope of the appeal, provided, however, that the objecting party may be granted a continuance if necessary to enable it to meet such evidence.

Rule 8. Hearing Election

After filing of the Government's Answer or notice from the Board that it has entered a general denial on behalf of the Government, each party shall advise whether it desires a hearing as prescribed in Rules 17 through 25, or whether it elects to submit its case on the record without a hearing, as prescribed in Rule 11.

Rule 9. Prehearing Briefs

Based on an examination of the pleadings, and its determination of whether the arguments and authorities addressed to the issues are adequately set forth therein, the Board may, in its discretion, require the parties to submit prehearing briefs in any case in which a hearing has been elected pursuant to Rule 8. If the Board does not require prehearing briefs either party may, in its discretion and upon appropriate and sufficient notice to the other party, furnish a prehearing brief to the Board. In any case where a prehearing brief is submitted, it shall be furnished so as to be received by the Board at least 15 days prior to the date set for hearing, and a copy shall simultaneously be furnished to the other party as previously arranged.

Rule 10. Prehearing or Presubmission Conference

(a) Conference. Whether the case is to be submitted pursuant to Rule 11, or heard pursuant to Ruels 17 through 25, the Board may upon its own initiative, or upon the application of either party, arrange a telephone conference or call upon the parties to appear before an Administrative Judge or examiner of the Board for a conference to consider:

(1) Simplification, clarification, or severing of the issues;

(2) The possibility of obtaining stipulations, admissions, agreements and rulings on

admissibility of documents, understandings on matters already of record, or similar agreements that will avoid unnecessary proof;

(3) Agreements and rulings to facilitate discovery;

(4) Limitation of the number of expert witnesses, or avoidance of similar cumulative evidence;

(5) The possibility of agreement disposing of any or all of the issues in dispute; and

(6) Such matters as may aid in the disposition of the appeal.

(b) Written results of conference. The Administrative Judge or examiner of the Board shall make such rulings and orders as may be appropriate to achieve settlement by agreement of the parties or to aid in the disposition of the appeal. The results of pretrial conferences, including any rulings and orders, shall be reduced to writing by the Administrative Judge or examiner and this writing shall thereafter constitute a part of the record.

Rule 11. Submission Without a Hearing

Either party may elect to waive a hearing and to submit its case upon the record before the Board, as settled pursuant to Rule 13. Submission of a case without hearing does not relieve the parties from the necessity of proving the facts supporting their allegations or defenses. Affidavits, depositions, admissions, answers to interrogatories, and stipulations may be employed to supplement other documentary evidence in the Board record. The Board may permit such submission to be supplemented by oral argument (transcribed if requested), and by briefs arranged in accordance with Rule 23.

Rule 12. Optional SMALL CLAIMS (EXPEDITED) and ACCELERATED Procedures

Notwithstanding any other provisions of these Rules of Procedure, the SMALL CLAIMS (EXPEDITED) and ACCELERATED procedures shall be available solely at the election of the appellant.

Rule 12.1 Elections to Utilize SMALL CLAIMS (EXPEDITED) and ACCELERATED Procedures

(a) SMALL CLAIMS (EXPEDITED)—$10,000 or less. In appeals where the amount in dispute is $10,000 or less, the appellant may elect to have the appeal processed under a SMALL CLAIMS (EXPEDITED) procedure requiring decision of the appeal, whenever possible, within 120 days after the Board receives written notice of the appellant's election. The details of this procedure appear in Rule 12.2.

(b) ACCELERATED—$50,000 or less. In appeals where the amount in dispute is $50,000 or less, the appellant may elect to have the appeal processed under an ACCELERATED procedure requiring decision of the appeal, whenever possible, within 180 days after the Board receives written notice of the appellant's election. The details of this procedure appear in Rule 12.3.

(c) Time for Election. The appellant's election of either the SMALL CLAIMS (EXPEDITED) procedure or the ACCELERATED procedure may be made by written notice within 60 days after receipt of notice of docketing the appeal unless such period is extended by the Board for good cause. The election may not be withdrawn except with permission of the Board for good cause.

(d) Board Determines Amount in Dispute. In deciding whether the SMALL CLAIMS (EXPEDITED) procedure or the ACCELERATED procedure is applicable to a given appeal, the Board shall determine the amount in dispute.

Rule 12.2 The SMALL CLAIMS (EXPEDITED) Procedure

(a) Time Periods for Proceedings. In cases proceeding under the SMALL CLAIMS (EXPDITED) procedure, the following time periods shall apply: (1) Within ten days from the Government's first receipt from either the appellant or the Board of a copy of the appellant's notice of election of the SMALL CLAIMS (EXPEDITED) procedure, the Government shall send the Board a copy of the contract, the contracting officer's final decision, and the appellant's claim letter or letters, if any; remaining documents required under Rule 4 shall be submitted in accordance with times specified in that rule unless the Board otherwise directs;

(2) Within 15 days after the Board has acknowledged receipt of appellant's notice of election, the assigned administrative judge shall take the following actions, if feasible, in an informal meeting or a telephone conference with both parties: (i) Identify and simplify the issues; (ii) establish a simplified procedure appropriate to the particular appeal involved; (iii) determine whether the appellant wants a hearing, and if so, fix a time and place therefor; (iv) require the Government to furnish all the additional documents relevant to the appeal, and (v) establish an expedited schedule for resolution of the appeal.

(b) Decisions—120 days. Pleadings, discovery and other prehearing activity will be allowed only as consistent with the requirement to conduct the hearing on the date scheduled, or if no hearing is scheduled, to close the record on a date that will allow decisions within the 120-day limit. The Board, in its discretion, may impose shortened time periods for any actions prescribed or allowed under these rules, as necessary to enable the Board to decide the appeal within the 120-day limit, allowing whatever time, up to 30 days, that the Board considers necessary for the preparation of the decision after closing the record and the filing of briefs, if any.

(c) Form of Decisions. Written decision by the Board in cases processed under the SMALL CLAIMS (EXPEDITED) procedure will be short and contain only summary findings of fact and conclusions. Decisions will be rendered for the Board by a single Administrative Judge. If there has been a hearing, the Administrative Judge presiding at the hearing may, in the Judge's discretion, at the conclusion of the hearing and after entertaining such oral arguments as deemed appropriate, render on the record oral summary findings of fact, conclusions, and a decision of the Appeal. Whenever such an oral decision is rendered, the Board will subsequently furnish the parties a typed copy of such oral decision for record and payment purposes and to establish the starting date for the period for filing a motion for reconsideration under Rule 29.

(d) No Precedent—Not Appealable. A decision against the Government or the contractor shall have no value as precedent, and in the absence of fraud shall be final and conclusive and may not be appealed or set aside.

Rule 12.3 The ACCELERATED Procedure

(a) Time Periods for Proceedings. In cases proceeding under the ACCELERATED procedure, the parties are encouraged, to the extent possible consistent with adequate presentation of their factual and legal positions, to waive pleadings, discovery, and briefs. The Board, in its discretion, may shorten time periods prescribed elsewhere in these Rules, including Rule 4, as necessary to enable the Board to decide the appeal within 180 days after the Board has received the appellant's notice of election of the ACCELERATED procedure, and may reserve 30 days for preparation of the decision.

(b) Decisions—180 days. Pleadings, discovery and other prehearing activity will be allowed only as consistent with the requirement to conduct the hearing on the dates scheduled, or if no hearing is scheduled, to close the record on a date that will allow decision within the 180-day limit. The Board, in its discretion, may impose shortened time periods for any actions prescribed or allowed under these rules, as necessary to enable the Board to decide the appeal within the 180-day limit, allowing whatever time, up to 30 days, that the Board considers necessary for the preparation of the decision after closing the record, and the filing of briefs, if any.

(c) Form of decisions. Written decisions by the Board in cases processed under the ACCELERATED procedure will normally be short and contain only summary findings of fact and conclusions. Decisions will be rendered for the Board by a single Administrative Judge with the concurrence of the Chair or a Vice Chair or other designated Administrative Judge, or by a majority among these two and an additional designated member in case of disagreement. Alternatively, in cases where the amount in dispute is $10,000 or less as to which the ACCELERATED procedure has been elected and in which there has been a hearing, the single Administrative Judge presiding at the hearing may, with the concurrence of both parties, at the conclusion of the hearing and after entertaining such oral arguments as deemed appropriate, render on the record oral summary findings of fact, conclusions, and a decision of the appeal. Whenever such an oral decision is rendered, the Board will subsequently furnish the parties a typed copy of such oral decision for record and payment purposes, and to establish the starting date for the period for filing a motion for reconsideration under Rule 29.

Rule 12.4. Motions for Reconsideration in Rule 12 cases

Motions for Reconsideration of cases decided under either the SMALL CLAIMS (EXPEDITED) procedure or the ACCELERATED procedure need not be

decided within the original 120-day or 180-day limit, but all such motions shall be processed and decided rapidly so as to fulfill the intent of this Rule.

Rule 13. Settling the Record

(a) Components of the Record. The record upon which the Board's decision will be rendered consists of the documents furnished under Rules 4 and 12, to the extent admitted in evidence, and the following items, if any: pleadings, prehearing conference memoranda or orders, prehearing briefs, depositions or interrogations received in evidence, admissions, stipulations, transcripts of conferences and hearings, hearing exhibits, posthearing briefs, and documents which the Board has specifically designated be made a part of the record. The record will, at all reasonable times, be available for inspection by the parties at the office of the Board.

(b) Closing Dates for Inclusion of Material. Except as the Board may otherwise order in its discretion, no proof shall be received in evidence after completion of an oral hearing or, in cases submitted on the record, after notification by the Board that the case is ready for decision.

(c) Weight Given to Evidence. The weight to be attached to any evidence of record will rest within the sound discretion of the Board. The Board may in any case require either party, with appropriate notice to the other party, to submit additional evidence on any matter relevant to the appeal.

Rule 14. Discovery—Depositions

(a) General Policy and Protective Orders. The parties are encouraged to engage in voluntary discovery procedures. In connection with any deposition or other discovery procedure, the Board may make any order required to protect a party or person from annoyance, embarrassment, or undue burden or expense. Those orders may include limitations on the scope, method, time and place for discovery, and provisions for protecting the secrecy of confidential information or documents.

(b) When Depositions Permitted. After an appeal has been docketed and complaint filed, the parties may mutually agree to, or the Board may, upon application of either party, order the taking of testimony of any person by deposition upon oral examination or written interrogatories before any officer authorized to administer oaths at the place of examination, for use as evidence or for purpose of discovery. The application for order shall specify whether the purpose of the deposition is discovery or for use as evidence.

(c) Orders on Depositions. The time, place, and manner of taking depositions shall be as mutually agreed by the parties, or failing such agreement, governed by order of the Board.

(d) Use as Evidence. No testimony taken by depositions shall be considered as part of the evidence in the hearing of an appeal until such testimony is offered and received in evidence at such hearing. It will not ordinarily be received in evidence if the deponent is present and can testify at the hearing. In such instances, however, the deposition may be used to contradict or impeach the testimony of the deponent given at the hearing. In cases submitted on the record, the Board may, in its discretion, receive depositions to supplement the record.

(e) Expenses. Each party shall bear its own expenses associated with the taking of any deposition.

(f) Subpoenas. Where appropriate, a party may request the issuance of a subpoena under the provisions of Rule 21.

Rule 15. Interrogatories to Parties, Admission of Facts, and Production and Inspection of Documents

After an appeal has been docketed and complaint filed with the Board, a party may serve on the other party: (a) Written interrogatories to be answered separately in writing, signed under oath and answered or objected to within 30 days; (b) a request for the admission of specified facts and the authenticity of any documents, to be answered or objected to within 30 days after service; the factual statements and the authenticity of the documents to be deemed admitted upon failure of a party to respond to the request; and (c) a request for the production, inspection and copying of any documents or objects not privileged, which reasonably may lead to the discovery of admissible evidence. Any discovery engaged in under this Rule shall be subject to the provisions of Rule 14(a) with respect to general policy and protective orders and of Rule 33 with respect to sanctions.

Rule 16. Service of Papers other than Subpoenas

Papers shall be served personally or by mail, addressed to the party upon whom service is to be made. Copies of Complaints, Answers and briefs shall be filed directly with the Board. The party filing any other paper with the Board shall send a copy thereof to the opposing party, noting on the paper filed with the Board that a copy has been so furnished. Subpoenas shall be served as provided in Rule 21.

Hearings

Rule 17. Where and When Held

Hearings will be held at such places determined by the Board to best serve the interests of the parties and the Board. Hearings will be scheduled at the discretion of the Board with due consideration to the regular order of appeals, Rule 12 requirements, and other pertinent factors. On request or motion by either party and for good cause, the Board may, in its discretion, adjust the date of a hearing.

Rule 18. Notice of Hearings

The parties shall be given at least 15 days notice of the time and place set for hearings. In scheduling hearings, the Board will consider the desires of the parties and the requirement for just and inexpensive determination of appeals without unnecessary delay.

Rule 19. Unexcused Absence of a Party

The unexcused absence of a party at the time and place set for hearing will not be occasion for delay. In the event of such absence, the hearing will proceed and the case will be regarded as submitted by the absent party as provided in Rule 11.

Rule 20. Hearings: Nature; Examination of Witnesses

(a) Nature of Hearings. Hearings shall be as informal as may be reasonable and appropriate under the circumstances. Appellant and the Government may offer such evidence as they deem appropriate and as would be admissible under the Federal Rules of Evidence or in the sound discretion of the presiding Administrative Judge or examiner. Stipulations of fact agreed upon by the parties may be regarded and used as evidence at the hearing. The parties may stipulate the testimony that would be given by a witness if the witness were present. The Board may require evidence in addition to that offered by the parties.

(b) Examination of Witnesses. Witnesses before the Board will be examined orally under oath or affirmation, unless the presiding Administrative Judge or examiner shall otherwise order. If the testimony of a witness is not given under oath, the Board may advise the witness that his statements may be subject to the provisions of Title 18, United States Code, sections 287 and 1001, and any other provision of law imposing penalties for knowingly making false representations in connection with claims against the United States or in any matter within the jurisdiction of any department or agency thereof.

Rule 21. Subpoenas

(a) General. Upon written request of either party filed with the recorder, or on the initiative of the Administrative Judge to whom a case is assigned, or who is otherwise designated by the Chair, such Administrative Judge may issue a subpoena requiring:

(1) Testimony at a deposition—the deposing of a witness in the city or county where such witness resides or is employed or transacts business in person, or at another location convenient for such witness that is specifically determined by the Board;

(2) Testimony at a hearing—the attendance of a witness for the purpose of taking testimony at a hearing; and

(3) Production of books and papers—in addition to (1) or (2), the production by the witness at the deposition or hearing of books and papers designated in the subpoena.

(b) Voluntary Cooperation. Each party is expected (1) to cooperate and make available witnesses and evidence under its control as requested by the other party, without issuance of a subpoena, and (2) to secure voluntary attendance of desired third-party witnesses and production of desired third-party books, papers, documents, or tangible things whenever possible.

(c) Requests for Subpoenas.

(1) A request for a subpoena shall normally be filed at least:

(i) 15 days before a scheduled deposition where the attendance of a witness at a deposition is sought;

(ii) 30 days before a scheduled hearing where the attendance of a witness at a hearing is sought.

In its discretion the Board may honor requests for subpoenas not made within these time limitations.

(2) A request for a subpoena shall state the reasonable scope and general relevance to the case of the testimony and of any books and papers sought.

(d) Requests to Quash or Modify. Upon written request by the person subpoenaed or by a party, made within 10 days after service but in any event not later than the time specified in the subpoena for compliance, the Board may (1) quash or modify the subpoena if it is unreasonable and oppressive or for other good cause shown, or (2) require the person in whose behalf the subpoena was issued to advance the reasonable cost of producing subpoenaed books and papers. Where circumstances require, the Board may act upon such a request at any time after a copy has been served upon the opposing party.

(e) Form; Issuance.

(1) Every subpoena shall state the name of the Board and the title of the appeal, and shall command each person to whom it is directed to attend and give testimony, and if appropriate, to produce specified books and papers at a time and place therein specified. In issuing a subpoena to a requesting party, the Administrative Judge shall sign the subpoena and may, in the Judge's discretion, enter the name of the witness and otherwise leave it blank. The party to whom the subpoena is issued shall complete the subpoena before service.

(2) Where the witness is located in a foreign country, a letter rogatory or subpoena may be issued and served under the circumstances and in the manner provided in 28 U.S.C. 1781–1784.

(f) Service.

(1) The party requesting issuance of a subpoena shall arrange for service.

(2) A subpoena requiring the attendance of a witness at a deposition or hearing may be served at any place.

A subpoena may be served by a United States marshal or deputy marshal, or by any other person who is not a party and not less than 18 years of age. Service of a subpoena upon a person named therein shall be made by personally delivering a copy to that person and tendering the fees for one day's attendance and the mileage provided by 28 U.S.C. 1821 or other applicable law; however, where the subpoena is issued on behalf of the Government, money payments need not be tendered in advance of attendance.

(3) The party at whose instance a subpoena is issued shall be responsible for the payment of fees and mileage of the witness and of the officer who serves the subpoena. The failure to make payment of such charges on demand may be deemed by the Board as sufficient ground for striking the testimony of the witness and the evidence the witness has produced.

(g) Contumacy or Refusal to Obey a Subpoena. In case of contumacy or refusal to obey a subpoena by a person who resides, is found, or transacts business within the jurisdiction of a United States District Court, the Board will apply to the Court through the Attorney General of the United States for an order requiring the person to appear before the Board or a member thereof to give testimony or produce evidence or both. Any failure of any such person to obey the order of the Court may be punished by the Court as a contempt thereof.

Rule 22. Copies of Papers

When books, records, papers, or documents have been received in evidence, a true copy thereof or of such part thereof as may be material or relevant may be substituted therefor, during the hearing or at the conclusion thereof.

Rule 23. Posthearing Briefs

Posthearing Briefs may be submitted upon such terms as may be agreed upon by the parties and the presiding Administrative Judge or examiner at the conclusion of the hearing.

Rule 24. Transcript of Proceedings

Testimony and argument at hearings shall be reported verbatim, unless the Board otherwise orders. Waiver of transcript may be especially suitable for hearings under Rule 12.2. Transcripts or copies of the proceedings shall be made available by the Board to the Government attorney. Appellant may order transcripts of the proceedings from the contract reporter at the hearing at actual cost of duplication (Pub. L. 92–463, October 6, 1972, 86 Stat. 770, 5 U.S.C. App. I).

Rule 25. Withdrawal of Exhibits

After a decision has become final, the Board may, upon request and after notice to the other party, in its discretion permit the withdrawal of original exhibits, or any part thereof, by the party entitled thereto. The substitution of true copies of exhibits or any part thereof may be required by the Board in its discretion as a condition of granting permission for such withdrawal.

Representation

Rule 26. The Appellant

An individual appellant may appear before the Board in person, a corporation by one of its officers; and a partnership or joint venture by one of its members; or any of these by an attorney at law duly licensed in any state, commonwealth, territory, the District of Columbia, or in a foreign country. An attorney representing an appellant shall file a written notice of appearance with the Board.

Rule 27. The Government

Government counsel may, in accordance with their authority, represent the interest of the Government before the Board. They shall file notices of appearance with the Board, and notice thereof will be given appellant or appellant's attorney in the form specified by the Board from time to time. Whenever appellant and the Government counsel are in agreement as to disposition of the controversy, the Board may suspend further processing of the appeal. However, if the Board is advised thereafter by either party that the controversy has not been disposed of by agreement, the case shall be restored to the Board's calendar without loss of position.

Miscellaneous

Rule 28. Decisions

Decisions of the Board will be made in writing and authenticated copies of the decision will be fowarded simultaneously to both parties. The rules of the Board and all final orders and decisions (except those required for good cause to be held confidential and not cited as precedents) shall be open for public inspection at the offices of the Board in Washington, D.C. Decisions of the Board will be made solely upon the record, as described in Rule 13.

Rule 29. Motion for Reconsideration

A motion for reconsideration may be filed by either party. It shall set forth specifically the grounds relied upon to sustain the motion. The motion shall be filed within 30 days from the date of the receipt of a copy of the decision of the Board by the party filing the motion.

Rule 30. Dismissal Without Prejudice

In certain cases, appeals docketed before the Board are required to be placed in a suspense status and the Board is unable to proceed with disposition thereof for reasons not within the control of the Board. Where the suspension has continued, or may continue, for an inordinate length of time, the Board may, in its discretion, dismiss such appeals from its docket without prejudice to their restoration when the cause for suspension has been removed. Unless either party or the Board acts within three years to reinstate any appeal dismissed without prejudice, the dismissal shall be deemed with prejudice.

Rule 31. Dismissal or Default for Failure To Prosecute or Defend

Whenever a record discloses the failure of either party to file documents required by these rules, respond to notices or correspondence from the Board, comply with orders of the Board or otherwise indicates an intention not to continue the prosecution or defense of an appeal, the Board may, in the case of a default by the appellant, issue an order to show cause why the appeal should not be dismissed or, in the case of a default by the Government, issue an order to show cause why the Board should not act thereon pursuant to Rule 33. If good cause is not shown the Board may take appropriate action.

Rule 32. Remand from Court

Whenever any court remands a case to the Board for further proceedings, each of the parties shall, within 20 days of such remand, submit a report to the Board recommending procedures to be followed so as to comply with the court's order. The Board shall consider the reports and enter special orders governing the handling of the remanded case. To the extent the court's directive and time limitations permit, such orders shall conform to these rules.

Rule 33. Sanctions

If any party fails or refuses to obey an order issued by the Board, the Board may then make such order as it considers necessary to the just and expeditious conduct of the appeal.

Rule 34. Applicability of These Rules

These Rules of Procedure shall apply to contracts made by agencies described in

Section I, Preface to Rules, for: (1) The procurement of property, other than real property in being; (2) the procurement of services; (3) the procurement of construction, alteration, repair or maintenance of real property; or (4) the disposal of personal property. These Rules shall apply (1) mandatorily, to all appeals relating to contracts entered into on or after March 1, relating to earlier contracts, with respect to claims pending before the contracting officer on March 1, 1979, or initiated thereafter.

Rules of Procedure Applicable to Appeals pursuant to the Disputes Article of Contracts and not under the Contract Disputes Act of 1978 (7 CFR § 24.4(b).

INDEX

Docketing, pleadings, preliminary procedures

1 Appeals, How taken
2 Notice of Appeal, Contents of
3 Forwarding of Appeals
4 Complaint
5 Appeal File
6 Answer
7 Additional pleadings and motions
8 Hearing election
9 Accelerated procedure
10 Prehearing or presubmission procedures
11 Submission without a hearing
12 Discovery procedures
13 Sanctions
14 Subpoena power

Hearings

15 Hearings, Notice of
16 Unexcused absence of a party
17 Hearings, open to public, verbatim transcript
18 Hearings, Conduct of

Posthearing or postsubmission procedures

19 Posthearing briefs
20 Closing the record
21 Copies of papers
22 Withdrawal of exhibits
23 Decisions
24 Reconsideration, Motion for

Dismissals

25 Dismissals

Miscellaneous

26 Representation of parties

Docketing, pleadings, preliminary procedures

Rule 1. Appeals, How Taken.

Notice of an appeal shall be in writing and the original, together with two copies, shall be mailed or otherwise furnished to the contracting officer from whose decision the appeal is taken, addressed to the Secretary of Agriculture, within the time specified in the contract or allowed by applicable provision of regulation or law. (See 7 CFR § 24.5)

Rule 2. Notice of Appeal, Contents of

A notice of appeal shall clearly identify the decision from which the appeal is taken, the date of decision, the contract number, the agency or field office of the Department cognizant of the dispute and shall indicate that an appeal is thereby intended. The notice of appeal need not follow any prescribed form. It may in the form of a letter. It should be signed personally by the appellant (the contractor making the appeal), or by an officer of the appellant corporation or member of the appeallant firm, or by the contractor's duly authorized representative or attorney. The complaint referred to in Rule 4 may be filed with the notice of appeal, or the appellant may designate the notice of appeal as a complaint if it otherwise fulfills the requirements of a complaint.

Rule 3. Forwarding of Appeals

When a notice of appeal in any form has been received by the contracting officer, the date of mailing (or date of receipt, if otherwise conveyed) shall be endorsed thereon by the contracting officer. The contracting officer shall forward the original and one copy of the notice of appeal to the Board within 10 days through agency channels. The agency office receiving such notice of appeal shall forward the original and one copy to the Board of Contract Appeals, United States Department of Agriculture, Washington, D.C. 20250, not later than 15 days from the date of receipt from its contracting officer. Following receipt by the Board of such notice of appeal, the Board will notify the appellant (contractor) and the contracting officer of the docketing of the appeal and will furnish a copy of these rules to the appellant.

Rule 4. Complaint

A complaint shall be filed by appellant with the Board not later than the date prescribed by letter from the Board except where the Board treats the notice of appeal as the complaint. The complaint shall contain simple, concise and direct statements of each claim and the dollar amount claimed, alleging the basis for each claim with appropriate reference to contract provisions. This pleading shall fulfill the generally recognized requirements of a complaint, although no particular form or formality is required. If a complaint is not timely filed, the Board may treat the notice of appeal as the complaint if it deems the issues to be sufficiently defined. The Board will notify the Government attorney of any such determination.

Rule 5. Appeal File

(a) Duties of contracting officer. The contracting officer shall assemble and file with the Board within the time prescribed by letter from the Board, three copies of all documents pertinent to the appeal as an appeal file including as applicable but not necessarily limited to:

(1) The decision and findings of fact from which appeal is taken;

(2) The contract including pertinent specifications, amendments, plans and drawings;

(3) All correspondence between the parties pertinent to the appeal, including the letter or letters of claim in response to which decision was issued;

(4) Transcripts of any testimony taken during the course of proceedings, and affidavits or statements of any witnesses on the matter in dispute made prior to the filing of the notice of appeal with the Board; and

(5) Any additional information considered pertinent.

(b) Organization of appeal file. Documents in the appeal file may be originals or legible facsimile or authenticated copies thereof, and shall be arranged in chronological order, where practicable, numbered sequentially, tabbed, and indexed to identify the contents of the file.

(c) Board action upon receipt of appeal file. The Board upon receipt of the appeal file from the contracting officer will send a copy thereof to appellant and to the Government attorney. The appellant and the Government attorney may supplement the appeal file by filing with the Board three copies of any additional documents not contained in the appeal file assembled by the contracting officer which appellant or the Government attorney believes are also pertinent to the appeal. Such filings shall be made with the Board within the time prescribed by the Board. The Board upon receipt of any such additional documents will send a copy thereof to the other party.

(d) Status of documents in appeal file. Documents contained in the appeal file are considered, without further action by the parties, as part of the record upon which the Board will render its decision, unless a party objects to the consideration of a particular document in advance of hearing or of closing the record in the event there is no hearing on the appeal. If objection to a document is made, the Board will rule upon its admissibility into the record as evidence.

(e) Lengthy documents. The Board may waive the requirement of including in the copy of the appeal file to be furnished to the other party copies of bulky, lengthy, or out-of-size documents when a party shows to the satisfaction of the Board that providing such documents would impose an undue burden, provided that such documents are available for inspection at the office of the party filing only one copy thereof. Such documents will also be available for inspection at the office of the Board.

Rule 6. Answer.

The Government attorney will be requested by the Board to file an answer on behalf of the contracting officer after the complaint has been filed. The answer shall be filed with the Board within the time prescribed by letter from the Board and shall be in an original and two copies setting forth simple, concise, and direct statements of defenses to each claim asserted by appellant. This pleading shall fulfill the generally recognized requirements of an answer, and shall set forth any affirmative defenses or counterclaims as appropriate. The Board will send a copy of the answer to appellant. If a counterclaim is filed, an opportunity will be afforded to appellant to file a response. If an answer is not timely filed, the Board may, in its discretion, enter a general denial and so notify the appellant.

Rule 7. Additional Pleadings and Motions

The presiding officer may permit or require such additional pleadings or amendments thereto and motions to be filed as may be desirable in the interests of defining the issues and affording the parties full opportunity to prepare their cases. When issues within the proper scope of the appeal,

but not raised by the pleadings or the appeal file are tried by express or implied consent of the parties, or by permission of the presiding officer, such issues shall be treated in all respects as if raised therein. In such instances, motions to amend the pleadings to conform to the proof may be entered but are not required. If evidence is objected to at a hearing on the ground that it is not within the issues raised by the pleadings or appeal file, it may be admitted within the proper scope of the appeal: *Provided, however,* That the objecting party may be granted a continuance if necessary to enable such party to meet such evidence.

Rule 8. Hearing Election.

A hearing before the Board shall be a matter of right which shall be afforded to appellant. The Government attorney may request a hearing in any case. If the parties waive a hearing the case shall be submitted on the record except where the presiding officer requires a hearing. The Board will ascertain from the parties whether a hearing is requested and ordinarily this will be done after the appeal file and pleadings have been received by the Board.

Rule 9. Accelerated Procedure

(a) Election. Either party may notify the Board of its election to have the appeal handled under this Rule 9. If both parties agree to handling under accelerated procedure, the presiding officer shall determine whether the appeal falls within the dollar limitation prescribed in paragraph (b) of this Rule 9 and whether the case otherwise is appropriate, taking into consideration the nature of the dispute, for handling under accelerated procedure. The determination of the presiding officer to handle or not handle the appeal under accelerated procedure shall be final.

(b) Dollar amount limitation. In order to be eligible for handling under accelerated procedure, the appeal shall involve $25,000 or less consisting of the claim of appellant together with the amount involved in any counterclaim filed by the Government attorney. If no dollar amount of claim or counterclaim is involved, the presiding officer shall determine whether the appeal can be properly disposed of under this Rule 9.

(c) Elimination of procedures. In cases proceeding under this Rule 9, parties are encouraged to the extent possible consistant with adequate presentation of their factual and legal positions to waive pleadings, discovery and briefs.

(d) Presiding officer as decision maker. The presiding officer in any appeal handled under accelerated procedure shall issue a short written decision as soon as practicable after closing of the record and such decision shall be the final decision of the Board.

Rule 10. Prehearing or Presubmission Procedures

(a) Prehearing orders. The presiding officer may issue an order in cases where a hearing will be held prescribing as to one or more the following that the parties shall:

(1) Exchange a list of witnesses giving titles and a brief description of the subject matter of the testimony;

(2) Exchange proposed exhibits and prepare an additional set thereof for the presiding officer; and

(3) Exchange a list of expert witnesses with a summary of their qualifications and testimony.

(b) Prehearing orders in complex cases. The presiding officer may issue a more comprehensive order in cases where a hearing will be held and it appears that the issues are confused, complex, that the hearing will be unduly long, or where quantum is involved. Such order, in addition to covering one or more of the items under (a) of this rule, may prescribe as to one or more of the following that the parties shall:

(1) Submit to the presiding officer a stipulation of all facts not in dispute;

(2) Attempt preparation of an agreed statement of factual and legal issues and, failing therein, submit separate statements; and

(3) Submit to the other party, where the issue of quantum will be heard, a statement of the monetary claim in detail with accounting schedules and explanations and afford the other party the right to an audit with the audit report to be available to both parties.

(c) Prehearing or presubmission briefs and oral argument. The presiding officer may require or allow the filing of prehearing or presubmission briefs in such manner as prescribed and may also require or allow oral argument in such manner as prescribed prior to hearing or submission on the record.

(d) Prehearing or presubmission conference. The presiding officer may require a prehearing or presubmission conference to consider:

(1) The simplification or clarification of the issues;

(2) The possibility of obtaining stipulations, admissions, agreements on documents, understandings on matters already of record or similar agreements which will avoid unnecessary proof;

(3) The limitation of the number of expert witnesses, or avoidance of similar cumulative evidence if the case is to be heard;

(4) The possibility of agreement disposing of all or any of the issues in dispute;

(5) Such other matters as may aid in the disposition of the appeal.

The results of the conference shall be reduced to writing by the presiding officer and this writing shall constitute part of the record.

Rule 11. Submission Without a Hearing

Either party may elect to waive a hearing and if the other party as well as the Board do not require a hearing, the case shall be submitted upon the record before the Board. Submission of a case without hearing does not relieve the parties from the necessity of proving the facts supporting their allegations or defenses. Affidavits, depositions, admissions, answers to interrogatories and stipulations may be employed to supplement other documentary evidence in the Board record. The Board may permit such submission to be supplemented by oral argument and briefs.

Rule 12. Discovery procedures

(a) *General policy and protective orders.* The parties are encouraged to engage in voluntary discovery procedures. In connection with any deposition or other discovery procedure, the presiding officer may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, and such order may include limitations on the scope, method, time and place for discovery, and provisions for protecting the secrecy of confidential information or documents.

(b) *When depositions permitted.* After an appeal has been docketed and complaint filed, the parties may mutually agree to, or the presiding officer may, upon application of either party and for good cause shown, order the taking of testimony or any person by deposition upon oral examination or written interrogatories before any officer authorized to administer oaths at the place of examination, for use as evidence or for purpose of discovery. The application for order shall specify whether the purpose of the deposition is discovery or for use as evidence.

(c) *Orders on depositions.* The time, place, and manner of taking depositions shall be as mutually agreed by the parties, or failing such agreement, governed by order of the presiding officer.

(d) *Expenses.* Each party shall bear its own expenses associated with the taking of any deposition.

(e) Interrogatories to parties. After an appeal has been docketed, a party may serve on the other party written interrogatories to be answered separately in writing, signed under oath and returned within 30 days. Upon timely objection by the party, the presiding officer will determine the extent to which the interrogatories will be permitted.

(f) Admission of facts. After an appeal has been docketed, a party may serve on the other party a request for the admission of specified facts. The party served shall answer each requested item or file objections thereto within 30 days after service. The presiding officer will rule on any such objections. The factual propositions set out in the request shall be deemed admitted upon the failure of a party to respond or object to the request for admission.

(g) Production, inspection and copying of documents. After an appeal has been docketed, a party may arrange with the other party to produce and permit the inspection and copying or photographing of any designated documents or objects, not privileged, specifically identified, and their relevance and materiality to the cause or causes in issue explained, which are reasonably calculated to lead to the discovery of admissible evidence. If the parties cannot agree thereon, the presiding officer shall specify just terms and conditions in making the inspection and making copies and photographs. Expenses of making copies and photographs shall be borne by the party seeking to make or cause to be made copies and photographs.

Rule 13. Sanctions

If any party fails or refuses to obey an order issued by the presiding officer, the presiding officer may make such order in regard to the failure deemed necessary to the just and expeditious conduct of the appeal.

Rule 14. Subpoena Power

The Chairman has authority by delegation from the Secretary to request the appropriate United States Attorney to apply to the appropriate United States District Court for the issuance of subpoenas pursuant to 5 U.S.C. 304.

Hearings

Rule 15. Hearings, Notice of

The presiding officer shall give notice of the time and place set for hearing which shall be scheduled as may best serve the interests of the parties and the Board. Such notice shall be sent to the parties in writing not less than 30 days in advance of the date for such hearing unless the parties waive notice.

Rule 16. Unexcused Absence of a Party

The unexcused absence of a party at the time and place set for hearing will not be occasion for delay. In the event of such absence, the hearing will proceed and the case will be regarded as submitted by the absent party as provided in Rule 11.

Rule 17. Hearings, Open to Public, Verbatim Transcript

Hearings shall be open to the public. Testimony shall be reported verbatim. Transcripts of the proceedings shall be made available by the Board to the Government attorney. Appellant may order transcripts of the proceedings from the contract reporter at the hearing at actual cost of duplication (Pub. L. 92–463, October 6, 1972, 86 Stat. 770, 5 U.S.C. App. I).

Rule 18. Hearings, Conduct of

(a) General. Hearings shall be as informal as may be reasonable and appropriate under the circumstances. The parties may offer such relevant evidence as they deem appropriate and as would be admissible under the generally accepted rules of evidence applied in the courts of the United States in nonjury trials, subject, however, to the sound discretion of the presiding officer in supervising the extent and manner of presentation of such evidence. In general, admissibility will hinge on relevancy and materiality. Letters or copies thereof, affidavits or other evidence not ordinarily admissible under the generally accepted rules of evidence, may be admitted in the discretion of the presiding officer. The presiding officer shall receive only evidence which is germane to the issues involved and shall exclude, insofar as practicable, evidence which is immaterial, irrelevant or unduly repetitious or which is not of the sort upon which responsible persons are accustomed to rely. The weight to be attached to evidence presented in any particular form will be within the discretion of the Board members considering the case, taking into consideration all the circumstances of the particular case. Stipulations of fact agreed upon by the parties may be regarded and used as evidence at the hearing. The parties may stipulate the testimony that would be given by a witness if the witness were present. The presiding officer may in any case require evidence in addition to that offered by the parties.

(b) Examination of witnesses. Witnesses will be examined under oath or affirmation subject to cross-examination and questions from the presiding officer and Board members. If the testimony of a witness is not given under oath, the presiding officer may warn the witness that statements made may be subject to provisions of law imposing penalties for knowingly making false representations (18 U.S.C. 287, 1001).

(c) Burden of proof and order of proceeding. The burden of proof rests on the appellant asserting the claim or error in the decision except that the burden of proof in case of counter-claims rests on the party asserting them. Unless otherwise permitted by the presiding officer, the appellant shall proceed first at the hearing followed by the presentation of the Government attorney and any rebuttal case permitted by the presiding officer.

(d) Objections. If a party objects to the admission or rejection of any evidence or to a limitation of the scope of any examination or cross-examination, such party shall state briefly the grounds of such objection and the presiding officer shall rule thereon or reserve ruling.

(e) Records and documents. Upon proof of authenticity, papers, books, records or documents shall be admissible in evidence without the production of the person who made or prepared the same except that the person who prepared documents specially for use at the hearing should be available to explain such documents.

(f) Exhibits. All documents offered in evidence at a hearing shall be marked for identification by number or letter as prescribed by the presiding officer. Except where the presiding officer finds that the furnishing of copies is impracticable, a copy of each proposed exhibit shall be made available to the other party when offer is made or prior to the hearing, if possible.

(g) Offer of proof. Whenever evidence is excluded from the record the offering party may make an offer of proof briefly stating the evidence proposed to be received into evidence.

(h) Official notice. Official notice will be taken of such matters as are judicially noticed by the courts of the United States and of any other matter of technical, scientific, or commercial fact of established character: *Provided,* That the parties shall be given adequate notice of matters so noticed and shall be given adequate opportunity to show that such facts are erroneously noticed.

(i) Depositions. No testimony taken by deposition shall be considered as part of the evidence in the hearing of an appeal unless and until such testimony is offered and received in evidence at such hearing. It will not be received in evidence if the deponent is present and can testify personally at the hearing. In such instances, however, the deposition may be used to contradict or impeach the testimony of the witness given at the hearing. In cases submitted on the record, the presiding officer may receive depositions as evidence in supplementation of that record.

Posthearing or postsubmission procedures

Rule 19. Posthearing Briefs

The presiding officer shall prescribe the manner of filing any posthearing briefs.

Rule 20. Closing the Record

(a) *Contents.* The record consists of the appeal file described in Rule 5 and, to the extent the following have been filed, the pleadings, prehearing conference memoranda or orders, prehearing briefs, depositions or interrogatories received in evidence, admissions, stipulations, transcripts of conference and hearings, hearing exhibits, posthearing briefs and documents which the presiding officer has specifically designated be made part of the record. The record will at all reasonable times be available for inspection by the parties at the office of the Board.

(b) Closing or settling of record. Except as the presiding officer may otherwise order, no proof shall be received in evidence after completion of a hearing or in cases submitted on the record, after the parties have been notified that the case is ready for decision. The weight to be attached to any evidence of record will rest within the sound discretion of the Board members considering the case. The presiding officer may in any case require either party, with appropriate notice to the other party, to submit additional evidence on any matter relevant to the appeal.

Rule 21. Copies of papers

When books, records, papers, or documents have been received in evidence, a true copy thereof or of such part thereof as may be material or relevant may be submitted therefor, during or after the hearing.

Rule 22. Withdrawal of exhibits.

After a decision has become final the Board may, upon request and after notice to the other party, in its discretion, permit the withdrawal of original exhibits, or any part thereof, by the party entitled thereto. The substitution of true copies of exhibits or any part thereof may be repaired by the Board in its discretion as a condition of granting permission for such withdrawal.

Rule 23. Decisions

The Board shall issue written decisions containing findings of fact and conclusions and shall send copies simultaneously to the parties by certified mail or, if delivered directly, with a notation of the date of delivery. Decision of the Board will be made solely upon the record as described in Rule 20.

Rule 24. Reconsideration, Motion for

A motion for reconsideration of a Board decision, if filed by either party, shall set forth specifically the ground or grounds relied upon to sustain the motion and shall be filed within 30 days from the date of receipt of a copy of the Board decision by the party filing

the motion. The Board, in its discretion, may deny the motion or permit such additional proceedings as deemed necessary.

Dismissals

Rule 25. Dismissals

(a) Lack of jurisdiction. A motion to dismiss for lack of jurisdiction may be filed by a party at any time. The Board may also raise the question of jurisdiction at any time on its own motion. The presiding officer shall prescribe any necessary proceedings including but not limited to written arguments, briefs or hearing on the issue of jurisdiction. The presiding officer shall issue a Ruling on the issue of jurisdiction unless the Chairman requires a full three member panel or consider the issue of jurisdiction in which event the designated panel shall issue the Ruling on the issue of jurisdiction.

(b) Failure to prosecute. Whenever a record discloses the failure of either party to file documents required by these rules, respond to notices or correspondence from the presiding officer, comply with orders of the presiding officer, or otherwise indicates an intention not to continue the prosection or defense of an appeal, the presiding officer may issue an order requiring the offending party to show cause why the appeal should not be either dismissed or granted, as appropriate. If the offending party shall fail to show such cause, the presiding officer may issue an Order of Dismissal for failure to prosecute or take such other action deemed reasonable and proper under the circumstances.

(c) Without prejudice. In certain cases, appeals docketed before the Board are required to be placed in a suspense status and the Board is unable to proceed with disposition thereof for reasons not within the control of the Board. In any such case where the suspension has continued, or it appears that it will continue, for an inordinate length of time, the presiding officer, exercising sound discretion, may dismiss such appeals without prejudice to restoration to the docket when the cause of suspension has been removed. Unless either party or the Board acts within 3 years to reinstate any appeal dismissed without prejudice, the dismissal shall be deemed with prejudice.

(d) Settlement or withdrawal. The parties may settle the issues at any state of the proceedings before issuance of a decision of the Board. The appellant may withdraw the appeal at any time. The presiding officer in the event of settlement or withdrawal shall issue an Order of Dismissal.

Miscellaneous

Rule 26. Representation of Parties.

Appellant may appear before the Board in person or be represented by an authorized representative or attorney subject to the limitations prescribed in 7 CFR 1.26 regarding representation before the Department. The Government shall be represented by the Government attorney.

For Subpart A:

Dated: December 22, 1982.

John R. Block,

Secretary of Agriculture.

For Subpart B:

Dated: December 6, 1982.

Jewel F. Lewis,

Administrative Judge, Chair, Board of Contract Appeals.

[FR Doc. 82-35134 Filed 12-27-82; 8:45 am]

BILLING CODE 3410-01-M

Food and Nutrition Service

7 CFR Parts 273, 274, 275 and 276

[Amdt. No. 237]

Food Stamp Program; Corrections to Food Stamp Rules

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule; Corrections and clarity revisions.

SUMMARY: This action amends Food Stamp Program regulations in the areas of: (1) State agency liabilities and Federal sanctions; (2) Performance Reporting Systems; (3) State agency reporting and destruction of unusable coupons; and (4) Thrifty Food Plan Amounts. This action corrects errors in paragraph referencing and makes clarity revisions only. The action will not result in any policy changes. This document also corrects similar errors or makes clarity changes in the following individual **Federal Register** publications: *1980 Amendments to the Food Stamp Act of 1977, Policy Interpretations, and Miscellaneous Technical Amendments* (issued April 23, 1982); *Proration of Initial Month Benefits* (issued May 14, 1982), *Nondiscretionary Fraud, Waste, Abuse and Simplification Provisions* (issued August 13, 1982), *Household Composition, Income Standards, Adjustments, Deductions, Outreach and Technical Amendments* (issued November 19, 1982), and *Eligibility Criteria and Reduction or Termination of Benefits* (issued December 14, 1982).

EFFECTIVE DATE: This action is effective January 27, 1983.

FOR FURTHER INFORMATION CONTACT: Thomas O'Connor, Supervisor, Policy and Regulations Section, Program Standards Branch, Program Development Division, Food and Nutrition Service, USDA, Alexandria, Virginia, 22302, (703) 756-3429.

SUPPLEMENTARY INFORMATION:

Classification

This final rule has been reviewed under Executive Order 12291. The rule will not result in annual economic impacts of more than $100 million or major increases in costs or prices nor will it have a significant adverse effect on competition, employment, productivity, investment, or foreign trade. Further, the rule is unrelated to the ability of United States-based enterprises to compete with foreign-based enterprises. Therefore, the rule has been classified as "non-major".

Regulatory Flexibility Act

The rule also has been reviewed in relation to the requirements of the Regulatory Flexibility Act of 1980 (Pub. L. 96-354, 94 Stat. 1164, September 19, 1980). The Administrator of the Food and Nutrition Service has certified that this action will not have a significant impact on a substantial number of small entities.

Public Participation

As noted above, the amendments made by this final rule are to correct errors and improve clarity and will result in no change in policy. For these reasons, the Department has determined in accordance with 5 U.S.C. 553(b) that notice of proposed rulemaking and public comment on this rulemaking is unnecessary.

Paperwork Reduction Act

This rulemaking does not contain reporting or recordkeeping requirements subject to approval by the Office of Management and Budget.

7 CFR 273.2(f)(1)(ii)(A) is being amended to change the reference to § 273.4(a) (2) through (6) to reference § 273.4 (a)(2) through (a)(8). Rules issued April 23, 1982 (47 FR 17756), added two more alien provisions to § 273.4.

7 CFR 273.10, Appendix B is being removed. Appendix B sets forth the Thrifty Food Plan Amounts (the amounts on which FSP coupon allotments are based) that were applicable for Guam and the Virgin Islands beginning January 1980. We neglected to delete the Appendix B table when Appendix A to 7 CFR 273.10 was revised to set forth the January 1981 Thrifty Food Plan Amounts for all FSP areas of operation.

7 CFR 271.6(b) (i) and (vi) are being amended to reflect that the State of New York is under the jurisdiction of the Food and Nutrition Services' Burlington, Massachusetts Regional Office, not the Robbinsville, New Jersey Regional Office.

7 CFR 274.2 is being amended to remove paragraph (4) from paragraph (h) and add it to paragraph (i) instead. The paragraph was added to (h) based on rules issued December 8, 1981 (46 FR 60160). However, before the December rules were issued, an earlier rule issued October 9, 1981 (46 FR 50277), redesignated paragraph (h) as (i). This redesignation was overlooked when the December 8 rules were issued. Also, the

December 8 rules redesignated paragraph (g) of 7 CFR 273.11 as (h). A reference to § 273.11 (g)(2) appearing in 7 CFR 274.2(h)(1) and 274.3(c)(1) which were overlooked when the redesignation occurred are corrected by the rule to reference §273.11(h)(2).

7 CFR 274.8(b)(2) is being amended to replace the reference to Form FNS–136 with a reference to form FNS–471, Coupon Account and Destruction Report. Form FNS–471 has officially replaced form FNS–136 and is currently in use.

7 CFR 275.3(b) is being amended to reflect that the review of a State agency's Performance Reporting System consists of one phase, not two phases. The second phase was removed from the CFR by final rules issued January 23, 1981, at 46 FR 7257.

7 CFR 275.11(f) is being amended to delete the last sentence of the section which states that State agencies' eligibility for enhanced funding is dependent on achievement of a 95 percent sample completion rate. Through an agency oversight, the above referenced line was not removed when the Sanction/Incentive System regulations were published on January 23, 1981, (46 FR 7257) which changed this policy. Failure to meet the 95 percent competition rate results in adjustments to a State agency's error rate and does not *automatically* render a State agency ineligible for enhanced funding.

7 CFR 276.1(a)(1) is being amended to correct an error in paragraph referencing. This action removes the reference to § 276.2(c)(iv) appearing in paragraph (a)(1). This regulatory paragraph does not exist.

Amendments to Individual Federal Register Publications

This action corrects typographical errors or clarifies provisions issued in the individual **Federal Register** publications of April 23, 1982, May 14, 1982 and August 13, 1982.

At 47 FR 17756 issued April 23, 1982

(*a*) § 271.2, in the definition of a "Drug addiction or alcoholic treatment and rehabilitation program", appearing in the rule at page 17762, the reference to 278.1 (a), (b) and (d)(1) is being removed. The phrase gives the impression that one must meet the requirements of 7 CFR 278.1 to be granted Program participation. This is not true nor was this the intent of the final rule change in the definition. Only those who also wish to be authorized as a retailer must comply with 7 CFR 278.1. Thus, a correction is necessary to remove the reference and eliminate confusion or misapplication of the provision.

(*b*) § 273.2, paragraph (f)(1)(ii)(C), appearing on page 17762, is being amended to correct the reference to § 273.4 (a)(4) through (a)(6). The reference should be to § 273.4 (a)(4) through (a)(8). The April 23rd rule added two more alien provisions to § 273.4.

(*c*) Also in § 273.2, paragraph (f)(1)(ii)(E) appearing on page 17763 is being corrected to add a reference to section 203(a)(7) of the Immigration and Nationality Act that was unintentionally left out.

(*d*) In § 273.4, paragraphs (a)(4) and (a)(5) appearing on page 17763, are being amended to correct the cut-off dates appearing in these paragraphs to reflect new dates that were recently prescribed by rules issued by the Immigration and Naturalization Service (INS). Paragraph (f)(1)(ii)(C) under § 273.2 on page 17763 is also being amended to add the April 1, 1980, date to clarify when an INS form I–94 is valid for FSP purposes.

(*e*) § 273.8, amendatory instruction No. (6)(a) on page 17764 which requires a revision to the last sentence of paragraph (d) under that section is incorrect. The sentence that should be revised is the next to last sentence in § 273.8(d). This is being corrected.

(*f*) In § 273.8, paragraph (e)(11)(ix) appearing on page 17764, is being changed to correct a reference to a Public Law. Paragraph (c)(10)(ix) under § 273.9 at page 17765 is also being corrected for a similar Public Law reference error.

(*g*) Also in § 273.8, paragraph (h)(1)(vi) appearing on page 17764, is being corrected to reflect revised language for this paragraph that was added by a final rule issued August 25, 1981 (46 FR 43020) and was unintentionally excluded in the April 23rd rule.

(*h*) Again, in § 273.8, paragraph (h)(4)(iii) appearing on page 17764, is being corrected to add a phrase in the first sentence that was unintentionally omitted.

(*i*) In § 273.18, paragraph (b)(3)(ii) appearing on page 17767 is being corrected to add a phrase that was unintentionally omitted.

At 47 FR 20739 issued May 14, 1982

(*a*) In § 272.8, paragraph (h) appearing on page 20741 is being corrected because of a typographical error. The word "retrospective" should be "retroactive".

At 47 FR 35166 issued August 13, 1982

(*a*) In § 272.4 paragraphs (c) and (f) on page 35168 were relettered as (b) through (e). However, these paragraphs contained regulatory references to each other that were not revised to reflect the new designated paragraphs. The references are being corrected.

At 47 FR 52328 issued November 19, 1982

(*a*) In § 272.4, amendatory instruction number 6 (appearing in column 1, page 52334) is incorrect. The reference to revise paragraphs (c)(1) and (c)(2) should refer to revisions for paragraphs (b)(1) and (b)(2) as rules issued August 13, 1982 (47 FR 35166) redesignated all of paragraph (c) as (b). The amendatory instruction and its corresponding regulatory amendment are being corrected.

(*b*) In § 273.11, in amendatory instruction number 13 (column 3, page 52337), the portion of that instruction calling for a revision to paragraphs (a)(4)(ii)(C) and (c)(3) and an amendment to paragraph (c)(4) is being removed. Paragraph (a)(4)(ii)(C) was further revised by rules issued on April 23, 1982 (47 FR 17756), and paragraphs (c)(3) and (c)(4) were redesignated and revised by rules issued on October 8, 1982 (47 FR 44692). Respectively, the April 23rd and October 8th language of these paragraphs is the final version intended to be adopted by the Department. Therefore, amendatory instruction number 13 of the November 19, 1982 rules is being corrected by this final action to remove any instruction to change these three paragraphs.

(*c*) In the preamble to the November 19, 1982 rule (column 2, page 52332) it was stated that 7 CFR 273.20 was being amended to remove all references to the State of Massachusetts. However, we neglected to provide conforming regulatory language to initiate the deletions. The regulatory text of the November 19 rule is being corrected to add the necessary amendatory instruction to remove the references.

At 47 FR 55903 issued December 14, 1982

(*a*) In the preamble of the December 14 interim rule (column 1, page 55904), the Department explained that 1982 Food Stamp Act amendments redefined who constitutes an elderly or disabled member for Food Stamp Program purposes. The interim rule amended 7 CFR 271.2 to reflect the new definition of elderly and disabled persons. However, the Department unintentionally overlooked other sections throughout the regulations which refer to the old definition of an elderly and disabled household that also needed to be changed. Therefore, this action is correcting the regulatory text of the December 14, 1982 rule to add necessary amendatory instructions and/or pertinent regulatory language to reflect

the new definition in 7 CFR 273.9(d)(3) and (d)(4), 273.10(e)(2)(i)(A), and 273.21(b)(2)(i)(B) and (b)(2)(ii).

List of Subjects

7 CFR Part 273

Administrative practice and procedure, Aliens, Claims, Food stamps, Fraud, Grant programs—social programs, Penalties, Reporting and recordkeeping requirements, Social Security, Students.

7 CFR Part 274

Administrative practice and procedure, Food stamps, Grant programs—social programs, Reporting and recordkeeping requirements.

7 CFR Part 275

Administrative practice and procedure, Food stamps, Reporting requirements.

7 CFR Part 276

Administrative practice and procedure, Food stamps, Fraud, Grant programs—social programs, Penalties.

Accordingly, as set out below, the Code of Federal Regulations is amended at 7 CFR Parts 273, 274, 275 and 276. Also, amendments are made to regulations issued on April 23, 1982 (47 FR 17756), May 14, 1982 (47 FR 20739), and August 13, 1982 (47 FR 35166).

PART 271—GENERAL INFORMATION AND DEFINITIONS

§ 271.2 [Corrected]

1. At 47 FR 17762 (column 1), issued on April 23, 1982, the definition of a "Drug addict or alcoholic treatment and rehabilitation program" in § 271.2 is corrected for clarity by removing the words "the requirement of paragraphs (a), (b), and (d)(1) of § 278.1 are met and", appearing in the last sentence.

2. In 7 CFR 271.2, paragraph (b)(1)(i) is amended by removing the reference to the State of "New York" in paragraph (b)(1)(i) and adding a reference to the State of "New York" to paragraph (b)(1)(vi) in alphabetical order.

PART 272—REQUIREMENTS FOR PARTICIPATION STATE AGENCIES

§272.8 [Corrected]

3. At 47 FR 20741 (column 3), issued May 14, 1982, in paragraph (h) of § 272.8, the word "retrospective" is corrected to read "retroactive."

§ 272.4 [Corrected]

4. At 47 FR 35168 (column 3), issued August 13, 1982, amendatory instruction number 3 under § 272.4 is corrected by adding a new sentence at the end of the instruction to read as follows:

"Also, regulatory references contained in some of these newly redesignated paragraphs are amended as follows:

(b)(1)—the reference to (c)(2) and (3) is amended to read (b)(2) and (3),
(b)(2)(iii)—the reference to (c)(3) is amended to read (b)(3),
(b)(4)—the reference to (c)(2) and (3) is amended to read (b)(2) and (3),
(b)(5)—the reference to (c)(3) or (4) is amended to read (b)(3) or (4),
(c)(2)—the reference to (d)(1) is amended to read (c)(1),
(d)(1)(i)—the reference to (e)(1)(iv) is amended to read (d)(1)(iv) and
(d)(3)—the reference to (e)(1)(iv) is amended to read (d)(1)(iv)."

PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

§ 273.2 [Amended]

5. In 7 CFR 273.2, paragraph (f)(1)(ii)(A) is amended by replacing the reference to "(a)(2) through (8)" with the reference to "(a)(2) through (a)(8)."

§ 273.10 [Amended]

6. In 7 CFR 273.10, Appendix B is removed.

§ 273.2 [Corrected]

7. At 47 FR 17762 (column 3), issued April 23, 1982, the reference to "§ 273.4 (a)(4) through (a)(6)" appearing in paragraph (f)(1)(ii)(C) of § 273.2 is corrected to read "§ 273.4 (a)(4) through (a)(8)."

8. At 47 FR 17763 (column 1), issued April 23, 1982, the second sentence in paragraph (f)(1)(ii)(C) of § 273.2 is corrected by adding a new sentence after the second sentence to read as follows:

§ 273.2 Application processing.

* * * * *

(f) *Verification.* * * *
(1) *Mandatory verification.* * * *
(ii) *Alien status.* * * *

(C) * * * However, an INS Form I–94 annotated with section 203(a)(7) of the Immigration and Nationality Act must have been issued prior to April 1, 1980 to be considered as acceptable verification. * * *

* * * * *

9. At 47 FR 17763 (column 1), issued April 23, 1982, paragraph (f)(1)(ii)(E) of § 273.2 is corrected by adding the reference of "203(a)(7)" in the second sentence, between the reference to "101(a)(20)" and "207".

§ 273.4 [Corrected]

10. At 47 FR 17763 (column 3), issued April 23, 1982, paragraph (a)(4) and (a)(5) of § 273.4 are corrected by replacing the dates of March 17, 1980 and March 18, 1980, with the dates of March 31, 1980 and April 1, 1980, respectively.

§ 273.8 [Corrected]

11. At 47 FR 17764 (column 1), issued April 23, 1982, amendatory instruction number 6(a) under § 273.8 is corrected to read that "The next to the last sentence in paragraph (d) is revised." Therefore, the last sentence of paragraph (d) as codified based on rules issued December 8, 1981 (46 FR 60166) remains unchanged.

12. At 47 FR 17764 (column 2), issued April 23, 1982, the reference to "Public Law 94–433" in paragraph (e)(11)(ix) of § 273.8 is corrected to read "Public Law 95–433."

13. At 47 FR 17764, issued April 23, 1982, paragraph (h)(1)(vi) of § 273.8 (column 2) and the first sentence of paragraph (h)(4)(iii) of § 273.8 (column 3) are corrected to read as follows:

§ 273.8 Resource eligibility standards.

* * * * *

(h) *Handling of licensed vehicles*

* * *

(l) * * *

(vi) Necessary to transport a physically disabled household member (or ineligible alien or disqualified person whose resources are being considered available to the household) regardless of the purpose of such transportation (limited to one vehicle for physically disabled household member). A vehicle shall be considered necessary for the transportation of a physically disabled household member if the vehicle is specially equipped to meet the specific needs of the disabled person or if the vehicle is a special type of vehicle that makes it possible to transport the disabled person. The vehicle need not have special equipment or be used primarily by or for the transportation of the physically disabled household member.

* * * * *

(4) * * *

(iii) Any other vehicle used to transport household members (or an ineligible alien or disqualified household member whose resources are being considered available to household) to and from employment, or to and from training or education which is preparatory to employmenf, or to seek employment in compliance with the job search criteria. * * *

* * * * *

§ 273.9 [Corrected]

14. At 47 FR 17765 (column 1), issued April 23, 1982, the reference to "(c)(1)(iii)" appearing in paragraph

(b)(1)(iv) of § 273.9 is corrected to read "(c)(10)(iii)".

15. At 47 FR 17765 (column 2), issued April 23, 1982, the reference to "Public Law 95–443" appearing in paragraph (c)(10)(ix) of § 273.9 is corrected to read "Public Law 95–433."

16. At 47 FR 17767 (column 2), issued April 23, 1982, the first sentence in paragraph (b)(3)(ii) of § 273.18 is corrected to read as follows:

§ 273.18 Claims against households.

* * * * *

(b) *Nonfraud claims.* * * *

(3) *Collecting nonfraud claims.* * * *

(ii) State agencies shall initiate collection action by sending the household a written demand letter, designed by FNS, which informs the household of the amount owed, the reason for the claim, the period of time the claim covers, any offsetting that was done to reduce the claim, how the household may pay the claim, and the household's right to a fair hearing if the household disagrees with the State agency's determination. * * *

§ 273.11 [Corrected]

17. At 47 FR 52337 (column 3), issued November 19, 1982, amendatory instruction number 13 is corrected by removing that portion of the instruction calling for a revision to paragraphs (a)(4)(ii)(C) and (c)(3) and an amendment to paragraph (c)(4). Also the corresponding amendatory language under § 273.11 for paragraphs (a)(4)(ii)(C) and (c)(3) appearing on page 52338 in columns 1 and 2, respectively are removed.

18. At 47 FR 52334 (column 1), issued November 19, 1982, amendatory instruction number 6 and its accompanying language change to § 272.4 are corrected to read as follows:

"6. In § 272.4, paragraph (b)(1) and the introductory sentence to paragraph (b)(2) are revised to read as follows:

§ 272.4 Program administration and personnel requirements.

* * * * *

(b) *Bilingual requirements.* (1) Based on the estimated total number of low-income households in a project area which speak the same non-English language (a single-language minority), the State agency shall provide bilingual program information and certification materials, and staff or interpreters as specified in paragraphs (b) (2) and (3) of this section. Single-language minority refers to households which speak the same non-English language and which do not contain adult(s) fluent in English as a second langauge;

(2) The State agency will provide materials used in Program informational activities in the appropriate language(s) as follows. * * *

* * * * *"

PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

19. At 47 FR 52338 (column 3), issued November 19, 1982, the regulatory text is being corrected to add the following new amendatory instruction and accompanying amendatory text in numerical order to read as follows:

"15. In § 273.20, paragraphs (a), (b) and (c) are amended by removing all references to the State of Massachusetts."

20. At 47 FR 55909, issued December 14, 1982, the regulatory text is corrected by adding new amendatory instructions (d) and (e) to amendatory instruction No. 7 appearing in the middle of column 2. The instructions read as follows:

"(d) Paragraph (d)(3) is amended by removing everything in the first sentence after the phrase "incurred by any household member who is" and inserting the phrase "elderly or disabled as defined in § 271.2" at the end of that sentence instead.

(e) Paragraph (d)(4) is amended by removing everything in the second sentence after the phrase "unless the household contains a member who is" and inserting the phrase "elderly or disabled as defined in § 271.2" at the end of that sentence instead."

21. At 47 FR 55909, issued December 14, 1982, the regulatory text is corrected by adding a new amendatory instruction (m) to the end of amendatory instruction No. 8 appearing near the top of column 3. The instruction reads as follows:

"(m) Paragraph (e)(2)(i)(A) is amended by removing the phrase "sixty years of age or over, or a member who receives Supplemental Security Income (SSI) benefits under title XVI of the Social Security Act or disability and blindness payments under titles I, II, X, XIV, or XVI of the Social Security Act" and inserting the phrase "elderly or disabled as defined in § 271.2 "in its place."

22. At 47 FR 55910, issued December 14, 1982, the regulatory text is being corrected by adding new amendatory instructions No. 10 (a) and (b) just after the last five asterisks appearing at the end of column 2. The instructions read as follows:

"10. In § 273.21:

(a) Paragraph (b)(2)(i)(A) is amended by removing everything after the phrase "are all without earned income and are" and inserting the phrase "elderly or disabled as defined in § 271.2" instead.

(b) Paragraph (b)(2)(ii) is amended by removing everything between the phrase "are all without earned income and are" and the phrase "unless these households file AFDC monthly reports" and inserting the phrase "elderly or disabled as defined in § 271.2" between the remaining phrases."

PART 274—ISSUANCE AND USE OF FOOD COUPONS

23. In 7 CFR 274.2 paragraph (h)(4) is removed and the third sentence of paragraph (h)(1) is amended by replacing the reference to § 273.11(g)(2) with a reference to § 273.11(h)(2).

24. In 7 CFR 274.2, a paragraph (4) is added to paragraph (i) to read as follows:

§ 274.2 Issuance systems.

* * * * *

(i) * * *

(4) Residents of shelters for battered women and children, as such shelters are defined in § 271.2 and which are not authorized by FNS to redeem through wholesalers, may request that all or part of their coupons be of the 1-dollar denomination and State agencies are authorized to grant this request where feasible.

§ 274.3 [Amended]

25. In 7 CFR 274.3, paragraph (c)(1) is amended by replacing the reference of "§ 273.11(g)(2)" with a reference to "§ 273.11(h)(2)."

§ 274.8 [Amended]

26. In 7 CFR 274.8, paragraph (b)(2) is amended by replacing the reference to "Form FNS–136, Certificate of Destruction of Food Coupons" with a reference to "Form FNS–471, Coupon Account and Destruction Report".

PART 275—PERFORMANCE REPORTING SYSTEM

27. In 7 CFR 275.3, paragraph (b) is revised to read as follows:

§ 275.3 Federal monitoring.

* * * * *

(b) *Reviews of State Agency's Performance Reporting System.* FNS will review each State agency's performance reporting system on an annual basis (in terms of management evaluation (ME) reviews conducted by the State agency). The review will include but not be limited to a determination of whether or not the State is complying with FNS regulations, an assessment of the State's methods and procedures for conducting ME reviews including sampling techniques, and an assessment of the data collected by the State in conducting the reviews.

* * * * *

§ 275.11 [Amended]

28. In 7 CFR 275.11, paragraph (f) is amended by removing the last sentence of the paragraph.

PART 276—STATE AGENCY LIABILITIES AND FEDERAL SANCTIONS

29. In 7 CFR 276.1, paragraph (a)(1) is amended by replacing the phrase "Except as set forth in § 276.2(c)(iv)," with the phrase "Except as otherwise provided in these regulations,".

(91 Stat. 958 (7 U.S.C. 2011–2029))

(Catalog of Federal Domestic Assistance Programs No. 10. 551, Food Stamps)

Dated: December 21, 1982.

Robert E. Leard,

Associate Administrator.

[FR Doc. 82-35092 Filed 12-27-82; 8:45 am]

BILLING CODE 3410-30-M

NUCLEAR REGULATORY COMMISSION

10 CFR part 50

Filing of Copies of Changes to Emergency Plans and Procedures

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission is amending its regulations to reduce the number of copies of changes to nuclear power plant emergency plans and procedures. The total number of copies to be submitted will be reduced from 13 to 3. The Commission has determined that 3 copies will be sufficient for processing purposes. These amendments will reduce the regulatory burden on the affected licensees.

DATE: The effective date of this rule will be December 28, 1982.

FOR FURTHER INFORMATION CONTACT: Kenneth E. Perkins, Chief, Incident Response Branch, Office of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555 (Telephone 301–492–7361).

SUPPLEMENTARY INFORMATION: On August 19, 1980, the Nuclear Regulatory Commission published in the **Federal Register** (45 FR 55402) amendments to its regulations for the upgrading of emergency planning and preparedness. The effective date for those regulations was November 3, 1980.

In those regulations, § 50.54(q) required licensees to furnish three copies of changes to the emergency plan and emergency plan implementing procedures to NRC Regional Administrators and ten copies to the Director, Office of Nuclear Reactor Regulation. The amendment contained in this notice reduces to 3 the total number of copies the licensee is required to submit (one copy to be sent to the appropriate Regional Administrator and two copies to NRC Headquarters).

Because these amendments relate solely to procedural matters, the Commission has found that good cause exists for omitting notice of proposed rulemaking and public procedure thereon, as unnecessary. Since the amendment relieves licensees from restrictions under regulations currently in effect, it is effective upon publication.

Paperwork Reduction Act Statement

The information collection requirements contained in this regulation have been approved by the Office of Management and Budget; OMB approval No. 3150–0011.

List of Subjects in 10 CFR Part 50

Antitrust, Classified information, Fire prevention, Intergovernmental relations, Nuclear power plants and reactors, Penalty, Radiation protection, Reactor siting criteria, Reporting requirements.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and sections 552 and 553 of Title 5 of the United States Code, the following amendments to Title 10, Chapter I, Code of Federal Regulations, Part 50 are published as a document subject to codification.

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

1. The authority citation for Part 50 continues to read as follows:

Authority: Secs. 103, 104, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 1244, as amended (42 U.S.C. 2133, 2134, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, 202, 206, 88 Stat. 1242, 1244, 1246, as amended (42 U.S.C. 5841, 5842, 5846), unless otherwise noted.

Section 50.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80–50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Sections 50.100–50.102 also issued under sec. 186, 68 Stat. 955 (42 U.S.C. 2236).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273), §§ 50.10 (a), (b), and (c), 50.44, 50.46, 50.48, 50.54, and 50.80(a) are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); §§50.10 (b) and (c) and 50.54 are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§ 50.55(e), 50.59(b), 50.70, 50.71, 50.72, and 50.78 are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. Paragraph (q) of § 50.54 is revised to read as follows:

§ 50.54 Conditions of licenses.

* * * * *

(q) A licensee authorized to possess and/or operate a nuclear power reactor shall follow and maintain in effect emergency plans which meet the standards in § 50.47(b) of this part and the requirements in Appendix E to this Part. A licensee authorized to possess and/or operate a research reactor or a fuel facility shall follow and maintain in effect emergency plans which meet the requirements in Appendix E of this part. The nuclear power reactor licensee may make changes to these plans without Commission approval only if such changes do not decrease the effectiveness of the plans and the plans, as changed, continue to meet the standards of §§ 50.47(b) of this part and the requirements of Appendix E of this Part. The research reactor licensee and/or the fuel facility licensee may make changes to these plans without Commission approval only if such changes do not decrease the effectiveness of the plans and the plans, as changed, continue to meet the requirements of Appendix E of this part. Proposed changes that decrease the effectiveness of the approved emergency plans shall not be implemented without application to and approval by the Commission. The licensee shall furnish one copy of each proposed change for approval to the Administrator of the appropriate NRC Regional Office specified in Appendix D of Part 20 of this chapter and two copies to the Document Control Desk, U.S. Nuclear Regulatory Commission, Washington, DC 20555. If a change is made without approval, the licensee shall furnish one copy to the Administrator of the appropriate NRC Regional Office specified in Appendix D of Part 20 of this chapter and two copies of the Document Control Desk, U.S. Nuclear Regulatory Commission, Washington, DC 20555 within 30 days after the change is made.

3. Part V, "IMPLEMENTING PROCEDURES," of Appendix E is revised to read as follows:

Appendix E—Emergency Planning and Preparedness for Production and Utilization Facilities

* * * * *

V. Implementing Procedures

No less than 180 days prior to the scheduled issuance of an operating license for a nuclear power reactor or a license to possess nuclear material one copy of the applicant's detailed implementing procedures for its emergency plan shall be submitted to the Administrator of the appropriate NRC Regional Office, specified in Appendix D of Part 20 of this chapter and two copies are to be sent to the Document Control Desk, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Licensees who are authorized to operate a nuclear power facility shall submit one copy of any changes to the emergency plan or procedures to the Administrator of the appropriate NRC Regional Office, specified in Appendix D, 10 CFR Part 20, and two copies to the Document Control Desk within 30 days of such changes.

Dated at Bethesda, Maryland, this 29th day of November 1982.

For the Nuclear Regulatory Commission.

William J. Dircks,

Executive Director for Operations.

[FR Doc. 82-35005 Filed 12-27-82; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Parts 368, 369, 370, 372, 373, 387, and 388

[Docket No. 21213-249]

Revision of Enforcement Provisions of the Export Administration Regulations and Conforming Amendments

AGENCY: International Trade Administration, Commerce.

ACTION: Final rule

SUMMARY: This rule finalizes revisions to the Enforcement provisions of the Export Administration Regulations (Part 387, Title 15, Code of Federal Regulations) which were published in interim form on December 22, 1980 (45 FR 84021) with request for comments. All comments, both written and oral, were considered and portions of the Regulations were changed in response to those comments. This rule incorporates amendments to the Export Administration Act (Pub. L. 97-145), reflects current organizational and administrative procedures within the International Trade Administration, revises and incorporates into Part 387 a provision relating to interrogatories or requests to produce documents, codified prior to October 12, 1979 in § 388.15 of the Regulations, and modifies recordkeeping requirements. This rule also makes technical amendments to Part 388 relating to administrative proceedings. Conforming amendments are also made to Parts 368 through 386; reporting for the antiboycott regulations are clarified; one interpretation in the antiboycott regulations is deleted, and four are redesignated as Supplement Nos. 1, 2, 3, 4, and 5, "Interpretations."

DATE: Effective December 28, 1982.

FOR FURTHER INFORMATION CONTACT:

Howard N. Fenton, Office of Antiboycott Compliance, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Room 3886, Washington, D.C. 20230, (202) 377-2381

Archie Andrews, Director, Exporters' Service Staff, Office of Export Administration, U.S. Department of Commerce, Room 1099-A, Washington, D.C. 20230, (202) 377-4811.

SUPPLEMENTARY INFORMATION:

I. Substance of the Regulations

This rule makes final the revisions to the Export Administration Regulations to incorporate changes in the Export Adminstration Act relating to criminal penalties, to conform specific violation provisions to the Export Administration Act, to reflect organizational changes within the International Trade Administration, to establish as distinct violations the failure to comply with reporting requirements and the failure to answer interrogatories or respond to requests for admission or to produce evidence during investigations conducted under the Export Administration Act of 1979, as amended (the "Act") and to conform this Part with revised Part 388.

The antiboycott regulations are amended to delete a supplement that has been superseded and renumber the remaining supplements.

In the interest of reducing the regulatory burden on the export community and persons reporting boycott-related requests, this rule permits recordkeeping entities, as defined in § 387.13(b), to request a limited exception to the recordkeeping requirements of Part 387. If granted an exception, the recordkeeping entity is allowed to maintain micrographic reproductions rather than originals of documents during the first year of the retention period, as well as in subsequent years. The Department is also exempting certain types of documents from the recordkeeping requirement.

Part 388 of the Export Administration Regulations details the administrative proceedings that the Office of Antiboycott Compliance and the Office of Export Enforcement may initiate to impose sanctions for violations of the Export Administration Act of 1979. The Regulations provide for the settlement of cases prior to the service of a charging letter if a consent agreement and order are approved by the Deputy Assistant Secretary of Commerce for Export Enforcement. This rule provides the Deputy Assistant Secretary with the flexibility to suspend a sanction under any terms or conditions that he may specify in such an order.

The authority of the Office of Export Administration to revise, suspend or revoke licenses or, in the case of bulk licenses described in Part 373, portions of licenses, is clarified.

The paragraph dealing with revocation of export licenses under § 373.7, Service Supply (SL) Procedure, is removed because it is redundant. All export licenses, including bulk licenses, and other authorizations are subject to revision, suspension, or revocation without notice under § 370.3 and § 372.9.

The definitions of "department," "party," "presiding official," and "respondent" in § 388.2 are revised.

II. Recordkeeping Requirements

Office of Export Administration and Office of Antiboycott Compliance information collection requirements contained in this regulation (§ 387.13) have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB numbers 0625-0104 and 0625-0036, respectively.

III. Issues and Public Comments

The Department received five public comments on the interim rule published December 22, 1980. Three comments noted with approval revised § 387.13(g) which, upon request, allows companies to maintain records on micrographic systems during the first year of the retention period. One comment suggested that records should be retainable in micrographic systems immediately upon their receipt. Because maintenance of original records for the first year of the retention period facilitates the investigative process, the Department, though sensitive to the reporting burden (as evidenced by its willingness to consider exceptional cases), cannot further reduce that burden without jeopardizing its ability to enforce the Act effectively. Another comment suggested a number of documents that should be exempt from recordkeeping requirements under § 387.13(h). Several of the suggestions have been adopted and included in that section.

The Export Administration Act of 1979 was amended by Pub. L. 97-145 after

publication of these rules in interim form. Consequently, the sanctions provision, § 387.1, has been amended to conform it to the new penalty provisions that apply to violations occurring after December 29, 1981.

IV. Rulemaking Procedure and Invitation for Comments

In connection with various rulemaking requirements, the Office of Export Administration, the Office of Export Enforcement, and the Office of Antiboycott Compliance have determined that:

1. Under section 13(a) of the Act (50 U.S.C. app. 2412) this rule is exempt from public participation in rulemaking procedures of the Administrative Procedure Act. This rule was published in interim form. All comments, both written and oral, were considered, as contemplated by section 13(b) of the Act. This rule addresses those comments and confirms the regulations as a final rule.

2. This rule is not a major rule within the meaning of section 1(b) of Executive Order 12291 (46 FR 13193, February 19, 1981), "Federal Regulation."

3. This rule does not impose an additional burden under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq.

4. This rule is not subject to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq.

This rule is issued in final form. Although there is no formal comment period, public comments on these regulations are welcome on a continuing basis. All public comments on these regulations are a matter of public record and are available for public inspection and copying. Communications from agencies of the U.S. Government or foreign governments are not made available for public inspection.

The public record concerning these regulations will be maintained in the International Trade Administration Freedom of Information Records Inspection Facility, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Room 4001–B, Washington, D.C. 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in Part 4 of Title 15 of the Code of Federal Regulations. Information about the inspection and copying of records at the facility may be obtained from Patricia L. Mann, the International Trade Administration Freedom of Information Officer, at the above address or by calling (202) 377–3031.

Drafting Information

The principal authors of these rules are Pamela P. Breed, Deputy Assistant General Counsel—Enforcement and Litigation, Daniel C. Hurley, Jr., Attorney-Advisor, and Margo E. Jackson, Attorney-Advisor.

List of Subjects

15 CFR Part 368

Imports, Penalties.

15 CFR Part 369

Boycotts, Reporting requirements, Trade practices.

15 CFR Part 370

Exports, Administrative practice and procedure.

15 CFR Parts 372, 373

Exports.

15 CFR Part 387

Exports, law enforcement, Penalties.

15 CFR Part 388

Administrative practice and procedure, Exports, Penalties, Boycotts.

For the reasons set forth above, the regulations on Enforcement, 15 CFR Part 387, as well as portions of Parts 368 through 386 and 388 are amended as set forth below.

1. 15 CFR Part 387 is revised as set forth below.

PART 387—ENFORCEMENT

Sec.

387.1 Sanctions.
387.2 Causing, aiding, and abetting a violation.
387.3 Solicitation, attempt, and conspiracy.
387.4 Acting with knowledge of a violation.
387.5 Misrepresentation and concealment of facts.
387.6 Export, diversion, reexport, transshipment.
387.7 Failure to comply with reporting requirements.
387.8 Failure to answer interrogatories or respond to requests for admission or to produce documents.
387.9 Licensee accountable for use of license.
387.10 Unauthorized use and alterations of export control documents.
387.11 Trafficking and advertising export control documents.
387.12 Transactions with persons subject to denial orders.
387.13 Recordkeeping.
387.14 Where to report violations.

Authority. Sec. 4, Pub. L. 97–145 (to be codified at 50 U.S.C. app. 2410;) Secs. 4, 5, 6, 7, 8, 11, 12, 15 and 21, Pub. L. 96–72, 50 U.S.C. app. § 2401, et seq. (Supp. III 1979); E.O. 12214, (45 FR 29783, May 6, 1980); Department Organization Order 10–3 of February 15, 1982 (unpublished) and International Trade Administration Organization and Function Orders 41–1, effective February 15, 1982 (unpublished) and 41–4, effective May 18, 1982 (47 FR 29582, July 7, 1982).

§ 387.1 Sanctions.

(a) *Criminal.*—(1) *Violations of Export Administration Act.*—(i) *General.* Except as provided in paragraph (a)(1)(ii) of this section, whoever knowingly violates the Export Administration Act ("the Act") or any regulation, order, or license issued under the Act is punishable for each violation by a fine of not more than five times the value of the exports involved or $50,000, whichever is greater, or by imprisonment for not more than five years, or both.

(ii) *Willful violations.* Whoever willfully exports anything contrary to any provision of the Act or any regulation, order, or license issued under the Act, with the knowledge that such exports will be used for the benefit of any country to which exports are restricted for national security or foreign policy purposes except in the case of an individual, shall be fined not more than five times the value of the exports involved or $1,000,000, whichever is greater; and in the case of an individual, shall be fined not more than $250,000, or imprisoned not more than 10 years, or both. Any person who is issued a validated license under this Act for the export of any goods or technology to a controlled country and who, with the knowledge that such export is being used by such controlled country for military or intelligence gathering purposes contrary to the conditions under which the license was issued, willfully fails to report such use to the Secretary of Defense except in the case of an individual, shall be fined not more than five times the value of the exports involved or $1,000,000, whichever is greater; and in the case of an individual, shall be fined not more than $250,000, or imprisoned not more than five years, or both. For purposes of this Part, "controlled country" means any country described in section 620(f) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370).

(2) *Violations of False Statements Act.* The submission of false or misleading information or the concealment of material facts, whether in connection with license applications, boycott reports, Shipper's Export Declarations, investigations, compliance proceedings, appeals, or otherwise, is also punishable by a fine of not more than $10,000, or by imprisonment for not more than five years, or both, for each violation (18 U.S.C. 1001).

(b) *Administrative.*[1]—(1) *Denial of export privileges.* Whoever violates any law, regulation, order, or license relating to export controls or restrictive trade practices and boycotts is also subject to administrative action which may result in suspension, revocation, or denial of export privileges conferred under the Export Administration Act (*see* § 388.3 et seq.).

(2) *Exclusion from practice.* Whoever violates any law, regulation, order, or license relating to export controls or restrictive trade practices and boycotts is further subject to administrative action which may result in exclusion from practice before the International Trade Administration (*see* § 390.2(a)).

(3) *Civil penalty.* A civil penalty may be imposed for each violation of the Export Administration Act or any regulation, order or license issued under the Act either in addition to, or instead of, any other liability or penalty which may be imposed. The civil penalty may not exceed $10,000 for each violation except that the civil penalty for each violation involving national security controls imposed under § 5 of the Act may not exceed $100,000. The payment of such penalty may be deferred or suspended, in whole or in part, for a period of time that may exceed one year. Deferral or suspension shall not operate as a bar in the collection of the penalty in the event that the conditions of the suspension or deferral are not fulfilled. When any person fails to pay a penalty imposed under this § 387.1(b)(3), civil action for the recovery of the penalty may be brought in the name of the United States, in which action the court shall determine *de novo* all issues necessary to establish liability. Once a penalty has been paid, no action for its refund may be maintained in any court.[2]

(4) *Seizure.* Commodities or technical data which have been, are being, or are intended to be, exported or shipped from or taken out of the United States in violation of the Export Administration Act or of any regulation, order, or license issued under the Act are subject to being seized and detained, as are the vessels, vehicles, and aircraft carrying such commodities or technical data. Seized commodities or technical data are subject to forfeiture (22 U.S.C. 401) (*see* § 386.8(b)(6)).

[1] Violations of the Act or Regulations, or any order or license issued under the Act, may result in the imposition of administrative sanctions, and also or alternatively of a fine or imprisonment as described in paragraph (a) of this section, seizure or forfeiture of property under 22 U.S.C. 401, or any other liability or penalty imposed by law. The U.S. Department of Commerce may compromise and settle any administrative proceeding brought with respect to such violations.

[2] The U.S. Department of Commerce may refund the penalty at any time within two years of payment if it is found that there was a material error of fact or of law.

§ 387.2 Causing, aiding, and abetting a violation.

No person may cause, or aid, abet, counsel, command, induce, procure, or permit the doing of any act prohibited, or the omission of any act required, by the Export Administration Act or any regulation, order, or license issued under the Act.

§ 387.3 Solicitation, attempt, and conspiracy.

(a) *Solicitation and attempt.* No person may do any act that solicits the commission of, or that constitutes an attempt to bring about, a violation of the Export Administration Act or any regulation, order, or license issued under the Act.

(b) *Conspiracy.* No person may conspire or act in concert with one or more persons in any manner or for any purpose to bring about or to do any act that constitutes a violation of the Export Administration Act or any regulation, order, or license issued under the Act.

§ 387.4 Acting with knowledge of a violation.

No person may order, buy, receive, conceal, store, use, sell, loan, dispose of, transfer, transport, finance, forward, or otherwise service, in whole or in part, any commodity or technical data exported or to be exported from the United States or which is otherwise subject to the Export Administration Regulations, with knowledge or reason to know that a violation of the Export Administration Act or any regulation, order, or license has occurred, is about to occur, or is intended to occur with respect to any transaction.

§ 387.5 Misrepresentation and concealment of facts.

(a) *Misrepresentation and concealment.* No person may make any false or misleading representation, statement, or certification, or falsify or conceal any material fact, whether directly to the Office of Export Administration, the Office of Export Enforcement,[1] the Office of Antiboycott Compliance, any customs office, or an official of any other United States agency, or indirectly to any of the foregoing through any other person or foreign government agency or official:

[1] For purposes of Part 387, the Office of Export Enforcement enforces the Export Administration Regulations relating to short supply controls imposed under section 7 of the Act. Such controls are otherwise the responsibility of the Office of Industrial Resource Administration.

(1) In the course of an investigation or other action instituted under the authority of the Export Administration Act;

(2) In connection with the preparation, submission, issuance, use, or maintenance of any export control document, as defined in §370.2, or restrictive trade practice or boycott request report, as defined in § 369.6;

(3) For the purpose of or in connection with effecting an export from the United States, or the reexport, transshipment, or diversion of any such export.

(b) *Scope.* Paragraph (a) of this section applies to all representations, statements, and certifications made to, and material facts concealed from, the Office of Export Administration, the Office of Export Enforcement, the Office of Antiboycott Compliance, and the U.S. Customs Service, or other agencies with respect to matters within the jurisdiction of these agencies under the statutes, Executive Orders, and regulations relating to export control, restrictive trade practices or boycotts, and orders or licenses issued or established under the Act.

(c) *Representations to be continuing in effect; notification.* All representations, statements, and certifications made by any person are deemed to be continuing in effect. Every person who has made any representation, statement, or certification must notify, in writing, the Office of Export Administration, the Office of Export Enforcement, or the Office of Antiboycott Compliance, as well as any other cognizant agency(ies), of any change of any material fact or intention from that previously represented, stated, or certified. Such notification shall be made immediately upon receipt of any information which would lead a reasonably prudent person to believe that a change of material fact or intention has occurred or may occur in the future.

§ 387.6 Export, diversion, reexport, transshipment.

Except as specifically authorized by the Office of Export Administration, in consultation with the Office of Export Enforcement, no person may export, dispose of, divert, direct, mail or otherwise ship, transship, or reexport commodities or technical data to any person or destination or for any use in violation of or contrary to the terms, provisions, or conditions of any export control document, any prior representation, any form of notification of prohibition against such action, or any provision of the Export

Administration Act or any regulation, order, or license issued under the Act.

§ 387.7 Failure to comply with reporting requirements.

No person may fail or refuse to comply with reporting requirements in violation of the Export Administration Act or of any order, regulation or license issued under the Act. *See,* for example, §§ 369.6 and 373.4(e)(3).

§ 387.8 Failure to answer interrogatories or respond to requests for admission or to produce documents.

(a) *Interrogatories and requests for admission or to produce documents.* Whenever the Office of Export Enforcement or the Office of Antiboycott Compliance finds it impracticable, during the course of an investigation, other proceeding or action, to subpoena a person, or books, writings, records, or other tangible things bearing upon the matter being investigated, the Office of Export Enforcement or the Office of Antiboycott Compliance may serve upon such person interrogatories, requests for admission of facts, requests for the production of books, records and other writings, or requests to produce or make available other tangible things for inspection, including commodities or technical data exported from the United States, as therein specifically set forth. If a person, within 20 days after receiving interrogatories or requests, fails or refuses to (1) furnish responsive answers to such interrogatories or requests for admissions, (2) produce the requested books, records and other writings, or (3) produce or make available for inspection other tangible things requested, including commodities or technical data exported from the United States, which are in that person's possession, custody or control, without good cause being shown, an order may be issued as provided in § 383.3(a)(2), denying export privileges to such person. This order shall remain in effect for five years or until such person responds to the interrogatories or requests or gives adequate reasons for failure or refusal to so respond.

(b) *Service.* Interrogatories or requests shall be served in the same manner as provided in § 388.4 (b) and (c) for service of a charging letter.

(c) *Enforcement procedures.* The procedure regarding applications for denial orders under § 387.8(a) and motions to vacate or modify such orders shall conform substantially to that provided for temporary denial orders by § 388.19 (b) and (c).

§ 387.9 Licensee accountable for use of license.

The person to whom a license is issued becomes the licensee and will be held strictly accountable for use of the license. The licensee may not, without prior written approval of the Office of Export Administration, in consultation with the Office of Export Enforcement, permit any other person to facilitate or effect the export of any commodity or technical data described in the license, except under his direction and responsibility as his true agent in fact. No term of sale or export or other agreement between the licensee or the order party and the purchaser or ultimate consignee of such commodity or technical data may provide otherwise.

§ 387.10 Unauthorized use and alterations of export control documents.

Except as otherwise specifically authorized in the Export Administration Regulations or in writing by the Office of Export Administration, in consultation with the Office of Export Enforcement, no licensee or other person, may obtain, use, alter, or assist in or permit the use or alteration of, any export control document, for the purpose of or in connection with facilitating or effecting any export or reexport other than that set forth in such document and in accordance with all the terms, provisions, and conditions thereof.

§ 387.11 Trafficking and advertising export control documents.

(a) *Unlawful practices.* Without prior written approval of the Office of Export Administration, in consultation with the Office of Export Enforcement, no person may do any of the following with respect to any export or reexport under any export control document:

(1) *Transfers or changes of authority.* Effect any transfer of, or other change of the authority granted in such document, whether by sale, grant, gift, loan or otherwise, to any person; or permit any person to use the same other than for the true account of and as true agent in fact for the licensee; or, if that person is not the licensee, to receive or accept a transfer or other change of the authority granted in, or otherwise use an export control document except for the true account of and as true agent in fact for the licensee.

(2) *Change in named parties.* Effect any change of, substitution for, or addition to, the parties named in an export control document; or transfer, obtain, purchase, or create any interest or participation in the transaction described in any export control document.

(3) *Unlawful advertising or soliciting.* Offer or solicit by advertisement, circular, or other communication any transfer or change of an export control document or any interest therein prohibited above. Such communication shall be deemed unlawful:

(i) Even though coupled with a condition requiring approval by the Office of Export Administration of a new consignor or consignee or other change in the export license, by way of transfer, amendment or otherwise;

(ii) Where, in offering or soliciting the sale for export of any commodities or technical data, the communication indicates that the proposed seller of such commodities or technical data holds or will furnish a license or other export control document for the export of such commodities or technical data;

(iii) Where, in offering or soliciting the purchase for export of any commodities or technical data, that communication is addressed by the proposed buyer directly or indirectly to any person on the condition that such person as a seller then holds or will furnish a license or other export control document for the export of those commodities or technical data.

(4) *Other unlawful practices.* Sections 387.10, 387.11, and 387.12 among other things, make it unlawful:

(i) For a licensee or other person holding an export control document to sell or offer to sell, or for any person to purchase or to offer to purchase, the commodities or technical data described in such document with the understanding that the document may be used by or for the benefit of the purchaser to effect export of those commodities or technical data;

(ii) For any person to effect the export of the commodities referred to in § 387.11(a)(4)(i) for the benefit of or "for the account" of any person other than the licensee, regardless of the device, means, or fiction employed;

(iii) For the licensee to act fictitiously as principal or agent of another person who actually is effecting the export, or for such other person to act fictitiously as the licensee's principal or agent for the same purpose;

(iv) For the named consignee to act "for the account" of a new unlicensed consignee, or

(v) For any person to use a license, originally issued for a specified transaction which was not effected, for any other transaction without the specific written authorization of the Office of Export Administration.

(b) *Transfer of dock receipts, bills of lading, or liens.* (1) *Use of certain export control documents.* Section 387.12(a) is

not to be construed as affecting the transfer and other use of dock receipts, bills of lading, or other commercial documents necessary to complete a transaction authorized by the export license, or impairing the validity of liens or other security titles or interests created in good faith with respect to commodities or technical data or documents in the course of financing, warehousing, forwarding, or transporting commodities or technical data.

(2) *Disposition of export.* A person who is entitled to foreclose on any lien or other security title or interest, or who may exercise any rights as holder of the lien or other security title or interest, who contemplates an export under the license by someone other than the licensee or to someone other than the purchaser or ultimate consignee designated in the license, must apply for a new license in accordance with the provisions of Part 372.

§ 387.12 Transactions with persons subject to denial orders.

(a) *Prohibited activities.* Without prior disclosure of the facts to and specific authorization of the Office of Export Administration, in consultation with the Office of Export Enforcement, no person may directly or indirectly, in any manner or capacity:

(1) Apply for, obtain, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to an export or reexport of commodities or technical data by, to, or for another person then subject to an order revoking or denying his export privileges or then excluded from practice before the International Trade Administration; or

(2) Order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate (i) in any transaction which may involve any commodity or technical data exported or to be exported from the United States, (ii) in any reexport thereof, or (iii) in any other transaction which is subject to the Export Administration Regulations, if the person denied export privileges may obtain any benefit or have any interest in, directly or indirectly, any of these transactions.

(b) *Definition of "Person Denied Export Privileges".* For the purpose of this section, the term "person denied export privileges" means:

(1) Any person, firm, corporation, or other business organization whose export privileges are revoked or denied by any order or who is excluded by such order from practice before the International Trade Administration; and

(2) Any other person, firm, corporation, or other business organization also denied export privileges or excluded from practice before the International Trade Administration because of a relationship to any person denied export privileges through affiliation, ownership, control, position of responsibility, or other connection in the conduct of trade or related services during the period of such order.

(c) *Applicability of orders.* Orders which revoke or deny the export privileges of any person or which exclude any person from practice before the International Trade Administration may provide that the terms and prohibitions of such orders apply not only to the persons expressly named therein but also, for the purpose of preventing evasion, to any other person, firm, corporation, or other business organization with which that person may then or thereafter (during the term of the order) be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of trade or related services. The Table of Denial Orders (*see* Supplement No. 1 to Part 388 and §§ 388.3 and 390.2) contains all orders which currently deny export privileges in whole or in part. The table also lists the names and addresses of such persons, the effective and expiration dates of the orders, a brief summary of the export privileges affected, and the citations to the volumes and pages of the **Federal Register** where complete texts of the orders are published. The publication of such orders in the **Federal Register** constitutes legal notice of the terms thereof to all persons.

§ 387.13 Recordkeeping.

(a) *Transactions subject to this regulation.* This section applies to (1) transactions involving restrictive trade practice or boycott requirements or requests (OMB No. 0625–0036), (2) exports of commodities or technical data from the United States and any known reexports, transshipments, or diversions of commodities or technical data originally exported from the United States (OMB No. 0625–0104), or (3) any other transactions subject to these Regulations, regardless of whether the export or reexport is made, or proposed to be made, by any person with or without authorization by a validated license, a general license, or any other export authorization. This section also applies to all negotiations connected with those transactions, except that for export control matters a mere preliminary inquiry or offer to do business and negative response thereto shall not constitute negotiations, unless the inquiry or offer to do business proposes a transaction which a reasonably prudent exporter would believe likely to lead to a violation of export orders or regulations. It also applies to any exports to Canada, if, at any stage in the transaction, it appears that a person in a country other than the United States or Canada has an interest therein or that the commodity or technical data involved is to be reexported, transshipped, or diverted from Canada to another foreign country.

(b) *Persons subject to this regulation.* Any person subject to the jurisdiction of the United States who, as principal or agent (including a forwarding agent), participates in any transaction described in § 387.13(a), and any person in the United States or abroad who is required to make and keep records under any provisions of the Export Administration Regulations, shall keep all the records described in § 387.13(c), which are made or obtained by that person, and shall produce them in the manner provided in paragraph (f) of this section.

(c) *Records to be kept.* The records to kept under this § 387.13 shall include export control documents, as defined in §370.2, memoranda, notes, correspondence, contracts, invitations to bid, books of account, financial records, restrictive trade practice or boycott documents, and reports, and other written matter pertaining to the transactions described in § 387.13(a), which are made or obtained by a person described in § 387.13(b). In addition to the records required to be kept by this section, other sections of the Regulations require the retention of records, including §§ 368.2, 369.6, 371.9, 371.10, 371.12, 371.22, 372.1, 372.5, 372.6, 372.13, 373.3, 373.4, 373.7, 373.8, 374.7, 376.5, 376.8, 376.10, 376.15, 377.5, 378.5, 378.6, 379.4, 386.3, and 386.6. The revocation or revision of any provision of the Export Administration Regulations which requires the making and keeping of records shall not be retroactive in effect unless specifically provided and shall not affect the original requirement to keep these records for the prescribed period.

(d) *Reproduction of records.* (1) *Definition.* "Reproduction" for the purpose of this § 387.13(d) is defined to include any photographic, photostatic, micrographic, miniature photographic or other process which completely, accurately and durably reproduces the original record.

(2) *Use of reproductions.* Reproductions may not be substituted for original documents with respect to

all categories of records required to be retained under any provision of the Export Administration Regulations or of any order, until all of the following conditions are met:

(i) The original documents have been retained for twelve months after the beginning of the retention period set forth in § 387.13(e) *or* an exception has been granted under the provisions of § 387.13(g).

(ii) All significant information, marks and/or other characteristics on the original document must be clearly visible and legibly reproduced.

(iii) Appropriate facilities must be provided and maintained for the preservation of the reproduced records during the retention period and for the ready location and inspection of the records, including a projector for viewing films, if needed.

(e) *Period of retention.* (1) Except for records relating to restrictive trade practice or boycott requests, which must be kept for three years (*see* § 369.6(b)(8)), records required under this section shall be kept for a period of two years from the latest of the following times:

(i) The export from the United States; or

(ii) Any known reexport, transshipment, or diversion; or

(iii) Any other termination of the transaction, whether formally in writing or by any other means. It may be advisable to maintain records longer than the mandatory two-year retention period because the statute of limitations for criminal actions brought under the Export Administration Act of 1979 and its predecessor Acts is five years (18 U.S.C. 3282). The statute of limitations for administrative compliance proceedings is also five years (28 U.S.C. 2462).

(2) If the Department of Commerce or any other Government agency makes a formal or informal request for a certain record or records, such record or records may not be destroyed or disposed of without the written authorization of the agency concerned.

(f) *Producing and inspecting records.* (1) Persons within the United States may be requested to produce records which are required to be kept by any provision of the Export Administration Regulations or by any order, and to make them available for inspection and copying by any authorized agent, official or employee of the International Trade Administration, the U.S. Customs Service, or the U.S. Government, without any charge or expense to such agent, official or employee. The Office of Export Enforcement and the Office of Antiboycott Compliance encourage voluntary cooperation with such requests. When voluntary cooperation is not forthcoming the Office of Export Enforcement and the Office of Antiboycott Compliance are authorized to issue subpoenas for books, records, and other writings. In instances where a person does not comply with a subpoena, the Department of Commerce may petition the appropriate district court to have the subpoena enforced.

(2) Every person abroad, required to keep records by any provision of the Export Administration Regulations or by any order, shall produce all records or reproductions of records required to be kept, and make them available for inspection and copying upon request by an authorized agent, official, or employee of the International Trade Administration, the U.S. Customs Service, or a U.S. Foreign Service post, or by any other accredited representative of the U.S. Government, without any charge of expense to such agent, official or employee. Persons located outside the United States who fail to comply with certain requests, including requests to produce documents, may be subject to orders denying export privileges. (*See* § 387.8.)

(g) *Requests for exceptions to recordkeeping requirements.* (1) *Effect of exception.* Recordkeeping entities (as defined in § 387.13(b) wishing to maintain records on micrographic systems prior to the second year of the retention period may request an exception to the recordkeeping requirements. An exception, if granted, permits the recordkeeping entity to substitute micrographic records for original documents for the full retention period.

(2) *Basis for consideration.* When reviewing requests for exceptions, the Office of Export Administration, in consultation with the Office of Export Enforcement, and the Office of Antiboycott Compliance will take into consideration the requestor's previous performance with respect to general export control matters and antiboycott matters respectively.

(3) *Guidelines for micrographic systems.* To maintain records under this exception, a micrographic system shall have the following minimum requirements:

(i) The system shall provide commercial permanence of all records.

(ii) The system shall provide for frequent quality control inspection to ensure readability of all records.

(iii) Micrographed records must have a degree of legibility and readability, when displayed on a viewer and when reproduced on paper, equal to that of the original records. (*See* section 5 or IRS Revenue Procedure No. 81–46, 1981–40 C.B. 6 concerning technical standards of micrographed records.)

(iv) A detailed index of all micrographic data shall be maintained, and arranged in such a manner as to permit the immediate location of any particular record, location of all documents relating to a given transaction, and determination of disposition of corresponding original documents.

(4) *Submission of requests for exception.*

(i) The recordkeeping entity shall submit requests for exceptions involving general export matters to:

Office of Export Administration, P.O. Box 273, Washington, D.C. 20044

(ii) The recordkeeping entity shall submit requests for exceptions involving antiboycott matters to:

Office of Antiboycott Compliance, U.S. Department of Commerce, 14th Street and Constitution Ave., NW., Room 3886, Washington, D.C. 20230

(iii) The requesting firm shall include in the request—

(A) Data on the proposed micrographic system, including specific information as to how the system conforms to requirements set forth in § 387.13(g)(3);

(B) A statement concerning intended disposition of corresponding original documents; and

(C) Samples of records to be kept on the system.

(5) *Micrographing records under an exception.* Upon receiving written notice that an exception has been granted under this § 387.13(g), the recordkeeping entity may substitute micrographic reproductions for only those records *already* in the retention period and approved under the exception. Originals of records that have not entered the retention period must be kept until the retention period begins (as set forth in §§ 369.6(b)(8) and 387.13(e)) and micrographed records may then be substituted for the originals.

(6) *Disposition of original documents.* The recordkeeping entity shall include with micrographed records a signed document indicating final disposition of original documents, and the date of final disposition.

(7) *Revocation of exception.* The Department of Commerce may revoke an individual exception at any time if it determines that the firm has acted improperly, or for other good cause. A decision to revoke this exception may be appealed under the provisions of Part 389 of these Regulations.

(h) *Records exempt from recordkeeping requirements.* The

following kinds of records have been determined to be exempt from recordkeeping requirements:

—Export Information Page
—Special Export Price List
—Vessel Log from Freight Forwarder
—Inspection Certificate
—Warranty Certificate
—Guarantee Certificate
—Packing Material Certificate
—Goods Quality Certificate
—Notification to Customer of Advance Mailings
—Letter of Indemnity
—Financial Release Form
—Financial Hold Form
—Export Parts Shipment Problem Form
—Draft Number Log
—Expense Invoice Mailing Log
—Financial Status Report
—Bank Release of Guarantees
—Cash Sheet
—Monthly Customer Statement
—Sales Run
—Commission Payment Back-up
—Commissions Payable Worksheet
—Commissions Payable Control
—Check Request Forms
—Accounts Receivable Correction Form
—Check Request Register
—Commission Payment Printout
—Engineering Fees Invoice
—Foreign Tax Receipt
—Individual Customer Credit Status
—Request for Export Customer Code Forms
—Acknowledgement for Receipt of Funds
—Escalation Development Form
—Summary Quote
—Purchase Order Review Form
—Proposal Extensions
—Financial Proposal to Export Customers
—Sales Summaries

§ 387.14 Where to report violations.

(a) *Notification.* The Office of Export Enforcement has the primary responsibility for enforcing these Regulations except that the Office of Antiboycott Compliance has the responsibility for enforcing the Restrictive Trade Practices or Boycott Regulations in particular.

(1) If a person obtains knowledge that a violation of these Regulations has occurred or will occur, that person may notify: Office of Export Enforcement, P.O. Box 7138, Washington, D.C. 20044, telephone (202) 377–3461, or Office of Antiboycott Compliance, U.S. Department of Commerce, 14th Street and Constitution Ave. N.W., Room 3886, Washington, D.C. 20230, telephone (202) 377–2381, as appropriate.

(2) Any federal, state, or local government agency obtaining knowledge of a potential violation under these Regulations should immediately report such potential violation to: (i) Office of Export Enforcement, P.O. Box 7138, Washington, D.C. 20044, telephone (202) 377–4608. Failure to report such potential violations may result in the unwarranted issuance of validated export licenses or unlicensed exports to the detriment of the national security, foreign policy or short supply interests of the United States; (ii) Office of Antiboycott Compliance, U.S. Department of Commerce, 14th Street and Constitution Ave. N.W., Room 3886, Washington, D.C. 20230, telephone (202) 377–2381.

(b) *Reporting requirement distinguished.* The notification provisions set forth in paragraph (a) of this section are not "reporting requirements" within the meaning of § 387.7.

PART 368—[AMENDED]

2. Section 368.4(b) is revised to read as follows:

§ 368.4 Penalties and sanctions for violations.

* * * * *

(b) *Criminal.* The False Statements Act makes it a criminal offense to make a willfully false statement or conceal a material fact, or knowingly use a document containing a false statement, in any matter within the jurisdiction of a U.S. department or agency. Maximum penalties under this provision are $10,000 fine or imprisonment for five years, or both. In addition, a knowing violation of the Export Administration Act or any regulation, order, or license issued under the Act generally is punishable by a fine of not more than five times the value of the exports involved or $50,000, whichever is greater, or by imprisonment for not more than 5 years, or both. Willful violations are punishable by fines or imprisonment, or both. (*See* also § 387.1(a).)

PART 369—[AMENDED]

3. Section 369.6(b) (5) and (8) are revised to read as follows:

§ 369.6 Reporting requirements.

* * * * *

(b) * * *

(5) At the reporting person's option, reports may be submitted on either a single transaction form (Form ITA–621P, Report of Restrictive Trade Practice or Boycott Request Single Transaction (revised 7–79) OMB No. 0625–0036) or on a multiple transaction form (Form ITA–6051P, Report of Request for Restrictive Trade Practice or Boycott Multiple Transactions (revised 7–79) OMB No. 41–R2305). Use of the multiple transaction form permits the reporting person to provide on one form all required information relating to as many as 75 reportable requests received within any single reporting period.

* * * * *

(8) Records containing information relating to a reportable boycott request, including a copy of any document(s) in which the request appears, must be maintained by the recipient for a three-year period after the receipt of the request. The Department may require that these materials be submitted to it or that it have access to them at any time within that period. (*See* § 387.13 for additional recordkeeping requirements.)

* * * * *

Supplement 1—[Removed]

4. Supplement No. 1 to Part 369 and the heading above it reading "Interpretation of Part 369" are removed.

Appendix—[Redesignated as Supplement 1]

5. The material titled "Appendix—Interpretations" is redesignated as Supplement No. 1 to Part 369, "Interpretations."

Supplement 2—[Amended]

6. A new heading "Interpretations" is added to Supplement No. 2 to Part 369.

Supplement 3—[Amended]

7. Supplement No. 3 to Part 369, "Appendix—Interpretations," is amended by removing "Appendix" from the heading.

Supplement 4—[Amended]

8. Supplement No. 4 to Part 369 is amended by removing "Appendix" from the heading.

Supplement 5—[Amended]

9. Supplement No. 5 to Part 369, "Appendix—Interpretation," is amended by removing "Appendix" from heading.

PART 370—[AMENDED]

10. Section 370.2 is amended by adding the following after the definitions of "Commodity Control List (CCL)" and "Net Value", respectively.

§ 370.2 Definitions of terms.

* * * * *

Controlled Country. Any country described in Section 620(f) of the Foreign Assistance Act of 1961.

* * * * *

Office of Export Enforcement. Pursuant to the Export Administration Act of 1979 (Pub. L. 96–72), the Office of Export Enforcement enforces the Export Administration Act and the Regulations thereunder and among other things, directs the investigation of suspected export control violations and prepares

cases on violations for referral for administrative proceedings by the Department of Commerce and criminal prosecution by the Department of Justice.

* * * * *

11. The first sentence of paragraph (b) of § 370.3 is revised to read as follows:

§ 370.3 Prohibited exports.

* * * * *

(b) *Revocation of Export Licenses and Other Authorizations.* All export licenses and other authorizations to export or reexport are subject to revision, suspension, or revocation, in whole or in part, without notice. * * *

* * * * *

PART 372—[AMENDED]

12. Paragraph (d)(4) of § 372.9 is revised to read as follows:

§ 372.9 Issuance of validated licenses.

* * * * *

(d) * * *

(4) *Revocation, suspensions, or revisions.* Outstanding licenses may be revised, suspended, or revoked, in whole or in part, or the validity periods thereof may be extended or reduced by appropriate orders or regulations.

* * * * *

PART 373—[AMENDED]

§ 373.7 [Amended]

13. Paragraph (m) of § 373.7 is removed.

14. Paragraph (n) of § 373.7 is redesignated as (m).

15. Paragraph (o) of § 373.7 is redesignated as (n).

PART 388—[AMENDED]

16. Section 388.1, first sentence, is revised to read as follows:

§388.1 Purpose and limitations.

The regulations in this part set forth the procedures for imposing administrative sanctions for violation of the Export Administration Act of 1979, as amended (Pub. L. 97–145, 50 U.S.C. app. 2401, *et seq.)* or its predecessor statute, the Export Administration Act of 1969, as amended (50 U.S.C. app. 2401, *et seq.* (1976 & Supp. III 1979)) (hereinafter collectively referred to as the "Act," although citations to particular sections of the Act will be to the 1979 Act), or of any regulation, order, license or other authorization issued thereunder. * * *

17. Section 388.2 is revised to read as follows:

§ 388.2 Definitions.

As used in this part:

Department. The Office of Export Administration, the Office of Export Enforcement or the Office of Antiboycott Compliance, International Trade Administration, U.S. Department of Commerce.

Party. The Department and any person named as a respondent, in a charging letter or order proposed or issued under this part.

Presiding Official. The person authorized to conduct hearings in administrative proceedings. For proceedings brought under § 8 of the Export Administration Act, the presiding official shall be an administrative law judge who may impose sanctions only after notice and opportunity for an agency hearing on the record. Other proceedings may be referred by the Director, Office of Export Enforcement, to either an Administrative Law Judge or the Hearing Commissioner who shall serve as presiding official.

Regulations. The Export Administration Regulations (15 CFR Parts 368 through 399), including the regulations concerning Restrictive Trade Practices or Boycotts (15 CFR Part 369).

Respondent. Any person named in a charging letter, temporary denial order, or order to show cause proposed or issued under this part.

18. Section 388.3(a)(4) is revised to read as follows:

§ 388.3 Denial of export privileges and imposition of civil penalties.

(a) * * *

(4) *Civil penalty.* In addition to or instead of any or all of the administrative sanctions described in (a) (1), (2) and (3) of this section, a civil penalty not to exceed $10,000 for each violation may be imposed, except that a civil penalty not to exceed $100,000 may be imposed for each violation involving national security controls imposed under § 5 of the Act.

* * * * *

19. The first sentence of § 388.4(a) is revised to read as follows:

§ 388.4 Institution of administrative proceedings.

(a) *Charging letters.* The Director of the Office of Export Enforcement [1] or the Director of the Office of Antiboycott Compliance, as appropriate, may begin administrative proceedings under this Part by issuing a charging letter in the name of the Department. * * *

* * * * *

20. The first sentence of § 388.6(a) is revised to read as follows:

§ 388.6 Filing and service of papers other than charging letter.

(a) *Filing.* All papers to be filed shall be delivered or mailed to "EAR Administrative Proceedings," U.S. Department of Commerce, Room 6716, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, or such other place as the presiding official may designate. * * *

* * * * *

21. Section 388.17(b) is revised to read as follows:

§ 388.17 Consent proceedings.

(a) * * *

(b) Cases may also be settled prior to the service of a charging letter. In such event, a proposed charging letter shall be prepared, and a consent agreement and order shall be submitted for approval and signature to the Deputy Assistant Secretary of Commerce for Export Enforcement. The consent proposal shall include a consent agreement and a proposed order. If the Deputy Assistant Secretary does not approve the proposal, he will notify the parties and the case will proceed as though no consent proposal had been made. If the Deputy Assistant Secretary approves the proposal he will issue an order, and no action by the presiding official shall be required. The Deputy Assistant Secretary may order that any administrative sanction imposed shall be suspended in whole or in part upon such terms of probation or other conditions as he deems appropriate. Any such suspension may be modified or revoked by the Deputy Assistant Secretary, or on appeal, by the Assistant Secretary of Commerce for Trade Administration, as provided in § 388.16(c).

* * * * *

§ 388.19 [Amended]

22. Section 388.19(a)(1) is amended to remove "Office of Export Administration" and insert "Office of Export Enforcement" in the first (and only) sentence.

[1] By agreement with the Director of the Office of Industrial Resource Administration, the Director of the Office of Export Enforcement enforces short supply controls imposed under section 7 of the Export Administration Act.

23. Section 388.20(c)(1)(i) is revised to read as follows:

§ 388.20 Record for decision and availability of documents.

* * * * *

(c) *Availability of documents.*—(1) *Scope.*

(i) For proceedings started on or after October 12, 1979, all charging letters, answers, decisions, and orders disposing of a case shall be made available for public inspection in the International Trade Administration Freedom of Information Records Inspection Facility, Room 4001–B, U.S. Department of Commerce. The complete record for decision, as defined in § 388.20 (a) and (b), shall be made available on request. In addition, all decisions on appeal and those final orders providing for denial, suspension or revocation of export licensing privileges shall be published in the **Federal Register.**

* * * * *

24. Section 388.22(b) is revised to read as follows:

§ 388.22 Appeals.

* * * * *

(b) *Filing of appeal.* An appeal of an order must be filed with the Office of the Assistant Secretary for Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Room 3898–B, Washington, D.C. 20230, within 30 days after service of the order appealed from. If the Assistant Secretary cannot act on an appeal for any reason, the Under Secretary for International Trade may designate another Department of Commerce official to receive and act on the appeal.

* * * * *

(Secs. 8, 13, 15, and 21, Pub. L. 96–72, 93 Stat. 503, 50 U.S.C. app. 2401 et seq. (Supp. III 1979); Executive Order No. 12214 (45 FR 29783, May 6, 1980); Department Organization Order 10–3 (unpublished) as reissued February 15, 1982; International Trade Administration Organization and Function Orders 41–1 of February 15, 1982 and 41–4 (47 FR 29582, July 7, 1982)

Date: December 10, 1982.

Bohdan Denysyk,

Deputy Assistant Secretary for Export Administration.

Dated: December 10, 1982.

Theodore Wu,

Deputy Assistant Secretary for Export Enforcement.

[FR Doc. 82–35174 Filed 12–27–82; 8:45 am]

BILLING CODE 3510–25–M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34–19336; S7–933]

Pro Rata Rule

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Commission announces the adoption of revised Rule 14d–8 to govern the acceptance of securities deposited in response to a partial tender offer if a greater number of securities are deposited than the bidder is bound or willing to purchase and rescission of current Rule 14d–8. Pursuant to revised Rule 14d–8, a bidder in an oversubscribed partial tender offer is required to accept securities on a pro rata basis according to the number of securities deposited by each depositor during the period such offer remains open.

DATE: Revised Rule 14d–8 shall be effective with respect to any tender offer subject to Section 14(d) of the Exchange Act that is commenced within the meaning of Rule 14d–2 under that Act after December 28, 1982.

FOR FURTHER INFORMATION CONTACT: Joseph G. Connolly, Jr., (202) 272–3097, Office of Tender Offers, Division of Corporation Finance, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Commission announces the adoption of revised Rule 14d–8 under Sections 14(e) and 23(a) of the Securities Exchange Act of 1934 (the "Exchange Act") (15 U.S.C. 78a *et seq.*). The revised rule requires a bidder in an oversubscribed partial tender offer to accept securities on a pro rata basis according to the number of securities deposited by each security holder during the period such offer remains open.

I. General

After consideration of the comments received on proposed Rule 14d–8,[1] published in Release No. 34–18761 (May 25, 1982) (47 FR 24338) (the "Proposing Release"), and its continuing experience with the ten calendar day proration period in recent partial tender offers, the Commission has determined to adopt revised Rule 14d–8, as proposed, and to rescind current Rule 14d–8 (17 CFR 240.14d–8).[2] The Commission believes that, as stated in the Proposing Release, extension of proration rights throughout the term of the offer is essential to assure security holders the time necessary to consider the merits of an offer and to obtain sufficient information upon which to base their investment decisions and to minimize the potential security holder confusion and misunderstanding generated by changing proration periods and multiple proration pools.

In the Proposing Release, the Commission discussed at length the problems associated with the current ten calendar day proration period and requested comments on its proposal to extend the proration period for the duration of the offer. Concurring in the Commission's assessment that, as used in recent partial tender offers, the minimum ten calendar day proration period denies security holders an adequate opportunity to make informed investment decisions and leads to security holder confusion and misunderstanding, the majority of the commentators supported the Commission's proposal to extend the proration period beyond the current ten calendar day period.

A number of commentators related specific experiences in which they had problems receiving tender offer materials and effecting their investment decisions within the ten calendar day proration period. These experiences included receiving tender offer materials after the expiration of a bidder's proration period or so close to the end of the period that they could not tender before the expiration of the proration period. As a result, these commentators stated that they were foreclosed from participating in the offer and were likely to receive a lesser amount for their securities in a proposed second-step merger. In addition, these commentators highlighted the problems that individual security holders experience trying to understand the varying legal consequences of the deadlines contained in a partial tender offer, appreciating the importance of deciding

[1] Pursuant to the Commission's request for comment on the Proposing Release, 41 commentators submitted 42 letters. The commentators may be categorized as follows: corporations (7); law firms and associations (7); securities industry (6); banks and depositories (2); state governmental agencies (1); academicians (4); and individuals (14). The comment letters are available for public inspection and copying at the Commission's Public Reference Room (*see* File No. S7–933). The Commission also has placed in the files a copy of the summary of public comments prepared by the Division of Corporation Finance.

[2] Having considered the comments received regarding its authority to adopt revised Rule 14d–8, the Commission continues to believe that Sections 14(e) and 23(a) provide such authority.

before the expiration of the proration period whether to tender, sell or hold their stock, and comprehending the effect of multiple proration pools.

Some commentators, while favoring extension of the ten day proration period, suggested modifications to the Commission's specific proposal that were designed principally to make the proration period co-extensive with the withdrawal period. These alternatives were proposed as a result of the commentators' concern that the Commission's proposal would preclude any "early pay" in partial tender offers, since bidders in such offers no longer would be able to begin purchasing tendered securities upon the expiration of the withdrawal period but would have to wait until the expiration of the offer.[3] These commentators expressed concern that the Commission's proposal would tip the balance of advantage in favor of any and all offers and would preclude parity between the two types of offers, because bidders in any and all offers generally could still begin purchasing tendered securities upon the expiration of the withdrawal period.

After reviewing these proposed alternatives, the Commission has concluded that such revisions would continue to deny security holders in a partial tender offer the minimum time prescribed under the tender offer regulations for security holders to make their investment decision, which minimum time is, in fact, assured security holders in an any and all offer. Moreover, the commentators' suggested alternatives fail to eliminate the possibility of multiple proration pools and therefore would permit the current complexity and confusion generated in these partial offers to continue unabated.[4]

[3] Currently, a bidder in a partial offer generally can choose to accept shares for payment upon the expiration of the withdrawal period so long as the shares to be accepted for purchase are not in an open proration pool. In an any and all offer, a bidder generally may choose to accept shares for payment as soon as the withdrawal period expires. In either case, acceptance of securities for payment may be further delayed by, among other things, waiting periods under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 [15 U.S.C. 12 *et seq.*] and required regulatory and shareholders' approvals

[4] Two other proposed alternatives designed to provide some parity between "any and all" and "partial offers" included a suggestion that in addition to extending the proration period for the duration of the offer, the Commission should extend the withdrawal period for the duration of the offer. The other suggestion was to make the proration period co-extensive with the offering period, but allow a bidder to elect to purchase a portion of the shares tendered by each security holder at the time that it would be entitled to purchase securities tendered if the offer were for all the securities. Under this alternative, a bidder at such time could purchase from each security holder a number of shares equal to the percentage of securities of the class sought. The Commission does not believe that achieving time of payment parity between the two types of offers justifies the additional regulation embodied in the first proposal or the increased complexity that would result in the second proposal (particularly in view of the limited utility of such "early pay" option).

II. Certain Findings

As required by Section 23(a)(2) of the Exchange Act, the Commission has specifically considered the impact that the rule will have on competition. The Commission finds that compliance with the rule will not impose a significant burden on competition which is not necessary and appropriate to achieve the purposes of the Exchange Act.

The Commission for good cause finds, in accordance with the Administrative Procedure Act (5 U.S.C. 553(d)), that, in view of the pressing need to address the problems caused by the current ten calendar day proration period, revised Rule 14d–8 should be effective with respect to any tender offer subject to Section 14(d) of the Exchange Act commenced within the meaning of Rule 14d–2 under that Act after the date of publication of revised Rule 14d–8 in the Federal Register.

List of Subjects in 17 CFR Part 240

Reporting requirements, Securities.

III. Text of Rule

In accordance with the foregoing, Title 17, Chapter 2, of the Code of Federal Regulations is amended as follows:

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

1. By revising Rule 14d–8, § 240.14d–8, to read as follows:

§ 240.14d–8 Exemption from statutory pro rata requirements.

Notwithstanding the pro rata provisions of Section 14(d)(6) of the Act, if any person makes a tender offer or request or invitation for tenders, for less than all of the outstanding equity securities of a class, and if a greater number of securities are deposited pursuant thereto than such person is bound or willing to take up and pay for, the securities taken up and paid for shall be taken up and paid for as nearly as may be pro rata, disregarding fractions, according to the number of securities deposited by each depositor during the period such offer, request or invitation remains open.

Authority: This rule is amended pursuant to Sections 14(e) and 23(a) of the Securities Exchange Act of 1934.

(Sec. 23, 48 Stat. 901; sec. 203(a), 49 Stat. 704; sec. 8, 49 Stat. 1379; sec. 10, 78 Stat. 580; sec. 3, 82 Stat. 455; secs. 3–5, 84 Stat. 1497; sec. 18, 89 Stat. 155; 15 U.S.C. 78n(e), 78w(a))

By the Commission (Commissioners Evans, Thomas and Longstreth concurring; Chairman Shad and Commissioner Treadway dissenting).

George A. Fitzsimmons,

Secretary.

December 15, 1982.

Dissent by Chairman Shad:

On December 15th the Commission adopted Rule 14d–8 by a three-to-two vote. This rule extends the minimum proration period for the life of tender offers—from 10 calendar to 20 business days (26 to 28 calendar days). It is intended to reduce public shareholders' confusion and afford them more time to consider and act upon tender offers.

I share the majority's concerns for public shareholders, but dissented briefly for the following reasons.

I. Authority

The Commission's legal authority to extend the statutory proration period is not clear. In addition to the reasons cited by Commissioner Treadway in his dissent, when Congress adopted Section 14(d)(6) of the Securities Exchange Act in 1968, it considered and explicity rejected the proration scheme the new Rule 14d–8 implements.[1] The Supreme Court has held that where the provisions of an Act are unambiguous and its difections specific, there is no power to amend it by regulation[2]; and that if the passage of time indicates changes are needed in a congressionally established regulatory scheme, an agency must go to Congress, rather than implement changes by regulation.[3]

II. Merits

The minimum time periods of the old rule (Section 14(d)(6)) and the new Rule 14d–8 are as follows:

	Minimum business (calendar) days		
	Proration	Withdrawal	Termination
Old rule	6–8 (10)	15 (19–21)	20 (26–28)
New rule	20 (26–28)	15 (19–21)	20 (26–28)

Changes in a tender offer and competitive offers may extend certain of the above time periods, which would compound the problems discussed below.

The new rule increases the proration uncertainty (i.e., risk) to all shareholders, bidder and target companies from 10 to 26–28 calendar days.

Under the old rule, after the 10th calendar day shareholders could redeploy the shares not accepted or sell them and reinvest the

[1] S. Rep. No. 550, 90th Cong., 1st Sess. 4–5 (1967).

[2] *Koshland* v. *Helvering*, 298 U.S. 441, 447 (1936).

[3] *H.K. Porter Co., Inc.* v. *National Labor Relations Board*, 397 U.S. 99, 109 (1970); *Addison* v. *Holly Hill Co.* 322 U.S. 607, 617 (1944).

proceeds in more attractive securities. Under the new rule, they must wait 26–28 calendar days to learn the proration. Such a 16 to 18 day delay circumscribes shareholders' options.

Under the old rule, after the 15 business day withdrawal period, the bidder could purchase the shares tendered. Under the new rule, the bidder must wait an additional week, which increases the bidder's exposure to target defensive tactics, "white knights" and competitive bidders.

Under the old rule, shareholders had 9–11 calendar days after learning the proration to decide whether to withdraw all or any portion of their shares in order to: (a) Tender them to a competitive bidder; (b) sell them and reinvest the proceeds in more attractive securities; or (c) avoid an over-subscription.[4] Under the new rule, the withdrawal period expires five business days *before* shareholders know the proration.

Extending the proration period five business days *beyond* the withdrawal period largely nullifies the benefit of the withdrawal period to shareholders. It also locks-in those who do not withdraw their shares by the 15th business day or who tender thereafter. Therefore, sophisticated shareholders will maximize their options by not tendering until the 20th business day, since there is no advantage in tendering earlier. Unsophisticated shareholders who tender earlier will be locked-in upon expiration of the withdrawal period. In addition, a large volume of last minute tenders will further compound the uncertainty for all shareholders, bidder and target companies.

The new rule does not address dilatory tactics by target companies in forwarding tender offer materials to their shareholders, nor so-called "golder parachutes", nor does it inhibit multiple tenders and proration polls, two-tier offers or legal and financial maneuvers by bidder and target companies. To the contrary, the longer proration period and last minute tenders will facilitate such activities and tend to compound unsophisticated investors' confusion, which will work to the advantage of sophisticated traders.

For example, the much longer proration period, greater uncertainty as to the ultimate proration, increased likelihood of a smaller percentage of the shares tendered being accepted and the increased risk of blocking legal actions by the participants can be expected to result in lower bids in the open market for the public's shares during the longer proration period (nearly a month). This will afford risk arbitrageurs over two extra weeks to accumulate more shares from the public in the open market at lower relative prices than heretofore. The net result may prove to be no greater (if not less) public shareholder participation in proration pools,[5] and lower aggregate price realizations by public shareholders.

The longer proration period and greater uncertainty also increase the risks to first bidders. All other things being equal, this will result in fewer tender offers, to the detriment of public shareholders. Also, if first bidders raise or extend their offers, they will afford more time for competitive bidders and defensive tactics by target companies.

For the foregoing reasons, the new rule also increases potential bidders incentive to accumulate more shares in the open market, prior to announcement of tender offers at higher prices.

III. Study

At the December 15th meeting, the Commission also unanimously approved a study of the foregoing and other aspects or tender offers. Such a study should help clarify these complex issues.

Dissent by Commissioner Treadway:

I respectively dissent from the adoption of Rule 14d–8 under the Securities Exchange Act of 1934. My dissent is based upon my analysis and belief that, as a matter of sound statutory construction, the Commission lacks the authority to adopt the rule.

Rule 14d–8 would modify Section 14(d)(6) of the Securities Exchange Act, which contains an express, unambiguous 10 day proration period. Section 14(d)(6) does not—expressly or implicity—authorize the Commission to modify the 10 day period by rulemaking or order. By way of contrast, the immediately preceding subsection, Section 14(d)(5), which deals with withdrawal rights, expressly confers upon the Commission the authority to modify by rule, regulation or order the time period defined in that subsection. In 1968 Congress specifically considered and rejected conferring upon the Commission such authority in Section 14(d)(6). The difference between the two sections demonstrates that Congress is quite capable of clearly granting us authority to modify expressly stated time frames when that is the intent of Congress.

In 1970, subsequent to the original adoption of Section 14(d)(6), the Congress adopted Section 14(e) under the Securities Exchange Act of 1934. That section provides that the Commission "shall for purposes of this subsection (Section 14(e)), by rules and regulation define and prescribe means reasonably designed to prevent, such acts and practices as are fraudulent, deceptive, or manipulative." The legislative history of Section 14(e) does not address specifically its effect on or relation to Section 14(d)(6) and the express, unambiguous 10 day period contained therein. To conclude that Section 14(e), adopted in 1970, permits the Commission to adopt Rule 14d–8 and thereby override by regulation the statutory 10 day period of Section 14(d)(6), requires that the Commission make a determination that compliance with the express 10 day period of Section 14(d)(6) either is, or is at least closely akin to, "fraudulent, deceptive or manipulative" activity. Confusion and activities which have been characterized as "gamesmenship" in connection with tender offers may not be desirable, but such activities do not, in my view, rise to a level of "fraudulent, deceptive or manipulative" activity, the activities which Section 14(e) is intended to address.

On the basis of the foregoing, I dissent from the Commission's adoption of Rule 14d–8.

[FR Doc. 82-35207 Filed 12-27-82; 8:45 am]

BILLING CODE 8010-01-M

[4] As a result of having hedge tendered (i.e., tendered all the shares they owned and sold additional shares short in the open market).

[5] There is no empirical evidence as to the extent to which public shareholders have been precluded from participating in proration pools under the old rule. The examples cited have been a negligible fraction of the shareholders involved.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 74, 81, and 82

[Docket No. 82N–0378]

D&C Red No. 6 and D&C Red No. 7

AGENCY: Food and Drug Administration.

ACTION: Final rules.

SUMMARY: The Food and Drug Administration (FDA) is "permanently" listing D&C Red No. 6 and D&C Red No. 7 for general use in drugs and cosmetics, except for use in the area of the eye. This action is in response to a petition filed by the Cosmetic, Toiletry and Fragrance Association, Inc. This rule will remove D&C Red No. 6 and D&C Red No. 7 from the provisional list of color additives for use in drugs and cosmetics. Published elsewhere in this issue of the **Federal Register** is an order extending the closing date for the provisional listing of D&C Red No. 6 and D&C Red No. 7 until March 29, 1983.

DATES: Effective January 28, 1983; objections by January 27, 1983.

ADDRESS: Written objections may be sent to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: John L. Herrman, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204; 202–472–5690.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of August 6, 1973 (38 FR 21199), FDA announced that a petition (CAP 5C0040) for the permanent listing of D&C Red No. 6 and D&C Red No. 7 as color additives for use in drugs and cosmetics had been filed by the Cosmetic, Toiletry and Fragrance Association, Inc. (CTFA), 1110 Vermont Ave. NW., Washington, DC 20005.

The petition was filed under section 706 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 376). A later notice in the **Federal Register** of March 5, 1976 (41 FR 9584), amended the notice of filing of the petition to include the use of D&C Red No. 7 in cosmetics intended for use in the area of the eye.

D&C Red No. 6 is principally the disodium salt of 3-hydroxy-4-[(4-methyl-2-sulfophenyl)azo]-2-naphthalenecarboxylic acid. D&C Red No. 7 is the calcium salt of the same compound.

I. Toxicological Testing of D&C Red No. 6 and D&C Red No. 7

The provisional regulations published in the **Federal Register** of February 4, 1977 (42 FR 6992) required new chronic toxicity studies of D&C Red No. 6 and D&C Red No. 7 as a condition for their continued provisional listing. FDA placed these requirements on 32 color additives, including D&C Red No. 6 and D&C Red No. 7, because the toxicity studies the petitioners had submitted to support the safe use of these color additives were deficient in several respects. FDA described these deficiencies in the **Federal Register** of September 23, 1976 (41 FR 41863; Docket No. 76N–0366):

1. Many of the studies were conducted using groups of animals, i.e., control and those fed the color additive, that are too small to permit conclusions to be drawn on the chronic toxicity or carcinogenic potential of the color additive. The small number of animals used does not, in and of itself, cause this result, but when considered together with the other deficiencies in this listing, does do so. By and large, the studies used 25 animals in each group; today FDA recommends using at least 50 animals per group.
2. In a number of the studies, the number of animals surviving to a meaningful age was inadequate to permit conclusions to be drawn today on the chronic toxicity or carcinogenic potential of the color additives tested.
3. In a number of the studies, an insufficient number of animals was reviewed histologically.
4. In a number of the studies, an insufficient number of tissues was examined in those animals selected for pathology.
5. In a number of the studies, lesions or tumors detected under gross examination were not examined microscopically.

FDA postponed the closing date for the provisional listing of the color additives until January 31, 1981, for the completion of required toxicity studies. FDA later extended the closing date for completing these studies and for submitting data. In a proposal published in the **Federal Register** of November 14, 1980 (45 FR 75226), the agency outlined the reasons for postponing the closing dates for 23 provisionally listed color additives under test, including D&C Red No. 6 and D&C Red No. 7, beyond January 31, 1981.

In the **Federal Register** of March 27, 1981 (46 FR 18954), the agency established a new closing date of December 31, 1982, for the complete evaluation of D&C Red No. 6 and D&C Red No. 7. When the order set forth below becomes effective, it will remove D&C Red No. 6 and D&C Red No. 7 from the provisional list. Published elsewhere in this issue of the **Federal Register** is an order extending the closing date for the provisional listing of D&C Red No. 6 and D&C Red No. 7 until March 29, 1983, to provide an opportunity for filing objections to this order.

II. Chemistry Concerns

The provisional regulations of February 4, 1977, also established a closing date of October 31, 1977, for developing the chemistry data and analytical methods necessary for defining chemical specifications for certifying batches of D&C Red No. 6 and D&C Red No. 7. FDA requires chemical specifications, based on appropriate analytical methods, that are sufficiently precise that the agency can certify that batches of each color additive are equivalent to the batches of the color additive used in the animal studies that established the safety of the color additive.

The petitioner has been actively engaged in efforts to provide the chemistry information needed to establish specifications since submitting the petition to the agency. By 1977 experimental data showed that both D&C Red No. 6 and D&C Red No. 7 contained unidentified material, but the agency did not have sufficient information to establish appropriate specifications. FDA expected that the chemical nature and amount of this unidentified material, which is soluble in ether, could be established before October 31, 1977. However, this task proved to be more difficult to complete than expected and could not be completed during the short postponement period. FDA, therefore, extended the closing date to October 31, 1978, under § 81.27(c) (21 CFR 81.27(c)), for the development of the necessary chemistry data and analytical methods for the color additives (43 FR 14642; April 7, 1978).

III. Resolution of Concerns Relating to Unidentified Material

FDA has evaluated the scientific data regarding the chemical characterization of D&C Red No. 6 and D&C Red No. 7. Although the petitioner was unable to determine the chemical identity of the material in the ether layer, spectrophotometric analysis provides a means of measuring the total amount of this component that may be present in each batch of these color additives. FDA concludes that samples submitted for certification can be compared spectrophotometrically with samples of the batches tested toxicologically. By this procedure, the agency can assure that certified batches, on average, will not contain a higher percentage of the unknown material than those tested for safety in the chronic toxicity studies. The feeding studies establish that the color additives are safe when the ether-soluble material is present at this level. Therefore, a test specification for ether-soluble matter is included in the regulations. The method for this test is published as an Appendix A to this final rule.

IV. Potential Impurities in D&C Red No. 6 and D&C Red No. 7

The principal starting materials for the manufacture of D&C Red No. 6 and D&C Red No. 7 are *p*-toluidine *m*-sulfonic acid (PTMSA) and 3-hydroxy-2-naphthoic acid. PTMSA may contain small amounts of *p*-toluidine and even smaller amounts of *o*-toluidine. FDA became concerned about these potential impurities when *o*-toluidine (Ref. 1) and *p*-toluidine (Ref. 2) were reported to be animal carcinogens.

FDA and CTFA have concentrated their efforts on finding suitable methods to measure *p*-toluidine rather than *o*-toluidine because *o*-toluidine is present only as a contaminant of *p*-toluidine. *o*-Toluidine would thus be present in the color additive at levels that are vanishingly small. In fact, *o*-toluidine has never been detected in either color additive.

CTFA has submitted to FDA a report containing a method prepared by Shiseido Laboratories (Yokohama, Japan) for determining residual *p*-toluidine in D&C Red No. 6. The method submitted by Shiseido Laboratories uses high performance liquid chromatography separation with fluorescence detection. The reported limit of detection for this method is 0.2 part per million (ppm). FDA considers that this method is a valid analytical method for determining residual *p*-toluidine levels in D&C Red No. 6 at least to 1.5 ppm and probably lower. In addition, FDA has developed a high performance liquid chromatography method for detecting *p*-toluidine in D&C Red No. 6 and D&C Red No. 7 with a reliable sensitivity of less than 5 ppm.

Using the high performance liquid chromatography method that it developed, Shiseido Laboratories analyzed the residual *p*-toluidine in samples of two commercial batches of D&C Red No. 6 sold in the United States. Shiseido Laboratories reported *p*-toluidine levels for these samples of 0.63 and 2.25 ppm. FDA has examined two additional batches of D&C Red No. 6 and one batch of D&C Red No. 7. The largest amount of *p*-toluidine present in

these samples appeared to be less than 2 ppm. Based on these analytical results, FDA expects that the average *p*-toluidine level in certified D&C Red No. 6 and D&C Red No. 7 prepared in accordance with current good manufacturing practice will not exceed 5 ppm.

To ensure that future batches of these color additives are produced in accordance with current good manufacturing practice, FDA is setting a specification of 15 ppm *p*-toluidine in these regulations. This level of *p*-toluidine can be readily detected by practical methods and thus will ensure that no batch will contain excessive amounts of *p*-toluidine. The agency also considers that this specification will provide adequate control for residual *o*-toluidine because, as a contaminant of *p*-toluidine, the amount of *o*-toluidine present is dependent on the amount of *p*-toluidine present. The agency's evaluation of the safety of D&C Red No. 6 and D&C Red No. 7 containing *p*-toluidine impurities is discussed in section V. below.

V. Evaluation of the Safety of D&C Red No. 6 and D&C Red No. 7 for Drug and Cosmetic Use

A. *Statutory Safety requirements.* Under section 706(b)(4) of the act (21 U.S.C. 376(b)(4)), the so-called "general safety clause" for color additives, a color additive cannot be listed for a particular use unless the data presented to FDA establish that the color is safe for that use. Although what is meant by "safe" is not explained in the general safety clause, the legislative history makes clear that this word is to have the same meaning for color additives as for food additives. (See H. Rep. No. 1761, "Color Additive Amendments of 1960," Committee on Interstate and Foreign Commerce, 86th Cong., 2d Sess. 11 (1960).) The Senate report on the Food Additives Amendment of 1958 states:

> The concept of safety used in this legislation involves the question of whether a substance is hazardous to the health of man or animal. Safety requires proof of a reasonable certainty that no harm will result from the proposed use of an additive. It does not—and cannot—require proof beyond any possible doubt that no harm will result under any conceivable circumstances.
>
> This was emphasized particularly by the scientific panel which testified before the subcommittee. The scientists pointed out that it is impossible in the present state of scientific knowledge to establish with complete certainty the absolute harmlessness of any chemical substance.

S. Rep. No. 2422, "Food Additives Amendment of 1958," Committee on Labor and Public Welfare, 85th Cong., 2d Sess. 6 (1958).

FDA has incorporated this concept of safety into its color additive regulations. Under 21 CFR 70.3(i), a color additive is "safe" if "there is convincing evidence that establishes with reasonable certainty that no harm will result from the intended use of the color additive." Therefore, the general safety clause prohibits approval of a color additive if doubts about the safety of the additive for a particular use are not resolved to an acceptable level in the minds of competent scientists.

The general safety clause is buttressed by the anticancer or Delaney Clause, section 706(b)(5)(B) of the act (21 U.S.C. 376(b)(5)(B)), which provides that a color additive shall be deemed to be unsafe "if the additive is found by the Secretary to induce cancer when ingested by man or animal" (21 U.S.C. 376(b)(5)(B)(i)).

B. *Results of toxicology studies.* The agency has completed its evaluation of the color additive petition for D&C Red No. 6 and D&C Red No. 7, including two new chronic toxicity studies on D&C Red No. 6 in rats and mice. These new long-term studies represent current state-of-the-art toxicological testing. The protocols for these studies have benefited from knowledge of deficiencies in previously conducted carcinogenesis bioassays and other chronic toxicity protocols. The use of large numbers of animals of both sexes, pilot studies to determine maximum tolerated dosages, two control groups (thereby effectively doubling the number of controls), and in utero exposure significantly increases the power of these tests to detect dose-related effects. The studies were designed and conducted in full compliance with the agency's good laboratory practice regulations and were subject to inspections by FDA officials during their course.

The test material in the recent chronic rat and mouse studies was D&C Red No. 6. Because D&C Red No. 6 and D&C Red No. 7 are the disodium and the calcium salts, respectively, of the same compound, the agency considers the two color additives to be toxicologically equivalent. Thus, any safety conclusion drawn from studies of either color additive applies equally to the other.

Before 1977, the petitioner had submitted reports on a number of animal toxicity studies with D&C Red No. 7. Among these studies were 2-year feeding studies in rats and dogs, a three-generation reproduction study in rats, a repeated dermal application study in rabbits, a lifetime skin-painting study in mice, teratology studies in rats and rabbits, subacute feeding studies in rats and dogs, and acute oral toxicity studies in rats and dogs. These studies did not produce any evidence that the use of these color additives for the petitioned uses would be unsafe.

However, FDA did note a treatment-related effect in the three-generation reproduction study in which rats received D&C Red No. 7 in the diet at dosage levels of 0.5, 5.0, 15.0, and 50.0 milligrams per kilogram (mg/kg). At the higher dose level, the second generation rats, but not the first or third generation, had decreased fertility. No treatment-related effects were observed at any other dose level. Accordingly, FDA set the no-adverse-effect level in this study at the next lower dose level, which was 15 milligrams D&C Red No. 7 per kilogram body weight per day (15 mg/kg/day).

As discussed above, in 1976, the agency concluded that new chronic toxicity feeding studies would be required to provide data to permit a final determination to be made on the listing of D&C Red No. 6 and D&C Red No. 7 (41 FR 41880; September 23, 1976). These new chronic studies revealed two treatment-related effects from ingestion of D&C Red No. 6.

In one new chronic feeding study, male and female CD–1 mice were fed diets containing D&C Red No. 6 at concentrations of 0.05, 1.0, and 5.0 percent of their diets. The only treatment-related effect in this study was decreased survival of high-dose male mice, compared to controls, during the last 6 months of the study. No carcinogenic effects or other changes that could be ascribed to treatment of mice with D&C Red No. 6 were observed.

In the other new chronic feeding study, which was with male and female Charles River CD rats, parental animals were fed diets containing D&C Red No. 6 at concentrations of 0.05, 0.30, and 2.0 percent continuously from before mating until weaning of their offspring. The offspring were fed diets containing these same concentrations of D&C Red No. 6 for 24 months in males and 31 months in females. The agency noted an increased incidence of kidney disease, listed as chronic nephritis by the testing laboratory, in both male and female rats at the high-dose level. To resolve questions about this kidney disease, FDA requested, by letter dated August 19, 1982, microslides from tissue sections of the kidneys of all rats from the two control groups and the three groups fed diets containing D&C Red No. 6.

The examination of slides by FDA pathologists revealed a treatment-related effect on a commonly occurring spontaneous disease of rats known as

chronic progressive nephrosis. The occurrence of chronic progressive nephrosis as observed in this study was graded by the agency pathologists as being minimal, mild, moderate, or severe. There was no significant difference between the control and treated groups, for both male and female rats, in the incidence of chronic progressive nephrosis that was of minimal to mild severity. However, there was an increased incidence of moderate to severe chronic progressive nephrosis among the male rats in the mid- and high-dose groups compared to the male rats in the low-dose or control groups. Similarly, the incidence of moderate to severe chronic progressive nephrosis was increased among high-dose group female rats compared to the incidence of this effect among other treated or control group female rats. Agency pathologists concluded that, although there were no carcinogenic renal changes in this study attributable to the administration of D&C Red No. 6, there appeared to be an exacerbation of a spontaneous renal disease of aged rats (chronic progressive nephrosis) in the mid- and high-dose group male rats and in the high-dose group female rats.

C. *Computation of acceptable daily intake.* FDA calculates the acceptable daily intake for a color additive by using the following process: The agency identifies the highest no-adverse-effect level in each study in which it observes a treatment-related effect. It then compares the no-adverse-effect levels from these studies and uses appropriate safety factors (see 21 CFR 70.40) to calculate the acceptable daily intake for the color additive using the study that leads to the lowest value.

In the chronic feeding study with mice, the mid-dose (1500 mg/kg/day) was the no-adverse-effect level, and in the chronic feeding study with rats, the low dose (25 mg/kg/day) was the no-adverse-effect level.

Of the effects noted in all the studies reviewed by the agency, the three-generation reproduction study in rats establishes the lowest acceptable daily intake for D&C Red No. 6 and D&C Red No. 7. The no-adverse-effect level for this study was 15 mg/kg/day. Reduced by the safety factor of 100, this study establishes an acceptable daily intake of 0.15 mg/kg/day, or 9 mg/day for a 60 kg human.

D. *Prior actions by FDA.* Even though appropriate testing of D&C Red No. 6 and D&C Red No. 7 did not show them to be carcinogens, the agency still had to consider whether to list these color additives in light of the fact that they contain carcinogenic impurities, *p*-toluidine and *o*-toluidine. In the past, FDA has terminated the provisional listings of several color additives that contained or were expected to contain a carcinogenic impurity or constituent. (See the D&C Green No. 5 final rule published in the **Federal Register** of June 4, 1982 (47 FR 24278, 24280).) However, the agency no longer believes that it must refuse to list a color additive simply because it contains or is expected to contain a carcinogenic impurity.

As explained in the D&C Green No. 6 final rule (47 FR 14138, 14141–2 (April 2, 1982)), the agency has concluded that even if a color additive contains a carcinogenic impurity, the Delaney Clause is not triggered unless the color additive as a whole is found to cause cancer. The agency is confident that it possesses the capacity (through the use of extrapolation procedures) to assess adequately the upper limit of risk presented by the use of a color additive that has not been shown to be a carcinogen but that does contain a carcinogenic impurity. The estimate of the risk may be exaggerated because the extrapolation models used are designed to estimate the maximum risk consistent with the data. For this reason, the estimate can be used with confidence to conclude that a substance is safe under specific conditions of use. (FDA has also explained the basis for this approach in the advance notice of proposed rulemaking on its policy for regulating carcinogenic chemicals in food and color additives published in the **Federal Register** of April 2, 1982 (47 FR 14464).)

Recently, the agency has examined the risk associated with drug and cosmetic uses of D&C Green No. 6 and D&C Green No. 5, which contain minor amounts of *p*-toluidine. Neither color additive had been shown to be carcinogenic by appropriate bioassays. FDA concluded in both instances that the use of these color additives in drugs and cosmetics is safe. The agency is using the same method of analysis for D&C Red No. 6 and D&C Red No. 7.

E. *Use of D&C Red No. 6 and D&C Red No. 7.* Between 1970 and 1977, FDA did not certify any D&C Red No. 6 (straight color), but from 1978 through 1982, FDA certified an average of 560 pounds of this color additive per year. The agency did not certify any straight D&C Red No. 7 during the period of 1970 through 1982.

The use of D&C Red No. 6 and D&C Red No. 7 lakes increased during the second half of the 1970's. The average pounds per year certified for the period 1978 through 1982 was 44,800 pounds of D&C Red No. 6 lakes and 107,300 pounds of D&C Red No. 7 lakes.[1] Based on these average yearly certified poundage data and the trend of increasing use of these color additives, FDA expects that the average total certified poundage of D&C Red No. 6, D&C Red No. 6 lakes, and D&C Red No. 7 lakes might increase to roughly 600, 60,000, and 120,000 pounds per year, respectively. Although individual batches of lakes vary widely in content of primary colors, the average primary color content of the lakes of any specific color additive generally does not exceed 40 percent primary color. Assuming that the average primary color content of lakes is 40 percent, exposure to D&C Red No. 6 and D&C Red No. 7 from both straight color and lake uses would be roughly 72,600 pounds per year.

Many cosmetic manufacturers submit cosmetic product ingredient statements (formulations) to FDA under the voluntary cosmetic regulatory program (21 CFR Part 720). This program provides information on the specific types of cosmetic products in which D&C Red No. 6 and D&C Red No. 7 are used. Additionally, CTFA has provided data on maximum use levels in cosmetics based on a 1981 survey of manufacturers.

As of December 1981, FDA's voluntary cosmetic regulatory program computer file contained 9 formulations that listed D&C Red No. 6 as an ingredient, 598 formulations that listed D&C Red No. 6 lakes as ingredients, 45 formulations that listed D&C Red No. 7 as an ingredient, and 1,178 formulations that listed D&C Red No. 7 lakes as ingredients. (Apparently, for at least D&C Red No. 7, some companies reported use of the straight color when they used the lake.) The major uses of D&C Red No. 6 and D&C Red No. 7 and their lakes in cosmetics were in make-up preparations (57.6 percent) and in manicuring preparations (41.4 percent). Of the listed make-up preparations, 69 percent were lipsticks. The levels at which these color additives are used in

[1] This order does not permanently list D&C Red No. 6 and D&C Red No. 7 lakes. FDA published a notice of intent in the **Federal Register** of June 22, 1979 (44 FR 36411), which discussed the additional information that the agency believes is needed before final regulations on lakes can be issued. FDA intends to publish proposed regulations governing the use of color additives in lakes in the **Federal Register** in the near future and concludes that the listing of color additives for use in lakes can best be implemented by general regulations. D&C Red No. 6 and D&C Red No. 7 lakes will, therefore, continue to be provisionally listed for coloring drugs and cosmetics under Parts 81 and 82 (21 CFR Parts 81 and 82). The discussion of the lakes here is solely for the purpose of establishing the level of exposure to these color additives.

lipsticks range from 0.0013 percent to 6.0 percent (straight color).

In a 1965 Pharmaceutical Manufacturers Association survey, 7 companies reported use of D&C Red No. 7 in 19 drug preparations, all for internal administration. The maximum amount of the color additive used by a company was 4.4 milligrams per daily dose of drug, although most companies used much less. There was no reported use of D&C Red No. 6 in drug products.

Although the fraction of D&C Red No. 6 and D&C Red No. 7 used in ingested drugs apparently is minor at this time, use in ingested drugs without a limitation would represent the greatest potential intake for individuals to these color additives, especially over short periods of time. If no limitation were set, use could exceed the acceptable daily intake. FDA has therefore incorporated a limitation of 5 milligrams of D&C Red No. 6 and D&C Red No. 7 per daily dose of drug product under §§ 74.1306 and 74.1307, respectively. This limitation applies both to ingested and externally applied drug products. It will ensure safe use and is consistent with currently known use levels.

The agency has considered several factors in estimating daily intake from the amount of color additives used in drug or cosmetic products. These factors include, for short-term use, the amount of product likely to be used and the amount of product used that would enter the body by, e.g., ingestion of a drug; the fraction of applied lipstick that would be ingested; and the fraction of color additives likely to penetrate skin from external use. These factors vary with the individual product type. For lifetime average intake, the agency has considered the fact that conditions leading to maximum intake on a given day are not likely to exist every day of one's life. Frequency of use will also vary with individual products. Details of the agency's assumptions can be found in Reference 3.

Using these factors the agency estimates that short-term intake of D&C Red No. 6 and D&C Red No. 7 in drugs will not exceed 5 mg/day, and short-term intake to these color additives from cosmetic use will not exceed 3 mg/day, resulting in a cumulative dose of 8 mg/day. For lifetime-average use, the agency estimates 1 mg/day from drug use, 1 mg/day from ingested cosmetic use, and 4 mg/day from external cosmetic use (only a small fraction of which will be absorbed), leading to the agency's estimated lifetime average intake of approximately 2 mg/day. Details of the agency's estimates and calculations can be found in Reference 3.

F. *Application of risk assessment in this rulemaking.* Because *p*-toluidine may be present in D&C Red No. 6 and D&C Red No. 7 in minor amounts, use of these color additives as authorized by these regulations will likely result in exposure to very small amounts of *p*-toluidine. Any residual *p*-toluidine that might be present does not contribute any color to D&C Red No. 6 or D&C Red No. 7, nor does in impart any color to drugs, cosmetics, or the human body. Consequently, FDA concludes that, although a small amount of *p*-toluidine may be added to drugs and cosmetics with the addition of D&C Red No. 6 or D&C Red No. 7, this chemical is not a color additive within the meaning of section 201(t) of the act (21 U.S.C. 321(t)). [2] Instead, *p*-toluidine would be only an impurity in D&C Red No. 6 and D&C Red No. 7. Because D&C Red No. 6 (and hence D&C Red No. 7) has not been shown to be carcinogenic, the agency concludes, as in the D&C Green No. 6 and D&C Green No. 5 rulemaking proceedings, that it can use risk assessment procedures to provide a basis for deciding whether there is a reasonable certainty of no harm from the use of D&C Red No. 6 and D&C Red No. 7 in ingested and externally applied drugs and cosmetics.

The risk evaluation of *p*-toluidine consists of two parts: (1) Assessment of probable exposure to *p*-toluidine from the use of D&C Red No. 6 and D&C Red No. 7 in ingested and externally applied drugs and cosmetics, and (2) extrapolation of the risk from *p*-toluidine observed in the animal biassay to the conditions of probable exposure to humans.

1. *Exposure to p-toluidine.* Two measures of exposure to carcinogenic compounds that are relevant in assessing the public health hazard presented by *p*-toluidine are the maximum probable individual exposure and the total population exposure.

Of the two estimates, the total population exposure to *p*-toluidine can be more accurately calculated because the certified poundage of these color additives is known. If the average annual certification of D&C Red No. 6 and D&C Red No. 7 (assumed to contain 5 ppm of *p*-toluidine) is 72,600 pounds, then the average lifetime exposure to *p*-toluidine would be less than 2.0 nanograms (ng) per person per day, or if all of the products containing these color additives were consumed by only 10 percent of the population, 20 ng per person per day.

Although a measure of the total population exposure can be calculated quite simply, the maximum probable individual exposure depends on many factors, including the concentration of *p*-toluidine in products, the types of products used, the amount of product used per application, and the frequency of the application. In section V.E of this preamble, FDA discussed the principal types of products in which D&C Red No. 6 and D&C Red No. 7 are used. The agency estimates that the combined lifetime-average individual exposure to these color additives from the ingested and external applications permitted by these regulations would not likely exceed 6 milligrams per day (1 milligram per day from drugs and 5 milligrams per day from ingested and externally applied cosmetics (Ref. 3)). This level is higher than the lifetime-average intake value calculated earlier for the color additives because the 6 milligrams per day figure does not correct for limited penetration of these color additives. Thus, in the absence of adequate data regarding skin penetration by *p*-toluidine, the agency is assuming 100 percent skin penetration of *p*-toluidine from externally applied drugs and cosmetics containing these color additives. This estimate is clearly exaggerated, but the exaggeration does not affect the conclusions of the analysis. If 5 ppm *p*-toluidine is present in an average sample of D&C Red No. 6 or D&C Red No. 7, an individual exposed to 6 milligrams per day of these color additives would have a lifetime-average exposure of 30 ng per day *p*-toluidine.

FDA also recognizes the possibility that individuals will be exposed to minor amounts of *p*-toluidine impurities as a result of their use of products containing several related color additives. Regulations for four color additives now contain specifications on the amount of *p*-toluidine permitted in the additive: D&C Green No. 5 (21 CFR 74.1205, 74.2205, and 82.1205)—0.0015 percent *p*-toluidine; D&C Green No. 6 (21 CFR 74.1206, 74.2206, and 82.1206)—0.1 percent *p*-toluidine; Ext. D&C Violet No. 2 (21 CFR 74.2602a)—0.1 percent *p*-toluidine; and D&C Violet No. 2 (21 CFR 74.1602, 74.2602, and 82.1602)—0.2 percent *p*-toluidine. The latter three color additives are not permitted for use in ingested products. FDA believes that these are the only color additives that contain *p*-toluidine.

2. *Extrapolation of risk.* The second part of the evaluation of the risk presented by *p*-toluidine in D&C Red No. 6 and D&C Red No. 7 is an extrapolation from the actual compound-related incidence (risk) found in animal

[2] This statement is also true for *o*-toluidine

bioassays to the conditions of probable exposure for humans.

The final rules permanently listing D&C Green No. 5 and D&C Green No. 6 discussed the publication by Weisburger, et al. (Ref. 2), which reported the results of long-term feeding studies of *p*-toluidine in mice and rats. FDA has used the data from the Weisburger paper to estimate the upper level of human risk of exposure to *p*-toluidine from the use of D&C Green No. 5, D&C Green No. 6, and, in this case, D&C Red No. 6 and D&C Red No. 7. The agency used two quantitative risk assessment procedures to extrapolate from the dose in the animal experiment to the very low doses of possible human exposure. Both of these procedures are not likely to underestimate the actual risk from very low doses. They serve as a basis for the agency to determine to a reasonable certainty whether any harm will result from the probable exposure to *p*-toluidine from the use of these color additives.

One of the procedures FDA employed was the linear proportional model with dosage data expressed as a concentration of the total diet and using the upper 99 percent confidence interval of the observed tumor incidence as described in FDA's March 20, 1979, proposal, "Chemical Compounds in Food-Producing Animals" (44 FR 17070). Under this procedure, the upper limit individual lifetime risk from exposure to 30 ng per day *p*-toluidine is 1 in 50 million. The second procedure the agency used, also a linear proportional model, estimated the even smaller upper limit risk of lifetime tumor incidence of 1 in 500 million.

Because the lifetime-averaged individual exposure to *p*-toluidine from the use of D&C Red No. 6 and D&C Red No. 7 in drugs and cosmetics would not likely exceed a total of 30 ng per day, the agency concludes that there is a reasonable certainty of no harm from the exposure to *p*-toluidine that results from the use of these color additives.[3]

FDA has also considered the upper limit of risk from exposure to the several color additives that may contain *p*-toluidine to determine whether any harm will result from the probable cumulative exposure to *p*-toluidine from the intended use of all these color additives.

In the D&C Green No. 6 rulemaking proceeding, FDA assessed the upper limit of risk from exposure to *p*-toluidine as a result of use of D&C Green No. 6 to be less than 1 in 15 million to 1 in 150 million in a lifetime. Likewise, for D&C Green No. 5, FDA calculated that the upper limit lifetime risk from exposure to *p*-toluidine as a result of use of this color additive is less than 1 in 30 million to 1 in 300 million. In this document, FDA has calculated that the upper limit lifetime risk from exposure to *p*-toluidine as a result of D&C Red No. 6 and D&C Red No. 7 is less than 1 in 50 million to 1 in 500 million.

Detailed risk assessment analyses have not been performed for possible exposure to *p*-toluidine from the use of Ext. D&C Violet No. 2 (21 CFR 74.2602a) and D&C Violet No. 2 (21 CFR 74.1602, 74.2602, and 82.1602). However, FDA estimates that exposure to *p*-toluidine from the use of these color additives is in the same range as with D&C Green No. 6, because use limitations and specifications are similar, providing approximately the same level of risk. The agency finds that the upper limit of combined risk from the use of these color additives is so low that the exposure to *p*-toluidine from the use of these color additives is safe. The agency notes, however, that it is extremely unlikely that any one individual would use all these color additives at the same time and at the maximum levels.

VI. References

The following information has been placed on file at the Dockets Management Branch (address above) and may be seen in that office between 9 a.m. and 4 p.m., Monday through Friday.

1. National Cancer Institute, "Bioassay of *p*-Toluidine Hydrochloride for Possible Carcinogenicity," NCI Technical Report No. 153, NCI–CG–TR–153, U.S. Department of Health, Education, and Welfare, Public Health Service, National Institutes of Health, 1979.

2. Weisburger, E. K., et al., "Testing of Twenty-one Environmental Aromatic Amines or Derivatives for Long-term Toxicity or Carcinogenicity," *Journal of Environmental Patholgy and Toxicology*, 2:325–356, 1978.

3. Martin, R. L. and T. C. Troxell, Memorandum for the Record, Color Additive Petition 5C0040, December 20, 1982.

VII. Conclusion

Based upon the evaluation of the results of the two recently submitted chronic toxicity studies, the agency has determined that D&C Red No. 6 (and hence D&C Red No. 7) is not carcinogenic to Charles River Sprague-Dawley CD rats after dietary exposure as high as 2.0 percent or to CD–1 mice after dietary exposure as high as 5.0 percent under conditions of testing adequate to provide assurance for its safe use. FDA has calculated a combined total acceptable daily intake of 9 milligrams per day of D&C Red No. 6 and D&C Red No. 7 for a 60 kg human on the basis of all the toxicity studies it reviewed. The agency finds that short-term intake (8 milligrams per day) and lifetime-averaged intake (2 milligrams per day) from the listed drug and cosmetic uses of these color additives will be within this amount.

The agency has also completed its evaluation of other animal studies submitted by the petitioner for the purpose of establishing the safety of D&C Red No. 6 and D&C Red No. 7 for use in externally applied drugs and externally applied cosmetics. The data from these studies indicate that D&C Red No. 7 is nonirritating when applied daily to either intact or abraded skin. Furthermore, D&C Red No. 7 was not found to be carcinogenic upon twice-weekly application to the skin of mice over their lifetimes.

Therefore, FDA finds that it can conclude that no harm will result from the petitioned uses of D&C Red No. 6 and D&C Red No. 7, for general use in drugs and cosmetics excluding use in the area of the eye, and that certification is necessary for the protection of the public health. The final toxicity study reports, interim reports, and the agency's toxicology evaluations of these studies are on file at the Dockets Management Branch (address above) and may be reviewed there between 9 a.m. and 4 p.m., Monday through Friday.

FDA notified the petitioner by letters dated May 14, 1976, August 15, 1977, and August 4, 1978, of the need for data to support the use of D&C Red No. 7 in cosmetics intended for use in the area of the eye. In the latest letter, dated October 24, 1978, FDA advised the petitioner to consider withdrawing that portion of the petition that sought approval of use of D&C Red No. 7 in cosmetics intended for use in the area of the eye because it appeared that the required data from eye-area studies would not be readily available.

The petitioner has not submitted the data required to support eye-area use of D&C Red No. 7. Therefore, FDA now considers that portion of the petition that was amended by the filing on March 5, 1976 (Docket No. 76C–0044) to include the permanent listing of D&C Red No. 7 for eye-area use to be withdrawn without prejudice in accordance with the provisions of § 71.4 (21 CFR 71.4). Section 71.4 requires that such requested information be submitted within 180 days after filing of the petition, or the petition will be withdrawn without prejudice. Use of

[3] The presence of *o*-toluidine in the color additives would not alter this conclusion. At the levels at which a user of a product containing D&C Red No. 6 or D&C Red No. 7 would be exposed to *o*-toluidine, the presence of this impurity would have virtually no effect on the upper limit of risk.

D&C Red No. 7 in the area of the eye has never been covered by a provisional listing. Future consideration by FDA of the permanent listing of D&C Red No. 7 for eye-area use will require the submission of a new color additive petition for that use. The agency's listing of a color additive for general use in drugs and cosmetics does not encompass eye-area use (see § 70.5 *General restrictions on color additives* (21 CFR 70.5)).

The agency is establishing new chemical specifications that identify the color additives more precisely than those specifications currently in Part 82 (21 CFR Part 82). The agency concludes that it is necessary to include in the listing regulations for D&C Red No. 6 and D&C Red No. 7 a brief description of their manufacturing processes to ensure the safety of the color additives. The agency is concerned that the color additives may contain harmful impurities dependent upon the manufacturing processes used to produce the color additives. The agency is not able at this time to set specifications that would control the presence of these impurities. The agency has contracted with the National Academy of Sciences/National Research Council (NAS/NRC) to develop appropriate specifications for color additives for use in food as part of the Food Chemicals Codex. Similarly, appropriate specifications for color additives for use in drugs and cosmetics will be developed following the general guidelines used by the NAS/NRC in its evaluation of color additives used in food. The agency concludes that specifying, through a general description, the manufacturing process in the regulations for these color additives will provide an adequate assurance of safety until suitable specifications can be developed. Production of the color additives by the specified methods will assure qualitatively similar batches and thus adequately assure the absence of harmful impurities resulting from changes in the manufacturing process.

Also, the chemical names for the two color additives in new listings under 21 CFR Part 74 are different from the names currently listed under 21 CFR Part 82. The agency is listing the nomenclature designated in the Chemical Abstracts Index Guide (September 1982) because the agency believes that it gives the best description of the color additive. FDA is identifying D&C Red No. 6 as the disodium salt, rather than the monosodium salt, as it is currently described in § 82.1306 (21 CFR 82.1306), because analytical results confirm that hydrogens of the carboxylic and sulfonic acid groups are both replaced by sodium.

FDA is also removing § 81.27(c) from its regulations. The agency is making this editorial change because the color additives listed under § 81.27(c) have now been removed from the provisional list. Ferric ferrocyanide was permanently listed for use in drugs and cosmetics under 21 CFR 73.1299 and 73.2299 by a final rule published in the **Federal Register** of November 21, 1978 (43 FR 54235). D&C Red No. 30 was permanently listed for use in drugs and cosmetics under 21 CFR 74.1330 and 74.2330 by a final rule published in the **Federal Register** of May 25, 1982 (47 FR 22509).

The agency has determined under 21 CFR 25.24(b)(12) and (d)(5) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the environment. Therefore, neither an evironmental assessment nor an environmental impact statement is required.

List of Subjects

21 CFR Part 74

Color additives, Color additives subject to certification, Cosmetics, Drugs.

21 CFR Part 81

Color additives, Color additives provisional list, Cosmetics, Drugs.

21 CFR Part 82

Color additives, Color additive lakes, Color additives provisional list, Cosmetics, Drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 706 (b), (c), and (d), 74 Stat. 299–403 (21 U.S.C. 376 (b), (c), and (d))) and the Transitional Provisions of the Color Additive Amendments of 1960 (Title II, Pub. L. 86–618, sec. 203, 74 Stat. 404–407 (21 U.S.C. 376, note)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Parts 74, 81, and 82 are amended as follows:

PART 74—LISTING OF COLOR ADDITIVES SUBJECT TO CERTIFICATION

1. Part 74 is amended:

a. By adding new § 74.1306 to Subpart B, to read as follows:

§ 74.1306 D&C Red No. 6.

(a) *Identity.* (1) The color additive D&C Red No. 6 is principally the disodium salt of 3-hydroxy-4-[(4-methyl-2-sulfophenyl)azo]-2-naphthalenecarboxylic acid (CAS Reg. No. 5858–81–1). To manufacture the additive, 2-amino-5-methylbenzenesulfonic acid is diazotized with hydrochloric acid and sodium nitrite. The diazo compound is coupled in alkaline medium with 3-hydroxy-2-naphthalenecarboxylic acid. The resulting dye precipitates as the disodium salt.

(2) Color additive mixtures for drug use made with D&C Red No. 6 may contain only those diluents that are suitable and that are listed in Part 73 of this chapter as safe for use in color additive mixtures for coloring drugs.

(b) *Specifications.* The color additive D&C Red No. 6 shall conform to the following specifications and shall be free from impurities other than those named to the extent that such impurities may be avoided by current good manufacturing practice:

Sum of volatile matter (at 135° C) and chlorides and sulfates (calculated as sodium salts), not more than 10 percent.
Ether-soluble matter, passes test entitled "The Procedure for Determining Ether-Soluble Material in D&C Red Nos. 6 and 7," which is an Appendix A to Part 74.
2-Amino-5-methylbenzenesulfonic acid, sodium salt, not more than 0.2 percent.
3-Hydroxy-2-naphthalenecarboxylic acid, sodium salt, not more than 0.4 percent.
3-Hydroxy-4-[(4-methylphenyl)azo]-2-naphthalenecarboxylic acid, sodium salt, not more than 0.5 percent.
p-Toluidine, not more than 15 parts per million.
Lead (as Pb), not more than 20 parts per million.
Arsenic (as As), not more than 3 parts per million.
Mercury (as Hg), not more than 1 part per million.
Total color, not less than 90 percent.

(c) *Uses and restrictions.* The color additive D&C Red No. 6 may be safely used for coloring drugs such that the combined total of D&C Red No. 6 and D&C Red No. 7 does not exceed 5 milligrams per daily dose of the drug.

(d) *Labeling.* The label of the color additive and any mixtures prepared therefrom intended solely or in part for coloring purposes shall conform to the requirements of § 70.25 of this chapter.

(e) *Certification.* All batches of D&C Red No. 6 shall be certified in accordance with regulations in Part 80 of this chapter.

b. By adding new § 74.1307 to Subpart B, to read as follows:

§ 74.1307 D&C Red No. 7.

(a) *Identity.* (1) The color additive D&C Red No. 7 is principally the calcium salt of 3-hydroxy-4-[(4-methyl-2-sulfophenyl)azo]-2-

naphthalenecarboxylic acid (CAS Reg. No. 5281-04-9). To manufacture the additive, 2-amino-5-methylbenzenesulfonic acid is diazotized with hydrochloric acid and sodium nitrite. The diazo compound is coupled in alkaline medium with 3-hydroxy-2-naphthalenecarboxylic acid and the resulting dye converted to the calcium salt with calcium chloride.

(2) Color additive mixtures for drug use made with D&C Red No. 7 may contain only those diluents that are suitable and that are listed in Part 73 of this chapter as safe for use in color additive mixtures for coloring drugs.

(b) *Specifications.* The color additive D&C Red No. 7 shall conform to the following specifications and shall be free from impurities other than those named to the extent that such impurities may be avoided by current good manufacturing practice:

Sum of volatile matter (at 135° C) and chlorides and sulfates (calculated as sodium salts), not more than 10 percent.
Ether-soluble matter, passes test entitled "The Procedure for Determining Ether-soluble Material in D&C Red Nos. 6 and 7," which is an Appendix A to Part 74.
2-Amino-5-methylbenzenesulfonic acid, calcium salt, not more than 0.2 percent.
3-Hydroxy-2-naphthalenecarboxylic acid, calcium salt, not more than 0.4 percent.
3-Hydroxy-4-[(4-methylphenyl]azo]-2-naphthalenecarboxylic acid, calcium salt, not more than 0.5 percent.
p-Toluidine, not more than 15 parts per million.
Lead (as Pb), not more than 20 parts per million.
Arsenic (as As), not more than 3 parts per million.
Mercury (as Hg), not more than 1 part per million.
Total color, not less than 90 percent.

(c) *Uses and restrictions.* The color additive D&C Red No. 7 may be safely used for coloring drugs such that the combined total of D&C Red No. 6 and D&C Red No. 7 does not exceed 5 milligrams per daily dose of the drug.

(d) *Labeling.* The label of the color additive and any mixtures prepared therefrom intended solely or in part for coloring purposes shall conform to the requirements of § 70.25 of this chapter.

(e) *Certification.* All batches of D&C Red No. 7 shall be certified in accordance with regulations in Part 80 of this chapter.

c. By adding new § 74.2306 to Subpart C, to read as follows:

§ 74.2306 D&C Red No. 6.

(a) *Identity and specifications.* The color additive D&C Red No. 6 shall conform in identity and specifications to the requirements of § 74.1306 (a)(1) and (b).

(b) *Uses and restrictions.* The color additive D&C Red No. 6 may be safely used for coloring cosmetics generally in amounts consistent with current good manufacturing practice.

(c) *Labeling requirements.* The label of the color additive shall conform to the requirements of § 70.25 of this chapter.

(d) *Certification.* All batches of D&C Red No. 6 shall be certified in accordance with regulations in Part 80 of this chapter.

d. By adding new § 74.2307 to Subpart C, to read as follows:

§ 74.2307 D&C Red No. 7

(a) *Identify and specifications.* The color additive D&C Red No. 7 shall conform in identity and specifications to the requirements of § 74.1307 (a)(1) and (b).

(b) *Uses and restrictions.* The color additive D&C Red No. 7 may be safely used for coloring cosmetics generally in amounts consistent with current good manufacturing practice.

(c) *Labeling requirements.* The label of the color additive shall conform to the requirements of § 70.25 of this chapter.

(d) *Certification.* All batches of D&C Red No. 7 shall be certified in accordance with regulations in Part 80 of this chapter.

e. By adding new Appendix A to Part 74 to read as follows:

Appendix A to Part 74—The Procedure for Determining Ether Soluble Material in D&C Red Nos. 6 and 7

The dye is dissolved in glacial acetic and 8 *N* hydrochloric acids (1.33 : 1) and extracted with diethyl ether. Sulfonated moieties, including the color additive, are discarded in subsequent aqueous extractions of the ether. Carboxylated moieties are removed from the ether by extraction with 2% (w/w) NaOH. The ether is evaporated to near dryness, ethanol (95%) is added, and the solution is analyzed spectrophotometrically in the visible range. The absorbance at each wavelength must not exceed 150% of the absorbance similarly obtained for D&C Red No. 6 Lot AA5169.

Apparatus

(A) Spectrophotometer (Cary 118 or equivalent).

(B) Separatory funnels—one 1000 mL and one 500 mL.

Reagents

Note.—Use *distilled* water when water is required.

(A) Glacial Acetic Acid (ACS grade).

(B) Diethyl ether (Anhydrous)—Note and follow safety precautions on container.

(C) 8 *N* HCl—Pour 165 mL H_2O into a 500 mL graduate. Place the graduate in hood, then add HCl conc. to bring to volume. Carefully pour this solution into a 500 mL Erlenmeyer flask, Stopper and shake. Label the flask.

(D) 2% (w/w) NaOH—Pour ca 190 mL H_2O into a 250 mL mixing graduate. Add 8 g. (5.23 mL) of 50% (w/w) NaOH, bring to 200 mL volume with water, stopper and mix. Pour this solution into a glass bottle, label and stopper with a teflon top.

(E) Ethanol (95%).

Procedure

Weigh a 250 mL beaker to tenths of a mg and add 100 mg of dye. Record weight to tenths of a mg.

Note.—The following work must be performed in the hood.

Add 75 mL of 8 *N* HC1 and 100 mL of glacial acetic acid to the beaker and stir.

Place the beaker on a hot plate and heat with stirring, until all of the dye is in solution.

Remove the beaker from the hot plate, cover with a watch glass and allow to cool to room temperature (1–2 hrs).

When the dye solution is at room temperature, transfer the solution to a 1000 mL separatory funnel.

Rinse the beaker three times with 50 mL portions of H_{20}, transferring each rinse to the 1000 mL funnel.

Add 150 mL of ether to the funnel, stopper and shake for 10 seconds, then invert funnel and open stopcock to remove gas buildup.

Shake the funnel for one minute, opening the stopcock a few times while the funnel in inverted to remove gas buildup. (Use this shake procedure throughout method.)

Allow the funnel to stand until the layers have separated.

Transfer the bottom (aqueous) layer to a 500 mL separatory funnel, add 100 mL of ether, stopper and shake for one minute.

When the layers have separated, drain off the bottom layer into a waste beaker.

Pour the ether layer in the 500 mL separatory funnel into the 1000 mL separatory funnel.

Rinse the 500 mL sep. funnel with 100 mL H_2O, then transfer it to the 1000 mL sep. funnel, stopper and shake for one minute.

When the layers have separated, drain off the bottom aqueous layer into the waste beaker.

Rinse the 500 mL funnel at least three times (total) and repeat the 100 mL water washes until no color is present in the aqueous layer. Discard the bottom aqueous layer to the waste beaker after each separation.

Shake the ether layer twice more with 100 mL portions of H_2O, discarding the bottom aqueous layer after each separation.

Remove the unsulfonated subsidiary color from the ether by shaking the ether layer for one minute with 20 mL of 2% (w/w) NaOH. *Appropriately label* a 100 mL beaker. After the layers separate, drain the aqueous alkaline layer into the beaker and save for the determination of 3-hydroxy-4-[(4-methylphenyl) azo]-2-naphthalenecarboxylic acid, sodium salt.

If there is any color left in the ether, shake for one minute with another 20 mL portion of 2% (w/w) NaHO. After the layers have separated, drain off the aqueous alkaline layer into the 100 mL beaker.

If color remains in the ether layer, repeat the above step for a total of three washes of the ether with 2% (w/w) NaOH. Note: Three washes is usually sufficient to remove the unsulfonated subsidiary.

With the stopper removed, *gently* swirl the ether layer in the sep. funnel twice to separate the remaining aqueous base. Drain this into the 100 mL beaker.

Appropriately label a 250 mL beaker. *Pour* the ether layer into the beaker. Allow the ether to evaporate to *near* dryness. Cool to room temperature. Add ca 8 mL ethanol (95%). Swirl beaker to mix contents. Quantitatively transfer to a 25 mL graduate using ethanol (95%) rinses. Add ethanol (95%) to bring volume to 12 mL.

Spectrophotometer Analysis

Spectrophotometric Parameters:

Scan Range: 400–700 nm
Scan 50 nm/in; 5.0 nm/sec.
Absorbance Range: 0–1 AUFS
Cell length: 1 cm (Note: Reference and Sample cells)

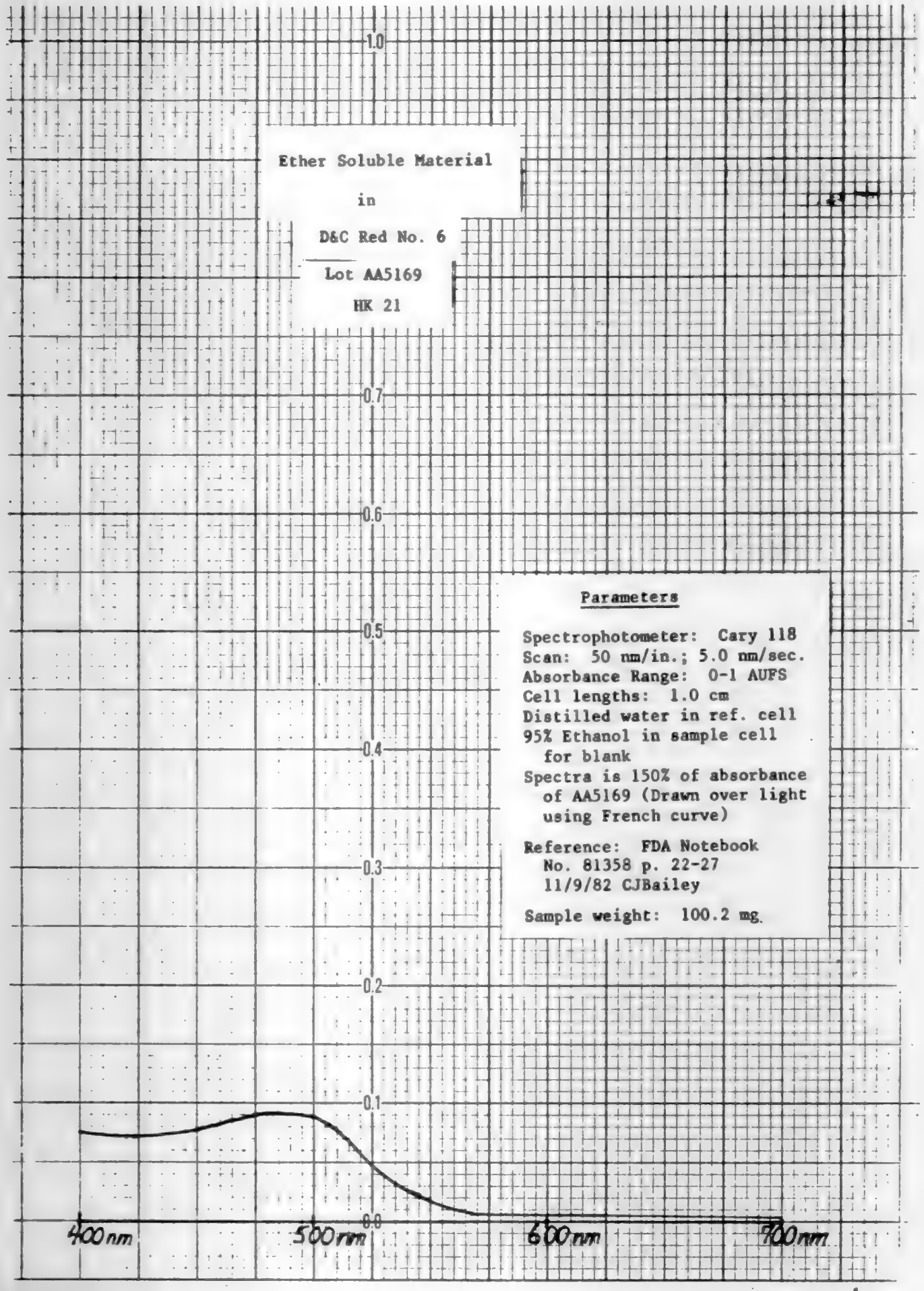
(1) Record the visible spectrum of a blank. Fill the reference cell with distilled water and the sampe cell with ethanol (95%)

(2) Rinse the sample cell with 2–3 mL of the ether soluble material (in ethanol solution); then fill the cell. Record the visible spectrum of the ether soluble material.

(3) Compare the spectra obtained to the spectra attached. The attached spectra represents 150% of the absorbance at each wavelength for similarly analyzed D&C Red No. 6 Lot AA5169.

The spectra of the current sample must not exceed the attached spectra at any wavelength in order to *pass test.*

BILLING CODE 4160-01-M



BILLING CODE 4160-01-C

PART 81—GENERAL SPECIFICATIONS AND GENERAL RESTRICTIONS FOR PROVISIONAL COLOR ADDITIVES FOR USE IN FOODS, DRUGS, AND COSMETICS

2. Part 81 is amended:

§ 81.1 [Amended]

a. In § 81.1 *Provisional lists of color additives* in paragraph (b) by removing the entries for "D&C Red No. 6" and "D&C Red No. 7."

§ 81.27 [Amended]

b. In § 81.27 *Conditions of provisional listing*, by removing and reserving paragraph (c) and in paragraph (d) by removing the entries for "D&C Red No. 6" and "D&C Red No. 7."

PART 82—LISTING OF CERTIFIED PROVISIONALLY LISTED COLORS AND SPECIFICATIONS

3. Part 82 is amended:

a. By revising § 82.1306, to read as follows:

§ 82.1306 D&C Red No. 6.

(a) The color additive D&C Red No. 6 shall conform in identity and specifications to the requirements of § 74.1306 (a)(1) and (b) of this chapter.

(b) The color additive D&C Red No. 6 may be safely used for coloring drugs such that the combined total of D&C Red No. 6 and D&C Red No. 7 does not exceed 5 milligrams per daily dose of the drug.

b. By revising § 82.1307, to read as follows:

§ 82.1307 D&C Red No. 7.

(a) The color additive D&C Red No. 7 shall conform in identity and specifications to the requirements of § 74.1307 (a)(1) and (b) of this chapter.

(b) The color additive D&C Red No. 7 may be safely used for coloring drugs such that the combined total of D&C Red No. 6 and D&C Red No. 7 does not exceed 5 milligrams per daily dose of the drug.

Any person who will be adversely affected by the foregoing regulation may at any time on or before January 27, 1983 file with the Dockets Management Branch (address above) written objections thereto. Objections shall show wherein the person filing will be adversely affected by the regulation, specify with particularity the provisions of the regulation deemed objectionable, and state the grounds for the objections. Objections shall be filed in accordance with the requirements of 21 CFR 71.30. If a hearing is requested, the objections shall state the issues for the hearing and shall be supported by grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analysis of the factual information intended to be presented in support of the objections in the event that a hearing is held. Three copies of all documents shall be filed and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch, between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective January 28, 1983; except as to any provisions that may be stayed by the filing of proper objections. Notice of the filing of objections or lack thereof will be announced by pulbication in the **Federal Register**.

(Sec. 706 (b), (c), (d), 74 Stat. 399–403 (21 U.S.C. 376 (b), (c), (d)); sec. 203, Pub. L. 86–618, 74 Stat. 404–407 (21 U.S.C. 376, note))

Dated: December 21, 1982

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-35102 Filed 12-27-82; 8:45 am]

BILLING CODE 4160-01-M

---

21 CFR Part 81

[Docket No. 76N-0366]

Provisional Listing of D&C Red No. 6 and D&C Red No. 7; Postponement of Closing Date

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is postponing the closing date for the provisional listing of D&C Red No. 6 and D&C Red No. 7 for use as a color additive in drugs and cosmetics. The new closing date will be March 29, 1983. This brief postponement will provide time for the receipt and evaluation of any objections submitted in response to the final regulation (published elsewhere in this issue of the **Federal Register**) approving the petition for the listing of D&C Red No. 6 and D&C Red No. 7 for these uses.

DATES: Effective December 28, 1982, the new closing date for D&C Red No. 6 and D&C Red No. 7 will be March 29, 1983.

FOR FURTHER INFORMATION CONTACT: John L. Herrman, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204; 202-472-5690.

SUPPLEMENTARY INFORMATION: FDA established the current closing date of December 31, 1982, for the provisional listing of D&C Red No. 6 and D&C Red No. 7 by a rule published in the **Federal Register** of March 27, 1981 (46 FR 18954). The agency extended the closing date until December 31, 1982, to provide time for the completion of chronic toxicity studies and the review and evaluation of these studies by FDA.

After reviewing and evaluating the data, the agency has concluded that D&C Red No. 6 and D&C Red No. 7 are safe for use in drugs and cosmetics. Therefore, elsewhere is this issue of the **Federal Register**, FDA is publishing a regulation that lists D&C Red No. 6 and D&C Red No. 7 for these uses. The regulation set forth below will postpone the December 31, 1982 closing date for the provisional listing of these color additives until March 29, 1983. This postponement will provide sufficient time for receipt and evaluation of comments or objections submitted in response to the regulation that lists D&C Red No. 6 and D&C Red No. 7 for use in drugs and cosmetics.

Because of the shortness of time until the December 31, 1982 closing date, FDA concludes that notice and public procedure on these regulations are impracticable. Moreover, good cause exists for issuing this postponement as a final rule because the agency has concluded that D&C Red No. 6 and D&C Red No. 7 are safe for their intended uses under the Color Additive Amendments of 1960. This regulation will permit the uninterrupted use of this color additive until March 29, 1983. To prevent any interruption in the provisional lising of D&C Red No. 6 and D&C Red No. 7 and in accordance with 5 U.S.C. 553(d) (1) and (3), this regulation is being made effective on December 28, 1982.

List of Subjects in 21 CFR Part 81

Color additives, Color additives provisional list, Cosmetics, Drugs.

Therefore, under the Transitional Provisions of the Color Additive Amendments of 1960 (Title II, Pub. L. 86-618, sec. 203, 74 Stat. 404-407 (21 U.S.C. 376 note)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 81 is amended as follows:

PART 81—GENERAL SPECIFICATIONS AND GENERAL RESTRICTIONS FOR PROVISIONAL COLOR ADDITIVES FOR USE IN FOODS, DRUGS, AND COSMETICS

§ 81.1 [Amended]

1. In § 81.1 *Provisional lists of color additives*, by revising the closing date for "D&C Red No. 6" and "D&C Red No.

7" in paragraph (b) to read "March 29, 1983."

§ 81.27 [Amended]

2. In § 81.27 *Conditions of provisional listing,* by revising the closing date for "D&C Red No. 6" and "D&C Red No. 7" in paragraph (d) to read "March 29, 1983."

Effective date. This final rule is effective December 28, 1982.

(Sec. 203, 74 Stat. 404–407 (21 U.S.C. 376 note))

Dated: December 3, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-35103 Filed 12-27-82; 8:45 am]

BILLING CODE 4160-01-M

---

21 CFR Part 145

[Docket No. 78P-0147]

Canned Pears; Standards of Identity and Quality; Confirmation of Effective Date

AGENCY: Food and Drug Administration.

ACTION: Final rule; confirmation of effective date.

SUMMARY: The Food and Drug Administration (FDA) is confirming the effective date for compliance with the provisions of the amended standards of identity and quality for canned pears to provide for "chunky" style.

DATES: Effective July 1, 1985, for all affected products initially introduced or initially delivered for introduction into interstate commerce on or after this date. Voluntary compliance may have begun November 22, 1982.

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Bureau of Foods (HFF-214), Food and Drug Administration, 200 C St. SW., Washington, DC 20204; 202-245-1164.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of September 21, 1982 (47 FR 41529), FDA issued a final regulation amending the standards of identity and quality for canned pears (21 CFR 145.175) to provide for a new optional "chunky" style and to define the styles already provided for in the standard of identity. Any person who would be adversely affected by the regulation could have, at any time on or before October 21, 1982, filed written objections to the final regulation and requested a hearing on the specific provisions to which there were objections. No objections or requests for a hearing were received.

List of Subjects in 21 CFR Part 145

Canned fruit, Food standards, Fruits.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), notice is given that the effective date for compliance with the standards of identity and quality for canned pears § 145.175 *Canned pears* (21 CFR 145.175) as amended in the **Federal Register** of September 21, 1982 (47 FR 41529) is July 1, 1985. Voluntary compliance may have begun November 22, 1982.

Dated: December 20, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-34944 Filed 12-27-82; 8:45 am]

BILLING CODE 4160-01-M

---

21 CFR Part 146

[Docket No. 78N-0236]

Grapefruit Juice; Standard of Identity; Confirmation of Effective Date

AGENCY: Food and Drug Administration.

ACTION: Final rule; confirmation of effective date.

SUMMARY: The Food and Drug Administration (FDA) is confirming the effective date for compliance with the provision of the amended standard of identity for grapefruit juice to provide for 10 percent minimum grapefruit soluble solids in grapefruit juice from concentrate.

DATES: Effective July 1, 1983, for all affected products initially introduced or initially delivered for introduction into interstate commerce on or after this date. Voluntary compliance may begin December 30, 1982.

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Bureau of Foods (HFF-214), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-245-1164.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of October 1, 1982 (47 FR 43364), FDA issued a final regulation amending the standard of identity for grapefruit juice (21 CFR 146.132) to establish the minimum soluble solids for "grapefruit juice from concentrate" at 10 percent, by weight, exclusive of any added sweeteners (21 CFR 146.132(a)(1)). Any person who would be adversely affected by the regulation could have, at any time on or before November 1, 1982, filed written objections to the final regulation and requested a hearing on the specific provisions to which there were objections. No objections or requests for a hearing were received. However, two parties requested that the July 1, 1985 effective date be changed to July 1, 1983, because the October 1, 1982 amendment did not change any labeling requirements, and therefore the later effective date is unnecessary. FDA agrees and is changing the effective date to July 1, 1983.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), notice is given that the effective date for compliance with the standard of identity for grapefruit juice (21 CFR 146.132) as amended in the **Federal Register** of October 1, 1982 (47 FR 43364) is July 1, 1983. Voluntary compliance may begin December 30, 1982.

Dated: December 23, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-35204 Filed 12-27-82; 8:45 am]

BILLING CODE 4160-01-M

---

21 CFR Part 178

[Docket No. 82F-0131]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers; Tetrakis[Methylene(3,5-Di-Tert-Butyl-4-Hydroxyhydrocinnamate)]Methane

Correction

In FR Doc. 82-28153 beginning on page 46077 in the issue for Friday, October 15, 1982, on page 46078, the middle column, in the table under § 178.3570(a)(3), the second line under "Substances", the "=" should read "-".

BILLING CODE 1505-01-M

---

21 CFR Part 524

Ophthalmic and Topical Dosage Form New Animal Drugs Not Subject To Certification; Nitrofurazone Solution

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug administration is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) providing revised labeling for use of nitrofurazone solution

for treating female equine genital tract infections and impaired fertility in addition to the existing approval for treating surface bacterial infections in dogs, cats, and horses. The application was filed by Biomed Laboratories.

EFFECTIVE DATE: December 28, 1982.

FOR FURTHER INFORMATION CONTACT: Sandra K. Woods, Bureau of Veterinary Medicine (HFV–114), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857; 301–443–3420.

SUPPLEMENTARY INFORMATION: Biomed Laboratories, 4542 Denver St., Montclair, Calif. 91763, is sponsor for supplemental NADA 126–950 providing revised labeling for use of Fura-Vet (0.2 percent nitrofurazone solution) for treating female equine genital tract infections and impaired fertility. The firm has existing approval for use of the drug for treating surface bacterial infections in dogs, cats, and horses. The existing approval permits over-the-counter marketing of the drug, but addition of the genital tract and impaired fertility claims to a common label requires that the product now be restricted to veterinary prescription use. The nitrofurazone solution regulation provides that since all of the aforementioned conditions of use are NAS/NRC reviewed and found effective, applications for these uses need not include effectiveness data as specified by 21 CFR 514.111. The product is intended for topical use; therefore, the requirement for bioequivalency is waived under 21 CFR 320.22(b)(2). The application is approved, and the regulations are amended accordingly.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

List of Subjects in 21 CFR Part 524

Animal drugs, topical.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 524 is amended in § 524.1580d by revising paragraph (b), to read as follows:

PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

§ 524.1580d Nitrofurazone solution.

* * * * *

(b) *Sponsor.* See 000857, 015562, 015579, and 051259 in § 510.600(c) of this chapter for use as in paragraph (d) (1) and (2) of this section.

* * * * *

Effective date: December 28, 1982.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: December 20, 1982.

Robert A. Baldwin,

Associate Director for Scientific Evaluation.

[FR Doc. 82–34943 Filed 12–27–82; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

Schedules of Controlled Substances; Placement of Triazolam Into Schedule IV

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Final rule.

SUMMARY: This final rule is issued by the Acting Administrator of the Drug Enforcement Administration (DEA) to place the substance, triazolam, into Schedule IV of the Controlled Substances Act (CSA) (21 U.S.C. 801 *et seq.*). This action is based on a finding that triazolam fits the statutory criteria for inclusion in Schedule IV of the CSA. As a result of this rule, the regulatory controls and criminal sanctions of Schedule IV of the CSA will be applicable to the manufacturing, distribution, importation and exportation of triazolam.

EFFECTIVE DATE: December 28, 1982.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Drug Control Section, Drug Enforcement Administration, Washington, D.C. 20537; telephone (202) 633–1366.

SUPPLEMENTARY INFORMATION: A proposed rule was published in the **Federal Register** on Wednesday, April 29, 1981, (46 FR 23953–4), proposing that triazolam be placed into Schedule IV of the CSA if and when the triazolam New Drug Application (NDA) receives final approval from the Food and Drug Administration (FDA). All persons were given until June 29, 1981, to submit any comments or objections in writing regarding this proposal. One comment was received from the American Society for Hospital Pharmacists (ASHP), which supported the placement of triazolam into Schedule IV. No other comments or objections were received in response to this proposal nor were there any requests for a hearing.

By letter dated November 22, 1982, the FDA notified DEA of the final NDA approval for triazolam contingent upon the announcement of a final scheduling decision in the **Federal Register**. This final rule fulfills that scheduling condition for triazolam.

Triazolam is a member of the benzodiazepine class of drugs. It is a central nervous system depressant and has been clinically evaluated as a hypnotic.

Relying on the scientific and medical evaluation and recommendation of the Acting Assistant Secretary for Health and based on his independent evaluation in accordance with the provisions of 21 U.S.C. 811(c), the Acting Administrator of the Drug Enforcement Administration, pursuant to the provisions of 21 U.S.C. 811(a) and 811(b), finds that:

(1) Based on information now available, triazolam has a low potential for abuse relative to the drugs or other substances listed in Schedule III;

(2) Triazolam has a currently acceptable medical use in treatment in the United States; and

(3) Abuse of triazolam may lead to limited physical dependence or psychological dependence relative to the drugs or other substances in Schedule III.

The above findings are consistent with the placement of triazolam into Schedule IV of the Controlled Substances Act. In order to avoid delays in the initial marketing of triazolam, the control of triazolam in Schedule IV will be effective on December 28, 1982. In the event this imposes special hardships on any registrant, the Drug Enforcement Administration will entertain any justified request for an extension of time to comply with the Schedule IV regulations. The applicable regulations are as follows:

1. *Registration.* Any person who manufactures, distributes, delivers, imports or exports triazolam, or who engages in research or conducts instructional activities with respect to this substance, or who proposes to engage in such activities, must be registered to conduct such activities in accordance with Parts 1301 and 1311 of Title 21 of the Code of Federal Regulations.

2. *Security.* Triazolam must be manufactured, distributed and stored in accordance with §§ 1301.71–1301.76 of Title 21 of the Code of Federal Regulations.

3. *Labeling and Packaging.* All labels and labeling for commercial containers of triazolam must comply with the requirements of §§ 1302.03–1302.05 and 1302.08 of Title 21 of the Code of Federal Regulations.

4. *Inventory.* Every registrant required to keep records who possesses any quantity of triazolam shall take inventories, pursuant to §§ 1304.11–1304.19 of Title 21 of the Code of Federal Regulations, of all stocks of triazolam on hand.

5. *Records.* All registrants required to keep records pursuant to §§ 1304.21–1304.27 of Title 21 of the Code of Federal Regulations shall do so regarding triazolam.

6. *Prescriptions.* All prescriptions for products containing triazolam shall comply with §§ 1306.01–1306.06 and §§ 1306.21–1306.25 of Title 21 of the Code of Federal Regulations.

7. *Importation and Exportation.* All importation and exportation of triazolam shall be in compliance with Part 1312 of Title 21 of the Code of Federal Regulations.

8. *Criminal Liability.* The Acting Administrator, Drug Enforcement Administration, hereby orders that any activity with respect to triazolam not authorized by, or in violation of, the Controlled Substances Act or the Controlled Substances Import and Export Act shall be unlawful.

Pursuant to 5 U.S.C. 605(b), the Acting Administrator certifies that the placement of triazolam into Schedule IV of the Controlled Substances Act will not have a significant impact upon small businesses or other entities whose interests must be considered under the Regulatory Flexibility Act (Pub. L. 96–354). This action involves the initial control of a substance not previously approved for marketing in the United States.

In accordance with the provisions of 21 U.S.C. 811(a), this placement of triazolam into Schedule IV of the CSA is a formal rulemaking "on the record after opportunity for a hearing." Such proceedings are conducted pursuant to the provisions of 5 U.S.C. 556 and 557, and as such, have been exempted from the consultation requirements of Executive Order 12291 (46 FR 13193, Feb. 19, 1981).

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Narcotics, Prescription drugs.

PART 1308—[AMENDED]

Under the authority vested in the Attorney General by Section 201(a) of the CSA (21 U.S.C. 811(a)) and delegated to the Acting Administrator of the Drug Enforcement Administration by the Department of Justice regulations (28 CFR 0.100), the Acting Administrator hereby orders that § 1308.14(c) of Title 21 of the Code of Federal Regulations be amended by adding (c)(24) to read as follows:

§ 1308.14 Schedule IV.

* * * * *

(c) * * *

(24) Triazolam	2887

* * * * *

Dated: December 20, 1982.

Francis M. Mullen, Jr.,

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 82-34990 Filed 12-27-82; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[T.D. ATF-121; Ref: Notice No. 371]

California Shenandoah Valley Viticultural Area

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury.

ACTION: Final rule, Treasury decision.

SUMMARY: This final rule establishes a viticultural area in portions of Amador and El Dorado Counties in California to be known as "Shenandoah Valley" qualified by the word "California." The Bureau of Alcohol, Tobacco and Firearms (ATF) believes establishment of the California Shenandoah Valley as a viticultural area and its subsequent use as an appellation of origin on wine labels and in wine advertisements will help consumers better identify the wines they may purchase.

EFFECTIVE DATE: January 27, 1983.

FOR FURTHER INFORMATION CONTACT: James A. Hunt, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW., Washington, DC 20226 (202–566–7626).

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF–53 (43 FR 37672, 54624) revising regulations in 27 CFR Part 4. These regulations allow the establishment of definite viticultural areas. The regulations also allow the name of an approved viticultural area to be used as an appellation of origin on wine labels and in wine advertisements.

Section 4.25a(e)(1), Title 27, CFR, defines an American viticultural area as a delimited grapegrowing region distinguishable by geographical features. Section 4.25a(e)(2), outlines the procedure for proposing an American viticultural area. Any interested person may petition ATF to establish a grape growing region as a viticultural area.

Petition

ATF received a petition from the Amador County Wine Grape Growers Association proposing an area in Amador County, California, as a viticultural area to be known as "Shenandoah Valley." The area consists of approximately 10,000 acres of which about 1,200 acres are vineyards. The petitioner asked for the Shenandoah Valley viticultural area to be situated to the north and west of Fiddletown, California, and to the north and east of Plymouth, California.

In response to the petition, ATF published a notice of proposed rulemaking, Notice No. 371, in the **Federal Register** on April 13, 1981, (46 FR 21623) with a 60 day comment period. This comment period was then extended for an additional 30 days. Several requests were received for public hearings by interested persons in California and Virginia. Hearings were held in California on December 7 and 8, 1981, and in Virginia on January 12 and 13, 1982.

Evidence Relating To the Name

Testimony at the hearings established that the area derived its name from settlers from Virginia drawn to the area during the gold rush. The petition states and witnesses testified, among other things, that:

(a) In 1881, J. D. Mason, in his "History of Amador County," mentions choice grapes being grown in the Shenandoah Valley;

(b) A 1927 book, "Amador County History" refers to this area as Shenandoah Valley;

(c) Soil survey maps of Amador County, California, prepared by the U.S. Department of Agriculture Soil Conservation Service and dated Series 1961, identify the area as the Shenandoah Valley;

(d) U.S.G.S. 7.5 minute quadrangle map, (topographic) titled Fiddletown Quadrangle California and dated 1949, identifies the area as the Shenandoah Valley;

(e) An area school, cemetery and road has "Shenandoah" included in their names; and

(f) Numerous articles, books and other materials dealing with wine refer to the Shenandoah Valley in California as a specific grape-growing area.

The major issue in most of the 300 written comments and in the testimony of over 80 persons at two public hearings was use of the name "Shenandoah Valley" for a viticultural area. About half of the commenters said that the Shenandoah Valley name is historically and geographically best known for a valley in Virginia and West Virginia. They claim the use of Shenandoah Valley on California wine labels would be confusing for consumers and would allow the California wine industry use of a name which has significance for the Virginia wine industry. The other half of the commenters stated that the Shenandoah Valley name in California has existed for over 100 years as have commercial vineyards and wine production in this area. They contend use of Shenandoah Valley on these wine labels would not confuse the consumer because such wines are nationally well known and distinctly different from wine produced from grapes grown in the Shenandoah Valley of Virginia and West Virginia.

After a careful review of the name issue, ATF has decided that the evidence shows that the name of the proposed viticultural area, "Shenandoah Valley," is locally known as referring to a specific area in California and this area is nationally known as a specific grape growing area. However, two geographic areas share the same name, one in California and one in Virginia and West Virginia and both grow grapes used in wine production. The record established that the Shenandoah Valley in Virginia and West Virginia is nationally well known, whereas the Shenandoah Valley in California is less well known. ATF believes there would be a potential for consumer confusion if the name "Shenandoah Valley" without qualification were displayed on a California wine label. Because the Shenandoah Valley in Virginia and West Virginia is so well known, ATF believes the consumer would consider a wine labeled with an unqualified Shenandoah Valley viticultural area as originating from grapes grown in this area. ATF further believes that the use of the name "Shenandoah Valley" in direct conjunction with the name of the State of California would eliminate the potential for consumer confusion and allows consumers to readily identify where the wine comes from. Therefore, this final rule allows the name Shenandoah Valley as a viticultural area in California provided that the name California appears in direct conjunction with the name Shenandoah Valley on the wine label.

Geographical Evidence

In accordance with 27 CFR 4.25a(e)(2), a viticultural area should possess geographical features which distinguish it from surrounding areas. The petition states and witnesses testified, among other things that the principal grape producing soil in the California Shenandoah Valley is the Sierra series. This series consists of well-drained deep and moderately deep soils formed of material from granitic rock. These soils are gently sloping to very steep. The surface soil primarily consists of various loams, particularly coarse sandy loam. The subsoil primarily consists of heavy loam or clay loam. The depth to weathered bedrock ranges from 20 inches to more than 60 inches. Witnesses stated that to the west of the area the soil is the Auburn-Exchaquer series which is rocky and shallow, to the east the soil is the Supan-Iron Mountain series which is a volcanic type rock, and to the south the soil is shallower range land.

Boundaries

Another issue with the proposed California Shenandoah Valley viticultural area was a petition from Twin Rivers Vineyards to extend the northern boundary of the Amador County Wine Grape Growers Association's petition to include 170 acres of grapes in El Dorado County. A number of commenters gave their opinion and belief that the Shenandoah Valley stopped at the Amador and El Dorado County line. However, there was evidence that while the proposed extension lay fallow for several years until recently, the early settlers living on the property were regarded as Shenandoah Valley residents. Other commenters gave economic reasons for limiting the Shenandoah Valley viticultural area to Amador County.

A viticultural area is defined as a delimited grape growing region distinguishable by geographical features. The similarity of environmental factors influencing the grapes in a region is far more important than real or imagined boundary lines or economic factors. The one geographical feature which separates the two Counties is a 400 foot wide river canyon. However, grapes are not planted in this river canyon. The evidence shows that the topography, soil type and microclimate on both sides of the river canyon are similar. Further, testimony at the hearing showed that north of the proposed extension the land was no longer Sierra soil series, and was implantable, steep, treed and rocky.

Based on the evidence, ATF believes that the environmental factors influencing the grapes in the petitioned-for Shenandoah Valley viticultural area in Amador County are the same as for the adjacent 170 acre-vineyard located in El Dorado County. Further, based on the evidence, ATF believes the proposed area, as extended, is geographically distinguishable from the surrounding areas. Therefore, the northern boundary of the Amador County Wine Grape Growers Association's petition was extended to include Twin Rivers Vineyards.

Other than the addition of the Twin Rivers Vineyard's property, ATF is approving the boundaries of the California Shenandoah Valley as proposed. This decision is based on the petition, the testimony presented at the hearing, and comments received.

Miscellaneous

Subsequent to the notice of proposed rulemaking on the California Shenandoah Valley petition, ATF received a petition from Shenandoah Vineyards in Edinburg, Virginia, proposing a viticultural area in Virginia and West Virginia to be known as Shenandoah Valley. A notice of proposed rulemaking concerning that petition was published in the **Federal Register** and most of the 80 comments received favored establishing a Shenandoah Valley viticultural area in Virginia and West Virginia.

Approval of the California Shenandoah Valley as a viticultural area does not preclude establishment of a Shenandoah Valley in Virginia and West Virginia as a viticultural area. Regulations do not preclude the use of the same name for two viticultural areas if both areas meet the established

guidelines and it is clear to consumers where the areas are located.

ATF is approving this area as being viticulturally distinct from surrounding areas. By approving the area, wine producers are allowed to claim a distinction on labels and advertisements as to the origin of the grapes. Any commercial advantage gained can only be substantiated by consumer acceptance of California Shenandoah Valley wines.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to a final regulatory flexibility analysis (5 U.S.C. 604) are not applicable to this final rule because it will not have a significant economic impact on a substantial number of small entities. The final rule will not impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities. The final rule is not expected to have significant secondary or incidental effects on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of Section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this final rule will not have a significant economic impact on a substantial number of small entities.

Exective Order 12291

It has been determined that this final regulation is not a "major rule" within the meaning of Executive Order 12291 of February 17, 1981, because it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

List of Subjects in 27 CFR Part 9

Administrative practice and procedure, Consumer protection, Viticultural areas, and Wine.

Drafting Information

The principal author of this document is James A. Hunt, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms.

Authority and Issuance: Accordingly, under the authority contained in Section 5 of the Federal Alcohol Administration Act (49 Stat. 981, as amended; 27 U.S.C. 205), 27 CFR Part 9 is amended as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Paragraph 1. The table of sections in 27 CFR Part 9, Subpart C, is amended to add the title of § 9.37 to read as follows:

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *

9.37 California Shenandoah Valley.

Par. 2. Subpart C is amended by adding § 9.37 to read as follows:

Subpart C—Approved American Viticultural Areas

* * * * *

§ 9.37 California Shenandoah Valley.

(a) *Name.* The name of the viticultural area described in this section is "Shenandoah Valley" qualified by the word "California" in direct conjunction with the name "Shenandoah Valley."

(b) *Approved maps.* The appropriate maps for determining the boundaries of the California Shenandoah Valley viticultural area are two 1982 U.S.G.S. maps. The maps are titled: "Fiddletown Quadrangle California" 7.5 minute series and "Amador City Quadrangle California-Amador Co." 7.5 minute series.

(c) *Boundaries.* The Shenandoah Valley viticultural area is located in portions of Amador and El Dorado Counties of California. The boundaries are as follows:

The line starts at the point where the Consumnes River meets Big Indian Creek. The line then proceeds south, following Big Indian Creek, until Big Indian Creek meets the boundary between Sections 1 and 2 of Township 7 North Range 10 East. The line then follows this boundary south until it meets the Oleta (Fiddletown) Road. The line then follows the Oleta Road east until it meets the boundary between Sections 6 and 5 of Township 7 North Range 11 East. The line follows that boundary north into Township 8 North Range 11 East, and continues north on the boundary between Sections 31 and 32 until this boundary meets Big Indian Creek. The line then follows Big Indian Creek in a northeasterly direction until Big Indian Creek meets the boundary between Sections 28 and 27 of Township 8 North Range 11 East. The line then follows this boundary north until it reaches the southeast corner of Section 21 of Township 8 North Range 11 East. The line then proceeds east, then north, then west along the boundary of the western half of Section 22 of Township 8 North Range 11 East to the intersection of Sections 16, 15, 21, and 22. The line then proceeds north along the boundary between Sections 16 and 15 of Township 8 North Range 11 East and continues north along the boundary of Sections 9 and 10 of Township 8 North Range 11 East to the intersection of Sections 9, 10, 3 and 4 of Township 8 North Range 11 East. The line then proceeds West along the boundary of Sections 9 and 4. The line then continues west along the boundary of Sections 5 and 8 of Township 8 North Range 11 East to the Consumnes River. The line then proceeds west along the Consumnes River to the point of beginning.

Signed: December 3, 1982.

Stephen E. Higgins,

Acting Director.

Approved: December 17, 1982.

David Q. Bates,

Deputy Assistant Secretary (Operations).

[FR Doc. 82-35069 Filed 12-23-82; 8:45 am]

BILLING CODE 4810-31-M

---

27 CFR Part 9

[T.D. ATF—120; Ref: Notice No. 419]

Shenandoah Valley Viticultural Area in Virginia and West Virginia

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury.

ACTION: Final rule, Treasury decision.

SUMMARY: This final rule establishes a viticultural area in Virginia and West Virginia to be known as "Shenandoah Valley." The Bureau of Alcohol, Tobacco and Firearms (ATF) believes establishment of the Shenandoah Valley in Virginia and West Virginia as a viticultural area and its subsequent use as an appellation of origin on wine labels and in time advertisements will help consumers better identify the wines they may purchase.

EFFECTIVE DATE: January 27, 1983.

FOR FURTHER INFORMATION CONTACT: James A. Hunt, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW., Washington, D.C. 20226 (202-566-7626).

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF-53 (43 FR 37672, 54624) revising regulations in 27 CFR Part 4. These regulations allow the establishment of definite viticultural areas. These regulations also allow the name of an approved viticultural area to be used as an appellation of origin on wine labels and in wine advertisements.

Section 4.25a(e)(1), Title 27, CFR, defines an American viticultural area as a delimited grape-growing region distinguishable by geographical features. Section 4.25a(e)(2), outlines the procedure for proposing an American

viticultural area. Any interested person may petition ATF to establish a grape growing region as a viticultural area.

AFT received a petition from Amador County Wine Grape Growers Association in September 1980 proposing a viticultural area in California to be known as "Shenandoah Valley." A notice of proposed rulemaking was published in the **Federal Register** and public hearings were held in California and Virgina. The major issue in most of the 300 written comments and in the testimony of over 80 persons at the public hearings was the use of the name "Shenandoah Valley" as as viticultural area. About half of the commenters stated that the Shenandoah Valley name is historically and geographically best known for a valley in Virginia and West Virginia. They claimed that the use of Shenandoah Valley on California wine labels would be confusing for consumers and would allow the California wine industry use of a name which has significance for the Virginia wine industry. The other half of the commenters said that the Shenandoah Valley name in California has existed for over 100 years and the wine produced in this area is unique and well known. They stated that use of Shenandoah Valley on these labels would not confuse consumers because such wines are distinctly different from wine produced in the Shenandoah Valley of Virginia.

Petition

ATF received a petition in August 1981 from Shenandoah Vineyards in Edinburg, Virginia, proposing an area in the countries of Frederick, Clarke, Warren, Shenandoah, Page, Rockingham, Augusta, Rockbridge, Botetourt, and Amherst in Virginia, and the counties of Berkeley and Jefferson in West Virginia, as a viticultural area to be known as "Shenandoah Valley."

The petitioner submitted evidence stating the name is locally and nationally known and the area has geographical characteristics which distinguish the viticultural features from those found in surrounding areas. This evidence was presented in a notice of proposed rulemaking published in the **Federal Register** on August 20, 1982 (47 FR 36445), with a 45 day comment period.

Comments

During the commend period, 80 comments with 132 signatures were received. In addition, Congressman J. Kenneth Robinson, 7th District of Virginia, requested that all hearing testimony at Harrisonburg, Virginia, on January 12 and 13, 1982, pursuant to Notices 371 and 391 (notice of proposed rulemaking for the Shenandoah Valley in California), be considered as part of the comment letter. There were no requests for a public hearing during the comment period.

Most of the comments were in support of the Shenandoah Valley viticultural area in Virginia-West Virginia stating that the name Shenandoah Valley clearly is known as being the Virginia-West Virginia Valley. Comments in favor were also received from Federal, State and local government officials.

Five commenters were in opposition because they considered the proposed viticultural area too large when compared to the acres of vineyards.

A few commenters recommended both Virginia and California be allowed use of the name Shenandoah Valley with some way of identifying their respective locations on a label.

Except for the comments opposed to the proposal based on the size of the area, comments on the boundaries favored those stated by the petitioner and contained in the notice.

Name Issue

The major issue for the propose viticultural area in Virginia-West Virginia is use of the name "Shenandoah Valley." Two geographical areas share the same name, one in Virginia and West Virginia and one in California, and both grow grapes used in wine production. The petitions, written comments and testimony at the hearing clearly established that the Shenandoah Valley in Virginia-West Virginia in nationally well known. While not nearly as well known nationally , the Shenandoah Valley located in California is known as a specific area in California and the area is nationally known, especially to wine consumers, as a specific grape growing area.

Because the Virginia-West Virginia Shenandoah Valley is clearly well known, ATF believes the consumer would consider wine labeled with a Shenandoah Valley viticultural area as originating from grapes grown in this area. Therefore, this final rule allows use of the name "Shenandoah Valley" as a viticultural area in Virginia-West Virginia without the need for the qualifying name of a State.

Approval of Shenandoah Valley for Virginia-West Virginia as a viticultural area does not preclude establishment of a California Shenandoah Valley. Regulations do not preclude the use of the same name for two areas if both areas meet the established guidelines and it is clear to consumers where the areas are located. ATF believes that the use of the name "Shenandoah Valley" in direct conjunction with he name of the State of California would eliminate the potential for consumer confusion and would allow consumers to readily identify wher the wine comes from. Therefore, the Treasury decision approving the use of the name Shenandoah Valley in California, will require the name California to appear in direct conjunction with the name Shenandoah Valley.

Viticultural Area Size Issue

The viticultural area requested for Shenandoah Valley is approximately 2.4 million acres. The total commerical wine grape acreage is less than 300 acres. The possibility of reducing the size of the 2.4 million acre viticultural area was strongly opposed by several commenters, including the petitioner and Federal, State, and local officials. These commenters stated that a change in the boundary would also change the nationally recognized Shenandoah Valley boundary. They stated that evidence indicates the soil and climate are generally similar for the whole area. The commenters opposing the large area Shenandoah Valley suggested that several viticultural areas are found in the proposed area but no specific recommendations were made on proposing new boundaries.

On the surface it looks as though the entire area does not merit being included as an approved viticultural area. However, because vineyards have been planted or are planned in locations throughout the petitioned for viticultural area and the evidence shows the geographical influences are generally similar, ATF is approving the Shenandoah Valley boundaries as stated in the petition and the notices. In addition, approval of this large area does not preclude establishing smaller viticultural areas within the Shenandoah Valley in the future.

Geographical Characteristics

The Shenandoah Valley is geologically well defined by the Blue Ridge Mountains on the east and by the Allegheny Mountains on the west. On the north it is drained by the Potomac River, into which the Shenandoah River drains. To the south, the Shenandoah Valley is generally known to extend somewhat beyond the headwaters of the Shenandoah River because of the similar topographic features, the same soils, and similar climatic conditions.

The record shows that the Shenandoah Valley is an example of a mountain landscape that has been formed by erosion during a long interval

of geologic time and that has reached a condition of dynamic equilibrium in which the adjustment between the landforms and the rocks beneath is nearly complete. It is an elongate area lying between the Blue Ridge Mountains on the Southeast and the North and Shenandoah Mountains (the beginning of the Allegheny complex) on the northwest.

On the east side of the Valley, the Blue Ridge Mountains are underlain by igneous rocks, the most resistant of which are metabasalts of the Catoctin Formation of Precambrian age. Highlands on the west side of the Valley are underlain by sandstones and quartzites of Silurian to Mississippian age. The main lowland areas of the Shenandoah Valley are underlain by a thick sequence of limestones, dolomites and shales of early Cambrian to late Ordovician age.

The southern boundary is not quite as completely and sharply defined. The evidence indicates that conditions relevant to a viticultural area, such as soil and terrain, as well as the geographical features associated with the closing of the mountains and the cutting by the James River extends the southern boundary to the James River.

The record shows that the Shenandoah Valley viticultural area is distinguished from the surrounding areas geographically as follows:

(a) The surficial deposits consist of residual deposits, colluvium, and alluvium. The residual deposits and colluvium are closely related in origin to the rocks on which they rest. The alluvial deposits are distributed close to or downstream from the rocks that are their source. It is not unusual for residuum to occur in thicknesses of as much as 100 feet and more on carbonate rocks.

In the mountain areas, covers of thicker residuum are found only on the granitic rocks of the Blue Ridge when protected from erosion by a thin mantle of fresh core stones. On the other side of the Shenandoah Valley, shales interbedded with thin sandstones have a cover of residuum protected by a blanket of sandstone flags. Other areas are characterized by many cliffy slopes and thin rocky soils.

The record shows that the surficial deposits in the valley are, therefore, consistent and have a marked delineation from surrounding areas.

(b) Exclusive of alluvial areas, comprising only about 15 percent of the whole valley, which are relatively flat, the land slopes toward a stream, either steeply or gently. The overall shape or form of the landscape is determined by the network of stream channels, each channel being concave to the sky. The local relief is determined by ridges which rise to a more or less even height about the streams.

(c) The General Soil Map of Virginia prepared by the Soil Conservation Service of the U.S. Department of Agriculture shows that the soils suitable for agriculture in the valley can, in fact, be used to delineate the valley lowlands. Except for the Massanutten Mountain uplift, essentially all of the area is overlain by Frederick-Lodi-Rock outcrop. The record shows that this soil does not occur anywhere else in the State.

(d) The climate features, including average temperature and precipitation, are relatively consistent throughout the valley. Data was cited from four weather stations of the U.S. Department of Commerce Weather Bureau, specifically the stations of Lexington and Staunton, Virginia, in the southern end and Winchester and Woodstock, Virginia, in the northern end of the valley. These stations show average temperatures ranging from 53.9°F to 55.7°F, precipitation from 33.8" to 37.7", heating degree days from 4344 to 4866 and cooling degree days from 851 to 1046. That data from the four stations to the east of the valley show average temperatures ranging from 47.8°F to 57°F, precipitation from 38.6" to 48.6", heating degree days from 4026 to 6463 and cooling degree days from 0 to 1263. Further, the record shows that to the west similar variations occur.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to a final regulatory flexibility analysis (5 U.S.C. 604) are not applicable to this final rule because it will not have a significant economic impact on a substantial number of small entities. The final rule will not impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities. The final rule is not expected to have significant secondary or incidental effects on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of Section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this final rule will not have a significant economic impact on a substantial number of small entities.

Executive Order 12291

It has been determined that this final regulation is not a "major rule" within the meaning of Executive Order 12291 of February 17, 1981, because it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Miscellaneous

ATF is approving this area as being viticulturally distinct from surrounding areas. By approving the area, wine producers are allowed to claim a distinction on labels and advertisements as to the origin of the grapes. Any commercial advantage gained can only be substantiated by consumer acceptance of Shenandoah Valley wines.

Drafting Information

The principal author of this document is James A. Hunt, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 9

Administrative practice and procedure, Consumer protection, Viticultural areas, Wine.

Authority: Accordingly, under the authority in 27 U.S.C. 205 (49 Stat. 981, as amended), 27 CFR Part 9 is amended as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Paragraph 1. The table of sections in 27 CFR Part 9, Subpart C, is amended to add the title of § 9.60 to read as follows:

* * * * *

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *

9.60 Shenandoah Valley.

Par. 2. Subpart C is amended by adding § 9.60 to read as follows:

Subpart C—Approved American Viticultural Areas

* * * * *

§ 9.60 Shenandoah Valley.

(a) *Name.* The name of the viticultural area described in this section is "Shenandoah Valley."

(b) *Approved maps.* The appropriate maps for determining the boundaries of the Shenandoah Valley viticultural area are four U.S.G.S. Eastern United States 1:250,000 scale maps. The maps are

titled: Roanoke (1971), Charlottesville (1956, with a revision in 1965), Cumberland (1956, revised 1969) and Baltimore (1957, revised 1978).

(c) *Boundaries.* The Shenandoah Valley viticultural area is located in Frederick, Clarke, Warren, Shenandoah, Page, Rockingham, Augusta, Rockbridge, Botetourt, and Amherst Counties in Virginia, and Berkeley and Jefferson Counties in West Virginia. The boundaries are as follows:

The boundary line starts at the point of the intersection of the Potomac River and the Virginia-West Virginia State line approximately eight miles east of Charlestown, West Virginia. The line then proceeds southwesterly approximately 14.8 miles along the State line, which essentially follows the crest of the Blue Ridge Mountains, to its intersection with the westerly border line of Clarke County, Virginia. The line continues approximately 13.8 miles southwesterly along the county line and the crest of the Blue Ridge to its intersection with the westerly boundary line of Warren County, Virginia. The line continues approximately 15 miles along the Warren County line to its intersection with the Skyline Drive. The line continues approximately 71 miles in a southwesterly direction along the Skyline Drive and the Blue Ridge to its intersection with the Blue Ridge Parkway. The line continues approximately 53 miles in a southwesterly direction along the Blue Ridge Parkway to its intersection with the James River. The line then proceeds approximately 44 miles along the James River in a west-northwesterly direction to its intersection with the northwest boundary line of the Jefferson National Forest near Eagle Rock. The line then proceeds approximately 10.5 miles in a northeasterly direction along the Jefferson National Forest line and along the crest of North Mountain to its intersection with the westerly boundary line of Rockbridge County. The line continues approximately 23 miles along the county line in the same northeasterly direction to its intersection with the Chesapeake and Ohio Railroad. The line continues approximately 23 miles along the railroad between the Great North Mountain and the Little North Mountain to its intersection with the southeastern boundary line of the George Washington National Forest at Buffalo Gap. The line continues approximately 81 miles northeasterly along the George Washington National Forest line to the Vertical Control Station, (elevation 1883), on the crest of Little North Mountain approximately 3 miles west of Van Buren Furnace. The line continues approximately 53 miles northeasterly along the crest of Little North Mountain to its intersection with the Potomac River in Fort Frederick State Park. The line then proceeds approximately 47.4 miles southeasterly along the Potomac River to the beginning point at that river's intersection with the boundary line between West Virginia and Virginia.

Signed: December 3, 1982.

Stephen E. Higgins,

Acting Director.

David Q. Bates,

Deputy Assistant Secretary (Operations).

[FR Doc. 82-35088 Filed 12-23-82; 8:45 am]

BILLING CODE 4510-31-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1904

Exemption From Requirements for Recording Occupational Injuries and Illnesses; Final Rule and Amendment

AGENCY: Occupational Safety and Health Administration (OSHA); Labor.

ACTION: Final rule.

SUMMARY: With this notice, OSHA is amending Part 1904 to exempt certain employer establishments from requirements to: (1) Maintain, retain and provide access to the log and summary of occupational injuries and illnesses (1904.2, 1904.6, and 1904.7); (2) maintain, retain and make available for inspection the supplementary record of occupational injuries and illnesses (1904.4, and 1904.6); and (3) post the annual summary of occupational injuries and illnesses for each establishment (1904.5).

The Agency is exempting employer establishments in the following Standard Industrial Classifications (SIC's):

SIC's 52–59 (Retail Trades, except SIC's 52–54);

SIC's 60–67 (Finance, Insurance and Real Estate);

SIC's 70–89 (Services, except SIC's 70, 75, 76, 79, 80).

This action is part of OSHA's continuing effort to reduce the recordkeeping burden on employers.

The primary value to OSHA of these records has been to help OSHA safety and heath officers to assess workplace safety conditions as part of OSHA's General Schedule (i.e. agency-initiated) inspection of establishments. Since 1977, however, OSHA has not included in its general inspection program those employer establishments that would be exempt under this rule.

Further, because of low incidence rates at affected establishments, and limited OSHA resources, and because needed inspections are made in response to employee complaints about specific hazards, there is little likelihood that these establishments would be included in any future targeting scheme. For these establishments, the primary agency use of these records no longer exists, and OHSA, therefore, exempts these employers establishments from the requirements to keep these records. The exemption thus relieves a large number of employers of a paperwork burden that is unnecessary from the agency's point of view, without lessening on-the-job safety protection for workers.

EFFECTIVE DATE: This rule becomes effective January 1, 1983.

FOR FURTHER INFORMATION CONTACT: Raymond E. Donnelly, Occupational Safety and Health Administration, Room N3622, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210. Telephone (202) 523–8076.

A. Background

1. *History of the Regulation.* The regulations concerning OSHA's occupational injury and illness recordkeeping system (29 CFR Part 1904) were adopted in 1971. Their purpose is to:

Implement section 8(c) (1), (2), 8(g)(2) and 24 (a) and (e) of the Occupational Safety and Health Act of 1970. These sections provide for recordkeeping and reporting by employers covered by the Act as necessary or appropriate for enforcement of the Act, for developing information regarding the causes and prevention of occupational accidents and illnesses, and for maintaining a program of collection, compilation and analysis of occupational safety and health statistics (29 CFR 1904.1).

On July 29, 1977, OSHA amended these regulations to exempt small employers with 10 or fewer employees from the recordkeeping requirements of Part 1904 (42 FR 38567). OSHA then stated that the amendment would continue the Congressional intent, expressed in previous appropriations acts (Pub. L. 93–517 and Pub. L. 94–206) generally to exempt employers with 10 or fewer employees from the recordkeeping requirements but not from the requirement in § 1904.8 to report accidents resulting in a fatality or multiple hospitalization nor from the requirement in § 1904.21 to participate in the Bureau of Labor Statistics' (BLS) annual statistical survey, if such an employer is selected to participate. OSHA also stated that the small employer exemption would carry out the mandate of section 8(d) of the Act which requires that information obtained under the Act be obtained with a minimum burden on employers (29 U.S.C. 657(d)).

On June 4, 1982, OSHA proposed a comparable exemption for establishments which are classified in

the Office of Management and Budget's Standard Industrial Classification (SIC) Manual as retail trade, finance, insurance, real estate and services—SIC's 52–89 (excluding 52–54, 70, 75, 76, 79 and 80) (47 FR 24346).

The scope of the proposed exemption was confined to establishments in the Major Industry Groups within SICs 52–89, which met two criteria. The first was that the establishments fall within SIC's not targeted for general schedule inspections. Since 1977 all establishments in SIC's 52–89 have not been targeted for such inspections. The second criterion was that the establishments fall within Major Industry Groups in SIC's whose average lost workday case injury rate (LWCIR), as published by the Bureau of Labor Statistics, for 1978–80 was at or below 75 percent of the private sector average. Major Industry Groups in SIC's 52–89 which had LWCIR averages above 75 percent of the private sector average and thus were not included in the proposed exemption are: building materials and garden supplies (SIC 52); general merchandise and food stores (SIC's 53, 54); hotels and other lodging places (SIC 70); repair (SIC's 75, 76); amusement and recreation services (SIC 79); and health services (SIC 80).

The purpose of the proposal was to further OSHA's continuing effort under section 8(d) of the Act to reduce the paperwork burden on employers without compromising worker safety and health. In the proposal OSHA identified the three main functions which making and keeping the OSHA prescribed records were intended to serve. OSHA also set forth why it believed that for the industry groups proposed for exemption, these requirements had outlived their usefulness. The following discussion reiterates these points.

The requirements to maintain, retain and provide access to the OSHA prescribed log, summary of occupational injuries and illnesses and supplemental record were intended to serve three main purposes.

First, these requirements were designed to aid OSHA's safety and health officers to identify hazardous operations when conducting general schedule inspections. Establishments in SIC's 52–89, however, have not been targeted for general schedule inspections since 1977 because these establishments fall within less-hazardous industrial divisions. For the same reason, coupled with limited OSHA resources, it is highly unlikely that such firms would be included in any future targeting plan. Thus, for the exempted establishments, OSHA concludes that the requirements have outlived their original purpose as a necessary component of general schedule inspection activity.

It should be emphasized that inspections in these establishments will continue to be made in response to employee complaints, and as part of OSHA's investigation of fatalities, multiple hospitalization incidents, and imminent danger situations. In these cases, however, the hazard information is usually provided by the complaint itself or through prompt investigation.

The second purpose of these regulations was to provide employers and employees with useful information about conditions at their workplaces. Eliminating the requirement to maintain the OSHA log and supplemental record for the establishments affected by this exemption would not result in the loss of useful information. Approximately 94 percent of all establishments in SIC's 52–89 (excluding 52–54, 70, 75, 76, 79 and 80) according to BLS data, are expected to have fewer than two injuries per establishment on an annual basis.

The third purpose of these regulations was to ensure the gathering of uniform, reliable safety and health statistics. OSHA did not propose to exempt affected employers from participating in the Bureau of Labor Statistics' annual survey of occupational injuries and illnesses. Currently, only a small percentage of these employers are asked to participate. In the future, these selected employers will be notified in advance by BLS of the requirement to participate in the survey and to maintain the OSHA log and make reports for the survey as requested by BLS.

Substantial public interest was generated by the proposal. Trade associations, unions, firms and individuals responded within the comment period which ended on July 6, 1982.

The Final Rule

OSHA is issuing the final rule as proposed. The Agency believes that substantial support for both the general concept of recordkeeping relief and the scope of this exemption was demonstrated by the response to the proposal.

Some commenters expressed objections to either the exclusion from or the inclusion of certain industries in the proposed exemption. OSHA has reviewed its proposed two-fold criteria for exemption and has concluded that these criteria are both rational and workable. In addition no alternative criteria which the Agency considers workable and appropriate were suggested. Additional discussion of these objections is found later in this document.

The Rulemaking

First, many of the comments received in response to the proposal generally supported the concept of an exemption from recordkeeping requirements for the industry groups included in the proposal. For example, the Shoe Corp. of America stated that the "requirement to maintain the OSHA 200 for each of the stores (in a 700 store chain) at the location is an exercise in costly paper work. The vast majority go out with all zeros typed in". (2–20; see also the comments of the Society of Independent Gasoline Marketers of America, 2–22; American Bankers Association, 2–23; American Retail Federation (ARF), 2–13A; First Bank Ceredo, 2–6; Arby's Inc. 2–8; RTM, 2–14). Several commenters from the "fast food" industry also wrote in support of their industry's inclusion in the exemption. Arby's stated that the "fast food environment is free from recognizable hazards, due to training and layout," and contended that there is no benefit from the paperwork burden associated with these forms (i.e., recording and posting of accident data). The company also noted it is using alternative recordkeeping systems to capture and store this same data.

The Society of Independent Gasoline Marketers of America (SIGMA) similarly stated that it "would relieve SIGMA members of an unnecessary paperwork burden and would not adversely affect workplace safety for this retail gasoline outlet employees (2–22). Also supporting the proposal was the American Bankers Association which characterized the proposed exemption as "justified and necessary" (2–23).

The ARF also supported the "concept embodied in the (proposed) rule as "consistent with both Section 8(d) of the Act which requires that information sought under the Act be obtained with a minimum burden on employers (29 U.S.C. 657 (d)) and this Administration's goal of reducing unnecessary paperwork burden on employers without lessening on-the-job safety protection for workers".

However, objections to the proposed exemptions were raised by several commenters. California's Department of Industrial Relations stated that OSHA has ignored uses of record keeping information in proposing this exemption. The Department argued that the log is a necessary component of any inspection, that the log contains information important to employees and that summary information is important to

gather for research purposes (2–21). OSHA believes these objections overstate the usefulness of the records involved in this exemption. OSHA inspectors depend on many sources of information. Certainly in the case of complaint inspections, complaining employees themselves are sources of available detailed health and safety information as are prompt investigations. Also most workplace injury and illness data are recorded in workers' compensation reports, which are typically more detailed than the OSHA log. Nor does the exemption ignore research needs. As stated above, this exemption does not affect the reporting requirements needed to complete the BLS Survey. In addition, no other research needs have been identified which would be affected by this exemption. OSHA does not believe that employees will be deprived of important information. Employees, either individually, or through safety and health committees have access to worker's compensation first reports of injury, and other records kept by employers in the form best designed for a particular firm's needs.

Other objections where similar in nature. For example, OSHA agrees with the Michigan Department of Public Health, which stated that the recordkeeping requirements constitute a consistent, uniform way of recording injuries for individual establishments and industry wide (2–26). However, Michigan's claim that such records are the basis for joint labor-management efforts to improve safety and health is, in OSHA's opinion, a vast overstatement. Certainly for the exempted establishments, the minimal information recorded on and communicated by the required forms, could only be of peripheral value to such labor-management efforts. The uniformity of the forms, likewise, is irrelevant to joint labor-management efforts in any one firm, and of minimal significance to industry-wide efforts since the categories of recorded information are unambiguous. Michigan was also concerned that the adoption of this exemption could cause confusion in states operating their own health and safety plans pursuant to section 18 of the Act. However, any such confusion can be obviated by the states' adoption of similar exemptions. In sum, OSHA concludes that most general objections to the proposed exemption were based on theoretical uses for required records, which in fact, are either unproved or of minimal value.

Specific criticism of the proposal centered around OSHA's choice of industry groups for inclusion in the exemption, and/or the criteria themselves. Some commenters argued that additional industry groups or subgroups should be exempt because they meet OSHA's criteria in the proposal. For example OSHA was asked to broaden the exemption to include SIC 48, "Communications", because that industry's LWCIR has been below the criterion level of 75% of the private sector (AT&T) (2–15). OSHA limited its proposal to certain major groups within the broad industrial divisions of retail trade and services (SIC 52–89) because, by far, most of the hazardous major groups are contained in these divisions. OSHA realizes that other major groups also may have relatively low LWCIR's, or using other definitions, may be characterized as less hazardous.

Because statistics and concepts defining "hazardous" are changeable, OSHA is hesitant, however, to frame any exemption in the broadest way at this time. Therefore the Agency will continue to examine non-exempt industry groups for possible inclusion in future exemptions, based on the criteria applied here, or on equally rational criteria. It should also be noted that the record is not complete concerning whether other specified major groups, not included in the proposal, such as "Communications" (SIC 48) should also be exempt. For example, although industry comments supported extending the exemption to "Communications," no comments were received from affected unions, employees and other interested persons on the issue.

Various objections were made to OSHA's using 2-digit SIC codes to designate exempt industry groups. For instance, the AFL–CIO argued that two digit SIC codes are too broad to use for exemption purposes because they incorporate hazardous SIC's within them (2–10).

OSHA agrees with the AFL–CIO that using the 2-digit SIC code to designate less hazardous industries may "hide" less safe industries, firms, or in "safe" firms, unsafe operations. This flaw, however, is simply a consequence of the process of aggregation. OSHA does not agree with the AFL–CIO, however, that the 2-digit code is too "broad" for designating less hazardous industries. As stated above, little purpose would be served to continue to require 3 or 4 digit SIC codes groups or industries to keep records when OSHA is not using general schedule inspections in those industries. OSHA also believes that designating exempt categories down to the 3 or 4 digit level would be confusing to the public and administratively difficult for OSHA.

OSHA also agrees with commenters who stated that any definition which aggregates safety and health records of different firms and/or industries may "hide" high or low performers. In fact, even a firm-by-firm qualification test will aggregate operations with varying safety records with a given firm. Because of this fact, Inco Ltd. recommended that offices within larger establishments should be exempt, because offices are assumed to have very low workplace injury and illness rates. To the extent that office work results in very few recordable illnesses and injuries, the recording of such infrequent incidents would be a very slight additional burden for non-exempt establishments. Further, segregating data on an operation-by-operation basis may be beyond the normal operating procedures of many establishments and may thus create additional paperwork for such establishments. Even for those offices that may be considered separate establishments because the primary activity of their firms does not fall within the exempt SICs, OSHA does not believe that the continued making and keeping of the OSHA log and supplementary record will be unduly burdensome. Many of these offices are responsible for keeping OSHA-mandated records for other divisions of their firms. The additional making and keeping of these records for their own "office establishments" would appear to impose only a slight additional burden.

Other comments requested that OSHA revise its criteria for exemption to include certain SIC's. For instance, the ARF objected to the proposal's exclusion of SIC's 52,53 and 54 from the recordkeeping exemption, even though it acknowledged that these industries' LWCIR's were higher than 75% of the private sector average. The ARF characterized OSHA's criteria as "irrational and improper", in part because they allegedly implied a "casual relationship" between recordkeeping and the lost workday case rate. The ARF also accused OSHA of "punishing" SICs 52, 53 and 54, because they were not included in this exemption.

OSHA disagrees with this analysis. As stated above, the main reason for proposing these exemptions was OSHA's belief that in industries with above average safety and health experience little purpose is served by documenting low injury and illness rates on the forms and at the frequencies now required.

In addition, although this exemption is in keeping with OSHA's practice of

recognizing good performance by employers, OSHA does not expect that this exemption by itself, will provide sufficient incentive to change employer behavior to improve workplace health and safety. Neither does OSHA believe, as ARF suggested, that conforming to reporting requirements, by itself, improves workplace safety and health. Certainly, if data existed which supported such a causal relationship, OSHA would be amiss in issuing this exemption. It is because OSHA believes that the requirements affected by this exemption no longer serve their original purposes, that this exemption is being issued.

In conclusion, OSHA believes that its criteria for choosing industrial groups for exemption from certain recordkeeping requirements are both rational and fair. In addition, and just as importantly, OSHA believes that adopting this exemption will help employers, employees and the Agency to concentrate their respective resources on affirmative actions to improve workplace safety and health.

OSHA finds, in accordance with Executive Order 12291 (46 FR 13193), that this is not a "major rule" since its effect will not meet any of the definitional elements in § 1(b) of the Executive Order. As stated above, the effect of this rule will be to reduce many employers' paperwork burden, and accordingly results in lower costs to them. The Secretary also finds that no regulatory flexibility analysis is required under the Regulatory Flexibility Act (Pub. L. 96–354; 94 Stat. 1164) because this action will not have a significant economic impact on a substantial number of small entities, in that no increased reporting requirements are imposed and that competition within affected industries is not altered. A certification to this effect has been made by the Secretary to Chief Counsel for Advocacy of the Small Business Administration.

Paperwork Reduction Act

Information collection requirements contained in this regulation are in the process of being submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511). Once the requirements have been assigned an OMB control number, the public will be notified to that effect.

Authority

This document was prepared under the direction and supervision of Thorne G. Auchter, Assistant Secretary of Labor for Occupational Safety and Health.

Accordingly, pursuant to Section 8(g) of the Occupational Safety and Health Act of 1970 (84 Stat. 29 U.S.C. 657(g), 1593, 1600), Section 4 of the Administrative Procedures Act (45 U.S.C. 553), and Secretary of Labor's Order 8–76, Part 1904 of Title 29 of the Code of Federal Regulations is hereby amended as set forth below.

List of Subjects in 29 CFR Part 1904.

Health records, Health statistics, Occupational safety and health.

Signed at Washington, D.C., this 20th day of December, 1982.

Thorne G. Auchter,

Assistant Secretary of Labor.

PART 1904—[Amended]

Part 1904 of Title 29, Code of Federal Regulations is amended as follows:

1. By adding a new paragraph (h) to § 1904.12, to read as follows:

§ 1904.12 Definitions.

* * * * *

(h) *Establishments Classified in Standard Industrial Classification Codes (SIC) 52–89.* (1) Establishments whose primary activity constitutes retail trade; finance, insurance, real estate and services are classified in SIC's 52–89.

(2) Retail trades are classified as SIC's 52–59 and for the most part include establishments engaged in selling merchandise to the general public for personal or household consumption. Some of the retail trades are: automotive dealers, apparel and accessory stores, furniture and home furnishing stores, and eating and drinking places.

(3) Finance, insurance and real estate are classified as SIC's 60–67 and include establishments which are engaged in banking, credit other than banking, security dealings, insurance, and real estate.

(4) Services are classified as SIC's 70–89 and include establishments which provide a variety of services for individuals, businesses, government agencies, and other organizations. Some of the service industries are: personal and business services, in addition to legal, education, social, and cultural; and membership organizations.

(5) The primary activity of an establishment is determined as follows: For finance, insurance, real estate, and services establishments, the value of receipts or revenue for services rendered by an establishment determines its primary activity. In establishments with diversified activities, the activities determined to account for the largest share of production, sales or revenue will identify the primary activity. In some instances these criteria will not adequately represent the relative economic importance of each of the varied activities. In such cases, employment or payroll should be used in place of the normal basis for determining the primary activity.

2. By adding a new § 1904.16 to read as follows:

§ 1904.16 Establishments Classified in Standard Industrial Classification Codes (SIC) 52–89, (except 52–54, 70, 75, 76, 79 and 80).

An employer whose establishment is classified in SIC's 52–89, (excluding 52–54, 70, 75, 76, 79 and 80) need not comply, for such establishment, with any of the requirements of this part except the following:

(a) Obligation to report under § 1904.8 concerning fatalities or multiple hospitalization accidents; and (b) obligation to maintain a log of occupational injuries and illnesses under § 1904.21, upon being notified in writing by the Bureau of Labor Statistics that the employer has been selected to participate in a statistical survey of occupational injuries and illnesses.

[FR Doc. 82–34938 Filed 12–27–82; 8:45 am]
BILLING CODE 4510–26–M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2621

Limitation on Guaranteed Benefits; Correction

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule; correction.

SUMMARY: On December 13, 1982, the Pension Benefit Guaranty Corporation published in the **Federal Register** at 47 FR 55672, FR Doc. 82–33789, an amendment to its Limitation on Guaranteed Benefits regulation. This document corrects the authority citation for 29 CFR Part 2621 and a typographical error in Appendix A to Part 2621.

FOR FURTHER INFORMATION CONTACT: Renae R. Hubbard, Special Counsel, Office of the General Counsel, Code 210, Pension Benefit Guaranty Corporation, 2020 K Street NW., Washington, D.C. 20006, 202–254–4895. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: The following corrections are made in FR Doc. 82–33789 appearing at page 55672 in the issue of December 13, 1982:

1. On page 55672 in column 3, in the "Authority", "4022(B)" is corrected to

read "4022B" and "1322B" is corrected to read "1322b".

2. On page 55672 in Column 3, Appendix A, in the table "1982" is corrected to read "1983".

Edwin M. Jones,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 82-35041 Filed 12-27-82; 8:45 am]

BILLING CODE 7708-01-M

DEPARTMENT OF DEFENSE

Corps of Engineers; Department of the Army

36 CFR Part 331

Falls of Ohio National Wildlife Conservation Area

AGENCY: U.S. Army Corps of Engineers, Defense.

ACTION: Interim rule with request for comments.

SUMMARY: The Secretary of the Army, acting through the Chief of Engineers, is issuing an interim rule to govern the protection, use and management of the Falls of the Ohio National Wildlife Conservation Area (WCA). The WCA was authorized by Title II of Pub L. 97-137 and established pursuant to Section 204 of the Act by the Secretary of the Interior concurrent with publication of Notice and the WCA boundaries in the **Federal Register** of August 12, 1982 at 47 FR 35043. Section 206 of the Act mandates publication of regulations to carry out Title II within one year of enactment or not later than December 29, 1982.

DATE: This interim rule is effective upon publication and comments will be received on or before February 28, 1983.

ADDRESS: Written comments should be sent to: Office of the Chief of Engineers, ATTN: DAEN-CWP-V, Washington, DC 20314.

FOR FURTHER INFORMATION CONTACT: Mr. Richard G. Leverty, Environmental Resources Branch, telephone number (202) 272-0130.

SUPPLEMENTARY INFORMATION: These interim regulations place certain restrictions, prohibitions and limitations on use of the lands and waters within the Falls of the Ohio National Wildlife Conservation Area (WCA), in order to protect, preserve and provide for the proper management of the significant physical and biological features for which the WCA was designated and to prevent interference with commercial and recreational navigation on the Ohio River.

The WCA was authorized by Title II of Pub. L. 97-137, in order to:

(1) Protect wildlife populations and habitats in their natural diversity, including but not limited to, bald eagle, peregrine falcon, Canada geese, mallard, gadwall, blue-winged teal, black duck, American widgeon, and wood duck;

(2) Conserve fish populations in their natural diversity including, but not limited to, shad, shiner, crappie, largemouth bass, striped bass, and channel catfish;

(3) Ensure to the maximum extent practicable the necessary water quantity within the WCA;

(4) Protect the fossilized coral reef; and

(5) Provide opportunities for scientific research and interpretive and environmental uses and fish and wildlife oriented recreational uses.

Responsibility for the administration of the WCA and for promulgation of these regulations rests with the Secretary of the Army, acting through the U.S. Army Corps of Engineers. Within the boundary, lands, waters and interests therein will be acquired by the Corps of Engineers as may be necessary to insure that the WCA can be effectively managed for the purpose for which it was established. The authorizing law requires that these regulations include prohibitions on all hunting, vandalism (including the removal of fossils), and the dumping of refuse within the boundaries of the WCA.

These regulations were developed in consultation with appropriate agencies of the Department of the Interior.

The Corps of Engineers has determined that it is impractical to publish these rules in draft form because the statutory requirement for their promulgation by December 29, 1982.

Regulation Changes: The interim rule amends Title 36 of the Code of Federal Regulations by adding a new part 331 which governs the protection, use and management of the Falls of the Ohio National Wildlife Conservation Area. As noted above, comments will be considered in finalizing these interim rules if received by February 28, 1983.

Impact Analysis: The Department of the Army has determined that this document is not a major rule requiring preparation of a Regulatory Impact Analysis under Executive Order 12291. The Department of the Army has also determined that the interim rule will not have a significant economic impact on a substantial number of small entities and, therefore, does not require a small entity flexibility analysis under Pub. L. 96-354. The interim rule merely sets forth certain restrictions, prohibitions and limitations on use of the Falls of the Ohio National Wildlife Conservation Area in order to properly manage and protect its unique resources and thus to carry out the purposes for which the WCA was authorized and established.

List of Subjects in 36 CFR Part 331

Recreation areas, Waterways, Hunting and fishing, Administrative practice and procedure, Public lands.

John O. Roach, II,

Army Liaison Officer with the Federal Register.

Accordingly, 36 CFR is amended by adding a new interim Part 331 to read as set forth below.

PART 331—REGULATIONS GOVERNING THE PROTECTION, USE AND MANAGEMENT OF THE FALLS OF THE OHIO NATIONAL WILDLIFE CONSERVATION AREA

Sec

331.1 Applicability and scope.
331.2 Policy.
331.3 Hunting and trapping.
331.4 Fishing.
331.5 Explosives and fireworks.
331.6 Public property.
331.7 Sanitation.
331.8 Picnicking.
331.9 Camping.
331.10 Swimming.
331.11 Special events.
331.12 Vehicles.
331.13 Vessels.
331.14 Aircraft.
331.15 Fires.
331.16 Interference with government employees.
331.17 Minerals.
331.18 Restrictions.
331.19 Commercial activities.
331.20 Advertisement.
331.21 Unauthorized structures.
331.22 Abandonment of personal property.
331.23 Control of animals.
331.24 Permits.
331.25 Violation of regulations.

Authority: Pub. L. 97-137.

§ 331.1 Applicability and scope.

(a) The regulations contained in this part apply to those lands and waters within the established boundary of the Falls of the Ohio National Wildlife Conservation Area (WCA). Included in this boundary, which was published in the **Federal Register** of August 12, 1982, are publicly and privately owned lands, waters and improvements. The Federal Government, acting through the Corps of Engineers, will acquire such rights to privately-owned properties in the WCA as are necessary to carry out the purposes of Title II, Pub. L. 97-137. The regulations prescribed herein are for the use, management and protection of the resources of the WCA and all persons

entering, using or visiting within the boundaries of the WCA are subject to these regulations. All other applicable Federal, State and local laws and regulations remain in full force and effect. The District Engineer, US Army Corps of Engineers, exercises non-exclusive jurisdiction over the lands and waters of the WCA and enforces these regulations.

(b) The WCA boundary encompasses an existing hydroelectric generating station and the McAlpine Locks and Dam, operating navigation structures which are part of the authorized Ohio River Navigation System. The continued operation and maintenance of this system take precedence over the purposes of the WCA, except that such operation and maintenance will be consistent with the basic purpose of the WCA as regards prohibition of hunting, vandalism, and dumping of refuse. Management of the WCA to achieve its intended purposes, will, to the extent practicable, be accomplished in a manner consistent and compatible with continued generation of electricity and navigation on the Ohio River, including operation and maintenance of the McAlpine Locks and Dam and the Louisville Repair Station and material storage areas located on Shippingport Island.

§ 331.2 Policy.

(a) It is the policy of the Secretary of the Army, acting through the Chief of Engineers, to manage the natural and cultural resources of the WCA in the public interest, providing the public with safe and healthful recreational opportunities while protecting and enhancing these resources.

(b) Unless otherwise indicated herein, the term "District Engineer" shall include the authorized representatives of the District Engineer.

(c) The WCA shall be available to the public without regard to sex, race, color, creed, or national origin. No lessee, licensee, or concessionaire providing a service to the public shall discriminate against any person because of sex, race, creed, color, or national origin in the conduct of the operations under the lease, license, or concession contract.

§ 331.3 Hunting and trapping.

(a) The hunting, trapping, catching, molesting, killing, or having in possession any wild animal or bird, or taking the eggs of any such bird, is prohibited.

(b) Possession of equipment (including, but not limited to, firearms, ammunition, traps, projectile firing devices including bow and arrow) which could be used for hunting, trapping, or the taking of wildlife, is prohibited.

§ 331.4 Fishing.

Unless otherwise authorized in writing by the District Engineer:

(a) Fishing is only permitted in accordance with the laws and regulations of the State within whose exterior boundaries that portion of the WCA is located, and such laws and regulations which are now or may hereafter be in effect are hereby adopted as part of these regulations.

(b) Fishing by means of the use of drugs, poisons, explosives, bow and arrow or electricity is prohibited.

(c) Commercial fishing and fishing with gill nets, trammel nets, hoop nets, bow and arrow or trot lines is prohibited.

§ 331.5 Explosives and fireworks.

Unless otherwise authorized in writing by the District Engineer:

(a) The possession or use of fireworks is prohibited.

(b) The possession or use of explosives is prohibited.

§ 331.6 Public property.

Unless otherwise authorized in writing by the District Engineer, the destruction, injury, defacement, removal, or any alteration of public property including, but not limited to natural formations, paleontological features, historical and archeological features and vegetative growth is prohibited. Any such destruction, removal, or alteration of public property shall be in accordance with the conditions of any permission granted.

§ 331.7 Sanitation.

(a) Garbage, trash, rubbish, litter, or any other waste material or waste liquid generated on the WCA shall be removed from the area or deposited in receptacles provided for that purpose. The improper disposal of such wastes on the project is prohibited.

(b) The use of refuse containers for the disposal of refuse not generated on the WCA is prohibited.

(c) It is a violation to bring any material onto the WCA for the purpose of disposal.

(d) The discharge or placing of sewage, galley waste, garbage, refuse, or pollutants into the WCA waters from any vessel or watercraft is prohibited.

§ 331.8 Picnicking.

(a) Picnicking is permitted only in designated areas.

(b) Picnickers shall remove all personal equipment and clean their sites upon departure.

§ 331.9 Camping.

Camping is not permitted within the WCA.

§ 331.10 Swimming.

Swimming is prohibited unless authorized in writing by the District Engineer.

§ 331.11 Special events.

(a) Special events including, but not limited to, water carnivals, boat regattas, music festivals, dramatic presentations, or other special recreation programs are prohibited unless written permission has been granted by the District Engineer.

(b) The public shall not be charged any fee by the sponsor of such permitted event unless the District Engineer has approved in writing the proposed schedule of fees. The District Engineer shall have authority to revoke permission and require removal of any equipment upon failure of the sponsor to comply with terms and conditions of the permit/permission. Any violation shall constitute a separate violation for each calendar day in which it occurs.

§ 331.12 Vehicles.

(a) The use of a vehicle off roadways is prohibited except as may be authorized by the District Engineer.

(b) Vehicles shall not be parked in violation of any posted restrictions, or in such a manner as to endanger any Federal property to include natural features. The owner of any vehicle parked in violation of this section shall be presumed to have parked it, and unless rebutted such presumption will be sufficient to sustain a conviction as provided for in § 331.25.

(c) Vehicles shall be operated in accordance with all posted regulations.

(d) Driving or operating any vehicle in a careless, negligent, or reckless manner, heedlessly or in willful disregard for the safety of other persons, or in such manner as to endanger any property or environmental feature, or without due care or at a speed greater than is reasonable and prudent under prevailing conditions with regard to traffic, weather, road, light and surface conditions, is prohibited.

(e) This section pertains to all vehicles, including, but not limited to, automobiles, trucks, motorcycles, mini-bikes, trail-bikes, snowmobiles, dune buggies, all terrain vehicles, bicycles, trailers, campers, or any other such equipment.

(f) Except as authorized by the District Engineer no person shall operate any motorized vehicle without a proper and effective exhaust muffler, or with an

exhaust muffler cutout open, or in any other manner which renders the exhaust muffler ineffective in muffling the sound of engine exhaust.

§ 331.13 Vessels.

(a) Vessels or other watercraft may be operated in the WCA waters except in prohibited or restricted areas in accordance with posted regulations and applicable Federal, States, and local laws.

(b) All vessels when not in actual use shall be removed from the WCA unless securely moored at mooring facilities approved by the District Engineer. The placing of floating or stationary mooring facilities to, or interfering with, a buoy, channel marker, or other navigational aid is prohibited.

(c) The operation of vessels or other watercraft in a careless, negligent, or reckless manner so as to endanger any property (including the operator and/or user(s) of the vessel or watercraft) is prohibited.

§ 331.14 Aircraft.

(a) The operation of aircraft on WCA lands and waters is prohibited, unless authorized in writing by the District Engineer.

(b) Except in extreme emergencies threatening human life or serious property loss, the air delivery of any person or thing by parachute, helicopter, or other means onto project lands or waters without written permission of the District Engineer is prohibited.

(c) The provisions of this section shall not be applicable to aircraft engaged on official business of the Federal Government or used in emergency rescue in accordance with the directions of the District Engineer.

§ 331.15 Fires.

Open fires are prohibited unless confined to fireplaces, grills, or other facilities designed for this purpose as designated by the District Engineer. Fires shall not be left unattended and must be completely extinguished prior to departure.

§ 331.16 Interference with government employees.

Interference with any Government employee in the conduct of his or her official duties pertaining to the administration of these regulations is prohibited. It is a violation to fail to comply with a lawful order directed by any Government employee or to knowingly give any false, fictitious, or fraudulent report or other information to any Government employee in the performance of his or her official duties pertaining to the administration of these regulations.

§ 331.17 Minerals.

All activities in connection with prospecting, exploration, development, mining or other removal or the processing of mineral resources and all uses reasonably incident thereto are prohibited.

§ 331.18 Restrictions.

The District Engineer may establish and post a schedule of visiting hours and/or restrictions on the public use of a portion or portions of the WCA. The District Engineer may close or restrict the use of the WCA or portion of the WCA when necessitated by reason of public health, public safety, security, maintenance, or other reasons in the public interest. Entering or using the project in a manner which is contrary to the schedule of visiting hours, closure or restrictions is prohibited.

§ 331.19 Commercial activities.

Unless otherwise authorized in writing by the District Engineer, the engaging in or solicitation of business or money is prohibited.

§ 331.20 Advertisement.

Unless otherwise authorized in writing by the District Engineer, advertising by the use of billboards, signs, markers, audio devices, or any other means whatsoever including handbills, circulars, and posters is prohibited. Vessels or vehicles with semipermanent or permanently installed signs are exempt if being used for authorized recreational activities and in compliance with all other rules and regulations pertaining to vessels and vehicles.

§ 331.21 Unauthorized structures.

The construction, placing, or continued existence of any structure of any kind under, upon, in, or over WCA lands or waters is prohibited unless a permit, lease, license, or other appropriate written agreement therefor has been issued by the District Engineer. Structures not so authorized are subject to summary removal or impoundment by the District Engineer. The design, construction, placing, existence, or use of structures in violation of the terms of the permit, lease, license, or other written agreement therefor is prohibited.

§ 331.22 Abandonment of personal property.

(a) Personal property of any kind left unattended upon WCA lands or waters for a period of 24 hours shall be considered abandoned and may be impounded and stored at a storage point designated by the District Engineer who may assess a reasonable impoundment fee. Such fee shall be paid before the impounded property is returned to its owner.

(b) If abandoned property is not claimed by its owner within 3 months after the date it is received at the storage point designated by the District Engineer, it may be disposed of by public or private sale or by other means determined by the District Engineer. Any net proceeds from the sale of property shall be covered into the Treasury of the United States as miscellaneous receipts.

§ 331.23 Control of animals.

(a) No person shall bring or allow horses, cattle, or other livestock in the WCA.

(b) No person shall bring dogs, cats, or other pets into the WCA unless penned, caged, on a leash under 6 feet in length, or otherwise under physical restraint at all times. Unclaimed or unattended animals are subject to immediate impoundment and removal in accordance with State and local laws.

§ 331.24 Permits.

It shall be a violation of these regulations to refuse to or fail to comply with the terms or conditions of any permit issued by the District Engineer.

§ 331.25 Violation of regulations.

Anyone violating the provisions of this regulation shall be subject to a fine of not more than $500 or imprisonment for not more than 6 months, or both. All persons designated by the Chief of Engineers, U.S. Army Corps of Engineers, for that purpose shall have the authority to issue a citation for the violation of these regulations, requiring the appearance of any person charged with violation to appear before the U.S. Magistrate within whose jurisdiction the violation occurred.

[FR Doc. 82-35051 Filed 12-27-82; 8:45 am]
BILLING CODE 3710-92-M

VETERANS ADMINISTATION

38 CFR Part 17

Alcohol and Drug Dependence or Abuse Treatment and Rehabilitation

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: The VA (Veterans Administration) is publishing final regulations on its implementation of the "Veterans Health Care Amendments of 1979" (Pub. L. 96-22) as amended. The purpose of that Act was to authorize the VA to conduct a five-year pilot program for care, treatment and rehabilitation

services on a contract basis in halfway houses, therapeutic communities, psychiatric residential treatment centers and other community-based treatment facilities, for eligible veterans suffering from alcohol or drug dependence or abuse disabilities. These regulations are necessary in order to provide the authority to VA medical centers for authorizing needed treatment for eligible veterans, who are in need of and request alcohol or drug abuse treatment and rehabiliation.

EFFECTIVE DATE: April 28, 1980.

The incorporation by reference in this regulation is approved by the Director of the office of the Federal Register.

FOR FURTHER INFORMATION CONTACT: Robert L. Murphy, Mental Health and Behavioral Sciences Service (116C), Department of Medicine and Surgery, Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420, (202) 389–5195.

SUPPLEMENTARY INFORMATION: On pages 55716 through 55720 of the **Federal Register** of August 21, 1980, an Interim Final Regulation was published for §17.960, title 38 Code of Federal Regulations. Interested persons were given 30 days to submit comments. Two comments were received. One was a question relating to establishing halfway houses for veterans only or using existing facilities where veterans and nonveterans would be treated together with the VA sponsoring the veterans *only*. Contracts will be negotiated with existing facilities that are able to meet quality and effectiveness standards established by the VA. No attempt will be made to establish facilities for veterans only or start new program activities where none currently exists. The other comments involved additional treatment and transitional assistance required by veterans being discharged from institutional care. Extensive treatment programs are presently available to veterans being release from institutional care to promote adjustment to noninstitutional life. An additional item that has been added involves contract care on an outpatient basis in addition to treatment in residential facilities, and additional standards that must be met to qualify for an award of a contract. The quality and effectiveness standards contained in these regulations are required to be set forth in regulations by law. (See 38 U.S.C. 620A(a)(2)).

These rules are not major rules within the meaning of Executive Order 12291, Federal Regulation, because they will not have an annual effect on the economy of $100 million or more, will not cause a major increase in costs or prices for any persons or entities, and will not have significant adverse effects on any element of our economy. These rules are exempt from the requirement for initial and final regulatory flexibility analyses of sections 603 and 604 of the Regulatory Flexibility Act (Pub. L. 96–354) because those sections are not effective prior to January 1, 1981. These rules were effective, on an interim basis, as of April 30, 1980, and, with minor modifications, will remain effective. In any event, these regulations will not have a significant impact on a substantial number of small entities. The pilot program encompassed by these rules involves only a small number of these entities. Moreover, these rules do not impose any requirements that these entities have not previously been required to meet, none of which are economically significant.

Procedural data included in the publication of Interim Final Regulation §17.960 have been omitted leaving only regulatory matters for final publication and inclusion in Title 38 CFR. The section number of this regulation has been changed from §17.960 to §§ 17.53a through 17.53d. Accordingly, § 17.960 is removed from Title 38, CFR. The final regulations are hereby adopted as set forth below.

The Catalog of Federal Domestic Assistance Program number is 64.019.

List of subjects in 38 CFR Part 17

Alcoholism, Claims, Dental health, Drug abuse, Foreign relations, Government contracts, Grants program—health, Health care, Health facilities, Health professions, Medical devices, Medical research, Mental health programs, Nursing homes, Philippines, Veterans, Incorporation by reference.

Approved: November 24, 1982.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

PART 17—MEDICAL

1. 38 CFR Part 17 is amended by adding new §§ 17.53a, 17.53b, 17.53c, and 17.53d to read as follows:

§ 17.53a Alcohol and drug dependence or abuse treatment and rehabilitation in residential and nonresidential facilities by contract.

(a) Alcohol and drug dependence or abuse treatment and rehabilitation may be authorized by contract in nonresidential facilities and in residential facilities provided by halfway houses, therapeutic communities, psychiatric residential treatment centers and other community-based treatment facilities, when considered to be medically advantageous and cost effective for the following:

(1) Veterans who have been furnished hospital care in facilities over which the Administrator has direct jurisdiction and such transitional care is reasonably necessary to complete treatment incident to such hospital care,

(2) Persons in the Armed Forces who, upon discharge therefrom will become eligible veterans, when duly referred with authorization for Veterans Administration medical center hospital care in preparation for treatment and rehabilitation in this program under the following limitations:

(i) Such persons may be accepted by transfer only during the last 30 days of such person's enlistment or tour of duty,

(ii) The person requests transfer in writing for treatment for a specified period of time during the last 30 days of such person's enlistment period or tour of duty,

(iii) Treatment does not extend beyond the period of time specified in the request unless such person requests in writing an extension for a further specified period of time and such request is approved by the Veterans Administration Medical Center Director authorizing treatment and rehabilitation,

(iv) Such care and treatment will be provided as if the person were a veteran, subject to reimbursement by the respective military service for the costs of hospital care and control treatment provided while the person is an active duty member.

(b) The maximum period for one treatment episode is limited to 60 days. The Veterans Administration Medical Center Director may authorize one 30-day extension.

(c) Any person who has been discharged or released from active military, naval or air service, and who, upon application for treatment and rehabilitative services under the authority of this section is determined to be legally ineligible for such treatment or rehabilitation services shall be:

(1) Provided referral services to assist the person, to the maximum extent possible, in obtaining treatment and rehabilitation services from sources outside the Veterans Administration, not at Veterans Administration expense and,

(2) If pertinent, advised of the right to apply to the appropriate military, naval or air service and the Veterans Administration for review of such person's discharge or release from such service. (Pub. L. 96–22, 38 U.S.C. 620A)

§ 17.53b Contracts for residential treatment services for veterans with alcohol or drug dependence or abuse disabilities.

(a) Contracts for treatment services authorized under § 17.53a(a) may be awarded in accordance with applicable Veterans Administration and Federal procurement procedures. Such contracts will be awarded only after the quality and effectiveness, including adequate protection for the safety of the residents of the contractor's program, has been determined and then only to contractors, determined by the Chief Medical Director or designee to meet the following requirements.

(1) Meet fire safety requirements as follows:

(i) The building must meet the requirements of the applicable residential occupancy chapters and the general requirement chapters (1–7, 31) of the Life Safety Code (NFPA 101) published by the National Fire Protection Association (NFPA), Batterymarch Park, Quincy, Massachusetts 02269, 1981 edition. The 1981 edition of the Life Safety Code is hereby incorporated by reference into this section as though set forth in full herein. This code is available for inspection at the Office of the Federal Register, 1100 L Street, NW, Washington, DC 20408. Any equivalences or variances to Veterans Administration requirements must be approved by the Director, Facility Engineering, Planning, and Construction Office, Veterans Administration Central Office, 810 Vermont Avenue, NW. Washington, DC 20420.

(ii) Where applicable, the home must have a current occupancy permit issued by the local and state governments in the jurisdiction where the home is located.

(iii) All Veterans Administration sponsored residents will be mentally and physically capable of leaving the building, unaided, in the event of an emergency. Halfway house, therapeutic community and other residential program management must agree that all the other residents in any building housing veterans will also have such capability.

(iv) There must be at least one staff member on duty 24 hours a day.

(v) Fire exit drills must be held at least quarterly. Residents must be instructed in evacuation procedures when the primary and/or secondary exits are blocked. A written fire plan for evacuation in the event of fire shall be developed and reviewed annually. The plan shall outline the duties, responsibilities and actions to be taken by the staff and residents in the event of a fire emergency. This plan shall be implemented during fire exit drills.

(vi) A written policy regarding tobacco smoking in the facility shall be established and enforced.

(vii) Portable fire extinguishers shall be installed at the facility. Use NFPA 10, *Portable Fire Extinguishers,* as guidance in selection and location requirements of extingushers.

(viii) Requirements for fire protection equipment and systems shall be in accordance with NFPA 101. Where installed, maintenance and testing of these systems/equipment shall include the following:

(A) The fire alarm system shall be test operated at least semi-annually.

(B) All smoke detectors shall be test operated, by activation of the smoke detector, at least semi-annually.

(C) The monthly and annual inspections and the maintenance of the extinguishers shall be in accordance with NFPA 10.

(D) All fire protection systems and equipment, such as the fire alarm system, smoke detectors, and portable extinguishers, shall be inspected, tested and maintained in accordance with the applicable NFPA fire codes and the results documented.

(ix) An annual fire and safety inspection shall be conducted at the halfway house or residential facility by qualified Veterans Administration personnel. If a review of past Veterans Administration inspections or inspections made by the local authorities indicates that a fire and safety inspection would not be necessary, then the visit to the facility may be waived.

(2) Be in compliance with existing standards of State safety codes and local, and/or State health and sanitation codes.

(3) Be licensed under State or local authority.

(4) Where applicable, be accredited by the State.

(5) Comply with the requirements of the "Confidentiality of Alcohol and Drug Abuse Patient Records" (42 CFR Part II) and the "Confidentiality of Certain Medical Records" (38 U.S.C. 4132), which shall be part of the contract.

(6) Demonstrate an existing capability to furnish the following:

(i) A supervised alcohol and drug free environment, including active affiliation with Alcoholics Anonymous (AA) programs.

(ii) Staff sufficient in numbers and position qualifications to carry out the policies, responsibilities, and programs of the facility.

(iii) Board and room.

(iv) Laundry facilities for residents to do their own laundry.

(v) Structured activities.

(vi) Appropriate group activities, including physical activities.

(vii) Health and personal hygiene maintenance.

(viii) Monitoring administration of medications.

(ix) Supportive social service.

(x) Individual counseling as appropriate.

(xi) Opportunities for learning/development of skills and habits which will enable Veterans Administration sponsored residents to adjust to and maintain freedom from dependence on or involvement with alcohol or drug abuse or dependence during or subsequent to leaving the facility.

(xii) Support for the individual desire for sobriety (alcohol/drug abuse-free life style).

(xiii) Opportunities for learning, testing, and internalizing knowledge of illness/recovery process, and for upgrading skills and improving personal relationships.

(7) Data normally maintained and included in a medical record as a function of compliance with State or community licensing standards will be accessible.

(b) Representatives of the Veterans Administration will inspect the facility prior to award of a contract to assure that prescribed requirements can be met. Inspections may also be carried out at such other times as deemed necessary by the Veterans Administration.

(c) All requirements in this rule, and Veterans Administration reports of inspection of residential facilities furnishing treatment and rehabilitation services to eligible veterans shall to the extent possible, be made available to all government agencies charged with the responsibility of licensing or otherwise regulating or inspecting such institutions.

(d) An individual case record will be created for each client which shall be maintained in security and confidence as required by the "Confidentiality of Alcohol and Drug Abuse Patient Records" (42 CFR Part 2) and the "Confidentiality of Certain Medical Records" (38 U.S.C. 4132), and will be made available on a need to know basis to appropriate Veterans Administration staff members involved with the treatment program of the veterans concerned.

(e) Contractors under this section shall provide reports of budget and case load experience upon request from a

Veterans Administration official. (Pub. L. 96–22, 38 U.S.C. 620A)

§ 17.53c Contracts for outpatient services for veterans with alcohol or drug dependence or abuse disabilities.

(a) Contracts for treatment services authorized under § 17.53a may be awarded in accordance with applicable Veterans Administration and Federal procurement procedures. Such contracts will be awarded only after the quality and effectiveness, including adequate protection for the safety of the participants of the contractor's program, has been determined and then only to contractors determined by the Chief Medical Director or designee to be fully capable of meeting the following standards:

(1) The following minimum fire safety requirements must be met:

(i) The building must meet the requirements of the applicable business occupancy chapters and the general requirement chapters (1–7, 31) of the Life Safety Code (NFPA 101) published by the National Fire Protection Association (NFPA), Batterymarch Park, Quincy, Massachusetts 02269, 1981 edition. The 1981 edition of the Life Safety Code (NFPA 101) is hereby incorporated by reference into this section as though set forth in full herein. This code is available for inspection at the Office of the Federal Register, 1100 L Street, NW., Washington, D.C. 20408. Any equivalencies or variances to Veterans Administration requirements must be approved by the Director, Facility Engineering, Planning, and Construction Office, Veterans Administration Central Office, 810 Vermont Avenue, NW., Washington, D.C. 20420.

(ii) Where applicable, the facility must have a current occupancy permit issued by the local and state governments in the jurisdiction where the home is located.

(iii) All Veterans Administration sponsored patients will be mentally and physically capable of leaving the building, unaided, in the event of an emergency.

(iv) Fire exit drills must be held at least quarterly. A written plan for evacuation in the event of fire shall be developed and reviewed annually. The plan shall outline the duties, responsibilities and actions to be taken by the staff in the event of a fire emergency. This plan shall be implemented during fire exit drills.

(v) Portable fire extinguishers shall be installed at the facility. Use NFPA 10, *Portable Fire Extinguishers*, as guidance in selection and location requirements of extinguishers.

(vi) Requirements for fire protection equipment and systems shall be in accordance with NFPA 101. Where installed, maintenance and testing of these systems/equipment shall include the following:

(A) The fire alarm system shall be test operated at least semi-annually.

(B) All smoke detectors shall be test operated, by activation of the smoke detector, at least sem-annually.

(C) The monthly and annual inspections and the maintenance of the extinguishers shall be in accordance with NFPA 10.

(D) All fire protection systems and equipment, such as the fire alarm system, smoke detectors, and portable extinguishers, shall be inspected, tested and maintained in accordance with the applicable NFPA fire codes and the results documented.

(vii) An annual fire and safety inspection shall be conducted at the facility by qualified Veterans Administration personnel. If a review of past Veterans Administration inspections or inspections made by the local authorities indicates that a fire and safety inspection would not be necessary, then the visit to the facility may be waived.

(2) Conform to existing standards of State safety codes and local and/or State health and sanitation codes.

(3) Be licensed under State or local authority.

(4) Where applicable, be accredited by the State.

(5) Comply with the requirements of the "Confidentiality of Alcohol and Drug Abuse Patient Records" (42 CFR Part 2) and the "Confidentiality of Certain Medical Records" (38 U.S.C. 4132), which shall be part of the contract.

(6) Demonstrate an existing capability to furnish the following:

(i) A supervised, alcohol and drug free environment, including active affiliation with Alcoholics Anonymous (AA) programs.

(ii) Staff sufficient in numbers and position qualifications to carry out the policies, responsibilities, and programs of the facility.

(iii) Structured activities.

(iv) Appropriate group activities.

(v) Monitoring medications.

(vi) Supportive social service.

(vii) Individual counseling as appropriate.

(viii) Opportunities for learning/development of skills and habits which will enable Veterans Administration sponsored residents to adjust to and maintain freedom from dependence on or involvement with alcohol or drug abuse or dependence during or subsequent to leaving the facility.

(ix) Support for the individual desire for sobriety (alcohol/drug abuse-free life style).

(x) Opportunities for learning, testing, and internalizing knowledge of illness/recovery process, and to upgrade skills and improve personal relationships.

(7) Data normally maintained and included in a medical record as a function of compliance with State or community licensing standards will be accessible.

(b) Representatives of the Veterans Administration will inspect the facility prior to award of a contract to assure that prescribed requirements can be met. Inspections may also be carried out at such other times as deemed necessary by the Veterans Administration.

(c) All requirements in this rule and Veterans Administration reports of inspection of residential facilities furnishing treatment and rehabilitation services to eligible veterans shall, to the extent possible, be made available to all government agencies charged with the responsibility of licensing or otherwise regulating or inspecting such institutions.

(d) An individual case record will be created for each client which shall be maintained in security and confidence as required by the "Confidentiality of Alcohol and Drug Abuse Patient Records" (42 CFR Part 2) and the "Confidentiality of Certain Medical Records" (38 U.S.C. 4132), and will be made available on a need to know basis to appropriate Veterans Administration staff members involved with the treatment program of the veterans concerned. (Pub. L. 96–22, 38 U.S.C. 620A)

§ 17.53d Limitations on payment for alcohol and drug dependence or abuse treatment and rehabilitation.

The authority to enter into contracts shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation acts, and payments shall not exceed these amounts. (Pub. L. 96–22, 38 U.S.C. 620A)

§ 17.960 [Removed]

2. 38 CFR Part 17 is amended by removing § 17.960 in its entirety.

(38 U.S.C. 210(c))

[FR Doc. 82–35059 Filed 12–27–82; 8:45 am]
BILLING CODE 8320–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 204, 205 and 211

[N-FRL 2202-1]

Noise Emission Standards for Portable Air Compressors, Medium and Heavy Trucks, Motorcycles and Motorcycle Replacement Exhaust Systems, Truck Mounted Solid Waste Compactors, and Noise Labeling Requirements for Hearing Protectors; Final Rule; Revocation of Product Verification Testing, Reporting and Recordkeeping Requirements

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency hereby revokes product verification testing and the attendant reporting and recordkeeping requirements for:

(1) Noise Emission Standards for Portable Air Compressors;

(2) Noise Emission Standards for Medium and Heavy Trucks;

(3) Noise Labeling Requirements for Hearing Protectors.

(4) Noise Emission Standards for Truck Mounted Solid Waste Compactors;

(5) Noise Emission Standards for Motorcycles and Motorcycle Replacement Exhaust Systems;

This action stems from the Administrations budget for fiscal year 1982 which did not contain funding for the Noise Enforcement Division to accept or act on the product verification reports after fiscal year 1981. Also, based on the comments received, EPA is revoking the production verification testing provisions.

EFFECTIVE DATE: January 27, 1983.

FOR FURTHER INFORMATION CONTACT: Louise Giersch, (202) 382-2935

SUPPLEMENTARY INFORMATION: EPA promulgated noise regulations which established noise emission standards or labeling requirements for the following:

1. Portable Air Compressors, 40 CFR 204.50 *et seq.*, January 14, 1976 (41 FR 2162)

2. Medium and Heavy Trucks, 40 CFR 205.50 *et seq.*, April 13, 1976 (41 FR 15538)

3. Noise Labeling Requirements for Hearing Protectors, 40 CFR 211.203 *et seq.*, September 27, 1980 (44 FR 56130)

4. Truck Mounted Solid Waste Compactors, 40 CFR 205.200 *et seq.*, October 1, 1980 (44 FR 56526)

5. Motorcycles and Motorcycle Replacement Exhaust Systems, 40 CFR 205.150 *et seq.*, and 205.165 *et seq.*, December 31, 1980 (45 FR 86694).

Each of the noise regulations, listed above, imposes certain recordkeeping and reporting requirements on manufactuers of the regulated products. Contained within these regulations there are specific provisions for (1) Production Verification Testing, (2) Testing by the Administrator, and (3) Selective Enforcement Auditing. The provisions encompassing "Production Verification (PV) Testing" describe highly structured requirements to test products on an annual basis for their compliance with applicable noise emission standards in accordance with certain specified procedures. Provisions authorizing "Testing by the Administrator" describe the discretionary basis upon which the Administrator may require the testing of products to determine compliance with applicable noise emission standards as well as to determine the appropriateness of a manufacturer's test facility to conduct such product testing. The provisions related to "Selective Enforcement Auditing" (SEA) authorize the Administrator, on a discretionary basis, to require manufacturers to conduct assembly-line testing of products upon formal request. The latter two provisions apply only when an issue arises concerning product compliance with the applicable noise emission standard, while the former (PV Testing) provisions are required to be met on an annual basis.

Among these provisions there are various recordkeeping and reporting requirements, including the development and submission of PV testing reports and retention of test data supporting such reports.

On August 14, 1981, EPA suspended enforcement of reporting and recordkeeping requirements (46 FR 41057) and simultaneously proposed revocation of the reporting and recordkeeping provisions for each of these regulations (46 FR 41104). The action stemmed from that portion of the Administration's budget for Fiscal Year 1982, subsequently enacted by Congress, which did not contain funding for the Noise Enforcement Division to accept or act on the product verification reports after fiscal year 1981.

A 30 day comment period was established to allow interested parties to comment on the notice of proposed rulemaking. Fourteen written comments were received.

For the reasons discussed in the proposal and summarized below, this final action revokes the reporting and recordkeeping requirements, as proposed. Additionally, in response to the comments received, EPA is revoking the production verification testing provisions of these regulations.

1. Public Comments

Of the fourteen written comments received, seven were from six different manufacturers, three from trade associations, two from State agencies, one from a public interest legal foundation and one from a private citizen.

Four manufacturers commented on the substance of the proposed action and voiced their support. Two of the four also recommended revocation of the product verification and selective enforcement audit requirements to give them additional flexibility to comply with applicable Federal noise emission standards. Other comments by the manufacturers were on miscellaneous information and/or typographical errors.

The three trade associations supported the proposed action, but also requested that additional steps be taken to reduce regulatory burdens on industry. One association suggested the elimination of product verification and selective enforcement audit provisions to allow manufacturers additional flexibility to comply with applicable Federal standards.

One State agency supported the proposed action, while the other stated that if EPA did not intend to enforce its regulations, they should be recinded. The notice of proposed rulemaking announced that EPA was considering the revocation of reporting and recordkeeping provisions of its noise emission regulations. EPA retains the statutory and regulatory tools to enforce its noise emission regulations both under the Agency's general authority in Section 13 of the Noise Control Act and under selective enforcement auditing and testing by the Administrator provisions within the regulations. EPA intends to use these tools as appropriate.

The public interest legal foundation supported the proposed action and also suggested elimination of product verification, selective enforcement auditing, and testing by the Administrator provisions of the regulations.

The private citizen provided general comments on noise produced by trucks and motorcycles.

2. Agency Action

EPA has considered current and proposed future Agency resources, the President's policy to reduce the burdens of federal regulation, and public comments where appropriate and has decided to revoke the reporting and

recordkeeping requirements as proposed. Additionally, EPA has considered carefully the comments requesting that the Agency revoke additional regulatory provisions. In light of those comments, EPA is revoking the product verification testing requirements; as discussed below, it does not appear that this burden is necessary in view of the rescission of reporting and recordkeeping requirements.

With elimination of the reporting and recordkeeping requirements, the regulations become in part self-enforcing, since manufacturers no longer report their compliance efforts. Elimination of product verification is consistent with these changes, since without active monitoring by EPA of pre-production compliance, there is no reason to bind manufacturers to a formal program. This action will allow regulated manufacturers to structure their own testing programs to assure their products will meet applicable standards. However, the manufacturers must still comply with applicable standards, and must label each product and warrant that they conform to those standards. Moreover, EPA retains the right to require manufacturers to conduct noise tests, where warranted by the circumstances, both under the regulatory provisions discussed below and under the Agency's general authority in Section 13 of the Noise Control Act.

EPA has decided to retain the selective enforcement auditing and testing by the Administrator provisions in their present form. EPA believes these provisions are both necessary and adequate to determine whether a product or a manufacturer's test facility conforms to applicable specifications and/or standards. Without such provisions, there would be no federal mechanism by which questionable products could be adequately tested for compliance. In instances where there is reason to believe non-complying products have been introduced into commerce, the Administrator could require manufacturers to verify that products are meeting standards. For purposes of such verification, the Administrator could require the manufacturer to perform a selective enforcement audit of production models of the products in question and/or review the manufacturer's files for those products. Additionally, manufacturers remain subject to various penalties and administrative actions where noncomplying products have been distributed.

Retaining these provisions should not burden the regulated manufacturers. Both the selective enforcement auditing and testing by the Administrator provisions are discretionary. Unlike product verification, recordkeeping, and reporting requirements, they do not require manufacturers to take actions or expend resources except where the Administrator determines the facts so warrant.

This action affects only the product verification testing and the reporting and recordkeeping requirements of the regulations. All other provisions of the existing regulations remain in effect. Regulated products remain subject to the noise emission standards, labeling, and warranty requirements of the regulations. Moreover, although EPA will not directly monitor compliance with these regulations, states, localities and individuals can still initiate actions under Section 12 of the Noise Control Act [42 U.S.C. 4911] which provides for citizens' suits to enforce noise control standards. States and localities can also continue to exercise their powers to establish in-use controls for federally regulated products, as provided in Section 6(e) of the Act.

3. Regulatory Review

EPA has determined that this final rulemaking is not a major rule under Executive Order 12291, and therefore does not require a Regulatory Impact Analysis. EPA does not anticipate any significant adverse effects on competition, employment, investment, productivity, or innovation in the regulated industries. This action will result in a significant reduction in mandatory testing, reporting and recordkeeping burdens for the regulated industries and is directly translated into cost savings to those industries.

This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

Under the provisions of the Regulatory Flexibility Act, 5 U.S.C. Section 601 *et seq.*, I hereby certify that this final action will not have a significant economic impact on a substantial number of small entities. The final rule affects only the product verification testing and attendant recordkeeping and reporting requirements of the regulation; other portions of the regulations are unchanged. Reduced testing, reporting and recordkeeping will ease the economic burdens of the affected manufacturers and should cause no adverse economic effects.

Lists of subjects

40 CFR Part 204

Construction industry, Noise control, Reporting requirements..

40 CFR Part 205

Labeling, Motor vehicles, Noise control, Reporting requirements.

40 CFR Part 211

Labeling, Noise control.

4. Authority

This action is being taken under the authority of Sections 6, 10, and 13 of the Noise Control Act of 1972, as amended by the Quiet Communities Act of 1978, 42 U.S.C. 4905, 4909, and 4912.

Dated: November 22, 1982.

Anne M. Gorsuch,

Administrator.

For the reasons set out in the preamble, 40 CFR Part 204 is revised and Parts 205 and 211 are amended.

Portable Air Compressors

1. The table of contents for Part 204 is revised to read as follows:

PART 204—NOISE EMISSION STANDARDS FOR CONSTRUCTION EQUIPMENT

Subpart A—General Provisions

Sec.
204.1 General applicability.
204.2 Definitions.
204.3 Number and gender.
204.4 Inspection and monitoring.
204.5 Exemptions.
204.5–1 Testing exemption.
204.5–2 National security exemptions.
204.5–3 Export exemptions.

Subpart B—Portable Air Compressors

204.50 Applicability.
204.51 Definitions.
204.52 Portable air compressor noise emission standards.
204.54 Test procedures.
204.55 Requirements.
204.55–1 General requirements.
204.55–2 Compliance with Standards.
204.55–3 Labeling.
204.56 Testing by the Administrator.
204.57 Selective enforcement auditing.
204.57–1 Test request.
204.57–2 Test compressor sample selection.
204.57–3 Test compressor preparation.
204.57–4 Testing.
204.57–5 Reporting of test results.
204.57–6 Acceptance and rejection of batches.
204.57–7 Acceptance and rejection of batch sequence.
204.57–8 Continued testing.
204.57–9 Prohibition of distribution in commerce; manufacturer's remedy.
204.58 In-use requirements.
204.58–1 Warranty.

Sec.
204.58–2 Tampering.
204.58–3 Instructions for maintenance, use, and repair.
204.59 Recall of noncomplying compressors.
Authority: (42 U.S.C. 4905), 86 Stat. 1237.

§ 204.2 [Amended]

2. In § 204.2, paragraph (a) (6), is removed.

3. In § 204.4, paragraph (a) is revised to read as follows:

§ 204.4 Inspection and monitoring.

(a) Any inspection or monitoring activities conducted under this section shall be for the purpose of determining (1) whether test products are being selected and prepared for testing in accordance with the provisions of these regulations, (2) whether test product testing is being conducted in accordance with these regulations, and (3) whether products being produced for distribution into commerce comply with these regulations.

* * * * *

4. In § 204.4, paragraph (b)(2), add the word "and" to the end of the statement.

5. In § 204.4, paragraph (b)(3), remove the word "and" at the end of the statement.

6. In § 204.4, paragraph (b)(4) is removed.

7. In § 204.4, paragraph (c)(1)(iii) is removed.

8. In § 204.4, paragraph (d)(3) is revised to read as follows:

* * * * *

(d) * * *

(3) Where facilities or areas other than those covered by paragraph (d)(2) of this section are concerned, "operating hours" shall mean all times during which product manufacture or assembly is in operation or all times during which product testing or maintenance, production, or compilation of records is taking place, or any other procedure or activity related to selective enforcement audit testing or to product manufacture or assembly is being carried out.

* * * * *

§ 204.5–1 [Removed]

9. Section 204.5–1 is removed.

10. Section 204.5–2 is redesignated § 204.5–1 and is revised to read as follows:

§ 204.5–1 Testing exemption.

(a) A new product intended to be used solely for research, investigations, studies, demonstrations or training, and so labeled or marked on the outside of the container and on the product itself, shall be exempt from the prohibitions of Sections 10(a)(1), (2), (3), and (5) of the Act.

(b) No request for a testing exemption is required.

(c) For purposes of Section 11(d) of the Act any testing exemption shall be void ab initio with respect to each new product, originally intended for research, investigations, studies, demonstrations, or training, but distributed in commerce for other uses.

§ 204.5–3 [Removed]

11. Section 204.5–3 is removed.

12. Section 204.5–4 is redesignated § 204.5–2 and is revised to read as follows:

§ 204.5–2 National security exemptions.

(a) A new product which is produced to conform with specifications developed by a national security agency, and so labeled or marked on the outside of the container and on the product itself, shall be exempt from the prohibitions of Sections 10(a) (1), (2), (3), and (4) of the Act.

(b) No request for a national security exemption is required.

(c) For purposes of Section 11(d) of the Act, any national security exemption shall be void ab initio with respect to each new product, originally intended to be produced to conform with specifications developed by a national security agency but distributed in commerce for other uses.

(d) Any manufacturer or person subject to the liabilities of section 11(a) with respect to any product originally intended for a national security agency, but distributed in commerce for use in any State, may be excluded from the application of section 11(a) with respect to such product based upon a showing that such manufacturer:

(1) Had no knowledge of such product being distributed in commerce for use in any state; and

(2) Made reasonable efforts to ensure that such products would not be distributed in commerce for use in any State. Such reasonable efforts would include investigation, prior dealings, contract provisions, etc.

§ 204.5–5 [Redesignated as § 204.5–3]

13. Section 204.5–5 is redesignated § 204.5–3.

§ 204.5–6 [Removed]

14. Section 204.5–6 is removed.

§ 204.5–7 [Removed]

15. Section 204.5–7 is removed.

§ 204.51 [Amended]

16. In § 204.51, paragraph (f) is removed.

17. In § 204.51, paragraph (w) is revised to read as follows:

* * * * *

(w) "Test Compressor" means a compressor used to demonstrate compliance with the applicable noise emissions standard.

* * * * *

§ 204.53 [Removed]

18. Section 204.53 is removed.

§ 204.54 [Amended]

19. In § 204.54, paragraph (a) is revised to read as follows:

* * * * *

(a) *General.* This section prescribes the conditions under which noise emission standard compliance Selective Enforcement Auditing or Testing by the Administrator must be conducted and the measurement procedures that must be used to measure the sound level and to calculate the average sound level of portable air compressors on which the test is conducted.

* * * * *

20. In § 204.54, paragraph (i), the last sentence is revised to read as follows:

* * * * *

(i) * * * Tests conducted by manufacturers under approved alternate procedures may be accepted by the Administrator for all purposes.

21. Section 204.55 is retitled as follows:

§ 204.55 Requirements.

§ 204.55–1 [Amended]

22. In § 204.55–1, paragraphs (a) (1) and (2) are removed; paragraphs (a) (3) and (4) are redesignated paragraphs (a) (1) and (2); and new paragraph (a)(1) is revised to read as follows:

(a) * * *

(1) Shall be labeled in accordance with the requirements of Section 204.55–4.

* * * * *

23. Section 204.55–2 is retitled as follows:

§ 204.55–2 Requirements.

24. In § 204.55–2, paragraph (a)(1) is revised to read as follows:

(a)(1) Prior to distribution in commerce, compressors of a specific configuration must verify such configurations in accordance with this subpart.

* * * * *

25. In § 204.55–2, paragraph (a)(2) is removed and reserved.

26. In § 204.55–2, paragraph (b) is revised to read as follows:

* * * * *

(b) The requirements for purposes of Testing by the Administrator and Selective Enforcement Auditing consist of:

(1) Testing in accordance with § 204.54 of a compressor selected in accordance with § 204.57–2; and

(2) Compliance of the test compressor with the applicable standards when tested in accordance with § 204.54.

* * * * *

27. In § 204.55–2, paragraph (c)(1)(iii) is revised to read as follows:

* * * * *

(c) * * *

(1) * * *

(iii) Testing in accordance with § 204.54 selected in accordance with § 204.57–2 which must be a compressor of the configuration which is identified pursuant to paragraph (c)(1)(iii) of this section as having the highest sound level (estimated or actual) within the category.

* * * * *

28. In § 204.55–2, paragraph (c)(1)(iv), remove the word "and" at the end of the statement.

29. In § 204.55–2, paragraph (c)(1)(v) is removed.

30. In § 204.55–2, paragraph (c)(2) is revised to read as follows:

* * * * *

(c) * * *

(2) Where the requirements of paragraph (c)(1) of this section are complied with, all those configurations contained within a category are considered represented by the tested compressor.

31. In § 204.55–2, paragraph (c)(3) is revised to read as follows:

* * * * *

(c) * * *

(3) Where the manufacturer tests a compressor configuration which has not been determined as having the highest sound level of a category, but all other requirements of paragraph (c)(1) of this section are complied with, all those configurations contained within that category which are determined to have sound levels no greater than the tested compressor are considered to be represented by the tested compressor: however, a manufacturer must for purposes of Testing by the Administrator and Selective Enforcement Auditing verify according to the requirements of paragraph (b)(1) and/or (c)(1) of this section any configurations in the subject category which have a higher sound level than the compressor configuration tested.

* * * * *

32. In § 204.55–2, paragraph (d) is revised to read as follows:

* * * * *

(d) A manufacturer may elect for purposes of Testing by the Administrator and Selective Enforcement Auditing to use representative testing, pursuant to paragraph (c) of this section, all or part of his product line.

* * * * *

33. In § 204.55–2, paragraph (e)(1) and (2) are revised to read as follows:

* * * * *

(e)* * *

(1) In the case of representative testing, a new test compressor from another configuration must be selected according to the requirements of paragraph (c) of this section in order to verify the configurations represented by the non-compliant compressor.

(2) Modify the test compressor and demonstrate by testing that it meets applicable standards. The manufacturer must modify all production compressors of the same configuration in the same manner as the test compressor before distribution into commerce.

34. In § 204.55–2, paragraph (f) is removed.

§§ 204.55–4 through 204.55–7 [Removed]

35. Sections 204.55–4 through 204.55–7 are removed.

§ 204.55–8 [Redesignated as § 204.55–4]

36. Section 204.55–8 is redesignated § 204.55–4.

§§ 204.55–9 through 204.55–11 [Removed].

37. Sections 204.55–9 through 204.55–11 are removed.

38. Section 204.57–3 is revised to read as follows:

§ 204.57–3 Test compressor preparation.

(a) Prior to the official test, the test compressor selected in accordance with § 204.57–2 shall not be prepared, tested, modified, adjusted, or maintained in any manner unless such adjustments, preparations, modifications and/or tests are part of the manufacturer's prescribed manufacturing and inspection procedures and are documented in the manufacturer's internal compressor assembly and inspection procedures or unless such adjustments and/or tests are required or permitted under this subpart or are approved in advance by the Administrator. The manufacturer may perform adjustments, preparations, modifications and/or tests normally performed by a dealer to prepare the compressor for delivery to a customer or the adjustments, preparations, modifications and/or tests normally performed at the port-of-entry by the manufacturer to prepare the compressor for delivery to a dealer or customer.

(b) Equipment of fixtures necessary to conduct the test may be installed on the compressor: *Provided*, That such equipment of fixtures shall have no effect on the noise emissions of the compressor, as determined by the appropriate measurement methodology.

(c) In the event of compressor manfunction (i.e., failure to start, misfiring cylinder, etc.), the manufacturer may perform the maintenance necessary to enable the compressor to operate in a normal manner.

(d) No quality control, testing, assembly, or selection procedures shall be used on the completed test compressor or any portion thereof, including parts and subassemblies, that will not normally be used during the production and assembly of all other compressors of that category which will be distributed in commerce, unless such procedures are required or permitted under this subpart or are approved in advance by the Administrator.

39. In § 204.57–9, paragraph (a)(1) is revised to read as follows:

§ 204.57–9 Prohibition of distribution in commerce; manufacturer's remedy.

(a) * * *

(1) Submit a written report to the Administrator which identifies the reason for the noncompliance of the compressors, describes the problem, and describes the proposed quality control and/or quality assurance remedies to be taken by the manufacturer to correct the problem or follows the requirements for an engineering change. Such requirements include the following:

(i) Any change to a configuration with respect to any of the parameters stated in § 204.55–3 shall constitute the addition of a new and separate configuration or category to the manufacturer's product line.

(ii) When a manufacturer introduces a new category or configuration to his product line, he shall proceed in accordance with §204.55–2.

(iii) If the configuration to be added can be grouped within a verified category and the new configuration is estimated to have a lower sound level than a previously verified configuration with the same category, the configuration shall be considered verified.

* * * * *

§ 204.57–1 [Amended]

40–41. In § 204.57–1, paragraph (b) is removed and reserved.

§ 204.58–1 [Amended]

42. In § 204.58–1, paragraph (a) is revised to read as follows:

(a) The portable air compressor manufacturer shall include in the

owner's manual or in other information supplied to the ultimate purchaser, the following statement.

43. In § 204.58–1, paragraphs (b), (c), and (d) are removed:

§ 204.58–2 [Amended]

44. In § 204.58–2, paragraph (a) is revised; paragraphs (b), (c), and (g) are removed; paragraphs (d) and (e) are revised; and paragraphs (d), (e), and (f) are redesignated paragraphs (b), (c), and (d) respectively.

The amended § 204.58–2 reads as follows:

§ 204.58–2 Tampering.

(a) For each configuration of air compressors covered by this part, the manufacturer shall develop a list of those acts which, in his judgment, might be done to the air compressor in use and which would constitute the removal or rendering inoperative of noise control devices or elements of design of the compressor.

(b) The manufacturer shall include in the owner's manual the following information:

(1) The statement:

Tampering With Noise Control System Prohibited

Federal law prohibits the following acts or the causing thereof:

(1) The removal or rendering inoperative by any persons, other than for purposes of maintenance, repair, or replacement, of any devices or element of design incorporated into any new compressor for the purpose of noise control prior to its sale or delivery to the ultimate purchaser or while it is in use; or (2) the use of the compressor after such device or element of design has been removed or rendered inoperative by any person.

(2) The statement:

Among those acts included in the prohibition against tampering are the acts listed below.

Immediately following this statement, the manufacturer shall include the list developed under paragraph (a) of this section.

(c) Any act included in the list prepared pursuant to paragraph (a) of this section is presumed to constitute tampering; however, in any case in which a proscribed act has been committed and it can be shown that such act resulted in no increase in the sound level of the compressor or that the compressor still meets the noise emission standard of § 204.52, such set will not constitute tampering.

§ 204.58–3 [Amended]

45. In § 204.58–3, paragraphs (c), (d), and (e) are removed.

Medium and Heavy Trucks

PART 205—TRANSPORTATION EQUIPMENT NOISE EMISSION CONTROLS

1. The table of contents for Part 205, Subparts A and B, are revised to read as follows:

Subpart A—General Provisions

Sec.
205.1 General applicability.
205.2 Definitions.
205.3 Number and gender.
205.4 Inspection and Monitoring.
205.5 Exemptions.
205.5–1 Testing exemption.
205.5–2 National security exemptions.
205.5–3 Export exemptions.

Subpart B—Medium and Heavy Trucks

205.50 Applicability.
205.51 Definitions.
205.52 Vehicle noise emission standards.
205.54 Test procedures.
205.54–1 Low speed sound emission test procedures.
205.54–2 Sound data acquisition system.
205.55 Requirements.
205.55–1 General requirements.
205.55–2 Compliance with standards.
205.55–3 Configuration identification.
205.55–4 Labeling-compliance.
205.55–5 Labeling-exterior.
205.55–6 Labeling.
205.56 Testing by the administrator.
205.57 Selective enforcement auditing requirements.
205.57–1 Test request.
205.57–2 Test vehicle sample selection.
205.57–3 Test vehicle preparation.
205.57–4 Testing procedures.
205.57–5 Reporting of the test results.
205.57–6 Acceptance and rejection of batches.
205.57–7 Acceptance and rejection of batch sequence.
205.57–8 Continued testing.
205.57–9 Prohibition on distribution in commerce; manufacturer's remedy.
205.58 In-use requirements.
205.58–1 Warranty.
205.58–2 Tampering.
205.58–3 Instruction for maintenance, use and repair.
205.59 Recall of noncomplying vehicles.
Appendix I

Authority: Sec. b, 10, 11, 13, Pub. L. 92–574, 86 Stat 1234 (42 U.S.C. 4905, 4909, 4910, 4912).

§ 205.2 [Amended]

2. In § 205.2, paragraph (a)(6) is removed.

§ 205.4 [Amended]

3. In § 205.4, paragraph (a) is revised to read as follows:

(a) Any inspection or monitoring activities conducted under this section shall be for the purpose of determining (1) whether test products are being selected and prepared for testing in accordance with the provisions of these regulations, (2) whether test product testing is being conducted in accordance with these regulations, and (3) whether products being produced for distribution into commerce comply with these regulations.

* * * * *

4. In § 205.4, paragraph (b)(2) add the word "and" at the end of the statement.

5. In § 205.4, paragraph (b)(3) remove the word "and" and the end of the statement.

6. In § 205.4, paragraph (b)(4) is removed.

7. In § 205.4, paragraph (c)(1)(iii) is removed, and paragraph (c)(1)(iv) is redesignated as paragraph (c)(1)(iii). Paragraph (c)(1)(iv) is reserved.

8. In § 205.4, paragraph (d)(3) is revised to read as follows:

* * * * *

(d) * * *

(3) Where facilities or areas other than those covered by paragraph (d)(2) of this section are concerned, "operating hours" shall mean all times during which product manufacture or assembly is in operation or all times during which product testing and maintenance is taking place and/or production or compilation of records is taking place, or any other procedure or activity related to selective enforcement audit testing or product manufacture or assembly being carried out in a facility.

§ 205.5–1 [Removed]

9. Section 205.5–1 is removed.

§ 205.5–2 [Redesignated as § 205.5–1]

10. Section 205.5–2 is redesignated § 205.5–1 and revised to read as follows:

§ 205.5–1 Testing exemption.

(a) A new product intended to be used solely for research, investigations, studies, demonstrations or training, and so labeled or marked on the outside of the container and on the product itself, shall be exempt from the prohibitions of section 10(a) (1), (2), (3), and (5) of the Act.

(b) No request for a testing exemption is required.

(c) For purposes of section 11(d) of the Act, any testing exemption shall be void ab initio with respect to each new product, originally intended for research, investigations, studies, demonstrations, or training, but distributed in commerce for other uses.

§ 205.5–3 [Removed]

11. Section 205.5–3 is removed.

§ 205.5–4 [Redesignated as § 205.5–2]

12. Section 205.5–4 is redesignated § 205.5–2 and revised to read as follows:

§ 205.5–2 National security exemptions.

(a) A new product which is produced to conform with specifications developed by a national security agency, and so labeled or marked on the outside of the container and on the product itself, shall be exempt from the prohibitions of section 10(a) (1), (2), (3), and (5) of the Act.

(b) No request for a national security exemption is required.

(c) For purposes of section 11(d) of the Act, any national security exemption shall be void ab initio with respect to each new product, originally intended to be produced to conform with specifications developed by a national security agency, but distributed in commerce for other uses.

(d) Any manufacturer or person subject to the liabilities of section 11(a) with respect to any product originally intended for a national security agency, but distributed in commerce for use in any State, may be excluded from the application of section 11(a) with respect to such product based upon a showing that such manufacturer:

(1) Had no knowledge of such product being distributed in commerce for use in any state; and

(2) Made reasonable effort to ensure that such products would not be distributed in commerce for use in any State. Such reasonable efforts would include investigation, prior dealings, contract provisions, etc.

§ 205.5–5 [Redesignated as § 205.5–3]

13. Section 205.5–5 is redesignated § 205.5–3.

§ 205.5–6 [Removed]

14. Section 205.5–6 is removed.

§ 205.5–7 [Removed]

15. Section 205.5–7 is removed.

§ 205.51 [Amended]

16. In § 205.51, paragraph (a)(20) is removed and reserved.

17. In § 205.51, paragraph (a)(28) is revised to read as follows:

(a) * * *

(28) "Test vehicle" means a vehicle selected and used to demonstrate compliance with the applicable noise emission standards.

§ 205.53 [Removed]

18. Section 205.53 is removed.

19. Section 205.54 is revised to read as follows:

§ 205.54 Test procedures.

The procedures described in this and subsequent sections will be the test program to determine the conformity of vehicles with the standards set forth in § 205.52 for the purposes of Selective Enforcement Auditing and Testing by the Administrator.

§ 205.54–2 [Amended]

20. In § 205.54–2, paragraph (b), the last sentence is removed.

21. Section 205.55 is retitled as follows:

§ 205.55 Requirements.

§ 205.55–1 [Amended]

22. In § 205.55–1, paragraph (a)(1) and (2) are removed; paragraphs (a) (3) and (4) are redesignated paragraphs (a) (1) and (2); and new paragraph, (a) (1) is revised to read as follows:

(a) * * *

(1) Shall be labeled in accordance with the requirements of § 205.55–5 of this subpart.

23. In § 205.55–1, paragraph (c) is revised to read as follows:

* * * * *

(c) Subsequent manufacturers of a new product which conforms to the definition of vehicle in these regulations when received by them from a prior manufacturer, need not fulfill the requirements of paragraph (a)(1) where such requirements have already been complied with by a prior manufacturer.

24. Section 205.55–2, is retitled to read as follows:

§ 205.55–2 Compliance with standards.

* * * * * *

25. In § 205.55–2, paragraph (a)(1) is revised to read as follows:

(a) (1) Prior to distribution in commerce of vehicles of a specific configuration, the first manufactures of such vehicles must verify such configurations in accordance with the requirements of this subpart.

* * * * *

26. In § 205.55–2, paragraph (a)(2) is removed and reserved.

27. In § 205.55–2, paragraph (b) is revised to read as follows:

* * * * *

(b) The requirements for purposes of testing by the Administrator and selective enforcement auditing with regard to each vehicle configuration consist of:

(1) Testing in accordance with § 205.54 of a vehicle selected in accordance with § 205.57–2, and

(2) Compliance of the test vehicle with the applicable standard when tested in accordance with § 205.54.

28. In § 205.55–2, paragraph (c)(1)(iii) is revised to read as follows:

* * * * *

(c) * * *

(1) * * *

(iii) Testing in accordance with § 205.54 of a vehicle selected in accordance with § 205.57–2 which must be a vehicle of the configuration which is identified pursuant to paragraph (c)(ii) of this paragraph as having the highest sound pressure level (estimated or actual) within the category.

* * * * *

29. In § 205.55–2, paragraph (c)(1)(iii) add "and" at the end of the statement.

30. In § 205.55–2, paragraph (c)(1)(iv) remove "and" at the end of the statement.

31. In § 205.55–2, paragraph (c)(1)(v) is removed.

32. In § 205.55–2, paragraph (c)(2) is revised to read as follows:

* * * * *

(c) * * *

(2) Where the requirements of paragraph (c)(1) are complied with, all those configurations contained within a category are considered represented by the tested vehicle.

* * * * *

33. In § 205.55–2, paragraph (c)(3) is revised to read as follows:

* * * * *

(c) * * *

(3) Where the manufacturer tests a vehicle configuration which has not been determined as having the highest sound pressure level of a category, but all other requirements of paragraph (c)(1) of this section are complied with all those configurations contained with that category which are determined to have sound pressure levels no greater than the tested vehicle are considered to be represented by the tested vehicle, however, a manufacturer must for purposes of Testing by the Administrator and Selective Enforcement Auditing verify according to the requirements of (b)(1) and/or (c)(1) of this section any configurations in the subject category which have a higher sound pressure level than the vehicle configuration tested.

* * * * *

34. In § 205.55–2, paragraph (d) is removed.

35. In § 205.55–2, paragraphs (e)(1) and (e)(2) are revised to read as follows:

* * * * *

(e) * * *

(1) In the case of representative testing a new test vehicle from another configuration must be selected according to the requirements of paragraph (c) of this section, in order to verify the configurations represented by the non-compliant vehicle.

(2) Modify the test vehicle and demonstrate by testing that it meets applicable standards. The manufacturer must modify all production vehicles of the same configuration in the same

manner as the test vehicle before distribution into commerce.

36. In § 205.55–2, paragraph (f) is removed.

§§ 205.55–4 through 205.55–10 [Removed]

37. Sections 205.55–4 through 205.55–10 are removed.

§ 205.55–11 [Redesignated as § 205.55–4]

38. Section 205.55–11 is redesignated § 205–55–4.

§ 205.55–12 [Redesignated as § 205.55–5]

39. Section 205.55–12 is redesignated § 205.55–5.

§ 205.56 [Amended]

40. In §205.56 remove and reserve subparagraph (c)(1)(i) and remove (c)(1)(v).

§ 205.56 [Amended]

41. In § 205.56 remove the word "; and" at the end of paragraph (c)(1)(iv).

42. In § 205.57–2, paragraph (a) is revised to read as follows:

§ 205.57–2 Test vehicle sample selection

(a) Vehicles comprising the batch sample which are required to be tested pursuant to a test request in accordance with this subpart will be selected in the manner specified in the test request from a batch of vehicles of the category or configuration specified in the test request. If the test request specifies that the vehicles comprising the batch sample must be selected randomly, the random selection will be achieved by sequentially numbering all of the vehicles in the batch and then using a table of random numbers to select the number of vehicles as specified in (c) of this section based on the batch size designated by the Administrator in the test request. An alternative random selection plan may be used by a manufacturer: *Provided,* That such a plan is approved by the Administrator. If the test request does not specify that test vehicles must be randomly selected, the manufacturer shall select test vehicles consecutively.

(1) Should a situation arise in which the configuration to be tested consists of only vehicles with automatic transmissions, they shall be tested in accordance with § 205.54–1(c)(2).

(2) If the configuration to be tested consists of both automatic transmission and standard transmission vehicles, the test vehicle shall be a standard transmission vehicle unless the manufacturer has reason to believe that the automatic transmission vehicle emits a greater sound level.

* * * * *

43. Section 205.57–3 is revised to read as follows:

§ 205.57–3 Test vehicle preparation.

(a) Prior to the official test, the test vehicle selected in accordance with § 205–57–2 shall not be prepared, tested, modified, adjusted, or maintained in any manner unless such adjustments, preparation, modification and/or tests are part of the manufacturer's prescribed manufacturing and inspection procedures, and are documented in the manufacturer's internal vehicle assembly and inspection procedures or unless such adjustments and/or tests are required or permitted under this subpart or are approved in advance by the Administrator. The manufacturer may perform adjustments, preparations, modification and/or tests normally performed at the port of entry by the manufacturer to prepare the vehicle for delivery to a dealer or customer.

(b) Equipment or fixtures necessary to conduct the test may be installed on the vehicle: *Provided,* That such equipment or fixtures shall have no effect on the noise emissions of the vehicle, as determined by measurement methodology.

(c) In the event of vehicle malfunction (i.e., failure to start, misfiring cylinder, etc.) the manufacturer may perform the maintenance that is necessary to enable the vehicle to operate in a normal manner.

(d) No quality control, testing, assembly or selection procedures shall be used on the completed vehicle or any portion thereof, including parts and subassemblies, that will not normally be used during the production and assembly of all other vehicles of the category which will be distributed in commerce, unless such procedures are required or permitted under this subpart.

§ 205.57–9 [Amended]

44. In § 205.57–9, paragraph (a)(1) is revised to read as follows:

(a) * * *

(1) Submit a written report to the Administrator which identifies the reason for the noncompliance of the vehicles, describes the problem and describes the proposed quality control and/or quality assurance remedies to be taken by the manufacturer to correct the problem or follows the requirements for an engineering change. Such requirements include the following:

(i) Any change to a configuration with respect to any of the parameters stated in § 205.55–3 shall constitute the addition of a new and separate configuration or category to the manufacturer's product line.

(ii) When a manufacturer introduces a new category or configuration to his product line, he shall proceed in accordance with § 205.55–2.

(iii) If the configuration to be added can be grouped within a verified category and the new configuration is estimated to have a lower sound pressure level than a previously verified configuration within the same category, the configuration shall be considered verified.

* * * * *

§ 205.58–1 [Amended]

45. In § 205.58–1, paragraph (a) is revised to read as follows:

(a) The vehicle manufacturer shall include the owner's manual or in other information supplied to the ulitmate purchaser the following statement:

Noise Emissions Warranty

The manufacturer warrants to the first person who purchases this vehicle for purposes other than resale and to each subsequent purchaser that the vehicle was designed, built and equipped to conform at the time of sale to such first purchaser with all applicable U.S. EPA noise control regulations.

This warranty is not limited to any particular part, component or system of the vehicle. Defects in the design, assembly, or in any part, component, or system of the vehicle which, at the time of sale to such first purchaser, caused noise emission levels to exceed Federal standards are covered by this warranty for the life of the vehicle.

* * * * *

46. In § 205.58–1, paragraphs (b), (c), and (d) are removed.

47. In § 205.58–2, paragraph (a) is revised; paragraphs (b), (c), and (g) are removed; paragraphs (d) and (e) are revised and redesignated as paragraphs (b) and (c), respectively; paragraph (f) is redesignated as paragraph (d). The amended portions read as follows:

§ 205.58–2 Tampering.

(a) For each configuration of vehicles covered by this part, the manufacturer shall develop a list of those acts which, in his judgment, might be done to the vehicle in use and which would constitute the removal or rendering inoperative of noise control devices or elements of design of the vehicle.

(b) The manufacturer shall include in the owner's manual the following information:

(1) The statement:

Tampering With Noise Control System Prohibited

Federal law prohibits the following acts or the causing thereof:

(1) The removal or rendering inoperative by any person, other than for purposes of maintenance, repair, or replacement, of any device or element of design incorporated into any new vehicle for the purpose of noise

control prior to its sale or delivery to the ultimate purchaser or while it is in use; or (2) the use of the vehicle after such device or element of design has been removed or rendered inoperative by any person.

(2) The statement:

Among those acts presumed to constitute tampering are the acts listed below.

Immediately following this statement, the manufacturer shall include the list developed under paragraph (a) of this section.

(c) Any act included in the list prepared pursuant to paragraph (a) of this section is presumed to constitute tampering; however, in any case in which a prescribed act has been committed and it can be shown that such act resulted in no increase in the noise level of the vehicle or that the vehicle still meets the noise emission standard of § 205.52, such act will not constitute tampering.

(d) * * *

§ 205.58–3 [Amended]

48. In § 205.58–3, paragraphs (c), (d), and (e) are removed.

Product Noise Labeling

PART 211—PRODUCT NOISE LABELING

1. The table of contents for Part 211, subpart A is revised to read as follows:

Subpart A—General Provisions

Sec.
211.101 Applicability.
211.102 Definitions.
211.103 Number and gender.
211.104 Label content.
211.105 Label format.
211.106 Graphical requirements.
211.107 Label type and location.
211.108 Sample label.
211.109 Inspection and monitoring.
211.110 Exemptions.
211.110–1 Testing exemption.
211.110–2 National security exemptions.
211.110–3 Export exemptions.
211.111 Testing by the Administrator.

Authority: Sec. 8, Noise Control Act of 1972, (42 U.S.C. 4907), and other authority as specified.

§ 212.109 [Amended]

2. In § 211.09, paragraph (a)(1), is removed and paragraphs (2), (3) and (4) are redesignated paragraphs (a)(1), (2), and (3).

3. In § 211.109, paragraph (b)(4) is removed.

4. In § 211.109, paragraph (d) is revised to read as follows:

* * * * *

(d) * * *

(3) Where other facilities or areas are concerned, "operating hours" means all times during which products are being manufactured or assembled; or all times during which products are being tested or maintained; or records are being compiled; or when any other procedure or activity related to labeling, selective enforcement auditing, or product manufacture or assembly being carried out.

5. Section 211.110–1 is revised to read as follows:

§ 211.110–1 Testing exemption.

(a) A new product intended to be used solely for research, investigations, studies, demonstrations or training, and so labeled or marked on the outside of the container and on the produce itself, shall be exempt from the prohibitions of sections 10(a), (1), (2), (3), and (5) of the Act.

(b) No request for a testing exemption is required.

(c) For purposes of section 11(d) of the Act, any testing exemption shall be void ab initio with respect to each new product, originally intended for research, investigations, studies, demonstrations, or training, but distributed in commerce for other uses.

6. Section 211.110–2 is revised to read as follows:

§ 211.110–2 National security exemptions.

(a) A new product which is produced to conform with specifications developed by national security agency, and so labeled or marked on the outside of the container and on the product itself, shall be exempt from the prohibitions of sections 10(a), (1), (2), (3), and (5) of the Act.

(b) No request for a national security exemption is required.

(c) For purposes of section 11(d) of the Act, any national security exemption shall be void ab initio with respect to each new product, originally intended for a national security agency, but distributed in commerce for other uses.

§ 211.110–3 [Amended]

7. In § 211.110–3, paragraph (d) is removed.

§ 211.110–4 [Removed]

8. Section 211.110–4 is removed.

§ 211.110–5 [Removed]

9. Section 211.110–5 is removed.

§ 211.111 [Amended]

10. In § 211.111, paragraph (c)(1)(i), is removed and reserved.

Hearing Protective Devices

PART 211—PRODUCT NOISE LABELING

11. 40 CFR Part 211 is amended by revising the table of contents for Subpart B to read as follows:

Subpart B—Hearing Protective Devices

Sec.
211.201 Applicability.
211.202 Effective date.
211.203 Definitions.
211.204 Hearing protector labeling requirements.
211.204–1 Information content of primary label.
211.204–2 Primary label size, print and color.
211.204–3 Label location and type.
211.204–4 Supporting information.
211.205 Special claims.
211.206 Methods for measurement of sound attenuation.
211.206–1 Real ear method.
211.206–2 through 211.206–10 Alternative test methods [Reserved]
211.207 Computation of the noise reduction rating (NRR).
211.208 Export provisions.
211.210 Requirements.
211.210–1 General requirements.
211.210–2 Labeling requirements.
211.211 Compliance with labeling requirement.
211.212 Compliance audit testing.
211.212–1 Test request.
211.212–2 Test hearing protector selection.
211.212–3 Test hearing protector preparation.
211.212–4 Testing procedures.
211.212–5 Determination of compliance.
211.212–6 Continued compliance testing.
211.212–7 Relabeling requirements.
211.213 Remedial orders for violations of these regulations.
211.214 Removal of label.
APPENDIX A—Compliance Audit Testing Report.

Authority: Sec. 8, Pub. L. 92–574, 86 Stat. 1241 (42 U.S.C. 4907), and additional authority as specified.

12. § 211.205, the heading is revised and paragraphs (b) and (c) are removed.

§ 211.205 Special claims.

* * * * *

§ 211.209 [Removed]

13. Section 211.209 is removed.

14. Section 211.210 is retitled to read as follows:

§ 211.210 Requirements.

§ 211.210–1 [Amended]

15. In § 211.210–1, paragraph (a) (1) and (2) are removed; and paragraphs (a) (3) and (4) are redesignated paragraphs (a) (1) and (2).

16. Section 211.210–2 is retitled to read as follows:

§ 211.210–2 Labeling requirements.

* * * * *

17. In § 211.210–2, paragraph (a)(1) is revised to read as follows:

(a)(1) A manufacturer responsible for labeling must satisfy the requirements of this subpart for a category of hearing protectors before distributing that category of hearing protectors in commerce.

* * * * *

18. In § 211.210–2, paragraph (a)(2) is revised to read as follows:

(a)* * *

(2) A manufacturer may apply to the Administrator for an extension of time to comply with the labeling requirements for a category of protectors before he distributes any protectors in commerce. The Administrator may grant the manufacturer an extension of up to 20 days from the date of distribution. The manufacturer must provide reasonable assurance that the protectors equal or exceed their mean attenuation values, and that labeling requirements will be satisfied before the extension expires. Requests for extension should go to the Administrator, U.S. Environment Protection Agency, Washington, D.C. 20460. The Administrator must respond to a request within 2 business days. Responses may be either written or oral.

* * * * *

19. In § 211.210–2, paragraph (a)(3) is revised to read as follows:

(a) * * *

(3) A manufacturer, receiving hearing protectors through the chain of distribution that were labeled by a previous manufacturer, may use that previous manufacturer's data when labeling the protectors for ultimate sale or use, but is responsible for the accuracy of the information on the label. The manufacturer may elect to retest the protectors.

* * * * *

20. In § 211.210–2, paragraph (b) is revised to read as follows:

* * * * *

(b) Labeling requirements regarding each hearing protector category in a manufacturer's product line consist of:

(1) Testing hearing protectors according to § 211.206 and the hearing protectors must have been assembled by the manufacturer's normal production process; and it must have been intended for distribution in commerce.

* * * * *

21. In § 211.210–2, paragraph (d) is removed.

§ § 211.210–3 through 211.210–7 [Removed]

22. Sections 211.210–3 through 211.210–7 are removed.

23. Section 211.211 is revised to read as follows:

Section 211.211 Compliance with labeling requirement.

(a) All hearing protective devices manufactured after the effective date of this regulation, and meeting the applicability requirements of § 211.201, must be labeled according to this subpart, and must comply with the Labeled Values of mean attenuation.

(b) A manufacturer must take into account both product variability and test-to-test variability when labeling his devices in order to meet the requirements of paragraph (a) of this section. A specific category is considered when the attenuation value at the tested one-third octave band is equal to or greater than the Labeled Value, or mean attenuation value, stated in the supporting information required by § 211.204–4, for that tested frequency. The attenuation value must be determined according to the test procedures of § 211.206. The Noise Reduction Rating for the label must be calculated using the Labeled Values of mean attenuation that will be included in the supporting information required by §211.204–4.

§ 211.212–1 [Amended]

24. In § 211.212–1, paragraph (c) (4), the words enclosed by the parenthesis are removed.

25. Section 211.212–3 is revised to read as follows:

§ 211.212–3 Test hearing protector preparation.

The manufacturer must select the test hearing protector according to § 211.212–2 before the official test, and must comply with the test protector preparation requirements described in this subpart:

(a) A test hearing protector selected according to § 211.212–2 must not be tested, modified, or adjusted in any manner before the official test unless the adjustments, modifications and/or tests are part of the manufacturer's prescribed manufacturing and inspection procedures.

(b) Quality controls, testing, assembly or selection procedures must not be, used on the completed protector or any portion of the protector, including parts, that will not normally be used during the production and assembly of all other protectors of that category to be distributed in commerce.

26. In § 211.212–6, paragraph (a) is revised to read as follows:

§ 211.212–6 Determination of compliance.

(a) A category will be in compliance with these requirements if the results of the test conducted under the test request show that:

(1) The mean attenuation value, at each one-third octave band center frequency as determined from the Compliance Audit Test values plus 3 dB(A), is equal to or greater than the mean attenuation value at the same one-third octave band as stated in the Supporting Information required by § 211.204–4; and

(2) The Noise Reduction Rating, when calculated from the mean attenuation values determined by Compliance Audit Testing, equals or exceeds the Noise Reduction Rating as stated on the label required by § 211.204.

* * * * *

Appendix A [Removed]

27. Appendix A is removed.

Appendix B [Redesignated as Appendix A]

28. Appendix B is redesignated Appendix A.

Compactors

PART 205—TRANSPORTATION EQUIPMENT NOISE EMISSION CONTROLS

1. The table of contents for Part 205, Subpart F is revised to read as follows:

Subpart F—Truck-Mounted Solid Waste Compactors.

Sec.
205.200 Applicability.
205.201 Definitions.
205.202 Noise emission standards.
205.204 Test procedures.
205.205 Requirements.
205.205–1 General requirements.
205.205–2 Compliance with standards.
205.205–3 Configuration identification.
205.205–4 Labeling.
205.206 Testing by the Administrator.
205.207 Selective enforcement auditing requirements.
205.207–1 Test request.
205.207–2 Test sample selection.
205.207–4 Testing procedures.
205.207–5 Reporting of the test results.
205.207–6 Passing or failing under SEA.
205.207–7 Continued testing.
205.207–8 Prohibition of distribution in commerce; manufacturer's remedy.
205.208 In-use requirements.
205.208–1 [Reserved].
205.208–2 Tampering.
205.208–3 Instructions for maintenance, use and repair.
205.208–4 Noise Level Degradation Factor (NLDF) and retention of durability data.
205.209 Recall of non-complying compactors.
Appendix I—Sample Tables.

Authority: Sec. 6, Noise Control Act (42 U.S.C. 4905) (except where otherwise specified).

§ 205.201 [Amended]

2. In § 205.201, paragraph (a) (13), is removed and reserved.

3. In § 205.201, paragraph (a)(5), is revised to read as follows:

(15) "Test compactor" means a compactor in a test sample.

4. In § 205.202, paragraph (b), the second sentence is revised to read as follows:

§ 205.202 Noise emission standards.

* * * * *

(b) * * * At the time of selective enforcement auditing (SEA) testing prescribed in § 205.207, new truck-mounting solid waste compactors must comply with the standards set forth in paragraph (a) of this section minus the noise level degradation factor (NLDF) developed in accordance with § 205.208–4.

* * * * *

§ 205.203 [Removed]

5. Section 205.203 is removed.

§ 205.204 [Amended]

6. Section 205.204, paragraph (a) is revised to read as follows:

* * * * *

(a) *General.* This section prescribes the conditions under which noise emission standard compliance testing for selective enforcement auditing or testing by the Administrator must be conducted and the measurement procedures that must be used to determine the maximum noise level of truck-mounted solid waste compactors.

* * * * *

7. In § 205.204, paragraph (g), the last sentence is revised to read as follows:

* * * * *

(g) * * * Tests conducted by manufacturers under approved alternate procedures may be accepted by the Administrator for all purposes, including, but not limited to, selective enforcement audit testing and testing by the Administrator.

8. Section 205.205 is retitled to read as follows:

§ 205.205 Requirements.

* * * * *

§ 205.205–1 [Amended]

9. In § 205.205–1, paragraphs (a)(1) and (2) are removed; paragraph (a)(3) and (4) are redesignated paragraphs (a)(1) and (2); and paragraph (1) is revised to read as follows:

(a) * * *

(1) Shall label each compactor in accordance with the requirements of § 205.205–4 of this subpart; and

* * * * *

10. In § 205.205–1, paragaraph (c) is revised to read as follows:

* * * * *

(c) A subsequent manfacturer of a truck-mounted solid waste compactor need not fulfill the requirements of paragraph (a)(1) of this section if the compactor, when received by the manfacturer, fits the definition of a new truck-mounted solid waste compactor in the regulation, and the prior manufacturer had already complied with these requirements.

. In § 205.205–1, paragraph (d) is removed.

12. In § 205.205–2 is retitled to read as follows;

§ 205.205–2 Compliance with standards.

* * * * *

13. In § 205.205–2, paragraph (a), (2) and (3) are removed.

14. In § 205.205–2, paragraph (b) is revised to read as follows:

* * * * *

(b) The requirements for purposes of Testing by the Administrator and Selective Enforcement Auditing with regard to each compactor configuration shall consist of:

(1) Testing in accordance with § 205.204 of a compactor selected in accordance with § 205.204–2; and

(2) Compliance of the test compactor with a noise level such that the arithemtic sum of the Noise Level Degradation Factor (NLDF, determined in accordance with § 205.208–4 of this Subpart) and that noise level does not exceed the applicable standards, when tested in accordance with § 205.204.

* * * * *

15. In § 205.205–2; paragraph (c), paragraph (1) (iii) is revised to read as follows:

* * * * *

(C)(1)* * *

(iii) Testing in accordance with § 205.204 of a compactor, selected in accordance with § 205.207–2 of the configuration identified pursuant to paragraph (c)(1)(ii) of this section as having the highest noise level (estimate or actual) within category:

* * * * *

16. In § 205.205–2, paragraph (c)(1)(v) is removed.

17. In § 205.205–2, paragraph (c)(2) is revised to read as follows:

* * * * *

(c) * * *

(2) If there has been compliance with the requirements of paragraph (c)(1) of this section, all those configurations within a category are considered to be represented by the tested compactor, and therefore considered to be verified.

* * * * *

18. In § 205.205–2, paragraph (c)(3) is revised to read as follows:

* * * * *

(c) * * *

(3) If there has been compliance with all other requirements of paragraph (c)(1) of this section, except that the manufacturer tests a configuration which does not have the highest noise level in a category (as identified in (c)(1)(ii)), all those configurations in the category which have noise levels no greater than that of the tested compactor are considered to be verified. However, a manufacturer must for purposes of Testing by the Administrator and Selective Enforcement Auditing verify according to the requirements of (b)(1) or (c)(1) of this section any configurations in the category which have a higher noise level than that of the compactor configuration tested.

* * * * *

19. In § 205.205–2, paragraph (d) is revised to read as follows:

* * * * *

(d) A manufacturer may elect to verify all or part of his product line using representative testing pursuant to paragraph (c) of this section.

* * * * *

20. In § 205.205–2, paragraph (e)(1) and (2) are revised to read as follows:

* * * * *

(e) * * *

(1) In the case of representative testing, a new test compactor from another configuration must be selected and verified according to the requirements of paragraph (c) of this section, in order to verify the category represented by the compactor that does not comply; or

(2) Modification of the test compactor and demonstration by testing that it meets applicable standards. The manufacturer shall modify all production compactors of the same configuration in the same manner as the test compactor before distribution into commerce.

* * * * *

21. In Section 205.205–2, paragraph (f) is removed.

§ 205.205–4 through 205.205–10 [Removed]

22. Sections 205.205–4 through § 205.205.10 are removed.

§ 205.205–11 [Redesignated as § 205.205.4].

23. Section 205.205–11 is redesignated as § 205.205–4 and paragraph (a)(3) is revised to read as follows:

§ 205.205–4 Labeling—compliance.

(a) * * *

(3) The compactor manufacturer shall affix the label in such a manner that it cannot be removed without destroying or defacing the label. He shall not affix the label to any piece of equipment that is easily detached from the compactor.

* * * * *

§ 205.206 [Amended]

24. In § 205.206 paragraph (c)(1)(i) is removed and [reserved and paragraph (c)(ii) is revised to read as follows:

* * * * *

(c)(1) * * *

(ii) Testing of a reasonable number of compactors for purposes of selective enforcement auditing under § 205.207.

* * * * *

25. In § 205.206 paragraph (c)(1)(v) is revised to read as follows:

* * * * *

(c)(1) * * *

(v) Testing of up to 50 percent of the manufacturer's production test products to be tested during a year, if the Administrator determines it is necessary to test these vehicles to assure that a manufacturer has acted or is acting in compliance with the Act.

26. In § 205.207–2, paragraph (c) is revised to read as follows:

§ 205.207–2 Test sample selection.

* * * * *

(c) The compactors of the category configuration or subgroup selected for testing shall have been assembled by the manufacturer for distribution in commerce using the manufacturer's normal production process.

* * * * *

27. In § 205.207–3 is revised to read as follows:

§ 205.207–3 Test sample preparation.

(a) Before the official test, the test compactor selected must not be prepared, tested, modified, adjusted, or maintained in any manner unless such adjustments, preparation, modification or tests are part of the manufacturer's prescribed manufacturing and inspection procedures, and are documented in the manufacturer's internal compactor assembly and inspection procedures, or unless such adjustments or tests are required or permitted under this subpart or are approved in advance by the Administrator. For purposes of this section prescribed manufacturing and inspection procedures include quality control testing and assembly procedures normally performed by the manufacturer on like products during production, if the resulting testing is not biased by this procedure. In the case of imported products, the manufacturer may perform adjustments, preparation, modifications or tests normally performed at the port of entry by the manufacturer, to prepare the compactor for delivery to a dealer or customer.

(b) Equipment or fixtures necessary to conduct the test may be installed on the compactor, if such equipment or fixtures have no effect on the noise emissions of the compactor, as determined by the measurement methodology.

(c) In the event of a compactor malfunction (e.g., failure to start) the manufacturer may perform the maintenance that is necessary to enable the compactor to operate in a normal manner.

(d) No quality control, quality assurance testing, assembly or selection procedures may be used on the test compactor or any portion thereof, including parts and subassemblies, that will not normally be used during the production and assembly of all other compactors of the category which will be distributed in commerce, unless such procedures are required or permitted under this subpart, or are approved in advance by the Administrator.

28. In § 205.207–5, the address in paragraph (b) is revised to read as follows:

§ 205.207–5 Reporting of the test results.

* * * * *

(b)* * *

Administrator, U.S. Environmental Protection Agency, Washington, D.C. 20460.

29. In § 205.207–8, paragraph (a)(1) is revised to read as follows:

§ 205.207–8 Prohibition of distribution in commerce, manufacturer's remedy.

(a)* * *

(1) Submits a written report to the Administrator which identifies the reason for the non-compliance of the compactors, described the problem and describes the proposed quality control or quality assurance remedies to be taken by the manufacturer to correct the problem.

* * * * *

30. In § 205.208–2, paragraph (1) is revised; paragraphs (b) and (c) are removed; paragraphs (d) and (e) are revised and redesignated paragraphs (b) and (c); paragraph (h) is removed; and paragraphs (f) and (g) are redesignated (d) and (e), respectively. The revised portions of §205.208–2 read as follows:

§ 205.208–2 Tampering.

(a) For each configuration of compactor covered by this part, the manufacturer shall develop a list of those acts which, in his judgment, might be done to the compactor in use and which would constitute the removal or rendering inoperative of noise control devices or elements of design of the compactor.

(b) The manufacturer shall include in the owner's manual the following information:

(1) The statement:

Tampering With Noise Control System Prohibited

Federal law prohibits the following acts or the causing thereof:

(1) The removal or rendering inoperative by any person, other than for purposes of maintenance, repair, or replacement, of any device or element of design incorporated into any new compactor for the purpose of noise control prior to its sale or delivery to the ultimate purchaser or while it is in use; or (2) the use of the compactor after such device or element or design has been removed or rendered inoperative by any person.

(2) The statement: Among those acts presumed to constitute tampering are the acts listed below.

Immediately following this statement, the manufacturer shall include the list developed under paragraph (a) of this section.

(c) Any act included in the list prepared pursuant to paragraph (a) of this section is presumed to constitute tampering; however, in any case in which a prescribed act has been committed and it can be shown that such act resulted in no increase in the noise level of the vehicle or that the vehicle still meets the noise emission standard of § 205.202, such act will not constitute tampering.

(d) Manufacturers who only assemble compactors need not fulfill the requirements of paragraphs (a) and (b) of this section. Such manufacturers shall provide ultimate purchasers of their compactors with the tampering list developed by the compactor body manufacturer under paragraph (a) of this section for that particular compactor body and truck chassis combination.

31. In § 205.208–3, paragraphs (c), (d), and (f) are removed; paragraph (e) is redesignated (c) and is revised to read as follows:

§ 205.208–3 Instructions for maintenance, use and repair.

* * * * *

(c) Manufacturers who only assemble compactors are not required to fulfill the requirements of paragraphs (a) and (b) of this section. Such manufacturers shall

provide the maintenance instructions and log book developed by the compactor body manufacturer for that particular compactor body and chassis combination.

Motorcycles

PART 205—TRANSPORTATION EQUIPMENT NOISE

1. The table of contents for Part 205, Subpart D and E is revised to read as follows:

Subpart D—Motorcycles

Sec.
205.150 Applicability.
205.151 Definitions.
205.152 Noise emission standards.
205.153 Engine displacement.
205.154 Consideration of alternative test procedures.
205.155 Motorcycle class and manufacturer abbreviation.
205.156 [Reserved]
205.157 Requirements.
205.157–1 General requirements.
205.157–2 Compliance with standards.
205.157–3 Configuration identification.
205.158 Labeling requirements.
205.159 Testing by the Administrator.
205.160 Selective enforcement auditing (SEA) requirements.
205.160–1 Test request.
205.160–2 Test sample selection and preparation.
205.160–4 Testing procedures.
205.160–5 Reporting of the test results.
205.160–6 Passing or failing under SEA.
205.160–7 Continued testing.
205.160–8 Prohibition of distribution in commerce; manufacturer's remedy.
205.162–1 Warranty.
205.162–2 Tampering.
205.162–3 Instructions for maintenance, use, and repair.
205.163 Recall of noncomplying motorcycles; relabeling of mislabled motorcycles.

Subpart E—Motorcycle Exhaust Systems

205.164 Applicability.
205.165 Definitions.
205.166 Noise emission standards.
205.167 Consideration of alternative test procedures.
205.168 Requirements.
205.168–1 General requirements.
205.168–2 [Removed]
205.169 Labeling requirements.
205.170 Testing by the Administrator.
205.171 Selective enforcement auditing (SEA) requirements.
205.171–1 Test request.
205.171–2 Test exhaust system sample selection and preparation.
205.171–3 Test motorcycle sample selection.
205.171–6 Test procedures.
205.171–7 Reporting of the test results.
205.171–8 Passing or failing under SEA.
205.171–9 Continued testing.
205.171–10 Prohibition on distribution in commerce; manufacturer's remedy.
205.173 In-use requirements.
205.173–1 Warranty.
205.173–2 Tampering.
205.173–3 Warning statement.
205.173–4 Information sheet.
205.174 Remedial orders.
Appendix I: Motorcycle Noise Emission Test Procedure
Appendix II: Sampling Tables

Authority: Sec. 6, Noise Control Act (42 U.S.C. 4905) and additional authority as specified.

2. In § 205.151, paragraph (a)(24) is removed and reserved and paragraph (a)(27) is revised to read as follows:

§ 205.151 Definitions.

(a) * * *

(27) "Test vehicle" means a vehicle in a Selective Enforcement Audit test sample.

* * * * *

3. In § 205.154, the last sentence is revised to read as follows:

§ 205.154 Consideration of alternative test procedures.

* * * * *

* * * "After approval by the Administrator, testing conducted by manufacturers using alternative test procedures will be accepted by the Administrator for all purposes including, but not limited to, selective enforcement audit testing.

4. Section 205.157 is retitled as follows:

§ 205.157 Requirements.

§ 205.157–1 [Amended]

5. In 205.157–1, paragraphs (a) (1) and (2) are removed; paragraphs (a)(3) and (4) are redesignated paragraphs (a)(1) and (2); and paragraph (a)(1) is revised to read as follows:

* * * * *

(1) Shall be labeled in accordance with the requirements of section 205.158 of this subpart.

* * * * *

6. In § 205.157–1, paragraph (c) is revised to read as follows:

* * * * *

(c) Subsequent manufacturers of a new product which conforms to the definition of vehicle in these regulations when received by them from a prior manufacturer, need not fulfill the requirements of paragraph (a)(1) of this section where such requirements have already been complied with by a prior manufacturer.

* * * * *

7. Section 205.157–2 is retitled to read as follows:

§ 205.157–2 Compliance with standards.

8. In § 205.157–2, paragraph (a)(1) is revised to read as follows:

* * * * *

(a)(1) Prior to distribution in commerce of vehicles of a specific configuration, the first manufacturer of such vehicle must verify such configurations in accordance with the requirements of this subpart.

* * * * *

9. In § 205.157–2, paragraph (a)(2) is removed and reserved.

10. In § 205.157–2, paragraph (b) is revised to read as follows:

* * * * *

(b) The requirements for purposes of testing by the Administrator and selective enforcement auditing with regard to each vehicle configuration consist of:

(1) Testing in accordance with § 205.160–4 of a vehicle selected in accordance with § 205.160–2.

(2) Compliance of the test vehicle with the applicable standard when tested in accordance with § 205.160–4.

* * * * *

11. In § 205.157–2, paragraph (c) (1)(iii) is revised to read as follows:

* * * * *

(c)(1) * * *

(iii) Testing in accordance with § 205.160–4 of a vehicle selected in accordance with § 205.160–2 which much be a vehicle of the configuration which is identified pursuant to paragraph (c)(1)(ii) of this section as having the highest sound pressure level (estimated or actual) within the category.

* * * * *

12. In § 205.157–2, paragraph (c) (1)(v) is removed.

13. In § 205.157–2, paragraph (c) (2) is revised to read as follows:

* * * * *

(c) * * *

(2) Where the requirements of paragraph (c)(1) of this section are complied with, all those configurations contained within a category are considered represented by the tested vehicle.

* * * * *

14. § 205.157–2, paragraph (c) (3) is revised to read as follows:

* * * * *

(c) * * *

(3) Where the manufacturer tests a vehicle configuration which has not been determined as having the highest sound pressure level of a category, but all other requirements of paragraph (c)(1) of this section are complied with, all those configurations contained within that category which are determined to have sound pressure levels not greater than the tested vehicle are considered to be represented by the

tested vehicle; however, a manufacturer must for purposes of Testing by the Administrator and Selective Enforcement Auditing verify according to the requirements of (b)(1) and/or (c)(1) of this section any configurations in the subject category which have a higher sound pressure level than the vehicle configuration tested.

* * * * *

15. In § 205.157–2, paragraph (d) is revised to read as follows:

* * * * *

(d) A manufacturer may elect for purposes of Testing by the Administrator and Selective Enforcement Auditing to use representative testing pursuant to paragraph (c) of this section for all or part of his product line.

* * * * *

16. In § 205.157–2, paragraphs (e) (1) and (2) are revised to read as follows:

* * * * *

(e) * * *

(1) In the case of representative testing, a new test vehicle from another configuration must be selected according to the requirements of paragraph (c) of this section, in order to verify the configurations represented by the non-compliant vehicle.

(2) Modify the test vehicle and demonstrate by testing that it meets applicable standards. The manufacturer must modify all production vehicles of the same configuration in the same manner as the test vehicle before distribution into commerce.

17. In § 205.157–2, paragraph (f) is removed.

§§ 205.157–4—205.157–10 [Removed]

18. Sections 205.157–4 through 205.157–10 are removed.

§ 205.158 [Amended]

19. In § 205.158, paragraph (a)(1) is revised to read as follows:

(a)(1) The manufacturer of any vehicle subject to this subpart must, at the time of manufacture, affix a label, of the type specified in paragraph (a) (2), (3), and (4) of this section, to all such vehicles to be distributed in commerce.

* * * * *

20. In § 205.158, paragraph (a)(3) is revised to read as follows:

(a) * * *

(3) The label must be affixed by the vehicle manufacturer to the vehicle in such a manner that the label cannot be removed without destroying or defacing it, and must not be affixed to any piece of equipment that is easily detached from such vehicle.

* * * * * *

21. In § 205.158, paragraph (e) is removed.

22. Section 205.159, paragraph (c)(5) is revised to read:

§ 205.159 Testing by the Administrator.

* * * * *

(c) * * *

(5) Testing of up to 10 percent of the manufacturer's test vehicles for a model year if the Administrator determines testing these vehicles at the EPA test site is necessary to assure that a manufacturer has acted or is acting in compliance with the Act.

23. In § 205.160–2, the section title and paragraph (a) are revised to read as follows:

§ 205.160–2 Test sample selection and preparation.

(a) Vehicles comprising the sample which are required to be tested under a test request in accordance with this subpart must be selected consecutively as they are produced. Before the official test, the test vehicle must not be prepared, tested, modified, adjusted, or maintained in any manner unless such preparation, tests, modifications, adjustments or maintenance are part of the manufacturer's prescribed manufacturing and inspection procedures, and are documented in the manufacturer's internal vehicle assembly and inspection procedures, are required or permitted under this subpart, or are approved in advance by the Administrator. For purposes of this section, prescribed manufacturing and inspection procedures include quality control testing and assembly procedures normally performed by the manufacturer on like products during early production if the resulting testing is not biased by this procedure. In the case of imported products, the manufacturer may perform adjustments, preparations, modification or tests normally performed at the port of entry by the manufacturer to prepare the vehicle for delivery to a dealer or customer.

(1) Equipment or fixtures necessary to conduct the test may be installed on the vehicle if such equipment or fixtures have no effect on the noise emissions of the vehicle, as determined by the measurement methodology.

(2) In the event of a vehicle malfunction (i.e., failure to start, etc.) the manufacturer may perform the maintenance that is necessary to enable the vehicle to operate in a normal manner. This maintenance must be documented and reported in the SEA report.

(3) No quality control, quality assurance testing, assembly or selection procedures may be used on the test vehicle or any portion of the test vehicle including parts and subassemblies, unless such quality control, quality assurance testing, assembly or selection procedures are used normally during the production and assembly of all other vehicles of this configuration which will be distributed in commerce, are required or permitted under this subpart or are approved in advance by the Administrator.

(4) If a vehicle is unable to complete the noise tests, the manufacturer may replace the vehicle. Any replacement vehicle must be a production vehicle of the same configuration as the replaced vehicle or a noisier configuration and will be subject to all the provisions of these regulations. Any replacement must be reported in the SEA report.

§ 205.160–3 [Removed and reserved]

24. Section 205.160–3 is removed and reserved..

§ 205.160–4 [Amended]

25. In § 205.160–4, paragraph (b), the first sentence is removed.

26. In § 205.160–8, paragraph (a)(1) is revised to read as follows:

§ 205.160–8 Prohibition of distribution in commerce; manufacturer's remedy.

(a) * * *

(1) Submission of a written report to the Administrator which identifies the reason for the noncompliance of the vehicles, describes the problem and/or quality control or quality assurance remedies to be taken by the manufacturer to correct the problem.

* * * * *

§ 205.161 [Removed]

27. Section 205.161 is removed.

§ 205.162–1 [Removed]

28. Section 205.162–1 is removed.

29. In § 205.162–2, paragraph (a) is revised; paragraphs (b) and (c) are removed; paragraphs (d) and (e) are revised and redesignated paragraphs (b) and (c), respectively; paragraph (g) is removed; and paragraph (f) is redesignated paragraph (d). The revised portions of § 205.162–2 read as follows:

§ 205.162–2 Tampering.

(a) For each configuration of vehicles covered by this part, the manufacturer shall develop a list of acts which, in his judgment, constitute the removal or rendering totally or partially inoperative, other than for purposes of maintenance, repair, or replacement of noise control devices or elements of design of the vehicle.

(b) The manufacturer shall include in the owner's manual the following information:

(1) The statement:

Tampering With Noise Control System Prohibited

Federal law prohibits the following acts or causing thereof:

(1) The removal or rendering inoperative by any person other than for purposes of maintenance, repair, or replacement, of any device or element of design incorporated into any new vehicle for the purpose of noise control prior to its sale or delivery to the ultimate purchaser or while it is in use, or (2) the use of the vehicle after such device or element of design has been removed or rendered inoperative by any person.

(2) The statement:

Among those acts presumed to constitute tampering are the acts listed below.

Immediately following this statement, the manufacturer must include the list developed under paragraph (a) of this section.

(c) Any act included in the list prepared pursuant to paragraph (a) of this section is presumed to constitute tampering; however, in any case in which a presumed act of tampering has been committed and it can be shown that such act resulted in no increase in the noise level of the vehicle or that the vehicle still meets the noise emission standard of § 205.152, the act will not constitute tampering.

* * * * *

§ 205.162–3 [Amended]

30. In § 205.162–3, paragraphs (c), (d), and (e) are removed.

§ 205.162–4 [Removed]

31. Section 205.162–4 is removed.

§ 205.165 [Amended]

32. In § 205.165, paragraph (a)(6) is removed and reserved.

33. In § 205.165, paragraph (a)(8) is revised to read as follows:

(a) * * *

(8) "Test exhaust system" means an exhaust system in Selective Enforcement Audit test sample.

* * * * *

34. Section 205.168 is retitled to read as follows:

§ 205.168 Requirements.

* * * * *

35. Section 205.168–1 is revised to read as follows:

§ 205.168–1 General requirements.

(a) Each manufacturer of motorcycle exhaust systems manufactured for Federally regulated motorcycles and distributed in commerce in the United States which are subject to the noise emission standards prescribed in this subpart and not exempted in accordance with Subpart A, § 205.5:

(1) Must label each exhaust system in accordance with the requirements of § 205.169 of this subpart; and

(2) Must only manufacture exhaust systems which conform to the applicable noise emission standard established in § 205.166 of this regulation when installed on any Federally regulated motorcycle for which it has been designed and marketed.

(b) The manufacturer who is required to conduct testing to demonstrate compliance with a particular standard must satisfy all other provisions of this subpart applicable to that standard.

(c) Prior to distribution into commerce of exhaust systems of a specific category, the manufacturer of the exhaust system shall verify the category in accordance with this subpart.

(2) Notwithstanding paragraph (a)(1) of this section, the manufacturer may distribute in commerce exhaust systems of that category for up to 90 days if weather or other conditions beyond the control of the manufacturer make testing of a category impossible and if the following conditions are met:

(i) The manufacturer performs the tests required under paragraphs (d) or (e) of this section on such category as soon as conditions permit;

(d) The requirements for each exhaust system category consist of:

(1) Testing in accordance with § 205.171–1 of an exhaust system selected in accordance with § 205.171–2.

(2) Compliance of the test exhaust system on a motorcycle for which it is marketed with the applicable standard when tested in accordance with Appendix I; and

(e) A manufacturer is required to verify all categories of exhaust systems within his product line for each class of Federally regulated motorcycle for which it is designed and marketed. A category of a replacement exhaust system is defined by a separate combination of at least the following parameters:

(1) *Muffler/Silencer:* (i) Volume; (ii) type of absorption material; (iii) amount of absorption material; (iv) length; (v) diameter; (vi) directional flow of exhaust gas; (vii) interior construction; (viii) shell and inner construction material; (ix) number of header pipes entering muffler; and (x) specific motorcycle application.

(2) *Expansion Chamber:* (i) Volume; (ii) diameter; (iii) construction material; (iv) directional flow of exhaust gas; (v) length; and (vi) specific motorcycle application.

(3) *Spark Arrestors:* (i) Volume; (ii) construction material; (iii) directional flow of exhaust gas; (iv) length; (v) diameter, and (vi) specific motorcycle application.

(4) *Other Exhaust System Components:* (i) Volume; (ii) shape; (iii) length; (iv) diameter; (v) material; (vi) directional flow of exhaust gas; and (vii) specific motorcycle application.

(f) Exhaust system components sold as separate products shall be tested pursuant to § 205.166(b).

(g) Original equipment exhaust systems that are also sold as replacement systems for the same motorcycle configuration need not be tested under this subpart if they have been tested or represented in a test report under Subpart D of this part.

(h) A manufacturer has the following alternatives if any test exhaust system is determined not to be in compliance with applicable standards:

(i) Modify the test exhaust system and demonstrate by testing that it meets applicable standards. The manufacturer must modify all production exhaust systems of the same category in the same manner as the test exhaust system before distribution in commerce.

§§ 205.168–2—205.168–10 [Removed]

36. Sections 205.168–2 through 205.168–10 are removed.

§ 205.169 [Amended]

37. In § 205.169, paragraph (a) is revised to read as follows:

(a) The manufacturer of any product (including the manufacturer of newly produced motorcycles) subject to this subpart must, at the time of manufacture, affix a permanent, legible label, or mark of the type and in the manner described below, containing the information provided below, to all such exhaust systems or exhaust system components to be distributed in commerce.

* * * * *

38. In § 205.169, paragraph (f) is removed.

§ 205.170 [Amended]

39. In § 205.170, paragraph (c)(1) is removed and reserved.

40. In § 205.170, paragraph (c)(5) is revised to read as follows:

* * * * *

(c) * * *

(5) In addition to any exhaust systems included in paragraph (c) (1), (2), (3), or (4) of this section, testing of up to 10 percent of the manufacturer's exhaust systems for a model year if the Administrator determines testing these exhaust systems at the EPA test site is

necessary to assure that a manufacturer has acted or is acting in compliance with the Act.

41. In § 205.171–2, the section title and paragraph (a) are revised to read as follows:

§ 205.171–2 Test exhaust system selection and preparation.

(a)(1) Exhaust systems comprising the sample which are required to be tested under a test request in accordance with this subpart must be selected consecutively as they are produced.

(2) Test motorcycles and test exhaust systems to be used for testing of exhaust systems must be of the subject class which has been assembled using the manufacturer's normal production processes, in stock configuration including exhaust system, as sold or offered for sale in commerce.

(3) Before the official test, the test motorcycle and test exhaust system must not be prepared, tested, modified, adjusted, or maintained in any manner unless such preparation, tests, modifications, adjustments or maintenance are part of the original equipment manufacturer's prescribed manufacturing and inspection procedures, and are documented in the manufacturer's internal motorcycle assembly and inspection procedures, or are required or permitted under this subpart, or are approved in advance by the Administrator.

(4) Equipment or fixtures necessary to conduct the test may be installed on the motorcycle, if such equipment or fixtures shall have no effect on the noise emissions of the motorcycle as determined by the measurement methodology.

(5) In the event of a motorcycle malfunction (i.e., failure to start, etc.) maintenance that is necessary may be performed to enable the vehicle to operate in a normal manner. This maintenance must be documented and reported in the final report prepared and submitted in accordance with this subpart.

(6) No quality control, quality assurance testing, assembly or selection procedures may be used on the test vehicle or any portion thereof, including parts and subassemblies, that will not normally be used during the production and assembly of all other motorcycles of that class which will be distributed in commerce, unless such procedures are required or permitted under this subpart or are approved in advance by the Administrator.

§§ 205.171–4—205.171–5 [Removed]

42. Sections 205.171–4 and 205.171–5 are removed.

43. In § 205.171–6, paragraph (b), the first sentence is revised to read as follows:

§ 205.171–6 Testing procedures.

* * * * *

(b) No maintenance may be performed on the test exhaust system except as provided by § 205.171–2. * * *

44. In § 205.171–10, paragraph (a)(1) is revised to read as follows:

§ 205.171–10 Prohibition on distribution in commerce; manufacturer's remedy.

(a) * * *

(1) Submission of a written report to the Administrator which identifies the reason for the noncompliance of the exhaust systems, describes the problem and describes the proposed quality control or quality assurance remedies to be taken by the manufacturer to correct the problem.

* * * * *

45. In § 205.173–1, paragraph (b) is removed and reserved and paragraph (a) is revised as follows:

§ 205.173–1 Warranty.

(a) The exhaust system manufacturer must include in the information supplied to the ultimate purchaser pursuant to section 205.173–4, the following statement:

Noise Emission Warranty

[The manufacturer] warrants that this exhaust system, at time of sale, meets all applicable U.S. E.P.A. Federal noise standards. This warranty extends to the first person who buys this exhaust system for purposes other than resale, and to all subsequent buyers. Warranty claims should be direct to ————. (Manufacturer shall fill in this blank with his name, address and telephone number.)

* * * * *

46. In § 205.173–2, the introductory text is revised to read as follows:

§ 205.173–2 Tampering.

The manufacturer must include the following statement pursuant to § 205.173–4 with each product of that category the manufacturer distributes into commerce.

* * * * *

47. In § 205.173–3, the introductory text is revised to read as follows:

§ 205.173–3 Warning statement.

The manufacturer must include the following statement pursuant to § 205.173–4 with each product of that category the manufacturer distributes into commerce.

* * * * *

§ 205.173–5 [Removed]

48. Section 205.173–5 is removed.

[FR Doc. 82–34911 Filed 12–27–82; 8:45 am]

BILLING CODE 6560–50–M

Proposed Rules

Federal Register
Vol. 47, No. 249
Tuesday, December 28, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 352

Reemployment Rights; Correction

AGENCY: Office of Personnel Management.

ACTION: Proposed regulations; correction.

SUMMARY: In publishing proposed regulations on reemployment rights in the November 12, 1982, issue of the **Federal Register** (47 FR 51146), the Office of Personnel Management (OPM) inadvertently left out the address for comments. Any comments on the proposed regulations should be sent to the address below.

ADDRESS: Written comments may be sent to Richard B. Post, Associate Director, Staffing Group, U.S. Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415, or delivered to Room 6F08, 1900 E Street, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: William Bohling, (202) 632–6000.

U.S. Office of Personnel Management.

Donald J. Devine,

Director.

[FR Doc. 82–35054 Filed 12–27–82; 8:45 am]
BILLING CODE 6325–01–M

5 CFR Part 733

Political Activity of Federal Employees; Workplace Solicitation and Collection of Political Contributions Prohibited

AGENCY: Office Personnel Management

ACTION: Proposed rule

SUMMARY: The Office of Personnel Management proposes to issue a regulation prohibiting the solicitation, payment, and collection of political contributions in the Federal workplace and through Federal payroll deductions. This action is necessary to clarify the Office of Personnel Management's existing regulatory prohibition on the solicitation, payment, collection, and receipt of political contributions.

DATE: Comments should be submitted on or before February 28, 1983.

ADDRESS: Comments should be addressed to: Joseph A. Morris, General Counsel, Room 5H30, United States Office of Personnel Management, 1900 E Street NW., Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT: Jo-Ann Chabot, Office of the General Counsel, (202) 632–5421.

SUPPLEMENTARY INFORMATION: Section 7321 of Title 5, United States Code, provides that "* * * an employee in an Executive agency or in the competitive service is not obliged, by reason of that employment, to contribute to a political fund or to render political service * * * and * * * may not be removed or otherwise prejudiced for refusal to do so."

Section 7322 further provides that "* * * an employee in an Executive agency or in the competitive service may not use his official authority or influence to coerce the political action of a person or body."

Federal criminal statutes, at 18 U.S.C. 600, make it unlawful for any person to promise "any employment, position, compensation, contract, appointment, or other benefit, provided for or made possible in whole or in part by any Act of Congress, or any special consideration in obtaining any such benefit, to any person as consideration, favor or reward for any political activity or for the support of or opposition to any candidate or any political party * * *."

Federal criminal statutes, at 18 U.S.C. 602, further make it unlawful for "* * * an officer or employee of the United States or any department or agency thereof * * * to knowingly solicit, any contribution within the meaning of section 301(8) of the Federal Election Campaign Act of 1971 from any other such officer [or] employee * * *."

Federal criminal statutes, at 18 U.S.C. 603(a), also make it unlawful for " * * * an officer or employee of the United States or any department or agency thereof * * * to make any contribution within the meaning of section 301(8) of the Federal Election Campaign Act of 1971 to any other such officer [or] employee * * *, if the person receiving such contribution is the employer or employing authority of the person making the contribution."

Federal criminal statutes, at 18 U.S.C. 607(a), additionally make it unlawful for "any person," with the exception, stated in 18 U.S.C. 607(b), of certain employees of Congress, "to solicit or receive any contribution within the meaning of section 301(8) of the Federal Election Campaign Act of 1971 in any room or building occupied in the discharge of official duties by any person mentioned in [18 U.S.C.] section 603, or in any navy yard, fort, or arsenal.

Section 301(8) of the Federal Election Campaign Act of 1971, as codified at 2 U.S.C. 431(8), defines a "contribution" to include "* * * any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office. * * *"

The solicitation, payment, collection, or receipt of political contributions by Federal employees subject to the Hatch Act, if done in the Federal workplace, would violate one or more of the foregoing statutory prohibitions. In addition, even if solicitation of such contributions occurred elsewhere, the payment, collection, or receipt of such contributions in the Federal workplace would still violate the law.

Similarly, the use of a Federal payroll deduction scheme or the Government's allotment system as a conduit for political contributions by Federal employees subject to the Hatch Act would involve the use of Federal workplaces and instrumentalities to pay, collect, and receive such contributions. Because Government payroll deductions and allotments necessarily pass through the hands of supervisors, co-workers, and agency payroll offices, the use of such means to channel political contributions raises the unacceptable possibility of abuse; the certain knowledge that a Federal employee is making or is failing to make a political contribution would enable or encourage supervisors and co-workers to bring varieties of impermissible pressures upon the employee to change such conduct, thereby substantially impairing and inhibiting the employee's exercise of political rights secured by the Constitution.

The regulations presently in force under the Hatch Act make it clear that Federal employees who are covered by

the Hatch Act have the right to make financial contributions to political parties and organizations; *see* 5 CFR 733.111(a)(8). Present regulations do not adequately protect employee freedoms and the integrity of the Federal workplace, however, in that they do not clearly state prohibitions against the solicitation, payment, collection, and receipt of political contributions in the Federal workplace and through Government payroll and similar channels.

The congressional declaration of merit system principles that was enacted in Section 101(a) of the Civil Service Reform Act of 1978, 5 U.S.C. 2301(b), commands that "Employees should be * * * protected against arbitrary action, personal favoritism, or coercion for partisan political purposes * * *" 5 U.S.C. 2301(b)(8)(A). Therefore, OPM proposes to amend 5 CFR Part 733 (Political Activity of Federal Employees) to include the foregoing in the list of prohibited political activities set forth in 5 CFR 733.122.

E.O. 12291, Federal Regulation

OPM has determined that this is not a major rule as defined under Section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it only affects the political activities of Federal employees.

List of Subjects in 5 CFR Part 733

Political activity of Federal employees.

United States Office of Personnel Management.

Donald J. Devine,

Director.

Accordingly, OPM proposes to amend 5 CFR as follows:

PART 733—POLITICAL ACTIVITY OF FEDERAL EMPLOYEES

1. The authority citation for Part 733 would read as follows:

Authority: 5 U.S.C. §§ 3301, 3302, 7301, 7324, 7325, and 7327; Reorganization Plan No. 2 of 1978, E.O. 12107; and 3 CFR 1978 Comp., p. 284, unless otherwise noted.

2. In Part 733, § 733.101 would be amended by adding paragraphs (g), (h), and (i) to read as follows:

§ 733.101 Definitions.

* * * * * * *

(g) "Political fund" means any fund, organization, political action committee, or other entity that, for purposes of influencing in any way the outcome of any partisan election, receives or expends money or anything of value or transfers money or anything of value to any other fund, candidate, organization, political action committee, or other entity.

(h) "Contribution" means any gift, subscription, loan, advance, deposit of money, allotment of money, or anything of value given or transferred by one person to another, including in cash, by check, by draft, through a payroll deduction or allotment plan, by pledge or promise, whether or not enforceable, or otherwise.

(i) "Federal workplace" means any place, site, installation, building, room, or facility in which any Executive department or agency conducts official business, including, but not limited to, office buildings, forts, arsenals, navy yards, post offices, vehicles, ships, and aircraft.

3. In Part 733, § 733.122 (b) is amended by revising subparagraphs (12) and (13) and adding subparagraphs (14), (15), and (16) to read as follows:

§ 733.122 Political management and political campaigning; prohibitions.

* * * * *

(b) * * *

(12) Addressing a convention, caucus, rally or similar gathering of a political party in support of or in opposition to a partisan candidate for public office or political party office;

(13) Initiating or circulating a partisan nominating petition;

(14) Soliciting, collecting, or receiving a contribution from any employee for any political party, political fund, or other partisan recipient;

(15) Paying a contribution to any employee who is the employer or employing authority of the person making the contribution for any political party, political fund, or other partisan recipient; and

(16) Soliciting, paying, collecting, or receiving a contribution, at or in any Federal workplace, for any political party, political fund, or other partisan recipient.

[FR Doc. 82-35053 Filed 12-27-82; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 272 and 273

[Amdt. No. 238]

Food Stamp Program; Notice of Adverse Action and Mass Change

AGENCY: Food and Nutrition Service, USDA.

AGENCY: Proposed rule.

SUMMARY: The Food and Nutrition Service is changing the way a State welfare agency tells food stamp recipients about changes in their food stamps. At present, there is confusion about how the State agency should make changes that affect many or all recipients. There are also needlessly difficult requirements for informing recipients of individual changes. This proposed rule would simplify these requirements.

DATES: Comments must be received on or before February 28, 1983.

ADDRESS: Please submit comments to Thomas O'Connor, Supervisor, Policy and Regulations Section, Family Nutrition Programs, Food and Nutrition Service, USDA, Alexandria, Va. 22302. Comments will be available for public inspection during regular business hours (8:30 a.m. to 5:00 p.m.) at the agency's offices: Room 708, 3101 Park Center Drive, Alexandria, Va.

FOR FURTHER INFORMATION CONTACT: Mr. O'Connor at the address above; telephone (703) 756-3429.

SUPPLEMENTARY INFORMATION:

Classification

Executive Order 12291. This rule has been reviewed under Executive Order 12291 and Secretary's Memorandum No. 151-1. The Department has classified this rule as a non-major rule. The rule's effect on the economy will be less than $100 million. The rule will have no effect on costs or prices. Competition, employment, investment, productivity and innovation will remain unaffected. There will be no effect on the competition of United States-based enterprises with foreign-based enterprises.

Regulatory Flexibility Act. Samuel J. Cornelius, Administrator of the Food and Nutrition Service, has certified that this proposal does not have a significant economic impact on a substantial number of small entities. The rule gives State welfare agencies greater flexibility in their administration of the Food Stamp Program.

Paper Reduction Act. This regulation does not contain reporting and recordkeeping requirements subject to approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

Mass Changes

A mass change in food stamps is one which affects many or all food stamp recipients. A mass change is also one which the Federal or State governments

cause, not one caused by the recipients. Examples of mass changes are an increase in the Thrifty Food Plan and an increase in Supplemental Security Income payments.

The current regulations discuss four kinds of mass change. First are changes in food stamps which occur according to a schedule for keeping up with the cost-of-living and seasonal variations. Second are changes in public assistance grants. Third are changes in other Federal benefits. Finally there are changes in food stamp regulations concerning the way a State agency notifies a household that a mass change has taken place.

The amendment would provide a way to resolve the often conflicting pressures of specificity and time. Participants need specific information about benefit changes to ensure their accuracy. The State agency needs time to inform individuals of the changes. To resolve this conflict, the Department propose to give the State agency a reasonable time to provide the necessary information to the household without diminishing the household's rights.

Notifying Households of Mass Changes

Currently, the regulations do not specify the amount of information which a State agency must give to a household when a mass change occurs. Neither do the regulations give clear instructions about the timeliness of the notice. The Department is proposing guidelines for State agencies to follow.

Content. The Department is proposing that the State agency shall, at a minimum inform the household of the general nature of the mass change by giving it a range of likely effects. For example a rule might change the percentage of the earned income deduction. The State agency would then inform households of the likely effects, that a household with $100 in monthly wages would probably lose $1 in food stamps, one with $300 in wages would lose $2 in food stamps, etc. The State agency would also notify the household, as it does now, of the household's rights to a fair hearing, continued benefits, and further information from the State agency.

Beyond this minimum, the Department proposes that the State agency provide the household with as specific information as the State agency can reasonably give. This would not be an encouragement to provide specific information; it would be a requirement.

There are many kinds of specific information which the State agency could provide, including the household's new benefit or individual notice to a household that its benefits will be reduced or terminated. The State agency may also be able to provide a general explanation of the change, even if it cannot notify specific households of specific effects.

Timing. The Department is proposing that the State agency shall, at a minimum, inform the household of the mass change no later than the household's scheduled issuance date. Beyond this minimum, the Department proposes that the State agency provide the household with as much advance notice as the State agency can reasonably give. This would not be an encouragement to provide early information; it would be a requirement. The State agency would not be required to provide information any earlier than ten days before the effective date of the change.

Conflicts between content and timing. It is clear that there may be, at times, an inverse relationship between content and timing. That is, the State agency may be able to provide specific information, but only at the last minute. Conversely, the State agency may be able to provide early notice, ten days before the effective date. However, the early notice may turn out to be only general.

The Department proposes that, when such a conflict occurs, the State agency resolve it in favor of more specific information with less advance notice. The Department is concerned that a household be able to make an informed decision as to the accuracy of a mass change when applied to itself. An informed decision depends upon the household's having adequate knowledge of the change.

If the specific information arrives as late as the issuance, the household will then be able to decide whether the State agency's action is right or wrong. Under the Department's proposal, the household can ask for a fair hearing. If the household is entitled to continued benefits, the State agency would reinstate the household's allotment to its prior level by the issuance date or within five working days, whichever is later.

Continuation of Benefits. (§ 273.12(e)(7)). The current regulations limit the times when a household can obtain continued benefits after it requests a fair hearing about a mass change. Specifically, according to § 273.15(k)(1), there are two conditions to continued benefits, either of which the household must meet. Because the policy concerning continued benefits is not clearly stated in § 273.12(e), the Department proposes to restate the current policy. A household would be entitled to a continuation of benefits only if the fair hearing request is based on either of two specific conditions. The first condition is that there was an error in arithmetic. For example, the State agency may have incorrectly computed the household's earned income deduction, calculating that 18 percent of $200 in wages was $30. If that incorrect calculation were appealed, the household could receive continued benefits while awaiting the fair hearing decision. The second condition is that the State agency misinterpreted or misapplied Federal policy. For example, a household contained a member 70 years of age (entitling the household to the net income eligibility limit) and the State agency terminated the household because its gross income was too high, the household could receive continued benefits while appealing. As with any continued benefits, the household may not receive them after the end of its certification period.

Because a household may not receive its notice until its issuance date, the household may not request a fair hearing until after it has already received its allotment. In such an instance, the State agency would reinstate the household's benefits to its prior level. Reinstatement would be the means of continuing the household's benefits.

Miscellaneous provisions. The Department proposes to amend the introductory sentences in § 273.12(e) on three points. First, this paragraph now specifies that Social Security is the Retirement, Survivors, and Disability Insurance (RSDI) program and that SSI means the Supplemental Security Income program. The second miscellaneous change is that the references to fair hearings during a mass change are gathered into one paragraph for the sake of clarity. The third miscellaneous change would be the deletion of § 273.12(e)(2)(ii). This paragraph is unnecessary, since a separate description of the notice would be added.

Notice of Adverse Action (§ 273.13)

The Department is making two changes in the regulations concerning notices of adverse action. These changes simplify the process of making changes.

Voluntary Termination. (§ 273.13 (b)(12)). Currently, the State agency must notify a household at least ten days before its participation is terminated. This is the case even if the household requests the termination. If the household requests termination on April 25, and the State provides advance notice on that day, the ten day period

would expire on May 5. If the household's next issuance date is May 1, the State agency cannot stop that allotment. The ten day period gives the household an opportunity to reconsider its withdrawal from the program.

The Department believes that a notice of adverse action is not productive in this situation. The State agency is terminating the household's participation only because the household has requested it. In this situation there is no question of the household's eligibility or its benefit level. The notice requirement serves only to produce more paperwork for the recipient and the State agency, and to delay the termination. Therefore, the Department proposes to exempt voluntary terminations from the requirement that a notice of adverse action be sent. This exemption applies only in cases where the household specifically requests the termination of its participation in writing or in person. This exemption does not apply when the household reports a change in circumstances which results in termination.

Moving from the Project Area. (§ 273.13(b)(13)). Currently, the regulations require a State agency to terminate participation, without notice, when a household has already moved from the project area (7 CFR 273.13(b)(3). The Department does not proposed to change this procedure.

The Department does propose to add a new procedure to use when a household reports that it will move from the project area. If the household will not be able to obtain its coupons because it will not be residing in the project area, the State agency would terminate the household's participation without notifying the household in advance.

This new procedure is meant to deal with the problem of issuing coupons (through direct mailing) and Authorization to Participate (ATP) cards to households which no longer reside in the project area and therefore cannot obtain them. The coupons and ATP cards can be used improperly by persons who wish to abuse the Food Stamp Program. When advance notice of the termination is required, the State agency now must issue benefits if the household reports its future move and leaves the project area in fewer than ten days before its next issuance.

Therefore, the Department proposes that the State agency not provide advance notice. However the State agency would provide notice. The notice would arrive no later than the issuance date. The notice would explain the termination, its effective date, and the household's right to a fair hearing and continued benefits.

Implementation (§ 272.1)

The Department proposes to require State agencies to implement this amendment's provisions no later than the first day of the month 90 days after publication of the final rule.

List of Subjects

7 CFR Part 272.

Alaska, Civil rights, Food stamps, Grant programs—social programs, Records, Reporting requirements.

7 CFR Part 273.

Administrative practice and procedure, Aliens, Claims, Fraud, Grant programs-social programs, Penalties, Records, Reporting requirements, Social security, Students.

For the reasons set out in the preamble, the Department proposes to amend Parts 272 and 273 of Chapter II, Subtitle B, Title 7, Code of Federal Regulations, as follows.

PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

1. In § 272.1, new paragraph (g) (56) is added to read as follows:

§ 272.1 General terms and conditions.

* * * * *

(g) *Implementation.* * * *

(56) *Amendment 238.* State agencies shall implement the mandatory provisions of this amendment no later than the first day of the month 90 days after publication of the final rule.

PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLD

2. In § 273.12, the introductory text of paragraph (e) is revised; paragraph (e)(2)(ii) is removed; paragraph (e)(2)(iii) is redesignated as paragraph (e)(2)(ii); and new paragraphs (e)(5), (e)(6), and (e)(7) are added; the revisions and additions read as follows:

§ 273.12 Reporting changes.

* * * * *

(e) *Mass changes.* Certain changes are initiated by the State or Federal government which may effect the entire caseload or significant portions of the caseload. These changes include adjustments to the income eligibility standards, the shelter and dependent care deductions, the Thrifty Food Plan and the standard deduction; annual and seasonal adjustments to Retirement, Survivors, and Disability Insurance (RSDI), and Supplemental Security Income (SSI) and other Federal benefits; periodic adjustments to Aid to Families with Dependent Children (AFDC) or General Assistance (GA) payments; and other changes in the eligibility and benefit criteria based on legislative or regulatory changes.

* * * * *

(5) Notice for Mass Changes. When the State agency makes a mass change in food stamp elibility or benefits or conducts desk reviews in place of a mass change, it shall notify all households whose benefits are reduced or terminated, except for mass changes made under § 273.12(e)(1).

(i) At a minimum, the State agency shall inform the household of:

(A) The general nature of the change;

(B) Examples of the change's effect on households' allotments;

(C) The month in which the change will take effect;

(D) The household's right to a fair hearing; and

(E) The household's right to continued benefits.

(ii) In addition, the State agency shall provide the household with as much specific information about the change in the household's allotment as it can reasonably provide at the time the State agency mails the notice.

(iii) At a minimum, the State agency shall notify the household of the mass change on the date the household is scheduled to received the allotment which has been changed.

(iv) In addition, the State shall notify the household of the mass change as much before the household's scheduled issuance date as reasonably possible, although the notice need not be given any earlier than the time required for advance notice of adverse action.

(v) In the event the State agency cannot notify the household of the specific change before the change is effective, the State agency shall provide as specific notice as reasonably possible.

(6) *Fair hearings.* The household shall be entitled to request a fair hearing when it is aggrieved by the mass change.

(7) *Continuation of benefits.* A household which requests a fair hearing due to a mass change shall be entitled to continued benefits at its previous level only if the household meets three criteria:

(i) The household does not specifically waive its right to a continuation of benefits;

(ii) The household requests a fair hearing within the time period set by the State agency in accordance with § 273.13(a)(1); and

(iii) The household's fair hearing is based upon improper computation of

food stamp eligibility or benefits, or upon misapplication or misinterpretation of Federal law or regulation.

* * * * *

In § 273.13, new paragraph (12) and (13) are added to paragraph (b), to read as follows:

§273.13 Notice of adverse action

* * * * *

(b) Exemptions from notice.* * *

(12) The household voluntarily requests, in writing or in the presence of a caseworker, that its participation be terminated.

(13) The State agency determines, based on reliable information, that the household will not be residing in the project area and therefore will be unable to obtain its next allotment. When this occurs, the State agency shall notify the household no later than its next scheduled issuance date. While the State agency may notify the household before its next issuance date the State agency shall not delay terminating the household's participation in order to provide advance notice. The notice shall contain all the information required by paragraph (a)(2) of this section.

(91 Stat. 958 (7 U.S.C. 2011–2029))

(Catalogue of Federal Domestic Assistance Programs No. 10.551, Food Stamps)

Dated: December 21, 1983.

Robert E. Leard,

Associate Administrator.

[FR Doc. 82–35093 Filed 12–27–82; 8:45 am]

BILLING CODE 3410–30–M

Agricultural Marketing Service

7 CFR Part 1011

Milk in Tennessee Valley Marketing Area; Proposed Temporary Revision of Shipping Percentage

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed temporary revision of rule.

SUMMARY: This notice invites written comments on a proposal that the supply plant shipping requirement under the Tennessee Valley Federal milk order be decreased temporarily for the months of January and February 1983. The temporary change was requested by the operator of a supply plant that is regulated as a pool plant by the Tennessee Valley order. The handler contends that the change is necessary to remove the need for its pool supply plant to incur the cost of uneconomic shipments of milk to maintain pool status for its plant during a period of supply imbalance.

DATE: Comments are due by January 4, 1983.

ADDRESS: Comments (two copies) should be filed with the Hearing Clerk, Room 1077 South Building, United States Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202–447–4829.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established to implement Executive Order 12291 and has been classified as a "non-major" action.

It has also been determined that the potential need for adjusting certain provisions of the order on an emergency basis precludes following certain review procedures set forth in Executive Order 12291. Such procedures would require that this document be submitted for review to the Office of Management and Budget at least 10 days prior to its publication in the **Federal Register.** However, this would not permit the completion of the procedure in time to give interested parties timely notice that the supply plant shipping requirement for January 1983 would be modified. The initial request for the action was received on December 10, 1982.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this proposed action would not have a significant economic impact on a substantial number of small entities. Such action would lessen the regulatory impact of the order on certain milk handlers.

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the provisions of § 1011.7(b) of the order, the temporary revision of certain provisions of the order regulating the handling of milk in the Tennessee Valley marketing area is being considered for the months of January and February 1983.

All persons who desire to submit written data, views or arguments in connection with the proposed revision should file the same with the Hearing Clerk, Room 1077, South Building, United States Department of Agriculture, Washington, D.C. 20250, not later than January 4, 1983. Please submit two copies of the documents filed. The period for filing views is being somewhat limited to enable the timely consideration of this matter since the proposed action would be applicable to milk shipments made during January 1983.

All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The provisions proposed to be revised are the supply plant shipping percentages set forth in § 1011.7(b) that are applicable during the months of January and February 1983. It has been requested that the shipping requirement be reduced from 60 percent to 50 percent for the two-month period. Section 1011.7(b) allows the Director of the Dairy Division to increase or decrease the applicable shipping percentage up to 10 percentage points in order to obtain needed shipments for the market or to prevent uneconomic shipments of milk to distributing plants.

Kraft, Inc., which operates a supply plant regulated by the Tennessee Valley order, has requested a temporary reduction in the supply plant shipping requirement of 10 percentage points. Kraft states that over the past year the Tennessee Valley market has experienced an increase in milk production without a corresponding increase in Class I sales. The handler claims that this marketwide development makes it difficult for its supply plant to meet the 60 percent shipping requirement without engaging in uneconomic shipments of milk if it wishes to maintain pool plant status. Kraft expects that the general imbalance of supply over demand in the Tennessee Valley market that led to a temporary reduction in the supply plant shipping requirements for October and November 1982 will continue through January and February 1983.

Under the circumstances described, it may be appropriate to reduce the pool supply plant shipping percentage for these months. The proposed temporary reduction in the shipping requirement could prevent uneconomic movements of milk merely for purposes of pool plant qualification. Also, the reduction could assure that producers who have been regularly associated with the fluid market can continue to share in the pool proceeds of the market.

List of Subjects in 7 CFR Part 1011

Milk marketing orders, Milk, Dairy products.

Signed at Washington, D.C., on: December 21, 1982.

Edward T. Coughlin,

Director, Dairy Division.

[FR Doc. 82-35148 Filed 12-27-82; 8:45 am]

BILLING CODE 3410-02-M

DEPOSITORY INSTITUTIONS DEREGULATION COMMITTEE

12 CFR Part 1204

[Docket No. D-0031]

Deregulation of Deposit Rate Ceilings

AGENCY: Depository Institutions Deregulation Committee.

ACTION: Proposed rulemaking.

SUMMARY: As a result of the passage of the Garn-St Germain Depository Institutions Act of 1982, the Depository Institutions Deregulation Committee ("Committee") is requesting public comment on whether it should accelerate the deregulation of interest rate ceilings on deposits and should simplify other regulations on existing deposit categories. Specifically, the Committee requests comment on whether it should: (1) remove all interest rate ceilings immediately OR deregulate accounts with maturities of 91 days or more, except for a minimum early withdrawal penalty OR eliminate all existing time deposit categories with maturities of less than 91 days and extend the maximum maturity on the new Money Market Deposit Account (12 CFR 1204.122) to 91 days; (2) accelerate its current schedule for phasing out interest rate ceilings; (3) simplify the current rate ceiling schedules; (4) simplify interest rate ceilings and other characteristics on the 26-week money market certificate and the 91-day time deposit to make them more consistent; and (5) simplify and rationalize other features of account categories, such as minimum denomination and compounding of interest, to make them more consistent.

DATES: Comments must be received by February 1, 1983.

ADDRESS: Interested parties are invited to submit written data, views, or arguments regarding the proposal to Gordon Eastburn, Acting Executive Secretary, Depository Institutions Deregulation Committee, Room 1058, Department of the Treasury, 15th Street and Pennsylvania Avenue, NW., Washington, D.C. 20220. All material submitted should include the Docket Number D-0031. Such material will be made available for inspection and copying upon request except as provided in the Committee's Rules Regarding Availability of Information (12 CFR 1202.5).

FOR FURTHER INFORMATION CONTACT: Alan Priest, Attorney, Office of the Comptroller of the Currency (202/447-1880); F. Douglas Birdzell, Counsel, and Joseph A. DiNuzzo, Attorney, Federal Deposit Insurance Corporation (202/389-4147); Rebecca Laird, Senior Associate General Counsel, Federal Home Loan Bank Board (202/377-6446); John Harry Jorgenson, Senior Attorney, Board of Governors of the Federal Reserve System (202/452-3778); or Elaine Boutilier, Attorney-Adviser, Treasury Department (202/566-8737).

SUPPLEMENTARY INFORMATION: The Depository Institutions Deregulation Act of 1980 (Title II of Pub. L. No. 96-221; 12 U.S.C. 3501 *et seq.*) ("DIDA") was enacted to provide for the orderly phaseout and ultimate elimination of the limitations on the maximum rates of interest and dividends that may be paid on deposit accounts by depository institutions as rapidly as economic conditions warrant. Under the DIDA, the Committee is authorized to phase out interest rate ceilings by any one of a number of methods, including the elimination of interest rate limitations applicable to particular categories of accounts, the creation of new account categories not subject to interest rate limitations, or with interest rate ceilings set at market rates of interest, or any combination of the above.

The Garn-St Germain Depositing Institutions Act of 1982, Pub. L. 97-320 ("Garn-St Germain Act") amended the DIDA and required the Committee to authorize the new Money Market Deposit Account ("MMDA"). After taking public comment, the Committee on November 15, 1982, did create such an account to enable institutions to compete with money market mutual funds, effective December 14, 1982. (47 FR 53710 November 29, 1982) Section 326 of the Garn-St Germain Act requires that the interest rate differential in favor of thrifts be eliminated on or before January 1, 1984.

In March 1982, the Committee adopted a deregulation schedule that phases out interest rate ceilings beginning with longer-term time deposits. With the deregulation schedule in place, the focus of the Committee turned to short-term deposit instruments. Prevailing high interest rates had caused a continued erosion of low-cost deposits at banks and thrifts, as depositors sought market rates elsewhere, particularly through money market mutual funds ("MMFs"). The Committee addressed this problem by authorizing, effective May 1, 1982, a 91-day time deposit with a $7,500 minimum denomination indexed to the 91-day Treasury bill rate, and establishing effective September 1, 1982, a 7- to 31-day deposit account with a $20,000 minimum denomination, also indexed to the 91-day Treasury bill rate. On December 6, 1982, the Committee further deregulated short-term deposits by exempting from interest rate ceiling NOW accounts with average balances of $2,500 that are subject to certain of the restrictions that apply to the MMDA to be effective January 5, 1983. The Committee also reduced to $2,500 the minimum denomination on the 7- to 31-day, the 91-day, and the 26-week MMC categories of deposits, effective January 5, 1983, and eliminated the indexed ceiling on the 7- to 31-day account, effective on that date.

Because of the effect the statutory and regulatory changes summarized above may have on the mix of short-term and long-term deposits of depository institutions, the Committee requests comments on several proposals pertaining to existing interest rate ceilings and account characteristics. The Committee wishes to encourage interested parties to comment on the effect that these changes may have on earnings and liquidity.

Even if opposed to any changes or in favor of complete deregulation of interested rate ceilings, interested parties are requested to comment on changes that should be made if the Committee does decide to accelerate the schedule or to amend the short-term deposit ceiling rate schedules in order to simplify their characteristics and make them more consistent.

Current Ceiling Rate Structure (see Table 1): Under the current interest rate ceiling structure for deposits at federally insured commercial banks, savings and loan associations, and mutual savings banks, most of the interest rate ceilings on traditional, fixed-rate time deposits are superseded as a practical matter by account categories with indexed rates or with no rate ceiling. Also, the MMDA has no interest rate ceiling, and the 7- to 31-day account, effective January 5, 1983, will also have no interest rate ceiling. Deposit categories with maturities of 91 days, 6 months and 2½ to less than 3½ years are available, but such accounts are subject to rate ceilings tied to an index. Other categories with maturities between 31 days and 3½ years are subject to the fixed-rate ceiling schedule. With the exception of the 1½ year IRA/Keogh deposit category (which has a limited purpose), depository institutions cannot offer ceiling-free deposits with

maturities of between 31 days and 3½ years.

TABLE 1.—CURRENT TIME DEPOSIT CEILING RATE STRUCTURE [1]

Maturity of account	Commercial banks	S&Ls and MSBs
Fixed Ceilings		
14 to 89 days [2]	5½	(na).
90-day to 1 year [2]	5½	6.
1 to 2½ years	6	6½.
2½ to 4 years [2]	6½	6¾.
4 to 6 years [2]	7½	7½.
6 to 8 years [2]	7¾	7¾.
8 years and over [2]	7¾	8.
Indexed or Ceiling-Free		
1 to 31-day MMDA.	No ceiling	No ceiling.
7- to 31-day account [4]	No ceiling	No ceiling.
91-day account [5]	Indexed	Indexed.
6-month MMCD [5]	Indexed; ceiling rate does not decline below 7.75 percent.	Indexed; ceiling rate does not decline below 7.75 percent.
18-month IRA/ Keogh Account.	No ceiling	No ceiling.
2½-year to less than 3½-year [6]	Indexed; ceiling rate does not decline below 9.25 percent.	Indexed; ceiling rate does not decline below 9.50 percent.
3½-year or more [7]	No ceiling	No ceiling.

1. Does not describe all details of current ceiling rates.
2. Partially superseded by indexed accounts.
3. Completely superseded by indexed or ceilingless accounts.
4. Ceiling removed effective January 5, 1983.
5. See TABLE 3 for full detail of the index rate schedule for these accounts.
6. Indexed to average yield for Treasury securities with comparable remaining maturity. See 12 C.F.R. §1204.106. Effective April 1, 1983, this category becomes "1½ year to less than 2½ years."
7. These accounts have characteristics that distinguish them from fixed ceiling time deposits. See 12 C.F.R. § 1204.119. Effective April 1, 1983, this category becomes "2½ years or more."

Current Phaseout Schedule (see TABLE 2): The phaseout schedule adopted by the Committee in March of 1982 established a new deposit category with a maturity of 3½ years or more and no interest rate ceiling. Institutions were free to offer the deposit in any denomination but had to at least offer it in a $500 denomination. Under the schedule, the maturity of the instrument will be reduced annually by one year until March 31, 1986, at which time it will have the minimum maturity for time deposits (currently 14 days).

The gap between short-term and long-term ceiling-free deposits will be narrowed somewhat on April 1, 1983, when institutions will be able to offer ceiling-free deposits with maturities of 2½ years or more. However, a 31-day to 2½ year gap would remain, restricting depositors and institutions alike in their selection of ceiling-free accounts to those with very short, or with still relatively long, maturities. Since rate ceilings were initially intended to reduce the risks to institutions of offering short-term interest bearing deposits, and since, in any event, the existence of indexed rate ceilings in the near-term ceiling structure may induce institutions to shorten their liability structure unduly, the Committee believes it is appropriate to consider removing existing interest rate ceilings on longer-term deposits (or accelerating their removal) to allow institutions to offer a range of deposit instruments distinguished primarily by a negotiated rate and maturity. This is especially true since the short-term, ceiling-free accounts may be attractive enough to draw significant funds from longer-term indexed accounts. The flexibility of the management of depository institutions would also be increased by such an action.

TABLE 2.—CURRENT INTEREST RATE CEILING DEREGULATION SCHEDULE FOR INDEXED TIME DEPOSITS

Original maturity	Commercial bank ceiling	Thrift ceiling
Effective Apr. 1, 1983: 2½ years or more [1].	Ceiling eliminated	Ceiling eliminated.
1½ years to less than 2½ years [2].	Thrift rate less .25%.	Average yield for 1½ year Treasury securities.
Effective Apr. 1, 1984: 1½ years or more [3].	Ceiling eliminated	Ceiling eliminated.
Effective Apr. 1, 1985: 6 months or more [4].	....do	Do.
Effective Mar. 31, 1986, 14 days or more [5].	....do	Do.

[1] See 12 C.F.R. § 1204.119(d).
[2] See 12 C.F.R. § 1204.106(c)(2).
[3] See 12 C.F.R. § 1204.119(e).
[4] See 12 C.F.R. § 1204.119(f).
[5] See 12 C.F.R. § 1204.119(g).

Comments on Elimination or Acceleration of Ceilings

Elimination of Rate Ceilings: The Committee requests comment on whether to eliminate the current rate ceilings (TABLE 1) completely at its next meeting. The Committee is particularly interested in comments on the projected effect such as action would have on institutional earnings and deposit flows. While such an action would effectively eliminate the need for the various existing deposit categories, such as the 91-day, and the 26-week MMC and the short-term fixed-ceiling deposit categories, it would not actually eliminate these accounts. Institutions would probably want to retain some of these categories because they are currently popular with consumers. Eventually, however, the accounts will probably become obsolete like the longer-term fixed-ceiling time deposits shown in the top panel of TABLE 1. Further, while elimination of the rate ceiling structure would automatically remove any interest rate differentials on deposit categories in favor of thrift institutions, the elimination of all differentials must occur on or before January 1, 1984, under section 328 of the Garn-St Germain Act. Thus, if the Committee eliminated all existing ceilings at its next meeting, and assuming a delayed effective date, the elimination of the thrift differential would be accelerated by no more than nine months.

An alternative to the removal of the current rate ceiling structure was suggested to the Committee by the Federal Deposit Insurance Corporation ("FDIC"). The FDIC suggests that the Committee completely deregulate all time deposits with original maturities of 91 days or more by removing all interest rate ceilings and other restrictions (except for an early withdrawal penalty) on such time deposits. For such time deposits, if funds are withdrawn within the first 90 days of the deposit, a minimum early withdrawal penalty, requiring the forfeiture of one-month's interest (not to exceed the interest earned), would be imposed. This penalty would be necessary so that these totally deregulated time deposits can not be structured to provide instant liquidity. If withdrawal is permitted after the first 90 days, institutions would be permitted, but not required by regulation, to impose an early withdrawal penalty. The remaining rate structure on time deposits with maturities of 31 to 90 days would be phased out on March 31, 1986. Alternatively, the Federal Home Loan Bank Board suggested that all categories of time deposits with original maturities of 91 days or less be eliminated and that the maximum maturity of the money market deposit account be extended to 91 days from its current maximum of 31 days. The balance of the ceiling rate structure would be phased out as currently scheduled (TABLE 2).

Acceleration of Rate Schedule: As mentioned above, the Garn-St Germain Act accelerated the total elimination of the thrift differential from March 31, 1986, to on or before January 1, 1984 and directed the Committee to create the ceiling-free MMDA. Consistent with this Congressional acceleration of the phaseout of limitations on the payment of interest, the Committee also requests comment on accelerating its current schedule (TABLE 2) for phasing out ceilings in general in the event the Committee finds that total deregulation or the removal of ceilings is inappropriate at this time. For example, the entire schedule could be advanced one year so that elimination of all ceilings occurs on April 1, 1985, instead of March 31, 1986, or the one-year interval in TABLE 2 could be reduced to six months. The Committee could also accelerate the removal of ceilings on

longer-term deposits while keeping the short-term portion of the schedule intact. For example, it could accelerate deregulation of ceilings on deposits with maturities of 1½ years or more to April 1, 1983, from April 1, 1984, but leave deregulation of rate ceilings on deposits with maturities of 6 months to 1½ years until the currently scheduled date of April 1, 1985.

Comments on Simplification

In addition to requesting comment on deregulation in general, the Committee also requests comments on how it could simplify current ceiling rate schedules and current account characteristics. The Committee also requests comment on whether it should rescind ceilings on fixed-rate deposits that have been or will be, superseded by indexed or ceiling-free account categories (TABLE 1). The Committee also requests comment on whether it should promptly extend indexing to all categories of fixed-rate deposits that have not yet been superseded by indexed ceilings or by removal of ceilings (TABLE 1). Ceilings on these newly indexed accounts would be phased out in accordance with the schedule on TABLE 2.

Short-Term Deposit Rate Schedule (TABLE 3): The current ceiling rate structure for the 26-week money market certificate is presented in the top portion of TABLE 3. The schedule is rather complex in that two alternative index rates are used—the most recent auction rate on 6-month Treasury bills or an average of the bill rates at the four most recent auctions—and the formula for determining the ceiling rate changes at five different levels of the index rate.

TABLE 3—CURRENT CEILING SCHEDULES FOR SHORT-TERM DEPOSIT ACCOUNTS

Index rate [1]	Commercial bank ceiling	Thrift ceiling	Differential
26-week money market certificates:			
Greater than 8.75 percent	Index rate +0.25	Index rate +0.25	0.
8.5 to 8.75	Index rate +0.25	9.0	0 to 0.25.
7.5 to 8.5	Index rate +0.25	Index rate +0.50	[illegible]
7.25 to 7.5	7.75	Index rate +0.50	0.25 to 0.
Less than 7.25	7.75	7.75	0.
91-day account:			
Greater than 9.0 percent [2]	Index rate −0.25	Index rate	0.25.
9.0 percent or below [3]	Index rate	Index rate	0
7- to 31-day account [4]	No ceiling	No ceiling	[illegible]

[1] The index rate for the 26-week MMC is the higher of the most recent auction rate (auction average, discount basis) on 6-month Treasury bills or an average of the four most recent auction rates. The index rate on the 91-day account is the most recent auction rate (auction average, discount basis) on 3-month Treasury bills.
[2] The differential is scheduled to be removed on May 1, 1983. At that time, all institutions will be able to pay the index rate at all interest rate levels.
[3] The index must be 9.0 percent or below for four consecutive auctions.
[4] At its December 6, 1982 meeting, the Committee determined that, effective January 5, 1983, the 7- to 31-day account would become ceiling free. This action was taken because the ceiling (indexed to the 91-day Treasury bill rate) became meaningless with the authorization of the new money market deposit account, which is ceiling free.

The methods of establishing the ceilings on the newer 91-day account (authorized beginning in May 1982) is less complex than the MMC, with the formula for determining the ceiling rate at various index rate levels changing only once, namely, when the 3-month Treasury bill rate reaches 9.0 percent (middle portion of TABLE 3). In addition to different ceiling rate structures, the thrift differential is applied inconsistently to these accounts. It is added to the index rate in the case of the 26-week MMC but is deducted from the index in the case of the 91-day deposit. Moreover, in the case of the 26-week MMC the differential is removed if the index rate goes above 8.75 percent and is removed on the 91-day account when the index rate falls below 9 per cent. However, the differential on the 91-day account is scheduled to be eliminated on May 1, 1983, so conforming this feature on these two accounts solely for the purpose of consistency may be unnecessary.

The different methods of calculating the ceilings on the MMC and the 91-day instrument have resulted in a confusing, and in some instances an inconsistent, situation. Therefore, the Committee requests comment on whether and how this schedule should be revised.

Simplification of Other Account Characteristics (TABLE 4): Even if the Committee determines to make no changes to the short-term rate ceiling schedule, other characteristics of the short-term deposit categories could be made more consistent in order to simplify the current account structure. Some of the differences in the short-term deposit accounts are presented in TABLE 4.

TABLE 4—SELECTED CHARACTERISTICS OF SHORT-TERM DEPOSIT ACCOUNTS

Characteristic	26-week MMC	91-day account	7- to 31-day account
Minimum denomination	$2,500 [1]	$2,500 [1]	$2,500 [1]
Loophole loans	Permitted	Prohibited	Prohibited.
Index rate	6-mo bill rate or 4-week average of bill rates.	3-mo bill rate	NA.
Relation between index rate and ceiling rate.	Presented in table 1	Presented in table 1	NA.
Minimum ceiling	7.75 percent	None	None.
Compounding	Prohibited [2]	Prohibited [3]	Unrestricted.
Differential	When index rate is between 7.25 and 8.75 percent. [4]	When index rate is above 9 percent. [5]	NA.
Differential on IRA/Keogh accounts and deposits of governmental units.	Banks may pay the thrift rate for these deposits.	Differential applies to these deposits.	NA.
Scheduled elimination of differential.	Dec. 31, 1983 [6]	May 1, 1983	
Scheduled elimination of ceiling	Apr. 1, 1985	Mar. 31, 1986	

[1] Effective Jan. 5, 1982.
[2] Although compounding is prohibited, a saver effectively will receive semiannual compounding if the original deposit plus interest is reinvested in another MMC at maturity.
[3] Although compounding is prohibited, a saver effectively will receive quarterly compounding if the original deposit plus interest is reinvested in another 91-day certificate at maturity.
[4] The full 25 basis point differential is in effect only when the index rate is between 7.5 and 8.5 percent.
[5] Scheduled to be eliminated May 1, 1983.
[6] Prior to the passage of the Garn-St Germain Depository Institutions Act, this differential was scheduled to be eliminated on April 1, 1985.

In view of these complexities, the Committee requests comment on whether changes should be made to the existing regulations authorizing these accounts in order to make the regulations less cumberesome and more uniform. The Committee is particularly interested in comments on (1) the relation between the index rate and the ceiling rate, (2) the thrift ceiling rate differential, (3) loophole loans, (4) the use of the four-week average method of calculating the MMC ceiling, and (5) the frequency of compounding that is permitted.

The Committee also requests comment on whether it should phase out minimum denomination requirements. For example, combining the phaseout of the minimum denomination on the MMDA and other short-term accounts with the Committee's current rate deregulation schedule would have the effect of phasing out passbook and NOW account ceiling rates as well as the minimum denomination on NOW accounts exempt from rate ceilings. Ceilings on savings account and on NOW accounts not subject to a minimum denomination requirement are not eliminated until March 31, 1986 under the Committee's current phaseout schedule. As the minimum denomination of indexed or ceiling-free, short-term time deposits is reduced under a phaseout schedule, the ceiling rate on savings and NOW accounts would become less binding, and more depositors would become eligible for the higher rate. For example, the $2,500 minimum denomination on the MMDA, NOW accounts exempt from rate ceilings, the 7- to 31-day account, the 91-day account, and the 26-week MMC could be reduced $500 or $1,000 at the time of each interest rate ceiling adjustment. At the next such adjustment, scheduled for April 1, 1983, the minimum denomination on such accounts could be reduced to $1,500. Subsequent periodic reductions would occur until no minimum denomination would be required on any deposit category.

Outline of Possible Options on Which Comment is Requested

A summary of the options, disscussed above, or possible Committee action is presented in an outline form below.

Elimination of Interest Rate Ceilings

1. Should the Committee eliminate the current interest rate ceiling structure (TABLE 1)?

a. Should the Committee eliminate all remaining interest rate ceilings immediately?

b. Should the Committee adopt the FDIC proposal and remove interest rate ceilings and all other restrictions on deposits with original maturities of 91 days or more, except for an early withdrawal penalty for withdrawals made in the first 90 days of the deposit?

c. Should the Committee adopt the FHLBB suggestion by extending the maximum maturity on money deposit accounts to 91 days and eliminating all competing categories of short-term deposits and let the current schedule apply otherwise?

d. What other methods of eliminating current ceilings should the Committee consider?

Acceleration of the Current Rate Phaseout Schedule (Table 2)

2. Should the Committee accelerate the current phaseout schedule (Table 2)?

a. Should the Committee simply advance each date in Table 2 by six months or a year or by some other period?

b. Should the Committee accelerate the long-term phaseout schedule (i.e., move up deregulation of deposits with original maturities of 1½ years or more) but allow the deregulation schedule for all other time deposits to remain intact (i.e. 91-days to 1 year)?

c. What other methods of accelerating deregulation should the Committee consider?

Simplification of Interest Rate Ceilings

3. If the Committee does not eliminate or accelerate the phaseout of interest rate ceilings in general, should the Committee make changes to the rate ceiling schedule for any category of time deposits (Table 1)?

a. Should all indexed accounts (middle of Table 1 and Table 3) become ceiling-free when their base rate is at 9 per cent or below (or at some other base rate) for four consecutive auctions (or for some other period)?

b. Should indexed accounts have a minimum ceiling that remains at 9 per cent (or some other rate) if the auction rate is at or below a rate of 9 per cent?

c. Should the elimination of the thrift differential be accelerated from its current statutory elimination on December 31, 1983?

d. Should the Committee rescind existing rate ceilings on all fixed-ceiling time deposits that are now, or in the future will be, superseded by indexed or ceiling-free accounts? (See footnotes 2 & 3 to Table 1)

e. Should existing ceilings on fixed-rate accounts (top of TABLE 1) be eliminated and replaced by appropriate market rate indexing (bottom of TABLE 1), which would then be subject to the phaseout schedule (TABLE 2)?

f. What other options for simplifying ceilings should the Committee consider?

Simplification and Rationalization of Interest Rate Ceilings and Other Characteristics of the 26-week MMC and the 91-day Account

4. If the Committee does not make changes to the rate ceiling schedule for deposits in general (No. 3, above), should it make changes to the 26-week MMC and the 91-day account (TABLE 3)?

a. Should a Committee remove the interest rate ceilings on the 26-week money market certificate and the 91-day account as it did for the 7- to 31-day account at its last meeting?

b. Should the 26-week MMC and the 91-day account become ceiling-free

when the rate on U.S. Treasury bills is at 9 percent or below (or at some other rate) for four consecutive auctions (or for some other period)?

c. Should the 26-week MMC and the 91-day account have a minimum ceiling that remains at 9 percent (or at some other rate) if the auction rate is below a rate of 9 percent (or at some other rate)?

d. Should the Committee eliminate the 7.75 percent minimum ceiling for the 26-week MMC?

e. Should the phaseout of the differential on 26-week MMCs, currently scheduled for December 31, 1983, be accelerated to May 1, 1983, to conform to the phaseout date for the differential on the 91-day account?

f. Should commercial banks be permitted to pay the thrift ceiling rate on maturing 26-week MMCs in order to enable them to compete more effectively for such deposits upon maturity?

g. Should the Committee rescind the amendment on the 26-week MMC which permits the ceiling to be the higher of the auction average or a 4-week average of the auction rates?

h. What other options concerning changes to the ceiling rates on these accounts should the Committee consider?

Simplification of Characteristics of Deposit Categories

5. If the Committee does not make changes to the schedule for deregulating rates in general, should it make changes to the primary characteristics of short-term deposits (TABLE 4)?

a. Should the Committee permit loans to meet the minimum denomination requirements on all accounts *OR* should it prohibit such loans on all accounts?

b. Should the Committee establish a schedule for phasing out all minimum denomination requirements (such as reducing the minimum by $500 or $1,000 on each scheduled interest rate phaseout date) *OR* should it eliminate such requirements immediately?

c. Should the Committee permit compounding on the 26-week MMC and the 91-day account as is currently permitted on all other interest-bearing accounts?

d. Should commercial banks be permitted to pay the ceiling rate for thrifts on *IRA/Keogh* and *governmental unit* deposits?

e. What other changes to the characteristics of these accounts should the Committee consider?

The Committee wishes to encourage interested parties to comment on the effect these changes may have on earnings and liquidity. Even if opposed to any changes or in favor of complete deregulation of interest rate ceilings, interested parties should comment on specific changes that they believe should be made if the Committee does decide to accelerate the schedule or to amend the short-time deposit ceiling rate schedules in order to simplify and make their characteristics more consistent.

List of Subjects in 12 CFR Part 1204

Banks, Banking.

By order of the Committee, December 22, 1982.

Mark Bender,

Acting Executive Secretary.

[FR Doc. 82-35152 Filed 12-27-82; 8:45 am]

BILLING CODE 4810-25-M

CIVIL AERONAUTICS BOARD

14 CFR Parts 241, 248, 291 and 297

[Econ. Regs. Docket 41147; EDR-450]

Uniform System of Accounts and Reports for Certificated Air Carriers; Submission of Audit and Reconciliation Reports; Domestic Cargo Transportation; and Foreign Air Freight Forwarders and Foreign Cooperative Shippers Associations

Dated: December 16, 1982.

AGENCY: Civil Aeronautics Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: The CAB proposes to eliminate reporting requirements for foreign air freight forwarders and to revise reports required of all-cargo carriers. The CAB also proposes to eliminate the reconciliation report required of certificated air carriers. This information is no longer needed by the CAB and their elimination will reduce burdens on these carriers.

DATE: Comments by February 28, 1983.

Comments and relevant information received after this date will be considered by the Board only to the extent practicable.

Requests to be put on Service List by January 12, 1983.

The Docket Section prepares the Service List and sends it to each person listed on it, who then serves comments on others on the list.

ADDRESSES: Twenty copies of comments should be sent to Docket 41147, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C., as soon as they are received.

FOR FURTHER INFORMATION CONTACT:

Jack Calloway, Office of the Comptroller, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; 202-673-6042, or David Schaffer, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; 202-673-5442.

SUPPLEMENTARY INFORMATION:

The Paperwork Reduction Act of 1980, Pub. L. 96-511 (PRA) took effect on April 1, 1981. The law has two general objectives: 1) insure that agencies make only necessary information request of the public, and 2) eliminate those reporting burdens that are found to be unnecessary. It establishes a goal of reducing the existing paperwork burden by 25 percent in 3 years, and consolidates information policy functions within the Office of Management and Budget (OMB).

In light of the impending "sunset" of the CAB, and later, in view of the PRA, the Board has been reviewing the need for its reporting requirements and information systems. The purpose of this review has been to determine which reporting requirements could be eliminated or reduced at or before sunset and which should be transferred to other agencies. Decisions are based on whether the regulatory program that a reporting requirement supports transfers at sunset or expires, and on whether there is still a regulatory need for the report. The conclusions of this review are contained in the staff report "CAB Information Systems and Early Sunset" (Docket 40024), which the Board approved for public release on September 15, 1981.

The Board sent the staff report to the heads of other Federal agencies for their comments before rulemakings were initiated. It recognized that these agencies also use CAB data and that changing the data collection system might impair their programs. The Board also sent the staff report to airline presidents, State aeronautics agencies, hub airport executives and about 275 other interested persons to obtain their views and to let them know that the Board might stop collecting data that they are relying on.

Based on its review of the comments received, the Board has tentatively decided to eliminate some reporting requirements and to reduce the scope of others. In this notice, the Board proposed to eliminate two reporting requirements and to reduce one other. These are: (1) The report required of

foreign air freight forwarders and cooperative shippers associations under 14 CFR Part 297; (2) the special report under 14 CFR Part 248 reconciling a carrier's audited balance sheet and income statement with like statements in the Form 41 report, and 3) the report required of all-cargo carriers under 14 CFR Parts 241 and 291.

Foreign Indirect Carriers

Foreign indirect carriers of property (air freight forwarders and cooperative shippers associations) are required by § 297.40 of the Board's rules to file a Financial and Operating Report (CAB Form 296R) by February 15 of each year. This section requires the reporting of gross air freight forwarding revenues, gross air freight forwarding expenses, net income (loss) from forwarding operations, and the number of shipments and number of tons of air freight received from customers as an indirect air carrier.

The Board has been moving to reduce its oversight of the activities of indirect air carriers of property. In ER–1094, 44 FR 6634, February 1, 1979, the Board significantly liberalized its rules governing these carriers. In ER–1159, 44 FR 69633, December 4, 1979, the Board adopted similar rules for foreign air freight forwarders and cooperative shippers associations. This action was taken to place U.S. and foreign indirect air carriers on an equal competitive footing. Both rules included the reporting requirements described above. The Board stated in ER–1094 that these requirements were necessary to monitor the industry during the initial stages of deregulation, and that they would be phased out completely in the future. By ER–1261, 46 FR 54726, November 4, 1981, the Board eliminated these reporting requirements for U.S. indirect air carriers of property. This notice proposes to accord equal treatment to foreign ones. The Board no longer has any need for this report. The reporting requirements of § 297.40 are waived pending the completion of this rulemaking.

All-Cargo Carriers

Part 291 of the Board's rules (14 CFR Part 291) applies to domestic cargo transportation by air carriers certificated under sections 401 or 418 of the Act. Subpart E of that part sets forth reporting requirements for these carriers. Section 291.41 states that carriers operating under section 401 certificate must comply with the reporting requirements of 14 CFR Part 241. The reporting obligations of carriers operating under a section 418 certificate are governed by Part 291, specifically § 291.42. If a carrier holds both a 401 and 418 certificate it is presumed to be operating under the section 418 certificate (see § 291.20) unless it is also conducting passenger or international operations.

The staff report recommended that the reporting requirement for 418 carriers in § 291.42 be eliminated. It recommended that these carriers file instead a balance sheet, an income statement, and a summary statistical schedule under Part 241 if they operate large aircraft (aircraft with a capacity of more than 18,000 pounds). Carriers operating small aircraft would not have had any reporting requirements. The reporting obligations of 401 carriers would not have been affected.

The reporting requirements were originally designed to monitor the growth and health of all-cargo carriers during the initial stages of cargo deregulation. It has now been more than 5 years since Congress passed the law deregulating all-cargo service (P.L. 96–163, November 9, 1977) and more than 4 years since the Board issued the rule substantially lessening the extent of its regulation of domestic cargo transportation (ER–1080, 43 FR 53628, November 16, 1978). The Board therefore would favor revoking § 291.42.

The Department of Transportation (DOT), however, has asked the Board not to eliminate all reporting by all-cargo carriers. It stated that it has a need to monitor the level of demand for air cargo activity. Since a substantial portion of this activity is conducted by all-cargo carriers, DOT considered some data reporting by these carriers to be essential. It called for a scaled-down version of the current reporting requirements.

Since DOT will administer most of the Board's remaining programs after sunset, the Board gives great weight to the views of that agency in these matters. The Board is therefore proposing to revise § 291.42 along the lines requested by DOT. Similar changes are proposed in the Schedule T–8 in Part 241 applicable to section 401 carriers. It will be less expensive to continue these reporting requirements in this way than to eliminate them, if DOT plans to reinstitute them later. Continuing these reporting requirements would also provide for continuity of the cargo data base. We are asking DOT to document for the record its need and economic justification for these report.

Under this proposal, the reporting obligations of section 418 all-cargo carriers would be reduced to nine items—three profit and loss items (total operating revenues, total operating expenses, and operating income or loss) and six traffic items (total revenue ton-miles, revenue tons enplaned, available ton-miles, aircraft miles flown, aircraft departures performed, and aircraft hours-airborne). This approximately an 85 percent reduction in the level of current reporting by these carriers.

Audit and Reconciliation Reports

Part 248 of the Board's rules (14 CFR Part 248) requires certificated carriers to submit to the Board, if an independent audit is made, two copies of the audit report. This part further requires each carrier to submit a special report reconciling the financial statements certified by a public accountant as part of the independent audit with those that the carrier filed with the Board as part of its Form 41 reports (§ 248.3). This reconciliation report was required to help resolve inconsistencies between the financial statements of the independent auditor and those in the Form 41 reports, and to help the Board detect possible inaccuracies in the Form 41 or violations of the uniform system of accounts.

The staff report recommended that the submission of the audit report be continued but that the reconciliation report be eliminated. No comments were received opposing these recommendations. The Board is therefore now proposing to eliminate § 248.3. Although there were formerly significant differences between the generally accepted accounting principles used by independent auditors and accounting principles that formed the basis for the Form 41 reports, this is no longer the case. By ER–980, 42 FR 19, January 3, 1977, the Board amended Part 241 of its rules (14 CFR Part 241) to minimize the differences between Board regulations and report forms on the one hand and generally accepted accounting principles on the other. This reduces the likelihood of inconsistencies between the financial statements of the independent auditor and those in the Form 41 reports.

We are also proposing to make a technical change in §§ 248.2 and 248.4 in light of recent staff reorganizations.

Regulatory Flexibility Act

In accordance with 5 U.S.C. §605(b), as added by the Regulatory Flexibility Act, Pub. L. 96–354, the Board certifies that this rule will not, if adopted as proposed, have a significant economic impact on a substantial number of small entities. Most of the entities affected by this proposal would be large certificated air carriers, and the effect of the change

will be a moderate reduction in reporting costs.

List of Subjects in 14 CFR Parts 241, 248, 291, and 297

Accounting, Air Carriers, Antitrust, Air transportation—foreign, Freight Forwarders, Insurance, Reporting requirements.

Accordingly, the Board proposes to amend Chapter II of 14 CFR, as follows:

PART 241—[AMENDED]

1. In Part 241, *Uniform System of Accounts and Reports for Certificated Air Carriers*, schedule T–8 of section 25 would be revised to read:

Section 25 Traffic and Capacity Elements

* * * * *

Schedule T–8—Report of all-cargo Operations.

(a) This schedule shall be filed semiannually by all air carriers holding section 401 certificates that conduct all-cargo operations under certificates issued under section 418 of the Act.

(b) Data reported on this schedule shall include only results of operations conducted in all-cargo aircraft. Data shall be segregated between domestic all-cargo operations conducted within the geographic limitations of section 418 certificates and all other all-cargo operations.

(c) Statement of operations. This statement shall include the following elements:

(1) Total operating revenue, categorized as follows:

(i) Transport revenues from the carriage of property in scheduled and nonscheduled service;

(ii) Transport revenues from the carriage of mail in scheduled and nonscheduled service; and

(iii) Transport-related revenues.

(2) Total operating expenses; and

(3) Operating profit or loss, computed by subtracting the total operating expenses from the total operating revenues.

(d) Summary of traffic and capacity statistics. This summary shall include the following elements:

(1) Total revenue ton-miles, which are the aircraft miles flown on each flight stage times the number of tons of revenue traffic carried on that stage. They shall be categorized as follows:

(i) Property; and

(ii) Mail.

(2) Revenue tons enplaned, reflecting the total revenue tons of cargo loaded on aircraft during the semiannual period;

(3) Available ton-miles, reflecting total revenue ton-miles available for all-cargo service during the semi-annual period, and computed by multiplying aircraft miles flown on each flight stage by the number of tons of aircraft capacity available for that stage;

(4) Aircraft miles flown, reflecting the total number of aircraft miles flown in cargo service during the semiannual period;

(5) Aircraft departures performed, reflecting the total number of take-offs performed in cargo service during the semiannual period; and

(6) Aircraft hours airborne, reflecting the aircraft hours of flight (from take-off to landing) performed in cargo service during the semiannual period.

PART 248—[AMENDED]

2. In Part 248, *Submission of Audit and Reconciliation Reports*, § 248.2 would be revised by replacing "Bureau of Accounts and Statistics" with "Office of Comptroller", as follows:

§ 248.2 Filing of audit reports.

(a) Whenever any air carrier subject to § 248.1 shall have caused an annual audit of its books, records, and accounts to be made by independent public accountants, such air carrier shall file with the Board's Office of the Comptroller, in duplicate, a special report consisting of a true and complete copy of the audit report submitted by such independent public accountants, including all schedules, exhibits, and certificates included in, attached to, or submitted with or separately as a part of, the audit report.

(b) Each air carrier subject to § 248.1 that does not cause an annual audit to be made of its books, records, and accounts for any fiscal year shall, at the close of such fiscal year file with the Board's Office of the Comptroller, as a part of its periodic reports, a statement that no such audit has been performed.

§ 248.3 [Removed and Reserved]

3. Also in Part 248, § 248.3, *Reconciliation of reports* would be removed and reserved.

4. Also in Part 248, § 248.4 would be revised by replacing "Bureau of Accounts and Statistics" with "Office of the Comptroller", as follows:

§ 248.4 Time for filing reports.

The report required by this part shall be filed with the Board's Office of Comptroller within 15 days after the due date of the appropriate periodic CAB Form 41 report, filed for the 12-month period covered by the audit report, or the date the accountant submits its audit report to the air carrier, whichever is later.

PART 291—[AMENDED]

5. In Part 291, *Domestic Cargo Transportation*, § 291.42 would be revised as follows:

§ 291.42 Section 418 financial and statistical reporting.

(a) General instructions.

(1) Carriers operating under section 418 certificates that are not subject to Part 241 of this chapter shall file Form 291, Statement of Operations and Statistics Summary for section 418 operations.

(2) The form required by this section shall be filed semiannually on February 10 and August 10 covering the six months ending December 31 and June 30 respectively. They shall be filed at the Office of the Comptroller, Information Management Division, B–46a, Civil Aeronautics Board, Washington, D.C. 20428.

(3) The carrier's chief accounting officer shall sign a certification attesting to the truth and completeness of the reports required by this section.

(b) Statement of Operations and Statistics Summary of section 418 operations. This statement shall include the following elements:

(1) Total operating revenue, categorized as follows:

(i) Transport revenues from the carriage of property in scheduled and nonscheduled service;

(ii) Transport revenues from the carriage of mail in scheduled and nonscheduled service; and

(iii) Transport-related revenues.

(2) Total operating expenses; and

(3) Operating profit or loss, computed by subtracting the total operating expenses from the total operating revenues.

(c) Summary of traffic and capacity statistics. This summary shall include the following elements:

(1) Total revenue ton-miles, which are the aircraft miles flown on each flight stage times the number of tons of revenue traffic carried on that stage. They shall be categorized as follows:

(i) Property; and

(ii) Mail.

(2) Revenue tons enplaned, reflecting the total revenue tons of cargo loaded on aircraft during the semiannual period;

(3) Available ton-miles, reflecting the total revenue ton-miles available for all-cargo service during the semiannual period, and computed by multiplying aircraft miles flown on each flight stage

by the number of tons of aircraft capacity available for that stage;

(4) Aircraft miles flown, reflecting the total number of aircraft miles flown in cargo service during the semiannual period;

(5) Aircraft departures performed, reflecting the total number of take-offs performed in cargo service during the semiannual period; and

(6) Aircraft hours airborne, reflecting the aircraft hours of flight (from take-off to landing) performed in cargo service during the semiannual period.

PART 297—[AMENDED]

Subpart E—[Reserved]

6. In Part 297, *Foreign Air Freight Forwarders and Foreign Cooperative Shippers Associations*, Subpart E, *Reporting Requirements*, would be removed and reserved.

(Secs. 204, 401, 407, 416, 418, 1601, P.L. 85–726, 72 Stat. 743, 754, 766, 771, 91 Stat. 1284, 92 Stat. 1744; 49 U.S.C. 1324, 1371, 1377, 1386, 1388, 1551.)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

BILLING CODE 6320-01-M

STATEMENT OF OPERATIONS AND SUMMARY STATISTICS
FOR SECTION 418 OPERATIONS

Carrier _____ (Carrier Code)
Six Months Ended _____ (Date)

Operating Revenues and Expenses		
Transport Revenue:		
Property	1	
Mail	2	
Transport Related Revenue	3	
Total Operating Revenue	4	
Total Operating Expense	5	
Operating Profit or (Loss)	6	
Traffic and Capacity Statistics		
Total Revenue Ton-Miles:		
Property	7	
Mail	8	
Revenue Tons Enplaned	9	
Available Ton Miles	10	
Aircraft Miles Flown	11	
Aircraft Departures Performed	12	
Aircraft Hours (Airborne)	13	

CAB Form 291

REPORT OF ALL-CARGO OPERATIONS

Air Carrier Six-Months Ended _____		All-Cargo Operations Domestic (418) (A)	 Other Than Section 418 (B)
Operating Revenues and Expenses			
Transport Revenue:			
Property	1		
Mail	2		
Transport Related Revenue	3		
Total Operating Revenue	4		
Total Operating Expense	5		
Operating Profit or (Loss)	6		
Traffic and Capacity Statistics			
Total Revenue Ton-Miles:			
Property	7		
Mail	8		
Revenue Tons Enplaned	9		
Available Ton Miles	10		
Aircraft Miles Flown	11		
Aircraft Departures Performed	12		
Aircraft Hours (Airborne)	13		

Schedule T-8 CAB Form 41

[FR Doc. 82-35143 Filed 12-27-82; 8:45 am]
BILLING CODE 6320-01-C

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 184

[Docket No. 78N-0023]

GRAS Status of Ammonium Bicarbonate, Ammonium Carbonate, Ammonium Chloride, Ammonium Hydroxide, and Mono- and Dibasic Ammonium Phosphate

Correction

In FR Doc. 82-28348 beginning on page 46113 of the issue for Friday, October 15, 1982, on page 46115, the third column, in § 184.1137, paragraph (a), the first line should read "(a) Ammonium carbonate ($(NH_4)_2CO_3$).".

BILLING CODE 1505-01-M

---

21 CFR Parts 333, 347, and 348

[Docket Nos. 75N-0183, 76N-0021, 78N-0301, and 80N-0476]

Topical Antifungal, Topical Antimicrobial, External Analgesic, and Skin Protectant Drug Products for Over-the-Counter Human Use; Advance Notices of Proposed Rulemaking; Extension of Time for Comments and Reply Comments

AGENCY: Food and Drug Administration.

ACTION: Advance notices of proposed rulemaking; extension of comment periods.

SUMMARY: The Food and Drug Administration (FDA) is extending the comment periods to February 4, 1983, and the reply comment periods to March 7, 1983, for the advance notices of proposed rulemaking to establish conditions for the safety, effectiveness, and labeling of over-the-counter (OTC) topical antifungal, topical antimicrobial, external analgesic, and skin protectant drug products as the relate to OTC diaper rash drug products. FDA is taking this action in response to a request to allow more time for interested persons to address adequately issues related to diaper rash drug products as a product category and to consult experts so that more informed comments may be submitted to FDA.

DATES: Written comments by February 4, 1983, and reply comments by March 7, 1983.

ADDRESS: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, National Center for Drugs and Biologics (HFN-510), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4960.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of September 7, 1982 (47 FR 39408, 39412, 39436, and 39464), FDA issued four advance notices of proposed rulemaking to establish conditions under which OTC topical antifungal, topical antimicrobial, external analgesic, and skin protectant drug products used (1) For the treatment of diaper rash; (2) for the prevention of poison ivy, oak, and sumac; (3) for the treatment of fever blisters; (4) as male genital desensitizers; (5) as astrigents; and (6) as insect bite neutralizers are generally recognized as safe and effective and not misbranded. These notices reopened the administrative records for OTC topical antifungal, topical antimicrobial, external analgesic, and skin protectant drug products to allow for consideration of recommendations on drug products for the six drug categories listed above that were received from the Advisory Review Panel on OTC Miscellaneous External Drug Products. These notices relate to the development of monographs for topical antifungal, topical antimicrobial, external analgesic, and skin protectant drug products in general, as part of the ongoing review of OTC drug products conducted by FDA. Interested persons were given until December 6, 1982 to comment on each advance notice of proposed rulemaking and until January 5, 1983 for reply comments. FDA advised that comments and reply comments were limited to those that relate to drug products for the six drug categories listed above.

In response to the advance notices of proposed rulemaking, The Proprietary Association requested a 60-day extension of the comment periods in order to allow adequate time for the association to address what it considered a number of unique and unexpected problems concerning OTC drug products for the treatment of diaper rash. The Proprietary Association stated that, because categorization of data and a proposed monograph were not included in the Panel's statement on diaper rash drug products, and because of the complexity of the subject of diaper rash and diaper rash drug products, more time was needed by member company experts and outside consultants to study adequately and consider the best options for handling these products in the OTC drug review process.

FDA has carefully considered the request. The agency believes that information described in the request may be of assistance in adequately establishing the safety and effectiveness of OTC topical antifungal, topical antimicrobial, external analgesic, and skin protectant drug products used for the treatment of diaper rash and is in the public interest. The agency considers a general extension of the comment periods for 60 days to be appropriate. This extension applies only to comments on diaper rash drug products. Accordingly, the comment periods for submissions by any interested person are extended to February 4, 1983 and the reply comment periods are extended to March 7, 1983. Interested persons may submit to the Dockets Management Branch (address above) written comments regarding these advance notices of proposed rulemaking as they relate to OTC diaper rash drug products. Three copies of any comments are to be submitted, except that individuals may submit one copy. Comments may be seen in the Dockets Management Branch betwen 9 a.m. and 4 p.m., Monday through Friday.

Dated: December 22, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-35205 Filed 12-23-82; 11:48 am]

BILLING CODE 4160-01-M

---

21 CFR Part 356

[Docket No. 81N-0033]

Oral Health Care Drug Products for Over-the-Counter Human Use; Advance Notice of Proposed Rulemaking; Extension of Time for Reply Comments

AGENCY: Food and Drug Administration.

ACTION: Advance notice of proposed rulemaking; extension of reply comment period.

SUMMARY: The Food and Drug Administration (FDA) is extending to January 21, 1983, the reply comment period for the advance notice of proposed rulemaking to establish conditions for the safety, effectiveness, and labeling of over-the-counter (OTC) oral health care drug products. FDA is taking this action in response to a request to allow more time for interested persons to address adequately several important issues raised during the comment period.

DATE: Written reply comments by January 21, 1983.

ADDRESS: Written reply comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William E Gilbertson, National Center for Drugs and Biologics (HFN–510), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4960.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of July 30, 1982 (47 FR 32953), FDA issued an extension of comment periods for an advance notice of proposed rulemaking to establish conditions for the safety, effectiveness, and labeling of oral health care drug products for OTC human use. This advance notice of proposed rulemaking, which was based on the recommendations of the Advisory Review Panel on OTC Oral Cavity Drug Products, is part of the ongoing review of OTC drug products conducted by FDA. Interested persons were given until November 22, 1982, to comment on the advance notice of proposed rulemaking and until December 22, 1982, for reply comments.

The Proprietary Association has requested a 60-day extension of the reply comment period in order to allow adequate time for the association to analyze and evaluate comments submitted in response to the advance notice of proposed rulemaking and to prepare reply comments. The association stated that as of December 2, 1982 all comments were not yet available at the Dockets Management Branch, and that the number and length of the comments available on December 2, 1982 were extensive. The association pointed out that the reply comment period runs through the holiday season when many member company employees are not available to analyze and evaluate the comments fully.

FDA has carefully considered the request. The agency believes that an extension of the reply comment period may be of assistance in establishing the safety and effectiveness of OTC oral health care drug products and is in the public interest. Because the comment and reply comment periods have already been extended once and because the submitted comments are now available at the Dockets Management Branch, the agency considers an additional extension of 20 days for the reply comment period to be appropriate. Accordingly, the reply comment period for submissions by any interested person is extended to January 21, 1983. Interested persons may submit to the Dockets Management Branch (address above) written reply comments to comments submitted in response to the advance notice of proposed rulemking. Three copies of any reply comments are to be submitted, except that individuals may submit one copy. Comments and reply comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: December 21, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82–35070 Filed 12–22–82; 11:39 am]

BILLING CODE 4150–01–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. S–010]

Servicing of Multi-Piece and Single Piece Rim Wheels; Extension of Comment Period

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Extension of time for submission of written comments.

SUMMARY: This notice extends the comment period for written responses to the questions OSHA presented in the notice of proposed rulemaking: "Servicing of Multi-Piece and Single Piece Rim Wheels" (47 FR 51159, November 12, 1982).

DATES: Written responsés to the November 12, 1982 notice must submitted on or before January 26, 1983.

ADDRESS: Comments and hearing requests should be sent to: Docket Officer, Docket No. S–101, Room S–6212, U.S. Department of Labor, Washington, D.C. 20210 (202) 523–7894.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Sauger, U.S. Department of Labor—OSHA, Office of Mechanical Engineering Safety Standards, Room N–3506, Washington, D.C. 20210 (202) 523–7213.

SUPPLEMENTARY INFORMATION: On November 12, 1982, OSHA published in the **Federal Register** (47 FR 51159) a proposed rule, "Servicing of Multi-Piece and Single Piece Rim Wheels." In the proposed rule, OSHA included requirements for the training of all tire servicing employees, establishing a safe practice procedure for servicing single piece rim wheels, using restraining devices or other means of securing the rim wheel during inflation and using only matching rim wheel components (tires and rims). The proposal also contains several minor amendments to the provisions currently applicable to multi-piece rim wheel servicing operations.

In the notice, OSHA requested written responses to many general and special issues pertaining to multi-piece and single piece rim wheels. The written responses were to have been received December 27, 1982.

OSHA has been asked to extend the comment period to ensure that interested parties have sufficient time to compile data and prepare responses to the issues raised in the notice. OSHA believes that the information gathering process will be improved if all interested parties are granted additional time for submission of comments. Thus, OSHA has decided to extend the written comments period to January 26, 1983.

(Sec. 6, 84 Stat. 1593 (29 U.S.C. 655), 29 CFR Part 1911; Secretary of Labor's Order No. 8–76 (41 FR 25059))

Signed at Washington, D.C., this 22nd day of December 1982.

Thorne G. Auchter,

Assistant Secretary of Labor.

[FR Doc. 82–35144 Filed 12–27–82; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 913

Public Comment Procedures and Opportunity for Public Hearing on Modified Portions of Illinois Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed Rule.

SUMMARY: OSM is announcing procedures for the public comment period and for requesting a public hearing on the substantive adequacy of certain program amendments submitted by the State of Illinois to satisfy conditions imposed by the Secretary of the Interior on the approval of the Illinois permenent regulatory program (hereinafter referred to as the Illinois program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

This notice sets forth the times and locations that the Illinois program and the proposed amendments are available

for public inspection, the comment period during which interested persons may submit written comments on the proposed program elements and the procedures that will be followed for the public hearing.

DATES: Written comments must be received on or before 4:00 p.m., January 27, 1983, to be considered in the decision on whether the proposed amendments satisfy the conditions of approval.

A public hearing on the proposed modifications will be held only if requested. If no one requests a public hearing, none will be held. If only one person requests a public hearing, a public meeting rather than a public hearing may be held, and a summary of the meeting included in the Administrative Record. If a hearing is requested and scheduled, a notice announcing the time and location of the hearing will be published in the **Federal Register**. Requests for a public hearing should be directed to Daniel Jones at the address and phone number listed below by 4:00 p.m., January 12, 1983.

ADDRESSES: Written comments and requests for a hearing should be sent to: Daniel Jones, Field Office Director, Illinois Field Office, Office of Surface Mining, No. 4 Old Capitol Plaza North, Springfield, Illinois 62701, Telephone: (217) 492–4486.

Copies of the Illinois program, the proposed modifications to the program, a listing of any scheduled public meeting, and all written comments received in response to this notice will be available for public review at the OSM Field Office listed above and at the OSM Headquarters Office and the Office of the State regulatory authority listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays:

Office of Surface Mining, Administrative Record, Room 5315, 1100 L Street NW., Washington, D.C. 20240

Illinois Department of Mines and Minerals, 277 South 7th Street, Springfield, Illinois 62706.

FOR FURTHER INFORMATION CONTACT: Mr. Daniel Jones, Field Office Director, Illinois Field Office, Office of Surface Mining, No. 4 Old Capitol Plaza North, Springfield, Illinois 62701, Telephone: (217) 492–4486.

SUPPLEMENTARY INFORMATION:

Background:

The Illinois program was approved on June 1, 1982 (47 FR 23858–23883). The approval was conditioned on the correction of five minor deficiencies. In accepting the Secretary's conditional approval, Illinois agreed to correct deficiencies (a), (d), and (e) by December 1, 1982, and deficiencies (b) and (c) by June 1, 1983. Information pertinent to the general background, revisions, modifications, and amendments to the Illinois permanent program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Illinois program can be found in the June 1, 1983 **Federal Register**.

Submissions of Amendments

Illinois has now submitted rules, by letter dated November 30, 1982, intended to satisfy conditions (a), (d), and (e).

(1) To satisfy condition (a), Illinois has amended its rules 1816.64(a) and 1817.65(a) as follows:

Section 1816.64 Use of explosives: Public notice of blasting schedule.

(a) Blasting schedule publication.

(1) Each person who conducts surface mining activities shall publish a blasting schedule at least 30 days, but not more than 60 days, before beginning a blasting program in which blasts that use more than 5 pounds of explosives or blasting agent are detonated. The blasting schedule shall be published in a newspaper of general circulation in a locality of the blasting site.

Section 1817.65 Use of explosives: Surface blasting requriements.

(a) A resident or owner of a dwelling or structure that is located within one-half mile of any area affected by any surface blasting event shall be notified in writing at least 30 days, but not more than 60 days, before beginning a blasting program in which blasts that use more than 25 pounds of explosives or blasting agent are detonated. Such notification shall be accompanied by information advising the owner or resident how to request a pre-blast or condition survey.

(2) To satisfy condition (d), Illinois has amended its rule 1807.11(d) as follows:

Section 1807.11 Procedures for seeking release of performance bond.

(d) Inspection by Department. The Department shall inspect and evaluate the reclamation work involved within 30 days after receiving a completed application for bond release, or as soon thereafter as weather conditions permit. The surface owner, or lessee, or agent thereof shall be given notice of such inspection, and may participate with the regulatory authority in making the bond release inspection.

(3) To satisfy condition (e), Illinois has amended its rule 1843.12(f) and added a new 1843.12(i) as follows:

Section 1843.12 Notices of violation.

(f) Circumstances which may qualify a surface coal mining operation for an abatement period of more than 90 days are:

(1) Where the permittee of an ongoing permitted operation has timely applied for and diligently pursued a permit renewal or other necessary approval of designs or plans but such permit or approval has not been or will not be issued within 90 days after a valid permit expires or is required, for reasons not within the control of the permittee;

(2) Where there is a valid judicial or administrative order precluding abatement within 90 days as to which the permittee has diligently pursued all rights of appeal and as to which he or she has no other effective legal remedy;

(3) Where the permittee cannot abate within 90 days due to a labor dispute;

(4) Where climatic conditions preclude abatement within 90 days, clearly:

(i) Would cause more environmental harm than would prevent; or

(ii) Requires action that would violate safety standards established by statute or regulation under the Mine Safety and Health Act.

(5) Where abatement of the violation within 90 days would create an imminent danger to the health or safety of the public or would cause, or could reasonably be expected to cause, significant imminent environmental harm to land, air, or water resources.

(i) *No extension granted under paragraph (h) exceed 90 days in length. Where the condition or circumstances which prevented abatement within 90 days exists at the expiration of any such extension, the permittee may request a further extension in accordance with the procedures of paragraph (h).*

The Secretary seeks public comment on whether the amendments satisfy conditions (a), (d), and (e). If the amendments are approved, conditions (a), (d), and (e) will be removed from the Illinois program.

Additional Determinations

National Environmental Policy Act

Pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), this rule is not a major Federal action and therefore no environmental impact statement, environmental assessment, or FONSI need be prepared on this rulemaking.

Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act 5 U.S.C. 601 et seq. I certify that this proposed rule will not have a significant

economic impact on a substantial number of small entities.

Executive Order 12291

On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 6 and 8 of Executive Order 12291 for all actions taken to approve or conditionally approve State programs, actions or amendments. Therefore, this proposed program amendment is exempt from the requirement to prepare a Regulatory Impact Analysis and regulatory review by OMB.

List of Subjects in 30 CFR Part 913

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: December 22, 1982.

J. Steven Griles,

Acting Director, Office of Surface Mining.

[FR Doc. 82-35146 Filed 12-27-82; 8:45 am]

BILLING CODE 4310-05-M

---

30 CFR Part 936

Cancellation of Public Comment Period and Hearing on Oklahoma's Proposed Rules of Practice and Procedure

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed Rule; Cancellation of Public Comment Period and Hearing.

SUMMARY: On December 3, 1982, OSM announced the procedures for a public comment period and hearing on the substantive adequacy of Oklahoma's proposed Rules of Practice and Procedure. Those rules were intended to satisfy one of the conditions of the Secretary's approval of the Oklahoma State Program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

On December 20, 1982, OSM received from the Oklahoma Department of Mines a request that OSM withdraw the Rules of Practice and Procedure from consideration as a formal program amendment at this time for the reasons set forth later in this notice.

In response to Oklahoma's request, OSM hereby gives notice that it is suspending the public comment period that was to end on January 3, 1983, and cancelling the public hearing that was scheduled to be held on December 27, 1982, in Tulsa, Oklahoma.

DATE: This cancellation is effective December 28, 1982.

ADDRESSES: See "Supplementary Information" below for locations where copies of Oklahoma's withdrawal request is available for public inspection and copying.

FOR FURTHER INFORMATION CONTACT: Mr. Robert L. Markey, Director, Oklahoma Field Office, Office of Surface Mining Reclamation and Enforcement, 333 West Fourth Street, Room 3432, Tulsa, Oklahoma 74103, Telephone: (918) 581-7927.

SUPPLEMENTARY INFORMATION:

I. Availability of Copies

Copies of the Oklahoma Department of Mines' withdrawal request is available for review and copying at the OSM offices and the office of the state regulatory listed below, Monday through Friday, 8:00 a.m., to 4:00 p.m., excluding holidays:

Office of Surface Mining Reclamation and Enforcement, Room 5315, 1100 L Street NW., Washington, DC 20240

Office of Surface Mining Reclamation and Enforcement, 333 West Fourth Street, Room 3432, Tulsa, Oklahoma 74103

Oklahoma Department of Mines, 4040 North Lincoln Boulevard, Suite 107, Oklahoma City, Oklahoma 73105

II. Details of the Cancellation of the Public Comment Period and Hearing

On November 9, 1982, OSM received a revised set of Rules of Practice and Procedure from the Oklahoma Department of Mines. See OK-436. The Rules of Practice and Procedure were submitted as a formal state program amendment and were intended to meet the requirements of condition 30 CFR 936.11(b) of the Secretary's approval of the Oklahoma program. That condition requires Oklahoma to amend its Rules of Practice for hearings to make the public participation aspects of those rules no less effective than the public participation aspects of SMCRA, 30 CFR Chapter VII and 43 CFR Part 4.

OSM announced receipt of Oklahoma's proposed program amendment in the **Federal Register** on December 3, 1982, at 47 FR 54473-54474. The notice stated that the public hearing would be held, if requested, in Tulsa, Oklahoma on December 27, 1982, and that the comment period would close on January 3, 1983.

On December 20, 1982, OSM received a letter from Mr. Blaney Qualls, Director and Deputy Chief Mine Inspector of the Oklahoma Department of Mines. See OK-437. Mr. Qualls requested that the November 9, 1982, submission of Rules of Practice and Procedure be withdrawn from further consideration because those rules had not been adopted under the permanent rulemaking procedures of Oklahoma and to do so would require review by the Oklahoma Legislature during its 1983 session. Mr. Qualls also stated that the Department of Mines had made several revisions to the Rules of Practice and Procedure subsequent to the date when those rules were submitted to OSM as a State program amendment. The Department of Mines Director also indicated that he expects Oklahoma will promulgate permanent Rules of Practice and Procedure on or after February 3, 1983, unless the rules are disapproved by the Legislature.

OSM has decided to honor Oklahoma's request. For this reason, this notice has been issued to inform the public about the circumstances of Oklahoma's withdrawal request and to indicate that the public hearing and comment period have been cancelled. However, OSM will forward to Oklahoma copies of all comments received during the cancelled comment period for the State's consideration in redrafting its rules.

OSM notes that Oklahoma has until May 15, 1983, to meet the requirements of condition 30 CFR 936.11(6).

Dated: December 22, 1982.

Wm. B. Schmidt,

Assistant Director, Program Operations and Inspection.

[FR Doc. 82-35145 Filed 12-27-82; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 123

[SW-10-FRL 2272-2]

Hazardous Waste Management Program; Washington Application for Interim Authorization, Phase I and Phase II Components A and B

Correction

FR Doc. 82-34701 was published on page 57022 in the issue of Wednesday, December 22, 1982. It announced a public hearing and comment period. It was incorrectly published as a Rule document and should have appeared in the Proposed Rules section of the **Federal Register.**

BILLING CODE 1505-01-M

40 CFR Part 610

[AMS-FRL-2231-6]

Amendment and Clarification of the Test Procedures and Evaluation Criteria for Fuel Economy Retrofit Devices

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: To eliminate the present confusion regarding the Agency's authority to test fuel additives as part of its retrofit device evaluation program, this rulemaking proposes that the definition of "retrofit devise" in EPA's fuel economy retrofit device evaluation regulations, 40 CFR Part 610, be revised to include fuel additives and thereby make it consistent with the provisions of the Motor Vehicle Information and Cost Savings Act, 15 U.S.C. 2011. This rulemaking also proposes to revise the definition of a "manufacturer" so that the Agency can more efficiently administer the retrofit device evaluation program. Finally, this rulemaking proposes to require the Administrator to notify manufacturers when it intends to test their fuel economy retrofit device, and to afford them the right to comment on the test design and to observe the test sessions. This formally guarantees certain rights to manufacturers which heretofore had been courteously granted by the Agency as common practice during its evaluation programs.

DATES: Comments must be submitted on or before February 28, 1983.

ADDRESS: Comments should be submitted to: U.S. Environmental Protection Agency, Central Docket Section (A-130), Gallery 1, West Tower Lobby, Waterside Mall, 401 M Street, SW., Washington, D.C. 20460, ATTN: Docket No. A-82-01.

FOR FURTHER INFORMATION CONTACT: Merrill W. Korth, Test and Evaluation Branch, Emission Control Technology Division, Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, MI 48105. Telephone (313) 668-4299.

SUPPLEMENTARY INFORMATION: Since publication of the fuel economy retrofit device regulations, 40 CFR Part 610, 44 FR 17946 (March 23, 1979), EPA has evaluated over 30 fuel econmy retrofit devices. The devices generally have been mechanical and/or electrical in design. Recently, however, EPA has been receiving requests to evaluate fuel additives as part of the retrofit device evaluation program. EPA considered it appropriate to evaluate fuel additives under the program because; (1) Section 511 of the Motor Vehicle Information and Cost Savings Act, 15 U.S.C. 2011, (hereafter referred to as "MVICSA") includes fuel additives within the definition of "retrofit device", (2) MVICSA requires EPA to evaluate retrofit devices to determine their effect on fuel economy and emissions of air pollutants, (3) EPA has test procedures in place for evaluating regulated exhaust emissions and fuel economy, and (4) EPA has been interpreting the regulations to mean that fuel additives are included within the definition of retrofit device. For these reasons, EPA has evaluated and tested a number of fuel additives.

During its evaluation of fuel additives under its retrofit device testing program, EPA has found three areas of the existing fuel economy retrofit device regulations which require amendment and/or clarification. First, the preamble to the existing regulations states:

> Although fuel additives are also included in this definition (referring to retrofit devices), EPA has not yet developed test protocols for fuel additives, therefor, these rules will not apply to fuel additives. Fuel additive protocols used in this program are being developed as a part of EPA's responsibility to evaluate the emissions impact of fuel additives under Section 211 of the Clean Air Act, 42 U.S.C. 7545 ("The Act") [1] and will be published in a future rulemaking (44 FR 17946, March 23, 1979).

Some manufacturers of fuel additives have interpreted this to mean that EPA had not established test procedures for regulated emissions and fuel economy and that these procedures were being developed under Section 211 of the Act.

A second area caused further confusion in that the preamble includes fuel additives as retrofit devices while the regulatory definition does not. Because of the regulatory definition of retrofit device, and the interpretation of the preamble, some manufacturers have questioned the legality of EPA's evaluating and testing of fuel additives.

The Agency has always considered fuel additives to be included within the definition of retrofit device. In developing the current retrofit device regulations, the Agency intended to include the identical definition of retrofit devices as contained within the MVICSA. However, because certain language was inadvertently omitted from the regulatory definition, fuel additives were not included within the definition of a retrofit device. EPA proposes to change the regulatory definition to specifically include fuel additives. In doing so, the regulatory definition will correspond to the MVICSA definition.

In addition, EPA intended that the preamble contrast the different purposes of the testing of fuel additives under the MVICSA with the testing of fuels and fuel additives under Section 211 of the Act, 42 U.S.C. 7545. Because this relationship was not adequately stated, the Agency would like to make this relationship clear.

(1) For the purposes of the MVICSA, the Agency intends to evaluate and test fuel additives as part of its retrofit device evaluation program to determine the effects of fuel additives on fuel economy and emissions. The Agency has test procedures in place which it believes are appropriate for measuring the effect of fuel additives on regulated emissions and fuel economy. These are the same test procedures that have been used for several years for the new vehicle certification and fuel economy programs and also for evaluations of other retrofit devices. Because the Agency believes these procedures are also appropriate for fuel additives, this proposal would make them applicable to the evaluation of fuel additives. Further, in accordance with 40 CFR 610.31(c), EPA will modify these test procedures, as needed, so that a technically correct evaluation of a particular fuel additive can be performed. Comments are specifically solicited on whether these protocols are appropriate for testing and evaluating fuel additives.

(2) For the purposes of Section 211 of the Act, 42 U.S.C. 7545, the Agency has not yet developed test protocols for determining the health effects of fuel additives. It should be emphasized that the fuel economy and emission testing of a fuel additive under the MVICSA would in no way fulfill the responsibility of the manufacturer to perform any health effects tests required by any regulations issued in the future under Section 211 of the Act.

(3) Test procedures and protocols for health effects are being developed under Section 211 of the Act, 42 U.S.C. 7545, and will be published in a later rulemaking.

The third area of the regulations requiring amendment and clarification is the definition of a "manufacturer" as it applies to retrofit devices. The current

[1] Section 211 of the Act directs EPA to regulate fuels and fuel additives. Section 211(b)(2) directs the Administrator to require manufacturers of fuels and fuel additives to conduct tests to determine potential public health effects. Additionally, it provides that such tests shall be conducted in conformity with test procedures and protocols established by the Administrator. These test procedures for determining health effects caused by fuels and fuel additives have not yet been developed.

regulation, 40 CFR Part 610.11(a)(8), defines a manufacturer as "a person or company who is engaged in the business of manufacturing, distributing, or selling retrofit devices for which a fuel economy improvement claim is made." Further, 40 CFR 610.12 states that a retrofit device evaluation program will be initiated by either the Federal Trade Commission, the EPA Administrator, or upon the application of any manufacturer of a retrofit device. Together, these two sections allow distributors and other persons selling a retrofit device to make application for an EPA evaluation of that device. In some instances, this has resulted in two or more individuals applying for an EPA evaluation of the same retrofit device. The multiple applications have led to confusion, delays, and additional paperwork. Moreover, one manufacturer (who actually produces or assembles the device) has protested that the MVICSA does not provide for the initiation of an evaluation by distributors or dealers (and perhaps even competitors) of the device, i.e., that the manufacturer (one who actually produces or assembles the device) is the only person outside the government who can initiate a device evaluation.

To remedy these problems, this rulemaking proposes to narrow the current regulatory definition by defining a "manufacturer" as one who actually produces or assembles a retrofit device. Therefore, distributors, dealers, and anyone else connected with a device will be precluded from initiating an evaluation unless authorized by the manufacturer. EPA does not expect this change to have a significant impact on distributors and dealers because few applications for evaluation have been made by distributors and dealers and in those instances the application was generally with the consent of the manufacturer.

Finally, this rulemaking proposes to formally assure manufacturers of fuel economy retrofit devices certain rights which until now have been courteously granted, as common practice, by the Agency during its evaluation programs. Specifically, this rulemaking proposes that the Administrator be required to make a reasonable effort to notify manufacturers when the Agency intends to test their devices, to afford them the opportunity to comment on specific test designs, and to attend the test sessions. By guaranteeing these rights, the Agency hopes that more manufacturers will be encouraged to participate in the Agency's testing of their device, early in the test program to resolve minor differences in opinion regarding test designs and thereby improving the evaluation program.

Administrative Designation

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because it will not result in an annual effect on the economy of $100 million or more, a major increase in costs or prices for consumers, individual industries, or government agencies, or significant adverse effects on competition, employment, investment, productivity, or innovation.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

Effect on Small Entities

I certify that this action will not have a significant economic impact on a substantial number of small entities. Thus, the Agency has not prepared an analysis under the Regulatory Flexibility Act.

Reporting and Recordkeeping Requirements

This rule creates no new reporting or recordkeeping requirements. It merely clarifies that fuel additives can be tested under the fuel economy retrofit program and makes no change to the existing reporting and recordkeeping requirements.

Availability of Documents

Copies of material relevant to this relemaking are located in Public Docket No. A–82–01, at the U.S. Environmental Protection Agency, Central Docket Section (A–130), Gallery 1, West Tower Lobby, Waterside Mall, 401 M Street SW., Washington, D.C. 20460. The docket may be inspected between 8 a.m. and 4 p.m., Monday through Friday. A reasonable fee may be charged for copying services.

List of Subjects in 40 CFR Part 610

Fuel Economy, Gasoline, Motor Vehicles.

(15 U.S.C. 2011)

Dated: December 20, 1982.

Anne M. Gorsuch,

Administrator.

PART 610—[AMENDED]

For the reasons set forth in the preamble, EPA proposes to amend 40 CFR Part 610 as follows:

1. The authority citation for Part 61 reads as follows:

Authority: Sec. 511, Motor Vehicle Information and Cost Savings Act as amended (Sec. 301. Pub. L. 94–163, 89 Stat. 915, (15 U.S.C. 2011)).

2. In § 610.11, paragraphs (a)(1), (a)(1)(i), (a)(1)(ii), and (a)(4) are proposed to be revised to read as follows:

§ 610.11 Definitions.

(a) * * *

(1) "Retrofit device" or "device" means any component, equipment, or other device, (except flow measuring instruments or other driving aids) or fuel additive or substance:

(i) Which is designed to be installed in or on an automobile as an addition to, as a replacement for, or through alteration or modification of, any original component, equipment, or other devices, or which is to be added directly to the fuel supply of an automobile by means other than service station fuel dispenser pumps; and

(ii) Which any manufacturer, dealer, or distributor of such device represents will provide higher fuel economy than would have resulted with the automobile as originally equipped, as determined under rules of the Administrator.

* * * * *

(4) "Manufacturer" means a person or company which is engaged in the business of producing or assembling a retrofit device for which a fuel economy improvement claim is made.

* * * * *

3. In § 610.30, it is proposed that paragraph (d) be added as follows:

§ 610.30 General.

* * * * *

(d) For each device the Agency intends to test, the Administrator will make a reasonable effort to give to the manufacturer prior notice of the Agency's intent to test the device, and to provide the manufacturer the opportunity to comment on the specific test design and to attend the test sessions.

[FR Doc. 82-35149 Filed 12-27-82; 8:45 am]
BILLING CODE 6560-50-M

Notices

Federal Register
Vol. 47, No. 249
Tuesday, December 28, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

CIVIL AERONAUTICS BOARD

[Docket No. 41163]

Newark-London Back-Up Case; Postponement of Prehearing Conference

Notice is hereby given that at the request of People Express Airlines, Inc., the prehearing conference in the above-titled matter assigned to be held on December 29, 1982, is postponed of January 4, 1983, at 10:00 a.m. (local time), in Room 1012, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C.

Dated at Washington, D.C., December 21, 1982.

William A. Kane, Jr.,
Administrative Law Judge.

[FR Doc. 82-35137 Filed 12-27-82; 8:45 am]
BILLING CODE 6320-01-M

Fitness Determination of PEE DEE Air Express, Inc. d.b.a. Trans Southern Airways

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Commuter Air Carrier Fitness Determination—Order 82-12-102, Order to Show Cause.

SUMMARY: The Board is proposing to find that PEE DEE Air Express, Inc. d/b/a Trans Southern Airways is fit, willing, and able to provide commuter air carrier service under section 419(c)(2) of the Federal Aviation Act, as amended, and that the aircraft used in this service will conform applicable safety standards. The complete text of the order is available, as noted below.

DATE: Responses: All interested persons wishing to respond to the board's tentative fitness determination shall serve their responses on all persons listed below no later than January 7, 1983, together with a summary of the testimony, statistical data, and other material relied upon to support the allegations.

ADDRESS: Responses or additional data should be filed with the Special Authories Divisions, Room 915, Civil Aeronautics Board, Washington, D.C. 20428, and with all persons listed in Attachment A to Order 82-12-102.

FOR FURTHER INFORMATION CONTACT: Mrs. Ava Kleinman, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673-5345.

SUPPLEMENTARY INFORMATION: The complete text of Order 82-12-102 is available from the Distritution Section, Room 100, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 82-12-102 to that address.

By the Civil Aeronautics Board: December 21, 1982.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 82-35138 Filed 12-27-82; 8:45 am]
BILLING CODE 6320-01-M

CIVIL RIGHTS COMMISSION

Alabama Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Alabama Advisory Committee to the Commission will convene at 11:00a and will end at 2:30p, on January 26, 1983, at The Madison, Fountain Room C, 120 Madison Avenue, Montgomery, Alabama 36104. The purpose of this meeting is to report, plan and implement selected Advisory Committee projects.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Ms. Abigail Turner, P.O. Box 2963, Mobile, Alabama 36601, (205) 433-7409; or the Southern Regional Office, Citizens Trust Bank Building, Room 362, 75 Piedmont Avenue, N.E., Atlanta, Georgia 30303, (404) 242-4391.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission

Dated at Washington, D.C., December 22, 1982.

John I. Binkley,
Advisory Committee Management Officer.

[FR Doc. 82-35097 Filed 12-27-82; 8:45 am]
BILLING CODE 6335-01-M

South Carolina Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the South Carolina Advisory Committee to the Commission will convene at 1:00p and will end at 3:30p, on January 19, 1983, at The Gressette Senate Office Building, Room 201, State Capitol Complex, Columbia SC 29201. The purpose of this meeting is to discuss proposal for study on utilization of Chapter 2 educational block grant funds (plan implementation of project), report on Commission funding, and discuss program plans for FY 83.

Persons desiring additional information or planning a presentation to the Committee should contact the Chairperson, Dr. Oscar P. Butler, Jr., P.O. Box 1705, South Carolina State College, Orangeburg, SC 29117, (803) 536-7040; or the Southern Regional Office, Citizens Trust Bank Building, Room 362, 75 Piedmont Avenue, N.E., Atlanta, Georgia 30303, (404) 242-4391.

The meeting wil be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., December 22, 1982.

John I. Binkley,
Advisory Committee Management Officer.

[FR Doc. 82-35098 Filed 12-27-82; 8:45 am]
BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Toshiba Ampex Company, Ltd.; Order

The Office of Export Enforcement, United States Department of Commerce, initiated administrative proceedings pursuant to Section 11(c) of the Export Administration Act of 1979 (50 U.S.C. app. 2401, *et seq.*) (Supp. III 1979) (the "Act") and Part 388, of the Export Administration Regulations (15 CFR Part 368, *et seq.* (1981)) (the "Regulations")

against Toshiba Ampex Company, Ltd. ("TOAMCO"), by issuing a Charging Letter alleging that, in the year 1976, TOAMCO violated §§ 387.2 and 387.4 of the Regulations.

The Department and TOAMCO have entered into a Consent Agreement whereby each party has agreed to settle this matter: (1) By a denial to TOAMCO of all export privileges, subject to certain exceptions, for a period ending three months from the date of this order, (2) by a further denial to TOAMCO of the privilege of participating in any transaction which requires a validated export license or reexport authorization, subject to certain exceptions, for a period ending one year from the date of this order, (3) by payment of a civil penalty by TOAMCO in the amount of $6,000, and (4) by undertaking certain corrective measures to ensure compliance with the Regulations.

The Hearing Commissioner approves the Consent Agreement.

It is therefore ordered

First. TOAMCO is denied export privileges, pursuant to Section 11(c)(2) of the Act, as follows:

A. For a period ending three months from the date of this Order, TOAMCO is denied all export privileges, except as authorized by Paragraph 1 of the Consent Agreement.

B. For a period ending one year from the date of this Order, TOAMCO is denied all privileges of participating, directly or indirectly, in any transaction which requires a validated export license or reexport authorization, except as authorized by Paragraph 1 of the Consent Agreement.

C. The last nine months of the denial period set forth in Paragraph B. above is suspended pursuant to § 388.16(c) of the Regulations, to be waived at the end of this period, provided TOAMCO has committed no violation of the Act, the Regulations, or this Order.

Second. TOAMCO is assessed a civil penalty, pursuant to Section 11(c)(1) of the Act, in the amount of $6,000 to be paid withing 20 days of the service of this Order, in the manner specified in the attached instructions.

Third. Within six months after the date of this Order, TOAMCO shall submit a written report to the Director, Office of Export Enforcement, setting forth in detail the steps TOAMCO has taken to implement the corrective measures specified in the Consent Agreement with respect to continuing operations. Because a copy of such report and accompanying documents may be available for public inspection and copying, TOAMCO may submit, for such public inspection, a duplicate of this report, marked "Public Inspection Copy," and may edit this copy to delete information that would be properly exempt from public disclosure under 5 U.S.C. 552.

Fourth. The Charging Letter, the Consent Agreement and this Order shall be made available for public inspection pursuant to Section 388.20(c) of the Regulations.

This Order is effective immediately.

Dated: December 17, 1982.

Thomas W. Hoya,

Hearing Commissioner.

[FR Doc. 82-35101 Filed 12-27-82; 8:45 am]

BILLING CODE 3510-25-M

National Bureau of Standards

[Docket No. 21206-243]

Proposed Federal Information Processing Standard for Codes for Identification of Hydrologic Units in United States and the Caribbean Outlying Areas

Under the provisions of Public Law 89-306 and Executive Order 11717, the Secretary of Commerce is authorized to establish uniform Federal automatic data processing (ADP) standards. A proposed standard for coding and identification of hydrologic units is being recommended for Federal use. It represents Federal adoption of a data standard developed by the U.S. Geological Survey in cooperation with the U.S. Water Resources Council.

Prior to the submission of this proposal to the Secretary of Commerce for review and approval, it is essential to assure that consideration is given to the views of manufacturers, the public, and State and local governments. The purpose of this notice is to solicit such views.

The proposed Federal Information Processing Standard (FIPS) contains two parts: (1) An announcement part which provides information concerning the applicability, implementation, and maintenance of the standard; and (2) the specifications which adopt the set of codes for identification of hydrologic units published in *Geological Survey Circular 878-A* by the U.S. Geological Survey. Only the announcement is provided in this notice.

Interested parties may obtain copies of the specifications from and submit comments in writing to the Director, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234, ATTENTION: Proposed FIPS for Hydrologic Units. To be considered, comments on this proposed standard must be received on or before March 28, 1983.

Written comments received in response to this notice plus written comments obtained from Federal departments and independent agencies will be made part of the public record and will be available for inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, Main Commerce Building, 14th Street between Constitution Avenue and E Street, N.W., Washington, D.C. 20230.

Persons desiring further information about the proposed FIPS for Hydrologic Units may contact Mr. Roy G. Saltman, Data Element and Representation Standards Program, Data Management and Programming Languages Division, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234, telephone: 301/921-3491.

Dated: December 22, 1982.

Ernest Ambler,

Director.

Federal Information Processing Standards Publication

1982 (Month) (Day)

Announcing the Standard for Codes for the Identification of Hydrologic Units in the United States and the Caribbean Outlying Areas

Federal Information Processing Standards Publications (FIPS PUBS) are issued by the National Bureau of Standards in accordance with section 111(f)(2) of the Federal Property and Administrative Services Act of 1949, as amended, Public Law 89-306 (79 Stat. 1127), Executive Order 11717 (38 FR 12315), dated May 11, 1973, and Part 6 of Title 15 Code of Federal Regulations.

1. *Name of Standard:* Codes for the Identification of Hydrologic Units in the United States and the Caribbean Outlying Areas, (FIPS PUB——).

2. *Category of Standard:* Federal General Data Standard, Representations and Codes: Earth Science Series.

3. *Explanation:* This standard adopts the set of codes used to identify hydrologic units published in *Geological Survey Circular 878-A*. These codes identify a hydrologic system that divides the United States and Caribbean outlying areas into 21 major regions. These regions are further subdivided into approximately 2150 units that delineate river basins having drainage areas usually greater than 700 square miles. The codes provide a standardized base for use by water-resources organizations in the storage, retrieval, and exchange of hydrologic data; the indexing and inventorying of hydrologic data and information; the cataloging of water-data acquisition activities; and a variety of other applications.

This data standard is one of a series developed under the leadership of the U.S. Geological Survey for use in automated earth-science systems. Earth sciences include

geology, topography, geography, and hydrology, and are concerned with the material and morphology of the Earth and physical forces relating to the Earth.

4. *Approving Authority:* The Secretary of Commerce.

5. *Maintenance Agency:* U.S. Geological Survey, Water Resources Division, Office of Water Data Coordination, 417 National Center, Reston, VA 22092. Questions concerning the list of entities and codes should be addressed to the Office of Water Data Coordination, which will make all necessary amendments to the standard. The Geological Survey has assumed the leadership in developing and maintaining earth-science data element and representation standards under the terms of a Memorandum of Understanding signed in February 1980 by the National Bureau of Standards of the Department of Commerce and the Geological Survey, a bureau of the Department of the Interior.

The Maintenance Agency is responsible for the content of the standard and will provide the National Bureau of Standards with information on adopted changes. Change notices to the standard will be issued by the National Bureau of Standards. Users of the standard who need to be notified of changes may complete the change request form included in this publication and return the form to the address indicated.

6. *Cross Index:* None.

7. *Applicability:* This Federal general data element and representation standard is made available for data interchange among executive departments and independent agencies and for Federal data interchange with the non-Federal sector including industry, State, local, and other governments, and the public at large.

8. *Implementation Schedule:* This standard becomes effective upon publication in the **Federal Register** of an announcement by the National Bureau of Standards of approval by the Secretary of Commerce. Use by Federal agencies is encouraged when such use contributes to operational benefits, efficiency, or economy.

9. *Specifications:* This standard adopts U.S. Geological Survey Circular 878–A, *Codes for the Identification of Hydrologic Units in the United States and the Caribbean Outlying Areas*, July, 1981, Reston, VA, except for cataloging units 21030001 (Panama Canal Zone) and 21030003 (Roncador and Serrana Banks), which are deleted.

10. *Where To Obtain Copies of the Standard:* Copies of this publication and the associated specifications are available for sale by the National Technical Information Service (NTIS), U.S. Department of Commerce, Springfield, VA 22161. When ordering, refer to Federal Information Processing Standards Publication —— (FIPS PUB ——) and title. If microfiche is desired, this should be specified.

Inquiries concerning the FIPS data element standards program may be directed to the Program Manager, Data Element and Representation Standards, National Bureau of Standards, Washington, D.C. 20234; telephone (301) 921–3491.

[FR Doc. 82–35086 Filed 12–27–82; 8:45 am]
BILLING CODE 3510–CN–M

National Oceanic and Atmospheric Administration

North Pacific Fishery Management Council; Halibut Moratorium; Public Hearings

AGENCY: National Oceanic and Atmospheric Administration (NOAA) Commerce.

ACTION: Public Hearings.

SUMMARY: The North Pacific Fishery Management Council (Council) and the National Marine Fisheries Service, Alaska Region, will hold public hearings on a proposed moratorium on participation in the Alaska halibut fishery. These will be the first three in a series of proposed hearings.

DATES AND LOCATIONS: The first hearing will be held in Juneau, Alaska, from 1:00 p.m. to 7:00 p.m. on Friday, January 7, 1983, in the Gastineau Room of the Baranof Hotel. The second hearing will be held in Petersburg, Alaska, from 1:00 p.m. to 7:00 p.m. on Saturday, January 8, 1983, in the City Council Chambers, Municipal Building. The third hearing will be held in Ketchikan, Alaska, from 3:30 p.m. to 7:00 p.m. on Sunday, January 9, 1982, in the Conference Room 207, State Office Building, 415 Main Street. Additional hearings planned for Seattle and Kodiak will be announced at a later date. Winter travel in Alaska is sometimes difficult, making it necessary to consider alternative hearing locations and times. Cancellations and new locations, if necessary, will be publicized locally by telephone, radio, newspaper, and television.

FOR FURTHER INFORMATION CONTACT: Jim H. Branson, Executive Director, North Pacific Fishery Management Council, P.O. Box 3136 DDT (605 West Fourth Avenue, Room 166), Anchorage, Alaska 99510; telephone (907) 274–4563.

SUPPLEMENTARY INFORMATION: The proposed rule which is currently under Administration review would impose a moratorium on the entry of certain fishermen into the halibut fishery in waters under U.S. jurisdiction in the North Pacific Ocean International Pacific Halibut Commission (IPHC management area 2C and 3) and that part of the Bering Sea and Aleutians south of 56°N Latitude (IPHC management area 4). As currently written, the proposed rule would forbid any person to harvest and sell halibut for commercial purposes from May 1, 1983, through December 31, 1985, who had not lawfully harvested and sold halibut from those waters between January 1, 1978, and December 31, 1982. This action is deemed necessary by the Council to prevent a surge of new participation in the fishery in hopes of obtaining rights under a limited entry system currently under Council consideration.

Dated: December 22, 1983.

Joe P. Clem

Acting Chief, Operations Coordination Group, National Marine Fisheries Service.

[FR Doc. 82–35141 Filed 12–27–82; 8:45 am]
BILLING CODE 3510–22–M

Office of the Secretary

Agency Forms Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35)

Agency: International Trade Administration
Title: Trade Opportunity Program (TOP) Registration Form
Form Number(s): Agency–ITA–427P; OMB—0625–0046
Type of Request: Extension
Burden: (9,000 respondents; 2,250 reporting hours
Needs and uses: Companies subscribe to the TOP Notice Service of Bulletin Service which enables a company to receive Trade opportunities according to its overseas interest. The form is used for registration purposes and it allows subscribers to select the specific trade opportunities information suited to their needs.
Affected public: U.S. manufactures that subscribe to the TOP Notice Service or Bulletin Service
Frequency: On occasion
Respondent's obligation: Voluntary
OMB Desk Officer: Ken Allen, 395–3785.

Agency: International Trade Administration
Title: Titanium Sponge and Ingot
Form Number(s): Agency—ITA–0945;' OMB—None
Type of Request: New
Burden: 20 respondents; 20 reporting hours
Needs and uses: The Federal Emergency Management Agency needs capacity data for national stockpiling planning and industry planning. The Department of Defense will use the data for continuing mobilization planning programs.
Affected public: Producers of Titanium Sponge and Ingot
Frequency: Nonrecurring
Respondent's obligation: Mandatory
OMB Desk Officer: Ken Allen, 395–3785.

Agency: International Trade Administration
Title: Reports of Requests for Restricitive Trade Practice or Boycott—Single for Multiple Transaction
Form Number(s): Agency—ITA–621P, 6051P, 6051P-a; OMB—0625–0036

Type of Request: Extension
Burden: 1,700 respondents; 35,250 reporting hours
Needs and uses: In order to enable the Department to enforce compliance with the antiboycott law, records are to be retained and certain reports must be filed. These requirements permit the Department to monitor boycott requests.
Affected public: Any U.S. industry or person which receives a request to take any action having the effect of furthering or supporting an restrictive trade practice or boycott.
Frequency: Quarterly
Respondent's obligation: Mandatory
OMB Desk Officer: Ken Allen, 395–3785.

Agency: Minority Business Development Agency
Title: MBDA Business Development Report
Form Number(s): Agency—MBDA–115; OMB—0640–0005
Type of Request: Revision
Burden: 100 respondents; 10,000 reporting hours
Needs and uses: The Business Development Report collects statistical information on clients assisted by each Minority Business Development Center. The information is used to evaluate the performance of each reporting organization.
Affected public: MBDA Minority Business Development Centers report this collection each quarter.
Frequency: Quarterly
Respondent's obligation: Required to obtain or retain benefit
OMBN Desk Officer: Tim Sprehe, 395–4814.

Agency: National Oceanic and Atmospheric Administration
Title: Interim Capital Construction Fund Family of Forms (merge of Interim Capital Construction Agreement and Certificate of Construction/Reconstruction)
Form Number(s): Agency—NOAA–88–14; OMB—0640–0090 and 0648–0091
Type of Request: Revision
Burden: 500 respondents; 2,250 reporting hours
Needs and uses: Information is used to establish eligibility of applicant for financial assistance benefits, to formalize the Agreement controlling the applicant's objectives and use of funds, and to certify completion of the Agreement's objectives.
Affected public: U.S. Fishermen applying for benefits under this program
Frequency: On occasion
Respondent's obligation: Required to obtain or retain benefit
OMB Desk Officer: Ken Allen, 395–3785.

Copies of the above information collection proposals can be obtained by calling or writing DOC Clearance Officer, Edward Michals (202) 377–4217, Department of Commerce, Room 6622, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Written comments and recommendations for the proposed information collections should be sent to the respective OMB Desk Officer, Room 3235, New Executive Office Building, Washington, D.C. 20503.

Edward Michals,
Departmental Clearance Officer.

[FR Doc. 82–35090 Filed 12–27–82; 8:45 am]
BILLING CODE 3510–CW–M

Announcement of Public Availability of Report on Closed Meeting of Advisory Committees

AGENCY: Department of Commerce.

ACTION: Announcing Public Availability of Report on Closed Meetings of Advisory Committees.

SUMMARY: The Department of Commerce has prepared its report on the activities of closed or partially-closed meetings of advisory committees, as required by the Federal Advisory Committee Act and Office of Management and Budget Circular A–63 of March 1974.

ADDRESSES: Copies of the reports have been filed and are available for public inspection at two locations:

Library of Congress, Newspaper and Current Periodicals Reading Room, Room 1026, John Adams Building, 2nd and Independence Avenue, S.E. Washington, D.C. 20540.

Department of Commerce, Central Reference and Records Inspection Facility, Room 6628, Herbert C. Hoover Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230, telephone (202) 377–4217, Attention Mrs. G. LeBoo or Mr. A. Pinkney.

SUPPLEMENTARY INFORMATION: The reports cover the closed and partially-closed meetings held in 1981 for 30 Department of Commerce advisory committees and several subcommittees, the names of which are listed below.

Committee (Subcommittee)

Advisory Committee on East-West Trade
Committee of Chairmen of the Industry Secor Advisory Committee (ISAC) for Trade Policy Matters (TPM)
Computer Peripherals, Components, and Related Test Equipment Technical Advisory Committee
Computer Systems Technical Advisory Committee
—Hardware Subcommittee
Electronic Instrumentation Technical Advisory Committee
Industry Functional Advisory Committee on Customs Valuations for Trade Policy Matters
Industry Functional Advisory committee on Standards for Trade Policy Matters
ISAC on Aerospace Equipment for TPM
ISAC on Capital Goods for TPM
ISAC on Chemical and Allied Products for TPM
ISAC on Consumer Goods for TPM
ISAC on Electronics and Instrumentation for TPM
ISAC on Ferrous Ores and Metals for TPM
ISAC on Footwear, Leather, and Leather Products for TPM
ISAC on Industrial and Construction Materials and Supplies for TPM
ISAC on Lumber and Wood Products for TPM
ISAC on Nonferrous Ores and Metals for TPM
ISAC on Paper and Paper Products for TPM
ISAC on Services for TPM
ISAC on Smalll and Minority Business for TPM
ISAC on Textiles and Apparel for TPM
ISAC on Transportation, Construction, and Agricultural Equipment for TPM
ISAC on Wholesaling and Retailing for TPM
National Advisory Committee on Oceans and Atmosphere
New England Fishery Management Council
Numerically Controlled Machine Tool Technical Advisory Committee
Pacific Fishery Management Council
Semiconductor Technical Advisory Committee
—Discrete Semiconductor Device Subcommittee
—Microcircuit Subcommittee
—Semiconductor Manufacturing Materials and Equipment Subcommittee
Telecommunications Equipment Technical Advisory Committee
—Switching Subcommittee
Western Pacific Fishery Management Council

At the end of the year the Department of Commerce had 45 other advisory committees which did not hold any closed or partially-closed meetings during the reporting period.

FOR FURTHER INFORMATIN CONTACT: Mrs. Yvonne Barnes, Committee Management Analyst, U.S. Department of Commerce, Washington, D.C. 20230, telephone (202) 377–4217.

Dated: December 3, 1982

Marilyn S. McLennan
Chief, Information Policy and Management Division, Office of Information Management.

[FR Doc. 82–35089 Filed 12–27–82; 8:45 am]
BILLING CODE 3510–CW–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Intent To Impose Controls on Imports of Cotton, Wool, and Man-Made Fiber Textiles and Apparel from the People's Republic of China

The Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of September 17, 1980, as amended, between the Governments of the United States and the People's Republic of China is scheduled to expire on December 31, 1982. Negotiations have been held in an effort to reach a new agreement. To date, no new agreement has been reached; however, negotiations are expected to continue in an attempt to conclude a mutually acceptable agreement.

The purpose of this notice is to advise the public that, if no mutually satisfactory solution is reached by January 15, 1983, the United States Government will take further action under Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), to control imports of cotton, wool, and man-made fiber textile products from the People's Republic of China, effective on January 1, 1983.

In order to carry out the Arrangement Regarding International Trade in Textiles, the MFA, Section 204 authorizes regulation of textiles and textile products from non-signatories to the MFA. These import controls are deemed necessary to avoid frustration of the purposes of the MFA, under which the textile trade of signatory countries is controlled.

In addition, Article 8 of the MFA requires the United States, as a participating country, to ensure that trade in textiles and textile products from MFA member countries is not more severely restrained than trade in similar goods from non-participating countries which are causing or threatening market disruption.

For the above reasons, it has been determined that, should no arrangement be reached by January 15, 1983, the categories listed below should be controlled, effective as of January 1, 1983, for the merchandise exported during the periods indicated below, produced or manufactured in the People's Republic of China, at the following levels.

Category	Limit	Time period (Jan. 1 to Dec. 31, 1983)
315	[1] 92,500,000	
331	[2] 3,382,165	
334	[3] 192,000	
335	[3] 265,000	
338	[3] 601,929	
338 pt	[3] 338,351	
339	[3] 865,280	
340	[3] 584,064	
341	[3] 443,456	
342	[3] 94,744	
347/348	[3] 1,414,672	
445/446	[3] 252,500	
448	[3] 13,060	
631	[3] 433,879	
645/646	[3] 583,495	
649	[3] 485,618	

[1] Square yards.
[2] Dozen pairs.
[3] Dozen.

The levels for Categories 335, 342, 445/446, and 645/646 may be adjusted for swing available from other categories under unilateral restraint up to the amounts specified, upon request by the Government of the People's Republic of China. The amount available for Category 335 is 18,550 dozen; for Category 342, 4,737 dozen; for Category 445/446, 12/625 dozen; and for 645/646, 35,010 dozen.

Category	Limit (dozen)	Time period (July 30, 1982 to July 29, 1983)
337	717,382	
640	944,132	
641	[redacted]	
648	833,162	

Category	Limit (dozen)	Time period (Nov. 26, 1982 to Nov. 25, 1983)
333	41,538	
345	[redacted]	
443	7,271	
635	331,690	

Category	Limit (Oct. 20, 1982 to Jan. 17, 1983)	Time period (Jan. 18, 1983 to Jan. 17, 1984)
351	[1] 79,416	[1] 244,468
363	[2] 4,882,449	[2] 14,718,906
634	[1] 103,429	[1] 318,905
647	[1] 195,671	[1] 623,720

[1] Dozen.
[2] Numbers.

Category	Limit (Dec. 1, 1982 to Feb. 28, 1983)	Time period (Mar. 1, 1983 to Feb. 29, 1984)
350	[1] 24,586	[1] 74,547
447	[1] 20,634	[1] 53,599

[1] Dozen.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 82-35156 Filed 12-27-82; 8:45 am]

BILLING CODE 3510-25-M

COPYRIGHT ROYALTY TRIBUNAL

[Docket No. CRT 81-1]

1980 Cable Royalty Distribution Proceeding

AGENCY: Copyright Royalty Tribunal.

ACTION: Notice.

FOR FURTHER INFORMATION CONTACT: Eddie W. Ray, Chairman, Copyright Royalty Tribunal, 1111 20th Street, NW., Rm. 450, Washington, D.C. 20036, 202-653-5175.

SUPPLEMENTARY INFORMATION: 17 USC 111(d)(4) authorizes the Copyright Royalty Tribunal (Tribunal) to distribute royalty fees paid by cable systems to certain copyright owners who have filed claims with the Tribunal. The procedures for distribution of the cable royalty fees are set forth at 17 USC 111(d)(5).

The Tribunal on March 2, 1982 (47 FR 8808) issued public notice declaring the existence of a controversy concerning the distribution among copyright owners of cable royalty fees paid by cable systems for secondary transmission during 1980 pursuant to 17 U.S.C. 111(d)(5)(B). In accordance with the conduct of the 1978 and 1979 proceedings, the Tribunal resolved that the distribution proceeding would be conducted in two phases. Phase I would determine the allocation of cable royalties to specific groups of claimants. Phase II would allocate cable royalties to individual claimants within each group.

In order to permit the Tribunal to proceed to Phase II of this proceeding, the Tribunal is publishing this summary statement of its Phase I determinations. In accordance with 17 U.S.C. 803(b), a full and complete statement of the Tribunal's conclusions of law, findings of fact, and other relevant determinations will be included in the Tribunal's final determination. Final distribution of cable royalties to claimants will be made at the conclusion of this proceeding. This notice does not constitute a "final determination" pursuant to 17 U.S.C. 803(b) of a "final decision" under 17 U.S.C. 80(e) and 17 U.S.C. 810.

The Tribunal, in its final determination, will provide for the following allocation to categories of the specified percentage of the sum available for distribution:

1. Motion Picture Association of America and other program syndicators including claimants for programs syndicated by commercial television—70%.
2. Joint Sports Claimants—15%.

3. Public Broadcasting Service (for all purposes)—5.25%.
4. U.S. Television Broadcasters—4.25%.
5. Music Performing Rights Societies—4.50%.
6. Canadian Claimants (except radio)—.75%.
7. National Public Radio—.25%.
8. Devotional Claimants—0.

No award for any U.S. commercial radio claim. The award for commercial television covers all copyrightable interests, except program syndication.

In preparation for Phase II of this proceeding, the Tribunal directs that not later than January 12, 1983, each claimant category shall notify the Tribunal of any voluntary agreements for distribution of royalty fees among the claimants within a category. The Tribunal further directs that not later than January 12, 1983 any claimant desiring to present evidence during Phase II shall notify the Tribunal of such intention, and the Phase II issues to be decided.

The Tribunal directs that not later than January 18, 1983 parties shall file with the Tribunal and exchange with other parties their direct, written cases, including list of witnesses, prehearing statements, any written witness statements, and all documentary evidence.

Phase II hearings will commence at 10:00 a.m., January 25, 1983 at a location to be announced. Dates and procedures for Phase II rebuttal cases will be announced later.

Commissioner Burg dissents from the Phase I royalty allocation.

All communications on the above matters shall be addressed to Edward W. Ray, Chairman, Copyright Royalty Tribunal, 1111 20th Street, NW, Suite 450, Washington, D.C. 20036, (202) 653–5175.

Dated: December 21, 1982.

Edward W. Ray,

Chairman.

[FR Doc. 82–35130 Filed 12–27–82; 8:45 am]

BILLING CODE 1410–01–M

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board, Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the committee: Army Science Board (ASB).

Dates of meeting: Tuesday and Wednesday, 1 & 2 February 1983.

Times: 0830–1700 hours, 1 February 1983 (Closed); 0830–1700 hours, 2 February 1983 (Closed).

Place: The Pentagon, Washington, D.C.

Agenda: The Army Science Board Functional Subgroup on Planning, Concepts, and Management Support will meet for classified briefings and discussions on the present Army planning system in order to analyze this system with respect to long-range planning and materiel acquisistion. This meeting will be closed to the public in accordance with Section 552(b) of Title 5, U.S.C., specifically subparagraph (1) Thereof, and Title 5, U.S.C. App. 1, subsection 10(d). The classified and non-classified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Helen M. Bowen, may be contacted for further information at (202) 697–9703 or 695–3039.

Helen M. Bowen,

Administrative Officer.

[FR Doc. 82–35140 Filed 12–27–82; 8:45 am]

BILLING CODE 3710–08–M

Army Science Board; Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the committee: Army Science Board (ASB).

Date of meeting: Monday, January 31, 1983.

Times: 0830–1700 hours (Closed).

Place: The Pentagon, Washington, D.C.

Agenda: The Army Science Board Functional Subgroup Research and on New Initiatives will meet to receive classified briefings and hold discussions on developments and opportunities which will have an impact on Army research, development and acquisition.This meeting will be closed to the public in accordance with Section 552(b) of Title 5, U.S.C., specifically subparagraph (1) Thereof, and Title 5, U.S.C. App. 1, subsection 10(d). The classified and non-classified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Helen M. Bowen, may be contacted for further information at (202) 697–9703 or 695–3039.

Helen M. Bowen,

Administrative Officer.

[FR Doc. 82–35139 Filed 12–27–82; 8:45 am]

BILLING CODE 3810–06–M

Public Information Collection Requirement Submitted to OMB for Review

The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of Submission; (2) Title of Information Collection and Form Number if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; (8) The point of contact from whom a copy of the information proposal may be obtained.

Extension

ASVAB Validation Against Benchmark Industrial Business Occupations.

This contract is designed to validate the test performance of individuals who take the Armed Services Vocational Aptitude Battery by comparing that performance on the test to their work performance. This validation is necessary in order to provide pertinent job validity information to high school counselors who will be counseling students going into the world of work. Without this validity information, the credibility of the program will suffer greatly.

Vocational training organizations: 4,000 responses; 1,000 hours.

Forward comments to Edward Springer, OMB Desk Officer, Room 3235, NEOB, Washington, D.C. 20503, and John V. Wenderoth, DOD Clearance Officer, OASD(C), DIRMS, IRAD, Room 1A658, Pentagon, Washington, D.C. 20301, telephone (202) 697–1195.

A copy of the information collection proposal may be obtained from David O. Cochran, DAAC–OPI, Room 1D667, Pentagon, Washington, D.C. 20310, telephone (202) 695–5111.

Dated: December 21, 1982.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 82–35128 Filed 12–27–82; 8:45 am]

BILLING CODE 3710–08–M

Privacy Act of 1974; Amendments to Systems of Records

AGENCY: Department of the Army, DoD.

ACTION: Addition, deletion of, and amendments to notices for systems of records.

SUMMARY: The Department of the Army proposes to add 1, delete 15, and amend 4 system notices for systems of records suject to the Privacy Act of 1974. Following identification of changes, the amended notices are set forth in their entirety below.

DATE: Actions shall be effective January 27, 1983 unless public comments are received which result in a contrary determination.

ADDRESS: Comments may be submitted to Headquarters, Department of the Army, ATTN: DAAG–AMR–S, Room 1146, Hoffman Building 1, 2641 Eisenhower Avenue, Alexandria, VA 22331.

FOR FURTHER INFORMATION CONTACT: Mrs. Dorothy Karkanen, Office of The Adjutant General, Department of the Army, at the above address; telephone: 703/325–6163

SUPPLEMENTARY INFORMATION: The Department of the Army inventory of system notices for systems of records subject to the Privacy Act of 1974 appeared in the **Federal Register** at:

FR Doc. 82–674 (47 FR 2544), January 18, 1982
FR Doc. 82–5277 (47 FR 8610), March 1, 1982
FR Doc. 82–11002 (47 FR 17324), April 22, 1982
FR Doc. 82–12993 (47 FR 20654), May 13, 1982
FR Doc. 82–16040 (47 FR 25780), June 15, 1982
FR Doc. 82–20786 (47 FR 33314), August 2, 1982
FR Doc. 82–23089 (47 FR 36880), August 24, 1982
FR Doc. 82–27594 (47 FR 44379), October 7, 1982
FR Doc. 82–30218 (47 FR 50065), November 4, 1982
FR Doc. 82–31421 (47 FR 51783), November 17, 1982

The system notice being "added" represents a consolidation of records described in 10 notices deleted herein. None of the actions requires submission of a report of a new or altered system, pursuant to 5 U.S.C., 552a(o).

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

December 21, 1982.

Addition

AO901.02DASG

SYSTEM NAME:

Medical Facility Administration Records.

SYSTEM LOCATION:

Medical centers, hospitals, health clinics. Addresses are in the appendix to the Army's inventory of system notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who are authorized to use services of an Army medical facility.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information in this system generally relates to administration at a medical facility, as opposed to an individual's health/care. Typically, records comprise birth; death; accountability of patients (e.g., bed charts, transfer, leave requests, etc.); receipts for patients' personal property; prescriptions for medications, eye glasses; hearing aids, prosthetic devices; diet/special nourishment plans; blood donor; charges, receipts and accounting documents of payments for medical/dental services; and similar records/reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

By the Department of the Army to enhance efficient management practices and effective patient administration.

Birth records may be disclosed to States' Bureau of Vital Statistics; overseas birth records are disclosed to the Department of State.

Death records may be disclosed to Federal, State, and private sector authorities having legitimate need therefor.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Cards; paper records in file folders; microfiche.

RETRIEVABILITY:

By individual's surname or SSN.

SAFEGUARDS:

Records are maintained within secured buildings in areas accessible only to persons having official need therefor who are properly trained and screened.

RETENTION AND DISPOSAL:

Records of transient value (e.g., issuance of spectacles/prosthetics, diet/food plan, etc.) are destroyed within 3 months of patient's release. Other records have varying periods of retention as follows:

Record of birth/death: 2 years.

Patient accountability (admission/discharge): 5 years.

Blood donor: 5 years or when no longer required for medical/legal reasons, whichever is later.

Record of patient's personal property: 3 years.

SYSTEM MANAGER(S) AND ADDRESS:

The Surgeon General, Headquarters, Department of the Army, The Pentagon, Washington, DC 20310.

NOTIFICATION PROCEDURE:

Individuals desiring to know whether or not information exists on them in this system should contact the commander at the medical facility where service/care was provided. Inquirer should furnish full name, SSN, details which will assist in locating record, and signature.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information from this system of records should provide information in "Notification procedure".

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

From the individual; medical facility reports.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Deletions

AO225.09aAMC

System name:

Computer Technology Files (44 FR 73780). December 17, 1979.

Reason:

Records are covered by system notice AO102.03aDAAG, Office Personnel Locator/Organizational Rosters.

AO410.04DAJA

System name:

Judicial Information Release File (44 FR 73816), December 17, 1979.

Reason:

Records are not retrieved by personal identifier.

AO810.09DAEN

System name:

Contract Training Files (44 FR 73915), December 17, 1979.

Reason:

Records are covered by OPM/GOVT–1 system of records.

AO909.01DASG

System name:

Patient Accountability Files (44 FR 73924), December 17, 1979.

Reason:

Records are consolidated in proposed system of records AO901.02DASG added in this **Federal Register.**

AO909.05DASG

System name:

Control Card Files (44 FR 73925), December 17, 1979.

Reason:

Records are consolidated in proposed system of records AO901.02DASG added in this **Federal Register.**

AO910.02DASG

System name:

Patient Trust Fund and Baggage Files (44 FR 73925), December 17, 1979.

Reason:

Records are consolidated in proposed system of records AO901.02DASG added in this **Federal Register.**

AO910.06DASG

System name:

Medical Services Account Files (44 FR 73925), December 17, 1979.

Reason:

Records are consolidated in proposed system of records AO901.02DASG added in this **Federal Register.**

AO911.05DASG

System name:

Individual Patient Diet Files (44 FR 73926), December 17, 1979.

Reason:

Records are consolidated in proposed system of records AO901.02DASG added in this **Federal Register.**

AO913.02DASG

System name:

Medical Prescription Files (44 FR 73928), December 17, 1979.

Reason:

Records are consolidated in proposed system of records AO901.02DASG added in this **Federal Register.**

AO914.05DASG

System name:

Blood donor files (44 FR 73939), December 17, 1979.

Reason:

Records are consolidated in proposed system of records AO901.02DASG added in this **Federal Register.**

AO915.02DASG

System name:

Patient Condition Reporting Files (44 FR 73930), December 17, 1979.

Reason:

Records are consolidated in proposed system of records AO901.02DASG added in this **Federal Register.**

AO917.05DASG

System name:

Spectacle Issue and Receipt Files (44 FR 73933), December 17, 1979.

Reason:

Records are consolidated in proposed system of records AO901.02DASG added in this **Federal Register.**

AO915.07DASG

System name:

Medical Facility Individual Repbrting Files (44 FR 73931), December 17, 1979.

Reason:

Records are covered by system notice AO607.01bDAPE, Accident and Incident Case Files: Army Safety Management Information System.

AO925.04DASG

System name:

Prosthetic Case Files (44 FR 73942), December 17, 1979.

Reason:

Records are consolidated in proposed system of records AO901.02DASG added in this **Federal Register.**

A1501.07ADAEN

System name:

Users' Profile System (44 FR 74006), December 17, 1979.

Reason:

Records are covered in proposed amended system notice A1401.06aDAAG appearing in this **Federal Register.**

Amendments

AO314.24DAAG

System name:

NAF Employee Insurance Files (44 FR 73798), December 17, 1979.

Changes:

System name:

After "Insurance", insert "and Retirement".

Authority:

Delete "PL 591, 93rd Congress"; substitute therefor: "Pub. L. 95–595".

Notification procedure:

Change entry to read: "Information may be obtained from: HQDA (DAAG–NFI–B), Room 1248, Hoffman Building 1, 2461 Eisenhower Avenue, Alexandria, VA 22331; (703) 325–9730."

Contesting record procedures:

Delete entry; substitute therefor: "The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505)."

AO708.02aDAPC

System name:

Official Military Personnel file (46 FR 6469), January 21, 1981.

Changes:

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Before the final paragraph, insert the following:

"Federal Emergency Management Agency: to facilitate participation of Army members in civil defense planning, training, and emergency operations pursuant to the military support of civil defense as prescribed by DOD Directive 3025.10 and Army Regulation 500–70.

"Other elements of the Federal Government pursuant to their respective authority and responsibility."

AO715.01aDAPC

System name:

Personnel Data Card (44 FR 73892), December 17, 1979.

Changes.

System name:

Insert "SIDPERS" prior to "Personnel".

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Retention and disposal:

Change "8 years" to "1 year"; change period to semi-colon and add: "they are then shipped to the National Personnel Records Center (MPR), St. Louis, MO where they are retained 74 additional years before being destroyed."

Contesting record procedures:

After "determinations", delete remainder and insert in lieu thereof: "are contained in Army Regulation 340–21 (32 CFR Part 505)."

A1401.08aDAAG

System name:

Alphabetical Library Borrowers' File (44 FR 73999), December 17, 1979.

Changes:

System Identification:

Substitute ".07b" for ".08a".

System name:

Change title to read: "Library Borrowers/Users' Profile Files".

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete entry; substitute therefore: "By the Army to identify individuals authorized to borrow library materials; to insure that all library property is returned and individual's account is cleared; and to provide librarian useful information for selecting, ordering and meeting user requirements."

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Retention and disposal:

Delete entry; substitute therefore: "Records are destroyed when no longer needed to obtain and/or control library materials."

System manager(s) and address:

After "Army", delete remainder and substitute therefor: "DAAG–LM, 2461 Eisenhower Avenue, Alexandria, VA 22331."

A0314.24DAAG

SYSTEM NAME:

Nonappropriated Fund Employee Insurance and Retirement Files.

SYSTEM LOCATION:

HQDA, The Adjutant General's Office, Club and Community Activities Management Directorate, 2461 Eisenhower Avenue, Alexandria, VA 22331.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Army nonappropriate fund (NAF) employees who participate in the NAF Group Insurance and Retirement Plan.

CATEGORIES OF RECORD IN THE SYSTEM:

Monthly and cumulative insurance and retirement deductions for each NAF employee, together with employee's name and SSN.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pub. L. 95–595; 26 U.S.C. 401a.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLIDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

By the Department of the Army to substantiate initial enrollment and subsequent changes in the NAF Group Insurance and Retirement Plan; to verify monthly deductions and to compute annuities, refunds and death benefits.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic tapes/disks, microfiche, paper records.

RETRIEVABILITY:

By individual's surname within each NAF activity.

SAFEGUARDS:

Records are located in controlled areas within building having security guards; information is accessed only by individuals who are properly cleared and trained and have need therefor in the performance of official duties.

RETENTION AND DISPOSAL:

Records are permanent. They are retained in active file until individual terminates employment, retires or is deceased; held 1 additional year in inactive file, and sebquently retired to the Washington National Records Center, Suitland, MD.

SYSTEM MANAGER(S) AND ADDRESS:

The Adjutant General, Headquarters, Department of the Army, Club and Community Activities Management Directorate, 2461 Eisenhower Avenue, Alexandria, VA 22331.

NOTIFICATION PROCEDURE:

Information may be obtained from HQDA (DAAG–NGI–B), Room 1248, Hoffman Building 1, 2461 Eisenhower Avenue, Alexandria, VA., (703) 325–9730.

RECORD ACCESS PROCEDURES:

Individuals should address their request as specified in "Notification procedure" and furnish their full name, Social Security Account Number, NAF activity in which employed, and signature.

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

From the individual; NAF Personnel Offices.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

A0708.02aDAPC

SYSTEM NAME:

Official Military Personnel File.

SYSTEM LOCATION:

Primary: Personnel Information Systems Directorate, US Army Military Personnel Center (MILPERCEN), 200 Stovall Street, Alexandria, VA 22332.

Secondary: US Army Enlisted Records and Evaluation Center; US Army Reserve Components Personnel and Administration Center; and National Personnel Records Center, General Services Administration.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Each individual on active duty in the US Army in enlisted, appointed, or commissioned status, or in a USA or AUS retired status; each individual not on active duty who has a reserve status in an enlisted, appointed or commissioned status, or in a retired reserve status; and each individual who was an enlisted, appointed, or commissioned member of the US Army and who was completely separated by discharge, death, or other termination of his/her military status.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records include enlistment contract; Veterans Administration laws; physical evaluation board proceedings; military occupational specialty data; statement of service; qualification record; group life insurance election; emergency data; application for appointment; qualification/evaluation report; oath of office; medical examination; security questionnaire; application for retired pay; application for correction of military records; application for active duty; transfer or discharge report; active

duty report; voluntary reduction; line of duty and misconduct determinations; discharge or separation reviews; police record checks consent/declaration of parent/guardian; Army ROTC supplemental agreement; award recommendations; academic reports; casualty reports; US field medical card; retirement points; deferment; pre-induction processing and commissioning data; transcripts of military records; summary sheets review of conscientious objector; election of options; oath of enlistment extensions; survivor benefit plans; efficiency reports; records of proceeding, Title 10 U.S.C. section 815 appellate actions; determination of moral eligibility; waiver of disqualifications; temporary disability record; change of name; statements for enlistment; acknowledgments of service requirements; retired benefits; application for review of physical evaluation board and disability board; appointments; designations; evaluations; extensions; birth certificates; photographs; citizenship statements and status; educational constructive credit/transcripts; flight status board reviews; assignment agreements/limitations/wiavers/election and travel; efficiency appeals; promotion/reduction recommendations/approvals/declinations/announcements/notifications/reconsiderations/worksheets/elections/letters of notification to deferred officers and promotion passover notifications; absence without leave and desertion records; FBI reports; SSA correspondence; miscellaneous correspondence, documents, and military orders relating to military service including information pertaining to dependents, inter-service action, in-service details, determinations, reliefs, component; awards, pay entitlements, releases, transfers, and other military service data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

By the Department of the Army: to maintain, use, collect, and disseminate information with respect to an individual holding a military status or former military status, including regular reserve, retired, former member separated, or deceased. Information pertains to individual's former, current, and subsequent to active duty status; birth; citizenship; parentage; home of record; education; training; dependents; travel; language proficiency; former and current associations; brotherhood, memberships and related affiliations with organizations and like collective elements which service member divulges as having meaning, substance, or significance to his/her military service status; assignment history; and other related military experiences, qualifications training, preferences, restrictions, and status actions.

Department of State: to issue passport/visa/ to document persona non-grata status, attache' assignments, and related administration of personnel assigned and performing duty with the Department of State.

Department of Treasury: to issue bonds; to collect and record income taxes.

Department of Defense: to authorize and consummate interdepartmental actions relating to inter-service requirements pertaining to the Army, Navy, Air Force, and Coast Guard (when the latter is operational under DOE).

Department of Justice: to file fingerprints; to perform intelligence function.

Department of Agriculture: to coordinate matters related to its advanced education program.

Department of labor: to accomplish actions required under Federal Employees Compensation Act.

Department of Health and Human Services: to provide services authorized by medical, health, and related functions authorized by 10 U.S.C., sections 1074–1079.

Nuclear Regulatory Commission: to accomplish requirements incident to nuclear accident/incident control officer functions.

American Red Cross: to accomplish coordination and complete service functions including blood donor programs and emergency investigative support and notifications.

Civil Aeronautics Board: to accomplish flight qualifications, certification, and licensing actions.

Federal Aviation Agency: to determine rating and certification (including medical) of in-service aviators.

General Services Administration: for records storage and archival services and for printing of directories and related material which includes personal data.

US Postal Service: to accomplish postal service authorization involving postal officers and mail clerk authorizations.

Veterans Administration: to provide information relating to benefits, pensions, in-service loans, insurance, and appropriate hospital support.

Bureau of Immigration and Naturalization: to comply with statutes relating to alien registration and annual residence/location.

Office of the President of the United States of America: to exchange required information relating to White House Fellows, regular Army promotions, aides, and related support functions staffed by Army members.

Federal Maritime Commission: to obtain licenses for military members accredited as captain, mate, and harbor master for duty as Transportation Corps warrant officer.

Each of the several States, and US possessions: to support state bonus applications; to fulfill income tax requirements appropriate to the service member's home of record; to record name changes in state bureaus of vital statistics; and for National Guard affairs.

Civilian educational and training institutions: to accomplish student registration, tuition support, tests, and related requirements incident to in-service education programs in compliance with 10 U.S.C., Chapters 102 and 103.

Social Security Administration: to obtain or verify Social Security Account Number; to transmit Federal Insurance Compensation Act deductions from Member's wages.

Department of Transportation: to coordinate and exchange necessary information pertaining to inter-service relationships between US Coast Guard and US Army when service members perform duty with the USCG.

Civil authorities: for compliance with 10 U.S.C. 814.

Department of the Air Force: to administer personnel support for Army members assigned for duty with the Air Force.

Department of the Navy: to administer personnel support for Army members assigned for duty with the Navy or Marine Corps.

US International Communication Agency: to investigate applicants for sensitive positions pursuant to Executive Order 10450.

Federal Emergency Management Agency: to facilitate participation of Army members in civil defense planning, training, and emergency operations pursuant to the military support of civil defense as prescribed by DOD Directive 3025.10 and Army Regulation 500–70.

Other elements of the Federal Government pursuant to their respective authority and responsibility.

Record of the identity, diagnosis, prognosis, or treatment of any client/

patient, irrespective of whether or when he/she ceases to be a client/patient, maintained in connection with the performance of any alcohol or drug abuse prevention and treatment function conducted, regulated, or directly or indirectly assisted by any department or agency of the United States, shall, except as provided therein, be confidential and be disclosed only for the purposes and under the circumstances expressly authorized in 21 U.S.C. 1175 and 42 U.S.C. 4582. These statutes take precedence over the Privacy Act of 1974 in regard to accessibility of such records except to the individual to whom the record pertains. Blanket "routine uses" identified in 44 FR 72728 do not apply to these records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Microfiche stored randomly in electro-mechanical storage/retrieval devices. Temporary files consist of paper records in file folders; selected data automated for management purposes on tapes, disks, cards, and other computer media.

RETRIEVABILITY:

Alphabetically by surname; automated data retrieved by name, SSN, or ADP parameter; records of reserve, retired, and deceased persons retrieved by SSN terminal digit sequence.

SAFEGUARDS:

Records are maintained in areas accessible only to authorized personnel; automated records are further protected by authorized passwork system for access terminals, controlled access to operation locations, and controlled output distribution.

RETENTION AND DISPOSAL:

Microfiche and paper records are permanent; they are retained in active file until termination of service, held in inactive file in accordance with retention and retirement schedule and subsequently retired to the National Personnel Records Center, St Louis, MO.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, US Army Military Personnel Center, 200 Stovall Street, Alexandria, VA 22332.

NOTIFICATION PROCEDURE:

Inquiries for records of commissioned or warrant officers (including members of Reserve Components) serving on active duty should be sent to: Commander, US Army Military Personnel Center, 200 Stovall Street, Alexandria, VA 22332; (703) 325–9606.

Inquiries for records of enlisted members (including members of Reserve Components) serving on active duty should be sent to: Commander, US Army Enlisted Records and Evaluation Center, Ft Benjamin Harrison, IN 46249; (317) 542–3361.

Inquiries for records of commissioned officers or warrant officers in a reserve status not on active duty, or Army enlisted reservists not on active duty, or members of the National Guard who performed active duty, or commissioned officers, warrant officers, or enlisted members in a retired status should be sent to: Commander, US Army Reserve Components Personnel and Administration Center, 9700 Page Boulevard, St Louis, MO 63132; (314) 268–7770.

Inquiries for records of commissioned officers and warrant officers who were completely separated from the service after 30 June 1917, or enlisted members who were completely separated after 31 October 1912 should be sent to: Chief, National Personnel Records Center, General Services Administration, 9700 Page Boulevard, St Louis, MO 63132; (314) 268–7262.

RECORD ACCESS PROCEDURES:

Written requests should contain full name of individual, service identification number, current or former military status, and appropriate return address.

Personal visits may be made to the appropriate location based on the individual's status; individual should provide commonly acceptable identification such as valid driver's license, employment identification, and verbal information relating to his/her military status.

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

Enlistment, appointment, or commission related forms pertaining to individual's military status; academic, training, or qualifications records acquired prior to or during military service; correspondence, forms, records, documents, and other relevant papers originating in or collected by DA staff agencies and commands, other Federal agencies, commission, boards, or authority, state and local governmental entities; civilian education and training institutions; and members of the public when such information obtained directly concerns the military service member.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

A0715.01aDAPC

SYSTEM NAME:

SIDPERS Personnel Data Card.

SYSTEM LOCATION:

Each active Army unit furnishing personnel and strength data to the Department of the Army.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty Army members (commissioned, warrant, and enlisted).

CATEGORIES OF RECORDS IN THE SYSTEM:

DA Form 2475–2 which includes individual's name, Social Security Number, organization, unit, station, grade and pay group, bloodtype, duty assignment, duty phone, local address and phone number, name and address of next-of-kin, home of record, place of birth, awards, military occupational specialty evaluation data, and unit commander's name and grade. In addition, records include actions reported as SIDPERS change report remarks on members assigned/attached to a military unit bearing on the legal and financial rights of the individual.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C., section 301; 10 U.S.C., section 3012.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

By the Department of the Army: to account for and maintain data relating to each assigned and/or attached active military person; to support the accounting of and reporting function incident to maintenance of the Officer Master File, Enlisted Master File, the Military Personnel Records Jacket, and the Official Military Personnel File; for personnel management actions and reports.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders; magnetic tapes and disks.

RETRIEVABILITY:

By individual's surname; SSN.

SAFEGUARDS:

Records are maintained in secured areas accessible only to authorized

personnel who are trained, cleared, and have official need for the information.

RETENTION AND DISPOSAL:

Records are retained in the reporting unit for 1 year following the date of the last entry on the personnel data card; they are than shipped to the National Personnel Records Center (MPR), St. Louis, MO where they are retained 74 additional years before being destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, US Army Military Personnel Center, 200 Stovall Street, Alexandria, VA 22332.

NOTIFICATION PROCEDURE:

Information may be obtained from the reporting unit of assignment/attachment of the individual.

RECORD ACCESS PROCEDURES:

Individual should write or visit the reporting unit of assignment/attachment, furnishing name, SSN, military or other normally acceptable indentification, and details that will assist in locating the information sought.

CONTESTING RECORD PROCEDURES:

The Army's rules for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

From the Enlistment Record (DD Form 4), Report of Separation (DD Form 214) for reenlistees, Extension of enlistment (DA Form 1695), Special Orders issued by enlistment/reenlistment authorities, personal information furnished by the individual, documents/records/reports/forms originated within the reporting unit.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

A1401.07bDAAG

SYSTEM NAME:

Library Borrowers'/Users' Profile Files.

SYSTEM LOCATION:

Libraries on Army installations/activities. Addresses are contained in the appendix to the Army's inventory of system notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Authorized users of Army library facilities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, address, SSN, and telephone number of the user.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C., section 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

By the Army to identify individuals authorized to borrow library materials; to insure that all library property is returned and individual's account is cleared; and to provide librarian useful information for selecting, ordering, and meeting user requirements.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Card files, magnetic tapes, computer printouts.

RETRIEVABILITY:

By user's surname, SSN, and/or residence.

SAFEGUARDS:

Information is maintained in areas accessible only to authorized persons who have official need therefor. Libraries are secured during non-duty hours.

RETENTION AND DISPOSAL:

Records are destroyed when no longer needed to obtain and/or control library materials.

SYSTEM MANAGER(S) AND ADDRESS:

The Adjutant General, Headquarters, Department of the Army (DAAG–LM), 2461 Eisenhower Avenue, Alexandria, VA 22331.

NOTIFICATION PROCEDURE:

Individuals desiring to know whether this system contains information on them should inquired of the specific library that provided services, furnishing their name, period in which a user, and any other information that would assist in locating applicable records.

RECORD ACCESS PROCEDURES:

Individuals seeking access should follow the guidance in "Notification procedure".

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

From the individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 82–35133 Filed 12–27–82; 8:45 am]
BILLING CODE 3710–08

Office of the Secretary

Privacy Act of 1974; Publication of a Notice for a System of Records

AGENCY: Office of the Secretary of Defense.

ACTION: Publication of a system notice.

SUMMARY: The Office of the Secretary of Defense publishes a notice for a system of records subject to the Privacy Act of 1974.

DATE: This notice will become effective January 27, 1983.

ADDRESS: Send any comments to the system manager identified in the system notice.

FOR FURTHER INFORMATION CONTACT: Mr. Robert L. Gilliat, Assistant General Counsel (Manpower and Health Affairs), Office of the Secretary of Defense, Room 3E–999, The Pentagon, Washington, D.C. 20301; telephone: 202/697–9341.

SUPPLEMENTARY INFORMATION: The text of the system notice is set forth below. A new system report as required by 5 U.S.C. 552a(o) was submitted on November 22, 1982.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

December 21, 1982.

DCG 06

SYSTEM NAME:

Attorney and summer intern Position Applications

SYSTEM LOCATION:

Office of the Assistant General Counsel (Manpower & Health Affairs), Office of the Secretary of Defense, Room 3E999, Pentagon, Washington, D.C. 20301.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any person who applies to the Office of General Counsel of DoD for an attorney position or for a summer intern position.

CATEGORIES OF RECORDS IN THE SYSTEM:

Files contain copies of letters and any other documents submitted by applicants, such as resumes, SF–171s, and applicant writing samples, and also contains responses from the Office of the General Counsel.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 5, United States Code, Section 3101.

PURPOSE(S):

To consider applicant qualifications for available positions in the Office of the General Counsel and the Defense Legal Services Agency.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

To consider applicant qualifications for available positions in other employing authorities in the DoD, when requested.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

Documents filed chronologically in folders. Summer intern applicants filed alphabetically, with separate storage for first and second year students.

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

By name card index indicating date in chronological file folder. Summer intern files retrievable by alphabetical file folders.

SAFEGUARDS:

Building employs security guards. Records are maintained in file cabinets to which office personnel grant access only to those with a need to know. Training and screening of office personnel regarding protection of sensitive legal files is applicable to the subject file.

RETENTION AND DISPOSAL:

Records are maintained for a one-year period. They are destroyed monthly. Summer intern applicant files are destroyed at the end of the summer.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant General Cousel (Manpower & Health Affairs), Office of the Secretary of Defense, Room 3E999, Pentagon, Washington, D.C. 20301.

NOTIFICATION PROCEDURE:

Information may be obtained from: Assistant General Counsel (Manpower & Health Affairs), Office of the Secretary of Defense, Room 3E999, Pentagon, Washington, D.C. 20301. Telephone: 202–697–9341.

RECORD ACCESS PROCEDURE:

Requests from individuals should be addressed to the above System Manager.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b (see also OSD Administrative Instruction Number 81).

RECORD SOURCE CATEGORIES:

Application and related forms from the individual applying for position.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 82–35131 Filed 12–27–82; 8:45 am]
BILLING CODE 3810–01–M

Defense Science Board Task Force on International Industry-to-Industry Armaments Cooperation; Advisory Committee Meeting

The Defense Science Board Task Force on International Industry-to-Industry Armaments Cooperation will meet in closed session on 19 January 1983 in the Pentagon, Washington, D.C.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

At the meeting on 19 January 1983 the Defense Science Board Task Force on International Industry-to-Industry Armaments Cooperation will continue its review of the Defense Department's policies, plans and procedures which impede or might impede international arms cooperation and thereby have the potential for adversely impacting the collective security of the United States, its friends and Allies. In this context, the Task Force will also analyze the effect current international cooperation policies have on the utility of the US, its friends and Allies to achieve in good order and sustain mobilization capacities.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92–463, as amended (5 U.S.C. App. I, (1976)), it has been determined that this DSB Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly these meetings will be closed to the public.

Dated: December 22, 1982.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Service, Department of Defense.

[FR Doc. 82–35129 Filed 12–27–82; 8:45 am]
BILLING CODE 3810–01–M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Canadian and Mexican Natural Gas Imports; Conference

AGENCY: Economic Regulatory Adminstration, DOE.

ACTION: Notice of Conference.

SUMMARY: The Department of Energy (DOE) will hold a public conference with respect to importation of Canadian and Mexican natural gas on January 18, 1983, beginning at 10:00 a.m., e.s.t., in the auditorium, Room GE–086, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., in which all interested persons are invited to participate. The purpose of the conference is to solicit comments on various issues related to overland imported natural gas. The DOE is seeking information to define the nature and extent of concerns associated with these imports in current and future markets and how these concerns might be resolved. This conference will afford interested persons the opportunity to present their views to the DOE on these matters.

DATES: The conference will be held on January 18, 1983. Request to speak should be made by close-of-business on January 12, 1983. Written comments may be submitted in lieu of an oral presentation. These written comments will be due by close-of-business on January 18, 1983.

FOR FURTHER INFORMATION CONTACT:

Robert M. Stronach (Natural Gas Division, Office of Fuels Programs), Economic Regulatory Administration, Room GA–007 (RG–43, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585 (202) 252–9482.

James K. White (Assistant General Counsel, Natural Gas and Mineral Leasing), Forrestal Building, Room 6E–042, 1000 Independence Avenue, SW., Washington, D.C. 20585 (202) 252–6667.

Jack C. Vandenberg (Public Affairs), Economic Regulatory Administration, 12th & Pennsylvania Avenue, N.W., Federal Building, Room 4309, Washington, D.C. 20461 (202) 633–8108.

Background

The DOE has the responsibility under section 3 of the Natural Gas Act to authorize imports of natural gas unless it finds that such imports will not be consistent with the public interest. The DOE has decided to solicit public

comment from interested parties on the nature and extent of concerns associated with natural gas imports from Canada and Mexico and to seek views on appropriate solutions. In recent import proceedings, we have found that imported gas will be needed in the U.S. in the future as long as the price is reasonable, and we have noted the long history of reliability of our overland gas imports. We are now seeking suggestions for an approach that would permit flexible prices responsive to market forces while at the same time ensuring that the public interest is served.

As of April 1, 1981, Canadian gas imports reached a uniform border price of $4.94 per MMBtu, after five increased that more than doubled the price in less than two years. The Canadian government sets the price of its gas exports based on the price of crude oil imported into eastern Canada adjusted for certain transportation costs. The price of Mexican imports is essentially tied to the price of a group of representative crude oils or the Canadian price, whichever is higher. These imports have experienced similar price increases since gas started flowing from Mexico in 1980. (All import prices are authorized by the U.S. on a case-by-case basis.)

Accordingly to intervenors in various import proceedings, letters received from the public, their Congressional representatives, industry and consumer groups, and others, Canadian and Mexican gas may be priced higher than supply, demand and completing oil prices would permit in a free market. Furthermore, lower cost domestic gas which is now available as a result of reduced demand is often not taken, while at the same time take-or-pay requirements in most contracts for Canadian and Mexican gas may cause pipelines to take the higher cost imported gas. Although imports account for less than 5 percent of the total U.S. natural gas supply, these imports may have a substantial impact on the price of gas in certain states and regions, particularly in the Midwest, the Northwest and California.

Matters To Be Discussed at Conference

The DOE is particularly interested in responses to the following questions. Persons wishing to comment are encouraged to focus on their region, state, service area, company, association of group, or on their interest as a producer, transporter, distributor, importer or consumer of natural gas. Participation by state public utility commissions is especially welcome.

(1) What types of alternative pricing systems, as opposed to a uniform border price, would permit imported natural gas to enter the domestic system at competitive prices? How would such a system assure flexibility to serve individual markets over time?

(2) How can a market-oriented, flexible pricing system for imports be implemented? How would state energy regulatory authorities view such a system?

(3) With more flexible prices, would take-or-pay or minimum bill requirements cease to be a serious concern? If so, why? If not, how could these problems be resolved?

(4) Has the cost of Canadian and Mexican gas made it more difficult to sell gas in U.S. markets? If so, how?

(5) Is a premium price appropriate for imported gas? If so, under what conditions?

Conference Procedures

The conference will be conducted in an informal manner using a panel approach to permit participation by the various elements of the DOE and other concerned agencies. The presiding official will conduct the conference in a fashion that will facilitate the orderly presentation of interested persons' oral statements. The DOE reserves the right to select the persons to be heard at this conference, to schedule their respective statements, and to establish the procedures governing the conduct of the conference. All interested persons are encouraged to present their views: however, statements may be subject to time limitations if determined necessary by the presiding official.

Questions will be asked of persons presenting statements by members of the panel and a free dialogue between the panel and the speakers will be encouraged. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity for further comments, time permitting. The presiding official may also allow questions from the audience if time permits. Any further procedural rules needed for the proper conduct of the conference will be announced by the presiding official.

This conference will be open to the public. However, any person who wishes to be scheduled to make an oral statement at the conference should notify the Director, Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, RG–43, Forrestal Building, 1000 Independence Avenue SW., Washington, D. C. 20585, (202 252–9482, on or before January 12, 1982. This request should indicate the person (with address and telephone number) who wishes to speak and the amount of time desired. Any person making an oral presentation should bring at least 50 copies of their statement to the conference for distribution to other attendees. Persons wishing to speak at the conference who have not scheduled time will be given an opportunity to do so if time permits.

Any person who wishes to file written comments with the DOE in lieu of an oral presentation or in addition to their oral statement must make such filing with the Director, Natural Gas Division, By January 18, 1982, at the above address. The filing should be labeled "Overland Imported Natural Gas Comments." Any submission including information or data considered confidential by the person furnishing it must be so identified on the first page of the document, one copy only. The person also should submit a copy of the document with the confidential material excluded. The DOE reserves the right to determine the confidential status of the information or data and to treat it according to our determination. All comments (with confidential material excluded) received by the DOE will be available for public inspection in the Natural Gas Division Docket Room, Room GA–007, Forrestal Building, 1000 Independence Avenue Ave. SW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

A transcript of the conference will be made and will be available for public review at the Natural Gas Division Docket Room at the above address between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on December 22, 1982.

Rayburn Hanzlik,

Administrator, Economic Regulatory Administration.

[FR Doc. 82–35011 Filed 12–23–82; 12:09 pm]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. CP83–89–000]

Algonquin Gas Transmission Co.; Application

December 21, 1982.

Take notice that on November 5, 1982, Algonquin Gas Transmission Company (Applicant), 1284 Soldiers Field Road, Boston, Massachusetts 02135, filed in Docket No. CP83–89–000 [1] an application

[1] This application was orginally submitted as *Algonquin Gas Transmission Company*, Docket Nos. CP67–303, CP69–41, and CP75–349 and as *Texas Eastern Transmission Corporation and Algonquin Gas Transmission Company*, Docket No. CP68–238

pursuant to Section 7(c) of the Natural Gas Act, for amendment of four of its existing certificates of public convenience and necessity issued in Docket Nos. CP67–303, CP68–238, CP68–41, and CP75–349, all as more fully described in the application which is on file with the Commission and open to public inspection.

Applicant requests clarification or in the alternative amendment of the authorizations issued in Docket Nos. CP67–303, CP69–41, CP75–349, and CP68–238, so as to authorize the past and future transportation of excess quantities of natural gas on behalf of three of its existing transportation customers, Central Hudson Gas & Electric Corporation (Central Hudson), Orange and Rockland Utilities, Inc., (Orange and Rockland), and Consolidated Edison Company of New York, Inc., (Con Ed). Applicant asserts that it intends to perform the transportation on a best-efforts basis, pursuant to Section 7 of Applicant's Rate Schedule T–1.

Applicant states that it has been advised by the Commission's staff that the existing authorizations for the subject transportation services for Central Hudson and for Orange and Rockland are narrower than the language of Rate Schedule T–1 and do not authorize best-efforts transportation of gas tendered by Texas Eastern for the account of those Rate Schedule T–1 customers. Further, Applicant states that by the same reasoning it would appear that the Rate Schedule T–1 transportation of gas supplied by Tennessee Gas Pipeline Company, a Division of Tenneco Inc., for the account of either Central Hudson or the remaining Rate Schedule T–1 customer, Con Ed, may not be covered by the existing authorizations.

Applicant states no additional facilities are required to effectuate the transportation of natural gas proposed herein.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 12, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (19 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–35111 Filed 12–27–82; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 6789–001]

Atkins, Callis H.; Exemption From Licensing

Issued December 22, 1982.

A notice of exemption from licensing of a small hydroelectric project known as the Advance Mills Project No. 6789, was filed on November 26, 1982, by Callis H. Atkins. The proposed hydroelectric project would have an installed capacity of 100 kW and would be located on the North Rivanna River in Albermarle County, Virginia.

Pursuant to Sections 4.109(b) and 375.308(ss) of the Commission's regulations, and subject to the terms and conditions set forth in Section 4.111 of the Commission's regulations, the Director, Office of Electric Power Regulation, issues this notification that the above project is exempted from licensing as of December 25, 1982.

Lawrence R. Anderson,

Director, Office of Electric Power Regulation.

[FR Doc. 82–35113 Filed 12–27–82; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 5225–001]

Barrett, Harold T., Jr.; Surrender of Preliminary Permit

December 21, 1982.

Take notice that Harold T. Barrett, Jr., Permittee for the proposed Tallassee Shoals Hydropower Project No. 5225, has requested that its preliminary permit be terminated. The permit was issued on December 17, 1981, and would have expired on May 31, 1983. The project would have been located on the Middle Oconee River in Clarke and Jackson Counties, Georgia.

The Permittee filed its request on November 29, 1982, and the surrender of the preliminary permit for Project No. 5225 is deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–35119 Filed 12–27–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RE81–102–001]

Board of Public Utilities, Kansas City, Kansas; Application for Exemption

December 22, 1982.

Take notice that Kansas City Board of Public Utilities (KCB) filed an application on November 18, 1982 for exemption from certain requirements of Part 290 of the Commission's Regulations concerning collection and reporting of cost of service information under Section 133 of the Public Utility Regulatory Policies Act, Order No. 48 (44 FR 58687, October 11, 1979). Exemption is sought from the requirement to file on or before June 30, 1984, information on the costs of providing electric service as specified in Sections 290.201(j), 290.302 (a) and (b), and 290.403(b).

In its application for exemption KCB states that it should not be required to file the specified data for the following reasons (in part):

(1) No record is kept of common utility plant and expenses.

(2) No accounting distinction is made between fixed versus variable maintenance expenses.

(3) KCB's load research program is still in the formative stages and the accuracy level specified in Section 290.403(b) will not be possible.

Copies of the application for exemption are on file with the Commission and are available for public inspection. The Commission's regulations require that said utility also apply to any State regulatory authority having jurisdiction over it to have the application published in any official

State publication in which electric rate change applications are usually noticed, and that the utility publish a summary of the application in newspapers of general circulation in the affected jurisdiction.

Any person desiring to present written views, arguments, or other comments on the application for exemption should file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before 45 days following the date this notice is published in the **Federal Register**. Within that 45 day period such person must also serve a copy of such comments on: Robert L. Sadrakula, Kansas City Board of Public Utilities, 700 Minnesota Avenue, Kansas City, Kansas 66101.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-35112 Filed 12-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RE80-2-001]

Cliffs Electric Service Co.; Application for Exemption

December 22, 1982.

Take notice that Cliffs Electric Service Company (Cliffs Electric) filed an application on November 5, 1982 for exemption from certain requirements of Part 290 of the Commission's Regulations concerning collection and reporting of cost of service information under Section 133 of the Public Utility Regulatory Policies Act, Order No. 48 (44 FR 58687, October 11, 1979). Exemption is sought from the requirement to file on or before June 30, 1984, information on the costs of providing electric service as specified in Subparts B, C, D, and E.

On April 22, 1980, the Commission issued an order (Docket No. RE80-2-000) granting Cliffs Electric an exemption from the requirements of Subparts B, C, D, and E of Part 290 of the Commission's regulations for the filings that would otherwise have been required on or before November 1, 1980 and June 30, 1982. In addition, the order stated that future applications for exemption by Cliffs Electric shall include a statement as to whether the nature of its retail service (industrial load consisting of iron mines owned or operated by applicant's parent company) is substantially the same as described in its previous application for exemption. In its current application for exemption, Cliffs Electric states that it should not be required to file the specified data since its retail service is substantially the same as described in its previous application.

Copies of the application for exemption are on file with the Commission and are available for public inspection. The Commission's regulations require that said utility also apply to any State regulatory authority having jurisdiction over it to have the application published in any official State publication in which electric rate change applications are usually noticed, and that the utility publish a summary of the application in newspapers of general circulation in the affected jurisdiction.

Any person desiring to present written views, arguments, or other comments on the application for exemption should file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before 45 days following the date this notice is published in the **Federal Register**. Within that 45 day period such person must also serve a copy of such comments on: William J. Madden, Jr., Esq., Debevoise & Liberman, 1200 17th Street, NW., Washington, D.C. 20036.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-35114 Filed 12-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-185-000]

Consumers Power Co.; Filing

December 21, 1982.

The filing Company submits the following:

Take notice that Consumers Power Company (Consumers) on December 8, 1982, tendered for filing Amendment No. 1 to the Transmission Agreement between Consumers and the Dow Chemical Company (Transmission Agreement). The Transmission Agreement became effective May 25, 1979, and was accepted for filing by letter of September 11, 1979 in FERC Docket No. ER79-556. The proposed changes would supplement and modify paragraph No. 3 of the Transmission Agreement by substituting a $0.24 per kilowatt per week demand charge for the existing $0.19 per kilowatt per week demand charge. In addition the existing paragraph No. 12 of the Transmission Agreement is cancelled by Amendment No. 1 and a new paragraph No. 12 is substituted stating that unless earlier terminated by mutual agreement of Consumers and Dow-Midland the Transmission Agreement shall continue to be in effect until the effective date of the Agreement for Electric Service between Consumers and the Dow Chemical Company (dated June 21, 1978) or until July 31, 1984, whichever date is earlier.

Consumers states that the charge for transmission service by Consumers is $0.24 per kilowatt per week, based on the maximum scheduled one-hour kilowatt demand during the each week determined at Consumers point of interconnection with Detroit Edison. This rate is consistent with (1) Amendment No. 4 to the Consumers-Edison-Toledo Operating Agreement (Docket No. ER81-514-000 accepted for filing at FERC on 7/6/81) and (2) Amendment No. 16 to the Consumers-Edison-I&M Operating Agreement (Docket ER80-174 accepted for filing at FERC on October 17, 1980).

Copies of the filing were served upon the Dow Chemical Company, the Michigan Public Service Commission and the Detroit Edison Company.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 5, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-35115 Filed 12-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-90-000]

Gas Gathering Corp.; Application

December 22, 1982.

Take notice that on November 16, 1982, Gas Gathering Corporation (Applicant), P.O. Box 519, Hammond, Louisiana 70404, filed in Docket No. CP83-90-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas on behalf of United Gas Pipe Line Company (United), all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Applicant states that on August 27, 1982, it entered into a transportation agreement with United in which Applicant agreed to transport up to 5,000

Mcf of natural gas per day for United. It is asserted that the gas subject to this agreement is produced from Davis Oil Company's St. Martin Land Company No. 1 well located in St. Martin Parish, Louisiana. Applicant states that it would transport the subject volumes approximately 27 miles and deliver equivalent volumes for United's account to Transcontinental Gas Pipe Line Corporation's Sherburne Meter Station in Pointe Coupee Parish, Louisiana.

It is asserted that Applicant assessed United 9.25 cents per MMtu for this service.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 13, 1983 file with the Federal Energy Regulatory Commission, Washington, D.C. 29426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necesity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3517 Filed 12-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-182-000]

Montana Power Co.; Filing

December 21, 1982.

The filing Company submits the following:

Take notice that Montana Power Company (Montana) on December 7, tendered for filing a Letter Agreement dated June 1, 1982, Between Montana and Western Area Power Administration (WAPA) providing for the sale of nonfirm energy.

Montana States that under the terms of this Letter Agreement, it will make available to WAPA nonfirm energy.

Montana indicates that the terms of the Letter Agreement have been agreed to by the parties.

Montana further states that the rate for nonfirm energy sold to WAPA under this Letter Agreement shall be between 11.98 ($0.01108) and 15.0 ($0.015) mills per kilowatt-hour.

An effective date of May 1, 1982 is proposed and waiver of the Commission's notice requirements is therefore requested.

Montana also tendered for filing a Notice of Cancellation of an agreement for the sale of nonfirm energy between Montana and Western Area Power Administration (WAPA). According to Montana this agreement has expired as of its own terms and has not been renewed.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 5, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-35120 Filed 12-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP70-195-002]

Natural Gas Pipeline Co. of America; Petition To Amend

December 22, 1982.

Take notice that on November 22, 1982, Natural Gas Pipeline Company of America (Petitioner), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP70-195-002 a petition to further amend the order issued July 30, 1970, [1] as amended, in Docket No. CP70-195 pursuant to Section 7 of the Natural Gas Act so as to reduce the contract transportation quantity for the transportation of natural gas for NICOR Supply Inc. (Supply), from 1,350 Mcf per day to 775 Mcf per day, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that by order issued July 13, 1970, as amended, it was authorized to transport gas for Supply from the Green No. 1 well in Beckham County, Oklahoma, to Supply's parent company, Northen Illinois Gas Company. It is stated that production from the Green No. 1 well has decreased and that Supply has requested from Petitioner a reduction in the daily transportation quantity Petitioner is obligated to transport to 775 Mcf per day.

Petitioner indicates that its Rate Schedule X-30 provides Supply with the right to change the contract transportation quantity only once.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before January 6, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protest filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary

[FR Doc. 82-35121 Filed 12-27-82; 8:45 am]

BILLING CODE 6717-01-M

---

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

[Docket No. ER83-184-000]

New England Power Pool; Filing

December 21, 1982.

The filing Company submits the following:

Take notice that on December 8, 1982, the New England Power Pool (NEPOOL) Executive Committee filed an Agreement Amending New England Power Pool Agreement (Amendment) dated as of June 1, 1982, which modifies the provisions of the New England Power Pool Agreement, dated as of September 1, 1971.

NEPOOL Executive Committee indicates that the Amendment (1) changes Section 8.13(c) to clarify and expand the authority of the pool's Operations Committee to adopt and implement uniform rules and procedures for determining when a participant's generating unit's outage for maintenance shall be approved for Scheduled Outage Service and to determine whether the applicable Capability for a unit to be used in determining the amount of a participant's Scheduled Outage Service shall be the unit's Seasonal Capability or its Temporary Capability and (2) modifies Section 12.6 to conform to the changes being made in Section 8.13(c) and to resolve various questions of interpretation which have arisen regarding the rights of the participants to receive Scheduled Outage Service pursuant to this section.

NEPOOL proposes that the Amendment become effective as of December 1, 1982, and has requested waiver of the Commission's notice requirements.

Copies of the filing were served upon all electric utilities furnishing or receiving service under the NEPOOL Agreement.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214) All such motions or protests should be filed on or before January 5, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-35122 Filed 12-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-175-000]

Pennsylvania Power & Light Co.; Filing

December 22, 1982.

The filing Company submits the following:

Take notice that Pennsylvania Power & Light Company (PP&L) on December 3, 1982, tendered for filing as a rate schedule an executed agreement dated as of November 24, 1982 between PP&L and Orange and Rockland Utilities, Inc. ("Orange and Rockland"). The proposed rate schedule provides for the sale of interruptible power and energy by PP&L to Orange and Rockland.

The rate schedule provides for a maximum energy reservation charge rate of $24.70 per megawatt hour and an energy charge rate based upon the incremental cost of providing the energy.

PP&L requests waiver of the Notice requirements of Section 205 of the Federal Power Act and Section 35.3 of the Commission's Regulations so that the proposed rate schedule can be made effective December 3, 1982.

PP&L states that a copy of its filing was served on Orange and Rockland and the Pennsylvania Public Utility Commission.

Any person desiring to be heard or to protest said application should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.212). All such motions or protests should be filed on or before December 30, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-35123 Filed 12-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-102-000]

United Gas Pipe Line Co.; Application

December 21, 1982.

Take notice that on November 23, 1982, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP83-102-000, an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to the sales of natural gas to Natural Gas Pipeline Company of America (Natural) for resale at a delivery point in Polk County, Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

United states that it has been authorized to make sales of natural gas to Natural for resale in volumes of up to 75,000 Mcf per day since November 14, 1962, and that these sales are made pursuant to United's Rate Schedule PL-N. United states that the service agreement between United and Natural for these sales expires on December 31, 1982, and that Natural has informed United that it does not desire to purchase gas subsequent to that date and requests United to seek abandonment of service.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 7, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if

the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-35124 Filed 12-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-104-000]

United Gas Pipe Line Co.; Request Under Blanket Authorization

December 22, 1982.

Take notice that on November 23, 1982, United Gas Pipe Line Company (Applicant), P.O. Box 1478, Houston, Texas 77001, filed in docket No. CP83-104-000 a request pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) That Applicant proposes to install a 1-inch sales tap under the authorization issued in Docket No. CP82-430-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Applicant states that pursuant to the terms of an April 17, 1979, service agreement with Entex, Inc. (Entex), a distributor, Applicant would install a 1-inch sales tap on Applicant's 10-inch Iowa-Franklin line in Lafayette, Louisiana, for Entex to redeliver natural gas averaging 11 Mcf per day to the Mobile Homes Estates for residential use. It is indicated that peak day and annual volumes to be delivered at the proposed tap would be 52 Mcf and 4,015 Mcf, respectively. Applicant would make the proposed gas sale pursuant to its Rate Schedule DG-S, it is explained.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-35125 Filed 12-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. OF83-85-000]

Coronado Shores Condominium Association #1; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

December 22, 1982.

On December 9, 1982, Coronado Shores Condominium Association #1, 1730 Avenida del Mundo, Coronado, California 92118, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to section 292.207 of the Commission's rules.

The topping cycle cogeneration facility will be located at the Applicant's address. The facility will consist of a reciprocating engine/generator set with heat recovery systems. The electric power production capacity of the facility will be 150 kilowatts. Recovered heat will be used in heating applications. The primary energy source to the facility will be natural gas. Installation of the facility is anticipated to begin in the spring of 1983. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-35116 Filed 12-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-83-000]

Genstar Building Materials Co.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

December 22, 1982.

On December 7, 1982, Genstar Building Materials Company, 580 Decker Drive, Irving, Texas, 75062 filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to section 292.207 of the Commission's rules.

The topping-cycle cogeneration facility will be located adjacent to the Company's manufacturing facility in Savannah, Georgia. The facility will consist of two gas turbine generators from which discharged hot gas will be recovered and used in process applications. The primary energy source will be natural gas. Capacity of the facility will be 1600 kilowatts. Installation of the facility began in August 1982. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-35118 Filed 12-27-82; 8:45 am]

BILLING CODE 6717-01-M

Office of Energy Research

Proposal for "A Survey of Occupational Employment in Nuclear-Related Activities" (Form ER-828)

AGENCY: Office of Energy Research (OER) DOE.

ACTION: Notice of Proposed Form ER-828, "A Survey of Occupational

Employment in Nuclear-Related Activities".

SUMMARY: The Office of Energy Research of the Department of Energy (DOE) is proposing Form ER–828, "A Survey of Occupational Employment in Nuclear-Related Activities," designed to supersede Form ERDA–601, effective March 15, 1983. OER would implement Form ER–828 to continue the data series.

DATE: Written comments must be submitted on or before January 27, 1983.

ADDRESS: Comments should be sent to Ms. June S. Chewning at the address listed immediately below.

FOR FURTHER INFORMATION CONTACT: To obtain additional information or copies of the ER–828, contact Ms. June S. Chewning (ER–43), Senior Manpower Analyst, Office of Energy Research, Department of Energy, Mail Station: 3F–032, 1000 Independence Avenue, SW, Washington, D.C. 20585, (202) 252–6641

SUPPLEMENTARY INFORMATION:

I. Current Action
II. Differences Between Form ERDA–601 and Form ER–828
III. Request for Comments

I. Current Action

OER proposes Form ER–828, "A Survey of Occupational Employment in Nuclear-Related Activities," designed to supersede Form ERDA–601 with a similar title, which expired effective April 1982. OER plans to implement Form ER–828 to continue the data series initiated by the Atomic Energy Commission and the Bureau of Labor Statistics in 1960. Form ER–828 would be conditional upon approval of the Office of Management and Budget. The data will be collected and processed by the Oak Ridge Associated Universities, Inc. OER will publish aggregated data from ER–828 in a highlights report of the findings, and will include information from the survey in publications incorporating data on other energy sources form various surveys conducted by OER. Publications will be distributed to requesters from industry, academia, the general public, DOE and other Federal and State government agencies. OER and other DOE components will use the information in conjunction with data from other sources in making projections of needs for nuclear trained manpower and for program planning. The respondent burden, defined as person-hours required to complete a form, varies depending on firm size and personnel data keeping methods. However, the burden is estimated to be slightly less than for the predecessor Form ERDA–601, i.e., 2.5 hours instead of 2.75.

II. Differences Between Form ERDA–601 and Form ER–828

The data collected on Form ER–828 and its predecessor Form ERDA–601 are identical. A copy of Form ERDA–601 is included. The only differences in the data collections are:

A. The survey will be conducted for the Office of Energy Research rather than for the Office of Light Water Reactors.

B. The survey has been renamed, "A Survey of Occupational Employment in Nuclear-Related Activities," and has been assigned a new form number, ER–828. All necesssary changes in the form required to incorporate the new sponsor, title, and number, will be made.

C. Section 2 ("Scope of Survey") will be revised. Questions concerning past establishment involvement in nuclear-related activities will be deleted. The wording and format of the question pertaining to present establishment involvement in nuclear-related activities will be reworded and redesigned to clarify that establishments not engaged in nuclear-related activities should complete section 2 and return the form. This allows deletion of out-of-scope establishments form the mailing list eliminating further contact.

D. Section 5 ("Occupational Employment in Nuclear or Nuclear-Related Activities") will be revised. The section title and references to the survey will be changed as per the new survey title. The section 5 instructions will be reworded to remove ambiguity as to which workers should be included in the section 5 occupational breakdowns for total nuclear-related workers and nuclear-related workers conducting R&D. Because of small employment totals in past survey years, the occupational group, "medical scientists" will be deleted, as will its definition in the "Occupational Definitions" section. Medical scientists will be reported under "All other life scientists."

E. Section 6 ("Employment in Nuclear or Nuclear-Related Activities by Industrial Segments") will be revised. The section title and references to the survey will be changed as per the new survey title. The instructions will be revised to clarify the identification of the establishment's principal nuclear-related activity. This revision will incorporate the methodology employed by Department of Labor and Department of Commerce establishment surveys by defining principal activities as that which involves the largest value of goods or services produced. The ambiguity of the present instructions concerning where the principal activity is to be listed will be clarified.

III. Request for Comments

Form ERDA–601 is reproduced following this notice. OER invites prospective respondents to comment on the planned revisions within 30 days of the publication of this notice. The following general guidelines are provided to assist in the preparation of responses:

(As a potential data provider)

A. Are the instructions and definitions clear and sufficient?

B. Can the data be submitted using the definitions included in the instructions?

C. Can the data be submitted in accordance with the response time specified in the instructions?

D. How many hours, including time for preparation and administrative review, will your company require to complete and submit the form?

E. What is the estimated cost of completing this form, including the direct and indirect costs associated with the data collection? Direct costs should include all costs, such as development, assembly, equipment, ADP and other administrative costs directly attributable to providing this information.

F. How can the form be improved?

(As a potential user)

A. Do you need data at the levels of detail indicated on the form?

B. For what purposes would you use these data? (Be specific)

C. How could the form be improved to better meet your specific data needs?

D. Are there alternative sources of data and do you use them? What are their deficiencies?

OER is also interested in receiving comments from persons as to their views on the need for the collection of this information at all.

Comments submitted in response to this Notice will be included in the request for Office of Management and Budget approval of this data collection and will become a matter of public record.

Issued in Washington, D.C., December 17, 1982.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

BILLING CODE 6450-01-M

Oak Ridge Associated Universities for
the Office of Light Water Reactors
U.S. Department of Energy

A Survey of Occupational Employment in Nuclear or Nuclear Energy-Related Activities, 1981

The information collected on this form will be held in confidence and will be used for statistical purposes only by the U.S. Department of Energy.

This report is authorized by the Energy Reorganization Act of 1974, Public Law 93438. Your voluntary cooperation is needed to make the results of this survey comprehensive, accurate and timely.

Form Approved
O.M.B. No. 38R-0191

Collection Agency for the U.S. Department of Energy

(This request for information relates to)

(Please change address or ZIP code if incorrect.)

General Instructions

A questionnaire is provided for each establishment of your organization which presumably is engaged in nuclear or nuclear energy-related activities

This questionnaire should be completed for the reporting unit identified on the address label above.

In case your organization has *other* establishments engaged in nuclear or nuclear energy-related activities, an additional questionnaire which provides no reporting unit identification is enclosed In such cases, enter the name and address of the establishment in the address label area as above.

Additional questionnaires or information may be obtained on request from Oak Ridge Associated Universities, P.O Box 117, Oak Ridge, TN 37830 or by telephoning Area Code 615-576-3410

Please complete the questionnaire and return it to us in the enclosed addressed envelope, which requires no postage The second blank copy is for your files
PLEASE RETURN THIS QUESTIONNAIRE WITHIN 3 WEEKS

Person to be contacted if questions arise concerning this report

Name and Title *(Please print or type)*

Telephone *(Include Area Code)*

1. Do you wish to receive a report on the findings of this survey? *(Check if yes.)* ☐

2. Scope of Survey

For the purpose of this survey, an establishment is considered to be in nuclear or nuclear energy-related activities if all or any part of the establishment is engaged in any of the activities listed in definition A on page 3. In most cases, an establishment is at a single physical location. This survey **excludes** mining and onsite facility construction (design and manufacture are included in the survey). On this basis——

Were any employees of this reporting unit engaged in nuclear or nuclear energy-related activities as of **April 15, 1981?** Yes ☐ (21) No ☐ (22)
July 12, 1977? Yes ☐ (23) No ☐ (24)
July 12, 1975? Yes ☐ (25) No ☐ (26)

If you checked "Yes" as of April 15, 1981, please complete the remainder of the questionnaire.

If you checked "No", please return the questionnaire to avoid further correspondence

3. Type of Establishment Identification *(Check one.)*

Type 1 Nonprofit Research Establishment ☐ (31)

Type 2 Private Industrial and/or Research Establishment ☐ (32)

Type 3. DOE-Owned Research Laboratory, Test Facility, and/or Production Facility ☐ (33)

4. Employment Summary

Data should relate to the payroll period including April 15, 1981

		Employment
4.1	**Total Employment.** Enter the total number of employees of the establishment (both full- and part-time, salaried and hourly, production, maintenance, office-clerical, administrative, managerial, etc.). Include all personnel whether or not engaged in nuclear or nuclear energy-related activities. **Exclude** temporary employees hired under a sponsored summer student or comparable program . . . . . (99999)	
4.2	**Total Employment in Nuclear or Nuclear Energy-Related Activities.** Of the total number of employees reported above, how many were working in nuclear or nuclear energy-related activities? **(Include a reasonable pro rata distribution of indirect employees of the establishment whose work is necessary to the conduct of nuclear or nuclear energy-related activities. Exclude persons working onsite in facility construction.)** . . . . . (88888)	

Remarks

ERDA-801 April 1981

5. Occupational Employment in Nuclear or Nuclear Energy-Related Activities *(As of the payroll including April 15, 1981)*

For the occupations listed below, classify employees who worked in nuclear or nuclear-energy related activities by the occupation in which they spent most of their time. Do not classify an employee in more than one occupation. Employees reported in column 1 who spend 50% or more of their time in research and development activities also should be reported in column 2. *Definitions are provided on page 4.*

Occupation	As of April 15, 1981 Occupation Code	Total (1)	R&D* (2)
MANAGERS (see definition)	10010		
TOTAL ENGINEERS (see definition)			
Chemical Engineers	21003		
Civil Engineers	21004		
Electrical and Electronics Engineers	21005		
Mechanical Engineers	[illegible]		
Nuclear and Reactor Engineers (see definition)	21015		
Metallurgical Engineers	21016		
All Other Engineers	[illegible]		
TOTAL MATHEMATICIANS (see definition)	[illegible]		
TOTAL PHYSICAL AND EARTH SCIENTISTS (see definition)			
Chemists	22201		
Geologists and Geophysicists	22202		
Physicists	22206		
Metallurgists	22206		
All Other Physical Scientists	[illegible]		
TOTAL LIFE SCIENTISTS (see definition)			
Biological Scientists (see definition)	22303		
Medical Scientists (see definition)	22305		
Health Physicists (see definition)	22307		
All Other Life Scientists	22399		
ALL OTHER PROFESSIONAL WORKERS (see definition)	[illegible]		

Occupation	As of April 15, 1981 Occupation Code	Total (1)	R&D* (2)
TOTAL TECHNICIANS (see definition)			
Draftsmen	[illegible]		
Electrical and Electronics Technicians	[illegible]		
All Other Engineering Technicians	[illegible]		
Physical Science Technicians	[illegible]		
Life Science Technicians	[illegible]		
Health Physics Technicians and Radiation Monitors	33003		
Senior Nuclear Reactor Operators (see definition)	[illegible]		
Nuclear Reactor Operators (see definition)	34050		
Auxiliary Reactor Operators (see definition)	34051		
All Other Technicians	[illegible]		
WELDERS WITH NUCLEAR CERTIFICATION (see definition)	58015		
ALL OTHER SKILLED CRAFT WORKERS (see definition)	59001		
CLERICAL WORKERS (see definition)	60000		
ALL OTHER WORKERS who spend more than 50% of their time in nuclear-related activities (service workers, sales workers, laborers, operatives, and all other workers not classified above) (see definition)	[illegible]		

SUMMATION INSTRUCTIONS: The sum of all employment in nuclear or nuclear energy-related activities, by occupation, entered in column 1 above must equal the entry in item 4.2.

***RESEARCH AND DEVELOPMENT**

Include in this function employees who spend the greatest proportion of their time performing, managing, or administering basic and applied research in engineering, mathematics, physical, life (including medicine), and other sciences; and in the design and development of prototypes and processes. For purposes of this study, research and development includes the following types of activities: (a) Pursuit of planned research of new knowledge, whether or not the research has reference to a specific application. (b) Application of existing knowledge to problems involved in the creation of a new product or process, including work required to evaluate possible uses. (c) Application of existing knowledge to problems involved in the improvement of an existing product or process

[illegible]

8. Employment in Nuclear or Nuclear Energy-Related Activities by Industrial Segments

Distribute total employment in the Nuclear or Nuclear Energy-Related Activities (item 4.2) as of April 15, 1981, as follows:

Column 1 — List each industrial segment (see definition A) in descending order of the number or proportion of employees in each segment as of April 15, 1981. The principal segment of the establishment should appear on line 8.1.

Column 2 — List the segment number for each activity shown in column 1. (See definition A.)

Columns 3 & 4 — Distribute the total employment reported in item 4.2 by segment in column 3, if available. If employment data are not available, show a percentage distribution by segment in column 4 of the total employment reported in item 4.2. There should be an entry in either columns 3 or 4 for every segment shown in columns 1 and 2. The total of column 4, if used in lieu of column 3, should equal 100%.

	Industrial Segment Name	Industrial Segment No.	Distribution of Employees Engaged in Nuclear or Nuclear Energy-Related Activities	
			Number of Employees	Percent of Total
	(1)	(2)	(3)	(4)
8.1				
8.2				
8.3				
8.4			Total = Item 4.2	100%

*Principal nuclear or nuclear energy-related activity

Definitions for the Survey of Occupational Employment in Nuclear or Nuclear Energy-Related Activities

A. Industrial Segments. Nuclear or nuclear energy-related activities are comprised of the following industrial segments:

Code Description

1. **Uranium Milling:** Reduction of uranium ores to concentrates. Excludes mining.
2. **Processing and Enrichment of Reactor Fuel Materials:** Refining of reactor fuel concentrates and conversion of refined fuel concentrates and recovered U-235/U-238 to uranium hexafluoride, enrichment of these fuel materials in the isotope U-235, followed by conversion to oxides, carbides, or other fuel compositions.
3. **Production of Special Materials for Use in Reactors:** Preparation and treatment of core structural and cladding materials such as zirconium, control rod materials such as hafnium and boron, and moderators such as heavy water and graphite.
4. **Reactor and Reactor Component Design and Manufacturing:** The design and/or manufacture of nuclear reactors and reactor components, including control rods and drives for power, test, and research purposes and missile and space applications. Includes the assembly, testing, and disassembly of reactors and the testing of materials for reactor use.
5. **Fuel Fabrication:** Production of fuel forms (pellets, coated particles, etc.), and encapsulation of fuel forms in fuel assemblies.
6. **Transportation of Nuclear Materials:** Packaging and interfacility transportation of special nuclear materials, fabricated fuel assemblies, irradiated fuel assemblies, and other radioactive materials.
7. **Chemical Reprocessing and Disposal of Irradiated Materials:** Separation and recovery of fertile and fissile fuel materials, and of by-product materials. Includes purification, concentration, and packaging of fuel and by-product materials; storage and solidification of high-level wastes; collection, packaging, and disposal of low-level wastes.
8. **Design and Engineering of Nuclear Facilities:** Design and engineering of all nuclear facilities with the exception of those included in segments 4 (reactor and reactor components), 5 (fuel fabrication), 11 (nuclear instruments, gauges, and control devices), and 12 (accelerators). Excludes persons working onsite in facility construction.
9. **Nuclear Reactor Operation and Maintenance:** Operation and maintenance of nuclear power production, test, and research reactors. Includes operation and maintenance of auxiliary systems for supply and treatment of power, air, water, etc.
10. **Radioisotopes:** Manufacture, processing, and packaging of radioisotopes, including radiochemicals, radiopharmaceuticals, and other radioactive labeled compounds. Includes irradiation of medical supplies, food, and agricultural products, and of commercial materials. Excludes in-plant processing incidental to another activity.
11. **Design and Manufacture of Nuclear Instruments, Gauges, and Control Devices:** Design and manufacture of hot cell and laboratory instruments and monitoring and control devices, radiographic and teletherapy equipment, activation analysis systems, etc.
12. **Accelerators:** The design, engineering, manufacturing and/or construction, operation/maintenance, and research and development conducted for all classes of accelerators.
13. **Environmental and Ecological Research and Evaluation:** Activities to preserve, improve, or restore the natural environmental and ecological balance. Types of activities covered are thermal effects and effects of irradiation on plants, animals, and marine life.
14. **Biology and Medical Research:** Research on the interaction of radiation with biological systems; use of radiation and radioisotopes in diagnosis and treatment of illnesses; study of effects of low-level radiation and ingestion of toxic and radioactive materials on biological systems.
15. **Reactor Research, Development, and Evaluation:** Activities relating to research, development, and demonstration of new fission reactor systems, components, fuels, moderators, etc. Includes development, conduct, evaluation, and analysis of reactor safety tests.
16. **Commercial Laboratory Services:** Provides laboratory service activities for other establishments. Examples of services are activation analysis, film badge service, mass spectrometry, radiography, and physical testing.
17. **Health Physics and Industrial Safety:** Establishes, evaluates, and monitors working conditions for compliance with industrial safety and radiation exposure standards.
18. **Weapons Development and Production:** Develops, designs, tests, and fabricates nuclear weapons.
19. **Research and Development in Nuclear Energy:** Investigations directed toward the development of new or fuller scientific knowledge of the subject. It also covers systematic application of scientific knowledge directed toward the creation of new or substantially improved processes, procedures, techniques, etc. It excludes research and development reported under segments 12, 13, 14, and 15, which are to be reported separately.
20. **Industrial Radiography:** Commercial radiographic services. Excludes in-plant radiography where its use is incidental to another activity.
21. **Miscellaneous:** Activities not classified in any of the above segments, such as consultant services, laundry services, and leasing services.

Definitions for the Survey of Occupational Employment in Nuclear or Nuclear Energy-Related Activities—*Continued*

B. Occupational Definitions

Employees in the specialized occupations covered by this survey should be counted on a "Working As" basis, as of the date of the report (April 15, 1981), regardless of field of degree or whether they hold a college degree. For example, an employee trained as an Engineer but working as a Mathematician as of the date of the report should be reported as a Mathematician. Similarly, an employee trained as a Life Science Technician but working as a Health Physics Technician as of the date of the report should be reported as a Health Physics Technician. Include all employees in research and development, production, management, technical service, sales, and other positions which require them to use the indicated level of knowledge in their work. **Exclude** persons working onsite in facility construction.

Managers (Occ. Code 10000): Include persons concerned with policymaking, planning, organizing, staffing, directing, and/or controlling activities that are common to many types of organizations, usually through subordinate supervisors who directly supervise the activities of the company or establishment work force and/or professional or technical management.

Engineers (Occ. Code 21000): Count all persons actually engaged in engineering work at a level which requires knowledge of engineering equivalent at least to that acquired through completion of a 4-year college course, regardless of whether they hold a college degree. **Exclude** persons trained in engineering, but currently employed in positions not requiring the use of such training.

Nuclear and Reactor Engineers (Occ. Code 21015): Count all engineers who are concerned with the release, control, and use of all types of energy from nuclear sources, including the design and development of fission or fusion reactors for the controlled release of nuclear energy, and the applications of radiation. **Exclude** Nuclear Reactor Operators.

Mathematicians (Occ. Code 22100): Count only those persons whose positions require a knowledge of mathematics equivalent at least to that acquired through a 4-year college course with a major in mathematics and who spend the greatest proportion of their time in development or application of mathematical techniques, regardless of whether they hold a college degree. **Include** Actuaries, Statisticians, and Computer Programmers only if they specialize in mathematical techniques. **Exclude** Accountants.

Physical and Earth Scientists (Occ. Code 22200): Count all Chemists, Physicists, Metallurgists, Geologists, Geophysicists, and other Physical and Earth Scientists who are actually engaged in scientific work at a level which requires a knowledge of the physical sciences equivalent to that acquired through completion of a 4-year college course with a major in one of the physical sciences, regardless of whether they hold a college degree. Exclude persons trained in the physical sciences but currently employed in positions not requiring the use of such training.

Life Scientists (Occ. Code 22300): Count all Health Physicists, Medical Scientists, Agricultural Scientists, Biological Scientists, and other Life Scientists who are actually engaged in scientific work at a level which requires a knowledge of the life sciences equivalent to that acquired through completion of a 4-year college course with a major in one of the life science fields, regardless of whether they hold a college degree. **Exclude** persons trained in the life sciences but currently employed in positions not requiring the use of such training. **Exclude** Psychologists. See definitions for Health Physicists and Biological Scientists.

Biological Scientists (Occ. Code 22303): Count all persons who meet the general requirements for "Life Scientists" and who spend the greatest proportion of their time in scientific work dealing with life processes other than those classified in the agricultural and medical sciences. **Include** Pathologists, Microbiologists, Pharmacologists, Toxicologists, Botanists, Zoologists, etc.

Medical Scientists (Occ. Code 22305): Count only those Physicians, Dentists, Public Health Specialists, Pharmacists, and members of other scientific professions who meet the general requirements for "Life Scientists" and who are concerned with the understanding of human diseases and improvements of human health, and spend the greatest proportion of their time in clinical or laboratory investigation or other research, production, technical writing, and related activities. **Exclude** from this category all practitioners——that is, those Medical Scientists who spend the greatest proportion of their time providing care to patients, dispensing drugs or services, or in diagnosis, etc. Persons working as Pathologists, Microbiologists, Pharmacologists, etc., should be excluded from the figures for Medical Scientists and included in the figures for Biological Scientists.

Health Physicists (Occ. Code 22307): Count all persons who meet the general requirements for "Life Scientists or Engineers" and who are concerned with programs to protect plant and laboratory personnel from radiation hazards; develop inspection standards, radiation exposure limits, and decontamination procedures, conduct tests to insure that radiation is not in excess of permissible limits; and design or modify such health physics equipment as detectors and counters to improve radiation protection.

All Other Professional Workers (Occ. Code 29000): Include all other workers concerned with such fields as law, education, labor, and business relations requiring a substantial educational preparation, usually at the university level.

Technicians (Occ. Code 30000): Count all persons actually engaged in technical work at a level which requires knowledge of engineering, mathematical, and physical or life sciences, comparable to that acquired either through study at technical institutes, junior colleges, or other formal post-high school training **less extensive than a 4-year college course** or through equivalent on-the-job training or experience. Some typical job titles are Draftsman, Surveyor, Laboratory Assistant, Physical Science Aide, and Electronic Technician. All persons in positions that require the indicated level of knowledge should be counted, regardless of job title or department in which employed. **Computer Programmers** who meet the above definition of Technicians should be reported under "All Other Technicians," Occupation Code 39000. **Exclude** those persons whose positions require knowledge of training consistent with the foregoing definitions of Engineers, Mathematicians, or Scientists, and report them in the appropriate occupational category on the questionnaire. Also, **exclude** all craftsmen such as Machinists and Electricians.

Nuclear Reactor Operators (Occ. Codes 34049, 34050, 34051): Count all persons who spend the greatest proportion of their time in (a) the actual manipulation of the controls of a nuclear reactor, or (b) directing others in the manipulation of such controls. Under Nuclear Regulatory Commission (NRC) licensing regulations, the former are referred to as "operators" and the latter as "senior operators." Count as "auxiliary operators," those persons who are not licensed operators but work under the supervision of either nuclear or senior operators while preparing to fulfill NRC requirements to become licensed operators. A nuclear reactor is an apparatus, other than a nuclear weapon, designed or used to sustain nuclear fission and self-supporting chain reaction (e.g., power reactors, test reactors, production reactors, research reactors, critical assemblies). **Exclude** persons who spend the greatest proportion of their time as Nuclear Reactor Engineers or in performing other functions of a professional, scientific, or engineering nature.

Welders with Nuclear Certification (Occ. Code 58015): Count all persons certified under NRC requirements who join surfaces, or otherwise make or repair structures or parts, using gas or electric welding, soldering, or brazing equipment with or without filler material; who fuse to join or shape lead products or parts, using a gas torch; who cut or perforate metal, using gas or electric welding equipment.

All Other Skilled Crafts and Kindred Workers (Instrument Repairer, Painter, Maintenance, Patternmaker, Metal Die Setter, Die Sinker, Etc.) Exclude persons working onsite in facility construction. **(Occ. Code 59001):** Include all other skilled crafts and kindred workers in production, maintenance, repair, power plant, and material handling occupations that predominantly require a thorough and comprehensive knowledge of processes involved in the work, the exercise of considerable independent judgment, usually a high degree of manual dexterity, and in some instances, extensive responsibility for valuable product or equipment. Workers in these occupations usually become qualified by serving apprenticeships or completing extensive training periods. **Occupations should be counted as skilled if the specific vocational preparation required to perform them involves training or other preparation of two years or more.**

Clerical Workers (Occ. Code 60000): Include office and plant clerical personnel. **Office clerical work** involves preparing, transcribing, transferring, systematizing, and preserving communications and records; collating accounts and distributing information. Typical examples are Secretaries, Stenographers, Typists, File Clerks, Office Machine Operators, Bookkeepers, Cashiers, Messengers, and Telephone Operators. **Plant clerical work** involves planning, coordinating, or expediting of production and the flow of work; or the clerical aspects of receiving, storing, issuing, or shipping of materials, merchandise, supplies, or equipment.

All Other Workers (Occ. Code 88999): Include service and sales workers, operatives, laborers, and all other workers not classified above. **Exclude** persons working onsite in facility construction.

[FR Doc. 82-35049 Filed 12-27-82; 8:45 am]

BILLING CODE 6450-01-C

GPO 919-621

FEDERAL HOME LOAN BANK BOARD

[No. 82-811-A]

Prices for Federal Home Loan Bank Services

Dated: December 16, 1982.

AGENCY: Federal Home Loan Bank Board.

ACTION: Notice of prices for Federal Home Loan Bank services.

SUMMARY: The Office of District Banks and the Office of Policy and Economic Research of the Federal Home Loan Bank Board are publishing, pursuant to delegated authority, the prices charged by the Federal Home Loan Banks for (1) processing and settlement of items and (2) demand deposit services offered to member institutions.

FOR FURTHER INFORMATION CONTACT: Ashley C. Speir, Jr., Office of District Banks (202)-377-6656) or Jerry Hartzog, Office of Policy and Economic Research (202-377-6782), Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION: Section 11(e) of the Federal Home Loan Bank Act (12 U.S.C. 1431(e)) authorizes the Federal Home Loan Banks: (1) To accept demand deposits from member institutions, (2) to be drawees of payment instruments, (3) to engage in collection and settlement of payment instruments drawn on or issued by members and eligible institutions, and (4) to engage in such incidental activities as are necessary to the exercise of such authority.

Section 11(e)(2)(B) of the Bank Act (12 U.S.C. 1431(e)(2)(B)) requires the Federal Home Loan Banks to charge fees for services authorized in that section, which fees are "to be determined and regulated by the Board consistent with the principles set forth in section 11A(c) of the Federal Reserve Act." Board regulations at 12 CFR 534.6 require that the Director of the Office of District Banks and the Director of the Office of Policy and Economic Research (or their designees) review, approve, and publish at least annually these fees. The regulations specify that the fees must be reviewed in accordance with the following pricing principles:

(1) In determining the fees for services provided under this Part, a Federal Home Loan Bank must take into account all direct and indirect costs of providing the services.

(2) Prices must reflect the imputed rate of return that would have been earned and the taxes that would have been paid if the Bank were a private corporation, by using a cost of capital adjustment factor applied to those assets used in providing services authorized under this part.

(3) All costs must be fully recovered within a period not exceeding five years. The prices charged for collection, processing, and settlement services must yield at least a competitive rate of return within a period not exceeding five years [1] after offering such services.

In accordance with these principles, the Director of the Office of the District Banks and the Director of the Office of Policy and Economic Research have reviewed and approved the current prices for Federal Home Loan Bank services, which are published herewith. The services and their prices are divided into two categories: (1) Services involved in the processing and settlement of items drawn on or issued by member institutions (Schedule A); and (2) services relating to demand deposit accounts maintained by member institutions with the Banks (Schedule B).

The services described in the attached schedules are not identical for any two Banks, as each Bank's program is tailored to meet the needs of the member institutions in the Bank's district. Furthermore, the volume of services rendered varies significantly among the districts, with the result that the costs of providing the services also vary from district to district. In light of these considerations, the Board continues its practice of approving separate district fee structures rather than adopting a uniform pricing scheme. This policy is consistent with the Congressional intent that pricing encourage competition.

It is not required that each processing step or transaction performed by a Bank be specifically priced. This policy permits the Banks to establish fee schedules that are in line with the marketing practices of providers of correspondent services in each district. However, total revenue from services must be sufficient to cover costs. In the case of item processing and settlement services, fees must be sufficient to recover all start-up costs within five years. Demand deposit service expenses must be recovered annually, because the Banks have provided these services for many years, and thus have attained mature service volumes.

The price analysis incorporates an imputed "cost of capital adjustment factor" of fifteen percent. This adjustment factor is required by 12 CFR 534.6(b)(2) in order to yield a fee structure competitive with prices charged by private-sector servicers. The current fifteen-percent figure was derived in accordance with a formula which is described in detail at 45 FR 64161 (September 29, 1980).

The directors of the Office of District Banks and the Office of Policy and Economic Research of the Federal Home Loan Bank Board hereby give notice of the following fee schedules for Federal Home Loan Bank services:

Sechedule A: Item Processing and Settlement Services

Federal Home Loan Bank of New York

Service	Fee
Settlement	[1]
Standard intercept (per item)	$0.020
Check safekeeping (per item)	.015
Bulk filing (per item)	.010
Statement rendering:	
Bulk filing (per statement)	.30
Safekeeping (per statement)	.05
Data Fax high dollar items (per item)	1.80
Automatic item returns (per item)	2.50
Stop payment and suspect item file (per entry)	1.00
Certified item file (per entry)	1.00
Photocopies (per copy)	2.00
Original item retrieval (per item)	4.00
Counter item sorting (per item)	.065
Counter item filming (per item)	.020
Held paid item filming (per item)	.020
Microfilm monthly history (per 100,000 items)	5.00

[1] No charges.

Federal Home Loan Bank of Atlanta

Service	Fee
Settlement only (per month)	$50 (per item)
Daily delivery:	
Same day	$0.03
Next day	.03
Bulk filing	.04
Statement matching	.07
Truncation	.03
Return items	2.50
Caution/alert (stop payment)	2.00
Facsimile:	
Large Dollar	2.00
On Request	2.00
Bookkeeping & Account	
Number Rejects	2.00
Over-the-counter items	.01
Photocopies	2.50
Finesort (check number): Special Accounts	.01

Notes:

Prices for all services include data transmission to on-line or in-house processors.

Actual item delivery expense will be charged to the association as incurred, including postage under "Statement Matching" above.

Caution/Alert (stop payment) items that are ultimately returned will incur an additional charge of $2.50 each.

The minimum monthly billing for service options (other than Settlement Only) is $75.00.

[1] On December 16, 1982, the Board proposed to substitute a ten-year rule for this five-year requirement . . . Board Resolution 82-811, published in the Proposed Rules Section of the Federal Register of December 23, 1982.

Federal Home Loan Bank of Cincinnati

Items/month	Daily return			Bulk filing	
	(1)	(2)	[illegible]	[illegible]	[illegible]
	Unsorted	Sorted	Truncation	Without statement stuffing	With statement stuffing
a. 0 to 5,000	[illegible]	[illegible]	[illegible]	$0.0500	[illegible]
b. 5,001 to 25,000	.0300	.0350	.0350	.0450	.0750
c. 25,001 to 50,000	.0250	.0300	.0300	.0400	[illegible]
d. 50,001 to 75,000	.0210	.0250	.0250	.0350	.0650
e. 75,001 to 100,000	.0150	.0210	.0210	.0300	.0600
f. 100.001 to 125.000	.0125	.0175	.0175	.0275	.0575
g. 125,001 and over	.0100	.0150	.0150	.0250	.0550

Special Services

1. Check Retrieval of Original Item	$1.50
2. Photocopy (per item)	1.00
3. Advertising Insertion (per item)	.01
4. Posted—"on-us" (per item)	.05
5. Statement Stuffing Service for Truncated Statements (per statement)	.01
6. Statement Stuffing of Deposit Tickets and Dishonored Notices (per item)	[illegible]
7. Return Items (per item)	2.50
8. Settlement of NOW Item	(1)
9. Settlement Only (per month flat fee)	50.00

[1] Current demand accounts utilizing I F T S.

Federal Home Loan Bank of Indianapolis

Monthly volume	Safe-keeping (cents)	Turn-around, daily or cycled (cents)	Complete (cents)
0 to 5,000	4.5	5.3	7.7
5 to 10,000	3.7	4.8	7.5
10 to 15,000	3.6	4.4	7.3
15 to 25,000	3.1	3.7	7.2
25 to 50,000	3.0	3.3	7.0
50 to 75,000	2.6	3.0	6.6
75 to 100,000	2.3	2.7	6.5
100 to 125,000	2.1	2.4	6.4
125 to 150,000	1.9	2.2	6.3
150 to 175,000	1.7	2.0	6.2
175 and up	1.4	1.6	5.9

II. ANCILLARY SERVICE FEES

Over-The-Counter and Microfilm—$0.035.
Return Items—$2.75.
Exception Safekeeping Statements—$0.25.
Photocopies and Facsimiles—$2.00.
No Charge for Facsimile Items for Signature Verification on Day of Presentment.
Settlement Only—$40.00 Per Month.
Minimum Processing Fee of $40.00 Per Month Will Apply for Total NOW Services.

Federal Home Loan Bank of Chicago

Pricing	
NOW Account Service Fees	
Basic Service	
Daily Return Bulk File (per item)	[illegible]
Truncation (per item)	.0185
Additional Services	
Counter Items (per item)	.0250
Return Items (i.e. NSF) (per item)	4.00
Photocopies (per item)	[illegible]
Facsimile of Items (per item)	2.00
Cash Letter Facsimile (per item)	2.00
Special Sorts (per item)	.0150
Monthly Recap (per item)	[illegible]
Data Transmission (per item)	.0030

Notes
- Large items of $1,000 and over will be facsimiled at no charge.
- All debits and credits will be settled through your daily investment deposit (D.I.D) account.
- Actual item delivery expenses will be charged as incurred.
- Members may elect to use a combination of the truncated and non-truncated systems. This enables you to offer options to your customers.
- Compensation balances are not required.

Federal Home Bank of Des Moines

Volume level	Basic fee (truncated)	Daily/Cycle [1]	Monthly [1]	Monthly/Item [1]
Item Processing:				
1 to 10,000	$.021	$ 016	$ 021	$.026
10,001 to 25,000	.019	014	.019	024
25,001 to 50,000	.017	.012	017	[illegible]
50,001 to 75,000	.015	.010	015	[illegible]
75,001 to 175,000	.0125	0075	0125	0108
Bulk Pricing:				
(175,001–Over)	.012	.006		
Return items:				
1 to 2,000 per month			2 50	
2,001 to 3,000 per month			2 00	
3,001 to 4,000 per month			1 50	
4,001 to Over per month			1 00	
For those members who retrieve the return items themselves, the tier levels are:				
1 to 2,000 per month			1 25	
2,001 to 3,000 per month			1 00	
3,001 to 4,000 per month			75	
4,001 to Over per month			[illegible]	
Special processing:				
(1) Sort truncated items in account number order ($.012 per item with a $250. per month minimum)				
(2) Return of truncated items, non-sorted ($.002 per item)				
(3) Subsequent sort into serial number order ($.005 per item)				
(4) Other miscellaneous fine sorting requirements ($.005 per item)				
Other services:				
Tape and transmission preparation				$.0002
Key punch (rejects)				04
Photo copies				2 75
Signatures verified				[2]70
Counter items with microfilm				.04
Facsimile transmission				1 00
Microfiche—monthly reports				1.50
Microfiche—copies				.18
Stop payments				2.00
Original item return				2.75
Certified checks				[illegible]
Counter items without MICR encoding				.10
Facsimile transmission of daily cash letter				1 00
NOW transaction inquiry				1.00
Telephone advice on missing account number				.50
Microfilm copies for audit				10 00
Telephone check inquiry				1.00

Minimum processing fee of $40.00 per month will apply for total NOW services.

[1] Fees for daily/cycle return, monthly return or monthly return with microfilm are in addition to the basic (truncated) fee
[2] Dollar amount variable by association.

Federal Home Loan Bank of Little Rock

Basic service	1982 per item
* Check capture fee: includes cash letter verification, settlement, data capture, storage and retrieval capability, transmission of data, microfilm, truncation	$.30
* Fine sort and forward checks to association:	
Daily (one day delay)	.005
Cycle (5 cycles per month)	.006
Monthly (month end)	.012
Checks will be sorted by your customer's account number.	
** Counter item integration: Receive, microfilm, and fine sort with your checks presently on hand at the Federal Home Loan Bank of Little Rock and store for truncation or delivery to association	.036
* Return items: Fee for sorting and returning any items (NSF's, stop payments, etc.)	3.00

Federal Home Loan Bank of Little Rock—Continued

Basic service	1982 per item
* Stop payment file: Fee for receiving and placing on file holds, stop pays, closed accounts, etc.	2.00
* Photocopies or original check retrieval	1.50
* Postage (for delivery of paid checks by association)	(1)

[1] Actual cost.

Federal Home Bank of Topeka

	Charge
Basic services:	
1. Settlement—with Federal Home Loan Bank PROCESSING (no charge)	
2. Settlement only (month)	$50.00
3. Truncation (per item)	0.02
4. Bulk filing and return (per item)	0.035
Special services:	
1. Item Retrieval or Photocopy (per item)	2.00
2. Return items (NSF, stop pay, etc.) (item 1st 50 per/mo./1.00 per item over 50)	.50
3. Counter items (Microfilmed & filed) (per items)	0.03
4. Facsimile Transmission for NOW detail listing of items paid (per transmission)	1.50

The costs of bulk filing, sorting, storage and settlement for associations utilizing Federal Home Loan Bank processing are including in our pricing policy.

There are no transportation charges imposed by the Federal Home Loan Bank related to check delivery for processing.

There are no minimum monthly charges for NOW processing.

Fees will be adjusted to reflect any future charges that may be imposed by the Federal Reserve System.

Federal Home Loan Bank service prices may be changed with 30-day advance written notice to the user.

The Federal Home Loan Bank will not assume check printing expenses for NOW drafts.

Federal Home Loan Bank of San Francisco

	First increment fewer than 50,000 items/ month	Second increment 50,000–100,000 items/ month	Third increment 100,000–500,000 items/ month	Fourth increment 500,000 or more items/ month
Basic Capture Service				
Check Capture Fee: Includes cash letter verification, settlement, data capture, storage and retrieval capability, capture report and microfilm	$0.0250	$0.0225	$0.0200	$0.0175
Fine Sort and Forward Items: Items will be returned daily under basic service or on a one-day delay for associations wanting the Bank to handle return-item processing	.005	.005	.005	.005
Tape-to-tape Transmission: Includes tape presentation and transmission to the appropriate servicer	.002	.002	.002	.002
Comprehensive now Service				
Check Capture Fee	.0280	.0250	.0225	.0280
Tape-to-Tape Transmission	.0020	.0020	.0020	.0020
Non-check Debit Processing (over-the-counter items)	.0400	.0400	.0400	.0400
Filing Fee (truncated items)	.0050	.0050	.0050	.0050
Return-item Processing	2.00	2.00	2.00	2.00
Photocopies	3.00	3.00	3.00	3.00
Statements for Accounts on Truncation (per statement)	.100	.100	.100	.100
Standard Bar-encoded Statements (per statement)	.300	.300	.300	.300
Nonstandard Statements (per statement)	.500	.500	.500	.500
Standard Statement Inserts (per insert)	.030	.030	.030	.030
Nonstandard Statement Inserts (per insert)	.050	.050	.050	.050

Notes:
1. The Bank will absorb the cost of couriers and telephone lines to the Angeles are until Los Angeles center is established. Actual item delivery expense will be charged as incurred from either San Francisco or Los Angeles.
2. Controlling returns and photocopies, or making photocopies from Bank-supplied microfilm, can reduce costs
3. Minimum charge for Basic Service is $250/month, and $500/month for Comprehensive Service.
4. Postage and courier fees will be as billed.
5. Micofiche fees will be $50/month for two microfiche per day.

Federal Home Loan Bank Of Seattle

	Pricing (items per month)
Standard Services	
A. Daily delivery of items:	
a. 0 to 50,000	$0.025
b. 50,000 and over	.020
a. 0 to 50,000 (on 1 day)	.035
b. 50,000 and over delay basis	.030
B. Truncation:	
a. 0 to 50,000	.030
b. 50,000 and over	.025
C. Cycle or month-end delivery:	
a. 0 to 50,000	.035
b. 50,000 and over	.0030
D. Cycle or month-end delivery with statement matching:	
a. 0 to 50,000	.060
b. 50,000 and over	.055
Special Services	
A. Return items	[1] $2.50
B. Stop payments entry	(N/A)
C. Facsimile	[1] $2.50
D. Over the counter on-us items (truncating):	
Cycle	.035
Statement stuffing	.060
E. Photocopy	[1] $2.50

Federal Home Loan Bank Of Seattle—Continued

	Pricing (items per month)
F. Check retrieval	[1] $2.50
G. Information inserts	[2]
a. $0.005/item transportation will be applied for institutions outside the Seattle Federal Reserve clearing zone.	

[1] $2.50 charge on aggregate of items that exceed 2% of items processed.
[2] No charge

Federal Home Loan Bank of Boston

Service	Fee per month
Account maintenance	$3.00
Checks cleared	.05
Deposits	.25
Debit/credit memos	.10
Stop payment orders	1.00
Nonroutine statements	1.00
Wire transfers-out	2.50

Federal Home Loan Bank of Boston—Continued

Service	Fee per month
Full reconcilement per issue	.04

Service includes master deposit account with additional disbursement accounts for checks writing purposes. Each disbursement account can be reconciled on a periodic basis. Service also includes line of credit to cover overdrafts or short term advances.

Description

Account Maintenance—cost of maintaining account on computer. Includes one member statement per month. *Checks Cleared*—checks paid on each disbursement account. *Deposits*—funds deposited to member accounts.

Debit/Credit Memos—internal debits/credits processed against member accounts. *Stop Payment Orders*—member request to stop payment on issued check. *Non-Routine Statements*—account statements other than one per month. *Wire Transfers Out*—electronic transfer of funds out of a member's account, to another financial institution. *Full Reconcilement Per Issue*—service provided to reconcile paid checks.

Federal Home Loan Bank of New York

Money Orders and Checks

First 10,000 items per month—$.195 each.
10,000 plus items per month—$.145 each.

This fee covers all aspects of the check service including the cost of the blank instruments, stop payment orders, inquiries, and photocopies of paid items stored on microfilm. Blank stock is resupplied automatically, and other forms such as stop payment orders, photo request cards, check control sheets, and address labels are supplied on request.

Wire Out—$7.00

This covers all the costs associated with the wire-out service, including compensating balances held at correspondent banks, third party call-back confirmations, and follow-up investigations.

Coupon Processing, Bond Redemption and Federal Recurring Payments—$4.00

Coupon Processing—This fee covers the costs passed on to the Bank by the custodian bank for processing coupons as they come due, and the Bank's costs related to control of the paper work, and crediting the proceeds to the member's demand account.

Bond Redemption—This fee is applied once for a group of bond received in one batch and covers the cost of handling and crediting the member for the proceeds.

Federal Recurring Payments—This fee is applied each time a credit is received from the Federal Reserve Bank on behalf of a member, and covers the cost of handling the credit.

Bulk Deposits—$.12

This fee represents the pass-through of costs from our correspondent bank at which the items are deposited. The correspondence MICR encodes the items, prepares cash letters, delivers the items to the clearance system, and transmits credit information to the Bank.

Depository Transfer Checks—$1.00

This fee represents the cost of processing checks drawn on member-designated depository banks. It covers the cost of receiving instructions from member, issuance of check, presentment and subsequent credit to member's demand account.

FEDERAL HOME LOAN BANK OF PITTSBURGH

Service	Fee
Deposit Processing:	
Deposit ticket entry (each entry)	$0.15
Deposit transfer voucher (each entry)	.25
Mail deposit ticket entry (each entry)	.25
Deposit item processing (each entry)	[illegible]
Deposit item encoding (each item)	.03
Deposit item return (each item)	1.00
Deposit item photocopy (each item)	2.00
Deposit pickup (each pickup)	6.75
Check and Money Order Clearing:	
Clearing item processed (per item)	.0887
Clearing item reconcilation copy processing:	
By manual input (per item)	[illegible]
By magnetic tape input (per item)	0098
Clearing item fine sorting for return with bank statements (per item)	[illegible]
Stop payment orders (per item)	4.50
Imprinting checks and money orders	(1)
Wire Transfer of Funds:	
Outgoing (per transfer)	3.75
Incoming (per transfer)	1.25
Lockbox Services:	
Lockbox item processing (per item)	.11
Deposit item processing (per item)	.02
Deposit ticket entry (each entry)	.15
Transportation (per month, per association)	20.00

[1] Direct cost passthrough from supplier.

The charge for each item paid included, but is not limited to, the following services: Cost of supplying checks and money orders; Stop payment order processing; Dollar amount reconcilation; Statement preparation and mailing, Register copy preparation and entry; Perpetual retention of records for accounts that are truncated; Special deposit arrangements with commercial banks; Miscellaneous debit and credit item entries; Inter-account transfers; Special non-routine statements; Photostatic retrieval of paid items.

Schedule B: Demand Deposit Services

FEDERAL HOME LOAN BANK OF ATLANTA

Service	Fee
1. Checks paid (includes at no additional charge, monthly account maintenance; internal transfers; special statement drops; and return of items not paid)	
a. Monthly statement; items finesorted into check number order (per item)	$0.12
b. Monthly statement; items truncated (per item)	.10
2. Stop payment (per item)	6.00
3. Deposit transfer checks (DTC) (per item)	2.50
4. Wire transfers	
In (per item)	2.50
Out (per item)	3.30
5. Overdrafts (2 percent over current short-term variable rate advance—minimum charge $20.00)	
6. Account reconciliation service:	
a. Full reconciliation—magnetic tape ($20.00 min./month (per issue)	.30
b. Full reconciliation—paper issue ($20.00 min./month):	
With encoded amounts (per issue)	.0425
With unencoded amounts (per issue)	[illegible]
c. Partial reconciliation ($10.00 min./month) (per item)	.03
7. Deposit processing service:	
a. Unencoded checks	.0525
b. Encoded checks	.0350
c. Foreign checks	2.50
d. Bond coupons (per envelope)	[illegible]
e. Deposited checks returned (per entry)	2.50
8. Automated clearinghouse (ACH):	
a. Originating—$15.00 per tape plus	.03
b. Receiving	.03
9. Settlement Only Services:	
a. Automated clearinghouse (ACH) (per month)	[illegible]
b. Coin and currency (per month)	[illegible]
c. Treasury tax and loan (TT&L) (per month)	[illegible]

FEDERAL HOME LOAN BANK OF ATLANTA—Continued

Service	Fee
d. Savings bonds (per month)	[illegible]
e. Deposit of items at Fed (per month)	[illegible]

Cost of check printing will be charged directly to association.

Federal Reserve charges for wire transfers are reflected in the above schedule. Any other charges which the Federal Reserve System may impose in the future may result in adjustments to the above schedule.

Any special services will be charged on an hourly basis.

Federal Home Loan Bank of Cincinnati

The Federal Home Loan Bank of Cincinnati offers to its members a complete Demand Deposit Account program. The salient features of the program include account reconciliation, fine sorting of checks, safekeeping of money orders and reconciled checks, and the Idle Funds Transfer Program. The Bank pays for all member checks and money orders and only requires a compensating balance in return for item services. If the member decides to pay for the printing charge of the checks and money orders, an allowance will be made to the prices listed below:

Service	Fee (unit cost)
Cashier's checks	$0.135
General disbursement	.135
Money order	.105
Demand	.135
Dividend	.095
Special	.135
Christmas	.20
Escrow	.135
Construction	.135
Unreconciled	.20
Magnetic tape	.043
Advices	.06
Stop payments	2.00
Deposits	.07
Credits	.11
Wire transfers-out	4.00
Charges	.11
Photocopies	1.00
Depository transfer checks (DTC)	2.00

Overdrafts are charged at the 90-day advance rate plus a $25.00 fee.

Federal Home Loan Bank of Indianapolis

The Demand Deposit clearings will have the following service charges:

Quarterly transaction volume	Paid [illegible] charge	Advices	
		Paper	Tape
First 3,750	[illegible]	[illegible]	[illegible]
Next 9,000	.11	[illegible]	.020
Next 12,500	[illegible]	[illegible]	.020
Next 25,000	[illegible]	[illegible]	.015
All over 50,000	.07	[illegible]	.010

Overdrafts are assessed a charge at 2% above the variable advance rate, with a minimum charge of $25.

Collected balances will earn at an interest rate that approximates the 91-day Treasury Bill rate.

Descriptions

Service fees include processing of checks, deposits, journal transactions and stop payment requests. Accounts may be established on an unreconciled or reconciled basis. An additional charge will be made for reconciliation advices.

Monthly statements are provided on or before the 25th day of each month containing information or daily collected balances, daily check and advice volumes, interest earned and transaction charges.

Service charges are as follows:

	Metropolitan Area	
	Detroit	Indianapolis
Transit Item Deposit Program		
Cash item deposited	$0.05	$0.05
Return item	.50	.75
Courier service:		
Courier charges are assessed for each delivery at various rates, depending upon the distance traveled and other cost considerations.		
Involves the pick-up and deposit of cash and non-cash items on a daily basis. Same-day ledger credit is posted, and funds are available for investment in accordance with an availability schedule.		
Coin and Currency Program		
Service charges are as follows:		
Metropolitan areas of Indianapolis and Detroit—per delivery by armored truck service	$25	
Outside metropolitan areas—fees vary depending on distances involved.		
Service Description:		
Coin and currency is delivered to the locations in the amounts and denominations requested. Excess funds are picked-up is desired		
Mortgage Remittance Service		
Service charge is as follows:		
Per deposit item received	0.17	
Service Description:		
Mortgage remittances involving checks or coupons are processed. Computer generated files are produced for transmittal to servicers		

Federal Home Loan Bank of Chicago

Service	Fee
Checks and money orders paid:[1]	
Less than 7,500 items per association (per month)	$0.110
7,501–10,000 items per association (per month)	0.100
10,001–12,500 items per association (per month)	0.090
12,501–15,000 items per association (per month)	0.080
15,001–25,000 items per association (per month)	0.075
Over 25,000 items per association (per month)	0.070
Ancillary service fees:	
Fine sorting (per items)	0.015
Recons:	
—Non-encoded items (per item)	0.055
—Encoded items (per item)	0.035
—Magnetic tape items (per item)	0.025
Stop payments (per order)	7.00
Photocopies (per item)	2.00
Account maintenance (per account per month)	10.00
Additional statements (per statement)	5.00
Deposit processing:	
Checks deposit drawn on:	
Federal Home Loan Bank of Chicago, FHLB intercept customers	.0388
City of Chicago financial institutions postal money orders, U.S. Treasury checks	.0388
Chicago RCPC financial institutions (routing number 0711, 0712, 0719, 2711, 2712, 2719)	.0494
Transit items—other district financial institutions (items payable in other Federal Reserve office territories)	.0697
Ancillary service fees:	
Check encoding	.0350
Return items:	
Re-deposits	None
Charge backs	1.00
Food stamps	.02
Coupons deposited (per envelope)	2.50
Coin and currency orders (plus costs)	2.00
Money transfers:	
Wire transfers:	
Wire in	2.00
Wires out	4.00
Wires out/third party	6.00
Quick deposit drafts:	
Quick drafts	2.00

Checks supplied by the bank, requests for money order forms and postage courier services are provided at actual cost.

Federal Home Loan Bank of Des Moines

Service	Fee
Account maintenance	$5.00
Account reconciliation	5.00
Special cut-off statements	3.00
Printing costs	[1]
Stop payments	5.00
Drafts paid—truncated	.04
Drafts paid—non-truncated	.06
Issue encoding	.04
Account reconciliation—Tape	.02
deposited items—encoded:	
On us/local	.025
Regional/country	.035
Transit	.0475
Deposited items—unencoded:	
On us/local	.0375
Regional/country	.0475
Transit	.06
Deposited items returned	.80
Food stamps deposited	.02
Coupons deposited. (per envelope)	2.50
Lockbox—pass through	[1]
Lockbox—FHLB	.13
ACH transactions (per tape/.02 per item)	1.00
Bank wires—in	1.00
Bank wires—out	3.50
Safekeeping	10.00
Ledger entries—credits	.20
Ledger entries—debits	.10
Coin and currency orders (plus actual cost)	2.00
Miscellaneous charges	[1]
Retail repurchase (per month/.25 per transaction)	25.00
Electronic check transmission	.01
Miscellaneous Lockbox processing	[1]
Microfilm processing/200' roll	8.00
Microfilm duplicating/200' roll	8.00
Miscellaneous film processing	[1]

[1] Actual costs.

Federal Home Loan Bank of Little Rock

Service	Fee (per item)
Checks/money orders paid (standard check furnished)	$0.15
Truncation	(2)
Reconciliation of check/money order:	
Magnetic tape	.02
MICR	.07
Fine sort	.006
Deposits (per check)	.04
Credits/adjustments	(1)
Wires:	
In	2.00
Out	4.00
Check withdrawals	5.00
Stop payments	5.00
Exception item return	2.50
Depository transfer checks	4.00
Photocopy	2.50
Transmatic returns	2.00
Voids	(1)
Checks/money order forms	(1)
Paid items mailed to association	(1)
Overdrafts	(3)

[1] No charge.
[2] Actual costs above standard check.
[3] Per daily occurrence and interest penalty at category II advance rate plus 1 percent.

Federal Home Loan Bank of Topeka

Service	Fee (per item)
1. Standard service[1]	$0.15
2. Truncated standard service[2]	.12
3. Unreconciled service[3]	.11
4. Truncated unreconciled service[4]	.08

Descriptions:
[1] Standard Service—Includes check reconciliation as well as all other services associated with DDA. Checks are matched to a register file built by paper (maintenance) or magnetic tape data.
[2] Truncated Standard Service—Identical to No. 1 except that checks are not returned to the association. Checks are on file 90 days, then destroyed. The 3¢ discount from our standard service fee is possible through reduced filing, reader/sorter processing, postage and preparation for mailing.
[3] Unreconciled Service—The Bank merely debits the DDA statement for clearing checks. No register files are built or maintained by the system. At statement cycle date, a magnetic tape of paid checks is sent to the association as input for its own automated checks reconciliation system. The physical checks are fine—sorted by check number and returned with the statement. The 4¢ discount is made available since the Bank does not have to manually prepare and enter check maintenance data. Data files at the Bank are 25% smaller for this service.
[4] Truncated Unreconciled Service—This service is identical to No. 3 except that checks are not returned to the association.

Federal Home Loan Bank of San Francisco

Service	Fee
Checks paid (per item)	$0.060
Fine sorting (per item)	0.010
Recon issue:	
Tape (per item)	0.015
MICR (per item)	0.050
Photocopy (each)	1.000
Stop payment (each)	3.000
DDA maintenance	(1)
Recon maintenance	(1)
Wire Transfers:	
Incoming	(1)
Outgoing	(1)

[1] No charge.

Federal Home Loan Bank of Seattle

Service	Fee
Account maintenance (monthly)	$3.50
Wire transfers:	
In (per wire)	2.00
Out (per wire)	3.00

FEDERAL HOME LOAN BANK OF SEATTLE—Continued

Service	Fee
Pre-authorized deposit transfers (per pre-authorized check)	1.25
Stop payments (per stop)	3.25
Government recurring payments (per item)	.25
Unreconciled charges:	
Checks paid and fine sorted (per item)	.075
Reconciled Charges (per item):	
Checks paid and reconciled (tape entry)	[illegible]
Checks paid and reconciled (register entry)	.095
Cost of check supplies:	
Cost pass-through from supplier	(1)

[1] Actual cost.

By the Federal Home Loan Bank Board.

James R. Silkensen,

Acting Director, Office of District Banks.

Charlotte A. Chamberlain,

Director, Office of Policy and Economic Research.

[FR Doc. 82-34815 Filed 12-27-82; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL RESERVE SYSTEM

Agency Forms Under Review

December 20, 1982.

Background

When executive departments and independent agencies propose public use forms, reporting, or recordkeeping requirements, the Office of management and Budget (OMB) reviews and acts on those requirements under the Paperwork Reduction Act [44 U.S.C. Chapter 35]. Departments and agencies use a number of techniques to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carring out its responsibilities under the act also considers comments on the forms and recordkeeping requirements that will affect the public. Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. OMB's usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the **Federal Register**, but occasionally the public interest requires more rapid action.

List of Forms Under Review

Immediately following the submission of a request by the Federal Reserve for OMB approval of a reporting or recordkeeping requirement, a description of the report in published is the **Federal Register**. This information contains the name and telephone number of the Federal Reserve Board clearance officer (from whom a copy of the form and supporting documents is available). The entries are grouped by type of submission—i.e., new forms revisions extensions (burden change), extensions (no change), and reinstatements.

Copies of the proposed forms and supporting documents may be obtained from the Federal Reserve Board clearance officer whose name, address, and telephone number appear below. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF 83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review.

FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Office-Cynthia Glassman—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202-452-3829)

OMB Reviewer—Richard Sheppard—Office of Information and regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503 (202-395-6880)

Request for Deletion of an Existing Report

1. Report title: Monthly Report of Outstanding Commercial and Industrial Loans to U.S. Addressees, by Industry
Agency form number: FR 2416a
Frequency: Monthly
Reporters: Commercial banks
SIC Code: 602pt.
Small businesses are affected.
General description of report:
Respondent's obligation to respond is voluntary [12 U.S.C. 248(a), (i) and 353 *et seq.*]; a pledge of confidentiality is promised [5 U.S.C. 552(b) (4) and (b) (8)].

The report collects data by business of borrower. The data are used for monitoring sources of demand for business loans at banks and the extent of only term lending by banks. For some time the Federal Reserve has been able to make only limited use of the 2416a data. It has become increasingly difficult to categorize loan data by type of industry given the rise in conglomerate activity that has occurred over recent years. Therefore, it was decided that the 2416a should be discountinued.

Board of Governors of the Federal Reserve System, December 21, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-35080 Filed 12-27-82; 8:45]

BILLING CODE 6210-01-M

Arthur Bancshares Corp. et al.; Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, indentifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Arthur Bancshares Corp.*, Arthur, Illinois; to become a bank holding company by acquiring 100 percent (less directors' qualifying shares) of the voting shares of State Bank of Arthur, Arthur, Illinois. Comments on this application must be received not later than January 20, 1983.

B. **Board of Governors of the Federal Reserve System** (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *Revenswood Financial Corporation*, Chicago, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Bank of Ravenswood, Chicago, Illinois. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Chicago. Comments on this application must by received not later than January 20, 1983.

Board of Governors of the Federal Reserve System, December 21, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-35080 Filed 12-27-82; 8:45 am]

BILLING CODE 6210-01-M

Mellon National Corp.; Merger of Bank Holding Companies

Mellon National Corporation, Pittsburgh, Pennsylvania, has applied for the Board's approval under section 3(a)(5) of the Bank Holding Company Act (12 U.S.C. 1842(a)(5)) to merge with

The Girard Company, Philadelphia, Pennsylvania. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The Girard Company, Bala Cynwyd, Pennsylvania, also engages in the following nonbank activities: leasing personal property and equipment; providing data processing services; underwriting credit life and credit accident and health insurance and provide portfolio investment advice to individuals outside the United States. In addition to the factors considered under section 3 of the Act (banking factors), the Board will consider the proposal in the light of the company's nonbanking activities and the provisions and prohibitions in section 4 of the Act (12 U.S.C. 1843).

Mellon National Corporation would also acquire Girard International Bank, Miami, Florida, and New York City, New York, a corporation organized pursuant to section 25(a) of the Federal Reserve Act (12 U.S.C. 611 et seq.).

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Cleveland. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than January 17, 1983. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Govenors of the Federal Reserve System, December 21, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-35061 Filed 12-27-82; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Immunization Practices Advisory Committee; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Centers for Disease Control announces the following Committee meeting.

Name: Immunization Practices Advisory Committee
Dates: January 24-25, 1983
Place: Conference Room 207, Centers for Disease Control, 1600 Clifton Road, NE., Atlanta, Georgia 30333
Time: 8:15 a.m.
Type of Meeting: Open
Contact Person: Jeffrey P. Koplan, M.D., Executive Secretary of Committee (1-3035), Centers for Disease Control, 1600 Clifton Road, NE., Atlanta, Georgia 30333

Purpose:

The Committee will discuss such topics as influenza, Hepatitis B, Japanese B encephalitis, and smallpox vaccines; guidelines for hospital workers; and will consider other matters of relevance among the Committee's objectives.

Agenda items are subject to change as priorities dictate.

The meeting is open to the public for observation and participation. A roster of members and other relevant information regarding the meeting may be obtained from the contact person listed above.

Dated: December 17, 1982.

William H. Foege,

Director, Centers for Disease Control.

[FR Doc. 82-35057 Filed 12-27-82; 8:45 am]

BILLING CODE 4160-18-M

National Institute for Occupational Safety and Health; Occupational Safety and Health Field Research Projects; Correction

AGENCY: National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control, Public Health Service, HHS.

ACTION: Notice of Research Project Initiation; Correction.

SUMMARY: This document corrects a notice of research project initiation that appeared at page 49471 in the **Federal Register** of Monday, November 1, 1982 (47 FR 49471). This action is necessary to make the notice consistent with language used in the NIOSH criteria document on polychlorinated biphenyls (PCB's).

FOR FURTHER INFORMATION CONTACT: David P. Brown, Division of Surveillance, Hazard Evaluations, and Field Studies, NIOSH, Robert A. Taft Laboratories, 4676 Columbia Parkway, Cincinnati, OH 45226, Telephone: (513) 684-2894.

SUPPLEMENTARY INFORMATION: Field work on a research project entitled "Reproductive History Study of Women Exposed to Polychlorinated Biphenyls in the Workplace" is scheduled to begin on December 13, 1982. A notice to that effect was published as FR Doc. 82-29883 appearing on page 49471 in the November 1, 1982, issue of the **Federal Register.**

On page 49471, column 3, in the first paragraph under the heading "Background", the following sentence should be deleted:

"In animals and humans, PCB's have been found to be carcinogenic."

In its place should be substituted the following language to be consistent with the NIOSH criteria document on PCB's:

"PCB's have also been found to induce tumors in experimental animals after repeated oral ingestion. Because of these findings, PCB's are considered to have carcinogenic potential in humans."

Dated: December 17, 1982.

J. Donald Millar,

Director, National Institute for Occupational Safety and Health.

[FR Doc. 82-35063 Filed 12-27-82; 8:45 am]

BILLING CODE 4190-19-M

Food and Drug Administration

[Docket No. 82F-0364]

Ciba-Geigy Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Ciba-Geigy Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of tris(2,4-di-*tert*-butylphenyl)phosphite as an antioxidant and/or thermal stabilizer for polycarbonate resins.

FOR FURTHER INFORMATION CONTACT: Julius Smith, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 2B3664) has been filed by Ciba-Geigy Corp., Three Skyline Dr., Hawthorne, NY 10532, proposing that § 178.2010(b) (21 CFR 178.2010(b)) be amended to provide for the safe use of tris(2,4-di-*tert*-butylphenyl)phosphite as an antioxidant and/or thermal stabilizer for polycarbonate resins complying with § 177.1580 (21 CFR 177.1580).

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no

significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: December 16, 1982.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 82–34917 Filed 12–27–82; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 82F–0370]

M & T Chemicals, Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that M&T Chemicals, Inc. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of mono(*n*-octyl)tin,*S*,*S*',*S*'' tris (isooctylmercaptoacetate) as a stabilizer in polyvinyl chloride and vinyl chloride copolymers intended for food-contact applications.

FOR FURTHER INFORMATION CONTACT: Vir Anand, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 3B3680) has been filed by M&T Chemicals, Inc., P.O. Box 1104, Rahway, NJ 07065, proposing that the food additive regulations be amended to provide for the use of mono(*n*-octyl)tin,*S*,*S*',*S*'' tris (isooctylmercaptoacetate) as a stabilizer in polyvinyl chloride and vinyl chloride copolymers intended for use in contact with food.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: December 16, 1982.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 82–34918 Filed 12–27–82; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 82F–0026]

Toyo Seikan Kaisha, Ltd.; Filing of Food Additive Petition; Amendment

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the amendment of a filing notice published on March 19, 1982 (47 FR 11971) on behalf of Toyo Seikan Kaisha, Ltd. This notice amends the list of substances convered by the food additive petition to include an optional trimethoxysilane coupling agent.

FOR FURTHER INFORMATION CONTACT: Terry C. Troxell, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, D.C. 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given of the amendment of filing notice published on March 19, 1982 announcing the filing of a petition (FAP 2B3615) by Toyo Seikan Kaisha, Ltd., 3–1 Uchisaiwaicho 1-Chome, Chiyoda-ku, Tokyo 100, Japan. This amendment to the filing notice adds trimethoxysilane coupling agents containing amino, epoxy,ether and/or mercapto groups as optional coupling agents in the 2-component aliphatic polyurethane laminating adheasive for fabricating retortable pouches described in the filing notice.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: December 16, 1982.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 82–34915 Filed 12–27–82; 8:45 am]

BILLING CODE 4160–01–M

Consumer Participation; Open Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following consumer exchange meetings:

New York District Office, chaired by George J. Gerstenberg, District Director.

DATE: Friday, January 14, 1983, 1:30 p.m. to 3:30 p.m.

ADDRESS: 26 Federal Plaza, Rm. 30–37A, New York, NY.

FOR FURTHER INFORMATION CONTACT: Marta De Arce, Consumer Affairs Officer.

or

Carolyn L. Hommel, Consumer Affairs Officer, Food and Drug Administration, 850 Third Ave., Brooklyn, NY 11232, 212–955–5043.

Houston Station, chaired by Anthony J. Whitehead, Chief.

DATE: Thursday, January 27, 1983, 10 a.m.

ADDRESS: 1440 N. Loop, Suite #250, Houston, TX.

FOR FURTHER INFORMATION CONTACT: Sheryl Lunnon-Baylor, Public Affairs Officer, Food and Drug Administration, 1440 N. Loop Suite #250, Houston, TX 77009, 713–229–3530.

SUPPLEMENTARY INFORMATION: The purpose of these meetings is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's District Officers, and to contribute to the agency's policymaking decisions on vital issues.

Dated: December 17, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82–34916 Filed 12–27–82; 8:45 am]

BILLING CODE 4160–01–M

Health Care Financing Administration

Medicare and Medicaid Programs; Tax Equity and Fiscal Responsibility Act of 1982; Information Notice on Medicare and Medicaid Amendments

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: General notice.

SUMMARY: This notice describes briefly some of the provisions of Title I of the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97–248, enacted September 3, 1982) that affect eligibility, benefits, reimbursement, and

administration of the Medicare and Medicaid programs.

We wish to bring to the attention of the public several provisions that are, in large part, self-explanatory and that are now or will soon become effective. These provisions will be implemented on the dates indicated, even though specific regulations have not been published. We will incorporate these new provisions in regulations, program instructions, and other materials as appropriate.

DATES: The effective date of each statutory provision is given in the "Supplementary Information" section of this document.

Since this notice merely contains a brief description of statutory changes and does not contain policy interpretations or regulatory changes, we are not providing a specified period for receipt of comments. However, we will consider all comments received in future review of the need for departmental legislative initiatives, regulations, or administrative actions.

ADDRESS: Address comments in writing to: Health Care Financing Administration, U.S. Department of Health and Human Services, Attention: BPP–232–GN, P.O. Box 17073, Baltimore, Maryland 21235.

If you prefer, you may deliver your comments to Room 309–G Hubert H. Humphrey Building, 200 Independence Ave., S.W., Washington, D.C., or to Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland 21207.

In commenting, please refer to file code BPP–232–GN.

Comments will be available for public inspection as they are received, beginning approximately three weeks after publication, in Room 309–G of the Department's offices at 200 Independence Ave., S.W., Washington, D.C. 20201, on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (202–245–7890).

FOR FURTHER INFORMATION CONTACT: Thomas Falloon, (301) 594–9774.

SUPPLEMENTARY INFORMATION:

Background

On September 3, 1982, the Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. 97–248, was enacted. Title I of this Act (the Medicare and Medicaid Amendments of 1982) added a variety of new provisions to encourage cost effectiveness and efficient operation among individuals and institutions furnishing services under Medicare and Medicaid.

This notice describes briefly some of the provisions of the new legislation relating to the Medicare and Medicaid programs that are sufficiently complete and clear that we believe they can take effect without issuance of regulations. We have provided a summary of these provisions to give notice to program administrators, providers of services, beneficiaries, and the general public that they are being implemented. We will also incorporate many of these provisions in conforming regulations and program issuances, as appropriate, at a later date.

There are provisions in the new law that conflict with current regulations, or portions of current regulations. To the extent that the new statutory provisions conflict with our existing regulations, the provisions of the new law supersede those portions of the regulations. Other portions of the same regulations and all other existing regulations remain in effect.

This Notice is not intended to be an exhaustive listing of new provisions that are self-implementing. We note that, with respect to all Medicaid provisions that are self-implementing, States may adopt any lawful interpretation of these new provisions until final regulations are adopted or interpretations are issued.

Summary of Specific Provisions

(The section numbers cited before each item refer to the provisions of the Tax Equity and Fiscal Responsibility Act of 1982.)

1. *Section 101(b)(3)—Prospective payments for hospitals and skilled nursing facilities.* The provision requires the Secretary to develop in consultation with the Senate Finance Committee and House Ways and Means Committee, Medicare prospective reimbursement proposals for hospitals, skilled nursing facilities and to the extent feasible other providers, and to report to the committees on the proposals by December 31, 1982.

Amends: Section 1135 of the Social Security Act (the Act).

2. *Section 112—Reimbursement for inpatient radiology and pathology services.* This amendment eliminates the special 100 percent reimbursement rate currently applicable to services to hospital inpatients that are furnished by radiologists and pathologists who accept assignment in all cases for these services. Thus, Medicare will pay for such services on the same basis as for other physicians' services; i.e., 80 percent of the reasonable charge after the Part B (Supplementary Medical Insurance) deductible has been met.

Amends: Sections 1833(a)(1) and (b)(1) of the Act.

Effective: This provision applies to services furnished on or after October 1, 1982.

3. *Section 115—Prohibition of payment for ineffective drugs.* This amendment provides for implementation of section 2103 of the Omnibus Budget Reconciliation Act of 1981, Pub. L. 97–35. Section 2103 prohibited the use of Federal funds under Medicare Part B and under Medicaid to pay for certain less than effective drugs. The regulations implementing this provision were published in the **Federal Register** on October 1, 1981 (46 FR 48550) and are located at 42 CFR 405.232(c), 441.10(f) and 441.25. However, subsequent legislation has led to delays in the implementation of this provision.

Repeals: Section 131 of Pub. L. 97–92, Joint Resolution Making Further Continuing Appropriations for Fiscal Year 1982 and for Other Purposes.

Suspends: Sections 209 and 210 of the Departments of Labor, Health and Human Services, and Education and Related Agencies Appropriation Act, 1982.

Effective: September 30, 1982.

4. *Section 121—Medicare coverage of Federal employees.* This amendment cross-refers to section 278 of Pub. L. 97–248 that makes Federal employment subject to the hospital insurance portion of the FICA tax. Therefore, Federal employees will earn credit toward, and may qualify for, full Medicare protection based on their Federal employment. This means—(1) Medicare protection will be available to Federal employees on the basis of age, disability, or end-stage renal disease requiring dialysis or a kidney transplant; and (2) spouses age 65 and over and disabled adult children of Federal employees may also be eligible for Medicare. Also, Federal employees who perform service during January 1983 will receive credit for their Federal service performed before January 1, 1983.

Amends: Sections 226(a)(2), 226(b) and (b)(2)(B), 226(g), 226A(a)(1) and 1811 of the Social Security Act; Sections 1402(b) and 3122 of the Internal Revenue Code of 1954.

Adds: Section 3121(u) of the Internal Revenue Code of 1954. Sections 210(p); 226(a)(2)(B), (a)(2)(C)(i) and (a)(2)(C)(ii), (b)(2)(C)(i), (b)(2)(C)(ii)(I) and (b)(2)(C)(ii)(II); and 226(h) of the Social Security Act.

Effective: January 1, 1983.

5. *Section 124—Part B premium as a constant percentage of costs.* This amendment suspends the current limitation on annual inreases in the Part

B (Supplementary Medical Insurance) premium and increases the premium on July 1, 1983, and on July 1, 1984 to a level that will result in monthly premiums being equal to 25 percent of the Supplementary Medical Insurance program costs for aged beneficiaries. During this period, premium increases would not be limited to, as required by section 1839(c)(2) of the Act, the lower percentage of—(1) the most recent increase in cash social security benefits; or (2) the increase in the costs of the Supplementary Medical Insurance program. The method of calculating premiums in effect before this amendment resumes July 1, 1985.

Amends: Sections 1839 (c)(2) and (c)(3); and 1844(a)(1)(A)(i) and (a)(1)(B)(i) of the Act.

Adds: Sections 1839 (g)(1) and (g)(2) of the Act.

Effective: These provisions are effective from July 1, 1983 through June 30, 1985.

6. *Section 125—Special Medicare enrollment without penalty for merchant seamen.* This provision establishes a special enrollment period for merchant seamen. During this period, merchant seamen who were eligible for both Medicare in September 1981 and services provided under the Public Health Service Act at any time during the period beginning on March 10, 1981 through September 30, 1981 (the last day merchant seaman were eligible for care at Public Health Service hospitals), may enroll in the Supplementary Medical Insurance program, with the option of entitlement beginning the month after enrollment, or October 1981. Premium amounts will not be subject to the usual increase for late enrollment. Those few seamen who are eligible for hospital insurance for which a premium must be paid will have the same options for month of entitlement.

Effective: October 1, 1982 through December 31, 1982.

7. *Section 128—Technical corrections relating to Medicare.* These provisions make technical changes in title XVIII of the Act, the Omnibus Budget Reconciliation Act of 1981, Pub. L. 97–35, and the Internal Revenue Code of 1954.

Amends: Sections 1842(b)(3)(B)(ii)(II); 1861 (e) and (cc)(1); 1862 (b)(1), (b)(2)(A), and (b)(2)(B); 1865 (b); 1866 (a)(1)(B) and (b); 1870(c) and 1884 of the Act; Section 162 of the Internal Revenue Code of 1954; Section 2143(b)(1) and 2203(f)(3) of the Omnibus Budget Reconciliation Act of 1981.

Effective: Amended sections 1842(b)(3)(B)(ii)(II); 1861(e); 1865(b); 1866(a)(1)(B); and 1870(c) of the Act are effective September 3, 1982.

Any other amendment made to the Act or to the Internal Revenue Code of 1954 made by these Medicare technical amendments are effective as if it had been originally included as a part of Pub. L. 97–35.

8. *Section 134—Medicaid coverage of home care for certain disabled children.* This provision gives States the option of covering under Medicaid certain disabled children age 18 or under who are living at home. A State could extend such protection to an individual who would be eligible for supplemental security income (or State supplemental income) payments, and therefore Medicaid, if that individual were in a medical institution. The State must determine that— (a) the child requires the level of care provided in an institution; (b) it is appropriate to provide such care outside of the institution; and (c) the estimated cost of care at home is no higher than the estimated cost of institutional care.

Amends: Section 1902(e) of the Act.

Effective: October 1, 1982.

9. *Section 136—Medicaid funding in American Samoa.* This amendment provides Medicaid funding to the territory of American Samoa. Federal matching of 50 percent of expenditures is authorized up to a maximum of $750,000 per year. Due to the unique circumstances in the health system in American Samoa, the Secretary may waive any Medicaid requirements, other than those relating to the Federal Medical assistance percentage, the $750,000 per year maximum, and the requirement that Federal matching payments be available only for amounts expended by American Samoa.

Amends: Sections 1101(a)(1), 1108(c), 1902(j), and 1905(b)(2) of the Act.

Effective Date: October 1, 1982.

10. *Section 137—Technical corrections relating to Medicaid.* These provisions make technical changes in title XIX of the Act, the Omnibus Reconciliation Act of 1980, Pub. L. 96–499, and the Omnibus Budget Reconciliation Act of 1981, Pub. L. 97–35.

Among other changes, this section—

• Specifies that an exception to the effective date of October 1, 1981 can be made for the State plan requirement that States— (1) Inform all eligible children of EPSDT services, (2) provide or arrange for requested screening services, and (3) arrange for corrective treatment, if the Secretary detemines that action by the State legislature is required to make these plan changes. If State legislation is needed, EPSDT informing, screening, and treatment requirements that were paragraphs 403(g)(1), (2), and (3) of the Act (prior to their repeal) apply until the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after August 13, 1981–137(a)(4).

• Restates a State's authority to cover optional categorical groups and requires that at least the standard mandatory services in section 1902(a)(10)(A) of the Act be provided for these groups–137(b)(7).

• Requires States that provide Medicaid to the medically needy to use a single standard for income eligibility and a single standard for resource eligibility for all groups of medically needy. Also, this amendment requires that in determining income and resource eligibility for the medically needy, States must use the same methodology that is used for determining income and resource eligibility in the most appropriate cash assistance program. Thus, in States in which the supplemental security income program (SSI) is in effect and that provide Medicaid to all SSI recipients, the methodology for determining the income and resources of the aged, blind, or disabled medically needy must be that of the SSI program. For other medically needy individuals, the methodology must be the same as would be employed in determining cash assistance eligibility under the most appropriate State plan to which the medically needy group is most closely categorically related–137(b)(8).

• Revises minimum requirements for coverage of medically needy children to require States with medically needy programs to cover as medically needy, individuals under age 18, who, except for income and resources, would be eligible for Medicaid as a member of a categorically needy group whom the State is required to cover under section 1902(a)(10)(A)(i) (generally, cash assistance recipients)–137(b)(9).

• Exempts Federally qualified HMOs from utilization control penalty requirements–137(b)(11).

• Requires recertification of care every 60 days (rather than annually) for all individuals in intermediate care facilities, except for those individuals in intermediate care facilities for the mentally retarded for whom annual recertification still applies–137(b)(12).

• Clarifies Secretarial/State authority to inspect the records of an HMO that relate to either— (1) the ability of the HMO to bear the risk of financial loss; or (2) the services performed and reimbursement levels. Before this amendment, the statute may have appeared to allow inspection only of records containing both types of information–137(b)(14)(A).

- Clarifies that claims made before FY 82 (rather than FY 81) are excluded from the Medicaid reduction provision—137(b)(15)(A).
- Specifies that Indian Health Service payments and payments to State fraud control units are excluded from the Medicaid Reduction provision—137(b)(15)(B).
- Ensures that Arizona is excluded from the Medicaid reduction provisions—137(b)(15)(C).
- Clarifies that, in determining if States qualify for an offset to Medicaid reduction due to the hospital cost review program, the Secretary may specify the annual period to use in calculations rather than using calendar years—137(b)(15)(D).
- Includes definition of United States in determining increases in hospital costs in the United States—137(B)(15)(E).
- Modifies the target rate provision to exclude the Indian Health Service and State Medicaid fraud control unit payments—137(b)(16)(A).
- Removes, for purpose of calculating States' target rates only, the effect of changes after FY 1981 in States' Federal medical assistance percentages—137(b)(16)(E).
- Adds pregnant women as a discrete category of individuals who could receive medical assistance—137(b)(18).
- Revokes the Secretary's authority under section 1915(b) to waive the requirements for States contracting on a risk basis with Health Maintenance Organizations (HMOs) and other prepaid entities found at section 1903(m) of the Social Security Act. However, this limitation on the Secretary's waiver authority does not apply where a waiver was granted by the Secretary and the arrangement was in place before August 10, 1982. This exemption extends only for the period for which the waiver was initially approved—137(b)(19).
- The type of services that may be covered by a primary care case management system or a specialty physician services arrangement under section 1915(b) of Act has been changed from "primary care services" to "medical care services." This means that specialty physician services arrangements need not include primary care services—137(b)(20).
- Clarifies that in evaluating an individual's need for home and community-based services, the State must also look at an individual's eligibility for the services provided under the home and community-based waiver—137(b)(22).
- Clarifies that fraud and abuse recoveries greater than 1 percent can be carried forward for more than one quarter for determining whether a State achieves sufficient recoveries to have its reduction reduced by one percent under section 1903(s)(2)(C) of the Act—137(b)(26).

Amends: Sections 914 (b)(2)(A) and (c)(2) of the Omnibus Reconciliation Act of 1980, Pub. L. 96–499.

Sections 2161 (b), (c)(1) and (c)(2); 2171(a)(3); 2181(b); and 2193(c)(3)(B) of Pub. L. 97–35.

Sections 501 (b)(1)(D) and (b)(2); 505 (2)(B) and (2)(D); 1134(4); 1902 (a), (a)(10)(A), (a)(10)(C)(i), (a)(10)(C)(ii) and (b); 1903 (f)(3), (g)(1), (g)(1)(A), (k), (m)(2)(A), (s)(1)(A), (s)(1)(C), (s)(3)(D), (s)(4)(B), (s)(5)(B), (t)(1)(A), (t)(1)(B), (t)(1)(C), (t)(2)(A) and (t)(3); 1905 (a), (a)(1) and (h)(1)(C); and 1915 (b), (b)(1), (c)(1), (c)(2)(B), (c)(3), (c)(4) and (f) of the Act.

Adds: Section 1905(a)(vii) of the Act.

Effective: The amendments to Pub. L. 96–499 are effective September 3, 1982.

Except as provided in the following three sentences, any amendment to Pub. L. 97–35 made by this section is effective as if it had been originally included in the provision of Pub. L. 97–35 to which the amendment relates.

Section 1903(f)(3) of the Social Security Act is effective October 1, 1982.

The limitation on the Secretary's waiver authority applicable to section 1903(m) of the Act under section 1915(b) of the Act is effective August 10, 1982.

Except as otherwise provided, any amendment to the Social Security Act made by the preceding provisions of this section is effective as if it had been originally included in the provision of the Social Security Act to which the amendment relates, as such provision of the Social Security Act was amended by the Omnibus Budget Reconciliation Act of 1981.

In the September 29, September 30, and October 1, 1982 issues of the **Federal Register**, we publish proposed and final regulations concerning many other provisions of the Tax Equity and Fiscal Responsibility Act of 1982. Most of those provisions concern reimbursement to providers of medical services. We will also develop regulations, program instructions and other materials for the other provisions of the new legislation, as appropriate, over the next few months.

(Sections 101(b)(3), 112, 115, 121, 124, 125, 128, 134, 136, 137, and 278 of the Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. 97–248)

Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Programs; No. 13.773, Medicare-Hospital Insurance Program; and No. 13.774, Medicare-Supplementary Medical Insurance Program.

Dated: November 24, 1982.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: December 16, 1982.

Richard S. Schweiker,

Secretary.

[FR Doc. 82–35064 Filed 12–27–82; 8:45 am]

BILLING CODE 4120–03–M

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

[INT–DES 82–78]

Yellowstone Diversion Project; Availability of Draft Environmental Statement and Public Hearing Notice

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental statement on Intake Water Company's proposed Yellowstone Diversion Project. This statement (INT–DES 82–78, dated December 22, 1982) was made available to the public on December 22, 1982.

The draft environmental statement describes the potential effects of the Bureau's proposal to permit Intake Water Company to construct facilities to divert water from the Yellowstone River near Intake, Montana, to an offstream reservoir site for subsequent municipal, industrial and possibly agricultural use. Intake Water Company holds a water right from the state of Montana for the diversion. Approximately 135 acres of land administered by the Bureaus of Reclamation and Land Management will be needed for the pumping plant, pipeline and reservoir.

Written comments must be submitted to the Regional Director by March 1, 1983.

Copies are available for inspection at the following locations:

Director, Office of Environmental Affairs, Room 7622, Bureau of Reclamation, Washington, DC 20240, Telephone: (202) 343–4991

Division of Management Support, General Services, Library Section, Code 950, Engineering and Research Center, Denver Federal Center, Denver, CO 80225, Telephone: (303) 234–3019

Regional Director, Bureau of Reclamation, Federal Building, 316 N. 26th, Billings, MT 59103, Telephone: (406) 657–6214

Single copies of the statement may be obtained on request to the Director, Office of Environmental Affairs, Bureau of Reclamation, or the Regional Director,

at the above addresses. Copies will also be available for inspection in libraries in the project vicinity.

A public hearing will be held February 16, 1983, at Glendive, Montana, Best Western Holiday Lodge, Holiday Lodge Basement, 7:00 p.m.

Oral statements at the hearing will be limited to a period of 15 minutes. Speakers will not be allowed to trade their time to obtain a longer oral presentation; however, the person authorized to conduct the hearing may allow any speaker to provide additional oral comment after all persons wishing to make comment have been heard. Speakers will be scheduled according to the time perference mentioned in their letter or telephone request, whenever possible, and any scheduled speaker not present when called will lose his or her privilege in the scheduled order and his or her name will be recalled at the end of the scheduled speakers. Requests for scheduled presentations should be received prior to 4:30 p.m., February 14, 1983. The final date for submission to the record for all supplemental comments will be March 1, 1983.

Organizations or individuals desiring to present a statement at the hearing should write the Regional Director, Bureau of Reclamation, Upper Missouri Region, P.O. Box 2553, Billings, Montana 59103, or telephone (406) 657–6605 or (406) 657–6558 and announce their intention to participate.

Comments will be accepted from other parties present following the presentation of all scheduled testimonies.

If further information is needed, phone (406) 657–6605 or (406) 657–6558.

Dated: December 22, 1982.

Robert N. Broadbent,

Commissioner of Reclamation.

[FR Doc. 82-35094 Filed 12-27-82; 8:45 am]

BILLING CODE 4310-09-M

Fish and Wildlife Service

Endangered Species Permit; Receipt of Applications

The applicants listed below wish to conduct certain activities with Endangered Species:

Applicant: Leland B. Hayes, Quail Breeder's Society, Redmond, OR—PRT 2–9841.

The applicant requests a permit to export ten (10) captive-bred masked bobwhite quail (*Colinus virginanus ridgewayi*) to the World Pheasant Association, England, for enhancement of propagation.

Applicant: Walter B. Sturgeon, Durham, NH—PRT 2–9854.

The applicant requests a permit to purchase in interstate commerce six (6) captive-bred nene geese (*Branta sandvicensis*) from the San Diego Zoo, California, for enhancement of propagation.

Applicant: Denver Zoo, Denver, CO—PRT 2–9882.

The applicant requests a permit to import on a breeding loan one male lowland gorilla (*Gorilla gorilla*) for enhancement of propagation from the Rotterdam Zoo, the Netherlands.

Applicant: National Zoological Park, Washington, D.C., PRT 2–9879.

The applicant requests a permit to import two male Cuban crocodiles (*Crocodylus rhombifer*) for enhancement of propagation from the Havana Zoo, Cuba.

Applicant: Milwaukee County Zoo, Milwaukee, WI—PRT 2–9884.

The applicant request a permit to import one male gorilla (*Gorilla gorilla*) for enhancement of propagation from Osnabruck Zoo, West Germany.

Humane care and treatment during transport, if applicable, has been indicated by the applicants.

Documents and other information submitted with these applications are available to the public during normal business hours in Room 601, 1000 N. Glebe Rd., Arlington, Virginia, or by writing to the U.S. Fish & Wildlife Service, WPO, P.O. Box 3654, Arlington, VA 22203.

Interested persons may comment on these applications within 30 days of the date of this publication by submitting written data, views, or arguments to the above address. Please refer to the file number when submitting comments.

Dated: December 22, 1982.

Larry LaRochelle,

Acting Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 82-35153 Filed 12-27-82; 8:45 am]

BILLING CODE 4310-55-M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before December 17, 1982. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by January 12, 1983.

Beth Grosvenor,

Acting Chief of Registration, National Register.

FLORIDA

Lake County

Eustis, *Pendleton, William Kimbrough, House (The Palms)*, 1208 Chesterfield Rd.

Nassau County

Fernandina Beach, *Merrick-Simmons House*, 102 S. 10th St.

Orange County

Winter Park, *Comstock-Harris House*, 724 Bonita Dr.

Polk County

Lakeland, *Lake Mirror Promenade*, Between Lemon St. and Lake Mirror Dr.

GEORGIA

Monroe County

Forsyth, *Forsyth Commercial Historic District*, Main, Lee, Johnston, Adams, Jackson, Kimball, and Harris Sts.

KENTUCKY

Lincoln County

Hubble vicinity, *Helm-Engleman House*, N of Hubble on Engleman Lane

LOUISIANA

Jefferson Parish

Gretna, *Crockett, David, Fire Hall and Pumper*, 205 Lafayette St.

Washington Parish

Bogalusa, *US Post Office*, 305 Avenue B

West Feliciana Parish

St. Francisville vicinity, *Solitude Plantation House*, NW OF St. Francisville on Tunica Rd.

MARYLAND

Baltimore (Independent City)
Federal Reserve Bank of Richmond, Baltimore Branch, 114 E. Lexington St.
Brown's Arcade, 322–328 N. Charles St.
Evergreen House, 4545 N. Charles St.

Garrett County

Grantsville vicinity, *Stanton's Mill*, E of Grants on MD 40

Harford County

Baldwin vicinity, *Hidden Valley Farm*, 2916 Green Rd.

Montgomery County

Poolesville vicinity, *Poole, Nathan Dickerson, House*, 15600 Edwards Ferry Rd.

Washington County

Burtner vicinity, *Search Well*, SE of Burtner on Manor Church Rd.
Hagerstown, *Hagerstown Commercial Core Historic District*, Potomac, Washington, Franklin
Antietam, Summit and Jonathan Sts.

MONTANA

Anaconda County

Anaconda, *Davidson Building*, 301–303 E. Park St.
Anaconda, *Barich Block*, 416–420 E. Park St.

Gallatin County

Bozeman, *Gallatin County Jail*, 317 W. Main St.
Three Forks, *Upper Madison School (One Room Schoolhouses of Gallatin County TR)*, Buffalo Jump Rd.

Silver Bow County

Butte vicinity, *Silver Bow Brewery Malt House*, W of Butte off US 91

Yellowstone County

Broadview vicinity, *Antelope Stage Station*, E of Broadview

NEBRASKA

Dodge County

Fremont vicinity, *Knoell, Christopher, Farmstead*

NEW JERSEY

Bergen County

Franklin Lakes, *Van Houten House (Stone Houses of Bergen County TR*, 778 Vee Dr.
Rutherford, *Yereance-Berry House (Stone Houses of Bergen County TR)*, 91 Crane Ave.

NEW MEXICO

Bernalillo County

Albuquerque, *Bottger, Charles A., House*, 110 San Felipe NW.

PENNSYLVANIA

Philadelphia County

Philadelphia, *WCAU Studios*, 1618–22 Chestnut St.

SOUTH CAROLINA

Abbeville County

Abbeville vicinity, *Harbison College President's Home*, N of Abbeville on SC 20

Carendon County

Manning vicinity, *Davis House*, S of Manning on SR 63

Greenville County

Simpsonville vicinity, *Cureton-Huff House*, SW of Simpsonville off SC 176

McCormick County

Trov vicinity, *Long Cane Massacre Site*, W of Troy of SC 10

Sumter County

Sumter vicinity, *Myrtle Moor*

TENNESSEE

Shelby County

Memphis, *Ashlar Hall*, 1397 Central Ave.

WISCONSIN

EauClaire County

EauClaire, *Barber, James, House (EauClaire MRA)*, 132 Marston Ave
EauClaire, *Barron, Martin Van Buren, House (EauClaire MRA)*, 221 Washington St.
EauClaire, *Brice, Orlando, House (EauClaire MRA)*, 120 Marston Ave.
EauClaire, *Christ Church Cathedral and Parish House (EauClaire MRA)*, 510 S. Farwell St.
EauClaire, *City Hall (EauClaire MRA)*, 203 S. Farwell St.
EauClaire, *EauClaire High School (EauClaire MRA)*, 314 Doty St.
EauClaire, *EauClaire Public Library (EauClaire MRA)*, 217 S. Farwell St.
EauClaire, *Eichert, Christine, House (EauClaire MRA)*, 527 N. Barstow St.
EauClaire, *Johnson, John, Saloon (EauClaire MRA)*, 216 Fifth Ave.
EauClaire, *Kaiser Lumber Company Office (EauClaire MRA)*, 1004 Menomonie St.
EauClaire, *Kenyon, A. L., House (EauClaire MRA)*, 333 Garfield Ave.
EauClaire, *Ottawa House (EauClaire MRA)*, 602 Water St.
EauClaire, *Owen, John S., House (EauClaire MRA)*, 907 Porter Ave.
EauClaire, *Phoenix Manufacturing Company (EauClaire MRA)*, Forest and Wisconsin Sts.
EauClaire, *Randall, Adin, House (EauClaire MRA)*, 526 Menomonie St.
EauClaire, *Schofied Hall (EauClaire MRA)*, 105 Garfield Ave.
EauClaire, *St. Patrick's Church (EauClaire MRA)*, 322 Fulton St.
EauClaire, *Union National Bank (First Wisconsin Bank) (EauClaire MRA)*, 131 S. Barstow St.
EauClaire, *Wilcox, Roy House (EauClaire MRA)*, 104 Wilcox St.

[FR. Doc. 82–35058 Filed 12–27–82; 8:45 am]
BILLING CODE 4310–70–M

INTERSTATE COMMERCE COMMISSION

[Decision-Notice—OP3 MC–F–064]

Motor Carriers; Finance Application

The following applications seek approval to consolidate, purchase merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by 49 CFR 1182.1 of the Commission's Rules of Practice. See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.S. 11344 and 11349*, 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register**. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1182.2. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1182.2 (d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Decided: December 21, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

Agatha L. Mergenovich,

Secretary.

Please direct status inquiries to Team 3 (202) 275–5223.

MC–F–15019, filed November 30, 1982. KUSKOKWIM TRANSPORTATION COMPANY d.b.a. KUSKOWIM TRANSPORTATION COMPANY (KTC) (429 D St., Suite 307, Anchorage, AK 99501)—PURCHASE—UNITED TRANSPORTATION, INC. (UTI) (Box 285, Bethel, AK). Representative: Michael Joseph, 1776 F St., NW., Washington, D.C. 20006. KTC, a joint venture, seeks authority to purchase the interstate operating rights and properties of UTI. Kuskokwim Transportation Services Corporation (Services), and in turn Kuskokwim Corporation, its noncarrier parent which controls 51 percent interest, and Puget Sound Tug & Barge Company (Puget) and in turn its noncarrier parent, Crowley Maritime Corp. which controls a 49 percent interest in KTC, seek to acquire control of said rights through the transition. KTC is seeking to acquire the operating rights contained in Certificate No. MC–123284, authorizing the transportation of *general commodities*, (1) between Bethel, AK, and points within 9 miles thereof, limited, in point of time expiring on December 21, 1985, to the extent that it authorizes the transportation of classes A and B explosives, and (2) *bulk petroleum products*, between Bethel, AK, and points within 25 miles thereof; and in Certificate W–1152: (Sub-Nos. 2 and 5) authorizing the transportation of *general commodities* by self-propelled vehicles, between specified points in Alaska on the Kuskokwim River, in seasonal operations from May 15 to October 15. KTC holds no authority from the Commission. Services and Puget (both noncarriers), control KTC. Services is a wholly owned subsidiary of The Kuskokwim Corporation (Kuskokwim), and Puget is a wholly owned subsidiary of Crowley Maritime Corporation (Crowley). Crowley owns all of the stock of (a) Crowley Towing and Transportation Co., which in turn, owns all of the stock of TMT Intermodal Transport, Inc. (MC–141323), (b) Puget, which in turn, owns the stock in Arctic Lighterage Company (MC–141642 and Subnumbers thereunder) and (W–1229 Sub–No. 1). Puget owns all of the stock of (a) Drummond Lighterage Company (W–580 Sub–No. 10), (b) Columbia Common Carriers, Inc. (W–1305), (c) Mukluk Freight Lines, Inc. (MC–118518 Sub–Nos. 8 and 12X), (d) North Star Forwarding Co. (FF–308 and Sub No. 1), (e) Northwestern Construction, Inc. (MC–145829). Crowley owns all of the stock of Harbor Tug & Barge Company, which in turn, owns all of the stock of Harbor Carriers, Inc. (W–379 Sub–No. 5).

Condition.—Kuskokwim Corporation, which controls Kuskokwim Transportation Services Corporation, and Crowley Maritime Corporation, which controls Puget Sound Tug & Barge Co., are necessary parties to the application and must each seek joinder, as such, in the application.

[FR Doc. 82–35072 Filed 12–27–82; 8:45 am]

BILLING CODE 7035–01–M

[Volume No. OP3–MCFC–61]

Motor Carriers; Finance Applications; Decision Notice

Decided: December 16, 1982.

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find: Each transaction is exempt from section 11343 of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsideration; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1181.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 20 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no farther effect.

It is ordered: The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission, Review Board Number 3, Members Krock, Joyce, and Dowell.

Agatha L. Mergenovich,

Secretary.

Please direct status inquiries to Team 3, (202) 275–5223.

MC–FC 81017. By decision of December 16, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, Review Board Number 3 approved the transfer to Frank J. and Shirley Fratzola, doing business as Thomas Gerrity Moving and Storage, Taylor, PA, of Certificate No. MC–129539, issued April 30, 1968 to Scranton Moving Company, Inc., authorizing the transportation of household goods, over irregular routes, between Scranton, PA, and points within 25 miles thereof (except Wilkes-Barre, PA), on the one hand, and, on the other, points in MA, CT, NY, NJ, MD, DE, and DC. Representative: Peter P. Tayoun, Suite 611 Connell Building, Scranton, PA 18503.

[FR Doc. 82–35071 Filed 12–27–82; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

In the matter of Motor Common and Contract Carriers of Property (except fitness-only); Motor Common Carriers of Passengers (public interest); Freight Forwarders; Water Carriers; Household Goods Brokers.

The following applications for motor common or contract carriers of property, water carriage, freight forwarders, and household goods brokers are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common carriage of passengers, filed on or after November 19, 1982, are governed by Subpart D of 49 CFR Part 1160, published in the **Federal Register** on November 24, 1982, at 47 FR 53271. For compliance procedures see 49 CFR 1160.86. Carriers operating pursuant to an intrastate certificate also must comply with 49 U.S.C. 10922(c)(2)(E). Persons wishing to appose an application must follow the rules under 49 CFR Part 1160, Subpart E. In addition to fitness grounds, these applications

may be opposed on the grounds that the transportation to be authorized is not consistent with the public interest.

Applicant's representative is required to mail a copy of an application including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title, 49, Subtitle IV, United States Code, and the Commission's regulations.

We make an additional preliminary finding with respect to each of the following types of applications as indicated: common carrier of property—that the service proposed will serve a useful public purpose, responsive to a public demand or need; water common carrier—that the transportation to be provided under the certificate is or will be required by the public convenience and necessity; water contract carrier, motor contract carrier of property, freight forwarder, and household goods broker—that the transportation will be consistent with the public interest and the transportation policy of section 10101 of chapter 101 of Title 49 of the United States Code.

These presumptions shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the appplicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract." Applications filed under 49 U.S.C. 10922(c)(2)(B) to operate in intrastate commerce over regular routes as a motor common carrier of passengers are duly noted.

Please direct status inquiries to Team Five at (202) 275–7289.

Volume No. OP5–295

Decided: December 17, 1982.

By the Commission, Review Board No. 3, members Krock, Joyce, and Dowel.

MC 41098 (Sub-90), filed December 9, 1982. Applicant: GLOBAL VAN LINES, INC., One Global Way, Anaheim, CA 92803. Representative: Alan F. Wohlstetter, 1700 K St. NW. Washington, DC 20006, 202–833–8884. Transporting *household goods,* between points in the U.S. under continuing contract(s) with Merrill Lynch Relocation Management, I Inc. of White Plains, NY.

MC 50069 (Sub-574), filed December 9, 1982. Applicant: REFINERS TRANSPORT & TERMINAL CORPORATION, 445 Earlwood ave., Oregon, OH 43616. Representative: J. A. Kundtz, 1100 National City Bank Bldg., Cleveland, OH 44114, 216–566–5639. Transporting *commodities in bulk,* between points in the U.S. under continuing contract(s) with Pressure Vessel Service, Inc. of Detroit, MI., and its subsidiary, PVS Chemicals, Inc. of Copley, OH.

MC 55898 (Sub-64), filed December 9, 1982. Applicant: DECATO BROS., INC., Heater Rd., Lebanon, NH 03766. Representative: David M. Marshall, 101 State St.-Suite 304, Springfield, MA 01103, 413–732–1136. Transporting *machinery* and *building materials* (except in bulk), between points in the U.S. (except AK and HI).

MC 114028 (Sub-51), filed November 29, 1982. Applicant: ROWLEY INTERSTATE TRANSPORTATION COMPANY, INC., 2010 Kerper Blvd., Dubuque, IA 52001. Representative: Carl L. Steiner, 135 South LaSalle St., Chicago, IL 60603, (312) 236–9375. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between Brooklyn, NY, East St. Louis, IL, Milwaukee, WI, points in Berkshire County, MA, Litchfield and New London Counties, CT, North Hampton County, PA, Vigo County, IN, Cook County, IL, Jackson County, MO, Dallas County, TX, Dekalb County, GA, Beaverhead County, MT, and points in CA, NC, and NJ, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 116858 (Sub-22), filed December 9, 1982. Applicant: J & M CARRIERS CORP., North Shore Atrium, Suite 118 West, 6800 Jericho. Tpk., Syosset, NY 11791. Representative: Eugene M. Malkin, Suite 1832, Two World Trade Center, New York, NY 10048, 212–466–0220. Transporting *pulp paper and related products, furniture or fixtures, metal products, wood products* and *plastic articles,* between points in the U.S. (except AK and HI) under continuing contract(s) with Nyman Manufacturing Co. of East Providence, RI; All-Luminum Products Inc. of Philadelphia, PA; Daily Dreyer Company of Telford, PA and McGregor Printing Corporation of New York, NY.

MC 120228 (Sub-3), filed December 7, 1982. Applicant: OIL COUNTRY HAULERS, INC., P.O. Box 3270, Crosby, TX 77532. Representative: James W. Hightower, 5801 Marvin D. Love Freeway, Suite 301, Dallas, TX 75237–2385, (214) 339–4108. Transporting *Mercer commodities* between points in AR, CO, LA, KS, NM, OK, TX, and WY.

MC 134769 (Sub-8), filed December 9, 1982. Applicant: BILL BURTON & SONS, INC., P.O. Box 404, Newberry, MI 49868. Representative: William B. Elmer, P.O. Box 801, Traverse City, MI 49685–0801, 616–941–5313. Transporting *coal,* between points in MI, MN, OH, and WI.

MC 144239 (Sub-15), filed December 7, 1982. Applicant: J.L.T. CORPORATION, Route 22, White House Station, NJ 08889. Representative: Charles J. Williams, P.O. Box 186, Scotch Plains, NJ 07076, (201) 322–5030. Transporting *such commodities* as are dealt in or used by grocery and food business houses, between points in the U.S. (except AK and HI).

MC 147198 (Sub-13), filed December 7, 1982. Applicant: P. & E. I. TRUCK LINES, INC., P.O. Box 175, Rossville, IL 60963. Representative: Paul J. Maton, 27 East Monroe St., Suite 1000, Chicago, IL

60603, 312–332–0905. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI) under continuing contract(s) with National Automotive & Rubber Marketing of Huntington Woods, MI.

MC 151878 (Sub-7), filed December 9, 1982. Applicant: THREE WAY CORPORATION, 1120 Karlstad Drive, Sunnyvale, CA 94086. Representative: Charles H. White, Jr., 1019 19th St., NW, Suite 800, Washington, D.C., 20036, (202) 785–3420. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in the U.S., under continuing contract(s) with Hewlett Packard, of Boise, ID.

MC 161229 (Sub-1), filed December 6, 1982. Applicant: LOVE TRANSPORT COMPANY, INC., P.O. Box 546, Wichita, KS 67201. Representative: Robert W. Love (same address as applicant), (918) 832–1185. Transporting (1) *Rubber and plastic products*, between points in the U.S. under continuing contract(s) with Armin Plastic Oklahoma, Inc., of Tulsa, OK, Linear Films Inc., of Tulsa, OK, and Ritricia Plastic Corp. of Wichita, KS, (2) *salt and salt products*, between points in the U.S. under continuing contract(s) with Cargill Inc., of Minneapolis, MN, and (3) *pulp, paper and related products*, between points in the U.S. under continuing contract(s) with Weyerhaeuser Co., of Tacoma, WA.

MC 164609 (Sub-1), filed December 9, 1982. Applicant: WIEDERHOLT TRANSPORT, INC., Route 2, Box 426, Hazel Green, WI 53811. Representative: Richard A. Westley, 4506 Regent St., Suite 100, P.O. Box 5086, Madison, WI 53705–0086, (608) 238–3119. Transporting *Chemicals and related products*, between points in IL, IA, MN, and WI.

MC 165018, filed December 6, 1982. Applicant: HARVEY'S TRUCKING, INC., 912 Eicher, Springdale, AR 72764. Representative: Stanley W. Ludwig, P.O. Box 285, 529 S. Holcomb Street, Springdale, AR 72764, (501) 751–8452. Transporting *feed and feed ingedients*, between points in Washington and Howard Counties, AR, on the one hand, and, on the other, points in AR, IA, KS, LA, MO, NE, OK, TN and TX.

For the following, please direct status inquiries to Team 4 at 202–275–7669.

Volume No. OP4–085

Decided: December 20, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

FF–637, filed December 10, 1982. Applicant: AKIO FORWARDING, INC., 91–779A Makule Rd., Ewa Beach, HI 96707. Representative: Willard A. Hashimoto (same address as applicant), (808) 689–0440. As a *freight forwarder*, in connection with the transportation of *used household goods, unaccompanied baggage, and used automobiles*, between points in the U.S.

MC 124017 (Sub-12), filed December 10, 1982. Applicant: R. JEFFREY & SONS, INC., Rt. 61, Kulpmont, PA 17834. Representative: J. Bruce Walter, P.O. Box 1146, Harrisburg, PA 17108, (717) 233–5731. Transporting *commodities in bulk*, between points in the U.S. in and east of WI, IL, KY, TN and MS.

MC 148437 (Sub-8), filed December 13, 1982. Applicant: BORK TRANSPORT, INC., 2843 Ingersoll, Des Moines, IA 50312. Representative: William L. Fairbank, 2400 Financial Center, Des Moines, IA 50309, (515) 282–3525. Transporting *Petroleum and petroleum products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Ashland Oil, Inc., of Ashland, KY.

MC 156347 (Sub-2), filed December 10, 1982. Applicant: TOOTSIE ROLL EXPRESS, INC., 7401 S. Cicero Ave., Chicago, IL 60629. Representative: Edward G. Bazelon, 135 S. La Salle St., Chicago, IL 60603, (312) 236–9375. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with American Backhaulers Corporation and Leaf Confectionery, Inc., both of Chicago, IL.

MC 158996 (Sub-1), filed December 13, 1982. Applicant: BEULAH M. SEALS, 12343 Oak Dr., Orient, OH 43146. Representative: Frank L. Calvary, 3066 N. Star Rd., Columbus, OH 43221, (614) 459–4248. Transporting (1) *ramps*, between points in the U.S. (except AK and HI), under continuing contract(s) with KABS, Inc., of Cincinnati, OH, and (2) *food processing machinery*, between points in the U.S. (except AK and HI), under continuing contract(s) with De Francisci Machine Corp., of Brooklyn, NY.

MC 164407 (Sub-1), filed December 10, 1982. Applicant: M/A-COM TRANSPORTATION, INC., P.O. Box 199, Catawba, NC 28609. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168 (703) 629–2818. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Lowe's Companies, Inc., of North Wilkesboro, NC.

MC 165106, filed December 9, 1982. Applicant: RAY TRUCKING COMPANY, INC., P.O. Box 1206 Florissant, MO 63031. Representative: B. W. LaTourette, Jr., 11 S. Meramec, Suite 1400 St. Louis, MO 63105 (314) 727–0777. Transporting *beer, malt beverages, and malt beverage containers*, between points in the U.S. (except AK and HI), under continuing contract(s) with Griesedieck Beverage Company, Inc., and Ed Windler & Sons, Inc., both of St. Charles, MO.

MC 165126, filed December 10, 1982. Applicant: GEORGE M. ANDERSON, d.b.a. MACHINERY TRANSPORT, P.O. Box 60, Duvall, WA 98019. Representative: Robert G. Gleason 1127–10th E. Seattle, WA 98102 (206) 325–8875.. Transporting *those commodities* which because of their size or weight require the use of special handling or equipment, between points in the U.S. (except HI), under continuing contract(s) with N.C. Machinery Co., of Seattle, WA; Lennon Construction and Equipment Co., Inc., of Woodinville, WA; Calkins Equipment Co., of Everett, WA; Duvall Sand & Gravel, of Redmond, WA, Kiehl & Son Welding, of North Pole, AK, and Simlog Leasong Company, of Bellevue, WA.

MC 165146, filed December 10, 1982. Applicant: McINTOSH IMPLEMENT, INC., P.O. Box 367, McIntosh, SD 57641. Representative: J. Maurice Andren, 1734 Sheridan Lake Rd., Rapid City, SD 57701, (605) 343–4036. Transporting (1) *general commodities* (except classes A and B explosives and household goods), between points in ND and SD, on the one hand, and, on the other, points in CO, GA, ID, IL, IN, IA, KS, MN, MO, MT, NE, ND, OR, PA, SD, WA, WI, and WY: (2) *farm machinery and tractors*, between points in MT, NE, and WY, on the one hand, and, on the other, points in IN, IA, KS, MN, MO, and WI; and (3) *Lumber and wood products*, between points in ID, OR, MT, and WA, on the one hand, and, on the other, points in IL, IA, MN, NE, and WI.

MC 165166, filed December 13, 1982. Applicant: HUDD DISTRIBUTION SERVICES, INC., 2679 E El Presidio St., Long Beach, CA 90810. Representative: Milton W. Flack, 8484 Wilshire Blvd., No. 840, Beverly Hills, CA 90211, (213) 655–3573. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in CA.

[FR Doc. 82–35078 Filed 12–27–82; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

In the matter of Motor Common and Contract Carriers of Property (fitness-only); Motor Common Carriers of Passengers (fitness-only); Motor Contract Carriers of Passengers; Property Brokers (other than household goods).

The following applications for motor common or contract carriage of property and for a broker of property (other than household goods) are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** on December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common or contract carriage of passengers filed on or after November 19, 1982, are governed by Subpart D of the Commission's Rules of Practice. See 49 CFR Part 1160, Subpart D, published in the **Federal Register** on November 24, 1982, at 49 FR 53271. For compliance procedures, see 49 CFR 1160.86. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E.

These applications may be protested only on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board No. 2, Members Carleton, Williams, Ewing.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce, over irregular routes unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract."

Please direct status inquiries to Team Four at (202) 275–7669.

Volume No. Op 4–083

Decided: December 17, 1982.

MC 28657 (Sub-6), filed December 7, 1982. Applicant: I–V COACHES, INC., 1600 Bayou St., Vincennes, IN 47591. Representative: Harry J. Harman, 700 Harrison Bldg., 143 W Market St., Indianapolis, IN 46204, (317) 634–4242. Transporting *passengers*, in special and charter operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 138297 (Sub-14), filed December 7, 1982. Applicant: CENTRAL FLORIDA COACH LINES, INC., P.O. Box 127, Mountaintop, PA 18707. Representative: Raymond Talipski, 121 S Main St., Taylor, PA 18517, (717) 344–8030. Transporting *passengers*, in charter and special operations, between points in Brevard, Orange, St Johns and Leon Counties, FL, Bartow and Chaltham counties, GA, Fayette County, KY, Cook County, MO, Orleans Parish, LA, Worcester County, MA, Hennepin County, MN, St Louis County, MO, Atlantic County, NJ, Robison County, NC, Summit, Allen and Wood Counties, OH, Columbia, York, Luzerne and Philadelphia Counties, PA, and Fredericksburg City, VA.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165147, filed December 10, 1982. Applicant: U.C. BROTHERS USA, INC. d.b.a., TRAVEL LINE, 415 S. Raymond, Alhambra, CA 91803. Representative: Donald R. Hedrick, P.O. Box 4334, Santa Ana, CA 92702, (714) 667–8107. Transporting *passengers*, in charter and special operations, beginning and ending at points in Los Angeles, Orange, San Bernardino, Riverside and San Diego Counties, CA and extending to points in CA, OR, WA, ID, NV, AZ, UT, MT, WY, CO, and NM.

Note.—Applicant seeks privately-funded special and charter transportation.

Volume No. OP4–086

Decided: December 20, 1982.

MC 109687 (Sub-1), filed December 3, 1982. Applicant: KEITH STODOLA AND CECIL A. STODOLA, d.b.a. STODOLA BROTHERS TRUCKING, Route 1, P.O. Box 24, Sarona, WI 54870. Representative: Cecil A Stodola (same address as applicant), (715) 469–3281. Transporting *food and other edible products and byproducts intended for human consumption*, (except alcoholic beverages *and drugs), agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except HI and AK). Condition: Issuance of a certificate in the proceeding is subject to prior or coincidental cancellation, at applicant's written request, of Certificate of Registration No. MC–109687.

MC 114057 (Sub-5), filed December 13, 1982. Applicant: SAFETY TRANSIT TOURS OF EDEN, INC., P.O. Box 1058, Eden, NC 27288. Representative: Archie W. Andrews, P.O. Box 1166, Eden, NC 27288, (919) 635–4711. Transporting *passengers*, in charter and special operations, beginning and ending at points in NC and VA, and extending to points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 138146 (Sub-5), filed December 13, 1982. Applicant: OLYMPIA TRAILS BUS COMPANY, INC., Rear 30–116 Port St., Newark, NJ 07105. Representative: Eric Meiehoefer, 915 Pennsylvania Bldg., 425 13th St., NW., Washington, DC 20004, (202) 737–1030. Transporting passengers, in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 147047 (Sub-12), filed December 13, 1982. Applicant: CAPITAL WIRE & CABLE CORPORATION, d.b.a. C.W.C. TRUCKING COMPANY, P.O. Box 7, Plano, TX 75074. Representative: William Sheridan, P.O. Box 5049, Irving, TX 75062, (214) 255–6279. Transporting, (1) for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), and (2) *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

MC 159116 (Sub-2), filed December 13, 1982. Applicant: FRONTIER TRAILS, INC., Rm. 1–G, 1126 E. Algonquin Rd., Schaumburg, IL 60195. Representative: James R. Madler, 120 W. Madison St., Chicago, IL 60602, (312) 726–6525. Transporting *passengers,* in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165096, filed December 7, 1982. Applicant: MURRAY BROS. TRUCKING, INC., P.O. Box 2000, Wapakoneta, OH 45895. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215, (614) 228–1541. Transporting for or on behalf of the United States Government *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 165116, filed December 9, 1982. Applicant: RAY CHAIN, d.b.a. RLC DIST. CO., 3814 Anton, San Antonio, TX 78223. Representative: Harry F. Horak, Suite 115, 5001 Brentwood Stair Rd., Fort Worth, TX 76112, (817) 457–0804. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 165136, filed December 9, 1982. Applicant: JAMES R. CHRONISTER, P.O. Box 321, Lavaca, AR 72941. Representative: James R. Chronister (same address as applicant), (501) 674–5428. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

[FR Doc. 82–35079 Filed 12–27–82; 8:45 am]

BILLING CODE 7035–01–M

[Volume No. 318]

Motor Carriers; Permanent Authority Decisions; Restriction Removals; Decision-Notice

Decided: December 20, 1982.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR 1137. Part 1137 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with the criteria set forth in 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Review Board No. 2, Members Carleton, Williams and Ewing.

Agatha L. Mergenovich,

Secretary.

MC 228 (Sub-83)X, filed December 1, 1982. Applicant: HUDSON TRANSIT LINES, INC., 17 Franklin Turnpike, Mahwah, N.J. 07430. Representative: Michael J. Marzano, 99 Kinderkamack Rd., Westwood, NJ 07675. Sub 63: authorize service at all intermediate points on passenger carrier's specified alternate route between Poughkeepsie, NY and Fishkill, NY.

MC 85255 (Sub-74)X, filed November 22, 1982. Applicant: PUGET SOUND TRUCK LINES, INC., P.O. Box 24526, Seattle, WA 98124. Representative: James F. Walker, (same as applicant). Subs 23, 26, 60F, and 72F, (1) broaden to (a) "forest products, and lumber and wood products" from forest products, lumber lath, and shingles, in Sub 23; (b) "machinery, building materials, and metal products" from machinery, contractors' equipment, and structural steel, in Sub 26; (c) "building materials" from insulation, in Sub 60F; (d) "pulp, paper, and related products" from paper and paper products, in Sub 72F; (2) expand Kirkland, WA to King County, WA, Sub 60F; (3) change one-way to radial authority in Subs 26 and 60F.

MC 141236 (Sub-2)X, filed December 6, 1982. Applicant: TWINCO TRUCKING CO., INC., 145 Talmadge Rd., Edison, NJ 08817. Representative: Ronald I. Shapss, 450 Seventh Avenue, New York, N.Y. 10123. Lead and Sub 1 permits, broaden territorial authority to "between points in the U.S. (except Alaska and Hawaii), under continuing contract(s) with named shipper.

[FR Doc. 82–35074 Filed 12–27–82; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Republications of Grants of Operating Rights Authority Prior to Certification

[Decision Volume No. 081]

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the **Federal Register.**

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission within 30 days after the date of this **Federal Register** notice. Such pleading shall address specifically the issue(s) indicated as the purpose for republication. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

Agatha L. Mergenovich,

Secretary.

MC 149267 (Sub-No. 3) (republication), filed February 9, 1982; published in the

Federal Register issue of March 1, 1982; and republished this issue. Applicant: SUPER TRUCK LINES, INC., 801 West Pershing Road, Chicago, Illinois 60609. Representative: William Shipley, P.O. Box 1585, Hot Springs, Arizona 71901, Phone: 501–262–3600. In a dicision, by the Commission, acting as an Appellate Division, decided November 10, 1982, and finds that performance by applicant: To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the United States; (2) *shipments weighing 100 pounds or less if* transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the United States and (3) *general commodities*, between Weston and Parriott, GA; Kahoka, Wayland, Memphis, Downing, and Lancaster, MO; Arm, Oakville, Hathorn, Columbia, Michigan City, Lamar, Hudsonville, Waterford, Abbeville, Oxford, Taylor, Water Valley, Velma, and Coffeeville, MS; Garwin and Toledo, IA; Equality and Shawneetown, IL; Nelson, NE; Benton, Thompsonville, Masonville, and Edgoten, KY; Kenwood, Hickory Point, Doddsville, Fox Bluff, Chapmansboro, Malesus, Medon, Toone, Boliver, Hickory Valley, and Lexington, TN; Hamilton, Helmer, Wolcottsville, and Wakarusa, IN; Edgefield, SC; and International, UT, on the one hand, and, on the other, points in the United States. To the extent this Certificate authorizes the transportation of classes A and B explosives, it shall be limited in point of time to a period expiring five (5) years from its date of issuance.

Note: Applicant must submit to the Deputy Director, Section of Operating Rights, Interstate Commerce Commission, Washington, DC 20423, a statement certifying that all rail service has actually terminated in connection with authority granted in Part (3) herein.

The purpose of this republication is to delete territorial exclusions in parts (1), (2) and (3); and also to delete commodity exclusions in part (3).

[FR Doc. 82–35073 Filed 12–27–82; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 30074]

Angelina & Neches River Railroad Co.: Trackage Rights Exemption Over Southern Pacific Transportation Co.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirement of prior approval under 49 U.S.C. 1143 the trackage rights agreement for Angelina and Neches River Railroad Company to operate over approximately 2.79 miles of Southern Pacific Transportation Company branch line trackage.

DATES: This exemption will be effective on December 28, 1982. Petitions to reopen must be filed by January 17, 1983.

ADDRESSES: Send pleadings to:

(1) Rail Section, Room 5349, Interstate Commerce Commission, Washington, D.C. 20423

(2) Petitioner's representative: Peter A. Greene, 1920 N Street, NW, Washington, D.C. 20036.

Pleadings should refer to Finance Docket No. 30074.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, contact T. S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, D.C. 20423, or call 289–4357 (D.C. Metropolitan area) or toll free (800) 424–5403.

Decided: December 20, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–35077 Filed 12–27–82; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 30045]

Chicago & North Western Transportation Co.—Abandonment—Exemption

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Exemption.

SUMMARY: The Interstate Commerce Commission, on its own initiative under 49 U.S.C. 10505(b), exempts the abandonment of a 250 foot segment of Chicago and North Western Transportation Company (C&NW) track in La Crosse, WI, from the requirement of prior approval under 49 U.S.C. 10903 *et seq.*

DATES: This exemption is effective on January 27, 1983. Petitions for reconsideration of this action must be filed by January 17, 1983, and petitions for stay must be filed by January 7, 1983.

ADDRESSES: Send pleadings to:

(1) Rail Section, Room 5349, Interstate Commerce Commission, Washington, DC 20423; and

(2) Mr. John T. Van Gessel, Law Dept. Chicago and North Western Transportation Co., One North Western Center, Chicago, IL 60606.

FOR FURTHER INFORMATION CONTACT: Louis E.. Gitomer, (202) 275–7245; or Anne K. Quinlan, (202) 275–6458.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision contact: TS Infosystems, Inc., Room 2227, 12th and Consititution Ave., NW., Washington, DC 20423, (202) 289–4357—DC metropolitan area, (800) 424–5403—Toll free for outside the DC area.

Decided: December 20, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–35076 Filed 12–27–82; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 30066]

SOO Line Railroad Co.—Abandonment Exemption—Between Wimbledon and Clementsville, ND

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Exemption.

SUMMARY: The Commission exempts from the requirement of prior approval under 49 U.S.C. 10903 *et seq.* the abandonment by the Soo Line Railroad Company of 9.4 miles of track between milepost 314.4 at Wimbledon, ND, and milepost 323.8 at Clementsville, ND, subject to the standard labor protective conditions.

DATES: This exemption will be effective January 27, 1983. Petitions to stay the effectiveness of the decision must be filed by January 7, 1983 and petitions for reconsideration must be filed by January 17, 1983.

ADDRESSES: Send pleadings to:

(1) Rail Section, Room 5349, Interstate Commerce Commission, Washington, DC 20423.

(2) Petitioners' representative: C. Harold Peterson, 804 Soo Line Bldg., Box 530, Minneapolis, MN 55440.

Pleadings should refer to Finance Docket No. 30066.

FOR FURTHER INFORMATION CONTACT:
Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION:
Additional information is contained in the Commission's decision. To purchase a copy of the full decision, contact T. S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289–4357 (D.C. Metropolitan area) or toll free (800) 424–5403.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82–35075 Filed 12–28–82; 8:45 am]
BILLING CODE 7015–01–M

DEPARTMENT OF JUSTICE

Office of Juvenile Justice and Delinquency Prevention

National Advisory Committee for Juvenile Justice and Delinquency; Change of Location of Meeting

As announced in the **Federal Register** of November 30, 1982, (Vol. 47, No. 230, page 53959), the twenty-fifth quarterly meeting of the National Advisory Committee for Juvenile Justice and Delinquency Prevention will be held on January 17 and 18, 1983. This is to announce that the location of the meeting has been changed from San Diego, California to Washington, D.C.

The meeting will be held at the National Association of Counties, 440 First Street, NW., 8th floor Board Room, Washington, D.C. from 9:00 a.m. to 5:00 p.m. on both January 17 and 18. Members of the public are welcome.

Agenda items will include: The swearing in of three new members of the Committee; dissemination options for juvenile justice standards; juvenile probation; illegal juvenile immigrants; model code for constitutional standards for juveniles; and OJJDP's FY 83 program plan.

Further information regarding this meeting may be obtained by contacting Nancy L. Kujawski, Office of Juvenile Justice and Delinquency Prevention, 633 Indiana Avenue, NW., Washington, D.C. 20531, (202) 724–7655.

Dated: December 21, 1982.

Alfred S. Regnery,
Acting Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 82–35100 Filed 12–27–82; 8:45 am]
BILLING CODE 4410–18–M

DEPARTMENT OF LABOR

Employment and Training Administration

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period December 13, 1982—December 17, 1982.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–13,555; Canton Malleable Iron Co., Canton, OH

TA–W–13,519; The Timken Co., Columbis, OH

TA–W–13,406; Philips ECG, Inc., Electronic Receiving Tube Plant, Emporium, PA

In the following case the investigation revealed that criterion (3) had not been met. Increased imports did not contribute importantly to workers separations at the firm.

TA–W–13,548; Pirelli Cable Corp., Allendale, NJ

In the following cases the investigation revealed that criterion (3) has not been met for the reasons specified.

TA–W–13,553; Big Mountain Coals, Inc., Prenter, WV

Aggregate U.S. imports of coal are negligible.

TA–W–13,516; Taylor & Gaskin, Inc., Detroit, MI

Aggregate imports of conveyors are negligible.

TA–W–13,524; Consolidation Coal Co., Pageton Preparation Plant, Pageton, WV

Aggregate U.S. imports of coal or coke did not increase as required for certification.

TA–W–13,586; Pacific Machinery, Division of Theo H. Davies & Co., Inc., Hilo, HI

The investigation revealed that workers of the firm did not produce an article within the meaning of Section 222(3) of the Act.

TA–W–13,511; Medusa Cement Co., Charlevoix, MI

Aggregate U.S. imports of hydraulic cement and clinker did not increase as required for certification.

TA–W–13,411; Norris industries, Compressed Gas Cylinder Div., West Milwaukee, WI

Aggregate U.S. imports of high pressure gas cylinders did not increase as required for certification.

TA–W–13,189; Hermitage, Inc., Camden, SC

Aggregate U.S. imports of cotton gauge and most sponges are negligible.

TA–W–13,416; U.S. Steel Mining Co., Inc., #9 Mine, McDowell, WV

Imports did not increase as required for certification.

TA–W–13,419; U.S. Steel Mining Co., Inc., #10 Mine, McDowell, WV

Imports did not increase as required for certification.

TA–W–13,420; U.S. Steel Mining Co., Inc., #2 Mine, McDowell, WV

Imports did not increase as required for certification.

TA–W–13,421; U.S. Steel Mining Co., Inc., Alpheus Cleaning Plant, McDowell, WV

Imports did not increase as required for certification.

TA–W–13,421A; U.S. Steel Mining Co., Inc., District Maintenance Shop, McDowell, WV

Imports did not increase as required for certification.

TA–W–13,421B; U.S. Steel Mining Co., Inc., Contour Mine, McDowell, WV

Imports did not increase as required for certification.

TA–W–13,422; U.S. Steel Mining Co., Inc., #4 Mine, McDowell, WV

Imports did not increase as required for certification.

TA-W-13,423; U.S. Steel Mining Co., Inc., #14 Mine, McDowell, WV

Imports did not increase as required for certification.

Affirmative Determinations

TA-W-13,516; Rugi Industries, Inc., Miami, FL

A certification was issued in response to a petition received on April 30, 1982 covering all workers separated on or after April 26, 1981 and before March 31, 1982.

TA-W-13,503; Donner-Hanna Coke Joint Venture, Buffalo, NY

A certification was issued in response to a petition received on May 25, 1982 covering all workers separated on or after February 1, 1982.

I hereby certify that the aforementioned determinations were issued during the period December 13, 1982—December 17, 1982. Copies of these determinations are available for inspection in Room 10,332, U.S. Department of Labor, 601 D Street, NW, Washington, D.C. 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated: December 21, 1982.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance

[FR Doc. 82-35110 Filed 12-27-82; 8:45 am]

BILLING CODE 4510-30-M

Federal-State Unemployment Compensation Program; Extended Benefits; Ending of Extended Benefit Period in State of Oregon

This notice announces the ending of the Extended Benefit Period in the State of Oregon, effective on December 18, 1982.

Background

The Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) established the Extended Benefit Program as a part of the Federal-State Extended Unemployment Compensation Program. The Extended Benefit Program takes effect during periods of high unemployment in a State, to furnish up to 13 weeks of extended unemployment benefits to eligible individuals who have exhausted their rights to regular unemployment benefits under permanent State and Federal unemployment compensation laws. The Act is implemented by State unemployment compensation laws and by Part 615 of Title 20 of the Code of Federal Regulations (20 CFR Part 615).

Extended Benefits are payable in a State during an Extended Benefit Period, which is triggered "on" when the rate of insured unemployment in the State reaches the State trigger rate set in the act and the State law. During an Extended Benefit Period individuals are eligible for a maximum of up to 13 weeks of benefits, but the total of Extended Benefits and regular benefits together may not exceed 39 weeks.

The Act and the State unemployment compensation laws also provide that an Extended Benefit Period in a State will trigger "off" when the rate of insured unemployment in the State is no longer at the trigger rate set in the law. A benefit period actually terminates at the end of the third week after the week for which there is an off indicator, but not less than 13 weeks after the benefit period began.

An Extended Benefit Period commenced in the State of Oregon on March 16, 1980 and has now triggered off.

Determination of "off" Indicator

The head of the employment security agency of the State named above has determined that the rate of insured unemployment in the State for the period consisting of the week ending on November 27, 1982, and the immediately preceding twelve weeks, fell below the State trigger rate, so that for that week there was an "off" indicator in the State.

Therefore, the Extended Benefit Period in the state terminated with the week ending on December 18, 1982.

Information for Claimants

The State employment security agency will furnish a written notice to each individual who is filing claims for Extended Benefits of the end of the Extended Benefit Period and its effect on the individual's right to Extended Benefits. 20 CFR 615.13(d)(3).

Persons who wish information about their rights to Extended Benefits in the State named above should contact the nearest State employment service office or unemployment compensation claims office in their locality.

Signed at Washington, D.C. on December 20, 1982.

Albert Angrisami,

Assistant Secretary of Labor.

[FR Doc. 82-35127 Filed 12-27-82; 8:45 am]

BILLING CODE 4510-30-M

Office of Pension and Welfare Benefit Programs, Labor

Proposed Exemptions

AGENCY: Office of Pension and Welfare Benefit Programs, Labor

ACTION: Notice of Proposed Exemptions

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption, unless otherwise stated in the Notice of Pendency, within 45 days from the date of publication of this **Federal Register** Notice. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216. Attention: Application No. stated in each Notice of Pendency. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of pendency of the exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in

ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of pendency are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

[Application No. D–3681]

Retirement Plan of Girard Bank (the Plan) Located in Philadelphia, Pennsylvania

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to: (1) The proposed 99 year lease by the Plan of a certain parcel of land and improvements thereon (the Property) from Girard Bank (the Bank), the Plan sponsor; (2) the proposed sublease, for ten years, of the Property by the Plan to Girard Realty Corporation (GRC), a party in interest with respect to the Plan; (3) the proposed sublease, for ten years, of the Property by GRC to the Bank; and (4) the possible purchase of the Property by the Plan from the Bank.

EFFECTIVE DATE: If granted, the exemption will be effective December 27, 1982.

Written Comments and Hearing Requests: All interested persons ae invited to submit written comments or requests for a hearing on the pending exemption within 33 days from the date of publication of this **Federal Register** notice. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption.

1. The Plan is a defined benefit pension plan which had approximately 3600 participants and net assets of approximately $45,045,234 on December 31, 1981. The Bank is the trustee of the Plan as well as the Plan sponsor. The Bank and GRC are each wholly owned subsidiaries of The Girard Company. The Property, which includes a certified historic building located at the northeast corner of Second and Chestnut Streets in Philadelphia, is used by the Bank for retail banking services and office space. The Property underwent extensive exterior and interior renovations during 1976 and 1977 at a cost of approximately $1,500,000 to the Bank. A recent appraisal of the Property on August 12, 1982 by Mr. Harvey Zalesne (Zalesne) and Mr. Joel D. Kulick (Kulick) of the firm of Zalesne & Herd, Philadelphia, Pennsylvania, indicated a fair market value of $2,000,000 and a fair market rental value of $300,000 per year. Zalesne, Kulick and Zalesne & Herd are independent of The Girard Company and its affiliates, and have extensive experience in appraising commercial properties. Kulick is an M.A.I. certified appraiser.

2. The Bank proposes to lease the Property to the Plan pursuant to a 99 year lease (the Lease). The Plan will lease the Property for $2,000,000, payable in advance, plus one dollar per year. This amount is the fair market value of the Property as determined by Zalesne and Kulick and represents less than five percent of the Plan's current assets. The Lease will be triple net, i.e. the Plan will be responsible for all taxes, maintenance fees and expenses, utility charges, insurance premiums and similar charges incurred with respect to the Property. The Bank, however, will warrant to the Plan and hold the Plan harmless for the first ten years of the Lease term as to the structural soundness of the building on the Property and as to the fact that the building meets all applicable building codes. A purchase option provision in the Lease will permit the Plan to purchase the fee simple interest in the Property at any time during the Lease term for one dollar. The Plan will also have the unilateral right to terminate the Lease at any time by giving ninety days notice to the Bank, however, the Plan will have no rights to any refunds of any rent already paid to the Bank at the time of termination.

3. Upon execution of the Lease, the Plan will sublease the Property to GRC (the GRC Sublease), which will in turn sublease the Property back to the Bank (the Bank Sublease). Both subleases will also be triple net. The applicants state that they have been advised that use of the long term Lease, purchase option and leaseback arrangements may enable the Plan to command a higher price for the Property in any subsequent sale of the Property, should the Plan exercise its purchase option and sell the Property, because the Property will not be reappraised for local tax purposes until upward of a year after its purchase, thereby lowering a subsequent purchaser's initial carrying costs.

4. The GRC Sublease will have a term of ten years, but may be terminated by the Plan, as lessor, at any time after two years from its commencement. The initial rental to be paid to the Plan by GRC will be $300,000 per year, which is the fair market rental value of the Property as determined on August 12, 1982 by Zalesne and Kulick. An escalation clause in the GRC Sublease provides for an automatic increase of 2.5% of the prior year's rental rate each year, and additionally, the Property will be re-appraised every two years and the rent will be adjusted upward if necessary, to reflect at least the then current fair market value of the Property as determined by a qualified, independent appraiser. The GRC Sublease, which is triple net, provides that GRC will be responsible for all taxes, maintenance fees and expenses, utility charges, insurance premiums and similar charges incurred with respect to the Property.

5. GRC will then sublease the Property to the Bank for a ten year period. The Bank Sublease, which is also triple net, will have the same terms and conditions as the GRC Sublease. However, should the Plan decide to terminate the GRC Sublease, the Bank Sublease would be automatically terminated.

6. The real estate firm of Strouse, Greenberg & Co. (Strouse), Philadelphia, Pennsylvania, which is independent of all parties to the proposed transactions, has accepted appointment as an independent fiduciary for the Plan with respect to the subject transactions. Strouse will approve and monitor the Leases on behalf of the Plan, will be the sole party to authorize, on behalf of the Plan, the Plan's exercise of its rights to purchase the Property or to terminate the Lease from the Bank and/or the GRC Sublease, and additionally, will take any steps necessary to enforce the rights of the Plan with regard to all the subject transactions. Strouse has reviewed its undertakings as an independent fiduciary with attorneys at Dechert, Price & Rhoads, Philadelphia, Pennsylvania, who have extensive experience in matters involving fiduciary responsibility and employee benefit plans.

Strouse has reviewed the needs of the Plan, the Plan's most recent financial statements, the proposed Lease, the GRC Sublease and the Bank Sublease (collectively, the Leases), the appraisals of fair market value and fair rental value

of the Property and various financial studies and analyses of the real estate industry, and represents that the proposed transactions are fair to the Plan and in the best interest of the Plan's participants and beneficiaries because: (1) The price of the 99 year Lease from the Bank to the Plan is not more than the appraised fair market value of the Porperty; (2) the Plan's option to purchase the Property for one dollar permits the Plan to resell the Property at any time that Strouse and the Plan believe such a resale would be in the best interests of the participants and beneficiaries in the Plan, any such resale being subject to the sublease to GRC, which may be canceled any time after two years; (3) the rate of return to the Plan of 15% per annum under the GRC Sublease is favorable to the Plan and not less than the appraised fair rental value under a "triple net lease", where the sublessee, GRC, pays all expenses, taxes and the like; (4) the biannual adjustment of rental rates under the subleases will reflect increases in the appraised fair market rental value of the Property during the ten year term of the subleases; (5) the Plan had net assets as of December 13, 1981 of $43,045,234 and paid benefits in 1981 of $2,633,675, an assets to benefits ratio of 20.1. The investment of $2,000,000 in the Property, about one-twentieth of the Plan's fund, will yield an amount ($300,000) equal to more than one-tenth of the Plan's requirements for benefit payments; (6) the yield on the Plan's investment in the Property will be substantially in excess of the average yield on the Plan's other assets, when compared with the 1981 results; and (7) the Plan's sublessee, GRC, an affiliate of the Bank, will in turn sublease the Property to the Bank, which is a responsible financial institution. The most recent Federal Reserve Bank report available to Strouse, that of March 31, 1982, shows the total equity capital of the Bank was $276,780,000, and Strouse is advised that the Bank ranked 54th among United States commercial banks based upon its total equity capital.

7. In summary, the applicants represent that the proposed transaction meets the statutory criteria for an exemption under section 408(a) of the Act because: (1) The fair market value and fair market rental value of the Property have been determined by a qualified, independent appraiser; (2) escalation clauses in the subleases to GRC and the Bank provide for automatic increases of 2.5% of the prior year's rental rate each year, and additionally, the fair market rental value of the Property will be reappraised once every two years to ensure that the Plan is always receiving at least the fair market rental value of the Property; (3) an independent fiduciary has reviewed the needs of the Plan and the proposed transactions and has determined that the proposed transactions are appropriate for the Plan and in the best interests of the Plan's participants and beneficiaries; (4) the independent fiduciary will monitor the Leases on the Plan's behalf, authorize the exercise of the purchase option and the termination of the Lease and/or the GRC Sublease on the Plan's behalf and will take any steps necessary to protect the rights of the Plan and its participants and beneficiarie; (5) the proposed transactions will involve less than five percent of the Plan's current assets; and (6) the Bank, as trustee of the Plan, has determined that the transactions are appropriate for the Plan and in the best interests and protective of the Plan's participants and beneficiaries.

For Further Information Contact: Ms. Katherine D. Lewis of the Department, telephone (202) 523–8972. (This is not a toll-free number.)

[Application No. D–3719]

The Profit-Sharing Plan and Trust for Employees of the Havi Corporation and Its Subsidiaries (the Plan), Located in Hinsdale, Illinois

Progosed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in acccordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the purchase of certain real property (the Land) by the Plan and the lease of the Land to Messrs. Theodore F. Perlman and Robert E. Rocque (the Developers), who are principals of Havi Corporation (the Employer), provided the terms and conditions of the transactions are not less favorable to the Plan than those obtainable in similar transactions with an unrelated party.

Summary of Facts and Representations

1. The Employer is a Delaware corporation maintaining its principal place of business at 911 North Elm Street, Hinsdale, Illinois. The Employer is the parent of an affiliated group of corporations (the Havi Group) which includes the Perlman Rocque Company (North), a Minnesota corporation; the Perlman Rocque Company (P–R), an Illinois corporation; and Golden Arch Express, Inc. (GAX), an Illinois corporation. The Employer is engaged primarily in providing management and administrative services to its operating subsidiaries and affiliates, and in distributing foodstuffs, paper goods and supplies through its Perseco Company Division (Perseco). Both North and P–R supply foods and related foods products to McDonald's franchises. GAX is an interstate carrier and transports, by truck, the supplies of the Havi Group to the McDonald's franchises and performs transportation services for McDonald's independent of the Employer. A new wholly owned subsidiary of the Employer, the Perlman Rocque Company, Inc. of Indiana, has been formed and it will in the future provide food supply services to other McDonald's franchises. This corporation will also participate in the Plan. The stock of all of the corporations participating in the Havi Group is held by members of the Theodore F. Perlman and Robert E. Rocque families.

2. The Plan is a profit sharing plan covering all eligible non-union employees of the Employer and those corporations of the Havi Group which have adopted it. As of January 30, 1982, the Plan had an estimated 157 participants and total assets of $2,228,584. American National Bank and Truct Company of Chicago, located in Chicago, Illinois serves as the Plan trustee (the Trustee). The Trustee is responsible for all investment decisions with respect to the assets of the Plan.

3. The Employer desires to centralize its existing operations by causing it, Perseco and GAX to be housed in one facility. To accomplish this objectiye, the Employer proposes to have the Plan engage in several transactions, among which includes the lease for which it is requesting an exemption. Initially, it is proposed that the Plan purchase the Land for cash from an unrelated party. Then, the Plan will lease the Land to the Developers pursuant to the terms and conditions of a ground lease (the Ground Lease). Within an eighteen month period, the Developers will cause an office building (the Building) to be erected on the Land. Afterwards, the Developers will lease space in the Building to the Employer, its subsidiaries and affiliates.

4. The Land which the Plan will purchase for cash from an unrelated party consists of approximately four acres situated in Westmont, DuPage County, Illinois. The Land is specifically identified as "Lot 2, in Oakmont Centre,

Unit II." The purchase price for the Land is approximately $635,000 as determined by an independent appraisal. The purchase price represents nearly 25 percent of the Plan's total asets. To evidence its ownership of the Land, the Plan will receive a recorded warranty deed.

5. With respect to the Ground Lease executed between the Plan and the Developers, the Plan will receive base rent (payable semiannually in arrears commencing on its purchase of the Land) in an amount equal to 11½ percent of the purchase price (approximately $73,000). In addition to the base rent, the Plan will receive 20 percent of any cost-of-living increases received by the Developers from tenants leasing space in the Building. The Developers will pay, or cause to be paid, all real estate taxes and assessments levied upon and all operating expenses related to the Land and the Building.

The duration of the Ground Lease will be forty years, unless terminated sooner. Commencing on the twelfth year of the Ground Lease, and at the end of each five year period thereafter, and appraisal of the Land and Building will be made by an independent appraiser. Based on the appraisal, the base rent will bear the greater of the rent then being paid (which rent will include all cost-of-living adjustments to date) or 11½ percent of the appraised value. For a period of six months, commencing at the end of the twelfth year and each five year increment thereafter (the Put Option Period) the Plan may require the Developers to purchase the Land for the greater of its then appraised value or the original purchase price (the Put Option), provided an independent fiduciary designated to oversee the proposed transactions makes the decision relative to the exercise of the Put Option. The payment is to be made in four consecutive equal annual installments, with the balance of the principal bearing interest at the prime rate of Continental Illinois National Bank and Trust Company of Chicago, Chicago, Illinois. In the event the Plan elects not to exercise the Put Option, the Developers, for a six month period commencing at the expiration of each Put Option Period may purchase the Land from the Plan at the greater of its purchase price or its then appraised value (the Call Option). Payment by the Developers is to be made within the six month Call Option period.

If a default occurs under the Ground Lease, the Plan will have all rights customarily granted to and/or reserved to ground lessors, including the right to terminate the Ground Lease and accelerate all payments due thereunder or seek indemnification from the Employer which has agreed to guarantee the Ground Lease. As of January 30, 1982, the Employer and members of the Havi Group had combined total assets of $36,254,944.

6. The purchase price and fair rental value of Land have been determined by Messrs. Frank A. Slivka, MAI appraiser and Thomas Rogers, a staff appraiser (the Appraisers) in an appraisal report dated August 6, 1982 and in an addendum to the appraisal report dated October 7, 1982.

The Appraisers are unrelated to the Plan, Employer and other parties in interest and are affiliated with Mid America Appraisal and Research Corporation, a real estate consulting firm located in Chicago, Illinois. Based on their analyses of the Land, the Appraisers have placed its fair market value at $635,000 as of May 31, 1982. The Appraisers also opine that based on their experience and judgment as well as their evaluation of all available data, the Ground Lease rental rate of 11½ percent is within the range of fair market rental, though it tends to be near the middle to lower end of the rental range. The Appraisers note that although the Ground Lease has a term of forty years, it may be considered a twelve year investment with a termination date in 1994 since either the Plan or Developers may exercise the Put or Call Options on the twelfth year the Ground Lease is in effect. Assuming either of the parties exercises their respective Option, the Appraisers state that the Plan will be free to make alternative investments.

7. The Trustee has agreed to serve as the independent fiduciary for the proposed transactions. By letter dated September 27, 1982, the Trustee states that although the Employer maintains deposits with the bank ranging between $500,000 to $1 million, these deposits represents an extremely small percentage of the Trustee's average deposits of some $1.9 billion. In addition, the Trustee states that no shareholder of the employer is represented on the Board of Directors of the bank.

As the independent fiduciary, the Trustee will review and monitor the purchase and lease transactions. The Trustee will also make the decision pertaining to the Plan's exercise of the Put Option and it will otherwise protect and enforce the interests of the Plan.

The Trustee believes the proposed transactions are prudent investments for the Plan and in the best interests and protective of the Plan's participants and beneficiaries. The Trustee will not cause the Plan to buy the Land unless it determines that the Land is purchased for its fair market value. With respect to the Put and Call Options, the Trustee has reviewed their terms and it considers them to be appropriate. The Trustee has also reviewed the provisions of the Ground Lease, including the cost-of-living features, and the leases the Developers intend to make to members of the Havi Group. Based on its evaluation of these leases, the Trustee is satisfied that the base rent to be paid the Plan plus the cost-of-living increments are appropriate and represent fair market value. The Trustee has further considered the propriety of not having the land reappraised for the first twelve years that the Ground Lease is in effect and it believes this condition is acceptable.

Concerning the 11½ percent base rental rate for the Ground Lease, the Trustee states that it is competitive with the market rate and it carries with it the possibility of a higher rate because of increases in the cost-of-living. Although the Ground Lease is for a forty year term, the Trustee notes that the Plan retains the right to recoup the entire investment in twelve years and in each five year increment thereafter. The Trustee also states that the proposed investment in the Land (which represents less than 25 percent of the Plan's current assets) along with a 15 percent investment in common stock will continue the Plan's conservative investment posture.

8. In summary, it is represented that the the proposed transactions satisfy the criteria of section 408(a) of the Act because: (a) the Trustee, as the independent fiduciary, has determined that the Plan's investment in the Land and the Ground Lease to the Developers is in the best interests of the Plan and its participants and beneficiaries; (b) the Trustee will monitor the terms of the Land acquisition as well as the provisions of the Ground Lease, including the Plan's exercise of the Put Option; (c) the Plan will purchase the Land at a cost equal to its fair market value under the direction of the Trustee; (d) the Plan will lease the Land for its fair rental value under the Ground Lease which will contain escalator clauses and require appraisals of the Land at five year intervals after the Ground Lease has been in effect for twelve years; and (e) the Employer will guarantee payments under the Ground Lease in the event of a default by the Developers.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady of the Department,

telephone (202) 523–8971. (This is not a toll-free number.).

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 22nd day of December 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-35147 Filed 12-27-82; 8:45 am]

BILLING CODE 4510-29-M

MERIT SYSTEMS PROTECTION BOARD

Privacy Act of 1974; Annual Publication of Systems of Records

AGENCY: Merit Systems Protection Board.

ACTION: Annual publication of systems of records.

SUMMARY: The Merit Systems Protection Board (MSPB) publishes this document pursuant to the requirements of the Privacy Act of 1974 at 5 U.S.C. 552a(e)(4). This Act requires agencies to publish annually in the **Federal Register** a notice of the existence and character of their systems of records.

ADDRESS: Office of the Secretary, Merit Systems Protection Board, 1120 Vermont Avenue, NW., Washington, D.C., 20419.

FOR FURTHER INFORMATION CONTACT: Kathy Semone, Assistant Secretary, 202–653–7200.

SUPPLEMENTARY INFORMATION: MSPB previously published the full text of its systems of records at 46 FR 32530, June 23, 1981, and amended its system entitled MSPB/GOVT–1, Appeal and Case Records at 46 FR 42372, August 20, 1981. The Notice has been corrected to reflect the current addresses of the Board and its Regional Offices. References to "Field Offices" contained within the notice as originally published have been revised to reflect the change in designation of these offices to "Regional Offices" and identification of system locations and system managers has been revised to reflect changes in the position titles of the managers. The authority for maintenance of the system entitled MSPB/INTERNAL–6, Security Office Control Records, has been updated to reflect the issuance of Executive Order 12356 concerning national security information.

Finally, the system entitled MSPB/GOVT–1, Appeal and Case Records, has been modified to exclude appeals filed within agencies prior to September 9, 1974 from coverage. The retention period previously established for these records was seven years; that period has now expired. The MSPB provided notice of its intent to exclude such appeals from coverage in the preamble to the publication of its systems notice on June 23, 1981. Accordingly, any agency continuing to maintain records of appeals filed prior to September 9, 1974 now becomes responsible for publication of its own system notice with respect to those records.

This Notice contains no changes in routine uses for the systems contained herein. It does not contain any material which would require a new or altered systems report as described in Office of Management and Budget (OMB) Circular A–108.

Dated: December 15, 1982.

For the Board.

Herbert E. Ellingwood,

Chairman.

Table of Contents

MSPB/INTERNAL–1, Pay, Leave, and Travel Reports
MSPB/INTERNAL–2, Motor Vehicle and Accident Report Records
MSPB/INTERNAL–3, Grievance Records
MSPB/INTERNAL–4, Employee Incentive Award and Recognition Records
MSPB/INTERNAL–5, Individual Protection Reports
MSPB/INTERNAL–6, Security Office Control Records
MSPB/CENTRAL–1, Survey Mailing Lists
MSPB/CENTRAL–2, Panel Respondent Mailing Lists
MSPB/CENTRAL–3, Correspondence Control Records
MSPB/CENTRAL–4, General Correspondence Records
MSPB/CENTRAL–5, Freedom of Information Act/Privacy Act Case Records
MSPB/CENTRAL–6, Litigation and Claims Records
MSPB/GOVT–1, Appeal and Case Records
APPENDIX

MSPB/INTERNAL–1

SYSTEM NAME:

Pay, Leave, and Travel Records.

SYSTEM LOCATION:

Director, Office of Administration, Merit Systems Protection Board (MSPB), 1120 Vermont Avenue, N.W., Washington, D.C. 20419, and MSPB Regional Offices (see list of Regional Office addresses in the Appendix).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former employees of the Merit Systems Protection Board.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system, both manual and automated, contains various records relating to pay, leave, and travel. This includes information such as: name; date of birth; social security number; home address; grade; employing organization; timekeeper number; salary; pay plan; number of hours worked; leave accrual, usage, and balance; Civil Service Retirement contributions; FICA withholdings; Federal, State, and Local tax withholdings; Federal Employees' Group Life Insurance withholdings; Federal Employees' Health Benefits Withholdings; charitable deductions; allotments to financial organizations; garnishment documents; savings bond

allotments; union and management association dues withholding allotments; and travel expenses.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 1205, 5501 et seq., 5525 et seq., 5701 et seq., and 6301 et seq; 31 U.S.C. 66a.

PURPOSE(S):

These records are used to administer the pay, leave, and travel functions of the Merit Systems Protection Board.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information from these records may be disclosed:

a. To the Department of the Treasury to issue checks and U.S. Savings Bonds.

b. To the Department of Labor in connection with a claim filed by an employee for compensation due to a job-connected injury or illness.

c. To State offices of unemployment compensation in connection with claims filed by former MSBP employees for unemployment compensation.

d. To Federal Employees' Group Life Insurance or Health Benefits carriers in connection with survivor annuity or health benefits claims or records reconciliations.

e. To the Interal Revenue Service and State and local tax authorities.

f. To the Social Security Administration in connection with FICA withholdings and benefits.

g. To the Office of Personnel Management in connection with payroll deductions for Civil Service retirement plans.

h. To the Combined Federal Campaign in connection with payroll deductions for charity.

i. To the authorized employees of another Federal agency that provides MSPB with manual and automated assistance in processing pay, leave, and travel records.

j. In the event the individual to whom the record pertains dies, to the person appointed as representative of the estate, or the person designated by the representative, or to a designated beneficiary. When a representative of the estate has not been appointed, the individual's next of kin may be recognized as the representative of the estate.

k. To officials of labor organizations recognized under 5 U.S.C. Chapter 71 as to the identity of Board employees contributing union dues each pay period and the amount of dues withheld from each contributor.

l. To officials of labor organizations recognized under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions.

m. To the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the MSPB becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

n. To any source from which the MSPB requests additional information relevant to an MSPB determination concerning an individual's pay, leave, or travel expenses, to the extent necessary to identify the individual, inform the source of the purpose(s) of the request, and to identify the type of information requested.

o. To the Federal agency, at its request, for purposes connected with: the hiring or retention of an employee; the issuance of a security clearance; the conduct of a suitability or security investigation of an individual; the classification of a job; the letting of a contract; or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

p. To the Office of Management and Budget at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A–19.

q. To a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

r. To another Federal agency or to a court when the Government is party ot a judicial processing before the court.

s. To the National Archives and Records Service (General Services Administration) pursuant to records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

t. In response to a request for discovery or for appearance of a witness, if the information is relevant to the subject matter involved in a pending judicial or administrative processing.

u. To officials of the Office of Personnel Management, the Federal Labor Relations Authority and the Equal Employment Opportunity Commission when requested in the performance of their authorized duties.

v. To the General Accounting Office for auditing purposes.

POLICIES AND PRACTICES OF STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in file folders and loose leaf binders, and on cards, magnetic tapes and discs.

RETRIEVABILITY:

These records are retrieved by name, social security number, or Merit Systems Protection Board employee identification number.

SAFEGUARDS:

These records are located in lockable metal filing cabinets or in a secured facility and are available only to authorized personnel.

RETENTION AND DISPOSAL:

These records are maintained for varying periods of time in accordance with GAS General Records Schedule 2. Disposal or manual records is by shredding or burning; magnetic tapes and discs are erased.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Administration, Merit Systems Protection Board, 1120 Vermont Avenue, N.W., Washington, D.C. 20419.

NOTIFICATION PROCEDURES:

Individuals wishing to determine whether this system of records contains information about them should contact the System Manager indicated above or the MSPB Regional Office where the individual is or was employed. Individuals must furnish the following information for their records to be located and identified:

a. Full name; and

b. Date of birth.

Individuals making inquiries as to the existence of records pertaining to themselves must also follow the MSBP's Privacy Act regulations set forth at 5 CFR 1205.11 regarding such inquires.

RECORD ACCESS PROCEDURES:

Individuals requesting access to their records should contact the System Manager indicated above or the MSPB Regional Office where the individual is or was employed. Individuals must furnish the following information for their records to be located and identified:

a. Full name; and

b. Date of birth.

Individuals requesting access must also follow the MSPB's Privacy Act regulations set forth at 5 CFR 1201.11 regarding access to records and verification of identity.

CONTESTING RECORD PROCEDURES:

Individual wishing to request amendment of records about them should contact the System Manager indicated above, or the MSPB Regional Office where the individual is or was employed. Individuals must furnish the following information for their record to be located and identified:

a. Full name; and

b. Date of birth.

Individuals requesting amendment of their records must also follow the MSPB's Privacy Act regulations set forth at 5 CFR 1205.21 regarding amendment of records and verification of identity.

RECORD SOURCE CATEGORIES:

a. The individual to whom the record pertains;

b. Merit Systems Protection Board officials responsible for pay, leave and travel functions; and

c. Other official personnel documents of MSPB.

MSPB/INTERNAL-2

SYSTEM NAME:

Motor Vehicle and Accident Report Records.

SYSTEM LOCATION:

Director, Administrative Services Division, Office of Administration Merit Systems Protection Board (MSPB) 1120 Vermont Avenue, N.W., Washington, D.C. 20419, and MSPB Regional Offices (see list of Regional Office addresses in the Appendix).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former employees of the Merit Systems Protection Board.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains documents related to the authorization and issuance to an individual of a Government motor vehicle operator's permit; also included are reports, correspondence, and fiscal documents concerning automobile accidents occurring in a Government-owned or leased automobile or in a privately-owned vehicle while on official business.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 1205, 28 U.S.C. 2671 et seq.

PURPOSE(S):

The records serve to document issuance of a Government motor vehicle operator's accident reports and related document may be used in claims settlement litigation regarding an accident involving a Government motor vehicle or privately-owned vehicle while being used on official business.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Information from these records may be disclosed:

a. To the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the MSPB becomes aware of a violation or potential violation of civil or criminal law or regulation.

b. To any source from which the MSPB requests additional information (to the extent necessary to identify the individual, inform the source of the purpose of the request, and identify the type of information requested) where necessary to obtain information relevant to an MSPB decision concerning the hiring or retention of an employee, the issuance of a security clearance, the conduct of a security or suitability investigation of an individual, the classification of jobs, the letting of a contract, or the issuance of a grant or other benefit.

c. To a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

d. To another Federal agency or to a court when the Government is party to a judicial proceeding before the court.

e. To the National Archives and Records Service (General Services Administration) pursuant to records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

f. To officials of labor organizations recognized under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions.

g. To a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the conduct of a suitability or security investigation, the classification of jobs, or the award of a contract, license, grant or other benefit.

h. To the General Services Administration about accidents involving Government-owned or leased automobiles.

i. To insurance carriers about accidents involving privately-owned vehicles.

j. In response to a request for discovery or for the appearance of a witness, if the information is relevant to the subject matter involved in a pending judicial or administrative proceeding.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in file folders and on indexed application cards.

RETRIEVABILITY:

Records are retrieved by name of the individual on whom they are maintained.

SAFEGUARDS:

Records are maintained in a secured area and are available only to authorized personnel whose duties require access.

RETENTION AND DISPOSAL:

Motor vehicle operator records are maintained for three years after the separation of the employee (operator) and are destroyed by shredding. Accident reports are maintained for three years after the date of the report and are destroyed by shreding, except in cases involving litigation. In cases involving litigation, these records are maintained until all litigation has been settled.

SYSTEM MANAGER(S) AND ADDRESSES:

a. For motor vehicle operator records: Director, Administrative Services Division, Office of Administration, Merit System Protection Board, 1120 Vermont Avenue, N.W. Washington, D.C. 20419.

b. For accident report records: General Counsel, Merit Systems Protection Board, 1120 Vermont Avenue, N.W., Washington, D.C. 20419.

NOTIFICATION PROCEDURES:

Individuals wishing to inquire whether this system of records contains information about them should contact the appropriate office as follows:

a. For accident report records: Contact the System Manager indicated above;

b. For motor vehicles operator records for current or former MSPB employees: Contact the System Manager indicated above; or the MSPB Regional Office in which employed (see list of Regional Office addresses in the Appendix).

Individuals must furnish the following information for their records to be located and identified:

a. Full name; and

b. Date of birth.

Individuals making inquiries as to the existence of records pertaining to themselves must also follow the Board's Privacy Act regulations set forth at 5 CFR 1205.11 regarding such inquiries.

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to records about them should contact the appropriate office as follows:

a. For accident report records: Contact the System Manager indicated above;

b. For motor vehicle operator records of current or former MSPB employees: Contact the System Manager indicated above or the MSPB Regional Office in which employed (see list of Regional Office addresses in the Appendix).

Individual must furnish the following information for their records to be located and identified:

a. Full name; and

b. Date of birth.

Individuals requesting access must also follow the MSPB's Privacy Act regulations set forth at 5 CFR 1205.11 concerning access to records and verification of identity.

CONTESTING RECORD PROCEDURES:

Individuals wishing to request amendment of their records should contact the appropriate office as follows:

a. For accident report records: Contact the System Manager for these records indicated above;

b. For motor vehicle operator records for current or former MSPB employees: Contact the System Manager indicated above; or the MSPB Regional Office in which employed (see list of Regional Office addresses in the Appendix).

Individuals must furnish the following information for their records to be located and identified:

a. Full name; and

b. Date of birth.

Individuals requesting amendment must also follow the MSPB's Privacy Act regulations set forth at 5 CFR 1205.21 regarding amendment of records and verification of identity.

RECORD SOURCE CATEGORIES:

a. The individual to whom the record pertains;

b. MSPB employees and other parties involved in the accident;

c. Witnesses to the accident;

d. Police reports and reports of investigation; and

e. Officials of the MSPB and the General Services Administration.

MSPB/INTERNAL-3

SYSTEM NAME:

Grievance Records.

SYSTEM LOCATION:

Personnel Management Division, Office of Administration, Merit Systems Protection Board (MSPB), 1120 Vermont Avenue, NW., Washington, D.C. 20419

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former employees of the Merit Systems Protection Board who have filed grievances in accordance with the MSPB's procedures as established under 5 CFR 771, Subpart C.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains records relating to grievances filed by MSPB employees. The case files contain all documents related to the grievance, including statements of witnesses, reports or transcripts of interviews and hearings, the employee's written request for reviews of the initial grievance, designation of the grievance examiner, any written comments by the grievant or his/her representative upon review of the file at the completion of the inquiry, the examiner's report of findings and recommendations, the grievance decision, and correspondence and exhibits related to the grievance. The system does not include files and records of any grievance filed under negotiated procedures with recognized labor organizations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 1205, 5 CFR 771.

PURPOSE(S):

These records are used to process grievance filed by MSPB employees for personal relief in matters of concern or dissatisfaction that are subject to the control of MSPB management.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information from these records may be disclosed:

a. To any source from which the MSPB requests additional information in the course of processing a grievance, to the extent necessary to identify the individual, inform the source of the purpose(s) of the request, and identify the type of information requested.

b. To the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the MSPB becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

c. To a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the conducting of security or suitability investigation of an individual, the classifying of jobs, the letting of a contract or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

d. To a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

e. To another Federal agency or to a court when the Government is party to a judicial proceeding before the court.

f. To the National Archives and Records Service (General Services Administration) pursuant to records management inspection conducted under authority of 44 U.S.C. 2904 and 2906.

g. To officials of the Office of Personnel Management; the Federal Labor Relations Authority; and the Equal Employment Opportunity Commission when requested in performance of their authorized duties.

h. In response to a request for discovery or for appearance of a witness, if the information is relevant to the subject matter involved in a pending judicial or administrative proceeding.

i. To officials of labor organizations recognized under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting work conditions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in file folders.

RETRIEVABILITY:

These records are retrieved by the names of the individuals on whom they are maintained.

SAFEGUARDS:

These records are maintained in lockable metal filing cabinets to which only authorized personnel have access.

RETENTION AND DISPOSAL:

These records are disposed of three years after closing of the case. Disposal is by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Personnel, Merit Systems Protection Board, 1120 Vermont Avenue, NW., Washington, D.C. 20419.

NOTIFICATION PROCEDURES:

Individuals wishing to determine whether this system of records contains information about them should contact the System Manager indicated above. Individuals who have filed grievances are aware of that fact and have been

given an opportunity to review the record. Individuals must furnish the following information for their records to be located and identified:

a. Full name;

b. Date of birth; and

c. Approximate date of closing of the case and kind of action taken.

Individuals making inquiries as to the existence of records pertaining to themselves must also follow the MSPB's Privacy Act regulations set forth at 5 CFR 1205.1 regarding such inquiries.

RECORDS ACCESS PROCEDURES:

Individuals requesting access to their records should contact the System Manager indicated above. Individuals must furnish the following information for their records to be located and identified:

a. Full name;

b. Date of birth; and

c. Approximate date of closing of the case and kind of action taken.

Individuals requesting access must also follow the MSPB's Privacy Act regulations set forth at 5 CFR 1205.11 regarding access to records and verification of identity.

CONTESTING RECORDS PROCEDURES:

Review of requests from individuals seeking amendment of their records which have been the subject of a judicial or quasijudicial action will be limited in scope. Review of amendment requests of these records will be restricted to determining if the record accurately documents the action of the officer ruling on the case, and will not include a review of the merits of the action, determination, or finding.

Individuals wishing to request amendment of their records to correct factual errors should contact the System Manager indicated above. Individuals must furnish the following information for their records to be located and identified.

a. Full name;

b. Date of birth; and

c. Approximate date of closing of the case and kind of action taken.

Individuals requesting amendment must also follow the MSPB's Privacy Act regulations set forth at 5 CFR 1205.21 regarding amendment of records and verification of identity.

RECORD SOURCE CATEGORIES:

a. The individual on whom the record is maintained;

b. Witnesses;

c. Agency officials; and

d. Related correspondence from organizations or persons.

MSPB/INTERNAL-4

SYSTEM NAME:

Employee Incentive Awards and Recognition Records.

SYSTEM LOCATION:

Personnel Management Division, Office of Administration, Merit Systems Protection Board (MSPB), 1120 Vermont Avenue, N.W., Washington, D.C. 20419.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former employees of the Merit Systems Protection Board who have been nominated for special recognition for achievements either within or outside the employee's job responsibilities and for length of service to the Government.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains information including or relating to the name, title, grade, duty station, and length of service; incentive award or quality step increase recipients; the recommendation, authorization disposition actions by approving officials; and related documentation and correspondence.

AUTHORITY FOR MAINTENANCE OF SYSTEM:

5 U.S.C. 1205, 5 U.S.C. 4501 et seq. and 5 U.S.C. 5336.

PURPOSE(S):

These records are collected and maintained to provide a basis for the recognition of MSPB employees through the granting of incentive awards and quality step increase.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information from these records may be disclosed:

a. To other Federal agencies and other organizations to process and approve suggestions and nominations for awards or quality step increases for MSPB employees.

b. To the Office of Attorney General and the President of the United States in reviewing recommended awards.

c. To other government agencies to recommend whether suggestions should be adopted in instances where the suggestion made by an MSPB employee affects the functions or responsibilities of the agencies.

d. To a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

e. To other public (Federal, State, or local) or private organizations, including news media, which grant or publicize employee awards or honors.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in file folders.

RETRIEVABILITY:

These records are retrieved by the office to which the employee is or was assigned at the time the award or nomination was made, and by the name of the recipient of each award or nomination for award.

SAFEGUARDS:

These records are maintained in lockable metal filing cabinets. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

These records are retained for five years, then sent to a Federal Record Center.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Personnel, Merit Systems Protection Board, 1120 Vermont Avenue, NW., Washington, D.C. 20419.

NOTIFICATION PROCEDURES:

Individuals wishing to determine whether this system of records contains information about them should contact the System Manager indicated above or the Regional Office where the individual is or was employed. Individuals must furnish the following information for their records to be located and identified:

a. Full name;

b. Date of the suggestion or nomination for award; and

c. Duty station at the time the suggestion or nomination for award was made.

Individuals making inquiries as to the existence of records pertaining to themselves must also follow the MSPB's Privacy Act regulations set forth at 5 CFR 1205.11 regarding such inquiries.

RECORDS ACCESS PROCEDURES:

Individuals requesting access to their records should contact the System Manager indicated above or the Regional Office where the individual is or was employed. Individuals must furnish the following information for their records to be located and identified:

a. Full name;

b. Date of the suggestion or nomination for award or quality step increase; and

c. Duty station at the time the suggestion or nomination for award was made.

Individuals requesting access must also follow the MSPB's Privacy Act regulations set forth at 5 CFR 1205.11 regarding access to records and verification of identity.

CONTESTING RECORD PROCEDURES:

Individuals wishing to request amendment of records about themselves should contact the System Manager indicated above. Individuals must furnish the following information for their records to be located and identified:

a. Full name;

b. Date of the suggestion or nomination for award or quality step increase; and

c. Duty station at the time the suggestion or nomination for award was made.

Individuals requesting amendment must also follow the MSPB's Privacy Act regulations set forth at 5 CFR 1205.21 regarding amendment of records and verification of identity.

RECORD SOURCE CATEGORIES:

a. Individuals submitting suggestions or nominations for awards or quality step increases;

b. Supervisors of employees;

c. Evaluators of suggestions or nominations for awards or quality step increases;

d. Official Personnel Folders; and

e. Staff of the Personnel Management Division, General Accounting Office, and other Federal agencies.

MSPB/INTERNAL-5

SYSTEM NAME:

Individual Production Reports.

SYSTEM LOCATION:

Office of the Managing Director, Merit Systems Protection Board (MSPB), 1120 Vermont Avenue, NW., Washington, D.C. 20419, and at MSPB Regional Offices (see list of Regional Office addresses in the Appendix).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former MSPB employees who have adjudicated appeals.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records contain production information by type of appeal; number of cases decided; number of hearings held; calendar days elapsed on an average and median basis for each type of case; and the case disposition by type of appeal.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 1205, 3301 et seq. 4103, 4302, 4501 et. seq.

PURPOSES:

Records are maintained in this system to provide an effective management tool in determining proper assignment, transfer, promotion, detail, training, reassignment, and other personnel actions affecting presiding officials.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Information from these recores may be disclosed:

a. To another Federal agency or to a court when the Government is party to a judicial proceeding before the court.

b. To a congressional office in response to an inquiry from that office.

c. To the National Archives and Records Service (General Services Administration) pursuant to records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

d. In response to a request for discovery or for appearance of a witness, if the information is relevant to the subject matter involved in a pending judicial or administrative proceeding.

e. To officials of the Office of Personnel Management, the Federal Labor Relations Authority and the Equal Employment Opportunity Commission when requested in the performance of their authorized duties.

POLICIES AND PRACTICES OF STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in binders and on computer tapes and discs.

RETRIEVABILITY:

Records are retrieved by the name of the individual on whom they are maintained and by an appeals officer code number.

SAFEGUARDS:

Records are located in lockable cabinets. Access is restricted to those employees who have a need to use these records.

RETENTION AND DISPOSAL:

The record is maintained during the period of the individual's service with the Board and destroyed by shredding one year after the individual leaves the Board's employ.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Managing Director for Regional Operations and Director, Office of Appeals, Merit Systems Protection Board, 1120 Vermont Avenue, NW., Washington, D.C. 20419.

NOTIFICATION PROCEDURES:

Individuals wishing to determine whether this system of records contains information about them should contact the appropriate System Manager indicated above. Individuals must furnish the following information for their records to be located and identified:

a. Full name; and

b. Date and location of the last appeal office assignment.

Individuals making inquiries as to the existence of records pertaining to themselves must also follow the MSPB's Privacy Act regulations set forth at 5 CFR 1205.11 regarding such inquiries.

RECORD ACCESS PROCEDURES:

Individuals requesting access to their records should contact the appropriate System Manager indicated above. Individuals must furnish the following information for their records to be located and identified:

a. Full name; and

b. Date and location of last appeals office assignment.

Individuals requesting access must also comply with the MSPB's Privacy Act regulations set forth at 5 CFR 1205.11 regarding access to records and verification of identity.

CONTESTING RECORD PROCEDURES:

Individuals requesting amendment of their records should contact the appropriate System Manager indicated above. Individuals must furnish the following information for their records to be located and identified:

a. Full name; and

b. Date and location of last appeals office assignment.

Individuals requesting amendment must also comply with the MSPB's Privacy Act regulations set forth at 5 CFR 1205.21 regarding amendment of records and verification of identity.

RECORD SOURCE CATEGORIES:

Information in this system of records is provided by:

a. The individual on whom the records are maintained;

b. Case Control Records used as computer data input; and

c. Production information by the Regional Director.

MSPB/INTERNAL-6

SYSTEM NAME:

Security Office Control Records.

SYSTEM LOCATION:

Security Office, Office of Administration, Merit Systems Protection Board, 1120 Vermont Ave., N.W., Washington, D.C. 20419.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former Merit Systems Protection Board employees for whom there is an investigative file. The system also contains cards on employees stationed in MSPB Regional Offices for whom the appointing authority is retained in Washington, D.C., and for whom there is an investigative file.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system consists of cards, filed alphabetically, containing name, social security number, date and place of birth, position sensitivity, type and date of investigations, and date and level of clearance.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 1205 and E.O. 12356.

PURPOSE(S):

These records are used to document security investigations and clearances of MSPB employees.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

There are no disclosures of this information outside of the security office, except to provide information to a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

POLICIES AND PRACTICES OF STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored on cards.

RETRIEVABILITY:

Records are retrieved by the name and date of birth of the individual on whom they are maintained.

SAFEGUARDS:

The cards are stored in locked file cabinets contained within a secured area. These cards do not leave the security office.

RETENTION AND DISPOSAL:

Records are maintained for one year after the individual leaves the Board and then are destroyed by burning.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Administration, Merit Systems Protection Board, 1120 Vermont Avenue, N.W., Washington, D.C. 20419.

NOTIFICATION PROCEDURES:

Individuals wishing to determine whether this system of records contains information about them should contact the System Manager indicated above. Individuals must furnish the following information for their records to be located and identified:

a. Full name; and

b. Date of birth.

Individuals making inquiries as to the existence of records pertaining to themselves must also follow the MSPB's Privacy Act regulations set forth at 5 CFR 1205.11 regarding such inquiries.

RECORD ACCESS PROCEDURES:

Individuals requesting access to their records should contact the System Manager indicated above. Individuals must furnish the following information for their records to be located and identified:

a. Full name; and

b. Date of birth.

Individuals requesting access must also follow the MSPB Privacy Act regulations set forth at 5 CFR 1201.11 regarding access to records and verification of identity.

CONTESTING RECORD PROCEDURES:

Individuals requesting amendment of their records should contact the System Manager indicated above. Individuals must furnish the following information for their records to be located and identified:

a. Full name; and

b. Date of birth.

Individuals requesting amendment must also follow the MSPB Privacy Act regulations set forth at 5 CFR 1205.21 regarding amendment of records and verification of identity.

RECORD SOURCE CATEGORIES:

a. The individual to whom the information applies;

b. The investigative files maintained by the Investigations division, Associate Director/Staffing Systems and Services, Office of Personnel Management; and

c. Employment information maintained by the Board's Director of Personnel.

MSPB/CENTRAL-1

SYSTEM NAME:

Survey Mailing Lists.

SYSTEM LOCATION:

Office of Merit Systems Review and Studies, Merit Systems Protection Board (MSPB) 1120 Vermont Avenue, NW., Washington, D.C. 20419 or with private sector contractors participating in the conduct of MSPB surveys.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Federal employees who have responded affirmatively to MSPB inquiries regarding participation in confidential surveys conducted by the Office of Merit Systems Review & Studies.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information in this system includes the name and home address of federal employees who have responded affirmatively to inquiries of the Office of Merit Systems Review and Studies regarding participation in an MSPB survey or surveys.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 1205

PURPOSE(S):

Information in this system is used to provide for the mailing of confidential survey questionnaires to survey participants. The questionnaires are used in conjunction with MSPB's performance of merit system studies, as required by 5 U.S.C. 1205, to determine the extent to which merit system principles effectively operate within the Government.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

There are no routine uses for this system which is used solely to provide for mailing of questionnaires to persons covered by this system in conjunction with their participation in confidential surveys conducted by the Office of Merit Systems Review and Studies.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained on computer tapes and discs.

RETRIEVABILITY:

These records are retrieved by the names of the individuals on whom they are maintained.

SAFEGUARDS:

These records are stored in secured rooms. Access to and use of these records is limited to those specially designated MSPB or contractor personnel who are responsible for mailing the questionnaries to survey participants. Personnel screening is employed to prevent unauthorized access or disclosure.

RETENTION AND DISPOSAL:

These records are maintained until all questionnaries have been mailed. The records are destroyed by erasure upon completion of the mailing.

SYSTEM MANAGER(S) AND ADDRESS:

Office of Merit Systems Review and Studies, Merit Systems Protection Board, 1120 Vermont Avenue, N.W., Washington, D.C. 20419.

NOTIFICATION PROCEDURE:

Individuals inquiring whether this system of records contains information about them should contact the System Manager indicated above. Individuals who have expressed an interest in participating in a Merit Systems survey are aware of that fact. It is necessary to furnish the following information when making inquiries about records:

a. Full name; and

b. Name of survey in which individual desired to participate.

Individuals making inquireies as to the existence of records pertaining to themselves must also follow the MSPB's Privacy Act regulations set forth at 5 CFR 1205.11 regarding such inquiries.

RECORD ACCESS PROCEDURES:

Individuals requesting access to their records should contact the System Manager indicated above. Individuals must furnish the following information for their records to be located and identified:

a. Full name; and

b. Name of survey in which individual desired to participate.

Individuals seeking access must also follow the MSPB's Privacy Act regulations set forth at 5 CFR 1205.11 regarding access to records and verification of identity.

CONTESTING RECORDS PROCEDURES:

Individuals requesting amendment should contact the System Manager indicated above. Individuals must furnish the following information for their records to be located and identified:

a. Full name; and

b. Name of survey in which individual desired to participate.

Individuals requesting amendment must also follow the MSPB's Privacy Act regulations set forth at 5 CFR 1205.21 regarding amendment of records and verification of identity.

RECORD SOURCE CATEGORIES:

Information in this system is obtained initially from the Office of Personnel Management and is subsequently affirmed by the individual to whom the record pertains.

SYSTEM NAME:

Panel Respondent Mailing List.

SYSTEM LOCATION:

Office of Merit Systems Review and Studies, Merit Systems Protection Board (MSPB), 1120 Vermont Ave., N.W., Washington, D.C. 20419 or with private sector contractors participating in the conduct of MSPB surveys.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Federal employees who serve on a semi-permanent panel surveyed quarterly by the Office of Merit Systems Review and Studies by means of confidential questionnaires on issues relevant to the civil service and the merit system.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information in this system includes the name, address and duty station of Federal employees who have agreed to serve as panel members.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 1205.

PURPOSE(S):

Information in this system is used to provide for the mailing of confidential survey questionnaires to panel members. The questionnaires are used in conjunction with MSPB's performance of merit system studies, as required by 5 U.S.C. 1205, to determine the extent to which merit system principles effectively operate within the Government.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

There are no routine uses for this system which is used solely to provide for the mailing of confidential questionnaires to panel members approximately four times a year.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained on computer tapes and discs.

RETRIEVABILITY:

These records are retrieved by the names of the individuals to whom they pertain.

SAFEGUARDS:

These records are stored in secured rooms. Access to and use of the records is limited to specially designated MSPB or contractor personnel who are responsible for mailing questionnaires to panel members. Personnel screening is employed to prevent unauthorized access or disclosure.

RETENTION AND DISPOSAL:

These records are retained for the life of the panel, a period not to exceed 1.5 years. Upon dissolution of the panel, the records are destroyed by erasure of the computer tape or disc on which they are stored.

SYSTEM MANAGER(S) AND ADDRESS:

Office of Merit Systems Review and Studies, Merit Systems Protection Board, 1120 Vermont Avenue, N.W., Washington, D.C. 20419.

NOTIFICATION PROCEDURES:

Individuals inquiring whether this system of records contains information about them should contact the System Manager indicated above. Individuals who are members of a panel are aware of that fact. It is necessary to furnish the following information when making inquiries about records:

a. Full name; and

b. Panel on which individual served.

Individuals making inquiries as to the existence of records pertaining to themselves must also follow the MSPB's Privacy Act regulations set forth at 5 CFR 1205.11 regarding such inquiries.

RECORD ACCESS PROCEDURES:

Individuals requesting access to their records should contact the System Manager indicated above. Individuals must furnish the following information for their records to be located and identified:

a. Full name; and

b. Panel on which individual served.

Individuals seeking access must also follow the MSPB's Privacy Act regulations set forth at CFR 1205.11 regarding access to records and verification of identity.

CONTESTING RECORDS PROCEDURES:

Individuals requesting amendment of records pertaining to them should contact the System Manager indicated above.

Individuals must furnish the following information for their records to be located and identified:

a. Full name; and

b. Panel on which the individual served.

Individuals requesting amendment must also follow the MSPB's Privacy Act regulations set forth a 5 CFR 1205.21 regarding amendment of records and verification of identity.

RECORD SOURCE CATEGORIES:

Information in this system is obtained initially from the Office of Personnel

Management and is subsequently affirmed by the individual to whom the record pertains.

MSPB/CENTRAL–3

SYSTEM NAME:

Correspondence Control Records.

SYSTEM LOCATION:

Office of the Secretary, Merit Systems Protection Board, 1120 Vermont Avenue, N.W., Washington, D.C. 20419.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have written the MSPB on Official business and whose letters are controlled in order to assure appropriate and timely response; individuals who have written the White House or Congressional offices and whose letters are referred to MSPB for reply or response.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains information identifying the correspondent, subject, date and disposition of the correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 1205.

PURPOSE(S):

These records are used to control correspondence with the Board in order to assure appropriate and timely responses.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information from these records may be disclosed to another Federal agency to whom correspondence is referred for reply.

POLICIES AND PRACTICES FOR STROING, RETRIEVING, ACCESSING, RETAINING , DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained on file cards.

RETRIEVABILITY:

These records are retrieved by the name of the correspondent or individual on whose behalf the correspondence is transmitted, and the date of the correspondence.

SAFEGUARDS:

Access to and use of these records is limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

These records are retained for two years, then destroyed by shredding.

SYSTEM MANAGERS AND ADDRESS:

Secretary, Merit Systems Protection Board, 1120 Vermont Avenue, NW., Washington, D.C. 20419.

NOTIFICATION PROCEDURE:

Individuals wishing to determine whether this system of records contains information about them should contact the System Manager indicated above. Individuals must furnish the following information for their records to be located and identified:

a. Full name; and

b. Approximate date of the correspondence; and

c. Name of the person writing the correspondence if transmitted on behalf of the individual.

Individuals making inquiries as to the existence of records pertaining to themselves must also follow the MSPB's Privacy Act regulations set forth at 5 CFR 1205.11 regarding such inquiries.

RECORD ACCESS PROCEDURES:

Individuals requesting access to their records should contact the System Manager indicated above. Individuals must furnish the following information for their records to be located and identified:

a. Full name;

b. Approximate date of the correspondence; and

c. Name of the person writing the correspondence if transmitted on behalf of the individual.

Individuals requesting access must also follow the MSPB's Privacy Act regulations set forth at 5 CFR 1205.11 regarding access to records and verification of identity.

CONTESTING RECORDS PROCEDURES:

Individuals wishing to request amendment of records pertaining to them should contact the System Manager indicated above.

Individuals must furnish the following information for their records to be located and identified:

a. Full name;

b. Approximate date of correspondence; and

c. Name of the person writing the correspondence if transmitted on behalf of the individual.

Individuals requesting amendment must also follow the Board's Privacy Act regulations set forth at 5 CFR 1205.21 regarding amendment of records and verification of identity.

RECORD SOURCE CATEGORIES:

Information in this system is provided by the individual to whom the record pertains or by individuals or organizations writing on behalf of the individual.

MSPB/CENTRAL–4

SYSTEM NAME:

General Correspondence Records.

SYSTEM LOCATION:

Merit Systems Protection Board (MSPB), 1120 Vermont Avenue, N.W., Washington, D.C. 20419 and MSPB Regional Offices (see list of Regional Office addresses in the Appendix).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former Federal employees and members of the public who have written the MSPB seeking information, registering complaints, or making known their views.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains the incoming correspondence and a copy of the MSPB's reply of referral.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C.1250.

PURPOSE(S):

These records are used to document correspondence with the Board.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information from these records may be disclosed:

a. To another agency to whom the incoming correspondence is referred for reply.

b. To the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order where there is an indication of a violation or potential violation of a civil or criminal law or regulation.

c. To a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in file folders.

RETRIEVABILITY:

These records are retrieved by name and date of correspondence.

SAFEGUARDS:

These records are maintained in lockable metal filing cabinets. Access to and use of these records is limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

These records are retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Secretary, Merit Systems Protection Board, 1120 Vermont Avenue, N.W., Washington, D.C. 20419, and the MSPB Regional Offices (see list of Regional Office addresses in the Appendix).

NOTIFICATION PROCEDURE:

Individuals wishing to determine whether this system of records contains information about them should contact the appropriate System Manager indicated above. Individuals must furnish the following information for their records to be located and indentified:

a. Full name; and

b. Approximate date of correspondence with the Board.

Individuals making inquiries as to the existence of records pertaining to themselves must also follow the MSPB's Privacy Act regulations set forth at 5 CFR 1205.11 regarding such inquiries.

RECORD ACCESS PROCEDURES:

Individuals requesting access to their records should contact the appropriate System Manager indicated above. Individuals must furnish the following information for their records to be located and identified:

a. Full name; and

b. Approximate date of correspondence with the Board.

Individuals requesting access must also follow the MSPB's Privacy Act regulations set forth at 5 CFR 1205.11 regarding access to records and verification of identity.

CONTESTING RECORDS PROCEDURES:

Individuals wishing to request amendment of records should contact the appropriate System Manager indicated above.

Individuals must furnish the following information for their records to be located and identified:

a. Full name; and

b. Approximate date of correspondence with the Board.

Individuals requesting amendment must also follow the MSPB's Privacy Act regulations set forth at 5 CFR 1205.21 regarding amendment of records and verification of identity.

RECORD SOURCE CATEGORIES:

a. Individual to whom the record pertains;

b. Official documents relating to the correspondence; and

c. Related correspondence from agencies, organizations or persons.

MSPB/CENTRAL-5

SYSTEM NAME:

Freedom of Information Act/Privacy Act Case Records.

SYSTEM LOCATION:

Office of the Secretary, Merit Systems Protection Board (MSPB), 1120 Vermont Avenue, NW., Washington, D.C. 20419, and MSPB Regional Offices (see list of Regional Office addresses in Appendix).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains records and related correspondence on individuals who have filed with the MSPB:

a. Requests for information under the provisions of the Freedom of Information Act (5 U.S.C. 552) including requests for review of initial denials of such requests; and

b. Requests under the provisions of the Privacy Act (5 U.S.C. 522a) for records about themselves, including:

(1) Requests for notification of the existence of records;

(2) Requests for access to these records;

(3) Requests for amendment of these records; and

(4) Requests for review of initial denials of such requests for notification, access, and amendment.

Note.—Since these PA/FOIA case records contain inquiries and requests regarding any of the MSPB's other systems of records subject to the Privacy Act, information about individuals from any of these other systems may become part of this PA/FOIA Case Records system. .

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains correspondence and other documents related to requests made by individuals to the MSPB for:

a. Information under the provisions of the FOIA (5 U.S.C. 552) including requests for review of initial denials of such requests; and

b. Information under provisions of the Privacy Act (5 U.S.C. 552a) and requests for review of initial denials of such requests made under the MSPB's Privacy Act regulations including requests for:

(1) Notification of the existence of records;

(2) Access to records;

(3) Amendment of records;

(4) Review of initial denials of such requests for notification, access or amendment; and

(5) Requests for an accounting of disclosure of records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 552, 552a, 1205.

PURPOSE(S):

These records are maintained to process an individual's requests made under the provisions of the Freedom of Information and Privacy Act. The records are also used by the MSPB to prepare its annual reports to OMB and Congress required by the Privacy and Freedom of Information Acts.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Information from these records may be disclosed:

a. To the Office of Management and Budget at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A-19.

b. To a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

c. To a Federal agency or to a court when the Government is a party to a judicial proceeding before the court.

d. To the National Archives and Records Service (General Services Administration) in record management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

e. To officials of the Office of Personnel Management, Federal Labor Relations Authority, and the Equal Employment Opportunity Commission in conjunction with the performance of their authorized duties.

f. To Federal agencies in order to obtain advice and recommendation concerning matters on which the agency has specialized experience or particular competence which the MSPB may use in making required determinations under the Freedom of Information Act or Privacy Act of 1974.

g. To any source from which the MSPB requests additional, information (to the extent necessary to identify the individual, inform the source of the purpose of the request and to identify the type of information requested), where necessary to obtain information relevant to an MSPB decision concerning a Privacy or Freedom of Information Act request.

h. In response to a request for discovery or for appearance of a witness, if the information is relevant to the subject matter involved in a pending judicial or administrative proceeding.

i. To the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order where the MSPB becomes aware of an indication of a violation or

potential violation of civil or criminal law or regulation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in file folders.

RETRIEVABILITY:

These records are retrieved by name of the individual on whom they are maintained and the date of request.

SAFEGUARDS:

These records are maintained in lockable metal filing cabinets. Access to and use of these records is limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

These records are maintained for five years, then destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Secretary, Merit System Protections Board, 1120 Vermont Avenue, N.W., Washington, D.C. 20419, and MSPB Regional Offices (see list of Regional Office addresses in the Appendix).

NOTIFICATION PROCEDURE:

Idividuals wishing to determine whether this system of records contains information about them should contact the appropriate System Manager indicated above. Individuals must furnish the following information for their records to be located and indentified:

a. Full name; and

b. Approximate date of original request or appeal.

Individuals making inquiries as to the existence of records pertaining to themselves must also follow the MSPB's Privacy Act regulations set forth at 5 CFR 1205.11 regarding such inquiries.

RECORD ACCESS PROCEDURE:

Individuals requesting access to their records should contact the appropriate System Manager indicated above. Individuals must furnish the following information for their records to be located and identified:

a. Full name; and

b. Approximate date of original request or appeal.

Individuals requesting access must also follow the MSPB's Privacy Act regulations set forth at 5 CFR 1205.11 regarding access to records and verification of identity.

CONTESTING RECORD PROCEDURES:

Individuals wishing to request amendment of records about them should contact the appropriate System Manager indicated above. Individuals must furnish the following information for their records to be located and identified:

a. Full name; and

b. Approximate date of original request or appeal.

Individuals requesting amendment must also follow the MSPB's regulations set forth at 5 CFR 1205.21 regarding amendment of records and verification of identity

Note.—The amendment provisions for this system are not intended to permit an individual a second opportunity to request amendment of a record which was the subject of the initial Privacy Act amendment request which created the record in the system. That is, after an individual has requested amendment of a specific record in an office system under provisions of the Privacy Act that specific record may itself become part of this system of Privacy Act/FOIA Case Records. An individual may not subsequently request amendment of that specific record again simply because a copy of the record has become part of the second system of Privacy Act/FOIA Case Records.

RECORD SOURCE CATEGORIES:

a. The individual who is the subject of the records;

b. MSPB officials who respond to Privacy Act/FOIA requests;

c. Official personnel documents of the MSPB, including records from any other MSPB system of records included in this notice;

d. Other sources whom the MSPB believes have information pertinent to an MSPB decision on a Privacy Act or Freedom of Information Act request; and

e. Other agencies referring the request to the MSPB.

MSPB/CENTRAL-6

SYSTEM NAME:

Litigation and Claim Records.

SYSTEM LOCATION:

Office of the General Counsel, Merit Systems Protection Board (MSPB), 1120 Vermont Avenue, N.W., Washington, D.C. 20419.

CATEGORIES OF INDIVIDUAL COVERED BY THE SYSTEM:

a. Individuals who file civil actions against the MSPB, its officials and employees.

b. Individuals who are parties to actions in which an MSPB final decision is involved but in which the MSPB is not a party to the proceeding.

c. Individuals who file claims against the MSPB under the Federal Tort Claims Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system includes the following kinds of records: documentation of litigation, including complaints, answers, motions, briefs, orders and decisions; claims and supporting documentation submitted under Federal Tort Claims Act, together with correspondence and records of final administrative determinations.

AUTHORITY FOR MAINTENANCE OF THE RECORDS:

5 U.S.C 1205, 7703; 28 U.S.C. 2672.

PURPOSE(S):

These records are maintained to defend the MSPB against lawsuits and to settle administrative claims brought against the MSPB.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information from these records may be disclosed:

a. To the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing or implementing a statute, rule, regulation, or order where the Merit Systems Protection Board becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

b. To any source from which the MSPB requests information relevant to an MSPB determination concerning one of the purposes for maintenance of the system.

c. To a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the conduct of a security or suitability investigation of an individual, the classification of jobs, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

d. To a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

e. To a Federal agency or to a court when the Government is party to a judicial proceeding before the court.

f. To the National Archives and Records Service (General Services Administration) for records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

g. To the insurance carrier of an employee of, or a claimant against, the MSPB under the Federal Tort Claims

Act in order to determine the proper assignment of any liability.

h. In response to a request for discovery or for appearance of a witness, if the information is relevant to the subject matter involved in a pending judicial or administrative proceeding.

i. To officials of the Office of Personnel Management, Federal Labor Relations Authority, and the Equal Employment Opportunity Commission when requested in connection with the performance of their authorized duties.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in file folders in lockable metal filing cabinets.

RETRIEVABILITY:

Records are retrieved by the name of the individual on whom they are maintained.

SAFEGUARDS:

Records are available only to authorized personnel of the General Counsel's Office and to other specially designated personnel of the MSPB.

RETENTION AND DISPOSAL:

These records are maintained for two years after completion of the litigation or claims settlement and then are destroyed by shredding.

SYSTEM MANAGERS AND ADDRESS:

General Counsel, Office of General Counsel, Merit Systems Protection Board, 1120 Vermont Avenue, N.W., Washington, D.C. 20419.

NOTIFICATION PROCEDURES:

Individuals wishing to determine whether this system contains a record about them should contact the System Manager indicated above. Individuals must furnish the following information for their records to be located and identified:

a. Full name;
b. Date of birth;
c. Description of type of record; and
d. Court action number if applicable.

Individuals making inquiries as to the existence of records pertaining to themselves must also follow the MSPB's Privacy Act regulations set forth at 5 CFR 1205.11 regarding such inquiries.

RECORD ACCESS PROCEDURES:

Individuals requesting access to their record should contact the System Manager indicated above. Individuals must furnish the following information for their records to be located and identified:

a. Full name;
b. Date of birth;
c. Description of type of record; and
d. Court action number if applicable.

Individuals requesting access must also follow the MSPB's Privacy Act regulations set forth at 5 CFR 1205.11 regarding access to records and verification of identify.

CONTESTING RECORDS PROCEDURES:

Review of request from individuals seeking amendment of their records which have been or could have been the subject of a judicial or quasi-judicial action will be limited in scope. Review of amendment requests of these records will be restricted to determining if the record accurately documents the action of the agency or administrative body ruling on the case, and will not include a review of the merits of the action, determination, or finding.

Individuals wishing to request amendment of their records to correct factual errors should contact the appropriate system manager indicated above. Individuals must furnish the following for their records to be located and identified:

a. Full name;
b. Date of birth;
c. Description of type of record; and
d. Court action number if applicable.

Individuals requesting amendment must also follow MSPB's Privacy Act regulations set forth at 5 CFR 1205.21 regarding amendment of records and verification of identity.

RECORD SOURCE CATEGORIES:

a. The individual on whom the record is maintained;
b. Agency officials and records;
c. Records of MSPB and Equal Employment Opportunity Commission administrative proceedings and court documents; and
d. Witnesses.

MSPB/GOVT-1

SYSTEM NAME:

Appeal and Case Records.

SYSTEM LOCATION:

Office of the Secretary, Merit System Protection Board (MSPB), 1120 Vermont Avenue, N.W., Washington, D.C. 20419, the MSPB Regional Offices (see list of Regional Office addresses in the Appendix), and various Federal agencies.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

a. Current and former Federal employees and applicants for employment who have filed an appeal with the MSPB, or its predecessors, or with respect to whom the Special Counsel or a Federal agency has petitioned the MSPB, concerning any matter over which the MSPB has original or appellate jurisdiction.

b. Current and former employees of State and local governments who have been investigated by the Special Counsel and have had a hearing before the MSPB concerning possible violation of the Hatch Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains information or documents, including briefs, pleadings and motions, exhibits, hearing transcripts and MSPB decisions, which comprise the administrative records of appeals and other matters arising under the original and appellate jurisdiction of the MSPB.

This system includes records of appeals filed with the former Federal Employee Appeals Authority and the Appeals Review Board of the Civil Service Commission. This system also includes records of appeals and cases before the MSPB, the Federal Employee Appeals Authority and the Appeals Review Board which are maintained by Federal agencies that are parties to the proceedings.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 1205, 1206, 1207, 1208, 7701, and 7702.

PURPOSE(S):

These records are used to document and adjudicate appeals and other matters arising under the MSPB's original and appellate jurisdiction.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Information from the record may be disclosed:

a. To officials of the Equal employment Opportunity Commission or the Special Panel convened under authority of 5 U.S.C. 7702 when requested in connection with the performance of their authorized duties.

b. To officials of the Office of Personnel Management and the Federal Labor Relations Authority in connection with the performance of their authorized duties.

c. To a member of Congress or the Government Accounting Office regarding the status of an appeal.

d. To a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

e. To a person from the record of an individual in response to an inquiry

made by that person on behalf of the individual to whom the record pertains.

f. To an appropriate Federal, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule regulation, or order upon request of that agency where there is an indication of a violation or potential violation of civil or criminal law or regulation.

g. To the Office of Management and Budget at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A–19.

h. To another Federal agency or to a court when the Goverment is party to a suit before the court.

i. To any person making an inquiry regarding the status of a proceeding before the MSPB, the nature of the proceeding, and, if applicable, the MSPB decision in the matter.

j. To the National Archives and Records Service (General Services Administration) in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

k. In response to a request for discovery or for appearance of a witness, if the information is relevant to the subject matter involved in a pending judicial or administrative proceeding.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM;

STORAGE:

These records are maintained in file folders, binders, docket cards, microfiche, and computer tapes and discs.

RETRIEVABILITY:

These records are retrieved by the names of the individuals on whom they are maintained or by docket control or decision numbers.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. Personnel screening is employed to prevent unauthorized disclosure.

RETENTION AND DISPOSAL:

These records are maintained up to two years after a final determination by the MSPB or, in some instances, other administrative authorities or the courts. Thereafter, they are transferred by GSA Regional Federal Records Centers. They are destroyed by the Federal Records Centers when the records are seven years old.

SYSTEM MANAGER(S) AND ADDRESS:

Secretary, Merit System Protection Board, 1120 Vermont Avenue, N.W., Washington, D.C. 20419, the MSPB Regional Offices (see list of Regional Office addresses in the Appendix), or the Personnel Officer of the agency within which the appeal arose.

NOTIFICATION PROCEDURES:

Individuals inquiring whether this system of records contains information about them should contact the appropriate System Manager indicated above. Individuals who have filed appeals or are parties to matters before the MSPB are aware of that fact and have been provided a copy of the record. It is necessary to furnish the following information respecting the individual when making inquiries about records:

a. Full name;

b. Date of birth;

c. Kind of action taken by the agency;

d. Date and location of the filing of the appeal or other matter with the MSPB; and

e. If appropriate, the respective MSPB docket or decision control number.

Individuals making inquiries as to the existence of records pertaining to themselves must also follow the Board's Privacy Act regulations set forth at 5 CFR 1205.11 regarding such inquiries.

RECORD ACCESS PROCEDURES:

Individuals requesting access to their records should contact the appropriate System Manager indicated above. Individuals must furnish the following information for their records to be located and identified:

a. Full name;

b. Date of birth;

c. Kind of action taken by the agency;

d. Date and location of the filing of the appeal or other matter with the MSPB; and

e. If appropriate, the respective MSPB docket or decision control number.

Individuals seeking access must also follow the MSPB's Privacy Act regulations set forth at 5 CFR 1205.11 regarding access to records and verification of identity.

CONTESTING RECORDS PROCEDURES:

Individuals requesting amendment should contact the appropriate System Manager indicated above. Individuals must furnish the following information for their records to be located and identified:

a. Full name;

b. Date of birth;

c. Kind of action taken by the agency;

d. Date and location of the filing of the appeal or other matter with the MSPB; and

e. If appropriate, the respective MSPB docket or decision control number.

Individuals requesting amendment must also follow the MSPB's Privacy Act regulations set forth at 5 CFR 1205.21 regarding amendment of records and verification of identity.

These provisions for amendment of the record are not intended to permit the alteration of evidence presented in the course of adjudication before the Board, before or after the Board has rendered a decision on the appeal.

RECORD SOURCE CATEGORIES:

The source of these records are:

a. The individual to whom the record pertains;

b. The agency employing the above individual;

c. The Merit Systems Protection Board, the Office of Personnel Management, Equal Employment Opportunity Commission, the Office of the Special Counsel; and

d. Other individuals or organizations from whom the MSPB has received testimony, affidavits or other documents.

Appendix

Regional Offices of the Merit Systems Proctection Board

Atlanta Regional Office, Merit Systems Protection Board, 3rd Floor, North Wing, 1776 Peachtree Street, N.E., Atlanta, Georgia 30309

Boston Regional Office, Merit Systems Protection Board, 100 Summer Street, Room 1736, Boston, Massachusetts 02110

Chicago Regional Office, Merit Systems Protection Board, John C. Kluczynski Building, 31st Floor, 230 South Dearborn Street, Chicago, Illinois 60604

Dallas Regional Office, Merit Systems Protection Board, 1100 Commerce Street, Room 6F20, Dallas, Texas 75242

Denver Regional Office, Merit Systems Protection Board, Denver Federal Center, Building 46, Box 25025, Denver, Colorado 80225

New York Regional Office, Merit Systems Protection Board, New Federal Building, 26 Federal Plaza, Room 2341, New York, New York 10278

Philadelphia Regional Office, Merit Systems Protection Board, U.S. Customhouse, Room 501, Second and Chestnut Streets, Philadelphia, Pennsylvania 19106

St. Louis Regional Office, Merit Systems Protection Board, 1520 Market Street, Room 1740, St. Louis, Missouri 63103–2692

San Francisco Regional Office, Merit Systems Protection Board, 525 Market Street, Room 2800, San Francisco, California 94105

Seattle Regional Office, Merit Systems Protection Board, Federal Building, 915 Second Avenue, Room 1840, Seattle Washington 98174

Washington, D.C. Regional Office, Merit Systems Protection Board, 5203 Leesburg

Pike, Suite 1109, Falls Church, Virginia 22041

[FR Doc. 82-34062 Filed 12-27-82; 8:45 am]
BILLING CODE 7400-01-M

NATIONAL SCIENCE FOUNDATION

National Science Board; Commission on Precollege Education in Mathematics, Science and Technology; Open Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: National Science Board Commission on Precollege Education in Mathematics, Science and Technology.

Date and Time: January 14, 1983; 9:00 a.m.–4:30 p.m., January 15, 1983; 9:00 a.m.–12:00 p.m.

Place: National Science Foundation, Room 540, 1800 G St., N.W., Washington, D.C. 20550

Type of Meeting: Open.

Contact Person: Dr. Richard S. Nicholson, Executive Director, Commission on Precollege Education in Mathematics, Science and Technology, Room 527, National Science Foundation, Washington, D.C. 20550.

Summary Minutes: Contact Dr. Richard S. Nicholson at the above address.

Purpose of Commission Meeting and Agenda: The Commission will define an agenda for activities leading to its final recommendations. In addition, presentations by experts on topics relevant to Commission concerns will take place. These will include discussions about current and emerging educational technologies, and implications from cognitive research for the improvement of science and mathematics learning and teaching.

M. Rebecca Winkler,
Committee Management Coordinator.
December 22, 1982.

[FR Doc. 82-35083 Filed 12-27-82; 8:45 am]
BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Ad Hoc Committee for Review of Nuclear Reactor Licensing Reform Proposals; Meeting

Notice is hereby given in accordance with Section 10 of the Federal Advisory Committee Act that NRC's Ad Hoc Committee for Review of Nuclear Reactor Licensing Reform Proposals will hold its next meeting at 9:30 a.m., January 12, 1983. This meeting will take place at the office of Shaw, Pittman, Potts and Trowbridge, South Building, 9th Floor Lobby, 1800 M Street, NW, Washington, DC and will be open for public observation.

At this meeting, the committee will begin its review of administrative proposals for reforming the NRC's licensing process for nuclear plants. A transcript of the meeting will be made available for public inspection and copying at NRC's Public Document Room, 1717 H Street, NW, Washington, DC.

Further information on the meeting may be obtained from Mr. Rothschild, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555. (Telephone 202/634–1465).

Dated: at Washington, D.C. this 22nd day of December, 1982.

John C. Hoyle,
Advisory Committee, Management Officer.

[FR Doc. 82-35105 Filed 12-27-82; 8:45 am]
BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards Nuclear Regulatory Commission, Meeting

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), the Advisory Committee on Reactor Safeguards will hold a meeting on January 6–8, 1983, in Room 1046, 1717 H Street, NW, Washington, DC. Notice of this meeting was published in the Federa Register on November 17, 1982.

The agenda for the subject meeting will be as follows:

Thursday, January 6, 1983

8:45 A.M.–10:00 A.M.: Resolution of Generic Issues (Open)—The members of the ACRS will discuss the methodology proposed by NRC to establish priorities for resolution of outstanding generic issues applicable to light water reactors. Members of the NRC Staff will participate in this discussion to the degree considered appropriate.

110:00 A.M.–11:00 A.M.: Seismic Design of Nuclear Facilities (Open)—The ACRS will discuss a proposed report to the NRC regarding seismic margins in nuclear power plants.

11:00 A.M.–12:00 Noon: Hydraulic Control Unit Line Integrity (Open)—The members will hear and discuss a response from members of the NRC Staff regarding the recommendations of the ACRS for review of HCU piping integrity in the event of LOCA within the drywell of pressure suppression containment systems.

12:00 Noon–12:30 P.M.: Future ACRS Activities (Open)—The members of the Committee will discuss anticipated ACRS Subcommittee and proposed full Committee activities. Activities of individual ACRS members will also be discussed.

1:30 P.M.–6:00 P.M.: NRC Safety Research Program and Budget (Closed)—The members will discuss the proposed ACRS report to the U.S. Congress regarding the proposed NRC Safety Research Program and Budget for FY 1984–85. Representatives of the NRC Staff will participate to the degree considered appropriate.

This portion of the meeting will be closed to discuss information regarding the impact of proposed budget reductions on continuing the proposed research contracts.

Friday, January 7, 1983

8:30 A.M.–12:00 Noon and 1:00 P.M.–3:30 P.M.: Clinch River Breeder Reactor (Open)—The members of the Committee will hear and discuss details of the plant design regarding proposed construction of the Clinch River Breeder Reactor. ACRS consultants, representatives of the NRC Staff, the Department of Energy, and the Applicant will participate.

Portions of this session will be closed as necessary to discuss Proprietary Information applicable to this matter.

3:30 P.M. –6:00 P.M.: NRC Safety Research Program and Budget (closed)–The members will discuss the proposed ACRS report to the U.S. Congress regarding the proposed NRC Safety Research Program and Budget for FY 1984–85. Representatives of the NRC Staff will participate to the degree considered appropriate.

This portion of the meeting will be closed to discuss information regarding the impact of proposed budget reductions on continuing and proposed research contracts.

Saturday, January 8, 1983

8:30 A.M.–10:30 A.M.: ACRS Subcommittee Activity (Open)—The members will hear and discuss reports of designated subcommittees regarding ongoing safety related activities including proposed revisions of NRC Regulatory Guides, and the proposed NRC policy statement on Severe Accidents and Related Views on Nuclear Reactor Regulation.

10:30 A.M.–12:30 P.M. and 1:30 P.M.–3:30 P.M.: Proposed ACRS Reports (Open/Closed)—The members will discuss proposed reports to the NRC and the U.S. Congress regarding matters considered during this meeting.

The session on the NRC Safety Research Program and Budget will be closed to discuss information regarding the impact of proposed budget reductions on continuing and proposed research contracts.

3:30 P.M.–4:30 P.M. Concluding Session (Open)—Members will complete discussion of items considered during this meeting.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 1, 1982 (47 FR 43474). In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS Executive Director as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture and television cameras during this meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by a telephone call to the ACRS Executive Director (R.F. Fraley) prior to the meeting. In view of the possiblility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACRS Executive Director if such rescheduling would result in major inconvenience.

I have determined in accordance with Subsection 10(d) Pub. L. 92–463 that it is necessary to close portions of this meeting as noted above to discuss Proprietary Information (5 U.S.C. 552b(c)(4)) and information the premature disclosure of which would frustrate the Commission's ability to implement affected programs effectively. The authority to close this portion is Exemption 9(b) of the Sunshine Act (5 U.S.C. 552b(c)(9)(b)).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted can be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley (telephone 202/634–3265), between 8:15 A.M. and 5:00 P.M. EST.

Dated: December 22, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82-35104 Filed 12-27-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50–295 and 50–304]

Commonwealth Edison Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 79 to Facility Operating License No. DPR–39, and Amendment No. 69 to Facility Operating License No. DPR–48 issued to the Commonwealth Edison Company (the licensee), which revised Technical Specifications for operation of Zion Station, Units 1 and 2 (the facilities) located in Zion, Illinois. These amendments were effective December 3, 1982.

The amendments revise the Technical Specifications for the penetrations pressurization system to accurately define the conditions of operation, applicable modes, and actions to be taken for inoperable systems.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) The application for amendments dated December 3, 1982, (2) the Commission's letter dated December 6, 1982, (3) Amendments Nos. 79 and 69 to License Nos. DPR–39 and DPR–48, and (4) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Zion-Benton Public Library District, 2600 Emmaus Avenue, Zion, Illinois 60099. A copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 20th day of December 1982.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch #1, Division of Licensing.

[FR Doc. 82-35106 Filed 12-27-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50–213]

Connecticut Yankee Atomic Power Co.; Granting of Relief From Certain Requirements of ASME Code Section XI Inservice Inspection Requirements

The U.S. Nuclear Regulatory Commission (the Commission) has granted relief from certain requirements of the ASME Code, Section XI, "Rules for Inservice Inspection of Nuclear Power Plant Components" to the Connecticut Yankee Atomic Power Company. The relief relates to the Inservice Inspection Program for the Haddam Neck Plant (the facility) located in Middlesex County, Connecticut. The ASME Code requirements are incorporated by reference into the Commission's rules and regulations in 10 CFR Part 50. The relief is effective as of its date of issuance.

The relief allows postponement of inservice inspection requirements involving volumetric and visual examinations of a reactor coolant pump casing, pursuant to 10 CFR 50.55a(g)(6)(i) of the Commission's regulations.

The request for relief complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the letter granting relief. Prior public notice of this action was not required since the granting of relief from ASME Code requirements does not involve a significant hazards consideration.

The Commission has determined that the granting of relief will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this action.

For further details with respect to this action, see (1) The licensee's letter dated September 3, 1982, and (2) the Commission's letter to the licensee dated December 21, 1982, which contains the Commission's related evaluation. These items are available for public inspection at the

Commission's Public Document Room, 1717 H Street, NW., Washington, DC 20555 and at the Russell Library, 119 Broad Street, Middletown, Connecticut 06457. A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 21st day of December 1982.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Chief, Operating Reactors Branch #5, Division of Licensing.

[FR Doc. 82-35107 Filed 12-27-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-311]

Public Service Electric and Gas Co. et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 15 to Facility Operating License No. DPR-75, issued to Public Service Electric and Gas Company, Philadelphia Electric Company, Delmarva Power and Light Company and Atlantic City Electric Company (the licensees), which revised the license for operation of the Salem Nuclear Generating Station, Unit No. 2 (the facility) located in Salem County, New Jersey. The amendment is effective as of the date of issuance.

The amendment authorizes deferral of an 18-month Technical Specification surveillance requirement from December 5, 1982, until the first refueling outage in January 1983.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see: (1) The application for amendment dated December 2, 1982, (2) Amendment No. 15 to License No. DPR-75, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Salem Free Public Library, 112 West Broadway, Salem, New Jersey. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 3rd day of December 1982.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 82-35109 Filed 12-27-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-443/444]

Public Service Company of New Hampshire, et al.*; Availability of the Final Environmental Statement for Seabrook Station, Units 1 and 2

Pursuant to the National Environmental Policy Act of 1969 and the United States Nuclear Regulatory Commission's regulations in 10 CFR Part 51, notice is hereby given that a Final Environmental Statement (NUREG-0895) has been prepared by the Commission's Office of Nuclear Reactor Regulation related to the proposed operation of the Seabrook Station, Units 1 and 2, located in Rockingham County, New Hampshire.

Copies of NUREG-0895 are available for inspection by the public in the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C., and at the Exeter Public Library, Front Street, Exeter, New Hampshire 03883. The document is also being made available at the Office of the Coordinator of Federal Funds, Room 124, State House, Concord, New Hampshire 03301 and at the Strafford Rockingham Regional Council, 1 Water Street, Exeter, New Hampshire 03833.

The notice of availability of the Draft Environmental Statement for the Seabrook Station and request for comments from interested persons was published in the **Federal Register** on May 21, 1982 (47 FR 22264). Comments received from Federal, State and local agencies and interested members of the public have been included in an appendix to the Final Environmental Statement.

Copies of the Final Environmental Statement (NUREG-0895) may be purchased at current rates, from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, and by GPO deposit account holders by calling (301) 492-9530 or by writing to the U.S. Nuclear Regulatory Commission, Attn: Publication Sales Manager.

Dated at Bethesda, Maryland, this 20th day of December, 1982.

For the Nuclear Regulatory Commission.

George W. Knighton,

Chief, Licensing Branch No. 3, Division of Licensing.

[FR Doc. 82-35106 Filed 12-27-82; 8:45 am]

BILLING CODE 7590-01-M

---

*The current construction permit holders for Seabrook Station are: Bangor Hydro-Electric Company, Canal Electric Company, Central Maine Power Company, Central Vermont Public Service Corporation, Connecticut Light & Power Company, Fitchburg Gas & Electric Light Company, Hudson Light & Power Department, Maine Public Service Company, Massachusetts Municipal Wholesale Electric Company, Montaup Electric Company, New England Power Company, New Hampshire Electric Cooperative, Inc., Public Service Company of New Hampshire, Taunton Municipal Lighting Plant, The United Illuminating Company, Vermont Electric Cooperative, Inc., and Washington Electric Cooperative, Inc.

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This gives notice of positions placed or revoked under Schedules A, B, and C in the excepted service, as required by Civil Service Rule VI, Exceptions from the Competitive Service.

FOR FURTHER INFORMATION CONTACT: William Bohling, 202-632-6000.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management published its last monthly notice updating appointing authorities established or revoked under the Excepted Service provisions of 5 CFR Part 213 on October 29, 1982 (47 FR 49119). Individual authorities established or revoked under Schedules A, B, or C between October 1, 1982 and November 30, 1982 appear in a listing below. Future notices will be published on the fourth Tuesday of each month, or as soon as possible thereafter. A consolidated listing of all authorities will be published as of June 30 of each year.

Schedule A

The following exceptions are established:

Department of Defense

Schedule A authority 213.3106(b)(6) has been revised to allow DOD to appoint dependents of all U.S. personnel assigned overseas (previously applied only to dependents of DOD personnel.) Effective November 1, 1982.

Department of the Interior

Schedule A authority 213.3112 (a)(1) has been revised to permit appointments to continuing, as well as time limited, positions for technical, maintenance, and clerical positions, at or below grades GS–7, WG–10, or equivalent. Effective November 8, 1982. The following exception is revoked:

Merit Systems Protection Board

One Paralegal Specialist, GS–9, Office of the Special Counsel; revoked effective November 22, 1982, because the authority is no longer needed.

Schedule B

The following exception is established:

Export-Import Bank of the U.S.

One position of Food Service Worker, WG–7804–3, in the Office of the President and Chairman. Effective November 12, 1983.

Schedule C

ACTION

One Deputy Assistant Director for Legislative and Governmental Affairs. Effective October 5, 1982.

One Staff Assistant to the Deputy Director. Effector October 6, 1982.

One Special Assistant to the Director. Effective October 15, 1982.

Department of Agriculture

One Private Secretary to the Deputy Assistant Secretary for Food and Consumer Services. Effective October 5, 1982.

One Special Assistant to the Manager, Federal Crop Insurance Corportation. Effective October 5, 1982.

One Special Assistant to the Deputy Assistant Secretary for Administration, Office of Administration. Effective October 6, 1982.

One Private Secretary to the Director, Office of Rural Development Policy. Effective October 6, 1982.

One Staff Assistant to the Special Assistant to the Secretary, Office of the Secretary. Effective October 6, 1982.

One Private Secretary to the Assistant Secretary for Food and Consumer Services. Effective November 1, 1982.

One Confidential Assistant to the Inspector General, Office of the Inspector General. Effective November 8, 1982.

One Secretary (Typing) to the Deputy Assistant Secretary for Administration, Office of the Secretary. Effective November 8, 1982.

One Secretary (Typing) to the Executive Assistant to the Secretary, Office of the Secretary. Effective November 8, 1982.

Department of the Air Force

One Assistant to the Administrator, Rural Electrification Administration. Effective October 22, 1982.

One Special Assistant to the General Counsel of the Air Force, Office of the Secretary of the Air Force. Effective October 28, 1982.

One Staff Assistant to the Secretary of the Air Force, Office of the Secretay of the Air Force. Effective November 22, 1982.

Department of Commerce

One Congressional Liaison Officer, Economic Development Administration. Effective October 5, 1982.

One Special Assistant to the Director, Office of Public Affairs. Effective October 5, 1982.

One Confidential Assistant to the Associate Administrator, National Oceanic and Atmospheric Administration. Effective October 13, 1982.

One private Secretary to the Under Secretary, Office of Economic Affairs. Effective October 15, 1982.

One Deputy director, Office of Business Liaison. Effective October 18, 1982.

One Confidential Assistant to the Associate General Counsel for Legislation and Regulation, Office of the Secretary. Effective November 8, 1982.

One Information Receptionist to the Executive Assistant to the Secretary, Office of the Secretary. Effective November 16, 1982

One Confidential Assistant to the Deputy Assistant Secretary for Industry Projects, International Trade Administration. Effective November 16, 1982.

One Private Secretary and Confidential Assistant to the Deputy Administrator, National Oceanic and Atmospheric Administration. Effective November 16, 1982.

One Secretary to the Deputy Assistant Secretary, International Trade Administration. Effective November 16, 1982.

One Confidential Assistant to the Assistant Secretary for Trade Administration. Effective November 22, 1982.

One Confidential Assistant to the Director General of U.S. and Foreign Commercial Services, International Trade Administration. Effective November 23, 1982.

One Special Assistant to the Secretary of Commerce, Office of the Secretary. Effective November 30, 1982.

One Confidential Assistant to the Deputy Assistant Secretary for East Asia and the Pacific, International Trade Administration. Effective November 30, 1982.

Department of Defense

One Executive Assistant to the Assistant Secretary of Defense (Research and Engineering). Effective October 6, 1982.

One Special Assistant to the Director, Defense Audiovisual Agency. Effective October 21, 1982.

One Private Secretary to the Assistant Secretary of Defense (Development and Support/PDUSD Research and Engineering). Effective November 15. 1982.

Department of Education

One Special Assistant to the Director, Office of Bilingual Education and Minority Languages Affairs. Effective October 6, 1982.

One Confidential Assistant to the Assistant Secretary, Office of Postsecondary Education. Effective October 6, 1982.

One Special Assistant to the Duputy Under Secretary for Planning, Budget and Evaluation. Effective October 6, 1982.

One Personal Assistant to the Duputy Under Secretary for Management. Effective October 8, 1982.

One Special Assistant to the Deputy Under Secretary for Intergovernmental and Interagency Affairs. Effective October 8, 1982.

One Personal Assistant to the Assistant Secretary, Office of Education Research and Improvement. Effective October 12, 1982.

One Confidential Assistant to the Deputy Under Secretary for Intergovernmental and Interagency Affairs. Effective October 13, 1982.

One Special Concerns Officer, Office for Civil Rights. Effective October 14, 1982.

One Personal Assistant to the General Counsel, Office of the General Counsel. Effective October 14, 1982.

One Confidential Assistant to the Assistant Secretary, Office of Educational Research and Improvement. Effective October 18, 1982.

One Special Assistant to the Assistant Secretry for Civil Rights. Effective October 28, 1982.

One Personal Assistant to the Deputy General Counsel, Office of the General Counsel. Effective November 16, 1982.

One Special Assistant to the Assistant Secretary, Office of Educational Research and Improvement. Effective November 22, 1982.

One Confidential Assistant to the Deputy Assistant Secretary, Office of Legislation and Public Affairs. Effective November 22, 1982.

One Confidential Assistant to the Assistant Secretary for Postsecondary Education. Effective November 23, 1982.

One Personal Assistant to the Secretary, Office of the Secretary. Effective November 23, 1982.

One Special assistant to the Deputy Assistant Secretary for Institutional Support and International Education, Office of Postesecondary Education. Effective November 23, 1982.

One Confidential Assistant to the Executive Assistant. Office of the Secretary. Effective November 23, 1982.

One Confidential Assistant to the Director, Regional Liaison Office, Office of the Under Secretary. Effective November 23, 1982.

Department of Energy

One Staff Assistant to the Administrator, Economic Regulatory Administration. Effective October 5, 1982.

One Chief, Secretarial Travel Branch, Office of Congressional, Intergovernmental, and Public Affairs. Effective October 5, 1982.

One Special Assistant to the Administrator, Bonneville Power Administration. Effective October 18, 1982.

Department of Health and Human Services

One Special Assistant to the Director, Office for Civil Rights. Effective October 6, 1982.

One Public Affairs Specialist, Office of Human Development Services. Effective October 21, 1982.

One Deputy Director, Office of Legislation and Policy. Effective November 16, 1982.

One Confidential Assistant to the Deputy Assistant Secretary for Planning and Evaluation (Health). Effective October 29, 1982.

Department of Housing and Urban Development

One Special Assistant to the Assistant Secretary for Fair Housing and Equal Opportunity. Effective October 5, 1982.

One Staff Assistant to the Comptroller of the Solar Bank, Solar Energy and Energy Conservation Bank (SE&ECB). Effective October 6, 1982.

One Special Assistant to the Regional Administrator, Office of the Regional Administrator. Effective October 15, 1982.

One Special Assistant to the Assistant Secretary for Policy Development and Research. Effective October 20, 1982.

One Staff Assistant to the Deputy Assistant Secretary for Housing Studies. Effective October 21, 1982.

One Staff Assistant to the President, Government National Mortgage Association. Effective October 22, 1982.

One Staff Assistant to the Assistant Secretary for Policy Development and Research. Effective October 25, 1982.

One Special Assistant to the Secretary (Executive Secretariat Operations), Office of the Assistant Secretary for Administration. Effective October 26, 1982.

One Senior Assistant for Legislation to the Deputy Assistant Secretary for Legislation, Office of Legislation and Congressional Relations. Effective October 26, 1982.

One Senior Legislative Specialist, Office of Legislation and Congressional Relations. Effective October 26, 1982.

One Senior Legislative Specialist, Office of Legislation and Congressional Relations. Effective October 26, 1982.

One Assistant for Congressional Relations to the Deputy Assistant Secretary for Congressional Relations, Office of Legislation and Congressional Relations. Effective November 1, 1982.

One Special Advisor for Minority Programs, Office of the Deputy Secretary for Intergovernmental Relations. Effective November 10, 1982.

One Public Affairs Specialist, Office of Public Affairs. Effective November 15, 1982.

One Assistant for Congressional Relations to the Deputy Assistant Secretary for Congressional Relations, Office of Legislation and Congressional Relations. Effective November 19, 1982.

One Special Assistant to the General Deputy Assistant Secretary for Housing-Deputy Federal Commissioner, Office of the Assistant Secretary for Housing. Effective November 29, 1982.

One Staff Director to the Regional Administrator, Region II, in New York, Office of the Regional Administrator/Chairman. Effective November 29, 1982.

Department of the Interior

One Special Programs Liaison, Office of the Associate Director. Effective October 4, 1982.

One Special Assistant to the Assistant Secretary, Office of the Secretary. Effective October 6, 1982.

Department of Justice

One Assistant to the Director of Congressional and Public Affairs, Immigration and Naturalization Service. Effective October 6, 1982.

One Special Assistant to the Commissioner, Immigration and Naturalization Service. Effective October 6, 1982.

One Special Assistant to the Director, Women's Bureau. Effective October 6, 1982.

One Staff Assistant to the Counselor, Office of the Attorney General. Effective October 15, 1982.

One Confidential Assistant to the Assistant Attorney General, Office of Legal Policy. Effective October 19, 1982.

One Attorney-Advisor to the Assistant Attorney General, Civil Rights Division. Effective November 5, 1982.

One Special Assistant (Security) to the Associate Commissioner for Enforcement. Effective November 5, 1982.

Department of Labor

One Secretary to the Secretary of Labor. Effective October 12, 1982.

One Confidential Staff Assistant to the Director, Office of Workers' Compensation Programs. Effective October 20, 1982.

One Private Secretary to the Deputy Under Secretary, Office of the Deputy Under Secretary. Effective November 1, 1982.

Department of State

One Congressional Relations Specialist, Bureau of International Organization Affairs. Effective October 6, 1982.

One Member, Policy Planning Staff. Effective October 12, 1982.

One Special Assistant to the Assistant Secretary, Bureau of International Organization Affairs. Effective October 12, 1982.

One Special Assistant to the Assistant Secretary, Bureau of International Organization Affairs. Effective October 12, 1982.

One Staff Assistant to the Counselor, Counselor of the Department. Effective October 13, 1982.

One Assistant to the Under Secretary for Security Assistance, Science and Technology. Effective October 13, 1982.

One Protocol Officer (Visits), Office of the Chief of Protocol. Effective October 15, 1982.

One Deputy Assistant Secretary, Bureau of Human Rights and

Humanitarian Affairs. Effective October 25, 1982.

One Special Assistant to the Assistant Secretary, Bureau of Economic and Business Affairs. Effective November 3, 1982.

One Staff Assistant to the Assistant Secretary, Office of the Assistant Secretary for Congressional Relations. Effective November 18, 1982.

One Policy and Program Officer, Bureau of Human Rights and Humanitarian Affairs. Effective November 17, 1982.

One Special Assistant to the Under Secretary, Office of the Under Secretary for Management. Effective November 23, 1982.

One Special Assistant to the Assistant Secretary, Bureau of Ocean and International Environmental and Scientific Affairs. Effective November 29, 1982.

Department of Transportation

One Special Assistant to the Director, Office of Public Affairs. Effective October 1, 1982.

One Special Assistant to the Regional Representative of the secretary in Fort Worth, Texas. Effective October 4, 1982.

One Confidential Assistant (Senior Economic Advisor) to the Maritime Administrator. Effective October 6, 1982.

One Congressional Liaison Specialist, Office of Congressional Affairs. Effective October 26, 1982.

One Confidential Assistant to the Secretary, Office of the Secretary. Effective November 8, 1982.

One Special Assistant to the Administrator, in San Francisco, California, Urban Mass Transportation Administration. Effective November 8, 1982.

One Special Assistant to the Assistant Secretary for Budget and Program. Effective November 29, 1982.

Department of the Treasury

One Special Assistant to the Assistant Secretary, Office of the Assistant Secretary (Public Affairs). Effective October 14, 1982.

One Special Assistant to the Director of the Mint, Office of the Director. Effective October 21, 1982.

One Executive Assistant to the Commissioner of Customs, Office of the Commissioner. Effective November 8, 1982.

Appalachian Regional Commission

One Public Affairs Liaison. Effective October 4, 1982.

Commodity Futures Trading Commission

One Administrative Assistant to the Commissioner, Office of Commissioner West. Effective October 29, 1982.

Consumer Product Safety Commission

One Staff Assistant to the Commissioner. Effective November 17, 1982.

Equal Employment Opportunity Commission

One Public Affairs Specialist, Office of Public Affairs. Effective October 6, 1982.

Environmental Protection Agency

One Special Assistant to the Administrator, Office of the Administrator. Effective October 25, 1982.

One Special Assistant to the Chief of Staff, Office of the Administrator. Effective October 26, 1982.

Executive Office of the President

One Confidential Secretary to the General Counsel, Office of Administration. Effective October 4, 1982.

One Secretary (Typing) to the Deputy Director, Office of Science and Technology Policy. Effective October 15, 1982.

One Secretary to the Deputy Director, Office of Management and Budget. Effective October 20, 1982.

One Legislative Assistant to the Assistant Director for Legislative Affairs, Office of Management and Budget. Effective October 22, 1982.

One Secretary to the Assistant Director, Office of Management and Budget. Effective November 1, 1982.

One Secretary to the Deputy Director, Office of Management and Budget. Effective November 12, 1982.

One Clerk, Legislative Affairs, Office of Management and Budget. Effective November 22, 1982.

One Secretary to the Associate Director, NSIA, Office of Management and Budget. Effective November 22, 1982.

One Public Affairs Specialist, Office of Management and Budget. Effective November 30, 1982.

Export-Import Bank of the U.S.

One Staff Assistant to the Assistant Director for Multilateral Affairs, Office of Administration. Effective November 30, 1982.

Federal Maritime Commission

One Special Assistant to the Chairman, Office of the Chairman. Effective November 15, 1982.

Federal Mine Safety and Health Review Commission

One Secretary (Steno) to the Commissioner. Effective October 22, 1982.

General Services Administration

One Special Assistant to the Commissioner, Public Buildings Service. Effective October 4, 1982.

One Deputy Director, Office of Public Affairs. Effective November 15, 1982.

One Special Assistant to the Administrator, Office of the Administrator. Effective November 23, 1982.

Harry S. Truman Scholarhip Foundation

One Secretary (Stenography) to the Executive Secretary. Effective October 26, 1982.

National Endowment for the Arts

One Executive Director to the President's Committee on the Arts and Humanities. Effective October 8, 1982.

National Endowment for the Humanities

One Special Assistant to the Chairman, Office of the Chairman. Effective November 22, 1982.

National Credit Union Adminstration

One Special Assistant to the National Credit Union Administration Board Member. Effective October 15, 1982.

Office of Personnel Management

One Confidential Assistant to the General Counsel, Office of the General Counsel. Effective October 29, 1982.

One Regional Representative of the Director in New York, Office of the Director. Effective November 4, 1982.

One Regional Representative of the Director in Philadelphia, Pennsylvania, Office of the Director. Effective November 4, 1982.

One Regional Representative of the Director in Chicago, Illinois, Office of the Director. Effective November 4, 1982.

One Regional Representative of the Director in Denver, Colorado, Office of the Director. Effective November 4, 1982.

One Regional Representative of the Director in San Francisco, California, Office of the Director. Effective November 4, 1982.

President's Commission on Executive Exchange

One Staff Assistant to the Executive Director. Effective November 5, 1982.

One Secretary (Typing) to the Executive Director. Effective November 12, 1982.

Small Business Administration

One Special Assistant to the Administrator, Office of the Administrator. Effective October 15, 1982.

One Director of Congressional Relations, Office of Congressional and Legislative Affairs. Effective November 8, 1982.

One Director of Private Sector Initiatives, Office of Private Sector Initiatives. Effective November 12, 1982.

One Congressional Relations Specialist, Office of Congressional Relations. Effective November 15, 1982.

One Assistant Administrator for Public Communications, Office of Public Communications. Effective November 16, 1982.

One Confidential Assistant to the Associate Deputy Administrator for Special Programs, Office of the Administrator. Effective November 16, 1982.

One Special Assistant to the Director of Public Communications, Office of Public Communications. Effective November 22, 1982.

U.S. Information Agency

One Counselor for Press and Public Affairs in New York, New York, Office of Personnel. Effective October 6, 1982.

One Staff Assistant to the Associate Director for Programs, Office of Personnel. Effective October 5, 1982.

One Confidential Assistant to the Associate Director for Broadcasting. Effective October 25, 1982.

One Special Assistant to the General Counsel, Office of the General Counsel and Congressional Liaison. Effective November 22, 1982.

One Special Assistant to the Associate Director for Broadcasting, Bureau of Broadcasting. Effective November 30, 1982.

U.S. Arms Control and Disarmament Agency

One Congressional Affairs Specialist, Office of Administration. Effective November 29, 1982.

One Special Assistant to the Assistant Director for Multilateral Affairs, Office of Administration. Effective November 30, 1982.

One Staff Assistant to the Assistant Director for Multilateral Affairs, Office of Administration. Effective November 30, 1982.

One Private Secretary to the Principal Deputy Assistant Secretary (International Security Policy). Effective November 19, 1982.

Veterans Administration

One Confidential Assistant to the Administrator of Veterans Affairs, Office of the Administrator. Effective October 4, 1982.

One Confidential Assistant to the Associate Deputy Administrator for Administration, Office of the Administrator. Effective October 12, 1982.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 216)

Office of Personnel Management

Donald J. Devine,

Director.

[FR Doc. 82-35055 Filed 12-27-82; 8:45 am]

BILLING CODE 6325-01-M

POSTAL SERVICE

Increase in Rates for Preferred-Rate Mailers Caused by Decrease in Congressional Subsidy

AGENCY: Postal Service.

ACTION: Notice of Increases in Preferred Postage Rates.

SUMMARY: This is to give notice that postage rates for preferred-rate mailers will be increased, as the result of the continuing resolution H.J. Res. 631, signed into law on December 21, 1982. The increase in postage rates is required to make up the difference between the amount of revenue forgone subsidy appropriated by Congress in the continuing resolution and the amount which is authorized to be appropriated by 39 U.S.C. 2401(c). The new rates are contained in the Appendix to this notice.

EFFECTIVE DATE: 12:01 a.m., January 9, 1983.

FOR FURTHER INFORMATION CONTACT: Don S. Allen, (202) 245–4418.

SUPPLEMENTARY INFORMATION: H.J. Res. 631 sets forth the revenue forgone appropriation for the Postal Service for free and reduced-rate mail. The amount appropriated is less than that authorized under 39 U.S.C. 2401(c). Therefore, in accordance with 39 U.S.C. 3627, the Board of Governors of the Postal Service met on December 21, 1982, and adopted the following Resolution.

In keeping with H.J. Res. 631 (97th Congress), Further Continuing Appropriations, 1983, which provides that postal rates for all preferred rate mailers covered by section 3626 of title 39, United States Code, shall be at step 14, the rates for all preferred rate categories will be adjusted to the step 14 level of the schedules contained in Appendix Two of the Governors' Decision of September 29, 1981 (46 FR 51091–92). The adjustments shall become effective at 12:01 A.M. on January 9, 1983.

Accordingly, effective at 12:01 a.m. on January 9, 1983, the rates for all preferred-rate categories are adjusted to the step 14 level. The new rates are contained in the Appendix to this notice (39 U.S.C. 401, 403, 404, 2401(c), 3626, 3627).

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

APPENDIX

Schedule 1.—Second-Class Rates: In-County

	In cents
Per pound	4.1
Per piece:	
Presorted to carrier route	2.1
Other	2.6

Schedule 2.—Second-Class Rates: Publications of Authorized Nonprofit Organizations, Outside County

	In cents
Editorial	8.0
Advertising:	
1 and 2	11.0
3	11.7
4	13.0
5	14.9
6	16.7
7	18.8
8	20.7
Pieces:	
A	5.9
B	4.3
C	3.3

Schedule 3.—Second-Class Rates: Classroom Publications

	In cents
Editorial	4.7
Advertising:	
1 and 2	5.2
3	6.9
4	8.2
5	10.1
6	12.3
7	14.5
8	16.6
Piece	2.6

Schedule 4.—Second-Class Rates: Regular Rate Publications Outside County

	In cents
Science of agriculture: Advertising to zones 1 and 2	11.0
Limited circulation:	
A	5.1
B	3.5
C	3.0

Schedule 5.—Third-Class Rates: Nonprofit Bulk

	In cents
Per pound[1]	23.9
Minimum per-piece:	
Required presortation	5.2
Presorted to 5-digits	4.3
Presorted to carrier route	3.5

[1] Less the amount of difference between the minimum per-piece rates for required presortation and the appropriate presortation level on a per-piece basis.

Schedule 6.—Fourth-Class Rates: Library

	In cents
1st pound	34
Each additional pound through 7 pounds	11

Schedule 6.—Fourth-Class Rates: Library— Continued

	In cents
Each additional pound	7

[FR Doc. 82-35086 Filed 12-27-82; 8:45 am]
BILLING CODE 7710-12-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 22771; (70-6791)]

Consolidated Natural Gas Co. and CNG Development Co.; Proposal To Finance Gas Exploration Operations of Newly Organized Nonutility Subsidiary

December 10, 1982.

Consolidated Natural Gas Company ("Consolidated"), 100 Broadway, New York, New York 10005, a registered holding company, and its nonutility subsidiary CNG Development Company ("CNGD"), Four Gateway Center, Pittsburgh, Pennsylvania 15222, have filed with this Commission an application-declaration and amendments thereto pursuant to Sections 6(a), 7, 9(a), 10 and 13 of the Public Utility Holding Company Act of 1935 ("Act") and Rules 50(a)(3), 86, 87, 90 and 91 promulgated thereunder.

Consolidated proposes to finance the start-up operations of its newly organized subsidiary CNGD, which will engage in natural gas and oil exploration in several Appalachian States including West Virginia, Pennsylvania, Ohio and New York. Consolidated intends to purchase, for an amount not to exceed $20 million, up to 200,000 shares of CNGD's common stock, $100 par value per share, during the period ending May 31, 1983. CNGD will use the proceeds from the sale of common stock for the drilling of wells, operation and maintenance expenses, working capital purposes, and the acquisition of gas exploration leases exclusively from nonaffiliated persons. By post-effective amendment, CNGD may seek authorization to acquire producing or undeveloped leases, in the Appalachian region, from affiliated subsidiaries. CNGD will sell the gas it produces primarily to Consolidated's utility subsidiaries and their suppliers.

Consolidated has advanced the following reasons for the proposed transactions: (1) A desire to centralize into one subsidiary all exploration, development, leasing and related activities in the Appalachian region; (2) Consolidated's only other production subsidiary, CNG Producing Company ("CNG Producing"), is currently focusing its primary exploration operations in the Gulf of Mexico where geology, operations and drilling techniques differ substantially from the Appalachian region; and (3) several operating subsidiaries of Consolidated possess personnel with many years of experience in Appalachian drilling activities.

It is anticipated that qualified management personnel, scientists and engineers involved in production activities will be transferred permanently to CNGD from various utility subsidiaries including Consolidated Gas Supply Corporation ("Supply"), The East Ohio Gas Company ("East Ohio"), and The Peoples Natural Gas Service Company ("Peoples"). Consolidated Natural Gas Service Company ("Service") will provide certain management and administrative services to CNGD under a service agreement in the same form as existing agreements between Service and other subsidiaries of Consolidated. Supply will render certain legal, accounting and other services to CNGD under an agreement in the same form as an existing agreement for such services between Supply and CNG Producing. All such services will be accounted for and charged in accordance with the cost reimbursement requirements of Rules 90 and 91 under the Act.

It also indicated that, because of the resulting concentration of engineering and technical personnel in CNGD, it may provide under contract to Supply, Peoples and East Ohio, certain technical services related to the production or drilling operations of these subsidiaries. CNGD will provide such services only at the request of the subsidiary and at cost in accordance with the above-cited rules. However, in no event will charges by CNGD exceed the total expense that would have been incurred by the subsidiary had the service been performed by that subsidiary's own internal staff.

The application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by January 5, 1983, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve copies on the applicants-declarants at the addresses specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as amended, or as it may be further amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82-35086 Filed 12-27-82; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 34-19330; File No. SR-NASD-80-10]

Self-Regulatory Organizations; Proposed Rule Change; National Association of Securities Dealers, Inc., Relating to Options in NASDAQ NMS Index

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on December 1, 1982, the National Association of Securities Dealers, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

This rule filing involves the addition of the NASDAQ NMS Indices to Exhibit A of the NASD's Options filing which designated those NASDAQ indices which the NASD proposes to trade options in.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purposes of, and basis for the proposed rule change. The texts of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B and C below of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

The Association has determined to create various NMS Indices and to trade

options on them. The purpose of an NMS Index Option would be identical to that of the other NASDAQ Index Options, i.e., to provide an opportunity for investors and market makers to hedge their positions against the systematic risk associated with holding NASDAQ NMS securities.

Statutory Basis—The proposed rule change is consistent with the provisions of Sections 15A(b)(2), 15A)(b)(6) and 15A(b)(7) of the Act in providing a system of regulation for trading in NASDAQ Index Options Contracts.

B. Self-Regulatory Organization's Statement on Burden on Competition

As stated in Amendment No. 1, the NASD does not believe that the trading of options on NASDAQ indices, including NMS Indices, will impose any burden on competition, but will, in fact, increase competition by creating a market that does not exist.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period: (i) As the Commission may designate up to 90 days of such date if it finds a much longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 5th Street, N.W., Washington, D C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication. For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: December 13, 1982.

George A. Fitzsimmons,

Secretary.

Exhibit A

NASDAQ NMS Composite Index
NASDAQ NMS Industrial Index
NASDAQ NMS Bank Index
NASDAQ NMS Insurance Index
NASDAQ NMS Other Financial Index
NASDAQ NMS Transportation Index
NASDAQ NMS Utilities Index

[FR Doc. 82-35087 Filed 12-27-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 19351; (SR-Phlx-82-2)]

Philadelphia Stock Exchange, Inc.; Order Approving Proposed Rule Change

December 20, 1982.

The Philadelphia Stock Exchange, Inc. ("Phlx") 1900 Market Street, Philadelphia, PA 19103, submitted on October 28, 1982, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder, to amend its by-laws and rules relating to the disciplinary procedures of the exchange. The proposed amendments would provide for the appointment on a case-by-case basis of hearing panels that would conduct the hearing of disciplinary cases and recommends decisions to the Phlx Business Conduct Committee; give the Phlx Business Conduct Committee exclusive jurisdiction to to render the initial decision in disciplinary cases; establish a new Phlx standing committee, the Disciplinary Review Committee, that would have jurisdiction to review on appeal decisions of the Business Conduct Committee; leave with the Phlx Board of Governors authority to review on its own motion all decisions in disciplinary cases; narrow the class of disciplinary cases that may give rise to Phlx's summary judgment procedures; clarify Phlx's pre-hearing procedures; and clarify when a respondent in a disciplinary case defaults and the consequences of such a default. In addition, the Phlx proposes to adopt a rule specifically prohibiting conduct inconsistent with just and equitable principles of trade.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission Release (Securities Exchange Act Release No. 19225, November 8, 1982) and by publication in the **Federal Register** (47 FR 51979, November 18, 1982). No comments were received with respect to the proposed rule change.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6 and the rules and the regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-35085 Filed 12-27-82; 8:45 am]

BILLING CODE 8010-01-M

[File No. 1-5833]

Sonat Offshore Drilling Inc. (5% Convertible Subordinated Debentures (due 12-1-92)); Application to Withdraw from Listing and Registration

December 20, 1982.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

Sonat Offshore Drilling Inc. ("Company") has determined to remove its debentures for listing and registration on the Amex because during the calendar year 1981 and the nine months ended September 30 1982, only $86,000 and $61,000 principal amount, respectively, of the debentures were traded on the Amex. In addition, as of

September 14, 1982, there was $1,568,000 of the debentures outstanding and held by approximately 147 holders of record. In this regard, the Company believes that the cost and expenses of continued listing on the Amex is not justifies. The Amex has no objection to this matter.

Any interested person may, on or before January 12, 1983, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimons,

Secretary.

[FR Doc. 82-35084 Filed 12-27-82; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice CM-8/588]

Modem Working Party of Study Group D, U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT); Meeting

The Department of State announces that the Modem Working Party of Study Group D of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on January 6 and 7, 1983 at the Sheraton Sand Key Hotel, Clearwater, Florida. Meetings will start at 9:00 a.m. on both days.

Study Group D deals with telecommunication matters relating to the development of international digital data transmission services; the Modem Working Party reviews actual and proposed CCITT recommendations pertaining to the specifications and use of modems in data transmission.

Members of the general public may attend the meeting and join in the discussion subject to instructions of the Chair. Requests for further information may be directed to Thijs de Haas, Chairman of U.S. CCITT Study Group D, Institute for Telecommunication Sciences, National Telecommunications and Information Administration, Boulder, Colorado 80303, telephone (303) 499-1000, ext. 3728.

Dated: December 9, 1982.

Arthur L. Freeman,

Director, Office of International Communications Policy.

[FR Doc. 82-35048 Filed 12-27-82; 8:45 am]

BILLING CODE 4710-07-M

[Public Notice CM-8/587]

Study Group A, U.S. Organization for the International Telegraph and Telephone Consultative Committee (OCITT); Meeting

The Department of State announces that Study Group A of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (OCITT) will meet on January 7 and 18, 1983, 10:00 a.m. in Room 856 of the Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. This Study Group deals with U.S. Government aspects of international telegram and telephone operations and tariffs.

The Study Group will discuss international telecommunications questions relating to telegraph, telex, new record services, data transmission and leased channel services in order to develop U.S. positions to be taken at upcoming international Study Groups I and III meetings.

Members of the general public may attend the meeting subject to the instruction of the Chairman. Admittance of public members will be limited to the seating available. Requests for further information should be directed to Earl S. Barbely, Conference Staff, Federal Communications Commission, Washington, D.C. 20554, telephone (202) 632-3214.

Dated: December 9, 1982.

Arthur L. Freeman,

Director, Office of International Communications Policy.

[FR Doc. 82-35047 Filed 12-27-82; 8:45 am]

BILLING CODE 4710-07-M

SYNTHETIC FUELS CORPORATION

Synthetic Fuel Projects; Third Solicitation; Extension of Time for Submission of Microfiche Copies of Proposals

AGENCY: United States Synthetic Fuels Corporation.

ACTION: The time for submission of microfiche copies of proposals under Third Solicitation for Synthetic Fuel Project proposals extended from January 10, 1983 to February 10, 1983.

SUMMARY: Notice is hereby given that the Synthetic Fuels Corporation has extended from January 10, 1983 to February 10, 1983 the date by which microfiche copies of proposals under the Statement of Programmatic Objectives and Third Solicitation for Synthetic Fuels Projects issued August 19, 1982 must be submitted to the Corporation. This extension of time for the submission of microfiche copies does not affect the requirement contained in said solicitation that four print copies of complete proposals must be submitted to the Corporation by 5:00 p.m. (EST), January 10, 1983, addressed to: Projects Office, United States Synthetic Fuels Corporation, 2121 K Street, NW., Fourth Floor, Washington, D.C. 20586.

FOR FURTHER INFORMATION CONTACT: Ralph L. Bayrer, Vice President for Projects, United States Synthetic Fuels Corporation, 2121 K Street, NW., Washington, D.C. 20586, (202) 822-6436.

United States Synthetic Fuels Corporation.

Jimmie R. Bowden,

Executive Vice President.

[FR Doc. 82-35136 Filed 12-27-82; 8:45 am]

BILLING CODE 0000-00-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Trade Policy Staff Committee Review; Review and Solicitation of Public Comment Regarding the Proposed Modification of the List of Articles Eligible For Duty-Free Treatment Under the U.S. Generalized System of Preferences to Remove High Carbon Ferromanganese

Notice is hereby given that the Trade Policy Staff Committee (TPSC) has initiated a review of the removal of high carbon ferromanganese classified under TSUS 606.30 of the Tariff Schedules of the United States Annotated from the list of products currently eligible for duty-free treatment under the U.S. Generalize System of Preferences (19 U.S.C. 2461-2465). Interested parties are requested to provide written comments to the TPSC regarding the removal of this product from the GSP not later than February 1, 1983. A public hearing on the proposed modification will not be scheduled unless specifically requested by an interested party.

All submissions should conform to 15 CFR 2003.2 and be submitted in twenty copies, in English, to the Chairman of the GSP Subcommittee of the Trade Policy Staff Committee. Information

submitted in connection with the proposed modification will be subject to public inspection by appointment with the staff of the GSP Information Center, except for information granted "business confidential" status pursuant to 15 CFR 2003.6 and 15 CFR 2007.7. Parties submitting briefs or statements containing confidential information must indicate clearly on the cover page of each of the twenty copies submitted and each page within the document, where appropriate, that confidential materials are included. Non-confidential summaries of all confidential material must be submitted in twenty copies, in English, at the same time that confidential submissions are filed.

All communications with regard to the proposed modification should be addressed to GSP Subcommittee, Office of the United States Trade Representative, 600 17th Street NW., Room 316, Washington, D.C. 20506. The telephone number of the GSP Subcommittee is (202) 395–6971. Questions may also be directed to any member of the staff of the GSP Information Center.

Frederick L. Montgomery,

Chairman, Trade Policy Staff Committee.

[FR Doc. 82-35091 Filed 12-27-82; 8:45 am]

BILLING CODE 3190-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[Delegation Order No. 42 (Rev. 17); Effective December 21, 1982]

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: The authority to execute consents fixing the period of limitations on assessment or collection under provisions of the 1939 and 1954 Internal Revenue Codes on cases under their jurisdiction can be redelegated by a Service Center Director but not below Returns Program Managers and by a District Director but not below Examination Support Staff/Section Revenue Agent (Tax Shelter), Grade GS–11. The text of the delegation order appears below.

EFFECTIVE DATE: December 21, 1982.

FOR FURTHER INFORMATION CONTACT: A. Duarte, OP:EX:G:E, 1111 Constitution Ave., N.W., Room 2010, Washington, D.C. 20224, Telephone number, 202–566–3632 (Not a Toll-Free telephone number)

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury directive appearing in the **Federal Register** for Wednesday, November 8, 1978.

Frederic P. Williams,

Deputy Assistant Commissioner (Examination).

Authority to Execute Consents Fixing the Period of Limitations on Assessment or Collection Under Provisions of the 1939 and 1954 Internal Revenue Codes

1. Pursuant to authority vested in the Commissioner of Internal Revenue by Treasury Department Order No. 120; Order No. 150–2; 26 CFR 301.6501(c)–1; 26 CFR 301.6502–1; 26 CFR 301.6901–1(d); and 26 CFR 301.7701–9; the authority to sign all consents fixing the period of limitations on assessment or collection is delegated to the following officials:

a. Chief Counsel
b. Regional Counsels
c. Regional Directors of Appeals
d. Service Center Directors
e. District Directors

2. This authority may be redelegated but not below the following levels for each activity:

a. Service Centers—Chief, Accounting Branch; Chief, Correspondence and Processing Section; Revenue Officers; Chief, Quality Review Staff; and Returns Program Managers;

b. Collection—Chiefs, Office Branches and Office Groups; Revenue Officers; Chiefs, Technical and Office Compliance Branches and Groups; Revenue Representative Supervisors;

c. Examination—Reviewers, Grade GS–11; Group Managers; Case Managers; Returns Program Managers; Classifiers/Screeners, Grade GS–11; and Examination Support Staff/Section Revenue Agent (Tax Shelter), Grade GS–11;

d. Criminal Investigation—Chiefs, Criminal Investigation Divisions, except this authority in streamlined districts is limited to the District Director;

e. Appeals—Appeals Officers;

f. Foreign Operations District—Representatives at foreign posts; Revenue Agents, Tax Auditors, and Special Agents on foreign assignments; and levels b, c, and d, above; and

g. District Employee Plans and Exempt Organizations—Reviewers, Grade GS–11; Group Managers.

3. No authority is delegated under this Order to the District Counsel.

4. This Order supersedes Delegation Order No. 42 (Rev. 16), issued March 21, 1982.

Issued: December 21, 1982.

James I. Owens,

Deputy Commissioner.

[FR Doc. 82-35086 Filed 12-27-82; 8:45 am]

BILLING CODE 4830-01-M

Office of the Secretary

[Number: 150–87]

Authority for Commissioner of Internal Revenue to Undertake Certain Tax Audits and Checks and to Furnish Tax Return Information Related Thereto to Assistant Secretary (Administration) and Others

November 23, 1982.

In accordance with the authority vested in me as Secretary of the Treasury, including 26 U.S.C. 7602, 26 U.S.C.6103(c) and (g)(2), 31 U.S.C. 321(b), Executive Order No. 11222, 31 CFR Part C, and for the purpose of promoting public confidence in the Department of the Treasury and its administration of the Federal tax system, it is hereby ordered that:

1. *Introduction*—The Commissioner of Internal Revenue shall conduct tax audits, tax checks and income tax filing record checks as provided for by this Order.

2. *Definitions*—As used in this Order, the term:

a. "Income tax filing record check" means a search by IRS of its records to verify that a tax return has been filed with it for the immediately preceding year.

b. "Tax Audit" means a review by IRS to determine the correct Federal income tax liability of an individual for the immediately preceding two years.

c. "Tax Check" means a search by IRS of its records to determine:

(1) Whether the individual has filed returns with respect to Federal income taxes for the immediately preceding three years;

(2) whether there has been a failure to pay any tax within 45 days after notice and demand, or whether there has been assessed a penalty under the Internal Revenue Code of 1954, as amended, for negligence in the current year or immediately preceding three years;

(3) whether there is a record of an investigation for possible criminal offenses under the Internal Revenue laws, and the results of any such investigation; and

(4) whether there is a record of a civil penalty assessed, or proposed for assessment, under the Internal Revenue Code of 1954, as amended, for fraud.

3. *Tax Audits*—a. Prior to the nomination by the President of a person to a position in the Department or an international financial institution, the Commissioner, upon request therefor as provided in section 6.b. of this Order, shall cause a tax audit to be performed.

b. Prior to the appointment by the Secretary (or as soon thereafter as practicable) of a person to a position:

(1) Of a confidential or policy determining character (Schedule C or Noncareer Executive Assignment) with the Department at Grades GS–14 through 18, inclusive, SES levels 1 through 6, or Executive Schedule Levels V and IV, or similar position on other pay systems compensated at comparable rates, or

(2) With an international financial institution, the Commissioner, upon request therefor as provided in section 6.b. of this Order, shall cause a tax audit to be performed.

c. Promptly after the effective date of this Order, the Commissioner, upon request therefor as provided in section 6.b. of this Order, shall cause a tax audit to be performed with respect to each person who was not audited under provisions of Treasury Department Order No. 150–87 of July 29, 1977 prior to this Order being issued, and who has entered on duty in a position described in subsection a. or b. of this section.

4. *Tax Checks*—a. On an annual basis, and as close to the anniversary date of the appointment to the position as is practicable, the Commissioner, upon request therefor as provided in section 6.b. of this Order, shall cause a tax check with respect to the immediately preceding year to be performed with respect to each person who then continues to serve in a position described in section 3. of this Order.

b. Prior to effectuation of a personnel action assigning a person to any category of positions as specified below, the Commissioner, upon request therefor as provided in section 6.b. of this Order, shall cause a tax check to be performed with respect to each person selected:

(1) By the President or the Secretary or his designees to a position described in section 3. of this Order;

(2) For initial entry into any position at any grade from GS–14 through 18, inclusive, SES levels 1 through 6 or Executive Schedule Levels V and IV, or similar positions in other pay systems compensated at comparable rates; and

(3) For initial appointment as an expert, consultant, or advisory committee member.

5. *Income Tax Filing Record Checks*—Prior to a person entering on duty in a position by appointment or promotion from within the Department and on an annual basis, as close to the anniversary date of the appointment to a position as is practicable, the Commissioner, upon request therefor as provided in section 6.b. of this Order, shall cause an income tax filing record check to be performed with respect to each person who then continues to serve in a position desribed in section 4.b.(2) or (3) of this Order.

6. *Procedure*—a. The Assistant Secretary (Administration), or his designee, shall request each person subject to a tax audit or tax check (or both) under this Order to execute an appropriate form providing the information necessary to identify the person and locate his or her tax records and authorizing the disclosure of tax return information as provided in this Order. The original of the executed form shall remain on file with the Assistant Secretary (Administration), or his designee. A copy of the executed form shall accompany each request to the Commissioner for a tax audit or tax check. If the person declines to execute the form, the tax audit or tax check (or both) shall nevertheless be performed as specified in this Order based on such information as is avilable from other sources.

b. The Commissioner shall cause a tax audit or check (or both), as appropriate under this Order, to be made upon receipt of a request therefor from the Assistant Secretary (Administration), or his designee.

c. Upon completion of such tax audit or check (or both), the results shall be forwarded (if an appropriate disclosure authorization has been executed), for information purposes, to the Assistant Secretary (Administration), or his designees; or as requested; or to IRS officers. This shall be done in a manner consistent with sections 7. and 8. of this Order.

d. In the case of income tax filing record checks, a list of the names and social security numbers of those persons for whom such checks are to be made shall be furnished to the Commissioner, or his designee, on a staggered basis throughout the year by the Assistant Secretary (Administration), or his designee. Upon receiving these lists, the Commissioner shall cause, as soon as is practicable, a tax filing record check to be made on each person listed.

e. Upon completion of such income tax filing record checks, the results shall be forwarded to IRS officers for appropriate tax administration enforcement action, if warranted, in accordance with section 8. of this Order.

7. *Disclosure*—To the extent permitted by the executed disclosure authorization, the Commissioner, or his designee, shall furnish the results of a tax audit or tax check in summary form to the Assistant Secretary (Administration), or his designee. The underlying documentation including audit reports, tax returns and return information shall also be furnished to the Assistant Secretary (Adminstration), or his designee, when specifically requested in writing by the Assistant Secretary (Administration). Any or all of the same information shall similarly be furnished directly to:

a. The President,

b. Representatives of the Executive Office of the President,

c. The Secretary, or

d. The Deputy Secretary,

when the Commissioner is requested to do so, in writing, by the Assistant Secretary (Administration). The Assistant Secretary (Administration) may also provide this information, on his own initiative, to any of the above persons or other Treasury officers who have a need to know such information, such as those exercising personnel administration functions in the various Bureaus or Offices of the Department.

8. *Non-disclosure*—In any instance in which a tax audit or tax check has been performed by the Internal Revenue Service, and no individually signed disclosure authorization has been provided, and in the case of income tax filing record checks, the results of such tax audit or tax check or income tax filing record checks shall not be disclosed under this Order to anyone not employed by the Internal Revenue Service, but such results shall be furnished to appropriate officials of the Internal Revenue Service for such tax administration enforcement action as is warranted.

9. *Circumstances Warranting Immediate Disclosure*—a. The Commissioner shall on his own initiative furnish to the Assistant Secretary (Administration), immediately following the event, the information that a civil penalty for fraud has been assessed, or is proposed for assessment, or an investigation for a possible criminal offense under the internal revenue laws has been commenced or completed with respect to any Treasury officer, employee, consultant, advisory committee member, or other person serving in the Department or an international financial institution and described in section 3. or 4. of this Order, who has provided a written disclosure authorization under section 6.a. of this Order. Such information shall not be furnished under this Order with respect to a person who has not provided an individually signed disclosure authorization.

b. The Commissioner shall on his own initiative furnish information that a civil penalty for fraud has been assessed, or is proposed for assessment, or an investigation for a possible criminal offense under the internal revene laws

has been commenced or completed with respect to any Treasury officer, employee, or other person serving in the Department described in section 3. or 4. of this Order. The Inspector General is also designated to receive any underlying documentation and same will be provided directly to the Inspector General by the Internal Revenue Service when the Inspector General specifically requests such information in writing.

Additionally, the Inspector General is authorized to furnish such information to any persons specified in section 7. of this Order or other Treasury officers who have a need to know such information to the same extent that I have authority under such order to furnish others with such information. Such information shall not be furnished under this Order with respect to a person who has not provided an individually signed disclosure authorization.

10. *Confidentiality*—It is the policy of the Department of the Treasury to make every effort to protect the privacy of all taxpayers, including its own officers and employees. Accordingly, disclosures under this Order shall be kept to the minimum necessary to promote public confidence in the Department and the administration of the Federal tax system.

11. *Effect on other regulations and programs*—a. Notwithstanding any other provisions of this Order:

(1) The Internal Revenue Service shall conduct and review tax audits, checks and income tax filing record checks in accordance with the Order with regard to its employees and those in the Office of Chief Counsel, IRS, at Grades GS–15 and below; but the results of such audits, checks, and income tax filing record checks shall not be forwarded to the Assistant Secretary (Administration), except as provided for by section 9. of this order. Each employee of the Internal Revenue Service or Office of Chief Counsel, who would otherwise be subject to a tax audit or tax check (or both) under the provisions of this Order, shall be asked to execute an appropriate disclosure authorization so that tax return information may be provided to persons authorized to receive it under section 7. of this Order.

(2) Information forwarded to the Assistant Secretary (Administration), with respect to the Internal Revenue Service officers and those in the Office of Chief Counsel, at SES levels 1 and above, or at Grades GS–16 and above, will, after the review process, be returned to the Commissioner or Chief Counsel, as appropriate, for safekeeping.

(3) All disclosure authorizations executed by employees or officers of the Internal Revenue Service or Office of Chief Counsel will remain on file with the Commissioner, or his designee, or the Chief Counsel, or his designee, as appropriate.

b. In addition, nothing in this Order precludes the Internal Revenue Service, or other Services, Bureaus or Offices of the Department which administer Federal tax or revenue laws, from adopting, with respect to their officers and employees, more stringent provisions than are provided for in sections 3., 4. and 5. of this Order, as may be allowed by law.

c. The requirements of this Order are in addition to any other audit procedures adminstered by the Internal Revenue Service and applicable to all taxpayers generally. Nothing in this Order is intended to affect, in any way, the process by which the Internal Revenue Service selects returns for audit under the usual procedures applicable to all taxpayers.

d. Nothing in this Order affects the authority of those Treasury officers, in individual Bureaus or Offices of the Department, who exercise personnel administration functions.

2. Supersession—This Order supersedes Treasury Department Order No. 150–87, dated July 29, 1977, and Treasury Department Order No. 150–87(A), dated November 2, 1978.

3. Effective Date—This Order is effective November 20, 1978.

Donald T. Regan,

Secretary of the Treasury.

[FR Doc. 82–35082 Filed 12–27–82; 8:45 am]

BILLING CODE 4810-25-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 249
Tuesday, December 28, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

CONTENTS

Item
Securities and Exchange Commission. 1

1

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of January 3, 1983, at 450 5th Street, N.W., Washington, D.C.

A closed meeting will be held on Tuesday, January 4, 1983, at 10:00 a.m.

An open meeting will be held on Thursday, January 6, 1983, at 10:00 a.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered a the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10).

Commissioners Treadway, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting scheduled for Tuesday, January 3, 1983, at 10:00 a.m., will be:

Access to investigative files by Federal, State, or Self-Regulatory authorities.
Institution of administrative proceedings of an enforcement nature.
Institution of injuctive action. Opinions.

The subject matter of the open meeting scheduled for Thursday, January 6, 1983, at 10:00 a.m., will be:

Consideration of whether to grant the application of John B. Licata to become an association person in an unsupervised, proprietary capacity with Argus Management Corporation. For further information, Please contact Mary Binno at (202) 272–2318.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Catherine McGuire at (202) 272–2401.

December 23, 1982.

[FR Doc. 82–1663 Filed 12–23–82; 3:34 pm]
BILLING CODE 8010–01–M

federal register

Tuesday
December 28, 1982

Part II

Department of Health and Human Services

Office of the Secretary

Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance From HHS

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

45 CFR Part 91

Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance From HHS

AGENCY: Health and Human Services Department.

ACTION: Final rules.

SUMMARY: These final regulations implement provisions of the Age Discrimination Act of 1975, and the general, governmentwide regulation published in the **Federal Register** on June 12, 1979, codified at 45 CFR Part 90.

The Age Discrimination Act of 1975 prohibits discrimination on the basis of age in programs or activities receiving Federal financial assistance. The Act also contains certain exceptions that permit, under limited circumstances, use of age distinctions or factors other than age that may have a disproportionate effect on the basis of age. The Act applies to persons of all ages.

These final regulations are designed to guide the actions of recipients of financial assistance from HHS. The regulations incorporate the basic standards for determining what is age discrimination that were set forth in the general regulations. They discuss the responsibilities of HHS recipients and the investigations, conciliation and enforcement procedures HHS will use to ensure compliance with the Act.

EFFECTIVE DATE: January 27, 1983.

FOR FURTHER INFORMATION CONTACT: Kathleen A. O'Brien, Office for Civil Rights, Office of Management & Policy, HHS, Room 5414 HHS North Building, 300 Independence Avenue S.W., Washington, D.C. 20201. (202) 245–6700.

SUPPLEMENTARY INFORMATION:

The preamble to the final regulations, containing supplementary information, is divided into the following six sections:

I. Background—provides a brief history of the development of the Act and these regulations.

II. Regulatory Procedures—explains compliance with various regulatory requirements.

III. Rulemaking History—describes the steps taken to secure public participation in the development of the age discrimination regulations.

IV. Overview of the Regulations—summarizes the contents of the final regulations and explains any changes made from the proposed regulations published on September 24, 1979.

V. Important Questions About the Regulations—answers some important questions raised during the development of these regulations.

VI. Examples of How HHS Interprets the Exceptions—illustrates how the exceptions might be applied to hypothetical situations involving HHS recipients.

I. Background

In November 1975 Congress enacted the Age Discrimination Act (42 U.S.C. 6101 *et seq.*) as part of the amendments to the Older Americans Act (Pub. L. 94–135). The Act prohibits discrimination on the basis of age in all programs and activities receiving Federal financial assistance.

The Act prohibits recipients of Federal financial assistance from taking actions that result in denying or limiting services or otherwise discriminating on the basis of age. The Act also contains certain exceptions that permit, under limited circumstances, use of age distinctions or factors other than age that may have a disproportionate effect on the basis of age.

Like other civil rights statutes, the Act applies only to programs or activities in which there is an intermediary (recipient) standing between the Federal financial assistance and the ultimate beneficiary of that assistance. The Act does not apply to programs of direct assistance (such as the Social Security program) in which Federal funds flow directly and unconditionally from the Federal government to the individual beneficiary of those funds.

Prior to the development of any regulations, the Act required the Commission on Civil Rights to conduct a study of age discrimination in federally funded programs and activities. The Commission transmitted its study to the President and the Congress on January 10, 1978. The Commission published the second part of its study in January 1979. The Act also required each affected Federal agency to respond to the Commission's findings and recommendations, and provided time for the Congress to consider amendments to the Act.

After receipt of the report from the Commission on Civil Rights and the Federal agency responses to that report, the Congress considered amendments to the Age Discrimination Act. In October 1978, Congress amended the Act (Pub. L. 95–478). The amendments: (1) Added a private right of action to the Age Discrimination Act; (2) provided a mechanism for the disbursal to alternate recipients of funds that have been withheld under the Age Discrimination Act; (3) added a requirement that the Department of Health, Education and Welfare (now HHS) approve the final regulations of other Federal agencies; (4) made the effective date of regulations implementing the Act no earlier than July 1, 1979; (5) required annual reports to the Congress on progress in implementing the Act; and (6) removed the word "unreasonable" from the Act's statement of purpose. The 1978 amendments left intact the exceptions to the general prohibition against age discrimination contained in the 1975 Act. The amended Act continues to apply to persons of all ages.

The Act requires HEW to issue proposed and then final general regulations setting standards to be followed by all Federal departments and agencies in implementing the Act. HEW issued proposed general regulations on December 1, 1978 and final general regulations on June 12, 1979. Those general regulations and the prohibition against age discrimination became effective on July 1, 1979.

The Act requires each department or agency which operates programs of Federal financial assistance to issue proposed and then final regulations which must be consistent with the general regulations. The Secretary of HEW (now HHS) must approve all agency and department regulations.

On September 24, 1979, HEW issued proposed age discrimination regulations governing the actions of recipients of HEW funds. In May 1980 HEW became HHS according to the Department of Education Organization Act (Pub. L. 96–88). These are the final HHS age discrimination regulations.

II. Regulatory Procedures

Impact Analysis Executive Order 12291

Executive Order 12291 requires that a regulatory impact analysis be prepared for major rules. A major rule is defined in the Order as any rule that has an annual effect on the national economy of $100 million or more—or certain other specified effects. The Department concludes that the regulations implementing the Age Discrimination Act are not major rules within the meaning of the Executive Order because they do not have an effect on the economy of $100 million or more, or otherwise meet the threshold criteria.

Regulatory Flexibility Act of 1980:

The Regulatory Flexibility Act (5 U.S.C. Ch. 6) requires the Federal government to anticipate and reduce the impact of rules and paperwork requirements on small businesses. For each rule with a "significant economic impact on a substantial number of small

entities" an analysis must be prepared describing the rule's impact on small entities. Small entities are defined by the Act to include small businesses, small nonprofit organizations, and small governmental entities. Based on the cost analysis of the age regulation, the Department finds that the effect of the age regulations on small entities is minimal. Therefore, a regulatory flexibility analysis is not required.

Paperwork Reduction Act (Recordkeeping and Reporting Requirements)

These proposed rules place no new reporting or data collection requirements on recipients which require OMB clearance pursuant to the Paperwork Reduction Act.

III. Rulemaking History

HHS has been vitally concerned about the need for public participation in the development of these regulations because of the substantial impact the Age Discrimination Act could have on the operation of federally assisted programs.

As a first step in its obligation to issue general, government-wide regulations, HEW published in the **Federal Register** its Notice of Intent to Issue Age Discrimination Regulations (NOI) on March 2, 1978 (42 FR 5756). The NOI briefly identified some of the major issues addressed later in the regulatory process.

The Notice of Proposed Rulemaking (NPRM) for the general regulations was published in the **Federal Register** (42 FR 56428–56446) on December 1, 1978. At certain key places in the proposed general regulations, HEW presented options for public consideration and comment. Publication of the proposed rules was followed by a 90-day comment period.

HEW distributed more than 16,000 copies of the proposed general regulations. Copies were mailed to every member of Congress, every State governor, the head of every Federal agency that provides Federal financial assistance, administrators of federally assisted programs, recipients of Federal funds at the State and local levels, interested groups and individuals. In January and early February 1979, HEW held public hearings in Washington, D.C. and in each of HEW's 10 regions in order to obtain public comment on the proposed general regulations. A total of 170 witnesses made presentations at those hearings. In addition, 246 written comments were received. The comments and verbatim transcripts from the 11 hearings were analyzed and used in the development of the final general regulations published on June 12, 1979.

HEW published its own proposed regulations setting out the age discrimination requirements for its recipients on September 24, 1979. The Department, primarily through its Regional Offices, carried out a major distribution of the proposed regulations to HEW recipients and interested organizations and individuals. Over 40,000 copies of the proposed rules were distributed during the 60 day public comment period.

In addition, staff from the Age Discrimination Task Force conducted informational meetings in Wisconsin, Oregon, Florida and Washington, D.C. during October and early November 1979 to explain the requirements of both sets of regulations. Seventy-two persons sent written comments containing suggestions for improving the proposed regulations. Appendix A to these final regulations contains an analysis of the comments received and responses to those comments.

Implementation by HHS of the age discrimination regulations provides several more opportunities for public comment. Twelve months after the publication of these final regulations HHS will publish the results of a review of the age distinctions it imposes on its recipients by means of regulations, policies and administrative practices. The review, which will be published for public comment, is designed to determine whether each age distinction is permissible under the Act and implementing regulations. HHS will no longer adopt new age distinctions in the administration of its programs of financial assistance unless the age distinction meets the requirements of these regulations and has been published in a regulation after opportunity for public comment. Finally, HHS will examine the effectiveness of these regulations after 30 months, and publish its assessment for comment in the **Federal Register**.

IV. Overview of the Regulations

The following paragraphs summarize the text of the final HHS age discrimination regulations and explain any changes that have been made as a result of the public participation process. The final regulations are divided into 4 subparts:

Subpart A—General
Subpart B—Standards for Determining Age Discrimination
Subpart C—Duties of HHS Recipients
Subpart D—Investigation, Conciliation and Enforcement Procedures

There are also two appendices. Appendix A contains an analysis of the public comments; Appendix B contains a listing of the age distinctions found in statutes and regulations governing HHS assisted programs.

Subpart A—General

Subpart A explains the purpose of the HHS age discrimination regulations, which is to set out the Department's policies and procedures under the Act and the general regulations. (§ 91.1) These regulations apply to each HHS recipient and to all programs or activities receiving Federal financial assistance from HHS. (§ 91.2)

Although the Act generally covers all programs and activities that receive Federal financial assistance, it does not apply to any age distinction "established under authority of any law" which provides benefits or establishes criteria for participation on the basis of age or in age related terms. Thus, age distinctions that are "established under authority of any law" may continue in use. These regulations adopt without change the definition of "any law" established in the general regulations. Therefore, these regulations do not apply to age distinctions contained in Federal statutes, State statutes, or local statutes or ordinances adopted by elected, general purpose legislative bodies. (§ 91.2)

The Act also excludes from its coverage most employment practices, except in programs funded under the public service employment titles of the Comprehensive Employment and Training Act (CETA). However, the Age Discrimination in Employment Act (ADEA), administered by the Equal Employment Opportunity Commission (EEOC), continues to be the Federal statute that prohibits employment discrimination against most persons between the ages of 40 and 70 (except in Federal employment, where there is no upper age limit). Subpart A also defines terms used in these regulations. (§ 91.3)

Subpart B—Standards for Determining Age Discrimination

Subpart B of these regulations incorporates the basic standards for determining what is age discrimination, which are set out in the general regulations.

The regulations state that no person in the United States shall, on the basis of age, be denied the benefits of, be excluded from participation in, or be subject to discrimination under, any program or activity receiving Federal financial assistance. (§ 91.11)

The specific prohibited actions are patterned after the regulations issued under Title VI of the Civil Rights Act of 1964 (45 CFR Part 80). As a general rule, separate or different treatment which denies or limits service from, or participation in, a program receiving Federal funds will be prohibited by these regulations.

The Act does include some exceptions to the general rule against age discrimination. The regulations provide definitions for two terms that are essential to an understanding of these exceptions: "normal operation" and "statutory objective." (§ 91.12)

The regulations adopt the four-part test established in the general regulations to determine when an explicit age distinction is necessary to the normal operation of a program or to the achievement of a statutory objective of a program. The test (see § 91.13 of the regulations) requires that: The age distinction be used as a measure of another characteristic(s); the other characteristic(s) must be measured in order for the program to continue to operate normally or to meet a statutory objective; the other characteristic(s) can reasonably be measured by age; and the other characteristic(s) is impractical to measure directly on an individual basis.

All parts of the test must be met for an explicit age distinction to satisfy one of these exceptions and to continue in use in a federally assisted program. This four-part test will be used to scrutinize age distinctions that are imposed by recipients in the administration of federally assisted programs, when the recipient alleges the distinction is necessary to the normal operation or the achievement of a statutory objective of a program and when the age distinction is not specifically authorized by a Federal, State, or local statute.

Recipients of Federal funds are also permitted to take an action otherwise prohibited by the Act, if the action is based on *"reasonable factors other than age."* In that event, the action may be taken even though it has a disproportionate effect on persons of different ages. The regulations require, however, that the factor bear a direct and substantial relationship to the program's normal operation or statutory objective. (§ 91.14)

These regulations place on the recipient of HHS funds the burden of proving that an age distinction or other action falls within the exceptions discussed above. (§ 91.15)

There are three other instances in which an HHS recipient may use age distinctions that would otherwise be prohibited by the Act and these regulations: (1) a recipient may take voluntary affirmative action to overcome the effects of conditions that have resulted in limited participation in the recipient's program on the basis of age (§ 91.16); (2) a recipient may give special benefits to the elderly or to children (§ 91.17); and (3) a recipient may comply with age distinctions contained in HHS regulations. (§ 91.18)

Subpart C—Duties of HHS Recipients

Subpart C explains the duties of HHS recipients which are established by the General regulations.

HHS recipients have primary responsibility to ensure that their programs and activities are in compliance with the Act, the general regulations and these regulations. Recipients must also maintain records to the extent required to determine compliance with the Act and its regulations. (§ 91.31)

Where an HHS recipient passes on financial assistance to subrecipients, the recipient must notify subrecipients of their obligations under the Act and its regulations. HHS recipients must also inform beneficiaries about the protections provided by the Act and its regulations. (§ 91.32)

Each recipient of Federal financial assistance must sign an assurance that it will comply with the Act and its regulations. (§ 91.33)

HHS may require recipients employing the equivalent of 15 or more fulltime employees to examine their use of age distinctions under the Act as part of a compliance review or a complaint investigation conducted by the Department. (§ 91.33)

This self-evaluation requirement has been revised from the provision contained in the government-wide regulation and the Notice of Proposed Rule Making. The prior versions would have required all recipients employing 15 or more employees to complete a written self-evaluation. Section 91.33 states that such recipients *may* be required to undertake a self-evaluation as part of a compliance review and complaint investigation conducted by the Department. The change is based upon HHS' determination that to be consistent with the requirements of the Paperwork Reduction Act of 1980, enacted after the publication of the NPRN, the paperwork burden associated with the self-evaluation must be limited to recipients where circumstances indicate, in connection with a compliance review of complaint investigation, the need for the self-evaluation.

Each HHS recipient must keep records and make available to HHS upon request information that HHS determines is necessary to establish whether the recipient is in compliance with the Act and its regulations. Recipients must also allow HHS reasonable access to books and records to the extent HHS finds necessary to determine compliance with the Act and its regulations. (§ 91.34)

Subpart D—Investigation, Conciliation and Enforcement Procedures

Subpart D of these regulations establishes the procedures HHS will use in its investigation, conciliation and enforcement activities. These procedures are closely tied to requirements in the general regulations, primarily in Subpart D. Additional information on the filing of complaints and on mediation is provided in Section V of this preamble.

HHS may conduct compliance or pre-award reviews or use other similar procedures to ensure compliance with the Act and its regulations. These procedures may be used even in the absence of a complaint against a recipient. The reviews may be as comprehensive as necessary to determine whether a violation has occurred. (§ 91.41)

Complaints of age discrimination may be filed with HHS by an individual or a class or by a third party. The complaint must allege discrimination occurring on or after July 1, 1979. A complainant must file a complaint within 180 days from the date the complainant first knew of the alleged act of discrimination, although HHS may extend this time limit for good cause. The filing date for a complaint will be the date upon which the complaint is sufficient to be processed. A complaint must identify the parties involved and the date the complainant first had knowledge of the alleged violation, describe generally the practice complained of, and be signed by the complainant. HHS will notify the recipient and the complainant of their rights and obligations under the complaint procedure, including the right to have a representative at all stages of the process. HHS will permit a complainant to add information to a complaint when necessary to meet the requirements of a sufficient complaint. HHS will return to the complainant any complaint that does not fall within the jurisdiction of the Act and will explain the reason(s) why the complaint is outside the jurisdiction of the Act. (§ 91.42)

HHS will refer to mediation all sufficient complaints that fall within the coverage of the Act. On June 12, 1979, the Secretary of HEW designated the Federal Mediation and Conciliation

Service (FMCS) to manage the mediation process which was established by the general regulations for all ADA complaints. Complainants and recipients are required to participate in the effort to reach a mutually satisfactory mediated settlement of the complaint, although they need not meet with the mediator at the same time. Generally, mediation may last no more than 60 days from the date a complaint is filed with HHS. The mediator will have the authority to terminate the mediation at any time before the end of the 60 day period if the process appears to have broken down. The mediator also has the authority to extend the 60 day mediation period where settlement is likely. A settlement based on terms satisfactory to both parties will be put in writing and sent to HHS. HHS will take no further action on a complaint that has been successfully mediated. The mediator will protect the confidentiality of all information obtained in the course of mediation. (§ 91.43)

HHS will investigate complaints that are unresolved after mediation or are reopened because the mediation agreement is violated. HHS will first attempt to resolve the complaint through informal fact-finding. An agreement reached during informal investigation will be signed by both parties and by an HHS official. The agreement will not affect any other enforcement effort by HHS. The settlement is not a finding of discrimination against a recipient. If these informal efforts do not succeed, HHS will develop formal findings through further investigation of the complaint. (§ 91.44)

A recipient may not intimidate or retaliate against any person who attempts to exercise a right protected by the Act or who participates in any aspect of the proceedings used to resolve allegations of age discrimination. (§ 91.45)

The procedures for securing compliance with the Act and these regulations are taken from the general regulations. The procedures include termination of Federal funds after an opportunity for a hearing on the record, referral to the Department of Justice, or the use of the services of any Federal, State or local government agency to correct a violation. These regulations include a provision for the deferral of new Federal financial assistance from HHS when termination proceedings are initiated. (§ 91.46)

HHS will use the procedural provisions contained in the regulations implementing Title VI of the Civil Rights Act of 1964 to enforce the HHS age discrimination regulations. These provisions are at 45 CFR 80.9–80.11 and 45 CFR 81. (§ 91.47)

Where HHS finds that a recipient has discriminated on the basis of age, HHS may require the recipient to take necessary remedial action to overcome the effects of the discrimination. (§ 91.48)

When HHS withholds funds from a recipient (according to the provisions of § 91.46), the Secretary may disburse those funds to an alternate recipient. The alternate recipient must demonstrate the ability to comply with these regulations and to achieve the goals of the Federal statute which authorizes the financial assistance. (§ 91.49)

Complainants may file civil actions when administrative remedies are exhausted. Administrative remedies are exhausted if either 180 days have elapsed since the complainant filed the complaint and HHS has made no finding, or if HHS issues a finding in favor of the recipient. The complainant may then file a suit in a U.S. district court where the recipient is found or transacts business. The complainant must indicate, at the time the suit is filed, if attorney's fees will be demanded in the event that the complainant is successful. No action can be brought if the same alleged violation by the same recipient is the subject of a pending action in any U.S. court. Complainants who wish to file an action must give 30 days notice to the Attorney General, the Secretary, and the recipient. (§ 91.50)

Appendices

These regulations contain two appendices. Appendix A is an analysis of the comments received on the proposed rules and the responses to those comments. Appendix B is a listing of age distinctions contained in the statutes and regulations governing the operation of HHS financial assistance programs. This appendix is designed to aid recipients by identifying those age distinctions which are derived from Federal statutes and regulations. The list of age distinctions in Appendix B is preceded by a more detailed explanation of the purpose of the listing and how it is organized.

V. Important Questions

This section of the preamble answers some important questions about these regulations. Some of the material first appeared in the general regulations published in June 1979, but is repeated here because it is important to an understanding of the provisions which HHS has incorporated in these regulations. The other questions were raised during the public comment period on the proposed HEW regulations.

1. *What Ages Does the Act Cover?*

Section 303 of the Act prohibits discrimination on the basis of age in federally assisted programs or activities. Although the legislative history indicates Congressional concern for the problems of the elderly in particular, the Congress made it clear in its conference committee report that the Act is intended to apply to persons of all ages. Nowhere in the amendment process was there any discussion of limiting or changing the coverage of the Act. It continues to extend protection to persons of all ages.

Various advocacy groups for older persons suggested that HHS construe the general regulations to protect only the elderly or to provide greater protection for older persons than for other age groups. This construction is not legally supportable in view of the legislative history and the plain language of the Act. Thus all regulations issued to implement the Act provide protection to persons of all ages.

2. *When Is the Prohibition Against Age Discrimination Effective?*

The Act provides that its prohibition of age discrimination becomes effective upon the issuance of regulations. Section 304 provides for the issuance of age discrimination regulations in two phases:

(a) HEW [HHS] publishes general, government-wide regulations to implement the prohibition against age discrimination in federally assisted programs; and

(b) Each Federal agency (including HEW [HHS]) then publishes regulations specific to its programs and consistent with general regulations.

The Act's prohibition of age discrimination became effective when the first set of regulations, the general regulations became effective on July 1, 1979. The general regulations established standards for determining what is age discrimination and procedures for enforcing the Act. All Federal agencies must adopt those standards in their agency specific regulations.

3. *Where Can Complaints of Age Discrimination Be Filed With HHS?*

Complaints involving HHS recipients and beneficiaries should be sent to: Office of Program Operations, Office for Civil Rights, Department of Health and Human Services, 330 Independence Avenue, SW., Washington, D.C. 20201.

The complaint must allege age discrimination occurring after July 1, 1979. The complaint should: (a) Identify the parties involved; (b) give the date of

the alleged violation or when the complainant first knew of the alleged violation; (c) generally describe what happened; and (d) be signed by the complainant.

HHS screens all complaints and refers those which describe actions covered by the Act and contain the necessary information to the FMCS for mediation. The FMCS began mediating age discrimination complaints on November 1, 1979.

The Act states that a complainant may file a civil action 180 days from the date the complaint was filed with the Federal agency if the agency has taken no action, or upon the date the agency makes a determination in favor of the recipient, whichever comes first. For purposes of exhaustion of administrative remedies within HHS, the 180 day period will run from the date the complaint is filed with HHS. In cases where HHS has not taken final action on a complaint and 180 days have passed, the complainant retains the option either to file a civil action, or have HHS continue to pursue the complaint through the administrative processes. HHS retains the option to continue its enforcement activities even if a private court suit is filed.

4. *What Are the Rules Against Age Discrimination?*

These regulations adopt without change the rules against age discrimination from the general regulations. The general regulations provide that, except as provided in the Act and its regulations,"* * * no person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving Federal financial assistance." It means that, unless permitted by one of the exceptions, recipients of HHS assistance may not, either directly or indirectly, do anything to exclude persons from their programs or activities on the basis of age. Nor may recipients do anything that is not permitted by one of the exceptions to deny or limit persons on the basis of their age in their efforts to participate in HHS assisted programs or activities.

The prohibition against age discrimination does not include an absolute prohibition against separate treatment on the basis of age. As a general rule, separate or different treatment which denies or limits services from, or participation in, a program receiving financial assistance from HHS would be prohibited by these regulations. Separate or different treatment which does not deny or limit services is allowable. Separate or different treatment may be necessary to normal operation or to the achievement of a statutory objective by the recipient and may qualify as an exception under these regulations.

5. *What Is the Meaning of the Exception for Age Distinctions "Established Under Authority of Any Law"?*

The Age Discrimination Act applies to all programs and activities that receive Federal financial assistance. However, the Act does not apply to age distinctions "established under authority of any law" that provide benefits or establish criteria for participation on the basis of age or in age related terms. Age distinctions that qualify under this exemption do not require further scrutiny under these regulations.

The regulations define the term "any law" to mean a Federal, State or local statute or ordinance adopted by an elected, general purpose legislative body. This provision does *not* provide an automatic exemption for age distinctions that are contained in regulations or in ordinances enacted by bodies which are not elected or are special-purpose even though elected, such as State or local school boards. The first part of Appendix B of these regulations contains a list of the age distinctions found in Federal statutes administered by HHS.

The exemption for age distinctions "established under authority of any law" applies to both explicit uses of age (e.g. a statute that defines an adult to be a person over age 18) and the use of age-related terms (e.g. statutes that refer only to "adults" or "children" or "youths" without defining those terms explicitly). When a statute (Federal, State or local) uses, but does not define, an age-related term, HHS will accept reasonable definitions of those terms in regulations without further scrutiny. Thus, for example, HHS would not ordinarily question a definition of "child" as a person up to age 18, but would seek further justification of a regulation which defines "child" as a person up to age 30.

6. *When Is An Age Distinction Necessary to the Normal Operation or to the Achievement of a Statutory Objective of a Program or Activity?*

These regulations incorporate from the general regulations the four-part test for determining when an explicit age distinction is necessary to the normal operation of a program or activity, or to the achievement of a statutory objective. HHS will use this four-part test to scrutinize age distinctions imposed in the administration of federally assisted programs, but which are not explicitly authorized by a Federal, State or local statute or ordinance adopted by an elected, general-purpose legislative body. If the age distinction in question fails any part of the four-part test, the recipient of HHS funds may not continue to use that age distinction.

The four-part test is designed to require careful scrutiny of age distinctions in programs receiving Federal financial assistance and to weed out age distinctions that are neither directly related to an essential characteristic of a program nor based on explicitly stated objectives of a law. It is not intended to serve as a basis for permitting continued use of age distinctions for the sake of administrative convenience, if this results in denial or limitation of services on the basis of age.

HHS encourages its recipients to apply every age distinction flexibly; that is, to permit a person who demonstrates eligibility to participate in the activity or program even though he or she would otherwise be barred by the age distinction. Other things being equal, a distinction under review is more likely to qualify under any of the exceptions if it does not automtically bar all those who do not meet the age requirements.

7. *When Is the Use of a Factor Other Than Age Exempted From the Coverage of These Regulations?*

The Age Discrimination Act permits a recipient of Federal funds to examine its use of factors other than age which have a disproportionate effect on the basis of age in light of the individual facts and circumstances surrounding their use. This examination will determine whether use of the factor other than age is sufficiently related to achieving a legitimate program purpose and therefore justifies limiting or denying services or participation to persons disproportionately excluded because of age.

8. *What Are "Special Benefits" for the Elderly or Children?*

These regulations incorporate the provision of the general regulations permitting a recipient of a program to provide special benefits for children or the elderly.

The special benefits provision resulted from HHS' belief that Congress did not intend to disturb the practice of providing special benefits to children or the elderly. These special benefits often take the form of special discounts or reduced fees for the elderly in a federally funded program.

The provision allowing special benefits has been revised somewhat from that contained in the government-wide regulations and the Notice of Proposed Rule Making to make it clear

that special benefits are presumed to be within the statutory exemption applicable to actions necessary to the normal operation of a program. The earlier versions stated that special benefits to the elderly or to children shall be presumed to be voluntary affirmative action to overcome the effects of past underparticipation in the recipient's program by the elderly or children so long as the special benefits do not have the effect of excluding otherwise eligible persons from participation in the program. HHS has determined that the new wording is more consistent with the Congressional intent that the normal operation of programs properly designed to provide for special benefits for the elderly or children not be disturbed. Thus, such special benefits are entitled to a presumption of validity. In reviewing such special benefits in specific cases to insure that they are in fact consistent with the Act and Congressional intent, HHS will consider the rationale for the special benefit, the effect on other individuals, and all other relevant factors.

The regulations leave to the reasonable discretion of the recipient the definition of who qualifies as "children" or "the elderly" for purposes of receiving a special benefit.

9. *What Is the Effect of Age Distinctions Contained in HHS Regulations?*

A new § 91.18 has been added to make explicit what is implicit in § 90.32 of the government-wide regulation. Section 90.32 of the government-wide regulation established the mechanism for determining that age distinctions imposed by government agencies are consistent with the Age Discrimination Act and implementing regulations. Under this Section, agencies must within 12 months, review age distinctions imposed on recipients by regulations, policies and administrative practices. Each agency must then publish, for public comment, in the **Federal Register** a comprehensive accounting of all such age distinctions, listing those to be continued, the justification for their continuance, those to be adopted by regulations, and those to be eliminated. After this 12-month period, agencies may not continue any age distinction that has not already been adopted by regulation or is adopted by regulation under the Administrative Procedure Act using the notice and comment procedures specified in 5 U.S.C. 553. In addition, beginning with the effective date of an agency's final regulations, an agency may not impose a new age distinction unless it is adopted by regulation under the Administrative Procedure Act using these notice and comment procedures.

This comprehensive mechanism for carefully scrutinizing age distinctions imposed by Federal agencies on recipients to insure their consistency with the Age Discrimination Act and implementing regulations is based upon public participation and the rulemaking process of the Administrative Procedure Act, through which the appropriateness and validity of any age distinctions can be thoroughly evaluated. Implicit in this far-reaching mechanism is that age distinctions contained in regulations adopted under the Administrative Procedure Act are entitled to a very strong presumption of permissibility. The new § 91.18 makes this explicit by providing that any age distinction contained in a rule or regulation issued by HHS will be presumed to be within the statutory exemption applicable to actions necessary to the achievement of a statutory objective of the program to which the rule or regulation applies. This does not mean that such age distinctions are immune from additional scrutiny to insure their consistency with the Age Discrimination Act and implementing regulations, but that such further scrutiny will be under the general standards of the Act, rather than under the process established for previously unreviewed age distinctions, in which the recipient has the burden of proving that the detailed standards contained in § 91.13 of the regulation have been met. Since the review process or rulemaking proceeding subjected the age distinctions to scrutiny on all possible bases, it is appropriate that any subsequent review be limited to determining violations of fundamental statutory requirements. This provision thus reaffirms that recipients upon whom age distinctions are imposed by HHS regulations adopted pursuant to statutory authority and under the Administrative Procedure Act, as well as the public, can be assured that such age distinctions have been carefully considered and are believed by HHS to be permissible under the Age Discrimination Act and implementing regulations.

10. *Do the Regulations Require Proportional Allocation of Services and Funds by Age?*

Some believe that certain age groups, especially the elderly, do not get their "fair share" of funds or program slots in certain federally funded programs. These persons argue that the serious underrepresentation of certain age groups in the allocation of program funds or services *is* age discrimination and should be prohibited by these regulations.

These regulations do *not* require proportional program participation by age or the proportional allocation of funds by age. However, disproportionate allocation of funds or program participation may be one element that triggers an examination of whether age discrimination exists in the federally funded program or activity. If further inquiry is necessary, the recipient may show that the disparity in rates of participation, fund allocation, or services has nondiscriminatory causes.

11. *How Do These Regulations Affect the Relationship Between Similar General and Age-Targeted Programs?*

Federal funds are used to support a number of programs that provide similar services or benefits both to the general population and to a selected age group within the population. Does the existence of an age-targeted program in any way relieve the general program of its obligation to serve the age group eligible for the age-targeted program?

HHS believes that any deviation from a policy of serving all eligible persons regardless of age that results in a denial or limitation of service on the basis of age is only permissible if that action can satisfy one of the exceptions in these regulations. A general program can focus its services by referring persons to existing age-targeted programs only if those actions do not result in the denial of services to the individual or in the provision of lesser or different services.

12. *Why is Mediation a Required Step in Resolving Complaints of Age Discrimination?*

HHS supports mediation as an important innovation in the resolution of age discrimination complaints. The mediation process represents an effort to provide faster and more creative resolution of complaints through informal methods of dispute resolution. While mediation does represent a new step in the complaint resolution process, the experience in resolving complaints under other civil rights statutes indicates that the 60 days allowed for mediation will not significantly delay the enforcement process.

Mediation is being used with increasing success to resolve disputes between parties outside the traditional area of labor management negotiations. The most important feature of the mediation process is that it will be under the supervision of an impartial third party, a mediator assigned by the FMCS. FMCS was designated by the Secretary of HEW to mediate age discrimination complaints for all Federal departments and agencies which

distribute Federal financial assistance. The mediator is in no way connected with HHS or the funding agency in the age discrimination dispute. Instead, mediators have been recruited and selected by the FMCS. Each mediator is assigned to the dispute by the FMCS without consultation with HHS.

The mediators have been specially trained in procedures for resolving disputes and in the requirements of the Age Discrimination Act and its implementing regulations. The mediator will contact the two parties and explain the procedures to both the complainant and the recipient. Mediation does not necessarily mean that the two parties to the dispute must meet face-to-face; each may meet separately or otherwise discuss the matter with the mediator. Since the mediated settlement must be satisfactory to both parties, neither the complainant nor the recipient is compelled to settle the complaint. A complainant who believes that he or she is not receiving full satisfaction in the mediation process need not agree to a settlement of the dispute. A complainant will have to wait no more than 60 days for the complaint to be returned to HHS for its investigation to begin.

This 60 day period will count as part of the 180 days which HHS has to resolve the complaint before a court action can be filed by the complainant. The 60 day period may be extended by the mediator with the concurrence of HHS, for not more than 30 days if the mediator determines that agreement will likely be reached during the extended period.

The mediation process has been designed to minimize expenses to the parties. The mediator can travel to the location of the parties and the services of the mediator will be paid for by the Federal government. The mediation itself is conducted in an informal atmosphere in which both sides attempt to resolve the dispute in a mutually satisfactory manner. This should encourage the parties to discuss their dispute without resort to efforts to build a formal legal case.

HHS believes that the Age Discrimination Act offers a unique opportunity to try this innovative approach to the resolution of disputes. The mediation process is being monitored very closely as it is used to resolve age discrimination complaints received by all recipients of Federal financial assistance. The results of this evaluation will be reported as part of the required review of the effectiveness of the general age discrimination regulations.

VI. Examples of How HHS Interprets the Exceptions to the Prohibition Against Age Discrimination

This section illustrates how HHS would apply the exceptions to the prohibition against age discrimination in situations involving recipients of HHS funds. The examples are intended to illustrate how HHS would apply the standards in these regulations to analyze whether use of any age distinction or a factor other than age is permissible or impermissible under these regulations. The examples are purely hypothetical. Each assumes that the institution involved received funds from HHS and that no exception to the prohibition against age discrimination applies other than the one being discussed. The reader should keep in mind that even slightly different factual situations may require a different analysis and may result in a different conclusion. Thus, recipients of HHS funds should realize the need still exists for case-by-case analysis of any action that raises questions of compliance with the requirements of these regulations.

A. Actions Involving Separate Treatment (§ 91.11)

Examples—*Permissible Separate Treatment:*

1. A hospital which receives funds from HHS treats children under 16 years of age in a separate unit from the adults served by the hospital. However, essentially comparable services are provided both age groups, including laboratory facilities, specialized care and treatment, and access to the facilities. This separate treatment of the two age groups does not result in a denial or limitation of services, and the practice, therefore is *permissible.*

2. A sports league sponsored by a local youth program which receives Federal Title XX funds separates children into three or more age groupings for sports which require physical development or emotional maturity. Essentially comparable sports programs are provided for each age group. The groupings by age *are permissible* because no denial or limitation of service results.

Example—*Prohibited Separate Treatment:*

1. A State mental hospital has a separate geriatrics wing. Patients in this wing have less supervision, receive fewer therapeutic visits, have fewer recreational opportunities, and receive less rehabilitation. Because a denial or limitation of service results, this separate treatment would be prohibited (unless it could be justified under one of the Act's exceptions).

B. Age Distinctions "Established Under Authority of Any Law" (§ 91.2)

Examples—*Age distinctions in HHS-administered Federal statutes:*

1. The Health Maintenance Organization (HMO) Act limits enrollment of beneficiaries entitled to benefits under Title XVIII of the Social Security Act (SSA). The SSA requires "* * * each health maintenance organization with which the Secretary enters into a contract under this section shall have an enrolled membership at least half of which consists of individuals who have not attained *age 65.*" (42 U.S.C. 1395mm) [Emphasis added]

2. The Aid to Families with Dependent Children (AFDC) program enables "each State to furnish financial assistance or rehabilitation and other services to needy dependent *children* and the parents or relatives with whom they are living. The term * * * *child* is defined * * * as * * * (A) under the *age of 18;* or (B) at the option of the State under the *age of 19* and a full-time student * * *." (42 U.S.C. 601 *et seq.*) (Emphasis added)

3. The Older Americans Act authorizes the provision of "assistance in the development of new or improved programs to help *older persons.*" Specifically, it requires States in their State plans to "provide with respect to nutrition services that each project providing nutrition services will be available to individuals *aged 60 or older,* and to their spouses * * *" (42 U.S.C. 3027) (Emphasis added)

Examples—Age distinctions in State and local statutes which may affect HHS funded programs:

1. Age limits for requiring parental consent for medical procedures.

2. Age limits for services to those in the "juvenile" justice system.

3. Age limits for compulsory health procedures, such as particular vaccinations against disease.

4. Maximum age limits for "under age" wards of the State.

C. Age Distinctions That Are Necessary To Normal Operation or to the Achievement of a Statutory Objective. (§ 91.13)

To qualify for the normal operation or statutory objective exception, an explicit use of age must meet all four parts of the test set out in § 91.31 which requires that:

(a) the age distinction must be used as a measure of another characteristic(s);

(b) the other characteristics(s) must be measured for the program to operate normally or to meet its statutory objective;

(c) the other characteristic(s) can be reasonably measured by using age; and

(d) it is impractical to measure the other characteristic(s) for each individual participant.

Examples—*Permissible Uses of Age Related To Normal Operation:*

1. Head Start grantees operate programs which provide comprehensive health, nutritional, educational, social, and other services for children who have not reached compulsory school age. Neither the statute creating Head Start nor its implementing regulations specifies a minimum age limit for Head Start participants.

A local Head Start grantee operates a center that offers a highly structured program stressing group activities to promote the educational, social and nutritional development of the children enrolled. Because of the nature of the center's program, its physical layout, and the training and experience of its staff, the center generally

limits enrollment in its program to children who are at least 3 years old.

Anaylsis of the Use of Age:

(a) The minimum age restriction is used as an approximation of the level of development and the capacity for self-discipline that the child must possess in order to profit from this particular center's pre-school child development program; and

(b) A child's readiness for this pre-school child development program must be measured for the Head Start center to meet its objectives. The enrollment of younger children who are not ready for this program would require significant changes in the program such as providing greater assistance in feeding, changing diapers, clothes, etc., which would impair the center's ability to meet its objectives; and

(c) Age 3 reasonably approximates the level of development at which children are able to respond to simple commands, move about without assistance, feed themselves, control body functions and perform other basic activities that are an essential part of this center's pre-school child development activities; and

(d) It is impractical to measure directly and individually each child's level of physical, mental and emotional development.

The minimum age restriction passes all four parts of the test and, therefore, *is necessary* for the normal operation of the Head Start center.

2. A community organization receiving Federal financial assistance provides a drug and alcohol education program to young people between the ages of 12 and 20. The organization claims that its objective is to prevent young people from first taking drugs.

Analysis of the Use of Age:

(a) Ages 12–20 are used as a measure of the period when persons are first confronted with the decision of whether or not to use particular drugs; and

(b) This period of decision must be measured in order for the organization's objective (prevention rather than treatment) to be met; and

(c) Ages 12–20 are a reasonable measure of when youth are confronted with decisions to use particular drugs; and

(d) It is impractical to measure on an individual basis the point in time when an individual is first faced with the decision about whether or not to use drugs.

The use of age passes all parts of the four-part test, and therefore, *is necessary* for the normal operation of the program.

Examples—*Prohibited Uses of Age Related to Normal Operation:*

1. A medical school generally does not admit persons age 35 and over. This practice results in turning away qualified applicants over 35.

The school claims that it has as an objective, the teaching of qualified medical students who, upon graduation, will practice as long as possible. The school believes that this objective requires it to select younger applicants over older ones.

Analysis of the Use of Age:

(a) Age is used as an approximation of the potential years of medical practice after graduation;

(b) The approximation of the potential years of practice after graduation is not necessary to the normal operation of the medical school. The basic objective of the medical school is to train competent and qualified medical doctors. The achievement of a high average longevity of practice for its graduates cannot be considered a medical school's program objective under the Act. The admission of qualified persons over age 35 does not require significant changes in the medical school program which would impair its ability to educate physicians. (The use of age *fails* this part of the test.)

(c) The age of an applicant may be a reasonable approximation of the longevity of practice; and

(d) It is not possible to measure directly the actual longevity of a graduate's practice.

The use of age to restrict medical school applicants for the purpose of achieving greater longevity of practice does not pass part (b) of the test. Therefore, the use of age *is not necessary* to the normal operation of this medical school's program.

2. A university which receives funds from HHS for its graduate social work program limits fellowships in the program to persons under age 25. The university claims that the fellowship program is designed to encourage talented but inexperienced and untrained individuals to pursue graduate training in social work.

Analysis of the Use of Age:

(a) Age is used as an approximation of lack of experience and training in social work.

(b) Measurement of the lack of experience and training is necessary to the normal operation of the department's graduate fellowship program.

(c) Age, however, is not a reasonable measure of an individual's experience or training. Talented but inexperienced and untrained individuals of all ages may be seeking graduate aid through the social work program. (The use of the age *fails* this part of the test.)

(d) Lack of experience and training in the field of social work can reasonably be measured directly on an individual basis. (The use of the age *fails* this part of the test.)

The age limitation on the university's graduate social work fellowships does not pass either parts (c) or (d) of the four-part test. The use of age, therefore *is not necessary* to the normal operation of the graduate fellowship program.

3. A CPR program run by a local health department does not train anyone over age 65 to do CPR. The program claims that its objective is to train individuals who have the physical capability to perform CPR on heart attack victims, and that persons over 65 are unlikely to have that capability.

Analysis of the Use of Age:

(a) Age is used as an approximation of the physical ability to perform CPR.

(b) The physical ability to perform CPR must be measured for the program to achieve its objective.

(c) Age, however, is not a reasonable measure of an individual's ability to perform CPR. (The use of the age *fails* this part of the test.)

(d) Physical ability to perform CPR can be measured directly. Trainees can be tested for strength and endurance and can be screened for medical problems. (The use of the age *fails* this part of the test.)

The use of age 65 by the CPR training program does not pass parts (c) and (d) of the four-part test. The use of age, therefore, is *not necessary* to the normal operation of the CPR program.

Examples—Permissible Uses of Age Related to Statutory Objectives:

1. Applications for grants for disease control programs under the Public Health Service Act can only be approved if they "contain assurances satisfactory to the Secretary that * * * the applicant will conduct such programs as may be necessary (i) to develop an awareness in those persons in the area served by the applicant who are most susceptible to the disease or conditions * * * of appropriate preventive behavior and measures (including immunization) and diagnostic procedures for such disease, and (ii) to facilitate their access to such measures and procedures." (42 U.S.C. 247b).

A local public health program generally gives priority in immunizations to age categories most susceptible to the disease (e.g. the immunizaton program is directed to children under 15).

Analysis of the Use of Age:

(a) Age is used as a measure of susceptibility to a particular disease; e.g. ages 1–14 is a measure of susceptibility to measles;

(b) Susceptibility to the disease must be measured for the statutory objective to be met;

(c) Age is a reasonable measure of susceptibility to the particular disease; e.g. epidemiological evidence shows that children ages 1–14 are more susceptible to measles; and

(d) Susceptibility to the disease is impractical to measure directly on an individual basis.

The use of age passes all parts of the four-part test. Thus, age *is necessary* to the achievement of the explicit statutory objective to give priority in immunization to age categories most susceptible to the disease in question.

Examples—*Prohibited Uses of Age Related to Statutory Objectives:*

1. The statutory objective of the Federal Work Incentive Program (WIN) is to provide job training and placement services to individuals receiving Aid to Families with Dependent Children (AFDC) so that they may be employed and ultimately become self-sufficient. A local WIN office takes the age of the applicant into account and gives a lower priority for the older person who will be more difficult to place in employment.

Analysis of the Use of Age:

(a) Age is used as an approximation of the individual's employability after training has been completed.

(b) The selection of applicants most likely to be employed following the training is necessary to achieve the statutory objective.

(c) Age is not a reasonable measure of the employability of an applicant. (The use of age *fails* this part of the test.)

(d) Employability can reasonably be measured on an individual basis. (The use of age *fails* this part of the test.)

The use of age as a factor in screening applicants for training under the WIN program does not pass parts (c) and (d) and, therefore, *is not necessary* to achieve the objective of the Federal WIN program.

2. Title IV of the Social Security Act defines child welfare services as "public social services which supplement, or substitute for, parental care and supervision for the purpose of * * * protecting and promoting the welfare of children, including * * * where needed, the provision of adequate care of children away from their homes in foster family homes."

A State welfare agency sets a maximum age limit of 65 for foster parents. They claim that to meet their statutory objective of providing "adequate care" they cannot select anyone over 65 to be a foster parent.

Analysis of the Use of Age:

(a) Age is used as an approximation of the physical stamina and emotional maturity required to provide parental supervision to children.

(b) It is necessary to assess ability to provide parental supervision to achieve the program statutory objective of "adequate" foster care.

(c) Age is not a reasonable measure of the physical and emotional ability to provide parental supervision to a child. Physical stamina and emotional maturity are highly variable in adults and while there might be variations as people age, there is no specific age beyond which an individual does not have sufficient physical stamina or emotional resources to be an "adequate" foster parent. (The use of age *fails* this part of the test.)

(d) Applicants to be foster parents are screened individually—there is no reason why an individual's physical stamina and emotional maturity cannot be assessed directly at that time. (The use of age *fails* this part of the test.)

D. *The Use of Factors Other Than Age* (§91.14)

Example— *Permissible Uses of Factors Other than Age:*

1. A skills training program which receives Federal Work Incentive Program (WIN) funds uses a physical fitness test as a factor for selecting participants to train for a certain job. The job involves frequent heavy lifting and other demands for physical strength and stamina. Even though older persons might fail the test more frequently than younger persons, the physical fitness test measures a characteristic that bears a *direct and substantial relationship* to the job which persons are being trained and, therefore, *is permissible* under the Act.

Example—*Prohibited Uses of Factors Other than Age:*

1. A training program which receives WIN funds uses a physical fitness test to select participants for a clerical training program. It is claimed that persons who pass the test are likely to do better work than those who are unable to pass the test. Even if this were true, the relationship between the requirements of the test and the requirements of the type of job for which training is being offered *is not direct and substantial.* It is so tenuous and limited that it will not justify the test's age discriminatory effect. In this situation, use of the test would *violate* the Act.

List of Subjects in 45 CFR Part 91

Aged, Civil rights.

Dated: December 1, 1982.

Betty Lou Dotson,

Director Office of Civil Rights Department of Health and Human Services.

Approved: December 6, 1982.

Richard S. Schweiker,

Secretary, Department of Health and Human Services

The Department of Health and Human Services adds Part 91 to Title 45 of the Code of Federal Regulations as set forth below:

PART 91—NONDISCRIMINATION ON THE BASIS OF AGE IN HHS PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

Subpart A—General

Sec.

91.1 What is the purpose of the Age Discrimination Act of 1975?
91.2 What is the purpose of HHS' age discrimination regulations?
91.3 To what programs do these regulations apply?
91.4 Definitions of terms used in these regulations.

Subpart B—Standards for Determining Age Discrimination

91.11 Rules against age discrimination.
91.12 Definitions of "normal operation" and "statutory objective."
91.13 Exceptions to the rules against age discrimination: Normal operation or statutory objective of any program or activity.
91.14 Exceptions to the rules against age discrimination: Reasonable factors other than age.
91.15 Burden of proof.
91.16 Affirmative action by recipients.
91.17 Special benefits for children and the elderly.
91.18 Age distinctions contained in HHS regulations.

Subpart C—Duties of HHS Recipients

91.31 General responsibilities.
91.32 Notice to subrecipients and beneficiaries.
91.33 Assurance of compliance and recipient assessment of age distinctions.
91.34 Information requirements.

Subpart D—Investigation, Conciliation, and Enforcement Procedures

91.41 Compliance reviews.
91.42 Complaints.
91.43 Mediation.
91.44 Investigation.
91.45 Prohibition against intimidation or retaliation.
91.46 Compliance procedure.
91.47 Hearings, decisions, post-termination proceedings.
91.48 Remedial action by recipient.
91.49 Alternate funds disbursal procedure.
91.50 Exhaustion of administrative remedies.

Authority: Age Discrimination Act of 1975, as amended, 42 U.S.C. 6101 et seq. (45 CFR Part 90)

Subpart A—General

§ 91.1 What is the purpose of the Age Discrimination Act of 1975?

The Age Discrimination Act of 1975, as amended, is designed to prohibit discrimination on the basis of age in programs or activities receiving Federal financial assistance. The Act also permits federally assisted programs and activities, and recipients of Federal funds, to continue to use certain age distinctions and factors other than age which meet the requirements of the Act and these regulations.

§ 91.2 What is the purpose of HHS' age discrimination regulations?

The purpose of these regulations is to set out HHS' policies and procedures under the Age Discrimination Act of 1975 and the general age discrimination regulations at 45 CFR Part 90.[1] The Act and the general regulations prohibit discrimination on the basis of age in programs or activities receiving Federal financial assistance. The Act and the general regulations permit federally assisted programs and activities, and recipients of Federal funds, to continue to use age distinctions and factors other than age which meet the requirements of the Act and its implementing regulations.

§ 91.3 To what programs do these regulations apply?

(a) The Act and these regulations apply to each HHS recipient and to each program or activity operated by the recipient which receives or benefits from Federal financial assistance provided by HHS.

(b) The Act and these regulations do not apply to:

(1) An age distinction contained in that part of a Federal, State, or local statute or ordinance adopted by an elected, general purpose legislative body which:

(i) Provides any benefits or assistance to persons based on age; or

[1] Published at 44 FR 33768, June 12, 1979.

(ii) Establishes criteria for participation in age-related terms; or

(iii) Describes intended beneficiaries or target groups in age-related terms.

(2) Any employment practice of any employer, employment agency, labor organization, or any labor-management joint apprenticeship training program, except for any program or activity receiving Federal financial assistance for public service employment under the Comprehensive Employment and Training Act (CETA), (29 U.S.C. 801 et seq.)

§ 91.4 Definition of terms used in these regulations.

As used in these regulations, the term:

"Act" means the Age Discrimination Act of 1975, as amended, (Title III of Pub. L. 94–135).

"Action" means any act, activity, policy, rule, standard, or method of administration; or the use of any policy, rule, standard, or method of admininstration.

"Age" means how old a person is, or the number of years from the date of a person's birth.

"Age distinction" means any action using age or an age-related term.

"Age-related term" means a word or words which necessarily imply a particular age or range of ages (for example, "children," "adult," "older persons," but not "student").

"Agency" means a Federal department or agency that is empowered to extend financial assistance.

"Federal financial assistance" means any grant, entitlement, loan, cooperative agreement, contract (other than a procurement contract or a contract of insurance or guaranty), or any other arrangement by which the agency provides or otherwise makes available assistance in the form of:

(a) Funds; or

(c) Services of Federal personnel; or

(c) Real and personal property or any interest in or use of property, including:

(1) Transfers or leases of property for less than fair market value or for reduced consideration; and

(2) Proceeds from a subsequent transfer or lease of property if the Federal share of its fair market value is not returned to the Federal Government.

"HHS" means the United States Department of Health and Human Services.

"Recipient" means any State or its political subdivision, any instrumentality of a State or its political subdivision, any public or private agency, institution, organization, or other entity, or any person to which Federal financial assistance is extended, directly or through another recipient. Recipient includes any successor, assignee, or transferee, but excludes the ultimate beneficiary of the assistance.

"Secretary" means the Secretary of Health and Human Services, or his or her designee.

"Subrecipient" means any of the entities in the definition of "recipient" to which a recipient extends or passes on Federal financial assistance. A subrecipient is generally regarded as a recipient of Federal financial assistance and has all the duties of a recipient in these regulations.

"United States" means the fifty States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, the Trust Territory of the Pacific Islands, the Northern Marianas, and the territories and possessions of the United States.

Subpart B—Standards for Determining Age Discrimination

§ 91.11 Rule against age discrimination.

The rules stated in this section are limited by the exceptions contained in §§ 91.13 and 91.14 of these regulations.

(a) General rule: No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving Federal financial assistance.

(b) Specific rules: A recipient may not, in any program or activity receiving Federal financial assistance, directly or through contractual licensing, or other arrangements, use age distinctions or take any other actions which have the effect, on the basis of age, of:

(1) Excluding individuals from, denying them the benefits of, or subjecting them to discrimination under, a program or activity receiving Federal financial assistance; or

(2) Denying or limiting individuals in their opportunity to participate in any program or activity receiving Federal financial assistance.

(c) The specific forms of age discrimination listed in paragraph (b) of this section do not necessarily constitute a complete list.

§ 91.12 Definitions of "normal operation" and "statutory objective."

For purposes of §§ 91.13 and 91.14, the terms "normal operation" and "statutory objective" shall have the following meaning:

(a) "Normal operation" means the operation of a program or activity without significant changes that would impair its ability to meet its objectives.

(b) "Statutory objective" means any purpose of a program or activity expressly stated in any Federal statute, State statute, or local statute or ordinance adopted by an elected, general purpose legislative body.

§ 91.13 Exceptions to the rules against age discrimination: Normal operation or statutory objective of any program or activity.

A recipient is permitted to take an action, otherwise prohibited by § 91.11, if the action reasonably takes into account age as a factor necessary to the normal operation or the achievement of any statutory objective of a program or activity. An action reasonably takes into account age as a factor necessary to the normal operation or the achievement of any statutory objective of a program or activity, if:

(a) Age is used as a measure or approximation of one or more other characteristics; and

(b) The other characteristic(s) must be measured or approximated in order for the normal operation of the program or activity to continue, or to achieve any statutory objective of the program or activity; and

(c) The other characteristic(s) can be reasonably measured or approximated by the use of age; and

(d) The other characteristic(s) are impractical to measure directly on an individual basis.

§ 91.14 Exceptions to the rules against age discrimination: Reasonable factors other than age.

A recipient is permitted to take an action otherwise prohibited by Section 91.11 which is based on a factor other than age, even though that action may have a disproportionate effect on persons of different ages. An action may be based on a factor other than age only is the factor bears a direct and substantial relationship to the normal operation of the program or activity or to the achievement of a statutory objective.

§ 91.15 Burden of proof.

The burden of proving that an age distinction or other action falls within the exceptions outlined in §§ 91.13 and 91.14 is on the recipient of Federal financial assistance.

§ 91.16 Affirmative action by recipient.

Even in the absence of a finding of discrimination, a recipient may take affirmative action to overcome the effects of conditions that resulted in limited participation in the recipient's program or activity on the basis of age.

§ 91.17 Special benefits for children and the elderly.

If a recipient operating a program provides special benefits to the elderly or to children, such use of age distinctions shall be presumed to be necessary to the normal operation of the program, notwithstanding the provisions of § 91.13.

§ 91.18 Age distinctions contained in HHS regulations.

Any age distinctions contained in a rule or regulation issued by HHS shall be presumed to be necessary to the achievement of a statutory objective of the program to which the rule or regulation applies, notwithstanding the provisions of § 91.13.

Subpart C—Duties of HHS Recipients

§ 91.31 General responsibilities.

Each HHS recipient has primary responsibility to ensure that its programs and activities are in compliance with the Act and these regulations, and shall take steps to eliminate violations of the Act. A recipient also has responsibility to maintain records, provide information, and to afford HHS access to its records to the extent HHS finds necessary to determine whether the recipient is in compliance with the Act and these regulations.

§ 91.32 Notice to subrecipients and beneficiaries.

(a) Where a recipient passes on Federal financial assistance from HHS to subrecipients, the recipient shall provide the subrecipients written notice of their obligations under the Act and these regulations.

(b) Each recipient shall make necessary information about the Act and these regulations available to its program beneficiaries in order to inform them about the protections against discrimination provided by the Act and these regulations.

§ 91.33 Assurance of compliance and recipient assessment of age distinctions.

(a) Each recipient of Federal financial assistance from HHS shall sign a written assurance as specified by HHS that it will comply with the Act and these regulations.

(b) *Recipient assessment of age distinctions.* (1) As part of a compliance review under § 91.41 or complaint investigation under § 91.44, HHS may require a recipient employing the equivalent of 15 or more employees to complete a written self-evaluation, in a manner specified by the responsible Department official, of any age distinction imposed in its program or activity receiving Federal financial assistance from HHS to assess the recipient's compliance with the Act.

(2) Whenever an assessment indicates a violation of the Act and the HHS regulations, the recipient shall take corrective action.

§ 91.34 Information requirements.

Each recipient shall:

(a) Keep records in a form and containing information which HHS determines may be necessary to ascertain whether the recipient is complying with the Act and these regulations.

(b) Provide to HHS, upon request, information and reports which HHS determines are necessary to ascertain whether the recipient is complying with the Act and these regulations.

(c) Permit reasonable access by HHS to the books, records, accounts, and other recipient facilities and sources of information to the extent HHS determines is necessary to ascertain whether the recipient is complying with the Act and these regulations.

Subpart D—Investigation, Conciliation, and Enforcement Procedures

§ 91.41 Compliance reviews.

(a) HHS may conduct compliance reviews and pre-award reviews or use other similar procedures that will permit it to investigate and correct violations of the Act and these regulations. HHS may conduct these reviews even in the absence of a complaint against a recipient. The reviews may be as comprehensive as necessary to determine whether a violation of the Act and these regulations has occurred.

(b) If a compliance review or pre-award review indicates a violation of the Act or these regulations, HHS will attempt to achieve voluntary compliance with the Act. If voluntary compliance cannot be achieved, HHS will arrange for enforcement as decribed in § 91.46.

§ 91.42 Complaints.

(a) Any person, individually or as a member of a class or on behalf of others, may file a complaint with HHS, alleging discrimination prohibited by the Act or these regulations based on an action occurring on or after July 1, 1979. A complainant shall file a complaint within 180 days from the date the complainant first had knowledge of the alleged act of discrimination. However, for good cause shown, HHS may extend this time limit.

(b) HHS will consider the date a complaint is filed to be the date upon which the complaint is sufficent to be processed.

(c) HHS will attempt to facilitate the filing of complaints wherever possible, including taking the following measures:

(1) Accepting as a sufficient complaint, any written statement which identifies the parties involved and the date the complainant first had knowledge of the alleged violation, describes generally the action or practice complained of, and is signed by the complainant.

(2) Freely permitting a complainant to add information to the complaint to meet the requirements of a sufficient complaint.

(3) Notifying the complainant and the recipient of their rights and obligations under the complaint procedure, including the right to have a representative at all stages of the complaint procedure.

(4) Notifying the complainant and the recipient (or their representatives) of their right to contact HHS for information and assistance regarding the complaint resolution process.

(d) HHS will return to the complainant any complaint outside the jurisdiction of these regulations, and will state the reason(s) why it is outside the jurisdiction of these regulations.

§ 91.43 Mediation.

(a) HHS will promptly refer to a mediation agency designated by the Secretary all sufficient complaints that:

(1) Fall within the jurisdiction of the Act and these regulations, unless the age distinction complained of is clearly within an exception; and,

(2) Contain all information necessary for further processing.

(b) Both the complainant and the recipient shall participate in the mediation process to the extent necessary to reach an agreement or make an informed judgment that an agreement is not possible.

(c) If the complainant and the recipient reach an agreement, the mediator shall prepare a written statement of the agreement and have the complainant and the recipient sign it. The mediator shall send a copy of the agreement to HHS. HHS will take no further action on the complaint unless the complainant or the recipient fails to comply with the agreement.

(d) The mediator shall protect the confidentiality of all information obtained in the course of the mediation process. No mediator shall testify in any adjudicative proceeding, produce any document, or otherwise disclose any information obtained in the course of the mediation process without prior

approval of the head of the mediation agency.

(e) The mediation will proceed for a maximum of 60 days after a complaint is filed with HHS. Mediation ends if:

(1) 60 days elapse from the time the complaint is filed; *or*

(2) Prior to the end of that 60-day period, an agreement is reached; *or*

(3) Prior to the end of that 60-day period, the mediator determines that an agreement cannot be reached.

This 60-day period may be extended by the mediator, with the concurrence of HHS, for not more than 30 days if the mediator determines that agreement will likely be reached during such extended period.

(f) The mediator shall return unresolved complaints to HHS.

§ 91.44 Investigation.

(a) *Informal investigation.* (1) HHS will investigate complaints that are unresolved after mediation or are reopened because of a violation of a mediation agreement.

(2) As part of the initial investigation HHS will use informal fact finding methods, including joint or separate discussions with the complainant and recipient, to establish the fact and, if possible, settle the complaint on terms that are mutually agreeable to the parties. HHS may seek the assistance of any involved State program agency.

(3) HHS will put any agreement in writing and have it signed by the parties and an authorized official at HHS.

(4) The settlement shall not affect the operation of any other enforcement effort of HHS, including compliance reviews and investigation of other complaints which may involve the recipient.

(5) The settlement is not a finding of discrimination against a recipient.

(b) *Formal investigation.* If HHS cannot resolve the complaint through informal investigation, it will begin to develop formal findings through further investigation of the complaint. If the investigation indicates a violation of these regulations HHS will attempt to obtain voluntary compliance. If HHS cannot obtain voluntary compliance it will begin enforcement as described in § 91.46

§ 91.45 Prohibition against intimidation or retaliation.

A recipient may not engage in acts of intimidation or retaliation against any person who:

(a) Attempts to assert a right protected by the Act or these regulations; or

(b) Cooperates in any mediation, investigation, hearing, or other part of HHS' investigation, conciliation, and enforcement process.

§ 91.46 Compliance procedure.

(a) HHS may enforce the Act and these regulations through:

(1) Termination of a recipient's Federal financial assistance from HHS under the program or activity involved where the recipient has violated the Act or these regulations. The determination of the recipient's violation may be made only after a recipient has had an opportunity for a hearing on the record before an administrative law judge.

(2) Any other means authorized by law including but not limited to:

(i) Referral to the Department of Justice for proceedings to enforce any rights of the United States or obligations of the recipient created by the Act or these regulations.

(ii) Use of any requirement of or referral to any Federal, State, or local government agency that will have the effect of correcting a violation of the Act or these regulations.

(b) HHS will limit any termination under § 91.46(a)(1) to the particular recipient and particular program or activity or part of such program and activity HHS finds in violation of these regulations. HHS will not base any part of a termination on a finding with respect to any program or activity of the recipient which does not receive Federal financial assistance from HHS.

(c) HHS will take no action under paragraph (a) until:

(1) The Secretary has advised the recipient of its failure to comply with the Act and these regulations and has determined that voluntary compliance cannot be obtained.

(2) Thirty days have elapsed after the Secretary has sent a written report of the circumstances and grounds of the action to the committees of the Congress having legislative jurisdiction over the Federal program or activity involved. The Secretary will file a report whenever any action is taken under paragraph (a).

(d) HHS also may defer granting new Federal financial assistance from HHS to a recipient when a hearing under § 91.46(a)(1) is initiated.

(1) New Federal financial assistance from HHS includes all assistance for which HHS requires an application or approval, including renewal or continuation of existing activities, or authorization of new activities, during the deferral period. New Federal financial assistance from HHS does not include increases in funding as a result of changed computation of formula awards or assistance approved prior to the beginning of a hearing under § 91.46(a)(1).

(2) HHS will not begin a deferral until the recipient has received a notice of an opportunity for a hearing under § 91.46(a)(1). HHS will not continue a deferral for more than 60 days unless a hearing has begun within that time or the time for beginning the hearing has been extended by mutual consent of the recipient and the Secretary. HHS will not continue a deferral for more than 30 days after the close of the hearing, unless the hearing results in a finding against the recipient.

(3) HHS will limit any deferral to the particular recipient and particular program or activity or part of such program or activity HHS finds in violation of these regulations. HHS will not base any part of a deferral on a finding with respect to any program or activity of the recipient which does not, and would not in connection with the new funds, receive Federal financial assistance from HHS.

§ 91.47 Hearings, decisions, post-termination proceedings.

Certain HHS procedural provisions applicable to Title VI of the Civil Rights Act of 1964 apply to HHS enforcement of these regulations. They are found at 45 CFR 80.9 through 80.11 and 45 CFR Part 81.

§ 91.48 Remedial action by recipient.

Where HHS finds a recipient has discriminated on the basis of age, the recipient shall take any remedial action that HHS may require to overcome the effects of the discrimination. If another recipient exercises control over the recipient that has discriminated, HHS may require both recipients to take remedial action.

§ 91.49 Alternate funds disbursal procedure.

(a) When HHS withholds funds from a recipient under these regulations, the Secretary may disburse the withheld funds directly to an alternate recipient: any public or non-profit private organization or agency, or State or political subdivision of the State.

(b) The Secretary will require any alternate recipient to demonstrate:

(1) The ability to comply with these regulations; and

(2) The ability to achieve the goals of the Federal statute authorizing the program or activity.

§ 91.50 Exhaustion of administrative remedies.

(a) A complainant may file a civil action following the exhaustion of administrative remedies under the Act.

Administrative remedies are exhausted if:

(1) 180 days have elapsed since the complainant filed the complaint and HHS has made no finding with regard to the complaint; or

(2) HHS issues any finding in favor of the recipient.

(b) If HHS fails to make a finding within 180 days or issues a finding in favor of the recipient, HHS shall:

(1) Promptly advise the complainant of this fact; and

(2) Advise the complainant of his or her right to bring a civil action for injunctive relief; and

(3) Inform the complainant:

(i) That the complainant may bring a civil action only in a United States district court for the district in which the recipient is found or transacts business;

(ii) That a complainant prevailing in a civil action has the right to be awarded the costs of the action, including reasonable attorney's fees, but that the complainant must demand these costs in the complaint;

(iii) That before commencing the action the complainant shall give 30 days notice by registered mail to the Secretary, the Attorney General of the United States, and the recipient;

(iv) That the notice must state: the alleged violation of the Act; the relief requested; the court in which the complainant is bringing the action; and, whether or not attorney's fees are demanded in the event the complainant prevails; and

(v) That the complainant may not bring an action if the same alleged violation of the Act by the same recipient is the subject of a pending action in any court of the United States.

Appendix A—Comment Analysis

The following comments, suggestions, and criticisms were made at public meetings or submitted in writing in response to the proposed rules. After the summary of each comment, a response is set forth stating the changes which have been made in the regulations or the reasons why no change was deemed necessary or appropriate. The comments follow sequentially the questions posed by the Department in the preamble to the proposed rule, and then the sections of the proposed regulations.

HHS Regulations Format

Comment: Several commenters disagreed with the format suggested in the proposed regulations, cross-referencing provisions from the general regulations into the HHS specific regulations, because the referenced regulations (1) might not be accessible to the user, or (2) might be amended without the user's knowledge. These commenters requested that subparts A and B of the general regulations be repeated in the HHS specific regulations. Some commenters preferred cross-referencing as a means of differentiating between general requirements and those requirements specific to HHS recipients. A few commenters approved the cross-referencing format on the condition that HHS provide recipients directly with information and training materials containing all applicable requirements, or that the HHS regulations contain all cross-referenced regulations in an appendix.

Response: HHS is persuaded by the comments that the cross-referencing of substantive requirements from the general regulations into the HHS specific regulations is more confusing than time-saving. Accordingly, rather than incorporate substantive provisions of the general regulations into the HHS regulations by reference, substantive provisions are set forth independently in the HHS regulations. These regulations will continue to adopt by reference the hearing procedures used in other civil rights regulations (45 C.F.R. Part 80.9–80.11 and Part 81).

Use of Examples to Illustrate the Standards, Generally

Comment: Many commenters stated that examples provide helpful guidance in understanding the ADA standards. Some of these commenters requested that examples be included in the text of the final HHS regulations and one suggested that examples be located in an appendix.

Response: HHS has included examples in the preamble to the final regulations to illustrate how the ADA standards might be applied in particular situations. Readers are cautioned that the examples are limited to the facts presented and are intended only as guidance to clarify the standards set out in the HHS regulations. The examples should *not* be considered as definitive judgments by HHS.

Examples—Permissible Separate Treatment

Comment: One commenter stated that separate treatment should be permitted only when based on factors *other* than age (e.g., health, safety, physical ability), because permitting separate treatment on the basis of chronological age will open the door for the type of "separate but equal" rationale that has been discredited in other civil rights areas.

Response: HHS is sensitive to the need for careful scrutiny of separate treatment to assure that it is not a basis for denying or limiting opportunity to participate in a federally funded program, and believes that the standards in these regulations are sufficient to safeguard against abusive uses of age. On the other hand, HHS believes it is the intent of Congress to permit separate treatment based on age when there is no denial or limitation of service, e.g., in programs where separate treatment allows service to be more responsive to needs of different age groups and therefore may result in better services for each group.

Examples—Prohibited Uses of Age Related to Normal Operation

Comment: A few commenters objected to the example of limiting medical school admission to persons age 35 or under as a prohibited use of age because of concern about health care costs. These commenters supported the use of age limits for medical school admission as a way to conserve scarce dollar resources.

Response: HHS has retained this example. As explained in the analysis of comments received on the general regulations, cost-benefit considerations alone are not a justification for using age distinctions. Cost benefit considerations may be used only where the use of age otherwise meets the requirements of the test set out in section 90.14 of the general regulations.

Alternate Approaches to Regulations—Should the Regulations Address Practices of Specific HHS Recipients, Such as Hospitals?

Comment: Most commenters stated that the regulations should not address practices of specific recipients. Some commenters stated that including illustrative examples in the preamble to the regulations is a better method of clarifying the regulatory standards than attempting to cover the wide variety of recipient programs by specific regulatory provision. No commenters favored addressing specific recipient practices in the HHS regulations.

Response: Based on the commenters' support for HHS's position that separate provisions addressing the practices of specific HHS recipients are unnecessary, HHS has not included such separate provisions.

Should the Regulations Set Out More Detailed Requirements About What Technical Assistance and Educational Materials HHS Provides Its Recipients?

Comment: Most commenters agreed with HHS that the administrative details of technical assistance and educational materials need not be included in the regulations. A few commenters requested that HHS include information on these topics either in an appendix, or in a general regulatory provision.

Response: HHS is committed to providing technical assistance and educational materials by whatever means is most useful to recipients. HHS believes that this commitment is best met by being able to respond to recipients in the manner most effective to the need presented. The regulations therefore continue to require that HHS provide technical assistance and educational materials but do not attempt to define in advance the manner in which the assistance must be delivered.

Should the Regulations Include More Detailed Provisions for Disbursing Funds to Alternate Recipients in the Case of a Fund Termination?

Comment: Most commenters stated that it is impossible to make detailed provision for disbursing funds to alternate recipients in the case of a fund termination and that the only reasonable method is a case by case determination.

Response: HHS has determined that the ADA establishes a minimum standard for selecting an alternate recipient and that any further attempt by HHS to define that standard may unduly restrict the Department's ability to carry out the purpose of the ADA. The final regulations therefore

do not elaborate on the statutory standard for selecting an alternate recipient.

Should HHS Use Hearing Procedures Other Than Those Used for Other Discrimination Matters?

Comment: Commenters generally agreed with HHS that the ADA regulations should incorporate the Title VI hearing procedures set out in 45 CFR Part 80.9–80.11 and Part 81 which are the procedures used for hearings, decisions, and post termination proceedings in conjunction with other civil rights statutes.

Response: The final regulations incorporate the hearing procedures set out in 45 CFR Part 80.9–80.11 and Part 81.

Subpart A—General

Section 91.3 Definitions—"subrecipient"

Comment: Commenters generally supported retaining the definition of subrecipient in the final HHS regulations. One commenter found the definition cumbersome because the recipient should be the primary focus of responsibility in these regulations.

Response: HHS has retained the definition of subrecipient in the final regulations because so many commenters questioned whether a subrecipient's obligations differ from those of a recipient. The obligations of an HHS recipient are not based on whether the recipient receives Federal financial assistance directly from HHS or indirectly (as a subrecipient) through another HHS recipient. The definition therefore states clearly that the subrecipient "has all the duties of a recipient in these regulations."

Subpart C—Duties of HHS Recipients

Section 91.31 General Responsibilities

Comment: One commenter requested clarification on who should be responsible for compliance within a multi-unit institution, such as a hospital, when HHS extends a single grant of Federal financial assistance to an institution which then redistributes portions of that assistance to various components within the institution.

Response: Each HHS recipient of federal financial assistance has responsibility to ensure that its programs and activities are in compliance with the ADA and these regulations. Procedures for assuring compliance are left to the discretion of the recipient institution.

Section 91.33 Recipient Self-evaluation

The requirement for a self-evaluation that appeared in the ADA general regulation has been revised in the final HHS regulations to require, at the discretion of HHS while conducting a complaint investigation or compliance review, that certain recipients examine age distinctions used in their programs to determine whether these age distinctions are permitted under the Act and regulations.

In addition, there is a requirement that each recipient complete an assurance of compliance similiar to the assurance of compliance requirement contained in other civil rights regulations.

Section 91.34 Information Requirements

Comment: A number of commenters stated that although it is reasonable for HHS to require information from recipients concerning compliance, HHS should describe as specifically as possible the kinds of data recipients are expected to keep. These commenters stated that because of the cost and time involved in gathering and maintaining data, HHS should keep information requirements to a minimum.

Response: HHS has revised this section to parallel the compliance information sections in the Title VI, Title IX and Section 504 implementing regulations. While recognizing the need for data sufficient to assess recipient compliance, HHS remains committed to lessening the data gathering burden on recipients. HHS further recognizes that there exists no established body of knowledge or experience to guide the assessment of age discrimination. The regulations, therefore, do not impose specific data requirements upon recipients; rather, they allow HHS to be flexible in determining what kinds of data should be kept by recipients, based on what kinds of data prove useful as we gain experience with the ADA, and age descrimination issues become clearer.

Subpart D—Investigation, Conciliation, and Enforcement Procedures

Section 91.41 Compliance Reviews

Comment: Several commenters stated that the regulations should state clearly what compliance reviews will entail: the scope of a review, and what will trigger it. One commenter requested that the regulations specifically limit any compliance review to those portions of an activity or program that receives Federal financial assistance from HHS. A few commenters questioned HHS's authority to conduct a compliance review where no complaint has been filed or in the absence of reasonable grounds to indicate a violation has occurred.

Response: The ADA charges HHS with responsibility to ensure that no person is discriminated against on the basis of age under any program receiving HHS funds. The compliance review provision in the ADA regulations is similar to the compliance review provisions in the Title VI, Title IX and Section 504 implementing regulations. It is one of several ways in which HHS carries out its responsibility to assure that programs receiving HHS funds are in compliance with the law. The compliance review serves an important oversight function and may be triggered in one of two ways: It may be the direct result of a complaint that alerts HHS to look more closely at a particular program, or it may be part of HHS's ongoing review of a cross section of HHS programs.

Section 91.42 Complaints

Section 91.42(a) Third Party Complaints

Comment: Some commenters opposed third party complaints unless the third party is acting in a legal capacity for the real complainant. These commenters objected to allowing third parties to enter into settlement agreements or to initiate civil actions.

Response: The provision for third party complaints in these regulations is consistent with similar provisions in other HHS regulations implementing civil rights statutes. HHS believes that all allegations of age discrimination should be officially reported and that third party complaints are a useful means of alerting HHS to possible violations of the ADA and these regulations.

Section 91.43 Mediation

Comment: One commenter suggested that any findings of fact made by the mediator should be forwarded to HHS.

Response: The general regulations require that the confidentiality of the mediation be protected. The language of § 91.43(d) is identical to that in § 90.43(c)(3)(iv) of the general regulations. The confidentiality provision deals exclusively with protecting the neutrality of the mediator and protecting the public interest in the success of the mediation process. The parties must be able to speak freely in the mediation without fear that the mediator will testify or provide information in a later enforcement proceeding. The parties must not be bound in subsequent administrative or court proceedings by the statements made in mediation. The terms of any settlement agreed to in mediation will be sent to the agency which received the complaint originally.

§ 91.46 Compliance Procedure

§ 91.46(d) Deferral of new Federal financial assistance

Comment: One commenter stated that the provision allowing HHS to defer granting new Federal financial assistance, when a hearing has been initiated, is unfair because it imposes a penalty prior to establishing the recipient's noncompliance. This commenter suggested that a recipient who defends successfully against a charge of noncompliance should be reimbursed for the cost of the proceedings.

Response: The regulations allow HHS discretion to defer new funds pending the outcome of a hearing to determine whether there has been a violation of the ADA or these regulations. The ADA deferral procedure is consistent with the compliance procedures used under Title VI of the Civil Rights Act of 1964 and the concept of deferral is supported by the Department of Justice in their role as coordinator of Federal enforcement of Title VI. There is no authority under which these regulations can provide for the reimbursement of costs to a recipient who successfully defends against a charge of noncompliance.

§ 91.49 Alternate Funds Disbursal Procedure

Comment: A question was raised concerning the difference between the definition of "recipient" [. . . any public or private agency . . .] found in Section 90.4 of the general regulations, and what the commenter read as a more restrictive definition of "alternate recipient" [. . . any public or *nonprofit* private . . agency . . .] in Section 91.49 of the HHS regulations. (emphasis added)

Response: The 90.4 definition parallels the definition of recipient found in the regulations

implementing other civil rights statutes (e.g., Title VI). Section 305(b) of the Age Discrimination Act requires each Federal agency to make provision in its regulations for the disbursal of withheld funds to an alternate recipient which may be, among others "any public or nonprofit private organization or agency. . . ." HHS has made provision for its alternate funds disbursal procedure in § 91.49 and has adopted directly from the ADA the language defining an alternate recipient.

HHS Activities

For the information of recipients and other reviewers, the following is a summary of activities that the general regulations require of HHS. The citation in brackets is to the section of the general regulations which HHS is summarizing.

(1) Review age distinctions HHS imposes on its recipients to determine whether they are permissible under the Act. HHS will publish the results of that review for public comment 12 months after HHS publishes its final regulations. [§ 90.32]

(2) Cooperate for all compliance and enforcement purposes with other Federal agencies which provide Federal financial assistance to the same recipient or class of recipients. [§ 90.33]

(3) Make annual reports to the Congress describing HHS' efforts to carry out the Act. [§ 90.34]

(4) Attempt to ensure that HHS recipients comply voluntarily with the Act. [§ 90.42]

(5) Provide notice and technical assistance to HHS recipients and make available educational materials. [§ 90.43(a)]

(6) Review the effectiveness of these regulations 30 months after they become effective. [§ 90.62]

Appendix

Section 90.31(f) of the general regulations requires each Federal agency to publish an appendix to its final age discrimination regulations containing a list of each age distinction in a Federal statute or in regulations affecting financial assistance administered by the agency. This appendix is HHS's list of age distinctions contained in Federal statutes or in final HHS regulations which:

(1) Provide benefits or assistance to persons based upon age; or

(2) Establish criteria for participation in age-related terms; or

(3) Describe intended beneficiaries or target groups in age-related terms.

The survey of age distinctions affecting HHS' programs of Federal financial assistance is for informational purposes only. Appendix B deals only with HHS programs covered by the Age Discrimination Act. It does not list age distinctions used by HHS in its direct assistance programs, such as the Supplemental Security Income Program, where the Federal assistance goes directly to the ultimate beneficiary rather than through another recipient (e.g. a grantee).

In addition, the appendix contains age distinctions only in HHS regulations which were in final form on January 1, 1982.

How to Read the Appendix of HHS Age Distinctions

The appendix has two sections: A list of age distinctions in Federal statutes, and a list of age distinctions in HHS regulations. The lists are further divided by operating division. The columns should be read from left to right for each age distinction. The first column contains the popular name of the program; the second column has the statute name, public law number and U.S. Code citation (for statutes) of the regulation name and Code of Federal Regulations citation (for regulations); the third column contains the section number of the public law and a description of the age distinction; the fourth column cites the Catalog of Federal Domestic Assistance number where it is available. Several of the cited programs were incorporated into block grants by the Omnibus Budget Reconciliation Act of 1981. (Pub. L. 97-35) FY'82 is the transition period for many of these programs. Where appropriate, this information is noted in the appendix.

AGE DISTINCTIONS IN STATUTES AFFECTING HHS

[Public Health Service, Office of Human Development Services, Health Care Financing Administration, and Social Security Administration]

Program	Statute	Section and age distinction	CFDA No.
Public Health Service (PHS)			
Vitamins and Minerals	Federal Food, Drug, and Cosmetic Act (FDC Act).	21 U.S.C. 350 provides that, except in the case of, among others, *children* under the age of 12, the Secretary may not establish maximum potency limits for vitamins and minerals, nor classify a vitamin or mineral as a drug solely because it is more potent than nutritionally useful.	
Infant Formula	Infant Formula Act of 1980 Pub. L. 96-359	21 U.S.C. 350(a) establishes a program to ensure the safety and nutrition of *infant* formula.	
Misbranded Drugs and Devices	FDC Act	21 U.S.C. 3529(f) provides that a drug or device is deemed misbranded unless its label bears adequate warnings against use by *children* where its use may be dangerous to health.	
Filled Milk	Filled Milk Act	21 U.S.C. 61 states that the prohibition against filled milk does not apply to any food compound not readily mistaken for milk or cream where such compound is designed for feeding *infants* and *young children* and is customarily used on physician's order.	
Adolescent Pregnancy Program	Title VI of the Health Services Centers Amendment of 1978, P.L. 95-626, as amended by P.L. 97-35; 42 U.S.C. 300a-21 *et seq.*	Sec. 601(b)(i) The Secretary may make grants to provide "services, give primary emphasis to *adolescents* who are *17 years of age or under* and are pregnant or who are parents.". *Note:* This is now in the Maternal and Child Health Block Grant.	
Aging	Public Health Service Act, as amended. P.L. 78-410; 42 U.S.C. 298k-4.	Sec. 463(a) "The Secretary (1) shall, through the Institute carry out the purposes of section 301 with respect to research investigations, experiments, demonstrations, and studies related to the aging process and the diseases and other special problems and needs of *the aged*. . . ." Sec. 463(c) "The Secretary, through the Institute, shall carry out public information and education programs designed to disseminate as widely as possible the findings of Institute-sponsored and other relevant *aging* research and studies and other information about the process of aging which may assist elderly and near-elderly persons in dealing with, and all Americans in understanding, the problems and processes associated with growing older."	13.866
Alcohol Abuse and Alcoholism Demonstration Projects.	Title III of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, as amended. P.L. 91-616 as amended by P.L. 93-282, P.L. 96-180, P.L. 97-35; 42 U.S.C. 4577.	Sec. 311(c)(4) The Secretary shall encourage the submission of and give special consideration to applications under this section for programs and projects "aimed at underserved populations such as . . ." *youth*, the *elderly*. . . .	13.051
Appalachian Demonstration Health Projects	Title II of the Regional Development Act of 1965, as amended, P.L. 94-188; 42 U.S.C. 3181.	Sec. 202(a) The Secretary is authorized to make grants for . . . "*child* care projects. . ."	
Childhood Immunization Programs	Title III of the Public Health Service Act, as amended, P.L. 92-449; 42 U.S.C. 247b.	Sec. 317(j)(1)(A) The Secretary may make grants "for disease control programs to immunize *children* against immunizable diseases (including measles, rubella, poliomyelitis, diphtheria, pertussis, tetanus, and mumps.) . . ."	13.268
Genetic Diseases Testing and Counseling Programs and Information and Education Programs.	Title XI of the Public Health Service Act, as amended, P.L. 95-626, as amended by P.L. 97-35; 42 U.S.C. 300b *et seq.*	Sec. 1104(a)(4)(A)(ii) Applicants for community-wide testing and counseling services grants or contracts . . . where appropriate the services will be directed especially but not exclusively to persons entering their *child-producing years*. . . *Note:* This is now in the Maternal and Child Health Block Grant. FY '82 is the transition period.	

AGE DISTINCTIONS IN STATUTES AFFECTING HHS—Continued

[Public Health Service, Office of Human Development Services, Health Care Financing Administration, and Social Security Administration]

Program	Statute	Section and age distinction	CFDA No.
Health Maintenance Organization	Title XIII of the Public Health Service Act, P.L. 93-222, as amended by P.L. 94-460 and P.L. 95-559.	Sec. 1302(1) defines "basic health services" which must be provided to members of health maintenance organizations. Preventive health services are included under the definition of basic health services at Sec. 1302(1)(H): Preventive health services including (i) immunizations, (ii) well-*child* care from birth, (iii) periodic health evaluations for *adults*, (iv) voluntary family planning services, (v) infertility services, and (vi) *children's* eye and ear examinations	
Maternal and Child Health and Crippled Children's Services.	Title V of the Social Security Act, P.L. 95-83, as amended by P.L. 97-35; 42 U.S.C. 701 *et. seq.*.	*Note:* Age related terms are found throughout Title V of the Social Security Act. See, for example §§ 571,512.	
Research for mothers and children (NICHD)	Title IV-E of the Public Health Service Act, as amended, P.L. 94-63; 42 U.S.C. 289d.	Sec. 441(a) The Surgeon General is authorized, with the approval of the Secretary, to establish in the Public Health Service the National Institute of Child Health and Human Development for the conduct and support of research and training relating to maternal health, *child* health, and human development, including research and training in the special health problems and requirements of mothers and *children* and in the basic sciences relating to the process of human growth and development, including prenatal development. (b) The Secretary shall carry out through the National Institute of Child Health and Human Development the purposes of section 301 with respect to the conduct and support of research which specifically relates to sudden *infant* death syndrome.	13.865
Drug Abuse Demonstration Projects	Title IV of the Drug Abuse Prevention Treatment and Rehabilitation Act, P.L. 92-255 as amended by P.L. 94-239, P.L. 94-371, P.L. 95-461, P.L. 96-181, P.L. 97-35; 21 U.S.C 1177.	Sec. 410(d) The Secretary shall give special consideration to applications under this section for programs and projects "aimed at underserved populations such as . . . *youth*, the *elderly* . . ."	
National Health Service Corps Program	Title III of the Public Health Service Act, P.L. 94-484; 42 U.S.C. 254k.	Sec. 332(b)(2) In establishing criteria for the designation of health manpower shortage areas the Secretary shall take into consideration indicators such as "*infant* mortality" Sec. 334(b)(2) authorizes the Secretary to waive payment by an entity to which Corps personnel are assigned where a significant percentage of the area served are *"elderly"*.	
Community Health Center	Title III of the Public Health Service Act, P.L. 78-410, P.L. 94-63, P.L. 94-278, P.L. 95-626; 42 U.S.C. 254c.	Sec. 330(b)(1)(c) defines primary health services to include *children's* eye and ear examinations . . . prenatal services, and well *child* services.	13.224
Family Planning Services, Research and Training.	Title X of the Public Health Service Act, P.L. 91-572, 94-63, 94-439, 95-83, 95-613; 42 U.S.C. 300.	Sec. 1001(a) Projects must offer family planning services, "including . . . services for *adolescents*".	13.217
Migrant Health	Title III of the Public Health Service Act, P.L. 78-410, P.L. 94-63, P.L. 95-626; 42 U.S.C. 254b.	Sec. 329(a)(1) defines the term "migrant health centers" and states that services may be provided to "individuals who have previously been migratory agricultural workers, but can no longer be defined as a "migratory agricultural worker" *because of age* . . ". Sec. 329(a)(5) includes in the definition of "primary health services," preventive health services (including *children's* eye and ear examination . . . prenatal services, well *child* services . . .).	
Adolescent Family Life Demonstration Projects.	Title XX of Public Health Service Act, P.L. 97-35; 42 U.S.C. 300z *et seq.*.	Sec. 2002(a)(9) *'Adolescent'* means and individual under the age of 19; and (10) *'unemancipated minor'* means a minor who is subject to the control, authority, and supervision of his or her parents or guardians, as determined under State [redacted]	
Maternal and Child Health Services Block Grant.	Title V of the Social Security Act, as amended by P.L. 97-35.	Sec. 501(a): For the purpose of enabling each State—(1) to assure mothers and *child* . . . access to quality maternal and child health services (2) to reduce *infant* mortality and the incidence of preventable diseases and handicapping conditions among *children* . . .. (3) provide rehabilitation services for blind and disabled individuals *under the age of 16* receiving benefits under Title XVI of this Act	
Office of Human Development Services (OHDS)			
Child Welfare Services State Grants Program	Title IV-B of the Social Security Act, P.L. 96-272; 42 U.S.C. 620, 42 U.S.C. 625.	Sec. 420(a): For the purpose of enabling the United States, through the Secretary, to cooperate with State public welfare agencies in establishing, extending, and strengthening *child* welfare services Sec. 425(a)(1): For the purposes of this title, the term "*child* welfare services" means public social services which are directed toward the accomplishment of the following purposes. (A) protecting and promoting the welfare of all *children*, including handicapped, homeless, dependent, or neglected *children*; (B) preventing or remedying, or assisting in the solution of problems which may result in the neglect, abuse, exploitation, or delinquency of *children*; (C) preventing the unnecessary separation of *children* from their families by identifying family problems, assisting families in resolving their problems, and preventing breakup of the family where the prevention of *child* removal is desirable and possible; (D) restoring to their families *children* who have been removed, by the provision of services to the *child* and the families; (E) placing *children* in suitable adoptive homes, in cases where a restoration to the biological family is not possible or appropriate; and (F) assuring adequate care of *children* away from their homes, in cases where the *child* cannot be returned home or cannot be placed for adoption.	13.645
Federal Payments for Foster care and Adoption Assistance.	Title IV-E of the Social Security Act, P.L. 96-272 as amended 42 U.S.C. 670 *et seq.*	Sec. 470: For the purpose of enabling each State to provide, in appropriate cases, foster care and adoption assistance for *children* who otherwise would be eligible for assistance under the State's plan approved under part A . . .	[1] 13.658 [2] 13.659
WIN Social Services	Title IV-A of the Social Security Act, P.L. 92-223; 42 U.S.C. 602.	Sec. 402(a)(19)(G): A State plan for aid and services to needy families with *children* must . . . provide . . . "that the State agency will have in effect a special program which . . . will provide . . . [necessary] *child* care services" to individuals eligible for the Work Incentive Program.	

AGE DISTINCTIONS IN STATUTES AFFECTING HHS—Continued

[Public Health Service, Office of Human Development Services, Health Care Financing Administration, and Social Security Administration]

Program	Statute	Section and age distinction	CFDA No.
Child Welfare Services Research and Demonstration.	Title IV-B of the Social Security Act, P.L. 90-248; 42 U.S.C. 626 (a)(1)(A), (B), (C) and (2).	Section 426(a) provides (1) For grants . . . (A) to public or other nonprofit institutions of higher learning, and to public or other nonprofit agencies and organizations engaged in research or *child* welfare activities, for special research or demonstration projects in the field of child welfare which are of regional or national significance and for special projects for the demonstration of new methods or facilities which show promise of substantial contribution to the advancement of *child* welfare; (B) to State or local public agencies responsible for administering, or supervising the administration of, the plan under this part, for projects for the demonstration of the utilization of research (including findings resulting therefrom) in the field of *child* welfare in order to encourage experimental and special types of welfare services. . . .	13.608
Child Welfare Services Training Grants		(C) For grants to public or other nonprofit institutions of higher learning for special projects for training personnel for work in the field of *child* welfare, including traineeships with such stipends and allowances as may be permitted by the Secretary; (2) For contracts or jointly financed cooperative arrangements with States and public and other organizations and agencies for the conduct of research, special projects, or demonstration projects relating to such matters.	13.648
Child Abuse and Neglect State Grants	Child Abuse Prevention and Treatment Act, P.L. 93-247 as amended; 42 U.S.C. 5102.	Sec. 3: For purposes of this Act the term *"child* abuse and neglect" means the physical or mental injury, sexual abuse or exploitation, negligent treatment or maltreatment of a *child under the age of 18 or the age specified by the child protection law of the State in question*, by a person who is responsible for the *child's* welfare under circumstances which indicate that the *child's* health or welfare is harmed or threatened thereby, as determined in accordance with regulations prescribed by the Secretary.	13.628
	42 U.S.C. 5103	Sec. 4(b)(1): The Secretary, through the Center, is authorized to make grants to the States for the purpose of assisting the States in developing, strengthening, and carrying out *child* abuse and neglect prevention and treatment programs.	
Social Service Block Grants	Title XX Block Grants to States for Social Services as amended, P.L. 97-35; 42 U.S.C. 1397 *et seq.*	Sec. 2001: Federal assistance to States for services directed at one of five goals. Goal (3) is that of "preventing or remedying neglect, abuse, or exploitation of *children* and *adults* unable to protect their own interests . . ."	
Head Start Program	Head Start Act of 1981 P.L. 97-35, 42 U.S.C. 9833, et seq.	Sec. 638: Federal financial assistance may be provided to eligible Head Start agencies "for the planning, conduct, administration, and evaluation of a Head-start program focused primarily upon *children* from low income families who *have not reached the age of compulsory school* attendance . . ." Sec. 649: Research, demonstration, and pilot project grants and contracts designed to test or assist in development of new approaches or methods to further purposes of the part.	
Runaway Youth Program	Title III of the Juvenile Justice and Delinquency Prevention Act, P.L. 93-415 as amended by P.L. 95-115; 42 U.S.C. 5701 *et seq.*	Sec. 311: The purpose of the Act is to develop local facilities to deal primarily with the immediate needs of runaway youth or otherwise homeless *youth*. . . . [Act also uses terms *"children" "juveniles"* and *"young people"* without specifying chronological age.]	
Title III Grants for Community State and Programs on Aging.	Title III of the Older Americans Act of 1965, P.L. 89-73 as amended 42 U.S.C. 3001 *et* [illegible]	Sec. 301-337: Grants to the States to develop greater capacity and foster the development of comprehensive and coordinated service systems to serve *older individuals*. Funding is provided for a broad variety of social services including long-term care, ombudsman program services, nutrition services and legal services; for multi-purpose senior centers; and for planning and administration. See Sections 307(a)(3)(B); 307(a)(11); 307(a)(13); 307(a)(15)(C) and (D).	13.633 13.635 13.639
Title VI Grants for Indian Tribes	Title VI of the Older Americans Act, P.L. 95-478 as amended by P.L. 97-115; 42 U.S.C. 3057.	Sec. 603: The Commissioner may make grants to eligible tribal organizations to pay all of the costs for delivery of social services and nutritional services for Indians who are *aged 60 and older*. See also: Sections 602(a)(1); and 604(a)(6), (7), (8) and (10).	
Title IV of the Older American Act P.L. 97-115 as amended.	42 U.S.C. 3035a P.L. 97-115	Sec. 422: Grants to support the development or operation of model projects to demonstrate methods to improve or expand supportive services or nutrition services or otherwise promote the well-being of *older individuals*.	
	41 U.S.C. 3035b	Sec. 423: Grants to "support the development of comprehensive coordinated systems of community long-term care for *older individuals*.	
	42 U.S.C. 3035c	Sec. 424 Grants and contracts to support legal research, technical assistance, etc. to organizations developing or providing pro bono or reduced fee legal services to *older individuals*, and for demonstration projects relating to delivery of legal services to individuals with social or economic need.	
	42 U.S.C. 3035d	Sec. 425 National impact demonstration grants or contracts directed to expanding services to or promoting the well-being of *older individuals*.	
	42 U.S.C. 3035e	Sec. 426 Grants for model programs relating to utility costs for *older people*.	
Developmental Disabilities Program	Part A of the Developmental Disabilities and Bill of Rights Act. P.L. 95-602 as amended 42 U.S.C. 6000 *et* [illegible]	Sec. 102(7) The term "developmental disability" means a severe, chronic disability of a person which—(A) is attributable to a mental or physical impairment . . . (B) is manifested before the person attains *age 22*; (C) is likely to continue indefinitely; (D) Results in substantial functional limitations in three or more areas of major life activity . . ."	13.630
Health Care Financing Administration (HCFA)			
MEDICAID			
Skilled Nursing Facility Services	Title XIX of the Social Security Act, (Medical Assistance Program), as amended.	Sec. 1905(a)(4)(A): Skilled nursing facility services for *persons 21 years of age or* [illegible]	
		See also § 1901, 1902, 1903, and 2171 of P.L. 97-35, 95 Stat. 815	
Early and Periodic Screening Diagnosis and Treatment.	P.L. 89-97 as amended by P.L. 97-35, 42 U.S.C. 1396 *et seq.*	Sec. 1905(a)(4)(B): Early and periodic screening, diagnosis and treatment for persons *under 21 years of age*. See also Sec. 1905(a)(4)(A) for *persons age 21 and over*.	
Family Planning Services		Sec. 1905(a)(4)(C): Family planning services for individuals *of child bearing age* (*including minors* who can be considered sexually active).	
Services Institutions for Tuberculosis or Mental Diseases.	Title XIX of the Social Security Act 42 U.S.C. 1396d(a)(14).	Sec. 1905(a)(14): Services to persons in institutions for tuberculosis or mental disease *for persons 65 years of age or older* if provided.	

AGE DISTINCTIONS IN STATUTES AFFECTING HHS—Continued

[Public Health Service, Office of Human Development Services, Health Care Financing Administration, and Social Security Administration]

Program	Statute	Section and age distinction	CFDA No.
Inpatient Psychiatric Facility Services	42 U.S.C. 1396d(h)(1)(C) and (h)(2)	Sec. 1905(a)(16) and (h)(1)(C) and (h)(2): Inpatient psychiatric facility services *for individuals under 21*; if provided (provided *until 22 if receiving services at 21*) See also § 1905(a)(13) and (18) Medicaid must also be provided to persons receiving Aid to Families With Dependent Children under Title IV–A of the Act (*under 18 or students under 21* (Sec. 406(a)(2)). A state may at its option provide Medicaid to medically needy who meet the age and other criteria of titles I, IV–A and XVI, but whose income or resources exceed the eligibility limits for those programs (Sec. 1905(a)(i)–(v) and (vii)) Sec. 1903(a)(1) and (b)(1)–Medicaid may not be provided for services to *individuals 65 or over* or disabled individuals who could have been enrolled in Medicare and had these services paid for under Medicare.	
MEDICARE			
Health Insurance for the Aged and Disabled	Title XVIII of, the Social Security Act, (Health Insurance for the Aged and Disabled), as amended.	Part A—Hospital Insurance Benefits for the Aged and Disabled.	13.773
	Title XVIII of the Social Security Act, P.L. 89–97; 42 U.S.C. 1395 *et seq.*	Sec. 1811. The insurance program for which entitlement is established by sections 226 and 226A provides basic protection against the costs protection against the costs of hospital, hospital, related post-hospital and home health services, in accordance with this part for (1) *individuals who are age 65 or over* and are eligible for retirement benefits under title II of this Act . . . or under the railroad retirement system, (2) *individuals under age 65* who have been entitled for not less than 24 months to benefits under title II of this Act . . . on the basis of a disability, and (3) certain individuals who do not meet the conditions specified in either clause (1) or (2) but who are medically determined to have end stage renal disease. See also: Section 1818(a)(1).
Hospital Insurance Benefits for the Aged and Disabled.	Title II of the Social Security Act, as amended, 42 U.S.C. 426.	Sec. 226 provides that: (a) Every individual who—(1) *has attained age 65*, and (2)(A) is entitled to monthly insurance benefits under section 202; (B) is a qualified railroad retirement beneficiary, or (C) [applies to certain Federal employees ,] shall be entitled to hospital insurance benefits under part A of Title XVIII . . . (b) Every individual who—(1) *has not attained age 65*, and (2)(A) is entitled to, and has for 24 calendar months been entitled to, (i) disability insurance benefits under section 223 or (ii) *child's* insurance benefits under section 202(d) by reason of a disability (as defined in section 223(d) or (iii) widow's insurance benefits under section 202(e) or widower's insurance benefits under section 202(f) by reason of a disability (as defined in section 223(d), or (B) is, and has been for not less than 24 months a disabled qualified railroad retirement beneficiary, within the meaning of section 7(d) of the Railroad Retirement Act of 1974, or (c) [applies to certain Federal employees], shall be entitled to hospital insurance benefits under Part A of Title XVIII for each month beginning with the later of (I) July 1973 or (II) the twenty-fifth month of his entitlement or status as a qualified railroad retirement beneficiary described in paragraph (2), and ending . . . with the month following the month in which notice of termination of such entitlement to benefits or status as a qualified railroad retirement beneficiary described in paragraph (2) is mailed to him, or if earlier, with the month before the month in which *he attains age 65* . . . (c) For purposes of subsection (a)(1) entitlement of an individual to hospital insurance benefits for a month shall consist of entitlement to have payments made under, and subject to limitations in Part A of Title XVIII on his behalf for inpatient hospital services, post-hospital extended care services, and home health services (as such terms are defined in Part C of Title XVIII) furnished him in the United States (or outside the United States in the case of inpatient hospital services furnished under the conditions described in section 1814(f)) during such month, . . . (e)(1) For purposes of determining entitlement to hospital insurance benefits under subsection (b) in the case of widows and widowers described in paragraph (2)(A)(iii) thereof— (A) the term *"age 60"* in sections 202(e)(1)(B)(ii), 202(e)(5), 202(f)(1)(B)(ii), and 202 (f)(6) shall be deemed to read *"age 65"*. (B) the phrase "before she attained *age 60"* in the matter following subparagraph (F) of section 202(e)(1) and the phrase "before he attained *age 60"* in the matter following subparagraph (F) of section 202(f)(1) shall each be deemed to read "based on a disability . . ." (2) For purposes of determining entitlement to hospital insurance benefits under subsection (b) in the case of an *individual under age 65* who is entitled to benefits under section 202, and who was entitled to widow's insurance benefits or widower's insurance benefits based on disability for the month before the first month in which such individual was so entitled to old-age insurance benefits (but ceased to be entitled to such widow's or widower's insurance benefits upon becoming entitled to such old-age insurance benefits), such individual shall be deemed to have continued to be entitled to such widow's insurance benefits or widower's insurance benefits for and after such first month. (3) For purposes of determining entitlement to hospital insurance benefits under subsection (b) *any disabled widow age 50 or older* who is entitled to mother's insurance benefits (and who would have been entitled to widow's insurance benefits by reason of disability if she had filed for such widow's benefits) shall, upon application, for such hospital insurance benefits be deemed to have filed for such widow's benefits and shall, upon furnishing proof of such disability prior to July 1, 1974, under such procedures as the Secretary may prescribe, be deemed to have been entitled to such widow's benefits as of the time she would have been entitled to such widow's benefits if she had filed a timely application therefor.	
Transitional Provision	Title I of the Social Security amendments of 1965, P.L. 89–97; 42 U.S.C. 426a.	Sec. 103. Transitional provision on eligibility of uninsured individuals for hospital insurance benefits-entitlement to benefits.	

AGE DISTINCTIONS IN STATUTES AFFECTING HHS—Continued

[Public Health Service, Office of Human Development Services, Health Care Financing Administration, and Social Security Administration]

Program	Statute	Section and age distinction	CFDA No.
		(a) Anyone who—(1) has *attained the age of 65*, (2)(A) attained such age before 1968, or (B) has not less than 3 quarters of coverage . . whenever acquired, for each calendar year elapsing after 1966 and before the year in which he attained such age, . . . shall (subject to the limitations in this section) be deemed, solely for purposes of section 426 of this title, to be entitled to monthly insurance benefits under such section 402 for each month,	
End Stage Renal Disease Entitlements Provisions	Title II of the Social Security Act, as amended, P.L. 95-292 as amended by 3278 of P.L. 97-248; 42 U.S.C. [426(1)] 426-1.	Sec. 226A. End stage renal disease program—Entitlement to benefits: (a) Notwithstanding any provision to the contrary in section 226 or title XVIII, every individual who—. (1)(A) is fully or currently insured (as such terms are defined in section 214 of this Act), or would be fully or currently insured if (i) his service as an employee (as defined in the Railroad Retirement Act of 1974) after December 31, 1936, were included in the term "employment" for purposes of this title, and (ii) [applies to certain Federal employees], described in subparagraph (A) or (B)(i); or (B) is entitled to monthly insurance benefits under this title, (ii) is entitled to an annuity under the Railroad Retirement Act of 1974, or (iii) [applies to certain Federal employees]; or (C) is the spouse or dependent *child* (as defined in regulations) of an individual . . . (2) is medically determined to have end stage renal disease; and (3) has filed an application for benefits under this section; shall, in accordance with the succeeding provisions of this section, be entitled to benefits under part A and eligible to enroll under part B of Title XVIII, subject to the deductible, premium, and coinsurance provisions of that title.	
Premium Hospital Insurance	42 U.S.C. 1395i-2	Sec. 1818. Hospital insurance benefits for uninsured individuals not otherwise eligible—Individuals eligible to enroll. (a) Every individual who—(1) *has attained the age of 65*, (2) is enrolled under part B of this title, (3) is a resident of the United States, * * * and (4) is not otherwise entitled to benefits under this part, shall be eligible to enroll in the insurance program established by this part.	
Medicare Part B Supplementary Medical Insurance Benefits for the Aged and Disabled.	Title XVIII of the Social Security Act P.L. 89-97; 42 U.S.C. 1395j *et seq.*	Sec. 1836. Every individual who * * * is entitled to hospital insurance benefits under part A or *has attained age 65* * * * *is eligible to enroll.* See also Sec. 1862(a)(3) as amended by P.L. 97-248 § 116.	
Social Security Administration (SSA)			
Aid to the Aged, Blind, or Disabled (AABD)	Title XVI of the Social Security Act, as amended, P.L. 87-543; 42 U.S.C. 1381, 42 U.S.C. 1385.	This title is presently in effect in Puerto Rico only Sec. 1601 now enables States to furnish financial assistance to needy individuals *who are 65 years of age or over*, are blind or *who are 18 years of age or over* and permanently and totally disabled. Section 1605 defines "aid to the aged, blind or disabled" as money payments to, or—medical care in behalf—of needy *individuals who are 65 years of age or older*, are blind, or *age 18 years of age or over* and permanently and totally disabled. This does not include an individual who is an inmate in a public institution (except as a patient in a medical institution) or an *individual under age 65* who is a patient in an institution for tuberculosis or mental diseases.	13.761
Aid to Families with Dependent Children (AFDC).	Title IV-A of the Social Security Act, as amended, P.L. 271; 42 U.S.C. 601 *et seq.*	Sec. 401—Encourages the care of dependent children in their own homes and in the homes of relatives by enabling each State to furnish financial assistance or rehabilitation and other services to needy dependent *children* and the parents or relatives with whom they are living. The term dependent *child* is defined in Section 406(a) as a needy *child* who has been deprived or parental support—and "who is (A) *under the age of 18* or (B) at the option of the State, under the age of 19 and a full-time student in a secondary school (or in the equivalent level of vocational or technical training), if, before he attains age 19, he may reasonably be expected to complete the program of such secondary school (or such training).	
Aid to the Permanently and Totally Disabled (APTD).	Title XIV of the Social Security Act, as amended, P.L. 87-543; 42 U.S.C. 1351, 42 U.S.C. 1355.	This title is presently in effect for Guam and the Virgin Islands only Sec. 1401—Enables States to furnish financial assistance to needy *individuals 18 years of age and older* who are permanently and totally disabled and encouraging each State to furnish rehabilitation and other service to help such individuals. Sec. 1405—defines "aid to the permanently and totally disabled" as money payments to or "medical care in behalf of, or any type or remedial care recognized under State law in behalf of, needy *individuals 18 years of age or older* who are permanently and totally disabled. . .".	13.761 13.802
Federal Old-Age Survivors, and Disability Insurance Benefits (OASDI).	Title II of the Social Security Act, as amended, P.L. 89-97; 42 U.S.C. 422.	Sec. 222(d)(1)—For the purpose of making vocational rehabilitation services more readily available to disabled individuals who are—. (A) entitled to disability insurance benefits, or (B) entitled to *child's* insurance benefits *after having attained age 18*, or (C) entitled to widow's insurance benefits *prior to attaining age 60*, or (D) entitled to widower's insurance benefits prior to attaining age 60, to the end that savings will result to the Trust Fund as a result of rehabilitating such individuals into substantial gainful activity, there are authorized to be transferred from the Trust Funds, sums to enable the Secretary to pay for reimbursement for the reasonable and necessary costs of rehabilitation services which result in such individuals performing substantial gainful activity for a continuous period of nine months.	
Old Age Assistance Program (OAA)	Title I of the Social Security Act, as amended P.L. 271; 42 U.S.C. 301.	This title is presently in effect in Guam and the Virgin Islands only Sec. 1—To enable States to furnish financial assistance to aged needy individuals. Old age assistance is defined in Section 6 as "money payments" or medical care to needy individuals who are *65 years of age or older*. This does not include an individual who is an inmate of a public institution (except as a patient in a medical institution).	13.761

AGE DISTINCTIONS IN STATUTES AFFECTING HHS—Continued

[Public Health Service, Office of Human Development Services, Health Care Financing Administration, and Social Security Administration]

Program	Statute	Section and age distinction	CFDA No.
Supplemental Security Income Program (SSI)	Title XVI of the Social Security Act, as amended P.L. 92-603; 42 U.S.C. 1382d.	Sec. 1615(a)—A blind or disabled person "*who has not attained age 65*" shall be referred for vocational rehabilitation service or in the case of blind or disabled children who *have "not attained age 16"* shall be referred to the State agency administering the State plan, which provides counseling for *disabled children*, service plans and prompt referral to appropriate medical, education and social services and to provide for *children age 6 and under* or who have never attended public school, who require preparation for public education, medical, social, developmental and rehabilitation services. "Effective October 1, 1982, pursuant to section 2193(c)(8) of Pub. L. 97-35, the Omnibus Budget Reconciliation Act of 1981, the age distinctions under the SSI program are as follows: Sec. 1615(a)—A blind or disabled person '*who has not attained age 65*' shall be referred for vocational rehabilitation service or in the case of blind or disabled children who have '*not attained age 16*' for a review not less often than quarterly of such person's disability or blindness and his need for and use of the vocational rehabilitation services".	13.807
Child Support and Establishment of Paternity	Title IV-D of the Social Security Act, as amended, P.L. 93-647; 42 U.S.C. 651.	Section 451—Authorizes the appropriation of funds for the purpose of enforcing the support obligations owed by absent parents to their *children*, and spouses or former spouses with whom the children are living locating absent parents, establishing paternity and obtaining *child* and spousal support. Section 452(a) authorizes the Secretary of HEW to establish a separate organizational unit under the direction of the Secretary's designee who shall establish such standards for State programs for locating absent parents, establishing paternity and obtaining *child* and spousal support as he determines to be necessary to assure that such program will be effective. Section 454(a) provides that a State plan for *child* and spousal support, in addition to other requirements must provide that such State will undertake (A) in the case of a *child* born out of wedlock with respect to whom an assignment under section 402(a)(26) of this title is effective, to establish the paternity of such child—, and (B) in the case of any *child* with respect to whom such assignment is effective, to secure support for such *child* from his parent—. Section 462 defines "child support", when used in reference to the legal obligations of an individual to provide such support to mean periodic payments of funds for the support and maintenance of a *child* or *children* with respect to which such individual has such an obligation and includes but is not limited to, payments to provide for health care, education, recreation, clothing, or to meet other specific needs of such a *child* or *children*. . . .	

[1] Foster care.
[2] Adoption.

AGE DISTINCTIONS IN REGULATIONS AFFECTING HHS

[Public Health Service, Social Security Administration, Office of Human Development Services, and Health Care Financing Administration]

Program	Regulation	Section and age distinction	CFDA No.
Public Health Service, Food and Drug Administration			
Labeling of Drugs for Human Use	Labeling 21 CFR Part 201	Sec. 201.19 sets forth certain requirements concerning the use of the term "*infant*" in human drug labeling Sec. 201.57(f)(9) sets forth requirements concerning labeling for prescription drugs with pediatric indications. Sec. 201.308(c) sets forth a warning statement concerning *children* for the labeling of ipecac syrup. Sec. 201.314 contains age distinctions with respect to the labeling of drugs containing salicylates as follows: (a)—*children*, young children (c)—*child, children under 3* years of age (c)(3)—adults (d)—adults (e)(1)—*children, children under 3* years of age, *children greater than 3* years, *children down to age 6, younger children* (2)—*children under 3* years of age, *younger children*, adults (g)(1)—*children* Sec. 201.315 sets forth a warning statement concerning *children under 3* years of age for over-the-counter drugs for minor sore throats	
Prescription Drug Advertising	Prescription Drug Advertising, 21 CFR Part [redacted].	Sec. 202.1(e)(7)(x) *geriatric patients* are given as an example with respect to an advertisement promoting use of a drug in a selected class of patients.	
Special Requirements for Specific Human Drugs.	Special Requirements for Specific Human Drugs, 21 CFR Part 250.	Sec. 250.250(c)(3)(i) sets forth certain labeling requirements with respect to *infants*.	
Methadone	Drugs Used for Treatment of Narcotic Addicts, 21 CFR Part 291.	Sec. 291.505 discusses the use of methadone in the treatment of patients of various age groups as follows: (d)(3)(ii) and (iv) for patients *under the age of 18*.	
New Drugs	New Drugs, 21 CFR Part 310	Sec. 310.201 establishes conditions for exemption from prescription requirements for certain drugs. Makes numerous references to various age groups i.e., *adult, children 6–12 years, children 3–6 years, children under 12 years, children under 3 years, children under 6 years, children 6 years and over*. Sec. 310.500(e) labeling guidelines for the drug digoxin include directions for use for *newborn infants, infants 1 month–2 years, children 2–10 years, children over 10 years, and adults*.	
Drug Labeling	Interpretative Statements Re Warnings on Drugs and Devices for Over-the-Counter Sale, 21 CFR Part 369.	Sec. 369.20 sets forth recommended caution and warnings statements for the labeling of various drugs. Includes caution warnings concerning women of childbearing age, *children, children under 6 years of age, infants, children under 3 years of age*. Sec. 369.21 sets forth required caution and warning statements for the labeling of various drugs. Includes caution and warning statements concerning *children, children under 3 years of age, children under 12 years of age, children 6 years of age, children under 2 years of age*.	

AGE DISTINCTIONS IN REGULATIONS AFFECTING HHS—Continued

[Public Health Service, Social Security Administration, Office of Human Development Services, and Health Care Financing Administration]

Program	Regulation	Section and age distinction	CFDA No.
Radioactive Drugs	Prescription Drugs for Human Use Generally Recognized As Safe and Effective and Not Misbranded; Drugs Used in Research 21 CFR Part 361.	Sec. 361.1(b)(3)(i) establishes generally recognized as safe limits for the radiation dose to an *adult* research subject. Sec. 361.1(b)(3)(ii) established a maximum radiation dose for research subjects under 18 years of age. Sec. 361.1(c)(3) concerns certain reporting requirements for research involving research subjects under 18 years of age. Sec. 361.1(d)(5) sets forth certain requirements concerning the selection of human research subjects, those at least 18 years of age, those less than 18 years of age, *minors*, and females of childbearing age.	
OTC Drugs	Over-the-counter (OTC) Human Drugs Which are Generally Recognized as safe and Effective and Not Misbranded 21 CFR Part 330.	Sec. 330.1(g) requires a warning in the labeling to keep all drugs out of the reach of *children*.	
Medical Devices	Labeling 21 CFR Part 801	Sec. 801.403 sets forth recommended warnings and caution statements for specific medical devices with respect to *children* and the *elderly*. Sec. 801.420(c)(3) sets forth certain labeling requirements for hearing aids with respect to *children* who are prospective hearing aid users. Sec. 801.421 sets forth conditions for the waiver of the medical evaluation requirements for prospective haring aid users 18 years of age or older.	
Exemptions from Federal Preemption of State and Local Medical Device Requirements.	Exemptions for Specific States 21 CFR Part 808.	Sec. 808.71(a)(1) exempts Massachusetts General Laws, Chapter 93, Section 72, to the extent that it requires a hearing test evaluation for a *child* under the age of 18. Sec. 808.85(b) preempts Ohio Revised Code, section 4747.09, the last two sentences with respect to medical examination of *children*. Sec. 808.101(a) exempts District of Columbia Act 2–79, section 5, to the extent that it requires an audiological evaluation for *children* under the age of 18.	
Classification of Devices	21 CFR Parts 864–884	Classification regulations establish the regulatory controls necessary to assure the safety and effectiveness of medical devices. Certain of the devices are intended for persons of specific age groups, such as *infants*. Example: Sec. 880.5680 Pediatric position holder. The device is intended to hold an infant or a child in a desired position for therapeutic or diagnostic purposes, e.g., in a crib under a radiant warm.	
Childhood Lead-Based Paint Poisoning Program Control.	Grants for the Prevention of Lead-Based Paint Poisoning; 42 CFR Part 91.	Sec. 91.1 This regulation applies to programs for prevention, detection and treatment of incidents of lead-based paint poisoning among *children under 6 years of age*. Note: This program is now in the Maternal & Child Health Block Grant. FY '82 is the transition period.	13.266
Childhood Immunization	Grants for Disease Control, Subpart B	This grant program is directed toward the population susceptible to *childhood* diseases. A *childhood* immunization program is defined in the regulation as a disease control program to immunize *children* against vaccine preventable diseases including poliomyelitis, measles, mumps, rubella, diphtheria, pertussis, and tetanus.	13.268
Influenza Immunization	Grants for Influenza Immunization programs, Subpart E.	This grant program is directed toward programs to immunize persons in high-risk groups against influenza. The regulation defines high-risk groups to mean those groups of persons at highest risk of serious illness or death due to influenza and its complications, as specified in grant guidelines. [The grant guidelines for the program define the high-risk target population to include persons *age 6 months through 64 years* with certain medical disabilities (as specified by the Advisory Committee on Immunization Practices) and *all persons age 65 and over.*].	
Community Health Services	Grants for Community Health Services, 42 CFR Part 51c.	51c.102(e)(2)(4): Applicants for grants must provide an assessment of the need for services, taking into account, among other things, health indices for the population to be served, such as infant mortality rate, and demongraphic factors affecting the need and demand for services, such as percentage of the population *age 65 and over*. Sec. 51c.102(h) defines "Primary health services" to include: "(3) Preventive health services, including . . . *children's* eye and ear examination, prenatal and post partum care, prenatal services, well *child* care (including periodic screening) . . . ".	
Indian Health-Inpatient and Out-patient Care	Indian Health-Availability of Services, 42 CFR 36, Subpart B.	Sec. 36.11 uses the terms school *children* as an example of a special group receiving a preventive care service.	13.228
Maternal and Child Health and Crippled Children's Services.	Grants for Maternal and Child Health and Crippled Children's Services, Subpart A, 42 CFR Part 51a.	Sec. 51a.101 *et seq.* All of Subpart A is age-related toward services for *children* and women of child-bearing age. *Crippled children* is defined for program purposes as an individual *under the age of 21*. *Note:* Maternal & Child Block Grant. FY '82 is the transition period	13.211 (CC) and 13.232 (MCH)
Special Projects of Regional or National Significance.	Special Projects of Regional and National Significance, 42 CFR Part 51a, Subpart B.	Sec. 51a.201 *et seq.* Subpart B provides for demonstration of innovative methods of providing services to mothers and *children*.	13.211 13.232
Maternal and Child Health Research Projects	Subpart D Project Grants to Institutions of Higher Learning.	Sec. 51a.401 *et seq.* Subpart D provides for the administration of projects which contribute to the advancement of maternal and *child* health, the advancement of services for *crippled children*, or the training of personnel for health-care related services for mothers and *children* Note: Although included in the Maternal Child Health legislation, this program is part of the 15% Federal set aside program which remains categorical. The recent block grant rules removed all of Part 51a after Oct. 1, 1982. Subparts B & D should have been retained and steps are being taken by BCHS to get subparts B & D put back into effect.	13.233
Maternal and Child Health Research Projects	Research Projects Relating to Maternal and Child Health, 42 CFR Part 205.	Sec. 205.1(2) refers to the Section 512, Social Security Act, authorization for research projects relating to *maternal* and *child* health and *crippled children's* services. The other applicable portions of the regulations are designed to carry out the research activities for the improvement of maternal and *child* health.	11.231
Migrant Health Services	Grants for Migrant Health Services, 42 CFR Part 56, Subpart A.	Sec. 56.104(b)(4) (ii) and (iv) requires that applications for grants provide an assessment of the need for services, taking into account, among other things, health indices for the population to be served, such as *infant* mortality rate, and demographic factors affecting the need and demand for services, such as percentages of such population *age 65 and over*.	

AGE DISTINCTIONS IN REGULATIONS AFFECTING HHS—Continued

[Public Health Service, Social Security Administration, Office of Human Development Services, and Health Care Financing Administration]

Program	Regulation	Section and age distinction	CFDA No.
Referral and Services for Blind and Disabled Children Receiving Supplemental Security Income Benefits	Referral and Services for Blind and Disabled Children Receiving Supplemental Security Income Benefits, 42 CFR Part 51a Subpart C.	The regulations carry out the statutory requirement for provision of services for SSI recipients *under 16 years of age* who are referred to the State crippled children's agency or another State agency which administers programs for disabled *children*. The age-related requirements are provision of *all* services including treatment for *children age 6 or under* or who have never attended public school, and establishment of individual service plans, counseling, referral and monitoring services for *all* other *children* receiving SSI benefits who are *7 to 16 years of age*. Note: This is now part of the Maternal and Child Health Block Grant. FY '82 is the transition period.	13.807
Social Security Administration (SSA)			
Aid to the Aged, Blind or Disabled (AABD)	Coverage and conditions of eligibility in financial assistance programs 45 CFR Part 233 (cont.).	Sec. 233.60 Institutional status (a) Federal financial participation. (2) (ii) Federal financial participation under title XVI of the Social Security Act is not available in payments to or in behalf of any individual who *has not attained 65 years of age* and who is a patient in an institution for tuberculosis or mental diseases—	13.761
Aid to Families with Dependent Children (AFDC.		Sec. 233.90 Factors specific to AFDC. (b) Conditions for plan approval. (2) An otherwise eligible *child who is under the age of 18 years* may not be denied AFDC, regardless of whether he attends school or makes satisfactory grades. (3) A State may elect to include in its AFDC program *children age 18* who are full-time students in a secondary school, or in the equivalent level of vocational or technical training, and who may reasonably be expected to complete the program before reaching age 19.	
Aid to Families with Dependent Children (AFDC).	Coverage and conditions of eligibility in financial assistance programs 45 CFR Part 233 (cont.).	Sec. 233.120 Emergency assistance to needy families with children (b)(1) Federal financial participation is available for emergency assistance to or on behalf of a needy *child under the age of 21* and any other member of the household in which he is living if— (i) Such *child* is (or, within 6 months prior to the month in which such assistance is requested, has been) living with any of the relatives specified in section 406(a)(1) of the Act in a place of residence maintained by one or more of such relatives as his or their own home. (ii) Such *child* is without resources immediately accessible to meet his needs. (iii) The emergency assistance is necessary to avoid destitution of such *child* or to provide living arrangements for him in a home, and (iv) His destitution or need for living arrangements did not arise because he or such relative refused without good cause to accept employment or training for employment.	13.761
	The following list of regulation sections also use age or age-related terms. However, the terms refer to eligible individuals as defined, by age, as shown above. For example, 45 CFR 234.60 provides "protective payments for dependent children." These regulation sections do not contain conditions or requirements that relate to age except as age is defined above.	45 CFR Secs: 201.3, 201.14; 205.10; 205.25; 205.146, 206.10; 224.1; 224.20; 224.22; 232.2; 232.10; 232.11; 232.12; 232.20; 232.40; 232.42; 232.43; 232.49; 233.40; 233.100; 233.110; 234.60; 234.70; 234.120; 235.70; 237.50.	
Assistance Programs Office of Family Assistance.	Training and use of subprofessionals and volunteers—45 CFR Part 225.	Sec. 225.2 State plan requirements The State plan for financial assistance programs under titles I, IV–A, X, XIV, or XVI of the Social Security Act for Guam, Puerto Rico and the Virgin Islands or for child welfare under title IV (Part B) of the Act must (a) Provide for the training and effective use of subprofessional staff as community service aids through part-time or full-time employment of persons of low income and, where applicable, of recipients and for that purpose will provide for: (1) Such methods of recruitment and selection as will offer opportunity for full-time or part-time employment of persons of low income and little or no formal education, including employment of *young and middle aged adults, older persons,* and the physically and mentally disabled. . .	13.761
	Assistance to individuals 65 years of age or older in institutions for mental diseases—45 CFR Part 208.	Sec. 208.1(a) A State plan under titles I, XVI of the Social Security Act which includes assistance to or in behalf of individuals *age 65 years of age or older* who are patients in institution for mental diseases must provide for—(3) the development of alternate plans of care, making maximum utilization of available resources for recipient *65 years of age or older* who would otherwise need care in institutions, to meet their medical, social and financial needs.	13.761
Old Age Assistance Program (OAA)	Coverage and Conditions of Eligibility in Financial Assistance Programs—45 CFR Part 233 (cont.).	Sec. 233.10 General Provisions regarding coverage and eligibility The following is a summary statement regarding the groups for whom Federal financial participation is available. (More detailed information is given elsewhere.) (b)(2)(i) OAA—for needy individuals under the plan who are *65 years of age or older*	
Aid to Families with Dependent Children (AFDC).		(ii) AFDC—for: (a) Needy *children* under the plan who are: (1) *Under the age of 18*, or age 18 if a full-time student in a secondary school or in the equivalent level of vocational or technical training, and reasonably expected to complete the program before reaching age 19; (2) Deprived of parental support or care by reason of the death, continued absence from the home, or physical or mental incapacity of a parent, or unemployment of a father; and (3) Living in the home of a parent or of certain relatives specified in the Act, or in foster care under certain conditions. (b) The parent or other caretaker relative of a dependent *child* and, in certain situations, the parent's spouse.	
Aid to Blind (AB)		(iii) AB—for needy individuals under the plan who are blind	
Aid to the Permanently and Totally Disabled (APTD).		(iv) APTD—for needy individuals under the plan who are *18 years of age or older* and permanently and totally disabled.	

AGE DISTINCTIONS IN REGULATIONS AFFECTING HHS—Continued

[Public Health Service, Social Security Administration, Office of Human Development Services, and Health Care Financing Administration]

Program	Regulation	Section and age distinction	CFDA No.
Aid to the Aged, Blind and Disabled (AABD)		(a) AABD—for needy individuals under the plan who are aged, blind, or *18 years of age or older* and permanently and totally disabled.	
Aid to the Aged, Blind and Disabled (AABD) (cont.).	Coverage and conditions of eligibility in financial assistance programs: 45 CFR part 233 (cont.).	Sec. 233.30 Age.	13.761
		(a) Condition for plan approval. A State plan under Title I or XVI of the Social Security Act may not impose any age requirement of *more than 65 years*.	
		(b) Federal financial participation.	
		(1) Federal financial participation is available in financial assistance provided to otherwise eligible persons who were, for any portion of the month for which assistance is paid:	
		(i) In OAA or AABD with respect to *the aged, 65 years of age or over;*	
		(ii) In AFDC, *under 18 years of age;* or age 18 if a full-time student in a secondary school, or in the equivalent level of vocational or technical training, and reasonably expected to complete the program before reaching age 19;	
		(iii) In AB or AABD with respect of the blind, any age;	
		(iv) In APTD or AABD with respect to the disabled, *18 years of age or older*	
		(2) Federal determination of whether an individual meets the age requirement of the Social Security Act will be made according to the common-law method (under which a specific age is attained the day before the anniversary of birth), unless the State plan specifies that the popular usage method (under which an age is attained on the anniversary of birth), is used.	
		(3) The State agency may adopt an arbitrary date such as July 1 as the point from which age will be computed in all instances where the month of an individual's birth is not available, but the year can be established.	
Child Support Enforcement Program	Office of Child Support Enforcement 45 CFR Parts 301, 302 and 305.	Sec. 302.17 The State plan shall provide a copy of State statutes or regulations . . . that provide procedures to be used in the determination of paternity of a *child* born out of wedlock and to establish the *child* support obligation of a responsible parent and to enforce such child support obligations.	
		302.31 The State plan shall provide that: (a) The (IV–D) agency will undertake:	
		(1) In the case of a *child* born out of wedlock with respect to whom an assignment under Sec. 232.11 is effective, to establish the paternity of the *child*; and.	
		(2) In the case of any *child* with respect to whom such assignment is effective, to secure support for such *child* from any person who is legally liable for such support . . .	
The cited section of the regulations refer to child support, child support obligations and child support enforcement but do not pertain to eligibility requirements for children or families with dependent children or otherwise of individuals.		301.1; 301.13; 301.15; 302.32; 302.34; 302.36; 302.37; 302.40; 302.51; 302.52; 302.70; 302.72; 304.20; 304.21; 304.22; 304.23; 304.24; 304.29; 305.0; 305.10; 305.24; 305.27; 305.28; 305.37; 305.50;.	
		Note: The Department is currently developing amending regulations to reflect changes in the Child Support Enforcement Program under the Omnibus Budget Reconciliation Act of 1981..	
Supplemental Security Income Program (SSI)	Supplemental Security Income for the Aged, Blind and Disabled 20 CFR Part 416.	Sec. 416.1710—Referrals. *Persons 16 years of age* or older under 65 years old and receiving supplemental security income (SSI) benefits, will be referred to the State agency providing vocational rehabilitation services. *Persons under age 16,* will be referred to an agency administering services under the State plan for crippled children's services.	13.807
Office of Human Development Services (OHDS)			
Title III of the Older Americans Act of 1965, as amended.	Basis and purpose of part	Sec. 1321.1 This part prescribes requirements State agencies must meet to receive grants to develop comprehensive and coordinated systems for the delivery of social and nutrition services under Title III. . . .	
Grants for State and Community Program on Aging.	45 CFR Part 1321		
	Staffing	Sec. 1321.17(c) *Preference.* Subject to merit system requirements, the State agency must give preference in hiring to persons *age 60 or older.*	
	Agency Responsibility: general	Sec. 1321.41(d) The State agency must represent the interests of *older persons* before legislative, executive and regulatory bodies in the State..	
	Long-term care ombudsman program	Sec. 1321.43(a) *General rule.* The State agency must establish and operate a statewide long-term care ombudsman program that meets the requirements of paragraphs (c) through (f) of this section. The State agency may operate the ombudsman program directly, or by contract or other arrangment, with any public agency or private nonprofit organization, except one that is.	
	Service delivery systems responsibilities; general.	Sec. 1321.45(a) The State agency must: . . . (5) Provide adequate and effective opportunities for *older persons* to express their views to the State agency on policy development and program implementation under the plan;.	
		(6) Give preference to *older persons* with the greatest economic or social need in the delivery of services under the State plan;	
		(13) Coordinate legal services for *older persons* in the State, give technical assistance, advice, and training in the provision of legal services to *older persons;* and make reasonable efforts to maintain existing levels of those services;	
		(16) Ensure that all *older persons* in the State have reasonably convenient access to information and referral services;	
	State advisory council	Sec. 1321.47(a) *Functions of the council.* [A State advisory council on aging must be established] . . . to advise and help the State agency to . . . (3) Represent the interests of *older persons.*	
	Intrastate funding formula	Sec. 1321.49(b) [An intrastate funding formula (developed for the allocation of funds to area agencies] must . . . (3) Reflect the proportion of *persons age 60 and over* among the planning and service areas in the State; and (4) Reflect the proportion . . . of *persons age 60 and over* in greatest economic or social need.	
	Designation of planning and service areas	Sec. 1321.53(c) *Factors to be used in designation.* In dividing the State into planning and service areas, the State agency must consider —(1) the distribution . . . of *persons age 60 and over* including those with the greatest economic need.	

AGE DISTINCTIONS IN REGULATIONS AFFECTING HHS—Continued

[Public Health Service, Social Security Administration, Office of Human Development Services, and Health Care Financing Administration]

Program	Regulation	Section and age distinction	CFDA No.
	Interstate planning and service area	Sec. 1321.57(d) If the Commissioner approves the request for designation of an interstate planning and service area, the Commissioner reduces the allotment(s) of the State(s) without lead responsibility for administering programs within the area in proportion to the number of individuals age *age 60 and older* in the State(s) portion of the area, and adds the amount(s) to the allotment of the State with lead responsibility	
	Designation and function of area agencies	Sec. 1321.61(c) *Functions of area agencies.* The area agency must— (2) Serve as the advocate and focal point for *older persons* in the planning and [redacted]	
	Staffing	Sec. 1321.69(c) *Preference.* Subject to merit system requirements the area agency must give preference in hiring to *persons 60 or older*	
	Comprehensive and coordinated service delivery system.	Sec. 1321.75(a) The area plan must provide for the development of a comprehensive and coordinated service delivery system for social and nutrition services needed by *older persons* in the planning and service area in which the area agency enters into cooperative arrangements with other service planners and providers to— (1) Facilitate access to and utilization of all existing services; and (2) Develop social and nutrition services effectively and efficiently to meet the needs of *older persons.*	
	Content of area plan	Sec. 1321.77(b) *Area agency function requirements.* An area plan must provide that the area agency function requirements are met for . . . (7) Considering the views of *older persons* . . .; (10) Coordination with other Federal programs serving *older persons* . . (c) *Service delivery requirements.* An area plan must provide that the service delivery requirements are met for—(1) Giving preference to older persons with greatest economic or social need . . .; (3) All service providers concerning . . . advisory role for *older persons* . . . (e) *Information requirements.* The area plan must specify—(2) A resource allocation plan indicating the propsoed use of all funds for programs for *older persons* directly administered by the area agency; . . . (5) Proposed methods for giving preference to those with greatest economic social need . . . (i) Must include . . . consideration of *older persons* . . .; and (ii) May not include . . . a means test . . . (i.e.,) the use of an *older person's* income or resources to deny or limit that person's receipt of services	
	Advocacy responsibilities of the area agency	Sec. 1321.91 The area agency must—(b) Conduct public hearings on the needs of *older persons;* (c) Represent the interests of *older persons* to public officials, public and private agencies or organizations; . . . (e) Coordinate planning with other agencies and organizations to promote new or expanded benefits and opportunities for *older persons*	
	Area agency general planning and management responsibilities.	Sec. 1321.93. The area agency must—. . . (b) Assess the services needed by *older persons* . . . and the effectiveness of the use of resources in meeting these needs; . . . (g) give preference in the delivery of services . . . to *older persons* with the greatest economic or social need; . . . (i) Provide adequate and effective opportunities for *older persons* to express their views to the area agency on policy development and program implementation (j) Have outreach efforts to identify *older persons* and inform them of the availability of services under the plan . . .; (k) If possible, have arrangements with children's day care organizations so that *older persons* can volunteer to help provide day care; (l) If possible, have arrangements . . . to use the services provided *older individuals* under the community schools program	
	Designation of community focal points for service delivery.	Sec. 1321.95(b) *Procedures for designating community focal points for service delivery.* (1) [In designating and developing community focal point] . . . the area agency must consider—(i) Communities with the greatest incidence of *older persons* with the greatest economic or social need; (c) *Developing collocation of services.* The area agency must—(1) Establish guidelines for operating schedules at the focal point which are convenient for *older persons* in the community;	
	Area agency advisory council	Sec. 1321.97(a) *Functions of council.* [An advisory council must be established to] . . . advise the agency to . . . (3) Represent the interests of *older persons;* and (4) Review and comment on all community policies, and programs and actions which affect *older persons.* (b) *Composition of the Council.* The advisory council must be made up of—(1) More than 50 percent older persons and include— (i) *Older persons* with greatest economic or social need; . . (2) Representatives of *older persons* . . .	
	Outreach, training, and coordination requirements.	Sec. 1321.107. All service providers . . . must comply with procedures established by the area agency for—(a) Outreach activities to ensure participation of eligible *older persons;* (b) Training and use of *elderly* and other volunteers and paid [redacted] . . .	
	Preference for older persons with greatest economic or social need.	Sec. 1321.109. All service providers . . . must follow priorities . . . for serving *older persons* with greatest economic or social need . . .	
	Contributions for services under the area plan	Sec. 1321.111(a) *Opportunity to contribute.* Each service provider must—(1) Provide each *older person* with a free and voluntary oportunity to contribute to the cost of the service; (2) Protect the privacy of each *older person* with respect to his or her contribution; . . . (b) *Contribution schedules.* . . . In developing a contribution schedule the provider must consider the income ranges of *older persons* in the community and the provider's other sources of income. (c) *Failure to contribute.* A service provider that receives funds may not deny any *older person* a service because the *older person* will not or cannot contribute to the cost of the service. (d) *Contributions as program income.* Contributions made by *older persons* are considered program income.	
	Multipurpose senior centers	Sec. 1321.121(a) *Purpose of making awards.* The area agency may award social service funds under this part to a public or private non-profit agency for the following purposes—(1) Acquiring . . . a facility . . . for use as a multipurpose senior center; (2) Constructing a facility . . . for use as a multipurpose senior [redacted]	
	Health safety, and construction requirements.	Sec. 1321.123(b) *Life Safety.* . . . the State agency may require a recipient of any multipupose senior center award to—. . . (3) Have a plan for assuring the safety of *older persons* in a natural disaster or other safety threatening situations.	

AGE DISTINCTIONS IN REGULATIONS AFFECTING HHS

[Public Health Service, Social Security Administration, Office of Human Development Services, and Health Care Financing Administration]

Program	Regulation	Section and age distinction	CFDA No.
	Funding and use requirements	Sec. 1321.135(c) In a facility that is shared with other age groups, funds received . . . may support only—(1) That part . . . used by *older persons;* or (2) A proportionate share of the costs based on the extent of use of the facility by *older persons* . . .	
	Nutrition Services	Section 1321.141(a) *Purpose of making awards.* The area agency may award nutrition service funds received under this part to provide meals and other nutrition services, including outreach, and nutrition education, to *older persons* In making these awards the area agency must assure that congregate meals are provided and that home-delivered meals are provided based on an assessment of need by the area agency and nutrition service providers. (b) *Eligibility.* (1) *Congregate nutrition services.* A person age *60 or older,* and the spouse of the person regardless of age, are eligible to participate in congregate nutrition services . . . (2) *Home-delivered nutrition services.* A person *age 60 or over* who is homebound . . . is eligible to receive a home-delivered meal . . under this part must be in addition to any legal services being provided to *older persons* in the planning and service area.	
	Special requirements for nutrition services providers.	Sec. 1321.145(a) *Requirements for congregate providers.* Each congregate provider must—. . . (2) Locate congregate nutrition services as close as possible and, where feasible and appropriate, within walking distance, to the majority of eligible *older persons* . . . (b) *Requirements for home-delivered meals providers.* Each home-delivered meals provider must: . . . (3) With the consent of the *older person* bring to the attention of appropriate officials . . . conditions or circumstances which place the *older person* . . . in imminent danger.	
	Food requirements for all services providers	Sec. 1321.147(f)(2) *Food stamp program* . . . The nutrition services provider must coordinate its activities with agencies responsible for administering the food stamp program to facilitate participation of eligible *older persons* . . .	
	Legal Services	Sec. 1321.151(a) *Purpose of award.* The area agency must award social service funds under this part for legal services to *older persons* with economic or social needs. The purpose of awards under this section is to increase the availability of legal services with a priority on *older persons* with the greatest economic or social need in order to assist them to secure their rights, benefits and entitlements, and to assist them in achieving the objectives of the Act. Legal services provided with funds under this part must be in addition to any legal services being provided to older persons in the planning and service area.	
	Information and Referral Services	Sec. 1321.161(a) The area plan must provide for information and referral services sufficient to ensure that all *older persons* within the planning and service area have reasonably convenient access to the service. (b) In areas in which a significant number of *older persons* do not speak English as their principal language, the service provider must provide information and referral services in the language spoken by the *older persons.* (c) . . . A provider information and referral services must— (1) Maintain current information with respect to the opportunities and services available to *older persons;* (2) Develop current lists of *older persons* in need of services and opportunities; and (3) Employ a specially trained staff to inform *older persons* of the opportunities and services which are available and to assist *older persons* to take advantage of the opportunties and services. (d) An information and referral services provider may disclose information by name about an *older persons* only with the informed consent of the *older person* . . .	
	Allotments and grants to States	Sec. 1321.181(c) *Amounts allotted for social and nutrition services.* From the sums appropnated each fiscal year for social and nutrition services, each State is allotted an amount based on the ratio of its population age *60 and older* to the national population age *60 and older.* . .	
	Fifty percent	Sec. 1321.187(b) *Waiver.* The State agency . . . may waive the [fifty percent service] requirement . . . for any . . . service for which the area aging demonstrate . . . that the services provided from other sources meet the needs of *older persons.* . .	
	Obligation and reallotment	Sec. 1321.197(b) *Reallotment* . . . (2) If an Indian tribal organization receives a grant . . . the commissioner withholds a portion of the State's allotments for . . . services . . . based on the number of *older Indians.* . .	
Grants to Indian Tribes for Social and Nutritional Services.	Title VI of the Older Americans Act, 45 CFR Part 1328; basis and scope.	Section 1328.1 This part implements Title VI of the Older Americans Act, as amended, by establishing the requirements that an Indian tribal organization must meet in order to receive a grant to provide social and nutrition services to *older Indians,* and to acquire, alter, or renovate a facility for use as an Indian multipurpose senior center. This part also prescribes application and hearing requirements and procedures for these grants.	
	Definitions	Sec. 1328.3 "Older Indians" means a member of an Indian tribe who is *60 years of age or older.*	
	Tribal organization eligibility	Sec. 1328.7(a) A tribal organization is eligible to apply for a grant . . . If it . . . (2) Represents *75 or more older* who will receive services . . .; (3) Demonstrates its ability to deliver social and nutrition services to *older Indians* . . . (4) Assures that the *older Indians* it represents under its grant do not receive services under Title III of the [Older Americans] Act. . . (b) A tribal organization may represent *older Indians* from more than one tribe. (d) A tribal organization may not provide services funded under 45 CFR Part 1321 [Grants for State and Community Programs on Aging] to any *older Indian* represented by the tribal organization under this part.	
	Tribal organization responsibilities	Sec. 1328.9 A tribal organization, must—(a) Propose the geographic boundaries of its service area . . . *older Indians* in the service area may receive services only under this part . . . (e) Use a needs assessment to determine the kinds and levels of services needed by *older Indians* in the service area . . . (2) . . . If the tribal organization uses a needs assessment due for a State, region or area it must show how it decided the findings were applicable to the *older Indians.* (g) Provide for outreach efforts to identify *older Indians* and inform them of the availability of services. . .	

AGE DISTINCTIONS IN REGULATIONS AFFECTING HHS—Continued

[Public Health Service, Social Security Administration, Office of Human Development Services, and Health Care Financing Administration]

Program	Regulation	Section and age distinction	OPTM No.
	Tribal Organization Responsibilities (cont.)	Section 1328.9(h) A tribal organization, must coordinate, to the extent feasible, with other community agencies including area agencies on aging, in the service area, in planning and providing services to *older Indians* . . . (i) A tribal organization, must give preference, wherever feasible, to employing *older Indians* for full/and part-time staff positions to carry out activities under this part. (k) Provide each *older Indian* with a full and voluntary opportunity to contribute to the cost of the services . . . (l) Have procedures [subject to the requirements provided] to ensure [the confidentiality of] . . . information about an *older Indian* . . . (n) Represent the interests of *older Indians* . . . (q) Provide services under this part in a plain and uniform manner to all providers . . . (t) Ensure that all services . . . are provided without consideration of an *older Indian's* income and resources or ability to pay for services . . .	
	Advisory Council	Sec. 1328.11(b) The advisory council must be [established] and made up of more than 50 percent *older Indians* . . . (c) The tribal organization must use the advisory council in . . . (3) Providing advice and guidance on matters concerning the *older Indians* . . .	
	Contributors	Sec. 1328.13(a) *General rule.* A tribal organization must—(1) Provide each *older Indian* with a free and voluntary opportunity to contribute to the cost of the service; (2) protect the privacy of each *older Indian* with respect to his or her contributions . . . (b) *Contributions schedules.* A tribal organization may develop a suggested contribution schedule for services provided. . . . In developing a contribution schedule for services provided. In developing a contribution schedule the tribal organization must consider the income ranges of *older Indian* . . . (c) *Failure to contribute.* A service provider that receives funds may not deny any older Indian a service because the *older Indian* will not or cannot contribute to the cost of the service. (d) *Contributions as program income.* Contributions made by a *older Indian* are considered program income and are to be used for allowable costs of additional services . . .	
	Required and optional services	Sec. 1328.17(a) *Services that must be provided or provided for under this part.* A tribal organization that receives a grant . . . must . . . (2) Provide for information and referral services . . . If information and referral services are being provided from other sources . . . the tribal organization must demonstrate in its application that the needs of the *older Indians* in the service area are being met for that category of service. (b) *Other services that may be provided under a grant under this part.* The tribal organization may provide additional services necessary for the welfare of *older Indians* that ae designed to meet the unique social and nutrition needs of *older* [illegible]	
	Nutrition Services	Section 1328.21(a) *General rule.* The tribal organization must provide nutrition services to *older Indians* at home or in a congregate setting, and may provide nutrition services to the spouses of *older Indians.* (b) *Food requirements for all nutrition services.* The tribal organization must ensure that . . . (2) Menus are provided to meet the particular . . . needs of eligible *older Indians* . . . (3) Appropriate food containers and utensils are available for use by disabled *older Indians* upon request . . . (e) *Food Stamps.* Where applicable the tribal organization must work with agencies responsible for administering the Food Stamp Program to facilitate participation of eligible *older Indians*	
	Legal Services	Section 1328.23(a) *Purpose.* The tribal organization must provide legal services to *older Indians* with social or economic needs. The purpose of legal services under this part is to increase the availability of legal aid to *older Indians* with social or economic needs in order to assist them to secure their rights, benefits and entitlement, and to assist them in achieving the objectives of the Act. Legal Services provided with funds under this part must be in addition to, and not in substitution for, any other legal services provided to *older Indians* represented by the tribal organization, except that legal services which had been provided under Title III of the Act would not continue to be available to *older Indians* served under this part. (b) *Conditions legal service providers must meet* . . . (2) Unless the tribal organizations directly provides legal services, the tribal organization must award funds to the legal services provider(s) that most fully meet(s) the following standards. The legal services provider(s) must— (i) Have staff with expertise in specific areas of law affecting *older Indians* . . . (ii) Demonstrate the capacity to provide effective . . . representation in the areas of law affecting *older Indians* . . . (v) Have offices and/or outreach sites which are convenient and accessible to *older Indians* in the community and (vi) Demonstrate the capacity to obtain other resources to provide legal services to [illegible] (3) Each legal service provider must— (i) Make efforts to involve the private bar in legal services provided under this part, including groups within the private bar that furnish legal services to *older persons* on a pro bono and reduced fee basis . . . (c) *Case Priorities.* A legal service provider . . . may . . . set priorities for the categories of cases for which it will provide legal representation in order to concentrate on *older Indians* . . . (d) *Information about income and resources.* A legal services provider may not require an *older Indian* to disclose information about income or resources as a condition for providing legal services . . .	
	Information and Referral Services	Sec. 1328.25(a) The tribal organization must provide information and referral services so that *older Indians* have reasonably convenient access to those [illegible] (b) If a significant number of *older Indians* in the service area do not use English as their principal language, the tribal organization must provide for information and referral services in the language those individuals speak. (c) The tribal organization must establish or have a list of all services that are available to *older Indians* in the service area. (d) The tribal organization must provide assistance to *older Indians* to help them take advantage of the available service; and (e) The tribal organization must maintain a list of services needed or requested by the *older Indians.*	

AGE DISTINCTIONS IN REGULATIONS AFFECTING HHS—Continued

[Public Health Service, Social Security Administration, Office of Human Development Services, and Health Care Financing Administration]

Program	Regulation	Section and age distinction	CFDA No.
	Long-Term Care Ombudsman Services	Sec. 1328.27 (a) *General rule* . . . no tribal organization public agency, or private nonprofit organization may operate an ombudsman program if it is—(1) Responsible for licensing or certifying long-term care facilities or other residential facilities for *older persons;* (2) An association, or an affiliate or agent of an association, of long-term care facilities for *older persons* (b) *Appointing an ombudsman.* The tribal organization must assure that an individual is designated to serve as the long-term care ombudsman and that the following responsibility(ies) are delegated to the ombudsman: (1) Investigate and resolve complaints made by, or for, older *Indians* residing in the long-term care facilities about administrative actions that may adversely affect their health, safety, welfare or rights (3) Provide information to the tribal organization, and to the Commissioner on request, about problems of *older Indians* residing in long-term care facilities in the service area . . .	
	Health and Safety Requirements	Sec. 1328.25(b) *Life Safety* . . . the tribal organization may require a recipient of any multipurpose senior center award to (3) Have a plan for assuring the safety of *older persons* in a natural disaster or other safety threatening situations.	
	Surplus Educational Facilities from the Bureau of Indian Affairs.	Sec. 1328.37 If an eligible tribal organization applies for a grant under this part to renovate a surplus educational facility the Bureau of Indian Affairs (BIA) has made available for use as a center, the tribal organization (c) May renovate the center to become an extended care facility or a community center providing nutrition, social and child care services. If a center will be used for services other than services to *older Indians*, the tribal organization may use funds under this part only— (1) To alter that portion of the center used by *older Indians;* or (2) For a proportionate share of the alteration costs based on the extent of use of the facility by *older Indians.*	
	Preapplication Requirements	Sec. 1328.39(b) The tribal organization must include in the preapplication, information to demonstrate that it meets the eligibility requirements specified in § 1328.7. The preapplication must include (2) Documentation of the number of *older Indians* that the tribal organization represents . . . (3) Documentation of its ability to deliver social and nutrition services to *older Indians* . . . (4) An assurance from the tribal organization that it has methods and procedures to ensure that *older Indians* will not receive services under 45 CFR Part 1321 for the duration of the grant under this part.	
	Application Requirements	Sec. 1328.43(c) *Application assurances.* A tribal organization must provide satisfactory assurances in its application that it has methods and procedures to ensure that the older Indians served under the grant do not receive services under Part 1321 for the period of the grant	
	Prohibition on Consideration of Program Benefits as Personal Income.	Sec. 1328.51 Benefits derived from this program cannot be considered as part of an *older Indian's* income in qualifying for other Federal programs.	
Runaway Youth Program	45 CFR Part 1351—Significant terms	Sec. 1351.1 For purpose of this part: (f) "Homeless Youth" means a person *under 18 years of age* who is in need of services and without a place of shelter where he or she receives supervision and care. (1) "Runaway Youth" means *a person under 18 years of age* who absents himself or herself from home or place of legal residence without the permission of parents or legal guardian.	
	Purpose	Sec. 1351.10—"The purpose of the Runaway Program is to establish or strengthen existing or proposed community-based runaway *youth* projects to provide temporary shelter and care to runaway or otherwise homeless *youth* who are in need of temporary shelter, counseling, and aftercare services"	
	Criteria for funding Runaway Youth Programs	Sec. 1351.18. In reviewing applications HHS [considers] . a number of factors . . . : (b) the number of runaway or otherwise homeless *youth* in the area in which the . . . project is located; (c) The availability of services to *youth* in the area . . . ; (d) Plans for meeting the best interests of the *youth* . . . ; (e) Plans for the delivery of aftercare or counseling services to *youth* . . .	
	Additional information	Sec. 1351.19(b)(1) *Confidential information.* All information of individuals served by a runaway youth project shall be confidential and shall not be disclosed or transferred to any individual without written consent of the *youth* . . . (2) *Medical, psychiatric or psychological treatment.* No *youth* shall be subject to medical, psychiatric or psychological treatment without the consent of the *youth* . . .	
Child Abuse and Neglect Prevention and Treatment program.	45 CFR Part 1340, Purpose of the program	Sec. 1340.1-1 (a) The basic purpose of this program is to assist States and localities, and non-profit private organizations in carrying out their responsibilities for the protection of *children* and for the amelioration of their environment, particularly as an integral part of a family unit whose adult member(s) need help in coping with emotional or environmental stresses	13.628
	Definitions	Sec. 1340.1-2 For purposes of this part—. (b)(2) "Child" means a person *under the age of 18* . . .	
	Demonstrations	Sec. 1340.2-1(b) *Nature of demonstration programs and projects.* (1) Such demonstrations may include, but are not limited to efforts to provide additional or more effective ways of preventing, identifying or treating *child* abuse and neglect; testing the feasibility of providing services . . . ; innovative services or and methods . . . ; methods of coordinating (e) *Special criterion for selection-equitable distribution.* The formula . . . [must include] a minimum amount and an additional amount based on the number of *children under the age of eighteen* . . .	
	Technical assistance	Sec. 1340.2-2 Technical assistance . . . will be furnished by the National Center on Child Abuse and Neglect [for] . . . the prevention, identification and treatment of *child* abuse and neglect	
	Training materials	Sec. 1340.2-3 The National Center on Child Abuse and Neglect . . . will develop . . . and conduct training for personnel who . . . engage in the prevention, identification and treatment of child abuse and neglect.	
	Research	Sec. 1340.2-4 The National Center on Child Abuse and Neglect will conduct research into the causes of child abuse and neglect and into the prevention, identification, and treatment . . .	
	Purpose and eligible applicants	Sec. 1340.3-1(a) States that qualify . . . may receive grants to initiate or continue the support of programs which can be expected to assist the State in developing, strengthening, and carrying out child abuse and neglect prevention and treatment programs . . .	

AGE DISTINCTIONS IN REGULATIONS AFFECTING HHS—Continued

[Public Health Service, Social Security Administration, Office of Human Development Services, and Health Care Financing Administration]

Program	Regulation	Section and age distinction	CFDA No.
	Establishment of Compliance	Sec. 1240.3–2(b) Whichever State office, agency, or organization is designated by the Governor, may apply for financial assistance under section 4(b)(1) for the payment of reasonable and necessary expenses in developing, strengthening, and carrying out *child* abuse and neglect prevention and treatment programs. Such State office, agency, or organization need not be limited in its mandate or activities to *child* abuse and neglect. Such State office, agency, or organization designated by the Governor may enter into purchase agreements with other offices, agencies, or organizations (including Indian Tribal governments) to conduct activities under the grant. The application for such funds shall include a description of the activities presently conducted by the State and its political sub-divisions in relation to preventing and treating *child* abuse and neglect, the activities to be assisted under the grant, a statement of how the proposed activities are expected to develop, strengthen or carry out *child* abuse prevention and treatment programs . . .	
	Qualifications for Assistance	Sec. 1340.3–3(a) The Act enumerates ten elements of a comprehensive system to prevent and treat *child* abuse and neglect which a State must have in order to qualify for assistance under section 4(b)(1). The enactment of identical laws and procedures in the States is not necessary. Rather, as its purpose, the Act seeks to insure that all States receiving assistance under this subsection (in meeting the ten requirements) must provide what may be grouped into four fundamental *child* protective capabilities: (1) Detection through third party reporting of *children* in danger, including mandatory and permissive reporting of suspected *child* abuse and neglect; (2) *child* protective services to provide non-criminal investigations for the verification of reports, to provide immediate protection of *children* through such means as protective custody, and to provide rehabilitative and ameliorative services; (3) *juvenile* or family court action to remove a *child* or to impose treatment services; and (4) law enforcement investigations and criminal court prosecution, when appropriate. (b) . . . it is not necessary for States to adopt language for the definition of "child abuse and neglect" identical to that used in the Act . . . (d) . . . the State shall satisfy . . . the following . . .: (1) The State must have in effect a child abuse and neglect law . . . (2) The State must provide for the reporting of known or suspected instances of child abuse and neglect . . . (3)(i) A State must provide . . . an appropriate investigation . . . (ii) that upon a finding of abuse or neglect, immediate steps . . . be taken to protect the health and welfare of the . . . *child* . . .	
	Approval of applications, plan amendments, and funds.	Sec. 1340.3–5(a) The Secretary shall approve an application for funds . . . if he finds . . . (2) that the funds are intended to be used to develop, strengthen, or carry out *child* abuse or neglect prevention or treatment programs. (b) The Secretary shall approve the initial or continued use of funds for . . . projects related to *child* abuse and neglect . . .	
Head Start Program	Program performance standards for operation of Head Start Programs by grantees and Delegate Agencies.	Sec. 1304.1–3(a) The Head Start Program is based on the premise that all *children* share certain needs, and that children of low income families, in particular, can benefit from a comprehensive developmental program to meet those . . .	13.600
	45 CFR Part 1304, Head Start programs goals.	(b) The overall goal of the Head Start Program is to bring about a greater degree of social competence in *children* of low income families. By social competence is meant the *child's* everday effectiveness in dealing with both present environment and later responsibilities in school and life. Social competence takes into account the interrelatedness of cognitive and intellectual development, physical and mental health nutritional needs and other factors that enable a *child* to function optimally. The Head Start Program is a comprehensive developmental approach to helping children achieve social competence.	
	Eligibility Requirements and Limitations for Enrollment in Head Start, 45 CFR Part 1305 Age eligibility of children.	Sec. 1305.3 Unless the Headstart agency's approved grant provides otherwise, only those children *between three years of age and the age of compulsory school attendance* are eligible to enroll and participate in the Head Start program.	
Child Welfare Services State Grants	Service Programs for Families and Children: Title IV, Parts A and B of the Social Security Act, 45 CFR Part 1392 Child Welfare Services.	Sec. 1392.2(a) There must be a single unit, within the single State agency, at the State level and also at the local level to provide or supervise all services to families and *children* . . .	
	Use of subprofessional personnel	Sec. 1392.6(b) The State plan must also include: . . . (4) Annual progression in the utilization of increasing numbers of subprofessional staff in achieving the service goals for families and children.	
	Use of volunteers	Sec. 1392.7(a) . . . provisions must be made for the training and effective use of nonpaid or partially paid volunteers representing various *age* groups . . .	
Medicaid	Eligibility in the States and District of Columbia . . . 42 CFR Part 435; Definitions.	Sec. 435.4 . . . "Categorically needy" means aged, blind or disabled individuals or families and *children* (1) who are otherwise eligible for medicaid and who meet the financial eligibility requirements for AFDC SSI, or an optional State supplement . . .; or (2) Whose categorical eligibility is protected by statute . . . "Families and children" refers to eligible members of families with *children* who are financially eligible under AFDC or medically needy rules and who are deprived of parental support and care as defined under the AFDC program (see 45 CFR 233.90, 233.100). In addition, this group includes individuals *under age 21* who are not deprived of parental support or care but are financially eligible under AFDC rules or medically needy rules (see optional coverage group, (435.222). It does not include individuals *under age 21* whose eligibility for medicaid is based on blindness or disability—for these individuals, SSI rules govern;	
Health Care Financing Administration (HCFA)			
	Children for whom adoption or foster care maintenance payments are made.	Sec. 435.118 The agency must provide medicaid to *children* for whom adoption assistance or foster care maintenance payments are made . . . Sec. 435.222 Individuals under age 21 who would be eligible for AFDC but do not qualify as dependent *children* (a) The agency may provide Medicaid to individuals *under age 21* (or, at State option, *under age 20, 19 or 18*) who would be eligible for AFDC if they met the definition of dependent *child*. (See 45 CFR 233.90(c)(1).) (b) The agency may cover all individuals described in paragraph (a) of this section or reasonable classifications of those individuals (such as the following:)	

AGE DISTINCTIONS IN STATUTES AFFECTING HHS—Continued

[Public Health Service, Office of Human Development Services, Health Care Financing Administration, and Social Security Administration]

Program	Statute	Section and age distinction	CFDA No
		(1) Individuals [*under age 21*] in foster homes or private institutions for whom a public agency is assuming a full or partial financial responsibility. If the agency covers these individuals, it may also provide Medicaid to individuals [*under age 21*] placed in foster homes or private institutions by private nonprofit agencies (2) Individuals [*under age 21*] in adoptions subsidized in full or in part by a public agency (3) Individuals [*under age 21*] in intermediate care facilities, if intermeidate care facility services are provided under the plan. If the agency covers these individuals, it may also provide medicaid to individuals in intermediate care facilities for the mentally retarded (4) Individuals [*under age 21*] receiving active treatment as inpatients in psychiatric facilities or programs, if inpatient psychiatric services for individuals [*under 21*] are provided under the plan	
		DEPENDENCE	
	Categorical Requirements for Eligibility 42 CFR Part 435.	Sec. 435.510 Determination of dependency. For families with dependent [*childen*] who are not receiving AFDC, the agency must use the definitions and procedures set forth under the State's AFDC plan to determine whether—. (a) an individual [*under age 21*] is a dependent child because he is deprived of parental support or care; and (b) An individual is an eligible member of a family with dependent children	
		AGE	
		Sec. 435.520 Age requirements for [*the age*] and [*children*] (a) The agency must not impose— (1) An age requirement of [*more than 65 years*]; (2) An age requirement that excludes an individual [*under age 19*] who would be eligible for AFDC if he met AFDC age or school attendance requirements; or (3) A lower age requirement than that under the State's AFDC plan. (b) In determining age, the agency must use the common-law method (under which an age is reached the day before the anniversary of birth), except— (1) For families and children, the agency must use the popular usage method (under which an age is reached on the anniversary of birth), if this method is used under the State's AFDC plan; and (2) For *aged* blind, or disabled individuals, the agency may use the popular usage method, if the plan provides under (435.121, for coverage of *aged*, blind, or disabled individuals who meet more restrictive eligibility requirements than those under SSI. (c) The agency may use an arbitrary date, such as July 1, for determining an individual's age if the year, but not the month, of his birth is known. See also: 42 CFR 431.620 Agreement with State mental health authority or mental institutions; 42 CFR 433.36 Liens and recoveries; 42 CFR 435.1 Introduction; 42 CFR 435.120 Individuals receiving SSI; 42 CFR 435.201 Individuals included in optional groups; 42 CFR 435.320 Medically needy coverage of the aged, blind, and disabled in States that cover individuals receiving SSI; 42 CFR 435.403 State residence; 42 CFR 435.602 Limitation on the financial responsibility of relatives; 42 CFR 435.711 General Requirements; 42 CFR 435.712 financial responsibility of spouses and parents; 42 CFR 435.724 Financial responsibility of parents for blind or disabled children; 42 CFR 435.731 General requirements for determining income eligibility in States using more restrictive requirements than SSI; 42 CFR 435.733 Post-eligibility treatment of income and resources of institutionalized individuals: Application of patient income to the cost of care; 42 CFR 435.734 Financial responsibility of spouses and parents; 42 CFR 435.812 Medically needy income standards: Reasonableness; 42 CFR 435.814 Medically needy income standards: State Plan Requirements; 42 CFR 435.821 Financial responsibility of relatives: Individuals under age 21 and caretaker relatives; 42 CFR 435.822 Financial responsibility of relatives of aged, blind, or disabled individuals in States using SSI eligibility requirements; 42 CFR 435.823 Financial responsibility of relatives of aged, blind, or disabled individuals in States using more restrictive requirements than SSI; 42 CFR 435.832 Post-eligibility treatment of income and resources of institutionalized individuals Application of patient income to the cost of care; 42 CFR 435.840 Medically needy resource standards: General requirements; 42 CFR 435.841 Medically needy resource standards: Reasonableness; 42 CFR 435.845 Medically needy resource eligibility; 42 CFR 435.1008 Institutionalized individuals.	
Eligibility Requirements for Guam, Puerto Rico, Virgin Islands.	42 CFR Part 436	See Sections 436.118; 436.201; 436.222; 436.310; 436.320; 436.520; 436.700	
Services in Medicaid Assistance Programs	42 CFR Part 440	Sec. 440.40 Skilled nursing facility services for individuals *age 21 or older* (other than services in an institution for tuberculosis or mental diseases). EPSDT and family planning services and supplies. (a) Skilled nursing facility services (1) "Skilled nursing facility services for individuals *age 21 or older*, other than services in an institution for tuberculosis or mental diseases," means services that are— (i) Needed on a daily basis and required to be provided on an inpatient basis under §§ 405.127, 405.128, and 405.128a of this chapter; (ii) Provided for a facility or distinct part of a facility that is certified to meet the requirements for participation under subpart C of part 442 of this chapter . . . (iii) (a) Ordered by and under the direction of a physician . . . (b) EPDST. "Early and periodic screening and diagnosis and treatment" means— (1) Screening and diagnostic services to determine physical or mental defects in recipients *under age 21;* Sec. 440.140 describes inpatient hospital services, skilled nursing facility services, and intermediate care facility services for individuals *age 65 or older* in institutions for tuberculosis or mental diseases. Sec. 440.160 describes inpatient psychiatric services for persons *under age 21*	

AGE DISTINCTIONS IN STATUTES AFFECTING HHS—Continued

[Public Health Service, Office of Human Development Services, Health Care Financing Administration, and Social Security Administration]

Program	Statute	Section and age distinction	CFDA No.
Requirements and limits on Specific Services	42 CFR Part 441	See Sections 441.11 Continuation of FFP for institutional services; 441.13 Prohibitions on FFP: Institutionalized individuals; 441.15 Home health services; 441.50 Basis and purpose; 441.56 Required services; 441.58 Periodicity schedule; 441.59 Administration; 441.100 Basis and purpose; 441.101 State plan requirements; 441.150 Basis and purpose; 441.151 General requirements; 441.152 Maintenance of effort Computation; 441.253 Sterilization of a mentally competent individual *aged 21 or older.*	
Medicare—Health Insurance for the Aged and Disabled.	Federal Health Insurance for the Aged and Disabled, 42 CFR Part 405.	Subpart A—Hospital Insurance Benefits Sec. 405.101 Hospital insurance benefits; general (a) An individual who meets the conditions for entitlement to hospital insurance benefits provided under Part A of Title XVIII of the Act is eligible to have payment made on his behalf, or to him directly (for certain hospital services) subject to the conditions and limitations set out in this Part 405 and in the Act for: (1) Inpatient hospital services, post hospital extended care services, and post hospital home health services furnished to him during any month for which he meets such conditions for entitlement to hospital insurance benefits; (b) Except where payment may be made to the individual for certain hospital services (see §§ 405.156 and 405.157), payment for the services covered under the hospital insurance benefits program is made to the institution or agency eligible to receive payment rather than to the individual to whom the services are furnished. Sec. 405.102 Hospital insurance benefits for *individuals age 65 or over* (a) Conditions of entitlement. An individual is entitled to hospital insurance benefits under the provisions described in this Subpart A *if such individual has attained age 65* and (1) Is entitled to monthly insurance benefits under section 202 of the Social Security Act as described in Subpart D of Part 404 of this chapter; or (2) Is a "qualified railroad retirement beneficiary" as described in paragraph (b) of this section; or (3) Is deemed entitled to monthly insurance benefits under section 202 of the Social Security Act solely for purposes of entitlement to hospital insurance benefits, by meeting the requirements prescribed in § 405.103. Sec. 405.103 Transitional provisions for entitlement of *aged* uninsured individuals to hospital insurance benefits. (a) Requirements. Unless excluded under the provisions of paragraph (b) of this section, an individual *age 65 or over* will be deemed entitled to monthly insurance benefits under section 202 of the Social Security Act, solely for purposes of entitlement to hospital insurance benefits (see § 405.102(a)(3)), if such individual (1)(i) *Attained age 65 before 1968,* or (ii) *Attained age 65 after 1967* and has not less than three quarters of coverage (as defined in Subpart B of Part 404 of this chapter or in section 5(k)(1) of the Railroad Retirement Act of 1937), whenever acquired for each calendar year after 1966 and before the year he attained age 65; (2) Is not entitled to hospital insurance benefits as provided in § 405.102(a)(1) and would not be entitled to such benefits upon filing an application for monthly insurance benefits under section 202 of the Social Security Act; . . . Sec. 405.104 Entitlement to hospital insurance benefits based on end-stage renal disease. (b) Definitions. "Dependent *child*" means a person who, on the first day he has end-stage renal disease, is unmarried and meets the dependency requirements for entitlement to *child's* social security benefits on the basis of a parent's earnings (see 20 CFR 404.323–404.327(a) and: (1) Is *under age 22;* or (2) Is under a disability that began *before age 22;* or (3) Is under age 26, is receiving at least one-half support from that parent, and has continuously received at least one-half support from that parent since the day before attaining *age 22.* (c) Conditions of entitlement. An individual is entitled to Medicare, part A benefits based on end-stage renal disease if he is medically determined to have that disease and meets the following conditions: He is: (iii) The spouse or dependent child or a person who meets the requirements of paragraph (c)(1)(i) or (c)(1)(ii) of this section. Sec. 405.105 Hospital insurance entitlement based on entitlement to disability insurance benefits. (a) Conditions of entitlement— (1) General. An individual is entitled to hospital insurance benefits described in this Subpart A if such individual: (i) *Has not attained age 65* and is entitled, and has for the 24 preceding consecutive calendar months been entitled, to— (A) Disability insurance benefits under section 223 of the Social Security Act (see 20 CFR § 404.305 of this chapter), or (B) Child's insurance benefits under section 202(d) of the Social Security Act by reason of disability (see 20 CFR § 404.320(a)(4)(iii) of this chapter), or (C) Widow's insurance benefits under section 202(e) of the Social Security Act by reason of disability (see 20 CFR § 404.328(a)(3)(ii) of this chapter and paragraph (a)(2), (4) and (5) of this section), or (D) Widower's insurance benefits under section 202(f) of the Social Security Act by reason of disability (see 20 CFR § 404.331(a)(3)(ii) of this chapter and paragraphs (a)(3) and (4) of this section); or (ii) *Has not attained age 65* and is, and has for the immediately preceding 24 consecutive calendar months been, a disabled qualified railroad retirement beneficiary under section 7(d) of the Railroad Retirement Act of 1974. (2) Modification of age requirement for widow's insurance benefits. For purposes of determining entitlement to hospital insurance benefits under paragraph (a)(1)(i)(C) of this section 20 CFR 404.328(a)(3)(ii) and 404.328(e) are modified by *substituting "age 65" where "age 60"* appears therein.	

AGE DISTINCTIONS IN REGULATIONS AFFECTING HHS—Continued

[Public Health Service, Social Security Administration, Office of Human Development Services, and Health Care Financing Administration]

Program	Regulation	Section and age distinction	CFDA No.
		(3) Modification of age requirement for widower's insurance benefits. For purposes of determining entitlement to hospital insurance benefits under paragraph (a)(1)(i)(D) of this section, 20 CFR 404.331(a)(3)(ii) and 404.331(c) are modified by *substituting* "age 65" *where "age 62"* appears therein. X X X (c) End of coverage. The entitlement of an individual entitled under paragraph (a) of this section ends with the last day of whichever occurs first: X X X (2) The month before the month in which he attains *age 65*; . . . Sec. 405.106 Premium hospital insurance (a) General. Hospital insurance benefits under Part A of title XVIII are available on a voluntary basis beginning July 1973 to eligible individuals *age 65 or over* who do not otherwise qualify for hospital insurance benefits and are willing to pay the full average cost of such insurance in a monthly premium. Eligible individuals must enroll timely for this insurance, pay a monthly premium (see paragraph (d) of this section), and enroll or already be enrolled in the supplementary medical insurance plan under Part B. (b) Requirements for eligibility to enroll for premium hospital insurance. An individual is eligible to enroll for premium hospital insurance if: (1) He *has attained age 65;* and Sec. 405.120 Post hospital extended care services; scope of benefits (a) Benefits and conditions for entitlement. (1) An individual who meets the requirements described in § 405.102 and who requires the services referred to in §§ 405.126–405.128, is eligible to have payment made on his behalf to a participating skilled nursing facility (see § 405.150) for up to 100 days of extended care services (§ 405.124) furnished to him in a spell of illness if he is admitted to such skilled nursing facility within the time specified in paragraph (d) of this section after his discharge from a hospital in which he was an inpatient for not less than three consecutive calendar days (as defined in paragraph (c) of this section) and such discharge occurred *on or after the first day of the month in which the individual attained age 65,* or after June 30, 1966, whichever is later	
Medicare Part B Supplementary Medical Insurance Benefits for the Aged and Disabled.	42 CFR Part 405, Subpart B Supplementary Medical Insurance Benefits	Sec. 405.201: Part B of title XVIII of the Act provides for a voluntary "Supplementary medical insurance plan" available to most individuals *age 65 and over* Sec. 405.205: An individual is eligible for enrollment if he is covered under Part A or *has attained age 65* *See* also §§ 405.212(e); 405.214(d); 405.223(c)(2)(iv) and (e); 405.310(n)(1); 405.315(a)(1); 405.1830 (First Paragraph); 405.2020(b)(7) and (d)	

[FR Doc. 82-34952 Filed 12-27-82; 8:45 am]
BILLING CODE 4150-04-M

federal register

Tuesday
December 28, 1982

Part III

Department of Labor

Mine Safety and Health Administration

Safety Standards for Fire Prevention and Control

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 55, 56, and 57

Safety Standards for Fire Prevention and Control

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice of availability of preproposal drafts.

SUMMARY: The Mine Safety and Health Administration (MSHA) has developed a preproposal draft of revisions to current fire prevention and control standards for the metal and nonmetal mining industry. MSHA seeks comment from all interested parties on the preproposal draft. Copies of the draft may be obtained by contacting the Agency.

DATES: Comments must be received on or before February 28, 1983.

ADDRESSES: Send comments to the Office of Standards, Regulations and Variances; MSHA; Room 631, Ballston Towers #3; 4015 Wilson Boulevard, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey, Acting Director, Office of Standards, Regulations and Variances, MSHA, (703) 235–1910.

SUPPLEMENTARY INFORMATION: On March 25, 1980, MSHA published an Advance Notice of Proposed Rulemaking (ANPRM) in the **Federal Register** (45 FR 19267) announcing its comprehensive review of existing metal and nonmetal mine safety and health standards in 30 CFR Parts 55, 56, and 57. The Agency is reviewing the standards to eliminate duplicative and unnecessary standards, provide alternative methods of compliance, reduce recordkeeping requirements, and upgrade provisions consistent with advances in mining technology. MSHA believes that this review will result in more effective regulations for assuring the safety and health of miners. The review is consistent with the specific goals of Executive Order 12291, the Regulatory Flexibility Act, and the Paperwork Reduction Act.

On November 20, 1981, MSHA published a subsequent ANPRM in the **Federal Register** (45 FR 57253) listing eight sections the Agency had selected for priority review. Standards related to fire prevention and control were included in the priority group.

On March 9, 1982, MSHA published a notice in the **Federal Register** announcing public conferences to discuss issues related to the standards under priority review. The Section 4 conferences were concluded in April 1982. During the conferences many commenters requested that the Agency make available a preproposal draft of the standards under review before issuing a proposed rule.

MSHA has now completed development of the preproposal draft for Section .4. In addition to revising the substance of the existing standards, the Agency has reorganized Parts 55, 56 and 57 into a single Part 58. This reorganization would eliminate the current repetition of identical standards in the Code of Federal Regulations. The revised standards are designated general, surface, and underground so that they would apply only to the appropriate mining application.

The Agency requests comment on the substance of the preproposal standards, as well as on the reorganization of the standards. In addition, the Agency is interested in any economic data or other regulatory impact information commenters may wish to submit.

A copy of the preproposal draft has been mailed to persons and organizations known to be interested. All other interested persons and organizations may obtain a copy of the draft by submitting a request to the address provided above. The document contains the Agency's intended revisions, a comparison with existing provisions, and a summary explanation of the proposed changes.

Dated: December 21, 1982.

Thomas J. Shepich,

Deputy Assistant Secretary for Mine Safety and Health.

[FR Doc. 82–35056 Filed 12–27–82; 8:45 am]

BILLING CODE 4510-43-M

federal register

Tuesday
December 28, 1982

Part IV

Department of Health and Human Services

Food and Drug Administration

Labeling for Salicylate-Containing Drug Products; Advance Notice of Proposed Rulemaking

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 201

[Docket No. 82N-0158]

Labeling for Salicylate-Containing Drug Products

AGENCY: Food and Drug Administration.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Food and and Drug Administration (FDA) is considering proposing to require certain over-the-counter (OTC) and prescription saliciylate-containing drug products for human use to bear a warning against the use of the products for the treatment of flu or chickenpox in children or adolescents under 16 years of age, because salicylates may be associated with the development of Reye syndrome (RS) in this age group. This advance notice describes the recent studies reporting an association between salicylate use and the development of RS and discusses various criticisms of these studies. This advance notice also discusses specific warning statements under consideration by the agency. FDA is publishing this advance notice so that the agency will have the benefit of a broad range of views early in the rulemaking process, and so that all interested persons will have an opportunity to express their opinions.

DATE: Comments by February 28, 1983.

ADDRESS: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Paul O. Fehnel, Jr., National Center for Drugs and Biologics (HFN-7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-6490.

SUPPLEMENTARY INFORMATION: FDA is considering whether to propose a rule that would require, among other things, that the labeling of certain salicylate-containing OTC and prescription drug products for human use bear a warning that salicylates should not be used in persons under 16 years of age with flu or chickenpox. FDA is considering this action because of recent studies reporting that the use of salicylates to treat these conditions is associated with the development of RS. The products under consideration for bearing a warning are: (1) systemically absorbed OTC salicylate-containing drug products for human use that are administered orally or rectally; and (2) systemically absorbed prescription salicylate-containing drug products for human use that are administered orally, rectally, or parenterally. The agency invites comments on any matter relevant to the proposed rulemaking being considered.

I. Background

A. *Reye syndrome.* RS is a disease of unknown cause that is characterized by severe vomiting and irritability or lethargy which may progress to delirium and coma. The illness is described clincially as having an acute onset in which the initial symptom is usually vomiting, which may be profuse and persistent, and which is often accompanied by a change in mental status. The Centers for Disease Control (CDC) has established an epidemiologic case definition for establishing the diagnosis of RS (Ref. 1). In addition, for purposes of management and study, a system of classifying the symptoms of RS into stages has been developed. The stages are zero to V, with V exhibiting the most severe symptoms.

The disease is classically described as occurring in a child or adolescent during the course of or while recovering from a mild respiratory tract infection, influenza, chickenpox, or other viral illness (Refs. 2, 3, and 46). (The illness occurring before RS may be referred to as the antecedent illness.) Influenza and chickenpox are the most commonly associated viral illnesses. The estimated incidence of RS is 0.37 to 4.7 per 100,000 persons under 18 years of age (Ref. 2), but its incidence may be 30 to 60 per 100,000 persons under 18 years of age (Ref. 2), but its incidence may be 30 to 60 per 100,000 in children of that age who have contracted influenza B (Ref. 3). CDC estimates that RS affects 600 to 1,200 children in the United States each year. A careful analysis of RS cases indicates that it is primarily observed in children between 6 months and 15 years of age (Ref. 3). The age distribution of the disease appears to depend on the type of the antecedent illness. Chickenpox-associated RS is found mainly in the 5- to 9-year age group; influenza B-associated RS is seen mainly in the 10- to 14-year age group (Ref. 3).

The mortality rate is high. In the past several years, the case fatality rate reported to CDC has been between 20 and 30 percent (Refs. 1 and 21). Permanent brain damage occurs in many other cases (Ref. 2).

RS was first described by the pathologist Douglas Reye of Australia in 1963 (Ref. 4). Subsequently, there has been substantial interest in monitoring the occurence of the disease and in attempting to identify causative factors. CDC first initiated nationwide surveilliance for the disease in December 1973, in an effort to monitor its incidence during an anticipated epidemic of influenza. In December 1976, CDC and State health departments again intensified surveillance, and have been continuously maintaining surveillance since that time. Since 1976, between 200 and 500 patients per year meeting the CDC case definition have been reported to that agency. As in most disease surveillance systems, reported cases are recognized to represent only a fraction of the actual total, but increases in the number of reported cases have been observed during years of major influenza B and influenza A activity in 1977, 1979, and 1980.

Due in part to the rapid onset of RS, it has been suggested that a toxic agent interacting with the viral infection may be a causative factor in the production of the disease. Suspected agents have included environmental toxins and common medications. In its November-December 1976 *Drug Bulletin,* FDA reported a recommendation of its Neurologic Drugs Advisory Committee against the use of antiemetics, aspirin, and acetaminophen in children whose signs and symptoms indicate RS (Refs. 5 and 6).

A number of investigators have suggested the possiblility that RS may be associated with salicylates. In 1962, before Reye's initial report, Mortimer reported on four cases of fatal varicella (chickenpox) infections associated with hypoglycemia. Mortimer postulated that salicylates may have caused the hypoglycemia and the subsequent unexpected severe illnesss (Ref. 7).

In 1964, Utian reported 14 cases of what appeared to by RS and considered salicylate intoxication as a possible cause of the illness in these children (Ref. 8). In 1965, Giles suggested that a direct association existed between RS and salicylates and that in RS patients an enzyme system involving carbohydrate metabolism might by hypersensitive to salicylate (Ref. 9). In 1968, Norman reported a case of biopsy-confirmed RS associated with isolation of influenza B from the liver (Ref. 10). This patient was on long-term salicylate therapy for juvenile arthritis.

In the 1970's, several authors discussed the distinction between RS and acute salicylate intoxication. Evidence to suggest that RS and salicylism (salicylate intoxication) may be biochemically distinct was reported by Hilty in 1974 and updated in 1981 by Romshe and Hilty (Refs. 11 and 12). Hilty suggested that RS can be

distinguished from salicylism and other causes of hepatic damage by quantitative analysis of serum amino acids.

Several descriptive studies and two case-control studies examining medication histories of patients with RS were published in the 1970's. Among the studies that reported detailed information on aspirin use, the aspirin use ranged from 53 to 100 percent. The highest rates were reported in studies where information was more likely to be complete. For example, studies involving extensive home interviews found a higher prevalence of salicylate use amont RS patients. Aspirin was the only medication received by all RS patients interviewed by Reynolds, but because the doses were not considered to be excessive, the association was not emphasized (Ref. 13). In 1975, Linneman reported a history of aspirin use in 94.6 percent of 56 RS cases with known medication histories (Ref. 14).

Corey reviewed national surveillance data collected from 1973–1974 by CDC (Ref. 15). Data collection for aspirin use was based primarily on reviews on national surveillance forms supplemented in 16 percent of cases by personal communications with health personnel. In the subset of patients for whom medication history was available, 78 percent reported using aspirin. Corey expressed reservations about accuracy of the medication histories obtained through this system, noting that many patients may have erroneously reported not using aspirin.

Two case-control studies published before 1980, one conducted by Ruben (Ref. 16) and the other conducted by Corey (Ref. 17), compared medication histories of RS patients and controls. In both studies, however, interviews too place many months after the occurrence of RS, and controls were not matched for a history of illness temporally and clinically similar to cases. Medication questions, therefore, were not limited to those medications taken for the illness preceding RS in patients, or for the comparable illness in controls. Starko and colleagues (Ref. 18) were the first investigators to conduct such a study. This study is discussed below.

B. *Studies reporting an associaton between salicylates and RS.* For several years, CDC has been involved in investigations of RS. Within the past few years, four case-control studies have been conducted by the Arizona, Ohio, and Michigan State Health Departments in cooperation with CDC. The reports of these studies indicated as an association between RS and the ingestion of salicylates (e.g., aspirin) during the antecedent illness. On the basis of its review of the first three studies (Arizona, Ohio, and first Michigan study), CDC published a recommendation in the *Morbidity and Morality Weekly Report* on November 7, 1980 (Ref. 19) that "parents should be advised to use caution when administering salicylates to treat children with viral illness, particularly chickenpox and influenza-like illnesses."

A consensus development conference was held at the National Institutes of Health (NIH) in March 1981 to address diagnostic criteria and treatment of RS. Because the conference had not been called to review the first three State studies that had been recently completed at the time of the conference, data from the studies were not presented but were discussed by several participants. The conference report stated that the studies discussed at the conference indicate "an increase in the estimated relative risk of Reye's syndrome, which does not appear to be due to chance" (Ref. 46). The conference report advised that "caution in the use of salicylates in children with influenza and those with varicella is prudent." However, the report also pointed out that "certain similarities between salicylism and Reye's syndrome and those studies reporting an association between Reye's syndrome and salicylate ingestion indicate a need for further carefully designed studies before recommending changes in antipyretic therapy in children" (Reg. 46).

In November 1981, CDC convened a group of outside consultants to review the four State studies. The consultants concluded that there is "strong epidemiologic evidence for an association between the occurrence of Reye syndrome and the prior ingestion of salicylate containing medication" (Ref. 20). The consultants recommended that "until the nature of the association between salicylates and Reye syndrome is clarified, the use of salicylates should be avoided, when possible, for children with varicella infections and during presumed influenza outbreaks" (Id.). In the *Morbidity and Mortality Weekly Report* of February 12, 1982 (Ref. 21), CDC reported that the studies indicated an association between salicylates and RS and stated that "until definitive information is available, CDC advises physicians and parents of the possibility of increased risk of Reye syndrome associated with the use of salicylates for children with chickenpox or influenza-like illness."

C. *FDA review of the four State studies.* In response to the reported association between salicylates and RS, FDA formed a working group composed of members of the agency to review the available data to determine the quality and strength of the association. Despite the apparent association between salicylates and RS reported by the four State studies, the working group recognized that the studies required careful evaluation both because of the inherent limitations of case-control methodology and because of questions raised by earlier reviews of the studies. Case-control studies attempt retrospectively to assess the relationship of an existing disease or disorder to other variables or attributes, such as exposure to medications. After the initial identification of cases, that is, persons with the disease under investigation, a suitable control group of persons without the disease is identified for comparison purposes. The relationship of an attribute to the disease under investigation is examined by comparing the case group and the control group to determine how frequently the attribute is present in each group. Thus, in the RS studies, the investigators attempted to match reported cases of RS with control subjects who appeared to match the case subjects as closely as possible except for the development of RS.

The FDA working group recognized that an adequate evaluation of the four State studies would require consideration of the design and execution of the studies, including such questions as: (1) Potential differences in the type and severity of antecedent viral illness in cases and controls; (2) comparability and accuracy of the drug histories in cases and controls; (3) potential confusion as to the active ingredients in drugs administered to cases and controls; (4) potential differences in methods of collecting data for cases and controls; (5) the period of recall time and differences in the periods of recall time for cases and controls; (6) criteria used for diagnoses of RS and, especially, the criteria employed to establish the onset of RS; and (7) the reasons for the exclusion of reported RS cases from the studies.

In evaluating the available date, the FDA working group's activity included the following:

1. Review of materials available from the investigators in Arizona, Michigan, and Ohio.

2. Review of summaries provided by CDC on studies concerning RS and salicylates (Ref. 22).

3. Review of wrtitten analyses by employees or consultants of Sterling Drug (Refs. 23, 24, 25, and 26) and Schering-Plough (Ref. 27), which are two manufacturers of salicylate drug

products, and meetings with representatives of the two companies to hear presentations of these analyses by each firm (Refs. 28, 29, and 30).

4. Review of the written information presented by the Health Research Group (HRG) and meeting with representatives of HRG to hear their interpretation of the data (Refs. 31 and 32).

5. Site visits to the Michigan State Health Department and the Ohio State Health Department to obtain further details on how the studies in these States were conducted and to audit certain data from the study records (Ref. 33).

6. A meeting with scientists from CDC and National Institutes of Health, at which suggestions for analysis of the date were discussed.

The FDA working group prepared a preliminary report of its review of the four State studies and available information relating to the interpretation of these studies (Ref. 34). That report, dated May 18, 1982, presents a detailed discussion of the results of the studies and the working group's analysis of the data. The following summarizes the results of the four State studies and the working group's analysis of those studies:

1. *Arizona study.* The first reported case-control study on RS was conducted by Starko et al. in Arizona (Ref. 18). The study included 7 school children, hospitalized December 21 through 25, 1978, during an outbreak of influenza A/Brazil and 16 classmate controls who were ill during December 1978. All seven cases had recent influenza A (H1N1) infections, according to the analysis of blood samples collected. Blood samples were not collected for the control group.

The major finding of the study was that all 7 of the cases, but only 8 of the 16 controls, gave a history of salicylate ingestion during the antecedent illness for cases or during the viral illness for controls. Because the study lacked daily medication recording and had a small sample size, the working group did not attempt to conduct a more detailed analysis of the data from this study.

2. *Michigan studies.* Two case-control studies were performed by the Michigan Health Department. The first study was conducted during the months of March and April 1980 following an influenza B outbreak during the winter of 1979–1980. The second study began on September 1, 1980, and continued into 1981. Influenza A (H3N2) virus predominated during the second study. A report of these two studies has been published in the June 11, 1982 issue of the *Journal of the American Medical Association* (Ref. 35).

Under the Michigan State health code, physicians are required to report cases of RS to the State health department within 10 days. During the first study, 56 cases were reported. Twenty-five of the 56 patients were selected for the study because they lived within driving distance of the Michigan Health Department. During the second study, there were 17 cases reported; 5 of the 17 second study cases were excluded by the Michigan Health Department.

During both studies, controls were matched to cases on the basis of gastrointestinal (GI) symptoms, respiratory illness, or chickenpox. In the second study, cases and controls also were matched by temperature strata as follows: less than 100 degrees Fahrenheit, 100.1 to 102.9 degrees, and 103 degrees and over. For the cases, the date of protracted vomiting or behavioral change was established as the date of onset of RS.

In the first study, interviews with parents of children with RS were conducted an average of 45.5 days (4 to 83 days) after the onset of RS. During the second study, interviews took place an average of 4.8 days (2 to 10 days) after the onset of RS in the cases. Interviews for the control groups were conducted an average of 55.3 days (9 to 121 days) for the first study, an average of 12.2 days (3 to 40 days) for the second study.

In the first study, 24 of 25 (96 percent) cases took salicylate-containing medication before the onset of pernicious vomiting, compared to 30 of 46 (65 percent) controls. When highest measured temperature was used retrospectively to match controls to cases to attempt to ensure comparability, the difference in salicylate ingestion remained significant in that 14 of 14 (100 percent) cases as compared to 14 of 19 (73 percent) controls ($p<.05$) had ingested salicylates. During the second year of the study, 12 of 12 (100 percent) cases as compared to only 13 of 29 (45 percent) controls ($p<.002$) were reported to have received salicylate-containing medications. Medications containing acetaminophen but not salicylates were taken by 8 controls (17.8 percent) and 1 case (4 percent) in year 1 and by 9 controls (31 percent) and no cases in year 2.

Daily medication use was recorded in the second Michigan study for the 12 cases included in the study and their associated controls. This daily record was used to determine whether the cases and controls used salicylates on day 1; day 1 or 2; or day 1, 2, or 3 of their antecedent illness. The FDA working group was thus able to evaluate the apparent association between salicylate ingestion and RS using data where the salicylate use was most likely to be before the onset of RS and most likely to be in response to symptoms of the antecedent illness. Because the data sets to be analyzed consisted of cases matched to one or two controls on the basis of multiple characteristics (age, race, sex, geography, and fever), the working group employed a multiple conditional logistic analysis. That approach accounts for the variable matching to give a valid estimate of the excess risk associated with the cases and salicylate use. The multiple conditional logistic analysis showed that on day 1 of the antecedent illness, cases were 9.1 times more likely to have taken aspirin than their matched controls and that this was statistically highly significant. Because all of the cases used salicylates on days 2 and 3, this analysis could not be performed for day 1 or 2, or for day 1, 2, or 3.

3. *Ohio study.* The Ohio study was initiated under a contract from CDC in December 1978. The original study, developed by CDC investigators in cooperation with the Ohio State Department of Health, was designed to examine the possible relationship between RS and respiratory viral illnesses. The Ohio State Department of Health also wanted to conduct an exploratory investigation of other possible risk factors, including medications, environmental toxins, and a number of other variables which had been mentioned in the literature. The study was conducted from December 1978 through March 1980 and included 97 cases of RS. Thirty-three of the cases have been identified as "first year" because they were investigated before the collection of data about the development of symptoms and the administration of drugs on a day-to-day basis. The 64 cases for which such data were collected are referred to as "second year."

For both years of the study combined, the Ohio State Department of Health found that salicylates were the only medications which were taken significantly more frequently in cases (94 of 97=96.8 percent) than in controls (110 of 156=70.5 percent) before the development of symptoms of RS. Medications containing acetaminophen but not salicylates were taken by 29 of 156 (18.6 percent) controls but only 1 of 97 (1 percent) cases. Medication containing acetaminophen in combination with salicylates were taken by 16 of 97 (16 percent) cases compared to 51 of 160 (32 percent) controls ($p<0.01$).

The Ohio State University Biometry Facility performed a multiple logistic

analysis using a model which included histories of salicylate ingestion, fever, headache, and sore throat. Adjusting for these potentially distorting variables, cases were found to be 11.5 ($p<0.001$) times more likely than controls to have taken salicylates. Similar results were obtained for each year of the study. The Ohio investigators also compared salicylate use in cases and controls matched by highest level of fever. Data had been collected on whether or not the case or control had a fever. If fever was present, the highest level of fever was recorded. The known fever levels were then divided into three strata (98.7 to 99.9; 100.0 to 101.9; 102.0 or higher). Although the prevalence of fever was significantly greater in cases than in controls (74 of 97 cases and 95 of 156 controls had fever ($p<0.01$)), among those with fever, at each temperature stratum salicylate use was consistently greater among cases (100 percent at each stratum used salicylate) than among controls (67 percent, 81 percent, and 75 percent used salicylate at the respective strata). A report of the Ohio study has been published in the August 13, 1982 issue of the *Journal of the American Medical Association* (Ref. 75).

Members of the FDA working group made a site visit to the Ohio Department of Health on March 8–10, 1982. They considered it important to evaluate the administration of medications and the development of symptoms on a daily basis to attempt to ensure that the administration of drugs before the onset of RS could be identified. By evaluating the data on a daily basis, the working group could attempt to adjust for any differences between cases and controls in symptoms that might be distorting the results of the analysis. By ascertaining which drugs had been administered before the onset of RS, the working group could test the hypothesis that the salicylate use by the cases might reflect treatment of the symptoms of RS rather than those of the antecedent illness and therefore would not be regarded as a possible cause of RS.

The only data which permitted such an evaluation were the data collected during the second year of the Ohio study. For that reason, the working group examined in detail the original State records of the 64 second-year cases and their associated controls. The working group transcribed the information concerning the daily administration of medication and the daily development of symptoms from the original State records. The working group also audited a sample of the first-year cases and the stage 0 cases that were not included in the study and the available information from all the fatal cases. On the basis of this evaluation, the working group concluded that the coding of information from the original investigational records had been performed with an unusually high degree of accuracy. No significant discrepancies were found by examining the original case and control questionnaire forms and comparing them with the coding of the data for computer compilation and analysis.

The Ohio second-year data enabled the FDA working group to analyze both the administration of medication and the development of symptoms on a daily basis, to attempt to adjust for confounding variables in cases and controls, and to attempt to ensure that the drugs under consideration were administered before RS was present. As was done with the Michigan data, FDA performed a multiple conditional logistic analysis of salicylate exposure during days 1 to 3 of the antecedent illness which adjusted for possible differences between cases and controls which might have been explained by differences in the presence of headache, fever, cough, and sore throat. These symptoms are those for which salicylate-containing products may have been used. One hypothesis would suggest that if the cases had different symptoms (e.g., more headache or fever) than controls, the higher salicylate user cases could be attributable to the presence of symptoms more likely to be treated with salicylates. In order to examine the possibility that salicylates might have been used to treat early symptoms of RS rather than an antecedent illness, cases (and their matched controls) with 4 or fewer days between the onset of the antecedent illness and the onset of RS were eliminated. On the basis of this analysis, FDA's working group found that cases of RS were still significantly more likely to have used salicylates. There was significantly less use of acetaminophen in the cases than in controls.

The FDA working group also considered a hypotheseis that some of the statistical association in the Ohio second year based on salicylate use during days 1 to 3 might be explained by the administration of salicylates after the symptoms of RS had already appeared in some of the cases. As noted earlier, RS typically develops in a child who appears to be recovering from antecedent illness. Approximately half of the cases (33) had at least a 1-day period between the symptoms of the antecedent illness and the onset of RS when no symptoms were recorded (these are referred to as biphasic cases). However, a number of cases (30) did not appear to have a symptom-free period between the recorded date of onset of the antecedent illness and the onset of RS (these are referred to as monophasic cases). In one case it was not possible to determine monophasic or biphasic status; therefore, that case was not used in the analysis.

Statistical analyses showed a different relative rate of salicylate usage between the monophasic cases and the biphasic cases as compared to their controls. Multivariate conditional logistic analysis of the data on the biphasic cases showed that these cases did not use salicylates in the first 3 days of their illness to any significantly greater extent than their controls. The same analysis of the group with the monophasic illnesses showed that these cases did have a significant excess of use of salicylates over their controls.

The FDA working group also compared salicylate usage in the biphasic versus the monophasic cases (Ref. 74). This analysis showed that fewer cases with biphasic illness used salicylates during days 1 to 3 than those with monophasic illness, although the difference is not significant (82 percent versus 93 percent, $p=.17$).

These analyses appear to indicate that there is a difference between the monophasic and biphasic cases. However, further examination of the data reveals that other factors require consideration in interpreting the relative rates of salicylate usage between cases and controls. The criteria upon which cases were divided into monophasic and biphasic groups were based solely on the symptom pattern reported in the cases. Consequently, the distribution of variables (e.g., salicylate use, headache, fever, etc.) in the controls for the two groups would be expected to be roughly the same. It is not the same. Salicylate use in the biphasic control group was significantly greater during days 1 to 3 than in the monophasic control group (76.5 percent versus 58.3 percent, $p<.05$). The FDA working group analyzed covariates (fever, headache, cough, sore throat) in the controls for the two groups and did not find symptom differences to explain the greater use of salicylates in the controls for the biphasic than for the monophasic patients.

The FDA working group recognized that at least three possible interpretations of these findings could be considered:

1. Because RS is thought to be a biphasic, rather than a monophasic illness, it might be argued that some of the monophasic cases either had no

antecedent viral illness, the viral illness was not detected, or the symptoms of the antecedent illness and the symptoms of RS were overlapping. Therefore, it could be further argued that in some of the monophasic cases, salicylates might not have been administered before the onset of RS, that salicylates might actually have been used to treat the symptoms of RS, and that salicylate use in those cases might not be implicated as a causative factor in the development of RS.

2. That salicylate use might hasten the development of RS.

3. That the division into groups with monophasic and biphasic illnesses might not have been meaningful and was associated with an artifactual difference in the respective control groups that resulted in irrelevant statistial differences in the relative risks calculated for the two groups of RS cases.

Because the FDA working group could not eliminate this third interpretation, it was unable to conclude that the statistical association in the Ohio second year could be explained by the administration of salicylates after the symptoms of RS had appeared.

4. *Working group summary.* The FDA working group considered that its analysis of the data from the second year of the Ohio study was pivotal to the assessment of the possible association between the use of salicylates in the preceding viral illness and the subsequent development of RS. The working group concluded that its analysis of the data from that study showed that patients with RS (cases) had a greater frequency of salicylate use during the first 3 days of the antecedent viral illness than did children matched for certain selected variables with an illness of a similar nature (controls). The working group found that cases of RS in the study were significantly more likely to have used salicylates, and this association continued even when the data were statistically adjusted to account for differences in cases and controls for the symptoms headache, fever, sore throat, and cough and when cases with 4 or fewer days between the onset of antecedent illness and the onset of RS were eliminated. In addition, the working group found there was significantly less use of acetaminophen in the cases than in the controls.

The FDA working group report also recognized that the association between salicylates and RS observed in the four State studies might be reflective of factors other than a causative role of salicylates in the development of RS. In addition, the report raised the question whether in some cases the symptoms of RS had developed earlier than was recognized, so that treatment was given after the onset of RS and not during the antecedent illness. Because the working group report reflected a preliminary review and was prepared to provide information for consideration at a public meeting, the working group did not resolve these questions before the public meeting.

D. *Reye syndrome workshop.* A Reye syndrome workshop sponsored by FDA, CDC, and the National Institute of Allergy and Infectious Diseases of the National Institutes of Health was held on May 24, 1982. A notice announcing the workshop was published in the **Federal Register** (47FR 20862; May 14, 1982) (Ref. 36). The workshop was scheduled to provide interested persons, including industry and consumer group representatives, an opportunity to discuss the currently available data on RS and to make written submissions and to give oral presentations. A transcript of the meeting was prepared (Ref. 37).

Before the workshop, FDA had made data available that was in its possession and on which it had relied in preparing the working group's preliminary review. The data in the agency's possession did not include the original forms used in conducting the four State studies. (The agency has since obtained the original data in the Ohio study (Ref. 111).) The data did include FDA's transcription of certain data from the second year of the Ohio study and the second year of the Michigan study (Ref. 38). In addition, the data included a data computer tape provided by the Ohio Department of Public Health on its RS investigation (Ref. 65).

The workshop was attended by invited experts from the academic community, the drug industry, and consumer organizations. The scientific panel members (primarily from the academic community) were asked to review and discuss the data and presentations, but were not asked to make formal recommendations to the sponsoring organizations. However, the members of the scientific panel were provided an opportunity to comment at the close of the meeting. Some of the panel members indicated that the available data were adequate to establish an association between salicylates and RS. Others indicated a belief that the data showed a possible association. Some members indicated that a causal relationship between salicylates and RS had not been shown. Several of the members agreed that physicians and the public should be advised of the possible risks of the use of salicylates to treat certain viral illnesses in children (Ref. 37).

E. *FDA evaluation of the four State studies.* FDA evaluated the four State studies to address questions concerning the design and execution of the studies. FDA's evaluation of the data from the four State studies included a careful consideration of questions raised concerning the quality of the data. Industry representatives and others contend that the data do not establish an association between salicylate use and the development of RS. In support of this contention they have raised objections to the design and execution of the studies generally, as well as objections to the evaluation of specific factors. FDA scientists have reviewed the questions raised thus far. Summaries of the questions, as well as the agency's tentative responses, follow.

1. It is claimed that the data from the State studies have not been adequately analyzed. Inadequacies in the data analysis, it is argued, included no independent review of the primary data base (e.g., completed questionnaires), no audit of the secondary data base (e.g., computer tapes coding information from the questionnaires), no proper multivariate analysis of the data, and no sensitivity analysis of the odds ratio that measured the purported salicylate-RS association. The argument is that because the data analysis was inadequate, the studies cannot be said to have demonstrated an association between salicylate use and RS.

As discussed above, the FDA working group did review the primary data from both Michigan studies and from both years of the Ohio study. The working group also performed a selected audit of the computer tapes from the Ohio study and concluded that the coding of information from the original investigational records had been done with an unusually high degree of accuracy.

The Ohio State Health Department performed a multivariate analysis of the data from the Ohio study and found a statistically significant association between RS and salicylate use. In addition, the FDA working group's analysis included multivariate analysis using the multiple conditional logistic model (Ref. 112). This form of analysis is primarily designed to analyze matched case-control data where adjustment for covariates is desired. The results of these analyses also support the conclusion that there is an association between salicylate use and RS.

The sensitivity analysis referred to in the criticisms of the State studies is intended to determine the effects of

misclassification on the odds ratio, the measure of association used in these studies. Theoretical studies in the literature (Refs. 40 to 45) have shown that if the misclassification bias is nondifferential, that is, the same level of misclassification exists in both the cases and controls, then the odds ratio tends towards the "null" hypothesis. In other words, the estimated odds ratio will always tend to be less than the true odds ratio. That is, if the same level of misclassification exists in both the cases and controls in the Reye's studies, then the cases are even more likely to have used salicylates in relation to the controls than the analyses have shown. However, if the misclassification is differential, affecting one group more than the other, then the estimated odds ratio can be either less than the true odds ratio or greater.

Without specific information as to the nature of any potential misclassification bias in these studies, the bias' effects cannot be estimated and, therefore, cannot be corrected for. In none of the studies reported are there data indicating that a differential misclassification is operating. Nor are there any supplementary data supporting such a claim. Therefore, a sensitivity analysis may be either unnecessary or impossible with respect to these RS studies.

2. It is claimed that the studies were conducted without a protocol that defined precisely the methods of data acquisition, data anlaysis, and study monitoring used in the studies. The suggestion is that lack of a protocol may lead to such problems as inconsistencies in interview techniques employed by different interviewers or inconsistent matching of cases and controls, which may distort the study results.

The FDA working group found that better documentation of operational procedures for the studies could have been provided. However, for both years of the Michigan study there was a protocol that included eligibility criteria, so that cases and controls could be consistently matched. Although there was no formal protocol for the Ohio study, the study did have an operational manual which described eligibility criteria, as well as the interviewing procedures. Thus, there were plans for both the Ohio and Michigan studies to guard against distorting inconsistencies.

3. It is claimed that there was no matching of cases and controls on the basis of severity of the antecedent illness. Thus, it is contended, the cases were sicker than controls with respect to such factors as the presence of fever, the degree of fever, and the amount of liquid intake during the acute illness. The severity of illness, it is argued, may have determined the parent's choice of antipyretic drug thereapy. The argument is that matching cases and controls for such variables as reduced fluid intake, use of antinauseant medication, and fever could eliminate the association between salicylate use and RS.

The investigators attempted to control for severity by matching cases with ill controls who were from the same classroom and who were ill at about the same time, as well as by matching as many variables as possible. Such matching included, for example, matching cases that had chickenpox with controls that had chickenpox and cases that had respiratory illness with controls that had respiratory illness. Matching with respect to the degree of fever was done in the second year in Michigan, but not in the other studies. In the second-year Michigan study, which included matching by temperature strata, 12 of 12 cases (100 percent) and 13 of 29 controls (45 percent) reported receiving salicylate-containing medications ($p < .002$). When highest-measured temperature was used restrospectively to match cases and controls in the statistical analysis of the first-year Michigan study, the difference in salicylate ingestion remained significant (100 percent of cases, 73 percent of controls ($p < .05$)). As discussed earlier, the Ohio investigators also restrospectively matched cases and controls by temperature strata. At each temperature stratum salicylate use was consistently greater among cases than controls. FDA's multivariate conditional logistic analyses, which adjusted for fever, showed that the association between salicylates and RS remains significant.

The data also indicate that the administration of antinauseants is not significantly associated with the antecedent illness, but may be associated with the symptoms of the onset of RS. This was confirmed by FDA's analysis of the second year of the Ohio study, which shows that most antinauseant use was on the day of onset of RS or later. With respect to reduced fluid intake, the question was asked in such a manner that data available with respect to this factor cannot establish whether the reduction in intake was associated with the antecedent illness or with the onset of RS. In addition, FDA's multivariate conditional logistic analyses adjusted for other indications of severity of illness, including cough, headache, and sore throat. After adjusting for these measures of severity of antecedent illness, the association between salicylates and RS remains significant.

4. It is claimed that interviewer bias influenced the results of the studies. Interviewer bias could have resulted form the fact that interviewers were not "blinded", i.e., they knew in advance that the parents they interviewed were the parents of cases rather than controls or of controls rather than cases. Such knowledge, it is argued, could cause interviewers to question one group of parents more closely than the other, thereby producing more, or more reliable, information from that group. Prior knowledge by interviewers that salicylate drugs were suspected more strongly than other factors of being asssociated with RS could also have biased the questioning. These forms of interviewer bias could have produced biased reporting by the interviewees. For example, if the parents of cases were more closely questioned than parents of controls, it is possible that they would have been more likely to recall the specific medications administered to their children. It is therefore possible that such parents would have been more likely to have remembered that they had administered aspirin, whereas parents of controls would have remembered only that they administered a fever-reducing drug of some sort, thus falsely increasing the incidence of aspirin use in cases compared with controls. It is also possible that if interviewers knew of a potential connection between salicylates and RS, they might have persisted in asking parents of cases about medications until receiving a response mentioning a salicylate product, whereas they might not have so persisted when questioning parents of controls.

Although it is true that interviewers knew in advance which families had cases and which had controls, precautions were taken to prevent the introduction of bias into the interviews by reason of such knowledge. Interviewers in the Michigan and Ohio studies received training designed to standardize interviewing technique, so that parents of cases and parents of controls would be asked the same questions in a similar manner.

FDA's review of the questionnaries used in the Michigan and Ohio studies revealed no basis for concluding that salicylate drugs had been given undue attention by the interviewers or that other forms of interviewer bias tainted the responses. Moreover, in the Arizona study and the first Michigan study and the first year of the Ohio study, those conducting the investigation had not concluded that salicylate drugs were more likely than other factors to be

associated with RS. The interviewers in those studies, therefore, were unlikely to have biased the results by any intentional or unintentional desire to elicit information concerning a hypothesis implicating salicylates in the development of RS. Furthermore, interviewers in the second year of the Ohio study were not informed by the investigators that a possible association between salicylate drugs and RS was suspected.

Finally, the absence of significant interviewer bias in the Michigan studies is suggested by the fact that similar numbers of drug preparations were reported by cases and controls. Because parents of cases and parents of controls reported almost the same numbers of drug preparations given, it does not appear that interviewers persisted longer in their questioning about medications with parents of cases than with parents of controls.

5. It is claimed that the Ohio study may have been flawed by a bias in case selection. A physician at one of the six clinical centers participating in that study has stated that some of the cases he reported to the Ohio State Health Department were excluded from the study (Ref. 78). He indicated that at least four of the cases he reported had no history of salicylate ingestion.

The FDA working group has reviewed the case selection in the Ohio study for each of the participating centers (Refs. 79 and 80). During the 2 years of the study, 11 RS cases were reported from the clinic with which this physician is associated. The Ohio Health Department excluded 5 of those 11 cases from the study for the following reasons: 2 cases were stage 0; 1 case was too young (about 1 year old); 2 cases could not be matched. These exclusions were consistent with the eligibility criteria established and with the procedures used during the period of this study. Of the 11 cases reported from this clinic 8 (73 percent) had used salicylates; of the 6 cases from this clinic which were included in the study, 4 (67 percent) has used salicylates.

The working group saw no indication that the case selection process pertaining to the cases reported from one center was unique. Of all the cases reported to the Ohio Health Department, 183 of 196 (93.4 percent) had used salicylates. Among nonsalicylate users who were not included in the 97 matched cases, 6 were stage 0, 2 were preschool, and 2 apparently could not be matched. There were 31 cases who were not matched, although they were eligible based on stage, degree of illness, and age. Of those, 29 (93.5 percent) had used salicylates. Thus, it does not appear that cases were selected for matching based on whether or not they had used salicylates.

6. It is claimed that product confusion among parents caused misclassification of the drugs used by cases and controls. Thus, it has been argued that some parents may have thought a salicylate product was used when, in fact, it was a nonsalicylate product. It is also asserted that the documentation confirming the medication histories is inadequate. The assumption is that because the parents of cases were usually interviewed in the hospital it would be less likely that the investigators confirmed the cases' medication histories by visually inspecting the medication bottles. Confirmation by inspecting the medication bottles of the controls would be more likely because the interviews were conducted at the parents' home.

In Ohio, there was an extensive effort to identify ingredients properly for single as well as combination drugs. In Michigan, the interviewer notified the family to prepare for the interview and to show the medication bottle to the interviewer. Although parents, in some instances, may have been confused as to the identity of the active ingredient, interviewers in both Ohio and Michigan usually obtained brand names of the drug administered, which were then checked to determine and record the active drug ingredient. In Ohio, 90 percent of the cases and 91 percent of the controls supplied brand names; 100 percent of the acetaminophen identification was by brand name.

It is true that the documentation does not show which product identifications were confirmed by visual inspection of the bottles and which were not. However, there is also no documentation showing that any of the visual confirmations revealed a contradiction between the brand name identified and the brand name on the bottle label. Thus, any effect of the visual confirmation on the study analysis remains conjectural.

7. Analyses have been submitted by industry representatives to show that there is no significant statistical association between salicylate use and RS if two subsets of the second-year Ohio cases identified by FDA's working group are examined (Ref. 101). The following subsets of the 64 second-year Ohio cases were analyzed: (1) The 48 cases with more than 4 days of symptoms before the onset of RS and (2) the 41 cases in which the relationship of salicylate use to onset of RS could be ascertained with reasonable certainty.

The working group's analysis of those 48 cases with more than 4 days of symptoms before the onset of RS showed a positive and statistically significant association between salicylate exposure and RS. The industry submission's analysis of those 48 cases showed a positive association that was, however, not statistically significant. The difference between the working group's finding and the industry submission's finding with respect to this subject appears to result from the differences in the databases of the two analyses. The industry submission's coding of subjects from the second year of the Ohio study for exposure to salicylates or nonexposure to salicylates differs from the working group's coding with respect to 11 subjects. This difference appears to be primarily due to the fact that the industry submission had coded controls as exposed if salicylates were used at any time during their illnesses, whereas cases were coded as exposed only if a salicylates were used early in the course of illness. The working group coded a subject as exposed only if salicylate was used during the first 3 days of the illness, and this same coding was applied to both cases and controls.

The working group coded exposure according to the first 3 days of illness only in order to determine whether the frequency of salicylate use was related to the severity of symptoms of the antecent illness. The first 3 days is the time period when symptoms of viral illnesses are likely to be most severe. The working group performed a multiple conditional logistic analysis to test whether differences in symptoms accounted for a greater frequency of salicylate use in cases and found that there was still a significant association of salicylate use with RS after accounting for these differences. The working group attempted both to assure that the database did not include salicylates that were being given specifically to treat Rs and to determine whether salicylate use was the result of more severe illness in cases than controls. The industry analysis did not compare equivalent time periods in cases and controls and did not adjust for the severity of illness when examining the relationship between salicylate use and RS.

The industry submission also analyzed a subset of 41 cases in which the relationship of salicylate use to onset of RS could be ascertained with reasonable certainty. The industry submission argued that with this subset of 41 there is also no statistically significant association between salicylate use and RS. FDA's working group had identified and studied this subset of 41 cases in order to determine

whether salicylates were used for treatment of RS, regardless of whether they had been used initially for treatment of the antecedent illness. That is, the 23 cases that began salicylate use on day 1 or 2 of illness and continued until the onset of Rs were excluded from this subset because for those 23 cases it could not be determined when the salicylate use for the antecedent illness ended and the salicylate use for RS began. However, because this group of 41 cases does not include all RS cases who used salicylates before onset of RS, the association of RS with prior salicylate usage cannot be determined by comparing only these cases and their controls. Therefore, the industry submission's analysis using this subset of 41 cases to determine the frequency of use of aspirin before the onset of RS is an invalid approach.

8. The industry submission which analyzed the 46 and 41 case subsets also claimed that some of the product identifications recorded on the case report forms are insufficient to determine whether the products contained salicylates (Ref. 101). The industry submission argued that 7 of the subjects in the second year of the Ohio study (4 cases and 3 controls) who were identified as having been exposed to salicylate had received medications which had not been clearly identified as containing salicylates ("indeterminate" medications).

The submission argued that even when all 64 cases are examined, the assumptions about the 7 indeterminate medications lead to critical differences in the results. Using its database, the industry submission presented an analysis showing that when it is assumed that the 7 subjects who took indeterminate medications were exposed to salicylates, the result is a statistically significant association between salicylates and RS. However, when it is assumed that these 7 subjects were not exposed to salicylates, the association is no longer statistically significant. The submission argued that if only 3 of the indeterminant cases are assumed to be unexposed, the results are not statistically significant.

The industry submission based its identification of "indeterminate" medication on the fact that the trade names of some salicylate-containing products are very similar to the trade names of non-salicylate-containing products. For example, "Brand X" may contain aspirin and "Brand X-AF" may contain acetaminophen. FDA's working group assumed that a listing on a case report form for "Brand X" would mean literally that, and would not have been so listed if the brand name were at all different. Therefore, the working group listed these products as salicylates. However, if it were assumed (as the industry submission assumed) that the correct names of these products could not be determined, then the appropriate approach would be to exclude these subjects from the analysis. That is, if the salicylate exposure is unknown, that subject should not be included as either exposed or unexposed, because either assumption would improperly bias the results. When the subjects identified by the industry submission as having taken "indeterminate" medications are excluded from analysis of all 64 cases, the association between salicylate use and RS remains significant, regardless of whether the industry submission's database or the working group's database is used.

9. It is claimed that, even over relatively short periods of time, parents do not accurately remember significant details about medications they administered to their children, the symptoms their children had during illness, or their children's behavior patterns (e.g., fluid intake) during illness. If recall were equally inaccurate for both groups of parents, it would not ordinarily be expected to bias the information reported for cases and controls. However, in case-control studies parents of cases are typically interviewed shortly after their children's illness, whereas parents of controls are often interviewed weeks or months after illness, and this was true of the Ohio and Michigan studies. Also, parents of cases—children with RS—might remember important details concerning medication or severity of symptoms more clearly than parents of controls, whose children had a far less serious illness. Such differential recall, it is thought, could have biased the results of the Ohio and Michigan studies.

In both the Ohio and the Michigan studies the investigators attempted to identify and interview the parents of controls as quickly as possible, thus minimizing the time differential between the two groups of parents as much as is practicable in case-control studies. Nevertheless, neither the time diffeential, nor any possible difference in recall accuracy between parents of RS children and parents of control children, could have been entirely eliminated.

Two observations, however, tend to negate the existence of significant recall bias stemming from these factors. First, recall bias would not be expected to result in the selective underreporting of the use of salicylate drugs, and overreporting of the use of acetaminophen, by the control group parents. Recall bias should have produced, instead, underreporting of both medications by the parents of controls. The parents of controls would have had no reason to remember administering an salicylate product. Second, as previously noted, similar numbers of total drug products were reported by both cases and controls in the Michigan studies. Therefore, it does not appear that parents of controls had, in the time period between the child's illness and the interviewer's questioning, forgotten the medications they gave during the illness to any greater degree than the parents of cases had forgotten the medications they had administered.

10. It is claimed that the data do not establish a dose-response relationship between salicylate ingestion and the development of RS. It is argued that one would expect there to be such a relationship if salicylate drugs caused RS. The absence of such a relationship, it is argued, would suggest that a causal relationship between salicylate drugs and RS is biologically implausible.

It is correct that the data do not show a dose-response relationship between salicylates and RS. The data are inadequate to show either the existence or the absence of such a relationship. Demonstration of a dose-response relationship would clearly strengthen an association between salicylates and RS, but its absence does not negate the existence of an association. A correlation between salicylate blood levels and the development of RS has also not been clearly demonstrated. The methodologies reported often lack sensitivity and are affected by confounding factors, such as ketosis (which is present in dehydrated children, such as those who have RS). The significance of the blood levels measured depends on various factors, including information about the amount and timing of all salicylate drugs administered and the physical condition of the child. Data of the requisite quality to determine whether a dose-response relationship exists were not obtained during any of the studies.

Demonstration of a dose-response effect might strengthen the evidence of a causal relationship, but is not essential to show an association or a causal role of salicylates in RS. If the effect of salicylates in RS were dose dependent (e.g., the more toxin taken or present, the greater the toxic response), then such a relationship possibly could be demonstrated by clinical history and by laboratory tests. However, if the role of

salicylates is independent of dose, as it appears to be, then any exposure to salicylates, not necessarily exposure at toxic levels, could be a triggering factor in RS. That is, it is possible that a small amount of salicylates administered under certain circumstances will trigger RS and that it makes no difference whether or not larger amounts are administered. Thus, it is biologically plausible that salicylates could be a factor in causing RS even if no dose-response relationship were shown.

11. It has been argued that the association between salicylates and RS cannot be reconciled with certain facts concerning the identification and the patterns of incidence of RS. The argument is that because aspirin has been so widely used for so many years, it is unlikely that aspirin causes a disease that: (1) Has only recently been identified; (2) is very rare; (3) is geographically concentrated; and (4) occurs in Caucasians 90 percent of the time. It has also been argued that the facts that not all children who take salicylates for flu or chickenpox symptoms get RS and that some children get RS without having taken salicylates are inconsistent with a causal connection between salicylate use and RS.

The fact that RS was only identified as a specific disease in 1963 does not mean that it did not exist prior to that time—only that it had not yet been identified as a specific illness. RS is a rare disease; a rare disease is often not identified until sufficient information is accumulated and communicated to interested scientists to allow them to differentiate the symptoms of the disease from those of other diseases. That RS is rare does not, however, mean that there can be no causal relationship between salicylate use and RS. Administration of a drug can result in serious harm in only a small percentage of cases, yet nevertheless be the causal agent. For example, administration of chloramphenicol at a certain dosage has been estimated to cause fatal aplastic anemia in 1 out of 40,500 patients (Ref. 64). The data do show that not all children taking a salicylate for symptoms of flu or chickenpox develop RS. There must be more than one factor involved in the development of RS. That is, there may be certain preconditions, such as genetic predisposition, necessary before RS develops. Salicylate use could be one element in a chain of causes that lead to RS if most of the elements are present. Nor does the fact that a few cases of RS have been identified in which no salicylates were used prove that salicylates can have no causal role in RS. Salicylate use may be one among several possible causes, not all of which need be present for RS to develop. A number of environmental agents, such as insecticides, mycotoxins, and aflatoxins, have been suggested as possible factors in causing RS (Refs. 81 and 82). However, none of these agents have been confirmed as factors in causing RS by later studies.

Observed geographic differences in the incidence of Reye syndrome may reflect the varying levels of interest of health departments, communities, and physicians and the varying reporting requirements in different States. Whether some environmental agents present in different geographical locations may also be implicated in RS cases is unknown. As yet, there have been no adequate studies conducted to determine whether, in fact, RS does occur disproportionately in certain geographic areas. Even if future studies were to define geographic differences in the incidence of this disease, it is possible that factors other than salicylate use (including influenza and other as yet unidentified risk factors) might explain such observed differences.

Why 90 percent of the RS cases reported each year are among Caucasians is also not understood. It may be that Caucasians have different exposure to predisposing conditions of RS that have not as yet been identified. Perhaps there is a genetic predisposition to RS that is greater among Caucasians. As has been discussed before, salicylate use could be causally associated with RS without being the sole cause. Therefore, the fact that some factor other than salicylate use may result in more RS in Caucasians does not mean that salicylate use does not cause RS.

12. It has been argued that it is likely that a number of the children identified as cases did not actually have RS. The argument that some of the cases probably were misidentified rests on two main points: (1) Not all of the cases of RS were confirmed by liver biopsy and (2) there were low death rates among the study participants. It is claimed that the lack of biopsy confirmation is significant in light of an unpublished study conducted by Sokol, Heubi, and others in Cincinnati, OH. An abstract of their study indicates that 26 percent of subjects diagnosed as having stage I RS using CDC/NIH consensus conference diagnostic criteria were biopsy negative for RS (Ref. 83). It is also stated that in the second year of the Ohio study only 4 percent of the cases died, whereas the national death rate from RS is approximately 22 percent to 40 percent.

It is true that not all of the RS cases were biopsy confirmed. The investigators in all four State studies used criteria developed by CDC (Ref. 1) and NIH (Ref. 46) to diagnose RS accurately. A liver biopsy is a procedure not to be undertaken lightly, especially in an uncooperative, critically ill child with defective coagulation (Ref. 46). Approximately 26 percent of the cases were biopsied in the 2 years of the Ohio study. None of the children included in the Ohio study who were biopsied were biopsy negative.

None of the patients in the Sokol-Heubi study were included in the four State studies (Ref. 84). All of the patients in the Sokol-Heubi study with stages II through V RS (four patients) were biopsy positive. Among the stage I RS patients, 14 of 19 were biopsy positive. Of these 14 biopsy-confirmed RS case, 100 percent had salicylate exposure; only 1 of the biopsy negative cases had salicylate exposure. Thus, although the Sokol-Heubi study suggests that there are difficulties in diagnosing stage I RS, the study also suggests that there is an association between salicylate exposure and biopsy-confirmed RS cases.

Mortality rates for RS cases have decreased since the 80 percent rate reported in Reye's original study (Ref. 4). In 1974 the death rate from RS in the United States was 41 percent (Ref. 77); in 1981 the national RS death rate was 28 percent (Ref. 1). It is likely that early recognition of RS and greater use of intensive medical support have resulted in the lowered mortality rate (Ref. 2). The RS death rate in Ohio in the last 10 years has been consistently lower than the national average—in Ohio the death rate was 23 percent in 1973, 13 percent in 1976, and 3 percent in 1977 (Ref. 56). A possible reason for the low Ohio death rates is that the children were identified as RS cases at a less severe stage and received prompt, aggressive supportive therapy. Although it is not entirely clear why the Ohio RS death rate has been consistently lower than the national average, the 4 percent death rate in the second year of the Ohio study is consistent with the usual low rate in Ohio.

Furthermore, as the American Academy of Pediatrics' Committee on Infectious Diseases has pointed out, if any misclassified cases could be eliminated from the analysis, it would be expected that an association between aspirin and RS would be strengthened rather than weakened (Ref. 47). This results from the fact that non-RS individuals, misclassified as RS

cases, would probably exhibit salicylate patterns more like their controls and hence would dilute an association. Thus, elimination of these cases would further enhance the differences in salicylate use between cases and controls, therefore strengthening an association.

13. It has been argued that an association between salicylates and RS cannot be reconciled with the fact that the liver pathology of RS is different from the liver pathology of salicylism and that the serum patterns of amino acids, free fatty acids, ketones, and urates in RS are different from the serum patterns of the same substances in salicylism.

The liver pathologies and the serum patterns of RS and salicylism do differ. It is generally agreed, however, that RS is neither the same as salicylism nor the results of salicylism. Therefore, it would not be expected that RS and salicylism would have the same liver pathologies and serum patterns. The fact that the liver pathologies and serum patterns of RS and salicylism differ would not negate the existence of an association between salicylism use and RS; it would also be irrelevant to the question of whether salicylism use might be a causal factor in the development of RS.

14. It has been argued that the association between salicylates and RS cannot be reconciled with the fact that the concentration of salicylates needed to produce one proposed mechanism for salicylates' role in RS occurs at levels that have probably not been reached in most cases. That is, it is claimed that the concentration of salicylates needed to produce a 50-percent inhibition of rate-limiting enzymes for mitochondrial oxidative phosphorylatin has not been shown to have been reached in most RS cases.

The mechanisms acting in the origin and development of RS are not fully understood. The possible mechanisms by which salicylates might contribute to causing RS are also not fully understood. One possible mechanism postulated for a causal role of salicylates in RS is that the salicylates inhibit certain mitochondrial functions. Whether this particular postulate can be supported theoretically or by future clinical data is not crucial in determining whether salicylate use plays a causal role in the development of RS.

15. It has been argued that the association between salicylates and RS cannot be reconciled with the fact that the incidence of RS in children with rheumatic disease (such as juvenile rheumatoid arthritis), who regularly receive high dosages of salicylates, is not higher that the incidence of RS in the general population.

The incidence of RS in children with rheumatic disease who are on high-dose salicylate therapy cannot be determined on the basis of the available data. Cases of RS among these children have been reported (Refs. 10 and 37 (at page 129)). More information on the incidence of RS in this group of children may be useful in understanding the relationship between salicylates and RS. It should be noted again that even if salicylate use is shown to be one causal factor in the development of RS, it is not the sole causal factor. The existence of an antecedent illness, such as the flu or chickenpox, has already been strongly implicated in the development of RS. Perhaps genetic predisposition is also a factor in what may be shown to be a chain of causal factors. Because children with rheumatoid arthritis already have a pathologic disorder, that disorder may be in some way associated with a greater or lesser likelihood of developing RS.

16. It has been argued that there is a medical risk in suggesting that salicylates not be used to treat high fever in children because of the possible harm, including convulsions and damage to the central nervous system, that prolonged high fever can cause. Suggestions have been made that consumers should not be subject to such a risk and that rather than warning consumers against salicylate use, the agency should advise consumers that they should exercise prudence in the use of all medications in children. It has been argued that cautioning against salicylate use will lead to more use of acetaminophen products, which pose risks of liver toxicity. It has also been suggested that a label warning on salicylates concerning RS might lead parents to believe that by not giving their children salicylate products they have removed all risk of RS.

A label warning statement being considered by the agency for certain salicylate-containing drug products would advise consumers against the use of salicylates in persons under 16 years of age with flu or chickenpox unless directed by a doctor. Fever is often associated with these diseases; prolonged high fever can lead to convulsions and, in very rare cases, permanent damage. There are, however, alternative antipyretic drugs that do not contain salicylates. Although there is a risk of liver toxicity associated with acetaminophen use, this risk stems from drug overdose and can be avoided in children largely through use of child-resistant containers. Salicylates also can be dangerous to children if taken in overdose.

More importantly, most levels of fever probably do not require any drug therapy and are not harmful. The American Academy of Pediatrics' Committee on Infectious Diseases has suggested that when a physician believes that control of fever is necessary, such alternative means of fever control as increased fluid intake and sponging with tepid water should be considered (Ref. 47). The labeling statement under consideration would not warn against salicylate use in children in all circumstances. The possible benefits of salicylates might outweigh the risk of Reye syndrome in certain patients, such as those with juvenile rhevmatoid arthritis for whom the risk of Reye syndrome may be less important than the benefits gained in treating this chronic debilitating disease.

Prudent use of all medications, including antipyretics in children, is, of course, advisable. However, such general advice may not be sufficient to protect against specifically recognized risks. The agency's educational campaign, discussed in detail below, informs parents about the symptoms of RS and stresses the importance of early emergency medical treatment. Because of the educational campaign parents should have increased awareness of the syndrome and be more likely to recognize it when it occurs. Warning parents through labeling statements about the possible risks of RS from treating certain childhood illnesses with salicylates would not necessarily imply that abstaining from salicylate use prevents RS.

17. It has been argued that, despite the uncertainties in the data, the public should be warned of the association between salicylate use and the development of RS. It is also claimed that, although the public should be advised generally to use caution in administering antipyretics to children, the available data do not justify a labeling warning requirement specifically for salicylate-containing products. In the June 1982 issue of *Pediatrics*, the American Academy of Pediatrics published a recommendation of its Committee on Infectious Diseases that "[i]nasmuch as salicylates are over-the-counter preparations, education of parents to their avoidance in influenza and varicella [chicken pox] requires a total community effort. We urge that the appropriate governmental agencies undertake appropriate review and necessary action to inform the public at large" (Ref. 47). On November 8, 1982, the Executive Board of the American

Academy of Pediatrics stated its belief that labeling aspirin-containing preparations as contraindicated in treatment of influenza or chicken pox "should be delayed until more conclusive evidence of the association of aspirin administration and Reye's Syndrome is shown by further investigation" (Ref. 85). Subsequently, on November 19, 1982, the American Academy of Pediatrics stated that it "continues to be concerned about the possible association of aspirin and Reye's Syndrome and has alerted physicians to use caution in recommending aspirin for treatment of influenza and chicken pox symptoms" (Ref. 86). The American Academy of Pediatrics added that it believed "the current labeling [on aspirin] which includes 'flu' among those conditions which may be treated with aspirin is inappropriate" and recommended deletion of the flu indication from the labeling of children's aspirin-containing products (Ref. 86). These and other comments raise questions about the quality of data which should exist to support regulatory actions. The comments also raise questions about the differences between two types of agency actions—advice to the public and label warning requirements. These questions are discussed in the following section.

F. *Regulatory evaluation.* The agency has statutory authority to undertake various kinds of activities to protect the public health, including initiating public educational campaigns and requiring labeling warnings on drug products. FDA has evaluated the recent reports on the relationship between salicylate use and RS and has considered the potential risks to the public health suggested by those reports in considering which related activities to initiate.

Section 310(b) of the Public Health Service Act, 42 U.S.C. 242o(b), directs the Secretary of HHS to issue "information related to public health, in the form of publications or otherwise, for the use of the public" and to publish "other pertinent health information for the use of persons and institutions concerned with health services." Section 311(a) of the Public Health Service Act, 42 U.S.C. 243(a), directs the Secretary to "advise the several States on matters relating to the preservation and improvement of the public health." Functions of the Secretary under these sections that relate to the responsibilities of FDA have been delegated to the Commissioner of Food and Drugs. See 21 CFR 5.10 (a)(2), (19).

Section 705(b) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 375(b), authorizes the Secretary to disseminate information regarding drugs "in situations involving, in the opinion of the Secretary, imminent danger to health or gross deception of the consumer." The magnitude of the potential danger need not be estimated, however, because section 705(b) is not a limitation upon the authority of the Secretary. It has been held that "even in the absence of this statute there would be nothing to prevent the [Federal officials] from disseminating information to the public. The [Federal officals] are performing a public duty when they are urging the use of certain treatments or warning the public against the use of certain treatments." *Hoxsey Cancer Clinic* v. *Folsom*, 155 F. Supp. 376, 378 (D.D.C. 1957). See *United States* v. *An Article of Device . . . Dispulse Mfg. Corp.*, 262 F. Supp. 728 (D. Conn. 1967). The functions of the Secretary under the Federal Food, Drug, and Cosmetic Act have also been delegate to the Commissioner of Food and Drugs. See 21 CFR 5.10(a)(1).

As discussed above, several groups and numerous individuals have suggested that, until the relationship between salicylate use and RS is clarified, physicians and the public should be advised of the possible risks of using salicylates to treat certain viral illnesses in children. Case-control studies are inherently limited by possible distortions resulting from interviewer bias, recall bias, or imperfect matching of cases and controls. However, the data which first indicate potential health risks are often flawed or equivocal. In some cases, it may be years before data are available to establish definitively that a serious health risk accompanies the use of a particular product.

With rare diseases, such as RS, the agency has no option except to rely on case-control studies, because prospective studes of a population at risk for a disease that may occur, as here, at an annual rate of less than 5 cases per 100,0900 population under 16 years of age would require an enormous number of subjects. The four State studes are consistent in their results. Collectively, the result of the studies on their face would appear to establish an association between salicylate ingestion and RS—nearly every child who developed RS had take salicylates (137 of 141); while far fewer of the control group (151 of 247) had taken salicylates. Moreover, the Ohio and Michigan studies appear to establish a reverse association with the administration of acetaminophen (a nonsalicylate antipyretic and analgesic), in that control subjects were much more likely to have received this drug than were the cases.

A statistical association as reported by the four State studies might reflect a causative role for salicylates in the development of RS, or it might be associated with other factors. Although RS is a rare disease, the mortality rate is high. Until the relationship between salicylates and RS has been clarified, FDA believes that the interests of the public health require that physicians and the public be advised of the possible risks of administering salicylate-containing medication to children with flu or chickenpox. This position is consistent with the views expressed in a recent editorial in the August 13, 1982 edition of the *Journal of the American Medical Association* (Ref. 76).

On June 4, 1982, the Secretary of Health and Human Services announced that "medical experts have concluded that the use of salicylates such as aspirin in children with influenza and chickenpox and certain other viral infections has been sufficiently associated with Reye Syndrome to warrant warning physicians and parents" (Ref. 48). The Secretary announced that he had directed FDA to undertake an educational campaign aimed at medical care personnel, pharmacists, and parents. In addition, the Secretary directed the Surgeon General of the U.S. Public Health Service to issue an advisory. On September 20, 1982, the Secretary announced the details of the educational campaign that had been undertaken. These initiatives are explained in detail below.

As discussed in detail above, the four State studies reporting an association between salicylate use and RS have been extensively criticized. In addition to comments pointing out the inherent limitations of case-control studies, specific questions about the design, execution, and analyses of these particular studies have been raised. Certain individuals, as well as the Executive Board of the American Academy of Pediatrics, have maintained that a labeling warning statement concerning salicylate use and RS would be premature at this time. On November 18, 1982, the Department of Health and Human Services announced that the American Academy of Pediatrics Executive Board's statement of November 8, 1982 (Ref. 85) is the first time that concerns have been raised by an independent scientific body and that it is critical that they be resolved. The announcement advised that the Secretary has decided that new

government-supported studies are necessary to help resolve the scientific dispute over the reported association between RS and salicylate-containing drugs. The announcement also advised that the Secretary has directed the Public Health Service to make recommendations to him for new research to help resolve the scientific dispute. (A protocol for a new study had been submitted earlier by industry representatives (Ref. 87)). The announcement pointed out, however, that a significant body of qualified opinion believes that the available scientific evidence sufficiently establishes an association that the public should be informed. Accordingly, the announcement advised that the Secretary has decided to continue the previously initiated public educational campaign to warn parents and professionals of the need for caution. The continuation of the public educational campaign is consistent with the statement of the American Academy of Pediatrics that was issued on November 19, 1982 (Ref. 86).

Recognizing the controversy over whether the results of the four State studies justify requiring label warnings at this time, the Secretary on November 18, 1982, also announced that this advance notice would set forth the available information and invite comments on whether label warnings should be required. Evidence of a potential public health risk may be sufficient to make public education appropriate but may not necesarily justify requiring revised product labeling.

Any proposed rule concerning an RS-salicylate labeling warning would be promulgated under the authority of sections 201(n), 502 (a) and (f), and 701(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(n), 352 (a) and (f), and 371(a)). If warranted by new scientific information or by the response to this advance notice, the possible labeling warnings announced in this notice may be required through an interim final rule (i.e., one with immediate effect). The possible label warnings and other labeling revisions under consideration are discussed in detail below.

II. Educational Activities

A. *Departmental initiatives*—1. *Surgeon General's advisory.* The Surgeon General of the U.S. Public Health Service issued a Surgeon General's advisory in the *Morbidity and Mortality Weekly Report* of June 11, 1982 (Ref. 49). That advisory recommended against the use of salicylates and salicylate-containing medications for children with influenza and chickenpox. The association of salicylates with RS, the Surgeon General states, "is based upon evidence from epidemiologic studies that are sufficiently strong to justify this warning to parents and health care personnel."

2. *FDA Drug Bulletin.* FDA issued an article in the August 1982 *FDA Drug Bulletin* which was distributed to over one million health care professionals, including physicians, pharmacists, and nurses (Ref. 88). The article reviews the data generally and advises caution in the use of salicylates in those viral illnesses particularly associated with the development of RS.

3. *FDA Consumer.* FDA also included an article on RS in the October issue of its publication, *FDA Consumer* (Ref. 89). This article reviewed the information on RS in terms understandable to the lay public and pointed out that aspirin and other salicylates may be associated with RS. Reprints of the article were sent to all consumer affairs offices of FDA for distribution to the public.

4. *Surgeon General's newspaper column.* The Surgeon General issued a newspaper column that discussed the suspected relationship between aspirin and RS and advised against giving aspirin to children with chicken pox, influenza, or a flu-like illness (Ref. 90). Approximately 8,000 copies of the newspaper column were distributed in early October.

5. *Radio public service announcements.* The Surgeon General also made recordings explaining that there may be an association between Reyes syndrome and aspirin and cautioning parents not to give aspirin when their children have flu or chickenpox (Ref. 91). Approximately 8,000 copies of these radio announcements were sent to radio stations on October 8, 1982.

6. *Question-and-answer brochures.* An RS information brochure in question-and-answer format has been made available on request to pharmacies and primary care physicians (Ref. 92). Approximately 673,000 copies of the brochure have been supplied for distribution.

7. *Dear Consumer letter.* A "Dear Consumer" letter offering copies of the question-and-answer brochure was mailed October 8, 1982, to approximately 13,000 consumers (Ref. 93).

8. FDA continues to work with health professional groups, including physicians (particularly pediatricians), and all other related organizations to transmit relevant information.

9. FDA continues to work with consumer and other organizations to transmit relevant information.

B. *Other informational activities.* A number of other publications disseminated information concerning the relationship between salicylates and RS. For example, the *Journal of the American Medical Association* of June 11, 1982, included a report of the Michigan study in a paper entitled, "Aspirin as a Risk Factor in Reye's Syndrome" (Ref. 35). The June 1982 issue of *Pediatrics* included a special report on "Aspirin and Reyes Syndrome" which included the recommendation of its Committee on Infectious Diseases of the American Academy of Pediatrics that "aspirin should not be prescribed under usual circumstances for children with varicella [chickenpox] or those suspected of having influenza on the basis of clinical or epidemiologic evidence" (Ref. 47). The recommendation also urged that appropriate governmental agencies undertake appropriate review and necessary action to inform the public at large.

In addition to Federal governmental efforts, a number of State health agencies have taken action to publicize the association between salicylates and RS. For example, the report of the Michigan studies notes that the possible association between aspirin and RS had received extensive publicity in Michigan.

III. Possible Labeling Requirements Under Consideration

Having reviewed the four State studies in light of the questions concerning the studies recognized by its own staff as well as the questions raised by industry representatives, consumer representatives, and health professionals, FDA is considering proposing a rule that would require the labeling of certain OTC and prescription salicylate-containing products to bear a warning against use in persons under 16 with flu or chickenpox. In order to assist the agency in determining whether to propose an RS-salicylate warning, FDA is in this advance notice requesting comments on the available data—e.g., on the design, execution, and analysis of the relevant studies and on the quality and strength of any demonstrated RS-salicylate association. FDA has suggested above some possible responses to questions concerning the studies that have already been raised; comments on these tentative responses are also invited.

On September 20, 1982, the Secretary announced the texts of warning

statements that the agency is considering proposing to be required on the labeling of salicylate-containing products. For over-the-counter (OTC) drugs, a proposed warning might read: "Warning: This product contains a salicylate. Do not use in persons under 16 years of age with flu or chicken pox unless directed by your doctor. The use of salicylates to treat these conditions has been reported to be associated with a rare but serious childhood disease called Reyes syndrome." The agency believes that the term "flu" is commonly understood to include influenza and a variety of other viral illnesses. Thus, flu and chicken pox would cover the viral illnesses that have been associated with RS. For prescription drugs, a proposed warning might read: "Drugs of this class, salicylates, have been reported to be associated with the development of Reyes syndrome in children under 16 years of age with chicken pox, influenza, and influenza-like infections." In addition to comments concerning the data on the relationship between salicylates and RS, the agency invites comments on the specific working of any RS warnings that might be proposed for salicylate-containing products.

The agency also invites comments on the appropriate scope of any proposed RS warnings for salicylate-containing products. FDA is considering proposing that RS warning statements appear in the labeling of all systemically absorbed salicylate-containing prescription drugs for human use that are administered orally, rectally, or parenterally and of all systemically absorbed salicylate-containing OTC drugs for human use that are administered orally or rectally. The salicylate in the product may be present either as a single ingredient or in combination with one or more other ingredients. Thus, a proposed rule would apply not only to products that contain aspirin, but also to drug products that contain other salicylates, such as aminosalicylic acid, sodium salicylate, sodium aminosalicylate, magnesium salicylate, choline salicylate, bismuth subsalicylate, aluminum aspirin, and calcium carbaspirin. Salicylate-containing drug products that would not be included would be those that are administered topically, and those that are used as mouthwashes.

Salicylate-containing drug products are probably the most widely used OTC drug products on the market. Salicylates are commonly used in analgesic drug products for the temporary relief of occasional minor aches, pains and headache and in antipyretic products for the reduction of fever. Salicylates are also often combined with OTC cold, cough, and allergy drug products for their analgesic and antipyretic effect. Although these classes of products constitute the largest use of salicylates, salicylates are also used in other categories of drug products, such as antidiarrheals.

Salicylates are usually used in prescription drug products in combination with other active ingredients, although some salicylates, such as aminosalicylic acid, may be used as a single active ingredient. Many prescription drug products containing a salicylate, either because of the other active ingredients with which they are combined or because of the specific indication of a particular salicylate, would not be used in children or adolescents under 16 years of age to treat flu or chickenpox. For example, the indications for products containing aminosalicylic acid or sodium aminosalicylate are for use as an antitubercular product. It is possible, however, that such a product could be administered to an individual under 16 years of age during the flu season, and that this might put that individual at risk. And there are other prescription combination salicylate-containing products that, though not administered for treating flu or chickenpox, could also be administered during the flu season to a child or adolescent. For this reason, the agency is considering proposing a rule that would require that all systemically absorbed salicylate-containing prescription drug products for human use administered orally, rectally, or parenterally carry an appropriate warning in their labeling.

The location of an RS warning statement on OTC drug product labeling is another issue on which the agency invites comment. The agency is considering proposing that all OTC drug products subject to the rule bear the required warning statement on all accompanying labeling, such as the outside container or wrapper label, and on the package insert. If the immediate container label contains warnings, that label would also be required to bear the required warning statement. The warning statement would be required to appear as the first warning under the heading "Warning" on all labels and labeling on which it would be required to appear. The agency is also considering proposing that, for prescription drug products subject to the proposed rule, the warning be required to appear in the "Warnings" section of the prescription drug labeling described in § 201.100(d) (21 CFR 201.100(d)).

The agency also in contemplating proposing to amend § 201.314 to require that the labeling for OTC and prescription salicylate-containing drug products subject to the proposed rule packaged only for use in children (pediatric products) not be permitted to recommend the product for us in flu or chickenpox.

The labeling of OTC salicylate-containing drug products subject to the proposed rule under consideration and packaged only for use in adults or that include directions for use in both children and adults would be permitted to continue to include a recommendation that the product be used for the symptomatic relief of flu or chickenpox. Because an adult product could be used in adolescents under 16 years of age, however, any recommendation for use in flu or chickenpox would be required to be followed immediately by the statement, "See salicylate warning."

Recognizing that not all consumers read the warnings contained in the labeling of OTC drugs that they have purchased frequently, the agency might propose to require a statement to be added to the "Directions" section on the immediate container label of OTC drug products, if such label bears such information, and in the "Directions" section of all accompanying labeling. The "Directions" section of the labeling is the section that includes information on how much of the product to take and how often to take it. This section is probably the most widely read section of OTC labeling. The statement that might be proposed to be required in the "Directions" section is as follows: "For persons under 16 years of age see warning against use of salicylate for flu or chickenpox." The agency invites comments on this approach or on alternative ways to bring this information to the attention of the consumer.

The agency also requests information on how rapidly industry would be able to comply with a labeling warning requirement for salicylate-containing OTC and prescription products. FDA believes that it could be feasible to require revised labeling to appear on salicylate-containing products within 90 days of the date a final rule was published in the **Federal Register.** The agency is considering proposing that any product subject to the rule that does not bear the required labeling statements and that is initially introduced or initially delivered for introdution into interstate commerce 90 days after publication of the final rule would be considered misbranded and, therefore, subject to regulatory action.

FDA is not now contemplating an immediate market withdrawal of all salicylate-containing products upon the effective date of a final rule. A requirement for the labeling of all salicylate-containing drug products already shipped in interstate commerce that would take effect soon after a final regulation was published would be impracticable and extremely difficult to monitor or enforce. Most salicylate-containing products subject to the proposed rule under consideration are OTC products, with aspirin-containing products being the most widely sold and available. Aspirin, as well as many other OTC salicylate-containing products, are available not only in pharmacies, but in various types of other retail outlets, including grocery and convenience stores.

FDA does not now possess sufficient information about the effects that market withdrawal of salicylate-containing products would have on the supply of needed medications to suggest a suitable exemption period. The agency invites comment on an appropriate period of time to allow for exhaustion of supplies of salicylate-containing products initially introduced or initially delivered for introduction into interstate commerce before the effective date of a final rule.

IV. Economic and Environmental Impact

FDA has preliminarily examined the Regulatory Impact and Regulatory Flexibility implications of the proposed regulation under consideration in accordance with Executive Order 12291 and the Regulatory Flexibility Act. The agency estimates that a proposal like that being considered would impose direct one-time costs totaling approximately $15–17 million, of which $12–$13 million corresponds to direct expenses of label modifications to be accomplished within a relatively short compliance period. The other one-time costs would be for possible product reformulations and/or new product marketing expenses. The agency also estimates indirect effects on consumer expenditures as a result of shifts of purchases from aspirin-containing to higher prices acetaminophen-containing products in response to label warnings. This expenditure increment would be estimated initially at $40–$60 million per year but would be expected to decline as product proliferation increases price competition in markets for acetaminophen products. These impacts taken together are below the thresholds for a major rule as defined in Executive Order 12291.

The impacts on small business are also believed to be insufficient to warrant a Regulatory Flexibility Analysis. Most of the direct relabeling costs would be expected to be incurred by the larger firms that dominate total sales of affected products. Impacts on small firms of sales shifts from aspirin-containing to acetaminophen-containing would not be expected to be significant because data in the Census of Manufacturers strongly suggest that only a few small firms sell solely or largely aspirin-containing products. The agency requests that interested persons submit any information that would aid FDA in assessing the economic impact of a proposed rule on salicylate-containing product labeling.

The agency also believes that the action under consideration is of a type that would not individually or cumulatively have a significant impact on the human environment. FDA invites comments on any potential environmental consequences of the action discussed in this advance notice of proposed rulemaking.

List of Subjects in 21 CFR Part 201

Drugs, Labeling.

V. References

The following information has been placed in the Dockets Management Branch (address above) and may be seen by interested persons from 9 a.m. to 4 p.m., Monday through Friday.

1. Centers for Disease Control, "Follow-up on Reye Syndrome—United States," *Morbidity and Mortality Weekly Report*, 29:321–322, 1980.

2. Sullivan-Bolyai, J. Z. and L. Corey, "Epidemiology of Reye Syndrome," *Epidemiologic Reviews*, 3:1–26, 1981.

3. "Reye's Syndrome—Epidemiological Considerations," *The Lancet*, 1:941–943, 1982.

4. Reye, R. D. K., et al., "Encephalopathy and Fatty Degeneration of the Viscera: A Disease Entity in Childhood," *The Lancet*, 2:749–752, 1963.

5. "Reye's Syndrome: Etiology Uncertain But Avoid Antiemetics in Children," *FDA Drug Bulletin*, 6(5):40–41, December 1976.

6. Recommendations of the Ad Hoc Panel on Reye Syndrome to the Neurologic Drugs Advisory Committee, meeting of January 19, 1976.

7. Mortimer, E. A. Jr. and M. L. Lepow, "Varicella with Hypoglycemia Possibly Due to Salicylates," *American Journal of Diseases of Children*, 103:583–590, 1962

8. Utian, H., J. M. Wagner, and R. J. S. Sichel, "White Liver Disease," *The Lancet*, 2:1043–1045, 1964.

9. Giles, H. M., "Encephalopathy and Fatty Degeneration of the Viscera," *The Lancet*, 1:1075, 1965.

10. Norman, M. G., J. A. Lowden, D. E. Hill, et al., "Encephalopathy and Fatty Degeneration of the Viscera in Childhood: II. Report of a Case with Isolation of Influenza B Virus," *Canadian Medical Association Journal*, 99:549–554, 1968.

11. Hilty, M. D., C. A. Romshe, and P. V. Delamater, "Reye's Syndrome and Hyperaminoacidemia," *Journal of Pediatrics*, 84:362–365, 1974.

12. Romshe, C. A., M. D. Hilty, H. S. McClung, B. Keizner, and C. B. Reiner, "Amino Acid Pattern in Reye Syndrome: Comparison With Clinically Similar Entities," *Journal of Pediatrics*, 98:788–790, 1981.

13. Reynolds, D. W., H. D. Riley, D. S. La Font, et al., "An Outbreak of Reye's Syndrome Associated with Influenza B," *Journal of Pediatrics*, 80:429–432, 1972.

14. Linneman, C. C., Jr., L. Shea, J. C. Partin, et al., "Reye's Syndrome: Epidemiologic and Viral Studies, 1963–1974," *American Journal of Epidemiology*, 101:517–526, 1975.

15. Corey, L., R. Rubin, D. Bregman, et al., "Diagnostic Criteria for Influenza B Associated Reye's Syndrome: Clinical vs. Pathologic Criteria," *Pediatrics, 60:702–714, 1977.*

16. Ruben, F. L., E. J. Streiff, M. Neal, et al., "Epidemiologic Studies of Reye's Syndrome Cases seen in Pittsburgh, October 1973–April 1975," *American Journal of Public Health, 66:1096–1098, 1976.*

17. Corey, L., R. J. Rubin, T. R. Thompson, et al., "Influenza B-Associated Reye's Syndrome: Incidence in Michigan and Potential for Prevention," *Journal of Infectious Diseases*, 135:398–407, 1977.

18. Starko, K. M., et al., "Reye's Syndrome and Salicylate Use," *Pediatrics*, 66(6):859–864, 1980.

19. Centers for Disease Control, "Reye Syndrome—Ohio, Michigan," *Morbidity and Mortality Weekly Report*, 29(44):532–539, November 7, 1980.

20. Centers for Disease Control, Review of Case-Control Studies of Reye Syndrome and Salicylates, Summary of Reye Syndrome Consultants to CDC, October 13 to 14, 1981.

21. Centers for Disease Control, "National Surveillance for Reye Syndrome, 1981: Update, Reye Syndrome and Salicylate Usage," *Morbidity and Mortality Weekly Report*, 31(5):53–60, February 12, 1982.

22. CDC Memorandum pertaining to Studies Concerning Reye Syndrome and Salicylates, January 28, 1982.

23. Sterling Drug, Inc., "Detailed Comments on Recent Epidemiologic Studies on Reye's Syndrome," submitted to FDA, February 17, 1982.

24. Comments by Sterling Drug, Inc., Bristol-Myers Co., The Dow Chemical Co., and Monsanto, on meeting on Reye Syndrome, April 13, 1982.

25. Sterling Drug, Inc., "Reye Syndrome: An Example of Poor Selection of Controls in Epidemiologic Research," submitted to FDA, April 21, 1982.

26. Sterling Drug, Inc., "Supplemental Comments to FDA's Reye's Syndrome Working Group," submitted to FDA, April 27, 1982.

27. Plough, Inc., "Analysis of Ohio, Michigan, and Arizona Reye's Syndrome Epidemiology Studies," submitted to FDA, February 16, 1982.

28. Memorandum of meeting between FDA and industry representatives concerning Reye Syndrome and prior ingestion of aspirin, February 11, 1982.

29. Memorandum of meeting between Reye Syndrome Working Group and Sterling-Winthrop Pharmaceutical Co., April 13, 1982.

30. Memorandum of meeting between Reye Syndrome Working Group and Schering-Plough Pharmaceutical Co., April 13, 1982.

31. Public Citizen's Health Research Group press release, statement by Sidney M. Wolfe, M.D., Director, February 11, 1982.

32. Petition to FDA from Director, Public Citizen's Health Research Group, March 9, 1982, and April 8, 1982.

33. FDA Working Group on Reye Syndrome, memoranda and reports on site visits to Ohio State Health Department, March 8–10, 1982, and Michigan Department of Public Health, March 23–24, 1982.

34. "Preliminary Review by FDA Reye's Syndrome Working Group," May 18, 1982, and revisions dated May 21, 1982.

35. Waldman, R. J. W. N. Hall, H. McGee, and G. V. Amburg, "Aspirin as a Risk Factor in Reye's Syndrome," *Journal of the American Medical Association*, 247(22):3089–3094, 1982.

36. Notice of Reye-Syndrome-Salicylate Workshop, **Federal Register**, May 14, 1982, 47 FR 20862.

37. Transcript of Reye Syndrome-Salicylates Workshop, May 24, 1982.

38. FDA's Transcription of Data from 2d Year Ohio Study (Identified as Tab A in Administrative Record) and FDA's Transcription of Data from 2d Year Michigan Study (Identified as Tab B in Administrative Record).

39. FDA memorandum on Reye Syndrome Working Group Targeted Dates, March 5, 1982.

40. Barron, B. A., "The Effects of Misclassification on the Estimation of Relative Risk," *Biometrics*, 33:414–418, 1977.

41. Bross, I. D. J., "Misclassification in 2x2 Tables," *Biometrics*, 10:478–486, 1954.

42. Copeland, K. T., H. Checkoway, R. H. Holbrook, and A. J. McMichner, "Bias Due to Misclassification in the Estimate of Relative Risk," *American Journal of Epidemiology*, 105(5):488–495, 1977.

43. Greenland, S., "The Effect of Misclassification in the Presence of Covariates," *American Journal of Epidemiology*, 112:564–569, 1980.

44. Gullen, W. H., J. E. Bearman, and E. A. Johnson, "Effects of Misclassification in Epidemological Studies," *Public Health Reports*, 83:914–918, 1968.

45. Kleinbaum, D. G., L. L. Kupper, and H. Morgenstern, "Epidemiologic Research," Wadsworth Inc., Belmont, CA, Chapter 12.

46. National Institutes of Health, "The Diagnosis and Treatment of Reye's Syndrome," Consensus Development Conference Summary, Vol. 4, No. 1.

47. Committee on Infectious Diseases, "Special Report: Aspirin and Reye Syndrome," *Pediatrics*, 69(6):810–812, 1982.

48. HHS press release on Reye Syndrome, June 4, 1982.

49. Centers for Disease Control, "Surgeon General's Advisory on the Use of Salicylates and Reye Syndrome," *Morbidity and Mortality Weekly Report*, 31(22):289–290.

50. Wilson, J. T. and R. D. Brown, "Reye Syndrome and Aspirin Use: The Role of Prodromal Illness Severity in the Assessment of Relative Risk," *Pediatrics*, 69(6):822–825, 1982.

51. Memoranda of sevent telephone calls between FDA officials and others, concerning Reye Syndrome, February 1982.

52. Food and Drug Administration, "Aspirin and Reye Syndrome," *FDA Talk Paper*, February 12, 1982.

53. Partin, J. S. et al., "Serum Salicylate Concentrations in Reye's Disease, A Study of 130 Biopsy-Proven cases," *The Lancet*, 191–194, January 23, 1982.

54. American Academy of Pediatrics, memorandum to its Membership, on Reye Syndrome and Aspirin, February 1982.

55. American academy of Pediatrics memorandum to Committee on Drugs from J. D. Lockhart, M.D., on Aspirin and Reye Syndrome, March 31, 1981.

56. Sullivan-Bolyai, J. Z., et al., "Reye Syndrome in Ohio, 1973–1977," *American Journal of Epidemiology*, 112(5):629–638, 1980.

57. Letter from W. H. Foege, M.D., Assistant Surgeon General, to Commissioner, Food and Drug Administration, December 4, 1981.

58. FDA Working Group on Reye Syndrome, minutes of February 19 and 25, 1982.

59. Letter from J. M. Clayton, Plough, Inc., to T. J. Halpin, Ohio Department of Health, February 12, 1982.

60. Letter from W. N. Hall, Michigan Department of Public Health, to J. M. Clayton, Schering-Plough Co., February 23, 1981.

61. Form letter from J. M. Clayton, Plough, Inc., to physicians, March 12, 1982.

62. FDA memoranda on statistical analysis of Reye Syndrome cases, March 3 and April 24, 1975.

63. FDA memoranda between October 1980 and February 1982, concerning publications on Reye Syndrome planned by Centers for Disease Control and *FDA Drug Bulletin*.

64. Physicians' Desk Reference, 1982 edition, P. 1410.

65. Master Data Tape from 2-year Ohio Study.

66. Ohio State University memorandum and enclosre on procedure for matched logistic analysis, March 25, 1982.

67. FDA memorandum of a meeting with the Aspirin Foundation and industry representatives, July 8, 1982.

68. Strauss, R. G. and McAdams, A. J., "Arthritis, Asprin, and Coma," *Journal of Pediatrics*, 77:156–163, 1970

69. Lovejoy, F. H. Jr., et al., "Clinical Staging in Reye Syndrome," *American Journal of Diseases of Children*, 128: 36–41, 1974.

70. Pross, D. C., et al., "Reye's Syndrome Treated by Peritoneal Dialysis," *Pediatrics*, 45:845–847, 1970.

71. Norman, M. G., "Encephelopathy and Fatty Degeneration of the Viscera in Childhood: I. Review of Cases at the Hospital for Sick Children, Toronto," *Canadian Medical Association Journal*, 99:522–526, 1968.

72. Glick, T. H., et al., "Reye's Syndrome: An Epidemiologic Approach," *Pediatrics*, 46:371–377, 1970.

73. Rosenfeld, N. G., Liebhaber, M. I., "Acute Encephalopathy in Siblings, Reye Syndrome vs Salicylate Intoxication," *American Journal of Diseases of Children*, 130:295–297, 1976.

74. FDA Memorandum on "Further Analysis of the Data Pertaining to the Reported Association Between Salicylate Use and Reye's Syndrome," dated July 22, 1982.

75. Halpin, T. J., et al., "Reye's Syndrome and Medication Use," *Journal of the American Medical Association*, 248(6):687–691, August 13, 1982.

76. Alexander, E. R., "Salicylates and Reye's Syndrome: Epidemiologic Data as a Basis of Action," *Journal of the American Medical Association*, 248(6):722–723, August 13, 1982.

77. Corey, L., R. J. Rubin, M. A. W. Hattwick, et al., "A Nationwide Outbreak of Reye's Syndrome: Its Epidemiologic Relationship to Influenza B," *American Journal of Medicine*, 61:615–625, 1976.

78. Letter from Stanley Temko to Juan del Real dated September 8, 1982, enclosing an article, "Reye's Syndrome: Early Detection Increases Survival", by Dr. Orlowski and letters of September 2 and 3 from Dr. Orlowski to Dr. Trout.

79. FDA Memorandum on "Ohio Department of Public Health (ODPH) Study of Reye Syndrome", dated September 15, 1982.

80. FDA Memorandum on "Case Selection in Ohio State Department of Health (OSDH) Reye Syndrome Study", dated September 22, 1982.

81. Rozee, K. R., et al., "Is a compromised interferon response an etiologic factor in Reye's syndrome?", *Canadian Medical Association Journal*, 126: 798–802, 1982.

82. New Brunswick Task Force on the Environment and Reye's Syndrome. First Report to the Minister of Health of New Brunswick, April 28, 1982, 39 pages.

83. Sokol, R. J., J. E. Heubi, et al., Reye's Syndrome: Primary Cause of Vomiting and Hepatic Dysfunction Following Varicella or URI, Abstract in *Pediatric Research*, 16: 178A, 1982.

84. FDA Memorandum on "Review of Biometric Research Institute, Inc., Report on Reye Syndrome," dated November 10, 1982.

85. Statement by Executive Committee, *American Academy of Pediatrics*, dated November 8, 1982.

86. Statement by *American Academy of Pediatrics*, dated November 19, 1982.

87. Letter from Stanley Temko to Juan del Real dated August 31, 1982, enclosing a draft protocol for a cooperative Case/Control Study on Reye's Syndrome.

88. Food and Drug Administration, "Salicylate Labeling May Change Because of Reye Syndrome," *FDA Drug Bulletin*, 12: 9–10, August, 1982.

89. Food and Drug Administration, "Reye Syndrome Spells Caution to Parents", *FDA Consumer*, 16: 19–21, October, 1982.

90. Koop, C. E., "Caution the Best Policy in Use of Aspirin with Children", for use by newspapers, undated.

91. Letter from Dr. Koop to Public Service Director dated October 8, 1982 enclosing a public service announcement.

92. Letter from Dr. Brandt to Dear Colleague dated October 8, 1982 enclosing a brochure entitled Reye Syndrome.

93. Letter from Mr. Grant to Dear Consumer dated October 8, 1982 concerning Reye Syndrome.

94. Bellman, M. H., E. M. Ross, and D. L. Miller, "Reyes Syndrome in Children under Three Years Old." *Archives of Disease in Childhood*, 57: 259–263, 1982.

95. Andresen, B. D., et al., "Aspirin and Reyes Disease: A Reinterpretation", *The Lancet*, pp. 903–904, April 17, 1982.

96. Check, W. A., "Reye's Syndrome-Aspirin Link a Bit Stronger", *Journal American Medical Association*, 247: 1534–1535, March 19, 1982.

97. Rodgers, G. C., "Salicylate and Reye's Syndrome", *The Lancet*, p. 616, March 13, 1982.

98. Memorandum of Plough, Inc., and Sterling Drug Inc., "Reye Syndrome and Salicylates", dated June 22, 1982, 34 pages.

99. Letter from Stanley Temko to Juan del Real dated June 28, 1982 enclosing one newspaper article and four journal articles that are of interest in connection with review of Reye Syndrome.

100. Letter from Dr. White to Secretary Schweiker dated November 24, 1982 offering assistance and cooperation in designing a study on Reye Syndrome.

101. Biometric Research Institute, Inc., report of Phase I "Review of the Ohio Department of Health Case—Control Study of Reye's Syndrome", prepared for Glenbrook Laboratories, Inc., and Schering-Plough Corporation dated August 20, 1982.

102. Memorandum from Dr. William Jordan to Influenza Program Officer dated July 26, 1982 concerning "Reye Syndrome in Japan".

103. Memorandum from Dr. Thomas Hayes to Mr. Paul Fehnel dated November 24, 1982 concerning "BRI Review of Report on Reye's Syndrome".

104. Letter from Bruce Gelb to Secretary Schweiker dated September 7, 1982 and response dated November 18, 1982.

105. HHS press release on Reye Syndrome dated November 18, 1982.

106. Memorandum from Dr. Eileen Barker to Paul Fehnel dated November 23, 1982 concerning "BRI Report and Agency Response".

107. Memorandum from Division of Biometrics to Stanley Edlavitch dated November 22, 1982, concerning "Analysis of the Reye Syndrome Data Used in the Phase I Report by Biometrics Research Institute, Inc."

108. FDA Talk Paper on "Reye Syndrome and Aspirin Update" dted November 18, 1982.

109. Memorandum from Stanley Edlavitch to Paul Fehnel dated November 23, 1982 concerning "Materials for Advance Notice of Proposed Rulemaking".

110. Committee on the Care of Children, press release dated November 16, 1982.

111. Case report forms from 2-year Ohio Study.

112. Computer printouts of FDA working group's multiple conditional logistic analyses of data from second year of 2-year Ohio Study.

Interested persons may, on or before February 28, 1983 submit to the Dockets Management Branch (address above) written comments regarding this advance notice of proposed rulemaking. Two copies of any comments are to be submitted except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Arthur Hull Hayes, Jr.,

Commissioner of Food and Drugs.

Richard S. Schweiker,

Secretary of Health and Human Services.

Dated: December 20, 1982.

[FR Doc. 82-35085 Filed 12-27-82; 8:45 am]

BILLING CODE 4160-01-M

federal register

Tuesday
December 28, 1982

Part V

Department of Commerce

National Oceanic and Atmospheric Administration

Deep Seabed Mining; Regulations for Commercial Recovery; Advanced Notice of Proposed Rulemaking

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 971

[Docket No. 21123-235]

Deep Seabed Mining; Regulations for Commercial Recovery; Advance Notice of Proposed Rulemaking

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: Public Law No. 96-283, the Deep Seabed Hard Mineral Resources Act (The Act), authorizes the Administrator of the National Oceanic and Atmospheric Administration (NOAA) to issue to eligible United States citizen applicants licenses for exploration for and permits for the commercial recovery of deep seabed hard mineral resources. The Act also requires that NOAA issue regulations with respect to deep seabed mining licenses and permits.

This advance notice of proposed rulemaking pertaining to deep seabed mining activities is issued to provide interested persons with an early opportunity to contribute to the development of regulations for commercial recovery. Interested persons are invited to submit such written data and views as they may desire.

DATE: Comments should be received by March 28, 1983.

ADDRESS: Submit communications, which should identify this notice, to: James P. Lawless, Chief, Ocean Minerals and Energy Division, Office of Ocean and Coastal Resources Management, National Ocean Service, National Oceanic and Atmospheric Administration, 2001 Wisconsin Ave., N.W., Room 410, Page I Building, Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT: Laurence J. Aurbach, Chief, Deep Seabed Licenses, Ocean Minerals and Energy Division, Office of Ocean and Coastal Resources Management, National Ocean Service, National Oceanic and Atmospheric Administration, Suite 105, Page 1 Building, 2001 Wisconsin Avenue, N.W., Washington, D.C. (202) 653-8257.

SUPPLEMENTARY INFORMATION: During 1980 and 1981 NOAA engaged in a rulemaking process to implement the Act and thus put in place the U.S. legal regime to facilitate continued efforts by U.S. citizens to develop deep seabed hard mineral resources (i.e., manganese nodules). The implementing regulations, most of which were issued in final form on September 15, 1981 (46 FR 45890), apply to exploration activities only. Pursuant to the Act and those regulations, NOAA is authorized to issue licenses for exploration for deep seabed hard minerals. In early 1982 NOAA received exploration license applications from four consortia which had been pursuing seabed mining activities prior to enactment of the Act. NOAA anticipates the completion of processing of these applications in 1983. Meanwhile, as pre-enactment explorers, these consortia are authorized to continue with exploration activities.

In order for U.S. pioneer consortia to proceed with their efforts toward commercial recovery, which under the Act is not authorized to begin before January 1, 1988, NOAA realizes that they soon will be faced with the decision as to whether to commit significant new levels of resources to further technology development. In addition, other U.S. citizens may be considering the possibility of entering the field of deep seabed mining. In order to make these major financial decisions, these persons will need to be able to assess the framework of the legal regime for commercial recovery under which U.S. citizens would operate.

NOAA also recognizes that deep seabed hard minerals may be critical to meeting the long-range national interests of the United States. Thus it is appropriate to assure that U.S. citizens can continue with their orderly planning for the development of these resources.

In view of the above considerations, NOAA is hereby initiating efforts to establish the regulatory framework under the Act pursuant to which U.S. citizens will be able to engage in the commercial recovery of deep seabed hard mineral resources.

NOAA's final rules for exploration were supported by a programmatic environmental impact statement (PEIS) covering the impacts of exploration plus foreseeable commercial recovery activities, a combined Regulatory Impact Analysis and Regulatory Flexibility Analysis, and a discussion paper dated November 1980. These documents cover, in addition to exploration issues, many of the issues relating to the commercial recovery regulations. In this regard, NOAA also intends to categorize these upcoming regulations as "major" under Executive Order 12291. Thus, it will retain the approach and language of the above documents to the extent they are appropriate for commercial recovery an no need for modification is evident, and supplement them as necessary to address commercial recovery issues. Accordingly, this advance notice covers major issues that NOAA believes are unique to commercial recovery, or where there may be significant differences between exploration and commercial recovery, and does not address issues satisfactory resolved in the exploration regulations.

NOAA solicits comments on the issues identified in this notice and on any other issue involved in developing commerical recovery regulations. After evaluating comments on this advance notice and conducting other preliminary discussions, NOAA will issue a notice of proposed rulemaking. All comments submitted in response to this advance notice will be available for examination during normal business hours in Room 105 of 2001 Wisconsin Ave., N.W., Washington, D.C. Any person interested in receiving regulatory documents as they are developed in the future should so inform NOAA at the above address and should furnish his or her name, address, affiliation, and phone number.

The following discussion identifies general issue areas and sets forth questions in each. Currently foreseeable issues include the following:

Rights of Licensees and Non-licensees to a Permit. Under 15 CFR 970.102(c), a licensee who is otherwise eligible under the requirements of the Act and implementing regulations is entitled to a permit for commercial recovery from an area covered by its license. The Act suggests that Congress expected that a permit applicant will be a licensee. However, there are conceivable situations where this may not be the case.

- Should any special requirements for commercial recovery or conditions be attached to the entitlement referenced above?
- May an applicant who has not secured a licenese apply or a permit without establishing a priority of right through a license? Or may a permit application carry with it a priority of right to an unlicensed site? If not, should an applicant be permitted to file for both a license and a permit at the same time? In order to confirm a priority of right, is there any authority or need for NOAA to make substantial or full compliance determinations for permit applications?

Financial Responsibility. In order to certify a permit application pursuant to Section 103(c)(1) of the Act, the Administrator must find that the "applicant will be financially responsible to meet all obligations which may be required * * * to engage in the * * * commercial recovery proposed in the application." An

applicant must establish that he will be financially responsible to meet all obligations which may be required to carry out his plan for commercial recovery. This can be demonstrated in various ways, but ultimately NOAA must be able to relate the applicant's resources to his proposed expenditures.

- What evidence should NOAA require concerning resources provided by the applicant, its member companies, lenders, or equity investors?
- Must these resources by legally committed, at the time of application, or can a plan demonstrate the source of financing and the applicant's reason to expect that these resources will be committed, including what legal entity will be responsible for meeting this expectation?
- Should documentation such as cash flow analyses be required, to show that the operations once started will continue to be funded?

Technological Capability. In order to certify a permit application as called for by Section 103(c)(2) of the Act, the Administrator must find that the "applicant will have the technological capability to engage in * * * commercial recovery."

- Must an applicant demonstrate in its permit application that it has proven technological capability, through complete systems tests of recovery equipment at sea, transportation, processing and waste disposal technology, prior to submitting its permit application? Or would an application be acceptable if it presents analogous experience or sub-system demonstration of equipment, or other theoretical demonstration of ability ot build and operate the system, with a plan to test after receiving the permit?
- NOAA will need documentation that the applicant will have personnel and support contractors, properly qualified and trained, to recover nodules, transport them to shore, process them, and dispose of wastes. What level of detail will be necessary? For example, is it necessary to list specific people, or is a description of necessary qualifications, training programs, and appropriate credentials sufficient?
- Assuming that recovery technology evolves during the permit term, should the applicant be required to apprise NOAA of each incremental improvement?
- Section 109(b) of the Act states that NOAA is to require use of best available technologies (BAT) to protect safety, health, and the environment where commercial recovery activities have a significant effect on these areas, unless incremental benefits are clearly insufficient to justify the incremental costs. Since no such significant effects have as yet been identified, what criteria for or evidence of significance may be appropriate? What criteria should NOAA use to balance these costs and benefits? If such effects were significant, how should NOAA determine what are the best available technologies? Under what circumstances is it appropriate to require BAT regarding activities under previously issued permits?

Resources Assessment. Section 103 of the Act requires that an applicant's commercial recovery plan include a resource assessment and that the area applied for be a logical mining unit. Thus documentation of resources must be provided.

With respect to resource assessment, what level of detail and what factors are appropriate for the resource assessment which must accompany the recovery plan under section 103(a)(2)(C) of the Act?

To what extent and with what documentation should the applicant be required to justify, based upon license phase (and earlier) findings, a certain size logical mining unit?

Conservation of Resources. The Act in Section 110 stresses "prevention of waste" and "regard for * * * the future opportunity for the commercial recovery of the unrecovered balance of the hard mineral resources" as two goals to be considered in developing terms, conditions and restrictions (TCR). It further notes "national need" for hard mineral resources and several other factors to be taken into account in establishing TCR. Within this framework, NOAA intends to encourage the wise use of the deep seabed manganese nodule resource so as to insure that its role as a resource for the future is not precluded by first generation mining.

As one option, NOAA could require the applicant to justify the logic of its proposed mining plan with regard to the timing of mining rich zones (see PEIS, page 137).

Should NOAA specify mining patterns in order to enhance the opportunity for second generation mining (PEIS, page 136)?

Should the applicant's proposed nodule recovery efficiency (presumably estimated during license phase mining system tests) have to fall above some threshold value, below which mining might be judget excessively inefficient?

Although the Act's concern for conservation (Section 110) makes it clear that a NOAA TCR should not affect, except incidentally, the decision of which minerals or metals are to be recovered, it may be appropriate to require that waste disposal be conducted in such a manner that manganese is not rendered "unavailable" for the future (PEIS, pages 137–139). In this regard, should NOAA require or otherwise provide for the retention of manganese-rich tailings from an operation whch does not plan to recover manganese during processing, rather than allowing it to be disposed of, perhaps permanently through ocean disposal? What approaches may be appropriate to provide for the long term availability for use in the U.S. of manganese, which may not be needed in the current market?

What criteria are appropriate to consider, if necessary, to prevent unwarranted generation of waste, as well as preparation of contingency plans to recover these wastes?

Environmental Effects and Safeguards. In order to prevent significant harm to the marine environment, Section 109(b) of the Act requires NOAA to issue appropriate TCR, including in certain cases use of BAT (see above). The PEIS discusses exploration activities as well as commercial recovery using anticipated "first generation" systems and procedures.

Until more is learned during research about benthic repopulation, it might be advisable to provide for avoiding a linear alignment of commercial mining sites, possibly by providing for limited areas to be left unmined to act as "bridges" to facilitate repopulation of mined areas (PEIS, pages 132–134). If this approach were taken, what factors would be appropriate to determine when such a linear alignment should not be permitted?

Although under the Act, Section 109(f), "stable reference areas" are not to be established unilaterally by the U.S., NOAA is proceeding with an examination of criteria for potential site selection for such areas, as part of its broader consideration of benthic impacts (PEIS, pages 134–135). If such areas were to be established in the future, what relationship should there be between these areas and mineable areas? What procedure shuld be used if stable reference areas were to be established?

With respect to the Act's requirement that a permittee monitor its activities, should NOAA state performance or prescriptive measures with respect to monitoring? Are other approaches more appropriate?

To what extent should the permittees be responsbile for monitoring long-term, farfield, cumulative effects of all nodule

mining activities in the North Equatorial Pacific?

• NOAA is mindful of the potential risk that a permittee might be required under the Act to cease operation upon discovery of a significant adverse environmental impact (see, for example, Sections 103(a)(2)(D)(ii), 106(a) and 106(c) of the Act). To help assure that potentially significant adverse environmental impacts listed in the PEIS may be mitigated, if they occur, by the imposition of corrective measures, should applicants be required to submit contingency plans describing how they would modify activities if it became necessary to mitigate such impacts? Alternatively, should NOAA not require such contingency plans in applications, but instead let the permittee assume the risk of a NOAA order to cease operations or to implement government-prescribed corrective measures? Examples of mitigation could include reducing the effects of the surface discharge (e.g., through discharge at some depth below the surface) or of the benthic plume (PEIS, pages 99–111).

• What documentation, if any, should be provided with permit applications which could be used in obtaining from the Environmental Protection Agency a National Pollutant Discharge Elimination System (NPDES) permit, as required by Section 109(e) of the Act?

• Following receipt of an application for a permit, NOAA intends to supplement the site-specific EIS prepared during the license process, which may already have been supplemented to address testing of mining systems. Should NOAA prescribe that, by the time of permit application or a year prior to testing under a permit for recovery, detailed environmental data for the minesite shall have been submitted?

NOAA Actions Relating to Onshore Activities. Onshore, environmental impacts occur from the port, transportation, processing, and waste disposal facilities. Authority to control those facilities is vested in Federal, state, and local agencies. NOAA intends to act as lead agency for preparation of an environmental impact statement relating to a commercial recovery permit, and thus to facilitate the onshore process with appropriate Federal, state and local agencies which would be responsible for issuing other permits.

• In this role, what information will NOAA need and should the applicant provide on issues such as alternative locations, compliance with Federal, state, and local laws, regulations, and permitting processes, and waste disposal requirements (see Technical Guidance Document, Section 3.5)?

• NOAA could complete its actions on a permit application significantly before other agencies could complete their actions on related permits. The Act gives guidance on the timing of NOAA actions on a permit application, but generally allows the Administrator to extend the time periods if the Administrator finds there is good reason to do so. Because factors the Administrator considered in his decision-making could change significantly based on the actions of other agencies, should he withhold final action on a permit application until other agencies complete their actions? Should the regulation address what NOAA should do if it processed the permit application to expedite issuance, and then a post-issuance action by another agency caused a major change in the assumptions upon which the NOAA permit was issued?

Processing Outside the U.S. Under Section 102(c)(5) of the Act, if processing outside the U.S. is necessary to make the project economically viable, NOAA can authorize processing outside the U.S., but only with assurances that the processed minerals will be returned to the U.S. for domestic use if the Administrator determines that the national interest so requires. What form of assurance (written statement, TCR, surety bond) would be appropriate? What criteria should NOAA use to determine the economic viability of the activity? What factors are relevant in considering "national interest"? What information should the applicant provide? Should environmental regulations or impacts at the foreign site be considered? Is economic viability for processing plants different from the normal business risks of any other heavy industrial facility located in the U.S.?

Other Issues. NOAA invites public comment on any other issue which should be considered in developing these regulations.

If there is sufficient public interest in or considerations raised with respect to any of these issues, NOAA will hold one or more workshops or discussion sessions to solicit further comment from interested persons in advance of issuing a Notice of Proposed Rulemaking. If appropriate, NOAA may issue a discussion paper for further comment. Those who are concerned about specific issues should identify the areas of their interest in their correspondence to NOAA so they can be placed on appropriate mailing lists.

This advance notice of proposed rulemaking is issued under the authority of section 308 of Pub. L. 96–283.

List of Subjects in 15 CFR Part 971

Administrative practice and procedures, Environmental protection, Marine resources, Marine safety, Reporting and recordkeeping requirements, Seabed mining.

Dated: December 22, 1982.

John V. Byrne,

Administrator.

[FR Doc. 82-35135 Filed 12-27-82; 8:45 am]
BILLING CODE 3510-12-M

Reader Aids

Federal Register

Vol. 47, No. 249

Tuesday, December 28, 1982

INFORMATION AND ASSISTANCE

PUBLICATIONS

Code of Federal Regulations

CFR Unit	202-523-3419 523-3517
General information, index, and finding aids	523-5227
Incorporation by reference	523-4534
Printing schedules and pricing information	523-3419

Federal Register

Corrections	523-5237
Daily Issue Unit	523-5237
General information, index, and finding aids	523-5227
Privacy Act	523-5237
Public Inspection Desk	523-5215
Scheduling of documents	523-3187

Laws

Indexes	523-5282
Law numbers and dates	523-5282 523-5266
Slip law orders (GPO)	275-3030

Presidential Documents

Executive orders and proclamations	523-5233
Public Papers of the President	523-5235
Weekly Compilation of Presidential Documents	523-5235
United States Government Manual	523-5230

SERVICES

Agency services	523-5237
Automation	523-3408
Library	523-4986
Magnetic tapes of FR issues and CFR volumes (GPO)	275-2867
Public Inspection Desk	523-5215
Special Projects	523-4534
Subscription orders (GPO)	783-3238
Subscription problems (GPO)	275-3054
TTY for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, DECEMBER

54053-54268.....1
54269-54418.....2
54419-54758.....3
54759-54924.....6
54925-55198.....7
55199-55378.....8
55379-55454.....9
55455-55626.....10
55627-55902.....13
55903-56128.....14
56129-56308.....15
56309-56468.....16
56469-56616.....17
56617-56810.....20
56811-56978.....21
56979-57252.....22
57253-57442.....23
57443-57650.....27
57651-57906.....28

CFR PARTS AFFECTED DURING DECEMBER

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Administrative Orders:

Memorandums:
November 29, 1982.....54053
December 23, 1982.....57653

Executive Orders:
10621 (Amended by EO 12396).....55897
11390 (Amended by EO 12396).....55897
12239 (Revoked by EO 12396).....55897
12335 (Amended by EO 12397).....57651
12396.....55897
12397.....57651

Proclamations:
4941 (Amended by Proc. 5002).....54269
5002.....54269
5003.....55899
5004.....55901
5005.....56309
5006.....56617
5007.....56811

4 CFR

2.....56979
3.....56979
4.....56979
5.....56979
6.....56979
7.....56979
8.....56979
9.....56979
11.....56979
12.....57655
21.....56979
22.....56979
27.....56980
28.....56980
30.....56979
31.....56979
32.....56979
33.....56979
34.....56979
35.....56979
36.....56979
52.....56979
53.....56979
75.....56979
81.....56979
82.....56979
91.....56979
92.....56979
93.....56979

Proposed Rules:
28.....54972

5 CFR

213.....57655
315.....57655
351.....57655
551.....57655
734.....57655
738.....57655
752.....57655
950.....57655
1201.....54419
2429.....55379, 55903

Proposed Rules:
213.....54974
352.....57724
733.....57724
890.....54974

7 CFR

2.....56619
16.....57253
24.....57656
52.....55455
53.....54925
55.....54420
56.....54420
59.....54420
68.....54271
70.....54420
271.....55903, 56469
272.....55463, 55903
273.....55463, 55903, 57666
274.....57666
275.....57666
276.....57666
278.....56469
279.....56469
319.....54273, 55199
400.....55886, 55888
421.....56813
431.....56820
432.....56827
610.....56472
725.....56473
800.....54055, 54275, 55469
905.....54926, 55199, 56619, 56952
906.....56311
907.....54281, 55379, 56312, 57259
910.....54421, 55469, 56473, 57443
926.....55910
982.....56312
1046.....56486
1065.....55200
1098.....56486
1106.....57443
1126.....54421
1132.....54421
1135.....57445
1139.....55201
1421.....54281
1497.....54284
1822.....55627
1901.....54422
1922.....55310

1942.....54422
1944.....54422, 55627
1948.....54422
Proposed Rules:
52.....54086
272.....57725
273.....57725
915.....56500
967.....54975
983.....57222
987.....54307
1011.....57728
1106.....54977
1124.....55490
1135.....54978
1207.....55245
1430.....56505
1700.....56505

8 CFR

214.....55202, 56488
238.....55388

9 CFR

71.....55636, 56982
78.....55636
91.....56983
92.....54285, 55388, 57254
317.....54286
381.....54286
Proposed Rules:
92.....57288, 57291
113.....54090, 54307, 55246, 57054
166.....57292

10 CFR

2.....56314, 57446
4.....57482
9.....56314
19.....57446
20.....57446
21.....57446
30.....57446
40.....57446
50.....55203, 57670
51.....57446
55.....56984
61.....57446
70.....57446
73.....57446
170.....57446
430.....57198
Proposed Rules:
50.....57054
70.....55951
170.....56505

12 CFR

9.....57255
29.....55911
201.....54424, 57482
204.....55204–55209
211.....54057
217.....54759
220.....55912
523.....56314, 56985
531.....56316
541.....56985
543.....56985
544.....56985
545.....55656, 56985
546.....56985
547.....56985
549.....56985
552.....56985
561.....56985
563.....56985
563b.....56985
564.....56318, 56985
565.....56985
569a.....56985
575.....56985
576.....56985
577.....56985
578.....56985
583.....56985
584.....56985
614.....54760
701.....54424, 57483
745.....54424
1204.....56319–56323
Proposed Rules:
3.....56862
6.....56862
7.....56862
8.....56652
207.....54980
220.....54980
221.....54980
224.....54980
534.....57293
543.....56363
612.....56140
1204.....56364, 57729

13 CFR

101.....56129, 57484
301.....57256

14 CFR

21.....54287, 54288
39.....54289–54291, 54760, 54761, 55657, 55658, 56620–56622, 57257, 57484, 57485
71.....54291, 54762, 54763, 55389, 55659, 56623, 56624, 57259–57262, 57486, 57487
73.....54763, 55390
75.....54763
91.....56324, 57262
97.....54292, 55659, 57265
121.....56327, 56460
253.....54764
302.....56129
387.....56130
Proposed Rules:
Ch. I.....54829
23.....56456
39.....54830, 56653, 57295
61.....54414, 56654
71.....54308, 54309, 54831, 55687, 56654–56656, 57497, 57498
73.....56656
75.....54309, 55688, 56365, 56659
120.....56366
121.....56366
135.....56366
241.....57733
248.....57733
291.....57733
297.....57733

15 CFR

368.....57671
369.....57671
370.....57671
372.....57671
373.....57671
387.....57671
388.....57671
904.....54429, 56131
Proposed Rules:
325.....56972
929.....56506
971.....57904

16 CFR

13.....55210, 55211, 57488
1000.....54927
1306.....57488
1500.....57489
Proposed Rules:
13.....54452, 55398, 57499
1101.....57296

17 CFR

1.....56996
3.....56996, 57266
4.....56996
15.....56996
16.....56996
18.....56996
21.....56996
32.....56996
33.....56996
145.....56996
147.....56996
155.....56996
170.....56996
180.....56996
200.....54764, 55211, 56843
210.....54764, 56835
229.....54764, 55661
230.....54764
239.....54764, 55661
240.....54057, 54764, 55661, 57267, 57679
249.....54764, 55661
260.....54764
270.....56835
Proposed Rules:
1.....57055
240.....55491
270.....56509

18 CFR

2.....57268
3.....57270
271.....54928, 57270
274.....54063
Proposed Rules:
271.....55246, 57056–57060
385.....54981
1300.....57297

19 CFR

4.....54064
10.....55470
18.....55470
19.....55470
22.....55470
24.....55470
101.....55913
113.....55470
125.....55470
127.....55470
132.....55470
142.....55470
144.....55470
Proposed Rules:
4.....54092
148.....54092
177.....55400

20 CFR

416.....55212
609.....54686
614.....54696

21 CFR

5.....54750, 55470
74.....54429, 56489, 57681
81.....54429, 56489, 57681, 57691
82.....54429, 56489, 57681
145.....55471, 56845, 57692
146.....57692
172.....55475
175.....54430
176.....56845
178.....57692
193.....55214, 56845
201.....54750
330.....54750
444.....56489
510.....56845
520.....55472
522.....55472, 56845
524.....57692
558.....54929, 56846
866.....56846
1308.....57693
Proposed Rules:
145.....55496
182.....54454, 56513
184.....54454, 54456, 56513, 56871, 57738
186.....54454
201.....57886
310.....55497
314.....56871
333.....54981, 57738
347.....57738
348.....54982, 57738
356.....57738
357.....55076, 55497, 56871
358.....54646
BBB.....55497

22 CFR

[illegible].....55594
22.....56328
51.....56329

23 CFR

Proposed Rules:
1209.....57298

24 CFR

10.....56624
15.....55669
50.....56266
200.....54790
203.....54790
204.....54790
213.....54790
220.....54790
221.....54790
222.....54790
226.....54790
227.....54790
233.....54790
235.....54430, 54790
237.....54790
240.....54790
300.....55669

804.....54293, 54790
805.....54293, 54790, 55136
812.....54790
841.....54790, 55136
860.....54293
880.....54293
881.....54293
882.....54293
883.....54293
884.....54293
885.....56490
886.....54293
888.....56133
890.....54431, 57270

Proposed Rules:
16.....56660
571.....55868
860.....55689
866.....55689
888.....55764

25 CFR

273.....57274

26 CFR

1.....54296, 54791, 54803, 55477, 56330, 56490
7.....57489
35.....54065, 55215, 57021
601.....56330

Proposed Rules:
1.....54093, 55247, 55696, 55697, 56367, 57502, 57503
7.....57503
11.....54093
31.....55248
54.....54093
301.....57503
601.....54459, 54461

27 CFR

9.....55915, 57694, 57696

Proposed Rules:
9.....55492, 55954–55961, 56369

28 CFR

2.....56334, 56846
540.....55128, 56134

Proposed Rules:
2.....54982
540.....55131
551.....55131, 56144

29 CFR

102.....54432
1903.....55478
1904.....57699
1910.....54433
2510.....56847
2610.....55670
2619.....56134, 57021
2621.....55672, 57702
2622.....55670

Proposed Rules:
1910.....57739

30 CFR

901.....56492
906.....56342
914.....56493
931.....56800
944.....55672
946.....55675

Proposed Rules:
55.....55499, 57883
56.....55499, 57883
57.....55499, 57883
75.....55499
77.....55499
221.....54462, 56871
250.....56871
902.....57511
903.....55249
913.....00000
914.....57511
916.....57299
927.....57236
934.....55499
936.....54472, 00000
939.....57246
942.....54474
946.....57513

31 CFR

53.....55481, 56351
55.....56351
81.....56351
90.....56351
92.....56351
93.....56351
120.....56351
121.....56351
122.....56351
127.....56351

Proposed Rules:
1.....54475
10.....56144

32 CFR

166.....56847
199.....57491
802.....57493
1285.....54929
1662.....56494

Proposed Rules:
701.....54104

33 CFR

1.....54298
2.....54298
110.....56354
114.....54298
115.....54298
117.....54298–54301, 57493
165.....54301, 55391
209.....55916

Proposed Rules:
110.....54310, 56661
117.....55400
157.....56786
165.....56370
207.....54832

34 CFR

Proposed Rules:
64.....56871
201.....54718
202.....54718
203.....54718
204.....54718
300.....54311
302.....54718

35 CFR

103.....54071
105.....54071
107.....54071
109.....54071
111.....54071
113.....54071
119.....54071
123.....54071

Proposed Rules:
103.....54105
113.....54105
119.....54105
123.....54105

36 CFR

7.....54930–54932, 55391, 55917
331.....57703

Proposed Rules:
7.....57300

38 CFR

3.....54435
17.....55482, 57705

Proposed Rules:
3.....56880, 56881

39 CFR

3.....56495
4.....56495
6.....56495
8.....56495
3001.....55392

Proposed Rules:
3001.....55698, 57514

40 CFR

50.....54896
52.....54072, 54312, 54808, 54933–54936, 55393, 55678, 55919, 56497, 56625
60.....54073, 54258, 54259
61.....56626
81.....54080, 56625
123.....55680
180.....55221–55225, 56135, 56136
204.....57709
205.....57709
211.....57709
300.....55488
415.....55226
440.....54598
465.....54232
716.....54642, 56850, 57023
761.....54436

Proposed Rules:
Ch. I.....55880
35.....56372
52.....54476, 54984, 55400, 55500, 55964, 55965, 56516, 56518, 56882,
60.....55966, 56118, 57515
65.....56883
86.....54250, 56662
123.....56520, 57022, 57301, 57302, 57741
130.....56372
158.....56884
162.....55967, 57624, 57635
180.....54106, 55249, 55699
201.....54107, 54313
202.....54313
204.....54108
205.....54108–54111
228.....54834, 56863, 56865
403.....54477
439.....56373
455.....56373
461.....55502
464.....55502
467.....56373
468.....55502
610.....57742

41 CFR

Ch. 7.....57494
1–3.....57023
1–16.....57023
1–30.....57023
15–3.....57495
101–36.....54810, 54937
101–47.....56499

Proposed Rules:
Ch. 9.....56256
3–16.....57515
3–50.....57515
101–20.....57520

42 CFR

52d.....55227
55a.....55227
57.....54437
58.....54437
86.....55227
401.....54939
405.....54302, 54811, 54939, 56282
488.....56282
489.....56282

Proposed Rules:
124.....54314
405.....54113
447.....54113

43 CFR

Public Land Orders:
503 (Revoked in part by PLO 6342).....57275
3833.....56300
6342.....57275

Proposed Rules:
4.....56521
3200.....56151
3710.....57521
3720.....57521
3730.....57521
3740.....57521
3800.....57521
3810.....57521
3820.....57521
3830.....57521
3840.....57521
3850.....57521
3860.....57521
3870.....57521
4100.....55402
8360.....57404

44 CFR

2.....56850
6.....54815
64.....54816, 55921, 55922, 56850
65.....54941, 57495
67.....54941, 55228, 55241, 56627
70.....54440–54444, 56629–56636
205.....55756, 57275

Proposed Rules:
59.....55752

60.....55752
67.....54477, 54478, 54835, 55251, 56668–56671, 56884, 57061, 57522, 57523

45 CFR

5b.....57040
74.....55227
91.....57850
97.....56466
301.....57277
302.....57277
303.....57277, 57282
304.....57277, 57282
305.....57277, 57282
600.....54081
601.....57284
612.....54943
680.....54081
681.....54081
682.....54081
683.....54081
684.....54081
1300.....56466
1336.....55227
1601.....54943

Proposed Rules:

1180.....56871

46 CFR

67.....54305
536.....56138

Proposed Rules:

507.....55969

47 CFR

Ch. I.....57040
0.....55924, 56852
1.....56636, 57049
2.....55241, 56852, 57286
22.....56856
63.....54944
67.....55681
73.....54444, 54446, 55242, 55243, 55681–55683, 55924, 56355, 56356, 56638
74.....54446, 55931,
87.....54449, 56636, 56852
90.....54450, 57049
95.....57049
97.....55241

Proposed Rules:

15.....55251
34.....55974
35.....55974
67.....54479, 55699
73.....54519–54522, 55256, 55974, 56672
76.....54523
81.....54836, 56673
83.....56673
95.....56677

49 CFR

Ch. X.....54081, 55686
1.....57286
7.....55683
171.....54817, 54824
172.....54817, 54824
173.....54817, 54824
175.....54817, 54824
177.....54824
178.....54824
195.....55396
225.....56357
450.....57287
451.....57287
452.....57287
453.....57287
531.....55684
581.....56640
601.....55683
1003.....55939
1011.....55950
1033.....57287
1043.....55939
1057.....54083
1249.....56359
1306.....54083

Proposed Rules:

Ch. X.....54985, 55975
29.....55700
571.....54839, 57302
1000.....56885
1003.....55976
1039.....55257
1043.....55976, 55980
1084.....55976, 55980
1162.....57303
1220.....56152
1306.....57303
1307.....57303

50 CFR

11.....56856
12.....56856
16.....56360
20.....55397
23.....54968
255.....57432
540.....55488
611.....56650,
663.....56138
671.....54451, 57052

Proposed Rules:

23.....57524
29.....54840
611.....54841, 57306
652.....54985
663.....57079
671.....54125,
675.....54841, 57306

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.) Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/MA	LABOR		DOT/MA	LABOR
DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
DOT/RSPA			DOT/RSPA	
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	

Listing of Public Laws

Last Listing December 23, 1982

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202–275–3030).

H.R. 6005 / Pub. L. 97–375. Congressional Reports Elimination Act of 1982. (December 21, 1982; 96 Stat. 1819) Price: $2.25.

H.R. 5553 / Pub. L. 97–376. To provide for the use and disposition of Miami Indians judgment funds in dockets 124–B and 254 before the United States Court of Claims, and for other purposes. (December 21, 1982; 96 Stat. 1828) Price: $1.75.

H.J. Res. 631 / Pub. L. 97–377. Making further continuing appropriations and providing for productive employment for the fiscal year 1983, and for other purposes. (December 21, 1982; 96 Stat. 1830)

H.R. 7144 / Pub. L. 97–378. District of Columbia Appropriation Act, 1983. (December 22, 1982; 96 Stat.) Price: $2.25.

H.R. 6417 / Pub. L. 97–379. To amend Public Law 96–432 relating to the United States Capitol Grounds. (December 22, 1982; 96 Stat.) Price: $1.75.

S. 1444 / Pub. L. 97–380. To authorize the Administrator of General Services to donate to State and local governments certain Federal personal property loaned to them for civil defense use, and for other purposes. (December 22, 1982; 96 Stat.) Price: $1.75.

S. 1681 / Pub. L. 97–381. To designate the southern Nevada water project the "Robert B. Griffith Water Project". (December 22, 1982; 96 Stat.) Price: $1.75.

S. 1894 / Pub. L. 97–382. Indian Mineral Development Act of 1982. (December 22, 1982; 96 Stat.) Price: $1.75.

S. 2034 / Pub. L. 97–383. To designate the lock and dam known as the Jones Bluff Lock and Dam, located on the Alabama River, as the "Robert F. Henry Lock and Dam". (December 22, 1982; 96 Stat.) Price: $1.75.

S. 2710 / Pub. L. 97–384. To establish the Charles C. Deam Wilderness in the Hoosier National Forest, Indiana. (December 22, 1982; 96 Stat.) Price: $1.75.

H.R. 2329 / Pub. L. 97–385. Conferring jurisdiction on certain courts of the United States to hear and render judgment in connection with certain claims of the Cherokee Nation of Oklahoma. (December 23, 1982; 96 Stat.) Price: $1.75.

H.R. 4364 / Pub. L. 97–386. To declare that the United States holds in trust for the Pascua Yaqui Tribe of Arizona certain land in Pima County, Arizona. (December 23, 1982; 96 Stat.) Price: $1.75.

S. 2611 / Pub. L. 97–387. To amend the Peace Corps Act. (December 23, 1982; 96 Stat.) Price: $1.75.

S. 3073 / Pub. L. 97–388. To provide for the distribution within the United States of the United States Information Agency film entitled "Dumas Malone: A Journey With Mr. Jefferson". (December 23, 1982; 96 Stat.) Price: $1.75.

The Federal Register

Regulations appear as agency documents which are published daily in the **Federal Register** and codified annually in the **Code of Federal Regulations**

The **Federal Register**, published daily, is the official publication for notifying the public of proposed and final regulations. It is the tool to use to participate in the rulemaking process by commenting on the proposed regulations. And it keeps people up to date on the Federal regulations currently in effect.

Mailed monthly as part of a **Federal Register** subscription are: the LSA (List of CFR Sections Affected) which leads users of the **Code of Federal Regulations** to amendatory actions published in the daily **Federal Register**; and the cumulative **Federal Register Index**.

The **Code of Federal Regulations** (CFR) contains the annual codification of the final regulations printed in the **Federal Register**. Each of the 50 titles is updated annually.

Subscription Prices:

Federal Register
One year: $300 domestic; $375 foreign
Six months: $150 domestic; $187.50 foreign

Code of Federal Regulations
One year: $615 domestic; $768.75 foreign
Single volumes: Individually priced.

ORDER FORM Mail To: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402

Enclosed is $ _____ ☐ check, ☐ money order, or charge to my Deposit Account No.

☐☐☐☐☐☐☐–☐

Order No. _____

VISA® MasterCard

Credit Card Orders Only

Total charges $ _____ Fill in the boxes below.

Credit Card No. ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

Expiration Date Month / Year ☐☐☐☐

Please send me

. . . . . **Federal Register:** $300 per year domestic; $375 foreign
$150 per six-month domestic; $187.50 foreign

. . . . . **Code of Federal Regulations:** $615 per year domestic; $768.75 foreign

Name—First, Last

Company name or additional address line

Street address or additional address line

City State ZIP Code

(or Country)

PLEASE PRINT OR TYPE

FOR OFFICE USE ONLY	
Quantity	Charges
..... Enclosed	
..... To be mailed	
..... Subscriptions	
Postage	
Foreign handling	
MMOB	
OPNR	
..... UPNS	
..... Discount	
..... Refund	

12-29-82
Vol. 47 No. 250

Federal Register

Wednesday
December 29, 1982

U S Government
Printing Office
Superintendent
of Documents
Washington, D C 20402
OFFICIAL BUSINESS

Postage
and fees paid
U S Government
Printing Office

12-29-82
Vol. 47 No. 250
Pages 57907-58206

Federal Register

Wednesday
December 29, 1982

Selected Subjects

Classified Information
Export-Import Bank
National Aeronautics and Space Administration

Copyright
Copyright Royalty Tribunal

Exports
International Trade Administration

Fisheries
National Oceanic and Atmospheric Administration

Flood Insurance
Federal Emergency Management Agency

Government Procurement
National Aeronautics and Space Administration

Grant Programs—Indians
Navajo and Hopi Indian Relocation Commission

Income Taxes
Internal Revenue Service

Low and Moderate Income Housing
Housing and Urban Development Department

Natural Gas
Federal Energy Regulatory Commission

Organization and Functions (Government Agencies)
Animal and Plant Health Inspection Service

Pesticides and Pests
Environmental Protection Agency

Privacy
Army Department

CONTINUED INSIDE

Selected Subjects

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The **Federal Register** will be furnished by mail to subscribers, free of postage, for $300.00 per year, or $150.00 for six months, payable in advance. The charge for individual copies is $1.50 for each issue, or $1.50 for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the **Federal Register**.

Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

Radiation Protection
Environmental Protection Agency

Reporting and Recordkeeping Requirements
Securities and Exchange Commission

Wine
Alcohol, Tobacco and Firearms Bureau

Contents

Federal Register
Vol. 47, No. 250
Wednesday, December 29, 1982

Agricultural Marketing Service
RULES
57907 Orange juice; grade standards; correction
PROPOSED RULES
57943 Frozen leafy greens; grade standards; correction

Agriculture Department
See also Agricultural Marketing Service; Animal and Plant Health Inspection Service.
NOTICES
57980 Agency forms submitted to OMB for review

Alaska Natural Gas Transportation System, Office of Federal Inspector
NOTICES
58070 Alaska gas conditioning facility segment; design approval

Alcohol, Tobacco and Firearms Bureau
RULES
Alcohol; viticultural area designations:
57921 Solano County, Green Valley, Calif.
PROPOSED RULES
Alcohol; viticultural area designations:
57974 Alexander Valley, Calif.; hearing

Animal and Plant Health Inspection Service
RULES
Animal and poultry import restrictions:
57908 Harry S Truman Animal Import Center; cooperative and trust fund agreement revision and use of letter of credit method for deposit payment in special authorization cases; correction
Organizations, functions, and authority delegations:
57907 Management and Human Resources Division, Deputy Administrator, et al.; administration of Foreign Service personnel system for employees serving abroad, etc.

Antitrust Division
NOTICES
Competitive impact statements and proposed consent judgments:
British Columbia Forest Products, Ltd., et al.
(*Editorial Note:* This document, appearing at page 57384 in the **Federal Register** for December 23, 1982, was mistakenly listed in the table of contents under the Justice Department, Pollution control; consent judgments.)

Arms Control and Disarmament Agency
NOTICES
Meetings:
57980 General Advisory Committee

Army Department
See also Engineers Corps.
RULES
57923 Privacy Act; implementation

Arts and Humanities, National Foundation
NOTICES
Meetings:
58070 Music Advisory Panel

Commerce Department
See International Trade Administration; National Bureau of Standards; National Oceanic and Atmospheric Administration.

Conservation and Renewable Energy Office
NOTICES
Consumer products; petitions for waiver of test procedures:
57987 Arkla Industries, Inc.; furnaces

Copyright Royalty Tribunal
RULES
57923 Noncommercial broadcasting; use of certain copyrighted works; royalty schedule adjustment

Defense Department
See Army Department; Engineers Corps.

Drug Enforcement Administration
NOTICES
Registration applications, etc.; controlled substances:
58069 K & B Successors, Inc.

Economic Regulatory Administration
NOTICES
Consent orders:
57989 Columbia Gas System, Inc.
Powerplant and industrial fuel use; prohibition orders, exemption requests, etc.:
57990 Mobay Chemical Corp.
57989 Sunlaw Energy Corp.
Remedial orders:
57989 RECO Petroleum, Inc.
57991 Vessels Gas Processing Co. et al.

Energy Department
See Conservation and Renewable Energy Office; Economic Regulatory Administration; Federal Energy Regulatory Commission.

Engineers Corps
NOTICES
Environmental statements; availability, etc.:
57987 Coquille River, Oreg.; navigation improvements

Environmental Protection Agency
RULES
Pesticide chemicals in or on raw agricultural commodities; tolerances and exemptions, etc.:
57929 Raw agricultural commodities; definitions and interpretations; sweet potatoes, etc.
PROPOSED RULES
Air pollution; standards of performance for new stationary sources:
57975 Metallic mineral processing plants; correction

57975 Synthetic fiber production facilities; correction
Pesticide chemicals in or on raw agricultural commodities; tolerances and exemptions, etc.:
57975 Paraquat
Radiation protection programs:
58196 Spent nuclear reactor fuel and high-level and transuranic wastes; environmental standards for management and disposal
NOTICES
Pesticides; emergency exemption applications:
58035 Carbaryl, etc.
Toxic and hazardous substances control:
58020 Acetonitrile; response to Interagency Testing Committee; inquiry
58029 Hexachloro-1,3-butadiene; response to Interagency Testing Committee
58023 Hexachlorocyclopentadiene; response to Interagency Testing Committee
58025 Methyl isobutyl and ethyl ketone; response to Interagency Testing Committee; inquiry
58031 Pyridine; response to Interagency Testing Committee; inquiry

Export-Import Bank
RULES
57909 National security information program; implementation

Federal Communications Commission
NOTICES
58082 Meetings; Sunshine Act

Federal Deposit Insurance Corporation
NOTICES
58082, 58083 Meetings; Sunshine Act (2 documents)

Federal Emergency Management Agency
RULES
Flood elevation determinations:
57934 Arkansas et al.
57933 Indiana et al.
NOTICES
Disaster and emergency areas:
58036 Arkansas
58036 Illinois

Federal Energy Regulatory Commission
PROPOSED RULES
Natural Gas Policy Act:
57943 Fees for pipeline rate matters
Natural Gas Policy Act; ceiling prices for high cost natural gas produced from tight formations; various States:
57953 Texas
NOTICES
Hearings, etc.:
57991 Amoco Production Co.
57992 Iowa Public Service Co.
Natural Gas Policy Act:
57993-58012 Jurisdictional agency determinations (4 documents)

Federal Maritime Commission
NOTICES
58036, 58037 Agreements filed, etc. (2 documents)

Federal Reserve System
RULES
Reserve requirements of depository institutions (Regulation D):
57909 Reservable liabilities exemptions; correction
NOTICES
Applications, etc.:
58037 Bath National Corp. et al.
Bank holding companies; proposed de novo nonbank activities:
58038 Citicorp et al.

Health and Human Services Department
See Human Development Services Office; National Institutes of Health; Public Health Service; Social Security Administration.

Historic Preservation, Advisory Council
NOTICES
Programmatic memorandums of agreement:
57980 Lease and exchange of historic and cultural properties

Housing and Urban Development Department
PROPOSED RULES
Low income housing:
57954 Public and Indian housing and housing assistance payments program (Section 8): definition of income, income limits, rent calculation, and reexamination of family income
NOTICES
58044 Federal National Mortgage Association, maximum debt-to-capital ratio

Human Development Services Office
NOTICES
Grant applications and proposals; closing dates:
58040 SCAN data bases; assumption, dissemination and utilization of information; extension of time

Interior Department
See Land Management Bureau.

Internal Revenue Service
RULES
Income taxes:
57920 Annual accounting period changes by possessions corporations and Virgin Islands corporations; temporary
57919 Source of interest or dividends derived from resident alien individuals and domestic corporations; temporary
PROPOSED RULES
Income taxes:
57972 Source of interest or dividends derived from resident alien individuals and domestic corporations

International Development Cooperation Agency
See Overseas Private Investment Corporation.

International Trade Administration
RULES
Export licensing:
58122 Commodity control list; reformat; interim rule and request for comments
NOTICES
Countervailing duties:
57981 Wool from Argentina; termination

Scientific articles; duty free entry:
57981 University of Utah et al.

International Trade Commission
NOTICES
Import investigations:
58045 Bicycle tires and tubes from Korea
58046 Bicycle tires and tubes from Taiwan
58047 Carton-closing staples and nonautomatic carton-closing staple machines from Sweden
58048, 58049 Cube puzzles (2 documents)
58050 Cupric hydroxide formulated fungicides and preparations used in formulation
58049 Direction-reversing musical crib toys
58051 Frozen concentrated orange juice from Brazil
58050 High precision solenoids and components
58051 Treadmill joggers

Interstate Commerce Commission
NOTICES
58052 Agency forms submitted to OMB for review
Motor carriers:
58067 Koch Industries, Inc.; continuance in control exemption
58068 Midatlantic Coast Delivery Systems, Inc.; control exemption
58055–58063 Permanent authority applications (3 documents)
58052 Temporary authority applications
58066 Wenham, L. M., et al.; continuance in control exemption
Railroad operation, acquisition, construction, etc.:
58068 Atchison, Topeka & Santa Fe Railway Co.; trackage rights exemption
58068 National Railroad Passenger Corp.; compensation for commuter use of Northeast Corridor

Justice Department
See also Antitrust Division; Drug Enforcement Administration.
NOTICES
Competitive grant research solicitation:
58069 Federal justice research program; effect of Speedy Trial Act on prosecutorial and investigative activities

Land Management Bureau
NOTICES
Classification of public lands:
58045 Nevada; correction
Leasing and sale of public lands:
58045 California

National Aeronautics and Space Administration
RULES
57909, 57910 National security information program; implementation (2 documents)
Procurement:
57930 1981 edition with 1982 amendments; availability

National Bureau of Standards
NOTICES
Information processing standards, Federal:
57982 American National Standard Code for Information Interchange (ASCII), additional controls

National Institutes of Health
NOTICES
Meetings:
58042 Aging National Advisory Council
58042 Allergy and Infectious Diseases National Advisory Council
58041 Cancer Clinical Investigation Review Committee
58041 Cancer Control Grant Review Committee
58040 Cancer Institute, National; Scientific Counselors Board
58041 Cancer Research Manpower Review Committee
58041 Communicative Disorders Review Committee
58043 Heart, Lung, and Blood National Advisory Council
58040 National Library of Medicine; Board of Regents
58043 Neurological Disorders Program Project Review Committees
58042 Research Resources National Advisory Council

National Oceanic and Atmospheric Administration
PROPOSED RULES
Fishery conservation and management:
57977 Pacific Coast groundfish; foreign and domestic fishing
NOTICES
Marine mammal permit applications, etc.:
57983 Flyer, Richard
57983 Korea
Meetings:
57983 Mid-Atlantic Fishery Management Council (2 documents)

National Science Foundation
NOTICES
Committees; establishment, renewals, terminations, etc.:
58070 Equal Opportunities in Science and Technology Committee

Navajo and Hopi Indian Relocation Commission
RULES
Commission operations and relocation procedures:
57915 Discretionary funds

Overseas Private Investment Corporation
NOTICES
58071 Agency forms submitted to OMB for review

Public Health Service
NOTICES
Organization, functions, and authority delegations:
58044 National Center for Health Statistics, Director; research, investigation, and testing functions, etc.

Securities and Exchange Commission
RULES
57911 Oil and gas producing activities; supplemental disclosure requirements
NOTICES
Hearings, etc.:
58072 Central Power & Light Co.
58072 Children's Place, Inc.
58073 Coast Federal Savings & Loan Association
58073 Dean Witter Reynolds InterCapital Inc. et al.
58077 Tax-Free Instruments Trust
58079 West Texas Utilities Co.
58083 Meetings; Sunshine Act

Self-regulatory organizations; proposed rule changes:
58075 Midwest Clearing Corp.
58076 Midwest Securities Trust Co.
Self-regulatory organizations; unlisted trading privileges:
58073 Cincinnati Stock Exchange

Small Business Administration
NOTICES
Applications, etc.:
58079 Mile Hi Small Business Investment Co.

Social Security Administration
RULES
Public assistance programs:
57942 Quality control system; review completion requirements; correction

State Department
NOTICES
Authority delegations:
58081 Ambassador at Large and Special Adviser to the Secretary of State on Non-Proliferation Policy and Nuclear Energy Affairs
58081 Deputy Secretary of State et al.; negotiation, signature and termination of treaties and other international agreements
Environmental statements; availability, etc.:
58080 Western Hemisphere countries; cannabis eradication by aerially applying the herbicide paraquat

Textile Agreements Implementation Committee
NOTICES
Cotton, wool, or man-made textiles:
57984 Korea
57986 Philippines
57985 Taiwan
Export visa requirements; certification, etc.:
57987 China

Treasury Department
See also Alcohol, Tobacco and Firearms Bureau; Internal Revenue Service.
NOTICES
Bonds, Treasury:
58081 2003 series
Notes, Treasury:
58081 C–1990 series

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

7 CFR
52 57907
371 57907
Proposed Rules:
52 57943

9 CFR
92 57908

12 CFR
204 57909
403 57909

14 CFR
1203 (2 documents) 57909, 57910

15 CFR
371 58122
372 58122
373 58122
374 58122
375 58122
378 58122
379 58122
385 58122
399 58122

17 CFR
210 57911
229 57911
230 57911
231 57911
239 57911
240 57911
241 57911
250 57911

18 CFR
Proposed Rules:
154 57943
271 57953
375 57943
381 57943

24 CFR
Proposed Rules:
804 57954
805 57954
813 57954
860 57954
865 57954
880 57954
881 57954
882 57954
883 57954
884 57954
886 57954
889 57954

25 CFR
700 57915

26 CFR
4a 57919
5f 57920
Proposed Rules:
1 57972
4a 57972

27 CFR
9 57921
Proposed Rules:
9 57974

32 CFR
505 57923

37 CFR
304 57923

40 CFR
180 57929
Proposed Rules:
60 (2 documents) 57975
180 57975
191 58196

41 CFR
Ch. 18 57930
1 57930
3 57930
5 57930
6 57930

44 CFR
67 (2 documents) 57933, 57934

45 CFR
205 57942

50 CFR
Proposed Rules:
663 57977

OL
7
S S
2
5
0
E
9
082
MI

Rules and Regulations

Federal Register
Vol. 47, No. 250
Wednesday, December 29, 1982

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 52

United States Standards for Grades of Orange Juice

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule; correction.

SUMMARY: This document corrects a portion of the USDA's amendment to the United States Standards for Grades of Orange Juice appearing on pages 55455–55463 in the **Federal Register** of December 10, 1982, with respect to the minimum and maximum requirements for Brix/Acid Ratio in "Grade A" Canned Concentrated Orange Juice.

EFFECTIVE DATE: December 29, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Paul Jennings, Processed Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447–6247.

SUPPLEMENTARY INFORMATION: This document corrects a portion of the USDA's amendment to the United States Standards for Grades of Orange Juice appearing on pages 55455–55463 in the **Federal Register** of December 10, 1982, with respect to the minimum and maximum requirements for Brix/Acid Ratio in "Grade A" Canned Concentrated Orange Juice. An inadvertent typing error resulted in an error in Table V. The requirements for Brix/Acid Ratio should have read (from left to right) Min Max Min Max instead of Max Min Max Min.

§ 52.1557 [Correction]

Accordingly the United States Standards for Grades of Orange Juice, §52.1557, Table V is amended to read as follows:

	Min	Max	Min	Max
°Brix/Acid Ratio.....	11.5:1	20.0:1	12.0:1	20.0:1

in the "Grade A" column. There are no changes in the "Grade B" column.

Since this change is made only to correct an inadvertent error in the original amendment, it has been determined that additional relevant information would not be made available by public participation in rulemaking proceeding on this amendment and good cause is found, under the administrative procedure provisions of 5 U.S.C. 533, that notice and other public procedure with respect to this amendment are impracticable and unnecessary. Furthermore, good cause is found for making this amendment effective less than 30 days after publication in the **Federal Register.**

Done at Washington, D.C. on December 23, 1982.

Eddie F. Kimbrell,

Deputy Administrator, Commodity Services.

[FR Doc. 82–35223 Filed 12–28–82; 8:45 am]
BILLING CODE 3410–02–M

Animal and Plant Health Inspection Service

7 CFR Part 371

Organization, Functions, and Delegations of Authority, Deputy Administrator for Management

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document revises the statement of organization, functions and delegations of authority of the Animal and Plant Health Inspection Service to assign responsibility for administration of the Foreign Service personnel system for APHIS employees serving abroad to the Deputy Administrator for Management and the Human Resources Division. Further, certain organizational realignment within administrative management places safety and health concerns with Administrative Services Division and the responsibility for micrographics, records and communications and telecommunications with the Automated Data Systems Staff.

EFFECTIVE DATE: December 29, 1982.

FOR FURTHER INFORMATION CONTACT: John C. Frey, Animal and Plant Health Inspection Service, USDA, 6505 Belcrest Rd., Hyattsville, MD 20782 (301–436–6466).

SUPPLEMENTARY INFORMATION: The statement of organization, functions, and delegations of authority of the Animal and Plant Health Inspection Service is being amended to delegate to the Deputy Administrator for Management, the functional responsibility for administering the Foreign Service personnel system for employees of APHIS carrying out the missions of APHIS which require service abroad. The Secretary has delegated the responsibility for administering the Foreign Service personnel system for APHIS employees to the Assistant Secretary for Marketing and Inspection Services, who in turn has delegated such authority to the Administrator, Animal and Plant Health Inspection Service (47 FR 49009). In addition, the statement is also being amended to reflect realignments of certain administrative responsibilities whereby the concern for safety and health previously vested with the Human Resources Division is to be placed in the Administrative Services Division; likewise, responsibility for micrographics, records and communications, and telecommunications is being placed with the Automated Data Systems Staff. These changes are made in order to consolidate related functions which will result in better coordination and more effective services.

This rule relates to internal agency management, and therefore, pursuant to 5 U.S.C. 553, it is found upon good cause that notice and other public procedures with respect thereto are impractical and contrary to the public interest, and good cause is found for making this rule effective less than 30 days after publication in the **Federal Register.** Further, since this rule relates to internal agency management, it is exempt from the provisions of E.O. 12291. Finally, this action is not a rule as defined by Public Law 96–354, the Regulatory Flexibility Act, and thus is exempt from the provisions of that Act.

List of Subjects in 7 CFR Part 371

Organization and functions (Government agencies).

PART 371—ORGANIZATION, FUNCTIONS AND DELEGATIONS OF AUTHORITY

Accordingly, 7 CFR Part 371 is amended as follows:

1. The authority citation for Part 371 reads as follows:

Authority: 5 U.S.C. 301.

2. Section 371.2 is amended by revising paragraph (e)(7) and by adding a new paragraph (e)(10) to read as follows:

§ 371.2 The Office of the Administrator.

* * * * *

(e) * * *

(7) Coordinating General Accounting Office and Office of the Inspector General activities in APHIS.

* * * * *

(10) Providing leadership and coordination for activities associated with APHIS international programs. Administering the Foreign Service personnel system for employees of APHIS in accordance with Section 202(a)(2) of the Foreign Service Act of 1980 (22 U.S.C. 3922), E.O. 12363, dated May 21, 1982), and the provisions of 7 CFR 2.51 (a)(1).

* * * * *

3. Section 371.5 is amended by revising paragraphs (b)(2) and (b)(3), (c)(2) and (d)(2) through (d)(5) and by adding a new paragraph (d)(6) to read as follows:

§ 371.5 Administrative management.

* * * * *

(b) * * *

(2) Planning, providing staff leadership and assistance to APHIS managers and program leaders in the areas of EEO and Civil Rights; organization; position management; performance appraisal; position classification; salary and wage administration; employee development and training pertaining to executive and managerial development, supervisory, administrative and clerical training and related activities; recruitment and placement, employee relations, and labor management relations.

(3) Providing leadership and coordination for activities associated with APHIS international programs; developing, implementing, and evaluating policies and procedures relating to the Foreign Service personnel system in APHIS.

* * * * *

(c) * * *

(2) Planning, providing staff leadership and operating administrative services and assistance to APHIS managers and supervisors in: real and personal property management and utilization; and procurement of supplies, equipment, and services through competitive and noncompetitive procedures or from established contract sources; safety, health and environmental concerns; providing for the development and control of forms, reports, records security, printing and distribution, mail and shuttle service; and providing overall direction and coordination for the design and construction of APHIS facilities; and directives management.

* * * * *

(d) * * *

(2) Planning directing and conducting studies to determine the feasibility of applying automated data systems and techniques to Agency operations. Determining the advantages of using automated systems and processing in terms of economic and other considerations.

(3) Developing and designing automated data systems, standards, and new and improved methods and techniques for translation into basic program structures relative to systems analysis, computer programming and equipment utilization and capabilities. Assisting Agency managers in determining informational requirements. Analyzing types and volume of data involved, cost of present methods and cost and other advantages of applying electronic data processing.

(4) Developing computer programs to meet objectives of specific programs and projects, including all levels of electronic data processing documentation and the testing or "debugging" of machine programs. Designing procedures and advising in the development of source documents to facilitate the conversion of data from source documents to machine media.

(5) Reviewing and evaluating existing systems and computer programs and implementing improvements.

(6) Planning, managing and/or coordinating agency policies, methods, and procedures for telecommunications, records management, micrographics and correspondence management.

* * * * *

Issued at Washington, D.C., this 20th day of December, 1982.

Harry C. Mussman,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 82-35275 Filed 12-28-82; 8:45 am]

BILLING CODE 3410-34-M

9 CFR Part 92

[Docket No. 82-089]

Importation of Animals Through the Harry S Truman Animal Import Center

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule; correction.

SUMMARY: This document corrects references to paragraphs which were amended in a rule concerning the requirements for importing animals into the United States through the Harry S Truman Animal Import Center. This action is needed to correct an administrative oversight which resulted in revising a paragraph which did not exist, revising a paragraph to remove a footnote which was not located in that paragraph and revising a portion of another paragraph which did not exist.

EFFECTIVE DATE: December 28th, 1982.

FOR FURTHER INFORMATION CONTACT: Dr. Melvin Crane, VS, APHIS, USDA, Import-Export Staff, Room 819, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8170.

SUPPLEMENTARY INFORMATION: On May 21, 1982, there was published in the **Federal Register** (47 FR 22079-22082) a final rulemaking document revising certain paragraphs in Title 9, Code of Federal Regulations, § 92.41 (9 CFR 92.41), the regulations concerning the requirements for importing animals through the Harry S Truman Animal Import Center. This rulemaking document contained three references to paragraphs which were revised which were not correct. These incorrect references resulted from a failure to take into account an interim rulemaking document published in the **Federal Register** on September 22, 1981, (46 FR 46784-46787) and affirmed in the **Federal Register** on May 19, 1982 (47 FR 21529) which, among other things, redesignated 9 CFR 92.41(b), (c), and (d) as 9 CFR 92.41(c), (d), and (e), respectively.

Done at Washington, D.C., this 21st day of December, 1982.

J. K. Atwell,

Deputy Administrator, Veterinary Services.

Accordingly, FR Doc. 82-14004, published at 47 FR 22079-22082, May 21, 1982 is corrected as follows:

1. On page 22080, in the middle column, amendatory item 2 should read:

"2. Section 92.41(c)(7) is revised to read:"

2. On the same page, in the middle column, amendatory item 3 should read:

"3. In § 92.41(d), footnote 15 is removed and footnotes 16 and 17 are renumbered 15 and 16, respectively."

3. On the same page, in the middle column, item 4 should read

"4. In § 92.41, paragraph (d), the Cooperative and Trust Agreement is revised to read as follows:"

[FR Doc. 82-35209 Filed 12-28-82; 8:45 am]

BILLING CODE 3410-34-M

FEDERAL RESERVE SYSTEM

12 CFR Part 204

[Docket No. R-0441; Reg. D]

Reserve Requirements of Depository Institutions; Exemption for First $2 Million of Reservable Liability

Correction

In FR Doc. 82-33317, beginning on page 55204 in the issue of Wednesday, December 8, 1982, in the third column of page 55205, the 20th line from the top, the figure "$20.1 million" should read "$2 million ."

BILLING CODE 1505-01-M

EXPORT-IMPORT BANK OF THE UNITED STATES

12 CFR Part 403

Classification, Downgrading, Declassification, and Safeguarding of National Security Information

AGENCY: Export-Import Bank of the United States.

ACTION: Amendments to rules.

SUMMARY: The Export-Import Bank of the U.S. is amending its rules to conform to the provisions of Executive Order 12356 (47 FR 14874, April 6, 1982) and its implementing directive, Information Security Oversight Office Directive No. 1 (47 FR 27836, June 25, 1982). These orders, effective August 1, 1982, establish procedures and criteria for classifying, declassifying and safeguarding national security information. The Bank's current rules are based upon Executive Order 12065 which was revoked by Executive Order 12356.

EFFECTIVE DATE: December 29, 1982.

FOR FURTHER INFORMATION CONTACT: Warren W. Glick, General Counsel, Export-Import Bank of the U.S., 811 Vermont Avenue, N.W., Washington, D.C. 20571 (202) 566-8334.

SUPPLEMENTARY INFORMATION: On April 2, 1982, the President issued E.O. 12356 "National Security Information," which supersedes E.O. 12065. This new E.O. 12356 and its Implementing Directive published by ISOO became effective August 1, 1982.

PART 403—[AMENDED]

The Export-Import Bank is amending 12 CFR Part 403 to conform with the requirements of E.O. 12356 and its implementing directive. Specifically, references to previous E.O. 12065 and its implementing directive have been replaced with references to E.O. 12356 and its implementing directive. In addition, paragraphs (a), (b), and (c) and the introductory text of § 403.9 are revised to read as follows:

§ 403.9 Mandatory review for declassification.

All information classified under E.O. 12356 or prior executive orders, except information described in § 3.4(b) of the Order, shall be subject to a review for declassification if:

(a) The request is made by a U.S. citizen or permanent resident alien, a Federal agency, or a State or local government and the request describes the document or material containing the information with sufficient specificity to enable the Bank to locate it with a reasonable amount of effort.

(b) A request for classified information under the Order will be processed in accordance with the Order. In such a case, however, the exemptions of the Freedom of Information Act and any other exemptions under applicable law may be invoked by the Bank to deny material on grounds other than classification.

(c) Requests may be addressed to the General Counsel, Export-Import Bank of the United States, 811 Vermont Avenue, NW., Washington, D.C. 20571.

* * * * *

List of Subjects in 12 CFR Part 403

Classified information.

Adrian B. Wainwright,

Vice President—Administration.

[FR Doc. 82-35255 Filed 12-28-82; 8:45 am]

BILLING CODE 6690-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1203

Information Security Program

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule.

SUMMARY: This revision is necessary to comply with the provisions of Section 1.2, Executive Order 12356, "National Security Information," dated April 6, 1982. The purpose of the revision is to designate a limited number of NASA officials having original classification authority as prescribed by the Executive Order. This revision accomplishes the stated purpose. Since this regulation involves a national security function, it is exempt from the procedures of 5 U.S.C. 553.

EFFECTIVE DATE: August 1, 1982.

FOR FURTHER INFORMATION CONTACT: Erwin V. Minter, NASA Security Office, Telephone (202) 755-3400.

List of Subjects in 14 CFR Part 1203

Classified information, Foreign relations.

PART 1203—INFORMATION SECURITY PROGRAM

14 CFR Part 1203 is amended by revising Subpart H to read as follows:

Subpart H—Delegation of Authority to Make Determinations in Original Classification Matters

Sec.
1203.800 Delegations.
1203.801 Redelegation.
1203.802 Reporting.

Authority: 42 U.S.C. 2451 et seq., and E.O 12356.

Subpart H—Delegation of Authority to Make Determinations in Original Classification Matters

§ 1203.800 Delegations.

(a) The NASA officials listed in paragraph (b) of this section are authorized to make, modify, or eliminate security classification assignments to information under their jurisdiction for which NASA has original classification authority. Such actions shall be in accordance with currently applicable criteria, guidelines, laws, and regulations and they shall be subject to any contrary determination that has been made by the Chairperson of the NASA Information Security Program Committee or by any other NASA official authorized to make such a determination.

(b) Designated Officials. (1) *TOP SECRET Classification Authority.*

(i) Administrator.

(ii) Deputy Administrator.

(iii) Associate Deputy Administrator.

(iv) Chairperson, NASA Information Security Program Committee.

(2) *SECRET and CONFIDENTIAL Classification Authority.*

(i) Officials listed in paragraph (b)(1) of this section.

(ii) Associate Administrator for Space Flight.

(iii) Associate Administrator for Space Science and Applications.

(iv) Associate Administrator for External Relations.

(v) Associate Administrator for the Management.

(vi) Associate Administrator for Aeronautics and Space Technology.

(vii) Associate Administrator for Space Tracking and Data Systems.

(viii) General Counsel.

(ix) Chief, NASA Security Office.

(x) Director, International Affairs Division.

(xi) NASA Security Classification Manager.

(xii) Field Installation Directors.

(xiii) Manager, NASA Resident Office—JPL.

(xiv) Installation Security Classification Officers.

(xv) Such other officials as may be delegated original classification authority.

(c) Written requests for original classification authority shall be forwarded to the Executive Secretary, NASA Information Security Program Committee with appropriate justification appended thereto. The Executive Secretary will submit such requests to the Committee Chairperson for a determination by the Committee regarding the validity of the requests. Findings and recommendations of the Committee will then be submitted by the Committee Chairperson to the Administrator for approval.

(d) The Executive Secretary shall maintain a list of all delegations of original classification authority by name or title of the position held.

(e) The NASA Information Security Program Committee shall conduct periodic review of delegation lists to ensure that the officials so designated have demonstrated a continuing need to exercise such authority.

(f) Original classification authority shall not be delegated to persons who only reproduce, extract, or summarize classified information, or who only apply classification markings derived from source material or as directed by a classification guide.

§ 1203.801 Redelegation.

Redelegation of TOP SECRET, SECRET, or CONFIDENTIAL original classification authority is not authorized.

§ 1203.802 Reporting.

The officials to whom original classification authority has been delegated herein shall ensure that feedback is provided to the Administrator through the NASA Information Security Program Committee. The Chairperson of the Committee shall keep the Administrator currently informed of all significant actions, problems, or other matters of substance related to the exercise of the authority delegated hereunder.

James M. Beggs,

Administrator.

[FR Doc. 82-35287 Filed 12-28-82; 8:45 am]

BILLING CODE 7510-01-M

---

14 CFR Part 1203

NASA Information Security Program Committee

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule.

SUMMARY: This revision updates the existing regulation on the NASA Information Security Program Committee. These technical changes include 3 changes in the titles of officials, and the deletion of a program office. These changes are made to reflect the current NASA organization.

EFFECTIVE DATE: August 1, 1982.

FOR FURTHER INFORMATION CONTACT: Erwin V. Minter, NASA Security Office, Telephone (202) 755-3400.

SUPPLEMENTARY INFORMATION: The Information Security Program Committee was established to comply with the provisions of Sections 3.4(d) and 5.3(a) of Executive Order 12356, "National Security Information," April 6, 1982. This revision specifically changes § 1203.900 and § 1203.902(a). This regulation involves a national security function and is exempt from the procedures of 5 U.S.C. 553.

List of Subjects in 14 CFR Part 1203

Classified information, Foreign relations.

14 CFR Part 1203, Subpart I is revised to read as follows:

PART 1203—INFORMATION SECURITY PROGRAM

Subpart I—NASA Information Security Program Committee

Sec.

1203.900 Establishment.
1203.901 Responsibilities.
1203.902 Membership.
1203.903 Ad hoc committees.
1203.904 Meetings.

Authority: 42 U.S.C. 2473; E.O. 12356.

Subpart I—NASA Information Security Program Committee

§ 1203.900 Establishment.

Pursuant to Executive Order 12356, "National Security Information," and the National Aeronautics and Space Act of 1958, as amended, there is established a NASA Information Security Program Committee (hereinafter referred to as the Committee) as part of the permanent administrative structure of NASA. The Director, DOD Affairs Division, is designated to act as the Chairperson of the Committee. The Head, Classification Management and Physical Security Section, NASA Security Office, is designated to act as the Committee Executive Secretary.

§ 1203.901 Responsibilities.

(a) The Chairperson reports to the Administrator concerning the management and direction of the NASA Information Security Program as provided for in Subpart B of this part. In this connection, the Chairperson is supported and advised by the Committee.

(b) The Committee shall act on all appeals from denials of declassification requests on all suggestions and complaints with respect to administration of the NASA Information Security Program as provided for in Subpart B of this part.

(c) The Executive Secretary of the Committee shall maintain all records produced by the Committee, its subcommittees, and its ad hoc panels.

(d) The NASA Security Office, NASA Headquarters, will provide staff assistance and support services for the Committee.

§ 1203.902 Membership.

The Committee will be comprised of the Chairperson, Executive Secretary, and one member designated by each of the following NASA officials:

(a) Associate Administrators for:

(1) Aeronautics and Space Technology.

(2) Space Science and Applications.

(3) Space Flight.

(4) Space Tracking and Data Systems.

(5) Management.

(6) External Relations.

(b) Associate Deputy Administrator.

(c) General Counsel.

§ 1203.903 Ad hoc committees.

The Chairperson is authorized to establish such ad hoc panels or subcommittees as may be necessary in the conduct of the Committee's work.

§ 1203.904 Meetings.

(a) Meetings will be held at the call of the Chairperson.

(b) Records produced by the Committee and the minutes of each

meeting will be maintained by the Executive Secretary.

James M. Beggs,

Administrator.

[FR Doc. 82-35286 Filed 12-28-82; 8:45 am]

BILLING CODE 7510-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 210, 229, 230, 231, 239, 240, 241 and 250

[Release Nos. 33-6444; 34-19337; 35-22776; IC-12898; FR-9; S7-936]

Supplemental Disclosures of Oil and Gas Producing Activities

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: The Commission announces the adoption of final rules for supplemental oil and gas disclosures to require compliance with the provisions of Statement of Financial Accounting Standards No. 69 recently issued by the Financial Accounting Standards Board ("FASB"). These final rules also eliminate certain requirements for oil and gas disclosures set forth in Industry Guide 2 which duplicate requirements in Regulation S-X and the FASB statement. This action is consistent with the commitment announced in Accounting Series Release No. 289 to reexamine existing rules upon the development of an oil and gas disclosure standard by the FASB.

DATE: Effective for companies with fiscal years beginning on or after December 15, 1982, with earlier implementation encouraged. Where the supplemental oil and gas disclosures for years beginning before December 15, 1982, are presented in accordance with SFAS 69, the Commission will automatically waive the requirements of Rule 4-10(k) of Regulation S-X for those years.

FOR FURTHER INFORMATION CONTACT: M. Elizabeth Rader or John W. Albert (202-272-2130), Office of the Chief Accountant, Securities and Exchange Commission, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION:

Background

On July 1, 1982, the Commission issued Securities Act Release No. 6412 (47 FR 28686) which proposed rules to require compliance with the provisions of an FASB statement of financial accounting standards expected to be issued upon finalization of an April 1982 FASB exposure draft on supplemental oil and gas disclosures. The Commission proposed rule amendments at that time to facilitate its prompt action on a final FASB standard. The Commission also proposed to revise certain disclosure requirements in Industry Guide 2 in order to eliminate duplication with Regulation S-X and the proposed FASB standard. On November 30, 1982, the FASB issued the related final standard as Statement of Financial Accounting Standards No. (SFAS) 69 entitled, "Disclosures about Oil and Gas Producing Activities." This statement supersedes the requirements of several earlier pronouncements [1] and establishes a comprehensive set of supplemental disclosures for oil and gas producing activities.

Summary of Conclusions

The Commission has evaluated the disclosures specified by SFAS 69 and, consistent with its evaluation of the exposure draft, has concluded that they provide adequate information about oil and gas producing activities, particularly because they include a presentation of a standardized measure of discounted future net cash flow relating to proved oil and gas reserves and a reconciliation of such standardized measure from period to period.

The Commission has also determined that this course of action is consistent with its responsibilities under the Energy Policy and Conservation Act of 1975 because the disclosures specified in SFAS 69 will be adequate to ensure the continued availability to the Department of Energy of the information necessary for an energy data base. In this regard, moreover, the Commission will continue to maintain in Regulation S-X its rules on accounting and reporting practices to be used by oil and gas producers in the preparation of the primary financial statements included in filings with the Commission.

Final SFAS 60 Disclosures

The supplemental disclosures adopted under SFAS 69 are substantially the same as those proposed in the exposure draft.[2] The four notable differences between the final standard and the exposure draft are as follows:

(1) A proposed requirement for geographic detail in the statement of changes in the standardized measure was deleted.

(2) Separate disclosure requirements were added for (a) costs incurred for acquisition of existing proved properties, if significant, and (b) affiliated and non-affiliated sales of oil and gas.

(3) Where a significant portion of proved reserve quantities or the related standardized measure of discounted future net cash flows is attributable to minority interests, the final standard requires disclosure of that fact and the approximate minority portion.

(4) The final statment adopts the significance criteria of SFAS 14 "Financial Reporting for Segments of a Business Enterprise" (certain ten percent tests based on total assets, revenues, and pretax operating income) to determine when oil and gas activities are sufficiently significant that the specified disclosures should be provided.

Commisson's Proposed Rules

The proposed rules differed from the FASB exposure draft in only a few respects. First, since the exposure draft required disclosures for "significant" oil and gas operations but did not define "significance," the Commission proposed to retain criteria for determining when oil and gas producing activities are significant. Second, the proposed amendments specified the periods for which the supplementary disclosures should be presented. Whereas the exposure draft called for disclosures only when a "complete set of financial statements" is presented, the Commission proposed that income statement related disclosures be presented for each annual income statement required, and that balance sheet related disclosures be presented for each year-end balance sheet required.

In addition, the Commission specifically encouraged comments concerning the existing Regulation S-X disclosure requirement for separate presentation of amounts of future net revenue from proved reserves applicable to each of the first three succeeding fiscal years. Although this

---

[1] Relevant provisions of FASB Statement Nos. 19, "Financial Accounting and Reporting by Oil and Gas Producing Companies," 25, "Suspension of Certain Accounting Requirements for Oil and Gas Producing Companies," 33, "Financial Reporting and Changing Prices," and 39, "Financial Reporting and Changing Prices: Specialized Assets—Mining and Oil and Gas," are amended by this standard.

[2] Publicly traded enterprises are thus required to disclose the following supplemental information about significant oil and gas activities:

—Proved oil and gas reserve quantities.

—Capitalized costs relating to oil and gas producing activities.

—Costs incurred in oil and gas producing activities.

—Results of operations for oil and gas producing activities.

—A standardized measure of discounted future net cash flows relating to proved oil and gas reserves (the "standardized measure").

requirement was not included in the disclosures described by the exposure draft, the Commission believed that it might provide information sufficiently useful to be included in the disclosure package, particularly when near-term cash flows are significantly affected by development and production expenditures.

Finally, the Commission also announced its intention to retain the safe harbor provision in Rule 4–10(k)(9) for disclosures made pursuant to its final rules.

Comments Received

The Commission received 37 letters of comment on its proposal to adopt the disclosure requirements of the FASB exposure draft and to revise Industry Guide 2.

Conformity With FASB Standard—Most commentators approved of the concept of conformity of Commission and FASB disclosure requirements. Their support or opposition to the Commission's specific proposed disclosures generally coincided with their position on the FASB's proposed presentation of a value-based standardized measure of discounted future net cash flows. Consistent with the response received by the FASB, approximately half the commentators supported the standardized measure as providing useful information. The other half contended that value-based information was too unreliable to be meaningful.

Three-year Disclosures of Undiscounted Future Net Revenue—Of the commentators addressing this issue, approximately two-thirds opposed its inclusion in the disclosure package. Supporters reiterated the position in the proposing release that these data were useful in assessing near-term cash flows. Analysts further believed the disclosures should be provided for more than three years. Opponents criticized the disclosure as inappropriate and not cost-beneficial because its objective was similar to that of the standardized measure, although the two items would be computed on different bases. They also viewed the additional disclosure as inconsistent with the objective of reducing disclosure volume.

Revisions of Guide 2—All commentators addressing these proposals supported the elimination of duplicative requirements. The commentators also offered various suggestions for a full reexamination of all the Guide 2 disclosures. These suggestions will be considered in the Commission's upcoming project to reevaluate the Guide 2 disclosures as a whole.

Evaluation of Comments

Based on a review and evaluation of the comment letters, the Commission has concluded that conformity of its disclosure requirements with those of the FASB is desirable. Although the final FASB standard contains certain differences from the exposure draft, the Commission continues to support the FASB's supplemental disclosure package as a whole and to believe that the standardized measure and the reconciliation of period-to-period changes in that standardized measure will provide meaningful and useful information for the assessment of future cash flows from oil and gas producing activities. Accordingly, the Commission is amending its rules for supplemental disclosures of oil and gas producing activities to require compliance with the provisions of SFAS 69. The only differences between the FASB standard and the Commission's rules will relate to certain matters, largely administrative in nature, discussed further in the section entitled "Final Rules." The Commission is also adopting its proposed revisions of Industry Guide 2.

Summary of Operations on the Basis of Reserve Recognition Accounting

By conforming its disclosure requirements with those of the FASB standard, the Commission is eliminating its requirement for a supplemental presentation of an earnings summary based on Reserve Recognition Accounting ("RRA"). The Commission believes that adequate consideration was given to the RRA earnings summary in the development of the FASB's supplemental disclosure package. Although the RRA earnings summary will no longer be required once registrants adopt the provisions of SFAS 69, the Commission encourages registrants who regard the RRA earnings summary as useful and relevant information to furnish the information on a voluntary basis.

Separate Disclosure of Undiscounted Future Net Revenues

As a further result of conforming its disclosure requirements with those of the FASB standard, the Commission will no longer require separate disclosure of the first three years of future net revenues on an undiscounted basis. In this decision, the Commission recognizes commentators' concerns that this disclosure could be redundant or confusing by comparison to the standardized measure. The Commission's primary objective in soliciting specific comments on this disclosure was to ensure that financial statement users have sufficient information to assess the impact of oil and gas producing activities on near-term cash flows and liquidity. The Commission continues to believe that this sort of information may in some circumstances be essential to an understanding of a company's financial position and results of operations. Accordingly, the Commission reminds registrants that disclosures of undiscounted future cash flows from oil and gas operations may be necessary in the Management's Discussion and Analysis of the financial statements. Such disclosures would ordinarily be expected where near-term cash flows are likely to be negative or only at a break-even level, and may be appropriate in other circumstances.

Discussion of Final Rules

The Commission has evaluated the differences between the FASB exposure draft and the final SFAS 69 and believes they are not sufficiently material to require re-exposure of the Commission's proposed rule changes. Overall, they reduce the compliance burden for detailed disclosure (by deleting the geographic breakdown of changes in the standardized measure) while making minor additions (e.g., information on affiliated sales and minority interests) only where necessary to a full understanding of the information presented.

Significance criteria—SFAS 69 also simplifies the compliance process by adopting the SFAS 14 "significance" criteria to determine whether enterprises are subject to its provisions. Thus, the supplemental disclosures are required whenever oil and gas revenues, pre-tax operating profit or loss, or identifiable assets exceed ten percent of comparable combined amounts for the consolidated enterprise. These materiality guidelines differ from the Commission's proposed rules in that the Commission's proposals did not include a revenue test and would have computed the asset test using the standardized measure rather than the historical cost of oil and gas assets.

The Commission believes that in most instances the significance criteria of SFAS 69 will identify the same enterprises as the Commission's proposed tests. Accordingly, in view of its commitment to conform its rules wherever practicable with those of the private sector, the Commission is not adopting its separate proposed significance tests. However, in those circumstances where the discounted present value of a registrant's oil and gas reserves in significantly in excess of

ten percent of consolidated total assets, the Commission expects that the general requirement for disclosure of material amounts will require that some disclosures be made, even if the stated SFAS 14 tests are not met.

Periods Presented—Since the final FASB standard, like the exposure draft, focuses only on complete annual sets of financial statements, the Commission is also adopting its proposal that disclosures related to annual periods be presented for each such annual period for which an annual income statement is required and that balance sheet disclosures be presented for each audited year-end balance sheet required.

Applicability of Commission Requirements—The final rules also specify that the subject supplemental disclosures shall be presented whenever required by the terms of the applicable Federal securities form. The SFAS 69 requirements apply to enterprises which are "publicly traded" as defined by the standard. This FASB definition is both broader and narrower than the class of enterprises currently required to provide supplemental oil and gas disclosures in Commission filings. The FASB definition includes certain small enterprises which although "traded" may not be required to file reports under either the Securities Act or the Securities Exchange Act. However, the FASB definition would not apply to other enterprises filing reports with the Commission such as certain limited partnerships, nor would it apply to companies providing information to investors under the Regulation D exemptions. The Commission recognizes that it has a different constituency and must retain the specific requirements of its various filing forms.

Limited Partnerships—Topic 12–A–3–C of the Staff Accounting Bulletin series currently states that in certain circumstances the staff will not take exception to omission of the value-based RRA disclosures required by Regulation S–X for limited partnerships engaged in oil and gas producing activities. This waiver applies only to value-based disclosures in periodic reports filled on Form 10–K where: (1) The partnership agreement contains buyout provision under which the general partner agrees to purchase the limited partnership interests that are offered for sale, based upon a specified valuation formula, and (2) some form of reserve value information is available to the limited partners pursuant to the partnership agreement. The staff anticipates that this policy will continue to apply to the comparable "standardized measure" disclosures specified in paragraphs 30–34 of SFAS 69. It should be noted, however, that the waiver in the Staff Accounting Bulletin extends only to value-based disclosures and not to reserve quantity disclosures or historical cost based information. In addition, the waiver was not intended to apply to limited partnerships where owners and buyers do not have some sort of value-based information otherwise automatically provided.

Safe Harbor—Since the Commission's requirements for supplemental oil and gas disclosures are being transferred from Rule 4–10(k) of Regulation S–X to a central repository for supplementary financial information in Regulation S–K, the final rules incorporate (within Rule 175 under the Securities Act of 1933 and the related safe harbor rules under the other Federal securities laws) the safe harbor provision set forth in existing Rule 4–10(k)(9). Various conforming changes are also being made to the proxy rules and to the specific filing requirements of certain Commission forms.

Effective Date and Transition

Consistent with the provisions of SFAS 69, the Commission's revised rules shall be effective for fiscal years beginning on or after December 15, 1982. Earlier implementation is encouraged but not required. The Commission strongly encourages but does not require registrants who elect to adopt the provisions of SFAS 69 early to restate the disclosures for prior years so that all information presented will be on a consistent basis.

The Commission's existing requirements in Rule 4–10(k) of Regulation S–X will continue to apply in their entirety to supplemental oil and gas disclosures for fiscal years beginning before December 15, 1982, *unless* the registrant elects to early adopt the disclosures specified by SFAS 69 or to restate disclosures for prior years in accordance with SFAS 69. Where the supplemental oil and gas disclosures for years beginning before December 15, 1982, are presented in accordance with SFAS 69, the Commission will automatically waive the requirements of Rule 4–10(k) for those years.

Codification Update

The "Codification of Financial Reporting Policies" announced in Financial Reporting Release No. 1 (April 15, 1982) (47 FR 21028) is updated to:

1. Remove section 406.02 and add a new Section 406.02 as follows:

406.02 Supplemental Disclosures.

2. Include in Section 406.02 the sections of this release entitled "Summary of Conclusions," "Summary of Operations on the Basis of Reserve Recognition Accounting," "Separate Disclosure of Undiscounted Future Net Revenues," "Discussion of Final Rules," and "Effective Date and Transition," identified as specified below:

a. Summary of Conclusions

b. Summary of Operations on the Basis of Reserve Recognition Accounting

c. Separate Disclosure of Undiscounted Future Net Revenues

d. Discussion of Final Rules

i. Significance Criteria (second paragraph)

ii. Applicability of Commission Requirements

iii. Limited Partnerships

e. Effective Date and Transition

This codification is a separate publication issued by the Commission. It will not be published in the Federal Register/Code of Federal Regulations System.

List of Subjects

17 CFR Parts 210, 229, 230, 231, 239, 240, and 241

Accounting, Reporting and recordkeeping requirements, Securities.

17 CFR Part 250

Accounting, Reporting and recordkeeping requirements, Securities, Utilities.

Text of Final Rules

Chapter II of Title 17 of the Code of Federal Regulations is amended as follows:

PART 210—FORM AND CONTENT OF AND REQUIREMENTS FOR FINANCIAL STATEMENTS, SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935, INVESTMENT COMPANY ACT OF 1940, AND ENERGY POLICY AND CONSERVATION ACT OF 1975

1. By adding a note to the end of paragraph (k) of § 210.4–10 as follows:

§ 210.4–10 Financial accounting and reporting for oil and gas producing activities pursuant to the Federal securities laws and the Energy Policy and Conservation Act of 1975.

* * * * *

(k) *Disclosure of oil and gas reserve information and historical financial data.*

Note.—*Deletion.* The requirements of this paragraph (k) shall not apply to supplemental disclosures accompanying financial statements for fiscal years beginning on or after December 15, 1982. For fiscal years beginning prior to that date, registrants may substitute the disclosures required under paragraph (c) of Item 302 of Regulation S–K (§ 229.302).

PART 229—STANDARD INSTRUCTIONS FOR FILING FORMS UNDER SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934 AND ENERGY POLICY AND CONSERVATION ACT OF 1975—REGULATION S–K

2. By revising the title of Part 229 to read as above:

3. By adding paragraph (c) to § 229.302 as follows:

§ 229.302 (Item 302) Supplementary financial information.

* * * * *

(c) Information about oil and gas producing activities.

Registrants engaged in oil and gas producing activities shall present the information about oil and gas producing activities (as those activities are defined in Regulation S–X, § 210.4–10(a)) specified in paragraphs 9–34 of Statement of Financial Accounting Standards ("SFAS") No. 69, "Disclosures about Oil and Gas Producing Activities." If such oil and gas producing activities are regarded as significant under one or more of the tests set forth in paragraph 8 of SFAS No. 69.

Instructions to Paragraph (c).

1. (a) SFAS No. 69 disclosures that relate to annual periods shall be presented for each annual period for which an income statement is required. (b) SFAS No. 69 disclosures required as of the end of an annual period shall be presented as of the date of each audited balance sheet required, and (c) SFAS No. 69 disclosures required as of the beginning of an annual period shall be presented as of the beginning of each annual period for which an income statement is required.

2. This paragraph, together with § 210.4–10 of Regulation S–X, prescribes financial reporting standards for the preparation of accounts by persons engaged, in whole or in part, in the production of crude oil or natural gas in the United States, pursuant to Section 503 of the Energy Policy and Conservation Act of 1975 (42 U.S.C. 8383) ("EPCA") and Section 11(c) of the Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 796) ("ESECA") as amended by Section 506 of EPCA. The application of the paragraph to those oil and gas producing operations of companies regulated for ratemaking purposes on an individual-company-cost-of-service basis may, however, give appropriate recognition to differences arising because of the effect of the ratemaking process.

3. Any person exempted by the Department of Energy from any record-keeping or reporting requirements pursuant to Section 11(c) of ESECA, as amended, is similarly exempted from the related provisions of this paragraph in the preparation of accounts pursuant to EPCA. This exemption does not affect the applicability of this paragraph to filings pursuant to the federal securities laws.

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

4. By revising paragraph (b)(2) of § 230.175 to read as follows:

§ 230.175 Liability for certain statements by issuers.

* * * * *

(b) * * *

(2) Information which is disclosed in a document filed with the Commission, in Part I of a quarterly report on Form 10–Q or in an annual report to shareholders meeting the requirements of Rules 14a–3 (b) and (c) or 14c–3 (a) and (b) under the Securities Exchange Act of 1934 and which relates to (i) the effects of changing prices on the business enterprise, presented voluntarily or pursuant to Item 303 or Regulation S–K (§ 229.303 of this chapter), "Management's discussion and analysis of financial condition and results of operations," or Item 302 of Regulation S–K (§ 229.302 of this chapter), "Supplementary financial information," or (ii) the value of proved oil and gas reserves (such as a standardized measure of discounted future net cash flows relating to proved oil and gas reserves as set forth in paragraphs 30–34 of Statement of Financial Accounting Standards No. 69) presented voluntarily or pursuant to Item 302 of Regulation S–K (§ 229.302 of this chapter).

* * * * *

PART 231—INTERPRETATIVE RELEASES RELATING TO THE SECURITIES ACT OF 1933 AND GENERAL RULES AND REGULATIONS THEREUNDER

5. By removing item 1 and paragraph A of item 3 of the Securities Act Industry Guide 2, Disclosure of Oil and Gas Operations, of Part 231 and redesignating and revising paragraphs B and C of Item 3 as paragraphs A and B respectively, to read as follows:

Guide 2. Disclosure of Oil and Gas Operations.

* * * * *

3. Production

A. For each of the last three fiscal years by the same geographic areas for which production data are required by Statement of Financial Accounting Standards (SFAS) No. 69:

(i) The average sales price (including transfers) per unit of oil produced and of gas produced;

(ii) The average production cost (lifting cost) per unit of production.

B. *Instructions.* Generally, net production should include only production that is owned by the registrant and produced to its interest, less royalties and production due others. However, in special situations (e.g., foreign production) net production before royalties may be provided, if more appropriate. If "net before royalty" production figures are furnished, the change from the usage of "net production" should be noted.

Any part of natural gas liquids production obtained through or from processing plant ownership rather than through leasehold ownership should be reported separately, if material.

Production of natural gas should include only marketable production of gas on an "as sold" basis. Production will include dry, residue, and wet gas, depending on whether liquids have been extracted before the registrant passed title. Flared gas, injected gas and gas consumed in operations should be omitted. Recovered gas-lift gas and reproduced gas should not be included until sold.

The transfer price of oil and gas produced should be determined in accordance with SFAS No. 69.

The average production cost per unit of production should be computed using production costs disclosed pursuant to SFAS No. 69. Units of production should be expressed in common units of production with oil or gas converted to a common unit of measure on the basis used in computing amortization (relative energy content or gross revenue method). *See* § 210.4–10(e)(3) or § 210.4–10(i)(3)(iii) of Regulation S–X, whichever is appropriate.

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

6. By adding Item 17B to Part I of the registration statement on Form S–18 as follows [Form S–18 does not appear in the Code of Federal Regulations but the form is discussed in § 239.28 of the Code of Federal Regulations]:

Item 17B. Supplementary Financial Information about Oil and Gas Producing Activities. Registrants engaged in oil and gas producing activities shall follow the disclosure standards specified in paragraph (c) of Item 302 of Regulation S–K [17 CFR 229.302] with respect to such activities.

* * * * *

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

7. By revisfng paragraph (b)(2) of § 240.3b–6 to read as follows:

§ 240.3b–6 Liability for certain statements by issuers.

* * * * *

(b) * * *

(2) Information which is disclosed in a document filed with the Commission, in part I of a quarterly report on Form 10–Q or in an annual report to shareholders meeting the requirements of Rules 14a–3 (b) and (c) or 14c–3 (a) and (b) under the Securities Exchange Act of 1934 and which relates to (i) the effects of changing prices on the business enterprise, presented voluntarily or pursuant to Item 303 of Regulation S–K (§ 229.303 of this chapter), "Management's discussion and analysis of financial condition and results of operations," or Item 302 of Regulation S–K (§ 229.302 of this chapter), "Supplementary financial information," or (ii) the value of proved oil and gas reserves (such as a standardized measure of discounted future net cash flows relating to proved oil and gas reserves as set forth in paragraphs 30–34 of Statement of Financial Accounting Standards No. 69) presented voluntarily or pursuant to Item 302 of Regulation S–K (§ 229.302 of this chapter).

* * * * *

§ 240.14a–3 [Amended]

8. By removing "Note 1" to paragraph (b)(1) of § 240.14a–3 and redesignating "Note 2" as "Note 1."

§ 240.14c–3 [Amended]

9. By removing "Note 1" to paragraph (a)(1) of § 240.14c–3 and redesignating "Note 2" as "Note 1."

PART 241—INTERPRETATIVE RELEASES RELATING TO THE SECURITIES EXCHANGE ACT OF 1934 AND THE GENERAL RULES AND REGULATIONS THEREUNDER

10. By conforming Exchange Act Industry Guide 2 Disclosure of Oil and Gas Operations to the amendments adopted for Securities Act Industry Guide 2.

PART 250—GENERAL RULES AND REGULATIONS, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

11. By revising paragraph (b)(2) of § 250.103A to read as follows:

§ 250.103A Liability for certain statements by issuers.

* * * * *

(b) * * *

(2) Information which is disclosed in a document filed with the Commission, in part I of a quarterly report on Form 10–Q or in an annual report to shareholders meeting the requirements of Rules 14a–3 (b) and (c) or 14c–3 (a) and (b) under the Securities Exchange Act of 1934 and which relates to: (i) The effects of changing prices on the business enterprise, presented voluntarily or pursuant to Item 303 of Regulation S–K (§ 229.303 of this chapter), "Management's discussion and analysis of financial condition and results of operations," or Item 302 of Regulation S–K (§ 229.302 of this chapter), "Supplementary financial information," or (ii) the value of proved oil and gas reserves (such as a standardized measure of discounted future net cash flows relating to proved oil and gas reserves as set forth in paragraphs 30–34 of Statement of Financial Accounting Standards No. 69) presented voluntarily or pursuant to Item 302 of Regulation S–K (§ 229.302 of this chapter).

* * * * *

(Sec. 6, 7, 8, 10 and 19(a) (15 U.S.C. 77f, 77g, 77h, 77j, 77s) of the Securities Act of 1933; sec. 12, 13, 14, 15(d) and 23(a) (15 U.S.C. 78l, 78m, 78n, 78o(d), 78w) of the Securities Exchange Act of 1934; Sections 5(b), 14 and 20(a) ((15 U.S.C. 79e, 79n, 79t) of the Public Utility Holding Company Act of 1935; sec. 8, 30, 31(c) and 38(a) (15 U.S.C. 80a–8, 80a–29, 80a–30(c), 80a–37(a)) of the Investment Company Act of 1940 and sec. 503 (42 U.S.C. 6383) of the Energy Policy and Conservation Act of 1975)

As required by section 23(a)(2) of the Securities Exchange Act, the Commission has specifically considered the impact that the amendments will have on competition. The Commission finds that compliance with the amendments will not impose a burden on competition.

By the Commission.

Dated: December 15, 1982.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–35156 Filed 12–28–82; 8:45 am]

BILLING CODE 8010–01–M

NAVAJO AND HOPI INDIAN RELOCATION COMMISSION

25 CFR Part 700

Commission Operations and Relocation Procedures; Discretionary Funds; Revision of Regulations

AGENCY: Navajo and Hopi Indian Relocation Commission.

ACTION: Final rule.

SUMMARY: The Navajo and Hopi Indian Relocation Commission amends, in final form, its regulations for administration of discretionary funds. Certain sections have been rewritten in order to eliminate redundant language and clarify instructions to potential applicants. A provision has been added requiring recipients of grants and contracts to provide Indian preference in employment, training and the award of subcontracts and subgrants. The amendments are intended to achieve compliance with the Indian preference requirements of 25 U.S.C. 450e and to simplify and expedite administrative procedures.

EFFECTIVE DATE: December 29, 1982.

FOR FURTHER INFORMATION CONTACT: Paul M. Tessler, CFR Liaison Officer, P.O. Box KK, Flagstaff, Arizona, 86002, Telephone (602) 779–3311, extension 1376, FTS: 261–1376.

SUPPLEMENTARY INFORMATION: No comments were received on the Notice of Proposed Rulemaking published at 47 FR 47022, Oct. 22, 1982. A discussion of the final rule is as follows: The final rule in § 700.459 are amended by deleting paragraph (c) and by deleting language in paragraph (d) which refers to the listing of priorities.

The final rule are also revised in § 700.461 to eliminate annual solicitation and publications of project priorities. In conformity with the language Pub. L. 96–305, the Commission will annually solicit applications for programs which will facilitate and expedite the relocation efforts of the Commission. This change will allow maximum opportunity for applicants to propose programs beneficial to relocatees and host communities. In addition, as funds are available and priority projects are identified by the Commission, specific requests for proposals will be published by the Commission pursuant to Federal contract regulations.

The final rule in § 700.463 has been amended to establish a preapplication phase for grant applications. Under current regulations a preapplication is optional. Experience in administering the discretionary grants program has demonstrated that a preapplication stage is an efficient means of determing the appropriateness of proposed projects and identifying issues which must be clarified in order for an application to qualify for grant consideration.

The final rule in § 700.465 is amended by adding language which enhances the Commission's oversight ability with regard to construction projects. Additionally, § 700.465(e) was added for the same reasons.

The final rules in §§ 700.471 and 700.477 have been amended to assure compliance with Pub. L. 93–638 (25 U.S.C. 450e), the Indian Self-Determination Act. The Indian Self-

Determination Act provides in part as follows:

25 U.S.C. 450e Wages and Labor Standards.

(b) Any contract, subcontract, grant, or subgrant pursuant to this act [The Indian Self-Determination Act], the Act of April 16, 1934 (48 Stat. 596), as amended [25 U.S.C. § 452–457], or any other Act authorizing Federal contracts with or grants to Indian organizations or for the benefit of Indians, shall require that to the greatest extent feasible—

(1) Preferences and opportunities for training and employment in connection with the administration of such contracts or grants shall be given to Indians; and

(2) Preferences in the award of subcontracts and subgrants in connection with the administration of such contracts or grants shall be given to Indian organizations and to Indian owned economic enterprises as defined in Section 3 of the Indian Financing Act of 1974 (88 Stat. 77) 25 U.S.C. 1452

The Navajo and Hopi Indian Relocation Amendments Act of 1980, 25 U.S.C. 640d-25, (Pub. L. 96–305 Sec. 27), authorizes Federal contracts or grants for the benefits of Indians, and thus falls within the purview of the Indian Self-Determination Act. Therefore, any grant or contract of discretionary funds must require compliance with 25 U.S.C. 450e. The proposed revisions incorporate this requirement.

Additionally, § 700.471 now provides that applicants shall be notified of the Commission's approval or disapproval of grant applications. This provision was formerly contained in § 700.479(a).

The final rule in §700.479 has been amended only editorially.

List of Subjects in 25 CFR Part 700

Administrative practice and procedures, Conflict of interests, Freedom of information, Grant programs—Indians, Indians—claims, Indians—lands, Privacy, Real property acquisition, Relocation assistance.

Accordingly, the Navajo and Hopi Indian Relocation Commission revises, in final form, Subpart N of Part 700 of Title 25, Code of Federal Regulations, to read as follows:

PART 700—[AMENDED]

* * * * *

Subpart N—Discretionary Funds

Sec.

700.451 Purpose.
700.453 Definitions.
700.455 Financial Assistance.
700.457 Assistance to match or pay 30% of grants, contracts or other expenditures.
700.459 Assistance for demonstration projects and for provision of related facilities and services.
700.461 Method for Soliciting Applications.
700.463 Requirements for Applications.
700.465 Technical Feasibility.
700.467 Construction Costs.
700.469 Unallowable program and project costs.
700.471 Review and Approval.
700.473 Administrative Expenditures of the Commission.
700.475 Reports.
700.477 Administration of financial assistance and recordkeeping requirements.
700.479 Administrative review.

Authority: Pub. L. 93–531, as amended by Pub. L. 96–305.

* * * * *

Subpart N—Discretionary Funds

§ 700.451 Purpose.

(a) The purpose of this subpart is to establish procedures for the submission, review and approval, and administration of applications for financial assistance from the discretionary fund established by Pub. L. 93–531, as amended.

(b) The purpose of the discretionary fund is to provide financial assistance to activities which will facilitate and expedite the relocation and resettlement of individuals under the Act and ease the hardship incurred by these individuals.

§ 700.453 Definitions.

(a) Act means Pub. L. 93–531 (88 Stat. 1712, 25 U.S.C. 640d), as amended.

(b) Applicant means with respect to this subpart, any applicant as defined under § 700.457(c) or § 700.459(b).

(c) Business means any lawful activity, except a nonprofit organization, that is—

(1) Conducted primarily for the purchase, sale, lease and/or rental of personal and/or real property, and/or for the manufacture, processing, and/or marketing of products, commodities, and/or any other personal property; or

(2) Conducted primarily for the sale of services to the public.

(d) Commissioners means the three Commissioners of the Navajo and Hopi Indian Relocation Commission.

(e) In-kind contribution means a noncash contribution as described in attachment F of OMB Circular A–102.

(f) Local government means a local unit of government including specifically a county, municipality, city, town, township, local public authority, special district, council of governments, and other regional or interstate entity, or any agency or instrumentality of a local government.

(g) Nonprofit organization means a corporation, partnership, individual, or other public or private entity that is engaged in a lawful business, professional, or instructional activity on a nonprofit basis and that has established its nonprofit status under applicable Federal, State, or Tribal law.

(h) Related facilities means any building or structure normally found in a community and includes but is not limited to water, sewer and electrical lines, community centers, health centers and clinics, roads, and business establishments.

(i) Services means activities relating to human development including, but not limited to, educational and job training, mental health counseling, health care, and technical assistance in business administration, agriculture, and home economics.

(j) Tribe means the Navajo Chapter or the Hopi Village.

(k) Tribal subdivision means a Navajo Chapter or a Hopi Village.

§ 700.455 Financial assistance.

(a) The Commission may provide financial assistance to applicants eligible under this subpart from funds available for any fiscal year.

(b) To obtain financial assistance, an applicant shall submit an application in accordance with § 700.463.

(c) The Commission may make funding decisions throughout the year as applications are approved. The Commission shall, to the extent possible, make funds available throughout the year for approved applications. Based upon the merit of applications received under this subpart, the Commission shall determine how funds available under this subpart shall be apportioned among the activities described in § 700.457 and § 700.459.

§ 700.457 Assistance to match or pay 30% of grants, contracts or other expenditures.

(a) The purpose of applications for financial assistance under this section shall be to aid individuals subject to relocation under the Act and to assist the host communities, towns, cities, or other entities in adjusting to and meeting the needs of the relocatees. For this purpose, the discretionary fund may be used to match or pay not to exceed 30% (thirty percent) of any grant, contract, or other expenditure of the Federal Government, State or local government, tribal government or chapter, or private organization for the benefit of the Navajo or Hopi Tribe, if the Commission determines that such grant, contract, or expenditure would significantly assist the Commission in carrying out its responsibility or assist either tribe in meeting the burdens imposed by this Act.

(b) An "other expenditure" under this subsection is defined as cooperative agreements, direct provision of services,

or in-kind contributions. The Commission may match or pay not to exceed 30% (thirty percent) of another expenditure through a grant, contract, or cooperative agreement.

(c) Eligible applicants under this section for a grant, contract, or cooperative agreement are defined as States, local government, the Navajo and Hopi Tribes, tribal chapters or villages and profit and nonprofit organizations.

(d) Total Federal financial assistance under this section may reach 100% (one hundred percent) if the applicant receives 70% (seventy percent) Federal funding from Federal agencies other than the Commission.

(e) When another Federal agency is a primary source of financial assistance for an applicant, the Commission may, pursuant to an interagency agreement, transfer funds to the primary Federal agency providing financial assistance to the applicant.

(f) The Commission may, pursuant to an interagency agreement, transfer not to exceed 10% (ten percent) of the funds available under this subpart to another Federal agency directly assisting relocatees if such agency's activities would accomplish the purpose of paragraph (a) of this section. Financial assistance transferred to accomplish an eligible activity under paragraph (a) of this section may not exceed the funding limitation of paragraph (a) of this section.

(g) An applicant may apply for financial assistance under this section in accordance with the funding limitations described in paragraph (a) for the purpose of undertaking a technical feasibility study of a construction project or any major project with a total funding of over $200,000 (two hundred thousand dollars) or any dollar amount which the Commission may prescribe at some future time.

§ 700.459 Assistance for demonstration projects and for provision of related facilities and services.

(a) The purpose of applications for financial assistance under this section shall be to aid individuals subject to relocation under the Act. For this purpose, the discretionary fund may be used by the Commission to engage or participate either directly through Federal activities, or by cooperative agreement, grant, or contract in demonstration efforts to employ innovative energy or other technologies in providing housing and related facilities and services in the relocation and resettlement of individuals under this Act.

(b) Applicants eligible under this section to receive grants, cooperative agreements or contracts are: states, local governments, the Navajo and Hopi Tribes, tribal chapters, profit and nonprofit organizations, and individuals.

(c) Applicants for assistance under this section may receive up to 100% (one hundred percent) project or program funding from the Commission, however, the Commission may specify whether applications for certain types of programs or projects under this section require matching funding from the applicant.

(d) Activities described in §§ 700.457(a) and 700.459(a) may be provided by the Commission through in-house activities which receive financial assistance under this section.

(e) The Commission may, pursuant to an interagency agreement, transfer not to exceed 10% (ten percent) of the funds available under this subpart to another Federal agency directly assisting relocatees if such agency's activities would accomplish the purpose of §§ 700.457(a) and 700.459(a).

(f) An applicant may apply for financial assistance under this section for the purpose of undertaking a technical feasibility study of a construction project, or any major project with a total planned funding of over $200,000, (two hundred thousand dollars) or any dollar amount which the Commission may prescribe at some future time.

§ 700.461 Method for soliciting applications.

(a) The Commission shall utilize two methods to solicit applications for funding:

(1) The Commission shall issue an annual announcement of the availability of funds for programs which will most effectively meet the purposes of §§ 700.457(a) or 700.459(a). Applicants submitting applications under this announcement must demonstrate that the proposed project or program will effectively facilitate and expedite the relocation effort of the Commission.

(2) As priority needs are identified by the Commission, calls shall be issued during the fiscal year for specific proposals. Requests for proposal shall define the need to be addressed and the scope of work required.

(b) The annual announcements of the availability of funds and periodic requests for proposals shall be issued through the Commerce Business Daily and media which has regional and local circulation. The Commission may fund approved applications through grant, contract, or direct provision of services, pursuant to Pub. L. 93–531, as amended.

§ 700.463 Requirements for applications.

(a) Applicants shall submit preapplications for funding assistance. The preapplication shall be due by the closing date published by the Commission, and shall consist of:

(1) Standard Form 424;

(2) A brief narrative not to exceed one page describing how the program or project will meet the priorities established by the Commission pursuant to §§ 700.457 or 700.459.

(b) The Commission shall respond to each preapplication, and shall request each person submitting an acceptable preapplication to submit an application.

(c) Applications for financial assistance for a project or program may be submitted by the due date established by the Commission for a particular funding cycle. Applications received after the due date will be considered for the next funding cycle, although the Commission, at its discretion, may select such a project for funding under the current cycle. An original and 5 (five) copies of each application must be submitted to the Commission. Applications shall be submitted on such forms as the Commission may prescribe in conformity with OMB circulars A102 or A110.

(d) Applications under § 700.457 for matching financial assistance not to exceed 30% of another expenditure, shall include:

(1) A detail sheet showing the sources of matching funds, including both cash and in-kind contributions, and documentation that the applicant has fulfilled all of the requirements of any Federal agency, state or local government or chapter, or private organization from which the financial assistance is also requested; and

(2) A narrative statement which includes an explanation of how the application would aid relocatees and assist the host communities, towns, cities, or other entities in adjusting to and meeting the needs of relocatees.

(e) Applications for financial assistance under § 700.459 must justify the proposed project or program as a demonstration effort in order to be eligible for 100% funding.

(f) Applications shall contain a statement of how the applicant plans to comply with the provisions of the Indian Self-Determination Act (25 U.S.C. 450e) and the Act of April 16, 1934 (48 Stat. 596) as amended (25 U.S.C. 452–457).

§ 700.465 Technical feasibility.

Unless required by a non-Commission source of financial assistance, completed plans and specifications are

not required at the time an application is submitted for construction, technology, or another engineering project, however, an application for a construction, technology or another engineering project shall:

(a) Include sufficient information to determine the nature and scope of the project, its probable useful life, and a reasonable estimate of cost;

(b) Fully show that the applicant will follow design and performance criteria which conform to professionally recognized standards and which adequately define the technical capability of the project to serve current and foreseeable needs; and

(c) Justify any evidence or use of unorthodox design.

(d) Show that the applicant has a management plan for the facility which identifies probable sources of operating funds.

(e) An applicant who is awarded a grant under § 700.465 is required to submit completed plans and specifications for the construction, technology, or other engineering project prior to construction. The Commission shall review the completed plans and specifications for technical adequacy as part of its oversight function.

§ 700.467 Construction costs.

Construction costs and costs relating to construction such as machinery and equipment, architect/engineer services, and administrative services may be allowable as determined by the Commission.

§ 700.469 Unallowable program and project costs.

Costs for program or project operating expenses are not allowable except in the following cases—

(a) An application for an annual contract for services under §§ 700.457 or 700.459 may include necessary operating expenses; and

(b) An application for a demonstration effort under § 700.459 may include costs relating to the operation of the demonstration.

§ 700.471 Review and approval.

(a) Upon receipt of an application for financial assistance under this subpart, members of the Commission staff shall begin a preliminary review of the application with the intent of submitting a recommendation to the Commissioners of whether to accept or deny the application. The Commission staff may inform the applicant before its recommendation to the Commissioners, of any special problems or impediments which may result in a recommendation for disapproval; may offer any available technical assistance required to overcome such problems or impediments; and solicit the applicants written response.

(b) The Commission staff may solicit comments on an application from technical specialists, community groups and others, when such advice is needed to fully evaluate the application.

(c) The Commission staff shall forward the application with their recommendation to the Commissioners. The Commissioners may approve applications if they determine that:

(1) The application meets the requirements of this subpart;

(2) The application meets the intent of the Act;

(3) The application fully demonstrates that it will expedite the relocation and resettlement of individuals under the Act and ease the hardship incurred by these individuals or by the Tribes;

(4) The application is compatible with priorities identified by the Commission;

(5) The applicant can carry out the activities described in the application and can maintain proper financial controls on the activities for which financial assistance is requested;

(6) The applicant can and will comply with requirements for Indian preference in employment and training in connection with the administration of the grant, and preference to Indian organizations and Indian owned economic enterprises in the award of subcontracts or subgrants; and

(7) Funds are available.

(d) All applicants shall be notified in writing of the Commission's approval or disapproval of the grant applications.

§ 700.473 Administrative expenditures of the Commission.

The Commission may use funds in an amount not to exceed 5 percent of the funds authorized under this subpart for expenses relating to the administration of the discretionary fund including—

(a) Personnel, whose time is expended directly in support of such administration;

(b) Supplies which are expended directly in support of such administration;

(c) Contracts, where the work performed is directly related to such administration;

(d) Printing, directly in support of such administration; and

(e) Travel, directly related to such administration.

§ 700.475 Reports.

Reports shall be furnished by any recipient of financial assistance under this subpart, in such manner as may be required by the Commission.

§ 700.477 Administration of financial assistance and recordkeeping requirements.

(a) A State or local government [except an institution of higher education or a hospital since they are governed by paragraph (b)], or the Navajo or Hopi Tribe receiving a grant or cooperative agreement under this subpart shall comply with applicable law including the following requirements—

(1) Office of Management and Budget Circular A–102, entitled "Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments" including attachment C describing recordkeeping requirements; and

(2) Federal Management Circular 74–4 5 CFR Part 1310, entitled "Cost Principles Applicable to Grants and Contracts with State and Local Governments."

(b) A nonprofit organization, institution of higher education, or hospital receiving a grant or cooperative agreement under this subpart shall comply with applicable law including the following requirements—

(1) Office of Management and Budget Circular A–110, entitled "Grants and Agreements with Institutions of Higher Education, Hospitals and Other Nonprofit Organizations" including attachment C describing recordkeeping requirements; and

(2) Office of Management and Budget Circular A–122, entitled "Cost Principles for Nonprofit Organizations."

(c) A profit organization receiving a grant or cooperative agreement under this subpart shall comply with applicable law including Federal Procurement Regulations (41 CFR Subpart 1–15.2) for determining the reasonableness, allowability, and allocability of costs.

(d) A profit organization, tribal chapter, or individual receiving a grant or cooperative agreement under this subpart shall—

(1) Follow sound and proper procedures for the administration of the financial assistance including any procedures established by the Commission; and

(2) Retain records as required by the Commission.

(e) A State, local government, the Navajo or Hopi Tribe, a tribal chapter or an individual receiving a contract under this subpart shall comply with applicable law including Federal Procurement Regulations (41 CFR Parts 1–1 through 1–30). Recordkeeping requirements for contracts are described in §§ 1–3.814–2, 1–7.103–3, 1–7.103–18, 1–

7.603–20, and 1–7.603–7 of the Federal Procurement Regulations.

(f) A State, local government, profit or nonprofit organization, or an individual residing off of the Navajo or Hopi reservation applying for a grant or cooperative agreement under this subpart shall comply with Office of Management and Budget Circular A–95, entitled "Evaluation, Review and Coordination of Federal and Federally Assisted Programs and Projects" unless exempted under Part I, section 8.b. of this circular.

(g) Recipients of financial assistance under this subpart shall comply with other procedures which the Commission may from time to time prescribe for the administration of financial assistance provided under this subpart.

(h) A state or local government, nonprofit organization, institution of higher education, hospital, profit organization or individual receiving a grant, subgrant, contract or subcontract under this part shall comply with the provisions of the Indian Self-Determination Act (25 U.S.C. 450e) and the Act of April 16, 1934 (48 Stat. 596) as amended (25 U.S.C. 452–457) which require that to the greatest extent feasible:

(1) Preferences and opportunities for training and employment in connection with the administration of such contracts or grants shall be given to Indians; and

(2) Preference in the award of subcontracts and subgrants in connection with the administration of such contracts or grants shall be given to Indian organization and to Indian owned economic enterprises as defined in Section 3 of the Indian Financing Act of 1974 (88 Stat. 77) (25 U.S.C. 1452).

§ 700.479 Administrative review.

(a) If the Commissioners determine that implementation of an application approved according to § 700.471 fails to meet the requirements of this subpart, the Commissioners shall give notice to the recipient of their intent to terminate or suspend financial assistance to the recipient.

(b) The Commission shall issue such notice in written form sent by registered mail, return receipt requested, which notice shall include a statement of the reasons for the findings referred to in paragraph (a) of this section, and an explanation whether any amendments or actions would result in compliance with grant terms and conditions.

(c) Any person whose approved financial assistance is terminated or suspended under paragraph (b) of this section may request a review of such action by the Commission. Such request for review shall be in writing and must be mailed or delivered to the Commission not later than thirty (30) days after receipt of the notice from the Commission by the applicant. Such request for review shall state the reasons for the request and shall include any additional matters not before the Commission which the applicant deems appropriate. The Commission may grant or deny a review at its discretion and shall inform the applicant of its decision in writing.

Hawley Atkinson,

Chairman, Navajo-Hopi Indian Relocation Commission.

[FR Doc. 82–35192 Filed 12–28–82; 8:45 am]

BILLING CODE 7560–01–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 4a

[T.D. 7865]

Temporary Income Tax Regulations Relating to Source of Income; Source of Interest and Dividends

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document provides temporary income tax regulations relating to the source of interest derived from resident alien individuals and domestic corporations and the source of dividends derived from domestic corporations under section 861 of the Internal Revenue Code of 1954. The temporary regulations are necessary to effectuate the intended purpose of the rules for determining the source of interest and dividend income.

EFFECTIVE DATE: The amendments are effective for interest and dividends received or accrued after December 29, 1982.

FOR FURTHER INFORMATION CONTACT: Martha E. Kadue of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention: CC:LR:T, 202–566–3238, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

Section 861 prescribes rules for determining when certain items of gross income shall be treated as income from sources within the United States. Subsection (a)(1) states that interest on indebtedness of a United States resident (including a corporation) is generally treated as income from U.S. sources. One of the exceptions to this general rule, found in section 861(a)(1)(B), is for U.S. resident alien individuals and domestic corporations that have derived less than 20 percent of their gross income for their prior three taxable years from U.S. sources. Interest received from these individuals and corporations is treated as income from sources outside the United States under section 862(a)(1).

Subsection (a)(2)(A) of section 861 provides generally that dividends from domestic corporations are treated as income from U.S. sources. However, if the domestic corporation derived less than 20 percent of its gross income for its prior three taxable years from sources within the United States, the dividend is treated as income from sources outside the United States under section 862(a)(2).

Guam, the Commonwealth of the Northern Mariana Islands, and the Virgin Islands of the United States each have a separate territorial income tax system and generally apply the Internal Revenue Code as their territorial income tax law by substituting the name of the possession for the words "United States" as appropriate. These "mirror codes" include the source rules described above. Except as otherwise required, United States corporations are foreign corporations under these mirror codes. While each of these possessions has a separate tax system, each of those mirror codes together with the Internal Revenue Code forms an integrated scheme of income taxation.

Fixed and determinable annual and periodical income received by a U.S. person from sources within the above-mentioned possessions is not subject to tax to the recipient by certain of these possessions. These tax rules are generally designed to encourage U.S. investment in such possessions. They are not intended or designed to allow income earned in such possessions by a foreign person (not a citizen, resident, or domestic corporation of either jurisdiction) to avoid taxation by both the possession and the United States under sections 871(a) and 881(a) of their respective tax codes. Accordingly, these temporary regulations provide that income derived from Guam, the Commonwealth of the Northern Mariana Islands, and the Virgin Islands of the United States that is not subject to tax to the recipient by that jurisdiction is treated as U.S. source income for purposes of the source of income rules in section 861 (a)(1)(B) and (a)(2)(A). These temporary regulations shall be effective for interest and dividends

received or accrued after December 29, 1982.

This regulation is necessary to effectuate the intent of the statutory pattern described above. For this reason, it is found impractical to issue these regulations with notice and public comment procedures as outlined under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

Executive Order 12291

The Commissioner of Internal Revenue has determined that this final regulation is not subject to Executive Order 12291.

Drafting Information

The principal author of these temporary regulations is Martha E. Kadue of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and the Treasury Department participated in developing the regulations on matters of substance and style.

List of Subjects in 26 CFR Part 4a

Income tax, Sources of income.

Adoption of the temporary regulations

Accordingly, a new Part 4a, Temporary Income Tax Regulations Relating to Source of Income, is added to Title 26 of the Code of Federal Regulations, and the following temporary regulations are adopted:

PART 4a—TEMPORARY INCOME TAX REGULATIONS RELATING TO SOURCE OF INCOME

Sec.
§ 4a.861–1 Special rules for determining source of interest and dividends.

Authority: Sec. 7805, 68A Stat. 917 (26 U.S.C. 7805).

§ 4a.861–1 Special rules for determining source of interest and dividends.

(a) *In general.* For purposes of § 1.861–2(b)(2) and (c)(2), and § 1.861–3(a)(2), income derived from Guam, the Commonwealth of the Northern Mariana Islands, or the Virgin Islands of the United States that is not subject to tax to the recipient by that jurisdiction shall be considered income from sources within the United States.

(b) *Effective date.* This section shall be effective for interest and dividends received or accrued after December 29, 1982.

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Roscoe L. Egger, Jr.,
Commissioner of Internal Revenue.

Approved: December 22, 1982.

John E. Chapoton,
Assistant Secretary of the Treasury.

[FR Doc. 82-35312 Filed 12-28-82; 8:45 am]
BILLING CODE 4830-01-M

---

26 CFR Part 5f

[T. D. 7864]

Change in Annual Accounting Period of Possessions Corporations and Virgin Islands Corporations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary regulations relating to changes in accounting periods under § 1.442–1(c) of the Income Tax Regulations and is necessitated by amendments to sections 936 and 934(b) by the Tax Equity and Fiscal Responsibility Act of 1982. These temporary regulations provide guidance to corporations entitled to benefits under section 936 or section 934(b) and which seek to change their annual accounting period.

DATE: The regulations apply to corporations which file, after September 3, 1982, statements for a change in annual accounting period.

FOR FURTHER INFORMATION CONTACT: Jacob Feldman of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224. Attention: CC:LR:T, (202) 566–3289, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

Section 213 of the Tax Equity and Fiscal Responsibility Act of 1982 has changed the tax advantages derived by many corporations which have elected the benefits of section 936 (relating to Puerto Rico and possession tax credit) and corporations entitled to the benefits of section 934(b) (relating to certain domestic and Virgin Islands corporations). This statutory amendment is effective for taxable years beginning after December 31, 1982. Thus, the effect of the legislation could be delayed by a corporate taxpayer changing its annual accounting period to begin just before that date. Section 1.442–1(c) of the regulations provides for an automatic change in a taxpayer's annual accounting period if certain conditions are satisfied. Moreover, it appears that corporations entitled to benefits under sections 936 or 934(b) may be able to satisfy the conditions under the regulation. The effect of such automatic changes would be to delay the impact of the statutory amendments beyond the period that Congress intended. Therefore, this temporary regulations is issued to provide that an automatic change of annual accounting period is not permitted if the corporation has in effect an election under section 936 or is entitled to the benefits of section 934(b), and the change is attempted after September 3, 1982, the date of enactment of the Tax Equity and Fiscal Responsibility Act of 1982.

However, a taxpayer may still seek prior approval of the Commissioner to change its annual accounting period, in accordance with § 1.442–1(b).

For the reasons set forth above, there is a need for immediate guidance with respect to the provisions contained in this Treasury decision. For these reasons, it is found impracticable to issue it with notice and public procedure under 5 U.S.C. 553(b) or subject to the effective date limitation of 5 U.S.C. 553(b).

Executive Order 12291

The Commissioner of Internal Revenue has determined that this temporary regulation is not a major regulation and, therefore, is not subject to Executive Order 12291.

Drafting information

The principal author of this regulation is Jacob Feldman of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices participated in developing the regulation, both on matters of substance and style.

List of Subjects in 26 CFR Part 5f

Income taxes, Tax Equity and Fiscal Responsibility Act of 1982.

Adoption of amendments to the regulations

Accordingly, 26 CFR Part 5f is amended by the addition of the following new section in the appropriate place.

PART 5f—TEMPORARY INCOME TAX REGULATIONS UNDER THE TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982

Authority: 26 U.S.C. 7805.

§ 5f.442-1 Temporary regulations relating to change of annual accounting period.

(a) *In general.* Nowithstanding paragraph (c) (1) and (2) of § 1.442-1 of the Income Tax Regulations, a corporation which—

(1) Is described in section 934(b) and is an inhabitant of the Virgin Islands (within the meaning of section 28(a) of the Revised Organic Act of the Virgin Islands (48 U.S.C. 1642)), or

(2) Has in effect an election under section 936 may change its taxable year only if it secures the prior approval of the Commissioner in accordance with paragraph (b)(1) of § 1.422-1.

(b) *Effective date.* This section shall apply only if the statement described in paragraph (c)(1) of § 1.442-1 is filed after September 3, 1982.

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: December 22, 1982.

John E. Chapoton,

Assistant Secretary of the Treasury.

[FR Doc. 82-35314 Filed 12-28-82; 8:45 am]

BILLING CODE 4830-01-M

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[T.D. ATF-122; Ref: Notice No. 402]

Solano County Green Valley Viticultural Area

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Treasury.

ACTION: Final rule, Treasury decision.

SUMMARY: This final rule establishes a viticultural area in Solano County, California, to be known as "Green Valley" qualified by the words "Solano County." The Bureau of Alcohol, Tobacco and Firearms (ATF) believes the establishment of Solano County Green Valley as a viticultural area and its subsequent use as an appellation of origin on wine labels and in wine advertisements will allow wineries in the area to better designate where their wines come from and will enable consumers to better identify the wines from this area.

EFFECTIVE DATE: January 28, 1983.

FOR FURTHER INFORMATION CONTACT: Robert L. White, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW., Washington, DC 20226 (202-566-7626).

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF-53 (43 FR 37672, 54624) revising regulations in 27 CFR Part 4. These regulations allow the establishment of definite viticultural areas. The regulations also allow the name of an approved viticultural area to be used as an appellation of origin on wine labels and in wine advertisements.

On October 2, 1979, ATF published Treasury Decision ATF-60 (44 FR 56692) which added a new Part 9 to 27 CFR, for the listing of approved American viticultural areas.

Section 4.25a(e)(1), Title 27, CFR, defines an American viticultural area as a delimited grape-growing region distinguishable by geographical features. Section 4.25a(e)(2) outlines the procedure for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area.

Mr. Ben A. Volkhardt, president of the West Solano County Grape Growers Association, petitioned ATF to establish a viticultural area in Solano County, California, to be known as "Green Valley." In response to this petition, ATF published a notice of proposed rulemaking, Notice No. 402, in the **Federal Register** on January 11, 1982 (47 FR 1149), proposing the establishment of the Green Valley viticultural area.

Comments

One comment was received during the comment period. The comment was from Ms. Audrey M. Sterling, one of the partners of the Iron Horse Ranch and Vineyard located in Sonoma County, California. Ms. Sterling stated that she has a petition pending with ATF for the establishment of a viticultural area in Sonoma County to be known as "Green Valley." She stated that her vineyard is located in a valley which has historically been known as "Green Valley." Ms. Sterling suggested that since ATF has two pending petitions for viticultural areas to be named Green Valley, one should be designated "Green Valley—Solano County" and the other should be designated "Green Valley—Sonoma County." As an alternative proposal, Ms. Sterling suggested that the names "Solano—Green Valley" and "Sonoma—Green Valley" be used.

After careful consideration of this comment, ATF has decided that the most appropriate name for this viticultural area is Green Valley provided that the words "Solano County" appear in direct conjunction with the name "Green Valley" on the wine label. To allow for flexibility in label design, the words "Solano County" may be reduced in type size to the minimum allowed in 27 CFR 4.38(b).

Evidence of the Name

The name of the area, Green Valley, was well documented by the petitioner. After evaluating the petition and the comment received, ATF believes that the name "Solano County" should be made a part of the viticultural area name in order to distinguish this area from Green Valley located in Sonoma County. ATF believes that the name "Green Valley", qualified by the words "Solano County," is the most appropriate name for this area and that the use of this name will eliminate any possible consumer confusion concerning which of the two "Green Valley" areas grew the grapes.

Geographical Evidence

In accordance with 27 CFR 4.25a(e)(2), a viticultural area should possess geographical features which distinguish the viticultural features of the area from surrounding areas.

The petition and attached documents show that Green Valley is located in the southwestern portion of Solano County adjacent to the Napa County line and west of Suisun Valley. Green Valley is a small valley approximately one mile wide and four miles long and has about 400 acres of grapes within its boundaries. It lies within the southern end of two ranges of the Coast Range, the Vaca Mountains on the east and the Mount George Range on the west. The valley terminates in the south at the marshlands of Suisun Bay.

Green Valley lies within the Coastal area climate and is characterized by cool, moist winds blowing inland from the ocean and bay almost continuously from May through early Fall.

The climate in Green Valley is mid-region III as classified by the University of California at Davis system of heat summation by degree-days.

The season totals for degree-days above 50 degrees Fahrenheit for Green Valley were 3,683.9 in 1973 and 3,498.2 in 1974. In comparison, the season totals for upper Suisun Valley were 3,768.4 in 1973 and 3,700.5 in 1974. In mid-Suisun Valley the season totals were 3,460.4 in 1973 and 3,256.3 in 1974. Suisun Valley lies directly east of Green Valley.

Due to the proximity of Green Valley to the Pacific Ocean, fog is very prevalent in the valley during the months of May, June, July and August. In contrast, fog hardly ever penetrates into

the nearby Suisun Valley or into the Vacaville-Dixon area which lies to the east of Suisun Valley.

The soil in Green Valley consists of Conejo clay loam. In contrast the soil in Suisun Valley consists of Brentwood clay loam, Sycamore silty clay loam, San Ysidro sandy loam, and Rincon clay loam. The soil in the Vacaville-Dixon area consists of Yolo loam, Yolo silty clay loam, and Brentwood clay loam.

The watershed in Green Valley drains southward into the Suisun Bay. In the Vacaville-Dixon area, which lies to the east of Green Valley and Suisun Valley, the watershed drains eastward into the Sacramento River.

After evaluating the petition and the comment received, ATF has determined that due to the topographic and climatic features of Green Valley, it is distinguishable from the surrounding areas.

Boundaries

The boundaries proposed by the petitioner are adopted. ATF believes that these boundaries delineate an area with distinguishable physical and climatic features.

Miscellaneous

ATF does not wish to give the impression by approving the Green Valley viticultural area that it is approving or endorsing the quality of the wine from this area. ATF is approving this area as being viticulturally distinct from surrounding areas, not better than other areas. By approving the area, wine producers are allowed to claim a distinction on labels and advertisements as to origin of the grapes. Any commercial advantage gained can only come from consumer acceptance of wines from Green Valley.

Executive Order 12291

It has been determined that this final regulation is not a "major rule" within the meaning of Executive Order 12291, 46 FR 13193 (February 17, 1981), because it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this final rule because the final rule will not have a significant economic impact on a substantial number of small entities. The final rule will not impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities. The final rule is not expected to have significant secondary or incidental effects on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this final rule will not have a significant economic impact on a substantial number of small entities.

Disclosure

A copy of the petition and appropriate maps with boundaries marked are available for inspection during normal business hours at the following location:

ATF Reading Room, Room 4405
Office of Public Affairs and Disclosure
12th and Pennsylvania Avenue, NW
Washington, DC 20226

Drafting Information

The principal author of this document is Robert L. White, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms. However, other personnel of the Bureau and of the Treasury Department have participated in the preparation of this document, both in matters of substance and style.

List of Subjects in 27 CFR Part 9

Administrative practice and procedure, Consumer protection, Viticultural areas, Wine.

Authority and Issuance

Accordingly, under the authority contained in section 5 of the Federal Alcohol Administration Act (49 Stat. 981, as amended; 27 U.S.C. 205), 27 CFR Part 9 is amended as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Par. 1. The table of sections in 27 CFR Part 9, Subpart C, is amended to add the title of § 9.44 as follows:

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *

§ 9.44 Solano County Green Valley.

* * * * *

Par. 2. Subpart C is amended by adding § 9.44 as follows:

Subpart C—Approved American Viticultural Areas

* * * * *

§ 9.44 Solano County Green Valley.

(a) *Name.* The name of the viticultural area described in this section is "Green Valley" qualified by the words "Solano County" in direct conjunction with the name "Green Valley." On a label the words "Solano County" may be reduced in type size to the minimum allowed in 27 CFR 4.38(b).

(b) *Approved maps.* The appropriate maps for determining the boundaries of the Green Valley viticultural area are two U.S.G.S. maps. They are titled:

(1) "Mt. George Quadrangle, California", 7.5 minute series (1968); and

(2) "Cordelia Quadrangle, California", 7.5 minute series (1968).

(c) *Boundaries.* The Green Valley viticultural area is located in Solano County, California. The beginning point is the intersection of the township line identified as T6N/T5N with the westernmost point of the Solano County/Napa County line on the north border of Section 4, located on U.S.G.S. map "Mt. George Quadrangle."

(1) From the beginning point, the boundary runs in a southerly direction along the Napa/Solano County border to State Road 12;

(2) Thence east along State Road 12 to where it intersects with Interstate 80;

(3) Thence southwest on Interstate 80 to where it intersects with the Southern Pacific Railroad track;

(4) Thence in an easterly direction along the Southern Pacific Railroad track to where it intersects with range line "R3W/R2W";

(5) Thence due north on range line "R3W/R2W" to where it intersects with the Solano County/Napa County line;

(6) Thence due west along the Solano County/Napa County line to the point of beginning.

Signed: November 17, 1982.
W. T. Drake,
Acting Director.
Approved: December 6, 1982.
David Q. Bates,
Deputy Assistant Secretary (Operations).
[FR Doc. 82-35260 Filed 12-23-82; 4:57 pm]
BILLING CODE 4810-31-M

DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 505

[Army Reg. 340-21]

Privacy Act of 1974; Personal Privacy and Rights of Individuals Regarding Personal Records

AGENCY: Department of the Army, DOD.
ACTION: Final rule.

SUMMARY: The Army hereby adopts exemption rule for Army system of records A0917.10DASG, Family Advocacy Case Management Files.

EFFECTIVE DATE: January 17, 1983.

FOR FURTHER INFORMATION CONTACT: Mrs. Dorothy Karkanen, Office of The Adjutant General, Headquarters, Department of the Army (DAAG-AMR-S), 2461 Eisenhower Avenue, Alexandria, VA 22331; telephone (703) 325-6163.

SUPPLEMENTARY INFORMATION: In 47 FR 51767, November 17, 1982, the Army proposed to amend the exemption rule for the above system of records which had been re-described.

List of Subjects in 32 CFR Part 505

Privacy.

PART 505—[AMENDED]

In that no comments were received concerning this proposed amendment, the rule is adopted as proposed and § 505.9 of 32 CFR is amended to read as follows:

* * * * *

Exempted Record System

(Specific Exemptions)

ID—A0917.10DASG

SYSNAME—Family Advocacy Case Management Files.

EXEMPTION—All portions of this system which fall within 5 U.S.C. 552a(k)(2) and (5) are exempted from the following provisions of Title 5 U.S.C., section 552a: (d).

AUTHORITY—5 U.S.C., 552a(k)(2) and (5).

REASONS—Exemptions are needed in order to encourage persons having knowledge of abusive or neglectful acts toward children to report such sources from embarrassment or recriminations as well as to protect their right to privacy. It is essential that the identities of all individuals who furnish information under an express promise of confidentiality be protected. In the case of spouse abuse, it is important to protect the privacy of spouses seeking treatment. Additionally, granting individuals access to information relating to criminal and civil law enforcement could interfere with on-going investigations and the orderly administration of justice in that it could result in the concealment, alteration, destruction, or fabrication of information, could hamper the identification of offenders or alleged offenders, and the disposition of charges, and could jeopardize the safety and well-being of parents, children, and abused spouses.

* * * * *

M. S. Healy,
OSD Federal Register Liaison Officer, Department of Defense.
December 21, 1982.
[FR Doc. 82-35288 Filed 12-28-82; 8:45 am]
BILLING CODE 3710-08-M

COPYRIGHT ROYALTY TRIBUNAL

37 CFR Part 304

[Docket No. CRT 82-2]

1982 Adjustment of Royalty Schedule for Use of Certain Copyrighted Works in Connection With Noncommercial Broadcasting; Terms and Rates of Royalty Payments

AGENCY: Copyright Royalty Tribunal.
ACTION: Final rule.

SUMMARY: Copyright Royalty Tribunal (Tribunal) adopts rule establishing the terms and rates of royalty payments for the use of published nondramatic musical works and published pictorial, graphic, and sculptural works by public broadcasting entities as required by 17 U.S.C. 118 (b) and (c). The rule also establishes procedures by which copyright owners may receive reasonable notice of the use of their works, and for the keeping by public broadcasting entities of records of such use.

EFFECTIVE DATE: January 1, 1983.

FOR FURTHER INFORMATION CONTACT: Edward W. Ray, Chairman, Copyright Royalty Tribunal, 1111 20th Street, NW., Room 450, Washington, D.C. 20036, 202-653-5175.

SUPPLEMENTARY INFORMATION: 17 U.S.C. 118 establishes a copyright compulsory license for the use by noncommercial broadcasting of published nondramatic musical works and published pictorial, graphic, and sculptural works. 17 U.S.C. 118(c) provides that between June 30 and December 31, 1982 the Tribunal shall conduct a proceeding for the determination of reasonable terms and rates of royalty payments for the use of these works. 17 U.S.C. 118(b) requires the Tribunal to adopt regulations by which copyright owners may receive reasonable notice of the use of their works and for the keeping by public broadcasting entities of records of such uses. The Tribunal published in the Federal Register of June 30, 1982 (47 FR 28446) notice of the commencement of the proceeding required by 17 U.S.C. 118 (c) to adopt a schedule of rates and terms to replace those established by the Tribunal in 1978 (43 FR 25068-73), and subsequently amended.

The Tribunal conducted public hearings to receive testimony on the rates and terms of royalty payments and the regulations required by 17 U.S.C. 118(b) on November 12 and 15, 1982. The Tribunal at a public meeting on December 20, 1982 adopted the final rule.

17 U.S.C. 118(b)(2) provides that "License agreements voluntarily negotiated at any time between one or more copyright owners and one or more public broadcasting entities shall be given effect in lieu of any determination by the Tribunal." The Tribunal has been notified that voluntary agreements have been filed in the Copyright Office on behalf of the Public Broadcasting System (PBS) and National Public Radio (NPR) with each of the American Society of Composers, Authors and Publishers (ASCAP), Broadcast Music, Inc. (BMI), SESAC, and the Harry Fox Office.

The Tribunal on November 1, 1982 received a Joint Proposal of ASCAP and the Intercollegiate Broadcasting System (IBS), which includes among its membership the majority of noncommercial educational radio stations licensed to schools, colleges, and universities. These entities presented a joint proposal, rather than entering into a voluntary agreement, because IBS does not represent all noncommercial educational radio stations licensed to colleges and universities, and IBS does not have power to bind its members to an agreement. BMI and SESAC subsequently advised the Tribunal of their endorsement of the Joint Proposal.

Summary of Testimony

The Tribunal hearings were divided between the consideration of rates and terms for musical works and visual works.

The PBS music case was presented by Gwendolyn Wood, PBS Copyright Administrator, and James Klutz, Vice President and Chief Financial Officer of PBS. Ms. Wood testified as to the voluntary agreements reached by PBS, the music provisions of the regulations proposed by PBS, the experience of PBS with the Tribunal's 1978 regulations, and the PBS administration of the reporting requirements. Ms. Wood also testified that section 118 is "essential in enabling us to reach these voluntary agreements; it provides us with access that we need."

Mr. Klutz testified that during the next five years PBS faces a "most unsettled future" and that "sources of revenue have become less certain."

NPR's music case was presented by Carol Whitehorn, copyright attorney, NPR, and Thomas Warnock, NPR Executive Vice President. Ms. Whitehorn testified as to the voluntary agreements reached by NPR, NPR's opposition to cost-of-living adjustments (COLA's) and support for rate "step-ups" in lieu of COLA's, the experience of NPR with the Tribunal's 1978 regulations, the NPR administration of the reporting requirements, and the music regulations proposed by NPR. Mr. Warnock described the NPR sources of income, efforts to generate new sources of income, the role of the Corporation for Public Broadcasting in paying NPR's copyright costs, and NPR's need for "business certainty" in copyright expenditures and "the need to lower the annual increases."

Thomas J. Thomas, President of the National Federation of Community Broadcasters (NFCB), testified on behalf of those member stations who do not qualify for operational support of the Corporation for Public Broadcasting and thus are not included in the voluntary agreements reached by NPR with the music licensing agencies. He testified that there are about 21 Federation stations in this category, which account for "most of the stations" that would be covered by the Tribunal's schedule for unaffiliated stations. Mr. Thomas proposed that the Tribunal abolish the distinction between stations licensed to colleges and universities and unaffiliated stations. He testified that in 1978 the Tribunal established rates for community stations without adequate information because the stations were not represented, that the stations now remaining in the unaffiliated category have budgets of under $100,000 and an average of approximately $40,000, that commercial FM stations with budgets of less than $100,000 pay music license fees of 1.69 percent of revenues, that community stations play less music than commercial stations and that the ASCAP proposal is unjustified because it is based on a selective application of the existing fee schedule. He discussed NFCB's objections to revenue or budget based fee schedules, and their support for a schedule with a "step-up series of rates". Mr. Thomas proposed a schedule of fees commencing at $140 with increases of $10 a year for use of ASCAP and BMI music, and a schedule for use of SESAC music commencing at $31. The proposed schedule provides for payment of the royalty fee at the end of the year rather than at the start.[1]

The performing rights societies, ASCAP, BMI and SESAC, made a unified presentation. David Hockman, Director of Radio Licensing of ASCAP testified as to the justification for the application of a budget based license fee to the unaffiliated stations linked to a minimum fee and a COLA adjustment of the minimum fee,[2] that the ASCAP commercial radio station license fee is an effective rate of 1.9 percent, and described the collection of radio licensing fees. He also testified that a non-commercial compulsory license is not necessary. Mr. Nicholas Arcomano, Vice President and Counsel, SESAC, made a statement concerning the voluntary agreements entered into by SESAC, subscribed to the Joint Proposal establishing rates for the colleges and universities, and opposed relating the rates for unaffiliated stations to a percentage of budget.

Mr. Albert Berman, President of the Harry Fox Office explained the voluntary agreements reached for recording and synchronizing rights.

Mr. Leonard Feist, President of the National Music Publishers Association urged the Tribunal to adopt rates and terms applying to recording and synchronization rights not less favorable to music publishers than those provided in the voluntary agreements and to provide an appropriate rate of compensation for local non-commercial broadcasting uses of musical works. Mr. Feist also testified that a non-commercial broadcasting compulsory license for recording rights is not necessary.

The PBS visual case was presented by Gwendolyn Wood, PBS Copyright Administrator, and Andy Halper, General Counsel for WGBH Educational Foundation. Miss Wood testified as to the rates and terms proposed by PBS for use of visual works, explained that PBS had concluded that a separate local rate for visuals was appropriate because the bulk of such uses are on the local level, and that the rates proposed by the Coalition of Visual Artists Organizations (Coalition) would deny PBS access to visual works in their programs. Mr. Halper testified concerning the use of cue sheets for visual works and his experience in obtaining visual rights by purchase.

The case of the Coalition of Visual Artists Organizations encompassing ASMP (American Society of Magazine Photographers), The Graphic Artists Guild, Inc., National Cartoonists Society, Cartoonists Guild, Inc., Artists Equity Association, Inc., The Association of American Editorial Cartoonists, Artists Equity Association of New York, Inc., Foundation for the Community of Artists, Inc., Society of Illustrators, Inc., was presented by John Lewis Stage. He testified as to the creation and value of a photographer's body of creative work (known as a "stock file") which may be managed by a photo stock agency, the varied uses of stock photographs, rates for stock photographers, the visual rates proposed to the Tribunal by the Coalition, the use of visual cue sheets and the operation of the trust fund for unknown copyright owners. He testified that the existing system is "unworkable" and that the compulsory license of visual works should be repealed by Congress.

Policy Matters

In each of our royalty adjustment proceedings we look first to the Copyright Act and the legislative history for guidance. The Tribunal has consistently held that the Copyright Act does not contemplate the Tribunal establishing rates below the reasonable market value of the copyrighted works subject to a compulsory license. As we discussed in our 1978 public broadcasting opinion,[3] we have found the congressional committee reports to be particularly useful. The House Judiciary Committee report stated that Congress "did not intend that owners of copyrighted material be required to subsidize public broadcasting."[4] The

---

[1] National Federation of Community Broadcasters, Exhibit 1.

[2] See Pre-Hearing Statement of ASCAP providing for an ASCAP rate of $288, or 1.5 percent of budget, whichever is greater, together with a cost of living adjustment of the dollar amount fee.

[3] 43 FR 25068.

[4] H.R. 94-1476, p. 118.

Senate Judiciary Committee report stated that section 118 "requires the payment of copyright royalties reflecting the fair value of the materials used." [5]

In our 1978 public broadcasting royalty determination, we observed that the public broadcasting proceeding was "not an appropriate occasion" for making judgments concerning the "relationship among the several performing rights societies as to the value of their repertory and the use of their music." We therefore stated that "the ratio resulting from this schedule of rates is not intended in any respect to establish a precedent for any other rate proceeding, including any future proceeding pursuant to 17 U.S.C. 118". The performing rights societies in the 1982 public broadcasting proceeding made a joint presentation. In the particular circumstances of this proceeding, it would not be appropriate for the Tribunal to use the ratios established here as a precedent in any other Tribunal proceeding or for any purpose.

Because of the requirements of the Copyright Act, the Tribunal in the 1978 proceeding was placed in the position of establishing some rates and terms in the absence of adequate record evidence because of the failure of certain interests to appear or submit evidence. We stated:

> The CRT has adopted this schedule on the basis of the record made in this proceeding. When this matter again comes before the CRT, the CRT will have the benefit of several years experience with this schedule. The CRT does not intend that the adoption of this schedule should preclude active consideration of alternative approaches in a future proceeding.[6]

While we have not been persuaded that any change in the basic structure of our rate schedule is necessary, we have on the basis of experience and an improved record made minor adjustments in the rate schedule and the reporting regulations. We discuss below the Tribunal's determinations on the principal issues requiring resolution in this proceeding.

Performance of Musical Compositions By Public Broadcasting Entities Licensed to Colleges and Universities

The IBS and ASCAP submitted a Joint Proposal, but IBS filed a letter at the time of the hearings indicating that the college stations found "completely acceptable" the proposals of other public broadcasting entities which provided for periodic stepped adjustments in lieu of an annual COLA, and for payment of the required fees at the end of the calendar year rather than at the beginning of the year.[7] This letter was received into evidence over the objections of the performing rights societies.

We have adopted the rates and terms of the Joint Proposal. The provisions of this proposal for an annual COLA and for payment by January 31 are reasonable, and in accord with our current regulation. Although we agreed to consider the altered position of IBS, the Tribunal expresses its disapproval of the circumstances in which this matter was presented by IBS, and the apparent failure to notify ASCAP of its modified position.

Performance of Musical Compositions by Public Broadcasting Entities Other Than NPR or College Stations

As a result of voluntary agreements and the exclusion of radio stations licensed to colleges and universities, the radio stations covered by § 304.6 is restricted to some 21 NFCB member stations and 26 other stations.[8] The Tribunal reviewed our existing rate schedule for unaffiliated stations in light of the record evidence as to the profile of the stations in this category.

We resolved that the rate should not be linked to wattage or percentage of the stations budget. We further resolved that we should adopt a flat rate with annual pre-determined adjustments. The pre-determined adjustments will accord the copyright owners a higher payment to reflect the increase in the cost of living, while providing the radio station with certainty as to the amount of the fee. We established our schedule in 304.6 taking into account the budgets of these stations (where known), the rates we have adopted for college stations, and the record evidence as to the fees paid for performance rights by the smallest commercial radio stations.

Local Recording Rates

The Tribunal reaffirms the conclusion we reached in the 1978 proceeding that "the copyright owners of musical works which are recorded under the statutory compulsory license by local stations and regional networks of PBS and NPR and other public broadcasting entities shall be compensated for such uses." [9] Based on the experience of the past four years, we have reviewed the relationship between the national and local recording rates. This review has persuaded us to reduce the local recording rates.

Visual Works

We have resolved that the Coalition evidence provides no basis for the establishment of reasonable royalty rates under section 118. In particular, we reject the use of stock photo house rates and rates published by the American Society of Magazine Photographers (ASMP) as the basis for the determination of section 118 rates. We concur in the PBS finding that "There is no clear or creditable evidence linking the New York City stock photo house letters or the ASMP booklet rates to television use of photographs." [10]

We have accepted the proposal of PBS that our schedule for visual works should be geared to the current Tribunal rates with stepped up increases. We have retained the provision of our schedule providing for unlimited broadcast use during a three year period. Our record indicates that three year rights is in accord with standard industry practice.

We have accepted the proposal of PBS that additional usage after the initial three year period should be available at a reduced rate because of the passage of time and the repetitious usage. We have also adopted the proposal of PBS that the appearance of an image of three seconds or less be paid at the background or montage rate rather than the featured display rate.

The Coalition has argued that our rule should provide for the reporting by PBS of "*all* uses of pictorial, graphic, and sculptural works—not merely those that are used subject to a compulsory license." [11] We hold that the Tribunal has no jurisdiction to require any recordkeeping or reporting other than for uses made pursuant to section 118.

List of Subjects in 37 CFR Part 304

Copyright, Radio, Television.

For the reasons set out above, 37 CFR Part 304 is revised to read as follows:

PART 304—USE OF CERTAIN COPYRIGHTED WORKS IN CONNECTION WITH NONCOMMERCIAL BROADCASTING

Sec.

304.1 General.
304.2 Definition of public broadcasting entity.
304.4 Performance of muscial composition by PBS, NPR and other public broadcasting entities engaged in the activities set forth in 17 U.S.C. 116(d).

---

[5] S.R. 94–473, p. 101.

[6] 43 FR 25069.

[7] Letter of Jeffrey N. Tellis, President of IBS to Chairman Thomas C. Brennan, Nov. 11, 1982.

[8] Rebuttal Statement of ASCAP, p. 8.

[9] 43 FR 25069.

[10] PBS, Post-Hearing Statement.

[11] Pre-Hearing Statement, Coalition of Visual Artists Organizations, p. 3.

Sec.

304.5 Performance of musicial compositions by public broadcasting entities licensed to colleges or universities.
304.6 Performance of musical compositions by other public broadcasting entities.
304.7 Recording rights, rates and terms.
304.8 Terms and rates of royalty payments for the use fo published pictorial, graphic, and sculptural works.
304.9 Unknown copyright owners.
304.10 Cost of living adjustment.
304.11 Notice of restrictions on use of reproductions of transmission programs.
304.12 Amendment of certain regulations.
304.13 Issuance of interpretative regulations.

Authority: Pub. L. 94–553.

§ 304.1 General.

This Part 304 establishes terms and rates of royalty payments for certain activities using published nondramatic musical works and published pictorial, graphic, and sculptural works during a period beginning on January 1, 1983 and ending on December 31, 1987. Upon compliance with 17 U.S.C. 118, and the terms and rates of this part, a public broadcasting entity may engage in the activities with respect to such works set forth in 17 U.S.C. 118(d).

§ 304.2 Definition of public broadcasting entity.

As used in this part, the term "public broadcasting entity" means a noncommercial educational broadcast station as defined in section 397 of title 47 and any nonprofit institution or organization engaged in the activities described in 17 U.S.C. 118(d)(2).

§ 304.4 Performance of musical compositions by PBS, NPR and other public broadcasting entities engaged in the activities set forth in 17 U.S.C. 118(d).

The following schedule of rates and terms shall apply to the performance by PBS, NPR and other public broadcasting entities (other than those covered by §§ 304.5 and 304.6) engaged in the activities set forth in 17 U.S.C. 118(d), of copyrighted published nondramatic musical compositions, other than such compositions subject to the provisions of 17 U.S.C. 118(b)(2).

(a) *Determination of royalty rate.*

For the performance of such a work in a feature presentation of PBS:

1983–1984	1985–1986	1987
$140.00	$148.00	[illegible]

For the performance of such a work as background or theme music in a PBS program:

1983–1984	1985–1986	1987
[illegible]	[illegible]	[illegible]

For the performance of such a work in a feature presentation of a station of PBS:

1983–1984	1985–1986	1987
$10.00	$12.00	$13.00

For the performance of such a work as background or theme music in a program of a station of PBS:

1983–1984	1985–1986	1987
$2.50	$2.70	[illegible]

For the performance of such a work in a feature presentation of NPR:

1983–1984	1985–1986	1987
$14.00	$14.90	$15.85

For the performance of such a work as background or theme music in an NPR program:

1983–1984	1985–1986	1987
$3.50	[illegible]	[illegible]

For the performance of such a work in a feature presentation of a station of NPR:

1983–1984	1985–1986	1987
$1.00	$1.10	$1.15

For the performance of such a work as background or theme music in a program of a station of NPR:

1983–1984	1985–1986	1987
[illegible]	$0.30	$0.35

For the purpose of this schedule the rate for the performance of theme music in an entire series shall be double the single program theme rate.

In the event the work is first performed in a program of a station of PBS or NPR, and such program is subsequently distributed by PBS or NPR, an additional royalty payment shall be made equal to the difference between the rate specified in this section for a program of a station of PBS or NPR, respectively and the rate specified in this section for a PBS or NPR program, respectively.

(b) *Payment of royalty rate.* The required royalty rate shall be paid to each known copyright owner not later than July 31 of each calendar year for uses during the first six months of that calendar year, and not later than January 31 for uses during the last six months of the preceding calendar year.

(c) *Records of use.* PBS and NPR shall, upon the request of a copyright owner of a published musical work who believes a musical composition of such owner has been performed under the terms of this schedule, permit such copyright owner a reasonable opportunity to examine their standard cue sheets listing the nondramatic performances of musical compositions on PBS and NPR programs. Any local PBS and NPR station that is required by paragraph 4b of the PBS/NPR/ASCAP license agreement dated October 28, 1982 to prepare a music use report shall, upon request of a copyright owner who believes a musical composition of such owner has been performed under the terms of this schedule, permit such copyright owner to examine the report.

(d) *Terms of use.* The applicable fee in this schedule shall be the fee for the time period during which the first performance in a program occurred, and shall cover performances of such work in such program for a period of three years following the first performance.

§ 304.5 Performance of musical compositions by public broadcasting entities licensed to colleges or universities.

(a) *Scope.* This section applies to the performance of copyrighted published nondramatic musical compositions by nonprofit radio stations which are licensed to colleges, universities, or other nonprofit educational institutions and which are not affiliated with National Public Radio.

(b) *Voluntary license agreements.* Notwithstanding the schedule of rates and terms established by this section, the rates and terms of any license agreements entered into by copyright owners and colleges, universities, and other nonprofit educational institutions concerning the performance of copyrighted musical compositions, including performances by nonprofit radio stations, shall apply in lieu of the rates and terms of this section.

(c) *Royalty rate.* A public broadcasting entity within the scope of this section may perform published nondramatic music compositions subject to the following schedule of royalty rates:

For all such compositions in the repertory of ASCAP annually	$133
For all such compositions in the repertory of BMI annually	133
For all such compositions in the repertory of SESAC annually	29
For the performance of any other such composition	1

(d) *Payment of royalty rate.* The public broadcasting entity shall pay the required royalty rate to ASCAP, BMI and SESAC, not later than January 31 of each year.

(e) *Records of use.* A public broadcasting entity subject to this section shall furnish to ASCAP, BMI, and SESAC upon request, a music-use report during one week of each calendar year. ASCAP, BMI and SESAC shall not in any one calendar year request more than 10 stations to furnish such reports.

§ 304.6 Performance of musical compositions by other public broadcasting entities.

(a) *Scope.* This section applies to the performance of copyrighted published nondramatic musical compositions by radio stations not licensed to college, universities or other nonprofit educational institutions.

(b) *Voluntary license agreements.* Notwithstanding the schedule of rates and terms established in this section, the rates and terms of any license agreements entered into by copyright owners and nonprofit radio stations within the scope of this section concerning the performance of copyrighted musical compositions, including performances by nonprofit radio stations, shall apply in lieu of the rates and terms of this section.

(c) *Royalty rate.* A public broadcasting entity within the scope of this section may perform published nondramatic musical compositions subject to the following schedule of royalty rates:

For all such compositions in the repertory of ASCAP,
in 1983, $180;
in 1984, $190;
in 1985, $200;
in 1986, $210;
in 1987, $220

For all such compositions in the repertory of BMI,
in 1983, $180;
in 1984, $190;
in 1985, $200;
in 1986, $210;
in 1987, $220

For all such compositions in the repertory of SESAC,
in 1983, $40;
in 1984, $42;
in 1985, $44;
in 1986, $46;
in 1987, $48

For the performance of any other such composition, in 1983 through 1987, $1.

(d) *Payment of royalty rate.* The public broadcasting entity shall pay the required royalty rate to ASCAP, BMI, and SESAC not later than December 31 of each calendar year. The required fee for the performance of other musical compositions shall be paid not later than the end of the calendar year in which the work was performed.

(e) *Records of use.* A public broadcasting entity subject to this section shall furnish to ASCAP, BMI, and SESAC, upon request, a music use report during one week of each calendar year. ASCAP, BMI, and SESAC each shall not in any one calendar year request more than 5 stations to furnish such reports.

§ 304.7 Recording rights, rates and terms.

(a) *Scope.* This section establishes rates and terms for the recording of nondramatic performances and displays of musical works on and for the radio and television programs of public broadcasting entities, whether or not in synchronization or timed relationship with the visual or aural content, and for the making, reproduction, and distribution of copies and phonorecords of public broadcasting programs containing such recorded nondramatic performances and displays of musical works solely for the purpose of transmission by public broadcasting entities, as defined in 17 U.S.C. 118(g). The rates and terms established in this schedule include the making of the reproductions described in 17 U.S.C. 118(d)(3).

(b) *Royalty rate.* (1) For uses described in subsection (a) of a musical work in a PBS-distributed program:

	1983–1984	1985–1986	1987
Feature	[illegible]	[illegible]	[illegible]
Concert feature (per minute)	22.25	23.75	25.25
Background	37.50	40.00	[illegible]
Theme:			
Single program or first series program	37.50	40.00	42.50
Other series program	15.25	16.25	17.25

For such use other than in a PBS-distributed television program:

	1983–1984	[illegible]	1987
Feature	[illegible]	[illegible]	[illegible]
Concert feature (per minute)	1.50	[illegible]	1.70
Background	2.50	[illegible]	2.85
Theme			
Single program or first series program	2.50	2.70	2.85
Other series program	1.00	1.10	1.15

In the event the work is first recorded other than in a PBS-distributed program, and such program is subsequently distributed by PBS, an additional royalty payment shall be made equal to the difference between the rate specified in this section for other than a PBS-distributed program and the rate specified in this section for a PBS-distributed program.

(2) For uses licensed herein of a musical work in a NPR program, the royalty fees shall be calculated by multiplying the following per-composition rates by the number of different compositions in any NPR program distributed by NPR. For purposes of this schedule "National Public Radio" programs includes all programs produced in whole or in part by NPR, or by any NPR station or organization under contract with NPR.

	1983–1984	[illegible]	1987
Feature	$7.50	[illegible]	[illegible]
Concert feature (per half hour)	11.00	11.00	12.00
Background	3.75	4.00	4.25
Theme			
Single program or first series program	3.75	4.00	4.25
Other series program	1.50	1.60	1.70

(3) For the purposes of this schedule, a "Concert Feature" shall be deemed to be the nondramatic presentation of all or part of a symphony, concerto, or other serious work originally written for concert or opera performance.

(4) For such uses other than in a NPR produced radio program:

Feature	$.50
Feature (concert) (per ½ hour)	$1.00
Background	$.25

(5) The schedule of fees covers broadcast use for a period of three years following the first broadcast. Succeeding broadcast use periods will require the following additional payment: second three-year period—50 percent; each three-year period thereafter—25 percent; provided that a 100 percent additional payment prior to the expiration of the first three-year period will cover broadcast use during all subsequent broadcast use periods without limitation. Such succeeding uses which are subsequent to December 31, 1987

shall be subject to the rates established in this schedule.

(c) *Payment of royalty rates.* PBS, NPR, or other television public broadcasting entity shall pay the required royalty fees to each copyright owner not later than July 31 of each calendar year for uses during the first six months of that calendar year, and not later then January 31 for uses during the last six months of the preceding calendar year.

(d) *Records of use.* (1) Maintenance of cue sheets. PBS and its stations, NPR or other television public broadcasting entity shall maintain and furnish to copyright owners whose musical works are recorded pursuant to this schedule copies of their standard cue sheets or summaries of same listing the recording of the musical works of such copyright owners. Such cue sheets or summaries shall be furnished not later than July 31 of each calendar year for recording the first six months of the calendar year, and not later than January 31 of each calendar year for recordings during the second six months of the preceding calendar year.

(2) Content of cue sheets or summaries. Such cue sheets or summaries shall include:

(i) The title, composer and author to the extent such information is reasonably obtainable.

(ii) The type of use and manner of performance thereof in each case.

(iii) For Concert Feature music, the actual recorded time period on the program, plus all distribution and broadcast information available to the public broadcasting entity.

(e) *Filing of use reports with the Copyright Royalty Tribunal (CRT).* (1) Deposit of cue sheets or summaries. PBS and its stations, NPR, or other television public broadcasting entity shall deposit with the CRT copies of their standard music cue sheets or summaries of same (which may be in the form of hard copy of computerized reports) listing the recording pursuant to this schedule of the musical works of copyright owners. Such cue sheets or summaries shall be deposited not later than July 31 of each calendar year for recordings during the first six months of the calendar year, and not later than January 31 of each calendar year for recordings during the second six months of the preceding calendar year. PBS and NPR shall maintain at their offices copies of all standard music sheets from which such music use reports are prepared. Such music cue sheets shall be furnished to the Copyright Royalty Tribunal upon its request and also shall be available during regular business hours at the offices of PBS or NPR for examination by a copyright owner who believes a musical composition of such owner has been recorded pursuant to this schedule.

§ 304.8 Terms and rates of royalty payments for the use of published pictorial, graphic, and sculptural works.

(a) *Scope.* This section establishes rates and terms for the use of published pictorial, graphic, and sculptural works by public broadcasting entities for the activities described in 17 U.S.C. 118. The rates and terms established in this schedule include the making of the reproductions described in 17 U.S.C. 118(d)(3).

(b) *Royalty rate.* (1) The following schedule of rates shall apply to the use of works within the scope of this section:

For such uses in a PBS-distributed program:

For a featured display of a work.

1983–1984	1985–1986	1987
$45.75	$49.00	[illegible]

For background and montage display.

1983–1984	1985–1986	1987
$22.25	$23.75	$25.25

For use of a work for program identification or for thematic use.

1983–1984	1985–1986	1987
$90.25	$96.25	[illegible]

For the display of an art reproduction copyrighted separately from the work of fine art from which the work was reproduced, irrespective of whether the reproduced work of fine art is copyrighted so as to be subject also to payment of a display fee under the terms of this schedule.

1983–1984	1985–1986	1987
[illegible]	$31.50	$33.50

For such uses in other than PBS-distributed programs:

For a featured display of a work.

1983–1984	1985–1986	1987
[illegible]	[illegible]	[illegible]

For background and montage display.

1983–1984	1985–1986	1987
$15.25	$16.25	$17.25

For use of a work for program identification or for thematic use.

1983–1984	1985–1986	1987
$60.75	$64.75	$68.75

For the display of an art reproduction copyrighted separately from the work of fine art from which the work was reproduced, irrespective of whether the reproduced work of fine art is copyrighted so as to be subject also to payment of a display fee under the terms of this schedule.

1983–1984	1985–1986	1987
$15.25	$16.25	$17.25

For the purposes of this schedule the rate for the thematic use of a work in an entire series shall be double the single program theme rate.

In the event the work is first used other than in a PBS-distributed program, and such program is subsequently distributed by PBS, an additional royalty payment shall be made equal to the difference between the rate specified in this section for other than a PBS-distributed program and the rate specified in this section for a PBS-distributed program.

(2) "Featured display" for purposes of this schedule means a full-screen or substantially full-screen display *appearing on the screen for more than three seconds.* Any display less than full-screen or substantially full-screen, or *full-screen for three seconds or less,* is deemed to be a "background or montage display".

(3) "Thematic use" is the utilization of the work of one or more artists where the works constitute the central theme of the program or convey a story line.

(4) "Display of an art reproduction copyrighted separately from the work of fine art from which the work was reproduced" means a transparency or other reproduction of an underlying work of fine art.

(c) *Payment of royalty rate.* PBS or other public broadcasting entity shall pay the required royalty fees to each copyright owner not later than July 31 of each calendar year for uses during the first six months of that calendar year, and not later than January 31 for uses during the last six months of the preceding calendar year.

(d) *Records of use.* (1) PBS and its stations or other public broadcasting entity shall maintain and furnish either to copyright owners, or to the offices of generally recognized organizations representing the copyright owners of pictorial, graphic, and sculptural works, copies of their standard lists containing the pictorial, graphic, and sculptural works displayed on their programs. Such notice shall include the name of the copyright owner, if known, the specific source from which the work was taken, a description of the work used, the title of the program on which the work was used, and the date of the original broadcast of the program.

(2) Such listings shall be furnished not later than July 31 of each calendar year for displays during the first six months of the calendar year, and not later than January 31 of each calendar year for displays during the second six months of the preceding calendar year.

(e) *Filing of use reports with the CRT.* (1) PBS and its stations or other public broadcasting entity shall deposit with the CRT copies of their standard lists containing the pictorial, graphic, and sculptural works displayed on their programs. Such notice shall include the name of the copyright owner, if known, the specific source from which the work was taken, a description of the work used, the title of the program on which the work was used, and the date of the original broadcast of the program.

(2) Such listings shall be furnished not later than July 31 of each calendar year for displays during the first six months of the calendar year, and not later than January 31 of each calendar year for displays during the second six months of the preceding calendar year.

(f) *Terms of use.* (1) The rates of this schedule are for unlimited broadcast use for a period of three years from the date of the first broadcast use of the work under this schedule. Succeeding broadcast use periods will require the following additional payment: second three-year period—50 percent; each three-year period thereafter—25 percent; provided that a 100 percent additional payment prior to the expiration of the first three-year period will cover broadcast use during all subsequent broadcast use periods without limitation. Such succeeding uses which are subsequent to December 31, 1987 shall be subject to the rates established in this schedule.

(2) Pursuant to the provisions of 17 U.S.C. 118(f), nothing in this schedule shall be construed to permit, beyond the limits of fair use as provided in 17 U.S.C. 107, the production of a transmission program drawn to any substantial extent from a published compilation of pictorial, graphic, or sculptural works.

§ 304. Unknown copyright owners.

If PBS and its stations, NPR and its stations, or other public broadcasting entity is not aware of the identity of, or unable to locate, a copyright owner who is entitled to receive a royalty payment under this Part, they shall retain the required fee in a segregated trust account for a period of three years from the date of the required payment. No claim to such royalty fees shall be valid after the expiration of the three year period. Public broadcasting entities may establish a joint trust fund for the purposes of this section. Public broadcasting entities shall make available to the CRT, upon request, information concerning fees deposited in trust funds.

§ 304.10 Cost of living adjustment.

(a) On December 1, 1983 the CRT shall publish in the **Federal Register** a notice of the change in the cost of living as determined by the Consumer Price Index (all urban consumers, all items) from the May, 1982 to the last Index published prior to December 1, 1983. On each December 1 thereafter the CRT shall publish a notice of the change in the cost of living during the period from the first Index published subsequent to the previous notice, to the last index published prior to December 1 of that year.

(b) On the same date of the notices published pursuant to paragraph (a) of this section, the CRT shall publish in the **Federal Register** a revised schedule of rates for § 304.5, alone, which shall adjust those royalty amounts established in dollar amounts according to the change in the cost of living determined as provided in paragraph (a) of this section. Such royalty rates shall be fixed at the nearest dollar.

(c) The adjusted schedule of rates for § 304.5, alone, shall become effective thirty days after publication in the **Federal Register.**

§ 304.11 Notice of restrictions on use of reproductions of transmission programs.

Any public broadcasting entity which, pursuant to 17 U.S.C. 118, supplies a reproduction of a transmission program to governmental bodies or nonprofit institutions shall include with each copy of the reproduction a warning notice stating in substance that the reproductions may be used for a period of no more then seven days from the specified date of transmission, that the reproductions must be destroyed by the user before or at the end of such period, and that a failure to fully comply with these terms shall subject the body or institution to the remedies for infringement of copyright.

§ 304.12 Amendment of certain regulations.

Subject to 17 U.S.C. 118, the Administrative Procedure Act and the Rules of Procedure of the Copyright Royalty Tribunal, the CRT may at any time amend, modify or repeal regulations in this part adopted pursuant to 17 U.S.C. 118(b)(3) by which "copyright owners may receive reasonable notice of the use of their works" and "under which records of such use shall be kept by public broadcasting entities".

§ 304.13 Issuance of interpretative regulations.

Subject to 17 U.S.C. 118, the Administrative Procedure Act and the Rules of Procedure of the Copyright Royalty Tribunal, the CRT may at any time, either on its own motion or the motion of a person having a significant interest in the subject matter, issue such interpretative regulations as may be necessary or useful to the implementation of this Part. Such regulations may not prior to January 1, 1988, alter the schedule of rates and terms of royalty payments by this part.

Effective date: This part becomes effective on January 1, 1983.

Adopted: December 20, 1982.

Edward W. Ray,

Chairman.

[FR Doc. 82-35234 Filed 12-28-82; 8:45 am]

BILLING CODE 1410-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP-00000/R383; PH-FRL 2275-1]

Pesticide Programs; Raw Agricultural Commodities; Definitions and Interpretations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation amends the definitions on the general and specific categories of raw agricultural commodities by adding "sweet potatoes" in the general category and designating "sweet potatoes, yams" as specific raw agricultural commodities. This amendment to expand the tolerances and exemptions established for residues of pesticide chemicals on the sweet potatoes, including yams, was

submitted by the Interregional Research Project No. 4 (IR–4).

EFFECTIVE DATE: December 29, 1982.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A–110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Donald R. Stubbs, Emergency Response Section, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 716B, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–1192).

SUPPLEMENTARY INFORMATION: EPA issued a notice of proposed rulemaking published in the **Federal Register** of October 27, 1981 (46 FR 52397), which announced that the Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, on behalf of the IR–4 Technical Committee, had proposed amending 40 CFR 180.1(h) by adding the general category "sweet potatoes" and the specific raw agricultural commodities "sweet potatoes, yams" to columns "A" and "B" respectively of § 180.1(h).

One comment was received relating to a statement in the Supplementary Information portion of the proposed rule. The commenter pointed out that true yams include species of the genus Dioscorea in addition to *D. batatas*. The Agency concurs and amends its original statement to read: "The term 'yams' may apply to certain varieties of sweet potatoes (*Ipomoea batatas*) as well as true yams (*Dioscorea* spp.)." No alteration to the proposed wording in 40 CFR 180.1(h) is needed.

The rationale for the amendment and other relevant material have been evaluated. The regulation is considered useful for the purpose for which it is sought. Therefore the regulation is established by amending 40 CFR 180.1(h) as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Effective on: December 29, 1982.

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346(a)(e)))

Dated: December 16, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR 180.1(h) is amended by alphabetically inserting "sweet potatoes" in column A and adding the specific raw agricultural commodities "sweet potatoes, yams" in column B to read as follows:

§ 180.1 Definitions and interpretations.

* * * * *

(h) * * *

A	B
Sweet potatoes	Sweet potatoes, yams.

[FR Doc. 82–35274 Filed 12–28–82; 8:45 am]

BILLING CODE 6560–50

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

41 CFR Ch. 18, Parts 1, 3, 5 and 6

NASA Procurement Regulation: 1981 Edition and 1982 Amendments

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule.

SUMMARY: This document announces a new 1981 edition [1] of NASA's procurement requirements and sets forth several procedural amendments contained in the new edition of the procurement requirements. The intended effect is to clarify the present NASA procurement system.

EFFECTIVE DATE: December 29, 1982.

FOR FURTHER INFORMATION CONTACT: James H. Wilson, Procurement Policy Division (Code HP–1), Office of Procurement, NASA Headquarters, Washington, D.C. 20546, Telephone: 202–755–2237.

SUPPLEMENTARY INFORMATION: The 1981 edition of NASA's procurement requirements contains substantive amendments to NASA regulations as reflected in rule documents published in the **Federal Register** through May of this year. In addition, several procedural changes to existing requirements were made in the 1981 edition and these changes are included in today's document.

NASA procurement requirements currently in effect include the 1981 edition as described above and amended by two rule documents published in the **Federal Register** on June 24, 1982 (47 CFR 27275) and October 18, 1982 (47 FR 46499).

1. In Part 1, 1.105, 1.107 and 1.108 are amended to state that Procurement Notices (PNs) will be used to revise the NASA Procurement Regulation in addition to other uses as set out in 1.105. The Procurement Notices that revise the NASA Procurement regulation will be published in the **Federal Register** also.

2. In Part 3, 3.1210 which required an annual report to Cost Accounting Standards Board has been deleted in accordance with Procurement Notice (PN) No. 81–3.

3. In Part 5, 5.701 is amended to clarify NASA's authority to procure under the Economy Act.

4. In Part 6, Subpart 6.1600 and paragraph 6.104, the regulatory coverage and clauses are incorporated which are consistent with the Trade Agreements Act of 1979, as implemented by Executive Order 12260 of December 31, 1980.

List of Subjects in 41 CFR Ch. 18, Parts 1, 3, 5 and 6.

Government procurement.

(The provisions of this document are issued under 42 U.S.C. 2473(c)(1).)

L. E. Hopkins,

Deputy Assistant Administrator for Procurement.

PART 1—GENERAL PROVISIONS

1. In Part 1, 1.105 and 1.107 are revised and 1.108(a)(i) amended by adding "and Procurement Notices;" to read as follows:

1.105 Amendment of Regulation.

(a) *Revisions.* This Regulation will be amended by issuance of Procurement Regulation Directives (PRD's) containing loose-leaf replacement pages which revise Parts, Subparts, or paragraphs. Also see (b) below. Each replacement page will bear, at the top, the PRD number and page number. A vertical bar at the beginning or end of a line indicates that a change has been made within that line.

(b) *Procurement Notices.*

[1] Filed with the original.

(1) Procurement Notices (PN's) shall also be published as often as may be necessary or advisable under any of the following circumstances:

(i) to promulgate as rapidly as possible selected material revising this Regulation, in a general or narrative manner, in advance of a specific page replacement type revision to this Regulation;

(ii) to disseminate material applicable to procurement which is not suitable for insertion in this Regulation but which may have the effect of a directive to, or be of importance and interest to its recipients; or

(iii) when the policy and/or procedure is expected to be effective for a period of one (1) year or less.

(2) Unless otherwise indicated, each item in a Procurement Notice will remain in effect until the effective date of that subsequent NASA PR revision which incorporates the item, or until specifically canceled.

(c) *Effective Date.* Statements in Procurement Regulation Directives and Procurement Notices to the effect that the material published therein is "effective upon receipt" or upon a specified date, or that changes set forth in the Directive or Notice are "to be used upon receipt," mean that any new or revised clauses or forms included in the Directive or Notice shall be included in invitations for bids and requests for proposals issued thereafter, unless a different meaning is expressed in the Directive or Notice. However, unless otherwise provided, the new revised clauses or forms need not be included in solicitations already in process of preparation where their inclusion would cause an undue delay in the solicitation.

(d) *Numbering.* Procurement Regulation Directives and Procurement Notices will be numbered consecutively on a calendar year basis beginning with number 1 prefixed by the last two digits of the calendar year, e.g., 81–1; 81–2; 81–3, etc.

1.106 [Reserved]

1.107 Dissemination of the Regulation, Revisions and Procurement Notices.

(a) The NASA Procurement Regulation and Procurement Regulation Directives (PRD's), will be distributed directly to NASA Headquarters and installations by the U.S. Government Printing Office. The number of copies of the Regulation, and Revisions thereof, will be distributed on the basis of the requirements furnished by each Headquarters office, and NASA field installation, to the Office of Procurement, NASA Headquarters (Code HP–1). Procurement Notices will be distributed by the Procurement Policy Division, Office of Procurement, NASA Headquarters. Both Procurement Regulation Directives and Procurement Notices which revise this Regulation will be published in the Federal Register.

(b) Heads of field installations will ensure that copies of the NASA Procurement Regulation and revisions thereto are distributed to all interested activities and individuals within their installation. Code HP–1 is responsible for distribution to Headquarters offices.

(c) Subscriptions to the NASA Procurement Regulation including applicable PRD's and PN's, may be purchased by private concerns and individuals from the Superintendent of Documents, United States Government Printing Office, Washington, D.C. 20402.

(d) Compliance with a revision to the NASA Procurement Regulation shall be in accordance with the PRD or PN which contains the revision. Procurements initiated after receipt of new or revised clauses should, to the maximum practicable extent, include such clauses.

(e) Unless otherwise stated, invitations for bids which have been issued and bilateral agreements upon which negotiations have been completed prior to the receipt of new or revised contract clauses need not be amended to include the new or revised clauses if such amendment would unduly delay the procurement action.

1.108 Field Installation Instructions and Implementations of the NASA Procurement Regulation.

(a) * * *

(i) be consistent with the policies and procedures contained in this Regulation, NASA Procurement Regulation Directives and Procurement Notices;

* * * * *

PART 3—PROCUREMENT BY NEGOTIATION

3.1210 Removed and Reserved

2. In Part 3, 3.1210 is removed and reserved.

PART 5—INTERDEPARTMENTAL PROCUREMENT

3. In Part 5, 5.701 is revised to read as follows:

5.701 Authorization and Policy Relating to Placing and Filling Orders.

(a) It is the policy of NASA not to place Government agencies in direct competition with commercial sources. Accordingly, prior to soliciting bids or proposals from commercial sources, it shall be decided whether to obtain supplies or services from Government agencies. Invitations for bids and requests for proposals shall not be sent to Government agencies. Current market prices, recent procurement prices, or prices obtained by informational bids as provided in 1.309 may be used to ascertain whether procurement can be effected more economically from commercial sources.

(b) Each procurement office, when it is in the interest of the Government to do so, may place delivery orders on NASA Form 1379 or Standard Form 147 (see 3.608–6) with any Government agency other than the Department of Defense (for policies and procedures governing procurements from or through the Military Departments (see 5.752 and 5.1000–5.1005)) for supplies or services that any such requisitioned agency may be in a position to furnish or perform. An order for supplies or services will not be placed with an agency which is not in a position to furnish the supplies or is not equipped to perform the services. An order for services shall not be placed with an agency when such services can be performed as conveniently or more economically by private contractors.

PART 6—FOREIGN PURCHASES

4. In Part 6, Table of Contents, Subpart 16 is added to read as follows:

Subpart 16—Purchases Under the Trade Agreements Act of 1979

6.1600 Scope of Subpart..... 6–16:1
6.1601 Definitions..... 6–16:1
6.1602 Policy..... 6–16:1
6.1603 Exceptions..... 6–16:1
6.1604 Labor Surplus Area Set-Asides..... 6–16:2
6.1605 Procedures for Solicitation and Purchases..... 6–16:2
6.1606 Required Clauses..... 6–16:2

5. In Part 6, 6.104–3 and 6.104–5 are revised to read as follows:

6.104–3 *Certificate.* Solicitations shall require that each offer include a certificate substantially as follows:

Buy American—Trade Agreements Certificate (January 1981)

(a) The offeror hereby certifies that each end product, except the end products listed below, is a domestic end product (as defined in the clause entitled "Buy American Act and Trade Agreements Act") and that components of unknown origin have been considered to have been mined, produced, or manufactured outside the United States.

EXCLUDED END PRODUCTS

Line item No.	Country of Origin

List as necessary.

(b) Offers will be evaluated by giving certain preferences to domestic end products and designated country end products over other end products. In order to obtain such preferences in the evaluation of each excluded end product listed in (a) above, it is necessary that offerors identify and certify, below, those excluded end products identified above that are designated country end products or they will not be considered as such. Offerors must certify by inserting the applicable line item numbers in the brackets:

The offeror certifies that the following supplies qualify as "designated country end products" as that term is defined in the clause entitled "Buy American Act and Trade Agreements Act." (Insert line item No.)

(c) Offers will be evaluated in accordance with the policies and procedures of NASA PR Part 6.

6.104–5 *Contract Clause.* In accordance with the requirements of this Part, insert the following clause.

Buy American Act and Trade Agreements Act (January 1981)

(a) This clause implements the Buy American Act (41 U.S.C. Section 10a–d) and the Trade Agreements Act of 1979 (19 U.S.C. 2501 et seq.) by providing a preference to domestic end products over foreign end products except for certain foreign end products which meet the requirements for classification as designated country end products. For the purpose of this clause:

(i) "Components" means those articles, materials, and supplies which are directly incorporated into end products.

(ii) "End products" means articles, materials, and supplies which are to be acquired for public use. As to a given contract, the end products are the items to be delivered to the Government, as specified in the contract, including supplies to be acquired by the Government for public use in connection with service contracts but excluding installation and other services to be performed after delivery.

(iii) "Domestic end product" means (A) an unmanufactured end product which has been mined or produced in the United States, or (B) an end product manufactured in the United States if the cost of its designated country components, and its components which are mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. The cost of components shall include transportation costs to the place of incorporation into the end product and U.S. duty (whether or not a duty-free entry certificate may be issued). A component shall also be considered to have been mined, produced, or manufactured in the United States (regardless of its source in fact) if the end product in which it is incorporated is manufactured in the United States and the component is of a class or kind (A) determined by the Government to be not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality, or (B) as to which the Administrator has determined that it would be inconsistent with the public interest to apply the restrictions of the Buy American Act.

(iv) "Foreign end product" means an end product other than a domestic end product.

(v) "Designated country end product" means an item that (i) is wholly the growth, product, or manufacture of the designated country, or (ii) in the case of an article which consists in whole or in part of materials from another country or instrumentality, has been substantially transformed into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was so transformed. The term includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed that of the product itself. It does not include service contracts per se.

(b) The contractor agrees that there will be delivered under this contract only domestic end products *unless*, in its offer, it specified delivery of foreign end products in the certificate entitled "Buy American—Trade Agreements Certificate," An offer certifying that a designated country end product will be supplied requires the contractor to supply a designated country end product, or, at the contractor's option, a domestic end product.

(c) Offers will be evaluated in accordance with the policies and procedures of NASA PR Part 6.

6. In Part 6, Subpart 16 is added to read as follows:

Subpart 16—Purchases Under The Trade Agreements Act of 1979

6.1600 Scope of Subpart. This Subpart sets forth additional policies and procedures peculiar to acquisitions subject to the Agreement on Government Procurement and Trade Agreements Act of 1979 (see P.L. 96–39; 19 U.S.C. 2501 et seq.).

6.1601 Definitions.

(a) *Designated country* means a country or instrumentality designated pursuant to the Act and listed below:

Austria	Japan
Bangladeah	Lesotho
Belgium	Luxembourg
Benin	Malawi
Bhutan	Maldives
Botswana	Mali
Burundi	Nepal
Canada	Netherlands
Cape Verde	Niger
Central African Republic	Norway
Chad	Rwanda
Comoros	Singapore
Denmark	Somalia
Federal Republic of Germany	Sweden
Finland	Switzerland
France	Western Samoa
Gambia	Sudan
Guinea	Tanzania U.R.
Haiti	Uganda
Hong Kong	United Kingdom
Ireland	Upper Volta
Italy	Yeman AR

(b) *Designated country end product* means an article that (i) is wholly the growth, product or manufacture of the designated country, or (ii) in the case of an article which consists in whole or in part of materials from another country of instrumentality, has been substantially transformed into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was so transformed. The term "designated country end product" includes services (except transportation services) incidental to its supply *provided* that the value of these incidental services does not exceed that of the product itself. It does not include service contracts *per se*.

6.1602 Policy.

(a) Offers of a designated country end product with a total value of $182,000 or more are to be evaluated without regard to restrictions of the Buy American Act.

(b) Except where waived pursuant to Section 302(b)(2) of the Act, there shall be no purchase of an end product with a total value of $182,000 or more which is the product of a country listed below:

Greece

(c) No requirement shall be divided with the intent of reducing the value of the resulting offers below $182,000.

(d) The requirement of Subpart 7 that the responsibility for foreign contract procurement be centralized at NASA Headquarters does not apply to acquisitions that are subject to this Subpart. However, each buying office (including JPL) shall coordinate with Headquarters, Division of International Affairs (Code LI–15), before awarding a contract for a designated country end product.

6.1603 Exceptions. This subpart does not apply to:

(1) Products offered at a price below $182,000;

(2) products of countries not listed in 6.1601(a) or barred by 6.1602(b);

(3) purchases under small or small disadvantaged business preferences programs;

(4) purchases of arms, ammunition, war materials or purchases indispensable for national security or national defense purposes. If a buying office considers an individual acquisition to be a purchase "indispensable for national security or national defense purposes," and appropriate for exclusion from the provisions of this Subpart, a request with supporting rationale shall be submitted to Headquarters, Code L, Office of External Relations, for coordination with the Office of the U.S. Trade Representative;

(5) construction contracts;

(6) service contracts (but not those services incidental to the purchase of products, provided that the value of the service is not greater than the value of the product);

(7) research and development contracts;

(8) purchases by the Corps of Engineers;

(9) purchases of items for resale;

(10) purchase pursuant to Part 5, Subpart 4, Procurement from Federal Prisons Industries, Inc. and Subpart 5, Procurement From the Severely Handicapped;

(11) lease or rental agreements; and

(12) purchases for agencies not listed in Executive Order 12260 dated December 31, 1980.

6.1604 Labor Surplus Area Set-Asides. When responsive offers are received for a product, labor surplus area preference shall be accorded only to small business concerns (see 1.804–2(b)(1)).

6.1605 Procedures for Solicitation and Purchases. When the proposed acquisition is estimated to be $182,000 or more and not otherwise exempted by 6.1603, the following procedures shall apply:

(a) Consistent with user requirements, a minimum of 30 days from the date of the issuance of the solicitation to receipt of offers is required.

(b) Under no circumstances will technical requirements be imposed solely for the purpose of precluding the acquisition of products from designated countries.

(c) Proposals in response to solicitations anticipating competitive negotiations shall be opened in the presence of an impartial witness whose name shall be recorded in the file.

(d) The term "promptly," as used in 2.408–1, 3.106–3, and 3.804–3, shall, for purposes of this Subpart be construed to mean "within seven days."

(e) Solicitations shall contain a requirement that offers submitted in response to this solicitation shall be based on U.S. dollars and in the English language.

(f) Solicitations will require applicable duty charges to be included in the offered price, whether or not duty free certificates are obtained. Duty charges will be included in the price evaluation.

6.1606 Required Clauses. When this Subpart applies, each solicitation and resulting contract for a designated country end product shall contain the clause at 6.104–5 and the solicitation shall contain the certificate at 6.104–3. A contracting officer shall rely on the offeror's certification as submitted.

[FR Doc. 82-35208 Filed 12-28-82; 8:45 am]
BILLING CODE 7510-10-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

National Flood Insurance Program; Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the nation.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM) showing base (100-year) flood elevations, for the community. This date may be obtained by contacting the office where the maps are available for inspection indicated on the table below.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, National Flood Insurance Program, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0237.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the final determinations of flood elevations for each community listed.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR Part 67. An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Agency has resolved the appeals presented by the community.

The Agency has developed criteria for flood plain management in floodprone areas in accordance with 44 CFR Part 60.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the final flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plan area. The elevation determination, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

The final base (100-year) flood elevations for selected locations are:

FINAL BASE (100-YEAR) FLOOD ELEVATIONS

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
Indiana	(T) Munster, Lake County (Docket No. FEMA-6074)	Little Calumet River	Downstream corporate limits (about 0.4 miles downstream of Hohman Avenue)	*598
			Upstream corporate limits (at confluence with Hart Ditch)	*599
		Hart Ditch	About 200 feet upstream of Ridge Road	*604
			About 350 feet downstream of Fran-Lin Parkway	*610
			About 475 feet upstream of Conrail	*619
			About 1,300 feet upstream of Main Street	*622
		Schoon Ditch	Just downstream of White Oak Avenue	*607
			Just upstream of Greenwood Avenue	*609
			About 1,100 feet upstream of Calumet Avenue	*614
Maps available for inspection at the City Hall, 805 Ridge Road, Munster, Indiana				
Kansas	(C) Great Bend, Barton County (Docket No. FEMA-6144)	Arkansas River	About 1.6 miles downstream of Main Street	*1,841
			About 6.3 miles upstream of Main Street	*1,889
		Wet Walnut Creek	About 0.5 mile downstream of confluence of Dry Walnut Creek	*1,839
			About 2.5 miles upstream of Kiowa Road	*1,848
		Dry Walnut Creek	About 0.55 mile downstream of Frey Street	*1,843
			Just upstream of Washington Street	*1,851
			Just downstream of Atchinson Topeka and Santa Fe Railway	*1,861
			About 0.85 mile upstream of State Route 96	*1,868
		Dry Walnut Diversion Creek	Just upstream of Navajo Road	*1,863
			Divergence with Dry Walnut Creek	*1,866
		Lichesky Ditch	Just downstream of Kiowa Road	*1,839
			Just downstream of Frey Street	*1,842
Maps available for inspection at City Hall, P.O Box 1168, Great Bend, Kansas				

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 1804, November 28, 1968), as amended (42 U.S.C. 4001–4128); E. O. 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: December 8, 1982.

Dave McLoughlin,

Acting Associate Director, State and Local Programs and Support.

[FR Doc. 82-34785 Filed 12-28-82; 8:45 am]

BILLING CODE 6718-03-M

---

44 CFR Part 67

National Flood Insurance Program; Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the nation.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required either to adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the community. This date may be obtained by contacting the office where the maps are available for inspection indicated in the table below.

ADDRESS: See table below.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, National Flood Insurance Program, (202) 287–0237, Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the final determination of flood elevations for each community listed.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Agency has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the final flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the floodplain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts floodplain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the floodplain and do not prescribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

The final base (100-year) flood elevations for selected locations are:

FINAL BASE (100-YEAR) FLOOD ELEVATIONS

State	City/town/county (docket No.)	Source of flooding	Location	#Depth in feet above ground. Elevation in feet (NGVD)
Arkansas	Unincorporated Areas of Pulaski County (FEMA-6384)	Arkansas River	Approximately 2,000 feet upstream of the confluence of Maumelle River.	*266
			Approximately 250 feet upstream of the confluence of Mill Bayou	*268
		Bayou Meto	Approximately 1,480 feet upstream of State Highway 107.	*257
			Just upstream of Tom Box Road	*263
			Approximately 70 feet downstream of Roderweis Road	*286
		Brodie Creek	Just upstream of County Road located downstream of existing dam.	*345
		Callagahan Branch	Just upstream of Raines Road	*374
			Approximately 105 feet upstream of Sullivan Road	*409
		Cane Creek	Just upstream of U.S. Highway 65	*264
			Approximately 400 feet upstream of Ironton Road	*280
		Clark Bayou	Approximately 520 feet downstream of Williams Avenue.	*235
		Fish Creek	Approximately 260 feet downstream of 145th Street	*241
			Approximately 500 feet downstream of German Road	*250
			Approximately 130 feet downstream of U.S. Highway 65.	*268
		Fivemile Creek	Approximately 2.6 miles upstream of confluence with Bayou Meto.	*250
		Fourche Creek	Approximately 60 feet upstream of Spartis Road	*415
			Approximately 210 feet upstream of Lawson Road	*437
		Harris Bayou	Just upstream of the Fourche Island to Pennington Bayou Levee.	*231
		Haw Branch	Approximately 270 feet upstream of Colonel Carl Miller [illegible]	*330
			Just upstream of Crystal Valley Road	*340
		Ison Creek	Approximately 3,800 feet upstream of confluence with Little Maumelle River	*270
		Jack Bayou	Approximately 1,600 feet upstream of the Missouri Pacific Railroad.	*258
		Jack Bayou Tributary	Approximately 300 feet upstream of U.S. Highway 67 & 167.	*259
			Just upstream of State Highway 161	*261
		Kellogg Creek	Just upstream of Batesville Pike	*260
		Kinley Creek	Just downstream of State Highway 10	*308
			Just upstream of Garrison Road (downstream crossing).	*394
			Just upstream of Garrison Road (upstream crossing)	*414
		Landmark Branch	Just upstream of Circle Lake Road	*310
			Just downstream of Mail Route Road	*337
		Little Maumelle River	Approximately 370 feet downstream of State Highway 300.	*267
			Just upstream of State Highway 10	*292
			Approximately 100 feet upstream of the downstream crossing of Ferndale Cutoff Road.	*307
			Just upstream of Kanis Road	*376
		McHenry Creek	Approximately 160 feet downstream of the downstream crossing of Lawson Road.	*339
		Mill Bayou	Approximately 900 feet upstream of downstream crossing of State Highway 300.	*263
		Mill Bayou Tributary	Approximately 4,000 feet upstream of the confluence with Mill Bayou	*265
		North Channel Taylor Loop Creek	Approximately 1,500 feet upstream of State Highway 10.	*296
		Nowlin Creek	Approximately 200 feet upstream Barrett Road	*283
			Approximately 430 feet upstream of Goodson Road	*333
		Panther Branch	Approximately 160 feet upstream of the Interstate Highway 430 Culvert Inlet.	*336
		Pennington Bayou-Lorance Creek	At Lorance Trail	*253
			Approximately 3,700 feet upstream of County Road 367 (Arch Street Pike).	*270
		Rock Creek	Approximately 100 feet upstream of Kanis Road (upstream crossing).	*485
		Taylor Loop Creek	Just downstream of upstream confluence of North Channel Taylor Loop Creek.	*306
		Treadway-Brewer Branch	Approximately 80 feet upstream of Singley Road	*278
			Approximately 60 feet downstream of Atwood Road	[illegible]
		White Oak Bayou	Approximately 2,600 feet downstream of Missouri Pacific Railroad.	*263
			Approximately 450 feet downstream of State Highway 365.	[illegible]
		Fourch Bayou (Shallow Flooding)	At Frazier Pike	*237
	Maps available for inspection at Room 902 Wallace Building, Markham and Main Streets, Little Rock, Arkansas 72201.			
Colorado	Gunnison (City), Gunnison County, FEMA-6074	Gunnison River	At intersection of 7th Street and Virginia Street	*7677
		Tomichi Creek	At intersection of abandoned railroad and Tomichi Creek.	*7676
	Maps available for inspection at Engineering Department, 201 West Virginia, Gunnison, Colorado. Send comments to the Honorable Santo J. Sangosti, P.O. Box 239, Gunnison, Colorado 81230.			
Connecticut	Eastford, Town, Windham County (Docket No. FEMA-6401).	Still River	Approximately 600 feet downstream of U.S. Route 44	*455
			Downstream of Boston Turnpike	*481

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county (docket No.)	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Donwstream of Old Colony Road	*505
			Downstream of Dam	*526
Maps available for inspection at the Town Offices, Eastford, Connecticut				
Delaware	Dewey Beach, Town, Sussex County (Docket No. FEMA-6401)	Atlantic Ocean	Entire shoreline within community	*13
			Entire shoreline of Rehoboth Bay within community	*7
Maps available for inspection at the Town Hall, Corner of Route 1 and Route 1A, Dewey Beach, Delaware.				
Illinois	(C) Grand Tower, Jackson County (Docket No. FEMA-6384).	Mississippi River	Downstream corporate limits	*372
			Upstream corporate limits	*375
Maps available for inspection at City Clerk's Office, Grand Tower, Illinois.				
Illinois	(C) Leland Grove, Sangamon County (Docket No. FEMA-6384).	Jacksonville Branch	At downstream corporate limits	*563
			About 2200 feet upstream of Cherry Road	*570
		Jacksonville Branch Tributary	At mouth at Jacksonville Branch	*569
			Just downstream of Wiggins Avenue	*571
Maps available for inspection at the Springfield-Sangamon County Regional Planning Commission, 703 Meyers Building, 1 West Old State Capitol Plaza, Springfield, Illinois.				
Illinois	(C) West Frankfort, Franklin County (Docket No. FEMA-6384).	Ewing Creek	About 4,000 feet upstream of mouth	*387
			About 500 feet downstream of Deering Road	*389
		Pond Creek	Just upstream of Interstate 57	*394
			About 1,800 feet upstream of McClelland Street	*398
		Big Ditch Tributary	Just upstream of Missouri Pacific Railroad	*384
			About 400 feet upstream of Illinois Street	*388
		Shallow Flooding (ponding from rainfall).	Intersection of 7th Street and Jefferson Street	*393
Maps available for inspection at the City Clerk's Office, City Hall, 206 North Emma Street, West Frankfort, Illinois.				
Iowa	(C) Ankeny Polk County (Docket No. FEMA-6384)	Four Mile Creek	About 1.4 miles downstream of East First Street	*880
			About 1,500 feet upstream of East First Street	*888
			Just downstream of Interstate 35	*898
			About 700 feet upstream of Interstate 35	*899
			About 4,950 feet downstream of Northeast 110th Avenue.	*904
			Just downstream of Northeast 110th Avenue	*909
		Saylor Creek	Just upstream of State Highway 415	*875
			Just upstream of Southwest Oralabor Road	*909
			Just downstream of College Road	*920
			Just upstream of College Road	*931
			About 750 feet upstream of College Road	*931
		Saylor Creek Tributary	At confluence with Saylor Creek	*878
			Just downstream of Southwest Oralabor Road	*892
			Just upstream of Southwest Oralabor Road	*900
			Just downstream of unnamed road which is about 2,500 feet downstream of Southwest 86th Avenue.	*924
			Just upstream of unnamed road which is about 2,500 feet downstream of Southwest 86th Avenue.	*931
			Just downstream of Southwest 86th Avenue	*952
			Just upstream of Southwest 86th Avenue	*966
		Tributary A	Just downstream of Interstate 35	*897
			Just upstream of Northeast Delaware Avenue	*908
			Just downstream of Northeast 102nd Avenue	*931
		Tributary D	Just upstream of Northwest 16th Street	*941
			About 150 feet upstream of Northwest 16th Street	*945
			Just downstream of Northwest Greenwood Street	*949
			Just upstream of Northwest Greenwood Street	*954
			About 1,775 feet upstream of Northwest Greenwood Street.	*955
		Tributary E	Mouth at Tributary D	*945
			About 150 feet downstream of Northwest Greenwood Street.	*945
			About 450 feet upstream of Northwest Greenwood Street.	*950
		Rock Creek	At downstream corporate limit	*893
			About 625 feet upstream of Farm Road	*921
Maps available for inspection at the City Engineer's Office, City Hall, 211 S.W. Walnut, Ankeny, Iowa.				
Massachusetts	Fitchburg, City, Worcester County (Docket No. FEMA-6278).	North Nashua River	Downstream corporate limits	*332
			Confluence of Baker Brook	*344
			Downstream of Bemis Road	*371
			1,000 feet downstream of Fifth Street	*401
			Upstream of Rollstone Street	*461
			Upstream of Sheldon Street	*483
			Upstream of Oak Hill Road	*506
			Upstream of Depot Street	*524
			Approximately 3,700 feet upsteam of Depot Street	*554
			Confluence of Whitman River and Flagg Brook	*580
		Baker Brook	Confluence with North Nashua River	*344
			Approximately 125 feet upstream of Faluiah Road	*351
			Confluence of Pearl Hill Brook and Faluiah Brook	*379

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county (docket No.)	Source of flooding	Location	#Depth in feet above ground. Elevation in feet (NGVD)
		Falulah Brook	Confluence with Baker Brook	*379
			Upstream of Townsend Street	*394
			Downstream of Pearl Hill Road	*441
			Approximately 2,600 feet upstream of John Fitch Highway (downstream crossing).	*490
			Downstream of Ashby State Road	*517
			Confluence of Brook to Saima Pond	*526
			Upstream of Rindge Road	*565
			Confluence of Scott Brook	*689
		Pearl Hill Brook	Confluence with Baker Brook	*379
			Upstream corporate limits	*383
		Scott Brook	Confluence with Falulah Brook	*669
			Approximately 1,225 feet downstream of Ashby West Road.	*810
			Approximately 65 feet upstream of Ashby West Road	*884
		Brook to Saima Pond	Confluence with Falulah Brook	*526
			Approximately 2,920 feet upstream of Scott Road	*620
			Approximately 1,020 feet upstream of Scripture Road	*669
		Phillips Brook	Confluence with North Nashua River	*534
			Upstream of Westminster Hill Road	*598
			Approximately 2,300 feet upstream of Sanborn Street	*648
			Approximately 1,550 feet downstream corporate limits	*694
			Upstream corporate limits	*701
		Whitman River	Confluence with North Nashua River	*580
			At Snow Mill Pond	*665
			Upstream corporate limits	*665
		Flagg Brook	Confluence with North Nashua River	*580
			Upstream of Boston and Maine Railroad culvert	*605
			Approximately 850 feet downstream of Fifth Massachusetts Turnpike.	*617
			Upstream of State Route 2	*654
			300' upstream of confluence of Sawmill Pond	*656
		Wyman Pond Brook	Confluence with Sawmill Pond	*656
			Approximately 1,180 feet upstream of State Route 2 (first crossing).	*655
			Approximately 1,500 feet downstream of State Route 2 (second crossing).	*690
			Upstream corporate limits	*720

Maps available for inspection at the Fitchburg City Planning Office, City Hall, 718 Main Street, Fitchburg, Massachusetts 01420.

Maryland	Ocean City, Town, Worcester County (Docket No. FEMA-6384).	Atlantic Ocean	Entire shoreline within community	*13
			Shoreline of Assawoman Bay from northern corporate limits to Ocean City Expressway.	*11
			Shoreline of Isle of Wight Bay from Ocean City Expressway to North 15th Street (extended).	*9
			Shoreline of Isle of Wight Bay from North 15th Street (extended) to U.S. Route 50.	*7
			Shoreline of Isle of Wight Bay from U. S. Route 50 to South Second Street (extended).	*8
			Shoreline of Isle of Wight Bay from South Second Street (extended) to southern corporate limits.	*9

Maps available for inspection at the Engineering Department, City Hall, Third and Baltimore Streets, Ocean City, Maryland.

Michigan	(Twp.) Independence, Oakland County (Docket No. FEMA-6333).	Clinton River	About 0.7 mile upstream of Woodhull Lake	*960
			Just upstream of Andersonville Road	*970
			Just upstream of Dixie Highway	*975
			Just upstream of Bluegrass Lane	*1004
			About 650 feet upstream of Perry Lake Road	*1012
		Sashabaw Creek	Just upstream of Mann Road	*962
			About 200 feet upstream of Maybee Road	*973
		Walters Lake Drain	About 600 feet upstream of mouth	*1034
			Just upstream of Eston Road	*1040
		Walters Lake	Shoreline	*1042
		Dennis Lake	Shoreline	*1033
		Round Lake	Shoreline	*1042
		Whipple Lake	Shoreline	*1034
		Deer Lake	Shoreline	*976
		Dark Lake	Shoreline	*976
		Lester Lake	Shoreline	*969
		Van Norman Lake	Shoreline	*979
		Townsend Lake	Shoreline	*960
		Woodhull Lake	Shoreline	*960
		Lake Oakland	Shoreline	*960
		Greens Lake	Shoreline	*970
		Middle Lake	Shoreline	*976
		Parke Lake	Shoreline	*991

Maps available for inspection at the Town Hall, P.O. Box 69, 90 North Main Street, Clarkston, Michigan.

Michigan	(C) Lowell, Kent County (Docket No. FEMA-6384)	Grand River	About 1.0 mile downstream of confluence of Lee Drain	*634
			About 0.85 mile upstream of Division Street	*645
		Flat River	Within corporate limits	*635

Maps available for inspection at City Hall, 301 East Main Street, Lowell, Michigan.

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

[illegible]	City/town/county (docket No.)	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Michigan	(C) Portage, Kalamazoo County (Docket No. FEMA-[illegible])	Portage Creek	Just upstream of East Kilgore Road	*820
			Just upstream of West Milham Road	*840
			Upstream side of Hampton Lake	*855
		West Fork Portage Creek	About 200 feet upstream of East Kilgore Road	*847
			About 200 feet upstream of Westnedge Avenue	*853
			About 700 feet upstream of Oakland Drive	*863
		Consolidated Drain No. 1	Mouth at Portage Creek	*842
			Just downstream of Romence Road	*846
		Gourdneck Canal	Just downstream of Osterhout Road	*859
		Austin Lake	Shoreline	*857
		West Lake	Shoreline	*857
		Gourdneck Lake	Shoreline	*854
		Sugarloaf Lake	Shoreline upstream of Shaver Road	*861
			Shoreline downstream of Shaver Road	*860
		Little Sugarloaf Lake	Shoreline	*861
Maps available at City Hall, 7800 Shaver Road, Portage, Michigan				
Minnesota	(Uninc. Areas), Winona County (Docket No. FEMA-6384).	Mississippi River	About 0.8 mile downstream of Interstate 90	*645
			Upstream county boundary	*668
		Whitewater River	At confluence with South Fork Whitewater River	*734
			About 0.3 mile upstream of confluence with South Fork Whitewater River.	*736
		North Fork Whitewater River	About 1.1 miles downstream of Township Road 29 (downstream crossing).	*759
			About 1,000 feet upstream of Township Road 29 (upstream crossing).	*784
		South Fork Whitewater River	About 300 feet downstream of the City of St. Charles corporate limits.	*1103
			Just downstream of the City of St. Charles corporate limits.	*1104
		Middle Fork Whitewater River	About 0.5 mile downstream of County Highway 39	*762
			About 150 feet downstream of County Highway 39	*772
		Gilmore Creek	Mouth at Boller Lake	*662
			About 100 feet downstream of U.S. Highway 14	*672
			About 0.8 mile downstream of Loucks Drive	*704
			About 0.3 mile upstream of Speltz Drive	*740
		Homer Creek	Mouth at Mississippi River	*657
			About 1.5 miles upstream of County Highway 15	*768
		Pleasant Valley Creek	Just upstream of County Highway 15	*662
			About 1,000 feet upstream of Meadowbrook Drive	*929
		Burns Valley Creek-East Burns Valley Creek	About 0.6 mile upstream of County Road 105	*684
			About 1,400 feet upstream of confluence of West Burns Valley Creek.	*700
		West Burns Valley Creek	At confluence with Burns Valley Creek	*695
			About 0.4 mile upstream of confluence with Burns Valley Creek.	*704
		Speltz Creek	At confluence with Rollingstone Creek	*718
			Just upstream of Winona Road	*719
			About 1.0 mile upstream of Winona Road	*730
		Rollingstone Creek	About 1,250 feet upstream of State Highway 248 (downstream crossing).	*718
			About 1.0 mile upstream of State Route 248 (upstream crossing).	*731
		Peterson Creek	At confluence with Garvin Brook	*870
			About 0.4 mile upstream of U.S. Highway 14	*911
		South Creek	At City of Dakota corporate limits	[illegible]
			About 150 feet upstream of City of Dakota corporate limits.	*691
		West Tributary	About 0.4 mile upstream of U.S. Highway 14	*781
			About 150 feet upstream of City of Stockton corporate limits	*825
		Garvin Brook	About 1.3 miles upstream of mouth (at Minnesota City corporate limits).	*671
			Just downstream of Chicago and North Western Railroad	*685
			Just upstream of Chicago and North Western Railroad	*690
			About 1.2 miles upstream of Chicago and North Western Railroad.	*694
			About 550 feet downstream of confluence of West Tributary.	*766
			About 0.2 mile downstream of County Road 120 (downstream crossing).	*837
			About 0.6 mile upstream of County Road 120 (upstream crossing).	*907
		Crooked Slough	Around the City of Winona	*654
		Boilers Lake	Shoreline	*662
		Shallow Flooding (overflow from Gilmore Creek).	Between left bank levee along Gilmore Creek and Goodview Road.	*662
Maps available for inspection at the Zoning Administrator's Office, Winona County Courthouse, 203 West Third Street, Winona, Minnesota.				
Missouri	(Uninc.) Jefferson County (Docket No. FEMA-6384)	Mississippi River	At confluence of Isle Du Bois Creek	*405
			At City of Arnold corporate limits	*417
		Big River	At mouth	*450
			Just downstream of Byrnesville Road	*462

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county (docket No.)	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
			Just downstream of Pineford Road	*508
			Just downstream of State Highway 21	*585
			About 4.0 miles upstream of Upper Blackwell Road (at upstream of county boundary).	*612
		Meramec River	At City of Arnold corporate limits	*417
			About 2.8 miles downstream of confluence of Big River.	*447
			About 0.25 mile upstream of County Highway F	*465
		Saline Creek	At mouth	*419
			About 1,800 feet upstream of Cool Valley Drive	*420
			Just upstream of Delores Drive	*475
			Just downstream of Old Gravois Road	*491
			Just upstream of Old Gravois Road	*496
			Just downstream of Saline Lane	*504
			Just upstream of Saline Lane	*510
			Just downstream of New Sugar Creek Road	*547
		Rock Creek	At mouth	*416
			About 2,100 feet downstream of Windmill Road	*420
			Just downstream of Lemay Ferry Road	*479
		Glaize Creek	At mouth	*415
			Just upstream of Parkton Road	*425
			Just downstream of Moss Hollow Road	*438
		Joachim Creek	At mouth	*412
			Just downstream of County Highway A	*418
			About 2,400 feet upstream of Hematite Road	*434
			About 1,800 feet downstream of confluence of Ball Branch.	*472
			Just upstream of County Highway E	*523
			About 1,700 feet upstream of County Highway E	*527
		Plattin Creek	At mouth	*411
			Just downstream of Interstate 55	*416
			Just downstream of Upper Plattin Road	*439
		Tanyard Branch	About 75 feet downstream of Plum Street	*522
			About 650 feet upstream of Elm Street	*538
	Maps available for inspection at the Jefferson County Courthouse, Hillsboro, Missouri			
Missouri	(C) Warrenton, Warren County. (Docket No. FEMA-6384).	Big Creek	About 0.86 mile downstream of Fairlane Acres Road	*727
			Just downstream of Interstate 70	*762
			Just upstream of Old U.S. Highway 40	*768
			About 300 feet downstream of Norfolk and Western Railway.	*771
			About 500 feet upstream of Norfolk and Western Railway.	*785
			About 0.9 mile upstream of County Highway MM	*822
		Hickory Lick Creek	About 2.05 miles downstream of County Highway AA	*731
			Just downstream of Old U.S. Highway 40	*790
		Big Creek Tributary	At mouth	*769
			About 0.8 mile upstream of Middletown Road	*783
	Maps available for inspection at City Hall, 202 West Booneslick Road, Warrenton, Missouri			
Nevada	Lyon County, (Unincorporated Areas) FEMA-6333	Carson River	80 feet east from center of intersection of Silver Street and U.S. Highway 50	*4,359
		Gold Canyon Creek	70 feet upstream from center of State Highway 341	*4,905
		Walker River	Center of intersection of Willow Drive and State Highway 3	*4,395
	Maps available for inspection at Department of Public Works, Lyon County Courthouse, Yerington, Nevada.			
New Jersey	Island Heights, Borough Ocean County (Docket No. FEMA-6384).	Barnegat Bay	Toms River downstream of Long Point	*8
			Toms River upstream of Long Point	*6
			Upstream of Dillon Creek's confluence with Toms River	*7
			Upstream of a point approximately 0.4 mile upstream of Dillon Creek's confluence with Toms River	*6
	Maps available for inspection at the Borough Hall, East End of VanSant Avenue, Island Heights, New Jersey.			
New Jersey	Keansburg, Borough Monmouth County (Docket No FEMA-6401)	Raritan Bay	Shoreline from northwest corporate limits to Raritan Avenue extended	*17
			Shoreline from Raritan Avenue extended to eastern corporate limits	*18
		Waackaack Creek	Downstream of Laurel Avenue	*5
			Upstream Stone Road	*8
			Upstream corporate limits	*8
	Maps available for inspection at the Borough Hall, 43 Church Street, Keansburg, New Jersey.			
New York	Avoca, Village, Steuben County (Docket No. FEMA-6384).	Cohocton River	Downstream corporate limits	*1,184
	Maps available for inspection at the Village Hall, 3 Chase Street, Avoca, New York.			
New York	Baxter Estates, Village Nassau County (Docket No. FEMA-6384).	Manhassett Bay	Entire shoreline	*13
	Maps available for inspection at the Village Hall, Two Harbor Road, Port Washington, New York.			

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county (docket No.)	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
New York	Cohocton, Town, Steuben County (Docket No. FEMA-6384).	Cohocton River	Downstream Corporate limits	*1,289
			Upstream of Cohocton Street	*1,294
			Downstream of Beecher Street	*1,314
	Maps available for inspection at the Office of the Town Clerk, Town Hall, 15 South Main Street, Cohocton, New York.			
New York	Cohocton, Village, Steuben County (Docket No. FEMA-6384).	Cohocton River	Downstream corporate limits	*1,275
			Upstream Maple Avenue	*1,284
			Upstream corporate limits	*1,289
	Maps available for inspection at the Office of the Village Clerk, 15 South Main Street, Cohocton, New York.			
New York	Galen, Town, Wayne County (Docket No. FEMA-6384).	New York State Barge Canal	Bently Road extended	*388
			High Street extended	*394
		Clyde River	Stell Road extended	*395
	Maps available for inspection at the Office of the Town Clerk, Municipal Building, South Park Street, Clyde, New York.			
New York	Lawrence, Village, Nassau County (Docket No FEMA-6376).	Bannister Creek	Entire shoreline within community	*8
		Reynolds Channel	Entire shoreline within community	
		Broad Channel	Entire shoreline within community	*8
		Post Lead	Entire shoreline within community	*8
	Maps available for inspection at the Village Hall, 196 Central Avenue, Lawrence, New York.			
New York	New York Mills, Village, Oneida County (Docket No. FEMA-6401).	Sauquoit Creek	Downstream corporate limits	*455
			Upstream of Clinton Street	*469
			Upstream corporate limits	*477
		Mud Creek	Downstream corporate limits	*463
			Upstream corporate limits	*465
	Maps available for inspection at the Village Hall, 453 Main Street, New York Mills, New York.			
New York	Nissequogue, Village, Suffolk County (Docket No. FEMA-6384).	Smithtown Bay	Entire shoreline within community	*16
		Stony Brook Harbor	Entire shoreline within community	*14
		Nissequogue River	Shoreline from northwest corporate limits to approximately 0.6 mile southeast of northwest corporate limit.	*14
			Shoreline from approximately 0.6 mile southeast of northwest corporate limits to approximately 0.7 mile north of southwest corporate limits.	*11
			Shoreline from approximately 0.7 mile north of southwest corporate limits to southwest corporate limits.	*12
	Maps available for inspection at the village Hall, Moriches Road, St. James, New York			
New York	Town of North Hempstead, Nassau County (FEMA-6384).	Hempstead Harbor	From the southern corporate limit of Sands Point, New York to the northern corporate limit of Flower Hill, New York.	*16
	Maps are available for inspection at the Building Department, North Hempstead Town Hall, 220 Plandome Road, Manhasset, New York.			
New York	Prattsville, Town, Green County (Docket No. FEMA-6384).	Schoharie Creek	Approximately 3,500' downstream of State Route 23	*1,143
			State Route 23 (upstream)	*1,154
			Confluence of Batavia Kill	*1,180
			At upstream corporate limits	*1,226
		Batavia Kill	Confluence with Schoharie Creek	*1,180
			Approximately 4,700' upstream of State Route A23	*1,220
			Approximately 4,420' downstream of corporate limits	*1,250
			Upstream corporate limits	*1,314
	Maps available for inspection at the Office of the Town Clerk, Town Hall, Main Street, Prattsville, New York.			
New York	Rye, City, Westchester County (Docket No. FEMA-6401).	Long Island Sound	Entire Long Island Sound shoreline within community	*17
			Entire Milton Harbor shoreline within community	*17
	Maps available for inspection at the Office of the City Planner, City Hall, Boston Post Road, Rye, New York.			
Tennessee	Unincorporated Areas of Knox County (FEMA-6384)	Beaver Creek	Approximately 690 feet upstream of Schway Road	*867
			Just upstream of U.S. Highway 25W	*986
			Just upstream of Crippen Road	*1031
			Just downstream of State Highway 131	*1076
		Bullrun Creek	Just upstream of Campground Road	*818
			Just upstream of Heiskell Road	*831
			Just upstream of Conner Road	*845
			Approximately 800 feet downstream of Loyston Road	*918
		French Broad River	Just upstream of John Sevier Highway	*830
		Grassy Creek	Approximately 220 feet downstream of Oak Ridge Highway	*982
		Hickory Creek	Approximately 480 feet upstream of Buttermilk Road	*803
			Just downstream of Yarnell Drive	*852
			Just downstream of Campbell Station Road	*924
		Holston River	Just upstream of Interstate Highway 40	*831
			Just upstream of (Mascot Road) McBee Bridge	*853
		Knob Fork	Approximately 130 feet upstream of Interstate Highway 75.	*997
			Approximately 200 feet upstream of Kern Road	*1,023
			Just upstream of Jim Sterchi Road	*1,037
		Love Creek	Just upstream of Parker Road	*861
			Approximately 100 feet upstream of Millertown Pike	*950

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county (docket No.)	Source of flooding	Location	#Depth in [illegible] ground. *Elevation in feet (NGVD)
		Mill Branch	Just downstream of State Highway 33	*1025
			Just upstream of State Highway 33	*1030
			Just downstream of Gray Road	*1101
		Murphy Creek	Just upstream of Southern Railway	[illegible]
			Approximately 100 feet downstream of Murphy Road	*956
		North Fork Beaver Creek	Approximately 90 feet upstream of Hill Road	*1029
			Just downstream of Ledgerwood Road	*1045
		Plumb Creek	Just upstream of Hardin Valley Drive	*946
		Roseberry Creek	Just upstream of U.S. Highway 11 West	*947
			Just upstream of Roberts Road	[illegible]
			Just upstream of Washington Pike	*1,016
		Sinking Creek	Just downstream of Fox Lonas Road	914
			Approximately 60 feet downstream of Middlebrook Pike	[illegible]
		Stock Creek	Just downstream of Martin Mill Pike	[illegible]
			Just downstream of Neubert Springs Road	*841
		Swanpond Creek	Just upstream of Strawberry Plains Pike	*834
			Approximately 100 feet upstream of Wayland Road	[illegible]
			Approximately 110 feet downstream of Huckleberry Springs Road.	[illegible]
		Ten Mile Creek	Just upstream of Kingston Pike	[illegible]
			Just upstream of Bridgewater Road	*897
			Approximately 350 feet upstream of Robinson Road	[illegible]
		Tennessee River	Approximately 3000 feet upstream of U.S. Highway 129.	[illegible]
		Tributary No. 1 to Ten Mile Creek	Approximately 1300 feet upstream of the confluence with Ten Mile Creek.	[illegible]
		Tributary to Turkey Creek	Just downstream of Gilbert Drive	*910
		Turkey Creek	Just upstream of Kingston Pike	*874
			Approximately 110 feet upstream of Lovell Road	*913
		Whites Creek	Just upstream of Beverly Road	[illegible]
			Just upstream of McCampbell Road	*973
		Willow Fork	Approximately 920 feet upstream of Quarry Road	*1,039
Maps available for inspection at County Executive's Office, City-County Building, 400 Main Street, Knoxville, Tennessee 37902				
Tennessee	City of Knoxville, Knox County (FEMA-6384)	East Fork Third Creek	Just upstream of Interstates 40 and 75	*854
			Just upstream of Keith Avenue	[illegible]
		First Creek	Just upstream of Vine Avenue	[illegible]
			Just upstream of Interstate 40	*891
			Just upstream of Oglewood Avenue	*938
			Just upstream of Woodrow Drive	*960
		Fourth Creek	Just upstream of Westland Drive (Lyons View Pike)	*841
			Just upstream of Southern Railway	[illegible]
			Just upstream of Interstates 40 and 75	*875
		Goose Creek	Just upstream of Southern Railway	*825
		Holston River	Just upstream of Boyd Bridge Pike	*827
		Love Creek	Just downstream of Asheville Highway (U.S. 11 and 25)	*840
		Second Creek	Just upstream of Interstate 40	[illegible]
			Just upstream of Baxter Avenue	[illegible]
			Just upstream of Tillery Drive	*987
			Just upstream of Inskip Road	*1004
		Ten Mile Creek	Just upstream of Middlebrook Pike	[illegible]
		Tennessee River	Just downstream of Southern Railway	*821
		Third Creek	Just upstream of Kinston Pike	*831
			Just upstream of Southern Railway	*857
			Just upstream of Louisville and Nashville Railroad	[illegible]
		Tributary to Goose Creek	Just upstream of Old Maryville Pike	[illegible]
		Tributary No. 1 to Fourth Creek	Just upstream of Westland Drive	*840
		Tributary No. 2 to Fourth Creek	Just upstream of Kinston Pike	*905
			Just upstream of Wellington Drive	*942
		Unnamed Tributary to Ten Mile Creek	Just upstream of Walker Spring Road	*912
		Whites Creek	Just upstream of Nora Road	*958
			Just upstream of Greenway Drive	*966
Maps available for inspection at the Mayor's Office, City-County Building, 400 Main Street, Knoxville, Tennessee 37902.				
Virginia	Accomack County (Docket No. FEMA-6401)	Atlantic Ocean	Chincoteague Bay shoreline	*11
			Shoreline from northern county boundary to Wachapreague Inlet.	*12
			Shoreline from Wachapreague Inlet to southern county boundary.	*13
		Chesapeake Bay	Smith Island south to Tangier Island	*6
			Great Fox Island south to Watts Island	*9
			Shoreline from northern county boundary to Doe Creek.	[illegible]
			Shoreline from Doe Creek to Nandua Creek	*10
			Shoreline from Nandua Creek to southern county boundary.	*11
Maps available for inspection at the Zoning Office, Accomack County Office Building, Accomack, Virginia.				
Virginia	Chincoteague, Town, Accomack County (Docket No. FEMA-6401).	Atlantic Ocean	Entire shoreline of Chincoteague Bay and Chincoteague Channel within community.	*11
Maps available for inspection at the Town Hall, 403 South Main Street, Chincoteague, Virginia.				

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); E.O. 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: December 8, 1982.

Dave McLoughlin,

Acting Associate Director, State and Local Programs and Support.

[FR Doc. 82-34786 Filed 12-28-82; 8:45 am]

BILLING CODE 6718-03-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

45 CFR Part 205

General Administration—Public Assistance Programs; Quality Control System Review Completion Requirements

Correction

In FR Doc. 82–28639 on page 46507 in the issue of Tuesday, October 19, 1982 make the following correction:

On page 46510, third column, paragraph designated as § 205.40 (b)(2)(C)(iv), "active" should read "action".

BILLING CODE 1505-01-M

Proposed Rules

Federal Register
Vol. 47, No. 250
Wednesday, December 29, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 52

United States Standards for Grades of Frozen Leafy Greens; Correction

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a portion of the USDA's proposed revision of the United States Standards for Grades of Frozen Leafy Greens (including spinach) appearing on pages 53875–53878 in the **Federal Register** of November 30, 1982, with respect to the term "each 2.5 cm increment."

DATE: Written comments must be received on or before January 31, 1983.

ADDRESS: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in duplicate to the Hearing Clerk, U.S. Department of Agriculture, Room 1077, South Building, Washington, DC 20250. Comments should reference the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Mr. Melvin J. Horst, Processed Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447–6247.

SUPPLEMENTARY INFORMATION: This document corrects a portion of the proposed revision of the United States Standards for Grades of Frozen Leafy Greens (including spinach) appearing on pages 53875–53878 in the **Federal Register** of November 30, 1982, with respect to the term "each 2.5 cm increment." The intent of the proposed revision was to provide appropriate classifications and tolerances for the presence of extraneous vegetable material in all styles of frozen leafy greens. Chopped and pureed styles are restricted by definition to consist of product less than approximately 20 mm (0.78 in) in the longest dimension. It was intended to provide a measurement of extraneous vegetable material in terms of each 1.3 cm increment for chopped and pureed styles of frozen leafy greens. An inadvertent typing error resulted in the erroneous terminology "each 2.5 cm increment" in Table I under Chopped; pureed styles. In each instance under Table I, Chopped; pureed styles where "each 2.5 cm increment" appears, it should read "each 1.3 cm increment."

§52.1378 [Corrected]

Accordingly, the proposed revision of the United States Standards for Grades of Frozen Leafy Greens is amended to read as follows:

Section 52.1378, Table I, Chopped; pureed styles, Extraneous vegetable material: Group I, Group II, Group III, the words "each 2.5 cm increment" are amended to read "each 1.3 cm increment."

(Agricultural Marketing Act of 1946, Secs. 203, 205, 60 Stat. 1087, as amended, 1090, as amended (7 U.S.C. 1622, 1624).

Done at Washington, D.C. on December 23, 1982.

Eddie F. Kimbrell,

Deputy Administrator, Commodity Services.

[FR Doc. 82–35222 Filed 12–28–82; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 154, 375 and 381

[Docket No. RM83–2–000]

Fees Applicable to Natural Gas Pipeline Rate Matters

December 15, 1982.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is proposing to amend its regulations to establish fees for services and benefits provided by the Commission under its jurisdictional statutes. The Commission is authorized by the Independent Offices Appropriations Act of 1952 (IOAA) to establish fees for services and benefits it provides. The fees are being proposed in a series of proposed rules, each rule relating to a different type of regulated entity or jurisdictional subject area.

This proposed rule would establish fees in Part 381 of the Commission's regulations for services and benefits provided to natural gas pipelines under the Natural Gas Act (NGA) and related authorities. The rule would require the payment of a fee upon the filing of: (1) Tariff filings for changes other than in rates under sections 4 and 5 of the NGA; (2) tariff filings that involve general changes in rates under sections 4 and 5 of the NGA; (3) tariff filings that track certain costs under sections 4 and 5 of the NGA, under settlement agreements with the Commission or under orders from the Commission and (4) petitions seeking advance Commission approval of rate treatment of research, development and demonstration expenditures.

DATE: Comments must be submitted to the Secretary of the Commission by February 14, 1983.

ADDRESSES: All filings should refer to Docket No. RM83–2–000 and should be addressed to: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Kenneth F. Plumb, Secretary, Room 9310, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 357–8400.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Federal Energy Regulatory Commission (Commission) is proposing to amend its regulations to establish fees for services and benefits provided by the Commission under its jurisdictional statutes. The fees are being proposed in a series of proposed rules, each rule relating to a different type of regulated entity or jurisdictional subject area. By proposing fees in a series of individual rulemakings, the Commission intends to identify clearly each category of fees and to focus public comments. Nevertheless, the proposals are the product of a comprehensive examination of the potential fees associated with all the different functions and services performed by the Commision. The Commission will

consider issuing a consolidated final rule establishing fees for all services and benefits.

This proposed rule would establish, in Part 381 of the Commission's regulations, fees for certain services and benefits provided under the Natural Gas Act (NGA) [1] and the Natural Gas Policy Act of 1978 (NGPA).[2]

The rule would require payment of a fee upon the filing of the following:

(1) Tariff filings for changes other than in rates [3] under section 4 or section 5 of the NGA;

(2) Tariff filings that involve general changes in rates [4] under section 4 or section 5 of the NGA;

(3) Tariff filings that track changes in costs [5] under section 4 or section 5 of the NGA; and

(4) Petitions [6] seeking advance Commission approval of rate treatment of research, development, and demonstration expenditures.

The Commission is authorized by the Independent Offices Appropriations Act of 1952 (IOAA) [7] to establish fees for services and benefits it provides. The IOAA provides in pertinent part:

> [A]ny work, service, publication, report, document, benefit, privilege, authority, use, franchise, license, permit, certificate, registration, or similar thing of value or utility performed, furnished, provided, granted, prepared, or issued by any Federal agency * * * to or for any person * * * shall be self-sustaining to the full extent possible, and the head of each Federal agency is authorized by regulation * * * to prescribe therefore such fee, charge, or price, if any, which he shall determine, in case none exists, or redetermine, in case of an existing one, to be fair and equitable taking into consideration the direct and indirect costs to the Government, value to the recipient, public policy or interest served, and other pertinent facts, and any amounts so determined or redetermined shall be collected and paid into the Treasury as miscellaneous receipts * * *.

The principal agency interpretation of the IOAA is Bureau of the Budget Circular A–25 [8] which states that a fee should be assessed against each identifiable recipient of a measurable unit or amount of Government service or property from which such recipient derives a special benefit.[9]

In accordance with the IOAA and authoritative interpretations of that statute, the Commission, in establishing any fees, must: [10]

A. Identify the service for which the fee is to be assessed;

B. Explain why that particular service benefits an identifiable recipient more than it benefits the general public;

C. Base the fee on as small a category of service as practical; and

D. Demonstrate what direct and indirect costs are incurred by the Commission in rendering the service, and show that those costs are incurred in connection with the service rendered the beneficiary.

II. Discussion.

The Commission believes that the fees set forth in this proposed rule would meet the four requirements outlined above.

A. Identification of Services

The categories of services and benefits provided in the area of natural gas pipeline rate matters for which the Commission proposes a fee in this rulemaking are the following:

1. Review of tariff filings for changes other than in rates under section 4 or section 5 of the NGA filed in accordance with Part 154;

2. Review of tariff filings that involve general changes in rates under section 4 or section 5 of the NGA filed in accordance with Part 154;

3. Review of tariff filings that track changes in costs under section 4 or section 5 of the NGA filed in accordance with Part 154 or pursuant to approved tariff provisions, orders of the Commission or settlement agreements with the Commission; and

4. Review of petitions seeking advance Commission approval of rate treatment of research, development, and demonstration expenditures filed in accordance with Part 154.

In the proposed rulemaking, the Commission is not proposing the charge fees for other actions it takes to implement its responsibilities relating to the area of natural gas pipeline rate matters. These actions are discussed in Subsection B of this discussion, in addition to those activities for which a fee is proposed.

B. Special Benefits to Identifiable Recipients

In delineating the services or benefits, for which agencies are permitted to charge under the terms of the IOAA, Budget Circular A–25 states that a fee may be charged to an identifiable recipient who derives a special benefit from a Government service.[11] In addition, the circular indicates that a "special benefit" has accrued if the recipient obtains "more immediate or substantial gains or values * * * than those which accrue to the general public."[12] Any fee charged under the IOAA is not rendered invalid because the public may also enjoy incidental benefits which flow from the service provided the recipient by the agency.[13] However, an agency may not charge for its services "when the identification of the ultimate beneficiary is obscure and the service can be considered as benefitting broadly the general public." [14] The proposed rule complies with these requirements in that the services for which fees would be charged under this rule provide special benefits to the applicants who invoke the Commission's procedures.

Commission acceptance of tariff filings for changes other than in rates allows the pipeline to amend an existing

---

[1] 15 U.S.C. 717–717w.

[2] 15 U.S.C. 3301–3432. The NGPA relates to the fees in this rule with respect to the Commission's jurisdiction over costs associated with purchased gas adjustments, incrementally priced gas, and transactions under section 311 of the NGPA.

[3] 18 CFR 154.63 (1982).

[4] *Id.*

[5] Under § 154.38, the Commission permits the tracking of purchased gas costs, and research, development, and demonstration expenditures. Under approved tariff provisions, orders of the Commission or settlement agreements with the Commission, the Commission also permits the tracking of incrementally priced gas, advance payments, demand charge adjustments, transportation and compression costs, and storage costs.

[6] 18 CFR 154.38(d)(5)(1982).

[7] 31 U.S.C. 483a.

[8] Bureau of the Budget Circular A–25 (September 23, 1959). This interpretation has been quoted by the U.S. Supreme Court as "the proper construction of the act," in FPC v. New England Power Co., 415 U.S. 345, 351 (1974).

[9] Budget Circular A–25 at 1–2:

> *General Policy.* A reasonable charge * * * should be made to each identifiable recipient for a measurable unit or amount of Government service or property from which he derives a special benefit * * *. For example, a benefit will be considered to accrue and a charge should be imposed when a Government-rendered service:
>
> a. Enables the beneficiary to obtain more immediate or substantial gains or values (which may or may not be measurable in monetary terms) than those which accrue to the general public (*e.g.*, receiving a patent, crop insurance, or a license to carry on a specific business); or
>
> b. Provides business stability or assures public confidence in the business activity of the beneficiary (*e.g.*, certificates of necessity and convenience for airline routes, or safety inspections of craft) * * *.

[10] *See* National Cable Television Association, Inc. v. United States, 415 U.S. 336 (1974); FPC v. New England Power Co., 415 U.S. 345 (1974); Mississippi Power & Light v. NRC, 601 F.2d 223 (5th Cir. 1979) *cert. denied,* 444 U.S. 1102 (1980); National Cable Television Association, Inc. v. FCC, 554 F.2d 1094 (D.C. Cir. 1976); Electronic Industries Association v. FCC, 554 F.2d 1109 (D.C. Cir. 1976); National Association of Broadcasters v. FCC, 554 F.2d 1118 (D.C. Cir. 1976); Capital Cities Communications, Inc. v. FCC, 554 F.2d 1135 (D.C. Cir. 1976).

[11] Budget Circular A–25 at 1–2.

[12] *Id.* at 2.

[13] *See* Mississippi Power & Light v. NRC, 601 F.2d 223, 227–28 (5th Cir. 1979), *cert. denied,* 444 U.S. 1102 (1980); Electronic Industries Association v. FCC, 554 F.2d 1108, 1115 (D.C. Cir. 1976).

[14] Budget Circular A–25 at 2, *quoted with approval in* FPC v. New England Power Co., 415 U.S. 345, 350 (1974).

gas tariff to change the terms and conditions of service. Such filings, if accepted by the Commission, permit changes in the general terms and conditions of the tariffs, rate schedules, service agreements and other miscellaneous tariff provisions, none of which changes any rate level or generates a change in annual revenues.[15] A pipeline must submit any change in its gas tariff to the Commission for its review and acceptance.

Commission acceptance of tariff filings that involve general changes in rates permits the pipeline to make the following changes [16] in rates: (1) General rate changes (increases or decreases) that affect the level for most, if not all, of the services provided by the pipeline and will enable it to recover its costs and earn a fair rate of return on jurisdictional sales; and (2) minor rate increases that usually relate to a few rate schedules and are designed to bring them into harmony with general tariff policy, to eliminate inequities or achieve other formal adjustments. A pipeline must submit any change in its rates to the Commission for its review and acceptance.

Another category of tariff filings permits the pipeline to adjust its rates for certain costs without the need to support the level of all other costs. These so-called "tracking filings" are treated separately for purposes of fees. Natural gas pipelines flow through certain "tracked costs" to their customers on the basis of the costs incurred. The pipelines are reimbursed dollar-for-dollar for these tracked costs. Although the pipelines make no profit from the "flow through" of these costs, they avoid the attrition in earnings that would otherwise occur without tracking authority. The Commission has the responsibility to ensure that rates charged by natural gas pipelines are just and reasonable whether these rates are established by general rate change filings or by tracking filings. In permitting pipelines to track certain costs, the Commission has found that the nature of these costs is sufficiently distinguishable from other costs so that they can be tracked without jeopardizing the overall relationship between costs and revenues. This relationship is subject to periodic review. The tracking filings themselves are subject to thorough review and analysis to ensure that only the proper costs are being tracked.

Advance Commission approval or rate treatment of research, development, and demonstration expenditures ensures that the pertinent research, development, and demonstration expenditures of the individual pipeline, group of pipelines, or entity acting on behalf of pipelines (such as the Gas Research Institute), will be considered by the Commission to be "valid, justifiable, and reasonable," [17] and that the pipelines incurring these expenditures will be allowed to flow through the costs to their jurisdictional customers.

With respect to each of the above services, the Commission believes that each identifiable applicant for these kinds of Commission services derives more substantial benefits than those benefits accruing to the general public. They are, therefore, the recipients of special benefits from the Commission. The Commission proposes to assess against any individual or entity, seeking these services, a fee, designed to recover the costs associated with providing that service.

As mentioned above, the Commission is not proposing in this rulemaking to establish fees for other actions it takes relating to natural gas pipeline rate matters. These actions include preliminary and formal enforcement investigations, administrative enforcement litigation and settlement of such litigation, news releases, litigation in the courts, and rulemakings. Generally, the recipients of these services are not readily identifiable.[18] Other actions the Commission takes relating to natural gas pipelines have been included in other rulemakings.

C. Smallest Practical Unit

In designing a fee schedule, the IOAA requires the Commission to base fees on the smallest unit of a category of service or benefit practical. In remanding fees established by the Federal Communications Commission, the Court of Appeals for the D.C. Circuit set forth the General rule:

> [W]e interpret the statute and the Supreme Court decisions to require reasonable particularization of the basis for the fees, accomplished by an allocation of costs to the smallest unit that is *practical*. In most cases, we expect this unit will be classes of carriers, or applicants or grantees or services which the Commission has already singled out for separate treatment in its 1975 fee schedule. Classification is always a difficult problem, involving as it does the drawing of lines; but the solution is not to group dissimilar entities together. The Commission must examine its expenses and set forth the maximum particularization of costs which it conveniently can make, so that the correctness of its actions can be reviewed.
>
> * * *
>
> Many of the expenses will no doubt separate naturally among classes of carriers and services * * *.[19]

The Commission recognizes that there may be significant differences in the costs incurred for individual filings or applications which are submitted for approval or review. Some filings are more complex or controversial than others or may require more time to process. The Commission is proposing to establish fees based on the narrowest categories of activities sharing common characteristics. Fee categories are generally delineated according to the nature of the services or benefits provided. For example, separate fees are established for general rate change filings and for tracking filings, even though these services are requested by a similar class of applicants. If it is practical to identify specific units within a general category of service as a basis for allocating the costs incurred by the Commission, a fee applicable to that unit is set forth. For example, the proposed rule establishes separate fees for those tariff filings that require an evidentiary hearing and for those that do not.

A fundamental consideration in developing a fee structure under the IOAA is the administrative practicality of establishing fees which relate, not just to categories of services, but also to subcategories of services or even individual agency services. This problem relates to the accessibility of cost data and the expense incurred in collecting the data. The Commission believes it has the authority to establish separate fees for any filing that initiates a proceeding and any filing that requires the Commission to undertake additional steps in that proceeding, such as requests for rehearing, intervention, or appeals. However, because the time spent in subsequent stages of a proceeding is not separately recorded by the Commission, the Commission has insufficient data at this time that are

---

[15] The Commission has incorporated into the proposed fees for pipeline certificate applications the costs incurred in reviewing tariff filings that relate directly to a natural gas pipeline certificate authorization or amendment thereto. Therefore, the Commission is not, in this rulemaking, assessing a separate fee for tariff filings submitted in connection with a pipeline certificate application. The Commission will continue to examine its data on costs incurred in these areas and will consider assessing separate fees for these tariff filings in its final rules.

[16] 18 CFR 154.63(a)(2)–(4)(1982).

[17] 18 CFR 154.38(d)(5)(1982).

[18] The Commission, however, is considering, in other rulemakings, fees for declaratory orders under all of its jurisdictional statutes and recovery of the costs of certain rulemakings. In those cases where a fee is proposed, the Commission believes that there are special benefits provided to identifiable recipients.

[19] Electronic Industries Association v. FCC, 554 F.2d 1109, 1116–17 (D.C. Cir. 1976) (emphasis added).

detailed enough to permit it to compute a fee for the separate stages of a proceeding. As a result, the Commission is proposing to establish fees for an entire proceeding or application process, broken down solely by whether or not there is a hearing. The Commission nevertheless requests comments on whether fee categories should be established for smaller classes of applicants, or separate stages of a proceeding, and the nature of the data that would be necessary to support such fee categories.

With respect to those costs that the Commission incurs in any proceeding after a tariff filing is set for hearing, this rule, as proposed, would follow the approach proposed for natural gas pipeline certificate-related fees [20] to recover, in one assessment, all costs associated with the hearing phase of a proceeding. This approach was adopted for certificate proceedings because of the infrequency of settlements after issuance of a hearing order. In the case of natural gas pipeline rate proceedings, the Commission is proposing the assessment of a single hearing-related fee because current data demonstrate that the vast majority of hearing-related costs are incurred before the first pre-hearing conference is convened. Those costs involve the conduct of staff's investigation and the preparation of cost of service, allocation and rate design, depreciation, and other analyses. The Commission nevertheless recognizes that there are costs that pertain only to the hearing *per se*, such as costs associated with administrative law judges and review of their initial decisions, and that are not incurred if a case is settled before the hearing process has run its full course. It may therefore be appropriate to assess fees for hearing-related costs in installments, as previously proposed for electric rate proceedings.[21] The Commission will continue to examine its cost data to determine at what stages of the hearing process costs are generally incurred, in anticipation of developing an appropriate method of assessing hearing-related fees according to particular phases of a formal proceeding.

D. Basis of Cost Recovery.

1. Direct and indirect costs included.

The fee schedule proposed by the Commission is designed to account for all types of recoverable costs associated with the processing of the specified applications and filings. The costs attributable to a particular Commission service are not merely the salaries if the employees who review the applications or filings. As the Fifth Circuit observed, in *Mississippi Power and Light* v. *NRC*, employees "must be supplied with working space, heating, lighting, telephone service and secretarial support. Arrangements must be made so that [they are] hired, paid on a regular basis and provided specialized training courses. Those and other costs such as depreciation and interest on plant and capital equipment are all necessarily incurred in the process of reviewing an application." [22] The following descriptions indicate what actual costs are incurred when the Commission supplies the identified services and benefits relating to the area of natural gas pipeline rate matters.

Natural gas pipeline tariff filings are processed principally by the Office of Pipeline and Producer Regulation (OPPR) and the Office of General Counsel (OGC). A notice of the filing is published in the **Federal Register**. The filing is analyzed from a legal and technical standpoint to determined whether the proposed changes comply with the Commission's regulations and guidelines relating to natural gas pipeline tariff filings, and, in the case of tariff filings that involve general changes in rates, whether the changes are consistent with the statutory "just and reasonable" standard. If the filing is determined to comply with all statutory and regulatory requirements and is uncontested, staff prepares a letter order accepting the changes, together with a memorandum in which staff summarizes the filing and the responses to the public notice, analyzes the filing and makes recommendations to accept the changes. The letter order and the memorandum are sent either to the Commission or to the Director of OPPR. If the recommendations of staff are accepted, the letter order is issued by the Commission or by the Director of OPPR pursuant to delegated authority.

If the changes are found not to comply fully with applicable statutory and regulatory requirements, staff prepares a memorandum to the Commission in which staff summarizes the filing and the responses to the public notice, analyzes the filing and makes recommendations whether to suspend the filing and set the matter for hearing. If the Commission does not set the matter for hearing, a letter order accepting the changes is issued either by the Commission or by the Director of OPPR pursuant to delegated authority. In those cases where the Commission determines that a genuine issue of material fact exists, the tariff filing is suspended, and the case is set for hearing before an administrative law judge.

If a tariff filing that involves general changes in rates is set for hearing, OPPR conducts an investigation of the books and records of the pipeline company, identifies areas of disagreement and prepares positions to be presented in any formal proceeding. OPPR's positions are summarized in so-called "top sheets," that form the bases for staff's settlement positions. In the case of either a tariff filing for changes other than in rates or a tariff filing that involves general changes in rates, staff, under the direction of an administrative law judge, meets with the filing pipeline and any other interested parties in a pre-hearing conference to discuss the various positions of all the participants in the proceeding and makes any adjustments where appropriate. Depending on the issues, OPPR, OGC, the Office of Regulatory Analysis (ORA), and the Office of the Chief Accountant (OCA) may participate in the hearing. At the conclusion of the hearing, the parties and staff file briefs and the administrative law judge issues a decision. Following the initial decision, the parties may file briefs on and opposing exceptions. In such cases, the Office of Opinions and Review (OOR) prepares a formal opinion for the Commission's consideration.

Tracking filings are processed principally by OPPR and OGC. A notice of the filing is published in the **Federal Register**. The filing is analyzed from a legal and technical standpoint to determine whether the proposed tracking filing complies with the Commission's regulations and guidelines relating to tracking filings, and whether it complies with any approved tariff provisions, orders by the Commission or settlement agreements with the Commission, the provisions of which it is intended to implement. If the filing is determined to comply with all the above requirements and is uncontested, staff prepares a letter order accepting the tracking filing, together with a memorandum in which staff summarizes the filing and the responses to the public notice, analyzes the filing and makes recommendations to accept the tracking filing. The letter order and the memorandum are sent either to the Commission or to the Director of OPPR.

[20] Notice of Proposed Rulemaking, "Fees Applicable to Natural Gas Pipelines," issued September 10, 1982, (Docket No. RM82-31-000). 47 F.R. 40834 (September 15, 1982).

[21] Notice of Proposed Rulemaking, "Fees Applicable to Electric Utilities, Cogenerators, and Small Power Producers," issued September 1, 1982. (Docket No. RM82-38-000). 47 F.R. 39851 (September 10, 1982).

[22] 601 F. 2d at 236.

If the recommendations of staff are accepted, the letter order is issued either by the Commission or by the Director of OPPR pursuant to delegated authority.

If the tracking filing is found not to comply fully with applicable statutory and regulatory requirements, or not to implement properly the provisions of approved tariff provisions, orders by the Commission or settlement agreements with the Commission, staff prepares a memorandum to the Commission in which staff summarizes the filing and the responses to the public notice, analyzes the filing and makes recommendations whether to suspend the filing and set the matter for hearing. If the Commission does not set the matter for hearing, a letter order accepting the tracking filing is issued either by the Commission or by the Director of OPPR pursuant to delegated authority. In those cases where the Commission determines that a genuine issue of material fact exists, the tracking filing is suspended and the case is set for hearing before an administrative law judge.

If the tracking filing is set for hearing, OPPR prepares an analysis in which staff determines what it believes to be the appropriate costs to be flowed through to the filing pipeline's customers. Before hearing, staff, under the direction of an administrative law judge, meets with the filing pipeline and any other interested parties in a pre-hearing conference to discuss the various positions in an effort to limit the areas to be litigated. Depending upon the issues, OPR, OGC, ORA and OCA may participate in a hearing. At the conclusion of the hearing, the parties and staff file briefs and the administrative law judge issues an initial decision. Following the initial decision, the parties may file briefs on and opposing exceptions. In such cases, OOR prepares a formal opinion for the Commission's consideration.

The largest single cost item permitted to be recovered through tracking filings is purchased gas costs, which are flowed through under the purchased gas adjustment clause (PGA). The Commission audits those pipelines that use PGA's to ensure that the pipelines are complying with the statutory and regulatory requirements for the use of PGA's. As the result of an audit, the Commission may find that a certain pipeline is not complying with its PGA regulations. The Commission can require such a pipeline to refund to its customers PGA costs improperly charged to its customers. PGA audits, conducted in conjuction with the use of PGA tracking filings by the pipelines, are necessary for responsible implementation of PGA tariff provisions. The cost of conducting PGA audits has therefore been incorporated into the costs used to determine the fees for tracking filings that are not suspended and set for hearing.

Pipelines must make refunds to their customers when it has been determined that they have overcharged their customers under provisions of a tariff filing, because of a refund made to the pipelines by producers or other pipelines, or for other reasons. Refund reports and plans, filed with the Commission pursuant to an order by the Commission or a settlement agreement with the Commission, are processed by OPPR and OGC. A notice of the filed refund report or plan is published in the **Federal Register**. The refund report or plan is reviewed by OPPR and OGC to determine whether it property implements the provisions of the underlying order or settlement agreement. If it is determined that the refund report or plan does not implement properly the underlying order or settlement agreement, a deficiency letter is sent to the company, requiring appropriate revisions and resubmittal of the refund report or plan. If the refund report or plan is found to be consistent with the requirements of the underlying order or settlement agreement, staff prepares a letter order accepting the refund report or plan and a memorandum in which staff summarizes the refund report or plan and the responses to the public notice, and makes recommendations to accept the refund report or plan. If the recommendations of staff are accepted, the letter order is issued by the Commission or by the Director of OPPR pursuant to delegated authority.

Review of refund reports and plans is necessary for the responsible implementation of the provisions of tariff filings. The costs of reviewing refund reports and plans relating to tariff filings that involve general changes in rates that are set for hearing and tariff filings that track changes in costs that either are or are not set for hearing have therefore been incorporated into the respective costs used to determine the fees for each of these services.

Petitions that are filed by pipelines, groups of pipelines, or entities acting on behalf of pipelines, to obtain advance Commission approval of rate treatment of research, development, and demonstration expenditures are processed by OPPR. A notice of the filing is published in the **Federal Register**. Staff reviews the proposed projects and submits a memorandum to the Commission with staff's judgment as to whether the expenditures are "valid, justifiable and reasonable," and, therefore, should be allowed to be flowed through to the jurisdictional customers of the pipelines sponsoring the projects. The Commission then issues an order either accepting or rejecting the petition, in whole or in part.

The Gas Research Institute, acting on behalf of its member pipelines, regularly files petitions to obtain advance Commission approval of rate treatment of its research, development, and demonstration expenditures. When the Gas Research Institute files such a petition, the Commission follows a special procedural schedule. Staff prepares a report in which it summarizes the proposed projects and presents the staff's judgment as to whether the expenditures are "valid, justifiable and reasonable," and as to whether the costs should be allowed to be flowed through to jurisdictional customers of the pipelines sponsoring the research, development, and demonstration projects. The report is sent to all intervenors.[23] Reply comments on the report from intervenors, and final comments from the Gas Research Institute are then submitted to the Commission. The Commission then issues an order either accepting or rejecting the Gas Research Institute's petition, in whole or in part.

2. *Methodology*

The Commission's calculation of the costs incurred to provide each of the services represented by a fee category is directly related to the amount of time the Commission spends providing each of these services. The proposed rules relies on information obtained through the Commission's management information system (MIS), which provides the amount of time spent on all the Commission functions. These data are recorded on a periodic basis. The functions are grouped into categories which represent the Commission's various programs, including gas wellhead pricing, gas pipeline rates, gas pipeline certificates, oil pipeline regulation, hydropower regulation, and electric power regulation.

The supervisor in each organizational unit reports through the MIS the amount of time spent by staff on each function, in terms of "work-months". A "work-month" is the unit of work represented by one employee's devotion of 100% of his or her time for one month. With

[23] All state public utilities commissions and all members of the Gas Research Institute automatically are made intervenors.

respect to each function, the supervisor records the number of projects initiated (receipts) and completed (completions) in a particular time period, insofar as the nature of the function involves the initiation and completion of projects. Most Commission functions can be measured in terms of the number of projects initiated and completed. In accordance with Commission practice, most of these projects are generally assigned docket numbers and, for purposes of this discussion, will be referred to as "docketed activities."

Other "support" functions regularly undertaken, with respect to any program, may not be measured in terms of receipts and completions and are not docketed. The nature of these functions makes impractical any measurements in terms of receipts and completions, but staff time is nevertheless spent performing these functions. This time is allocated and reported by unit supervisors.

These support functions will be referred to as "support activities" and can be divided into three categories. First, there are activities that involve general supervision, personnel management, and routine administrative functions such as maintenance of time and leave records, the handling of property and supplies, staff meetings, and the planning and organizing of leave.

Second, support staff responds to requests for information that do not contribute directly to the completion of a docketed activity. Examples include requests for information from the public, from the Congress, from the General Accounting Office, and from other governmental agencies.

Third, support staff establishes or reviews Commission operations and procedures. These activities include work on the Commission budget, management information systems, and program development functions such as special studies or briefings not identified with a docketed activity.

The Commission uses the following method to determine the cost of providing any service or benefit.[24] First, the work-months reported for a specific "docketed" activity are added to a pro-rata share of the work-months reported for the relevant "support" activities.[25] This figure, representing the total number of work-months dedicated to a given function for a year, is divided by the number of completions for that year for the given function. The resulting quotient represents the average number of work-months required to complete each function.

Second, the Commission used the following figures provided by the Office of Program Management to derive the average cost of a work-month, based on the Commission's FY 1982 budget.

Average annual salaries and fringe benefits (including the overhead for retirement and benefit insurance)	$37,518
Administrative overhead for one year per employee (including printing, communication, office space, rent, etc.)	8,468
Contracts for overhead services for one year per employee (microfilm, etc.)	2,406
Estimated average cost per employee for fiscal year 1982	$48,392

The total is divided by 12 to yield an average work-month cost of $4,032.67.

Third, in order to determined the cost of the function, the Commission multiplies the average cost per work-month by the average number of work-months required to complete the function.[26]

The Commission proposes to update the fees each year to reflect Commission costs. An updated fee schedule would be published in the **Federal Register** each year. The updated fee would be the product derived by multiplying each fee that is effective for the current fiscal year by the ratio of the average budgeted costs per employee for the next fiscal year to the average budgeted costs per employee for the current fiscal year. An applicant would be obliged to pay either the updated fee or, if the updated fee is not yet effective, the fee that is currently effective at the time of filing.

E. Exceptions to Full-Cost-Recovery

As a general policy, the Commission intends to establish fees which include all the recoverable costs associated with a particular benefit or service provided by the Commission. The Commission recognizes, however, that there may be instances in which a fee has an undesired effect on an applicant or other person requesting a service or benefit or otherwise proves infeasible. In such cases, the Commission may exercise discretion to reduce the fee for a category of service. Generally speaking, the Commission does not expect this issue to arise with regard to any service which is necessary to participation in a regulated business and continues to consider the possibility of full-cost-recovery for each category of service for which it proposes fees. The Commission specifically requests comments on this fundamental approach.

A primary concern presented by the establishment of fees is to ensure that the benefits and services provided by the Commission under its jurisdictional statutes remain reasonably available to interested persons. Any consideration of whether to establish a less than full-cost-recovery fee under new Part 381 for a category of service would depend initially on a threshold determination that a full-cost-recovery fee may discourage use of the service for which the fee is assessed. If it appears to the Commission that a full-cost-recovery fee would discourage filings or use of Commission services, it would then consider a reduction in the relevant fee. The determination of how far to reduce a fee will depend on four specific factors.

1. *Disproportionate economic burden.* The Commission may reduce the fee by a factor of forty to sixty-five percent, if it is shown that the individuals or entities the Commission expects to predominate in the potential class of payers are of the type on which the full-cost-recovery fee could be expected to impose a disproportionate economic burden. If the Commission service does not pertain to small entities, or involve any particular economic hardship, but if the imposition of a full-cost-recovery fee for that service, nevertheless, would discourage use of the service, then, the Commission would be inclined to reduce the fee by a smaller amount, not to exceed fifty percent of the full cost of the service.

2. *Encouraging use of a service.* The Commission may reduce the fee by twenty percent, if the service or procedure involved is of a type that the Commission wishes to encourage or if

[24] The fees categories proposed in this and other proposed fees rules are designed on the assumption that jurisdictional entities would continue to submit filings and applications in the same configurations as in the past. For instance, several tariff changes other than in rates are often submitted together by gas pipeline companies. Although the proposed fees schedules are designed to collect a separate fee for each discrete service or benefit provided, the Commission recognizes that the potential exists, in some cases, for jurisdictional entities to combine filings in order to avoid the assessment of fees. If the implementation of fee schedules causes jurisdictional entities to alter their reporting practices, the Commission would consider additional means to ensure that the Commission does recover all of the costs it incurs in providing these services.

[25] The Commission has excluded from its cost calculations those work-months associated with the second category of support activities, because those functions do not constitute part of the cost of providing a special benefit.

[26] The Commission is developing MIS date for FY 1982 and fiscal budget data for FY 1983. These data will be available by the time final fees rules are considered by the Commission. The Commission will use the most accurate and representative base year data available for establishing fees under the standard methodology proposed in this and the other fees rulemakings.

the Commission prefers that service or procedure to be utilized more often than others which would provide essentially the same benefit.

3. *Use of Commission time.* Related to the consideration of encouraging one service over another is a consideration of whose time and effort is required to provide the particular service. Commission time is more valuable and limited than is staff time. Therefore, a reduction of five percent may be made if a service requires only staff time for normal processing and does not include an appeal to the Commission.

4. *Reduction of processing time.* There may be some services the Commission provides with which the Commission has had little experience. Therefore, its data may not be as indicative of the average costs of providing that service over a longer period of time as its data for the costs of services it has been providing for many years. As the Commission gets more familiar with the processing or review of such an application or filing, it may become more efficient, thereby reducing the amount of time required to provide the service. To reflect this possibility, the Commission may reduce the fee by five percent if the service requested is one with which the Commission has had little experience.

III. Fees Proposed

The following table summarizes the average number of work-months (WM's) and average costs incurred in rendering the services for which the Commission proposes fees in this rulemaking: [27]

Service	Total WM's	Total completions	Average number WM's per completion	Average cost per completion
Review of tariff filings for changes other than in rates (without hearing)	44.40	118	.376	[1] $1,517
Review of tariff filings that involve general changes in rates (without hearing)	44.40	118	376	1,517
Hearing phase of either tariff filings for changes other than in rates or tariff filings that involve general changes in rates	1,121.10	101	11.10	44,762
Review of tariff filings that track changes in costs (tracking filings) (without hearing)	[illegible]	245	1.20	4,843
Hearing phase of filings that track changes in costs (without filings)	128.77	[illegible]	[illegible]	23,603

[1] The fees in these categories reflect the fact that the underlying data on gas pipeline tariff filings for changes other than in rates and tariff filings that involve general changes in rates are currently collected and maintained together. By proposing two fee categories, the Commission is indicating that it will segregate the data pertaining to these two kinds of tariff filings, in the anticipation of establishing two or more fees categories in this area.

The Commission proposes to use the standard methodology set forth in this and other fees rulemakings to determine all of the fees for natural gas pipeline rates matters, except the fee for petitions seeking advance Commission approval of rate treatment of research, development, and demonstration expenditures. Rather than devise a single fee for reviewing such petitions, the Commission proposes to use the direct billing procedure to recover these costs. The reasons for such an approach are as follows. Most of the Commission time spent in reviewing these petitions is spent reviewing petitions filed by the Gas Research Institute. However, pipelines, groups of pipelines, and entities acting on behalf of pipelines, also file petitions seeking advance Commission approval of expenditures for their own projects. These projects are usually much smaller than the Gas Research Institute's projects and require much less Commission time to review. If the Commission were to determine a fee based on the average cost per petition seeking advance Commission approval of rate treatment of research, development, and demonstration expenditures, the result might be to require these other entities to subsidize the cost of reviewing the Gas Research Institute's petitions. Therefore, the Commission proposes to direct bill, by means of the procedures set forth in §381.107, to cover the costs of processing any petition seeking advance Commission approval of rate treatment of research, development, and demonstration expenditures.

The following fees are therefore proposed: [28]

Service	Fee
Tariff filings for changes other than in rates (without hearing)	$1,500.00
Tariff filings that involve general changes in rates (without hearing)	1,500.00
Tariff filings for changes other than in rates and tariff filings that involve general changes in rates (with hearing)	46,200.00
Tariff filings that track changes in costs (without hearing)	4,800.00
Tariff filings that track changes in costs (with hearing)	28,400.00
Petitions seeking advance approval of rate treatment of research, development, and demonstration expenditures	Direct billed

In the pipeline rate area, a substantial amount of Commission costs are incurred in evidentiary hearings. Unlike many of the other services for which the Commission proposes fees, a significant number of tariff filings are set for hearing. Therfore, in order to be consistent with the policy of full-cost-recovery, the proposed fees, for tariff filings that are suspended and set for hearing, are designed to recover the average cost to the Commission of an evidentiary hearing.

This proposed rule would require only the person submitting the application or the filing to pay the fee, which includes the average cost of a hearing, on the theory that an applicant receives a special benefit and that an evidentiary hearing is a necessary part of the process conferring the benefit. In addition, the Commission currently does not have adequate data that allow allocation of costs among parties to a hearing, such as intervenors. Nevertheless, there may be instances where assessing a fee that includes all or part of the costs of a hearing against persons other than an applicant may be a viable approach under the IOAA. The Commissioner requests comments on this issue.

These fees have not been reduced according to the factors discussed in Section II. E., above, because generally these fees are proposed for services necessary for participation in a regulated industry, and, therefore, would not discourage use of the service. However, the Commission is considering reduction or waiver of fees assessed against small pipelines for tariff filings that are set for hearing. The Commission is concerned that the assessment of full-cost-recovery fees for these services might impose a disproportionate economic burden against small pipelines.

The Commission also is proposing procedures whereby the Commission may waive or reduce any of the proposed fees in specific circumstances. These procedures would give the Commission the discretion to waive or reduce the fees in order to avoid undue economic burden in particular cases. Factors which the Commission may consider in waiving or reducing a fee include the size and financial health of an applicant.

IV. Procedures for Paying Fees

In order to be consistent with the assessment of fees relating to natural gas pipeline rate matters, the Commission proposes to amend its current regulations regarding the procedures applicable to each of the applications and filings covered by the proposed fee schedule. The amended procedures would require that a certified check or money order for the appropriate amount, made payable to the United States Treasury, be included with each filing and application.

In addition, the proposal provides, in § 381.103(b), that any application or filing, which is not accompanied by the appropriate fee, would be considered deficient, and would not be processed

[27] The Commission is placing in the public file for this docket more detailed data relating to the costs incurred by the Commission which form the basis of the proposed fees.

[28] Fees are established by taking actual costs and rounding *down* to: (1) the nearest $5 increment, if the total cost is $100 or less; and (2) the nearest $100 increment, if the total cost is more than $100.

by the Commission. Consistent with this proposed rule, the Commission would consider rejecting and not processing a deficient filing, not assigning a filing date for a deficient filing, and suspending the continuation of a hearing, until such time that the added amount due for that application or filing is paid as required.

The Commission is considering whether to assess in installments the increment of the total fee that pertains to the evidentiary hearing process. In order to account for both the possibility of settlements before the completion of formal proceedings and the pattern of cost-incurrence by the Commission, the Commission may decide to assess portions of the hearing-related fees at specified junctures in the proceeding. For example, two-thirds of the fee could be due within 30 days after issuance of a suspension order, with the remainder due not later than 10 days before a hearing commences.

Furthermore, in the areas where the Commission presently charges fees, it follows, with minor exceptions, a policy of no refunds. The Commission expects to apply this no refund practice to all fees proposed in the new series of rulemakings under the IOAA, as well.

V. Direct Billing Alternative

As discussed above, the methodology that would be used to establish the fees for all of the fees categories covered in this rulemaking, other than the fee for petitions for advance Commission approval of rate treatment of research, development, and demonstration expenditures, is based on the average cost of processing the average filing. The Commission occasionally receives filings which are not representative of these average filings. These filings may be so extensive in scope and present issues of such complexity or difficulty that the Commission must devote an extraordinary amount of time and staff resources to processing them. The standard fees would bear no reasonable relationship to the actual cost of processing these extraordinary filings. Moreover, if the costs of processing these extraordinary filings were included in the average costs associated with average filings, persons submitting average filings would be subsidizing those submitting the extraordinary filings. Therefore, the Commission is proposing that in the case of an extraordinary filing, it would order a direct billing procedure.

Under this direct billing procedures, the Commission would periodically bill the person who submitted the filing for all the direct and indirect costs incurred by the Commission in processing the filing. The filing would be processed like other filings, but the amount of time and staff resources devoted to processing the filing would be recorded separately and would not be averaged with the time devoted to processing the average filing.

VI. Summary of Proposed Rule

This proposed rule establishes fees for services and benefits provided by the Commission in the area of natural gas pipeline rate matters in proposed Part 381 of Chapter I of Title 18 of the Code of Federal Regulations.

Proposed §§ 381.101 and 381.102 state the purpose of proposed Part 381 and provide definitions of the words "person", "work year cost", and "filing".

Proposed § 381.103 provides that each filing must be accompanied by the proper fee or that filing will be considered deficient, which could result in rejection of the filing. Section 381.103 also provides that if a filing for one service or benefit may be considered as falling within two or more fee categories, the higher or highest of the applicable fees must be paid.

Proposed § 381.104 requires the Commission to publish a revised fee schedule each year to reflect an increase or decrease in costs.

Proposed § 381.105 establishes the method of payment of the proposed fees.

Proposed § 381.106 provides that the Commission may waive or reduce fees if to do so is necessary to prevent an undue economic burden.

Proposed § 381.107 provides that the Commission may order any filing, the processing of which requires an extraordinary amount of time and staff resources, to be assessed fees under a direct billing procedure. Any fees paid under Part 381 upon submission of the filing would be credited against the direct bill.

Proposed § 381.408 establishes a $1,500 fee, payable upon the submission of a tariff filing for changes other than in rates. If the filing is set for hearing, § 381.408 establishes a total fee of $46,200, requiring an additional payment of $44,700, after the filing is set for hearing.

Proposed § 381.409 establishes a $1,500 fee, payable upon the submission of a tariff filing that involves general changes in rates. If the filing is set for hearing, § 381.409 establishes a total fee of $46,200, requiring an additional payment of $44,700, after the filing is set for hearing.

Proposed § 381.410 establishes a $4,800 fee, payable upon the submission of a tariff filing to track certain costs. If the filing is set for hearing, § 381.410 establishes a total fee of $28,400, requiring an additional payment of $23,600, after the filing is set for hearing.

Proposed § 381.411 establishes that a fee be determined and paid using the direct billing procedure set forth in § 381.107 upon the submission of a petition seeking advance Commission approval of rate treatment of research, development, and demonstration expenditures.

In addition, this proposed rule amends the Commission's regulations relating to the above mentioned categories of service to require each applicant to file the proper fee with each application.

VII. Initial Regulatory Flexibility Analysis

Whenever the Commission is required by section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553) to publish a general notice of proposed rulemaking, it is also required by section 603 of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612) to prepare and make available for public comment an initial regulatory flexibility analysis. The analysis must describe the impact the proposed rule will have on small entities. The broad purpose of the RFA is to ensure more careful and informed agency consideration of rules that may significantly affect small entities and to encourage analyses of these rules as well as the agency's consideration of alternative approaches that may better resolve any unnecessarily costly or adverse effects on small entities.

In this preamble, the Commission presents its reasons for this agency action, its objectives, and the legal basis for this rulemaking. As discussed, the proposed rule would establish a schedule of fees to be paid the Commission for certain benefits it provides. The proposed rule would not impose any reporting, recordkeeping, or compliance requirements.

This rule would affect natural gas pipelines subject to Commission jurisdiction under the NGA and the NGPA as well as non-jurisdictional entities seeking advance Commission approval of rate treatment of research, development, and demonstration expenditures. There are approximately 150 interstate natural gas pipelines in the United States. The Small Business Administration (SBA) regulations do not establish specific size standards for natural gas pipelines. (*See* 13 CFR Part 121). Most natural gas pipelines, however, especially interstate pipelines, are large businesses. Only about 40 interstate natural gas pipelines possibly could be classified as small entities.[29] Petitioners seeking advance Commission approval of rate treatment of research, development, and demonstration expenditures are pipelines, groups of pipelines, or entities

[29] Generally, the Commission considers small pipelines to be those pipelines classified as Class C or Class D natural gas companies, that is, companies earning $25,000 or more per year, but less than $1,000,000. (See 18 CFR Part 104, Uniform System of Accounts Prescribed for Natural Gas Companies Subject to the Provisions of the Natural Gas Act.) In addition, the Commission considers small entity pipelines to include those companies earning less than $25,000 a year or those that are so new that they cannot yet be classified.

owned or controlled by pipelines, and, therefore, usually are either large businesses, or are owned and controlled by large businesses.

Where a proposal may have significant economic impact on a substantial number of small entities, section 603(c) of the RFA requires the Commission to discuss significant alternatives to the proposal. The Commission has already attempted to minimize any disproportionate burden that the proposal would have on pipelines that may be small entities. The proposal contains a provision for waiver or reduction of any fees as needed to avoid imposition of an undue burden. The Commission, of course, could, consider reducing the fees, or even eliminating the fees, with respect to small entities. However, in proposing the fees the Commission also is attempting to satisfy the statutory directive of the IOAA to be "self-sustaining to the full extent possible." The Commission believes that the rule, as proposed, represents a fair balance that will satisfy the purposes of both the IOAA and the Regulatory Flexibility Act.

VIII. Written Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting data, views, or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, not later than February 14, 1983. Each person submitting a comment should indicate that the comments are being submitted in Docket No. RM83-2-000, and should give reasons, including any supporting data, for any recommendations. Comments should also indicate the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Commission. All comments will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. during business hours.

(Department of Energy Organization Act, 42 U.S.C. 7101-7; E.O. 12009, 3 CFR Part 142 (1978) Independent Offices Appropriations Act, 31 U.S.C. 483a)

List of Subjects

18 CFR Part 154

Natural gas.

18 CFR Part 375

Authority delegations (Government agencies), Seals and insignia, Sunshine Act

18 CFR Part 381

General fees.

In consideration of the foregoing, the Commission proposes to amend Chapter I, Title 18, Code of Federal Regulations as set forth below.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

1. Chapter I is amended in its table of contents by adding in the appropriate numerical order, a new part and heading, to read as follows:

CHAPTER I—FEDERAL ENERGY REGULATORY COMMISSION

* * * * *

SUBCHAPTER W—REVISED GENERAL RULES

Part

* * * * *

381 Fees

* * * * *

PART 154—[AMENDED]

§ 154.24 [Amended]

2. Section 154.24 is amended by inserting between the word "part" and the period, the phrase "or is not accompanied with the fee prescribed in Part 381".

§ 154.38 [Amended]

3. Section 154.38(d)(5)(i) is amended in the third sentence by inserting between the word "reasonable" and the period, the phrase "and shall be accompanied by the fee prescribed in Part 381 of this chapter."

4. Section 154.63, paragraph (b) is amended by adding (b)(1)(iii) to read as follows:

§ 154.63 Changes in a tariff, executed service agreement or part thereof.

* * * * *

(b) * * *

(1) * * *

(iii) A fee in the amount prescribed in Part 381 of this chapter.

* * * * *

PART 375—[AMENDED]

§375.307 [Amended]

5. Section 375.307 is amended by adding a new paragraph (u) at the end thereof, to read as follows:

§ 375.307 Delegations to the Director of the Office of Pipeline and Producer Regulation

* * * * *

(u) Waive or reduce the fees prescribed in Subpart D of Part 381.

6. Subchapter W is amended by adding a new Part 381 to read as follows:

SUBCHAPTER W—REVISED GENERAL RULES

PART 381—FEES

Subpart A—General Provisions

Sec

381.101 Purpose.
381.102 Definitions.
381.103 Filings.
381.104 Annual adjustment of fees.
381.105 Method of payment.
381.106 Reductions and waivers.
381.107 Direct billing.

Subpart B—Fees Applicable to General Functions [Reserved]

Subpart C—Fees Applicable to the Natural Gas Policy Act of 1978 [Reserved]

Subpart D—Fees Applicable to the Natural Gas Act and Related Authorities

381.401 Blanket small producer certificates. [Reserved].
381.402 Producer certificates of public convenience and necessity. [Reserved]
381.403 Producer rate schedules. [Reserved]
381.404 Pipeline certificate applications. [Reserved]
381.405 Requests for authorization under the blanket certificate notice and protest procedures. [Reserved]
381.406 Curtailment filings. [Reserved]
381.407 Amendment. [Reserved]
381.408 Pipeline tariff filings for changes other than in rates.
381.409 Pipeline tariff filings that involve general changes in rates.
381.410 Pipeline tariff filings that track certain costs.
381.411 Petitions for advance approval of rate treatment of research, development, and demonstration expenditures.

Subpart E—Fees Applicable to Matters Under Parts II and III of the Federal Power Act and the Public Utility Regulatory Policies Act of 1978 [Reserved]

Subpart F—Fees Applicable to the Interstate Commerce Act [Reserved]

Authority: Department of Energy Organization Act, 42 U.S.C. 7101-7352; E.O. 12009, 3 CFR Part 442 (1978); Independent Offices Appropriations Act, 31 U.S.C. 483a.

Subpart A—General Provisions

§ 381.101 Purpose.

The purpose of this part is to set forth the fees that the Commission has established for services and benefits provided by the Commission.

§ 381.102 Definitions.

(a) "Person" means any person, group, association, organization, partnership, corporation, or business, except those engaged in the transaction of official business of the Government.

(b) "Work year cost" means the ratio of the Commission's budgeted expenses during any given fiscal year to the authorized staff level for that fiscal year.

(c) "Filing" means any application, petition, request, or motion submitted to the Commission in connection with any of the services or benefits for which a fee is established in this part.

§ 381.103 Filings.

(a) *Submittal of fees.* Except as provided in § 381.106, a fee in the amount set forth in this part must accompany each filing for which a fee has been established.

(b) *Deficiencies.* (1) Any filing which is not accompanied by either the fee established for that filing or a request for reduction or waiver in accordance with § 381.106 is deficient.

(2) The Secretary will inform any person who submits a deficient filing that:

(i) Such filing will be rejected, unless the appropriate fee is submitted within a specified time;

(ii) The Commission will not process any filing which is deficient under this paragraph; and

(iii) The date of filing will be deemed the date on which the Commission receives the appropriate fee.

(3) This provision does not preclude a determination that a filing is deficient for any other reason.

(c) *Choice of two fees.* If a filing for one service or benefit may be considered as falling within two or more categories of service for which a fee is established, that filing must be accompanied by the higher or highest of the applicable fees.

§ 381.104 Annual adjustment of fees.

(a) *Update and publication.* Beginning in fiscal year 1983, fees established in this part are updated annually, in accordance with this section. Updated fees are published in the **Federal Register** and as an appendix to this part.

(b) *Payment of updated fees.* Any person who, after fiscal year 1982, submits a filing for which a fee is established in this part must pay the updated fee under this section or, if the fee has not been updated at the time of the filing, the currently effective fee.

(c) *Formula.* The fee applicable to a fee category in each fiscal year is the fee for the previous fiscal year for that category, multiplied by the ratio of the work year cost for the fiscal year for which the fee is determined to the work year cost for the previous fiscal year. The fee is rounded down to the nearest five dollar increment.

(d) *Effective date of fee.* Any fee updated under this section becomes effective on the thirtieth day after publication in the **Federal Register** of the revised appendices to this part, or the first day of the fiscal year for which the fee is updated, whichever is later.

§ 381.105 Method of payment.

Fee payments must be made by certified check or money order payable to the Treasurer of the United States.

§ 381.106 Reductions and waivers.

(a) *When to request.* (1) Except as otherwise provided in paragraph (a)(2) of this section, an applicant may request a waiver or reduction of a fee prescribed in this part at the time that a filing is submitted to the Commission.

(2) Any request for waiver or reduction of the fees prescribed for any rate schedule filing or tariff filing filed under the Federal Power Act, Natural Gas Act, or Interstate Commerce Act, must be submitted at least 30 days prior to submission of the filing.

(b) *Basis.* The applicant must show that waiver of reduction of the fee is necessary to prevent undue economic burden on the applicant.

(c) *Commission action.* Within 21 days of the submission a request for waiver or reduction, the Commission or its delegatee will notify the applicant of the decision to grant or deny that request. The filing will not be processed until disposition of the waiver request.

§ 381.107 Direct billing.

(a) *Applicability.* If a filing presents issues of fact or law, procedural difficulty, or technical complexity, which require an extraordinary amount of Commission time and effort to be devoted to processing that filing, the Commission will institute a direct billing procedure for that filing. Fees assessed by a direct billing procedure in accordance with this section will supersede the fees established in this part for the appropriate category of service.

(b) *Procedures.* (1) If the Commission determines that a filing meets the standards prescribed in paragraph (a), the Commission may order that the full cost of processing the filing be recovered under a direct billing procedure. The Commission will make a direct billing determination under this paragraph not later than one year after the filing is accepted for filing by the Commission.

(2) Direct billing will not be instituted with respect to any filing until the person who submitted the filing is notified that direct billing will be applied to the filing in lieu of the fees established under this part.

(3) Any fee submitted with the filing will be applied, as a credit, to the amount billed directly for processing costs. The secretary will thereafter periodically bill the person who submitted the filing for the actual direct and indirect costs which are incurred in processing the filing after the Commission orders the direct billing procedure instituted.

Subpart B—Feed Applicable to General Functions [Reserved]

Subpart C—Fees Applicable to the Natural Gas Policy Act of 1978 [Reserved]

Subpart D—Fees Applicable to the Natural Gas Act and Related Authorities

Sec.

381.401 Blanket small producer certificates. [Reserved]
381.402 Producer certificates of public convenience and necessity. [Reserved]
381.403 Producer rate schedules. [Reserved]
381.404 Pipeline certificate applications. [Reserved]
381.405 Requests for authorization under the blanket certificate notice and protest procedures. [Reserved]
381.406 Curtailment filings. [Reserved]
381.407 Amendment. [Reserved]

§ 381.406 Pipeline tariff filings for changes other than in rates.

(a) *Definition.* Tariff filings for changes other than in rates include tariff filings that:

(1) Do not change any rate level or generate a change in a pipeline company's annual revenues;

(2) Change general terms and conditions of tariffs, rate schedules, service agreements, and other miscellaneous tariff provisions.

(b) *Fee.* Unless the Commission orders direct billing under § 381.107 or otherwise, the initial fee established for a tariff filing for changes other than in rates is $1,500 for fiscal year 1982 and, for subsequent fiscal years, is the fee established by § 381.104. The fee established for a tariff filing for changes other than in rates that is set for hearing is $46,200 for fiscal year 1982 and, for subsequent fiscal years, is the fee established by § 381.104. The fee filed under this paragraph must be submitted in accordance with Subpart A of this part and Part 154.

(c) *Procedures.* Any person who submits a tariff filing for changes other than in rates that is set for hearing must pay the difference between the initial fee and the fee established for a filing that is set for hearing, not later than 30 days after the issuance of an order setting the matter for hearing.

§ 381.409 Pipeline tariff filings that involve general changes in rates.

(a) *Definition.* For the purposes of this section, tariff filings that involve general chnges in rates include tariff filings under § 154.63(a) (2) (3) and (4), that:

(1) Either increase or decrease most, if not all, of a pipeline's rates applicable to the various jurisdictional services it provides; and

(2) Relate to a few rate schedules and are designed to bring them into harmony with general tariff policy, eliminate inequities, or achieve other formal adjustments.

(b) *Fee.* Unless the Commission orders direct billing under § 381.107 or otherwise, the initial fee established for a tariff filing that involves general changes in rates is $1,500 for fiscal year 1982 and, for subsequent fiscal years, is the fee established by § 381.10. The fee established for a tariff filing that involves general changes in rates that is set for hearing is $46,200 for fiscal year 1982 and, for subsequent fiscal years, is the fee established by § 381.104. The fee filed under this paragraph must be submitted in accordance with Subpart A of this part and Part 154.

(c) *Procedures.* Any person who submits a tariff filing that involves general changes in rates that is set for hearing must pay the difference between the initial fee and the fee established for a filing that is set for hearing, not later than 30 days after the issuance of an order setting the matter for hearing.

§ 381.410 Pipeline tariff filings that track certain costs.

(a) *Definition.* For the purposes of this section, tariff filings that track certain costs include all tariff filings made by natural gas pipelines under approved tariff provisions, orders of the Commission or settlement agreements with the Commission to enable the Commission to track costs associated with purchased gas costs, research, development, and demonstration costs, incrementally priced gas, advance payments, demand charge adjustments, transportation and compression costs, natural gas storage costs, and other similar costs.

(b) *Fees.* Unless the Commission orders direct billing under § 381.107 or otherwise, the inital fee established for a tariff filing that tracks certain costs is $4,800 for fiscal year 1982 and, for subsequent fiscal years, is the fee established by § 381.104. The fee established for a tariff filing that tracks certain costs that is set for hearing is $28,400 for fiscal year 1982 and, for subsequent fiscal years, is the fee established by § 381.104. The fee under this paragraph must be submitted in accordance with Subpart A of this part and Part 154.

(c) *Procedure.* Any person who submits a tariff filing that tracks costs that is set for hearing must pay the difference between the intial fee and the fee established for a filing that is set for hearing, not later than 30 days after the issuance of an order setting the matter for hearing.

§ 381.411 Petitions for advance approval of rate treatment of research, development, and demonstration expenditures.

The fee for a petition seeking advance Commission approval of rate treatment of research, development, and demonstration expenditures will be determined and billed according to the procedures for direct billing set forth under § 381.107.

Subpart E—Fees Applicable to Matter Under Parts II and III of the Federal Powers Act and the Public Utility Regulatory Policies Act of 1978 [Reserved]

Subpart F—Fees Applicable to the Interstate Commerce Act [Reserved]

[FR Doc. 82-34804 Filed 12-28-82; 8:45 am]
BILLING CODE 6717-01-M

---

18 CFR Part 271

[Docket No. RM79-76-157 (Texas—22 Addition—II)]

High-Cost Gas Produced From Tight Formations; Texas

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the Railroad Commission of Texas that an additional area of the Strawn-detrital Formation be designated as a tight formation under § 271.703(d).

DATE: Comments on the proposed rule are due on February 7, 1983. Public hearing: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on January 7, 1983.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357-8511, or Walter W. Lawson, (202) 357-8556

SUPPLEMENTARY INFORMATION:

Issued December 23, 1982.

I. Background

On November 9, 1982, the Railroad Commission of Texas (Texas) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (45 FR 56034, August 22, 1980), that an additional area of the Strawn-Detrital Formation in Crockett County, Texas, be designated as a tight formation. The Commission previously adopted a recommendation that a portion of the Strawn-Detrital Formation be designated as a tight formation [Order No. 249 issued August 24, 1982, in Docket No. RM79-76-111 (Texas—22)] and currently has under consideration a recommendation to designate the Detrital Formation in the Perner Ranch Area as a tight formation [Notice of Proposed Rulemaking issued December 2, 1982, Docket No. RM79-76-150 (Texas—22 Addition:]. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Texas' recommendation that an additional area of the Strawn-Detrital Formation be designated a tight formation should be adopted. Texas' recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

Texas recommends that the Strawn-Detrital Formation in the area of the University Block 31 and Howards Creek (Penn) Fields in Crockett County, Texas, Railroad Commission District 7C, be designated as a tight formation. The recommended area consists of Sections 19, 20, S ½ of 21, 29, 30, 31, and 32, University Lands Survey, Block 30; Sections 1, 2, 3, S ½ of 4, 5, 6, 7, 8, S ½ of 9, 11, 12, 13 and 14, University Lands Survey, Block 33; Sections 29, 31, 50, 51, north 320 acres of 30, SE ¼ of 53, S ½ of

32, SW ¼ of 12, Block UV, G.C. & S.F.R.R. Co. Survey. The area recommended is west and northwest of the city of Ozona, Texas, and is an extension of the area of the Strawn-Detrital Formation designated as a tight formation by the Commission's Order No. 249.

Type logs within the designated area show the top of the Strawn-Detrital Formation at approximate depths of 7,924 feet in the north to 8,296 feet in the south, and the base is located at approximately 7,980 feet in the north of 8,668 feet in the south.

III. Discussion of Recommendation

Texas claims in its submission that evidence gathered through information and testimony presented at a public hearing in support of this recommendation demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulations, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

Texas further asserts that existing State and Federal regulations assure that development of this formation will not adversely affect any fresh water aquifers that are or are expected to be used as a domestic or agricultural water supply.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM80-68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by Texas that the Strawn-Detrital Formation as described and delineated in Texas' recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before February 7, 1983. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79-76-157 (Texas—22 Addition II) and should give reasons including supporting data for any recommendation. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street NE., Washington, D.C. during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing of a desire to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than January 7, 1983.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432)

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, Code of Federal Regulations, as set forth below, in the event Texas' recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

PART 271—[AMENDED]

Section 271.703 is amended by revising paragraph (d)(106) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(106) *Strawn-Detrital Formation in Texas.* RM 79-76-111 (Texas-22).

(i) *University Block 31 (Strawn-Detrital) Field.*

* * * * *

(ii) *Perner Ranch Area.*

* * * * *

(iii) *University Block 31 (Strawn-Detrital) and Howards Creek (Penn) Fields.*

(A) *Delineation of formation.* The Strawn-Detrital Formation in the area of the University Block 31 and Howards Creek Fields is located in Crockett County, Texas, Railroad Commission District 7C. The designated area consists of Sections 19, 20, S½ of 21, 29, 30, 31 and 32, University Lands Survey, Block 30; Sections 1, 2, 3, S½ of 4, 5, 6, 7, 8, S½ of 9, 11, 12, 13 and 14, University Lands Survey, Block 33; Sections 29, 31, 50, 51, north 320 acres of 30, SE¼ of 53, S½ of 32, SW¼ of 12, Block UV, G.C. & S.F.R.R. Co. Survey.

(B) *Depth.* Type logs within the designated area show the top of the Strawn-Detrital Formation at approximate depths of 7,924 feet in the north to 8,296 feet in the south, and the base is located at approximately 7,980 feet in the north to 8,668 feet in the south.

[FR Doc. 82-35206 Filed 12-28-82; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 804, 805, 813, 860, 865, 880, 881, 882, 883, 884, 886 and 889

[Docket No. 82-981]

Definition of Income, Income Limits, Rent and Reexamination of Family Income for the Public Housing and Section 8 Housing Assistance Payments Programs

AGENCY: Office of Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Proposed rule.

SUMMARY: HUD proposes to implement recent statutory changes relating to the establishment of income limits for eligibility, definition of income, calculation of rent, and reexamination of income in the Public and Indian Housing and Section 8 Housing Assistance Payments Programs.

DATE: Comment Due Date: February 28, 1983.

ADDRESS: Interested persons are invited to submit comments to the Rules Docket Clerk, Office of General Counsel, Room 10278, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. Each comment should include the commentor's name and address and must refer to the docket number indicated in the heading of this rule. A copy of each comment will be available for public inspection and copying during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Edward Whipple, Office of Public Housing, (202) 426-0744; James Tahash, Program Planning Division, Office of

Multifamily Management, (202) 755–5654; or Monica Sussman, Office of State Agency and Bond Financed Programs, (202) 755–7172; Department of Housing and Urban Development, Washington, D.C. 20410. These are not toll-free telephone numbers.

SUPPLEMENTARY INFORMATION: The Housing and Community Development Amendments of 1981 ("Amendments"), contained in Title III, Subtitle A, of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35), amend several provisions of the United States Housing Act of 1937, as amended (the " '37 Act"). This rulemaking proceeding covers those changes relating to rents, income limits, definition of income, and reexamination of income and family composition which apply to both the Public and Indian Housing and the Section 8 Programs. Statutory changes applicable to only one of these programs and changes related to other areas of program administration will be implemented in other regulations.

Prior to enactment of the Amendments, fundamental differences existed between the Section 8 and public housing programs. Both programs were subject to statutory minimum and maximum family contributions toward rent, and the maximum was generally limited to 25% of the adjusted income. (Section 202 of the Housing and Community Development Amendments of 1979 authorized the Secretary to establish the maximum contribution toward rent for tenants commencing occupancy after December 31, 1979, at 30% of adjusted income in the case of most families with incomes between 50% and 80% of the area median income, but such authorization was not implemented by the Department.) Prior to the amendments, the '37 Act established minimum rents for public housing at 5% of family gross income or the shelter component of welfare assistance in "as-paid" states. Public Housing Agencies (PHAs) were authorized to establish maximum rents at levels up to the 25% of income ceiling, and also were authorized to establish income limits which might exceed the Section 8 income limits but ordinarily were less than the Section 8 limits.

For the Section 8 program, the '37 Act, prior to the Amendments, established income eligibility limits at 80% of area median income. Unlike the public housing programs rental rates in the Section 8 program were established as both maximum and minimum rates, except that a number of different rates were applicable in different circumstances, with the maximum rate set by regulation generally at 25% of income after allowances.

The principal effects of the Amendments were to (1) Require HUD to increase the amount of rent payable by a Section 8 tenant family from 25% to 30% of the adjusted income, (2) severely restrict the number of families participating in the Section 8 program whose annual incomes are between 50% and 80% of area median income, and (3) make the revised income eligibility and rent computation requirements applicable to the public housing program as well as to the Section 8 program. The Amendments also eliminated statutory provisions governing the calculation of "income" under the public housing and Section 8 programs in favor of a single uniform definition for all programs under the '37 Act, under which the establishment of deductions from income to be utilized for calculation of "adjusted income" would be left to the discretion of the Secretary.

Separate interim rules which implemented only the change in the income-percentage formula for determining the tenant rental payment required in the Public Housing and Section 8 programs, without altering the existing regulations governing the definition and calculation of income and adjusted income, were published on May 4, 1982 (47 FR 19120 and 19128) and became effective on August 1, 1982 (47 FR 30969 and 30971) (the "Interim Increase Rules"). Public comments on the Interim Increase Rules were received until June 18, 1982, and have been considered in the preparation of this proposed rule. Discussion of such comments appears elsewhere in this preamble. The publication of this proposed rule in no way impairs the effectiveness of the Interim Increase Rules. However, they will be superseded by the final rule resulting from this proceeding. The regulatory changes proposed in this proceeding, when adopted as a final rule and effective, will complete the implementation of the Amendments affecting tenant contribution toward rent in the programs covered by the rule.

This proposed rule would add a new Part 813—Definition of Income, Income Limits, Rent and Reexamination of Family Income for the Public Housing and Section 8 Housing Assistance Payments Programs, to Title 24 of the Code of Federal Regulations, replacing various regulation sections now scattered throughout other Parts pertaining to individual programs. In addition, other conforming amendments are proposed to various program regulations.

The Amendments enacted similar income eligibility and rent calculation provisions governing other subsidized programs (rent supplement and Section 236 rental assistance payments). These changes will be implemented throughout separate rulemaking proceedings.

A summary of the changes proposed in this proceeding follows:

1. *Definition of Annual Income—Section 813.104.* Section 322 of the Amendments deleted the specific exclusions and deductions from income which were previously contained in Section 3 of the '37 Act which applied to the Public and Indian Housing Programs. "Income" is defined in the Amendments as income from all sources of each member of the household, as determined in accordance with criteria prescribed by the Secretary. This was also the definition of income under Section 8 prior to the Amendments. "Adjusted income" is defined in the Amendments as the income which remains after exclusion of such amounts or types of income as the Secretary may prescribe. These definitions now apply to all housing assisted under the '37 Act.

The proposed rule uses the term "annual income" as the equivalent of the statutory term "income," and uses the statutory term "adjusted income" for its statutory meaning.

Consistent with current policy, annual income would be defined as anticipated income of each member of the family with certain exclusions. Section 813.104(b) lists examples of the types of income which must be included. This list is based on the current definition of annual income in Part 889, which applies to the Section 8 programs. There are, however, several differences, outlined below:

—Existing Section 8 regulations prescribe, in effect, one definition of "income" for eligibility purposes and another for rent computation purposes (see 24 CFR 889.103). The proposed rule adopts for all purposes under the '37 Act the essential features of the definition utilized currently for determination of eligibility. Under this definition, income would include the higher of (i) Actual income from assets, or (ii) if Net Family Assets exceed $5,000, 10 percent of the value of such assets. For the purpose of this computation, Net Family Assets includes the difference between the value of assets disposed of for less than fair market value during the two years preceding the date of application for the program or the date of reexamination, as applicable, and the consideration received therefor. These changes are designed to assure that only those in need of assistance will be eligible and

that tenant rent will reflect a tenant household's resources.

—A clarifying change is proposed in § 813.104(a)(6). Under the current Part 889 and these proposed regulations, the amount included in income from public assistance in "as paid" States where the welfare agency adjusts the shelter and utility component of the welfare grant in accordance with actual housing costs is the amount of the grant exclusive of the shelter and utility component, plus the maximum possible grant component for shelter and utilities. Since the amount of public assistance depends on the tenant family's actual rent and the amount of the rent depends on the tenant's public assistance, it is necessary to determine how much to include in income. The maximum possible grant component for shelter and utilities has been chosen as the amount to be included in income in order to establish a fixed point for computing income, even though the family may not actually receive that amount, in order to carry out Congressional intent to maximize the amount that the PHA receives from welfare recipients in such States.

Consistent with current Section 8 program policy and the rent calculation provisions of the Interim Increase Rules, the new provision being proposed for use in all housing assisted under the '37 Act would state that in "as paid" States which reduce the assistance amount payable by a percentage ("ratable reduction"), the ratable reduction shall be applied to the maximum payment only one time for the purpose of determining the amount of welfare assistance to be included in income. This policy will avoid a series of recomputations by the welfare agency and by the PHA or owner which would otherwise occur. For example, once the PHA or owner determines a family's rent under Part 813, based on income including the full amount possible for the shelter and utility component reduced once by the appropriate percentage under the public assistance program, the welfare agency may reduce that amount again. If HUD were to reduce income a second time and redetermine tenant rent, the public assistance agency might apply its ratable reduction a third time, and the process might continue through further rounds of reduction.

Several commenters took exception to the rent calculation provision which embodies a concept found in the Interim Increase Rules (Sections 860.404(a)(3) and 889.105(a)(3)) analogous to this income calculation provision. One legal aid society stated that the welfare rent provision (Section 3(a)(3) of the '37 Act as amended) should not apply in States that reduce the grant by a ratable reduction since Congress did not intend that such welfare tenants pay more for shelter than they receive for that purpose from the welfare agency. The other comment was that no ratable reduction should be recognized because it only encourages welfare agencies to pay less. We find the legislative history of the most recent welfare rent provision and its predecessor in the public housing program devoid of any discussion of the ratable reduction of welfare rents. However, the plain language of the Amendments requires families in as-paid States to pay an assisted housing rent based on the welfare rent. The Department is not authorized to establish an exception from that requirement in States that apply a ratable reduction. Administrative practice with respect to rent and income calculations in the public housing program and with respect to income calculations in the Section 8 program has been to apply the welfare rent provision to ratable reduction States with a one-reduction rule. In adopting the welfare rent provisions for use in all '37 Act programs, Congress did not repudiate this practice. On the other hand, refusal to recognize even one application of the ratable reduction would ignore the fact that the maximum shelter grant a family could ever obtain is the State's maximum for shelter multiplied by the reduction factor once.

Considering the small impact on the family (since both the public assistance grant and the family gross rent ratchet downward), the great administrative burden of several rounds of recomputation, and the need to have a starting point for computing income, the Secretary has determined that imputing income and limiting percentage reductions of public assistance to one adjustment for purposes of § 813.106 is reasonable exercise of the Secretary's administrative discretion under section 3(b)(4) of the '37 Act to define "income."

—Section 813.104(c) defines "temporary, non-recurring or sporadic income" which is not counted as income. Section 813.104(d) specifies other amounts which are excluded from the definition, including benefits from other Federal programs which are excluded by statute from consideration as income for housing subsidy calculation purposes. This subsection also continues existing provisions excluding foster child care payments and modifies the exclusion of income of minors by excluding only earned income and by deleting full-time students from the definition of minor in the Section 8 program.

The reason for including unearned income while excluding earned income of minors was to reach the maximum income available to the household for its support while leaving an incentive for minors to work. In addition, the income earned by minors is usually insignificant in amount, sporadic, and of a nature that is difficult to verify (e.g., babysitting and lawnmowing). The prior exclusion of income of full-time students has caused many anomalies in the program, such as the exclusion of most of a family's income where a grandmother is the head of household and her full-time student daughter receives welfare payments for two children. Scholarships and educational benefits paid to veterans are still excluded from income.

2. *Definition of Adjusted Income—Section 813.102.* The proposed rule would define adjusted income as annual income minus: (1) $400 per minor and (2) $300 for an elderly, disabled or handicapped head of household.

Section 3(b)(5) of the '37 Act provides that the Secretary, in defining adjusted income, may take into account the number of minors in the family and such other factors as the Secretary may determine are appropriate. The Secretary's intention to provide for deductions of $400 per minor (representing an increase from $300) and $300 for an elderly, disabled or handicapped head of household was indicated in testimony before the Congressional Committees considering the Amendments. Housing and Community Development Amendments of 1981: Hearings Before the Subcommittee on Housing and Community Development of the House Committee on Banking, Finance and Urban Affairs, 97th Cong., 1st Sess. 576–577, 581 (1981); see S. Rep. No. 87, 97th Cong., 1st Sess. 29 (1981). The objective of the proposal was to "replace two current systems which have as many as 7 deductions for determining net income" (S. Rep. No. 87, 97th Cong., 1st Sess. 29 (1981)), and which necessitate administratively burdensome documentation and verification requirements, by a more simple formula involving two standard deductions.

While Congress adopted the Department's legislative proposal eliminating the former specification of itemized deductions, the Conference Report on the Amendments nevertheless stated the Conferees' "concern" that "the Secretary should retain a deduction related to those child care expenses that are necessary to permit a tenant to be

employed" (H.R. Rep. No. 208, 97th Cong., 1st Sess. 688 (1981)).

The Department has considered the recommendations contained in the Conference Report but has determined to propose adherence to the formula presented in testimony before the Committees. The Department recognizes that elimination of itemized deductions will affect some families more than others. In particular, elimination of a dependent-care deduction and a separate deduction for work-related expenses (currently allowed in public housing, see 24 CFR 860.403(f)(3)) will bear more heavily on working families than welfare families and may be considered by some as creating work disincentives. Elimination of an itemized deduction for excess medical expenses may also affect working families more heavily in view of the availability of Medicaid to welfare families. However, notwithstanding the impact that elimination of itemized deductions may have in individual circumstances, the Department continues to believe that a system providing for a series of itemized deductions requiring verification and documentation creates administrative costs that outweigh its benefits.

In addition, the basis for proposing the standard deduction of $300 for elderly and handicapped heads of households was that it would approximately offset the elimination of other, itemized deductions and redistribute the benefit of the deductions toward very low-income elderly households. Based on 1979 data, the average annual medical deduction taken by all Section 8 elderly tenants was $197; by Section 8 elderly tenants of less than 20% of median income was $82; and by Section 8 elderly tenants of more than 30% but less than 50% of median income was $247. In all such cases, the $300 standard deduction more than offsets the average medical deduction. HUD data also indicates that only a small portion of tenant households would appear eligible for the dependent care deduction.

In view of the importance of the questions involved, as evidenced by the expression of concern contained in the Conference Report, the Department specifically invites comment on its proposal to utilize a system limited to two standard deductions rather than permit additional itemized deductions subject to verification requirements.

Comments on the Interim Increase Rules included statements about anticipated revisions in the system of deductions that actually appear for the first time in this proposed rule. Some public housing agencies ("PHAs") complained that the increase in the deduction for minors, combined with an anticipated child care expense deduction would more than offset the increase in rental income derived from the increase of 25% of adjusted income. The Department believes that the increase is justified in recognition of inflation and to mitigate the effect of the elimination of additional itemized deductions. Other comments received are covered in the discussion above relating to itemized deductions.

3. *Income Limits—Section 813.103.* Section 322 of the Amendments provides that dwelling units shall be rented only to families who are lower income at the time of their initial occupancy, consistent with the previous requirement under the Section 8 Program. Lower income families are defined in the statute as families with incomes that do not exceed 80 percent of the median income of the area as determined by HUD with adjustments for family size and other factors. The Amendments thus prescribe, for the first time, statistically defined income limits for the Public Housing Program. The responsibility for establishing such limits was previously vested in the local public housing agencies (PHAs) and Indian Housing Authorities (IHAs) which administer the program.

Within the class of lower income families, the statute defines very low income families as families with incomes that do not exceed 50 percent of the median income of the area. Section 323 of the Amendments limits the participation of lower income families other than very low income families. Specifically, only 10 percent of those public housing and section 8 units under contract and available for occupancy before October 1, 1981 and leased on or after that date may be leased to lower income families other than very low income families. In addition, no more than 5 percent of any public housing and Section 8 units which first become available for occupancy on or after October 1, 1981 may be leased to lower income families other than very low income families.

One comment received on the Interim Increase Rules stated that the cost of the programs would not be reduced since the percentage of very low income families has been increased significantly, increasing subsidy requirements. The criticism misses the point of the legislative changes. As stated by the Senate Banking Committee:

> "Although this lower eligibility limit will tend to increase housing program costs, the Committee rejects the argument that for cost reasons moderate-income people should get housing while the poor wait in line. It will always be less expensive to house only those who can afford to pay more of the rent themselves. The government's purpose in lower-income housing programs though should be to help those who most need assistance." S. Rep. No. 87, 97th Cong., 1st Sess. 5 (1981).

To minimize Federal intervention in local housing programs and to avoid the disruption of established housing patterns, this rule does not contain any specific limitations applicable to project-based programs placed under contract and available for occupancy before October 1, 1981. HUD monitoring procedures will be established to assure that the 10 percent limitation is not exceeded, and under this rule the Department reserves the right to limit occupancy if necessary.

Under the proposed rule, HUD may approve occupancy by lower income families with incomes above 50 percent of the median for up to 5 percent of the units placed under contract and available for occupancy on or after October 1, 1981. For this purpose, the post-October 1, 1981 universe includes units for which lease approval under the Section 8 Existing Housing Program (see 24 CFR section 882.210) is first granted after such date, including units to which certificate holders now being assisted move. The regulations provide for priority for approval of lower income families with incomes above 50% of median to projects being rehabilitated if necessary to avoid displacement, to bond-financed Section 8 projects, to projects where there is a commitment to occupancy for a broad range of incomes, and to projects where such tenants are needed for financial viability.

Mutual Help and Turnkey III homeownership projects may house lower income families other than very low income families without prior HUD approval. This is due to the small size of the programs, their homeownership nature, and the need to house families who can afford program costs.

4. *Rent—Section 813.105.* Section 322 of the Amendments establishes formulas for computing the rent which families participating in public housing and Section 8 will pay. For all families, rent is the greatest of 10 percent of gross income, 30 percent of adjusted income, or if the family receives welfare assistance, a portion of which is designated for housing and is adjusted in accordance with actual housing costs, that portion designated for housing ("welfare rent"). PHA discretion to set rents in the public housing program is eliminated. The Amendments delete the several Section 8 rent formulas which varied depending on such factors as

whether a family was a large very low-income family, a very large lower-income family, or a family with exceptional medical expenses.

Section 322(i) of the Amendments authorizes the Secretary to provide for delayed applicability or staged implementation of the rent computation requirements for tenants already occupying assisted housing if the Secretary determines that immediate application of the procedures would be impracticable, would violate the terms of existing leases, or would result in extraordinary hardship for any class of tenants. The Amendments require tenants whose occupancy begins after the effective date of the Amendments to be subject to immediate application of the revised rates except that the Secretary, in his discretion, may provide for delayed applicability or staged implementation if he determines that immediate application would be impracticable or that uniform procedures for assessing rents would significantly decrease administrative costs and burdens. Section 322 also restricts rent increases pursuant to the statutory changes to a maximum of 10 percent during any 12-month period and further provides that such procedures shall not result in reduction of a tenant's rent below the amount paid on the day before the effective date of the Amendments. The 10 percent ceiling upon annual increases also applies to increases resulting from changes effective on or after October 1, 1981, in other Federal law defining which governmental benefits shall or may be counted as income. All of these provisions are reflected in the proposed regulations as discussed below.

The welfare rent statutory language which previously applied only to public housing now applies to Section 8 families who are recipients of public assistance in "as paid" States. For essentially the same reasons given in explaining the clarifying change proposed for § 813.104(a)(6) described above, a new sentence is being proposed in § 813.105(a)(3) (as incorporated in the already effective Interim Increase Rules), consistent with past practice in the public housing program, to provide that in States which apply a percentage reduction factor to the actual rent paid, the amount designated by the public agency administering the welfare assistance program shall be reduced by such percentage one time. Considering the small impact on the family (since both the grant and the family gross rent ratchet downward) and the great administrative burden of several rounds of recomputation, the Secretary has determined that limiting percentage adjustment reductions of public assistance to one adjustment for purposes of § 813.105(a)(3) is a reasonable exercise of administrative discretion and is not inconsistent with Section 3(a)(3) of the '37 Act.

Commenting on the Interim Increase Rules, many PHAs complained about the elimination of ceiling rents, set at a fixed amount, which they argued attracted and retained working families for whom 25% of income would have been greater. They stated that keeping such families in occupancy was a stabilizing influence on public housing projects. They also criticized the elimination of flexibility to set rents which had allowed them to take into account such factors as the relative undesirability of a particular project, which helped them keep units occupied. The elimination of authority for ceiling rents and PHA flexibility in setting rents was effected by the statute and the regulations merely implement the revised statutory scheme in these respects.

As he has done in the Interim Increase Rules, the Secretary here proposes to exercise his discretion under Section 322(i) of the Amendments to phase in rent increases for tenants already occupying assisted housing at the effective date of the Interim Increase Rules in order to minimize hardship to persons relying upon established low rents. For tenants whose occupancy begins after the effective date of the Interim Increase Rules, the Secretary proposes not to exercise his discretion to provide for delayed applicability (beyond the delay from October 1, 1981, to August 1, 1982, which was the effective date of the Interim Increase Rules) or staged implementation since they do not have the same hardship. New tenants are likely to be paying less for housing upon entering an assisted program at 30% of income than they were paying before, and they have no reason to rely on rents at 25% of income. More importantly, the Secretary's discretion under the statute to delay or phase in application of the revised rates to new tenants is not based upon hardship to tenants, as in the case of existing occupants, but is related solely to administrative burdens. The Secretary recognizes that the phase-in of the revised rates for existing tenants creates some administrative burden but does not believe that the failure to apply similar provisions to new tenants increases those burdens. (Numerous comments on the Interim Increase Rules asserted that such increased burdens would result from the failure to phase in the increase for new tenants, but such comments were made principally by tenants and not by administering agencies.)

The phase-in of the new system would begin at the first reexamination occurring after the effective date of the rule. For Federal Fiscal Year 1983, the rent will be computed using 27 percent of adjusted income, in Fiscal Year 1984, using 28 percent of adjusted income, etc., until in Fiscal Year 1986, the full 30 percent will be used. In no case will tenant rents increase by more than 10 percent during any 12-month period because of these changes or other changes in Federal law regarding the counting of other governmental benefits as income, nor will there be a decrease in rent because of these changes.

Many PHAs have objected to the phase-in schedule as administratively burdensome; a few PHAs and legal aid organizations also have objected to it as inequitable to tenants. Some PHAs pointed out that as many as four percentages could be applied to various categories of tenants during 1982 just to compute the rent under the first of at least two calculations required for each family under Section 3(a) of the '37 Act as amended. (The assumption was that during the first several months after October 1, 1982, and until all current tenants had received their first reexamination following August 1, 1982, various tenants might be paying rents at 25%, 26%, 27%, or 30% of adjusted income.) The programming costs for this requirement were stated to be enormous at a time when resources are scarce. However, while different tenants might be subject to different percentages depending upon the dates when their calculations occur, that does not mean that more than one percentage calculation must be made as to any particular tenant family. Further, at hearings before the Congressional committees considering the Amendments, the Secretary expressed his commitment to phasing the higher rents in over a period of five years. [House hearings cited above; Housing and Community Development Amendments of 1981: Hearings before the Subcommittee on Housing and Urban Affairs of the Senate Committee on Banking, Housing and Urban Affairs, 97th Cong., 1st Sess. 6 (1981).] The Secretary feels bound by his representations to Congress, and he believes that the hardship that would be imposed on tenants if the 30 percent increase were implemented more rapidly, subject only to the 10 percent annual increase cap, outweighs the

burden imposed on PHAs. Furthermore, when Congress enacted the Amendments it approved the mandatory increase based on the Secretary's assurance that he would phase in the increase gradually. The decision to implement the increase immediately for new tenants is not inequitable since it is clearly contemplated by the statute and there is a logical and justifiable distinction between established program beneficiaries and new entrants to the program.

Several commentors suggested that clarification was required as to who would be considered a new entrant to the program for purposes of the percentage of adjusted income to be paid. The National Housing Law Project, for example, suggested that the following should not be classified as new tenants: (1) Tenants who transfer from one unit in a project to another, from one project to another, or from one program to another; (2) family members who move out of the household but remain in the project, the program, or another assisted program; and (3) Section 8 Existing Housing Certificate holders who receive the certificates before August 1, 1982, but locate units afterwards. The Department agrees that tenants in the first category should not be considered new tenants but disagrees as to the second two categories. When family members move out of the household, the remaining "Family" in the original unit or program will be considered as a prior tenant, but there appears to be no sound reason for extending the same status to the new household unit. From the perspective of financial hardship, persons who have received a Section 8 Certificate but are not yet occupying a unit and paying a subsidized rent are in no different position from other new entrants to an assisted program. Clarifications consistent with the foregoing determinations have been incorporated into the proposed rule at § 813.105(b)(2).

Several commentors pointed out that, in accordance with the Amendments, the 10 percent cap should apply to the use of the new definitions of income and adjusted income, when implemented, and to any increases resulting from any provision of Federal law becoming effective on or after October 1, 1981, redefining which governmental benefits are required to or may be considered as income, as well as to the increased percentages. Section 813.105(c) of the proposed rule covers the application of the 10 percent cap to increases resulting from such clauses.

One legal services corporation suggested that rents of assisted tenants should not be raised to 30% of income because rents paid by tenants in the nation generally average less than 30% of income. It would be sufficient to respond that the 30% rate is set by statute. However, it is also noted that the data relied upon by the commentor is not wholly pertinent. The commentor cited data in the Annual Housing Survey: 1979, published by the Department, indicating that the median percentage of income paid as gross rent by all renters is 26%. (The comparable figure in the Annual Housing Survey: 1980 is 25%.) However, such figure represents a percentage of gross income, not adjusted income. Moreover, the Department believes that the more pertinent comparison is with rents paid by unassisted households in comparable income ranges. Recent data indicated that while the rent paid by all market-rate nonelderly renters averaged 29% of gross income, the rents paid by market-rate nonelderly renters with 30% or less of median income averaged 67% of gross income, and the rents paid by market-rate nonelderly renters with more than 30% but less than 50% of median income averaged 37% of gross income. The same data source indicated that the rent paid by all market-rate elderly renters averaged 33% of gross income; that rents paid by market-rate elderly tenants with less than 30% of median income averaged 48% of gross income; and that the rents paid by market-rate elderly tenants with more than 30% but less than 50% of median income averaged 37% of gross income. Report to the Congress: Social Security Benefits and Assisted Housing Rent Charges, Appendix 2 (Office of Policy Development and Research, HUD, May 1981).

Section 813.105(d) exempts Mutual Help projects from the rent formulas otherwise applicable to housing assisted under the 1937 Act. The authority for this exemption is found in Section 203 of the Housing and Community Development Act of 1974 (42 U.S.C. 1437f Note), which permits special rent schedules where approved by HUD for Mutual Help projects.

5. *Annual reexaminations for all tenants—Section 813.107.* Section 322 of the Amendments also requires that the incomes of all families (including elderly) be reexamined no less frequently than annually. This proposed rule provides for reexamination annually for all tenants by the owner of PHA, as appropriate, or more frequently than annually at the option of the owner or PHA.

Since the Section 202/8 program regulations in 24 CFR Part 885 do not cover determination of eligibility for admission or reexamination of family income and composition, § 813.107 would make Subpart F of Part 880 or 881 applicable to projects developed under Part 885, for purposes of Part 813. Section 813.102 similarly would make Part 880 or 881 applicable in the determination of utility allowances for Section 202/8 projects.

In response to concerns expressed by Congress and the General Accounting Office, HUD is proposing to add a provision clarifying that PHAs and owners may require applicants and tenants to provide copies of their income tax returns and requiring the applicant or tenant to sign a release and consent authorizing any depository of private source of income, or any Federal, State, or local agency, to provide information necessary to determine or audit a family's eligibility to receive assistance or the amount of a family's gross rent. The use or disclosure of such information would be limited to purposes directly related to Part 813 and the applicable assistance program. In section 210 of the Housing and Community Development Amendments of 1979, (42 U.S.C. 1437f(k)), Congress specifically directed the Secretary to take such steps to assure that the information provided by applicants for Section 8 assistance is accurate. The Department does not interpret this specific direction applicable to the Section 8 program as indicating a lack of Secretarial authority to impose such requirements generally in income-based programs.

6. *Changes to Other Regulations Required by the Amendments.* This rule proposes to revoke or amend several regulations for the reasons indicated:

(a) Part 860, Subpart A, Income Limits, and Part 860, Subpart D, Minimum and Maximum Rent-Income Ratios and Minimum Rent requirements would be revoked. Since the Amendments establish income limits, rent formulas, and a method for phasing in increases, these Subparts are obsolete. Section 860.204(b)(3) would be amended to indicate that the requirement in section 6(c)(4)(A) of the Act that public housing agencies establish a policy to attain a tenant body with a broad range of incomes is subject to the statutory changed implemented by Part 813, which limits the number of tenants which may be lower income families other than very low income families. The provision of Part 860 recently proposed (47 FR 55689 (December 13, 1982)), stating circumstances under which an applicant or resident Family is to be provided an opportunity for an informal hearing, is

modified to incorporate a reference to Part 813. (This modification does not affect the remaining parts of the recent proposal regarding procedures for the conduct of such hearings.)

(b) Part 861, PHA-owned Projects-Rents, has been revoked by the Interim Increase Rules. One PHA applauded this revocation as published in the Interim Increase Rules, while a tenant organization and a legal aid society criticized it. The complaint raised was that it effectively eliminated tenant comment concerning the establishment or revison of utility allowances incorporated in rent schedules which then had been subject to comment under Part 861, allegedly in violation of tenants' due process rights. A proposed rule has been published to revise Part 865, Subpart D—Utilities (47 FR 55869, December 13, 1982). This comment will be considered in the development of that rule.

(c) Parts 804, Low Rent Homeownership Opportunities, and 805, Indian Housing, would be amended to reflect the changes in Part 813.

(d) Part 865, Parts 880 through 884 and Part 886 would be amended to: (i) Conform to new definitions in Part 813, (ii) eliminate the requirement that at least 30 percent of the units be leased to very low income tenants, and (iii) (for Parts 880, 881, and 883) eliminate the requirement that owners use their best efforts to achieve average tenant incomes of 40 percent of the median for the area.

(e) Part 889, Section 8 Housing Assistance Payments Program-Determination of Income for Eligibility and Gross Family Contribution, would be revoked. Since the Amendments revise the rent formulas and income limit requirements and make them the same as those for public housing, Part 889 will not longer be necessary.

An interim rule was published recently amending Parts 880 and 881 to implement Section 329H of the 1981 Amendments concerning Section 8 assistance for families residing in manufactured homes. When the final rule in this proceeding is published, it will reflect changes to conform to that interim rule.

This proposed rule includes most, but not all, of the conforming changes in affected Parts of Title 24 that will be included when the final rule is promulgated. Subject to changes in the final rule which are the result of public comment, additional conforming and technical changes will be consistent with the changes set out in this rule.

7. *Utility Reimbursement.* The term "rent" is not defined statutorily with specific reference to the context in which utilities and other essential housing services are not supplied by the owner (and therefore not included in the rent payment) but are purchased directly by the tenant. However, the Department historically has considered that "rent" in this circumstance should take into account some amount paid by the tenant family for utilities and accordingly has permitted a deduction to be made from the rent paid to the owner on account of the separate payment being made to the utility supplier. Where the estimated cost of a reasonable level of utility consumption by the tenant family is equal to or greater than the maximum "rent" payable based upon tenant income, the payment for shelter rent made to the owner is reduced to zero. This practice is continued in the proposed rule (see definition of Family Contract Rent in § 813.102).

Administrative practice also went beyond this point. In instances in which the estimated cost of a reasonable level of utilty consumption by a tenant family in an individually-metered unit has exceeded the maximum "rent" payable based upon tenant income, it has been the Department's practice to require that the tenant family be reimbursed for the excess. In the Section 8 programs other than Existing Housing, this reimbursement takes the form of an additional housing assistance payment made to the owner for the purpose of being paid over by the owner to the tenant (see, e.g., 24 CFR 881.501(e)). In the Section 8 Existing Housing program, an unlabeled payment is made directly to the tenant family by the PHA administering the program (24 CFR 882.210(c)). In all Section 8 programs, this practice is provided for by an existing regulation, except for the Farmers Home Administration program under Part 884, where it is covered by contract. In the public housing program, this practice is implied in the definition of contract rent in 24 CFR 865.472, and HUD Handbooks instruct the PHA owner to make a payment to the tenant equal to the amount by which the estimated reasonable utility cost exceeds the maximum "rent" payable by the family (Handbook 7466.1 REV, Par. 3–4). Since these payments are made by owners to tenants, they are sometimes called "negative rents."

As indicated, the '37 Act does not require explicitly that payment of this nature be made by owners or PHA's to tenants. However, in the case of tenants occupying master-metered units for whom the cost of utilities is included in the rent payment made to the owner, the '37 Act clearly imposes a ceiling, based upon income, on the amount payable by such tenants for housing expense including the reasonable cost for utilities. (The "ceiling" imposed by the '37 Act does not extend beyond reasonable utility costs. The Department has long recognized that tenants may be surcharged for excess utility consumption determined by individual checkmeter (see 24 CFR 866.4(b)). In the case of individually-metered public housing or Section 8 units, the cost of excess utility consumption is borne by the tenant through the measurement of the credit allowed against rent—plus, where applicable, the "negative rent" payment—on the basis of reasonable utility costs. Therefore, elimination of "negative rent" payments to tenants occupying individually-metered units would create a disparity in economic outcomes between tenants with equal adjusted incomes, depending on whether they reside in units where utilities are supplied by the owner and included in the rent payment made to the owner or in units where they are not. Moreover, the inequity produced by such disparity would be aggravated by the fact that tenants in master-metered projects tend to have a higher consumption rate because their actual utility cost is not related to their actual consumption and they therefore have less financial incentive to be conservative in their energy consumption.

Accordingly, the proposed regulation continues the Department's existing practice in this regard and includes this practice, for the first time, as a regulatory requirement in the public housing program. Section 813.102 defines "Utility Reimbursement" as the amount, if any, by which the Utility Allowance for the unit, if applicable, exceeds the Family Gross Rent for the Family occupying the unit. Section 813.106 provides that, where applicable, Utility Reimbursement shall be paid to the family in the manner provided in the pertinent program regulation. A provision requiring such payment has been added to the public housing regulation at § 860.206, and is continued throughout the Section 8 program regulations. The definition of Utility Allowance has been revised throughout to incorporate the standard of "reasonable consumption * * * by an energy-conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful living environment" recently proposed by the Department to be applicable to public housing tenants (47 FR 35249 (August 13, 1982)).

8. *Response to Other Comments on the Interim Increase Rules.* One PHA

asked how the percentages of income used to determine a family's contribution toward rent could be changed by those rules if the family had an outstanding long-term lease-purchase agreement providing for payment of 20 percent or 25 percent of income. A PHA which believes it is subject to such a contract should submit a copy to the Department and request a determination as to applicability of the rent increase rules.

Other Matters

The Department has determined that this rule does not constitute a "major rule" as defined in Executive Order 12291 because while its economic impact, when considered together with the Interim Increase Rules, may exceed $100 million annually, such impact results to the greatest degree from the legislative enactment and only to a substantially lesser degree from its administrative implementation embodied in the Interim Increase Rules and in this rulemaking.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implements Section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection and copying (at a charge of 10 cents per page) during regular business hours in the Office of General Counsel, Rules Docket Clerk, at the address listed above.

Pursuant to Section 605 (b) of the Regulatory Flexibility Act, 5 U.S.C. 601, et seq., the undersigned hereby certifies that this rule would not have a significant economic impact on a substantial number of small entities.

This rule was listed in the Department's Semiannual Agenda of Regulations, published pursuant to Executive Order 12291 and the Regulatory Flexibility Act on October 28, 1982 (47 FR 48423), as item H–79–82.

(The Catalog of Federal Domestic Assistance numbers are: 14.146, Lower Income Housing-Assistance Program (Public Housing), and 14.156, Lower-Income Housing Assistance Program (Section 8)).

List of Subjects

24 CFR Part 813

Lower income housing, Public housing.

24 CFR Part 804

Grant programs—housing and community development, Loan programs—housing and community development, Low and moderate income housing, Public housing, Homeownership.

24 CFR Part 805

Grant programs—housing and community development, Grant programs—Indians, Loan programs—Indians, Low and moderate income housing, Public housing, Homeownership.

24 CFR Parts 860 and 861.

Public housing.

24 CFR Part 865

Energy consrvation, Loan programs—housing and community development, Public housing, Utilities.

24 CFR Parts 880 and 881

Grant programs—housing and community development, Rent subsidies, Low and moderate income housing.

24 CFR Part 882

Grant programs—housing and community development, Housing, Mobile homes, Rent subsidies.

24 CFR Part 883

Grant programs—housing and community development, Rent subsidies, New construction and substantial rehabilitation.

24 CFR Part 884

Grant programs—housing and community development, Rent subsides, Rural areas, Low and moderate income housing.

24 CFR Part 886

Grant programs—housing and community development, Low and moderate income housing, Rent subsidies.

24 CFR Part 889

Rent subsidies.

Accordingly, the Department proposes to amend 24 CFR Chapter VIII as follows:

1. A new Part 813 would be added to read as follows:

PART 813—DEFINITION OF INCOME, INCOME LIMITES, RENT AND REEXAMINATION OF FAMILY INCOME FOR THE PUBLIC HOUSING AND SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS

Sec.

813.101 Purpose and applicability.
813.102 Definitions.
813.103 Income eligibility for admission.
813.104 Annual income.
813.105 Gross rent.
813.106 Utility reimbursement.
813.107 Examination, verification, and reexamination of family income and composition.

Authority: Secs. 3, 6, 8, and 16, United States Housing Act of 1937 (42 U.S.C. 1437a, 1437d, 1437f, 1437n); secs. 322 and 323, Omnibus Budget Reconciliation Act of 1981, Pub. L. 97–35; sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

§ 813.101 Purpose and applicability.

This Part establishes definitions, policies and procedures related to income limits and the determination of eligibility, income and rent for applicants and tenants assisted in housing pursuant to the United States Housing Act of 1937. These policies and procedures are applicable to:

(a) Public Housing, including Indian Housing, the Section 10(c) and the Section 23 Leased Housing Programs, the Section 23 Housing Assistance Payments Program, the Turnkey III Homeownership Opportunities Program, and (except as otherwise noted) the Mutual Help Homeownership Opportunities Program.

(b) The Section 8 Housing Assistance Payments Program.

§ 813.102 Definitions.

Adjusted Income.

Annual income less:

(a) $400 for each minor; and

(b) $300 for an elderly, disabled, or handicapped (see 24 CFR Part 812) head of household.

Annual Income: See § 813.104.

Family. All members of the household residing in an assisted unit or participating in an assistance program to which this Part is applicable, or applying for admission to such a unit or to such participation, provided that all such members are eligible for such admission or continued occupancy or participation under Part 812 of this chapter. "Family" includes individuals to the extent permitted by Part 812 of this chapter.

Family Contract Rent. The amount paid monthly by the Family as rent to the owner (including a PHA). Where all utilities (except telephone) and other essential housing services are supplied by the owner, Family Contract Rent equals Family Gross Rent. Where some or all utilities (except telephone) and other essential housing services are not supplied by the owner and the cost thereof are not included in the amount paid as rent to the owner, Family Contract Rent equals Family Gross Rent less Utility Allowance. If the Utility Allowance is equal to or greater than the Family Gross Rent, then the Family Contract Rent is zero.

Family Gross Rent. The amount calculated pursuant to § 813.105. Family Gross Rent does not include charges for excess utility consumption or other miscellaneous charges (see, *e.g.*, 24 CFR 865.477, 866.4(b)(2) and (3)).

Lower Income Family. A Family whose Annual Income does not exceed 80 percent of the median income for the area, as determined by HUD with adjustments for smaller or larger families, except that HUD may establish income limits higher or lower than 80 percent of the median income for the area on the basis of its findings that such variations are necessary because of the prevailing levels of construction costs or unusually high or low incomes.

Minor. A member of the Family (excluding foster children), other than the family head or spouse, who is under 18 years of age.

Monthly Adjusted Income. One twelfth of Adjusted Income.

Monthly Income. One twelfth of Annual Income.

Net Family Assets. Value of equity in real property, savings, stocks, bonds, and other forms of capital investment. (In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the Family or household, the value of the trust fund will not be considered an asset as long as the fund continues to be held in trust. Any income distributed from the trust fund should be counted when determining Annual Income.) In determining Net Family Assets, PHAs and owners shall include the value of any assets disposed of by an applicant for less than fair market value (including a disposition in trust) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefor. The value of necessary items of personal property such as furniture and automobiles shall be excluded.

Owner. For Section 8 programs, the meaning ascribed to such term in the pertinent program regulations. For public housing, the PHA.

PHA. The meaning ascribed to such term in pertinent program regulations. As used in this Part 813, where appropriate, "PHA" shall also include an Agency as defined in Part 883 of this chapter.

Utility Allowance. If the cost of utilities (except telephone) and other essential housing services for an assisted unit is not included in the Family Contract Rent paid directly to the owner (including a PHA) but is the responsibility of the Family occupying the unit, an amount equal to the estimate made or approved by a PHA or HUD pursuant to applicable sections of these regulations (see Parts 865, 880, 881, 882, 883, 884, and 886 of this chapter, and Part 880 or 881 for projects under Part 885) of the monthly cost of a reasonable consumption of such utilities and other services for the unit by and energy-conservative household of modest circumstances consistance with the requirements of a safe, sanitary, and healthful living environment.

Utility Reimbursement. The amount, if any, by which the Utility Allowance for the unit, if applicable, exceeds the Family Gross Rent for the Family occupying the unit.

Very Low-Income Family. A Lower-Income Family whose Annual Income does not exceed 50 percent of the median income for the area, as determined by HUD, with adjustments for smaller or larger families.

§ 813.103 Income eligibility for admission.

(a) *General Provisions.* No Family shall be eligible for admission which is not a Lower-Income Family. No Family shall be admitted to the Section 8 Existing Housing (Finders-Keepers) Program which is not a Very Low-Income Family, unless assistance to such Family is being converted to Section 8 Existing Housing from another Federal housing assistance program (see, *e.g.*, 24 CFR 882.123).

(b) *Contract.* As used in this Section, "contract" means Annual Contributions Contract (ACC) for the public housing program and Housing Assistance Payments (HAP) Contract for the Section 8 programs.

(c) *Units under contract and available for occupancy prior to October 1, 1981.* With respect to units (other than units in the Finders-Keepers Program) under contract and available for occupany prior to October 1, 1981, HUD may limit the admission of Lower-Income Families other than Very Low-Income Families.

(d) *Units not under contract and available for occupancy prior to October 1, 1981.* Admission to units (other than units in the Finders-Keepers Program) which were not both under contract and available for occupancy prior to October 1, 1981 shall be limited to Very Low-Income Families unless admission of Lower-Income Families other than Very Low-Income Families has been approved by HUD. This limitation does not apply to Mutual Help Homeownership Opportunities projects and units included in the Turnkey III Homeownership Opportunities Program.

(e) *Procedures.* HUD may approve the admission of Lower-Income Families other than Very Low-Income Families in up to five percent of the units placed under contract or made available for occupancy on or after October 1, 1981. For purposes of the calculation required by this subsection, "units placed under contract or made available for occupancy on or after October 1, 1981" shall include units for which Lease Approval under the Section 8 Existing Housing program (see 24 CFR 882.210) is first granted after such date, including units to which certificate holders move from other units occupied with assistance. In deciding which projects may fill some units with Lower-Income Families other than Very Low Income Families, priority will be given to:

(1) Section 8 Substantial Rehabilitation and Moderate Rehabilitation projects that are occupied by Lower-Income Families who would otherwise be displaced;

(2) Section 8 projects financed by State Agencies or tax exempt obligations under Section 11(b) of the U.S. Housing Act of 1937, as amended;

(3) Projects which, because of diminished markets or for other reasons, need such tenants to preserve the financial or management viability of housing or reduce Federal expenditures; and

(4) Projects where there is a local commitment to attaining occupancy by families with a broad range of incomes.

§ 813.104 Annual income.

(a) Annual Income is the anticipated total annual income of each member of the Family from all sources, including all net income derived from assets or from the operation of a business or profession, for the 12-month period following the effective date of determination of income, exclusive of income which is temporary, non-recurring or sporadic as defined in paragraph (c) and exclusive of certain other types of income specified in paragraph (d).

(b) Income shall include, but not be limited to:

(1) The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services;

(2) Net income from operation of a business or profession (for this purpose, expenditures for business expansion or amortization of capital indebtedness and an allowance for depreciation of capital assets shall not be deducted to determine the net income from a business);

(3) Interest, dividends, and other net income of any kind from real or personal property. Where the Family has Net Family Assets in excess of $5,000, Annual Income shall include the actual

amount of income, if any, derived from all of the Net Family Assets or 10 percent of the value of all such assets, whichever is greater.

(4) The full amount of periodic payments received from social security, annuities, insurance policies, retirement funds, pensions, disability or death benefits and other similar types of periodic receipts whether payable to or on behalf of members of the Family;

(5) Payments in lieu of earnings, such as unemployment and disability compensation, workmen's compensation and severance pay (but see paragraph (c)(3) of this section).

(6) Public Assistance. If the public assistance payment includes an amount specifically designated for shelter and utilities which is subject to adjustment by the public assistance agency in accordance with the actual cost of shelter and utilities, the amount of public assistance income to be included as income shall consist of:

(i) The amount of the allowance or grant exclusive of the amount specifically designated for shelter and utilities, plus

(ii) The maximum amount that the Public Assistance Agency could in fact allow the Family for shelter and utilities. If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this paragraph (a)(6)(ii) shall be the amount resulting from one application of the percentage.

(7) Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from persons not residing in the dwelling;

(8) All regular pay, special pay and allowances of a member of the Armed Forces (whether or not living in the dwelling) who is head of the Family or spouse.

(c) Temporary, non-recurring or sporadic income includes:

(1) Casual, sporadic or irregular gifts;

(2) Amounts which are specifically for or in reimbursement of the cost of medical expenses;

(3) Lump-sum additions to Family assets, such as inheritances, insurance payments (including payments under health and accident insurance and workmen's compensation), capital gains and settlement for personal or property losses;

(4) Amounts of educational scholarships paid directly to the student or to the educational institution, and amounts paid by the Government to a veteran for use in meeting the costs of tuition, fees, books and equipment. Any amounts of such scholarships, or payments to veterans, not used for the above purposes and which are available for subsistence are to be included in income.

(d) Income shall not include:

(1) Earned income of minors and foster children under the age of 18 years;

(2) Payments for the care of foster children;

(3) Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits under a category of other assistance programs which would include assistance under the United States Housing Act of 1937. The following types of income are subject to such exclusion:

(i) Relocation payments made pursuant to title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4621 et seq.);

(ii) The value of the allotment provided to an eligible household for coupons under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.);

(iii) Payments to volunteers under the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951 et seq.);

(iv) Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1620(c));

(v) Income derived from certain submarginal land of the United States which is held in trust for certain Indian tribes (Pub. L. 94–114, section 6, 25 U.S.C. 459e);

(vi) Payments or allowances made under a Federal program for the purpose of energy assistance, such as the Department of Health and Human Services' Low-Income Energy Assistance Program or the Office of Community Services' Crisis Intervention Program, where the authorizing statute provides for exclusion of the assistance from income for purposes of other Federal programs.

(vii) Payments received from the youth incentive entitlement pilot projects, the youth community conservation and improvements projects, and the youth employment and training programs under Title IV of the Comprehensive Employment and Training Act Amendments of 1978 (29 U.S.C. 921).

(viii) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94–540, 90 Stat. 2503).

(e) If it is not feasible to anticipate a level of income over a 12-month period, a shorter period may be used subject to a redetermination at the end of such period.

§ 813.105 Gross rent.

(a) *Family gross rent for families whose initial lease is effective on or after August 1, 1982.* Family Gross Rent shall be the highest of the following, rounded to the nearest dollar:

(1) 30 percent of Monthly Adjusted Income.

(2) 10 percent of Monthly Income.

(3) If the Family receives welfare assistance from a public agency and a part of such payments, adjusted in accordance with the Family's actual housing costs, is specifically designated by such agency to meet the Family's housing costs, the portions of such payments which is so designated. If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this paragraph (a)(3) shall be the amount resulting from one application of the percentage.

(b) *Family gross rent for families whose initial lease is effective prior to August 1, 1982.* (1) At the first reexamination occurring on or after August 1, 1982, Family Gross Rent shall be calculated in accordance with § 813.105(a), except that instead of 30 percent the percentage applied to Monthly Adjusted Income shall be as follows:

Effective date of reexamination	Percentage
August 1, 1982–September 30, 1983	27
October 1, 1983–September 30, 1984	[illegible]
October 1, 1984–September 30, 1985	[illegible]
October 1, 1985 and after	[illegible]

(2) For purposes of paragraphs (a) and (b) of this section, a Family that resided in a unit under lease with assistance under a program to which this Part applies prior to August 1, 1982, and whose assistance under such a program has been continuous thereafter, shall be considered a Family whose initial lease was effective before August 1, 1982, notwithstanding that the Family after that date may have moved from one unit to another, from one project to another, or from one such program to another.

(c) The Family Gross Rent charged is subject to the following conditions:

(1) Family Gross Rent shall not be increased by more than 10 percent during any 12-month period as a result of: (i) Application of the percentages in paragraph (b) of this section; (ii) for families subject to paragraph (b) of this section, an increase resulting from regulatory changes in the definition of Monthly Adjusted Income or Monthly Income, or other regulatory changes caused by this Part 813; and (iii) any other provision of Federal law becoming

effective on or after October 1, 1981, redefining which governmental benefits are required to or may be considered as income. However, Family Gross Rent may be increased by more than 10 percent during any 12-month period to the extent that the portion of such increase above 10 percent is attributed solely to increases in income not caused by the regulatory changes referred to in (c)(1)(ii) of this section or redefinitions referred to in (c)(1)(iii) of this section.

(2) Family Gross Rent of any Family shall not be decreased below the amount, if any, payable by such Family as of August 1, 1982, by application of the definitions and procedures of this Part unless due to decreases in Monthly Income or Monthly Adjusted Income not caused by this Part.

(d) *Mutual Help Projects.* This section shall not apply to Mutual Help projects (see CFR 805.416).

§ 813.106 Utility reimbursement.

Where applicable, the Utility Reimbursement shall be paid to the Family in the manner provided in the pertinent program regulation.

§ 813.107 Examination, Verification, and Reexamination of Family Income and Composition.

(a) *Responsibility for Examination and Reexamination.* The owner or PHA shall be responsible for determination of eligibility for admission, and for annual reexamination of family income and composition, as provided in pertinent program regulations and handbooks (see, *e.g.*, 24 CFR Part 860 Subpart B, Part 880 Subpart F, Part 881 Subpart F, Part 882 Subpart B, Part 882 Subpart E, Part 883 Subpart G, Part 884 Subpart B, Part 886 Subpart A, and Part 886 Subpart C; for purposes of this Part, the provisions of Subpart F of Part 880 or 881 shall be applicable to projects developed under part 885). For Families in occupancy on August 1, 1982, the annual reexamination cycle must begin no later than the first anniversary date occurring after the date of their last reexamination.

(b) *Verification.* As a condition to admission to our continued occupancy of any assisted unit under any housing program covered by this Part, the person or agency responsible for determination of eligibility or reexamination of income may require any Family member to provide a copy, at the Family member's expense, of his or her preceding year's Federal Income Tax return, and shall require the Family head and other such Family members as it shall designate to execute a release and consent authorizing any depository or private source of income, or any Federal, State or local agency, to furnish or release to such responsible person or agency and to HUD such information as such responsible person or agency, or HUD, shall determine to be necessary for purposes of determining or auditing a Family's eligibility to receive housing assistance or the determination of Family Gross Rent, or verifying information related thereto. The use or disclosure of information obtained from a Family, or from another source pursuant to such release and consent shall be limited to purposes directly connected with administration of this Part 813 or the housing program under which the Family is receiving or applying for assistance.

* * * * *

PART 860—INCOME LIMITS FOR ADMISSION TO, AND OCCUPANCY OF, LOW-INCOME PUBLIC HOUSING

2. The title of Part 860 would be revised to read as follows:

PART 860—ADMISSION TO, AND OCCUPANCY OF, PUBLIC HOUSING PROJECTS

3. The authority citation for Part 860 would be revised to read as follows:

Authority: Secs. 3, 5, 6 and 16 of the United States Housing Act of 1937 (42 U.S.C. 1437a, 1437c, 1437d, 1437n); Section 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Subparts A and D—[Removed]

4. Subpart A and Subpart D of Part 860 would be removed in their entirety. Subpart A would be reserved.

5. The title of Subpart B would be revised to read as follows:

Subpart B—Admission, Rent and Reexamination

6. Section 860.201 would be revised to read as follows:

§ 860.201 Purpose and scope.

The purpose of this Subpart is to prescribe standards and criteria for tenant selection and annual reexamination of income and family composition by each public housing agency (PHA) in accordance with the U.S. Housing Act of 1937 (the Act) and the Annual Contributions Contract (ACC).

7. Section 860.204(b) would be revised to read as follows:

§ 860.204 PHA tenant selection policies.

* * * * *

(b) Such policies and procedures shall be designed to: (1) Avoid concentrations of the most economically and socially deprived families in any one or all of the PHA's lower-income housing projects; (2) preclude admission of applicants whose habits and practices reasonably may be expected to have a detrimental effect on the tenants or the project environment; and (3) subject to the requirements and limitations of Part 813 of this chapter, attain, within a reasonable period of time, a tenant body in each project composed of families with a broad range of incomes and rent-paying ability which is generally representative of the range of incomes of lower-income families, but families whose incomes are between 50% and 80% of area median income shall not be given a priority by virtue of their income.

* * * * *

8. Section 860.206(a) would be revised to read as follows:

§ 860.206 Verification procedures.

(a) *General.* Adequate procedures shall be developed to obtain and verify information with respect to each applicant. Information relative to the acceptance or rejection of an applicant shall be documented and placed in the applicant's file.

9. New §§ 860.208 through 860.210 would be added after § 860.207, to read as follows:

§ 860.208 Rent; utility reimbursement.

The amount of rent payable by the tenant to the PHA shall be the Family Contract Rent, as defined in and calculated pursuant to 24 CFR Part 813. Where applicable, the Utility Reimbursement (as defined in 24 CFR 813.102) will be paid to the tenant by the PHA.

§ 860.209 Reexamination.

The PHA shall reexamine the income and composition of all tenant families at least once each year. Upon verification of the information, the PHA shall make appropriate adjustments in the Family Gross Rent and Family Contract Rent in accordance with Part 813 of this chapter and such reexaminations of unit size appropriate for the Family as may be required under the standards established by the PHA for determining the appropriate unit size for families of different sizes and compositions. The PHA may schedule reexaminations more frequently than once a year.

§ 860.210 Restriction on eviction of families based upon income.

No PHA shall commence eviction proceedings, or refuse to renew a lease, based on the income of the tenant family unless: (a) It has identified, for possible rental by the family, a unit of decent,

safe, and sanitary housing of suitable size available at a rent not exceeding 30 percent of monthly adjusted income as defined in Part 813 of this chapter, or (b) it is required to do so by local law.

10. Section 860.208, Informal hearings, proposed at 47 FR 55689 (December 13, 1982) would be redesignated as a new § 860.211, Informal hearings, and paragraph (a) thereof would be revised. As revised § 860.211 reads as follows:

§ 860.211 Informal hearings.

(a) *When required.* The PHA shall provide an opportunity for an informal hearing:

(1) To an applicant determined to be ineligible for admission under the requirements of 24 CFR Parts 812 and 813 or this Subpart (on the basis of income or Family composition or for any other reason) or to an applicant to whom listing on the PHA waiting list is denied on the basis of other PHA selection criteria; and

(2) To a Family desiring to challenge the PHA's initial determination or redetermination of Family income, or the PHA's computation of Family rent based on such determination or redetermination;

(b) *Limitation on hearing right.* The PHA shall not be required to provide an informal hearing in accordance with paragaph (a):

(1) Except (i) to consider factual determinations by the PHA relating to the individual circumstances of an applicant or Family; or (ii) to consider whether determinations by the PHA relating to the individual circumstances of an applicant or Family are in accordance with law, HUD regulations or PHA rules;

(2) To consider a challenge to discretionary administrative determinations by the PHA, or to consider general policy issues, class grievances or grievances between tenants not involving the PHA;

(3) To consider a challenge to a factor generally applicable to families participating in the PHA's Public Housing program, or to families in such program who are similarly situated (e.g., application of HUD-required admission requirements or rental increases; changes in the Allowance for Utilities and Other Services).

(c) *Notification.* The PHA shall give the applicant or Family prompt written notification of a PHA determination for which the PHA is required to provide an informal hearing in accordance with paragraph (a) of this section, and of the basis for such determination. The Notice shall state that the applicant or Family may request an informal hearing and shall specify a reasonable date by which the applicant or Family must request the hearing.

(d) *Hearing procedures.* The PHA shall adopt and publish procedures for the conduct of hearing required by this section. Notification of the availability and format of such procedures (including indentification of the PHA representative with whom initial contact shall be made by an applicant or Family) shall be communicated to applicants and to tenants in such manner as the PHA shall deem appropriate, which shall include, in any event, posting in project offices. Hearing procedures may contain appropriate variations depending upon the nature and relative seriousness of the subject matter and the importance of the private interest affected in a particular instance. For example, a PHA may adopt different procedures for applicants from those adopted for current tenants. In determining hearing procedures, the PHA shall give due consideration to the following elements:

(1) *An unbiased tribunal.* If the procedures call for a hearing officer who is a PHA officer or employee, such officer or employee must not have participated in the PHA's original decisions.

(2) *Presentation of basis of decision.* The procedures shall state the manner in which the PHA will be required to present the factual or other basis for its decision, and whether, and the manner and extent to which the applicant or Family will be permitted to examine evidence and examine and question witnesses.

(3) *Opportunity to present reasons why proposed action should not be taken.* The procedures shall specify the manner in which the applicant or Family will be permitted to present reasons why the action proposed by the PHA should not be taken, including whether presentation may be oral or written or both.

(4) *Decision based on evidence.* The procedures shall indicate whether and the extent to which the decision of the tribunal (whether an individual or panel) must be based on evidence presented in the hearing proceeding, and the extent to which decision of some factual matters and other matters may be based on the tribunal's own knowledge and experience.

(5) *Counsel.* The procedures shall indicate whether, or the circumstances under which, the applicant or Family will be entitled to be represented, at its own expense, by a lawyer or other representative.

(6) *Decision.* The procedures shall indicate whether, or the circumstances under which, the tribunal (whether an individual or panel) will issue a written statement of the factual or other reasons for its decision, in which event a copy of such statement will be furnished promptly to the applicant of Family.

(7) *Review.* The procedures shall indicate whether, or the circumstances under which, further review of the tribunal's decision will be available, and the effect or weight to be given to the tribunal's decision in such subsequent review.

PART 805—INDIAN HOUSING

11. The authority citation for Part 805 would be revised to read as follows:

Authority: Secs. 3, 4, 5, 6, 9, 11, 12, and 16, the United States Housing Act of 1937 (42 U.S.C. 1437a, 1437b, 1437c, 1437d, 1437g, 1437i, 1437j, 1437n); sec. 7(d), the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

12. Section 805.302(a) would be revised to read as follows:

§ 805.302 Admission policies.

(a) Income and Assets Limits.

(1) IHA's shall admit families in accordance with Part 813 of this Chapter.

(2) Where decent, safe and sanitary housing is not otherwise being provided in the Indian area even for those of relatively high income, the IHA may request that HUD increase income limits for lower income families in the Indian area because of unusually high family incomes.

* * * * *

13. Section 805.302(b)(2)(i) would be revised to read as follows:

§ 805.302 Admission policies.

* * * * *

(b) * * *

(2) These regulations shall be designed:

(i) Subject to the requirements and limitations of Part 813 of this chapter, to attain at initial occupancy or within a reasonable period of time for Projects beyond the state of initial occupancy (but without prejudice to contract rights of Homebuyers in Turnkey III or MH Projects), a tenant or Homebuyer body in each Project composed of families with a broad range of incomes and rent-paying ability which is generally representative of the range of incomes of those low income families in the Indian area who would be qualified for admission to the type of project (Rental or Mutual Help);

(ii) To avoid concentrations of the most economically and socially deprived families in any one or all of the IHA's Projects.

14. Sections 805.304 (a) and (c) would be revised to read as follows:

§ 805.304 Determination of rents and homebuyer payments.

(a) *Rental and Turnkey III Projects.* The amount of rent or Homebuyer payment required of a tenant in a rental Project or a Homebuyer in a Turnkey III Project shall be determined in accordance with the provisions of Part 813 of this chapter.

* * * * *

(c) *Examination and Reexamination of Family Income.* For purposes of determining rent and Homebuyer payment amounts under paragraphs (a) and (b) of this section, making adjustments in the amounts so determined, and determining whether an MH Homebuyer is required to purchase the home under § 805.422(e), the IHA shall examine the Family's earnings and other income prior to initial occupancy, and shall make periodic reexaminations thereafter at least once a year.

For each examination or reexamination, the tenant or Homebuyer shall furnish to the IHA certification of his Family's earnings and other income and Family composition, including any information and evidence required by the IHA.

§ 805.416 [Amended]

15. Section 805.416(a)(1)(ii) would be amended by changing "25" to "30" percent.

16. Section 805.416(a)(2) would be removed and reserved.

17. Section 805.416(c)(1) would be revised to read as follows:

(1) "Family income" shall have the same meaning as "Adjusted Income" as defined in Part 813. "Total Family Income" shall have the same meaning as "Monthly Income" as defined in Part 813;

* * * * *

§ 805.423 [Amended]

18. Section 805.423(a)(2) is amended by changing "25" to "30" percent.

PART 889—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—DETERMINATION OF INCOME FOR ELIGIBILITY AND GROSS FAMILY CONTRIBUTION—[REMOVED]

29. Part 889 would be removed.

PART 865—PHA-OWNED OR LEASED PROJECTS—MAINTENANCE AND OPERATION

20. Section 865.472 would be amended by removing the definitions of "contract rent" and "gross rent" and by adding definitions for "Family contract rent" and "family gross rent" to read as follows:

§ 865.472 Definitions.

Checkmeter. * * *

Family Contract Rent. The amount paid monthly by the Family as rent to the PHA. Where utilities (except telephone) and other essential housing services are supplied by the PHA, Family Contract Rent equals Family Gross Rent. Where utilities (except telephone) and other essential housing services are not supplied by the PHA and the costs thereof are not included in the amount paid as rent to the PHA, Family Contract Rent equals Family Gross Rent less the Utility Allowances provided under Section 865.478 below. If the Utility Allowance is equal to or greater than the Family Gross Rent, then the Family Contract Rent is zero.

Family Gross Rent. The amount defined in, and calculated in accordance with, 24 CFR Part 813.

Mastermeter System. * * *

Surcharge. * * *

Utility. * * *

PART 880—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM FOR NEW CONSTRUCTION

21. The authority citation for Part 880 would be revised to read as follows:

Authority: Secs. 3, 5 and 8, United States Housing Act of 1937 (42 U.S.C. 1437a, 1437c, 1437f); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

22. Section 880.101(c) would be revised to read as follows:

§ 880.101 General.

* * * * *

(c) *Tenant Rents and Eligible Families.* In addition to the housing assistance payments, the project owner receives a tenant rent, known as "Family Contract Rent," directly from the assisted family. The total amount received by the owner for rent is called the Contract Rent. Eligible families must have incomes within the HUD specified income limits and pay a prescribed amount of their income towards rent in accordance with HUD regulations in Part 813 of this chapter.

* * * * *

23. Section 880.201 would be amended by removing the definitions for "tenant rent", "total family contribution", and "total housing expense", by adding definitions for "family contract rent", "family gross rent", and "utility reimbursement", and by revising the definitions for "family (eligible family)", "housing assistance payments", "lower-income family", and "utility allowance" to read as follows:

§ 880.201 Definitions.

Family (eligible family). As defined in Part 813 of this chapter.

Family Contract Rent. The portion of the Contract Rent payable directly to the owner by an eligible family participating in this program, determined in accordance with Part 813 of this chapter.

Family Gross Rent. The amount defined in, and calculated in accordance with, Part 813 of this chapter.

* * * * *

Housing Assistance Payment. The payment made by the contract administrator to the owner of an assisted unit as provided in the Contract. Where the unit is leased to an eligible family, the payment is the difference between the contract rent and the family contract rent. A housing assistance payment, known as a "vacancy payment", may be made to the owner when an assisted unit is vacant. An additional payment is made to the family when the utility allowance is greater than the family gross rent. In the case of a family renting only a manufactured home space, the housing assistance payment is the sum of the contract rent for the space, the monthly payment made by the family to amortize the purchase price of the manufactured home, and any applicable utility allowance, less the family gross rent; but such payment may not exceed the contract rent for the space.

* * * * *

Lower-Income Family. A family whose annual income does not exceed 80 percent of the median income for the area, as determined by HUD, with adjustments for smaller or larger families. HUD may establish income limits higher or lower than 80 percent of the median income for the area on the basis of its findings that such variations are necessary because of the prevailing levels of construction costs or unusually high or low incomes.

* * * * *

Utility Allowance. An estimate, made or approved by HUD, of the amount defined in 24 CFR 813.102, where applicable.

Utility Reimbursement. As defined in 24 CFR 813.102

24. Section 880.501(e) would be revised as follows:

§ 880.501 The contract.

* * * * *

(e) *Additional Housing Assistance Payments to Families.* Where applicable, the Utility Reimbursement will be paid to the family as an additional housing assistance payment. The Contract will provide that the

owner will make this payment on behalf of the contract administrator. Funds for this purpose will be paid to the owner in trust solely for the purpose of making the additional payment.

25. Section 880.603 would would be amended by removing paragraph (c), by redesignating paragraph (d) as new paragraph (c) and revising paragraph (b) introductory text and newly redesignated paragraph (c)(1) and (3) to read as follows:

§ 880.603 Selection and admission of assisted tenants.

* * * * *

(b) *Determination of Eligiblity and Selection of Tenants.* The owner is responsible for determining whether the applicant is eligible in accordance with Parts 812 and 813 of this chapter and for the selection of families:

* * * * *

(c) *Reexamination of Family Income and Composition.*

(1) The owner is responsible for reexamining the income and composition of all families at least once each year. Upon verification of the information, the owner shall make appropriate adjustments in the family gross rent in accordance with Part 813 of this chapter. The owner will adjust family contract rent and the housing assistance payment to reflect any change in family gross rent. The owner may schedule reexaminations more frequently than once a year.

* * * * *

(3) A Family's eligibility for housing assistance payments continues until the Family Gross Rent equals the Contract Rent plus, if applicable, the Utility Allowance as defined in 24 CFR 813.102. However, the termination of eligibility at such point will not affect the family's other rights under its lease nor will such termination preclude resumption of payments as a result of changes in income or rents or other relevant circumstances during the term of the Contract.

26. Section 880.604 would be revised to read as follows:

§ 880.604 Family contract rent.

The eligible family pays the Family Contract Rent directly to the owner.

§§ 880.501 and 880.610 [Amended]

27. Sections 880.501(d)(1) and 880.610 would be amended by changing the term "tenant rent" to "Family Contract Rent."

§§ 880.603 and 880.608 [Amended]

28. Sections 880.603(c)(2) and 880.608(a) would be amended by changing the term "total family contribution" to "Family Gross Rent."

PART 881—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM FOR SUBSTANTIAL REHABILITATION

29. The authority citation for Part 881 would be revised to read as follows:

Authority: Secs. 3, 5 and 8, United States Housing Act of 1937 (42 U.S.C. 1437a, 1437c, 1437f); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

30. Section 881.101(c) would be revised as follows:

§ 881.101 General.

* * * * *

(c) *Tenant Rents and Eligible Families.* In addition to the housing assistance payments, the project owner receives a tenant rent, known as "Family Contract Rent," directly from the assisted family. The total amount received by the owner for rent is called the Contract Rent. Eligible families must have incomes within the HUD specified income limits and pay a prescribed amount of their income toward rent in accordance with HUD regulations in Part 813 of this chapter.

* * * * *

31. Section 881.201 would be revised by: (i) Deleting the definitions of tenant rent, total family contribution, and total housing expense; (ii) adding definitions of family contract rent, family gross rent and utility reimbursement; and (iii) revising the terms family (eligible family), housing assistance payment, lower-income family, and utility allowance to read as follows:

881.201 Definitions.

* * * * *

Family (eligible family). As defined in Part 813 of this chapter.

Family Contract Rent. The portion of the contract rent payable directly to the owner by an eligible family participating in this program, determined in accordance with Part 813 of this chapter.

* * * * *

Housing Assistance Payment. The payment made by the contract administrator to the owner of an assisted unit as provided in the Contract. Where the unit is leased to an eligible family, the payment is the difference between the contract rent and the family contract rent. A housing assistance payment, known as a "vacancy payment," may be made to the owner when an assisted unit is vacant. An additional payment is made to the family when the utility allowance is greater than the family gross rent. In the case of a family renting only a manufactured home space, the housing assistance payment is the sum of the contract rent for the space, the monthly payment made by the family to amortize the purchase price of the manufactured home, and any applicable utility allowance, less the family gross rent; but such payment may not exceed the contract rent for the space.

* * * * *

Lower-Income Family. A Family whose annual income does not exceed 80 percent of the median income for the area, as determined by HUD, with adjustments for smaller or larger families., HUD may establish income limits higher or lower than 80 percent of the median income for the area on the basis of its findings that such variations are necessary because of the prevailing levels of construction costs or unusually high or low incomes.

* * * * *

Utility Allowance. An estimate, made or approved by HUD, of the amount defined in 24 CFR 813.102, where applicable.

Utility Reimbursement. As defined in 24 CFR 813.102.

32. Section 881.501(e) would be revised as follows:

§ 881.501 The contract.

* * * * *

(e) *Additional Housing Assistance Payments to Families.* Where applicable, the Utility Reimbursement will be paid to the family as an additional housing assistance payment. The Contract will provide that the owner will make this payment on behalf of the contract administrator. Funds for this purpose will be paid to the owner in trust solely for the purpose of making the additional payment.

33. Section 881.603 is amended by removing paragraph (c), redesignating paragraph (d) as paragraph (c), by revising paragraph (b) introductory text and newly redesignated paragaphs (c)(1) and (3) to read as follows:

§ 881.603 Selection and admission of assisted tenants.

* * * * *

(b) *Determination of Eligibility and Selection of Tenants.* The owner is responsible for determining whether the applicant is eligible in accordance with 24 CFR Parts 812 and 813 and for the selection of families:

* * * * *

(c) *Reexamination of Family Income and Composition.*

(1) The owner is responsible for reexamining the income and composition of all families at least once each year. Upon verification of the information, the owner shall make

appropriate adjustments in the Family Gross Rent in accordance with 24 CFR Part 813. The owner will adjust Family Contract Rent and the housing assistance payment to reflect any change in Family Gross Rent. The owner may schedule reexaminations more frequently than once a year.

(2) * * *

(3) A Family's eligibility for housing assistance payments continues until the Family Gross Rent equals the Contract Rent plus, if applicable, the Utility Allowance as defined in 24 CFR 813.102. However, the termination of eligibility at such point will not affect the family's other rights under its lease nor will such termination preclude resumption of payments as a result of changes in income or rents or other relevant circumstances during the term of the Contract.

34. Section 881.604 would be revised to read as follows:

§ 881.604 Family contract rent.

The eligible family pays the contract rent directly to the owner.

35. Sections 881.501(d)(1) and 881.610 would be amended by changing the term "tenant rent" to "Family Contract Rent."

§§ 881.603 and 881.608 [Amended]

36. Sections 881.603(c)(2) and 881.608(a) would be revised by changing the term "total family contribution" to "Family Gross Rent."

PART 882—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—EXISTING HOUSING

37. The authority citation for Part 882 would be revised to read as follows:

Authority: Secs. 3, 5 and 8, United States Housing Act of 1937 (42 U.S.C. 1437a, 1437c, 1437f); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

38. Section 882.102 would be revised by: (i) Deleting definitions of Gross Family Contribution, Housing Assistance Payment on Behalf of Eligible Family, and Eligible Family; (ii) by adding definitions for Family (eligible family), Family Contract Rent, Family gross rent, housing assistance payment, utility allowance, utility reimbursement; and (iii) by revising allowance for utilities and other services ("allowance"), gross rent and lower-income family to read as follows:

§ 882.102 Definitions.

* * * * *

Allowance for utilities and other services ("allowance"). See the definition of utility allowance.

* * * * *

Family (eligible family). As defined in Part 813 of this Chapter.

Family Contract Rent. The portion of the Contract Rent payable directly to the owner by an eligible Family participating in this program, determined in accordance with 24 CFR Part 813.

Family Gross Rent. The amount defined in, and calculated in accordance with, 24 CFR Part 813.

* * * * *

Gross Rent. Contract Rent plus any Utility Allowance.

* * * * *

Housing Assistance Payment. The payment made by the PHA to the owner of an assisted unit as provided in the Contract. Where the unit is leased to an eligible family, the payment is the difference between the contract rent and the family contract rent. A housing assistance payment may be made to the owner when a unit is vacant in accordance with 24 CFR 882.105. An additional payment is made by the PHA to the family when the utility allowance is greater than the family gross rent.

* * * * *

Lower-Income Family. A family whose annual income does not exceed 80 percent of the median income for the area, as determined by HUD, with adjustments for smaller or larger families. HUD may establish income limits higher or lower than 80 percent of the median income for the area on the basis of its finding that such variations are necessary because of the prevailing levels of construction costs or unusually high or low incomes.

* * * * *

Utility Allowance. An estimate, made or approved by a PHA or HUD, of the amount defined in 24 CFR 813.102, where applicable.

Utility Reimbursement. As defined in 24 CFR 813.102.

§ 882.113 [Removed and Reserved]

39. Section 882.113 would be removed and reserved.

40. Section 882.210(c) would be revised as follows:

§ 882.210 Request for lease approval.

* * * * *

(c) *Amount of Rent Payable by Family to Owner.* The amount of rent payable by the Family to the Owner shall be the Family Contract Rent. Where applicable, the Utility Reimbursement will be paid by the PHA directly to the Family.

* * * * *

41. Section 882.212 would be revised as follows:

§ 882.212 Reexamination of family income and composition.

(a) The PHA is responsible for reexamining the income and composition of all families at least once each year. Upon verification of the information, the PHA shall make appropriate adjustments in the Family Gross Rent in accordance with 24 CFR Part 813. The owner will adjust Family Contract Rent and the Housing Assistance Payment to reflect any change in Family Gross Rent. The PHA may schedule reexaminations more frequently than once a year.

(b) A Family's eligibility for housing assistance payments shall continue until the Family Gross Rent equals the Contract Rent plus, if applicable, the Utility Allowance as defined in § 813.102. However, the termination of eligibility at such point will not affect the Family's other rights under its lease nor will termination preclude resumption of payments as a result of changes in income or rents or other relevant circumstances during the term of the Contract.

(c) If the Contract terminates at a time when the Family is ineligible for payments, the contract shall not be renewed. In addition, if one year has elapsed since the date of the last housing assistance payment, the contract shall be terminated (with the consent of the Owner if the contract does not provide for termination under such circumstances) even if the termination date has not yet been reached.

(d) A family may at any time request a redetermination of its Family Gross Rent on the basis of changes in family income or other relevant circumstances.

§ 882.412 [Removed and Reserved]

42. Section 882.412 would be removed and reserved.

§ 882.602 [Amended]

43. In § 882.602, the term and definition for "*Family Contribution*" would be removed and the following term and definition substituted thereof.

* * * * *

Family Gross Rent. The Family Gross Rent shall be determined in accordance with § 813.105. The last sentence of § 882.210(c) shall not apply.

* * * * *

PART 883—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—STATE HOUSING AGENCIES

44. The authority citation for Part 883 would be revised to read as follows:

Authority: Secs. 3, 5 and 8, United States Housing Act of 1937 (42 U.S.C. 1437a, 1437c, 1437f); sec. 7(d) Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

45. Section 883.101(c) would be revised as follows:

§ 883.101 General.

* * * * *

(c) *Tenant Rents and Eligible Families.* In addition to the housing assistance payments, the project owner receives a tenant rent, known as "Family Contract Rent," directly from the assisted family. The total amount received by the owner for rent is called the Contract Rent. Eligible families must have incomes within the HUD specified income limits and pay a prescribed amount of their income towards rent in accordance with HUD regulations in Part 813 of this chapter.

* * * * *

46. Section 883.302 would be revised by: (i) Deleting the definitions of "tenant rent," "total family contribution," and "total housing expense"; (ii) adding definitions of "family contract rent," "family gross rent" and "utility reimbursement," and by revising the definitions for "family (eligible family), housing assistance payment, lower-income family, and utility allowance to read as follows:

§ 883.302 Definitions.

* * * * *

Family (eligible family). As defined in Part 813 of this chapter.

Family Contract Rent. The portion of the contract rent payable directly to the owner by an eligible family participating in this program, determined in accordance with Part 813 of this chapter.

Family Gross Rent. The amount defined in, and calculated in accordance with Part 813 of this chapter.

* * * * *

Housing Assistance Payment. The payment made by to the owner of an assisted unit by the State Agency as provided in the Contract. Where the unit is leased to an eligible family, the payment is the difference between the contract rent and the family contract rent. A housing assistance payment, known as a "vacancy payment," may be made to the owner when an assisted unit is vacant. An additional payment is made to the family when the utility allowance is greater than family gross rent. In the case of a family renting only a manufactured home space, the housing assistance payment is the sum of the contract rent for the space, the monthly payment made by the family to amortize the purchase price of the manufactured home, and any applicable utility allowance, less the family gross rent; but such payment may not exceed the contract rent for the space.

* * * * *

Lower-Income Family. A family whose annual income does not exceed 80 percent of the median income for the area, as determined by HUD, with adjustments for smaller or larger families. HUD may establish income limits higher or lower than 80 percent of the median income for the area on the basis of its findings that such variations are necessary because of the prevailing levels of construction costs or unusually high or low incomes.

* * * * *

Utility Allowance. An estimate, accepted by HUD, of the amount defined in 24 CFR 813.102.

Utility Reimbursement. As defined in 24 CFR 813.102.

47. Section 883.602(e) would be revised as follows:

§ 883.602 The contract.

* * * * *

(e) *Additional housing assistance payments to families.* Where applicable, the Utility Reimbursement will be paid to the family as an additional housing assistance payment. The Contract will provide that the owner will make this payment on behalf of the Agency. Funds for this purpose will be paid to the owner in trust solely for the purpose of making the additional payment.

48. Section 883.704 would be amended by removing paragraph (c), redesignating paragraph (d) and new (c), and by revising paragraph (b) introductory text and newly redesignated paragraphs (c)(1) and (3) to read as follows:

§ 883.704 Selection and admission of assisted tenants.

* * * * *

(b) *Determination of Eligibility and Selection of Tenants.* The owner is responsible for determining whether the applicant is eligible in accordance with 24 CFR Parts 812 and 813 and for the selection of families:

* * * * *

(c) *Reexamination of Family Income and Composition.*

(1) The owner is responsible for reexamining the income and composition of all families at least once each year. Upon verification of the information, the owner shall make appropriate adjustments in the family gross rent in accordance with 24 CFR Part 813. The owner will adjust family contract rent and the housing assistance payment to reflect any change in family gross rent. The owner may schedule reexaminations more frequently than once a year.

* * * * *

(3) A Family's eligibility for housing assistance payments continues until the Family Gross Rent equals the Contract Rent plus, if applicable, the Utility Allowance as defined in § 813.102. However, the termination of eligibility at such point will not affect the family's other rights under its lease nor will such termination preclude resumption of payments as a result of changes in income or rents or other relevant circumstances during the term of the Contract.

49. Section 883.705 would be revised to read as follows:

§ 883.705 Family Contract Rent.

The eligible family pays the family contract rent directly to the owner.

§ 883.602 and 883.711 [Amended]

50. Sections 883.602(d) (1) and (2) and 883.711 would be amended by changing the term "tenant rent" to "family contract rent".

§ 883.709 [Amended]

51. Section 883.709(a) would be revised by changing the term "total family contribution" to "family gross rent".

PART 884—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM, NEW CONSTRUCTION SET-ASIDE FOR SECTION 515 RURAL RENTAL HOUSING PROJECTS

52. The authority citation for Part 884 would be revised to read as follows:

Authority: Secs. 3, 5 and 8, United States Housing Act of 1937 (42 U.S.C. 1437a, 1437c, 1437f); sec. 7(d) Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

53. Section 884.102 would be revised by: (i) Deleting definitions of Eligible Family, Housing Assistance Payment on Behalf of Eligible Family, Gross Family Contribution, and Gross Rent, (ii) adding definitions of family, family contract rent, family gross rent, housing assistance payment, utility allowance and utility reimbursement, and (iii) by revising the definitions of "allowance for utilities and other services ("allowance")" and "lower-income family" to read as follows:

§ 884.102 Definitions.

* * * * *

Allowance for utilities and other services ("allowance"). See the definition of utility allowance.

* * * * *

Family. A family, as defined in 24 CFR Part 812, which is determined eligible for

admission in accordance with Part 813 of this Chapter.

Family Contract Rent. The portion of the contract rent payable directly to the owner by an eligible family participating in this program, determined in accordance with Part 813 of this Chapter.

Family Gross Rent. The amount defined in, and calculated in accordance with, Part 813 of this Chapter.

* * * * *

Housing Assistance Payment. The payment made by the contract administrator to the owner of an assisted unit as provided in the Contract. Where the unit is leased to an eligible family, the payment is the difference between the contract rent and the family contract rent. A housing assistance payment may be made to the owner when a unit becomes vacant in accordance with the terms of the Contract. An additional housing assistance payment is made to the family when the utility allowance is greater than the family gross rent. In the case of a family renting only a manufactured home space, the housing assistance payment is the sum of the contract rent for the space, the monthly payment made by the family to amortize the purchase price of the manufactured home, and any applicable utility allowance, less the family gross rent; but such payment may not exceed the contract rent for the space.

* * * * *

Lower-Income Family. A family whose annual income does not exceed 80 percent of the median income for the area, as determined by HUD, with adjustments for smaller or larger families. HUD may establish income limits higher or lower than 80 percent of the median income for the area on the basis of its finding that such variations are necessary because of the prevailing levels of construction costs or unusually high or low incomes.

* * * * *

Utility Allowance (allowance for utilities and other services). An estimate, made or approved by HUD, of the amount defined in 24 CFR 813.102.

Utility Reimbursement. As defined in § 813.102.

54. Section 884.106(a) would be revised as follows:

§ 884.106 Housing assistance payments to owners.

(a) *General.* Housing assistance payments shall be paid to Owners for units under lease by eligible families, in accordance with the Contract and as provided in this section. These housing assistance payments will cover the difference between the Contract Rent and the Family Contract Rent. Where applicable, the Utility Reimbursement will be paid to the family as an additional housing assistance payment. The Contract will provide that the Owner will make this payment on behalf of the contract administrator. Funds for this purpose will be paid to the Owner in trust solely for the purpose of making the additional payment. No Section 8 assistance may be provided for any unit occupied by an Owner; however, cooperatives are considered rental housing rather than Owner-occupied housing for this purpose.

§ § 884.116 and 884.117 [Removed and Reserved]

55. Sections 884.116 and 884.117 would be removed and reserved.

56. Section 884.218 would be revised as follows:

§ 884.218 Reexamination of family income and composition.

(a) The Owner is responsible for reexamining the income and composition of all families at least once each year. Upon verfication of the information, the Owner shall make appropriate adjustments in the Family Gross Rent in accordance with 24 CFR Part 813. The Owner shall adjust Family Contract Rent and the Housing Assistance Payment to reflect any change in Family Gross Rent. The Owner may schedule reexaminations more frequently than once a year.

(b) A family's eligibility for housing assistance payments continues until the Family Gross Rent equals the total Contract Rent plus, if applicable, the Utility Allowance as defined in § 813.102. However, the termination of eligibility at such point will not affect the family's other rights under its lease nor will such termination preclude resumption of payments as a result of changes in income or rents or other relevant circumstances during the term of the Contract.

PART 886—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS—SPECIAL ALLOCATIONS

57. The authority for Part 886 would be revised to read as follows:

Authority: Secs. 3, 5 and 8, United States Housing Act of 1937 (42 U.S.C. 1437a, 1437c, 1437f); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

58. Section 886.102 would be amended by: (i) Deleting the definitions of Eligible Family, Gross Family Contribution, Gross Rent and Housing Assistance Payment on behalf of Eligible Family, (ii) adding definitions of familiy, family contract rent, family gross rent, housing assistance payment, utility allowance and utility reimbursement, and (iii) by revising the definitions for gross rent, and lower-income family, to read as follows:

§ 886.102 Definitions.

* * * * *

Allowance for utilities and other services ("allowance"). See the definition of utility allowance.

* * * * *

Family (eligible family). A family, as defined in 24 CFR Part 812, which is determined eligible for admission and continued occupancy in accordance with Part 813 of this Chapter.

Family Contract Rent. The portion of the contract rent payable directly to the owner by an eligible family participating in this program, determined in accordance with Part 813 of this chapter.

Family Gross Rent. The amount defined in, and calculated in accordance with, Part 813 of this chapter.

* * * * *

Gross Rent. Contract Rent plus any Utility Allowance.

Housing Assistance Payment. The payment made by HUD to the owner of an assisted unit as provided in the Contract. Where the unit is leased to an eligible family, the payment is the difference between the contract rent and the family contract rent. A housing assistance payment may be made to the owner when a unit is vacant in accordance with 24 CFR 886.109. An additional housing assistance payment is made when the utility allowance is greater than the family gross rent. In the case of a family renting only a manufactured home space, the housing assistance payment is the sum of the contract rent for the space, the monthly payment made by the family to amortize the purchase price of the manufactured home, and any applicable utility allowance, less the family gross rent; but such payment may not exceed the contract rent for the space.

Lower-Income Family. A family whose annual income does not exceed 80 percent of the median income for the area, as determined by HUD, with adjustments for smaller or larger families. HUD may establish income limits higher or lower than 80 percent of the median income for the area on the basis of its finding that such variations are necessary because of the prevailing levels of construction costs or unusually high or low incomes.

* * * * *

Utility Allowance (Allowance for utilities and other services). An

estimate, made or approved by HUD, of the amount defined in § 813.102.

Utility Reimbursement. As defined in § 813.102.

59. Section 886.109(a) would be revised as follows:

§ 886.109 Housing assistance payments to owners.

(a) *General.* Housing assistance payments shall be paid to Owners for units under lease by eligible families, in accordance with the Contract and as provided in this section. These housing assistance payments will cover the difference between the Contract Rent and the Family Contract Rent. Where applicable, the Utility Reimbursement will be paid to the family as an additional housing assistance payment. The Contract will provide that the owner will make this payment on behalf of HUD. Funds for this purpose will be paid to the Owner in trust solely for the purpose of making the additional payment.

* * * * *

§ 886.117 [Removed and Reserved]

60. Section 886.117 would be removed and reserved.

61. Section 886.118(a) would be revised as follows:

§ 886.118 Establishment of amount of housing assistance payments.

(a) See 886.109(a).

* * * * *

62. Section 886.124 would be revised as follows:

§ 886.124 Reexamination of family income and composition.

(a) The Owner is responsible for reexamining the income and composition of all families at least once each year. Upon verification of the information, the Owner shall make appropriate adjustments in the family gross rent in accordance with Part 813 of this Chapter. The Owner will adjust family contract rent and the housing assistance payment to reflect any change in family gross rent. The owner may schedule reexaminations more frequently than once a year.

(b) A Family's eligibility for housing assistance payments shall continue until the Family Gross Rent equals the Contract Rent plus, if applicable, the Utility Allowance as defined in § 813.102. However, the termination of eligibility at such point will not affect the Family's other rights under its Lease nor will termination preclude resumption of payments as a result of changes in income or rents or other relevant circumstances during the term of the Contract. A family may at any time request a redetermination of its Family Gross Rent on the basis of changes in family income or other relevant circumstances.

63. Section 886.302 would be revised by: (i) Deleting definitions of Eligible Family and Gross Family Contribution, (ii) adding definitions of Family, Family Contract Rent, Family Gross Rent, Utility Allowance and Utility Reimbursement, and (iii) by revising the definitions of allowance for utilities and other services ("allowance"), housing assistance payment, and lower-income family.

§ 886.302 Definitions.

* * * * *

Allowance for utilities and other services ("allowance"). See the definition of utility allowance.

* * * * *

Family (eligible family). A family, as defined in 24 CFR Part 812, which is determined eligible for admission in accordance with Part 813 of this Chapter.

Family Contract Rent. The portion of the contract rent payable directly to the owner by the Family, determined in accordance with 24 CFR Part 813 of this Chapter.

Family Gross Rent. The amount defined in, and calculated in accordance with Part 813 of this Chapter.

* * * * *

Housing Assistance Payment. The payment made by the contract administrator to the owner of an assisted unit as provided in the Contract. Where the unit is leased to an eligible family, the payment is the difference between the contract rent and the family contract rent. A housing assistance payment may be made to the owner when a unit is vacant in accordance with the terms of the Contract. An additional housing assistance payment is made when the utility allowance is greater than the family gross rent.

* * * * *

Lower-Income Family. A family whose annual income does not exceed 80 percent of the median income for the area, as determined by HUD, with adjustments for smaller or larger families. HUD may establish income limits higher or lower than 80 percent of the median income for the area on the basis of its finding that such variations are necessary because of the prevailing levels of construction costs or unusually high or low incomes.

* * * * *

Utility Allowance. An estimate, made or approved by HUD, of the amount defined in 24 CFR 813.102.

Utility Reimbursement. As defined in § 813.102.

64. Section 886.309(a) would be revised as follows:

§ 886.309 Housing assistance payment to owners.

(a) *General.* Housing assistance payments shall be paid to owners for units under lease by eligible families, in accordance with the Contract and as provided in this section. These housing assistance payments will cover the difference between the Contract Rent and Family Contract Rent. Where applicable, the Utility Reimbursement will be paid to the family as an additional housing assistance payment. The Contract shall provide that the owner shall make this payment on behalf of HUD. Funds for this purpose will be paid to the owner in trust solely for the purpose of making the additional payment.

* * * * *

§§ 886.316 and 886.317 [Removed and Reserved]

65. Section 886.316 would be removed and reserved.

66. Section 886.317 would be removed and reserved.

67. Section 886.324 would be revised to read as follows:

§ 886.324 Reexamination of family income and composition.

(a) The owner is responsible for reexamining the income and composition of all families at least once each year. Upon verification of the information, the owner shall make appropriate adjustments in the family gross rent in accordance with Part 813 of this chapter. The owner will adjust family contract rent and the housing assistance payment to reflect any change in family gross rent. The owner may schedule reexaminations more frequently than once a year.

(b) A Family's eligibility for housing assistance payments shall continue until the Family Gross Rent equals the Contract Rent plus, if applicable, the Utility Allowance as defined in 24 CFR 813.102. However, the termination of eligibility at such point will not affect the Family's other rights under its Lease nor will termination preclude resumption of payments as a result of changes in income or rents or other relevant circumstances during the term of the Contract. A family may at any time request a redetermination of its Family Gross Rent on the basis of changes in family income or other relevant circumstances.

PART 804—LOW RENT HOUSING HOMEOWNERSHIP OPPORTUNITIES

68. The authority citation for Part 804 would be revised to read as follows:

Authority: United States Housing Act of 1937 (42 U.S.C. 1437, et seq.); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

69. In § 804.104, paragraph (h)(1) would be revised to remove reference to a maximum monthly payment and to include reference to the Family Contract Rent and to read as follows:

§ 804.104 Eligibility and selection of homebuyers

* * * * *

(h) *Eligibility for continued occupancy.*

(1) A homebuyer shall cease to be eligible for continued occupancy with the aid of HUD annual contributions when the LHA determines that his adjusted monthly income has reached the level, and is likely to continue at such level, at which the current amount of his required montly payment equals or exceeds the monthly housing cost (see paragraph (h)(2) of this section). In such event, if the LHA determines, with HUD approval, that suitable financing is available, the LHA shall notify the homebuyer that he shall either: (i) Purchase the home; or (ii) move from the development; provided, however, that if the LHA determines that, due to special circumstances, the homebuyer is unable to find decent, safe and sanitary housing within his financial reach although making every reasonable effort to do so, the homebuyer may be permitted to remain for the duration of such a situation.

* * * * *

70. In § 804.107, paragraph (j)(1) would be revised, paragraph (j)(3) would be removed, and paragraph (j)(4) would be redesignated as paragraph (j)(3) and revised to read as follows:

§ 804.107 Responsibilities of homebuyer.

* * * * *

(j) *Homebuyer's required monthly payment.*

(1) The term "required monthly payment" as used herein means the monthly payment the homebuyer is required to pay to the LHA on or before the first day of each month. Although the total monthly housing cost consists of the sum of the breakeven amount (see § 804.106) and the debt service (payments of principal and interest) on the applicable share of the capital cost of the development, the homebuyer is not required to pay the full amount, but is assisted by HUD annual contributions. The homebuyer's required monthly payment, which is based upon his income, shall be the amount of Family Contract Rent as determined in accordance with Part 813 of this chapter, plus the monthly amounts budgeted by the PHA for EHPA and NRMR.

* * * * *

(3) The LHA shall not refuse to accept monthly payments because of any other charges (i.e., other than overdue monthly payments) owed by the homebuyer to the LHA; however, by accepting monthly payments under such circumstances the LHA shall not be deemed to have waived any of its rights and remedies with respect to such other charges.

* * * * *

Dated: October 22, 1982.

Philip Abrams,

Assistant Secretary for Housing, Federal Housing Commissioner.

[FR Doc. 82-34778 Filed 12-28-82; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 4a

Source of Interest and Dividends

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains a notice of proposed rulemaking with respect to the source of interest derived from resident alien individuals and domestic corporations and the source of dividends derived from domestic corporations under section 861 of the Internal Revenue Code of 1954. In the Rules and Regulations portion of this **Federal Register**, temporary income tax regulations relating to the same subject are published.

DATE: Written comments and requests for a public hearing must be delivered or mailed before February 28, 1983.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-296-82), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Martha E. Kadue of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention: CC:LR:T (LR-296-82), 202-566-3236, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 861 of the Internal Revenue Code of 1954. These amendments are proposed to be issued under the authority contained in section 7805 (68A Stat. 917, 26 U.S.C. 7805) of the Internal Revenue Code of 1954.

Discussion

Section 861 prescribes rules for determining when certain items of gross income shall be treated as income from sources within the United States. Subsection (a)(1) states that interest on indebtedness of a United States resident (including a corporation) is generally treated as income from U.S. sources. One of the exceptions to this general rule, found in section 861(a)(1)(B), is for U.S. resident alien individuals and domestic corporations that have derived less than 20 percent of their gross income for their prior three taxable years from U.S. sources. Interest received from these individuals and corporations is treated as income from sources outside the United States under section 862(a)(1).

Subsection (a)(2)(A) of section 861 provides generally that dividends from domestic corporations are treated as income from U.S. sources. However, if the domestic corporation derived less than 20 percent of its gross income for its prior three taxable years from sources within the United States, the dividend is treated as income from sources outside the United States under section 862(a)(2).

Guam, the Commonwealth of the Northern Mariana Islands, and the Virgin Islands of the United States each have a separate territorial income tax system and generally apply the Internal Revenue Code as their territional income tax law by substituting the name of the possession for the words "United States" as appropriate. These "mirror codes" include the source rules described above. Except as otherwise required, United States corporations are foreign corporations under these mirror codes. While each of these possessions has a separate tax system, each of those mirror codes together with the Internal Revenue Code forms an integrated scheme of income taxation.

Fixed and determinable annual and periodical income received by a U.S. person from sources within the above-mentioned possessions is not subject to tax to the recipient by certain of these possessions. These tax rules are generally designed to encourage U.S. investment in such possessions. They are not intended or designed to allow income earned in such possessions by a foreign person (not a citizen, resident, or

domestic corporation of either jurisdiction) to avoid taxation by both the possession and the United States under sections 871(a) and 881(a) of their respective tax codes. Accordingly, these proposed regulations provide that income derived from Guam, the Commonwealth of the Northern Mariana Islands, and the Virgin Islands of the United States that is not subject to tax to the recipient by that jurisdiction is treated as U.S. source income for purposes of the source of income rules in section 861 (a)(1)(B) and (a)(2)(A).

Comments and Requests for a Public Hearing

Before adopting as final regulations these proposed regulations, consideration will be given to any written comments that are submitted (preferally seven copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register.**

Certification of Nonapplicability of Regulatory Flexibility Act of 1980 and Exceutive Order 12291

Although this document is a notice of proposed rulemaking which solicits public comment, the Internal Revenue Service has concluded that the proposed regulations are interpretative and that the notice and public comments procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act of 1980 (5 U.S.C. Chapter 6). The Commissioner of Internal Revenue has determined that this proposed rule is not subject to Executive Order 12291.

Drafting Information

The principal author of these regulations is Martha E. Kadue of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other office of the Internal Revenue Service and Treasury Department participated in developing the regulations on matters of substance and style.

List of Subjects in 26 CFR 1.861-1 Through 1.997-1

Income taxes, Aliens, Exports, DISC, Foreign investment in U.S., Foreign tax credit, Sources of income, United States investments abroad.

List of Subjects in 26 CFR Part 4a

Income taxes, Sources of income.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Parts 1 and 4a are as follows:

PART 1—INCOME TAX REGULATIONS

Paragraph 1. Section 1.861–2 is amended as follows:

1. Paragraph (b)(2) is revised to read as set forth below.

2. The first sentence of paragraph (e) is revised to read: "This section applies with respect to taxable years beginning after December 31, 1966, except that paragraph (b) (2) (ii) applies with respect to interest received or accrued after [date which is 30 days after publication of final regulations in the **Federal Register**]."

§ 1.861-2 Interest.

* * * * *

(b) *Interest not derived from U.S. sources.* * * *

(2) *Interest from a resident alien individual or domestic corporation deriving substantial income from sources without the United States*—(i) *In general.* Interest received from a resident alien individual or a domestic corporation shall be treated as income from sources without the United States when it is shown to the satisfaction of the district director that less than 20 percent of the gross income from all sources of such individual or corporation has been derived from sources within the United States, as determined under the provisions of sections 861 to 864, inclusive and the regulations thereunder, for the 3-year period ending with the close of the taxable year of such individual or corporation preceding its taxable year in which such interest is paid or credited, or for such part of such period as may be applicable. If 20 percent or more of the gross income from all sources of such individual or corporation has been derived from sources within the United States, as so determined, for such 3-year period (or part thereof), the entire amount of the interest from such individual or corporation shall be treated as income from sources within the United States.

(ii) *Special rule for certain income.* For purposes of this paragraph (b) (2), income derived from Guam, the Commonwealth of the Northern Mariana Islands, or the Virgin Islands of the United States that is not subject to tax to the recipient by that jurisdiction shall be considered income from sources within the United States.

* * * * *

Par. 2. Section 1.861–3 is amended as follows:

1. Paragraph (a)(2) is revised to read as set forth below.

2. The first sentence of paragraph (d) is revised to read: "This section applies with respect to dividends received or accrued after December 31, 1966, except that paragraph (a)(5) of this section applies to certain dividends from a DISC or a former DISC in taxable years ending after December 31, 1971, and that paragraph (a)(2)(ii) of this section applies with respect to dividends received or accrued after [date which is 30 days after publication of final regulations in the **Federal Register**]."

§ 1.861-3 Dividends.

(a) *General*—* * *

(2) *Dividend from a domestic corporation*—(i) *In general.* A dividend described in this subparagraph (2) is a dividend from a domestic corporation other than a domestic corporation which has an election in effect under section 936, and other than a domestic corporation less than 20 percent of the gross income of which is shown to the satisfaction of the district director to have been derived from sources within the United States, as determined under the provisions of sections 861 to 864, inclusive, and the regulations thereunder, for the 3-year period ending with the close of the taxable year of such corporation preceding the declaration of such dividend, or for such part of such period as the corporation has been in existence. See subparagraph (5) of this paragraph for the treatment of certain dividends from a DISC or former DISC.

(ii) *Special rule for certain income.* For purposes of this paragraph (a)(2), income derived from Guam, the Commonwealth of the Northern Mariana Islands, or the Virgin Islands of the United States that is not subject to tax to the recipient by that jurisdiction shall be considered income from sources within the United States.

* * * * *

PART 4a—TEMPORARY INCOME TAX REGULATIONS RELATING TO SOURCE OF INCOME

§ 4a.861-1 [Removed]

Par. 3. Section 4a.861–1 is removed.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 82-35313 Filed 12-28-82; 8:45 am]

BILLING CODE 4830-01-M

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[Notice No. 444; Re: Notice No. 418]

Alexander Valley Viticultural Area; Public Hearing

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Treasury.

ACTION: Notice of hearing on a proposed rule.

SUMMARY: This notice announces the time and place of a public hearing to be held by the Bureau of Alcohol, Tobacco and Firearms (ATF) concerning establishment of a viticultural area in northeastern Sonoma County, California, to be known as "Alexander Valley." In Notice No. 418 (47 FR 36221) published in the Federal Register on August 19, 1982, ATF detailed two proposals for establishment of this viticultural area and requested comments. In consideration of the comments received, ATF has determined that the public interest would best be served by the holding of a public hearing on this matter. The purpose of the hearing is to gather additional information and to receive evidence with respect to the establishment of this viticultural area, the proposed boundaries, and other possible boundaries.

DATES: The hearing will be held on January 24, 1983, at 9:30 a.m. (an evening session may be held if necessary at 7:00 p.m.).

Persons desiring to make oral comments at the hearing should submit a letter notifying ATF of their intent to comment on or before January 17, 1983. Written comments must be received on or before February 7, 1983.

ADDRESSES: The hearing will be held at the: Santa Rosa Veterans Memorial Building, 1351 Maple Avenue, Santa Rosa, CA 95402.

Letter notifications and written comments are to be submitted to: Chief, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044–0385, Attention Notice No. 444.

FOR FURTHER INFORMATION CONTACT: Jim Whitley, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, Washington, DC (202–566–7626).

SUPPLEMENTARY INFORMATION:

Background

On August 19, 1982, ATF published notice of proposed rulemaking No. 418 (47 FR 36221) in the Federal Register. In the notice, proposals for the establishment of a viticultural area in northeastern Sonoma County, California, to be known as "Alexander Valley" were detailed. These proposals, identified as Group "A" proposal and Group "B" proposal, resulted from petitions filed by grape/wine industry groups in the area. Both groups proposed that the viticultural area be established in the valley area lying north of the town of Healdsburg. The point of disagreement is the northern boundary. As required by 27 CFR 4.25a(e)(2), each group submitted supporting evidence. On the basis of this evidence, the proposals were determined to have equal merit. Interested persons were invited to submit comments on the proposals. The 60-day comment period ended October 18, 1982.

We received seven (7) comments in response to the notice. Comments were received from the petitioning industry groups, from members of a petitioning group, and from wineries and associations in the area. The comments from the petitioning groups and members thereof reiterated their position on the matter. In addition, the comment of Group "A" also contained additional historical evidence. Furthermore, we received two (2) comments prior to publication of the notice. A comment expressed support for the proposal of Group "B." The other concerned a boundary modification.

Hearing

Based on the facts and representations presented in the comments, it is apparent that disagreement remains between the petitioners on a boundary for the viticultural area. In addition, ATF desires to obtain additional information on the establishment of this viticultural area, the proposed boundaries, and other possible boundaries.

For these reasons, ATF has determined that a hearing is necessary and serves the public interest. The purpose of the hearing is to obtain evidence for the record and to afford interested parties an opportunity to express their views. Evidence obtained and views expressed will be considered in the preparation of any final rule on this matter.

Participation

Any person desiring to participate in the hearing should notify ATF by submitting a letter specifying the name, address, and telephone number of the individual who will present oral comments. Any preference a person may have as to the time of day for presentation of comments should also be stated. The letter must be accompanied by an outline which briefly summarizes the topics the commenter will discuss and the information to be presented. Each topic to be discussed should be separately numbered and each numbered topic should specify with particularity the information to be presented. Assurance of having the opportunity to be heard is given only to those persons notifying ATF prior to the scheduling cutoff date of January 17, 1983.

Any person unable to attend the hearing or who prefers not to present oral comments may submit written comments before or after the hearing. ATF will accept written comments until February 7, 1983. In written comments, each topic to be discussed should be separately numbered and each numbered topic should specify with particularity the factual basis supporting the views, data, or arguments presented. All written comments received will be considered in the development of a decision on this matter.

General Information on Hearing Procedures

The hearing will be conducted under the procedural rules contained in 27 CFR 71.41(a)(3) and will be open to the public, subject to the limitations of space. In the event attendance exceeds available seating space, persons scheduled to present oral comments will be given preference in respect to admission.

Time limitations make it necessary to limit the length of oral presentations to ten (10) minutes. Commenters will not be permitted to trade their time to obtain a longer presentation period. However, the hearing officer may allow any person additional time after all other comments have been heard. To the extent that time is available after presentation of oral comments by those who are scheduled to comment, others will be given an opportunity to be heard.

In order to insure that ATF will have the full benefit of their views even if time constraints limit an oral presentation, persons presenting oral comments are urged to supplement their oral statement with a more complete written statement. A written statement submitted to the hearing officer at the time of presentation of the oral statement will be considered part of the hearing record.

After making an oral presentation, a person should be prepared to answer questions from the hearing panel on not only the topics presented but also on matters relating to any written comments which he or she has

submitted. Other persons will not be permitted to question a commenter. However, questions may be submitted, in writing, to the hearing officer who will evaluate their relevance. If the hearing officer determines that elicitation of further discussion would be beneficial, they may be presented to a commenter for a response.

Persons will be scheduled, whenever possible, according to the time preference, if any, mentioned in their letter notification to ATF. ATF will confirm by telephone the time a person is scheduled to present oral comments. A letter notification received prior to the cutoff date ensures that a person will be scheduled to comment. Letter notifications received after the cutoff date will be honored to the extent practicable on a first-come-first-served basis up to one (1) working day preceding the hearing. Any scheduled commenter not present at the hearing when called will lose his or her place in the scheduled order, but will be recalled after all other scheduled commenters have been heard.

ATF will prepare an agenda listing the persons scheduled to comment and copies will be available at the hearing. In addition, copies of the petitions and all received written comments will be available at the hearing for public inspection.

Comments

Any person participating in the hearing or submitting written comments may present such data, views, or arguments as they desire. Comments that provide the factual basis supporting the views or suggestions presented will be particularly helpful in developing a reasoned regulatory decision on this matter. However, comments consisting of mere allegations or denials are counterproductive to the rulemaking process.

ATF specifically requests that commenters consider making comments on the following questions:

(a) What are the historical and current boundaries of the area known as "Alexander Valley?"

(b) Why and how should the proposed boundaries be modified?

(c) What number of viticultural areas should be established in the areas encompassed by the proposed boundaries?

(1) What historical or current evidence supports establishment of such viticultural areas?

(2) What names would be appropriate for such viticultural areas?

(3) What geographical characteristics support establishment of such viticultural areas?

(d) What similarities of geographical characteristics in the proposed areas support establishment of a single viticultural area?

(e) What geographical characteristics distinguish the proposed areas from each other?

(f) To what extent have grapes grown in a proposed area been or not been marketed as "Alexander Valley" grapes?

(g) Does a price differential exist between the grapes grown in the proposed areas? If so, how much?

(h) What geographical name other than "Alexander Valley" has been applied to a proposed area?

(i) What do wineries outside of the proposed areas consider to be the "Alexander Valley" grape growing area?

(j) To what extent have wineries in a proposed area identified themselves as being in the "Alexander Valley?"

(k) How do grapes grown/wines produced in the proposed areas differ from one another?

(l) To what extent are the proposed areas considered by local, county, State, Federal and national entities to be separate and distinct; to be one and the same?

Drafting Information

The author of this document is Jim Whitley, Specialist, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 9

Administrative practice and procedures, Consumer Protection, Viticultural areas, Wine.

Authority: This notice of hearing is issued under the authority of 27 U.S.C. 205.

Signed: December 10, 1982.

Stephen E. Higgins,

Acting Director.

Approved: December 21, 1982.

David Q. Bates,

Deputy Assistant Secretary (Operations).

[FR Doc. 82-35259 Filed 12-28-82; 4:57 pm]

BILLING CODE 4810-31-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL-2173-2]

Standards of Performance for New Stationary Sources; Synthetic Fiber Production Facilities

Correction

In FR Doc. 82-31920, beginning on page 52932, in the issue of Tuesday, November 23, 1982, make the following correction:

On page 52944, third column, § 60.600(c), both times the phrase "[date of publication in the Federal Register]" appears, it should be replaced with the date "November 23, 1982".

BILLING CODE 1505-01-M

---

40 CFR Part 60

[AD-FRL-1860-5]

Standards of Performance for New Stationary Sources; Metallic Mineral Processing Plants

Correction

In FR Doc. 82-23136, beginning on page 36859, in the issue of Tuesday, August 24, 1982, make the following correction:

On page 36869, § 60.380(b), and on page 36870, § 60.383(b), the phrase "(date of publication in the Federal Register)" should be replaced by the date "August 24, 1982".

BILLING CODE 1505-01-M

---

40 CFR Part 180

[PP 8E2048/9E2229/0E2345/2E2611/P264; PH-FRL 2273-2]

Paraquat; Proposed Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that tolerances be established for residues of the desiccant, defoliant, and herbicide paraquat (1,1'-dimethyl-4,4'-bypyridinium ion) in or on a variety of raw agricultural commodities and crop groups. The proposed regulation to establish maximum permissible levels for residues of the pesticide in or on the commodities and crop groups was submitted in a petition by the Interregional Research Project No. 4 (IR-4).

DATE: Comments must be received on or before January 28, 1983.

ADDRESS: Written comments to: Emergency Response Section, Process Coordination Branch, Registration Division (TS-767C), Environmental Protection Agency, Rm. 716B, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Donald Stubbs (703-557-1192) at the address given above.

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR-

4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, N.J. 08903, has submitted the following pesticide petitions to EPA on behalf of the IR–4 Technical Committee and the named Agricultural Experiment Stations: 0E2345 on behalf of the Agricultural Experiment Stations of Arkansas, California, Florida, Georgia, Illinois, Kentucky, Louisiana, Maryland, Michigan, New Jersey, New York, North Carolina, Ohio, Texas, and Washington; 9E2229 and 2E2611 on behalf of the Agricultural Experiment Station of California; and 8E2048 on behalf of the Agricultural Experiment Stations of Idaho, Indiana, Oregon, Washington, and Wisconsin, and the United States Department of Agriculture.

Pesticide petition 0E2345 requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of tolerances for residues of the desiccant, defoliant, and herbicide paraquat (1,1'-dimethyl-4,4'-bypyridinium ion), resulting from application of either the bis(methyl sulfate) or the dichloride salt (both calculated as the cation), in or on the following raw agricultural commodities and crop groups: beans (lima, snap) (succulent form), cabbage, carrots, cauliflower, Chinese cabbage, collards, cucurbits (watermelon, cantaloupe/muskmelon, pumpkin, squash, cucumber), fruiting vegetables (eggplants), peas (succulent form), and turnips (tops and roots) at 0.05 part per million (ppm); beans (forage) at 0.1 ppm; and peas (forage) at 0.2 ppm. The petition was later amended to include proposed tolerances for beans (hay) at 0.4 ppm and peas (hay) at 0.8 ppm.

Petitions 9E2229 and 2E2611 requested that the Administrator propose the establishment of tolerances for residues of paraquat, resulting from application of either the bis(methyl sulfate) or the dichloride salt (both calculated as the cation), in or on the raw agricultural commodities kiwifruit (PP 2E2611) and pistachio nuts (9E2229) at 0.05 ppm.

Petition 8E2048 requested that the Administrator propose the establishment of a tolerance for residues of paraquat, resulting from application of either the bis(methyl sulfate) or the dichloride salt (both calculated as the cation), in or on the raw agricultural commodity mint hay at 0.5 ppm. In addition IR–4 has submitted a related Feed Additive Petition (8H5181) proposing to amend 21 CFR 561.289 by establishing a regulation permitting residues of paraquat in spent mint hay at 3.0 ppm.

The data submitted in the petition and other relevant material have been evaluated. The pesticide is considered useful for the purposes for which the tolerances are sought. The toxicological data considered in support of the proposed tolerances were several rat acute oral feeding studies with LD_{50} values of 112–150 milligrams (mg) paraquat cation/kilogram (kg) of body weight (bw); a 90-day dog feeding study with a no-observed-effect level (NOEL) of 20 ppm of paraquat cation (0.5 mg/kg bw), based on systemic effects; a one-generation rat reproduction study with a NOEL of 100 ppm paraquat cation (10 mg/kg bw, highest level tested); two teratology studies, rat and mouse, with NOEL's of 1.0 mg paraquat cation/kg bw and 10 mg paraquat cation/kg bw, respectively; mutagenic studies with *Salmonella typhimurium* (paraquat was not mutagenic with the following histidine-requiring strains: TA 1535, TA 1537, TA 1538, TA 98, TA 100); and a mutagenic dominant lethal test (no observed mutagenicity to male CD–1 strain of mice). A subchronic dog feeding study and a rat chronic feeding/oncogenic study are currently lacking but not needed to support these proposed tolerances; however, the rat study is in progress. Mouse oncogenic and 2-generation rat reproduction studies have been submitted and are currently under review; a preliminary review indicated no adverse effects.

The theoretical maximum residue contribution (TMRC) from existing tolerances for a 1.5 kg daily diet is calculated to be 0.1010 mg/day. The current action for all named commodities in petition OE2345 taken as a whole will increase the TMRC by 3.13%; taken individually, the increases in TMRC on a per-crop basis will range from 0.020 percent to 0.732 percent. Tolerances have previously been established on a wide variety of food commodities, including meat, milk, grain, fruits, vegetables, and nuts, at levels ranging from 0.01 ppm to 2 ppm. There are existing tolerances for peppers, tomatoes, and melons at 0.05 ppm; the proposed tolerances for the crop groups fruiting vegetables and cucurbits will negate the need for these individual tolerances which will therefore be deleted from the regulation.

The current action on kiwifruit and pistachio nuts will increase the TMRC by 0.00004 mg/day (0.04 percent). The current action on mint hay will increase the TMRC by 0.00023 mg/day (0.23 percent). Residues are not expected to concentrate in mint oil and currently established tolerances for negligible residues of paraquat in meat and milk are adequate to cover any secondary residues resulting from spent mint hay used as animal feed.

The Agency has concluded that the amount of paraquat added to the diet from the proposed uses will not significantly increase dietary exposure in humans. Thus, the tolerances that will be established by this proposed rule are considered to pose a negligible increment in risk.

The nature of the residues in plants is adequately understood and an adequate analytical method, spectrometry, is available for enforcement purposes. EPA has reviewed paraquat as a candidate for a rebuttable presumption against registration (RPAR), and determined that potential effects do not merit issuance of an RPAR.

Based on the above information considered by the Agency, the fact that there is no reasonable expectation of secondary residues in eggs, meat, milk, and poultry from the use for kiwifruit and pistachio nuts, and the fact that currently established tolerances for meat and milk are adequate to cover any residues resulting from the other treated crops used as animal feed, the tolerances established by amending 40 CFR 180.205 would protect the public health. It is proposed, therefore, that the tolerances be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request with 30 days after publication of this notice in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, "[PP 8E2048/9E2229/0E2345/2E2611/P264]". All written comments filed in response to this petition will be available for public inspection in the office of Donald Stubbs at the above address from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

This Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances

or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e))).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: December 15, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, it is proposed that 40 CFR 180.205 be amended by removing the entries melons, peppers, and tomatoes, and adding and alphabetically inserting the proposed raw agricultural commodities and crop groups to read as follows:

§ 180.205 Paraquat; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Beans, forage	0.1
Beans, hay	0.4
Beans, lima (succulent)	0.05
Beans, snap (succulent)	0.05
* * * * *	
Cabbage	0.05
Carrots	0.05
* * * * *	
Cauliflower	0.05
* * * * *	
Chinese cabbage	0.05
* * * * *	
Collards	0.05
* * * * *	
Cucurbits	0.05
* * * * *	
Kiwifruit	0.05
* * * * *	
Melons	[1] 0.05(N)
* * * * *	
Mint, hay	0.5
* * * * *	
Peas (succulent)	0.05
Peas, forage	0.2
Peas, hay	0.1
Peppers	[1] 0.05(N)
* * * * *	
Pistachio nuts	0.05
* * * * *	
Tomatoes	[1] 0.05(N)
Turnips (roots)	0.05
Turnips (tops)	0.05
* * * * *	
Vegetables, fruiting	0.05
* * * * *	

[1] Removed.

[FR Doc. 82-34809 Filed 12-28-82; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 663

[Docket No. 21221-255]

Pacific Coast Groundfish Fishery

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of preliminary fishery specifications and request for comment.

SUMMARY: This notice announces and requests comment on the preliminary 1983 management specifications for Pacific whiting, sablefish, Pacific ocean perch, shortbelly rockfish, and widow rockfish caught in the fishery conservation zone (3–200 nautical miles from shore) and territorial waters (0–3 nautical miles from shore) off the coasts of Washington, Oregon, and California. The intended effect of this notice is to identify the acceptable biological catch as well as the optimum yield and its distribuiton among domestic and foreign fishing operations, as required in the regulations implementing the Pacific Coast Groundfish Fishery Management Plan.

DATE: Comments on the preliminary specifications for 1983 must be received by January 13, 1983.

ADDRESSES: Send comments to H. A. Larkins, Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way NE, BIN C15700, Seattle, Washington 98115.

FOR FURTHER INFORMATION CONTACT: H. A. Larkins, 206–527–6150.

SUPPLEMENTARY INFORMATION: The Pacific Coast Groundfish Fishery Management Plan (FMP) was approved by the Assistant Administrator for Fisheries, NOAA, on January 4, 1982. The FMP and its implementing regulations at 50 CFR Part 663 (47 FR 43974, published on October 5, 1982) state that management specifications for certain species (Pacific whiting, sablefish, Pacific ocean perch, shortbelly rockfish, and widow rockfish) will be evaluated each calendar year, that preliminary specifications will be published in the Federal Register, public comment will be requested, and final specifications for the succeeding calendar year will be published. The management specifications are made for the acceptable biological catch (ABC), an estimate of the annual catch that could be taken without jeopardizing a resource's productivity, and the optimum yield (OY), based on socio-economic as well as biological factors and thus not necessarily equal to the ABC. The OYs for these five species are the maximum amounts of fish (in round weight) that may be taken and retained or landed each year from the fishery conservation zone (3–200 nautical miles) and the territorial sea (0–3 nautical miles) off Washington, Oregon, and California.

The OY for each of these five species is comprised of several components that will be reassessed near July 1. The domestic annual harvest (DAH), which consists of estimates of domestic annual processing (DAP) and joint venture processing (JVP), is verified by surveys of the fishing industry in November and June. The total allowable level of foreign fishing (TALFF) is the remainder, if any, of OY after domestic needs (DAH) have been confirmed. A reserve is established for any species with a TALFF in order to accommodate any underestimates in DAH.

The OYs and ABCs may be changed during the year under the procedures outlined in the regulations at 50 CFR 663.22.

The preliminary specifications for 1983 were reviewed and approved by the Pacific Fishery Management Council (Council) and received public comment at the Council's November 17–18, 1982, meeting in Monterey, CA. The aggregate data upon which these preliminary specifications are based are available for public inspection at the Regional Director's office during business hours until the end of the comment period.

The 1983 preliminary management specifications are listed below, followed by a discussion of the specifications for each species.

TABLE 1.—PRELIMINARY SPECIFICATIONS OF ABC FOR 1983

[In thousands of metric tons]

Species/areas	Vancouver	Columbia	Eureka	Monterey	Conception	Total
Groundfish:						
Lingcod	1.0	4.0	0.5	1.1	0.4	7.0
Pacific cod	2.2	0.9	(1)	(1)	(1)	3.1
Pacific whiting						175.5
Sablefish				[3]2.5		[2]13.4
Rockfish:						
Pacific ocean perch	0.0–0.6	0.0–0.95	(1)	(1)	(1)	0.0–1.55
Shortbelly						[2]10.0
Widow	0.4	[4]6.5	1.5	2.1	(1)	10.5
Other rockfish: [6]						
Bocaccio	(1)	(1)	(1)	4.1	2.0	6.1
Canary	4.0	1.3	0.6	(1)	(1)	5.9
Chilipepper	(1)	(1)	(1)	1.3	1.0	2.3
Yellowtail	1.4	1.5	0.3	(1)	(1)	3.2
Remaining rockfish	2.0	2.5	1.9	4.3	3.3	14.0
Flatfish:						
Dover sole	1.0	4.0	8.0	5.0	1.0	19.0
English sole	0.6	2.0	0.8	0.9	0.2	4.5
Petrale sole	0.6	1.1	0.5	0.8	0.2	3.2
Other flatfish (except arrowtooth flounder)	0.7	3.0	1.7	1.8	0.5	7.7
Others Fish: [7]						
Jack mackeral						[2]12.0
Others	3.0	7.0	2.0	2.0	2.0	16.0

[1] These species are not common or important in the areas footnoted. Accordingly, for convenience, Pacific cod is included in the "other fish" category for the areas footnoted, and rockfish species are included in the "remaining rockfish" category for the areas footnoted only.
[2] Total all areas.
[3] Monterey Bay only.
[4] 1,600 metric tons for that portion of the Columbia subarea north of Cape Lookout (45°20' N. latitude), and 4,900 metric tons for that portion of the Columbia subarea south of Cape Lookout.
[5] Insufficient data available to estimate ABC.
[6] "Other rockfish" means rockfish species, listed in § 663.2, which do not have a numerical OY.
[7] "Other fish" includes sharks, skates, ratfish, morids, grenadiers, jack mackerel, arrowtooth flounder, and, in the Eureka, Monterey, and Conception areas, Pacific cod. "Other fish" is part of the "other species" category listed in § 663.2.
[8] North of 39°00' N. latitude.

TABLE 2.—PRELIMINARY SPECIFICATIONS OF OY AND ITS DISTRIBUTION FOR 1983

[In thousands of metric tons]

Species	Total OY	DAH	DAP	JVP	Reserve	TALFF
Pacific whiting	175.5	105.0	5.0	100.0	15.0	35.5
Sablefish	[1]17.4	17.4	17.4	[2]0.0	0.0	[2]0.0
Pacific ocean perch	[3]1.55	1.55	1.55	[2,4]0.0	0.0	[2]0.0
Shortbelly rockfish	10.0	10.0	6.0	[2,4]4.0	0.0	[2,4]0.0
Widow rockfish	10.5	10.5	10.5	[2,4]0.0	0.0	[2,4]0.0
Other species	(5)	(5)	(5)	[2,6]0.0	0.0	[2,6]0.0

[1] Of this 13,400 metric tons, 2,500 metric tons is from part of the Monterey subarea. See § 663.21(a)(2).
[2] Incidental catch allowance percentages (based on TALFF) and incidental retention allowance percentages (based on JVP) are: sablefish 0.173%, Pacific ocean perch 0.062%, rockfish excluding Pacific ocean perch 0.738%, flatfish 0.1%, jack mackerel 3.0%, and other species 0.5%. See footnotes 4 and 6 of this table. See § 611.70(c)(2) for application of incidental retention allowance percentages to joint venture operations.
[3] Of this 1,550 metric tons, 600 metric tons is for the Vancouver subarea and 950 metric tons is for the Columbia subarea. Pacific ocean perch from other subareas are included in the OY for "other species." See § 663.21(a)(3).
[4] In foreign trawl and joint venture processing operations, shortbelly and widow rockfishes are included in the category "rockfishes excluding Pacific ocean perch."
[5] The total OY for "other species" is that amount of fish that may be lawfully harvested and/or processed under § 611.70 and Part 663. See § 663.2 for species listing.
[6] In foreign trawl and joint venture processing operations, "other species" means all species, including non-groundfish species, except Pacific whiting, sablefish, Pacific ocean perch, rockfish excluding Pacific ocean perch, flatfish, jack mackerel, and prohibited species.

Pacific whiting. The 1983 preliminary specifications for ABC, OY, DAH, DAP, JVP, TALFF, and reserve are the same as in 1982. Shore-based processors indicate their intent to process about 5,000 metric tons (mt) of Pacific whiting in 1983; joint venture operations are expected to process near 100,000 mt.

Sablefish. The 1982 ABC for sablefish of 13,400 mt is maintained for 1983 because there are no new data or analyses to justify a change.

In 1982, ABC=OY=13,400 mt. Catches in 1982 exceeded OY, but the fishery was not immediately closed when OY was reached because the Council had not had sufficient time to reevaluate the appropriateness of OY, the regulations implementing the FMP had just taken effect, and the industry had had insufficient time to react to an impending closure. The Secretary of Commerce (Secretary) subsequently imposed a trip limit of 3,000 pounds of sablefish taken and retained or landed per vessel per trip to slow the growth of the fishery, allow incidental catches of sablefish to be landed (rather than discarded, which a complete closure would have required), and to give the Council time to determine whether the OY should be increased. By the time the Council met in November, landings had exceeded the maximum possible increase to OY (30 percent) that could be allowed in 1982, but the Council was unable to document evidence of stress on the stock. Consequently, the 1982 ABC is unchanged and remains at 13,400 mt for 1983. The 1982 OY, as it is proposed to be increased by 30 percent to 17,400 mt, is specified as the preliminary OY for 1983. Because domestic processors can fully utilize the harvest, there are no sablefish available to JVP or TALFF in 1983.

Pacific ocean perch. Pacific ocean perch have been overfished and are managed under a rebuilding schedule specified in the FMP. A trip limit of 5,000 pounds or 10 percent by weight (all round weights) of all fish on board, whichever is greater, per vessel per fishing trip, is imposed under 50 CFR 663.27(b)(2). Domestic processors will fully utilize OY so there are no Pacific ocean perch available for JVP or TALFF in 1983.

Shortbelly rockfish. The preliminary 1983 ABC, OY, and DAH specifications for shortbelly rockfish are the same as in 1982, all three at 10,000 mt. In 1982, JVP was set at 1,000 mt and DAP at 9,000 mt, but domestic shore-side landings were well below the DAP estimate. The November survey of the

domestic fishing industry's intentions for 1983 indicated that a DAP of 6,000 mt would adequately supply domestic processing needs, leaving 4,000 mt available for JVP.

Widow rockfish. In the FMP, ABCs for 1982 were determined for only two statistical subareas (Columbia and Eureka); data were too inconclusive to estimate a coastwide ABC. The 1982 OY of 26,000 mt was higher than the combined ABCs to allow stocks to be fished down to maximum sustainable yield (MSY) levels; stress on the stock had not been definitively documented at that time. By mid-summer of 1982, however, stress on the widow rockfish stock was well documented, and a trip limit of 75,000 pounds (round weight) per vessel per trip was implemented on October 13, 1982 (47 FR 46287).

The preliminary specification for the 1983 coastwide OY and ABC is 10,500 mt, less than half the 1982 estimates. This reflects the large declines in availability and abundance of widow rockfish. Data have become available that facilitate specification of 1983 ABCs for all the surbareas where widow rockfish have been caught in major quantities. Widow rockfish will be fully utilized by domestic processors in 1983; none is available for JVP or TALFF.

Other species. The other species managed under the FMP do not have numerical OYs. For the most part, they cannot be harvested selectively and are regulated by management measures such as gear specifications and area closures rather than quotas. Full utilization by domestic processors of some species in this multispecies complex precludes joint venture or foreign fishing operations on any other species in the complex, because large incidental catches of the fully utilized species are likely to result. Consequently, no numerical specifications for DAH, DAP, JVP, and TALFF are made for 1983 because JVP and TALFF are not available for any other species in the multispecies complex.

However, ABCs are specified for the major species or species groups in this complex. At this time, only one ABC, for yellowtail rockfish, is lower in 1983 than 1982. However, analyses of other species are on-going and it is likely that ABCs may also be reduced for Dover sole and canary rockfish during 1983.

Classification

These preliminary specifications are made under the authority of 50 CFR 663.24. This action is in compliance with Executive Order 12291 and is covered by the Regulatory Flexibility Analysis prepared for the authorizing regulations.

(16 U.S.C. 1801 *et seq.*)

List of Subjects in 50 CFR Part 663

Administrative practice and procedure, Fish, Fisheries, Fishing.

Dated: December 21, 1982.

Carmen Blondin,

Deputy Assistant Administrator for Fisheries Resource Management.

[FR Doc. 82-35142 Filed 12-28-82; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 47, No. 250
Wednesday, December 29, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Leases and Exchanges of Historic Properties

AGENCY: Advisory Council on Historic Preservation.

ACTION: Notice.

SUMMARY: On December 9, 1982, the Chairman of the Advisory Council on Historic Preservation ratified the Programmatic Memorandum of Agreement with the National Park Service, Department of the Interior and the National Conference of State Historic Preservation Officers regarding the lease and exchange of historic properties owned or under the control of the National Park Service.

FOR FURTHER INFORMATION CONTACT: J. Cullinane, Senior Architect, Advisory Council on Historic Preservation, 1522 K Street, NW., Washington, DC 20005 (202–254–3974).

Dated: December 22, 1982.

Robert R. Garvey, Jr.,

Executive Director.

[FR Doc. 82–35212 Filed 12–28–82; 8:45 am]

BILLING CODE 4310–10–M

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Forms Under Review by Office of Management and Budget

December 23, 1982.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96–511 applies; (9) Name and telephone number of the agency contact person.

Comments and questions about the items in the listing should be directed to the agency person named at the end of each entry. If you anticipate commenting on a form but find that preparation time will prevent you from submitting comments promptly, you should advise the agency person of your intent as early as possible.

Copies of the proposed forms and supporting documents may be obtained from: Richard J. Schrimper, Statistical Clearance Officer, (202) 447–6201.

Revised

• Farmers Home Administration
Coordinated Financial Statements
On occasion
Individuals, farms: 8,500 responses; 42,500 hours; not applicable under 3504(h)
Molly T. Baldrige, (202) 447–7597

Extension

• Food and Nutrition Service
Food Stamp Redemption Certificates
FNS–278 and FNS–278–4
On occasion
Businesses or other institutions: 23,407,848 responses; 5,016,301 hours; not applicable under 3504(h)
Haywood Taylor, (703) 756–3534

• Rural Electrification Administration
Annual Supplement to December 31 Financial and Statistical Report
REA Form 479a
Annually
Businesses or other institutions: 1,000 responses; 4,000 hours; not applicable under 3504(h)
John Rose, (202) 382–8532

Richard J. Schrimper,

Statistical Clearance Officer.

[FR Doc. 82–35221 Filed 12–28–82; 8:45 am]

BILLING CODE 3410–01–M

ARMS CONTROL AND DISARMAMENT AGENCY

General Advisory Committee; Closed Meeting

In accordance with the Federal Advisory Committee Act, as amended, the U.S. Arms Control and Disarmament Agency announces the following meeting:

Name: General Advisory Committee on Arms Control and Disarmament
Date: January 13 and 14, 1983
Time: 9:00 a.m. each day
Place: State Department Building, Washington, D.C.
Type of Meeting: Closed
Contact person: Dr. Charles M. Kupperman, Executive Director of the General Advisory Committee, Room 5927, U.S. Arms Control and Disarmament Agency, Washington, D.C. 20451, telephone (202) 632–5176.
Purpose of advisory committee: To advise the Director of the U.S. Arms Control and Disarmament Agency on arms control and disarmament policy and activities, and from time to time to advise the President and the Secretary of State respecting matters affecting arms control, disarmament, and world peace.
Agenda: Will include the following discussions and presentations:

January 13

A.M.—U.S. START and INF Negotiating Positions and Tactics
P.M.—Soviet Negotiating Positions and Tactics

January 14

A.M.—Discussion of the foregoing and possibly other similar matters.
Reason for closing: The GAC members will be reviewing and discussing matters specifically required by Executive Order to be kept secret in the interest of national defense and foreign policy.
Authority to close meeting: The closing of this meeting is in accordance with a determination by the Director of the U.S. Arms Control and Disarmament Agency dated December 10, 1982, made pursuant to the provisions of Section 10(d) of the Federal Advisory Committee Act, as amended.

John E. Grassle,

Committee Management Officer.

[FR Doc. 82–34560 Filed 12–28–82; 8:45 am]

BILLING CODE 6820–32–M

DEPARTMENT OF COMMERCE

International Trade Administration

Wool From Argentina; Termination of Countervailing Duty Investigation

AGENCY: International Trade Administration, Commerce.

ACTION: Termination of Countervailing Duty Investigation.

SUMMARY: On October 18, 1982, we initiated under section 303 of the Tariff Act of 1930, as amended (the Act), a countervailing duty investigation of wool from Argentina. This notice terminates the countervailing duty investigation with respect to the wool included in the initiation that is duty-free, and as such requires an injury determination in order for countervailing duties to be assessed.

EFFECTIVE DATE: December 29, 1982.

FOR FURTHER INFORMATION CONTACT: G. Leon McNeill, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, Telephone: (202) 377–1273.

SUPPLEMENTARY INFORMATION: On September 21, 1982, we received a petition from the National Wool Growers Association, Inc. on behalf of the U.S. industry producing wool. In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), the petition alleges that the manufacturers, producers, or exporters of wool in Argentina receive, directly or indirectly, bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended, (the Act).

After reviewing the petition and finding that it was in proper form, we published a notice of initiation of a countervailing duty investigation under section 303 of the Act in the **Federal Register** of October 18, 1982, (47 FR 46349).

Since Argentina is not a "country under the Agreement" within the meaning of section 701(b) of the Act, section 303 of the Act applies to this investigation. Therefore, the domestic industry is not required to allege that, and the U.S. International Trade Commission is not required to determine whether dutiable imports of this product cause or threaten to cause material injury to a U.S. industry.

However, since Argentina is a member of the General Agreement on Trade and Tariffs (GATT) and certain of the wool subject to this investigation is non-dutiable, the domestic industry is required to allege that, and the U.S. International Trade Commission is required under section 303(a)(2) of the Act to determine whether non-dutiable imports of this product cause or threaten to cause material injury to the U.S. industry in question. Under the provision of this paragraph, the Department lacks the authority to impose duties on duty-free goods from Argentina unless an affirmative injury determination has been made. Therefore, we are terminating our countervailing duty investigation with regard to duty-free wool from Argentina.

Scope of Investigation Termination

The following non-dutiable wool from Argentina for which this investigation is being terminated is currently provided for under items 306.3132 and 306.3334 of the *Tariff Schedules of the United States Annotated (TSUSA)*. The imported dutiable merchandise which is wool, finer than 44s, not on the skin, from Argentina, is currently provided for under items 306.3152, 306.3172, 306.3253, 306.3273, 306.3354, and 306.3374. We are not terminating our investigation with regard to this merchandise.

Gary N. Horlick,

Deputy Assistant Secretary for Trade Administration.

December 22, 1982.

[FR Doc. 82-35270 Filed 12-28-82; 8:45 am]

BILLING CODE 3510-25-M

Applications for Duty-Free Entry of Scientific Instruments

The following are notices of the receipt of applications for duty-free entry of scientific instruments published pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the instrument is intended to be used is being manufactured in the United States.

Comments must be filed in accordance with § 301.5(a)(3) and (4) of the regulations. They are to be filed in triplicate with the Director, Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the **Federal Register**.

A copy of each application is on file in the Department of Commerce, and may be examined between 8:30 A.M. and 5:00 P.M., Monday through Friday, Room 2097, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 82–00033R. Applicant: University of Utah, Salt Lake City, UT 84112. Instrument: Gas Chromatograph/Mass Spectrometer with Data System, MM7025. Application is a resubmission, notice of which was published in the **Federal Register** of December 8, 1981.

Docket No. 82–00176R. Applicant: State of New York Department of Environmental Conservation, 50 Wolf Road, Albany, New York 12233. Instrument: Trace Analysis System, TAGA 3000. Application is a resubmission, notice of which was published in the **Federal Register** of June 3, 1982.

Docket No. 83–74. Applicant: Henry Ford Hospital, 2799 West Grand Boulevard, Detroit, MI 48202. Instrument: NMR Spectrometer, Model TMR–32/200. Manufacturer: Oxford Research Instruments, United Kingdom. Intended use of instrument: The instrument is intended to be used for the study of energy metabolism of the brain of living animals and the energy metabolism of human muscle. Several disease states will be studied. The experiments will concentrate on the effect of experimental stroke on changes in brain energy metabolism together with the potential for recovery of energy metabolism in brain when stroke is reversed. Energy metabolism will be studied in the muscle of the arm or the leg in the human by simply placing the limb inside the magnet. By this means it is possible to measure the biochemical substances of glucose phosphate, ATP, creatine phosphate, inorganic phosphate and pH. Application received by Commissioner of Customs: November 19, 1982.

Docket No. 83–77. Applicant: University of Connecticut, Institute of Materials Science, U–136, Storrs, Connecticut 06268. Instrument: Electron Microscope EM 420 with Accessories. Manufacturer: Philips Electronic Instruments, The Netherlands. Intended use of instrument: The instrument is intended to be used for studies of nickel and iron base alloys; ion implanted microstructures, fatigue structures and phase transformations. Experiments will consist of structural analysis of changes in grain shape, dislocation geometry and content, spinodal geometry. The instrument will also be used to teach students techniques for revealing the microstructure of crystalline metals in the courses Materials Characterization 236 and Electron Microscopy 323. Application received by Commissioner of Customs: November 23, 1982.

Docket No. 83–79. Applicant: University of Illinois at Urbana-Champaign, 223 Administration Building, Urbana, Illinois 61801. Instrument: Analytical 2AB–HF Mass Spectrometer and Accessories. Manufacturer: VG Analytical Instruments Limited, United Kingdom. Intended use of instrument: The instrument is intended to be used for studies of compounds of high molecular weight and low volatility. Molecular weights and molecular formulas of the compounds will be determined by mass spectrometry from low resolution and high resolution data recording masses of molecular ions. In addition, masses of fragment ions will be determined which may allow assignment of sequences of amino acids in polypeptides, nucleotides in oligonucleotides, sugars in oligosaccharides, etc. Application received by Commissioner of Customs: November 23, 1982.

Docket No. 83–80. Applicant: National Institutes of Health, Biomedical Engineering & Instrumentation Branch, Building 13, Room 3W13, Bethesda, MD 20205. Instrument: Ion Source and Power Supply. Manufacturer: Ion Tech Limited, United Kingdom. Intended use of instrument: The instrument is intended to be used to modify mass spectrometers for analysis of high molecular weight compounds of biological interest. Application received by Commissioner of Customs: November 23, 1982.

Docket No. 83–81. Applicant: University of California, Los Alamos National Laboratory, P.O. Box 990, Los Alamos, NM 87545. Instrument: Surface Analysis Spectrometer. Manufacturer: Leybold-Heraeus, Incorporated, West Germany. Intended use of instrument: The instrument is intended to be used for the study of surface-catalyzed chemical reactions. The approach in studying model catalytic reactions will be to perform detailed structural and compositional characterization of the working catalyst's surface immediately before and after high pressure reactions, and to correlate these results with the transient and steady-state kinetics measured under realistic pressure conditions. The aim of this research is to gain fundamental understanding of the relationship of surface structural, compositional and electronic factors to the rates and mechanisms of this important class of slower processes. Application received by Commissioner of Customs: November 22, 1982.

Docket No. 83–82. Applicant: SUNY at Stony Brook, Department of Neurobiology and Behavior, Stony Brook, N.Y. 11794. Instrument: Single Microelectrode Clamp, ASFI with Bridge and Accessories. Manufacturer: Audivac Instruments, Australia. Intended use of instrument: The instrument is intended to be used to perform voltage clamp studies on mammalian neurons, using glass microelectrodes and brain slices. A microelectrode will be connected to the single electrode clamp and impaled onto a suitable nerve cell. Membrane currents set up by appropriate voltage command waveforms will be measured. The effects of ions and pharmacological agents on these responses will be studied, so as to improve the understanding of brain functions and pathology. Application received by Commissioner of Customs: November 23, 1982.

Docket No. 83–85. Applicant: MIT National Magnet Laboratory, 150 Albany Street, Cambridge, MA 02139. Instrument: Millimeter Wave Open Reonator System with 28 GHZ Mirror. Manufacturer: National Physical Laboratory, United Kingdom. Intended use of instrument: The instrument is intended to be used for the study of dielectrics, semiconductors and magnetic materials. Investigations will be conducted to learn and record fundamental physical properties of materials and to reveal the relative feasibility for applications in high technology communications and radar systems. Application received by Commissioner of Customs: December 2, 1982.

Docket No. 83–87. Applicant: Sandia National Laboratories, P.O. Box 5800, Division 1111, Albuquerque, NM 87185. Instrument: Electron Microscope Accessories. Manufacturer: JEOL Limited, Japan. Intended use of instrument: The instruments are intended to be used for experiments which are related to ongoing research into surface alloys. These studies will include examination of crystalline and non-crystalline solids, including iron, aluminum, and stainless steels, which have been ion implanted with a second species. The resulting surface alloys will be examined (a) just after implantation, (b) after furnace annealing, and (c) after pulsed electron beam or pulsed laser irradiation. Application received by Commissioner of Customs: December 1, 1982.

Docket No. 83–88. Applicant: Department of Health, Education & Welfare, National Institute of Health, National Cancer Institute, Division of Cancer Biology & Diagnosis, Building 31, Room 3A–05, Bethesda, MD 20205. Instrument: Gammacell–40 (Small Animal Irradiator). Manufacturer: Atomic Energy of Canada Limited, Canada. Intended use of instrument: The instrument is intended to be used for irradiation of mice to produce chimeras that are to be used in the investigation of immunologic functions. Mice will be lethally irradiated (950R) followed by transplantation of hematopoietic cells from strains different than recipient. This will allow Cancer Institute immunologists to study functions of the immune system by producing T-cell or B-cell different animals. Application received by Commissioner of Customs: December 2, 1982.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials).

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 82–35271 Filed 12–28–82; 8:45 am]

BILLING CODE 3510–25–M

National Bureau of Standards

[Docket No. 21102–223]

Revision to Federal Information Processing Standard 86; Additional Controls for Use With ASCII

Under the provisions of Pub. L. 89–306 (79 Stat. 1127; 40 U.S.C. 759(f)) and Executive Order 11717 (38 FR 12315, dated May 11, 1973), the Secretary of Commerce (Secretary) is authorized to establish uniform Federal automatic data processing standards.

On January 29, 1981, a notice was published in the **Federal Register** (46 FR 9687–9688) announcing the approval of Federal Information Processing Standards Publication (FIPS PUB) 86, Additional Controls for Use with ASDII.

On February 5, 1982, a notice was published in the **Federal Register** (47 FR 5450) indicating that the Secretary had amended FIPS PUB 86 by changing the effective date from January 29, 1982 to September 30, 1982, and indicating that a proposed revision to the applicability section of FIPS PUB 86 would be forthcoming.

On May 21, 1982, a notice was published in the **Federal Register** (47 FR 22139) announcing proposed revisions to FIPS PUB 86 section 8, *Applicability,* and section 10, *Qualifications,* and soliciting comments concerning these proposed revisions. As a result of that solicitation, no Federal agency objected to the proposed revisions, and only one comment was received from industry, suggesting minor editorial changes in the text, which have been incorporated into the revised FIPS PUB 86, along with minor editorial rearrangement of the text.

The purpose of this announcement is to confirm that FIPS PUB 86 became

effective on September 30, 1982, and that on December 14, 1982, the Secretary has approved the following revised sections on Applicability and Qualifications:

"8. *Applicability.* This standard is applicable to the acquisition and use of all ADP equipment and services that involve character imaging which: 1) employ the character set and encoding conventions prescribed by FIPS PUB 1–1 (ASCII) and FIPS PUB 35 (Code Extension in 7 or 8 Bits); 2) employ primarily character-oriented controls; and 3) are consistent with the device architectural assumptions given in Appendix B of ANSI X3.64–1979. All ADP terminal devices containing alphanumeric keyboards and either CRT displays or printers that may be used in any form of on-line interactive applications (such as data entry) of stand-alone off-line data preparation, and which satisfy all three of the conditions above, are covered by this standard. A waiver must be requested in accordance with the waiver provisions in section 12 below for the acquisition of ADP terminal equipment having control functions defined by this standard (or their operational equivalents) which are performed by means that do not conform with the provisions of this standard."

"10. *Qualifications.* Terminals conforming with this standard need not implement all of the control functions defined by this standard, and they may implement supplemental character-oriented control functions not defined by this standard. However, when any of the control functions defined by this standard (or their operational equivalents) are implemented, they must be implemented in accordance with the provisions of this standard. Additionally, computer resident control software may be, or may not be, required to implement specific features of this standard, at the option of the procuring agency."

Persons desiring further information about these revisions to FIPS PUB 86 may contract Mr. John L. Little, System Components Division, Center for Computer Systems Engineering, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, DC 20234, telephone: 301/921–3723.

Dated: December 23, 1982.

Ernest Ambler,

Director.

[FR Doc. 82–35213 Filed 12–28–82; 8:45 am]

BILLING CODE 3510-CN-M

National Oceanic and Atmospheric Administration

Issuance of Permit

On November 12, 182, Notice was published in the **Federal Register** (47 FR 51178), that an application had been filed with the National Marine Fisheries Service, by Mr. Richard Flyer, 5484 Reservoir Road, Apt. B39, San Diego, California 92120, for a permit to take by harassment Pacific pilot whales over a two year period for the purpose of scientific research.

Notice is hereby given that on December 21, 1982, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the National Marine Fisheries Service issued a permit for the above taking subject to certain conditions set forth therein.

The Permit is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: December 21, 1982.

Richard B. Roe,

Acting Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 82–35280 Filed 12–28–82; 8:45 am]

BILLING CODE 3510-22-M

Receipt of Application for General Permit

Notice is hereby given that the following application has been received to take marine mammals incidental to the pursuit of commercial fishing operations within the U.S. fishery conservation zone, as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the regulations thereunder.

The Embassy of the Republic of Korea has applied for a Category 1: "Towed or Dragged Gear" general permit to incidentally take 100 otariid seals, 100 phocid seals, and 50 cetaceans within the U.S. fishery conservation zone in 1983.

The application is available for review in the Office of the Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.

Interested parties may submit written views on the application within 30 days of the date of this notice to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235.

Dated: December 21, 1982.

Richard B. Roe,

Acting Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 82–35281 Filed 12–28–82; 8:45 am]

BILLING CODE 3510-22-M

Mid-Atlantic Fishery Management Council; Public Meetings

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice.

SUMMARY: The Mid-Atlantic Fishery Management Council, established by Section 302 of the Magnuson Fishery Conservation and Management Act of 1976 (Pub. L. 94–265), has established a Surf Clam and Ocean Quahog Subpanel, which will meet to discuss alternatives to Amendment No. 4 to the Surf Clam and Ocean Quahog Fishery Management Plan.

DATE: The Meeting will convene at 10:00 A.M. on January 28, 1983 and will adjourn at approximately 4:00 P.M. The meeting may be lengthened or shortened, or agenda items rearranged, depending upon progress of the agenda.

ADDRESS: The meeting will take place at the Sheraton, Route 13, Dover, Delaware 19901, Phone: 302–678–8500.

FOR FURTHER INFORMATION CONTACT: John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, DE 19901, Phone: 302–674–2331.

Dated: December 23, 1982.

Joe P. Clem,

Acting Chief, Operations Coordination Group National Marine Fisheries Service.

[FR Doc. 82–35282 Filed 12–28–82; 8:45 am]

BILLING CODE 3510-22-M

Mid-Atlantic Fishery Management Council; Public Meetings

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

AGENCY: Notice.

SUMMARY: The Mid-Atlantic Fishery Management Council is established by Section 302 of the Magnuson Fishery Conservation and Management Act of 1976 (Pub. L. 94–265). As required by

Section 204(b)(5) of said Act, the Council announces that the public may comment on any and all foreign fishing applications received by the Council on or before February 7, 1983. Council staff will be available between 9:00 A.M. and 12:00 noon on February 7, 1983 to receive comments. Comments may be made in person at the Council offices in Room 2115 of the Federal Building, 300 South New Street, Dover, DE 19901. Phone: 302–674–2331 between the above stated hours.

DATE: Written comments may be mailed in time to be received and reviewed by February 7, 1983.

FOR FURTHER INFORMATION CONTACT: John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, DE 19901

Dated: December 23, 1982.

Joe P. Clem,

Acting Chief, Operations Coordination Group, National Marine Fisheries Service.

[FR Doc. 82–35283 Filed 12–28–82; 8:45 am]

BILLING CODE 3510–22–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Establishing Import Restraint Levels for Certain Cotton, Wool, and Man-Made Fiber Textile Products From Republic of Korea Under New Agreement

December 22, 1982.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Establishing the import restraint levels for certain cotton, wool, and man-made fiber textile and apparel products, produced or manufactured in Korea and exported during the twelve-month period which began on January 1, 1982 and extends through December 31, 1982, under a new agreement.

SUMMARY: On December 14, 1982, the Governments of the United States and the Republic of Korea signed an agreement concerning cotton, wool, and man-made fiber textile products, produced or manufactured in Korea, and exported during the six-year period beginning on January 1, 1982, and extending through December 31, 1987. The new agreement establishes ceilings, among other categories, for Categories 333/334, 335, 338/339, 340, 341, 347/348, 353/354/653/654; 433/434, 440, 443, 444, 445/446, 604, 605 pt., 633/634/635, 638/639, 640, 641, 643, 645/646, 648, 659 pt., and 669 pt. for the agreement year which began on January 1, 1982. Accordingly, there is published below a letter from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs directing that entry into the United States for consumption, or withdrawal from warehouse for consumption, of cotton, wool, and man-made fiber textile products in the foregoing categories be limited to the designated amounts during the agreement year which began on January 1, 1982. In accordance with the flexibility provisions of the new agreement the base levels for Categories 353/354/653/654, 443, 605 pt., 633/634/635, 640, and 669 pt. have been adjusted to account for flexibility, as follows. All of the remaining categories affected by this action have been adjusted to include swing.

Category	Base level	Adjustment	Adjusted level
353/354/653/654	210,012 dozen	Deduction for Swing	130,013 dozen.
443	26,838 dozen	Swing	28,180 dozen.
605 pt. (only TSUSA Nos. 316.5500 and 316.5800)	2,000,000 pounds	Swing	2,120,000 pounds.
633/634/635	1,382,921 dozen	Swing and Carryforward	1,424,409 dozen.
(633)	174,684 dozen	Swing and Carryforward	(179,925 dozen).
(634)	804,704 dozen	Swing and Carryforward	(828,845 dozen).
(635)	610,970 dozen	Swing and Carryforward	(629,299 dozen).
640 pt. (only TSUSA Nos. 379.3130, 379.3334, 379.9535, and 379.9540, and 379.9639).	3,729,287 dozen	Deduction for Special Carryforward Applied in 1981 plus Shift.	3,992,216 dozen.
640 pt. (except TSUSA Nos. 379.3130, 379.3334, 379.9535, and 379.9540, and 379.9639).	2,486,191 dozen	Deduction for Carryforward Applied in 1981 plus Shift.	1,873,282 dozen.
669 pt. (only TSUSA Nos. 348.0065, 348.0075, 348.0565 and 348.0575).	1,500,000 dozen	Deduction for Swing	993,302 dozen.

A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709).

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

EFFECTIVE DATE: December 29, 1982.

FOR FURTHER INFORMATION CONTACT: William J. Boyd, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–4212).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

December 22, 1982.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury,
Washington, D.C. 20229

Dear Mr. Commissioner:

This directive cancels and supersedes the directive of December 14, 1981, as amended, which directed you to prohibit entry of certain specific categories of cotton, wool, and man-made fiber textile products, produced or manufactured in Korea.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of December 14, 1982, between the Governments of the United States and the Republic of Korea; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on January 1, 1982 and for the twelve-month period extending through December 31, 1982, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool, and man-made fiber textile products in Categories, produced or manufactured in Korea, in excess of the indicated levels of restraint:

Category	12-month level of restraint[1]
333/334	59,400.
335	60,654 dozen.
338/339	596,076 dozen.
340	184,266 dozen.
341	14,797 dozen.
347/348	274,694 dozen.

Category	12-month level of restraint[1]
353/354/653/654	130,012 dozen.
433/434	17,613 dozen of which not more than 13,447 dozen shall be in Category 433 and not more than 6,896 dozen shall be in Category 434.
440	217,443 dozen.
443	28,180 dozen.
444	4,121 dozen.
445/446	53,198 dozen.
604	519,878 pounds.
605 pt.[2]	2,120,000 pounds.
633/634/635	1,424,409 dozen of which not more than 179,925 dozen shall be in Category 633; not more than 828,845 dozen shall be in Category 634, and not more than 629,299 dozen shall be in Category 635.
638/639	5,670,912 dozen.
640 pt.[3]	3,992,216 dozen.
640 pt.[4]	1,873,262 dozen.
641	1,050,780 dozen.
643	62,219 dozen.
645/646	3,282,736 dozen.
648	324,813 dozen.
659 pt.[5]	2,411,858 pounds.
669 pt.[6]	993,302 pounds.

[1] The levels of restraint have not been adjusted to account for any imports after December 31, 1981.
[2] In Category 605, only TSUSA numbers 316.5500 and 316.5800.
[3] In Category 640, only TSUSA numbers 379.3130, 379.3334, 379.9535, 379.9540, 379.9639.
[4] In Category 640, all TSUSA numbers in the category except those listed in footnote 3.
[5] In Category 659, only TSUSA numbers 703.0500, 703.1000, and 703.1515.
[6] In Category 669 only TSUSA numbers 348.0065, 348.0075, 348.0565, and 348.0575.

In carrying out this directive, entries of textile products in the foregoing categories, except Categories 604, 605 pt.[1] 648, and 669 pt.[2] which have been exported to the United States on and after January 1, 1981, and extending through December 31, 1981, shall, to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during that twelve-month period. In the event the levels of restraint established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter. Textile products in Categories 604, 605 pt.[1] 648, and 669 pt.[2] that have been exported prior to January 1, 1982, shall not be subject to this directive.

A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on December 13, 1982 (47 FR 55709).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the Republic of Korea and with respect to imports of cotton, wool, and man-made textile products from Korea have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

[1] In Category 605, only TSUSA numbers 316.5500 and 316.5800.

[2] In Category 669, only TSUSA numbers 348.0065, 348.0075, 348.0565, and 348.0575.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 82-35227 Filed 12-28-82; 8:45 am]

BILLING CODE 3510-25-M

Additional Import Controls on Certain Cotton Textile Products From Taiwan, Effective on January 1, 1983

December 22, 1982.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Controlling imports of cotton sweaters in Category 345 and cotton nightwear in Category 351, produced or manufactured in Taiwan and exported during the twelve-month period beginning on January 1, 1983, at respective levels of 82,000 dozen and 291,259 dozen.

A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on December 13, 1982 (47 FR 55709).

SUMMARY: Under the terms of the bilateral agreement of November 18, 1982 concerning cotton, wool, and man-made fiber textile products from Taiwan, the United States Government has decided to control imports of cotton textile products in Categories 345 and 351, produced or manufactured in Taiwan and exported to the United States during the twelve-month period beginning on January 1, 1983, in addition to those categories previously designated. These two categories will also become specific ceilings at these levels.

EFFECTIVE DATE: January 1, 1983.

FOR FURTHER INFORMATION CONTACT: Ronald J. Sorini, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-4212).

SUPPLEMENTARY INFORMATION: On December 22, 1982, there was published in the Federal Register (47 FR 57083) a letter dated December 16, 1982 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, which established levels of restraint for certain specified categories of cotton, wool, and man-made fiber textile products, produced or manufactured in Taiwan, which may by entered into the United States for consumption, or withdrawn from warehouse for consumption, during the twelve-month period beginning on January 1, 1983. In accordance with the terms of the bilateral agreement, the United States Government has decided also to control imports of cotton textile products in Categories 345 and 351, produced or manufactured in Taiwan and exported to the United States during the twelve-month period beginning on January 1, 1983. Accordingly, in the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry for consumption, or withdrawal from warehouse for consumption of cotton textile products in Categories 345 and 351, produced or manufactured in Taiwan and exported during the twelve-month period beginning on January 1, 1983, in excess of 82,000 dozen and 291,259 dozen, respectively.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

December 22, 1982.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury,
Washington, D.C.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive issued to you on December 16, 1982 by the Chairman of the Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool, and man-made fiber textile products, produced or manufactured in Taiwan.

Effective on January 1, 1983, the directive of December 16, 1982 is amended to establish specific levels of restraint for cotton textile products in Categories 345 and 351 at the following levels.

Category	Twelve-month level of restraint (dozen)
345	[illegible]
351	291,259

A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on December 13, 1982 (47 FR 55709).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the authorities in Taiwan and with respect to imports of cotton textile products from Taiwan have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc 82-35225 Filed 12-28-82; 8:45 am]

BILLING CODE 3510-25-M

Import Levels for Certain Cotton, Wool, and Man-Made Fiber Textile Products From the Republic of the Philippines, Effective on January 1, 1983, Under New Bilateral Agreement

December 22, 1982.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Establishing import levels for certain cotton, wool, and man-made fiber textile products imported from the Philippines, effective on January 1, 1983.

SUMMARY: On November 24, 1982, the Governments of the United States and the Republic of the Philippines signed a new four-year Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement beginning on January 1, 1983 and extending through December 31, 1986. The new agreement establishes levels of restraint for cotton, wool, and man-made fiber textile products in Categories 331, 333/334, 335, 336pt., 337pt., 340, 341, 347, 348, 431, 435, 443, 445/446, 604, 631, 635pt., 636pt., 641pt., 645/646, 648pt., 649, and 652pt., among other categories, during the areement year which begins on January 1, 1983 and extends through December 31, 1983. In the letter published below, the Chairman, Committee for the Implementation of Textile Agreements, directs the Commissioner of Customs to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of textile products in the foregoing categories, produced or manufactured in the Philippines and exported during the twelve-month period which begins on January 1, 1983, in excess of the designated levels. As agreed between the two governments, the levels for Categories 337(NT), 341(T), 348(NT), and 645/646pt.(NT) have been reduced to account for carryforward used in 1982.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709).

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

EFFECTIVE DATE: January 1, 1983.

FOR FURTHER INFORMATION CONTACT: Carl Ruths, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-4212).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury,
Washington, D.C.

Dear Mr. Commissioner: Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of November 24, 1982, between the Governments of the United States and the Republic of the Philippines; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on January 1, 1983 and for the twelve-month period extending through December 31, 1983, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool, and man-made fiber textile products in Categories 331, 333/334, 335, 336pt., 337pt., 340, 341, 347, 348, 431, 435, 443, 445/446, 604, 631, 635pt., 636pt., 641pt., 645/646, 648pt., 649, and 652pt., produced or manufactured in the Philippines, in excess of the following levels of restraint:

Category	Twelve-month level of restraint
331	639,301 dozen pairs.
333/334	83,475 dozen.
335 pt.[1]	35,797 dozen.
335 pt.[2]	36,963 dozen.
336 pt.[3]	27,654 dozen.
337 pt.[4]	39,461 dozen.
340	250,294 dozen.
341 pt.[5]	67,369 dozen.
341 pt.[6]	90,739 dozen.
347	260,526 dozen.
348 pt.[7]	205,874 dozen.
348 pt.[8]	229,642 dozen.
431	56,980 dozen pairs.
435	2,216 dozen.
443	2,238 dozen.
445/446	17,949 dozen.
604	2,221,641 pounds.
631	1,700,267 dozen pairs.
635 pt.[9]	220,884 dozen.
636 pt.[10]	42,701 dozen.
641 pt.[11]	185,421 dozen.
645/646 pt.[12]	87,806 dozen.
646 pt.[13]	238,702 dozen.
648 pt.[14]	57,053 dozen.
649	3,899,758 dozen.
652 pt.[15]	60,449 dozen.

[1] In Category 335, all TSUSA numbers except 383.3405, 383.3410, 383.3415, 383.3445, 383.3446, 383.3450, 383.3460, and 383.3465.

[2] In Category 335, only TSUSA numbers listed in footnote 1.

[3] In Category 336, all TSUSA numbers except 383.0308, 383.0815, 383.2920, 383.4816, 383.4820, and 383.4823.

[4] In Category 337 all TSUSA numbers except 383.0335, 383.0830, 383.5035, and 383.5047.

[5] In Category 341, only TSUSA numbers 383.0508, 383.4704, 383.4707, and 383.4711.

[6] In Category 341, all TSUSA numbers except those listed in footnote 5.

[7] In Category 348, only TSUSA numbers 383.0611, 383.0616, 383.2836, 383.4749, 383.4755, 383.4759, and 383.4763.

[8] In Category 348, all TSUSA numbers except those listed in footnote 7.

[9] In Category 635, all TSUSA numbers except 383.8116.

[10] In Category 636 pt., all TSUSA numbers except 383.2016, 383.8622, 383.2315, and 383.9230.

[11] In Category 641, all TSUSA numbers except 383.2215 and 383.9030.

[12] In Category 645/646, all TSUSA numbers except 383.1857 and 383.8070.

[13] In Category 646, only TSUSA numbers 383.1857 and 383.8070.

[14] In Category 648, all TSUSA numbers except 383.1940, 383.8148, 383.2260, and 383.9071.

[15] In Category 652, only TSUSA numbers 378.6030.

In carrying out this directive, entries of textile products in the foregoing categories, except Categories 333/334, 435, 631, 636pt.,[1] 646pt.,[2] and 652pt.,[3] which have been exported to the United States on and after the period beginning on January 1, 1982 and extending through December 31, 1982, shall, to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during that twelve-month period. In the event the levels of restraint established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter. Textile products in Categories 333/334, 435, 631, 636pt.,[1] 646pt.,[2] and 652pt.,[3] that have been exported prior to January 1, 1983, shall not be subject to this directive.

The levels of restraint are subject to adjustment according to the provisions of the bilateral agreement of November 24, 1982 between the Governments of the United States and the Republic of the Philippines which provide, in parts, that: (1) Specific levels of restraint may be exceeded during the agreement year by designated percentages; (2) specific levels of restraint may be adjusted for carryover and carryforward; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the Republic of the Philippines and with respect to imports of cotton, wool, and man-made fiber textile products from the Philippines have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

[1] In Category 636pt., all TSUSA numbers except 383.2016, 383.8622, 383.2315, and 383.9230.

[2] In Category 646, only TSUSA numbers 383.1857 and 383.8070.

[3] In Category 652, only TSUSA number 378.6030.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 82-35226 Filed 12-28-82; 8:45 am]

BILLING CODE 3510-25-M

Announcing Continuation of Export Visa Requirement for Certain Cotton, Wool, and Man-Made Fiber Textile Products From China

On August 5, 1980 a letter dated August 1, 1980 from the Chairman of the Committee for the Implementation of Texile Agreements to the Commissioner of Customs was published in the **Federal Register** (45 FR 51872), which established an export visa requirement for certain cotton, wool, and man-made fiber textile products, produced or manfactured in China and exported to the United States.

The purpose of this notice is to advise the public that export visas will still be required from January 1, 1983 and until further notice for cotton, wool, and man-made fiber textile products subject to the terms of the Bilateral Cotton, Wool, and Man-Man Fiber Textile Agreement of September 17, 1980, as amended, between the Governments of the United States and the People's Republic of China, which expires on December 31, 1982.

Interested persons are advised to take all necessary steps to ensure that cotton, wool, and man-made fiber textiles and apparel, produced or manufactured in China and exported on and after January 1, 1983, which are to be entered into the United States for consumption, or withdrawn from warehouse for consumption, will continue to meet the established visa requirements.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 82-35193 Filed 12-28-82; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for Improvements to Navigation at Coquille River, Oregon

AGENCY: Army Corps of Engineers, Department of Defense.

ACTION: Notice of intent to prepare a DEIS.

SUPPLEMENTARY INFORMATION: The Corps of Engineers, Portland District, is currently investigating several alternatives for improvements to navigation at Coquille River, Oregon. Navigation improvements will be recommended to assure project depths in the channel throughout the year, reduce harmful wave activity at the entrance bar and assure a protected and safe entrance. River entrance improvements, channel deepening and channel extension alternatives will be studied in detail to provide a recommended plan of improvement. Our detailed studies will also include analysis of a 500-foot jetty extension at the request of the Port of Bandon. The Environmental Impact Statement (EIS) will be prepared to insure provisions for the quality of both the natural and human environment.

The scoping process will formally commence in January 1983, with the issuance of a public notice containing a draft outline of alternatives and potential effects which will be discussed in the DEIS. Federal, State, and local agencies, Indian tribes, and interested organizations and individuals will be asked to comment on the draft outline and to identify significant issues relating to the effects of the alternatives. The DEIS is scheduled for agency and public review in January 1984. The final EIS is scheduled for publication in the fall of 1984.

ADDRESS: If you have any questions or need additional information, please contact Steve Stevens, (503) 221-6438 (FTS 423-6438), U.S. Army Corps of Engineers, Natural Resources Branch, P.O. Box 2946, Portland, Oregon 97208.

Dated: December 20, 1982.

R. L. Friedenwald,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 82-35172 Filed 12-28-82; 8:45 am]

BILLING CODE 3710-AH-M

DEPARTMENT OF ENERGY

Office of Conservation and Renewable Energy

[Case No. F—005; Docket No. CAS—RM—79—104]

Energy Conservation Program for Consumer Products; Decision and Order Granting Waiver From Furnace Test Procedures to Arkla Industries, Inc.

AGENCY: Office of Conservation and Renewable Energy, DOE.

ACTION: Decision and order

SUMMARY: Notice is given of the Decision and Order (case no. F-005) granting Arkla Industries, Inc. a waiver for its model UR and DR series condensing furnace line from the existing DOE test procedures for furnaces.

FOR FURTHER INFORMATION CONTACT:

Michael J. McCabe, U.S. Department of Energy, Office of Conservation and Renewable Energy, Mail Station CE-113.1, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585 (202) 252-9127.

Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, Mail Station GC-33, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585 (202) 252-9510.

SUPPLEMENTARY INFORMATION:

In accordance with 10 CFR 430.27(g), notice is hereby given of the issuance of the Decision and Order set out below. In the Decision and Order, Arkla Industries, Inc. has been granted a waiver for its models UR and DR condensing warm air furnaces, permitting the company to use an alternate test method and in-house test facilities.

Issued in Washington, D.C., December 20, 1982.

Joseph J. Tribble,

Assistant Secretary, Conservation and Renewable Energy.

Decision and Order of the Department of Energy Assistant Secretary for Conservation and Renewable Energy

[Case No. F-005]

In the Matter of: Arkla Industries, Inc.

Background

The Energy Conservation Program for Consumer Products was established pursuant to the Energy Policy and Conservation Act, Pub. L. 94-163, 89 Stat. 917, as amended by the National Energy Conservation Policy Act, Pub. L. 95-619, 92 Stat. 3266, which requires the Department of Energy (DOE) to prescribe standardized test procedures to measure the energy consumption of certain consumer products, including furnaces. The intent of the test procedures is to provide a comparable measure of energy consumption that will assist consumers in making purchase decisions. These test procedures appear at 10 CFR Part 430, Subpart B.

The Department of Energy amended the prescribed test procedure regulations, by adding § 430.27, to allow the Assistant Secretary for Conservation and Renewable Energy to waive temporarily test procedures for a particular basic model when a petitioner shows that the basic model contains one or more design characteristics which prevent testing of the basic model according to the prescribed test procedures or when the prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption characteristics as to provide materially inaccurate comparative data. 45 FR 64108 (Sept. 26, 1980).

Pursuant to § 430.27(g), the Assistant Secretary shall publish in the **Federal Register** notice of each waiver granted, and any limiting conditions of each waiver.

Arkla Industries, Inc. (Arkla), filed a "Petition for Waiver" in accordance with § 430.27 of 10 CFR Part 430. DOE published in the **Federal Register** the Arkla petition and solicited comments, data, and information respecting the petition. 47 FR 27957 (June 28, 1982). Notice of the petition for waiver was sent to known manufacturers of domestically marketed condensing furnances, i.e., Lennox Industries and Hydro Therm Inc. Comments were received from Hydro Therm Inc., a manufacturer of furnaces. The comments were sent to the petitioner on August 19, 1982, and no rebuttal comments were submitted by Arkla. DOE consulted with the Federal Trade Commission on August 2, 1982, concerning the petition from Arkla.

Assertions and Determinations

The Arkla petition contends that even though the DOE test procedures for furnaces were amended to allow testing of condensing furnaces, 45 FR 53714 (Aug. 12, 1980), the company's model UR and DR condensing furnace lines, when tested according to those procedures, will yield materially inaccurate comparative data.

The Arkla petition seeks a waiver from the present DOE Test method basing condensation calculations on the average flue gas temperature. Arkla contends that its model UR and DR furnace lines condenses more of the water vapor than is calculated by the DOE test method. In lieu of the current test method, Arkla requests the use of the condensate measuring test method as set forth in Appendix C of the National Bureau of Standards (NBS) Interagency Report 80–2110, "Recommended Testing and Calculation Procedures for Estimating the Seasonal Performance of Residential Condensing Furnaces and Boilers" (hereafter referred to as the alternate test method), dated April 1981, to determine the energy efficiency of its model UR and DR furnace lines.

Arkla further seeks permission to conduct testing using the alternate test method at its in-house test facilities. Such allowance for in-house testing was rejected in a previous Decision and Order on the grounds that the reliability of the alternate test method was suspect. 46 FR 34621 (July 2, 1981). Arkla contends that the alternate test method is of sufficient reliability to permit in-house testing by manufacturers.

The comments from Hydro Therm support Arkla's assertion that the existing condensing furnace test procedures understate the seasonal efficiency of a condensing furnace, such as the Arkla UR and DR condensing furnace. In addition, NBS investigated Arkla's claims and reported that efficency improvement attributable to the condensing mode of operation could be understated as a result of the existing DOE Test procedures. Based on this information, DOE has determined that Arkla should be granted a waiver to use the alternate test method when testing its UR and DR condensing furnaces.

Hydro Therm also supported Arkla's request for in-house testing. Hydro Therm commented that the results of tests conducted at an independent laboratory using the alternate test method were substantially identical to results the company obtained through its own in-house testing. Thus, Hydro Therm states the alternate test method has been shown to be of sufficient reliability to permit "in-house" testing.

Based principally on the statement of Hydro Therm concerning the reliability of the alternate test method, and in order to save the manufacturer time and money, DOE has determined to grant Arkla's request for in-house testing.

It is therefore ordered that:

(1) The "Petition for Waiver" filed by Arkla Industries Inc. is hereby granted as set forth in paragraph (2) below, subject to the provisions of paragraphs (3) and (4).

(2) Notwithstanding any contrary provisions of Appendix N of 10 CFR, Part 430, Subpart B, Arkla Industries Inc. shall be permitted to use in-house test facilities to test its model UR and DR model condensing warm air furnace on the basis of the test procedures specified in 10 CFR, Part 430, with the modifications set forth below:

(i) *Test Conditions.*—(A) The test unit shall be installed according to the requirements given in section 2.

(B) Control devices shall be installed to allow cyclical operation of the unit and return water as described in section 3.3.

(C) The test unit shall be leveled prior to test.

(D) Operation times and the beginning and end of condensate collection shall be determined by a clock or timer with a minimum resolution to one second.

(E) Control of on or off operation actions shall be within ± 6 seconds of the scheduled time.

(F) Condensate drain lines shall be attached to the unit as specified in the manufacturer's installation instructions.

(G) The flue pipe installation must not allow condensate formed in the flue pipe to flow back into the unit. An initial downward slope from the unit's exit, an offset with a drip leg, annular collection rings, or drain holes must be included in the flue pipe installation without disturbing normal flue gas flow (as given in section 2.2), and temperature measurement instrumentation (as given in section 2.6). Flue gases shall not flow out of the drain with the condensate.

(H) Collection-containers must be glass or polished stainless steel, so removal of interior deposits can be easily made.

(I) The collection-container shall have a vent opening to the atmosphere.

(J) The scale for measuring the containers and condensate sample mass shall be calibrated with an error no larger than ±0.5 percent over the range of interest.

(ii) *Test Method.*—(A) The condensing furnace is to have steady-state, cool-down, and heat-up tests conducted in accordance with the procedures for non-condensing units given in section 3, using the flue gas, air or water flow, and room ambient conditions given in section 2 of the condensing furnace test procedure.

(B) The condensate collection containers shall be dried prior to each use and be at room ambient temperature prior to a sample collection.

(C) Tare weight of the collection-container must be measured and recorded prior to each sample collection.

(D) Operating times for on and off periods at 22.5 percent on time schedule shall be: 3 minutes 52 seconds on and 13 minutes 20 seconds off for warm air furnaces.

(E) The unit should be operated in a cyclical manner until flue gas temperatures at the end of each on period are within 50°F (2.8°C) of each other for two consecutive cycles.

(F) Begin the three test cycles.

(G) Return air temperature for furnaces shall be equal to those required for steady-state test periods, and shall remain within the limits given in the existing test procedure.

(H) Begin condensate collection at one minute before start up of the first test on-period.

(I) Three cycles later, the container shall be removed at the end of the cool down cycle one minute prior to the beginning of what would be the fourth cycle period.

(J) Condensate mass shall be measured immediately at the end of the collection period to prevent evaporation loss from the sample.

(K) Fuel input shall be recorded during the entire test period starting at the beginning of the on-time of the first cycle to the beginning of the on-time of the second cycle, etc., for each of the three test cycles. Fuel Higher Heating Value (HHV), temperature and pressures necessary for determining fuel energy input, Q_c, will be observed and recorded. The fuel quantity and HHV shall be measured with errors no greater than one percent.

(iii) *Calculating the condensing Annual Fuel Utilization Efficiency (AFUE).*—(A) Determine the Mass of Condensate for three cycles, m_c, by subtracting the tare container weight from the total container and condensate weight at end of the three cycles of operations.

(B) Calculate the fuel energy input during the three cycles, Q_c, in Btu/(3 cycles).

(C) Calculate the heat gain due to condensation, L_G, in percent by the following equation:

$$L_G = \frac{m_c(\text{lbm}/(3\text{ cycle})) \times 1053.3(\text{Btu}/\text{lbm}) \times 100}{Q_c(\text{Btu}/(3\text{ cycles}))}$$

(D) Calculate the loss, L_c, due to hot condensate going down the drain, correcting the fact that this condensate did not go up the flue as heated vapor.

$$L_c = \frac{L_G[1.0(T_{f.\,ss} - 70) - .45(T_{f.\,ss} - 42)]}{1053.3}$$

(E) Calculate the condensing AFUE by adding the percent heat gain due to condensing, L_G, to the previously calculated non-condensing AFUE and by subtraction L_c.

$$AFUE_c = AFUE_{NC} + L_G - L_c$$

(iv) With the exception of the modifications set forth in subparagraphs (i), (ii) and (iii) above, Arkla Industries Inc. shall comply in all respects with the test procedures specified in Appendix N of 10 CFR, Part 430, Subpart B.

(3) The waiver shall remain in effect from the date of issuance of this order until the Department of Energy prescribes final test procedures appropriate to the type of condensing warm air furnace manufactured by Arkla Industries Inc.

(4) This waiver is based upon the presumed validity of statements, allegations, and documentary materials submitted by the applicant and commenters. This waiver may be revoked or modified at any time upon a determination that the factual basis underlying the application is incorrect.

Issued in Washington, D.C., December 20, 1982.

Joseph J. Tribble,

Assistant Secretary, Conservation and Renewable Energy.

[FR Doc. 82-35219 Filed 12-28-82; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Columbia Gas System, Inc.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of action taken on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces that it has adopted a Consent Order with Columbia Gas System, Inc. (Columbia) as a final order of the Department.

EFFECTIVE DATE: November 22, 1982.

FOR FURTHER INFORMATION CONTACT: David H. Jackson, Director, Kansas City Office, Economic Regulatory Administration, 324 East 11th Street, Kansas City, Missouri 64106–2466, (816) 374–2092.

SUPPLEMENTARY INFORMATION: On October 5, 1982, 47 43999, the ERA published a notice in the **Federal Register** that it executed a proposed Consent Order with Columbia Gas System, Inc. of Wilmington, Delaware, on September 24, 1982 which would not become effective sooner than 30 days after publication of that notice. The Consent Order settles alleged regulatory violations brought by the Department of Energy (DOE) against Columbia, involving natural gas liquid and natural gas liquid product price overcharges by Columbia's subsidiaries Columbia Hydrocarbon Corporation and Columbia Gas Transmission Corporation during the period September 1, 1973 through January 27, 1981. Under the terms of the Consent Order, Columbia agrees to pay $800,000 to customers listed in the Consent Order and $5,000 in civil penalties.

Pursuant to 10 C.F.R. 205.199J(c), interested persons were invited to submit comments concerning the terms and conditions of the proposed Consent Order. Three comments were received. Each proposed an alternative method of distributing the funds to be paid by Columbia under the terms of the Proposed Consent Order. Each comment suggested that funds remaining, if any, after restitution to purchasers as required in the Consent Order be distributed to the States for redistribution.

ERA considered these comments; but, because there is no reason to believe that the funds cannot be fully distributed to the purchasers identified in the Order, and because in the event that a portion remained undistributed, the amount is likely to be too insubstantial to justify the administrative burden and the expense of determining and making proper allocation to the States, the ERA determined that deposit in the United States Treasury would be an appropriate disposition of any undistributed funds.

Issued in Kansas City on the 2d day of December, 1982.

David H. Jackson,

Director, Kansas City Office, Economic Regulatory Administration.

[FR Doc. 82-35216 Filed 12-28-82; 8:45 am]

BILLING CODE 6450-01-M

RECO Petroleum, Inc.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Reco Petroleum, Inc., 100 North 4th Street, Reading, Pennsylvania 19603. This Proposed Remedial Order charges Reco with pricing violations in the amount of $172,502.00, exclusive of interest, in connection with the sale of motor gasoline at its company operated retail stations during the period March 1, 1979 through September 30, 1979.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Robert J. McKee, Jr., Director, Philadelphia Field Office, ERA, (215) 597–2633. Within 15 days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 12th & Pennsylvania Avenue, Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Philadelphia, Pennsylvania on the 7th day of December, 1982.

Robert J. McKee, Jr.,

Director, Philadelphia Field Office, ERA.

[FR Doc. 82-35215 Filed 12-28-82; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-FC-82-38; FC Case No. 67047-9224-01-24]

Sunlaw Energy Corp.; Acceptance of Petition

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of acceptance of petition for exemption and availability of certification by Sunlaw Energy Corporation.

SUMMARY: On November 22, 1982, the Sunlaw Energy Corporation, hereinafter referred to as petitioner, filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) requesting a permanent cogeneration exemption for an electric powerplant from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 *et seq.*) ("FUA" or "the Act"). Title II of FUA prohibits the use of petroleum and natural gas as a primary energy source in new powerplants and certain new major fuel burning installations. Final rules setting forth criteria and procedures for petitioning for exemptions from the prohibitions of Title II of FUA were published in the **Federal Register** at 46 FR 59872 (December 7, 1981) ("final rules"). A revised final rule governing eligibility and evidentiary requirements for the cogeneration exemption was issued on June 25, 1982 (47 FR 29209 (July 6, 1982)).

The proposed powerplant for which the petition was filed is a 25.2 megawatt (NW) combined cycle cogeneration facility capable of using natural gas or No. 2 distillate oil, and designed to produce electricity and a refrigerant at the petitioner's plant located in Vernon, California.

It is expected that more than fifty percent of the net annual electric power generation of the petitioner's turbine generator will be sold to Southern California Edison Company (SCE), making the cogeneration facility an electric powerplant pursuant to 10 CFR 500.2.

ERA has determined that the petition appears to include sufficient evidence to support an ERA determination, and is therefore accepted pursuant to 10 CFR 501.3. A review of the petition is provided in the SUPPLEMENTARY INFORMATION section below.

As provided for in sections 701(c) and (d) of FUA and 10 CFR 501.31 and 501.33 of the final rules, interested persons are invited to submit written comments in regard to this petition and any interested person may submit a written request that ERA convene a public hearing.

The public file containing a copy of this Notice of Acceptance and Availability of Certification as well as other documents and supporting materials on this proceeding are available upon request through DOE, Freedom of Information Reading Room, 1000 Independence Avenue, SW., Room 1E–190, Washington, D.C. 20585, Monday through Friday, 8:00 a.m. to 4:00 p.m. ERA will issue a final order granting or denying the petition for exemption from the prohibitions of the Act within six months after the end of the period for public comment and hearing, unless ERA extends such period. Notice of any such extension, together with a statement of reasons therefor, would be published in the **Federal Register.**

DATES: Written comments are due on or before February 14, 1983. A request for a public hearing must be made within this same 45-day period.

ADDRESS: Fifteen copies of written comments or a request for a public hearing shall be submitted to: Case Control Unit, Office of Fuels Programs, Room GA–093, Forrestal Building, 1000 Independence Avenue, SW, Washington, D.C. 20585. "Docket No. ERA–FC–82–36" should be printed on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

Roland DeVries, Office of Fuels Programs, Economic Regulatory Administration, Forrestal Bldg., Room GA–093, 1000 Independence Avenue, SW., Washington, D.C. 20585, Phone (202) 252–6002

Allan Stein, Esq., Office of General Counsel, Department of Energy, Forrestal Bldg., Room 6B–222, 1000 Independence Avenue, SW., Washington, D.C. 20585, Phone (202) 252–2967

SUPPLEMENTARY INFORMATION: The petitioner proposes to install a 21.5 MW gas-fired combustion turbine, with the capability of burning distillate oil as a backup fuel, at its plant located in Vernon, California. An unfired heat recovery steam generator will produce 65,000 pounds/hour of steam, which will be used to generate 3.7 MW of power in an extraction steam turbine and provide low pressure steam to an absorption chiller. All the electric power generated will be sold to the Southern California Edison Company, and the refrigerant will be sold to the U.S. Growers Cold Storage and Pacific Cold Storage facilities.

The cogeneration facility is classified as a powerplant under FUA because more than 50 percent of its net annual electric power generation will be sold.

Section 212(c) of the Act provides for a permanent cogeneration exemption from the prohibitions of Title II of FUA. In accordance with the certification procedures of 10 CFR 503.37(a)(1), the petitioner certified that:

1. The oil or gas to be consumed by the cogeneration facility will be less than that which would otherwise be consumed in the absence of the cogeneration facility, where the calculation of savings is in accordance with 10 CFR 503.37(b); and

2. The use of a mixture of petroleum and natural gas and an alternate fuel in the cogeneration facility for which an exemption under 10 CFR 503.38 would be available, would not be economically or technically feasible.

In accordance with the evidentiary requirements of 10 CFR 503.37(c), the petitioner has also included as part of its petition:

1. Exhibits containing the basis for the certifications described above; and

2. An environmental impact analysis, as required under 10 CFR 503.13.

Pursuant to 10 CFR 501.3, ERA hereby accepts the petitioner's petition for a permanent cogneration exemption. ERA retains the right, however, to request additional relevant information from the petitioner at any time during the pendency of these proceedings. As provided in 10 CFR 501.3(b)(4), acceptance of this petition by ERA does not constitute a determination that the petitioner is entitled to the exemption requested. That determination will be based on the entire record of these proceedings, including any comments received during the public comment period provided for in this notice.

Issued in Washington, D.C. on December 22, 1982.

Robert L. Davies,

Deputy Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 82–35217 Filed 12–28–82; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. ERA–FC–82–033; OFP Case No. 65007–9075–05–12]

Mobay Chemical Corp.; Acceptance of Petition

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of acceptance of petition for exemption and availability of certification.

SUMMARY: On November 24, 1982, Mobay Chemical Corporation, hereinafter referred to as petitioner, filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) requesting a permanent cost exemption from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 *et seq.*) ("FUA" or "the Act"). Title II of FUA prohibits the use of petroleum and natural gas as a primary energy source in certain new major fuel burning installations (MFBI's). Final rules setting forth criteria and procedures for petitioning for exemptions from the prohibitions of Title II of FUA were published in the **Federal Register** at 46 FR 59872 (December 7, 1981). Eligibility and evidentiary requirements governing the permanent cost exemption are contained in 10 CFR 503.32.

The proposed MFBI for which the petition is filed is a package boiler (designated as Unit #5) burning natural gas, to be installed at the petitioner's Baytown Plant located in Chambers County, Texas.

ERA has determined that the petition appears to include sufficient evidence to support an ERA determination, and is therefore accepted pursuant to 10 CFR 501.3. Pursuant to this section, ERA retains the right to request additional information from the petitioner at any time during the course of these proceedings. A review of the petition is provided in the **SUPPLEMENTARY INFORMATION** section below.

As provided for in section 701(c) and (d) of FUA and 10 CFR 501.31 and 501.33, interested persons are invited to submit written comments in regard to this petition and any interested person may submit a written request that ERA convene a public hearing.

The public file containing a copy of this Notice of Acceptance and Availability of Certification as well as other documents and supporting material on this proceeding are available upon request through the DOE Freedom of Information Reading Room, Room 1E–190, 1000 Independence Avenue, SW., Washington, D.C. 20585, Monday through Friday, 8:00 a.m. to 4:00 p.m. ERA will issue a final order granting or denying the petition for exemption from the prohibitions of the Act within six months after the end of the period for public comment and hearing, unless ERA extends such period. Notice of any such extension,

together with a statement of reasons therefor, would be published in the Federal Register.

DATES: Written comments or a request for public hearing concerning this petition are due on or before February 14, 1983.

ADDRESS: Fifteen copies of written comments or a request for a public hearing shall be submitted to: Department of Energy, Economic Regulatory Administration, Office of Fuels Programs, Case Control Unit, Room GA–093, Forrestal Bldg., 1000 Independence Avenue, SW., Washington, D.C. 20585.

Docket No. ERA–FC–82–033 should be printed on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

William H. Freeman, Office of Fuels Programs, Economic Regulatory Administration, Forrestal Bldg., Room GA–093, 1000 Independence Avenue, S.W., Washington, D.C. 20585, Phone (202) 252–2993.

Marya Rowan, Esq., Office of General Counsel, Department of Energy, Forrestal Bldg., Room 6B–222, 1000 Independence Avenue, S.W., Washington, D.C. 20585, Phone (202) 252–2967.

SUPPLEMENTARY INFORMATION: Title II of the Act prohibits the use of natural gas and petroleum as a primary energy source in certain new MFBI's unless an exemption from the prohibitions stated therein has been granted by ERA. The petitioner proposes to install a package boiler, Unit #5, at its Baytown Plant located in Chambers County, Texas. Unit #5 will have a maximum fuel heat input rate of 236 MM Btu per hour and will be used primarily to provide secure peak steam generating capacity; the primary energy source will be natural gas.

Section 212(a)(1)(A)(ii) of the Act provides for a permanent exemption due to lack of an alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum. In accordance with 10 CFR 503.32(b) which implements that section, the petitioner has provided ERA with duly executed certifications stating that (a) A good faith effort has been made to obtain an adequate and reliable supply of an alternate fuel for use as a primary energy source of the quality and quantity necessary to conform with the design and operational requirements of the unit; (b) the cost of using such a supply would substantially exceed the cost of using imported petroleum as a primary energy source during the useful life of the proposed unit; and (c) the use of mixtures is not feasible as required under 10 CFR 503.9. In accordance with the other evidentiary requirements of 10 CFR 503.32(b), the petitioner has also included exhibits containing the bases for its certifications; the environmental impact analysis required under 10 CFR 503.13; the fuels search required under 10 CFR 503.14; and all data required under 10 CFR 503.6, necessary for computing comparative fuel cost using the formula for cost calculations, set forth therein.

In processing this exemption, ERA will comply with the requirements of the National Environmental Policy Act of 1969 (NEPA); the Council on Environmental Quality's implementing regulations 40 CFR § 1500 *et seq.;* and DOE's guidelines implementing those regulations, published at 45 FR 20694 on March 28, 1980. NEPA compliance may involve the preparation of (1) An Environmental Impact Statement (EIS); (2) an Environmental Assessment; or (3) a memorandum to the file finding that the grant of the requested exemption would not be considered a major federal action significantly affecting the quality of the environment. If an EIS is determined to be required, ERA will publish a Notice of Intent to prepare an EIS in the Federal Register as soon as practicable. No final action will be taken on the exemption petition until NEPA compliance has been completed.

The acceptance of the petition by ERA does not constitute a determination that the petitioner is entitled to the exemption requested. That determination will be based on the entire record of these proceedings, including any comments received during the public comment period provided for in this notice.

Issued in Washington, D.C. on December 17, 1982.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 82–35214 Filed 12–28–82; 8:45 am]

BILLING CODE 6450–01–M

Vessels Gas Processing Co. and Vessels Gas Processing, Ltd.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration hereby gives notice of a Proposed Remedial Order which was issued to Vessels Gas Processing Company and Vessels Gas Processing, Ltd., of Denver, Colorado.

The Proposed Remedial Order charged these affiliated companies with pricing violations in the amount of $1,883,155.91, plus accrued interest in sales of propane and natural gas liquids during the period of September 1, 1973 through December 31, 1977.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from David H. Jackson, Director, Kansas City Office, Economic Regulatory Administration, 324 East 11th Street, Kansas City, Missouri 64106–2466. Within 15 days of publication of this notice, any aggrieved person may file a Notice of Objections with the Office of Hearings and Appeals, 12th & Pennsylvania Avenue, N.W., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Kansas City, Missouri on the 1st day of December, 1982.

David H. Jackson,

Director, Kansas City Office, Economic Regulatory Administration.

[FR Doc. 82–35216 Filed 12–28–82; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. GP83–7–000]

Amoco Production Co.; Petition of Amoco Production Company for Expedited Issuance of a Declaratory Order To Remove Uncertainty

December 22, 1982.

Take notice that on December 16, 1982, Amoco Production Company (Amoco) filed a "Petition For Expedited Issuance of a Declaratory Order To Remove Uncertainty." Amoco requests the Commission to determine on an expedited basis whether the commitment of gas reserves to its interstate pipeline purchaser limits the reserves committed and dedicated to interstate commerce to the volumes stated in the contract with that purchaser.

Amoco characterizes its petition as a request that the Commission remove an uncertainty which Amoco claims exists as a result of footnote 4 on page 4 of the Federal Energy Regulatory Commission's (FERC) "Order Determining High Cost Gas and Prescribing Incentive Price Under Section 107 of the NGPA" issued on September 22, 1982, in Docket No. GP82–27–000. 20 FERC ¶ 61,330. Amoco asserts that the footnote creates uncertainty with respect to whether allegations may be made in the future that gas sold in intrastate commerce to purchasers other than Natural Gas Pipeline Company of America (NGPL) by Amoco from the Old Ocean Field, Brazoria and Matagorda Counties, Texas, was committed or dedicated to interstate commerce on November 8, 1978, and subject the

FERC's jurisdiction uder the Natural Gas Act.

Amoco claims that notice of its petition is not necessary because it is a request for clarification of an order in a proceeding to which intervention has already been granted all interested parties. Because Amoco's petition requests resolution of an issue that was not addressed in that proceeding, the petition has been given a separate docket number, and notice of petition is hereby given.

Amoco requests expedited considerations of its petition because it claims that the uncertainty it seeks to alleviate jeopardizes the initiation of the time-sensitive nitrogen injection project which it seeks to commence in the Larsen Reservoir of the Old Ocean Field.

Any person desiring to be heard or to protest this petition should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with 18 CFR 385.214 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before January 12, 1983. Answers to Amoco's Petition should be filed no later than January 28, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of the petition are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-35198 Filed 12-28-82; 8:45 am]

BILLING CODE 6717-01-M

Iowa Public Service Co.; Notice of Extension of Time

[Docket No. ER83-164-000]

December 22, 1982.

On December 20, 1982, the City of Estherville, Iowa (Estherville) filed a motion for an extension of time to file motions to intervene and protests in response to the Commission's Notice of Filing issued December 8, 1982, in the above-docketed proceeding. The motion states that additional time is required because Estherville only recently retained counsel to represent the city in this proceeding and because of a delay in Estherville's receipt of a copy of the Commission's notice.

Upon consideration, notice is hereby given that an extension of time for the filing of protests and petitions to intervene is granted to and including December 29, 1982.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-35199 Filed 12-28-82; 8:45 am]

BILLING CODE 6717-01-M

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: December 22, 1982.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
NORTH DAKOTA INDUSTRIAL COMMISSION									
-AMERADA HESS CORPORATION			RECEIVED:	11/23/82		JA: ND			
8310359	634	3310501024	103			ANDERSON #19-14	BEAVER LODGE SILURIAN	182.5	MONTANA DAKOTA UT
-CONSOLIDATED OIL & GAS INC			RECEIVED:	11/23/82		JA: ND			
8310360	637	3305301482	103			BERGE-FLB 1-24	RAWSON	20.0	PHILLIPS PETROLEU
8310361	636	3305301422	103			HEGGEN #1	RAWSON	14.0	PHILLIPS PETROLEU
-GETTY OIL COMPANY			RECEIVED:	11/23/82		JA: ND			
8310354	627	3305301425	103			CLEAR CREEK #21	CLEAR CREEK	0.0	AMINOIL USA INC
8310355	628	3305301431	103			CLEAR CREEK UNIT #22	CLEAR CREEK	30.0	AMINOIL USA INC
-MARTIN OIL COMPANY			RECEIVED:	11/23/82		JA: ND			
8310353	626	3310500892	103			STRID 35-1	LINDAHL	12.0	AMINOIL U S A INC
8310356	629	3310500951	103			STRID 35-2	LINDAHL	4.6	AMERADA HESS CORP
-NATIONAL OIL COMPANY			RECEIVED:	11/23/82		JA: ND			
8310357	630	3310500000	103			NATIONAL AMERADA GOHRICK #43-17	TEMPLE	39.6	MONTANA-DAKOTA UT
-PETRO-LEWIS CORPORATION			RECEIVED:	11/23/82		JA: ND			
8310358	631	3301100344	103			STATE #2-16A	LITTLE MISSOURI	0.0	MONTANA DAKOTA UT
-SUNBEHM GAS INC			RECEIVED:	11/23/82		JA: ND			
8310363	633	3305301132	103			HAUGEN-COATES #2	BOXCAR BUTTE	16.0	MONTANA-DAKOTA UT
8310362	632	3305300979	103			OKLAND #1	BOXCAR BUTTE	20.0	MONTANA DAKOTA UT
8310364	635	3305301023	103			ORVILLE HAUGEN #1	BOXCAR BUTTE	20.0	MONTANA-DAKOTA UT
NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION									
-AMERICAN PENN ENERGY INC			RECEIVED:	11/22/82		JA: NY			
8310475	2740	3101316226	102-2			STATE REFORESTATION AREA II (1514)	STEBBINS CORNERS	0.0	COLUMBIA GAS TRAN
8310474	2738	3101316222	102-2			STATE REFORESTATION AREA 2 #1510	STEBBINS CORNERS	10.0	COLUMBIA GAS TRAN
-BEREA OIL AND GAS CORPORATION			RECEIVED:	11/22/82		JA: NY			
8310521	2639	3101316821	102-2			A WINTON #1	WILDCAT	9.0	COLUMBIA GAS TRAN
8310477	2835	3101316822	102-2			A WINTON UNIT #2	WILDCAT	12.0	COLUMBIA GAS TRAN
8310552	2837	3101316822	102-2			A WINTON UNIT #2	WILDCAT	60.0	COLUMBIA GAS TRAN
8310529	2890	3101316881	102-2			BARGAR UNIT #6	WILDCAT	9.0	COLUMBIA GAS TRAN
8310478	2825	3101316824	102-2			CHAUTAUQUA COUNTY #2	WILDCAT	12.0	COLUMBIA GAS TRAN
8310524	2888	3101316878	102-2			CHAUTAUQUA COUNTY UNIT #5	WILDCAT	12.0	COLUMBIA GAS TRAN
8310513	3535	3101317830	102-2			M CADY #1	STEBBINS CORNERS	10.0	COLUMBIA GAS TRAN
8310512	2378	3101316257	102-2			N Y S CHAUT REF AREA #1 - WELL #8	CHERRY CREEK	30.0	COLUMBIA GAS TRAN
-BOUNTY OIL & GAS INC			RECEIVED:	11/22/82		JA: NY			
8310543	2966	3101316908	102-2			AIKEN UNIT #1	BUSTI	0.0	NATIONAL FUEL GAS
8310530	2926	3101315943	102-2			BACKUS UNIT #1	BUSTI	0.0	NATIONAL FUEL GAS
8310527	2928	3101316305	102-2			BIEHLS AND DAVIDSON WELL #1	WILDCAT	0.0	NATIONAL FUEL GAS
8310546	2999	3101316857	102-2			BUCKLIN UNIT #1	BUSTI	0.0	NATIONAL FUEL GAS
8310542	2964	3101316888	102-2			COONS #1	BUSTI	0.0	NATIONAL FUEL GAS
8310532	2989	3101316938	102-2			D ECKSTROM UNIT #1	BUSTI	0.0	NATIONAL FUEL GAS

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8310545	2958	3101317025		102-2		E MORRISON UNIT #1	WILDCAT	0.0	NATIONAL FUEL GAS
8310488	3071	3101316546		102-2		E SITTERLEY - UNIT #1	BUSTI	0.0	NATIONAL FUEL GAS
8310534	2993	3101317022		102-2		ENGDAHL UNIT #1	BUSTI	0.0	NATIONAL FUEL GAS
8310544	2982	3101316787		102-2		F ANDERSON UNIT #1	BUSTI	0.0	NATIONAL FUEL GAS
8310526	2930	3101315934		102-2		GANEY - #1	WILDCAT	0.0	NATIONAL FUEL GAS
8310522	2980	3101316789		102-2		GENS UNIT #1	BUSTI	0.0	NATIONAL FUEL GAS
8310485	2962	3101316028		102-2		HANSTROM UNIT #1	WILDCAT	0.0	NATIONAL FUEL GAS
8310531	2894	3101315676		102-2		HYDROCARBON FIELD SERVICES INC #1	WILDCAT	0.0	NATIONAL FUEL GAS
8310535	2995	3101316040		102-2		JOHNSTON UNIT #1	WILDCAT	0.0	NATIONAL FUEL GAS
8310541	2960	3101316985		102-2		JUUL UNIT #1	BUSTI	0.0	NATIONAL FUEL GAS
8310523	2807	3101316545		102-2		KENNY #1	BUSTI	0.0	COLUMBIA GAS TRAN
8310491	3073	3101316544		102-2		LAWSON UNIT #1	BUSTI	0.0	NATIONAL FUEL GAS
8310490	3075	3101316583		102-2		LONG - UNIT #1	BUSTI	0.0	NATIONAL FUEL GAS
8310489	3604	3101317085		102-2		MAZZARISI #1	BUSTI	0.0	COLUMBIA GAS TRAN
8310533	2991	3101316983		102-2		NORTHROP UNIT #1	BUSTI	0.0	NATIONAL FUEL GAS
8310547	2997	3101316784		102-2		NYGREN UNIT #1	BUSTI	0.0	NATIONAL FUEL GAS
8310473	2815	3101315720		102-2		W SWEENEY JR #1	BUSTI	0.0	COLUMBIA GAS TRAN
-DORAN & ASSOCIATES INC				RECEIVED:	11/22/82	JA: NY			
8310525	2882	3101321597		102-2		F ZEMNICK #1 KA-86		30.0	COLUMBIA GAS TRAN
8310528	2884	3101321596		102-2		S JOHNSON #1 KA-99		30.0	COLUMBIA GAS TRAN
8310548	3761	3101317119		102-2		W BURGETT UNIT #1 KV-19	CARROLL	30.0	COLUMBIA GAS TRAN
-ENVIROGAS INC				RECEIVED:	11/22/82	JA: NY			
8310456	2458	3101316215		102-2		A GOGGIN #1	CLYMER	16.0	COLUMBIA GAS TRAN
8310581	2028	3101315564		107-TF		A KOPTA #2	CHAUTAUGUA	16.0	COLUMBIA GAS TRAN
8310483	2683	3101316594		102-2		A WENGERD #1	CLYMER	16.0	COLUMBIA GAS TRAN
8310479	2675	3101316794		102-2		C DAMCOTT #1	CLYMER	16.0	COLUMBIA GAS TRAN
8310450	3066	3101317053		107-TF		C VOLK #2	CLYMER	16.0	COLUMBIA GAS TRAN
8310448	2920	3101316613		107-TF		E CARLSON #1	WILDCAT	16.0	NATIONAL FUEL GAS
8310508	2452	3101315906		102-2		F HOWARD #1	WILDCAT	16.0	NATIONAL FUEL GAS
8310586	2952	3101316458		107-TF		G DAMCOTT #1	CLYMER	16.0	COLUMBIA GAS TRAN
8310472	2953	3101316955		107-TF		H PATCHEN #1	CLYMER	16.0	COLUMBIA GAS TRAN
8310471	2957	3101316854		107-TF		H ROUSH #1	CLYMER	16.0	COLUMBIA GAS TRAN
8310476	2673	3101316596		102-2		J FAULKNER #2	CLYMER	16.0	COLUMBIA GAS TRAN
8310583	2918	3101316619		107-TF		J NORDLAND #1	WILDCAT	16.0	NATIONAL FUEL GAS
8310467	3067	3101316980		107-TF		L GIFFORD #1	WILDCAT	16.0	COLUMBIA GAS TRAN
8310585	2951	3101316295		107-TF		L SALOMON #1	STEBBINS CORNERS	16.0	COLUMBIA GAS TRAN
8310480	2677	3101316403		102-2		LEGTERS BROS #2	CLYMER	16.0	COLUMBIA GAS TRAN
8310538	2689	3101316404		102-2		LEGTERS BROS #3	CLYMER	16.0	COLUMBIA GAS TRAN
8310588	3175	3101316890		107-TF		M BEMIS #2	CLYMER	16.0	COLUMBIA GAS TRAN
8310582	2951	3101316930		107-TF		M BEMIS #3	CLYMER	16.0	COLUMBIA GAS TRAN
8310481	2679	3101316825		102-2		M HOGENBOOM #1-A	CLYMER	16.0	COLUMBIA GAS TRAN
8310539	2687	3101316321		102-2		N Y S REF AREA #3/WELL #11	SUMMERDALE	16.0	COLUMBIA GAS TRAN
8310482	2681	3101316358		102-2		N Y S REF AREA #3/WELL #12	STEBBINS CORNERS	16.0	COLUMBIA GAS TRAN
8310463	3178	3101316392		107-TF		N Y S REF AREA #3/WELL #13	STEBBINS CORNERS	16.0	COLUMBIA GAS TRAN
8310464	3072	3101316393		107-TF		N Y S REF AREA #3/WELL #14	STEBBINS CORNERS	16.0	COLUMBIA GAS TRAN
8310470	3063	3101316394		107-TF		N Y S REF AREA #3/WELL #15	STEBBINS CORNERS	16.0	COLUMBIA GAS TRAN
8310469	3064	3101316395		107-TF		N Y S REF AREA #3/WELL #16	STEBBINS CORNERS	16.0	COLUMBIA GAS TRAN
8310468	3065	3101316396		107-TF		N Y S REF AREA #3/WELL #17	STEBBINS CORNERS	16.0	COLUMBIA GAS TRAN
8310465	3069	3101316356		107-TF		P MARTINSON #1	STEBBONS CORNERS	16.0	COLUMBIA GAS TRAN
8310514	2456	3101316381		102-2		R AMBROSE #2	STEBBINS CORNERS	16.0	COLUMBIA GAS TRAN
8310491	3173	3101316655		107-TF		R AMBROSE #3	STEBBINS CORNERS	16.0	COLUMBIA GAS TRAN
8310537	2691	3101316616		102-2		R BECKERINK #1	CLYMER	16.0	COLUMBIA GAS TRAN
8310584	2986	3101316306		107-TF		R MARTIN #1	CHAUTAUGUA	16.0	COLUMBIA GAS TRAN

JD #	[illegible]	[illegible]	[illegible]	[illegible]	FIELD NAME	RRC	PURCHASER
8310587	3174	31 1317?7.	107-TF	R MCCLELLAND #1	WILDCAT	16.0	COLUMBIA GAS TRAN
8310511	2452	31 1316571	102-2	R ROHM #1	STEBBINS CORNERS	16.0	COLUMBIA GAS TRAN
8310507	2454	31 1316294	102-2	R WASSINK #4	CLYMER	16.0	COLUMBIA GAS TRAN
8310449	2421	31 1316615	107-TF	S ARMELI	WILDCAT	16.0	NATIONAL FUEL GAS
8310466	3058	31 1316981	107-TF	V HUMPHREY #1	CLYMER	16.0	COLUMBIA GAS TRAN
8310536	2694	31 1316436	102-2	V LEGTERS #1	CLYMER	16.0	COLUMBIA GAS TRAN
8310495	2543	31 1316[illegible] 7	102-2	V LICTUS #1	CLYMER	16.0	COLUMBIA GAS TRAN
8310452	2919	31 1316456	107-TF	V NELSON #3	WILDCAT	16.0	NATIONAL FUEL GAS
8310549	2645	31 1315893	102-2	W WASSINK #1	CLYMER	16.0	COLUMBIA GAS TRAN
-GYPSUM ENERGY MANAGEMENT CO			RECEIVED: 11/22/82	JA: NY			
8310571	4012	31 3795213	108	BALL #1	HURON CREEK	1.4	U S GYPSUM CO
8310572	4013	31 3712659	108	BENNETT #1	HURON CREEK	1.4	U S GYPSUM CO
8310568	4017	31 3713423	108	BRECKENRIDGE #1	HURON CREEK	6.1	U S GYPSUM CO
8310577	4005	31 3711932	108	C MILLER #1	HURON CREEK	1.6	U S GYPSUM CO
8310566	4024	31 3710425	108	E HALL #1	INDIAN FALLS	5.9	U S GYPSUM CO
8310573	4005	31 3712694	108	FRANZ #1	HURON CREEK	11.5	U S GYPSUM CO
8310570	4019	31 3712692	108	G MILLER #2	HURON CREEK	4.6	U S GYPSUM CO
8310574	4007	31 3712693	108	HERRINGTON #1	HURON CREEK	1.1	U S GYPSUM CO
8310567	4025	31 3710421	108	J CAREY #1	INDIAN FALLS	6.8	U S GYPSUM CO
8310564	4022	31 3705117	108	J KLOTZBACH #1	INDIAN FALLS	6.2	U S GYPSUM CO
8310578	4014	31 3711259	108	J MARTIN #1	INDIAN FALLS	6.3	U S GYPSUM CO
8310560	4028	31 3713248	108	JOHNCOX #1	HURON CREEK	6.9	U S GYPSUM CO
8310561	4027	31 3713249	108	JOHNCOX #2	HURON CREEK	6.5	U S GYPSUM CO
8310563	4021	31 3710494	108	KLOTZBACH - HALL 1	INDIAN FALLS	6.1	U S GYPSUM CO
8310562	4020	31 3709245	108	KNAPP #1	INDIAN FALLS	1.5	U S GYPSUM
8310576	4018	31 3712658	108	LAWRENCE #1	HURON CREEK	1.5	U S GYPSUM CO
8310575	4009	31 3712408	108	LAWRENCE #2	HURON CREEK	2.8	U S GYPSUM CO
8310580	4011	31 3712695	108	LAWRENCE #3	HURON CREEK	7.1	U S GYPSUM CO
8310579	4013	31 3712891	108	LAWRENCE #4	HURON CREEK	7.3	U S GYPSUM CO
8310555	4034	31 3710424	108	MC GUIRE #1	INDIAN FALLS	3.0	U S GYPSUM CO
8310558	4031	31 3712497	108	MCGUIRE - BRAUN #1	INDIAN FALLS	6.1	U S GYPSUM CO
8310556	4033	31 3709346	108	PHELPS #1	INDIAN FALLS	6.2	U S GYPSUM CO
8310565	4023	31 3709242	108	R KERN #1	INDIAN FALLS	6.9	U S GYPSUM CO
8310557	4032	31 3712422	108	SCROGER #1	INDIAN FALLS	6.1	U S GYPSUM CO
8310554	4035	31 3713271	108	STALKER #1	HURON CREEK	16.6	U S GYPSUM CO
8310559	4030	31 3710344	108	THURBER #1	INDIAN FALLS	6.9	U S GYPSUM
8310569	4019	31 3712135	108	WIKTORSKI #1	HURON CREEK	1.8	U S GYPSUM CO
-LENAPE RESOURCES CORP			RECEIVED: 11/[illegible]/82	JA: NY			
8310460	2714	31 [illegible]6137	102-2	LRC #65 - JOSEPH R DALEY UNIT #1	CALEDONIA	20.0	NEW JERSEY NATURA
8310461	2715	31 [illegible]6135	102-2	LRC #66 - W J REID UNIT NO 1	CALEDONIA	20.0	NEW JERSEY NATURA
8310462	2716	31 [illegible]6142	102-2	LRC #72 - E C DALEY #1	CALEDONIA	20.0	NEW JERSEY NATURA
-NORD/MONTARA PETROLEUM CO			RECEIVED: 11/22/82	JA: NY			
8310453	2323	31 2116299	102-2	DINGUS UNIT #1	JAVA MEDINA	15.0	COLUMBIA GAS TRAN
-SCG GAS QUEST INC			RECEIVED: 11/22/82	JA: NY			
8310515	2231	31 2113275	102-2	BRASS-NELSON #1	ARCADE - MEDINA	10.9	COLUMBIA GAS TRAN
8310516	2232	31 2113274	102-2	MIDSTATES CONTAINER CORP #1	ARCADE - MEDINA	10.9	COLUMBIA GAS TRAN
8310517	2233	31 2113276	102-2	WALTER MATTSON ET UX #1	ARCADE - MEDINA	10.9	COLUMBIA GAS TRAN
-SEIS-EX GEOPHYSICAL LTD			RECEIVED: 11/22/82	JA: NY			
8310520	2326	31 1314376	102-2	SEIS-EX SWANSON #1	WILDCAT	5.5	NATIONAL FUEL GAS
-SHARON RESOURCES INC			RECEIVED: 11/22/82	JA: NY			
8310518	2228	31 2116343	102-2	HIRSCH-BIRSCH #1		10.5	COLUMBIA GAS TRAN
8310519	2229	31 2116071	102-2	R HIRSCH #1		10.5	COLUMBIA GAS TRAN
-TRAHAN PETROLEUM INC			RECEIVED: 11/22/82	JA: NY			

JD NO	JA DKT	API NO	J SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8310510	2466	3101316092	102-2		A & H BASCHMANN #1 31-013-16092	KENNEDY	36.0	COLUMBIA GAS TRAN
8310498	2502	3101316319	102-2		A & H MILLER #1 31-013-16319	ELLINGTON	36.0	COLUMBIA GAS TRAN
8310487	3085	3101316539	102-2		ALLWATT #3	WILDCAT	36.0	COLUMBIA GAS TRAN
8310493	3125	3101316320	102-2		BENTLEY # 2 31-013-16320	ELLINGTON	36.0	COLUMBIA GAS TRAN
8310551	3081	3101316968	102-2		CHASE #2	CHERRY CREEK	36.0	COLUMBIA GAS TRAN
8310540	2634	3101316460	102-2		CONDON-NY #4 31-013-16460	WILDCAT	36.0	COLUMBIA GAS TRAN
8310499	2500	3101316467	102-2		E & M BENTLEY #1 31-013-16467	ELLINGTON	36.0	COLUMBIA GAS TRAN
8310494	3126	3101312486	102-2		FREDRICKSON NY 26 31-013-12486	LEON	36.0	COLUMBIA GAS TRAN
8310497	2536	3101316093	102-2		G & L DARLING #2 31-013-16093	ELLINGTON	36.0	COLUMBIA GAS TRAN
8310503	2538	3101316468	102-2		H & L REYNOLDS #1 31-013-16468	ELLINGTON	36.0	COLUMBIA GAS TRAN
8310500	2252	3101316254	102-2		J & H DAVIS #1 31-013-16254	ELLINGTON	36.0	COLUMBIA GAS TRAN
8310496	2530	3101316469	102-2		J & R FALCONE #2 31-013-16469	ELLINGTON	36.0	COLUMBIA GAS TRAN
8310509	2468	3101315743	102-2		J & R FALCONE #1	WILDCAT	36.0	COLUMBIA GAS TRAN
8310501	2532	3101316471	102-2		J & R FALCONE #4 31-013-16471	ELLINGTON	36.0	COLUMBIA GAS TRAN
8310502	2534	3101315744	102-2		J & R FALCONE #5 31-013-15744	ELLINGTON	36.0	COLUMBIA GAS TRAN
8310506	2476	3101315748	102-2		KENNETH C ANDERSON	WILDCAT	36.0	COLUMBIA GAS TRAN
8310504	2250	3101312517	102-2		M & D LENT - N Y #45 31-013-12517	CHERRY CREEK	36.0	COLUMBIA GAS TRAN
8310505	2474	3101316094	102-2		M & M WELLMAN #2	KENNEDY	36.0	COLUMBIA GAS TRAN
8310486	3083	3101316523	102-2		MOUNT #1	CHERRY CREEK	36.0	COLUMBIA GAS TRAN
8310492	3122	3101316799	102-2		PICKUP #1 31-013-16799	CHERRY CREEK	36.0	COLUMBIA GAS TRAN
8310553	3077	3101316800	102-2		PICKUP NY #42	LEON	36.0	COLUMBIA GAS TRAN
8310550	3079	3101315758	102-2		RICE NY #27	LEON	36.0	COLUMBIA GAS TRAN
8310484	2632	3101315488	102-2		RICE-CHAUT #1 31-013-15488	WILDCAT	36.0	COLUMBIA GAS TRAN
-UNIVERSAL RESOURCES HOLDINGS INC			RECEIVED: 11/22/82		JA: NY			
8310454	2592	3101316833	102-2		W BENEDICT #1	GERRY	20.0	COLUMBIA GAS TRAN
8310455	3115	3101316987	102-2		WARD BENEDICT #3	GERRY	20.0	COLUMBIA GAS TRAN
8310458	2794	3101316845	102-2		WILLIAM SASS #1	GERRY	20.0	COLUMBIA GAS TRAN
8310459	2709	3101316846	102-2		WILLIAM SASS #2	GERRY	20.0	COLUMBIA GAS TRAN
-US ENERGY DEVELOPMENT CORP			RECEIVED: 11/22/82		JA: NY			
8310457	3483	3101316050	102-2		ZAHM-FREDRICKSON #1	GERRY	20.0	COLUMBIA GAS TRAN
OREGON DEPARTMENT OF GEOLOGY & MINERAL INDUSTRIES								
-REICHHOLD ENERGY CORP			RECEIVED: 11/23/82		JA: OR			
8310365		3600900011	102-2		COLUMBIA COUNTY #4 RD #1	MIST GAS FIELD	620.0	NORTHWEST NATURAL
8310366		3600900084	102-2		COLUMBIA COUNTY 13-1 REDRILL #1	MIST GAS FIELD	30.5	NORTHWEST NATURAL
UTAH DIVISION OF OIL,GAS, & MINING								
-AMOCO PRODUCTION CO			RECEIVED: 11/22/82		JA: UT			
8310371	K-121-IN	4300330138	102-2		BOUNTIFUL LIVESTOCK "A" #1	ANSCHUTZ RANCH EAST	1280.0	MOUNTAIN FUEL SUP
-KENAI OIL AND GAS INC			RECEIVED: 11/22/82		JA: UT			
8310367	K-151-1	4304731004	103		TENNECO #21-19	ALTAMONT-BLUEBELL	2.5	GARY ENERGY CORP
-MAPCO PRODUCTION COMPANY			RECEIVED: 11/22/82		JA: UT			
8310369	K-120-3	4304731115	107-TF		RBU 16-16F	RIVER BEND	0.0	PACIFIC GAS & ELE
8310370	K-120-2	4304731115	103		RBU 16-16F	RIVER BEND	0.0	PACIFIC GAS & ELE
-MOSBACHER PRODUCTION CO			RECEIVED: 11/22/82		JA: UT			
8310368	K-148-2	4300730077	102-2		STATE #18-1A	GORDON CREEK	365.0	
WEST VIRGINIA DEPARTMENT OF MINES								
-ANGERMAN ASSOCIATES INC			RECEIVED: 11/22/82		JA: WV			
8310385		4701728430	107-DV		CARL HINTER #2 #47-017-2843	NEW MILTON DISTRICT F	26.6	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-ASHLAND EXPLORATION INC				RECEIVED:	11/22/82	JA: WV			
8310377		4703900744		108-SA		A S PETERS #1	PAINT CREEK	0.0	COLUMBIA GAS TRAN
8310379		4704500618		108-SA		AMHERST LAND CO #39 - 025720	LOGAN WYOMING	4.0	CONSOLIDATED GAS
8310378		4703901987		108-SA		EASTERN GAS & FUEL #29 - 036400	PAINT CREEK	13.0	COLUMBIA GAS TRAN
8310376		4701900145		108-SA		EASTERN GAS & FUEL #39 - 039740	PAINT CREEK	10.4	COLUMBIA GAS TRAN
8310381		4703102342		108-SA		KANAWHA VALLEY GRAB #3	PAINT CREEK	7.0	COLUMBIA GAS TRAN
8310380		4704700204		108-SA		LON B ROGER #16 - 031940	VIRGINIA	17.4	CONSOLIDATED GAS
-BRAXTON OIL AND GAS CORP				RECEIVED:	11/22/82	JA: WV			
8310386		4700701350		108		HENDERSON	ASPINAL-FINSTER	10.0	CONSOLIDATED GAS
-CHASE PETROLEUM				RECEIVED:	11/22/82	JA: WV			
8310383		4708505079		102-3		LEMLEY #1	CLAY DISTRICT	27.0	
-CHESTERFIELD CORP				RECEIVED:	11/22/82	JA: WV			
8310384		4709702322		103		HANIFAN WELL #2 47-097-2322		0.0	COLUMBIA GAS TRAN
-CONSOLIDATED GAS SUPPLY CORPORATION				RECEIVED:	11/22/82	JA: WV			
8310402		4703302126		108		A J MICHAELS WN-3339	EAGLE	3.0	GENERAL SYSTEM PU
8310444		4704101740		108		A W WOODFORD WN-11229	HACKERS CREEK	16.0	GENERAL SYSTEM PU
8310436		4704101707		108		ABRAM GASTON WN-11193	FREEMANS CREEK	13.0	GENERAL SYSTEM PU
8310404		4704100476		108		ALONZO A TETER WN-11116	FREEMANS CREEK	2.0	GENERAL SYSTEM PU
8310421		4704124870		108		ARTA R LOUDIN WN 12536	FREEMANS CREEK	7.0	GENERAL SYSTEM PU
8310409		4704101179		108		B B HARDMAN WN-10504	SKIN CREEK	2.0	GENERAL SYSTEM PU
8310412		4703310420		108		B W HARBERT WN 12283	EAGLE DISTRICT	13.0	GENERAL SYSTEM PU
8310387		4704500868		108		BOONE CO COAL CO WN-10844	LOGAN	7.0	GENERAL SYSTEM PU
8310420		4704500123		108		BOONE COUNTY COAL CORP WN-9284	LOGAN	1.0	GENERAL SYSTEM PU
8310422		4704501150		108		BUFFALO CREEK COAL & COKE WN-9386	TRIADELPHIA	13.0	GENERAL SYSTEM PU
8310418		4704500293		108		BUFFALO CREEK COAL & COKE WN-9719	TRIADELPHIA	13.0	GENERAL SYSTEM PU
8310423		4704102316		108		CALVIN FLESHER WN-8219	FREEMANS CREEK	6.0	GENERAL SYSTEM PU
8310396		4703300588		108		CHARLES H GASTON WN-11413	GRANT	4.0	GENERAL SYSTEM PU
8310427		4704101870		108		CHARLES H SKINNER WN-11531	COURTHOUSE	6.0	GENERAL SYSTEM PU
8310417		4704500459		108		DINGESS RUN COAL CO WN-9930	LOGAN	12.0	GENERAL SYSTEM PU
8310397		4703300611		108		DORA B MCWHORTER WN-11477	GRANT	8.0	GENERAL SYSTEM PU
8310419		4704500233		108		ED COOK WN-0411	TRIDELPHIA	17.6	GENERAL SYSTEM PU
8310433		4704101763		108		EDMISTON HEIRS WN-11222	HACKERS CREEK	10.0	GENERAL SYSTEM PU
8310431		4704101796		108		F B RILEY WN-11360	FREEMANS CREEK	4.0	GENERAL SYSTEM PU
8310442		4704101603		108		F WHITE WN-10991	FREEMANS CREEK	2.0	GENERAL SYSTEM PU
8310439		4704101658		108		F WHITE WN-11135	FREEMANS CREEK	5.0	GENERAL SYSTEM PU
8310447		4704101709		108		F WHITE WN-11139	FREEMANS CREEK	13.0	GENERAL SYSTEM PU
8310445		4704101757		108		FLEMING HOWELL WN-11223	HACKERS CREEK	2.0	GENERAL SYSTEM PU
8310405		4704100876		108		G R LINGER WN-10361	SKIN CREEK	3.0	GENERAL SYSTEM PU
8310438		4704101612		108		GEORGE W GIBSON WN-11381	COURTHOUSE	6.0	GENERAL SYSTEM PU
8310428		4704101860		108		GEORGE W GIBSON WN-11455	COURTHOUSE	13.0	GENERAL SYSTEM PU
8310401		4703301615		108		GEORGE W JORDAN HRS WN-11057	COAL	1.0	GENERAL SYSTEM PU
8310443		4704101356		108		H DWIGHT SMITH WN-10669	HACKERS CREEK	14.0	GENERAL SYSTEM PU
8310413		4703301120		108		HARVEY M FURNER WN-11073	TEN MILE	3.0	GENERAL SYSTEM PU
8310406		4704100940		108		HUBERT B ZINN WN-10420	SKIN CREEK	12.0	GENERAL SYSTEM PU
8310416		4703301382		108		ICE SMITH WN-3600	BRIDGEPORT	6.0	GENERAL SYSTEM PU
8310435		4704101739		108		ISRAEL SIMMONS WN-11219	FREEMANS CREEK	10.0	GENERAL SYSTEM PU
8310394		4703300562		108		J B GUSMAN WN-11349	GRANT	10.0	GENERAL SYSTEM PU
8310432		4704101794		108		J P HULL WN-11367	FREEMANS CREEK	1.0	GENERAL SYSTEM PU
8310429		4704101843		108		J S NORRIS WN-11442	FREEMANS CREEK	12.0	GENERAL SYSTEM PU
8310414		4703301586		108		JACOB P POST WN-8121	UNION	5.0	GENERAL SYSTEM PU
8310425		4704121760		108		JOSEPH S HALL WN 12465	FREEMANS CREEK	4.0	GENERAL SYSTEM PU
8310408		4704101165		108		LOIS CURTIS WN-10499	SKIN CREEK	1.0	GENERAL SYSTEM PU
8310411		4704101332		108		LYDIA STARCHER WN-10652	FREEMANS CREEK	1.0	GENERAL SYSTEM PU

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8310438		4704101671		108		MARGARET F SHUTTS WN-11133	FREEMANS CREEK	10.0	GENERAL SYSTEM PU
8310446		4704102320		108		MART G ALFRED WN-8227	FREEMANS CREEK	5.0	GENERAL SYSTEM PU
8310393		4703300547		108		MAUDE DAVISSON WN-11299	GRANT	16.0	GENERAL SYSTEM PU
8310403		4704100456		108		MINTIE JONES WN-10256	SKIN CREEK	2.0	GENERAL SYSTEM PU
8310441		4704101459		108		N C ALLMAN WN-10778	HACKERS CREEK	7.0	GENERAL SYSTEM PU
8310400		4703301235		108		NEELEY-JACKSON WN 12489	UNION	13.0	GENERAL SYSTEM PU
8310388		4704700043		108		NEW RIVER & POCA CONS COAL WN-9305	BROWN CREEK	10.0	GENERAL SYSTEM PU
8310392		4704700175		108		OLGA COAL CO WN-10095	BIG CREEK	19.0	GENERAL SYSTEM PU
8310389		4704700073		108		OLGA COAL CO WN-9443	BIG CREEK	1.0	GENERAL SYSTEM PU
8310390		4704700074		108		OLGA COAL CO WN-9469	BIG CREEK	4.0	GENERAL SYSTEM PU
8310391		4704700152		108		OLGA COAL CO WN-9696	BIG CREEK	15.0	GENERAL SYSTEM PU
8310415		4704300817		108		R E CHAPMAN WN-9196	HARTS CREEK	3.0	GENERAL SYSTEM PU
8310395		4703300586		108		REBECCA REED WN-11408	GRANT	3.0	GENERAL SYSTEM PU
8310440		4704101615		108		SOPHIA BUTCHER WN-11009	FREEMANS CREEK	15.0	GENERAL SYSTEM PU
8310398		4703300612		108		TACHEL S HERSHEY WN-11490	GRANT	11.0	GENERAL SYSTEM PU
8310437		4704101673		108		W D HITT HEIRS WN-11137	FREEMANS CREEK	13.0	GENERAL SYSTEM PU
8310434		4704101756		108		W E CARPENTER WN-11277	FREEMANS CREEK	17.0	GENERAL SYSTEM PU
8310410		4704101290		108		W H FROST WN-10539	FRENCH CREEK	2.0	GENERAL SYSTEM PU
8310424		4704102241		108		W O LAW WN-3369	WESTON	3.0	GENERAL SYSTEM PU
8310399		4703300638		108		W S BURNSIDE WN-11532	UNION	14.0	GENERAL SYSTEM PU
8310407		4704101005		108		WALDO GOULD WN-10426	HACKERS CREEK	15.0	GENERAL SYSTEM PU
8310426		4704102712		108		WHITE-EGAN WN-8448	FREEMANS CREEK	17.0	GENERAL SYSTEM PU
-JAMES F SCOTT				RECEIVED:	11/22/82	JA: WV			
8310383		4704103195		I02-2		JUANITA SULLIVAN S-369	FREEMANS CREEK	27.0	CONSOLIDATED GAS

****

** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, DENVER,CO

****

-EL PASO EXPLORATION CO				RECEIVED:	11/24/82	JA: CO 1			
8310374	CD 0474-82PB	0506705598		108-PB		BONDAD 3 3-10 9 #13	MESAVERDE	0.0	NORTH WEST PIPELI
8310375	CD 0531-82PB	0506705598		108-PB		BONDAD 3 3-10 9 #13	IGACID BLANCO	0.0	NORTHWEST PIPELIN
-J C THOMPSON				RECEIVED:	11/24/82	JA: UT 1			
8310373	UD 0086-82ER	4301915656		108-ER		D-2 (CASTLEGATE)	CASTLEGATE	0.0	NORTHWEST PIPELIN
8310372	UD0475-82ER	4301915671		108-ER		MOON RIDGE 31-15	DAKOTA	0.0	NORTHWEST PIPELIN

SOURCE DATA FOR THIS NOTICE IS AVAILABLE ON MAGNETIC TAPE FROM THE NATIONAL TECHNICAL INFORMATION SERVICE (NTIS). FOR INFORMATION, CONTACT STUART WEISMAN (NTIS) AT (703) 487-4808, 5285 PORT ROYAL RD, SPRINGFIELD, VA 22161, OR SANDRA SPEAR (FERC) (202) 357-8681.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-35203 Filed 12-28-82; 8:45 am]

BILLING CODE 6717-01-C

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: December 22, 1982.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
						OHIO DEPARTMENT OF NATURAL RESOURCES			
-ALTHEIRS OIL INC				RECEIVED:	11/23/82	JA: OH			
8310589		3410521947		107-TF		RAYMOND FOWLER #1	RUTLAND TOWNSHIP	5.0	COLUMBIA GAS TRAN
-ARAPAHO VENTURES OF NEW YORK INC				RECEIVED:	11/23/82	JA: OH			
8310594		3416726778		107-DV		BEHA-ROWLAND #1	WILDCAT	18.0	
8310590		3416725252		107-DV		GOLDIE HAAS #1	WILDCAT	0.0	COLUMBIA GAS TRAN
8310591		3416725605		107-DV		GOLDIE HAAS #2	WILDCAT	0.0	COLUMBIA GAS TRAN
8310592		3416725606		107-DV		GOLDIE HAAS #3	WILDCAT	0.0	COLUMBIA GAS TRAN
8310593		3416725607		107-DV		GOLDIE HAAS #7	WILDCAT	0.0	COLUMBIA GAS TRAN
-ATWOOD RESOURCES INC				RECEIVED:	11/23/82	JA: OH			
8310595		3407523863		103	107-TF	AMMON MILLER #1	BECKS MILLS	36.0	COLUMBIA GAS TRAN
-BASIN PRODUCING CO				RECEIVED:	11/23/82	JA: OH			
8310600		3412122899		107-DV		FREEDOM COAL CO #2	MACKSBURG	25.0	
8310597		3412122874		107-DV		HARPER #5 PERMIT #2874	MACKSBURG	35.0	
8310598		3412122885		107-DV		HILL #1	FROSTYVILLE	20.0	
8310599		3412122887		107-DV		HUTCHESON #1 PERMIT #2887	MACKSBURG	30.0	
8310596		3412122848		107-DV		THOMAS #1	HARRIETTSVILLE	15.0	
-BECK OIL & GAS CO				RECEIVED:	11/23/82	JA: OH			
8310601		3413322861		103	107-TF	REYNOLDS UNIT #1	KENT	0.0	COLUMBIA GAS OF O
8310602		3413322883		103	107-TF	TESTA UNIT #1	KENT	0.0	COLUMBIA GAS OF O
-BELDEN & BLAKE & CO 80				RECEIVED:	11/23/82	JA: OH			
8310604		3401921565		103	107-TF	J & S CAMPBELL #1-34-1206	BROWN	36.5	
8310603		3401921558		103	107-TF	M & E MYERS #1-341205	BROWN	36.5	
-BILL BLAIR INCORPORATED				RECEIVED:	11/23/82	JA: OH			
8310608		3402920777		107-TF		CAMPBELL #1	HOMEWORTH	14.0	COLUMBIA GAS TRAN
8310609		3402920778		107-TF		CAMPBELL #2	HOMEWORTH	14.0	COLUMBIA GAS TRAN
8310617		3402920903		103	107-TF	CRIST #1	HANOVERTON	12.0	EAST OHIO GAS CO
8310615		3402920901		103	107-TF	CRIST #2	HANOVERTON	12.0	EAST OHIO GAS CO
8310616		3402920902		103	107-TF	CRIST #3	HANOVERTON	14.0	EAST OHIO GAS CO
8310610		3402920861		103	107-TF	HOFER #1	HOMEWORTH	15.0	EAST OHIO GAS CO
8310612		3402920892		103	107-TF	SANOR #5	HANOVERTON	12.0	EAST OHIO GAS CO
8310611		3402920864		103	107-TF	SMITH #3	HOMEWORTH	18.0	EAST OHIO GAS CO
8310613		3402920898		103	107-TF	STOFFER #6	HANOVERTON	15.0	EAST OHIO GAS CO
8310614		3402920899		103	107-TF	STOFFER #7	HANOVERTON	12.0	EAST OHIO GAS CO
8310607		3402920758		107-TF		TESCHER #1	HOMEWORTH	4.0	COLUMBIA GAS TRAN
-BLAUSER WELL SERVICE INC				RECEIVED:	11/23/82	JA: OH			
8310624		3410522252		107-DV		ARTHUR D HEINEY #3-104	OLIVE	7.3	COLUMBIA GAS TRAN
8310620		3400921992		107-DV		M E HARPER #1	ROME	8.6	COLUMBIA GAS TRAN
8310621		3400921992		107-TF		M E HARPER #1	ROME	8.6	COLUMBIA GAS TRAN
8310618		3400921991		107-TF		M E HARPER #2	ROME	8.6	COLUMBIA GAS TRAN
8310619		3400921991		107-DV		M E HARPER #2	ROME	7.0	COLUMBIA GAS TRAN
8310622		3400921998		107-TF		M E HARPER #3	ROME	8.6	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8310623		3400921998		107-DV		M E HARPER #3	ROME	6.9	COLUMBIA GAS TRAN
8310625		3410522254		107-DV		WILLIAM E SLATER #1	COOLVILLE	15.7	COLUMBIA GAS TRAN
-CAMERON BROS				RECEIVED: 11/23/82 JA: OH					
8310640		3411926400		107-TF		FRANKLIN SCHOOL DISTRICT #1	WAYNE	11.0	
-CAVALIER OIL CORP				RECEIVED: 11/23/82 JA: OH					
8310641		3411122849		107-DV		CAVALIER FISHER #1	SUMMIT	18.0	COLUMBIA GAS TRAN
8310642		3411122850		107-DV		CAVALIER WILHELM #1	FRANKLIN	18.0	COLUMBIA GAS TRAN
-CHARLES O LIGHTHIZER				RECEIVED: 11/23/82 JA: OH					
8310716		3411924964		107-TF		BAKER #3	PERRY	0.0	COLUMBIA GAS TRAN
-CLARENCE K TUSSEL JR				RECEIVED: 11/23/82 JA: OH					
8310807		3400722057		103	107-TF	D LEWIS #1	MONROE	30.0	
8310806		3400722000		103	107-TF	J KOVAL #1	MONROE	32.0	
-CLAY OIL & GAS CO				RECEIVED: 11/23/82 JA: OH					
8310643		3411921858	D	107-RT		MOODY #1	BRUSH CREEK	5.0	
-CLINTON OIL CO				RECEIVED: 11/23/82 JA: OH					
8310644		3412784280		108		J WILSON #1		10.0	NATIONAL GAS & OI
-COASTAL PETROLEUM CORP				RECEIVED: 11/23/82 JA: OH					
8310645		3410323044		107-TF		BARONE #1	SHARON	9.0	COLUMBIA GAS TRAN
-EDCO DRILLING & PRODUCING INC				RECEIVED: 11/23/82 JA: OH					
8310646		3403123437		107-RT		MILLER MO-10	CLARK	18.0	COLUMBIA GAS TRAN
-EDWARD A MACK JR				RECEIVED: 11/23/82 JA: OH					
8310728		3416923028		107-TF		ANDREW YODER #1	MILTON	22.0	COLUMBIA GAS TRAN
-ELAN ENERGY INC				RECEIVED: 11/23/82 JA: OH					
8310647		3416922999		103	107-TF	D S & I WENGERD #1	PAINT	11.0	COLUMBIA GAS TRAN
-ENERGY DISTRIBUTORS INC				RECEIVED: 11/23/82 JA: OH					
8310650		3412725585		103	107-TF	GUILLIAMS #10	MADISON	10.0	NATIONAL GAS AND
8310651		3412725586		103	107-TF	GUILLIAMS #11	MADISON	10.0	NATIONAL GAS AND
8310648		3412725580		103	107-TF	GUILLIAMS #5	MADISON	10.0	NATIONAL GAS & OI
8310649		3412725584		103	107-TF	GUILLIAMS #9	MADISON	10.0	NATIONAL GAS & OI
-ENTERPRISE ENERGY CORP				RECEIVED: 11/23/82 JA: OH					
8310652		3416320695		103	107-TF	ARMSTRONG #1	SWAN	27.3	COLUMBIA GAS TRAN
-FLOYD E KIMBLE DBA RED HILL DEV				RECEIVED: 11/23/82 JA: OH					
8310697		3405923123		103	107-TF	A LAKE #1	ANTRIM	9.0	
8310696		3405923111		103	107-TF	C HENRY #1	LONDONDERRY	20.0	
8310699		3406720407		103	107-TF	D MCKIBBEN #1	FRANKLIN	4.0	
8310698		3405923137		103	107-TF	G MEREDITH #1	FREEPORT	12.0	
8310700A		3406720465		103		J BARDALL JR #1	FREEPORT	5.0	
8310700B		3406720465		107-TF		J BARDALL JR #1	FREEPORT	5.0	
8310695		3403124473		103	107-TF	P KASER #1	CRAWFORD	43.0	
8310701		3406720467		103	107-TF	R MOORE#2	FREEPORT	12.0	
-FORAKER PRODUCING COMPANY INC				RECEIVED: 11/23/82 JA: OH					
8310655		3400921911		107-RT		BLACK DIAMOND #2	BERN	10.0	
8310654		3400921904		107-RT		DODDS #1	ROME	10.0	
8310657		3400922004		107-TF		LACKEY #4	ROME	10.0	
8310653		3400921853		107-RT		POSTON #1	STEWART	10.0	
8310658		3400922017		107-TF		POSTON #3	ROME	10.0	
8310656		3400922002		107-TF		ROOT #1	ROME	5.0	
-FREDERICK PETROLEUM CORP				RECEIVED: 11/23/82 JA: OH					
8310661		3416727115		107-DV		BAKER-NOON #3	AURELIUS	15.0	
8310660		3412122865		107-DV		FREEDOM COAL #1	JEFFERSON	44.0	
8310659		3412122852		107-DV		R NAU #2	ENOCH	24.0	
-G W F CORP				RECEIVED: 11/23/82 JA: OH					
8310662		3400922258		107-TF		BYRON W JAMES #2	LODI	13.0	

JO NO	JA DAT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8310664		3400922376		107-TF		JOHN C BERRY #4	ROME	14.0	
8310665		3400922380		107-TF		JOHN VASICHKO #1	LODI	12.0	
8310666		3400922512		107-TF		MILTNER #2	ROME	5.0	
8310663		3400922302		107-TF		MINEAR #2-A	ROME	3.0	
-GASEARCH INC				RECEIVED:	11/23/82	JA: OH			
8310667		3415522209		103	107-TF	NATIONAL NORTHERN INC LORDSTOWN #2	LORDSTOWN	20.0	YANKEE RESOURCES
8310668		3415522210		103	107-TF	NATIONAL NORTHERN INC LORDSTOWN #3	LORDSTOWN	20.0	YANKEE RESOURCES
-GREEN GAS COMPANY				RECEIVED:	11/23/82	JA: OH			
8310669		3409321176		107-TF		SIMS-BARTTER #1	COLUMBIA	40.0	COLUMBIA GAS TRAN
-HARLEY DRILLING & PRODUCING				RECEIVED:	11/23/82	JA: OH			
8310670		3416921997		108		BEERY - H-1		6.0	COLUMBIA GAS TRAN
8310671		3416922012		108		COTTON H-1		3.0	COLUMBIA GAS TRAN
-HOPCO RESOURCES INC				RECEIVED:	11/23/82	JA: OH			
8310672		3403124908	D	103	107-TF	BALO #3	KEENE	12.0	COLUMBIA GAS TRAN
-HOPEWELL OIL AND GAS DEVELOPMENT CO				RECEIVED:	11/23/82	JA: OH			
8310675		3411122786		107-DV		H G & T L SCOTT #2	SUMMIT	7.0	RIVER GAS CO
8310673		3411122265		107-DV		L & L LUMBATIS & W DEWIH #1	SUMMIT	7.0	COLUMBIA GAS TRAN
8310676		3411926218		103	107-TF	P H & E E HORN #2	NEWTON	10.0	KRACO GAS
8310677		3412725682		103	107-TF	RICHARD DAVIS #1	HARRISON	0.0	KRACO GAS
8310674		3411122732		107-DV		STELLA STIMPERT #2	SUMMIT	5.0	RIVER GAS CO
-J D DRILLING CO				RECEIVED:	11/23/82	JA: OH			
8310684		3410522447		107-TF		CHARLES & GERTRUDE NEECE #1	SALISBURY	8.0	COLUMBIA GAS TRAN
8310680		3410522341		107-TF		CHARLES ESKEW #5	POMEROY	8.0	COLUMBIA GAS TRAN
8310688		3410522456		107-TF		CLARENCE & OPAL HOOKS #1	BEDFORD	5.0	COLUMBIA GAS TRAN
8310687		3410522455		107-TF		DONALD & JANE FRYMYER #1	BEDFORD	5.0	COLUMBIA GAS TRAN
8310686		3410522453		107-TF		EDWARD ARCHER ETAL #1	SALISBURY	7.0	COLUMBIA GAS TRAN
8310685		3410522452		107-TF		EDWARD ARCHER ETAL #2	SALISBURY	7.0	COLUMBIA GAS TRAN
8310678		3410522113		107-TF		LARRY & GLORIA JOHNSON #1	POMEROY	6.0	COLUMBIA GAS TRAN
8310679		3410522114		107-TF		LARRY & GLORIA JOHNSON #2	POMEROY	8.0	COLUMBIA GAS TRAN
8310690		3410522524		107-TF		LARRY &GLORIA JOHNSON #3	SALISBURY	6.0	COLUMBIA GAS TRAN
8310689		3410522510		107-TF		LARRY THOMAS #3	SALISBURY	7.0	COLUMBIA GAS TRAN
8310681		3410522438		107-TF		VIRGIL PARSONS #1	SALISBURY	7.0	COLUMBIA GAS TRAN
8310682		3410522439		107-TF		VIRGIL PARSONS #2	SALISBURY	6.0	COLUMBIA GAS TRAN
8310683		3410522440		107-TF		VIRGIL PARSONS #3	SALISBURY	7.0	COLUMBIA GAS TRAN
-JAMES R BERNHARDT				RECEIVED:	11/23/82	JA: OH			
8310605		3410323066		103	107-TF	BOLINGER #1	GRANGER	13.0	COLUMBIA GAS TRAN
8310606		3410323122		103	107-TF	GRACE CHURCH WELL #1	HINCKLEY	11.0	COLUMBIA GAS TRAN
-JERRY MOORE INC				RECEIVED:	11/23/82	JA: OH			
8310737		3403124760		107-TF		S RUSSELL STOCKUM #1	KEENE	2.0	COLUMBIA GAS TRAN
-JOHN C MASON				RECEIVED:	11/23/82	JA: OH			
8310734		3407523871		107-TF		CARL YODER #1	BERLIN	20.0	COLUMBIA GAS TRAN
-KEN-TRAK III				RECEIVED:	11/23/82	JA: OH			
8310692		3410522248		107-TF		SHOEMAKER #2 SOUTH	RUTLAND	0.0	ASHLAND OIL CO
-KEN-TRAK IX				RECEIVED:	11/23/82	JA: OH			
8310693		3410522398		107-TF		GILLETTE WHITE #2	BEDFORD	0.0	
8310694		3410522535		107-TF		JOHN LIGHTFOOT #1	SALISBURY	0.0	
-KENOIL				RECEIVED:	11/23/82	JA: OH			
8310691		3416923328		107-TF		ROBERTA MAIDEN #1	CANAAN	8.0	COLUMBIA GAS TRAN
-KING DRILLING CO				RECEIVED:	11/23/82	JA: OH			
8310702		3410323145		107-TF		RONALD MACK #1	SEVILLE	10.0	COLUMBIA GAS TRAN
-KRAMER EXPLORATION CO				RECEIVED:	11/23/82	JA: OH			
8310703		3405320693		107-TF		KANAUGA SPORTSMAN #1	ADDISON	12.0	COLUMBIA GAS TRAN
-L A MOORE & SON INC				RECEIVED:	11/23/82	JA: OH			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8310739		3411926386		103	107-TF	JENKINS-KIRKBRIDE #1	NEWTON	8.0	NATIONAL GAS & OI
8310740		3411926468		103	107-TF	LENT TRUSTEES HORKNESS JOINT #1	NEWTON	12.0	NATIONAL GAS & OI
8310738		3411926258		103	107-TF	M J FRIEL #1	NEWTON	6.0	NATIONAL GAS & OI
-LAKE REGION OIL INC				RECEIVED:	11/23/82	JA: OH			
8310705		3407523898		103	107-TF	CHRIST V MILLER #1	CLARK	10.0	COLUMBIA GAS TRAN
8310704		3407523895		103	107-TF	LIZZIE TROYER #1	CLARK	10.0	COLUMBIA GAS TRAN
-LANDPROVEST INC				RECEIVED:	11/23/82	JA: OH			
8310706		3405923345		107-TF		HAUN #1	CAMBRIDGE	25.0	
-LEADER EQUITIES INC				RECEIVED:	11/23/82	JA: OH			
8310707		3411926156		103	107-TF	CULLINS #2	CASS	12.0	
-LEVENGOOD OIL & GAS INC				RECEIVED:	11/23/82	JA: OH			
8310709		3403123507		103	107-TF	ANDY MAST #1	CLARK	10.0	COLUMBIA GAS TRAN
8310712		3407522229		103	107-TF	DONALD BERTLER #1	CLARK	10.0	COLUMBIA GAS TRAN
8310708		3403123406		103	107-TF	FRED WEEKLEY #1	CLARK	10.0	COLUMBIA GAS TRAN
8310711		3407522227		103	107-TF	FREDRICK C SMITH #1	CLARK	10.0	COLUMBIA GAS TRAN
8310713		3407522275		103	107-TF	HARRY SCHLEGEL #1	CLARK	10.0	COLUMBIA GAS TRAN
8310710		3403123856		103	107-TF	HOCHSTETLER #1	CLARK	10.0	COLUMBIA GAS TRAN
8310715		3407522536		103	107-TF	RABER #1	CLARK	10.0	COLUMBIA GAS TRAN
8310714		3407522535		103	107-TF	WALTER GRAY #1	CLARK	10.0	COLUMBIA GAS TRAN
-LOMAK PETROLEUM INC				RECEIVED:	11/23/82	JA: OH			
8310719		3411926225		107-TF		A PARKER #1 A	BLUE ROCK	24.0	ROVI RESOURCE COR
8310718		3411926201		107-TF		C MOORE#2-A	BLUE ROCK	24.0	ROVI RESOURCE COR
8310717		3411922878		107-TF		D W & E A MOORE #1 MD	BLOOM	24.0	ROVI RESOURCE COR
8310724		3411926302		107-TF		RODGERS & ROSEN #11 L	BLUE ROCK	18.0	ROVI RESOURCE COR
8310725		3411926303		107-TF		RODGERS & ROSEN #12 L	BLUE ROCK	24.0	ROVI RESOURCES CO
8310720		3411926273		107-TF		RODGERS & ROSEN #14 L	BLUE ROCK	12.0	ROVI RESOURCES CO
8310721		3411926293		107-TF		RODGERS & ROSEN #2 L	BLUE ROCK	24.0	ROVI RESOURCES CO
8310722		3411926294		107-TF		RODGERS & ROSEN #3 L	BLUE ROCK	18.0	ROVI RESOURCE COR
8310723		3411926295		107-TF		RODGERS & ROSEN #4 L	BLUE ROCK	24.0	ROVI RESOURCES CO
-M B OPERATING CO INC				RECEIVED:	11/23/82	JA: OH			
8310727		3415723114		108		R & M BENNS U #1		7.0	REPUBLIC STEEL CO
8310726		3415722698		108		TRAILS DEVELOPMENT CO #1		12.5	REPUBLIC STEEL CO
-MARK RESOURCES CORP				RECEIVED:	11/23/82	JA: OH			
8310729		3408720331		107-DV		D JACK #1	ROME	10.0	
8310732		3408720399		107-DV		L B CLARK #1	UNION	15.0	
8310730		3408720335		107-DV		R FULLER #1	ROME	15.0	
8310731		3408720338		107-DV		T R HUMPHREYS #1	UNION	15.0	
-MASH INVESTMENT CO A PARTNERSHIP				RECEIVED:	11/23/82	JA: OH			
8310733		3415522260		103	107-TF	MASH WELL #7	WARREN	39.0	
-MELLENCO INC				RECEIVED:	11/23/82	JA: OH			
8310736		3410323024		103	107-TF	LISZNIANSKY-PAPIK UNIT #1	GRANGER	2.0	
-MORMACK INDUSTRY INC				RECEIVED:	11/23/82	JA: OH			
8310743		3416923322		107-TF		ARTHUR BEERY #1	GREEN	36.0	COLUMBIA GAS TRAN
8310742		3416923289		107-TF		ERVIN MARTIN #1	MILTON	30.0	COLUMBIA GAS TRAN
8310741		3416922865		107-TF		MARTY - HUMMEL UNIT #1	MILTON	18.0	COLUMBIA GAS TRAN
-NATIONAL PRODUCTION CORPORATION				RECEIVED:	11/23/82	JA: OH			
8310746		3411926338		107-TF		KELLY #1	BLUE ROCK	10.0	NATIONAL GAS & OI
8310745		3411926305		107-TF		WILSON #2	FALLS	12.0	NATIONAL GAS & OI
-NOBLE OIL CORP				RECEIVED:	11/23/82	JA: OH			
8310747		3413322739		107-TF		KLEMM #1	PALMYRE	20.0	GENERAL ELECTRIC
8310748		3413322835		107-TF		SKIDMORE #1	PALMYRA	20.0	GENERAL ELECTRIC
-OPEX INC				RECEIVED:	11/23/82	JA: OH			
8310766		3400922505		103	107-TF	POSTON #1-0	STEWART	0.5	

JO NO	JA DAT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8310749		3412725558		103	107-TF	RAY #1	MADISON	0.5	
-ORWIG OIL COMPANY				RECEIVED:	11/23/82	JA: OH			
8310753		3410521741		107-RT		BONNIE ARNOLD #1	SCIPIO	1400.0	COLUMBIA GAS TRAN
8310751		3405322650		108		ROY HANDLEY #1		2.5	COLUMBIA GAS TRAN
8310750		3405322580		108		ROY HANDLEY #2		2.5	COLUMBIA GAS TRAN
8310752		3405323630		108		ROY HANDLEY #3		2.5	COLUMBIA GAS TRAN
-OXFORD OIL CO				RECEIVED:	11/23/82	JA: OH			
8310755		3411522552		107-TF		ALBERT HIVNOR #1	DEERFIELD	6.0	NATIONAL OIL & GA
8310757		3416923346		107-TF		BETTY BOREMAN #1	CONGRESS	12.0	
8310756		3411922519		107-TF		CLARENCE STONE #1	BLUE ROCK	3.0	NATIONAL OIL & GA
8310754		3411521985		107-TF		TEMPLE - HARTLEY #1	YORK	1.0	NATIONAL OIL & GA
-PHOENIX NATIONAL PETROLEUM				RECEIVED:	11/23/82	JA: OH			
8310761		3415722921		108		BURDETTE #1		5.0	BARNET INDUSTRIES
8310760		3415721907		108		MCCAULEY #2		9.0	BARNET INDUSTRIES
8310762		3415722922		108		TUSCO LAND CO #1		10.0	BARNET INDUSTRIES
-POI ENERGY INC				RECEIVED:	11/23/82	JA: OH			
8310759		3413322882		103	107-TF	GREEN #T-1	FRANKLIN	36.0	
8310758		3408722045		103	107-TF	MEEK UNIT #T-1	NEW LYME	27.0	
-PONDEROSA OIL COMPANY				RECEIVED:	11/23/82	JA: OH			
8310763		3407523892		107-TF		JOHN R WEAVER #1	PRAIRIE	11.0	COLUMBIA GAS TRAN
8310764		3416922774		103	107-TF	SAM NUSSBAUM UNIT WELL #1	SUGAR CREEK	13.0	COLUMBIA GAS TRAN
-POWER RESOURCES INC				RECEIVED:	11/23/82	JA: OH			
8310765		3415723746		107-TF		CONOTTON LAND #8	WARREN	0.0	M B OPERATING CO
-R GENE BRASEL DBA BRASEL & BRASEL				RECEIVED:	11/23/82	JA: OH			
8310626		3405320377		107-RT		BERNARD NEIMM #1		6.0	COLUMBIA GAS TRAN
8310634		3405320434		107-TF		CLARK W HAGER #8	ADDISON	1.5	COLUMBIA GAS TRAN
8310633		3405320433		107-TF		CLARK W HAGER #9	ADDISON	1.5	COLUMBIA GAS TRAN
8310632		3405320425		107-RT		CLYDE BURNETTE #1	ADDISON	4.0	COLUMBIA GAS TRAN
8310629		3405320419		107-RT		F CAMERON SANDS #1	ADDISON	4.0	COLUMBIA GAS TRAN
8310631		3405320422		107-RT		HARRY WOOD #1	ADDISON	4.0	COLUMBIA GAS TRAN
8310628		3405320408		107-TF		JIMMY GRIFFITH #1	POMEROY	1.5	COLUMBIA GAS TRAN
8310639		3410521985		107-TF		R GENE BRASEL - CARSON #5	RUTLAND	1.5	COLUMBIA GAS TRAN
8310627		3405320378		107-RT		ROBERT BETZ #1	GALLIPOLIS	1.5	COLUMBIA GAS TRAN
8310630		3405320421		107-RT		SHERMAN BUCHMAN #1	GALLIPOLIS	5.0	COLUMBIA GAS TRAN
8310637		3405320732		107-TF		STELLA BURNETT #3	ADDISON	1.0	COLUMBIA GAS TRAN
8310638		3405320733		107-TF		STELLA BURNETTE #4	ADDISON	1.5	COLUMBIA GAS TRAN
8310635		3405320441		107-RT		VERA THOMAS #1	CHESHIRE	5.0	COLUMBIA GAS TRAN
8310636		3405320448		107-RT		WALTER LANE JR #1	ADDISON	4.0	COLUMBIA GAS TRAN
-REPUBLIC MINERAL CORP				RECEIVED:	11/23/82	JA: OH			
8310772		3416725586	D	107-DV		CLARA HENNIGER #4	SIMMONS	1.2	COLUMBIA GAS OF O
8310771		3416725531		107-DV		FRANCIS HUCK #1	SIMMONS	3.2	COLUMBIA GAS OF O
8310769		3416725322		107-DV		HARVEY HANDSCHUMACHER #2	SIMMONS	396.0	COLUMBIA GAS OF O
8310770		3416725323		107-DV		HARVEY HANDSCHUMACHER #3	SIMMONS	390.0	COLUMBIA GAS OF O
8310767		3416724753		107-DV		JAMES WATSON #1	SIMMONS	5.6	COLUMBIA GAS OF O
8310773		3416725640		107-DV		JAMES WATSON #3	SIMMONS	5.6	COLUMBIA GAS OF O
8310775		3416726475		107-DV		JOHN PERRY SR #8	SIMMONS	884.0	COLUMBIA GAS OF O
8310774		3416725665		107-DV		JUSTINE DUCKWORTH #2	SIMMONS	12.2	COLUMBIA GAS OF O
8310768		3416724840		107-DV		WILFORD HUCK #1	SIMMONS	4.5	COLUMBIA GAS OF O
-REPUBLIC STEEL CORP				RECEIVED:	11/23/82	JA: OH			
8310776		3409921875		103	107-RT	FLICK #1	SALEM	18.0	
-RESERVE EXPLORATION CO				RECEIVED:	11/23/82	JA: OH			
8310777		3409922396		107-DV		BROCK #1	CARTHAGE	13.1	COLUMBIA GAS TRAN
8310778		3412122389		107-DV		JEANNETTE (E M STACK) #1	JEFFERSON	10.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-RICHARD W ULLMAN				RECEIVED: 11/23/82		JA: OH			
8310808		3411522924		107-TF		DOVENBARGER #1	EAGLEPORT	20.0	COLUMBIA GAS TRAN
-RIMCO OPERATING INC				RECEIVED: 11/23/82		JA: OH			
8310780		3416923183		103	107-TF	BOREMAN UNIT #1	CHESTER	12.0	COLUMBIA GAS TRAN
8310779		3416923057		103	107-TF	WYCKOFF #1		12.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM LTD 82-B				RECEIVED: 11/23/82		JA: OH			
8310785		3410522496		103	107-TF	J ROBERTS #1	SALISBURY	5.0	COLUMBIA GAS TRAN
8310784		3410522495		103	107-TF	J ROBERTS #2	SALISBURY	5.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 81-I				RECEIVED: 11/23/82		JA: OH			
8310781		3410522120		107-TF		FRECKER #1	BEDFORD	1.0	COLUMBIA GAS TRAN
8310782		3410521210		107-TF		FRECKER #3	MEIGS	1.0	COLUMBIA GAS TRAN
8310783		3410522133		107-TF		FRECKER #4	BEDFORD	1.0	COLUMBIA GAS TRAN
-SANDHILL ENERGY INC (OH)				RECEIVED: 11/23/82		JA: OH			
8310786		3416727221		107-DV		LONGFELLOW #2	GRANDVIEW	21.9	
-STRATA CORP				RECEIVED: 11/23/82		JA: OH			
8310787		3400922504		107-TF		BARNES #2	STEWART	5.0	
8310788		3400922540		107-TF		ETHEL CARPENTER #1	BERN	4.0	
8310793		3412725509		107-TF		HOLCOMB 2-A	BEARFIELD	30.0	TEXAS EASTERN TRA
8310790		3400922542		107-TF		MAUDE BRAWLEY #1	ROME	5.0	
8310791		3400922545		107-TF		NELSON #2	CANAAN	2.0	
8310792		3400922655		107-TF		NORRIS #1	ROME	4.0	
8310789		3400922541		107-TF		POSTON #1-A	ROME	10.0	
-SUN EXPLORATION & PRODUCTION CO				RECEIVED: 11/23/82		JA: OH			
8310794		3416726940		107-TF		PICKERING #1	FAIRFIELD	188.0	
-TEMPLE OIL & GAS CO				RECEIVED: 11/23/82		JA: OH			
8310799		3411522627		107-TF		JAMES JOSEPH #1	YORK	6.0	NATIONAL OIL & GA
8310797		3411522089		107-TF		MELVIN MILLER #1	YORK	4.0	NATIONAL OIL & GA
8310795		3411522062		107-TF		TEMPLE ROY J MILLER #1	YORK	4.0	NATIONAL GAS & OI
8310798		3411522208		107-TF		TEMPLE ROY J MILLER #2	YORK	4.0	NATIONAL GAS & OI
8310796		3411522088		107-TF		WILLIAM GOODE #3	YORK	5.0	NATIONAL OIL & GA
-THE MUTUAL OIL & GAS COMPANY				RECEIVED: 11/23/82		JA: OH			
8310744		3411122503		107-DV		JOE ULRICH #1M	SENECA	3.6	COLUMBIA GAS TRAN
-TIGER OIL INC				RECEIVED: 11/23/82		JA: OH			
8310800		3405923375		107-TF		R BOYER UNIT #2	VALLEY	0.0	COLUMBIA GAS TRAN
-TOWNER PETROLEUM CO				RECEIVED: 11/23/82		JA: OH			
8310804		3405923335		103	107-TF	DOMBROSKI R/RYMER R #1	LONDONDERRY	27.0	TENNESSEE GAS PIP
8310805		3406720521		103	107-TF	MYERS R #1	FREEPORT	27.0	TENNESSEE GAS PIP
8310803		3405923307		103	107-TF	REVEN J #1	LONDONDERRY	27.0	TENNESSEE GAS PIP
-VICTOR MCKENZIE				RECEIVED: 11/23/82		JA: OH			
8310735		3412725668		103	107-TF	FRANK PRITCHARD #1	HARRISON	10.0	COLUMBIA GAS TRAN
-VIKING RESOURCES CORP				RECEIVED: 11/23/82		JA: OH			
8310809		3408520332		103	107-TF	HICKS #1	PERRY	30.0	
8310810		3408520347		103	107-TF	OROSZ/CONCO UNIT #1	PERRY	30.0	
8310813		3409921253		107-TF		RABUZZI UNIT #1	SMITH	30.0	AMERICAN STEEL FO
8310814		3409921254		107-TF		RABUZZI UNIT #2	SMITH	30.0	AMERICAN STEEL FO
8310811		3409921251		107-TF		REPKO UNIT #1	SMITH	30.0	AMERICAN STEEL FO
8310812		3409921252		107-TF		REPKO UNIT #2	SMITH	30.0	AMERICAN STEEL FO
-WHITMAN OIL & GAS CORP				RECEIVED: 11/23/82		JA: OH			
8310816		3416726872		107-TF		HERMAN WELCH #1	DECATUR	15.0	COLUMBIA GAS TRAN
8310815		3416726871		107-TF		JOHN LEMON #1	DECATUR	15.0	COLUMBIA GAS TRAN
8310817		3416726890		107-TF		NEWELL LAW #2	DECATUR	15.0	COLUMBIA GAS TRAN
-WILLIAM N TIPKA				RECEIVED: 11/23/82		JA: OH			
8310802		3415723634		103	107-TF	BENJAMIN COOKSON #2	GOSHEN	0.0	YANKEE RESOURCES

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
83108018		3415723615		103		ROBINSON #1	OXFORD	30.0	COLUMBIA GAS TRAN
83108018		3415723615		107-TF		ROBINSON #1	OXFORD	30.0	COLUMBIA GAS TRAN

SOURCE DATA FOR THIS NOTICE IS AVAILABLE ON MAGNETIC TAPE FROM THE NATIONAL TECHNICAL INFORMATION SERVICE (NTIS). FOR INFORMATION, CONTACT STUART WEISMAN (NTIS) AT (703) 487-4808, 5285 PORT ROYAL RD, SPRINGFIELD, VA 22161, OR SANDRA SPEAR (FERC) (202) 357-8681.

CORRECTIONS TO PREVIOUS NOTICES / REVISIONS TO PRIOR DETERMINATIONS

JD No.	JA	Applicant	Well Name	Orig. FERC Vol. No.	Date Pub. in Federal Register	C:	Correction to prior Fed. Register notice
81-05673	OK	Southland Royalty	Stambaugh #2-23	326	12-03-80	C:	102-2 Denied by JA
81-06865	OK	Union Oil of Calif.	Yount #1-32	333	12-15-80	C:	102-4 & 103 Approved
81-36775	LA	Quintana Petroleum Corp	Shadyside Co LTD #2	466	07-10-81	C:	107-DP Approved; not 107-TF
81-45053	OK	Farmer Energy Corp	White K No. 1 Well	501	09-08-81	C:	103 Approved
81-48602	OK	Spectra Energy Corp	Miesner No. 1	514	10-01-81	C:	103 Denied, by JA
82-31459	LA	Signal Petroleum	Vue State Lease 202m #13	658	06-08-82	C:	102-4 & 103 Approved
82-33325	TX	Wes-Tex Drilling Co	Valliant #1	664	06-14-82	C:	Well Name
82-33338	TX	TXO Production Corp	Woodward "55" #1	664	06-14-82	C:	Well Name
82-33383	TX	Roytech Inc	C W Steel #1	664	06-14-82	C:	Well Name
82-35009	VA	Philadelphia Oil Co	Anvil Deel #P-125	672	06-28-82	C:	107-TF Approved; not 107-DV
82-35178	PA	Consolidated Gas Supply Corp	Harry F. Shellenburger #1-UN 1790	672	06-28-82	C:	Well Name
82-35242	PA	Harold E Brown	Kline #1	672	06-28-82	C:	108 Approved; not 107-TF
82-35248	PA	Harold E Brown	Sara Thomas #1	672	06-28-82	C:	Well Name
82-35693MMS(CO)		Conoco Inc	Conoco Ankerpont 2 #6	673	06-28-82	C:	103 & 107-RT Approved
82-35694MMS(CO)		Chandler & Assoc. Inc	Fork Unit 12-13-1-2	673	06-28-82	C:	103 & 107-TF Approved
82-35827	TX	Natural Gas Anadarko Inc	Meyer 1389	674	06-28-82	C:	102-4 Approved; not 102-1
82-36062	TX	Gulf Oil Corporation	Ivy B Weatherby No 3	674	06-28-82	C:	103 & 107-DP Approved
82-36141	TX	Raja Energy Inc	F Price #5(07477)	674	06-28-82	C:	Applicant Name
82-36142	TX	Raja Energy Inc	F. Price #4(07477)	674	06-28-82	C:	Applicant Name
82-36143	TX	Raja Energy Inc	F. Price #3(07477)	674	06-28-82	C:	Applicant Name
82-36144	TX	Raja Energy Inc	F. Price #2(07477)	674	06-28-82	C:	Applicant Name
82-36736	OH	Enterprise Energy Corp	Lloyd #1	677	07-01-82	C:	107-TF Denied
82-36781	OH	Hopewell Oil & Gas	Charles & Viola Fehrman #1	677	07-01-82	C:	103 Approved; 107-TF Denied
82-36782	OH	Hopewell Oil & Gas	Clyde Butts #1	677	07-01-82	C:	103 Approved; 107-TF Denied
82-36853	OH	Towner Petroleum Co	Schafer #1	677	07-01-82	C:	Well Name
82-36895	WV	Rogert Coal & Gas	Brown #1	678	07-06-82	C:	108-RP Approved
82-36967	OK	Whitmar Exploration Co	Garland Coal #1-25	678	07-06-82	C:	Well Name
82-37101MMS(NM)		Northwest Pipeline Corp	San Juan 29-6 #78	678	07-06-82	C:	Well Name
82-37259	TX	John L Cox	Houston Woody #2	679	07-06-82	C:	Well Name
82-39128	TX	Shar-Alan Oil Co	Herbert Ross #1	686	07-14-82	C:	Well Name
82-39133	TX	Superior Oil Company	Ivy Meunch G.U.#1	686	07-14-82	C:	107-DP Approved; not 107-TF
82-39192	TX	Delta Oil & Gas Co	C. W. Brown #3 RRC#75734	686	07-14-82	C:	Well Name
82-42234	TX	Petro-Lewis Corp	Jordan #2 UT	698	08-16-82	C:	Well Name
82-45378MMS(LA)		Mesa Petroleum Co	Vermilion Blk 348 #A-2D	711	09-26-82	C:	Applicant Name
82-49439MMS(LA)		Sun Oil Co (Delaware)	Jenkins D/001	727	09-17-82	C:	Well
82-51430	PA	National Fuel Gas Supply	Allen-National Forest#4450	734	09-22-82	C:	Well Name

Kenneth F. Plumb,

Secretary.

[FR Doc. 35202 Filed 12-28-82; 8:45 am]

BILLING CODE 6717-01-C

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: December 22, 1982.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
						COLORADO OIL & GAS COMMISSION			
-AMOCO PRODUCTION CO				RECEIVED:	11/23/82	JA: CO			
8310909	82-46	0512310279		103		C A FORD UNIT #2	WATTENBERG	50.0	PANHANDLE EASTERN
8310915	82-188	0512310278		103		CARL A MILLER UNIT "C" #2	WATTENBERG	150.0	PANHANDLE EASTERN
8311006	82-774	0512308329		108		CARL ADLER GAS UNIT "B" #1	WATTENBERG	50.0	PANHANDLE EASTERN
8310900	82-157	0500107721		103		CHAMPLIN 248 AMOCO "A" #3	RADAR	36.5	PANHANDLE EASTERN
8310901	82-91	0500107878		103		CHAMPLIN 248 AMOCO "C" #1	RADAR	56.5	PANHANDLE EASTERN
8310902	82-193	0500107885		103		CHAMPLIN 248 AMOCO "C" #2	RADAR	30.0	PANHANDLE EASTERN
8310903	82-49	0512310181		103		CHAMPLIN 365 AMOCO "A" #2	WATTENBERG	50.0	PANHANDLE EASTERN
8310955	82-199	0512310181		107-TF		CHAMPLIN 365 AMOCO "A" #2	WATTENBERG	50.0	PANHANDLE EASTERN
8310904	82-88	0503906353		103		CHAMPLIN 548 AMOCO "A" #1	UNNAMED	91.0	AMOCO PRODUCTION
8310905	82-90	0503906365		103		CHAMPLIN 569 AMOCO "A" #5	DEADEYE	40.0	SUN OIL CO
8311005	82-788	0500506372		108		CHAMPLIN 569 AMOCO "C" #1	CHINOOK	20.0	SUN GAS CO
8310906	82-195	0503906366		103		CHAMPLIN 569 AMOCO "D" #2	DEADEYE	20.0	AMOCO PRODUCTION
8310907	82-89	0503906372		103		CHAMPLIN 569 AMOCO "E" #2	COMANCHE CREEK	23.7	AMOCO PRODUCTION
8310908	82-286	0503906374		103		CHAMPLIN 569 AMOCO "E" #4	COMMANCHE CREEK	30.0	AMOCO PRODUCTION
8311002	82-775	0500106991		108		CHAMPLIN 67 AMOCO "C" #1	CHIEFTAN	40.0	PANHANDLE EASTERN
8310899	82-192	0500107566		103		CHAMPLIN 67 AMOCO "K" #1	QUAIL	30.0	PANHANDLE EASTERN
8311003	82-780	0500103703		108		CHAMPLIN 75 AMOCO "F" #1	WATTENBERG	45.0	PANHANDLE EASTERN
8311004	82-781	0500107365		108		CHAMPLIN 93 AMOCO "A" #1	QUARRY	52.0	AMOCO PRODUCTION
8310924	82-185	0500107734		103		CLYDE E WILLIAMS JR #3	RADAR	50.0	PANHANDLE EASTERN
8310923	82-92	0512310289		103		DAKOTA WARNER GAS UNIT #1	WATTENBERG	126.0	PANHANDLE EASTERN
8310916	82-159	0512310285		103		DONALD E MILLER UNIT "C" #2	WATTENBERG	75.0	PANHANDLE EASTERN
8310919	82-84	0512310281		103		DONALD K NORGREN UNIT "E" #2	WATTENBERG	182.5	PANHANDLE EASTERN
8310897	82-93	0512310177		103		DORIS ACKERSON GAS UNIT "B" #2	WATTENBERG	200.0	PANHANDLE EASTERN
8310926	82-186	0512310298		103		EARL YOUNG #2	WATTENBERG	95.0	PANHANDLE EASTERN
8310898	82-194	0512310185		103		ELLEANORA M ACKERSON GAS UNIT #2	WATTENBERG	100.0	PANHANDLE EASTERN
8311001	82-786	0512307875		108		FLORENCE BERRY UNIT #1	WATTENBERG	50.0	PANHANDLE EASTERN
8311006	82-784	0512308587		108		HARLAN GLANTZ #1	WATTENBERG	50.0	PANHANDLE EASTERN
8310917	82-95	0512310238		103		HAROLD R MIXON GAS UNIT #2	WATTENBERG	61.0	PANHANDLE EASTERN
8311007	82-785	0512306332		108		HAZEL MCHALE UNIT "B" #1	WATTENBERG	45.0	PANHANDLE EASTERN
8310911	82-81	0512309928		103		HUDSON KERSEY RANCHES UNIT #2	WATTENBERG	100.0	PANHANDLE EASTERN
8311010	82-777	0512307273		108		J J WARDELL "C" #1	WATTENBERG	53.0	PANHANDLE EASTERN
8311008	82-787	0512308867		108		JACK C NOEL UNIT #1	HAMBERT	52.0	PANHANDLE EASTERN
8311011	82-779	0512308379		108		JAKE SMITH GAS UNIT #1	WATTENBERG	50.0	PANHANDLE EASTERN
8310914	82-187	0512310187		103		JAMES H MATHISEN UNIT "B" #2	WATTENBERG	150.0	PANHANDLE EASTERN
8310913	82-83	0512310083		103		LONGMONT FARMS GAS UNIT "B" #1	WATTENBERG	125.0	PANHANDLE EASTERN
8311012	82-773	0512308267		108		MEL SMOOKLER GAS UNIT #1	WATTENBERG	41.0	PANHANDLE EASTERN
8310918	82-158	0506780195		103		MOFFETT GAS UNIT #1	IGNACIO BLANCO - MESA	103.0	WESTERN SLOPE GAS
8310927	82-156	0512310247		103		NORMAN YORK GAS UNIT "B" #2	WATTENBERG	150.0	PANHANDLE EASTERN
8310910	82-191	0500506434		103		PRITCHETTE-GREEN UNIT "C" #1	POLLEN	100.0	AMOCO PRODUCTION
8311010	82-776	0512308108		108		ROY A SCHMIDT UNIT #1	HAMBERT	25.0	PANHANDLE EASTERN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8311013	82-762	0512307836		105		STATE OF COLORADO "AD" #1	WATTENBERG	47.0	PANHANDLE EASTERN
8310956	82-198	0512309898		107-TF		STATE OF COLORADO "AM" #1	WATTENBERG	150.0	PANHANDLE EASTERN
8311014	82-785	0512307212		108		UPRR 22 PAN AM "A" #1	WATTENBERG	29.0	PANHANDLE EASTERN
8311015	82-782	0512307301		108		UPRR 22 PAN AM "D" #1	WATTENBERG	45.0	PANHANDLE EASTERN
8311016	82-763	0500107295		108		UPRR 23 PAN AM "K" #2	WATTENBERG	40.0	PANHANDLE EASTERN
8310957	82-205	0500107492		107-TF		UPRR 23 PAN AM "M" #1	UNNAMED	200.0	PANHANDLE EASTERN
8310958	82-204	0500107499		107-TF		UPRR 23 PAN AM "M" #2	UNNAMED	150.0	PANHANDLE EASTERN
8310920	82-94	0512310201		103		UPRR 42 PAN AM UNIT "J" #2	WATTENBERG	100.0	PANHANDLE EASTERN
8310960	82-201	0512309720		107-TF		UPRR 43 PAN AM "O" #1	WATTENBERG	100.0	PANHANDLE EASTERN
8310959	82-202	0512309742		107-TF		UPRR 43 PAN AM "P" #1	WATTENBERG	75.0	PANHANDLE EASTERN
8310961	82-203	0512309744		107-TF		UPRR 43 PAN AM "R" #1	WATTENBERG	90.0	PANHANDLE EASTERN
8310962	82-200	0512309763		107-TF		UPRR 43 PAN AM "X" #1	WATTENBERG	75.0	PANHANDLE EASTERN
8310921	82-48	0500107790		103		UPRR 60 PAN AM "C" #1	BASELINE	100.0	CRYSTAL OIL CO
8310922	82-190	0500107901		103		UPRR 60 PAN AM "G" #1	KRAUTHEAD	70.0	CRYSTAL OIL CORP
8311017	82-778	0512307261		108		UPRR 62 PAN AM "A" #1	WATTENBERG	52.0	PANHANDLE EASTERN
8311009	82-761	0512307206		108		WARREN POOLING UNIT #1	WATTENBERG	54.0	PANHANDLE EASTERN
8310912	82-96	0512310065		103		WILLIAM D LANSDOWN UNIT "B" #2	WATTENBERG	50.0	PANHANDLE EASTERN
8310925	82-189	0516706302		103		WINT GAS UNIT "D" #3M (MESAVERDE)	IGNACIO BLANCO	41.0	WESTERN SLOPE GAS
-CHAMPLIN PETROLEUM COMPANY				RECEIVED:	11/23/82	JA: CO			
8310880	82-136	0500107943		102-4		ATWATER 13-1 #1	RADAR	15.0	COLORADO INTERSTA
8310881	82-146	0500107942		102-4		ATWATER 14-1 #2	RADAR	38.0	COLORADO INTERSTA
8310928	82-153	0512310325		103		BEEBE DRAW CATTLE CO 32-15 #1	ARISTOCRAT	237.0	PANHANDLE EASTERN
8310929	82-135	0500107825		103		PILAND 22-31 #1	HAWKEYE	140.0	PANHANDLE EASTERN
8310884	82-138	0500506481		102-4		REEVES 31-21 #3	QUILL	23.0	AMOCO PRODUCTION
8310885	82-145	0500506480		102-4		REEVES 32-21 #4	QUILL	25.0	AMOCO PRODUCTION
8310883	82-139	0500506470		102-4		REEVES 41-21 #2	QUILL	65.0	AMOCO PRODUCTION
8310882	82-137	0500506462		102-4		REEVES 42-21 #1	QUILL	120.0	AMOCO PRODUCTION
-COORS ENERGY CO				RECEIVED:	11/23/82	JA: CO			
8310963	82-246	0507708454		107-TF		CARPENTER 1-10	PLATEAU	0.0	INTER NORTH INC
8310930	82-105	0507708396		103		HILL 3X-3	PLATEAU	295.3	INTER NORTH INC
8310931	82-172	0507708445		103		NICHOLS 1-29	PLATEAU	428.1	INTERNORTH INC
8310932	82-170	0507708316		103		NICHOLS 3-7	PLATEAU	305.5	INTERNORTH INC
8310964	82-51	0504506288		107-TF		SPEARS 1-28 DF	DRY FORK FEDERAL UNIT	166.0	INTER NORTH INC
8310965	82-52	0504506310		107-TF		SPEARS 2-36 DF	DRY FORK FEDERAL UNIT	492.0	INTER NORTH INC
8310933	82-171	0507708339		103		WOOD 3-32	PLATEAU	438.0	INTERNORTH INC
-DAVIS OIL COMPANY				RECEIVED:	11/23/82	JA: CO			
8310934	82-131	0503306037		103		SQUAW CANYON #1	WILDCAT	80.0	MOUNTAIN FUEL SUP
8310887	82-183	0516706491		102-2		WEST ALKALI GULCH #1	WILDCAT	230.4	
-DOME PETROLEUM CORP				RECEIVED:	11/23/82	JA: CO			
8310966	81-986	0504506263		107-TF		BALDY CREEK #2-20	WILDCAT	207.3	NORTHWEST PIPELIN
8311019	82-328	0516706453		108		UNITED 34-1	IGNACIO PC	12.1	NORTHWEST PIPELIN
-ENERGY MINERALS CORPORATION				RECEIVED:	11/23/82	JA: CO			
8310967	82-151	0512506673		107-TF		BAUCKE #1	WAVERLY	14.0	CITIES SERVICE GA
8310888	82-99	0512310459		102-2		BEAGHLER #1	WAITE LAKE	71.0	PANTERA ENERGY CO
8310889	82-175	0508707653		102-2		DON #1	WILDCAT CREEK	405.0	PANTERA ENERGY CO
8310890	82-98	0508707621		102-2		GRONSTEN #1	WILDCAT CREEK	64.0	PANTERA ENERGY CO
8311020	82-674	0512309748		108		HARLAN #1	WAITE LAKE	20.0	PANTERA ENERGY CO
8310935	82-152	0512310475		103		LEONA #1	WATTENBERG	60.0	COLORADO INTERSTA
8310936	82-174	0512310476		103		RHOADES #1	WATTENBERG	69.0	COLORADO INTERSTA
8310968	82-150	0512506672		107-TF		SPORT #1	ECKLEY	14.0	CITIES SERVICE GA
8310969	82-149	0512506670		107-TF		STONE #1	BUCKBOARD	14.0	CITIES SERVICE GA
-ENERGY OIL INC				RECEIVED:	11/23/82	JA: CO			
8310935	82-76	0512310017		103		CARR #1	WILDCAT	36.0	PANHANDLE EASTERN

VOLUME 799 PAGE 303

JOB NO	JA-DAT	API NO.	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8310937	82-140	0512310401	103		GRANT ARENS #1	WILDCAT	0.0	PANHANDLE EASTERN
-EXCEL ENERGY CORP			RECEIVED:	11/23/82	JA: CO			
8310970	82-273	0512310159	107-TF		FREAUFF #1	WATTENBERG	0.0	PANHANDLE EASTERN
8310971	82-147	0512310426	107-TF		GRAY #1	WATTENBERG	0.0	PANHANDLE EASTERN
8310972	82-167	0512310404	107-TF		IVAN DALE #2	WATTENBERG	0.0	PANHANDLE EASTERN
-H L WILLETT			RECEIVED:	11/23/82	JA: CO			
8310951	82-144	0512310362	103		OTTESEN #1	WATTENBERG	100.0	PANHANDLE EASTERN
8310998	82-145	0512310362	107-TF		OTTESEN #1	WATTENBERG	100.0	PANHANDLE EASTERN
8310952	82-177	0512310386	103		PERRY #1	WATTENBERG	73.0	PANHANDLE EASTERN
8310999	82-178	0512310386	107-TF		PERRY #1	WATTENBERG	73.0	PANHANDLE EASTERN
-J M HUBER CORPORATION			RECEIVED:	11/23/82	JA: CO			
8310886	82-54	0503306050	102-4		GRIFFITH #3-43-1	SQUAW CREEK	125.0	MOUNTAIN FUEL RES
8310891	82-55	0503306050	102-4		GRIFFITH #3-43-1	SQUAW CREEK	125.0	MOUNTAIN FUEL RES
-J-W OPERATING COMPANY			RECEIVED:	11/23/82	JA: CO			
8310973	82-130	0512506324	107-TF		A CROSSLAND #1	ROCK CREEK	32.0	CITIES SERVICE GA
8310974	82-129	0512506306	107-TF		H ECKBERG #1	BEECHER ISLAND	117.0	CITIES SERVICE GA
8310975	82-128	0512506293	107-TF		HARRY L JOHNSON #3	WILDCAT	44.5	KANSAS-NEBRASKA N
8310976	82-127	0512506309	107-TF		O LUEKING #4	ROCK CREEK	27.0	CITIES SERVICE GA
8310977	82-126	0512506313	107-TF		O LUEKING #5	ROCK CREEK	18.0	CITIES SERVICE GA
8310978	82-125	0512506310	107-TF		O LUEKING #6	ROCK CREEK	26.0	CITIES SERVICE GA
8310979	82-124	0512506311	107-TF		STATE OF COLORADO #11	ROCK CREEK	36.0	CITIES SERVICE GA
8310980	82-123	0512506322	107-TF		STATE OF COLORADO #12	ROCK CREEK	18.0	CITIES SERVICE GA
8310981	82-122	0512506323	107-TF		STATE OF COLORADO #13	ROCK CREEK	24.0	CITIES SERVICE GA
8310982	82-121	0512506321	107-TF		U S A #3	WILDCAT	80.0	KANSAS-NEBRASKA N
-KOCH INDUSTRIES INC			RECEIVED:	11/23/82	JA: CO			
8311021	82-716	0500106703	108		WENZEL #1	WATTENBERG	17.9	COLORADO INTERSTA
-MACEY & MERSHON OIL INC			RECEIVED:	11/23/82	JA: CO			
8310986	82-97	0500107940	107-TF		LEECH #1	WATTENBERG "J"	73.0	PANHANDLE EASTERN
8310987	82-266	0512300065	107-TF		PIETRZAK #1	WATTENBERG	42.0	PANHANDLE EASTERN
8310988	82-231	0512310432	107-TF		RUHL #1	WATTENBERG	75.0	PANHANDLE EASTERN
-MARSHALL R YOUNG OIL CO			RECEIVED:	11/23/82	JA: CO			
8310894	82-247	0500108001	102-2		COX #20-3	ARROYO	0.0	COLORADO INTERSTA
8310895	82-132	0500100000	102-2		LINNEBUR #8-4	UNNAMED	0.0	COLORADO INTERSTA
8310896	82-133	0500107954	102-2		LINNEBUR #8-5	UNNAMED	0.0	COLORADO INTERSTA
-MARTIN EXPLORATION MGMT CORP			RECEIVED:	11/23/82	JA: CO			
8310989	82-134	0501306076	107-TF		ERTL #3-17	BOULDER VALLEY	10.0	PANHANDLE EASTERN
-MGF OIL CORP			RECEIVED:	11/23/82	JA: CO			
8310983	81-522	0512310172	107-TF		DIPAOLO 14-30	WATTENBERG	486.0	PANHANDLE EASTERN
8311028	82-702	0512307401	108		HALLER #41-21	WATTENBERG	0.0	PANHANDLE EASTERN
8310939	82-65	0512310400	103		HERGERT 31-15	WATTENBERG	720.0	PANHANDLE EASTERN
8310984	82-66	0512310400	107-TF		HERGERT 31-15	WATTENBERG "J" SAND	720.0	PANHANDLE EASTERN
8311029	82-701	0512307665	108		JOHNSTON #14-24	WATTENBERG	18.0	PANHANDLE EASTERN
8310940	82-75	0512310171	103		MOSER 22-28	WATTENBERG	631.0	PANHANDLE EASTERN
8310941	82-67	0512310398	103		MOSER 41-28	WATTENBERG	216.0	PANHANDLE EASTERN
8310985	82-68	0512310398	107-TF		MOSER 41-28	WATTENBERG	216.0	PANHANDLE EASTERN
8310942	82-69	0512310244	103		RUSCH 34-15X	WATTENBERG	830.0	PANHANDLE EASTERN
-MIDLANDS GAS CORPORATION			RECEIVED:	11/23/82	JA: CO			
8311022	81-920	0512506432	108		ANDERSON 1-5	WHISPER	20.0	KANSAS-NEBRASKA N
8311023	81-921	0512506421	108		NEWBANKS 2-23	BUCKBOARD	9.0	KANSAS-NEBRASKA N
-NATOMAS NORTH AMERICA INC			RECEIVED:	11/23/82	JA: CO			
8310990	82-169	0506706543	107-TF		CASE #1-18	IGNACIO- BLANCO	417.0	NORTHWEST PIPE LI
8310991	82-74	0506706545	107-TF		HURT #1-4	IGNACIO-BLANCO	1136.0	NORTHWEST PIPE LI
-NIELSON ENTERPRISES INC			RECEIVED:	11/23/82	JA: CO			

JD #	JA DKT	API NO	C	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
9311024	82-507	0512307915		108		BRACHTENBACH #1	WATTENBERG	20.0	PANHANDLE EASTERN
-NORTHWEST EXPLORATION COMPANY		RECEIVED: 11/23/82 JA: CO							
8311025	82-707	0534536810		108		CLOUGH 105	RULISON WASATCH	11.2	NORTHWEST PIPELIN
-NUCORP ENERGY INC		RECEIVED: 11/23/82 JA: CO							
8310953	82-107	0534506332		103		SHEFFIELD 1-17	WILDCAT	529.0	NORTHWEST PIPELIN
8310992	82-176	0534506332		107-TF		SHEFFIELD 1-17	WILDCAT	529.0	NORTHWEST PIPELIN
8310954	82-109	0534506324		103		TURNER 1-27	WILDCAT	0.0	NORTHWEST PIPELIN
8310993	82-178	0534506324		107-TF		TURNER 1-27	WILDCAT	587.0	NORTHWEST PIPELIN
-PETRO AMERICAN ENERGY RESOURCES INC		RECEIVED: 11/23/82 JA: CO							
8310994	81-8 6	0512310319		107-TF		GLEN YOUNG #1	WATTENBERG	100.0	PANHANDLE EASTERN
-PIEDMONT EXPLORATION INC		RECEIVED: 11/23/82 JA: CO							
8310943	82-57	0512310288		103		COPELAND #1	GRAIL	27.0	CITIES SERVICE GA
8310944	82-58	0512310016		103		DOLL ESTATE #1	GRAIL	21.0	CITIES SERVICE GA
8310945	82-59	0512310287		103		DOLL ESTATE #2	GRAIL	21.0	CITIES SERVICE GA
8310946	82-60	0512310306		103		DOLL ESTATE #3	GRAIL	11.0	CITIES SERVICE GA
8310947	82-61	0512310347		103		KUGLER #1	GRAIL	5.5	CITIES SERVICE GA
8310948	82-62	0512310434		103		KUGLER #1-A	GRAIL	5.5	CITIES SERVICE GA
-S K TUTHILL & B J BARBEE		RECEIVED: 11/23/82 JA: CO							
8310892	81-439	0509906139		102-2		HOFFMAN #1-5	WILDCAT	75.0	
-VESSELS OIL & GAS COMPANY		RECEIVED: 11/23/82 JA: CO							
8310995	82-315	0512310528		107-TF		BDCC "A" UNIT #1	WATTENBERG	474.0	PANHANDLE EASTERN
8310996	82-63	0512310438		107-TF		BEEBE DRAW CATTLE CO "B" UNIT #2	WATTENBERG	376.0	PANHANDLE EASTERN
8311026	82-706	0512309532		108		L F RANCHES #1-A	WATTENBERG	8.0	PANHANDLE EASTERN
8311027	82-703	0512308068		108		LUTZ #1	SPACE CITY	9.0	PANHANDLE EASTERN
8310949	82-252	0512306007		103		NELSON 1-A	SPINDLE	46.0	VESSELS GAS PROCE
8310997	82-507	0512306058		107-TF		OGREN #1	WEST WATTENBERG EXTEN	365.0	PANHANDLE EASTERN
8310950	82-234	0512310573		103		WAGNER #1-B	SPINDLE	27.0	VESSELS GAS PROCE
8310998	82-233	0512307994		102-2		WAILES #1	UNNAMED	113.0	PANHANDLE EASTERN
8311030	82-672	0512307149		108		WHITESIDE #1	WATTENBERG	0.0	PANHANDLE EASTERN

OKLAHOMA CORPORATION COMMISSION

-AMOCO PRODUCTION CO			RECEIVED: 11/19/82 JA: OK						
8310962	16512	35 9321966	103			M V BARNES GAS UNIT #1	EAST CAMPBELL (MERAMA	100.0	MICHIGAN WISCONSI
-AN-SON CORPORATION			RECEIVED: 11/22/82 JA: OK						
8310981	16099	35 1121730	102-4			KOSKA #1-23	S CHICKASHA	1056.5	DELHI GAS PIPELIN
-ANDOVER OIL COMPANY			RECEIVED: 11/22/82 JA: OK						
8310835	17534	35 7323161	103			SIMUNEK #33-1		180.0	PHILLIPS PETROLEU
-BANDERA ENERGY CO			RECEIVED: 11/22/82 JA: OK						
8310931	17703	35 7932232	103			HAND 1-1		14.0	PANHANDLE EASTERN
-BERRY PETROLEUM CORP			RECEIVED: 11/22/82 JA: OK						
8310819	17759	35 4722469	103			MCCULLEY #2-12	NE FAIRMONT	22.0	GRACE PETROLEUM C
-BROWN & BORDLI INC			RECEIVED: 11/19/82 JA: OK						
8310873	15512	35 7322274	103			GRIMES #2	SOONER TREND	43.5	PHILLIPS PETROLEU
8310878	16411	35 7323164	103			WHITTINGTON #1	W HENNESSEY	60.0	CITIES SERVICE CO
-CHAMPLIN EXPLORATION INC			RECEIVED: 11/22/82 JA: OK						
8310825	17765	35 9322485	103			NOBLE #2-26	NE CHEYENNE VALLEY	90.0	PHILLIPS PETROLEU
-CLARK RESOURCES INC			RECEIVED: 11/22/82 JA: OK						
8310820	17745	35 7323597	103			GILBERT 29-1	SOONER TREND	175.0	CITIES SERVICE GA
-COBRA OIL AND GAS CORPORATION			RECEIVED: 11/22/82 JA: OK						
8310840	16477	35 5923929	102-4			AITKEN 4 #1		0.0	PANHANDLE EASTERN
-COQUINA OIL CORPORATION			RECEIVED: 11/22/82 JA: OK						
8310834	16574	35 1292376	102-2			WICKHAM #2-2	NORTH STRONG CITY	1300.0	

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME		
-CRAWLEY PETROLEUM CORPORATION				RECEIVED:	11/19/82	JA: OK		
8310867	17163	3507323392		103		BOECHER #2		
8310861	17363	3507323354		103		KUSIK #3		
8310866	17162	3507323383		103		SIGL #2		
8310853	17362	3507323353		103		VRSKA #2		
-CROUCH PETROLEUM COMPANY				RECEIVED:	11/22/82	JA: OK		
8310825	17671	3509120376		103		ALTON TRUCKNER #1		
8310826	17670	3509120385		103		MARTIN #3		
8310823	17673	3509120433		103		MARTIN #6		
8310824	17672	3509120439		103		MARTIN #9		
-DOUBLE DIAMOND INC				RECEIVED:	11/19/82	JA: OK		
8310865	16933	3507322874		103		CULLY #2		
8310864	16932	3507321923		103		HUBBARD #2		
8310863	16931	3507323372		103		KRUSE #2		
-EXXON CORPORATION				RECEIVED:	11/22/82	JA: OK		
8310818	17755	3513722860		103		S S SPEARS #4		
-F HOWARD WALSH JR				RECEIVED:	11/22/82	JA: OK		
8310832	18584	3501521224		102-2		WUNDERLICH #1		
-HARPER OIL COMPANY				RECEIVED:	11/19/82	JA: OK		
8310857	17531	3500320969		103		TUCKER #2		
-JICO EXPLORATION INC				RECEIVED:	11/19/82	JA: OK		
8310879	16511	3504321087		103		JICO-FEGEL #1		
-M P & R PRODUCTION CO				RECEIVED:	11/19/82	JA: OK		
8310874	14432	3503723426		102-4		KEYES #1		
8310875	14433	3503722728		102-4		MOORE #1		
-MAGIC CIRCLE ENERGY CORP				RECEIVED:	11/22/82	JA: OK		
8310821	17736	3515121239		103		BAKER #1		
-MAJOR OIL CORP				RECEIVED:	11/19/82	JA: OK		
8310869	17533	3509322433		103		ECK #3-17 LTD		
-MAY PETROLEUM INC				RECEIVED:	11/19/82	JA: OK		
8310877	16128	3501121652		103		CONLEY #1		
-MITCHELL OIL CO				RECEIVED:	11/19/82	JA: OK		
8310871	02988	3510120447		103		TUCKER #28		
8310872	02990	3510120399		103		TUCKER 16		
-NATIONAL OIL CO				RECEIVED:	11/22/82	JA: OK		
8310849	17779	3500721261		103		JOLIFFE #1-32		
-NORTH AMERICAN ROYALTIES INC				RECEIVED:	11/19/82	JA: OK		
8310860	17461	3501722115		103		MACA #3 (017-71786)		
-NORTHWEST EXPLORATION COMPANY				RECEIVED:	11/22/82	JA: OK		
8310828	17767	3512920618		103		THURMAN #1-3		
-OK-TEX OIL & GAS INC				RECEIVED:	11/22/82	JA: OK		
8310822	17720	3513723074		103		HANSON OK-TEX #3		
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	11/22/82	JA: OK		
8310846	17801	3504722947		103		SCHNEIDER B #2		
-PLAINS PRODUCTION INC				RECEIVED:	11/19/82	JA: OK		
8310852	17617	3510525554		103		GLASS ESTATE #9		
8310856	17619	3510525540		103		HENDRICKS #1		
8310855	17620	3510525533		103		HENDRICKS #2		
8310854	17622	3510525517		103		JORDAN #3		
-PLAINS PRODUCTION INC				RECEIVED:	11/22/82	JA: OK		
8310837	17623	3510524903		103		COLPITT #1		
8310836	17624	3510524905		103		COLPITT #2		
8310838	17612	3510524902		103		GLASS ESTATE #4		

FIELD NAME	PROD	PURCHASER
EAST KINGFISHER	80.0	PHILLIPS PETROLEU
EAST HENNESSEY	100.0	OKLAHOMA GAS & EL
EAST KINGFISHER	80.0	PHILLIPS PETROLEM
EAST HENNESSEY	180.0	OKLAHOMA GAS & EL
S E CHECOTAH	60.0	COLUMBIA GAS TRAN
S E CHECOTAH	55.0	COLUMBIA GAS TRAN
S E CHECOTAH	24.0	COLUMBIA GAS TRAN
S E CHECOTAH	70.0	COLUMBIA GAS TRAN
EAST LOYAL	54.0	PHILLIPS PETROLEU
EAST LOYAL	72.0	PHILLIPS PETROLEU
EAST LOYAL	72.0	PHILLIPS PETROLEU
SHO-VEL-TUM (SYCAMORE	207.0	
	73.0	TENNESSEE GAS PIP
SOUTH WEST JET	0.0	AMINOIL U S A INC
PUTNAM	93.0	PHILLIPS PETROLEU
NORTH OLIVE	0.0	CITIES SERVICE GA
NORTH OLIVE	0.0	CITIES SERVICE GA
WEST CARMEN	108.0	MAGIC CIRCLE GAS
MENO	75.0	PIONEER GAS PRODU
	385.0	OKLAHOMA GAS & EL
HASKELL	20.0	PHILLIPS PETROLEU
HASKELL	11.0	PHILLIPS PETROLEU
CAMRICK	11.0	KANSAS NEBRASKA N
YUKON	300.0	PHILLIPS PETROLEU
WEST REYDON	600.0	ARKANSAS LOUISIAN
SHO-VEL-TUM	0.0	MOBIL OIL CORP
	0.0	TRANSOK PIPELINE
WOODY	25.0	ENICO PIPELINE CO
WOODY	50.0	ENICO PIPELINE CO
WOODY	50.0	ENICO PIPELINE CO
WOODY	25.0	ENICO PIPELINE CO
WOODY	100.0	ENICO PIPELINE CO
WOODY	25.0	ENICO PIPELINE CO
WOODY	25.0	ENICO PIPELINE CO

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8310839	17815	3510524500		103		GLASS ESTATE #8	WOODY	25.0	ENICO PIPELINE CO
-PRIME RESOURCES CORP				RECEIVED:	11/19/82	JA: OK			
8310870	02093	3503700000		103		DAVIS #1	PICKETT PRAIRIE	0.0	
-RED EAGLE OIL CO				RECEIVED:	11/22/82	JA: OK			
8310827	17635	3509322473		103		ELON WICHERT #1	NORTHWEST FAIRVIEW	73.0	PIONEER GAS PRODU
-RED ROCK EXPLORATION INC				RECEIVED:	11/22/82	JA: OK			
8310833	18520	3505121276		102-A		ORR #1-27	NORTHEAST AMBER	365.0	OKLAHOMA GAS & EL
-RICHARD WHEELER JR				RECEIVED:	11/19/82	JA: OK			
8310858	17529	3508321122		103		ANTHIS #1	SOONER TREND	12.0	EASON OIL CO
-SAKET PETROLEUM CO				RECEIVED:	11/22/82	JA: OK		6.0	PHILLIPS PETROLEU
8310843	17830	3511122843		103		CHRIS LEDBETTER #2		0.0	PHILLIPS PETROLEU
8310844	17829	3511123311		103		EWING #1			
-SAMSON RESOURCES COMPANY				RECEIVED:	11/19/82	JA: OK			
8310876	15338	3507920429		102-A	103	REED #3-9-UPPER ATOKA	KINTA	79.5	ARKANSAS LOUISIAN
-SEARCH DRILLING CO				RECEIVED:	11/22/82	JA: OK			
8310848	17780	3507920457		103		MCCLAIN #1-9	KINTA	97.0	ARKANSAS LOUISIAN
-SHAR-ALAN OIL CO				RECEIVED:	11/22/82	JA: OK			
8310851	17769	3507300000		103		MARIE SVOBODA #1	SOONER TREND	0.0	PHILLIPS PETROLEU
-SOUTHLAND ROYALTY CO				RECEIVED:	11/19/82	JA: OK			
8310868	17537	3504321475		103		DOWLING #2-28	OAKWOOD	50.0	OKLAHOMA GAS & EL
-TENNECO OIL COMPANY				RECEIVED:	11/22/82	JA: OK			
8310842	17905	3502900000		103		T E SMITH #1	CENTRAHOMA	5.0	ARKANSAS LOUISIAN
-TRANS GLOBAL ENTERPRISES INC				RECEIVED:	11/22/82	JA: OK			
8310847	17782	3507122470		103		HOLMAN #1	EAST BLACKWELL	1.0	CORONADO TRANSMIS
-UNIVERSAL RESOURCES CORPORATION				RECEIVED:	11/22/82	JA: OK		0.0	MUSTANG FUEL CORP
8310845	17807	3501722221		103		WILSON 1-21			
-WARD PETROLEUM CORP				RECEIVED:	11/22/82	JA: OK			
8310850	17776	3502720565		103		J H SMITH A-#1	N W NORMAN	82.0	SUN GAS CO
8310830	17764	3502720584		103		MATTHESON #3	EAST MOORE	36.0	SUN GAS CO
-WESLEY WEBBER				RECEIVED:	11/19/82	JA: OK			
8310859	17528	3513733036		103		SPEARS "E" #5	SHO-VEL-TUM	500.0	GETTY OIL CO

SOURCE DATA FOR THIS NOTICE IS AVAILABLE ON MAGNETIC TAPE FROM THE NATIONAL TECHNICAL INFORMATION SERVICE (NTIS). FOR INFORMATION CONTACT STUART WEISMAN (NTIS) AT (703) 487-4808, 5285 PORT ROYAL RD, SPRINGFIELD, VA 22161, OR SANDRA SPEAR (FERC) (202) 357-8681.

Kenneth F. Plumb,

Secretary.

[FR Doc. 35201 Filed 12-28-82; 8:45 am]

BILLING CODE 6717-01-C

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: December 22, 1982.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
TEXAS RAILROAD COMMISSION									
-ABCO ENERGY CORP				RECEIVED:	11/26/82	JA: TX			
8311045	F-04-48164	4221531139		102-4	103	CARD - HCWC & I DIST 6 UNIT #1	TABASCO (VICKSBURG 10	40.0	VALERO TRANSMISSI
8311044	F-04-48163	4221531086		102-4	103	FORDYCE #1	TABASCO (VICKSBURG 97	126.0	VALERO TRANSMISSI
-ADA OIL EXPLORATION CORP				RECEIVED:	11/26/82	JA: TX			
8311073	F-03-51063	4205100000		102-2		BLACKJACK PLACE #1	GIDDINGS (AUSTIN CHAL	18.5	PHILLIPS PETROLEU
-ADOBE OIL & GAS CORPORATION				RECEIVED:	11/26/82	JA: TX			
8311260	F-78-60160	4213334260		102-4		SNEED "D" #2	MANGUM NORTH (3200)	47.0	EL PASO HYDROCARB
-ALPAR RESOURCES INC				RECEIVED:	11/26/82	JA: TX			
8311134	F-10-57888	4221131486		103		CARRUTH #1-43	HEMPHILL (GRANITE WAS	0.0	INTEX NORTH INC
-AMERICAN PETROFINA COMPANY OF TEXAS				RECEIVED:	11/26/82	JA: TX			
8311099	F-05-54196	4242300000		103	107	TF J F WARE G U #1 WELL #1	OVERTON (COTTON VALLE	200.0	UNITED GAS PIPELI
-AMERIND OIL CO				RECEIVED:	11/26/82	JA: TX			
8311155	F-08-59062	4200333277		103		COWDEN "F" #5	GOLDSMITH N (SILURIAN	30.0	PIONEER CORP
-B D K PRODUCTION CO INC				RECEIVED:	11/26/82	JA: TX			
8311136	F-04-54590	4228931545		102-4		C E MAY #1	CAPTAIN LUCEY (5-1) F	14.6	NUE WELLS PIPELIN
-B P ENERGY CO				RECEIVED:	11/26/82	JA: TX			
8311087	F-78-53549	4204932064		102-4		N A GOLSON #2	DELAY (DUFFER)	80.0	HARBIN GAS GATHER
-BARBEE & CO INC				RECEIVED:	11/26/82	JA: TX			
8311112	F0254877	4202500000		102-4		LENA DUGAT #1-A	BARBEE (500)	30.0	DELHI GAS PIPELIN
-BEST PETROLEUM EXPLORATION INC				RECEIVED:	11/26/82	JA: TX			
8311036	F-09-43832	4223733768		103		MARY GRAVES #1	JACKSBORO EAST (CADDO	180.0	LONE STAR GAS CO
8311092	F-78-53657	4236332867		102-4		PARKER MCCLURE #1	MINERAL WELLS S (CONG	286.0	SOUTHWESTERN GAS
-BILL FORNEY INC				RECEIVED:	11/26/82	JA: TX			
8311162	F-02-59176	4229732965		102-4		KAFFIE GAS UNIT #1	CHARLINE (FORNEY)	1600.0	TRANSCONTINENTAL
-BISHOP PETROLEUM INC				RECEIVED:	11/26/82	JA: TX			
8311242	F-05-60095	4216136798		102-4		HARRIS-RICE UNIVERSITY UNIT #1	OONIE (PETTIT)	365.0	TEXAS UTILITIES F
8311241	F-05-60094	4216130721		102-4		JOHN EPPES #1	OONIE (PETTIT)	500.0	TEXAS UTILITIES F
-BLAIR PROPERTIES				RECEIVED:	11/26/82	JA: TX			
8311048	F-78-49171	4236300000		103		GRAHAM BETTY #3	PALO PINTO	34.0	SOUTHWESTERN GAS
-BRAZOS RESOURCES INC				RECEIVED:	11/26/82	JA: TX			
8311151	F-78-58926	4213334145		102-4		JAMESON #1 (RRC ID # N/A)	FAIR (MARBLE FALLS LO	270.0	NORTHERN GAS PROD
-BROCK PETROLEUM CORP				RECEIVED:	11/26/82	JA: TX			
8311172	F-01-59373	4217731325		102-2		G A D C #1	PEACH CREEK (AUSTIN C	50.0	VALERO TRANSMISSI
-BTA OIL PRODUCERS				RECEIVED:	11/26/82	JA: TX			
8311137	F-08-57795	4217331312		103		8102 JV-P CALVERLEY "23" #1	BLALOCK LAKE E (WOLFC	30.0	PHILLIPS PETROLEU
-C & K PETROLEUM INC				RECEIVED:	11/26/82	JA: TX			
8311077	F-04-51996	4224700000		102-3		MESTENA H-3	MESTENA GRANDE (QUEEN	0.0	AMERICAN PIPELINE
-C P ROBINSON				RECEIVED:	11/26/82	JA: TX			
8311046	F-10-48229	4223300003		103		W S CHRISTIAN #5	PANHANDLE HUTCHINSON	0.0	PHILLIPS PETROLEU
-CABOT PETROLEUM CORP				RECEIVED:	11/26/82	JA: TX			
8311238	F-10-60080	4239303095		103		LOWE #59-A	LEDRICK RANCH S (UPPE	120.0	TRANSWESTERN PIPE

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-CANYON RESOURCES INC				RECEIVED:	11/26/82	JA: TX			
8311090	F-03-53616	4228930484		103		L PEARLSTONE #1	BUFFALO (WOODBINE GAS	171.0	LONE STAR GAS CO
-CAROLINA GROUP INC				RECEIVED:	11/26/82	JA: TX			
8311157	F-78-59143	4214300000		108		AGRI-PLACE #1	MORGAN MILL (MARBLE F	19.8	INTER NORTH INC
8311158	F-78-59144	4214300000		108		CRAIN #2	LUSBY (MARBLE FALLS)	0.0	INTER NORTH INC
-CHAMPLIN PETROLEUM COMPANY				RECEIVED:	11/26/82	JA: TX			
8311033	F-06-39046	4236500000		103	107-TF	CARTHAGE GAS UNIT 14 #3	CARTHAGE	0.0	TENNESSEE GAS PIP
8311235	F-04-60052	4235531540		108		CARVER ESTATE "A" #2	AGUA DULCE	18.9	TENNESSEE GAS PIP
8311037	F-04-45760	4235531944		102-4	103	J S ELIFF #22	STRATTON (F-31-12)	139.0	TENNESSEE GAS PIP
8311047	F-04-48664	4235531974		102-4	103	O A GRUENE #4	STRATTON (G-29-2)	0.0	TENNESSEE GAS PIP
-CHAS-MANN PETROLEUM INC				RECEIVED:	11/26/82	JA: TX			
8311225	F-78-60028	4213334122		102-4		R L RUSH C-M #1 ID #I01624	CAMERON TWO	128.7	EL PASO HYDROCARB
-CHEVRON U S A INC				RECEIVED:	11/26/82	JA: TX			
8311257	F-8A-60154	4241532248		103		SACROC UNIT #139-5	KELLY-SNYDER	27.0	EL PASO NATURAL G
8311258	F-8A-60155	4241532275		103		SACROC UNIT #203-5	KELLY - SNYDER	60.0	EL PASO NATURAL G
8311259	F-8A-60156	4241532250		103		SACROC UNIT #56-14	KELLY-SNYDER	35.0	EL PASO NATURAL G
-CONOCO INC				RECEIVED:	11/26/82	JA: TX			
8311219	F-8A-59980	4207931571		103		CONOCO DEAN UNIT #137 ID #60106	SLAUGHTER	4.0	AMOCO PRODUCTION
8311256	F-08-60153	4213533883		103		GIST UNIT #137 ID #19373	FOSTER	10.6	ODESSA NATURAL CO
8311220	F-08-59981	4213533999		103		MRS L E WIGHT -4- #32 ID #09049	COWDEN NORTH (DEEP)	4.0	AMOCO PRODUCTION
-D J OPERATING				RECEIVED:	11/26/82	JA: TX			
8311091	F-10-53617	4225300000		103		BOOGER BEAR #1	PANHANDLE EAST	182.5	DIAMOND SHAMROCK
-DAMSON OIL CORPORATION				RECEIVED:	11/26/82	JA: TX			
8311104	F-06-54433	4240131525		103	107-TF	LINVILLE BENNETT UNIT #1 WELL #5	OAK HILL (COTTON VALL	300.0	DELHI GAS PIPELIN
-DIAMOND SHAMROCK CORPORATION				RECEIVED:	11/26/82	JA: TX			
8311223	F-10-59997	4229531151		103		BASIL DUKE #3-727	BRADFORD	110.0	
8311049	F-10-50107	4229531100		103		CLARENCE HENRY PARKER "A" 618 #1	LIPSCOMB EAST	671.0	
8311039	F-10-40838	4221131599		103		FRANK W SHALLER #3-1	BIG TIMBER CREEK	33.0	
-DISCOVERY OPERATING INC				RECEIVED:	11/26/82	JA: TX			
8311124	F-7C-56258	4241331213		103	107-TF	RUTH #1	HATHIE (CANYON)	525.6	CRA INC
8311123	F-7C-56219	4241331242		103	107-TF	RUTH B #1	HATHIE (CANYON)	9.0	CRA INC
-DUVAL PRODUCTION INC				RECEIVED:	11/26/82	JA: TX			
8311152	F-04-58541	4213100000		103		O C R C #3	HAGIST RANCH (1030')	18.7	TENNESSEE GAS PIP
-EARL T SMITH & ASSOCIATES INC				RECEIVED:	11/26/82	JA: TX			
8311133	F-10-57458	4221131513		102-4		BOWERS #5-A	WASHITA CREEK (MORROW	0.0	EL PASO NATURAL G
-EL PASO NATURAL GAS COMPANY				RECEIVED:	11/26/82	JA: TX			
8311185	F-10-59504	4206700000		108		BRASHEARS #1	PANHANDLE EAST	22.5	EL PASO NATURAL G
-EMERALD PETROLEUM CORP				RECEIVED:	11/26/82	JA: TX			
8311182	F-09-59467	4223734269		103		FLETCHER #1	BOONSVILLE (ATOKA CON	58.7	LONE STAR GAS CO
8311183	F-78-59468	4236732049		103		MCBRYDE #1	POOLVILLE SW (CADDO)	39.0	LONE STAR GAS CO
-ENERGY RESERVES GROUP INC				RECEIVED:	11/26/82	JA: TX			
8311216	F-7C-59942	4243500000		108		W A MIERS "A" #5	SONORA	14.7	INTERNORTH INC
-ENERGY SOURCES INC				RECEIVED:	11/26/82	JA: TX			
8311100	F-06-54277	4200181328		102-4		JONIBEL THOMPKINS #1	BLACKFOOT SOUTH (ROOD	118.8	DELMI GAS PIPELIN
-ENSERCH EXPLORATION INC				RECEIVED:	11/26/82	JA: TX			
8311115	F-7C-55203	4213735823		103	107-TF	MIERS "C" #18	SAWYER (CANYON)	0.0	LONE STAR GAS CO
-EVEREST MINERALS CORP				RECEIVED:	11/26/82	JA: TX			
8311083	F-03-53156	4228731141		103		HOMER JORDAN UNIT #1	GIDDINGS AUSTIN CHALK	470.0	PERRY PIPELINE CO
-EXXCEL PRODUCTION CO				RECEIVED:	11/26/82	JA: TX			
8311236	F-10-60056	4217931188		103		FELIX #3	PANHANDLE GRAY	100.0	GABOT PIPELINE CO
-EXXON CORPORATION				RECEIVED:	11/26/82	JA: TX			
8311230	F-08-60048	4249531477		103		BROWN-ALTMAN B #34	EMPEROR EAST (ELLEN F	45.0	PIONEER NATURAL G
8311095	F-08-53853	4200333155		103		MEANS/SAN ANDRES/UNIT #30W2	MEANS	15.0	PHILLIPS PETROLEU

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8311176	F-04-59368	4204730768		103		MRS K J HOCKER 4 (ID PENDING)	SCOTT & HOPPER (6900-	140.0	TENNESSEE GAS PIP
8311181	F-04-59461	4226130707		102-4		NE RITA G U #1 WELL #2 (138495)	RITA NE (I-45)	145.0	ARMCO STEEL CORP
8311161	F-8A-59175	4216532348		103		ROBERTSON CLEARFORK UNIT #4403	ROBERTSON N (CLEARFOR	15.0	PHILLIPS PETROLEU
8311229	F-06-60036	4220330927		102-2	107-TF	ROLLIE C SIMS GAS UNIT #1 #1	BLOCKER (COTTON VALLE	162.0	DELHI GAS PIPELIN
-FENIX & SCISSON INC				RECEIVED:	11/26/82	JA: TX			
8311031	F-036847	4203931358		107-DP		PLEASANT BAYOU #2	PLEASANT BAYOU (FRIO	240.9	HOUSTON PIPE LINE
-FLORIDA GAS EXPLORATION COMPANY				RECEIVED:	11/26/82	JA: TX			
8311126	F-7C-56504	4243532761		103	107-TF	HUNT #4	PHYLLIS SONORA	0.0	INTRATEX GAS CO
8311132	F-7C-57453	4243532762		103	107-TF	HUNT-POWELL 36-#I	PHYLLIS SONORA	0.0	INTRATEX GAS CO
-FRAC INC				RECEIVED:	11/26/82	JA: TX			
8311248	F-08-60108	4208332529		103		W T FORD #3 #26091	FUHRMAN MASCHO	10.8	PHILLIPS PETROLEU
-FURRY OPERATING ACCOUNT				RECEIVED:	11/26/82	JA: TX			
8311222	F-08-59982	4237100009		103		ATKINS #8-1 (097593)	PECOS VALLEY (YATES)	391.0	DELHI GAS PIPELIN
-GENERAL AMERICAN OIL COMPANY OF TEX				RECEIVED:	11/26/82	JA: TX			
8311190	F-09-59595	4207731094		102-4		COWLEY #I-26	BLUE GROVE SOUTH (BRY	2.0	SANFORD P PAGADAU
-GEORGE L ROUSSEAU				RECEIVED:	11/26/82	JA: TX			
8311169	F-03-59240	4205132355		102-4		KOESTER UNIT #1	WILLARD (NAVARRO)	30.0	FERGUSON CROSSING
-GEOSOUTHERN ENERGY CORP				RECEIVED:	11/26/82	JA: TX			
8311121	F-03-56033	4205100000		102-2		TOMMIE #I	GIDDINGS (AUSTIN CHAL	0.0	CLAJON GAS CO
-GETTY OIL COMPANY				RECEIVED:	11/26/82	JA: TX			
8311156	F-08-59131	4237133463		102-4		MANZANITA "17" #1	MANZANITA (DEVONIAN)	1132.0	INTRATEX GAS CO
-GLENCO OIL & GAS CO				RECEIVED:	11/26/82	JA: TX			
8311116	F-13-55563	4201331450		102-4		JOE SEBESTA JR WELL #1	DULCE OLMOS	54.8	SOUTH TEXAS INSTR
8311249	F-01-60109	4216332163		103		KATIE ROBERTS A (06829) #5	PEARSALL (AUSTIN-CHAL	6.0	TIPPERARY CORP
-GLENN W COOPER				RECEIVED:	11/26/82	JA: TX			
8311179	F-78-59404	4244700000		102-4		LEE CATTLE CO #2	COOPER (900')	116.0	MST GATHERING SYS
8311178	F-78-59403	4244700000		102-4		LEE CATTLE CO "A" #1	COOPER (900')	237.0	MST GATHERING SYS
-GORDON T WEST JR & STAN RUGELEY				RECEIVED:	11/26/82	JA: TX			
8311148	F-78-58635	4244732937		102-4	103	BROWN-DAVIS UNIT #3 (17322)	KINGS CREEK (CADDO)	76.0	LONE STAR GAS CO
-GRACE PETROLEUM CORPORATION				RECEIVED:	11/26/82	JA: TX			
8311269	F-06-60176	4245930519		103	107-TF	BRADSHAW #1	CHEROKEE TRACE	0.0	
-GULF OIL CORPORATION				RECEIVED:	11/26/82	JA: TX			
8311247	F-08-60105	4245732556		103		CRAWAR FIELD UNIT #17	CRAWAR (ELLENBURGER)	0.2	TRANSWESTERN PIPE
8311135	F-08-57665	4237133029		103		FRED SCHLOSSER #3	ROJO CABALLOS (DELAWA	121.5	EL PASO NATURAL G
8311272	F-08-60191	4247532677		103		HUTCHINGS STOCK ASSN #1179	WARD-ESTES NORTH	1.0	CABOT CORP
8311244	F-08-60192	4247532676		103		HUTCHINGS STOCK ASSN #1182	WARD-ESTES NORTH	76.0	CABOT CORP
8311245	F-08-60193	4247532597		103		HUTCHINGS STOCK ASSN #1189	WARD-ESTES NORTH	12.0	CABOT CORP
8311212	F-08-59878	4210330649		108		J T MCELROY CONSOLIDATED #B-70	MCELROY	6.0	PHILLIPS PETROLEU
8311206	F-08-59872	4246100634		108		J T MCELROY CONSOLIDATED #449	MCELROY	1.5	PHILLIPS PETROLEU
8311211	F-08-59877	4246102456		108		J T MCELROY CONSOLIDATED #565	MCELROY	14.0	PHILLIPS PETROLEU
8311205	F-08-59871	4246104060		108		J T MCELROY CONSOLIDATED #587	MCELROY	15.5	PHILLIPS PETROLEU
8311207	F-08-59873	4246130367		108		J T MCELROY CONSOLIDATED #779	MCELROY	5.0	PHILLIPS PETROLEU
8311210	F-08-59876	4246130568		108		J T MCELROY CONSOLIDATED #892	MCELROY	7.0	PHILLIPS PETROLEU
8311208	F-08-59874	4246130666		108		J T MCELROY CONSOLIDATED #961	MCELROY	4.0	PHILLIPS PETROLEU
8311209	F-08-59875	4246131174		108		J T MCELROY CONSOLIDATED #996	MCELROY	4.0	PHILLIPS PETROLEU
8311274	F-08-60209	4247532437		103		JACK EDWARDS #3	JANELLE S E (TUBB)	0.6	H & T GATHERING
8311168	F-10-59222	4239300000		108		JOHN HAGGARD #22	QUINDUNO	5.0	NATURAL GAS PIPEL
8311192	F-10-59608	4217900000		108		SOUTH PAMPA WF #1-13	PANHANDLE GRAY COUNTY	0.3	PHILLIPS PETROLEU
8311193	F-10-59609	4217900000		108		SOUTH PAMPA WF #1-14	PANHANDLE GRAY COUNTY	0.3	PHILLIPS PETROLEU
8311194	F-10-59610	4217900000		108		SOUTH PAMPA WF #2-4	PANHANDLE GRAY COUNTY	0.3	PHILLIPS PETROLEU
8311195	F-10-59611	4217900000		108		SOUTH PAMPA WF #2-5	PANHANDLE GRAY COUNTY	0.3	PHILLIPS PETROLEU
8311196	F-10-59612	4217900000		108		SOUTH PAMPA WF #3-1	PANHANDLE GRAY COUNTY	0.3	PHILLIPS PETROLEU
8311197	F-10-59613	4217900000		108		SOUTH PAMPA WF #3-2	PANHANDLE GRAY COUNTY	0.3	PHILLIPS PETROLEU

JD NO	JN DAT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8311201	F-10-59617	4217900000		108		SOUTH PAMPA WF #6-10	PANHANDLE GRAY COUNTY	0.3	PHILLIPS PETROLEU
8311200	F-10-59616	4217900000		108		SOUTH PAMPA WF #6-16	PANHANDLE GRAY COUNTY	0.3	PHILLIPS PETROLEU
8311204	F-10-59620	4217900000		108		SOUTH PAMPA WF #6-5	PANHANDLE GRAY COUNTY	0.3	PHILLIPS PETROLEU
8311203	F-10-59619	4217900000		108		SOUTH PAMPA WF #6-8	PANHANDLE GRAY COUNTY	0.3	PHILLIPS PETROLEU
8311202	F-10-59618	4217900000		108		SOUTH PAMPA WF #6-9	PANHANDLE GRAY COUNTY	0.3	PHILLIPS PETROLEU
8311199	F-10-59615	4217900000		108		SOUTH PAMPA WF #7-2	PANHANDLE GRAY COUNTY	0.3	PHILLIPS PETROLEU
8311198	F-10-59614	4217900000		108		SOUTH PAMPA WF #7-4	PANHANDLE GRAY COUNTY	0.3	PHILLIPS PETROLEU
8311275	F-08-60210	4210332865		103		W A ESTES #112	SAND HILLS WEST (SILU	50.7	H & T GATHERING
8311276	F-09-60211	4210332862		103		W N WADDELL #1231	SAND HILLS (JUDKINS)	1.9	H & T GATHERING
-H & L OPERATING COMPANY				RECEIVED:	11/26/82	JA: TX			
8311226	F-10-60329	4289531197		102-4		SELL #3-30 (LEASE NO RRC 04891)	BOOKER N (MORROW UPPE	117.0	
-H-M OIL CO				RECEIVED:	11/26/82	JA: TX			
8311127	F-03-56695	4248100000		103		HERMAN MAUCH #1	TWIN BASIN (1200 MIOC	0.0	TENNESSEE GAS PIP
-HAMCO EXPLORATION & DEVELOPMENT CO				RECEIVED:	11/26/82	JA: TX			
8311122	F-03-56099	4224500000		102-4		PHELAN #1	PHELAN E (HACKBERRY)	730.0	WINNIE PIPELINE C
-HILL INTERNATIONAL PRODUCTION CO				RECEIVED:	11/26/82	JA: TX			
8311041	F-04-47577	4235531948		102-4	103	MACK NORRIS #1	ROBSTOWN S (7170' SAN	0.0	DELMI GAS PIPELIN
-HILLIARD OIL & GAS INC				RECEIVED:	11/26/82	JA: TX			
8311185	F-02-57993	4217531637		103		ARNECKE #1	GOTTSCHALT (SLICK)	72.0	UNITED GAS PIPE L
-HONDO OIL & GAS COMPANY				RECEIVED:	11/26/82	JA: TX			
8311214	F-08-59916	4210931575		103		HAWKINS GROUP #2	FORD (WEST)	13.0	CONOCO INC
8311213	F-08-59915	4210931575		103		HAWKINS GROUP #3	FORD (WEST)	13.0	CONOCO INC
-HUDSON PETROLEUM INC				RECEIVED:	11/26/82	JA: TX			
8311170	F-7C-59282	42*8100000		102-4		WILLCOCKSON "A" = 1 (LEASE # A)	BUFFALO CREEK (CADDO	14.5	
-INDIAN WELLS OIL CO				RECEIVED:	11/26/82	JA: TX			
8311141	F-7C-58190	4223531909		103		SCHEUBER 33-2	IRION W (CANYON)	0.0	INTER NORTH INC
-J M HUBER CORPORATION				RECEIVED:	11/26/82	JA: TX			
8311273	F-10-60207	4235700000		108		MAAR "B" #1	PERRYTON WEST (MORROW	13.0	PHILLIPS PETROLEU
8311221	F-10-59988	4223331411		103		SOUTH HERRING #171	PANHANDLE	22.0	COLORADO INTERSTA
-JACKSON EXPLORATION INC				RECEIVED:	11/26/82	JA: TX			
8311111	F7C54835	4210333997		102-4	103	P C PERNER #4	DUDLEY EAST (DEVONIAN	35.0	LINK SYSTEMS INC
-JAMES K ANDERSON INC				RECEIVED:	11/26/82	JA: TX			
8311146	F-7C-58487	4235900000		102-4		CRAVER #1	FRITZESS (GRAY SAND)	180.0	LONE STAR GAS CO
-JOHN H YOUNG INC				RECEIVED:	11/26/82	JA: TX			
8311086	F-03-55518	4214900000		102-2		MIRE UNIT #1	GIDDINGS (EDWARDS GAS	0.0	CLAJON GAS CO
-JOHNNY G JONES				RECEIVED:	11/26/82	JA: TX			
8311082	F-08-52078	4213533687		103		J E PARKER "2-A"	HARPER	2.6	PHILLIPS PETROLEU
-KEN REEVES INC				RECEIVED:	11/26/82	JA: TX			
8311153	F-78-58974	4236731892		102-2		WOOLSEY #1 100991	GREEN BRANCH (3300)	65.0	EMPIRE GAS CO
-KERR-MCGEE CORPORATION				RECEIVED:	11/26/82	JA: TX			
8311034	F-1*-58795	4248330637		107-DP		CHANDLER UNIT #2	ALLISON PARKS (MORROW	0.0	EL PASO NATURAL G
-L H BRADLING				RECEIVED:	11/26/82	JA: TX			
8311252	F-10-60118	4223300000		103		BLASDEL "D" #2	PANHANDLE	58.0	PHILLIPS PETROLEU
-LADD PETROLEUM CORPORATION				RECEIVED:	11/26/82	JA: TX			
8311240	F-01-60086	4212732180		102-2		FITZSIMONS RANCH #3-46	HUGH FITZSIMONS (SAN	73.1	VALERO TRANSMISSI
-LMG RESOURCES INC				RECEIVED:	11/26/82	JA: TX			
8311040	F-78-47035	4214330780		103		PIERCE "A" #1	LIBERTY OAK (BIG SALI	0.0	NORTHERN GAS PROD
-LOUISIANA CRUDE OIL & GAS CO INC				RECEIVED:	11/26/82	JA: TX			
8311174	F-78-59365	4213331631		102-4		MERYL REED "B" #1	PAT KAHAN (MISS)	333.3	LONE STAR GAS CO
-MAR-CON ENERGY INC				RECEIVED:	11/26/82	JA: TX			
8311237	F-04-60058	4240731398		102-4		JACKSON TRUST #1	MATHIS S E (4400)	0.0	TRUNKLINE GAS CO
-MARALO INC				RECEIVED:	11/26/82	JA: TX			
8311231	F-7C-60099	4238332138		103		UNIVERSITY "15" #7	BLOCK 49 (2450)	3.0	INTER NORTH INC

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8311234	F-7C-60047	4238332291		103		UNIVERSITY "6" #10
8311233	F-7C-60046	4238332286		103		UNIVERSITY "6" #11
8311232	F-7C-60045	4238332287		103		UNIVERSITY "6" #12
-MARSHALL EXPLORATION INC				RECEIVED:	11/26/82	JA: TX
8311038	F-06-46486	4241930879		103		COOK #1
-MCCORD EXPLORATION				RECEIVED:	11/26/82	JA: TX
8311085	F-04-53440	4235500000		102-4		DOYLE E LONDON #1T
-NEWBOURNE OIL COMPANY				RECEIVED:	11/26/82	JA: TX
8311188	F-06-59459	4240130671		103		CRIM #1 ID # N/A
8311118	F-10-55726	4229531192		103		SCHULTZ "716" #4 RRC ID #05152
-MEYER & ASSOCIATES INC				RECEIVED:	11/26/82	JA: TX
8311080	F-8A-52742	4211500000		103		COLEMAN "D" #1
-MITCHELL ENERGY CORPORATION				RECEIVED:	11/26/82	JA: TX
8311114	F0955157	4249700000		108		C HOLLAND #1 #093428
8311113	F-09-55150	4223700000		108		MINNIE PRICE #1 #060864
8311093	F-09-53774	4249700000		108		R W LINEHAN #3 (D) 91748 (T) 27857
-MONSANTO OIL CO				RECEIVED:	11/26/82	JA: TX
8311279	F-08-60220	4247532693		103		HALL #2
8311145	F-7C-58909	4238332261		103		UNIVERSITY "B-11" #2
-MORAN EXPLORATION INC				RECEIVED:	11/26/82	JA: TX
8311188	F-7C-59537	4223531524		102-2		A A SUGG "27" #1
8311187	F-7C-59528	4223531653		102-2		A A SUGG "29" #1
8311186	F-7C-59527	4223531744		102-2		A A SUGG "29" #2
8311189	F-7C-59546	4223531734		102-2		A A SUGG "3058" #1
8311163	F-7C-59195	4223531934		102-2	103	SUGG A A "30" #1
-MORROW RESOURCES INC				RECEIVED:	11/26/82	JA: TX
8311139	F-7C-57962	4245130999		102-2	103	BROWN #2
-NATURAL RESOURCES CORP				RECEIVED:	11/26/82	JA: TX
8311191	F-03-59597	4208900000		107-PE		NRC WINTERMAN #1
-NEUMIN PRODUCTION CO				RECEIVED:	11/26/82	JA: TX
8311120	F-02-55889	4205731179		103		STATE TRACT 177 WELL #3-F
-NORTH TEXAS PETROLEUM INC				RECEIVED:	11/26/82	JA: TX
8311107	F-01-54743	4216331958		103		HERWIG 111617
-OLSEN ENERGY INC				RECEIVED:	11/26/82	JA: TX
8311277	F-08-60217	4247532604		103		DORR #4
8311278	F-08-60218	4247532666		103		DORR #5
8311218	F-08-59954	4237133972		103		HALL #1
-ORLA PETCO INC				RECEIVED:	11/26/82	JA: TX
8311160	F-08-59174	4236931282		102-4		BURNER #1
8311089	F-08-53580	4210931558		102-4		CATCLAW-STATE #3
-PALO PETROLEUM INC				RECEIVED:	11/26/82	JA: TX
8311096	F-08-54033	4217331257		103		AUDIE MCDANIEL #2
-PEERLESS OIL CO INC				RECEIVED:	11/26/82	JA: TX
8311081	F-7B-52854	4236730319		102-2		HARRIS #1
-PEND OREILLE OIL & GAS CO				RECEIVED:	11/26/82	JA: TX
8311165	F-08-59209	4229732970		102-4	103	VIOLA B HOWARD #1
-PETROLEUM CORPORATION OF TEXAS				RECEIVED:	11/26/82	JA: TX
8311136	F-09-57734	4223734491		103		R W RIDER #5
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	11/26/82	JA: TX
8311263	F-08-60164	4213508214		108		(02136) NYSEWANDER #5
8311264	F-08-60166	4237103737		108		(20612) FISHER - BONSACK #2
8311108	F-10-54770	4242100000		108		CRAIG B #1
8311078	F-10-52021	4234100000		108		FUQUA B #1

VOLUME 850 PAGE 285

FIELD NAME	PROD	PURCHASER
BLOCK 49 (2450)	3.0	INTER NORTH INC
BLOCK 49 (2450)	2.5	INTER NORTH INC
BLOCK 49 (2450)	1.5	INTER NORTH INC
WILDCAT (PETTIT)	220.0	UNITED GAS PIPELI
DOUGHTY	500.0	HOUSTON PIPELINE
HENDERSON (RUSK COUNT	23.0	UNITED GAS PIPELI
BRADFORD (TONKAWA) FI	0.0	TRANSWESTERN PIPE
ACKERLY (DEAN SAND)	0.0	TEXACO INC
BOONSVILLE (BEND CONG	11.4	SOUTHWESTERN GAS
PERRIN NW (ATOKA CONG	10.9	SOUTHWESTERN GAS
BRIDGEPORT	8.0	NATURAL GAS PIPEL
RHODA WALKER (CANYON	237.0	INTER NORTH INC
FARMER (SAN ANDRES)	12.0	
ANDREW A (CANYON)	0.0	FARMLAND INDUSTRI
ANDREW A (CANYON)	0.0	FARMLAND INDUSTRI
ANDREW A (CANYON)	0.0	FARMLAND INDUSTRI
ANDREW A (CANYON)	0.0	FARMLAND INDUSTRI
ANDREW A (CANYON)	0.0	FARMLAND INDUSTRI
K W B (STRAWN)	0.0	LONE STAR GAS CO
EAST RAMSEY	0.0	AMOCO PRODUCTION
STEAMBOAT PASS (ZONE	110.0	ALUMINUM CO OF AM
PEARSALL "AUSTIN CHAL	8.4	TIPPERARY CORP
DORR (QUEEN SAND)	9.4	PERRY PIPELINE CO
DORR (QUEEN SAND)	3.0	PERRY PIPELINE CO
ABELL (PERMIAN GENERA	82.8	INTERNORTH INC
JESS BURNER (DELAWARE	18.2	
GERALDINE (DELAWARE 3	14.6	TEXACO INC
SPRABERRY (TREND AREA	0.0	EL PASO NATURAL G
	365.0	SOUTHWESTERN GAS
OAKVILLE SOUTH (L SLI	0.0	
JACK COUNTY REGULAR	0.0	LONE STAR GAS CO
GOLDSMITH (CLEARFORK)	6.0	EL PASO NATURAL G
PUCKETT (DEVONIAN)	9.0	INTER NORTH INC
TEXAS HUGOTON	0.0	MICHIGAN WISCONSI
PANHANDLE WEST	0.0	EL PASO NATURAL G

JD NO	GA DAT	API NO	D	SECTN	SUB(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8311262	F-08-60163	4213503176		108		G S ANDECTOR UNIT H-7	GOLDSMITH (CLEARFORK)	9.0	EL PASO NATURAL G
8311261	F-08-60162	4213502431		108		G S ANDECTOR UNIT K-6L	GOLDSMITH (CLEARFORK)	14.0	EL PASO NATURAL G
8311032	F-10-37089	4219530784		103		GARNETT A #2	HANSFORD MISSISSIPPIA	0.0	INTER NORTH INC
8311119	F-10-55757	4217900003		108		JOHNSON AA #18	PANHANDLE GRAY	0.0	
-PITCOCK INC				RECEIVED:		11/26/82 JA: TX			
8311094	F-78-53819	4238352830		102-4		GIBSON-BELDING A-1 098471	D R A (CONGL)	0.0	SOUTHWESTERN GAS
-PLACER ENERGY CORP				RECEIVED:		11/26/82 JA: TX			
8311130	F-8A-57097	4217931486		103		FROST "A" #1	BUCKSHOT (4950 SD)	5.5	WARREN PETROLEUM
8311131	F-79-57181	4215131376		102-4		JOHNSON #2	CELOTEX (CANYON SD)	4.6	TEXAS UTILITIES F
-PRICE DRILLING & EXPLORATION CO				RECEIVED:		11/26/82 JA: TX			
8311035	F-04-41334	4247932379		102-4		A BENAVIDES #1-271	LAUREL (1950)	27.0	VALERO TRANSMISSI
-PRIDE EXPLORATION INC				RECEIVED:		11/26/82 JA: TX			
8311103	F-06-54431	4220339818		103		W B TAYLOR #1	WASKOM (BYRD)	150.0	MISSISSIPPI RIVER
-PRODECO EXPLORATIONINC				RECEIVED:		11/26/82 JA: TX			
8311159	F-03-59154	4213130808		102-2		M P DANSBY JR GAS UNIT I #1	KURTEN (GEORGETOWN)	326.5	PRODUCERS GAS CO
-R A W ENERGY CORP				RECEIVED:		11/26/82 JA: TX			
8311043	F-78-048086	4235300000		102-4		TEXACO #2	BRAD (BASAL CONGLOMER	0.0	SOUTHWESTERN GAS
-R L FOREE				RECEIVED:		11/26/82 JA: TX			
8311164	F-78-59198	4235331327		102-4		GESIN #1	J & J (CADDO)	0.0	PALO DURO PIPELIN
-RAW HIDE OIL & GAS INC				RECEIVED:		11/26/82 JA: TX			
8311265	F-10-60171	4217931105		103		CHRISGA #3	PANHANDLE GRAY COUNTY	146.0	CABOT PIPELINE CO
8311266	F-10-60172	4217931107		103		CHRISGA #5	PANHANDLE GRAY COUNTY	146.0	CABOT PIPELINE CO
8311267	F-10-60173	4217931108		103		CHRISGA #6	PANHANDLE GRAY COUNTY	146.0	CABOT PIPELINE CO
8311268	F-10-60174	4217931109		103		CHRISGA #7	PANHANDLE GRAY COUNTY	146.0	CABOT PIPELINE CO
-SAGE ENERGY CO				RECEIVED:		11/26/82 JA: TX			
8311254	F-7C-60148	4238332329		103		UNIVERSITY 19-G #2 RRC #09434	FARMER (SAN ANDRES)	1.1	INTER NORTH INC
8311255	F-7C-60150	4210534133		103		UNIVERSITY 23 #2 RRC #07569	FARMER (SAN ANDRES)	1.3	INTER NORTH INC
8311252	F-7C-60143	4238300000		103		UNIVERSITY 4-GA #2 PRC #08939	FARMER (SAN ANDRES)	1.4	INTER NORTH INC
8311251	F-7C-60142	4238331998		103		UNIVERSITY 4-GB #1 RRC #09018	FARMER (SAN ANDRES)	2.7	INTER NORTH INC
8311253	F-7C-60147	4238332194		103		UNIVERSITY 7-GA #4 RRC #08876	FARMER (SAN ANDRES)	1.8	INTER NORTH INC
-SCANDRILL INC				RECEIVED:		11/26/82 JA: TX			
8311110	F-09-54823	4223733570		103		GEORGE KINDER #5	JACK COUNTY REGULAR	36.5	TEXAS UTILITIES F
8311109	F-09-54821	4223734399		103		HENDERSON "B" #1	BRYSON EAST	91.2	SUN GAS TRANSMISS
8311167	F-09-59221	4223734566		102-4	103	JOHNSON #1	BOBILL (CONGL)	36.5	LONE STAR GAS CO
8311166	F-09-59218	4223734607		102-4	103	PEMBERTON #7	BOBILL (CONGL)	73.0	LONE STAR GAS CO
-SEAGULL RESOURCES INC				RECEIVED:		11/26/82 JA: TX			
8311050	F-02-50301	4217500000		102-4		NOEL DIETZEL #2	COLLETOVILLE CREEK (M	0.0	MAR/CON ENERGY IN
-SEARCH DRILLING CO				RECEIVED:		11/26/82 JA: TX			
8311143	F-10-58263	4229531653		103		HAMKER 2-555	BRADFORD (TONKAWA)	649.0	PHILLIPS PETROLEU
-SERVICE DRILLING CO				RECEIVED:		11/26/82 JA: TX			
8311239	F-10-60085	4217931289		103		BURKE #13	PANHANDLE	25.0	PHILLIPS PETROLEU
-SHAH EXPLORATION CO INC				RECEIVED:		11/26/82 JA: TX			
8311171	F-09-59339	4250300000		103		DORIS BRYAN	YOUNG COUNTY REGULAR	2.0	GAS ASSOCIATED SY
8311138	F-09-57958	4250300350		103		SHAH-TCA #97-A	YOUNG COUNTY REGULAR	2.0	GAS ASSOCIATED SY
-SKLAR & PHILLIPS OIL CO				RECEIVED:		11/26/82 JA: TX			
8311101	F-06-54321	4243330536		103	107-TF	POINTS #1	LAKE TYLER (COTTON YA	350.8	UNITED GAS PIPE L
-SOUTHERN ROYALTY INC				RECEIVED:		11/26/82 JA: TX			
8311154	F-03-55005	4203531512		102-4		WALLEN #1	LITTLE JOHN (5800)	2300.0	UNITED GAS PIPELI
-SOUTHLAND ROYALTY CO				RECEIVED:		11/26/82 JA: TX			
8311224	F-08-60005	4232900000		108		MABEE FOUNDATION #1	SPRABERRY (TREND AREA	6.0	PHILLIPS PETROLEU
8311228	F-7C-60032	4238311032		108		O N LANE #1	CALVIN	8.0	UNION TEXAS PETRO
8311227	F-7C-60031	4238301438		108		W E BOYD #1-9	CALVIN	9.0	UNION TEXAS PETRO
-STOWERS OIL & GAS				RECEIVED:		11/26/82 JA: TX			

8311173	F-1 -59381	4216531244	103		BEDNORZ B-5
-SUBURBAN PROPANE GAS CORP			RECEIVED:	11/26/82	JA: TX
8311145	F-7C-59[illegible]	4241531254	103	107-TF	FARRINGTON #1
-SUN EXPLORATION & PRODUCTION CO			RECEIVED:	11/26/82	JA: TX
8311129	F- 3-57 76	421493134[illegible]	103		JAMES A MOORE #2
8311217	F-7C-59944	421 533919	103	107-TF	NAN D GRIMMER #6
-SUNRAY OIL CO INC			RECEIVED:	11/26/82	JA: TX
8311177	F-1 -59384	423413[illegible]79[illegible]	103		CAM #3
-SUPERIOR OIL CO			RECEIVED:	11/26/82	JA: TX
8311125	F- 3-563 1	42[illegible]53220[illegible]	102-2	103	MONZY UNIT #2
8311[illegible]4	F-[illegible]3-53261	4226731239	102-2	103	SHELLY BRANCH UNITL #2 WELL #1
8311126	F- 3-56922	42751[illegible]000	102-2	103	SUPAK UNIT #1 WELL #1
-TENNECO OIL COMPANY			RECEIVED:	11X26/82	JA: TX
8311117	F-[illegible]3-55635	42[illegible]132202	103		PRENTICE (6700')
8311147	F- 4-59813	4235531796	102-4		ZULA MCCOY #13
-TEXACO INC			RECEIVED:	11/26/82	JA: TX
8311 42	F- [illegible]-47924	42245 [illegible]11	102-4		R E HARDEN D/U 2 #1
-TEXCAN RESOURCES CORP			RECEIVED:	11/26/82	JA: TX
83111.2	F-7C-54335	42399.[illegible]37	102-4		MCCORD E-A
-THOMPSON J CLEO & JAMES CLEO JR			RECEIVED:	11/26/82	JA: TX
8311[illegible]6	F-7C-5[illegible]629	4210533554	107-TF		MEADOWS #4
8311 65	F-7C-5[illegible]62[illegible]	4210533595	107-TF		MEADOWS "B" #3
8311.57	F-7C-5[illegible]630	4210533[illegible]6	107-TF		THOMPSON FEE #14
8311 68	F-7C-5[illegible]631	4210533395	107-TF		UNIVERSITY 1[illegible] #1
8311.64	F-7C-5[illegible]627	4210533641	107-TF		UNIVERSITY 11-1
8311.72	F-7C-5 635	4210533[illegible]1[illegible]	107-TF		UNIVERSITY 18 #1
8311[illegible]75	F-7C-5[illegible]633	4210532796	107-TF		UNIVERSITY 19-1A
8311 69	F-7C-5[illegible]63[illegible]	4210533[illegible]02	107-TF		UNIVERSITY 19E #2
8311[illegible]62	F-7C-5[illegible]625	4210532935	107-TF		UNIVERSITY 22 #1
8311[illegible]55	F-7C-5[illegible]617	4210[illegible]32[illegible]2[illegible]	107-TF		UNIVERSITY 25 #1
8311 52	F-7C-5[illegible]614	4210533[illegible]45	107-TF		UNIVERSITY 25[illegible] #2
8311[illegible]61	F-7C-5[illegible]623	4210533[illegible]9[illegible]	107-TF		UNIVERSITY 26 #1
8311[illegible]63	F-7C-5[illegible]626	4210532936	107-TF		UNIVERSITY 27 #1
8311.59	F-7C-5[illegible]621	4210533[illegible]15	107-TF		UNIVERSITY 27W #2
8311.60	F-7C-5[illegible]622	4210533[illegible]92	107-TF		UNIVERSITY 28 #1
8311[illegible]66	F-7C-53553	4210533703	107-TF		UNIVERSITY 31-13E #2
8311.75	F-7C-5192[illegible]	4210533837	107-TF		UNIVERSITY 31-15 #1
8311.76	F-7C-51921	4210533749	107-TF		UNIVERSITY 31-21[illegible] #2
8311.61	F-7C-5[illegible]613	4210533[illegible]46	107-TF		UNIVERSITY 32E-2
8311.58	F-7C-5[illegible]62[illegible]	4210[illegible]3[illegible]0[illegible]	107-TF		UNIVERSITY 33 #1
8311.57	F-7C-5[illegible]619	4210[illegible]3297[illegible]	107-TF		UNIVERSITY 33E #2
8311.54	F-7C-5[illegible]616	4210532961	107-TF		UNIVERSITY 34 #1
8311[illegible]65	F-7C-5[illegible]618	4210532997	107-TF		UNIVERSITY 34E #2
8311.53	F-7C-5[illegible]615	4210532914	107-TF		UNIVERSITY 35 #1
8311 71	F-7C-5 [illegible]34	4210[illegible]33[illegible]62	107-TF		UNIVERSITY 36W-2A
-TXO PRODUCTION CORP			RECEIVED:	11/26/82	JA: TX
8311097	F-[illegible]3-54669	424813233[illegible]	102-4		FENNER E-3
8311105	F-[illegible]2-54536	4228531665	102-4		GARNER #2
8311098	F-[illegible]2-5414[illegible]	422853163	102-4		STORMONT C-1
-VENUS OIL COMPANY			RECEIVED:	11/26/82	JA: TX
8311142	F-[illegible]3-59211	4232[illegible]0[illegible]61	102-4	103	STATE TRACT 3[illegible]6
-W L COTTON			RECEIVED:	11/26/82	JA: TX
8311175	F-[illegible]4-5936[illegible]7	4247933395	102-4		G F VELA CUELLAR #3 ID PENDING

VOLUME 806 PAGE 007

FIELD NAME	PROD	PURCHASER
PANHANDLE CARSON COUN	72.0	INTER NORTH INC
HENRY-SPECK (CANYON)	0.0	INTRATEX GAS CO
GIDDINGS (AUSTIN CHAL	11.0	SOUTH CEN-TEX GAS
OZONA (CANYON SAND)	14.0	INTERNORTH INC
PANHANDLE MOORE COUNT	6.0	DIAMOND SHAMROCK
GIDDINGS (AUSTIN CHAL	0.0	
GIDDINGS (AUSTIN-CHAL	0.0	PERRY PIPELINE CO
GIDDINGS (AUSTIN CHAL	0.0	
PRENTICE (6700')	0.0	AMOCO PRODUCTION
AQUA DULCE (NUBBIN) P	0.0	
CONSTITUTION (WESTBUR	547.0	TRANSCONTINENTAL
BERNARD (FRY LOWER)	730.0	LONE STAR GAS CO
UNIVERSITY 31 (STRAWN	245.0	PHILLIPS PETROLEU
UNIVERSITY 31 (STRAWN	295.0	PHILLIPS PETROLEU
UNIVERSITY 31 (STRAWN	240.0	PHILLIPS PETROLEU
UNIVERSITY 31 (STRAWN	295.0	PHILLIPS PETROLEU
UNIVERSITY 31 (STRAWN	300.0	PHILLIPS PETROLEU
UNIVERSITY 31 (STRAWN	135.0	PHILLIPS PETROLEU
UNIVERSITY 31 (STRAWN	164.0	PHILLIPS PETROLEU
UNIVERSITY 31 (STRAWN	240.0	PHILLIPS PETROLEU
UNIVERSITY 31 (STRAWN	201.0	PHILLIPS PETROLEU
UNIVERSITY 31 (STRAWN	182.0	PHILLIPS PETROLEU
UNIVERSITY 31 (STRAWN	292.0	PHILLIPS PETROLEU
UNIVERSITY 31 (STRAWN	126.0	PHILLIPS PETROLEU
UNIVERSITY 31 (STRAWN	438.0	PHILLIPS PETROLEU
UNIVERSITY 31 (STRAWN	137.0	PHILLIPS PETROLEU
UNIVERSITY 31 (STRAWN	47.0	PHILLIPS PETROLEU
UNIVERSITY 31 (STRAWN	300.0	PHILLIPS PETROLEU
UNIVERSITY 31 (STRAWN	240.0	PHILLIPS PETROLEU
UNIVERSITY 31 (STRAWN	180.0	PHILLIPS PETROLEU
UNIVERSITY 31 (STRAWN	252.0	PHILLIPS PETROLEU
UNIVERSITY 31 (STRAWN	301.0	PHILLIPS PETROLEU
UNIVERSITY 31 (STRAWN	228.0	PHILLIPS PETROLEU
UNIVERSITY 31 (STRAWN	365.0	PHILLIPS PETROLEU
UNIVERSITY 31 (STRAWN	179.0	PHILLIPS PETROLEU
UNIVERSITY 31 (STRAWN	186.0	PHILLIPS PETROLEU
UNIVERSITY 31 (STRAWN	117.0	PHILLIPS PETROLEU
GOLDENROD	0.0	TRUNKLINE GAS CO
SPEAKS SW (3275')	0.0	DELHI GAS PIPELIN
SPEAKS SW (3275')	0.0	DELHI GAS PIPELIN
OYSTER LAKE W	0.0	DOW CHEMICAL CO
STAGGS (823)	22.0	VALERO GAS TRANSM

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-WAGNER & BROWN				RECEIVED:	11/26/82	JA: TX			
8311271	F-78-60186	4243131178		103		HILDEBRAND #48-18	CONGER (PENN)	96.6	TEXAS UTILITIES F
8311144	F-08-58303	4217331292		103		MORROW #1-13	WILDCAT	87.5	
-WAINOCO OIL & GAS CO				RECEIVED:	11/26/82	JA: TX			
8311215	F-05-59917	4216130734		103	107-TF	WILLIFORD GAS UNIT #1	BURLESON HILL (BOSSIE	1000.0	DELHI GAS PIPELIN
-WARREN PETR CO A DIV OF GULF OIL CO				RECEIVED:	11/26/82	JA: TX			
8311243	F-08-60181	4210332809		103		J B TUBB "B" #58	SAND HILLS (JUDKINS)	2.9	EL PASO NATURAL G
8311246	F-08-60184	4210332951		103		P J LEA #135	LEA SOUTH (TUBB)	2.1	EL PASO NATURAL G
-WESTERN HILLS OIL & GAS CO INC				RECEIVED:	11/26/82	JA: TX			
8311150	F-78-58912	4235732272		102-2		SIMPSON #1 (ID NUMBER APPLIED FOR)	H & R (BEND CONGL)	127.0	TEXAS UTILITIES F
-WILLIAM PERLMAN				RECEIVED:	11/26/82	JA: TX			
8311079	F-7C-52550	4243532586		103	107-TF	ADA CAUTHORN #402	SHURLEY RANCH (CANYON	0.0	EL PASO NATURAL G
-WORLD PRODUCERS INC				RECEIVED:	11/26/82	JA: TX			
8311078	F-78-51339	4235732703		108		LEONARD "B" #3	EL CHICO (STRAWN)	10.0	SOUTHWESTERN GAS
-WY-VEL CORP				RECEIVED:	11/26/82	JA: TX			
8311270	F-10-60180	4206531108		103		O'NEAL (85037) #4	PANHANDLE	111.3	GETTY OIL CO
-3 W OIL INC				RECEIVED:	11/26/82	JA: TX			
8311184	F-10-59473	4206531137		103		WEBSTER (05135) #1	PANHANDLE CARSON COUN	8.0	GETTY OIL CO

SOURCE DATA FOR THIS NOTICE IS AVAILABLE ON MAGNETIC TAPE FROM THE NATIONAL TECHNICAL INFORMATION SERVICE (NTIS). FOR INFORMATION CONTACT STUART WEISMAN (NTIS) AT (703) 487-4808, 5285 PORT ROYAL RD, SPRINGFIELD, VA 22161, OR SANDRA SPEAR (FERC) (202) 357-8501.

BILLING CODE 6717-01-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register.**

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 mile rule)
102–3: New well (1000 ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal seams
107–DV: Devonian shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–35200 Filed 12–28–82; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS–42019; TSH–FRL#2246–8]

Acetonitrile; Response to the Interagency Testing Committee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In the Fourth Report of the Interagency Testing Committee (ITC) the ITC designated acetonitrile for priority consideration for health effects testing. Subsequent to the publication of the ITC report, the National Toxicology Program (NTP) began testing acetonitrile for chronic and mutagenic effects. In addition, the American manufacturers of acetonitrile presented to the EPA a plan for additional mutagenicity and teratogencity testing of acetonitrile. EPA believes that the collective testing activities of the NTP and the acetonitrile manufacturers respond adequately to all of the ITC recommendations other than that for an epidemiological study. EPA believes that requiring such a study is not warranted at this time. Therefore, the Agency is not, at this time, initiating rulemaking under section 4(a) of the Toxic Substances Control Act (TSCA) to require health effects testing of acetonitrile. This notice constitutes the Agency's response to the designation of acetonitrile by the ITC, as required by section 4(e) of TSCA. EPA seeks comment on the Agency's conclusions and on the adequacy of the proposed testing program.

DATE: All comments should be submitted on or before February 14, 1983.

ADDRESS: Written comments should refer to the document control number OPTS–42019 and should be submitted in triplicate to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–401, 401 M St. SW., Washington, D.C. 20460.

The administrative record supporting this action is available for public inspection in Rm. E–107 at the above address from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Douglas G. Bannerman, Acting Director, Industry Assistance Office (TS–799), Office of Toxic Substances, Environmental Protection Agency, Rm. E–511, 401 M St. SW., Washington, D.C. 20460, Toll Free: (800–424–9065); in Washington, D.C.: (554–1404); outside the USA: (operator 202–554–1404).

SUPPLEMENTARY INFORMATION:

I. Background

Section 4(a) of TSCA (Pub. L. 94–469, 90 Stat. 2006; 15 U.S.C. 2601 *et seq.*) authorizes the EPA to promulgate regulations requiring testing of chemical substances and mixtures in order to develop data relevant to determining the risks that such chemicals may present to health and the environment. Section 4(e) of TSCA established an Interagency Testing Committee (ITC) to recommend to the EPA a list of chemicals to be considered for the promulgation of testing rules under section 4(a) of the Act.

The ITC placed acetonitrile on its priority testing list in June, 1979 (44 FR 31866). The ITC recommended testing of acetonitrile for carcinigenicity, mutagenicity, teratogenicity, and other chronic effects and also recommended epidemiology studies.

Acetonitrile is a polar molecule with a high dielectric constant. Its molecular formula is $H_3C–C{\equiv}N$. The annual production of acetonitrile for 1980 was reported to be 25.2 million pounds (Ref. 1). The Agency believes, however, that actual acetonitrile production is greater than the annual reported production because a significant portion of the total acetonitrile production is disposed of in unisolated form (Ref. 1).

The physical properties of acetonitrile make this chemical well-suited for use as a polar solvent. Thus, the commercial uses of acetonitrile utilize its solvent properties either in the separation of olefin-diolefin mixtures, as a reaction medium or intermediate for the synthesis of pharmaceuticals and pesticides, or in the crystallization of a variety of chemicals. The major commercial application for acetonitrile is as a solvent for the extractive distillation of butene-butadiene mixtures yielding high purity butadiene suitable for polymerization (Ref. 1).

Human exposure to acetonitrile appears to be limited to the workplace. The National Institute for Occupational Safety and Health (NIOSH) estimated that 25,671 workers may be exposed to acetonitrile (Ref. 2). According to NIOSH most occupational exposures to nitriles result from inhalation of vapor or aerosols, or from dermal contact (Ref. 3). The American Conference of Governmental Industrial Hygenists (ACGIH) recommended Threshold Limit Value (TLV) for workplace exposure, based on acute effects, is 40 ppm (Ref. 4). There does not appear to be any significant exposure to the general population as a result of manufacturing, processing, use, distribution or disposal of acetonitrile (Ref. 5). The Agency has no evidence that acetonitrile is contained in consumer products (Ref. 6).

II. Testing Subsequent to ITC Recommendations

Monsanto Company conducted a teratogenicity study of acetonitrile in mated Charles River rats (Ref. 7). Daily dosage levels of 125, 190, and 275 mg/kg were administered by gavage on days six to 19 of qestation at a constant volume of 10 ml/kg/day. Maternal deaths, reduced maternal body-weights and embryotoxic effects were reported for the high dose group. No teratogenic responses were observed at any of the three dose levels.

In a study by Willhite (in press), pregnant hamsters were exposed to

acetonitrile by inhalation, ingestion, or intraperitoneal injection (Ref. 8). On the eighth day of gestation, inhalation of 1,800 or 3,800 ppm acetonitrile for 60 minutes failed to induce malformations in the offspring, whereas inhalation of 5,000 or 8,000 ppm acetonitrile was associated with the production of severe axial skeletal (dysraphic) disorders. A single oral or intraperitoneal dose of 100, 200, 300 or 400 mg/kg acetonitrile in hamsters of equivalent gestational age also caused malformations identical to those noted following inhalation exposure. Some dams exposed to the highest concentrations or doses of acetonitrile displayed overt signs of poisoning.

In addition, the Agency is aware of an ongoing teratogenic study at Duquesne University by Edward G. Hyde, Jr. in which mice are being exposed to acetonitrile via intraperitoneal administration. Although verbal communications between Mr. Hyde and the Agency has provided some information on the protocol being used in this study, complete written documentation of the protocol and results will not be available to the Agency until the end of 1982 (Ref. 9).

The National Toxicology Program (NTP) is performing studies on subchronic toxicity and mutagenicity of acetonitrile. The 90-day subchronic toxicity study being performed by NTP is using inhalation as the route of exposure to both rats and mice. At each of the following atmospheric concentrations: 25 ppm, 50 ppm, 100 ppm, 200 ppm, and 400 ppm, 10 animals per sex per species will be exposed to the test atmosphere six hours per day, five days per week, for 13 weeks (Ref. 10). The results of this study will be available in January 1983 (Ref. 11). After evaluation of the data, NTP may perform a full bioassay of acetonitrile, but NTP will not commit resources to this study until subchronic and mutagenicity data are evaluated and a priority for carcinogenicity testing has been determined.

The NTP mutagenicity testing includes an Ames bioassay using *Salmonella, in vitro* cytogenetic testing for chromosomal aberrations with Chinese Hamster ovary cells, sister chromatic exchange using Chinese Hamster ovary cells, and tests for sex-linked recessive lethal and reciprocal translocation effects using *Drosophila*. The results of the NTP mutagenicity testing, expected in early 1983, will be obtained by the EPA when available (Ref. 12).

III Proposed Testing

In June 1982, E. I. Dupont de Nemours and Company, Incorporated; Monsanto Chemical Intermediates Company, and the Vistron Corporation presented to the EPA a detailed testing proposal for a eukaryotic cell gene mutation study of acetonitrile using Chinese Hamster ovary cells (Ref. 13).

In October 1982, the above named acetonitrile manufacturers presented to the EPA a detailed testing proposal for a teratology study of acetonitrile using rabbits as the test species and gavage as the route of administration. (Ref. 14.)

These tests would be initiated upon final approval of this program by the EPA. The Agency's final approval of this program is contingent upon identification of the laboratory that would perform each study, receipt and approval of the protocols to be used in in conducting each study, and evaluation of all comments received on the Agency's conclusions and on the adequacy of the proposed testing program presented in this notice.

In conducting the mutagenicity and teratology studies, industry has agreed to adhere to the Good Laboratory Practice Standards issued by the Food and Drug Administration (43 FR 60013). The industry has also agreed to permit laboratory audit/inspections in accordance with the procedures outlined in TSCA section 11, at the request of authorized representatives of the EPA. These inspections may be conducted for purposes which include verification that testing has begun, that schedules are being met, that reports accurately reflect the raw data, and that the studies are being conducted according to Good Laboratory Practice Standards. EPA will also approve all test protocols and the companies will supply EPA with the data as soon as they become available.

In addition, industry has agreed that all raw data, documentation, records, protocols, specimens, and reports generated as a result of the studies will be retained as specified in the proposed TSCA Good Laboratory Practice Standards (44 FR 27334) and made available during an inspection or submitted to EPA if requested by EPA or its authorized representative.

Industry understands that TSCA section 14(b)(1)(A)(ii) governs Agency disclosure of all test data submitted pursuant to this agreement.

The Agency plans to publish quarterly in the **Federal Register** a notice of the receipt of any test data submitted under this agreement. Subject to TSCA section 14, the notice will provide information similar to that described in TSCA section 4(d). Except as otherwise provided in TSCA section 14, such data will be made available by the EPA for examination by any person.

Finally, industry understands that failure to conduct the testing according to the specified protocols or failure to follow Good Laboratory Practices may invalidate the tests. In such cases, a data gap may still exist, and the Agency may decide to promulgate a test rule or otherwise require further testing.

The companies also have agreed to meet with the Agency and determine the need for oncogencity or other further testing of acetonitrile upon completion of the ongoing NTP mutagenicity and subchronic toxicity testing and the industry-sponsored teratogenicity and mutagenicity testing. This decision would be made in 1983 after all parties have analyzed the data. In the event that test results indicate a need to perform additional testing that the companies are unwilling to perform, the Agency can promulgate a test rule.

IV. Decision Not To Initiate Rulemaking

The Agency's reasons for not initiating rulemaking to require the testing recommended by the ITC are outlined below.

1. *Teratogenicity*. Teratogenicity testing of acetonitrile has been completed using two species, the rat and hamster, and is being conducted in a third species, the mouse (see unit II.).

The Monsanto study (see unit II.), which found no evidence of malformation in rats, conforms to EPA's TSCA guidelines (Ref. 15) and the Organisation for Economic Cooperation and Development (OECD) guidelines (Ref. 16). It is considered by the Agency to be an adequate teratology study.

The Willhite study (see unit II.), using hamsters, is considered inadequate for Agency use to fully assess the teratogenic potential of acetonitrile because acetonitrile was administered only on a single day (day 8) of gestation and because positive effects were observed only at dose levels which induced maternal toxicity. As a result, a No Observed Effect Level (NOEL) can only be determined for a single day of gestation and cannot be determined for the major period of organogenesis. Both the OECD and TSCA test guidelines recommend exposure to a test agent throughout the major period of organogenesis, which in the hamster is days 6–14. In addition, it cannot be determined if lower, non-maternally toxic dose levels administered on more than one day of gestation would result in similar teratogenic events.

Based on information obtained through verbal communication the Hyde study (see unit II.), using the mouse appears to be similarly flawed in that it too does not provide for dosing the test

animals over the major period of organogenesis. Also, the Hyde study apparently has only three animals per dose group and uses a route of administration, intraperitoneal, that may persent problems in interpreting the data. The Hyde study may, however, provide the agency with additional information on species sensitivity to acetonitrile as a teratogenic agent.

Because teratogenicity data are adequate for only one species, the rat, and the OECD and TSCA test guidelines recommend adequate data in at least two mammalian species, the Agency concluded that there are insufficient data available on acetonitrile to prepare an adequate teratogenic evaluation.

The teratogenicity testing to be conducted by the manufacturers of acetonitrile (see unit III.) will provide teratogenicity data for a second mammalian species. The acetonitrile manufacturers propose to use rabbits as the test species and gavage as the route of administration.

Rats and rabbits are the recommended species for teratogenicity testing in both the OECD and TSCA test guidelines. Willhite's observation of teratogenic effects in the hamster following exposure to acetonitrile might suggest using the hamster for further teratogenicity testing of acetonitrile, since sensitivity of the species to this chemical has been demonstrated. On the other hand, the hamster is used infrequently for teratogenicity studies and the resulting lack of an historical data base on the species would make interpretation of the test data less sure than for data obtained in the rabbit. Depending on the outcome of Hyde's study, the mouse might be considered the species of choice for further evaluation of acetonitrile's teratogenic potential. EPA will consider the outcome of the Hyde study and any comments received in response to this Notice in reaching a final conclusion on the appropriate species for further teratogenicity testing of acetonitrile.

The willhite study has demonstrated that exposure to acetonitrile via gavage and inhalation produce similar teratogenic effects. As a result, the use of gavage as the route of administration in lieu of inhalation, the primary route of acetonitrile exposure to workers, is scientifically appropriate and les expensive.

The Monsanto study, in conjunction with the teratogenicity testing to be conducted by the manufacturers of acetonitrile, will provide the teratogenicity data for two mammaliam species that EPA would have normally required under a section 4 test rule. These data will be sufficient to reasonably determine or predict the teratogenic potential of acetonitrile. Therefore, it is not necessary for EPA to initiate rulemaking to require teratogencity testing of acetonitrile.

2. *Mutagenicity.* The mutagenicity testing being performed by NTP (see unit II.) with the exception of a eukaryotic cell gene mutation study, will complete the first tier battery and provide the mutagenicity data that EPA would have normally required under a section 4 test rule. The eukaryotic cell gene mutation study to be conducted by the manufacturers of acetonitrile (see unit III.) will complete this first tier battery. In addition, a provision is contained in the industry testing proposal that provides for EPA and industry to evaluate the need for further matagenicity testing at the conclusion of the NTP and industry-sponsored mutagenicity testing. In view of the ongoing and proposed tests, further mutagencity testing is unnecessary at this time.

3. *Chronic Effects.* For the purposes of TSCA section 4, EPA believes that properly conducted subchronic toxicity testing normally can be used as a surrogate for chronic toxicity testing except for oncogenicity and age-related endpoints. EPA is aware of no data indicating that acetonitrile may cause those age-related effects that a subchronic toxicity study would not detect. Therefore, the NTP 90-day subchronic toxicity study of acetonitile is likely to provide adequate data to assess its chronic toxicity for section 4 purposes. For this reason no further chronic effects testing of acetonitrile will be required at this time.

4. *Carcinogenicity.* The results of the short-term mutagenicity tests and the results of the NTP 90-day inhalation toxicity study will be important in determining the need for longer-term testing because carcinogenic events can occur through several mechanisms. NTP will decide whether to conduct a long-term bioassay by analyzing the results of both the mutagencity and the 90-day subchronic toxicity studies. This decision is expected to be made in January, 1983. In anticipation that NTP will begin a long-term bioassay of acetonitrile if such a study is warranted by the data, the Agency is not initiating rulemaking to require carcinogencity testing at this time. However, should NTP decide that it will not sponsor a two-year bioassay, the Agency, with the manufacturers of acetonitrile, will evaluate the data and determine the need for this test. If the Agency concludes carcinogenicity testing of acetonitrile is needed and the manufacturers are unwilling to perform such testing, then the Agency will initiate rulemaking to require this test.

5. *Epidemiology.* The ITC recommended epidemiology testing of acetonitrile. The Agency does not believe that this study is warranted at this time because there is no documentable health hazard on which to base an epidemiologic study. However, should the additional data on acetonitrile's toxicity now being developed indicate the existence of a well-defined effect, the Agency will reevaluate the need for epidemiological studies.

EPA believes that the available data, the NTP testing currently in progress and the industry-sponsored mutagenicity and terategenicity testing respond to the concerns of the ITC and that sufficient data are likely to be provided to reasonably characterize the toxicity profile of acetonitrile. EPA also believes that the additional mutagenicity and teratogenicity data will be provided more expeditiously via the acceptance of the industry-sponsored acetonitrile testing program than under a rule. Therefore, EPA has determined not to initiate a rule to require further testing of acetonitrile at this time.

V. References

(1) MATHTECH, Inc. 1982. Level I Economic Evaluation for Acetonitrile. Draft Report. Washington, DC: Office of Pesticides and Toxic Substances, U.S. Environmental Protection Agency. Contract 68–01–5864.

(2) National Institute for Occupational Safety and Health (NIOSH). 1979. National Occupational Hazard Survey. Cincinnati, OH: National institute for Occupational Safety and Health.

(3) National Institue for Occupational Safety and Health (NIOSH). 1978. Criteria for a recommended standard: Occupational exposure to nitriles. Cincinnati, OH: U.S. Department of Health, Education, and Welfare (DHEW Pub. NIOSH 78–212).

(4) American Conference of Governmental Industrial Hygienists (ACGIH). TLVs Threshold limit values for chemical substances in workroom air adopted by ACGIH for 1979. Cincinnati, OH: American Conference of Government Industrial Hygienists.

(5) JRB Associates. 1981. Health Effects Recommendations for Acetonitrile. Washington, DC: Office of Pesticides and Toxic Substances, U.S. Environmental Protection Agency. Contract 68–01–6151.

(6) US NIH. 1982. U.S. National Institutes of Health—U.S. Environmental Protection Agency. Computer printout (CIS): Clinical toxicology of commercial products. Retrieved Oct. 26, 1982. Washington, DC: USNIH.

(7) Monsanto. 1982. May 6 letter from Harry M. Keating to Steven D. Newburg-Rinn.

(8) Willhite, C.C. (in press). Developmental Toxicology of Acetonitrile in the Syrian

Golden Hamster. Dr. Calvin C. Willhite to Dr. Elaine Francis.

(9) Hyde, E. 1982. Personal communication between Edward G. Hyde, Jr., Dr. Elaine Francis and David Dellarco.

(10) McCoy, J. 1981. May 15 Outline of the Protocol for NTP Toxicity Studies of Acetonitrile from Dr. James McCoy to David J. Dellarco.

(11) McCoy, J. 1981. Personal communication between Dr. James McCoy and David J. Dellarco.

(12) Zieger, E. 1982. Personal communication between Dr. E. Zieger and David J. Dellarco.

(13) DuPont, Monsanto, Vistron. 1982. June letter from Wiley M. Branan to Steven D. Newburg-Rinn.

(14) DuPont, Monsanto Vistron. 1982. October letter from Wiley M. Branan to Steven D. Newburg-Rinn.

VI. Public Record

EPA has established a public record for this testing decision (docket number OPTS–42019) which is available for inspection from 8:00 a.m. to 4:00 p.m., Monday through Friday except holidays in Rm. E–107, 401 M St., SW., Washington, D.C. 20460. This record includes basic information considered by the Agency in developing this decision. The record includes:

(1) **Federal Register** notice containing the designation of acetonitrile to the priority list and all comments on acetonitrile received in response to that notice.

(2) Communications received prior to industry testing proposal consisting of letters, contact reports of telephone conversations and meeting summaries of Agency-industry and Agency-public meetings.

(3) Testing proposal and protocols.

(4) Published and unpublished data.

(5) **Federal Register** notice requesting comment on the negotiated testing proposal and all comments received in response to that notice.

The Agency will supplement the record periodically with additional relevant information received.

(Sec. 4, 90 Stat. 2003; 15 U.S.C. 2061)

Dated: December 20, 1982.

Anne M. Gorsuch,

Administrator.

[FR Doc. 82–35276 Filed 12–23–82; 4:48 pm]

BILLING CODE 6560–50–M

[OPTS–42022; BH–FPC 2249–2]

Hexachlorocyclopentadiene; Response to the Interagency Testing Committee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice constitutes EPA's response to the Interagency Testing Committee's recommendation that EPA require health and environmental effects testing of hexachlorocyclopentadiene (HCCP) under section 4(a) of the Toxic Substances Control Act (TSCA). EPA is not initiating rulemaking under section 4(a) to require further health or environmental effects testing of HCCP at this time. EPA does not believe that there is a sufficient basis to find that the current manufacture, distribution in commerce, processing, use, or disposal of this substance may present an unreasonable risk to the environment or of mutagenic or teratogenic health effects, or that there is substantial or significient human exposure or substantial environmental release. In addition, adequate data exist to reasonably predict the chronic health effects of HCCP and an oncogenicity bioassay is under way. Therefore, additional testing for these effects is unnecessary.

FOR FURTHER INFORMATION CONTACT: Douglas G. Bannerman, Acting Director, Industry Assistance Office (TS–799), Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460, Toll free: (800–424–9065), In Washington, D.C.: (554–1404), Outside the USA: (Operator–202–554–1404).

SUPPLEMENTARY INFORMATION:

I. Background

Section 4(e) of TSCA (Pub. L. 94–469, 90 Stat. 2003 *et seq.*; 15 U.S.C. 2601 *et seq.*) established an Interagency Testing Committee (ITC) to recommend a list of chemicals for EPA to consider for promulgation of testing rules under section 4(a) of the Act. The ITC may designate substances on the list for priority consideration by EPA. TSCA requires EPA to respond to these designations by initiating rulemaking under section 4(a) or by stating its reasons in the **Federal Register** for not initiating rulemaking.The ITC designated hexachlorocyclopentadiene (HCCP) for priority consideration in its Fourth Report, published in the **Federal Register** of June 1, 1979 (44 FR 31866), recommending that HCCP be considered for testing for carcinogenicity, mutagenicity, teratogenicity, and other chronic effects. The Committee also recommended testing consideration for environmental effects, with emphasis on chronic effects in aquatic and terrestrial systems.

The ITC's recommendations were based on evidence of substantial production, potential human exposure in the workplace and more generally as a result of industrial release and disposal, and indications of a potential for persistence and bioaccumulation in the environment. Since that time, new information has become available or is under development that, in EPA's judgment, indicates that further testing of HCCP is not warranted at this time.

This notice provides EPA's response to the ITC's designation of HCCP for testing.

II. Decision Not To Initiate Rulemaking

EPA has decided not to initiate rulemaking to require testing of HCCP under section 4 of TSCA because EPA does not believe that there is a sufficient basis to find that the current manufacture, distribution in commerce, processing, use or disposal of HCCP may present an unreasonable risk of injury to the environment or of mutagenic and teratogenic health effects. Neither has EPA found evidence that there is substantial or significant human exposure to or substantial environmental release of HCCP. In addition, certain new studies have become available since the ITC's report or are under way, making additional testing for chronic and oncogenic effects unnecessary.

A. Release and Exposure

The ITC indicated that annual production of HCCP was greater than 8 million pounds, which the Agency considers to be a substantial quantity. EPA has received confidential information from the manufacturer which leads the Agency to believe that current and expected production continue to be substantial.

Velsicol Chemical Company is the sole producer of HCCP in the United States. It manufactures the chemical at two locations: Marshall, Illinois and Memphis, Tennessee. All of the chemical produced at the Marshall location is used at that location in the production of a registered pesticide product. Part of the HCCP produced at Memphis, Tennessee is used at that site in the production of registered pesticide products and other chemicals, principally chlorendic anhydride (Ref. 5). There is one major customer for the rest (Ref. 6).

In assessing the potential exposure to HCCP, EPA cannot identify any uses other than as a chemical intermediate, almost entirely in the production of a number of pesticides and of chlorendic anhydride. Because of HCCP's extreme acute toxicity (exposure to 1.5 ppm for 7 hours killed 3 of 3 rabbits, 4 of 5 mice, 1 of 4 rats (Ref. 14)), all reactions are carried out in tightly-controlled closed

systems, while workers in potential exposure areas are required to wear respirators and protective clothing (Ref. 6). Velsicol Chemical Company has informed EPA that approximately 157 employees are potentially exposed to HCCP at their facilities (Ref. 6). Representative area and personnel monitoring levels from the HCCP production and use facilities have been made available by Velsicol. Time-weighted average concentrations ranged from 0.0003 to 0.035 ppm, although ceiling values reached 0.2325 ppm when HCCP wastes were being loaded (Ref. 6). Human exposure levels are expected to be significantly lower due to the use of respirators and protective clothing. On the basis of these facts, EPA has concluded that there is not significant or substantial worker exposure to HCCP.

Confidential information submitted by Velsicol indicates that HCCP is released to the air in small quantities from the chemical's manufacture and use as a chemical intermediate. Atmospheric releases of HCCP can be expected to undergo rapid degradation because HCCP's atmospheric lifetime is an estimated 0.2 days (Ref. 1).

HCCP is listed as a toxic waste under the Resource Conservation and Recovery Act (RCRA) (Pub. L. 94–580, as amended). The generation, treatment, storage, and disposal of HCCP-containing wastes are all subject to RCRA regulations (40 CFR Part 261). Producers of toxic wastes in amounts greater than 1,000 kg/month must dispose of said wastes in a RCRA-authorized manner. According to Velsicol, approved disposal of HCCP and associated solid wastes occurs through deep-well injection, incineration, or in regulated landfills (Ref. 6).

Underground injection is subject to permits issued under an Underground Injection Control (UIC) program approved or promulgated under the Safe Drinking Water Act (Pub. L. 95–523, as amended), according to regulations contained in 40 CFR Parts 122, 123, 124, and 146. Underground injection under these regulations is designed to avoid release to the environment.

Process water from HCCP production in Memphis goes to the city sewage plant and is finally discharged into the Mississippi River after treatment (Ref. 6). The Memphis Waste Water Facility monitors levels of HCCP in the effluent; during the months of February through June of 1982, the concentration of HCCP in the sewage treatment plant's effluent ranged from non-detectable to 3.04 ppb, with monthly levels averaging 0.30 ppb (limit of detection is 0.01 ppb) (Ref. 7). Immediate dilution by river water reduces the concentration much further. Furthermore, aqueous photolysis of HCCP occurs extremely rapidly (half-life less than 10 min.) (Refs. 18, 20) and is little affected by suspended sediment (Ref. 18), while the hydrolysis half-life at environmental temperatures is 3–11 days at or below pH 7, and less than 2 hrs. at pH 12 (Refs. 18, 19). These data were not available to the ITC, which had expressed concern about the environmental persistence of HCCP.

The available data on exposure lead EPA to conclude that a section 4(a)(1)(B) finding of significant or substantial human exposure cannot be made for HCCP. Although production volume is clearly substantial, the numbers of workers exposed are low, and the levels of HCCP to which they are exposed are not significant, given the protective measures applied during typical work practice. No TSCA-related consumer exposure is known.

The environmental fate data and the low levels of HCCP release have persuaded EPA that, while HCCP is produced in substantial quantities, its environmental release is not substantial and human exposure through the environment via either air or water will be extremely low. Therefore, EPA further evaluated the ITC's testing recommendations for HCCP in the context of whether a finding of potential unreasonable risk could be made under section 4(a)(1)(A).

B. Health Effects

The ITC recommended that HCCP be considered for testing for carcinogenicity, mutagenicity, teratogenicity and other chronic effects. A 2-year inhalation oncogenicity bioassay is being performed under the National Toxicology Program (NTP) (Ref. 17) and this is expected to provide sufficient data to characterize the carcinogenic properties of HCCP. While a mammalian chronic toxicity bioassay has not been performed on HCCP, an adequate subchronic study is available (Ref. 12). For purposes of section 4 of TSCA, EPA has generally accepted subchronic studies as allowing it to reasonably predict the chronic toxicity of a substance.

Since the ITC's report, teratology studies in three species (Refs. 3, 10), and a number of mutagenicity studies (Refs. 2, 4, 8, 15, 17) have been published in the literature or submitted to EPA as unpublished data. While these studies were not definitive, none of them have yielded any evidence suggesting a potential for these effects that might support a testing requirement under section 4(a)(1)(A) of TSCA. In view of the above, EPA is not initiating rulemaking to require further health effects testing of HCCP at this time.

C. Environmental Effects

The ITC recommended that HCCP be considered for environmental effects testing, placing emphasis on determining HCCP's chronic effects in aquatic and terrestrial systems. The ITC based its recommendations for environmental effects testing of HCCP on indications that it might persist in the environment and bioaccumulate in organisms.

As discussed in Unit II.A on release and exposure, available data indicate that HCCP is not expected to persist in the atmosphere or in water. HCCP's release to soil is closely restricted as discussed in Unit II.A.

A paper cited by the ITC (Ref. 9) indicated that in a model ecosystem some HCCP was retained in organisms exposed to HCCP, but the amount was considerably less for HCCP than for three other chlorinated compounds tested. Although the data in the paper were difficult to interpret, mosquito fish appeared to metabolize HCCP to a considerable extent. In more quantitative experiments, goldfish (Ref. 11) and fathead minnows (Ref. 13), have been found to metabolize and eliminate HCCP readily; the bioconcentration factor for fathead minnows was less than 11, a very low value. Thus, EPA believes that these data allow it to reasonably predict that HCCP will not bioaccumulate to significant levels in the environment, given the small releases of the substances.

The available information, some of which has become available since the ITC made its recommendation, indicates that HCCP is recognized to be a hazard to the environment at low levels with acute and chronic LC_{50}'s for fish and invertebrates at or above 7 ppb (Refs. 13, 16). Because existing data have led to controls that have in turn resulted in extremely low environmental exposures, EPA is unable to find under section 4(a)(1)(A) of TSCA that sufficient HCCP is released to or remains in the environment so that it might present an unreasonable risk of injury to the environment. Under these circumstances, EPA does not believe that additional environmental effects testing can be justified under section 4(a)(1)(A) of TSCA.

III. References

(1) Cupitt LT. 1980. Project summary: Fate of toxic and hazardous materials in the air environment. Washington, DC: Environmental Sciences Research Laboratory, U.S. Environmental Protection Agency (EPA–600/S3–80–084). 7 pp.

(2) Industrial BIO-TEST Laboratories, Incorporated. 1977. Mutagenicity of PCL-Hex incorporated in the test medium tested against five strains of *Salmonella typhimurium* and as a volatilate against tester strain TA-100. IBT No. 8536-10838. Submitted by Velsicol Chemical Corporation.

(3) International Research and Development Corporation. 1978. Teratology study in rats. 163-573. Submitted by Velsicol Chemical Corporation.

(4) Juodeika LF. 1982 (Aug. 11). National Institute of Environemtal Health Science, Bethesda, Maryland 20205. Letter to D. Lockett, Velsicol Chemical Corporation, Washington, D.C.

(5) Levin A. 1982 (Apr. 12). Velsicol Chemical Corporation, Chicago, Illinois 60611. Transcribed telephone conversation with S.D. Newburg-Rinn, Assessment Division, Office of Pesticides and Toxic Substances, U.S. Environmental Protection Agency, Washington, D.C.

(6) Levin A. 1982 (Apr. 19). Velsicol Chemical Corporation, Chicago, Illinois 60611. Letter to S. Newburg-Rinn, Assessment Division, Office of Pesticides and Toxic Substances, U.S. Environmental Protection Agency, Washington, D.C.

(7) Levin A. 1982 (Oct. 12). Velsicol Chemical Corporation, Chicago, Illinois 60611. Letter to S. Newburg-Rinn, Assessment Division, Office of Pesticides and Toxic Substances, U.S. Environmental Protection Agency, Washington, D.C.

(8) Litton Bionetics, Incorporated. 1978. Mutagencity of hexachlorocyclopentadiene in the mouse dominant lethal assay. LBI Project No. 20862. Submitted by Velsicol Chemical Corporation.

(9) Lu PY, Metcalf RL, Hirwe AS, Williams W. 1975. Evaluation of environmental distribution and fate of hexachlorocyclopentadiene, chlordene, heptachlor and heptachlor epoxide in a laboratory model ecosystem. J. Agric. Food Chem. 23:967-973.

(10) Murray FJ. Schwetz BA, Balmer MF, Staples RE. 1980. Teratogenic potential of hexachlorocyclopentadiene in mice and rabbits. Toxicol. Appl. Pharmacol. *53*:497-500.

(11) Podowski A, Khan MAQ. 1979. Fate of hexachlorocyclopentadiene in goldfish (*Carassius auratus*). Paper persented at the Amer. Chem. Soc. Meetings, Honolulu, HI, April 1979.

(12) Rand GM, Nees PO, Calo CJ, Alexander DJ, Clark GC. 1982. Effects of inhalation exposure to hexachlorocyclopentadiene on rats and monkeys. J. Toxicol. Environ, Health *9*:743-760.

(13) Spehar RL. Veith GD, DeFoe DL, Bergstedt BV. 1979. Toxicity and bioaccumulation of hexachlorocyclopentadiene, hexachloronorbornadiene and heptachloronorbornene in larval and early juvenile fathead minnows, *Pimephales promelas*. Bull, Environ. Contam. Toxicol. *21*:576-583.

(14) Treon JF. Cleveland FP, Cappel J. 1955. The toxicity of hexachlorocyclopentadiene. Amer. Indust. Hyg. Assoc. Bull. *11:* 459-472.

Velsicol Chemical Corporation. 1978. TSCA sec. 8(e) submission 8EHQ-0378-0102. Litton Bionetics, Incorporated, 1978. Mutagenicity evaluation of hexachlorocyclopentadiene in the mouse lymphoma forward mutation assay. LBI project No. 20839. Washington, D.C. Office of Toxic Substances, U.S. Environmental Protection Agency.

(16) USEPA. 1980. U.S. Environmental Protection Agency. Office of Water Regulation and Standards. Ambient water quality criteria for hexachlorocyclopentadiene. Washington, D.C.: U.S. Environmental Protection Agency. EPA 440/5-80-055. PB81-117665.

(17) USPHS. 1982. U.S. Public Health Service. National toxicology program: Fiscal year 1982 annual plan. Washington, D.C.: Department of Health and Human Services.

(18) Wolfe NL, Zepp RG. Schlotzhauer P, Sink M. 1982. Transformation pathways of hexachlorocyclopentadiene in the aquatic environment. Chemosphere 11:91-101.

(19) Yu CC, Atallah YH. 1977. Hex hydrolysis at various pH and temperature. Project No. 482428, Report No. 2. Submitted by Velsicol Chemical Corporation.

(20) Yu CC, Atallah YH. 1977. Photolysis of hexachlorocyclopentadiene. Project No. 482428. Report No. 4. Submitted by Velsicol Chemical Corporation.

IV. Public Record

EPA has established a public record for this testing decision (docket number OPTS-42022) which includes:

(1) **Federal Register** notice containing the designation of hexachlorocyclopentadiene to the Priority List.

(2) Communications (public).

(a) Non-confidential letters.

(b) Confidential letters (separately held).

(c) Contact reports of telephone conversations.

(d) Meeting summaries.

(3) Published and unpublished data.

This record which includes basis information considered by the Agency in developing this decision is available for inspection in the OTS reading room from 8:00 a.m. to 4:00 p.m. on working days in Rm. E-107, 401 M St., SW., Washington, D.C. 20460.

(Sec. 4, 90 Stat. 2003 (15 U.S.C. 2601))

Dated: December 20, 1982.

Anne M. Gorsuch,

Administrator.

[FR Doc. 82-35277 Filed 12-23-82; 4:54 pm]

BILLING CODE 6560-50-M

(OPTS-42017; TSH-FRI 2238-1)

Methyl Isobutyl Ketone and Methyl Ethyl Ketone; Response to the Interagency Testing Committee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In the Fourth Report of the Interagency Testing Committee (ITC), published in the **Federal Register** of June 1, 1979, (44 FR 31866) the ITC designated methyle isobutyl ketone (MIBK) and methyle ethyl ketone (MEK) for priority consideration for health effects testing. Following publication of the ITC report, additional testing data were made available to EPA, and the major U.S. manufacturers of MIBK and MEK presented to the EPA plans for testing further the health effects of these chemicals. The Agency has concluded that the existing data are sufficient to evaluate some of the effects recommended for testing by the ITC. In other cases, the EPA believes that testing recommended by the ITC is not warranted by the available data. Finally, EPA has tentatively decided to accept the industry proposal in lieu of rulemaking to fill the remaining data gaps of concern to the Agency. Consequently, the EPA is not, at this time, initiating rulemaking to require health effects testing of MIBK and MEK. This notice constitutes EPA's response to the ITC as required by section 4(e) of the Toxic Substances Control Act. Interested persons are invited to comment on EPA's Conclusions as to what testing is needed and on the adequacy of the industry program.

DATE: All comments must be submitted by February 14, 1983.

ADDRESS: Written comments should bear the document control number OPTS-42017 and should be submitted in triplicate to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M St. SW., Washington, D.C., 20460.

The administrative record supporting this action is available for public inspection in Rm. E-107 at the above address from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Douglas G. Bannerman, Acting Director, Industry Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-511, 401 M St. SW., Washington, D.C., 20460, Toll Free: (800-424-9065), In Washington, D.C.: (554-1404), Outside the USA: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 4(a) of the Toxic Substances Control Act (TSCA) authorizes the EPA to promulgate regulations requiring testing of chemical substances and mixtures in order to develop data

relevant to determining the risks that such chemicals may present to health and the environment. Section 4(e) of TSCA [90 Stat. 2010; (15 U.S.C. 2601 et seq.)] established an Interagency Testing Committee (ITC) to recommend to the EPA a list of chemicals to be considered for the promulgation of testing rules under section 4(a) of the Act.

The ITC placed methyl isobutyl ketone (MIBK) and methyl ethyl ketone (MEK) on its priority testing list submitted to the Administrator in April, 1979 and published in the Federal Register of June 1, 1979 (44 FR 31866). This notice is EPA's response to the ITC's recommendation that testing be required for MIBK and MEK.

II. Methyl Isobutyl Ketone

A. Background

Methyl isobutyl ketone (MIBK) is a saturated aliphatic ketone whose molecular formula is $C_6H_{12}O$.

Annual production capacity is believed to be 231 million pounds (Ref. 1). MIBK's annual production for the past 10 years has ranged from 150–210 million pounds. Imports have amounted to about 6 million pounds (Ref. 2).

MIBK is used primarily in industrial operations. The Chemical Economic Handbook states that sixty-four percent of the MIBK produced is used as a solvent for industrial coatings, 16 percent is exported, 10 percent is used as a raw material for antioxidant manufacture, and the remaining 10 percent is consumed in a variety of uses such as lube oil dewaxing, rare metal refining, and as a component of agricultural insecticides and of adhesives (Ref. 3). Consumer products containing MIBK include adhesives, fixatives and solvents (Ref. 4).

Releases of MIBK to the atmosphere can occur through fugitive emissions and incomplete removal of vapors from reaction gases before they are vented. MIBK may be released to water during the discharge of spent scrubbing water. Other releases may occur as a result of accidental spillage or disposal of solid wastes or sludges that contain ketones (Ref. 2).

The known chemical properties of MIBK include moderate water solubility, moderate rate of volatilization from water, soil and the pure material, and moderate atmospheric oxidation and photolysis in the presence of oxidants. Thus, MIBK would be expected to partition into the atmosphere where it would be photochemically degraded. This would lead to a short half-life for MIBK in the environment and minimal exposure to the general population (Ref. 2). MIBK is readily biodegraded in normal wastewater treatment facilities and in seawater (Ref. 5).

Human exposure to MIBK has been estimated by the National Institute for Occupational Safety and Health (NIOSH) to range between 1.5 and 1.8 million workers (Ref. 6). The affected industries have indicated that only 10 percent of the people included in the NIOSH estimates (150,000–180,000) are actually exposed to MIBK (Ref. 7). However, EPA considers that even the lower industry estimates indicate a substantial exposure to MIBK. The Agency believes that there is consumer exposure to MIBK as a result of uses of products containing MIBK, but the number of persons and level of exposure cannot be determined.

The ITC recommended MIBK for health effects testing because of high exposure. Specific ITC recommendations and the rationale for testing included: mutagenicity testing because of lack of data; teratogenicity testing because of the indication of possible teratogenicity of the related aliphatic ketone, MEK; chronic effects testing because although subchronic toxicity is well-characterized, long-term toxic effects of MIBK have not been studied sufficiently to predict chronic effects; and performance of an epidemiology study because of lack of data on long-term toxic effects and on chronic effects on humans. The ITC did not recommend any environmental effects or fate studies because MIBK exhibits high vapor pressure and undergoes chemical and biological degradation in the environment and therefore, "does not appear to pose a hazard to terrestrial animals" (44 FR 31868, June 1, 1979).

B. Testing Proposed by Industry

The Chemical Manufacturers Association (CMA) Ketones Program Panel (the Panel) has submitted protocols (Ref. 8) for the following tests which they have agreed to perform: (1) Mutagenicity of MIBK; (2) inhalation teratology of MIBK; (3) 90-day subchronic toxicity of MIBK. EPA will examine the data from these tests and determine whether there is need for additional testing. The Panel is prepared to undertake any further testing on MIBK, including carcinogenicity studies, that industry and EPA scientists agree is scientifically justified on the basis of the initial test results.

1. *Mutagenicity testing.* The Panel has proposed to test MIBK using a battery of five mutagenicity tests.

These tests are listed below; they will be initiated following publication of EPA's final decision following review of comments on this notice.

(a) Ames test (*Salmonella* +/− Activation).

(b) Mouse Lymphoma (L5178Y TK +/−).

(c) BALB/3T3 Mouse embryo cell transformation.

(d) Cytogenetic Study (Mouse micronucleus).

(e) Unscheduled DNA synthesis.

2. Inhalation Teratology Testing.

The Panel will initiate teratology test in two species (rats and mice) for MIBK. At least three doses will be used along with a negative control. Dose levels will be established after the completion of the subchronic toxicity study. The doses will be designed to satisfy the criteria in the Organization for Economic Cooperation and Development Teratogenicity Guideline No. 414 (Ref. 9). A schedule for initiation, completion, and delivery of results will be provided to the Agency.

3. *90-day Subchronic testing.* While subchronic inhalation studies have been conducted with MIBK, the CMA Ketones Panel will sponsor another study because (1) the MacEwen study (Ref. 11) cited by the ITC was done under hyperbaric conditions, and exposures were 24 hours per day (not typical of workplace exposure), and (2) female animals have generally not been studied.

The Ketones Panel study is designed to measure parameters indicative of toxicity (such as changes in body weight, organ weight, blood cytology, clinical chemistry and urine analysis) as well as an extensive histopathology examination of major organs and tissues. This study will be performed on male and female rats and mice, using whole body inhalation exposure to MIBK vapor, six hours per day, five days per week for 13 weeks at doses of 50, 250, and 1000 ppm. The study is now on test at Bushy Run Research Center, sponsored by CMA, and results should be available in early 1983. A 9-day vapor inhalation range-finding study was completed in June, 1982.

At the conclusion of the 90-day study, the Panel will report these data to the Agency. EPA will evaluate these data and make recommendations on the need for further testing to the Panel.

C. Decision Not To Initiate Rulemaking

The Panel's proposed testing program will resolve unanswered questions on mutagenicity, teratogenicity and chronic health effects of MIBK. These are the health effects of concern designated for consideration by the ITC.

For most chronic effects except oncogenicity, EPA generally will accept, for TSCA section 4 purposes, a well-conducted 90-day subchronic study as providing sufficient data to determine chronic risk from exposure to a chemical. While the protocols of the ongoing MIBK study are not identical to the TSCA Test Guidelines for a 90-day subchronic study, they are sufficiently similar with respect to histopathology, dosing regimen and data analysis to be acceptable for TSCA purposes.

The Panel's mutagenicity battery will provide a basis for determining the need for additional testing. The Panel's battery is similar to the testing scheme EPA normally uses under TSCA section 4, as it contains gene mutation and cytogenetics tests, and will provide an equivalent amount of data necessary to determine the need for more testing. Therefore, EPA believes that additional mutagenicity testing of MIBK need not be required at this time.

The Panel's teratology tests in two species are consistent with TSCA Testing Guidelines published by the Agency and are expected to provide adequate data to evaluate MIBK's teratogenic potential.

The Agency does not believe that the ITC recommended epidemiology study is warranted at this time. The Agency has not identified a toxic endpoint in any of the available data which would serve as a basis for epidemiologic testing. However, should the data to be developed demonstrate a defined effect, the Agency will reevaluate this decision.

III. Methyl Ethyl Ketone

A. Background

Methyl ethyl ketone (IMEK) is a saturated aliphatic ketone with molecular formula C_4H_8O.

Production reported in 1978 totaled 396 million pounds. Imports amounted to about 55 million pounds in 1978 (Ref. 12).

MEK is used in industrial operations including solvents for industrial coatings (55–75 percent), adhesives (12–20 percent), petroleum refining (3–10 percent), and miscellaneous and export (10–20 percent). Both industrial and consumer uses of MEK-containing degreasers and adhesives are expected to occur. Consumer exposure occurs primarily during the use of paint thinners and removers, varnish removers, stripping compounds, paint brush cleaners, various glue and adhesive products (particularly the fast-drying and epoxy glues) and automotive carburetor cleaners and engine degreasers (Ref. 13).

Releases of MEK can occur through fugitive emissions and venting of gases to the atmosphere. MEK is released to water and air. It has been detected in wastewater from manufacturing facilities and synthetic fuel plants, in groundwater near synthetic fuel plants, and in drinking water (Ref. 13). It has also been detected in air emissions from chemical plants (Ref. 13), processing facilities (Ref. 13), and automobile exhaust (Ref. 14).

Available chemical data on MEK include a high vapor pressure and high water solubility. Partitioning calculations indicate rapid volatilization from the pure material, and MEK's chemical reactivity favors subsequent rapid atmospheric oxidation and photolysis. The high water solubility of MEK will result in partitioning to water where data also indicate that MEK will be readily biodegraded (Refs. 15, 16). As a result it is not expected that MEK would bioconcentrate.

Worker exposure was estimated by NIOSH at 3 million in 1977 (Ref. 5). The 1980 quarterly NIOSH Hazard Report gave a revised estimate of 38,000 persons occupationally exposed (Ref. 17). This figure does not include the persons exposed to consumer products containing MEK. EPA is unable to determine the magnitude of this latter exposure.

The ITC recommended testing of MEK for chronic effects (with special emphasis on neurological effects), and performance of an epidemiology study. The basis for the neurological effects recommendation was the 1944 study by Smith and Mayers which reported a numbness of the skin (Ref. 18). The ITC did not recommend any environmental effects or chemical fate studies.

B. Testing Submitted Subsequent to ITC Recommendations

1. *Subchronic Toxicity.* The Chemical Industry Institute of Toxicology (CIIT) has recently completed a 13-week subchronic toxicity test on MEK (Ref. 19). The study exposed rats and mice at levels of 1,250, 2,500, and 5,000 ppm, for six hours per day, five days per week. Virtually no effects were shown at any exposure level. Because of the lack of effects, CIIT decided it would be inappropriate to proceed with long-term testing. The Panel submitted this report to the Agency as fulfillment of the chronic testing recommendation by the ITC. The Agency, after review of the study, has found it adequate to predict chronic toxicity of MEK.

2. *Neurological Testing.* An extensive literature review on the health effects of MEK revealed no reports that MEK alone induced neuropathological changes or neurotoxicological effects including its reported use and effects from "glue-sniffing." (Ref. 20). Only if MEK and methl-n-butyl ketone or MEK and n-hexane were combined and animals exposed to the binary mixtures were some neurotoxic effects observed. It should be noted that methl-n-butyl ketone and N-hexane are neutrotoxic agents by themselves. While it appears that MEK may exert a synergistic effect with the two neurotoxicants on the test animals, the data from previously performed experiments clearly indicated that MEK is not a neurotoxicant.

Furthermore, in the CIIT subchronic toxicity study on MEK, animals were examined for neurological changes both in daily observations and histologically after sacrifice. There was no functional deficit reported in the daily observation nor were there any neurological tissue changes found in the histopathology after exposure to 1,250, 2,500, and 5,000 ppm (Ref. 19). Part of the study done by CIIT was designed specifically to address neurotoxicity.

Five males and five females from each exposure group and the control group were used exclusively in the special neurotoxicity study. Vascular perfusion was performed with lactated Ringer's solution and glutaraldehyde. Following perfusion, the brain, spinal cord, right and left sciatic and tibial nerves were removed and preserved. A minimum of 50 nerve fibers/animal were evaluated by light microscopy for evidence of nueropathy. Specimens from all groups were examined. Lesions attributable to MEK were not demonstrated or observed (Ref. 19).

C. Testing in Areas Not Recommended by the ITC

The Ketones Panel has proposed to test MEK using the following mutagenicity battery. These studies would be initiated following publication of EPA's final decision following review of comments on this notice.

(a) Ames test (*Salmonella* + / – Activation).

(b) Mouse Lymphoma.

(c) BALB/3T3 Mouse embryo cell transformation.

(d) Cytogenetic Study (Mouse micronucleus).

(e) Unscheduled DNA synthesis.

EPA will examine the data from these tests and determine whether there is need for additional testing. The Panel is prepared to undertake any further testing on MEK, including carcinogenicity studies, that industry and EPA scientists agree is scientifically justified on the basis of the initial test results.

D. Decision Not To Initiate Rulemaking

The Agency believes that the completed 90-day subchronic test which was submitted after publication of the ITC report provides an adequate basis for determining MEK's chronic toxicity including neurotoxicity. While the protocols are not identical to the TSCA Test Guidelines for this test, they are sufficiently similar with respect to histopathology, dosing regimen and data analysis to be acceptable for TSCA purposes. For most chronic effects except oncogenicity, EPA generally will accept for TSCA section 4 purposes a well-conducted 90-day subchronic study as providing sufficient data to determine chronic risk from exposure to a chemical. Therefore, EPA believes that no further chronic toxicity testing of MEK is necessary at this time.

The Panel's mutagenicity battery will provide a basis for determining the need for additional testing. The Panel's battery is similar to the testing scheme EPA normally uses under TSCA section 4 as it contains gene mutation and cytogenetics tests and will provide an equivalent amount of data necessary to determine the need for more testing. Therefore, EPA believes that additional mutagenicity testing of MIBK need not be required at this time.

The Agency does not believe that the ITC recommended epidemiology study is warranted at this time. The Agency has not identified a toxic endpoint in any of the available data which would serve as a basis for epidemiologic testing. However, should the data developed in this testing program demonstrate a well-defined effect, the Agency will reevaluate this decision.

IV. GLP's and Other Provisions

The Panel has agreed to adhere to the FDA's Good Laboratory Practice (GLP) Standards (21 CFR Part 58). It has acknowledged EPA's right to conduct laboratory audit/inspections in accordance with the procedures outlined in TSCA section 11, at the request of authorized representatives of the EPA for the purpose of determining compliance with the submitted protocols and GLP's. These inspections may be conducted for purposes which include verification that testing has begun, that schedules are being met, that reports accurately reflect the raw data, and that the studies are being conducted with adequate quality assurance procedures.

In addition, the Panel has agreed that all raw data, documentation, records, protocols, specimens, and reports generated as a result of a study will be retained and made available during an inspection or submitted to EPA if requested by EPA or its authorized representative. This is consistent with the proposed TSCA GLPs published in the **Federal Register** of May 9, 1979 (44 FR 27362).

The Panel has also acknowledged that TSCA section 14(b) governs Agency disclosure of all test data submitted to the Agency under this testing program.

The Panel understands that the Agency plans to publish quarterly in the **Federal Register** a notice of the receipt of any test data submitted under this agreement. Subject to TSCA section 14, the notice shall provide information similar to that described in TSCA section 4(d). Except as otherwise provided in TSCA section 14, any data submitted shall be made available by EPA for examination by any person.

Failure to adhere to the terms of the protocols submitted or GLP's may invalidate the tests. In such cases, a data gap may still exist, and the Agency may decide to promulgate a test rule.

VI. References

1. Directory of Chemical Producers, USA. Menlo Park, CA: Stanford Research Institute International.

2. JRB. Inc. TSCA Section 4 Human Exposure Assessment. Basu P, Carpenter J, Chen C, Nelson H, Perry W, Shochet A, Taylor D, Zafran F. Methyl Isobutyl Ketone. Draft final report. DOW No. 11, Washington, D.C. Office of Pesticides and Toxic Substances, U.S. Environmental Protection Agency, Contract 68–01–4839.

3. SRI. 1978. Stanford Research Institute. Methyl Isobutyl Ketone (MIBK) under Acetone In: Chemical Economic Handbook, March 1981. Menlo Park, CA: SRI, pp. 604.5032 U, V, W.

4. USEPA. 1980. U.S. Environmental Protection Agency. Computer printout: Clinical Toxicology of Commercial Products (CTCP). Retrieved Nov. 5, 1980 from NIH/EPA Chemical Information Systems.

5. Price KS, Waggy GT, Conway RA. 1974. Brine shrimp bioassay and seawater BOD of petrochemicals. J. Water Pollut. Control Fed. 46(1):63–77.

6. NIOSH. 1978. National Institute for Occupational Safety and Health. Criteria for a recommended standard: occupational exposure to ketones. Washington, DC: NIOSH, U.S. Dept. Health, Education, and Welfare. DHEW. Pub. NIOSH 78–173.

7. Union Carbide. 1979. Letter to Document Control Officer. Comment on Fourth Report of the ITC.

8. Chemical Manufacturers Association Ketones Panel. 1982. (May 27). Methyl ethyl ketone and methyl isobutyl ketone. Voluntary Test Program submitted to the Environmental Protection Agency, Washington, D.C.

9. OECD, 1981. Teratogenicity—OECD Guidelines for Testing of Chemicals #414, adopted May 12, 1982.

10. Teratogenicity study HG—organ/tissue/terato. In Test Guidelines and Support Documents for Health Effects, Environmental Effects and Chemical Fate Testing. August, 1982.

11. Mac Ewen, J.D., E.H. Vernot, and C.C. Haun, 1971. Effect of 90-day continuous exposure to methylisobutylketone in dogs, monkeys, and rats. Aerospace Medical Research Division, Air Force Systems Command, Wright-Patterson AFB, OH 45433. Available from Nation Technical Information Service. AD 730–191.

12. TSCA Section 4 Human Exposure Assessment. Methyl Ethyl Ketone. Sept. 30, 1981. JRB Associates, Inc., 8400 Westpark Dr., Mclean, VA 22102. Prepared under Contract No. 68–01–4839 DOW No. 11.

13. Zakhari S, Levy P, Leibowitz M, Aviado DM. 1977. Review of the literature on methyl ethyl ketone. In: Isoproanol and Ketones in the Environment. Cleveland, OH: CRC Press, Inc.

14. Seizinger DE, Dimitriades B. 1972. Oxygenates in exhaust from simple hydrocarbon fuels. J. Air Pollut. Contr. Assoc. 22(1):47–51.

15. Lyman WJ, Rechl WF, Rosenblatt DH. 1982. Handbook of chemical property estimation methods, McGraw Hill.

16. Enviro Control Inc. 1981. Draft Report: Partitioning Analysis: Methyl Ethyl Ketone. Rockville, Md. Office of Pesticides and Toxic Substances, U.S. Environmental Protection Agency. Contract No. 68–01–6147.

17. NIOSH. 1980. National Institute for Occupational Safety and Health. Computer Printout: Quarterly Hazard Report, Methyl Ethyl Ketone. Retrieved August 6, 1980.

18. Smith A.R., Mayers M.R. 1944. N.Y. State Dept of Labor Industrial Bulletin 23:174–176.

19. Chemical Industry Institute of Toxicology. 1981. Toxigenics Study No. 420–0305 for the Chemical Industry Institute of Toxicology, "A 90-day toxicology study in Fischer 344 rats exposed to methyl ethyl ketone". Submitted to U.S. Environmental Protection Agency, Washington, D.C. 20460.

20. Altenkirch H, Stoltenburg G, Wagner HM. 1977. Experimental studies on hydrocarbon neuropathies induced by methyl ethyl keton (MEK) J. Neurol. 219:159–170.

VI. Public Record

The EPA has established a public record for this testing decision (docket number OPTS–42017) which is available for inspection in the OTS Reading Room from 8:00 a.m. to 4:00 p.m. Monday through Friday in Rm. E–107, 401 M St., SW., Washington, DC 20460. This record includes basic information considered by the Agency in developing this decision. The Agency will supplement the record periodically with additional relevant information received. The record includes the following information:

(1) **Federal Register** notice containing the designation of the MIBK and MEK to the priority list.

(2) Communications before industry testing proposal.

(a) Letters.

(b) Contact reports of telephone conversations.

(c) Meeting summaries of Agency-industry and Agency-public meetings.
(3) Testing proposal and protocols.
(4) Published and unpublished data.
(5) **Federal Register** notice requesting comment on the negotiated testing proposal and comments received in response thereto.

(Sec. 4, 90 Stat. 2003; (15 U.S.C. 2061))

Dated: December 20, 1982.

Anne M. Gorsuch,

Administrator.

[FR Doc. 82-35278 Filed 12-23-82; 4:48 pm]
BILLING CODE 6560-50-M

[OPPTS-42020 TSH-FRL 2237-8]

Hexachloro-1,3-Butadiene; Response to the Interagency Testing Committee

AGENCY: Enviromental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice constitutes EPA's response to the Interagency Testing Committee's recommendation that EPA require environmental effects testing of hexachloro-1,3-butadiene (HCBD) under section 4(a) of the Toxic Substances Control Act (TSCA). EPA is not initiating rulemaking under section 4(a) to require further environmental effects testing of HCBD. EPA does not believe that there is a sufficient basis to find that the current manufacture, distribution in commerce, processing, use, or disposal of HCBD may present an unreasonable risk to the environment. The available information indicates that HCBD is recognized to be a hazard to the environment at low levels and both voluntary and regulatory measures have been taken to control the release of HCBD to the environment.

FOR FURTHER INFORMATION CONTACT: Dougal G. Gannerman, Acting Director, Industry Assistance Office (TS-799), Office of Pesticides and Toxic Substances, Environmental Protection and Toxic Substances, Environmental Protection Agency, 401 M St. SW., Washington, DC, 20460, Toll Free: (800-424-9065), In Washington, DC: (554-1404), Outside the USA: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION:

I. Background

Section 4(e) of TSCA (Pub. L. 94-469, 90 Stat. 2003; 15 U.S.C. 2601 *et seq.)* established an interagency Testing Committee (ITC) to recommend a list of chemicals for EPA to consider for promulagation of testing rules under section 4(a) of the Act. The ITC may designate substances on the list for priority consideration by EPA. TSCA requires EPA to respond to these designations by initiating rulemaking under section 4(a) or by publishing reasons in the **Federal Register** for not initiating rulemaking.

The ITC designated hexachloro-1,3-butadiene (HCBD) for priority consideration in its First Report, published in the **Federal Register** of October 12, 1977 (42 FR 55057), recommending that it be tested for the following environmental effects: aquatic fate, effects on aquatic organisms (invertebrates, fish, higher vertebrates, plants), and uptake by terrestrial plants and/or foraging species.

The ITC's recommendations were based on evidence of widespread distribution of HCBD in the aquatic environment, report of bioaccumulation in fish and other aquatic organisms, and the appearance of HCBD in some European agricultural products.

This notice provides EPA's response to the ITC's designation of HCBD for testing.

I. Decision Not to Initiate Rulemaking

EPA has decided not to initiate rulemaking to requre testing of HCBD under section 4 of TSCA because EPA does not believe that there is a sufficient basis to find that the current manufacture, distribution in commerce, processing, use of disposal of HCBD may present an unreasonable risk to the environment. HCBD appears to be widely recognized as a hazardous substance and both voluntary and regulatory measures have been taken to control the release of HCBD to the environment. Development of further environmental effects data would not be expected to play a significant role in further regulatory efforts.

The available information indicates that HCBD is recognized to be a hazard to the environment at low levels. Some of this information has become available since the ITC made its recommendation. HCBD has been characterized as very persistent in the aquatic environment. The logarithm of the octanol/water partition coefficient for HCBD has been estimated to be 4.78 indicating that HCBD is preferentially bound to organic matter (Ref. 1). Studies have demonstrated that HCBD preferentially binds to soil and sediments but that it also can be released from sediments back into the water column (Ref. 10). HCBD has been reported to have moved through soil into ground water from a waste disposal site (Ref. 19) and has been reported as ubiquitous at low levels (ug/L range) in surface waters in the U.S. (Ref. 18). HCBD has been shown to bioaccumulate in a wide range of aquatic organisms to 2-3 orders of magnitude over water concentrations (Refs. 7, 10, 12, 15). Several studies indicate that HCBD does not biomagnify along food chains (Refs. 7, 10, 15).

Studies on the effects of HCBD show that fish and aquatic invertebrates demonstrate acute effects at concentrations (LC_{50}s) between 100 and 1,000 ug/L of HCBD (Refs. 10, 11, 12, 21). A study of chronic effects resulted in an estimated maximum acceptable toxicant concentration (MATC) level of 9.3 ug/L for an embryo-larval study of the flathead minnow, with an acute-chronic ratio of 11 (Ref. 20). Exposure to 3.7 ug/L for up to 10 days has produced evidence of hepatopancreatic damage in crayfish (Ref. 10). Marine crustaceans appear more sensitive with acute static tests showing lethal concentration (LC_{50}) values as low as 59 and 32 ug/L for mysid and grass shrimp (Ref. 21).

In recognition of the hazard HCBD poses to the environment, both voluntary and regulatory measures have been taken to control the release of HCBD to the environment. There are currently two sources of HCBD in the U.S.: (1) Imports and (2) HCBD-containing hex-wastes resulting from the production of chlorinated hydrocarbons. In 1981, 145,000 pounds of HCBD were imported into the U.S. (Ref. 8). The major domestic use of imported HCBD is as a chemical intermediate in the manufacture of rubber compounds (Refs. 8 and 24). Small quantities also are apparently used as a laboratory reagent (Ref. 17). Confidential business information received by the Agency, from industry demonstrates that very little HCBD is released to the environment through these uses (Ref. 13). Previously, HCBD was used as a solvent for the recovery of chlorine-containing gas in chlorine plants. More recent information indicates that HCBD is no longer being used in this process (Refs. 2, 4, 14, 23).

The predominant source of HCBD in the U.S. (approximately 99.5 percent of the annual volume of 28 million pounds) is inadvertent production as a waste by-product from the production of certain chlorinated hydrocarbons (Refs. 2, 3, 6, 9, 14, 16, 23). The waste streams, known as "hex-wastes", typically contain 33-80 percent HCBD. The HCBD is not recovered from the hex-wastes, but is disposed of by various methods. Over the last 10 years, disposal practices for hex-wastes have shifted from landfill operations to incineration. In 1982, manufacturers reported that of the approximately 27 million pounds of HCBD generated annually as hex-wastes, approximately 68 percent is now

disposed of by incineration, 32 percent by deepwell injection and less than 0.2 percent by hazardous waste landfill operations (Refs. 2, 3, 6, 9, 14, 16, 23). The incinerators used for this purpose reportedly achieve greater than 99.99 percent destruction efficiency (Refs. 3, 6, 14, 23). Monitoring data from 1982 indicate HCBD levels released were below a detection level of 10 ppb in incinerator and process water effluents and in incinerator air emissions (Ref. 14).

On the basis of the above information, it is estimated that of the approximately 19 million pounds of HCBD incinerated per year, less than 1,900 pounds would be released to the environment. Exposure modelling by EPA produced worst case water concentration estimates of less than 0.1 part per trillion (ppt) HCBD in shallow ponds adjacent to incinerators (Ref. 22). EPA believes that HCBD concentrations in water bodies farther away from incinerator sources would be much lower. Even taking into consideration the persistence of HCBD, it is not expected that at this release rate environmental levels would reach significantly high levels.

Underground injection is subject to permits issued under an Underground Injection Control (UIC) program approved or promulgated under the Safe Drinking Water Act (Pub. L. 95–523, as amended) according to regulations contained in 40 CFR Parts 122, 123, 124, and 146. Underground injection under these regulations is designed to avoid release to the environment. Some hex-wastes also contain polychlorinated biphenyls (PCBs) at levels exceeding 50 ppm (Refs. 2, 3, 6, 14, 23) and thus must be handled according to the regulations governing PCBs under TSCA, 40 CFR Part 761. These regulations include disposal in EPA-approved incinerators (99.9999 percent destruction efficiency), secured landfills, or high-efficiency boilers.

Finally, regulatory action under the Resource Conservation and Recovery Act (RCRA) (Pub. L. 94–580, as amended) is being directed toward the proper disposal of HCBD. The generation, treatment, storage, and disposal of HCBD-containing wastes are all subject to RCRA regulations. HCBD and hex-waste streams are listed as hazardous wastes under RCRA, 40 CFR Part 261. Although data gaps do exist for HCBD (e.g., rate of anaerobic degradation, chronic toxicity to marine invertebrates and benthic organisms, effects on aquatic plants), the available environmental effects data, showing HCBD is toxic at low levels, combined with human health data, showing HCBD is carcinogenic, already appear to be adequate to support regulatory controls sufficient to protect from potential unreasonable environmental risk from this chemical. Therefore, EPA believes that data from further environmental effects testing would be unlikely to have regulatory significance to further RCRA control efforts.

HCBD is also present as an intermediate in the production of chlorofluorocarbons. However, the HCBD is generated and entirely consumed within the closed manufacturing process. The manufacturer estimates that a total of less than 70 pounds of HCBD per year are released into the environment from storage tanks, equipment cleaning, sampling, etc. (Ref. 5).

It is anticipated that only very small quantities of HCBD will be released to the environment in light of the current importation volume and uses of HCBD, the handling and disposal practices for HCBD-containing hex-wastes, and the voluntary and regulatory actions taken to limit HCBD releases. Although biological activity has been observed for HCBD at low (ppb) levels, considering current control measures for this chemical and the resultant low release levels, the Agency believes there is not a strong basis for concluding that HCBD may present an unreasonable risk at the levels expected in the environment. EPA, therefore, believes that further environmental effects testing of HCBD is not warranted at this time.

If monitoring data or other data indicate an increase in release or exposure to HCBD or if a lack of data proves to be a barrier to further regulation, this decision not to require testing will be reconsidered at that time.

III. References

(1) Bannerjee, S., Yalkowsky, S. H., and Valvani, S. C., "Water Solubility and Octanol/Water Partition Coefficients of Organics. Limitations of the Solubility-Partition Coefficient Correlation." Environ. Sci. Technol. 14(10):1227–1229, 1980.

(2) Diamond Shamrock, May 11 Letter to S. Newburg-Rinn (EPA), 1982.

(3) Dow Chemical Company, April 20 Letter to S. Newburg-Rinn (EPA), 1982.

(4) Dow Chemical Company, April 27 Letter to S. Newburg-Rinn (EPA), 1982.

(5) E. I. du Pont De Nemours & Company, May 21 Letter to S. Newburg-Rinn (EPA), 1982.

(6) Ethyl Corporation, May 10 Letter to S. Newburg-Rinn (EPA), 1982.

(7) Goldbackh R. A. van Genderen, H., and Leeuwangh, P., "Hexachlorobutadiene Residues in Aquatic Fauna from Surface Water Fed by the River Rhine." Sci. Total Environ. 6(1):31–40, 1976.

(8) Huels Corporation, April 22 Letter to N. Merrifield (EPA), 1982.

(9) LCP Chemicals—West Virginia, Inc., April 27 Letter to S. Newburg-Rinn (EPA), 1982.

(10) Laseter, J. L., Bartell, C. L., Laska, A. L., Holmquist, D. G., Condie, D. B., Brown, J. W., Evans, T. L., "An Ecological Study of Hexachlorobutadiene (HCBD)." U.S. Environmental Protection Agency, EPA 560/6–76–010, 1976.

(11) Laska, A. L., Bartell, C. K., Condie, D. B., Brown, J. W., Evans, R. L., Laseter, J. L., "Acute and Chronic Effects of Hexachlorobenzene and Hexachlorobutadiene in Red Swamp Crayfish (*Procambarus clarki*) and Selected Fish Species." Toxicol. Appl. Pharmacol. 43:1–12, 1978.

(12) Leeuwangh, P., Bult, H., Schneiders, L., "Toxicity of Hexachlorobutadiene in Aquatic Organisms." In: Sublethal Effects of Toxic Chemicals on Aquatic Animals, Proc. Swedish-Netherlands Symposium, September 2–5, Elsevier Sci. Pub. Co., New York, 1975.

(13) Mallinckrodt Corporation, May 6 Letter to S. Newburg-Rinn (EPA), 1982. Submitted as Confidential Business Information.

(14) PPG Industries, Inc., May 19 Letter to S. Newburg-Rinn (EPA), 1982.

(15) Pearson, C. R., McConnell, G., "Chlorinated C_1 and C_2 Hydrocarbons in the Marine Environment." Proc. R. Soc. Lond. B. 189:305–332, 1975.

(16) Stauffer Chemical Co., September 2 Letter to S. Newburg-Rinn (EPA), 1982. Submitted as Confidential Business Information.

(17) U.S. Environmental Protection Agency, April 20, Personal communication between N. Merrifield (EPA) and W. Hagen (Davos Chemical Co.), 1982.

(18) U.S. Environmental Protection Agency, "STORET Data for Water, Fish, and Sediment." Washington, DC, 1980.

(19) U.S. Environmental Protection Agency, Unpublished Hazardous Waste Incidents, Washington, DC, 1978.

(20) U.S. Environmental Protection Agency, Unpublished Laboratory Data, Environmental Research Laboratory—Duluth, Minnesota, 1980.

(21) U.S. Environmental Protection Agency, Unpublished Laboratory Data, Environmental Research Laboratory—Gulf Breeze, Florida, 1980.

(22) U.S. Environmental Protection Agency, Unpublished ToxScreen Data on HCBD, Washington, DC, 1982.

(23) Vulcan Chemicals Co., May 6 Letter to S. Newburg-Rinn (EPA), 1982.

(24) Mallinckrodt, Inc., December 22 Letter to MATHTECH, 1980.

IV. Public Record

EPA has established a pubic record for this testing decision (docket number OPTS–42020) which is available for inspection in the OPTS Reading Room from 8:00 a.m. to 4:00 p.m. on working days in Rm. E–107, 401 M St. SW., Washington, D.C. 20460. This record includes basic information considered by the Agency in developing this decision such as:

(1) Federal Register notice containing the designation of HCBD to the Priority List.

(2) Public comments on the ITC report.

(3) Communications (public, intra-agency, and interagency) consisting of memoranda and letters, contact reports of telephone conversations, and meetings.

(4) Published and unpublished data.

The Agency will supplement the record with additional relevant informaiton as it is received.

(Sec. 4, 90 Stat. 2003; (15 U.S.C. 2061))

Dated: December 20, 1982.

Anne M. Gorsuch,

Administrator.

[FR Doc. 82-35273 Filed 12-23-82; 4:12 pm]

BILLING CODE 6560-50-M

[OPTS-42014; TSH-FRL 2234-4]

Pyridine; Response to the Interagency Testing Committee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice is EPA's response to the Interagency Testing Committee (ITC) designation of pyridine for consideration for health and environmental effects testing under section 4(a) of the Toxic Substances Control Act (TSCA). EPA has decided not to initiate rulemaking to require testing of pyridine under section 4(a) of TSCA for carcinogenicity, chronic effects, or environmental effects. EPA has concluded that sufficient data have been or are being developed on pyridine for carcinogenicity and chronic effects by the National Toxicology Program. EPA is not initiating rulemaking to require testing of pyridine for environmental effects because the Agency has found no evidence of substantial environmental release of pyridine and, because pyridine is not likely to persist or bioaccumulate, no reason to believe pyridine may present an unreasonable risk to the environment. EPA has made tentative decisions not to initiate rulemaking to require testing of pyridine for mutagenicity, teratogenicity, or neurotoxicity at this time. Considering the numbers of people exposed, the probable levels of exposure, and the nature of existing data, the Agency has concluded that a finding that pyridine may present an unreasonable risk for these effects is not warranted. Because of the difficult nature of the issues involved, EPA is soliciting comment and submission of any additional data relevant to the Agency's tentative decisions.

DATES: Submit written comments on or before February 14, 1983.

ADDRESS: Written comments should bear the document control number OPTS-42014 and should be submitted in tripicate to: Document Control Officer, Management Support Division (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-401, 401 M St. SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Douglas G. Bannerman, Acting Director, Industry Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-511, 401 M St. SW., Washington, DC 20460, Toll Free: (800-424-9065), in Washington, DC (554-1404), outside the USA: (Operator 202-554-1404).

SUPPLEMENTARY INFORMATION:

I. Background

Section 4(e) of TSCA [Pub. L. 94-469, 90 Stat. 2003; 15 U.S.C. 2601 *et seq.*] established an Interagency Testing Committee (ITC) to recommend a list of chemicals for EPA to consider for promulgation of testing rules under section 4(a) of the Act. The ITC designated pyridine for testing in its Second Report, published in the Federal Register of April 19, 1978 (43 FR 16684), and recommended that pyridine be evaluated for: (1) Carcinogenicity, (2) mutagenicity, (3) teratogenicity, (4) other chronic effects on the liver, kidney and central nervous system, (5) environmental effects, and (6) epidemiology.

The basis for the ITC recommendations was that: (1) Sixty million pounds of pyridine were reported to be produced in 1976, (2) the National Institute for Occupational Safety and Health (NIOSH) estimated that 249,000 persons might be exposed to pyridine, and (3) there was a paucity of data and a lack of long-term tests on the effects of pyridine on human health and the environment.

This notice is EPA's response to the ITC designation of pyridine for testing.

II. Decisions Not To Initiate Rulemaking

The Agency is not initiating rulemaking to require testing of pyridine for carcinogenicity and for chronic effects on the liver and kidney because a subchronic test and an oncogenicity bioassay using rats and mice have been conducted by the National Toxicology Program (NTP). The animals from the bioassay were sacrificed in January, 1982, and the results will be available for review in 1983. It is expected that these tests will prove adequate to determine pyridine's oncogenicity and its chronic effects on the liver and kidney.

EPA is not initiating rulemaking to require testing of pyridine for chronic environmental effects because the Agency has found no evidence of substantial environmental release of pyridine and no reason to believe that pyridine may present an unreasonable risk to the environment. The present pattern of use of pyridine appears to preclude substantial release of pyridine. Of the less than 26 million pounds (12 million kilograms) of pyridine produced in the U.S. each year, approximately half is exported (Ref. 34). Up to 80 percent of the remaining pyridine is converted into other chemicals, i.e., agricultural chemicals, such as herbicides and insecticides, pharmaceuticals, and chemicals such as piperidine for use in the rubber industry (Ref. 34).

Most of the residual 20 percent of the pyridine used in the U.S. is used as a reaction solvent in chemical manufacturing or as a component of the Karl Fischer reagent in laboratories. Because of the high cost of pyridine, the chemical is recovered and recycled when used as a chemical solvent. In the Karl Fischer reaction, the pyridine is fully spent in the reaction. The pyridine industry reported that in 1977, 660,000 pounds of pyridine were disposed of, half of it via publicly owned treatment works (Ref. 34). Because this figure does not distinguish between input into treatment systems and ultimate environmental release, ultimate environmental release of pyridine is likely to be lower than this figure indicates. There are limited data on pyridine being present in industrial effluents (Ref. 38), in aqueous effluents from coke-oven quenching operations at 11 ppm (Ref. 10) and from coal gasification operations in the range of 0.1 to 0.2 ppm (Ref. 33). No reports were found in the EPA STORET data base on the presence of pyridine in ambient waters.

In addition, pyridine is not likely to be persistent in the environment because it has been shown to be readily metabolized by several microorganisms (Refs. 8, 12, 16, 17, 39 through 42, and 45). Based upon its physicochemical properties, pyridine is also not expected to bioaccumulate (Ref. 25). The octanol/water partition coefficient for pyridine is quite low, i.e., log P=0.65 (Ref. 25). Because pyridine is not likely to persist in the environment and is not likely to bioaccumulate, EPA finds no basis to believe that there is a potential for long-term exposure to pyridine in the

environment and thus no reason to believe that pyridine may present an unreasonable risk of chronic toxicity to the environment. Acute toxic data noted in aquatic and terrestrial organisms reveals that, overall, pyridine is toxic only at high levels of exposure and such levels are not likely to occur in the environment (Refs. 2 through 7, 9, 20, 24, 27, and 44).

Finally, EPA is not initiating rulemaking to require an epidemiological study of pyridine because a suitable cohort has not been identified with a sufficiently large number of workers who are routinely exposed to pyridine to make such a study meaningful.

III. Tentative Decisions Not to Initiate Rulemaking

EPA has tentatively decided not to initiate rulemaking to require mutagenicity, teratogenicity, or neurotoxicity testing of pyridine because the Agency believes that human exposure to pyridine is not substantial or significant and because there is insufficient basis to find that pyridine may present an unreasonable risk for these effects. With respect to mutagenicity, some mutagenicity data have become available since the ITC's designation of pyridine. These data, although incomplete, do not indicate that pyridine is likely to be mutagenic.

EPA's decisions not to initiate rulemaking to require testing to determine pyridine's potential to cause teratogenic effects and effects on the central nervous system have required substantially more difficult judgments than the Agency's decisions with respect to the other effects for which the ITC recommended testing. Existing data indicate that pyridine might have the potential to cause teratogenic or neurotoxic effects and the recently completed chronic testing by the NTP is not expected to resolve this uncertainty. Nevertheless, after carefully considering the existing evidence for such effects and the available evidence concerning human exposure to pyridine, the Agency believes that it cannot reasonably make the findings necessary to require the testing of pyridine under section 4(a) of TSCA. The information considered by EPA and the basis of its judgment not to initiate rulemaking are explained more fully below.

A. Information on Exposure

Various factors lead EPA to believe that human exposure to pyridine is much less than the ITC had reported, and is not substantial or significant. As already reported above, of the 28 million pounds of pyridine produced per year, approximately half is exported, up to 80 percent of the remaining pyridine is converted into other chemicals, and most of the residual 20 percent is used as a reaction solvent in chemical manufacturing or as a component of the Karl Fischer reagent in laboratories. In the past, pyridine was used in the textile industry. This use has been phased out due to the high cost and unpleasant odor of pyridine, however. Pyridine is also created as a by-product during coke-oven (Ref. 30) and coal gasification operations (Ref. 33).

Human exposure to pyridine appears to be confined largely to the laboratory, coke-oven, and manufacturing and processing environments. Based on actual observed use of pyridine in its 1972 to 1974 survey, NIOSH observed 903 persons exposed to pyridine (Ref. 29) and estimated that 29,285±12,000 persons could be exposed to pyridine (Ref. 28). This survey did not consider exposure from coke-ovens. The occupational categories listed for 88.7 percent of the estimated workers were laboratories (agricultural, biological, and chemical) (Ref. 28).

A collective response from the manufacturers of pyridine accurately herein referred to as the Pyridine Task Force (PTF), estimated that 30,000 laboratory workers could be exposed to pyridine annually, which is roughly consistent with the NIOSH estimate (Ref. 34). However, while laboratory use of Karl Fischer reagent appears to be the most dispersive of the uses of pyridine, there is reason to believe that actual exposure is quite low (Refs. 35 and 36). Both pyridine's noxious odor and the nature of its use require that the chemical be handled in closed systems and ventilated hoods. The Karl Fischer reagent, which is used for analytical moisture determinations, is prepackaged and automatically dispensed in a closed, anhydrous system. Because leaks in the system sufficient to lead to human exposure would be sufficient to invalidate the testing due to moisture contamination, there is reason to believe that precautions are taken to avoid such leaks (Refs. 35 and 36). The pyridine is fully converted in the reaction to the hydroiodide salt of pyridine which does not volatilize. The spent solution automatically empties into a waste collection bottle in a ventilated hood. EPA believes therefore that exposures to pyridine through this use, if they occur, will be infrequent and at quite low levels. In recent monitoring of laboratory technicians working with pyridine in laboratories of one of the pyridine manufacturers, the highest concentration measured over a 6-hour period was 0.09 ppm time weighted average (TWA) (Ref. 37). Because pyridine usage in these quality control and research and development laboratories is believed to be far heavier than in any other type of laboratory, EPA believes exposure levels in other laboratories are generally lower.

With regard to possible exposure as a result of coke-oven emissions, a study conducted for OSHA estimated that 30,000 persons may be exposed annually (Ref. 14). Because other components of coke-oven emissions were determined to pose a significant risk of cancer to coke-oven workers, OSHA has set a Permissible Exposure Limit (PEL) of 150 $\mu g/m^3$ for these emissions, measured as the benzene-soluble fraction of total particulate matter (BSFTPM), averaged over an 8-hour period (Ref. 30). The PTF calculated that 33 pounds of BSFTPM occur in 10,000 cubic feet of gas released from coke ovens, and that 0.1 pound of pyridine could be present in the same volume of gas (Ref. 34). Based on this ratio of 330 BSFTPM to 1 of pyridine, a worker exposed to the PEL of 150 μg BSFTPM/m^3 would be exposed to approximately 0.5 μg pyridine/m^3 (Ref. 34).

On the basis of a questionnaire sent by the PTF to the major manufacturers and users of pyridine, the PTF reported that 813 persons were occupationally exposed to pyridine during its manufacture and first tier use (presumably as synthetic intermediate) (Ref. 34). Of these, 557 persons were reported to be exposed to pyridine for no longer than a period of 8 hours during a typical work week (Ref. 34). The current OSHA PEL for pyridine is 5 ppm (15mg/m^3) averaged over an 8 hour work shift (8-hr TWA) (Ref. 31). The PTF reported that 0.008–1.0 ppm pyridine (8-hr TWA) was present in the workplaces they monitored (Ref. 34).

In addition, pyridine possesses a penetrating noxious odor with a human odor threshold as low as 0.12 ppm (Ref. 35). Although olfactory fatigue does occur following human exposure to pyridine, a definite taste remains (Ref. 31). For this reason, OSHA lists pyridine as having good warning properties (Ref. 31). In spite of its long history of use, it has been cited that pyridine has a remarkable accident-free history (Ref. 32).

B. Information on Effects

1. *Teratogenicity.* On the basis of three teratogenicity studies, one in the chick embryo and two in the African Clawed Frog (*Xenopus laevis*), it appears possible that pyridine may possess teratogenic activity. The effects noted in both the chick embryo and the

African Clawed Frog studies occurred at quite high levels of exposure (Refs. 13, 15, and 23). No mammalian studies are available.

In the chick embryo study, muscular hypoplasia was observed when pyridine was injected at 10 mg/egg and 20 mg/egg but not at 5 mg/egg. Abnormal beaks and short and twisted necks were also observed among some embryos at the 20 mg/egg dose level. At the highest level tested (40 mg pyridine/egg) only 1 of the 85 embryos escaped early death. Muscular hypoplasia and a shortened upper beak were observed in the one surviving embryo (Ref. 23).

The first study in the African Clawed Frog exposed embryos at the early cleavage to mid-blastula stage of development to pyridine. Abnormalities (inability of embryos to develop into free swimming larvae) were produced in six percent of embryos after 48 hours of exposure to pyridine at 10 mg/L and in 33 percent of embryos after exposure at 50 mg/L (Ref. 13).

In the second study in the African Clawed Frog, the 96-hour EC_{50} value for pyridine to embryos in the mid-blastula stage development was 1200 mg/L. Acridine, quinoline, and aniline yielded 96 hour EC_{50} values of 2.4, 29, and 370 mg/L respectively. Similar abnormalities were noted for the four chemicals tested. They consisted of exogastrulation, edma, and formation of blisters on both dorsal and ventral surfaces, particularly in the head and anterior abdominal regions. The 96-hour LC_{50} values for acridine, quinoline, aniline, and pyridine to free-swimming larvae were 4.5, 95, 150, and 1,090 mg/L respectively. The authors of the study concluded that the data suggest that acridine, aniline, and quinoline have toxic and teratogenic effects at sufficiently low concentrations as to make them potential environmental hazards. No such conclusion was made for pyridine (Ref. 15).

The significance of these results and how they relate to humans are uncertain. The chick embryo test uses an a typical route of exposure while in the African Clawed Frog study high levels of exposure were needed to obtain effects that were statistically valid. EPA believes the data raise the level of concern as to the teratogenic of pyridine. However, the Agency also believes that the data, at best, are only weakly suggestive of teratogenic activity.

2. *Neurotoxicity.* Pyridine has been characterized as a general depressant similar to hypnosedatives such as phenobarbital (Ref. 26). Studies have indicated possible central nervous system effects (Refs. 21 and 26). Short of lethal doses, in no instance was permanency of effects noted. Human case histories of exposure to pyridine suggest possible central nervous system impairment from chronic exposures to the chemical (Ref. 43). With the exception of one case of acute exposure (Ref. 22), the case histories reported could be traced to chronic exposure to pyridine at quite high concentrations due to the lack of occupational hygiene and safeguards (Ref. 43). However, because of the high levels of exposure at which effects were elicited, the significance of these results is uncertain. The Agency has no evidence that exposure to pyridine currently is occurring at the levels at which central nervous system effects were reported, or that effects are likely to be seen at lower levels.

3. *Mutagenicity.* Based on data which have become available since the ITC made its recommendation, the Agency believes that the available data indicate that pyridine is likely to be nonmutagenic and thus that there is insufficient basis for a finding that pyridine may present an unreasonable risk from this effect. Pyridine was shown to be negative in the Ames Test with and without microsomal activation (Refs. 11 and 18). While pyridine induced a small but significant increase in sister chromatid exchange in cultured cells of the Chinese Hamster, a dose effect was not shown (Ref. 1). Chromosomal aberrations in the Chinese Hamster cells did not occur even when doses of pyridine were elevated to near lethal concentrations, where no cell mitosis was observed (Ref. 19).

C. Discussion of Decisions and Request for Comment

Under section 4(a) of TSCA, EPA can require testing of a chemical substance or mixture if, along with other findings, the Agency finds that (a) the manufacture, distribution in commerce, processing, use, or disposal of the substance or mixture may present an unreasonable risk of injury to health or the environment (section 4(a)(1)(A)) or (b) the substance or mixture is or will be produced in substantial quantities and (I) it enters or reasonably may be anticipated to enter the environment in substantial quantities or (II) there is or may be significant or substantial human exposure to the substance or mixture (section 4(a)(1)(B)).

Although the current production volume of pyridine may be regarded as substantial, EPA believes that the available information on its expected release to the environment and human exposure do not provide a basis for requiring testing under section 4(a)(1)(B). Pyridine should not be considered to be released to the environment in substantial quantities because it is rapidly biodegraded by soil and water microorganisms, and half of the estimated annual release of approximately 660,000 pounds is to publically owned treatment works where its degradation by microorganisms is expected (Refs. 8, 12, 16, 17, 34, 39 through 42, and 45).

While the legislative history of section 4 of TSCA indicates the types of factors EPA should take into account in making a finding of substantial human exposure (including number of persons, duration, and level of exposure), neither it nor the statute gives explicit guidance as to when exposure should be considered "substantial." There is also no discussion of the factors for determining that exposures are "significant." EPA has not proposed any quantitative criteria for making those determinations, but has instead approached the issue on a case-by-case basis.

With respect to pyridine, EPA has concluded that although coke-oven workers and certain laboratory personnel are exposed to pyridine, the levels and duration are too low to support a finding of substantial human exposure. Current data cannot provide absolute assurance that pyridine or another chemical could not present a risk at these exposure levels, but EPA believes that exposure of this number of persons at these levels is not so great as to raise the inherent concern over the possible effects of a chemical that section 4(a)(1)(B) was intended to address. Such exposure levels could be considered substantial if a larger number of persons were exposed, however. Data available to EPA indicate that smaller numbers of workers in manufacture and first tier use of pyridine may be exposed to higher levels of pyridine (Ref. 34). However, EPA does not believe that a substantial exposure finding is warranted due to the low number of persons involved. Finally, EPA believes that the currently available data provide no basis to expect that any of these exposures are likely to be great enough to be of clear biological significance, especially given the strong odor of pyridine which can be expected to strongly limit the levels and durations of such exposures.

Because EPA concluded that human exposure to pyridine is not sufficient to be judged substantial or significant in the context of section 4(a)(1)(B), the Agency evaluated the question of whether testing of pyridine should be required under the criteria of section

4(a)(1)(A). In order to make a finding that the chemical "may present an unreasonable risk to human health," the Agency must possess some evidence which suggests that the chemical has the potential to induce a health effect. In addition, the Agency must have a basis for believing that there is human exposure to the substance at a level which might pose a risk. Although the data discussed in unit III.B above indicate that pyridine may have a potential to cause teratogenic, neurotoxic, and mutagenic effects, EPA believes that a finding that pyridine may present an unreasonable risk from these effects is not justified considering the evidently low exposure to this substance and the lack of strongly suggestive data.

EPA has not to date attempted to articulate generally applicable criteria for the degree of likelihood that a chemical will cause an effect at anticipated human exposure levels, or the minimum levels of exposure, necessary to support a finding that a chemical may present an unreasonable risk. However, the Agency has generally recognized that there is an inverse relationship between the degree of concern about the potential hazard of a chemical (both its nature and likelihood) and the degree of exposure which would warrant testing. That is, the more severe and likely the potential health effect, the less exposure is necessary to conclude that there is sufficient concern to justify testing, and vice versa.

In this case, the data suggesting that pyridine may be teratogenic are only weakly suggestive. Available data indicate that neurotoxicity in humans follows only prolonged exposure to the chemical at high levels (Ref. 43). Data on mutagenicity indicate that pyridine is likely to be nonmutagenic (Refs. 1, 11, 18, and 19). In addition, the available information indicates that the limited uses and strong, disagreeable odor of pyridine can be expected to restrict human exposure to the substance to low concentrations and infrequent exposures (Refs. 31, 34, 35, 36, and 37). The Agency cannot conclude on the basis of this evidence that the chemical presents no risk to humans from these effects; however, it is the Agency's judgment that a significant risk of such effects is unlikely. Therefore, the Agency does not believe that a finding that pyridine may present an unreasonable risk to humans of teratogenicity, neurotoxicity or mutagenicity should be made.

EPA's decisions not to require testing of pyridine for teratogenicity, neurotoxicity, and mutagenicity are close ones. Therefore, the Agency encourages public comment on this issue, including the submission of any data different from or in addition to those discussed in this notice. If comments indicate to the Agency that exposures occur at significantly higher levels than available evidence indicates, or that there is a significantly stronger basis for believing that pyridine may present a hazard from teratogenic, neurotoxic, or mutagenic effects at levels to which humans may be exposed, the Agency will reconsider its decisions in this matter.

IV. References

(1) Abe, S., and M. Sasaki, "Chromosome Aberrations and Sister Chromatid Exchanges in Chinese Hamster Cells Exposed to Various Chemicals," J. Natl. Cancer Inst. 58:1635–1641. 1977.

(2) Applegate, V. C., J. H. Howell, A. E. Hall Jr., "Toxicity of 4,346 Chemicals to Larval Lampreys and Fishes," Special Scientific Report-Fisheries No. 207, U.S. Fish and Wildlife Service, Department of Interior, Washington, DC, 1957.

(3) Bailey, R. W., and G. B. Russell, "Disruption of Protozoa by Indole and Related Compounds," Nature 208:1001–1002, 1965.

(4) Bringmann, G., "Determination of the Biological Harmful Effect of Water Pollutants by Means of the Retardation of Cell Proliferation of the Blue-Green Algae *Microcystis*," Gesund. Ing. 96:238–241, (In German; English translation), 1975.

(5) Bringmann, G., "Determination of the Biological Toxicity of Water Pollutants on Protozoa," Z. Wasser Abwasser Forsch. 11:210–215, (In German; English translation), 1978.

(6) Bringmann, G., and R. Kuhn, "Findings on the Damaging Action of Water Pollutants on *Daphnia magna*," Z. Wasser Abwasser Forsch. 10:161–166, (In German; English translation), 1977.

(6) Bringmann, G., and R. Kuhn, "The toxicity Threshold of Water Pollutants Against Bacteria (*Pseudomonas putida*) and Green Algae (*Scenedesmus quadricauda*) in the Cell Multiplication Inhibition Test," Z. Wasser Abwasser Forsch. 10:87–98, (In German; English translation), 1977.

(8) Buddin, W., "Partial Sterilisation of Soil by Volatile and Non-Volatile Antiseptics," J. Agric. Sci. 6:417–455, 1914.

(9) Canton, J. H., and D. M. M. Adema, "Reproducibility of Short-Term and Reproduction Toxicity Experiments with *Daphnia magna* and Comparison of the Sensitivity of *Daphnia magna* with *Daphnia pulex* and *Daphnia cucullata* in Short-Term Experiments," Hydrobiologia 59:135–140, 1978.

(10) Collins, R. V., K. W. Lee, and D. S. Lewis, "Comparision of Coal Conversion Wastewaters," Paper presented at EPA–IERL/RTP Symposium on Environmental Aspects of Fuel Conversion Technology, St. Louis, Missouri, September 15–19, 1980.

(11) Commoner, B., "Reliability of cacterial Mutagenesis Techniques to Distinguish Carcinogenic and Noncarcinogenic Chemicals," U.S. Environmental Protection Agency, Washington, DC, Publication No. EPA–600/1–78–022, 1978.

(12) Cooper, R. L., and J. R. Catchpole, "The Biological Treatment of Carbonization Effluents IV. The Nitrification of Coke-Oven Liquors and Other Trade Wastes and the Enhancement of Biological Oxidation of Resistant Organic Compounds by the Addition of Growth Factors to Activated Sludge," Water Res. 7:1137–1153, 1973.

(13) Davis, K. R., T. W. Schultz, J. N. Dumont, "Toxic and Teratogenic Effects of Selected Aromatic Amines on Embryos of the Amphibian *Xenopus laevis*," Arch. Environm. Contam. Toxicol. 10:371–391, 1981.

(14) D. B. Associates, "Inflation Impact and Analysis of Proposed Standard for Coke Oven Emissions," NTIS Publication No. PS–215–615, 1978.

(15) Dumont, J. N., T. W. Schultz, and R. D. Jones, "Toxicology and Teratogenicity of Aromatic Amines to *Xenopus laevis*," *Bull. Environ. Contam. Toxicol. 22:159–166, 1979.*

(16) Ettinger, M. B., R. J. Lishka, and R. C. Kroner, "Persistence of Pyridine Bases in Polluted Water," Ind. Eng. Chem. 46:791–793, 1954.

(17) Houghton, C., and R. B. Cain, "Microbial Metabolism of the Pyridine Ring: Formation of Pyridinediols (Dihydroxypyridines) as Intermediates in the Degradation of Pyridine Compounds by Microorganisms," Biochem. J. 130:879–893, 1972.

(18) Imperial Chemical Industries Ltd., "Ames Test; Protocol for the Assay of Solids, Liquids (and Gases) for Potential Carcinogenic Activity," Castner-Kellner Works (North), PO Box No. 9, Run corn-Cheshire WA7 4JE, United Kingdom, December 1, 1978.

(19) Ishidate, M., Jr., and S. Odashima, "Chromosome Tests with 134 Compounds on Chinese Hamster Cells in Vitro; A Screening for Chemical Carcinogens," Mutat. Res. 48:337–353, 1977.

(20) Juhnke, I., and D. Ludemann, "Results of the Investigation of 200 Compounds for Acute Fish Toxicity with the Golden Orfe Test," Z. Wasser Abwasser Forsch. 11:161–164, (In German; English translation), 1978.

(21) Kristesashvili, T. S., "The Maximum Permissible Concentration of Pyridine in the Air," Hyg. Sanit. 30(11):173–177, 1965.

(22) Kuzelova, M., K. Kubenova, and J. Kovarik, "An Unusual Picture of Acute Pyridine Poisoning," Pracov. Lek. 27(6):207–209, (In Russian; English translation), 1975.

(23) Landauer, W., and N. Salam, "The Experimental Production in Chicken Embryos of Muscular Hypoplasia and Associated Defects of Beak and Cervical Vertebrae," Acta Embryol, Exper. 1:51–66, 1974.

(24) Lehman, R. S., "Laboratory Experiments with Various Fumigants against the Wireworm *Limonius (Pheletes) californicus*," Mann. J. Econ. Entom. 26:1042–1051, 1933.

(25) Leo, A., C. Hansch, and D. Elkins, "Partition Coefficients and Their Uses," Chem. Rev. 71:525–616, 1971.

(26) Leslie, G. B., T. H. P. Hanahoe, J. D. Ireson, and G. Sturman, "Some

Pharmacological Properties of Pyridine," Pharmacol. Res. Comm. 5:341–365, 1973.

(27) McLeese, D. W., V. Zitko, and M. R. Peterson, "Structure-Lethality Relationships for Phenols, Anilines, and Other Aromatic Compounds in Shrimp and Clams." Chemosphere 8:53–57, 1979.

(28) National Institute for Occupational Safety and Health (NIOSH), Computer printout (CISCIS): "Estimates of Number of Workers Exposed to Pyridine in Major Industrial Categories Based on the National Occupational Hazard Survey," NIOSH, Cincinnati, Ohio, September 10, 1980.

(29) National Institute for Occupational Safety and Health (NIOSH), Computer printout (CISCIS): "National Occupational Hazard Survey Data for Pyridine," NIOSH, Cincinnati, Ohio, Retrieved April 9, 1982.

(30) Occupational Safety and Health Administration (OSHA), "Exposures to Coke and Emissions: Occupational Safety and Health Standards," as published in the Federal Register of October 22, 1976 (41 FR 46742).

(31) Occupational Safety and Health Administration (OSHA), "Occupational Health Guideline for Pyridine," September, 1978.

(32) "Patty's Industrial Hygiene and Toxicology," Vol. II, eds. J. D. Clayton and F. E. Clayton, Wiley Interscience Publications, New York, 1981.

(33) Pellizzari, E. D., "Identification of Components of Energy-Related Wastes and Effluents," Research Triangle Institute, U.S. Environmental Protection Agency, Research Triangle Park, NC, Publication No. EPA 600/7–78–004, 1978.

(34) Pyridine Task Force, Comments in Response to the Interagency Testing Committee Designation of Pyridine to the Priority List, 1978.

(35) Pyridine Task Force, October 2 Letter to S. Newburg-Rinn (EPA), 1981.

(36) Pyridine Task Force, November 30 Letter to S. Newburg-Rinn (EPA), 1981.

(37) Pyridine Task Force, August 18 Letter to S. Newburg-Rinn (EPA), 1982.

(38) Shackelford, W. M., and L. H. Keith, "Frequency of Organic Compounds Detected in U.S. Water," U.S. Environmental Protection Agency, Athens, GA, Publication No. EPA 600/4–76–062, 1976.

(39) Shukla, O. P., and S. M. Kaul, "A Constitutive Pyridine Degrading System in *Corynebacterium* sp.," Indian J. Biochem. Biophys. 11:201–207, 1974.

(40) Shukla, O. P., and S. M. Kaul, "Succinate Semialdehyde, An Intermediate in the Degradation of Pyridine by *Brevibacterium* sp.," Indian J. Biochem. Biophys. 12:326–330, 1975.

(41) Spandowska, S., B. Lubienska, and S. Kolaczowski, "The Influence of Certain Toxic Substances Present in Municipal Waste Waters on the Bacteria *E. coli* and *Pseudomonas fluorescens*," Hydrologie 35:278–284, 1973.

(42) Stafford, D. A., and A. G. Calley, "Properties of a Pyridine-Degrading Organism", "J. Genet. Microbiol. 63:XIV, 1970.

(43) Teisinger, J., "Lehke' Chronicke' Otravy Pyridinem," Casopis Lekaro Ceskych. 86:1185–1187, (In Czechoslovankian; English translation; abstract in J. Ind. Hyg. Toxicol. 30(3):58), 1948.

(44) Wallen, I. E., W. C. Greer, and R. Lasater, "Toxicity to *Gambusia Affinis* of Certain Pure Chemicals in Turbid Waters," Sew. Ind. Wastes 29:695–711, 1957.

(45) Watson, K. G., and R. B. Cain, "Micobial Metabolism of the Pyridine Ring: Metabolic Pathways of Pyridine Biodegradation by Soil Bacteria," Biochem. J. 146:154–172, 1975.

V. Public Record

EPA has established a public record for this testing decision on pyridine (docket number OPTS–42014) which is available for inspection in the OPTS Reading Room from 8:00 a.m. to 4:00 p.m. on working days in Rm. E–107, 401 M St. SW., Washington, DC 20460. This record includes basic information considered by the agency in developing this decision, such as:

(1) Federal Register notice containing the ITC Report designating pyridine to the Priority List.

(2) Public comments on the ITC Report.

(3) Communications (public, intraagency, and interagency) consisting of memoranda and letters, contact reports of telephone conversations, and meetings.

(4) Published and unpublished data.

The Agency will supplement the record with additional relevant information as it is received.

[Sec. 4, 90 Stat. 2003; (15 U.S.C. 2061)]

Dated December 20, 1982.

Anne M. Gorsuch,

Administrator.

[FR Doc. 82–35272 Filed 12–23–82; 4:17 p.m.]

BILLING CODE 6560–50–M

[OPP–180616; PH–FRL 2273–1]

Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted specific exemptions for the control of various pests in the States listed below. Also listed below are three crisis exemptions initiated by certain States.

DATES: See each specific and crisis exemption for its effective dates.

FOR FURTHER INFORMATION CONTACT: See each specific and crisis exemption for the name of the contact person. The following information applies to all contact people: Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 716, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–1192).

SUPPLEMENTARY INFORMATION: EPA has granted specific exemptions to the:

1. California Department of Food and Agriculture for the use of carbaryl on pomegranates to control filbert worms, effective from October 23, 1982 to August 30, 1983. (Jack E. Housenger)

2. California Department of Food and Agriculture for the use of fenvalerate on bell peppers to control beet armyworms, effective from October 15, 1982 to July 19, 1983. California had initiated a crisis exemption for this use. (Jack E. Housenger)

3. California Department of Food and Agriculture for the use of metalaxyl on boysenberries, olallie berries, and raspberries to control *Phytophthora* root rot, effective from October 12, 1982 to September 1, 1983. California had initiated a crisis exemption for this use. (Libby Welch)

4. California Department of Food and Agriculture for the use of methiocarb on artichokes to control snails and slugs, effective from January 1, 1983 to December 31, 1983. (Gene Asbury)

5. California Department of Food and Agriculture for the use of permethrin on mushrooms to control adult sciarid flies, effective from November 6, 1982 to October 31, 1983. (Jack E. Housenger)

6. Delaware Department of Agriculture for the use of permethrin on mushrooms to control adult sciarid flies, effective from October 23, 1982 to October 15, 1983. (Jack E. Housenger)

7. Florida Department of Agriculture and Consumer Services for the use of benomyl on potatoes to control *Sclerotinia*, effective from October 21, 1982 to October 31, 1982. EPA completed a rebuttable presumption against registration (RPAR) of this chemical; the final determination was published in the Federal Register of October 20, 1982 (47 FR 46747). (Jim Tompkins)

8. Florida Department of Agriculture and Consumer Services for the use of metolachlor on cabbage, broccoli, and collards to control chickweed, dock, pigweed, purslane, ragweed, signalgrass, and crabgrass, effective from October 21, 1982 to October 1, 1983. (Libby Welch)

9. Georgia Department of Agriculture for the use of hexakis on pecans to control mites, effective from October 15, 1982 to October 31, 1982. Georgia had initiated a crisis exemption for this use. (Libby Welch)

10. Michigan Department of Agriculture for the use of metalaxyl on potatoes to control late blight, effective from October 21, 1982 to October 31, 1982. Michigan had initiated a crisis exemption for this use. (Jim Tompkins)

11. Michigan Department of Agriculture for the use of paraquat on dry beans as a harvest aid, effective

from October 27, 1982 to October 31, 1982. Michigan had initiated a crisis exemption for this use. (Jim Tompkins)

12. Minnesota Department of Agriculture for the use of metalaxyl on sunflower seeds to control downy mildew, effective from October 23, 1982 to April 30, 1983. (Jim Tompkins)

13. New Mexico Department of Agriculture for the use of fenvalerate on lettuce to control *Heliothis* spp., effective from October 20, 1982 to June 1, 1983. New Mexico had initiated a crisis exemption for this use. (Libby Welch)

14. New York State Department of Environmental Conservation for the use of permethrin on mushrooms to control adult sciarid flies, effective from October 23, 1982 to October 15, 1983. (Jack E. Housenger)

15. North Dakota Department of Agriculture for the use of metalaxyl on potatoes to control late blight, effective from October 21, 1982 to October 31, 1982. North Dakota had initiated a crisis exemption for this use. (Jim Tompkins)

16. Oregon Department of Agriculture for the use of carbofuran on mint to control strawberry root weevils, effective from October 11, 1982 to October 30, 1982. (Jim Tompkins)

17. Oregon Department of Agriculture for the use of paraquat on peppermint to control weeds, effective from October 23, 1982 to March 31, 1983. (Jack E. Housenger)

18. Pennsylvania Department of Agriculture for the use of permethrin on mushrooms to control adult sciarid flies, effective from October 23, 1982 to October 15, 1983. (Jack E. Housenger)

19. Texas Department of Agriculture for the use of metalaxyl on sunflower seed for export to control downy mildew, effective from October 23, 1982 to October 15, 1983. (Jack E. Housenger)

20. Washington Department of Agriculture for the use of metalaxyl on potates to control late blight, effective from October 21, 1982 to October 31, 1982. Washington had initiated a crisis exemption for this use. (Jim Tompkins)

21. U.S. Department of Agriculture for the use of chlorpyrifos on ornamental sod to control imported fire ants in Alabama, Arizona, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, and Texas, effective from October 11, 1982 to December 31, 1982. (Jack E. Housenger)

Crisis exemptions were initiated by the:

1. California Department of Food and Agriculture on October 21, 1982, for the use of triadimefon on tomatoes (fresh market) to control powdery mildew. Since it was anticipated that this program would be needed for more than 15 days, California has requested a specific exemption to continue it. The need for this program is expected to last until October 21, 1983. (Jack E. Housenger)

2. California Department of Food and Agriculture on September 30, 1982, for the use of vinclozolin on grapes (wine) to control bunch rot. The need for this program ended on December 1, 1982. (Libby Welch)

3. Hawaii Department of Agriculture on October 1, 1982, for the use of thiabendazole on papayas to control post-harvest fungal diseases. Since it was anticiapted that this program would be needed for more than 15 days, Hawaii has requested a specific exemption to continue it. The need for this program is expected to last until October 1, 1983. (Gene Asbury)

(Sec. 18, as amended, 92 Stat. 819 (7 U.S.C. 136)).

Dated: December 14, 1982.

James M. Conlon, Acting Director,

Office of Pesticide Programs.

[FR Doc. 82-34805 Filed 12-28-82; 8:45 am]

BILLING CODE 6560-50-7

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-673-DR]

Arkansas; Amendment to Notice of Major-Disaster Declaration

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Arkansas (FEMA-673-DR), dated December 13, 1982, and related determinations.

DATED: December 20, 1982.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287-0501.

NOTICE: The notice of a major disaster for the State of Arkansas dated December 13, 1982, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of December 13, 1982:

For Public Assistance:

The Counties of Cleburne, Independence, Izard, Jackson, Johnson, Lawrence, Newton, Pope, Searcy, Sharp, Stone and Van Buren.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Jack W. McGraw,

Acting Associate Director, State and Local Program and Support, Federal Emergency Management Agency.

[FR Doc. 82-35285 Filed 12-28-82; 8:45 am]

BILLING CODE 6718-02-M

[FEMA-674-DR]

Illinois; Amendment To Notice of Major-Disaster Declaration

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Illinois (FEMA-674-DR), dated December 13, 1982, and related determinations.

DATED: December 20, 1982.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472 (20) 287-0501.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Illinois dated December 13, 1982, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of December 13, 1982:

The Counties of Clinton, Greene and Livingston for Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Jack W. McGraw,

Acting Associate Director, State and Local Program and Support, Federal Emergency Management Agency.

[FR Doc. 82-35284 Filed 12-28-82; 8:45 am]

BILLING CODE 6718-02-M

FEDERAL MARITIME COMMISSION

Mediterranean/U.S.A. Great Lakes Westbound Freight Conference Agreement No. 8260; Notice of Agreement Termination

The Federal Maritime Commission gives notice that it shall terminate its approval of the Mediterranean/U.S.A. Great Lakes Westbound Freight Conference Agreement, as amended, effective January 4, 1983, the effective date of the withdrawal of Yugoslav Great Lakes Lines from membership in the agreement. Yugoslav G. L. Lines' withdrawal will reduce the agreement membership to only one party, thereby

terminating the agreement as a matter of law. Section 15 of the shipping Act, 1916, only recognizes agreements between two or more persons subject to the Act.

By Order of the Federal Maritime Commission.

Dated: December 23, 1982.

Francis C. Hurney,

Secretary.

[FR Doc. 82-35178 Filed 12-28-82; 8:45 am]

BILLING CODE 6730-01-M

Agreements Filed

The Federal Maritime Commission hereby gives notice that following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10327; or may inspect the agreements a the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Franciso, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D. C. 20573, within 20 days after the date of the **Federal Register** in which this notice appears. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No.: T-4066-1

Filing party: Mr. John E. Nolan, Assistant Port Attorney, Port of Oakland, 66 Jack London Square, P.O. Box 2064, Oakland, California 94604.

SUMMARY: Agreement No. T-4066-1 between the Port of Oakland (Port) and Hong Kong Islands Shipping Co., Ltd. (HKIS) modifies the basic agreement which provides for the nonexclusive use by HKIS at the Port's Outer Harbor Terminal, Berth 6 for the handling of vessels operated in its Transpacific service. The purpose of the modification is to amend Paragraph No. 5 of the Agreement to provide, that in the event that Crescent Wharf and Warehouse Company, the manager of Berth 6, is required to utilize adjacent Berth 5 for HKIS's vessels, the 90 percent of dockage tariff charges shall also apply as is provided when Berth 6 is utilized.

Agreement No.: T-4079.

Filing party: Mr. John E. Nolan, Assistant Port Attorney, Port of Oakland, 66 Jack London Square, P.O. Box 2064, Oakland California 94604.

SUMMARY: Agreement No. T-4079 between the Port of Oakland (Port) and Westwood Shipping Lines (WSL), is a Terminal Use Agreement which provides that WSL shall have nonexclusive right to assigned premises at the Outer Harbor Terminal, Berth 6, for the berthing, loading, discharging, and related operations in its all water North Europe-Pacific Coast Service and its all water Mediterranean and Pacific Service in the event such services have a need to call at Northern California Ports. WSL agrees that the assigned premises shall be its published regularly scheduled Northern California port of call. The authority to manage the premises for the Port is vested in Crescent Wharf and Warehouse Co. (Crescent), as separately provided for under Agreements No. T-4067. The provisions of the Port's Tariff No. 2 shall apply to WSL's use of the premises. As a consideration for its regular use of the Port, WSL will pay to the Port 90 percent of tariff dockage and wharfage revenues, instead of 100 percent of said charges. In event that Crescent, for terminal operational reasons, berths WSL's vessel at adjacent Berth No. 5, the 90 percent payment of revenues will also apply at the adjacent berth. If WSL generates in excess of 31,000 revenue tons per acre in a year, the amount of such excess wharfage tariff revenues, shall be refunded by the Port to WSL. The term of the Agreement commences upon Commission approval and shall run through August 31, 1986.

Agreement No. 9973-9

Filing party: R. Frederic Fisher, Esq., Lillick, McHose & Charles, Two Embarcadero Center, San Francisco, Calofornia 94111.

SUMMARY: Agreement No. 9973-9 modifies the Johnson Scanstar Service Agreement to: (1) Add service to inland points in the United States; (2) add service via intermodal or connecting carrier service to ports and points in foreign countries served; (3) add service between the U.S. West Coast and the West Coast of Canada; (4) eliminate the limitation of 400 TEU's imposed on single space charters by Johnson Scanstar to meet peak seasonal demand; and (5) eliminate the restriction of such ad hoc charters to carriers not regularly serving the same trades.

By Order of the Federal Maritime Commission.

Dated: December 23, 1982.

Francis C. Hurney,

Secretary.

[FR Doc. 82-35179 Filed 12-28-82; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, indentifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045.

1. *Bath National Corporation,* Bath, New York; to become a bank holding company by acquiring 90 percent of the voting shares of the successor by merger to the Bath National Bank, Bath, New York. Comments on tis application must be received not later than January 21, 1983.

B. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. **Bancorp. of Southern Indiana,** Seymour, Indiana; to become a bank holding company by acquiring 100 percent of the voting shares, less directors' qualifying shares, of the successor by merger to Jackson County Bank, Seymour, Indiana. Comments on this application must be received not later than January 21, 1983.

2. *Country Bancorp, Inc.* Mount Olive, Illinois, to become a bank holding company by acquiring 100 percent of the voting shares of National Bank of Mount Olive, Mount Olive, Illinois. Comments on this application must be received not later than January 21, 1983.

Board of Governors of the Federal Reserve System, December 22, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-35195 Filed 12-28-82; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Notice of Proposed De Novo Nonbank Activities

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 115.4(b)(1)), for permission to engage de novo, directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. Federal Reserve Bank of New York (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Citicorp,* New York, New York (finance company and credit related insurance activities; Nevada): To expand the activities and service areas of two existing offices of its subsidiary, Citicorp Person-to-Person Mortgage Corporation, and to establish two *de novo* offices of Citicorp Homeowners, Inc. at the same locations. The activities in which the *de novo* offices of Citicorp Homeowners, Inc. propose to engage are: the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the extension of loans to dealers for the financing of inventory (floor planning) and working capital purposes; the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required; the sale of consumer oriented financial management courses; the servicing, for any person, of loans and other extensions of credit; the making, acquiring, and servicing, for its own account and for the account of others, of extensions of credit to individuals secured by liens on residential or non-residential real estate; and the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans. The proposed service area for each of the *de novo* offices of Citicorp Homeowners, Inc. shall comprise the entire State of Nevada for all the aforementioned proposed activities. The new activities in which the offices of Citicorp Person-to-Person Morgage Corporation propose to engage *de novo* are: the making, acquiring, and servicing, for its own account and for the account of others, of extensions of credit to individuals secured by liens on residential or non-residential real estate; and the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans. The proposed service area for each office of Citicorp Person-to-Person Mortgage Corporation shall be the entire State of Nevada for the aforementioned proposed activities, and for the following activities which have been previously approved for Citicorp Person-to-Person Mortgage Corporation: the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the extension of loans to dealers for the financing of inventory (floor planning) and working capital purposes; the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required; the sale of consumer oriented financial management courses; and the servicing, for any person, of loans and other extensions of credit. Credit related life, accident, and health insurance may be written by Family Guardian Life Insurance Company, an affiliate of Citicorp Person-to-Person Mortgage Corporation and Citicorp Homeowners, Inc. The aforementioned activities will be conducted from the following two locations: Las Vegas and Reno, Nevada. Comments on this application must be received not later than January 21, 1983.

2. *Citicorp,* New York, New York (finance company and credit related insurance activities; New Mexico and Texas): To expand the activities and service areas of two existing offices of its subsidiary, Citicorp Person-to-Person Financial Center, Inc., and to estabish two *de novo* offices of Citicorp Homeowners, Inc. at the same locations. The activities in which the *de novo* offices of Citicorp Homeowners, Inc. propose to engage are: the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the extension of loans to dealers for the financing of inventory (floor planning) and working capital purposes; the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required; the sale of consumer oriented financial management courses; the servicing, for any person, of loans and other extensions of credit; the making, acquiring, and servicing, for its own account and for the account of others, of extensions of credit to individuals secured by liens on residential or non-residential real estate; and the sale of mortgage life and mortgages disability insurance directly related to extensions of mortgage loans. The proposed service area for each of the *de novo* offices of Citicorp Homeowners, Inc. shall be the entire States of New Mexico and Texas for all the aforementioned proposed activities. The new activities in which the offices of Citicorp Person-to-Person Financial Center, Inc. propose to engage *de novo* are: the making, acquiring, and servicing, for its own account and for the account of others, of extensions of credit to individuals secured by liens on residential or non-residential real estate; and the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans. The proposed service area for each office of Citicorp Person-to-Person Financial Center, Inc. shall be the entire States of New Mexico and Texas for the aforementioned proposed activities, and for the following activities which have been previously approved for Citicorp Person-to-Person Financial Center, Inc.: the making or acquiring of loans and other extensions of credit, secured or

unsecured, for consumer and other purposes; the extension of loans to dealers for the financial of inventory (floor planning) and working capital purposes; the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required; the sale of consumer oriented financial management courses; and the servicing, for any person, of loans and other extensions of credit. Credit related life, accident, and health insurance may be written by Family Guardian Life Insurance Company, an affiliate of Citicorp Person-to-Person Financial Center, Inc. and Citicorp Homeowners, Inc. The aforementioned activities will be conducted from the following two locations: Albuquerque and Santa Fe, New Mexico. Comments on this application must be received not later than January 21, 1983.

B. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *FB & T Corporation,* Hanover, Pennsylvania (mortgage banking, servicing, and credit insurance activities; Pennsylvania): To engage through its subsidiary, FB & T Mortgage Company, in making and acquiring loans and other extensions of credit secured by real estate mortgages and deeds of trust and acting as agent for the sale of credit life and accident and disability insurance directly related to its extensions of credit. These activities will be conducted from offices in Hanover, Pennsylvania, serving Pennsylvania. Comments on this application must be received not later than January 21, 1983.

2. *Univest Corporation of Pennsylvania,* Souderton, Pennsylvania (financial management and related services, Pennsylvania, New Jersey, Delaware, Florida, Maryland and Virginia): To engage, through its subsidiary, Univest Financial Planning Corporation acting as investment or financial advisors and providing portfolio investment advice and financial advice to the extent authorized by section 225.4(a)(5) of Regulation Y. These activities will be conducted from offices in Souderton, Montgomery County, Pennsylvania, serving Pennsylvania, New Jersey, Delaware, Florida, Maryland and Virginia. Comments on this application must be received not later than January 18, 1983.

C. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Maryland National Corporation,* Baltimore, Maryland (leasing and commercial lending activities: continental United States): To engage through its subsidiaries Maryland National Leasecorp and Maryland National Leasing Services Corporation in the following activities: engaging generally in the business of leasing real property where the lease is the functional equivalent of an extension of credit; originating real property leases as principal or agent; servicing real property leases for affiliated or non-affiliated individuals, partnerships, corporations or other entities; buying, selling and otherwise dealing in real property leases as principal, agent or broker; acting as adviser in real property leasing transactions; engaging generally in commercial lending operations including, but not limited to, secured or unsecured commercial loans and other extensions of credit to commercial enterprises; and acting as advisor or broker in commercial lending transactions. These activities would be conducted from the present offices of the subsidiaries in Towson, Maryland. The geographic area to be served will be the continental United States. Comments on this application must be received not later than January 21, 1983.

D. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *First Railroad & Banking Company of Georgia,* Augusta, Georgia, (banking, consumer finance, insurance premium financing, and bank data processing; Alabama, Florida, Georgia, North Carolina, South Carolina, Tennessee and Virginia): To engage through its subsidiary, First Financial Management Corporation, in providing data processing and transmission services, facilities, data bases, and access to such services, facilities and data bases both for the internal operations of the Application and its subsidiaries and for other customers. These data processing services will be provided from two major computer centers located in Atlanta, Georgia, and Miami, Florida to customers in Georgia, Florida, Alabama, North Carolina, South Carolina, Tennessee and Virginia. These services will be provided through existing and future remote input/output data collection centers located within the states being served, through input/output equipment located in the customers' offices, through a transmission network of ground couriers and through any other technological means which may be feasible. Comments on this application must be received not later than January 12, 1983.

2. *Southeast Banking Corporation,* Miami, Florida (mortgage banking activities; Florida): To engage through its subsidiary, Southeast Mortgage Company, in origination and servicing of loans and other extensions of credit secured by real estate mortgages. The activities would include preparing applications for loans, assembling credit information and solicitation of loan business. These activities would be conducted from an office to be located in Ponte Vedra Beach, Florida, serving St. Johns County and portions of Duval County which are in close proximity to office. Comments on this application must be received not later than January 19, 1983.

E. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *First City Bancorp,* Oklahoma City, Oklahoma (financing activities, credit-life, accident and health insurance activities; Oklahoma): To engage directly in making or acquiring loans and other extensions of credit, both secured and unsecured, including commercial loans secured by a borrower's inventory, accounts receivable or other assets, consumer loans, residential and commercial construction loans, and loans secured by second real estate mortgages, such as would be made, for example, by a mortgage, finance, credit card or factoring company; to continue to engage indirectly in the sale of credit-life, accident, and health insurance directly related to an extension of credit by the applicant or its subsidiary bank. These activities would be conducted from offices in Oklahoma City, Oklahoma, serving the State of Oklahoma. Comments on this application must be received not later than January 20, 1983.

Board of Governors of the Federal Reserve System, December 22, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-35196 Filed 12-28-82; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Human Development Services

Administration on Aging; SCAN Data Bases; Activity Notice

AGENCY: Office of Human Development Services, HHS.

ACTION: Extension of closing date for receipt of applications for assumption of certain data bases at no cost to the Federal Government.

SUMMARY: The Administration on Aging (AoA) announced on December 1, 1982 (47 FR 54266) that competing applications would be accepted for assumption, dissemination and utilization of information in the SCAN Information System. The present notice extends the closing date of the December 1, notice.

DATE: Closing date for receipt of applications is extended to January 31, 1983.

SUPPLEMENTARY INFORMATION: At the information sharing meeting on December 10, 1982, a representative of an organization interested in applying for these activities suggested that the closing date be extended because of the loss of work time that is expected during the holidays. This was supported without exception by the more than 30 persons who attended the meeting. As a result, the closing date for submissions of applications is extended to January 31, 1983. Conditions for meeting the closing date remain as stated in the December 1 notice.

Dated: December 16, 1982.

Lennie-Marie P. Tolliver,

Commissioner on Aging.

Dated: December 22, 1982.

Dorcas R. Hardy,

Assistant Secretary for Human Development Services.

[FR Doc. 82-35229 Filed 12-28-82; 8:45 am]

BILLING CODE 4130-01-M

National Institutes of Health

Board of Regents, the Extramural Programs Subcommittee, and the Lister Hill Center and National Medical Audiovisual Center Subcommittee; Meetings

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Board of Regents of the National Library of Medicine on January 27-28, 1983, in the NMAC Classroom, Lister Hill Center Building of the National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland, and the meetings of the Extramural Programs Subcommittee of the Board of Regents and the Lister Hill Center and National Medical Audiovisual Center Subcommittee on the preceding day, January 26, 1983, from 1:00 to 5:00 p.m., in the 5th floor Conference Room, and from 2:00 to 5:00 p.m. in the 7th-floor Conference Room of the Lister Hill Center Building, respectively.

The meeting of the Board will be open to the public from 9:00 a.m. to 5:00 p.m. on January 27 and from 10:15 a.m. to adjournment on January 28 for administrative reports and program discussions. The entire meeting of the Lister Hill Center and National Medical Audiovisual Center Subcommittee will be open to the public for a discussion of program directions of the National Medical Audiovisual Center. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Sections 552b(c)(4), 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the entire meeting of the Extramural Programs Subcommittee on January 26 will be closed to the public, and the regular Board meeting on January 28 will be closed from 9:00 to 10:15 a.m. for the review, discussion, and evaluation of individual grant applications. These applications and the discussion could reveal confidential trade secrets or commercial property, such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. Robert B. Mehnert, Chief, Office of Inquiries and Publications Management, National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland 20209, Telephone Number: 301-496-6308, will furnish a summary of the meeting, rosters of Board members, and other information pertaining to the meeting.

(Catalog of Federal Domestic Assistance Program No. 13.879—Medical Library Assistance, National Institutes of Health)

Betty J. Beveridge,

National Institutes of Health, Committee Management Officer.

[FR Doc. 82-35187 Filed 12-28-82; 8:45 am]

BILLING CODE 4140-01-M

Board of Scientific Counselors and Board Ad Hoc Subcommittee, Division of Cancer Cause and Prevention; meeting

Pursuant to Public Law 93-463, notice is hereby given of the meetings of the Board of Scientific Counselors and its ad hoc Subcommittee, Division of Cancer Cause and Prevention on February 7-9, 1983, Building 31, C Wing Conference Room 10, National Cancer Institute, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205. Portions of the Board meeting and the ad hoc Subcommittee will be open to the public to discuss committee business as indicated in the notice. Attendance by the public will be limited to space available.

The Board of Scientific Counselors Meeting will be closed to the public from 9:00 a.m. to 12 noon on February 7, 1983, as indicated below in accordance with the provisions set forth in Section 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Public Law 92-463, for the review, discussion and evaluation of individual programs and projects conducted by the Division of Cancer Cause and Prevention. These programs, projects, and discussions could reveal personal information concerning individuls associated with the programs and projects, the disclosure of which would constitute a clearly unwarranted invasion personal privacy.

Mrs. Winifred Lumsden, Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496-5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. David McB. Howell, Executive Secretary of the Board of Scientific Counselors, Division of Cancer Cause and Prevention, National Cancer Institute, Building 31, Room 11A04, National Institutes of Health, Bethesda, Maryland 20205 (301/496-6927) will furnish substantive program information.

Name of Committee: Board of Scientific Counselors, Division of Cancer Cause and Prevention.
Dates of Meeting: February 7-8, 1983.
Place of Meeting: Building 31, C Wing, Conference Room 10, National Institutes of Health.
Closed Session: February 7, 9:00 a.m.—12:00 Noon.
Open: February 7, 1:00 p.m.—adjournment. February 8, 9:00 a.m.—adjournment.
Agenda: Review of concepts for grants, contracts and interagency agreements and scientific presentations.

Name of Committee: Board of Scientific Counselors, ad hoc Subcommittee on Development of Radiation Tables, Division of Cancer Cause and Prevention.
Date of Meeting: February 9, 1983.
Place of Meeting: Building 31, C Wing, Conference Room 10.
Open: February 9, 9:00 a.m.—adjournment.
Agenda: To discuss scientific issues relating to development of radiation-related

cancers in persons who have been exposed to radiation.

Dated: December 16, 1982.

Betty J. Beveridge,

Committee Management Officer, National Institutes of Health.

[FR Doc. 82-35182 Filed 12-28-82; 8:45 am]

BILLING CODE 4140-01-M

Cancer Clinical Investigation Review Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Cancer Clinical Investigation Review Committee, National Cancer Institute, February 23, 1983, Building 31C, Conference Room 6, National Institutes of Health, Bethesda, Maryland 20205. This meeting will be open to the public on February 23, from 8:30 a.m. to 9:00 a.m., to review administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on February 23, from approximately 9:00 a.m. to adjournment, for the review, discussion, and evaluation of individual cooperative agreement applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496-5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. Dorothy K. Macfarlane, Executive Secretary, Cancer Clinical Investigation Review Committee, National Cancer Institute, Westwood Building, Room 819, National Institutes of Health, Bethesda, Maryland 20205 (301/496-7481) will furnish substantive program information.

Dated: December 6, 1982.

Betty J. Beveridge,

Committee Management Officer, National Institutes of Health.

[FR Doc. 82-35184 Filed 12-28-82; 8:45 am]

BILLING CODE 4140-01-M

Cancer Control Grant Review Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Cancer Control Grant Review Committee, National Cancer Institute, February 28-March 1, 1983, Building 31C, Conference Room 8, National Institutes of Health, Bethesda, Maryland 20205. This meeting will be open to the public on February 28, from 8:30 a.m. to 9:00 a.m., to review administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Public Law 92-463, the meeting will be closed to the public on February 28, from 9:00 a.m. to adjournment, and on March 1, from 8:30 a.m. to adjournment, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, the Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496-5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. Robert F. Browning, Executive Secretary, Cancer Control Grant Review Committee, National Cancer Institute, Westwood Building, Room 806, National Institutes of Health, Bethesda, Maryland 20205 (301/496-7413) will furnish substantive program information.

(Catalog of Federal Domestic Assistance Number 13.399, project grants and contracts in cancer control, National Institutes of Health).

Dated: December 16, 1982.

Betty J. Beveridge,

Committee Management Officer, National Institutes of Health.

[FR Doc. 82-35185 Filed 12-28-82; 8:45 am]

BILLING CODE 4140-01-M

Cancer Research Manpower Review Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Cancer Research Manpower Review Committee, National Cancer Institute, January 20-22, 1983, Building 31, C Wing, Conference Room 8, National Institutes of Health, Bethesda, Maryland 20205.

This meeting will be open to the public on January 20 from 8:30 a.m. to 9:00 a.m. to review administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on January 20, from 9:00 a.m. to adjournment, on January 21, from 8:30 a.m. to adjournment, and on January 22, from 8:30 a.m. to adjournment, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, the Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496-5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. Leon J. Niemiec, Executive Secretary, Cancer Research Manpower Review Committee, National Cancer Institute, Westwood Building, Room 809D, National Institutes of Health, Bethesda, Maryland 20205 (301/496-7978) will furnish substantive program information.

(Catalog of Federal Domestic Assistance Number 13.398, project grants in cancer research manpower, National Institutes of Health)

Dated: December 16, 1982.

Betty J. Beveridge,

Committee Management Officer, National Institutes of Health.

[FR Doc. 82-35183 Filed 12-28-82; 8:45 am]

BILLING CODE 4140-01-M

Communicative Disorders Review Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Communicative Disorders Review Committee, National Institutes of Health, March 3 and 4, 1983, in the Queensbury Room of the Linden Hill Hotel and Racquet Club, 5400 Pooks Hill Road, Bethesda, Maryland 20814.

The meeting will be open to the public from 8:30 a.m. until 9:30 a.m. on March 3, to discuss program planning and program accomplishments. Attendance

by the public will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(4), and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on March 3 from 9:30 a.m. to adjournment on March 4, for the review, discussion and evaluation of individual grant applications. The applications and the discussion could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Sylvia Shaffer, Chief, Office of Scientific and Health Reports, Building 31, Room 8A03, NIH, NINCDS, Bethesda, Maryland 20205, telephone 301/496–5751, will furnish summaries of the meeting and roster of committee members.

Dr. Marilyn Semmes, Executive Secretary, NINCDS, NIH, Federal Building, Room 9C14, Bethesda, Maryland, telephone 301/496–9223, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.851, Communicative Disorders Program, National Institutes of Health.)

Dated: December 16, 1982.

Betty J. Beveridge,

Committee Management Officer, National Institutes of Health.

[FR Doc. 82–35188 Filed 12–28–82; 8:45 am]

BILLING CODE 4140–01–M

National Advisory Council on Aging; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Advisory Council on Aging, National Institute on Aging, on February 3–4, 1983, in Building 31, Conference Room 10, National Institutes of Health, Bethesda, Maryland.

The meeting will be open to the public on Thursday, February 3, from 9:00 a.m. until noon, for a status report by the Acting Director, National Institute on Aging, a report from the Council ad hoc Program Committee and a report on Indirect Costs. It will be open to the public on Friday, February 4, from 9:00 a.m. until adjournment for the Epidemiology, Demography and Biometry and Intramural Program Reviews. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Public Law 92–463, the meeting will be closed to the public on February 3, 1983, from 1:00 p.m. until adjournment for the review, discussion and evaluation of grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. June C. McCann, Council Secretary, National Institute on Aging, Building 31, Room 2C–05, National Institutes of Health, Bethesda, Maryland 20205 (Area Code 301, 496–5898), will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.866, Aging Research, National Institutes of Health)

Dated: December 10, 1982.

Betty J. Beveridge,

Committee Management Officer, National Institutes of Health.

[FR Doc. 82–35190 Filed 12–28–82; 8:45 am]

BILLING CODE 4140–01–M

National Advisory Allergy and Infectious Diseases Council, Allergy and Immunology Subcommittee, Microbiology and Infectious Diseases Subcommittee; Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the National Advisory Allergy and Infectious Diseases Council, National Institute of Allergy and Infectious Diseases, and its subcommittees on January 27–28, 1983, at the National Institutes of Health, Building 31C, Conference Room 10, Bethesda, Maryland 20205.

The meeting will be open to the public on January 27 from approximately 9:00 a.m. to 9:30 a.m. for opening remarks of the Institute Director and again from 1:30 p.m. to approximately 5:00 p.m. for discussion of procedural matters, Council business, and a report from the Institute Director which will include a discussion of budgetary matters. The primary discussions will be on Occupational Health and Acquired Immunodeficiency Disease Syndrome. On January 28 the meeting will be open to the public from approximately 9:00 a.m. to 10:00 a.m. for the report of the director of the Immunology, Allergic and Immunologic Diseases Program and the director of the Microbiology and Infectious Disease Program. Attendance by the public at all open sessions will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code, and section 10(d) of Public Law 92–463, the meetings of the NAAIDC Allergy and Immunology Subcommittee and of the NAIDC Microbiology and Infectious Diseases Subcommittee will be closed to the public for approximately three hours for the review, evaluation, and discussion of individual grant applications. It is aniticipated that this will occur from 9:30 a.m. until approximately 12:30 p.m. on January 27, 1983. The meeting of the full Council will be closed from approximately 10:00 a.m. until adjournment on January 28 for the review, evaluation, and discussion of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. Robert L. Schreiber, Chief, Office of Research Reporting and Public Response, National Institute of Allergy and Infectious Diseases, Building 31, Room 7A32, National Institutes of Health, Bethesda, Maryland 20205, telephone (301) 496–5717, will provide summaries of the meetings and rosters of the Council members as requested.

Dr. John W. Diggs, Director, Extramural Activities Program, NIAID, NIH, Westwood Building, Room 703, telephone (301) 496–7291, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.855, Pharmacological Sciences; 13.856, Microbiology and Infectious Diseases Research, National Institutes of Health.)

Dated: December 16, 1982.

Betty J. Beveridge,

National Institute of Health Committee Management Officer.

[FR Doc. 82–35186 Filed 12–28–82; 8:45 am]

BILLING CODE 4140–01–M

National Advisory Research Resources Council; Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the National Advisory Research Resources Council, Division of Research Resources (DRR), February 3–4, 1983, Conference Room 6, Building 31, National Institutes of Health, 9000 Rockville Pike, Bethesda, MD 20205.

The meeting will be open to the public on February 3 from 9:00 a.m. to recess for the following: Opening remarks by

the Director, DRR, comments by the Deputy Director, NIH (tentative), consideration of the minutes of the previous meeting, consideration of future meeting dates, Council discussion of the report of the Director, DRR, a report of the Council Planning Committee, review of the Council Operating Procedures, a report on the Department of Defense Equipment Program by a member of the Council, a presentation on clinical research coordinated by the Program Director, General Clinical Research Centers Program, DRR, and consideration of new business. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Sections 552b(c)(4) and 552b(c)(6) Title 5, U.S. Code and Section 10(d) of Pub. L. 93–463, the meeting will be closed to the public on February 4 from approximately 8:30 a.m. to adjournment for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. James Augustine, Information Officer, Division of Research Resources, Rm. 5B10, Bldg. 31, National Institutes of Health, Bethesda, MD 20205, (301) 496–5545, will provide summaries of the meeting and rosters of the Council members. Dr. James F. O'Donnell, Deputy Director, Division of Research Resources, Rm. 5B03, Bldg. 31, National Institutes of Health, Bethesda, MD 20205 (301) 496–6023, will furnish substantive program information and will receive any comments pertaining to this announcement.

(Catalog of Federal Domestic Assistance Program Nos. 13.306, Laboratory Animal Sciences and Primate Research; 13.333, Clinical Research; 13.337, Biomedical Research Support; 13.371, Biotechnology Resources; 13.375, Minority Biomedical Research Support, National Institutes of Health.)

Dated: December 10, 1982.

Betty J. Beveridge,

National Institutes of Health Committee Management Officer.

[FR Doc. 82–35189 Filed 12–28–82; 8:45 am]

BILLING CODE 4140–01–M

National Heart, Lung, and Blood Advisory Council; Meetings

Pursuant to Public Law 92–463, notice is hereby given of four public briefing meetings to be sponsored by the National Heart, Lung, and Blood Advisory Council of the National Institutes of Health. The meetings will be held at the following times and locations:

February 24–25, 1983: Washington, D.C., 9:00 a.m. to adjournment, Lister Hall Auditorium, Building 38A, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205.

March 3–4, 1983: San Francisco, California, 9:00 a.m. to adjournment, San Francisco Hilton and Tower, 333 O'Farrell Street, San Francisco, California 94102.

March 24–25, 1983: New Orleans, Louisiana, 9:00 a.m. to adjournment, International Hotel, 300 Canal Street, New Orleans, Louisiana 70130.

April 14–15, 1983: Chicago, Illinois, 9:00 a.m. to adjournment, Radisson, Chicago Hotel, 505 North Michigan Avenue, Chicago, Illinois 60611.

These meetings will be open to the public for the purpose of informing biomedical scientists, administrators, volunteer health organizations, and the public about the status of the National Heart, Lung, and Blood Institute and about possible strategies for achieving and maintaining a balance of program mechanisms for protecting the number of research grants awarded by the Institute. These briefing meetings are designed as an educational effort that will also provide the opportunity for the Council and the National Heart, Lung, and Blood Institute to hear directly from those interested in and concerned about the future of the Institute's extramural programs.

Those who wish to speak at a briefing meeting must submit a written request to Dr. Jay Moskowitz, address given at the end of this notice, no later than January 21, 1983. The request to speak must include the following: (1) The name of the person who wishes to address the Council; (2) the professional affiliation of the requesting speaker, if appropriate; (3) a brief summary of the statement that would be presented; and (4) the address and telephone number where the requesting speaker can be reached during business hours.

Speakers will be selected from the constituencies who look to the Institute to advance knowledge about heart, lung, and blood diseases and from others whose interests correspond to the extramural programs of the National Heart, Lung, and Blood Institute.

Each speaker will be allowed about ten minutes. A list of speakers for a meeting will be sent in advance to the region in which that particular meeting will be held. Additional written comments of any length may be submitted, at any time, for distribution to the Council. The results of these briefing meetings, including the texts of the speakers and all other materials submitted, will be available in the summer of 1983.

Further information concerning the meetings and the results of the briefing meetings can be obtained from: Dr. Jay Moskowitz, Public Briefing Meetings, National Heart, Lung, and Blood Advisory Council, National Heart, Lung, and Blood Institute, Building 31, Room 5A–03, Bethesda, Maryland 20205, (301) 496–6331.

(Catalog of Federal Domestic Assistance Program Nos. 13.837, Heart and Vascular Diseases Research; 13.838, Lung Diseases Research; and 13.839, Blood Diseases and Resources Research, National Institutes of Health)

Dated: December 21, 1982.

Thomas E. Malone,

Deputy Director, National Institutes of Health.

[FR Doc. 82–35181 Filed 12–28–82; 8:45 am]

BILLING CODE 4140–01–M

Neurological Disorders Program—Project Review B Committee; Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Neurological Disorders Program—Project Review B Committee, National Institutes of Health, February 21, 22, and 23, 1983, at the Linden Hill Hotel & Racquet Club, 5400 Pooks Hill Road, Bethesda, Maryland 20814.

The meeting will be open to the public from 2:00 p.m. until 2:30 p.m. on February 21, 1983, to discuss program planning and program accomplishments. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(4), and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on February 21st from 2:30 p.m. to adjournment on February 23rd, for the review, discussion and evaluation of individual grant applications. The applications and the discussion could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Sylvia Shaffer, Chief, Office of Scientific and Health Reports, Building 31, Room 8A03, NIH, NINCDS, Bethesda, MD 20205, telephone 301/496–5751, will furnish summaries of the meeting and roster of committee members.

Dr. Ellen G. Archer, Executive Secretary, Federal Building, Room 9C10B, Bethesda, MD 20205, telephone 301/496-9223, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.852, Neurological Disorders Program, National Institutes of Health.)

Dated: December 10, 1982.

Betty J. Beveridge,

Committee Management Officer, National Institutes of Health.

[FR Doc. 82-35191 Filed 12-28-82; 8:45 am]

BILLING CODE 4140-01-M

Public Health Service

General Powers and Duties of Public Health Service; Delegation of Authority

Notice is hereby given that in furtherance of the delegation of January 14, 1981 (46 FR 10016) by the Secretary of Health and Human Services to the Assistant Secretary for Health of authority under Title III of the Public Health Service Act the Assistance Secretary for Health has delegated to the Director, National Center for Health Statistics the following authorities:

(1) Section 301 of the Public Health Service Act (42 U.S.C. 241), as amended, authority relative to research, investigation, and testing functions.

(2) Section 304 of the Public Health Service Act (42 U.S.C. 242b), as amended, general authority respecting research, evaluations, and demonstrations in health statistics, health services, and health care technology.

(3) Section 306 of the Public Health Service Act (42 U.S.C. 242k), as amended, authority pertaining to the National Center for Health Statistics.

(4) Section 307 of the Public Health Service Act (42 U.S.C. 2421), as amended, international cooperation authority.

(5) Section 310 of the Public Health Service Act (42 U.S.C. 242o), as amended, authority relative to health conferences and health education information.

The above authorities do not include: (a) The authority to prescribe regulations; (2) the authority under section 304(b)(4) relative to the acquisition, construction, improvements, repair, operation, and maintenance of real property; or (3) the authority under section 306(k) relative to the establishment of and the selection of members to the National Committee on Vital and Health Statistics and the designation of the tems of offices for members upon their appointment or reappointment to said committee.

The Director, National Center for Health Statistices, may redelegate: (1) The authority under sections 301, 307, and 310 within the National Center for Health Statistics and exercise them insofar as they pertain to the functions assigned to the National Center for Health Statistics, and (2) the authority under sections 304 and 306 as specified by statute or as appropriate.

The December 24, 1981, delegation by the Deputy Assistant Secretary for Health Research, Statistics, and technology to the Director, National Center for Health Statistics, has been superseded insofar as it pertains to authorities under Title III of the Public Health Service Act. Provision has been made for previous delegations and redelegations to other officials within the National Center for Health Statistics to continue in effect, provided they are consistent with the delegation to the Director, National Center for Health Statistics.

In addition to the delegation to the Director, National Center for Health Statistics, the Assistant Secretary for Health has amended the August 4, 1981 delegation to the Director, Centers for Disease Control, by cancelling the authority under section 304, General Authority Respecting Research, Evaluations, and Demonstrations in Health Statistics, Health Services and Health Care Technology and under section 308, General Provisions Respecting Sections 304, 305, 306, 307, and 309 of the Public Health Service Act, from the area of authority assigned to the Centers for Disease Control. All other Title III authorities delegated to the Director, Centers for Disease Control remain in effect.

The delegation to the Director, National Center for Health Statistics and the amendment to the August 4, 1981 delegation to the Director, Centers for Disease Control became effective on December 2, 1982.

Dated: December 2, 1982.

Edward N. Brandt, Jr.,

Assistant Secretary for Health.

[FR Doc. 82-35175 Filed 12-28-82; 8:45 am]

BILLING CODE 4160-17-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. N-82-1193]

Federal National Mortgage Association—Maximum Debt-to-Capital Ratio

AGENCY: Office of the Secretary, HUD.

ACTION: Notice of Fixing of Maximum Debt-to-Capital Ratio.

SUMMARY: This Notice announces a change in FNMA's maximum debt-to-capital ratio from 25-to-1 to 30-to-1.

FOR FURTHER INFORMATION CONTACT: John A. Maxim, Jr., Associate General Counsel for Insured Housing and Finance, Office of General Counsel, Department of Housing and Urban Development, Room 9238, 451 Seventh Street, S.W., Washington, D.C. 20410, (202) 755-6274. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: Section 304(b) of the FNMA Charter Act, 12 U.S.C. 1719, provides that FNMA:

> Is authorized to issue * * * and have outstanding at any one time obligations having such rate or rates of interest as may be determined by the corporation * * *; but the aggregate amount of obligations of the corporation under this subsection outstanding at any one time shall not exceed fifteen times the sum of its capital, capital surplus, general surplus, reserves, and undistributed earnings unless a greater ratio shall be fixed at any time or from time to time by the Secretary of Housing and Urban Development.

Section 304(e) of the Charter Act provides that, for the purpose of the above limitation, the amount of FNMA's outstanding subordinated obligations are deemed to be capital.

By a document published at 33 FR 14779, effective October 1, 1968, the Secretary fixed the maximum ratio described in section 304(b) at 20-to-1. By a document published at 34 FR 19656, effective December 8, 1969, the Secretary changed the ratio to 25-to-1. That maximum ratio was incorporated into HUD regulations implementing the Secretary's authority over the conduct of FNMA's secondary market operations promulgated in 1978 (43 FR 36200).

By a final rule published at 47 FR 31866 (July 22, 1982), effective September 10, 1982, 24 CFR 81.15 was amended to provide that upon request submitted by FNMA, including justification satisfactory to the Secretary, the Secretary from time to time may fix such greater maximum ratio than the statutory ratio of 15-to-1 as the Secretary, in his discretion, may determine, which shall remain in effect as FNMA's maximum ratio until otherwise specified by the Secretary. The regulation further provides that upon fixing or changing a maximum ratio, the Secretary shall cause notice of such action to be published in the Federal Register.

Pursuant to such provisions, FNMA recently requested that the Secretary increase the maximum debt-to-capital

ratio from 25-to-1 to 30-to-1. In support of its request, FNMA advised that its actual debt-to-capital ratio at August 31, 1982, adjusted on a pro forma basis for a stock-for-debentures exchange and a subordinated debenture private placement which occurred after that date, was 23-to-1. Based on a projection of its foreseeable debt financing needs at then-current interest rates (which have declined substantially since the date of FNMA's request), FNMA predicted that it would reach the 25-to-1 maximum ratio at the end of the calendar year or shortly thereafter. FNMA therefore requested that the Secretary increase the maximum ratio to 30-to-1.

The setting of a maximum debt-to-capital ratio for FNMA by the Secretary does not indicate a Secretarial judgment as to the soundness of FNMA's financial condition under the circumstances of such a capitalization structure nor does it imply Federal backing of any sort for FNMA debt issued within the limits set. As acknowledged by the Chairman of FNMA in his request to the Secretary, "The financial market must, of course, determine for itself the appropriateness of FNMA's ratio in making judgments about yield and term requirements for FNMA's debt." Federal financial backing of FNMA is limited to the authority of the Secretary of the Treasury, granted by Section 304(c) of the FNMA Charter Act, to purchase obligations of FNMA up to a maximum of $2.25 billion outstanding at any time, as a public debt transaction.

The Secretary recognizes, however, that the maximum ratio set by him may affect FNMA's borrowing ability, or the attractiveness of its securities, in another way. As FNMA's actual debt-to-capital ratio approaches the limit set by the Secretary, indicating the possibility of an urgent need for an increase in the near future, uncertainty and consequent adverse market reaction could result. The Secretary believes, therefore, that it is both prudent and in the interest of facilitating FNMA's continued ability to meet its statutory purposes that the maximum ratio be maintained at a level which will permit continuation of projected activities without artificial hindrance for the proximately foreseeable future.

Accordingly, the Secretary has granted FNMA's request and has fixed FNMA's maximum debt-to-capital ratio at 30-to-1, effective December 22, 1982.

Dated: December 22, 1982.

John J. Knapp,

General Counsel.

[FR Doc. 82-35233 Filed 12-28-82; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

California; Realty Action

In the matter of Recreation and public purposes—lands suitable for lease/sale of public lands in Shasta County, California.

Pursuant to 43 CFR 2400, the Bureau of Land Management proposes to classify and segregate the following described land as suitable for application under the Recreation and Public Purposes Act of June 14, 1926, as amended (43 U.S.C. 869, et seq.).

Shasta County, California

T. 32 N., R. 5 W M.D.M.
Section 32, all or portion of lots 141, 143, 151, 152, 153, 154, 156, 157, 158, and a portion of the Homestake No. 3, all lying within the NW¼ (lying at the NW corner of the intersection of Highway 299 W and Iron Mountain Road)
The tract as described contains aproximately 19 acres.

The California Department of Forestry (CDF) has expressed an interest in establishing a forest fire station on the above referenced site (CA 12988), through the Recreation and Public Purposes Act, as amended.

This decision/notice is based upon the following rationale:

1. The proposed classification and use is in conformance with existing land use plans.

2. The lands have been found to be suitable and valuable for public purposes and/or recreation uses.

3. The land is not of national significance and not essential to any Bureau of Land Management program.

4. The proposed use will have no known significant effect on the human and natural environment. Further study will be evaluated prior to issuing a lease, with option to purchase.

5. Leasing, with option to purchase, of the above-described lands, will provide land necessary to serve the public interest.

Classification of these lands under the provisions of the Recreation and Public Purposes Act will segregate them from all appropriations, including locations under the mining laws, except as to applications under the mineral leasing laws and applications under the Recreation and Public Purposes Act.

For a period of 45 days from the date of this notice, interested parties may submit comments to the Area Manager, 355 Hemsted Drive, Redding, California 96002. Any adverse comments will be evaluated by the State Director who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become a final determination of the Bureau of Land Management.

Dated: December 9, 1982.

Robert Korfhage,

Acting Area Manager.

[FR Doc. 82-35169 Filed 12-28-82; 8:45 am]

BILLING CODE 4310-84-M

[N-1279; N-2711]

Nevada; Classification Vacated; Correction

In the FR issue of December 17, 1982, on page 56562, in the first paragraph of FR Documents 82-34261 and 82-34259, respectively, "Esmeralda County" should read "Humboldt County."

Wm J. Malencik,

Chief, Division of Operations.

[FR Doc. 82-35197 Filed 12-28-82; 8:45 am]

BILLING CODE 4310-84-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 104-TAA-14]

Bicycle Tires and Tubes From the Republic of Korea

AGENCY: International Trade Commission.

ACTION: Institution of countervailing duty investigation and scheduling of a hearing to be held in connection with the investigation.

SUMMARY: Pursuant to section 104(b)(2) of the Trade Agreements Act of 1979 (19 U.S.C. 1671 note), the United States International Trade Commission is instituting this countervailing duty investigation to determine whether an industry in the United States would be materially injured, or would be threatened with material injury, or the establishment of an industry in the United States would be materially retarded, by reason of imports of bicycle tires and tubes from the Republic of Korea (Korea) provided for in items 772.48 and 772.57 of the Tariff Schedules of the United States, covered by an outstanding countervailing duty order, if the order were to be revoked.

EFFECTIVE DATE: December 21, 1982.

FOR FURTHER INFORMATION CONTACT: Jim McClure, Supervisory Investigator, Office of Investigations, U.S. International Trade Commission, Washington, D.C. 20436, telephone 202-523-0439.

SUPPLEMENTARY INFORMATION:

Background.—On January 12, 1979,

the Department of the Treasury (Treasury) issued a countervailing duty order T.D. 79-131, under section 303 of the Tariff Act of 1930 (19 U.S.C. 1303), on bicycle tires and tubes imported from Korea manufactured by Korea Inoue Kasei Co. (KIK) (44 FR 2570).

On January 1, 1980, the provisions of the Trade Agreements Act of 1979 (Public Law 96-39) became effective, and on January 2, 1980, the authority for administering the countervailing duty statutes was transferred from Treasury to the Department of Commerce (Commerce).

As required by section 751(a)(1) of the Traiff Act of 1930 (19 U.S.C. 1675(a)(1)), Commerce has conducted its first annual review of the countervailing duty order on bicycle tires and tubes from Korea. As a result, Commerce determined that bicycle tires and tubes manufactured by KIK have benefitted from a total net subsidy of 1.05 percent of the f.o.b. invoice price of the merchandise (46 FR 38736, July 1981). On July 20, 1982, Commerce published in the **Federal Register** (47 FR 31412) the preliminary results of its second annual review. As a result of that review, Commerce has preliminarily determined the net subsidy on bicycle tires and tubes from Korea manufactured by KIK to be 0.95 percent of the f.o.b. invoice price of the merchandise.

Participation in the investigation.—Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11, as amended by 47 FR 6189, Feb. 10, 1982), not later than 21 days after the publication of this notice in the **Federal Register.** Any entry of appearance filed after this date will be referred to the Chairman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Upon the expiration of the period for filing entries of appearance, the Secretary shall prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation, pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d), as amended by 47 FR 6189, Feb. 10, 1982). Each document filed by a party to this investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service (19 CFR 201.16(c), amended by 47 FR 33682, Aug. 4, 1982).

Staff report.—A public version of the staff report containing preliminary findings of fact in this investigation will be placed in the public record on February 14, 1983, pursuant to section 207.21 of the Commission's rules (19 CFR 207.21).

Hearing.—The Commission will hold a hearing in connection with this investigation concurrently with the hearing for antidumping investigation No. 731-TA-94 (Final), bicycle tires and tubes from Taiwan, beginning at 10:00 a.m., on March 1, 1983, at the U.S. International Trade Commisssion Building, 701 E Street, NW., Washington, D.C. 20436. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on February 18, 1983. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 10:00 a.m., on February 22, 1983, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is February 25, 1983.

Testimony at the public hearing is governed by section 207.23 of the Commission's rules (19 CFR 207.23, as amended by 47 FR 33682, Aug. 4, 1982). This rule requres that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. All legal arguments, economic analyses, and factual materials relevent to the public hearing should be included in prehearing brief in accordance with section 207.22 (19 CFR 207.22, as amended by 47 FR 33682, Aug. 4, 1982). Post hearing briefs must conform with the provisions of section 207.24 (19 CFR 207.24, as amended by 47 FR 6191, Feb. 10, 1982) and must be submitted not later than the close of business on March 8, 1983.

Written submission.—As mentioned, parties to this investigation may file prehearing and posthearing briefs by the dates shown above. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before March 8, 1983. A signed original and fourteen (14) true copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's rules (19 CFR 201.8, as amended by 47 FR 6188, Feb. 10, 1982, and 47 FR 13791, Apr. 1, 1982). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commissions.

Any business information for which confidential treatment is desired shall be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of section 201.6 of the Commission's rules (19 CFR 201.6).

For further information concerning the conduct of the investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, Subparts A and C (19 CFR Part 207, as amended by 47 FR 6190, Feb. 10, 1982, and 47 FR 33682, Aug. 4, 1982), and Part 201, Subparts A through E (19 CFR Part 201, as amended by 47 FR 6188, Feb. 10, 1982; 47 FR 13791, Apr. 1, 1982; and 47 FR 33682, Aug. 4, 1982).

This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20, as amended by 47 FR 6190, Feb. 10, 1982).

By order of the Commission.

Issued: December 22, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-35238 Filed 12-28-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-94 (Final)]

Bicycle Tires and Tubes From Taiwan

AGENCY: International Trade Commission.

ACTION: Institution of final antidumping investigation and scheduling of a hearing to be held in connection with the investigation.

EFFECTIVE DATE: December 7, 1982.

SUMMARY: As a result of an affirmative prelimary determination by the U.S. Department of Commerce that there is a reasonable basis to believe or suspect that imports from Taiwan of bicycle tires and tubes, provided for in items 772.48 and 772.57 of the Tariff Schedules of the United States, are being, or are likely to be, sold in the United States at less than fair value (LTFV) within the meaning of section 731 of the Tariff Act of 1930 (19 U.S.C. 1673), the United States International Trade Commission hereby gives notice of the institution of

Investigation No. 731-TA-94 (Final) under section 735(b) of the act (19 U.S.C. 1673d(b)) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of such merchandise. Unless the investigation is extended, the Department of Commerce will make its final dumping determination in the case on or before February 8, 1983, and the Commission will notify the Department of Commerce of its final injury determination by April 5, 1983 (19 CFR 207.25).

FOR FURTHER INFORMATION CONTACT: Jim McClure, Supervisory Investigator, Office of Investigations, U.S. International Trade Commission, telephone 202-523-0439.

SUPPLEMENTARY INFORMATION:

Background.—On June 14, 1982, the Commission notified the Department of Commerce, on the basis of the information developed during the course of its preliminary investigation, that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of alleged LTFV imports of bicycle tires and tubes from Taiwan. The preliminary investigation was instituted in response to a petition filed on April 30, 1982, by counsel for Carlisle Tire & Rubber Co., the sole domestic producer of bicycle tires and tubes.

Participation in the investigation.—Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11, as amended by 47 FR 6189, Feb. 10, 1982), not later than 21 days after the publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Upon the expiration of the period for filing entries of appearance, the Secretary shall prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation, pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d), as amended by 47 FR 6189, Feb. 10, 1982). Each document filed by a party to this investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service (19 CFR 201.16(c), amended by 47 FR 33682, Aug. 4, 1982).

Staff report.—A public version of the staff report containing preliminary findings of fact in this investigation will be placed in the public record on February 14, 1983, pursuant to section 207.21 of the Commission's rules (19 CFR 207.21).

Hearing.—The Commission will hold a hearing in connection with this investigation beginning at 10:00 a.m., on March 1, 1983, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. 20436. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on February 18, 1983. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 10:00 a.m., on February 22, 1983, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is February 25, 1983.

Testimony at the public hearing is governed by section 207.23 of the Commission's rules (19 CFR 207.23, as amended by 47 FR 33682, Aug. 4, 1982). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with section 207.22 (19 CFR 207.22, as amended by 47 FR 33682, Aug. 4, 1982). Posthearing briefs must conform with the provisions of section 207.24 (19 CFR 207.24, as amended by 47 FR 6191, Feb. 10, 1982) and must be submitted not later than the close of business on March 8, 1983.

Written submission.—As mentioned, parties to this investigation may file prehearing and posthearing briefs by the dates shown above. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before March 8, 1983. A signed original and fourteen (14) true copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's rules (19 CFR 201.8, as amended by 47 FR 6188, Feb. 10, 1982, and 47 FR 13791, Apr. 1, 1982). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired shall be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6).

For further information concerning the conduct of the investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, Subparts A and C (19 CFR Part 207, as amended by 47 FR 6190, Feb. 10, 1982, and 47 FR 33682, Aug. 4, 1982), and Part 201, Subparts A through E (19 CFR Part 201, as amended by 47 FR 6188, Feb. 10, 1982; 47 FR 13791, Apr. 1, 1982; and 47 FR 33682, Aug. 4, 1982).

This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20, as amended by 47 FR 6190, Feb. 10, 1982).

By order of the Commission.

Issued: December 20, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-35241 Filed 12-28-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigations Nos. 731-TA-116 and 117 (Preliminary)]

Carton-Closing Staples and nonautomatic Carton-Closing Staple Machines From Sweden

AGENCY: International Trade Commission.

ACTION: Institution of preliminary antidumping investigations and scheduling of a conference to be held in connection with the investigations.

EFFECTIVE DATE: December 17, 1982.

SUMMARY: The United States International Trade Commission hereby gives notice of the institution of preliminary antidumping investigations under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Sweden of carton-closing staples and nonautomatic carton-closing

staple machines, provided for in items 64.620 and 662.20, respectively, of the Tariff Schedules of the United States, which are alleged to be sold in the United States at less than fair value.

FOR FURTHER INFORMATION CONTACT: Ms. Mairiam A. Bishop, Office of Investigations, U.S. International Trade Commission, 701 E St. NW., Washington, D.C. 20436, telephone 202–523–0291.

SUPPLEMENTARY INFORMATION:

Background.—These investigations are being instituted in response to a petition filed December 17, 1982, on behalf of International Staple and Machine Co. The Commission must make its determination in these investigations within 45 days after the date of the filing of the petition or by January 31, 1983 (19 CFR 207.17).

Participation.—Persons wishing to participate in these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided for in § 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11, as amended by 47 FR 6189, February 10, 1982), not later than seven (7) days after the publication of this notice in the Federal Register. Any entry of appearance filed after this date will be referred to the Chairman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the notice.

Service of documents.—The Secretary will compile a service list from the entries of appearance filed in these investigations. Any party submitting a document in connection with the investigations shall, in addition to complying with section 201.8 of the Commission's rules (19 CFR 201.8, as amended by 47 FR 6188, February 10, 1982, and 47 FR 13791, April 1, 1982), serve a copy of each such document on all other parties to the investigations. Such service shall conform with the requirements set forth in § 201.16(b) of the rules (19 CFR 201.16(b), as amended by 47 FR 33682, August 4, 1982).

In addition to the foregoing, each document filed with the Commission in the course of these investigations must include a certificate of service setting forth the manner and date of such service. This certificate will be deemed proof of service of the document. Documents not accompanied by a certificate of service will not be accepted by the Secretary.

Written submissions.—Any person may submit to the Commission on or before January 14, 1983, a written statement of information pertinent to the subject matter of these investigations (19 CFR 207.15, as amended by 47 FR 6190, February 10, 1982). A signed original and fourteen (14) copies of such statements must be submitted (19 CFR 201.8, as amended by 47 FR 6188, February 10, 1982, and 47 FR 13791, April 1, 1982).

Any business information which a submitter desires the Commission to treat as confidential shall be submitted separately, and each sheet must be clearly marked at the top "Confidential Business Data." Confidential submissions must conform with the requirements of section 201.6 of the Commission's rules (19 CFR 201.6). All written submissions, except for confidential business data, will be available for public inspection.

Conference.—The Director of Operations of the Commission has scheduled a conference in connection with these investigations for 9:30 a.m., on January 10, 1983, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. Parties wishing to participate in the conference should contact the staff investigator, Ms. Miriam A. Bishop (202/523–0291), not later than January 6, 1983, to arrange for their appearance. Parties in support of the imposition of antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

Public inspection.—A copy of the petition and all written submissions, except for confidential business data, will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street, NW., Washington, D.C.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, subparts A and B (19 CFR Part 207, as amended by 47 FR 6182, February 10, 1982, and 47 FR 33682, August 4, 1982), and Part 201, Subparts A through E (19 CFR Part 201, as amended by 47 FR 6182, February 10, 1982, 47 FR 13791, April 1, 1982, and 47 FR 33682, August 4, 1982). Further information concerning the conduct of the conference will be provided by Ms. Bishop.

This notice is published pursuant to § 207.12 of the Commission's rules (19 CFR 207.12).

Issued: December 22, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-35240 Filed 12-28-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-112]

Certain Cube Puzzles; Termination of Two Respondents on the Basis of Settlement Agreements

AGENCY: International Trade Commission.

ACTION: Termination of investigation as to respondents F. W. Woolworth and Sears, Roebuck & Co. on the basis of settlement agreements.

SUMMARY: On June 29, 1982, complainant Ideal Toy Corp. and respondents F. W. Woolworth and Sears, Roebuck & Co. moved in two joint motions (motions nos. 112–23 and 112–24) to terminate the investigation as to the above-named respondents based on settlement agreements. On July 14, 1982, the presiding officer recommended that the two joint motions be granted. A Federal Register notice was published on August 25, 1982, seeking comments from interested members of the public and other Government agencies on the proposed termination of the aforementioned respondents (47 FR 37310). Comments were received from respondent P. G. Continental, the Department of Justice, and Ideal Toy Corp. On December 8, 1982, the Commission granted the joint motions to terminate the investigation as to respondents F. W. Woolworth and Sears, Roebuck & Co. on the basis of settlement agreements.

SUPPLEMENTARY INFORMATION: This investigation is being conducted under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and concerns alleged unfair trade practices in the importation into, and sale in, the United States of certain cube puzzles. Notice of the institution of the investigation was published in the Federal Register of December 29, 1981 (46 FR 62964).

Copies of any nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

FOR FURTHER INFORMATION CONTACT: William E. Perry, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street NW.,

Washington, D.C. 20436, telephone 202–523–0499.

By order of the Commission.

Issued: December 23, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82–35243 Filed 12–28–82; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–112]

Certain Cube Puzzles; Notice of Termination of Respondents Based on Settlement Agreements

AGENCY: International Trade Commission.

ACTION: Termination of investigation as to respondents BMJ Trading, Ltd., and Vanguard Jewelry Corp. based on settlement agreements.

SUMMARY: On October 26, 1982, complainant Ideal Toy Corporation (Ideal) and respondent BMJ Trading, Ltd. (BMJ), jointly moved (Motion No. 112–33C) to terminate the investigation as to BMJ on the basis of a settlement agreement. On October 29, 1982, complainant Ideal and respondent Vanguard Jewelry Corp. (Vanguard) jointly moved (Motion No. 112–34C) to terminate the investigation as to Vanguard on the basis of a settlement agreement. The Commission published a **Federal Register** notice on November 24, 1982, seeking comments from interested members of the public and other Government agencies on the proposed terminations of BMJ and Vanguard based on settlement agreements (47 FR 53148). No comments were received.

On December 20, 1982, the Commission granted the joint motions to terminate the investigation as to respondents BMJ and Vanguard on the basis of settlement agreements.

SUPPLEMENTARY INFORMATION: This investigation is being conducted under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and concerns alleged unfair trade practices in the importation into and sale in the United States of certain cube puzzles. Notice of the institution of the investigation was published in the **Federal Register** of December 29, 1981 (46 FR 62964).

Copies of the Commission's Action and Order and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523–0161.

FOR FURTHER INFORMATION CONTACT: William E. Perry, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436; telephone 202–523–0499.

By order of the Commission.

Issued: December 23, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82–35242 Filed 12–28–82; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–135]

Certain Direction-Reversing Musical Crib Toys; Notice of Investigation

AGENCY: International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on November 23, 1982, under section 337 of the Tariff Act of 1930 (19 U.S.C. 13337), on behalf of Mattel, Inc., 5150 Rosecrans Ave., Hawthorne, Calif. 90250. An amended complaint was filed on December 8, 1982. An amendment to the amended complaint was filed on December 15, 1982. The complaint, as amended, alleges unfair methods of competition and unfair acts in the importation of certain direction-reversing musical crib toys into the United States, or in their sale, by reason of the alleged direct and/or induced infringement of the claims of U.S. Letters Patent 4,285,159. The complaint further alleges that the effect or tendency of the unfair methods of competition and unfair acts is to destroy or substantially injure an industry efficiently and economically operated, in the United States.

The complainant requests that, during the pendency of the investigation, the Commission issue both a temporary exclusion order, prohibiting importation of the articles into the United States except under bond, and a temporary cease and desist order, and, after a full investigation, issue both an exclusion order, prohibiting importation of the articles into the United States for the life of the patent in issue, and cease and desist order.

Authority: The authority of institution of this investigation is contained in section 337 of the Tariff Act of 1930 and in § 210.12 of the Commission's Rules of Practice and Procedure (19 CFR § 210.21).

Scope of the Investigation

Having considered the complaint, the U.S. International Trade Commissioin, on December 21, 1982, ordered that—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, an investigation be instituted to determine whether there is reason to believe that there is a violation or whether there is a violation of subsection (a) of section 337 in the unauthorized importation of certain direction-reversing musical crib toys into the United States, or in their sale by reason of the alleged direct and/or induced infringement of the claims of U.S. Letters Patent 4,285,159, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—Mattel, Inc., 5150 Rosecrans Ave., Hawthorne, California 90250.

(b) The respondents are the following companies, alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:
Durham Industries of Hong Kong Ltd., 19th Fl., Eastern Commercial Centre, 397 Hennessy Road, Hong Kong.
Durham Industries, Inc., 41 Madison Ave., New York, New York 10010.

(c) Ralph Elsas-Patrick, Unfair Import Investigations Division, U.S. International Trade Commission 701 E Street NW., Washington, D.C. 20436, shall be the Commission investigative attorney, a party to this investigation; and

(3) For the investigation so instituted, Donald K. Duvall, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding officer. Pursuant to Commission rule 210.30)c), discovery should be allowed in connection with the temporary relief phase of the investigation only to the extent necessary to weigh the standards that are applicable in determining whether temporary relief should be granted.

Responses must be submitted by the named respondents in accordance with § 210.21 of the Commission's Rules of Practice and Procedure (19 CFR 210.21). Pursuant to §§ 210.16(d) and 210.21(a) of the rules, such responses will be considered by the Commission if

received not later that 20 days after the date of service of the complaint. Extensions of time for submitting a response will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice maybe deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the presiding officer and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings.

The complaint, except for any confidential information contained therein, is available for inspection during official working hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

FOR FURTHER INFORMATION CONTACT: Ralph Elsas-Patrick, Unfair Import Investigations Division, U.S. International Trade Commission, telephone 202–523–0440.

By order of the Commission.

Issued: December 22, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-35239 Filed 12-28-82; 8:45 am]

BILLING CODE 7020-01-M

[Investigation No. 337–TA–119]

Certain High Precision Solenoids and Components Thereof; Notice of Termination of Investigation Based on a Settlement Agreement

AGENCY: International Trade Commission.

ACTION: Termination of investigation.

SUMMARY: The Commission has granted the parties' joint motion to terminate the above-captioned investigation on the basis of a settlement agreement.

SUPPLEMENTARY INFORMATION: This investigation is being conducted under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and concerns alleged unfair trade practices in the importation into and sale in the United States of certain high precision solenoids and components thereof. Notice of the institution of the investigation was published in the Federal Register of March 18, 1982 (47 FR 11330). Complainant Ledex, Inc., respondents Shindengen Electric Manufacturing Co., Ltd., Densitron Corp., Photo Chemical Products of Calif., Inc., E–M Devices, Dynel Co., Zaslow Sales Co., Inc., and Taylor Marketing and Sales Co., and the Commission investigative attorney have jointly moved (Motion No. 119–4) to terminate the investigation as to all respondents pursuant to Commission rule § 210.51(c). On September 17, 1982, the presiding officer recommended that the joint motion be granted (Order No. 11). Notice of the proposed termination was published in the Federal Register of October 20, 1982 (47 FR 46774).

Copies of any non-confidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

Settlement Agreement

The relevant terms of the public version of the settlement agreement are summarized as follows:

1. In full and complete satisfaction and settlement of all claims by Ledex, Shindengen agrees to pay Ledex a certain sum of money and other good and valuable consideration, receipt of which is acknowledged.

2. Except for Respondents' obligations under the Settlement Agreement, Ledex for itself and its successor remises, releases, and forever discharges Shindengen, Densitron, Photo Chemical, E–M Devices, Zaslow, Taylor and Dynel from any and all liability, claims, demands and/or causes of actions and claims for damages and/or royalties at law or in equity claimed or arising out of or in connection with any claim against Shindenge, Densitron, Photo Chemical, E–M Devices, Zaslow, Taylor, and Dynel.

3. Shindengen, Densitron, Photo Chemical, E–M Devices, Zaslow, Taylor and Dynel, for themselves and their successors, remise, release and forever discharge Ledex from any and all liability, claims, demand and/or causes of action, and claims for damages in law oir in equity, arising out of or in connection with any claims, which against Ledex, Shindengen, Densitron, Photo Chemical, E–M Devices, Zaslow, Taylor and Dynel ever had or now have, and attorneys' fees, including costs.

4. In the event any provision of the Settlement Agreement shall be held illegal or invalid by any duly constituted authority, such illegality or invalidity shall not affect the validity or enforceability of the remaining provisions.

FOR FURTHER INFORMATION CONTACT: Warren H. Maruyama, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436; telephone 202–523–0375.

Issued: December 21, 1982.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-35235 Filed 12-28-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337–TA–128]

Certain Cupric Hydroxide Formulated Fungicides and Cupric Hydroxide Preparations Used in the Formulation Thereof; Notice of Commission Decision Not To Review Initial Determination

AGENCY: International Trade Commission.

ACTION: Notice is hereby given that the Commission has determined not to review the presiding officer's initial determination terminating Calabrian Chemical Co. as a respondent in the above-captioned investigation. Accordingly, as of December 20, 1982, the initial determination, became the Commission's determination with respect to this matter.

AUTHORITY: The authority for the Commission's disposition of this matter is contained in section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and in §§ 210.53(c) and 210.53(h) of the Commission's Rules of Practice and Procedure (47 FR 25134, June 10, 1982; to be codified at 19 CFR 210.53 (c) and (h)).

SUPPLEMENTARY INFORMATION:

On November 4, 1982, complainant Kocide Chemical Corp., and respondent Calabrian Chemical Corp. ("Calabrian") jointly moved (Motion No. 128–13) to terminate the Commission's investigation with respect to Calabrian. On December 3, 1982, the presiding officer granted Motion No. 128–13 and terminated Calabrian as a respondent in the investigation.

Pursuant to rule § 210.53(h)(2), an initial determination of the presiding officer under rule § 210.53(c) becomes the determination of the Commission fifteen (15) days from the date of service, unless the Commission orders review of the initial determination. As pointed out by the presiding officer in Order No. 21, rulings with respect to motions to terminate a respondent pursuant to rule § 210.51(c) are initial determinations under rule § 210.53. Rule

§ 210.53 controls over any language to the contrary in rule § 210.51(c)(2).

Having examined the record in this investigation, including Motion No. 128–13, the papers filed in connection therewith, and the initial determination of the presiding officer, the Commission finds no grounds for review of the initial determination.

Copies of the nonconfidential version of the presiding officer's initial determination and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

FOR FURTHER INFORMATION CONTACT: Warren H. Maruyama, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–0375.

By order of the Commission.

Issued: December 20, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82–35236 Filed 12–28–82; 8:45 am]
BILLING CODE 7020–02–M

[Investigation No. 337–TA–134]

Certain Treadmill Joggers; Notice of Change of the Commission Investigative Attorney

Notice is hereby given that as of this date, Samuel Bailey, Jr., Esq. of the Unfair Import Investigations Division will be the Commission Investigative Attorney in the above-cited investigation instead of John Milo Bryant, Esq.

The Secretary is requested to publish this notice in the **Federal Register.**

Dated: December 16, 1982.

David I. Wilson, Chief,

Unfair Import Investigations Division.

[FR Doc. 82–35237 Filed 12–28–82; 8:45 am]
BILLING CODE 7020–02–M

[Investigation No. 701–TA–184 (Final)]

Frozen Concentrated Orange Juice From Brazil

AGENCY: International Trade Commission.

ACTION: Institution of final countervailing duty investigation and scheduling of a hearing to be held in connection with the investigation.

EFFECTIVE DATE: December 16, 1982.

SUMMARY: As a result of an affirmative preliminary determination by the U.S. Department of Commerce that there is reason to believe or suspect that certain benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930 (19 U.S.C. 1671) are being provided to manufacturers, producers, or exporters in Brazil of frozen concentrated orange juice, provided for in item 165.35 of the Tariff Schedules of the United States, the United States International Trade Commission hereby gives notice of the institution of investigation No. 701–TA–184 (Final) under section 705(b) of the act (19 U.S.C. 1671d(b)) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of such merchandise. The Department of Commerce is scheduled to make its final subsidy determination in the case on or before February 24, 1983, and the Commission will make its final injury determination by April 14, 1983 (19 CFR 207.25.

FOR FURTHER INFORMATION CONTACT: Mr. David Coombs (202–523–1376), Office of Investigations, U.S. International Trade Commission.

SUPPLEMENTARY INFORMATION:

Background.— On August 30, 1982, the Commission determined, on the basis of the information developed during the course of its preliminary investigation, that there was a reasonable indication that an industry in the United States was materially injured or threratened with material injury by reason of allegedly subsidized imports of frozen concentrated orange juice from Brazil. The preliminary investigation was instituted in response to a petition filed on April 12, 1982, by counsel for Florida Citrus Mutual, an association of orange growers.

Participation in the investigation.— Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11, as amended by 47 FR 6189, Feb. 10, 1982), not later than 21 days after the publication of this notice in the **Federal Register.** Any entry of appearance filed after this date will be referred to the Chairman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Upon the expiration of the period for filing entries of appearance, the Secretary shall prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation, pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d), as amended by 47 FR 6189, Feb. 10, 1982). Each document filed by a party to this investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service (19 CFR 201.16(c), as amended by 47 FR 33682, Aug. 4, 1982).

Staff report.—A public version of the staff report containing preliminary findings of fact in this investigation will be placed in the public record on February 18, 1983, pursuant to § 207.21 of the Commission's rules (19 CFR 207.21).

Hearing.—The Commission will hold a hearing in connection with this invetigation beginning at 10:00 a.m. on March 8, 1983, in Grand Hall C of the Holiday Inn International, 65157 International Drive, Orlando, Florida. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on February 24, 1983. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 10:00 a.m. on March 2, 1983, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is March 1, 1983.

Testimony at the public hearing is governed by section 207.23 of the Commission's rules (19 CFR 207.23, as amended by 47 FR 33682, Aug. 4, 1982). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with § 207.22 (19 CFR 207.22, as amended by 47 FR 33682, Aug. 4, 1982). Posthearing briefs must conform with the provisions of section 207.24 (19 CFR 207.24, as amended by 47 FR 6191, Feb. 10, 1992) and must be submitted not later than the close of business on March 16, 1983.

Written submissions.— As mentioned, parties to this investigation may file prehearing and posthearing briefs by the dates shown above. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before

March 16, 1983. A signed original and fourteen (14) true copies of each submission must be filed with the Secretary to the Commission in accordance with section 201.8 of the Commission's rules (19 CFR 201.8, as amended by 47 FR 6188, Feb. 10, 1982, and 47 FR 13791, Apr. 1, 1982). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired shall be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6).

For further information concerning the conduct of the investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, Subparts A and C (19 CFR Part 207, as amended by 47 FR 6190, Feb. 10, 1982, and 47 FR 33682, Aug. 4, 1982), and Part 201, Subparts A through E (19 CFR Part 201, as amended by 47 FR 6188, Feb. 10, 1982; 47 FR 13791, Apr. 1, 1982; and 47 FR 33682, Aug. 4, 1982).

This notice is published pursuant to section 207.20 of the Commission's rules (19 CFR 207.20, as amended by 47 FR 6190, Feb. 10, 1982).

By order of the Commission.

Issued: December 23, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-35244 Filed 12-28-82; 8:45 am]
BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

Forms Under Review by the Office of Management and Budget

The following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) is being submitted to the Office of Management and Budget for review and approval. Copies of the forms and supporting documents may be obtained from the Agency Clearance Officer, Lee Campbell (202) 275-7238. Comments regarding this information collection should be addressed to Lee Campbell, Interstate Commerce Commission, Room 1325, 12th and Constitution Ave., NW., Washington, DC 20423 and to Robert Siegel, Office of Management and Budget, Room 3001 NEOB, Washington, DC 20503, (202) 395-7313.

- Type of Clearance: Extension.

Bureau/Office: Bureau of Accounts.
Title of Form: Monthly Report of Employees, Service and Compensation.
OMB Form No.: 3120-0074.
Agency Form No.: Wage A and B.
Frequency: Monthly.
Respondents: Class I Railroad.
Number of Respondents: 533.
Total Burden Hours: 64,493.

- Type of Clearance: Extension.

Bureau/Office: Bureau of Accounts.
Title of Form: Monthly Preliminary Report of Number of Employees of Class I Railroads.
OMB Form No.: 3120-0075.
Agency Form No.: Preliminary Wage.
Frequency: Monthly.
Respondents: Class I Railroads.
Number of Respondents: 492.
Total Burden Hours: 6,888.

- Type of Clearance: Revision.

Bureau/Office: Bureau of Accounts.
Title of Form: Annual Report of Railroad Employees, Service and Compensation.
OMB Form No.: 3120-0074.
Agency Form No.: Annual Wage A and B.
Frequency: Annually.
Respondent: Class I Railroad.
Number of Respondents: 35.
Total Burden Hours: 1,400.

- Type of Clearance: Revision.

Bureau/Office: Bureau of Accounts.
Title of Form: Quarterly Report of Railroad Employees, Service and Compensation (Summary).
OMB Form No.: 3120-0074.
Agency Form No.: Quarterly wage A and B (Summary).
Frequency: Quarterly.
Respondents: Class I Railroads.
Number of Respondents: 140.
Total Burden Hours: 39,760.

- Type of Clearance: Revision.

Bureau/Office: Bureau of Accounts.
Title of Form: Monthly Report of Number of Railroad Employees.
OMB Form No.: 3120-0075.
Agency Form No.: Monthly Employees.
Frequency: Monthly.
Respondents: Class I Railroads.
Number of Respondents: 35.
Total Burden Hours: 5,880.

Kathleen M. King,

Acting Secretary.

[FR Doc. 82-35247 Filed 12-28-82; 8:45 am]
BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publiction no later than the 15th calendar day after the date the notice of filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for us in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F-225

The following applications were filed in Region 2. Send protests to: ICC, Fed. Res. Bank Bldg., 101 North 7th St., Rm. 620, Philadelphia, Pa. 19106.

MC 165042 (Sub-II-1TA), filed December 7, 1982. Applicant: ATHA TRUCKING, INC., Route 2, Box 531, Bridgeport, WV 26330. Representative: James D. Gray, P.O. Box 2190, Clarksburg, WV 26302-2190. *Concrete sectional grave liners and burial vaults* from points in Franklin and Crawford Counties, OH to points in WV. An underlying ETA seeks 120 days authority. Supporting shipper: Mountaineer Vault Company, Inc., P.O. Box 46, Salem, WV 26426.

MC 163072 (Sub-II–2TA), filed December 7, 1982. Applicant: B/T EXPRESS TRUCKING CO., 1536 Montvale Circle, West Chester, PA 19380. Representative: Donald Britt (same address as applicant). *General commodities* (except Classes A & B explosives, commodities in bulk, and those commodities which because of size or weight require of special handling or equipment) between all points in the U.S. (except AK & HI), for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Dafoe & Dafoe, 155 Great Valley Pkwy., Malvern, PA 19355.

MC 124333 (Sub-II–13TA), filed December 7, 1982. Applicant: BAKER PETROLEUM TRANSPORTATION CO., INC., Pyles Lane, New Castle, DE 19720. Representative: Joseph F. Fogarty (same address as applicant). *Contract,* irregular: *Petroleum and petroleum products, in bulk, in tank vehicles,* between points in DE, NJ and PA. Supporting shipper: Wesley Engery Systems Corp., New Castle, DE 19720.

MC 5285 (Sub-II–2TA), filed December 1, 1982. Applicant: BAYSE TRANSPORTATION SERVICE, INC., 2031 Salem Industrial Dr., Salem, VA 24153. Representative: Charles W. Bayse (same address as applicant). *Contract,* irregular: *Food and related products* between Newport, Sevierville, Tellico Plains, Danbridge, and Jefferson City, TN, on the one hand, and, on the other, Baltimore, MD. Supporting shipper: Stokely-Van Camp, Inc., P.O. Box 1113, Indianapolis, IN 46206.

MC 72069 (Sub-II–17TA), filed December 2, 1982. Applicant: BLUE HEN LINES, INC., P.O. Box 280, Milford, DE 19963. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 15th St., N.W., Washington, DC 20005. *Sport shooting supplies,* between all points in the U.S. (except AK and HI), for 270 days. Supporting shippers: Kay Ohye Corp., 600 Holly Lane, No. Brunswick, NJ 08902, and Dawson Enterprises, 7191 Nave St., S.W., Massillon, OH 44646.

MC 149043 (Sub-II–13TA), filed December 7, 1982. Applicant: EASTERN TANK LINES, INC., 5536 Brentlinger Drive, Dayton, OH 45414. Representative: H. Neil Garson, 3251 Old Lee Highway, Fairfax, VA 22030. (1) *Film, plastic, sheets, asbestos packing, thread, sealer, gums, synthetic resins, wheel cylinder packing, rubber compounds, barytes, neoprene, washers, gaskets, powdered zinc, packing devices, paints, stains, varnishes, liquid paste or aerosol cans, asbestos cloth and asbestos yarn for packing materials, soapstone, carbon black, castings, synthetic fabric,* between Dayton, OH on the one hand, and, on the other, points in TX, NV, GA, NY, NC, IA, MI, VA, AL, LA, NJ, IL, NM, KY, SC and IN; and (2) *Carbon black, soapstone, synthetic fabrics, barytes, rubber compounds, neoprene, powdered zinc,* between points in TX, NV, GA, NC, IA, MI, VA, AL, LA, NJ, IL, NM, OH, KY, SC and IN on the one hand, and, on the other, Palmyra, NY, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Garlock, Inc., 6094 Executive Blvd., Dayton, OH 45424.

MC 165043 (Sub-II–1TA), filed December 7, 1982. Applicant: EUREKA PIPE LINE CO., P.O. Drawer 808, 963 Market St., Parkersburg, WV 26101. Representative: Ronald L. Ridgway (same address as applicant). Contract, irregular: *Crude oil* from Kanawha and Lincoln Counties, WV to Boyd County, KY, under continuing contract(s) with Pennzoil Products Co., a Div. of Pennzoil Co., Houston, TX. An underlying ETA seeks 120 days authority. Supporting shipper: Pennzoil Products Co., Div. of Pennzoil Co., 165 Oakwood Ave., Newark, OH 43055.

MC 164570 (Sub-II–1TA), filed December 1, 1982. Applicant: GARY L. GHIZZONI d.b.a. M & B TRANSPORTATION, P.O. Box 5204, New Castle, PA 16105. Representative: Peter Wolff, 722 Pittston Ave., Scranton, PA 18505. *Foodstuffs and such commodities as are dealt in by retail and wholesale grocery houses,* between New Castle and Pittsburgh, PA, on the one hand, and, on the other, points in CA, under continuing contract(s) with Galaxy Cheese Co. and OK Grocery Co., Div. of Giant Eagle Markets. An underlying ETA seeks 120 days authority. Supporting shippers: Galaxy Cheese Co., P.O.B. 5204, New Castle, PA 16105; OK Grocery Co., Div. of Giant Eagle Markets, 101 Kappa Dr., Blawnox, PA 15238.

MC 151587 (Sub-II–2TA), filed December 7, 1982. Applicant: P&G OIL CO., INC., d.b.a. P&G TRUCKING CO., Lakeview Drive, Madison Heights, VA 24572. Representative: Eric Meierhoefer, 915 Pennsylvania Building, 425 13th Street, NW, Washington, DC 20004. *Contract,* irregular: *joiner work for ships, and fixtures and furniture for use on oceangoing vessels,* between points in the U.S. (except AK and HI), under continuing contract(s) with Hopeman Brothers, Inc., of Waynesboro, VA. (An underlying ETA seeks 120 days of authority.) Supporting shipper: Hopeman Brothers, Inc., P.O. Box 550, 435 Essex Avenue, Waynesboro, VA 22980.

MC 149163 (Sub-2–1TA), filed December 1, 1982. Applicant: PAGERLY DETECTIVE & SECURITY AGENCY, INC., Hill Road, Wernersville, PA 19565. Representative: Calvin Lieberman, 635 Walnut Street, Reading, PA 19601. *Contract carrier:* irregular routes: *Cash letters and non-negotiable bank document,* between points in Reading and King of Prussia, PA on one hand, and, on the other hand, points in Newark, NJ, under a continuing contract(s) with American Bank and Trust Co. of PA, Reading, PA. An underlying ETA seeks 120 days authority. Supporting shipper: American Bank and Trust Co. of PA, Reading, PA.

MC 154381 (Sub-II–5), filed December 1, 1982. Applicant: PRETLOW BROS. TRUCKING CO., INC., 121 E. Marshall St., Richmond, VA 23219. Representative: Revardo C. Pretlow (same address as applicant). *General commodities (except household goods, Classes A & B explosives and commodities in bulk)* between the Defense General Supply Center, Bell Bluff, VA, and Dover Air Force Base, Dover, DE, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s) Department of Defense, U.S. Army Legal Services Agency, 5611 Columbia Pike, Falls Church, VA 22041.

MC 165191 (Sub-II–1TA), filed December 14, 1982. Applicant: CHRISTIAN SCHMIDT, Rt. 5, Box 650, Easton, MD 21601. Representative: James H. Sweeney, P.O. Box 9023, Lester, PA 19113. *Lumber, lumber products and forest products* between points in Wicomoco County, MD on the one hand, and, on the other, points in CT, DE, MA, MD, NJ, NY, PA, RI, VA and DC for 270 days. Supporting shipper: Long Life Treated Wood, Inc., P.O. Box 340, Hebron, MD 21830.

MC 158996 (Sub-II–2TA), filed December 7, 1982. Applicant: Beulah M. Seals, 12343 Oak Drive, Orient, OH 43146. Representative: Frank L. Calvary, 3066 N. Star Road, Columbus, OH 43221. *Ramps* from Circleville, OH, to points in U.S. (except AK and HI), under continuing contract(s) with KABS, Inc. for 270 days. Supporting shipper: KABS, INC., P.O. Box 30128, Cincinnati, OH 45230.

MC 151401 (Sub-II–5TA), filed December 1, 1982. Applicant: TRI-SERVICE, INC., P.O. Box 1419, West Chester, PA 19380. Representative: Daniel B. Johnson, 4304 East-West Hwy., Bethesda, MD 20814. *Such commodities as are used or dealt in by chemical manufacturers (except in bulk),* between points in the New York, NY commercial zone, on the one hand, and, on the other, points in and east of MN, IA, MO, AR

and TX, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Captree Chemical Corp., 395 Eastern Pkwy., Farmingdale, L.I., NY 11735.

MC 147282 (Sub-II–2TA), filed December 1, 1982. Applicant: SCOTT WEBSTER TRUCKING CO., 209 Valley Park Dr., Pittsburgh, PA 14216. Representative: Scott Webster (same as applicant). *Contract,* irregular: *General Commodities (Except commodities in bulk, in tank vehicles, household goods as defined by the Commission, and Classes A and B explosives)* between points in DE, KY, MD, NJ, NY, OH, PA, and WV, under continuing contract(s) with the Merchandise Warehouse Co., for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: The Merchandise Warehouse Co., 1177 Joyce Ave. P.O. Box 2298, Columbus, OH 43216.

The following applications were filed in region 4: Send protests to: ICC, Complaint and Authority Branch, P.O. Box 2980, Chicago, IL 60604.

MC 6992 (Sub-4–8TA), filed December 10, 1982. Applicant: AMERICAN RED BALL TRANSIT CO., INC., 1335 Sadlier Circle, East Drive, Indianapolis, IN 46239. Representative: John F. Spickelmier (same address as applicant). Transporting *pulp, paper and related products,* between points in Indianapolis, IN, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Bowers Envelope Co., 5331 N. Tacoma Ave., Indianapolis, IN 46239.

MC 133314 (Sub-4–6TA), filed December 13, 1982. Applicant: SILVAN TRUCKING CO., INC., R.R. No. 2, Box 137, Pendleton, IN 46064. Representative: Walter F. Jones, Jr., 1111 East 54th Street, Suite 155, Indianapolis, IN 46220. *Machine, hand and automotive tools, tool chests, battery chargers and testing equipment* between Tallmadge, OH, IN, MI, and IL. Supporting shipper: Matco Tools Corp., 124 N. Ave., Tallmadge, OH 44278.

MC 134167 (Sub-4–3TA), filed December 10, 1982. Applicant: CARRIER SERVICE CO. OF WISCONSIN, INC., 2621 South 5th Place, Milwaukee, WI 53207. Representative: Michael J. Wyngaard, 150 East Gilman Street, Madison, WI 53703. Authority sought to operate as a *contract* carrier, over *irregular* routes, transporting: *Electrical appliances, and materials, equipment and supplies used or useful in the manufacture, sale or distribution of electrical appliances,* between Hartford and Milwaukee, WI, on the one hand, and, on the other hand, Chicago, IL; Columbus, New Baltimore and Toledo, OH; Indianapolis, IN; Louisville, KY; Detroit, MI; and Nashville, TN under continuing contract(s) with Broan Mfg. Co., Inc. Authority sought for 270 days. Underlying ETA seeks 120 days authority. Supporting shipper: Broan Mfg. Co., Inc., 926 West State Street, Hartford, WI 53027.

MC 145807 (Sub-4–7), filed December 10, 1982. Applicant: DERBY TRANSPORT, INC., 609 First Ave. North, Box 695, Weyburn, Saskatchewan, Canada S4H 1P1. Representative: William J. Gambucci, 525 Lumber Exchange Building, Ten South Fifth Street, Minneapolis, MN 55402. *Fertilizer* between points of entry on the International Boundary Line between the U.S. and Canada located in MT, on the one hand, and, on the other, points in WA and OR, an underlying ETA seeks 120 days authority. Shipper: J. R. Simplot Co., D.B.A. Simplot Soilbuilders, POB 10004, Yakima, WA 98909.

MC 146121 (Sub-4–4TA), filed December 13, 1982. Applicant: BAY CARTAGE CO., 1122 E. Barney Ave., Muskegon, MI 49444. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503. *Contract,* irregular: *General commodities (except in bulk, Classes A and B explosives, and household goods as defined by the Commission)* between all points in the United States (except AK and HI), under contract with Clarke Division of McGraw Edison Co. Supporting shipper: Clark Div. of McGraw Edison Co., 2900 Estes St., Muskegon, MI 49441.

MC 154904 (Sub-4–2), filed December 10, 1982. Applicant: RUSSELL TRUCKING, INC., 1860 W. Main, Ubly, MI 48475. Representative: James R. Davis, Fraser Trebilcock Davis & Foster, P.C., Tenth Floor, Michigan National Tower, Lansing, MI 48933. 1. Plain or insulated wire; cord sets; scrap metal for reclaim purposes; plastic and metal products; plastic pellets, clay filler, rubber and other materials used in the manufacturer of metal insulating materials between the facilities of General Cable Company in Sanilac County, MI, on the one hand, and, on the other, points in the states of AL, IL, AZ, CA, FL, GA, IN, KY, MA, MS, NB, NJ, PA, TX, TN and NY. 2. Metal buildings, grain bins, forage and livestock equipment including elevators, manure and liquid fertilizer spreaders, silage unloaders, conveyors, grain drying systems, and parts and supplies for the same between points and places in MI, on the one hand, and on the other, points in the States of KA, IO, MN and WI. There are two supporting shippers.

The following applications were filed in Region 5. Send protest to: Consumer Assistance Center, Interstate Commerce Commission, 411 West 7th Street, Suite 500, Fort Worth, TX 76102.

MC 65300 (Sub-5–2TA), filed December 13, 1982. Applicant: LUNA TRUCK LINE, INC., Sanders Corner Route, Box 48–20, West Plains, MO 65775. Representative: Thomas A. Stroud, 109 Madison Avenue, Memphis, TN 38103. *Common,* Regular; *General commodities* (except Classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), (1) between Springfield, MO and Poplar Bluff, MO, from Springfield over U.S. Highway 60 to its junction with U.S. Highway 67, then over U.S. Highway 67 to Poplar Bluff and return; (2) between Winona, MO and Salem, MO, over MO Highway 19; (3) between West Plains, MO and Poplar Bluff, MO, over U.S. Highway 160; (4) between West Plains, MO and Thayer, MO, over U.S. Highway 63; and (5) between Mansfield, MO and Ava, MO, over MO Highway 5; serving all intermediate points on routes (1) through (5), and serving the commercial zones of all points on routes (1) through (5). Supporting shippers: 27. Applicant intends to tack and interline.

MC 114028 (Sub-5–13TA), filed December 13, 1982. Applicant: ROWLEY INTERSTATE TRANSPORTATION CO., INC., 2010 Kerper Boulevard, Dubuque, IA 52001. Representative: Carl L. Steiner, 135 South LaSalle Street, Chicago, IL 60603. *Contract, Irregular, Printing Paper and Wrapping Paper* from Peshtigo, WI, to points in IL, MO, IA, KS & NE under continuing contract with Badger Paper Mills, Inc., Peshtigo, WI.

MC 128075 (Sub-5–7TA), filed December 13, 1982. Applicant: JOHNSRUD TRANSPORT, INC., 5201 Northeast 17th Street, Des Moines, IA 50313. Representative: William L. Fairbank, 2400 Financial Center, Des Moines, IA 50309. *Contract;* Irregular. *Commodities used in the manufacture of weed and tree killing compounds, in bulk,* from Tulsa, OK and Dayton, TX to Ankeny, IA. Supporting shipper: Albaugh Chemical Corporation, Ankeny, IA.

MC 147019 (Sub-5–3TA), filed December 13, 1982. Applicant: WENGERT TRANSPORTATION, INC., d.b.a. CITY DELIVERY, 651 58th Avenue Ct., S.W., Cedar Rapids, IA 52404. Representative: James M. Hodge, 3730 Ingersoll Avenue, Des Moines, IA 50312. *Toilet preparations, cosmetics, costume jewerly, and premium items,* from Mt. Pleasant, IA to all points in IA. Prior

Interstate traffic. Supporting shipper: Avon Produts, Inc., Morton Grove, IL.

MC 148045 (Sub-5–4TA), filed December 13, 1982. Applicant: QUAD CITY SPOTTING SERVICE, INC., P.O. Box 4168, Davenport, IA 52808. Representative: Joseph Winter, 29 South LaSalle Street, Chicago, IL 60603. *General commodities (except household goods, commodities in bulk, and classes A and B explosives),* between Kansas City, MO and its commercial zone, on the one hand, and, on the other, points in KS and MO, restricted to the transportation of traffic having a prior or subsequent movement by rail. Supporting shippers: Immanuel Transport Inc. and Immanuel Freight Lines, Inc., Santa Fe Springs, CA; John M. Boast, Inc., Davenport, IA.

MC 159513 (Sub-4–TA), filed December 13, 1982. Applicant: LOK TRUCKING CO., P.O. Box 44B, Route 2, Frisco, TX 75034. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062. *Paper* between AL, CA, IL, MI, OH, PA. TN, VA, WI on the one hand, and, the other, points in TX. Restricted to shipments originating at or destined to the facilities of Clampitt Paper Company. Supporting shipping: Clampitt Paper Company, Dallas, TX

MC 163503 (Sub-5–5TA), filed December 13, 1982. Applicant: NATIONAL FREIGHT SYSTEM, INC., 2305 Oak Lane, Suite 115, Grand Prairie, TX 75051. Representative: Stephen W. Mitchell (same address as above). *Such commodities as are dealt in or used by Wholesale, Retail and Discount Centers* between TX on the one hand, and, on the other, points in the U.S. (EX AK and HI). Supporting shippers: 12.

MC 163503 (Sub-5–6TA), filed December 14, 1982. Applicant: NATIONAL FREIGHT SYSTEM, INC., 2305 Oak Lane, Suite 115, Grand Prairie, TX 75051. Representative: Stephen W. Mitchell (same address as above). *Miscellaneous Rubber and Plastic Products* between, TX, AZ, IL, IN, MI, OH and WI on the one hand, and, on the other, points in the continental United States. Supporting shippers: PMS, Ft. Worth, TX; Tex Star Plastics, Grand Prairie, TX; Gemstar, Chandler, AZ; Wickman Traffic Service, Inc., Western Springs, IL.

MC 164218 (Sub-5–3TA), filed December 13, 1982. Applicant: CONTAINER MAINTENANCE SERVICE, INC., P.O. Box 24781, Houston, TX 77029. Representative: Doyle G. Owens, P.O. Box 7735, Beaumont, TX 77706. *Electrical Equipment and Scrap Metals, moving in ocean containers,* restricted to shipments having a prior or subsequent movement via rail, between Dallas, TX, on the one hand, and on the other, Camden, AR, Little Rock, AR and Hope, AR. Supporting shipper: Kanton Metals, South Bend, IN.

MC 164693 (Sub-5–1TA), filed December 13, 1982. Applicant: JOE'S TRUCKING CO., 1701 Olson Way, Marshalltown, IA 50158. Representative: Jerry W. Garner (same address as above). *Contract* irregular: *refrigerators, washers, dryers, T.V.'s, Video recorders, new furniture and fixtures and new automotive parts* between Omaha, NE and Des Moines, Marshalltown, Mason City, Fort Dodge, and Ottumwa, IA, and their commercial zones. Supporting shipper: Sidles Distributing Co., Inc., Omaha, NE.

MC 164789 (Sub-5–1TA), filed December 13, 1982. Applicant: KEN SELLERS, d.b.a. KEN SELLERS TRUCKING, 5916 Bertha Lane, Fort Worth, TX 76117. Representative: Billy R. Reid, 1721 Carl Street, Fort Worth, TX 76103. *Boat trailers, partially knocked down and nested, on shipper owned lowboy trailers,* from Joshua, TX, to points in AL, AR, AZ, GA, FL, KS, KY, IN, IA, IL, LA, MO, MI, MS, MN, OH, OK, TN, UT and WI. Supporting shipper: Skipper B Trailer Co., Joshua, TX.

MC 165154 (Sub-5–1TA), filed December 13, 1982. Applicant: WILLIAM WAYNE DAVIS d.b.a. WAYNE DAVIS TRUCKING, R.R. No. 1, Box 240, Sigourney, IA 52591. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. *Contract* irregular: *Fertilizer, Fertilizer Materials and Potash,* between points in IA. Prior or subsequent movement by rail. Supporting shipper: International Minerals and Chemicals, Slater, IA.

MC 165155 (Sub-5–1TA), filed December 13, 1982. Applicant: PAUL THOMPSON d.b.a. PLT TRUCKING, 4855 South 157 Street, Omaha, NE 68135. Representative: Arlyn L. Westergren, Suite 201, 9202 W. Dodge Rd., Omaha, NE 68114. *Food and related products,* from the facilities of Omaha Steaks International at Omaha, NE, to Cincinnati, OH. Supporting shipper: Omaha Steaks International, Omaha, NE.

MC 165156 (Sub-5–1TA), filed December 13, 1982. Applicant: B&J TRUCKING, INC., Rt. 1, Box 18C, Sheridan, AR 72150. Representative: Sam Ed Gibson, P.O. Box 211, Benton, AR 72015. *Contract* irregular. *Wood products being wooden handle blanks and other similar wood products* between Sheridan Grant County, AR, on the one hand, and, on the other, Memphis, Shelby County, TN, and their commercial zones. Supporting shipper: IXL Manufacturing Company, Inc., d.b.a. LaPierre Sawyer Handle Company, Sheridan, AR.

MC 165194 (Sub-5–1TA), filed December 14, 1982. Applicant: A. WEST d.b.a. KREMLIN BUS SERVICE, Box 27, Kremlin, OK 73753. Representative: Wilburn L. Williamson, Suite 107, 50 Classen Center, 5101 North Classen Boulevard, Oklahoma City, OK 73118. *Passengers and their baggage, in the same vehicle with passengers, in charter and special operations,* between points in OK, on the one hand, and, on the other, points in the U.S. (except HI). Supporting shipper: Enid Travel Service, Enid, OK.

Kathleen M. King,

Acting Secretary.

[FR Doc. 82–35249 Filed 12–28–82; 8:45 am]

BILLING CODE 7035–01–M

[Volume No. OP 5–296]

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Decided: December 17, 1982.

90–Day Intrastate Motor Common Carriers of Passengers.

The following applications, filed on or after November 19, 1982, are governed by Part 1168 of the Commission's Rules of Practice. See 49 CFR Part 1168, published in the **Federal Register** on November 24, 1982, at 47 FR 53275. For compliance procedures, see 49 CFR 1168.6 and 49 U.S.C. 10922 (c)(2)(E).

Persons wishing to oppose an application must follow the rules under 49 CFR Part 1168. In addition to fitness grounds, applications may be opposed on the grounds that the transportation to be authorized would directly compete with a commuter bus operation and would have a significant adverse effect on all commuter bus service in the area in which the competing service will be performed. Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, or jurisdictional questions) we find, preliminarily, that

each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 25 days from date of publication, (or if the application later becomes unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will issued. Once this compliance is met, the authority will be issued.

Within 30 days after publications an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board Number 3, Members Krock, Joyce and Dowell.

Note.—All applications are filed under 49 U.S.C. 10922(c)(2)(A) for authority to operate as a motor common carrier of passengers in intrastate commerce on a route over which applicant has interstate, regular-route authority on November 19, 1982.

Please direct status inquiries to Team 5, (202) 275–7289.

MC 61599 (Sub–142), filed December 7, 1982. Applicant: TRAILWAYS SOUTHEASTERN LINES, INC., 200 Spring St., NW, Atlanta, GA 30303. Representative: George W. Hanthorn, 1500 Jackson St., Dallas, TX 75201, (214) 655–7937. Applicant seeks authority in intrastate commerce to conduct service at all intermediate points on routes in No. MC 61599 Sub 141, in part, as follows: To operate over the route between Atlanta, GA and Greenville, SC, to provide intrastate service at all intermediate points between Chamblee and Lavonia, GA, including Chamblee and Lavonia.

Kathleen King,

Acting Secretary.

[FR Doc. 82–35248 Filed 12–28–82; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Motor Common and Contract Carriers of Property (except fitness-only); Motor Common Carriers of Passengers (public interest); Freight Forwarders; Water Carriers; Household Goods Brokers.

The following applications for motor common or contract carriers of property, water carriage, freight forwarders, and household goods brokers are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common carriage of passengers, filed on or after November 19, 1982, are governed by Subpart D of 49 CFR Part 1160, published in the **Federal Register** on November 24, 1982 at 47 FR 53271. For compliance procedures, see 49 CFR 1160.86. Carriers operating pursuant to an intrastate certificate also must comply with 49 U.S.C. 10922(c)(2)(E). Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E. In addition to fitness grounds, these applications may be opposed on the grounds that the transportation to be authorized is not consistent with the public interest.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings:

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations.

We make an additional preliminary finding with respect to each of the following types of applications as indicated: common carrier of property—that the service proposed will serve a useful public purpose, responsive to a public demand or need; water common carrier—that the transportation to be provided under the certificate is or will be required by the public convenience and necessity; water contract carrier, motor contract carrier of property, freight forwarder, and household goods broker—that the transportation will be consistent with the public interest and the transportation policy of section 10101 of chapter 101 of Title 49 of the United States Code.

These presumptions shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract." Applications filed under 49 U.S.C. 10922(c)(2)(B) to operate in intrastate commerce over regular routes as a motor

common carrier of passengers are duly noted. Please direct status inquiries to Team 1 at (202) 275–7992.

Volume No. OP1–239

Decided: December 21, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Parker not participating.)

MC 28670 (Sub-7), filed December 15, 1982. Applicant: STAR MOTOR FREIGHT, INC., P.O. Box 253, Lewiston, ID 83501. Representative: Kevin M. Clark, 2417 Bank Drive, Suite 8, Boise, ID 83705, (208) 344–7714. Transporting *general commodities* (except classes A and B explosives, and commodities in bulk), between points in WA, OR, ID, UT, and MT.

MC 2890 (Sub-60), filed December 6, 1982. Applicant: AMERICAN BUSLINES, INC., 1500 Jackson St., Dallas, TX 75201. Representative: George W. Hanthorn (same address as applicant), (214) 655–7937. Over regular routes, transporting *passengers,* (a) between Cleveland, OH, and Cincinnati, OH, over Interstate Hwy 71, serving all intermediate points and serving Ashland, OH, as an off-route point, (b) between junction Interstate Hwy 71 and OH Hwy 82 and Strongsville, OH, over OH Hwy 82, serving all intermediate points, (3) between junction Interstate Hwy 71 and OH Hwy 18 and Medina, OH, over Hwy 18, serving all intermediate points, (4) between junction Interstate Hwy 71 and U.S. Hwy 30 and junction Interstate Hwy 71 and OH Hwy 13, from junction Interstate Hwy 71 and U.S. Hwy 30, over U.S. Hwy 30 to junction OH Hwy 13, then over OH Hwy 13 to junction Interstate Hwy 71, and return over the same rout, serving all intermediate points, (5) between Toledo, OH, and Cincinnati, OH, over Interstate Hwy 75, serving all intermediate points and serving North College Hill as an off-route point, (6) between junction Interstate Hwy 75 and U.S. Hwy 6 and Bowling Green, OH, from junction Interstate Hwy 75 and U.S. Hwy 6, over U.S. Hwy 6 to junction OH Hwy 25, then over OH Hwy 25 to Bowling Green, OH, and return over the same route, serving all intermediate points, (7) between junction Interstate Hwy 75 and OH Hwy 47 and Sidney, OH, over OH Hwy 47, serving all intermediate points, (8) between junction Interstate Hwy 75 and OH Hwy 122 and Middletown, OH, over OH Hwy 122, serving all intermediate points, and (9) between Akron, OH and junction Interstate Hwy 76 and Interstate Hwy 71, over Interstate Hwy 76, serving all intermediate points.

Note.—Applicant seeks to provide regular-route service in interstate or foreign commerce.

MC 55830 (Sub-2), filed December 13, 1982. Applicant: THRU-WAY TRANSFER INCORPORATED, 320 Woodmont Rd., Milford, CT 06460. Representative: Ronald I. Shapss, 450 Seventh Ave., New York, NY 10123, (212) 239–4610. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI).

MC 58561 (Sub-4), filed December 10, 1982. Applicant: J.A.R. TRUCKING, INC., 3926 Valley Rd., Cleveland, OH 44109. Representative: Stepehn J. Habash, 100 E. Broad St., Columbus, OH 43215, (614) 228–1541. Transporting *metal products* between points in OH, on the one hand, and, on the other, points in NJ.

MC 60251 (Sub-18), filed December 16, 1982. Applicant: P & D TRANSPORTATION, INC., Connell Highway, Newport, RI 02840. Representative: Frederick T. O'Sullivan, P.O. Box 2184, Peabody, MA 01960, (617) 535–5430. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in NH, PA, RI, MA, CT, ME, VT, NJ, and NY.

MC 75320 (Sub-240), filed December 16, 1982. Applicant: CAMPELL SIXTY-SIX EXPRESS, INC., P.O. Box 807, Springfield, MO 65801. Representative: John A. Crawfor, P.O. Box 22567, Jackson, MS 39205, (601) 948–5711. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 75840 (Sub-172), filed December 9, 1982. Applicant: MALONE FREIGHT LINES, INC., P.O. Box 11103, Birmingham, AL 35202. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210, (703) 525–4050. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with Malone Intermodal, Inc., of Tucker, GA.

MC 111940 (Sub-76), filed December 16, 1982. Applicant: SMITH'S TRUCK LINES, P.O. Box 88, Muncy, PA 17756. Representative: J. Bruce Walter, P.O. Box 1146, Harrisburg, PA 17108, (717) 233–5731. Transporting *general commodities* (except classes A and B explosives and household goods), between points in DE, MD, PA, NJ, NY, OH, VA, WV and DC.

MC 121731 (Sub-3), filed December 7, 1982. Applicant: CENTRAL FREIGHT, INC., P.O. Box 1348, Antioch, CA 94509. Representative: Ronald C. Chauvel, 100 Pine St., #2550, San Francisco, CA 94111, (415) 986–1414. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. under continuing contract(s) with Cut & Ready Foods, of San Lorenzo, CA.

MC 127300 (Sub-3), filed November 22, 1982. Applicant: MT. KISCO BUS LINES, INC., 6 Birch Lane, Mahopac, NY 10541. Representative: Sidney J. Leshin, 3 East 54th Street, New York, NY 10022, (212) 759–3700. *Over regular routes,* transporting *passengers,* (1) between Baldwin Place, NY, and White Plains, NY, from Baldwin Place over NY Hwy 6 to Brewster, NY, then over NY Hwy 22 to junction NY Hwy 100, then over NY Hwy 100 to junction NY Hwy 138 (Golden's Bridge Road), then over NY Hwy 138 to junction Interstate Hwy 684, then over Interstate Hwy 684 through Connecticut to Interstate Hwy 287 then over Interstate Hwy 287 to White Plains, and return over the same route, and (2) between the Town of Lewisboro, NY, and New York, NY, from the Town of Lewisboro at the junction of NY Hwy 121 and 35, then over NY Hwy 35 to NY Hwy 124 to junction NY Hwy 103 at Pond Ridge, NY then over NY Hwy 103 to junction NY Hwy 22 at Bedford Village, NY, then over NY Hwy 22 to junction Interstate Hwy 684, at Armonk, NY, then over Interstate Hwy 684 to Interstate Hwy 287, then over Interstate Hwy 287 to Interstate Hwy 95, then over Interstate Hwy 9 to Bruckner Extension, Bronx, NY, then continuing south on Bruckner Extension to Exit at 138th Street, New York, NY, then west of 138th Street to Third Ave. Bridge, then south on Third Ave. Bridge to Second Ave., then south on Second Ave. to Houston Street, then west on Houston Street to Broadway, then south on Broadway to Battery Place, New York, NY, and return over the same route, serving all intermediate points on routes (1) and (2) above.

Note.—Applicant seeks to provide regular-route service in interstate or foreign commerce.

MC 129420 (Sub-8), filed December 8, 1982. Applicant: LILE INTERNATIONAL COMPANIES, 15605 S. W., 72nd Ave., Tigard, OR 97223. Representative: Wendell B. Lile, (same address as applicant), (503) 620–8480. Transporting *household goods, unaccompanied*

baggage and used automobiles, between points in the U.S. (except AK, HI and VT).

MC 133870 (Sub-9), filed December 16, 1982. Applicant: JOHN P. WEYER, INC., PO Box 225, Brownsville, WI 53006. Representative: Richard C. Alexander, 710 N. Plankinton Ave., Milwaukee, WI 53203, (414) 27.4710. Transporting *general commodities* (except household goods and classes A and B explosives), between points in the U.S. (except AK and HI).

MC 138100 (Sub-7), filed December 10, 1982. Applicant: MELLOW TRUCK EXPRESS, INC., 11655 SW Pacific Hwy., P.O. Box 23725, Tigard, OR 97223. Representative: Peter H. Glade, 1 SW Columbia, Suite 555, Portland, OR 97258, (503) 227–1681. Transporting *General commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI).

MC 139030 (Sub-3), filed December 10, 1982. Applicant: J & D, INC., d.b.a. J & D TRANSPORT, 7020 88th Avenue, Kenosha, WI 53142. Representative: Edward J. Gerrity, 601½ W. College Avenue, P.O. Box 914, Appleton, WI 54912, (1–414–734–5606). Transporting *food and related products*, between points in Ramsey County, MN, on the one hand, and, on the other, points in Racing County, WI.

MC 142181 (Sub-26), filed October 13, 1982, previously published in the FR on October 2, 1982. Applicant: COBLE EXPRESS, INC., P.O. Box 1104, 214 Hermitage Ave., Nashville, TX 37202. Representative: Robert L. Baker, Sixth Floor, U.S. Bank Bldg., Nashville, TN 37219, (615)–244–6100. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. in and east of ND, SD, NE, KS, OK and TX. Note: The purpose of this republication is to correct the commodity description.

MC 143271 (Sub-4), filed December 13, 1982. Applicant: CAPITAL CITY TRUCK GARAGE, & TRUCKING COMPANY, INC., 3017 Trawick Rd., Raleigh, NC 27604. Representative: Nicholas J. Dombalis, II, 3700 Computer Drive, P.O. Box 18237, Raleigh, NC. 27619 (919) 781–1311. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in NC, SC, and VA, on the one hand, and, on the other, those points in the U.S. on and east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, then northward along the western boundaries of Itasca and Koochiching Counties, MN, to the international boundary line between the US and Canada.

MC 147010 (Sub-3), filed December 13, 1982. Applicant: WHALEN TRUCKING, INC., 301 Prairie, Waverly, IL 62692. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701, (217) 544–5468. Transporting *fertilizer and petroleum products*, between points in IA, IL and MO. Condition: To the extent that this certificate authorizes the transportation of liquefied petroleum gas (propane), it shall expire 5 years from the date of issuance.

MC 144710 (Sub-10), filed December 2, 1982. Applicant: MONROE CONTRACTORS EQUIPMENT, INC., 749 Phillips Road, P.O. Box F, Fishers, NY 14453. Representative: S. Michael Richards, P.O. Box 225, Webster, NY 14580, (716) 671–1021. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), (a) between those points in the U.S. on and east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, then northward along the western boundary of Itasca and Koochinghing Counties, MN, to the international boundary line between the U.S. and Canada, and (b) between those points described in (a) above on the one hand, and, on the other, points in the U.S. (except AK and HI). Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either (1) state that a petition has been filed under 49 U.S.C. 11343(e) seeking an exemption from the requirements of 49 U.S.C. 11343, (2) file an application under 49 U.S.C. 11343(A), or (3) submit an affidavit indicating why such approval is unnecessary, to the Secretary's office. In order to expedite issuance of any authority please submit a copy of this filing to Team 1, Room 2379.

MC 145940 (Sub-5), filed November 15, 1982. Applicant: DIXIE REFRIGERATED, INC., P.O. Box 2163, Mobile, AL 36601. Representative: James David Mills, P.O. Box 2664, Mobile, AL 36652, (205) 432–0701. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except HI).

MC 148931 (Sub-2), filed December 10, 1982. Applicant: GERALD L. BETTS, d.b.a. BETTS TRUCKING, 229 17th Ave., Central City, NE 68826. Representative: Max H. Johnston, P.O. Box 6597, Lincoln, NE 68506, (402) 488–4841. Transporting (1) *fertilizer and soil conditioners*, between points in Eddy County, NM, Jasper County, MS, and Brazoria County, TX, on the one hand, and, on the other, points in CO, KS, NE and MT, (2)(a) *agricultural machinery and equipment*, between points in Weld County, CO, on the one hand, and, on the other, points in IA, KS, NE, and SD, and (b) between points in Finney and Wilson Counties, KS, on the one hand, and, on the other, points in IA, NE and SD, and (3) *such commodities* as are dealt in or used by building materials, ranch, farm and home supply stores, between points in the U.S. (except AK and HI).

MC 149100 (Sub-20), filed December 7, 1982. Applicant: JIM PALMER TRUCKING, 9730 Derby Dr., Missoula, MT 59801. Representative: John T. Wirth, 717–17th St., Suite 2600, Denver, CO 80202–3357, (303) 892–6700. Transporting (1) *Lumber and wood products*, and (2) *construction materials*, between points in the U.S. (except AK and HI).

MC 153681 (Sub-1), filed December 14, 1982. Applicant: FRAZIER-FARRIS, INC. P.O. Box 178, Gower, MO 64454. Representative: Tom B. Kretsinger, Jr., 20 East Franklin, Liberty, MO 64068, (816) 781–6000. Transporting *commodities in bulk*, between points in the MO, on the one hand, and, on the other, points in KS.

MC 154460 (Sub-7), filed December 16, 1982. Applicant: "Q" Carriers Inc., 14088 Rutgers St. NE., Prior Lake, MN 55372. Representative: Randall D. Quiring, (same address as applicant), (612) 445–8718. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. under continuing contract(s) with Connco Shoes, Inc., of Lake Elmo, MN.

MC 155170 (Sub-2), filed December 13, 1982. Applicant: PEACH STATE TRUCK BROKERS, INC., P.O. Box 2937, Gainseville, GA 30503. Representative: J. L. Fant, P.O. Box 577, Jonesboro, GA 30237, (404) 477–1525. Transporting *general commodites* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with Chateau Elan Ltd., of Braselton, GA, and International Puffins, Inc., of Gainesville, Ga.

MC 158361 (Sub-2), filed December 13, 1982. Applicant: G.F.C. TRUCKING CORP., W. 100 Century Road, Paramus, NJ 07652. Representative: D. Weintraub, (same address as applicant), (201) 262–7500. Transporting *aluminum products*, between points in the U.S., under continuing contract(s) F. & M. Schaefer Brewing Company, of Allentown, PA.

MC 159350 (Sub-2), filed December 15, 1982. Applicant: LANMAN CORPORATION, 1096 Riverbend Club Dr., N.W., Atlanta, GA 30339. Representative: Richard B. Felder, 1019 19th St., N.W., Suite 800, Washington, DC 20036, (202) 785–3420. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Robert W. Lanman, doing business as RWL Enterprises, of Atlanta, GA.

MC 160451, filed December 15, 1982. Applicant: NORTHWEST MO. TRANSPORT, P.O. Box 203, 933 W. 3rd, Maryville, MO 64468. Representative: Paul Ferguson (same address as applicant), (816) 562–2055. Transporting *disposable diapers, wood pulp, and polyurathane*, between points in the U.S., under continuing contract(s) with Riegel Textile Corp., of Maryville, MO.

MC 160870 (Sub-1), filed December 14, 1982. Applicant: O/P TRANSPORTATION LTD., INC., 12290 S.W. Main, Tigard, OR 97223. Representative: Robert Lindsay McArthur (same address as applicant), (503) 684–3450. Transporting *general commodities* (except classes A and B explosives), between points in the U.S. (except HI), under continuing contract(s) with Superior Truck Clearing, Inc., of Ontario, OR.

MC 161290, filed December 7, 1982. Applicant: CARROLL FOSTER, INC., Rt. 3, Box 659, Jonesboro, AR 72401. Representative: R. Connor Wiggins, Jr., 100 N. Main Bldg., Suite 909, Memphis, TN 38103, (901) 526–4114. Transporting *furniture and fixtures, appliances, metal products, household furnishings, textiles, wood products,* (1) between points in Hinds County, MS, and Hillsborough County, FL, on the one hand, and, on the other, points in the U.S. (except AK and HI); and (2) between points in IN, MN, NM, NC, and WI, on the one hand, and, on the other, points in AZ and NM.

MC 162991, filed December 3, 1982. Applicant: EMMA LOUISE JORDAN AND WILLIE JORDAN, d.b.a. E.W. TRUCKING CO., 2080 West 94th Place, Los Angeles, CA 90047. Representative: Mark E. Mahler, 433 North Camden Drive, Sixth Floor, Beverly Hills, CA 90210, (213) 272–8591. Transporting (1) *textile mill products*, between points in Los Angeles County, CA, on the one hand, and, on the other, Chicago, IL, St. Louis, MO, and Houston, TX, (2) *transportation equipment and musical instruments* between points in Los Angeles County, CA, on the one hand, and, on the other, Chicago, IL, and Seattle, WA, and (3) *food and related products and plastic and wood products*, between points in Los Angeles County, CA.

MC 164740, filed December 10, 1982. Applicant: ACE TRANSPORTATION, INC., P.O. Box 91714, 210 Ambassador Caffery & I–10, Lafayette, LA 70501 Representative: Janet Boles Chambers, 8211 Goodwood Blvd., Suite C–1, Baton Rouge, LA 70806, (504) 924–2686. Transporting *contractor's machinery and equipment, building materials, commodities which because of their size of weight require the use of special equipment, mercer commodities and metal products*, between points in AL, FL, LA, MS, OK and TX, on the one hand, and, on the other, points in the U.S. (except HI).

MC 164851, (Sub-1) filed December 13, 1982. Applicant: NATIONWIDE TRANSPORTATION, INC., 4601 South 50th St., Suite 309, Omaha, NE 68117. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501–2028, (402) 475–6761. Transporting *food and related products*, between points in the U.S. (except AK and HI). Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either (1) state that a petition has been filed under 49 U.S.C. 11343(e) seeking an exemption from the requirements of 49 U.S.C. 11343, (2) file an application under 49 U.S.C. 11343(A), or (3) submit an affidavit indicating why such approval is unnecessary, to the Secretary's office. In order to expedite issuance of any authority please submit a copy of this filing to Team 1, Room 2379.

MC 165110, filed December 9, 1982. Applicant: KENNEDY MANUFACTURING COMPANY, 520 East Sycamore St., Van Wert, OH 45891. Representative: Fred Early (same address as applicant), (419) 238–2442. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with North American Philips Lighting Corporation, Teleflex, Inc., American Merchandising Assoc. Inc., and Federal-Mogul Corp., all of Van Wert, OH.

MC 165121, filed December 10, 1982. Applicant: J. P. TRANSPORTATION CO., INC., 3800 Tytus Ave., Middletown, OH 45042. Representative: Paul F. Beery, 275 E. State St., Columbus, OH 43215, (614) 228–8575. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in OH, PA, MI, IN, IL, KY, TN, and WV.

MC 165141, filed December 10, 1982. Applicant: PACIFIC GULF TRUCKING, INC., P.O. Box 7676, Phoenix, AZ 85011. Representative: Rick J. Hall, P.O. Box 2465, Salt Lake City, UT 84110, (801) 531–1777. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 165160, filed December 13, 1982. Applicant: WATER BONNET MFG., INC., 100 Lake Howell Rd., Casselberry, FL 32707. Representative: Harry F. Gildea (same address as applicant) (305) 831–2122. Transporting *metal products*, between Franklin Park, IL, on the one hand, and, on the other, points in IL, and points in Cullman County, AL, under continuing contract(s) with Woodside Engineering Co., of Franklin Park, IL.

MC 165161, filed December 13, 1982. Applicant: H & H LUMBER COMPANY, a corporation, 1403 S. 32nd St., West, Billings, MT 59102. Representative: Charles A. Murray, Jr., 2822 Third Ave. North, Billings, MT 59101, (406) 252–4165. Transporting *building materials*, between points in WA, OR, ID, UT, MT, WY, CO, ND, SD, NE and MN.

MC 165210, filed December 14, 1982. Applicant: OSCAR W. WIKSTROM d.b.a. WIKSTROM TRUCKING COMPANY, 223 Highland St., Weston, MA 02193. Representative: Oscar W. Wikstrom, III, (same address as applicant) (617) 893–6728. Transporting (1) *ores and minerals*, (2) *coal and coal products*, and (3) *clay, concrete, glass or stone products*, between points in ME, NH, VT, MA, RI, CT, NY, NJ, OH, PA, MD, and DE.

MC 165221, filed December 16, 1982. Applicant: DONALD MUFFLER, Rt. 1, Seneca, IL 61360. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701 (217) 544–5468. Transporting (a) *general commodities*, (except classes A and B explosives and household goods), between points in Dubuque County, IA and LaSalle County, IL, on the one hand, and, on the other, points in the U.S. (except AK and HI) and (b) *lumber and wood products*, between points in LaSalle County, IL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

For the following, please direct status inquiries to Team 2 (202) 275–7030.

Volume No. OP2–328

Decided: December 16, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Parker not participating.)

MC 105413 (Sub-44), filed December 6, 1982. Applicant: PETROLEUM

TRANSPORT SERVICE, INC., 3908 Richland Dr., Council Bluffs, IA 51501. Representative: Marshall D. Becker, Suite 610, 7171 Mercy Rd., Omaha, NE 68106, (402) 392–1220. Transporting *commodities in bulk,* between points in MN, NE, IA, MO, and KS.

MC 107403 (Sub-1352), filed December 2, 1982. Applicant: MATLACK, INC., 10 West Baltimore Ave., Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same address as applicant), 215–259–9800. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S., under continuing contract(s) with A. E. Staley Manufacturing Company, of Decatur, IL.

MC 119293 (Sub-8), filed December 7, 1982. Applicant: DIAL TRANSFER, INCORPORATED, 756 North 4th St., Minneapolis, MN 55401. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440, (612) 542–1121. Transporting (1) *textile mill products, and apparel or other finished textile products or knit apparel,* between Minneapolis, MN, on the one hand, and, on the other, points in IA, ND, SD and WI, (2) *clay, concrete, glass or stone products,* between Minneapolis, MN and points in Rock County, WI, on the one hand, and, on the other, points in IA, MN, ND, SD, and WI, (3) *rubber and plastic products,* between Minneapolis, MN, on the one hand, and, on the other, Chicago, IL, St. Louis, MO, and points in Dane County, WI, Pottawattamie County, IA, and ND, and (4) *primary metal products,* between Minneapolis, MN, on the one hand, and, on the other, points in IA, MT, NE, ND, SD, and WI.

MC 138512 (Sub-45), filed December 3, 1982. Applicant: ROLAND'S TRANSPORTATION SERVICES, INC., 100 N. Waukegan Rd., P.O. Box 1000, Lake Bluff, IL 60044. Representative: Michael V. Kaney (same address as applicant), (312) 295–5700. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S., under continuing contract(s) with Spencer Kellogg, of Buffalo, NY.

MC 163612 (Sub-1), filed December 13, 1982. Applicant: FALCON TRANSPORT, INC., 6065 Lagrange SW., Atlanta, GA 30336. Representative: Marsha N. Honda, 1545 Wilshire Blvd. No. 606, Los Angeles, CA 90017, 213–483–4700. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in GA, on the one hand, and, on the other, points in FL, SC, NC, VA, TN, WV, AR, MS, AL, LA, and KY.

MC 164143, filed December 30, 1982. Applicant: KOCH OIL CO., LTD., P.O. Box 6088, Stn "D", Calgary, Alberta, Canada, T2P 2C7. Representative: E. Allan Munro (same address as applicant), 403–264–7770. Transporting *crude petroleum, natural gas, and gasoline,* between ports of entry on the international boundary line between the U.S. and Canada, at points in MT, on the one hand, and, on the other, points in MT.

Note.—A petition for exemption pursuant to U.S.C. 11343(e) has been filed, docketed MC–F–15021. Condition: (1) Issuance of this authority is subject to approval of the petition in MC–F–15021; and (2) to the extent any certificate issued in this proceeding authorizes the transportation of natural gas, it shall be limited to a period expiring 5 years from its date of issuance.

MC 164983, filed December 2, 1982. Applicant: BOBBY AMMONS, d.b.a. AMMONS TRUCKING, P.O. Box 22, Sanderstown Rd., Franklin, NC 28734. Representative: William P. Farthing, Jr., 1100 Cameron-Brown Bldg., Charlotte, NC 28204, (704) 372–6730. Transporting *lumber and wood products,* between points in NC, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

Volume No. OP2–330

Decided: December 20, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Parker not participating.)

MC 117872 (Sub-15), filed December 10, 1982. Applicant: A. JOSEPH AND COMPANY, P.O. Box 4798, Jackson, MS 39216. Representative: John A. Crawford, 17th Floor Deposit Guaranty Plaza, P.O. Box 22567, Jackson, MS 39205, 601–948–5711. Transporting *such commodities* as are dealt in or used by breweries, between points in AL, AR, CO, FL, GA, LA, MS, NC, SC, TN, TX, VA, and DC.

MC 145312 (Sub-6), filed November 22, 1982. Applicant: SUNBELT SYSTEMS TRANSPORT, INC., 1256 La Quinta Drive, Orlando, FL 32809. Representative: M. Craig Massey, 1701 South Florida Avenue, P.O. Drawer 2787, Dixieland Station, Lakeland, FL 33806–2787, (813) 682–1178. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Florida Computer Graphics, Inc., of Lake Mary, FL.

MC 148152 (Sub-6), filed December 10, 1982. Applicant: K & H TRUCKING, INC., 3301 So. Lamar St., Dallas, TX 75215. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062, 214–255–6279. Transporting *food and related products,* between Dallas, TX, Atlanta, GA, Denver, CO, Memphis, TN, and Phoenix, AZ, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 163812, filed December 13, 1982. Applicant: R. S. COUGHLAN, LTD., 103 MacFarlane St., Fredericton, New Brunswick, Canada, E3A 1V5. Representative: John C. Lightbody, 30 Exchange St., Portland, ME 04101, 207–773–5651. Transporting *lumber, wood products, and building materials,* between ports of entry on the international boundary line between the U.S. and Canada, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with Devon Lumber Company, Ltd., of Fredericton, New Brunswick, Canada.

MC 165122, filed December 9, 1982. Applicant: TRANSPORTATION ENTERPRISES OF BAYONNE, INC., 37 East 27th St., Bayonne, NJ 07002. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048, 212–466–0220. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in NJ and NY, on the one hand, and, on the other, points in MA, RI, CT, NY, NJ, PA, DE, MD, VA, NC, SC, GA, FL, and DC.

MC 165162, filed December 13, 1982. Applicant: NELSON DE MIRANDA, d.b.a. N.T.I. EXPRESS, 1750 W. 39th Place, Hialeah, FL 33012. Representative: Gerard J. Donovan, 4791 S.W. 82nd Ave., Davie, FL 33328, 305–434–7621. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in FL.

For the following, please direct status inquiries to Team 3 at 202–275–5223.

Volume No. OP3–59

Decided: December 21, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 1515 (Sub-319), filed November 23, 1982. Applicant: GREYHOUND LINES, INC., Greyhound Tower, Phoenix, AZ 85077. Representative: L. J. Celmins (same address as applicant) (602) 248–2942. Over regular routes, transporting *passengers* (1) Between Detroit, MI, and junction Interstate Hwy 75 and the MI–OH State line, over Interstate Hwy 75; (2) Between junction the OH–MI State line and Interstate Hwy 75, and junction Interstate Hwy 75 and the OH–KY State

line, serving the off-route point of Sharonville, OH, over Interstate Hwy 75; (3) Between Cleveland, OH and junction the OH–KY State line and Interstate Hwy 71, serving the off-route points of Ashland, Mansfield, and Washington Court House, over Interstate Hwy 71; (4) Between Columbus, OH and junction the OH–IN State line and Interstate Hwy 70, serving the off-route point of Springfield, OH, over Interstate Hwy 70; (5) Between Cincinnati, OH and junction Interstate Hwy 74 and the OH–IN State line, over Interstate Hwy 74; (6) Between junction the KY–OH State line and Interstate Hwy 75, and junction the KY–TN State line and Interstate Hwy 75, serving the off-route points of Williamstown, Georgetown, Mt. Vernon, London, Corbin, and Williamsburg, KY, over Interstate Hwy 75; (7) Between junction the KY–OH State line and Interstate Hwy 71, and Louisville, KY, over Interstate Hwy 71; (8) Between Louisville, KY and junction the KY–WV State line and Interstate Hwy 64, serving the off-route points of Middletown, Frankfort, Lexington, Winchester, Mt. Sterling, Morehead and Ashland, KY, over Interstate Hwy 64; (9) Between Winchester, KY and Paintsville, KY, serving the off-route points of Stanton and Salyersville, KY: From Winchester over Interstate Hwy 64 access route to junction Interstate Hwy 64, then over Interstate Hwy 64 to junction Mountain Parkway, then over Mountain Parkway to junction U.S. Hwy 460, then over U.S. Hwy 460 to Paintsville, KY; (10) Between Allen, KY and London, KY, serving the off-route points of Hazard and Manchester, KY: from Allen over New KY Hwy 80 to junction Daniel Boone Parkway, then over the Daniel Boone Parkway to junction KY Hwy 80 access road near London, KY, then over KY Hwy 80 access road to junction KY Hwy 80, then over KY Hwy 80 to London, KY; (11) Between Owensboro, KY and Henderson, KY: from Owensboro over the Audubon Parkway to junction the Pennyrile Parkway, then over the Pennyrile Parkway to junction unnumbered hwy near Henderson, KY, then over unnumbered hwy to Henderson, KY; (12) Between Henderson, KY and Hopkinsville, KY, serving the off-route point of Madisonville, KY: from Henderson over unnumbered hwy to junction Pennyrile Parkway, then over Pennyrile Parkway to junction U.S. Hwy 68, then over U.S. Hwy 68 to Hopkinsville, KY; (13) Between Mayfield, KY and Fulton, KY: from Mayfield over U.S. Hwy 45 to junction Purchase Parkway, then over Purchase Parkway to junction unnumbered hwy near Fulton, KY, then over unnumbered hwy to Fulton, KY; (14) Between junction KY–OH State line and Interstate Hwy 65, and junction KY–TN State line and junction Interstate Hwy 65, serving the off-route points of Elizabethtown, Munfordsville, Cave City, and Bowling Green, KY, over Interstate Hwy 65; (15) Between junction the IN–KY State line and Interstate Hwy 65, and Gary, IN, serving the off-route points of Scottsburg, Seymour, Columbus, Edinburgh, Franklin, and Lafayette, IN, over Interstate Hwy 65; (16) Between Terre Haute, IN, and junction IN–OH State line and Interstate Hwy 70, serving the off-route point of Richmond, IN, over Interstate Hwy 70; (17) Between Indianapolis, IN and Fort Wayne, IN, serving the off-route points of Marion and Huntington, IN: from Indianapolis over Interstate Hwy 69 to junction U.S. Hwy 30, then over U.S. Hwy 30 to Fort Wayne, IN; (18) Between Indianapolis and junction Interstate Hwy 74 and the IN–OH State line, serving the off-route points of Shelbyville and Greensburg, IN, over Interstate Hwy 74; (19) Between Charleston, WV and junction Interstate Hwy 64 and the WV–KY State line, serving the off-route points of Nitro and Hurricane, WV, over Interstate Hwy 64; (20) Between junction KY–TN State line and Interstate Hwy 65, and Nashville, TN, over Interstate Hwy 65; serving in (1) through (20) above all intermediate points.

Note.—(A) Applicant intends to tack this authority with its existing authority; and (B) Applicant seeks to provide regular-route service in interstate or foreign commerce and in intrastate commerce under 49 U.S.C. 10922(c)(2)(B) over the same route.

MC 1515 (Sub-320), filed December 6, 1982. Applicant: GREYHOUND LINES, INC., Greyhound Tower, Phoenix, AZ 85077. Representative: L. J. Celmins (602) 248–2942. Over *regular routes,* transporting *passengers,* (1) Between Pittsburgh, PA, and Charleston, WV: From Pittsburgh over Interstate Hwy 279 to junction Interstate Hwy 79, and then over Interstate Hwy 79 to Charleston, WV, serving the off-route points of Washington, PA, Morgantown, Fairmont, Clarksburg, Weston, and Sutton, WV; and (2) Between Charleston, WV, and Cedar Grove, WV, over U.S. Hwy 60, serving all intermediate points in (1) and (2) above.

Note.—Applicant seeks to provide regular-route service in interstate or foreign commerce and in intrastate commerce under 49 U.S.C. 10922(c)(2)(B).

MC 1515 (Sub-321), filed December 6, 1982. Applicant: GREYHOUND LINES, INC., Greyhound Tower, Phoenix, AZ 85077. Representative: L. J. Celmins (602) 248–2942. Over *regular routes,* transporting *passengers,* (1) Between Chattanooga, TN and Birmingham AL: From Chattanooga over Interstate Hwy 24 to junction Interstate Hwy 59, and then over Interstate Hwy 59 to Birmingham, serving the off-route points of Fort Payne, Collinsville, and Gadsden, AL; (2) Between Atlanta, GA and Birmingham, AL, over Interstate Hwy 20, serving the off-route points of Bremen, GA, and Anniston, and Pell City, AL; (3) Between Atlanta, GA and Montgomery, AL, over Interstate Hwy 85, serving the off-route points of Hapesville, Atlanta International Airport, Newnan, and La Grange, GA, and Lanette, Opelika, Auburn, and Tuskegee, AL; (4) Between junction Interstate Hwy 85 and Interstate Hwy 185 and Columbus, GA, over Interstate Hwy 185, serving the off-route point of La Grange, GA; (5) Between Chattanooga, TN and Tampa, FL, over Interstate Hwy 75, serving the off-route points of Dalton, Calhoun, Cartersville, Marietta, McDonough, Perry, Cordele, Tifton, and Valdosta, GA, and Lake City, Gainesville, Ocala, and Bushnell, FL; (6) Between Bonaire, GA and Hawkinsville, GA, over U.S. Hwy 129; (7) Between Fitzgerald, GA and Douglas, GA: From Fitzgerald over GA Hwy 206 to junction GA Hwy 353, to Douglas: (8) Between Savannah, GA and Jacksonville, FL: From Savannah over Interstate Hwy 16 to junction Interstate Hwy 95, and then over Interstate Hwy 95 to Jacksonville, serving the off-route points of Brunswick and Kingsby, GA; (9) Between Macon, GA and Savannah, GA over Interstate Hwy 16, serving the off-route point of Dublin, GA; and (10) Between Statesboro, GA and junction GA Hwy 67 and Interstate Hwy 16, over GA Hwy 67, serving all intermediate points in (1) through (10) above.

Note.—Applicant seeks to provide regular-route service in interstate or foreign commerce and in intrastate commerce under 49 U.S.C. 10922 (C)(2)(B) over the same route.

Note.—This regular route authority may be tracked with carrier's existing authority.

MC 15735 (Sub-64), filed December 7, 1982. Applicant ALLIED VAN LINES, INC., P.O. Box 4403, Chicago, IL 60680 (312) 681–8378. Representative: Richard V. Merrill (same address as applicant) (312) 681–8378. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with RCA Corporation of Cherry Hill, NJ and its subsidiaries: C.I.T. Financial Corporation, New York, NY, All Steel, Inc., Aurora, IL, William Iselin & Co., Inc., New York, NY, Meinhard-Commercial Corporation, New York,

NY, North American Company for Life and Health Insurance, Chicago, IL, Coronet Industries, Inc., Dalton, GA, APC Corporation, Hawthorne, NJ, Pacific Home Furnishings, Ltd., Pearl City, HI, Crown Wood Products Company, Indianapolis, IN, The Hertz Corporation, New York, NY, Hertz Penske Trucking Leasing, Inc., Parsippany, NJ, National Broadcasting Company, New York, NY, RCA American Communications, Inc., Princeton, NJ, RCA Cable, Inc., New York, NY, RCA Communication, Inc., New York, NY, RCA Gloval Communications, Inc., New York, NY, RCA Network Service, Inc., New York, NY, and RCA Sales Corporation, Indianapolis, IN.

MC 15735 (Sub-65), filed December 7, 1982. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Ave., Broadview, IL 60153. Representative: Martin T. Boratyn, P.O. Box 4403, Chicago, IL 60680 (312) 681–8377. Transporting (1) *computerized electronic communications switching systems,* and (2) *parts and components,* between points in the U.S., under continuing contract(s) with InteCom, Inc., of Allen, TX.

MC 30605 (Sub-174), filed December 7, 1982. Applicant: SANTA FE TRAIL TRANSPORTATION COMPANY, 433 East Waterman, Wichita, KS 67201. Representative: Iris E. Reeves, 224 South Michigan Ave., Chicago, IL 60604. (312) 427–4900, X 2261. Transporting *general commodities* (except household goods and commodities in bulk), between points in the U.S. (except AK and HI).

Note.—To the extent the certificate granted in this proceeding authorizes the transportation of classes A and B explosives it will expire 5 years from the date of issuance.

MC 67234 (Sub-69), filed December 6, 1982. Applicant: UNITED VAN LINES, INC., One United Dr., Fenton, MO 63026. Representative: B. W. LaTourette, Jr., 11 South Meramec, Suite 1400, St. Louis, MO 63105 (314) 727–0777. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in the U.S., under continuing contract(s) with K-Mart Corporation, of Troy, MI.

MC 114604 (Sub-131), filed December 9, 1982. Applicant: CAUDELL TRANSPORT, INC., P.O. Drawer I, State Farmers Market, Building 33, Forest Park, GA 30050. Representative: Guy H. Postell, Suite 675, 3384 Peachtree Rd., N.E., Atlanta, GA 30326. (404) 237–6472. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Kraft, Inc., of Glenview, IL.

MC 116164 (Sub-19), filed December 6, 1982. Applicant: ARROW TRANSPORTATION CO., 1911 N.E. 58th Ave., Des Moines, IA 50313. Representative: James M. Hodge, 3730 Ingersoll Ave., Des Moines, IA 50312 (515) 274–4985. Transporting *lumber, wood products and building materials,* between points in CO, FL, IN, MI, OR, and WA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Note.—The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. § 11343(a), or submit an affidavit stating why Commission approval is unnecessary, or submit a petition of exemption to the Secretary's office. In order to expedite issuance of any authority please submit a copy of the affidavit or petition of proof of filing the applications(s) for common control to Team 3, Room 2156.

MC 119285 (Sub-6), filed December 7, 1982. Applicant: YELLOW CAB, INC., 130 E. Market St., Lima, OH 45801. Representative: Paul F. Berry, 275 E. State St., Columbia, OH 43215 (614) 228–8575. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Allen County, OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 133175 (Sub-11), filed November 29, 1982. Applicant: METALS TRANSPORT CO., 1140 Poland Ave., Youngstown, OH 44502. Representative: James Duvall, 220 W. Bridge St., P.O. Box 97, Dublin, OH 43017 (614) 889–2531. Transporting *metal products* and *buildings,* between points in the U.S. (except AK and HI).

Condition.—Applicant's permits under MC 133175 (Sub-No. 10)X, issued August 14, 1981, and the underlying authority in Subs 2, 3, 6, 7, and 9 are revoked upon issuance of a certificate in this proceeding.

MC 140484 (Sub-111), filed December 9, 1982. Applicant: LESTER COGGINS TRUCKING, INC., P.O. Box 69, Fort Myers, FL 33902. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 Fifteenth St., NW., Washington, DC 20005 (202) 2[illegible]–3555. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Navajo Shippers, Inc., of Denver, CO.

MC 141425 (Sub-2), filed December 7, 1982. Applicant: THUNDER EXPRESS, LTD., W137 N9418 Hwy 145, Menomonee Falls, WI 53051. Representative: Daniel R. Dineen, 710 North Plankinton Ave., Milwaukee, WI 53203 (414)273–7410. Transporting (1) *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between Chicago, Il, Milwaukee, WI, and points in Waukesha and Brown Counties, WI, on the one hand, and, on the other, points in IA, IL, IN, MI, MN, and WI; (2) *building materials,* between points in Manitowoc County, WI, on the one hand, on the other, points in IL, IN, MI, AND MN; and (3) *lumber and wood products,* between points in IA, IL, IN, MI, MN, and WI.

MC 141914 (Sub-110), filed December 9, 1982. Applicant: FRANKS & SON, INC., Route 1, Box 108A, Big Cabin, OK 74332. Representative: Andrew K. Light, 1301 Merchants Plaza, Indianapolis, IN 46204 (317) 638–1301. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 145804 (Sub-2), filed December 6, 1982. Applicant: WILLIAM T. SMEESTER, d.b.a. UPPER PENINSULA SPECIAL DELIVERY SERVICE, P.O. Box 207, Iron Mountain, MI 49801. Representative: William T. Smeester, (same address as applicant) (906) 774–1931. Transporting *general commodities* (except classes A and B explosives, household goods, and commodites in bulk), between points in MI, WI, MN, IL, IN, OH, and AZ.

MC 146605 (Sub- 11), filed December 6, 1982. Applicant: EVENSON BROS. INC., P.O. Box 328, Felican Rapids, MN 56572. Representative: Thomas J. Van Osdel, Suite 502, 15 Broadway, Fargo, ND 58102 (701) 235–4487. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Concrete Sectional Culvert Co., Fargo, ND.

MC 148045 (Sub- 7), filed December 6, 1982. Applicant: QUAD CITY SPOTTING SERVICE, INC., 1607 W. River Dr., P.O. Box 4168, Davenport, IA 52808. Representative: Joseph Winter, 29 So. LaSalle St., Chicago, IL 60603 (312) 263–2306. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between those points in the U.S. in and east of ND, SD, NE, KS, OK and TX.

MC 156045 (Sub- 4), filed December 6, 1982. Applicant: H.P. LEASING, INC., 44 Chandler Dr., Somerset, MA 02726. Representative: Francis E. Barrett, Jr., 10 Industrial Park Rd., Hingham, MA 02043 (617) 749–6500. Transporting *general*

commodities (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI). Condition: Applicant's Permits under MC 156045 Lead, issued December 17, 1981, Sub-1, issued November 2, 1981, Sub-2, issued April 29, 1982, and Sub-3, issued July 20, 1982, will be revoked upon issuance of the Certificate.

MC 156064 (Sub- 3), filed December 9, 1982. Applicant: GENEVA AND JOHN NIXON, d.b.a. NIXON FREIGHT LINES, 3618 U.S. Route #42, P.O. Box 213, Mason, OH 45040. Representative: Earl N. Merwin, 85 East Gay Street, Columbus, OH 43215 (614) 224–3161. Transporting *metal products,* between points in Warren County, OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 159784 (Sub- 1), filed December 7, 1982. Applicant: ROCHESTER ARMORED CAR CO., 1441 North 11th St., Omaha, NE 68101. Representative: Robert M. Cimino, 3035 South 72nd St., Suite 200, Omaha, NE 68124 (402) 393–5005. Transporting *coin, currency, securities, bank related items, and other valuables,* between points in ND, SD, MN, IA, and WI.

MC 161965 (Sub-1), filed December 6, 1982. Applicant: BULK PETROLEUM HAULERS INC., 246 South Grand St., Hammonton, NJ 08037. Representative: John P. Brancato, 707 Moss Mill Rd., Hammonton, NJ 08037 (609) 561–6646. Transporting *petroleum products,* between points in NJ, PA, and DE.

MC 164094, filed December 6, 1982. Applicant: FROCK BROS. TRUCKING, INC., P.O. Box 87, New Oxford, PA 17350. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740. (301) 797–6060. Transporting (1) *metal and fibergalss materials* and (2) *wire fencing, poultry netting, iron wire cloth and iron wire strand,* between points in the U.S. (except AK and HI).

MC 164354 (Sub-1), filed December 9, 1982. Applicant: TITAN TRANSFER INC., 3612A Silverside Rd., Wilmington, DE 19803. Representative: Gerald K. Burns, 3308 Inglewood Rd., Wilmington, DE 19810 (302) 575–3741. Transporting (1) *building materials,* and (2) *clay, concrete, glass or stone products,* between points in the U.S. (except AK and HI), under continuing contract(s) with TAMKO Asphalt Products, Inc., of Joplin, MO.

MC 164634 filed December 6, 1982. Applicant: SHELAU TRUCKING CO., INC., 284 Meserole St., Brooklyn, NY 11206. Representative: Jack L. Schiller, 111–56 76th Dr., Forest Hills, NY 11375 (212) 263–2078. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in CT, MA, NJ and NY.

MC 165015, filed December 6, 1982. Applicant: CHARLES WILLIS & SONS TRUCKING COMPANY, 2523 Old Savannah Road, Augusta, GA 30906. Representative: Michael B. Hagler, P.O. Box 1477 (13), Augusta, GA 30913 (404) 724–0171. Transporting (1) *food and related products,* between points in the U.S., under continuing contract(s) with Southern Beverage Packers, Inc., of Augusta, GA., (2) *textile mill products,* between points in the U.S., under continuing contract(s) with Augusta Bag and Burlap Company, of Augusta, GA and (3) *food and related products,* between points in the U.S., under continuing contract(s) with Beatrice Foods, Inc., a Division of Murray Biscuit Company, of Augusta, GA.

MC 165034, filed December 6, 1982. Applicant: STEMPIHAR BROS. DISTRIBUTING, INC., 118 S. Sophie Street, P.O. Box 21, Bessemer, MI 49911. Representative: Thomas E. Stempihar, Rt. 1, Box 358, Bessemer, MI 49911 (906) 663–4763. Transporting *petroleum, asphalt, wood, pulp and food products,* between points in MI, WI, MN, IL, OH, IN, ND, SD, and IA.

MC 165054, filed December 6, 1982. Applicant: ARCANA, INC., 1549 Blain Ave., Indianapolis, IN 46221. Representative: Walter F. Jones, Jr., 1111 E. 54th St., Suite 155, Indianapolis, IN 46220 (317) 257–4060. Transporting *metal products and plastics,* between points in IN, on the one hand, and, on the other, points in WI, MO, OH, IL, KY and MI.

MC 165055, filed December 7, 1982. Applicant: RAMON TRUCKING, INC., P.O. Box 263, Victor, NY 14564. Representative: Herbert M. Canter, 305 Montgomery St., Syracuse, NY 13202 (315) 472–8845. Transporting *metal products and machinery,* between points in NY, on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, MO, OK and TX.

MC 165065, filed December 6, 1982. Applicant: L.M.O. TRUCKING, INC., P.O. Box 429, La Grande, OR 97850. Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Ave., Portland, OR 97210 (503) 226–3755. Transporting *machinery and construction materials,* between those points in the U.S. in and east of Morrow, Grant, and Harney Counties, OR, on the one hand, and, on the other, points in WA and ID.

MC 165094, filed December 8, 1982. Applicant: HARRY D. SAYLOR, d.b.a. J & H TRUCKING, 12525 Woodsboro Pike, P.O. Box 61, Ladiesburg, MD 21759. Representative: Steven L. Weiman, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877 (301) 840–8565. Transporting *commodities in bulk,* between points in PA, MD, and VA.

Kathleen King,

Acting Secretary.

[FR Doc. 82–35246 Filed 12–28–82; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Motor Common and Contract Carriers of Property (fitness-only); Motor Common Carriers of Passengers (fitness-only); Motor Contract Carriers of Passengers; Property Brokers (other than household goods).

The following applications for motor common or contract carriage of property and for a broker of property (other than household goods) are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** on December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common or contract carriage of passengers filed on or after November 19, 1982, are governed by Subpart D of the Commission's Rules of Practice. See 49 CFR Part 1160, Subpart D, published in the **Federal Register** on November 24, 1982, at 49 FR 53271. For compliance procedures, see 49 CFR 1160.86. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E.

These applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings:

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains apropriate compliance. the unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce, over irregular routes unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract." Please direct status inquiries to Team 2, (202) 275–7030.

Volume No. OP2–329

Decided: December 16, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Parker not participating.)

MC 119843 (Sub-11), filed November 22, 1982. Applicant: ROESCH LINES, INC., 844 East 9th St., San Bernardino, CA 92402. Representative: Fred H. Mackensen, Suite 4150, 2029 Century Park East, Los Angeles, CA 92402, (213) 879–5955. Transporting *passengers*, in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 123773 (Sub-4), filed December 13, 1982. Applicant: BLACK HILLS STAGE LINES, INC., 720 East Norfolk Ave., Norfolk, NE 68701. Representative: D. Douglas Titus, 340 Insurance Exchange Bldg., Sioux City, IA 51101, 712–277–1434. Transporting *passengers*, in charter and special operations, between points in the U.S. (including AK, but excluding HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 127663 (Sub-1), filed December 13, 1982. Applicant: LUDOLPH'S BUS SERVICE, INC., 304 8th Ave. NW., Pipestone, MN 56164. Representative: Val M. Higgins, 1600 TCF Tower, 121 So. 8th St., Minneapolis, MN 55402, 612–333–1341. Transporting *passengers*, in charter and special operations, (1) between points in MN, IA, and SD, and (2) beginning and ending at points in MN, IA, and SD, and extending to points in the U.S. (including AK, but excluding HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 139652 (Sub-1), filed December 13, 1982. Applicant: RALEIGH LINES, INC., P.O. Box 279A, Somerset, WI 54025. Representative: Val M. Higgins, 1600 TCF Tower, 121 So. 8th St., Minneapolis, MN 55402, 612–333–1341. Transporting *passengers*, in charter and special operations (1) between points in MN, WI, IA, ND, and SD, and (2) beginning and ending at points in MN, WI, IA, ND, and SD, and extending to points in the U.S. (including AK, but excluding HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 164773, filed November 18, 1982. Applicant: GONZALEZ TRANSPORTATION SERVICE, INC., 3514 Palisade Ave., Union City, NJ 07087. Representative: Larsh B. Mewhinney, 555 Madison Ave., New York, NY 10022, (212) 838–0800. Transporting (1) *passengers and their baggage*, between New York, NY, and points in Hudson County, NJ, under continuing contract(s) with Galaxy Towers Condominium Association, of Guttenberg, NJ. (2) *passengers*, in charter and special operations, beginning and ending at points in NJ, NY, and PA, and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation in part (2) above only.

MC 164973, filed December 2, 1982. Applicant: MANCHESTER TRANSIT AUTHORITY, 110 Elm St., Manchester, NH 03103. Representative: Jeremy Kahn, Suite 733 Investment Bldg., 1511 K St., NW., Washington, DC 20005, (202) 783–3525. Transporting *passengers*, in charter and special operations, beginning and ending at points in NH, and extending to points in the U.S. (including AK, but excluding HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

Volume No. OP2–331

Decided: December 20, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Parker not participating.)

MC 164632, filed November 9, 1982. Applicant: BILLY D. CRAWLEY AND ROBERT G. WILKINSON, SR., d.b.a. CRAWLEY'S CANYON COUNTRY SCENIC TOURS, P.O. Box 187, Kayenta, AZ 86033. Representative: Irene Warr, 311 S. State St. Suite 280, Salt Lake City, UT 84111, (801) 531–1300. Transporting *passengers*, in charter and special operations, between points in UT, AZ, NM and CO.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 164842, filed November 23, 1982. Applicant: ROYAL COACH OF FLORIDA, 6214 Vicksburg Dr., Pensacola, FL 32503. Representative: Jack Fowler (same address as applicant), (904) 474–0477 or 478–8330. Transporting *passengers*, in charter and special operations, beginning and ending at points in Escambia, Santa Rosa, Okaloosa, and Walton Counties, FL, and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165052, filed December 6, 1982. Applicant: SPORTSMAN TRAVEL CLUB, INC., 2474 Kellog Park Dr., Pomona, CA 91768. Representative: William C. Robison, 16133 Ventura Blvd., Penthouse Suite B, Encino, CA 91436, (213) 784–9993/872–0285. Transporting *passengers*, in charter and special operations, beginning and ending at points in CA and AZ, and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165142, filed December 9, 1982. Applicant: NATIONAL LIVERY SERVICE, INC., 541 Lexington Ave., New York, NY 10022. Representative: Morton E. Kiel, Suite 1832, Two World

Trade Center, New York, NY 10048, 212–466–0220. Transporting *passengers*, in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter or special transportation.

For the following, please direct status inquiries to Team 3 (202) 275–5223.

Volume No. OP3–58

Decided: December 21, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 15364 (Sub-20), filed November 29, 1982. Applicant: WISCONSIN-MICHIGAN COACHES, INC., 725 Smith St., Green Bay, WI 54302. Representative: H. Barney Firestone, 180 N. Michigan, Suite 1700, Chicago, IL 60601, (312) 263–1600. Over *regular routes*, transporting *passengers*, Between Duluth, MN, and Abbottsford, WI: From Duluth over U.S. Hwy 2 to Ashland, WI, and then over WI Hwy 13 to Abbottsford, serving all intermediate points. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. 11343(a), or submit an affidavit stating why Commission approval is unnecessary, or submit a petition of exemption to the Secretary's office. In order to expedite issuance of any authority please submit a copy of the affidavit or petition or proof of filing the application(s) for common control to Team 3, Room 2158.

Note.—(1) Applicant seeks to serve a community not regularly served by an ICC-authorized motor common carrier of passengers;

(2) Applicant seeks to provide service to a community to which the only motor common carrier of passengers providing interstate transportation to such community applies to discontinue such transportation under 49 U.S.C. 10925(c) or applies to reduce its intrastate service to such community under 49 U.S.C. 10935; and

(3) This regular-route authority may be tacked with carrier's existing authority.

MC 15364 (Sub-21), filed December 6, 1982. Applicant: WISCONSIN-MICHIGAN COACHES, INC., 725 Smith St., Green Bay, WI 53402. Representative: H. Barney Firestone, 180 N. Michigan Ave., Suite 1700, Chicago, IL 60601, (312) 263–1600. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. 11343(a), or submit an affidavit stating why Commission approval is unnecessary, or submit a petition of exemption to the Secretary's office. In order to expedite issuance of any authority please submit a copy of the affidavit or petition or proof of filing the application(s) for common control to Team 3, Room 2158.

MC 54534 (Sub-9), filed December 6, 1982. Applicant: GRAND ISLAND TRANSIT CORP., 5355 Junction Rd., Lockport, NY 14094. Representative: Ronald W. Malin, Bankers Trust Bldg., Fourth Floor, Jamestown, NY 14701, (716) 664–5210. Transporting *passengers*, in special and charter operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded special and charter transportation.

MC 60325 (Sub-15), filed November 22, 1982. Applicant: JEFFERSON LINES, INC., 1206 Currie Ave., Minneapolis, MN 55403. Representative: Elvin S. Douglas, Jr., P.O. Box 280, Harrisonville, MO 64701, (816) 884–3238. Transporting *passengers*, in special and charter operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 138134 (Sub-14), filed December 6, 1982. Applicant: DONALD HOLLAND TRUCKING, INC., Main St. Rd., Keokuk, IA 52632. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501, (515) 682–8154. Transporting, for or on behalf of the U.S. Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 143575 (Sub-3), filed December 7, 1982. Applicant: CENTRAL TRANSIT LINES, INC., 46–48 20th Avenue, Patterson, NJ 07505. Representative: Arthur Wagner, 342 Madison Avenue, New York, NY 10173, (212) 755–9500. Transporting *passengers*, in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 153294 (Sub-2), filed December 7, 1982. Applicant: A YANKEE LINE, INC., P.O. Box 281, 1298 Commonwealth Ave., Allston, MA 02134. Representative: Donald N. Dunham (same address as applicant), (617) 731–0382. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 157274 (Sub-1), filed November 22, 1982. Applicant: AMERICAN CONCORD LINES, INC., U.S. 6 and 15, New Paris, IN 46553. Representative: Norman R. Garvin, 1301 Merchants Plaza, East Tower, Indianapolis, IN 46204–3491, (317) 638–1301. Transporting *passengers*, in special and charter operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 164685 (Sub-1), filed December 6, 1982. Applicant: GEORGE L. CULLENS, SR. & GEORGE L. CULLENS, JR., d.b.a. GEORGIA TRAILWAYS, R.F.D. No.1, Harrison, GA 31035. Representative: Lawrence E. Lindeman, 4660 Kenmore Ave., Suite 1203, Alexandria, VA 22304, (703) 751–2441. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.— Applicant seeks to provide privately-funded charter and special transportation.

MC 164695, filed November 23, 1982. Applicant: HAMPTON JITNEY, INC., "The Omni", County Road 39–A, Southhampton, NY 11968. Representative: Robert J. Brooks, 1828 L. St. NW., Suite 1111, Washington, D.C. 20036, (202) 466–3892. Transporting (A) over irregular routes, *passengers*, in special and charter operations, between points in the U.S.

Note.— Applicant seeks in (A) above to provide privately-funded charter and special transportation. (B) over regular routes, *passengers*

(1) Between Montauk, NY, and New York, NY: from Montauk over NY Hwy 27 to junction County Road 39, then over County Road 39 to junction NY Hwy 27, then over NH Hwy 27 to junction County Road 111, then over County Road 111 to junction Long Island Expressway, then over Long Island Expressway to New York; (2) Between Sag Harbor, NY, and Bridgehampton, NY, over Sag Harbor Turnpike; (3) Between junction NY Hwy 27 and North Sea Rd., near Southampton, NY, and junction North Sea Rd. and County Rd. 39, over North Sea Rd.; and (4) Between Southampton, NY, and Westhampton, NY: from junction County Road 39 and NY Hwy 27A, over Montauk Hwy, to junction County Road 31, near Westhampton, then over County Road 31 to junction NY Hwy 27, serving all intermediate points in (B) above.

Note.— Applicant seeks in (B) above to serve a community not regularly served by an

ICC-authorized motor common carrier of passengers.

MC 164885, filed November 24, 1982. Applicant: NORFOLK MOTOR COACH, 9534 Selby PL, Norfolk, VA 23503. Representative: Charles E. Warnell (same address as applicant), (804) 480–3381, Transportating *passengers*, in charter and special operations, beginning and ending at points in VA, MD, and NC, and extending to points in the U.S.

Note.— Applicant seeks to provide privately-funded charter and special transportation.

MC 165024, filed December 6, 1982. Applicant: EXECUTIVE COURIER SERVICE, INC., 63 Orchard Lane, Staten Island, NY 10312. Representative: Kenneth Piken, Rego Park, NY 11374, (212) 275–1000, Transporting *shipments weighing 100 pounds or less*, if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 165025, filed December 6, 1982. Applicant: CAL COAST CHARTER, INC., 2557 Cortez St., P.O. Box 5625, Oxnard, CA 93031. Representative: Eldon M. Johnson, 650 California St., Suite 2808, San Francisco, CA 94108. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.— Applicant seeks to provide privately-funded charter and special transportation.

MC 165084, filed December 8, 1982. Applicant: BROTHER'S COLD STORAGE, INC., 1132 Lincoln St., Box 858, Green Bay, WI 54302. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956, (414) 722–2848. As a *broker* of general commodities (except household goods), between points in the U.S. (except AK and HI).

MC 165114, filed December 9, 1982. Applicant: TRAN SOURCE INC., 906 Mark Road, Baltimore, MD 21225. Representative: Edward N. Button, 635 Oak Hill Avenue, Hagerstown, MD 21740, (301) 739–4880. As a *broker* of *general commodities* (except household goods), between points in the U.S.

For the following, please direct status calls to Team 1 (202) 275–7992.

Volume No. OP1–238

Decided: December 21, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Parker not participating.)

MC 66810 (Sub-21), filed December 13, 1982. Applicant: PEORIA ROCKFORD BUS COMPANY, 1034 Seminary St., Rockford, IL 61101. Representative: Lawrence E. Lindeman, 4660 Kenmore Ave.; Suite 1203, Alexandria, VA 22304, (703) 751–2441. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 124370 (Sub-9), filed December 14, 1982. Applicant: ACE TRANSPORTATION CO., INC., 1407 St. John Ave., Albert Lea, MN 56007. Representative: Val M. Higgins, 1600 TCF Tower, 121 So. 8th St., Minneapolis, MN 55402, (612) 333–1341. Transporting *passengers* in charter and special operations, (1) between points in MN, IA, WI, ND, SD, and NE and (2) beginning and ending at points in MN, IA, WI, ND, SD, and NE and extending to points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 126551 (Sub-7), filed December 14, 1982. Applicant: ROMANO'S COACH CORP., 1065 Belvoir Rd., Norristown, PA 19401. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210, (703) 525–4050. Transporting *passengers*, in special and charter operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 127300 (Sub-4), filed November 24, 1982. Applicant: MT. KISCO BUS LINES, INC., 8 Birch Lane, Mahopac, NY 105641. Representative: Sidney J. Leshin, 3 East 54th St., New York, NY 10022, (212) 759–3700. Transporting *passengers*, in special and charter operations, between points in the U.S. (except HI).

Note.—Applicant receives governmental financial assistance for the purchase or operation of buses, or is an operator for such a recipient.

MC 130410 (Sub-1), filed December 16, 1982. Applicant: CORPORATE TRAVEL SERVICE, INC., 23527 Ford Rd., Dearborn, MI 48128. Representative: Neill T. Riddell, 900 Guardian Bldg., Detroit, MI 48226, (313) 963–3750. Transporting *passengers*, in charter and special operations, beginning and ending at points in IL, IN, MI, and OH, and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 142120 (Sub-7), filed December 13, 1982. Applicant: LENZNER COACH LINES, INC., d.b.a. NORTH BOROUGHS CAB, Mt. Nebo Road, R.D., #2, Sewickley, PA 15143. Representative: William A. Gray, 2310 Grant Bldg., Pittsburgh, PA 15219, (412) 471–1800. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 147310 (Sub-3), filed December 13, 1982. Applicant: RUSTAD BUS SERVICE, INC., Kerkhoven, MN 56252. Representative: Charles G. Rustad (same address as applicant), (612) 264–2987. Transporting *passengers*, in charter and special operations, between points in the U.S. (excluding HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 153441 (Sub-3), filed December 2, 1982. Applicant: JOHNSON'S BUS SERVICE, INC., P.O. Box 245, Mt. Joy, PA 17552. Representative: J. Bruce Walter, P.O. Box 1146, Harrisburg, PA 17108, (717) 233–5731. Transporting *passengers*, in charter and special operations, between points in NJ, NY, PA, DE, MD, VA, WV, and DC, On the one hand, and, on the other, points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 16350 (Sub-1), filed December 13, 1982. Applicant: DUNN MANAGEMENT SERVICES, INC., Rt. 1, Erwin, NC 28339. Representative: Gerald W. Hayes, Jr., 109 S. Ellis Ave., Dunn, NC 28334, (919) 892–2178. Transporting *passengers* in charter and special operations, between points in the US (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 164361 (Sub-1), filed December 14, 1982. Applicant: SAN JOAQUIN VALLEY EXPRESS, 5245 N. Van Clief, Livingston, CA 95334. Representative: Michael S. Rubin, 100 Bush St., Suite 410, San Francisco, CA 94104, (415) 421–6743. As a *broker* of *general commodities* (except household goods as defined by the Commission), between points in the U.S. (including AK and HI).

MC 165301, filed December 6, 1982. Applicant: B&M ENTERPRISES, INC., 9213 Woodreed Ct., Crestwood, KY 40014. Representative: George T. Brawner (same address as applicant), (502) 241–0780. Transporting *passengers*, in charter and special operations, beginning and ending at Louisville, KY, and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165070, filed December 7, 1982. Applicant: DUTCH-BOY LINES, INC.,

P.O. Box 6430, 1182 Edgefield Rd., North Augusta, SC 29841. Representative: F. Harold McElmurray (same address as applicant), (803) 278–3300. Transporting *passengers* in special and charter operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165071, filed December 7, 1982. Applicant: AMABILE & PROPST, INC., 183 Cemetery Street, Archbald, PA 18403. Representative: Raymond Talipski, 121 South Main Street, Taylor, PA 18517, (717) 344–8030. Transporting *passengers,* in charter and special operations, beginning and ending at points in PA, NY and NJ, and extending to points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165101, filed December 9, 1982. Applicant: MTW ENTERPRISES, INC., d.b.a. COBB COACH LINES, P.O. Box 1301, Marietta, GA 30061. Representative: Bruce E. Mitchell, Suite 520, 3390 Peachtree Rd., NE, Atlanta, GA 30326, (404) 262–7855. Transporting *passengers,* in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165111, filed December 9, 1982. Applicant: TUFARO TRANSIT CO., Inc., 225 Van Brunt St., Brooklyn, NY 11231. Representative: Sidney J. Leshin, 3 East 54th St., New York, NY 10022, (212) 759–3700. Transporting *passengers,* in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165140, filed December 10, 1982. Applicant: DON HILL, 516 Dennis Drive, DeForest, WI 53532. Representative: Don Hill (same address as applicant), (608) 846–3573. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 165150, filed December 10, 1982. Applicant: PERSONALIZED VAN SERVICE, INC., R.D. Number 5, Box 521, Clarks-Summit, PA 18411. Representative: Raymond Talipski, 121 S. Main St., Taylor, PA 18517, (717) 344–8030. Transporting *passengers,* in charter and special operations, beginning and ending at points in PA, and extending to points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165151, filed December 10, 1982. Applicant: GALWAY BAY, INC., 1020 Parkway Bldg., 11th & Bancroft Parkway, Wilmington, DE 19805. Representative: Martin R. Martino, 333 South Glebe Road, Arlington, VA 22204, (703) 979–1627. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 165170, filed December 13, 1982. Applicant: DIAL DELIVERIES, INC., 720 Grand, Kansas City, MO 64104. Representative: Arthur J. Cerra, 2100 CharterBank Center, P.O. Box 19251, Kansas City, MO 64141 (816) 842–8600. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in KS, on the one hand, and, on the other, points in MO.

MC 165180, filed December 13, 1982. Applicant: KINGS BAY TRANSPORTATION CO., INC., P.O. Box 63, Sheepshead Bay Sta., Brooklyn, NY 11235. Representative: Lawrence E. Lindeman, 4660 Kenmore Ave., Suite 1203, Alexandria, VA 22304 (703) 751–2441. Transporting *passengers,* in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165181, filed December 13, 1982. Applicant: N. L. ANSON, P.O. Box 111, Ewing, NE 68735. Representative: Bradford E. Kristler, P.O. Box 82028, Lincoln, NE 68501 (402) 475/6761. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *Agricultural limestone and fertilizer, and other soil conditioners* by the owner of the motor vehicle in such vehicles, between points in the U.S. (except AK and HI).

MC 165190, filed December 14, 1982. Applicant: LAYSON TRANSPORT SERVICE, INC., 5000 Wyoming Avenue, Suite 132, Dearborn, MI 48126. Representative: Edward P. Bocko, P.O. Box 496, Mineral Ridge, OH 44440 (216) 652–2789. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 165211, filed December 14, 1982. Applicant: PROFESSIONAL CHARTER SERVICE, INC., 224 Clarkson Ave., Brooklyn, NY 11226. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048 (212) 466–0220. Transporting *passengers,* in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

Kathleen King,

Acting Secretary.

[FR Doc. 82–35251 Filed 12–28–82; 8:45 am]
BILLING CODE 7035–01–M

[No. MC–F–15021]

Motor Carriers; Koch Industries, Inc.—Continuance in Control Exemption—Koch Oil Co., Ltd. and Matador Service, Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed exemption.

SUMMARY: Pursuant to 49 U.S.C. 11343(e), added by section 21 of the Bus Regulatory Reform Act of 1982, Pub. L. 97–261 (September 20, 1982), Koch Industries, Inc. seeks an exemption from the requirement under section 11343 of prior regulatory approval for its continuance in control of Koch Oil Co., Ltd. (No. MC–164143) and Matador Service, Inc. (No. MC–145149), both of which are motor carriers.

DATES: Comments must be received within 30 days after the date of publication in the **Federal Register**.

ADDRESSES: Send comments to:

(1) Motor Section, Team 2, Room 2379 Interstate Commerce Commission Washington, DC 20423; and

(2) Petitioner's representative E. Allan Munro P.O. Box 6088 Station "D" Calgary, Alberta, Canada, T2P 2C7.

Comments should refer to No. MC–F–15021.

FOR FURTHER INFORMATION CONTACT: C. Landis Plummer (202) 275–7030.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contracting petitioner's representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

Decided: December 16, 1982.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–35253 Filed 12–28–82; 8:45 am]
BILLING CODE 7035–01–M

[No. MC-F-15011]

Motor Carriers; L. M. Wenham, et al.—Continuance in Control Exemption—Dependable Transportation, Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed exemption.

SUMMARY: Pursuant to 49 U.S.C. 11343(e), added by section 21 of the Bus Regulatory Reform Act of 1982, Pub. L. 97–261 (September 20, 1982), L. M. Wenham, F. L. Wenham III, J. E. Wenham and T. G. Wenham, seek an exemption from the requirement under section 11343 of prior regulatory approval for their continuance in control of Dependable Transportation, Inc., (No. MC–154613). The Wenhams also have a beneficial interest in Transco Systems, Inc., a non-carrier holding company, which controls Total Transportation Trucking, Inc., (MC–160291), Wenham Transportation, Inc. (MC–77424), and Bestway Systems, Inc. (MC–161173).

DATES: Comments must be received within 30 days after the date of publication in the **Federal Register.**

ADDRESSES: Send comments to:

(1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, D.C. 20423; and

(2) Petitioner's representative, F. L. Wenham III, 3200 East 79th St., Cleveland, OH 44104.

Comments should refer to No. MC–F–15011.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood (202) 275–7949.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioner's representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

Decided: December 17, 1982.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–35252 Filed 12–28–82; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 30073]

Rail Carriers; the Atchison, Topeka and Santa Fe Railway Co.—Trackage Rights Exemption—Over Southern Pacific Transportation Company and Alameda Belt Line; Notice of Exemption

December 22, 1982.

By notice of exemption filed on November 19, 1982, pursuant to 49 CFR 1180.2(d)(5) [formerly 49 CFR 1111.2(d)(5)] the Atchison, Topeka and Santa Fe Railway Company (Santa Fe) seeks to acquire trackage rights over a 6.249-mile segment of track of the Southern Pacific Transportation Company (SP) between SP mileposts 6.35 and 10.43 in Oakland, CA and over a 2.04-mile segment of track of the Alameda Belt Line (ABL) between ABL mileposts 0.00 and 2.04 in Alameda, CA.

Santa Fe formerly operated a barge line between Richmond and Alameda, CA to interchange rail carload traffic with ABL. Due to the destruction by fire of the Alameda barge slip in 1970 and the high cost of restoring that slip, interim arrangements were made for SP to bridge Santa Fe cars over SP's line from an existing point of interchange at Oakland to interchange with ABL at Alameda. Santa Fe now has executed long-term agreements for trackage rights over the lines of ABL and SP and for the bridging by SP of Santa Fe cars to the rail yard of ABL. Consummation of the trackage rights and bridging agreements will enable Santa Fe to relocate its former barge service. There will be no diminution of service under the proposed agreements. This is an exempt transaction under 49 CFR 1180.2(d)(5).

Santa Fe shall protect its employees as required in *Norfolk and Western Ry. Co.-Trackage Rights-BN,* 354 I.C.C. 605 (1978), as modified by *Mendocino Coast Ry., Inc.-Lease and Operate,* 360 I.C.C. 653 (1980).

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Kathleen M. King,

Acting Secretary.

[FR Doc. 82–35246 Filed 12–28–82; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 30055]

Rail Carriers; National Railroad Passenger Corp.—Compensation—Commuter Use of Northeast Corridor

AGENCY: Interstate Commerce Commission.

ACTION: Notice of decision.

SUMMARY: The National Railroad Passenger Corporation (Amtrak) has submitted to the Commission, for resolution, disputes regarding the proper amount of compensation to be paid by commuter services for use of the Northeast Corridor (NEC). Specifically, Amtrak seeks settlement of compensation disputes with Southeastern Pennsylvania Transportation Authority and New Jersey Transit Corporation. The Commission is instituting a proceeding to resolve these disputes.

DATES: Responses by interested parties should be filed with the Commission and served on Amtrak no later than February 2, 1983. Rebuttal by Amtrak should be filed and served no later than February 21, 1983.

ADDRESSES: An original and 15 copies of all responses should be filed with: Rail Section, Room 5349, Interstate Commerce Commission, Washington, D.C. 20423. A copy of each response should be served on: Paul F. Mickey, Jr., National Railroad Passenger Corporation, 400 N. Capitol Street NW., Washington, D.C. 20001. Pleadings should refer to Finance Docket No. 30055.

FOR FURTHER INFORMATION CONTACT: Stephen Grimm, (202) 275–0839 or Elaine Kaiser, (202) 275–0907.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. For a copy of the full decision, contact the Office of the Secretary, 12th and Constitution Ave., N.W., Washington, D.C. 20423, (202) 275–7428.

DECIDED: December 17, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison.

Kathleen M. King,

Acting Secretary.

[FR Doc. 82–35245 Filed 12–28–82; 8:45 am]

BILLING CODE 7035–01–M

[No. MC–F–15027]

Midatlantic Coast Delivery Systems, Inc.; Control Exemption; Command Cargo Corp.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Proposed Exemption.

SUMMARY: Pursuant to 49 U.S.C. 11343(e), added by section 21 of the Bus Regulatory Reform Act of 1982, Pub. L. 97–261 (September 20, 1982), Midatlantic Coast Delivery Systems, Inc. (Midatlantic), a regulated Motor carrier (No. MC–105369), and, in turn, Raymond Taibi and Herschel Frankel, who jointly own all of the common stock of

Midatlantic, and James McDiarmid, who owns all of the common stock of Command Cargo Corporation (Command), a regulated motor carrier (No. MC–141684), and who will acquire a portion of the common stock of Midatlantic, seek an exemption from the requirement under section 11343 of prior regulatory approval for the acquistion of control of Command.

DATES: Comments must be received on or before January 28, 1983.

ADDRESSES: Send comments to:

(1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, D.C. 20423;

and

(2) Petitioner's representative, Bruce J. Robbins, Robbins & Newman, P.C., 18 East 48th Street, New York, NY 10017.

Comments should refer to No. MC–F–15027.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood, (202) 275–7949.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioner's representative. In the alternative, the petition for exemption may be inspected at the offices of the interstate Commerce Commission during usual business hours.

Decided: December 27, 1982.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Acting Secretary.

[FR Doc. 82–35460 Filed 12–28–82; 11:53 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 82–15]

K & B Successors, Inc.; New York, New York; Hearing

Notice is hereby given that on March 30, 1982, the Drug Enforcement Administration, Department of Justice, issued to K & B Successors, Inc., an Order To Show Cause as to why the DEA Certificate of Registration, AK5280132, issued to Respondent pursuant to Section 303 of the Controlled Substances Act (21 U.S.C. 823), should not be revoked.

Thirty days having elapsed since the said Order To Show Cause was received by Respondent and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held commencing at 10:00 a.m. on Thursday, January 6, 1983 in Courtroom No. 3–B, Room 309, U.S. Court of Claims, 717 Madison Place, NW., Washington, D.C.

Dated: December 21, 1982.

Francis M. Mullen, Jr.,

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 82–35231 Filed 12–28–82; 8:45 am]

BILLING CODE 4410–09–M

Office of Legal Policy

Federal Justice Research Program; Notice of Solicitation

The Federal Justice Research Program (FJRP) is a departmental program for conducting research relating to the administration of civil and criminal justice in the United States.

The Effect of the Speedy Trial Act on Prosecutorial and Investigative Activities

FJRP announces a competitive grant solicitation for a study to determine the effects that the Speedy Trial Act of 1974, as amended, 18 U.S.C. 3161 *et seq.*, has had on federal prosecutorial and investigative activities since the sanctions became effective under the Act on July 1, 1980.

The Speedy Trial Act of 1974, as amended by the Speedy Trial Act Amendments Act of 1979, constitutes the congressional determination of the time period within which federal criminal cases are to be tried. The time requirements of the Act are intended to protect both the right of defendants to a speedy trial and the interest of the public in the expeditious trial of criminal cases.

The 1974 Act originally had a four-year phase-in period, with the final time limits and the sanctions to become effective on July 1, 1979. In July 1979, the Congress passed the Speedy Trial Act Amendments Act of 1979 which made a number of substantive changes in the Act and postponed the effective date of the sanctions to July 1, 1980.

The sanctions under the Act apply to all cases brought after July 1, 1980. If an indictment or information is not filed, or a trial is not begun within the applicable time period, the case is subject to dismissal under section 3162 (a) or (b).

The Federal Justice Research Program had previously funded a study on the levels and patterns of compliance prior to the imposition of sanctions. *See* The Processing of Federal Criminal Cases Under the Speedy Trial Act of 1974 (published July 1980). This follow-up study should address the impact of the Act after the effective date of the sanctions on the manner in which federal criminal cases are investigated and prosecuted, including:

(1) Prosecutorial and investigative case acceptance/declination policies and practices;

(2) Arrest and indictment practices and policies;

(3) Changes, if any, in investigative and prosecutorial caseloads;

(4) Plea negotiation practices;

(5) Other effects of the Act on investigative and trial preparation policies and practices;

(6) Reasons that the cases dismissed pursuant to the Act failed to meet time limits.

Deadlines

All papers postmarked before midnight, February 25, 1983, and received by the FJRP within ten (10) working days after that date will be considered. Submissions received after this prescribed period will be returned to the submitter.

Level and Duration of Funding

This announcement envisions a grant award not to exceed $150,000 with an expected duration of ten (10) months.

Eligibility

Eligible applicants include: universities, agencies involved in the criminal justice process, other not-for-profit research organizations, and profit-making organizations that are willing to waive their fee or profit.

Application Requirements and Procedures

Parties interested in responding to this solicitation should prepare and submit a proposal (not to exceed 15 double-spaced typewritten pages) which should include:

(1) A 150–200 word abstract summarizing the proposed research design and methodology.

(2) A clear, concise statement of the issues surrounding the problem area and of the research hypotheses or questions to be explored. A discussion of the relationship of the proposed work to the existing literature is also expected.

(3) A detailed statement of the proposed research design and analytical methodologies. Delineate carefully and completely the proposed data sources, data collection strategies, variables to be examined, and procedures of analysis to be employed.

(4) The organization and management plan to conduct the study. Include a list of major milestones of events, activities and products and a timetable for completion, including the time

commitments of key staff to individual project tasks.

(5) The anticipated number and type of interim and/or final products of the project.

(6) A budget outlining all direct and indirect costs for personnel, fringe benefits, travel, equipment, supplies, subcontracts, and overhead. Percentage of time and man-months of effort to be devoted by principal staff should also be included.

(7) A statement of the competence of the research team, indicating the variety of skills to be used, a description of the relevant research experience, educational background, and the demonstrated ability to produce a final product that is readily comprehensible and usable. Include resumes of all known staff.

Seven (7) copies of the proposals should be submitted to: Federal Justice Research Program, 10th and Constitution Avenue, N.W., Room 4237, Washington, D.C. 20530.

Selection Process

Notification: Applicants will receive a letter acknowledging receipt of the submission.

Review: A panel of reviewers with expertise in the subject area will evaluate the proposals submitted. Based on the criteria set forth below, this panel will then recommend proposals that the Assistant Attorney General, Office of Legal Policy, may consider for award.

Criteria for Review of Proposals

Proposals will be assessed according to the following criteria:

(1) *Conceptualization of the Problem.* Demonstration of the applicant's firm grasp of the issues underlying the problem area including ongoing and past relevant research. (40%)

(2) *Soundness of Research Design and Methodology.* The design and methodology for the proposed study in terms of clarity, specificity, appropriateness and feasibility. (40%)

(3) *Qualifications of the Applicant.* The competence of the research team, the appropriateness of the proposed combination of skills, its prior relevent research experience, the demonstrated ability to produce a final product which is readily comprehensive and usable, adequacy of the time commitment of key staff, and the quality and specificity of the organization and management plan to accomplish the proposed project. (15%)

(5) *Costs.* The reasonableness of cost estimates and personnel allocations, and the appropriateness of the costs to the expected products. (5%)

Contact Helen Lessin Shaw, Administrator, Federal Justice Research Program (202) 633–2034 if you have any questions concerning this request for solicitation.

Dated: December 17, 1982.

Approved:

Jonathan C. Rose,

Assistant Attorney General, Office of Legal Policy.

[FR Doc. 82-35168 Filed 12-28-82; 8:45 am]

BILLING CODE 4410-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the Music Advisory Panel (Recording Section) to the National Council on the Arts will be held on January 18–19, 1983, from 9:00 a.m.–5:30 p.m. in room 1422 of the Columbia Plaza Office Complex, 2401 E Street NW., Washington, D.C. 20506.

A portion of this meeting will be open to the public on January 19, 1983, from 2:30 p.m.–4:00 p.m. to discuss policy and guidelines review.

The remaining sessions of this meeting on January 18, 1983, from 9:00 a.m.–5:30 p.m. and on January 19, 1983, from 9:00 a.m.– 2:30 p.m. and 4:00 p.m.–5:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Office, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

December 21, 1982.

[FR Doc 82-35173 Filed 12-28-82; 8:45 am]

BILLING CODE 7537-01-M

NATIONAL SCIENCE FOUNDATION

Committee on Equal Opportunities in Science and Technology; Notice of Renewal

Pursuant to the Federal Advisory Committee Act, Pub. L. 92–463, it is hereby determined that the renewal of the Committee on Equal Opportunities in Science and Technology is necessary and in the public interest in connection with the performance of duties imposed upon the Director, National Science Foundation by the National Science Foundation Act of 1950, as amended, and other applicable law.

Authority for this Committee shall expire on December 12, 1984, unless the Director of the National Science Foundation formally determines that continuance is in the public interest.

Edward A. Knapp,

Director.

December 22, 1982.

[FR Doc. 82-35177 Filed 12-28-82; 8:45 am]

BILLING CODE 7555-01-M

OFFICE OF THE FEDERAL INSPECTOR FOR THE ALASKA NATURAL GAS TRANSPORTATION SYSTEM

Design Approval for the Alaska Gas Conditioning Facility Segment of the Alaska Natural Gas Transportation System

AGENCY: Office of the Federal Inspector for the Alaska Natural Gas Transportation System.

ACTION: Notice.

EFFECTIVE DATE: December 6, 1982.

FOR FURTHER INFORMATION CONTACT: Edward Hengerer, General Counsel, Office of the Federal Inspector, ANGTS, Room 3407, 1200 Pennsylvania Avenue, NW., Washington, D.C. 20044, (202) 275–1144.

SUPPLEMENTARY INFORMATION: Take notice that by letter of December 6, 1982, from the Federal Inspector, John T. Rhett, to Northwest Alaskan Pipeline Company, the Office of the Federal Inspector (OFI) approved the current design for the Alaska Gas Conditioning Facility (AGCF). This approval is a final agency action pursuant to Sections 102 and 202(a) of Reorganization Plan No. 1 of 1979, 44 FR 33663 (June 12, 1979).

The AGCF will be located in the Prudhoe Bay field, and will be connected at its outlet flange to the Alaskan pipeline segment of the Alaska Natural Gas Transportation System (ANGTS). The design for the AGCF, as discussed below, reflects a gas conditioning process selected by the

sponsors in 1981. The OFI notes, however, that the ANGTS Design and Engineering Board has publicly announced additional study of a different process, the stated purpose being to possibly reduce construction time and construction and operating costs. The December 6th design approval recognizes the possibility of a new design based on a different process and provides for subsequent OFI action. But should the current process be retained, this approval functions to permit procurement.

Northwest Alaskan currently estimates the direct capital costs at $3.3 billion (mid-1981 U.S. dollars, excluding contingency). The AGCF is essential for treating the raw natural gas stream to make it of pipeline quality and thus acceptable for transportation. The conditioning process entails separation of the natural gas liquids (NGL's), removal of impurities and most of the carbon dioxide (CO_2), reblending of certain NGL's into the gas stream, compression to pipeline pressure, and refrigeration. The AGCF also generates certain by-products, including large volumes of CO_2 mixed with hydrocarbons (to be used as fuel at Prudhoe Bay) and some additional NGL's over and above those that can be transported through ANGTS.

Since its inception in 1979, the OFI has been working with the sponsors of the Alaskan segment of ANGTS to assure eventual compliance with the terms and conditions imposed on ANGTS by the President in Section 5 of the 1977 *Decision*.[1] At that time this Alaskan segment of ANGTS only consisted of the pipeline; ANGTS was legally described to "commence at the discharge side of the gas plant facilities in the Prudhoe Bay field." *Decision*, at 6. As such, the AGCF was subject neither to the Presidential terms and conditions in Section 5 of the *Decision* nor to the specific expediting and enforcement authorities of the OFI under Reorganization Plan No. 1 of 1979 (44 FR 36633).

Congressional approval of the President's October 15, 1981, proposed waiver of law (S.J. Res. 115, Pub. L. 97-93), substantially changed this regulatory environment. Among other things, the waiver brings the AGCF into ANGTS: "to include the gas conditioning plant in the approved transportation system [that is, as the Alaskan plant segment of ANGTS] * * *." The waiver also clarifies that the AGCF will be certificated by the FERC as an interstate transportation facility which is part of ANGTS. *See*, H.R. Rep. 97-350 (Part 1), 97th Cong. 1st Sess. 22 (1981); H.R. Rep. 97-350 (Part 2), 97th Cong. 1st Sess. 15 (1981); and S. Rep. 97-272, 97th Cong. 1st Sess. 33-34 (1981). The waiver legislation moreover provides that all but one of the terms and conditions in the *Decision*, as well as OFI enforcement authority under the Reorganization Plan, do apply to the AGCF.[2]

Northwest Alaskan filed the current design for the AGCF with the OFI during 1982. The OFI Office of Engineering Review reviewed the various design packages, met and consulted with Northwest, and requested and analyzed additional information and several specific studies. This resulted in technical approval of the current design by the Office of Engineering Review, also on December 6, 1982. That technical approval was adopted by the Federal Inspector in his approval.

In approving the current design, the Federal Inspector concluded that "[t]he sponsors can rely on the approval for procurement and detailed design elaboration—though not for project execution—consistent with the approved design." This approval was, however, subject to certain conditions.

Copies of the design approval are available upon request from the OFI.

Dated: December 23, 1982.

John T. Rhett,

Federal Inspector.

[FR Doc. 82-35232 Filed 12-28-82; 8:45 am]

BILLING CODE 6119-01-M

[1] *Decision and Report to Congress on the Alaska Natural Gas Transportation System*, September 1977, approved by H.J. Res. 621, Pub. L. 95-158.

[2] The Senate Committee on Energy and Natural Resources pointed out that "[a]s one consequence of the integration of the gas conditioning plant into ANGTS, that facility will now be subject to the full terms and conditions of the President's 1977 *Decision*." S. Rep. No. 97-272, 97th Cong., 1st Sess. at 34 (1981).

OVERSEAS PRIVATE INVESTMENT CORPORATION

Agency Report Forms Under OMB Review

AGENCY: Overseas Private Investment Corporation.

ACTION: Request for comments.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit information collection requests to OMB for review and approval, and the publish a notice in the **Federal Register** notifying the public that the Agency has made such a submission. The proposed form under review is summarized below.

DATE: Comments must be received within 14 calendar days of this notice. If you anticipate commenting on the form but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB reviewer and the Agency Submitting Officer of your intent as early as possible.

ADDRESS: Copies of the subject form and the request for review submitted to OMB may be obtained from the Agency submitting Officer. Comments on the form should be submitted to the Agency Submitting Officer and the OMB reviewer.

FOR FURTHER INFORMATION CONTACT:

OPIC Agency Submitting Officer: L. Jacqueline Brent, Office of Personnel and Administration, Overseas Private Investment Corporation, Room 405, 1129 20th Street, N.W., Washington, D.C. 20527; Telephone (202) 653-2818.

OMB Reviewer: Francine Picoult, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503; Telephone (202) 395-7231.

Summary of Form Under Review:

Type of Request: Revision.

Title: Request For Registration For Political Risk Investment Insurance.

Form Number: OPIC 50.

Frequency of Use: Other—once per investor per project.

Type of Respondent: Businesses or other institutions (except farms).

Standard Industrial Classification Codes: All.

Description of Affected Public: U.S. investors considering application for OPIC insurance coverage for their overseas investments.

Number of Responses: 500.

Reporting Hours: One half hour per response.

Federal cost: $0.00.

Authority for Information Collection: Section 231(k) of the Foreign Assistance Act of 1961, as amended.

Abstract (Needs and Uses): (1) The addition of two questions about the named broker would eliminate the need for investors to send OPIC a separate, formal letter designating their broker and/or authorized representative for the named project. (2) Changing the name of the category to "Broker And/Or Authorized Representative . . ." would more accurately reflect the fact that a broker may also serve as authorized representative of the investor. (3) Under "Coverage Requested" the words, "and Civil Strife" need to be added to "War,

Revolution, Insurrection" because OPIC is now authorized to add Civil Strife Coverage to this category.

Dated: December 17, 1982.

Leo H. Phillips, Jr.,

Office of the General Counsel.

[FR Doc. 82-35170 Filed 12-28-82; 8:45 am]

BILLING CODE 3210-01-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 22795; 70-6821]

Central Power and Light Co.; Proposed Issuance and Sale of Long-Term Debt and Preferred Stock at Competitive Bidding

December 21, 1982.

Central Power and Light Company ("CP&L"), 120 North Chaparral Street, Corpus Christi, Texas 78401, an electric utility subsidiary of Central and South West Corporation ("CSW"), a registered holding company, has filed a declaration and an amendment thereto with this Commission pursuant to Sections 6 and 7 of the Public Utility Holding Company Act of 1935 ("Act") and Rules 42 and 50 promulgated thereunder.

CP&L proposes to issue and sell at competitive bidding up to $100 million aggregate principal amount of long-term debt and up to 500,000 shares of authorized preferred stock, $100 par value per share, in one or more series and in one or more sales from time to time through December 31, 1983. The sale of debt securities will be accomplished through the issuance of first mortgage bonds unless CP&L is unable to meet certain charter or indenture requirements relating to minimum gross income, minimum net earnings and expenditures for bondable property, in which case, long-term, unsecured debentures may be substituted for, or combined with, the sale of bonds. In no event, however, will the sale of bonds and/or debentures exceed an aggregate principal amount of $100 million. The sale of preferred stock is subject to the authorization, by preferred and common shareholders of CP&L, of an increase in the number of authorized preferred shares at a special shareholder meeting scheduled for January 11, 1983.

Each series of bonds will have a term of not less than five nor more than thirty years and will be sold at a price and annual interest rate determined by competitive bidding at the time of sale. The bonds will be issued under a mortgage indenture, dated November 1, 1943, as supplemented and amended, and as to be further amended by a proposed supplemental indenture. Each series of preferred stock will be sold at a price to CP&L of not less than $100 nor more than $102.75 per share, plus dividends accrued from date of issue. Depending upon market conditions, the offering of the preferred stock may provide for periodic redemption through the operation of a cash sinking fund. If CP&L is unable to issue bonds in an aggregate amount of $100 million, long-term, unsecured debentures will be issued for terms up to thirty years under an indenture dated April 1, 1982, as amended and supplemented by a proposed supplemental indenture.

CP&L may employ alternative competitive bidding procedures in accordance with the Commission's statement of policy pursuant to Rule 50(a)(5) under the Act (HCAR No. 22623, September 2, 1982). CP&L also indicates, however, that it may eventually request an exception from all competitive bidding requirements under Rule 50(a)(5) so that the debt instruments or preferred stock may be offered through a negotiated public offering or private placement. The net proceeds from the issuance and sale of the long-term debt and the preferred stock will be used, combined with common equity contributions from CSW, to finance portions of CP&L's construction program, and to retire certain amounts of outstanding short-term debt.

The declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by January 17, 1983, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarant at the address specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the declaration, as amended or as it may be further amended, may be permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-35264 Filed 12-28-82; 8:45 am]

BILLING CODE 8010-01-M

[File No. 81-670]

The Children's Place, Inc.; and Opportunity for Hearings

December 22, 1982

Notice is hereby given that The Children's Place, Inc. ("Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act"), for exemption from the periodic reporting requirements under Sections 13 and 15(d) of the 1934 Act.

The application states in part:

Applicant believes that the exemptive order it requests is appropriate in view of the fact that it has no public shareholders as of August 6, 1982. On that date, Federated Department Stores, Inc., then the holder of 97.7% of Applicant's common stock, exercised its option to call the 2.3% of Applicant's outstanding common stock then held by fifty-six public shareholders.

For a more detailed statement of the information presented all persons are referred to said application which is on file in the Office of the Commission at the Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549.

Notice is further given that any interested person not later than Jan. 17, 1983 may submit to the Commission in writing his views on any substantial facts bearing on the application or the desirability of a hearing thereon. Any such communication or request should be addressed; Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert.

Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-35269 Filed 12-28-82; 8:45 am]

BILLING CODE 8010-01-M

Cincinnati Stock Exchange; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Chrysler Corp.:
$2.75 Cumulative Preferred, No Par Value (File No. 7-6399)
Carolina Freight Carriers Corporation:
Common Stock, $.50 Par Value (File No. 7-6400)
Consolidated Freightways Inc.:
Common Stock, $0.625 Par Value (File No. 7-6401)
Missouri Pacific Corp.:
Common Stock, $5 Par Value (File No. 7-6402)
Natomas Company:
Common Stock, $1 Par Value (File No. 7-6403)
Overnite Transportation Co.:
Common Stock, $1 Par Value (File No. 7-6404)
Rio Grande Industries:
Common Stock, $1 Par Value (File No. 7-6405)
Transway International Corp.:
Common Stock, No Par Value (File No. 7-6406)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before January 14, 1983 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-35289 filed 12-28-82; 8:45 am]

BILLING CODE 8010-01-M

[File No. 81-668]

Coast Federal Savings and Loan Association; Application and Opportunity for Hearing

December 22, 1982.

Notice is hereby given that Coast Federal Savings and Loan Association (the "Applicant"), has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended ("1934 Act") for exemption from certain reporting requirements under Section 13 and the operation of Section 16 of the 1934 Act.

The Applicant states in part:

In the absence of an exemption, the Applicant would be required to file reports adhering to all the items requirements of the Forms 10-K, 10-Q, 8-K as well as reports pursuant to Section 16 of the 1934 Act.

Accordingly, Applicant believes that the exemptive order requested by it is appropriate in view of the fact that Form 10-Q and certain items of the Forms 10-K and 8-K, as well as reports required pursuant to Section 16 of the 1934 Act are inapplicable to the pass-through mortgage pool arrangement.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the office of the Commission at 450 Fifth Street, NW., Washington, D.C. 20549.

Notice is further given that any interested person not later than January 17, 1983, may submit to the Commission in writing his views on any substantial facts bearing on the application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert.

Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-35291 Filed 12-28-82; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 12915; 812-5352]

Dean Witter Reynolds InterCapital Inc., et al.; Filing of Application

December 21, 1982.

In the matter of Dean Witter Reynolds InterCapital Inc., InterCapital Dividend Growth Securities Inc., InterCapital High Yield Securities Inc., InterCapital Income Securities Inc., InterCapital Industry-Valued Securities Inc., InterCapital Liquid Asset Fund, Inc., InterCapital Natural Resource Development Securities Inc., InterCapital Tax-Exempt Securities Inc., InterCapital Tax-Free Daily Income Fund Inc., Active Assets Money Trust, Active Assets Tax-free Trust, Active Assets Government Securities Trust, 5 World Trade Center New York, NY 10048; Dean Witter Reynolds Organization, Inc. 45 Montgomery Street, San francisco, CA 94104; Sears, Roebuck and Co. and Edward R. Telling, Sears Tower, Chicago, IL 60684.

Notice is hereby Given that InterCapital Dividend Growth Securities Inc., InterCapital High Yield Securities Inc., InterCapital Income Securities Inc. ("Income Securities"), InterCapital Industry-Valued Securities Inc., InterCapital Liquid Asset Fund Inc., InterCapital Natural Resource Development Securities Inc., InterCapital Tax-Exempt Securities Inc., InterCapital Tax-Free Daily Income Fund Inc., Active Assets Money Trust, Active Assets Tax-Free Trust, and Active Assets Government Securities Trust (collectively, the "Funds"), each of which is registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, with the exception of Income Securities which is registered as a closed-end, diversified, management investment company, Sears, Roebuck and Co. ("Sears"), Dean Witter Reynolds Organization, Inc. ("DWRO"), Dean Witter Reynolds InterCapital, Inc. ("InterCapital"), and Edward R. Telling (collectively, "Applicants"), filed an application on October 25, 1982, requesting an order of the Commission pursuant to Section 6(c) of the Act, exempting Mr. Telling from the definition of "interested person" of an investment adviser as set forth in

Section 2(a)(19) of the Act, solely for purposes of determining compliance with the requirements of Section 15(f)(1)(A) of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants state that InterCapital, a company registered under the Investment Advisers Act of 1940, serves as the investment adviser for each of the Funds pursuant to investment management agreements adopted and approved in accordance with the requirements of Sections 15(a) and 15(c) of the Act. They further state that DWRO owns all of the outstanding securities of InterCapital, and that Dean Witter Reynolds, Inc. ("DWR"), another wholly-owned subsidiary of DWRO, is a broker-dealer registered under the Securities Exchange Act of 1934 and serves as principal underwriter for certain of the Funds. According to the application DWRO is a wholly-owned subsidiary of Sears, having been acquired by Sears in late 1981 in a two-step transaction involving a cash tender offer and a subsequent merger of DWRO into a subsidiary of Sears. The application states that the merger was approved by stockholders of DWRO and became effective on December 31, 1981.

Applicants note that, in accordance with the provisions of Section 15(a)(4) of the Act, the various investment management agreements pursuant to which InterCapital has served as investment adviser to the Funds have each provided for their automatic termination in the event of an "assignment." They further note that, as required by the provisions of Section 15(b)(2) of the Act, the distribution agreements pursuant to which DWR has served as principal uderwriter of certain of the Funds have contained similar provisions. The term "assignment" is defined in Section 2(a)(4) of the Act to include any direct or indirect transfer or hypothecation of a contract or of a controlling block of the assignor's outstanding voting securities by a security holder of the assignor.

Applicants state that, although it was anticipated that the transactions pursuant to which Sears acquired control of DWRO would not as a practical matter result in a change of the actual management or operations of InterCapital or DWR, it was determined to be necessary to adopt new investment management agreements and distribution agreements for the Funds due to the fact that the Sears acquisition of DWRO Might be deemed to consitute an assignment having the effect of terminating the then effective investment management and distribution agreements. Applicants further state that such new agreements were approved by the Boards of Directors (or Trustees) of the Funds on October 28, 1981. It is asserted that the new investment management agreements are in all in material respects identical to the agreements they replaced and were approved by the shareholders of each of the Funds during the period December 17–21, 1981.

Applicants state that they believe that the terms of the transactions pursuant to which Sears acquired control of DWRO have been entirely consistent with the fiduciary responsibilities owed by InterCapital to the Funds and have not resulted in any improper benefit to InterCapital or DWRO, or caused any detriment to the Funds. Applicants maintain, however, that to remove any possible doubt concerning the propriety of any compensation or benefit which may have flowed to DWRO in connection with its acquisition by Sears, Applicants have each determined it to be prudent to seek to comply with the requirements of Section 15 of the Act.

Applicants state that, prior to the acquisition of DWRO by Sears and at present, the Boards of Directors (or Trustees) of each of the Funds have been comprised of the same five persons and that only one of such persons may be deemed to be an interested person of the Funds' investment adviser. According to the application, InterCapital has proposed to the Boards of Directors (or Trustees) of the Funds that Mr. Edward R. Telling, Chairman of the Board and Chief Executive Officer of Sears, be appointed to serve as a director or trustee of each of the Funds. Applicants believe that the addition of Mr. Telling to the Boards would be beneficial to the Funds and their shareholders. In their view, Mr. Telling would provide the Boards with a special expertise which would better enable the Funds to pursue and to develop services and programs made available by virture of Sears' relationships with DWRO and its subsidiaries.

Applicants state that because of Mr. Telling's position with Sears he is an "affiliated person" of Sears. Applicants further state that because Mr. Telling owns securities issued by Sears and because Sears controls DWRO and thereby controls its wholly owned subsidiary, InterCapital, Mr. Telling may be deemed to be an "interested person" of InterCapital. Accordingly, the addition of Mr. Telling to the Boards of Directors (Tustees) of the Funds would result in each of the funds having Boards comprised of six persons, two of whom may be deemed to be "interested persons" of InterCapital. This would mean that only 66⅔% of each Fund's Directors (Trustees) would not be interested persons of the Funds' investment adivser, rather than the 75% required by Section 15(f)(1)(A) of the Act. Applicants believe that it would be both appropriate and desirable to appoint Mr. Telling to serve as a Director (Trustee) of the Funds. However, at the same time, Applicants do not want to eliminate the availability of the "safe harbor" provided by Section 15(f) of the Act. Accordingly, they request an order, pursuant to Section 6(c) of the Act, exempting Mr. Telling from the definition of "interested person" of an investment adivser set forth in Section 2(a)(19) of the Act, solely for purposes of determining compliance with Section 15(f)(1)(A) of the Act.

Section 6(c) of the Act provides, in part, that the Commission may, by order upon application, exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any provision or provisions of the Act, or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and aprovisions of the Act.

In support of their request for an order, Applicants assert that it would be in the best interests of the Funds and their shareholders to add to the Board of Directors (Trustees) of the Funds an individual familiar with the business operations of Sears and its plans for the development of new financial services and products. Applicants submit that Mr. Telling is well qualified in this regard to serve as a member of the Boards.

Applicants note that Mr. Telling could be appointed to serve as a Director (Trustee) of the Funds, without running afoul of the 75% requirement of Section 15(f)(1)(A) of the Act, if two additional "disinterested" directors were appointed to the Boards of each of the Funds. According to the application, however, the Funds' present Directors (Trustees) believe that an increase in the size of each of the Boards to eight persons, as would be necessary, would result in unwieldy and possibly less effective Boards. Applicants further assert that expanded Boards would cause the Funds to incur increases in expenses since the Funds pay the fees and expenses of their "disinterested"

directors and would thus be required to bear the costs of the director fees and expenses that would be payable to the two additional "disinterested" directors.

Applicants contend that the interests of shareholders of the Funds would continue to be well protected if Mr. Telling were to become a member of the Boards of the Funds, since four of the six Directors (Trustees) of each of the Funds would not be "interested persons" of the Funds or Inter-Captial. Applicants assert that these four Directors are highly capable and qualified individuals, well recognized in their respective areas of expertise, who collectively exert a controlling influence over the decisions made by the Boards of the Funds. Applicants submit that these for directors would continue to be in a position to exert such a controlling influence once Mr. Telling was appointed to the Boards of the Funds because they would constitute a 66⅔% majority of each of the Boards. Under these circumstances, Applicants assert that the objective of the 75% requirement of Section 15(f)(1)(A) of the Act would not be frustrated if the requested exemption were granted and Mr. Telling appointed to the Boards.

In view of the foregoing, Applicants submit that the granting of the requested order would be appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than January 17, 1983 at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communicaton should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such reqest shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contempraneously with the request. An order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon its own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George a. Fitzsimmons,

Secretary.

[FR Doc. 82-35282 Filed 12-28-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-19358; File No. SR-MCC-82-18]

Midwest Clearing Corp.; Proposed Rule Change; Self-Regulatory Organizations

In the matter relating to proposed change in the minimum net capital requirements for participants of MCC.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on November 15, 1982, the Midwest Clearing Corporation filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Attached as Exhibit A is the proposed change to Rule 14, Section 2(a) of the Rules of the Midwest Clearing Corporation.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the amendment to the Midwest Clearing Corporation Rule is to increase the minimum net capital requirements for participants of MCC. With the proliferation of new products and investment strategies in the industry, increased assurance of financial integrity of security firms is needed to protect MCC, its participants, and, in general, public investors.

With the increased volatility of the markets, MCC believes that the requirement of a minimum of $50,000 in excess of the net capital requirement of a participant's designated examining authority is a more prudent standard to be used in evaluating new applicants as to their financial ability to meet their obligations to MCC and other participants. In addition, participants will be required to maintain such net capital level or be subject to limited usage of MCC services. For any Participants which do not currently meet such requirements, a period of 3 months will be given in which to come into compliance, with an additional 3 month extension for extenuating circumstances.

MCC believes that an increased capital requirement is a relatively small pat of our overall program to protect the Clearing Corporation from unanticipated exposure. For example, recently installed automated and manual procedures provide more timely review of participants' positions.

The proposed rule change is consistent with Section 17A of the Securities Exchange Act of 1934, in that it is the intention of the amendment to require MCC Participants to demonstrate increased financial responsibility, thereby helping to assure the safeguarding of securities and funds which are in the custody or control of MCC, or for which it is responsible, and providing for increased protection of investors and persons facilitating transactions by and on behalf of investors. Also, the rule is not designed to promote unfair discrimination in the admission of Participants or among Participants in the use of the clearing agency.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Midwest Clearing Corporation does not believe that any burdens will be placed on competition as a result of the proposed rule change.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments have neither been solicted nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: December 21, 1982.

George A. Fitzsimmons,

Secretary.

Exhibit A—Participants and Participants' Fund

Rule 14

Approval of Applicants

Sec. 2. The Corporation shall approve the application to become a Participant of any applicant meeting the qualifications of Section 1 upon a determination by the Corporation that the applicant meets the following additional standards of qualification:

(a) The applicant has sufficient financial ability to pay its anticipated contribution to the Participants Fund and to meet its obligations to the Corporation on the basis of the value of the positions which the applicant proposes to maintain with, and the transactions which the applicant proposes to process through, the Corporation. *Broker/dealer applicants should have and must maintain upon acceptance as a Participant a minimum of $50,000 in excess net capital over the requirement imposed by the broker/dealer's designated examining authority. All other applicants shall be required to meet and maintain upon acceptance as a participant financial stability standards as are applicable to the industry in which the applicant is associated.*

(b) No change in text.

(c) No change in text.

No change in remainder of Section 2.

Note.—Additions italicized.

[FR Doc. 82-35286 Filed 12-28-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-19360; File No. SR-MSTC-82-24]

Midwest Securities Trust Co.; Proposed Rule Change; Self-Regulatory Organizations

In the matter relating to proposed change in the minimum net capital requirements for participants of MSTC.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on November 19, 1982 the Midwest Securities Trust Company filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Attached as Exhibit A is the proposed change to Rule 8, Section 2(a) of the Rules of the Midwest Securities Trust Company.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B), and (C) below of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the amendment to the Midwest Securities Trust Company Rule is to increase the minimum net capital requirements for participants of MSTC. With the proliferation of new products and investment strategies in the industry, increased assurance of financial integrity of security firms is needed to protect MSTC, its participants, and, in general, public interest.

With the increased volatility of the markets, MSTC believes that the requirement of a minimum of $50,000 in excess of the net capital requirement of a participant's designated examining authority is a more prudent standard to be used in evaluating new applicants as to their financial ability to meet their obligations to MSTC and other participants. In addition, Participants will be required to maintain such net capital level or be subject to a limited usage of MSTC services. For any Participants which do not currently meet such requirements, a period of 3 months will be given in which to come into compliance, with an additional 3 month extension for extenuating circumstances.

MSTC believes that an increased capital requirement is a relatively small part of our overall program to protect the Trust Company from unanticipated exposure. Recent automated and manual programs provide timely review of participants' positions, for example.

The proposed rule change is consistent with Section 17A of the Securities Exchange Act of 1934, in that it is the intention of the amendment to require MSTC participants to demonstrate increased financial responsibility thereby assuring the safeguarding of securities and funds which are in the custody or control of MSTC, or for which it is responsible, and providing for increased protection of investors and persons facilitating transactions by and on behalf of investors. Also, the rule is not designed to permit unfair discrimination in the admission of Participants or among Participants in the use of the clearing agency.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Midwest Securities Trust Company does not believe that any burdens will be placed on competition as a result of the proposed rule change.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments have neither been solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such period if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Dated: December 21, 1982.

George A. Fitzsimmons,
Secretary.

Exhibit A—Participants and Participants' Fund

Note.—Additions italicized.

Rule 8

Approval of Applicants

Sec. 2. The Corporation shall approve the application to become a Participant of any applicant meeting the qualifications of Section 1 upon a determination by the Corporation that the applicant meets the following standards for qualification:

(a) The applicant has sufficient financial ability to pay its anticipated contribution to the Participants Fund (if any) and to meet its obligations to the Corporation on the basis of the value of the positions which the applicant proposes to maintain with, and the transactions which the applicant proposes to process through, the Corporation. *Broker/dealer applicants should have and must maintain upon acceptance as a Participant a minimum of $50,000 in excess net capital over the requirement imposed by the broker/dealer's designated examining authority. All other applicants shall be required to meet and maintain upon acceptance as a participant financial stability standards as are applicable to the industry in which the applicant is associated.*

(b) No change in text.

(c) No change in text.

No change in remainder of Section 2.

[FR Doc. 82-35267 Filed 12-28-82; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 12914; 812-5355]

Tax-Free Instruments Trust; Filing of Application

December 21, 1982.

Notice is hereby given that Tax-Free Instruments Trust ("Applicant"), 421 Seventh Avenue, Pittsburgh, PA 15219, registered under the Investment Company Act of 1940 ("Act"), as an open-end, diversified, management investment company, filed an application on October 25, 1982, seeking an order of the Commission pursuant to Section 6(c) of the Act exempting Applicant from the provisions of Section 12(d)(3) of the Act to the extent necessary to permit Applicant to acquire puts from brokers or dealers for the purpose of facilitating portfolio liquidity. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The application states that Applicant's investment objective is to provide current income exempt from Federal income taxes consistent with stability of principal. Applicant asserts that it will pursue this objective by investing in a professionally managed diversified portfolio of municipal securities including Industrial Development Bonds with remaining maturities of one year or less at the time of purchase by Applicant. Applicant states in its prospectus that, from time to time on a temporary basis or for defensive purposes, Applicant may invest in "Temporary Investments" which mature in one year or less at the time of purchase, including: other obligations issued by or on behalf of municipal or corporate issuers; United States Treasury Bills; all other marketable obligations issued or guaranteed by the United States Government, its agencies or instrumentalities; instruments of banks and savings and loans which are members of the Federal Deposit Insurance Corporation or Federal Savings and Loan Insurance Corporation; and repurchase agreements. Finally, Applicant maintains that it will not seek profits through short-term trading, but intends to hold its portfolio securities to maturity.

Federated Research Corp. is Applicant's investment adviser and Federated Securities Corp. is Applicant's distributor. Both of these corporations are wholly-owned subsidiaries of Federated Investors, Inc. of Pittsburgh, Pennsylvania.

Applicant asserts that it will seek to maintain a constant $1.00 net asset value per share and a relatively stable daily dividend rate by keeping its average weighted portfolio maturity under 120 days. All of Applicant's portfolio securities will be valued at amortized cost.[1]

Applicant represents that, in addition to the desire for a constant net asset value per share, the investors for which it is designed require the ability to receive same-day redemption proceeds in Federal funds. According to the application, the maturities of short-term tax-exempt obligations are ordinarily not as frequent as other money market instruments and maturity dates are ordinarily not negotiable and are

[1] On February 26, 1982, Applicant applied to the Commission for an exemptive order permitting Applicant's assets to be valued at amortized cost. *See*, Investment Company Act Release No. 12848, November 24, 1982.

sufficiently infrequent that Applicant cannot rely on day-to-day scheduled maturities to meet net redemptions. Therefore, a portion of Applicant's assets will be retained in cash or very short-term instruments, thereby reducing the investor's yield. The application states that, in order to enable Applicant to assure same-day settlements on portfolio sales, and thereby facilitate the same-day payment of redemption proceeds in Federal funds, Applicant will adopt policies permitting the acquisition of "puts" from banks, brokers and dealers. Applicant states that when it purchases a municipal security from a bank, broker or dealer, it may also acquire the option to sell the same principal amount of such security back to the institution at a specified price. Such an option or right is sometimes referred to as an "optional delivery," or a "stand-by commitment," and is referred to herein as a "put." Applicant further represents that the intended purpose of utilizing puts is to facilitate portfolio liquidity.

The application states that puts may be exercisable by Applicant at any time prior to the maturity of the underlying security, and that Applicant's right to exercise the puts will be unconditional and unqualified. Applicant asserts that although the puts will not be transferable, municipal securities purchased subject to the puts could be sold at any time even though the put was outstanding. It is stated in the application that a put will not obligate Applicant to sell the underlying securities to the issuer of the put nor entitle the issuer to demand the return of the securities at its option. Applicant represents that a sale of the underlying securities to a third party would terminate its rights under the related put to sell the securities back to the issuer of the put. Applicant represents that puts it acquires will be in writing and will be physically held by its custodian, State Street Bank and Trust Company. According to the application, the exercise price of puts will be substantially as follows: (i) Applicant's acquisition costs of the municipal securities which are subject to the put (excluding any accrued interest that Applicant paid on their acquisition), less any amortized market premium or plus any amortized market or original issue discount during the period the Fund owned the securities, plus (ii) all interest accrued on the securities since the last interest payment date during the period the securities were owned by Applicant. Absent extraordinary circumstances, Applicant will value municipal securities on an amortized cost basis as referred to above. Accordingly, Applicant represents that the amount payable by the issuer of a put during the time the put is exercisable will be substantially the same as the value of the underlying securities. Applicant maintains that if necessary and advisable, it will pay for puts either separately in cash or by paying a higher price for the municipal securities which are acquired subject to the put (thus reducing the yield to maturity otherwise available for the same securities).

According to the application, the acquisition or exercisability of a put will not affect the valuation or assumed maturity of Applicant's underlying municipal securities, which will continue to be valued on the basis of the amortized cost method. During the term of a put, it will be very difficult if not impossible to evaluate the likelihood of eventual exercise of the put or to quantify the potential benefit to Applicant if that put were exercised. In light of such uncertainties, Applicant states that it will deem the put to have a "fair value" of zero, regardless of whether Applicant paid any direct or indirect consideration for the put. When Applicant pays for a put, its costs will be reflected as unrealized depreciation for the period during which the commitment is held by Applicant. Notwithstanding the foregoing, in calculating the dollar-weighted average maturity of its Portfolios, Applicant represents that puts will always be valued at zero, and the dollar-weighted average maturity will not be affected by the acquisition of the puts. Applicant states that it believes there to be little risk of an event occurring that would make amortized cost valuation of its portfolio securities inappropriate. However, in the unlikely event that the market or fair value of its portfolio securities is not substantially equivalent to their amortized cost value, Applicant maintains that its Trustees may determine that the instruments should be valued on the basis of available market quotations. Applicant expects that any puts covering such instruments would continue to be valued as described above because it expects that it would refrain from exercising the puts to avoid imposing a loss on the bank, broker, or dealer and jeopardizing the business relationship with that entity.

Section 6(c) of the Act provides, in part, that the Commission may, upon application, conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any provision or provisions of the Act or the rules thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant requests an order pursuant to Section 6(c) of the Act exempting it from the provisions of Section 12(d)(3) of the Act to the extent necessary to permit its acquisition of puts from brokers or dealers. Applicant asserts that it believes the requested relief to be appropriate in the public interest, and consistent with the protection of investors. The application states that the proposed acquisition of puts is not expected to affect Applicant's net asset value per share for purposes of sales and redemptions, will not pose new investment risks, but will improve liquidity and its ability to pay redemption proceeds the same day in Federal funds.

Notice is further given that any interested person may, not later than January 17, 1983, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. An order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon its own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-35283 Filed 12-28-82; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 22794; 70-6820]

West Texas Utilities Co.; Proposed Issuance and Sale of Long-Term Debt and Preferred Stock at Competitive Bidding

December 21, 1982.

West Texas Utilities Company ("West Texas"), 301 Cypress, Abilene, Texas 79601, an electric utility subsidiary of Central and South West Corporation ("CSW"), a registered holding company, has filed a declaration and an amendment thereto with this Commission pursuant to Sections 6 and 7 of the Public Utility Holding Company Act of 1935 ("Act") and Rules 42 and 50 promulgated thereunder.

West Texas proposes to issue and sell at competitive bidding up to $25 million aggregate principal amount of long-term debt and up to 250,000 shares of authorized preferred stock, $100 par value per share, in one or more series and in one or more sales from time to time through December 31, 1983. The sale of debt securities will be accomplished through the issuance of first mortgage bonds unless West Texas is unable to meet certain charter or indenture requirements relating to minimum gross income, minimum net earnings and expenditures for bondable property, in which case, long-term, unsecured debentures may be substituted for, or combined with, the sale of bonds. In no event, however, will the sale of bonds and/or debentures exceed an aggregate principal amount of $25 million.

Each series of bonds will have a term of not less than five nor more than thirty years and will be sold at a price and annual interest rate determined by competitive bidding at the time of sale. The bonds will be issued under a mortgage indenture, dated August 1, 1943, as supplemented and amended, and as to be further amended by a proposed supplemental indenture. Each series of preferred stock will be sold at a price to West Texas of not less than $100 nor more than $102.75 per share, plus dividends accrued from date of issue. Depending upon market conditions, the offering of the preferred stock may provide for periodic redemption through the operation of a cash sinking fund. If West Texas is unable to issue bonds in an aggregate amount of $25 million, long-term, unsecured debentures will be issued for terms up to thirty years under an indenture dated June 1, 1982, as amended and supplemented by a proposed supplemental indenture.

West Texas may employ alternative competitive bidding procedures in accordance with the Commission's statement of policy pursuant to Rule 50(a)(5) under the Act (HCAR No. 22623, September 2, 1982). West Texas also indicates, however, that it may eventually request an exception from all competitive bidding requirements under Rule 50(a)(5) so that the debt instruments or preferred stock may be offered through a negotiated public offering or private placement. The net proceeds from the issuance and sale of the long-term debt and the preferred stock will be used, combined with common equity contributions from CSW, to finance portions of West Texas' construction program, and to retire certain amounts of outstanding short-term debt.

The declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by January 17, 1983, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarant at the address specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the declaration, as amended or as it may be further amended, may be permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-35285 Filed 12-28-82; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Proposed License No. 06/06-5058]

Mile Hi Small Business Investment Co.; Notice of Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1982)), under the name of Mile Hi Small Business Investment Company, 1385 South Colorado Avenue, Denver, Colorado 80222, for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended) the Act), (5 U.S.C. 661 et seq.), and the Rules and Regulations promulgated thereunder.

The proposed officers, directors and shareholders of the Applicant are as follows:

Mile Hi Cablevision Associates, Ltd.,[1] 1385 South Colorado Boulevard, Denver, Colorado 80222—100%
Timothy H. David, 2930 E. 3rd Avenue, Denver, Colorado 80203—Investment Advis. Manager
Lucius Ashby, 3861 S. Rosemary Way, Denver, Colorado 80203—Director
Richard J. Davies, Jr., 160 Inverness Drive West, Englewood, Colorado 80112—Director
Maria Garcia, 1330 Gaylord, Apt. 405, Denver, Colorado 80206—Director
Shelby F. Harper, 3108 S. Dallas Court, Denver, Colorado 80210—Director
Manuel Martinez, 732 Elati Street, Denver, Colorado 80210—Director
David E. O'Hayre, 160 Inverness Drive West, Englewood, Colorado 80112—Director/Treasurer
Jerry Presley, 2930 E. 3rd Avenue, Denver, Colorado 80203—Director/Vice President
Fred Vierra, 2930 E. 3rd Avenue, Denver, Colorado 80203—Director/President
Stanley B. William, 2990 So. Whiting Way, Denver, Colorado 80231—Director.

The applicant, a Colorado corporation with its principal place of business at 1385 South Colorado Boulevard, Denver, Colorado 80222, will begin operations with $550,000 paid-in capital and paid-in surplus.

The applicant will conduct its activities principally in the State of Colorado.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operation of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, not later than fifteen (15) days from the date of publication of this notice, submit to SBA, in writing, comments on the proposed licensing of this company. Any such communications should be addressed to the Deputy Associate Administrator for Investment, Small Business

[1] Owned principally by: American Television & Communications Corporation, 160 Inverness Drive West, Englewood, Colorado 80112 (42.5%) Daniels & Associates Partners, Limited, 2930 E. 3rd Avenue, Denver, Colorado 80203 (42.5%).

Administration, 1441 L Street, N.W., Washington, D.C. 20416.

A copy of this notice will be published in a newspaper of general circulation of Denver, Colorado.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: December 21, 1982.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 82-35178 Filed 12-28-82; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice 840]

Eradication of Cannabis; Herbicide Paraquat

AGENCY: State Department.

ACTION: Notice of a Record of Decision regarding the Department of State's action on the proposal to support efforts of foreign Western Hemisphere nations to eradicate cannabis by aerially applying the herbicide paraquat. The environmental consequences in the U.S. of the proposed action and the reasonable alternatives to the proposal were evaluated in a Final Environmental Impact Statement (FEIS), which was prepared pursuant to the National Environmental Policy Act of 1969 (NEPA) 42 U.S.C. 4332. The FEIS was filed with EPA on November 5, 1982. This Record of Decision is being issued pursuant to the Council on Environmental Quality (CEQ) Regulations for Implementing the Procedural Provisions of NEPA of 1978 (40 CFR 1505.2) and Implementing Regulations of the Department of State (22 CFR 161.(h)).

Decision

The Department of State has decided to support the efforts of foreign Western Hemisphere nations to eradicate cannabis by aerially applying the herbicide paraquat. In implementing this decision, the Department now intends to engage in formal discussions with cannabis-producing Western Hemisphere nations.

Basis for Decision

The United States is party to the 1961 Single Convention on Narcotic Drugs and is therefore obligated to limit production, manufacture, export, import, distribution of, trade in, use and possession of drugs including marijuana to medical research and scientific purposes. Section 481 of the Foreign Assistance Act of 1961, as amended, states that "effective international cooperation is necessary to put an end to the illicit production, smuggling, trafficking in, and abuse of dangerous drugs" and authorizes the Department, on behalf of the President, to conclude agreements and develop international programs aimed at reducing the flow of foreign-origin illegal drugs into the U.S. Toward this end, the Department has negotiated numerous previous agreements for drug control with Western Hemisphere nations.

From 1978 to December 1981, the U.S. Government was, however, effectively precluded by domestic legislation from assisting any foreign government in a marijuana herbicidal eradication program using paraquat. The legislation was a result, in part, of health concerns regarding paraquat use on marijuana as expressed by the Department of Health, Education and Welfare (HEW), based on preliminary data. However, during that period the Government of Mexico engaged on its own in an eradication campaign against cannabis, using paraquat. The program was highly effective and that government states it has resulted in no significant environmental or health impacts. A decline in marijuana availability in Mexico led, however, to an increase in production in other countries.

Based on the preceding, and since subsequent tests and studies were completed which diminished concern about marijuana with paraquat residues as a potential health hazard, the Congress removed the herbicide restrictions from the Foreign Assistance Act in December 1981. It also stipulated that the Department notify the Department of Health and Human Services (HHS) of programs involving herbicide use for cannabis control and that HHS monitor the public health for possible adverse effects from any herbicide application, and required that work continue to identify a marking agent to be used in such herbicidal eradication programs.

Because in our view a U.S.-supported, large-scale aerial herbicidal eradication program represents a "major federal action" within the meaning of NEPA, the Department prepared a programmatic EIS. This EIS addressed the various alternatives available to the U.S. which could be utilized in a cannabis control program; namely, no action, alternative eradication techniques use of alternative herbicides the use of a marking agent in conjunction with a herbicide, when available increased enforcement efforts different land use programs legalization and aerial application of paraquat, the proposed action.

As the flourishing marijuana supply indicates, the no action alternative will not reduce the marijuana supply. While current interdiction levels could be increased, the United Nations Narcotics Laboratory concluded that illicit narcotics can only be effectively controlled in the source country at the stage of production. As noted in the EIS, legalization is not an option available to the Department. Congress, in its passage of the Foreign Assistance Act of 1961, as amended, and the U.S. Government in its ratification of the Single Convention, expressed the intent that the U.S. Government engage in international cooperation to control dangerous drugs including marijuana. Considering the health hazards associated with smoking marijuana as identified in the EIS, a significant reduction in the U.S. marijuana supply should also result in beneficial health impacts as well as a significant reduction of marijuana associated criminal activity and law enforcement costs.

Based on the information contained in the EIS, the use of the herbicide paraquat for cannabis eradication is the most effective alternative swiftly to eliminate marijuana production destined for the US. The following herbicides were compared for effectiveness and toxicity: 2,4-D, 2,4,5,-T, diquat, glyphosate, and paraquat. Based on this comparison paraquat is the most effective means of eradication. While its potential toxicity to personnel handling the herbicide is higher, the proposed monitoring program should adequately mitigate any adverse health impacts. Furthermore, available evidence indicates that it is not likely that significant adverse health effects would result from consuming marijuana with paraquat residues.

Other alternatives addressed by the EIS would not be cost-effective or successful for a program of this magnitude over the long-term. In order to mitigate any adverse impact, any spray operations are to be in accordance with generally accepted professional standards and appropriate training will be provided to the cooperating nation which, in turn, will be able to establish monitoring programs. This should minimize possible contamination of food crops. In addition, the Secretary of HHS, as authorized by the 1961 amendments to the Foreign Assistance Act, will monitor the impact on the health of persons who may consume marijuana with herbicide residues. The Government will continue to explore the feasibility of using in the program a marker, which would alert marijuana users to the presence of herbicides.

Based on the findings of the EIS, the decision was therefore made to support the efforts of foreign Western Hemisphere nations to eradicate cannabis by aerially applying the herbicide paraquat.

Dated: December 21, 1982.

Dominick DiCarlo,

Assistant Secretary for International Narcotics Matters.

[FR Doc. 82-35279 Filed 12-28-82; 8:45 am]

BILLING CODE 4710-03-M

[Public Notice 838]

Delegation of Authority No. 140-5; Atomic Energy and Nuclear Non-Proliferation

By virtue of the authority vested in me as Secretary of State, including section 4 of the Act of May 26, 1949 as amended (22 U.S.C. 2658), State Department Delegation of Authority No. 140 of March 23, 1978 (43 FR 13456), as amended on June 5, 1978 (43 FR 25212), October 9, 1980 (45 FR 67818) and November 21, 1981 (46 FR 59359), is hereby amended by striking out the words "the Under Secretary of State for Management," in the opening paragraph and by inserting the words "the Ambassador at Large and Special Adviser to the Secretary of State on Non-Proliferation Policy and Nuclear Energy Affairs," after "the Deputy Secretary of State," in the opening paragraph.

Dated: December 14, 1982.

Kenneth W. Dam,

Acting Secretary of State.

[FR Doc. 82-35167 Filed 12-28-82; 8:45 am]

BILLING CODE 4710-10-M

[Public Notice 837]

Delegation of Authority No. 150; Negotiation, Signature and Termination of Treaties and Other International Agreements; Delegation of Functions

By virtue of the authority vested in me by Section 4 of the Act of May 26, 1949, as amended (22 U.S.C. 2658), and as Secretary of State, I hereby delegate to the officers specifically designated herein the authority under the Circular 175 Procedure of the Department of State (39 FR 29604, August 16, 1974), to negotiate, sign and terminate treaties and other international agreements, and to authorize the negotiation, signature, and termination of treaties and other international agreements by other United States Government officials.

The officers so designated are:

The Deputy Secretary of State;

The Under Secretary of State for Political Affairs;

The Under Secretary of State for Economic Affairs;

The Under Secretary of State for Security Assistance, Science and Technology;

The Under Secretary of State for Management;

The Ambassador at Large and Special Adviser to the Secretary of State on Non-Proliferation Policy and Nuclear Energy Affairs (only with respect to treaties and other international agreements in the field of nuclear non-proliferation and international peaceful nuclear cooperation).

Notwithstanding the provisions of this delegation of Authority, the Secretary of State or the Deputy Secretary of State may at any time exercise any function hereby delegated.

This delegation of authority shall be published in the **Federal Register.**

Dated: December 14, 1982.

Kenneth W. Dam,

Acting Secretary of State.

[FR Doc. 82-35166 Filed 12-28-82; 8:45 am]

BILLING CODE 4710-10-M

DEPARTMENT OF THE TREASURY

[Supplement to Department Circular Public Debt Series—No. 36-82]

December 23, 1982.

The Secretary announced on December 22, 1982, that the interest rate on the bonds designated Bonds of 2003, described in Department Circular—Public Debt Series—No. 36-82, dated December 15, 1982, will be 10¾ percent. Interest on the bonds will be payable at the rate of 10¾ percent per annum.

Gerald Murphy,

Acting Fiscal Assistant Secretary.

[FR Doc. 82-35257 Filed 12-28-82; 8:45 am]

BILLING CODE 4810-40-M

[Supplement to Department Circular Public Debt Series—No. 35-82]

Series C-1990 Notes; Interest Rate

December 22, 1982.

The Secretary announced on December 21, 1982, that the interest rate on the notes designated Series C-1990, described in Department Circular—Public Debt Series—No. 35-82 dated December 15, 1982, will be 10½ percent. Interest on the notes will be payable at the rate of 10½ percent per annum.

Gerald Murphy,

Acting Fiscal Assistant Secretary.

[FR Doc. 82-35258 filed 12-28-82; 8:45 am]

BILLING CODE 4810-40-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 250
Wednesday, December 29, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Federal Communications Commission	1
Federal Deposit Insurance Corporation	2–3
Securities and Exchange Commission	4

1

FEDERAL COMMUNICATIONS COMMISSION

Deletion of Agenda Items From December 22nd Open Meeting

December 21, 1982.

The following item has been deleted at the request of the Office of Commissioner Dawson from the list of agenda items scheduled for consideration at the December 22, 1982 Open Meeting and previously listed in the Commission's Notice of December 15, 1982.

Agenda, Item No., and Subject

General—2—*Title:* Notice of Proposed Rulemaking to allocate spectrum for the establishment of a nationwide public air-ground telephone system. *Summary:* The Commission will consider the merits of RM–3524, filed by Airfone, Inc. and RM–3885, filed by Aeronautical Radio, Inc. Each petitioner has requested the allocation of spectrum in the 900 MHz region to establish a nationwide public air-ground telephone system.

Common Carrier—2—*Title:* Petition for Reconsideration of GTE Satellite Corporation 90 FCC 2d 1009 (1982). *Summary:* The Commission will consider the petition of United States Satellite Broadcasting Company, Inc. requesting rescission of the grant, or in the alternative, conditioning the grant by prohibiting the offering of television service to individual residences.

Issued: December 21, 1982.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S–1884–82 Filed 12–27–82; 9:36 am]

BILLING CODE 6712–01–M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 10:30 a.m. on Thursday, December 23, 1982, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider the following matters:

Application for Federal deposit insurance:

Dakota Bank of Wahpeton, Wahpeton, North Dakota, a proposed new bank to be located at 1005 Dakota Avenue, Wahpeton, North Dakota.

Application for Federal deposit insurance, for consent to acquire assets and assume liabilities, and for consent to establish a branch:

Alvarado Bank, Richmond, California, a proposed new bank in organization, to be located at 3000 Hilltop Mall Road, Richmond, California, for Federal deposit insurance; for consent to acquire the assets of and to assume the liability to pay deposits made in the Hilltop Branch, Richmond, California, of Union Bank, Los Angeles, California; and for consent to establish a de novo branch at 2160 Vale Road, San Pablo, California.

Application for consent to acquire assets and assume liabilities and establish two branches:

The North American Bank & Trust Company, Stratford, Connecticut, an insured State nonmember bank, for consent to acquire the assets of and assume the liability to pay deposits made in the Waterbury Branch and the Meadow Street Drive-in Branch of The Connecticut National Bank, Bridgeport, Connecticut, and to establish those two offices as branches of The North American Bank & Trust Company.

Application for consent to merge and establish four branches:

Andover Savings Bank, Andover, Massachusetts, an insured mutual savings bank, for consent to merge, under its charter and title, with Valley Cooperative Bank, Lawrence, Massachusetts, a nonfederally insured institution, and to establish the four offices of Valley Cooperative Bank as branches of the resultant bank.

Application for consent to merge and establish three branches and for consent to exercise limited trust powers:

Provident Savings Bank, Jersey City, New Jersey, an insured mutual savings bank, for consent to merge, under its charter and title, with Bloomfield Savings Bank, Bloomfield, New Jersey, to establish the three offices of Bloomfield Savings Bank as branches of the resultant bank, and for consent to exercise limited trust powers.

Application for consent to purchase assets and assume liabilities and to establish two branches:

Goldome Bank for Savings, Buffalo, New York, an insured mutual savings bank, for consent to purchase certain assets of and assume the liability to pay certain deposits made in the Dunkirk Branch and the Gowanda Branch of The Permanent Savings Bank, Niagara Falls, New York, and to establish those two branches as branches of Goldome Bank for Savings.

Application for consent to convert to membership in the Federal Savings and Loan Insurance Corporation:

The Long Island Savings Bank, Syosset, New York, an insured mutual savings bank.

Recommendation regarding the Corporation's assistance agreement with an insured bank pursuant to section 13(e) of the Federal Deposit Insurance Act.

Application for assistance pursuant to section 13(i) of the Federal Deposit Insurance Act and the FDIC's Capital Assistance Plan:

Name and location of bank authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 45,534–L (Amended)—Metropolitan Bank and Trust Company, Tampa, Florida
Case No. 45,548–L—Metropolitan Bank and Trust Company, Tampa, Florida
Memorandum and Resolution re: Farmers and Mechanics Savings Bank, Minneapolis, Minnesota
Memorandum and Resolution re: Village Bank, Pueblo West, Colorado

Memorandum re: Cost allocation system for the regional offices of the Division of Liquidation.

Memorandum re: Classification of expenses charged to individual liquidations.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers,

directors, employees, agents or other persons participating in the conduct of the affairs thereof:

Name of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10)).

The meeting was held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

Dated: December 23, 1982.

Federal Deposit Insurance Corporation.

Alan J. Kaplan,

Deputy Executive Secretary.

[S–1866–82 Filed 12–27–82; 2:20 pm]

BILLING CODE 6714-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Board of Directors of the Federal Deposit Insurance Corporation met in open session at 10:00 a.m. on Thursday, December 23, 1982, to consider the following matters:

Recommendations with respect to payment for legal services rendered and expenses incurred in connection with receivership and liquidation activities:

Morrison, Hecker, Curtis, Kuder & Parrish, Kansas City, Missouri, in connection with the liquidation of The Mission State Bank and Trust Company, Mission, Kansas.

Feldstein, Gelpi & Hernandez, Old San Juan, Puerto Rico, in connection with the liquidation of Banco Credito y Ahorro Ponceno, Ponce, Puerto Rico.

Report of the Director, Division of Liquidation:

Memorandum re: Banco Credito y Ahorro Ponceno, Ponce, Puerto Rico (Case No. 45,540–L)

Memorandum re: Accounting and Capital Adequacy Concerns Regarding Intangible Assets Resulting from Bank Mergers and Acquisitions.

Memorandum re: Purchase of Office Space in the Ecker Square Condominium Office Building, San Francisco, California.

Memorandum re: Budget of Liquidation Expenses for Budget Year 1983.

Resolution re: Amended delegations of authority relating to FDIC's Capital Assistance Plan.

Memorandum and Resolution re: Final amendment to Part 329 of the Corporation's rules and regulations, entitled "Interest on Deposits," which eliminates the requirement that retail repurchase agreements of insured State nonmember banks be issued for 89 days or less.

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Directory C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public and that no earlier notice of the meeting was practicable.

The meeting was held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

Dated: December 23, 1982.

Federal Deposit Insurance Corporation.

Alan J. Kaplan,

Deputy Executive Secretary.

[FR S–1867–82 Filed 12–27–82; 8:45 am]

BILLING CODE 6714-01-M

4

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 56596, December 17, 1982.

STATUS: Closed meeting.

PLACE: 450 5th Street, N.W., Washington, D. C.

DATE PREVIOUSLY ANNOUNCED: Tuesday, December 14, 1982.

CHANGES IN THE MEETING: Additional/deletion items. The following additional items were considered at a closed meeting scheduled for Tuesday, December 21, 1982, following the 10:00 a.m. open meeting:

Settlement of injunctive action.
Formal order of investigation.

The following item was not considered at a closed meeting scheduled for Tuesday, December 21, 1982, following the 10:00 a.m. open meeting.

Freedom of Information Act appeal.

The following item will be considered at a closed meeting scheduled for Wednesday, December 22, 1982, at 2:00 p.m.

Access to investigative files by Federal, State, or Self-Regulatory authorities.

Chairman Shad and Commissioners Evans, Thomas, Longstreth and Treadway determined by vote that Commission Business required the above changes and that no earlier notice thereof was possible.

At times changes in Commission priorities require alternations in the scheduling of meeting items. For further information and to ascertain what, if any matters have been added, deleted or postponed, please contact: Bob Zutz at (202) 272–2091.

December 22, 1982.

S–1865–82 Filed 12–27–82; 12:15 pm]

BILLING CODE 8010-01-M

federal register

Wednesday
December 29, 1982

Part II

Department of Commerce

International Trade Administration

Commodity Control List; Revision of Format

DEPARTMENT OF COMMERCE

International Trade Administration

[Docket No. 21117-232]

15 CFR Parts 371, 372, 373, 374, 375, 378, 379, 385, and 399

Reformat of the Commodity Control List

AGENCY: Office of Export Administration, International Trade Administration, Commerce.

ACTION: Interim rule with request for comments.

SUMMARY: The Office of Export Administration maintains a listing of commodities subject to Department of Commerce export controls, the Commodity Control List (CCL). This rule, which neither expands not limits the provisions of the Export Administration Regulations, revises the CCL, Supplement No. 1 to § 399.1, by placing it in a new, simpler format that is easier to read and use. In addition, Supplement No. 1 to Part 385, Advisory Notes for Selected CCL Entries, is removed from the Regulations because its provisions are now included within the CCL itself. Section 399.1, The Commodity Control List and How to Use It, is also revised to reflect the new CCL format.

EFFECTIVE DATE: This rule is effective December 29, 1982. Comments must be received by the Department by February 28, 1983.

ADDRESS: Written comments (six copies) should be sent to: Richard J. Isadore, Director, Operations Division, Office of Export Administration, Department of Commerce, P.O. Box 273, Washington, D.C. 20044.

FOR FURTHER INFORMATION CONTACT: Archie Andrews, Director, Exporters' Service Staff, Office of Export Administration, Department of Commerce, Washington, D.C. 20230 (Telephone: (202) 377-4811).

SUPPLEMENTARY INFORMATION: The United States participates in an international security export control system. The Coordinating Committee (COCOM) of this system reviews proposals to ship strategic commodities and technical data to certain communist countries. The Office of Export Administration maintains the Commodity Control List (CCL), which includes all commodities multilaterally restricted for export by COCOM and those controlled unilaterally by the U.S. Department of Commerce.

This rule revises the format of the CCL (Supplement No. 1 to § 399.1) to make it easier for exporters to use in conjunction with the rest of the Export Administration Regulations (15 CFR Parts 368-399).

Major features of the new format include:

1. Removal of column headings. Information previously expressed in columns is now explained below the commodity description in a paragraph format.

2. Inclusion of the Advisory Notes (previously, Supplement No. 1 to Part 385) within the CCL itself. Each Note is shown with the particular CCL entry it affects.

3. Elimination of footnotes. Information previously contained in footnotes is now incorporated in the paragraph format.

4. Consolidation of export control-related information from other parts of the Regulations. It will be easier for exporters to determine the special limitations applicable to their particular commodities or technical data without consulting other parts of the Regulations.

This rule also removes Supplement No. 1 to Part 385, Advisory Notes for Selected CCL Entries, from the Export Administration Regulations. The information previously contained in the Advisory Notes is now incorporated in the body of the CCL. Also, § 399.1, The Commodity Control List and How to Use It, is rewritten to reflect the substitution of a paragraph format for the column headings of the CCL.

Various references to Supplement No. 1 to Part 385 are removed from the Regulations, and references to information located in *columns* of the CCL are amended to refer to the new *paragraph* format. Those commodity interpretations that are incorporated in the new CCL are removed from Supplement No. 1 to § 399.2.

The Office of Export Administration reminds exporters that this rule does not alter any of the regulatory provisions of the Commodity Control List, the Advisory Notes, or the Export Administration Regulations. This rule revises the format only; the regulatory substance is not affected.

Rulemaking Requirements

In connection with various rulemaking requirements, the Office of Export Administration has determined that:

1. Under section 13(a) of the Export Administration Act of 1979 (Pub. L. 96-72, 50 U.S.C. app. 2401 *et seq.*) ("the Act"), this rule is exempt from the public participation in rulemaking procedures of the Administrative Procedure Act. This rule does not impose new controls on exports, and is therefore exempt from section 13(b) of the Act, which expresses the intent of Congress that where practicable "regulations imposing controls on exports" be published in proposed form.

However, these regulations are issued in interim form and comments will be considered in developing final regulations. These regulations may be revised before the end of the comment period. Accordingly, interested persons who desire to comment are encouraged to do so at the earliest possible time to permit the fullest consideration of their views.

2. This rule does not impose a burden under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

3. This rule is not subject to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

4. This rule is not a major rule within the meaning of section 1(b) of Executive Order 12291 (46 FR 13193, February 19, 1981), "Federal Regulation."

The period for submission of comments will close February 28, 1983. All comments received before the close of the comment period will be considered by the Department in the development of final regulations. While comments received after the end of the comment period will be considered if possible, their consideration cannot be assured. Public comments that are accompanied by a request that part or all of the material be treated confidentially because of its business proprietary nature or for any other reason will not be accepted. Such comments and materials will be returned to the submitter and will not be considered in the development of final regulations.

All public comments on these regulations will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, comments in written form are preferred. If oral comments are received, they must be followed by written memoranda which will also be a matter of public record and will be available for public review and copying. Communications from agencies of the United States Government or foreign governments will not be made available for public inspection.

The public record concerning these regulations will be maintained in the International Trade Administration Freedom of Information Records Inspection Facility, Room 4001-B, U.S. Department of Commerce, 14th Street and Pennsylvania Avenue, NW., Washington, D.C. 20230. Records in this facility, including written public

comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in Part 4 of Title 15 of the Code of Federal Regulations. Information about the inspection and copying of records at the facility may be obtained from Patricia L. Mann, the International Trade Administration Freedom of Information Officer, at the above address or by calling (202) 377–3031.

List of Subjects

15 CFR Parts 371 Through 375

Exports.

15 CFR Part 378

Exports, Nuclear energy.

15 CFR Part 379

Exports, Science and technology.

15 CFR Part 385

Communist countries, Exports.

15 CFR Part 399

Exports.

Accordingly, the Export Administration Regulations (15 CFR Parts 368–399) are amended as follows:

PART 371—[AMENDED]

§ 371.5 [Amended]

1. Section 371.5(a)(1) is amended by revising the phrase: "in the column headed 'GLV $ Value Limits T & V' " to read: "in the paragraph of that entry titled 'GLV $ Value Limits T & V' ".

2. Footnote 1 to § 371.5(a)(1) is revised to read as follows:

[1] Some commodities may not be shipped to Country Group T or V under General License *GLV*. However, another general license may apply. Check the appropriate CCL entry for special restrictions.

3. Section 371.5(a)(2) is revised to read as follows:

§ 371.5 General license GLV; shipments of limited value.

(a) * * *

(2) To a destination in Country Group P or Q, provided that the net value of the commodity included in a single entry on the Commodity Control List does not exceed the amount specified in the "GLV $ Value Limit" paragraph for that entry.

* * * * *

4. Footnote 2 to § 371.5(a)(2) is removed.

PART 372—[AMENDED]

§ 372.4 [Amended]

5. Paragraph (d) of § 372.4 is amended by revising the phrase: "in the column headed 'Processing Code' " to read: "in the paragraph titled 'Processing Code' ".

§ 372.9 [Amended]

6. Paragraph (c) of § 372.9 is amended by revising the phrase: "in the 'Unit' column of the Commodity Control List" to read: "in the 'Unit' paragraph of an entry on the Commodity Control List"; and by revising the phrase: "by a footnote in this column" to read: "as stated in the 'Unit' paragraph of the CCL entry".

Part 372, Supplement No. 1—[Amended]

7. In Supplement No. 1 to Part 372, "Instructions for preparing an application for a validated license," Item 9. (a) is revised to read as follows:

Supplement No. 1 to Part 372—Instructions for Preparing an Application for a Validated License

* * * * *

Item 9. (a). Give the quantity to be shipped, using units specified in the Commodity Control List (Supplement No. 1 to § 399.1) in the paragraph of the applicable CCL entry titled "Unit of Quantity."

PART 373—[AMENDED]

§ 373.4 [Amended]

8. § 373.4(b)(1) is amended by revising the phrase: "and is either described in the Advisory Notes in Supplement No. 1 to Part 385" to read: "and is either described in the Advisory Notes for that commodity in the CCL (Supplement No. 1 to § 399.1)".

§ 373.7 [Amended]

9. Section 373.7(d)(1)(iv)(B)(*5*) is amended by revising the phrase "see § 399.1(j)" to read "see § 399.1(b)".

PART 374—[AMENDED]

§ 374.3 [Amended]

10. Section 374.3(e)(1)(i)(B) is amended by revising the phrase "notes in Supplement No. 1 to Part 385" to read "Advisory Notes " for those commodities in the CCL (Supplement No. 1 to § 399.1)".

Part 374, Supplement No. 1—[Amended]

11. In Supplement No. 1 to Part 374, Item 8(a) is revised to read as follows:

Supplement No. 1 to Part 374—Instructions for Preparing Form ITA–699P, "Request To Dispose of Commodities or Technical Data Previously Exported"

* * * * *

Item 8(a). Show the quantity of each commodity, using units specified in the "Unit" paragraph of the applicable entry on the Commodity Control List (Supplement No. 1 to § 399.1).

* * * * *

PART 375—[AMENDED]

§ 375.7 [Amended]

12. Section 375.7(b)(1) is amended by revising the phrase: "in the column on the Commodity Control List titled 'Validated License Required' " to read: "to the paragraph in any entry on the Commodity Control List titled 'Validated License Required' ".

13. Section 375.7(b)(3) is amended by revising the phrase: "to the column on the Commodity Control List entitled 'Validated License Required' " to read: "to the paragraph in any entry on the Commodity Control List titled 'Validated License Required' ".

PART 378—[AMENDED]

§ 378.2 [Amended]

14. Section 378.2(a) is amended by revising the phrase: "that have the number 4 in the column titled 'Reason for Control' " to read: "with 'nuclear non-proliferation' included in the 'Reason for Control' paragraph of the applicable entry".

PART 379—[AMENDED]

§ 379.4 [Amended]

15. Section 379.4(f)(2)(i) (*a*) and (*b*), (ii) and (ii)(*b*) are amended by revising the phrase: "identified by the symbol 'W' in the column of the Commodity Control List titled 'Validated License Required' " to read: "identified by the symbol 'W' in the paragraph of any entry on the Commodity Control List titled 'Validated License Required' ".

§ 379.4 [Amended]

16. The paragraph numbered "2" in the "Note" following § 379.4(f)(2)(ii)(*c*) is amended by revising the phrase: "by the information set forth in the column titled 'Validated License Required' " to read: "by the information set forth in the applicable CCL entry in the paragraph titled 'Validated License Required' ".

§ 379.8 [Amended]

17. Section 379.8(b)(3)(i)(B) is amended by revising the phrase: "in the notes in Supplement No. 1 to Part 385" to read: "in the Advisory Notes in any entry on the Commodity Control List (Supplement No. 1 to §399.1)".

PART 385—[AMENDED]

§ 385.2 [Amended]

18. Section 385.2(a)(4) is amended by revising the phrase: "See Supplement No. 1 to this part" to read: "See the Advisory Notes for the applicable entry on the Commodity Control List (Supplement No. 1 to § 399.1)".

19. Section 385.3(c) is revised to read as follows:

§ 385.3 Country Group P: People's Republic of China

* * * * *

(c) Although each application will be considered individually, certain goods on the CCL are more likely to be approved than others. The "Advisory Notes" in the CCL describe goods likely to be approved for China, as well as certain other country groups. Those Notes in the CCL headed "Note for Country Group P only" provide guidance on equipment more likely to be approved for China than for Country Groups Q, W and Y.

* * * * *

§ 385.4 [Amended]

20. Section 385.4 (a)(2)(iii) and (a)(5)(i) are amended by revising the phrase: "*not* identified by a '1' in the 'Reason for Control' column of the Commodity Control List" to read: "*not* identified in the 'Reason for Control' paragraph of any entry on the Commodity Control List as being controlled for 'national security' ".

21. Section 385.4(d)(5)(iv) is amended by revising the phrase: "identified by a '1' in the 'Reason for Control' column of the Commodity Control List" to read: "identified in the 'Reason for Control' paragraph of any entry on the Commodity Control List as being controlled for 'national security' ".

Part 385, Supplement No. 1—[Reserved]

22. Supplement No. 1 to Part 385, Advisory Notes For Selected CCL Entries, is removed and reserved.

PART 399—[AMENDED]

§ 399.2 Supplement No. 1—[Amended]

23. Commodity Interpretations 30 and 32 are removed from Supplement No. 1 of § 399.2.

24. Section 399.1, The Commodity Control List and How to Use It, and Supplement No. 1 to § 399.1, the Commodity Control List, are revised to read as follows:

§ 399.1 The Commodity Control List and How to Use It

(a) Commodity Coverage. The Office of Export Administration (OEA) maintains the Commodity Control List (CCL), which includes all commodities subject to U.S. Department of Commerce export controls. The CCL does not include those commodities exclusively controlled for export by another department or agency of the U.S. Government. For example, arms, ammunition, and implements of war are controlled for export by the Office of Munitions Control, U.S. Department of State. See § 370.10 for a listing of exports controlled by other U.S. Government departments and agencies.

(b) Commodity Groups. The commodities under OEA jurisdiction are grouped on the CCL under 10 general categories. Each CCL entry is preceded by a four-digit Export Control Commodity Number (ECCN) and a code letter. The first digit relates to the strategic level of control; the second digit identifies the Group to which the commodity belongs; and the remaining two digits identify related commodities within a Group. Within each group, the entries are numbered consecutively by the third and fourth digits.

Commodity group No.	Commodity groups	Commodity control list page No.
0	Metal-Working Machinery	CCL
1	Chemical and Petroleum Equipment	CCL
2	Electrical and Power-Generating Equipment.	CCL
3	General Industrial Equipment	CCL
4	Transportation Equipment	CCL
5	Electronics and Precision Instruments	CCL
6	Metals, Minerals, and Their Manufactures.	CCL
7	Chemicals, Metalloids, Petroleum Products and Related Materials.	CCL
8	Rubber and Rubber Products	CCL
9	Miscellaneous	CCL

Within the ten general categories, specific CCL entries define the commodities controlled to the country groups and individual destinations specified in the paragraph titled "Validated License Required" under each ECCN. See Supplement No. 1 to Part 370 for a listing of the countries included in each country group.

(c) Embargo Destinations. Almost all CCL entries include Country Groups S and Z, embargo destinations, under the heading "Validated License Required." Generally, the last entry in each commodity category is a "basket" entry asserting control over exports to destinations in Country Groups S and Z of commodities that are not elsewhere specified in that commodity category. In a few instances, however, certain entries, or portions of entries, are excepted from the general embargo policy and are specifically identified. You may export the excepted commodities under General License *G–DEST*. Certain other General Licenses may also apply, *e.g.*, General License *GIFT*. With these exceptions, you may not export or reexport any commodity to a destination in Country Group S or Z—

(1) Unless you have filed an export license application (Form ITA–622P) or request to reexport (Form ITA–699P) with OEA, and

(2) Until OEA issues a validated export license or reexport approval covering your proposed transaction.

See general policy statements regarding embargo destinations in § 385.1 (Country Group Z) and § 385.7 (Country Group S).

(d) All Other Destinations, Except Canada. (1) If you intend to export a commodity to a destination in Country Group P, Q, T, V, W or Y and that commodity is covered by a CCL entry that includes P, Q, T, V, W, or Y under the heading "Validated License Required," you must usually file an export license application or reexport request with OEA. OEA must then issue a validated export license or reexport authorization covering your proposed transaction before you make a shipment.

(2) If your commodity is covered by a CCL entry, but you intend to export it to a country that is *not* included in a country group for which there are controls, you may ship the commodity under General License *G–DEST*, provided that none of the parties involved is currently denied export privileges (see Supplement No. 1 to Part 388) and the export is not restricted by the special licensing requirements summarized in paragraph (f)(4) of this section.

(3) You should review the General License provisions in Part 371 before filing an export license application or reexport request to see whether your shipment requires a validated license or if it may be shipped under a general license. For example, you may be able to export a small value shipment of a commodity included in a CCL entry to a destination in Country Group Q, T or V under General License *GLV*. In addition, one of the other, more specialized, General Licenses explained in Part 371 may apply.

(e) Canada. Canada is not included in any of the Country Groups, and you may export most commodities to Canada for consumption or use in that country without an export license. In the few instances where a validated license is required, Canada is specifically named in the CCL entry. See § 385.6 for a general policy statement regarding exports to Canada. Note also the special licensing requirements summarized in (f)(4) below.

(f) How To Use the CCL. (1) *General categories.* First, identify which CCL entry covers the commodity you wish to export. Do this by reviewing the appropriate general category within which the commodity is most likely to be included. If you do not know, or cannot find, the proper CCL entry,

consult the Exporters' Service Staff, Office of Export Administration.

(2) *Export Control Commodity Number.* After you find the CCL entry, note the Export Control Commodity Number (ECCN). This is a four-digit number that must appear on your export license application or reexport request, if one is required. The four-digit number will be followed by a code letter. This code letter is a key to the documentation requirements of Part 375 of this title, and is used by many exporter as a data processing code to indicate the country group level of control for CCL entries. The letters used and the respective country groups are:

Code letters	Country groups for which validated license is required
A	PQSTVWYX (Multilaterally controlled to all destinations.) Only "A" commodities are subject to IC/DV procedure (see § 375.3).
B	PQSTVWYZ (Unilaterally controlled to all destinations.)
C	PQSWYZ and certain other countries.
D	PQSWYZ only.
E	PSWYZ.
F	SZ and certain other countries.
G	SZ only.
I	None.
M	Various (Country Group control level is governed by another entry on the CCL.)

(3) Country of destination and value of shipment. Once you locate the ECCN for a commodity you wish to export, you must determine if a validated export license is required for *the particular shipment.* Do this by referring to the paragraph titled "Validated License Required," and in some cases, to the paragraph titled "GLV $ Value Limit."

(i) If the code letter following the ECCN is A or B, and the country of destination is in Country Group T or V, you will need a validated export license if the value of the shipment exceds the value shown under the heading "GLV $ Value Limit." (See § 371.5 for restrictions on the use of General License *GLV.)*

(ii) If the code letter following the ECCN is A and the country of destination is in Country Group P, Q, S, W, Y or Z, you will need a validated export license *regardless of the value of the shipment.*

(iii) If the code letter following the ECCN is B, C, D or E, and the country of destination is in Country Group P, S, W, Y or Z (or is specifically named under the heading "Validated License Required" for that CCL entry), a validated export license *is* required, regardless of the value of the shipment.

(iv) If the country of destination is in Country Group Q, a validated export license is required *unless* the code letter is E, F, G or I, or the shipment does not exceed the GLV $ value for Group Q shown under the "GLV $ Value Limit" heading for that CCL entry. The GLV $ value limit for Country Group Q is "O" unless stated otherwise under "GLV $ Value Limit." See § 371.5 for restrictions on the use of General License *GLV.*

(v) If the code letter following the ECCN is F or G, and the country of destination is in Country Group S or Z (or is specifically named under "Validated License Required"), you *will* need a validated export license, regardless of the value of the shipment.

(4) Special licensing requirements. Under certain circumstances, you may *not* export a commodity under a General License even though, from an examination of the CCL, it appears to meet the requirements for export under a General License. (You should review, in particular, Parts 376, 378, and 385.) Some examples of special restrictions are described below—

(i) You will need an individual validated export license for a commodity which could otherwise be shipped under general license if you know or have reason to know that the commodity will be used with nuclear weapons, nuclear explosive devices, nuclear testing, the chemical processing of irradiated special nuclear or source material, the production of heavy water, the separation of isotopes of source and special nuclear material, or the fabrication of nuclear reactor fuel containing plutonium, as described in § 378.3.

(ii) You will need an individual validated export license for export or reexport to the U.S.S.R. if you know or have reason to know the commodity is for any use directly in preparation for, in conduct of, in support of, or visually identified with the 1980 Summer Olympic Games that began in Moscow on July 19, 1980. These commodities are subject to controls under the authority of the foreign policy provisions contained in section 6 of the Export Administration Act of 1979.

(iii) Many entries contain special instructions about additional validated license requirements that apply only to certain countries or consignees within country groups (*e.g.,* South African military and police, Soviet Kama River and ZIL truck plants). You are responsible for checking entries for these special controls before assuming that you can use General License G–DEST.

(g) Unit of Quantity. You must enter the quantity in the units given for each commodity under the "UNIT" heading on your export license application. If a unit of quantity other than the one specified in the CCL is commonly used in the trade, you may enter the quantity in terms of that unit in addition to the required unit on your application.

(h) Processing Code. For each ECCN on the Commodity Control List, a processing code, *i.e.,* CD, EE, MG or SS, appears after the heading "Processing Code." You must show a processing code on your application for export license or reexport request, since the Office of Export Administration uses the codes to facilitate the internal routing and processing of export license applications. These processing codes stand for Computer Division (CD), Electronic Equipment Division (EE), Capital Goods and Production Material Division (MG), and Short Supply (SS). You may enter only those ECCNs that have the same processing code on a single application for export license. (See § 372.4(d) for complete information on the inclusion of related commodities on a single application.)

(i) Reason for Control. The "Reason for Control" paragraph for each ECCN specifies the statutory basis under which that commodity is controlled. Reasons for control include:

National security
Short supply (resource assessment)
Foreign policy
Nuclear non-proliferation
Crime control (foreign policy)

In some cases, more than one reason for control is given for one entry. If commodities in a CCL entry are controlled for one reason to some countries, and for another reason to other countries, then the least comprehensive controls are explained. Also, all entries (except those showing "None" under "Validated License Required") are controlled for foreign policy reasons to Country Groups S and Z due to certain embargo programs. In addition, all entries having both a "V" under "Validated License Required" and "National security" under "Reason for Control" may be controlled for foreign policy reasons to Syria and the People's Democratic Republic of Yemen. You can determine if your proposed shipment to Syria or the People's Democratic Republic of Yemen will be reviewed for foreign policy purposes by referring to § 385.4(d) of the Regulations. Applications involving entries having "National security" but not "Nuclear non-proliferation" under "Reason for Control" are subject to nuclear non-proliferation controls if the end-use or end-user is nuclear related. (See § 378.2.) In some cases, different paragraphs in the "List" of sub-items of the CCL entry are controlled for different reasons. In these cases, the different controls are

explained. (For example, see ECCN 1110A.)

(j) The Abbreviation "n.e.s.". The abbreviation "n.e.s." appearing in various CCL entries means "not elsewhere specified." If a commodity you intend to export appears to be covered by a CCL entry and the commodity description carries the limitation "n.e.s." you should not use that CCL entry until you determine whether another CCL entry specifically covers that commodity.

(k) Commodity Description on Application or Reexport Requests. Various CCL entries include phrases such as "specify by name," "specify by name and model number," and "give full specification." OEA requires this information on export license applications or reexport requests in order to evaluate the proposed export. If you fail to provide the requested information, there may be a delay in processing, or OEA may return your application or reexport request without action.

(l) CCL Paragraph References Used on Applications or Reexport Requests. In item 9(c) of your export license application or reexport request, specify following the ECCN the paragraph letter ((a), (b), etc.) of the list of sub-items of that ECCN that corresponds to the commodity you wish to export or reexport.

(m) NATO Countries. The "Validated License Required" paragraph and other special notes in the CCL cite "NATO." The NATO countries are: Belgium, Canada, Denmark, France, the Federal Republic of Germany (including West Berlin), Greece, Iceland, Italy, Luxembourg, the Netherlands, Norway, Portugal, Spain, Turkey, and the United Kingdom.

Note.—The foreign portion of this § 399.1 describes the CCL. For a more detailed explanation, refer to other parts of the Export Administration Regulations.

GROUP 0—METAL-WORKING MACHINERY

Note.—You need a validated export license to export or reexport technical data related to metal-working machinery to destinations in Country Groups P, Q, S, W, Y or Z. You may use General License GTDR for exports or reexports of technical data to destinations in Country Groups T & V *provided that*—

The technical data are not listed in paragraphs (c) or (d) of 379.4 of the Regulations, *and*

There are no special foreign policy controls on the technical data related to the commodities described in an individual CCL entry.

Note.—All Commodity Control List entries in this Group 0, Metal-Working Machinery, are subject to export controls on the basis of the following criteria:

You need a validated license to export or reexport to the U.S.S.R. if you know or have reason to know the commodity is for any use directly in preparation for, in conduct of, in support of, or visually identified with the 1980 Summer Olympic Games that began in Moscow on July 19, 1980. These commodities are subject to controls under the authority of the foreign policy provisions contained in section 6 of the Export Administration Act of 1979.

See § 370.10 for commodities that require export authorization from other U.S. Government Departments and Agencies.

2018A Specialized machinery, equipment, gear, and specially designed parts and accessories therefor, specially designed for the examination, manufacture, testing, and checking of arms, appliances, machines, and implements of war.

Controls for ECCN 2018A:

Unit: Report machines in "number"; parts and accessories in "$ value."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $500 for Australia, Japan, New Zealand, and members of NATO; $0 for all other destinations.

Processing Code: MG.

Reason for Control: National security; foreign policy.

Special Licenses Available: None.

Special South Africa and Namibia Controls: Commodities defined in ECCN 2018A are subject to the Republic of South Africa and Namibia embargo policy, and no technical data relating to these commodities may be exported under General License *GTDR* to any consignee in the Republic of South Africa or Namibia.

Illustrative List of Specialized Machinery, Equipment, and Gear Controlled by ECCN 2018A

Machines and machine tools and implements or accessories, metal cutting and working, of the following description:

Armor plate drilling machines, other than radial drilling machines
Armor plate planing machines
Armor plate quenching presses
Centrifugal casting machines capable of casting tubes 6 feet (183 cm) or more in length, with a wall thickness of 2 inches (5 cm) and other
Gun barrel rifling and broaching machines, and tools therefor
Gun barrel rifling machines
Gun barrel trepanning machines
Gun boring and turning machines
Gun honing machines of 6 foot (183 cm) stroke or more
Gun jump screw lathes
Gun rifling machines
Gun straightening presses
Induction hardening machines for tank turret rings and sprockets
Jigs and fixtures and other metal-working implements or accessories of the kinds exclusively designed for use in the manufacture of firearms, ordnance, and other stores and appliances for land, sea, or aerial warfare
Small chambering machines
Small arms deep hole drilling machines and drills therefor
Small arms rifling machines
Small arms spill boring machines
Tank turret bearing grinding machines

Advisory Note: Licenses are likely to be approved for export to satisfactory end-users in Country Groups PQSWY of equipment used to determine the safety data of explosives, as required by the International Convention on the Transport of Dangerous Goods (C.I.M.), articles 3 and 4 in Annex 1 RID, provided that such equipment will be used only by the railway authorities of current C.I.M. members, or by Government-accredited testing facilities in those countries, for the testing of explosives to transport safety standards, of the following description:

(a) Equipment for determining the ignition and deflagration temperatures;

(b) Equipment for steel-shell tests;

(c) Drophammers not exceeding 20 kg in weight for determining the sensitivity of explosives to shock;

(d) Equipment for determining the friction sensitivity of explosives when exposed to charges not exceeding 36 kg in weight.

1075A Spin-forming and flow-forming machines, double support or three roller types as defined below, and specially designed parts and accessories therefor.

Controls for ECCN 1075A

Unit: Report machines in "number"; parts and accessories in "$ value."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $1000 for Country Groups T & V; $0 for all other destinations.

Processing Code: MG.

Reason for Control: National security; nuclear non-proliferation.

Special Licenses Available: None.

List of Machines Controlled by ECCN 1075A

(a) Horizontal spindle type designed to have or having a drive motor of 80 hp (59 kW) or more; and

(b) Vertical spindle type designed to have or having a drive motor of 50 hp (37 kW) or more.

1080A Machines and equipment, including specialized tooling and fixtures, and specially designed parts and accessories therefor, specially designed for making or measuring gas turbine blades and/or vanes, including but not limited to those machines and equipment described in this ECCN.

Controls for ECCN 1080A

Unit: Report machines in "number"; parts and accessories in "$ value."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $1000 for Country Groups T & V; $0 for all other destinations.

Processing Code: MG.

Reason for Control: National security.

Special Licenses Available: See Part 373.

Illustrative List of Machines and Equipment Controlled by ECCN 1080A

(a) Blade and/or vane belt grinding machines;

(b) Blade and/or vane edge radiusing machines;

(c) Blade and/or vane aerofoil milling and/or grinding machines;

(d) Blade and/or vane blank pre-forming machines;

(e) Blade and/or vane rolling machines;

(f) Blade and/or vane aerofoil shaping machines, *except metal removing type;*

(g) Blade and/or vane root grinding machines;

(h) Blade and/or vane aerofoil scribing equipment;

(i) Blade and/or vane aerofoil and/or root automatic measuring equipment;

(j) Precision vacuum investment casting equipment;

(k) Small hole drilling equipment for producing holes less than 0.030 inch (0.76 mm) in diameter;

(l) Directional solidification casting equipment;

(m) Segmented cast blade and/or vane bonding equipment;

(n) Integral blade-and-disc casting equipment;

(o) Blade and/or vane casting equipment;

(p) Ceramic blade and/or vane molding and finishing machines; and

(q) Inertial blade and/or vane welding machines.

§ 1081A Machinery for use in the manufacture of aircraft as defined below, and specially designed parts and accessories therefor.

Controls for ECCN 1081A

Unit: Report machines in "number"; parts and components in "$ value."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $1000 for Country Groups T & V; $0 for all other destinations.

Processing code: MG.

Reason for control: National security.

Special Licenses Available: See Part 373.

List of Machinery Controlled by ECCN 1081A

(a) Machinery specially designed for the working or forming of aircraft sheet, plate, or extrusion; and

(b) Machinery specially designed for the milling of aircraft skin.

Advisory Notes.—1. Licenses are likely to be approved for export to satisfactory end-users in Country Groups PQSWY provided that the machinery does not present an improvement on machinery in production before the 1st of January of the year ten years preceding the year of the proposed export.

2. Licenses are likely to be approved for export to satisfactory end-users in Country Group P (People's Republic of China) of skin mills for civil aircraft (*i.e.*, for non-strategic, non-nuclear use) covered by paragraph (b) of this ECCN.

1086A Machinery and equipment specially designed for the manufacture of aircraft or aircraft-derived gas turbine engines as defined below, and specially designed parts and accessories therefor.

Controls for ECCN 1086A

Unit: Report machines in "number"; parts and accessories in "$ value."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $1000 for Country Groups T & V; $0 for all other destinations.

Processing Code: MG.

Reason for Control: National security.

Special Licenses Available: See Part 373.

List of Machinery and Equipment Controlled by ECCN 1086A

(a) Compressor or turbine disc turning machines;

(b) Rotor grinders;

(c) Compressor or turbine disc broaching machines; and

(d) Compressor or turbine disc computerized inspection machines.

1088A Gear making and/or finishing machinery as defined below, and specially designed parts and accessories therefor.

Controls for ECCN 1088A

Unit: Report machines in "number"; parts and accessories in "$ value."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $1000 for Country Groups T & V; $0 for all other destinations.

Processing Code: MG.

Reason for Control: National security.

Special Licenses Available: See Part 373.

List of Gear Making and/or Finishing Machinery Controlled by ECCN 1088A

(a) Bevel gear making machinery:

(1) Gear grinding machinery (non-generating type);

(2) Other machinery capable of the production of bevel gears of module finer than 0.5 mm (diametral pitch finer than 48) and meeting a quality standard better than DIN 58405 Class 6 (if rated in AGMA or Admiralty standards and not rated in DIN 58405, AGMA 11 or Admiralty Class I shall be considered to be the equivalent of DIN 58405 (Class 6));

(b) Machinery capable of producing gears in excess of AGMA quality level 13 or equivalent (if not rated in AGMA standards, DIN 3963 Class 4 shall be considered equivalent to AGMA quality level 13).

Note.—"Diametral pitch" of a gear is the ratio of the number of teeth to the number of inches in the pitch diameter. It indicates the number of teeth in the gear for each inch of pitch diameter. ("Pitch diameter is the diameter" of the pitch circle which is the circle through the pitch point having its center at the axis of the gear.) "Module" (British or metric) is the ratio of the pitch diameter in millimeters to the number of teeth. The larger the proportion of teeth to pitch diameter, the finer the diametral pitch. Example of diametral pitch: If a gear has a 1-inch pitch diameter and has 48 teeth, the ratio would be 48:1, or a 48 diametral pitch gear. Additional teeth in the same pitch diameter gear, *i.e.*, 49, would result in a finer diametral pitch; fewer teeth, *i.e.*, 47, would result in a gear of coarser diametral pitch. Examination of a gear making or finishing machine may not disclose whether it is capable of producing a gear of finer than 48 diametral pitch. If the exporter has no information on the ability of the machine to be exported for making gears of finer than 48 diametral

pitch, he should obtain the information from the manufacturer or distributor.

Generating type geartooth grinding machines are those in which the grinding wheel and the gear are both power-driven for continuous circular motion while grinding, rather than an intermittent or indexing operation as with the non-generating type.

1091A Units for numerically controlling simultaneously coordinated (contouring and continuous path) movements of machine tools and dimensional inspection machines in two or more axes; machine tools and dimensional inspection machines; Direct Numerical Control (DNC) systems; Specially designed sub-assemblies; and specially designed parts and accessories therefor, as defined in the list below:

Controls for ECCN 1091A

Unit: Report machines in "number"; parts and accessories in "$ value."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $1000 for Country Groups T & V; $0 for all other destinations.

Processing Code: MG.

Reason for Control: National security; nuclear non-proliferation, except exports to those countries listed in Supp. Nos. 2 or 3 to Part 373.

Special Licenses Available: None for those dimensional inspection machines that, according to the manufacturer's technical specifications, can be equipped with controls defined in the LIST below of this ECCN 1091A. See Part 373 for special licenses that may be available for other commodities controlled by ECCN 1091A.

List of Commodities Controlled by ECCN 1091A

(a) Units for numerically controlling simultaneously coordinated (contouring and continuous path) movements of machine tools and dimensional inspection machines in two or more axes, *except units having all of the following characteristics:*

(1) *Hardwired (not softwired, i.e., not computerized Numerical Control (CNC));*

(2) *No more than two contouring interpolating axes can be simultaneously coordinated* (interpolating is understood to be any mathematical function including linear and circular; the units may have one or more positioning axes in addition to two contouring axes. The units may have more than one set of two contouring axes (*e.g.*, units controlling two independent railheads on a vertical turret lathe), provided a separate feedrate number is required for each set of two contouring axes, and a single feedrate number (standard or optional) does not control more than two contouring axes);

(3) *Minimum programmable increment equal to or greater (coarser) than 0.001 mm (0.00004 in.); and*

(4) *Without interface to allow direct computer input;*

(b) Machine tools and dimensional inspection machines which, according to the manufacturer's technical specifications, can be equipped with controls described in paragraph (a) above, *except:*

(1) *Boring mills, milling machines, and machining centers, having all of the following characteristics:*

(i) *Maximum slide travel in any axis equal to or less than 3,000 mm (10 ft.);*

(ii) *Positioning accuracy of any axis equal to or greater than +0.01 mm per 300 mm (0.0004 in./ft.) and 0.005 mm for each additional 300 mm (.0002 in./ additional ft.);*

(iii) *Spindle horsepower equal to or less than 20 kW (25 hp);*

(iv) *Single-working spindle;*

(v) *Axial and radial axis motion measured at the spindle axis in one revolution of the spindle equal to or greater than $D \times 2 \times 10^{-6}$ mm TIR (peak-to-peak) where D is the spindle diameter in millimeters; and*

(2) *Machines tools (other than the machines described in paragraph (1) above) and dimensional inspection machines having all of the following characteristics:*

(i) *Positioning accuracy of any axis equal to or greater than +0.01 mm per 300 mm (0.0004 in./ft.) and 0.005 mm for each additional 300 mm (0.0002 in./ additional ft.);*

(ii) *Radial axis motion measured at the spindle axis equal to or greater than 0.0008 mm (0.00003 in.) TIR (peak-to-peak) in one revolution of the spindle (for lathes and other turning machines); and*

(iii) *Not more than 3 axes capable of simultaneously coordinated contouring motion regardless of the NC unit connected to the machine:* (The machines in paragraph (b)(1)(*iv*) above may have multiple tool heads or turrets, but only one working spindle (standard or optional) may be operative at a time; the machines defined in paragraphs (b)(1)(*vi*) and (b)(2)(*iii*) above may have more than one work station, but each station shall be limited to 2-axis contouring (*e.g.*, vertical turret lathes with two independent railheads). The machines may have one or more discrete positioning mode axes (*e.g.*, discrete positioning rotary table) in addition to the three contouring axes. Secondary contouring axes parallel to primary contouring axes (*e.g.*, W-axis of a boring mill that has a primary Z-axis) are not to be considered when determining the number of contouring axes; the value of the positioning accuracy described in paragraphs (b)(1)(*ii*) and (b)(2)(*i*) above does not include the width of backlash. This value is determined by the usual statistical methods (random tests), *i.e.*, by approaching from only one direction a minimum of five measurement points up to a maximum of twenty-five measurement positions as random tests along one axis. National standards, *e.g.*, the German VDI–DGQ–3441 and/or the United States NMTBA standard ("Definition and Evaluation of Accuracy and Repeatability for Numerically-controlled Machine-Tools," August 1972), can be taken as binding standards for this measuring method);

(c) Direct Numerical Control (DNC) systems consisting of a dedicated stored program computer acting as a host computer and controlling, on-line or off-line, one or more numerically-controlled machine tools or inspection machines, as defined in paragraph (b) above, related software, and interface and communication equipment for data transfer between the host computer memory, the interpolation functions, and the numerically-controlled machine tools;

(d) Specially designed sub-assemblies that, according to the manufacturer's technical specifications, can upgrade the capabilities of numerical control units and machine tools to meet the specificatons described in paragraph (a), (b), or (c) above; and

(e) Specially designed parts and accessories therefor. (Also see ECCN 1093A.)

Note.—An application for a license to export or reexport machine tools and/or numerical controls controlled by ECCN 1091A to Country Groups P, Q, W, and Y shall include the following information as applicable:

(a) Machine Tools:

(1) Name and model number;

(2) Type;

(3) The number of continuous path controlled axes;

(4) The number of machine axes that can be simultaneously controlled in a contouring mode regardless of the number of axes that are simultaneously controlled by the control system;

(5) The number of positioning axes;

(6) The slide travel for each axis (X, Y, Z, U, V, W, R, or Other);

(7) The guaranteed no load positioning accuracy of each slide over total travel (X, Y, Z, U, V, W, R, or Other);

(8) The spindle horsepower;

(9) The maximum variable controlled feedrate;

(10) The rapid traverse rate; and

(11) The number of working spindles.

(b) Control Systems:

(1) Name and model number;

(2) Type (hardwired, firmwire, software);

(3) Word size;

(4) Size of internal memory;

(5) Number of simultaneously controlled contouring axes and types of interpolation (linear, circular, other);

(6) Number of simultaneously controlled contouring axes and types of interpolation (linear, circular, other) which may be optionally procured;

(7) The minimum programmable increment for each axis;

(8) Interface for direct computer input;

(9) Description of features being provided as part of transaction, (*e.g.*, cutter compensation, program edit, variable pitch threading, etc.);

(10) Description of optional accessories included in transaction;

(11) Description of software being supplied with unit; and

(12) Description of documentation being supplied with unit.

Note.—Numerical control systems for machine tools are systems in which actions are controlled by the direct insertion of numerical data at some point. The system must automatically interpret at least some portion of this data. Units defined in ECCN 1091A include:

(a) Units consisting of fixed and dedicated circuits of discrete logic elements and storage devices (referred to as hardwired units);

(b) Units consisting of and including stored instructions (routines and/or programs), defined as logic states of alterable and nondedicated logic elements which determine various control functions of the machine(s), such as slide movements, cutter compensation, readout, adaptive control, part program editing and tool offset (softwired or stored program units);

(c) Hardwired Unit—a numerical control system wherein fixed and dedicated circuit interconnections of discrete, decision elements are used for primary system control. These circuits may, but not necessarily, include freely programmable memory devices which would be limited to use for data files, part program storage, or output control of machine tool interfacing;

(d) Softwired Unit (Computer Numerical Control (CNC))—a numerical control system which includes:

(1) Computer—a dedicated stored program computer to perform some or all of the basic numerical control functions which include, but may not be limited to, velocity and path generation. A stored program computer is further defined as a computer processor controlled by stored instructions that can synthesize, store, and in some cases, alter instructions as though they were data and subsequently execute these instructions,

(2) Software—a control program (routines and/or programs) stored in the read/write memory of the computer which implements the basic numerical control functions,

(3) Interface—the means by which the data is transmitted between the stored program computer and the machine;

(e) Direct Numerical Control (DNC)—a system connecting a set of numerically controlled machines to a common memory within a computer for part program or machine program storage with provision for on demand distribution of data to the machines. Direct Numerical Control systems typically have additional provisions for collection, display, or editing or part programs, operator instructions, or data related to the numerical control process;

(f) Software—control programs used with CNC and DNC systems, which are stored in a read/write memory of a computer and implement numerical functions, including but not limited to, velocity and path generation, on-line adaptive control and special purpose data distribution, recall, and editing programs for DNC applications. Software used in part programming, *e.g.*, APT, EXAPT, IFAPT, post processor, and similar programs are not considered among these control programs used for CNC and DNC systems.

Note.—Where the system is shipped complete (machine and controls), it shall be reported as a complete machine under the appropriate Export Control Commodity Number (ECCN) for the machine. Where a control system for a machine tool is not shipped as part of the original installation of the machine it shall be reported under ECCN 1091A.

When preparing an *export license application* for a numerical control system, the machine and the control unit are classified separately. If either the machine or the control unit requires a validated license, then the entire system requires a license. If either a machine or a control unit is exported separately from the system, it is classified on the export license application without regard to the other parts of a possible system.

When preparing the *Shipper's Export Declaration* (SED), however, a system being shipped complete (*i.e.*, machine and control unit), should be reported under the Schedule B number for the machine. When either a control unit or a machine is shipped separately, it should be reported under the Schedule B number appropriate for the individual item being exported.

Note.—(a) Units for numerically controlling machine tools and dimension inspection machines defined in ECCN 1091A include those having *all* of the following characteristics:

(1) Hardwired (not softwired, *i.e.*, Computerized Numerical Control (CNC)),

(2) No more than 2 contouring interpolating axes that can be simultaneously coordinated,

(3) Minimum programmable increment equal to or greater (coarser) than 0.001 mm, and

(4) Without interface to enable direct computer input.

(b) Boring mills, milling machines, and machining centers defined in ECCN 1091A include those having *all* of the following characteristics:

(1) Maximum slide travel in any axis equal to or less than 3,000 mm,

(2) Positioning accuracy of any axis equal to or greater than plus or minus 0.01 mm per 300 mm and 0.005 mm for each additional 300 mm,

(3) Spindle power equal to or less than 20 kW,

(4) Single working spindle,

(5) Axial and radial axis motion measured at the spindle axis in one revolution of the spindle equal to or greater than $D \times 2 \times 10^{-6}$ mm TIR (peak-to-peak) where D is the spindle diameter in millimeters, *and*

(6) Not more than 3 axes capable of simultaneously coordinated contouring motion regardless of the NC unit connected to the machine.

(c) Machine tools, other than the machines described in paragraph (b) above, and dimensional inspection machines which, according to the manufacturer's technical specifications, can be equipped with controls covered by paragraph (a) above, are defined in ECCN 1091A if they have *all* of the following characteristics:

(1) Positioning accuracy of any axis equal to or greater than plus or minus 0.01 mm per 300 mm and 0.005 mm for each additional 300 mm,

(2) Radial axis motion measured at the spindle axis equal to or greater than

0.008 mm TIR (peak-to-peak) in one revolution of the spindle (for lathes and other turning machines), *and*

(3) Not more than 3 axes capable of simultaneously coordinated contouring motion regardless of the NC unit connected to the machine.

Advisory Notes.—1. Licenses are likely to be approved for export to satisfactory end-users in Country Groups PQSWY of Computer Numerical Control (CNC) units for uses other than aerospace, provided that:

(a) At the time of export, the units are mounted on non-controlled machine tools or equipment;

(b) The CNC units are designed to have all of the following characteristics:

(1) No more than two contouring interpolating axes can be simultaneously coordinated ("Interpolating" is understood to be a mathematical function including linear and circular. Units may not have additional positioning axes.);

(2) The cabinet shall be designed for only 2-axes operation (*i.e.*, there shall be no additional card rack locations, wiring provisions for more than two servoloops, nor physical space for later additions of these types of items);

(3) Memory is limited to and not capable of being extended beyond that enabling a maximum of two-axes simultaneous velocity and path generation, plus 400 characters (8-bit) of part program storage;

(4) Power supply is limited to two-axes operation;

(5) Minimum programmable increment equal to or greater (coarser) than 0.001 mm; and

(6) Without interface to enable data exchange with another computer;

(c) The information exported with and pertaining to the control unit shall:

(1) Be limited to machine language, binary format, control software enabling a maximum of two-axes simultaneous velocity and path generation;

(2) Not include flow charts, logic diagrams, nor source program documentation for the control software;

(3) Reflect only two-axes parameters in all electrical/mechanical installation, operation, or maintenance documentation.

2. Licenses are likely to be approved for export to satisfactory end-users in Country Group P (People's Republic of China) of computer numerical control units not exceeding four (4) axes capability, mounted on and exported with machine tools not exceeding four (4) axes, for aircraft and civil industries use.

1093A Components and specially designed parts for machine tools and dimensional inspection machines described by ECCN 1091A.

Controls for ECCN 1093A

Unit: Report in "$ value."
Validated License Required: Country Groups PQSTVWYZ.
GLV $ Value Limit: $500 for Country Groups T & V; $0 for all other destinations.
Processing Code: MG.
Reason for Control: National security; foreign policy (foreign policy controls are applicable only to commodities defined in paragraph (a) of the LIST below); and nuclear non-proliferation, except exports to countries listed in Supp. Nos. 2 or 3 to Part 373.
Special South Africa and Namibia Controls: Commodites defined in paragraph (a) of ECCN 1093 are subject to the Republic of South Africa and Namibia embargo policy, and no technical data relating to those commodities may be exported under General License *GTDR* to any consignee in the Republic of South Africa or Namibia.
Special Licenses Available: See Part 373.

List of Components and Specially Designed Parts for Machine Tools and Dimensional Inspection Machines Described by ECCN 1091A That Are Controlled by This ECCN 1093A

(a) Spindle assemblies, consisting of spindles and bearings as a minimal assembly, *except those assemblies with axial and radial axis motion measured along the spindle axis in one revolution of the spindle equal to or greater (coarser) than the following:*

(1) 0.0008 mm (0.00003 in.) TIR (peak-to-peak) for lathes and turning machines: or

(2) $D \times 2 \times 10^{-5}$ mm TIR (peak-to-peak) where D is the spindle diameter in millimeters for milling machines, boring mills, jig grinders, and machinery centers;

(b) Lead screws, including ball nut screws, *except those having all of the following characteristics:*

(1) *Accuracy equal to or greater (coarser) than 0.004 mm/300 mm (0.00016 in./ft.);*

(2) *Overall accuracy equal to or greater (coarser) than* $(0.0025+5\times10^{-6}\times L)$ *mm, where L is the effective length of the screw in millimeters and* $(0.0001+5\times10^{-6}\times L)$ *in. where L is the effective length of the screw in inches; and*

(3) *Concentricity of the center line of the journal bearing surface and the center line of the major diameter of the screw equal to or greater (coarser) than 0.005 mm (0.0002 in.) TIR (peak-to-peak) at a distance of 3 times the diameter of the screw or less from the journal bearing surface;*

(c) Linear and rotary position feedback units including inductive type devices, graduated scales, and laser systems, *except:*

(1) *Linear types having an accuracy equal to or greater (coarser) than* $(0.0004+13\times10^{-6}\times L)$ *mm, for L equal to or less than 100 mm and* $(0.0015+2\times10^{-6}\times L)$ *mm, for L greater than 100 mm, where L is the effective length of the linear measurement in millimeters and* $(0.000016+13\times10^{-6}\times L)$ *in. for L equal to or less than 4.0 in. and* $(0.00006+2\times10^{-6}\times L)$ *in., where L in the effective length of the linear measurement in inches; and*

(2) *Rotary types having an accuracy equal to or greater (coarser) than 2 seconds of arc;*

(d) linear induction motors used as drives for slides, having *all* of the following characteristics:

(1) Stroke greater than 200 mm;

(2) Nominal force rating greater than 45 N; and

(3) Minimum controlled incremental movement less than 0.001 mm; and

(e) Specially designed parts and accessories therefor.

4094B Mandrels and bellows forming dies.

Controls for ECCN 4094B

Unit: Report in "$ value."
Validated License Required: Country Groups PQSTVWYZ, and Canada.
GLV $ Value Limit: $0 for all destinations.
Processing Code: MG.
Reason for Control: Nuclear non-proliferation.
Special Licenses Available: None.

List of Mandrels and Bellows Forming Dies Controlled by ECCN 4094B

(a) Mandrels or forming dies, two piece cylindrical having a single indented circumferential convolution bisected by the two halves and having the following dimensions:

(1) 3 in. to 16 in. outside diameter;

(2) ½ in. or more in length; and

(3) Single convolution depth more than 2 mm.

6098F Metal cutting and metal forming machines and equipment (including tooling, dies, fixtures, and jigs) specially designed or modified for the production or manufacture of equipment described in entries 6191F, 6390F, and 6391F and specially designed parts, components, and accessories therefor.

Controls for ECCN 6098F

Unit: Report in "$ value."
Validated License Required: Country Groups SZ, Afghanistan, and the U.S.S.R. (including Estonia, Latvia, and Lithuania).
GLV $ Value Limit: General License *GLV* not applicable; however, another general license may apply.

Processing Code: MG.

Reason for Control: Foreign policy.

Special South Africa and Namibia Controls: A validated license is required for export to the Republic of South Africa and Namibia if intended for delivery to or for use by or for military or police entities in these destinations, or for use in servicing equipment owned, controlled, or used by or for these entities. See §§ 371.2(c)(11) and 385.4(a).

Special licenses Available: None.

6099G Other metal-working machinery, n.e.s.; and parts and accessories, n.e.s.

Controls for ECCN 6099G

Unit: Report in "$ value."

Validated License Required: Country Groups SZ.

GLV $ Value Limit: General License *GLV* not applicable; however, another general license may apply.

Processing Code: MG.

Reason for Control: Foreign policy.

Special Licenses Available: None.

Special South Africa and Namibia Controls: A validated license is required for export to the Republic of South Africa and Namibia if intended for delivery to or for use by or for military or police entities in these destinations or for use in servicing equipment owned, controlled, or used by or for these entities. See §§ 371.2(c)(11) and 385.4(a).

GROUP 1—CHEMICAL AND PETROLEUM EQUIPMENT

Note.—You need a validated export license to export or reexport technical data related to chemical and petroleum equipment to destinations in Country Groups P, Q, S, W, Y, or Z. You may use General License *GTDR* for exports or reexports of technical data to destination in Country Groups T & V *provided that*—

(a) The technical data are not listed in paragraph (c) or (d) of § 379.4 of the Regulations, *and*

(b) There are no special foreign policy controls on the technical data related to the commodities described in an individual CCL entry.

Note.—All Commodity Control List entries in this Group are subject to export controls on the basis of the following criteria:

A validated license is required for export or reexport to the U.S.S.R. if the exporter knows or has reason to know the commodity is for any use directly in preparation for, in conduct of, in support of, or visually identified with the 1980 Summer Olympic Games that began in Moscow on July 19, 1980. These commodities are subject to controls under the authority of the foreign policy provisions contained in section 6 of the Export Administration Act of 1979.

See § 370.10 for commodities that require export authorization from other U.S. Government Departments and Agencies.

1110A Gas liquefying equipment.

Controls for ECCN 1110A

Unit: Report equipment in "number"; parts and accessories in "$ value."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $500 for Country Groups T & V; $0 for all other destinations.

Processing code: MG.

Reason for Control: Commodities defined in paragraph (a) below are controlled for national security; (b) and (c) are controlled for national security and nuclear non-proliferation. There are no controls for nuclear non-proliferation reasons to those countries listed in Supp. No. 2 or 3 to Part 373.

Special Licenses Available: None for commodities defined in paragraph (b). See Part 373 for special licenses available for other commodities defined by ECCN 1110A.

List of Gas Liquefying Equipment Controlled by ECCN 1110A

(a) Equipment for the production of liquid hydrogen, *except plants with a capacity of less than 1½ tons per 24-hour day and not designed for, or capable of, the production of hydrogen slush;*

(b) Equipment for the production of liquid fluorine; and

(c) Specially designed parts and accessories therefor.

1118A Equipment for the production of military explosives and solid propellants.

Controls for ECCN 1118A

Unit: Report equipment in "number"; parts and accessories in "$ value."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $500 for Australia, Japan, New Zealand, and members of NATO (except that there is no limit on exports to Canada); $0 for all other destinations.

Processing Code: MG.

Reason for Control: National security, foreign policy.

Special Licenses Available: None.

Special South Africa and Namibia Controls: Commodities defined in paragraphs (a) and (b) of ECCN 1118A are subject to the Republic of South Africa and Namibia embargo policy and no technical data relating to those commodities may be exported under General license *GTDR* to any consignee in the Republic of South Africa or Namibia.

List of Equipment Controlled by ECCN 1118A

(a) Complete installations;

(b) Specialized components (for example, dehydration presses; extrusion presses for the extrusion of small arms, cannon and rocket propellants; cutting machines for the sizing of extruded propellants; sweetie barrels (tumblers) 6 feet and over in diameter and having over 500 pounds product capacity; and continuous mixers for solid propellants); or

(c) Nitrators, continuous types; and

(d) Specially designed parts and accessories therefor.

2120A Cryogenic equipment.

Controls for ECCN 2120A

Unit: Report equipment in "$ value."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $500 for Country Groups T & V; $0 for all other destinations.

Processing Code: MG.

Reason for Control: Commodities defined in paragraphs (a), (b)(1) and (b)(2), and (b)(4) below are controlled for national security; (b)(3) and (c) are controlled for national security and nuclear non-proliferation. The countries to which commodities in (b)(3) are not controlled for nuclear reasons are those listed in Supp. Nos. 2 or 3 to Part 373.

Special Licenses Available: None for commodities defined in paragraph (b)(3). See Part 373 for special licenses available for other commodities defined by ECCN 2120A.

List of Cryogenic Equipment Controlled by ECCN 2120A

(a) Equipment designed for maintaining an ambient temperature below −274° F (−170° C):

(1) Designed for use in marine, airborne, or space applications, or

(2) Ruggedized for mobile ground use;

(b) Electrical, magnetic, and electronic equipment or components, and electrical conductors, specially designed for operation continuously or discontinuously at ambient temperatures below −274° F (−170° C), as follows:

(1) Superconductive metals, alloys, compounds, composites, and intercalate materials, *except:*

(i) Superconductive wire having a filament cross-sectional area of $4.42x10^{-3}$ sq. mm. (or 75 micron diameter) or greater; or

(ii) *Superconductive niobium-titanium wire having a filament cross-sectional area of $1.26x10^{3}$ sq. mm. (or 40 microns diameter) or greater in a copper matrix;*

(2) Components, the following:

(i) Josephson effect devices;

(ii) Dayem bridges;

(iii) Proximity effect bridges;

(iv) Super-normal-super (SNS) proximity device;

(v) Memory and logic devices; and

(vi) Phase slip devices;

(3) Superconducting electromagnets (including superconducting solenoids) rated for producing peak magnetic inductions of 3 teslas (30 kilogauss) or greater at overall current densities of 10,000 amperes per square centimeter or greater and specialized components therefor, *except:*

(i) Those which can be fully charged/discharged in 1 minute or more, provided that they are not specially designed for gyrotron applications;

(ii) Those which are specially designed to be fully charged/discharged in less than 1 minute and have all of the following characteristics:

(a) Wound with wire, cable or tape consisting of niobium-titanium superconductive filaments in a copper matrix;

(b) Inner diameter less than 6 cm;

(c) Maximum energy delivered per pulse divided by the duration of that pulse not exceeding 500 kJ per minute; and

(4) Superconducting electrical equipment (rotating machines and transformers), and specialized components therefor; *except:*

(i) Superconducting electrical equipment for civil electrical power transmission and distribution;

(ii) Direct current hybrid homopolar generators that have a single-pole normal metal armature operating at ambient temperatures and rotating in a magnetic field produced by superconducting windings, provided these windings are the only superconducting component in the generator; and

(c) Specially designed accessories, sub-assemblies, parts, or components for paragraphs (a) and (b) above.

("Overall current density" is defined as the total number of ampere-turns in the coil (that is, the sum of the number of turns multiplied by the maximum current carried by each turn) divided by the total cross section of the coil (comprising the superconductive filaments, the metallic matrix in which the superconductive filament is embedded, the capsulating material, any cooling channels, etc.).)

Advisory Note.—Licenses are likely to be approved for export to satisfactory end-users in Country Groups PQSWY of individual shipments of niobium-titanium wire covered by paragraph (b)(1) above having a filament cross-sectional area of 9.5×10^{-5} sq. mm. (or 11 microns diameter) or greater in a copper matrix, in quantities not exceeding 10 kg.

4127B Pipe valves, having all of the characteristics listed in paragraphs (a), (b) and (c) of the list below; and parts, n.e.s.

Controls for ECCN 4127B

Unit: Report pumps, valves, cocks, and regulators in "number"; parts, controls and accessories in "$ value."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $500 for Country Groups T & V; $0 for all other destinations.

Processing Code: MG.

Reason for Control: Nuclear non-proliferation.

Special Licenses Available: None.

List of Pipe Valves Controlled by ECCN 4127B

Pipe valves having all *of the following characteristics:*

(a) A pipe size connection of 8 inches or more inside diameter;

(b) All flow contact surfaces *made of or lined with* alloys of 10 percent or more nickel and/or chromium;

(c) Rated at 1,500 psi or more; and

(d) Parts, n.e.s.

4128B Pipes, valves, fittings, heat exchangers, or magnetic, electrostatic or other collectors made of graphite or stainless steel, or of other materials coated in graphite, yttrium or yttrium compounds resistant to the heat and corrosion of uranium vapor.

Controls for ECCN 4128B

Unit: Report in "$ value."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $0 for all destinations.

Processing Code: MG.

Reason for Control: Nuclear non-proliferation.

Special Licenses Available: See Part 373.

1129A Vacuum pumps.

Controls for ECCN 1129A

Unit: Report pumps, valves, cocks, and regulators in "number"; parts, controls, and accessories in "$ value."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $500 for Country Groups T & V; $0 for all other destinations.

Processing Code: MG.

Reason for Control: National security.

Special Licenses Available: See Part 373.

List of Vacuum Pumps Controlled By ECCN 1129A

(a) Turbo-molecular pumps having a higher capacity than 2,000 liters of nitrogen per second;

(b) Diffusion pumps rated for unbaffled pumping speeds of more than 50,000 liters of nitrogen per second at pressures of 10^{-4} mm of mercury or less;

(c) Cryopump systems (*i.e.*, systems in which the circulation of liquefied gas is used to achieve a vacuum, static or dynamic, by lowering the temperature of the environment) designed to operate at temperatures of less than −328° F (−200° C) measured at atmospheric pressure; and

(d) Specially designed parts, controls and accessories for the above pumps.

1131A Pumps (except vacuum pumps listed under Entry 1129A) having any of the characteristics in paragraphs (a) and (b) of the list below, and specially designed parts and accessories therefor.

Controls for ECCN 1131A

Unit: Report pumps, valves, cocks, and regulators in "number"; parts and accessories in "$ value."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $500 for Country Groups T & V; $0 for all other destinations.

Processing Code: MG.

Reason for Control: National security; national security and nuclear non-proliferation for commodities defined in paragraphs (a) and (c) of the List below.

Special Licenses Available: None for commodities defined in paragraph (a) below. See Part 373 for special licenses available for other commodities defined in ECCN 1131A.

List of Pumps Controlled by ECCN 1131A:

Pumps having any *of the following characteristics:*

(a) Pumps designed to move molten metals by electromagnetic forces; or

(b) Pumps having all flow contact surfaces made of 90 percent or more tantalum, titanium, or zirconium, either separately or combined, *except when such surfaces are made of materials containing more than 97 percent and less than 99.7 percent titanium:* and

(c) Specially designed parts and accessories therefor.

Advisory Note.—For paragraph (b) of this ECCN 1131A, licenses are likely to be approved for export of pumps to bona fide civil end-users in Country Groups PQSWY for non-aerospace end-uses.

3131A Valves, 0.5 cm or greater in diameter, with bellows seal, wholly made of or lined with aluminum, nickel, or alloy containing 60 percent or more nickel, either manually or automatically operated; and specially designed parts and accessories therefor.

Controls for ECCN 3131A

Unit: Report in "$ value."

Validated License Required: Country Groups PQSTVWYZ and Canada.

GLV $ Value Limit: $0 for all destinations.

Processing Code: MG.

Reason for Control: National security and nuclear non-proliferation.

Special Licenses Available: None

1133A Valves, cocks and pressure regulators having all flow contact surfaces made of 90 percent or more tantalum, titanium, or zirconium, either separately or combined, except when such surfaces are made of materials containing more than 97 percent and less than 99.7 percent titanium; and specially designed parts and accessories therefor.

Controls for ECCN 1133A

Unit: Report pumps, valves, cocks, and regulators in "number"; parts and accessories in "$ value."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $500 for County Groups T & V; $0 for all other destinations.

Processing Code: MG.

Reason for Control: National security.

Special Licenses Available: See Part 373.

Advisory Note.—Licenses are likely to be approved for export of valves, cocks and pressure regulators to bona fide civil end-users in Country Groups PQSWY for non-aerospace end-uses.

1142A Tubing.

Controls for ECCN 1142A

Unit: Report tubing in "feet."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $500 for Country Groups T & V; $0 for all other destinations.

Processing Code: MG.

Reason for Control: National security.

Special Licenses Available: See Part 373.

List of Tubing Controlled by ECCN 1142A

(a) Tubing made of, lined with, or covered with any of the fluorocarbon materials covered by paragraph 1754A(a)(2), unreinforced, heat shrinkable and having an inner diameter (before shrinkage) of less than 1⅛ inches (28.57 mm); and

(b) Reinforced tubing (including connectors and fittings for usage with such tubing) incorporating coagulated dispersion grades of polytetrafluoroethylene, copolymers of tetrafluoroethylene and hexafluoropropylene, or any of the fluorocarbon materials covered by paragraph 1754A(a)(2), and designed for operating (working) pressures of 3,000 psi (210.9 kg/cm^2) or greater, whether or not specially processed to make the flow surfaces electrically conductive.

1145A Containers, jacketed only, specially designed for the storage and/or transportation of liquid fluorine, and specially designed parts and accessories therefor.

Controls for ECCN 1145A

Unit: Report in "$ value."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $1,000 for Country Groups T & V; $0 for all other destinations.

Processing Code: MG.

Reason for Control: National security.

Special Licenses Available: See Part 373.

6191F Other chemical and petroleum equipment specially designed or modified for the exploration or production of petroleum or natural gas; and specially designed parts, components, and accessories therefor.

Controls for ECCN 6191F

Unit: Report in "$ value."

Validated License Required: Country Groups S & Z, Afghanistan, and the U.S.S.R. (including Estonia, Latvia, and Lithuania).

GLV $ Value Limit: General License *GLV* not applicable; however, another general license may apply.

Processing Code: MG.

Reason for Control: Foreign policy.

Special Licenses Available: Not applicable.

Special South Africa and Namibia Controls: A validated license is required for export to the Republic of South Africa and Namibia if intended for delivery to or for use by or for military or police entities in these destinations or for use in servicing equipment owned, controlled, or used by or for these entities. See § 385.4(a).

Illustrative List of Petroleum and Natural Gas Exploration and Production Equipment Subject to Validated License Control for Export to the U.S.S.R., Estonia, Latvia, Lithuania, and Afghanistan. This List is Illustrative Only; it does not include all Commodities Controlled by CCL Entry 6191F:

(1) All equipment specially designed or modified for off-shore floating or bottom-supported drilling and producing structures, including all gathering equipment.

(2) Rotary type well drilling rigs and derricks.

(3) Parts, accessories, and equipment for well drilling machines, including, but not limited to, drill bits, box and pin tool joints, drill pipe, drill collars, rotary tables, and blow-out preventors.

(4) Petroleum gas-lift equipment.

(5) Oil well and oil field pumps, including, but not limited to, high performance types of submersible or conventional pumping units.

(6) Wireline and downhole equipment and accessories, including, but not limited to, collars, stabilizers, mandrels, packers, multi-completion equipment, gun perforators, and telemetry equipment.

(7) Optical, electrical or electronic geophysical and mineral prospecting instruments, including magnetic, gravimetric, seismic, bore-hole logging and high-resolution remote sensing equipment.

6199G Other chemical and petroleum equipment n.e.s.; and parts and accessories, n.e.s.

Controls for ECCN 6199G

Unit: Report in "$ value."

Validated License Required: Country Groups S & Z.

GLV $ Value Limit: General License *GLV* not applicable; however, another general license may apply.
Processing Code: MG.
Reason For Control: Foreign policy.
Special South Africa and Namibia Controls: A validated license is also required for export to the Republic of South Africa and Namibia if intended for delivery to or for use by or for military or police entities in these destinations or for use in servicing equipment owned, controlled, or used by or for these entities. See § 385.4(a).
Special Licenses Available: None.

GROUP 2—ELECTRICAL AND POWER-GENERATING EQUIPMENT

Note.—You need a validated export license to export or reexport technical data related to electrical and power-generating equipment to destinations in Country Groups P, Q, W, Y, or Z. You may use General License GTDR for exports or reexports of technical data to destinations in Country Groups T & V *provided that*—

(a) The technical data are not listed in paragraph (c) or (d) of § 379.4 of the Regulations, *and*

(b) There are no special foreign policy controls on the technical data related to the commodities described in an individual CCL entry.

Note.—All Commodity Control List entries in this Group are subject to export controls on the basis of the following criteria:

You need a validated license to export or reexport to the U.S.S.R. if you know or have reason to know the commodity is for any use directly in preparation for, in conduct of, in support of, or visually identified with the 1980 Summer Olympic Games that began in Moscow on July 19, 1980. These commodities are subject to controls under the authority of the foreign policy provisions contained in section 6 of the Export Administration Act of 1979.

See § 370.10 for commodities that require export authorization from other U.S. Government Departments and Agencies.

120A Electric Vaccum Furnaces.

Controls for ECCN 1203A

Unit: Report "$ value."
Validated License Required: Country Groups PQSTVWYZ.
GLV $ Value Limit: $500 for Country Groups T & V; $0 for all other destinations.
Processing Code: MG.
Reason for Control: National security.
Special Licenses Available: See Part 373.

List of Electric Vacuum Furnaces Controlled by ECCN 1203A

(a) Consumable electrode vacuum arc furnaces with a capacity in excess of 20 tons;

(b) Skull type vacuum arc furnaces; and

(c) Specialized parts and controls for the above furnaces.

Advisory Note.—Licenses are likely to be approved for export to satisfactory end-users in Country Groups PQSWY of electric vacuum furnaces with a capacity up to 499 tons.

4203B Electric furnaces specially designed for the production or processing of vapor deposited (pyrolytic) graphite or doped graphites, whether as standing bodies, coatings, linings, or substrates; and parts, accessories and attachments, n.e.s. (Specify by name and characteristic).

Control for ECCN 4203B

Unit: Report in "$ value."
Validated License Required: Country Groups PQSTVWYZ.
GLV $ Value Limit: $1000 for Country Groups T, V and Q; $0 for all other destinations.
Processing Code: MG.
Reason for Control: National security.
Special Licenses Available: See Part 373.

1205A Electromechanical, semiconductor, and radioactive devices for the direct conversion of chemical, solar, or nuclear energy to electrical energy.

Controls for ECCN 1205A

Unit: Report in "$ value."
Validated License Required: Country Groups PQSTVWYZ.
GLV $ Value Limit: $500 for Country Groups T & V; $0 for all other destinations.
Processing Code: EE.
Reason for Control: National security; paragraphs (c) and (d) of the LIST below are also controlled for nuclear non-proliferation. There are no controls for nuclear non-proliferation reasons on exports to those countries listed in Supp. Nos. 2 or 3 to Part 373.
Special Licenses Available: Distribution License is available for shipments of commodities defined in ECCN 1205A (a) and (c) to countries listed in Supp. No. 2 or 3 to Part 373. See Part 373 for special licenses that may be available for other commodities covered by ECCN 1205A (including those listed in paragraph (a)(2)(iii)).

List of Electromechanical, Semiconductor, and Radioactive Devices Controlled by ECCN 1205A

(a) Electrochemical devices, as follows:

(1) Fuel cells operating at temperatures of 392° F (200° C) or less, including regenerative cells, *i.e.*, cells for generating electric power, to which all the consumable components are supplied for outside the cell (the temperature of 392° F (200° C) or less is intended to refer to the fuel cell and not to the fuel conditioning equipment, which may be either an ancillary or an integral part of the fuel cell battery and which may operate at over 392° F (200° C));

(2) Primary cells and batteries having *any* of the following characteristics:

(i) Possessing a means of activation and having an open circuit storage life in the unactivated condition, at a temperature of 70° F (21° C), of 10 years or more;

(ii) Capable of operating at temperatures from below −13° F (−25° C) to above 131° F (55° C), including cells and cell assemblies (other then dry cells) possessing self-contained heaters; or

(iii) Utilizing a lithium anode with lithium salt solute in organic solvent (non-aqueous) electrolyte and having an energy density at the 24-hour discharge rate of greater than 100 Watt-hours per pound at −75° F (−24° C) and greater than 35 Watt-hours per pound at −20° F (−29° C) (Energy density is obtained by multiplying the average power in watts (average voltage times average current in amperes) by the duration of the discharge in hours to 90 percent of the initial load voltage and dividing by the total weight of the cell (or battery) in pounds. As regards secondary (rechargeable) batteries, energy density is measured after 500 charge/discharge cycles.);

(3) Mechanically rechargeable leak-proof batteries having cells with removable zinc plates with porous air electrodes and immersed in electolyte of potassium hydroxide; or

(4) Molten salt electrolyte cells and batteries which normally operate at temperature of 302° F (150° C) or below;

(b) Photo-voltaic cells, as follows:

(1) With a power output of 14 mW or more per sq. cm. under 100 mW per sq. cm. tungsten (2,800° K illumination);

(2) All gallium arsenide photo-voltaic cells excluding those having a power output of less than 4 mW measured by the above technique; or

(3) With a power output of 450 mW or more per sq. cm. under 10 Watts per sq.

cm. silicon carbide (1,750° K) illumination;

(c) Power sources other than nuclear reactors based on radioactive materials systems (see also paragraphs 1570A(c) and (d)), *except:*

(1) *Those having an output power of less than 0.5 Watt and a total weight of more than 200 lbs. (90.7 kg); or*

(2) *Those specially designed and developed for medical use within the human body;* and

(d) Specialized parts, components, and sub-assemblies of the above devices.

(Specify by name and type number.)

Advisory Notes.—1. Licenses are likely to be approved for export to satisfactory end-users in Country Groups PQSWY of fuel cells covered by paragraph (a)(1) above, having a maximum output power level greater than 10kW using gaseous pure hydrogen and oxygen/air reactants, alkaline electrolytic, and a catalyst support by carbon either pressed on a metal mesh electrode, or attached to a conducting porous plastic.

2. licenses are likely to be approved for export to satisfactory end-users in Country Groups PQSWY of devices defined in paragraph (c) above, having an output power of 0.5 Watt or more and an overall efficiency of 6 percent or less. (The overall efficiency is obtained by dividing the electrical output, expressed in watts, by the thermal input, expressed in watts. It is understood that this efficiency is to be measured at the beginning of life.)

1206A Electric arc devices for generating a flow of ionized gas in which the arc column is constricted, except devices wherein the flow of gas is for isolation purposes only and devices of less than 100 kW for cutting, welding, melting, plating and/or spraying: equipment incorporating such devices; and specially designed parts, accessories, and control or test equipment for such devices.

Controls for Entry 1206A

Unit: Report in "$ value."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $500 for Country Groups T and V; $0 for all other destinations.

Processing Code: MG.

Reason for Control: National security, nuclear-non-proliferation. There are no controls for nuclear non-proliferation reasons on exports to those countries listed in Supp. Nos. 2 or 3 to Part 373.

Special licenses Available: A Distribution License is available for shipments to countries listed in Supp. Nos. 2 or 3 to Part 373

(a) Peak boom power exceeding 500 MW;

(b) Output energy exceeding 500 kV; and

(c) An output beam intensity exceeding 2,000 amperes with a pulse width of 0.2 microseconds or less; and

(d) Specially designed parts and accessories therefor.

6299G Other electrical and power generating equipment, n.e.s.; and parts and accessories, n.e.s.

Controls for ECCN 6299G

Unit: Report in "$ value."

Validated License Required: Country Groups SZ.

GLV $ Value Limit: General License *GLV* not applicable; however, another general license may apply.

Processing Code: MG.

Reason for Control: Foreign policy.

Special South Africa and NAMBIA Controls: A validated license is required for export to the Republic of South Africa and Namibia of commodities defined in ECCN 6299G if intended for delivery to or for use by or for military or police entities in these destinations or for use in servicing equipment owned, controlled, or used by or for these entities. See § 385.4(a).

Special Licenses Available: None.

GROUP 3—GENERAL INDUSTRIAL EQUIPMENT

Note.—You need a validated export license to export or reexport technical data related to general industrial equipment to destinations in Country Groups P, Q, S, W, Y, or Z. You may use General License *GTDR* for exports or reexports of technical data to destinations in Country Groups T & V *provided that*—

(a) The technical data are not listed in paragraphs (c) or (d) of § 379.4 of the Regulations, *and*

(b) There are no special foreign policy controls on the technical data related to the commodities described in an individual CCL entry.

Note.—All Commodity Control List entries in this Group are subject to export controls on the basis of the following criteria:

You need a validated license to export or reexport to the U.S.S.R. if you know or have reason to know the commodity is for any use directly in preparation for, in conduct of, in support of, or visually identified with the 1980 Summer Olympics that began in Moscow on July 19, 1980. These commodities are subject to controls under the authority of the foreign policy provisions contained in section 6 of the Export Administration Act of 1979.

See § 370.10 for commodities that require export authorization from other U.S. Government Departments and Agencies.

For Mechanical Measuring Instruments. See ECCN No. 1532.

1305A Metal rolling mills.

Controls for ECCN 1305A

Unit: Report in "$ value."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $1000 for Country Groups T and V; $0 for all other destinations.

Processing Code: MG.

Reason for Control: National security.

Special Licenses Available: See Part 373.

Definitive List of Metal Rolling Mills Controlled by ECCN No. 1305A

(a) Mills specially designed or re-designed for the rolling of metal and alloys with a melting point exceeding 1,900° C; and

(b) Specialized controls, parts, and accessories for the above mills.

1312A Presses and specialized controls, accessories and parts.

Controls for ECCN 1312A

Unit: Report machines in "number," parts and accessories in "$ value."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $1000 for Country Groups T and V; $0 for all other destinations.

Processing Code: MG.

Reason for Control: National security; paragraphs (c) and (d) of the List below are also controlled for nuclear non-proliferation.

Special Licenses Available: No special license is available for commodities in paragraph (c) of the List below: Isostatic presses, and control equipment, accessories, and parts that are specially designed for the presses described in paragraph (c); see Part 373 for special licenses that may be available for other types of presses, specialized controls, parts and accessories controlled by this entry.

List of Presses and Specialized Controls, Accessories and Parts Controlled by ECCN 1312A

(a) Presses specially designed or re-designed for the working or forming of metals, alloys, or other materials with a melting point exceeding 3,452° F (1,900° C);

(b) Hydraulic presses, as follows:
(1) Vertical presses having a total rated force of over 10,000 tons; or
(2) Horizontal presses having a total rated force of over 5,000 tons;
(c) Isostatic presses, as follows (isostatic presses are those capable of pressurizing a closed cavity through various media (gas, liquid, solid particles, etc.) to create equal force in all directions within the cavity upon a workpiece or material):
(1) Capable of achieving a maximum working pressure of 20,000 psi (1,406 kg/cm ^{2}) or greater and possessing a chamber cavity with an inside diameter in excess of 16 inches (40.6 cm); or
(2) Capable of achieving maximum working pressure of 5,000 psi (351 kg/cm ^{2}) or greater and having a controlled thermal environment within the closed cavity, except those possessing a chamber cavity with an inside diameter of less than 5 inches (127 mm) and which are also capable of achieving and maintaining a controlled thermal environment only between +176° F (+80° C) and −31° F (−35° C); and
(d) Control equipment, accessories, and parts which are specially designed for the above presses.

Advisory Notes.—1. Licenses are likely to be approved for export to satisfactory end-users in Country Groups PQSWY of hydraulic presses defined in paragraph (b) above, provided that:
(i) The total rated force is less than 30,000 tons for cervical presses, and 10,000 tons or less for horizontal presses;
(ii) The presses are not specially designed for use in forming aircraft, missile or space vehicle parts, in powder metallurgy or in ceramics production; and
(iii) The presses could not reasonably be used for strategic purposes.
2. Licenses are likely to be approved for export to satisfactory end-users in Country Groups PQSWY of isostatic presses defined in paragraph (c) above, provided that:
(i) Isostatic presses having a controlled thermal environment within the closed cavity are limited as follows:
(a) Maximum working pressure not exceeding 20,000 psi (1,406 kg/cm ^{2});
(b) Chamber cavity with an inside diameter not exceeding 10 inches (25.4 cm);
(c) Capable of achieving and maintaining a controlled thermal environment within the closed cavity of no greater than 1,200° C;
(ii) Isostatic presses, other than those defined in sub-paragraph (i) above, are limited as follows:
(a) Maximum working pressure not exceeding 30,000 psi (2,109 kg/cm ^{2});
(b) Chamber cavity with an inside diameter not exceeding 20 inches (50.8 cm); and provided the equipment will be used for specific non-strategic applications and will not be used for any nuclear aerospace applications.
3. Licenses are likely to be approved for export to satisfactory end-users in Country Groups PQSWY of normal amounts of equipment defined in paragraph (d) above to service presses licenses for export under Advisory Note 1 above.

2317A Miscellaneous equipment and materials.

Controls for ECCN 2317A

Unit: Report in "$ value."
GLV $ Value Limit: $1000 for Country Groups PQSTVWYZ; $0 for all other destinations.
Processing Code: MG.
Reason for Control: National security; paragraphs (d) and (e) of the Illustrative List are also controlled for foreign policy reasons.
Special South Africa and Namibia Controls: Commodities defined in paragraph (d) of ECCN 2317A, and specially designed parts and accessories, are subject to the Republic of South Africa and Namibia embargo policy, and no technical data relating to those commodities may be exported under General License *GTDR* to any consignee in the Republic of South Africa or Namibia.
Special Licenses Available: See Part 373.

Illustrative List of Miscellaneous Equipment and Materials Controlled by ECCN No. 2317A

(a) Closed and semi-closed circuit (rebreathing) apparatus for diving and underwater swimming;
(b) Specially designed components for use in the conversion of open-circuit apparatus to military use;
(c) Power controlled searchlights and control units therefor, designed for military use, and equipment mounting such units;
(d) Construction equipment built to military specifications, specially designed for airborne transport; and
(e) Specially designed parts and accessories therefor.

2319A Environmental chambers capable of pressures below 10 − ^{4} Torr, and specialized parts, components, and ancillary equipment therefor.

Controls for ECCN 2319A

Unit: Report by "$ value."
Validated License Required: Country groups PQSTVWYZ.
GLV $ Value Limit: $1000 for Country Groups PQSTVWYZ; $0 for all other destinations.
Processing Code: MG.
Reason for Control: National security.
Special Licenses Available: See Part 373.

3336A Plants specially designed for the production of uranium hexafluoride (UF_6) and specially designed or prepared equipment (including UF_6 purification equipment), and specially designed parts and accessories therefor.

Controls for ECCN 3336A

Unit: Report by "$ value."
Validated License Required: Country Groups PQSTVWYZ and Canada.
GLV $ Value Limit: $0 for all destinations.
Processing Code: MG.
Reason for Control: National security and nuclear non-proliferation.
Special Licenses Available: None.
Technical Data: No technical data (including operating and maintenance instructional material) related to the commodities defined in ECCN 3336A may be exported under General License *GTDR;* a validated license is required for all destinations, *including Canada.*

4337B Compressors and blowers especially designed or prepared to be corrosion resistant to hydrogen sulfide, and having all of the characteristics as described in this entry.

Controls for ECCN 4337B

Unit: Report by "$ value."
Validated License Required: Country Groups PQSTVWYZ.
GLV $ Value: $0 for all destinations.
Processing Code: MG.
Reason for Control: Nuclear non-proliferation.
Special License Available: None.

Definitive List of Characteristics Describing Compressors and Blowers Controlled by Entry No. 4337B

(a) Capable of sustaining a pressure in hydrogen sulfide in excess of 15 atmospheres;
(b) Having an intake-to-discharge pressure ratio between 0.3 and 3.0; and
(c) Having a capacity equal to or equivalent to or requiring at least 500 hp.

1352A Machinery specially designed for the extrusion of materials covered by ECCN No. 1754, paragraph (a)(2); and specially designed parts, components and accessories therefor.

Controls for ECCN 1352A

Unit: Report by "$ value."
Validated License Required: Country Groups PQSTVWYZ.
GLV $ Value Limit: $500 for Country Groups T and V; $0 for all other destinations.

Processing Code: MG.
Reason for Control: National security.
Special Licenses Available: See Part 373.

1353A Equipment specially designed for the manufacture of communication cable described in ECCN 1526; and specially designed parts and accessories therefor.

Controls for ECCN 1353A

Unit: Report by "$ value."
Validated License Required: Country Groups PQSTVWYZ.
GLV $ Value: $500 for Country Groups T and V; $0 for all other destinations.
Processing Code: MG.
Reason for Control: National security.
Special Licenses Available: See Part 373.

Advisory Note.—Licenses are likely to be approved for export to satisfactory end-users in Country Groups PQSWY of equipment specially designed for the maunfacture of cable defined in ECCN 1526A, sub-paragraph II(b).

1355A Machinery and equipment for the manufacture of electronic equipment, components and materials; related test gear; parts and components and specialized controls and accessories thereof.

Controls for ECCN 1355A

Unit: Report photographic plates in "sq. ft." when applicable, and machinery and equipment in "number."
Validated License Required: Country Groups PQSTVWYZ.
GLV $ Value Limit: $100 for commodities defined in paragraphs (b)(2) (i) and (ii) of the Definitive List to Country Groups T and V; $500 for other commodities for Country Groups T and V; $0 for all other destinations.
Processing Code: MG.
Reason for Control: National security.
Special License Available: See Part 373.

Definitive List of Machinery and Equipment Controlled by ECCN 1355A

(a) Equipment specially designed for the manufacture of embargoed vacuum and gas-filled tubes, and of parts and sub-assemblies thereof;

(b) Equipment for the manufacture of semi-conductor, acoustic wave and film memory devices, of electronic equipment and components defined by paragraphs II (b) and (c) of the illustrative list in ECCN and of parts, materials and sub-assemblies thereof, as follows (See Technical Notes 1 through 4 at the end of ECCN 1355):

(1) Equipment for the processing of semi-conductor materials for the manufacture of devices, equipment and components specified in paragraph (b) as follows:

(i) Equipment for the deposition of electronic grade polycrystalline silicon in the form of rods (ingots, boules), pellets, sheets or small particles, from silane (SiH_4), silicon tetrachloride ($SiCl_4$), trichlorosilane ($SiHCl_3$), dichlorosilane (SiH_2Cl_2) or monochlorosilane (SiH_3Cl);

Note.—For the definition of electronic grade polycrystalline silicon, see ECCN No. 1757A.

(ii) Equipment specially designed for purifying or processing III–VI and II–VI semi-conductor materials covered by ECCN No. 1757A, except crystal pullers, for which see sub-paragraph (iii) below;

(iii) Crystal pullers, furnaces, and gas systems, as follows:

(a) Types with digitally controlled temperature, power input or gas flow;

(b) Diffusion, oxidation and annealing furnaces for operation at pressures above 1 atmosphere (nominal);

(c) Plasma-enhanced or photo-enhanced chemical reactor equipment;

(d) Equipment for automatic control of crystal taper and diameter, *except taper and diameter control mechanisms using any of the following equipment techniques:*

(1) *Radiation pyrometers;*

(2) *Thermocouples;*

(3) *RF power sensors;*

(4) *Mass weighing (without digital or anomally control permitting the growth of semiconductors);*

(e) Crystal pullers having any of the following characteristics:

(1) Rechargeable without replacing the crucible container;

(2) Capable of operation at pressures above 10^5 pascals (1 atmosphere absolute);

(3) Capable of pulling crystals of a diameter greater than 76.2 mm (3 inches);

(f) Vacuum induction-heated zone-refining equipment for operation at a pressure of 0.01 pascal or less;

(iv) Equipment for the expitaxial growth of semi-conductor materials having either of the following characteristics:

(a) Operation at pressures below 10^5 pascals (1 atmosphere absolute);

(b) Digitally controlled;

(v) Molecular beam epitaxial growth equipment;

(vi) Magnetically enhanced sputtering equipment (Note.—"Magnetically enhanced" refers to equipment incorporating a cathode assembly having an integral magnetic structure for enhancing the plasma intensity.);

(vii) Equipment designed for ion implantation, or for ion-enhanced or photo-enhanced diffusion;

(viii) Equipment for selective or non-selective removal by dry methods of passivation layers, dielectrics, semi-conductor materials, resists or metals; *except vacuum sputtering equipment designed to operate in the sputter-etch mode:*

(ix) Equipment for semi-conductor device fabrication operating below 10^5 pascals (1 atmosphere absolute) for the chemical vapor deposition of oxides, nitrides, metals and polysillicon; *except re-active-sputtering equipment:*

(x) Electron beam systems, *except electron beam deposition systems,* (including all scanning electron microscopes), capable of mask making or semi-conductor device processing and having any of the following characteristics;

(a) Electrostatic beam deflection;

(b) Shaped, non-Gaussian beam profile;

(c) Beam blanking capability *except those equipped for Auger analysis;*

(d) Digital-to-analog conversion rate greater than 3 MHz;

(e) Digital-to-analog conversion accuracy greater than 12 bits;

(f) Target-to-beam position feedback control precision of 1 micrometer or finer;

(xi) Automatic sawing equipment, specially designed for the processing of semi-conductor wafers and capable of slicing ingots of 3 inches (76.2 mm.) or greater in diameter;

(xii) Surface finishing equipment, specially designed for the processing of semi-conductor wafers and having any of the following characteristics:

(a) Waxless or non-adhesive mounting;

(b) Double-sided simultaneous polishing;

(c) Capable of polishing wafers greater than 2 inches (50.8 mm.) in diameter.

(2) Masks, mask substrates, mask-making equipment and image transfer equipment for the manufacture of devices, equipment and components specified in paragraph (b) as follows:

(The term "masks" refers to those used in electron beam lithography, X-ray lithography, and for ultraviolet lithography, as well as the usual ultraviolet and visible photo-lithography.)

(i) Finished masks and mask artwork;

(ii) Hard surface (e.g., chromium, silicon, iron oxide) costed substrates (e.g., glass, quartz, sapphire) for the preparation of masks having dimensions

greater than 76.2 x 76.2 mm (3 x 3 inches);

(iii) Computer-aided design (CAD) equipment, for transforming schematic of logic diagrams into artwork for producing semi-conductor devices or microcircuits, having any of the following functions:

(a) Storage of pattern cells for subdivision of integrated circuits;

(b) Scaling, positioning, or rotation of pattern cells;

(c) Interactive graphic capabilities;

(d) Design rule and circuit checking;

(e) Circuit layout modification of the arrangement of the elements;

(iv) Computer programs which perform any of the functions in sub-paragraph (iii) above; or which can be used for integrated circuit transient analysis, or for integrated circuit logic analysis or logic checking, or for automatic routing or cell placement for integrated circuits;

(v) Mask fabrication machines using photo-optical methods as follows:

(a) Step and repeat cameras capable of producing arrays larger than 63.5 mm (2.5 x 2.5 inches), or capable of producing a single exposure larger than 3.75 x 3.75 mm (0.15 x 0.15 inches) in the focal plane, or capable of producing useful line widths of 3.5 micrometers or less;

(b) Pattern generators specially designed for the generation and/or manufacture of masks or the creation of patterns in photosensitive layers and with placement precision finer than 10 micrometers;

(c) Mask fabrication equipment containing automatic adjustment of focus or adjustment of the mask material into the focal plane;

(d) Equipment for altering masks to remove defects;

(For electron-beam systems, see sub-paragraph (b)(1)(x) of ECCN 1355.)

(vi) Mask inspection equipment as follows:

(a) For comparison with a precision of 0.75 micrometer or finer over an area of 63.5 x 63.5 mm (2.5 x 2.5 inches) or greater;

(b) Digitally controlled equipment with a resolution of 0.25 micrometer or finer and with a precision of 0.75 micrometer or finer over a distance in one or two coordinates of 63.5 mm (2.5 inches) or greater;

(c) Digitally controlled defect inspection equipment (conventional scanning electron microscopes, except when specially designed and instrumented for automatic pattern inspection, are not covered by sub-paragraph (vi)(c)).

(vii) Align and expose equipment using photo-optical methods, including projection image transfer equipment, capable of performing any of the following functions:

(a) Production of a useful pattern size of less than 5 micrometers;

(b) Alignment with a precision finer than 1 micrometer;

(c) Field coverage greater than 76.2 x 76.2 mm (3 x 3 inches);

(d) Wafer backside alignment;

(e) Automatic alignment by the sensing of patterns or index marks on the substrate;

(f) Projection image transfer for processing slices (wafers) of 50.8 mm (2 inches) or greater in diameter;

(Non-contracting (proximity) image transfer equipment is covered only by sub-paragraph (b)(2)(vii) (a) to (vii)(e) of ECCN 1355A.)

(viii) Electron beam, ion beam, or X-ray equipment for projection image transfer;

(For laser equipment, see Technical Note 3 below);

(ix) Photo-optical or non-photo-optical step and repeat or partial field equipment for the transfer of the image onto the wafer;

(x) Mask contact image transfer equipment for imaging a field greater than 76.2 x 76.2 mm (3 x 3 inches).

(3) Digitally controlled inspection equipment for the detection of defects in processed wafers or chips using optical pattern comparison or other machine scanning techniques.

(Conventional scanning electron microscopes, except when specially designed and instrumented for automatic pattern inspection, are not defined by this paragraph.);

(4) Equipment for the assembly of microcircuits as specified in the heading of paragraph (b) as follows:

(i) digitally controlled die (chip) mounters;

(ii) digitally controlled wire bonders and welders for performing consecutive bonding operations;

(iii) Equipment for producing multiple bonds in a single operation (e.g., beam lead bonders, chip carrier bonders, tape bonders);

(5) Digitally controlled wafer probing equipment having any of the following characteristics:

(i) Positioning accuracy finer than 50 micrometers, or incremental steps finer than 6.4 micrometers;

(ii) Individual die location read-out (X–Y position information) during testing;

(iii) Capability of testing devices having more than a total of 24 terminals;

(iv) Automatic slice (wafer) alignment;

(6) Test equipment as follows (for standard test instruments, see ECCN No. 1529):

(i) Computer-controlled equipment specially designed for testing discrete semi-conductor devices and unencapsulated dice, capable of performing any of the following functions:

(a) Measurement of time intervals of less than 10 nanoseconds;

(b) Measurement of parameters (*e.g.*, fT, S-parameters, noise figure) at frequencies greater than 250 MHz;

(c) Resolution of currents of less than 100 picoamperes;

(d) Measurement of spectral response at wavelengths outside the range from 450 to 950 nanometers;

(Discrete semi-conductor devices include, for example, diodes, transistors, thyristors, photocells, and solar cells)

(ii) Digitally controlled equipment specially designed for testing microcircuits, and assemblies thereof, capable of performing any of the following functions:

(a) Functional (truth table) testing at a pattern rate greater than 2 MHz;

(b) Resolution of currents of less than 1 nanoampere;

(c) Testing of integrated circuits (not mounted on circuit boards) in packages having more than a total of 24 terminals;

(This sub-entry does not cover equipment specially designed for and dedicated to the testing of circuits not covered by ECCN No. 1564A)

(d) Measurement of rise times, fall times and edge placement times with a resolution of less than 20 nanoseconds.

Technical Notes: 1. The terms "microcircuit" and "assembly" are defined in ECCN 1564A.

2. Test equipment that is not of a general-purpose nature and that is specially designed for, and dedicated to, testing assemblies or a class of assemblies for home and entertainment applications is not controlled by sub-paragraph (b)(6) of ECCN 1355A.

3. Equipment that is used in the manufacture and processing of semi-conductors and semi-conductor materials and that is specially designed to employ lasers and/or laser technology is controlled by ECCN No. 1522A.

4. The term "digitally controlled" refers to automated equipment whose functions are partially or entirely controlled by stored, digitally coded, electrical signals. This does not include equipment with controls using the following:

(a) Cams and other purely mechanical means;

(b) Switches including thumbwheel switches;
(c) Plugboards;
(d) On-off and analog controllers;
(e) Diode matrices;
(f) Punched paper tape controls without internal memory.

Advisory Notes.—1. Licenses are likely to be approved for export to satisfactory end-users in Country Groups PQSWY of crystal pullers controlled by sub-paragraph (b)(1)(ii)(e)(2) which can be operated at pressures up to 2.5×10^5 pascals (2.5 atmospheres absolute).

2. Licenses are likely to be approved for export to satisfactory end-users in Country Group P (People's Republic of China) of conventional optical (not including projection equipment) equipment used for mask fabrication and processing provided that the equipment was introduced into industry prior to 1977. For example, photolithographic contact mask align and exposure systems with resolution in the 3 to 4 micrometer range may be approved.

1356A Machinery for the working of synthetic film used as magnetic recording tape: equipment, components, and parts specially designed for the continuous coating of polyester base magnetic tape subject to embargo under paragraph (d) of ECCN 1572A or free from embargo under Exception 3 to ECCN No. 1572A.

Controls for ECCN 1356A

Unit: Report in "$ value."
Validated License required: Country Groups PQSTVWYZ.
GLV $ Value Limit: $500 for Country Groups T and V; $0 for all other destinations.
Processing Code: MG.
Reason for Control: National security.
Special Licenses Available: See Part 373.

1357A Filament winding, tape-laying and interlacing machines using materials described in ECCN 1763A.

Controls for ECCN 1357A

Unit: Report in "$ value."
Validated License Required: Country Groups PQSTVWYZ.
GLV $ Value Limit: $500 for Country Groups T and V; $0 for all other destinations.
Processing Code: MG.
Reason for Control: National security and nuclear non-proliferation.
Special Licenses Available: None.

Definitive List of Filament Winding, Tape-laying and Interlacing Machines as Controlled by ECCN 1357A

(a) Machines of which the motions for positioning, wrapping, and winding of fibers are coordinated and programed in three or more axes, specially designed to fabricate composite structures or laminates from fibrous and filamentary materials, and the mechanical parts of the machines, coordinating, and programing controls; or
(b) Machines of which the motions for positioning and laying of tapes and sheets are coordinated and programed in two or more axes, especially designed for the manufacture of composite airframe and missile structures; or
(c) Machines, including specialized parts, components, adapters and modification list, for weaving, interlacing or braiding fibers to fabricate composite structures, except textile machinery which has not been modified for the above end-uses; and
(d) Specialized parts, components, and accessories therefor.

Advisory Notes.—1. Licenses are likely to be approved for export to satisfactory end-users in Country Groups POSWY of filament winding, tape-laying and interlacing machines using materials defined in ECCN 1763A, controlled by paragraph (a) of ECCN 1357A.

2. Licenses are likely to be approved for export to satisfactory end-users in Country Group P (People's Republic of China) of machines capable of positioning, wrapping and winding fibers, programmable up to three (3) axes, non-strategic, non-nuclear related applications.

1358A Machinery and equipment specially designed for the manufacture of devices and assemblies embargoed by paragraph (b), (c), (d), or (e) of ECCN 1588A and for magnetic recording media, other than tape, embargoed by paragraph (d) of ECCN 1572A or free from embargo under Exception 3(c) (4) to ECCN No. 1572A (for magnetic tape production equipment, see ECCN No. 1356A)

Controls for ECCN 1358A

Unit: Report in "$ value."
Validated License Required: Country Group PQSTVWYZ.
GLV $ Value Limit: $500 for Country Groups T and V, $0 for all other destinations.
Processing Code: MG.
Reason for Control: National security.
Special Licenses Available: See Part 373.

Definitive List of Machinery and Equipment Covered by Entry 1358A

(a) Equipment for the manufacture of single and multi-aperture forms described in paragraphs (b), (c), and (d) of ECCN 1588 as follows:
(1) Automatic presses to produce types described in (a) above;
(2) Press dies to produce types described in (a) above; and
(3) Automatic equipment for monitoring, grading, sorting, exercising and/or testing of types described in (a) above;
(b) Equipment for the manufacture of thin film memory storage or switching devices having square hysteresis loops and automatic equipment for monitoring, grading, sorting, exercising and/or testing of devices described in paragraph (a) above;
(c) Automatic equipment for monitoring, exercising, and/or testing assemblies of devices described in paragraphs (b), (c), (d), and (e) of ECCN 1588;
(d) Equipment for the application of magnetic coatings to recording media embargoed by paragraph (d) of ECCN 1572A or free from embargo under Exception 3(c)(4) to ECCN No. 1572A;
(e) Automatic and semi-automatic equipment for monitoring, grading, exercising, and/or testing recording media embargoed by paragraph (d) of ECCN 1572A or free from embargo under Exception 3(c)(4) to ECCN No. 1572A;
(f) Specialized test equipment, parts, and controls for the above.

(The term "automatic" refers to machinery not requiring the assistance of a human operator to complete its function or functions during each complete cycle of operations. The term "semi-automatic" refers to machinery requiring the assistance of a human operator to complete part but not all of its functions during each complete cycle of operations. The term "functions" does not include the initial loading or final unloading of material from the machine.)

Technical Note.—For this entry, single aperture forms described in paragraph (d) of ECCN 1588A with a maximum dimension less than 0.76mm (30 mils) are considered embargoed types.

4360B Centrifugal balancing machines, fixed or portable, horizontal or vertical having all of the characteristics described in this entry.

Controls for ECCN 4360B

Unit: Report in "$ value."
Validated License Required: Country Groups PQSTVWYZ and Canada.
GLV $ Value Limit: $0 for all destinations.
Processing Code: MG.
Reason for Control: Nuclear non-proliferation.
Special Licenses Available: None.

Definitive List of Centrifugal Balancing Machine Characteristics Controlled by ECCN 4360A

(a) Suitable for balancing flexible rotors having a diameter of from 3 inches to 16 inches, and a length of 24 inches or more; and

(b) Mass capability of from 2 to 50 lbs.; and

(c) Capable of balancing to a residual imbalance of 09.001 in.-lb./lb. per plane or greater; and

(d) Capable of balancing in three or more planes.

1361A Wind tunnels.

Controls for ECCN 1361A

UNIT: Report in "$ value."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $1000 for Country Groups T and V; $0 for all other destinations.

Processing Code: MG.

Reason for Control: National security.

Special Licenses Available: See Part 373.

List of Wind Tunnels Controlled by ECCN 1361A

(a) Supersonic (Mach 1.4 to Mach 5), hypersonic (Mach 5 to Mach 15) and hypervelocity (above Mach 15) wind tunnels, *except wind tunnels specially designed for educational purposes and having a test section size (measured internally) of less than 10 inc. (25 cm).* (By "test section size" is understood the diameter of the circle, or the side of the square, or the longest side of the rectangle constituting possible shapes of the test section.);

(b) Devices for simulating flow-environments at Mach 5 and above, regardless of the actual Mach number at which the devices operate, including hot shot tunnels, plasma arc tunnels, shock tubes, shock tunnels, gas tunnels and light gas guns;

(c) Wind tunnels and devices, other than two dimensional (2–D) sections, that have unique capabilities for simulating Reynolds number flow in excess of 25×10^6, at transonic velocities; and

(d) Specially designed parts and accessories for the above.

Advisory Notes.—1. Licenses are likely to be approved for export to satisfactory end-users in Country Groups PQSWY of wind tunnels as described in paragraph (a) and for wind tunnels with Mach velocities of 1.4 or more but less than 5, not specially designed for or fitted wind means of preheating the air.

2. Licenses are also likely to be approved for export to satisfactory end-users in Country Groups PQSWY of specialized parts and assemblies covered by paragraph (d) for wind tunnels previously exported under NOTE 1, provided that such parts and assemblies will not upgrade the performance of the wind tunnel and, for normally-consumable replacement parts, will not exceed a 6-month supply.

1362A Vibration test equipment.

Controls for ECCN 1362A

Unit: Report in "$ value."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $500 for T and V; $0 for all other destinations.

Processing Code: MG.

Reason for Control: National Security and nuclear non-proliferation.

Special Licenses Available: None.

Definitive List of Vibration Test Equipment as Controlled by ECCN 1362A

(a) Vibration test equipment using digital control techniques and specially designed ancillary equipment and software therefor, *except*:

(i) Individual exciters (thrusters) with a maximum thrust of less than 100kN (22,500 lb.);

(ii) Analog equipment;

(iii) Mechanical and pneumatic exciters (thrusters);

(iv) Vibrometers;

(v) Digital ancillary equipment not covered by ECCN Nos. 1529A, 1531A, 1565A or 1568A;

(b) High intensity acoustic test equipment capable of producing an overall sound pressure level of 140 dB or greater referenced to 2×10^{-5} *N*) or with a rated output of 4kW or greater and specially designed ancillary equipment and software therefor, except:

(i) Analog equipment;

(ii) Digital ancillary equipment not covered by ECCN Nos. 1529A, 1531A, 1565A or 1568A

(c) Ground vibration (including modal survey) test equipment that uses digital control techniques and specially designed ancillary equipment and software therefor, except:

(i) Analog equipment.

(ii) Digital ancillary equipment not covered by ECCN Nos. 1529A, 1531A, 1565A or 1568A;

3362A Power generating and/or propulsion equipment specially designed for use with military nuclear reactors. (This ECCN does not modify Office of Munitions Control coverage, as indicated in Category VI, Part e, of the U.S. Munitions List. See Supp. No. 2 to Part 370.)

Controls for ECCN 4362A

Unit: Report generators and sets, turbines, exchangers, and exchange type condensers in "number."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $100 for Country Groups T and V; $0 for all other destinations.

Processing Code: MG.

Reason for Control: National security and nuclear non-proliferation.

Special Licenses Available: A Distribution License is available for shipment of commodities defined by ECCN 3362A to countries listed in Supp. Nos. 2 and 3 to Part 373.

3363A Electrolytic cells for the production of flourine with a production capacity greater than 250 grams of flourine per hour; and specially designed parts and accessories thereof.

Controls for ECCN 3363A

Unit: Report in "$ value."

Validated License Required: Country Groups PQSTVWYZ; exports to Spain and countries listed in Supp. Nos. 2 and 3 to Part 373 are exempt from validated license requirements.

GLV $ Value Limit: $500 for Country Groups T and V.

Processing Code: MG.

Reason for Control: National security and nuclear non-proliferation.

Special Licenses Available: None.

4363B Nuclear reactor and nuclear power plant related equipment.

Controls for ECCN 4363B

Unit: Report in "$ value."

Validated License Required: Country Groups PQSTVWYZ; exports to Spain and to countries listed in Supp. Nos. 2 and 3 to Part 373 are exempt from validated license requirements.

GLV $ Value Limit: $0 for all destinations.

Processing Code: MG.

Reason for Control: Nuclear non-proliferation.

Special Licenses Available: None.

List of Commodities Controlled by ECCN 4363B

(a) Reactor and power plant simulators, models or mock-ups;
(b) Process control systems intended for use with nuclear reactors;
(c) Generators, turbine-generator sets, steam turbines, heat exchangers, and heat exchanger type condensers designed or intended for use in a nuclear reactor; and
(d) Commodities, parts and accessories specially designed or prepared for use with nuclear plants (*e.g.*, snubbers, airlocks, reactor inspection equipment) *except* items licensed by the NRC pursuant to 10 CFR 110.

1370A Turning machines for generating optical quality surfaces using a single point cutting tool, and components and accessories therefor.

Controls for ECCN 1370A

Unit: Report in "number."
Validated License Required: Country Groups PQSTVWYZ.
GLV $ Value Limit: $500 for Country Groups T and V; $0 for all other destinations.
Processing Code: MG.
Reason for Control: National security and nuclear non-proliferation.
Special Licenses Available: See Part 373.

Definitive List of Commodities Controlled by ECCN 1370A

(a) Turning machines having all of the following characteristics:
(1) Slide positioning accuracy less (finer) than 0.0005 mm per 300 mm of travel, TIR (peak-to-peak) ;
(2) Slide positioning repeatability less (finer) than 0.00025 mm per 300 mm of travel, TIR (peak-to-peak) ;
(3) Spindle runout (radial and axial) less than 0.0004 mm TIR (peak-to-peak) ;
(4) Angular deviation of the slide movement (yaw, pitch and roll) less (finer) than 2 seconds of are (peak-to-peak) over full travel;
(5) Slide perpendicularity less than 0.001 mm per 300 mm of travel, TIR (peak-to-peak) ; (Turning machines will be evaluated under the conditions yielding the most accurate values, including but not limited to the incorporation of control systems which permit mechanical, electronic and software compensation.)
(b) Components, as follows:
(1) Spindle assemblies, consisting of spindles and bearings as a minimal assembly, except those assemblies with axial and radial axis motion measured along the spindle axis in one revolution of the spindle equal to or greater (coarser) than 0.0008 mm TIR (peak-to-peak);
(2) Linear induction motors used as drives for slides, having all of the following characteristics:
(i) Stroke greater than 200 mm;
(ii) Nominal force rating greater than 45 N; and
(iii) Minimum controlled incremental movement less than 0.001 mm; or
(c) Accessories, *i.e.*, single diamond cutting tool inserts having all of the following characteristic;
(1) Flawless and chip-free cutting edge when magnified 400 times in any direction;
(2) Cutting radius between 0.1 and 5 mm, and
(3) Cutting radius out-of-roundness unless then 0.002 mm TIR (peak-to-peak):
(d) Specially designed parts and components thereof.

1371A Anti-friction bearings.

Controls for ECCN 1371A

Unit: Report in "$ value."
Validated License Required: Country Groups PQSTVWYZ.
GLV $ Value Limit: $500 for Country Groups T and V; $0 for all other destinations.
Processing Code: MG.
Reason for Control: National security.
Special Licenses Available: See Part 373.

Definitive List of Commodities Controlled by ECCN 1317A

(a) Ball and roller bearings having an inner bore diameter of 10 mm or less and tolerances of ABEC 5, RBEC 5 (or national equivalents) or better and either of the following characteristics:
(1) Made of special materials, i.e., with rings, balls or rollers made from any steel alloy or other material including, but not limited to high-speed tool steels, Monel metal, beryllium, metaloids, ceramic, and sintered metal composites *except the following: low-carbon steel; SAE–52100 high-carbon chromium steel; SAE–4615 nickel molybdenum steel; AISI–440C (SAE–5144C) stainless steel; or national equivalents;* and/or
(2) Manufactured for use at normal operating temperatures over 302° F (150° C) either by use of special materials or by special heat treatment;

(b) Ball and roller bearings *except separable ball bearings and thrust ball bearings*, having an inner bore diameter exceeding 10 mm and having tolerances of ABEC 7, RBEC 7 (or national equivalents) or better (ABEC 5 in the case of hollow bearings) and either of the following characteristics:
(1) Made of special materials, *i.e.*, with rings, balls, or rollers made from any steel alloy or other material including, but not limited to, high-speed tool steels, Monel metal, beryllium, metaloids, ceramics, and sintered metal composites *except the following: low-carbon steel; SAE–52100 high-carbon chromium steel: SAE–4615 nickel molybdenum steel; AISI–440C (SAE–5144C) stainless steel; or national equivalents;* and/or
(2) Manufactured for use in normal operating temperatures over 302° F (150° C) either by use of special materials or by special heat treatment;
(c) Ball and roller bearings having tolerances better than ABEC 7 (or national equivalents); and
(d) Bearing parts usable only for bearings controlled by this entry, as follows: outer rings, inner rings, retainers, balls, rollers, and sub-assemblies.

Commodity Interpretation: Ball and roller bearings and specially designed parts.

(a) A ball or roller bearing physically incorporated in a segment of a machine or in a complete machine prior to shipment loses its identity as a bearing and the machine or segment of machinery *containing the bearing* is the item subject to export license requirements.

(b) A ball or roller bearing not incorporated in a segment of a machine prior to shipment but shipped as a component of a complete unassembled (knocked-down) machine is considered a component of the machine, and the *complete machine* is the item subject to export license requirements.

(c) Ball or roller bearings shipped as spares or replacements are classified under this ECCN 1371 and under ECCN 6699 (ball, roller, or needle-roller bearings and parts). This applies to separate shipments of ball or roller bearings and ball or roller bearings shipped with machinery or equipment for which they are intended to be used as spares or replacement parts.

Advisory Note.—Licenses are likely to be approved for export to Country Groups

PQSWY of reasonable quantities of bearings as defined in ECCN 1371A to satisfactory civil end-users that have furnished assurances that the bearings will be incorporated in equipment previously imported from the U.S., Canada or countries in Country Groups T or V.

6390F Oil and gas pipeline equipment specially designed or modified for pipelaying, pipecoating, or pipewrapping; and specially designed parts, components, and accessories therefor.

Controls for ECCN 6390F

Unit: Report in "$ value."

Validated License Required: Country Groups S & Z, Afghanistan and the U.S.S.R. (including Estonia, Latvia and Lithuania).

GLV $ Value Limit: General License *GLV* not applicable; however, another general license may be applicable.

Processing Code: MG.

Reason for Control: Foreign policy.

Special South Africa and Namibia Controls: A validated license is required for export to the Republic of South Africa and Namibia of commodities defined in ECCN 6390F if intended for delivery to, or for use by or for military or police entities in these destinations or for use in servicing equipment owned, controlled or used by or for these entities. See § 385.4(a).

Special Licenses Available: None.

6391F Other industrial equipment specially designed or modified for the exploration or production of petroleum or natural gas; and specially designed parts, components, and accessories therefor.

Controls for ECCN 6391F

Unit: Report in "$ value."

Validated License Required: Country Groups S & Z, Afghanistan and the U.S.S.R. (including Estonia, Latvia and Lithuania.)

GLV $ Value Limit: General License *GLV* not applicable; however, another general license may be applicable.

Processing Code: MG.

Reason for Control: Foreign policy.

Special South Africa and Namibia Controls: A validated license is required for export to the Republic of South Africa and Namibia of commodities defined in ECCN 6391F if intended for delivery to, or for use by or for military or police entities in these destinations or for use in servicing equipment owned, controlled or used by or for these entities. See § 385.4(a).

Special Licenses Available: None.

Illustrative List of Petroleum and Natural Gas Exploration and Production Equipment Subject to Validated License Control for Export to the U.S.S.R., Estonia, Latvia, Lithuania, and Afghanistan. This List is Illustrative only; it does not include all Commodities Controlled by CCL entry 6391F

(1) All equipment specially designed or modified for off-shore floating or bottom-supported drilling and producing structures, including all gathering equipment.

(2) Rotary type well drilling rigs and derricks.

(3) Parts, accessories, and equipment for well drilling machines, including, but not limited to, drill bits, box and pin tool joints, drill pipe, drill collars, rotary tables, and blow-out preventors.

(4) Petroleum gas-lift equipment.

(5) Oil well and oil field pumps, including, but not limited to, high performance types of submersible or conventional pumping units.

(6) Wire line and downhole equipment and accessories, including, but not limited to, collars, stabilizers, mandrels, packers, multi-completion equipment, gun perforators, and telemetry equipment.

(7) Optical, electrical or electronic geophysical and mineral prospecting instruments, including magnetic, gravimetric, seismic, bore-hole logging and high-resolution remote sensing equipment.

6392F Other industrial equipment and machinery (including tooling, dies, fixtures and jigs) specially designed or modified for the production, manufacture or assembly of the equipment described in ECCNs 6191F, 6390F and 6391F; and specially designed parts, components, and accessories therefor.

Controls for ECCN 6392F

Unit: Report in "$ value."

Validated License Required: Country Groups SZ, Afghanistan and the U.S.S.R. (including Estonia, Latvia and Lithuania).

GLV $ Value Limit: General License *GLV* not applicable; however, another general license may apply.

Processing Code: MG.

Reason for Control: Foreign policy.

Special South Africa and Namibia Controls: A validated license is required for export to the Republic of South Africa and Namibia of commodities defined in ECCN 6392F if intended for delivery to, or for use by or for military or police entities in these destinations or for use in servicing equipment owned, controlled or used by or for these entities.

Special Licenses Available: None.

6398G Machinery and equipment (including tools, fixtures, and jigs) specially designed or modified for the manufacture of automotive trucks and truck engines; and specially designed parts, components and accessories therefor. (See Supp. No. 1 to § 399.2, Interpretation 32, for illustrative list of commodities included in this entry.)

Controls for ECCN 6398G

Unit: Report in "$ value."

Validated License Required: Country Groups S and Z.

GLV $ Value Limit: General License GLV is not applicable; however, another general license may be applicable.

Processing Code: MG.

Reason for Control: Foreign policy.

Special South Africa and Namibia Controls: A validated license is required for export to the Republic of South Africa and Namibia of commodities defined in ECCN 6398G if intended for delivery to, or for use by or for military or police entities in these destinations or for use in servicing equipment owned, controlled or used by or for these entities. See § 385.4(a).

Special Foreign Policy Controls: A validated license is also required for export to the U.S.S.R. of commodities defined in ECCN 6398G for the KAMA River Truck (Kam AZ) or ZIL truck plants. See § 385.2(e).

Special Licenses Available: None.

Illustrative List of Automotive, Truck and Truck Engine Manufacturing Machinery and Equipment Subject to Validated License Control for Export to the U.S.S.R. for Either the Kama River of ZIL Truck Complexes. This List is Illustrative Only; it does not include all Commodities Controlled by CCL Entry 6398G

(1) All truck chassis and truck engine manufacturing process lines, including conveying and assembly equipment.

(2) Truck engine and truck power train transfer lines.

(3) Automatic control systems for the supervision and monitoring of truck manufacturing processes.

(4) Specialized vehicle and vehicle component test and checking equipment including, but not limited to:

(a) Vehicle and component shock and vibration test equipment;

(b) Vehicle dynamometric test systems; and

(c) Specially designed truck suspension component test machinery.

(5) Truck tire manufacturing equipment and machinery.

5399D Other general industrial equipment n.e.s., except those listed in Supp. No. 1 to § 399.2, interpretation 29; and parts and accessories therefor.

Controls for ECCN 5399D

Unit: Report in "$ value."

Validated License Required: Country Groups PQSWYZ and Afghanistan.

GLV $ Value Limit: $1000 for Country Group Q; A General License *GLV* is not applicable to other destinations; however, other general licenses may be applicable.

Processing Code: MG.

Reason for Control: National security.

Special South Africa and Namibia Controls: A validated license is required for export to the Republic of South Africa and Namibia of commodities defined in ECCN 5399D if intended for delivery to, or for use by or for military or police entities in these destinations or for use in servicing equipment owned, controlled or used by or for these entities. See § 385.2(e).

Special Licenses Available: See Part 373.

6399G General industrial equipment listed in Supp. No. 1 to §399.2, interpretation 29; and parts and accessories, n.e.s.

Controls for ECCN 6399G

Unit: Report in "$ value."

Validated License Required: Country Groups S and Z.

GLV $ Value Limit: General License *GLV* is not applicable; however, other general licenses may be applicable.

Processing Code: MG.

Reason for Control: Foreign policy.

Special South Africa and Namibia Controls: A validated license is required for export to the Republic of South Africa and Namibia of commodities defined in ECCN 6399G if intended for delivery to, or for use by or for military or police entities in these destinations or for use in servicing equipment owned, controlled or used by or for these entities. See § 385.4(a)

Special Licenses Available: None.

GROUP 4—TRANSPORTATION EQUIPMENT

Notes.—You need a validated export license to export or reexport technical data related to transportation equipment to destinations in Country Groups P, Q, S, W, Y, or Z. You may use General License *GTDR* for exports or reexports of technical data to destinations in Country Groups T & V *provided that*—

(a) The technical data are not listed in paragraphs (c) or (d) of § 379.4 of the Regulations, *and*

(b) There are no special foreign policy controls on the technical data related to the commodities described in an individual CCL entry.

Note.—All Commodity Control List entries in this Group are subject to export controls on the basis of the following criteria:

You need a validated license to export or reexport to the U.S.S.R. if you know or have reason to know the commodity is for any use directly in preparation for, in conduct of, in support of, or visually identified with the 1980 Summer Olympic Games that began in Moscow on July 19, 1980. These commodities are subject to controls under the authority of the foreign policy provisions contained in section 6 of the Export Administration Act of 1979.

See § 370.10 for commodities that require export authorization from other U.S. Government Departments and Agencies.

2404A Rockets and missiles, guided or unguided.

Controls for ECCN 2404A

Unit: Report in "$ value."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $500 for Country Groups T & V; $0 for all other destinations.

Processing code: MG.

Reason for Control: National security.

(See Supp. No. 2 to Part 370 for a listing of arms, ammunition and implements of war controlled by the Office of Munitions Control, Department of State.)

Special licenses Available: See Part 373.

List of Rockets and Missiles Controlled by ECCN 2404A

(a) Meteorological sounding rockets;

(b) Non-irritant smoke flares, canisters, grenades, and charges;

(c) Other pyrotechnic articles having dual military and commercial use;

(d) Rocket launching ramps, towers, and associated equipment for meteorological rockets; and

(e) Specially designed parts for the above.

2406A Vehicles specially designed for military purposes.

Controls for ECCN 2406A

Unit: Report vehicles and engines in "number"; parts and accessories in "$ value."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $0 for all destinations.

Processing Code: MG.

Reason for Control: National security; foreign policy.

Special South Africa and Namibia Controls: Commodities defined in ECCN 2406A are subject to the Republic of South Africa and Namibia embargo policy, and no technical data relating to those commodities may be exported under General License *GTDR* to any consignee in the Republic of South Africa and Namibia.

Special Regional Stability Controls: 1. A validated export license is required for foreign policy purposes to export military vehicles and certain commodities (specially designed) used to manufacture military equipment defined in this ECCN to any destination except Australia, Japan, New Zealand, and members of NATO. Applications for validated licenses will generally be considered favorably on a case-by-case basis unless there is evidence that the exports would contribute significantly to the destabilization of the region to which the equipment is destined.

2. A validated export license is required for foreign policy purposes for the export to People's Democratic Republic of Yemen, Libya, and Syria (countries that have repeatedly provided support for acts of international terrorism) of military vehicles and items specially designed to produce military equipment as defined in this ECCN.

Special Licenses Available: None.

List of Vehicles Controlled by ECCN 2406A

(a) Specially designed military vehicles, *excluding vehicles listed in Supp. No. 2 to Part 370;*

(b) Pneumatic tire casings *(excluding tractor and farm implement types),* of a kind specially constructed to be bullet-proof or to run when deflated;

(c) Engines for the propulsion of the vehicles enumerated above, specially designed or essentially modified for military use; and

(d) Specially designed components and parts therefor.

Commodity Interpretation:

(a) Military automotive vehicles:

(1) For purposes of U.S. export controls, military automotive vehicles "possessing or built to current military specifications differing materially from normal commercial specifications" may include, but are not limited to, the following characteristics:

(i) Special fitting for mounting ordnance or military equipment,

(ii) Bulletproof glass,

(iii) Armor plate,

(iv) Fungus preventive treatment,

(v) Twenty-four volt electrical systems,

(vi) Shielded electrical systems (electronic emission suppression), or

(vii) Puncture-proof or run-flat tires.

(2) These automotive vehicles fall into two categories:

(i) Military automotive vehicles on the Munitions List, new and used. Automotive vehicles in this category are primarily combat (fighting) vehicles, with or without armor and/or armament, "designed for specific fighting function." These automotive vehicles are licensed by the U.S. Department of State. See list with descriptions, Supp. No. 2 to Part 370, Category VII.

(ii) Military automotive vehicles not on the U.S. Munitions List, new and used. Automotive vehicles in this category are primarily transport vehicles designed for non-combat military purposes (transporting cargo, personnel and/or equipment, and/or for towing other vehicles and equipment over land and roads in close support of fighting vehicles and troops). These automotive vehicles are licensed by the U.S. Department of Commerce.

(b) Parts for military automotive vehicles:

Functional parts are defined as those parts making up the power train of the vehicles, including the electrical system, the cooling system, the fuel system, and the control system (brake and steering mechanism), the front and rear axle assemblies including the wheels, the chassis frame, springs and shock absorbers.

Parts specifically designed for military automotive vehicles on the Munitions List are licensed for export by the U.S. Department of State.

(c) General instructions:

Manufacturers of non-Munitions List automotive vehicles and/or parts will know whether their products meet the conditions described above. Merchant exporters and other parties who are not sure whether their products (automotive vehicles and/or parts) meet these conditions should check with their suppliers for the required information before making a shipment under general license or submitting an application to the Office of Export Administration for an export license.

5406D Diesel engines, nonmagentic, 50 brake horsepower and over, having a nonmagnetic content exceeding 50 percent, up to but not exceeding 75 percent of total weight; and parts and accessories, n.e.s. (Specify brake hp at rated rpm.)

Controls for ECCN 5406D

Unit: Report engines in "number"; parts and accessories in "$ value."

Validated License Required: Country Groups PQSWYZ and Afghanistan.

GLV $ Value Limit: $100 for Country Group Q. General License *GLV* is not applicable to other destinations; however, another general license may apply.

Processing Code: MG.

Reason for Control: National security.

Special Licenses Available: See Part 373.

Special South Africa and Namibia Controls: A validated license is required for export to the Republic of South Africa and Namibia if intended for delivery to or for use by or for military or police entities in these destinations or for use in servicing equipment owned, controlled, or used by or for these entities. See § 385.4(a).

2409A Naval equipment.

Controls for ECCN 2409A

Unit: Report engines and motors in "number"; parts and accessories in "$ value."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $1,000 for Country Groups T & V; $0 for all other destinations.

Processing Code: MG.

Reason for Control: National security.

Special Licenses Available: See Part 373.

List of Naval Equipment Controlled by ECCN 2409A

(a) Diesel engines of 1,500 hp and over with rotary speed of 700 rpm or over specially designed for submarines;

(b) Electric motors specially designed for submarines, *i.e.*, over 1,000 hp, quick reversing type, liquid cooled, and totally enclosed;

(c) Nonmagnetic diesel engines, 50 hp and over, specially designed for military purposes (An engine shall be presumed to be specially designed for military purposes if it has nonmagnetic parts other than crankcase, block, head, pistons, covers, end plates, valve facings, gaskets, and fuel, lubrication and other supply lines, or its nonmagnetic content exceeds 75 percent of total weight.);

(d) Other magnetic, pressure, and acoustic underwater detection devices specially designed for military purposes; and controls and components thereof;

(e) Marine boilers designed to have *any* of the following characteristics:

(1) Heat release rate (at maximum rating) equal to or in excess of 190,000 BTU per hour per cubic foot of furnace volume; or

(2) Ratio of steam generated in pounds per hour (at maximum rating) to the dry weight of the boiler in pounds equal to or in excess of 0.83; and

(f) Components, parts, accessories, and attachments for the above.

4409B Water tube boilers, marine type, designed to have a heat release rate (at maximum rating) equal to 180,000 BTU, up to but not including 190,000 BTU per hour per cubic foot of furnace volume; boiler superheaters, feedwater heaters, and economizers therefor; and parts and accessories therefor.

Controls for ECCN 4409B

Unit: Report in "$ value."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $1,000 for Country Groups T & V; $0 for all other destinations.

Processing Code: MG.

Reason for Control: National security.

Special Licenses Available: See Part 373.

2410A Pressure refuellers, pressure refuelling equipment, and equipment specially designed to facilitate operations in confined areas; and ground equipment, not elsewhere specified, developed specially for aircraft and helicopters, and specially designed parts and accessories, n.e.s.

Controls for ECCN 2410A

Unit: Report in "$ value."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $500 for Country Groups T & V; $0 for all other destinations.

Processing Code: MG.

Reason for Control: National security; foreign policy.

Special Licenses Available: See Part 373.

Special South Africa and Namibia Controls: Commodities defined in ECCN 2410A are subject to the Republic of South Africa and Namibia embargo policy, and no technical data relating to those commodities may be exported under General License *GTDR* to any

consignee in the Republic of South Africa and Namibia.

1416A Vessels.

Controls for ECCN 1416A

Unit: Report vessels or vehicles in "number"; parts and accessories in "$ value."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $1,000 for Country Groups T & V; $0 for all other destinations.

Processing Code: MG.

Reason for Control: National security.

Special Licenses Available: See Part 373.

List of Vessels Controlled by ECCN 1416A

(a) Hydrofoil vessels with automatically controlled foil systems which are capable of speeds of above 40 knots in rough water (Sea State Five);

(b) Vessels incorporating any item included in an ECCN beginning with the numeral 2 or listed in Supp. No. 2 to Part 370, any commodity defined in ECCNs 1485A, 1501A, 1502A, and 1510A *(except all types of fish-finding or whale finding equipment),* or incorporating degaussing facilities; and

(c) Specially designed parts and accessories for the above. (Also see § 370.10(a) and (f).)

1418A Deep submergence vehicles, manned or unmanned, tethered or utethered, capable of operating at depths exceeding 1,000 meters, and specially designed equipment, components and materials therefor, including but not limited to pressure housings or pressure hulls specially designed for normal operating pressures of more than 101 bars. (For syntactic foam, see ECCN 1759A.)

Controls for ECCN 1418A

Unit: Report vessels or vehicles in "number"; parts and accessories in "$ value."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $1,000 for Country Groups T & V; $0 for all other destinations.

Processing Code: MG.

Reason for Control: National security.

Special Licenses Available: See Part 373.

1431A Gas turbine engines for marine propulsion of 3,500 rated shaft hp and above, whether originally designed as such or adapted for such use from aero-engines; and specially designed parts, n.e.s.

Controls for ECCN 1431A

Unit: Report engines in "number"; parts and accessories in "$ value."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $1,000 for Country Groups T & V; $0 for all other destinations.

Processing Code: MG.

Reason for Control: National security.

Special Licenses Available: See Part 373.

4431B Other marine propulsion steam turbines specially designed for naval use; and parts and accessories, n.e.s. (Specify hp or kW.)

Controls for ECCN 4431B

Unit: Report in "$ value."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $1,000 for Country Groups T & V; $0 for all other destinations.

Processing Code: MG.

Reason for Control: National security.

Special Licenses Available: See Part 373.

5431D Compressors, fans, and blowers, any type, specially designed or modified for military or naval shipboard use; and parts and attachments, n.e.s. (Specify by name.)

Controls for ECCN 5431D

Unit: Report in "$ value."

Validated License Required: Country Groups PQSWYZ and Afghanistan.

GLV $ Value Limit: $500 for Country Group Q. General License *GLV* is not applicable to other destinations; however, another general license may apply.

Processing Code: MG.

Reason for Control: National security.

Special Licenses Available: See Part 373.

Special South Africa and Namibia Controls: A validated license is required for export to the Republic of South Africa and Namibia if intended for delivery to or for use by or for military or police entities in these destinations, or for use in servicing equipment owned, controlled, or used by or for these entities. See § 385.4(a).

1460A Nonmilitary aircraft and helicopters, aero-engines, and aircraft and helicopter equipment.

Controls for ECCN 1460A

Unit: Report aircraft, helicopters, and engines in "number"; parts and accessories in "$ value."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $1,000 for Country Groups T & V; $0 for all other destinations.

Processing Code: MG.

Reason for Control: National security; foreign policy.

Technical Data: Exports of certain related technical data require a validated license to all destinations except Canada (see § 379.4(d)).

No technical data relating to civil aircraft, civil aircraft equipment, and parts, accessories, or components thereof may be exported under General License *GTDR*, and exports of these technical data to all destinations, *except Canada*, require a validated export license.

Special Foreign Policy Controls: 1. For commodities defined in paragraph (a) of the List below, foreign policy controls apply to helicopters over 10,000 lbs. empty weight for Libya, Syria, the People's Democratic Republic of Yemen, the Republic of South Africa, and Namibia.

2. For commodities defined in paragraph (b) of the List below, foreign policy controls apply to Libya, the Republic of South Africa, and Namibia for both aircraft and helicopters regardless of value, and to Syria and the People's Democratic Republic of Yemen for fixed-wing aircraft valued at $3,000,000 or more.

3. For commodities defined in paragraph (c) of the List below, foreign policy controls apply only to Libya.

Special Licenses Available: None for commodities defined in paragraphs (a) and (b) of the List below. See Part 373 for special licenses available for export of commodities defined in paragraph (c).

Note.—Nonmilitary aircraft designed to carry up to a maximum of 25 persons, including crew, may be exported under the Distribution License to all normally eligible countries, except Iraq, Libya, Syria, the People's Democratic Republic of Yemen, the Republic of South Africa, and Namibia.

Note.—Bulk licenses may not be used to provide aircraft parts and accessories to aircraft owned, operated, or controlled by, or under charter or lease to Libya or any of its nationals.

List of Nonmilitary Equipment Controlled by ECCN 1460A

(a) Helicopters over 10,000 lbs. (4,530 kg) empty weight, and power transmission systems therefor (empty weight is understood to include normal installation and normal minimum crew, but does not include fuel or payload);

(b) Other nonmilitary aircraft and helicopters, *except those which do not contain equipment listed in Supp. No. 2 to Part 370 or ECCN Nos. 1485A or 1501A and which are of types which are in a bona fide normal civil use;* (specify make and model of aircraft and type of avionic equipment on aircraft) and

(c) Aero-engines and specially designed parts and accessories, n.e.s., *except:*

(1) Piston engines;

(2) Jet engines of less than 5,000 lbs. (2,265 kg) thrust; or

(3) Turbo-prop or turbo-shaft engines of less than 2,500 hp or with a residual thrust of less than 1,000 lbs. (453 kg). (Specify make, model, and pound thrust or horsepower.) Also see Supp. No. 1 to § 399.2, Interpretation 20.

4460B Nonmilitary aircraft and helicopters, aero-engines, and aircraft and helicopter equipment.

Controls for ECCN 4460B

Unit: Report aircraft, helicopter and engines in "number"; parts and accessories in "$ value."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $1,000 for Country Groups T & V; $0 for all other destinations.

Technical Data: Exports of certain related technical data require a validated license to all destinations except Canada (see § 379.4(d)).

No technical data relating to civil aircraft, civil aircraft equipment, and parts, accessories, or components thereof may be exported under General License *GTDR*, and exports of these technical data to all destinations, *except Canada*, require a validated export license.

Processing Code: MG.

Reason for Control: National security; foreign policy controls apply to Libya only.

Special Licenses Available: See Part 373.

Note.—Bulk license may not be used to provide aircraft parts and accessories to aircraft owned, operated, or controlled by, or under charter or lease to Libya or any of its nationals.

List of Nonmilitary Equipment Controlled by ECCN 4460B

(a) Other jet, turbo-prop, turbo-shaft, and gas turbine aircraft engines, of the following description:

(1) Under development for nonmilitary use, experimental or non-certified; or

(2) Certified engines which have been in civil use for 3 years or less; and

(3) Parts and accessories, n.e.s., therefor (Specify make, model and pound thrust or horsepower); and

(b) Parts and accessories, n.e.s., specially designed for nonmilitary:

(1) Helicopters over 10,000 pounds weight; or

(2) Helicopters 10,000 pounds or less empty weight or fixed-wing aircraft, of types that have been in normal civil use and containing one or more of the items listed in ECCNs 1485A or 1501A, or Supp. No. 2 to Part 370.

(Specify make and model of aircraft, and type of avionic equipment on aircraft.) Also see Supp. No. 1 to § 399.2, Interpretation 20.

Special Foreign Policy Controls: A validated license is required for foreign policy purposes for the export or reexport to Libya of any aircraft (including helicopters) and any parts and accessories defined in ECCN 4460B.

5460F Other nonmilitary aircraft and demilitarized military aircraft valued at $3,000,000 each or more.

Controls for ECCN 5460F

Unit: Report in "$ value."

Validated License Required: Country Groups SZ, Syria, the People's Democratic Republic of Yemen, the Republic of South Africa and Namibia.

GLV $ Value Limit: General License *GLV* not applicable; however, another general license may apply.

Processing Code: MG.

Reason for Control: Foreign policy.

Special Licenses Available: None.

Note.—Nonmilitary aircraft designed to carry up to a maximum of 25 persons, including crew, may be exported under the Distribution License to all normally eligible countries, except Iraq, Libya, Syria, the People's Democratic Republic of Yemen, the Republic of South Africa and Namibia.

Technical Data: Exports of certain related technical data require a validated license to all destinations except Canda (see § 379.4(d)).

No technical data relating to civil aircraft, civil aircraft equipment, and parts, accessories, or components thereof may be exported under General License *GTDR*, and exports of these technical data to all destinations, *except Canada*, require a validated export license.

Special Foreign Policy Controls: 1. Foreign policy export controls apply to the export to Syria and the People's Democratic Republic of Yemen of aircraft valued at $3,000,000 each or more as defined in ECCN 5460F, except aircraft and helicopters for use by regularly scheduled airlines based in Syria or the People's Democratic Republic of Yemen for which assurances against military use have been submitted to the Office of Export Administration.

2. A validated license is required for foreign policy purposes for the export or reexport to Libya of any aircraft (including helicopters) and any parts and accessories defined in ECCN 5460F.

6460F Other aircraft and helicopters.

Controls for ECCN 6460F

Unit: Report aircraft, helicopters and engines in "number"; parts and accessories in "$ value."

Validated License Required: Country Groups SZ, The Republic of South Africa and Namibra.

GLV $ Value Limit: General License *GLV* not applicable; however, another general license may apply.

Processing Code: MG.

Reason for Control: Foreign policy.

Technical Data: Exports of certain related technical data require a validated license to all destinations except Canada (see § 379.4(d)).

No technical data relating to civil aircraft, civil aircraft equipment, and parts, accessories, or components thereof may be exported under General License *GTDR*, and exports of these technical data to all destinations, except *Canada*, require a validated export license.

Special Foreign Policy Controls: A validated license is required for foreign policy purposes for the export or reexport to Libya of any aircraft (including helicopters) and any parts and accessories controlled under ECCN 6460F.

Special Licenses Available: None.

List of Aircraft and Helicopters Controlled by ECCN 6460F

(a) Military aircraft, demilitarized (not specifically equipped or modified for military operations), *of the following description only:*

(1) Cargo, "C–45 through C–118" inclusive, and "C–121,"

(2) Trainers, bearing a "T" designation and using piston engines,

(3) Utility, bearing a "U" designation and using piston engines,

(4) Liaison, bearing an "L" designation, and

(5) Observation, bearing an "O" designation and using piston engines; and

(b) Other nonmilitary helicopters and aircraft.

(Specify make and model of aircraft and type of avionic equipment on aircraft. See Supp. No. 1 to § 399.2, Interpretation 20. Also see Supp. No. 2 to Part 370 or ECCNs 1485A or 1501A for aircraft which are not covered under this ECCN.)

5460B Nonmilitary mobile crime science laboratories; and parts and accessories, n.e.s.

Controls for ECCN 5480B

Unit: Report in "$ value."

Validated License Required: Country Groups PQSTVWYZ; however, a validated license in *not* required for export to Australia, Japan, New Zealand, and members of NATO.

GLV $ Value Limit: $0 for all destinations.

Processing Code: MG.

Reason for Control: Crime control (foreign policy).

Special Licenses Available: None.

Technical Data: Exports of related technical data require a validated license to all destinations except Australia, Japan, New Zealand, and members of NATO.

Special Foreign Policy Controls: An individual validated export license is required for foreign policy purposes to export crime control and detection instruments and equipment and related technical data (except that authorized under General License *GTDA*) defined in this ECCN, except to Australia, Japan, New Zealand, and members of NATO.

Advisory Note.—Applications for validated export licenses generally will be considered favorably on a case-by-case basis unless there is evidence that the government of the importing country may have violated internationally recognized human rights and that the judicious use of export controls would be helpful in deterring the development of a consistent pattern of such violations or in distancing the United States from such violations.

1485A Compasses, gyroscopes, accelerometers, and inertial equipment.

Controls for ECCN 1485A

Unit: Report in "$ value."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $1,000 for Country Groups T & V; $0 for all other destinations.

Processing Code: MG.

Reason for Control: National security; foreign policy controls apply to Libya only.

Special Foreign Policy Controls: A validated license is required for foreign policy purposes for the export or reexport to Libya of any aircraft (including helicopters) parts and accessories defined in ECCN 1485A.

Special Licenses Available: None for commodities defined in paragraphs (f), (g), (h), and (i) in the illustrative list below. See Part 373 for special licenses available for export of other commodities.

Note.—Bulk licenses may not be used to provide aircraft parts and accessories to aircraft owned, operated, or controlled by, or under charter or lease to Libya or any of its nationals.

List of Compasses, Gyroscopes, Accelerometers, and Inertial Equipment Controlled by ECCN 1485A

(a) Gyro compasses with provision for determining and transmitting ship's level reference data (roll, pitch) in addition to own ship's course data;

(b) Integrated flight instrument systems for aircraft which include gyrostabilizers and/or automatic pilots (An integrated flight instrument system is a primary instrument display system of attitude and azimuth with facilities for giving maneuver guidance information to the pilot and often integrated with an auto-pilot to the extent of embodying a common unit for setting up the required demands.);

(c) Gyro-astro compasses and other devices which derive position and/or orientation by means of automatically tracking celestial bodies;

(d) Gyrostabilizers used for other purposes than aircraft control, *except those for stabilizing an entire surface vessel;*

(e) Automatic pilots used for other purposes than aircraft control *except marine types for surface vessels;*

(f) Accelerometers with a threshold of 0.005 g or less, or a linearity error within 0.25 percent of full scale output or both, which are designed for use in inertial navigation systems or in guidance systems of all types;

(g) Gyros with a rated free directional drift rate (rated free precession) of less than 0.5 degree (1 Sigma or r.m.s.) per hour in a l g environment;

(h) Inertial or other equipment using accelerometers described in paragraph (f) above and/or gyros described in paragraph (g) above, and systems incorporating such equipment; and

(i) Specially designed parts and components, and test, calibration, and alignment equipment for the above.

Advisory Note.—Licenses are likely to be approved for export to satisfactory end-users in Country Groups PQSWY of equipment of the following description:

(a) Types and series covered by paragraph (b) above, provided the equipment has been in normal civil use for more than two years, is standard equipment of aircraft excluded from control under ECCN 1460A, and is, or is to be, installed in civilian aircraft.

(b) Types and series covered by paragraph (d) above, provided the equipment has been in normal civil use for more than two years and is intended for a clearly civil application in the importing country.

(c) Parts, components and equipment covered by paragraph(i) above, provided they are not also covered by paragraphs (f) and (g) above, and are intended for use with exports meeting the conditions of paragraphs (a) and (b) of this Advisory Note.

6490F Off-Highway wheel tractors of carriage capacity 10 tons or more; and parts and accessories, n.e.s.

Controls for ECCN 6490F

Unit: Report tractors in "number"; parts and accessories in "$ value."

Validated License Required: Country Groups SZ.

GLV $ Value Limit: General License *GLV* not applicable; however, another general license may apply.

Processing Code: MG.

Reason for Control: Foreign policy.

Special Licenses Available: None.

Special South Africa and Namibia Controls: A validated license is required for export to the Republic of South Africa and Namibia if intended for delivery to or for use by or for military or police entities in these destinations or for use in servicing equipment owned, controlled, or used by or for these entities. See § 385.4(a).

Advisory Note.—Applications for validated licenses will generally be considered favorably on a case-by-case basis for the export to Libya (Country Group S) of tractors in reasonable quantities if for civil use.

6499G Other transportation equipment, n.e.s.; and parts and accessories, n.e.s.

Controls for ECCN 6499G

Unit: Report in "$ value."

Validated License Required: Country Groups SZ.

GLV $ Value Limit: General License *GLV* not applicable; however, another general license may apply.

Processing Code: MG.

Reason for Control: Foreign policy.

Technical Data: No technical data relating to civil aircraft, civil aircraft equipment, and parts, accessories, or components thereof may be exported under General License *GTDR*, and exports of these technical data to all destinations, *except Canada*, require a validated export license.

Special Licenses Available: See Part 373.

Special South Africa and Namibia Controls: A validated license is required for export to the Republic of South Africa and Namibia if intended for delivery to or for use by or for military or police entities in these destinations or for use in servicing equipment owned, controlled or used by or for these entities. See § 385.4 (a).

9499M Vehicles mounted with telecommunications equipment (including radar). (See Group 5—Electronics and Precision Instruments.) (Specify mounted equipment.) (Report telecommunications equipment, including radar, exported as replacements or accessories under appropriate Export Control Commodity Number.)

Controls for ECCN 9499M

Unit: Report in "number."

Validated License Required: Validated licenses applicable to vehicles controlled by this ECCN are those that apply to the equipment mounted on the vehicle.

GLV $ Value Limit: Limits applicable to vehicles controlled by this ECCN are those that apply to the equipment mounted on the vehicle.

Processing Code: MG.

Reason for Control: Reasons for control applicable to vehicles controlled by this ECCN are those that apply to the equipment mounted on the vehicle.

Special Licenses Available: Licenses applicable to vehicles controlled by this ECCN are those that apply to the equipment mounted on the vehicle.

Technical Data: Controls on technical data related to vehicles controlled by this ECCN are those that apply to the equipment mounted on the vehicle.

GROUP 5—ELECTRONICS AND PRECISION INSTRUMENTS

Note.—You need a validated export license to export or reexport technical data related to electronics and precision instruments to destinations in Country Groups P, Q, S, W, Y, or Z. You may use General License *GTDR* for exports or reexports of technical data to destinations in Country Groups T & V *provided that*—

(a) The technical data are not listed in paragraphs (c) or (d) of § 379.4 of the Regulations, *and*

(b) There are no special; foreign policy controls on the technical data related to the commodities described in an individual CCL entry.

Note.— All Commodity Control List entries in this group are subject to export controls on the basis of the following criteria:

You need a validated license to export or reexport to the U.S.S.R. if you know or have reason to know the commodity is for any use directly in preparation for, in conduct of, in support of, or visually identified with the 1980 Summer Olympic Games that began in Moscow on July 19, 1980. These commodities are subject to controls under the authority of the foreign policy provisions contained in section 6 of the Export Administration Act of 1979

See § 370.10 for commodities that require export authorization from other U.S. Government Departments and Agencies.

1501A Navigation, direction finding, radar and airborne communication equipment.

Controls for ECCN 1501A

Unit: Report in "$ value."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $1,000 for Country Groups T & V; $0 for all other destinations.

Processing Code: EE.

Reason for Control: National security; foreign policy. The entire entry is controlled for national security reasons. Foreign policy controls apply to paragraphs (a), (b)(1), and (c)(1) for Libya only.

Special Foreign Policy Controls: A validated license is required for foreign policy purposes for the export or report to Libya of parts and accessories for any aircraft (including helicopters) defined in paragraphs (a), (b)(1) and (c)(1) of the LIST in this ECCN.

Special Licenses Available: See Part 373.

Note.—Bulk licenses may not be used to provide aircraft parts and accessories defined in paragraphs (a), (b)(1) and (c)(1) of the LIST below to aircraft owned, operated, or controlled by, or under charter or lease to Libya or any of its nationals.

List of Navigation, Direction Finding, Radar and Airborne Communication Equipment Controlled by ECCN 1501A

(a) Airborne communication equipment and specialized parts and components therefor, having *any* of the following characteristics:

(1) Designed to operate at frequencies greater than 156 MHz;

(2) Incorporated facilities for:

(i) The rapid selection of more than 200 channels per equipment; or

(ii) Equipment using frequency synthesis techniques (see also ECCN 1531A), *except equipment operating in the frequency range of 108 to 136 MHz with 720 channels or fewer at not less than 25 KHz spacing, and which has been in normal civil use for at least one year;*

(3) Pressurized throughout;

(4) Rated for continuous operation over a range of ambient temperatures extending from below −55° C to above +55° C; or

(5) Designed for modulating methods employing any form of digital modulation using time and frequency redundancy such as "Quantized Frequency Modulation" (QFM);

(b) Navigation and direction finding equipment (and specialized parts and accessories, specialized testing or calibrating equipment and training or simulating equipment therefor) having the following characteristics:

(1) Airborne navigation and direction finding equipment having the following characteristics:

(i) Designed to make use of "Doppler" frequency phenomena;

(ii) Utilizing the constant velocity and/or rectilinear propagation characteristics of electromagnetic waves having frequency less than 4×10^{14} Hz (0.75 micron);

(iii) Radio altimeters having the following characteristics:

(a) Pulse modulated;

(b) Frequency modulated having a displayed electrical output accuracy better than ±3 feet (±0.914 m) over the range between 0 and 100 feet (30.4 m) or better than ±3 percent above 100 feet (30.4m); or

(c) Frequency modulated which have been in normal civil use for less than one year;

(iv) Direction finding equipment operating at frequencies greater than 5 MHz, *except equipment designed for search and rescue purposes, provided that the receiver operates on a crystal controlled fixed frequency of 121.5 MHz or on alternating frequencies of 121.5 MHz and 243 MHz;*

(v) Pressurized throughout; or

(vi) Rated for continuous operation over a range of ambient temperatures extending from below −55° C to above +55° C;

(2) Ground and marine equipment for use with airborne navigation equipment

utilizing the constant velocity and/or the rectilinear propagation characteristics of electromagnetic waves having frequency less than 4×10^{14} Hz (0.75 micron); or

(3) Ground and marine direction finding equipment operating at frequencies greater than 30 MNz; and

(c) Radar equipment and specialized parts and accessories, specialized testing or calibrating equipment and training or simulating equipment therefor having the following characteristics (for lidar equipment, see ECCN 1522A):

(1) Airborne radar equipment; or

(2) Ground and marine radar equipment having one or more of the following features:

(i) Operating at a frequency not in normal civil use or at a frequency of more than 10.5 GHz;

(ii) Operating at a frequency of less than 1.5 GHz and having a peak output power from the transmitter greater than 2.5 MW; or operating at a frequency within the range or 1.5 to 3.5 GHz and having a peak output power from the transmitter greater than 1.5 MW; or operating at a frequency within the range of 3.5 to 6 GHz and having a peak output power from the transmitter greater than 1 MW; or operating at a frequency within the range of 6 to 10.5 GHz and having a peak output power from the transmitter greater than 500 kW;

(iii) Operating at a frequency of less than 3.5 GHz and having an 80 percent or better probability of detection for a 10 sq. meter target at a free space range of 250 nautical miles; or operating at a frequency within the range of 3.5 to 10.5 GHz and having an 80 percent or better probability of detection for a 10 sq. meter target at a free space range of 100 nautical miles;
(Cumulative probability of detection is determined on the principle on which it is based, according to the following parameters:

(a) Radial closing velocity of the target: 2,000 feet per second (6y10 meters per second);

(b) Probability of false alarm: 10^{-8};

(c) Operator factor: 3 dB; and

(d) Fluctuation of the target in accordance with Rayleigh distribution.

(iv) Utilizing other than pulse modulation with a constant and/or staggered pulse repetition frequency, in which the carrier frequency of the transmitter signal is not changed deliberately between groups of pulses, from pulse to pulse or within a single pulse, *except civil commercial airport radars using a carrier frequency that may change from pulse to pulse between two fixed frequencies separated in time and in frequency by constant magnitudes;*

(v) Utilizing a Doppler technique for any purpose, other than M.T.I. systems using a conventional double or triple pulse delay line cancellation technique, *except those utilized for surveillance and control radars for aerial navigation in civil airports;*

(vi) Including any digital signal processing techniques used for automatic target tracking, or having a facility for electronic tracking;

(vii) Including signal processing techinques other than those covered by paragraph (c)(2)(vi) above, which have been in normal civil use for a period of less than two years; or

(viii) In the case of ground radar, having been in commercial use for a period of less than one year.

(Specify by name and model number.)

(See also paragraphs (b) and (h) of the LIST in ECCN 1485A and paragraphs (b) and (c) of the LIST in ECCN 2120A.)

Advisory Notes.—1. Licenses are likely to be approved for export to satisfactory end-users in Country Groups PQSWY of commercial airborne equipment needed to equip civil aircraft, or as normal standard equipment incorporated in civil aircraft being exported for civil commercial use, and not containing characteristics in paragraph (a)(5) above.

2. Licenses are likely to be approved for export to satisfactory end-users in Country Groups PQSWY of navigation equipment covered by paragraph (b)(1)(i) above, provided that it is to be installed in civil aircraft or helicopters, and is normal standard equipment of a type installed in civil aircraft or helicopters in TV Country Groups.

3. Licenses are likely to be approved for export to satisfactory end-users in Country Groups PQSWY of standard commercial airborne equipment listed in paragraphs (b)(1) (ii) and (iii) above, needed to equip civil aircraft, or as normal standard equipment incorporated in civil aircraft being exported for civil commercial use, provided that such equipment is equivalent in all characteristics and performance to standard equipment of aircraft not subject to control, and which:

(a) For equipment covered by paragraph (b)(1)(ii) above, is in conformity with ICAO standards and assures no function exceeding those resulting from such standards, and is not designed to make use of hyperbolic grids at frequencies greater than 3 MHz. (Standard commercial airborne equipment designed to make use of hyperbolic grids at frequencies of less than 3 MHz may be exported if coordinate conversion equipment, which has been in normal civil use for less than one year, or which could not be shipped under the provisions of ECCN 1565A, is not included and is not separately supplied), and

(b) For equipment covered by paragraph (b)(1)(iii) above, are frequency modulated radio altimeters which have been in normal civil use for a period of more than one year.

4. Licenses are likely to be approved for export to satisfactory end-users in Country Groups PQSWY of ground equipment for use at civil airports or for civil use in association with airborne equipment which meets the criterion of ADVISORY NOTE 3 to paragraph (b)(1)(ii) above, and approved for export, provided that such equipment:

(a) Is in conformity with ICAO standards and assures no function exceeding those resulting from such standards;

(b) Is not designed to make use of hyperbolic grids at frequencies greater than 3 MHz.

5. Licenses are likely to be approved for export to satisfactory end-users in Country Groups PQSWY of equipment covered by paragraph (b)(3) above, provided:

(a) The equipment is to be installed at civil airports or for use on civil air routes;

(b) The equipment is designed to operate at frequencies between 30 MHz and 157 MHz, excluding single side band equipment;

(c) The equipment employs a loop system or a system employing a number of spaced vertical aerials uniformly disposed around the circumference of a circle, excluding electronically commutated types.

6. Licenses are likely to be approved for export to satisfactory end-users in Country Groups PQSWY of equipment covered by paragraph (c) above, when it is to be installed in civil aircraft, provided that this equipment:

(a) Has been in normal commercial service for at least one year;

(b) Is specially designed for use as a commercial weather radar;

(c) Is a normal and reasonable equipment for such civil aircraft; and

(d) Does not contain significant advanced technology of strategic value for other applications.

7. Licenses are likely to be approved for export to satisfactory end-users in Country Groups PQSWY of secondary radar equipment covered by paragraph (c) above, designed specifically for civil air traffic identification and control purposes.

8. Licenses are likely to be approved for export to satisfactory end-users in Country Groups PQSWY of the following equipment:

(a) Radar equipment covered only by paragraphs (c)(2)(i), (ii) and/or (iii) above, provided that both of the following conditions are met:

(1) It is specially designed for the surveillance and coordination of airfield surface traffic; and

(2) It is to be installed at airports operating scheduled commercial flights.

(b) Radar equipment covered only by paragraphs (c)(2)(ii) or (iii) above, or by both, provided that all the following conditions are met:

(1) It operates at a frequency of not more than 1.5 GHz and having a peak output power from the transmitter not greater than 5 MW; or operating at a frequency within the range of 1.5 to 3.5 GHz and having a peak output power not greater than 2.5 MW;

(2) It has an 80 percent or better probability of detection for a 10 sq.m. target at a free space range of 270 nautical miles;

(3) It has a pulse repetition frequency exceeding 300 pulses per second; and

(4) It is to be installed for air traffic control of scheduled international commercial flights;

(c) Radar equipment covered only by paragraphs (c)(2)(iv) and/or (v) above, provided it is to be installed for air traffic control purposes in international airports and has been in normal civil use for a period of not less than three years;

(d) Radar equipment covered by paragraph (c)(2)(vi) above, provided it is specially designed for marine, harbor or meteorological use, or has been in normal civil use for not less than three years;

(e) Radar equipment covered only by paragraph (c)(2)(vii) above, provided it is specially designed for marine (or harbor) use, or radar equipment covered only by paragraphs (c)(2)(vii) or (viii) above, or both, provided it is specially designed for meteorological observation.

1502A Communication, detection or tracking equipment of a kind using ultra-violet radiation, infrared radiation or ultrasonic waves.

Controls for ECCN 1502A

Unit: Report equipment in "number"; parts and accessories in "$ value."

Validated License required: Country groups PQSTVWYZ.

GLV $ Value Limit: $500 for all destinations, except that the $ value limit for police-model infrared viewers is $500 only to Australia, Japan, New Zealand, and members of NATO, and $0 to all other destinations.

Processing Code: EE.

Reason for Control: National security; crime control (foreign policy). Foreign policy controls apply only to police-model infrared viewers.

Special Foreign Policy Controls: An individual validated license is required for foreign policy purposes to export police-model infrared viewers controlled by this ECCN to any destination except Australia, Japan, New Zealand, and members of NATO.

Technical Data: Exports of technical data related to police-model infrared viewers require a validated license to all destinations except Australia, Japan, New Zealand, and members of NATO.

Special Licenses Available: None.

List of equipment controlled by ECCN 1502A

Communication, detection or tracking equipment of a kind using ultra-violet radiation, infrared radiation or ultrasonic waves; *except ultrasonic devices which operate in contact with a controlled material to be inspected, or which are used for industrial cleaning, sorting or materials handling, industrial and civilian intrusion alarm, traffic and industrial movement control and counting systems, medical applications, emulsification, homogenization, or simple educational or entertainment devices; underwater ultrasonic communications equipment designed for operation with amplitude modulation and having a communications range of 500 m or less (Sea State 1), a carrier frequency of 40 to 60 kHz and a carrier power supplied to the transducer of 1 W or less; industrial equipment employing cells not described in ECCN 1548A; industrial and civilian intrusion alarm, traffic and industrial movement control and counting systems; medical equipment; industrial equipment used for inspection, sorting or analysis of the properties of materials; simple educational or entertainment devices which employ photo cells; flame detectors for industrial furnaces; equipment for non-contact temperature measurement for laboratory or industrial purposes utilizing a single detector cell with no scanning of the detector; or instruments capable of measuring radiated power or energy having a response time constant exceeding 10 milliseconds; and specialized parts therefor. (Specify by name and model number.)*

(For communications equipment employing fiber optics, see ECCN 1519A.)

Note.—Airborne detection and tracking equipment using infrared radiation and other infrared imaging equipment have significant military as well as commercial uses. Before submitting applications, exporters should determine whether the item is under the licensing jurisdiction of the Office of Munitions Control (Department of State) or the Department of Commerce.

Advisory Note.—Licenses are likely to be approved for export to satisfactory end-users in Country Groups PQSWY of infrared geodetic equipment covered by this ECCN provided that the equipment uses a lighting source other than a laser and is manually operated, or that it uses a lighting source (other than a laser or a light-emitting diode) remote from the measuring equipment.

1505A Television cameras incorporating electron tubes defined in ECCN 1555A.

Controls for ECCN 1505A

Unit: Report in "number."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $500 for all destinations.

Processing Code: EE.

Reason for Control: National security.

Special Licenses Available: See Part 373.

1510A Acoustic and/or ultrasonic systems or equipment specially designed for detecting or locating underwater or subterranean objects or features, and specially designed components of such systems or equipment (including but not limited to hydrophones and transducers, towed hydrophone arrays, software therefor, and beamformers).

Controls for ECCN 1510A

Unit: Report in "$ value."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $500 for Country Groups T & V; $0 for all other destinations.

Processing Code: MG.

Reason for Control: National security.

Special South Africa and Namibia Controls: A validated license is required for export to the Republic of South Africa and Namibia if intended for delivery to or for use by or for military or police entities in these destinations or for use in servicing equipment owned, controlled, or used by or for these entities. See § 385.4(a).

Special Licenses Available: See Part 373.

List of Systems and Equipment Controlled by ECCN 1510A

Acoustic and/or ultrasonic systems or equipment specially designed for detecting or locating underwater or subterranean objects or features, and specially designed components of such systems or equipment (including but not limited to hydrophones and transducers, towed hydrophone arrays, software therefor, and beamformers) *except*:

(a) Marine systems or equipment, of the following description:

(1) Active (transmitting, or transmitting and receiving) systems or equipment, including but not limited to depth sounders and fish-finders and their associated beamformers, with the following characteristics:

(i) Depth sounders used solely for measuring the depth of water or the distance of submerged and/or buried objects or fish and/or whales vertically below the apparatus;

(ii) Horizontally-operated fish, whale or object detection and/or location systems, having all of the following characteristics:

(A) Transmitting frequency of 15 kHz or greater;

(B) Sound pressure level less than 250 dB (reference 1 micropascal at 1 meter) for equipment with operating frequency between 15 and 40 kHz, with no decibel limitation for equipment operating at frequencies of 30 kHz or higher;

(C) Transmission capability limited to ±10 percent of the design center frequency;

(D) Not designed to withstand pressure during normal operation at depths greater than 1,000 meters;

(E) Displaying a range of 5,000 meters or less;

(iii) Electronic noise sources for vertically directional use only, or mechanical (e.g., air gun or vapor-shock gun) or chemical (e.g., explosive) noise sources;

(2) Passive (receiving, whether or not related in normal application to separate active equipment) acoustic hydrophones and/or transducers having all of the following characteristics:

(i) Incorporating sensitive elements made of peizoelectric ceramics or crystal, and with a sensitivity no greater than −192 dB (reference 1 volt per micropascal);

(ii) Not designed for operation at depths greater than 100 meters;

(iii) Independently mounted or configured and not reasonably capable of assembly by the user into a towed hydrophone array;

(b) Terrestrial systems or equipment not reasonably capable of conversion by the user to underwater or marine applications as embargoed above.
(Passive hydrophone sensitivities in this ECCN are based on sensitivity being defined as 20 times the logarithm to the base 10 of the ratio of rms output voltage to a 1 volt reference, when the hydrophone sensor is placed in a plane wave acoustic field having an rms pressure of 1 micropascal. For example, a hydrophone of −160 db (reference 1 volt per micropascal) would yield an output voltage of 10^{-8} volts in such a field, while one of −180 dB sensitivity would yield only 10^{-9} volts output.)

Advisory Notes: 1. Licenses are likely to be approved for export for civil end-use by civil end-users in Coutry Group PQSWY of acoustic hydrophones and transducers which have all of the other characteristics of paragraph(a)(2) above, but which either:

(a) Have a sensitivity no greater than −204 dB (reference 1 volt per micropascal), and are designed for operation at greater than 100 meters depth but not greater than 1,000 meters depth; or

(b) Are not acceleration compensated, have a sensitivity no greater than −190 db (reference 1 volt per micropascal) and are not designed for operation at depths greater than 100 meters.

2. Licenses are likely to be approved for export for civil end-user by civil end-users in Country Groups PQSWY of towed acoustic hydrophone arrays having all of the following characteristics:

(a) Not specially designed for operation at greater than 100 meters depth or at tow speeds in excess of 8 knots;

(b) Not incorporating temperature or heading sensors;

(c) Having hydrophone groups uniformly spaced at not less than 25 meters amd not more than 60 meters;

(d) Having an assembled diameter of 40 mm or greater and using metallic strength members only;

(e) Not having multiplexed hydrophone group signals;

(f) Not having a configuration for multiple or overlapping acoustic aperture operation;

(g) Not having characteristics better than those specified in paragraphs(a)(2) (i) and (ii) above;

(h) Not having associated processing equipment which provides any of the following features:

(1) Electronically-steerable beamforming capabilities;

(2) Side-lobe suppression techniques such as shading coefficients;

(3) On-line real-time processing or off-line batch pre-processing capabilities exceeding the limits specified in ECCNs 1529A and 1565A.

5510D Doppler sonar navigation equipment; and parts and accessories therefor.

Controls for ECCN 5510D

Unit: Report in "$ value."

Validated License Required: Country Groups PQSWYZ and Afghanistan.

GLV $ Value Limit: $500 for Country Groups Q; General License *GLV* not applicable for other destinations; however, another general license may apply.

Processing Code: MG.

Reason for Control: National security.

Special Licenses Available: See Part 373.

Special South Africa and Namibia Controls: A validated license is required for export to the Republic of South Africa and Namibia if intended for delivery to or for use by or for military or police entities in these destinations or for use in servicing equipment owned, controlled, or used by or for these entities. See § 385.4(a).

1514A Pulse modulators capable of providing electric impulses of peak power exceeding 6 MW or of a duration of less than 0.1 microsecond, or with a duty cycle in excess of 0.002; and pulse transformer, pulse-forming equipment or delay lines being specialized parts of such modulators; and specially designed parts and accessories therefor. (Specify by name and type number.)

Controls for ECCN 1514A

Unit: Report modulators in "number"; parts and accessories in "$ value."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $1,000 for Country Groups T & V; $0 for all other destinations.

Processing Code: EE.

Reason for Control: National security.

Special Licenses Available: See Part 373.

1516A Receivers, and specialized parts and accessories therefor.

Controls for ECCN 1516A

Unit: Report receivers in "number"; parts and accessories in "$ value."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $500 for Australia, Japan, New Zealand, and members of NATO; $0 for all other destinations.

Processing Code: EE.

Reason for Control: National security; crime control (foreign policy).

Special Foreign Policy Controls: An individual validated export license is required for foreign policy purposes to export crime control and detection instruments and equipment and related technical data (except that authorized under General License *GTDA*) to any destination except Australia, Japan, New Zealand, and members of NATO.

Special Licenses Available: None.

List of Receivers and Specialized Parts and Accessories Controlled by ECCN 1516A

(a) Panoramic radio receivers (which search or scan automatically a part of the electromagnetic spectrum and indicate or identify the received signals); *except ancillary equipment for commercial receivers with which the frequency spectrum searched does not exceed either ±20 percent of the intermediate frequency of the receiver or ±2 MHz;*

(b) Digitally-controlled radio receivers, whether or not computer controlled, which search or scan automatically a part of the electromagnetic spectrum, in which the switching operation takes less than 10 milliseconds, and which indicate or identify the received signals, *except non-ruggedized digitally-controlled pre-set type radio receivers designed for use in civil communications which have 200 selective channels or fewer* (For digitally-controlled radio receivers using frequency synthesizers, also see ECCN 1531A; or

(c) Receivers for spread spectrum and frequency agile systems having a total transmitted bandwidth which is:

(1) 100 or more times greater than the bandwidth of any one information channel; and

(2) In excess of 50 kHz.

("Spread spectrum" is defined as the technique whereby energy in a relatively narrow-band communications channel is spread over a much wider energy spectrum under the control of a random or pseudo-random bit stream. On receipt, the signal is correlated with the same bit stream to achieve the reverse process of reducing the bandwidth to its original form. By allocating different bit streams to different subscribers transmitting simultaneously, significantly greater use can be made of available bandwidth.) ("Frequency agility" (or frequency hopping) is another form of spread spectrum in which the transmission frequency of a single communications channel is made to change by discrete steps under the control of a similar bit stream.) (Also see ECCN 1517A(c).)

Advisory Note.–Applications for validated export licenses generally will be considered favorably on a case-by-case basis unless there is evidence that the government of the importing country may have violated internationally recognized human rights and that the judicious use of export controls would be helpful in deterring the development of a consistent pattern of such violations or in distancing the United States from such violations.

4516B Communications countermeasures equipment (electronic, mechanical, optical, or other) capable of detecting, monitoring, locating, or jamming surreptitious intercepting devices, including but not limited to special purpose broadband monitoring receivers with detection capabilities; optical and video detectors; microphone detectors; non-linear junction detectors; telephone analyzers; and special purpose spectrum analyzers; and parts and accessories, n.e.s. (Specify by name.)

Controls for ECCN 4516B

Units: Report modulators in "number"; parts and accessories In "$ value."

Validated License Required: Country Groups PQSTVWYZ and Canada.

GLV $ Value Limit: $0 for all destinations.

Processing Code: EE.

Reason for Control: National security.

Special Licenses Available: None.

1517A Radio transmitters and components.

Controls for ECCN 1517A

Units: Report equipment and transmitters in "number"; parts and accessories in "$ value."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $1,000 for Country Groups T & V; $0 for all other destinations.

Processing Code: EE.

Reason for Control: National security.

Special Licenses Available: See Part 373.

List of Radio Transmitters and Components Controlled by ECCN 1517A

(a) Transmitters or transmitter-amplifiers designed to operate at output frequencies greater than 960 MHz;

(b) Transmitters or transmitter-amplifiers designed to provide any of the following features:

(1) Any system of pulse modulation, *except amplitude, frequency or phase modulated television or telegraphic transmitters:* or

(2) Rated for operation over a range of ambient temperatures extending from below −40° C to above +60° C;

(c) Transmitters for spread spectrum and frequency agile systems having a total transmitted bandwidth which is:

(1) 100 or more times greater than the bandwidth of any one information channel; and

(2) In excess of 50 kHz; and

(d) Components, accessories, and sub-assemblies specially designed for the above equipment (for quartz crystals see ECCN 1587A; *except the following transmitters or transmitter amplifiers, or systems containing such equipment, accessories and sub-assemblies therefor:*

(1) Specially designed for medical applications and operating at I.S.M. frequencies;

(2) Having an output power of not more than 10 Watts, which are especially designed for:

(i) Industrial or civil intrusion detection and alarm,

(ii) Industrial and traffic detection, counting, speed measurement, identification, and movement control, or

(iii) Carrying the information from the equipment above, or the information of environmental, air or water pollution detection and/or measurement systems;

(3) Transmitters using wideband amplifiers designed for non-frequency agile civil applications, such as television and mobile service.

(Specify by name and model number.)

Note.—For radio transmitters incorporating transmitter drive units, exciters, and master oscillators using frequency synthesis, see ECCN 1531A. For radio relay communications equipment, see ECCN 1520A.

4517B Communications intercepting devices; and parts and accessories therefor. (Specify by name.) (Also see § 376.13.)

Controls for ECCN 4517B

Unit: Report in "$ value."

Validated License Required: Country Groups PQSTVWYZ and Canada.

GLV $ Value Limit: $0 for all destinations.

Processing Code: EE.

Reason for Control: Controls on this equipment are maintained in accordance with the Omnibus Crime Control and Safe Streets Act of 1968 (Pub. L. 90–351).

Special Licenses Available: None.

1518A Telemetering and telecontrol equipment suitable for use with aircraft (piloted or pilotless) or space vehicles, and test equipment specially designed for such equipment, except equipment specially designed to be used for remote control of toys such as model planes and boats and having electric field strength of not more than 200 microvolts per meter at a distance of 500 meters; and specially designed parts and accessories therefor. (Specify by name and model number.)

Controls for ECCN 1518A

Unit: Report equipment and transmitters in "number"; parts and accessories in "$ value."

Validated License required: Country Groups PQSTVWYZ.

GLV $ Value limit: $1,000 for Country Groups T & V; $0 for all other destinations.

Processing Code: EE.

Reason for Control: National security.

Special Licenses Available: See Part 373.

1519A Single- and multi-channel communications transmission equipment, including terminal, intermediate amplifier or repeater equipment and multiplex busses and multiplex equipment used for communications within or between communications or other equipment and systems by line, cable, optical fiber or radio means, and associated modems and multiplex equipment, except telemetering, telecommand and telesignalling equipment designed for industrial purposes, together

with data transmission equipment not intended for the transmission of written or printed text and specialized parts, accessories and test equipment therefor; facsimile equipment other than that employing cipher, cryptographic and/or coding devices and equipment that are designed to ensure the secrecy of communications and thus prevent clear reception by anyone other than the intended receiver (see Supp. No. 2 to Part 370); equipment employing exclusively the direct current transmission technique, and electronic measuring equipment, suitable for use with PCM transmission equipment defined in CCITT recommendation series G 700 (ITU Geneva).

Note.—By "telemetering, telecommand and telesignalling equipment" is meant: sensing heads for the conversion of information into electrical information, the systems used for its long-distance transmission, the processes used to translate electrical information into coded data (telemetering), into control signals (telecommand), and into display signals (telesignalling).

Controls for ECCN 1519A

Unit: Report equipment and transmitters in "number"; parts and accessories in "$ value."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $1,000 for Country Groups T & V; $0 for all other destinations.

Processing Code: EE.

Reason for Control: National Security.

Special Licenses Available: See Part 373.

List of Equipment Controlled by ECCN 1519A

(a) Employing analog transmission techniques with analog input and output, designed to deliver, carry or receive baseband frequencies higher than 19 MHz into, or in, a communications system, but only higher than 300 kHz for equipment suitable for use with submarine cable (analog transmission techniques include, inter alia, frequency division multiplex (FDM));

(b) Employing digital transmission techniques designed for operation at a data signalling rate exceeding 2.1 Megabits per second, with analog input and output, designed for use in communications circuits (digital transmission techniques include, inter alia, pulse code modulation (PCM));

(c) Data communications equipment employing digital transmission with digital input and output, including telegraphic and data transmission, having any of the following characteristics:

(1) Designed for operation at a data signalling rate in bits per second, excluding servicing and administrative channels, numerically exceeding either:

(i) 4,800; or

(ii) 160 percent of the channel (or sub-channel) bandwidth in Hertz;

(2) Employing an automatic error detection and correction system having both of the following characteristics:

(i) Retransmission not required for correction; and

(ii) A data signalling rate exceeding 300 bits per second; and

(d) Components, accessories, and sub-assemblies specially designed for the above equipment, and test equipment specially designed for the equipment covered by paragraph (b) above, except connections for use with optical fibers or cable with a repeatable coupling loss of 0.5 dB or more.

(Specify by name and model number.)

Note.—("Data signalling rate" is as defined in ITU Recommendation 53–36, taking into account that for non-binary modulation, "bauds" and "bits per second" are not equal. Bits for coding, checking and synchronization functions are to be included; and data communications equipment designed to operate in one voice channel, "bandwidth" will normally be as defined in CCITT Recommendation G.151, namely 3,100 Hz. In the case of CCITT of CCIR voice frequency telegraph systems, "bandwidth" may be considered as the number of channels times the channel spacing.)

Note.—See § 379.4(f)(1)(i)(g) for written assurance requirement for exports of technical data related to equipment described in paragraph (b) or (d) of the LIST of this ECCN, but having a data signalling rate of 2.1 megabits per second or less.

Advisory Notes.— 1. Licenses are likely to be approved for export to satisfactory end-users in Country Groups PQSWY of equipment defined in paragraph (a) above, and components, accessories and sub-assemblies thereof, of the following description:

(a) Equipment specially designed for the transmission of television signals by cable between camera and studio or between studio and television transmitter not exceeding 50 miles (80 km) for a link with respect to any one installation. (For radio relay links see ECCN 1520A.)

(b) Equipment to be used for closed circuit television or television distribution (community aerial systems and cable television systems) with an upper frequency limit of 960 MHz.

(c) Equipment designed to deliver, carry or receive baseband frequencies up to and including 62 MHz.

2. Licenses are likely to be approved for the export to satisfactory end-users in Country Groups PQSWY and Y of equipment defined in paragraph (b) above, and components, accessories and sub-assemblies and cable therefor, provided that it is for other than submarine use, is to be permanently installed in a circuit operated by the civilian authorities of the importing country, and is to be used for general commercial traffic, of the following description:

(a) A total digital bit rate at the highest level multiplex point of 8.5 million bits per second or less; and either

(b) A total number of voice channels per each physical bearer (wire or radio) of 120 or less; or

(c) A monochrome or color television channel with a maximum nominal bandwidth of 6 MHz, and associated sound channels.

3. Licenses are likely to be approved for the export to satisfactory end-users in Country Groups, PQSWY of the data modems defined in paragraph (c)(1) above, conforming to CCITT recommendations and/or specially designed for civil end-use, and operating at speeds up to 9,600 bits per second or 320% of the channel (or sub-channel) bandwidth in Hertz, provided they are to be permanently installed in a circuit operated by the civilian authorities of the importing countries for general commercial traffic.

4. Licenses are likely to be approved for export to satisfactory end-users in Country Group P (People's Republic of China) of data communications equipment, including fiber optics systems, using digital input and output and which are designed for a data signalling rate not exceeding 9,600 bits per second, regardless of the end-use.

1520A Radio relay communications equipment designed for use at frequencies exceeding 960 MHz, and components, accessories and sub-assemblies therefor.

Controls for ECCN 1520A

Unit: Report equipment in "number"; parts and accessories in "$ value."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $1,000 for Country Groups T & V; $ 0 for all other destinations.

Processing Code: EE.

Reason for Control: National security.

Special Licenses Available: See Part 373.

Advisory Notes.—1. Licenses are likely to be approved for export to satisfactory end-users in Country Groups PQSWY of equipment defined in this ECCN, and components, accessories and sub-assemblies therefor, specially designed for the transmission of television signals between camera and studio or between studio and television transmitter, and not exceeding a line of sight distance with respect to any one installation.

2. Licenses are likely to be approved for export to satisfactory end-users in Country Groups PQSWY of equipment defined in this ECCN, and components, accessories and sub-assemblies therefor, of the following description:

(a) Ground communication radio equipment for use with temporary fixed services operated by the civilian authorities of the importing country and designed to be used at fixed frequencies not exceeding 13.5

GHz with a power output of not more than 5 watts;

(b) Equipment to be permanently installed in a circuit operated by the civilian authorities of the importing country for civil television transmission or for general commercial traffic, provided that:

(1) Associated multiplex equipment is considered separately under the provisions of ECCN 1519A; and

(2) No equipment with a base bandwidth exceeding the limits set forth in Advisory Note 3 to ECCN 1519A is included.

3. Licenses are likely to be approved for export to satisfactory end-users in Country Groups PQSWY of equipment defined in this ECCN, for communications satellite earth station provided that it is to be installed for operation in the framework of an INTELSAT, MARISAT or INMARSAT satellite communications system.

4. Licenses are likely to be approved for export to satisfactory end-users in Country Groups PQSWY of equipment with a maximum capacity of 300 voice channels of 4 kHz each, components accessories, sub-assemblies and specialized test equipment for industrial use, *e.g.*, remote supervision, control and metering of oil and gas pipelines, public utility services (*e.g.*, electricity networks) including telephone channels for the operation of such networks and the engineering service circuits required for the maintenance of telecommunications links.

5. Licenses are likely to be approved for the export to satisfactory end-users in Country Group PQSWY of tropospheric scatter communication equipment, and components, accessories and sub-assemblies therefor, defined in this ECCN, provided that it will be permanently installed at specific sites for civil communication purposes and has all of the following characteristics:

(a) Fixed frequency of 2.7 GHz or less;

(b) Frequency modulation;

(c) Power amplifier output of 10 kW or less.

1521A Amplifiers and related equipment.

Controls for ECCN 1521A

Unit: Report lasers and systems in "number"; parts and accessories in "$ value."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $500 for Country Groups T & V; $0 for all other destinations.

Processing Code: EE.

Reason for Control: National security.

Special Licenses Available: See Part 373.

List of Amplifiers and Related Equipment Controlled By ECCN 1521A

(a) Tuned amplifiers having a bandwidth which exceeds 50 MHz or 10 percent of the mean frequency, whichever is less, *except those specially designed for use with civil television receivers (aerial amplifiers), for use in community television distribution systems or for use in radio communications equipment for frequencies not exceeding 32 MHz;*

(b) Untuned amplifiers having a bandwidth which exceeds 10 MHz, *except*

(i) Those having a bandwidth up to 50 MHz provided the power output does not exceed 20 watts;

(ii) Those having a bandwidth between 50 MHz and 100 MHz provided the power output does not exceed 1 watt;

(iii) Those operating in the range of 380 to 512 MHz and designed for civil communications equipment provided the power output does not exceed 20 watts; and

(iv) Those specially designed for use with civil television receivers (aerial amplifiers), for use in community television distribution systems or for use in radio communications equipment for frequencies not exceeding 32 MHz; and

(c) Specially designed parts and accessories therefor.

(Specify by name and model number.)

Note.—(The bandwidth is defined as the band of frequencies over which the power amplification does not drop to less than one-half of its maximum value. The mean frequency is defined as the arithmetic mean between the frequencies at which the power amplification is one-half of its maximum value.) For amplifiers designed to operate at frequencies above 1 GHz, see ECCN 1537A. For parametric amplifiers, etc., see ECCN 1537A; for amplifiers specially designed for and intended to work with oscilloscopes, see ECCN 1584A.

522A Lasers and laser systems including equipment containing them.

Controls for ECCN 1522A

Unit: Report lasers and systems in "number"; parts and accessories in "$ value."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $500 for Country Groups T & V; $0 for all other destinations.

Processing Code: EE.

Reason for Control: National security; nuclear non-proliferation.

Special Licenses Available: Special licenses may be available for equipment of the following description: machine tools containing or designed to contain lasers described in this ECCN 1522A; single aperture lasers with an output greater than one thousand joules per nanoseconds; and tunable diode lasers.

List of Lasers and Laser Systems Controlled by ECCN 1522A

(a) Lasers and specially designed components and parts therefor, including amplification stages, active and passive components in semi-fabricated forms as well as in fabricated forms, *except the following when not contained in equipment:*

1. Argon, krypton and non-tunable dye lasers with both of the following characteristics:

(1) An output wavelength shorter than 0.8 micrometer; and

(2) A pulsed output not exceeding 0.5 Joule per pulse and an average or continuous wave maximum rated single- or multi-mode output power not exceeding 20 watts;

2. Helium-cadmium, nitrogen and multigas lasers not otherwise specified in this item with both of the following characteristics:

(1) An output wavelength shorter than 0.8 micrometer; and

(2) A pulse output not exceeding 0.5 Joule per pulse and an average or continuous wave maximum rated single- or multi-mode output power not exceeding 120 watts;

3. Helium-neon lasers with an output wavelength shorter than 0.8 micrometer;

4. Ruby-lasers with both of the following characteristics:

(1) An output wavelength shorter than 0.8 micrometer; and

(2) An energy output not exceeding 20 Joules per pulse;

5. CO_2, CO or CO/CO_2 lasers having either or both of the following characteristics:

(1) An output wavelength in the range of 9 to 11 micrometers, and a pulsed output not exceeding 2.0 Joules per pulse and a maximum rated average single- or multi-mode output power not exceeding 1,200 watts or a continuous wave maximum rated single- or multi-mode output power not exceeding 2,500 watts;

(2) An output wavelength in the range of 5 to 7 micrometers and having a continuous wave maximum rated single- or multi-mode ouptut power not exceeding 50 watts;

6. Nd:YAG lasers having an output wavelength of 1.06 micrometers with either of the following characteristics:

(1) a pulsed output not exceeding 0.5 Joule per pulse and maximum rated average single-or multi-mode output power not exceeding 10 watts or a continuous wave maximum rated single- or multi-mode output power not exceeding 50 watts; or

(2) A pulsed output not exceeding 10 Joules per pulse with a pulse width not less than 50 microseconds and

maximum rated average single- or multi-mode output power not exceeding 50 watts;

7. Nd: Glass lasers with both of the following characteristics:

(1) An output wavelength of 1.06 micrometers; and

(2) a pulsed output not exceeding 0.5 Joule per pulse;

8. Tunable CW dye lasers, with both of the following characteristics:

(1) An output wavelength shorter than 0.8 micrometer; and

(2) An output not exceeding an average or continuous wave maximum rated singel- or multi-mode output power of 1 watt;

9. Tunable pulsed laser (for argon and krypton lasers, see paragraph (a) (1) above), including dye and N^2, with all of the following characteristics:

(i) An output wavelength shorter than 0.8 micrometer;

(ii) A pulse duration not exceeding 100 nanoseconds; and

(iii) A peak power output not exceeding 1 MW;

10. Single-element semi-conductor lasers with a wavelength shorter than 1 micrometer designed for, and used in, equipment as defined under paragraphs (b) (13) and (14) below;

(b) Equipment containing lasers and laser systems, *except equipment listed below containing lasers listed in (a) above as exceptions:*

(1) Specially designed for industrial and civilian instrusion detection and alarm systems;

(2) Specially designed for medical applications;

(3) Equipment for educational and laboratory purposes;

(4) Specially designed for traffic and industrial movement control and counting systems;

(5) Specially designed for detection of environmental pollution;

(6) Optical spectrometers and densitometers;

(7) Equipment containing continuous wave helium-neon gas lasers (but see paragraphs (c) and (d) below);

(8) Textile-cutting and textile bonding equipment;

(9) Paper cutting equipment;

(10) Equipment containing lasers for drilling diamond dies for the wire drawing industry;

(11) Electronic scanning equipment with auxiliary electronic screening unit specially designed for printing processes, including such equipment when used for the production of color separations;

(12) Laser-radar (lidar) equipment specially designed for surveying and meteorological observation;

(13) Consumer disc-type video and audio recorders and reproducers;

(14) Price scanners (point of sales);

(15) Systems designed for surveying purposes, provided there is no capability of measuring range;

(c) Laser measuring systems that maintain over the full scale a resolution equal to or less (finer) than 0.0001 mm and an accuracy equal to or less (finer) than 1.0 ppm for a 48-hour period over a temperature range of ±110°C around a standard temperature and at a standard pressure (Standard temperature and pressure as indicated in IEC Publication No. 160.);

(d) Laser feedback systems and laser interferometers used in equipment covered by ECCN 1093A.

Advisory Note.— Licenses are likely to be approved for export to satisfactory end-users in Country Groups PQSWY of equipment listed in paragraph (b) containing lasers described in (a)(6)(i) and (a)(7) provided the lasers have a maximum pulsed output not exceeding 2 Joules per pulse. The shipment of spare laser rods for equipment exported under this Advisory Note will be restricted to rods having no greater output power and/or energy capability than those originally exported with the equipment.

1526A Cable.

Controls for ECCN 1526A

Unit: Report cable in "feet."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $500 for Country Groups T & V; $0 for all other destinations.

Processing Code: EE.

Reason for Control: National security.

Special Licenses Available: See Part 373.

List of Cable Controlled by ECCN 1526A

(a) Non-communications coaxial cable with the outer conductor electro-plated directly on spirally-grooved cable dielectric;

(b) Communications cable, of the following description:

(1) Submarine cable, having the following characteristics:

(i) Reversed-twist, double-armored cable used for towing or suspending and communicating with submerged devices;

(ii) Unarmored or single-armored ocean cable having an attenuation of 1.8 dB per nautical mile (0.97 dB/km) or less, measured at a frequency of 600 kHz;

(2) Coaxial cable using a dielectric aired by discs, beads, spiral, screw, or any other means, with an inner diameter of the outer conductor of the cores greater than 14 mm (0.551 in.);

(3) Graded index or single-mode step index optical fiber communications cable and optical fibers therefor, having either of the following characteristics:

(i) An attenuation at any operating wavelength of 5 dB/km or less; or

(ii) A tensile strength greater than $7\times10^8 N/m^2$;

(4) Secure communications cable, being either coaxial or multi-conductor communications cable protected by mechanical and/or electrical means from physical damage and/or intrusion in such a manner that communications security is maintained between terminals without the necessity for encryption, *except cable that is armored by only a tough outer sheath or that is electromagnetically screened only.*

Advisory Notes.—1. Licenses are likely to be approved for export to satisfactory end-users in Country Groups PQSWY of cable defined in paragraph (b)(1)(i) when used for civil applications in oceanographic research or in natural resources exploration.

2. Licenses are likely to be approved for export to satisfactory end-users in Country Groups PQSWY of cable defined in paragraphs (b)(1)(ii), (b)(2) and (b)(3), provided that:

(a) The cable is for a specific civil end-use;

(b) The quantities of cable required are normal for the purpose; and

(c) (for cable controlled by paragraph (b)(3) only) The cable is not specially designed for underwater use.

1527A Cryptographic equipment and ancillary equipment, their specialized components, and software controlling or performing the function of such cryptographic equipment; video systems; and digital computers and differential analyzers.

Controls for ECCN 1527A

Unit: Report in "$ value."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $0 for all destinations.

Processing Code: EE.

Reason for Control: National security.

Special Licenses Available: See Part 373.

List of Equipment Controlled by ECCN 1527A

Cryptographic equipment and ancillary equipment (such as teleprinters, perforators, vocoders, visual display units) designed to ensure secrecy of communications (such as telegraphy, telephony, facsimile, video, data) or of

stored information, their specialized components; and software controlling or performing the function of such cryptographic equipment. Also video systems which, for secrecy purposes, use digital techniques (conversion of an analog, *i.e.*, video or facsimile, signal into a digital signal). (This ECCN also covers digital computers and differential analyzers (incremental computers) designed or modified for, or combined with, any cipher machines, cryptographic equipment, devices or techniques including software, microprogram control (firmware) and/or specialized logic control (hardware), associated equipment therefor, and equipment or systems incorporating such computers or analyzers), *except simple cryptographic devices or equipment only ensuring the privacy of communications, of the following description:*

(a) Equipment for voice transmission making use of fixed frequency inversions and/or fixed band scrambling techniques in which the transposition changes occur not more frequently than once every 10 seconds;

(b) Standard civil facsimile and video equipment designed to ensure the privacy of communications by an analog transmission using nonstandard practices for intended receivers only (video system equipment effecting the transposition of analog data);

(c) Video systems for pay television and similar restricted audience television, including industrial and commercial television equipment using other than standard commercial sweep systems.

Note.—*Exporters requesting a validated license from the Department of Commerce must provide a statement from the Department of State, Office of Munitions Control, verifying that the equipment intended for export is under the licensing jurisdiction of the Department of Commerce.*

1529A Electronic measuring, calibrating counting, testing, and/or time interval measuring equipment, whether or not incorporating frequency standards.

Control for ECCN 1529A

Unit: Report in "number," parts and accessories in "$ value."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $1,000 for Country Groups T & V: $0 for all other destinations.

Processing Code: EE.

Reason for Control: National security; paragraphs (g) and (h) of the List below are also controlled for nuclear non-proliferation reasons.

Special Licenses Available: See Part 373.

List of Equipment Controlled by ECCN 1529A

(a) Equipment of the following description:

(1) Designed as reference frequency standards for laboratory use, with a stability over 24 hours or more of 1 part in 10^{10} or better;

(2) Designed for fixed ground use and containing frequency standard(s), with a stability over 24 hours of 1 part in 10^{9} or better; or

(3) Designed for portable or mobile use and containing frequency standard(s), with a stability over 24 hours of 1 part in 10^{8} or better;

(b) Instruments of the following description:

(1) Designed for use at frequencies exceeding 18 GHz;

(2) Designed and rated for use at frequencies exceeding 12.5 GHz of the following description:

(i) Comb frequency generators;

(ii) Transfer oscillators; or

(iii) Frequency converters;

(3) Designed for use at frequencies exceeding 1 GHz, of the following description:

(i) Network analyzers (for automatic measurement of equivalent circuit parameters over a range of frequencies);

(ii) Specially calibrated microwave instrumentation receivers capable of measuring amplitude and phase simultaneously;

(iii) Instruments for the direct measurement of impedance; or

(iv) Instruments in which the functions can be controlled by the injection of digitally coded electrical signals from an external source;

(4) Spectrum analyzers employing time compression of the input signal or FFT (Fast Fourier Transform) techniques;

(5) Incorporating computing facilities with user accessible reprogramming capability and an alterable memory of more than 8,192 bits;

("User accessible reprogramming capability" as used in this ECCN means:

(i) The instrument contains a computing facility *e.g.*, a microprocessor; and

(ii) The user has the ability to alter the computing program through external controls, *e.g.*, switches, keyboards, digital buses, etc.)

(6) Digital instruments incorporating computing facilities, of the following description:

(i) Digital test instruments with user accessible reprogramming capability (including digital circuit testers, logic (state and/or timing) analyzers, bus analyzers, serial data analyzers, digital work generators) specially designed for examining and/or comparing the absolute or relative information content (*e.g.*, logic states, mnemonics, etc.), or the timing of one or more digital bit streams, *except:*

(a) Logic probes, logic pulsers, digital current tracers (or current "sniffers"), signature analyzers and other digital circuit testers capable of observing single events and/or providing stimulus at single test points;

(b) Logic clips and logic comparators;

(c) Logic (state and/or timing) analyzers with not more than eight (not including qualifier channel) data channels and a maximum clock rate capability of 2 MHz or less;

(d) Digital word generators capable of operating at a maximum clock rate of 2 MHz or less with word lengths of 8 bits or less;

(ii) Microprocessor and microcomputer development instruments and systems, specially designed for use in debugging, diagnosing, emulating, simulating, designing, evaluating, programming or reprogramming firmware/software of signal processor-, computer- or memory-based devices, systems or microsystems (*e.g.*, emulators, simulators, memory programmers, etc.) *except those which are used only with microprocessor and microcomputers not covered by ECCN 1564A;*

(c) Digital counters of the following description:

(1) Capable of counting successive input signals with less than 5 nanoseconds time difference without prescaling (digital division) of the input signal (for counter/timers having a time interval measurement mode, see also paragraph (d) below);

(2) Employing prescaling of the input signal, in which the prescaler is capable of resolving successive input signals with less than 1 nanosecond time difference; or

(3) Capable of measuring burst frequencies exceeding 100 MHz for a burst duration of less than 5 milliseconds;

(d) Time interval measuring equipment employing digital techniques, capable of measuring time intervals of less than 5 nanoseconds on a single shot basis;

(e) Testing equipment rated to maintain specified operating data when operating over a range of ambient temperatures from below −25° C to above +55° C;

(f) Digital voltage measuring apparatus, with or without electrical

outputs, irrespective of the physical units in which calibrated, with a reading speed (from zero to the measured value but not including changes in range or polarity) faster than 25 accesses per second and having *any* of the following characteristics:

(1) A digital resolution at all points on the scale greater than one part in 200,000;

(2) An accuracy better than 1 part in 50,000 (0.002 percent) of reading over an ambient temperature range of ±5° C or more; or a stability better than 10^{-6} of reading over a period of 24 hours or more;

(3) Capable of more than 500 independent measurements per second; *except visual quantization apparatus capable of providing an average value, displayed or not, of the results of the measurement; and Multi-channel analyzers of all types used in nuclear experimentation;*

(g) Transient recorders, utilizing analog-to-digital conversion techniques, capable of storing transients by sequentially sampling single input signals at successive intervals of less than 50 nanoseconds; and

(h) Specially designed parts and accessories therefor.

(Specify by name and model number.)

Advisory Notes.—1. Licenses are likely to be approved for export to satisfactory end-users in Country Groups PQSWY of items defined only in paragraph (a)(2), provided that:

(a) The stability over 24 hours is not better than 5 parts in 10^{10}; and

(b) The equipment is a reasonable requirement for the stated legitimate civil end-use.

2. Licenses are likely to be approved for export to satisfactory end-users in Country Groups PQSWY of items defined in paragraph (b)(4), having either of the following characteristics:

(a) Capable of computing 512 complex spectral lines in 200 milliseconds or more;

(b) Capable of computing 512 real spectral lines in 100 milliseconds or more.

3. Licenses are likely to be approved for export to satisfactory end-users in Country Groups PQSWY of instruments defined in paragraph (b)(5), provided that:

(a) The instruments have been designed for non-strategic use and by nature of design, software, microprogram control (firmware), specialized logic control (hardware) or performance are substantially restricted to the particular application for which they have been designed.

(b) The instruments are not covered by any other part of this ECCN and do not exceed the limits of Advisory Note 4 to ECCN 1565A.

4. Licenses are likely to be approved for export to National Bureau of Standards type end-users in Country Group P (People's Republic of China) of limited quantities of Cesium atomic standards covered by paragraph (a).

5. Licenses are likely to be approved for exports to satisfactory end-users in Country Group P (People's Republic of China) of network analyzers designed for use at frequencies up to 18 GHz covered by paragraph (b)(3)(i).

6. Licenses are likely to be approved for export to satisfactory end-users in Country Group P (People's Republic of China) of microprocessor software development systems and microprocessor software training system covered by paragraph (b)(6) for microprocessors which are also approvable under the Advisory Notes to ECCN 1564A.

7. Licenses are likely to be approved for export to satisfactory end-users in Country Group P (People's Republic of China) of in-circuit emulators covered by paragraph (b)(6) and required for use with equipment released by Advisory Note 6 above. PROM and EPROM programmers are specifically excluded from approval with the above systems. (Also see ECCN 1564A.)

8. Licenses are likely to be approved for export to satisfactory end-users in Country Group P (People's Republic of China) of non-programmable microwave counters covered by paragraph (c) designed for use at frequencies up to 18 GHz provided that they are not capable of pulsed RF Measurements.

4529B Other instruments, n.e.s., for measuring, indicating, recording, testing, or controlling electronic, electric, or nonelectric quantities that incorporate digital computers defined in ECCN 1565A, paragraphs (d) and (e); and parts and accessories, n.e.s. (Specify by name and model number.)

Controls for ECCN 4529B

Unit: Report in "$ value."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $1,000 for Country Groups T & V: $0 for all other destinations.

Processing Code: MG.

Reason for Control: National security.

Special Licenses Available: See Part 373.

4530B UF_6 Mass spectrometers.

Controls for ECCN 4530B

Unit: Report in "$ value."

Validated License Required: Country Groups PQSTVWYZ and Canada.

GLV $ Value Limits: $1,000 for Country Groups T & V: $0 for all other destinations.

Processing Code: MG.

Reason for Control: Nuclear non-proliferation.

Special Licenses Available: None.

List of spectrometers controlled by ECCN 4530B

(a) Mass spectrometers, magnetic or quadrupole:

(1) Instruments having all of the following characteristics:

(i) Unit resolution greater than mass 320; and

(iii) Electron-bombardment ionization source; and

(2) Having any of the following characteristics:

(i) Molecular beam ion sources;

(ii) Ion source chambers constructed of or lined with nichrome or monel, or nickel plated;

(iii) A collector system suitable for simultaneous collection of two or more isotopic species; or

(b) Sources for mass spectrometers:

(1) Molecular beam source; or

(2) Ion source chambers constructed of or lined with nichrome or monel, or nickel plated; or

(3) Sources for mass spectrometers designed especially for use with UF_6.

Technical Data: Exports of related technical data require a validated license to all destinations, including Canada.

1531A Frequency synthesizers.

Controls for ECCN 1531A

Unit: Report synthesizers and equipment in "number"; parts and accessories in "$ value."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $1,000 for Country Groups T & V; $0 for all other destinations.

Processing Code: EE.

Reason for Control: National security.

Special Licenses Available: See Part 373.

Illustrative List of Frequency Synthesizers controlled by ECCN 1531A

Frequency synthesizers (and equipment containing such frequency synthesizers) having the following characteristics (Frequency synthesizer means any kind of frequency source or signal generator, regardless of the actual technique used, providing a multiplicity of simultaneous or alternative output frequencies, from one or more outputs, controlled by, derived from or disciplined by a lesser number of standard (or master) frequencies):

(a) Containing frequency standards described in paragraph (a) of ECCN 1529A or temperature compensated

crystal oscillators covered by paragraph (c) of ECCN 1587A.

(b) Instrument frequency synthesizers and synthesized signal generators designed for ground laboratory use, producing output frequencies whose accuracy and short and long term stability are controlled by, derived from or disciplined by the input frequency or internal master standard frequency, and having any of the following characteristics:

(1) A maximum output frequency in excess of 550 MHz;

(2) Having a phase noise to signal ratio better than −60 dB or an AM noise to signal ratio better than −70 dB referred to the 30 kHz band centered on the carrier, excluding the 1 Hz band centered on the carrier;

(3) Electrically programmable (in that the output frequency can be controlled or selected by the injection of digitally coded electrical signals from an external control source) with a switching speed from one selected output frequency to another selected output frequency less than 10 milliseconds;

(4) Having a level of spurious components in the output better than −80 dB non-harmonic and/or −60 dB harmonic component measured relative to the selected output frequency;

(5) Having more than 3 different selected synthesized output frequencies available simultaneously from one or more outputs;

(6) With facilities for pulse modulation of the output frequency; and

(7) Parts, components, accessories, and sub-assemblies, specially designed for the above equipment.

(c) Airborne communications equipment using frequency synthesizers, having the following characteristics (also see paragraph (a) of ECCN 1501A):

(1) Designed to receive or transmit frequencies greater than 156 MHz;

(2) Incorporating facilities for the rapid selection of more than 200 channels per equipment, *except those equipments operating in the frequency range of 108 to 136 MHz incorporating facilities for the rapid selection of 720 channels or fewer at not less than 25 kHz channel spacing which have been in normal civil use for at least one year;*

(3) With a switching speed from one selected output frequency to another of less than 10 milliseconds;

(4) Frequency synthesizers, designed for the above equipment, whether supplied separately or with the said equipment, exceeding the parameters specified in paragraph (b) above; and

(5) Parts, components, accessories, and sub-assemblies, specially designed for the above equipment.

(d) Digitally-controlled radio receivers, whether or not computer controlled, which search or scan automatically a part of the electromagnetic spectrum, using frequency synthesizer, having the following characteristics (also see ECCN 1516A):

(1) Digitally-controlled receivers in which the switching operation takes less than 10 milliseconds, *except non-ruggedized digitally-controlled preset type radio receivers designed for use in civil communications, which have 200 selective channels or fewer;*

(2) Frequency synthesizers designed for the above equipment, whether supplied separately or with the said equipment, exceeding the parameter specified in paragraph (b) above; and

(3) Parts, components, accessories, and sub-assemblies, specially designed for the above equipment; and

(e) Radio transmitters incorporating transmitter drive units, exciters and master oscillators using frequency synthesis, having the following characteristics (also see ECCN 1517A):

(1) Having an output frequency of up to 32 MHz with a frequency resolution of better than 10 Hz and with a switching speed from one selected output frequency to another selected output frequency less than 10 milliseconds;

(2) Having an output frequency from 32 MHz to 235 MHz with a frequency resolution of better than 250 Hz and with a switching speed from one selected output frequency to another of less than 10 milliseconds;

(3) Having an output frequency greater than 235 MHz, *except*

(i) Television broadcasting transmitters having an output frequency from 470 MHz to 960 MHz with a frequency resolution of not better than 1 kHz and where the manually-operated frequency synthesizer incorporated in or driving the transmitter has an output frequency not greater than 120 MHz; and

(ii) FM and AM ground communications equipment for use in the land mobile service and operating in the 420 to 470 MHz band, with a power output of 50 watts for mobile units and 300 watts for fixed units, with a frequency resolution of not better than 6.25 kHz and with a switching speed from one selected output frequency to another selected output frequency greater than 50 milliseconds;

(4) Having more than three different selected synthesized output frequencies available simultaneously from one or more outputs;

(5) With facilities for pulse modulation of the output frequency of the transmitter or of the incorporated frequency synthesizer;

(6) Frequency synthesizers designed for the above equipment, whether supplied separately or with the said equipment, exceeding the parameters specified in sub-entry (b) above; and

(7) Parts, components, accessories, and sub-assemblies, specially designed for the above equipment.

(Specify by name and model number.)

Advisory Notes.—1. Licenses are likely to be approved for export to satisfactory end-users in Country Groups PQSWY of equipment defined in paragraph (b)(3) of this ECCN, with a switching speed not less than 5 milliseconds.

2. Licenses are likely to be approved for export to satisfactory end-users in Country Group P (People's Republic of China) of non-programmable frequency synthesizers provided that their operating frequency is 18 GHz or less.

3. Licenses are likely to be approved for export to satisfactory end-users in Country Group P (People's Republic of China) of programmable frequency synthesizers designed for use at frequencies up to 1.3 GHz with swithing times of 5 milliseconds or more.

1532A Precision linear and angular measuring systems and components.

Controls for ECCN 1532A

Unit: Report in "number."

Validated License required: Country Groups PQSTVWYZ.

GLV & Value Limit: $1,000 for Country Groups T & V; $0 for all other destinations.

Processing code: MG.

Reason for Control: National security; nuclear non-proliferation. There are no controls for nuclear non-proliferation reasons on exports to those countries listed in Supp. Nos. 2 or 3 to Part 373.

Special Licenses Available: See Part 373.

List of Precision Linear and Angular Measuring Systems and Components Controlled by ECCN 1532A

(a) Contact-type systems and linear voltage differential transformers (LVDT) therefor, of the following descriptions:

(1) Systems having all of the following characteristics:

(i) Range equal to or less than 5 mm;

(ii) Linearity equal to or less than 0.1 percent;

(iii) Drift equal to or less than 0.1 percent per day at standard ambient test room temperatures ±1° C;

(2) Linear voltage differential transformers with no compensation networks and having either of the following characteristics:

(i) Range equal to or less than 5 mm;

(ii) Linearity equal to or less than 0.2 percent.

(linearity measurements are made in the static mode);

(b) Linear measuring machines, *except optical comparators,* with two or more axes having both of the following characteristics:

(1) Range in any axis greater than 200 mm;

(2) Accuracy (including any compensation) less (finer) than 0.0008 mm per any 300 mm segment of travel;

(c) Angular measuring systems having an accuracy equal to or less than 1 second of arc, *except optical instruments, such as autocollimators, using collimated light to detect angular displacements of a mirror;*

(d) Non-contact type systems having either of the following characteristics:

(1) Effective probe measurement diameter less than 0.5 mm and drift less than 0.5 percent per day at standard ambient test room temperatures ±1° C;

(2) Linearity less than 0.3 percent and drift less than 0.5 percent per day at standard ambient test room temperatures ±1° C.

Advisory Note—Licenses are likely to be approved for export to satisfactory end-users in Country Groups PQSWY of equipment controlled by this ECCN to civil end-users not engaged in aerospace activities.

1533A Radio spectrum analyzers (i.e., apparatus capable of indicating the single-frequency components of multi-frequency signals), and specialized components, accessories and parts therefor.

(See paragraph (b)(4) of ECCN 1529A for spectrum analyzers employing time compression of the input signal or FFT techniques.)

Controls for ECCN 1533A

Unit: Report analyzers in "number"; parts and accessories in "$ value."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $1,000 for Country Groups T & V; $0 for all other destinations.

Processing Code: EE.

Reason for Control: National security.

Special Licenses Available: See Part 373.

List of Radio Spectrum Analyzers Controlled by ECCN 1533A

(a) Non-programmable and capable of operating at frequencies over 12.5 GHz;

(b) Programmable and capable of operating at frequencies over 1 GHz;

(c) Having a display bandwidth in excess of 125 MHz;

(d) Incorporating computing facilities with user accessible reprogramming capability and an alterable memory of more than 8,192 bits;

(e) Having either of the following characteristics for analyzing frequencies greater than 1 GHz:

(1) Including a scanning preselector; or

(2) Incorporating a tracking signal generator;

(f) Having an overall display dynamic range of better than 80 dB; and

(g) Specialized components, accessories, and parts therefor.

Advisory Notes.—1. Licenses are likely to be approved for export to bona fide civil end-users in Country Groups PQSWY for civil end-use of equipment defined in paragraph (d) of this ECCN.

2. Licenses are likely to be approved for export to satisfactory end-users in Country Group P (People's Republic of China) of microwave spectrum analyzers designed to operate up to an operating frequency of 18 GHz.

1534A Flatbed microdensitometers, except cathode-ray types, specially designed parts, components and assemblies therefor.

Controls for ECNN 1534A

Unit: Report in "number."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $1,000 for Country Groups T & V; $0 for all other destinations.

Processing Code: MG.

Reason for Control: National security; nuclear non-proliferation. There are no controls for nuclear non-proliferation reasons on exports to those countries listed in Supp. Nos. 2 or 3 to Part 373.

Special Licenses Available: A Distribution License is available for shipments to countries listed in Supp. Nos. 2 or 3 to Part 373.

List of Flatbed Microdensitometers Controlled by ECCN 1534A

Flatbed microdensitometers, except cathode-ray types, *specially designed parts, components and assemblies therefor, having any of the following characteristics:*

(a) A recording or scanning rate exceeding 5,000 data points per second;

(b) A figure of merit better (less) than 0.1, defined as the product of the density resolution (expressed in density units) and the spatial resolution (expressed in micrometers);

(c) An optical density range greater than 0 to 4.

(Density resolution, expressed in density units, is measured over the optical density range of the instrument.)

Advisory Notes.—1. Licenses are likely to be approved for export to satisfactory end-users in Country Groups PQSWY of equipment specially designed for medical applications, provided the equipment is a reasonable requirement for the stated application.

2. Licenses are likely to be approved for export to civil end-users in Country Groups PQSWY for civil end-uses of equipment defined by paragraph (b) of this ECCN, provided the spatial resolution is not better (less) than 2 micrometers and the density resolution is not better (less) than 0.01 in density units.

3. Licenses are likely to be approved for export to satisfactory end-users in Country Group P (People's Republic of China) of flatbed microdensitometer units with a scanning rate up to *10,000* data points per second with rectilinear aperture and with a figure of merit not exceeding 0.05.

1537A Microwave equipment, including parametric amplifiers, capable of operating at frequencies over 1 GHz (other than microwave equipment defined in ECCNs 1501A, 1517A, 1520A, 1526A(a), 1529A and Supp. No. 2 to Part 370).

Controls for ECCN 1537A

Unit: Report equipment in "number"; parts and accessories in "$ value."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $500 for Country Groups T & V; $0 for all other destinations.

Processing Code: EE.

Reason for Control: National security.

Special Licenses Available: See Part 373.

List of Microwave Equipment Controlled by ECCN 1537A

Microwave equipment, including parametric amplifiers, capable of operating at frequencies over 1 GHz (other than microwave equipment defined in ECCN's 1501A, 1517A, 1520A, 1526A(a), 1529A and Supp. No. 2 to Part 370), of the following description:

(a) Rigid and flexible waveguides and components therefor designed for use at frequencies in excess of 18 GHz;

(b) Waveguides having a bandwidth ratio greater than 1.7 : 1;

(c) Waveguide components, having the following characteristics:

(1) Directional couplers having a bandwidth ratio greater than 1.7 : 1 and directivity over the band of 20 dB or more;

(2) Rotary joints capable of transmitting more than one isolated channel or having a bandwidth greater than 5 percent of the center mean frequency, *except those used in air traffic control equipment carrying*

combinations of frequencies suitable for secondary surveillance radar antennae co-mounted on a primary radar antenna and which do not have a bandwidth exceeding 5 percent of the center mean frequency: or

(3) Magnetic including gyro-magnetic waveguide components;

(d) TEM mode device using magnetic including gyro-magnetic properties;

(e) TR and anti-TR tubes and components therefor *except those designed for use in waveguides and having any of the following characteristics, which are in normal civil use for ground or marine radar:*

(i) Operating at a peak power not exceeding 3 MW and at a frequency of 1.5 GHz or less;

(ii) Operating at a peak power not exceeding 1.2 MW and at a frequency over the range of 1.5 GHz to 6 GHz; or

(iii) Operating at a peak power not exceeding 300 kW and at a frequency over the range of 6 GHz to 10.5 GHz;

(f) Assemblies and sub-assemblies in which the isolating base material functions as a dielectric (as used in stripline, microstrip or slotline) *except for those items specifically designed for use in civil television systems to meet ITU standards and using as an isolating material paper base phenolics, glass cloth melamine, glass cloth epoxy resin, polyethylene terephthalate or other isolating material with an operating temperature not exceeding 302° F (150° C);*

(g) Passed array antennae and sub-assemblies, designed to permit electronic control of beam shaping and pointing, and/or specialized parts thereof (including but not limited to duplexers, phase shifters, and associated high speed diode switches): *except duplexers and phase shifters specifically designed for use in civil television systems or in other civil radar or communication systems not defined elsewhere in the Commodity Control List:*

(h) Microwave assemblies and sub-assemblies having circuits fabricated by the same processes used in integrated circuit technology, which include active circuit elements (for acoustic wave devices, see ECCN 1586A.) (Also see ECCN 1564A.);

(i) Microwave assemblies and sub-assemblies which contain band pass or band stop filters and are capable of operating at 3 GHz or greater;

(j) Amplifiers (Also see ECCN 1521A.);

(k) PIN modulators (Also see ECCN 1544A.); and

(l) Specially designed parts and accessories therefor.

Advisory Notes.—1. Licenses are likely to be approved for exprt to satisfactory end-users in Country Groups PQSWY of items defined in paragraphs (c)(3) and (d) of this ECCN required as replacement parts in specific civil equipment not exceeding the capability of that which could be exported under ECCNs 1501A or 1520A provided such parts do not upgrade the initial performance of that equipment.

2. Licenses are likely to be approved for export to satisfactory end-users in Country Groups PQSWY of items defined in paragraph (e) of this ECCN required as replacement parts in specific civilian equipment not exceeding the capability of that which could be exported under ECCN 1501A, provided such parts do not upgrade the initial performance of that equipment.

3. Licenses are likely to be approved for export to satisfactory end-users in Country Groups PQSWY of items defined in paragraph (f) of this ECCN designed and intended for use in civil telecommunications systems at frequencies allocated by the ITU for that purpose.

4. Licenses are likely to be approved for export to satisfactory end-users in Country Groups PQSWY of items defined in paragraph (h) of this ECCN for use at frequencies between 1 GHz and 3 GHz.

5. Licenses are likely to be approved for export to satisfactory end-users in Country Groups PQSWY of equipment containing parametric amplifying or paramagnetic amplifiers defined in paragraph (j) of this ECCN provided that they are—

(a) Specially designed for medical applications or for use in simple educational devices and operating at ISM frequencies; or

(b) Having an output power of not more than 10 watts, which is specially designed for industrial and civilian intrusion detection and alarm systems, traffic and industrial movement control and counting systems, environmental pollution of air or water detection systems, or for simple educational devices.

1541A Cathode-ray tubes.

Controls for ECCN 1541A

Unit: Report tubes in "number"; parts and accessories in "$ value."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $500 for Country Groups T & V; $0 for all other destinations.

Processing Code: EE.

Reason for Control: Cathode-ray tubes with characteristics defined in paragraph (a) below are controlled for reasons of national security. Cathode-ray tubes with other characteristics defined in this ECCN are controlled for reasons of national security and nuclear non-proliferation. Nuclear non-proliferation controls do not apply to those countries listed in Supp. Nos. 2 or 3 to Part 373.

Special Licenses Available: See Part 373.

List of Cathode-Ray Tubes Controlled by ECCN 1541A:

Cathode-ray-tubes having any of the following characteristics:

(a) A resolving power of 800 lines or more per inch (32 lines per mm), using the shrinking raster method of measurement;

(b) With traveling wave or distributed deflection structure using delay lines, or incorporating other techniques to minimize mismatch of fast phenomena signals to the deflection structure; or

(c) Incorporating microchannel plate electron multipliers; and

(d) Specially designed parts and accessories therefor.

(Specify by name and type number.)

Advisory Note.—Licenses are likely to be approved for export to satisfactory end-users in Country Groups PQSWY of cathode-ray tubes defined in paragraph (b) of this ECCN, which utilize segmented plate (sectioned Y-plate) structures.

1542A Triggered spark-gaps having an anode delay time of 15 microseconds or less and rated for peak current of 3,000 amps or more; specially designed parts therefor; and equipment incorporating such devices.

(Triggered spark-gaps are tubes with a structure consisting of two opposed anodes with shapes resembling flattened hemispheres, and with one or more triggering probes placed approximately in the center of one anode. The structure is sealed and contains a mixture of gases, principally nitrogen, under less than atmospheric pressure.)

(Specify by name and type number.)

Controls for ECCN 1542

Unit: Report tubes and semi-conductor devices in "number"; parts and accessories in "$ value."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $500 for Country Groups T & V; $0 for all other destinations.

Processing Code: EE.

Reason for Control: National security; nuclear non-proliferation.

Special Licenses Available: Special licenses are not available for those triggered spark-gaps having an anode delay time of 15 microseconds or less and rated for peak current of 3,000 amps or more, and specially designed parts therefor. See Part 373 for special licenses available for other equipment defined in this ECCN.

1544A Semi-conductor diodes and dice and wafers therefor, except those made from germanium, selenium or copper oxide, designed or rated for use at imput or output frequencies above 12.5 GHz, or having any of the characteristics listed in the List below.

Controls for ECCN 1544A

Unit: Report tubes and semi-conductor devices in "number"; parts and accessories in "$ value."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $500 for Country Groups T & V; $0 for all other destinations.

Processing Code: EE.

Reason for Control: National security.

Special Licenses Available: See Part 373.

List of Semi-Conductor Diodes and Dice and Wafers Therefor Controlled by ECCN 1544A

Semi-conductor diodes and dice and wafers therefor, except those made from germanium, selenium or copper oxide, *designed or rated for use at input or output frequencies above 12.5 GHz or having any of the following characteristics:*

(a) Mixer and detector diodes designed or rated for use at input or output frequencies greater than 1 GHz, *except:*

(1) Point contact diodes designed or rated for use at input or output frequencies or 12.5 GHz of less;

(2) Schottky diodes designed or rated for mixer use at input or output frequencies of:

(i) 3 GHz or less and having a noise figure of more than 6 dB; or

(ii) Greater than 3 GHz and less than 12.5 GHz and having a noise figure of more than 6.5 dB;

(3) Schottky diodes designed or rated for detector use at input or output frequencies of less than 12.5 GHz and having a minmum rated tangential sensitivity of either worse than −45 dBm under unbiased conditions or worse than −50 dBm under biased conditions;

(b) Oscillator and amplifier devices such as Gunn, Impatt, Trapatt, TED and LSA, including those used for the direct conversion of DC to RF power, designed or rated for use at:

(1) Output frequencies above 1 GHz but not exceeding 4 GHz with a peak power greater than 2 watts or a maximum CW power greater than 200 mW; or

(2) Output frequencies above 4 GHz but not exceeding 12.5 GHz with a peak power greater than 1 watt or a maximum CW power greater than 100 mW;

(c) Voltage variable capacitance diodes designed or rated for use at input or output frequencies greater than 1 GHz;

(d) Fast recovery diodes, of the following description:

(1) Having a rated maximum reverse recovery time of less than 1 nanosecond; or

(2) Having both a rated forward rectified current over 1 ampere and a rated maximum reverse recovery time of less than 30 nanoseconds;

(When average reverse recovery time is quoted instead of maximum reverse recovery time, the maximum may be regarded as two times the average.)

(When reverse recovery time is not quoted, diodes rated for a stored charge of less than 25 pico-coulombs shall be regarded as covered by paragraph (d) above.)

(Diodes constructed with a rectifying deposited metal semi-conductor junction or barrier, such as hot-carrier or Schottky-barrier diodes, will normally be considered under paragraphs (a) and (d) above. For photodiodes, see ECCN 1548A.)

(e) PIN diodes designed or rated for use at input or output frequencies above 1 GHz;

(f) Non-coherent light-emitting diodes with a peak radiant intensity at a wavelength of greater than 1,000 nanometers (for coherent light-emitting diodes, see ECCN 1522A); and

(g) Specially designed parts and accessories therefor.

(Specify by name and type number.)

Advisory Notes.—1. Licenses are likely to be approved for export to satisfactory end-users in Country Groups PQSWY of shipments for civil use containing up to 200 of the Schottky diodes defined in paragraphs (a) (2) and (3) above, having a maximum frequency not exceeding 3 GHz irrespective of noise level or tangential sensitivity.

2. Licenses are likely to be approved for export to satisfactory end-users in Country Groups PQSWY of non-coherent light-emitting diodes defined in paragraph (f) above, for use in identifiable civilian communications systems.

1545A Transistors and dice and wafers therefor (for phototransistors, see ECCN 1548A).

Control for ECCN 1545A

Unit: Report tubes and semi-conductor devices in "number"; parts and accessories in "$ value."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $500 for Country Groups T & V; $0 for all other destinations.

Processing Code: EE.

Reason for Control: National security.

Special Licenses Available: See Part 373.

List of Transistors and Dice and Wafers Therefor Controlled by ECCN 1545A

(a) Of any type using a bulk semi-conductor material other than germanium or silicon; or

(b) Using silicon as the bulk semi-conductor material and having any of the following characteristics:

(1) An operating frequency greater than 1 GHz;

(2) An operating frequency of 1.5 MHz or below and a maximum collector dissipation exceeding 300 watts, or an operating frequency greater than 1.5 MHz and a maximum collector dissipation exceeding 250 watts;

(3) An operating frequency greater than 200 MHz and a product of the operating frequency (in GHz) and the maximum collector dissipation (in watts) exceeding 5; or

(4) Majority carrier devices, including but not limited to junction field-effect transistors and metal-oxide semiconductor transistors, *except field-effect transistors having a maximum power dissipation of 500 mW or less and a maximum operating frequency of 1 GHz or less.*

(The maximum operating frequency in Hertz mentioned in paragraph (b)(4) above is defined as follows:

$f_{max} = g_m / 2\pi C_i$

Where gm is the maximum transconductance is Siemens (mho) and C_i is the input capacitance in farads.)

(The maximum collector dissipation is defined as the continuous dissipation measured under the optimum cooling conditions specified by the manufacturer.)

(Operating (specification) frequency is defined as the frequency used in measuring output power or power gain (G_{pE}, G_{pB}, G_{pC}).

When these parameters are not specified, the operating frequency is defined as the frequency used in measuring gain bandwidth product (f_T) or noise figure.)

Advisory Notes.—1. Licenses are likely to be approved for export to satisfactory end-users in Country Groups PQSWY of transistors defined in paragraphs (b) (2) and (3) above, specially designed for television transposers or for civil mobile

communication equipment, and having a product of the operating frequency (in GHz) and the maximum collector dissipation (in watts) not exceeding 20.

2. Licenses are likely to be approved for export to satisfactory end-users in Country Groups PQSWY of transistors defined in paragraph (b)(4) above which are suitable for and will be used in civil TV, AM or FM receivers or audio frequency equipment.

1547A Thyristors and dice and wafers therefor.

Controls for ECCN 1547A

Unit: Report tubes and semi-conductor devices in "number"; parts and accessories in "$ value."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $500 for Country Groups T & V; $0 for all other destinations.

Processing Code: EE.

Reason for Control: National security.

Special Licenses Available: See Part 373.

List of Thyristors and Dice and Wafers Therefor Controlled by ECCN 1547A

(a) Designed for use in pulse modulators having a rated turn-on time of less than 1 microsecond where the rated peak current exceeds 150 amperes;

(b) Having a rated turn-off time of less than 1 microsecond;

(c) Having a rated turn-off time of from 1 microsecond to less than 2.3 microseconds, *except those having a rated peak current of 50 amperes or less and encapsulated in non-hermetically sealed packages;*

(d) Having a rated turn-off time of from 2.3 to 10 microseconds and a figure of merit greater than 25 (the figure of merit is defined as the product of the repetitive peak off-state voltage (V DRM) in kilovolts and the repetitive peak on-state current (I TRM) in amperes as shown on the thyristor data sheets);

(e) Specially designed parts and accessories therefor.

(Specify by name and type number.)

Advisory Notes.—1. Licenses are likely to be approved for export to satisfactory end-users in Country Groups PQSWY of thyristors required as replacement parts in specific civil equipment provided that they do not upgrade the initial performance of that equipment.

2. Licenses are likely to be approved for export to satisfactory end-users in Country Groups PQSWY of thyristors defined in this ECCN provided that they have been designed and are intended for civil applications other than in radar or laser modulators.

1548A Photosensitive components and dice and wafers therefor.

Controls for ECCN 1548A

Unit: Report tubes and semi-conductor devices in "number"; parts and accessories in "$ value."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $500 for Country Groups T & V; $0 for all other destinations.

Processing Code: EE.

Reason for Control: National security.

Special Licenses Available: See Part 373.

List of Photosensitive Components and Dice and Wafers Therefor Controlled by ECCN 1548A

(a) Photosensitive components (including photodiodes, phototransistors, photothyristors, photoconductive cells and similar photosensitive components) with a peak sensitivity at a wavelength longer than 1,200 nanometers or shorter than 190 nanometers; *except germanium photo devices with a peak sensitivity at a wavelength shorter than 1,750 nanometers;*

(b) Semi-conductor photodiodes and phototransistors with a response time constant of 0.25 microsecond or less measured at the operating temperature for which the time constant reaches a minimum (The time constant is defined as the time taken from the application of a light stimulus for the current increment to reach a value of 1–1/e times the final value (*i.e.*, 63 percent of the final value).); and

(c) Specially designed parts and accessories therefor.

(Specify by name and type number.)

Advisory Note.—1. Licenses are likely to be approved for export to satisfactory end-users in Country Groups PQSWY of infra-red single-element encapsulated photoconductive cells or pyroelectric detectors intended for civil applications and using any of the following:

(a) Evaporated lead sulfide;

(b) Triglycine sulphate with a surface area of 20 mm or less;

(c) Lead-lanthanum-zirconium titanate ceramic.

2. Licenses are likely to be approved for export to satisfactory end-users in Country Groups PQSWY for civil applications of semi-conductor photodiodes controlled by paragraph (b) above, with a response time constant of 0.5 nanosecond or more and with a peak sensitivity at a wavelength neither longer than 920 nanometers nor shorter than 300 nanometers.

1549A Photomultiplier tubes.

Controls for ECCN 1549A

Unit: Report tubes, semi-conductor devices, and systems in "number"; parts and accessories in "$ value."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $500 for Country Groups T & V; $0 for all other destinations.

Processing Code: EE.

Reason for Control: National security; nuclear non-proliferation.

Special Licenses Available: See Part 373.

List of Photomultiplier Tubes Controlled by ECCN 1549A

Photomultiplier tubes of the following description:

(a) Those for which the maximum sensitivity occurs at wavelengths longer than 0.75 micrometer or shorter than 0.3 micrometer;

(b) Having an anode pulse rise time of less than 1 nanosecond; or

(c) Containing microchannel plate electron multipliers; and

(d) Specially designed parts and accessories therefor.

(Specify by name and type number.)

Advisory Note.—Licenses are likely to be approved for export to satisfactory end-users in Country Groups PQSWY of non-ruggedized tubes defined in paragraph (a) above, required as replacement parts for specific civil equipment not exceeding the capability of that which could be exported under the Commodity Control List, provided that these parts do not upgrade the initial performance of such equipment.

1553A Flash discharge type X-ray systems (including tubes) and specially designed parts and accessories therefor.

Controls for ECCN 1553A

Unit: Report tubes, semi-conductor devices, and systems in "number"; parts and accessories in "$ value."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $500 for Country Groups T & V; $0 for all other destinations.

Processing Code: EE.

Reason for Control: National security; nuclear non-proliferation.

Special Licenses Available: None.

List of X-ray Systems Controlled by ECCN 1553A

Flash discharge type X-ray systems (including tubes) and specially designed

parts and accessories therefor, having all of the following characteristics:

(a) Peak power greater than 500 MW;

(b) Output voltage greater than 500 kV; and

(c) Pulse width less than 0.2 microsecond.

1555A Electron tubes and specialized components and parts therefor, except commercial standard television camera tubes not having fiber optic faceplates and commercial standard X-ray amplifier tubes.

Controls for ECCN 1555A

Unit: Report tubes, semi-conductor devices, and systems in "number"; parts and accessories in "$ value."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $500 for Country Groups T & V; $0 for all other destinations.

Processing Code: EE.

Reason for Control: National security; nuclear non-proliferation (except that nuclear non-proliferation controls do not apply to tubes defined in paragraph (b) of the LIST below). Nuclear non-proliferation controls do not apply to those countries listed in Supp. Nos. 2 or 3 to Part 373.

Special Licenses Available: None for tubes defined in paragraphs (a) and (c) of the LIST below. A Distribution License is available for shipment of other commodities defined in this ECCN to countries listed in Supp. Nos. 2 or 3 to Part 373.

List of Electron Tubes Controlled by ECCN 1555A

Electron tubes and specialized components and parts therefor, except commercial standard television camera tubes not having fiber optic faceplates and commercial standard X-ray amplifier tubes, of the following description:

(a) Image intensifiers and image converters incorporating fiber optic faceplates and/or microchannel-plate electron multipliers, and camera tubes incorporating or coupled with such intensifiers or converters;

(b) Electronic storage tubes, including memory transformers of radar pictures, *except signal converter storage tubes specially designed for television purposes;*

(c) Camera tubes with fiber optic faceplates and/or microchannel-plate electron multipliers; or

(d) Ruggedized camera tubes having a maximum length-to-bulb diameter ratio of 5:1 or less.

Note.—The image intensifiers, image converters and camera tubes defined in paragraph (a) have significant military as well as commercial use, and as such, licensing jurisdiction is shared between the Office of Munitions Control (Department of State) and the Department of Commerce.

Advisory Notes.—1. Licenses are likely to be approved for export to satisfactory end-users in Country Groups PQSWY of reasonable quantities of non-ruggedized tubes controlled by this ECCN, provided that the tubes will be used for bona fide medical applications.

2. Licenses are likely to be approved for export to satisfactory end-users in Country Groups PQSWY of non-ruggedized direct view storage tubes defined in paragraph (b) above, having an effective diameter or diagonal not exceeding 280 mm, for civil radar or oscilloscope applications.

3. Licenses are likely to be approved for export to satisfactory end-users in Country Groups PQSWY of camera tubes defined in paragraphs (c) and (d) above incorporating fiber optic faceplates but not microchannel-plate electron multipliers, provided that the tubes will be used for bona fide civil television applications.

1556A Optical Elements and Elements for Optical Tubes.

Controls for ECCN 1556A

Unit: Report in "number."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $500 for Country Groups T & V; $0 for all other destinations.

Processing Code: EE.

Reason for Control: National security.

Special Licenses Available: See Part 373.

List of Optical Elements and Elements for Optical Tubes Controlled by ECCN 1556A

(a) Non-flexible fused fiber optic plates or bundles, having all of the following characteristics:

(1) A fiber pitch (center-to-center spacing) of less than 15 micrometers;

(2) A light-absorbing medium surrounding each fiber, or interstitially placed between fibers; and

(3) A diameter greater than 1/2 in. (13 mm); or

(b) Microchannel plates for electron image amplification having both of the following characteristics:

(1) 15,000 or more hollow tubes per plate; and

(2) Hole pitch (center-to-center spacing) of less than 30 micrometers.

(Specify by name and type number.)

1558A Electronic vacuum tubes (valves), and specialized parts.

Controls For ECCN 1558A

Unit: Report tubes, semi-conductor devices, and systems in "number"; parts and accessories in "$ value."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $500 for Country Groups T & V; $50 for all other destinations.

Processing Code: EE.

Reason for Control: National security.

Special Licenses Available: See Part 373.

List of Electronic Vacuum Tubes (valves) and Specialized Parts Controlled by ECCN 1558A

(a) Tubes in which space charge control is utilized as the primary functional parameter, including but not limited to triodes and tetrodes, of the following description:

(1) Tubes rated for continuous wave operation having either of the following characteristics:

(i) Above 4 GHz at maximum rated anode dissipation; or

(ii) Within the frequency range 0.3 to 4 GHz and for which, under any condition of cooling, the product of the maximum rated anode dissipation (expressed in GHz) at the maximum rated anode dissipation is greater than 10^4, *except for tubes specially designed for television transmitters operating in the frequency range of 0.47 to 0.96 GHz and rated for operation without a grid current, for which the product of the rated anode dissipation (expressed in watts) and the square of the maximum frequency (expressed in GHz) may reach* 2×10^4;

(2) Tubes rated only for pulse operation having either of the following characteristics:

(i) Above 1 GHz at the peak pulse output power; or

(ii) Between 0.3 and 1 GHz and for which, under any condition of cooling, the product of the peak pulse output power (expressed in watts) and the square of the maximum frequency (expressed in GHz) is greater than 4.5×10^4;

(3) Tubes specially designed for use as pulse modulators for radar or similar applications, having a peak anode voltage rating of 100 kV or more, or rated for a peak pulse power of 6 MW or more (Also see ECCN 1514A.);

(b) Tubes which utilize interaction between a beam of electrons and microwave elements and in which the electrons travel in a direction

perpendicular to the applied magnetic field, including but not limited to magnetrons, crossed-field amplifier tubes and crossed-field oscillator tubes *except:*

(1) Fixed frequency and tunable pulsed magnetrons and crossed-field amplifier tubes which are in normal civil use in equipment which may be exported under the terms of the Commodity Control List, having the following characteristics:

(i) Magnetrons designed to operate at frequencies below 3 GHz with a maximum rated peak output power of 1.5 MW or less, or between 3 and 12 GHz with the product of the maximum rated peak output power (expressed in kilowatts) and the frequency (expressed in GHz) less than 4,200;

(ii) Crossed-field amplifier tubes designed to operate at frequencies below 4 GHz with a maximum rated peak output power of 1.2 MW or less and with less than 15 dB gain;

(2) Fixed frequency continuous wave magnetrons designed for medical use or for industrial heating or cooking purposes operating at a frequency of 2.375 GHz+0.05 GHz or 2.45 GHz+0.05 GHz with a maximum rated power not exceeding 6 kW or at a frequency lower than 1 GHz with a maximum rated power not exceeding 25 kW;

(c) Tubes which utilize interaction between a beam of electrons and microwave elements or cavities and in which the electrons travel in a direction parallel to the applied magnetic field, including but not limited to klystrons and traveling wave tubes, *except:*

(1) Continuous wave tubes for use in civil communications designed for octave or lesser bandwidth (where the highest operating frequency is equal to or less than two times the lowest operating frequency) having the following characteristics:

(i) Designed to operate below 20 GHz;

(ii) The product of the rated output power (expressed in watts) and the frequency (expressed in GHz) is less than 800;

(2) Pulsed tubes for civil applications designed for octave or less bandwidth and having either of the following characteristics:

(i) Peak saturated output power not exceeding 1 kW and average power not exceeding 40 watts at or below 10 GHz;

(ii) Peak saturated output power not exceeding 100 watts and average power not exceeding 20 watts between 10 and 20 GHz;

(3) Pulsed tubes for civil applications designed for fixed frequency operation at frequencies below 3.5 GHz, peak output power of 1.6 MW or less, and operating bandwidth less than 1 percent;

(4) Low power oscillator tubes designed to operate at frequencies below 20 GHz with maximum output power of less than 3 watts;

(d) Tubes which utilize interaction between an electron beam and microwave elements or cavities but do not require a magnetic field to control or focus the electron beam, *except low power reflex oscillator klystrons designed to operate at frequencies below 20 GHz and at a maximum output power of less than 3 watts;*

(e) Tubes which utilize interaction between a beam of electrons and microwave elements or cavities in which the electrons drift in a direction parallel to the applied magnetic field but also require for their operation a large component of velocity transverse to the direction of the applied magnetic field, including but not limited to gyrotrons and ubitrons;

(f) Tubes designed to withstand on any axis an acceleration of short duration (shock) greater than 1,000 g;

(g) Valves designed for operation in ambient temperatures exceeding 200° C;

(h) Tubes of types described in paragraphs (c), (d), or (e) which are designed to operate with no cathode heating element; or

(i) Tubes which utilize a modulated beam of electrons striking one or more semi-conductor diodes to provide power gain (Also see ECCN 1544A.)

(Specify by name and type number.)

Advisory Note.—Licenses are likely to be approved for export to satisfactory end-users in Country Groups PQSWY of the following commodities:

(a) Tubes defined in paragraphs (a) and (c) above, specifically designed for television purposes and which are to be used in television transmitters, the precise location of which is known, for civil telecasting according to CCIR or OIR standards;

(b) Tubes defined in paragraphs (a), (b) and (c) above required as replacement parts for specific civilian equipment not exceeding the capability of that which could be exported under other Commodity Control List ECCNs, provided that these parts do not upgrade the initial performance of that equipment;

(c) Pulsed amplifier klystrons and fixed frequency and mechanically tunable pulsed magnetrons defined in paragraphs (b) and (c) above intended for civil radar equipment previously exported, provided that they do not upgrade the initial performance of that equipment.

1559A Hydrogen thyratrons of ceramic-metal construction rated for a peak pulse power output of 12.5 MW or more; and specially designed parts and accessories therefor.

(Specify by name and type number.)

Controls for ECCN 1559A

Unit: Report tubes and semi-conductor devices in "number"; parts and accessories in "$ value."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $500 for Country Groups T & V; $0 for all other destinations.

Processing Code: EE.

Reason for Control: National security; nuclear non-proliferation.

Special Licenses Available: See Part 373.

Advisory Note.—Licenses are likely to be approved for export to satisfactory end-users in Country Groups PQSWY of ceramic-metal structured hydrogen thyratrons to replace such thyratrons in specific civil radar equipment previously exported, provided that they do not upgrade the initial performance of that equipment.

1560A Capacitors designed for and/or capable of maintaining their rated electrical and mechanical characteristics during their specified operating lifetime.

Controls for ECCN 1560A

Unit: Report tubes and semi-conductor devices in "number"; parts and accessories in "$ value."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $500 for Country Groups T & V; $ 0 for all other destinations.

Processing Code: EE.

Reason for Control: National security.

Special Licenses Available: See Part 373.

List of capacitors controlled by ECCN 1560A

Capacitors designed for and/or capable of maintaining their rated electrical and mechanical characteristics during their specified operating lifetime, of the following description:

(a) Monolithic ceramic capacitors rated for operation over the whole range of ambient temperatures from below −55° C to above +125° C;

(b) Tantalum electrolytic capacitors rated for operation at ambient temperatures exceeding +125° C, *except sintered electrolytic types having a casing made of epoxy resin or which are sealed or coated with epoxy resin;* and

(c) Specially designed parts and accessories therefor.

(Specify by name and type number.)

1561A Materials specially designed and manufactured for use as absorbers of electromagnetic waves having frequencies greater than 2×10^8 Hz, and less than 3×10^{12} Hz, except materials having the following characteristics:

(a) *A tensile strength of less than 7×10^7 N/m² (10,157 psi) and a compressive strength of less than 17.5×10^7 N/m² (25,392 psi);*

(b) *Not capable of withstanding temperatures in excess of 176° C (350° F).*

Controls for ECCN 1561A

Unit: Report in "pounds."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $1,000 for Country Groups T & V; $0 for all other destinations.

Processing Code: EE.

Reason for Control: National security.

Special Licenses Available: See Part 373.

1564A Electronic component assemblies, sub-assemblies, printed circuit boards, and microcircuits.

Controls for ECCN 1564A

Unit: Report in "number."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $500 for Country Groups T & V; $0 for all other destinations.

Processing Code: EE.

Reason for Control: National security.

Special Licenses Available: See Part 373.

Definitions of terms related to commodities controlled by ECCN 1564A:

(a) *Assembly.* A number of components (*i.e.*, circuit elements, discrete components, microcircuits) connected together to perform a specific function or functions, replaceable as an entity (and normally capable of being disassembled).

(b) *Microcircuit.* A device in which a number of passive and active circuit elements are considered as indivisibly associated on or within a continuous structure to perform the function of a circuit.

(c) Monolithic integrated circuit. A microcircuit fabricated as a single component consisting of elements formed in or on a single semiconducting substrate by diffusion, implantation or deposition.

(d) Film type microcircuit. An array of circuit elements and metallic interconnections formed by deposition of a thick or thin film on an insulating substrate.

(e) Multichip microcircuit. A microcircuit containing two or more monolithic integrated circuit chips bonded to a common substrate.

(f) Hybrid microcircuit. A microcircuit consisting of a combination of film-type microcircuits and monolithic integrated circuit elements or combinations of either with discrete components and/or circuit elements.

(g) Circuit element. A single active or passive functional item in an electronic circuit, such as one diode, one transistor, one resistor, one capacitor.

(h) Discrete component. A separately packaged circuit element with its own external connections.

(i) Integrated optical microcircuit. A microcircuit containing one or more elements designed to function as a photosensor and/or photo-emitter.

(j) Module. An assembly, replaceable as an entity, not normally capable of being disassembled.

(k) Microprocessor microcircuit. A single package (normally single-chip) electronic logic unit capable of executing from external memory a series of general purpose instructions contained in the external memory. (The unit normally does not contain integral user memory, although internal memory on the chip may be present for internal utilization by the chip in performing its logic function. User memory is customarily provided via external memory chips, although some products have some limited onboard memory that is normally used for purposes other than program storage.)

(l) Microcomputer microcircuit. An electronic logic unit capable of executing instructions from internal memory, on data contained in the internal memory. (In certain cases the internal memory may be augmented by an external memory.)

List of electronic component assemblies, sub-assemblies, printed circuit boards, and microcircuits controlled by ECCN 1564A

(a) Printed circuit boards (single sided, double sided, or multilayer) designed to mount and provide interconnection between electronic components, *except those manufactured from any of the following insulating materials:*

(1) *Paper base phenolics;*

(2) *Glass cloth melamine;*

(3) *Glass epoxy resin;*

(4) *Polyethylene terephthalate; or*

(5) *Any insulating material with a maximum continuous rated operating temperature not exceeding 150° C;*

(b) Assemblies, modules and printed circuit boards with mounted components of the following description:

(1) Those including printed circuit boards covered by paragraph (a) above;

(2) Those which contain microprocessor, microcomputer or memory microcircuits or embargoed components, *except:*

(i) Assemblies, not containing microcomputer or memory microcircuits, whose only embargoed components are capacitors;

(ii) Power supply assemblies;

(Paragraph (b)(2) above does not cover assemblies, modules and printed circuit boards with mounted components designed for equipment (other than electronic computers and related equipment) not otherwise embargoed, and which, by nature of their design, performance, lack of user-accessible programmability and software, microprogram control, or specialized logic control, are substantially restricted to the particular application for which they have been designed.)

(Assemblies, modules and printed circuit boards with mounted components which are designed for, or which have the same functional characteristics as, embargoed equipment shall be rated against the parameters of the appropriate equipment item, except that, in such cases, the temperature parameter will be below −55°C and above +85°C.)

(For assemblies, modules and printed circuit boards with mounted components which are designed for, or which have the same functional characteristics as, electronic computers or related equipment, see ECCN 1565A.)

(c) Microcircuits (monolithic integrated circuits, microprocessor, microcomputer, multichip, hybrid, film or integrated optical types), *except:*

(i) Encapsulated passive networks (technology for the manufacture of thin-film passive networks is not released by this paragraph); or

(ii) Encapsulated microcircuits which are not designed or rated as radiation hardened, which are not rated for operation below −40°C or above +85°C, which are packaged in TO–5 outline cases (0.30 inch to 0.370 inch diameter) or in non-hermetically sealed cases and which are:

(1) Bipolar types designed for operation as digital logic circuit elements but limited to gates, inverters, buffers, bilateral switches, drivers, counters, latches, adders, comparators, parity generators, multiplexers,

expanders, flip-flops, multivibrators, code converters, registers, encoders, decoders, demultiplexers, diode matrices, multipliers and Schmitt-triggers, and having all of the following characteristics:

(a) A product of the typical basic gate propagation delay time, in nanoseconds, and the power dissipation per basic gate, in milliwatts, not less than 30 pJ (i.e., speed-power product/gate not less than 30 pJ);

(b) A typical propagation delay time not less than 3 nanoseconds; and

(c) Encapsulated in a package having 24 terminals or less;

(2) CMOS types designed for operation as digital logic circuit elements but limited to gates, inverters, buffers, flip-flops, latches, multivibrators, bilateral switches, display drivers, fixed counters, fixed frequency dividers, storage registers, decoders, voltage translators, encoders and Schmitt-triggers, and having both of the following characteristics:

(a) A minimum propagation delay time under any rated conditions of not less than nanoseconds;

(b) Encapsulated in a package having 24 terminals or less;

(3) Silicon single-chip microcomputer microcircuits that are mask programmed for a civil application prior to export and have all of the following characteristics:

(a) A word size/speed ratio of less than or equal to 0.4 bit per microsecond;

(b) A speed-power dissipation product of greater than or equal to 4 microjoules;

(c) An on-chip ready-only memory (ROM), not including the microcode, of less than or equal to 2,048 bytes;

(d) An on-chip random-access memory (RAM) of less than or equal to 512 bits;

(e) An operand (data) word length of less than or equal to 8 bits;

(f) Not capable of addressing off-chip program memory;

(g) Not rated for operation below −20° C or above +75° C;

(Speed is defined as the time (in microseconds) to add C to D where C and D are both in memory, and put the result back in C.) (Bit-slice microcomputers are not released by this sub-paragraph.)

(4) Silicon microprocessor microcircuits having all of the following characteristics:

(a) A word/size ratio of less than or equal to 0.4 bit per microsecond;

(b) A speed-power dissipation product of greater than or equal to 4 microjoules;

(c) Containing no on-chip ROM or on-chip RAM;

(d) An operand (data word length of less than or equal to 8 bits;

(e) Capable of addressing off-chip program memory of less than or equal to 32,768 bytes;

(f) Not rated for operation below −20° C or above +75° C;

(Speed is defined as above (3g). Bit-slice microprocessors are not released by this sub-paragraph.)

(5) Memory microcircuits of the following description:

(a) MOS dynamic RAM's having all of the following characteristics:

(i) A maximum number of bits per package of 1,024 bits and an access time of no less than 250 nanoseconds;

(ii) not rated for operation below −20° C or above +75° C;

(b) Mask programmed ROM's not rated for operation below −20° C or above +75° C, of the following description:

(i) With a maximum number of bits per package of 2,048 bits and an access time of no less than 450 nanoseconds;

(ii) PMOS or NMOS types with a maximum number of bits per package of 4,096 bits and an access time of no less than 700 nanoseconds;

(c) MOS static RAM's having both of the following characteristics:

(i) A maximum number of bits per package of 256 bits;

(ii) An access time of no less than 450 nanoseconds;

(d) Bipolar RAM's having all of the following characteristics:

(i) With a maximum number of bits per package of 64 bits and access time of no less than 30 nanoseconds;

(ii) With a maximum number of bits per package of 256 bits and an access time of no less than 40 nanoseconds;

(iii) With a maximum number of bits per package of 1,024 bits and an access time of no less than 45 nanoseconds;

(6) (a) Non-reprogrammable microcircuits, not capable of addressing external memory, specially designed for, and which by virtue of circuit design are normally limited to use only for simple calculators which perform a single function in response to a keystroke, capable of performing floating point addition of 13 decimal digits (mantissa only) or less in no less than 0.02 second;

(b) Programmable microcircuits specially designed for, and which by virtue of circuit design are normally limited to use only for simple key programmable calculators having both of the following characteristics:

(i) Capable of executing a sequence of no more than 256 program steps introduced into a program memory on the chip by a sequence of keystrokes;

(ii) Capable of performing a floating point addition of 13 decimal digits (mantissa only) or less in no less than 0.02 second;

(c) P-channel or N-channel MOS microcircuits specially designed as, and which by virtue of circuit design are normally limited to use only as, serial digital shift registers with a maximum clock rate of 2.5 MHz, and a maximum number of bits per package of 1,024;

(7)(a) Untuned AC amplifier microcircuits having a bandwidth of less than 3 MHz and a maximum rated power dissipation of 5 Watts or less at a case temperature of 25° C;

(8) Operational amplifier microcircuits having all of the following characteristics:

(a) A typical unity-gain open-loop bandwidth of not more than 5 MHz;

(b) a typical open-loop voltage gain of not more than 500,000 or 115 dB;

(c) A maximum intrinsic rated input offset voltage of not less than 2.5 mV; and

(d) A typical slew rate at unity gain not exceeding 2.5 volts/microsecond;

(9) Analog multiplier and/or divider microcircuits having both of the following characteristics;

(a) A best case rated non-linearity of not better than 0.5 percent of full scale;

(b) A −3 dB small-signal bandwidth of not more than 500 kHz;

(10) Isolation amplifier microcircuits;

(11) Instrumentation amplifier microcircuits having all of the following characteristics:

(a) A best case rated non-linearity of not better than 0.02 percent at a gain of 100;

(b) A maximum gain-bandwidth product not greater than 5 MHz (e.g., a maximum bandwidth of 50 kHz at −3 dB and at a gain of 100);

(c) A typical slew rate at unity gain not exceeding 1 volt/microsecond;

(12) Voltage regulator microcircuits, of the following description:

(a) Linear types, having both of the following characteristics:

(i) A rated nominal output voltage of 40 volts or less;

(ii) A maximum output current of 1 A or less;

(b) Switching types, having both of the following characteristics;

(i) A rated nominal output voltage of 40 volts or less;

(ii) A maximum output current of 150 mA or less;

(For voltage regulators, the +85° C upper temperature limit specified in paragraph (c)(ii) above is not applicable. The lower limit of −40° C is applicable.)

(13) Voltage comparator microcircuits, having both of the following characteristics:

(a) A maximum input offset voltage of not less than 2 mV; and

(b) A typical switching speed or typical response time of not less than 30 nanoseconds;

(14) Bipolar microcircuits designed for operation in civil applications as externally controlled (by inductive, magnetic or optical means) electronic switches, or as threshold valve switches with switching times of 0.5 microsecond or greater;

(15) Non-coherent light-emitting alphanumeric displays not incorporating an integrated circuit;

(16) Non-coherent light-emitting alphanumeric displays incorporating an integrated circuit used for decoding, controlling and/or driving that display, provided that the integrated circuit is not integral with the actual display device;

(17) Simple encapsulated photo-coupler (transoptor) assemblies with electrical input and output and which incorporate non-coherent light-emitting diodes;

(18) Interface microcircuits, of the following description:

(a) Line drives and line receivers having a typical propagation delay time from data input to output of not less than 15 nanoseconds;

(b) Sense amplifiers, having both of the following characteristics:

(i) A typical propagation delay time from data input to output of nor less than 15 nanoseconds;

(ii) A typical input threshold voltage of not less than 10 millivolts;

(c) Memory and clock drivers, having all of the following characteristics:

(i) A maximum rated output current of 500 milliamperes or less;

(ii) A maximum rated output voltage of 30 volts or less;

(iii) A typical propagation delay time from data input to output of not less than 20 nanoseconds;

(d) Peripheral and display drivers, having all of the following characteristics;

(i) A maximum rated output current of 500 milliamperes or less;

(ii) A typical propagation delay time from data input to output of not less than 20 nanoseconds;

(iii) A maximum rated output voltage of 80 volts or less;

(When propagation delay time is not specified, typical turn-on or turn-off time, whichever is less, should be used.)

(19) Voltage-to-frequency converter microcircuits not employing delta or delta/sigma modulation techniques, having both of the following characteristics:

(a) A rated non-linearity of not better than 0.01 percent of full scale;

(b) A setting/response time of not less than 20 microseconds for a full scale input change;

(20) Rms-to-doc voltage converter microcircuits having both of the following characteristics;

(a) A rated conversion accuracy, with or without external adjustment, of not better than 0.2 percent of full scale;

(b) A ±1 percent amplitude error bandwidth of not greater than 100 kHz;

(21) Analog-to-digital and digital-to-analog converter microcircuits of the following description:

(a) Analog-to-digital converter microcircuits having both of the following characteristics:

(i) A conversion time to maximum resolution of not less than 20 microseconds;

(ii) A rated non-linearity of not better than 0.05 percent of full scale over the specified operating temperature range;

(b) Digital-to-analog converter microcircuits having both of the following characteristics:

(i) A settling time to rated linearity of not less than 5 microseconds for "voltage output," and not less than 300 nanoseconds for units not incorporating an output amplifier;

(ii) A rated non-linearity of not better than 0.05 percent of full scale over the specified operating temperature range;

This paragraph (21)(b) is not intended to release coder, decoder or coder/decoder (codec) microcircuits specially designed for voice.)

(See ECCN 1527A.)

(22) Non-reprogrammable microcircuits which are specially designed for and by virtue of circuit design are normally limited to use for functional purposes in the following applications:

(a) Automotive, including safety, comfort, operations and pollution;

(b) Home electronics, including radio and television, appliances, clocks, watches, audio and video tape recorders, safety, comfort and amusement;

(c) Personal communications up to 150 MHz, including amateur radio communications and intercom;

(d) Unembargoed cameras (including cine cameras) but excluding imaging microcircuits;

(e) Cardiac pacemakers;

(A microcircuit whose function cannot be altered by accepting or executing instructions from any external source is non-reprogrammable.)

(Programmed microcircuits are only eligible for release from embargo if the program is unalterably stored at the time of manufacture and the performance of the function has been established for the intended end-use.)

(The temperature limits specified in the heading of paragraph (c)(ii) above do not apply to sub-paragraphs (c)(ii)(22) (a) or (d).)

(23) Timing microcircuits having both of the following characteristics:

(a) A typical timing error of not less than 0.5 percent;

(b) A typical rise time of not less than 100 nanoseconds;

(iii) Unencapsulated monolithic integrated circuits which are not designed or rated as radiation hardened, and which are:

(1) Bipolar types designed for operation as digital logic circuit elements but limited to gates, inverters, buffers, bilateral switches, drivers, counters, latches, adders, comparators, parity generators, multiplexers, expanders, flip-flops, multivibrators, code converters, registers, encoders, decoders, demultiplexers, diode matrices, multipliers and Schmitt-triggers, and having both of the following characteristics:

(a) A product of the typical basic gate propagation delay time (in nanoseconds) and the power dissipation per basic gate (in milliwatts) not less than 70 pJ (i.e., speed-power product/gate not less than 70 pJ);

(b) A typical propagation delay time not less than 5 nanoseconds; (This ECCN does not permit export of complex custom bipolar digital devices.)

(2) Operational amplifiers, having all of the following characteristics:

(a) A typical unity-gain open-loop bandwidth of not more than 5 MHz;

(b) A typical open-loop voltage gain of not more than 100,000 or 100 dB;

(c) A maximum intrinsic rated input offset voltage of not less than 5 mV;

(d) A typical slew rate at unity gain not exceeding 1 volt/microsecond;

(3) Audio amplifiers having a maximum rated power output of 10 watts or less at a case temperature of 25° C;

(4) Non-reprogrammable types which are specially designed for and by virtue of circuit design are normally limited to civil uses in television and radio receivers, having all of the following characteristics:

(a) Rated for operation at 11 MHz or less;

(b) Not specially designed for station scanning applications;

(c) Not utilizing charge-coupled device (CCD) technology;

(d) Not intended for beam lead bonding;

(e) Not intended for video and/or luminance amplifiers with maximum rated supply voltages exceeding 30 volts

or with typical bandwidths greater than 7.5 MHz.

(Specify by name and type number.)

Advisory Notes.—1. Licenses are likely to be approved for export to satisfactory end-users in Country Groups PQSWY for civil applications of assemblies, modules and printed circuit boards with mounted components (excluding those containing microprocessor, microcomputer and memory microcircuits) covered by paragraph (b)(2) above, if the components are likely to be approved for export to satisfactory end-users.

2. Licenses are likely to be approved for export to satisfactory end-users in Country Groups PQSWY of devices covered by paragraph (b), and not released by paragraphs (c) (i) and (ii) above, when they consist of, or are incorporated in, plug-in printed circuit boards or plug-in modules for use in specifically identified equipment previously exported, and which do not upgrade the initial performance of that equipment, provided that the plug-in printed circuit boards or plug-in modules cannot operate independently from the equipment to which they are likely to be connected or inserted.

3. Licenses are likely to be approved for export to satisfactory end-users in Country Groups PQSWY of integrated circuits covered by paragraph (c)(ii) above only by virtue of being encased in hermetically sealed dual-in-line packages, provided that the stated legitimate civil end-use requires such a package.

4. Licenses are likely to be approved for export to satisfactory end-users in Country Groups PQSWY of devices, encapsulated or unencapsulated, covered by paragraphs (b) and (c) above, provided the devices have been designed specifically for identifiable civil applications and, by nature of design or performance, are substantially restricted to the particular application for which they have been designed.

5. Licenses are likely to be approved for export to satisfactory end-users in Country Group P (People's Republic of China) of silicon single-chip microcomputer microcircuits that are mask programmed for a civil application prior to export and have an operand (data) word length of less than or equal to 8 bits (such as sewing machines, etc.). This entry does *not* include bit-slice microprocessors.

6. Licenses are likely to be approved for export to satisfactory end-users in Country Group P (People's Republic of China) of silicon microprocessor microcircuits having an operand (data) word length of less than or equal to 8 bits, a word/speed ratio of 1.0 or less and a speed power product of 4 microjoules or greater.

7. Licenses are likely to be approved for export to satisfactory end-users in Country Group P (People's Republic of China) of memory microcircuits, of the following description:

(a) MOS dynamic RAM's having a maximum number of bits per package of 16,384 bits and an access time of 200 nanosecond or greater;

(b) Mask programmed ROM's with a maximum number of bits per package of 32,768 and 250 nanosecond access time or greater;

(c) MOS static RAM's with a maximum number of bits per package of 4,096 bits and an access time of 250 nanoseconds or greater;

(d) Bipolar RAM's with a maximum number of bits per package of 64 bits and an access time of no less than 30 nanoseconds;

(e) Programmable ROM's having a maximum number of 16,384 bits per package, including stand alone (no external interfacing capability) PROM programmers specially designed for and limited to programming the above devices; and

(f) UV erasable programmable ROM's provided that they have a maximum number of bits per package of 16,384 bits, including stand alone (no external interfacing capability) EPROM programmers specially designed for and limited to programming the above ROM's.

8. Licenses are likely to be approved for export to satisfactory end-users in Country Group P (People's Republic of China) of analog-to-digital converter microcircuits and digital-to-analog converter microcircuits covered by paragraph (c)(ii)(21) above, of the following description:

(a) Analog-to-digital converter microcircuits provided that they have a linear conversion time not less than 10 microseconds and have a non-linearity characteristic of not better than 0.015 percent; and

(b) Digital-to-analog converter microcircuits provided that they have a settling time of not less than 2 microseconds and not less than 200 nanoseconds when not incorporating an output amplifier and, in addition, do not have a non-linearity of better than 0.02 percent.

1565A Electronic computers and related equipment.

Controls for ECCN 1565A

Unit: Report computers and peripherals in "number"; parts and accessories in "$ value."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $1,000 for Country Groups T & V; $0 for all other destinations.

Processing Code. CD

Reason for Control: National security; foreign policy; nuclear non-proliferation.

Special South Africa and Namibia Controls: Foreign policy export controls for this ECCN apply only to computer equipment destined for the Department of Cooperation and Development, the Department of Internal Affairs, the Department of Community Development, the Department of Justice, the Department of Manpower Utilization, and administrative bodies of the "Homelands" that carry out similar functions in the Republic of South Africa and Namibia. Applications for validated licenses will generally be considered favorably on a case-by-case basis for the export of computers that would not be used to enforce the South African policy of apartheid.

Nuclear Non-Proliferation Controls: The following equipment is subject to nuclear non-proliferation controls and requires a validated license for Country Groups PQSTVWYZ and, in the case of (a) (1) through (4) below, to Canada:

(a) Electronic computers intended for ultimate consignees engaged directly or indirectly in any of the following activities:

(1) Designing, developing or fabricating nuclear weapons or nuclear explosive devices; or devising, carrying out, or evaluating nuclear weapons tests or nuclear explosions;

(2) Designing, assisting in the design of, constructing, fabricating or operating facilities for the chemical processing of irradiated special nuclear material, for the production of heavy water, for the separation of isotopes of any source or special nuclear material, or specially designed for the fabrication of nuclear reactor fuel containing plutonium;

(3) Designing, assisting in the design of, constructing, fabricating or furnishing equipment or components specially designed, modified or adapted for use in such facilities; or

(4) Training personnel in any of the above activities; and

(b) Advanced electronic digital computers with a bus rate of 60 million bits per second or more, or a processing data rate of 20 million bits per second or more (including digital differential analyzers) *except*

(1) Electronic computers that do not exceed either a CPU bus rate of 500 million bits per second or a processing data rate of 225 million bits per second are not subject to nuclear non-proliferation controls for destinations listed in Supp. No. 2 to Part 373 of the Export Administration Regulations unless the activities cited in (a) above are involved; or

(2) Electronic computers that do not exceed either a CPU bus rate of 200 million bits per second or a processing data rate of 60 million bits per second are not subject to nuclear non-proliferation controls for destinations listed in Supp. Nos. 2 and 3 to Part 373 of the Export Administration Regulations unless the activities cited in (a) above are involved.

Note.—Refer to § 376.10 of the Regulations for specific information required to be filed with applications for PQWY destinations. For all destinations other than PQWY, follow general application instructions and, in addition, indicate in the commodity description

column on Form ITA-622P and ITA-699P the "CPU bus rate" and "processing data rate."

Section 376.10 of the Regulations provides the formulas for calculating those rates.

Note.—Certain digital computers and/or devices and related peripherals may be exported or reexported under General License *G–DEST* to all destinations except those in Country Groups S & Z, subject to the provisions of § 376.10(a)(5) of the Regulations.

Special Licenses Available: None available for electronic computers exceeding a CPU bus rate of 60 million bits per second or a processing data rate of 20 million bits per second. Other electronic computers, analog or digital (including digital differential analyzers), are excluded from the Project License procedure.

Note.—Under the Distribution License procedure, electronic computers that do not exceed either a CPU bus rate of 500 million bits per second or a processing data rate of 225 million bits per second may be exported to approved consignees in destinations listed in Supp. No. 2 to Part 373. Electronic computers that do not exceed either a CPU bus rate of 200 million bits per second or a processing data rate of 60 million bits per second may be exported under the Distribution License procedure to approved consignees in destinations listed in Supp. No. 3 to Part 373. Any device, apparatus or accessory that upgrades a computer within these limits may be exported under the Distribution License procedure.

Note.—Distribution Licenses are not valid for the export of any computers to ultimate consignees engaged directly or indirectly in any of the following activities—

(a) Designing, developing or fabricating nuclear weapons or nuclear explosive devices; or devising, carrying out, or evaluating nuclear weapons tests or nuclear explosions;

(b) Designing, assisting in the design of, constructing, fabricating or operating facilities for the chemical processing of irradiated special nuclear material, for the production of heavy water, for the separation of isotopes of any source or special nuclear material, or specially designed for the fabrication of nuclear reactor fuel containing plutonium;

(c) Designing, assisting in the design of, constructing, fabricating or furnishing equipment or components specially designed, modified or adapted for use in such facilities; or

(d) Training personnel in any of the above activities.

List of Electronic Computers and Related Equipment Controlled by ECCN 1565A

(a) Analog computers designed or modified for use in airborne vehicles, missiles or space vehicles and rated for continuous operation at temperatures from below −45° C to above +55° C; and equipment or systems incorporating such computers;

(b) Other analog computers capable of accepting, processing and putting out data in the form of one or more continuous variables and capable of incorporating a total of at least 20 summers, integrators, multipliers or function generators with facilities for readily varying the interconnection of these components;

(c) Digital computers and digital differential analyzers (incremental computers), of the following description:

(1) Designed or modified for use in airborne vehicles, missiles, or space vehicles and rated for continuous operation at temperatures from below −45° C to above +55° C;

(2) Designed or modified to limit electromagnetic radiation to levels much less than those required to meet appropriate government civil interference specifications;

(3) Designed as ruggedized equipment and capable of meeting military specifications for ruggedized equipment or modified for military use;

(4) Designed or modified for "data (message) switching" or those incorporating equipment, devices, or techniques, including software, microprogram control (firmware) and/or specialized logic control (hardware), for accepting, storing, processing and retransmitting data groups ("Data (message) switching" is the technique (including but not limited to store and forward or packet switching) for accepting data groups (including messages, packets or other digital or telegraphic information groups that are transmitted as a composite whole), storing (buffering) data groups as necessary, processing part or all of the data groups for control (routing, priority, formatting, code conversion, error control, retransmission or journaling), transmission or multiplexing purposes as necessary, and retransmitting (processed) data groups when transmission and/or receiving facilities are available); and

(5) Equipment or systems incorporating such computers;

(d) Digital computers with one or more of the following characteristics:

(1) Floating point operations are implemented by hardware or microprogram control (firmware);

(2) The computer is equipped with peripherals (other than those free from control under paragraph (h) below);

(3) The computer is equipped with cathode-ray tube or other displays (other than those free from control under paragraph (h) below), of the following description:

(i) Used to display alphanumeric, graphic and/or similar data or information; or

(ii) With light gun or other graphic input devices;

(e) Other digital computers operated by one or more common control units and capable of all of the following:

(1) Accepting, storing, processing and producing an output in numerical or alphabetical form;

(2) Storing in fixed or alterable (writable) storage devices more than 512 numerical and/or alphabetical characters or having an internal fixed or alterable memory of more than 2,048 bits;

(3) Performing a stored sequence of operations that are modifiable by means (including replacement of fixed storage devices) other than a physical change in wiring or interconnections; and

(4) Selecting a sequence from a plurality of stored operations based upon data or an internally computed result;

(f) Computers capable of operating both analog and digital modes and related equipment of the following description;

(1) Equipment whose analog portion meets the conditions of paragraph (b) and whose digital portion meets the conditions of paragraph (e) and which also provides facilities for processing in the digital section numeric data from the analog section and/or vice versa;

(2) Equipment for interconnecting the analog and digital portions of computers as defined in paragraph (f)(1); and

(3) Digital or analog computers containing interconnecting equipment as defined in paragraph (f)(2);

(g) Related equipment for the above (including that also described in ECCNs 1572A and 1588A), designed or modified as described in paragraphs (a) or (c), *i.e.*, specialized parts, components, peripherals, displays, sub-assemblies, accessories, and spare parts; and

(h) Other related equipment for the above (including that also described in ECCNs 1572A and 1588A), *i.e.*, specialized parts, components, peripherals, displays, sub-assemblies, accessories, and spare parts.

This paragraph (h) does not control the following digital computer peripherals or displays unless they are controlled by paragraph (g). However, this does not

remove from control interface or control units for the following or any of the following entries which incorporate equipment otherwise controlled by this ECCN 1565A or which are also described in ECCNs 1572A and 1588A:

(1) Peripherals, of the following description:

(i) Punched card readers capable of operating at a speed not exceeding 2,000 cards per minute and punched card punches;

(ii) Paper tape readers capable of operating at a speed not exceeding 2,000 characters per second and paper tape punches;

(iii) Manually operated keyboards including teletype input devices; and

(iv) Non-impact printers capable of operating at a speed not exceeding 2,500 characters per minute, impact line printers and impact character printers;

(2) Displays, of the following description:

(i) Cathode-ray tube displays for which circuitry and character-generation devices external to the tube limit displays to alphanumeric characters in fixed formats or to graphs composed only of the same basic elements as used for alphanumeric character composition (limited to graphic displays for which the sequence of symbols and basic elements of symbols are fixed by the format and character generators in the unit and cannot be generated arbitrarily by the computer);

(ii) With light gun or other graphic input devices which are parts of the above cathode-ray tube displays;

(iii) Cathode-ray tube displays (excluding those displays which use cathode-ray tubes controlled by ECCN 1541A) which are part of industrial or medical equipment and which are not specially designed for computer use;

(iv) Non-coherent visible-spectrum light-emitting diode displays not controlled by ECCN 1544A;

(v) Nixie-type tube displays; and

(vi) Other displays for which circuitry and character-generation devices external to the display device (panels, tubes etc.) and the construction of the display device limit displays to alphanumeric characters in fixed formats or to graphs composed only of the same basic elements as used for alphanumeric character composition (limited to graphic displays for which the sequence of symbols and basic elements of symbols are fixed by the format and character generators in the unit and by the display device and cannot be generated arbitrarily by a computer or other control device). This subparagraph does not remove from control displays or display devices having circuitry or non-mechanical character-generation devices integral with the display device, or having any of the following characteristics:

(*a*) An area of 1,200 sq. cm. or less and a minimum character height of less than 8 mm;

(*b*) An area greater than 1,200 sq. cm. and a minimum character height of less than 20 mm; or

(*c*) A capability of displaying more than 3 levels (off, intermediate and full on); and

(vii) Specialized parts, components, sub-assemblies, accessories, and spare parts for the above.

(Specify by name and model number. Also see § 376.10.)

Note.—Paragraph (h) of ECCN 1565A is not intended to control peripherals and displays, identified in 1565A(h) (1) and (2), containing microprocessors that are permanently embedded as circuit elements dedicated solely to the primary function of the peripheral or display device and that have no user-accessible programmability of the microprocessors.

Advisory Notes.—1. Licenses are likely to be approved for export to satisifactory end-users in Country Groups PQSWY of analog computers covered by paragraph (b) above, and related equipment therefor covered by paragraph (h) above, provided that:

(a) The equipment is primarily used in non-strategic applications;

(b) The equipment will be used primarily for the specific non-strategic applications for which the export would be approved and that the number, type and characteristics of such equipment are normal for the approved use;

(c) The computers and related equipment are not covered by and would not thereby become covered by paragraph (a), (f), or (g) above, or exceed the limits of the NOTE;

(d) The analog computers are limited as follows:

(1) The rated errors for summers, inverters and integrators are not less than

(i) Static: 0.011%

(ii) Total at 1 kHz: 0.15%

(2) The rated errors for multipliers are not less than

(i) Static: 0.025%

(ii) Total at 1 kHz: 0.25%

(3) The rated error for fixed function generators (log × and sine/cosine) is not less than Static: 0.1%

(4) The computers have no more than 350 operational amplifiers; and

(5) The computers have no more than four integrator time scales switchable during one program.

Technical Notes.—(1) The percentage for Advisory Note 1(d)(1)(i) above applies to the actual output voltage; all other percentages apply to full scale, that is from maximum negative to maximum positive reference voltages.

(2) Total errors at 1 kHz for Advisory Note 1(d)(1)(ii) and (2)(ii) above are to be measured with those resistors incorporated in the inverter, summer or integrator which provide the least error.

(3) Total error measurements include all errors of the unit resulting from, for example, tolerances of resistors and capacitors, tolerances of input and output impedances of amplifiers, the effect of loading, the effects of phase shift, and the generating of functions.

2. Favorable consideration for export to satisfactory end-users in Country Groups PQSWY of digital computers defined in paragraph (c)(4) above will depend in part upon the degree of conformity with the following:

(a) The equipment is specially designed to meet the requirements of CCITT recommendation F–31 or ICAO recommendations for civilian aviation communication networks;

(b) The equipment will be used primarily for the specified civil application and will be operated by the civil authorities of the importing country for general civil traffic or for traffic with links with Western countries, or for an international Service to fulfill a commitment to ITU, ICAO, or any other inter-governmental organization which includes Western countries;

(c) The computers are not covered by the remainder of paragraph (c) above, or by paragraph (f) or (g) above, or do not exceed the limits of this Note;

(d) The number, type and characteristics of such equipment are normal for the approved use and the equipment will be limited as follows:

(1) Suitable combinations of circuits not exceeding:

(1) 250 circuits with "data signaling rates" of less than 150 bits per second;

(i) 60 circuits with "data signaling rates" of 150 to 1,000 bits per second; and/or

(iii) 8 circuits with "data signaling rates" of greater than 1,000 to 4,800 bits per second;

(2) The maximum "data signaling rate" of any circuit does not exceed 4,800 bits per second;

(3) The sum of the "data signaling rates" of all circuits does not exceed 27,500 bits per second;

(4) The sum of the "data signaling rates" of all circuits with "data signaling rates" greater than 1,000 bits per second does not exceed 19,200 bits per second;

Technical Note:

"Data signaling rate" is as defined in ITU Recommendation 53–36, taking into account that, for non-binary modulation, "bauds" and "bits per second" are not equal. Bits for coding, checking and synchronization functions are to be included.

(e) The disclosure of software and technical information for the equipment

exported is held to the minimum necessary for the application, operation and maintenance of the equipment in the stated civil end-use.

3. Favorable consideration for export to satisfactory end-users of digital computers covered by paragraph (d) (1) or (2), or (e) above, and related equipment therefor covered by paragraph (h) above, will depend in part upon the degree of conformity with the following:

(a) The equipment is primarily used in "telephone circuit switching" or "telegraph (telex) circuit switching" systems designed for fixed civil applications;

(b) (1) The equipment will be installed in "telephone circuit switching", or "telegraph (telex) circuit switching" systems designed for fixed civil applications;

(2) The equipment in total represents no more than 30 percent of the value of the switching system (during the initial installation of a partially-equipped system, this total may approach 50 percent); and

(3) The switching system will be either:

(i) Operated by civil authorities of the importing country for general civil traffic, or for traffic with links with Western countries, or for an international service to fulfill a commitment to ITU, ISAO or any other inter-governmental organization which includes Western countries; or

(ii) Used in a private exchange or private branch exchange (in each case of no more than 5,000 lines) which will be used in a civil installation situated in a densely-populated industrial area in a proscribed destination, and for which a responsible representative of the end-user or importing agency has furnished a signed statement describing the end-use and the location of the exchange and certifying that the equipment will only be used for that specific end-use;

(c) The computers and related equipment are not covered by the would not thereby become covered by paragraphs (c), (f), or (g) above, or exceed the limits of this Advisory Note;

(d) The number, type and characteristics of such equipment are normal for the approved use and the equipment will be limited to the minimum system configuration necessary to control a 50,000 line exchange for the uses cited in sub-paragraph (b)(3)(i) above, or to control a 5,000 line exchange for the uses cited in sub-paragraph (b)(3)(ii) above;

(e) For the interface equipment with which the digital computer is equipped (to be provided only for administrative and control communications purposes):

(1) The "total effective bit transfer rate" of remote "terminal devices" does not exceed 2,400 bits per second;

(2) The "effective bit transfer rate" of any interfaced "communication channel" does not exceed 2,400 bits per second;

(3) The interface equipment is located within the "computer operating area" and limits the "effective bit transfer rate" to those specified in sub-paragraphs (1) and (2) above; and

(4) All interfaced "communication channels" are dedicated full time to the given application;

(f) The disclosure of software and technical information for the equipment exported is held to the minimum necessary for the application, operation and maintenance of the equipment in the stated civil end-use.

Technical Notes.—(1) "Telephone Circuit Switching" is the technique for establishing within an exchange, on demand and until released, an exclusive direct or PCM (CCITT Recommendations G–11, G–732 and G–733) connection between calling and called telephone circuits based solely on subscriber-type of telephone dialing information derived from the calling circuit. The telephone circuits may carry any type of signal, *e.g.*, telephone, telegraph or telex, compatible with a voice channel bandwidth of 3,100 Hz. No information available on the circuit other than the subscriber dialing information is utilized for any other function.

(2) "Telegraph (Telex) Circuit Switching" utilizes techniques essentially identical to "Telephone Circuit Switching" for establishing connections between telegraph (telex) circuits based on the same type of dialing information. The telegraph (telex) circuits (which may be telephone circuits) may carry any telegraph (telex) signal compatible with a voice channel bandwidth of 3,100 Hz or less. No information available on the circuit other than the subscriber dialing information is utilized for any other function.

4. Licenses are likely to be approved for export to satisfactory end-users in Country Groups PQSWY of digital computers and/or devices defined in paragraphs (d) (1) or (2) or (e) above, and related peripherals defined in paragraph (h) above, provided that:

(a) The digital computers and/or devices have been designed for identifiable office and personal use and, by nature of design, software, microprogram control (firmware), specialized logic control (hardware) or performance, are substantially restricted to the particular application for which they have been designed;

(b) The digital computers and/or devices and the related peripherals and displays are not defined in paragraphs (c), (f) or (g) above, or do not exceed the limits of this NOTE;

(c) The digital computers and/or devices are limited as follows:

(1) The "CPU data handling rate" does not exceed 2 million bits per second;

(2) The "CPU numerical processing rate" for units capable of arithmetic operations does not exceed 0.1 million bits per second;

(3) The "total internal memory available to the user" does not exceed 32,768 bits;

(4) For peripheral devices with which the computer is equipped:

(i) No more than one magnetic tape transport which does not exceed:

(*a*) 1,600 bits per inch per track;

(*b*) 9 tracks per ½ inch (12.7 mm) tape width;

(*c*) ½ inch (12.7 mm) tape width; and

(*d*) 25 inches (65.6 cm) per second tape read/write speed;

(ii) Cassette/cartridge tape drives described in paragraph (d) below;

(iii) Digital computer peripherals and displays free from control under paragraph (h) above; and

(iv) Digital recording and reproducing equipment specially designed to use magnetic card, tag, label or bank check recording media free from control under ECCN 1572A sub-paragraph (a)(*ii*);

(d) The related peripherals are limited as follows:

Cassette/cartridge tape drives operating serially one track at a time, provided they have:

(i) No more than 800 bits per inch per track; and

(ii) No more than 6,000 bits per second maximum bit transfer rate.

Technical Notes.—(1) "CPU data handling rate" is defined as the maximum number of bits that can be accessed in parallel from an internal memory divided by the minimum time (including access time) for the execution of any instruction operating on this number of bits.

(2) "CPU numerical processing rate" is defined as the number of bits used to represent an arithmetic operand divided by the average time required for execution of a multiplication operation, assuming the most efficient arithmetic data coding and the fastest hardware, microprogram control (firmware) and/or software multiplication technique available to the user.

(3) "Total internal memory available to the user" is defined as the sum of the storage capacities of all user-alterable

internal storage devices plus all user-replaceable fixed storage devices that may be incorporated in the equipment at one time and that may be used to store microprogram control (firmware) and/or software instructions and data.

5. Licenses are likely to be approved for export to satisfactory end-users in Country Groups PQSWY of related specialized parts, components, sub-assemblies, accessories and spare parts covered by paragraph (h) above, for equipment previously exported pursuant to Advisory Note 4, provided that:

(a) The related specialized parts, components, sub-assemblies, accessories and spare parts:

(1) Will not upgrade the equipment beyond the limits of Advisory Note 4;

(2) Are in reasonable quantities based on the quantity of equipment previously exported from the country; and

(3) Are only for equipment previously exported from the country;

(b) Advanced technology components (microprocessors, arithmetic logic units (ALUs), fixed or alterable storage devices, programmed logic arrays (PLAs), etc.) defined in ECCN 1564A or 1588A are held to the minimum performance and quantity appropriate for the type and quantity of equipment they are intended for, assuming normal usage patterns.

6. Licenses are likely to be approved for export to satisfactory end-users in Country Groups PQSWY of related specialized parts, components, sub-assemblies, accessories and spare parts defined in paragraph (h) above, for tape drives previously exported pursuant to Advisory Note 4(c)(4)(ii) and (d), provided that they will not upgrade the tape drives beyond the limits of Advisory Note 4.

7. Licenses are likely to be approved for export to satisfactory end-users in Country Groups PQSWY of digital computers defined in paragraphs (d) (1) or (2) or (e) above, and related equipment therefor defined in paragraph (h) above, provided that:

(a) The equipment is primarily used in non-strategic applications;

(b) The equipment will be used primarily for the specific non-strategic applications for which the export would be approved and that the number, type and characteristics of such equipment are normal for the approved use;

(c) The computers and related equipment are not defined in and would not thereby become defined in paragraphs (c), (f) or (g) above, or exceed the limits of this NOTE;

(d) The digital computers are limited, as described below:

(1) The sum of either the "I/O bus rate" or the "total effective bit transfer rate", whichever is less, and the "CPU bus rate" does not exceed 45 million bits per second;

(2) The "processing data rate" for CPUs which implement floating point operations by hardware or microprogram control (firmware) does not exceed 8 million bits per second;

(3) The internal memory total connected capacity (excluding parity, word marker and flag bits) does not exceed 2.36 million bits;

(4) For peripheral devices with which the computer is equipped:

(i) The "total effective bit transfer rate" (excluding data channels not equipped with peripheral memory units) does not exceed 8 million bits per second;

(ii) The "effective bit transfer rate" of any peripheral memory or data channel does not exceed 1.6 million bits per second;

(iii) No more than 12 magnetic tape transports;

(iv) Magnetic tape transports which do not exceed:

(*a*) 1,600 bits per inch per track;

(*b*) 9 tracks per ½ inch (12.7 mm.) tape width; and

(*c*) ½ inch (12.7 mm.) tape width;

(v) For peripheral memory devices other than magnetic tape transports:

(*a*) Total connected "net capacity" does not exceed 960 million bits;

(*b*) For each independent device with an "average access time" or less than 30 milliseconds, the "memory performance factor" does not exceed 8,000;

(*c*) For each independent device with an "average access time" of 30 milliseconds or greater, the "memory performance factor" does not exceed 43,000;

(*d*) "Total number of accesses" does not exceed 150 per second;

(5) The "effective bit transfer rate" of any "terminal device" located remote from the "computer operating area" does not exceed 2,400 bits per second;

(6) For interface equipment with which the computer is equipped:

(i) The "total effective bit transfer rate" (excluding parity, word marker and flag bits) of remote "terminal devices" does not exceed 4,800 bits per second;

(ii) The "effective bit transfer rate" of any interfaced "communication channel" does not exceed 1,200 bits per second;

(iii) The interface equipment is located within the "computer operating area" and limits the "effective bit transfer rates" to those specified in sub-paragraphs (i) and (ii) above; and

(iv) all interfaced "communication channels" are dedicated full time to the given application.

8. Licenses are likely to be approved for export to satisfactory end-users in Country Groups, PQSWY of additional internal memory or peripheral memory devices defined in paragraph (h) above, for equipment previously exported pursuant to Advisory Note 7, provided that:

(a) Two years have elapsed since the initial installation of the equipment;

(b) The equipment would not thereby exceed the limits of Advisory Note 7(d) with the following modified limits on internal memory and peripheral memory devices:

(1) The internal memory total connected capacity (excluding parity, word marker and flag bits) does not exceed 4.72 million bits;

(2) For peripheral memory devices other than magnetic tape transports:

(i) Total connected "net capacity" does not exceed 1,400 million bits;

(ii) "Total number of accesses" does not exceed 200 per second;

(c) The conditions of Advisory Note 7 continue to be met.

9. Licenses are likely to be appproved for export to satisfactory end-users in Country Groups PQSWY of reasonable quantities of peripherals defined in paragraph (h) above, as follows:

(a) Disc drives utilizing non-rigid magnetic media, provided they have:

(1) No more than 7.88 in. (201 mm.) disc;

(2) No more than 3.2 million bit "net capacity";

(3) No more than 250,000 bits per second maximum bit transfer rate; and

(4) No less than 250 millisecond "average access time";

(b) Cassette/cartridge tape drives operating serially one track at a time, provided they have:

(1) No more than 1,600 bits per inch per track;

(2) No more than 48,000 bits per second maximum bit transfer rate;

(c) Non-impact line printers operating at 2,000 lines per minute or less and non-impact character printers operating at 300 characters per second or less;

(d) Graphic displays specially designed for signature security checking having an active display area not exceeding 150 sq. cm.

10. Licenses are likely to be approved for export to satisfactory end-users in Country Groups PQSWY of additional internal memory and peripheral memory devices defined in paragraph (h) above, for equipment previously exported, provided that the equipment would not thereby exceed the limits with the following additional limits on peripheral memory devices with which the computer is equipped:

(a) The "effective bit transfer rate" of any peripheral memory or data channel does not exceed 1.6 million bits per second;

(b) For peripheral memory devices other than magnetic tape transports:

(1) Total connected "net capacity" does not exceed 1,900 million bits;

(2) For each independent device with an "average access time" of 30 milliseconds or greater, the "memory performance factor" does not exceed 64,000.

11. Licenses are likely to be approved for export to satisfactory end-users in Country Group P (People's Republic of China) of digital computers provided that specifications do not exceed the following:

(a) I/O bus rate, or total effective bit transfer rate, whichever is less, plus CPU bus rate=290 Mbits/sec.

(b) Processing Data Rate=68 Mbits/sec.

(c) Internal Memory=16.8 Mbits.

(d) Total effective bit transfer rate=16 Mbits/sec.

(e) Effective bit transfer rate of any peripheral memory device or data channel=5.2 Mbits/sec.

(f) Number of magnetic tape units=12.

(g) Total connected Net Capacity of Peripheral Memory Devices, (excluding tape)=9.600 Mbits.

(h) Memory Performance Factor (MPF) of 380,000 at an average access time of 30 millisec or greater.

(i) Total number of accesses/sec.=350.

(j) Effective bit transfer rate of any one remote terminal device=9,600 bits/sec.

(k) Total effective bit transfer rate of all remote terminal devices=28,800 bits/sec.

(l) Effective bit transfer rate of any interface communications channel=4,800 bits/sec.

(m) Interface Equipment *total effective* bit transfer rate=115.2 Kbits/sec.

(n) Interface Equipment *single channel* effective bit transfer rate=7,200 bits/sec.

5565D Equipment, n.e.s., containing or incorporating an array transform processor (for example, nuclear magnetic reasonance analyzers, biomedical analyzers, X-ray scanner/analyzers, simulator systems, auto visual inspection systems, vibration and noise analyzers, and nuclear particle/emission analyzers).

(Array transform processors and parts therefor, when exported alone or as spares or replacements, are controlled by ECCN 1565A.)

Controls for ECCN 5565D

Unit: Report in "$ value."

Validated License Required: Country Groups PQSWYZ and Afghanistan.

GLV $ Value Limit: General License *GLV* not applicable; however, another general license may apply.

Processing Code: CD.

Reason for Control: National security.

Special Licenses Available: See Part 373.

1568A Equipment as defined in the LIST below.

Controls for ECCN 1568A

Unit: Report instruments and equipment in "number"; parts and accessories in "$ value."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $1,000 for Country Groups T & V; $0 for all other destinations.

Processing Code: MG for commodities defined in paragraphs (a), (b), and (d) through (j) of the LIST below. EE for paragraphs (c), (k) and (l). Both MG and EE may apply to paragraph (m).

Reason for Control: National security. Nuclear non-proliferation controls apply to paragraphs (b), (d), (f), (g), (j), (k) and (m) of the LIST below. (Nuclear nonproliferation controls do not apply to those countries listed in Supp. Nos. 2 or 3 to Part 373.)

Special Licenses Available: See Part 373.

LIST of Equipment Controlled by ECCN 1568A

(a) All classes of devices, regardless of other characteristics, identified in paragraphs (b), (c), (d), (e), (f), (g), (j), and (k) below, which are designed to operate below −55° C or above +125° C;

(b) Synchros and resolvers (and special instruments rated to have the same characteristics as synchros and resolvers in (1) and (2) below, such as Microsyns, Synchro-Tels and Inductosyns), possessing any of the following characteristics:

(1) A rated electrical error of 7 minutes of arc or less or of 0.2 percent or less of maximum output voltage;

(2) A rated dynamic accuracy for receiver types of 1° or less, except that for units of size 30 (3 inches (76.2 mm) in diameter) or larger a rated dynamic accuracy of less than 1°;

(3) Multi-speed from single shaft types; or

(4) Designed for gimbal mounting;

(c) Amplifiers, electronic or magnetic, specially designed for use with resolvers, of the following description:

(1) Isolation types having a variation of gain constant (linearity of gain) of 0.2 percent or better;

(2) Summing types having a variation of gain constant (linearity of gain) or an accuracy of summation of 0.2 percent or better; or

(3) Employing solid state Hall effect;

(d) Induction potentiometers (including function generators and linear synchros), linear and non-linear, possessing any of the following characteristics:

(1) A rated conformity of 0.25 percent or less, or of 13 minutes of arc or less:

(2) Employing solid state Hall effect; or

(3) Designed for gimbal mounting;

(e) Induction rate (tachometer) generators, synchronous and asynchronous of the following description:

(1) Employing solid state Hall effect;

(2) With a housing diameter of 2 inches (50.8 mm) and smaller and a length (without shaft ends) of 4 inches (101.6 mm) and smaller or with a diameter-to-length ratio greater than 2:1, having one or more of the following characteristics:

(i) With a rated linearity of 0.1 percent or less; or

(ii) All temperature-compensated or temperature-corrected types;

(f) Servo-motors (gear-head or plain) of the following description:

(1) Designed to operate from power sources of more than 300 Hz, *except those designed to operate from power sources of over 300 Hz up to and not exceeding 400 Hz with a temperature range of from −55° C to +125° C;*

(2) Designed to have a torque-to-inertia ratio of 50,000 radians per second ^{2} or greater;

(3) Incorporating special features to secure internal damping; or

(4) Employing solid state Hall effect;

(g) Precision potentiometers, *except potentiometers using only switched elements* (for the purpose of this paragraph, a precision potentiometer means one having a rated conformity better than 0.25 percent for a linear potentiometer; or 1 percent for a non-linear potentiometer), and special instruments rated to have the same characteristics as potentiometers in (1) and (2) below, such as Vernistats, of the following description:

(1) Linear potentiometers having a constant resolution and a rated linearity of better than 0.05 percent absolute;

(2) Non-linear potentiometers having a variable resolution and a rated conformity of:

(i) 1 percent or less when the resolution is inferior to that obtained with a linear potentiometer of the same type and of the same track length; or

(ii) 0.5 percent or less when the resolution is better than or equal to that obtained with a linear potentiometer of the same type and of the same track length; or

(3) Designed for gimbal mounting;

(h) Direct current and alternating current torquers, *i.e.*, torque motors specially designed for gyros and stabilized platforms;

(i) Electro-optical devices designed to monitor relative rotation of remote surfaces;

(j) Synchronous motors, of the following description:

(1) Of size 20 (2 in. (50.8 mm) in diameter) and smaller and having synchronous speeds in excees of 3,600 rpm;

(2) Designed to operate from power sources of more than 400 Hz;

(k) Analog-to-digital and digital-to-analog converters other than digital voltmeters or counters (see ECCN 1529A), of the following description:

(1) Electrical input type analog-to-digital converters having any of the following characteristics:

(i) A peak conversion rate in excess of 200,000 complete conversions per second;

(ii) An accuracy in excess of 1 part in more than 10,000 of full scale; or

(iii) A figure of merit of 1×10^5 or more (derived from the number of complete conversions per second divided by the accuracy);

(2) Electrical imput type digital-to-analog converters having any of the following characteristics:

(i) A setting time (the time required for the output to come within one half bit of the final value when switching between any two levels of the converters) of less than 5 microseconds for voltage input devices and less than 500 nanoseconds for current input devices;

(ii) An accuracy in excess of 1 part in more than 10,000 of full scale;

(iii) A figure of merit of 1×10^9 or more (the figure of merit is derived as in (1) (iii) above;

(3) Solid-state synchro-to-digital or digital-to-synchro converters and resolver-to-digital or digital-to-resolver converter (including multipole resolvers) having a resolution of better than ±1 part in 5,000 per full synchro revolution for single speed synchro systems or ±1 part in 40,000 for dual speed systems;

(4) Mechanical input types (including but not limited to shaft-position encoders and linear displacement encoders, but excluding complex servo-follower systems), of the following description:

(i) Rotary types having an accuracy of better than ±1 part in 40,000 of full scale; or

(ii) Linear displacement types having a resolution better than ±5 micrometers;

(l) Semi-conductor Hall field probes, of the following description:

(1) Made of indium-arsenide-phosphide (In As P);

(2) Coated with ceramic or ferritic materials (*e.g.*, special field probes such as tangential field probes, multipliers, modulators, recorder probes, etc.); or

(3) With an open circuit sensitivity greater than 0.12

$$\frac{\text{(Volts)}}{\text{(Amperes} \times \text{Kilogauss)}}$$

(Open circuit sensitivity is the slope of a straight line that passes through the point of origin and through the point V_{20}; i_1 at $B=B_{Bn}$ in the characteristic is defined as the open circuit sensitivity.

V_{20}=Hall voltage, open circuit;

i_1=Control current;

$Bn=_n$=Rated value of applied magnetic control field); and

(m) Specially designed parts, components, sub-assemblies, and test equipment (including adapters, couplers, etc.) for the above.

(Specify by name and type or model number.)

Note.— The processing code for a commodity in paragraph (m) is the same as that of the equipment for which the parts, etc. are designed.

Advisory Notes.—1. Licenses are likely to be approved for export to bona fide end-users in Country Groups PQSWY of potentiometers defined in paragraphs (g)(1) and (2) above, provided they have been designed for civil use, and have been in use in civil equipment for a period of not less than five years.

2. Licenses are likely to be approved for export to satisfactory end-users in Country Group (People's Republic of China) of analog-to-digital converter modules having an accuracy of 1 part in 20,000 and a figure of merit of 5×10^5.

5568D Equipment as defined in the List below.

Controls for ECCN 5568D

Unit: Report in "$ value."

Validated License Required: Country Groups PQSWYZ and Afghanistan.

GLV $ Value Limit: $100 for Country Groups Q. General License *GLV* not applicable for other destinations; however, another general license may apply.

Processing Code: MG.

Reason for Control: National security.

Special South Africa and Namibia Controls: A validated license is required for export to the Republic of South Africa and Namibia if intended for delivery to or for use by or for military or police entities in these destinations or for use in servicing equipment owned, controlled or used by or for these entities. See § 385.4(a).

Special Licenses Available.: See part 373.

List of Equipment Controlled by ECCN 5568D

(a) Synchronous motors of any rating having any of the following characteristics:

(1) Synchronous speeds in excess of 3,000 rpm,

(2) Designed to operate between −55°C and −10°C or between +55°C and +125°C,

(3) Of size 11 (1.1 inches in diameter) or smaller, or

(4) Larger than size 20 (2 inches in diameter) having synchronous speeds in excess of 3,600 rpm;

(b) Servo control units, linear induction potentiometers, induction rate generators, synchros, and resolvers; and instruments which perform functions similar to synchros or resolvers with a rated electrical error of greater than 7 minutes of arc, or between 0.2 percent and 0.5 percent of maximum output voltage;

(c) Induction potentiometers (including function generators and linear synchros), linear and nonlinear, of size 11 (1.1 inches in diameter) or smaller, or having a rated conformity between 0.25 and 0.5 percent, or of more than 13 minutes to 18 minutes;

(d) Induction rate (tachometer) generators, synchronous and asynchronous, of size of 11 (1.1 inches in diameter) or smaller, or with a housing diameter of 2 inches and smaller and a length (without shaft-ends) of 4 inches and smaller, or with a diameter-to-length ration greater than two to one, having a rated linearity between 0.1 percent and 0.5 percent; and

(e) Parts and accessories therefor.

(Specify by name and model number.)

4569B Inverters, converters, frequency changers, and generators having a multiphase electrical power output within the range of 600 to 2,000 hertz.

Controls for ECCN 4569B

Unit: Report in "$ value."

Validated License Required: Country Groups PQSTVWYZ and Canada.

GLV $ Value Limit: $0 for all destinations.

Processing Code: EE.

Reason for Control: Nuclear non-proliferation.

Special Licenses Available: None.

1570A Thermoelectric materials and devices.

Controls for ECCN 1570A

Unit: Report in "$ value."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $250 for Country Groups T & V; $0 for all other destinations.

Processing Code: EE.

Reason for Control: National security; nuclear non-proliferation controls apply to commodities defined in paragraphs (a), (d) and (e) of the LIST below. Nuclear non-proliferation controls do not apply to those countries listed in Supp. Nos. 2 or 3 to Part 373.

Special Licenses Available: Distribution License is available for shipments to countries listed in Supp. Nos. 2 or 3 to Part 373.

List of Thermoelectric Materials and Devices Controlled by ECCN 1570A

(a) Thermoelectric materials with a maximum product of the figure of merit (Z) and the temperature (T in °K) in excess of 0.75;

(b) Junctions and combinations of junctions using any of the materials in (a) above;

(c) Heat absorbing and/or electrical power generating devices containing any of the junctions in (b) above;

(d) Other power generating devices which generate in excess of 10 watts per pound or of 500 watts per cubic foot of the device's basic thermoelectric components; and

(e) Specialized parts, components, and sub-assemblies for the above devices.

(The figure of merit (Z) equals Seebeck coefficient squared divided by the product of electrical resistivity and thermal conductivity. The weight and cubic measurements in (d) above are not intended to encompass the complete device but to include only the thermoelectric elements and assembly and the components for pumping calories. Other components, such as heating and/or cooling sources or containers, device frames or stands and control equipment are not to be included in the calculations.) (See also paragraph (c) of ECCN 1205A.)

(Specify by name and model number.)

1571A Magnetometers having or capable of having a sensitivity better than ± 1.0 gamma (± 10^{-5} oersteds), and specially designed parts therefor.

(Sensitivity is defined as the visually recognized minimum sinusoidal signal in the frequency range of 0.025 Hz to 1.5 Hz when the signal-to-noise ratio is higher than 1. Specially designed parts therefor is intended to include active rotational compensation as opposed to static compensation methods, and any form of dynamic signal processing or gradient compensation provided as part of, or designed for use with, magnetometers included in this ECCN.)

Controls for ECCN 1571A

Unit: Report in "$ value."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $500 for Country Groups T & V; $0 for all other destinations.

Processing Code: MG.

Reason for Control: National security.

Special Licenses Available: See Part 373.

1572A Recording and/or reproducing equipment.

(For equipment that may be exported in conjunction with computer shipments, see ECCN 1565A.)

Controls for ECCN 1572A

Unit: Report equipment in "number"; parts and accessories in "$ value."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $1,000 for Country Groups T & V; $0 for all other destinations.

Processing Code: EE.

Reason for Control: National security.

Special Licenses Available: See Part 373.

List of Types of Recording and/or Reproducing Equipment Controlled by ECCN 1572A

(a) Using magnetic techniques;

(b) Using electron beam(s) operating in a vacuum, and/or laser-produced light beams (see also ECCN 1522A) that produce patterns or images directly on the recording surface, and specialized equipment for image development;

(c) Graphic instruments capable of continuous direct recording of sinusoidal waves at frequencies exceeding 20 kHz; and

(d) Specialized parts and components for the above and recording media used in equipment covered by paragraphs (a) and (b). (The term "recording media" is intended to include all types and forms of specialized recording media used in such recording techniques, including but not limited to tapes, drums, discs and matrices.);

(e) Exceptions to (a), (b) and (d) are listed below:

Exception 1. Paragraphs (a) and (b) do not control the following equipment:

Equipment using magnetic techniques:

(i) *Specifically designed for voice or music and not employing digital techniques;*

(ii) *Specifically designed to use magnetic cord, tag, label or bank check recording media with a magnetic surface area not exceeding 13 sq. in. (85 sq. cm.);*

Equipment using electron beam(s) operating in a vacuum, and/or laser-produced light beams:

(i) *Specifically designed for television recording and/or reproducing on discs;*

(ii) *Facsimile equipment incorporating lasers such as used for commercial weather imagery and commercial wire photos and text;*

Note.—No technical data relating to the commodities described in Exceptions 2 through 4 below may be exported under General License *GTDR* until a written assurance against reexport of the data has been obtained by the exporter in accordance with § 379.4(f)(3).

Exception 2. Pargraphs (a) or (b) also do not control the following recording and/or reproducing equipment and paragraph (d) does not control the specialized parts and components therefor (recording media used in this equipment are still covered by paragraph (d), see Exception 3 and Advisory Note 2 below), provided that:

(a) The equipment has been designed for identifiable civil use and by nature of design or performance is substantially restricted to the particular application for which it has been designed;

(b) The equipment has all of the following characteristics:

(1) Not ruggedized;

(2) Not rated for continuous operation in ambient temperatures from below −20° C to above +55° C;

(3) Not specifically designed for underwater use;

(c) The equipment is limited as described below:

(1) Video magnetic tape and disc recorders specially designed for television recording, using a signal registered with the CCIR, or specially designed or adapted for use with medical equipment, and having all of the following characteristics:

(i) 3 dB recording bandwidth not exceeding 6 MHz;

(ii) A signal-to-noise ratio not exceeding 48 dB, unless the equipment is a cassette-type recorder, in which case the signal-to-noise ratio does not exceed 52 dB;

(iii) Maximum length of time of a single scan not exceeding 20 milliseconds;

(iv) Portable or transportable and having a net weight not exceeding 50 kg;

(2) Analog magnetic tape recorders specifically designed for use with medical equipment, *i.e.,* for recording physiological signals, and having all of the following characteristics:

(i) Bandwidth capability at maximum design speed not exceeding 300 kHz per track;

(ii) Recording density not exceeding 5,000 magnetic flux sine waves per linear inch (25.4 mm) per track;

(Technical Note.—Recording density is, for direct recorders, the recording bandwidth divided by the tape speed; and, for FM recorders, the sum of the carrier frequency and the deviation divided by the tape speed.)

(iii) Not including recording and/or reproducing heads of the rotary or floating types or heads designed for use in equipment with characteristics superior to those defined in sub-paragraph (i) or (ii) above;

(iv) Tape speed not exceeding 60 inches (152.4 cm) per second;

(v) Number of recording tracks (excluding audio voice track) not exceeding 20;

(vi) Start-stop time not less than 25 milliseconds;

(vii) Equipped with tape-derived (off-tape) servo speed control and with a time displacement (base) error of not less than ±5 microseconds at a tape speed of 60 inches (152.4 cm) per second and not less than ±10 microseconds at any lower tape speed measured in accordance with applicable IRIG and EIA documents;

(3) digital tape recorders specially designed for the collection of medical data obtained from nuclear or other ionizing radiation measurements and having all of the following characteristics:

(i) Mean packing density, with less than 5 percent loss of pulses, not exceeding 800 pulses per inch per track;

(ii) Characteristics not superior to those defined in sub-paragraphs (c)(2)(iii), (vi) and (vii) above;

(iii) Tape speed not exceeding 37.5 inches (95 cm) per second;

(iv) Number of recording tracks not exceeding 8;

(v) packing density not exceeding 800 bits per inch per track;

(4) Equipment using electron beam(s) operating in a vacuum specially designed for television recording on film, using a signal registered with the CCIR and having all of the following characteristics:

(i) Pattern or image frame size not exceeding 3mm × 2.3 mm;

(ii) Pattern or image not exceeding 312.5 lines per frame;

(iii) Beam spot position stability not better than 0.3 percent;

(iv) 3 dB recording bandwidth not exceeding 4 MHz;

(5) Digital recording and reproducing equipment operating serially with a packing density not exceeding 800 bits per inch per track specially designed for use with, and incorporated in, typewriter systems used for preparing, correcting and/or composing text.

Exception 3. Paragraph (d) does not control the following magnetic tape and flexible disc cartridge recording media, provided that:

(a) The magnetic tape is a standard commercial product that has been in use in quantity for at least two years and is not designed for use in satellite applications or in applications requiring a tape life exceeding 3,000 passes;

(b) The base material consists only of polyester or cellulose acetate;

(c) The magnetic tape recording media with a magnetic coating material consisting only of undoped gammaferric (iron) oxide with a rated intrinsic coercitivity not exceeding 350 oersteds is limited to the following types and characteristics:

(1) Video tape designed for television recording and reproduction or instrumentation tape designed for analog recording and reproduction, and having all of the following characteristics:

(i) Not designed for use in video recorders having a 3 dB recording bandwidth exceeding 6 MHz or in analog recorders having a recording density exceeding 5,000 magnetic flux sine waves per linear inch (25.4 mm) per track;

(ii) A tape width not exceeding 1 inch (25.4 mm);

(iii) A magnetic coating thickness not less than 0.40 mil (10.2 microns);

(iv) A tape length not exceeding 4,600 feet (1,402 meters);

(2) Computer tape designed for digital longitudinal recording and reproduction and having all of the following characteristics:

(i) A magnetic coating certified for a maximum packing density of 6,250 bits per inch (9,042 flux changes per inch) along the length of the tapes

(ii) A magnetic coating thickness not less than 8.13 micrometers (0.32 mil);

(iii) A tape width not exceeding 1 inch (25.4 mm);

(iv) A tape length not exceeding 3,600 feet (1,097 meters);

(3) Computer tape in cassettes/cartridges designed for digital longitudinal recording and reproduction and having all of the following characteristics:

(i) A magnetic coating certified for a maximum packing density of 1,600 bits per inch (3,200 flux changes per inch) along the length of the tape;

(ii) A magnetic coating thickness not less than 0.17 mils (4.32 microns);

(iii) A tape width not exceeding ¼ inch (6.35 mm);

(iv) A tape length not exceeding 900 feet (274.3 meters);

(4) Computer flexible disc cartridges designed for digital recording and reproduction and having all of the following characteristics:

(i) A magnetic coating certified for a maximum packing density of 13,262 flux changes per radian (3,268 bits per inch, at a radius of 2.029 inches (51.536 mm) around the disc);

(ii) A magnetic coating thickness not less than 2.54 micrometers (0.1 mil);

(iii) A disc thickness not exceeding 80 micrometers (0.003 inch);

(iv) A disc outer diameter not exceeding 7.88 inches (201 mm);

(v) A disc inner diameter of 1.5 inch (38.1 mm);

(d) The magnetic tape recording media with a magnetic coating material consisting only of chromium dioxide with a rated intrinsic coercitivity not exceeding 650 oersteds are limited to video tape specially designed for the video recorders defined in Advisory Note 2(c)(1) and having both of the following characteristics:

(1) A tape width not exceeding 1 inch (25.4 mm);

(2) A tape length not exceeding 1,800 feet (548.6 meters);

(e) The magnetic tape recording media in video tape cassettes are specially designed for the video recorders defined in Advisory Note 2(c)(1) and have all of the following characteristics:

(1) A rated intrinsic coercitivity not exceeding 750 oersteds;

(2) A magnetic coating thickness not less than 2.54 micrometers (0.1 mil);

(3) A tape length not exceeding 1,800 feet (548.6 meters);

(4) A tape width not exceeding ¾ inch (19.05 mm);

Exception 4: Sub-paragraph (a)(i) also does not control normal civil use digital recording and reproducing equipment specially designed for recording and/or reproducing voice or music on tape or disc.

(Specify by name and model number.)

Advisory Notes.—1. Licenses are likely to be approved for export to satisfactory end-users in Country Groups PQSWY of reasonable quantities of equipment defined in paragraph (a) above, and specialized parts, components and recording media therefor defined in paragraph (d), for use with the exported equipment as follows:

(a) Video magnetic tape recorders specially designed for television recording, using a signal registered with the CCIR, or specifically designed or adapted for use with medical equipment, and having all of the following characteristics:

(1) 3 dB recording bandwidth not exceeding 6 MHz;

(2) Maximum length of time of a single scan not exceeding 20 milliseconds;

(3) Not ruggedized;

(b) Analog magnetic tape recorders having all of the following characteristics:

(1) Bandwidth capability at maximum design speed not exceeding 300 kHz per track;

(2) Recording density not exceeding 5,000 magnetic flux sine waves per linear inch (25.4 mm) per track;

Technical Note.—Recording density is, for direct recorders, the recording bandwidth divided by the tape speed, and, for FM recorders, the sum of the carrier frequency and the deviation divided by the tape speed;

(3) Not ruggedized;

(4) Not rated for continuous operation in ambient temperatures ranging from less than −20° C to greater than +55° C;

(5) Not specifically designed for underwater use;

(6) Not including recording and/or reproducing heads of the rotary or floating types or designed for use in equipment with characteristics superior to those defined in paragraphs (b) (1) and (2) above;

(7) Tape speed not exceeding 60 inches (152.4 cm) per second;

(8) Number of recording tracks (excluding radio voice track) not exceeding 16 channels for direct recording and 28 channels for FM recording;

(9) Start-stop time not less than 25 milliseconds;

(10) Equipped with tape-derived (off-tape) servo speed control and with a time displacement (base) error of not less than ±5 microseconds at a tape speed of 60 inches (152.4 cm) per second and not less than ±10 microseconds at any lower tape speed measured in accordance with applicable IRIG and EIA documents;

(c) Systems for use in civil aircraft or helicopters to record flight data for safety and/or maintenance purposes, and having all of the following characteristics:

(1) In normal civil use for more than one year;

(2) Not exceeding 100 input channels;

(3) Sum of the individual channel recording bandwidths not exceeding 500 Hz;

(d) Recording equipment not intended for use in conjunction with equipment or materials covered by other ECCNs, provided that the capability of the recorder is limited to both:

(1) A tape width not exceeding ¼ inch (6.35 mm);

(2) Digital recording techniques in serial form with a packing density not exceeding 800 bits per inch.

Technical Note.—Packing density is, for digital recorders, the number of bits per second per track divided by the tape speed;

(e) Incremental recorders and/or reproducers (*i.e.*, equipment designed for discontinuous sampling and/or collection of data in an incremental manner) having all of the following characteristics:

(1) The maximum tape speed, at the maximum stepping rate, does not exceed 2 inches (50.8 mm) per second;

(2) The equipment has all the characteristics specified in paragraphs (b) (3) to (6) of this Note;

(f) Digital magnetic recorders specially designed for seismic/geophysical applications and operating in the frequency range of 5 to 800 Hz.

(g) Digital recording and reproducing equipment operating serially with a packing density not exceeding 1,600 bits per inch per track, specially designed for use with, and incorporated in, typewriter systems used for preparing, correcting and/or composing text.

2. Licenses are likely to be approved for export to satisfactory end-users in Country groups PQSWY for use in civil television recording and reproducing applications, of reasonable quantities of the following types of magnetic tape recording media covered by paragraph (d) of ECCN 1572A whose base material consists only of polyester or cellulose acetate:

(a) With a magnetic coating material consisting only of undoped gamma-ferric (iron) oxide with a related intrinsic coercitivity not exceeding 350 oersteds and limited to video tape designed for television recording and reproduction with a tape width not exceeding 2 inches (50.8 mm);

(b) With a magnetic coating material consisting only of chromium dioxide with a rated intrinsic coercitivity not exceeding 750 oersteds and limited to video tape designed for television recording and reproduction with a tape width not exceeding 1 inch (25.4 mm);

(c) With a magnetic coating material consisting only of doped or undoped gamma-ferric (iron) oxide with a rated intrinsic coercitivity not exceeding 650 oersteds, hand limited to video tape designed for television recording and reproduction and having all of the following characteristics:

(1) Not designed for use in video recorders having a 3 dB recording bandwidth exceeding 6 MHz;

(2) A magnetic coating thickness not less than 5.1 micrometers (0.2 mil);

(3) A tape length not exceeding 2,400 feet (732 meters);

(4) A tape width not exceeding 1 inch (25.4 mm);

3. Licenses are likely to be approved for export to satisfactory end-users in Country Groups PQSWY for the shipment of reasonable quantities of computer magnetic disc recording media covered by paragraph (d) above for use in civil digital computer applications, provided that:

(a) The magnetic disc recording media are a standard commercial product, have not been designed as ruggedized equipment and are neither capable of meeting military specifications for ruggedized equipment nor modified for military use;

(b) The magnetic disc recording media are limited to the following types and characteristics:

(1) Unrecorded single-disc cartridges (front loading, 2,200 b.p.i.) (2315-type) designed to meet ANSI X3.52–1976;

(2) Unrecorded magnetic single-disc cartridges (top loading, 2,200 b.p.i.) (5440-type) designed to meet International Standard ISO 3562–1976;

(3) Unrecorded magnetic six-disc packs (2311-type) designed to meet ANSI X3.46–1974 or International Standard ISO 2864–1974(E);

(4) Unrecorded eleven-disc packs (single-density or double density 2314-type) designed to meet ANSI X3.58–1977 or International Standard ISO 3564–1976.

4. Licenses are likely to be approved for export to satisfactory end-users in Country Groups PQSWY for the shipment of reasonable quantities of analog magnetic tape recorders defined in paragraph (a) above, and specialized parts, components and recording media therefor defined in ECCN 1572A(d), for use with those recorders, provided that:

(a) The equipment is for a legitimate civil end-use and is reasonable for that use;

(b) Details of such equipment have previously been submitted to the Department of Commerce and a determination has been made that the equipment is eligible for special treatment.

(c) The analog magnetic tape recorders are limited as follows:

(1) Characteristics not superior to those defined in Advisory Note 1 (b) (1) to (9);

(2) Equipped with tape-derived (off-tape) servo speed control and with a time displacement (base) error of not less than ±0.8 microsecond at a tape speed of 60 inches (152.4 cm) per second and not less than ±1.6 microsecond at any lower tape speed measured in accordance with applicable IRIG and EIA documents.

5. Licenses are likely to be approved for export to satisfactory end-users in Country Group P (People's Republic of China) of analog (instrumentation) magnetic tape recorders defined in paragraph (a) above having a bandwidth capability of 2 MHz, provided that they have less than 28 tracks, are equipped with a tape-derived servo speed control and have a time displacement error of not less than 1 microsecond at a tape of 60 inches per second.

6. Licenses are likely to be approved for export to satisfactory end-users in Country Group P (People's Republic of China) of incremental recorders having a maximum stepping rate not exceeding 6 inches per second.

1584A Cathode-ray oscilloscopes, and specialized parts therefor including associated plug-in units, external amplifiers, and pre-amplifiers and sampling devices.

Controls for ECCN 1584A

Unit: Report oscilloscopes in "number"; parts and accessories in "$ value."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $1,000 for Country Groups T & V; $0 for all other destinations.

Processing Code: EE.

Reason for Control: National security; nuclear non-proliferation. Nuclear non-proliferation controls do not apply to those countries listed in Supp. Nos. 2 or 3 to Part 373.

Special Licenses Available: See Part 373.

List of Characteristics of Cathode-ray Oscilloscopes and Specialized Parts Therefor Controlled by ECCN 1584A

(a) An amplifier bandwidth greater than 100 MHz (defined as the band of frequencies over which the deflection on the cathode-ray tube does not fall below 70.7 percent of that at maximum point measured with a constant input voltage to the amplifier);

(b) Containing or designed for use with cathode-ray tubes controlled by ECCN 1541A(b) or (c);

(c) Ruggedized to meet a military specification;

(d) Rated for operation over an ambient temperature range of from below −25° C to above +55° C;

(e) Using sampling techniques for the analysis of recurring phenomena which increase the effective bandwidth of an oscilloscope or time domain reflectometer to a frequency greater than 1,000 MHz; or

(f) Digital oscilloscopes with sequential sampling of the input signal at an interval of less than 50 nanoseconds.

(Specify by name and model number.)

Advisory Notes.—1. Licenses are likely to be approved for export to satisfactory end-users in Country Groups PQSWY of oscilloscopes (including mainframe/amplifier systems) and probes therefor defined only in paragraphs (a) and (b) above, provided that:

(a) The oscilloscope or system bandwidth is not rated in excess of 200 MHz;

(b) In the case of systems, the characteristics of individual plug-ins or mainframes are not in excess of what is required for the overall system performance;

(c) The equipment is a reasonable requirement for the stated legitimate civil end-use; and

(d) The cathode-ray tube contains no electron multiplier.

2. Licenses are likely to be approved for export to satisfactory end-users in Country Group P (People's Republic of China) of sampling oscilloscopes defined in paragraph (e) above provided that they have an effective bandwidth of 5 GHz or less.

3. Licenses are likely to be approved for export to satisfactory end-users in Country Group P (People's Republic of China) of time domain reflectometers.

1585A Photographic equipment.

Controls for ECCN 1585A

Unit: Report cameras in "number"; film in "sq. ft. "; parts and accessories in "$ value."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $500 for Country Groups T & V; $0 for all other destinations.

Processing Code: MG.

Reason for Control: National security; nuclear non-proliferation controls apply to paragraphs (b) through (e) and (f)(1), (f)(2) and (g).

Special Licenses Available: None for commodities defined in paragraphs (b) through (g) below. See Part 373 for special licenses available to export commodities defined in (a).

List of Photographic Equipment Controlled by ECCN 1585A

(a) High speed cinema recording cameras and equipment, and specially designed parts and accessories therefor, of the following description:

(1) Cameras in which the film is continuously advanced throughout the recording period, and which are capable of recording at framing rates exceeding 13,150 frames per second, using any camera and film combination from the standard 8 mm to 90 mm size inclusive; and

(2) Specíal optical or electronic devices which supplement, replace, or are interchangeable with standard camera components for the purpose of increasing the number of frames per second;

(b) High speed cameras, and specially designed parts and accessories therefor, in which the film does not move, and which are capable of recording at rates exceeding 1,000,000 frames per second for the full framing height of standard 35 mm wide photographic film, or at proportionately higher rates for lesser frame heights, or at proportionately lower rates for greater frame heights;

(c) Cameras incorporating electron tubes defined in ECCN 1555(a);

(d) Steak cameras having writing speeds of 10 mm/microsecond and above, and specially designed parts and accessories therefor;

(e) Camera shutters with speeds of 50 nanoseconds or less per operation, and specialized parts and accessories therefor;

(f) Film, of the following description:

(1) Having an intensity dynamic range of 1,000,000:1 or more; or

(2) Having a speed of ASA 10,000 (or its equivalent) or better;

(3) Color film having a spectral sensitivity extending beyond 7,200 Angstroms or below 2,000 Angstroms; and

(g) High speed plates having an intensity dynamic range of 1,000,000:1 or more.

4585B Photographic equipment.

Controls for ECCN 4585B

Unit: Report cameras in "number"; film in "sq. ft."; parts and accessories in "$ value."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $500 for Country Groups T & V; $0 for all other destinations.

Processing Code: MG.

Reason for Control: National security; nuclear non-proliferation controls apply to commodities defined in paragraph (a) below.

Special Licenses Available: None for commodities defined in paragraph (a) below. See Part 373 for special licenses available to export other commodities defined in this ECCN.

List of Photographic Equipment Controlled by ECCN 4585B

(a) Streak cameras capable of recording events which are initiated by, or synchronized with, the camera mechanism (*i.e.*, discontinuous access type), having a design capability for writing speeds of 8 mm per microsecond and above *and* a time resolution of 100 nanoseconds or less, and parts and accessories, n.e.s.;

(b) Aerial camera film, black and white, sensitized and unexposed, having spectral sensitivities at wavelengths greater than 7,500 Angstroms or at wavelengths less than 2,000 Angstroms;

(c) Aerial camera film, sensitized and unexposed, having resolving powers (using a Test-Object Contrast of 1,000:1) of 200 line pairs/mm or more or with a base thickness before coating of 0.0025 inch or less;

(d) Continuous tone aerial duplicating film, sensitized and unexposed, having resolving powers (using a Test-Object Contrast of 1,000:1) of 300 line pairs/mm or more; and

(e) Instrumentation and/or recording film, sensitized and unexposed, having photo-recording sensitivities (as based on the reciprocal of the tungsten exposure in meter-candle-seconds at an exposure time of 0.0001 second) of 125 or more and resolving power (using a Test-Object Contract of 1,000:1) of 55 lines pairs/mm or more and with a base thickness before coating of 0.004 inch or less and capable of being processed in solutions with alkalinities of pH 10 or above at temperatures greater than 85° F.

5585D Photographic equipment.

Controls for ECCN 5585D

Unit: Report cameras in "number"; film in "sq. ft."; parts and accessories in "$ value."

Validated License Required: Country Groups PQSWYZ and Afghanistan.

GLV $ Value Limit: $100 for Country Group Q. General License *GLV* not applicable to other destinations; however, another general license may apply.

Processing Code: MG.

Reason for Control: National security controls apply to commodities defined in paragraph (b) of the List below; nuclear nonproliferation controls apply to paragraph (a).

Special South Africa and Namibia Controls: A validated license is required for export to the Republic of South Africa and Namibia if intended for delivery to or for use by or for military or police entities in these destinations or for use in servicing equipment owned, controlled or used by or for these entities. See § 385.4(a).

Special Licenses Available: See Part 373.

List of Photographic Equipment Controlled by ECCN 5585D

(a) Other high-speed continuous writing, rotating drum cameras capable of recording at rates in excess of 2,000 frames per second, and parts and accessories, n.e.s.; and

(b) Other 16 mm high-speed motion picture cameras capable of recording at rates in excess of 2,000 frames per second, and parts and accessories, n.e.s.

1586A Acoustic wave devices and specialized parts therefor.

Controls for ECCN 1586A

Unit: Report in "$ value."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $500 for Country Groups T & V; $0 for all other destinations.

Processing Code: EE.

Reason for Control: National security.

Special Licenses Available: See Part 373.

List of Acoustic Wave Devices and Specialized Parts Controlled by ECCN 1586A

(a) Surface acoustic wave and surface skimming acoustic wave devices (*i.e.*, signal processing devices employing elastic waves in materials, including but not limited to, lithium niobate, lithium tantalate, bismuth germanium oxide, silicon, quartz, yttrium garnet, aluminum oxide and magnesium aluminum oxide) which permit direct processing of signals, including but not limited to, amplifiers, correlators (fixed, programmable and memory), oscillators, bandpass filters (transversal and resonator), multiplexers, dispersive expansion and compression filters, delay lines (fixed and tapped) and non-linear devices, having any of the following characteristics:

(1) A carrier frequency of greater than 400 MHz;

(2) A carrier frequency of 400 MHz or less, *except those specially designed for home electronics and entertainment type applications*, having any of the following characteristics:

(i) A side-lobe rejection of greater than 45 dB;

(ii) A product of the maximum delay time and the bandwidth (time in microseconds and bandwidth in MHz) greater than 100;

(iii) A dispersive delay of greater than 10 microseconds;

(iv) An insertion loss of less than 10 dB;

(b) Bulk (volume) acoustic wave devises (*i.e.*, signal processing devices employing elastic waves in the various materials described in paragraph (a) above) which permit direct processing of signals at frequencies over 1 GHz, including but not limited to fixed delay lines, non-linear and pulse compression devices.

(Specify by name and model number.)

Advisory Note.—Licenses are likely to be approved for export to satisfactory end-users in Country Groups PQSWY of devices defined in paragraph (a)(1) above, which are specially designed for use in civil television equipment and which operate at frequencies below 1 GHz.

1587A Quartz crystals and assemblies thereof in any stage of fabrication (i.e., worked, semi-finished or mounted), *except optical grade quartz crystals*.

Controls for ECCN 1587A

Unit: Report in "$ value."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $500 for Country Groups T and V; $0 for all other destinations.

Processing Code: EE.

Reason for Control: National security.

Special Licenses Available: See Part 373.

List of Characteristics of Quartz Crystals and Assemblies Thereof Controlled by ECCN 1587A

(a) For use as filter elements, and having either of the following characteristics:

(1) Designed for operation over a temperature range wider than 125° C; or

(2) Crystals or assemblies of crystals which use the trapped energy phenomenon (*i.e.*, those which have more than one series or parallel resonance on a single quartz element);

(b) For use as oscillator elements specially designed for temperature-controlled crystal ovens and/or for TCXOs defined in paragraph (c) below.

and having an average aging rate of $\pm 1 \times 10^{-8}$ per day or better (less) (Aging rate shall be measured over a longer period at a constant temperature of +60° C or higher which vary only by ±2° C.);

(c) Temperature-compensated crystal oscillators (TCXO) having either of the following characteristics:

(1) A stability with respect to temperature of better than ±0.00015 percent over their operating temperature range; or

(2) An operating temperature range wider than 120° C.

(Specify by name, type number, and characteristics.)

Advisory Note.—Licenses are likely to be approved for export to satisfactory end-users in Country Groups PQSWY of commodities defined in paragraph (a) above, which have either of the following characteristics:

(a) Designed for operation as intermediate frequency filters operating from 10.5 to 11 MHz or from 21 to 22 MHz with 3 dB bandwidths not exceeding 40 kHz; or

(b) Designed for operation as single sideband filters operating at from 1 to 10 MHz with 3 dB bandwidths not exceeding 45 kHz.

1588A Materials composed of crystals having spinel, hexagonal, orthorhombic or garnet crystal structures; thin film devices; assemblies of the foregoing; and devices containing them.

(For equipment that may be exported in conjunction with computer shipments, see ECCN 1565A.)

Controls for ECCN 1588A

Unit: Report in "number."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $500 for Country Groups T & V; $0 for all other destinations.

Processing Code: MG for commodities defined in paragraph (a) of the LIST below; EE for all other commodities.

Reason for Control: National security.

Special Licenses Available: See Part 373.

List of Materials Composed of Crystals Controlled by ECCN 1588A

(a) Monocrystals of ferrites and garnets, synthetic only;

(b) Single aperture forms possessing any of the following characteristics:

(1) Switching speed of 0.3 microsecond or faster at the minimum field strength required for switching at 104° F (40° C); or

(2) A maximum dimension less than 0.45 mm (18 mils);

Note.—For machinery and equipment associated with forms having a maximum dimension less than 0.76 mm (30 mils), see ECCN 1358A.

(c) Multi-aperture forms with fewer than 10 apertures possessing any of the following characteristics:

(1) Switching speed of 1 microsecond or faster at the minimum field strength required for switching at 104° F (40° C); or

(2) A maximum dimension less than 100 mils (2.54 mm);

(d) Multi-aperture forms having 10 or more apertures;

(e) Memory storage or switching devices, of the following description:

(1) Thin film (including plated wire and plate rods);

(2) Single crystal or amorphous film magnetic bubble;

(3) Moving domain;

(4) Crosstie;

(f) Magnetic ferrite materials having square loop characteristics, suitable for operations above 1 GHz and having all of the following characteristics:

(1) A saturation magnetization of greater than 0.3 tesla (3,000 gauss);

(2) A dielectric loss tangent of less than 0.001 measured at a frequency of 1 GHz or greater;

(3) A ratio of the remanent magnetization (B_r) to the saturation magnetization ($4\ M_s$) equal to or greater than 0.7, and

(g) Rod forms possessing either of the following characteristics:

(1) Switching speed of 0.3 microsecond or faster at the minimum field strength required for switching at 104° F (40° C); or

(2) A minimum dimension less than 10 mils (0.254 mm).

(Specify by name and characteristics.)

Advisory Note.—Licenses are likely to be approved for export to satisfactory end-users in Country Groups PQSWY of shipment of single aperture forms embargoed by paragraph (b) above, provided they have a switching rate equal to or slower than 0.24 microsecond and a maximum dimension of 0.30 mm (12 mils) or more.

4590B Multispectral image processing systems or digital image display enhancement equipment which provide or accept signals of sufficient composite information that when connected to an optical display device will have all of the capabilities in the illustrative list below.

Controls for ECCN 4590B

Unit: Report instruments and equipment in "number"; parts and accessories in "$ value."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $100 for Country Groups T & V; $0 for all other destinations.

Processing Code: MG.

Reason for Control: National security; nuclear non-proliferation.

Special Licenses Available: None.

List of Capabilities of Multispectral Image Processing Systems or Digital Image Display Enhancement Equipment Controlled by ECCN 4590B When Connected to an Optical Display Device

(a) Image construction is of at least 60 Raster lines (*i.e.* 60 X 60 resolvable elements, 60 X 60 resolution cells or Pixels, or 60 X 60 images);

(b) Each image element is capable of being displayed in at least 16 different shades of color or gray; and

(c) The system has conversion and synchronization circuitry suitable for driving a TV monitor, storage display, graphic memory, memory refreshment, or other type of optical display devices; and

(d) Parts, components, and assemblies therefor.

Advisory Note.—Licenses are likely to be approved for export to satisfactory end-users in Country Group P (People's Republic of China) of multispectral image processing sytems having image construction not exceeding 1024 x 512 Pixels, image element displays in 256 shades of gray or color, and a memory refresh rate of 8 megabytes per second.

4592B Equipment for measuring pressures to 100 Torr or less having corrosion-resistant sensing elements of nickel, nickel alloys, phosphor bronze, stainless steel, or aluminum.

Controls for ECCN 4592B

Unit: Report in "$ value."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $0 for all destinations.

Processing Code: MG.

Reason for Control: National security; nuclear non-proliferation. Nuclear non-proliferation controls do not apply to those countries listed in Supp. Nos. 2 or 3 to Part 373.

Special Licenses Available: Distribution License is available for shipments to countries listed in Supp. Nos. 2 or 3 to Part 373. No other special licenses are available.

1595A Gravity meters (gravimeters), and specialized parts therefor, designed or modified for airborne or marine use.

Controls for ECCN 1595A

Unit: Report in "$ value."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $500 for Country Groups PQSTVWYZ.

Processing Code: MG.

Reason for Control: National security.

Special Licenses Available: See Part 373.

Advisory Note.—Licenses are likely to be approved for export to civil end-user for civil end-usese in Country Groups PQSWY of marine gravimetric systems having a stable accuracy of 1 milligal or above, or an in-service (operational) accuracy of 1 milligal or above with a time to steady-state registration of two minutes or greater under any combination of attendant corrective compensations and motional influences.

5595D Other gravity meters (gravimeters) and parts and accessories therefor.

Controls for ECCN 5595D:

Unit: Report in "$ value."

Validated License Required: Country Groups PQSWYZ and Afghanistan.

GLV $ Value Limit: $100 for Country Group Q. General License *GLV* not applicable to other destinations; however, another general license may apply.

Processing Code: MG.

Reason for Control: National security; foreign policy.

Special South Africa and Namibia Controls: A validated license is required for export to the Republic of South Africa and Namibia if intended for delivery to or for use by or for military or police entities in these destinations or for use in servicing equipment owned, controlled, or used by or for these entities. See §385.4(a).

Special Licenses Available: See Part 373.

5596D Capacitance strain gages designed for operation at temperatures of +600° F and over; and parts and accessories therefor.

Controls for ECCN 5596D

Unit: Report in "$ value."

Validated License Required: Country Groups PQSWYZ and Afghanistan.

GLV $ Value Limit: $100 for Country Group Q. General License *GLV* not applicable to other destinations; however, another general license may apply.

Processing Code: MG.

Reason for Control: National security.

Special Licenses Available: See Part 373.

Special South Africa and Namibia Controls: A validated license is required for export to the Republic of South Africa and Namibia if intended for delivery to or for use by or for military or police intities in these destinations or for use in servicing equipment owned, controlled, or used by or for these entities. See § 385.4(a).

4597B Voice print identification and analysis equipment; and parts, n.e.s.

(Specify by name and type number.)

Controls for ECCN 4597B

Unit: Report instruments and equipment in "number"; parts and accessories in "$ value."

Validated License Required: Country Groups PQSTVWYZ. A validated license is *not* required for export to Australia, Japan, New Zealand, and members of NATO.

GLV $ Value Limit: $0 for all destinations.

Processing Code: EE.

Reason for Control: Crime control (foreign policy).

Special Foreign Policy Controls: An individual validated export license is required for foreign policy purposes to export crime control and detection instruments and equipment and related technical data (except that authorized under General License *GTDA*) controlled by this ECCN, except to Australia, Japan, New Zealand, and members of NATO.

Special Licenses Available: None.

Advisory Note.—Applications for validated export licenses generally will be considered favorably on a case-by-case basis unless there is evidence that the government of the importing country may have violated internationally recognized human rights and that the judicious use of export controls would be helpful in deterring the development of a consistent pattern of such violations or in distancing the United States from such violations.

5597B Polygraphs (except biomedical recorders designed for use in medical facilities for monitoring biological and neurophysical responses); fingerprint equipment and analyzers; fingerprint cameras and equipment; automated fingerprint and identification retrieval systems (whether or not computerized); psychological testing machines; and specially designed parts and accessories, n.e.s.

Controls for ECCN 5597B

Unit: Report instruments and equipment in "number"; parts and accessories in "$ value."

Validated License Required: Country Groups PQSTVWYZ. A validated license is *not* required for export to Australia, Japan, New Zealand, and members of NATO.

GLV $ Value Limit: $0 for all destinations.

Processing Code: EE.

Reason for Control: Crime control (foreign policy).

Special Foreign Policy Controls: An individual validated export license is required for foreign policy purposes to export crime control and detection instruments and equipment and related technical data (except that authorized under General License *GTDA*) controlled by this ECCN, except to Australia, Japan, New Zealand, and members of NATO.

Special Licenses Available: None.

Advisory Note.—Applications for validated export licenses generally will be considered favorably on a case-by-case basis unless there is evidence that the government of the importing country may have violated internationally recognized human rights and that the judicious use of export controls would be helpful in deterring the development of a consistent pattern of such violations or in distancing the United States from such violations.

6598F Other electronic and precision instruments specially designed or modified for geophysical or mineral prospecting or for the examination, testing, or controlling of equipment defined in ECCNs 6098F, 6191F, 6390F, 6391F, and 6392F; and specially designed parts, components, and accessories therefor.

Controls for ECCN 6598F

Unit: Report in "$ value."

Validated License Required: Country Groups SZ, Afghanistan, and the U.S.S.R. (including Estonia, Latvia, and Lithuania).

GLV $ Value Limit: General License GLV not applicable; however, another general license may apply.

Processing Code: MG.

Reason for Control: Foreign policy.

Special Licenses Available: See Part 373.

Illustrative List of Petroleum and Natural Gas Exploration and Production Equipment Subject to Validated License Control for Export to the U.S.S.R., Estonia, Latvia, Lithuania, and Afghanistan. This List is Illustrative Only; It Does Not Include All Commodities Controlled by CCL Entry 6598F.

(1) All equipment specially designed or modified for off-shore floating or bottom-supported drilling and producing structures, including all gathering equipment.

(2) Rotary type well drilling rigs and derricks.

(3) Parts, accessories, and equipment for well drilling machines, including, but not limited to, drill bits, box and pin tool joints, drill pipe, drill collars, rotary tables, and blow-out preventors.

(4) Petroleum gas-lift equipment.

(5) Oil well and oil field pumps, including, but not limited to, high performance types of submersible or conventional pumping units.

(6) Wire line and downhole equipment and accessories, including, but not limited to, collars, stabilizers, mandrels, packers, multi-completion equipment, gun perforators, and telemetry equipment.

(7) Optical, electrical or electronic geophysical and mineral prospecting instruments, including magnetic, gravimetric, seismic, bore-hole logging and high-resolution remote sensing equipment.

6599G Other electronic and precision instruments, including photographic equipment and film, n.e.s., and parts and accessories, n.e.s.

Controls for ECCN 6599G

Unit: Report in "$ value."

Validated License Required: Country Groups SZ.

GLV $ Value Limit: General License *GLV* not applicable; however, another general license may apply.

Processing Code: EE.

Reason for Control: Foreign policy.

Special South Africa and Namibia Controls: A validated license is required for export to the Republic of South Africa and Namibia if intended for delivery to or for use by or for military or police entities in these destinations or for use in servicing equipment owned, controlled, or used by or for these entities. See § 385.4(a).

Special Licenses Available: See Part 373.

7599I Exposed and developed microfilm reproducing in whole or in part, the content of printed books, pamphlets, and miscellaneous publications including newspapers and periodicals, children's picture and painting books, music books, sheet music, and calendars; motion picture film and soundtrack, exposed and developed, and advertising printed matter exclusively related thereto.

Controls for ECCN 7599I

Unit: Report in "$ value."

Validated License Required: None.

GLV $ Value Limit: General License *GLV* not applicable; however, another general license may apply.

Processing Code: MG.

Reason for Control: Not applicable.

GROUP 6—METALS, MINERALS AND THEIR MANUFACTURES

Note.—You need a validated export license to export or reexport technical data related to metals, minerals and their manufactures to destinations in Country Groups P, Q, S, W, Y, or Z. You may use General License *GTDR* for exports or reexports of technical data to destinations in Country Groups T & V *provided that*—

(a) the technical data are not listed in paragraphs (c) or (d) of § 379.4 of the Regulations, *and*

(b) there are no special foreign policy controls on the technical data related to the commodities described in an individual CCL entry.

Note.—All Commodity Control List entries in this Group are subject to export controls on the basis of the following criteria:

You need a validated license to export or reexport to the U.S.S.R. if you know or have reason to know the commodity is for any use directly in preparation for, in conduct of, in support of, or visually identified with the 1980 Summer Olympic Games that began in Moscow on July 19, 1980. These commodities are subject to controls under the authority of the foreign policy provisions contained in section 6 of the Export Administration Act of 1979.

See § 370.10 for commodities that require export authorization from other U.S. Government Departments and Agencies.

4601B Aircraft landing mats.

Controls for ECCN 4601B

Unit: Report in "sq. ft."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $1,000 for Country Groups T & V; $500 for Country Group Q; $0 for all other destinations.

Processing Code: MG.

Reason for Control: National security.

Special Licenses Available: See Part 373.

2603A Specially designed components and parts for ammunition; except cartridge cases, powder bags, bullets, jackets, cores, shells, projectiles, boosters, fuses and components, primers, and other detonating devices and ammunition belting and linking machines (all of which are controlled by the Office of Munitions Control, Department of State).

(Specify by name.)

Controls for ECCN 2603A

Unit: Report in "$ value."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $500 for Australia, Japan, New Zealand, and members of NATO; $0 for all other destinations.

Processing Code: MG.

Reason for Control: National security; foreign policy.

Special South Africa and Namibia Controls: Specifically designed components and parts for ammunition defined in ECCN 2603A are subject to the Republic of South Africa and Namibia embargo policy, and no technical data relating to these commodities may be exported under General License *GTDR* to any consignee in the Republic of South Africa or Namibia.

Special Foreign Policy Controls: 1. Foreign policy controls apply to exports of commodities defined in this ECCN to any destination except Australia, Japan, New Zealand, and members of NATO. Applications for validated licenses will generally be considered favorably on a case-by-case basis unless there is evidence that the exports would contribute significantly to the destabilization of the region to which the equipment is destined.

2. A validated export license is required for foreign policy purposes for export to the People's Democratic Republic of Yemen, Libya, and Syria (countries that have repeatedly provided support for acts of international terrorism).

Special Licenses Available: None.

3604A Zirconium metal; alloys containing more than 50 percent zirconium by weight; compounds in which the ratio of hafnium content to zirconium content is less than one part to five hundred parts by weight; manufactures wholly thereof; and waste and scrap; except zirconium metal and alloy in shipments of 5 kilograms or less; and zirconium in the form of foil or strip having a thickness not exceeding 0.025 mm (0.00095 in.) and specially fabricated and intended for use in photo flash bulbs, in shipments of 200 kilograms or less.

Controls for ECCN 3604A

Unit: Report in "lbs."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $500 for Country Groups T & V; $0 for all other destinations.

Processing Code: MG.

Reason for Control: National security; nuclear non-proliferation.

Special Licenses Available: None.

Advisory Note.— Licenses are likely to be approved for export to satisfactory end-users

in Country Groups PQSWY of the following commodities:

(a) Finished parts made of zirconium metal or alloys, specially designed for an identified civil research or power reactor facility, such as cladding tubes and plugs and separators therefor, liner tubes, thermal insulating tubes, pressure tubes, and calandria tubes, provided that:

(1) None of the parts contains fissile materials; and

(2) The importing country has agreed to the application of the Safeguards of the International Atomic Energy Agency (IAEA) in connection with the nuclear reactor facility;

(b) Contained zirconium metal, or parts made therefrom, in individual shipments not exceeding 100 kg, when intended for use in, or in support of, an identified civil research or power reactor facility, in connection with which it is contemplated that IAEA Safeguards would be applied.

3605A Nickel powder and porous nickel metal.

Controls for ECCN 3605A

Unit: Report in "lbs."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $100 for Country Groups T & V; $0 for all other destinations.

Processing Code: MG.

Reason for Control: National security; nuclear non-proliferation.

Special Licenses Available: None.

List of Nickel Powder and Porous Nickel Metal Controlled by ECCN 3605A

(a) Powder with a nickel content of 99 percent or more, and a particle size of less then 100 micrometers; and

(b) Porous metal material with a mean pore size of 25 micrometers or less, and a nickel purity content of 99 percent or more, *exept single porous nickel metal sheets not exceeding 930m ^{2} (144 square inches) in size, intended for use in batteries for civil applications.*

(Paragraph (b) above refers to porous nickel metal manufactured from nickel powder defined in paragraph (a) above which has been compacted and sintered to form a metal material with five pores interconnected throughout the structure.)

Advisory Note.—Licenses are likely to be approved for export to satisfactory end-users in Country groups PQSWY of the following commodities.

(a) Nickel powder in uncompacted powder form not made by the carbonyl process; or

(b) Nickel powder in uncompacted powder form made by the carbonyl process, in quantities of 50 kg or less.

3607A Lithium.

Controls for ECCN 3607A

Unit: Report in "lbs."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $100 for Country Groups T & V: $0 for all other destinations.

Processing Code: MG.

Reason for Control: National security, nuclear non-proliferation.

Special Licenses Available: None.

List of Forms of Lithium Controlled by ECCN 3607A

(a) Metal, hydrides, or alloys containing lithium enriched in the 6 isotope to a concentration higher than the one existing in nature (7.5 percent on an atom percentage basis);

(b) Any other materials containing lithium enriched in the 6 isotope (including compounds, mixtures, and concentrates), *except lithium enriched in the 6 isotope incorporated in thermoluminescent dosimeters.*

3608A Hafnium of the following description: metal, and alloys and compounds of hafnium containing more than 60 percent hafnium by weight, and manufactures thereof, except shipments of the above having a hafnium content of 1 kilogram or less.

Controls for ECCN 3608A

Unit: Report in "lbs."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $250 for Country Groups T & V; $0 for all other destinations.

Processing Code: MG.

Reason for Control: National security; nuclear non-proliferation.

Special Licenses Available: None.

3609A Beryllium.

Controls for ECCN 3609A

Unit: Report in "lbs."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $500 for Country Groups T & V; $0 for all other destinations.

Processing Code: MG.

Reason for Control: National security; nuclear non-proliferation.

Special Licenses Available: None.

List of Forms of Beryllium Controlled by ECCN 3609A

Metal, alloys containing more than 50 percent of beryllium by weight, compounds containing beryllium, manufactures thereof, and waste and scrap, *except metal windows for X-ray machines; oxide shapes in fabricated or semi-fabricated forms specially designed for electronic component parts or as substrates for electronic circuits; shipments of 500 grams or less of beryllium having a purity of 99 percent or less, or 100 grams or less of beryllium having a purity of greater than 99 percent, provided that shipments exclude single crystals: and shipments of 5 kilograms or less of beryllium contained in compounds with a purity of less than 99 percent.*

2616A Gilding metal clad steel, munitions materials.

Controls for ECCN 2616A

Unit: Report in "lbs."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $500 for Country Groups T & V; $0 for all other destinations.

Processing Code: MG.

Reason for Control: National security.

Special Licenses Available: See Part 373.

1631A Magnetic metals of all types and of whatever form.

Controls for ECCN 1631A

Unit: Report in "lbs."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $500 for Country Groups T & V; $0 for all other destinations.

Processing Code: MG.

Reason for Control: National security.

Special Licenses Available: See Part 373.

List of Magnetic Metals Controlled by ECCN 1631A

(a) Grain oriented sheet or strip of a thickness of 0.004 inch (0.1 mm) or less;

(b) Initial permeability of 120,000 gauss-oersteds (0.15 Henry/m) or over calculated at 0.0 permeability or the equivalent;

(c) Remanence 98.5 percent or over of maximum flux for materials having magnetic permeability; and

(d) A composition capable of an energy product having the following characteristics:

(1) Exceeding 10 times 10^6 gauss-oersteds (80,000 joules/cu. m.); or

(2) 4.85 times 10^6 gauss-oersteds (38,600 joules/cu. m.) or greater and having a coercive force of 1,800 oersteds (143,200 amperes/m) or greater.

1635A Iron and steels, alloyed, containing 10 percent or more molybdenum (but more than 5 percent molybdenum in any alloys containing more than 14 percent chromium), except products obtained by casting and having a carbon content of more than 1.5 percent.

Controls for ECCN 1635A

Unit: Report in "lbs."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $1,000 for Country Groups T & V; $0 for all other destinations.

Processing Code: MG.

Reason for Control: National security.

Special Licenses Available: See Part 373.

4635B Pressure tube, pipe, and fittings therefor, of 8 inches or more inside diameter, having a wall thickness of 8 percent or more of the inside diameter and made of stainless steel, copper-nickel alloy, or other alloy steel containing 10 percent or more nickel and/or chromium.

Controls for ECCN 4635B

Unit: Report in "lbs."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $500 for Country Groups T & V; $0 for all other destinations.

Processing Code: MG.

Reason for Control: National security; nuclear non-proliferation.

Special Licenses Available: None.

4638B Calcium containing both less than one tenth percent (0.001) by weight of impurities other than magnesium and less than 10 parts per million of boron.

Controls for ECCN 4638B

Unit: Report in "lbs."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $0 for all destinations.

Processing Code: MG.

Reason for Control: Nuclear non-proliferation.

Special Licenses Available: See Part 373.

1648A Cobalt based alloys (i.e., containing a higher percentage by weight of cobalt than of any other element).

Controls for ECCN 1648A

Unit: Report in "lbs."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $500 for Country Groups T & V; $0 for all other destinations.

Processing Code: MG.

Reason for Control: National security.

Special Licenses Available: See Part 373.

List of Characteristics of Cobalt Based Alloys Controlled by ECCN 1648A:

(a) Containing 5 percent or more of tantalum;

(b) Dispersion strengthened containing more than 1 percent of oxides of thorium, aluminum, yttrium, zirconium or cerium; or

(c) Containing 0.05 percent or more of scandium, yttrium, didymium, cerium, lanthanum, neodymium, or praseodymium.

1649A Niobium (columbium).

Controls for ECCN 1649A

Unit: Report in "lbs."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $500 for Country Groups T & V; $0 for all other destinations.

Processing Code: MG.

Reason for-Control: National security.

Special Licenses Available: See Part 373.

List of Forms of Niobium (Columbium) Controlled by ECCN 1649A

(a) Niobium-based alloys containing 60 percent or more niobium or niobium-tantalum in combination; and

(b) Scrap forms of the alloys covered by paragraph (a) above.

4654B Magnesium containing both less than one fiftieth percent (0.0002) by weight of impurities other than calcium and less than 10 parts per million of boron.

Controls for ECCN 4654B

Unit: Report in "lbs."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $0 for all destinations.

Processing Code: MG.

Reason for Control: Nuclear non-proliferation.

Special Licenses Available: See Part 373.

1658A Molybdenum alloys containing 97.5 percent or more molybdenum, except wire.

Controls for ECCN 1658A

Unit: Report in "lbs."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $500 for Country Groups T & V; $0 for all other destinations.

Processing Code: MG.

Reason for Control: National security.

Special Licenses Available: See Part 373.

1661A Nickel based alloys (i.e., containing a higher percentage by weight of nickel than of any other element).

Controls for ECCN 1661A

Unit: Report in "lbs."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $500 for Country T & V; $0 for all other destinations.

Processing Code: MG.

Reason for Control: National security.

Special Licenses Available: See Part 373.

List of Characteristics of Nickel Based Alloys Controlled by ECCN 1661A

(a) With a combined content of aluminum and titanium greater than 11 percent;

(b) Dispersion strengthened containing more than 1 percent of oxides of thorium, aluminum, yttrium, zirconium, cerium, or lanthanum; or

(c) Containing 0.05 percent or more of scandium, yttrium, didymium, cerium, lanthanum, neodymium, or praseodymium.

1670A Tantalum and tantalum alloys.

Controls for ECCN 1670A

Unit: Report in "lbs."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $500 for Country Groups T & V; $0 for all other destinations.

Processing Code: MG.

Reason for Control: National security.

Special Licenses Available: See Part 373.

List of Forms of Tantalum and Tantalum Alloys Controlled by ECCN 1670A

(a) Tantalum powder containing less than 220 p.p.m. of total metallic impurities, and sintered anodes made therefrom; and

(b) Tantalum-based alloys containing 60 percent or more of tantalum, and scrap forms thereof.

1671A Titanium-based alloys in crude and semi-fabricated form, or as scrap.

Controls for ECCN 1671A

Unit: Report in "lbs."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $500 for Country Groups T & V; $0 for all other destinations.

Processing Code: MG.

Reason for Control: National security.

Special Licenses Available: See Part 373.

List of Nominal Compositions of Titanium-Based Alloys in Crude and Semi-Fabricated Form, or as Scrap Controlled by ECCN 1671A

(a) 6 percent aluminum, 23 percent tin, 4 percent zirconium, 6 percent molybdenum and the balance titanium;

(b) Other compositions containing 12 percent or more aluminum by weight.

1673A Artificial graphite having an apparent relative density of 1.90 or greater when compared with water at 60° F (15.50° C), except artificial graphite which has been impregnated or composited with inorganic materials for the purpose of improving only its electrical conductivity, its mechanical resistance or its mechanical friction properties; and electrical resistors, artificial loads for microwave applications, cable waveguide terminations, brush stock, special joints for electrodes, boats and crucibles and high density graphite optical elements.

Controls for ECCN 1673A

Unit: Report in "lbs."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $500 for Country Groups T & V; $0 for all other destinations.

Processing Code: MG.

Reason for Control: National security.

Special Licenses Available: None.

Advisory Note:—Licenses are likely to be approved for export to satisfactory end-users in Country Groups PQSWY of the following forms of graphite:

(a) Pyrolitic graphite (e.g., graphite made by vapor deposition at temperatures exceeding 2,732° F (1,500° C) in crude or semi-fabricated forms, the dimension of any one of which does not exceed 4 inches (10 cm) in any direction, in individual shipments not exceeding 55 pounds (25 kg);

(b) Non-pyrolitic graphite, having a relative density of less than 1.95 which has not been coated or composited with other elements or compounds to improve its performance at elevated temperatures or reduce its permeability to gases.

4674B Specialized packings made of phosphor bronze mesh designed for use in vacuum distillation towers, suitable for use in separating heavy from light water.

Controls for ECCN 4674B

Unit: Report in "$ value."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $500 for Country Groups T & V; $0 for all other destinations.

Processing Code: MG.

Reason for Control: Nuclear non-proliferation.

Special Licenses Available: See Part 373.

4675B Cylindrical tubing, raw, semifabricated, or finished forms, made of aluminum alloy (7000 series) or maraging steel or high-strength titanium alloys (e.g., Ti-6 Al-4 V, etc.).

Controls for ECCN 4675B

Unit: Report in "$ value."

Validated License Required: Country Groups PQSTVWYZ and Canada.

GLV $ Value Limit: $0 for all destinations.

Processing Code: MG.

Reason for Control: Nuclear non-proliferation.

Special Licenses Available: None.

List of Characteristics of Cylindrical Tubing Controlled by ECCN 4675B

(a) Wall thickness of 1/2 inch, or less;

(b) Diameter of 3 inches or more.

4676B Cylindrical rings, or single convolution bellows, made of high-strength steels.

Controls for ECCN 4676B:

Unit: Report in "$ value."

Validated License Required: Country Groups PQTVSWYZ and Canada.

GLV $ Value Limit: $0 for all destinations.

Processing Code: MG.

Reason for Control: Nuclear non-proliferation.

Special Licenses Available: None.

List of Characteristics of Cylindrical Rings of Single Convolution Bellows, Made of High-Strength Steels Controlled by ECCN 4676B

(a) Tensile strength of greater than or equal to 150,000 psi;

(b) Wall thickness of 3 millimeters or less;

(c) Diameter of 3 inches or more.

4677B Cylindrical discs, in raw, semifabricated, or finished form.

Controls for ECCN 4677B

Unit: Report in "$ value."

Validated License Required: *AT1Country Groups PQSTVWYZ.*

GLV $ Value Limit: $ 0 for all destinations.

Processing Code: MG.

Reason for Control: Nuclear non-proliferation.

Special Licenses Available: None.

List of Characteristics of Cylindrical Discs, in Raw, Semifabricated, or Finished Form Controlled by ECCN 4677B

(a) Having a ¼- to 2-inch peripheral lip;

(b) Having a diameter of 3 inches or more;

(c) Made of maraging steel or aluminum alloy (7000 series).

4678B Corrosion-resistant sensing elements of nickel, nickel alloys, phosphor bronze, stainless steel, or aluminum specially designed for use with equipment which measures pressures to 100 Torr or less.

Controls for ECCN 4678B

Unit: Report in "$ value."

Validated License Required: Country Groups PQSTVWYZ. A validated license is *not* required for export of commodities defined in this ECCN to the countries listed in Supp. Nos. 2 or 3 to Part 373.

GLV $ Value Limit: $ 0 for all destinations.

Processing Code: MG.

Reason for Control: Nuclear non-proliferation.

Special Licenses Available: A Distribution License is available for shipments to countries listed in Supp. Nos. 2 or 3 to Part 373. No other special license is available for commodities defined in this ECCN.

5680B Police helmets, leg irons, shackles, handcuffs, thumbcuffs, thumbscrews and saps.

Controls for ECCN 5680B

Unit: Report in "$ value."

Validated License Required: Country Groups PQSTVWYZ. A validated license is *not* required for export of commodities defined in this ECCN to Australia, Japan, New Zealand, and members of NATO.

GLV $ Value Limit: $ 0 for all destinations.

Processing Code: MG.

Reason for Control: Crime control (foreign policy).

Special Foreign Policy Controls: An individual validated export license is required for foreign policy purposes to export crime control and detection instruments and equipment and related technical data (except that authorized under General License *GTDA*) controlled by this ECCN, except to Australia, Japan, New Zealand, and members of NATO.

Special Licenses Available: None.

Advisory Note.—Applications for validated export licenses generally will be considered favorably on a case-by-case basis unless there is evidence that the government of the importing country may have violated internationally recognized human rights and that the judicious use of export controls would be helpful in deterring the development of a consistent pattern of such violations or in distancing the United States from such violations.

4698B Depleted uranium (any uranium containing less than 0.711% of the isotope (U-235), the following only: shipments of more than 1,000 kilograms in the form of shielding contained in X-ray units, radiographic exposure or teletherapy devices, radioactive thermoelectric generators, or packaging for the transportation of radioactive materials.

Controls for ECCN 4698B

Unit: Report in "lbs." or "Kgs."

Validated License Required: Country Groups PQSTVWYZ. A validated license is *not* required for export of the commodities defined in this ECCN to Spain and to the countries listed in Supp. Nos. 2 or 3 to Part 373.

GLV $ Value Limit: $0 for all destinations.

Processing Code: MG.

Reason for Control: Nuclear non-proliferation.

Special Licenses Available: See Part 373.

Note.—Depleted uranium in fabricated forms for use in munitions requires export authorization from the U.S. Department of State, Office of Munitions Control (see Supp. No. 2 to Part 370). All forms of depleted uranium not specifically described in this ECCN or in ECCN 4699G, and not controlled by the Department of State, require export authorization from the Nuclear Regulatory Commission (see 10 CFR, Part 110).

4699G Depleted uranium (any uranium containing less than 0.711% of the isotope U-235) fabricated into commodities solely to take advantage of high density unrelated to radioactivity (e.g., aircraft, ship or other counterweights); and shipments of 1,000 kilograms or less in the form of shielding contained in X-ray units, radiographic exposure or teletherapy devices, radioactive thermoelectric generators, or packaging for the transportation of radioactive materials.

Controls for ECCN 4699G

Unit: Report in "lbs." or "Kgs."

Validated License Required: Country Groups SZ.

GLV $ Value Limit: General License *GLV* not applicable; however, another general license may apply.

Processing Code: MG.

Reason for Control: Foreign policy.

Special Licenses Available: See Part 373.

Note.—Depleted uranium in fabricated forms for use in munitions requires export authorization from the U.S. Department of State, Office of Munitions Control (see Supp. No. 2 to Part 370). All forms of depleted uranium not specifically described in this ECCN or in ECCN 4698B, and not controlled by the Department of State, require export authorization from the Nuclear Regulatory Commission (see 10 CFR, Part 110).

6699G Other metals, minerals, and their manufactures, n.e.s.

Controls for ECCN 6699G

Unit: Report in "$ value."

Validated License Required: Country Groups SZ.

GLV $ Value Limit: General License *GLV* not applicable; however, another general license may apply.

Processing Code: MG.

Reason for Control: Foreign policy.

Special South Africa and Namibia Controls: A validated license is required for export to the Republic of South Africa and Namibia if intended for delivery to or for use by or for military or police entities in these destinations or for use in servicing equipment owned, controlled, or used by or for these entities. See § 385.4(a).

Special Licenses Available: See part 373.

Note.—Spherical aluminum powder with an average particle size of 100 micrometer diameter or less and a purity of 97% or greater; aluminum-magnesium alloy powder; and aluminum alloy plates, sheets and other wrought forms of Temper H alloy and all 5083 alloys, *except "O" temper form,* require export authorization from the U.S. Department of State, Office of Munitions Control. See Supp. No. 2 to Part 370.

Commodity Interpretation: The Following Is An Illustrative List of Chemicals and Materials Intended for Use in the Production, Transmission or Transportation of Petroleum or Natural Gas, or in the Refining of Petroleum, Petroleum Products or Natural Gas for Energy Usage, Excluding Petrochemical Feedstock. This List Is Illustrative Only. It Does Not Include All Commodities Covered by CCL Entries 6699G and 6780F.

Activated carbon for petroleum or chemical processing
Additives for fuels and fuel oils
Alumina
Aluminosilicate
Aluminum carbide
Aluminum chloride, anhydrous
Aluminum ethylhexoate
Aluminum nitrate
Aluminum silicate
Aluminum sulfate
Chromia-Alumina
Cobalt, n.e.s.
Cobalt molybdate
Copper sulfate
Corrosion-inhibiting compounds
Cuprous sulfate
Ferrocene
Hydrofluoric acid
Magnesium silicate impregnated silica gel adsorbent
Molecular sieves
Molybdenum oxides
Monocrystalline and polycrystalline forms of molybdenum & tungsten
Nickel compound catalysts
Nicomo-12 (nickel, cobalt and molybdenum on alumina)
Phospholeum (super phosphoric acid)
Phosphoric acid
Platinum
Potassium phosphate, tribasic
Rust-preventive compounds
Silica gel
Sulfuric acid
Triethyl aluminum
Triisobutyl aluminum
Zeolite A
Zinc chloride
Zinc silicate

GROUP 7—CHEMICALS, METALLOIDS, PETROLEUM PRODUCTS AND RELATED MATERIALS

Note.—You need a validated export license to export or reexport technical data related to chemicals, metalloids, petroleum products and related materials to destinations in Country Groups P, Q, S, W, Y, or Z. You may use General License GTDR for exports or reexports of technical data to

destinations in Country Groups T & V *provided that—*

(a) The technical data are not listed in paragraphs (c) or (d) of § 379.4 of the Regulations, *and*

(b) There are no special foreign policy controls on the technical data related to the commodities described in an individual CCL entry.

Note.—All Commodity Control List entries in this Group are subject to export controls on the basis of the following criteria:

You need a validated license to export or reexport to the U.S.S.R. if you know or have reason to know the commodity is for any use directly in preparation for, in conduct of, in support of, or visually identified with the 1980 Summer Olympic Games that began in Moscow on July 19, 1980. These commodities are subject to controls under the authority of the foreign policy provisions contained in section 6 of the Export Administration Act of 1979.

See §370.10 for commodities that require export authorization from other U.S. Government departments and agencies.

1701A Lead azide and primary explosives or priming compositions (mixtures) containing azides and/or azide compounds or complexes (for example, orthofluorophenyl azide, silver chlorazide, cuprammonium azide).

Controls for ECCN 1701A

Unit: Report in "pounds."
Validated License Required: Country Groups PQSTVWYZ.
GLV $ Value Limit: $500 for Country Groups T & V; $0 for all other destinations.
Processing Code: MG.
Reason for Control: National security.
Special Licenses Available: None.

1702A Hydraulic fluids which are or which contain as the principal ingredients petroleum (mineral) oils or synthetic hydrocarbon oils as described in this entry.

Controls for ECCN 1702A

Unit: Report in "barrels."
Validated License Required: Country Groups PQSTVWYZ.
GLV $ Value Limit: $500 for Country Groups T & V; $0 for all other destinations.
Processing Code: MG.
Reason for Control: National security.
Special Licenses Available: See Part 373.

List of Hydraulic Fluids controlled by ECCN 1702A

Hydraulic fluids which are or which contain as the principal ingredients petroleum (mineral) oils or synthetic hydrocarbon oils and which have all of the following characteristics:

(a) A pour point of −30° F (−34° C) or lower;

(b) A viscosity index of 75 or greater; and

(c) Are thermally stable at +650° F (+343° C).

Note.—See § 377.6(d)(3) and § 377.6(e)(4) and (5) for special documentation requirements. Also see § 371.5(d) for special provisions regarding shipments under General License *GLV*.

4707B(a) Chemicals, as described in this entry. (b) Synthetic organic agricultural chemicals, as described in this entry.

Controls for ECCN 4707B

Unit: Report chemicals in "pounds."
Validated License Required: Country Groups PQSTVWYZ.
GLV $ Value Limit: $500 for Country Groups T & V; $100 for chemicals in subentry (a) for Country Group Q and $500 for chemicals in subentry (b) for Country Group Q. $0 for all other destinations.
Processing Code: MG.
Reason for Control: National security.
Special Licenses Available: None for chemicals in paragraph (a). See Part 373 for chemicals in paragraph (b).

List of Chemicals Controlled by ECCN 4707B

(a) Chemicals, as follows:

(1) Beta-diethylaminoethyl diphenylpropylacetate hydrochloride.
(2) 2-Chloro-10-(3-dimethylaminopropyl) phenothiazine,
(3) 2-Chlorophenothiazine,
(4) 2-Cyanoacetamide,
(5) 2-Dicyclohexylcarbodiimide,
(6) Diethylmethylphosphonite,
(7) Dihydrodibenzazepine,
(8) Dihydrodibenzocycloheptene,
(9) 10, 11-Dihydro-N, N-dimethyl-5H-dibenzo (a,d) cycloheptent delta 5, gamma-propylamine,
(10) 2-Diisopropylaminoethanol,
(11) Diisopropylcarbodimide,
(12) 5-(3-(Dimethylamino)-2-methylpropyl)-10, 11-dihydro-5H-dibenz (b,f) azepine,
(13) Dimethylamino propylchloride hydrochloride,
(14) 5-(3-Dimethylaminopropyl)-10, 11-dihydro-5H-dibenz (b,f) azepine,
(15) 10-(3-Dimethylaminopropyl)-2-trifluorodimethylphenothiazine,
(16) Dimethyl hydrogen phosphite,
(17) Di-o-tolyl carbodiimide,
(18) Dissopropylaminoethylchloride hydrochloride,
(19) Ethylphosphonothiotic dichloride,
(20) Ethylphosphonous dichloride,
(21) Lysergic acid diethylamine,
(22) Malononitrile,
(23) Methylbenzylate,
(24) Methyldichlorphosphine,
(25) Methylisonicotenate,
(26) Methylphosphonothiotic dichloride,
(27) Methylphosphonous dichloride,
(28) Methylphosphonyldichloride,
(29) N, N-diethylethylenediamine (diethylaminoethylamine),
(30) Orthochlorobenzaldehyde,
(31) Phenothiazine,
(32) Piperidine carboxyl acid,
(33) n-Propylphosphonous dichloride,
(34) 3-Quinuclidinol,
(35) 3-Quinuclidinone,
(36) 2-Trifluoromethylphenothiazine, and
(37) 4-(3-(2-Trifluoromethyl) phenothiazine-10 yl) propyl)-1-piperazine ethanol.

(b) Synthetic organic agricultural chemicals, as follows:

(1) Alkyl aryl carbamates (including isopropyl N-phenylcarbamate and isopropyl N-(3-chlorophenyl)-carbamate),
(2) Aminochloropicolinic acid and its salts and esters,
(3) Bromoalkyl pyrimidines,
(4) Cacodylic acid,
(5) Chlorophenoxyacetic and chlorofluorophenoxyacetic acids and their salts and esters and
(6) Herbicidal or antiplant preparations containing one or more of the above in amounts totaling, alone or in combination with another, 80 percent or more by weight.

2708A Explosives, propellants, and fuels as described in this entry.

Controls for ECCN 2708A

Unit: Report in "pounds."
Validated License Required: Country Groups PQSTVWYZ.
GLV $ Value Limit: $500 for Country Groups T & V; $0 for all other destinations.
Processing Code: MG.
Reason for Control: National security.
Special Licenses Available: None.

List of Explosives, Propellants, and Fuels Controlled by ECCN 2708A

(a) Ethyl and Methyl centralites,
(b) NN-Diphenylurea (unsymmetrical diphenylurea),
(c) Methyl-NN-diphenylurea (methyl unsymmetrical diphenylurea),
(d) Ethyl-NN-diphenylurea (ethyl unsymmetrical diphenylurea),
(e) Ethyl phenyl urethane,
(f) Diphenyl urethane,
(g) Diortho tolyl-urethane,
(h) 2-Nitrodiphenylamine,
(i) p-Nitromethylaniline,
(j) 2,2' Dinitropropanol,
(k) Bis (2,2' dinitropropyl) formal and acetal,
(l) 3—Nitraza—1,5 pentane diisocyanate,
(m) Guanidine nitrate, and
(n) Hydrogen peroxide in concentrations of [redacted].

3709A Beryllium oxide ceramic and refractory tubes, pipes, crucibles, and other shapes in semi-fabricated or fabricated form, except forms specially designed for electronic component parts or as substrates for electronic circuits.

Control for ECCN 3709A

Unit: Report in "pounds."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $500 for Country Groups T & V; $0 for all other destinations.

Processing Code: MG.

Reason for Control: National security, and nuclear non-proliferation. Nuclear non-proliferation controls do not apply to those countries listed in Supplement No. 2 or Supplement No. 3 to Part 373.

Special Licenses Available: None.

3711A Chlorine trifluoride, except shipments of 5 kilograms or less.

Controls for ECCN 3711A

Unit: Report in "pounds" or "kilograms."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $50 for Country Groups T & V; $0 for all other destinations.

Processing Code: MG.

Reason for Control: National security and nuclear non-proliferation.

Special Licenses Available: None.

1715A Boron, as described in this entry.

Controls for ECCN 1715A

Unit: Report in "pounds."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $500 for Country Groups T & V; $0 for all other destinations.

Processing Code: MG.

Reason for Control: National security and nuclear non-proliferation. Nuclear controls do not apply to subentries (c)(2), (3), (4) and (5).

Special Licenses Available: None for subentries (a), (b) and (c)(1) below. For the rest of subentry (c) see Part 373.

List of Boron Controlled by ECCN 1715A

(a) Boron element, boron compounds and mixtures in which the boron-10 isotope comprises more than 20 percent of the total boron content;

(b) Boron element (metal) all forms; and

(c) Boron compounds, mixtures and composites containing 5 percent or more of boron, *except pharmaceutical specialties packaged for retail sale,* as follows:

(1) Boron carbide, *except powder,* having a boron content of 70 percent or more by weight and composites thereof in crude or semi-fabricated forms;

(2) Boron nitride (hexagonal close-packed structure, white form) and composites thereof in crude or semi-fabricated forms; other boron-nitrogen compounds (*e.g.,* borazanes, borazines, and boropyrazoyls);

(3) Boron hydrides (*e.g.,* boranes), *except sodium boron hydride, potassium boron hydride, monoborane, diborane and triborane;*

(4) Organoboron compounds; including metalloorganoboron compounds; and

(5) Borides with purities above 98.5 percent and having melting points of 3,632° F (2,000° C) or higher and composites thereof in crude or semi-fabricated forms.

4720B Radioisotopes, cyclotron-produced or naturally occurring, except those having an atomic number 3 through 83, and compounds and preparations thereof

(Specify by name and isotope number.)

Controls for ECCN 4720B

Unit: Report radioisotopes in "Millecuries."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $100 for Country Groups Q, T, and V; $0 for all other destinations.

Processing Code: MG.

Reason for Control: Nuclear non-proliferation.

Special Licenses Available: None.

4721B Helium isotopically enriched in the helium-3 isotope, in any form or quantity, and whether or not admixed with other materials, or contained in any equipment or device.

Controls for ECCN 4721B

Unit: Report helium in "liters."

Validated License Required: Country Groups PQSTVWYZ and Canada.

GLV $ Value Limit: $1,000 for Country Groups T & V; $0 for all other destinations.

Processing Code: MG.

Reason for Control: National security.

Special Licenses Available: See Part 373.

1746A Polymeric substances and manufactures thereof, as described in this entry.

Controls for ECCN 1746A

Unit: Report in "pounds."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $100 for Country Groups T & V; $0 for all other destinations.

Processing Code: MG.

Reason for Control: National security.

Special Licenses Available: See Part 373.

List of Polymeric Substances and Manufactures Thereof Controlled by ECCN 1746A

Polymeric substances and manufactures thereof, where the value of the polymeric component, either alone or in combination with other materials included on the Commodity Control List under an Export Control Commodity Number that is followed by the code letter "A", is 50 percent or more of the total value of the materials, as follows:

(a) Polyimides, *except fully cured polyimide or polyimide-based film, sheet, tape or ribbon having a maximum thickness of 10 mils (0.010 inch or 0.254 mm) whether or not coated or laminated with heat- or pressure-sensitive resinous substances of an adhesive nature, which contain no fibrous reinforcing materials, and which have not been coated or laminated with carbon, graphite, metals or magnetic substances;*

(b) Polybenzimidazoles;

(c) Polyimidazopyrrolones;

(d) Aromatic polyamides, *except staples, fibers, filaments, yarns and threads having a fiber modulus of 250 grams-force per denier or less and a tenacity of 11 grams-force per denier or less, and textile and mat products thereof;*

(e) Polyparaxylylenes;

(f) Polyphenylene sulphides;

(g) Polyquinoxalines;

(h) Polybenzothiazoles;

(i) Polyoxadiazoles;

(j) Polytriazoles;

(k) Polythiazoles;

(l) Polyphosphonitriles;

(m) Polybenzimidazolphenanthrolines;

(n) Polypyrazines;

(o) Polyspiranes;

(p) Polysilazanes;

(q) Polyperfluorotriazines;

(r) Polysilsequioxane ladders;

(s) Polyparabenzoquinone ladders; and

(t) Polynaphthaleneimidazoanthraquinone ladders.

4746B Polymeric substances as described in this entry.

Controls for ECCN 4746B

Unit: Report in "pounds."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $100 for Country Groups T & V; $0 for all other destinations.

Processing Code: MG.

Reason for Control: National security.

Special Licenses Available: See Part 373.

List of polymeric substances controlled by ECCN 4746B

Polymeric substances, thermally stable, having weight loss of 15 percent or less after exposure for 24 hours to a temperature of 400° C (752° F) in air, and manufactures thereof, where the value of the polymeric component, either alone or in combination with other materials included on the Commodity Control List under an Export Control Commodity Number that is followed by the code letter "A," is 50 percent or more of the total value of the materials.

Examples of thermally stable polymeric substances include, but are not limited to, the following:

Polyarlyenesulfones
Polyphenlyene oxides, excluding styrene modified forms
Polymetallocenes
Fluoroepoxides
Polyimidazoimides
Polyparaoxybenzoyls
Polyphenylenes
Polybenzimidazolones
Polytetraazopyrenes
Polybenzoxazinones
Polytriptycenes
Coordination polymers
Polyaroylanthranilamides
Polyanthazolines
Polycarboxylimides
Polyarylethers
Polycarboranesiloxanes
Polyboroimidazolines
Polyiminoimidazolidinediones
Polyparbanic acids
Polyaryloxysilanes
Polymetallosiloxanes
Polyquinazolinediones
Polyquinazolones

1754A Fluorocarbon compounds and manufactures as described in this entry.

Controls for ECCN 1754A

Unit: Report wire and cable in "feet," fluorocarbon compounds and other manufactures in "pounds."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $1,00 for Country Groups T & V; $0 for all other destinations.

Processing Code: MG.

Reason for Control: National security.

Special Licenses Available: See Part 373.

List of fluorocarbon compounds and manufactures controlled by ECCN 1754A

Fluorocarbon compounds and manufactures, as follows:

(a) Monomeric and polymeric materials, as follows:

(1) Polychlorotrifluoroethylene, oily and waxy modifications only;

(2) Copolymers and terpolymers composed of any combination of the following monomers: tetrafluoroethylene, chlorotrifluoroethylene, vinylidene fluoride, hexafluoropropylene, and bromotrifluoroethylene, *except the copolymers of tetrafluoroethylene and hexafluoropropylene;*

(3) Polybromotrifluoroethylene;

(4) Dibromotetrafluoroethane, *except that having a purity of 99.8 percent or less and containing at least 25 particles of 200 microns or larger in size per 100 ml;* or

(5) Perfluoroalkylamines;

(b) Greases, lubricants and dielectric, damping and flotation fluids made wholly of any of the materials in sub-entry (a) above; and

(c) Electric wire and cable coated with or insulated with any of the materials in paragraph (a)(2) above, *except oil well logging cable.*

Advisory Notes.—1. Licenses are likely to be approved for export to satisfactory end-users in Country Groups PQSWY of fluorocarbon compounds and manufactures as described in paragraph (a)(1) and paragraph (b).

2. Licenses are likely to be approved for export to satisfactory end-users in Country Groups PQSWY of up to 5 US gallons (18.9 liters) of polychlorotrifluoroethylene-based lubricating oils covered jointly by paragraphs (a) (1) and (b) above, for bona fide civil uses.

4754B Sythetic resins, as described in this entry.

Controls for ECCN 4754B

Unit: Report synthetic resins in "pounds."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $500 for Country Groups Q, T, and V; $0 for all other destinations.

Processing Code: MG.

Reason for Control: National security.

Special Licenses Available: See Part 373.

List of Synthetic Resins Controlled by ECCN 4754B

Synthetic resins, as follows:

(a) Irradiated polyolefin film, sheeting, and laminates;

(b) Methyl methacrylate, cross-linked, hot stretched, clear, film, sheeting, or laminates;

(c) Other fluorocarbon polymers and copolymers, *except the copolymer of tetrafluoroethylene and perfluoroalkyl vinyl ether; polyvinyl-fluoride, solid forms of polychlorotrifluoroethylene, and non-dispersion grades of polytetrafluoroethylene, and products wholly made thereof;* and

(d) Other fluorocarbon polymer and copolymer products, *except ethylene/tetrafluoroethylene copolymers,* as follows:

(1) Products wholly made thereof;

(2) Molding compositions containing more than 20 percent by weight of fluorocarbon polymers or copolymers; or

(3) Laminates partially made of fluorocarbon polymers or copolymers, including molded, decorative, or laminated with other materials or metals.

(Specify by name.)

1755A Silicone fluids and greases as described in this entry.

Controls for ECCN 1755A

Unit: Report silicone fluids and greases in "barrels."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $500 for Country Groups T & V; $0 for all other destinations.

Processing Code: MG.

Reason for Control: National security.

Special Licenses Available: See Part 373.

List of Silicone Fluids and Greases Controlled by ECCN 1755A

Silicone fluids and greases, as follows:

(a) Fluorinated silicone fluids; and

(b) Silicone lubricating grease capable of operating at temperatures of 365° F (180° C) or higher and having a drop point (method of test being ASTM or ITP) of 428° F (220° C) or higher.

Advisory Notes.—1. Licenses are likely to be approved for export to satisfactory end-users in Country Groups PQSWY of silicone fluids and greases as described in paragraph (b), above.

2. Licenses are likely to be approved for export to satisfactory end-users in Country

Groups PQSWY of silicone lubricating greases covered by paragraph (b) above, provided they are not capable of operating at temperatures of 400° F (205° C) or higher.

4755B Silicone fluids and resins as described in this entry.

Controls for ECCN 4755B

Unit: Report in "pounds."
Validated License Required: Country Groups PQSTVWYZ.
GLV $ Value Limit: $500 for Country Groups T & V; $100 for Country Group Q; $0 for all other destinations.
Processing Code: MG.
Reason for Control: National security.
Special Licenses Available: See Part 373.

List of Silicone Fluids and Resins Controlled by ECCN 4755B

Silicone fluids and resins, as follows:
(a) Silicone diffusion pump fluids having the capacity for producing ultimate pressures of less than 10^{-9} Torr; and
(b) Thermally stable silicone resins capable of withstanding temperatures of 752° F (400° C) and greater with weight losses of 15 percent or less over a 24 hour test.

1757A Compounds and materials as described in this entry.

Controls for ECCN 1757A

Unit: Report in "number."
Validated License Required: Country Groups PQSTVWYZ.
GLV $ Value Limit: $500 for Country Groups T & V; $0 for all other destinations.
Processing Code: MG.
Reason for Control: National security.
Special Licenses Available: See Part 373.

List of Compounds and Materials Controlled by ECCN 1757A:

Compounds and materials, as follows:
(a) Monocrystalline silicon having any of the following characteristics:
(1) Containing bismuth, indium, gallium, selenium, or thallium at an average carrier concentration of greater than $10^{16}/cm^3$;
(2) Containing arsenic at an average carrier concentration of greater than $10^{16}/cm^3$ and less than $10^{18}/cm^3$;
(3) Having P-type conductivity and a resistivity of 5,000 ohm/cm or greater;
(4) In the form of wafers (slices) or ingots (boules) having a resistivity of 50 ohm/cm or less for all N type and for P type 1–1–1, or 100 ohm/cm or less for P type 1–0–0.

(b) Monocrystalline gallium compounds, *except gallium phosphide, and except electronic grades of monocrystalline materials containing less than 1 percent of gallium, and except gallium arsenide, gallium arsenide phosphide, and gallium nitride having all of the following characteristics:*
(1) Diffusion processed wafers;
(2) Selenium, tellurium, silicon, sulphur, tin or zinc doped;
(3) Dislocation density (EPD) greater than 10,000 per sq. cm.;
(4) Carrier concentration greater than 1×10^{16} per cu. cm.; and
(5) Carrier mobility less than 2,000 sq. cm. per volt second;
(c) Monocrystalline indium compounds in any form, *except electronic grades of monocrystalline materials containing less that 1 percent of indium;*
(d) Composites (hetero-epitaxial materials) consisting of a monocrystalline insulating substrate epitaxially layered with silicon, compounds of gallium or compounds of indium;
(e) Mercury cadmium telluride compounds in any form; and
(f) Electronic grade polycrystalline silicon. "Electronic grade polycrystalline silicon" is defined as having a maximum concentration of P type impurity *(e.g.* boron) of 0.3 parts per billion (0.3 parts in 10^9) and/or a maximum concentration of N type impurity *(e.g.* phosphorus) of 1.5 parts per billion (1.5 parts in 10^9). Purity shall be verified according to ASTM specification F574–78 or equivalent followed by resistivity measurement according to ASTM specification F43–78 or equivalent.

Advisory Notes.—1. Licenses are likely to be approved for export to satisfactory end-users in Country Groups PQSWY of wafers (slices) embargoed by subentry (a)(4) above having any of the following characteristics:
(1) 1–1–1 crystal orientation for N-type.
(2) 1–1–1 crystal orientation and having a resistivity less than 2 ohm/cm for P-Type.
(3) 1–0–0 crystal orientation and having a resistivity between 0.5 and 2 ohm/cm for N-Type.
2. Licenses are likely to be approved for export to satisfactory end-users in Country Group P (People's Republic of China) of monocrystalline silicon wafers or ingots of 3 inches in diameter or less when doped for commercial bipolar and MOS devices.

4757B Single crystal sapphire substrates.
(Specify by size and weight.)

Controls for ECCN 4757B

Unit: Report in "$ value."
Validated License Required: Country Groups PQSTVWYZ.
GLV $ Value Limit: $500 for Country Groups T & V; $100 for Country Group Q; $0 for all other destinations.
Processing Code: MG.
Reason for Control: National security.
Special Licenses Available: See Part 373.
Technical Data: Exports of related technical data require a validated license to all destinations, except Canada.

1759A Syntactic foam for underwater use formulated for applications at depths greater than 1,000 meters (3,281 ft) or with a density (specific gravity) of 0.561 g/cm³ (35 lbs/cu ft) of less.

(Syntactic foam consists of hollow plastic or glass spheres less than 100 micrometers in diameter uniformly embedded in a resin matrix.)

For deep submergence vehicles, see ECCN 1418A.

Controls for ECCN 1759A

Unit: Report in "$ value."
Validated License Required: Country Groups PQSTVWYZ.
GLV $ Value Limit: $0 for all destinations.
Processing Code: MG.
Reason for Control: National security.
Special Licenses Available: See Part 373.

1760A Compounds of tantalum and niobium (columbium).

Controls for ECCN 1760A

Unit: Report in "pounds."
Validated License Required: Country Groups PQSTVWYZ.
GLV $ Value Limit: $500 for Country Groups T & V; $0 for all other destinations.
Processing Code: MG.
Reason for Control: National security.
Special Licenses Available: See Part 373.

List of Forms of Compounds of Tantalum and Niobium (Columbium) Controlled by ECCN 1760A

(a) Tantalates and niobates having a purity of 98 percent or more; and
(b) Other compounds containing 20 percent or more of tantalum in which the niobium content with respect to tantalum is less than one part per thousand.

1763A Fibrous and filamentary materials which may be used in composite structures or laminates and manufactures thereof.

Controls for ECCN 1763A

Unit: Report in "Pounds."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $250 for Country Groups T & V; $0 for all other destinations.

Processing Code: MG.

Reason for Control: National security; nuclear non-proliferation.

Special Licenses Available: None.

List of Fibrous and Filamentary Materials Controlled by ECCN 1763A:

(a) Having both the following characteristics:
(1) Specific modulus greater than 1.25×10^8, and
(2) Specific tensile strength greater than 3×10^6;
(b) Having both of the following characteristics:
(1) Specific modulus greater than 1×18^8, and
(2) Melting or sublimation point higher than 3,000° F (1,649° C) in an inert environment; *except carbon fibers having a specific modulus of less than 2×10^8 and a specific tensile strength of less than 1×10^6:*
(c) Composite structures and laminates, including metal matrix composite materials, fabricated by using equipment controlled by ECCN 1357A, or by metal casting, or by strengthening eutectic alloys *in situ* by directional solidification, from materials described in paragraphs (a) and (b) above.

"Fibrous and filamentary materials" includes:
(a) Continuous monofilaments,
(b) Continuous yarns and rovings,
(c) Tapes, woven fabrics and random mats,
(d) Chopper fibers, staple fibers and coherent fiber blanket, and
(e) Whiskers, either monocrystalline or polycrystalline, of any length.)
("Specific modulus" is Young's modulus in lbs/sq. in. (measured at a temperature of 73.4° F±3.6° F (23° C±2° C) and a relative humidity of 50 percent ±5 percent) divided by density in lbs/cu. in. "Specific tensile strength" is ultimate tensile strength in lbs/sq. in. (measured at a temperature of 73.4° F±3.6° F (23° C±2° C) and relative humidity of 50 percent ±5 percent) divided by density in lbs/cu. in.)

Advisory Note.—Licenses are likely to be approved for export to Country Groups PQSWY for bona fide civil end-uses, of carbon fibers multi-phase polycrystalline alumina fibers defined in paragraphs (a) and (b) above having both of the following characteristics:
(a) Specific modulus less than 4.5×10^8, and
(b) Specific tensile strength less than 4.5×10^6.

1767A Preforms of glass or of any other material specially designed for the fabrication of optical transmission fibers intended for the manufacture of cable defined in paragraph (b)(3) of ECCN 1526A.

(Optical fiber preforms are defined as bars, ingots, or rods of glass, plastic or other materials which have been specially processed for use in fabricating optical fibers. The characteristics of the preform determine the basic parameters of the resultant drawn optical fibers.)

Controls for ECCN 1767A

Unit: Report in "$ value."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $500 for Country Groups T & V; $0 for all other destinations.

Processing Code: MG.

Reason for Control: National security.

Special Licenses Available: See Part 373.

Advisory Note.—Licenses are likely to be approved for export to satisfactory end-users in Country Groups PQSWY of the preforms defined in this ECCN.

4778B Inorganic chemicals.

Controls for ECCN 4778B

Unit: Report unit of quantity for each commodity as specified in Supp. No. 2 to Part 377.

Validated License Required: Country Groups PQSTVWYZ and Canada.

GLV $ Value Limit: $0 for all destinations.

Processing Code: SS.

Reason for Control: Short supply.

Special Licenses Available: See Part 373.

List of Inorganic Chemicals Controlled by ECCN 4778B

Ammonia, anhydrous or in aqueous solution; carbon dioxide; carbon monoxide; helium and mixtures thereof; hydrogen; and inorganic chemicals listed in Supp. No. 2 to Part 377.
(See §§ 371.16 and 371.5(d) for special provisions regarding shipments under General Licenses *G–NNR* and *GLV*.

6779F Chemicals and materials (e.g., drilling fluids, muds, lost circulation materials and polymers, surfactants and other detergents) specially formulated or modified for use in the production of petroleum and natural gas.

Controls for ECCN 6779F

Unit: Report in "$ value."

Validated License Required: Country Groups SZ, Afghanistan, and the U.S.S.R. (including Estonia, Latvia, and Lithuania).

GLV $ Value Limit: General License *GLV* is not applicable; however, another general license may apply.

Processing Code: MG.

Reason for Control: Foreign policy.

Special South Africa and Namibia Controls: A validated license is required for export to the Republic of South Africa and Namibia if intended for delivery to or for use by or for military or police entities in these destinations or for use in servicing equipment owned, controlled, or used by or for these entities. See § 385.4(a).

Special Licenses Available: See Part 373.

1781A Synthetic lubricating oils and greases.

Controls for ECCN 1781A

Unit: Report in "barrels."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $500 for Country Groups T & V; $0 for all other destinations.

Processing Code: MG.

Reason for Control: National security.

Special Licenses Available: None.

List of the Principal Ingredients of Synthetic Lubricating Oils and Greases Controlled by ECCN 1781A

(a) Monomeric and polymeric forms of perfluorotriazines, perfluoroaromatic ethers and esters, and perfluoroaliphatic ethers and esters; or
(b) Polyphenyl ethers and/or thio ethers containing more than three phenyl and/or alkyl phenyl groups.

4781B Petroleum, crude or partly refined, including tar sands, shale oil and topped crudes, listed in Supp. No. 2 to Part 377.

Controls for ECCN 4781B

Unit: Report in "barrels."

Validated License Required: Country Groups PQSTVWYZ and Canada.

GLV $ Value Limit: $0 for all destinations, including Canada.

Processing Code: SS.

Reason for Control: Short supply.

Special Licenses Available: None.

4782B Other petroleum products listed in Supp. No. 2 to Part 377.

(See §§ 371.16 and 371.5(d) for special provisions regarding shipments under General Licenses (*G–NNR* and *GLV.*)

Controls for ECCN 4782B

Unit: Report in "$ value."

Validated License Required: Country Groups PQSTVWYZ and Canada.

GLV $ Value Limit: $1,000 for Country Groups Q, T and V, and Canada; $0 for all other destinations.

Processing Code: SS.

Reason for Control: Short supply.

Special Licenses Available: None.

4783B Natural gas liquids and other natural gas derivatives listed in Supp. No. 2 to Part 377.

(See §§ 371.16 and 371.5(d) for special provisions regarding shipments under General Licenses *G–NNR* and *GLV.*)

Note.—Natural gas and liquefied natural gas (L.N.G.) and synthetic natural gas commingled with natural gas require export authorization from the U.S. Department of Energy. See § 370.10(g).

Controls for ECCN 4783B

Unit: Report in "barrels."

Validated License Required: Country Groups PQSTVWYZ and Canada.

GLV $ Value Limit: $1,000 for Country Groups Q, T and V, and Canada.

Processing Code: SS.

Reason for Control: Short supply.

Special Licenses Available: None.

4784B Manufactured gas and synthetic natural gas (except when commingled with natural gas and thus subject to export authorization from the Department of Energy) listed in Supp. No. 2 to Part 377.

(See §§ 371.16 and 371.5(d) for special provisions regarding shipments under General Licenses *G–NNR* and *GLV.*)

Controls for ECCN 4784B

Unit: Report in "millions of cubic feet."

Validated License Required: Country Groups PQSTVWYZ and Canada.

GLV $ Value Limit: $1,000 for Country Groups Q, T and V, and Canada; $0 for all other destinations.

Processing Code: SS.

Reason for Control: Short supply.

Special Licenses Available: None.

4799B Chemical agents, including tear gas formulations containing 1 percent or less of orthochlorobenzalmalononitrile (CS), or 1 percent or less of chloracetophenone (CN), except in individual containers with a net weight of 20 grams or less; and smoke bombs; and fingerprint powders, dyes and inks.

(Specify by name.) (See § 376.14.)

All other forms of tear gas are controlled by the U.S. Department of State, Office of Munitions Control.

Controls for ECCN 4799B

Unit: Report in "$ value."

Validated License Required: Country Groups PQSTVWYZ. A validated license is not required for export of these commodities to Australia, Japan, New Zealand, and members of NATO.

GLV $ Value Limit: $0 for all destinations.

Processing Code: MG.

Reason for Control: Crime control (foreign policy).

Special Licenses Available: None.

Special Foreign Policy Controls: An individual validated export license is required for foreign policy purposes to export crime control and detection instruments and equipment and related technical data (except that authorized under General License *GTDA*) to any destination except Australia, Japan, New Zealand, and members of NATO.

Advisory Note.—Applications for validated export licenses generally will be considered favorably on a case-by-case basis unless there is evidence that the government of the importing country may have violated internationally recognized human rights and that the judicious use of export controls would be helpful in deterring the development of a consistent pattern of such violations or in distancing the United States from such violations.

5799D Other chemicals, chemical materials and products, plastic materials, regenerated cellulose, artificial resins, and miscellaneous related materials and products, n.e.s., except those listed in Supp. No. 1 to § 399.2, Interpretation 24.

Controls for ECCN 5799D

Unit: Report in "$ value."

Validated License Required: Country Groups PQSWYZ and Afghanistan.

GLV $ Value Limit: $100 for Country Groups Q. General License *GLV* not applicable for other destinations; however, another general license may apply.

Processing Code: MG.

Reason for Control: National security.

Special Licenses Available: See Part 373.

Special South Africa and Namibia Controls: A validated license is required for export or reexport to the Republic of South Africa and Namibia if intended for delivery to, or for use by or for military or police entities in these destinations or for use in servicing equipment owned, controlled, or used by or for these entities. See § 385.4(a).

6799G Chemicals, chemical materials and products, plastic materials, regenerated cellulose, artificial resins, and miscellaneous related materials and products, n.e.s., listed in Supp. No. 1 to § 399.2, Interpretation 24.

Controls for ECCN 6799G

Unit: Report in "$ value."

Validated License Required: Country Groups SZ.

GLV $ Value Limit: General License *GLV* not applicable; however, another general license may apply.

Processing Code: MG.

Reason for Control: Foreign policy.

Special Licenses Available: See Part 373.

GROUP 8—RUBBER AND RUBBER PRODUCTS

Note.—You need a validated export license to export or reexport technical data related to rubber and rubber products to destinations in Country Groups P, Q, S, W, Y, or Z. You may use General License *GTDR* for exports or reexports of technical data to destinations in Country Groups T & V *provided that*—

(a) the technical data are not listed in paragraphs (c) or (d) of § 379.4 of the Regulations, *and*

(b) there are no special foreign policy controls on the technical data related to the commodities described in an individual CCL entry.

Note.—All Commodity Control List entries in this Group are subject to export controls on the basis of the following criteria:

You need a validated license to export or reexport to the U.S.S.R. if you know or have reason to know the commodity is for any use directly in preparation for, in conduct of, in support of, or visually identified with the Summer Olympics that began in Moscow on July 19, 1980. These commodities are subject to controls under the authority of the foreign policy provisions contained in section 6 of the Export Administration Act of 1979.

See § 370.10 for commodities that require export authorization from other U.S. Government Departments and Agencies.

1801A Synthetic rubber.

Controls for ECCN 1801A

Unit: Report in "lbs."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $500 for Country Groups T and V; $0 for all other destinations.

Processing Code: MG.

Reason for Control: National security.

Special Licenses Available: None for commodities defined in paragraph (c)(1) of the LIST below; see Part 373 for special licenses that may be available for other types of synthetic rubber defined in the LIST.

List of types of synthetic rubber controlled by ECCN 1801A

(a) Alkyl polysulphide liquid polymers, including polymers which are in themselves liquid, having a molecular weight of 1,200 or less and a viscosity of 2,000 centipoises or less, *except water dispersions, otherwise called latices;*

(b) Fluorinated silicone rubber and other fluorinated elastomeric material and such organic intermediates for their production as contain 10 percent or more of combined fluorine;

(c) Polymeric products of butadiene, as follows:

(1) Carboxyl terminated polybutadiene, hydroxyl terminated polybutadiene, thiol terminated polybutadiene, and cyclized 1,2-polybutadiene;

(2) Moldable copolymers of butadiene and acrylic acid; and

(3) Moldable terpolymers of butadiene, acrylonitrile and acrylic acid or any of the homologues of acrylic acid; and

(d) Carboxyl terminated polyisoprene and polyisobutylene.

6899G Other rubber and rubber products, n.e.s.

Controls for ECCN 6899G

Unit: Report in "$ value."

Validated License Required: Country Groups S and Z.

GLV $ Value Limit: General license *GLV* not applicable; however, another general license may apply.

Processing Code: MG.

Reason for Control: Foreign policy.

Special Licenses Available: None.

Special South Africa and Namibia Controls: A validated license is required for export to the Republic of South Africa and Namibia of commodities defined in ECCN 6899G if intended for delivery to, or for use by or for military or police entities in these destinations or for use in servicing equipment owned, controlled or used by or for these entities. See § 385.4(a).

GROUP 9—MISCELLANEOUS

Note.—You need a validated export license to export or reexport technical data related to the miscellaneous products in this Commodity Group 9 to destinations in Country Groups P, Q, S, W, Y, or Z. You may use General License GTDR for exports or reexports of technical data to destinations in Country Groups T & V *provided that*—

(a) The technical data are not listed in paragraphs (c) or (d) of § 379.4 of the Regulations, *and*

(b) There are no special foreign policy controls on the technical data related to the commodities described in an individual CCL entry.

Note.—All Commodity Control List entries in this Group are subject to export controls on the basis of the following criteria:

You need a validated license to export or reexport to the U.S.S.R. if you know or have reason to know the commodity is for any use directly in preparation for, in conduct of, in support of, or visually identified with the 1980 Summer Olympics that began in Moscow on July 19, 1980. These commodities are subject to controls under the authority of the foreign policy provisions contained in section 6 of the Export Administration Act of 1979.

See § 370.10 for commodities that require export authorization from other U.S. Government Departments and Agencies.

5994G Medicines, medical products and supplies.

Controls for ECCN 5994G

Unit: Report in "$ value."

Validated License Required: Country Groups S and Z.

GLV $ Value Limit: General License *GLV* not applicable; however, another general license may apply.

Processing Code: MG

Reason for Control: Foreign policy.

Special Licenses Available: None.

Special South Africa and Namibia Controls: A validated license is required for export to the Republic of South Africa and Namibia of commodities defined in ECCN 5994G if intended for delivery to, or for use by or for military or police entities in these destinations or for use in servicing equipment owned, controlled or used by or for these entities. See § 385.4(a)

4996B Western red cedar (Thuja plicata) logs and timber, and rough, dressed and worked lumber containing wane listed in Supplement No. 4 to part 377.

Controls for ECCN 4996B

Unit: Report in "million board feet scribner."

Validated License Required: Country Groups PQSTVWYZ and Canada.

GLV $ Value Limit: $0 to all destinations.

Processing Code: SS.

Reason for Control: Short supply.

Special Licenses Available: None.

4997B Viruses or viroids for human, veterinary, plant, or laboratory use, except hog cholera and attentuated or inactivated systems.

Controls for ECCN 4997B:

Unit: Report in "$ value."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $0 for all destinations.

Processing Code: MG.

Reason for Control: National security.

Special Licenses Available: See Part 373.

4998B Bacteria, fungi, and protozoa; except those listed in Supplement No. 1 to § 399.2, Interpretation 28

(Specify by name.)

Controls for ECCN 4998B:

Unit: Report in "$ value."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $0 for all destinations.

Processing Code: MG.

Reason for Control: National security.

Special Licenses Available: See Part 373.

5998B Shotguns, barrel length 18 inches or over; and arms, discharge type (for example, stun-guns, shock batons, immobilization guns and projectiles, etc., except equipment used exclusively to treat or tranquilize animals, and except arms designed solely for signal, flare, or saluting use; and parts, n.e.s., including optical sighting devices for firearms.

Controls for ECCN 5998B:

Unit: Report in "$ value."

GLV $ Value Limit: $0 for all destinations.

Processing Code: MG.

Reason for Control: Crime control (foreign policy).

Special Licenses Available: None.

Special South Africa and Namibia Controls: Commodities defined in ECCN 5998B (except optical sighting devices) are subject to the Republic of South Africa and Namibia embargo policy, and no technical data relating to those commodities may be exported under General License *GTDR* to any consignee in the Republic of South Africa or Namibia.

Special Foreign Policy Controls: No commodities in this entry may be shipped to the Republic of South Africa, Namibia, Botswana, Lesotho, and Swaziland without a validated license. However, a validated license is *not* required for export of shotguns with barrel length of 24 inches or over and parts, n.e.s., to other destinations in Country Groups T and V, for consignment or resale to other than police or law enforcement agencies. An individual validated export license is required for foreign policy purposes to export crime control and detection instruments and equipment and related technical data (except that authorized under General License *GTDA*) to any destination except Australia, Japan, New Zealand, and members of NATO.

6998F Shotgun shells, and parts.

Controls for ECCN 6998F

Unit: Report in "$ value."

Validated License Required: Country Groups S and Z and the Republic of South Africa, Namibia, Botswana, Lesotho, and Swaziland.

GLV $ Value Limit: General License *GLV* not applicable; however, another general license may apply.

Processing Code: MG.

Reason for Control: Foreign policy.

Special Licenses Available: None.

Special South Africa and Namibia Controls: Commodities defined in ECCN 6998F (except optical sighting devices) are subject to the Republic of South Africa and Namibia embargo policy, and no technical data relating to those commodities may be exported under General License *GTDR* to any consignee in the Republic of South Africa or Namibia.

4999B Horses for export by sea.

Controls for ECCN 4999B

Unit: Report in "$ Value."

Validated License Required: Country Groups PQSTVWYZ and Canada.

GLV $ Value Limit: $0 for all destinations.

Processing Code: SS.

Reason for Control: Short supply (see § 376.3)

Special Licenses Available: None.

5999B Saps; straight jackets; police helmets and shields; and parts and accessories, n.e.s.

Controls for ECCN 5999B

Unit: Report in "$ value."

Validated License Required: Country Groups PQSTVWYZ. A validated license is *not* required for export of thees commodities to Australia, Japan, New Zealand, and members of NATO.

GLV $ value Limit: $0 for all destinations.

Processing Code: MG.

Reason for Control: Crime control (foreign policy).

Special Crime Controls: An individual validated export license is required for foreign policy purposes to export crime control and detection instruments and equipment and related technical data (except that authorized under General License (*GTDA*) to any destination except Australia, Japan, New Zealand, and members of NATO.

6999G Other commodities, n.e.s.; and parts and accessories, n.e.s.

Controls for ECCN 6999G

Unit: Report in "$ value."

Validated License Required: Country Groups S and Z; food and agricultural commodities and medicines and medical supplies may be exported to Country Group S under General License *G–DEST.*

GLV $ Value Limit: General License *GLV* not applicable; however, another general license may apply.

Processing code: MG.

Reason for Control: Foreign policy.

Special Licenses Available: None.

7999 I Prerecorded phonograph records reproducing, in whole or in part, the content of printed books, pamphlets, and miscellaneous publications, including newspapers and periodicals; printed books, pamphlets, and miscellaneous publications including bound newspapers and periodicals; children's picture and painting books; newspaper and periodicals, unbound, excluding waste; music books; sheet music; calendars and calendar blocks, paper; maps, hydrographical charts, atlases, gazeteers, globe covers, and globes, (terrestrial or celestial) and advertising printed matter exclusively related thereto.

Controls for ECCN 7999I

Unit: Report in "$ value."

Validated License Required: None.

GLV $ Value Limit: General License *GLV* not applicable; however, another general license may apply.

Processing Code: MG.

Reason for Control: None.

Technical Data: Not applicable.

9999M Technical models for demonstration. The validated export license control applicable to each model is the same as the control applicable to the full size commodity represented by the model as exercised by Commerce (OEA and/or Maritime Administration), State (OMC), or Nuclear Regulatory Commission.

(Sections 13 and 15, Pub. L. 96–72, 93 Stat. 503, 50 U.S.C. app. § 2401 *et seq.;* Executive Order No. 12214 (45 FR 29783, May 6, 1980)

Dated: December 20, 1982.

John K. Boidock,

Director, Office of Export Administration, International Trade Administration.

[FR Doc. 82–34908 Filed 12–28–82; 8:45 am]

BILLING CODE 3510–25–M

federal register

Wednesday
December 29, 1982

Part III

Environmental Protection Agency

Environmental Standards for the Management and Disposal of Spent Nuclear Fuel, High-Level and Transuranic Radioactive Wastes

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 191

[A-FRL 1810-1]

Environmental Standards for the Management and Disposal of Spent Nuclear Fuel, High-Level and Transuranic Radioactive Wastes

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency requests comments on proposed environmental standards for the management and disposal of spent nuclear reactor fuel and high-level and transuranic wastes. Subpart A of the proposed standards would limit the radiation exposure of members of the public from management of spent fuel and of waste prior to disposal. Subpart B would establish both containment requirements for disposal systems and requirements to assure that these containment requirements should be met. The containment requirements would limit the amount of radioactivity that may enter the environment for ten thousand years after disposal. The assurance requirements provide seven principle necessary for developing confidence that these long-term containment requirements will be complied with. The requirements of Subpart B would apply to disposal by any method, except disposal directly into the oceans or ocean sediments.

After we consider the comments received on this proposal, we will develop a final version of these standards and promulgate them as a new Part 191 to Title 40 of the Code of Federal Regulations (40 CFR Part 191). The standards would be implemented by the Nuclear Regulatory Commission and the Department of Energy under their respective statutory responsibilities.

DATE: Public hearings on this proposed rule will be held during May of 1983. Specific dates and arrangements will be announced in a later **Federal Register** notice. Comments on the proposed rule and requests to participate in the public hearings should be received on or before May 2, 1983.

In addition, a panel of EPA's Science Advisory Board (SAB) will review the technical analyses supporting the proposed standards during the comment period. The meetings of the SAB panel will be open to the public and will be announced in the **Federal Register**.

ADDRESS: Comments should be submitted (in duplicate if possible to: Central Docket Section (A-130), Environmental Protection Agency, Attn: Docket No. R-82-3, Washington, D.C. 20460.

Docket No. R-82-3, containing material relevant to this rulemaking, is located in the West Tower Lobby, Gallery 1, Central Docket Section, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. The docket may be inspected between 8 a.m. and 4 p.m. on weekdays, and a reasonable fee may be charged for copying.

Single copies of the Draft Environmental Impact Statement for this action may be obtained by writing to: Director, Criteria and Standards Division (ANR-460), Office of Radiation Programs, Environmental Protection Agency, Washington, D.C. 20460.

Requests to participate in the public hearings should be made in writing to the Director, Criteria and Standards Division. All requests for participation must include at least an outline of the topics to be addressed in the opening statement(s), the amount of time requested for the statement(s), and the names of the participants. Statements should not repeat information already presented in written comments, but should address additional information or issues.

FOR FURTHER INFORMATION CONTACT: Daniel Egan, telephone number (703) 557-8610.

SUPPLEMENTARY INFORMATION:

Fissioning of nuclear fuel in nuclear reactors creates a small quantity of highly radioactive materials. This concentrated radioactivity is retained in the spent fuel elements when they are removed from the reactor. If the fuel is then reprocessed to recover unused uranium and plutonium, the concentrated radioactivity goes into acidic liquid wastes that will later be converted into solid forms. These highly radioactive liquid or solid wastes from reprocessing spent nuclear fuel, or the spent fuel elements themselves if they will be disposed of without reprocessing, are called "high-level wastes." The nuclear reactors operated by the nation's electrical utilities currently generate about 2,000 metric tons of spent fuel per year. For comparison, chemically hazardous wastes regulated under the Resource Conservation and Recovery Act are produced at a rate of about 40,000,000 metric tons per year.

Although they are produced in small quantities, proper management and disposal of high-level wastes are important because of the inherent hazards of the large amounts of radioactivity they contain. This need for careful control has been recognized since the inception of the nuclear age. The Federal Government has always assumed responsibility for the ultimate care and disposal of these wastes, regardless of whether they are produced by commercial or national defense activities. Over the last several years, the Federal Government has intensified its program to develop and demonstrate a permanent disposal method for high-level wastes. President Reagan's April 28, 1982 message to Congress on nuclear waste disposal reaffirmed this commitment and called for a Federally-owned and operated permanent repository to be available at the earliest practicable date. The environmental protection requirements that we are proposing today will provide the basic framework for the long-term controls that these wastes need.

High-level wastes contain many different radionuclides. Some of these nuclides emit alpha particles; other emit beta particles. Some radionuclides emit gamma rays in addition to alpha or beta particles. The radionuclides decay with half-lives ranging from less than one year to millions of years. We have concentrated our attention on radionuclides with half-lives greater than 20 years because they must be isolated from people for very long times. Thus, we exclude radionuclides such as tritium, krypton-85, and plutonium-241, which are present in large quantities in freshly discharge fuel, but which decay so rapidly that they do not require long-term isolation.

Reprocessing reactor fuel used for national defense activities has produced about 500 million curies of radionuclides with half-lives greater than 20 years. Most of the activity is due to strontium-90 and cesium-137, which have half-lives of about 30 years. These wastes are stored in various liquid and solid forms on three Federal reservations in Idaho, Washington, and South Carolina. Relatively small additions are being made from ongoing defense programs.

Spent fuel from commercial nuclear power reactors contains about 800 million curies of radionuclides with half-lives greater than 20 years. About 10 million curies of this radioactivity are due to radionuclides, such as plutonium, which emit alpha particles. Most of this spent fuels is stored at reactor sites. Over the next few years, this inventory is expected to grow at a rate of about 200 million curies per year from reactors currently licensed to operate. At some reactor sites, spent fuel storage capacity

is almost used up. Electrical utilities, the operators of commercial reactors, are pursuing a variety of techniques to increase storage capacities, and legislation concerning Federal assistance for spent fuel storage is under consideration in Congress.

Nuclear reactors use some isotopes of uranium, plutonium, or thorium to produce energy from nuclear fission. These elements are sometimes referred to as "heavy metals." The amount of wastes produced is roughly proportional to the amount of these elements placed into a ractor. We use the unit "wastes generated per metric ton of heavy metal (MTHM)" to measure the amount of waste placed in disposal systems.

The amount of natural uranium ore needed to produce one MTHM depends on the reactor type, degree of reprocessing, and quality of ore. For the light water reactors currently used in the United States, about 6,000 metric tons of uranium ore are used to produce one MTHM of reactor fuel. We have used this relationship to associate amounts of waste from reactor fuel with uranium ore.

In proposing these environmental protection requirements, we do not advocate any specific method for disposing of high-level wastes. However, in developing our proposed standards, we considered the long-term risks from disposal in mined geologic repositories. We concluded that well-designed repositories at well-chosen sites can keep potential radiation exposures to very low levels. In fact, because repositories appear to provide such good protection, we have chosen to propose disposal standards that limit the risks to future generations to a level no greater than the risks which those generations would be exposed to from equivalent amounts of unmined uranium ore. Thus, any risks to future generations from disposal of high-level wastes would be no greater than, and probably much less than, risks which those generations would face if the wastes had not been created in the first place.

Description of the Proposed Action

Under authorities established by the Atomic Energy Act and Reorganization Plan No. 3 of 1970, we are proposing generally applicable environmental standards for managing and disposing of these wastes. When such standards are promulgated, the Nuclear Regulatory Commission (NRC) and the Department of Energy (DOE) will be responsible for implementing and enforcing them through appropriate regulations and procedures. The Draft Environmental Impact Statement (EIS) published with this proposal includes detailed discussions of the reasons for our selections of these standards, and it provides extensive summaries of the technical analyses used. This preamble describes our proposed action, highlights features that we believe are of major interest, and points out issues on which we particularly seek public comment.

The proposed standards apply to spent reactor fuel, the highly radioactive wastes derived from reprocessing spent fuel, and to certain wastes containing long-lived radionuclides of elements heavier than uranium ("transuranic wastes"). Transuranic wastes are covered if they contain 100 nanocuries or more of alpha-emitting transuranic isotopes, with half-lives greater than 20 years, per gram of waste. People could receive, under some circumstances, more than 500 millirems per year from wastes containing more than 100 nanocuries of transuranic elements per gram if these wastes were not well isolated. 500 millirems per year is the Federal Radiation Protection Guide for individuals in the general population. Because transuranic wastes have very long half-lives and represent a potential hazard for very long times, we are proposing the same controls for these wastes as would be required for high-level wastes. Protection requirements for transuranic wastes containing less than 100 nanocuries per gram will be considered in future standards.

Some wastes produced from reprocessing spent fuel, particularly when changing the form of the wastes, may not need the same degree of control as the high-level wastes themselves. (For example, processing of certain defense wastes may leave large volumes of salt cake containing relatively low concentrations of technetium-99.) Accordingly, we are proposing a definition of high-level waste that would exclude wastes that contain less radioactivity than the concentration levels specified in Table 1 of the standards. Disposal of wastes with less radioactivity will be considered in future standards.

The levels in Table 1 are equivalent to the maximum concentrations for acceptance at shallow-land burial sites that the Nuclear Regulatory Commission (NRC) will soon promulgate as part of 10 CFR Part 61. The concentration limits in 10 CFR 61 have been derived so that a person intruding into a shallow-land site, after institutional controls were no longer effective, should not receive a radiation exposure greater than 500 millirem per year. However, because no method to generically classify radio active wastes by their need for isolation has been widely accepted yet, we particularly seek comment on our proposed definition of high-level waste.

The proposed standards do not apply to wastes that have already been disposed of. Although no high-level wastes have ever been disposed of in this country, some transuranic wastes have been buried at a number of sites. Most of these wastes, produced in support of national defense programs, were disposed of before the current Department of Energy (DOE) procedures for transuranic waste management were adopted in 1970. We do not currently have enought information on costs and risks to develop generally applicable standards for these wastes.

Also, our standards do not apply to ocean disposal because such disposal of high-level waste is prohibited by the Marine Protection, Research, and Sanctuaries Act of 1972.

In developing the proposed standards, we estimated the risks from waste management and disposal systems that use methods of controlling releases which either are available now or are likely to be available in the near future. From these evaluations, we concluded that:

1. Any harm to people, including future generations, from the management and disposal of spent fuel, high-level, and transuranic wastes can be kept very small. The assessments which support this conclusion are outlined below and are discussed extensively in the Draft EIS.

2. The standards that we are proposing would adequately protect the public from harm. Under them, the risks to future generations from the wastes would be no greater than the risks from equivalent amounts of unmined uranium ore. These risks would also be far less than the risks from other sources of natural background radiation.

In selecting the release limits given in the standards, we projected the performance of disposal systems which have not yet been demonstrated. There are significant uncertainties inherent in such projections. To avoid underestimating the risks associated with such systems, we often made pessimistic assumptions about how well a repository would perform. For example, we assumed that human intrusion into a repository would take place as if no site markers or records discouraged it beginning 100 years after disposal. Our estimates may, therefore, be considered upper bounds of the risks. When actual control methods are selected and demonstrated at specific sites, expected releases are likely to be well below the amounts allowed by the

proposed standards. Accordingly, the proposed standards instruct the implementing agencies to take steps to reduce releases below these upper bounds to the extent reasonably achievable, taking into account technical, social, and economic considerations.

Our environmental standards apply to both management and disposal. Subpart A applies to management and includes storage, preparation of the wastes for disposal, and placing them in a disposal site. Off-site transportation is not covered. In his April 28, 1982 message to Congress, President Reagan recommended that both temporary storage facilities and long-term, monitored retrievable storage (MRS) facilities be considered to manage spent fuel and high-level waste until a permanant repository is available. Subpart A would apply to both types of storage systems. Subpart B applies once the wastes are isolated enough so that it would be much harder to get them out of a disposal system than it was to put them in. With a geologic repository, for example, Subpart B would take effect when the mine was backfilled and sealed.

Waste Management

(40 CFR Part 191 Subpart A)

-Certain operations required before disposing of high-level or transuranic radioactive wastes are not regulated under our Uranium Fuel Cycle Standards (40 CFR Part 190). These operations principally involve storage of the materials, solidification or other preparation for disposal, and placing the wastes in disposal sites. Subpart A applies to spent fuel management, regardless of whether the fuel is considered to be waste or is destined for reprocessing, except for management already regulated by 40 CFR Part 190.

We estimated the largest expected radiation exposures to members of the public from waste management and storage operations associated with geologic disposal and found them to be somewhat smaller than the requirements set in 40 CFR 190. We propose to extend the limitations contained in Part 190 to the operations addressed by this new Part 191 for two reasons:

1. Some strategies for disposal could involve operations, such as chemical separation of transuranic elements, which are similar to those of spent fuel reprocessing. Reprocessing operations were a significant consideration in selecting the limits of 40 CFR 190. Setting the standards in Part 191 at the levels indicated by assessments based only on geologic disposal activities could preclude other disposal strategies which might be better overall.

2. Some of the operations addressed by Part 191 may take place near operations regulated by Part 190. Establishing different limitations for different operations at the same site would create difficult implementation problems with little, if any, additional public health protection. The provisions of Part 191 require the combined impacts from multiple operations to meet a single set of dose limitations which will be the same in both Parts 190 and 191.

Section 191.03 therefore requires that the combined annual dose equivalent to any member of the public due to operations covered by Part 190, and to direct radiation and planned discharges of radioactive materials covered by this Subpart, shall not exceed 25 millirems to the whole body, 75 millirems to the thyroid, and 25 millirems to any other organ. It also requires that waste management operations be conducted so as to reduce exposures for members of the public below this level to the extent reasonably achievable, taking into account technical, social, and economic considerations.

Disposal

(40 CFR 191 Subpart B)

Environmental protection standards for the disposal of high-level and transuranic radioactive wastes require far different considerations than those for management. These include the following:

1. The intent of disposal is to isolate the wastes from the environment for a longer time than any period over which active controls, such as monitoring the disposal site to detect releases of radioactivity, can reasonably be relied upon for protection.

2. These disposal systems will be designed so that very little, if any, radioactivity returns to the environment if the system performs as intended. Thus, the principal concern is the possibility of accidental releases, either due to unintended events or due to failure of parts of the disposal system to perform as expected.

These considerations have several ramifications for developing environmental protection standards. First, the requirements we establish can only be implemented by the NRC and DOE in the design phase—by setting design principles or by analytically projecting disposal system performance. The more familiar concepts of implementation involving monitoring of emissions or ambient levels of pollutants are not applicable because such surveillance cannot be relied upon for the long time periods involved.

Second, the standards must address unintentional releases such as those resulting from human intrusion or geologic faulting. Their provisions must be applicable to a variety of disposal strategies because the Agency does not have the authority to specify details of disposal method designs. Regulations to be developed by the NRC or DOE, as appropriate, will control specific designs.

Third, the standards must accommodate large uncertainties. These include both uncertainties in our current knowledge about disposal techniques and inherent uncertainties about the distant future. Thus, protecting the environment involves encouraging use of disposal systems that are tolerant of potential mistakes in engineering design or site selection.

We addressed these issues by developing numerical containment requirements for disposal systems accompanied by qualitative requirements to assure that these containment requirements should be met. These two parts of our proposed action are complementary: the containment requirements set limits on potential releases of radioactive materials from disposal systems for 10,000 years after disposal; the assurance requirements provide the framework necessary to develop appropriate confidence in meeting the containment requirements in spite of the inherent uncertainties. In addition, the standards contain procedural requirements to insure that the containment requirements are properly applied.

Containment Requirements

(Section 191.13)

To develop the long-term containment requirements, we assumed that we can predict some aspects of the future well enough to use the predictions for comparing and selecting disposal methods. Thus, we evaluated ways that waste might be released from a mined geologic repository, developed analytical models to predict potential releases and their distribution throughout the ecosystem over 10,000 years, and estimated the possible risks that could result from these releases if they occured in an environment similar to today's.

We concentrated on geologic repositories because much more information is available on this approach than on other disposal methods, and because the Department

of Energy has decided to focus the national program on this method (46 FR 26677). Furthermore, when we evaluated the limited information available on other disposal methods, we did not identify any other methods which were clearly better than geologic disposal. Our disposal standards, however, are meant to apply to any method of disposal, except disposal directly into the ocean or ocean sediments. Thus, any other disposal method would have to provide at least as much protection as that projected for geologic disposal.

There are significant uncertainties in the analytical models are used to assess the long-term performance of geologic repositories, and there are substantial uncertainties in the data we used in the models. The primary objective of the review to be conducted by the Agency's Science Advisory Board will be to judge whether our models and assumptions are adequate for the purpose they served in our development of containment requirements. The following paragraphs more fully describe how we formulated these requirements.

In our assessments of geologic disposal, we identified expected and accidental releases of radioactivity from a generic model of a repository. The model repository contains 100,000 MTHM of spent reactor fuel, about as much as would be generated during the operating lifetimes of 100 reactors of current design. The initial amounts of some of the principal radionuclides in this model repository would be: eight billion curies of cesium–137; six billion curies of strontium–90; 200 million curies of americium–241; 30 million curies of plutonium–239; and one million curies of technetium–99.

We examined the capabilities of waste canisters, waste chemical forms, respository design, and geologic media to prevent or delay the release of radionuclides. We selected reasonably achievable characteristics for each portion of the disposal system. For accidental releases, we estimated the probabilities of events leading to releases. Intentional disruption of the disposal system was not considered.

Radionuclides were considered to be released from the disposal system if they reached the "accessible environment," which includes surface waters, land surfaces, the atmosphere, and the oceans. Our definition of the "accessible environment" also includes all groundwater formations that are more than ten kilometers in any direction from the original location of the radioactive wastes in a disposal system. Although this approach does not provide any direct protection for the relatively small amount of groundwater that could within ten kilometers of a geologic respository, it recognizes that adjacent geologic formations serve as part of the containment system for a repository. Since the amount of groundwater left unprotected should be kept as small as possible, consistent with other requirements, we expect that the Federal environmental impact statement for each disposal system will identify all sources of groundwater within ten kilometers of the disposal system, will describe the potential long-term environmental effects of possible contamination of these sources of groundwater, and will consider these effects as one the factors in evaluating alternative sites.

Our regulations and the assessments on which we base them cover releases of radionuclides to the accessible environment for a period of 10,000 years after disposal. We believe that a disposal system capable of meeting these requirements for 10,000 years will continue to protect people and the environment beyond 10,000 years. We selected 10,000 years as the assessment period for two reasons:

1. It is long enough for releases through groundwater to reach the accessible environment. If we had selected a shorter time, such as 1,000 years, our estimates of long-term risks in the accessible environment would be deceptively low, because groundwater could take 1,000 years to travel a mile at a well-selected site, and most radionuclides would take much longer. Choosing 10,000 years for assessment encourages selection of sites where the geochemical properties of the rock formations can significantly reduce releases of radioactivity through groundwater.

2. Major geologic changes, such as development of a faulting system or a volcanic region, take much longer than 10,000 years. Thus, the likelihood and characteristics of geologic events which might disrupt the disposal system are reasonably predictable over this period.

We estimated the amounts of radioactivity that could reach the accessible environment over this time period under various circumstances. Releases from geologic repositories fall into three general categories. Relatively small releases would be caused by expected processes and by fairly likely but unintended events. These processes and events lead to what we call "reasonably foreseeable" releases. Moderate releases would result from much less likely events, such as fault movements or other disruptive geologic events and these we call "very unlikely releases." Very large releases would result only from the intrusion of volcanos or impacts by huge meteorites. If sites are selected away from regions of volcanic activity, these large releases will be extremely unlikely.

We used our estimates of releases and their likelihood to select limits on total releases of radioactivity over 10,000 years. Limits were set for two categories of releases in terms of their probabilities: "reasonably foreseeable," and "very unlikely." The release limits for the "very unlikely" category are ten times larger than those for the "reasonably forseeable" category. Reasonably forseeable releases are those which have more than one chance in 100 of occurring within 10,000 years. Very unlikely releases are those whose chance of occurring within 10,000 years is less than one in 100 and more than one in 10,000. No limits were set for releases which have less than one chance in 10,000 of occurring within 10,000 years.

To select the specific release limits for the various radionuclides in a disposal system, we first estimated the health effects that might be caused by these releases. For these calculations, we used very general models of environmental transport and a linear, nonthreshold dose-effect relationship between exposure and premature deaths from cancer. This relationship, which is based on studies prepared by the National Academy of Sciences (NAS), assumes that the number of cancers induced in a population is proportional to the total dose received by the population, even at very low individual doses. At the low levels of exposures that might be associated with releases from amined geologic repository, any actual incidence of health impacts may be less than that calculated by this relationship, and it certainly would not be distinguishable from natural occurrences of cancer. However, the Agency believes that health impact estimates using a linear, nonthreshold relationship are a prudent consideration in developing radiation protection requirements.

Our assessments of repository performance gave estimates of the possible health effects expected from releases after disposal. These estimates can vary considerably depending upon the assumptions used and the geologic media considered. For well-designed 100,000 MTHM model repositories in salt and granite—using engineering controls that we believe are readily achievable—we estimate that the health risks over 10,000 years would be no greater than the risks from an equivalent amount of unmined uranium ore. To provide a specific basis for our proposed

standards, we selected a limit on long term risks of 1,000 health effects over 10,000 years for a 100,000 MTHM repository. Our assessments show that a wide variety of respository designs and sites can reduce risks below this level. We then used this level of protection as the basis for calculating the release limits specified in Table 2 of the standards.

According to our modes, at well-chosen repository sites more of the projected risk from releases is due to possible human intrusions than from releases by geologic processes—if we make the very conservative assumption that passive institutional controls have no effect in deterring or limiting inadvertent human intrusion for more than 100 years after disposal. However, predicting human actions is much more uncertain than predicting natural events. In particular, we can only guess at the frequency of some actions (such as drilling for resources). We considered setting separate containment requirements that would limit the radioactivity that could be released by any one likely human intrusion, in order to avoid having to estimate such frequencies. However, we did not do this because: (1) setting separate requirements for natural and human events would not place an upper limit on risk; and (2) setting separate requirements for individual intrusions in addition to the total combined requirements would not appreciably increase confidence that the overall requirements would be met unless we made the limits on individual intrusions unreasonably low.

The release limits are given in Table 2 in terms of curies released per 1,000 MTHM. The release limit for each radionuclide is the number of curies of that radionuclide that we estimate could cause 1,000 health effects over 10,000 years if it were the only radionuclide released from a 100,000 MTHM repository. For releases involving more than one radionuclide, the allowed release for each radionuclide is reduced to the fraction of its limit that insures that the overall limit on harm is not exceeded. For transuranic wastes, the release limits are in terms of curies released from units of an amount of wastes containing one million curies of alpha-emitting transuranic radionuclides. These units were chosen so that the standards would require alpha-emitting radioactivity from either high-level or transuranic wastes to be isolated with about the same degree of effectiveness. This procedure for using the release limits is described in Table 2 to the proposed standards. Compliance with these containment requirements will be achieved if the projected releases from a disposal system do not exceed these release limits.

Assurance Requirements

(Section 191.14)

Closely associated with our numerical containment requirements are seven qualitative requirements we believe are essential for developing the needed confidence that our long-term release limits should be met. These assurance requirements address and compensate for the uncertainties that necessarily accompany plans to isolate these dangerous wastes from the environment for a very long time. No matter how promising analytical projections of disposal system performances appear to be, high-level and transuranic wastes should be disposed of in a cautious manner that reduces the likelihood of unanticipated releases. Our assurance requirements provide the context necessary for application or our containment requirements, and they should insure very good long-term protection of the environment.

Several of the concepts incorporated in these assurance requirements have been adapted from the Federal Radiation Protection Guidance for all types of radioactive waste disposal that we proposed for public comment on November 15, 1978 (43 FR 53262). After reviewing the responses we received, we decided that the characteristics of different kinds of radioactive waste are not sufficiently similar for generally applicable criteria to be appropriate. Therefore, we stopped developing this Federal Radiation Protection Guidance (46 FR 17567). However, we also determined that, because of the uncertainties inherent in 10,000-year containment requirements, several of the principles included in this earlier proposal needed to be incorporated as integral parts of these standards for disposal of high-level and transuranic wastes.

The seven assurance requirements in Section 191.14 include the following principles. We expect that the specific steps taken by the implementing agencies to comply with each of these requirements will be described in the Federal environmental impact statement—and other appropriate decision documents—for each disposal system.

1. These wastes shall be disposed of promptly once adequate methods are available in order to reduce the chance of accidents during long-term storage. We have not established a time limit for this requirement, because the appropriate length of storage may depend on details on the disposal method. For example, it may be desirable to store high-level wastes for ten years or more to allow for decay of most of the short-lived radionuclides. The primary intent of this requirement is to prevent wastes from being stored indefinitely in order to avoid ultimate disposal.

2. Because they must be effective for so long, disposal systems shall offer as much protection as is reasonably achievable. Confidence in complying with the numerical release limits can only be assured through adopting this approach. There will always be substantial uncertainties in predicting the long-term performance of these systems, and a conservative approach to site selection and system design is essential to reduce the chances of serious harm. This concern, of course, must be balanced by judgments about cost, technical feasibility, and social considerations. Although the intent of the requirement cannot be reduced to a quantitative form, it is a concept that has been successfully applied to radiation protection matters for a long time.

3. Disposal systems shall reduce the consequences of possible mistakes in selection, design, or construction by using several different types of engineered and natural barriers against release of the wastes, and by taking full advantage of the protection each has to offer. With this redundancy, the unexpected failure of one or more barriers will be compensated for by other barriers. Different kinds of engineered barriers may be appropriate, depending upon the type of waste involved. They could include canisters, the physical and chemical forms of the waste itself, waste package overpacks, or other structures within the disposal system that will prevent or substantially delay release of the waste to the environment.

4. Protection from the wastes shall not depend on people to take active measures to control them for more than a reasonable period of time after disposal, although the Federal Government plans to retain perpetual control over all disposal sites for high-level wastes. The appropriate role for institutional controls was discussed extensively during the development and public review of the Federal Radiation Protection Guidance for radioactive waste disposal that we proposed on November 15, 1978 (43 FR 53262)—since one of those Guides would have limited reliance on institutional controls for not longer than 100 years. Public comments

on this issue were divided fairly evenly among four positions: (1) That institutional controls should be relied upon for only about one generation, or 20–30 years; (2) that the 100-year period was appropriate; (3) that the 100-year period should be extended to 500–1,000 years or even longer; and (4) that we should limit reliance on controls, but let the implementing agencies select the appropriate period. Several commenters also made a distinction between "active" controls, such as restricting access to disposal sites, and "passive" controls, such as warning markers and records.

In these assurance requirements for high-level and transuranic radioactive waste disposal, we have decided to limit reliance on "active" controls—such as guarding a disposal site, performing maintenance operations, or controlling or cleaning up any releases from a site—to a "reasonable" period of time after disposal, which we believe should be no more than a few hundred years. However, because the Federal Government is committed to retaining control over these disposal sites in perpetuity, we expect that "passive" institutional measures should substantially reduce the chance of inadvertent human intrusion well beyond this period. Such passive controls will include permanent markers placed at a disposal site, public records or archives, Federal ownership or control of land use, and other methods of preserving knowledge about the disposal system. The assumptions that we believe are appropriate when considering the effectiveness of passive institutional controls are described in our procedural requirements (§ 191.15). These proposed provisions regarding institutional controls only apply to disposal of high-level and transuranic wastes and are not intended to have implications for regulations regarding other radioactive wastes. We particularly seek comment on all of our provisions regarding institutional controls.

5. The dangers and locations of disposal systems shall be recorded in the most permanent ways practicable in order to reduce the chances of unintended disruption of disposal systems by future generations.

6. Disposal systems shall not be located where there has been mining for resources, or where there is a reasonable potential for future exploration for scarce or easily accessible resources. Furthermore, disposal systems shall not be located where there is a significant concentration of any material which is not widely available from other sources. This requirement would discourage the use of geologic formations which are often associated with resources or mining activity. For example, the frequent mining of salt domes either for their relatively pure salt or for use as storage caverns would argue against locating a repository in this type of structure. However, this same concern would generally not apply to bedded salt deposits because they are much more common. We particularly seek comment on this requirement because it could rule out sites which might otherwise be advantageous in meeting all of our other requirements.

7. Recovery of most of the wastes should not be precluded for a reasonable period after disposal if unforeseen events require this in the future. The various isolation requirements of these standards would make recovery after disposal very difficult and expensive and probably dangerous. Nevertheless, because some of our scientific understanding may prove to be wrong in a way that would produce much greater risks than we expect, future generations should be able to recover the wastes if they deem it essential. An important implication of this requirement is that the physical location of most of the wastes must be reasonably predictable after disposal. Current plans for mined geologic disposal would meet this requirement. However, some possible disposal methods, such as deep well injection of liquid wastes or rock melting concepts, may not. Since this requirement could eliminate some otherwise feasible and perhaps advantageous disposal methods, we particularly seek public comment about it.

Procedural Requirements

(Section 191.15)

The containment requirements in § 191.13 were derived with the assistance of our performance assessments of long-term repository performance. When these requirements are applied to a particular disposal system, some of the procedures we used in our assessments must be retained to insure that the intent of our containment requirements is met. On the other hand, some of the assumptions we made should be replaced with the specific information developed for each particular system. The requirements in § 191.15 establish the procedures necessary for proper application of our containment requirements.

We based our performance assessments on relatively simple models of generic repositories and the data that was available for such models. Where information was uncertain, we made conservative assumptions that should tend to overestimate the long-term risks of disposal. However, we do not intend that the implementing agencies should use all of the same models, data, and assumptions that we did in making performance assessments. Instead, the implementing agencies generally should use the best information available for each particular disposal site.

In particular, the assumptions we made about the frequency of human intrusion were conservative because they ignored the substantial protection that passive institutional controls should offer. The performance assessments made for specific sites by the implementing agencies do not need to be as pessimistic with regard to human intrusion. Because of the uncertainties of controls requiring the active participation of people over a long time, performance assessments should not assume that active institutional controls can prevent or reduce releases beyond a reasonable period of time (e.g., a few hundred years) after disposal. However, because the Federal Government is commited to retaining control over these disposal sites in perpetuity, passive institutional controls should substantially reduce the chance of inadvertent human intrusion well beyond this period. These passive controls should not be assumed to prevent all possibilities of inadvertent intrusion, because there is always a chance that the controls will be overlooked or misunderstood. However, such measures should be effective in deterring systematic or persistent exploitation of a disposal site. Furthermore, the chance of human intrusion should be very small as long as the Federal Government retains passive control of disposal sites.

In developing the standards for disposal, we considered the overall protection which should be achievable by the combination of barriers in a geologic repository. Accordingly, the analyses used by NRC and DOE to evaluate compliance with our requirements should consider realistic assessments of the protection provided by all of the engineered and natural barriers of a disposal system. For example, performance assessments of a geologic repository system should include the protection afforded by geochemical retardation of radionuclides and by the limited solubility of radionuclides in groundwater, provided that reasonable evidence is developed to support such mechanisms for that particular site.

Implementation

The standards for waste management operations (Subpart A) will be implemented by the NRC for commercial nuclear power activities and by the DOE for national defense facilities. Implementation procedures for Subpart A will be very similar to those for the Uranium Fuel Cycle Standards (40 CFR Part 190).

The standards for disposal (Subpart B) will be implemented by the NRC for all high-level wastes, whether the wastes come from commercial or military activities. The NRC will do this by developing the necessary regulations (primarily 10 CFR Part 60) and by issuing appropriate licenses. Under current law, disposal of transuranic wastes from military activities is not regulated by NRC; therefore, DOE will implement our requirements for disposal of these transuranic wastes.

The containment requirements in § 191.13 will be applied through design specifications, and the implementing agencies will have to evaluate long-term projections of the disposal system performance. As a result, a vital part of implementation will be the use of adequate models, including the probabilities of unplanned events, to relate appropriate site and engineering data to projected performance. The NRC has made substantial progress in developing such analytical models to predict long-term performance of actual geologic repositories. These models are quite detailed, and they are capable of evaluating how important any uncertainties in specific types of data are to the overall projections of repository performance. Thus, they can provide information about any needs for obtaining better data to determine if repositories meet the containment requirements of these standards.

At our request, the National Academy of Sciences studied the difficulties in verifying compliance with long-term environmental protection requirements for geologic disposal. Our NAS panel developed an approach that specifies the types of information needed and outlines appropriate methods for obtaining this data at prospective sites. Based on this NAS study, NRC's models, our own analytical efforts, and the confidence that should be provided by our assurance requirements, we have concluded that our containment requirements can be effectively implemented.

Effects on Health

A disposal system complying with these standards would confine almost all of the radioactive wastes to the immediate vicinity of the repository for a very long time. Because the wastes would be so well isolated from the environment, any risks to future individuals and populations would be very small.

Potential risks to individuals would depend upon the characteristics of particular disposal sites. However, the following examples are typical of the exposures which individuals in the vicinity of a repository might encounter. After many hundreds or thousands of years, some of the waste may dissolve, be carried by groundwater to nearby aquifers, and flow along those aquifers to surface streams. Individuals using the water from such a stream could receive doses of a few millirem per year. (Even if a person were to ignore available records and sink a water well into an aquifer as close as two kilometers from the repository, projected doses would not be expected to exceed about one rem per year.) Such potential exposures are modest when compared to the approximately 100 millirem per year that everyone continuously receives from natural background radiation. Indeed, in most cases we would expect that any additional exposure would be so small as to be considered trivial to the individuals involved.

With regard to exposures to populations, we estimated the potential long-term health risks to future generations using very general models of environmental transport and the linear, nonthreshold dose-effect relationship that was described earlier. Food chains, ways of life, and the size and geographical distributions of populations will undoubtedly change over a 10,000 year period. Unlike geological processes, factors such as these cannot be usefully predicted over such long periods of time. Thus, in making our health effects projections we found it necessary to depend upon very general models of environmental pathways, and to assume current population distributions and death rates. As a consequence, these projections are intended to be used primarily as a tool for comparing the performance of one waste disposal system to another and for comparison of the risks of waste disposal with those of undisturbed ore bodies. The results of these analyses should not be considered a reliable projection of the "real" or absolute number of health effects resulting from compliance with our standards.

Using our generalized models, we assessed the long-term risk from a repository containing the wastes from 100,000 MTHM—which could include all existing wastes and the future wastes from all currently operating reactors. We estimate that this quantity of waste, when disposed of in accordance with the proposed standards, could cause no more than 1,000 premature deaths from cancer in the first 10,000 years after disposal: an average of no more than one permature death every 10 years. Any such increase would be far too small to be detectable in any manner compared to today's incidence of cancer, which kills about 350,000 people per year. Similarly, any such increase would be undetectable compared to the approximately 4,000 premature cancer deaths per year that the same linear dose-effect relationship predicts for natural background radiation.

However, although this long-term population risk is clearly very small, the discontinuity between when the wastes are generated and when the projected health effects manifest themselves makes it difficult to determine what level of residual risk should be allowed by these standards. The difficulty arises because most of the benefits derived in the process of waste production fall upon the current generation, while most of the risks fall upon future generations. Thus, a potential problem of intergenerational equity with respect to the distribution of risks and benefits becomes apparent. This problem is sometimes referred to as the intergenerational risk issue, and it is not unique to the disposal of high-level radioactive wastes. If we tried to insure that our standards fully satisfy a criterion of intergenerational equity with respect to the distribution of risks and benefits, it might appear that we should require that no risk be passed on to future generations. This is a condition which we conclude cannot be met by disposal technologies foreseeable within this century. However, there is one particular factor which has reinforced our decision about the reasonableness of the risks permitted under our proposed standards. This is our evaluation of the risks associated with undisturbed uranium ore bodies.

Uranium Ore: Most uranium ore in the United States occurs in permeable geologic strata containing flowing ground water. Radionuclides in the ore, particularly uranium and radium, continuously enter this ground water. We estimated the potential risks from these undisturbed ore bodies using the same generalized environmental models that we used for releases from a waste repository. The effects associated with the amount of ore needed to produce the high-level wastes that would fill the model geologic repository can vary considerably. Part of this variation corresponds to actual differences from

one ore body to another; part can be attributed to uncertainties in the assessment. Our estimates ranged from 300 to more than 1,000,000 excess cancer deaths over 10,000 years. Thus, leaving the ore unmined appears to present at least as great a risk to future generations as disposal of the wastes covered by these standards.

We are not sure that this analysis provides an adequate means of resolving the question of intergenerational risk. It has, however, helped to influence our decision of what is an acceptable level of residual risk given our current scientific, technological, and fiscal capabilities. We particularly invite comment upon the questions of intergenerational risk and the acceptability of risk. Additionally, for purposes of comparisons of risks permitted under the standards to radiation risks we are currently exposed to, we have included a brief discussion of the risks from natural background.

Variations in Natural Background: Radionuclides occur naturally in the earth in very large amounts, and are produced in the atmosphere by cosmic radiation. Everyone is exposed to natural background radiation from these natural radionuclides and from direct exposure to cosmic radiation. Individual exposures average about 100 millirem per year, with variations between 60 and 200 millirem/year. These natural background radiation levels have remained relatively constant for a very long time. According to the same linear, nonthreshold dose effect relationship used in our other analyses, an increase of one millirem per year (about one percent) in natural background in the United States would result in about 40 additional deaths per year, or 400,000 over a 10,000 year period.

Regulatory Impact Analysis

This proposed rule was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any comments we received from OMB and our responses to those comments are available for public inspection in the docket cited above under the heading "ADDRESSES."

We have had to take an unusual approach to evaluating the regulatory impact of this proposed action—as required by Executive Order 12291. In most cases, a regulation concerns an ongoing activity and may be considered a burden whose costs should be judged against the regulatory benefits. Here, we could not quantify the costs and benefits of our action compared to the consequences of no regulation because there is no "baseline" program to consider. The appropriate regulations must be established before development of the regulated activity can even begin. Thus, the typical perspectives on costs and benefits are altered. We evaluated how the costs of commercial waste management and disposal might change in response to different levels of protection from our containment requirements and to changes in our assurance requirements.

To evaluate the effects of different levels of protection, we considered the performance of differenct repository designs in three different geologic media: salt, granite, and basalt. We estimated the costs of the various engineering controls that might be needed to meet different levels, and we made some assumptions about the increased site selection costs that might occur if more stringent standards made it harder to find an adequate site for a repository.

We found that the increased costs of setting the standards at the proposed level could range from zero to 50 million (1981) dollars per year when compared to the costs of choosing a level more than ten times less stringent (release limits ten times greater than our proposed limits). This potential increase is much less than the uncertainty in the total costs for waste management and disposal, which range from about 700 million to almost 1.5 billion (1981) dollar per year. For comparison, electrical utility revenues were about 100 billion dollars in 1980. We estimate that the potential economic impact of choosing the more stringent level of protection could be about a 0.2 percent increase in the costs of generating electricity from nuclear power plants and a much smaller increase (about 0.05 percent) in average electricity rates. The details of these calculations are provided in the report of our regulatory impact analysis.

Alternative Approaches

Besides considering different levels of protection, we also considered several different approaches to our proposed standards. These alternatives are evaluated in our Draft Environmental Impact Statement, and we encourage public comment on these options. We particularly seek comment on a different approach to our standards for disposal (Subpart B)—an alternative that would establish radiation exposure limits for individuals, such as the limit of 25 millirem per year in Subpart A of this proposal, rather than the radionuclide release limits that we are proposing.

Standards based on individual exposure limits, or equivalent standards which limit radionuclide concentrations in air or water, restrict the risks that any particular individual may be exposed to. Particularly when the limits are comparable to or less than natural background levels, they may be more effective at communicating how small the chance of harm from disposal of these wastes should be. However, we chose not to use individual exposure limits in Subpart B because of two unique aspects of these disposal standards:

First, these disposal systems have to protect the environment from these highly concentrated radioactive wastes for much longer than institutional controls can be guaranteed to be effective. Any individual exposure limit we set could only apply at some distance from a repository, or it would have to ignore the risks from unplanned events like inadvertent intrusion—because individuals who fail to understand passive warnings and penetrate directly into or close to a disposal system (through exploratory drilling for water or mineral resources, for example) could receive very large exposures. These exposures would probably exceed any reasonable individual exposure standard.

Second, the disposal standards have to be applied through analytical performance projections—implementing such standards through environmental monitoring and potential remedial actions over thousands of years is not a credible approach. When we compared the analyses needed for compliance with exposure limits to the analyses needed for compliance with release limits, we found that our proposed disposal standards would be much easier to implement than exposure limits. The NRC, which is responsible for applying our standards for high-level waste disposal, made a similar evaluation and also found that standards based on radioactivity release limits could be implemented more readily than standards based on exposures to individuals.

Thus, we believe our proposed approach will facilitate licensing of good disposal systems while providing appropriate environmental protection from the long term risks presented by high-level wastes. However, the arguments favoring individual exposure limits are also persuasive, and we particularly seek comments on which approach we should ultimately select.

Questions for Public Comment

In describing our proposed environmental standards, we have highlighted several issues about which we particularly seek comment. For

convenience, we summarize these questions here:

1. Is our definition of high-level waste, which excludes any material with concentrations below the values specified in Table 1, a proper approach to distinguish between wastes which require maximum isolation (as in a geologic repository) and wastes which may be disposed of in less secure facilities?

2. In choosing the proposed level of protection provided by the standards, have we taken an appropriate approach with regard to the long-term residual risks we may pass on to future generations?

3. Have we chose an appropriate approach with regard to the degree of protection that should be anticipated from active and passive institutional controls?

4. Should we adopt our proposed requirement to avoid siting disposal systems where there may be scarce or easily accessible resources—a requirement which could rule out sites which might be advantageous in meeting all of our other requirements?

5. Should we adopt our proposed requirement that recovery of most of the wastes should be feasible if unforeseen events require this in the future—a requirement which might rule out some alternatives to mined geologic disposal?

6. Is our choice of limits on total radioactivity released an appropriate approach to protecting the environment from these long-lived wastes? Or should we develop standards that limit maximum exposures to individuals instead?

List of Subjects in 40 CFR Part 191

Environmental protection, Nuclear energy, Radiation protection, Uranium, Waste treatment and disposal.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Administrator hereby certifies that this proposed rule would not, if adopted, have any significant impact on small businesses or other entities, and that a Regulatory Flexibility Analysis is not required. The rule woud affect only a small number of facilities, most of which would be operated by the United States Government.

Dated: December 17, 1982.

Anne M. Gorsuch,

Administrator.

A new Part 191 is proposed to be added to Title 40, Code of Federal Regulations, as follows:

SUBCHAPTER F—RADIATION PROTECTION PROGRAMS

PART 191—ENVIRONMENTAL RADIATION PROTECTION STANDARDS FOR MANAGEMENT AND DISPOSAL OF SPENT NUCLEAR FUEL, HIGH-LEVEL AND TRANSURANIC RADIOACTIVE WASTES

Subpart A—Environmental Standards for Management and Storage

Sec.
191.01 Applicability.
191.02 Definitions.
191.03 Standards for normal operations.
191.04 Variances for unusual operations.
191.05 Effective date.

Subpart B—Environmental Standards for Disposal

191.11 Applicability.
191.12 Definitions.
191.13 Containment requirements.
191.14 Assurance requirements.
191.15 Procedural requirements.
191.16 Effective date.
Appendix

Authority: The Atomic Energy Act of 1954, as amended; Reorganization Plan No. 3 of 1970.

Subpart A—Environmental Standards for Management and Storage

§ 191.01 Applicability.

This Subpart applies to radiation doses received by members of the public as a result of the management (except for transportation) and storage of spent nuclear fuel, high-level, or transuranic radioactive wastes, to the extent that these operations are not subject to the provisions of Part 190 of Title 40.

§ 191.02 Definitions.

Unless otherwise indicated in this Subpart, all terms shall have the same meaning as in Subpart A of Part 190.

(a) "Spent nuclear fuel" means any nuclear fuel removed from a nuclear reactor after it has been irradiated.

(b) "High-level radioactive wastes" means any of the following that contain radionuclides in concentrations greater than those identified in Table 1 (Appendix): (1) Liquid wastes resulting from the operation of the first cycle solvent extraction system, or equivalent, in a facility for reprocessing spent nuclear fuels; (2) the concentrated wastes from subsequent extraction cycles, or equivalent; (3) solids into which such liquid wastes have been converted; or (4) spent nuclear fuel if disposed of without reprocessing.

(c) "Transuranic wastes," as used in this Part, means wastes containing more than 100 nanocuries of alpha emitting transuranic isotopes, with half-lives greater than one year, per gram of waste.

(d) "Storage" means placement of radioactive wastes with planned capability to readily retrieve such materials.

(e) "Management and storage" means any activity, operation, or process, except for transportation, conducted to prepare spent nuclear fuel, high-level or transuranic radioactive wastes for storage or disposal, the storage of any of these materials, or activities associated with the disposal of these materials.

(f) "General environment" means the total terrestial, atmospheric, and aquatic environments outside sites within which any operation associated with the management and storage of spent nuclear fuel, high-level or transuranic radioactive wastes is conducted.

(g) "Member of the public" means any individual who is not engaged in operations involving the management, storage, and disposal of materials covered by these standards. A worker so engaged is a member of the public except when on duty at a site.

§ 191.03 Standards for normal operations.

(a) Operations covered by this Subpart should be conducted so as to reduce exposures to members of the public to the extent reasonably achievable, taking into account technical, social, and economic considerations. As an upper limit, except for variances in accordance with 191.04, these operations shall be conducted in such a manner as to provide reasonable assurance that the combined annual dose equivalent to any member of the public due to: (1) Operations covered by Part 190, (2) planned discharges of radioactive material to the general environment from operations covered by this Subpart, and (3) direct radiation from these operations; shall not exceed 25 millirems to the whole body, 75 millirems to the thyroid, or 25 millirems to any other organ.

§ 191.04 Variances for unusual operations.

(a) The implementing agency may grant a variance temporarily authorizing operations which exceed the Standards specified in 191.03 when abnormal operating conditions exist if: (1) A written request justifying continued operation has been submitted, (2) the costs and benefits of continued operation have been considered to the extent possible, (3) the alternatives to continued operation have been considered, and (4) continued operation is deemed to be in the public interest.

(b) Before the variance is granted, the implementing agency shall announce, by publication in the **Federal Register** and

by letter to the governors of affected States: (1) The nature of the abnormal operating conditions, (2) the degree to which continued operation is expected to result in doses exceeding the standards, (3) the proposed schedule for achieving conformance with the standards, and (4) the action planned by the implementing agency.

§ 191.05 Effective date.

The standards in this Subpart shall be effective 12 months from the promulgation date of this rule.

Subpart B—Environmental Standards for Disposal

§ 191.11 Applicability.

This Subpart applies to radioactive materials released into the accessible environment as a result of the disposal of high-level or transuranic radioactive wastes, incuding the disposal of spent nuclear fuel. This Subpart does not apply to disposal directly into the oceans or ocean sediments.

§ 191.12 Definitions.

Unless otherwise indicated in this Subpart, all terms shall have the same meaning as in Subpart A of this Part.

(a) "Disposal" means isolation of radiocative wastes with no intent to recover them.

(b) "Barriers" means any materials or structures that prevent or substantially delay movement of the radioactive wastes toward the accessible enviornment.

(c) "Disposal system" means any combination of engineered and natural barriers that contains radioactive wastes after disposal.

(d) "Groundwater" means water below the land surface in a zone of saturation.

(e) "Lithosphere" means the solid part of the Earth, including any groundwater contained within it.

(f) "Accessible environment" includes: (1) The atmosphere, (2) land surfaces, (3) surface waters, (4) oceans, and (5) parts of the lithosphere that are more than ten kilometers in any direction from the original location of any of the radioactive wastes in a disposal system.

(g) "Reasonably foreseeable releases" means releases of radioactive wastes to the accessible environment that are estimated to have more than one chance in 100 of occurring within 10,000 years.

(h) "Very unlikely releases" means releases of radiocative wastes to the accessible environment that are estimated to have between one chance in 100 and one chance in 10,000 of occurring within 10,000 years.

(i) "Performance assessment" means an analysis which identifies those events and processes which might affect the disposal system, examines their effects upon its barriers, and estimates the probabilities and consequences of the events. The analysis need not evaluate risks from all identified events. However, it should provide a reasonable expectation that the risks from events not evaluated are small in comparison to the risks which are estimated in the analysis.

(j) "Active institutional controls" means: (1) Guarding a disposal site, or (2) performing maintenance operations or remedial actions at a disposal site, or (3) controlling or cleaning up releases from a disposal site.

(k) "Passive institutional controls" means: (1) Permanent markers placed at a disposal site, (2) public records or archives, (3) Federal Government ownership or control of land use, or (4) other methods of preserving knowledge about the location, design, or contents of a disposal system.

(l) "Heavy metal" means all uranium, plutonium, or thorium placed into a nuclear reactor.

§ 191.13 Containment requirements.

Disposal systems for high-level or transuranic wastes shall be designed to provide a reasonable expectation that for 10,000 years after disposal:

(a) Reasonably foreseeable releases of waste to the accessible environment are projected to be less than the quantities calculated accoring to Table 2 (Appendix).

(b) Very unlikely releases of waste to the accessible environment are projected to be less than ten times the quantities calculated according to Table 2 (Appendix).

§ 191.14 Assurance requirements.

To provide the confidence needed for compliance with the containment requirements of § 191.13, disposal of high-level or transuranic wastes shall be conducted in accordance with the following requirements:

(a) Wastes shall be disposed of promptly once disposal systems are available and the wastes have been suitably conditioned for disposal.

(b) Disposal systems shall be selected and designed to keep releases to the accessible environment as small as reasonably achievable, taking into account technical, social, and economic considerations.

(c) Disposal systems shall use several different types of barriers to isolate the wastes from the accessible environment. Both engineered and natural barriers shall be included. Each such barrier shall separately be designed to provide substantial isolation.

(d) Disposal systems shall not rely upon active institutional controls to isolate the wastes beyond a reasonable period of time (e.g., a few hundred years) after disposal of the wastes.

(e) Disposal systems shall be identified by the most permanent markers and records practicable to indicate the dangers of the wastes and their location.

(f) Disposal systems shall not be located where there has been mining for resources or where there is a reasonable expectation of exploration for scarce or easily accessible resources in the future. Furthermore, disposal systems shall not be located where there is a significant concentration of any material which is not widely available from other sources.

(g) Disposal systems shall be selected so that removal of most of the wastes is not precluded for a reasonable period of time after disposal.

§ 191.15 Procedural requirements.

Performance assessments to determine compliance with the containment requirements of § 191.13 shall be conducted in accordance with the following:

(a) The assessments shall consider realistic projections of the protection provided by all of the engineered and natural barriers of a disposal system.

(b) The assessments shall not assume that active institutional controls can prevent or reduce releases to the accessible environment beyond a reasonable period (e.g., a few hundred years) after disposal. However, it should be assumed that the Federal Government is committed to retaining passive institutional control of disposal sites in perpetuity. Such passive controls should be effective in deterring systematic or persistent exploitation of a disposal site, and it should be assumed that they can keep the chance of inadvertent human intrusion very small as long as the Federal Government retains such passive control of disposal sites.

(c) The assessments shall use information regarding the likelihood of human intrusion, and all other unplanned events that may cause releases to the accessible environment, as determined by the implementing agency for each particular disposal site.

§ 191.16 Effective date.

The standards in this Subpart shall be effective immediately upon promulgation of this rule; however, this Subpart does not apply to wastes disposed of before promulgation of this rule.

Appendix

TABLE 1.—CONCENTRATIONS IDENTIFYING HIGH-LEVEL RADIOACTIVE WASTES

Radionuclide	Concentration (curies per gram of waste)
Carbon-14	8×10^{-6}
Cesium-135	8×10^{-4}
Cesium-137	5×10^{-3}
Plutonium-241	3×10^{-6}
Strontium-90	7×10^{-3}
Technetium-99	3×10^{-6}
Tin-126	7×10^{-7}
Any alpha-emitting transuranic radionuclide with a half-life greater than 20 years	1×10^{-7}
Any other radionuclide with a half-life greater than 20 years	1×10^{-3}

Note.—In cases where a waste contains a mixture of radionuclides, it shall be considered a high-level radioactive waste if the sum of the ratios of the radionuclide concentration in the waste to the concentration in Table 1 exceeds one.

For example, if a waste containing radionuclides A, B, and C in concentrations C_a, C_b, and C_c, and if the concentration limits from Table 1 are CL_a, CL_b, and CL_c, then the waste shall be considered high-level radioactive waste if the following relationship exists:

$$\frac{C_a}{CL_a} + \frac{C_b}{CL_b} + \frac{C_c}{CL_c} > 1$$

TABLE 2.—RELEASE LIMITS FOR CONTAINMENT REQUIREMENTS

[Cumulative Releases to the Accessible Environment for 10,000 Years After Disposal]

Radionuclide	Release Limit (curies per 1000 MTHM)
Americium-241	10
Americium-243	4
Carbon-14	[illegible]
Cesium-135	[illegible]
Cesium-137	500
Neptunium-237	[illegible]
Plutonium-238	400
Plutonium-239	100
Plutonium-240	100
Plutonium-242	100
Radium-226	[illegible]
Strontium-90	[illegible]
Technetium-99	10000
Tin-126	[illegible]
Any other alpha-emitting radionuclide	10
Any other radionuclide which does not emit alpha particles	500

Note 1.—The Release Limits in Table 2 apply either to the amount of high-level wastes generated from 1,000 metric tons of heavy metal (MTHM), or to an amount of transuranic (TRU) wastes containing one million curies of alpha-emitting transuranic radionuclides. To develop Release Limits for a particular disposal system, the quantities in Table 2 shall be adjusted for the amount of wastes included in the disposal system. For example:

(a) If a particular disposal system contained the high-level wastes from 50,000 MTHM, the Release Limits for that system would be the quantities in Table 2 multiplied by 50 (50,000 MTHM divided by 1,000 MTHM).

(b) If a particular disposal system contained five million curies of alpha-emitting transuranic wastes, the Release Limits for that system would be the quantities in Table 2 multiplied by five (five million curies divided by one million curies).

(c) If a particular disposal system contained both the high-level wastes from 50,000 MTHM *and* 5 million curies of alpha-emitting transuranic wastes, the Release Limits for that system would be the quantities in Table 2 multiplied by 55:

$$\frac{50{,}000 \text{ MTHM}}{1{,}000 \text{ MTHM}} + \frac{5{,}000{,}000 \text{ curies TRU}}{1{,}000{,}000 \text{ curies TRU}} = 55$$

Note 2.—In cases where a mixture of radionuclides is projected to be released, the limiting values shall be determined as follows: For each radionuclide in the mixture, determine the ratio between the cumulative release quantity projected over 10,000 years and the limit for that radionuclide as determined from Table 2 and Note 1. The sum of such ratios for all the radionuclides in the mixture may not exceed one.

For example, if radionuclides A, B, and C are projected to be released in amounts Q_a, Q_b, and Q_c, and if the applicable Release Limits are RL_a, RL_b, and RL_c, then the cumulative releases over 10,000 years shall be limited so that the following relationship exists:

$$\frac{Q_a}{RL_a} + \frac{Q_b}{RL_b} + \frac{Q_c}{RL_c} < 1$$

[FR Doc. 82-35151 Filed 12-28-82; 8:45 am]
BILLING CODE 6560-50-M

Reader Aids

Federal Register

Vol. 47, No. 250

Wednesday, December 29, 1982

INFORMATION AND ASSISTANCE

PUBLICATIONS

Code of Federal Regulations

CFR Unit	202-523-3419 523-3517
General information, index, and finding aids	523-5227
Incorporation by reference	523-4534
Printing schedules and pricing information	523-3419

Federal Register

Corrections	523-5237
Daily Issue Unit	523-5237
General information, index, and finding aids	523-5227
Privacy Act	523-5237
Public Inspection Desk	523-5215
Scheduling of documents	523-3187

Laws

Indexes	523-5282
Law numbers and dates	523-5282 523-5266
Slip law orders (GPO)	275-3030

Presidential Documents

Executive orders and proclamations	523-5233
Public Papers of the President	523-5235
Weekly Compilation of Presidential Documents	523-5235

United States Government Manual	523-5230

SERVICES

Agency services	523-5237
Automation	523-3408
Library	523-4986
Magnetic tapes of FR issues and CFR volumes (GPO)	275-2867
Public Inspection Desk	523-5215
Special Projects	523-4534
Subscription orders (GPO)	783-3238
Subscription problems (GPO)	275-3054
TTY for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, DECEMBER

54053-54268.....1
54269-54418.....2
54419-54758.....3
54759-54924.....6
54925-55198.....7
55199-55378.....8
55379-55454.....9
55455-55626.....10
55627-55902.....13
55903-56128.....14
56129-56308.....15
56309-56468.....16
56469-56616.....17
56617-56810.....20
56811-56978.....21
56979-57252.....22
57253-57442.....23
57443-57650.....27
57651-57906.....28
57907-58206.....29

CFR PARTS AFFECTED DURING DECEMBER

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Administrative Orders:

Memorandums:
November 29, 1982.....54053
December 23, 1982.....57653

Executive Orders:
10621 (Amended by EO 12396).....55897
11390 (Amended by EO 12396).....55897
12239 (Revoked by EO 12396).....55897
12335 (Amended by EO 12397).....57651
12396.....55897
12397.....57651

Proclamations:
4941 (Amended by Proc. 5002).....54269
5002.....54269
5003.....55899
5004.....55901
5005.....56309
5006.....56617
5007.....56811

4 CFR

2.....56979
3.....56979
4.....56979
5.....56979
6.....56979
7.....56979
8.....56979
9.....56979
11.....56979
12.....57655
21.....56979
22.....56979
27.....56980
28.....56980
30.....56979
31.....56979
32.....56979
33.....56979
34.....56979
35.....56979
36.....56979
52.....56979
53.....56979
75.....56979
81.....56979
82.....56979
91.....56979
92.....56979
93.....56979

Proposed Rules:
28.....54972

5 CFR

213.....57655
315.....57655
351.....57655
551.....57655
734.....57655
738.....57655
752.....57655
950.....57655
1201.....54419
2429.....55379, 55903

Proposed Rules:
213.....54974
352.....57724
733.....57724
890.....54974

7 CFR

2.....56619
16.....57253
24.....57656
52.....55455, 58907
53.....54925
55.....54420
56.....54420
59.....54420
68.....54271
70.....54420
271.....55903, 56469
272.....55463, 55903
273.....55463, 55903, 57666
274.....57666
275.....57666
276.....57666
278.....56469
279.....56469
319.....54273, 55199
371.....58907
400.....55886, 55888
421.....56813
431.....56820
432.....56827
610.....56472
725.....56473
800.....54055, 54275, 55469
905.....54926, 55199, 56619, 56982
906.....56311
907.....54281, 55379, 56312, 57253
910.....54421, 55469, 56473, 57443
926.....55910
982.....56312
1046.....56486
1065.....55200
1098.....56486
1106.....57443
1126.....54421
1132.....54421
1135.....57445
1139.....55201
1421.....54281
1497.....54284
1822.....55627
1901.....54422

1922.....55380
1942.....54422
1944.....54422, 55627
1946.....54422
Proposed Rules:
52.....54086, 58943
272.....57725
273.....57725
915.....56500
967.....54975
983.....57222
987.....54307
1011.....57728
1106.....54977
1124.....55490
1135.....54978
1207.....55245
1430.....56505
1700.....56505

8 CFR

214.....55202, 56488
238.....55388

9 CFR

71.....55636, 56982
78.....55636
91.....56983
92.....54285, 55388, 57254, 58908
317.....54286
381.....54286
Proposed Rules:
92.....57288, 57291
113.....54090, 54307, 55246, 57054
166.....57292

10 CFR

2.....56314, 57446
4.....57482
9.....56314
19.....57446
20.....57446
21.....57446
30.....57446
40.....57446
50.....55203, 57670
51.....57446
55.....56984
61.....57446
70.....57446
73.....57446
170.....57446
430.....57198
Proposed Rules:
50.....57054
70.....55951
170.....56505

12 CFR

9.....57255
29.....55911
201.....54424, 57482
204.....55204–55209, 58909
211.....54057
217.....54759
220.....55912
403.....58909
523.....56314, 56985
531.....56316
541.....56985
543.....56985
544.....56985
545.....55656, 56985
546.....56985
547.....56985
549.....56985
552.....56985
561.....56985
563.....56985
563b.....56985
564.....56318, 56985
565.....56985
569a.....56985
575.....56985
576.....56985
577.....56985
578.....56985
583.....56985
584.....56985
614.....54760
701.....54424, 57483
745.....54424
1204.....56319–56323
Proposed Rules:
3.....56862
6.....56862
7.....56862
8.....56652
207.....54980
220.....54980
221.....54980
224.....54980
534.....57293
543.....56363
612.....56140
1204.....56364, 57729

13 CFR

101.....56129, 57484
301.....57256

14 CFR

21.....54287, 54288
39.....54289–54291, 54760, 54761, 55657, 55658, 56620–56622, 57257, 57484, 57485
71.....54291, 54762, 54763, 55389, 55659, 56623, 56624, 57259–57262, 57486, 57487
73.....54763, 55390
75.....54763
91.....56324, 57262
97.....54292, 55659, 57265
121.....56327, 56460
253.....54764
302.....56129
387.....56130
1203.....58909, 58910
Proposed Rules:
Ch. I.....54829
23.....56456
39.....54830, 56653, 57295
61.....54414, 56654
71.....54308, 54309, 54831, 55687, 56654–56656, 57497, 57498
73.....56656
75.....54309, 55688, 56365, 56659
120.....56366
121.....56366
135.....56366
241.....57733
248.....57733
291.....57733
297.....57733

15 CFR

368.....57671
369.....57671
370.....57671
371.....58122
372.....57671, 58122
373.....57671, 58122
374.....58122
375.....58122
378.....58122
379.....58122
385.....58122
387.....57671
388.....57671
399.....58122
904.....54429, 56131
Proposed Rules:
325.....56972
929.....56506
971.....57904

16 CFR

13.....55210, 55211, 57488
1000.....54927
1306.....57488
1500.....57489
Proposed Rules:
13.....54452, 55398, 57499
1101.....57296

17 CFR

1.....56996
3.....56996, 57266
4.....56996
15.....56996
16.....56996
18.....56996
21.....56996
32.....56996
33.....56996
145.....56996
147.....56996
155.....56996
170.....56996
180.....56996
200.....54764, 55211, 56843
210.....54764, 56835, 57911
229.....54764, 55661, 57911
230.....54764, 57911
231.....57911
239.....54764, 55661, 57911
240.....54057, 54764, 55661, 57267, 57679, 57911
241.....57911
249.....54764, 55661
250.....57911
260.....54764
270.....56835
Proposed Rules:
1.....57055
240.....55491
270.....56509

18 CFR

2.....57268
3.....57270
271.....54928, 57270
274.....54063
Proposed Rules:
154.....57943
271.....55246, 57056–57060, 57953
375.....57943
381.....57943
385.....54981
1300.....57297

19 CFR

4.....54064
10.....55470
18.....55470
19.....55470
22.....55470
24.....55470
101.....55913
113.....55470
125.....55470
127.....55470
132.....55470
142.....55470
144.....55470
Proposed Rules:
4.....54092
148.....54092
177.....55400

20 CFR

416.....55212
609.....54686
614.....54696

21 CFR

5.....54750, 55470
74.....54429, 56489, 57681
81.....54429, 56489, 57681, 57691
82.....54429, 56489, 57681
145.....55471, 56845, 57692
146.....57692
172.....55475
175.....54430
176.....56845
178.....57692
193.....55214, 56845
201.....54750
330.....54750
444.....56489
510.....56845
520.....55472
522.....55472, 56845
524.....57692
558.....54929, 56846
866.....56846
1308.....57693
Proposed Rules:
145.....55496
182.....54454, 56513
184.....54454, 54456, 56513, 56871, 57738
186.....54454
201.....57886
310.....55497
314.....56871
333.....54981, 57738
347.....57738
348.....54982, 57738
356.....57738
357.....55076, 55497, 56871
358.....54646
886.....55497

22 CFR

9.....55594
22.....56328
51.....56329

23 CFR

Proposed Rules:
1209.....57298

24 CFR

10 ... 56624
15 ... 55669
50 ... 56266
200 ... 54790
203 ... 54790
204 ... 54790
213 ... 54790
220 ... 54790
221 ... 54790
222 ... 54790
226 ... 54790
227 ... 54790
233 ... 54790
235 ... 54430, 54790
237 ... 54790
240 ... 54790
300 ... 55669
804 ... 54293, 54790
805 ... 54293, 54790, 55136
812 ... 54790
841 ... 54790, 55136
860 ... 54293
880 ... 54293
881 ... 54293
882 ... 54293
883 ... 54293
884 ... 54293
885 ... 56490
886 ... 54293
888 ... 56133
890 ... 54431, 57270

Proposed Rules:

16 ... 56660
571 ... 55868
804 ... 57954
805 ... 57954
813 ... 57954
860 ... 55689, 57954
865 ... 57954
866 ... 55689
880 ... 57954
881 ... 57954
882 ... 57954
883 ... 57954
884 ... 57954
886 ... 57954
888 ... 55764
889 ... 57954

25 CFR

273 ... 57274
700 ... 57915

26 CFR

4a ... 57919
5f ... 57920
1 ... 54296, 54791, 54803, 55477, 56330, 56490
7 ... 57489
35 ... 54065, 55215, 57021
601 ... 56330

Proposed Rules:

1 ... 57972
4a ... 57972
1 ... 54093, 55247, 55696, 55697, 56367, 57502, 57503
7 ... 57503
11 ... 54093
31 ... 55248
54 ... 54093
301 ... 57503
601 ... 54459, 54461

27 CFR

9 ... 55915, 57694, 57696, 57921

Proposed Rules:

9 ... 55492, 55954–55961, 56369, 57974

28 CFR

2 ... 56334, 56846
540 ... 55128, 56134

Proposed Rules:

2 ... 54982
540 ... 55131
551 ... 55131, 56144

29 CFR

102 ... 54432
1903 ... 55478
1904 ... 57699
1910 ... 54433
2510 ... 56847
2610 ... 55670
2619 ... 56134, 57021
2621 ... 55672, 57702
2622 ... 55670

Proposed Rules:

1910 ... 57739

30 CFR

901 ... 56492
906 ... 56342
914 ... 56493
931 ... 56800
944 ... 55672
946 ... 55675

Proposed Rules:

55 ... 55499, 57883
56 ... 55499, 57883
57 ... 55499, 57883
75 ... 55499
77 ... 55499
221 ... 54462, 56871
250 ... 56871
902 ... 57511
903 ... 55249
913 ... 57739
914 ... 57511
916 ... 57299
927 ... 57236
934 ... 55499
936 ... 54472, 57741
939 ... 57246
942 ... 54474
946 ... 57513

31 CFR

53 ... 55481, 56351
55 ... 56351
81 ... 56351
90 ... 56351
92 ... 56351
93 ... 56351
120 ... 56351
121 ... 56351
122 ... 56351
127 ... 56351

Proposed Rules:

1 ... 54475
10 ... 56144

32 CFR

166 ... 56847
199 ... 57491
505 ... 57923
802 ... 57493
1285 ... 54929
1662 ... 56494

Proposed Rules:

701 ... 54104

33 CFR

1 ... 54298
2 ... 54298
110 ... 56354
114 ... 54298
115 ... 54298
117 ... 54298–54301, 57493
165 ... 54301, 55391
209 ... 55916

Proposed Rules:

110 ... 54310, 56661
117 ... 55400
157 ... 56786
165 ... 56370
207 ... 54832

34 CFR

Proposed Rules:

64 ... 56871
201 ... 54718
202 ... 54718
203 ... 54718
204 ... 54718
300 ... 54311
302 ... 54718

35 CFR

103 ... 54071
105 ... 54071
107 ... 54071
109 ... 54071
111 ... 54071
113 ... 54071
119 ... 54071
123 ... 54071

Proposed Rules:

103 ... 54105
113 ... 54105
119 ... 54105
123 ... 54105

36 CFR

7 ... 54930–54932, 55391, 55917
331 ... 57703

Proposed Rules:

7 ... 57300

37 CFR

304 ... 57923

38 CFR

3 ... 54435
17 ... 55482, 57705

Proposed Rules:

3 ... 56880, 56881

39 CFR

3 ... 56495
4 ... 56495
6 ... 56495
8 ... 56495
3001 ... 55392

Proposed Rules:

3001 ... 55698, 57514

40 CFR

50 ... 54896
52 ... 54072, 54312, 54808, 54933–54936, 55393, 55678, 55919, 56497, 56625
60 ... 54073, 54258, 54259
61 ... 56626
81 ... 54080, 56625
123 ... 55680
180 ... 55221–55225, 56135, 56136, 57929
204 ... 57709
205 ... 57709
211 ... 57709
300 ... 55488
415 ... 55226
440 ... 54598
465 ... 54232
716 ... 54642, 56850, 57023
761 ... 54436

Proposed Rules:

Ch. I ... 55880
35 ... 56372
52 ... 54476, 54984, 55400, 55500, 55964, 55965, 56516, 56518, 56882,
60 ... 55966, 56118, 57515, 57971
65 ... 56883
86 ... 54250, 56662
123 ... 56520, 57022, 57301, 57302, 57741
130 ... 56372
158 ... 56884
162 ... 55967, 57624, 57635
180 ... 54106, 55249, 55699, 57975
191 ... 58196
201 ... 54107, 54313
202 ... 54313
204 ... 54108
205 ... 54108–54111
228 ... 54834, 56663, 56665
403 ... 54477
439 ... 56373
455 ... 56373
461 ... 55502
464 ... 55502
467 ... 56373
468 ... 55502
610 ... 57742

41 CFR

Ch. 7 ... 57494
Ch. 18 ... 57930
1 ... 57930
3 ... 57930
5 ... 57930
6 ... 57930
1–3 ... 57023
1–16 ... 57023
1–30 ... 57023
15–3 ... 57495
101–36 ... 54810, 54937
101–47 ... 56499

Proposed Rules:

Ch. 9 ... 56256
3–16 ... 57515
3–50 ... 57515
101–20 ... 57520

42 CFR

52d ... 55227
55a ... 55227
57 ... 54437
58 ... 54437
86 ... 55227
401 ... 54939

405.....54302, 54811, 54939, 56282
488.....56282
489.....56282

Proposed Rules:
124.....54314
405.....54113
447.....54113

43 CFR

Public Land Orders:
503 (Revoked in part by PLO 6342).....57275
3833.....56300
6342.....57275

Proposed Rules:
4.....56521
3200.....56151
3710.....57521
3720.....57521
3730.....57521
3740.....57521
3800.....57521
3810.....57521
3820.....57521
3830.....57521
3840.....57521
3850.....57521
3860.....57521
3870.....57521
4100.....55402
8360.....57404

44 CFR

2.....56850
6.....54815
64.....54816, 55921, 55922, 56850
65.....54941, 57495
67.....54941, 55228, 55241, 56627, 57933, 57934
70.....54440–54444, 56629–56636
205.....55756, 57275

Proposed Rules:
59.....55752
60.....55752
67.....54477, 54478, 54835, 55251, 56668–56671, 56884, 57061, 57522, 57523

45 CFR

5b.....57040
74.....55227
91.....57850
97.....56466
205.....57942
301.....57277
302.....57277
303.....57277, 57282
304.....57277, 57282
305.....57277, 57282
600.....54081
601.....57284
612.....54943
680.....54081
681.....54081
682.....54081
683.....54081
684.....54081
1300.....56466
1336.....55227
1601.....54943

Proposed Rules:
1180.....56871

46 CFR

67.....54305
536.....56138

Proposed Rules:
507.....55969

47 CFR

Ch. I.....57040
0.....55924, 56852
1.....56636, 57049
2.....55241, 56852, 57286
22.....56856
63.....54944
67.....55681
73.....54444, 54446, 55242, 55243, 55681–55683, 55924, 56355, 56356, 56638
74.....54446, 55931,
87.....54449, 56636, 56852
90.....54450, 57049
95.....57049
97.....55241

Proposed Rules:
15.....55251
34.....55974
35.....55974
67.....54479, 55699
73.....54519–54522, 55256, 55974, 56672
76.....54523
81.....54836, 56673
83.....56673
95.....56677

49 CFR

Ch. X.....54081, 55686
1.....57286
7.....55683
171.....54817, 54824
172.....54817, 54824
173.....54817, 54824
175.....54817, 54824
177.....54824
178.....54824
195.....55396
225.....56357
450.....57287
451.....57287
452.....57287
453.....57287
531.....55684
581.....56640
601.....55683
1003.....55939
1011.....55950
1033.....57287
1043.....55939
1057.....54083
1249.....56359
1306.....54083

Proposed Rules:
Ch. X.....54985, 55975
29.....55700
571.....54839, 57302
1000.....56885
1003.....55976
1039.....55257
1043.....55976, 55980
1084.....55976, 55980
1162.....57303
1220.....56152
1306.....57303
1307.....57303

50 CFR

11.....56856
12.....56856
16.....56360
20.....55397
23.....54968
255.....57432
540.....55488
611.....56650,
663.....56138
671.....54451, 57052

Proposed Rules:
23.....57524
29.....54840
611.....54841, 57306
652.....54985
663.....57079, 57977
671.....54125,
675.....54841, 57306

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.) Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/MA	LABOR		DOT/MA	LABOR
DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
DOT/RSPA			DOT/RSPA	
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last Listing December 28, 1982

Order Now!

The United States Government Manual 1982/83

As the official handbook of the Federal Government, the *Manual* is the best source of information on the activities, functions, organization, and principal officials of the agencies of the legislative, judicial, and executive branches. It also includes information on quasi-official agencies and international organizations in which the United States participates.

Particularly helpful for those interested in where to go and who to see about a subject of particular concern is each agency's "Sources of Information" section, which provides addresses and telephone numbers for obtaining specifics on consumer activities, contracts and grants, employment, publications and films, and many other areas of citizen interest. The *Manual* also includes comprehensive name, subject, and agency indexes.

Of significant historical interest is Appendix A, which describes the agencies and functions of the Federal Government abolished or transferred subsequent to March 4, 1933.

The *Manual* is published by the Office of the Federal Register, National Archives and Records Service, General Services Administration.

$9.50 per copy

Order Form

Mail To: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402

Enclosed is $ _____ ☐ check, ☐ money order, or charge to my Deposit Account No.

☐☐☐☐☐☐☐–☐

Order No._____

MasterCard and VISA accepted.

MasterCard VISA

Credit Card Orders Only

Total charges $_____ Fill in the boxes below.

Credit Card No. ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

Expiration Date Month/Year ☐☐☐☐

Please send me _____ copies of The United States Government Manual, 1982/83, at $9.50 per copy. Stock No. 022-003-01082-3

PLEASE PRINT OR TYPE

Company or Personal Name

Additional address/attention line

Street address

City State ZIP Code

(or Country)

For Office Use Only

Quantity	Charges
_____ Publications	
_____ Subscription	
Special Shipping Charges	
International Handling	
Special Charges	
OPNR	
_____ UPNS	
_____ Balance Due	
_____ Discount	
_____ Refund	

12-30-82
Vol. 47 No. 251
Pages 58207-58494

federal register

Thursday
December 30, 1982

Selected Subjects

Accounting
Securities and Exchange Commission

Administrative Practice and Procedure
Securities and Exchange Commission

Air Pollution Control
Environmental Protection Agency

Animal Diseases
Animal and Plant Health Inspection Service

Aviation Safety
Federal Aviation Administration

Banks, Banking
Federal Reserve System

Bridges
Coast Guard

Classified Information
Nuclear Regulatory Commission

Coal Mining
Surface Mining Reclamation and Enforcement Office

Communications
Federal Communications Commission

Communications Common Carriers
Federal Communications Commission

Consumer Protection
National Highway Traffic Safety Administration

Endangered and Threatened Wildlife
Fish and Wildlife Service

CONTINUED INSIDE

Selected Subjects

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The **Federal Register** will be furnished by mail to subscribers, free of postage, for $300.00 per year, or $150.00 for six months, payable in advance. The charge for individual copies is $1.50 for each issue, or $1.50 for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the **Federal Register**.

Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

Equal Access to Justice
Federal Labor Relation Authority

Excise Taxes
Internal Revenue Service

Grant Programs—Labor
Employment and Training Administration

Hazardous Materials
Environmental Protection Agency

Health Care
Veterans Administration

Home Improvement
Federal Housing Commissioner—Office of Assistant Secretary for Housing

Infants and Children
Food and Nutrition Service

Marketing Agreements
Agricultural Marketing Service

Medicare
Health Care Financing Administration

Milk Marketing Orders
Agricultural Marketing Service

Natural Gas
Federal Energy Regulatory Commission

Navigation (Water)
Coast Guard

Organization and Functions (Government Agencies)
Consumer Product Safety Commission
Federal Communications Commission

Penalties
Heath and Human Services Department

Railroad Safety
Federal Railroad Administration

Railroads
Interstate Commerce Commission

Securities
Securities and Exchange Commission

Water Pollution Control
Environmental Protection Agency

Contents

Federal Register

Vol. 47, No. 251

Thursday, December 30, 1982

Administrative Conference of United States
RULES
Recommendations, etc.:
58207 Federal officials' liability for constitutional violations, etc.

Agricultural Marketing Service
RULES
58213 Lemons grown in Ariz. and Calif.
Milk marketing orders:
58216 Oregon-Washington
58212 Oranges (navel) grown in Ariz. and Calif.
58213 Tomatoes grown in Fla.

Agriculture Department
See also Agricultural Marketing Service; Animal and Plant Health Inspection Service; Food and Nutrition Service; Forest Service.
NOTICES
Import quotas and fees:
58328 Meat import limitations; quarterly estimates

Air Force Department
NOTICES
Meetings:
58341 Scientific Advisory Board

Alcohol, Drug Abuse, and Mental Health Administration
NOTICES
Meetings; advisory committees:
58369 January

Animal and Plant Health Inspection Service
RULES
Swine health protection:
58217 Enforcement; State status; interim

Centers for Disease Control
NOTICES
Meetings:
58369 Acquired immune deficiency syndrome (AIDS), prevention recommendations work proup

Civil Rights Commission
NOTICES
Meetings; State advisory committees:
58328 Arkansas
58328 Delaware
58328 Ohio

Coast Guard
RULES
Drawbridge operations:
58242 Florida
Navigation safety regulations:
58243 Electronic position fixing devices; complementary system to satellite navigaton receivers requirement eliminated, etc.
PROPOSED RULES
Boating safety:
58306 Electrical and fuel system standards; extension of time
Drawbridge operations:
58305 Louisiana
58306 Massachusetts
Pollution:
58306 Tank vessels carrying oil in bulk; cargo monitors installation and use; supplemental notice; correction
Vessel documentation and measurement:
58314 Coastwise trade U.S. citizenship requirements; trust arrangements; advance notice; extension of time

Commerce Department
See International Trade Administration; National Oceanic and Atmospheric Administration; National Technical Information Service.

Comptroller of Currency
NOTICES
58438 Closed receivership fund; termination; republication

Consumer Product Safety Commission
RULES
Organization and functions:
58236 Addresses and organizational structure changes

Customs Service
RULES
Organization and functions; field organization, ports of entry, etc.:
58240 Columbia, S.C.; correction

Defense Department
See also Air Force Department; Engineers Corps.
NOTICES
58343 Agency forms submitted to OMB for review

Education Department
NOTICES
Grant applications and proposals; closing dates:
58343 Law and government studies in education; research grants program
58345 State student incentive grant program

Employment and Training Administration
RULES
58492 Job Training Partnership Act; State job training coordinating councils and private industry councils establishment, service delivery areas designation

Energy Department
See also Federal Energy Regulatory Commission.
NOTICES
International atomic energy agreements; civil uses; subsequent arrangements:
58346 Canada
58346 European Atomic Energy Community and Austria
58346 European Atomic Energy Community and Switzerland

Trespassing on Department property:
58345 West Valley demonstration project, N.Y.; off-limits designation

Engineers Corps
NOTICES
Environmental statements; availability, etc.:
58341 Beaverdam Swamp, Gloucester County, Va.
58342 Grays Harbor, Wash.; disposal site construction, etc.
58342 Pascagoula River Basin Study, Hattiesburg and Petal, Miss.; flood control
58341 Ste. Genevieve, Mo.; flood protection
58343 Theodore Ship Channel, Mobile Bay West, Mobile County, Ala.

Environmental Protection Agency
RULES
Air pollution control; aircraft and aircraft engines:
58462 Emission standards and test procedures
Air quality implementation plans; approval and promulgation; various States, etc.:
58251 New Hampshire
PROPOSED RULES
Hazardous waste programs; interim authorizations; State programs:
58307 Florida
Superfund programs:
58476 National oil and hazardous substances contingency plan; national priorities list
Water pollution control; State underground injection control program, primacy applications:
58307 New Mexico
NOTICES
Environmental statements; availability, etc.:
58354 Agency statements; weekly receipts
58355 Grants; debarments, suspensions, and voluntary exclusions under EPA assistance programs
Toxic and hazardous substances control:
58354 Premanufacture notification requirements; test marketing exemption approvals

Federal Aviation Administration
RULES
Airworthiness directives:
58230 British Aerospace
58230, 58232 McDonnell Douglas (2 documents)
58233 SIAI-Marchetti
Airworthiness standards, etc.:
58488 Transport category airplanes; cabin ozone concentration
58234 Control areas
58234, 58235 Transition areas (3 documents)
PROPOSED RULES
Airworthiness directives:
58279 Lockheed-California
58280 VOR Federal airways
NOTICES
Advisory circulars; availability, etc.:
58433 Airplanes, small; emergency exits

Federal Bureau of Investigation
NOTICES
Committees; establishment, renewals, terminations, etc.:
58399 National Crime Information Center Advisory Policy Board

Federal Communications Commission
RULES
Common carrier services:
58270 Annual Report Forms O and R; wire-telegraph, ocean-cable and radio-telegraph carriers; amendment
Organization, functions, and authority delegations:
58269 Mass Media Bureau, Chief; administration of forfeitures; correction
PROPOSED RULES
58315 Regulatory flexibility; review of rules
Television broadcasting:
58322 Cable television systems and national television networks; elimination of prohibition on common ownership; extension of time
Television stations; table of assignments:
58322 Alaska; extension of time
NOTICES
58356 FCC Reports; publication system revised
Hearings, etc.:
58356 American Telephone & Telegraph Co.
58360 Miller Broadcasting, Inc., et al.
Meetings:
58359 International Telegraph and Telephone Consultative Committee
58356 ITU 1985 Space World Administrative Radio Conference Advisory Committee (2 documents)
Radio and television broadcasting:
58359 Application forms; reduction of certain information requirements

Federal Election Commission
NOTICES
58440 Meetings; Sunshine Act

Federal Energy Regulatory Commission
RULES
Natural Gas Policy Act:
58239 Incremental pricing; acquisition cost thresholds
NOTICES
Hearings, etc.:
58347 Algonquin Gas Transmission Co.
58347 Colorado Interstate Gas Co. et al.
58347 Eastern Shore Natural Gas Co.
58348 El Paso Natural Gas Co.
58348 Energy Conversions of America, Inc.
58350 Gas Gathering Corp.
58350 Michigan Wisconsin Pipe Line Co.
58350 Northern Natural Gas Co.
58350 Northwest Pipeline Corp.
58350 Panhandle Eastern Pipe Line Co.
58351 St. Joe Minerals Corp.
58354 Transcontinental Gas Pipe Line Corp.
Small power production and cogeneration facilities; qualifying status; certification applications, etc.:
58351 Rodeffer Investments

Federal Highway Administration
NOTICES
Environmental statements; availability, etc.:
58433 Lewis & Clark County, Mont.; intent to prepare

Federal Home Loan Bank Board
RULES
Federal savings and loan system, etc.:
58219 Net worth certificates

Federal Housing Commissioner—Office of Assistant Secretary for Housing
RULES
Mortgage and loan insurance programs:
58240 Property improvement loans; loan security decrease

Federal Labor Relations Authority
RULES
58210 Equal Access to Justice Act; implementation; interim rule; expiration date extended

Federal Maritime Commission
NOTICES
Energy and environmental statements; availability, etc.:
58361 Thailand/Pacific Freight Conference; extension of ratemaking authority

Federal Railroad Administration
RULES
Safety appliance standards:
58272 Roof running boards, removal from box and house cars; compliance date extension

Federal Reserve System
RULES
Reserve requirements of depository institutions (Regulation D):
58218 Transaction accounts; definition
NOTICES
Applications, etc.:
58362 Continental Bancorp, Inc.
58363 Le Center Financial Services, Inc.
58365 Southern National Corp. et al; correction
Bank holding companies; proposed de novo nonbank activities:
58362 Bankers Trust New York Corp. et al.
Federal Reserve Bank services; fee schedules and pricing principles:
58363 Book-entry securities services; inquiry
58364 Coin and currency transportation
58440 Meetings; Sunshine Act

Fish and Wildlife Service
PROPOSED RULES
Endangered and threatened species:
58454 Vertebrate wildlife; review

Food and Nutrition Service
RULES
Child nutrition programs:
58211 Summer food service program; social security account number disclosure notice requirement on applications, etc.

Forest Service
NOTICES
Environmental statements; availability, etc.:
58327 Tongass National Forest, Alaska; Quartz Hill exploration activities, 1980–1983 plan of operations
Meetings:
58327 Black Hills National Forest Grazing Advisory Board
58327 Nezperce National Forest Grazing Advisory Board
58327 San Juan National Forest Grazing Advisory Board
58327 Targhee National Forest Grazing Advisory Board

Health and Human Services Department
See also Alcohol, Drug Abuse, and Mental Health Administration; Centers for Disease Control; Health Care Financing Administration; Public Health Service.
PROPOSED RULES
58309 Medicare, Medicaid, and maternal and child health services block grant programs; civil money penalties and assessments for false or improper claims
NOTICES
58365 Agency forms submitted to OMB for review
Medicare supplementary medical insurance program:
58366 Monthly actuarial and premium rates
Meetings:
58369 Social Security Advisory Council

Health Care Financing Administration
RULES
Medicare:
58252 Health care prepayment plans
58260 Subcontractors; access to books, documents, and records; final rule and request for comments
NOTICES
Drugs, limitations on payment or reimbursement; maximum allowable cost:
58370 Doxepin HCL
58370 Erythromycin stearate, oral tablets, 500 mg.; suspension on limits

Housing and Urban Development Department
See Federal Housing Commissioner—Office of Assistant Secretary for Housing.

Indian Affairs Bureau
NOTICES
Organization and functions:
58375 Metlakatla Field Station, Flathead Agency, and Flathead Irrigation project; jurisdiction transfers, etc.

Interior Department
See also Fish and Wildlife Service; Indian Affairs Bureau; Land Management Bureau; Minerals Management Service; National Park Service; Surface Mining Reclamation and Enforcement Office.
NOTICES
58372 Wilderness inventory decisions

Internal Revenue Service
PROPOSED RULES
Excise taxes:
58297 Motor vehicle manufacturers and retailers
Income taxes:
58297 Debt obligations, registration requirements; correction

International Trade Administration
NOTICES
Antidumping:
58328 Carbon steel wire rod from Venezuela

Countervailing duties:
58330 Industrial nitrocellulose from France
58333 Leather wearing apparel from Argentina

Interstate Commerce Commission
RULES
Rail carriers:
58273 Demurrage and detention records, etc.; maintenance
58274 Transportation contracts; correction
PROPOSED RULES
Motor carriers:
58325 Bus employee protection; reemployment rights; extension of time
Rail carriers:
58325 Freight car ownership, car utilization, and distribution rules and practices; investigation of adequacy
NOTICES
Motor carriers:
58390 Fuel surcharge program modification; owner-operator reimbursement rate
58390–58394 Permanent authority applications (3 documents)

Justice Department
See also Federal Bureau of Investigation.
NOTICES
Pollution control; consent judgement:
58398 Kaiser Steel Corp.
58398 Solvents Recovery Service of New England, Inc.
58399 Standard Brake Shoe & Foundary Co.

Labor Department
See Employment and Training Administration.

Land Management Bureau
NOTICES
Alaska native claims selection; applications, etc.:
58375 Cook Inlet Region, Inc.
58379 Kaktovik Inupiat Corp.
58376 Maserculiq, Inc.
58383 Classification of land, Idaho; suitability for agricultural development; initial classifications; inquiry; correction
Classification of public lands:
58382 California
Exchange of public lands for private land:
58384 Idaho
58387 Nevada
58388 Wyoming
Leasing of public lands:
58384 Alaska
58384 California
Management framework plans, review and supplement, etc.:
58386 California
Meetings:
58385 Albuquerque District Advisory Council
58383 Vernal District Grazing Advisory Board
Motor vehicles, off-road, etc.; area closures and openings:
58385 California
Opening of public lands:
58385 Oregon
Organization, functions, and authority delegations:
58387 California District Managers; land uses
Public lands for State indemnity selection applications:
58380 Arizona
Resource management plans:
58380 Caliente Resource Area, Bakersfield District, Calif.
58385 Hollister Resource Area, Bakersfield District, Calif.
Survey plat filings:
58386, 58387 California (3 documents)
Withdrawal and reservation of lands, proposed, etc.:
58381 California

Marine Mammal Commission
NOTICES
58399 Meetings

Maritime Administration
PROPOSED RULES
Documentation, transfer, or charter of vessels:
58314 Coastwise trade U.S. citizenship requirements; trust arrangements; advance notice; extension of time
NOTICES
Applications, etc.:
58434 Equity Carriers, Inc., et al.

Minerals Management Service
NOTICES
Environmental statements; availability, etc.:
58390 Outer Continental Shelf; Central and Northern California oil and gas lease sale, proposed (Sale No. 73)
Outer Continental Shelf; oil, gas, and sulphur operations; development and production
58389 ARCO Oil & Gas Co.
58389 Conoco Inc.
58389 Exxon Co., U.S.A.

National Highway Traffic Safety Administration
PROPOSED RULES
Consumer information:
58323 Utility vehicles; operation on paved roadways
NOTICES
Motor vehicle defect proceedings; petitions, etc.:
58435 Tefft, Lewis S.

National Oceanic and Atmospheric Administration
NOTICES
Coastal zone management programs:
58335 California; appeal by Union Oil Co.
58336 Virgin Islands, Washington, and Ohio; intent to evaluate performance
Marine mammal permit applications, etc.:
58335 Kaufman, Gregory Dean, et al.

National Park Service
NOTICES
Environmental statements; availability, etc.:
58390 Grand Teton National Park, Wyo.; management agreement with Jackson Hole Airport

National Technical Information Service
NOTICES
58337 Inventions, Government-owned; availability for licensing
Patent licenses, exclusive:
58336 Ean-Tech, Inc. (3 documents)

Nuclear Regulatory Commission
PROPOSED RULES
58275 National security information program; implementation; access authorizations and security facility approvals; reports and recordkeeping requirements, etc.
NOTICES
Applications, etc.:
58399 Baltimore Gas & Electric Co.
58400 Cincinnati Gas & Electric Co.
58403 Cleveland Electric Illuminating Co.
58400 Consumers Power Co. (2 documents)
58401 Louisiana Power & Light Co.
58402 Mississippi Power & Light Co. et al.
58402 Offshore Power Systems
58404 Sacramento Municipal Utility District
58404 Southern California Edison Co. et al.
Meetings:
58402, 58403 Reactor Safeguards Advisory Committee (2 documents)
58403 Three Mile Island Unit 2 Decontamination Advisory Panel
58401 Regulatory guides; issuance, availability, and withdrawal

Pension Benefit Guaranty Corporation
NOTICES
58404 Privacy Act; system of records; annual publication

Public Health Service
PROPOSED RULES
58308 Medical facility construction and modernization; evaluation of impact and effectiveness of uncompensated services assurance

Securities and Exchange Commission
RULES
58237 Documents filed with SEC; elimination of legal size paper
PROPOSED RULES
Financial statements (Regulation S–X):
58281 Oil and gas producers; full cost accounting practices
Securities:
58287 Order exposure rules; reproposal
NOTICES
58414 Consolidated quotation plan; amendments
Hearings, etc.:
58422 Chicago Partners I et al.; correction
58411 Fay's Drug Co., Inc.
58422 Merchants Bancorporation; correction
58411 Pacific Fidelity Life Insurance Co. et al.
58413 Southwestern Electric Power Co.
58411 Intermarket trading system and National Association of Securities Dealers, Inc.; automated interface; deferred implementation
Self-regulatory organizations; proposed rule changes:
58414 American Stock Exchange, Inc.
58414 Midwest Clearing Corp.
58415, 58416 Midwest Securities Trust Co. (2 documents)
58416, 58418 National Association of Securities Dealers, Inc. (2 documents)
58419 National Securities Clearing Corp. (2 documents)
58420 New York Stock Exchange, Inc.
58420 Options Clearing Corp.
58421 Philadelphia Depository Trust Co.
58421 Philadelphia Stock Exchange, Inc.

State Department
NOTICES
Fishing permits, applications:
58423 Union of Soviet Socialist Republics et al.
Meetings:
58422 International Investment, Technology, and Development Advisory Committee (2 documents)
58423 Shipping Coordinating Committee

Surface Mining Reclamation and Enforcement Office
RULES
Permanent program submission; various States:
58242 North Dakota
PROPOSED RULES
Permanent program submission; various States:
58302 Pennsylvania
58303 Utah

Textile Agreements Implementation Committee
NOTICES
Cotton, wool, or man-made textiles:
58337 India
58338 Korea
Export visa requirements; certification, etc.:
58339 India

Transportation Department
See also Coast Guard; Federal Aviation Administration; Federal Highway Administration; Federal Railroad Administration; Maritime Administration; National Highway Traffic Safety Administration.
NOTICES
58432 Air traffic control system; advanced automation program; independent review

Treasury Department
See also Comptroller of Currency; Customs Service; Internal Revenue Service.
NOTICES
58435 Hazardous substance liability insurance; private insurance; feasibility for post-closure financial responsibility; determination

Veterans Administration
RULES
Medical benefits:
58245 Miscellaneous amendments
NOTICES
Meetings:
58438 Wage Committee

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

1 CFR
301 58207
302 58207
305 58207
310 58207

5 CFR
2430 58210

7 CFR
225 58211
907 58212
910 58213
966 58213
1124 58216

9 CFR
166 58217

10 CFR
Proposed Rules:
25 58275
95 58275

12 CFR
204 58218
552 58219
561 58219
572 58219

14 CFR
25 58488
39 (4 documents) 58230–58233
71 (4 documents) 58234–58235
121 58488
Proposed Rules:
39 58279
71 58280

16 CFR
1000 58236

17 CFR
201 58237
230 58237
240 58237
250 58237
260 58237
270 58237
275 58237
Proposed Rules:
210 58281
240 58287

18 CFR
282 58239

19 CFR
101 58240

20 CFR
626 58492

24 CFR
201 58240

26 CFR
Proposed Rules:
1 58297
48 58297
142 58297
146 58297

30 CFR
934 58242
Proposed Rules:
938 58302
944 58303

33 CFR
117 58242
164 58243
Proposed Rules:
117 (2 documents) 58305, 58306
157 58306
183 58306

38 CFR
17 58245

40 CFR
52 58251
87 58462
Proposed Rules:
123 (2 documents) 58307
300 58476

42 CFR
405 58252
420 58260
Proposed Rules:
124 58308

45 CFR
Proposed Rules:
100 58309

46 CFR
Proposed Rules:
67 58314
221 58314
355 58314

47 CFR
0 58269
34 58270
35 58270
Proposed Rules:
15 58315
21 58315
22 58315
25 58315
41 58315
42 58315
43 58315
64 58315
66 58315
73 58322
74 58315
76 (2 documents) 58315, 58322
78 58315
83 58315
90 58315
95 58315

49 CFR
231 58272
1033 58273
1039 58274
1254 58273
1300 58274
Proposed Rules:
575 58323
1002 58325
1033 58325
1170 58325

50 CFR
Proposed Rules:
17 58454

Rules and Regulations

Federal Register
Vol. 47, No. 251
Thursday, December 30, 1982

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

1 CFR Parts 301, 302, 305 and 310

Recommendations of the Administrative Conference

AGENCY: Administrative Conference of the United States.

ACTION: Recommendations.

SUMMARY: The Administrative Conference of the United States, at its Twenty-fifth Plenary Session, adopted two recommendations and one statement of views. The Conference also adopted an amendment to its bylaws concerning committee structure. The subjects of these Conference actions are described below. Recommendations of the Administrative Conference are published in full text in the **Federal Register** upon adoption. Complete lists of recommendations and statements, together with the texts of those deemed to be of continuing general interest, are published in the Code of Federal Regulations (1 CFR Parts 305 and 310).

DATES: These recommendations and the statement were adopted December 16–17, 1982 and issued December 27, 1982.

FOR FURTHER INFORMATION CONTACT: Richard K. Berg, General Counsel (202–254–7065).

SUPPLEMENTARY INFORMATION: The Administrative Conference of the United States was established by the Administrative Conference Act, 5 U.S.C. 571–576. The Conference studies the efficiency, adequacy and fairness of the administrative procedures used by federal agencies in carrying out administrative programs, and makes recommendations for improvements to the agencies, collectively or individually, and to the President, Congress, and the Judicial Conference of the United States (5 U.S.C. 574(1)).

The Administrative Conference of the United States at its Twenty-fifth Plenary Session, held December 16–17, 1982, amended its bylaws to restructure its standing committees so that they may function more effectively. (This notice also includes a conforming amendment to the Conference's statement of organization.)

The Conference also adopted two recommendations and one statement of views:

Recommendation 82–6, *Federal Officials' Liability for Constitutional Violations,* calls on Congress to enact legislation that would substitute the United States as the sole defendant in all damage actions against executive branch officers and employees for violations of constitutional rights committed while acting within the scope of their office or employment. The Conference recommends that such legislation permit the United States to assert as a defense any immunity or good faith defense available to the officer or employee. The recommendation also would place responsibility for investigation and discipline of an offending official with the agency that employs the official.

Recommendation 82–7 *Judicial Review of Rules in Enforcement Proceedings,* sets forth factors the Conference believes Congress should consider in deciding whether to restrict the availability of judicial review of agency rules to a limited period immediately subsequent to the issuance of the rule. The recommendation also states that, when Congress chooses to limit review, the limitations should ordinarily apply only to issues related to the rulemaking process or to the adequacy of record support for the rule, while other types of issues should remain open for review in enforcement proceedings.

Finally, the "Statement of the Administrative Conference on Discipline of Attorneys Practicing before Federal Agencies" expresses the view that any current problems arising from the discipline of attorneys by federal agencies are not of such magnitude or so widespread as to require legislative action or the adoption of uniform federal standards.

The transcript of the discussion of these recommendations is available for public inspection at the Conference's offices, at Suite 500, 2120 L Street, N.W., Washington, D.C.

List of Subjects

1 CFR Part 301

Organization and purpose.

1 CFR Part 302

Bylaws of the Administrative Conference.

1 CFR Part 305

Government employees, Liability for torts, Administrative practice and procedure, Judicial review of regulations.

1 CFR Part 310

Lawyers, Discipline of attorneys in administrative proceedings.

PART 301—ORGANIZATION AND PURPOSE

1. Section 301.3 of 1 CFR is revised to read as follows:

§ 301.3 Organization.

The Chairman of the Administrative Conference of the United States is appointed by the President, with the advice and consent of the Senate, for a five-year term. The Council, which is the executive board, consists of the Chairman and 10 other members who are appointed by the President for three-year terms, of whom not more than one-half may be drawn from Federal agencies. It has authority to call plenary sessions of the Conference and fix their agenda, to recommend subjects for study, to receive and consider reports and recommendations before they are considered by the Assembly, and to exercise general budgetary and policy supervision. The total membership of the Conference may not, by statute, exceed 91. It comprises, in addition to the Council, approximately 44 Government members (heads of agencies or their designees) from 36 departments and agencies, and approximately 36 non-Government or public members (lawyers in private practice, university faculty members, and others specially informed in law and government) appointed by the Chairman with the approval of the Council for two-year terms. The Chairman is the only full-time compensated member. The entire membership is divided into six

committees, each assigned a broad area of interest as follows: Adjudication, Administration, Governmental Processes, Judicial Review, Regulation, and Rulemaking. The membership meeting in plenary session is called the Assembly of the Administrative Conference. The Council must call at least one plenary session each year.

PART 302—BYLAWS OF THE ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

2. The first sentence of 1 CFR 302.3 is revised to read as follows:

§ 302.3 [Amended]

The Conference shall have the following standing committees:

1. Committee on Adjudication;
2. Committee on Administration;
3. Committee on Governmental Processes;
4. Committee on Judicial Review;
5. Committee on Regulation; and
6. Committee on Rulemaking.

* * * * *

PART 305—RECOMMENDATIONS OF THE ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

3. The Table of contents to Part 305 of Title 1, CFR is amended to add the following new sections:

Sec.
305.82–6 Federal Officials' Liability for Constitutional Violations (Recommendation No. 82–6).
305.82–7 Judicial Review of Rules in Enforcement Proceedings (Recommendation No. 82–7).

4. Section 305.82–6 is added to Part 305 as follows:

§ 305.82–6 Federal Officials' Liability for Constitutional Violations (Recommendation No. 82–6).

This recommendation focuses on the increasing risk to federal executive branch officials of civil liability for monetary damages for alleged violations of federal constitutional rights. This vulnerability has expanded dramatically in recent years, as a result of judicially-discovered rights enunciated in *Bivens v. Six Unknown Named Agents*, 403 U.S. 388 (1971), and subsequent court cases involving allegations of official misconduct. Under the present system of officials' liability, as developed piecemeal by the courts, an individual federal employee (except certain categories of officials, including the President, who have been ruled to have absolute immunity) may be held personally liable for acts that, though committed while the employee was acting within the scope of office or employment, may subsequently be found to violate a constitutional provision. Juries may hold officials liable for actual damages where they cannot show that their actions were taken in good faith—that is, in the belief that their conduct was lawful—and for punitive damages where they are shown to have acted maliciously or with reckless disregard of the plaintiff's constitutional rights. At present, damages may not be recovered against the United States for violations of constitutional rights as such, although claims arising out of the same conduct may or may not be stated against the Government under the Federal Tort Claims Act, 28 U.S.C. 2671–2680.

The existing system of civil sanctions for constitutional violations by federal officials does not provide adequate assurance of compensation for victims of such violations and discourages proper conduct by Government officials. In addition, the federal government often has interests at stake in constitutional tort litigation involving its officials which may not be represented adequately when individual officials themselves are the defendants on trial.

In *Carlson* v. *Green*, 446 U.S. 14 (1980), the Supreme Court suggested that the courts may properly refuse to entertain monetary damage actions against federal officials if Congress has expressly substituted a different remedy or made available an alternative to the *Bivens* remedy. In the Conference's view, such an alternative system is likely to improve the effectiveness with which federal programs and laws are administered.

To serve the primary goals of compensation, deterrence, and fairness in dealing with constitutional violations assertedly committed by federal officials, and to afford a solution to the problems perceived to flow from the current system of individual liability, Congress should replace the existing system by accepting public liability for wrongs done in the public's name and by strengthening the means of dealing with the wrongdoers. When defending against constitutional tort claims, the Government should be able to assert any immunity or good faith defense available to the officials.

Since the Conference's mandate extends only to matters affecting the administration of federal agencies' programs, this recommendation addresses only actions against executive agency officials. We do not intend to suggest that the same considerations do not apply to officials of the legislative and judicial branches.

Recommendation

1. Congress should enact legislation providing that the United States shall be substituted as the exclusive party defendant in all actions for damages for violations of rights secured by the Constitution of the United States committed by federal executive branch officers and employees while acting within the scope of their office or employment. The legislation should provide adequate procedures to ensure that, where a damage action for violation of such rights is brought against an executive branch officer or employee, such action should be deemed to have been brought against the United States upon certification by the Attorney General that the defendant officer or employee was acting within the scope of his office or employment at the time of the incident out of which the suit arose. The Attorney General's failure to make such certification should be judicially reviewable.

2. Such legislation should provide that, in actions alleging constitutional violations, the United States may assert as a defense any qualified immunity or good faith defense available to the executive branch officer or employee whose conduct gave rise to the claim, or his reasonable good faith belief in the lawfulness of his conduct. The United States should also be free to assert such other defenses as may be available, including the absolute immunity of those officers entitled to such immunity.

3. The agency that employed the offending officer should be responsible for investigation and, where appropriate, for disciplining the official and implementing any other appropriate corrective measures. The Office of Personnel Management should assure, via guidance promulgated through the Federal Personnel Manual and other devices, that agencies are authorized to employ existing mechanisms to impose sanctions on officers and employees who have violated the constitutional rights of any person. Employees should be permitted to assert as a defense in any disciplinary proceeding their good faith in taking the action in question, as well as such other defenses as may be available.

4. Congressional legislation should preserve the opportunity for jury trial only with respect to claims that arose prior to the effective date of the legislation implementing this recommendation.

5. Section 305.82–7 is added to Part 305 as follows:

§ 305.82–7 Judicial Review of Rules in Enforcement Proceedings (Recommendation No. 82–7).

A person adversely affected by an agency rule may ordinarily obtain judicial review of that rule either by instituting a direct review proceeding against the agency in an appropriate court (pre-enforcement review) [1] or by

[1] We use the term "direct review" to refer to judicial review of a rule of general applicability before the rule is applied to a particular person in an adjudicative proceeding. Such review may be by the court of appeals pursuant to a special statutory

asserting the invalidity of the rule as a defense in a civil or criminal proceeding to apply or enforce the rule (enforcement review). Prior to the Supreme Court's decision in *Abbott Laboratories* v. *Gardner*, 387 U.S. 136 (1967), direct review was generally difficult to obtain because of technical defenses such as lack of ripeness or lack of standing, and most review of rules took place in the context of enforcement proceedings.

Under *Abbott Laboratories* and subsequent decisions, direct review of agency rules has become increasingly available. Congress in much recent regulatory legislation has specifically provided for immediate resort to judicial review at the conclusion of the rulemaking proceeding. As a result, direct judicial review of rules has come to be regarded as the norm and review in an enforcement proceeding is less common. In a number of statutes, in fact, Congress has sought to encourage prompt direct review by explicitly precluding or limiting the availability of review at the enforcement stage.

At the same time, and perhaps largely as a result of the increasing importance of direct judicial review of rules, courts have intensified their scrutiny of the administrative process preceding promulgation of the rule. Whereas in the pre-*Abbott Laboratories* era challenges to rules where most frequently based on assertions of lack of agency authority or on inapplicability of the rule to the party's particular circumstances, today the issues in direct review proceedings increasingly include whether the agency made the proper procedural choices in the rulemaking proceeding and whether the rule finds adequate support in the administrative record.

The Administrative Procedure Act does not by its terms establish different standards of review for direct review proceedings and enforcement proceedings, and few courts have considered the implications for review in enforcement proceedings of the increasingly intensive standard developed in direct review proceedings. Moreover, in adopting statutory provisions precluding enforcement review Congress has not distinguished between these process-related objections and other types of objections to rules.

In Recommendation 76–4, the Conference criticized provisions precluding enforcement review in the Clean Air Act and the Federal Water Pollution Control Act. In view of the increasing reliance on direct review and the proliferation of issues concerning the adequacy of the rulemaking process rather than the agency's authority to promulgate a particular rule, however, the Conference now believes that limitations on judicial review of rules in enforcement proceedings may sometimes be appropriate. The purpose of this recommendation is twofold: to identify factors that Congress should consider in deciding whether to preclude enforcement judicial review, and to distinguish between types of challenges to rules that should ordinarily be covered by any preclusion provisions Congress decides to adopt and types of issues that should ordinarily remain available in enforcement proceedings even where preclusion provisions have been adopted.

Sound principles of administrative law favor prompt and dispositive resolution of disputed issues arising from an administrative rulemaking proceeding. Direct review in the court of appeals is more likely to afford such a resolution than later enforcement review in one or more district courts.[2] The uncertainty caused by the potential for conflicting court decisions and by the possibility that a rule may be overturned several years after its promulgation can be extremely disruptive of the regulatory scheme. In addition, reopening a rulemaking proceeding to correct any defects will become increasingly difficult as the original record grows stale over time and the situation of the interested parties changes.

On the other hand, those affected by a rule should have a full and fair opportunity to challenge the rule on all available grounds. These interests must be balanced in determining when limitations on enforcement review of rules are appropriate. The balance will tip in favor of limitations on enforcement review when the impact of foreclosing review on those affected by a rule is the least and when the costs of regulatory uncertainty or of declaring a rule invalid after several years are the greatest. Thus one factor favoring limitations on enforcement review is the likelihood that the groups affected by rules promulgated under a particular statute will be well represented in the agency rulemaking proceeding because, for example, those groups are well defined and/or well organized. Widespread participation in the rulemaking proceeding reduces the probability that any significant issue concerning the rule, particularly one pertaining to the rulemaking process itself, will be overlooked on direct review.

The likelihood that a rulemaking proceeding will involve complex procedures or intensive factual exploration also militates in favor of limits on enforcement review. The more elaborate and formal the administrative rulemaking proceeding (such as those required by hybrid rulemaking statutes),[3] the more likely it is that the rule will be subject to challenge on the basis of a relatively narrow issue involving the procedures used or the record support for some aspect of the rule. As time passes, reopening such a complex proceeding after a court reversal will be increasingly burdensome. Encouraging the dispositive resolution of challenges to a rule on direct review (perhaps while effectiveness of the rule has been stayed) is also advisable when the costs of regulatory uncertainty are particularly high. Sometimes compliance with a rule entails substantial expense that will not be fully recoverable if the rule is later overturned. Similarly, when Congress determines that there is a need to achieve important regulatory goals promptly nationwide, or when it is particularly important that rules apply industry-wide in order to avoid unfair competitive advantage to noncomplying businesses, repeated litigation over the validity of the rules in various district courts should be avoided if possible.

Even when Congress decides that limits on enforcement review are warranted, it should not foreclose all challenges to rules at the enforcement stage. Some grounds for review can be precluded with little unfairness to parties who may be unaware of the original rulemaking proceeding or are otherwise unable to seek direct review, while others raise fundamental questions about the substance of the rule or its application in circumstances that may have been unforeseen at the time of promulgation. Challenges based on asserted errors in the administrative process are those most suitable for preclusion. When objections on procedural grounds are raised early,

---

review procedure or by the district court in the exercise of its power under the Administrative Procedure Act to review agency action not otherwise reviewable. See ACUS Recommendations 74–4 (Preenforcement Judicial Review of Rules of General Applicability) and 75–3 (The Choice of Forum for Judicial Review of Administrative Action).

[2] The recommendation is based on the assumption that, where Congress has provided by statute for direct review of rules, that review will ordinarily lie in the court of appeals rather than in the district court. See ACUS Recommendation 75–3.

[3] See, e.g., ACUS Recommendations 79–1 (Hybrid Rulemaking Procedures of the Federal Trade Commission) and 80–1 (Trade Regulation Rulemaking Under the Magnuson-Moss Warranty-Federal Trade Commission Improvement Act).

errors may be remedied promptly and the rulemaking process recommenced with a minimum of disruption to the interests of those affected by the rule. And objections based on asserted inadequacy of the administrative record may lose their relevance as that record itself becomes dated. These objections, moreover, do not ordinarily turn on the situation of a particular individual or entity or on a particular interpretation of the rule and can be raised as well by one party as by another.

On the other hand, considerations of fairness and judicial economy may argue for retaining a right to raise in enforcement proceedings those objections based on asserted lack of statutory authority or the inapplicability or unreasonableness of the rule as applied to the facts of the case. Moreover, there may be constitutional inhibitions against precluding or restricting at any time challenges based on the asserted unconstitutionality of a rule either on its face or as applied.

The Conference recognizes that the line between issues of process and those of statutory authority may not always be a bright one. For example, the question of whether there is statutory authority to apply a rule to a particular situation may tend to converge with the issue of the adequacy of record support for the rule. However, if the distinctions suggested below are made, statutory provisions will afford the courts adequate guidance in most situations. When ambiguity nonetheless results, the well established presumption of reviewability will continue to apply.

Recommendation

1. In drafting a statute that provides for adequate pre-enforcement judicial review of rules, Congress should consider whether to limit the availability of review at the enforcement stage. In deciding whether to limit the availability of enforcement review in a particular statute, Congress should consider the following factors as favoring such a limitation:

(a) The likelihood that the rulemaking proceeding will attract widespread participation;

(b) The likelihood that the proceeding will involve complex procedures or intensive exploration of factual issues;

(c) The likelihood that those affected by the rule will incur substantial and immediate costs in order to comply with it;

(d) The need for prompt compliance with the rule on a national or industry-wide basis.

2. When Congress decides to limit the availability of judicial review of rules at the enforcement stage, it should ordinarily preclude review only of issues relating to procedures employed in the rulemaking or the adequacy of factual support for the rule in the administrative record. Judicial review of issues relating to the constitutional basis for the rule or the application of the rule to a particular respondent or defendant should be permitted when these issues are raised in subsequent suits or as defenses to subsequent enforcement actions (subject to the principles of collateral estoppel and stare decisis). Judicial review of issues relating to the statutory authority for the rule should be precluded at the enforcement stage only where Congress has concluded that there is a compelling need to achieve prompt compliance with the rule on a national or industry-wide basis.

3. When Congress limits the availability of judicial review of rules at the enforcement stage as described in paragraph 2, it should provide that, in an exceptional case when foreclosure of issues will work a severe hardship or otherwise produce a manifestly unjust outcome, a court may either dismiss or stay the proceedings and refer the rule to the affected agency for its reconsideration.

4. Paragraph D of Recommendation No. 76–4, 1 CFR 305.76–4, Judicial Review Under the Clean Air Act and Federal Water Pollution Control Act, is hereby superseded to the extent that it is inconsistent with this recommendation.

PART 310—MISCELLANEOUS STATEMENTS

6. The table of contents of Part 310 of Title 1, CFR, is amended to add the following new section:

Sec.
310.8 Statement of the Administrative Conference on Discipline of Attorneys Practicing Before Federal Agencies.

7. Section 310.8 is added to Part 310 to read as follows:

§ 310.8 Statement of the Administrative Conference on Discipline of Attorneys Practicing Before Federal Agencies.

Because of the controversy regarding actions by the Securities and Exchange Commission, through administrative rather than court proceedings, to discipline attorneys whose services were used in transactions that the Commission believes violate the securities laws, the Administrative Conference undertook a study of procedures and concerns of federal departments and agencies in disciplining attorneys practicing before them. The Conference concludes that any current problems arising from the discipline of attorneys by federal agencies are not of such magnitude or so widespread as to require legislative action or the adoption of uniform federal standards.

Dated: December 27, 1982.

Richard K. Berg,

General Counsel.

[FR Doc. 82-35548 Filed 12-29-82; 8:45 am]

BILLING CODE 6110-01-M

FEDERAL LABOR RELATIONS AUTHORITY AND GENERAL COUNSEL OF THE FEDERAL LABOR RELATIONS AUTHORITY

5 CFR Part 2430

Equal Access to Justice Act; Implementation

AGENCY: Federal Labor Relations Authority and General Counsel of the Federal Labor Relations Authority.

ACTION: Interim rules and regulations; extension of expiration date.

SUMMARY: The interim rules and regulations of the Federal Labor Relations Authority and General Counsel of the Federal Labor Relations Authority governing awards of attorney fees and other expenses (46 FR 48623 (1981)) (to be codified as 5 CFR Part 2430) are continued in effect pending publication in the **Federal Register** of final rules and regulations.

EFFECTIVE DATE: July 15, 1982.

FOR FURTHER INFORMATION CONTACT: William A. Michie, Labor Relations Specialist, Office of the Chief Counsel, Federal Labor Relations Authority, 500 C Street, SW., Room 201, Washington, D.C. 20424, (202) 382–0891.

SUPPLEMENTARY INFORMATION: The summary comments that accompanied the interim rules and regulations of Part 2430, Chapter XIV of Title 5 of the Code of Federal Regulations as amended in the **Federal Register** on Tuesday, March 16, 1982 (47 FR 11243), stated the interim rules and regulations would expire no later than July 15, 1982. These interim rules and regulations are amended to continue in effect until the publication in the **Federal Register** of final rules and regulations.

List of Subjects in 5 CFR Part 2429

Administrative practice and procedure.

Dated: December 28, 1982.

For the Authority:

James J. Shepard,

Executive Director.

For the General Counsel:

S. Jesse Reuben,

Acting General Counsel.

[FR Doc. 82-35587 Filed 12-29-82; 9:18 am]

BILLING CODE 6727-01-M

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 225

Summer Food Service Program For Children

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: The Department is amending the Summer Food Service Program (SFSP) regulations by adding the required notice concerning collection of social security account numbers on applications for free and reduced price meal benefits. This change is being made in order to clarify the notification requirements. Several minor changes have been made in response to public comment. The current regulations for the Summer Food Service Program remain unchanged in all other respects.

EFFECTIVE DATE: This final rule is effective January 1, 1983.

ADDRESS: Copies of all written comments are available for public review at the office of the Child Care and Summer Programs Division, Food and Nutrition Service, in Room 416, 3101 Park Center Drive, Alexandria, Virginia 22302, during regular business hours (8:30 a.m. to 5:00 p.m.) Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. Jordan Benderly or Ms. Beverly Walstrom at the address listed above, or call (703) 756–3888.

SUPPLEMENTARY INFORMATION:

Classification

This action has been reviewed under Executive Order 12291 and has been classified *not major* because it will not have an annual effect on the economy of $100 million, will not cause a major increase in cost or prices for Program participants, individual industries, Federal agencies, State or local government agencies or geographic regions, and will not have a significant economic impact on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or foreign markets.

This final rule has also been reviewed with regard to the requirements of Pub. L. 96–354, the Regulatory Flexibility Act. Pursuant to the review, Samuel J. Cornelius, Administrator of the Food and Nutrition Service, has certified that this rule does not have a significant economic impact on a substantial number of small entities.

In accordance with the Paperwork Reduction Act of 1980, (44 U.S.C. 3507), the reporting and recordkeeping requirements that are included in this rule will be submitted for approval to the Office of Management and Budget (OMB). They are not effective until OMB approval has been obtained.

Background

The Summer Food Service Program (SFSP) is authorized by Section 13 of the National School Lunch Act. Comprehensive regulations for the SFSP were last published on February 16, 1982 (47 FR 6790).

On November 5, 1982, (47 FR 50268), a proposed amendment to the SFSP regulations was published. Interested parties were given 30 days in which to submit their comments on the amendment.

At the close of the comment period, a total of thirty (30) comments were received on the proposal from Food and Nutrition Service (FNS) Regional Offices, State administering agencies, sponsors, advocacy groups and private citizens. All comments were studied and summarized so that they could be systematically considered during the development of this final rule.

Section 13(g) of the National School Lunch Act requires the Secretary of Agriculture to publish regulations necessary to implement the SFSP in proposed form by November 1 and final form by January 1. On November 5, 1982, (47 FR 50268) the Department proposed not to alter the regulations published on February 16, 1982, (47 FR 6790), with one exception. The one proposed change added to the regulations the requirement that the social security account number disclosure notice be placed on applications for free and reduced price meal benefits distributed by camps and other programs which document site eligibility through collection of family size and income information.

Section 803 of Pub. L. 97–35 requires that parents or guardians who apply for free and reduced price meals must disclose the social security numbers of all adult household members as a condition of eligibility. The Department proposed to amend § 225.21(d) to include a requirement that the application form contain a notice which informs people of the authority under which the social security numbers are collected, whether disclosure of the numbers is mandatory, and what uses will be made of the numbers. The notice is similar to that used in the SFSP last summer but is more detailed. It was the Department's intent that the proposed change also serve to conform the SFSP notice with the notice required in Part 245 of the regulations governing the delivery of free and reduced price meal benefits in the National School Lunch Program (NSLP).

The Department determined that no other changes were necessary for successful implementation of the 1983 SFSP. Therefore, in all other respects, it was proposed that the final SFSP regulations, published on February 16, 1982, (47 FR 6790), remain unchanged for the 1983 SFSP.

Notification Statement

Five (5) commenters supported the addition, in the regulations, of the language required on the application regarding the disclosure of social security numbers.

One commenter requested clarification regarding the slight difference in the language of the SFSP proposed notification statement from the statement required in the National School Lunch Program (NSLP). The Department regrets any confusion that this discrepancy may have caused, and has revised the statement included in this rule to reflect the current NSLP statement.

Collection of Social Security Numbers

Fourteen (14) commenters suggested that the requirement to collect the social security numbers of all adult household members be deleted from the SFSP regulation. The public is reminded that the proposed rule did not solicit comment on the requirement to collect social security numbers as a condition of eligibility because this requirement is imposed by Section 803 of Pub. L. 97–35, the Omnibus Budget Reconciliation Act of 1981. Moreover, this legislative requirement was included in the proposed and final SFSP regulations, published on December 11, 1981, (46 FR 60592) and February 16, 1982, (47 FR 6790), respectively, and was implemented during the 1982 SFSP.

One commenter pointed out that the proposed rule made no allowance for adult household members who do not possess social security numbers to indicate this on the application for Program meals. In order to address this concern, the final rule has been amended by including a statement that if an adult household member does not possess a social security number, the application must indicate that such is the case.

Finally, in response to inquiries, the Department wishes to point out that eligibility for free or reduced-price meals in the SFSP is based on the income and family size guidelines for free and

reduced-price meals established for the National School Lunch Program.

List of Subjects in 7 CFR Part 225

Food assistance program, Grant programs-health, Infants and children, Reporting requirements.

Accordingly, Part 225 is to be amended as follows:

PART 225—SUMMER FOOD SERVICE PROGRAM

Section 225.21 is amended as follows: by revising the last sentence of current § 225.21(d) and by adding paragraphs (d)(1) and (2) to read as follows:

§ 225.21 Free meal policy.

* * * * *

(d) * * * The application shall include the social security numbers of all adult members of the household or an indication that an adult household member does not possess one.

(1) The application shall also contain the following statement, "Sections 9 and 13 of the National School Lunch Act require that in order for your child to be eligible for Program meals, you must provide the social security numbers of all adult members of your household. Provision of these social security numbers is not mandatory, but failure to provide the numbers will result in a denial of the application for Program meals. This notice must be brought to the attention of all household members whose social security numbers are disclosed. The social security numbers may be used to identify household members in carrying out efforts to verify the correctness of information stated on the application. The verification efforts may be carried out through Program reviews, audits, and investigations, and may include contacting employers to determine income, contacting the State employment security office to determine the amount of benefits received and checking the documentation produced by household members to prove the amount of income received. These efforts may result in loss of benefits, administrative claims, or legal action if incorrect information is reported." State agencies and sponsors shall ensure that the notice complies with Section 7 of Pub. L. 93–579 (Privacy Act of 1974). If a State or local agency plans to use the social security numbers in a manner not described by this notice, the notice shall be altered to include a description of these uses; and (2) the signature of the parent or guardian who has completed the application.

(Sec. 803, Pub. L. 97–35, 95 Stat. 521–535 (42 U.S.C. 1758))

Dated: December 27, 1982.

Robert E. Leard,

Acting Administrator, Food and Nutrition Service.

[FR Doc. 82–35489 Filed 12–29–82; 8:45 am]

BILLING CODE 3410–30–M

Agricultural Marketing Service

7 CFR Part 907

[Navel Orange Reg. 558; Navel Orange Reg. 557, Amdt. 1]

Navel Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period December 31, 1982–January 6, 1983, and increases the quantity of such oranges that may be so shipped during the period December 24–30, 1982. Such action is needed to provide for orderly marketing of fresh navel oranges for the periods specified due to the marketing situation confronting the orange industry.

DATES: This regulation becomes effective December 31, 1982, and the amendment is effective for the period December 24–30, 1982.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, 202–447–5975.

SUPPLEMENTARY INFORMATION:

Findings.

This rule has been reviewed under USDA procedures and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This action is designed to promote orderly marketing of the California-Arizona navel orange crop for the benefit of producers and will not substantially affect costs for the directly regulated handlers.

This regulation and amendment are issued under the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendation and information submitted by the Navel Orange Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

This action is consistent with the marketing policy for 1982–83. The marketing policy was recommended by the committee following discussion at a public meeting on September 21, 1982. The committee met again publicly on December 28, 1982 at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of navel oranges deemed advisable to be handled during the specified weeks. The committee reports the demand for navel oranges is good.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of navel oranges. It is necessary to effectuate the declared purposes of the Act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 907

Marketing agreements and orders, California, Arizona, Oranges (Navel).

PART 907—[AMENDED]

1. Section 907.858 is added as follows:

§ 907.858 Navel Orange Regulation 558.

The quantities of navel oranges grown in Arizona and California which may be handled during the period December 31, 1982, through January 6, 1983, are established as follows:

(1) District 1: 1,000,000 cartons;

(2) District 2: Unlimited cartons;

(3) District 3: Unlimited cartons;

(4) District 4: Unlimited cartons.

2. Section 907.857 Navel Orange Regulation 557 (47 FR 57253), is hereby amended to read:

§ 907.857 Navel Orange Regulation 557.

* * * * *

(1) District 1: 900,000 cartons;

(2) District 2: Unlimited cartons;

(3) District 3: Unlimited cartons;
(4) District 4: Unlimited cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: December 29, 1982

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 82–35591 Filed 12–29–82; 11:44 am]

BILLING CODE 3410–02–M

---

7 CFR Part 910

[Lemon Reg. 392; Lemon Reg. 391, Amdt. 1]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of California-Arizona lemons that may be shipped to the fresh market during the period January 2–8, 1983 and increases the quantity of lemons that may be shipped during the period December 26, 1982—January 1, 1983. Such action is needed to provide for orderly marketing of fresh lemons for the periods specified due to the marketing situation confronting the lemon industry.

EFFECTIVE DATES: The regulation becomes effective January 2, 1983, and the amendment is effective for the period December 26, 1982—January 1, 1983.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291, and has been designated a "non-major" rule. William T. Manley Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This action is designed to promote orderly marketing of the California-Arizona lemon crop for the benefit of producers, and will not substantially affect costs for the directly regulated handlers.

This final rule is issued under Marketing Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1981–82. The marketing policy was recommended by the committee following discussion at a public meeting on July 6, 1982. The committee met again publicly on December 28, 1982, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified weeks. The committee reports the demand for lemons is good.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of lemons. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective times.

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

PART 910—[AMENDED]

1. Section 910.692 is added as follows:

§ 910.692 Lemon Regulation 392.

The quantity of lemons grown in California and Arizona which may be handled during the period January 2, 1983, through January 8, 1983, is established at 230,000 cartons.

2. Section 910.691 Lemons Regulation 391 (47 F.R. 57443) is revised to read as follows:

§ 910.691 Lemon Regulation 391.

The quantity of lemons grown in California and Arizona which may be handled during the period December 26, 1982, through January 1, 1983, is established at 250,000 cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: December 29, 1982

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 82–35592 Filed 12–29–82; 11:44 am]

BILLING CODE 3410–02–M

---

7 CFR Part 966

Tomatoes Grown in Florida; Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule extends through June 11, 1983, and from October 10 through June 15 each marketing season thereafter, the grade, size, pack, container, marking and inspection requirements effective from October 13 through December 31, 1982, for tomatoes grown in certain counties in Florida. The regulation will promote orderly marketing of such tomatoes and keep less desirable sizes and qualities from being shipped to consumers.

EFFECTIVE DATE: January 1, 1983.

FOR FURTHER INFORMATION CONTACT: Charles W. Porter, Chief, Vegetable Branch, F&V, AMS, USDA, Washington, D.C. 20250, (202) 447–2615. The final impact analysis relating to this rule is available on request from Mr. Porter.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

Information collection requirements contained in this regulation (7 CFR Part 966) have been approved by the Office of Management and Budget under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB #0581–0073.

This action has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "nonmajor" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. It is designed to promote orderly marketing of the Florida tomato crop for the benefit of producers and consumers, and will not substantially affect costs for the directly regulated handlers.

Marketing Agreement No. 125 and Order No. 966, both as amended (7 CFR Part 966) regulate the handling of tomatoes grown in designated counties of Florida. The program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The Florida Tomato Committee, established under the order,

is responsible for its local administration.

This regulation is based upon unanimous recommendations made by the committee at its public meeting at Marco Island, Florida, on September 17, 1982.

The regulation contains requirements identical to those in the interim regulation in effect during the period October 13–December 31, 1982. The grade and size requirements are necessary to prevent tomatoes of lower quality and undesirable size from being distributed in fresh market channels. Such tomatoes are usually of negligible economic value to producers. This will provide consumers with tomatoes of good quality and size throughout the season consistent with the overall quality of the crop. The requirements, including those for containers, container net weights, and size classifications, are intended to standardize shipments in the interest of orderly marketing and to improve returns to growers.

The requirements in this rule are the same as those in past seasons with the exception of those pertaining to size, pack, and containers. Tomatoes must meet a minimum size requirement of 2$\frac{6}{32}$ inches in diameter, compared with 2$\frac{5}{32}$ inches in past seasons. The committee has determined that the lower requirement permits tomatoes of too small a size to enter fresh market channels. Demand is weak for these smaller sizes, and prices for all tomatoes are adversely affected. The increase in the minimum size standard will not have a substantial effect on the volume of tomatoes shipped to fresh market.

The pack specifications reflect the increase in the minimum size requirement. The adjustment also will result in a more even distribution of tomato shipments among the established size categories.

The trend over the years has been a shift to the use of smaller containers, as evidenced by last year's replacement of the 30-pound container with one of 25 pounds. This year, the committee has recommended the elimination of the 40-pound container. This change will have no affect on tomato handlers, however, since the 40-pound container is no longer in use.

Exceptions are provided to certain of these requirements to recognize special situations in which such requirements would be inappropriate or unreasonable. Shipments are allowed to certain special purpose outlets without regard to minimum grade, size, container or inspection requirements provided that safeguards are used to prevent such tomatoes from reaching unauthorized outlets. Tomatoes for canning are exempt under the legislative authority for this part. Since no purpose would be served by regulating tomatoes used for relief, experimental or charity purposes such shipments are also exempt. Because export requirements differ materially, on occasion, from domestic market requirements such shipments are exempt.

The following types of tomatoes are exempt from these regulations: elongated types commonly referred to as pear shaped or paste tomatoes, cerasiform type tomatoes commonly referred to as cherry tomatoes, hydroponic tomatoes and greenhouse tomatoes. Such types are generally of good quality, readily identifiable either by their distinctive shapes or container markings and usually comprise a very small part of the total crop. Only tomatoes shipped outside the regulated area are regulated because of an increase in the U-pick type of harvest in Florida production areas close to urban areas and resulting difficulty in obtaining compliance with regulations. The minimum quantity exemption will permit persons to handle up to 60 pounds of tomatoes per day without regard to the requirements of this part. This will reduce the problem of enforcement on small shipments of essentially noncommercial nature. The requirements concerning special pack shipments are intended to help handlers in the production area compete on an equal basis with those outside the area by not requiring reinspection of previously inspected and certified tomatoes when repacked in consumer size packages.

Occasionally individual fruit of several varieties of tomatoes grown in Florida may be elongated in shape. This characteristic may be exaggerated by adverse growing conditions. It is anticipated that handlers packing these varieties usually will be able to comply with all provisions of the regulation. However, if situations arise in which the incidence of tomatoes not of the normal globular shape makes sizing in accordance with the present pack specifications infeasible, the affected varieties may be exempted from the size requirements of the regulation.

The requirements contained in this handling regulation, effective January 1, 1983, will continue in effect from marketing season to marketing season indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the committee or other information available to the Secretary. In the past, regulations issued under the marketing order were made efffective for a single marketing season. The change to issue a regulation which will continue in effect from marketing season to marketing season reflects the fact that regulations change infrequently from season to season and it is believed unnecessary to issue them for only a single season. In addition, this action could result in a reduction in operational costs to the committee and the government. Although the regulation will be effective for an indefinite period, the committee will continue to meet prior to or during each season to consider recommendations for modification, suspension, or termination of the regulation. Prior to making any such recommendations, the committee will submit to the Secretary a marketing policy for the season in accordance with § 966.50 of the order, including an analysis of supply and demand factors having a bearing on the marketing of the crop. Committee meetings are open to the public and interested persons may express their views at these meetings or may file comments with the Fruit and Vegetable Division before September 1 each year. The Department will evaluate committee recommendations and information submitted by the committee, comments filed, and other available information, and determine whether modification, suspension, or termination of the regulation on shipments of Florida tomatoes would tend to effectuate the declared policy of the act.

Findings

After consideration of all relevant matter presented, including the proposal set forth in the notice, it is hereby found that the following handling regulation will tend to effectuate the declared policy of the act by setting the grade, size, pack, container and inspection requirements which the Secretary has found should be maintained for orderly marketing.

It is hereby further found that good cause exists for not postponing the effective date of this section until 30 days after its publication in the **Federal Register** (5 U.S.C. 553) in that (1) shipments of tomatoes grown in the production area have begun and the regulation should become effective on the effective date herein to maximize benefits to consumers, (2) notice was given in the November 12, 1982, **Federal Register** (47 FR 51149) allowing interested persons until December 13, 1982, to file written comments and none was received and (3) compliance with this regulation, which is similar to regulations issued during past seasons and the same as that currently in effect, requires no special preparation on the part of handlers subject thereto which

cannot be completed by the effective date herein.

List of Subjects in 7 CFR Part 966

Marketing agreements and orders, Tomatoes, Florida.

PART 966—[AMENDED]

Section 966.322 (47 FR 46488, October 19, 1982) is removed and a new § 966.323 is added as follows:

§ 966.323 Handling regulation.

During the period January 1, 1983, through June 11, 1983, this season and during the period October 10 through June 15 each season thereafter, no person shall handle any lot of tomatoes for shipment outside the regulated area unless they meet the requirements of paragraph (a) or are exempted by paragraphs (b) or (d).

(a) *Grade, size, container and inspection requirements.*

(1) *Grade.* Tomatoes shall be graded and meet the requirements specified for U.S. No. 1, U.S. Combination, U.S. No. 2, or U.S. No. 3, of the U.S. Standards for Fresh Tomatoes. When not more than 15 percent of tomatoes in any lot fail to meet the requirements of U.S. No. 1 grade and not more than one-third of this 15 percent (or 5 percent) are comprised of defects causing very serious damage including not more than one percent of tomatoes which are soft or affected by decay, such tomatoes may be shipped and designated as at least 85 percent U.S. No. 1 grade.

(2) *Size.* (i) Tomatoes shall be at least 2$\frac{6}{32}$ inches in diameter and be sized in one or more of the following ranges of diameters. Measurement of diameters shall be in accordance with the methods prescribed in Section 51.1859 of the U.S. Standards for Fresh Tomatoes.

Size designation	Inches	
	Minimum diameter	Maximum diameter
7 x 7	2$\frac{6}{32}$	2$\frac{19}{32}$
6 x 7	2$\frac{6}{32}$	2$\frac{19}{32}$
6 x 6	2$\frac{19}{32}$	2$\frac{29}{32}$
5 x 6 and larger	2$\frac{19}{32}$	

(ii) Tomatoes of designated sizes may not be commingled unless they are over 2$\frac{19}{32}$ inches in diameter and each container shall be marked to indicate the designated size.

(iii) Only numerical terms may be used to indicate the above listed size designations on containers of tomatoes, except when tomatoes are commingled the containers can be marked 6 x 6 and Lgr. or 5 x 6 and Lgr.

(iv) To allow for variations incident to proper sizing, not more than a total of ten (10) percent, by count, of the tomatoes in any lot may be smaller than the specified minimum diameter or larger than the maximum diameter.

(3) *Containers.* (i) Tomatoes shall be packed in containers of 20 or 25 pounds designated net weights and comply with the requirements of § 51.1863 of the U.S. tomato standards.

(ii) Each container shall be marked to indicate the designated net weight and must show the name and address of the shipper in letters at least one-fourth (¼) inch high.

(iii) If the container in which the tomatoes are packed is not clean and bright in appearance without marks, stains, or other evidence of previous use, the lid of such container shall be marked in a principal display area at least 2½ inches high and 4½ inches long with the words "USED BOX" in letters not less than 1¼ inches high and the name of the shipper and point of origin in letters not less than ⅜ inch high.

(4) *Inspection.* Tomatoes shall be inspected and certified pursuant to the provisions of § 966.60. Each handler who applies for inspection shall register with the committee pursuant to § 966.113. Handlers shall pay assessments as provided in § 966.42. Evidence of inspection must accompany truck shipments.

(b) *Special purpose shipments.* The requirements of paragraph (a) of this section shall not be applicable to shipments of tomatoes for canning, experimental purposes, relief, charity or export if the handler thereof complies with the safeguard requirements of paragraph (c) of this section. Shipments for canning are also exempt from the assessment requirements of this part.

(c) *Safeguards.* Each handler making shipments of tomatoes for canning, experimental purposes, relief, charity or export in accordance with paragraph (b) of this section shall:

(1) Apply to the committee and obtain a Certificate of privilege to make such shipments.

(2) Prepare on forms furnished by the committee a report in quadruplicate on such shipments authorized in paragraph (b) of this section.

(3) Bill or consign each shipment directly to the designated applicable receiver.

(4) Forward one copy of such report to the committee office and two copies to the receiver for signing and returning one copy to the committee office. Failure of the handler or receiver to report such shipments by signing and returning the applicable report to the committee office within ten days after shipment may be cause for cancellation of such handler's certificate and/or receiver's eligibility to receive further shipments pursuant to such certificate. Upon cancellation of any such certificate, the handler may appeal to the committee for reconsideration.

(d) *Exemption.* (1) *For types.* The following types of tomatoes are exempt from these regulations: Elongated types commonly referred to as pear shaped or paste tomatoes and including but not limited to San Marzano, Red Top and Roma varieties; cerasiform type tomatoes commonly referred to as cherry tomatoes; hydroponic tomatoes; and greenhouse tomatoes.

(2) *For minimum quantity.* For purposes of this regulation each person subject thereto may handle up to but not to exceed 60 pounds of tomatoes per day without regard to the requirements of this regulation but this exemption shall not apply to any shipment or any portion thereof of over 60 pounds of tomatoes.

(3) *For special packed tomatoes.* Tomatoes which met the inspection requirements of paragraph (a)(4) which are resorted, regraded and repacked by a handler who has been designated as a "Certified Tomato Repacker" by the committee are exempt from (i) the tomato grade classifications of paragraph (a)(1), (ii) the size classifications of paragraph (a)(2) except that the tomatoes shall be at least 2$\frac{6}{32}$ inches in diameter, and (iii) the container weight requirements of paragraph (a)(3).

(4) *For varieties.* Upon recommendation of the committee, varieties of tomatoes that are elongated or otherwise misshapen due to adverse growing conditions may be exempted by the Secretary from the provisions of paragraph (a)(2).

(e) *Definition.* "Hydroponic tomatoes" means tomatoes grown in solution without soil; "greenhouse tomatoes" means tomatoes grown indoors. A "Certified Tomato Repacker" is a repacker of tomatoes in the regulated area who has the facilities for handling, regrading, resorting and repacking tomatoes into consumer size packages and has been certified as such by the committee. "U.S. tomato standards" means the revised United States Standards for Fresh Tomatoes (7 CFR 51.1855–51.1877), effective December 1, 1973, as amended, or variations thereof specified in this section. Other terms in this section shall have the same meaning as when used in Marketing Agreement No. 125, as amended, and this part, and the U.S. tomato standards.

(f) *Applicability to imports.* Under Section 8e of the act and § 980.212 "Import regulations" (7 CFR 980.212)

tomatoes imported during the effective period of this section shall be at least U.S. No. 3 grade and at least 2⅝₂ inches in diameter. Not more than 10 percent, by count, in any lot may be smaller than the minimum specified diameter.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674).

Dated: December 23, 1982, to become effective January 1, 1983.

Charles R. Brader,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 82-35465 Filed 12-29-82; 8:45 am]

BILLING CODE 3410-02-M

---

7 CFR Part 1124

Milk in the Oregon-Washington Marketing Area, Order Suspending Certain Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rule.

SUMMARY: This action continues through April 1983 a previous suspension of certain provisions of the Oregon-Washington Federal milk order. The suspension removes the limit on the amount of milk not needed for fluid (bottling) use that may be moved directly from farms to nonpool manufacturing plants and still be priced under the order. The continuation of the earlier suspension for October through December 1982 was requested by a cooperative association associated with the market to prevent uneconomic movements of milk. Based on available information concerning the market's current supply conditions, continuation of the suspension is necessary to accommodate the efficient and orderly disposition of reserve milk supplies that are available to the market.

EFFECTIVE DATE: December 30, 1982.

FOR FURTHER INFORMATION CONTACT: Maurice M. Martin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-7183.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding:

Notice of Proposed Suspension: Issued December 6, 1982; published December 10, 1982 (47 FR 55490).

This action has been reviewed under USDA procedures established to implement Executive Order 12291 and has been classified as a "non-major" action.

It has been determined that the need for suspending certain provisions of the order on an emergency basis precludes following certain review procedures set forth in Executive Order 12291. Such procedures would require that this document be submitted for review to the Office of Management and Budget at least 10 days prior to its publication in the **Federal Register**. However, this would not permit the issuance of the suspension in time to include January 1983 in the suspension period. The initial request for this action was received on November 29, 1982. A notice of proposed suspension was issued on December 6, 1982, inviting interested parties to comment on the proposed action by December 17, 1982.

William T. Manley, Deputy Administrator, Marketing Program Operations, has determined that this action would not have a significant economic impact on a substantial number of small entities. This action lessens the regulatory impact of the order on certain milk handlers and would tend to ensure that dairy farmers will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and of the order regulating the handling of milk in the Oregon-Washington marketing area.

Notice of proposed rulemaking was published in the **Federal Register** (47 FR 55490) concerning a proposed suspension of certain provisions of the order. Interested persons were afforded opportunity to file written data, views, and arguments thereon. No opposing views were received.

After considering all relevant material, including the proposal in the notice, and other available information, it is hereby found and determined that for the months of January 1983 through April 1983 the following provisions of the order do not tend to effectuate the declared policy of the Act:

In this third sentence of paragraphs (a) and (b) of § 1124.11, the word "not".

Statement of Consideration

This action continues through April 1983 a similar suspension for October-December 1982 (47 FR 47533). The suspension removes the limit on the amount of producer milk that a cooperative association or other handlers may divert from pool plants to nonpool plants. The order now provides that during any month a cooperative association may divert a total quantity of producer milk not in excess of the total quantity received during the month from all member producers at pool plants. Similarly, the operator of a pool plant may divert a total quantity of producer milk not in excess of the total quantity received from producers (for which the operator of such plant is the handler during the month) at such pool plant.

A continuation of the suspension was requested by a cooperative association that represents a substantial number of producers on the market. The basis for the request is that the continuing increase in milk supplies relative to demand will require the cooperative to handle an increasing quantity of reserve milk supplies during the January–April 1983 period. The cooperative stated that this situation will be aggravated by the discontinuance of manufacturing, except on a seasonal basis, at its principal pool plant under the order. This means that excess milk normally going to a pool plant will have to be moved to nonpool manufacturing plants instead. The cooperative states that this change in milk movements will reduce the amount of milk that it may divert to nonpool plants since the order's allowable diversions are based upon the percentage of the cooperative's milk that is received at pool plants.

Consequently, the cooperative expects its reserve milk supplies during January–April 1983 to exceed the quantity of producer milk that may be diverted to nonpool manufacturing plants under the order's present diversion limitations. In the absence of this suspension, the cooperative believes that some of the milk of its member producers who have regularly supplied the fluid market would have to be moved uneconomically first to pool plants and then to nonpool manufacturing plants in order to still maintain producer status for such milk during the months of January through April 1983.

The cooperative association requested continuation of the current suspension until a more permanent regulatory solution to the supply-demand imbalance in the market could be formulated based on the record of a public hearing. In conjunction with this request, the cooperative petitioned the Department for a hearing to consider proposed amendments to the order that would accommodate present marketing conditions.

Based on available information concerning the market's supply conditions, a continuation of the suspension for the months of January 1983 through April 1983 is warranted, as it will accommodate the pooling and efficient handling of the proponent cooperative's reserve milk supplies pending a hearing at which proposals to amend the diversion provisions may be

considered. In the absence of continuing the suspension, costly and inefficient movements of producer milk would have to be made solely for the purpose of pooling the milk of dairy farmers who have been regularly associated with the market. Continuation of the suspension for the period of January through April 1983 will provide the necessary flexibility in the handling of the market's reserve milk supplies and thus prevent uneconomic movements of some milk through pool plants merely for the purpose of qualifying it for producer milk status under the order.

It is hereby found and determined that 30 days' notice of the effective date hereof is impractical, unnecessary, and contrary to the public interest in that:

(a) This suspension is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area in that the most efficient method of handling milk not needed for the fluid market is by direct movements from producers' farms to manufacturing outlets. This suspension allows for such economical movements of milk while the dairy farmers involved retain producer status.

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rulemaking was given interested parties and they were afforded opportunity to comment. No opposing views were received.

Therefore, good cause exists for making this order effective upon publication in the **Federal Register**.

List of Subjects in 7 CFR Part 1124

Milk marketing orders, Milk, Dairy products.

It is therefore ordered, That the aforesaid provisions in § 1124.11 (a) and (b) of the order are hereby suspended for January 1983 through April 1983.

(Secs. 1–19, 48 Stat. 31, as amended, 7 U.S.C. 601–674)

Effective Date: December 30, 1982.

Signed at Washington, D.C., on: December 23, 1982.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 82–35377 Filed 12–29–82; 8:45 am]

BILLING CODE 3410–02–M

Animal and Plant Health Inspection Service

9 CFR Part 166

[Docket No. 82–095]

State Status Regarding Enforcement of the Swine Health Protection Act

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: This document lists the States that have primary enforcement responsibility under the Act and the States that issue licenses under a cooperative agreement with the Animal and Plant Health Inspection Service (APHIS) but do not have primary enforcement responsibility under the Act. The Swine Health Protection Act (Pub. L. 96–468) provides that a State shall have primary enforcement responsibility for violations of laws and regulations relating to the treatment of garbage to be fed to swine and the feeding thereof during any period for which the Secretary of the U.S. Department of Agriculture determines that the State has and is enforcing laws and regulations which meet the minimum standards of the Act and regulations promulgated thereunder. The Secretary has determined which States should have such responsibility and this information appears in this docket, as do those States which have entered into a cooperative agreement with APHIS to issue licenses under the Act but which do not have primary enforcement responsibility under the Act.

DATES: Effective date January 1, 1983. Comments must be received on or before March 1, 1983.

ADDRESS: Written comments to Deputy Administrator, USDA, APHIS, VS, Federal Building, Room 728, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–5961.

All written submissions made pursuant to this interim rule will be made available for public inspection at the Federal Building, Room 728, Hyattsville, MD, during regular hours of business (8 a.m. to 4:30 p.m., Monday to Friday, except holidays) in a manner convenient to the public business (7 CFR 1.27(b)).

Comments submitted should bear a reference to the date and page number of this issue in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: L. W. Schnurrenberger, Chief Staff Veterinarian, Swine Diseases, Special Diseases Staff, Veterinary Services, APHIS, USDA, Federal Building, Room 820, Hyattsville, MD 20782, 301–436–8487.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This action has been reviewed in conformance with Executive Order 12291 and has been determined not to be a "major rule" as defined in Executive Order 12291. Based on information compiled by the Department, it has been determined that this action will have an annual effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and will not have a significant adverse effect on competition, employment or investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this rulemaking action, the Office of Management and Budget has waived their review process required by Executive Order 12291.

Dr. George P. Pierson, Acting Director, National Program Planning Staffs, VS, APHIS, USDA, has determined that an emergency situation exists which warrants publication without prior opportunity for a public comment period on this interim action. This amendment lists the States having primary enforcement responsibility under the Act and the States that issue licenses under cooperative agreements with the Animal and Plant Health Inspection Service, USDA, but do not have primary enforcement responsibility under the Act. This amendment, therefore, needs to be effective at the same time the remainder of 9 CFR Part 166, which covers all other aspects of the Swine Health Protection Act program, becomes effective on January 1, 1983. The remainder of Part 166 would be ineffective without this amendment.

Therefore, pursuant to the administrative procedures provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this emergency interim action is impracticable, unnecessary and contrary to the public interest, and good

cause is found for making this emergency interim action effective less than 30 days after publication of this document in the **Federal Register.** Comments have been solicited for 60 days after publication of this document, and this emergency action will be scheduled for review so that a final document discussing comments received and any amendments required can be published in the **Federal Register** as soon as possible.

Certification Under the Regulatory Flexibility Act

Dr. Harry C. Mussman, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This action merely lists the States which have primary enforcement responsibility under the Act and the States that issue licenses under cooperative agreements with the Animal and Plant Health Inspection Service, USDA, but do not have primary enforcement responsibility under the Act.

Background

The Swine Health Protection Act (Pub. L. 96–468), enacted on October 17, 1980, regulates the feeding of garbage to swine. The Act provides that a State shall have the primary enforcement responsibility for violations of laws and regulations relating to the treatment of garbage to be fed to swine and the feeding thereof during any period for which the Secretary determines that such State has adopted adequate laws and regulations regulating the treatment of garbage to be fed to swine and the feeding thereof which meet the minimum standards of the Act and the regulations promulgated thereunder, has adopted and is implementing effective enforcement procedures, and keeps such records and makes reports as the Secretary may require. The Act also authorizes the Secretary to enter into cooperative agreements with States to coordinate the administration of the Act and regulations with State laws and regulations relating to the feeding of garbage to swine in order to avoid duplication of functions, facilities, and personnel. Regulations implementing the Swine Health Protection Act, 9 CFR Part 166, were Published in the **Federal Register** as a final rule on November 3, 1982, (47 FR 49940–49948). Section 166.14(a) lists the States which prohibit the feeding of garbage to swine and § 166.14(b) lists the States which permit the feeding of treated garbage to swine. However, the adequacy of the State programs had not been determined for purposes of primary enforcement responsibility and it was not known which States would enter into a cooperative agreement with the Animal and Plant Health Inspection Service for administration and enforcement of the Act and regulations and State laws and regulations relating to the feeding of garbage to swine at the time these regulations were published. The Department has now evaluated the State programs and entered into cooperative agreements with certain States. Therefore, § 166.14(c) is amended to list the States having primary enforcement responsibility under the Act and § 166.14(d) is amended to list the States which issue licenses under cooperative agreements with the Animal and Plant Health Inspection Service, USDA, but do not have primary enforcement responsibility under the Act.

List of Subjects in 9 CFR Part 166

Animal diseases, Hogs, Garbage, African swine fever, Foot-and-mouth disease, Hog cholera, Swine vesicular disease, Vesicular exanthema of swine.

PART 166—SWINE HEALTH PROTECTION

Accordingly, Part 166, Title 9, Code of Federal Regulations, is amended by revising § 166.14(c) and (d) to read as follows:

§ 166.14 State status.

* * * * *

(c) The following States have primary enforcement responsibility under the Act: Alabama, Arizona, California, Colorado, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Mississippi, Missouri, Montana, Nebraska, Nevada, New Jersey, New York, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, Tennessee, Texas, Utah, Virginia, West Virginia, and Wisconsin.

(d) The following States issue licenses under cooperative agreements with the Animal and Plant Inspection Service, USDA, but do not have primary enforcement responsibility under the Act: Alaska, Arkansas, Minnesota, Washington, and Puerto Rico.

* * * * *

(Sec. 511, Pub. L. 96–592, 94 Stat. 3451 (7 U.S.C. 3802); Secs. 4, 5, 9, 12, Pub. L. 96–468, 94 Stat. 2229 (7 U.S.C. 3803, 3804, 3808, 3811); 45 FR 85696, 46 FR 7266).

Done at Washington, D.C., this 27th day of December, 1982.

K. R. Hook,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 82–35491 Filed 12–29–82; 8:45 am]

BILLING CODE 3410–34–M

FEDERAL RESERVE SYSTEM

12 CFR Part 204

[Docket No. R–0424]

Regulation D; Reserve Requirements of Depository Institutions; Transaction Accounts

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors adopts in final form an amendment to Regulation D—Reserve Requirements of Depository Institutions (12 CFR Part 204) to define as transaction accounts time deposits issued in connection with an agreement that permits the depositor to obtain credit by check or similar devices for the purpose of making payments or transfers to third persons or others. This rule was issued in temporary form, effective October 5, 1982, and was amended on November 16, 1982, to exempt from the definition of transaction accounts such time deposits issued before October 5, 1982, that will be renewed automatically on or before December 31, 1982. The final rule is substantially identical to the temporary rule, as amended; however, the Board has clarified that the rule does not regard as transaction accounts time deposits that are pledged to secure incidental overdrafts in a checking account. This action was taken to maintain the distinction between time deposits and accounts that can be used for making payments to third parties. This rule adopts in permanent form the rule published at 47 FR 55209.

EFFECTIVE DATE: December 30, 1982.

FOR FURTHER INFORMATION CONTACT: Gilbert T. Schwartz, Associate General Counsel (202/452–3625), or Paul S. Pilecki, Senior Attorney (202/452–3281), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: Effective October 5, 1982, the Board amended Regulation D—Reserve Requirements of Depository Institutions (12 CFR Part 204) to define as transaction accounts, time deposits issued in connection with an arrangement that permits the depositor

to obtain credit, directly or indirectly, through the drawing of a check, draft or similar device that can be used for the purpose of making payments or transfers to third persons or others (47 FR 44992). Under the rule, time deposits subject to such arrangements established prior to October 5, 1982, are not regarded as transaction accounts until the deposit is extended, or matures and renews. On November 16, 1982, the Board expanded the grandfather provisions by exempting such time deposits that will be renewed automatically by December 31, 1982 (47 FR 52692). The Board requested public comment on the temporary rule until December 3, 1982, as to whether any additional arrangements should be covered by this amendment, and whether any arrangements should be eliminated from the scope of the amendment.

Comments on the temporary rule were received from 15 depository institutions. The comments were generally negative, urging rescission of the rule or narrowing of its scope. Those arguing in favor of rescission stated that the rule added to the reserve requirement burden of depository institutions and placed them at a disadvantage *vis-a-vis* competitors that are not required to maintain reserve requirements. Respondents who viewed the rule as too broad commented that the rule should: (1) Allow up to three checks per month, (2) exempt credit lines that are granted prior to opening of a time deposit, or (3) apply to a time deposit only up to the amount of the credit line. Comments favoring the rule indicated that it was necessary because the covered arrangements are inconsistent with the orderly phaseout of interest rate ceilings.

The Board believes that the rule serves a valid purpose in that arrangements involving time deposits and related credit lines are effective substitutes for transaction accounts and provide the opportunity for avoidance of transaction account reserve requirements. As such, balances in these accounts should be distinguished from ordinary time deposits. The Board notes that the recent actions of the Depository Institutions Deregulation Committee authorizing Money Market Deposit Accounts (12 CFR 1204.122) and establishing new rules for the payment of interest on NOW accounts of $2,500 or more further lessen the attractiveness of such credit line arrangements. Hence, continuing to apply transaction account reserve requirements to such arrangements is not likely to be significantly burdensome to depository institutions. Accordingly, the Board has adopted the temporary rule, as amended, in final form.

In adopting the temporary rule, the Board noted that the rule did not affect the ability of a depositor to use a time deposit as collateral for a loan transaction that does not involve the use of a credit line on which checks or similar instruments may be drawn. The Board also notes that the rule does not regard as transaction accounts time deposits that are pledged as collateral as part of an arrangement to protect against *incidental* overdrafts. In this regard, the Board believes that time deposits that are pledged to cover overdrafts in a checking account that is normally operated with a balance in the account should not be covered as transaction accounts. This exception does not apply to time deposits that are pledged to cover overdrafts in accounts that have zero or fixed balances or that have balances such that an overdraft occurs on a regular basis when a check is written against the account.

The impact of this proposal on small entities has been considered in accordance with section 604 of the Regulatory Flexibility Act (Pub. L. 96–354; 5 U.S.C. 604). Section 411 of the Garn-St Germain Depository Institutions Act of 1982 (Pub. L. 97–320; 96 Stat. 1520) provides for an exemption from reserve requirements for the first $2.1 million in reservable liabilities at all depository institutions. The Board believes that its action will not add any reserve requirement burden to small depository institutions that have zero reserve requirements as a result of section 411 of the Garn-St Germain Act. In addition, no new recordkeeping or reporting requirements will be imposed as a result of this action.

List of Subjects in 12 CFR Part 204

Banks, Banking, Currency, Federal Reserve System, Penalties, Reporting requirements.

Pursuant to its authority under section 19(b) of the Federal Reserve Act (12 U.S.C. 461(b)), the Board amends Regulation D (12 CFR Part 204) by adopting in permanent form an amendment to paragraph (e)(1)(vii) of § 204.2, as it appears at 47 FR 55209 (December 8, 1982).

By order of the Board of Governors, December 22, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82–35352 Filed 12–29–82; 8:45 am]

BILLING CODE 6210–01–M

FEDERAL HOME LOAN BANK BOARD

12 CFR Parts 552, 561, and 572

[No. 82–793]

Net Worth Certificates; Regulatory Net Worth; Charter Amendments by Federal Institutions

December 8, 1982.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: The Federal Home Loan Bank Board has amended its regulations to implement the Net Worth Certificate Act, Title II, Pub. L. 97–320, 96 Stat. 1493, (October 15, 1982), which authorizes the Federal Savings and Loan Insurance Corporation ("FSLIC") to increase or maintain the capital of a qualified institution by making purchases of net worth certificates ("NWCs"). The amendments (1) set forth the particulars of the net worth certificate program; (2) provide for inclusion of NWCs as an item of regulatory net worth; (3) authorize Federal mutual institutions to issue NWCs to the FSLIC in exchange for promissory notes of the FSLIC; and (4) authorize Federal stock institutions to adopt charter amendments that permit the issuance of NWCs.

EFFECTIVE DATE: December 31, 1982.

FOR FURTHER INFORMATION CONTACT: With regard to the application procedures and policies of the FSLIC concerning purchases of net worth certificates, Edward Taubert, Deputy Associate Director for Policy (202–377–6484), or James Kristufek, Associate Director for Programs (202–377–6363), of the Office of Examinations and Supervision; and with regard to legal matters, Thomas J. Haggerty, Senior Attorney (202–377–6911), or Scott Taylor, Attorney (202–377–6439), of the Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION:

I. Background

Title II of the Garn-St Germain Depository Institutions Act of 1982, Pub. L. 97–320, 96 Stat. 1469, (October 15, 1982) ("DIA") adds a new Section 406(f)(5) to the National Housing Act ("NHA"), to be codified as 12 U.S.C. 1729(f)(5), which authorizes the Federal Savings and Loan Insurance Corporation ("FSLIC"), in its sole discretion and on such terms and conditions as it may prescribe, to increase or maintain the capital of a qualified institution by making periodic

purchases of net worth certificates ("NWCs") for such form of consideration as the FSLIC may determine. In order to implement this statutory authority and explain its intention regarding purchases by the FSLIC of NWCs, the Federal Home Loan Bank Board ("Board"), as operating head of the FSLIC, is adopting a new Part 572 of the Rules and Regulations for Insurance of Accounts (the "Insurance Regulations"). New Part 572 and the Board's general policy regarding FSLIC purchases of NWCs are designed to provide capital assistance in the manner contemplated by the DIA: (1) to a broad range of institutions which have suffered operating losses and therefore a deterioration of net worth, particularly as a result of their mortgage lending activities, (2) at a low cost to the FSLIC insurance fund, (3) with appropriate provisions to prevent abuses, and (4) in a manner which encourages institutions to improve their operating results and net-worth level as quickly as possible within the bounds of safe and sound management policies.

II. FSLIC Purchases of Net Worth Certificates

A. General

The FSLIC will consider the purchase of NWCs from "qualified institutions" which apply pursuant to the procedure set out in new section 572.3 of the Insurance Regulations. The procedure provides that NWCs attributable to operating losses for an applicable period will be purchased by the FSLIC only if an application has been filed with regard to that applicable period in a timely manner. Neither the DIA nor section 572.3 creates any right in an institution to require that the FSLIC purchase NWCs. The FSLIC retains sole discretion regarding whether or not to purchase NWCs from an institution, the amount of NWCs it may purchase, and any terms and conditions it may impose in connection with any purchase of NWCs. The Board anticipates that it will adopt the applicable forms required by section 572.3 within approximately one week. Thereafter, copies of the forms will be available from the Board and the Principal Supervisory Agents.

To ensure appropriate consultation with State supervisory authorities, as contemplated by the DIA, section 572.3 provides that an application by a state-chartered institution should be supplemented by a certification by the appropriate State authority regarding whether it objects to the FSLIC's purchase of NWCs from the institution.

As explained in the Board's statement of policy, set forth in new section 572.1 of the Insurance Regulations, the FSLIC intends to purchase NWCs from a qualified institution in amounts based on that institution's (1) operating losses for an applicable period, which is any semiannual fiscal year period of the institution ended subsequent to September 30, 1982, and prior to October 1, 1985, and (2) ratio of "equity capital" to total assets. The FSLIC will purchase NWCs in exchange for FSLIC Notes. In general, a "qualified institution," as defined in section 572.2 of the Insurance Regulations, is an institution which (1) has equity capital of 3 percent or less of its total assets, (2) has incurred operating losses for its most recent applicable period net of losses which are the result of speculation in futures or forward contracts, management action designed solely for the purpose of qualifying for FSLIC purchase of NWCs, or excessive operating expenses, (3) has investments in residential mortgage loans or securities backed by such mortgage loans aggregating not less than 20 percent of its total outstanding loans, and (4) will have equity capital after giving effect to the FSLIC's purchase of NWCs of a least one-half of one percent of its total assets. "Equity capital" for the purpose of determining a qualified institution and calculating the maximum FSLIC purchase of NWCs is essentially "regulatory net worth" as defined by section 561.13 of the Insurance Regulations, but is required to include to the maximum extent possible a calculation of "appraised equity capital", as defined in section 563.13(c) of the Insurance Regulations, which otherwise is a permissive item of regulatory net worth, and is also required to include any savings accounts pledged pursuant to an agreement with the FSLIC.

B. Restrictions and Limitations on Amount of NWCs To Be Purchased

Notwithstanding an institution's eligibility as described above, the FSLIC may exercise its judgment not to purchase NWCs from a qualified institution pursuant to Section 406(f)(5) of the NHA under any of the following circumstances.

(1) The FSLIC may refuse to purchase NWCs if it determines, in its sole judgment, that such purchase would be costlier to it than alternative transactions available to the FSLIC or the institution. Alternative available transactions would include a liquidation of the institution (including the paying of insured accounts), transactions permitted within the discretion of the FSLIC in accordance with section 406(f)(1) or (2) of the NHA, or mergers or supervisiory conversions available to the institution which would eliminate or significantly reduce the institution's need for capital assistance under the DIA authority. In making a determination of relative cost, the FSLIC of all projected purchases of NWCs and alternative available transactions.

(2) The FSLIC may refuse to purchase NWCs from a qualified institution if it determines in its sole judgment that, after giving effect to its proposed purchase of NWCs, the institution would be insolvent within six months from the proposed date of purchase. For this purpose, "insolvent" means zero or less equity capital, as defined.

(3) The FSLIC may refuse to purchase NWCs from an institution which has failed to satisfy the FSLIC as regards a significant supervisory problem. A supervisory problem will be deemed to be satisfactorily resolved if the institution is making adequate progress under a plan agreeable to the FSLIC for resolution of that problem.

(4) The FSLIC may refuse to purchase NWCs from an institution unless that institution adopts a business plan satisfactory to the FSLIC, which plan demonstrates a reasonable probability that the institution will be able to redeem the NWCs it issues to the FSLIC.

In addition, the FSLIC may reduce the maximum amount of NWCs which it may purchase, as discussed below, in the following manner.

(1) The amount of an institution's operating losses used to calculate the maximum amount of NWC purchases will be reduced by the amount of losses determined by the FSLIC to result from (i) mismanagement, (ii) speculation in futures or forward contracts, or (iii) management actions designed for the purpose of obtaining assistance of the FSLIC.

(2) Also, the maximum amount of NWC purchases calculated on the basis of actual operating losses will be reduced by an amount equivalent to 80 percent of the institution's operating expenses that are in excess of the mean of operating expenses for the institution's peer group plus 10 percent. This reduction will not be made by the FSLIC, however, if the institution demonstrates that its higher-than-peer-group operating expenses are justified in light of its particular circumstances, e.g., necessary expenses attributable to the commencement of new lending and investment powers that are anticipated to be beneficial to the institution.

The Board is imposing these restrictions and limitations on the FSLIC's purchase of NWCs in order to promote the statutory intent. Implicitly, the Net Worth Certificate Act portion of

the DIA is designed to provide capital assistance to institutions that as a practical matter would not be dealt with by the FSLIC under its traditional assistance and supervisory authority. In light of this and the fact that other FSLIC actions are available in traditional supervisory cases, the Board has determined that the criteria and procedure as to when an institution will be insolvent on a book-value basis established in the section 572.1 policy statement provides a readily ascertainable standard for separating out institutions who should be subject to the FSLIC's traditional oversight. The application of this rule-of-thumb approach does not mean that the FSLIC will or will not grant financial assistance to an institution determined to be in a condition of impending "insolvency", that when an institution reaches a book-value equity capital of zero or less it is in such an unsafe or unsound condition that liquidation or other significant supervisory action by the FSLIC is mandated, or that an institution which has not reached the six-month standard might not in fact be "insolvent" within the statutory meaning granting supervisory authority to the FSLIC. Also, the Board believes, and in significant part the DIA mandates, that no capital assistance should be furnished to an institution where an alternative transaction is clearly available that would eliminate or significantly reduce the requisite assistance.

In addition, in order to promote the statutory intent to provide capital assistance to institutions that have suffered earnings and capital losses primarily as a result of mortgage lending activities so that they may have an opportunity to rehabilitate their financial condition through sound management and prudent exercise of the new powers granted to them, the Board has determined that, in general, no capital assistance should be granted where the institution is not conducting its operations in a prudent manner from a supervisory standpoint or has not clearly evaluated and defined its future operations in an appropriate business plan, and that no assistance should be granted to offset losses attributable to mismanagement, speculation, or other actions designed to obtain assistance. It would not be fair to subject the great majority of institutions that are endeavoring to operate in a prudent and efficient manner to competition from institutions engaged in improper or inappropriate activities, e.g., the aggressive marketing of certificates of desposits carrying a rate of interest significantly in excess of the current-market rate of interest, in a belief that the FSLIC would subsidize such conduct.

C. Maximum Amount of NWCs To Be Purchased

If the FSLIC accepts an application by a qualified institution and determines to purchase NWCs issued by that institution, the FSLIC's maximum purchase of NWCs would be the amount calculated from the following table. However, with regard to the first applicable period for which an eligible institution applies for capital assistance pursuant to the DIA ("initial period"), the maximum amount of NWCs which the FSLIC will consider purchasing will be that amount indicated by the table if operating losses were one half of the amount actually incurred. In effect, where the table indicates that the maximum FSLIC purchase would be 50 percent of operating losses for an applicable period, the FSLIC will only purchase a maximum of 25 percent of operating losses for an initial period. The Board has determined to implement this policy for initial-period calculation of losses because during such period the institution would not have been required to undertake the stringent review of its operations and business plans nor have been subject to the other restrictions, *e.g.*, a limitation on branching, that the Board will require of institutions receiving capital assistance under the DIA authority. The Board anticipates that the development of meaningful operating and financial plans, including plans for asset and liability management, by institutions requesting capital assistance, and the other operating restrictions will promote the rehabilitation of those institutions and lessen the need for capital assistance from the FSLIC during subsequent periods.

If the equity capital of a qualified institution as a percentage of total assets is:	Then the FSLIC may purchase NWCs equal to—*
(1) greater than 2% but no more than 3%.	50% of operating losses.
(2) greater than 1% but no more than 2%.	60% of operating losses.
(3) less than or equal to 1%.....	70% of operating losses.

*The applicable percent of one half of operating losses applies for the initial period. The applicable percent is applied to all operating losses for subsequent periods.

The FSLIC would purchase NWCs from the qualified institution in an amount equal to that percentage of applicable period operating losses (or, if an initial period, one half of such amount) determined by the table based upon the institution's ratio of equity capital to total assets as of the end of the applicable period. However, FSLIC purchases of NWCs will immediately adjust the institution's ratio of equity capital to total assets. Accordingly, when the institution's equity capital ratio after such adjustment, increases to the next higher ratio, the FSLIC would purchase NWCs based on the percentage specified by that new level of the table applied to the remaining operating losses.

In no event will the FSLIC purchase NWCs in an amount that causes an institution's ratio of equity capital to total assets to exceed 3 percent or that exceeds 100 percent of operating losses for the applicable period. Also, the FSLIC will only purchase NWCs if the purchase amount for an applicable period is at least $25,000, and will round amounts in excess of the first $25,000 to the nearest $25,000. However, if the maximum FSLIC purchase of NWCs calculated under the criteria would increase the institution's equity capital ratio to greater than 0.5 percent but the minimum purchase limitation or the rounding procedure would reduce that equity capital ratio to less than 0.5 percent, the FSLIC will purchase the minimum $25,000 amount or round to the next highest $25,000 multiple, as appropriate. Similarly, the FSLIC will round to the next lowest $25,000 multiple if a purchase indicated by the calculation would increase the institution's equity capital to an amount in excess of 3 percent of total assets. Further, if an institution qualifies for capital assistance for two consecutive applicable periods, but would be excluded from the FSLIC's purchase of NWCs because of the $25,000 minimum limitation, then the FSLIC may purchase NWCs as of the end of that second applicable period on the basis of the cumulative amount for the pertinent applicable periods.

For example, if a qualified institution had (1) total assets of $100,000,000, (2) equity capital of $1,800,000 or 1.8 percent of total assets, and (3) operating losses for the applicable period of $1,000,000, the maximum FSLIC purchase of NWCs would be $525,000 (when rounded to the nearest $25,000). The institution would at first be eligible for FSLIC purchases of NWCs at the rate of 60 percent of operating losses. After the FSLIC would purchase $200,000 of NWCs, the institution would have an equity capital ratio of 2 percent, so that additional NWC purchases would be at the rate of 50 percent of operating losses. The calculation is shown as follows.

Operating losses	$1,000,000	
Initial assistance	−333,333 × .60 =	$200,000
Balance	666,666 × .50 =	333,333
Total assistance		533,333
Rounded		525,000

For an initial period, the maximum NWC purchase would be that amount calculated from the table if the institution's operating losses for the period were $500,000. In this example, that amount would be $275,000 (when rounded to the nearest $25,000).

D. Restrictions and Conditions Imposed on Issuing Institution

In connection with any purchase of NWCs from an institution, and for so long as those NWCs remain outstanding, the Board will impose various restrictions and conditions upon the institution. Section 572.7 and the terms of the NWCs will prohibit the payment by a stock institution of dividends to holders of its equity securities. Section 572.8 will prohibit an institution having NWCs outstanding from opening any new branch and, without prior approval by the FSLIC, from relocating an existing branch. Section 572.9 will prohibit an institution having NWCs outstanding from entering into any new contract or modifying any existing contract with its holding company without prior approval by the FSLIC. The application required by section 572.3 and the NWC will require (1) the submission of a business plan that addresses, in a manner satisfactory to the FSLIC, operating and financial plans, and plans for asset and liability management, and (2) a commitment by the institution to abide by its plan. Also, the NWCs will contain provisions limiting the incurrence of debt obligations and the making of capital expenditures without prior FSLIC approval.

In general, these restrictions and limitations are the result of traditional concerns by a significant lender or investor to protect his contribution to an entity against abusive conduct or actions which seriously diminish his prospects for recovery. The branching limitation derives from a concern by the Board not to finance highly competitive actions having a possible impact upon other institutions. The Board is desirous of promoting the financial health of the institution needing assistance; once that is accomplished and the FSLIC is repaid, the institution can proceed with any appropriate expansion.

E. Exercise of Authority and Request for Board Consideration

The Board has delegated its authority under this Part, as set out in section 572.4, primarily to the Director of its Office of Examinations and Supervision or his designee, who may include the Principal Supervisory Agent for an institution. Once a determination has been made pursuant to delegated authority that the FSLIC will not purchase the amount of NWCs requested by a qualified institution on the basis of operating losses for an applicable period, that decision becomes final unless within 15 business days the institution files a request for Board consideration of the issue. The request shall explain in detail the reason(s) why the applicant believes that the FSLIC action under delegated authority is inappropriate. In the event of such an appeal from a decision under delegated authority, the Board will consider the institution's request for FSLIC's purchase of NWCs on the basis of the institution's written appeal, application and related material, and such other material as the Board's staff deems appropriate to submit to the Board in connection with its review of the request. The Board will not provide a procedure for oral argument on behalf of the institution.

III. Net Worth Certificates and the FSLIC Note

A. NWCs

It is currently anticipated that the NWC will be patterned after the Income Capital Certificate ("ICC") created by the FSLIC as a unique form of equity security, a hybrid between traditional debt and equity securities. The FSLIC has purchased ICCs from a limited number of institutions in connection with the FSLIC's traditional supervisory activities.

It is further anticipated that the NWCs will require Annual Income Payments ("AIPs") equivalent to dividends on preferred stock, and Annual Redemption Payments ("ARPs"), but no payments would be required to be made to the FSLIC if the institution does not have net income, computed in accordance with the Board's regulatory accounting procedures, for the annual payment period. In addition, the maximum amount of AIPs required to be paid to the FSLIC will be limited to 50 percent of the institution's net income so long as the institution's ratio of equity capital, as defined, to total assets is less than or equal to 3 percent, and thereafter to 75 percent of net income. No ARPs will be required until an institution has greater than a 2 percent net worth ratio. The maximum of ARPs required to be paid to the FSLIC will be limited to that amount which, when added to the required AIPs (including any accumulated AIPs), would equal 50 percent of net income for the year so long as the institution has an equity-capital ratio of greater than 2 percent and less than or equal to 3 percent, and thereafter 75 percent of net income. In no event would an AIP or ARP otherwise required by the NWC be required if it would reduce the institution's net worth, as computed in accordance with generally accepted accounting principles, to zero or less.

The amount of AIPs required by the NWC will be calculated on the basis of the same formula used to calculate the interest rate on the FSLIC Note, as discussed below, and, to the extent that AIPs are not required to be paid to the FSLIC as a result of the percentage-of-income limitations, they will accumulate and compound.

NWCs will grant the FSLIC (or any subsequent holder) a claim in liquidation or reorganization superior in priority to any claim arising out of any other equity interest and junior to the payment of all accounts, certificates of deposit, and debt obligations. During the period that NWCs are outstanding, an institution will be prohibited from the payment of dividends on any of its equity securities.

In addition, the NWCs will contain restrictions as to the amount of additional debt superior in priority to the NWCs that an institution can incur without approval by the FSLIC, and will require approval by the FSLIC for the institution to merge into another institution. In the event that an institution having outstanding NWCs merges into an institution not having outstanding NWCs, the FSLIC will permit the resulting entity to redeem the outstanding NWCs or to assume them as its own. Upon such an assumption, the NWCs will contain an additional provision whereby the institution can limit ARPs otherwise required to the amount which would be required under a 10-year straight-line amortization.

B. FSLIC Notes

It is presently anticipated that the FSLIC Note used to purchase NWCs will be an absolute debt obligation of the FSLIC payable as of a specified date of maturity, but the FSLIC will have the right solely at its option to repay the Note in whole or in part at any time. It is anticipated that initially the Notes will have a 10-year term. The FSLIC Note will be non-transferable except with the prior approval of the FSLIC or except by pledge to a Federal Home Loan Bank as collateral for an advance made in accordance with the lending policies of the Bank.

It is further anticipated that the FSLIC Note will pay interest semiannually at a

rate equal to the standardized financing cost of (yield on) Federal Home Loan Bank ("FHLB") System obligations as of the last business day preceding the beginning of the semiannual period during which the FSLIC Note is issued plus 25 basis points. The FHLB System will publish this standardized six-month-financing cost. The Board views the FHLB System six-month-financing cost as an appropriate estimate of the market interest rate on an FSLIC obligation having a semiannual repricing mechanism. The 25 basis-point differential is provided to compensate an institution for the lack of transferability of the FSLIC Note. The interest on the FSLIC Note, and also on AIPs on the NWCs, will commence accruing as of the first day of the period immediately following the applicable period (on the basis of which the FSLIC issued the Note as the consideration for the purchase of NWCs), notwithstanding the date of actual issuance of the Note. For example, if the FSLIC purchases an NWC in exchange for an FSLIC Note on March 30, 1983, relating to operating losses for the period ended December 31, 1982, the interest on the FSLIC Note, and the AIP on the NWC, will accrue from January 1, 1983.

C. Accounting Treatment

The Board expects that the FSLIC Note used to purchase NWCs will be reflected as an asset at its face amount in the recipient institution's financial statements prepared in accordance with generally accepted accounting principles (GAAP), and that the NWCs issued by the institution will be reflected as part of the institution's total equity in such financial statements in the same amount recorded for the FSLIC Note. The Board hereby directs a similar reporting of these items in an institution's periodic reports to the FSLIC.

The Board notes that the FSLIC Notes and NWCs are independent instruments. The FSLIC Notes unconditionally provide an institution with a stream of future cash flow regardless of the value of the NWCs issued in exchange for the FSLIC Note. Further, this stream of cash flow will provide for the payment of interest at a rate which the Board believes will represent an appropriate rate of return for such an obligation. Accordingly, these Notes represent future economic benefits belonging to the institution and, in the Board's view, meet the definition of assets contained in GAAP (*See Statement of Financial Accounting Concepts No. 3*, "Elements of Financial Statements of Business Enterprises", Financial Accounting Standards Board).

A NWC entitles the holder to AIPs or ARPs only out of the institution's net income. ARPs are further limited by minimum levels of "equity capital", as defined, and net worth computed in accordance with GAAP. In the event of liquidation, the claims of holders of NWCs would be subordinate to the claims of all of the institution's creditors and would be senior only to the claims of the institution's stockholders. In light of these provisions, the Board is of the opinion that the NWCs represent a residual interest in an institution and, accordingly, meet the definition of equity under GAAP.

Accounting for the income provided by the FSLIC Notes and paid to the holder of NWCs should be performed in a manner consistent with the accounting for payments related to assets or equity, respectively. Accordingly, the Board expects an institution to record receipt of interest on FSLIC Notes as interest income and accrue at interim dates any amounts of unpaid interest related to FSLIC Notes it holds. AIPs on NWCs should not be reflected as charges to retained earnings until such AIPs become payable.

IV. Effect on Net Worth

Section 406(f)(5)(J) of the NHA, as adopted by the DIA, states that "[n]otwithstanding any other Federal or State law, net worth certificates purchased by the Corporation [FSLIC] under this paragraph shall be deemed to be net worth for statutory and regulatory purposes." Accordingly, the Board is adopting an amendment to its definition of regulatory net worth, section 561.13 of the Insurance Regulations, to provide that NWCs when issued to the FSLIC constitute an item of regulatory net worth. This permits the inclusion of the amount of outstanding NWCs in an institution's calculation of its reserves and net worth for purposes of paragraphs (a) and (b) of section 563.13 of the Insurance Regulations. In addition, the Board anticipates that, in light of the statutory language cited above and section 406(f)(5)(H) of the NHA as adopted by the DIA, NWCs issued by a State-chartered institution to the FSLIC pursuant to the DIA authority will constitute part of that institution's net worth for State regulatory purposes.

V. Authorization of NWCs by an Institution

The application form required for a qualified institution to request that the FSLIC purchase NWCs in exchange for FSLIC Notes will require a certification by the institution's board of directors that the institution has the authority to issue NWCs in exchange for such consideration. This certification is not required to be included as part of the application until after the institution is notified by the FSLIC that it tentatively intends to purchase NWCs from the institution.

The Board is adopting section 572.10 to authorize a Federal mutual institution, upon appropriate action by its board of directors, to issue NWCs to the Federal agency that insures its accounts in exchange for appropriate consideration from that agency, which may include a promissory note.

With regard to a State mutual institution, section 406(f)(5)(H) of the NHA, as adopted by the DIA, provides in part as follows:

> The provisions of the constitution or the laws, civil or criminal, of any State, express or implied, limiting the authority of a qualified institution (i) to take part in programs under this paragraph, [or] (ii) to issue and otherwise deal in net worth certificates issued pursuant to this paragraph * * * shall not apply to any qualified institution which the Corporation has approved for the purpose of taking part in programs under this paragraph * * *.

This provision grants the requisite statutory authority that permits a State-chartered institution to authorize the issuance of NWCs to the FSLIC in exchange for FSLIC Notes. Nevertheless, each State institution must specifically address the requisite action required for that institution to be authorized to issue NWCs to the FSLIC in exchange for FSLIC Notes. This requisite corporate action will be the subject of the certification by the institution's board of directors discussed above. In connection with any NWC purchase, the FSLIC will authorize the NWC issuance by the institution in accordance with section 406(f)(5)(A)(i) of the NHA as adopted by the DIA.

With regard to Federal or State-chartered stock institutions, the FSLIC will require the approval by the institution's stockholders of the issuance of NWCs to the FSLIC in exchange for a FSLIC Note before the FSLIC will purchase NWCs. Stockholder approval must be by at least a majority of the votes cast on an appropriate vote on this question. Stockholder approval of any necessary charter amendment authorizing the NWC issuance, if the general provisions of the proposed transaction with the FSLIC are explained to stockholders, will constitute requisite stockholder approval.

Also, the Board is adopting amendments to its regulations regarding the charter for Federal stock institutions

to permit those institutions to adopt charter amendments authorizing the issuance of NWCs to the FSLIC in exchange for FSLIC Notes (or, with regard to a Federal savings bank the deposits of which are insured by the Federal Deposit Insurance Corporation ("FDIC"), the issuance of NWCs to the FDIC in exchange for an FDIC Note). This requisite amendment to the charter of a Federal stock institution requires stockholder approval given at a meeting called, although not necessarily solely, for that purpose and for which stockholders have been given the requisite notice and adequate information on which to base an informed vote on the questions presented.

Attention is directed to the Board's general anti-fraud provisions regarding the solicitation of proxies, set forth at section 569.4 of the Insurance Regulations. The board of director's certification that issuance of NWCs has been validly authorized should state that any required stockholder approval has been obtained.

A qualified institution may file an application under section 572.3 for FSLIC purchase of NWCs for an initial period prior to obtaining stockholder or, if required by a State institution, mutual owner authorization for the issuance of NWCs. In no event, however, will the FSLIC purchase NWCs until their issuance to it in exchange for FSLIC Notes has been validly authorized, and the institution's application has been amended to reflect this.

(g) *Effects of Diverse Accounting Practices.* The Board recognizes that some institutions may raise the issue that reliance on regulatory financial statements for the purpose of calculating the FSLIC's maximum NWC purchase could result in the calculation of different amounts depending upon how a transaction is accounted for by a particular institution. This difference of treatment would arise principally from the accounting treatment accorded (1) a business combination, which might be accounted for by the purchase or the pooling-of-interests method, or (2) gains or losses from the disposition of loans and securities, which might be recognized in the year of sale or, if an appropriate election has been made, amortized to income or expense over the remaining life of the disposed assets.

It is the Board's view that the appropriate accounting for any transaction should be determined at the time of the transaction and should not be subject to change merely because the objectives of the reporting institution or the users of resulting financial information change over time. Accordingly, the regulation makes no attempt to differentiate between institutions which use different accounting principles for apparently similar transactions. However, the Board emphasizes that the accounting treatment afforded transactions, as well as the economic effects of the transactions themselves, will be scrutinized carefully by the Board's staff to ascertain that they are appropriate and are not adopted merely to increase the amount of NWCs that the FSLIC might purchase.

VI. State-Fund-Insured Institutions

The DIA authorizes but does not require FSLIC to purchase NWCs from an institution the deposits of which are insured or guaranteed under State law if that institution otherwise qualifies for such capital assistance and if the State fund enters into an agreement with the FSLIC which provides that the State fund will indemnify the FSLIC for any losses the FSLIC incurs as a result of providing such assistance and that, during any period the State-fund-insured institution has NWCs outstanding, the State fund will maintain a level of assessments on its members which is at least equivalent to the premium assessments paid by insured institutions to the FSLIC.

Accordingly, the FSLIC will consider an application for it to purchase NWCs issued by a State-fund-insured qualified institution if that institution's State fund enters into an agreement satisfactory to the FSLIC which requires it to indemnify the FSLIC for any losses and to establish and maintain as long as any pertinent NWCs are outstanding a level of assessment on all of its members equivalent to that imposed by the FSLIC on insured institutions. The State fund will be required to furnish an opinion of counsel that it has the authority to enter into such an agreement. In order to ensure the indemnification of the FSLIC, the agreement with the State fund will require that the State fund deposit and maintain adequate collateral with the appropriate Federal Home Loan Bank, obtain from each institution the deposits of which it insures an unconditional guarantee of the State fund's indemnification of the FSLIC, or obtain a guarantee of its indemnification obligation by a person satisfactory to the FSLIC. In addition, the State-fund-insured institution will be required to agree that, during any period when it has outstanding NWCs, it will be governed by all rules and regulations of the Board or other Federal regulatory authority that govern an institution whose deposits are insured by the FSLIC, including limitations on rates of return on accounts as set by the Depository Institutions Deregulation Committee.

Regulatory Analysis

The elements of regulatory analysis for major regulations required by Board Resolution No. 80–584 dated September 11, 1980, have been incorporated into the supplementary information contained herein.

List of Subjects in 12 CFR Parts 552, 561, and 572

Savings and loan associations.

The Board finds that observance of the notice and comment period pursuant to 5 U.S.C. 553(b) and 12 CFR 508.12, and that delay of the effective date pursuant to 5 U.S.C. 553(d) and 12 CFR 508.14 are unnecessary because it is in the public interest for the program of assistance implemented by these regulations to take effect at the earliest feasible time and because the program of assistance is a matter committed to the discretion of the FSLIC and implemented in significant part by a statement of policy.

However, the Board will consider any comments regarding these regulations in determining whether changes, supplements, or other amendments are appropriate. Comments should be sent to Director, Information Services, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552. Comments will be available for public inspection at this address.

Accordingly, the Board hereby amends Part 552 of Subchapter C, and amends Part 561 and adds a new Part 572 of Subchapter D, Chapter V of Title 12, *Code of Federal Regulations,* to read as set forth below.

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

PART 552—STOCK ASSOCIATIONS

1. Amend § 552.4 by adding a new paragraph (d), as follows:

§ 552.4 Optional charter provisions.

* * * * *

(d) Amend Charter S or Charter T by renumbering existing sections as appropriate and adding a new section as follows. Where appropriate, a Federal savings bank the deposits of which are insured by the Federal Deposit Insurance Corporation shall substitute that Agency for the Federal Savings and Loan Insurance Corporation in the following section.

Section 6. *Net worth certificates.* Notwithstanding any provision of Section 5, *Capital Stock.*, the association may issue net worth certificates to the Federal Savings and Loan Insurance Corporation (the "FSLIC") in

exchange for appropriate consideration, including promissory notes of the FSLIC, in accordance with rules, regulations, and policies of the Board. Subject to such rules, regulations, and policies, the board of directors of the association is authorized without the prior approval of the stockholders of the association and by resolution or resolutions from time to time adopted by the board of directors to cause the issuance of net worth certificates to the FSLIC and to fix the designations, preferences, and relative, participating, optional, or other special rights of the certificates, and the qualifications, limitations, and restrictions thereon. Stockholders of the association shall not be entitled to preemptive rights with respect to the issuance of net worth certificates, nor shall holders of such certificates be entitled to preemptive rights with respect to any additional issuance of net worth certificates.

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 561—DEFINITIONS

2. Amend § 561.13, by revising paragraphs (b) and (c) to read as follows:

§ 561.13 Regulatory net worth.

* * * * *

(b) The term "regulatory net worth" also includes the sum of outstanding net worth certificates issued in accordance with Part 572 of this Subchapter;

(c) Unless the context indicates otherwise, the term "net worth" wherever used in this Subchapter shall mean "regulatory net worth" as defined in paragraphs (a) and (b) of this section, except that the term as used in § 563.8–4 shall not include items permitted to be used as part of the reserve calculations pursuant to § 563.13(c).

3. Add new Part 572, as follows.

PART 572—NET WORTH CERTIFICATES

Sec.

572.1 Statement of policy.
572.2 Definitions.
572.3 Application for Corporation purchases of net worth certificates.
572.4 Delegations.
572.5 Right to appeal.
572.6 Effect of Corporation purchase of net worth certificates.
572.7 Dividends.
572.8 Branching.
572.9 Transactions with holding company.
572.10 Authorization for Federal mutual institution to issue net worth certificates.
572.11 Board statutory authority.

Authority: Secs. 401, 402, 403, 405, 406, and 407, 48 Stat. 1255, 1256, 1257, 1259, and 1260, as amended (12 U.S.C. §§ 1724, 1725, 1726, 1728, 1729, and 1730); secs. 2 and 5, 48 Stat. 128 and 132, as amended (12 U.S.C. §§ 1462 and 1464); Reorg. Plan No. 3 of 1947, 3 CFR 1943–1948 Comp., p. 1071.

§ 572.1 Statement of policy.

(a) *General.*

(1) Title II of the Garn-St Germain Depository Institutions Act of 1982 (the "DIA"), Pub. L. 97–320, 96 Stat. 1493, (October 15, 1982), amends section 406(f) of the National Housing Act ("NHA"), 12 U.S.C. § 1729(f), to authorize the Corporation, in its sole discretion and on such terms and conditions as it may prescribe to increase or maintain the capital of a qualified institution by making periodic purchases of net worth certificates ("NWCs") for such form of consideration as the Corporation may determine.

(2) This statement of policy explains the Corporation's general intention regarding purchases of NWCs from qualified institutions pursuant to this DIA authority. The other sections of this Part specify the procedures for a qualified institution to request that the Corporation purchase NWCs, govern action by the Corporation on such a request, define pertinent terms, place certain limitations on an institution having outstanding NWCs, and authorize the issuance of NWCs by Federal mutual institutions.

(b) *Purchase of NWCs.*

The Corporation will only consider the purchase of NWCs from a "qualified institution", as defined in § 572.2 of this Part, that requests such purchase by compliance with the application procedure specified in § 572.3 of this Part and only on the basis of that institution's operating losses for the applicable period as to which an application is timely filed. If the Corporation approves an application under § 572.3, it may purchase NWCs from the qualified institution in exchange for promissory notes ("FSLIC Notes") in the appropriate amount as determined by the Corporation. Both the NWCs and the FSLIC Notes will be in forms satisfactory to the Corporation, and will contain such terms and conditions as the Corporation determines to be appropriate under the particular circumstances involved. The Corporation retains sole discretion regarding whether or not to purchase NWCs from an institution, the amount of NWCs which it may purchase, and any terms and conditions it may impose in connection with a purchase of NWCs.

(c) *Maximum amount of NWCs.*

(1) *General.* The maximum amount of NWCs which the Corporation may purchase from a qualified institution will be based on that institution's (i) operating losses for an applicable period, as defined in § 572.2, and (ii) ratio of equity capital as of the end of the applicable period, as defined in § 572.2, to total assets. The following table indicates the calculation of maximum NWC purchases by the Corporation attributable to operating losses for an applicable period.

If the equity capital of a qualified institution as a percentage of total assets is:	Then the Corporation may purchase NWCs equal to—
(1) Greater than 2 percent but no more than 3 percent.	50 percent of operating losses.
(2) Greater than 1 percent but no more than 2 percent.	60 percent of operating losses.
(3) Less than or equal to 1 percent.	70 percent of operating losses.

(2) *Initial period.* With regard to an institution's initial period, which is the first applicable period on the basis of which a qualified institution applies for capital assistance pursuant to this Part and the Corporation purchases NWCs, the maximum amount of NWCs which the Corporation may purchase will be that amount indicated by the table for one half of the amount of operating losses actually incurred during the initial period.

(3) *Calculation.* Corporation purchases of NWCs will immediately adjust the institution's equity-capital-to-total-assets ratio for purposes of determining the percentage of operating losses which the Corporation may offset by NWC purchases. Accordingly, when the institution's ratio of equity capital to total assets, after adjustment to reflect NWC purchases, increases to the next higher ratio, the Corporation will purchase NWCs based on the percentage specified by that higher ratio level of the table applied to the remaining operating losses.

(4) *Limitations.* (i) The Corporation will not purchase any NWC subsequent to October 15, 1985.

(ii) The Corporation will not purchase NWCs in an amount which causes an institution's ratio of equity capital to total assets to exceed 3 percent.

(iii) The Corporation will not purchase NWCs applicable to operating losses for an applicable period if the amount to be purchased under the calculation would be less than $25,000, except that Corporation may purchase the $25,000 minimum amount if the purchase amount calculated under the table would increase the institution's ratio of equity capital to total assets from an amount less than 0.5 percent to greater than 0.5 percent.

(iv) Purchases will be rounded to the nearest $25,000, except that (A) if the rounding procedure would cause the institution's ratio of equity capital to total assets to be reduced from an amount in excess of 0.5 percent to less than 0.5 percentage, the amount

purchased will be rounded to the next higher $25,000 multiple, or (B) if the rounding procedure would cause the institution's ratio of equity capital to total assets to be increased to an amount in excess of 3 percent the amount purchased will be rounded to the next lower $25,000 multiple.

(v) Notwithstanding subparagraph (c)(4) (iii) of this section, if an institution qualifies for capital assistance for two consecutive applicable periods, but would be excluded from the Corporation's purchase of NWCs because of the $25,000 minimum limitation, the Corporation may purchase NWCs as of the end of that second applicable period on the basis of the cumulative amount for the pertinent applicable periods.

(d) *Restrictions on NWC purchases.* Even if an institution is a qualified institution, as defined in § 572.2, and has operating losses for an applicable period, the Corporation may exercise its discretion not to purchase any NWCs from that institution pursuant to the DIA authority in the following circumstances.

(1) *Cost.* The Corporation may refuse to purchase NWCs if it determines in its sole judgment that such purchase would be costlier to it than alternative transactions available to the Corporation or the institution. Alternative available transactions would include a liquidation of the institution (including the paying of insured accounts), transactions committed to the discretion of the Corporation in accordance with section 406(f) (1) or (2) of the NHA, or mergers or supervisory conversions available to the institution which would eliminate or significantly reduce the institution's need for capital assistance under the DIA authority. In making this determination of relative cost, the Corporation will consider the net present-value cost to it of all projected purchases of NWCs which would be made under the criteria of this Part and alternative transactions or liquidation. The Corporation delegates to the Director of the Federal Home Loan Bank Board's ("Board") Office of the Federal Savings and Loan Insurance Corporation, or his designee, with the concurrence of the General Counsel, or his designee, the authority to determine whether an alternative is less costly than the Corporation's purchases of NWCs under the DIA authority.

(2) *Pending insolvency.* (i) The Corporation may refuse to purchase NWCs from an institution if it determines in its sole judgment that, after giving effect to the proposed purchase of NWCs by the Corporation, that institution would be "insolvent" within six months from the proposed date of purchase. For this purpose, "insolvent" means zero or less equity capital. The fact that the pending "insolvency" of an institution is determined by the FSLIC does not mean either that the FSLIC will or will not grant assistance to that institution under its traditional authority. The FSLIC will exercise its discretion as to such assistance in light of the existing circumstances. Similarly, the fact that an institution reaches a zero equity-capital level does not mandate that the FSLIC take immediate supervisory action. The FSLIC will evaluate its responsibilities at the time, particularly in light of its determination regarding the safety and soundness of the institution.

(ii) Prior to a determination by the Corporation that it will not purchase NWCs from an institution on the basis of the institution's pending insolvency within six months, the Director of the Board's Office of Examinations and Supervision ("OES") or his designee will make an initial determination of pending insolvency and in doing so may project future results of operations on the basis of the average of the results of operations from the institution's most recent three months required to be reported to the Corporation, or on the basis of other criteria deemed reasonable by the Corporation, and will issue to the institution of Preliminary Notice of Pending Insolvency. This Preliminary Notice becomes a final "determination of insolvency within six months" by the Corporation unless within 15 business days after the date of the Preliminary Notice the institution shall submit to the Corporation three copies of a detailed financial analysis, including plans and projections for the institution, which demonstrates that the institution will not be insolvent within six months. This analysis shall be submitted to OES.

(3) *Supervisory problem.* The Corporation may refuse to purchase NWCs from an institution which has failed to satisfy the Corporation concerning a significant supervisory problem, including the failure by an institution to (i) comply with an agreement with the Corporation, or a written request by its Supervisory Agent or the Corporation, or (ii) correct a matter cited as significant in the most recent examination report by OES, or the subject of a cease and desist order. The Corporation may consider that a supervisory problem is satisfactorily resolved if the institution is making adequate progress under a plan acceptable to the Corporation for the complete resolution of that supervisory problem.

(4) *Business plan.* The Corporation may refuse to purchase NWCs from an institution unless the institution adopts a business plan satisfactory to the Corporation which demonstrates a reasonable probability that the institution will be able to redeem the NWCs. The business plan shall be submitted as part of the application for Corporation purchases of NWCs required by § 572.3, but need not be submitted until the Corporation has issued a preliminary notice of intent to purchase NWCs.

(e) *Reduction of NWC purchases.* The maximum amount of NWCs which the Corporation may purchase from an institution will be reduced in the following manner.

(1) The amount of an institution's operating losses used to calculate the maximum amount of NWC purchases will be reduced by the amount of any losses determined by the Corporation to have been occasioned by mismanagement, by speculation in futures or forward contracts, or by management actions designed for the purpose of obtaining assistance. Mismanagement shall include, but not be limited to, any action which violates a previous agreement with the Corporation or a business plan previously submitted to the Corporation in connection with a purchase of NWCs.

(2) The maximum amount of NWC purchases calculated on the basis of actual operating losses will be reduced by 80 percent of the amount by which the institution's operating expenses exceed the amount that would have been the institution's operating expenses if such expenses, expressed as a percentage of total assets, equaled the mean operating expenses, similarly expressed, of its peer group plus 10 percent of that mean. This reduction will not be made by the FSLIC, however, if the institution demonstrates that its higher-than-peer-group operating expenses are justified in light of its particular circumstances.

(f) *Holding companies.* (1) The Corporation may purchase NWCs under the criteria of this Part from a qualified institution that is controlled by a holding company or majority stockholder who has entered into an agreement with the Corporation to maintain the net worth of the institution at a specified level. Under these circumstances, the holding company or majority stockholder will be required, as a condition to the Corporation purchase, to infuse sufficient capital in excess of the Corporation's NWC purchase to increase the institution's regulatory net worth to the agreed-upon level.

(2) Where a "qualified institution" is controlled by another savings and loan or savings bank institution, the Corporation may consider the purchase of NWCs on the basis the consolidated equity capital and operating results of the qualified institution together with its parent and any other institutions controlled by the parent.

(g) *Requests for Corporation purchase of NWCs.* (1) A qualified institution may request that the Corporation purchase NWCs from it by complying with the application procedure specified in § 572.3.

(2) A State-chartered institution shall file copies of its application with its State supervisory authority as required by § 572.3 and should request that that State supervisor submit to the Principal Supervisory Agent, within 15 days after the application is filed with the Corporation, a certification regarding whether or not (i) the State supervisor objects to the Corporation's purchase of NWCs from the institution, and (ii) the institution is a qualified institution. If the State supervisor formally objects, he may furnish the Principal Supervisory Agent a written explanation of the reasons for his objection. The Corporation will consider the views of the State supervisor submitted in a timely manner, but will not be bound by those views.

(3) All institutions requesting that the Corporation purchase NWCs must be validly authorized to issue those NWCs to the Corporation in exchange for FSLIC Notes. To ensure this valid authorization, the forms required by § 572.3 will require an appropriate certification by the board of directors of the institution. This certification may be filed by amendment after the Corporation has issued a preliminary notice of intent to purchase the institution's NWCs.

(4) Section 572.10 specifically authorizes a Federal mutual institution, upon appropriate resolution by its board of directors, to issue NWCs to the Federal agency that insures its deposits in exchange for appropriate consideration from that agency, which consideration may include a promissory note.

(5) The burden of validly authorizing the issuance of NWCs to the Corporation rests solely upon the institution and its counsel. Unless challenged or unless there is reason to question the validity of the proposed issuance of NWCs, the Corporation will rely upon the requisite certification by the institution's board of directors in this regard.

(h) *Stock institutions.* (1) The Corporation will not purchase NWCs issued by a stock institution, whether Federal or State chartered, unless the stockholders of that institution have approved the issuance of NWCs to the Corporation in exchange for FSLIC Notes. The certification required by paragraph (g)(3) of this section shall address whether appropriate stockholder approval has been given. Stockholder approval of any necessary charter amendment as discussed in paragraph (h)(2) of this section will constitute the requisite stockholder approval.

(2) Federal stock institutions are and State stock institutions may be, required to amend their charters to authorize the issuance of NWCs to the Corporation in exchange for FSLIC Notes. Such a charter amendment requires stockholder approval at a meeting, although the meeting would not necessarily have to be called solely for that purpose. However, stockholders must be given the requisite notice of the meeting and adequate information on which to base an informed vote on the questions presented. In particular, attention is directed to the Corporation's general anti-fraud provision regarding the solicitation of proxies, set forth at § 569.4 of this Subchapter.

(i) *Effect on regulatory net worth.* 12 U.S.C. § 406(f)(5)(J), as adopted by the DIA, states that "[n]otwithstanding any other Federal or State law, net worth certificates purchased by the Corporation under this paragraph shall be deemed to be net worth for statutory and regulatory purposes." Accordingly, NWCs when purchased by the Corporation under the DIA authority shall constitute an item of the issuing institution's regulatory net worth as defined in § 561.13 of this Subchapter. This permits their inclusion in the institution's calculation of its reserves and net worth for purposes of paragraphs (a) and (b) of § 563.13 of this Subchapter.

(j) *State-fund-insured institutions.* A savings and loan association the accounts of which are insured or guaranteed under State law rather than by the Corporation may be a "qualified institution" as that term is defined in § 572.3. Accordingly, it may request the Corporation to purchase NWCs pursuant to § 572.3 if arrangements satisfactory to the Corporation are made by the State-fund-insured institution and its State insurance fund (the "State Fund") to satisfy the following conditions:

(1) The State Fund agrees to indemnify the Corporation for any losses the Corporation may incur as a result of purchasing NWCs from a State-fund-insured institution, including any cash outlays for interest or principal on a FSLIC Note as they are made, and any lost opportunity costs. Such agreement must include a commitment by the State Fund to use its assessment authority over all institutions the accounts of which are insured or guaranteed by it for the purpose of funding this indemnification obligation.

(2) The State Fund (i) agrees to furnish collateral satisfactory to the Corporation to guarantee fulfillment of the indemnification obligation, (ii) obtains the separate agreement of each insured institution the accounts of which are insured by the State Fund to indemnify the Corporation in the event the State Fund does not fulfill the indemnification obligation, or (iii) obtains a guarantee of the indemnification obligation by a person satisfactory to the Corporation.

(3) The State Fund agrees that, during any period when a qualified institution the accounts of which it insures has outstanding NWCs purchased by the Corporation pursuant to this DIA authority, it will establish and maintain a level of assessment on all of its members which results in costs to its members which are at least equivalent to the premium assessments paid to the Corporation by the Corporation's insured institutions during such period.

(4) The State Fund agrees not to impose requirements on State-fund-insured institutions with outstanding NWCs which are inconsistent with the terms and conditions established by the Corporation in connection with its purchase of NWCs from a State-fund-insured institution.

(5) The State Fund agrees to provide to the Corporation, upon its request, full and complete information regarding a State-fund-insured institution's management, financial condition and results of operations, business operations, and compliance with laws and regulations, to the extent such information is available to the State Fund.

(6) The State-fund-insured institution agrees that, during any period when it has outstanding NWCs purchased by the Corporation, it will be governed by all rules and regulations of the Board or other Federal regulatory authority, including examination authority and reporting requirements, which are applicable to insured institutions.

§ 572.2 Definitions.

This section defines the following terms for the purposes of this Part:

(a) "Applicable period" means a semiannual fiscal-year period of a qualified institution ended subsequent

to September 30, 1982, and prior to October 1, 1985.

(b) "Initial period" means the first applicable period upon the basis of which a qualified institution applies for the Corporation to and the Corporation does purchase NWCs from the institution.

(c) "Net worth certificate" means a certificate in the form acceptable to the Corporation issued by a qualified institution to the Corporation in accordance with the provisions of this Part, except that with regard to a Federal savings bank the deposits of which are insured by the Federal Deposit Insurance Corporation (the "FDIC"), net worth certificate means a certificate issued by that institution to the FDIC in accordance with regulations, policies, or procedures of that agency pursuant to the authority granted by Title II of the Garn-St Germain Depository Institutions Act of 1982, Pub. L. 97-320, 96 Stat. 1469. Any net worth certificate issued by an FDIC-insured institution in accordance with those FDIC procedures shall be deemed to be issued in accordance with the provisions of this Part, unless otherwise stated by the Corporation in written form to the institution.

(d) "Equity capital" of an institution means regulatory net worth as defined in § 561.13 of this Subchapter D, including any amount of appraised equity capital, as defined in § 563.13(c), which the institution would be permitted to include in its regulatory net worth, plus savings accounts pledged pursuant to an agreement acceptable to the Corporation.

(e) "Operating losses" of an institution means (1) the total amount of the institution's operating income less the total amount of all of its operating expenses and interest (dividend) charges as reported to the Corporation in accordance with the "Instruction Book for the preparation of the Semiannual Financial Report of the Industry Condition Report System", (2) except that the operating losses determined in accordance with subsection (1) of this paragraph (e) shall be further reduced, for institutions which have outstanding net worth certificates, by expenses otherwise included in operating expenses which are attributable to the payment of, or provision for, State or local taxes which are determined on the basis of the amount of deposits held by the institution or the interest paid on such deposits.

(f) "Qualified institution" means an "insured institution" as that term is defined in § 561.1 of this Subchapter or a State-fund-insured institution which institution and its State Fund have entered into agreements satisfactory to the Corporation regarding indemnification of the Corporation, equivalent level of assessments, and equivalent regulatory standards, which institution as of the end of its most recent applicable period:

(1) Has equity capital of 3 percent or less of its total assets before giving effect to any purchase of net worth certificates by the Corporation;

(2) Has incurred operating losses for its most recent applicable period as determined from its Semiannual Report filed with the Corporation, net of losses which are the result of speculation in futures or forward contracts, management action designed solely for the purpose of qualifying for Corporation purchase of net worth certificates, or excessive operating expenses;

(3) Will have equity capital of at least 0.5 percent of its total assets, after giving effect to the Corporation's purchase of net worth certificates based on operating losses for the applicable period;

(4) Has investments in residential mortgage loans or securities backed by such mortgage loans aggregating not less than 20 percent of its total outstanding loans;

(5) Agrees to comply with all the terms and conditions established by the Corporation in connection with its purchase of net worth certificates.

(g) "Semiannual Report" means Forms 154, 248, 774, 775, 776, 777, 778 and 921 as specified in Section 500.31 of Subchapter A.

(h) "State-fund-insured institution" means an institution substantially equivalent to an "insured institution" as that term is defined in § 561.1 except that its accounts are insured or guaranteed under State law rather than by the Corporation. The State insurance or guarantee shall be termed the State Fund.

(i) "Subsequent period" means an applicable period other than the initial period.

(j) "Total assets" of an institution means the total amount of assets net of contra-asset accounts reported by the institution to the Corporation in accordance with the "Instruction Book for the preparation of the Semiannual Financial Report of the Industry Condition Report System."

§ 572.3 Application for Corporation purchases of net worth certificates.

(a) A qualified institution may request that the Corporation purchase net worth certificates issued by the institution by filing an application on Form 1286. Subsequent applications may be made by the filing of a Form 1287. The form and content of these applications shall be as prescribed by the Corporation.

(b) The qualified institution shall file two copies of either Form 1286 or Form 1287 with its Principal Supervisory Agent and one copy with the Office of Examinations and Supervision ("OES"), Federal Home Loan Bank Board, Washington, D.C. The application shall be deemed to be filed on the date received by the Principal Supervisory Agent, provided that the copy required to be filed with OES has been sent or given by that date. In addition, a State-chartered institution shall file three copies of its application with its State supervisory authority and request that State supervisor to submit to the Corporation, within 15 business days after the application is filed with the Corporation, a certification regarding whether or not (1) the State supervisor objects to the Corporation's purchase of net worth certificates in accordance with the provisions of this Part, and (2) the applicant is a qualified institution. The certification by the State supervisor is to assist the Corporation in its determination and is not binding on the Corporation.

(c) An application must request that the Corporation purchase net worth certificates from a qualified institution on the basis of that institution's operating losses for an applicable period and shall be filed no later than the later of February 1, 1983 or 30 days after the close of that applicable period.

(d) A qualified institution may request that the Corporation purchase net worth certificates in an amount less than the Corporation would be willing to purchase.

(e) If an application is acceptable to the Corporation, the Corporation will issue to the applicant a preliminary notice of an intent to purchase a specified amount of net worth certificates. Within 45 business days after the date of this preliminary notice, the institution shall amend its application to submit any items not previously included, *e.g.*, the certification by the board of directors regarding authority to issue NWCs, or a business plan, and shall submit executed copies of the NWC governing documents.

(f) The Corporation will notify the applicant regarding any change in the Corporation's preliminary decision, set forth in the preliminary notice, as a result of the additional information submitted by the applicant to complete its application.

(g) If the Corporation finds an application unacceptable, it will issue to the applicant a notice of determination not to purchase NWCs.

(h) The Corporation retains the right to waive, upon a showing of good cause, any of the requirements of this Part regarding the timeliness of submissions.

(i) Each application filed by an institution under this Part constitutes an offer for the sale of net worth certificates to be issued by the applicant to the Corporation. Each application will be separately considered.

(j) Purchase by the Corporation of net worth certificates from an institution as a result of operating losses during one applicable period does not create any right or entitlement in that institution to require the Corporation to purchase net worth certificates on the basis of operating losses for a different applicable period.

(k) A qualified institution that applies for Corporation purchase of net worth certificates does not become entitled to require any such purchases. All net worth certificate purchases are at the sole discretion of the Corporation.

§ 572.4 Delegations.

The Corporation delegates all of its authority regarding its actions under this Part, not specifically delegated to another member of its staff in its Policy Statement, § 572.1 of this Part, to the Director of the Office of Examinations and Supervision ("OES") of the Federal Home Loan Bank Board (the "Board"), or his designee, who may include the Principal Supervisory Agent; except that no alteration may be made in the standard form of net worth certificate or promissory note of the Corporation prescribed by the Board's General Counsel without the concurrence of the Board's General Counsel or his designee.

§ 572.5 Right to appeal.

(a) Within 15 business days after the date of a notice issued pursuant to delegated authority announcing the Corporation's intent regarding the purchase of net worth certificates from an institution, that institution may petition the Board for its consideration of the net worth certificate purchase request. The petition must explain in detail the reason(s) for the institution's belief that the decision made pursuant to delegated authority was inappropriate.

(b) Upon the filing of an appeal petition, as provided for in paragraph (a) of this section, regarding an action taken pursuant to delegated authority, the Director of OES shall either overrule the action and accede to the action requested by the appeal, or submit the matter to the Board for its consideration of the request on the basis of the petition, the application and related documents, including if applicable the institution's detailed financial analysis submitted in response to a Preliminary Notice of Pending Insolvency as described in § 572.1 of this Part, and any other information which OES or the Board's Office of General Counsel deems appropriate to submit. The Board will not entertain any oral arguments on behalf of the institution.

(c) Notwithstanding paragraph (a) of this section, an institution shall not petition the Board and the Board will not consider any appeal of a denial to purchase net worth certificates on the basis of a final determination of pending insolvency if the institution has failed to submit the requisite financial analysis in response to a Preliminary Notice of Pending Insolvency.

(d) No person other than an applicant under § 572.3 of this Part has a right to request Board consideration of Corporation action under this Part affecting that applicant, or otherwise to protest that Corporation action. In particular, no person other than the applicant shall have any right to protest a decision by the Corporation: (a) to purchase or decline to purchase net worth certificates, or (b) regarding the comparative cost of a purchase of net worth certificates as opposed to alternative remedies.

§ 572.6 Effect of Corporation purchase of net worth certificates.

Unless expressly provided for by contract, the purchase by the Corporation of net worth certificates from an institution under the provisions of this Part:

(a) Imposes no obligation whatsoever on the Coporation to provide any other form of financial assistance to the issuing institution;

(b) Does not release, alter, amend, or otherwise affect any outstanding agreement between the issuing institution and the Corporation;

(c) Does not limit, restrict, alter, restrain, or otherwise affect the supervisory and regulatory powers, duties, and responsibilities of the Corporation; and

(d) Does not waive or grant a forbearance from the enforcement of any provision of law or regulation.

§ 572.7 Dividends.

During any period in which an institution which is organized in stock form has outstanding net worth certificates issued in accordance with the provisions of this Part, such institution shall not pay dividends to its stockholders.

§ 572.8 Branching.

(a) No institution which has outstanding net worth certificates issued in accordance with the provisions of this Part shall establish a new branch office or, without the prior written approval of the Director of the Board's Office of Examinations and Supervision or his designee, who may include the Principal Supervisory Agent, relocate an existing branch office.

(b) Notwithstanding paragraph (a) of this section, the Corporation may in its discretion grant prior written approval for the opening of new offices by an institution which has net worth certificates outstanding if the existence of those outstanding certificates results from a business combination whereby the institution acquired another institution that has net worth certificates outstanding.

§ 572.9 Transactions with holding company.

No institution which has outstanding net worth certificates issued in accordance with the provisions of this Part shall enter into a new contract or modify an existing contract with its parent holding company or an affiliate thereof, without the prior written approval of the Director of the Board's Office of Examinations and Supervision or his designee, who may include the Principal Supervisory Agent.

§ 572.10 Authorization for Federal mutual institution to issue net worth certificates.

A Federal mutual savings and loan association or savings bank is authorized, upon appropriate resolution of its board of directors, to issue net worth certificates in accordance with the provisions of this Part to the Federal agency that insures its deposits.

§ 572.11 Board statutory authority.

(a) Notwithstanding the other provisions of this Part, the Board retains the right to authorize the Corporation to purchase net worth certificates from an institution in accordance with the authority granted by Title II of the Garn-St Germain Depository Institutions Act of 1982, Pub. L. 97–320, 96 Stat. 1469. A purchase effected pursuant to this section shall be subject only to such terms and conditions as are specified by the Board.

(b) The delegation of authority set out in § 572.4 of this Part is not applicable to a purchase of NWCs effected in accordance with this section.

(Secs. 2 and 5, 48 Stat. 128 and 132, as amended (12 U.S.C. §§ 1462 and 1464); secs.

401, 402, 403, 405, 406, and 407, 48 Stat. 1255, 1256, 1257, 1259, and 1280, as amended (12 U.S.C. §§ 1724, 1725, 1726, 1728, 1729, and 1730); Reorg. Plan No. of 1947, 3 CFR, 1943–1948 Comp., p. 1071)

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 82-35328 Filed 12-29-82; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 82-NM-91-AD; Amdt. 39-4524]

Airworthiness Directives; British Aerospace (Formerly Hawker Siddeley Aviation, Ltd.) HS/DH/BH 125 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This document amends an existing Airworthiness Directive (AD) 80-12-10 applicable to British Aerospace (formerly Hawker Siddeley Aviation, Ltd.) HS/DH/BH 125 series airplanes, which requires disassembly, inspection for cracks, and reinforcement of the flap outboard hinge assemblies. This amendment makes two changes:

1. It corrects the applicability statement to include one additional airplane (Serial Number NA-0245), which was inadvertently omitted from the original applicability statement; and

2. It provides for an optional modification which, if incorporated, eliminates the requirement for repeat inspections. This aspect of the amendment is relieving in nature.

EFFECTIVE DATE: January 3, 1983.

ADDRESS: The service bulletin specified in this Airworthiness Directive may be obtained upon request to British Aerospace, Inc., Box 17414, Dulles International Airport, Washington, D.C. 20041 or may be examined at the address shown below.

FOR FURTHER INFORMATION CONTACT: Mr. Sulmo Mariano, Foreign Aircraft Certification Branch, ANM-150S, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 767-2530. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: The United Kingdom Civil Aviation Authority (UK-CAA) has classified BAe Service Bulletin 57-55, Revision 1, dated October 22, 1980, as mandatory. AD 80-12-10 (45 FR 38350, June 9, 1980) makes reference to the BAe Service Bulletin 57-55 and was issued to require installation of a steel strap reinforcement around the aft lug on each flap outboard hinge arm assembly, repetitive inspections of the flap outboard hinge assemblies, replacement of cracked parts on British Aerospace DH/BH/HS 125 series airplanes, and trimming of the reinforcing on the flap lower skin on these airplanes, except Model 700 series. After inspection and modification, the inspections are to be repeated at one year intervals. Any cracked parts must be replaced with serviceable parts. BAe HS-125 Modification 252659, specified in Service Bulletin 57-55, Revision 1, dated October 22, 1980, replaces the original hinge arm assemblies with all-steel parts and any airplane incorporating this modification does not require the annual disassembly inspection. When this modification is incorporated on the airplanes affected by AD 80-12-10, the annual inspection requirement of AD 80-12-10 is terminated. The applicability statement in AD 80-12-10 did not include serial number NA-0245 which is listed in BAe Service Bulletin 57-55. Serial number NA-0245 was not constructed to include the modification and just be inspected until Modification 252659 is incorporated.

This airplane model is manufactured in the United Kingdom and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable airworthiness bilateral agreement.

Since this condition is likely to exist or develop on airplanes of this model registered in the United States, an AD is being issued which amends AD 80-12-10 by adding one additional airplane to the effectivity and by adding BAe HS 125 Modification 252659 which, if an operator chooses to incorporate, terminates the inspections required by AD 80-12-10.

Since a situation existed and still exists for airplane serial number NA-0245 that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days. The aspect of this AD applicable to all other DH/BH/HS 125 airplanes is relieving.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by amending AD 80-12-10, Amendment 39-3797 (45 FR 38350, June 9, 1980) as follows:

1. The applicability statement is amended to read: "Applies to Model DH/BH/HS 125 series airplanes except 700 series airplanes above Serial Number NA-0245, certificated in all categories."

2. A new paragraph (i) is added, reading as follows: "Accomplishment of BAe Modification 252659 constitutes terminating action for this AD."

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

This amendment becomes effective January 3, 1983.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Seattle, Washington, on December 14, 1982.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 82-35157 Filed 12-29-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 82-NM-94-AD; Amdt. 39-4525]

Airworthiness Directives; McDonnell Douglas Model DC-8 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This document adds a new Airworthiness Directive (AD) applicable to McDonnell Douglas Model DC–8 series airplanes, fuselage numbers 520 through 556, and prior airplaines that have incorporated McDonnell Douglas DC–8 Service Bulletin 32–156 dated June 12, 1970. This AD requires modification of electrical circuitry necessary to ensure illumination of the anti-skid off/fail annunciator light when power to the anti-skid system is lost. A recent incident of an unannunciated inoperative anti-skid system resulted in excessive braking and five blown tires.

DATES: Effective January 3, 1983. Compliance schedule as prescribed in the body of the AD, unless already accomplished.

ADDRESSES: The applicable service information may be obtained from: McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, Calif. 90846, Attention: Director, Publications and Training, C1–750 (54–60). This information also may be examined at FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168, or 4344 Donald Douglas Drive, Long Beach, Calif. 90808.

FOR FURTHER INFORMATION CONTACT: Lonnie Tarver, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808, telephone (213) 548–2831.

SUPPLEMENTARY INFORMATION: One operator reported an unannunciated failure of the anti-skid system which resulted in excessive brake application on landing causing six blown or damaged tires. The failure of the anti-skid off/fail light to properly annunciate the inoperative anti-skid system was found to be the result of a design change incorporated into production beginning with fuselage number 520. This condition exists on all previously manufactured airplanes modified in accordance with DC–8 Service Bulletin 32–156, dated June 12, 1970. This design change resulted in the anti-skid system and its off/fail annunciator light both requiring power from the Number 1, 28 volt DC, bus. In the cited incident, after generator number 1 failed, the flight crew was unable to parallel the Number 1 bus with the operative buses; hence, both the anti-skid system and the off/fail annunciator light were inoperative. The terminology "off/fail" annunciator is used in a generic sense since specific labelling of the indicator is known to vary.

Since this situation is likely to exist or develop on other airplanes of the same type design, this AD requires the installation of an additional ground circuit for the annunciator light. This ground circuit, which is activated by the landing gear lever limit switch, will prevent the anti-skid off/fail annunciator light from being disabled by loss of power to the Number 1 DC bus. Prior to the installation of this ground circuit, this AD requires the installation of a placard advising the flight crew that anti-skid braking and the anti-skid off/fail annunciator light will be inoperative with the Number 1 DC bus unpowered.

Since a situation exists that requires immediate adoption of this regulation it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

McDonnell Douglas: Applies to McDonnell Douglas Model DC–8 series airplanes, fuselage numbers 520 through 556, and prior airplanes modified in accordance with McDonnell Douglas DC–8 Service Bulletin 32–156, dated June 12, 1970, certificated in all categories. Compliance required as indicated, unless previously accomplished.

To preclude excessive brake application on landing resulting from an unannunciated failure of the anti-skid system, accomplish the following:

A. Within 30 days from the effective date of this AD install a placard in clear view of the flight engineer as close as practicable to the Number 1 DC load meter which reads, "With DC Bus 1 unpowered, Anti-Skid system and annunciator are inoperative."

B. Within 6 months from the effective date of this AD, modify the anti-skid control system circuitry in accordance with the Accomplishment Instructions of McDonnell Douglas DC–8 Service Bulletin 32–175, dated July 2, 1982, or later revisions approved by the Manager, Los Angeles Aircraft Certification Office, FAA Northwest Mountain Region.

Note.—The following procedure may be used as an alternative to the anti-skid checkout procedure specified in paragraph 2.D. of Service Bulletin 32–175:

Restore electrical power and functionally test anti-skid off/fail (INOP) light circuitry as follows:

1. Verify parking brake is released.

2. Place anti-skid switch S1–352 located on engine instrument panel to "ARM." Verify anti-skid off/fail (INOP) light on captain's instrument panel is not illuminated.

3. At EPC circuit breaker panel, 28 volt DC Bus 1 miscellaneous section, open circuit breaker B1–406, "LANDING GEAR WARN AND INTERLOCK" and at 28 VDC Bus 1 Heat, Vent, Ice Protection Section, open circuit breaker B1–820, Left, Right, and NLG and MAIN DOORS WARNING. Verify anti-skid off/fail (INOP) light is illuminated.

4. Close circuit breaker B1–406 and B1–820 to restore system to normal condition.

5. Return parking brake to original position.

6. Remove placard installed per paragraph A., above.

C. Alternative means of compliance providing an equivalent level of safety may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, Calif. 90846, Attention: Director, Publications and Training, C1–750 (54–60). These documents also may be examined at FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Wash. 98168, or Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, Calif. 90808.

This amendment becomes effective January 3, 1983.

(Sections 313(a), 601, and 603 of the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); Section 6(c) of the Department of Transportaton Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Seattle, Washington, on December 14, 1982.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 82-35158 Filed 12-29-82; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 39

[Docket No. 82-NM-107-AD; Amdt. 39-4526]

Airworthiness Directives; McDonnell Douglas Model DC-8 Series 70 Airplanes With Air Cycle Air Conditioning Systems Installed Per Camma Corp. STC SA1343NM

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new Airworthiness Directive (AD) that requires installation of strip heaters on exposed pitot lines in the turbo compressor compartment of DC-8 Series 70 airplanes with air cycle air conditioning systems. This action is necessary to prevent moisture freezing in the pitot lines and causing loss of airspeed information to the pilots and required systems.

DATES: Effective January 3, 1983. Compliance schedule as prescribed in the body of the AD, unless already accomplished.

ADDRESSES: The applicable service information may be obtained from: McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, Calif. 90846, Attention: Director, Publications and Training, C1-750 (54-60). This information also may be examined at FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Wash. 98168, or 4344 Donald Douglas Drive, Long Beach, Calif. 90808.

FOR FURTHER INFORMATION CONTACT: Harry Wasinger, Aerospace Engineer, Systems & Equipment Branch, ANM-130L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, Calif. 90808, telephone (213) 548-2831.

SUPPLEMENTARY INFORMATION: Two operators of affected aircraft reported erratic airspeed indication in the captain's and first officer's airspeed indicators. A difference of 40 to 50 knots was indicated between the instruments. Investigation revealed that moisture in the pitot lines was freezing in the turbo compressor compartment forward of the forward pressure bulkhead. This condition has resulted from the loss of heat generated by the turbo compressor equipment, which was removed during the incorporation of STC SA1343NM. Incorporation of McDonnell Douglas DC-8 Alert Service Bulletin A30-39, Revision 1, dated October 21, 1982, which installs pitot line strip heaters, will prevent this condition from occurring.

Note.—For those operators affected, FAR 121.342 requires each transport category airplane equipped with a flight instrument pitot heating system to also be equipped with an operable pitot heat indication system that complies with FAR 25.1326. Parts necessary to complete the modification of the pitot heat indication system, after the strip heaters are installed, are not yet available, but are expected to be available by January 3, 1983, at which time this AD will be amended to include the installation of those parts. Based on these facts, the FAA Director of Flight Operations, in accordance with the provision of FAR 121.342(b), has extended the compliance date of that rule to correspond with the above referenced amendment to this AD, which will provide a pitot heat monitoring system.

Since this condition is likely to exist or develop in other airplanes of the same type design, an airworthiness directive is being issued which requires installation of strip heaters on exposed pitot lines in the turbo compressor compartment, on all DC-8 Series 70 airplanes with air cycle air conditioning systems installed per Camma Corp. STC SA1343NM.

Since a situation exists that requires immediate adoption of this regulation it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

List of Subject in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

McDonnell Douglas: Applies to McDonnell Douglas Model DC-8 Series 70 airplanes as modified by Camma Corp. STC SA1343NM which installs air cycle air conditioning systems.

Compliance required as indicated, unless previously accomplished.

To prevent moisture from freezing in the pitot lines in the turbocompressor compartment which may result in inaccurate airspeed information, accomplish the following:

A. Within 30 days after the effective date of this AD, install pitot line strip heaters in accordance with McDonnell Douglas DC-8 Alert Service Bulletin A30-39, Revision 1, dated October 21, 1982, or later revisions approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

Note.—The FAA, Director of Flight Operations has authorized an extension to the pitot heat monitoring system requirements of FAR 121.342(b) to April 12, 1983, for these airplanes.

B. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

C. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1-750 (54-60). These documents also may be examined at FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, or Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808.

This Amendment becomes effective January 3, 1983.

Sections 313(a), 601, and 603 of the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89).

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Seattle, Washington, on December 14, 1982.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 82-35159 Filed 12-29-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 82-CEF-10-AD; Amdt. 39-4516]

Airworthiness Directives; SIAI-Marchetti Models S.205-18/F, S.205-18/R, S.205-20/F, S.205-20/R, S.205-22/R, S.208 and S.208A Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule, Revision of Existing Airworthiness Directive (AD).

SUMMARY: This amendment revises Airworthiness Directive (AD) 71-17-04, Amendment 39-1266, applicable to SIAI-Marchetti S.205 and S.208 series airplanes by adding the Model S.208A (all serial numbers) to the applicability statement. It also relaxes the requirements of AD 71-17-04 by increasing the time-in-service intervals between the specified repetitive inspections. The FAA has determined that the repetitive inspection intervals required by this AD can be increased without compromising safety of these airplanes. Accordingly, this AD is being revised to relieve the burden on the public.

EFFECTIVE DATE: December 27, 1982.

COMPLIANCE: As prescribed in the body of the AD.

ADDRESSES: SIAI-Marchetti Service Bulletin No. 205B27A, dated October 7, 1977, applicable to this AD may be obtained from SIAI-Marchetti, Sesto Calende, Italy. A copy of this information is also contained in the Rules Docket, Office of the Regional Counsel, FAA Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: C. Christie, Manager, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Office, FAA, c/o American Embassy, Brussels, Belgium, or P. Cormaci, Manager, Foreign FAR 23 Section, ACE-109, Central Region, FAA, 601 East 12th Street, Kansas City, Missouri 64106.

SUPPLEMENTARY INFORMATION: AD 71-17-04, Amendment 39-1266, applicable to SIAI-Marchetti S.205 and S.208 series airplanes, requires repetitive visual inspections at 50 hours time-in-service and repetitive dye penetrant inspections at 300 hours time-in-service for cracks in the main landing gear wheel axle-to-strut-tube fittings. After issuing AD 71-17-04, the FAA has determined from data in the FAA's Service Difficulty Program that the 50-hours repetitive visual inspections may be increased to 100 hours, and that the 300-hour repetitive dye penetrant inspections may be increased to 500 hours without compromising safety. In addition, the manufacturer has determined that the Model S.208A airplanes have design features which could result in similar cracks. Therefore, the FAA is revising AD 71-17-04 by increasing the repetitive visual inspection interval to 100 hours, the repetitive dye penetrant inspection interval to 500 hours and by revising the AD applicability list to include all Model S.208A airplanes. As of October 2, 1982, no Model S.208A airplanes were registered in the United States. Accordingly, no additional burden is imposed on the public by this revision.

Since this amendment is in part both clarifying and relieving in nature, notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly and pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13), AD 71-17-04, Amendment 39-1266, is hereby revised and reissued in its entirety to read as follows:

Siai-Marchetti: Applies to Models S.205-18/F, S.205-18/R, S.205-20/F, S.205-20/R, S.205-22/R, S.208, and S.208A airplanes (all serial numbers) certificated in any category.

Compliance: Required as indicated unless already accomplished.

To prevent failure of the main landing gear, accomplish the following:

(a) Before further flight, unless already accomplished within the last 50 hours time-in-service, and thereafter at intervals not to exceed 100 hours time-in-service, from the last check, visually check, using a magnifying glass of at least 5 power, the main landing gear wheel axle-to-strut-tube fittings for cracks in accordance with "INSTRUCTIONS" paragraph (a), SIAI-Marchetti Service Bulletin No. 205B27A, dated October 7, 1977. If cracks are found, comply with paragraph (c) or (d) as appropriate. The checks required by this paragraph may be performed by the pilot, who must make the prescribed maintenance record entry indicating compliance with paragraph (a) of this AD.

(b) Within the next 50 hours time-in-service after the effective date of this AD, unless already accomplished within the last 450 hours time-in-service and thereafter at intervals not to exceed 500 hours time-in-service from last inspection, inspect the main gear wheel axle-to-strut-tube fittings for cracks, using a dye penetrant method, in accordance with "INSTRUCTIONS" paragraph (b), SIAI-Marchetti Service Bulletin No. 205B27A, dated October 7, 1977. If cracks are found, comply with paragraph (c) or (d) as appropriate.

(c) If cracks which do not extend to the lateral external surface of a fitting are found during a check required by paragraph (a) or during an inspection required by paragraph (b), within the next 50 hours time-in-service, and thereafter at intervals not to exceed 50 hours time-in-service from the last inspection, inspect the main landing gear wheel axle-to-strut tube fittings for cracks, using a dye penetrant method in accordance with "INSTRUCTIONS" paragraph (b), SIAI-Marchetti Service Bulletin No. 205B27A, dated October 7, 1977.

(d) If cracks are found on the lateral external area of a fitting during a check required by paragraph (a), or during an inspection required by paragraph (b) or (c), before further flight replace the cracked part with a new part of the same part number, in accordance with "INSTRUCTIONS" paragraph (d.1), SIAI-Marchetti Service Bulletin No. 205B27A, dated October 7, 1977, or FAA approved equivalent, and continue to check in accordance with paragraph (a) and continue to inspect in accordance with paragraph (b).

(e) Airplanes may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished.

(f) An equivalent means of compliance with this AD may be used if approved by the Manager, Aircraft Certification Staff, AEU-100, Europe, Africa and Middle East Office, FAA, c/o American Embassy, Brussels, Belgium.

This amendment revises AD 71-17-04 (Amendment 39-1266).

This amendment becomes effective December 27, 1982.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(a)); Sec. 11.89 of the Federal-Aviation Regulations (14 CFR Sec. 11.89))

Note.—The FAA has determined that this amendment involves revision of a regulation which is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 28, 1979), because its effect on the economy is less than 20,000 annually, and certifies that the rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act, sense it effects maintenance on aircraft owned by few small entities.

Issued in Kansas City, Missouri, on December 9, 1982.

Murray E. Smith,

Director, Central Region.

[FR Doc. 82-35373 Filed 12-27-82; 2:14 pm]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 82-AWP-3]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Alteration of the Santa Barbara, Calif., Additional Control Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment changes the description of the Santa Barbara, CA, Additional Control Area to provide additional controlled airspace west of the Vandenberg Air Force Base (AFB). This action improves air traffic control service by increasing the amount of controlled airspace available for radar vectoring service.

EFFECTIVE DATE: February 17, 1983.

FOR FURTHER INFORMATION CONTACT: George Hussey, Airspace Regulations and Obstructions Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION:

History

On October 12, 1982, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to lower the floor of the Santa Barbara, Calif., Additional Control Area (47 FR 44746). This amendment designates additional controlled airspace west of Vandenberg AFB to provide for more efficient radar vectoring service to aircraft arriving or departing Vandenberg AFB. The additional controlled airspace will also be available to the Los Angeles Air Route Traffic Control Center (ARTCC) for civil use. The existing airspace is restricted by minimum vectoring altitudes which are too high for practical use in this area. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.163 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3 dated January 29, 1982.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations amends the Santa Barbara, CA, Additional Control Area to provide additional controlled airspace west of the Vandenberg AFB.

List of Subjects in 14 CFR Part 71

Additional control areas, Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.163 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.m.t., February 17, 1983, as follows:

Santa Barbara, CA [Amended]

By deleting the period after the word "boundary" and adding the words ", except, that airspace extending upward from 2,000 feet MSL within the area bounded by a line beginning at lat. 34°57'30" N., long. 121°15'00" W.; to lat. 35°06'17" N., long. 120°54'55" W.; to lat. 34°56'30" N., long. 120°43'30" W.; thence via a line 3 nautical miles west of and parallel to the shoreline to lat. 34°24'00" N., long 120°30'00" W.; to lat. 34°23'00" N., long. 120°30'00" W.; to lat. 34°19'00" N., long. 120°45'00" W.; to lat. 34°50'00" N., long. 121°10'00" W.; thence to point of beginning."

(Secs. 307(a), 313(a), and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a), and 1510); Executive Order 10854 (24 FR 9565); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on December 17, 1982.

B. Keith Potts,

Manager, Airspace and Air Traffic Rules Division.

[FR Doc. 82-35162 Filed 12-29-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 82-AGL-22]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Alteration of Transition Area; Savanna, Ill.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to revoke the transition area currently designated for Savanna, Illinois, due to the decommissioning of the Savanna, Illinois, non-directional radio beacon.

The intended effect of this action is to return the associated airspace to a non-controlled status.

EFFECTIVE DATE: February 17, 1983.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Airspace, Procedures, and Automation Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Ill. 60018, telephone (312) 694-7360.

SUPPLEMENTARY INFORMATION: The Tri-Township Municipal Airport Authority, Savanna, Illinois, has requested permission to decommission the Savanna, Illinois, non-directional radio beacon (SFY) due to economic and maintenance restraints. That decommissioning would operationally terminate all published instrument procedures for the Franklin U. Stransky Airport and, as such, negate the need for the designation of a transition area. Aeronautical maps and charts will reflect the change.

Aeronautical maps and charts will reflect the defined areas which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

History

On page 49975 of the **Federal Register** dated November 4, 1982, the FAA proposed to amend § 71.181 of the Federal Aviation Regulations (14 CFR Part 71) so as to alter the transition area airspace near Savanna, Ill. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rulemaking.

Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation

Regulations was published in Advisory Circular AC 70–3 dated January 29, 1982.

List of Subjects in 14 CFR Part 71

Transition areas, Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.m.t. February 17, 1983, as follows:

Savanna, Illinois [Revoked]

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)) and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, it is certified that this—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Des Plaines, Ill. on December 15, 1982.

Paul K. Bohr,

Director, Great Lakes Region.

[FR Doc. 82–35164 Filed 12–29–82; 8:45 am]

BILLING CODE 4910–13–M

---

14 CFR Part 71

[Airspace Docket No. 82–AGL–24]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Designation of Transition Area; Lafayette, Ind.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to designate a new controlled airspace area near Lafayette, Ind., to accommodate a new instrument approach into Aretz Airport, Lafayette, Ind., which was established on the basis of a request from the Aretz Airport officials to provide that facility with the instrument approach capability utilizing the Boiler, Ind., VORTAC facility.

The intended effect of this action is to insure segregation of the aircraft using approach procedures in instrument weather conditions from other aircraft operating under visual weather conditions.

EFFECTIVE DATE: February 17, 1983.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Airspace, Procedures, and Automation Branch, Air Traffic Division, AGL–530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Ill. 60018, telephone (312) 694–7360.

SUPPLEMENTARY INFORMATION: The floor of the controlled airspace in this area will be lowered from 1200′ above ground to 700′ above ground. The development of the proposed instrument procedures requires that the FAA lower the floor of the controlled airspace to insure that the procedure will be contained within controlled airspace. The minimum descent altitude for this procedure may be established below the floor of the 700-foot controlled airspace.

Aeronautical maps and charts will reflect the area of the instrument procedure, which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

History

On page 49977 of the Federal Register dated November 4, 1982, the FAA proposed to amend § 71.181 of the Federal Aviation Regulations (14 CFR Part 71) so as to establish a new 700-foot controlled airspace transition area near Lafayette, Ind. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rulemaking.

Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was published in Advisory Circular AC 70–3 dated January 29, 1982.

List of Subjects in 14 CFR Part 71

Transition areas, Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.m.t., February 17, 1983, as follows:

Lafayette, Indiana (Aretz Airport)

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Aretz Airport (latitude 40°27′37″N, longitude 86°50′05″W), excluding the airspace within the Lafayette, Indiana, transition area (Purdue University Airport).

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)) and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore it is certified that this—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Des Plaines, Ill., on December 15, 1982.

Paul K. Bohr,

Director, Great Lakes Region.

[FR Doc. 82–35165 Filed 12–29–82; 8:45 am]

BILLING CODE 4910–13–M

---

14 CFR Part 71

[Airspace Docket No. 82–AGL–20]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Alteration of Transition Area; Watersmeet, Mich.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to modify and correct the Watersmeet, Michigan, transition area description by eliminating all references to the Boulder Junction transition area and Federal Airways V63, V91E and V430 while correcting a previous transposition of the directions east for west and west for east in that description.

The intended effect of this action is to insure segregation of the aircraft using approach procedures in instrument weather conditions from other aircraft operating under visual weather conditions.

EFFECTIVE DATE: February 17, 1983.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Airspace, Procedures, and Automation Branch, Air Traffic Division, AGL–530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Ill. 60018, telephone (312) 694–7360.

SUPPLEMENTARY INFORMATION: Due to the removal of the navigational aid serving Boulder Junction Airport and subsequent loss of instrument approach procedures, the Boulder Junction, Wisconsin, transition area is in the process of being cancelled. As such, the

exclusion to same as published in the current Watersmeet, Michigan, transition area description is no longer appropriate. The exclusion references to V63, V91E and V430 have also been determined inappropriate and are to be deleted.

Aeronautical maps and charts will reflect the defined areas which will enable other aircraft to circumnavigate in order to comply with applicable visual flight rule requirements.

History

On page 49976 of the Federal Register dated November 4, 1982, the FAA proposed to amend § 71.181 of the Federal Aviation Regulations (14 CFR Part 71) so as to alter the transition area airspace near Watersmeet, Michigan. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rulemaking.

Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was published in Advisory Circular AC 70-3 dated January 29, 1982.

List of Subjects in 14 CFR Part 71

Transition areas, Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.m.t., February 17, 1983, as follows:

Watersmeet, Michigan

That airspace extending upward from 700 feet above the surface within an 8.5-statute-mile radius of the NRC Airport, Watersmeet, Michigan (lat. 46°17'15"N., long. 89°16'35"W.), excluding that portion which overlaps the Land-O-Lakes transition area; and that airspace extending upward from 1,200 feet above the surface within 9.5 miles north and 4.5 miles south of the 265° true bearing of the Watersmeet (RXW) NDB (lat. 46°17'18"N., long. 89°16'43"W.), extending 18.5 miles west of the NDB and 9.5 miles north and 4.5 miles south of the 100° true bearing of the RXW NDB extending 18.5 miles east, excluding that portion which overlaps the Land-O-Lakes transition area.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore it is certified that this—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Des Plaines, Ill. on December 15, 1982.

Paul K. Bohr,

Director, Great Lakes Region.

[FR Doc. 82-35163 Filed 12-29-82; 8:45 am]

BILLING CODE 4910-13-M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1000

Revision to Statement of Organization and Functions

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule.

SUMMARY: The Consumer Product Safety Commission is revising its Statement of Organization and Functions to reflect changes in addresses and organizational structure.

EFFECTIVE DATE: December 30, 1982.

FOR FURTHER INFORMATION CONTACT: Joseph F. Rosenthal, Office of the General Counsel, Consumer Product Safety Commission, Washington, D.C. 20207. Telephone (301) 492-6980.

SUPPLEMENTARY INFORMATION: This rule amends 16 CFR Part 1000 to reflect recent changes in the Commission's addresses and organizational structure, as described below.

16 CFR 1000.4 is revised to reflect the relocation of the Commission's Office of Congressional Relations and Office of Public Affairs from the Commission's main headquarters to its Bethesda, Maryland offices.

16 CFR 1000.5 is revised to delete references to petitioning procedures under the Consumer Product Safety Act. Such procedures were based on section 10 of the Act, which was repealed by Pub. L. 97-35.

16 CFR 1000.7 is revised to correct the designation of the Directorate for Compliance and Administrative Litigation.

16 CFR 1000.17 is revised to delete reference to the Office of Public Affairs' administration of public participation activities, since that Office no longer engages in such activities.

Since this rule relates solely to internal agency organization and management, the Administrative Procedure Act (APA) (5 U.S.C. 553) does not require the Commission to apply the notice and comment provision of the APA.

Further, this action is not a rule as defined in the Regulatory Flexibility Act, 5 U.S.C. 602-612, and thus is exempt from the provision of that Act.

List of Subjects in 16 CFR Part 1000

Organization and functions (Government Agencies).

PART 1000—[AMENDED]

Accordingly, Part 1000 of Title 16 of the Code of Federal Regulations is amended as shown.

1. The authority citation for Part 1000 reads as follows:

Authority: 5 U.S.C. 552(a).

2. In § 1000.4, paragraphs (b) and (c) are revised to read as follows:

§ 1000.4 Commission addresses.

* * * * *

(b) The main headquarters of the Commission are at 1111 18th Street, N.W., Washington, D.C. At this location are the Offices of the Chairman and Commissioners, a hearing room, and a public reading room maintained by the Office of the Secretary.

(c) The Office of the General Counsel, Office of the Secretary, Office of Congressional Relations, Office of Public Affairs, Office of Internal Audit, Office of Equal Employment Opportunity and Minority Enterprise, the Executive Director and the operating units under his or her authority, are located at 5401 Westbard Avenue, Bethesda, Maryland.

* * * * *

3. Section 1000.5 is revised to read as follows:

§ 1000.5 Petitions.

Any interested person may petition the Commission to issue, amend, or revoke a rule or regulation by submitting a written request to the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207.

4. In § 1000.7, paragraph (b) is revised to read as follows:

§ 1000.7 Advisory opinions and interpretations of regulations.

* * * * *

(b) *Interpretations of regulations.* Upon written request, the Associate Executive Director for Compliance and Administrative Litigation will issue written interpretations of Commission regulations pertaining to the safety standards and the enforcement of those standards. Requests for such

interpretations should be sent to the Associate Executive Director for Compliance and Administrative Litigation, Consumer Product Safety Commission, Washington, D.C. 20207. Requests for interpretations of administrative regulations (e.g., Freedom of Information Act regulations) should be sent to the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207.

5. Section 1000.17 is revised to read as follows:

§ 1000.17 Office of Public Affairs.

The Office of Public Affairs is responsible for the development, implementation, and evaluation of a comprehensive national public affairs program designed to promote product safety. The Office develops and maintains relations with a wide range of national groups, including: Consumer organizations; business groups; trade associations; state and local government associations; labor organizations; medical, legal, scientific, and other professional associations; national print and broadcast media; and other Federal health, safety, and consumer affairs agencies.

Dated: December 23, 1982.

Sadye Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc 82-35323 Filed 12-29-82; 8:45 am]
BILLING CODE 6355-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 201, 230, 240, 250, 260, 270, and 275

[Release Nos. 33-6446; 34-19356; 35-22769; 39-787; IC-12913; IA-835]

Elimination of Legal Size Paper

AGENCY: The Securities and Exchange Commission.

ACTION: Amendments to rules.

SUMMARY: The Securities and Exchange Commission announces the adoption of amendments to its rules to require the use of 8½ x 11 inch paper for all statements, applications, reports, documents and amendments thereto filed with the Commission. The Commission's filing system was designed to accommodate both letter size (8½ x 11 inches) and legal size (8½ x 13 inches) papers. After the Commission adopted a micrographics filing program, however, it became apparent that attempting to accommodate both size papers increased the cost of microfiche because, in most instances, it is not possible to get the maximum number of images on each microfiche. Adopting a uniform size for all documents filed with the Commission will achieve maximum cost-efficiency in the commission's micrographics filing program.

EFFECTIVE DATE: January 30, 1983.

FOR FURTHER INFORMATION CONTACT: Questions should be directed to Douglas J. Scheidt, Office of the General Counsel, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Telephone: (202) 272-2454.

SUPPLEMENTAL INFORMATION: The Commission announces the adoption of amendments to 17 CFR 201.22(e), 230.403(a), 240.12b-12(a) and (b), 250.22(d), 260.7a-17, 260.7a-18, 270.0-2(b), 270.8b-12(a) and (b), and 275.0-4(b) which eliminate the use of legal size paper and require the use of 8½ x 11 inch paper for all statements, applications, reports, documents and amendments thereto filed with the Commission. This action parallels that of the Judicial Conference of the United States, which has adopted the 8½ x 11 inch paper size standard for use throughout the federal judiciary and eliminated the use of legal size paper, effective January 1, 1983 (46 FR 60864, December 14, 1981). In addition, many state courts have adopted the letter size paper requirement.

Discussion

On June 11, 1982, the Commission published for comment proposed amendments to 17 CFR 201.22(e), 230.403(a), 240.12(b)-12(a) and (b), 250.22(d), 260.7a-17, 260.7a-18, 270.0-2(b), 270.8(b)-12(a) and (b), and 275.0-4(b), which would eliminate, with minor exceptions, the use of legal size paper for all statements, documents, reports and amendments thereto filed with the Commission and require that all such filings be made on 8½ x 11 inch paper. After consideration of the comments received in response to the Proposing Release, the Commission has determined to adopt the proposed amendments with minor modification. The amendments are based on the Commission's assessment that the Commission's microfiche costs would be reduced by the adoption of 8½ x 11 inches as a uniform paper size, and that requiring the uniform use of that paper size will not create hardship for persons making filings with the Commission.

Six of the eleven commentators responding to the Commission's request for comments in the Proposing Release supported the amendments, one commentator suggested that the amendments only be adopted as a guideline, and four others expressed no view but requested certain clarifications. Some of the commentators also suggested modifications to the proposed amendments. One modification would have provided that the amendments not apply to documents, such as annual and quarterly shareholder reports, which are ordinarily prepared on paper smaller than 8½ x 11 inches, and which are not required to be filed with the Commission but which are often filed as exhibits to other documents filed with the Commission. Another modification would have provided that the proposed amendments not apply to certain documents which are prepared for filing with the Commission's but which, because of their special nature, e.g., computer-generated printouts, cannot be placed on 8½ x 11 inch paper.

The Commission has considered the suggested modifications and has determined to accept the first of the suggested modifications. Documents initially prepared on paper smaller than 8½ x 11 inches for purposes other than filing with the Commission need not be photostatically enlarged to 8½ x 11 inches, as the Commission microfiching expenses are not increased by the copying of documents smaller than that size. The Commission wishes to emphasize, however, that all documents that are prepared for filing with the Commission should be prepared on 8½ x 11 inch paper, except as provided below.

The Commission also has determined to revise the proposed amendments in light of the second of the suggested modifications. The proposed amendments permitted the filing of oversize documents "which were prepared for purposes other than for filing with the Commission" if the photostatic reduction of those documents rendered them illegible. Some oversize documents, however, such as computer-generated printouts, are prepared expressly for purposes of filing with the Commission. Photostatic reduction of such documents may be impracticable or render the print illegible. Thus, the Commission has determined to permit the filing of any document, whether prepared for purposes of filing with the Commission or not, if the document cannot initially be prepared on 8½ x 11 inch paper and reduction of the document would render it illegible. The Commission believes that this modification permits sufficient flexibility to those who may prepare certain exhibits expressly for filing with the Commission, such as computer printouts, the reduction of which is impracticable. The Commission expects, however, that persons filing documents

with the Commission will file oversize documents only under the limited circumstances permitted.

Similarly, the Commission expects that in most instances requiring registrants and others to use 8½ x 11 inch paper for all filings with the Commission will not create hardship. The Commission recognizes, however, that certain documents filed with the Commission, such as material contracts and leases, as well as computer-generated printouts, maps, plats and geological surveys, may commonly be prepared on paper larger than 8½ x 11 inches and often for purposes other than for filing with the Commission. In some instances, reducing such documents to the required size would be costly or would result in an illegible document. Under such circumstances in which it is not practicable to reduce documents to 8½ x 11 inch paper, the Commission would permit filings on larger paper.

Other persons responding to the Commission's request for comments indicated that the photostatic reduction of larger documents to 8½ x 11 inch paper may result in type size and margins that do not conform with the Commission's requirements. The Commission would accept such photostatically reduced copies so long as the type remains legible and the margins remain sufficiently wide so that, when the pages are bound, the reading matter is not obscured.

In light of the above, the Commission amends its rules relating to filing requirements to require the use of 8½ x 11 inch paper for all applications, statements, reports, documents, and amendments thereto filed with the Commission. The Commission finds, in accordance with the Administrative Procedure Act ("APA"), 5 U.S.C. 553(b)(A), and 5 U.S.C. 553(d), that these amendments relate solely to agency organization, procedure or practice and do not relate to substantive rules.

Regulatory Flexibility Act

No regulatory flexibility analysis (or certification that one is not required) is necessary because the rules are procedural, and thus not within the definition of "rule" for purposes of Chapter 6, Title 5, U.S.C.

List of Subjects

17 CFR Part 201

Administrative practice and procedure, Investigations, Securities.

17 CFR Parts 230, 240 and 260

Reporting requirements, Securities.

17 CFR Part 250

Accounting, Reporting requirements, Securities, Utilities.

17 CFR Part 270

Investment companies, Reporting requirements, Securities.

17 CFR Part 275

Investment advisers, Reporting requirements, Securities.

Text of Amendments

In consideration of the foregoing, the Commission hereby amends Parts 201, 230, 240, 250, 260, 270, and 275 of Chapter II, Title 17, Code of Federal Regulations, as follows:

PART 201—RULES OF PRACTICE

Authority: Secs. 19, 23, 48, Stat. 85, as amended, 901, as amended, sec. 20, 49 Stat. 833, sec. 319, 53 Stat. 1173, secs. 38, 211, 54 Stat. 841, 855 (15 U.S.C. 77s, 78w, 79t, 77sss, 80a–37, 80b–11).

1. Paragraph (e) of § 201.22 is revised as follows:

§ 201.22 Filings; formalities; computation of time.

* * * * *

(e) *Paper, spacing, type.* All paper filed under this part shall be typewritten, mimeographed, lithographed, printed or prepared by any similar process which, in the opinion of the Commission, produces copies suitable for microfilming. All papers shall be plainly legible and shall be on one grade of good unglazed white paper measuring no larger than 8½ x 11 inches. To the extent that the reduction of larger documents would render them illegible, such documents may be filed on paper larger than 8½ x 11 inches in size. All papers should have lefthand margins at least 1½ inches wide, shall be bound on the lefthand side, and shall be double-spaced, except that quotations shall be single-spaced and indented. If printed, they shall be in either 10- or 12-point type with double-leaded text and single-leaded quotations.

* * * * *

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

Authority: Secs. 6, 8, 10, 19, 48 Stat. 78, 79, 81, as amended, 85, as amended (15 U.S.C. 77f, 77h, 77s).

2. Paragraph (a) of § 230.403 is revised as follows:

§ 230.403 Requirements as to paper, printing, language and pagination.

(a) Registration statements, applications and reports shall be filed on good quality, unglazed, white paper no larger than 8½ x 11 inches in size, insofar as practicable. To the extent that the reduction of larger documents would render them illegible, such documents may be filed on paper larger than 8½ x 11 inches in size.

* * * * *

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

Authority: Secs. 4, 16, 19, 24, 48 Stat. 77, 896, 85, as amended, 901 (15 U.S.C. 77d, 78p, 77s, 78x).

3. Paragraphs (a) and (b) of § 240.12b–12 are revised as follows:

§ 240.12b–12 Requirements as to paper, printing and language.

(a) Statements and reports shall be filed on good quality, unglazed white paper, no larger than 8½ x 11 inches in size, insofar as practicable. To the extent that the reduction of larger documents would render them illegible, such documents may be filed on paper larger than 8½ x 11 inches in size.

(b) The statement or report and, insofar as practicable, all papers and documents filed as a part thereof, shall be printed, lithographed, mimeographed, or typewritten. However, the statement or report or any portion thereof may be prepared by any similar process which, in the opinion of the Commission, produces copies suitable for a permanent record and microfilming. Irrespective of the process used, all copies of any such material shall be clear, easily readable and suitable for repeated photocopying. Debits in credit categories and credits in debit categories shall be designated so as to be clearly distinguishable as such on photocopies.

* * * * *

PART 250—GENERAL RULES AND REGULATIONS, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

Authority: Sec. 19, 48 Stat. 85, as amended, secs. 13, 15, 23, 48 Stat. 894, 895, 901, as amended, sec. 15, 49 Stat. 828, secs. 305, 307, 314, 319, 53 Stat. 1154, 1156, 1167, 1173, as amended, secs. 38, 39, 54 Stat. 841 (15 U.S.C. 77s, 77m, 78o, 78w, 79o, 77eee, 77ggg, 77nnn, 77sss, 80a–37, 80a–38).

4. Paragraph (d) of § 250.22 is revised as follows:

§ 250.22 Applications and declarations.

* * * * *

(d) *Formal specifications.* All applications, declarations, certificates and statements, and any amendments thereto, shall be filed in triplicate. One

copy shall be signed but the other two copies may have facsimile or typed signatures. Applications and declarations, amendments thereto, and where practicable, all papers filed as a part thereof shall be on good quality, unglazed, white paper, no larger than 8½ x 11 inches in size. To the extent that the reduction of larger documents would render them illegible, such documents may be filed on paper larger than 8½ x 11 inches in size. All documents filed shall be bound on the left side in such manner as to leave the reading matter legible, and shall be printed, lithographed, mimeographed, typewritten, or prepared by any process which, in the opinion of the Commission, produces copies suitable for permanent records and microfilming. Irrespective of the process used, all copies of such material shall be clear, easily readable and suitable for repeated photocopying. Debits and credits in financial statements shall be clearly distinguishable as such on photocopies.

* * * * *

PART 260—GENERAL RULES AND REGULATIONS, TRUST INDENTURE ACT OF 1939

Authority: Secs. 305, 307, 314, 319, 53 Stat. 1154, 1156, 1167, 1173 (15 U.S.C. 77eee, 77ggg, 77nnn, 77sss).

5. § 260.7a–17 is revised as follows:

§ 260.7a–17 Quality, color and size of paper.

The application, statement or report, including all amendments and, where practicable, all papers and documents filed as a part thereof, shall be on good quality, unglazed, white paper, no larger than 8½ x 11 inches in size. To the extent that the reduction of larger documents would render them illegible, such documents may be filed on paper larger than 8½ x 11 inches in size.

6. Paragraph (a) § 260.7a–18 is revised as follows:

§ 260.7a–18 Legibility.

(a) The application, statement or report, including all amendments and, where practicable, all papers and documents filed as a part thereof, shall be clear, easily readable and shall be typewritten, mimeographed, printed or prepared by any similar process which, in the opinion of the Commission, produces copies suitable for repeated photocopying and microfilming.

* * * * *

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

Authority: Secs. 38, 40, 54 Stat. 841, 842 (15 U.S.C. 80a–37, 80c–89).

7. Paragraph (b) of § 270.0–2 is revised as follows:

* * * * *

(b) *Formal specifications respecting applications.* Every application for an order under any provision of the Act, for which a form with instructions is not specifically prescribed, and every amendment to such application shall be filed in quintuplicate. One copy shall be signed by the applicant but the other four copies may have facsimile or typed signatures. Such applications should be on paper no larger than 8½ x 11 inches in size. To the extent that the reduction of larger documents would render them illegible, such documents may be filed on paper larger than 8½ x 11 inches in size. The left margin should be at least 1½ inches wide and, if the application is bound, it should be bound on the left side. The application must be typed, printed, copied or prepared by any process which, in the opinion of the commission, produces copies suitable for microfilming. All typewritten or printed matter (including deficits in financial statements) should be set forth in black so as to permit photocopying.

* * * * *

8. Paragraphs (a) and (b) of § 270.8b–12 are revised as follows:

§ 270.8b–12 Requirements as to paper, printing and language.

(a) Registration statements and reports shall be filed on good quality, unglazed, white paper, no larger than 8½ x 11 inches in size, insofar as practicable. To the extent that the reduction of larger documents would render them illegible, such documents may be filed on paper larger than 8½ x 11 inches in size.

(b) The registration statement or report and, insofar as practicable, all papers and documents filed as a part thereof, shall be printed, lithographed, mimeographed, or typewritten. However, the registration statement or report or any portion thereof may be prepared by any similar process which, in the opinion of the Commission, produces copies suitable for a permanent record and microfilming. Irrespective of the process used, all copies of any such material shall be clear, easily readable and suitable for repeated photocopying. Debits in credit categories and credits in debits categories shall be designated so as to be clearly distinguishable as such on photocopies.

* * * * *

PART 275—RULES AND REGULATIONS, INVESTMENT ADVISERS ACT OF 1940

Authority: Secs. 203, 204, 211, 54 Stat. 850, as amended, 852, as amended, 855, as amended (15 U.S.C. 80b–3, 80b–4, 80b–11).

9. Paragraph (b) of § 275.0–4 is revised as follows:

§ 275.0–4 General requirements of papers and applications.

(b) *Formal specifications respecting applications.* Every application for an order under any provision of the Act, for which a form with instructions is not specifically prescribed, and every amendment to such application, shall be filed in quintuplicate. One copy shall be signed by the applicant, but the other four copies may have facsimile or typed signatures. Such applications shall be on paper no larger than 8½ x 11 inches in size. To the extent that the reduction of larger documents would render them illegible, those documents may be filed on paper larger than 8½ x 11 inches in size. The left margin should be at least 1½ inches wide and, if the application is bound, it should be bound on the left side. All typewritten or printed matter (including deficits in financial statements) should be set forth in black so as to permit photocopying and microfilming.

* * * * *

By the Commission.

George A. Fitzsimmons,

Secretary.

December 21, 1982.

[FR Doc. 82–35482 Filed 12–29–82; 8:45 am]

BILLING CODE 6010–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 282

[Docket No. RM79–14]

Incremental Pricing Regulations Implementing the Incremental Pricing Provision of the Natural Gas Policy Act of 1978

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order Prescribing Incremental Pricing Thresholds.

SUMMARY: The Director of the Office of Pipeline and Producer Regulation is

issuing the incremental pricing acquisition cost thresholds prescribed by Title II of the Natural Gas Policy Act and 18 CFR 282.304. The Act requires the Commission to compute and publish the threshold prices before the beginning of each month for which the figures apply. Any cost of natural gas above the applicable threshold is considered to be an incremental gas cost subject to incremental pricing surcharging.

EFFECTIVE DATE: January 1, 1983.

FOR FURTHER INFORMATION CONTACT: Kenneth A. Williams, Federal Energy Regulatory Commission, 825 N. Capitol Street NE., Washington, D.C. 20426, (202) 357–8500.

SUPPLEMENTARY INFORMATION: Section 203 of the NGPA requires that the Commission compute and make available incremental pricing acquisition cost threshold prices prescribed in Title II before the beginning of any month for which such figures apply.

Pursuant to that mandate and pursuant to § 375.307(1) of the Commission's regulations, delegating the publication of such prices to the Director of the Office of Pipeline and Producer Regulation, the incremental pricing acquisition cost threshold prices for the month of January 1983 is issued by the publication of a price table for the applicable month.

List of Subjects in 18 CFR Part 282

Natural gas.

Issued December 23, 1982.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

TABLE I.—INCREMENTAL PRICING ACQUISITION COST THRESHOLD PRICES

	January	February	March	April	May	June	July	August	September	October	November	December
Calendar year 1980:												
Incremental pricing threshold	$1.702	$1.738	$1.750	$1.762	$1.776	$1.790	$1.804	$1.819	$1.834	$1.849	$1.863	$1.877
NGPA section 102 threshold	2.358	2.381	2.404	2.428	2.453	2.478	2.504	2.532	2.560	[illegible]	2.614	2.640
NGPA section 109 threshold	1.786	1.799	1.812	1.825	1.839	1.853	1.867	1.883	1.899	1.915	1.929	1.943
130 percent of No. 2 fuel oil in New York City threshold	7.170	7.260	7.410	7.110	7.380	8.040	7.840	7.380	7.400	7.400	7.450	7.580
Calendar year 1981:												
Incremental pricing threshold	1.891	1.908	1.925	1.942	1.954	1.967	1.980	1.990	2.000	2.010	2.025	2.041
NGPA section 102 threshold	2.667	2.698	2.729	2.761	2.787	2.813	2.840	2.863	2.886	[illegible]	2.940	2.971
NGPA section 109 threshold	1.957	1.975	1.993	2.011	2.024	2.037	2.050	2.060	2.070	[illegible]	[illegible]	2.112
130 percent of No. 2 fuel oil in New York City threshold	7.610	7.760	8.260	9.010	9.510	9.430	9.360	9.260	8.860	[illegible]	[illegible]	[illegible]
Calendar year 1982:												
Incremental pricing threshold	2.057	2.071	2.085	2.099	2.106	2.113	2.120	2.129	2.139	2.149	2.159	2.169
NGPA section 102 threshold	3.003	3.033	3.063	3.093	3.112	3.132	3.152	3.176	3.200	3.224	3.249	3.274
NGPA section 109 threshold	2.126	2.143	2.158	2.173	2.180	2.187	2.194	2.204	2.214	2.224	2.234	2.244
130 percent of No. 2 fuel oil in New York City threshold	9.180	9.340	9.470	9.340	[illegible]	8.000	8.170	8.670	[illegible]	8.950	[illegible]	[illegible]
Calendar year 1983:												
Incremental pricing threshold	2.179											
NGPA section 102 threshold	3.299											
NGPA section 109 threshold	2.254											
130 percent of No. 2 fuel oil in New York City threshold	9.420											

[FR Doc. 82-35180 Filed 12-29-82; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 101

[T.D. 82-239]

Customs Regulations Amendment Relating to the Customs Field Organization

Correction

In FR Doc. 82-33925 beginning on page 55913 in the issue for Tuesday, December 14, 1982, the third column of that page, the **EFFECTIVE DATE** should read "January 13, 1983".

BILLING CODE 1505-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 201

[Docket No. R-82-970]

Property Improvement Loans

AGENCY: Office of Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This final rule will require that all Title I Property Improvement loans in excess of $2,500 be secured by a recorded lien upon the improved property. In addition, a lien on the improved property, for loans of less than $2,500, will also be required in the event the total obligation of class 1 and class 2 loans exceeds $2,500, exclusive of financing charges. The requirement will be applicable to a borrower, co-maker or co-signer.

The reduction of the loan amount on which security is required from $7,500 to $2,500 is necessary because of the significant increase in personal bankruptcy filings and the adverse treatment afforded unsecured property improvement loans in such proceedings. Lien security will also enhance the collectibility of loans and reduce credit insurance claims by insured lenders.

EFFECTIVE DATE: Upon expiration of the first period of 30 calendar days of continuous session of Congress after publication, but not before further notice of the effective date is published in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: John L. Brady, Director, Office of Title I Insured Loans, Department of Housing and Urban Development, Room 9160, 451 Seventh Street, S.W., Washington, D.C., 20410, (202) 755–6680. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: This final rule amends 24 CFR 201.2(f) to require that all Title I Property Improvement loans in excess of $2,500 be secured by a recorded lien upon the improved property. In addition, a lien on the improved property, for loans of less than $2,500, will also be required in the event the total obligation of class 1 and class 2 loans exceeds $2,500, exclusive of financing charges. This requirement will be applicable to a borrower, co-maker or co-signer.

The reduction of the loan amount on which security is required from $7,500 to $2,500 is necessary because of the significant increase in personal bankruptcy filings and the adverse treatment afforded unsecured property improvement loans in such proceedings. Lien security will also enhance the collectibility of loans and reduce credit insurance claims by insured lenders.

The Department published this amendment as a proposed rule in the **Federal Register** at 47 FR 14712 on April 6, 1982. The Department received a total of sixty-one comments on the proposed rule. The majority of the comments were by thrift institutions, credit unions, commercial banks and savings and loan associations. Comments were also received from trade associations representing the thrift and housing industries, home improvement contractors, local government and public housing agencies and the AFL–CIO. After considering all of the comments, the Department has decided to adopt the rule as proposed. A summary and discussion of the public comments follows.

1. The principal criticism by those who oppose the reduction of the loan amount for which security would be required from $7,500 to $2,500 is the increased costs, in time and expenses, associated with having to file liens for a greater number of loans. The comments argue that, because the expense of recording a lien is essentially fixed, the required recordation may render smaller loans cost ineffective and disqualify moderate- and low-income borrowers. Others suggest that $2,500 is too low a threshold and recommend that the reduction, if any, allow loans of less than $5,000 to remain unsecured.

These related considerations were important in the Department's formulation of the proposed, now final, rule. In making its decision, the Department had to balance its need to protect its interests as insurer against the potential imposition on lenders and borrowers. After due deliberation, the Department believes that it is appropriate to require liens on property improvement loans in excess of $2,500.

2. Some of the commenters pointed out that lenders already have the discretion to require a mortage for a loan of less than $7,500 if their underwriting indicates that a lien should be recorded. The amendment is therefore, in their opinion, unnecessary. However, the lenders' discretion to determine the need for a recorded lien exacts a corresponding lack of uniformity in application. More importantly, it is HUD which is ultimately at risk on an insured loan. It is therefore imperative that the Department assess the protection it needs.

3. The supplementary information to the proposed rule explained that the Department deemed the reduction of the loan amount on which security is required to $2,500 necessary because of the significant increase in personal bankruptcy filings and the adverse treatment of unsecured Property Improvement loans in bankruptcy proceedings. A number of credit unions commented that the proposed rule failed to address the true cause of HUD's concern, the easy availability of relief under the bankruptcy code. The commenters recommend the Department lobby for bankruptcy reform to, as an example, exempt Title I loans from the discharge in bankruptcy.

The Department does not believe that amendment of the bankruptcy code is essential to the protection of its interests. Lien recordation will bring property improvement loans within the protection that the bankruptcy code already provides secured loans. Finally, lien security will also enhance the collectibility of loans and will reduce credit insurance claims by insured lenders. This final rule will therefore protect the Department whether or not the borrower has initiated a bankruptcy proceeding.

4. Four commenters questioned the amendment's ability to "enhance the collectibility of loans" as small as $2,500. The Department believes that the mortgage lien will be an effective collection tool because the recipients of these property improvement loans generally do have equity in their properties. The availability of collateral to satisfy the debt greatly increases the probability of collection. The Department will use this collection tool wherever feasible.

A Finding of No Significant Impact with respect to the environment was made for the proposed rule in accordance with HUD regulations in 24 CFR Part 50, which implement Section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. That Finding of No Significant Impact is also applicable to this final rule. The Finding of No Significant Impact is available for public inspection and copying during regular business hours in the Office of the Rules Docket Clerk, Room 10278, 451 Seventh Street, SW., Washington, D.C., 20410.

This rule does not constitute a "major rule" as that term is defined in Section 1(b) of the Executive Order 12291 on Federal Regulations. An analysis of the rule indicates that it does not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, federal, state and local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of the United States based enterprises to compete with foreign based enterprises in domestic or export markets.

Pursuant to the provisions of 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. The Department does not believe that the cost of lien recordation will be significant for most lenders and borrowers.

This rule was listed as Item H–21–81 in the Department's Semiannual Agenda of Regulations published on October 28, 1982 (47 FR 48422) pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance program number is 14.142, Property Improvement Loan Insurance for Improving All Existing Structures and Building of New Nonresidential Structures.

List of Subjects in 24 CFR Part 201

Health facilities, Historic preservation, Home improvement, Mobile homes, Manufactured homes and lots.

PART 201—PROPERTY IMPROVEMENT AND MOBILE HOME LOANS

Accordingly, the Department amends 24 CFR Part 201 by revising 24 CFR 201.2(f) to read as follows:

§ 201.2 Eligible notes.

* * * * *

(f) *Secured notes.* A loan in excess of $2,500, exclusive of financing charges, shall be secured by a recorded lien upon the improved property. A recorded lien upon the improved property, for loans of

less than $2,500, is required if the total amount of all class 1 and class 2 loans of the borrower, co-maker or co-signer exceeds $2,500, exclusive of financing charges.

* * * * *

(Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d); sec. 2 of the National Housing Act, 12 U.S.C. 1703)

Dated: December 21, 1982.

Philip Abrams,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 82-35434 Filed 12-29-82; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 934

Permanent State Regulatory Program of North Dakota; Modification of Deadline

AGENCY: The Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is modifying the deadline for North Dakota to meet one of the conditions of approval of its State permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The Secretary is extending the deadline for the State to resolve the condition until July 1, 1983.

EFFECTIVE DATE: December 30, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Arthur Abbs, Chief, Division of State Program Assistance, Office of Surface Mining, 1951 Constitution Avenue, NW., Washington, D.C. 20240, Telephone (202) 343-5351.

SUPPLEMENTARY INFORMATION: Under 30 CFR 732.13(i), the Secretary may conditionally approve a State permanent regulatory program which contains minor deficiencies where the deficiencies are of such a size and nature as to render no part of the program incomplete, the State is actively proceeding with steps to correct the deficiencies and the State agrees to correct the deficiencies according to a schedule set in the notice of conditional approval. The correction of each deficiency is a condition of the approval. The conditional approval terminates if the conditions are not met according to the schedule. The dates are established in consultation with the State based on its regulatory and administrative schedules.

The North Dakota program was conditionally approved on December 15, 1980 (45 FR 82241-82248). The Secretary's approval was conditioned on the State's correction of 13 minor deficiencies in its program by July 1, 1981. That deadline was later extended, upon the State's request, to January 1, 1983 (46 FR 54070-54071). A further extension of the deadline to July 1, 1983, was granted North Dakota to meet condition "e" as listed at 30 CFR 934.11(e) (September 27, 1982, FR 42347-42348).

In a letter to the Director dated September 28, 1982, the North Dakota Public Service Commission requested that the deadline for the State to meet condition "m" be extended from January 1, 1983, to July 1, 1983.

In accordance with the State's request the Secretary issued a notice in the **Federal Register** proposing such an extension and inviting public comment on the proposal until December 2, 1982 (47 FR 49666-49667, November 2, 1982).

Condition "m" stipulates that the Secretary's approval of the North Dakota program will terminate on January 1, 1983, unless North Dakota submits to the Secretary by that date copies of fully enacted regulations revising the date for establishment of valid existing rights under NDCC 38-14.1-07(i) and NDAC 69-05.2-01-02(126) to be consistent with SMCRA Section 522(e) and 30 CFR 761.5 or otherwise amends its program to accomplish the same result.

The State indicated that satisfaction of condition "e" will require a statutory change in the North Dakota Century Code. The Commission indicated that it would draft the required change for consideration by the Legislative Assembly when it convenes in January 1983. Since statutory changes normally become effective on the first of July following legislative action, the State requested an extension to July 1, 1983, to meet condition "m" to allow time for the statutory change to take effect. In order for the change to become effective earlier, both Houses of the State Legislature would have to pass emergency legislation by a two-thirds vote. In light of the restraints imposed by the State's legislative schedule, the Secretary has decided to grant North Dakota an extension to July 1, 1983, to meet condition "m".

Given the small number of permit applications expected to be reviewed and issued during the additional time the Secretary is allowing the State to meet condition "m", the Secretary believes that extension of the deadline will not adversely affect the State's implementation of its approved regulatory program.

Public Comment: Although public comment was invited on the proposed extension, none was received.

Additional Determinations

1. *Compliance with the National Environment Policy Act.* The Secretary has determined that pursuant to Section 702(d) of SMCRA, 30 CFR 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Compliance with the Regulatory Flexibility Act.* The Secretary hereby determines that this proposed rule will not have a significant economic effect on small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

3. *Compliance with Executive Order No. 12291.* On August 28, 1981, the Office of Management and Budget (OMB) granted the Office of Surface Mining an exemption from Sections 3, 4, 6, and 8 of Executive Order 12291 for all actions taken to approve or conditionally approve State regulatory programs, actions or amendments. Therefore, a Regulatory Impact Analysis and regulatory review by OMB are not needed for this program amendment.

List of Subjects in 30 CFR Part 934

Coal mining, Intergovernmental relations, Surface mining, and Underground mining.

Accordingly, Part 934 of Title 30 is amended as set forth below.

Dated: December 22, 1982.

Daniel N. Miller, Jr.,

Assistant Secretary, Energy and Minerals.

PART 934—NORTH DAKOTA

§ 934.11 [Amended]

30 CFR 934.11(m) is amended by substituting July 1, 1983 for January 1, 1983 in that paragraph.

[FR Doc. 82-35485 Filed 12-29-82; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD7 82-15]

Drawbridge Operation Regulations; Myakka River and Gasparilla Sound, Florida.

AGENCY: Coast Guard, DOT.

ACTION: Final rule; revocation.

SUMMARY: This amendment revokes the regulations for the old railroad drawbridge across the Myakka River, mile 3.1, near Charlotte Beach and the old railroad drawbridge (South Bridge) across Gasparilla Sound, mile 1.3, at Gasparilla Island because rail traffic has been discontinued and the bridges are maintained in the open position. Notice and public procedure have been omitted from this action due to the lack of use of the bridges concerned.

EFFECTIVE DATE: This rule becomes effective on January 31, 1983.

FOR FURTHER INFORMATION CONTACT: James R. Kretschmer, Bridge Administrator, Seventh Coast Guard District, telephone (305) 350–4108.

Drafting information: The drafters of this rule are James R. Kretschmer, Project Officer, and Lieutenant Dave L. Brannon, Project Attorney.

SUPPLEMENTARY INFORMATION: This action has no economic consequences. It merely revokes regulations that are now meaningless because they pertain to drawbridges that remain open to navigation. Consequently, this action cannot be considered to be a major rule under Executive Order 12291. Furthermore, it has been found to be nonsignificant under the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of May 22, 1980), and does not warrant preparation of an economic evaluation. Because no notice of proposed rulemaking is required under 5 U.S.C. 553, this action is exempt from the Regulatory Flexibility Act (5 U.S.C. 605(b)). However, this action will not have a significant effect on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

PART 117—[AMENDED]

§§ 117.245 [Amended]

In consideration of the foregoing, Part 117 of Title 33 Code of Federal Regulations, is amended by removing §117.245(i)(3) and § 117.245(i)(3a).

(33 U.S.C. 499; 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5); 33 CFR 1.05–1(g)(3))

Dated: December 10, 1982.

A. D. Breed,

Acting District Commander.

[FR Doc. 82-35487 Filed 12-29-82; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 164

[CGD 81-081]

Electronic Position Fixing Devices

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This rule eliminates the requirement for the complementary system to satellite navigation receivers required on vessels 1600 gross tons (GRT) or more, and allows the carriage of a "stand alone" satellite navigation receiver to meet the requirements for an electronic position fixing device. This action has been taken based on a review of 176 vessel groundings from 1977 to 1979 that shows negligible benefits accruing from the complementary system. This rule also makes several minor editorial and organizational changes. Eliminating the requirement for a complementary system is expected to save up to $24 million in installation costs for both U.S. and foreign vessel owners.

EFFECTIVE DATE: January 31, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Tom Falvey, Office of Marine Environment and Systems (G–WWM), U.S. Coast Guard Headquarters, 2100 Second St., S.W., Washington, D.C. 20593, (202) 426–4958, between the hours of 7:00 A.M. and 3:30 P.M., Monday through Friday, except holidays.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking containing requirements for carriage of electronic position fixing equipment was published on November 14, 1977 (42 FR 59012). A supplemental notice of proposed rulemaking was published on January 25, 1979 (44 FR 5312) to propose a more detailed performance standard for LORAN–C receivers, which had not been available when the original notice was published. The present rule was published as an interim final rule in the May 31, 1979 issue of the **Federal Register** (44 FR 31562) to consider an expansion of the area of applicability. A Final Rule was published without change in the January 10, 1980 issue of the **Federal Register** (45 FR 2027). The Final Rule required vessels with "stand alone" satellite systems installed before June 1, 1982, to install a complementary system by June 1, 1985. Vessels installing satellite systems on or after June 1, 1982 were required to have the complementary system installed concurrently. In the February 11, 1982 issue of the **Federal Register** (47 FR 6269), the requirement for installation of a complementary system to satellite navigation receivers was delayed for 2 years. In that rulemaking, those vessels having systems installed before June 1, 1984 did not have to install a complementary system until June 1, 1987, while those installing systems on or after June 1, 1984 had to have the complementary system installed concurrently. In the August 16, 1982 **Federal Register** (47 FR 35531), a proposed rulemaking was published that would eliminate the requirement for the complementary system to satellite navigation receivers.

Drafting Information: The principal persons involved in drafting this rule are Mr. Tom Falvey, Project Manager, Office of Marine Environment and Systems, and Mr. Stanley M. Colby, Project Attorney, Office of Chief Counsel.

Discussion: The requirements for the carriage of electronic position fixing devices became effective for all vessels 10,000 GRT or more on June 1, 1980. Vessels 1600 GRT but less than 10,000 GRT are required to carry this equipment on and after June 1, 1982. Acceptable electronic position fixing devices include LORAN C (Type I or II as defined in the Radio Technical Commission for Marine Services' (RTCM) Paper 12–78/DO–100, "Minimum Performance Standards (MPS) Marine LORAN C Receiving Equipment"), or a satellite navigation receiver integrated with a continual tracking, complementary system, such as satellite-OMEGA, satellite-LORAN C, satellite-doppler, and satellite-inertial.

In response to the initial notice of proposed rulemaking for carriage of electronic position fixing equipment, forty-seven comments were received. Of those forty-seven, three contended that a satellite navigation receiver interfaced with speed and gyro inputs is normally as accurate as a satellite-OMEGA hybrid, especially at times of atmospheric disturbance, such as at dawn and dusk. The Coast Guard, in the preamble to the interim final rule, contended that in the absence of set and drift, that statement would be correct; however, in the presence of significant set and drift, a considerable error in position might develop between usable satellite passes. Acting on the assumption that a prudent navigator would not rely on a single positioning source, and in consideration of the 3000 "stand alone" satellite navigation receivers in use in 1977, a decision was made to review the incidence of groundings of vessels equipped with satellite navigation receivers through 1981, and to then make a final determination on the acceptability of "stand alone" satellite navigation receivers. Therefore only an interim rule was published.

A review of Coast Guard files for groundings involving vessels from 1977 to 1979 was subsequently undertaken. No 1980 data has been reviewed since it has not been compiled in usable form. In the 1977 to 1979 period, some 176 groundings of vessels 1000 GRT or more were evaluated, and none involved a grounding of a vessel using a satellite receiver. With the absence of any facts showing that navigational safety could be significantly enhanced by the requirement for a complementary system, and with the fact that this requirement may cost up to 3000 vessel owners up to $24 million in installation costs, the Coast Guard considered it appropriate to propose that the requirement for a complementary system be eliminated.

As the requirement for the complementary system was to be implemented on June 1, 1982 for new installations, prompt action was necessary to avoid vessel owners implementing a requirement that may later be eliminated. A final rule was therefore published on February 11, 1982 (47 FR 6269) that delayed the complementary system requirements for two years. This action provided the necessary time to consider elimination of the requirements for a complementary system, and allowed use of a "stand alone" satellite navigation receiver. The proposed rulemaking that would eliminate the required complementary system to satellite navigation receivers was published on pages 35531–35532 of the **Federal Register** of August 16, 1982, and invited comments for 45 days, ending September 30, 1982. One comment, from a manufacturer of satellite navigation receivers, was received. The commenter supported the proposal, stating that the use of Omega with a satellite navigation receiver provides little benefit under the best of conditions, and could be hazardous under certain conditions, such as during periods of ionospheric disturbances and during sunrise and sunset. The commenter suggested an addition to the receiver characteristic requirements, for receivers to perform automatic calculations of speed vector corrections in order to provide set and drift between satellite passes. While this proposal has considerable merit, it is felt to be premature until a requirement for a speed log is included in the regulations. The speed log will be the subject of a future rulemaking that will propose requirements consistent with those adopted in 1981 by the International Maritime Organization (IMO, formerly IMCO) in the Safety of Life at Sea Convention (SOLAS).

The Federal Radionavigation Plan

The existing regulations allow the use of an electronic position fixing system, in lieu of LORAN C or a satellite navigation system, that meets the requirements of the U.S. "Department of Transportation (DOT) National Plan for Navigation". This report was replaced in July, 1980 with the Federal Radionavigation Plan. Section 164.41(c) changes the reference from the DOT National Plan for Navigation to the new Federal Radionavigation Plan. (Report No. DOD-No. 4650. 4–P, I or No. DOT–TSC–RSPA–80–16,I). The government accession numbers for the plan have been corrected in this rulemaking from those published in the proposed rule to reflect the numbers of the most recently published edition of the plan (second edition, March, 1982). Since this correction was merely an editorial change, no further rulemaking procedures are considered necessary.

Evaluation and Certification

This revision affects a minimum of 3000 vessels carrying "stand alone" satellite navigation receivers. These vessels will not have to install a complementary system, such as OMEGA. At a minimum cost of about $8000 per installation, this would result in a $24 million savings. This regulation has been evaluated under Executive Order 12291 and DOT Order 2100.5 of May 22, 1980, "Policies and Procedures for Simplification, Analysis, and Review of Regulations", and has been determined to be neither major nor significant. There are no demonstrable benefits that would be obtained by requiring the installation of complementary systems. For this reason a full regulatory evaluation has not been prepared. This equipment is principally manufactured by entities other than small businesses. To the potential user of the equipment the savings resulting from not being required to install the equipment is usually less than one day's operating costs and would not be significant. For these reasons, in accordance with Section 605(b) of the Regulatory Flexibility Act (94 Stat. 1164), it is certified that this rule would not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 164

Marine safety, Navigation (water), Waterways.

PART 164—[AMENDED]

In consideration of the foregoing, 33 CFR Part 164 is amended by adding § 164.03 and revising § 164.41 to read as follows:

§ 164.03 Incorporation by reference.

(a) Certain materials are incorporated by reference into this part with the approval of the Director of the Federal Register. The Office of the Federal Register publishes a table, "Material Approved for Incorporation by Reference," which appears in the Finding Aids section of this volume. In that table is found the date of the edition approved, citations to the particular sections of this part where the material is incorporated, addresses where the material is available, and the date of the approval by the Director of the Federal Register. To enforce any edition other than the one listed in the table, notice of the change must be published in the **Federal Register** and the material made available. All approved material is on file at the Office of the Federal Register, Washington, DC 20408 and at Room 4402, U.S. Coast Guard Headquarters, 2100 Second St. S.W., Washington, D.C.

(b) The materials approved for incorporation by reference in this part are: Radio Technical Commission For Marine Services (RTCM) Paper 12–78/DO–100 dated 12/20/77.

§164.41 Electronic position fixing devices.

(a) Each vessel calling at a port in the continental United States, including Alaska south of Cape Prince of Wales, except each vessel owned or bareboat chartered and operated by the United States, or by a state or its political subdivision, or by a foreign nation, and not engaged in commerce, must have one of the following:

(1) A Type I or II LORAN C receiver as defined in Section 1.2(e), meeting Part 2 (Minimum Performance Standards) of the Radio Technical Commission for Marine Services (RTCM) Paper 12–78/DO–100 dated December 20, 1977, entitled "Minimum Performance Standards (MPS) Marine Loran–C Receiving Equipment". Each receiver installed on or after June 1, 1982, must have a label with the information required under paragraph (b) of this section. If the receiver is installed before June 1, 1982, the receiver must have the label with the information required under paragraph (b) by June 1, 1985.

(2) A satellite navigation receiver with:

(i) Automatic acquisition of satellite signals after initial operator settings have been entered; and

(ii) Position updates derived from satellite information during each usable satellite pass.

(3) A system that is found by the Commandant to meet the intent of the statements of availability, coverage, and accuracy for the U.S. Coastal

Confluence Zone (CCZ) contained in the U.S. "Federal Radionavigation Plan" (Report No. DOD–NO 4650.4–P, I or No. DOT–TSC–RSPA–80–16, I). A person desiring a finding by the Commandant under this subparagraph must submit a written application describing the device to: Commandant (G–WWM), U.S. Coast Guard, Washington, D.C. 20593. After reviewing the application, the Commandant may request additional information to establish whether or not the device meets the intent of the Federal Radionavigation Plan.

Note.—The Federal Radionavigation Plan is available from the National Technical Information Service, Springfield, Va. 22161, with the following Government Accession Numbers:
Vol 1, ADA 116468
Vol 2, ADA 116469
Vol 3, ADA 116470
Vol 4, ADA 116471

(b) Each label required under paragraph (a)(1) of this section must show the following:

(1) The name and address of the manufacturer.

(2) The following statement by the manufacturer:

This receiver was designed and manufactured to meet Part 2 (Minimum Performance Standards) of the RTCM MPS for Marine Loran–C Receiving Equipment.

(Sec. 12, 92 Stat. 1477 (33 U.S.C. 1231); 49 CFR 1.46(n)(4))

November 29, 1982.

B. F. Hollingsworth,

Rear Admiral, Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc. 82–35486 Filed 12–29–82; 8:45 am]
BILLING CODE 4910–14–M

VETERANS ADMINISTRATION

38 CFR Part 17

Medical Amendments

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: The Veterans Administration (VA) is making miscellaneous amendments to its medical series of regulations (38 CFR Part 17). The reason for these changes is to incorporate various amendments made by public law and simultaneously to bring these regulations up to date. Amendments to regulations concerning the following subjects are included: non-VA care in private facilities; medical benefits to Commonwealth Army Veterans and New Philippine Scouts in the Philippines and the United States; recovery of health care costs from other compensation programs, emergencies at non-VA facilities; eligibility and benefits under CHAMPVA; readjustment counseling; outpatient services for veterans of the Mexican Border Period and World War I and former POW's; emergency care at national conventions; drugs and medicine to pensioners; priority status on outpatient medical services; rates for State Veterans Homes payments; and additional resources for sharing agreements.

DATES: These amendments are effective November 24, 1982.

FOR FURTHER INFORMATION CONTACT: Joseph F. Fleckenstein, Chief, Policies and Procedures Division (136F), Department of Medicine and Surgery, Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 389–3785.

SUPPLEMENTARY INFORMATION: Public Laws 95–520, 95–588, 96–22, 96–151, 96–330, 97–37, and 97–72 amended various sections of Title 38, United States Code as described below:

(1) Pub. L. 95–520, Veterans' Administration Programs Extension Act of 1978, and Pub. L. 96–151, Veterans Health Programs Extension and Improvement Act of 1979, expanded the VA's authority to provide hospital care and medical services on a reimbursement basis in private facilities, when government facilities are unable to do so, to include (a) medical services for veterans of the Mexican Border Period or World War I or those in receipt of aid and attendance or housebound allowance, (b) hospital care and medical services for any veteran who, while receiving medical services at a VA health care facility or other government facilities for which the VA contracts, develops a need for emergency care which cannot be furnished by the facility, (c) hospital care and medical services that will obviate the need for hospital admission of veterans in a State, territory, commonwealth or possession of the United States not contiguous to the 48 contiguous states, (d) diagnostic services necessary at an independent outpatient clinic for the determination of eligibility for medical services or the determination of the appropriate course of treatment to be carried out, to obviate the need for hospital admission in connection with a nonservice-connected disability.

(2) Pub. L. 97–72, Veterans Health Care, Training, and Small Business Loan Act of 1981, provides authority for the Administrator to contract for care and treatment of United States veterans in the Veterans Memorial Medical Center (VMMC) during the period October 1, 1981, through September 30, 1986. The law also provides grant authority of $500,000 per year beginning October 1, 1981, and ending September 30, 1986, for the purpose of assisting the Republic of the Philippines in the replacement and upgrading of equipment and rehabilitating the physical plant of the VMMC. The previous authority for providing hospital or nursing home care and medical services including transportation expenses, in the Philippines either by contract or in the VMMC at VA expense to Commonwealth Army Veterans (CAV) or New Philippine Scouts (NPS) for either service-connected or nonservice-connected disabilities, expired September 30, 1981. The annual grant for such medical care and the grant for training of health service personnel assigned to the VMMC also expired at the same time. Only United States veterans, including those Filipinos who served on active duty with the United States Armed Forces are now eligible for care and treatment in the Philippines.

(3) Pub. L. 96–22, Veterans' Health Care Amendments of 1979, authorized the VA to provide hospital and nursing home care and outpatient medical services to CAV and NPS in facilities in the United States over which the Administrator has direct judisdiction and in other government facilities with which the Administrator contracts, for their service-connected disabilities only. VA health care eligibility for nonservice-connected veterans under the age of 65. Section 5 of Pub. L. 97–37, Former Prisoner of War Benefits Act of 1981, exempted former prisoners of war from the requirement to certify their inability to defray medical expenses.

(4) Pub. L. 96–151 amended § 613(a) and established § 613(c) of title 38, U.S.C. and provides eligibility for medical care under CHAMPVA (Civilian Health and Medical Program of the Veterans Administration) for the surviving spouse or child of a person who died while on active duty and for children between the ages of 18 and 23 who are pursuing a full-time course of education approved by the VA and who incur a disability resulting in their inability to continue their program of education.

(5) Section 105 of Pub. L. 97–72 amended § 613(b) of title 38, U.S.C. and provides the beneficiaries of CHAMPVA receiving medical care in VA medical facilities which are equipped to provide the required treatment if they are not being used to provide treatment to eligible veterans. Previous laws

provided for specialized treatment in uniquely equipped VA facilities.

(6) Section 104(a)(1) of Pub. L. 97–72 extends to September 30, 1984, the expiration date for Vietnam veterans to apply for readjustment counseling.

(7) Pub. L. 96–151 amended § 612(g) and Pub. L. 97–37 amended § 612(f), of title 38, U.S.C. extending outpatient services for any disability to veterans of the Mexican Border Period or World War I, and former prisoners of war.

(8) Pub. L. 96–22, section 202, authorized the VA to provide emergency outpatient services to persons attending national conventions of VA-recognized service organizations, if the service organization agrees, by contract to pay the VA for treatment provided to those who are not eligible as veterans.

(9) Aid and attendance pensioners who had their pensions discontinued were permitted to continue to receive drugs and medicines from the VA so long as their income did not exceed the maximum permissible income limitation by more than $500. Pub. L. 95–588, Veterans' and Survivors' Pension and Improvement Act of 1978, increased the maximum permissible income limitation to $1,000.

(10) Section 101, Pub. L. 96–22, section 5(c), Pub. L. 96–37, Former Prisoner of War Benefits Act of 1981, and section 102(b), Pub. L. 97–72, provide for priority processing for outpatient medical services to those veterans who are being examined for purposes of determining entitlement or adjustment of compensation benefits as well as to veterans who are former prisoners of war and to veterans who are receiving medical services for conditions which may have resulted from exposure to dioxin or toxic substances or ionizing radiation.

(11) Pub. L. 96–151 increased per diem rates for payments by the VA to State Veterans Homes for hospital, nursing home and domiciliary care.

(12) Pub. L. 96–151 authorized VA medical centers to enter into contracts with organ banks, blood banks or similar institutions for mutual use or exchange of use of specialized medical resources.

The Administrator has determined that these amendments to VA regulations are considered nonmajor under the criteria of Executive Order 12291 on Federal Regulation. These regulations will not have a large effect on the economy, will not cause an increase in costs or prices, and will not otherwise have any significant adverse economic effects. The VA finds that advance publication of these amendments for public notice and comment is unnecessary and not required. These changes are primarily technical amendments to conform VA regulations to substantive changes previously made by several public laws. They will not have independent effect. Therefore, the changes come within exceptions to the general VA policy of prior publication for public notice and comment, contained in 38 CFR 1.12. Accordingly, the changes are now published as final regulations. No notice of proposed rulemaking will be published for these regulations, therefore they do not come with the term "rule" as defined in the Regulatory Flexibility Act, 5 U.S.C. 601, thereby excepting these amendments from the review requirements of §§ 603 and 604 of that Act.

The Catalog of Federal Domestic Assistance Program numbers are 64.008, 64.009, 64.010, 64.011, 64.014, 64.015, 64.016, and 64.018.

List of Subjects in 38 CFR Part 17

Alcoholism, Claims, Dental health, Drug abuse, Foreign relations, Government contracts, Grant programs, Health care, Health facilities, Medical devices, Mental health programs, Nursing homes, Philippines, Veterans.

Approved: November 24, 1982.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

PART 17—[AMENDED]

1. In § 17.30(w)(3), subdivisions (ii), (iii) and (v) are revised and a new (vi) added so that the new and revised material reads as follows:

§ 17.30 Definitions.

* * * * *

(w) *VA Facilities.* The term "Veterans Administration facilities" means:

* * * * *

(3) Private facilities for which the Administrator contracts when Government facilities are not capable of furnishing economical care because of geographical inaccessibility or of furnishing the care or services required in order to provide:

* * * * *

(ii) Medical services for veterans released from inpatient care to outpatient treatment status and medical services for any disability of a veteran who has a service-connected disability rated at 50 percent or more or, a veteran of the Mexican Border Period or of World War I or who is in receipt of increased pension or additional compensation or allowance based on the need of regular aid and attendance or by reason of being permanently housebound or who, but for the receipt of retired pay would be in receipt of such pension, compensation or allowance, if the Veterans Administration has determined that their medical condition is such that it precludes appropriate treatment in a Veterans Administration or other Federal government facility, or

(iii) Hospital care or medical services for the treatment of medical emergencies which pose a serious threat to the life or health of a veteran receiving medical services in a facility for which the Administrator has direct jurisdiction or a Government facility for which the Administrator contracts, until such time as the veteran can be safely transferred to any such facility, or

* * * * *

(v) Hospital care or medical services that will obviate the need for hospital admission for veterans in a State, territory, Commonwealth, or possession of the United States not contiguous to the 48 contiguous States, or

(vi) Diagnostic services necessary for determination of eligibility for, or of the appropriate course of treatment in connection with, the provision of medical services at independent Veterans Administration outpatient clinics to obviate the need for hospital admission. (38 U.S.C. 601(4), as amended by Pub. L. 90–612, sec. 2; Pub. L. 93–82, sec. 101(a); Pub. L. 94–581, sec. 202(b); Pub. L. 95–520, sec. 5; Pub. L. 96–22, sec. 102(c)(1), 201(a); Pub. L. 96–151, sec. 202)

2. Section 17.37 is revised to read as follows:

§ 17.37 Hospital or nursing home care in the Philippines in facilities other than Veterans Memorial Medical Center.

Hospital or nursing home care may be authorized in the Republic of the Philippines in facilities other than the Veterans Memorial Medical Center for any United States veteran and is eligible for hospital or nursing home care under § 17.47 (a) or (b), or a veteran who has been found in need of vocational rehabilitation, and for whom an objective has been selected, or who is pursuing a course of vocational rehabilitation training, and hospital care has been determined necessary for any of the reasons enumerated in § 17.36(b). (38 U.S.C. 624, Pub. L. 87–815)

3. Section 17.38 is revised to read as follows:

§ 17.38 Hospital or nursing home care at Veterans Memorial Medical Center, Philippines.

Hospital nursing home care at the Veterans Memorial Medical Center, Quezon City, Republic of the Philippines, may be authorized by the

United States Veterans Administration pursuant to the terms and conditions set forth in §§ 17.350–17.370 for United States veterans for: (38 U.S.C. 624, Pub. L. 97–72, sec. 107)

(a) Any service-connected disability of a veteran of service in the Armed Forces of the United States (including veterans of service in the Philippine Scouts under laws in effect prior to the enactment of section 14 of the Armed Forces Voluntary Recruitment Act of 1945), who is eligible for hospital care under § 17.47 (a) or (b).

(b) A nonservice-connected disability of a veteran if such veteran is unable to defray the expenses of necessary hospital care. (38 U.S.C. 624(c), as amended by Pub. L. 89–358, sec. 8; Pub. L. 94–581, sec. 202(1); 210(a)(11); Pub. L. 95–520, sec. 3(a))

(c) *Transfers for nursing home care.* Transfer of any United States veteran hospitalized in the Philippines at Veterans Administration expense to a nursing home facility may be authorized subject to the following:

(1) The nursing home care facility is determined to meet the physical and professional standards prescribed by the Chief Medical Director, and

(2) The cost of the nursing home care will not exceed the rates specified in § 17.51(b)(3).

(3) The nursing home care will not be for more than 6 months in the aggregate in connection with any one transfer, except in the case of a veteran whose hospitalization was primarily for a service-connected disability. In such case entitlement to nursing home care under this subparagraph is not subject to any limitation.

(38 U.S.C. 624; Pub. L. 93–82, sec. 108(a); Pub. L. 97–72, sec. 107(a))

(d) Extensions of community nursing home care beyond 6 months. The Chief Medical Director or designee may authorize, for any veteran whose hospitalization was not primarily for a service-connected disability, an extension of nursing care in a contract nursing care facility at Veterans Administration expense beyond 6 months for circumstances of an unusual nature such as when a medical and economic need continues to exist, additional time is required to complete other arrangements for care or when readmission to a hospital is not deemed professionally advisable despite terminal deterioration of the veteran's medical condition.

(38 U.S.C. 624; Pub. L. 93–82, sec. 108(a); Pub. L. 97–72, sec. 107(a))

§§ 17.40 and 17.41 [Removed]

4. Sections 17.40 and 17.41 are removed.

§ 17.42 [Amended]

5. Section 17.42 is amended by replacing the word "Hospital" with the word "Medical Center" where it appears in that section.

§ 17.43 [Removed]

6. Section 17.43 is removed.

7. Section 17.46a is revised to read as follows:

§ 17.46a Hospital and nursing home care for Commonwealth Army Veterans and New Philippine Scouts.

Hospital and nursing home care may be furnished to Commonwealth Army Veterans and New Philippine Scouts within the limits of facilities in the United States over which the Administrator has direct jurisdiction or other Government facilities with which the Administrator contracts, for service-connected disabilities.

(38 U.S.C. 634; Pub. L. 96–22, sec. 106(a))

§ 17.46b [Amended]

8. In § 17.46b, paragraph (b) is amended to revise the title "Department of Health, Education and Welfare" to "Department of Health and Human Services" where it appears in that paragraph.

9. Section 17.48 is amended by adding the words "and (e)" after the word "(d)" where it appears in the introductory line of paragraph (c); and by revising paragraph (d) to read as follows:

§ 17.48 Considerations applicable in determining eligibility for hospital, nursing home or domiciliary care.

* * * * *

(d) Persons hospitalized pursuant to paragraph (c)(1), (d) or (e) of § 17.47, who it is believed may be entitled to hospital care or medical or surgical treatment or to reimbursement for all or part of the cost thereof by reason of any one or more of the following:

(1)(i) Membership in a union, fraternal or other organization; (ii) rights under a group hospitalization plan, or under any of the prepay medical care or insurance contracts or plans which provide for payment or reimbursement in whole or in part, for the cost of medical or hospital care, and conditions the obligation of the insurer to pay upon payment or incurrence of liability by the person covered; (iii) "Workers' Compensation" or "employer's liability" statutes, State or Federal; and (iv) right to maintenance and cure in admiralty; or

(2) By reason of statutory or other relationships with third parties, including those liable for damages because of negligence or other legal wrong; or

(3) By reason of a statute in a State, or political subdivision of a State, (i) which requires automobile accident reparations insurance or (ii) which provides compensation or payment for medical care to victims suffering personal injuries as the result of a crime of personal violence; will not be furnished hospital care, medical or surgical treatment, without charge therefor to the extent of the amount for which such parties, referred to in paragraph (d)(1) or (2) of this section, are, or will become liable. Such patients will be required to execute an appropriate assignment as prescribed herein. Patients who, it is believed, may be entitled to care under any one of the plans in paragraph (d)(1) of this section will be required to execute Veterans Administration Form 10–2381, Power of Attorney and Agreement. Those patients who, it is believed, may be entitled to hospital care under the circumstances prescribed in paragraph (d)(2) of this section will be required to complete Veterans Administration Form 2–4763, Power of Attorney and Assignment. Notice of this assignment will be mailed promptly to the party or parties believed to be liable. When the amount of charges is ascertained, a bill therefore will be mailed such party or parties.

(38 U.S.C. 629, Pub. L. 97–72)

* * * * *

10. In § 17.49, paragraph (a)(3)(iii) and the note following paragraph (c) are revised to read as follows:

§ 17.49 Veterans Administration policy on priorities for hospital, nursing home and domiciliary care.

(a) *Priorities for hospital care.* Eligible persons will be admitted or transferred to a Veterans Administration facility in the following order:

* * * * *

(3) *Priority groups.*

* * * * *

(iii) Group III includes:

(A) Veterans receiving hospital, nursing home or domiciliary care from the Veterans Administration pursuant to § 17.47 (c), (d) or (e), as applicable, whose transfer to a Veterans Administration medical center has been requested for medical reasons except as follows: Veterans eligible under § 17.47 (d) or (e), admitted to medical centers who subsequently are determined to require psychiatric care for more than 6 months will not be *accorded priority for transfer under this group. (See group V.)*

(B) Patients eligible under § 17.47 (a) or (b) who are in Veterans Administration medical centers which are not the nearest appropriate facility to the point of application, may be transferred to the appropriate medical center nearest the point of application provided the clinical findings indicate they will require 90 days or more of inpatient care in the latter facility.

* * * * *

Note.—The provisions of § 17.48(b) will apply in determining whether the veteran has $415 income available for his or her own use.

11. Section 17.50b is amended by revising paragraphs (e) and (f), removing paragraph (h) and revising and redesignating paragraphs (i) and (j) as paragraphs (h) and (i) so that the revised material reads as follows:

§ 17.50b Use of public or private hospitals for veterans.

* * * * *

(e) *For veterans in Puerto Rico and other possessions.* The veteran is a veteran in need of hospital care or medical services necessary to obviate the need for hospital admission in the Commonwealth of Puerto Rico or other Territory, Commonwealth or Possession of the United States (except the authority under this paragraph expires September 30, 1982.)

(38 U.S.C. 624, Pub. L. 97–72)

(f) *For veterans in Alaska or Hawaii.* The veteran is a veteran in need of hospital care or medical services necessary to obviate the need for hospital admission in Alaska or Hawaii whose public or private hospital admission can be accommodated within an average daily patient load per thousand veteran population at Veterans Administration expense in Federal, public or private hospital facilities in Alaska or Hawaii not exceeding the average daily patient load per thousand veteran population hospitalized by the Veterans Administration within the 48 contiguous States.

(38 U.S.C. 624, Pub. L. 95–520)

* * * * *

(h) *For emergent conditions arising during care in a Veterans Administration medical center or Government facility.* The veteran, while receiving hospital care or medical services in a facility over which the Administrator has direct jurisdiction or Government facility with which the Administrator contracts, who develops a need for emergency treatment of a condition which poses a serious threat to the veteran's life or health; and for which the facility is not staffed or equipped to perform, and transfer to a public or private hospital which has the necessary staff or equipment is the only feasible means of providing the necessary treatment, or—

(38 U.S.C. 601(4) as amended by Pub. L. 94–581, sec. 202(b); Pub. L. 96–511, sec. 202)

(i) *For any disability of a veteran totally and permanently disabled from a service-connected disability.* The veteran has a total disability permanent in nature resulting from a service-connected disability and has been medically determined to require hospital care or medical services for a nonservice-connected condition, if the Veterans Administration has determined that the medical condition is such that it precludes appropriate treatment in a Veterans Administration or other Federal Government facility.

(38 U.S.C. 612, Pub. L. 96–22)

§ 17.50c [Amended]

12. Section 17.50c is amended by removing the words "Veterans Administration hospital" and inserting the words Veterans Administration medical center" where they appear in that section.

13. Section 17.50e is revised to read as follows:

§ 17.50e Use of hospitals under sharing agreements.

Hospital care in a Federal, State or local, public or private hospital facility may be authorized for any veteran entitled to hospital care under § 17.47 when such care requires the use of a specialized medical resource made available by that facility pursuant to an agreement for sharing specialized medical resources.

(38 U.S.C. 624, Pub. L. 94–581)

§ 17.51 [Amended]

14. In § 17.51, paragraph (b)(3) is amended by removing the word "hospital" and inserting the words "medical center" where it appears in that paragraph.

15. In § 17.54, paragraphs (a) and (c) are revised to read as follows:

§ 17.54 Medical care for survivors and dependents of certain veterans.

(a) Medical care may be provided for—

(1) The spouse or child of a veteran who has a total disability, permanent in nature, resulting from a service-connected disability, and

(2) The surviving spouse or child of a veteran who—

(i) Died as a result of a service-connected disability, or

(ii) At the time of death has a total disability, permanent in nature resulting from a service-connected disability—

who are not otherwise eligible for medical care as beneficiaries of the Armed Forces under the provisions of chapter 55 of title 10, United States Code (CHAMPUS) and—

(38 U.S.C. 613 added by Pub. L. 93–82, sec. 103(b), amended by Pub. L. 94–581, sec. 104)

(3) The surviving spouse or child of a person who died in the active military, naval or air service in the line of duty and not due to such person's own misconduct.

(38 U.S.C. 613(a), as amended by Pub. L. 96–151, sec. 205(a)(1))

(4) An eligible child who is pursuing a full-time course of instruction approved under title 38, U.S.C., chapter 36, and who incurs a disabling illness or injury while pursuing such course; between terms, semesters or quarters; or during a vacation or holiday period; which is not the result of his or her own willful misconduct and which results in the inability to continue or resume the chosen program of education shall remain eligible for medical care until:

(i) The end of the six-month period beginning on the date the disability is removed; or

(ii) The end of the two-year period beginning on the date of the onset of the disability; or

(iii) The twenty-third birthday of the child,

whichever occurs first.

(38 U.S.C. 613(c), added by Pub. L. 96–151, sec. 205(a)(2))

* * * * *

(c) In limited situations, the Chief Medical Director or designee may authorize care and treatment to the class of beneficiaries covered by this section in Veterans Administration medical facilities which are equipped to provide the care and treatment, and which are not otherwise being utilized for the care of veterans. Such medical care may be furnished on either an inpatient or outpatient basis and may be furnished in either Veterans Administration medical centers or Veterans Administration outpatient clinics.

(38 U.S.C. 613(b), added by Pub. L. 97–72, sec. 105)

§ 17.57 [Amended]

16. In § 17.57, paragraph (a)(2) is amended by changing the date "September 30, 1981" to "September 30, 1984" and by adding the cite "(38 U.S.C. 612A, Pub. L. 97–72)" at the end of that sentence.

§ 17.58 [Amended]

17. Section 17.58 is amended by adding the following cite after paragraph (d)(iv): (38 U.S.C. 612A, added Pub. L. 96–22, sec. 103; amended by Pub. L. 97–72, sec. 104).

18. Section 17.60 is amended as follows: by removing the word "care" in the title and inserting the words "medical services"; by removing the words "as defined in" in the introductory paragraph and inserting the word "under"; by removing the words "outpatient treatment" where they appear in paragraphs (b) and (d) and inserting the words "outpatient medical services"; by removing the words "medical care is" in paragraph (f) and inserting the words "medical services are"; by removing the word "care" in paragraph (g) and inserting the words "medical services"; and by revising paragraphs (h), (i), and (j)(2) and adding new paragraphs (k) and (l) so that the revised and added material reads as follows:

§ 17.60 Outpatient medical services for eligible persons.

Medical services may be furnished, within the limits of Veterans Administration facilities, to the following applicants under the conditions stated, except that applicants for dental treatment, under paragraphs (a) to (d) inclusive of this section must also meet the applicable provisions of § 17.123:

* * * * *

(h) *For veterans 50 percent or more disabled from a service-connected disability.* Outpatient medical services may be authorized to treat any nonservice-connected disability of a veteran who has a service-connected disability rated at 50 percent or more.

(38 U.S.C. 612 as amended by Pub. L. 91–102; Pub. L. 93–82, sec. 103(a); Pub. L. 94–581, sec. 103)

(i) *For veterans who are housebound or in need of aid and attendance.* Any veteran who is in receipt of increased pension or additional compensation or allowance based on the need of regular aid and attendance or by reason of being permanently housebound, or who, but for the receipt of retired pay, would be in receipt of such pension, compensation or allowance, or veterans or World War I or the Mexican Border Period.

(38 U.S.C. 612(g); Pub. L. 91–500, sec. 2; Pub. L. 96–151, sec. 204)

(j) *Home health services.* * * *

* * * * *

(2) Will not exceed $600 for veterans being treated for a nonservice-connected disability and then only to (i) Veterans receiving authorized post-hospital care under the authority of § 17.60(f); (ii) Veterans rated at 50 percent or more service-connected; and (iii) Veterans of the Mexican Border Period or World War I. (38 U.S.C. 612(f); Pub. L. 93–82, sec. 101(c); Pub. L. 94–581, secs. 101(2), 103(7))

(k) *For former prisoners of war.* Outpatient medical services may be authorized to treat any nonservice-connected disability of a veteran who is a former prisoner of war. (Pub. L. 97–37, sec. 5(b))

(l) *For Commonwealth Army Veterans and New Philippine Scouts.* Outpatient medical services may be furnished to Commonwealth Army Veterans and New Philippine Scouts within the limits of facilities in the United States over which the Administrator has direct jurisdiction or other Government facilities with which the Administrator contracts, for service-connected disabilities. (38 U.S.C. 634, Pub. L. 96–22, sec. 106(a))

§ 17.60 [Amended]

19. Section 17.60a is amended by removing the word "care" where it appears in the title and in the paragraph, and by inserting the words "medical services".

20. Section 17.60b is revised to read as follows:

§ 17.60b Outpatient medical services for Veterans Administration employees and others in emergencies.

(a) Outpatient medical services for which charges shall be made as required by § 17.62 may be authorized for employees of the Veterans Administration, their families, and the general public in emergencies, subject to conditions stipulated by the Administrator of Veterans Affairs.

(b) Emergency outpatient medical services may be authorized for individuals attending national conventions of Veterans Administration recognized services organizations, if the service organization has contracted with the Veterans Administration to reimburse the Veterans Administration for the cost of such emergency medical services. Reimbursement is not required for individuals eligible for such services under other provisions of this part. (38 U.S.C. 611(c)(1); Pub. L. 96–22, sec. 202; Pub. L. 96–128, sec. 501(a))

21. Section 17.60d is amended by revising paragraph (a) to read as follows:

§17.60d Prescriptions filled.

* * * * *

(a) The prescription is for:

(1) A veteran who by reason of being permanently housebound or in need of regular aid and attendance is in receipt of increased compensation under 38 U.S.C. chapter 11, or increased pension under § 3.1(u) (Section 306 Pension) or § 3.1(w) (Improved Pension), of this title, as a veteran of the Mexican Border Period, World War I, World War II, the Korean Conflict, or the Vietnam Era (or, although eligible for such pension, is in receipt of compensation as the greater benefit), or

(2) A veteran in need of regular aid and attendance who was formerly in receipt of increased pension as described in paragraph (a)(1) of this section whose pension has been discontinued solely by reason of excess income, but only so long as such veteran's annual income does not exceed the maximum annual income limitation by more than $1,000 and, (Pub. L. 95–588)

* * * * *

§ 17.60f [Amended]

22. Section 17.60f is amended by inserting "17.57" after "17.54" where that number appears in the paragraph.

23. Section 17.60g is revised to read as follows:

§ 17.60g Priorities for medical services.

Unless compelling medical reasons indicate otherwise, eligible veterans shall be furnished outpatient medical services on a priority basis in the following order:

(a) To any veteran for a service-connected disability;

(b) To any veteran with a service-connected disability, rated at 50 percent or more;

(c) To any veteran with a disability rated as service-connected, including any veteran being examined to determine the existence or rating of a service-connected disability. (Pub. L. 96–22, sec. 101)

(d) To any veteran who is a former prisoner of war or to any veteran eligible for treatment for conditions which may have resulted from exposure to dioxin or toxic substances or ionizing radiation. (Pub. L. 97–37, sec. 5(c); Pub. L. 97–72, sec. 102(b))

(e) To any veteran eligible under the provisions of § 17.60(i). (38 U.S.C. 612 (i); added Pub. L. 94–581, sec. 103(a)(8))

24. In § 17.62, paragraph (b)(1) is amended aby adding "or § 17.60b" after "§ 17.46(c)(1)"; and a new paragraph (i) is added to read as follows:

§ 17.62 Charges for care or services.

* * * * *

(i) *Furnished at national conventions.* Charges specified in contractual agreements with Veterans Administration recognized service organizations shall be made for emergency medical services furnished at national conventions of such organizations to individuals not eligible for such services under other provisions of this part. (38 U.S.C. 611(c); Pub. L. 96–22, sec. 202 as amended by Pub. L. 96–128, sec. 501(a))

§ 817.64 [Amended]

25. In § 17.64, paragraph (b) is amended by removing the title "Chief Attorneys" in the title, and "Chief Attorney" in the paragraph and inserting in those places the title "District Counsel"; and by removing the word "workmen's" and inserting the word "workers'".

26. Section 17.166c is revised to read as follows:

§ 17.166c Amount of aid payable.

The amount of aid payable to a recognized State home shall be at the per diem rates of $6.35 for domiciliary care, $12.10 for nursing home care, and $13.25 for hospital care. In no case shall the payments made with respect to any veteran exceed one-half of the cost of the veteran's care in the State home. (38 U.S.C. 641, as amended; Pub. L. 96–151, sec. 101(b)(1))

27. In § 17.210, the introductory paragraph and paragraph (d) are revised to read as follows:

§ 17.210 Sharing specialized medical resources.

Subject to such terms and conditions as the Chief Medical Director shall prescribe, agreements may be entered into for sharing medical resources with other hospitals, including State or local, public or private hospitals or other medical installations having hospital facilities or organ banks, blood banks, or similar institutions, or medical schools or clinics in a medical community with geographical limitations determined by the Chief Medical Director, provided:

* * * * *

(d) Reimbursement for medical care rendered to an individual who is entitled to hospital or medical services (Medicare) under subchapter XVIII of chapter 7 of title 42, United States Code, and who has no entitlement to medical care from the Veterans Administration, will be made to such facility, or if the contract or agreement so provides, to the community health care facility which is party to the agreement, in accordance with:

(1) Rates prescribed by the Secretary of Health and Human Services, after consultation with the Administrator, and

(2) Procedures jointly prescribed by the Secretary and the Administrator to assure reasonable quality of care and service and efficient and economical utilization of resources. (38 U.S.C. 5053 as amended by Pub. L. 94–581, sec. 115(a)(1); Pub. L. 96–151, sec. 304)

§ 17.211 [Amended]

28. Section 17.211 is amended by removing the words "Veterans Administration hospitals" and inserting the words "Veterans Administration medical centers" in paragraphs (a), (c), (d), and (e); and by removing the words "Veterans Administration hospital" and inserting the words "Veterans Administration medical center" in paragraph (b).

§ 17.220 [Amended]

29. Section 17.220 is amended by removing the words "Education and Welfare" and inserting the words "and Human Services".

§ 17.350 [Amended]

30. Section 17.350 is amended by removing the words "Veterans Memorial Hospital" and inserting the words "Veterans Memorial Medical Center".

§ 17.351 [Amended]

31. Section 17.351 is amended by removing the words "Veterans Memorial Hospital" where they appear in the title and in the paragraph and inserting the words "Veterans Memorial Medical Center"; and by adding the following citation to the end of the paragraph: (38 U.S.C. 632, as amended by Pub. L. 97–72, sec. 107(c)(1)

32. Section 17.352 is revised to read as follows:

§ 17.352 Amounts and use of grant funds for the replacement and upgrading of equipment.

Grants awarded under § 17.351 shall not exceed the amounts provided by the appropriation acts of the Congress of the United States for the purpose. Funds appropriated for the upgrading and replacement of equipment at the Veterans Memorial Medical Center, or for rehabilitating its equipment, shall remain available in consecutive fiscal years until expanded, but in no event shall exceed the amount of $500,000 per year. It is not intended that such funds will be utilized to expand the medical center facilities. Upgrading of equipment, however, would permit purchase of new and additional equipment not now possessed by the medical center. (38 U.S.C. 632, as amended by Pub. L. 97–72, sec. 107(c)(1))

§ 17.353 [Removed]

33. Section 17.353 is removed.

34. Section 17.355 is revised to read as follows:

§ 17.355 Awards procedures.

All applications for grants to the Republic of the Philippines under the provisions of § 17.351 shall be submitted to the Chief Medical Director or a designee for consideration. (38 U.S.C. 632, as amended by Pub. L. 89–612, sec. 2(3); Pub. L. 93–82, sec. 107(a); Pub. L. 95–520, sec. 3(b); Pub. L. 97–72, sec. 107(e)(1))

§§ 17.360 and 17.361 [Removed]

35. Sections 17.360 and 17.361 are removed.

36. Section 17.362 is revised to read as follows:

§ 17.362 Acceptance of medical supplies as payment.

Upon request of the Government of the Republic of the Philippines, payment for medical and nursing home services provided to eligible United States veterans may consist in whole or in part, of available medicines, medical supplies, or equipment furnished by the Veterans Administration to the Veterans Memorial Medical Center at valuations determined by the Administrator. Such valuations shall not be less than the cost of the items and shall include the cost of transportation, arrastre, brokerage, shipping and handling charges. (38 U.S.C. 632(a)(2); Pub. L. 97–72, sec. 107(c)(1))

37. Section 17.363 is revised to read as follows:

§ 17.363 Length of stay.

In computing the length of stay for which payment will be made, the day of admission will be counted, but not the day of discharge, death, or transfer. Where a veteran for whom hospitalization has been authorized in Veterans Memorial Medical Center or a contract facility, is absent from the hospital for a period longer than 24 hours, no payment will be made for hospital care during that absence. (38 U.S.C. 632, Pub. L. 95–520)

38. Section 17.364 is revised to read as follows:

§ 17.364 Eligibility determinations.

Determinations of legal eligibility and medical need for hospitalization of

United States veterans for treatment rest exclusively with the United States Veterans Administration. Determinations as to various factors upon which eligibility may depend shall be made as follows:

(a) *Determinations of service connection.* For the purpose of meeting any requirement in §§ 17.37 through 17.39 for service-connected disability, the United States Veterans Administration shall determine that under laws it administers the disability in question was incurred in or aggravated by service, and

(b) *Determinations of valid service.* For the purpose of determining the necessary prerequisite service, determinations by the Department of Defense of the United States as to military service shall be accepted. In those cases in which the United States Veterans Administration shall have information which it deems reliable and in conflict with the information upon which the Department of Defense determination was made, the conflicting information shall be referred to the Department of Defense for reconsideration and redetermination. Such determinations and redeterminations as to military service shall be conclusive. (38 U.S.C. 612, Pub. L. 97–72)

39. Section 17.365 is revised to read as follows:

§ 17.635 Admission priorities.

Appropriate provisions of § 17.49 apply. (38 U.S.C. 612, Pub. L. 97–72)

§ 17.366 [Amended]

40. Section 17.366 is amended by removing the words "he determines" and inserting the words "it is determined that the".

§ 17.368 [Removed]

41. Section 17.368 is removed.

§ 17.369 [Amended]

42. Section 17.369 is amended by removing the word "Hospital" and inserting the words "Medical Center".

§ 17.370 [Amended]

43. Section 17.370 is amended by removing the word "Hospital" where it appears in that paragraph and inserting the words "Medical Center"; and by adding the following citation to the end of the paragraph: (38 U.S.C. 632, as amended by Pub. L. 97–72, sec. 107(c)(1))

[FR Doc. 82–35210 Filed 12–29–82; 8:45 am]

BILLING CODE 8320–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A–1–FRL 2245–8; Docket No. NH–496]

Approval and Promulgation of Implementation Plans; New Hampshire Revisions; Group I and Group II VOC Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving, in part, State Implementation Plan (SIP) revisions submitted by the State of New Hampshire. These revisions will reduce the formation of ozone in the ambient air through control of volatile organic compound (VOC) emissions from stationary sources. The intended effect of this action is to apply Reasonably Available Control Technology (RACT) to VOC sources as required under Section 172(b)(2) of the Clean Air Act.

EFFECTIVE DATE: January 31, 1983.

ADDRESSES: Copies of the submittal are available for public inspection during normal business hours at the Environmental Protection Agency, Room 2111, JFK Federal Bldg., Boston, MA 02203; Public Information Reference Unit, Environmental Protection Agency, 401 M Street, S.W., Washington, DC 20460; Office of the Federal Register, 1100 L Street, NW, Room 8401, Washington, DC 20408 and Air Resources Agency, Health and Welfare Building, Hazen Drive, Concord, NH, 03301.

FOR FURTHER INFORMATION CONTACT: Alan E. Dion, (617) 223–5130.

SUPPLEMENTARY INFORMATION: On May 26, 1982 (47 FR 22978), EPA published a Notice of Proposed Rulemaking (NPR) for revisions to the ozone control portion of the New Hampshire SIP. These revisions consist of new regulations for VOC sources covered under the second group of Control Technique Guidelines (CTGS) published between January 1978 and January 1979, and changes to existing regulations from the first group of CTGs. The Clean Air Act requires states which have not attained the National Ambient Air Quality Standard for ozone to issue regulations that apply Reasonably Available Control Technology (RACT) to major stationary sources. EPA has written CTG's to assist the states in determining RACT for VOC sources. The CTG's represent a presumptive norm. The revisions and the rationale for EPA's proposed action are explained in the NPR and will not be restated here.

Adverse comments were received on the NPR from the Conservation Law Foundation (CLF). Those comments, and EPA's complete response to them, are contained in a Technical Support Document (TSD) available at the locations listed in the **ADDRESSES** section of this notice.

A summary of CLF's comments appears below:

(1) Against Agency policy, EPA approved New Hampshire's omission of several VOC control regulations.

(2) EPA allowed revisions to the State's regulation covering limits to applicability without sufficient analysis of consequences.

(3) EPA approved a regulation controlling leaks from petroleum refineries, even though this regulation is inadequate.

(4) EPA approved an emulsified asphalt regulation which allows solvent concentrations much greater than those recommended by the Agency.

(5) EPA failed to require New Hampshire to submit explicit compliance testing methods.

EPA's responses to CLF's comments are contained in the TSD mentioned above. Due to their length, they will not be fully restated here. Briefly summarized, our responses are:

(1) There is no EPA requirement for states to promulgate regulations for categories for which they have no sources. Furthermore, in rural nonattainment states, sources which emit less than 100 tons per year (TPY) of VOCs are likewise exempt. With regard to leaks from tank trucks, EPA had hoped that New Hampshire would adopt a regulation which was RACT for the New England states, even though no tank truck emits 100 TPY. However, since no such regulation has been forthcoming, EPA will take no action at this time, although we will encourage the state to adopt such a regulation in the future in order to further regional consistency in this control strategy.

(2) EPA's basis for approving these exemptions to other categories is derived from its policy of exempting sources that emit less than 100 TPY and are located in rural nonattainment areas. One other category, miscellaneous metal parts coaters, was added to the Limits to Applicability section, but was left out of this portion of the May 26, 1982 NPR. EPA had determined that the miscellaneous metal parts coating regulation was not RACT because of the means the State uses to determine compliance. However, New Hampshire has assured EPA that it will revise its method of determining compliance, and also that it has no

miscellaneous metal parts coaters which emit over 100 TPY. Therefore, EPA is taking no action on the coating of miscellaneous metal parts. Should any such sources in New Hampshire exceed 100 TPY emissions, the state must apply the EPA-approved method of determining compliance with this regulation.

(3) There are no petroleum refineries presently operating in New Hampshire. Therefore, the lack of a proper test method is not relevant.

(4) EPA estimates that this regulation is within 5% of the emission controls recommended by RACT, and is therefore approvable under Agency policy.

(5) New Hampshire has agreed to require that EPA-approved test methods are applied to its regulations. Until the State makes these revisions, EPA will apply the federally-approved test methods in 40 CFR Part 60 for enforcement purposes. This requirement also applies to test procedures under Regulation 1204.10(b) governing gasoline transfer. Since EPA failed to reference 1204.10(b) in the NPR, we will consider this revision in a later action.

EPA is also requiring that any compliance extensions under Air 1204.21 which exceed December 31, 1982 be submitted to us for approval as individual SIP revisions.

Action: EPA is approving regulations Section: Air 1204.03 for Limits to Applicability, Air 1204.11(d) controlling petroleum refinery leaks, Air 1204.12 and 1204.13 on control of cutback and emulsified asphalts, Air 1204.18 controlling printing operations, and Air 1204.21 on compliance schedules.

EPA is taking no action on regulations Section: Air 1204.01(b) regarding VOC bubbles, Air 1204.17 on miscellaneous metal part coaters, and all test methods. The reasons we are taking no action are fully explained in the TSD discussed previously and available at the locations listed in the ADDRESSES section.

Under Executive Order 12291, today's action is not "Major". It has been submitted to the Office of Management and Budget (OMB) for review. Any comments from OMB to EPA, and any EPA response, are available for public inspection at Room 2111, JFK Federal Building, Boston, MA.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from today). This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2)).

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

(Sec. 110(a) and Section 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410(a) and 7601(a)))

Dated: December 16, 1982.

Anne M. Gorsuch,

Administrator.

Note.—Incorporation by reference of the State Implementation Plan for the State of New Hampshire was approved by the Director of the Federal Register on July 1, 1982.

PART 52—[AMENDED]

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart EE—New Hampshire

1. Section 52.1520 is amended by adding paragraph (c)(20) as follows:

§ 52.1520 Identification of plan.

* * * * *

(c) * * *

(20) Revisions to meet ozone attainment requirements of Part D (VOC Control Regulations) were submitted on August 17, 1981 and are approved as follows: Regulations Air 1204.03, 1204.11(d), 1204.12, 1204.13, 1204.18 and 1204.21.

2. Section 52.1527 is amended by adding paragraph (c) as follows:

§ 52.1527 Rules and regulations.

* * * * *

(c) Part D—No Action—EPA is neither approving nor disapproving the following elements of the revisions:

(1) Air 1204.01(b) concerning VOC bubbles.

(2) Air 1204.17 governing miscellaneous metal parts coaters.

(3) VOC compliance test methods.

[FR Doc. 82-35371 Filed 12-29-82; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 405

Medicare Program; Health Care Prepayment Plans

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule.

SUMMARY: Prepaid health care organizations that furnish or arrange to furnish medical and other health services under Medicare Part B may elect to receive Medicare reimbursement on either a reasonable cost or a reasonable charge basis. These regulations amend the rules governing payment under both methods. The regulations provide that reasonable cost reimbursement to such plans will be based on reimbursement principles similar, to the extent possible, to those for Health maintenance Organizations (HMOs) reimbursed on a reasonable cost basis. Previously, the reimbursement rules for the two types of prepayment organizations were substantially different. The regulations require that prepayment organizations that elect to be paid on a reasonable charge basis be paid on the same basis as other suppliers, non-hospital clinics and physicians. Previously, prepayment plans were permitted a number of alternative methodologies for calculating reasonable charges (such as charges related to cost, reasonable charge payment on a non-bill basis, and so forth), which will be eliminated under these regulations. The purpose of these regulations is to clarify and simplify payment policy, and to assure consistent treatment of prepayment plans and other organizations and suppliers of services under Medicare.

EFFECTIVE DATE: All requirements of the regulations are effective on January 31, 1983, except 42 CFR 405.2097 and 405.2098(b). See Supplementary Information for further explanation on the effective date and on those sections that are not effective on January 31, 1983.

FOR FURTHER INFORMATION CONTACT:

Mendel Kaufman 301–597–6718
Bernadette Schumaker 301–597–1048

SUPPLEMENTARY INFORMATION:

I. Background

In general terms, a prepayment organization may be defined as one that furnishes, or arranges for furnishing, comprehensive health services to its enrollees in return for a predetermined periodic payment. Under Medicare, there are basically three ways in which prepayment organizations may be reimbursed for services to enrollees who are Medicare beneficiaries. These are the Health Maintenance Organization (HMO) options, the reasonable charge option, and the reasonable cost option. HMOs may be reimbursed on either a reasonable cost or incentive basis (section 1876 of the Social Security Act and 42 CFR Part 405, Subpart T). Other prepayment organizations, referred to as

Group Practice Prepayment Plans (GPPPs), are generally paid on the basis of reasonable charges; however, they may elect to be paid on a reasonable cost basis for most of the services they furnish. Both payment methods for GPPPs are currently governed by administrative guidelines as specified in the GPPP Manual, HIM–8.

Reasonable cost is defined in section 1861(v)(1)(A) of the Act, which also requires the Secretary to issue regulations establishing methods of reimbursement to be used for the various entities receiving reimbursement on a reasonable cost basis. The basic rules on reimbursement for services on a reasonable charge basis are set forth in section 1842(b) of the Act.

During the course of our experience in reimbursing GPPPs under both reasonable cost and reasonable charge methods, we found that some of the guideline provisions (such as reasonable charge reimbursement "on a non-bill basis", which is discussed below under Reimbursement of Other Prepayment Organizations) are inappropriate and should be modified. In addition, in light of the strong emphasis placed by the Department on developing HMOs as a more efficient and effective method of providing health services than the traditional fee-for-service system, we determined that the requirements relating to cost-basis GPPPs should be as consistent as possible with those for HMOs, and that we should encourage the transition of these GPPPs to HMOs. To achieve this, we published a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** on October 31, 1980. (45 FR 72538) for public comment. The provisions of the proposed regulations, a summary of the final regulations, and a discussion of the major comments are presented below.

In developing the final regulations, we have considered carefully both the need to publish regulations and, if needed, their scope and extent. The current administrative guidelines, which were adopted early in the program, contain provisions with respect to both cost and charge reimbursements that we now believe are not appropriate in determining reimbursement. (As explained more fully below, these provisions include payment for long-range capital needs and charge reimbursement methods not subject to the usual payment limits.) We do not believe we should continue those provisions, particularly when they result in a substantial amount of uneeded Federal expenditures.

Additionally, because the administrative guidelines are not clear in several respects, they are not applied consistently by Medicare contractors in making payments. This creates inequities among prepayment plans providing essentially the same services.

Therefore, we are publishing regulations that contain a consistent, appropriate and enforceable set of standards that can be used with little difficulty by both contractors and the prepayment plans. In developing the final rules, we have considered public comments, as well as results of our own further analysis, and made major changes to keep the requirements to a minimum. These changes include:

1. Elimination of the majority of the definitions that were contained in the NPRM (the three retained are discussed below later in this preamble);

2. Elimination of the qualifying conditions that were proposed in the NPRM, except for the requirement for an agreement with HCFA, and except for requirements relating to the furnishing of physicians' services and the qualification of all entities that furnish these services; and

3. Incorporation of the reimbursement provisions in the NPRM that are being retained into the existing HMO regulations at 42 CFR Part 405, Subpart T. This will clarify, without unnecessary repetition, which principles apply to both types of organizations.

We believe these final rules provide the minimum standards needed for clarity, consistency and program cost controls, and allow the greatest possible flexibility so that a broader range of organizations can qualify as prepaid health plans.

II. Provisions of Proposed Rules

A. Change in Terminology And Qualifying Conditions

1. *Terminology.* We proposed changing the term "Group Practice Prepayment Plan" (GPPP) to "Health Care Prepayment Plan" (HCPP). This term would be used to describe prepayment organizations that elect to receive payment on a reasonable cost basis under section 1833(a)(1)(A) of the Act for medical and other health services. The term HCPP also would distinguish these organizations from HMOs, since there are several major differences between the two types of organizations. For example, HMOs may be reimbursed for hospital, physician and other covered Part A and Part B services, while HCPPs may be reimbursed only for medical (including physician) and other health services covered under Part B. Another important difference is that HMOs, unlike HCPPs, can qualify for incentive payments (i.e., HMOs can retain a certain portion of savings resulting from efficient operation). In addition, under section 1876 of the Act, HMOs have to meet a more comprehensive set of qualification requirements.

2. *Qualifying Conditions.* The NPRM proposed requirements in five basic areas as conditions the HCPP would have to meet to qualify for Medicare reimbursement on a cost basis. In addition, the HCPP would have to execute an agreement with HCFA. The five areas were: required range of services offered, qualifications of those providing them, adequate access to services by beneficiaries, organization and operation, and acceptable arrangements for furnishing physician services.

B. Reimbursement of HCPPs Based on Reasonable Cost

The major reimbursement provisions of the NPRM for reimbursement of HCPPs were:

- The proposed regulations, in general, followed those for cost-basis HMOs which, in turn, are based on the reasonable cost reimbursement principles applied to Medicare providers of services (hospitals, skilled nursing facilities and home health agencies). (See 42 CFR Part 405, Subpart D, for these principles.) For example, these regulations require that the HCPPs weight statistics in apportioning the costs of direct professional services of physicians and other health care personnel using the same Medicare principles as HMOs. This adjustment reflects differences in the time and complexity of services furnished to Medicare enrollees, since these factors vary from patient to patient, and the variations may be particularly significant with respect to patients over age 65. Previously, we permitted GPPPs to weight a significantly broader range of costs than HMOs. However, the regulations would permit payment to HCPPs of certain costs unique to prepayment organizations, such as marketing costs, which have not been reimbursable under the GPPP guidelines.

- The proposal set forth specific methods for allocating allowable costs among different departments or cost centers of the HCPP, and for apportioning costs among its Medicare enrollees, other enrollees and nonenrolled patients. It required allocation on a departmental basis (for example, laboratory or X-ray) unless the HCPP submitted, and HCFA approved, a more appropriate method.

- The proposal also provided that:

(1) Hospital and other Medicare provider services furnished by an HCPP

to its Medicare enrollees would not be reimbursable to the HCPP. Instead, HCFA would make payment for these services through the provider's fiscal intermediary.

(2) Covered Part B services furnished to Medicare beneficiaries who are not enrollees of the HCPP would be reimbursed on a charge, rather than cost, basis under the generally applicable Medicare rules on payments for Part B services.

C. Reimbursement of Other Prepayment Organizations

The NPRM proposed a change in current policy on reimbursement of GPPPs paid on a reasonable charge basis. Under the administrative guidelines now in use, payments to these plans are made through a variety of methods (for example, a prospective composite fee schedule, or charges related to the premiums paid or reasonable charges on a non-bill basis). Not all of these methods have been subject to the general limits on payments set forth in the current regulations on reasonable charges, 42 CFR Part 405, Subpart E. For example, under one of these methods, reasonable charge reimbursement on a non-bill basis, we base charge payment on an amount equivalent to a GPPP's reasonable costs plus an "equalization factor", which is a payment for long-range capital needs, based on an amount charged by the GPPP to its non-Medicare enrollees. The proposed regulations would have eliminated all the reasonable charge methods on the administrative guidelines, including reasonable charge payment on a non-bill basis, and would have amended current regulations to apply the Subpart E rules to all prepayment plans that elect reasonable charge reimbursement, since we believe it is no longer appropriate to have special reasonable charge rules for prepayment plans.

III. Provisions of Final Regulations

Following is a summary of the provisions of the final regulations; additional detail is contained in the discussion of comments in section IV.

A. Definitions

As stated earlier, we have eliminated the majority of the definitions contained in the NPRM, except for definitions of an HCPP, covered Part B services and Medicare enrollee. The other definitions were needed both because we proposed a number of qualifying conditions requiring definitions, and because we intended to establish a new self-contained Part 418 setting forth all the rules applicable to HCPPs. Since we are eliminating the qualifying conditions and we are not establishing a new part, those definitions are no longer needed.

B. Qualifying Conditions

We have decided to eliminate the majority of the qualifying conditions that were contained in the NPRM. We believe that we should provide, instead, a general definition of an HCPP that does not impose conditions that could prove to be unnecessarily burdensome and that may allow a broader range of organizations to qualify as HCPPs. Since there are now a relatively small number (25) of prepayment organizations reimbursed on a reasonable cost basis, we think that we can encourage their movement toward HMO status through means other than imposing additional qualifying conditions, and that we can use monitoring methods to ensure that an appropriate quality of services is furnished. We also believe that the less strict definition, rather than the more detailed qualifying conditions, may foster development of prepaid health plans in general, and that this can be an important step toward increasing the number of Federally-qualified HMOs.

Although we have omitted most of the other qualifying conditions, we have retained three of the proposed requirements. The first requires a written agreement between the HCPP and HCFA. The agreement is essential as the basis for participating and receiving payment as an HCPP under the Medicare program. We have, however, reduced the requirements from those specified in the NPRM, in order to lessen the burden of complying with the detailed provisions. We have also retained the requirements for furnishing physicians' services through employees or through formal arrangements with a medical group, independent practice association, or individual physicians, and the requirement for furnishing Medicare covered services through entities that meet the applicable Medicare qualifications. We believe these are minimal requirements that are necessary to assure availability and appropriate delivery of services and to protect against program abuse.

In addition, in response to comments, we have included a provision that allows existing GPPPs that do not otherwise meet the requirements to qualify as HCPPs for purposes of these regulations. This provision is intended to apply only to those GPPPs that are participating in the Medicare program at the time these regulations become effective and have participated in the program for some time. We do not intend it to apply to organizations that apply for participation after the regulations are issued. Those organizations, which are not now serving beneficiaries, have the opportunity to learn about the requirements and develop their organization and procedures as necessary to meet them. However, there are a few organizations already participating that are not likely to meet the requirements but have been a valuable source of health care for some years to Medicare beneficiaries. Their elimination from the program could result in disruption of care and perhaps great confusion and anxiety for these individuals. Therefore, we think that these organizations should be permitted to continue on the current basis without the need for a new determination of qualifications.

C. Reimbursement of HCPPs

We have retained the basic approach of the NPRM which patterned reimbursement for prepayment plans that elect reasonable cost reimbursement as HCPPs, to the extent possible, on the reimbursement principles for cost-basis HMOs. To this end, we have incorporated the reimbursement provisions for HCPPs into the HMO regulations at 42 CFR Part 405, Subpart T. We have cross-referenced those principles for HCPPs that are the same for both HCPPs and HMOs, and we have added other provisions that apply only to HCPPs. The HMO provisions that do not apply to HCPP reimbursement generally pertain to services for which HCFA does not make payment to HCPPs (for example, Part A services or Part B services furnished by a hospital, skilled nursing facility or home health agency). For instance, 42 CFR 405.2042(b)(14) and (h), which apply to provider services furnished, or arranged by, an HMO, will not apply to HCPPs because HCPPs are not reimbursed by HCFA for provider services. Also, 42 CFR 405.2042(b)(12), which provides for the review of capital expenditures of health care facilities by health planning agencies, will not apply to the services furnished by HCPPs because HCPPs are not among the organizations subject to review.

Although we have incorporated the HCPP reimbursement principles into Subpart T, we have made some changes from the provisions contained in the NPRM. For example, we no longer require HCPPs to report costs on a departmental basis, as is the case for HMOs, for purposes of allocating and apportioning costs. (See discussion in section (IV)(3) below for definition of allocation and apportionment.) Rather, the HCPP can use a HCFA-approved

method of reporting costs that is justifiable from an administrative and cost efficiency standpoint. Although we orginally believed that reporting costs by departments would be appropriate because it might produce the most precise cost data and establish uniformity with respect to cost allocation and apportionment methodology, we do not believe there is sufficient justification at this time to impose the requirement.

D. Reimbursement of Other Prepayment Organizations

We have adopted in these final regulations the proposed change in current policy that would make payments to GPPPs subject to the usual principles, including limits, governing reasonable charge reimbursement for covered Part B services, in the same manner as payments to physicians, suppliers and non-hospital clinics. Payment to these prepayment plans will be made through the area Medicare carrier, as is done for physicians and suppliers.

IV. Discussion of Major Comments

A. Comments on HCPP Qualifying Conditions

1. *Comment:* There seems to be no statutory basis for the qualification conditions contained in the NPRM.

Response: We believe that we have the statutory authority, under section 1833(a) of the Act (provisions relating to prepayment organizations), and under section 1871 (the Secretary's rulemaking authority with respect to Medicare), to specify the requirements that must be met in order to qualify for Medicare reimbursement. However, as we indicated earlier, we have decided to eliminate the majority of the proposed qualifying conditions to avoid the possibility of imposing unnecessarily burdensome requirements.

2. *Comment:* Existing GPPPs that cannot meet the qualifying conditions should be allowed to continue as HCPPs under the regulations.

Response: We agree with this comment and have provided a "grandfather" provision.

3. *Comment*: More flexibility in the HCPP and other Medicare regulations should be allowed so that services furnished by nurse practitioners and physician assistants could be covered and reimbursed under Medicare, when such services are not performed under the direct supervision of a physician.

Response: Section 1861(s) of the Act permits coverage of nonphysician services performed "incident to a physician's professional service". As we pointed out in the preamble of the NPRM, current policy provides for this coverage only when a physician is actually present and immediately available to provide assistance and direction. We are continuing to review our policy on this issue and plan to solicit public comments on our policy. In making a determination of whether to change our current policy, we will also take into consideration the comments made on the proposed HCPP regulations. Certain other revisions in the regulations that were suggested in the comments on this issue would require a change in the law. For example, there is no provision in the law pertaining to GPPPs that would permit coverage of services furnished by independently practicing nurse practitioners and physician assistants.

4. *Comment:* Revise the regulation's language to allow for coverage of services furnished by psychiatrists and psychologists.

Response: We have not accepted this comment because mental health services (including psychiatric and psychological) are already covered, to the extent permitted by the statute, if the HCPP furnishes such sevices. Therefore, we do not believe coverage needs to be specifically mentioned in the regulations, since we are not listing all of the possible services that an HCPP may furnish.

B. Comments on HCPP Reimbursement Principles

1. *Comment:* The "equalization factor" (see explanation in section II–B above) should be recognized as an allowable cost.

Response: Although the administrative guidelines allow the "equalization factor" to be recognized for reimbursement purposes for GPPPs receiving reasonable charge reimbursement on a non-bill basis, it is not and has never been considered an incurred cost, and thus it is not an element in the reasonable cost of furnishing services. (Such payments were previously permitted only under a reasonable charge method of GPPP reimbursement which we are eliminating under these regulations.) Because section 1861(v)(1)(A) of the Act bases reasonable cost on those incurred in service delivery, the general Medicare principles of reimbursement do not recognize the cost of long-range capital financing (which was the purpose of the "equalization factor") as an allowable cost to the Medicare program. Medicare does pay its proportionate share of allowable current operating expenses actually incurred in acquiring buildings and equipment used to provide covered services to Medicare beneficiaries, and these expenses (such as depreciation and mortgage interest) are recognized as allowable costs under these regulations. Therefore, this final rule does not recognize an allowance for payment of an "equalization factor".

2. *Comment:* Reimbursement principles for HCPPs should not follow the reimbursement principles for cost-basis HMOs because the applicable statutory provisions allow payment to be made to HMOs for both Part A and Part B services and there is no overriding or compelling reason why reimbursement principles must be "uniform" for HCPPs and HMOs. Rather, existing GPPP rules should be used.

Response: We did not use the existing GPPP instructions because they contain certain inconsistencies with respect to current cost reimbursement principles. For instance, as we have described above, some of the reimbursement methods permitted under the GPPP instructions result in HCFA making payments for some costs that are not allowable for HMOs (for example, the use of weighted statistics in apportioning certain administrative costs) and not making payment for other costs that are allowable (such as marketing costs). Since cost-basis HMOs are similar in organization to HCPPs and the reimbursement basis specified in the law for cost-basis HOMs and HCPPs is the same (reasonable cost), we believe we are being consistent with legislative intent by applying the principles of reimbursement for cost-basis HMOs to HCPPs. We also believe that this policy will encourage the transition of HCPPs to HMO status, which the Department considers a desirable goal.

3. *Comment:* In apprortioning the costs of covered Part B services between Medicare enrollees and others for Medicare cost reimbursement purposes, reporting costs on a depertmental basis requires an unnecessary and elaborate recordkeeping system, and therefore, certain HCPPs, especially small plans, may be unable to supply the required information on a depertmental basis. The commenters suggested that an HCPP be allowed to apportion costs on the basis of total physician encounters with Medicare enrollees to total physician encounters with all patients.

Response: For Medicare reimbursement purposes, cost allocation refers to the distribution of indirect costs to various direct cost functions or activities. Cost apportionment is the process of determining Medicare's share of total costs using a ratio of the costs of

furnishing services to Medicare beneficiaries to the costs for non-Medicare patients. We are dropping the requirement that costs and statistical data be reported by department both for allocating allowable costs and for the apportionment of costs to Medicare enrollees. Therefore, we will approve an organization's plan to allocate or apportion costs on other than a departmental basis (e.g., a ratio involving medical services) if the method ensures the accurate and equitable allocation and apportionment of allowable costs, and is justifiable from an administrative and cost efficiency standpoint.

4. *Comment:* "Weighting" (see explanation in section II–B above) should be allowed for overhead costs of an HCPP department (for example, laboratory or X-ray), as is done for HMOs.

Response: We believe that the commenter has misinterpreted 42 CFR 405.2043(d), which is the regulation that provides for "weighting" of certain HMO costs. This regulation specifies that weighting is permitted only for the apportionment of costs of direct professional services of physicians and other health care personnel. The regulations do not permit (nor have they ever permitted) weighting for the apportionment of overhead costs for HMOs, and we have provided for the application of consistent rules for HCPPs.

We do not believe it reasonable to use weighted statistics to apportion overhead costs in prepayment plans. While weighting reflects the differences in time and complexity of services furnished to Medicare enrollees, and permits the costs of direct professional services of health care personnel to be apportioned in recognition of these differences, it does not follow that all costs incurred by a prepayment plan need be apportioned on the basis of the weighted statistics. Overhead costs, medical records costs and other indirect costs would not seem to be affected by the time and complexity differential and apportionment of such costs on the basis of weighted statistics would overstate the proportion of costs applicable to services furnished to Medicare enrollees.

5. *Comment:* Change the due date for submittal of the HCPP's cost report to the Medicare intermediary from 90 days to 120 days after the end of a reporting period.

Response: We have accepted this suggestion.

C. Comment on Reasonable Charge Reimbursement

1. *Comment:* Retain the current GPPP reasonable charge rules. They represent the only reasonable option available to prepayment plans that have a significant number of enrollees dually entitled under Medicare Part B and the Federal Employee Health Benefits (FEHB) program. (The plan submitting this comment is now reimbursed by Medicare under the guidelines on a prospective composite fee (charge) basis that is developed each year based on budgeted costs of the plan and the number of visits made by its enrollees.) If the payment limits in 42 CFR Part 405, Subpart E, are imposed as set forth in the NPRM, the plan would be required to come into compliance with the generally applicable Medicare rules on reasonable charge reimbursement. The commenter also states that it would have to establish a more elaborate and detailed fee schedule system for its FEHB enrollees. The plan urged us to maintain the various reasonable charge methods allowed under the GPPP guidelines that were unique to plans in similar conditions.

Response: As we indicated in the NPRM, our experience with the variety of payment methods now allowed has revealed a wide range of unjustifiable differences in several reimbursement areas, such as in average costs per service and per capita costs. There are also indications that some plans receive payments in excess of the reasonable charge payment limitations in Subpart E. While special procedures for determining a prepayment plan's reasonable charges may have been necessary in the early days of the Medicare program, we believe there no longer is justification to continue to allow these special procedures, especially since they result in payments in excess of amounts that fee-for-service physicians and clinics receive for the same services. In addition, we no longer believe it appropriate to pay an equalization factor for long-range capital needs, as we have under reasonable charge reimbursement on a non-bill basis. Therefore, we believe that we are justified in applying, through publication of these regulations, the same reasonable charge reimbursement rules as are generally provided for Part B services. Plans that do not wish to be reimbursed under the Subpart E rules may convert to reasonable cost reimbursement as an HCPP or, in some cases, to HMO reimbursement. We will provide information and assistance to plans in this situation.

D. General Comments

1. *Comment:* Many of the existing GPPPs that would qualify as HCPPs under these regulations participate in the FEHB program and are required by the Office of Personnel Management (OPM) to submit rates they expect to charge their enrollees in the next calendar year by July 31 of the current year. Therefore, the effective date of the final regulations should be as follows, to accommodate the submittal of the HCPP's budget: (a) First full calendar year after publication, if published before 6/1/81; or (b) second full calendar year after publication, if published after 6/1/81.

Response: Because we reimburse organizations under section 1833(a)(1)(A) on a retrospective basis at the end of a reporting period, based on the reasonable cost of furnishing services to Medicare beneficiaries, and the rates OPM set represent revenue to be collected by the HCPP on a prospective basis, we do not believe that the effective date of these final regulations would have any effect on the FEHB rates submitted for approval to OPM by these organizations. We have, therefore, not accepted this comment.

2. *Comment:* A separate HCPP Manual should be issued.

Response: We agree with this comment. After these regulations have been published in final form, we plan to replace the existing GPPP Manual (HIM–8) with a new HCPP Manual.

Impact Analyses

Executive Order 12291

The Secretary has determined, in accordance with Executive Order 12291, that this final rule does not constitute a "major rule" because it will not have an annual effect on the economy of $100 million or more; result in a major increase in costs or prices for consumers, any industries, any governmental agencies or any geographic regions; or have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This regulation would primarily affect approximately 53 GPPPs currently receiving Medicare reimbursement. We assume that approximately 25 cost basis GPPPs will convert to participation as HCPPs. In addition, the change in the reasonable charge rules will affect about 28 other prepayment plans. We expect that the program may save approximately $13 million in FY 83 by

implementing these revisions. Therefore, we do not believe that a regulatory analysis is necessary.

Regulatory Flexibility Analysis

The Regulatory Flexibility Act of 1980, Pub. L. 96–354, requires each Federal agency prepare a regulatory flexibility analysis for each rule proposed after January 1, 1981, and determined to have a significant economic impact on a substantial number of small entities. Since the NPRM for this rule was published on October 31, 1980, the provisions of the Regulatory Flexibility Act do not apply.

Paperwork Reduction Act

This regulation contains no specific information collection requirements that would require Office of Management and Budget approval under the Paperwork Reduction Act of 1980, Pub. L. 96–511. There are, however, specific information requirements that will be derived from this regulation. To the extent possible, HCFA will use existing GPPP and HMO forms which OMB has already approved. If HCFA develops any new forms or revises existing forms as a result of this regulation, it will obtain OMB approval before implementing them.

Some of the reports and recordkeeping requirements in these sections have already been implemented through forms approved by OMB for group practice prepayment plans, which will continue to be used. They are HCFA forms 1929 (OMB approval number 0938–0161), 2017 (OMB approval number 0938–0038) and 238, 239 and 240 (OMB approval number 0938–0164). New versions of these reports and new reports required by sections 405.2097 and 405.2098 will be submitted to OMB for approval at a later date.

Effective Date

As indicated in the "SUMMARY" portion of these regulations, the requirements of the regulations are effective January 31, 1983. This effective date will apply in the following manner:

1. For those group practice prepayment plans currently receiving Medicare reimbursement on a reasonable cost basis, and that will continue as health care prepayment plans, the requirements of the regulations will be effective for cost reporting periods beginning on or after January 31, 1983; and

2. For the remaining group practice prepayment plans that are currently reimbursed on a reasonable charge basis, the requirements of the regulations are effective January 31, 1983. However, plans that have been paid reasonable charges on a non-bill basis may elect to convert to reasonable charge reimbursement, or continue with the reasonable cost portion of their current reimbursement, through their current cost reporting period.

3. HCFA will no longer reimburse a group practice prepayment plan for an equalization factor after January 31, 1983. (As explained above, an equalization factor is an amount in excess of budgeted costs, and was previously included in payments to certain plans.)

List of Subjects in 42 CFR Part 405

Covered Part B services, Health care prepayment plan (HCPP), Medicare enrollee, Administrative practice and procedure, Certification of compliance, Clinics, Contracts (Agreements), End-Stage Renal Disease (ESRD), Health care, Health facilities, Health maintenance organizations (HMO), Health professions, Health suppliers, Home health agencies, Hospitals, Inpatients, Kidney diseases, Laboratories, Medicare, Nursing homes, Onsite surveys, Outpatient providers, Reporting requirements, Rural areas, X-rays.

PART 405—[AMENDED]

42 CFR Part 405 is amended as set forth below:

1. The table of contents for Part 405 is amended by adding an entry for § 405.692 under Subpart F, revising the title to Subpart T, and adding a new center heading and §§ 405.2093 through 405.2098 under Subpart T to read as follows:

Subpart F—Notice, Election and Agreements

Sec.

* * * * *

405.692 Agreements with health care prepayment plans.

* * * * *

Subpart T—Health Maintenance Organizations and Health Care Prepayment Plans

* * * * *

Principles of Reimbursement for Health Care Prepayment Plans Under Title XVIII

405.2093 Reimbursement of cost—basis health care prepayment plans; introduction.
405.2094 Allowable costs.
405.2095 Cost apportionment.
405.2096 Financial records, statistical data, and cost finding.
405.2097 Interim per capita payments.
405.2098 Final settlement.

* * * * *

2. Subpart B, Supplementary Medical Insurance Benefits; Enrollment, Coverage, Exclusions, and Payment, is amended as follows:

The authority citation is revised to read as follows:

Authority: Sections 1102, 1831–1843, 1861, 1862, 1866, 1871, 1874, 49 Stat. 647, as amended, 79 stat. 301–312, 313, 325, 327, 331; 42 U.S.C. 1302, 1395j–1395v, 1395x, 1395y, 1395cc, 1395hh, 1395kk.

a. Section 405.241 is revised to read as follows:

§ 405.241 Payment of supplementary medical insurance benefits to prepayment organizations.

A prepayment organization that has not qualified as a health care prepayment plan (HCPP) or health maintenance organization (HMO) will be paid through its Medicare carrier, for Part B services furnished to its Medicare enrollees, on the basis of reasonable charges in accordance with § 405.240 and § 405.251. These organizations will be paid 80 percent of reasonable charges after subtracting their enrollees' deductible amounts and taking the other limitations under Part B into consideration. (See 42 CFR Part 405, Subpart T for definition and reimbursement of HCPPs and HMOs.)

3. Subpart F, Notice, Election and Agreements, is amended as follows:

The authority citation for Part 405, Subpart F reads as follows:

Authority: Secs. 1102, 1816, 1842, 1861(u), 1864, 1866, 1871, 49 Stat. 647 as amended, 79 Stat. 297–299, 79 Stat. 309–312, 79 Stat. 322; 79 Stat. 326; 79 Stat. 327–329; 79 Stat. 331; 80 Stat. 849; 81 Stat. 852; 81 Stat. 863; 81 Stat. 942; 42 U.S.C. 1302, 1395 et seq., unless otherwise noted.

a. A new § 405.692 is added to read as follows:

§ 405.692 Agreements with health care prepayment plans.

(a) *General requirement.* (1) In order to participate and receive payment under the Medicare program as a health care prepayment plan (HCPP), as defined in § 405.2093, an organization must enter into a written agreement with HCFA.

(2) An existing group practice prepayment plan (GPPP) that will continue as a HCPP under the regulations in Subpart T of this part must enter into a written agreement with HCFA within 60 days of January 31, 1983.

(b) *Terms.* The agreement must provide that the HCPP agrees to:

(1) Maintain compliance with the requirements for participation and

reimbursement on a reasonable cost basis of HCPPs as specified in § 405.2093;

(2) Not charge the Medicare enrollee, as defined in § 405.2093, a beneficiary, or any other person for items or services for which that individual is entitled to have payment made under the provisions of this part, except for any deductible or coinsurance amounts for which the individual is liable;

(3) Refund, as promptly as possible, any money incorrectly collected as charges or premiums, or in any other way from Medicare enrollees in the HCPP in accordance with the requirements specified in § 405.2033(b);

(4) Not impose any limitations on the acceptance of Medicare enrollees or beneficiaries for care and treatment that it does not impose on all other individuals; and

(5) Consider any additional requirements that HCFA finds necessary or desirable for efficient and effective program administration.

(c) *Duration of agreement.* Except for the term of the initial agreement, the agreement will be for a term of one year and may be renewed annually by mutual consent. The term of the initial agreement will be set by HCFA.

(d) *Termination or nonrenewal of agreement by HCFA.* (1) HCFA may terminate or not renew an agreement if it determines that:

(i) The HCPP no longer meets the requirements for participation and reimbursement as an HCPP as specified in § 405.2093; or

(ii) The HCPP is not in substantial compliance with the provisions of the agreement, applicable HCFA regulations, or applicable provisions of the Medicare law; or

(iii) The HCPP undergoes a change in ownership as specified in § 405.2039.

(2) HCFA will give notice of termination or nonrenewal to the HCPP at least 90 days before the effective date stated in the notice.

(e) *Termination or nonrenewal of agreement by HCPP.* (1) If the HCPP does not wish to renew its agreement at the end of the term, it must give written notice to HCFA at least 90 days before the end of the term of the agreement. If the HCPP wishes to terminate its agreement before the end of the term, it must file a written notice with HCFA stating the intended effective date of termination.

(2) HCFA may approve the termination date proposed by the HCPP, or set a different date no later than 6 months after that date. HCFA will make this decision based on a finding that termination on a specific date would not:

(i) Unduly disrupt the furnishing of services to the community serviced by the HCPP; or

(ii) Otherwise interfere with the efficient administration of the medicare program.

4. Subpart T, Health Maintenance Organizations, is amended as follows:

The authority citation for Part 405, Subpart T reads as follows:

Authority: Sections 1102, 1833(a)(1)(A), 1871, 1874, and 1876, 49 Stat. 647, as amended, 79 Stat. 331, 86 Stat. 1396; (42 U.S.C. 1302, 1395l(a)(1)(A), 1395hh, 1395kk, and 1395mm).

a. The title of Subpart T is amended to read as follows:

Subpart T—Health Maintenance Organizations and Health Care Prepayment Plans

b. Section 405.2042 is amended by revising paragraph (g) to read as follows:

§ 405.2042 Allowable costs.

* * * * *

(g) *Physicians' services under arrangements.* (1) The amount paid by an HMO to a physician group (organized on a group-practice or individual-practice basis) for physicians' services, and for other covered Part B services, furnished under arrangements (as described in § 405.2006), is an allowable expense to the extent it is reasonable. (2) The amount paid by an HMO on a-fee-for-service basis to physicians and other suppliers and to a physician group organized on an individual-practice basis for physicians' services and other covered Part B services furnished under arrangements (as described in § 405.2006) is an allowable expense to the extent it is not in excess of the reasonable charges, as defined in Subpart E of this part. Therefore, payment is limited to the amount that would otherwise be paid if the services were furnished by the physician group (or by similar physicians, practitioners, or suppliers) to Medicare beneficiaries who are not enrolled in the HMO. The same limitation also applies to the amount paid by the HMO for such covered services furnished under arrangements with a physician, physician-directed clinic, or a supplier of services.

* * * * *

b. New §§ 405.2093 through 405.2098 and a new center heading immediately preceding them are added to read as follows:

Principles of Reimbursement for Health Care Prepayment Plans Under Title XVIII

§ 405.2093 Reimbursement of health care prepayment plans; definitions and basic rule.

(a) *Definitions.* As used in §§ 405.2093–405.2098, unless the context indicates otherwise:

"Covered Part B services" means physicians' services, diagnostic X-ray tests, laboratory, other diagnostic tests, and any additional medical and other health services that the HCPP furnishes to its Medicare enrollees.

"Health care prepayment plan" means an organization that:

(1) Is responsible for the organization, financing and delivery of covered Part B services to a defined population on a prepayment basis;

(2) Meets the conditions specified in paragraph (b) of this section; and

(3) Elects to be reimbursed on a reasonable cost basis.

"Medicare enrollee" means a beneficiary under Part B of Medicare who has been identified on HCFA records as an enrollee of the HCPP.

"Reporting period" means the period specified by HCFA for which an HCPP must report its costs and utilization.

(b) *Qualifying conditions.*

(1) Except as provided in paragraph (b)(2) of this section, an organization wishing to participate as an HCPP must:

(i) Enter into a written agreement with HCFA as specified in § 405.692;

(ii) Furnish physicians' services through its employees or under a formal arrangement with a medical group, independent practice association or individual physicians; and

(iii) Furnish covered Part B services to its Medicare enrollees through institutions, entities, and persons that have qualified under the applicable requirements of Title XVIII of the Social Security Act.

(2) An organization that, as of [effective date of these regulations], was being reimbursed on a reasonable cost basis under section 1833(a)(1)(A) of the Act, and that would not otherwise meet the conditions specified in paragraph (b)(1), may receive reimbursement on a reasonable cost basis as an HCPP, provided it files an agreement with HCFA as required by § 405.692.

(c) *Payment of reasonable cost.* (1) Except as otherwise provided in §§ 405.2094 through 405.2098, HCFA will pay a health care prepayment plan (HCPP) on the basis of the reasonable cost it incurs, as specified in §§ 405.2040–405.2047, for the covered

Part B services furnished to its Medicare enrollees.

(2) In determining the amount due an HCPP for covered Part B services furnished its Medicare enrollees, HCFA will deduct from the reasonable cost actually incurred by the HCPP an amount equal to the actuarial value of the deductible and coinsurance amount that would otherwise be applicable to those services if the Medicare enrollees who received the services had not been enrolled in the HCPP.

(d) *Covered services not reimbursed, to an HCPP.*

(1) Services reimbursed under Part A are not reimbursable to an HCPP. HCFA will make payment for these services directly to the hospital, or other provider of services, on a reasonable cost basis through the provider's Medicare fiscal intermediary (for more details, see subpart D of this part.

(2) Covered Part B services furnished by a provider of services to an HCPP's Medicare enrollees are not payable to the HCPP. HCFA will make payment for these services to the provider on behalf of the Medicare enrollee through the provider's Medicare fiscal intermediary. This requirement does not affect Medicare payment to the HCPP for physicians' services furnished to its Medicare enrollees for which the physicians are compensated by the HCPP.

(e) *Payment for services to nonenrollees.* HCFA will make payment to an HCPP for covered Part B services furnished by the HCPP to a Medicare beneficiary who is not enrolled in the HCPP if the beneficiary assigns his rights to payment in accordance with § 405.1675 of this subchapter. Payment will be made on a reasonable charge basis through the HCPP's Medicare carrier.

§ 405.2094 Allowable costs.

The costs that will be considered allowable for HCPP reimbursement are the same as those for cost-basis HMOs specified in § 405.2042, except those in paragraphs (b)(12), (b)(13), (b)(14), (d), (h) and (i) (1)(ii) of that section.
§ 405.2095 Cost apportionment.

§ 405.2095 Cost apportionment.

(a) The HCPP will follow the cost apportionment principles specified in § 405.2043, except for provisions on provider costs and the provisions of paragraph (b) of that section on departmental apportionment.

(b) The HCPP may use a method for reporting costs that is approved by HCFA. HCFA will base its approval on a finding that the method—

(1) Results in an accurate and equitable allocation of allowable costs; and

(2) Is justifiable from an administrative and cost efficiency standpoint.

§ 405.2096 Financial records, statistical data, and cost finding.

(a) The principles specified in § 405.2044 will apply to HCPPs, except those in paragraphs (c) and (d) of that section.

(b) The HCPP may use a method for reporting costs that is approved by HCFA. HCFA will base its approval on a finding that the method—

(1) Results in an accurate and equitable allocation of allowable costs; and

(2) Is justifiable from an administrative and cost efficiency standpoint.

(c) An HCPP must permit the Department of Health and Human Services sand Comptroller General to audit or inspect any books and records of the HCPP and of any related organization that pertain to the determination of amounts payable for covered Part B services furnished its Medicare enrollees. For purposes of this requirement, the principles specified in § 405.2036 will apply to HCPPs.

§ 405.2097 Interim per capita payments.

The HCPP will follow the principles specified in paragraphs (a) through (e) of § 405.2045 on interim per capita payments, except that:

(a) When applying the principles in § 405.2045 (a) through (e) to HCPPs, the term "reporting period" should be used instead of the term "contract period" contained in that section.

(b) An HCPP must submit to HCFA an annual operating budget and enrollment forecast, in the form and detail specified by HCFA, at least 60 days before the beginning of each reporting period. A reporting period shall be 12 consecutive months, except that the HCPP's initial reporting period for participating in Medicare may be as short as 6 months or as long as 18 months.

(c) An HCPP must submit to HCFA an interim cost report and enrollment data applicable to the first 6-month period of the HCPP's reporting period in the form and detail specified by HCFA. The interim cost report shall be submitted not later than 45 days after the close of the first 6-month period of the HCPP's reporting period.

(d) In lieu of an interim payment based on the actual monthly enrollment in an HCPP, HCFA and the HCPP may agree to a uniform monthly interim reimbursement rate for a reporting period. This interim rate will be based on the HCPP's budget and enrollment forecast, if HCFA is satisfied that the rate is consistent with efficiency and economy, and will not result in excessive adjustment at the end of the reporting period.

§ 405.2098 Final settlement.

(a) *General requirement.* HCFA and an HCPP must make a final settlement, and payment of amounts due either to the HCPP or to HCFA, following the submission and review of the HCPP's annual cost report and the supporting documents specified in paragraph (b) of this section.

(b) *Annual cost report as basis for final settlment.*

(1) *Form and due date.* An HCPP must submit to HCFA a cost report and supporting documents in the form and detail specified by HCFA, no later than 120 days following the close of a reporting period.

(2) *Contents.* The report must include:

(i) The HCPP's per capita incurred costs of providing covered Part B services to its Medicare enrollees during the reporting period, including any costs incurred by another organization related to the HCPP by common ownership or control;

(ii) The HCPP's methods of apportioning costs among its Medicare enrollees, enrollees who are not Medicare beneficiaries, and other non-enrollees, including Medicare beneficiaries receiving health care services on a fee-for-service or other basis; and

(iii) Information on enrollment and other data as specified by HCFA.

(3) *Extension of time to submit cost report.* HCFA may grant an HCPP an extension of time to submit a cost report for good cause shown.

(4) *Failure to report required financial information.* If an HCPP does not submit the required cost report and supporting documents within the time specified in paragraph (b)(1) of this section, and has not requested and received an extension of time for good cause shown, HCFA may:

(i) Regard the failure to report this information as evidence of likely overpayment and reduce or suspend interim payments to the HCPP; and

(ii) Determine that amounts previously paid are overpayments, and make appropriate recovery.

(c) *Determination of final settlement.* Following the HCPP's submission of the reports specified in paragraph (b) of this section in acceptable form, HCFA will make a determination of the total reimbursement due the HCPP for the reporting period and the difference, if any, between this amount and the total interim payments made to the HCPP.

HCFA will send to the HCPP a notice of the amount of reimbursement by the Medicare program. This notice will:

(1) Explain HCFA's determination of total reimbursement due the HCPP for the reporting period; and

(2) Inform the HCPP of its right to have the determination reviewed at a hearing as provided in Part 405, Subpart R of this subchapter.

(d) *Payment of amounts due.*

(1) Within 30 days of HCFA's determination, HCFA or the HCPP, as appropriate, will make payment of any difference between the total amount due and the total interim payments made to the HCPP by HCFA.

(2) If the HCPP does not pay HCFA within 30 days of HCFA's determination of any amounts the HCPP owes HCFA. HCFA may offset further payments to the HCPP to recover, or to aid in the recovery of, any overpayment identified in its determination.

(3) Any offset of payments HCFA makes under paragraph (d)(2) of this section shall remain in effect even if the HCPP has requested a hearing on the determination under the provisions of Part 405, Subpart R.

(e) *Tentative settlement.*

(1) If a final settlement cannot be made within 90 days after the HCPP submits the report specified in paragraph (b) of this section, HCFA will make an interim settlement by estimating the amount payable to the HCPP.

(2) HCFA or the HCPP will make payment within 30 days of HCFA's determination under the tentative settlement of any estimated amounts due.

(3) The tentative settlement is subject to adjustment at the time of a final settlement.

(Catalog of Federal Domestic Assistance Programs No. 13.774—Medicare—Supplementary Medical Insurance)

Dated: September 2, 1982.

Carolyne K. Davis,

Administrator, Health Care, Financing Administration.

Approved: November 22, 1982.

Richard S. Schweiker,

Secretary.

[FR Doc. 82-35354 Filed 12-29-82; 8:45 am]

BILLING CODE 4120-03-M

---

42 CFR Part 420

Medicare Program: Access to Books, Documents, and Records of Subcontractors

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule with comment period.

SUMMARY: These regulations implement section 952 of the Omnibus Reconciliation Act of 1980 (Pub. L. 96-499), which conditions Medicare reimbursement for the cost of services performed under certain contracts upon compliance with prescribed criteria. If a contract between a provider and a subcontractor covers services valued at or costing $10,000 or more over a 12-month period, Medicare reimbursement cannot be made for the services unless the contract includes a clause allowing the Secretary of Health and Human Services and the Comptroller General access to the contract and to the subcontractor's books, documents, and records necessary to verify the costs of the contract. The clause in the contract must also permit similar access to any subcontract between the subcontractor and a related organization of the subcontractor when the subcontract is worth or costs $10,000 or more over a 12-month period. These regulations specify the criteria and procedures that the Department will use to obtain access to affected books, documents, and records.

The purpose of the legislation and these proposed regulations is to permit the Secretary and Comptroller General to make an accurate determination of the reasonable costs under these contracts.

DATES: Effective date: January 31, 1983. Although these regulations are final, comments may be submitted as described below.

Comment Date: To assure consideration, comments must be received by January 31, 1983.

ADDRESS: Address comments in writing to:

Health Care Financing Administration, U.S. Department of Health and Human Serices, Attention: BQC-14-FC, P.O. Box 17073, Baltimore, Maryland 21235.

In commenting, please refer to file code BQC-14-FC.

If you prefer, you may deliver your comments to Room 309-G Hubert H. Humphrey Building, 200 Independence Ave., S.W., Washington, D.C. or to Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland.

Comments will be available for public inspection as they are received, beginning approximately three weeks after publication, in Room 309-G of the Department's offices at 200 Independence Ave., S.W., Washington, D.C., on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (202-245-7890).

FOR FURTHER INFORMATION CONTACT: Ron Galler (301) 594-8833.

SUPPLEMENTARY INFORMATION:

I. Background

Under the Medicare program, the amount paid to a provider of services is the reasonable cost of items and services furnished to beneficiaries. While section 1815(a) of the Social Security Act requires a provider to make available to its intermediary financial and other books and records so that the reasonable cost of services it has provided may be determined, we did not have the same access to the records of a provider's subcontractors until December 6, 1980.

Section 952 of the Omnibus Reconciliation Act of 1980 (Pub. L. 96-499) enacted December 5, 1980, amended section 1861(v)(1) of the Social Security Act by adding a new subparagraph (I). That provision requires that, in order for the costs of services furnished under a contract between a provider and subcontractor to be included as reasonable costs for Medicare reimbursement purposes, the contract (if its cost or value over a 12-month period is $10,000 or more) must contain a clause allowing the Secretary and the Comptroller General to have access, upon request, to the contract, and to the books, documents, and records of the subcontractor that are necessary to verify the nature and extent of costs of services furnished under the contract. The contract must provide for the access until the expiration of four years after the services are furnished under the contract. In addition, the contract must allow access to contracts of a similar nature, costs or value, between subcontractors and related organizations of the subcontractor, and to their books, documents, and records. The statute requires that the Secretary's request for books, documents, and records must be in writing and that the Secretary must specify in regulations the criteria and procedures the Secretary will use in obtaining that access. This section became effective on December 6, 1980.

The statute contains no requirement for the Comptroller General to publish regulations in order to gain access to the subcontractor's contract, books, documents, and records and those of its related organizations, Therefore, these regulations address only that part of the provision for which the Secretary is responsible, except that they require the access clauses to provide also for access by the Comptroller General and his or her authorized representatives.

Section 127 of the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97–248) requires us to publish final regulations, following a 60 day comment period on proposed regulations, by January 1, 1983, if the provisions are to be applicable back to December 5, 1980 (the date of enactment of Pub. L. 96–499). If the final rule is not published by that date, then these regulations will be applied only to books, documents, and records relating to services furnished on or after the date of publication.

II. Provisions of the Proposd Regulations

We published a notice of proposed rulemaking (NPRM) on October 12, 1982 (47 FR 44750) to set forth the procedures we proposed to use to implement the statute.

The proposed regulations added a new Subpart D, Access to Books, Documents, and Records of Subcontractors, to 42 CFR Part 420, Program Integrity. The provisions proposed in the NPRM are discussed below:

Note.—The words "we" and "HHS" refer to HHS, HCFA, HCFA's intermediaries and carriers, and to the Inspector General for HHS.

A. *Definitions.* 1. "Books, documents, and records": We proposed to include within this definition all writings, recordings, transcriptions, and tapes of any form in the concept of books, documents, and records.

2. "Provider": We proposed to use the current Medicare definition of "provider": a hospital, skilled nursing facility, home health agency, or comprehensive outpatient rehabilitation facility. This definition is consistent with that of section 1861(u) of the Act and includes most entities that are reimbursed on a cost basis and that submit annual cost reports. In addition, this definition, for purposes of these regulations, included "related organizations" of providers, as defined by 42 CFR 405.427.

3. "Subcontractor": In our proposal, we defined a subcontractor as any entity, including an individual, that contracts with a provider to supply a service or services to the provider or directly to a beneficiary, for which Medicare may pay the provider the cost of the services. The term "subcontractor" included organizations related to the subcontractor that have contracts with the subcontractor that are subject to the statute.

"Related to the subcontractor" was defined to mean that the subcontactor is related to an organization by common ownership or control; the subcontractor, to a significant extent, is associated or affiliated with, owns or is owned by, or has control of or is controlled by, the organization furnishing the services, facilities, or supplies.

"Common ownership" was defined to mean that an individual or individuals possess significant ownership or equity in the subcontractor and the entity providing the services under the contract.

"Control" was defined to mean that an individual or an organization has the power, directly or indirectly, significantly to influence or direct the actions or policies of an organization or institution.

The definitions of "related to the subcontractor," "common ownership," and "control" parallel the definitions of "related to the provider," "common ownership," and "control" in current regulations at 42 CFR 405.427.

4. "Contract for services": Contracts for services were defined as those through which a provider obtains the performance of an act or acts, as distinguished from supplies or equipment. That is, the proposed regulations would not have applied to contracts that purchase only tangible materials, but rather applied to contracts that purchase services such as consultations, management, and medical care provided by physician groups (for which we may reimburse the provider on a cost basis). Contracts for services such as linen services (rental of linens), the furnishing of meals (as opposed to the direct purchase of food), and services supplied through contracts with law firms and accounting firms were also examples of contracts for services that were included. We also included contracts for services furnished by provider management companies and provider management information systems companies.

Subcontracts for public utility services at rates established for uniform applicability to the general public were not subject to these regulations because the rates are already a matter of public record and are not negotiable.

Services provide incidental to the purchase of a product were not considered services for purposes of the proposed regulations. For example, contracts concerning construction of buildings were not covered by the regulations, as the sole purpose of these contracts is to produce tangible material items (that is, buildings).

5. "Contracts for goods and services": In those contracts for goods that also contain a significant service component (that is, the cost or value of the services is at least $10,000 over a 12-month period), the access provision applied but access was directed to verification only of the nature and extent of the costs of the services and not of the costs of the goods.

B. *Application.* 1. *Contract provisions.* The proposed regulations required any contract for services, the value of which is $10,000 or more in a 12-month period, to provide the Secretary, upon written request, and the Comptroller General access to the contract and to the subcontractor's books, documents, and records necessary to verify the costs of the contract. They also required the contract to provide for the access to the contract, books, documents, and records until the expiration of four years after the services are furnished under the contract.

Under the proposed regulations, the contract must have also provided that if the subcontractor carries out any duties of the contract through a subcontract, with a value or cost of $10,000 or more over a 12-month period, with a related organization, the subcontract must contain a clause to the effect that the related organization must make available, upon written request, to the Secretary, or upon request to the Comptroller General, or their duly authorized representatives, the subcontract and the books, documents, and records of the related organization that are necessary to verify the nature and extent of the costs. The provision in the contract must also provide for the access until four years have expired after the services have been furnished.

In practice, we believed it would usually be the provider's intermediary (or carrier), acting on behalf of HCFA, that would request and gain access to the contracts, books, documents, and records. The intermediary is ordinarily in the best position to know whether costs need verifying and what information will be necessary to verify them. We stated that there may be occasions, however, when the request for records would be made by the Office of the Inspector General or by HCFA on behalf of the Secretary.

We assumed that contracts for services cost or are valued at $10,000 or more in a 12-month period even if the contract does not specify 12 months as its duration or if its cost or worth is less than $10,000 in a period of less than 12 months but there is more than one such contract so that the total cost is $10,000 or more in 12 months. For example, we proposed that a contract that costs $12,000 for services that are completed in two months or a contract for $18,000 that covers an 18-month period would be subject to the regulations, as would a series of contracts for $1,000 each for 10 months (that is, each of these contracts

would amount to $12,000 in a 12-month period and thus would be subject to the statute). In order to implement the statutory intent, amounts incurred under contracts made for less than a full year would be recalculated to determine their cost for a full year to determine if the statutory requirement applies.

2. *Written contracts.* The proposed regulations required that a contract subject to the provisions of this section of the statute must be in writing in order for the services performed under the contract to be reimbursable by the Medicare program. Oral contracts entered into before December 6, 1980, that are renewed after that date were required to be reduced to writing to conform with the law and the regulations.

3. *Value of services.* Under the proposed regulations, if a contract was for both goods and services, the provider and subcontractor would have to evaluate the worth of the services and determine whether the service component is $10,000 or more. If an allocation were made between depreciation base and service components on books, the allocation would have to be consistent with the principle used to determine the value of the service component.

If the contract did not specify the cost or value of the services or service component involved, the provider would be expected to anticipate whether the services' value would be $10,000 or more. If the contract did not contain the cost or value of the services and did not include the access clause, and if we further determined that the contract would be subject to the statute, the provider would risk not being reimbursed for the reasonable cost of the services under Medicare unless a good faith showing could be made that would allow modification of the contract.

We proposed that when a provider contracts to purchase a product that includes a warranty of the product in the price, the contract would not be subject to these regulations since there is no way to determine the cost of the service component. However, a separately purchased warranty, or a "service-maintenance" contract would have to have contained the access clause, if it were for $10,000 or more for a 12-month period.

4. *Implementation date.* Under section 1861(v)(1) (I) of the Act, HCFA cannot request or require access to a subcontractor's books, documents, and records until the regulations implementing the statute become final. (The Comptroller General has had the authority to request or require access since December 6, 1980.) However, providers and their subcontractors have had the responsibility of including the access clause in any contract subject to the statute since December 6, 1980.

In our proposed regulations, we stated that contracts in existence before December 6, 1980, that are automatically renewed on or after that date would have to be amended to incorporate the acess clause at least by the renewal date. We realized that there are providers that have been or will be unable to obtain their subcontractor's agreement to include the clause in their contracts before the regulations are final. We stated that, in such instances, the providers would have to review their contracts after the regulations became effective and amend any that did not contain the access clause. We stated that failure to amend the contracts could mean that intermediaries would be unable to reimburse the providers the cost of services furnished under the unamended contracts. We urged that a provider that has any doubt as to whether the access clause should be inserted into a specific contract should include the clause in the contract.

C. *Criteria for requesting records.* The statute requires the Secretary to prescribe by regulation the criteria and procedures to be used in obtaining access to books, documents, and records. We proposed to limit our request to books, documents, and records that we determine are germane to the cost items in question.

The basic question that we proposed to consider before requesting a subcontractor's document, book, or record is: Is there any other more efficient, more practical, or more economical method of obtaining the necessary information, or are there any other books, records, or documents available that could be used for judging the costs under the subcontract? We stated that, if so, we would ordinarily attempt to obtain the information by those means before seeking to gain access to the records of the subcontractor.

D. *Procedures for requesting books, documents, and records.* Under the proposed regulations, if we decided to verify the nature and extent of the costs under the subcontract by examining the subcontractor's books, documents, and records, we would request those materials from the subcontractor in writing. The request would contain at least the following elements:

(a) Reasonable identification of the books, documents, or records to which access is being requested;

(b) Identification of the contract whose costs are being questioned as excessive or inappropriate;

(c) The reason that the appropriateness of the costs of the services of the subcontractor in question cannot be decided without access to the subcontractor's books, documents, and records;

(d) The statutory and regulatory authority for the access requested;

(e) To the extent possible, the identification of those individuals who will be visiting the subcontractor to review the books, documents, and records;

(f) The proposed time and date of the scheduled visit; and,

(g) The name of the duly authorized representative of HHS to contact if there are any questions.

E. *Response to access request.* Under the proposed regulations, when a subcontractor received a written request for records, the subcontractor would have 30 days for making the requested books, documents, and records available. If the subcontractor believed that the request did not contain in sufficient detail the required elements listed in paragraph D above, the subcontractor would have 20 days from the date of the request to advise us in writing of the additional information needed. If necessary, we would perfect the request to the extent that it properly contains the elements contained in paragraph D. The subcontractor would them have 20 days after we respond to make the books, documents, and records available.

We stated that we would ordinarily require the subcontractor to make the requested books, documents, and records available for inspection, audit, or reproduction at regular business hours at the office of the subcontractor. All contracts, books, documents, and records, whether requested or not, must be available until four years after the services are furnished under the contract. We proposed to pay the cost of records duplicated at our request upon inspection; if the subcontractor chooses to comply with a request by furnishing duplicate copies not individually requested by us, the subcontractor would assume the cost.

When the subcontractor's books, documents, and records are not readily available (for example, they are at a home office or in storage), and there will be a delay in retrieving them, the subcontractor would have to advise the requesting organization in writing. If no date can be mutually agreed upon for making the books, documents, and records available, the requesting

organization could initiate a delay or denial of reimbursement of the cost of the services.

F. *Refusal by subcontractor to furnish access to records.* Under the proposed regulations, if the subcontractor failed to honor the access clause in the contract in accordance with the provisions of the statute and these regulations, we would initiate legal action against the subcontractor.

Concurrently, we would advise the provider of the failure of the subcontractor to make available the requested materials so that the providers may take whatever action (for example, withholding of any balances due the subcontractor under the contract) it considers necessary for its financial protection.

G. *Access provision not included in contract.* We proposed that if we found that a contract subject to the access requirement did not contain the necessary provision, we would consider the intent of Congress in enacting this provision before deciding on remedial action. It is clear from the statute that we are precluded from reimbursing costs incurred under a contract subject to the statute unless the contract contains the access clause. However, we believe that Congress intended that the provision should be used to provide access to contracts, books, documents, and records when necessary and not to penalize providers that inadvertently omit the required provision from a covered contract, but which nevertheless permit access of the required materials in a timely and otherwise satisfactory manner.

Therefore, we proposed that when we discover that a contract subject to the requirements lacks the access provision, we would not automatically deny reimbursement of the costs of the subject contract. Rather, we would request the provider to furnish the reason for its omission. If the reply were to indicate good cause on the provider's part, the provider would be given the opportunity to amend the contract to include the required access clause so that any contracts, books, documents, and records that are required may be obtained. Also, if we found good cause exists, we would advise the provider that to be reimbursed for the services, it must amend its contract within 60 days.

If the provider failed to amend the contract within 60 days, and if we could find no good cause for the omission, we would deny reimbursement to the provider for the cost of the services provided under the contract.

III. Refusal by Subcontractor to Insert Clause

We also stated in the proposed regulations that there may be situations in which an individual subcontractor might refuse to enter into a contract containing the required access clause. However, we believed that the provider would ordinarily have little difficulty in finding another organization that would agree to the clause and that offers the services needed by the provider at a cost that is at least as competitive as that of the noncooperative organization.

However, if the provider believed that the original proposed subcontractor was the only one that could supply the service needed, or supply it at the lowest cost, the provider could contact the HCFA Regional Administrator for the State in which the provider is located for assistance. The Regional Administrator would assist the provider by explaining to the subcontractor the need for and purpose of the access clause and attempt to obtain agreement. (A provider that does not notify the Regional Administrator but instead, on its own initiative, contracts with a more expensive subcontrator or omits the access clause, would risk not being reimbursed for the full cost of the services furnished under the contract.)

If the Regional Administrator's effort to persuade the potential subcontractor to include the required access clause is unsuccessful, and no other subcontractor is available who can furnish the services at a competitive price and who will agree to the access provision, the provider may find it necessary to contract with another organization willing to accept the access clause, even though the cost of the services may be greater. In this case, the provider could obtain the approval of the intermediary before entering into the contract, in order to assure that the greater cost incurred by the provider will be considered by the intermediary during the cost report settlement process.

IV. Confidentiality of Records

Under the proposed regulations, we stated that any contract, books, documents, or records requested from a subcontractor under the regulations would be furnished directly to HCFA (to the intermediary in most cases), and not the provider. However, the materials we receive may be subject to disclosure under the Freedom of Information Act (FOIA) (5 U.S.C. 552), if requested by a member of the public.

The access clause also applies to contracts for services between providers and their law firms and accounting firms. In any case in which access of these firms' contracts, books, documents, and records is sought, any examination of records by HCFA will be for the sole purpose of determining that payments made under the Medicare program are proper. The examination will normally not include those records considered privileged under any existing attorney- or accountant-client privilege.

V. Analysis and Response to Comments

We have received many comments regarding the proposed regulations. The major comments which we received follow:

A. *Written contracts. Comment:* Several commentors objected to the requirement that all contracts affected by these regulations must be written contracts. These commentors believe that reducing all contracts for services equal to or in excess of $10,000 to writing will force providers to incur unnecessary expenses in the form of personnel time and legal fees. They stated that, as a practical matter, it would be difficult to draft a meaningful contract between a provider and an entity such as a law or accounting firm, the nature and volume of whose services vary and are dependent upon forces outside the control of either party to the contract. In addition, they question the statutory basis of this requirement. Many of those who commented on this provision recommended that in the cases where oral agreements exist between provider and subcontractor, there be only a written agreement by the subcontractor to grant the designated Federal representatives access to its records rather than a written contract of the entire agreement between the provider and subcontractor.

Response: We agree with the commentors and, therefore, will allow providers to obtain a written agreement in the form of a letter of understanding between the parties of the oral contract that allows for access of the pertinent books, documents, and records.

B. *Retrospective application of access provision requirement. Comments:* Commentors protested the regulatory requirement for amending any contracts entered into or renewed after December 5, 1980. They believe that this requirement is unfair, costly, and not within the intent of Congress.

Response: Section 1861(v)(1)(I) of the Act specifically states that the access clause must be included in any contract, the value or cost of which is $10,000 or more over a 12-month period, entered into after the date of the enactment of that section. Since the date of enactment

was December 5, 1980, these regulations apply to any contracts entered into or renewed after that date.

However, we realize that there are providers that have been unable to obtain their subcontractor's agreement to include the access clause in their contracts before these regulations were final. Because of this, we are allowing a period of 180 days after the effective date of these regulations for providers to amend preexisting contracts by inserting the access clause or to obtain a letter of understanding regarding the access provision from their contractors with whom they have oral agreements.

C. *Criteria for access request. Comment*: We received numerous comments on this section of the regulations. The commentors believe that the specified criteria are vague, imprecise, and allow the Secretary and the Comptroller General too much discretion. Specifically, the commentors expressed dissatisfaction with the criteria included at § 420.303 (a) and (b). These sections allow HHS to request access to books, documents, and records of a subcontractor when there is " . . . reason to believe that the costs claimed for services . . . are excessive or inappropriate . . . " and when there is " . . . insufficient information to judge the appropriateness of the costs. . . . " The commentors fear that such broad language could be used to justify almost any request.

Response: We believe that the regulations must be written in such a way to allow us some degree of flexibility in determining when we will access a subcontractor's records. As we mentioned in the NPRM, we do not intend to subject subcontractors to "fishing expeditions" or other unnecessarily burdensome or overly intrusive demands. Examples of situations that would lead to our requesting access include those in which the question of the nature and extent of costs under the contract cannot be resolved without access to books, documents, and records, such as the following situations: the provider is unable to furnish any substantiation for the cost of services; there is potential involvement of kickbacks, bribes, rebates, or other illegal activity; there is an indication of a possible nondisclosure of a related organization; there is a question of whether the services furnished under the contract were excessive or inappropriate; or there is insufficient information to judge the appropriateness of the costs of the services involved.

Comment: One commentor was also concerned that the Secretary and the Comptroller General use the same criteria for access.

Response: While we have no authority to compel the Comptroller General to adopt the HHS criteria for access, we will work with the Comptroller General to encourage such consistency.

Comment: A commentor sought clarification as to whether the accusation that may lead to a request for access under § 420.303(c) is an accusation by HHS or by any complaining party.

Response: The accusation referred to in § 420.303(c) includes accusations by non-HHS parties. The safeguard against unsupported charges, which was the concern of the commentor, is the provision in § 420.303(c) that the accusation be accompanied by "suitable evidence."

D. *Violation of confidentiality privilege. Comments*: Several law firms, as well as providers and provider associations, requested that provider-attorney and provider-accountant records be excepted from access under these regulations. These commentors believe that these relationships, including any records kept thereof, are, and have been historically recognized as being, strictly confidential. They are afraid that these regulations, as proposed, subject all privileged information that is part of these special relationships to scrutiny by HHS.

Response: We believe that we have a legitimate interest in any records kept by law firms or accountants that are necessary to certify the nature and extent of the costs that are in question. We do not foresee any occasion where it would be necessary for us to examine the records kept by attorneys or accountants that detail the actual work performed for the provider. We also do not foresee any occasion where we would seek any privileged communications that pass between a provider and its attorney or accountant. Our intent in accessing records would only be to verify cost data, not to examine private records maintained by the subcontractor. Because of this, we do not believe that these regulations will impinge on the attorney-client or accountant-client privileges to the extent that these privileges traditionally are recognized.

E. *Definitions.* 1. *Books, documents, and records. Comment:* Many commentors object to the definition of books, documents, and records contained in the proposed regulations. They believe that the definition is too broad and could conceivably include any and all business records maintained by the subcontractor. A few of these commentors also expressed uneasiness concerning the fact that any materials received by us under these regulations may be subject to disclosure under FOIA. They would prefer a stricter definition of books, documents, and records to limit public access to their business papers.

Response: We agree that our proposed definition was overly broad and, therefore, have amended it in these final regulations to include the phrase ". . . necessary to verify the nature and extent of the costs of the services provided by the subcontractor."

With regard to FOIA requests, the only records subject to disclosure will be those records in the possession of HCFA or its intermediaries. If HCFA examines records without duplicating them, then there are no records subject to FOIA. If there are records in our possession, we will apply the same criteria to determine the disclosability of a subcontractor's records that we currently apply when someone requests copies of a provider's records in our possession. In general, we can claim exemption from disclosure of those records that are determined to be trade secrets, or commercial or financial information that is privileged or confidential. The FOIA also allows exemption of personal information, the disclosure of which would be a clearly unwarranted invasion of privacy. We expect to use these exceptions to seek to prevent disclosure of appropriate portions of the subcontractor's materials in our possession, if we receive any requests under the FOIA.

2. *Contracts for services. Comment:* One commentor requested further clarification of what constitutes a contract for services. In the NPRM, we stated that contracts for services provided incidental to the purchase of a product would not be services for purposes of these regulations. For example, contracts concerning construction of buildings would not be covered by the regulations, as the sole purpose of these contracts is to produce a tangible material item (that is, the building). The commentor wanted to know if, in the case of building construction, contracts to "service" professions (for example, architects, painters, interior decorators) would have to contain the access clause as opposed to contracts for general construction services (for example, masonry, carpentry, concrete work) which would not require the clause.

Response: We will consider any contract entered into for the purpose of construction of the building and the preparation of the building for

occupancy as a contract for goods. This will include contracts for actual construction as well as contracts for the services of architects, painters, and others. We believe that each of these contracts is incidental to the purchase of the product (that is, the building). However, if a provider contracts with an interior decorator, a painter, or other individual or company to perform work on a building that is already in existence, we will consider that to be a contract for services subject to these regulations if the contract is $10,000 or more for a 12-month period.

Comment: One commentor recommended limiting access provisions to service arrangements which directly benefit Medicare patients.

Response: We do not believe that scrutiny of Medicare costs should be limited to those that "directly" benefit patients. In order for costs to be reimbursable under Medicare, they must be related to services that benefit Medicare patients. All service arrangements benefiting Medicare beneficiaries to an extent sufficient to qualify for Medicare reimbursement are therefore appropriately subject to these access provisions.

3. *Subcontractor. Comment:* Commentors objected to our definition of subcontractor. They believe that the term should be confined to entities that furnish to patients the fundamental services usually performed by hospital employees and medical staff (for example, physicians, linen rental services, and agencies that furnish temporary nurses). However, the proposed definition includes any entity from which a provider obtains any type of service, without regard to whether the services are related to the provider's primary contact with the patient.

Response: Section 1861(v)(1)(I) of the Act specifically states that this provision applies to ". . . any services furnished in connection with matters for which payment may be made under this title. . . ." There is no basis in the law for limiting the definition in the way the commentors have proposed.

4. *Provider. Comment:* One intermediary requested that we amend the definition of provider to include all organizations that file a cost report. This would permit access to the records of all types of entities reimbursed by Medicare on a cost basis.

Response: Since section 1861(v)(1)(I) of the Act specifically refers to contracts between providers and their subcontractors, and since section 1861(u) of the Act defines a provider as a hospital, skilled nursing facility, comprehensive outpatient rehabilitation facility, or home health agency, we believe that our definition in these regulations should mirror that of the Act. Therefore, we will not include entities other than these, even if they file cost reports.

F. *Waivers. Comment:* Several commentors requested that the regulations provide for waiver of the access clause under certain circumstances. These circumstances included: contracts for services between a religious hospital and its motherhouse for the sister's services; contracts with subcontractors whose services are unique and essential to the operation of the provider, and the subcontractor refuses to agree to the access clause; and contracts for services entered into by providers that are reimbursed under Medicare demonstration projects.

Response: We believe Congress intended that this provision apply to all contracts for services entered into by providers that cost $10,000 or more over a 12-month period. Neither the literal language of the statute nor any of the legislative history offers any rationale for or indication of intent by Congress to exempt any group or class of subcontractors from the access clause requirements.

G. *Value of contract. Comment:* Several commentors objected to the $10,000 limit. They believe that $10,000 is too low a threshold and that virtually every contract for services the provider has will exceed this limit. One commentor suggested that we increase this threshold to the greater of ½ percent of a provider's operating budget or $100,000.

Response: The $10,000 limit is statutory and cannot be changed in these regulations.

Comment: Several commentors were confused about how we will calculate the worth of a contract that runs for less or more than a 12-month period.

Response: If a contract specifies 12 months as its duration, then it will be simple to determine if it is subject to these regulations. If its value is $10,000 or more, the access clause must be included in the contract. However, if a contract runs for more or less than one year, then it becomes more difficult to determine its worth. The following are examples of contracts that must contain the access clause:

1. Any contract for service for 12 months or less that is valued at $10,000 or more.

2. Any series of contracts with a subcontractor for a service that add up to $10,000 or more over a 12-month period, for example, two contracts for 6 months each that are valued at $8,000 each or 12 contracts for one month each valued at $1,000 each.

3. Any contract that runs for more than 12 months whose apportioned value is $10,000 or more for a 12-month period, for example, a contract for 18 months valued at $18,000 (the 12-month value would be $12,000) or a contract for 24 months valued at $20,000 (the 12-month value would be $10,000).

Comment: A law firm asked us to clarify how the $10,000 limit applies to an established and continuing relationship between themselves and a provider. They state that seldom does any one task performed for the provider reach $10,000 in fees; however, over the course of a year, these separate tasks will often exceed the $10,000 level.

Response: We will consider the total value of services performed by a law firm (or any other subcontractor) for a provider over a 12-month period to be the value of the contract for services, since Medicare reimbursement is computed on the basis of its proper share of the provider's total costs for legal expenses.

H. *Refusal by subcontractor to insert clause. Comment:* Some commentors objected to consulting the HCFA Regional Administrator when a subcontractor refuses to agree to the access clause. Also, the commentors objected to our suggestion that they obtain the approval of the intermediary before entering into a contract with a more expensive subcontractor. The commentors believe this process is too time consuming and administratively burdensome. They would prefer to proceed and contract with the next lowest cost subcontractor when the lowest cost subcontractor does not agree to the access clause.

Response: We believe that contacting the Regional Administrator may prevent the provider from having to contract with a more expensive subcontractor in some cases. It is possible that the Regional Administrator will be able to explain the need for and purpose of the access clause and succeed in persuading the subcontractor to include it in the contract. We suggested that the provider contact the intermediary before entering into a more expensive contract so that the intermediary will be aware of the situation and will have the information on hand when it receives the provider's cost report and attempts to settle that report. This contact with the intermediary should not be considered as a preapproval requirement.

Comment: Several commentors did not agree with our statement in the NPRM that providers ". . . will ordinarily have little difficulty in finding another organization that will agree to the clause . . . " in cases where a

subcontractor refuses to agree to the access clause. They believe that the majority of subcontractors will refuse to include the access clause and that it will be almost impossible to obtain a contract for a reasonable amount of money.

Response: We believe that the subcontractors who contract to furnish services to Medicare providers are eager to continue their relationship. Although they may not be pleased initially to add the access clause to their contracts, we believe that in most cases they will agree to the clause so that they can continue providing their services to the provider.

I. *Miscellaneous and general comment. Comment:* A law firm agreed with our proposal that a subcontractor who elects to make copies of its books and records for examination by HHS should be solely responsible for bearing the cost of reproduction. However, the commentor believes that HHS should pay for any copies it removes from the possession of the subcontractor.

Response: We do not intend to remove any original records from the subcontractor's premises. If reproduction is requested by us, we will either bring in our own reproduction equipment or pay the subcontractor for the reasonable cost of reproduction. If the subcontractor elects to make copies of its records for our examination and we remove any of those copies from the subcontractor's possession, we will pay for the reasonable cost of the reproduction done by the subcontractor.

Comment: Commentors requested that the cost of renegotiations with subcontractors to include the access clause be considered an allowable cost under Medicare for some period of time after these regulations become effective.

Response: We do not view the addition of the access clause to be an allowable renegotiation cost. Section 1861(v)(1)(I) of the Act, which has been in effect since December 5, 1980, specifically states that every contract for services valued at $10,000 or more for a 12-month period should contain the access clause. If it is necessary for a provider to renegotiate with a subcontractor to include the clause because it failed to do so when the entire contract was originally negotiated, that is a cost that the provider must bear. We do not believe that it is an allowable cost since the contract should already, by law, have contained the access clause.

Comment: A provider wanted to know if these regulations apply to contracts with hospital-based physicians.

Response: Yes, these regulations apply to any contract for services between a provider and a physician that meets the monetary limitation and includes costs that the provider will seek to recover on a cost basis.

Comment: A provider organization recommended that providers be notified and be given an opportunity to respond to any request for access to their subcontractors' books and records.

Response: We do not believe that such notice and opportunity for comment was intended by the statute, although providers may, of course, arrange with their subcontractors to receive notice from them. We will, however, continue to consider the administrative implications of setting up such a process. Should we decide to make any modifications in this area, we will publish those changes in the **Federal Register.**

Comment: A provider organization rcommended that providers and subcontractors be provided an opportunity to object to and seek reconsideration of a request for access if they believe the request to be improper.

Response: We believe that the procedures for requesting books, documents, and records in writing will ensure that improper requests are not made, and we are concerned that any administrative reconsideration process could unduly delay access to the records involved. However, we would welcome more specific comments about how such an appeal process might be administered. Should we decide to make any modifications in this area, we will publish those changes in the **Federal Register.**

Comment: A provider protested the necessity of the requirement that records relating to the applicable contracts be retained for four years after the delivery of the services.

Response: The four-year time period is specified in the statute at section 1861(v)(1)(I)(ii) of the Act and must be contained in these regulations.

Comment: Commentors believe that there should be no penalty taken if contracts are missing the access clause, but the subcontractor agrees to provide access.

Response: We believe that in these cases, there should be no problem in obtaining the subcontractor's written agreement to provide access. Also, since we are allowing 180 days from the effective date of these final regulations for the provider to amend its contracts to contain the access clause, the provider will be allowed ample time to meet the requirements of these regulations before we deny payments made for the services under the contract. In any event, the statute requires the access clause if costs claimed under the contract are to be reimbursed by Medicare.

Comment: Several commentors objected to the regulations as a whole on the basis that they are bureaucratic, lack demonstrated cost savings, result in a clear increase in costs to providers and vendors, and are otherwise unnecessary.

Response: These regulations cannot be withdrawn because the provisions are required by section 1861(v)(1)(I) of the Act.

Comment: One commentor believes that these regulations clearly constitute a "major" rule as defined by section 1(b) of Executive Order 12291 (that is, they will have an annual effect of $100 million or more) and, therefore, require a regulatory impact analysis which was not provided in the NPRM.

Response: As we mentioned in the NPRM, we do not foresee these regulations resulting in significant new costs. The new costs involved will be those required for litigation in the rare case that a subcontractor refused us access to its records, as well as the more frequent costs involved in our actual inspection of records. In addition, there will be costs associated with the addition of the access clause to written contracts and in the preparation of a written agreement for oral contracts. Also, in the cases where the lowest-price subcontractor refuses to agree to the access clause, there will be some increased cost involved in contracting with a higher-price subcontractor. As mentioned above in H. *Refusal by subcontractor to insert clause,* we do not expect this to be a common occurrence. We have estimated that the total of these costs will not meet the $100 million amount.

VI. Analysis and Response to Other Comments

We also received many comments on other less critical, technical matters. However, since there is a limited amount of time available between the end of the comment period (December 13, 1982) and January 1, 1983 (the date by which Congress has mandated that these regulations must be published in order to apply back to the statute's effective date), we have addressed only the major comments in the preceding section. We will continue to consider these requests for clarification and technical changes and, if we determine revisions are necessary, we will publish additional changes.

VII. Summary of Changes

After analyzing the comments, we have decided to adopt the regulations as

proposed, except for the following changes:

A. *Written contracts.* The final rule does not require that a contract subject to the provisions of section 1861(v)(i)(I) of the Act must be in writing. If a contract for services is in writing, we will require that the access clause be made a part of the written contract. However, if the contract for services is an oral contract, we will consider that contract to conform to these regulations if there is a written agreement (or letter of understanding) signed by the parties to the contract allowing the Comptroller General of the United States, HHS, and their duly authorized representatives access to the subcontractor's books, documents, and records until the expiration of four years after the services are furnished under the contract or subcontract.

B. *Definition of books, documents, and records.* The definition of books, documents, and records contained in the proposed regulations is amended by adding the words ". . . necessary to verify the nature and extent of the costs of the services provided by the subcontractor."

C. *Retrospective application of the access provision requirement.* In the proposed regulations, we allowed providers who had a good cause for omitting the access clause from any contracts entered into or renewed after December 5, 1980, a grace period of 60 days to amend the contract to include the clause. In the final regulations, we have eliminated the 60-day grace period for good cause and, instead, we are allowing all providers 180 days from the effective date of these regulations to review their contracts (oral or written) and to amend those contracts that do not conform to the requirements of these regulations.

D. *Technical change.* In the NPRM, we inadvertently designated 42 CFR 420.302 as 42 CFR 405.302. We are correcting this error in the final rule.

VIII. Impact Analyses

A. *Executive Order 12291.* The Secretary has determined that these regulations do not meet the criteria for a "major rule", as defined by section 1(b) of Executive Order 12291. That is, the regulations will not—

- Have an annual effect on the economy of $100 million or more;
- Result in a major increase in costs or prices for consumers, any industries, any government agencies or any geographic regions; or
- Have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or import markets.

The regulations do not meet the criteria for a major rule. The new costs involved will be those required for litigation in the rare case that a subcontractor refused us access to its records, the more frequent costs involved in our inspection of records, costs associated with adding the access clause to both written and oral contracts, and increased costs that result when providers must contract with a higher-priced subcontractor when the lower-priced subcontractors do not agree to the access clause. We have estimated that these costs will not add up to $100 million.

B. *Regulatory Flexibility Analysis.* The Secretary certifies, under 5 U.S.C. 605(b) as enacted by the Regulatory Flexibility (Pub. L. 96–354), that these regulations will not have a significant impact on a substantial number of small entities.

The only economic impact on subcontractors will be on those that refuse to include the access provision in their contracts. The economic impact on providers, basically, will be for those providers that do not obtain their subcontractor's agreement to include the access provision in contracts: they will lose reimbursement for the services. Since we do not expect a significant number of subcontractors to refuse to include the provision in their contracts, we do not expect that a significant number of subcontractors and providers to be adversely affected by these regulations.

Accordingly, a regulatory flexibility analysis is not required.

IX. Response to Comments

Because of the large number of comments we receive, we cannot acknowledge or respond to them individually. However, we will consider any comments on this rule that are mailed by the date specified in the "DATES" section. If, as a result of public comments, we conclude that change in these final regulations are needed, we will publish the changes in the **Federal Register** and respond to the comments in the preamble of that document.

X. List of Subjects in 42 CFR Part 420

Abuse, Administrative practice and procedure, Contracts (Agreements), Conviction, Convicted, Courts, Exclusion, Fraud, Health care, Health facilities, Health maintenance organizations (HMO), Health professions, Health suppliers, Information (Disclosure), Lawyers, Medicaid, Medicare, Penalties, Professional Standards Review Organizations (PSRO), Reporting requirements, Supervision.

42 CFR Part 420 is amended as set forth below:

PART 420—PROGRAM INTEGRITY

1. The table of contents is amended by adding Subpart D to read as follows:

Subpart D—Access to Books, Documents, and Records of Subcontractors

Sec.
420.300 Basis, purpose, and scope.
420.301 Definitions.
420.302 Requirement for access clause in contracts.
420.303 HHS criteria for requesting books, documents, and records.
420.304 Procedures for obtaining access to books, documents, and records.

Authority: Secs. 1102, 1861(v), 1862(d), 1862(e), 1866(b), 1871, 1902(a) and 1903(i) of the Social Security Act (42 U.S.C. 1302, 1395x(v), 1395y(d), 1395y(e), 1395cc(b), 1395hh, 1396a(a), and 1396b(i)).

2. A new Subpart D is added to read as follows:

Subpart D—Access to Books, Documents, and Records of Subcontractors

§ 420.300 Basis, purpose, and scope.

This subpart implements section 1861(v)(1)(I) of the Act, which requires, for Medicare payment under certain provider contracts, access by the Secretary, upon written request, and the Comptroller General, and their duly authorized representatives, to certain contracts for services and to books, documents, and records necessary to verify the costs of the services. The contracts affected are those between providers and their subcontractors, and between the subcontractors and organizations related to the subcontractor by control or common ownership. It also specifies the criteria by which HHS will determine whether to request access to books, documents, and records.

§ 420.301 Definitions.

For purposes of this subpart—

"Books, documents, and records" means all writings, recordings, transcriptions and tapes of any description necessary to verify the nature and extent of the costs of the services provided by the subcontractor.

"Common ownership" means that an individual or individuals possess significant ownership or equity in the subcontractor and the entity providing the services under the contract.

"Contract for services" means a contract through which a provider obtains the performance of an act or acts, as distinguished from supplies or equipment. It includes any contract for both goods and services to the extent the value or cost of the service component is $10,000 or more within a 12-month period.

"Control" means that an individual or an organization has the power, directly or indirectly, significantly to influence or direct the actions of policies of an organization.

"Provider" means a hospital, skilled nursing facility, home health agency, or comprehensive outpatient rehabilitation facility, or a related organization (as defined in § 405.427 of this chapter) of any of these providers.

"Related to the subcontractor" means that the subcontractor is, to a significant extent, associated or affiliated with, owns, or is owned by, or has control of or is controlled by, the organization furnishing the services, facilities, or supplies.

"Subcontractor" means any entity, including an individual or individuals, that contracts with a provider to supply a service, either to the provider or directly to a beneficiary, for which Medicare reimburses the provider the cost of the service. This includes organizations related to the subcontractor that have a contract with the subcontractor for which the cost or value is $10,000 or more in a 12-month period.

§ 420.302 Requirement for access clause in contracts.

(a) *Applicability.* This subpart applies to contracts—

(1) Between a provider and a subcontractor and, where subject to section 1861(v)(l)(I)(ii) of the Act, between a subcontractor and an organization related to the subcontractor:

(2) Entered into or renewed after December 5, 1980; and

(3) For services the cost or value of which is $10,000 or more over a 12-month period, including contracts for both goods and services in which the service component is worth $10,000 or more over a 12-month period.

(b) *Requirement.* Any contract meeting the conditions of paragraph (a) of this section must include a clause that allows the Comptroller General of the United States, HHS, and their duly authorized representatives access to the subcontractor's contract, books, documents, and records until the expiration of four years after the services are furnished under the contract or subcontract. The access must be provided for in accordance with the provisions of this subpart. The clause must also allow similar access by HHS, the Comptroller General, and their duly authorized representatives to contracts subject to section 1861(v)(l)(I)(ii) of the Act between a subcontractor and organizations related to the subcontractor and to books, documents, and records.

(c) *Prohibition against Medicare reimbursement.* If a contract subject to the requirements of this subpart does not contain the clause required by paragraph (d) of this section, HCFA will not reimburse the provider for the cost of the services furnished under the contract and will recoup any payments previously made for services under the contract. However, in order to avoid nonreimbursement or recoupment, providers will have until July 28, 1983, to amend those contracts entered into or renewed after December 5, 1980, and before January 31, 1983, that do not conform to the requirements of paragraph (b) of this section.

§ 420.303 HHS criteria for requesting books, documents, and records.

HHS will generally request books, documents, and records from a subcontractor only if one of the following situations exists and the question cannot satisfactorily and efficiently be resolved without access to the books, documents, and records:

(a) HHS has reason to believe that the costs claimed for services of the subcontractor are excessive or inappropriate;

(b) There is insufficient information to judge the appropriateness of the costs:

(c) There is a written accusation with suitable evidence against the provider or subcontractor of kickbacks, bribes, rebates, or other illegal activities; or

(d) There is evidence of a possible nondisclosure of the existence of a related organization.

§ 420.304 Procedures for obtaining access to books, documents, and records.

(a) *Contents of the request.* Requests for access will be in writing and contain the following elements:

(1) Reasonable identification of the books, documents, and records to which access is being requested;

(2) Identification of the contract or subcontract in which costs are being questioned as excessive or inappropriate;

(3) The reason that the appropriateness of the costs or value of the services of the subcontractor in question cannot be adequately or efficiently determined without access to the subcontractor's books and records;

(4) The authority in the statute and regulations for the access requested;

(5) To the extent possible, the identification of those individuals who will be visiting the subcontractor to obtain access to the books, documents and records;

(6) The time and date of the scheduled visit; and

(7) The name of the duly authorized representative of HHS to contact if there are any questions.

(b) *Subcontractor response to a request for access to books, documents, and records.*

(1) The subcontractor will have 30 days from the date of a written request for access to books, documents, and records to make them available in accordance with the request.

(2) If the subcontractor believes the request is inadequate because it does not fully meet one or more of the required elements in paragraph (a) of this section, the subcontractor must advise the requesting organization of the additional information needed.

(i) The subcontractor must notify the requesting organization within 20 days of the date of the request that it was improperly completed.

(ii) The subcontractor must make the books, documents, and records available within 20 days after the date of the requesting organization's response.

(3) If the subcontractor believes, for good cause, that the requested books, documents, and records cannot be made available as requested with the 30-day period under paragraph (b)(1) of this section, the subcontractor may request an extension of time within which to comply with the request from the requesting organization. The requesting organization may, at its discretion, grant the request for an extension, in whole or in part, for good cause shown.

(4) The subcontractor must make the books, documents, and records available during its regular business hours for inspection, audit, and reproduction.

(5) If HHS asks the subcontractor to reproduce books, documents, and records, HHS will pay the reasonable cost of reproduction. However, if the subcontractor reproduces books, documents, and records as a means of making them available, the subcontractor must bear the cost of the reproduction and no Medicare reimbursement will be made for that purpose.

(6) HHS reserves the right to examine the originals of any requested contracts, books, documents, and records, if they exist.

(c) *Refusal by subcontractor to furnish access to records.* If HCFA determines that the books, documents, and records are necessary for the reimbursement determination and the subcontractor refuses to make them available, HHS may initiate legal action against the subcontractor.

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare Hospital Insurance)

Dated: December 22, 1982.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: December 23, 1982.

Richard S. Schweiker,

Secretary.

[FR Doc. 82-35353 Filed 12-29-82; 8:45 am]

BILLING CODE 4120-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 0

[FCC 82-563]

Amendment and Correction Concerning Delegations of Authority to the Chief, Mass Media Bureau

AGENCY: Federal Communications Commission.

ACTION: Final rule and correction.

SUMMARY: Action taken herein amends the delegation of authority to the Chief, Mass Media Bureau, of the Federal Communications Commission. That delegation, which was adopted by the Commission on September 14, 1982 (47 FR 47828), permitted the Chief, Mass Media Bureau, to act with regard to monetary forfeitures assessed against Commission licensees and cable systems if the amount of the forfeiture was not in excess of $4000. This Order amends the delegation to permit the Bureau Chief to administer forfeitures unless they are in excess of $10,000. Forfeiture matters in excess of that amount would have to be referred to the Commission for disposition. The action is necessary to permit the efficient and expeditious handling of forfeiture matters and to correct an oversight in the September 14, 1982, Order.

DATE: Effective January 31, 1983.

FOR FURTHER INFORMATION CONTACT: Roger D. Holberg, Mass Media Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 0

Organization and Functions (Government Agencies).

Order

Adopted: December 10, 1982.

Released: December 14, 1982.

In the Matter of Amendment of Part 0 of the Commission's Rules and Regulations Concerning Delegations of Authority to the Chief, Mass Media Bureau.

1. On September 14, 1982, the Commission adopted an *Order* merging the Broadcast Bureau and the Cable Television Bureau into a unified Mass Media Bureau. (47 FR 47828, FCC 82-445). In creating the Mass Media Bureau it was necessary for the Commission to amend Part 0 of its Rules and to adopt a set of delegations of authority to the Chief, Mass Media Bureau. (Section 0.283 of the Commission's Rules.) This *Order* will correct an error in that rule as adopted.

2. Section 0.283(c)(3), as adopted, delegates authority to the Chief, Mass Media Bureau, to, *inter alia*, issue notices of apparent liability, final forfeiture orders, and orders cancelling or reducing forfeitures if the amount set out in the notice of apparent liability is $4,000 or less. Prior to the reorganization, this had been the delegation to the Chief, Broadcast Bureau. However, in 1982, the Commission had concluded that the delegation of authority to the Chief, Cable Television Bureau should be amended to allow the issuance of forfeitures up to $10,000.[1]

3. In amending the delegation to the Chief, Cable Television Bureau, we noted that raising the forfeiture limit would:

> "* * * result in more efficient handling of forfeiture matters and aid the Cable Television Bureau in expediting the processing of pending cases as well as reduce the Commission's workload of routine cases."[2]

We believe that this reasoning is equally valid as to forfeitures involving broadcasters.

4. Thus, in establishing the delegations for the Chief, Mass Media Bureau, we intended to set $10,000 as the limit. This *Order* will amend section 0.283(c)(3) to reflect the $10,000 limit. As this amendment relates only to Commission procedures the notice and comment provisions of the Administrative Procedure Act do not apply.[3]

5. REGULATORY FLEXIBILITY ANALYSIS

I. *Need for and Purpose of the Rule.*

This action is being taken in order to provide for the more efficient handling and expeditious processing of forfeiture matters.

II. *Assessment of Flexibility Issues Raised in Comments.*

As this amendment did not require a Notice of Proposed Rule Making, an opportunity to file comments is not required.

III. *Significant Alternatives.*

There were no significant alternatives considered. The possibilities present would be: (1) To leave the delegation of authority as it currently exists; or (2) to adopt the alteration being made herein. The first alternative is being rejected because it was felt that $4,000 is too low an amount to require Commission scrutiny. Accordingly, the second alternative listed above is being adopted. It minimizes the burdens on the Commission—as it will permit most forfeiture matters to be handled at the Bureau level—and it will minimize the impact upon small entities as it will permit expenditious handling of most forfeiture matters in the most prompt and routine fashion possible.

6. Authority for the rule amendment adopted herein is contained in Sections 4(i), 5(d) and 303(r) of the Communications Act of 1934, as amended.

7. Accordingly, it is ordered, That, effective January 31, 1983, Part 0 of the Commission's Rules and Regulations is amended as set forth in the attached Appendix.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission,

William J. Tricarico,

Secretary.

APPENDIX

PART 0—[AMENDED]

Part 0 of Title 47 of the Code of Federal Regulations is amended as follows:

Section 0.283(c)(3) is revised to read as follows:

§ 0.283 Authority delegated.

* * * * *

(c) * * *

---

[1] *Amendment of Part 0 of the Commission's Rules and Regulations Concerning Delegations of Authority to the Chief, Cable Television Bureau*, 88 F.C.C. 2d 1499 (1982). Previously the Cable delegation (Section 0.288 of the Commission's Rules) permitted the Chief, Cable Television Bureau to act in forfeiture matters when the amount involved was $4,000 or less if a cable system operator was involved or up to $2,000 when the forfeiture was being assessed against a Cable Television Relay Service (CARS) station licensee. Thus, both the Broadcast Bureau and Cable Television Bureau delegations generally corresponded.

[2] *Id.*, at p. 1500.

[3] See, Title 5 U.S.C. 553(b)(3)(A).

(3) Notices of opportunity for hearing pursuant to Section 1.80(g) of this chapter, and notices of apparent liability, final forfeiture orders, and orders cancelling or reducing forfeitures imposed under Section 1.80(f) if the amount set out in the notice of apparent liability is more than $10,000.

* * * * *

[FR Doc. 82-35295 Filed 12-29-82; 8:45 am]
BILLING CODE 6712-01-M

---

47 CFR Parts 34 and 35

[CC Dockets No. 82-475; RM-3926; FCC 82-546]

Amendment of Annual Report Forms O and R

AGENCY: Federal Communications Commission.

ACTION: Final Rule (Report and Order).

SUMMARY: The Commission is revising the annual reports for wire-telegraph, ocean-cable and radio-telegraph carriers to eliminate reporting regulations deemed unnecessary by staff analysis and comments received in response to a Notice of Proposed Rulemaking in CC Docket 82-475 released August 16, 1982.

DATE: January 31, 1983.

FOR FURTHER INFORMATION CONTACT: Gerald P. Vaughan, Accounting and Audits Division, Common Carrier Bureau, 634-1861.

SUPPLEMENTARY INFORMATION:

List of Subjects

47 CFR Part 34

Communications Common Carriers, Radiotelegraph, Uniform System of Accounts.

47 CFR Part 35

Communications Common Carriers, Wire-Telegraph, Ocean-Cable, Uniform System of Accounts.

Report and Order

Adopted: December 8, 1982.
Released: December 17, 1982.

I. Introduction

1. On August 16, 1982, the Commission released a Notice of Proposed Rulemaking (NPRM), 47 FR 38927, proposing to revise certain schedules of Annual Report Forms O and R (Forms O and R). This NPRM was based on a petition filed by The Western Union Telegraph Company (Western Union) to revise certain schedules of Form O which they believed were duplicative, overbroad, outdated or unduly burdensome. The Commission included Annual Report Form R in the proposal because the reporting requirements of that report are identical to those contained in the Form O.

2. Form O is an annual report which is required to be filed by wire-telegraph and ocean cable carriers,[1] whose accounting is prescribed in Part 35 of the Rules; and Form R is an annual report required to be filed by radio-telegraph carriers [2] whose accounting is prescribed in Part 34 of the Rules. These reports which are filed in accordance with Section 43.21 of Part 43 and Section 1.785 of Part 1 of the Rules provide information on the stock and stockholders; officers and directors; funded debt; property, franchises and equipment; employees and their salaries; and financial operations of the reporting companies.

Proposed Revisions

3. The NPRM proposed the outright deletion of the following nine schedules on the basis that they were either duplicative or unnecessary for regulatory purposes.

Schedule 102, Analysis of Credits for Plant Retired
Schedule 110, Miscellaneous Physical Property
Schedule 130, Special Cash Deposits
Schedule 131, Working Cash Advances
Schedule 132, Temporary Investment
Schedule 338D, Investment of Pension and Benefit Funds
Schedule 401, Service Equipment Furnished Free to Customers
Schedule 406, Frank Service
Schedule 410, Accidents to Employees During the Year

4. The NPRM also proposed the deletion of Schedule 400, Wire-Telegraph and Ocean-Cable Plant Mileage and Schedule 400A, Wire-Telegraph Plant Mileage-Telegraph Channel. However, it sought specific comment as to whether the reporting of the data on these schedules is desirable and whether the data are available from company records if needed in future rate cases.

5. The NPRM proposed to amend Schedule 3, General Officers and Executives, to eliminate any reference to directors on the basis that the information for directors is duplicative of information reported on Schedule 2, Board of Directors. It also proposed to revise Schedule 3 to raise the salary cut-off level for reporting information for employees that are not officers and directors to $75,500 and to establish a salary cut-off level of $75,500 for reporting information for assistant general officers. Finally, as an alternative to the proposed revisions, the Commission requested comments on whether Schedule 3 should be eliminated.

6. The NPRM proposed to retain Schedule 140, Materials and Supplies, pending final resolution of the accounting for the provision of deregulated CPE in its petition. Western Union had requested that this schedule be eliminated.

7. The instructions for Schedule 143, Prepaid Taxes and Tax Accruals, currently require the listing of taxes paid to each individual state. The NPRM proposed amending this schedule to require the reporting of state and local taxes in one lump sum. It also proposed to amend this schedule to add the reporting by type of tax which has been submitted under separate cover, and it proposed to require the reporting of operating taxes separate from nonoperating taxes. A conforming revision was also proposed for Schedule 300, Income and Earned Surplus Statement, to separate income taxes between operating and nonoperating taxes.

8. Finally, the NPRM proposed to eliminate Schedule 401, Service Equipment Furnished Free to Customers with the caveat that Schedule 401A, Telegraph Printers in Service on Customers' Premises, be modified to collect information regarding the number of telegraph printers not furnished free to customers. The NPRM also proposed to revise Schedule 401A to require the reporting of the number of teletypewriter terminals in service broken down by class of service, i.e., TWX, Telex, and other.

Comments

9. The NPRM permitted all interested parties to file comments on the specific proposals on or before September 22, 1982, and reply comments on or before October 7, 1982. Comments were filed by Western Union Telegraph Company (Western Union), RCA Global Communications, Inc. (RCA Globcom), and Western Union International, Inc. (WUI). No reply comments were filed. The comments were generally in favor of the NPRM proposals. No objections were filed by any of the parties to the elimination of the nine schedules listed in paragraph 3.

10. The proposed elimination of Schedules 400 and 400A was favored by all three respondents. Western Union

---

[1] Carriers that report of Form O are Western Union Telegraph Company, WUI Caribbean Inc., FTC Communications Inc., and Western Union International Inc.

[2] Carriers that report on the Form R are ITT World Communications, Inc., RCA Global Communications, Inc., TRT Telecommunications, and U.S. Liberia Radio Corporation.

and WUI stated that the information reported on these schedules is available in their records for use in future rate cases if needed. RCA Globcom stated that it does not maintain such information.

11. Western Union recommended that, if Schedule 3 is retained, the salary levels be raised from the proposed $75,500 per year to $87,000 per year to reflect additional inflation since its petition was filed. In response to our question regarding deletion of the Schedule 3, both Western Union and WUI preferred that it be deleted. RCA Globcom did not comment on this schedule.

12. Both Western Union and WUI agreed to the retention of Schedule 140 pending changes to the accounting regulations for customer premises equipment.

13. WUI supports the proposed changes to Schedule 143 and Schedule 300. Western Union agrees with the proposed changes to Schedule 143 to report state and local taxes as one lump sum and to report information by type of tax. However, Western Union opposed the proposal to separate operating and nonoperating taxes on the basis that it is unclear what was meant by "operating taxes" and "non-operating taxes" and how these taxes should be calculated. Western Union also stated that this proposal would necessitate revisions to Parts 34 and 35 and would result in arbitrary allocations which it considers inappropriate for general ledger purposes. Finally, Western Union expressed the view that this proposal would be contrary to the Commission's goal of minimizing the burden on the companies.

14. The proposed elimination of Schedule 401 and revisions to Schedule 401A were favored by Western Union and WUI, particularly in view of the Commission's stated willingness to review the schedules after the adoption of new CPE accounting regulations. However, WUI recommended also revising Schedule 401A to delete the existing service classes, i.e., government, commercial and press.

15. Finally, RCA Globcom and WUI sought Commission consideration of other reporting requirements not mentioned in the NPRM. RCA Globcom felt that some are superfluous and add administrative burden to the carriers. The specific examples given were (1) the reporting of marine telex revenues and expenses separate from all other telex revenues, (2) Schedule 107R reporting of the ratio of depreciation charge to average monthly book cost for each subclass of plant, and (3) providing a break out in Schedule 408A of hourly wage data for employees covered by the Fair Labor Standards Act. WUI sought the revision to Schedule 301, Ocean Cable Operating Revenue, to reflect current industry trends.

II. Discussion

16. There was no objection by the parties filing comments to deleting the nine schedules listed in paragraph 3, above. We find these schedules duplicative or unnecessary to our regulatory function. Accordingly, the following schedules are eliminated from Forms O and R.

Schedule 102, Analysis of Credits for Plant Retired
Schedule 110, Miscellaneous Physical Property
Schedule 130, Special Cash Deposits
Schedule 131, Working Cash Advances
Schedule 132, Temporary Investment
Schedule 338D, Investment of Pension and Benefit Funds
Schedule 401, Service Equipment Furnished Free to Customers
Schedule 406, Frank Service
Schedule 410, Accidents to Employees During the Year

17. After further review of Schedule 400, Wire-Telegraph and Ocean-Cable Plant Mileage and Schedule 400A, Wire-Telegraph, Plant Mileage-Telegraph Channel, it appears doubtful that these data would be needed in future rate cases or for any other regulatory purposes. On that basis, together with the comments of the respondents in favor of eliminating these schedules, we conclude that Schedule 400 and Schedule 400A should be eliminated.

18. Rather than revising Schedule 3, General Officers and Executives, to raise salary dollar limits, and to eliminate all reference to Directors as proposed in the NPRM, we are choosing the alternative proposal, and eliminating the Schedule in its entirety. We can foresee no regulatory purpose being served by requiring that this information be reported on a recurring basis, and there is no statutory requirement for us to maintain the information. Though we can see little, if any, use of the data in federal regulatory decisions, it would certainly be available in the company records for an ad hoc submission or for audit and review. For these reasons, we are eliminating this schedule.

19. In the NPRM, we proposed to retain Schedule 140, Materials and Supplies, pending final resolution of the accounting for the provision of deregulated CPE. Western Union and WUI agreed to this approach, and RCA Globcom was silent on this schedule. Accordingly, we are retaining Schedule 140. However, we will further evaluate its utility upon the final resolution of the accounting for the provision of deregulated CPE.

20. There was no opposition to our proposal to obtain state and local taxes on Schedule 143, Prepaid Taxes and Tax Accruals, as a lump sum rather than individually, and to require the reporting of taxes by type of tax. We are revising Schedule 143 accordingly.

21. Regarding our proposal to revise Schedule 143 and Schedule 300 to separate operating and nonoperating taxes, Western Union, as already noted, opposed the nonoperating and operating split on the basis that it did not understand our intended distinction between operating and nonoperating taxes and that such a distinction would necessitate revisions in Parts 34 and 35 which it considered as inappropriate. After consideration of Western Union's comments, we have decided that there is sufficient information generated by instruction 6 to Schedule 143 to provide, at least in the interim, sufficient information for our regulatory purposes. Further, since we issued this NPRM, we issued a Notice of Proposed Rulemaking in CC Docket 82-678 which proposes to amend Parts 34 and 35 to require separate accounting for unregulated activities. The revisions proposed in that proceeding could reduce or eliminate the need for separate reporting of operating and nonoperating taxes as proposed. Accordingly, we are not adopting the proposed separate reporting of operating and nonoperating taxes. After 82-678 is finalized, we will determine whether any additional disclosure of operating and nonoperating taxes is necessary.

22. We are amending Schedule 401A, Telegraph Printers in Service on Customers' Premise to include information regarding the number of teletypewriter terminals in service by class of service, i.e., TWX terminals, Telex terminals, and other teletypewriter terminals. There was no opposition to these proposals except for WUI's indication that the old class of service requirements (government, commercial and press) still remained and should be deleted. It was and still is our intention to remove those class of service requirements and replace them with the TWX, Telex, and other terminal classifications above.

23. WUI's request to revise Schedule 301, Ocean Cable Operating Revenue to reflect current trends in the industry, and RCA Globcom's requests regarding changes in (1) the reporting of marine telex revenue and expenses separately from all other telex service; (2) how Schedule 107R is calculated for each depreciable sub-class of plant; and (3) the provision required for the reporting

of Schedule 408A of hourly wage data for employees covered by the Fair Labor Standards Act are outside the purview of this rulemaking. Therefore, we are not considering them at this time, but will consider them at some future date as we continue the process of revising and updating our reporting requirements.

III. Ordering Clauses

24. Accordingly, it is ordered, That annual report Forms O and R shall be amended as discussed above, effective (Insert date of thirty days from Fed. Reg. publication date), for the reporting year 1982.[3]

25. It is ordered, That the Table of Contents and the Indices for Form O and Form R will be amended accordingly.

26. It is further ordered pursuant to Section 220(i) of the Communications Act, 47 U.S.C. 220(i), That the Secretary shall cause a copy of this Notice to be served on each state commission.

27. It is further ordered, That this proceeding is terminated.

Federal Communications Commission.

Willian J. Tricarico,

Secretary.

[FR Doc. 82-35430 Filed 12-29-82; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 231

[FRA Docket No. SA-3, Notice No. 6]

Safety Appliance Standards

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Final rule; extension of compliance date.

SUMMARY: This document amends the final rule published on December 17, 1979 (44 FR 73101), which extended the compliance date for the removal of roof running boards from box and other house cars from December 31, 1979 to December 31, 1982. It extends the compliance date six months until June 30, 1983. This action is being taken in response to a petition of the Association of American Railroads.

[3] Carriers should note that the Forms O and R for 1982 were scheduled for printing before this proceeding was approved. Therefore, those schedules to be eliminated will still appear in the 1982 Forms O and R and should not be completed. Those schedules to be revised will also appear in the 1982 Forms O and R in their existing format. Carriers should use their typewriters to interline those schedules to include our revisions.

EFFECTIVE DATE: This final rule becomes effective on January 1, 1983.

FOR FURTHER INFORMATION CONTACT:
Principal Program Person: Leavitt A. Peterson; Office of Safety, Federal Railroad Administration, Washington, D.C. 20590; Telephone (202) 426-0897.

Principal Attorney: Edward F. Conway, Jr., Office of Chief Counsel, Federal Railroad Administration, Washington, D.C. 20590; Telephone (202) 426-8836.

SUPPLEMENTARY INFORMATION: The Association of American Railroads (AAR) has filed a petition requesting that the Federal Railroad Administration (FRA) delete the first sentence of the Note in § 231.1 of the Safety Appliance Standards (49 CFR 231.1). This would eliminate in its entirety the requirement for the removal of roof running boards and the completion of related changes in associated ladders and handholds on all box and other house cars built on or before April 1, 1966, or under construction prior to that date and placed in service on or before October 1, 1966. The present compliance date for this requirement is December 31, 1982. The petition also requests that this compliance date be extended six months to June 30, 1983, pending completion of rule making to delete this requirement.

In its petition, the AAR states that this requirement now "has less than a tenuous relationship to the safety of railroad employees". Railroad operating rules prohibit engine and train crews from going on the roof of a freight car. Railroad rules also prohibit other employees such as maintenance and repair personnel from going on the roof of a moving freight car.

On the basis of a recent survey, AAR estimates that approximately 30,000 cars are still in service that have not been so modified. The survey also indicates that almost one-half of these cars will be retired within the next three years.

After considering this petition, FRA has decided to extend the current compliance date six months to June 30, 1983. This will provide sufficient time for FRA to complete a rule making proceeding concerning the AAR request that this requirement be deleted in its entirety.

Notice and Public Procedure

Since this final rule merely extends for six months the compliance date of a regulation that is already in effect and imposes no additional burden on any person, FRA finds that notice and public procedure are not necessary and, because of the imminent December 31, 1982 compliance date, are also impractical.

Also, to avoid the disruption of rail service and public inconvenience that would result if all box and other house cars that have not been so modified were to be removed from service on the current compliance date of January 1, 1983, this amendment shall become effective in less than 30 days on January 1, 1983.

List of Subjects in 49 CFR Part 231

Railroad safety.

Regulatory Impact

This final rule has been evaluated in accordance with existing regulatory policies. It will not have an adverse or significant economic impact on any entity, including small entities, because it does not place any new requirements or burdens on the public. Accordingly, it is certified that the proposal will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (Pub. L. 95-354, 94 Stat. 1164, September 13, 1980). It does not constitute a major Federal action significantly affecting the quality of the human environment and, therefore, an environmental impact statement is not required. The amendment does not constitute a major rule under the terms of Executive Order 12291 and does not constitute a significant rule under the Department of Transportation regulatory policies and procedures. Moreover, since there are no costs associated with this amendment, a regulatory evaluation is not warranted.

The Final Rule

PART 231—[AMENDED]

In consideration of the foregoing, § 231.1 of Part 231 of Title 49, Code of Federal Regulations, is amended, effective January 1, 1983, by revising the first sentence of the Note in that section to read as follows:

§ 231.1 Box and other house cars.

Note.—After June 30, 1983, cars of this type built on or before April 1, 1966, or under construction prior to that date and placed in service before October 1, 1966, must be equipped as nearly as possible with the same complement of safety appliances, depending upon type, as specified in § 231.27 for box and other house cars without roof hatches, or in § 231.28 for box and other house cars with roof hatches.

* * * * *

(Secs. 2, 4, and 6, 27 Stat. 531, as amended, secs. 1 and 3, 32 Stat. 943, as amended, secs. 1-6, 36 Stat. 943, as amended, sec. 6(e) and (f), 80 Stat. 939; 45 U.S.C. 2, 4, 6, 8, 10, 11-16, 49

U.S.C. 1655; and section 1.49(c) of the Regulations of the Office of the Secretary of Transportation, 49 CFR 1.49(c))

Issued in Washington, D.C. on December 28, 1982.

Thomas A. Till,

Deputy Administrator.

[FR Doc. 82-35549 Filed 12-29-82; 8:45 am]

BILLING CODE 4910-06-M

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1033 and 1254

[Ex Parte No. 285]

Maintenance of Records Pertaining to Demurrage, Detention, and Other Related Accessorial Charges by Rail Common Carriers of Property

AGENCY: Interstate Commerce Commission.

ACTION: Removal of rules.

SUMMARY: The Commission has determined that the rules at 49 CFR 1254, pertaining to the maintenance of demurrage and detention records, are unnecessary. The Commission is removing these rules. The retention of the car service rule at 49 CFR 1033.15 may be necessary for purposes unrelated to the demurrage/detention rule; and requires further review. It is not rescinded at this time but will be considered in Ex Parte No. 241 (Sub-No. 1), Investigation of Adequacy of Railroad Freight Car Ownership, Car Utilization, Distribution Rules and Practices which is being reopened.

EFFECTIVE DATE: The removal of these rules will be effective on January 31, 1983.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway, (202) 275-7278.

SUPPLEMENTARY INFORMATION: In the notice instituting this proceeding, served January 25, 1982 (47 FR 3574, January 26, 1982), the Commission proposed to reassess the need for its demurrage/detention recordkeeping regulations (49 CFR 1254.01-1254.06) adopted in *Maintenance of Records Pertaining to Demurrage*, 352 I.C.C. 739 (1976), and requested comments concerning possible modification or recission of the regulations. The notice also called for consideration of the related Car Service Rule 15 (49 CFR 1033.15). Although the other car service rules had been rescinded in Ex Parte No. 241 (Sub-No. 1), *Investigation of Adequacy of Freight Car Ownership*, 362 I.C.C. 844, 879 (1980)(45 FR 49942, July 28, 1980 as corrected at 47 FR 47394, October 26, 1982), Rule 15 was retained because of the reporting requirements it satisfied for the demurrage recordkeeping rules. Reassessment of these rules is in keeping with the policy of the Staggers Rail Act of 1980 (49 U.S.C. 10101a), which mandates that federal regulations be eliminated where they are unnecessary.

Comments were submitted by the Association of American Railroads (AAR), the American Short Line Railroad Association (ASLRA), Bartlett Agri Enterprises, Inc. (Bartlett Agri), Central Vermont Railway, Inc., Detroit, Toledo and Ironton Railroad Company, Duluth, Winnipeg and Pacific Railway Company, and Grand Trunk Western Railroad Company (GTW), and SRI, Inc. (SRI).

49 CFR 1254.01-1254.06

The demurrage rules at 49 CFR 1254.01-1254.06 set out explicit reporting requirements concerning a number of activities including the movement of cars on the track, track checks, notification of unloading, arrival, and actual and constructive placement of cars, and car orders. The rules state the manner and timing of recordation as well as the subjects to be recorded. These regulations were initially adopted to ensure that carriers would keep records enabling them to collect demurrage and detention charges applicable to rail freight cars and freight trailers. The rules were considered necessary because the carriers' substantiating records were incomplete. We stated in our prior notice, however, that the increased competition brought about by legislative changes in the regulatory structure, had become increasingly intense, and suggested that carriers' financial self-interest might suffice to ensure accurate recordkeeping and collection of charges, even in the absence of regulation. We also suggested that recent computer technology may make these rules unnecessary. The comments unanimously support this view.

The parties agree that the regulations are incompatible with technological advancements in the areas of computerization and mechanized or automated data processing systems which are used in recordkeeping, rating, and billing. For example, the rules require that carriers maintain separate records for each open station, that they prepare daily car reports, and that they forward the reports daily to recordkeeping offices. These clerical functions are time-consuming and expensive. The use of a computer, which retains the data at a central location, is at least as efficient and less expensive than the methods required by our regulations, and makes the preparation and forwarding of daily car reports unnecessary.

The rules also provide that notification of arrival and of unloading be in writing. They make one exception, for notification by telephone, and require that records of certain information must be kept when notification is by telephone. This requirement is no longer necessary. The recordation of loading and unloading is now accomplished by computer. Further, the provision relating to notice by telephone does not permit notification by other electronic means that are faster and less expensive. Moreover, other requirements have been made redundant or unnecessary by recently changed carrier practices and the revision made by Congress in the Interstate Commerce Act.

As a whole, these rules generate needless paperwork and negate the efficiencies provided by the use of computers. The kind of recordkeeping required by these rules is clearly expensive, cumbersome, and unnecessary, and no longer serves to protect the public interest. For these reasons, the rules will be rescinded.

In rescinding them, however, we are not removing the requirement that carriers maintain base records supporting the collection of the charges covered by 49 CFR 1254.01-.06. 49 U.S.C 10750 requires carriers to compute demurrage charges and establish rules related to those charges. Carriers cannot compute and collect such charges without supporting records. Rail carriers must make and maintain records of all movements of freight cars which will readily reveal data sufficient to assess applicable charges and support all allowances required or authorized by lawful tariffs. Instead of the Commission prescribing the methods, the carriers should use any type of record compatible with their particular systems of recordation, and retain the records at whatever location and in whatever manner they desire. This approach is consistent with the Federal policy of less government interference in the day-to-day operations of the rail industry.

49 CFR 1033.15

As we previously stated, all the car service rules except Rule 15 were rescinded in Ex Parte No. 241 (Sub-No. 1). Rule 15 was retained because it had been incorporated into the demurrage recordkeeping rules and established certain reporting requirements under those rules. Since we are rescinding the demurrage recordkeeping rules, Rule 15 is no longer needed for this purpose.

Nevertheless, we are, in another proceeding, seeking comment on whether Rule 15 is necessary to the preservation and promotion of reciprocal switching, which in turn, promotes competition between carriers for traffic, and gives shippers shipping options at points of interchange. *See* Ex Parte No. 241 (Sub-No. 1), *Investigation of Adequacy of Railroad Freight Car Ownership, Car Utilization, Distribution Rules and Practices*, issued simultaneously herewith.

PART 1254—[REMOVED]

Accordingly, 49 CFR Part 1254 consisting of §§ 1254.01–1254.06 is removed.

This action will not significantly affect either the quality of the human environment or conservation of energy resources. Nor will this action have a significant impact on a substantial number of small entities.

List of Subjects in 49 CFR Part 1254

Railroads.

(49 U.S.C. 10101a, 10321, and 5 U.S.C. 553)

Dated: December 20, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison.

James H. Bayne,

Acting Secretary.

[FR Doc. 82-35360 Filed 12-29-82; 8:45 am]

BILLING CODE 7035-01-M

---

49 CFR Parts 1039 and 1300

[Ex Parte No. 387]

Railroad Transportation Contracts; Correction

AGENCY: Interstate Commerce Commission.

ACTION: Final rules; correction.

SUMMARY: At 49 FR 50261 (November 5, 1982) the Commission adopted rules to implement the provisions of the Staggers Rail Act of 1980 providing for filing contract rates and for filing complaints related to railroad transportation contracts. Those rules contained inadvertent errors which are corrected by this notice.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway, (202) 275–7278, or Michael Sullivan, (202) 275–0826.

SUPPLEMENTARY INFORMATION: Title 49 of the CFR is corrected by correcting the document published at 47 FR 50261–50266 as follows:

PART 1039—CONTRACTS

(1) The second sentence of § 1039.3(a) is corrected to read as follows:

§ 1039.3 Filing and approval.

(a)* * * The contract will be accompanied by two copies of a summary of the nonconfidential elements of the contract in the format specified in 49 CFR 1300.300–1300.315.

* * *

* * * * *

PART 1300—[AMENDED]

(2) In § 1300.313 paragraphs (a)(5)(i)(A) and (B) are corrected to read as follows:

§ 1300.313 Content of contract summary; format.

(a)* * *

(5)* * *

(i)* * *

(A) Available and owned by the carriers listed in paragraph (a)(1) of this section;

(B) Available and leased by the carriers listed in paragraph (a)(1) of this section;

* * * * * *

Dated: December 22, 1982.

James H. Bayne.

Acting Secretary.

[FR Doc. 82-35358 Filed 12-29-82; 8:45 am]

BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 47, No. 251
Thursday, December 30, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 25 and 95

Access To and Protection of National Security Information and Restricted Data

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to amend its regulations to modify the requirements for submitting reports on classification/declassification actions, adding a specific marking to classified documents released to IAEA representatives, and maintaining records concerning visits involving classified information. The proposed amendments provide additional guidance for handling classified drafts of documents and working papers and for obtaining approvals for the security of telecommunication and automatic data processing systems where classified information is involved. The proposed amendments also update the regulations in accordance with the requirements of Executive Order 12356 and its Implementing Directive. These proposed amendments are necessary to incorporate experience gained under the current regulations and to prevent the unauthorized disclosure of National Security Information and Restricted Data.

DATE: Comments must be received on or before January 31, 1983. Comments received after this date will be considered if practical to do so, but assurance of consideration cannot be given except as to comments received on or before this date.

ADDRESSES: Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Services Branch. Comments may also be hand-delivered to Room 1121, 1717 H Street NW., Washington, D.C., between 8:15 a.m. and 5:00 p.m. Copies of comments received may be examined and copied for a fee at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., between 8:15 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Richard A. Dopp, Security Policy Branch, Division of Security, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Telephone (301) 427–4415.

SUPPLEMENTARY INFORMATION: On April 6, 1982, Executive Order 12356 entitled "National Security Information" was published in the **Federal Register** (47 FR 14874). Effective August 1, 1982, E.O. 12356, together with an accompanying Information Security Oversight Office (ISOO) Implementing Directive, changed certain requirements governing the classification, declassification, downgrading and safeguarding of National Security Information. As explained more fully in connection with the specific changes proposed in this notice, Parts 25 and 95 need to be amended in order to bring them into conformance with the provisions of E.O. 12356. Additional guidance and clarifying changes to these Parts are also being proposed. In particular, the proposed rule revises the authority sections of 10 CFR Parts 25 and 95 and makes changes to some definitions contained in these Parts. The proposed rule also clarifies the requirements for submittal of a complete security forms packet and makes other minor amendments.

Section 6.1 of E.O. 12356 reflects a change in the definition of the term "National Security Information." Sections 25.5 and 95.5 are being amended to reflect this revised definition. Additionally, § 95.5 is being revised to reflect changes in the definitions of "National Security," and "Classified Matter."

Section 25.17(c) in its original final form (45 FR 14476) required a full personnel security packet of forms identified in (1) through (6) of paragraph (c) to be submitted with each access authorization request. On October 30, 1980 (45 FR 71763), NRC amended § 25.17(c) and waived the full set of forms requirement for those individuals who already possessed an active security clearance from another Federal agency or who were being processed for a security clearance by another Federal agency on the effective date of the rule. The October 30, 1980 amendment substantially reduced the initial administrative burden on affected licensees who used the new procedure to obtain authorizations for affected employees. A literal intepretation of the regulation as it now reads, continues to permit a reduced requirement for forms, even if the previously granted security clearance has since been terminated. This was not the staff's intent. The changes being made to this section will continue to permit the certification of existing active Federal government access authorizations (with the reduced forms requirement) when based on adequate investigations which are not more than five years old.

Paragraph (c) of § 25.33, "Termination of access authorizations," currently requires the licensee or other organization official conducting a termination briefing to notify NRC in writing that a briefing was conducted and forward the Security Termination Statement. Section 25.33(c) is being revised to reflect that the NRC Division of Security accepts the submission of the completed termination statement as evidence that the termination briefing has been conducted.

When Part 25 was originally published, NRC prescribed a number of recordkeeping requirements based on disposition schedules then in use. A recordkeeping requirement for documents relating to classified visits was not identified at that time. A records maintenance requirement for NRC Form 277 will provide the opportunity for NRC review of the classified visit program at the affected facility and provides assurance that only properly authorized individuals obtain access to classified matter during visits to other facilities and agencies. A revision of § 25.35 imposes this necessary recordkeeping requirement.

Sections 25.37 and 95.61, "Violations," are being revised to provide clear and concise notice of potential criminal liabilities and the availability of criminal penalties for the willful violation of the Parts and to reflect the replacement of E.O. 12065 by E.O. 12356.

In order to permit licensees and others to make changes to their facility security plans, a new paragraph 95.15(d) has been added. Changes which do not decrease the effectiveness of the plan may be made without prior NRC

approval, but they must be submitted within two months after the changes have been made.

Classified documents which have been released to IAEA representatives will be identified by a special marking applied to them in accordance with instructions contained in the specific disclosure authorization letter provided by the NRC to the licensees. This additional means of identification and control for classified documents has been incorporated in section 95.36.

The requirements of E.O. 12356 modified the markings to be applied to classified documents. These modifications are reflected in the revisions being made to § 95.35(c), "Markings required on face of classified document." Under E.O. 12356, the declassification of documents can occur on a specific date, event, or upon the originating agency's determination that the document may be declassified. Since the new E.O. eliminated the scheduled or routine review for declassification, § 95.35(c) is being revised to reflect this change. Additionally, § 95.37(c)(6), which addresses the extension of classification beyond six years, is being deleted since National Security Information documents under the new E.O. are no longer automatically declassified after that period.

The requirements of E.O. 12356 also modified the markings applied to transmittal memoranda and letters. These new markings are set forth in the proposed revisions to § 95.35(h).

Section 95.37, "Classification and preparation of documents," provides detailed requirements for the marking and handling of classified documents. Experience in working with this section has demonstrated a need to provide more direction for the marking and handling of newly created documents. For this reason, a new paragraph (k) has been added that provides specific direction for the marking and handling of drafts and working papers.

The existing § 95.39(d), "Telecommunication of classified information," and § 95.49, "Security of automatic data processing (ADP) systems," also demonstrated the need for revision to provide the necessary direction and requirements to establish a secure telecommunication or ADP system. Revised §§ 95.39(d) and 95.49 impose no additional requirements, but do offer more detailed direction.

Section 95.57 presently requires the submission of an NRC Form 790 whenever a document containing National Security Information or Restricted Data is generated or its classification is changed. An amendment to this section clarifies who should submit this report and what actions should be reported and on what schedule.

Section 95.59, "Inspections," is being revised to reflect the replacement of E.O. 12065 by E.O. 12356.

Part 95, Appendix A, "Classification Guide for Safeguards Information," is being updated to conform with E.O. 12356. A significant change occurs in the area of declassification guidance. Whereas previously, reviews at the end of 7 or 20 years were required, a determination by the originating agency is now required before information may be declassifed.

Paperwork Reduction Act Statement

This rule contains information collection requirements which have been submitted to OMB for review and approval.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission hereby certifies that this rule will not, if promulgated, have a significant economic impact on any small entities. Each NRC licensee or other organization which may require access to National Security Information and/or Restricted Data used, processed, stored, reproduced, transmitted and destroyed in connection with a license or application for a license could potentially be impacted by this rule and required to provide adequate protection for National Security Information and/or Restricted Data. Only 12 entities (none of which have been determined to be small as defined by the Regulatory Flexibility Act of 1980) including five fuel cycle facilities, three transportation companies, one reactor, and three other organizations are currently required to meet the requirements of 10 CFR Parts 25 and 95.

List of Subjects

10 CFR Part 25

Classified information, Penalty, Reporting requirements, Security measures.

10 CFR Part 95

Classified information, Penalty, Security measures.

Under the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, notice is hereby given that adoption of the following amendments to 10 CFR Parts 25 and 95 is contemplated.

PART 25—ACCESS AUTHORIZATION FOR LICENSEE PERSONNEL

1. The authority citation for Part 25 is revised to read as follows:

Authority: Secs. 145, 161, 68 Stat. 942, 948, as amended (42 U.S.C. 2165, 2201); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); E.O. 10865, as amended, 3 CFR 1959–1963 COMP., p. 398, (50 U.S.C. 401, note); E.O. 12356, 47 FR 14874, April 6, 1982.

Appendix A also issued under Title V, Pub. L. 82–137, 65 Stat. 290 (31 U.S.C. 483a).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273), §§ 25.13, 25.17(a), 25.33 (b) and (c) are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§ 25.13 and 25.33(b) are also issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. Remove the authority citations following §25.17 and Appendix A.

3. In § 25.5, the definition of "National Security Information" is revised to read as follows:

§ 25.5 Definitions.

* * * * *

"National Security Information" means information that has been determined pursuant to Executive Order 12356 or any predecessor order to require protection against unauthorized disclosure and that is so designated.

* * * * *

4. In § 25.17, paragraphs (a) and (c) are revised to read as follows:

§ 25.17 Approval for processing applicants for access authorization.

(a) Access authorizations shall be requested for licensee employees or other persons (e.g., 10 CFR Part 2, Subpart I) who need access to National Security Information and/or Restricted Data in connection with activities under Parts 50, 70, or 72.

* * * * *

(c)(1) Each personnel security packet submitted, must include the following completed forms:

(i) Personnel Security Questionnaire (NRC–1, Parts I and II);

(ii) National Agency Check-Data for Nonsensitive or Noncritical-Sensitive Position (SF–85–A)—for "L" cases only;

(iii) Two Standard Fingerprint cards (FD–258);

(iv) Security Acknowledgment (NRC–176);

(v) Authorty to Release Information (NRC–259); and

(vi) Related forms where specified in accompanying instructions (NRC–254).

(2) Forms identified in paragraphs (c)(1)(i) and (ii) of this section must be typed. Only a Security Acknowledgment (NRC Form 176) need be completed by any person possessing an active access

authorization, or who is being processed for an access authorization, by another Federal agency. Such active or pending access authorization must be at an equivalent level to that required by the NRC and be based on an adequate investigation not more than 5 years old.

* * * * *

5. In § 25.31, paragraph (b) is revised to read as follows:

§ 25.31 Extensions and transfers of access authorizations.

(b) The NRC Division of security may, on request, transfer an access authorization when an individual's access authorization under one employer or activity is terminated, simultaneously with the individual being granted access authorization for another employer or activity.

* * * * *

6. In § 25.33, paragraph (c) is revised to read as follows:

§ 25.33 Termination of access authorizations.

(c) When an access authorization is to be terminated, a representative of the licensee or other organization shall conduct a security termination briefing of the individual involved, explain the Security termination Statement (NRC Form 136) and have the individual complete the form. The representative shall promptly forward the original copy of the completed Security Termination Statement to the NRC Division of Security, Office of Administration, Washington, DC 20555.

7. Section 25.35 and the undesignated center heading preceding it are revised to read as follows:

Classified Visits

§ 25.35 Classified visits.

Visits to NRC, NRC contractor, licensee or licensee related facilities, or other government agencies and their contractors involving access to classified information by individuals covered by this part require advance certification of "need-to-know" and verification of NRC access authorization. Individuals planning these visits shall complete NRC Form 277, "Request for Visit or Access Approval," with the "need-to-know" certified by the appropriate NRC office exercising licensing or regulatory authority. This NRC Office shall then forward the request to the NRC Division of Security at least 15 days in advance of the date of the visit for appropriate verification of NRC access authorization. The Division of Security shall forward the form to the facility to be visited. Records related to these visits must be maintained by the facility for two years following the expiration date of the visit authorization.

8. Section 25.37 and the undesignated center heading preceding it are revised to read as follows:

Violations

§ 25.37 Violations.

(a) An injunction or other court order may be obtained to prohibit a violation of any provision of:

(1) The Atomic Energy Act of 1954, as amended;

(2) Title II of the Energy Reorganization Act of 1974, as amended; or

(3) Any regulation or order issued under these Acts.

(b) National Security Information is protected under the requirements and sanctions of Executive Order 12356.

(c) Whoever willfully violates, attempts to violate, or conspires to violate, any provision of the Atomic Energy Act of 1954, as amended, for which no criminal penalty is specifically provided or any regulation or order prescribed or issued under subsections 161i or o of the Act may be guilty of a crime and, upon conviction, may be punished by fine or imprisonment or both, as provided by law. Regulations issued under the Act include regulations issued under subsections 161i and o and cited within the authority citation at the beginning of this part for the purposes of section 223.

PART 95—SECURITY FACILITY APPROVAL AND SAFEGUARDING OF NATIONAL SECURITY INFORMATION AND RESTRICTED DATA

9. The authority citation for Part 95 reads as follows:

Authority: Secs. 145, 161, 68 Stat. 942, 948, as amended (42 U.S.C. 2165, 2201); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); E.O. 10865, as amended, 3 CFR 1959–1963 COMP., p. 398, (50 U.S.C. 401, note); E.O. 12356, 47 FR 14874, April 6, 1982.

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); 95.13, 95.15(a), 95.25, 95.27, 95.29(b), 95.31, 95.33, 95.35, 95.37, 95.39, 95.41, 95.43, 95.45, 95.47, 95.51, 95.53, and 95.57 are also issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)).

10. In § 95.5, the definitions of "Classified Matter," "National Security," and "National Security Information" are revised to read as follows:

§ 95.5 Definitions.

* * * * *

"Classified Matter" means documents or material containing classified information.

* * * * *

"National Security" means the national defense or foreign relations of the United States.

"National Security Information" means information that has been determined pursuant to Executive Order 12356 or any predecessor order to require protection against unauthorized disclosure and that is so designated.

* * * * *

11. In § 95.15, paragraph (d) is added to read as follows:

§ 95.15 Approval for processing licensees and others for security facility approval.

* * * * *

(d) A licensee or other person may make a change in an NRC approved facility security plan for the safeguarding of National Security Information and Restricted Data without prior NRC approval, if the change does not decrease the effectiveness of the plan. A report containing a description of each change must be furnished to the NRC. Director of Security, Office of Administration, Washington, DC 20555. with a copy to the Regional Administrator of the appropriate NRC Regional Office listed in Appendix A, 10 CFR Part 73, within two months after the change.

12. In § 95.36, paragraph (c) is revised to read as follows:

§ 95.36 Access by Representatives of the International Atomic Energy Agency.

* * * * *

(c) In accordance with the specific disclosure authorization provided by the Division of Security, licensees are authorized to release (i.e., transfer prossession of) copies of documents which contain National Security Information directly to IAEA inspector and other representatives officially designated by IAEA to request and receive classified National Security Information documents. These documents shall be marked specifically for release to IAEA in accordance with instructions contained in NRC's disclosure authorization letter. Licensees may also forward these documents through NRC to IAEA representatives at IAEA headquarters in accordance with the NRC disclosure authorization. Licensees are not authorized to reproduce documents containing National Security Information except as provided in § 95.43 of this part.

13. In § 95.37, paragraph (c) and (h) are revised and new paragraph (k) is added to read as follows:

§ 95.37 Classification and Preparation of Documents.

* * * * *

(c) *Markings required on face of classified documents.* Each classified document must contain on its face:

(1) For National Security Information documents:

(i) Identity of classifier. The identity of the classifier must be shown by completion of the "Classified By" line. The completion of the "Classified By" line must show the guide or guidance responsible for the classification and the signature of the classifier applying the guidance to the document.

(ii) Date of classification and office of origin. The date on a document at the time of its origination may be considered the date of classification if the document it marked as classified on the same day it is originated. If the documents is marked on a day subsequent to its origination, the actual date of marking must be shown on the "Classified By" line.

(iii) Classification designation (e.g., Secret, Confidential) and National Security Information.

(iv) Date or event for declassification. Completion of the "Declassify On line will satisfy this requirement. If the information is not to be declassified automatically on a specific date or upon occurance of an event, the "Declassify On" line must read as "Declassify On: Originating Agency's Determination Required."

(2) For Restricted Data documents:

(i) Identity of the classifier. The identity of the classifier must be shown by completion of the "Derivative Classifier" line. The "Derivative Classifier" line must show the name of the person classifying the document and the basis for the classification. Dates for downgrading or declassification do not apply.

(ii) Classification designation (e.g., Secret, Confidential) and Restricted Data.

* * * * *

(h) *Letter of transmittal.* If a document transmitting National Security Information and/or Restricted Data contains no classified information or the classification level of the transmittal document is not as high as the highest classification level of its enclosures, then it must be marked at the top and bottom with a classification at least as high as its highest classified enclosure. The classification may be higher if the enclosures, when combined, warrant a higher classification than any individual enclosure. When the contents of the letter of transmittal warrant a lower classification than the highest classified enclosure(s) or combination of enclosures or requires no classification, a stamp or marking such as the following must also be used on the letter:

> Upon removal of attachments this document is: (Classification level of transmittal document standing alone or the word "Unclassified" if the transmittal document contains no classified information.)

* * * * *

(k) *Drafts and working papers.* Drafts of documents and working papers which contain or which the originator believes contain classified information must be marked on the top and bottom of each page with the highest level of classification contained therein with the National Security Information or Restricted Data marking. It is not required that other markings specified in § 95.37(c) be applied or that an NRC Form 790 be prepared as indicated in § 95.57(b) for drafts and working papers, provided they are not disseminated outside the facility. Prior to any dissemination outside of the facility, drafts and working papers must be reviewed by an authorized derivative classifier, final and complete classification markings applied, and an NRC Form 790 prepared and submitted to the NRC Division of Security, Washington, D.C. 20555. If classified Secret, the document must be recorded in the accountability record in accordance with § 95.41.

14. In § 95.39, paragraph (d) is revised to read as follows:

§ 95.39 External transmission of documents and material.

* * * * *

(d) *Telecommunication of Classified Information.* There must be no telecommunication of National Security Information or Restricted Data unless the telecommunication system has been approved by the NRC Division of Security. Licensees or other persons who may require a secure telecommunication system shall submit a telecommunication plan as part of their request for NRC security facility approval, as outlined in § 95.15, or as an amendment to their existing security plan for the protection of National Security Information or Restricted Data.

15. Section 95.41 is amended by capitalizing the word "secret," which precedes National Security Information.

16. Section 95.43 is revised to read as follows:

§ 95.43 Authority to reproduce.

Secret National Security Information and/or Restricted Data will not be reproduced without the written permission of the originator, the originator's successor, or higher authority. Confidential National Security Information and/or Confidential Restricted Data may be reproduced, unless restricted by the originating agency, to the extent required by operational needs.

17. In § 95.45, paragraph (a) is revised to read as follows:

§ 95.45 Changes in classification.

(a) Documents containing National Security Information and/or Restricted Data shall be downgraded or declassified as authorized by NRC classification guides or as determined by NRC. Requests for downgrading or declassifying any National Security Information and/or Restricted Data should be forwarded to the NRC Division of Security, Office of Administration, Washington, DC 20555. Requests for downgrading or declassifying of Restricted Data will be coordinated as appropriate by the NRC Division of Security with the Department of Energy.

* * * * *

18. Section 95.49 is revised to read as follows:

§ 95.49 Security of automatic data processing (ADP) systems.

Classified data or information must not be processed or produced on an ADP system unless the system and procedures to protect the classified data or information have been approved by the NRC Division of Security. Approval of the ADP system and procedures is based on a satisfactory ADP security proposal submitted as part of the licensee's or other person's request for NRC security facility approval outlined in § 95.15 or submitted as an amendment to its existing security plan for the protection of National Security Information or Restricted Data.

19. In § 95.57, the introductory paragraph is revised to read as follows and the undesignated paragraph following § 95.57 (b) is designated as (c) and is revised to read as follows:

§ 95.57 Reports

Each licensee or other person having a

security facility approval shall immediately report to the Regional Administrator of the appropriate NRC Regional Office listed in Appendix A, 10 CFR Part 73:

* * * * *

(c) In addition, a licensee's or license related organization's authorized classifier shall complete a NRC Form 790 (Classification Record) whenever a document containing National Security Information and/or Restricted Data is generated, its classification is changed or it is declassified. Notification of declassification is not required for any document or material which has an automatic declassification date. Completed NRC Forms 790 should be submitted to the NRC Division of Security, Washington, DC 20555, on a monthly basis.

20. Section § 95.59 is revised to read as follows:

§ 95.59 Inspections.

The Commission shall make such inspections and surveys of the premises, activities, records and procedures of any person subject to the regulations in this Part as the Commission deems necessary to effect the purposes of the Act, E.O. 12356, and NRC rules.

21. Section 95.61 is revised to read as follows:

§ 95.61 Violations.

(a) An injunction or other court order may be obtained to prohibit a violation of any provision of:

(1) The Atomic Energy Act of 1954, as amended;

(2) Title II of the Energy Reorganization Act of 1974, as amended; or

(3) Any regulation or order issued under these Acts.

(b) National Security Information is protected pursuant to the requirements and sanctions of E.O. 12356.

(c) Whoever willfully violates, attempts to violate, or conspires to violate, any provision of the Atomic Energy Act of 1954, as amended, for which no criminal penalty is specifically provided or any regulation or order prescribed or issued under subsection 161i of the Act may be guilty of a crime and, upon conviction, may be punished by fine or imprisonment or both, as provided by law. Regulations issued under the Act include regulations issued under subsection 161i and cited within the authority citation at the beginning of this Part for the purposes of section 223.

22. In Appendix A, paragraphs E item 5 and paragraph F are revised to read as follows:

Appendix A—Classification Guide for Safeguards Information

* * * * *

E. Definitions used in the Guide:

* * * * *

5. National Security Information (NSI)—information or material collectively termed information, that is owned by, produced for or by, under the control of, or regulated by the United States Government, and that has been determined pursuant to Executive Order 12356 or prior Executive Orders to require protection against unauthorized disclosure, and that is so designated.

* * * * *

F. Declassification—E.O. 12356.

Restricted Data is exempt from automatic declassification and does not require declassification markings. National Security Information identified in this guide will be marked for declassification as specified by the applicable topic of this Guide. This Guide has been approved by an original Top Secret classification authority.

* * * * *

23. In Appendix A, the "Classification Guidance" heading following paragraph G. is designated paragraph H.; immediately beneath the paragraph H. heading "Classification Guidance," a new subheading "(a) Subject" is inserted above the left-hand column of the guidance item list; and immediately beneath the paragraph H. heading "Classification Guidance", a new subheading "(b) Requirement" is inserted above the right-hand column of the guidance item list to read as follows:

* * * * *

H. Classification guidance	
(a) Subject	(b) Requirement
. . . . .	

24. In Appendix A, under the "Requirements" column (b) of paragraph H., the requirements in items 112, 123, 201, 212, 214, 221, 222, 224, 225, 226, 231, 241, 254, 261.2, 261.3, 261.4, 262.1, 262.3, 263.1, 263.2, 264.1, 264.2, 283, 291, 333.1, 333.3, 334.1, 334.2, 334.3, 335, 336, 372, 373, 385, 386, 410, 411, 412, 413, 420, 422, 423.1, 423.2, 423.3, 541, and 542, are revised to read "Originating agency's determination required for declassification."

25. For Appendix A, the note following item 423.2 is removed.

Dated at Bethesda, Maryland, this 22d day of December 1982.

For the Nuclear Regulatory Commission.

William J. Dircks,

Executive Director for Operations.

[FR Doc. 82-35374 Filed 12-29-82; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 82-NM-95-AD]

Airworthiness Directives; Lockheed-California Company Model L-1011-385-3 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes a new Airworthiness Directive (AD) that would require a modification to the electrical system of Lockheed Model L-1011-385-3 Series airplanes to protect certain wing wires from moderate to severe lightning strikes. This AD is needed to reduce the potential for a complete loss of the Active Control System, which protects the wing against high structural loads encountered in turbulent conditions.

DATES: Comments must be received no later than January 31, 1983. Compliance schedule as prescribed in the body of the AD, unless already accomplished.

ADDRESSES: The applicable service information may be obtained from: Lockheed-California Company, P.O. Box 551, Burbank, Calif. 91520, Attention: Commercial Support Contracts, Dept. 63-11, U-33, B-1. This information also may be examined at FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Wash. 98168, or 4344 Donald Douglas Drive, Long Beach, Calif. 90808.

FOR FURTHER INFORMATION CONTACT: Raymond A. Stoer, Aerospace Engineer, Systems & Equipment Branch, ANM-130L, Federal Aviation Administration, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, Calif. 90808, telephone (213) 548-2831.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified under the caption **"Availability of NPRM's"**. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed

in the light of comments received. All comments submitted will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM's

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 82–NM–95–AD, 17900 Pacific Highway South, C–68966, Seattle, Wash. 98168.

Discussion.

There have been 2 reported incidents in the past 18 months where moderate to severe lightning strikes have caused damage to the active Control (wing load alleviation) System. This resulted in total system loss for the remaining portion of the two flights. This condition occurs when the high-energy field, induced by a lightning strike or a near miss, produces excessive electrical power through the wing signal wires which in turn causes hardware damage to the aileron servo amplifiers. Since lightning activity often occurs in areas of strong vertical gusts, the protection that the active control system provides for the wing against high structural loads can be lost in those conditions when it is most needed.

To preclude further incidents of the type described above, the Lockheed-California Company issued L–1011 Service Bulletin 093–22–147, dated August 17, 1982, which provides aircraft wiring modifications. Lockheed tests have shown that these modifications will provide a significant increase in the level of protection against lightning strike damage to the Active Control System.

In consideration of the potentially hazardous consequence of a failed Active Control System, the proposed AD is considered to be necessary.

The estimated costs associated with the proposed AD are as follows: Fifteen domestic airplanes are affected that will require approximately 90 manhours per airplane to accomplish the required actions at an average labor charge of $35.00 per manhour. The modification kits are provided by the manufacturer at no cost to the operator. Based upon these figures, the total economic impact is estimated to be $47,250. No small entities within the meaning of the Regulatory Flexibility Act would be affected.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new Airworthiness Directive:

Lockheed-California Company: Applies to Lockheed Model L–1011–385–3 series airplanes, certificated in all categories. Compliance required by March 31, 1983, unless previously accomplished. To minimize the probability of a total loss of the Active Control System in-flight, accomplish the following:

A. Modify the electrical system in accordance with Part 2, Accomplishment Instructions, in Lockheed-California Company L–1011 Service Bulletin 093–22–147, dated August 17, 1982, or later revisions approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

B. Alternative means of compliance providing an equivalent level of safety may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

All persons affected by this proposal who have not already received these documents from the manufacturer may obtain copies upon request to the Lockheed-California Company, P.O. Box 551, Burbank, California 91520, Attention: Commercial Support Contracts Dept. 63–11, U–33, B–1. These documents also may be examined at FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Wash. 98168, or 4344 Donald Douglas Drive, Long Beach, Calif. 90808.

(Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.85)

Note.—For the reasons discussed earlier in the preamble: The FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. A regulatory evaluation has been prepared and has been placed in the public docket.

Issued in Seattle, Wash. on December 15, 1982.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 82–35160 Filed 12–29–82; 8:45 am]

BILLING CODE 4910–13–M

---

14 CFR Part 71

[Airspace Docket No. 82–AGL–23]

Proposed Designation of VOR Federal Airway

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to designate new VOR Federal Airway V–503 between Rochester, Minn., and Cedar Rapids, Iowa. The direct routing between these points would reduce controller workload by providing an airway in an area where aircraft are normally vectored. Also, V–503 would provide economic benefits to users in the form of fuel savings.

DATES: Comments must be received on or before February 10, 1983.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Great Lakes Region, Attention: Manager, Air Traffic Division, Docket No. 82–AGL–23, Federal Aviation Administration, 2300 East Devon, Des Plaines, Ill. 60018.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, D.C.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Regulations and Obstructions Branch (AAT–230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426–8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views,

or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 82-AGL-23." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate new VOR Federal Airway V-503 between Rochester, Minn., and Cedar Rapids, Iowa, via a direct route. An increasing number of pilots are requesting direct routing between these points. The FAA has determined that users of the air traffic control system would be better served by designating an airway in an area where frequent request by pilots for direct routing between these points have been noted. This action would aid flight planning, increase safety, and reduce controller workload. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3 dated January 29, 1982.

List of Subjects in 14 CFR Part 71

VOR Federal Airways, Aviation Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

V-503 [New]
V-503 From Rochester, MN, to Cedar Rapids, IA.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on December 17, 1982.

B. Keith Potts,

Manager, Airspace and Air Traffic Rules Division.

[FR Doc. 82-35161 Filed 12-29-82; 8:45 am]

BILLING CODE 4910-13-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 210

[Release Nos. 33-6445; 34-19354; 35-22788; S7-956]

Oil and Gas Producers; Full Cost Accounting Practices; Proposed Amendment of Rules

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rules.

SUMMARY: The Commission is proposing for comment two alternative sets of amendments to its rules for application of the full cost method of accounting by oil and gas producers. The proposed amendments are intended to clarify the criteria for determining which capitalized costs may be excluded from immediate amortization. They would thereby narrow the diversity of practice resulting from varying interpretations of the Commission's existing rules which permit the exclusion from amortization of "unusually significant" costs of unproved properties and major development projects. The Commission is also proposing amendments to clarify its rules on the recognition of gain or loss on sales of oil and gas producing properties.

DATE: Comments should be received by the Commission on or before April 30, 1983.

ADDRESS: Comments should refer to File No. S7-956 and be submitted to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549. All Comments will be available for public inspection at the Commission's Public Reference Room.

FOR FURTHER INFORMATION CONTACT: M. Elizabeth Rader or John W. Albert (202-272-2130), Office of the Chief Accountant, Securities and Exchange Commission, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION:

Background

In Accounting Series Release No. 258 (ASR 258),[1] issued in December 1978, the Commission adopted rules to establish uniform requirements for financial accounting and reporting practices of oil and gas producers following the full cost method of accounting. Originally, the related proposed rules had specified that the costs of all undeveloped leases and uncompleted wells should be included in the amortization base as the costs were incurred. However, many commentators pointed out that historically the full cost method had recognized the need to exclude certain unevaluated costs from amortization. These commentators argued that, although the methods used to determine exclusions had varied, their purpose was to avoid an unwarranted distortion of the amortization rate, arising from situations where major expenditures were necessary prior to establishing proved reserves (such as unusually large offshore lease investments, major development projects or secondary and tertiary recovery projects).

The Commission concluded that these arguments had merit, and accordingly adopted rules to provide that "costs of

[1] Accounting Series Release No. 258, "Oil and Gas Producers—Full Cost Accounting Practices," December 19, 1978 (43 FR 60134).

acquiring and evaluating unproved properties may be excluded only if the costs incurred are unusually significant in relation to the aggregate costs to be amortized" and that "costs of major development projects may be excluded * * * only if unusually significant development costs must be incurred prior to ascertaining the quantities of proved reserves attributable to the properties under development." [2] The Commission believed that in order to maintain discipline in the full cost method, the eligibility of costs for exclusion should be limited to certain clearly defined conditions. Thus, the exception was designed to apply only in those unusual and infrequent circumstances where highly significant expenditures are required before proved reserves can be established. The objective of the exclusion was to avoid a material and potentially misleading impact on financial reporting as a result of an unrealistic overstatement of the amortization provision prior to proving up reserves and a corresponding understatement afterwards.

Because the Commission recognized that the judgements involved in assessing significance would vary with the individual facts and circumstances, ASR 258 did not establish any percentage tests for determining whether costs are "unusually significant." However, the release pointed out that the normal inventory of preproduction costs (costs of undeveloped leases and related carrying and evaluation costs) typically associated with ongoing exploration activities should be included in the cost center for amortization purposes. By including this "normal inventory" and by taking any additional reserves and related costs into consideration on a prospective basis upon discovery, the Commission believed that a reasonable and consistent allocation of costs over a period of time would be achieved. [3]

Recent Developments

Based on a review of reports recently filed with the Commission as well as discussions within the industry, the Commission staff has noted a significant lack of consistency in the application of the rules permitting full cost companies to exclude certain costs from amortization. In many cases, exclusions from the full cost amortization base seem to have become the rule rather than the exception. [4] At one extreme, the normal inventory concept has been ignored, and the aggregate cost of all unevaluated properties has been excluded. Although other companies limit exclusions to properties which are "unusually significant," defined by reference to a specified percentage of total capitalized costs in a cost center, there are significant differences in the percentage criterion used (ranging from less than 5% to more than 25%) and in the definition of "property" to which this test is applied (individual lease or some aggregation of leases.)

The Commission is concerned that the extensive diversity in current accounting practice creates serious problems of noncomparability among companies who are in essentially similar circumstances and are ostensibly using the same method of accounting for their oil and gas producing activities. This current inconsistency in practice makes it apparent that the existing rules provide insufficient guidance. Accordingly, the Commission is proposing revisions to the existing rules.

The Commission has identified two alternative approaches which it believes warrant consideration as ameded rules for the determination of costs eligible for exclusion from the full cost amortization base. The first alternative would permit exclusion of all unevaluated costs in a cost center from the amortization base while the second alternative would expand on the normal inventory concept by applying specific tests. A discussion of these alternatives follows.

Exclusion of all Costs of Unevaluated Properties

Advocates of the exclusion of all costs of unevaluated properties argue that the amortization rate is computed based on proved (i.e., evaluated) reserves and that, accordingly, only evaluated costs should be associated with those reserves for amortization purposes. Since unevaluated properties are required to have value at least equal to their carrying cost, and since by definition it is not known whether those costs relate to proved reserves, they chould be excluded in their entirety, regardless of their significance either individually or in the aggregate. Supporters of this approach further maintain that it is more objective and easier to apply than the normal inventory method because it does not require an inevitably judgmental and arbitrary definition of "normal" inventory. It therefore produces greater consistency of practice and comparability of reported financial information than a normal inventory approach.

The arguments against the blanket exclusion of all costs of unevaluated properties are essentially the same as those supporting the normal inventory method. Opponents of a blanket exclusion refer to the full cost theory that nonproductive as well as productive costs are unavoidable in the discovery of oil and gas reserves. They insist that some or all preproduction costs should accordingly be amortized based on current production. They maintain that exclusions can be justified, if at all, only when the unevaluated costs in question so far exceed the normal level that their inclusion would result in an unwarranted distortion of the amortization rate. In other words, exclusions should be permitted only in highly unusual circumstances; otherwise the "full cost" method of accounting would become indistinguishable from the successful efforts method, except for the capitalization of dry hole costs and non-recognition of gain or loss on sales of oil and gas properties.

Exclusion of Costs Based on the Normal Inventory Theory

The normal inventory concept is consistent with the approach followed in the existing rules which provide for exclusion only of costs of unevaluated properties and major development projects which are unusually significant in that they exceed the normal inventory level. The fundamental precept of this theory is that although preproduction costs do not add value to the reserves already proved, a certain level of such costs is essential and unavoidable in order for a company to function as an ongoing exploration and development operation. Accordingly, this normal inventory amount is an integral part of the cost of proved reserves and should be amortized currently. Where unevaluated costs are unusually significant relative to the total costs in the cost center, that is, where they exceed the amount of unevaluated costs normally associated with the operations of the cost center, they should be excluded from the amortization base in order to avoid distortion of the amortization rate.

Alternative Suggestions Solicited

The Commission invites comments on which of the previously discussed methods, as set forth in two alternative

[2] Rule 4-10(i)(3)(ii) of Regulation S-X.

[3] Section 406.01.c.i of Financial Reporting Release No. 1, "Codification of Financial Reporting Policies," April 15, 1982.

[4] The impetus for increased exclusion of costs from the amortization base may have been provided by the August 1980 issuance of FASB Interpretation No. 33, "Applying FASB Statement No. 34 to Oil and Gas Producing Operations Accounted for by the Full Cost Method," which permits oil and gas producers following the full cost method to capitalize interest on costs excluded from amortization and prhohibits interest capitalization on costs being amortized.

rule proposals, is the more appropriate. Commentators are also specifically invited to discuss any other appropriate criteria for the exclusion of costs from the amortization base under the full cost method of accounting. These criteria may include, among other possibilities, (1) establishing a set percentage test for exclusions (such as all unevaluated costs in excess of 15% of total capitalized costs in a cost center), (2) permitting no exclusions, (3) modifying the proposed exclusion of all unevaluated costs to require immediate amortization of certain costs, such as those which are nonproductive (e.g., leasehold carrying costs and costs of unsuccessful exploratory wells), or (4) modifying the percentages used in the normal inventory approach.

Criteria to Be Addressed

Commentators are requested to support their suggested approach to exclusions from amortization based on considerations which include, among other things, (1) meaningfulness to investors and other financial statement users, and (2) accurate representation of industry economics.

Discussion of Proposed Rules

Exclusion of all costs of unevaluated properties—The first alternative proposed by the Commission would permit the exclusion from amortization of all costs of unevaluated properties. These excluded costs should (a) specifically relate to those properties which have not yet been evaluated and (b) represent potentially productive costs. Accordingly, unproved properties would be periodically assessed on an individual basis to ascertain whether impairment has occurred, and the amount of any impairment would be included in the amortization base. In addition, geological and geophysical costs which are not directly allocable to specific unevaluated properties would be included in the amortization base as incurred.

Normal inventory of preproduction costs—In implementing the normal inventory theory, the Commission recognizes that the amount of costs included in the normal inventory level will vary from company to company, depending on individual facts, circumstances and modes of operation. The proposal would, therefore, establish criteria for determing the normal inventory level which would be company specific in order to allow equitable treatment for companies with relatively low as well as relatively high normal levels of preproduction costs. However, if a normal inventory method is adopted, the Commission also proposes that this approach require that nominal amounts of preproduction costs always be amortized. Conversely, the Commission proposes that where a company typically carries large investments in undeveloped leases, at least some portion of that investment should be considered in excess of a normal inventory level and should be excluded from amortization. (Otherwise, the normal inventory method could produce the same result as a requirement to include all unevaluated costs in the amortization base.) The normal inventory computation would be based on costs incurred and capitalized to date, without consideration of estimated future development costs.

Accordingly, under its second alternative the Commission is proposing to define a company's normal inventory of preproduction costs for a cost center as an amount computed by multiplying total capitalized costs for the cost center, as of the date the amortization rate is computed, by the "normal inventory percentage." This "normal inventory percentage" would be defined as the three-year moving average of the actual percentage of preproduction costs to total capitalized costs in the cost center, but not less than 10% nor more than 20% of such total capitalized costs as of the date the amortization rate is computed. For purposes of this computation, preproduction costs would include all costs of undeveloped leases and related carrying and evaluation costs, whether or not being amortized currently, but would exclude any costs estimated to be incurred in the future. Geological and geophysical costs would be included in preproduction costs only to the extent that they can be directly associated with specific unevaluated properties. Total capitalized costs would represent the amount included in the balance sheet as of the date the amortization rate is computed and would include all such preproduction costs. The Commission is proposing a three-year moving average because it is a reasonably current measure, which also considers and offsets some of the effects of significant year-to-year fluctuations. Although the percentage tests are arbitrary, amounts less than 10% of total costs generally would not distort the amortization rate. Similarly, the 20% ceiling is not unduly high and represents approximately the middle of the range of percentages which the Commission understands are currently being applied to assess "unusual significance."

Related Issue-Mineral Property Conveyances

Discussions with registrants and others also indicate possible confusion as to the meaning and intent of the Commission's rules for recognition of gain when oil and gas properties are sold. Accordingly, the Commission is proposing to amend and clarify its rules on accounting for mineral property conveyances by full cost companies.

Rule 4–10(i)(6)(i) of Regulation S–X states that sales of mineral properties by full cost companies are ordinarily treated as adjustments of capitalized costs with no gain or loss recognized. This treatment is appropriate because under full cost accounting, costs lose their identity once they are charged to the pool. Rule 4–10(i)(6) provides for exceptions to this general rule in two circumstances: (1) when the sale causes a significant alteration in the relationship between costs and reserves in a cost center, or (2) when properties held primarily for lease brokerage purposes are sold in connection with drilling arrangements and the cash consideration received exceeds total costs incurred plus any costs expected to be incurred subsequently.

The Commission has recently become aware that considerable confusion surrounds these mineral property conveyance rules, primarily with respect to the applicability of the two exceptions under which gain or loss may be recognized. Questions have arisen first as to whether the general prohibition against gain recognition in Rule 4–10(i)(6)(i) applies to properties excluded from current amortization. The proposed amendments would clarify that the gain recognition rules apply to all properties held for production purposes (i.e., all properties not segregated and accounted for in a separate lease brokerage account), regardless of whether they are being amortized currently. Thus, gain may be recognized only where the "significant alteration" test is met.

With respect to the drilling arrangement rules, there is also uncertainty as to which leases are eligible for gain or loss recognition under these provisions. The Commission believes that the confusion regarding the drilling arrangement rules arises because the existing rules do not explicitly address their original purpose, which is to permit companies that are in fact involved in two separate and distinct aspects of the oil and gas business—one being oil and gas exploration and production and the other lease brokerage—to recognize

gains from their brokerage activities. These rules were never intended to permit gain recognition or exclusion from the full cost pool for typical "farm-out" or promoted-deal production arrangements which are primarily financing or risk sharing transactions. Accordingly, the proposed rules would explicitly state that the drilling arrangement rules apply only to companies which can demonstrate and document that they operate in two distinct aspects of the oil and gas business (for instance, companies for which a major segment of operations and source of revenues consists of buying proved properties for syndication). For such companies, the rules would apply only to properties segregated in an inventory account of leases held for brokerage purposes. The rules would also specify that a lease should not be classified in this "inventory" account if the registrant expects to retain an interest equivalent to greater than a 15% working interest in the property. The Commission recognizes that the 15% cutoff is arbitrary but believes an objective guideline is necessary and in the past, the staff has administratively permitted gain recognition in cases where the seller retained an interest up to 15%.

A corollary to the "separate lines of business" basis for gain recognition is that properties should never be transferred from a full cost pool to the inventory account and only in rare cases should they be transferred to a full cost pool from inventory. Although these policies have previously been communicated administratively by the staff, the Commission believes it would be desirable to incorporate them directly into the rules. The proposed rules would also clarify various questions concerning the application of the cost recovery method under the existing rules to indicate that gain may be recognized only on the broader of a property-by-property basis or partnership-by-partnership basis. In other words, if undivided interests in a single property are sold to different parties, gain may be recognized only to the extent that total compensation from all parties exceeds total costs for the entire property, including any costs expected to be incurred subsequently. If a company sells more than one property to a partnership, joint venture or similar entity, gain may be recognized only to the extent that total compensation exceeds the total combined costs of all properties transferred, including any costs expected to be incurred subsequently.

Regulatory Flexibility Act Analysis

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 603, the Commission has prepared an initial regulatory flexibility analysis of the economic impact which the amendments proposed herein will, if adopted, have on small entities. This analysis is attached to this release.

List of Subjects in 17 CFR Part 210

Accounting, Reporting requirements, Securities.

Text of Proposed Rules

Chapter II of Title 17 of the Code of Federal Regulations is proposed to be amended as follows:

PART 210—FORM AND CONTENT OF AND REQUIREMENTS FOR FINANCIAL STATEMENTS, SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935, INVESTMENT COMPANY ACT OF 1940, AND ENERGY POLICY AND CONSERVATION ACT OF 1975

1. By either revising paragraphs (i)(3)(ii), (i)(3)(ii) (A) and (B) and adding new paragraph (i)(3)(ii)(C) of § 210.4–10 according to Alternative I or adding Instruction 1 to paragraph (i)(3)(ii), according to Alternative II, and by revising paragraphs (i)(6)(i) and (i)(6)(iii) and adding paragraphs (i)(6)(iii) (A) through (H) as follows:

§ 210.4–10 Financial accounting and reporting for oil and gas producing activities pursuant to the Federal securities laws and the Energy Policy and Conservation Act of 1975.

* * * * *

(i) *Application of the full cost method of accounting.* * * *

(3) * * *

Alternative I

(ii) The cost of investments in unproved properties and major development projects may be excluded from capitalized costs to be amortized, subject to the following:

(A) All costs directly associated with the acquisition and evaluation of unproved properties may be excluded from the amortization computation until it is determined whether or not proved reserves can be assigned to the properties. Until such a determination is made, the properties shall be assessed individually to ascertain whether impairment has occurred (see paragraph (c) of this section). If the results of the assessment indicate impairment, the amount of the impairment (including both acquisition and exploration costs) shall be added to the costs to be amortized. If geological and geophysical costs cannot be directly associated with specific unevaluated properties, they shall be included in the amortization base as incurred.

(B) Where major development projects (e.g., the installation of an offshore drilling platform from which development wells are to be drilled, the installation of improved recovery programs, and similar major projects undertaken in the expectation of significant additions to proved reserves) are required prior to ascertaining whether material additional quantities of proved reserves are attributable to the properties under development, the portion of the estimated future expenditures associated with the development project as well as a pro rata portion of platform and other common costs (based on a comparison of the number of wells drilled and to be drilled) may be excluded from amortization. The portion excluded shall represent only those costs directly identified with the major development project. Such costs may be excluded from costs to be amortized until the proved reserves added as a result of the project are ascertainable or until it is determined that impairment has occurred.

(C) Excluded costs and the proved reserves related to such costs shall be transferred into the amortization base on an ongoing (well-by-well or property-by-property) basis as the project is evaluated and proved reserves established or impairment determined. Once proved reserves are established, there is no further justification for continued exclusion from the full cost amortization base even if other factors prevent immediate production or marketing.

Alternative II

* * * * *

(ii) * * *

(B) * * *

Instructions to Paragraph (ii)

1. Costs of investments in unproved properties and major development projects shall be considered "unusually significant" to the extent that in the aggregate, as of the date the amortization rate is computed, they exceed the normal level of preproduction costs, which is defined to be the amount computed by multiplying total captialized costs for the cost center, as of the date the amortization rate is computed, by the "normal inventory percentage." This "normal inventory percentage" is defined to be a three-year moving average of the actual percentage of preproduction costs to total capitalized costs for each fiscal

year, but not less than 10% nor more than 20% of total capitalized costs, as of the date of the amortization rate is computed. For purposes of this computation, preproduction costs include all costs of undeveloped leases and related carrying and evaluation costs, whether or not being amortized currently, but exclude any costs estimated to be incurred in the future. Geological and geophysical costs should be included in preproduction costs *only* to the extent that they can be directly associated with specific unevaluated properties. Total capitalized costs represent the amount included in the balance sheet as of the date the amortization rate is computed and include all such preproduction costs.

* * * * *

(6) *Mineral property conveyances and related transactions* * * *

(i) *Sales and abandonments of oil and gas properties.* Sales of oil and gas properties included in the full cost pool, whether or not being amortized currently, shall be accounted for as adjustments of capitalized costs, with no gain or loss recognized, unless such adjustments would significantly alter the relationship between capitalized costs and proved reserves of oil and gas attributable to a cost center. For instance, a significant alteration would not ordinarily be expected to occur for sales involving less than 25 percent of the reserve quantities of a given cost center. If gain or loss is recognized on such a sale, total capitalized costs within the cost center shall be allocated between the reserves sold and reserves retained on the same basis used to compute amortization, unless there are substantial economic differences between the properties sold and those retained, in which case capitalized costs shall be allocated on the basis of the relative fair values of the properties. Abandonments of oil and gas properties shall be accounted for as adjustments of capitalized costs, that is, the cost of abandoned properties shall be charged to the full cost center and amortized (subject to the limitation on capitalized costs in paragraph (4) of this section).

* * * * *

(iii) *Drilling arrangements.* No income shall be recognized from sales of unproved properties in connection with various forms of drilling arrangements involving oil and gas producing activities (e.g., carried interest, turnkey wells, management fees, etc.) unless the registrant can demonstrate and document on an ongoing basis that its lease brokerage activities are separate and distinct from its oil and gas producing activities. The properties used in brokerage activities should be identified and segregated upon acquisition and carried in an inventory account separate from any full cost center. Consistent with the provisions of paragraph (h) of this section, the circumstances in which income may be recognized are further limited to situations where (1) the cash consideration received from the sale of unproved properties or drilling arrangements involving oil and gas producing activities exceeds the total cost of the properties plus any exploration and development costs to be subsequently incurred, or (2) the cash compensation represents reimbursement for amounts currently charged to expense.

(A) In cases where the entity sells oil and gas properties in connection with partnership or joint venture operations that involve more than one property, the determination of whether the cash compensation exceeds the cost of the properties shall be made based on the entity's participation in the total operations of the partnership or joint venture, rather than on a property-by-property basis.

(B) If undivided interests in a property are sold to different parties, income may be recognized only on an aggregate total property basis. However, if physically divided interests are sold to different parties, income shall be recognized separately on each piece.

(C) If the cash consideration received represents reimbursement of organization, offering, general and adminstrative expenses, etc., such compensation may be recognized as income only to the extent that costs have been both *currently incurred and* charged to expense.

(D) If the sales of unproved properties or drilling arrangements related thereto will provide for the receipt or retention of a significant economic interest in the properties such that the transaction is in substance a farmout, promotion, or pooling of assets in a joint undertaking, the properties in question should be included in the full cost pool and amortized currently (unless excluded from amortization pursuant to Rule 4–10(i)(3) of this section). Such properties should not be classified in a brokerage inventory account and no gain should be recognized, even though "boot" in the form of cash may be received. For purposes of this section, an interest equivalent to greater than a 15 percent working interest shall be considered significant.

(E) Properties held in the brokerage inventory account shall be assessed individually to ascertain whether impairment has occurred (see paragraph (c) of this section). If the results of the assessment indicate impairment, any impairment or abandonment shall be charged directly to expense.

(F) Where an economic interest is retained and cash consideration is inadequate to cover total costs incurred and expected to be incurred subsequently, no gain should be recognized and the net unrecovered costs should be charged to the full cost center and amortized.

(G) Properties classified at acquisition in a full cost pool shall not subsequently be transferred into a lease brokerage inventory account. Transfers from the lease brokerage account to a full cost pool should be highly unusual and should occur only when the company has definite and immediate plans for development.

(H) Where a registrant organizes and manages a limited partnership involved only in the purchase of proved producing properties and subsequent distribution of income from such properties, management fee income may be recognized to the extent that the registrant receives or acquires (through investment of a management fee) an interest in the fund or in the related proved producing properties themselves. *However,* if before production of reserves, the properties involved require future development expenditures in excess of 10 percent of the recorded cost to date of such properties, income should be recognized only to the extent that cash consideration received exceeds total costs incurred and estimated to be incurred.

* * * * *

Authority. These amendments are being proposed pursuant to the authority in Sections 6, 7, 8, 10 and 19(a) (15 U.S.C. 77f, 77g, 77h, 77j, 77s) of the Securities Act of 1933; Sections 12, 13, 14, 15(d) and 23(a) (15 U.S.C. 78*l*, 78m, 78n, 78o(d), 78w) of the Securities Exchange Act of 1934; Sections 5(b), 14 and 20(a) (15 U.S.C. 79e, 79n, 79t) of the Public Utility Holding Company Act of 1935 and Section 503 (42 U.S.C. 6383) of the Energy Policy and Conservation Act of 1975.

Pursuant to Section 23(a)(2) of the Securities Exchange Act, the Commission has considered the impact of these proposals on competition and it is not aware at this time of any burden that such rule amendments, if adopted, would impose on competition. However, the Commission specifically invites comments as to the competitive impact of these proposals, if adopted.

In addition, the Commission is mindful of the cost to registrants and others of its proposals and recognizes its

responsibilities to weigh with care the costs and benefits which result from its rules. Accordingly, the Commission specifically invites comments on the costs to registrants and others of the adoption of the proposals published herein.

By the Commission.

George A. Fitzsimmons,

Secretary.

December 21, 1982.

Initial Regulatory Flexibility Analysis

This initial regulatory flexibility analysis, which relates to proposed amendments of the Regulation S–X rules for application of the full cost method of accounting by oil and gas producers, has been prepared in accordance with 5 U.S.C. 603.

1. *Reasons for Proposed Action*—As discussed in the section of the release entitled, "Recent Developments," the Commission staff has recently become aware that there are widely varying interpretations of the provisions of Regulation S–X which allow oil and gas producing companies using the full cost method to exclude certain capitalized costs from immediate amortization. The resulting diversity in practice has created a serious lack of comparability between financial statements of companies who are in essentially similar circumstances and are using the same basic method of accounting. The financial statement impact of the reduced current amortization expense resulting from the exclusions is intensified because under generally accepted accounting principles (GAAP) excluded properties are usually eligible for interest capitalization.

The Commission has identified two alternative approaches which it believes warrant consideration as amended rules for the determination of costs eligible for exclusion from the full cost amortization base. The first alternative would permit exclusion of all unevaluated costs in a cost center from the amortization base while the second alternative would require inclusion in the amortization base of a normal level or normal inventory of unevaluated costs. From a financial reporting standpoint, the major difference between these two approaches is that the blanket exclusion of all unevaluated costs will generally result in the short run in higher capitalized costs on the balance sheet as well as higher net income than the normal inventory approach. This result is achieved because the blanket exclusion excludes *more* cost than a normal inventory method, thus producing lower amortization expense and higher interest capitalized. Correspondingly, both the lower amortization and the capitalized interest increase the balance of total capitalized costs. It should be noted, of course, that these net income and balance sheet effects will reverse once the properties are evaluated and begin to be amortized. After evaluation, amortization expense will be higher and net income lower than it would have been if more costs had been amortized earlier and less interest capitalized. In addition to the blanket exclusion and normal inventory approaches, the proposing release encourages commentators to suggest other criteria for exclusions.

In addition, as discussed in the release under the heading "Related Issue—Mineral Property Conveyances," the staff has become aware of confusion as to the circumstances under which the Commission's rules permit gain or loss recognition on transfers of oil and gas producing properties. This misunderstanding also creates a potential for inconsistency in accounting practice and noncomparability of reported results.

Questions have arisen first as to whether the general prohibition against gain recognition in Rule 4–10(i)(6) applies to properties excluded from current amortization. The proposed amendments would clarify that the gain recognition rules apply to all properties held for production purposes (i.e., all properties not segregated in a separate lease brokerage account) regardless of whether they are being amortized currently. Thus, gain may be recognized only where a sale causes a "significant alteration" in the relationship between costs and reserves in a cost center.

With respect to the drilling arrangement rules, there is also uncertainty as to which leases are eligible for gain or loss recognition under these provisions. The Commission believes that the confusion regarding the drilling arrangement rules arises because the existing rules do not explicitly address their original purpose, which is to permit companies which are in fact involved in two separate and distinct aspects of the oil and gas business—(1) exploration and production and (2) lease brokerage—to recognize gains from their brokerage activities. Accordingly, the proposed rules would explicitly state that the drilling arrangement rules apply only to companies which can demonstrate that they operate in two distinct aspects of the oil and gas business. For such companies, the rules would apply only to properties segregated in an inventory account of leases held for brokerage purposes. The rules would also specify that a lease should not be classified in this "inventory" if the registrant more than a 15 percent interest in the property.

A corollary to the "separate lines of business" basis for gain recognition is that properties should never be transferred from a full cost pool to the inventory account and only in rare cases should they be transferred to a full cost pool from inventory. The proposed rules would also clarify the application of the cost recovery method under the existing rules to indicate that gain may be recognized only on a property-by-property basis where interests in a single property are sold to different parties or on a partnership-by-partnership basis where more than one property is sold to a partnership, joint venture or similar entity.

2. *Objectives*—As stated in the "Summary" to the release, the objective of the proposed amendments is to narrow the diversity of current practice resulting from varying interpretations of the existing rules. To that end, the proposed amendments would clarify the criteria for (1) exclusion of capitalized costs from immediate amortization and (2) recognition of gain or loss on sale of oil and gas producing properties.

3. *Legal Basis*—The Commission is proposing the amendments to the rules for the application of the full cost method of accounting pursuant to the authority in Sections 6, 7, 8, 10 and 19(a) (15 U.S.C. 77f, 77g, 77h, 77j, 77s) of the Securities Act of 1933; Sections 12, 13, 14, 15(d) and 23(a) (14 U.S.C. 78*l*, 78m, 78n, 78o(d), 78w) of the Securities Exchange Act of 1934; Sections 5(b), 14 and 20(a) (15 U.S.C. 79e, 79n, 79t) of the Public Utility Holding Company Act of 1935; and Section 503 (42 U.S.C. 6383) of the Energy Policy and Conservation Act of 1975.

4. *Small Entities Subject to Rule*—For purposes of this analysis, the Commission is using the definition of "small business" as adopted in Securities Act Release No. 6380.[1] That release provides that when used in reference to the Securities Act, small business means any issuer whose total assets on the last day of its most recent fiscal year were $3 million or less and is engaged or proposes to engage in "small business financing."[2] Accordingly, the amendments would affect all entities engaged in oil and gas production which fall within the Commission's definition of a "small entity." There were approximately 200 such entities that filed reports on Form 10-K for their fiscal years ending in 1981.

5. *Reporting, Recordkeeping and Other Compliance Requirements*—The proposed amendments would introduce no new data collection, recordkeeping or reporting requirements. The required information is already generally available as an integral part of existing accounting records and the amendments would affect only the way in which existing data are organized and considered in the computation of amortization, interest capitalized and gain or loss on transfers of mineral properties.

Depending on how the alternative finally adopted compares to each registrant's current practices, especially with respect to exclusions of unevaluated costs from amortization, the revised rules could have a significant impact on an individual registrant's reported net income. (There will be no effect on actual cash flows.) The Commission is unable to ascertain whether this book income impact could have an effect on competitive position or the ability to sell securities in the capital markets.

6. *Overlapping or Conflicting Federal Rules*—The Commission believes that no present Federal rules duplicate or conflict with the proposals.

7. *Significant Alternatives*—With respect to the criteria for exclusions from current amortization, the release is specifically drafted to encourage consideration of alternative approaches which would achieve the stated objective of reducing the current diversity in practice. The release therefore proposes two separate sets of rule amendments which embody considerably different approaches to the issue. The release

---

[1] Securities Act Release No. 6380 (January 28, 1982) (47 FR 5215).

[2] Small business financing is defined to mean conducting or proposing to conduct an offering of securities which does not exceed the dollar limitation prescribed by Section 3(b) of the Securities Act. The Section 3(b) limitation is presently $5 million.

also explicitly encourages commentators to discuss other possible criteria.

With respect to both the full cost exclusions and the mineral property conveyances issues, the consideration of differing reporting or compliance requirements or reporting timetables is not necessary since the proposed amendments would not change the recordkeeping requirements or other compliance burdens. Furthermore, since the proposed amendments involve fundamental accounting issues for full cost oil and gas producing companies and comparability of financial statements is an essential aspect of accounting and financial reporting, an exemption or an alternative approach designed particularly for small entities would not be appropiate.

In the Commission's view, the use of performance rather than design standards was not applicable since the proposals are not related to either performance or design standards.

8. *Solicitation of Comments*—The Commission encourages the submission of comments with respect to any aspect of this initial regulatory flexibility analysis and such comments will be considered in the preparation of the final regulatory analysis if the proposed amendments are adopted. The Commission is especially interested in any empirical data on the costs and/or benefits of the proposed amendments. Persons wishing to submit written comments should file four copies thereof with George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 450 5th Street N.W., Washington, D.C. 20549. All submissions should refer to File No. S7–956 and will be available for public inspection at the Commission's Public Reference Room, 450 5th Street N.W., Washington, D.C. 20549.

[FR Doc. 82–35492 Filed 12–29–82; 8:45 am]

BILLING CODE 8010–01–M

---

17 CFR Part 240

[Release No. 19372; File No. S7–930]

Reproposal of an Order Exposure Rule

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule.

SUMMARY: The Commission is publishing for public comment a proposed rule in revised form, requiring exposure of customer orders in certain securities. The proposed rule includes elements of the Commission's previously published order exposure rule proposals and reflects comments concerning these proposals received by the Commission. Proposal of this order exposure rule is intended to afford the public a further opportunity to comment on the specific elements of the rule proposal currently under consideration by the Commission.

DATE: Comments to be received by March 1, 1983.

ADDRESSES: All comments should be submitted in triplicate and addressed to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, D.C. 20549. All comments should refer to File No. S7–930 and will be available for public inspection at the Commission's Public Reference Room, 450 Fifth Street NW., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: Robert L. D. Colby, (202) 272–2413, Room 5205, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Commission is reproposing for comment a rule, designated Rule 11A–1 under the Securities Exchange Act of 1934 ("Act"),[1] requiring intermarket exposure of customer orders in certain securities. On May 13, 1982, the Commission proposed two alternative order exposure rules, Rules 11A–1[A] and 11A–[B] under the Act, to address concerns potentially arising from the failure of market makers or market centers to expose their customer order flow in securities subject to Rule 19c–3 under the Act [2] to other markets before executing their customer orders as principal. At the same time, the Commission solicited comment on a third alternative of deferring action on an order exposure rule until such time as actual adverse effects from concurrent over-the-counter ("OTC") and exchange trading in Rule 19c–3 securities are observed.[3] Subsequent to the proposal of these alternatives, the Commission received more fully articulated order exposure principles from the Securities Industry Association ("SIA") Committee responsible for the initial principles underlying proposed Rule 11A–1[B]. In addition, the Commission received over 450 comment letters on its proposed alternatives. These comments included a submission by the New York Stock Exchange, Inc. ("NYSE") of a revised order exposure rule proposal applicable to all markets in Rule 19c–3 securities. To provide an opportunity for additional public consideration and comment on order exposure requirements reflecting these developments, the Commission is publishing a revised order exposure rule proposal, Rule 11A–1, incorporating various elements of these proposals.

I. Introduction

A. Background

The Commission first published proposed order exposure rules, Rules 11A–1 [A] and [B] under the Act, on May 13, 1982. These rule proposals were based on industry proposals and principles developed to address concerns potentially arising from internalization [4] of orders by market makers pursuant to Rule 19c–3. The Commission explained that it was proposing these rules to support ongoing industry efforts to reach a consensus on equitable principles that should govern the trading of Rule 19c–3 securities; at the same time, it noted that proposal of these rules did not constitute a determination on its part that the experience with trading under Rule 19c–3 justified the adoption of an order exposure rule.

Rule 19c–3 was adopted as an essential part of the Commission's efforts to encourage the evolution of a national market system. In the 1975 Amendments, Congress charged the Commission with facilitating the establishment of a national market system for securities, consistent with certain special objectives, including the enhancement of fair competition among brokers and dealers, exchange markets, and markets other than exchange markets.[5] Pursuant to this responsibility, and a specific statutory directive to examine exchange off-board trading restrictions, which prevent exchange member firms from effecting transactions in listed securities other than on an exchange,[6] the Commission engaged in a series of proceedings regarding exchange off-board trading restrictions.[7] As a result of these proceedings it concluded that off-board trading restrictions impose significant burdens on competition,[8] and on June 11,

---

[1] 15 U.S.C. §§ 78a *et seq.*, as amended by the Securities Acts Amendments of 1975 ("1975 Amendments"), Pub. L. No. 94–29, 89 Stat. 97 (June 4, 1975), *reprinted in* [1975] U.S. Code Cong. & Ad. News 97.

[2] Rule 19c–3, 17 CFR 240.19c–3 precludes exchange off-board trading restrictions from applying to reported securities (*i.e.*, securities for which transaction reports are made available pursuant to an effective transaction reporting plan) that were listed on an exchange after April 26, 1979 (the date of the proposal of the Rule), or that were listed on April 26, 1979, but ceased to be traded on an exchange for any period of time thereafter ("Rule 19c–3 securities").

[3] Securities Exchange Act Release No. 18738 (May 13, 1982), published 47 FR 22376, May 24, 1982 ("May Release").

[4] The Commission has defined the term "internalization" as referring to "the withholding of retail orders from other market centers, for the purpose of executing them in-house, as principal, without exposing those orders to buying and selling interest in those other market centers." *See* Securities exchange Act Release No. 16888 (June 11, 1980) at 18 n.31, 45 FR 41125, 41128 n.31 ("Rule 19c–3 Adoption Release").

[5] Section 11A(a)(1)(c)(ii) of the Act.

[6] Section 11A(c)(4)(A) of the Act.

[7] For a more extensive discussion of prior Commission action concerning off-board trading restrictions, *see* Securities Exchange Act Release No. 15789 (April 26, 1979) at 5–8, 44 FR at 28688–89.

[8] Securities Exchange Act Release No. 11942 (December 19, 1975) at 5–7, 41 FR 4507, 4509 ("December Release"); Securities Exchange Act Release No. 13662 (June 23, 1977) at 35–36, 42 FR 33510, 11514 ("June Release").

1980, after six days of public hearings, the Commission adopted Rule 19c–3, eliminating exchange off-board principal restrictions with respect to securities listed on an exchange after April 26, 1979.[9]

In adopting Rule 19c–3, the Commission took note of the potential problems that could arise from internalization of order flow by off-board market makers. In particular, the Commission acknowledged that internalization by off-board market makers potentially might increase existing fragmentation of the markets for listed securities,[10] raise concerns regarding possible overreaching of customers,[11] and have adverse competitive effects on exchange market makers and small broker-dealers.[12]

After evaluating these concerns, however, the Commission concluded that the benefits of preserving existing OTC market making in competition with exchange markets, combined with the experiential benefits of observing actual concurrent trading of listed securities by exchange markets and OTC market makers, outweighed the potential risks that might result from removing exchange off-board principal restrictions. The Commission indicated that, in its view, the limited scope of Rule 19c–3 should prevent the rule from having a significant adverse competitive effect on exchanges and smaller broker-dealers. Moreover, the Commission recognized that concerns associated with internalization were also present to some degree in exchange markets, in that order flow received by an exchange is generally executed without exposure to potential buying and selling interest in other markets.[13] As a result, the Commission determined that measures addressing internalization concerns should be considered in a general proceeding examining order exposure concerns in all markets.

In order to evaluate the need for further regulatory action in this area, the Commission established a monitoring program to examine the extent of Rule 19c–3 trading, its impact on the overall markets for Rule 19c–3 securities and, in conjunction with the National Association of Securities Dealers, Inc. ("NASD"), the extent, if any, of overreaching of customers by OTC market makers in these securities.[14] The Commission published its first report on this program in August 1981.[15] In brief, this report concluded that, based on the limited amount of OTC trading pursuant to Rule 19c–3 that had developed up to that time, no significant adverse effect on the quality of the markets for Rule 19c–3 securities could be discerned, nor had any overreaching problems of significance resulted from OTC market making pursuant to Rule 19c–3. The *Monitoring Report* noted that, in the absence of an effective method of routing orders between exchange floors and OTC market makers, it was difficult to evaluate the limited amount of OTC trading in Rule 19c–3 securities to that time.

To further the statutory objective expressed in the 1975 Amendments of "linkage of all markets for qualified securities through communication and data processing facilities,"[16] the Commission urged the development of an interface between individual exchange trading floors and the OTC markets.[17] After the NASD and the Intermarket Trading System ("ITS")[18] participants were unable to reach agreement on various issues essential to implementation of an interface between the ITS and the NASD's CAES, the Commission, on April 21, 1981, issued an order ("Linkage Order") mandating the establishment of an automated interface between the ITS and the NASD's CAES.[19] In adopting the Linkage Order, the Commission concluded that an interface between ITS and CAES would not exacerbate internalization concerns as a structural matter. Nonetheless, the Commission expressed its strong support for industry endeavors to develop a consensus regarding an appropriate resolution of internalization concerns.[20]

Concurrent with the NASD–ITS participant discussions regarding the details of the interface, broader discussions regarding appropriate means of addressing internalization concerns were being pursued by representatives of various segments of the securities industry, under the aegis of an SIA Special Committee ("SIA Committee").[21] These discussions resulted in preliminary agreement upon a number of principles that should govern the operation of an order exposure rule for Rule 19c–3 securities, in the event that a rule was deemed necessary.[22] In general, the SIA principles would require all market makers in a Rule 19c–3 security, whether OTC or on an exchange floor, to hold out customer orders to all other linked market centers at a price that is better than the price displayed in the best ITS quotation, before trading with these orders as principal. After the formulation of these preliminary principles, the SIA Committee indicated that additional direction from the Commission was needed before it could develop these principles further.

---

[9] Rule 19c–3 Adoption Release, *supra* note 4. Previous to this, the Commission eliminated exchange restrictions on execution of customer orders off-board as agent. *See* December Release, *id.*

[10] Commentators have argued that fragmentation of order flow among disparate market centers potentially might result in a deterioration of the depth, liquidity, and continuity of the markets, and a decrease in pricing efficiency. *See* Rule 19c–3 Adoption Release, *supra* note 4, at 19–22, 45 FR at 41128.

[11] "Overreaching" refers to broker-dealer firms taking advantage of their customers by executing retail transactions as principal at prices less favorable to those customers than they could have obtained had those firms acted as agent. *See* Rule 19c–3 Adoption Release, *supra* note 4, at 19 n.33, 45 FR at 41128 n.33.

[12] *Id.*

[13] *See* Rule 19c–3 Adoption Release, *supra* note 4, at 28, 45 FR at 41129; June Release, *supra* note 6, at 57–58, 42 FR at 33517.

[14] The NYSE made a number of valuable suggestions for improving the Commission's surveillance procedures in a letter from William M. Batten, Chairman and Chief Executive Officer, NYSE, to the Commissioners, SEC, dated September 23, 1982 ("NYSE Monitoring Comment"). Where practicable, the suggestions will be reflected in the monitoring program carried on by the Commission.

[15] Securities and Exchange Commission, *A Monitoring Report on Rule 19c–3 under the Securities Exchange Act of 1934* ("*Monitoring Report*").

[16] Section 11A(a)(1)(D) of the Act.

[17] *See* Securities Exchange Act Release No. 14416 (January 26, 1978) at 28, 43 FR 4354, 4358; Securities Exchange Act Release No. 15926 (June 15, 1979) at 62, 44 FR 36912, 36922; Securities Exchange Act Release No. 16214 (September 21, 1979) at 12, 44 FR 56069, 56074.

[18] The ITS is an intermarket communciations system operated jointly by certain national securities exchanges, and authorized by the Commission, on a provisional basis, as a national market system facility pursuant to Section 11A(a)(3)(B) of the Act. The current participants in ITS are the NYSE, the American, Boston, Cincinnati, Midwest, Pacific, and Philadelphia Stock Exchanges, and the NASD.

[19] *See* Securities Exchange Act Release No. 17744 (April 21, 1981), 46 FR 23858 ("Linkage Order Release"). The Linkage Order originally set a target date of March 1, 1982, for implementation of the pilot phase of the interface. Technical delays in the development of the interface, and the NASD and ITS participants' continued inability to reach agreement on necessary amendments to the plan governing the operation of ITS ("ITS Plan"), led the Commission to postpone the implementation date of the interface, *See* Securities Exchange Act Release No. 18537 (March 4, 1982), 47 FR 10658, and to adopt amendments to the ITS Plan on its own initiative to include the NASD in ITS. *See* Securities Exchange Act Release No. 18713 (May 6, 1981), 47 FR 20413. Consequently, the interface between ITS and CAES became operational on a pilot basis on May 17, 1982.

[20] *Id. See* Securities Exchange Act Release No. 17516 (February 5, 1981), 46 FR 12379, 12380 (release proposing the Linkage Order).

[21] The SIA Committee is chaired by Ralph DeNunzio, President and Chief Executive Officer of Kidder, Peabody & Co., Inc., and former Chairman of the SIA, and is composed of representatives of different elements of the industry, including OTC market makers, exchange specialists, regional and national broker-dealer firms, block positioners, and regional exchanges.

[22] The SIA Committee only addressed the form a rule should take; it expressly declined to address the question whether a rule was necessary.

The NYSE also contributed to the development of a measure addressing internalization concerns by preparing a rule proposal incorporating order exposure requirements similar to those suggested by the SIA Committee. In contrast to the SIA's principles, however, the NYSE's initial order exposure rule proposal applied only to OTC market makers in Rule 19c–3 securities. The NYSE, however, did express its support for continued discussions concerning a rule applicable to all markets.

Although the Commission reached no conclusion concerning the ultimate need for an order exposure measure, the Commission determined that the order exposure principles and rule proposals developed by the SIA Committee and the NYSE merited broad industry consideration. Accordingly, the Commission sought to encourage wider participation in the discussions concerning these order exposure principles by proposing alternative order exposure Rules 11A–1[A] and [B] in a Commission rulemaking proceeding. The Commission specifically sought to focus public attention upon the issues of the feasibility of order exposure requirements and the need for such requirements at the present time.[23]

B. Proposed Rules 11A–1 [A] and 11A–1 [B]

Both proposed Rules 11A–1 [A] and 11A–1 [B] would have required a market maker to stop (that is, guarantee the execution of) a customer order at the proposed execution price, and then publicly bid a customer buy order, or offer a sell order, through the consolidated quotation system at a price an eight better than the proposed execution price for one minute before executing the customer order as principal. Alternatively, both rules would have allowed an OTC market maker participating in CAES to enter its customer order for execution in CAES, but only if the order entry and execution functions of the market maker were structured so that no coordination in the execution of customer orders in CAES could take place.

Proposed Rule 11A–1 [A] incorporated the NYSE proposal, requiring order exposure only by OTC market makers in Rule 19c–3 securities; proposed Rule 11A–1 [B] followed the form of the NYSE proposal but required exposure of customer orders by all market makers in these securities, including exchange market makers. In addition, proposed Rule 11A–1 [B] differed from the NYSE proposal in several other respects. It omitted the requirement in Rule 11A–1 [A] that a market maker display a proprietary bid or offer at the proposed execution price in conjunction with the exposure of the customer order; it also provided that a market maker need not alter its quotation in response to a customer order when the market maker already was quoting at the exposure price in equal or greater size at the time the customer order was to be exposed. In contrast, Rule 11A–1 [A] would have required that the customer order itself be exposed by increasing the size of the quotation by the size of the customer order.[24] Furthermore, Rule 11A–1 [B] permitted execution of agency cross transactions outside of an exchange or CAES if executed at the ITS best bid or offer in eight point markets, or between the best bid or offer where the spread is ¼ point or wider. In contrast, proposed Rule 11A–1 [A] would require agency cross transactions to be executed either on an exchange or in CAES.

In the May Release, the Commission solicited comment on these specific differences, as well as the basic issue of whether order exposure requirements should apply to all market makers in Rule 19c–3 securities. The Commission also solicited comment on the general need for an order exposure Rule 19c–3 securities, and the possible effects of specific elements of the proposed rules. In particular, the Commission requested commentators to address the impact of an order exposure rule on the efficiency of OTC and exchange market making, the willingness of OTC market makers to continue participating in Rule 19c–3 markets subject to a rule, and the potential beneficial effects that might result from a rule. In addition, the Commission solicited comment on the proposed CAES order export alternative and an exemption from order exposure requirements for small orders and block trades.

II. Status of the ITS/CAES Interface

Since the implementation of the pilot phase of the ITS/CAES interface on May 17, 1982,[25] 30 of the most actively traded Rule 19c–3 stocks have been traded in the interface ("linked securities"); of these, 23 are listed on the NYSE and 7 are listed on the Amex.[26]

The ITS/CAES interface has operated without major technical problems since its implementation; even during the periods of unprecedented trading volume since August, 1982,[27] the interface was able to absorb the increased flow of commitments in linked securities that accompanied the general volume rise. OTC trading in linked securities has increased since the implementation of the interface, with substantial OTC volume developing in a few linked securities. During the two month prior to implementation of the interface (March and April, 1982), OTC share volume as a percent of composite share volume in linked securities totalled 8 and 7 percent, respectively. This percentage rose to an average of 13.5 percent in August, 12.7 percent in September, and 13.4 percent in October, 1982.[28]

A significant proportion of OTC trading volume in the linked stocks is attracted from other markets through the ITS/CAES interface. Indeed, during the period from May 17 to October 31, 1982, a total of 5.4 million shares were executed in the OTC market via the interface, while OTC market makers executed only 2.4 million shares in other ITS market centers through the interface during this period.

On the whole, these figures suggest that the interface has encouraged OTC market maker participation in linked securities, and has enhanced priced competition, as evidenced by the steady

---

[23] May Release, *supra* note 3, at 40, 47 FR at 22384.

[24] Rule 11A–1 [A], however, would not have required exposure where the quotation represented an agency order rather than a market maker's proprietary interest.

[25] The Linkage Order originally envisaged a six month pilot period for the ITS/CAES interface, in which experience would be gained in trading the 30 most active Rule 19c–3 securities before the interface was extended to the entire universe of OTC-traded Rule 19c–3 securities. In view of the import of the proposed exposure rules for trading in these linked securities, and the pendency of this order exposure rule proceeding, the Commission postponed the end of the pilot phase and the expansion of the interface from November 15, 1982 until January 15, 1983. *See* Securities Exchange Act Release No. 19229 (November 9, 1982), 47 FR 57845.

[26] Although neither the Linkage Order nor the ITS Plan set forth procedures for replacing previously linked securities, the ITS participants have developed a satisfactory practice of substituting another actively traded Rule 19c–3 security when a linked security is replaced. The Commission believes this practice should continue during the interface's extended pilot phase.

[27] Consolidated tape activity in NYSE-listed securities totalled 1,951 million shares in August 1982, 1,824 million in September 1982, and 2,415 milion in October 1982, compared to 1,080, 1,019, and 1,153 million shares in August, September, and October 1981.

[28] Approximately 15 percent of the October OTC volume in NYSE linked securities was the result of large block trades in the OTC market.

The NASD has nonetheless proceeded to adopt permanent rules governing use of the ITS/CAES interface, as contemplated in the ITS Plan, *see* Securities Exchange Act Release No. 19249 (November 17, 1982), 47 FR 53552, and has modified CAES to permit entry of short sale commitments, as required before the end of the pilot phase of the ITS/CAES interface. In addition, the Commission has today issued an order extending the pilot phase of the linkage until June 1, 1983, three months after the close of the comment period on this proceeding. *See* Securities Exchange Act Release No. 19371 (December 23, 1982).

flow of orders drawn through ITS to the OTC market.[29] Nonetheless, the interface has not resulted in a major restructuring of the markets for most of these securities; in general, the primary exchange markets have retained a predominant share of the order flow in linked securities. Although the NYSE share of composite volume in its linked securities has declined somewhat from the 80.3 percent share prevailing in the week prior to linkage, to approximately 80 percent in November,[30] this decline is minimal, and the NYSE still remains by far the primary market in virtually all NYSE linked securities.

III. Discussion of Comments and Proposals

A. Need for a Rule

1. *Comments.*—The Commission's publication of proposed order exposure rules resulted in the submission of 469 letters of comment.[31] The large majority of these comments addressed only the threshold issues raised in the May Release concerning whether an order exposure rule was necessary or appropriate at the present time, and the possible effects of such a rule on market making in Rule 19c–3 securities. Relatively few commentators reached the issue of to whom an order exposure rule should apply or discussed the specific elements of the rules. Several commentators, however, did provide extensive comments concerning both the need for and the characteristics of the proposed rules,[32] and others requested an opportunity to comment further at some later point on the details of the rules under consideration by the Commission.[33]

The commentators were divided on the need for an order exposure rule at present. Although the substantial majority of commentators favored imposition of some form of rule requiring order exposure, a number of other commentators opposed such a rule as unnecessary and potentially anticompetitive in impact. Those commentators supporting an order exposure rule included several exchanges,[34] 64 broker-dealers, 32 NYSE specialists and floor traders, and 195 NYSE listed companies. In addition, 13 letters representing the views of 84 members of Congress were submitted in favor of order exposure proposals.

In general, these commentators argued that internalization of order flow, especially by OTC market makers, was contrary to the goals expressed in the language and legislative history of the 1975 Amendments, and, unless affirmative order exposure was required, could potentially result in the deterioration of Rule 19c–3 markets as a whole. They argued that, by requiring the display of customer orders before execution, order exposure requirements would tend to promote the maximum interaction of orders. The NYSE argued in particular that enhanced intermarket order interaction was necessary to ensure that orders executed off-board could be reached by market interest on other exchanges at prices between the best displayed quotations. It noted that approximately 38 percent of trades in securities on the NYSE interact with trading interest at prices between the publicly disseminated quotation for the security, and argued that order exposure would provide analogous opportunities for linked securities.[35]

Commentators also suggested that, in addition to providing opportunities for best execution under existing conditions, order exposure could encourage heightened intermarket competition for these securities, resulting in improved executions for customers overall. According to this view, the exposure of customer orders at a better price to other markets prior to execution could lead market makers to trade with those orders through ITS at that superior price, even though the executing market maker might not be willing to display a quotation at that price. As a result of this exposure, the customer order would receive a better execution than was previously available either on the original market receiving the order or through ITS, and the executing market maker would receive an opportunity to interact with additional order flow, to the benefit of each.

Commentators also emphasized that order exposure would reduce concerns about unfair competition for order flow initially directed to one market or market maker, because it would provide other markets some access to this order flow before it was executed by the recipient market as principal. While certain commentators maintained that an off-board market maker would still enjoy a competitive advantage in having initial access to and final control over its own separate pool of customer orders, they indicated that requiring exposure of these orders to other markets at a superior price would reduce this advantage by providing competitive opportunities to others, and hence eliminate the market maker's complete control over its customer orders. In addition, commentators stated that requiring order exposure would force off-board market makers to trade with customer orders in the open, displaying orders prior to execution rather than merely reporting completed trades, thus providing broader awareness of market making activity in the security.[36]

Commentators further suggested that this enhanced knowledge of market maker activity would tend to correct pricing inefficiencies introduced by market fragmentation. According to this view, exposure of orders to other

---

[29] This net flow of orders to CAES also reflects the advantages that exchange ITS participants have in being able to execute automatically against the quotations displayed by OTC market makers in CAES. CAES market makers transmitting ITS commitments to an exchange market, on the other hand, must follow the usual ITS process used by all ITS exchanges. As a result, they must await a response indicating whether or not an execution actually took place at the anticipated price, a process involving considerably greater delay and uncertainty. The Commission notes that an automatic execution capability corresponding to that included in the CAES portion of the interface could be added to the ITS, providing significantly enhanced execution speed and certainty in the System and encouraging use of ITS, with a concomitant reduction in trade-throughs. Accordingly, the Commission encourages the ITS participants to consider enhancing the ITS in this manner.

[30] The regional exchange share of the volume in these securities has declined more substantially, falling from 11.2% in the week prior to linkage to approximately 8.3 percent in November.

[31] The comment letters are contained in File S7–930 and are available for public review.

[32] Because relatively few commentators addressed the specific elements of the rule proposals, the suggestions of these commentators will be discussed as a part of the explanation of the elements of the new rule proposal which appears in an appendix to this release, as discussed below.

[33] *See* Letter from Robert J. Birnbaum, President, American Stock Exchange, Inc. ("Amex"), to George A. Fitzsimmons, Secretary, SEC, dated July 23, 1982 ("Amex Comment"); Letter from James Keegan, Executive Vice President, Morgan, Keegan & Co.; Robert Peters, Partner B.C. Christopher & Co.; Les Buchan, President, Olde Bernarde; Ted Perkowski, Vice-President, Howe, Barnes & Johnson, Inc.; Hugh Quigley, Trading Manager, OTC Trading Department, Merrill Lynch, Pierce, Fenner & Smith, Inc.; James Holway, Institutional Sales, Jerry Williams, Inc.; Peter Madoff, Manager Trading, Bernard L. Madoff, Inc.; George R. Fairweather, Managing Partner, Shepards and Chase; Samuel Lieberman, President, Rothschild Lieberman Ltd., to George A. Fitzsimmons, Secretary, SEC, dated July 22, 1982, ("CAES Participants Comment").

[34] Letter from William Batten, Chairman and Chief Executive Officer, NYSE, to the Commissioners, SEC, dated July 23, 1982 ("NYSE Comment"); Letter from William Batten, NYSE, to the Commissioners, dated August 18, 1982 ("NYSE Supplemental Comment"); Letter from William Batten, NYSE, to the Commissioners, dated October 15, 1982 ("NYSE Summary Comment"); Amex Comment, *supra* note —, *See* also, Letter from John E. Weithers, President, Midwest Stock Exchange, Inc. ("MSE") to George A. Fitzsimmons, Secretary, SEC, dated August 11, 1982 ("MSE Comment"); Letter from K. Richard B. Niehoff, President, Cincinnati Stock Exchange, Inc. ("CSE"), to George A. Fitzsimmons, Secretary, SEC, dated July 22, 1982 ("CSE Comment").

[35] NYSE Comment, *id.* at 12, 15.

[36] *See* MSE Comment, *supra* note 34, at 16.

markets prior to execution would provide market participants with a fuller understanding of actual supply and demand conditions for a security, permitting the securities markets to set a price accurately reflecting all buying and selling interest in the security at a given moment, wherever located. The role of order exposure in preserving the integrity of the market's pricing mechanism was of particular note to commentators representing institutional investors, because of the importance of the pricing function to institutions in accumulating and disposing of stocks for themselves and on behalf of clients. While they recognized the role of intermarket linkages such as the ITS/CAES interface in reducing supply and demand imbalances in various markets and enhancing the efficiency of the markets, they argued that the importance of true and current quotations reflecting total supply and demand for a security required more extensive exposure of orders.[37]

Other commentators, however, expressed strong opposition to imposing order exposure requirements on market makers at the present time. For the most part, these commentators [38] did not address the potential benefits of order exposure put forth by proponents of a rule, although a few commentators did express their opinion that a rule would in fact result in few if any practical benefits; [39] instead, these commentators focused on the present basis for a rule and its possible negative effects.

These commentators rejected the suggestion that an order exposure rule was in any way necessitated by current conditions. Rather, they argued that Commission and industry monitoring had not revealed any harm to the securities markets resulting from off-board trading in Rule 19c–3 securities to date. As a basis for this conclusion, they cited the Commission's *Monitoring Report*, [40] the results of ongoing NASD surveillance, [41] and in certain instances, their own internal data, which in their view showed that off-board trading had not had any negative effect on the markets for Rule 19c–3 securities, and that customers had received as good or better an execution for their orders in Rule 19c–3 securities as for other listed securities. These commentators concluded that adoption of a prophylactic measure to forestall what they viewed as undemonstrated concerns would constitute overregulation on the Commission's part, particularly because, as stated by a group of CAES market maker participants, upstairs trading of listed securities already is conducted in "a regulatory fishbowl constantly subject to scrutiny from both the SEC and the NASD." [42]

In addition, those commentators opposed to an order exposure rule argued that the order exposure procedures proposed in the rules were so complex and burdensome that they would effectively curtail most off-board trading.[43] They argued that the numerous mechanical steps involved in exposing an order would render the efficient execution of off-board principal transactions virtually impossible, and concluded that in practice the rules would be unworkable and anti-competitive. Furthermore, in view of the rules' potential disincentive effect on off-board market making, these commentators regarded the proposed order exposure requirements as antithetical to Rule 19c–3; in particular, the NASD characterized the proposed order exposure rules as a *de facto* repeal of Rule 19c–3.[44] The U.S. Department of Justice similarly concluded that, in view of the significant additional transaction costs and added risks imposed on off-board market makers by the rule, as well as the minimum benefits likely to result, the proposed rules could not be justified under a cost-benefit analysis.[45]

2. *Discussion.*—The Commission's proposal of Rules 11A–1[A] and [B] in May appears to have achieved in great measure its objectives of broadening public consideration of the need for an order exposure rule at the present time, and focusing the attention of many parts of the securities industry and the public on this issue. In this connection, the Commission notes that, since the rule proposals last May, the SIA Committee has developed and submitted to the Commission augmented order exposure principles having "if not majority, certainly very broad support" among the SIA Committee members.[46] These principles reaffirm the SIA Committee's earlier position that any order exposure Rule should apply to all markets in Rule 19c–3 securities. In addition, the augmented principles call for the application of order exposure requirements to all orders in these securities, including block transactions, and, with certain adaptations, to agency cross transactions. At the same time, the augmented principles would reduce the exposure period from 60 seconds to 30 seconds or less to reduce the impact of these requirements on efficient market making.[47]

In addition, as part of its comments on proposed Rules 11A–1[A] and [B], the NYSE submitted a modified version of its earlier rule proposal.[48] The principal alteration in the NYSE's modified rule proposal was its application of order exposure requirements to all markets in Rule 19c–3 securities; however, this proposal suggested several additional exceptions from order exposure requirements intended to reduce any trading inefficiencies resulting from an order exposure requirement. The Commission believes that these exceptions, which will be discussed in detail in a Technical Appendix,[49]

---

[37] *See, e.g.*, Letter from Richard L. Winters, Assistant Vice President, Equitable Life Assurance Society of the United States ("Equitable"), to John S.R. Shad, Chairman, SEC, dated July 14, 1982 ("Equitable Comment"); Letter from Thomas P. Kozlak, Director of Equity Trading, The St. Paul Financial Services, to George A. Fitzsimmons, Secretary, SEC, dated July 15, 1982.

[38] *See, e.g.*, Letter from Gordon Macklin, President, NASD to George A. Fitzsimmons, Secretary, SEC, dated July 23, 1982 ("NASD Comment"); Comments of the United States Department of Justice in the Matter of Order Exposure Rules, dated July 23, 1980 ("Department of Justice Comment"); Letter from Jeremiah A. Mullins, Chairman, and Morton N. Weiss, President, National Security Traders Association, to George A. Fitzsimmons, Secretary, SEC, dated July 29, 1982; and CAES Participants Comment, *supra* note 33.

[39] *See e.g.*, Department of Justice Comment, *id.*

[40] *See, e.g.*, Letter from Edmund C. Puckhaber, Executive Vice President, Dean Witter Reynolds, Inc., to George A. Fitzsimmons, Secretary, SEC, dated July 23, 1982 ("Dean Witter Comment"). On the other hand, the NYSE criticized the *Monitoring Report* for reliance on "questionable methodologies and data," and for failing to deal with a number of "inherent" adverse impacts of Rule 19c–3. *See* NYSE Monitoring Comment, *supra* note 14, at 2–3.

[41] *See, e.g.*, NASD Comment, *supra* note 38.

[42] CAES Participants Comment, *supra* note 33, at 2.

[43] *See, e.g.*, NASD Comment, *supra* note 38, at 11; CAES Participants Comment, *supra* note 33, at 4. These concerns may be substantially reduced, however, by the addition in proposed Rule 11A–1 of several exceptions from the exposure requirements, that should ease the burden of order exposure during active trading in a security.

[44] *See* NASD Comment, *supra* note 38, at 4.

[45] *See* Department of Justice Comment, *supra* note 38, at 25. The NYSE specifically took issue with this conclusion in its Summary Comment, *supra* note 34.

[46] Letter from Ralph D. DeNunzio, President and Chief Executive Officer, Kidder, Peabody & Co., Inc., to John S. R. Shad, Chairman, dated November 12, 1982 ("SIA Committee Letter"). The Commission applauds the dedication of the individual SIA Committee participants, and particularly its Chairman, in jointly striving toward development of order exposure principles of the broadest application, and it further commends the SIA Committee for the commitment to cooperation displayed in this endeavor.

[47] As before, the SIA Committee in its augmented principles expressly declined to address the question whether a rule was necessary.

[48] *See* NYSE Supplemental Comment, *supra* note 34, Attachment A.

[49] The Technical Appendix will be published with this release in the SEC Docket. In addition, copies can be obtained by contacting Robert Colby (202) 272–2413, Division of Market Regulation, Securities and Exchange Commission, 450 5th Street NW., Washington, D.C. 20549.

substantially eliminate any concern that continuous trading might be interrupted during the period an order was being exposed.[50] In addition, the NYSE proposed a possible exception for automatic execution systems, which was intended to reduce the costs of the Rule for those systems. The NYSE also reiterated several of its earlier suggestions, including the requirement that market makers expose their proprietary interest at the stop price concurrent with exposure of a customer order.

The discussions attending proposal of Rules 11A–1[A] and [B] and the progress of the SIA Committee deliberations appear to have stimulated a reexamination of the role of order exposure in a national market system among certain market participants. In particular, in October 1982, Merrill Lynch & Co. ("Merrill Lynch"), a participant in the SIA Committee and a major market maker in linked securities, confirmed its commitment to implementing an order exposure mechanism for all markets as a means of providing interaction among all orders, including those transmitted through automated routing and derivative execution systems.[51]

The Commission has not reached a conclusion concerning the necessity or ultimate adviseability of mandated order exposure at the present time. The Commission is preliminarily inclined to conclude, however, that, if such a rule were to be applied to markets for Rule 19c–3 securities, it should be applied in an attempt to obtain the potential benefits of order exposure by all markets—increased opportunities for best execution, enhanced interaction of orders, and additional opportunities for competition—rather than in an attempt to address speculative overreaching and other concerns associated only with OTC market makers interacting with so-called internalized customer orders. The Commission intends to continue to monitor for these possible effects. To date, however, it has not observed any objectively identifiable negative impacts of internalization on Rule 19c–3 trading in the past that would justify imposition of an order exposure rule.[52]

The Commission notes the arguments made by the NYSE in its comments that the absence of exposure in OTC internalized trades creates inherent "best execution" concerns. On the other hand, the Commission recognizes the arguments made by a number of commentators that increased OTC competition in Rule 19c–3 securities inherently increases depth, liquidity, and pricing efficiency. The Commission, in adopting Rule 19c–3, made the determination that, in that limited context, these potential competitive benefits outweighed any potential concerns arising from the absence of exposure by OTC market makers. The Commission has not to date been provided any data or analysis which would cause it to reverse that determination. Therefore, any decision to adopt an order exposure rule would have to be based on a determination that there would be incremental benefits resulting from such a rule that would outweigh the costs of the additional regulation.

In this connection, the Commission believes that adoption of an order exposure rule for linked securities could possibly provide benefits for the markets for those securities and give the Commission experience with which to consider and evaluate the role of order exposure generally as a means to improve intermarket competition and best execution and thereby foster development of a national market system. The Commission is mindful, however, that some commentators have raised concerns that an order exposure rule could negate benefits already achieved through enhanced opportunities for intermarket competition and best execution afforded by adoption of Rule 19c–3. The Commission specifically requests comment on this issue. The Commission also believes that commentators and other interested persons should have the opportunity to consider and respond to the new developments contained in the recent industry proposals. Thus, the Commission believes that it would be useful at this point for it to republish a rule incorporating those elements of the earlier comments and the new proposals that appear to improve the operation of the order exposure proposals. This proposal would provide commentators with a fresh opportunity to provide views and insights concerning the specifics of an order exposure rule, as many requested, and would provide them with a further opportunity to comment on the overall costs and benefits, of such a rule. Accordingly, the Commission is reproposing for comment a single order exposure rule, Rule 11A–1, containing modifications and new provisions intended to enhance the principal objectives of order exposure or reduce the possible adverse effects of such a requirement.

This proposed Rule is described in brief below. The Commission has also prepared a more extensive description of the specifics of the proposed Rule, including a discussion of the comments on the various aspects of the Rule and the differences between proposed rule 11A–1 and the SIA and NYSE proposals. This description is contained in the Technical Appendix to this Release, and is incorporated by reference in the discussions herein.

B. Proposed Rule 11A–1

Proposed Rule 11A–1 would cover all broker-dealers trading as principal with their customers in Rule 19c–3 linked securities, including off-board market makers, exchange specialists, and broker-dealers on the floor of an exchange. The Rule would prohibit a broker-dealer from executing as principal a customer order in a Rule 19c–3 linked security unless (1) the broker-dealer is registered as an ITS/CAES market maker in the security or the transaction occurs on or through the facilities of an exchange; (2) the broker-dealer's quotations can be reached through, and it has access to, the ITS/CAES interface; and (3) the customer order is executed either pursuant to the Rule's order exposure procedures or its order export alternative.

The Rule's order exposure requirement would require a brokerdealer to stop (that is, guarantee) a customer order[53] at the proposed execution price, and then publish a bid or offer on behalf of the order for 30 seconds at a price 1/8 better than the proposed execution price, before executing the customer order as

---

[50] In periods of active trading, individual exposure of a succession of orders for the full exposure period potentially could result in considerable trading delays as each separate order is exposed. To avoid these delays, exceptions have been proposed in the Rule that would, under certain circumstances, allow immediate execution of a customer order when a quotation is already being published by the broker-dealer at the exposure price, and that would allow for elections of stops granted to a customer's order, and immediate execution of that order when an unrelated transaction in that security takes place in that market, or the market's quotation is changed to the order's proposed execution price in response to unrelated quotation changes. *See* Technical Appendix, Section 3.

[51] Letter from Robert P. Rittereiser, Executive Vice President, Merrill Lynch, to Douglas Scarff, Director, Division of Market Regulation, SEC, dated October 18, 1982; Letter from Robert P. Rittereiser, Executive Vice President, Merrill Lynch, to George A. Fitzsimmons, Secretary, SEC, dated August 2, 1982.

[52] Indeed, as discussed above, the interface appears to have resulted in some increased market maker competition, although it has not significantly changed the structure of Rule 19c–3 markets.

[53] Customer orders under the control of an exchange specialist, and thus subject to order exposure requirements under this proposed Rule, would include limit orders left with the specialist and orders received through an exchange order delivery system such as the NYSE's Designated Order Turnaround ("DOT") and the Amex's Post Execution Report ("PER") systems.

principal. The Rule's order export alternative would require the broker-dealer to "export" the order to CAES or the CSE's National Securities Trading System ("NSTS") in such a manner that the order is sent on a neutral basis, and the broker-dealer either (1) establishes procedures reasonably designed to separate the firm's order entry and execution functions, or (2) has not improved his quotation in the 30 seconds prior to trading with a customer order.

The Rule would specifically encompass all automated and derivative execution systems, including both regional exchange automated execution systems and derivative execution systems such as the NYSE's Registered Representative Rapid Response System ("R4").[54]

As noted previously, the Rule would also provide a number of exceptions from the order exposure requirements to reduce the burdens of the Rule during periods of active trading. Taken together, these exceptions are designed to assure that trading continuity is not disrupted, even during periods of active trading. First, a broker-dealer would not be required to change its quotation in response to receipt of a customer's order if (1) it has a quotation published at the exposure price (that is, an 1/8 better than the stop price) in a size at least as large as the customer order, (2) that quotation is maintained for 30 seconds from receipt of the order, and (3) the customer order receives the benefit of any execution at the exposure price. Second, if a broker-dealer is already exposing a customer order, the broker-dealer would be allowed to execute a subsequent customer order of up to a 1000 shares larger than the exposed order at the stop price of that exposed order.[55] Third, once a broker-dealer exposes a customer order, it may "elect the stop" and execute that order at the stop price prior to expiration of the exposure period if (1) an unrelated transaction occurs at the stop price or an inferior price in the broker-dealer's market,[56]; (2) the broker-dealer lowers its offer or raises its bid to the stop price to match a quotation published in another market; or (3) the offer is independently lowered or the bid raised to the stop price in the broker-dealers' market.[57] Fourth, an exception is provided allowing a broker-dealer to reduce the size of the exposed order if that order is partially executed.

With respect to block transactions,[58] the proposed Rule would require the ITS participants to submit to the Commission within 18 months of the Rule's effective date a plan providing an effective means for exposing blocks to other markets ("Block Exposure Plan"). This section reflects the Commission's preliminary view that, while exposure of blocks would be theoretically desirable, a practicable means for achieving this goal has not yet been developed. Accordingly, the proposed Rule would provide an exclusion from the Rule's provisions for blocks until a Block Exposure Plan is implemented.[59]

The Rule would not apply order exposure or export requirements to agency crosses. It would, however, generally limit execution of these transactions to CAES or an exchange, with an exception for agency cross transactions executed off-board between the best ITS bid and offer, assuming at least a ¼ point spread, or at the quotation price, assuming an ⅛ point spread. In addition, agency cross transactions of block size would be included in the Rule's Block Exposure Plan requirement and thus would be provided a temporary exclusion from exposure until a Plan is implemented, as discussed previously.[60]

Finally, the Rule would provide a number of additional exclusions for circumstances where the Rule's order exposure or export requirements would appear to provide little benefit or where requiring order exposure could be unduly burdensome or disruptive.[61] Moreover, the Rule would enable the Commission to grant exemptions from the rule if consistent with the public interest, the protection of investors, the maintenance of fair and orderly markets or progress toward a national market system.

IV. Conclusion

The Commission is proposing a revised rule, Rule 11A–1, reflecting the augmented SIA Committee principles and other industry proposals and comments on its proposed Rules 11A–1[A] and [B]. In conjunction with proposal of this revised Rule, the Commission is withdrawing Rules 11A–1[A] and [B] at this time. Although the Commission has reached no determination concerning the ultimate advisability of an order exposure rule at the present time, it believes that publication of an order exposure rule in a revised form may help to refine discussion of this issue, as well as stimulate further comment on the particulars of the Rule. At the same time, the Commission is continuing its monitoring of the markets for Rule 19c–3 securities, and will take into account both the product of this monitoring and the comments submitted on these questions in its deliberations concerning whether to adopt a rule. The Commission solicits continued comment on the general issue of the desirability of an order exposure rule. The Commission also requests commentators to focus on the specific provisions of the revised rule, and their practical effect on trading in Rule 19c–3 securities.

V. Summary of the Initial Regulatory Flexibility Analysis

Although the Commission is only republishing an order exposure rule at this juncture, the Commission has prepared an Initial Regulatory Flexibility Analysis ("Analysis"), consistent with 5 U.S.C. § 603, regarding proposed Rule 11A–1.

The Analysis notes that the Commission is republishing a rule proposal reflecting comments and proposals of various elements of the securities industry, including the SIA Committee concerning its initial rule proposals, Rule 11A–1 [A] and [B]. This proposal is intended to afford the public a further opportunity to comment on the specific elements of the rule proposal currently under consideration by the Commission.

The Analysis indicates that the proposed rule would apply to all broker-

---

[54] The application of the Rule of these systems is discussed in detail in the Technical Appendix, Section 1(b).

[55] *See* Technical Appendix, Section 3(a).

[56] As discussed below, execution of the subsequent customer order pursuant to this exception would elect the stop granted to the order already being exposed and permit execution of that order at the same time as the subsequent order.

[57] *See* Technical Appendix, Section 3(b).

[58] "Block transactions" are defined as transactions involving 10,000 shares or more or having a market value of $200,000 or more.

[59] *See* Technical Appendix, Section 5.

[60] *See* Technical Appendix, Section 1(c).

[61] Specifically, the Rule would provide exclusions for (1) primary or registered secondary distributions; (2) private offerings made in reliance on Section 4(2) of the Act; (3) trades unrelated to the current market price to correct an error or to make a gift; (4) tender offers; (5) purchases or sales effected upon the exercise of an option; (6) odd-lot transactions; (7) transactions in a foreign country; (8) trades on an exchange when that exchange is relieved of its firm quotation obligations under Rule 11Acl–1 under the Act; (9) trades on any market when the primary exchange is relieved of its quotation obligations under Rule 11Acl–1; (10) opening or reopening transactions; (11) transactions at the close; (12) transactions involving unmarketable limit orders (that is, limit orders to sell at or above the best prevailing bid price or to buy at or below the prevailing offer price) where these orders are reflected in the broker-dealers quotation for 30 seconds; (13) customer orders effected in conjunction with a block trade effected outside the best ITS quotations; and (14) percentage orders. *See* Technical Appendix, Section 4 for a further discussion with respect to these exclusions.

dealers who make markets in Rule 19c–3 securities which are eligible to be traded through the ITS/CAES interface, including specialists on national securities exchanges.[62] The Analysis also notes that the rule would impose certain administrative burdens inherent in the mechanical procedures for exposing orders on broker-dealers; however, the Analysis concludes that because of the relatively small number of customer orders handled by small broker-dealers, the administrative burdens of this rule on small broker-dealers would appear to be less than for larger broker-dealers. In addition, the Analysis notes that the rule also provides new opportunities for small broker-dealers to compete for order flow by permitting them access to the customer orders exposed by other markets. Furthermore, the rule offers a broker-dealer the option of competing for its own order flow by exporting its customer orders to CAES or the CSE's NSTS. The Commission is soliciting comment on the precise impact of the proposed rule and, if it determines to adopt a rule, will use this information in designing an aproach which minimizes the burdens on broker-dealers while still ensuring effective exposure.

A copy of the Analysis may be obtained by contacting William W. Uchimoto, (202) 272–2409, Division of Market Regulation, Securities and Exchange Commission, 450 5th Street, N.W., Washington, D.C. 20549.

List of Subjects in 17 CFR Part 240

Reporting requirements, Securities.

VI. Text of Proposed Rule

The Securities and Exchange Commission hereby proposes to amend Part 240 of Title 17, Chapter II, of the Code of Federal Regulations, pursuant to its authority under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*, as amended by Pub. L. No. 94–29 (June 4, 1975)), particularly Sections 2, 3, 6, 9, 10,11, 11A, 15, 15A, 17 and 23 thereof (15 U.S.C. 78b, 78c, 78f, 78i, 78j, 78k, 78k–1, 78*o*, 78*o*–3, 78q and 78w), by adding Section 240.11A–1 to read as follows:

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

§ 240.11A–1 Exposure of principal and agency cross transactions.

Preliminary Note to Rule 11A–1—. Rule 11A–1 applies both to broker-dealer principal transactions with customers and agency cross transactions in specified securities. With respect to broker-dealer principal transactions, the rule applies both to broker-dealer purchases from customers and broker-dealer sales to customers. In order to make the substantive requirements of the rule as easy to follow as possible, only subparagraph (a)(1) of the ruler refers both to broker-dealer purchases and sales. Throughout the remainder of the rule, the text of the rule refers only to the situation where the broker-dealer buys from the customer. With respect to broker-dealer sales to a customer, the requirements of the rule parallel the requirements specified for broker-dealer purchases, but on the opposite side of the market. For example, while the rule provides the broker-dealer with the alternative requirement of "exposing" a customer sell order at a price ⅛ dollar higher than the stop price with respect to broker-dealer purchases, the broker-dealer would have to expose customer buy orders at a price ⅛ dollar lower than the stop price. As a general matter in interpreting requirements with respect to broker-dealer purchases from customers, unless the context requires otherwise, terms such as "purchase," "offer," "higher," "sell," "lowered," "bid," and "raised" used with respect to broker-dealer purchases, should be road as "sale," "bid," "lower," "purchase," "raised" "offer," and "lowered" with respect to broker-dealer sales.

(a) *Principal transactions.* (1) No broker-dealer shall buy a subject Rule 19c–3 security from a customer (or sell such a security to a customer) for a proprietary account of the broker-dealer unless the broker-dealer (i) is registered and acting as an ITS/CAES market maker in the subject security or executes the purchase (or sale) on or through the facilities of a national securities exchange; (ii) has access to, and the published bids and offers of such broker-dealer in the subject Rule 19c–3 security can be reached through, the ITS/CAES Interface; and (iii) complies with either paragraph (a)(2) or (a) (3) of this section.

(2) *Alternative 1: Order exposure.* The broker-dealer, prior to execution of any purchase from a customer as principal, shall complete the steps set forth in this paragraph.

(i) The broker-dealer must "stop" (*i.e.*, guarantee the execution of) the total number of shares he intends to buy at his intended purchase price from the customer (hereinafter referred to as the "stop price");

(ii) Subject to the provisions of paragraph (a)(2)(iv), the broker-dealer must publish and maintain for at least 30 seconds an offer on behalf of the customer, in a size equal to the total number of shares he intends to buy from the customer, at an offer price which is ⅛ dollar higher than the stop price;

(iii) After completing the steps required by paragraphs (a)(2)(i) and (a)(2)(ii), the broker-dealer may execute the customer's order (or whatever portion thereof remains unexecuted after publication of an offer on behalf of the customer in accordance with subparagraph (a)(2)(ii)) at the stop price, as principal;

(iv)(A) The requirements of paragraph (a)(2)(ii) shall be deemed to be satisfied with respect to a customer order if, subject to the other provisions of this paragraph (a)(2)(iv), (*1*) an offer already being published by the broker-dealer for its proprietary account meets the price requirement and meets or exceeds the size requirement of subparagraph (a)(2)(ii) and is maintained for at least 30 seconds from the time the customer order is received; (*2*) the customer's order is not executed as principal for 30 seconds after it is received; and (*3*) during such 30 second period any transaction with the broker-dealer that would otherwise be for its proprietary account at the broder-dealer's published offer price in a size up to the size of the customer's order shall be for the account of the customer.

(B) Any offer required to be published and maintained under paragraph (a)(2)(ii) may be reduced in size to the extent of any partial acceptance by one or more third parties of the offer occurring during the 30 second period contemplated by that paragraph.

(C) A customer's order to sell (hereinafter referred to as the "first order") with respect to which publication of an offer is being maintained in compliance with paragraph (a)(2)(ii) may be executed immediately by the broker-dealer as principal at the stop price if, after such publication has commenced or, in the case of an order to which paragraph (a)(2)(iv)(A) applies, after the order is received:

(1) An unrelated transaction is executed in that broker-dealer's ITS market at a price equal to or lower than the stop price;

(2) The broker-dealer lowers his offer to the stop price to match an offer published by another ITS market; or

(3) The published offer in that broker-dealer's ITS market is lowered to the stop price to reflect an independent offer in that market at that price.

(D) A customer's order to sell (hereinafter referred to as the "second order") received by a broker-dealer while that broker-dealer is maintaining a published offer with respect to the first order in compliance with paragraph (a)(2)(ii) may be executed in whole or in part immediately by the broker-dealer as principal at the stop price of the first order in any size up to 1,000 shares in

[62] The Commission notes that no national stock exchange trading a Rule 19c–3 security is defined as a small entity. *See* Rule 0–10(e) under the Act.

excess of the amount of the first order that was stopped by the broker-dealer pursuant to paragraph (a)(2)(i).

(3) *Alternative 2: Order export.* The customer's order shall be entered in ITS/CAES on a neutral basis (*i.e.*, otherwise than by directing the order to the broker-dealer for execution) or in the National Securities Trading System (NSTS) of the Cincinnati Stock Exchange and executed in ITS/CAES or NSTS (as the case may be) at the price of the bid published by the broker-dealer for his proprietary account at the time the order is entered either:

(i) Under circumstances reasonably designed to preclude (A) all persons responsible for making bids and offers or effecting transactions for the broker-dealer's proprietary account in that security from having any knowledge of the existence of that customer's order prior to its entry in ITS/CAES or NSTS, and (B) all persons responsible for the solicitation of customers' orders or for the manner and timing of entry of such orders in that security in ITS/CAES or NSTS from having knowledge of positions or trading strategies then existing for the broker-dealer's proprietary account in that security; or

(ii) where (A) the broker-dealer's bid has not been raised for at least 30 seconds before receipt of the customer order, and (B) the size of such bid during such 30 second period has been equal to or greater than the size of the customer order or that portion of the customer order purchased by the broker-dealer.

(b) *Principal transactions in automated execution or derivative pricing systems.* No broker-dealer who provides executions to others within or by means of an automated execution or derivative pricing system shall buy a subject 19c-3 security for a proprietary account of the broker-dealer from any person within or by means of such a system, whether on an immediate or delayed basis, unless the broker-dealer (1) complies with paragraph (a)(1) of this rule, and (2) complies with the procedures set forth in paragraph (a)(2) or (a)(3) of this section with respect to the execution of such order. For purposes of applying paragraphs (a)(2) and (a)(3) to the execution of orders covered by this paragraph (b), all such orders shall be deemed customer orders whether or not the person for whose account the order is effected is a customer of the broker-dealer within the meaning of paragraph (g)(14) of this section.

(c) *Agency cross transactions.* No broker-dealer shall effect an agency cross transaction involving a subject Rule 19c–3 security unless such transaction is executed on or through the facilities of a national securities exchange or in ITS/CAES; *Provided, however,* that an ITS/CAES market maker may effect an agency cross transaction otherwise than on or through the facilities of a national securities exchange or in ITS/CAES (1) at a price higher than the best bid and lower than the best offer for the subject 19c–3 security then being disseminated by any ITS market(s) (if the spread between such best bid and best offer is ¼ or more); or (2) at a price equal to the best bid or best offer for the subject 19c–3 security then being disseminated by any ITS market(s) (if the spread between such best bid and best offer is ⅛).

(d) *Exclusions.* The provisions of this section shall not apply to: (1) A principal transaction or agency cross transaction involving a block of a subject Rule 19c–3 security effected on or through the facilities of a national securities exchange or with or through an ITS/CAES market maker, except as provided in paragraph (e) of this section;

(2) Any transaction which is part of a primary distribution by an issuer, or a registered or unregistered secondary distribution;

(3) Any transaction made in reliance on Section 4(2) of the Securities Act of 1933;

(4) Any trade at a price unrelated to the current market price for the subject Rule 19c–3 security involved for the purpose of correcting an error or to enable the seller to make a gift;

(5) Any transaction pursuant to a tender offer;

(6) Any purchase or sale of a subject Rule 10c-3 security effected upon the exercise of an option pursuant to the terms thereof or the exercise of any other right to acquire a subject Rule 19c-3 security at a pre-established consideration unrelated to the current market for such security;

(7) Any transaction in any subject security for less than 100 shares;

(8) Any transaction effected outside of normal operating hours of the ITS/CAES interface;

(9) Any transaction effected in any foreign country;

(10) Any principal transaction in a subject Rule 19c-3 security effected on or through the facilities of a national securities exchange or with or through an ITS/CAES market maker during any period when the principal exchange market for that security is relieved of its obligation to collect, process and make available to quotation vendors bids and offers in such security pursuant to paragraph (b)(3)(i) of § 240.11Ac1–1 (Rule 11Ac1–1 under the Act);

(11) Any principal transaction in a subject Rule 19c-3 security effected on or through the facilities of a national securities exchange during any period when such exchange is relieved of its obligation to collect, process and make available to quotation vendors bids and offers in such security pursuant to paragraph (b)(3)(i) of § 240.11Ac1–1 (Rule 11Ac1–1 under the Act;

(12) Any transaction effected in any opening or reopening of a stock in conformity with the provisions of the plan governing operation of ITS as approved by the Commission pursuant to § 240.11Aa3–2 (Rule 11Aa3–2 under the Act);

(13) Any transaction effected with an order (i) which was received within one minute of the close of the ITS market in which that transaction is effected, or (ii) as to which instructions were given to execute the order "at the close";

(14) Any purchase from a customer by a broker-dealer with respect to a non-marketable limit order of that customer if (i) there is published and maintained for at least 30 seconds prior to the purchase (and up to the time the purchase or sale is effected) an offer with respect to the customer order at the limit price of that order in a size at least equal to the number of shares purchased or sold; and (ii) for at least 30 seconds prior to the broker-dealer's purchase, that published offer price is equal to or lower than the price of the lowest offer published by any ITS market for the same security during that 30 second period. For purposes of this paragraph (d)(14), a "non-marketable limit order" shall mean a limited price order to sell at a price at least ⅛ above the price of the highest bid, published by any ITS market for the same security at the time the order was received;

(15) Any purchase from a customer by a broker-dealer with respect to any limit order in an ITS market which is executed in connection with a block transaction in that or another ITS market effected outside the best bid or best offer from any ITS market; and

(16) Any purchase from a customer by a broker-dealer on or through the facilities of a national securities exchange executed pursuant to a percentage order.

(e) *Exposure of block transactions.*

(1) On or before the last business day of the eighteenth month following the effective date of this section, the participants in the Intermarket Trading System shall jointly file with the Commission a plan establishing procedures for the exposure of covered block transactions prior to execution

("block exposure plan"). Such plan shall specify, at a minimum:

(i) The length of time, and the method by which, covered block transactions will be exposed;

(ii) Procedures designed to assure that buying and selling interest represented in any ITS market at the time a covered block transaction is exposed has a reasonable opportunity to respond to such exposure and, subject to the rules of priority, parity, and precedence in the market where the block transaction is to be effected, participates in the transaction;

(iii) Safeguards designed to prevent "step-ins" or other participation by any person whose interest in buying or selling the security which is the subject of the covered block transaction is not represented in an ITS market at the time the block transaction is exposed; and

(iv) Appropriate penalties in the event of non-compliance with the terms of the block exposure plan.

(2) The block exposure plan required by paragraph (e)(1) of this section shall be deemed to be a national market system plan within the meaning of § 240.11Aa3–2 (Rule 11Aa3–2 under the Act) and shall be considered by the Commission, and shall become effective, in accordance with the procedures specified in §240.11Aa3–2.

(3) Once the block exposure plan becomes effective pursuant to § 240.11Aa3–2, notwithstanding any other provision of this section, no broker-dealer shall effect any covered block transaction without complying with the provisions of such effective block exposure plan.

(f) *Exemptions.* The Commission may exempt from the provisions of this section, either unconditionally or on specified terms and conditions, and broker, dealer, transaction or class of transactions if the Commission determines that such exemption is consistent with the public interest, the protection of investors the maintenance of fair and orderly markets or the removal of impediments to, and perfection of the mechanisms of, a national market system.

(g) *Definitions.* For purposes of this section, (1) The term "Rule 19c–3 security," shall mean any security listed and registered on a national securities exchange for which transaction reports are collected, processed and made available pursuant to an effective transaction reporting plan, other than a "covered security" as defined in § 240.19c–3 (Rule 19c–3 under the Act).

(2) The term "effective transaction reporting plan" shall mean any plan approved by the Commission pursuant to § 240.11Aa3–1 (Rule 11Aa3–1 under the Act) for collecting, processing and making available transaction reports with respect to transactions in an equity security or class of equity securities.

(3) The term "transaction report" shall mean a report containing the price and volume associated with a completed transaction involving one or more round lots of a security.

(4) The term "subject Rule 19c–3 security" shall mean any Rule 19c–3 security which is eligible to be traded through the ITS/CAES Interface.

(5) The term "Intermarket Trading System" ("ITS") shall mean the intermarket communications linkage operated jointly by certain self-regulatory organizations pursuant to a plan filed with, and approved by, the Commission pursuant to § 240.11Aa3–2 (Rule 11Aa3–2 under the Act) ("ITS Plan").

(6) The term "participant," when used with respect to the Intermarket Trading System, shall mean any self-regulatory organization which is included in the ITS Plan and has agreed to act in accordance with the terms of the ITS Plan.

(7) The term "Computer Assisted Execution System" ("CAES") shall mean the computerized order routing and execution system owned and operated by the National Association of Securities Dealers, Inc. ("NASD") as part of the NASDAQ inter-dealer quotation system.

(8) The term "ITS/CAES" shall mean the linked trading systems connected by the ITS/CAES Interface.

(9) The term "ITS/CAES Interface" shall mean the automated interface between the ITS and CAES.

(10) The term 'ITS market" shall mean, with respect to any subject Rule 19c–3 security, any national securities exchange which is a participant in the ITS and trades such security through ITS and any ITS/CAES market maker in such security.

(11) The term "ITS/CAES market maker" shall mean, with respect to any subject Rule 19c–3 security, any third market maker that is registered as a market maker in such security with the NASD for purposes of use of ITS/CAES.

(12) The term "third market maker" shall mean, with respect to any subject Rule 19c–3 security, any broker-dealer who holds himself out as being willing to buy and sell such security for his own account on a regular or continuous basis otherwise than on a national securities exchange in amounts of less than block size (including any such person who also represents, as agent, orders to buy and sell such security on behalf of any other person and communicates bids and offers to a national securities association pursuant to § 240.11Ac1–1 (Rule 11Ac1–1 under the Act) on behalf of such other persons as well as for his own account).

(13) The term "broker-dealer" shall mean any broker or dealer.

(14) The term "customer" of a broker-dealer shall mean (i) any person other than a broker or dealer, except that the term "customer" shall include a broker or dealer (A) which, directly or indirectly controls, is controlled by, or is under common control with such broker-dealer, or (B) whose customers' accounts are introduced to the broker-dealer and are carried by it on either a disclosed or undisclosed basis; and (ii) any person from whom an order has been accepted by the broker-dealer for execution, but only with respect to orders so accepted.

(15) The term "proprietary account" shall mean any one or more accounts in which the broker-dealer has a direct or indirect interest.

(16) A bid or offer made available by a national securities exchange or national securities association pursuant to § 240.11Ac1–1 (Rule 11Ac1–1 under the Act) shall be deemed "published" when it is displayed on or through the facilities of such exchange or in CAES (as the case may be).

(17) The term "intended purchase price from the customer" in a principal transaction shall exclude any commission, commission equivalent, differential or comparable charge to be imposed by the broker-dealer in connection with the transaction.

(18) The term "block" shall mean a transaction involving 10,000 shares or more of a subject Rule 19c–3 security or a quantity of such security having a market value of $200,000 or more.

(19) The term "covered block transaction" shall mean a block of a covered Rule 19c–3 security which is an agency cross transaction or in which a broker-dealer buys such security from a customer for a proprietary account of the broker-dealer.

By the Commission.

December 23, 1982.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–35493 Filed 12–29–82; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-255-82]

Registration Requirements With Respect to Debt Obligations; Proposed Rulemaking

Correction

In FR Doc. 82-31123 beginning on page 51414, in the issue for Monday, November 14, 1982, second column, the heading "General Rule" should be inserted above the second paragraph, and in the ninth line of that same paragraph, "section" should read "sections".

BILLING CODE 1505-01-M

---

26 CFR Parts 48, 142, and 146

[LR-2119]

Manufacturers Excise Taxes on Motor Vehicles

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed amendments which would update and revise the regulations concerning Manufacturers and Retailers Excise Taxes on motor vehicles. The proposed regulations contain a new definition of "automotive parts and accessories," and a more detailed treatment of the exemptions provided by section 4063 for "camper coaches," "feed, seed, and fertilizer equipment,"and "trash containers." These amendments would substantially complete the task of updating the regulations under sections 4061 through 4063 of the Internal Revenue Code of 1954 to reflect statutory changes made to these sections since 1964.

DATES: Written comments and requests for a public hearing must be delivered or mailed by February 28, 1983. Except as otherwise provided in this document, the amendments are proposed to be effective for sales made after December 31, 1954.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, 1111 Constitution Avenue NW., Washington, D.C. 20224, Attention: CC:LR:T (LR-2119).

FOR FURTHER INFORMATION: Neil W. Zyskind of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, D.C. 20224, Attention: CC:LR:T, (202) 566-3289, not a toll free call.

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Manufacturers and Retailers Excise Tax Regulations (26 CFR Part 48) under sections 4061 and 4063 of the Internal Revenue Code of 1954 (Code). These amendments would substantially complete the task of updating the regulations under sections 4061 through 4063 to reflect statutory changes made to these sections since 1964. In this connection, T.D. 7461, published in the **Federal Register** for January 13, 1977, at 42 FR 2672, provided regulations concerning the definition of "highway vehicle," as well as to conform the regulations to changes made in section 4061 (a) by the Revenue Act of 1971 (85 Stat. 530), relating to the repeal of the manufacturers excise tax on passenger automobiles, light-duty trucks, etc.

This document does not provide proposed regulations under the amendments to section 4063, repealing the excise tax on bus chassis and bodies, made by the Energy Tax Act of 1978 (Pub. L. 95-618). Those regulations are expected to be provided by another regulation project.

These amendments are to be issued under the authority contained in sections 4063(c) (78 Stat. 1086, 26 U.S.C. 4063(c)), 4063(d) (90 Stat. 1904, 26 U.S.C. 4063(d)) and 7805 (68A Stat. 917, 26 U.S.C. 7805) of the Code.

Explanation of Provisions

The proposed regulations would update and revise the existing regulations regarding manufacturers excise taxes on motor vehicles. The proposed regulations contain a new definition of "automotive parts and accessories," and a more detailed treatment of the exemptions provided by section 4063 for "camper coaches," "feed, seed, and fertilizer equipment," and "trash containers."

The present Part 48 definition of automotive parts and accessories (§ 48.4061 (b)-2 (a)) contains dual tests for determining whether a part or accessory is a taxable part or accessory. The first test is a test of design for use with a highway vehicle, and the second is a test of primary use with a highway vehicle. Although the primary use test is presented in Part 48 as a conclusive test of taxability, it is subject to the qualification in § 48.4061 (b)-2 (b) to the effect that an article of general use is not subject to the tax on automotive parts or accessories. Because of this qualification, the primary use test of taxability has proved troublesome. For this reason, § 48.4061 (b)-2 (a) is proposed to restrict the test of taxability of parts and accessories to the test of primary design for use with highway vehicles to add to their utility as highway transportation devices. However, it is also proposed that the primary use test be retained in § 48.4061 (b)-2 (b) as a step in a procedure for determining whether an article that is primarily used on a highway vehicle is exempt from tax by reason of being an article of "general use." To this end, an article that is primarily used with highway vehicles is proposed to be considered as an article primarily designed for such use, unless it can be established to the satisfaction of the Service that the article is in fact an article exempt from tax as an article of general use.

Section 4061(b)(2) of the Code exempts from the tax on parts or accessories any truck part that is also "suitable for use," and "ordinarily is used" with passenger vehicles. The problem of determining when a truck part is a dual purpose part that is also suitable for use with passenger vehicles is covered in § 48.4061 (b)-2 (d), which includes material published in revenue rulings and certain clarifying material, such as definitions of "passenger automobile," "suitable for use," and "ordinarily is used," as these terms are used in section 4061(b)(2).

Section 4063(a) of the Code provides exemption from the taxes imposed by section 4061 for: (1) Camper coaches, (2) feed, seed, and fertilizer equipment, (3) house trailers, (4) ambulances and hearses, (5) concrete mixers and parts therefor, (6) buses, and (7) trash containers and parts therefor. There has been no treatment in prior regulations of the exemption for ambulances and hearses, and it has been decided that there is no current need for any such treatment. Regulations relating to exemption for buses were provided by another regulation project. In explaining the exemptions for camper coaches and house trailers in the proposed regulations, §§ 48.4063 (a)-1 and 48.4063 (a) (3)-1 provide that these exemptions are intended to apply to living quarters.

Because the exemption for feed, seed, and fertilizer equipment has caused administrative difficulty, § 48.4063 (a) (2)-1 goes into some detail as to the meaning of this exemption and includes three detailed examples.

The exemption for concrete mixers is covered in § 48.4063(a)(5)-1. Paragraph (a) defines concrete mixer bodies, and paragraph (b) defines parts for concrete mixer bodies. Neither of these terms

was defined in prior regulations. The definition of concrete mixer bodies stresses the fact that the body must be of a type that is designed to process basic ingredients into concrete and not merely to keep preprocessed concrete agitated. In defining a part for a concrete mixer body, a power take-off system primarily designed for use with such a body is given as an example of a part exempt under section 4063(a)(5)(B).

The exemption for trash containers and parts for trash containers is presently covered in § 142.1–1(f) of the temporary regulations. In § 48.4063(a)(7) the material in § 142.1–1(f) is restated with minor word changes and § 142.1–1(f) is deleted.

Six of the seven exemptions in section 4063(a) apply to types of articles. The exemptions for trash containers applies to certain uses of otherwise taxable articles. Accordingly, administrative rules for registration, etc. are provided in § 48.4063(a)(7)–2. These rules have been adopted from those rules presently set forth in § 142.1–1(g) of the temporary regulations.

Statutory Amendments Reflected in the Proposed Changes

Many statutory changes enacted after 1964 have not previously been reflected in Part 48 of the regulations. The table set forth below enumerates the statutory changes reflected in these proposed regulations. The section numbers on the left margin list the sections of the Code to which the statutory changes relate.

4061:

1. Section 201 of the Excise Tax Reduction Act of 1965 (Pub. L. 89–44, 79 Stat. 136) relating to parts and accessories, under section 4061(b).

2. Section 401 of the Revenue Act of 1971 (Pub. L. 92–178, 85 Stat. 533) relating to excise taxes on certain articles and parts and accessories for such articles.

3. Section 502 of the Federal Aid Highway Act of 1978 (Pub. L. 95–599, 92 Stat. 2756) relating to effective date for excise taxes imposed under section 4061.

4062 and 4063:

1. Section 5 of the Act of October 13, 1964 (Pub. L. 88–653, 78 Stat. 1086) relating to the sale of rebuilt automotive parts and accessories.

4063:

1. Section 801 of the Excise Tax Reduction Act of 1965 (Pub. L. 89–44, 79 Stat. 157) relating to exemption of certain articles from the excise taxes imposed under section 4061.

2. Section 931 of the Tax Reform Act of 1969 (Pub. L. 91–172, 83 Stat. 724) relating to exemption of concrete mixers from the excise taxes imposed under section 4061.

3. Section 303 of the Excise, Estate, and Gift Tax Adjustment Act of 1970 (Pub. L. 91–614, 84 Stat. 1845) modifying the camper coach exemption.

4. Section 401 of the Revenue Act of 1971 (Pub. L. 92–178, 85 Stat. 530) relating to exemption of certain trash containers from the excise taxes imposed under section 4061.

5. Section 2109 of the Tax Reform Act of 1976 (Pub. L. 94–455, 90 Stat. 1904) relating to an exemption for resale of articles for which an excise tax was imposed under section 4061.

Regulatory Flexibility Act and Executive Order 12291

The Commissioner of Internal Revenue has determined that this proposed rule is not a major rule as defined in Executive Order 12291 and that a Regulatory Impact Analysis is therefore not required. Although this document is a notice of proposed rulemaking which solicits public comment, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C chapter 6).

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register**.

Drafting Information

The principal author of these proposed regulations is Neil W. Zyskind of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations both on matters of substance and style.

List of Subjects

26 CFR Part 48

Agriculture, Arms and munitions, Coal, Excise taxes, Gasohol, Gasoline, Motor vehicles, Petroleum, Sporting goods, Tires.

26 CFR Part 142

Excise taxes, Motor vehicles, Revenue Act of 1971.

26 CFR Part 146

Excise taxes, Motor vehicles.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Parts 48, 142, and 146 are as follows:

PART 48—MANUFACTURERS AND RETAILERS EXCISE TAXES

Paragraph 1. Section 48.4061(a)–1(b)(1) is revised to read as follows:

§ 48.4061(a)–1 Imposition of tax; exclusion for light duty trucks, etc.

* * * * *

(b) *Rate and computation of Tax*—(1) *In general.* With respect to the articles enumerated in paragraph (a) (1) of this section, the rate of tax is determined in accordance with the rates of tax contained in section 4061(a)(1).

* * * * *

Par. 2. Section 48.4061(a)–3 is revised to read as follows:

§ 48.4061(a)–3 Definitions.

For purposes of the tax imposed by section 4061, unless otherwise expressly indicated:

(a) *Automobile truck.* The term "automobile truck" means a motor vehicle designed for transporting property or towing loads.

(b) *Automobile bus.* The term "automobile bus" means a motor vehicle which is designed for commercial or industrial use and which is capable of transporting 8 or more adult passengers, in addition to the operator.

(c) *Tractor.* The term "tractor" means any tractor of the kind chiefly used for highway transportation in combination with a trailer or semitrailer.

(d) *Effective date.* The provisions of this section shall apply to articles sold on or after December 11, 1971.

Par. 3. Sections 48.4061(b)–(1) (a) and (b) are revised to read as follows:

§ 48.4061(b)–(1) Imposition of tax.

(a) *In general.* Section 4061(b) imposes a tax on the sale by the manufacturer, producer, or importer of parts and accessories (other than tires and inner tubes) for any of the articles enumerated

in section 4061(a) (see paragraph (a) of § 48.4061(a)–1).

(b) *Effective date.* The provisions of paragraph (a) shall be effective for articles sold on or after June 22, 1965.

(c) *Rates of tax.* Tax is imposed on the sale of parts and accessories for any of the articles enumerated in section 4061(a)(1) at the rates determined in accordance with the rates of tax contained in section 4061(b)(1). The tax is computed by applying to the price for which the part or accessory is sold the rate in effect at the time of the sale. For definition of the term "price" see section 4216 and the regulations thereunder contained in subpart M of this part.

Par. 4. Section 48.4061(b)–2 is amended by revising paragraphs (a), (b), (d), and (e) to read as set forth below.

§ 48.4061(b)–2 Parts and accessories; definitions.

(a) *In general.* As used in section 4061(b)(1), the term "parts and accessories" includes all articles and materials (other than tires and inner tubes) that are primarily designed or adapted for use on or in connection with an automotive chassis, body, or tractor of a type enumerated in section 4061(a)(1) to add to the utility or ornamentation of the chassis, body, or tractor. An article is considered to add to the utility of a chassis, body, or tractor if it in any manner improves the capability of such an article to transport persons or property over the public highways. In addition to those articles that are primarily designed to provide the basic capability of a vehicle to perform a highway transportation function (such as means of propulsion and guidance, provision to carry a load, etc.), any article that is primarily designed to improve: (1) The loading or unloading capability of a highway vehicle, (2) the protection, preservation, or refrigeration of its cargo, or (3) the comfort, convenience, or safety (including, for example, warning lights, reflectors, and back-up alarms) of the operator or passengers, is considered to be a part or accessory for an article enumerated in section 4061(a), and subject to the tax imposed by section 4061(b)(1). The term "parts or accessories" includes all articles that have reached such a stage of manufacture as to be commonly known, or as to be identifiable, as parts or accessories whether or not fitting operations are required in connection with their installation. An article is not deemed to be a taxable part or accessory even though it is designed to be attached to the vehicle or to be primarily used in connection therewith if the article is, in effect, the load being transported and the primary function of the article is to serve a purpose unrelated to the transportation function of the vehicle. For example, a construction derrick attached to a truck is not a taxable part or accessory inasmuch as the derrick is the load of the truck and its use is in connection with construction work at a construction site rather than in connection with the transportation or loading or unloading function of the truck. On the other hand, an article such as a towing cradle or loading or unloading equipment designed to be attached to or to be primarily used in connection with a truck is a taxable part or accessory inasmuch as the article contributes to the load-carrying function of the truck. The term "parts and accessories" does not include tires and inner tubes, since these articles are expressly exempted by section 4061(b) from the tax. However, the term "parts and accessories" does include tire valves designed for use on tires or tubes for articles taxable under section 4061(a). If an article is primarily used on or in connection with a chassis, body, or tractor enumerated in section 4061(a) to add to the utility or ornamentation of the chassis, body, or tractor, such an article is a taxable part or accessory within the meaning of section 4061(b).

(b) *Articles of general use.* An article that would otherwise qualify as a taxable automotive part or accessory is considered an article of general use and therefore not taxable if it can be shown that on an industry-wide basis:

(1) The article has substantial general use other than with articles enumerated in section 4061(a),

(2) The article does not contain any physical design features indicating primary design for use with articles enumerated in section 4061(a), and

(3) The article is not principally held out or advertised by the manufacturer, producer, or importer for use on or in connection with an article enumerated in section 4061(a).

Examples of nontaxable articles of general use (providing they meet the criteria in subdivisions (1), (2), and (3) of this subparagraph) are such commodities as ball and roller bearings, bolts, nuts, washers, screws, nails, tacks, rivets, pins, studs, cotters, pipe fittings such as plugs, tees, ells, and elbows, drain cocks, grease cups, and oilers. Parts primarily designed as parts or components for taxable parts or accessories are taxable. For example, the tax applies to the sale or use of gears, flexible shafts, and flexible housing designed as replacement parts for automotive speedometers, and replacement parts for such articles as automotive engines, transmissions, differentials, steering mechanisms, timers, and windshield wiper motors.

* * * * *

(d) *Dual-purpose articles used on trucks and passenger automobiles.* Under the provisions of section 4061(b)(2), an article that otherwise meets the definition of a "part or accessory" within the meaning of section 4061(b)(1), is not subject to the tax imposed on parts and accessories by that section if the article is also "suitable for use" and "ordinarily is used" on or in connection with, or as a component part of, any chassis or body for a passenger automobile, any chassis or body for a trailer or semitrailer suitable for use in connection with a passenger automobile, or a house trailer. For purposes of section 4061(b)(2) and this paragraph (d), the following terms have the following meanings:

(1) *"Passenger automobile."* The term "passenger automobile" means a vehicle designed for the transportation of persons over the highway which consists of a chassis and body that are not enumerated in section 4061(a) and are not of a bus as defined in § 48.4061 (a)–3(b).

(2) *"Suitable for use."* An article is considered to be "suitable for use" with a passenger automobile if it possesses both practical and commercial fitness for use in performing the function for which it is used. An article possesses practical fitness for use if it performs its function up to a generally acceptable standard of efficiency, and an article possesses commercial fitness for use if it is available for use at a price that is reasonably competitive with other articles that may be used for the same purpose.

(3) *"Ordinarily is used."* An article "ordinarily is used" with a chassis or body for a passenger automobile if its use with these articles is substantial in comparison to its overall use with all highway motor vehicles, and if its use in passenger automobiles is in connection with use of these vehicles that is considered an ordinary use of the vehicles, rather than a specialized use. For example, truck-type storage batteries that are used commonly in police cars would not be considered as being "ordinarily" used with passenger automobiles if their use in police cars is the extent of their use in passenger automobiles, since the use of passenger automobiles as police cars is not considered to be an "ordinary" use of passenger automobiles. On the other hand, if heavy-duty shock absorbers that are used extensively in trucks are

also used commonly in certain models of station wagons while these vehicles are being put to normal passenger automobile use, the use of the shock absorbers in station wagons is an "ordinary" use of the articles with passenger vehicles.

(e) *Effective date.* In general this section shall be effective for articles sold after December 31, 1954. The changes made to paragraph (a) of this section by Pub. L. 89–44 (79 Stat. 136) with respect to any imposition of a tax on automobile radio and television receiving sets shall be effective for such articles sold on or after June 22, 1965. The provisions of paragraph (d) shall apply to articles sold on or after December 11, 1971.

§§ 48.4061–1, 48.4062(a), 48.4062(b), and 48.4062(b)–1 [Removed]

Par. 5. Sections 48.4061–1, 48.4062(a), 48.4062(b), and 48.4062(b)–1 are removed.

Par. 6. The following new §§ 48.4063(a)(1)–1 through 48.4063(c)–1 are added immediately after § 48.4062(a)–1 and prior to § 48.4063–1.

§ 48.4063 (a) (1)–1 Exempt sales; camper coaches, etc.

(a) *In general.* The tax imposed by section 4061 does not apply to articles designed to be mounted or placed on trucks, truck chassis, or automobile chassis to be used primarily as living quarters or camping accommodations. Included among these articles are bodies for self-propelled mobile homes, and articles referred to as camper coaches, camper caps, slide-in cabins, and sleeping units specifically designed for mounting on a pickup truck for use as sleeping quarters for hunters, fishermen, and other sportsmen and sportswomen. However, not included among these articles are those designed for commercial uses or converted to commercial uses, such as business offices, stores, laboratories, catering services, showrooms, repair shops, or sleeping cabs designed for use on trucks and tractors operated for heavy-duty, long-distance hauling purposes.

(b) *Effective date.* The provisions of this section shall apply to articles sold on or after June 22, 1965, however, those articles sold which were designed to be used primarily as camping accommodations shall only be exempt from the tax imposed under section 4061 if such articles were sold on or after December 31, 1970.

§ 48.4063(a)(2)–1 Exempt sales; feed, seed, and fertilizer equipment.

(a) *In general.* The taxes imposed by section 4061 do not apply with respect to any automotive body or part or accessory that is primarily designed:

(1) To process or prepare seed, feed, or fertilizer for use on farms;

(2) To haul feed, seed, or fertilizer to and on farms;

(3) To spread feed, seed, or fertilizer on farms;

(4) To load or unload feed, seed, or fertilizer on farms; or

(5) For any combination of any of the foregoing uses.

(b) *Hauling "to and on farms."* The exemption from tax provided by section 4063(a)(2)(B) for bodies and parts or accessories primarily designed to haul feed, seed, or fertilizer to and on farms applies with respect to those articles that are primarily designed (1) to transport feed, seed, or fertilizer over the highway to the farm, and (2) to unload or otherwise dispense the feed, seed, or fertilizer on the farm. A body or part or accessory that is primarily designed to transport feed, seed, or fertilizer over the highway, but which does not have features indicating special design for unloading or otherwise dispensing the feed, seed, or fertilizer on the farm under conditions peculiar to unloading or dispensing a cargo on the farm (such as unloading feed or seed directly into a bin, or dispensing fertilizer directly into applicators), does not qualify for the exemption from tax provided by section 4063(a)(2)(B). A body or part or accessory designed for hauling feed, seed, or fertilizer from a farm over the highway does not qualify for the exemption provided by section 4063(a)(2)(B) unless it is primarily designed for delivering the feed, seed, or fertilizer to and on a farm. The fact that a body, part, or accessory is primarily designed to carry out one of the functions described in paragraphs (a) (1) through (5) of this section may be demonstrated by establishing that it would not be economically feasible to use the particular body, part, or accessory solely or principally for highway transportation purposes.

(c) *Examples.* The application of the exemption provided by section 4063(a)(2)(B) for bodies primarily designed for hauling feed, seed, or fertilizer to and on farms may be illustrated by the following examples:

Example (1). X Company manufactures an anhydrous ammonia "nurse tank" body with a capacity of 1,600 gallons. This tank body is used to carry anhydrous ammonia short distances, at slow speeds, from central ammonia distributors to individual farms where it is used by the farmer. The body described in this example is deemed to be primarily designed to haul fertilizer to and on farms since it would not be economically feasible, due to its small capacity, to use the tank body solely or principally for highway transportation purposes.

Example (2). Y Company manufactures an anhydrous ammonia tank body which has a capacity of 10,000 gallons or 20 tons. This type of tank body is referred to as a "transport tank" body. The transport tank body and chassis are used chiefly for filling large bulk storage tanks. Due to the capacity of the tank body and the characteristics of its chassis, the transport tank body is rarely, if ever, used on farms but merely transports ammonia to storage tanks. Therefore, the transport tank body described in this example is taxable udner section 4061(a) since it is primarily designed to move fertilizer over the highway rather than to and on farms.

Example (3). Z Company manufactures and sells a line of self-unloading truck, trailer, and semitrailer bodies used primarily for hauling animal and poultry feed to farms and unloading these products into bins or troughs on the farm. The bodies contain heavy-duty mechanical or pneumatic type unloading equipment specially designed to facilitate unloading on the farm. The unloading equipment is built into, and forms an integral part of, the bodies, adding substantially to their cost and weight, and limiting their load-carrying capacity. The bodies described in this example are exempt from the tax imposed by section 4061(a) as bodies primarily designed to haul feed to and on the farm, since they contain physical design features for unloading on the farm which would make it uneconomical to purchase and use these articles solely for highway transportation purposes.

(d) *Effective date.* The provisions of this section shall apply to feed, seed and fertilizer equipment sold on or after June 22, 1965.

§ 48.4063(a)(3)–1 Exempt sales; house trailers.

(a) *In general.* The tax imposed on section 4061(a) does not apply to chassis or bodies designed for use as house trailers. To be considered a "house trailer" for purposes of the exemption provided by section 4063(a)(3), a trailer must be designed for use as living quarters. Therefore, the exemption does not apply to trailers designed for use as business offices, stores, laboratories, catering services, showrooms, or repair shops. For the treatment of certain trailers and semi-trailers specially designed to perform non-transportation functions off the public highways, see § 48.4061(a)–1(d)(2)(iii).

(b) *Effective date.* The provisions of this section shall apply to house trailers sold on or after June 22, 1965.

§ 48.4063(a)(4)–1 Exempt sales; ambulances, hearses, etc. [Reserved]

§ 48.4063(a)(5)–1 Exempt sales; concrete mixers and parts therefor.

(a) *Concrete mixers.* The tax imposed by section 4061(a) does not apply to any article designed to be placed or mounted on an automobile truck chassis, or a truck trailer or semitrailer chassis, to be used to process or prepare concrete. To be considered an article that is designed to process or prepare concrete, the article must be capable of actually processing or preparing concrete or premeasured concrete components (*i.e.*, cement, sand, crushed stone, etc.), and not designed solely for the purpose of transporting concrete. Thus, a body designed for the purpose of agitating concrete in transit or at a jobsite in order to prevent the gravity separation of concrete is not designed to process or prepare concrete, for purposes of this paragraph (a), and the tax imposed by section 4061(a) applies to such body.

(b) *Parts of concrete mixers.* The tax imposed on automotive parts and accessories by section 4061(b) does not apply to any article designed primarily for use on or in connection with a concrete mixer body exempt from the tax imposed by section 4061(a) by reason of the exemption provided by subdivision (A) of section 4063(b)(5) and paragraph (a) of this section. A power take-off system primarily designed to operate a concrete mixer body exempt from tax under the provisions of subdivision (A) of section 4063(a)(5) is an example of an automotive part exempt from the tax imposed by section 4061(b) by reason of the provisions of subdivision (B) of section 4063(a)(5).

(c) *Effective date.* The provisions of this section shall apply to concrete mixers and parts therefor sold after December 31, 1969.

§ 48.4063(a)(6)–1 Exempt sales; buses. [Reserved]

§ 48.4063(a)(7)–1 Exempt sales; trash containers, etc.

(a) *In general.* Under the provisions of section 4063(a)(7), the tax imposed by section 4061(a) does not apply to the sale of any box, container, receptacle, bin, or other similar article that is:

(1) To be used as a trash container,

(2) Not designed for the transportation of freight other than trash, and

(3) Not designed to be permanently mounted on, or permanently affixed to, an automobile truck chassis or body.

The foregoing exemption also applies to parts or accessories designed primarily for use on, in connection with, or as a component part of an exempt trash container, etc., but only if the parts or accessories are installed on the article at the time of sale or are sold with the article as an integral part of the container system. The exemption does not apply to the tax imposed on the sale of parts and accessories by section 4061(b), if the parts and accessories are to be used as replacement parts (even if ordered at the time the trash container is sold), or are parts or accessories that are sold subsequent to the sale of a trash container. A part or accessory that is designed primarily for use in connection with an exempt trash container, such as a hoist to pick up and deposit the container, is not exempt under the provisions of section 4063(a)(7) if it is also designed to be permanently mounted or affixed to a truck chassis or body.

(b) *Procedures for tax-free sales and purchases.* For procedures relating to the tax-free sales and purchases described in paragraph (a) of this section, see § 48.4063(a)(7)–2.

(c) *Effective date.* For the effective date of this section see § 48.4063(a)(7)–2(f).

§ 48.4063(a)(7)–2 Procedures for tax-free sales and purchases.

(a) *Tax-free sales only if seller and purchaser are registered.* Except as provided in paragraph (b) of this section, an article described in § 48.4063(a)(7)–1 (trash containers, etc.) may be sold by the manufacturer to the ultimate purchaser free of the tax imposed under section 4061(a)(1) for a use described in section 4063(a)(7), only if the seller and purchaser of the article are registered as provided in this paragraph. Any person desiring to be registered in order to sell or purchase such an article free of the tax imposed by section 4061(a)(1) shall, prior to making any tax-free sale or purchase, file Form 637, in duplicate, executed in accordance with the instructions contained in such form, with the district director for the district in which the person's principal place of business is located (or if the person has no principal place of business in the United States, with the Internal Revenue Service Center, 11601 Roosevelt Boulevard, Philadelphia, Pennsylvania 19155). Form 637 may be obtained from any district director. The person who receives a validated Certificate of Registry (Form 637) is considered to be registered for purposes of selling or purchasing articles as provided in this paragraph (a). A manufacturer, producer, or importer who is registered to sell articles subject to tax under chapter 32 of the Internal Revenue Code of 1954 (relating to manufacturers excise taxes) free of tax, is not required to reregister solely for purposes of this paragraph (a).

(b) *Exceptions to registration requirements*—(1) *State or local government.* A State or local government purchasing an article described in § 48.4063(a)(7)–1 directly from the manufacturer, producer, or importer, may, but is not required to, register as provided under this section. For purposes of this section, the term "State or local government" means any State, the District of Columbia, or any political subdivision of the foregoing.

(2) *United States Government.* The registration requirements of this section do not apply to purchases by the United States or any of its agencies or instrumentalities.

(c) *Evidence of tax-free sale.* (1) To establish the right of a purchaser to purchase an article tax free under § 48.4063(a)(7)–1, the seller shall obtain from the purchaser and retain in its possession a certificate properly executed and signed on behalf of the purchaser, containing the purchaser's registration number, if required to register, and a brief statement of intention to use an article described in § 48.4063(a)(7)–1 as a trash container.

(2) The following form of exemption certificate is acceptable for the purposes of this section and must be adhered to in substance:

Form of certificate for exemption from tax imposed under section 4061(a) for articles to be used as trash containers:

(Date) ————————, 19——

Under penalties of perjury, the undersigned certifies that he/she, or the (Name of purchaser) ———————— of which he/she is (Title) ————————, holds certificate of registry No. ————; that he/she is authorized to execute this certificate; and that the article(s) specified in the accompanying order, dated ————————, 19—— (or billed on (Name of seller's) ———————— invoice No. ————, dated ————————, 19——) is (are) purchased for use as, or in connection with, a trash container.

The undersigned understands that if the article is used otherwise than as stated above and for a purpose taxable under section 4061(a) of the Internal Revenue Code, he/she will notify the seller of such use.

The undersigned understands that he/she and all other parties who make fraudulent use of this certificate to secure exemption will be subject to a penalty equivalent to the amount of tax due on the sale of the article and upon conviction to a fine of not more than $10,000, or to imprisonment for not more than 5 years, or both, together with the costs of prosecution. The purchaser also understands that he/she must be prepared to establish by satisfactory evidence the purpose for which the article purchased under this certificate is to be used.

(Signature) _____
(Address) _____

(3) *Frequency of certificates.* Where only occasional sales are made by a manufacturer, a separate exemption certificate should be furnished with each order. However, where sales by the manufacturer to the same purchaser are regularly or frequently made, a certificate covering all orders for a specified period not to exceed 12 calendar quarters will be acceptable. In such a case, notation should be made on the face of the order providing the registration number and date on which the exemption certificate was furnished to the manufacturer. Such certificate and proper records of invoices, orders, etc., relative to tax-free sales must be readily accessible for inspection by internal revenue officers and retained as provided in section 6001 of the Code and the regulations thereunder.

(d) *Duty of seller to ascertain use of registration or exemption certificate.* See § 48.4221–1 relating to relieving manufacturers, producers, and importers from liability when an article is sold free of tax for the exempt purpose referred to in paragraph (a) of § 48.4063(a)(7)–1.

(e) *Credit or refund.* Under section 6416(b)(2), the tax under section 4061(a) paid to the United States on the sale of a container or parts and accessories described in § 48.4063(a)(7)–1(a) is considered to be an overpayment if, on or after December 11, 1971, and prior to any other use, such article is sold to a purchaser by any person for a use described in § 48.4063(1)(7)'1(a). Claim for refund may be filed on Form 843, or credit may be taken on a subsequent return, in accordance with the provisions of section 6416 and the regulations thereunder. The provisions of § 48.6416(b)(2)–3(b) of this chapter (Manufacturers and Retailers Excise Tax Regulations) relating to the evidence required to be in the possession of the claimant and certificates to be furnished by the purchaser apply with respect to any refund or credit claimed under this section.

(f) *Effective date.* The provisions of this section and § 48.4063(a)(7)–1 shall apply to trash containers and parts therefore sold on or after December 11, 1971.

§ 48.4063 (b)–1 Exemption for rebuilt automotive parts or accessories.

(a) *In general.* Under the provisions of section 4063(c), the rebuilding of automotive parts or accessories is not considered to be "manufacture" of the parts or accessories for purposes of the tax imposed by section 4061(b) Accordingly, sales of rebuilt parts or accessories are not subject to the tax imposed by section 4061(b). Since rebuilding of parts and accessories is not considered the "manufacture" of taxable articles to be used in connection with an article in section 4061(a)(1), a rebuilder may not purchase new parts or accessories free of tax for use in rebuilding by it of parts or accessories. Furthermore, a rebuilder must pay the tax imposed under the provisions of section 4061(b) on all new parts or accessories manufactured by it and used in rebuilding used parts (see section 4218(c) relating to a use being treated as a sale), or acquired by it free of tax under section 4221(a)(1), relating to acquisition of a part tax free for further manufacturing, that are then to be used by it in rebuilding parts or accessories.

(b) *Effective date.* The provisions of this section shall apply with respect to rebuilt parts and accessories sold on or after January 1, 1965.

§ 48.4063 (c)–1 Resale after certain modifications.

(a) *In general.* The tax imposed by section 4601 does not apply to the resale of any article described in section 4061(a)(1) if before the resale the article was merely combined with any coupling device (including any fifth wheel), wrecker crane, loading and unloading equipment (including any crane, hoist, winch, or power liftgate), aerial ladder or tower, snow and ice control equipment, earthmoving, excavation and construction equipment, spreader, sleeper cab, cab shield, or wood or metal floor.

(b) *Further manufacture.* If, as a result of the modification of a motor vehicle chassis or body or the addition to such chassis or body of some article other than an article listed in paragraph (a) of this section, the transportation function of the motor vehicle is significantly improved or significantly changed in such a manner as to amount to the production of a new article, then the modification or addition is considered to be further manufacture for purposes of the tax imposed by section 4061(a), and section 4063(d) and paragraph (a) of this section do not apply.

(c) *Effective date.* The provisions of this section apply to resales of articles on or after October 4, 1976.

PART 142—TEMPORARY EXCISE TAX REGULATIONS UNDER THE REVENUE ACT OF 1971

§ 142.1–1 [AMENDED]

Par. 7. Section 142.1–1 is amended as follows:

1. Paragraph (f) is removed.

2. Paragraphs (g), (h), and (i) are re-designated as (f), (g), and (h), respectively.

3. Paragraph (f), as re-designated, is amended as follows:

a. The phrase "or (f)(1)" is deleted wherever it appears.

b. The first sentence of paragraph (f)(3) is revised by deleting the phrase "or an article described in paragraph (f)(1) as a trash container, as the case may be".

c. The first sentence of paragraph (f)(3)(ii) is revised by deleting the word "forms" and substituting in lieu thereof the word "forms" and by deleting the designation "(a)" after the word "substance".

d. Paragraph (f)(3)(ii)(b) is deleted.

e. Paragraph (f)(5) is revised by deleting the second sentence.

4. The first sentence of paragraph (h), as re-designated, is revised by deleting the words "paragraph (c), (d), (e), or (f)" and substituting in lieu thereof the words "paragraph (c), (d), or (e)".

PART 146—SALE OF REBUILT AUTOMOTIVE PARTS AND ACCESSORIES ON AND AFTER JANUARY 1, 1965 [REMOVED]

Par. 8. Part 146 is hereby removed.

Roscoe L. Egger,
Commissioner of Internal Revenue.

[FR Doc. 82–35490 Filed 12–29–82; 8:45 am]
BILLING CODE 4830–01–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 938

Public Comment and Opportunity for Public Hearing on Modified Portion of the Pennsylvania Permanent Regulation Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule.

SUMMARY: OSM is announcing procedures for the public comment period and for a public hearing on modifying condition (i), regarding payment of costs and expenses in administrative proceedings, of the Pennsylvania permanent regulatory program. Pennsylvania has requested the elimination of an interim step in meeting this condition, requiring the State to submit a memorandum of law providing that costs and expenses,

including attorneys' fees, can be awarded in administrative proceedings. Based on Pennsylvania's request, the Secretary is proposing to eliminate this interim step in meeting condition (i).

This notice sets forth the times and locations that the Pennsylvania program and proposed modification are available for public inspection, the comment period during which interested persons may submit written comments on the proposed program modification, and the procedures that will be followed regarding the public hearing.

DATE: Written comments must be received on or before 4:00 p.m. January 31, 1983 to be considered. A public hearing on the proposed modification will be held on request only on January 12, 1983, from 10:00 a.m. to 1:00 p.m., or until all comments have been heard.

Any person interested in making an oral or written presentation at the hearing should contact Robert Biggi at the address and telephone number listed below by the close of business *three working days* before the date of the hearing. If no one has contacted Mr. Biggi to express an interest in participating in the hearing by that date, the hearing will not be held. If only one person has so contacted Mr. Biggi, a public meeting, rather than a public hearing, may be held and the results of the meeting included in the Administrative Record.

ADDRESS: Written comments should be mailed or hand delivered to: Robert Biggi, Director, Pennsylvania Field Office, Office of Surface Mining, 101 South Second Street, Suite L–4, Harrisburg, PA 17101.

If a public hearing is held, it will be at: Holiday Inn, Second and Chestnut Streets, Harrisburg, PA 17101.

Copies of the Pennsylvania program, the letter requesting the modification to the program, a listing of any scheduled public meetings and all written comments received in response to this notice will be available for review at the OSM Pennsylvania Field Office and the Office of the State regulatory authority listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays.

Pennsylvania Field Office, Office of Surface Mining, 101 South Second Street, Suite L–4, Harrisburg, PA 17101.

Pennsylvania Department of Environmental Resources, Fulton Bank Building, Tenth Floor, Third and Locust Street, Harrisburg, PA 17120.

FOR FURTHER INFORMATION CONTACT: Robert Biggi, Director, Pennsylvania Field Office, Office of Surface Mining, 101 South Second Street, Suite L–4, Harrisburg, PA 17101, Telephone: (717) 782–4036.

SUPPLEMENTARY INFORMATION: On January 25, 1982, Pennsylvania resubmitted its proposed regulatory program to OSM. On July 30, 1982, following a review of the proposed program as outlined in 30 CFR Part 732, the Secretary approved the program subject to the correction of ten minor deficiencies. The approval was effective on July 31, 1982, as indicated in the notice of conditional approval in the July 30, 1982, **Federal Register** (47 FR 33050–33080).

Information pertinent to the general background, revisions, modifications, and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Pennsylvania program can be found in the July 30, 1982, **Federal Register** notice (47 FR 33050–33080).

Deficiency (i) of the Pennsylvania program for which the Secretary required correction as a condition of approval is that the Pennsylvania program does not provide that costs and expenses, including attorneys' fees, can be awarded in any administrative proceeding.

In accepting the Secretary's approval, Pennsylvania agreed to correct this deficiency in two stages: (1) By submitting to OSM by October 1, 1982, a memorandum of law, providing that costs and expenses, including attorneys' fees, can be awarded in any administrative proceeding which is no less effective than 30 CFR 840.15, and (2) by submitting to OSM by August 1, 1983, copies of enacted laws or other program amendments for the award of such costs and expenses which are no less effective than 30 CFR 840.15 and in accordance with Section 525(e) of the Surface Mining Control and Reclamation Act of 1977.

In a letter, dated November 12, 1982, Pennsylvania requests the elimination of the first stage of compliance with this condition, involving the submission of a memorandum of law because the memorandum involves some difficult questions of law and, regardless of the memorandum's conclusion, Pennsylvania would still be required to submit statutory and/or regulatory amendments to its program by August 1, 1983. Accordingly, the Secretary proposes to eliminate this interim step in meeting this condition.

The Secretary seeks public comments on whether he should eliminate this interim step in meeting condition (i). If the State's request is approved, Pennsylvania is still required to submit statutory and/or regulatory amendments by August 1, 1983, to fully satisfy this condition.

Additional Information

Pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no Environmental Impact Statement need be prepared on this proposed rule. On August 28, 1981, the Office of Management and Budget (OMB) granted OSM exemption from Sections 3, 4, 6 and 8 of Executive Order 12291 for all actions taken to approve or conditionally approve State regulatory programs, actions or amendments. Therefore, these proposed program amendments are exempt from the preparation of a Regulatory Impact Analysis and regulatory review by OMB.

Pursuant to the Regulatory Flexibility Act, Pub. L. 96–354, I certify that this rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 30 CFR Part 938

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: December 23, 1982.

J. Steven Griles,

Acting Director, Office of Surface Mining.

[FR Doc. 82–35484 Filed 12–29–82; 8:45 am]

BILLING CODE 4310–05–M

---

30 CFR Part 944

Public Comment and Opportunity for Public Hearing on Modified Portions of the Utah Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule: Notice of receipt of permanent program modifications; public comment period and opportunity for public hearing.

SUMMARY: OSM is announcing procedures for the public comment period and for a public hearing on the substantive adequacy of program amendments submitted to satisfy conditions imposed by the Secretary of the Interior on the approval of the Utah Permanent Regulatory Program (hereinafter referred to as the Utah program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

This notice sets forth the times and locations that the Utah program and proposed amendments are available for

public inspection, the comment period during which interested persons may submit written comments on the proposed program elements and the procedures that will be followed at the public hearing.

DATES: Written comments from members of the public must be received by 4:30 p.m. on January 28, 1983, to be considered in the Secretary's decision on whether the proposed amendments satisfy the conditions of approval.

A public hearing on the proposed amendments has been scheduled for January 25, 1983. Any person interested in making an oral or written presentation at the hearing should contact Mr. Robert Hagen at the address and telephone number listed below by January 14, 1983. If no person has contacted Mr. Hagen by this date to express an interest in participating in this hearing, the hearing will be cancelled. A notice announcing any cancellation will be published in the **Federal Register.**

ADDRESSES: The public hearing will be held between 8:30 a.m. and 12 p.m., at the Conference Room, Room No. 4108, 4241 State Office Building, Salt Lake City, Utah. Written comments and requests for an opportunity to speak at the public hearing should be sent to Mr. Robert Hagen, Director, New Mexico Field Office, Office of Surface Mining Reclamation and Enforcement, 219 Central, NW., Albuquerque, New Mexico 87102.

Copies of the Utah program, the proposed modifications to the program and all written comments received in response to this notice will be available for public review at the OSM Field Office above and at the OSM Headquarters office and the Office of the state regulatory authority listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays.

Utah Division of Oil, Gas and Mining, Department of Natural Resources, 4241 State Office Building, Salt Lake City, Utah, Telephone: (801) 533–5771

Office of Surface Mining, Room 5315, 1100 "L" Street, NW., Washington, D.C. 20240

FOR FURTHER INFORMATION CONTACT: Mr. Arthur W. Abbs, Chief, Division of State Program Assistance, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue NW., Washington, D.C. 20240, Telephone: (202) 343–5351.

SUPPLEMENTARY INFORMATION: On March 3, 1980, the State of Utah submitted to the Department of the Interior its proposed permanent regulatory program under SMCRA.

On October 3, 1980, following a review of the proposed program as outlined in 30 CFR Part 732, the Secretary approved in part and disapproved in part the proposed program. Notice of that decision and the Secretary's findings were published in the **Federal Register** on October 24, 1980 (45 FR 70481–70510). The State of Utah resubmitted the program for approval by the Secretary on December 23, 1980. The resubmitted program included those portions of the initial submission not approved by the Secretary on October 3, 1980. After thoroughly reviewing the program resubmission and providing an opportunity for the public to comment, the Secretary of the Interior determined that the Utah program, including the resubmission did, with minor exceptions, meet the Federal permanent program regulations. Accordingly, the Secretary of the Interior conditionally approved the Utah program subject to the correction of twelve minor deficiencies. The approval was effective upon publication of the notice of conditional approval in the January 21, 1981 **Federal Register** (46 FR 5899–5915).

Information pertinent to the general background, revision, modifications, and amendments to the proposed permanent program submission as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Utah program can be found in the January 21, 1981 **Federal Register** (46 FR 5899–5915).

In accepting the Secretary's conditional approval, Utah agreed to satisfy conditions "a"–"e" by December 1, 1981, and conditions "f"–"l" by July 1, 1981.

Subsequently, Utah requested an extension of the deadline to meet condition "f", "g", and "h" until January 1, 1982. On October 30, 1981 (46 FR 54070), OSM announced the Secretary's decision to approve the extension.

Upon the State's request the deadline for the State to meet condition "f" was further extended to September 1, 1982, and the deadline for the State to meet condition "h" to January 1, 1983 (47 FR 234155–234156, May 27, 1982).

On June 29, 1981, Utah submitted statutory and regulatory revisions intended to satisfy conditions "a"–"e", "g" and "i"–"l".

On June 22, 1982 (47 FR 26827–26831), the Assistant Secretary for Energy and Minerals announced his decision to remove conditions "a"–"e", "j" "l" and to grant Utah until September 1, 1982, to submit modifications to satisfy conditions "i" and "k". In the June 22, 1982 notice, the Assistant Secretary also announced his decision to impose a new condition "m" requiring the State to correct by January 1, 1983, a deficiency in the State program which had come to OSM's attention.

On August 26, 1982, Utah adopted and submitted to OSM regulatory modifications intended to satisfy conditions "f", "g", "i" and "k". Following OSM's review of these amendments as outlined in 30 CFR 732, the Secretary removed conditions "f", "g", "i" and "k" (47 FR 55672, December 13, 1982).

The purpose of this notice is to announce receipt of further amendments submitted by Utah on December 8, 1982, in satisfaction of the two remaining conditions of approval of the Utah program, conditions "h" and "m".

Following is a description of the provisions submitted by the State and of the conditions they are intended to satisfy:

Condition "h" of the Secretary's approval of Utah's program stipulates that Utah must submit to the Secretary by January 1, 1983, copies of fully enacted regulations specifying that underdrains are required in all valley fills unless a waiver is granted with an experimental practice approved by OSM, in accordance with UMC 817.72(b)/SMC 816.72(b) and specifying lifts for valley fills will not be greater than four feet, or less, if required by the regulatory authority, in UMC 817.72(c)/SMC 816.72(c) consistent with 30 CFR 817.72(c) or otherwise amends its program to accomplish the same result.

To address this condition Utah has amended UMC 817.72/SMC 816.72 subpart (b) to require that the underdrain requirement is not waived except with the approval of the Director of OSM after a demonstration that the waiver qualifies under the requirements for experimental practice set forth under UMC/SMC 785. Also UMC 817.72(c) and SMC 816.72(c) have been modified to require that spoil shall be hauled or conveyed and placed in a controlled manner and concurrently compacted as specified by the Division in lifts no greater than four feet or less, unless approved by the Director of the Office of Surface Mining as an experimental practice in accordance with UMC 785.13.

Condition "m" of the Secretary's approval of Utah's program stipulates that Utah must submit copies of fully enacted regulations deleting the provision at UMC/SMC 785.19(c) which allows a waiver of the requirements of

subsections (d) and (e) of UMC/SMC 785.19 and of UMC/SMC 822 or otherwise amends its program to be consistent with 30 CFR 785.19(c) and (d).

To address this condition Utah has submitted an amended revision of UMC/SMC 785.19(c)(3)(ii) which provides that if the Division makes a finding that the area of the alluvial valley floor to be affected is insignificant to farming it may waive all or any of the requirements of paragraphs(d) and (e) of section 785.19 and of section 822 provided any waiver granted shall not negate the requirements necessary for the protection of essential hydrologic functions.

The amended provisions submitted by Utah on December 8, 1982, are available in full text for public review at the addresses listed above. The Secretary seeks comment on whether the amendments submitted by Utah on that date satisfy the Secretary's conditions as listed at 30 CFR 944.11(h) and (m).

Additional Determinations

1. *Compliance with the National Environmental Policy Act.*—The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Compliance with the Regulatory Flexibility Act.*—The Secretary hereby determines that this proposed rule will not have a significant economic impact on small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

3. *Compliance With Executive Order No. 12291.*—On August 28, 1981, the Office of Management and Budget (OMB) granted the Office of Surface Mining exemption from sections 3, 4, 6 and 8 of Executive Order 12291 for all actions taken to approve, or conditionally approve, State regulatory programs, actions, or amendments. Therefore, a Regulatory Impact Analysis and regulatory review by OMB is not needed for this program amendment.

List of Subjects in 30 CFR Part 944

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: December 23, 1982.

J. Steven Griles,

Director, Office of Surface Mining.

[FR Doc. 82-35483 Filed 12-29-82; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

(CGD 08-82-02)

Drawbridge Operation Regulations; Gulf Intracoastal Waterway, Harvey Canal Route, La.

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the Jefferson Parish Council, the Coast Guard is considering changing the regulations governing the Lapalco Boulevard bascule span bridge across the Gulf Intracoastal Waterway (G.I.W.W.), Harvey Canal Route, mile 2.8, Harvey, Jefferson Parish, La. The bridge is a semi-high rise, with a vertical clearance of 45 feet in the closed position, and is required to open on signal at any time. The proposed change would require that, Monday through Friday except holidays, the draw need not open for the passage of vessels from 6:30 a.m. to 8:30 a.m. and from 3:45 p.m. to 5:45 p.m. This action is designed to relieve overland traffic congestion including school buses during the peak morning and afternoon vehicular traffic periods, while still providing for the reasonable needs of navigation.

DATE: Comments must be received on or before February 14, 1983.

ADDRESS: Comments should be submitted to and are available for examination from 9:00 a.m. and 3:00 p.m., Monday through Friday, at the Eighth Coast Guard District, Bridge Administration Branch, Hale Boggs Federal Building, 500 Camp Street, New Orleans, La. 70130.

FOR FURTHER INFORMATION CONTACT: Joseph Irico, Chief, Bridge Administration Branch, at the address given above (504) 589-2965.

SUPPLEMENTARY INFORMATION: Interested parties are invited to participate in this proposed rulemaking by submitting written views, comments, data or arguments. Persons submitting comments should include their name and address, identifying the bridge, and give reasons for concurrence with or any recommended change in the proposal. Persons desiring acknowledgement that their comments have been received should enclose a stamped self-addressed post card or envelope.

The Commander, Eighth Coast Guard District, will evaluate all communications received and determine a final course of action on this proposal. The proposed regulation may be changed in the light of comments received.

Drafting Information

The principal persons involved in drafting this proposal are: Joseph Irico, Project Manager, District Operations Division, and Steve Crawford, General Attorney, District Legal Office.

Discussion of the Proposed Regulation

Navigation through the bridge is largely barge tows with an occasional dredge, commercial fisher and pleasure craft. Vertical clearance of the bascule span is 45 feet in the closed position. Data submitted by the Jefferson Parish Council indicate that:

(1) For the period 15 July through 20 August 1982, Monday through Friday excluding holidays, the daily average number of vehicles crossing the bridge was 5797 between 6:30 and 8:30 a.m. and 7307 between 3:45 and 5:45 p.m., the peak morning and afternoon traffic hours.

(2) For the period 2 November 1981 through 6 October 1982, Monday through Friday excluding holidays, the daily average number of bridge openings to pass navigation was 0.36 and 0.50 during the peak morning and afternoon traffic hours, respectively.

Based on these comparative data, the Coast Guard feels that the proposed regulation should provide relief to overland peak traffic, while still meeting the reasonable needs of navigation without any significant economic impact.

These proposed regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be a major rule. In addition, these proposed regulations and considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5-22-80). An economic evaluation has not been conducted since the impact is expected to be minimal for the reasons discussed above. In accordance with § 605(b) of the Regulatory Flexibility Act (94 Stat. 1164), it is also certified that these rules, if promulgated, would not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

PART 117—DRAWBRIDGE OPERATION REGULATIONS

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations be

amended by adding a new § 117.538 to read as follows:

§ 117.538 GIWW, Harvey Canal Route, mile 2.8, Harvey, Louisiana.

The draw shall open on signal except that from 6:30 a.m. to 8:30 a.m. and from 3:45 p.m. to 5:45 p.m., Monday through Friday excluding holidays, the draw need not open for the passage of vessels.

(33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5), 33 CFR 1.05–1(g)(3))

Dated: December 16, 1982.

W. H. Stewart,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 82-35470 Filed 12-29-82; 8:45 am]

BILLING CODE 4910-14-M

---

33 CFR Part 117

[CGD 01-82-016]

Drawbridge Operation Regulations; Mitchell River, Chatham, Massachusetts

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the Town of Chatham, Masachusetts, the Coast Guard is considering establishing special regulations for the operation of the Mitchell River drawspan. The regulations will require that advance notice be given when an opening of the drawspan is required. The regulations are expected to provide for the reasonable needs of navigation.

DATE: Comments must be received on or before February 14, 1983.

ADDRESS: Comments should be submitted to and will be available for examination at the office of the Commander (obr), First Coast Guard District, 150 Causeway Street, Boston, Massachusetts 02114.

FOR FURTHER INFORMATION CONTACT: William J. Naulty, Chief, Bridge Branch, First Coast Guard District, Boston, MA 02114 (617–223–0645).

SUPPLEMENTARY INFORMATION: Interested person are invited to participate in this proposed rule making by submitting written views, coments, data or arguments. Persons submitting comments should include their name and address, identify the bridge and give reasons for concurrence with or any recommended change in the proposal. Persons desiring acknowledgement that their comments have been received should enclose a stamped, self-addressed envelope or postcard.

The Commander, First Coast Guard District will evaluate all comments received and decide on the final course of action. The proposed regulations may be changed in light of comments received.

DRAFTING INFORMATION: The principal persons involved in drafting this proposal are: William J. Naulty, Chief, Bridge Branch, First Coast Guard District, and Lieutenant Susan M. Krupanski, Project Attorney, Assistant Legal Officer, First Coast Guard District.

Discussion of the Proposed Regulation

The Town of Chatham has proposed regulations for the operation of the Bridge Street drawspan provided advance notice is given. Although many vessels are moored above the bridge during the boating season, the Town does not receive a significant number of requests for an opening of the drawspan. The Town of Chatham believes that with an advance notice requirement the needs of mariners could be satisfied and that the Town workforce could be used in a more efficient manner. At present, the regulations require that the drawspan must be opened on signal.

List of Subjects in 33 CFR Part 117

Bridges.

PART 117—[AMENDED]

In consideration of the foregoing, the Coast Guard proposes to amend Part 117 of Title 33 of the Code of Federal Regulations by adding § 117.78 as follows:

§ 117.78b Mitchell River, Chatham, Massachusetts.

The draw will be open on signal provided that:

(a) From 1 May through 31 October, between 8 a.m. and 4 p.m., a one-hour advance notice is given, from 4 p.m. to 8 a.m., a 24-hour notice is given.

(b) From 1 November through 30 April, a 24-hour notice is given.

(33 U.S.C. 499; 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5); 33 CFR 1.05–1(g)(3)).

Dated: November 29, 1982.

L. L. Zumstein,

Rear Admiral, Coast Guard Commander, First Coast Guard District.

[FR Doc. 82-35488 Filed 12-29-82; 8:45 am]

BILLING CODE 4910-14-M

---

33 CFR Part 157

[CGD-76-088b]

Tank Vessels Carrying Oil in Bulk; Cargo Monitors

Correction

In FR Doc. 82–34219, beginning on page 56786, in the issue of Monday, December 20, 1982, please make the following corrections:

1. On page 56789, third column, the second line should read: "400 $\sqrt[3]{\text{DWT}}$" and is accordingly.

2. On page 56790, second column, § 157.11 (b)(2)(ii), the first word of the second line reading "dock" should read "deck".

3. On page 56790, third column, the third line of the paragraph numbered "7.", should read: term "400 $\sqrt[3]{\text{DWT}}$".

BILLING CODE 1505-01-M

---

33 CFR Part 183

[CGD 81-092]

Electrical and Fuel Systems Standards; Miscellaneous Amendments

AGENCY: Coast Guard, DOT.

ACTION: Extension of comment period.

SUMMARY: In the **Federal Register** of September 23, 1982 (47 FR 41993) the Coast Guard invited public comment on miscellaneous amendments to the Electrical and Fuel Systems Standards in Subparts I and J of Part 183 that apply to boats having gasoline powered engines for propulsion or electrical generation. Based upon a review of its regulations governing construction standards which apply to the manufacture of recreational boats, the Coast Guard determined that many sections are no longer necessary or are of limited value in terms of their impact toward improving boating safety. Therefore the proposed amendments would repeal and revise the unnecessary regulations to relieve the regulatory burden upon recreational boat manufacturers. The original closing date for public comments was December 22, 1982. The public comment period is being unilaterally extended by the Coast Guard to January 21, 1983 because of delays in getting a correction to errors in the notice published in the **Federal Register** and in the mailing of copies of the original notice to an extensive boat manufacturer mailing list.

DATES: As discussed above, the public comment period has been extended to January 21, 1983.

ADDRESS: Written comments may be mailed or be delivered to and will be available for inspection at the Marine Safety Council (G–CMC/44), Room 4402, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, D.C. 20593, between 8 am and 4 pm, Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Alston Colihan, Office of Boating, Public, and Consumer Affairs (G–BBS/42), U.S. Coast Guard Headquarters, Washington, D.C. 20593 (202) 426–4027,

between 8 am and 4 pm Monday through Friday, except holidays.

Dated: December 27, 1982.

V. W. Driggers,

Captain, U.S. Coast Guard, Acting Chief, Office of Boating, Public and Consumer Affairs.

[FR Doc. 82-35497 Filed 12-29-82; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 123

[SWH-FRL 2274-8]

Hazardous Waste Management Program, Florida; Application for Interim Authorization, Phase II Components A and B

AGENCY: Environmental Protection Agency.

ACTION: Notice of public comment period and of a public hearing.

SUMMARY: Today EPA is announcing the availability for public review of the Florida application for Phase II, Components A and B, Interim Authorization, Hazardous Waste Management Program, inviting public comment, and giving notice that if significant public interest is expressed, EPA will hold a public hearing on the application.

DATE: If significant public interest is expressed in holding a hearing, a public hearing is scheduled for Wednesday, February 2, 1983 at 7:00 p.m. EPA reserves the right to cancel the public hearing if significant public interest in holding a hearing is not communicated to EPA by telephone or in writing by January 19, 1983. EPA will determine by January 21, 1983, whether there is significant interest to hold the public hearing. All written comments on the Florida interim authorization application must be received by the close of business on January 19, 1983.

ADDRESSES: If significant public interest in expressed, EPA will hold a public hearing on Florida's application for interim authorization on Wednesday February 2, 1983, at 7:00 p.m. at the Flamenco Room Holiday Inn-Parkway, 1302 Apalachee Parkway, Tallahassee, FL, 32301 901/877-3141.

Written comments on the application and written or telephoned communication of interest in EPA's holding a public hearing on the Florida application must be sent to: James H. Scarbrough, Chief, Residuals Management Branch, U.S. EPA, 345 Courtland St., N.E., Atlanta, GA 30365, (404) 881-3016.

If you wish to find out whether or not EPA will hold a public hearing on the Florida application based upon EPA's decision that there was significant public interest in such a hearing, write or telephone after January 21, 1983, the EPA contact person listed below or telephone Mr. Robert W. McVety, Administrator, Solid Hazardous/Waste Section, Florida Department of Environmental Regulation, Twin Towers Office Building, Room 421, 2600 Blair Stone Road, Tallahassee, FL 32301, 904/488-0300.

Copies of the Florida Phase II interim authorization application are available during normal business hours at the following addresses for inspection and copying:

Florida Department of Environmental Regulation, Solid/Hazardous Waste Section, Twin Towers Office Building, Room 421, 2600 Blair Stone Rd., Tallahassee, FL 32301, Telephone: 904/488-0300.

Environmental Protection Agency, Regional Office Library, Room 121, 345 Courtland St, N.E., Atlanta, GA 30365, Telephone: 404/881-4216.

FOR FURTHER INFORMATION CONTACT: James H. Scarbrough, Chief, Residuals Management Branch, Environmental Protection Agency, 345 Courtland St., N.E., Atlanta, GA 30365, Telephone: 404/881-3016.

SUPPLEMENTARY INFORMATION: In the May 19, 1980 **Federal Register** (45 FR 33063) the Environmental Protection Agency promulgated regulations, pursuant to the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976, as amended, to protect human health and the environment from the improper management of hazardous waste. These regulations included provisions under which EPA can authorize qualified State hazardous waste management programs to operate in lieu of the Federal program. The regulations provide for a transitional stage in which qualified State programs can be granted interim authorization. The interim authorization program is being implemented in two phases corresponding to the two stages in which the underlying Federal program will take effect.

The State of Florida received interim authorization for Phase I on May 19, 1982.

In the January 26, 1981 **Federal Register** (46 FR 7965), the Environmental Protection Agency announced the availability of portions or components of Phase II of interim authorization. Component A, published in the **Federal Register** January 12, 1981 (46 FR 2802), contains standards for permitting containers, tanks, surface impoundments and waste piles. Component B, published in the **Federal Register** January 23, 1981 (46 FR 7666), contains standards for permitting hazardous waste incinerators. A full description of the requirements and procedures for State interim authorization is included in 40 CFR Part 123, Subpart F (45 FR 33479). As noted in the May 19, 1980 **Federal Register**, copies of complete State submittals for Phase II interim authorization are to be made available for public inspection and comment. In addition, a public hearing is to be held on the submittal.

List of Subjects in 40 CFR Part 123

Hazardous materials, Indian lands, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control, Water supply, Intergovernmental relations, Penalties, Confidential business information.

Charles R. Jeter,

Regional Administrator.

[FR Doc. 82-35289 Filed 12-29-82; 8:45 am]

BILLING CODE 6560-50-M

---

40 CFR Part 123

[W-6-FRL 2275-8]

New Mexico Water Quality Control Commission Underground Injection Control Primacy Application

AGENCY: Environmental Protection Agency.

ACTION: Notice of public comment period and of public hearing.

SUMMARY: The purpose of this notice is to announce that: (1) The Environmental Protection Agency (EPA) has received a complete application from the New Mexico Water Quality Control Commission requesting primary enforcement responsibility for the Underground Injection Control (UIC) Program; (2) the application is now available for inspection and copying; (3) public comments are requested; and (4) a public hearing will be held.

The proposed comment period will provide EPA the breadth of information and public opinion necessary to approve, disapprove, or approve in part the application of the New Mexico Water Quality Control Commission to regulate Classes I, III, IV, and V injection wells.

DATES: Requests to present oral testimony should be filed by January 21, 1983; the public hearing will be held on Tuesday, January 28, 1983, beginning at 10:00 a.m. and continuing until all persons have had a reasonable opportunity to present their views. All comments must be received by Friday, February 4, 1983. The hearing will be held in Morgan Hall, located in the lower level of the State Land Office Building, 310 Old Santa Fe Trail, Santa Fe, New Mexico.

ADDRESSES: Comments and/or requests to testify should be mailed to Julie Coston, Program Manager, Ground Water Protection Section, Environmental Protection Agency, Region VI, 1201 Elm Street, Dallas, Texas 75270. Copies of the application and pertinent materials are available for copying between 8:30 a.m. and 4:00 p.m. Monday through Friday, at the following locations:

Environmental Protection Agency, Region VI, Library, 28th Floor, 1201 Elm Street, Dallas, Texas 75270, PH: (214) 767–7341.

New Mexico Environmental Improvement Division, Water Pollution Control Bureau, Crown Building, 725 St. Michael's Drive, Santa Fe, New Mexico 87504, PH: (505) 984–0020

FOR FURTHER INFORMATION CONTACT: Julie Coston, Program Manager, Groundwater Protection Section, Environmental Protection Agency, Region VI, 120 Elm Street, Dallas, Texas 75270, (214) 767–8996.

SUPPLEMENTARY INFORMATION. The New Mexico Oil Conservation Division received program approval for Class II wells on February 5, 1982. This application from the New Mexico Water Quality Contol Commission is for the regulation of Class I, III, IV, and V injection wells.

The Underground Injection Control (UIC) program seeks to protect as "underground sources of drinking water" (USDWs) all aquifers capable of yielding a significant amount of water containing less than 10,000 mg/1 of total dissolved solids. If this application from New Mexico is approved, the State would protect underground sources of drinking water from endangerment by the following kinds of injection practices:

Class I—Wells which are used to inject municipal and industrial wastes (including hazardous wastes) below the deepest USDW in the area.

Class III—Wells which are used to inject for the extraction of minerals.

Class IV—Wells which are used to inject hazardous wastes into or above USDWs.

Class V—All other wells.

At present, New Mexico has no identified Class I wells, approximately 70 Class III wells, no identified Class IV wells, and approximately 100 Class V wells.

Class I and III wells would require a permit to operate. The permit would apply a number of technical requirements designed to assure that such injections did not result in native or injected fluids reaching USDWs. Such requirements include criteria for siting, construction, testing, operation, monitoring and abandonment.

Class IV wells would be prohibited. Class V wells will be studied to assess whether further regulatory measures are required. In the meanwhile, existing State requirements will continue to be applied.

The Safe Drinking Water Act requires EPA to determine whether the proposed State program meets the requirements of regulations issued at 40 CFR Parts 122, 123, 124, and 146. Should this application be disapproved, the Act requires EPA to prescribe the UIC program for the State.

This application includes a description of the State Underground Injection Control program, copies of all applicable regulations and forms, a statement of legal authority, and the memorandum of agreement between the New Mexico Water Quality Control Commission and the Region VI office of the Environmental Protection Agency.

The terms listed below comprise a complete listing of the thesaurus terms associated with 40 CFR Part 123 which sets forth the requirements for a State requesting the authority to operate its own permit program of which the Underground Injection Control program is a part; and may not all apply to this particular notice:

Hazardous materials
Indians—lands
Reporting and recordkeeping
Waste treatment and disposal
Water pollution control
Water supply
Intergovernmental relations
Penalties
Confidential business information.

Dated: December 17, 1982.

Frederic A. Eidsness, Jr.,

Assistant Administrator for Water.

[FR Doc. 82-35372 Filed 12-29-82; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 124

Evaluation of the Administrative Compliance Costs and the Impact of the Inflation Factor for Titles VI and XVI Assisted Facilities

AGENCY: Health Resources and Services Administration, PHS, DHHS.

ACTION: Rule related notice; request for comments.

SUMMARY: The purpose of this notice is to solicit comments on an evaluation plan which has been developed to examine the impact of the administrative compliance costs and the inflation factor on health facilities obligated under Titles VI and XVI of the Public Health Service Act to provide a reasonable volume of services to persons unable to pay.

DATE: The Department will consider comments received on or before January 31, 1983.

ADDRESS: Interested persons may request copies of the evaluation plan from, and submit comments to: Florence B. Fiori, Dr. P.H., Acting Associate Director for Health Facilities, Bureau of Health Maintenance Organizations and Resources Development, 3700 East-West Highway, Room 5–44, Hyattsville, Maryland 20782.

All comments received in timely response to this notice will be considered and will be available for public inspection at the above address between the hours of 8:30 a.m. and 5 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Charles A. Wells, Ph. D., Chief, Assurances Data and Analysis Branch, Division of Facilities Compliance, Bureau of Health Maintenance Organizations and Resources Development, 3700 East-West Highway, Room 5-44 Hyattsville, Maryland 20782, (301) 436–6893.

SUPPLEMENTARY INFORMATION: Health facilities which received assistance under Title VI and XVI of the Public Health Service Act provided an assurance that they would make available a reasonable volume of services to persons unable to pay. On May 18, 1979, the Secretary published regulations (42 CFR 124.501 *et seq.*) governing the assurance to provide uncompensated services. In the preamble to the rules (44 FR at 29374), the Secretary announced the Department's intent to develop a plan to

evaluate the administrative compliance costs and the impact of the inflation factor, and to seek public comment on the plan. This notice implements the Secretary's directive.

Dated: December 19,1982.

Robert Graham

Administrator, Assistant Surgeon General

[FR Doc. 82-35347 Filed 12-29-82; 8:45 am]

BILLING CODE 4160-16-M

---

45 CFR Part 100

Medicare, Medicaid, and Maternal and Child Health Services Block Grant Programs; Civil Money Penalties and Assessments for False or Improper Claims

AGENCY: Department of Health and Human Services.

ACTION: Notice of proposed rulemaking.

SUMMARY: These proposed regulations are intended to strengthen the Department's ability to protect the health care financing programs against persons and organizations who defraud and abuse those programs. The regulations would specify procedures for implementing the authority provided to the Department by section 2105 of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35), as amended by section 137(b)(26) of the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97-248), to impose civil money penalties and assessments administratively for the filing of false or certain other improper claims in the Medicare, Medicaid, or Maternal and Child Health Services Block Grant programs. The statute also permits an individual upon whom the Department imposes a civil money penalty or assessment to be suspended from participation in the Medicare and Medicaid programs. Until enactment of the civil money penalties legislation, the federal government had to rely upon litigation under the False Claims Act or criminal proceedings in order to compel restitution of funds falsely or improperly claimed under HHS health care financing programs.

Under the new law, violators may be fined up to $2,000 as a penalty for each false or improper claim and an additional assessment of up to twice the amounts falsely claimed. The procedures set forth in the proposed regulations would provide persons liable for civil money penalties and assessments an opportunity for a hearing on the record in accordance with the Administrative Procedure Act, for an appeal to the Secretary, and for judicial review of the Secretary's final determination.

DATES: Written comments will be considered if received before February 28, 1983.

ADDRESSES: Comments should be submitted in writing to Harvey Yampolsky, Assistant General Counsel, Inspector General Division, Department of Health and Human Services, Room 5541 North, 330 Independence Avenue, SW., Washington, D.C. 20201. Comments will be available for inspection by the public between 9:00 a.m. and 5:00 p.m., on regular business days, by making arrangements with the contact person indicated below.

FOR FURTHER INFORMATION CONTACT: Harvey Yampolsky, Room 5541, HHS North Building, 330 Independence Avenue, SW., Washington, D.C. 20201, (202) 472-5335.

SUPPLEMENTARY INFORMATION:

Regulatory Burden

Regulatory Impact Analysis

This regulation is not a major rule within the meaning of Executive Order 12291, and thus does not require a regulatory impact analysis.

Regulatory Flexibility Analysis

The Regulatory Flexibility Act (Pub. L. 96-354) requires the federal government to anticipate and reduce the impact of rules and paperwork requirements on small businesses. This regulation would provide new procedures for taking remedial action against violators of certain program statutes, and thus does not require a regulatory flexibility analysis.

Recordkeeping and Reporting Requirements

This regulation imposes no recordkeeping or reporting requirements and therefore is not subject to the Paperwork Reduction Act of 1980 (Pub. L. 96-511).

Discussion of Major Provisions

1. Basis for Civil Money Penalties and Assessments

Section 1128A of the Social Security Act, as added by section 2105 of the Omnibus Budget Reconciliation Act of 1981, and amended by section 137(b)(26) of the Tax Equity and Fiscal Responsibility Act of 1982, gives the Department of Health and Human Services (HHS) the authority to impose a civil money penalty of $2,000, and an assessment of up to twice the amount claimed, against any person (including individuals, organizations, and other entities) that presents or causes to be presented a claim for reimbursement under the Medicare, Medicaid, or Maternal and Child Health Services block grant program which is for an item or service that the person knew or had reason to know was false or improper. Specifically, the provision applies to any claim for an item or service that was not provided as claimed, or for which reimbursement is prohibited because the person has been excluded or suspended from participation in the program, or because the services or charges were in excess of certain statutory standards. The penalty and assessment may also be imposed where the claim was submitted in violation of the terms regarding permissible charges in a Medicare assignment or an agreement with a state's Medicaid agency.

The provision of the regulations covering the circumstances when a person would be subject to civil money penalties and assessments is the same as the statutory provision. However, the regulation would make clear that where more than one person was responsible for filing a claim, each person can be penalized the statutory amount, and all persons may be held jointly liable for any assessment.

The statute also provides the authority to suspend from the Medicare or Medicaid programs for appropriate periods of time persons who are liable for a penalty. The proposed regulation therefore includes suspension as an additional sanction that may be imposed along with money penalties and assessments.

2. Hearing and Appeal Rights

Persons against whom any of the statutory sanctions are proposed have the right to a hearing, and judicial review of any final Department determination. The proposed regulations would provide an opportunity for a hearing before an administrative law judge (ALJ) on any issues pertaining to a proposed penalty, assessment or suspension, an opportunity to appeal an ALJ decision to the Secretary, and an opportunity to seek judicial review of a final agency determination.

The proposed regulations specify that the Inspector General (IG) of HHS will make the initial proposal to impose a penalty, assessment, or suspension. The person against whom any of these sanctions are proposed would have thirty days to accept imposition of the sanctions, or provide reasons for modifying them, or request a hearing. The thirty days may be extended by the IG for a good cause. Unless a hearing is requested, a person would have no further appeal rights. The hearing would be recorded, and the parties would have the right to be represented by counsel, to

present evidence and witnesses, to cross-examine witnesses, and present oral arguments and written briefs. The ALJ would be required to issue his decision within sixty days after the hearing or the period for submitting post-hearing briefs has ended. The ALJ decision would become final and binding on the parties thirty days after notice of the decision is received, unless within that time a party files a written exception to the decision.

Where exceptions are filed, the matter would be referred to the Secretary or his designee for review. There would be no right to appear personally before the Secretary. Decisions of the Secretary or his designee would be final unless, within sixty days of being notified of the decision of the Secretary or his designee, the person against whom sanctions are being imposed seeks judicial review. Under the statute, reviews of penalties and assessments are by the appropriate court of appeals, while reviews of suspension are by the appropriate district court.

3. Calculating the Amount of Penalty or Assessment or the Length of a Suspension

The statute requires the Secretary, when determining the amount of any penalty or assessment, to take into account the nature of the claims and the circumstances under which they were presented and the degree of culpability, history of prior offenses, and financial condition of the person, as well as other matters justice may require. The proposed regulations include guidelines describing those circumstances which we would consider mitigating, resulting in a reduced penalty and assessment, and those circumstances which we would consider aggravating, resulting in a higher penalty and assessment. The regulation would also require that the length of suspensions take into account the amount of the penalties and assessments.

4. Collections

Where a person does not voluntarily pay the amount owed as a penalty and assessment, the Department may initiate a civil action in district court to recover the funds. Furthermore, the statute and regulations permit the amount owed by the person to be deducted from any sums owed to the person by the United States or a State agency.

5. Effective Date

The regulations would apply to any false or improper claim, regardless of when the claim was filed. However, in the case of a claim filed before the date of enactment of the Omnibus Budget Reconciliation Act of 1981, August 13, 1981, the government's burden of proof would be higher, and the government would have to show that the person would have been liable for penalties under the False Claims Act (31 U.S.C. 231 *et seq.*). These additional requirements have been added to assure that no new substantive law or standards will be applied to claims filed before August 13, 1981.

List of Subjects in 45 CFR Part 100

Administrative practice and procedure, Fraud, Grant programs—health, Maternal and child health, Medicaid, Medicare, Penalties.

Dated: November 23, 1982.

Richard S. Schweiker,

Secretary.

45 CFR Subtitle A—Department of Health and Human Services—is amended as set forth below:

1. The table of Contents of Subtitle A is amended by adding at the end thereof the following:

Part
100 Civil Money Penalties and Assessments

2. Subtitle A is amended by adding after Part 99 the following new Part 100:

PART 100—CIVIL MONEY PENALTIES AND ASSESSMENTS

Sec.
100.100 Basis and purpose.
100.101 Definitions.
100.102 Basis for civil money penalties and assessments.
100.103 Amount of penalty.
100.104 Assessment.
100.105 Suspension from participation in Medicare or Medicaid.
100.106 Determining the amount of the penalty and assessment.
100.107 Determining the duration of a suspension.
100.108 Penalty not exclusive.
100.109 Notice of proposed determination.
100.110 Failure to request a hearing.
100.111 Initiation of hearing.
100.112 Parties.
100.113 Notice of hearing.
100.114 Issues and Burden of Proof.
100.115 Authority of ALJ.
100.116 Rights of parties.
100.117 Discovery.
100.118 Evidence and witnesses.
100.119 Exclusion from the hearing for misconduct.
100.120 Ex parte contacts.
100.121 Separation of functions.
100.122 Official transcript.
100.123 Post-hearing briefs.
100.124 Record for decision.
100.125 Initial decision; administrative review; finality.
100.126 Settlement.
100.127 Judicial review.
100.128 Collection of penalty and assessment.
100.129 Notice to other agencies.
100.130 Filing and service of papers.
100.131 Records to be public.

Authority: Sections 1102, 1128 and 1128A of the Social Security Act (42 U.S.C. 1302, 1320a–7 and 42 U.S.C. 1320a–7a).

§ 100.100 Basis and purpose.

(a) *Basis.* This part implements sections 1128A and 1128(b) of the Social Security Act (42 U.S.C. 1320a–7a and 1320a–7(b)).

(b) *Purpose.* This part (1) establishes procedures for imposing civil money penalties and assessments against persons who have submitted certain prohibited claims under the Medicare, Medicaid, or Maternal and Child Health Services Block Grant programs; (2) establishes procedures for suspending persons against whom a civil money penalty or assessment has been imposed from the Medicare and Medicaid programs; and (3) specifies the appeal rights of persons subject to a penalty or assessment.

§ 100.101 Definitions.

For purposes of this part—

"Act" means the Social Security Act.

"Agent" includes a Medicare fiscal intermediary or carrier, a Medicaid fiscal agent, or any other claims processing agent under the Medicare, Medicaid, or Maternal and Child Health Services Block Grant program.

"ALJ" means an Adminstrative Law Judge.

"Assessment" means the amount described in section 100.104, and includes the plural of that term.

"Claim" means and application submitted by a person to an agency of the United States or of a State, or an agent thereof, for payment for

(a) An item or service for which payment may be made under Medicare, or

(b) An item or service for which medical assistance is provided under a State plan for medical assistance, or

(c) An item or service for which payment may be made under the Maternal and Child Health Services Block Grant program.

"Department" means the Department of Health and Human Services.

"General Counsel" means the General Counsel of the Department or his designees.

"HCFA" means the Health Care Financing Administration.

"Inspector General" means the Inspector General of the Department or his designees.

"Item or service" includes (a) any item, device, medical supply, or service claimed to have been provided to a patient and listed in an itemized claim for program payment, and (b) in the case

of a claim based on costs, any entry in the cost report, books of account or other documents supporting the claim.

"Maternal and Child Health Services Block Grant program" means the program authorized under title V of the Act.

"Medicaid" means the program of grants to the States for medical assistance authorized under title XIX of the Act.

"Medicare" means the program of health insurance for the aged and disabled authorized under title XVIII of the Act.

"Penalty" means the amount described in section 100.103, and includes the plural of that term.

"Person" means an individual, trust or estate, partnership, corporation, professional association or corporation, or other entity that presents or causes to be presented a claim under the Medicare, Medicaid, or Maternal and Child Health Services Block Grant program, and includes the plural of that term.

"Program" means the Medicare, Medicaid, or Maternal and Child Health Services Block Grant program.

"Respondent" means the person upon whom the Secretary has imposed, or proposes to impose, a penalty or assessment.

"Secretary" means the Secretary of the Department or his designees.

"State" includes the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

"Suspension" means the temporary barring or permanent exclusion of a person from participation in the Medicare or Medicaid programs under section 1128(b) of the Social Security Act.

§ 100.102 Basis for civil money penalties and assessments.

(a) The Department may impose a penalty and assessment against any person whom it determines in accordance with this part has presented or caused to be presented a claim which

(1) Is for an item or service:

(i) That the respondent knew or had reason to know was not provided as claimed; or

(ii) For which no payment could be made under the program under which it was submitted because:

(A) The person had been excluded under section 1128 of the Act (42 U.S.C. 1320a–7);

(B) The person had been excluded from eligibility to provide services on a reimbursement basis under section 1160(b) of the Act (42 U.S.C. 1320c–9(b));

(C) Payment had been prohibited under title XVIII of the Act because of a determination under section 1862(d) of the Act (42 U.S.C. 1395y(d)); or

(D) The Secretary had terminated the person's provider agreement under section 1866(b)(2) of the Act (42 U.S.C. 1395cc(b)(2)); or

(2) Was submitted in violation of (i) the terms of an assignment under section 1842(b)(3)(B)(ii) of the Act, or (ii) an agreement with a State agency not to charge an individual for an item or service in excess of the amount permitted to be charged.

(b) In any case where it is determined that more than one person was responsible for presenting or causing to be presented a claim described in the preceding paragraph, each person may be held liable for the penalty prescribed by this part, and an assessment may be imposed against any one person or jointly against two or more persons, but the aggregate amount of the assessments collected may not exceed the amount that could be assessed if only one person was responsible.

§ 100.103 Amount of penalty.

The Department may impose a penalty of not more than $2,000 for each item or service that is subject to a determination under § 100.102.

§ 100.104 Assessment.

A person subject to a penalty determined under § 100.102 may be subject, in addition, to an assessment of not more than twice the amount claimed for each item or service which was a basis for the penalty. The assessment is in lieu of damages sustained by the Department or a State agency because of that claim.

§ 100.105 Suspension from participation in Medicare or Medicaid.

A person subject to a penalty or assessment determined under § 100.102 may, in addition, be suspended from participation in Medicare for a period of time determined under § 100.107 of this part. The Secretary may require the appropriate State agency to suspend the person from the Medicaid program for a period he shall specify. Any such suspension shall become effective only after there is a final decision of the Secretary pursuant to § 100.125(f)(5), or at any earlier date that the respondent fails, within the time permitted, to exercise his right to a hearing under § 100.109 or administrative review under § 100.125, and only after the Administrator of HCFA concurs with the imposition of a suspension.

§ 100.106 Determining the amount of the penalty and assessment.

(a) In determining the amount of any penalty and assessment, the Department shall take into account, in accordance with this section, (1) the nature of the claim and the circumstances under which it was presented, (2) the degree of culpability of the person submitting the claim, (3) the history of prior offenses of the person presenting the claim, (4) the financial condition of the person presenting the claim, and (5) such other matters as justice may require.

(b) *Guidelines for determining the amount of the penalty or assessment.* As guidelines for taking into account the factors listed in paragraph (a), of this section, the following are to be considered mitigating and aggravating circumstances:

(1) *Nature and circumstances of the claim.* It should be considered a mitigating circumstance if all the items or services subject to a determination under § 100.102 included in the action brought under this part were of the same type and occurred within a six-month period, there were not more than ten such items or services, and the total amount claimed for such items or services was less than $1,000. It should be considered an aggravating circumstance if such items were of three or more types, occurred over more than a 12-month period, there were more than 20 such items or services, or the amount claimed for such items or services was $2,000 or more.

(2) *Degree of culpability.* It should be considered a mitigating circumstance if the claim for the item or service was the result of an unintentional and unrecognized error in the process respondent followed in presenting claims, and corrective steps were taken promptly after the error was discovered. It should be considered an aggravating circumstance if the respondent knew the item or service was not provided as claimed, or, for claims subject to a determination under § 100.102 (a) or (b), knew that no payment could lawfully be made for the claim.

(3) *Prior offenses.* It should be considered an aggravating circumstance if at any time prior to the presentation of any claim which included an item or service subject to a determination under § 100.102, the respondent was held liable for criminal, civil, or administrative sanctions in connection with the presentation of claims under a program covered by this part or any other public or private program of reimbursement for medical services.

(4) *Financial condition.* It should be considered a mitigating circumstance if

imposition of the penalty without reduction will jeopardize the ability of the respondent to continue as a health care provider. It will be considered an aggravating circumstance if the respondent is in such a secure financial position that reduction of the penalty in recognition of mitigating circumstances would defeat the purpose of this part of providing a meaningful sanction to deter violations.

(5) *Other matters as justice may require.* Other circumstances of an aggravating or mitigating nature should be taken into account if, in the interests of justice, they require either a reduction of the penalty or assessment or an increase to assure the achievement of the purposes of this part.

(c) As guidelines for determining the amount of the penalty and assessment to be imposed, for every item or service subject to a determination under § 100.102:

(1) As a general matter, the assessment should be twice the amount of the claim for each item or service.

(2) If there are substantial aggravating circumstances, the amount of the penalty should be the maximum amount permitted by § 100.103.

(d) The guidelines set forth in this section are not binding. Moreover, nothing in this section shall limit the authority of the Department to settle any issue or case as provided by § 100.126 or to compromise any penalty and assessment as provided by § 100.128.

§ 100.107 Determining the duration of a suspension.

(a) As guidelines for determining the duration of a suspension, the following factors are to be considered: (1) The duration of a suspension should be based primarily upon the total amount of penalties and assessments imposed in an action initiated under this part, and (2) a respondent should be suspended for an appropriate period of time whenever the aggregate amount of the penalty and assessment imposed in any action under this part exceeds $5,000.

(b) The guidelines set forth in paragraph (a) are not binding. A respondent may be suspended when the total amount of the penalty does not exceed $5,000, and in all cases the duration of a suspension should take into account circumstances of an aggravating or mitigating nature and any other matters which justice may require.

§ 100.108 Penalty not exclusive.

A penalty imposed under this part is in addition to any other penalties prescribed by law.

§ 100.109 Notice of proposed determination.

(a) If the Inspector General proposes to impose a penalty and assessment, or suspend a respondent from participation in Medicare or Medicaid, in accordance with this part, he must personally serve or send (by certified mail, return receipt requested) to the respondent written notice of his intent to impose a penalty and assessment or a suspension. The notice will include reference to the statutory basis for the penalty and assessment, or suspension; specific identification of the claims with respect to which the penalty and assessment or suspension are proposed; the reason why such claims subject the respondent to a penalty and assessment or suspension; the amount of the proposed penalty and assessment, and period of suspension (where applicable); instructions for responding to the notice; and a copy of the rules contained in this part.

(b) Within 30 days of the date of receipt of the notice, the respondent may submit:

(1) A written statement accepting imposition of the penalty and assessment or suspension as proposed, which may include reasons why the proposed penalty and assessment or suspension should be reduced or modified; or

(2) A written request for a hearing, which shall be accompanied by an answer to the notice that (i) with respect to each of the claims identified in the notice, admits or denies that the respondent presented or caused to be presented such claim, and (ii) states any defense on which the respondent intends to rely.

(c) The Inspector General may extend the 30 day period for good cause shown by the respondent.

§ 100.110 Failure to request a hearing.

If the respondent does not request a hearing within the time prescribed by § 100.109(b) and (c), the Inspector General may impose the proposed penalty and assessment or suspension or any less severe penalty and assessment or suspension. The Inspector General shall notify the respondent by certified mail, return receipt requested, of amy penalty, assessment, or suspension that has been imposed and of the means by which the respondent may satisfy the judgment. The respondent has no right to appeal a penalty and assessment, or suspension, with respect to which he has not requested a hearing.

§ 100.111 Initiation of hearing.

If the respondent requests a hearing in accordance with § 100.109(b)(2), determination of the proposed penalty and assessment or suspension will be assigned to an ALJ.

§ 100.112 Parties.

The Inspector General and the respondent are parties to the hearing.

§ 100.113 Notice of hearing.

The ALJ will send written notice to the respondent and to the Inspector General stating the time and place for the hearing and the issues which will be considered. In fixing the time and place of the hearing, the ALJ will attempt to minimize the costs to the parties.

§ 100.114 Issues and burden of proof.

(a) To the extent that a proposed penalty and assessment is based on claims presented on or after August 13, 1981, the Inspector General must prove by a preponderance of the evidence that the respondent presented or caused to be presented such claims as described in § 100.102.

(b) To the extent that a proposed penalty and assessment is based on claims presented before August 13, 1981, the Inspector General must prove by clear and convincing evidence that

(1) the respondent presented or caused to be presented such claims as described in § 100.102; and

(2) presenting or causing to be presented such claims could have rendered respondent liable under the provisions of the False Claims Act, 31 U.S.C. 231 *et seq.*

(c) Where a final determination that the respondent presented or caused to be presented a claim falling within the scope of § 100.102 has been rendered in any proceeding in which the respondent has had an opportunity to be heard, the respondent shall be bound by such determination in any proceeding under this part.

(d) The respondent shall bear the burden of producing and proving by a preponderance of the evidence any mitigating factors under § 100.106.

(e) The Inspector General shall bear the burden of producing and proving by a preponderance of the evidence any aggravating factors under § 100.106.

§ 100.115 Authority of ALJ.

(a) The ALJ will conduct a fair hearing, avoid delay, maintain order, and assure that a record of the proceedings is made.

(b) The ALJ may:

(1) Change the date, time, and place on the hearing, upon notice to the parties;

(2) Continue or recess the hearing in whole or in part;

(3) Hold conferences to identify or simplify the issues, or to consider other matters that may aid in the expeditious disposition of the proceeding;

(4) Administer oaths and affirmations;

(5) Issue subpoenas in hearings involving Medicare claims;

(6) Rule on motions and other procedural matters;

(7) Regulate the course of the hearing and the conduct of counsel;

(8) Examine witnesses;

(9) Receive, rule on, exclude, or limit evidence;

(10) Upon motion of a party, decide cases, in whole or part, by summary judgment where there is no disputed issue of material fact;

(11) Issue a written opinion containing findings of fact, conclusions of law, and an initial decision on whether a penalty or assessment or suspension should be imposed, and if so, the amount.

(c) The ALJ does not have authority to decide upon the validity of Federal statutes or regulations.

§ 100.116 Rights of parties.

All parties may:

(a) Appear by counsel (or, in the case of a government agency, other authorized representative) in all hearing proceedings.

(b) Participate in any prehearing or posthearing conference held by the ALJ.

(c) Agree to stipulations as to facts which will be made part of the record.

(d) Make opening statements at the hearing.

(e) Present material evidence which is relevant to the issues at the hearing.

(f) Present witnesses who then must be available for cross-examination by all other parties.

(g) Present oral arguments at the hearing.

(h) Submit written briefs, proposed findings of fact, and proposed conclusions of law, after the hearing.

§ 100.117 Discovery.

Upon request of a party, the ALJ may allow the party to inspect and copy documents relevant to the issues in the proceeding that are in the possession or control of the other party. Previous statements of a witness are not available until after the witness has testified on direct examination. Depositions, interrogatories, and other forms of discovery are not authorized.

§ 100.118 Evidence and witnesses.

(a) Testimony at the hearing is given orally and under oath or affirmation. Written direct testimony may be used in the discretion of the ALJ. Witnesses must be available at the hearing for cross-examination by all parties.

(b) Two or more parties may agree to stipulations of fact. Such stipulations, or any exhibit proposed by any party, must be exchanged at a prehearing conference or otherwise prior to the hearing, if the ALJ so decides.

(c) Technical rules of evidence are not applicable to the hearing, except that when reasonably necessary, the ALJ must apply rules or principles designed to assure production of the most credible evidence available and to subject testimony to test by cross-examination.

(d) A witness may be cross-examined on any matter relevant to the proceeding without regard to the scope of his or her direct examination.

(e) The ALJ shall exclude irrelevant, immaterial, or unduly repetitious evidence.

(f) All documents and other evidence offered or taken for the record shall be open to examination by the parties.

§ 100.119 Exclusion from the hearing for misconduct.

Disrespectful or disorderly language or conduct, refusal to comply with directions, or continued use of dilatory tactics by any individual at the hearing constitutes grounds for immediate exclusion of that individual from the hearing by the ALJ.

§ 100.120 Ex parte contacts.

(a) Except to the extent required for the disposition of ex parte matters, the ALJ may not consult or be consulted by a party or any other individual (except employees or his own office) on a fact in issue, unless on notice and opportunity for all parties to participate.

(b) The ALJ shall not consider letters or other contacts from non-parties expressing views, urging action, or submission of other unrequested written material regarding matters in issue in a hearing.

§ 100.121 Separation of functions.

An employee or an agent of the Department, who is engaged in the performance of investigative or prosecutive functions for or on behalf of the Department in a case may not, in that or a factually related case, participate or advise in the decision, except as witness or counsel in public proceedings.

§ 100.122 Official transcript.

The hearing will be recorded and transcribed. Transcripts may be obtained from the reporter by a party or the public at not to exceed the maximum rates fixed by contract between the Department and the reporter.

§ 100.123 Post-hearing briefs.

The ALJ will fix the time for filing post-hearing briefs, which may not exceed 30 days after termination of the hearing, unless the hearing was of unusual length or complexity, in which case the time may be extended. Such briefs may contain proposed findings of fact and conclusions of law. The ALJ may permit the parties to file reply briefs.

§ 100.124 Record for decision.

The transcript of testimony, exhibits, and all papers, requests and rulings filed or made in the proceedings, constitute the exclusive record for the ALJ's initial decision.

§ 100.125 Initial decision; administrative review; finality.

(a) The ALJ shall serve the initial decision on all parties within 60 days after whichever of the following is later:

(1) Termination of the hearing; or

(2) The time for submission of post-hearing briefs has expired.

(b) The initial decision shall contain findings of fact, conclusions of law, and the amount of any penalties and assessments (which may be the amount proposed by the Inspector General, or a greater or lesser amount), and the length of any suspension, imposed upon the respondent thereby.

(c) The finding of fact shall include a finding on each of the following issues for each item or service with respect to which a penalty or assessment was proposed:

(1) Whether the item or service is subject to a determination under § 100.102; and

(2) If the item or service is subject to a determination under § 100.102 whether there are mitigating or aggravating circumstances as described in § 100.106(b).

(d) The initial decision of the ALJ becomes final and binding on the parties 30 days after notice thereof is received by the respondent, unless on or before that 30th day a party files with the ALJ written exceptions to the initial decision and supporting reasons for the exceptions.

(e) A party opposing exceptions may file a brief within 30 days after receipt of the exceptions.

(f)(1) If a party timely files exceptions under paragraph (d), the ALJ will forward to the Secretary the record of the proceeding, the exceptions and reasons therefor, and any briefs filed in opposition.

(2) After the Secretary has reviewed the initial decision, the record on which it is based, and submissions of the parties made subsequent to the decision, the Secretary will affirm, modify, or reverse the initial decision, or remand the case to an ALJ. The Secretary may modify the penalty, assessment, or suspension, to be more or less severe than that imposed by the ALJ.

(3) There is no right to appear personally before the Secretary.

(4) A copy of the decision of the Secretary will be mailed to each party.

(5) Except in the case of a remand, the decision of the Secretary becomes final and binding on the parties 60 days after notice thereof is received by the respondent, unless on or before the 60th day the respondent files a written petition requesting review in the court of appeals as provided by section 1128A(d) of the Act (42 U.S.C. 1320a–7a(d)), or, in the case of a request for judicial review of a suspension, to the appropriate district court as provided by section 1128(d) and 205(g) of the Act (42 U.S.C. 1320a–7 and U.S.C. 405(g)).

§ 100.126 Settlement.

The Inspector General has exclusive authority to settle any issues or case, without the consent of the ALJ or the Secretary, at any time prior to a final decision by the Secretary. Thereafter, the General Counsel has such exclusive authority.

§ 100.127 Judicial review.

(a) Section 1128A(d) of the Act authorizes judicial review of a penalty or assessment imposed under sections 100.110 or 100.125 which has become final. Judicial review may be sought by a respondent only with respect to a penalty or assessment with respect to which the respondent filed an exception under § 100.125(d).

(b) Section 1128(d) of the Act authorizes judicial review of a determination to bar a person from participation in Medicare or Medicaid pursuant to section 1128(b) of the Act. Judicial review may be sought by a respondent only with respect to a suspension with respect to which the respondent filed an exception under § 100.125(d).

§ 100.128 Collection of penalty and assessment.

(a) Collection of any penalty and assessment shall be the responsibility of HCFA, except in the case of the Maternal and Child Health Services Block Grant, where the collection shall be the responsibility of the Public Health Service.

(b) A penalty and assessment imposed under this part may be compromised by the General Counsel, after consultation with the Inspector General, and may be recovered in a civil action brought in the United States district court for the district where the claim was presented, or where the respondent resides.

(c) The amount of a penalty and assessment when finally determined, or the amount agreed upon in compromise, may be deducted from any sum then or later owing by the United States, or by a State agency, to the respondent.

(d) Matters that were raised or that could have been raised in a hearing before an ALJ or in an appeal under section 1128A(d) of the Act may not be raised as a defense in a civil action by the United States to collect a penalty under this part.

§ 100.129 Notice to other agencies.

Whenever a penalty and assessment, or suspension, imposed under this part becomes final, HCFA and the Public Health Service will notify the appropriate State or local medical or professional association, the appropriate Professional Standards Review Organization, the State Medicaid agency the appropriate Medicare carrier or intermediary, and the appropriate State or local licensing agency or organization (including the Medicare and Medicaid State survey agencies) that the penalty and assessment have become final and the reasons for them. The HCFA will also provide to the State Medicaid agency the notice required under section 1128(b) of the Social Security Act.

§ 100.130 Filing and service of papers.

(a) All papers in connection with a hearing must be filed with the ALJ in the form, and in the number of copies, that he determines. Papers are considered filed when they are received by the ALJ.

(b) All papers in connection with a hearing must be served on all parties (or their designated representatives) by personal delivery or by mail.

(c) Any notice required by this part which cannot be delivered because the addressee cannot be found, may be served in accordance with Rule 4, Federal Rules of Civil Procedure.

§ 100.131 Records to be public.

All documents contained in the records of formal proceedings for imposing a penalty and assessment or suspension under this part may be inspected and copied.

[FR Doc. 82–35099 Filed 12–29–82; 8:45 am]
BILLING CODE 4150–04–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 67

Maritime Administration

46 CFR Parts 221 and 355

[CGD 82–103]

Change in Interpretation of Section 2 of the Shipping Act of 1916, as Amended for Coastwise Trading Purposes

AGENCY: Maritime Administration, (MARAD) and Coast Guard, DOT.

ACTION: Extension of time to file comments on petition for rulemaking.

SUMMARY: On November 4, 1982, the Maritime Administration and Coast Guard published in the **Federal Register** (46 FR 49990) an advance notice of proposed rulemaking seeking comments by January 3, 1983, on a proposed change in the interpretation of Section 2 of the Shipping Act of 1916, as amended for coastwise trading purposes. Requests have been received for an extension of the comment period. Notice is hereby given that the closing date for comments concerning the advance notice of proposed rulemaking is extended to the close of business on January 24, 1983.

DATE: Comments are due on or before January 24, 1983.

FOR FURTHER INFORMATION CONTACT:
Ms. Doris Lansberry, Office of the Chief Counsel, Maritime Administration, (202) 426–5711, or
Cmdr. John Distin, Maritime and International Law Division, United States Coast Guard (202) 426–1527.

Dated: December 27, 1982.

Clyde Lusk, Jr., RADM

Chief, Office of Merchant Marine Safety, Coast Guard.

By order of the Maritime Administrator, Department of Transportation.

Dated: December 27, 1982.

Robert J. Patton, Jr.,

Secretary.

[FR Doc. 82–35476 Filed 12–29–82; 8:45 am]
BILLING CODE 4910–14/4910–61–M

FEDERAL COMMUNICATIONS COMMISSION

47 Parts 15, 21, 22, 25, 41, 42, 43, 64, 66, 74, 76, 78, 83, 90, and 95

[Gen. Docket No. 82-812; FCC 82-539]

List of the Commission's Rules To Be Reviewed Pursuant to Section 610 of the Regulatory Flexibility Act During 1982-1983

AGENCY: Federal Communications Commission.

ACTION: Notice requesting comments.

SUMMARY: This action (Notice) invites public comment on the Commission's List of Rules to be reviewed pursuant to Section 610 of the Regulatory Flexibility Act of 1980, 5 U.S.C. 610. The purpose of the review is to determine whether such rules should be continued without change, or should be amended or rescinded to minimize any significant economic impact of the rules upon a substantial number of small entities. Upon receipt of comments from the public, said comments will be evaluated and action will be taken to rescind or amend the Commission's rules, as required.

DATES: Comments may be filed on or before February 28, 1983.

FOR FURTHER INFORMATION CONTACT: Donald L. McClure or Maurice Talbot, Office of General Counsel, (202) 254-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects

47 CFR Part 15

Communications equipment, Radio.

47 CFR Part 21

Domestic Public Fixed Radio, Communications Common Carriers.

47 CFR Part 22

Mobile Radio, Communications Common Carriers.

47 CFR Part 25

Satellites, Communications Common Carriers, Government procurement, Securities.

47 CFR Part 41

Communications Common Carriers, Telegraph, Telephone.

47 CFR Part 42

Record Preservation, Communications Common Carriers.

47 CFR Part 43

Communications Common Carriers, Reporting requirements.

47 CFR Part 64

Communications Common Carriers, Claims, Foreign relations, Civil Defense, Computer technology, Telephone, Credit.

47 CFR Part 66

Communications Common Carriers, Administrative practice and procedure Telephone.

47 CFR Part 74

Television, Research, Radio, Education.

47 CFR Part 76

Cable Television, Political candidates, Administrative practice and procedure.

47 CFR Part 78

Cable Television, Communications equipment.

47 CFR Part 83

Vessels, Radio, Marine safety, Great Lakes, Telegraph, Telephone.

47 CFR Part 90

Radio, Administrative practice and procedure.

47 CFR Part 95

Radio, Communications equipment.

Adopted: December 8, 1982.

Released December 13, 1982.

1. On July 29, 1981, the Federal Communications Commission released its Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) Plan for periodic review of all rules issued by the agency which have, or will have, a significant economic impact upon a substantial number of small entities. See 46 FR 39183 (July 31, 1981). Attached to the Commission's plan was a table outlining a broad schedule for reviewing FCC regulations toward the ends specified by the RFA during the next five years. The Notice in Gen. Docket No. 81-706 implemented the first year of the five year plan. See 46 FR 56466 (November 17, 1981). The RFA Plan has been revised to accomplish the review of the Commission's Rules over the next three years (1982-1985) thereby decreasing the original term of review by one year. The revised RFA Plan will be published in the **Federal Register** during FY 1983.

2. In accordance with the revised RFA Plan, the staff has reviewed the subparts of the Commission's regulations targeted for review from November 1982 through October 1983. The attached Appendix lists specific rules or closely related groups of rules which are to be examined pursuant to Section 610(c) of the RFA during the second year of the Commission's RFA review. The public is invited to comment on these rules for regulatory flexibility puposes. Comments should address the following: (1) The nature of the economic impact the rule(s) has (or have) on the commenting party, (2) the continued need for the rule(s), (3) the complexity of the rule(s); (4) the extent to which the rule(s) overlap(s), duplicate(s) or conflict(s) with other Federal rules, and, to the extent feasible, with state and local governmental rules; (5) the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule(s); (6) any other matters that would facilitate an informed review of the specified regulations.

3. The Commission with the assistance of the Regulatory Review Working Group (RRWG) is undertaking a broad integrated review of all rules and policies with the objective being to eliminate those which no longer serve the public interest. The annual review being conducted in accordance with the RFA is an integral part of the Commission's overall effort to review all of its rules.

4. Commenting parties should submit one original and one copy of each filing to the Secretary, Federal Communications Commission, 1919 M Street, NW., Washington, D.C. 20554.[1] Comments should specify the docket number of this proceeding and the name of the reviewing Bureau or Office.

5. Interested parties may file comments on or before February 28, 1983.

(Secs. 2, 3, 4, 5, 301, 303, 307, 308, 309, 315, 317, 48 Stat., as amended. 1064, 1065, 1066, 1068, 1081, 1082, 1083, 1084, 1085, 1088, 1089; 47 U.S.C. 152, 153, 154, 155, 301, 303, 307, 308, 309, 315, 317)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix—List of Rules for Review Pursuant to Section 610(c) of the Regulatory Flexibility Act of 1980, 5 U.S.C. Sec. 610(c) for 1982-1983 Common Carrier Bureau

Part/Subpart and Title Description

21 Domestic Public Fixed Radio Services
A General

Need

These rules provide general information regarding the Domestic Public Fixed Radio Services.

Legal Basis

47 U.S.C. Sec. 307-310

[1] The original will be placed in the public docket and the Secretary will forward the copy to the appropriate Bureau or Office.

Section No. and Title Description

21.0 Scope and authority.
21.2 Definitions.

Part/Subpart and Title Description

21D Technical Operation

Need

These rules provide general information regarding the Domestic Public Fixed Radio Services.

Legal Basis

47 U.S.C. Sec. 307–310

Section No. and Title Description

21.200 Station inspection.
21.201 Posting of station authorization.
21.203 Posting of operator licenses.
21.204 FCC publication required for reference.
21.205 Operator requirements.
21.206 Inspection and maintenance of antenna structure marking and lighting.
21.207 Transmitter measurements.
21.208 Station records.
21.209 Communications concerning safety of life and property.
21.210 Operation during emergency.
21.211 Suspension of transmission.
21.212 Equipment, service and maintenance tests.
21.213 Station identification.
21.214 Operation of stations at temporary fixed locations.

Part/Subpart and Title Description

22 Public Mobile Radio Services
A General

Need

These rules provide general information regarding the Public Mobile Radio Services.

Legal Basis

47 U.S.C. Sec. 154,303

Section No. and Title Description

22.0 Scope and authority.
22.2 Definitions.

Part/Subpart and Title Description

22B Applications and Licenses

Need

These rules prescribe general filing requirements and application procedures for the Public Mobile Radio Services.

Legal Basis

47 U.S.C. Sec. 154,303

Section No. and Title Description

22.3 Station authorization required.
22.4 Eligibility for station license.
22.5 Formal and informal applications.
22.6 Filing of applications, fees, and number of copies.
22.9 Standard application forms for Domestic Public Land Mobile Radio, Rural Radio and Offshore Radio.
22.11 Miscellaneous forms shared by all domestic public radio services.
22.13 General application requirements.
22.15 Technical content of applications.
22.17 Demonstrations of financial qualifications.
22.20 Defective applications.
22.21 Inconsistent or conflicting applications.
22.22 Repetitious applications.
22.23 Amendment of applications.
22.25 Application for temporary authorizations.
22.26 Receipt of application.
22.27 Public notice period.
22.28 Dismissal and return of applications.
22.29 Ownership changes and agreements to amend or to dismiss applications or pleadings.
22.30 Opposition to applications.
22.31 Mutually exclusive applications.
22.32 Consideration of applications.
22.35 Comparative evaluation of mutually exclusive applications.
22.39 Transfer of control or assignment of station authorization.
22.40 Considerations involving transfer or assignment applications.
22.43 Period of construction.
22.44 Forfeiture of station authorization.
22.45 License period.

Parts/Subpart and Title Description

25 Satellite Communications
A General

Need

These rules provide general information regarding Satellite Communications.

Legal Basis

47 U.S.C. Sec. 154(i), 303, 403, 701–744

Section No. and Title Description

25.101 Basis and scope.
25.103 Definitions.

Part/Subpart and Title Description

25B Communications Satellite Procurement Regulations.

Need

These rules prescribe general filing requirements and application procedures for Satellite Communications.

Legal Basis

47 U.S.C. Sec. 154(i), 303, 403, 701–744

Section No. and Title Description

25.151 Scope, purpose and application of this subpart.
25.156 Definitions.
25.160 Emergencies.
25.161 Contract requirements.
25.162 Persons required to give prior notification.
25.163 Contents of notification.
25.164 Who may sign the notification.
25.165 Form of notification, number of copies, etc.
25.166 Action upon notification.
25.167 Amendments.
25.169 Publication requirements.
25.171 Methods of procurement.
25.172 Formal advertising.
25.173 Two-step procurement.
25.174 Negotiation.
25.176 Small business.
25.177 Maintenance of records.
25.178 Inspection.

Part/Subpart and Title Description

25C Technical Standards

Need

These rules prescribe technical standards for Satellite Communications.

Legal Basis

47 U.S.C. Sec. 154(i), 303, 403, 701–704

Section No. and Title Description.

25.201 Definitions.
25.202 Frequencies, frequency tolerance and emission limitations.
25.203 Choice of sites and frequencies.
25.204 Power limits.
25.205 Minimum angle of antenna elevation.
25.206 Station identification.
25.207 Cessation of emissions.
25.208 Power flux density limits.
25.209 Antenna performance standards.
25.251 Special requirements for coordination.
25.252 Maximum permissible interference power.
25.253 Determination of coordination distance for near great circle propagation mechanisms.
25.254 Computation of coordination distance contours for propagation modes associated with precipitation.
25.255 Guidelines for performing interference analyses for near great circle propagation mechanisms.
25.256 Guidelines for performing interference analyses for precipitation scatter modes. [Reserved]

Part/Subpart and Title Description

25E Applications and Authorizations

Need

These rules prescribe application procedures for developmental operation in Satellite Communications.

Legal Basis

47 U.S.C. Sec. 154(i), 303, 403, 701–704

Section No. and Title Description.

25.390 Developmental operation.

Part/Subpart and Title Description

25H Authorization to own stock in the Communications Satellite Corp.

Need

These rules concern authorization to own stock in the Communications Satellite Corporation.

Legal Basis

47 U.S.C. Sec. 154(i), 303, 403, 701–704

Section No. and Title Description.

25.501 Scope of this subpart.
25.502 Definitions.
25.505 Persons requiring authorization.
25.515 Method of securing authorization.
25.520 Contents of application.
25.521 Who may sign applications.
25.522 Full disclosures.
25.523 Form of application, number of copies, fees, etc.
25.525 Action upon applications.
25.526 Amendments.
25.527 Defective applications.
25.530 Scope of authorization.
25.531 Revocation of authorization.

Part/Subpart and Title Description

41 Telegraph and Telephone Franks

Need

These rules pertain to the offering of telegraph and telephone franks.

Legal Basis

47 U.S.C. Sec. 210

Section No. and Title Description

41.1 Definition of terms as used in this part.
41.11 Services to which rules apply.
41.12 Persons to whom rules apply.
41.13 Carriers services, and persons to which rules do not apply.
41.21 Amount of free service permitted.
41.22 Name of person.
41.31 Records to be maintained and reports to be filed.
41.32 Existing franks not conforming declared void.

Part/Subpart and Title Description

42 Preservation of Records of Communications Common Carriers

Need

These rules pertain to the preservation of records of communications common carriers.

Legal Basis

47 U.S.C. Sec. 154, 220

Section No. and Title Description

42.01 Applicability
42.1 Scope of the regulations in this part.
42.2 Designation of supervisory official.
42.3 Protection and storage of records.
42.4 Index of records.
42.5 Preparation and preservation of reproductions of original records.
42.6 Destruction of records.
42.7 Premature destruction.
42.8 Extension of period of retention of telegraph messages.
42.9 List of records.

Part/Subpart and Title Description

43 Reports of Communication Common Carriers and Certain Affiliates

Need

These rules pertain to the reports of communication common carriers and certain affiliates.

Legal Basis

47 U.S.C. Sec. 154(i), 211, 215, 219, 222, 396(h)

Section No. and Title Description

43.01 Applicability.
43.21 Annual reports of carriers and certain affiliates.
43.31 Monthly reports of communication common carriers.
43.42 Reports on pensions and benefits.
43.43 Reports of proposed changes in depreciation rates.
43.51 Contracts and concessions.
43.52 Reports of negotiations regarding foreign communication matters.
43.53 Report regarding division of international telegraph communication charges.
43.54 Reports regarding services performed by telegraph carriers.
43.61 Reports of overseas telecommunications traffic.
43.71 Reports of public coast station operators.
43.72 Reports of operators in the Multipoint Distribution Service.
43.74 Ser. rendered free or at reduced rates pur. to Sec. 396(h) of the Act; reports relative thereto.

Part/Subpart and Title Description

64 Miscellaneous Rules Relating to Common Carriers
A Traffic Damage Claims

Need

These rules relate to traffic damage claims.

Legal Basis

47 U.S.C. Sec. 151, 201–205, 214, 218, 219, 303, 308, 403, 405, 605, 2 U.S.C. Sec. 451
64.1 Traffic damage claims.

Part/Subpart and Title Description

64C Furnishing of Facil. to Foreign Govts. for Int'l. Commun.

Need

These rules relate to furnishing of facilities to foreign governments for international use.

Legal Basis

47 U.S.C. Sec. 151, 201–205, 214, 218, 219, 303, 403, 405, 605, 2 U.S.C. Sec. 451

Section No. and Title Description

64.301 Furnishing of facilities to foreign governments for international communications.

Part/Subpart and Title Description

64D Procedures for Handling Priority Services in Emergencies

Need

These rules relate to handling of priority services in emergencies.

Legal Basis

47 U.S.C. Sec. 151, 201–205, 214, 218, 219, 303, 403, 405, 605, 2 U.S.C. Sec. 451

Section No. and Title Description

64.401 Procedures for the use and restoration of leased intercity private line services in emergencies.
64.402 Procedures for using a precedence system for public correspondence service provision by the Comm. CC.

Part/Subpart and Title Description

64E Use of Recording Devices by Telephone Companies

Need

These rules relate to use of recording devices by telephone companies.

Legal Basis

47 U.S.C. Sec. 151, 201–205, 214, 218, 219, 303, 308, 403, 405, 605, 2 U.S.C. Sec. 451

Section No. and Title Description

64.501 Recording of telephone conversations with telephone companies.

Part/Subpart and Title Description

64G Furnishing of Enhanced Services and Customer-Premises Equipment

Need

These rules relate to furnishing of enhanced services and customer-premises equipment by common carriers.

Legal Basis

47 U.S.C. Sec. 151, 201–205, 214, 218, 219, 308, 403, 405, 605, 2 U.S.C. Sec. 451

Section No. and Title Description

64.702 Furnishing of enhanced services and customer-premises equipment.

Part/Subpart and Title Description

64H Extension of Unsecured Credit for Interstate and Foreign Commun.

Need

These rules relate to extension of unsecured credit for communications services to candidates for federal office.

Legal Basis

47 U.S.C. Secs. 151, 201–205, 214, 218, 219, 303, 308, 403, 405, 605, 2 U.S.C. Sec. 451

Section No. and Title Description

64.801 Purpose.
64.802 Applicability.
64.803 Definitions.
64.804 Rules gov. the exten. of unsec. credit to cand. or pers. on behalf of such cand. for Fed. ofc. (etc)

Part/Subpart and Title Description

66 Applications Relating to Consolidation, Acquisition, or Control

Need

These rules pertain to applications relating to consolidation, acquisition or control of telephone companies.

Legal Basis

47 U.S.C. Sec. 221

Section No. and Title Description

66.11 Contents of applications.
66.12 Supporting data and exhibits required with the application.
66.13 Publication and posting of notices.
66.14 General provisions.
66.15 Procedure.

Office of Science and Technology

Part/Subpart and Title Description

15 Radio Frequency Devices
D Low Power Communication Devices: General Requirements

Need

These rules prescribe certification, specification and operational requirements for low power communications devices.

Legal Basis

47 U.S.C. Secs. 301, 302, 303.

Section No. and Title Description

15.101 Introduction.
15.102 Cross reference.
15.103 Interference.
15.104 Eavesdropping prohibited.
15.105 Class B emission prohibited.
15.111 Operation below 1600 kHz.

15.112 Alternative provisions for operation between 160–190 kHz.
15.113 Alternative provisions for operation between 510–1600 kHz.
15.114 Interim requirements for cordless telephone terminal operating 26.97–27.2 MHz.
15.115 Interim requirements for operation between 26.97 and 27.27 MHz.
15.116 Operation of a non-voice device between 26.99–27.26 MHz.
15.117 Operation between 49.82–49.90 MHz.
15.118 Technical specification for the band 49.82–49.90 MHz.
15.119 Alternative tech. specs. for the band 49.82–49.90 MHz.
15.120 Operation above 70 MHz.
15.131 Certification required for devices that are marketed or built in quantity greater than 5.
15.132 Labelling and identification requirements.
15.133 Certification and identification required for home built device.
15.135 Certification procedure: Device manufactured between 1957 and 1975.
15.136 Location of certificate on device manufactured between 1957 and 1975.
15.141 Measurement procedure.
15.142 Range of measurements.
15.143 Report of measurements.

Part/Subpart and Title Description

15E Low Power Communication Devices: Specific Devices

Need

These rules prescribe certification, specifications, and operational requirements for specific low power communication devices.

Legal Basis

47 U.S.C. Sec. 301, 302, 303.

Section No. and Title Description

15.151 Cross reference.
15.152 Interference from a low power communication device.
15.153 Class B emission prohibited.
15.154 Eavesdropping prohibited.
15.161 General technical provisions.
15.162 Operation in the band 88–108 MHz.
15.163 Equipment authorization required.
15.164 Identification.
15.171 General technical provisions.
15.172 Operation in the band 38–41 MHz.
15.174 Operation in the band 88–108 MHz.
15.175 Custom built telemetering device in the band 88–108 MHz.
15.176 Operation in the band 174–216 MHz.
15.177 Equipment authorization required.
15.178 Identification.
15.179 Report of Measurements.
15.181 General technical provisions.
15.182 Operation above 70 MHz: Devices manufactured prior to July 15, 1983.
15.183 Operation above 70 MHz: Devices manufactured between 1983 and 1971.
15.184 Operation above 70 MHz: Devices manufactured after March 24, 1971.
15.185 Equipment authorization required.
15.186 Identification.
15.187 Report of measurements.
15.191 General technical provisions.
15.192 Alternative provisions.
15.193 Certification required.
15.194 Identification.

Broadcast Bureau[1]

Part/Subpart and Title Description

74 Experimental, Auxiliary, and Special Broadcast Services, etc.
A Experimental Television Broadcast Stations

Need

These rules prescribe licensing policies, procedures, technical and operational requirements for experimental TV broadcast stations.

Legal Basis

47 U.S.C. Sec. 154, 301, 303, 307

Section No. and Title Description

74.101 Experimental television broadcast station.
74.102 Purpose.
74.103 Frequency assignment.
74.112 Supplementary statement with application for construction permit.
74.113 Supplementary reports with application for renewal of license.
74.131 Licensing requirements, necessary showing.
74.132 Power limitations.
74.133 Emission authorized.
74.134 Multiple ownership.
74.151 Equipment changes.
74.161 Frequency tolerance.
74.162 Frequency monitors and measurements.
74.163 Time of operation.
74.164 Station inspection.
74.165 Station and operator licenses; posting of.
74.166 Experimental TV broadcast station operator requirements.
74.167 Antenna structure, marking and lighting.
74.168 Additional orders.
74.181 Logs.
74.182 Charges.
74.183 Station indentification.
74.184 Rebroadcasts.

Part/Subpart and Title Description

74B Experimental Facsimile Broadcast Stations

Need

These rules prescribe licensing policies, procedures, technical and operational requirements for experimental facsimile broadcast stations.

Legal Basis

47 U.S.C. Sec. 154, 301, 303, 307

Section No. and Title Description

74.201 Fascimile broadcast station.
74.202 Frequency assignment.
74.212 Supplementary statement with application for construction permit.
74.213 Supplemental report with renewal application.
74.231 Licensing requirements, necessary showing.
74.232 Power Limitations.
74.233 Emission authorized.
74.234 Mutliple ownership.
74.251 Equipment changes.
74.261 Frequency tolerance.
74.262 Frequency monitors and measurements.
74.263 Time of operation.
74.264 Station inspection.
74.265 Station and operator licenses; posting of.
74.266 Experimental facsimile broadcast station operator requirements.
74.267 Antenna structure, marking and lighting.
74.268 Additional orders.
74.281 Logs.
74.282 Charges.
74.283 Station identification.
74.284 Rebroadcasts.

Part/Subpart and Title Description

74C Developmental Broadcast Stations

Need

These rules prescribe licensing policies, procedures, technical and operational requirements for developmental broadcast stations.

Legal Basis

47 U.S.C. Sec. 154, 301, 303, 307

Section No. and Title Description

74.301 Development broadcast station.
74.302 Frequency assignment.
74.312 Supplementary statement with application for construction permit.
74.313 Supplemental report with renewal application.
74.331 Licensing requirements; necessary showing.
74.332 Power limitations.
74.333 Emission authorized.
74.351 Equipment changes.
74.361 Frequency tolerance.
74.362 Frequency monitors and measurements.
74.363 Time of operation.
74.364 Station inspection.
74.365 Station and operator licenses; posting of.
74.366 Developmental broadcast station operator requirements.
74.367 Antenna structure, marking and lighting.
74.368 Additional orders.
74.381 Logs.
74.382 Program service; charges prohibited; announcements.
74.383 Station identification.
74.384 Rebroadcast.

Part/Subpart and Title Description

74G Television Broadcast Translator Stations

Need

These rules prescribe licensing policies, technical and operational requirements for television broadcast trans. stations.

Legal Basis

47 U.S.C. Sec. 154, 301, 303, 307

[1] The Broadcast Bureau and Cable Bureau have been combined to form the Mass Medial Bureau effective November 30, 1982. See *Order*, FCC 82–445, released: October 13, 1982.

Section No. and Title Description

74.701 Definitions.
74.702 Channel assignments.
74.703 Interference.
74.705 TV Broadcast station protection.
74.707 Low power TV and TV translator station protection.
74.709 Land mobile station protection.
74.731 Purpose and permissible service.
74.732 Eligibility and licensing requirements.
74.733 UHF translator signal boosters.
74.734 Attended and unattended operation.
74.735 Power limitation.
74.736 Emission and bandwidth.
74.737 Antenna location.
74.750 Transmitters system facilities.
74.751 Equipment changes.
74.761 Frequency tolerance.
74.762 Frequency measurements.
74.763 Time of operation.
74.764 Station inspection.
74.765 Posting of station and operator licenses.
74.766 Low power TV and TV translator operator requirements.
74.767 Antenna structure, marking and lighting.
74.768 Additional orders.
74.769 Copies of rules.
74.780 Broadcast regulations applicable to low power TV stations.
74.781 Station records.
74.783 Station identification.
74.784 Rebroadcasts.

Part/Subpart and Title Description

74I Instructional Television Fixed Service

Need

These rules specify the terms, conditions, and requirements for the licensing and operation of a station in the instructional television fixed service to satisfy the cultural and instruct. needs of students enrolled in accred. schools.

Legal Basis

47 U.S.C. sec. 154, 303

Section No. and Title Description

74.901 Definitions.
74.902 Frequency assignments.
74.903 Interference.
74.931 Purpose and permissible service.
74.932 Eligibility and licensing requirements.
74.933 Remote control operation.
74.934 Unattended operation.
74.935 Power limitations.
74.936 Emissions and bandwidth.
74.937 Antennas.
74.938 Transmission standards.
74.939 Special rules governing ITFS response stations.
74.950 Equipment performance and installation.
74.951 Modification of transmission systems.
74.952 Acceptability of equipment for licensing.
74.961 Frequency tolerance.
74.962 Frequency monitors and measurements.
74.963 Time of operation.
74.964 Station inspection.
74.965 Posting of station and operator licenses.
74.966 ITFS station operator requirements.
74.967 Antenna structure, marking and lighting.
74.968 Additional orders.
74.969 Copies of the rules.
74.970 Modulation limits.
74.971 Modulation monitors and measurements.
74.981 Logs.
74.982 Station identification.
74.984 Retransmissions.

Part/Subpart and Title Description

74L FM Broadcast Translator Stations and FM Broad. Booster Stations

Need

These rules prescribe licensing policies, technical and operational requirements for FM broadcast trans. and booster stations.

Legal Basis

47 U.S.C. Sec. 154, 301, 303, 307

Section No. and Title Description

74.1201 Definitions.
74.1202 Frequency assignment.
74.1203 Interference.
74.1231 Purpose and permissible service.
74.1232 Eligibility and licensing requirements.
74.1234 Unattended operation.
74.1235 Power limitations.
74.1236 Emissions and bandwidth.
74.1237 Antenna locations.
74.1250 Transmitters and associated equipment.
74.1251 Modification of transmission systems.
74.1261 Frequency tolerance.
74.1262 Frequency monitors and measurements.
74.1263 Time of operation.
74.1264 Station inspection.
74.1265 Posting of station license.
74.1266 FM broadcast translator and booster operator requirements.
74.1267 Antenna structure, marking and lighting.
74.1268 Additional orders.
74.1269 Copies of rules.
74.1281 Station records.
74.1283 Station identification.
74.1284 Rebroadcasts.

Cable Bureau [2]

Part/Subpart and Title Description

76 Cable Television Service
F Nonduplication Protection & Syndicated Exclusivity

Need

These rules specify limitations and restrictions that are imposed on cable TV system operators with respect to the carriage of specified television signals along with exceptions to such rules.

Legal Basis

47 U.S.C. Sec. 152, 153, 154(i), 301, 307, 308, 309

Section No. and Title Description

76.92 Stations entitled to nonduplication protection.
76.94 Notification requirements and extent of protection.
76.95 Exceptions.
76.97 Waiver petitions.
76.99 Grandfathering.

Part/Subpart and Title Description

76G Cablecasting

Need

These rules specify that cable TV system operators engaged in Cablecasting must provide equal opportunities to political candidates to cablecast under certain prescribed conditions.

Legal Basis

47 U.S.C. Sec. 152, 153, 154(i), 301, 307, 308, 309

Section No. and Title Description

76.205 Origination cablecasts by candidates for public office.
76.209 Fairness doctrine; personal attacks; political editorials.
76.213 Lotteries.
76.215 Obscenity.
76.221 Sponsorship identification; list retention; related requirements.

Part/Subpart and Title Description

76I Forms and Reports

Need

These rules impose certain reporting and forms development requirements on cable system operators.

Legal Basis

47 U.S.C. Sec. 152, 153, 154(i), 301, 307, 308, 309

Section No. and Title Description

76.400 Operator, mail address, & operational status changes.
76.403 Cable television system reports.
76.406 Computation of cable television annual fee.

Part/Subpart and Title Description

78 Cable Television Relay Service
A General

Need

These rules define terms associated with cable television relay service (CARS) and prescribe licensing and operational requirements.

Legal Basis

47 U.S.C. 152, 153, 154, 301, 303, 307, 308, 309.

Section No. and Title Description

78.1 Purpose.
78.3 Other pertinent rules.
78.5 Definitions.

Part/Subpart and Title Description

78B Applications and Licenses

[2] The Broadcast Bureau and Cable Bureau have been combined to form the Mass Medical Bureau effective November 30, 1982. See *Order*, FCC 82-445, released October 13, 1982.

Need

These rules prescribe eligibility for licensing requirements and applications procedures necessary to obtain authorization to operate a cable TV relay service.

Legal Basis

47 U.S.C., 152, 153, 154, 301, 303, 307, 308, 309

Section No. and Title Description

78.11 Permissible service.
78.13 Eligibility for license.
78.15 Contents of applications.
78.16 Who may sign applications.
78.17 Amendment of applications.
78.18 Frequency assignments.
78.19 Interference.
78.20 Acceptance of applications; public notice.
78.21 Dismissal of applications.
78.22 Objections of applications.
78.23 Equipment tests.
78.25 Service or program tests.
78.27 License conditions.
78.29 License period.
78.31 Temporary extension of license.
78.33 Special temporary authority.
78.35 Assignment or transfer of control.

Part/Subpart and Title Description

78C General Operating Requirements

Need

These rules prescribe general operating requirements for cable TV relay station.

Legal Basis

47 U.S.C. 152, 153, 154, 301, 303, 307, 308, 309

Section No. and Title Description

78.51 Remote control operation.
78.53 Unattended operation.
78.55 Time of operation.
78.57 Station inspection.
78.59 Posting of station and operator licenses.
78.61 Operator requirements.
78.63 Inspection and maintenance of tower marking.
78.65 Additional orders.
78.67 Copies of rules.
78.69 Station records.
78.75 Equal employment opportunities.

Part/Subpart and Title Description

78D Technical Regulations

Need

These rules specify technical requirements to include emission and power controls and antenna systems required for cable TV relay services.

Legal Basis

47 U.S.C. 152, 153, 154, 301, 303, 307, 308, 309

Section No. and Title Description

78.101 Power limitations.
78.103 Emissions and emission limitations.
78.104 Authorized bandwidth and emission designator.
78.105 Antenna systems.
78.107 Equipment and installation.
78.109 Equipment changes.
78.111 Frequency tolerance.
78.113 Freqency monitors and measurements.
78.115 Modulation limits.

Private Radio Bureau

Part/Subpart and Title Description

83 Stations on Shipboard in the Maritime Services
E Standard Technical Requirements

Need

These rules specify technical requirements to include frequency tolerance and emission levels for stations on shipboard in the Maritime Services.

Legal Basis

47 U.S.C. Sec. 152, 154, 155, 301, 303, 307, 309, 315, 317

Section No. and Title Description

83.131 Authorized frequency tolerance.
83.132 Authorized classes of emission.
83.133 Authorized bandwidth.
83.134 Transmitter power.
83.135 Suppression of interference from receiving apparatus.
83.136 Emission limitations.
83.137 Modulation requirements.
83.138 Special requirements for ship radar transmitters.
83.139 Acceptability of transmitters for licensing.
83.140 Type acceptance of equipment.
83.141 Special requirements for survival craft stations.
83.142 Apparatus for generating automatically the radiotelephone alarm signal.
83.143 Narrow-band direct-printing radiotelegraphy equipment.
83.144 Special requirements for emergency indicating radiobeacon stations, Class B.
83.145 Special requirements for Emergency Position indicating Radiobeacon Stations, Class A.
83.146 Special requirements for emergency indicating radiobeacon stations, Class C.

Part/Subpart and Title Description

83F Operator Requirements

Need

These rules prescribe requirements for station operators on shipboard in the Maritime Services.

Legal Basis

47 U.S.C. Sec. 152, 154, 155, 301, 303, 307, 309, 315, 317

Section No. and Title Description

83.151 Graded values of commercial radio operator authorizations.
83.152 Operator required.
83.153 Location of operator.
83.155 Operator(s) required by Title III of Communications Act of 1934.
83.156 Operator(s) required by the safety convention.
83.157 Licensed persons required by the Great Lakes Radio Agreement.
83.158 Qualified operator required for ships subject to Radiotelephone Act.
83.159 Operator requirements for noncompulsory stations.
83.160 Limitations applicable to commercial radio operator permits.
83.161 Control by operator.
83.162 Adjustment of transmitting apparatus.
83.164 Activities not requiring an operator authorization.
83.165 Posting of operator authorization.

Part/Subpart and Title Description

83G General Operating Requirements

Need

These rules prescribe general operating requirements to include cooperative use of frequencies and avoidance of interference for stations on shipboard in the Maritime Services.

Legal Basis

47 U.S.C. Sec. 152, 154, 155, 301, 303, 307, 309, 315, 317

Section No. and Title Description

83.173 Authority of the master.
83.174 Secrecy of communication.
83.175 Intercommunication in mobile service.
83.176 Priority of communications to be observed.
83.177 Order of priority of communications.
83.178 Unauthorized transmissions.
83.179 Control by coast or government station.
83.180 Cooperative use of frequency assignments.
83.181 Prevention of interference.
83.182 Suspension of transmission.
83.183 Hours of service of ship stations.
83.184 Maintenance of station logs.
83.185 Stations in the maritime mobile-satellite service.
83.186 Operational conditions on use of associated portable ship units.

Part/Subpart and Title Description

83H Watches and Auto Alarms for Safety Purposes

Need

These rules prescribe watches and automatic alarms for safety purposes for stations on shipboard in the Maritime Services.

Legal Basis

47 U.S.C. Sec. 152, 154, 155, 301, 303, 307, 309, 315, 317

Section No. and Title Description

83.201 Watch required during silence periods.
83.202 Watch required on vessels subject to the Communications act.
83.203 Watch required on vessels subject only to the safety convention.
83.204 Provisions governing radiotelegraph watch.
83.205 Compulsory use of radiotelegraph auto alarm.
83.206 Watch required by the Great Lakes Radio Agreement.
83.207 Watch required by the vessel bridge-to-bridge Radiotelephone act.

Part/Subpart and Title Description

83 I General Purpose Watches

Need

These rules prescribe general purpose watch requirements for stations on shipboard in the Maritime Services.

Legal Basis

47 U.S.C. Sec. 152, 154, 155, 301, 303, 307, 309, 315, 317

Section No. and Title Description

83.221 Watch on 500 kHz.
83.223 Watch on 2182 kHz.
83.224 Watch on 156.8 MHz.

Part/Subpart and Title Description

83J Distress, Alarm, Urgency and Safety

Need

These rules prescribe distress, alarm, urgency and safety procedures for stations on shipboard in the Maritime Services.

Legal Basis

47 U.S.C. Sec. 152, 154, 155, 301, 303, 307, 309, 315, 317

Section No. and Title Description

83.231 Applicable regulations.
83.232 Authority for distress transmission.
83.233 Frequencies for use in distress.
83.234 Distress signals.
83.235 Distress calls.
83.236 Distress messages.
83.237 Radiotelegraph distress call and message transmission procedure.
83.238 Radiotelephone distress call and message transmission procedure.
83.239 Acknowledgment of receipt of distress message.
83.240 Form of acknowledgment.
83.241 Information furnished by acknowledging station.
83.242 Transmission of distress message by a station not itself in distress.
83.243 Control of distress traffic.
83.244 Notification of resumption of normal working.
83.245 Radiotelegraph and radiotelephone alarm signals.
83.246 Use of alarm signals.
83.247 Urgency signals.
83.248 Urgency message.
83.249 Safety signals.
83.250 Safety message.
83.251 Bridge-to-bridge communication procedure.
83.252 Equipment to facilitate search and rescue operations.
83.253 Stations in the maritime mobile-satellite service.
83.254 Class C EPIRB operational procedures.

Part/Subpart and Title Description

83M Nature of Ser. Prov. by Ship Sta. and Shipboard Mar.-Util. Stat.

Need

These rules prescribe service requirements for all ship stations and marine utility stations.

Legal Basis

47 U.S.C. Sec. 152, 154, 155, 301, 303, 307, 309, 315, 317

Section No. and Title Description

83.302 Points of communication.
83.303 Service requirements for all ship stations.
83.304 Service requirements for Title III, Part II vessels.

Part/Subpart and Title Description

90G Private Land Mobile Radio Services: Applications and Authorizations

Need

These rules prescribe procedures and requirements for the filing of applications for authority to operate private land mobile radio stations.

Legal Basis

47 U.S.C. Sec. 154,303

Section No. and Title Description

90.111 Scope.
90.113 Station authorization required.
90.115 Ineligibility of foreign governments.
90.117 Application for radio station or radio system authorization.
90.119 Application forms.
90.121 Canadian registration.
90.123 Full disclosure.
90.125 Who may sign applications.
90.127 Filing applications.
90.129 Supplemental information to be routinely submitted with applications.
90.131 Amendment or dismissal of applications.
90.135 Modification of license.
90.137 Applications for operation at temporary locations.
90.138 Applications for itinerant frequencies.
90.139 Preliminary processing of applications.
90.141 Resubmitted applications.
90.143 Grants of applications.
90.145 Special temporary authority.
90.147 Mailing address furnished by licensee.
90.149 License term.
90.151 Requests for waiver.
90.153 Assignment of station authorization.
90.155 Time in which station must be placed in operation.
90.157 Discontinuance of station operation.
90.159 Temporary permit.

Part/Subpart and Title Description

90H Policies governing the assignment of frequencies

Need

These rules prescribe policies under which the Commission assigns frequencies for use in private land mobile radio services.

Legal Basis

47 U.S.C. Sec. 154,303

Section No. and Title Description

90.171 Scope.
90.173 Policies governing the assignment of frequencies.
90.175 Frequency coordination requirements.
90.176 Interservice sharing.
90.177 Protection of certain radio receiving locations.
90.179 Cooperative use of radio stations in the mobile and fixed services.
90.185 Multiple licensing of radio transmitting equipment in the mobile radio service.

Part/Subpart and Title Description

90I General Technical Standards

Need

These rules specify technical standards to include type acceptance, power, emission, modulation and bandwidths.

Legal Basis

47 U.S.C. Sec. 154.303

Section No. and Title Description

90.201 Scope.
90.203 Type acceptance required.
90.205 Power.
90.207 Types of emission.
90.209 Bandwidth limitations.
90.211 Modulation requirements.
90.212 Provisions relating to the use of scrambling devices and digital voice modulation.
90.213 Frequency tolerance.
90.215 Transmitter measurements.
90.217 Exemption from technical standards.

Part/Subpart and Title Description

90J Nonvoice and Other Specialized Operations

Need

These rules specify requirements for non-voice and other specialized operations to include; telemetry, radioteleprinter and radio facsimile.

Legal Basis

47 U.S.C. Sec. 154,303

Section No. and Title Description

90.231 Scope.
90.233 Secondary base/mobile non-voice signaling operations.
90.235 Secondary fixed tone signaling and alarm operations.
90.237 Interim provisions for operation of radioteleprinter and radio-facsimile devices.
90.238 Telemetry operations.
90.239 Interim provisions for operation of automatic vehicle moitoring (AVM) systems.
90.241 Radio call box operations.
90.242 Travelers' information stations.
90.243 Mobile relay stations.
90.245 Fixed relay stations.
90.247 Mobile repeater stations.
90.249 Control stations.

Part/Subpart and Title Description

90N Operating Requirements

Need

These rules prescribe general operating requirements to include points of communications, methods of station identification and record keeping for private land mobile radio service.

Legal Basis

47 U.S.C. Sec. 154, 303

Section No. and Title Description

90.401 Scope.

90.403 General operating requirements.
90.405 Permissible communications.
90.407 communications permitted during emergency situations.
90.409 Emergency operations of public safety and spoecial emergency mobile stations at fixed locations.
90.411 Civil defense communications in the public safety and special emergency radio services.
90.413 Civil defense communications in the taxicab radio service.
90.415 Prohibited uses.
90.417 Interstation communication.
90.419 Points of communication.
90.421 Operation of mobile units in vehicles not under the control of the licensee.
90.423 Operation on board aircraft.
90.425 Station identification.
90.427 Prcautions against unauthorized operation.
90.429 Control point and dispatch point requirements.
90.431 Unattended operation.
90.433 Operator license requirements.
90.435 Posting of operator license.
90.437 Posting of station license.
90.439 Inspection of stations.
90.441 Inspection and maintenance of tower marking and associated control equipment.
90.443 Content of station records.
90.445 Form of station records.
90.447 Retention of station records.
90.449 Answers to a notice of violation.

Part/Subpart and Title Description

900 Transmitter Control

Need

These rules spoecify permissible methods of transmitter control and interconnection of radio systems authorized and used in private land mobile radio services.

Legal Basis

47 U.S.C. Sec. 154, 303

Section No. and Title Description

90.460 Scope.
90.461 Direct and remote control of transmitters.
90.463 Transmitter control points.
90.465 Control of systems of communications.
90.467 Dispatch points.
90.469 Unattended operation.
90.471 Points of operation in internal transmitter control systems.
90.473 Operation of internal transmitter control systems throgh licensed fixed control points.
90.475 Operation of internal transmitter control systems in specially equipped systems.
90.476 Interconnection of fixed stations and certain mobile stations.
90.477 Restrictions on interconnected systems.
90.483 Permissible methods and requirements of interconnecting private & public systems of communication.

Part/Subpart and Title Description

95 Personal Radio Services
D Citizens Band (CB) Radio Service

Need

These rules define the Citizens Bank Radio Service and specify terms and conditions for operation.

Legal Basis

47 U.S.C. Sec. 154, 303

Section No. and Title Description

90.401 Citizens Band (CB) Radio Service Rules.

[FR Doc. 82-35290 Filed 12-29-82; 8:45 am]
BILLING CODE 6712-01-M

---

47 CFR Part 73

[BC Docket No. 82-716; RM-4102; RM-4140]

TV Broadcast Stations in Anchorage and Seward, Alaska; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of comment/reply comment period.

SUMMARY: In response to a filed request, action taken herein extends the time for filing comments and reply comments in a proceeding involving the assignment of VHF Television Channel 5 and/or 9 to Anchorage, and the substitution of Channel 8 for (unused) Channel 9 at Seward, Alaska.

DATES: Comments must be filed on or before January 12, 1983, and reply comments on or before January 27, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations (Anchorage and Seward, Alaska); BC Docket No. 82-716, RM-4102. RM-4140.

Order Extending Time for Filing Comments and Reply Comments

Adopted: December 15, 1982.

Released: December 23, 1982.

1. On October 14, 1982, the Commission adopted a notice of proposed rule making, 47 FR 49416, published November 1, 1982, in response to petitions filed by the State of Alaska and by Pioneer Broadcasting Co., Inc. The notice proposed the assignment of VHF Television Channel 5 and/or 9 to Anchorage and the substitution of Channel 8 for (unused) Channel 9 at Seward, Alaska. Comments are presently due on December 13, and reply comments on December 28, 1982.

2. On December 9, 1982, counsel for the State of Alaska Division of Telecommunications System (Division of Telecommunications) filed a request seeking an extension of time for filing comments and reply comments to and including January 12, and January 27, 1983, respectively. Counsel states that he has been informed that the further investigation must be conducted into the need for a full service educational noncommercial VHF station to satisfy the LEARN/Alaska Network requirements in the Anchorage area for the distribution of instructional programming. Counsel adds that the determination will involve coordination and decision making by several agencies. For these reasons, counsel states that comments cannot be completed in sufficient time to file by the present due date. We are also told by counsel that he has informed each of the petitioners of his intent to file this request and that they have no objection to the extension.

3. Although the request did not meet the filing deadline as specified in § 1.46 of the Commission's Rules, it appears that the circumstances noted in paragraph 2 justify the extension. Since the Commission believes that it would be in the public interest to have all material available to it in arriving at a decision in this proceeding, we shall give interested parties an opportunity to comment by granting the additional time as requested.

4. Accordingly, it is ordered, that the dates for filing comments and reply comments in Docket 82-716 (RM-4102 and RM-4140) are extended to and including January 12, and January 27, 1983, respectively.

5. This action is taken pursuant to authority found in sections 4(1), 5(d)(1) and 303(r) of the Communications Act of 1934, as amended, and section 0.281 of the Commission's rules.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 82-35431 Filed 12-29-82; 8:45 am]
BILLING CODE 6712-01-M

---

47 CFR Part 76

[CT Docket No. 82-434]

Amendment Relative to Elimination of the Prohibition on Common Ownership of Cable Television Systems and National Television Networks; Order Extending Time for Filing Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed Rule; Extension of reply comment period.

SUMMARY: This action extends the deadline for filing reply comments in CT Docket No. 82–434, concerning elimination of the prohibition on common ownership of cable TV systems and national TV networks. This action was taken so that interested parties may comment on an office of Plans and Policy staff report, *Measurement of Concentration in Home Video Markets.*

DATE: Reply Comments must be filed on or before February 7, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Robert Ratcliffe, Mass Media Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION.

Order Extending Deadline For Filing Reply Comments

Adopted: December 23, 1982.

Released: December 23,1982.

1. On December 23, 1982, a staff report of the Office of Plans and Policy, entitled *Measurement of Concentration in Home Video Markets,* was submitted into CT Docket No. 82–434. The staff report deals with some of the issues raised by the Commission in its Notice of Proposed Rulemaking in CT Docket No. 82–434, 47 FR 39212 (1982).

2. Because of the complexity of the issues relating to concentration of ownership raised in the Office of Plans and Policy Report and their possible bearing upon the outcome of the proposals in CT Docket No. 82–434, the Mass Media Bureau believes it appropriate to give the public a full opportunity for comment. The comment period in this proceeding closed December 14, 1982. The Notice of Proposed Rulemaking provided for a forty-five day reply comment period. In order to give interested parties the full forty-five day period to comment on the Report, we believe the reply comment period should commence with filing of the Report in the Docket.

3. Accordingly, it is ordered that effective December 23, 1982, the deadline for reply comments in this proceeding is extended to February 7, 1983. Action is taken pursuant to Section 4(i) of the Communications Act of 1934, as amended.

Federal Communications Commission.

Laurence E. Harris,

Chief, Mass Media Bureau.

[FR Doc. 82–35300 Filed 12–29–82; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 575

[Docket No. 82–20; Notice 1]

Consumer Information Regulations Operation of Utility Vehicles on Paved Roadways

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposed to add a new requirement to the Consumer Information Regulations for "utility vehicles," i.e., multipurpose passenger vehicles which have special features for occasional off-road operation. Some of these features cause utility vehicles to handle and maneuver differently from ordinary passenger cars under certain driving conditions. Making sharp turns or abrupt maneuvers when operating utility vehicles, even on paved roads, may result in loss of control. To ensure that drivers are aware of the handling differences between utility vehicles and passenger cars, the proposed amendment would require manufacturers to place a prescribed sticker on the windshield or dashboard to alert operators. The proposed new regulation would also require manufacturers to place information in the vehicle Owner's Manual concerning the proper method of on- and off-pavement driving for utility vehicles.

DATES: Comments on this notice must be received on or before February 14, 1983. Proposed effective date is 60 days after publication of final rule in the Federal Register.

ADDRESS: Comments should refer to the docket number and notice number of this notice and be submitted to: Docket Section, Room 5109, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590. Docket hours are from 8:00 a.m. to 4:00 p.m. (EDT), Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. F. Cecil Brenner, Office of Market Incentives, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590 (202–426–1740).

SUPPLEMENTARY INFORMATION: This notice addresses a safety concern arising from the apparent lack of public awareness about the proper handling and operation of multipurpose passenger vehicles (defined in 49 CFR 571.3) which have special features for off-road operation or, more simply, "utility vehicles." These features typically include relatively short wheelbase, a narrow track, high ground clearance, a high center of gravity, stiff suspension system, and four-wheel drive. Examples of utility vehicles in current production include: AMC Jeeps, Chevrolet Blazer, Ford Bronco, Plymouth Trail Duster, Dodge Ram Charger, VW Thing, Toyota Land Cruiser, and the GMC Jimmy.

Research indicated that utility vehicles are disproportionately more highly represented in rollover accidents than are passenger cars. A study conducted by the Highway Research Institute of the University of Michigan found that utility vehicles rollover at a rate at least five times higher than that experienced by the average passenger car. ("On-Road Crash Experience of Utility Vehicles", see NHTSA Docket 82–20.)

In addition, the same study and NHTSA fatal accident report data indicate that on a statistical basis, given a rollover accident, occupants are more likely to be killed in such vehicles than in passenger cars. Thus, the study indicated that the rates of death and disabling injury per accident could be twice as high with respect to utility vehicles.

Utility vehicles handle and maneuver differently from ordinary passenger cars under certain on-pavement driving conditions. For example, because of their higher center of gravity, narrower track and stiffer suspension, utility vehicles are more likely to roll over than passenger cars in case of sharp turns or abrupt maneuvers, even on paved roads and especially at high speeds. Sharp turns or abrupt maneuvers in these vehicles may result in loss of control or an accident.

The agency believes that these differences in safety statistics and apparent performance are due primarily to the lack of awareness by utility vehicle operators concerning the operational characteristics of vehicles with the design characteristics mentioned above, especially under conditions approaching the extreme limits of performance. The occurrence of accidents at observed rates is a clear indication that operators do not understand or appreciate the need for and methods of adjusting driving practice to compensate for the effects of the physical differences between their vehicles and passenger cars on the handling of their vehicles.

The agency has tentatively concluded that providing consumers with information about the handling of utility vehicles on paved roads would improve the safety record of those vehicles. Accordingly, the agency is proposing to

add a new requirement to the NHTSA Consumer Information Regulations (49 CFR Part 575). The propose amendment would require manufacturers to place a prescribed sticker on the windshield or dashboard of new utility vehicles to alert drivers concerning the special handling characteristics of those vehicles. Additionally, the proposed amendment would require manufacturers to include information in the vehicle Owner's Manual concerning the proper method of handling and maneuvering utility vehicles when driven on paved roads. The agency has recently reviewed the question of utility vehicle performance in connection with its review of a petition to open a defect proceeding with respect to a particular vehicle. The agency was unable to find that design characteristic of the subject vehicle alone warrant, based on evidence before the agency, opening of such a proceeding. This was concluded with respect to that vehicle, in light of the conclusion of related proceedings before the Federal Trade Commission and the agreement, by that manufacturer, to notify owners of existing vehicles, and provide for their use, such a label and warning as is contemplated herein, for application to new vehicles.[1]

NHTSA has examined the impacts of these proposed requirements and determined that this notice does not qualify as a major regulation within the meaning of Executive Order 12291 or as a significant regulation under the Department of Transportation regulatory policies and procedures. The agency has also determined that the economic and other impacts of this proposal are so minimal that a full regulatory evaluation is not required. The proposed requirement for a sticker and additional information in the vehicle Owner's Manual will result in only minimal costs to vehicle manufacturers and will not likely result in any cost to consumers.

The NHTSA has also considered the impacts of this proposal under the Regulatory Flexibility Act and hereby certifies that the proposed new requirements would not have a significant economic impact on a substantial number of small entities. As just discussed, the cost of the proposed requirements would be extremely small. Accordingly, there would be virtually no economic effect on any small organizations or governmental units which purchase utility vehicles. Moreover, few, if any, of the motor vehicle manufacturers would qualify as small entities.

[1] Jeep C–J5. See petition of Louis Kerlinsky, P81–018.

Finally, the NHTSA has analyzed this proposal for purposes of the National Environmental Policy Act. The agency has determined that implementation of this action would not have any significant impact on the quality of the human environment.

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must be limited not to exceed 15 pages in length. Necessary attachments may be appended to these submissions without regard to the 15 page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation (49 CFR Part 512).

All comments received before the close of business on the comment closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose, in the envelope with their comments, a self addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

List of Subjects in 49 CFR Part 575

Consumer protection, Labeling, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

(Secs. 103, 112, 119, 201, 203, Pub. L. 89–563, 80 Stat. 718, 725, 728 (15 U.S.C. 1392, 1401, 1407, 1421, 1423); delegation of authority at 49 CFR 1.50)

Issued on December 23, 1982.

Raymond A. Peck, Jr.,

Administrator.

PART 575—[Amended]

In consideration of the foregoing, it is proposed that a new section 575.105 be added to 49 CFR Part 575, Consumer Information Regulations, to read as follows:

§ 575.105 Utility Vehicles

(a) *Purpose and scope.* This section requires manufacturers of utility vehicles to alert owners that the particular handling and maneuvering characteristics of utility vehicles require special driving practices when those vehicles are operated on paved roads.

(b) *Application.* This section applies to multipurpose passenger vehicles which have special features for occasional off-road operation ("utility vehicles").

(c) *Required information.* Each manufacturer shall prepare and affix a vehicle sticker as specified in paragraph 1 of this subsection and shall provide in the vehicle Owner's Manual the information specified in paragraph 2 of this subsection:

(1) A sticker shall be affixed to the instrument panel, windshield frame or in some other location in each vehicle prominent and visible to the driver. The sticker shall be printed in a typeface and color which are clear and conspicuous. The sticker shall have the following or similar language:

This is a multipurpose passenger vehicle which will handle and maneuver differently from an ordinary passenger car, in driving conditions which may occur on streets and highways and off the road. As with other vehicles of this type, if you make sharp turns or abrupt maneuvers, especially at high speeds, you may lose control and crash. You should read driving guidelines and instructions in the Owner's Manual, and WEAR YOUR SEATBELTS AT ALL TIMES

The language on the sticker required by this paragraph may be modified as is desired by the manufacturer to make it appropriate for a specific vehicle design, to ensure that consumers are adequately informed concerning the unique propensities of a particular vehicle model.

(2)(i) The vehicle Owner's Manual shall include the following statement in its introduction:

As with other vehicles of this type, failure to operate this vehicle correctly may result in loss of control or an accident. Be sure to read

"on-pavement" and "off-road" driving guidelines which follow.

(ii) The vehicle Owner's Manual shall include the following statement in an "on-pavement" driving section:

Utility vehicles have higher ground clearance and narrower track to make them capable of performing in a wide variety of off-road applications. Specific design characteristics give them a higher center of gravity than ordinary cars. An advantage of the higher ground clearance is a better view of the road allowing you to anticipate problems. They are not designed for cornering at the same speeds as conventional 2WD vehicles any more than low-slung sports cars are designed to perform satisfactorily under off-road conditions. If at all possible, avoid sharp turning maneuvers. As with other vehicles of this type, failure to operate this vehicle correctly may result in loss of control or an accident.

[FR Doc. 82-35433 Filed 12-27-82; 4:28 pm]
BILLING CODE 4910-59-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[Ex Parte No. 241 (Sub-No. 1]

Investigation of Adequacy of Railroad Freight Car Ownership, Car Utilization, Distribution Rules and Practices

AGENCY: Interstate Commerce Commission.

ACTION: Proposed removal of rule.

SUMMARY: The Commission is reopening this proceeding (Investigation of adequacy of railroad freight car ownership, car utilization, distribution rules and practices) to assess the need to retain 49 CFR 1033.15 (Rule 15), a car service rule. We will consider whether Rule 15 is necessary to the preservation of reciprocal switching agreements.

DATE: Comments must be received on or before January 31, 1983.

ADDRESS: An original and 15 copies of all comments should be sent to: Room 5340, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway, (202) 275-7278.

SUPPLEMENTARY INFORMATION: In its prior decision in this proceeding, 362 I.C.C. 844 (1980), (45 FR 49942, July 28, 1980 as corrected at 47 FR 47394, October 26, 1982), the Commission rescinded all of its mandatory car service rules except Rule 15 (§ 1033.15). Rule 15 was retained because it had been incorporated into the demurrage recordkeeping rules contained in 49 CFR Part 1254 and, therefore, established certain reporting requirements under those rules. Because of the relation of Rule 15 to the demurrage rules, the Commission found that a determination concerning rescission of Rule 15 should be delayed until completion of a review of the demurrage rules.

The demurrage rules were reviewed in Ex Parte No. 285, *Maintenance of Records Pertaining to Demurrage, Retention, and Other Related Accessorial Charges by Rail Common Carriers of Property*, served December 29, 1982, (published elsewhere in this issue), and have been rescinded. Thus, Rule 15 is no longer needed to satisfy the reporting requirements of those rules. However, as we stated in Ex Parte No. 285, rescission of Rule 15 requires further analysis with regard to possible problems related to reciprocal switching, which could result from rescission. We are reopening Ex Parte No. 241 (Sub-No.1) for the limited purpose of considering these problems.

Paragraph (b), (c), and (d) of Rule 15 define who has first responsibility for supplying cars and who the serving carrier must look to for car supply when unable to supply cars from its own fleet. We seek comment on whether retention of these paragraphs enhances or is necessary to the preservation and promotion of reciprocal switching, which in turn, promotes competition between carriers for traffic and gives shippers shipping options at points of interchange.

At points where a serving carrier would lose its opportunity to perform line-haul service and reap the resulting line-haul revenues if it switches the traffic to a second carrier's line the first carrier still has some incentive—in the form of per diem payments—to participate in reciprocal switching if it can supply its own cars. We seek comments on whether the requirements of Rule 15 help to ensure that the serving carrier has such an incentive. The rule requires shippers to request cars from the carrier on whose line they are situated, and guarantees that carrier the right to provide the cars.

If serving carriers are not guaranteed the right to supply their own cars, would the carriers to which the cars are to be switched (that is, the carriers performing the major part of the line-haul movement) attempt to supply their cars to shippers on the serving carriers' lines, depriving the serving carriers of their opportunity to supply cars and receive per diem? If this occurs would the serving carrier refuse to perform the switch or cancel reciprocal switching agreements? Would the right of other carriers to retaliate adequately deal with any such problem?

We invite comments on these issues.

This decision will not significantly affect either the quality of the human environment or conservation of energy resources. Nor will this action have a significant impact on a substantial number of small entities. Comments, however, are invited on these issues also.

List of Subjects in 49 CFR Part 1033

Railroads.

(49 U.S.C. 10101a, and 5 U.S.C. 553)

Dated: December 20, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison.

James H. Bayne,

Acting Secretary.

[FR Doc. 82-35359 Filed 12-29-82; 8:45 am]
BILLING CODE 7035-01-M

49 CFR Parts 1170 and 1002

Ex Parte No. MC-161 (Sub-No.1)

Employee Protection; Motor Passenger Carriers

AGENCY: Interstate Commerce Commission.

ACTION: Extension of time to file comments on notice of proposed rulemaking.

SUMMARY: At 47 FR 53297, November 24, 1982, the Commission proposed rules to establish procedures for determining the eligibility of individual employees for protection under the provisions of the Bus Regulatory Reform Act of 1982, and for publishing a periodic listing of jobs available with class I motor passenger carriers. In this notice, the Commission grants a request that the comment deadline be extended by 15 days from the original December 27 deadline.

DATES: Comments must be received by January 11, 1983.

ADDRESS: The original and, if possible, 15 copies of comments should be sent to: Ex Parte No. MC-161 (Sub-No.1), Room 2139, Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: James L. Brown, (202) 275-7898, or Howell I. Sporn, (202) 275-7691.

SUPPLEMENTARY INFORMATION: The American Bus Association (ABA) has filed a written request that the time for filing comments in this proceeding be extended until January 11, 1983. ABA contends that this additional time is necessary for the preparation of comprehensive comments during the holiday season.

The requested 15-day extension of time for the filing of comments in this proceeding is unwarranted. The extension should provide adequate time for all interested parties to prepare data and comments without unduly delaying the proceeding. Any further requests for an extension of time for the filing of comments in this proceeding will be denied.

It is ordered the request of the American Bus Association for an extension of time for the filing of comments in Ex Parte No. MC–161 (Sub-No. 1) is granted. Comments in this proceeding must be received by January 11, 1983

Decided: December 23, 1982.

By the Commission, Reese H. Taylor, Jr., Chairman.

James H. Bayne,

Acting Secretary.

[FR Doc. 82–35362 Filed 12–29–82; 8:45 am]

BILLING CODE 7035–01–M

Notices

Federal Register
Vol. 47, No. 251
Thursday, December 30, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Black Hills National Forest Grazing Advisory Board; Meeting

The Black Hills National Forest Grazing Advisory Board will meet at 1:00 P.M. on January 28, 1983 in the Conference Room of the Supervisor's Office located in Custer, South Dakota. The purpose of this meeting is to elect officers, acquaint new Board members with the allotment management plans, range betterment funds as well as to obtain views on the Board's functions for the year.

The meeting will be open to the public. Persons who wish to attend should notify Craig Whittekiend, Black Hills National Forest, phone 605/673–2251.

Dated: December 23, 1982.

James R. Mathers,

Forest Supervisor.

[FR Doc. 82–35396 Filed 12–29–82; 8:45 am]

BILLING CODE 3410–11–M

Nezperce National Forest Grazing Advisory Board; Meeting

The Nezperce National Forest Grazing Advisory Board will meet at 1:00 p.m., February 1, 1983, at the Nezperce Forest Supervisor's Office, Grangeville, Idaho. The meeting will move to the Grangeville Elk's Club for a no-host dinner at 7:00 p.m.

The purpose of the afternoon meeting is to discuss range betterment funds and review allotment management plans. The Idaho Fish and Game Department will review their big game management plans.

The evening meeting will include a discussion of the upper limit for the number of livestock a permittee may have. The U.S. Fish and Wildlife Service will also discuss the wolf recovery study.

The meeting is open to the public. Comments and discussion from the public may be introduced after agenda items have been covered. Persons who wish to attend should notify Thomas L. Griffith, (208) 983–1950. Written statements may be filed with the board before or after the meeting.

Tom Kovalicky,

Forest Supervisor.

December 21, 1982.

[FR Doc. 82–35397 Filed 12–29–82; 8:45 am]

BILLING CODE 3410–11–M

Revised Notice of Intent To Prepare an Environmental Impact Statement; Quartz Hill Plan of Operations for exploration Activities; 1980–1983 Amendments 2, 3, and 4; Tongass National Forest; Ketchikan, Alaska

This notice revises the Notice of Intent published in the September 27, 1982, issue of the **Federal Register**. The USDA-Forest Service is in the process of preparing an Environmental Impact Statement for the 1980–83 Plan of Operations, Amendments 2, 3, and 4, for U.S. Borax and Chemical Corporation exploration activities in the Quartz Hill area. The project is located near Wilson Arm and Boca de Quadra in the Misty Fiords National Monument.

The previous notice estimated that the draft environmental impact statement would be completed by November 1982 and the final environmental impact statement by February 1983. This notice establishes new estimated dates for completion of the EIS process. The draft EIS is now expected to be completed by February 1983, and the final EIS is expected to be completed by May 1983. All other information contained in previous notice remains the same.

Dated: December 23, 1982.

J. Lamar Beasley,

Acting Chief, Forest Service.

[FR Doc. 82–35438 Filed 12–29–82; 8:45 am]

BILLING CODE 3410–11–M

San Juan National Forest Grazing Advisory Board; Meeting

The San Juan National Forest Grazing Advisory Board will meet on Friday, January 21, 1983, at 1:00 p.m. at the San Juan National Forest Office, Conference Room, 701 Camino del Rio, Durango, Colorado. The Board was established in accordance with provisions of the Federal Land Policy and Management Act of 1976.

The agency for the meeting will include: (1) Recommendations for the utilization of range betterment funds; (2) recommendations for the development of allotment management plans; (3) discussion of effects of the Draft San Juan National Forest Land and Resource Plan on allotment management plans and utilization of range betterment funds.

The meeting will be open to the public. Persons who wish to attend and participate should notify H. E. Bond, San Juan National Forest (303–247–4874) prior to the meeting. The public may participate in discussions during the meeting or may file a written statement following the meeting.

Dated: December 22, 1982.

P. C. Sweetland,

Forest Supervisor.

[FR Doc. 82–35398 Filed 12–29–82; 8:45 am]

BILLING CODE 3410–11–M

Targhee Forest Grazing Advisory Board; Meeting

The Targhee National Forest Grazing Advisory Board meeting will be held February 9, 1983, at 1:00 p.m. at the Supervisor's Office, Targhee National Forest, 420 North Bridge St., St. Anthony, ID 83445.

The purpose of the meeting will be for the Board to make recommendations to the Forest Supervisor on range allotment planning and the use of range betterment funds scheduled for fiscal year 1983.

In accordance with the Federal Advisory Committee Act, (Pub. L. 92–463) this meeting is open to the public. Forest Supervisor John Burns requests that comments from non-board members be withheld until the conclusion of the business meeting.

For additional information, contact Phil Lee or Val Gibbs at the Targhee National Forest Supervisor's Office or telephone 208–624–3151.

John E. Burns,

Forest Supervisor.

[FR Doc. 82–35399 Filed 12–29–82; 8:45 am]

BILLING CODE 3410–11–M

Office of the Secretary

Meat Import Limitations; First Quarterly Estimate

Public Law 88–482, enacted August 22, 1964, as amended by Public Law 96–177 (hereinafter referred to as the "Act"), provides for limiting the quantity of fresh, chilled, or frozen meat of cattle, sheep except lamb, and goats (TSUS 106.10, 106.22, and 106.25), and certain prepared or preserved beef and veal products (TSUS 107.55, 107.61, and 107.62), which may be imported into the United States in any calendar year. Such limitations are to be imposed when it is estimated by the Secretary of Agriculture that imports of articles provided for in TSUS 106.10, 106.22, 106.25, 107.55 and 107.62 (hereinafter referred to as "meat articles"), in the absence of limitations under the Act during such calendar year, would equal or exceed 110 percent of the estimated aggregate quantity of meat articles prescribed for calendar year 1983 by subsection 2(c) as adjusted under subsection 2(d) of the Act.

In accordance with the requirements of the Act, I have made the following estimates:

1. The estimated aggregate quantity of meat articles prescribed by subsection 2(c) as adjusted by subsection 2(d) of the Act for calendar year 1983 is 1,119 million pounds.

2. The first quarterly estimate of the aggregate quantity of meat articles which would, in the absence of limitations under the Act, be imported during calendar year 1983 is 1,224 million pounds.

Done at Washington, D.C. this 28 day of December, 1982.

Richard E. Lyng,

Acting Secretary.

[FR Doc. 82–35551 Filed 12–28–82; 8:11 pm]

BILLING CODE 3410–10–M

CIVIL RIGHTS COMMISSION

Arkansas Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Arkansas Advisory Committee to the Commission will convene at 10:00 a.m. on January 27, 1983 and will adjourn at 12 noon on January 28, 1983, at the Riverfront Hilton Inn, Two Riverfront Place, North Little Rock, Arkansas 72114. The purpose of this meeting will be to conduct the Advisory Committee discussion of program activities for fiscal year 1983, and to conduct a press conference to release the Committee's report on block grants.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Marcia McIvor, 1229 Lakeridge, Fayetteville, Arkansas 72701, (501) 442–0600 or the Southwestern Regional Office, Heritage Plaza, 418 South Main, San Antonio, Texas 78204, (512) 229–5570.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., December 27, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82–35464 Filed 12–29–82; 8:45 am]

BILLING CODE 6335–01–M

Delaware Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Delaware Advisory Committee to the Commission will convene at 3:00p and will end at 5:00 p, on February 10, 1983, at the Boggs Federal Office Building, 9th and King Streets, in Room 3207, Wilmington, Delaware, 10803. The purpose of this meeting is to report on the National Conference of State Advisory Committee Chairpersons; status reports on migrant project; civil rights in Delaware and program planning for Fiscal Year 1983.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Patsy B. Blackshear, 2705 Riva Road, Annapolis, Maryland, 21401, (202) 724–4256 or the Mid-Atlantic Regional Office, 2120 L Street, North West, Room 510, Washington, D.C., (202) 254–6670.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C. December 23, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82–35301 Filed 12–29–82; 8:45 am]

BILLING CODE 6335–01–M

Ohio Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Ohio Advisory Committee to the Commission will convene at 10:00a and will end at 3:00p, on January 22, 1983, at the Christopher Inn, 300 East Broad, Columbus, Ohio, 43215. The purpose of this meeting will be to conduct orientation for the newly appointed advisory members and to discuss program planning for Fiscal Year 1983.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Marian A. Spencer, 940 Lexington Avenue, Cincinnati, Ohio, 45229, (513) 221–5656 or the Midwestern Regional Office, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois 60604, (312) 353–7479..

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C. December 23, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82–35302 Filed 12–29–82; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

Carbon Steel Wire Rod From Venezuela; Final Determination of Sales at Less Than Fair Value

AGENCY: International Trade Administration; Commerce.

ACTION: Final Determination of Sales at Less Than Fair Value.

SUMMARY: This notice is to advise the public that the Department of Commerce has determined that carbon steel wire rod from Venezuela is being sold or is likely to be sold in the United States at less than fair value within the meaning of the antidumping law. The United States International Trade Commission will determine within 45 days of the publication of this notice whether these imports are materially injuring, or threatening to materially injure, a United States industry.

EFFECTIVE DATE: December 30, 1982.

FOR FURTHER INFORMATION CONTACT: Michael J. Altier, Office of Investigations, International Trade Administration, Department of Commerce, Washington, D.C. 20230 (202) 377–1785.

SUPPLEMENTARY INFORMATION:

Case History

On February 8, 1982, we received a petition in proper form from Atlantic Steel Corp., Georgetown Steel Corp., Georgetown Texas Steel Corp.,

Keystone Consolidated, Inc., Korf Industries, Inc., Penn-Dixie Steel Corp., and Raritan River Steel Co. filed on behalf of the U.S. industry producing carbon steel wire rod. The petitioners alleged that carbon steel wire rod from Venezuela is being sold at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act).

On March 1, 1982, upon examining the petition as required under section 732 of the Act, we determined that there existed sufficient grounds upon which to initiate an antidumping investigation (47 FR 9259).

On March 25, 1982, the United States International Trade Commission (ITC) determined that there is a reasonable indication that an industry in the United States is being materially injured or is threatened with material injury by reason of imports of carbon steel wire rod from Venezuela which are alleged to be sold at less than fair value. The ITC published notice of its determination on April 1, 1982 (47 FR 13927).

On March 15, 1982, we presented a questionnaire concerning the allegations to CVG-Siderurgica del Orinoco, C.A. (Sidor), the sole producer and/or exporter from Veneuzuela of the subject product.

The petitioners alleged that sales of the subject product to the United States had been made during calendar year 1981, the time period initially chosen as the period of investigation. Subsequently, Sidor informed us that although several shipments of its merchandise had entered the United States during 1981, the actual sales for these entries were made in late 1980. Accordingly, the period of investigation was extended to include these sales.

However, Sidor refused to include in its response to our questionnaire any of the requested sales information. Since the requested information was essential to this investigation, we therefore used the best information otherwise available in making our preliminary determination, in accordance with section 776(b) of the Act.

On July 19, 1982, we preliminarily determined that carbon steel wire rod from Venezuela was being, or was likely to be, sold in the United States at less than fair value (47 FR 31910). In our preliminary determination we afforded interested parties an opportunity to submit written views and to request a public hearing. No written views were submitted nor was a public hearing requested.

On August 31, 1982, the Department of Commerce (the Department) initialed a proposed agreement to suspend this investigation. The basis for the suspension was a proposed agreement between the Department and Sidor to cease exports of the subject product to the United States.

On the same date, in compliance with the procedural requirements of section 734(e) of the Act, we notified the petitioners of, and consulted with them regarding, the proposed agreement. At that time, we explained how the proposed agreement would be performed and enforced, how the agreement would meet the requirements of subsections 734(b) and (d) of the Act, and offered to answer any questions. Petitioners also received copies of the proposed agreement on that date and all parties to the investigation were permitted to submit comments and information for the record. No comments were received, however. In addition, the ITC was notified of the proposed agreement.

On October 1, 1982, we determined that the criteria for suspending an investigation were met. The Department and Sidor signed the agreement on that date. On October 7, 1982, notice of the suspension of investigation was published in the **Federal Register** (47 FR 44362).

On October 25, 1982, Sidor requested that this investigation be continued pursuant to section 734(g) of the Act. Therefore, we are making this final determination.

Scope of Investigation

The product covered by this investigation is carbon steel wire rod which is a coiled, semi-finished, hot-rolled carbon steel product of approximately round solid cross section not under 0.20 inch nor over 0.74 inch in diameter, not tempered, not treated, and not partly manufactured, valued over four cents per pound, currently provided for in item 607.17 of the *Tariff Schedules of the United States*.

Methodology of Fair Value Comparison

A comparision was made between the United States price and the foreign market value of the imported merchandise.

United States Prices

Purchase price was used to represent United States price because, according to the best information available, the price of carbon steel wire rod to unrelated purchasers in the United States was agreed to before the merchandise was imported into the United States.

Purchase price, as defined in section 772(b) of the Act, was calculated by dividing the total value (f.o.b. port of exportation) of carbon steel wire rod imported into the United States from Venezuela in 1981 by the total volume (in metric tons) of the same imports. The source of this information was Department of Commerce import statistics.

Foreign Market Value

In accordance with section 773(a)(1)(A) of the Act, the price of such or similar merchandise sold for consumption in the home market of Venezuela was used to determine foreign market value.

The petition included evidence of the price at which several home market sales were made. These sales prices included freight from the mill to the customer. We deducted the freight to arrive at an ex-mill price, and used the weighted average of these ex-mill prices to represent foreign market value.

Result of Comparison

We compared foreign market value with United States price calculated as above. The comparison results in a dumping margin of 40 percent.

ITC Notification

We have referred this case to the ITC so that it may determine whether these imports are materially injuring a U.S. industry. That determination is due within 45 days of the publication of this notice.

As section 735(c)(1)(A) of the Act requires, we are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order, without written consent of the Deputy Assistant Secretary for Import Adminstration.

If the final determination of the ITC is negative, the suspension agreement shall have no force or effect and the investigation shall be terminated. If the final determination of the ITC is affirmative, the agreement shall remain in force. The Department will not issue an antidumping order in the case as long as the agreement remains in force, the agreement continues to meet the requirements of sections 734 (b) and (d) of the Act, and the parties to the agreement carry out their obligations

under the agreement in accordance with its terms.

Lawrence J. Brady,

Assistant Secretary for Trade Administration.

December 17, 1982.

[FR Doc. 82-35436 Filed 12-29-82; 8:45 am]

BILLING CODE 3510-25-M

Preliminary Negative Countervailing Duty Determination; Industrial Nitrocellulose From France

AGENCY: International Trade Administration, Commerce.

ACTION: Preliminary Negative Countervailing Duty Determination.

SUMMARY: We preliminarily determine that certain benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in France of industrial nitrocellulose, as described in the "Scope of Investigation" section of this notice. However, the estimated net subsidy is *de minimis* and therefore our preliminary determination is negative. If this investigation proceeds normally, we will make our final determination by February 21, 1983.

EFFECTIVE DATE: December 30, 1982.

FOR FURTHER INFORMATION CONTACT: Gary Taverman, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230, telephone: (202) 377-0161.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

Based upon our investigation, we preliminarily determine that there is reason to believe or suspect that certain benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers, or exporters in France of industrial nitrocellulose, as described in the "Scope of Investigation" section of this notice.

For purposes of this investigation we preliminarily determine that while preferential financing from Credit National, and grants from the Ministry of Defense and DATAR, confer benefits to Societe Nationale des Poudres et Explosifs (SNPE), the estimated net subsidy is *de minimis*, and therefore our preliminary determination is negative.

Case History

On September 14, 1982, we received a petition from counsel for Hercules, Incorporated, filed on behalf of the U.S. industry producing industrial nitrocellulose. The petition alleged that certain benefits which constitute subsidies within the meaning of section 701 of the Act are being provided, directly or indirectly, to the manufacturers, producers, or exporters in France of the subject merchandise.

We found the petition to contain sufficient grounds upon which to initiate a countervailing duty investigation, and on October 4, 1982, we initiated a countervailing duty investigation (47 FR 44807). We stated that we expected to issue a preliminary determination by December 8, 1982. We subsequently determined that the investigation is "extraordinarily complicated." as defined in section 703(c) of the Act, and postponed our preliminary determination for two weeks until December 22, 1982 (47 FR 53441).

Since France is a "country under the Agreement" within the meaning of section 701(b) of the Act, an injury determination is required for this investigation. Therefore, we notified the U.S. International Trade Commission (ITC) of our initiation. On October 29, 1982, the ITC preliminarily determined that there is a reasonable indication that these imports are materially injuring, or threatening material injury of, a U.S. industry.

We presented questionnaires concerning the allegations to the government of France and to counsel for SNPE in Washington, D.C. On November 17, 1982, we received the responses to the questionnaires. A supplemental response was received on December 15, 1982.

Scope of Investigation

The merchandise covered by this investigation consists of industrial nitrocellulose containing between 10.8 percent and 12.2 percent nitrogen, not to be confused with explosive grade nitrocellulose which contains over 12.2 percent nitrogen. Industrial nitrocellulose is a dry, white, amorphous synthetic chemical produced by the action of nitric acid on cellulose. It is extremely flammable, so it is stored and shipped wet with alcohol. Industrial nitrocellulose comes in several viscosities and is used to form films in lacquers, coatings, furniture finishes and printing ink. This product is currently classified as cellulosic plastic materials, other than cellulose acetate, under item number 445.2500 of the *Tariff Schedules of the United States Annotated.* Explosive grade nitrocellulose is classified differently.

SNPE is the only producer and exporter in France of the subject merchandise which was exported to the United States. The period for which we are measuring subsidization is calendar year 1981.

Analysis of Programs

Based on our analysis to date of the petition and the responses to our questionnaires, we have preliminarily determined the following.

I. Programs Preliminarily Determined to Confer Subsidies

We preliminarily determine that subsidies are being provided under the programs described below to manufacturers, producers, or exporters in France of the industrial nitrocellulose included in this investigation.

(A) *Preferential financing—Credit National.*—Credit National (CN) is a semi-public credit institution, with special legal status, which issues medium- and long-term loans to French industry. Loan funds are raised by offering bonds in the public marketplace. These bonds are guaranteed by the government of France.

In addition, CN has participated in bank loans to French industries through such means as assuring the banks that they can rediscount the loans with CN. In effect, this constitutes a guarantee. In most cases, CN acts as only part of a loan syndicate. The terms of any loans CN makes on behalf of the French government are set by the French government.

There is some evidence suggesting that CN loans are available to all industries and regions. However, we are unable to establish that these loans are not given at the direction of the government of France, or that CN loans are generally available. Therefore, we preliminarily determine that these loans confer a subsidy within the meaning of the countervailing duty law, to the extent that they were provided at preferential, below-market rates.

The subsidy rate for any loan or loan guarantee from CN bank syndicates in which CN participated for which principal was still outstanding in 1981, and which was made at a rate below the commercial benchmark for a comparable loan in the year of issue, is calculated by comparing what a company would pay a commercial lender in principal and interest in any given year with what the company actually pays on the preferential loan in that year. After calculating the payment differential in each year of the loan, we then calculated the present value of this stream of benefits in the year the loan was made, using a risk-free interest rate as the discount rate. In other words, we determined the subsidy value of a

preferential loan as if the benefits had been bestowed in the year the loan was given. For the commercial benchmark, we used the monthly financial statistics on the secondary market yields of private bonds in France published by the Organization for Economic Cooperation and Development (OECD). For the discount rate, we used the average annual yield of public and semi-public sector bonds on the secondary market published by the OECD because it represents the best estimate of the risk-free rate in France. Dividing the present value of the 1981 benefit by all SNPE's 1981 sales, we calculated and *ad valorem* benefit of 0.043 percent.

(B) *Grants from the Ministry of Defense.*—In its 1979 annual report, SNPE indicates that the company had received FF 56 million, most of it in the form of an advance from the Ministry of Defense. The purpose of this advance was to partially finance the up-grading of the pyrotechnical safety arrangements in the government plants transferred to SNPE during the reorganization of the industry. Counsel for SNPE reports that while a portion of the funds took the form of a non-repayable grant, the majority of the funds were received in exchange for additional equity in the company. As discussed in the section entitled "Reorganization of the Explosive Powders and Substances Industry" in this notice, we have preliminarily determined that government equity participation in SNPE does not confer countervailable benefits. However, we preliminarily determine that those funds which were received in the form of a non-repayable grant and used by SNPE in plants involved in the production of industrial nitrocellulose confer a benefit within the meaning of the countervailing duty law.

The subsidy rate for this program is calculated according to the Department's usual methodology for grants. As indicated in several recent determinations, our allocation technique is a present value analysis which is based on the concept that a sum of money to be received in the future does not have the same value as that sum received today. *See* Appendix 2 to *Final Countervailing Duty Determinations: Certain Steel Products from Belgium*, 47 FR 39316–39317 (1982). The present value of any series of payments under this program is calculated using a risk-free discount rate. For France, we used the average annual yield of public and semi-public sector bonds on the secondary market published by the OECD because it represents the best estimate of the risk-free rate in France. Dividing the present value of the 1981 benefit by SNPE's 1981 industrial nitrocellulose sales, we calculated an *ad valorem* benefit of 0.327 percent.

(C) *Regional development incentives.*—The government of France provides a series of tax and non-tax regional incentives to French and foreign businesses to establish new, or to expand existing businesses in certain French regions.

The Delegation a l'Amenagement du Territoire et l'Action Regionale (DATAR) coordinates the programs of various government agencies and ministries. The Department has information which indicates that for incentive purposes, France is divided into four zones. Each zone, or part of a zone, is eligible for different types and levels of assistance. The assistance includes development grants, non-industrial grants, research and development grants, decentralization indemnities, and job training subsidies. Since there appears to be a regional preference in the manner in which programs are administered and funding allocated, we preliminarily determine that assistance provided through DATAR constitutes subsidies within the meaning of the Act.

SNPE reports the receipt of a grant in 1979, designated for the Bergerac plant, for the purpose of improving production. Using the Department's usual methodology for grants, we calculated an *ad valorem* benefit of 0.056 percent.

II. Programs Preliminarily Determined Not To Confer Subsidies

We preliminarily determine that the French government is not providing subsidies to manufacturers, producers or exporters of industrial nitrocellulose under the following programs.

(A) *Reorganization of the Explosive Powders and Substances Industry.*—The government of France, as authorized by Law No. 575 of July 3, 1970, established guidelines and regulations for the reorganization of the explosive powders and substances industry. This action was taken pursuant to the requirements of the Treaty of Rome. According to Article 37 of the Treaty, European Community Member States were required to

> adjust any state monopolies of a commercial character so as to ensure that * * * no discrimination regarding the conditions under which goods are procured and marketed exists between nationals of Member States. The provisions of this Article shall apply to any body through which a Member State, in law or in fact, either directly or indirectly supervises, determines or appreciably influences imports or exports between Member States. These provisions shall likewise apply to monopolies delegated by the State to others.

Prior to the enactment of Law No. 575, Service des Poudres, a division of the French Ministry of Defense, retained monopoly control over the manufacture of and trade in powders and explosives, including industrial nitrocellulose, the merchandise subject to this investigation. In order to avoid any possible violation of the Treaty, in 1971 the government of France established the public corporation Societe Nationale des Poudres et Explosifs, transferred to it all of the industrial and commercial activities of Service des Poudres, and received shares of SNPE in return. The government of France remains the majority shareholder in SNPE, holding over 99 percent of its outstanding stock.

As a result of the reorganization of the explosive powders and substances industry and the incorporation of SNPE, petitioner alleges that the government of France has subsidized SNPE as follows:

(1) Equity participation

(a) *Acquisition of assets.*—Petitioner alleges that SNPE acquired all its land, equipment, and other assets—including its plants at Bergerac, St. Medard, Sorgues, Vonges and Le Bouchet—from the Ministry of Defense in 1971 without any cost to it, thereby constituting a "provision of capital on terms inconsistent with commercial considerations," as defined by section 771(5)(B)(i) of the Act.

Counsel for SNPE indicates that the transfer of operations and assets from Service des Poudres to SNPE occurred in several stages over the past 10 years in accordance with the applicable rules governing the transfer of corporate assets in France. The valuation of those assets and the mechanism by which the transfer occurred were monitored by the President of the Commerce Court in Paris. In exchange for the commercial activities and industrial facilities of Service des Poudres, SNPE issued equity to the government of France in amounts equal to the value of the transferred assets.

(b) *Facilities modernization.*—Prior to the reorganization of the industry, the government of France had instituted a program for the modernization of the facilities of Service des Poudres. Included in that modernization program were plans to upgrade all facilities so that they would be in compliance with the regulations governing pyrotechnical safety, security and environmental protection. SNPE has continued the required modernization program. The costs of that program have been covered

by the government, which has received equity shares from SNPE in return.

As previously stated, petitioner alleges that the various government of France equity infusions into SNPE confer a countervailable benefits equal to the entire amount of the equity infusions. Counsel for SNPE claims that the equity infusions are the result of a mandated divestiture of the government's commercial operations, and thus do not confer subsidies on the company.

It is well settled that neither government equity ownership *per se*, nor any secondary benefit to the company reflecting the private market's reaction to government ownership, confers a subsidy. Government ownership confers a subsidy only when it is on terms inconsistent with commercial considerations. We have no evidence at present which indicates that the equity infusions were on terms inconsistent with commercial considerations.

Therefore, we preliminarily determine that SNPE has not received benefits which constitute subsidies within the meaning of the countervailing duty law resulting from equity participation by the government of France.

(2) Composition of SNPE's workforce

When SNPE was incorporated, all military and civilian personnel of Service des Poudres were placed at the disposal of the president of the company, as authorized by Article 5 of Law No. 575 dated July 5, 1970. After a period of one year, those employees had the option of either: (a) Being placed again at the disposal of the Minister of National Defense; or (b) being recruited by SNPE in accordance with the provisions of the labor laws. Employees with government civil service status in the facilities transferred to SNPE had the option of retaining their status. If that option were elected, then those employees would continue to be subject to the terms applicable to government employees in any facility which falls under the jurisdiction of the Minister of National Defense.

Petitioner alleges that SNPE is relieved of the payment of certain wage costs due to the fact that a portion of its workforce maintains civil service status. According to the 1982 Report of the Auditor General's Office, there are still a number of government workers employed at SNPE. In all cases, however, SNPE is responsible for the payment of the salaries and benefits of all its employees. In fact, SNPE has experienced increases in personnel expenditures resulting from the employment of workers with civil service status. Because of the recent salary raises granted by the Minister of Defense to workers with such status, SNPE was required to grant similar increases to those non-status workers represented by the Union of Chemical Industries.

Therefore, based upon information currently available, we preliminarily determine that no countervailable benefits are conferred as a result of SNPE's employment of workers with civil service status.

(B) *Research and Development (R & D) Assistance.*—SNPE reported receiving funding for R & D projects from the French government through the Direction Generale a la Recherche et a la Technologie (DGRT), formerly the Delegation Generale a la Recherche Scientifique et Technique, a subdivision of the Ministry of Research and Industry.

Information indicates that DGRT funding is awarded neither on a regional nor industry-specific basis, and research results are made publicly available. Therefore, we preliminarily determine that the amounts received through these programs do not confer subsidies within the meaning of the Act.

(D) *Labor Programs.*—SNPE indicates that it has participated in the following labor programs:

- *Contract Emploi-Formation*—Under this program, the government of France provides funds for the training of young people first entering the job market.
- *Reduction of Benefit Costs*—Under this program, companies may reduce by 50 percent for up to one year the amount of payments made to the government for health insurance, pensions and family allowances on behalf of those young people who are given new jobs.

Inasmuch as assistance under these programs is available to all industrial sectors and not specific to any particular region in France, we preliminarily determine that no countervailable benefit exists.

III. Programs Preliminarily Determined Not to be Used

We preliminarily determine that the following programs are not used by the manufacturers, producers, or exporters of the product subject to this investigation.

(A) *Fonds de Developpement Economique et Social (FDES).*—Created by the French Parliament in 1955, FDES is a fund which provides loans to businesses and corporations in order to further the French government's economic, social, industrial, and regional development objectives.

Based upon our investigation, we preliminarily determine that SNPE has not had any FDES loans outstanding in 1981.

(B) *Caisse des Depots et Consignations (CDC).*—CDC is a government institution that invests funds deposited in the Caisses d'Epargne (the French savings banks), pension funds, and insurance company deposits. CDC makes both short- and long-term loans to various industries.

Based upon our investigation, we preliminarily determine that SNPE has not had any CDC loans outstanding in 1981.

(C) *Fonds Special d'Adaptation Industrielle (FSAI).*—FSAI was established in 1978 to promote job creation and industrial diversification in various industries in France.

Based upon our investigation, we preliminarily determine that SNPE has not received any funds from the FSAI.

(D) *Loan Guarantees.*—Based upon our investigation, we preliminarily determine that SNPE has not received any loan guarantees from the French government, or any financial institution controlled or directed by the government.

(E) *Fonds National de l'Emploi (FNE).*—FNE was established in 1963 to provide vocational training programs, and relocation and early retirement allowances to workers that are confronted with industrial changes brought about by economic development.

Based upon our investigation, we preliminarily determine that SNPE has not received any funds from the FNE.

(F) *Early Retirement and Layoff Benefits.*—French corporations have certain statutory and contractual obligations to pay severance to their employees in case of interruption or cessation of employment. There are several French government early retirement plans designed to compensate for the effects of mass layoffs.

We have no evidence that SNPE has received benefits under these early retirement plans.

(G) *National Agency for Energy Conservation (NAEC).*—The NAEC provides grants to industries in France for the purpose of conserving energy. SNPE indicates that it has received funds from this program for the installation of energy saving equipment, heating and cooling systems, boilers, and water distribution systems at its Le Bouchet, Pont-de-Buis, St. Medard, Sorgues and Toulouse plants. All of these funds, however, were expressly designated and used solely for plants other than Bergerac, the only SNPE

plant involved in the manufacture of industrial nitrocellulose.

(H) *Grants from the River Dock Agency.*—Various grants are awarded by the local River Dock Agencies to industries in France for the purpose of disposal of industrial wastes. SNPE indicates that it has received funds from this program for the regeneration and treatment of waste acids at its Sorgues plant. All of these funds, however, were expressly designated and used solely for plants other than Bergerac, the only SNPE plant involved in the manufacture of industrial nitrocellulose.

(I) *Local Business Tax Deductions.*—Under the direction of the French tax authority ("Direction Generale des Imports"), all French industries are eligible for reductions of local business taxes ("taxe professionelle") for the purpose of expansion of business activities. SNPE has received tax reductions in 1980 for expansion at its Angoulene plant. All of these funds, however, were expressly designated and used solely for plants other than Bergerac, the only SNPE plant involved in the manufacture of industrial nitrocellulose.

IV. Programs for Which Additional Information is Needed

We preliminarily determine that additional information is needed for the following programs alleged by the petitioner to provide countervailable benefits to the manufacturers, producers, or exporters in France of the merchandise subject to this investigation.

(A) *Reduced Input Costs.*—Petitioner alleges that SNPE benefits from reduced costs of inputs purchased from other institutions owned or controlled by the government of France. In its questionnaire response, SNPE indicates that it purchases gas, electric power, nitric acid, and oleum from unrelated government-controlled institutions at arm's length.

We will seek additional information on the costs of these inputs to SNPE and to other industries of similar size and demand.

(B) *Subvention d'equipment (Equipment Subsidies).*—Petitioners allege that SNPE has received grants from the government of France for the purchase of capital equipment. The cumulative value of these grants appears in SNPE's 1981 balance sheet under the heading "Subvention d'equipment." Counsel for SNPE indicates that these funds are available to all industrial sectors in France for projects such as pollution control, energy conservation and waste disposal, and are administered through various local governmental agencies.

We will seek additional information on the agencies which serve as the sources of funds that are accounted for in SNPE's financial statement.

Verification

In accordance with section 776(a) of the Act, we will verify all data used in making our final determination.

Summary of Preliminary Benefits

We preliminarily determine that benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to SNPE, the only known manufacturer, producer or exporter in France of industrial nitrocellulose in an amount equal to 0.426 percent *ad valorem*. However, because the net subsidy rate is *de minimis*, our preliminary countervailing duty determination is negative.

ITC Notification

In accordance with section 703(e) of the Act, we will notify the ITC of our determination.

Public Comment

In accordance with § 355.35 of the Commerce Department Regulations, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 9 a.m. on January 25, 1983, at the U.S. Department of Commerce, Room 3708, 14th and Constitution Avenue, NW, Washington, DC 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room 3099B, at the above address within 10 days of this notice's publication. Requests should contain: (1) The party's name, address and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs must be submitted to the Deputy Assistant Secretary by January 18, 1983. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 355.43, within 30 days of this notice's publication, at the above address and in at least 10 copies.

Dated: December 22, 1982.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 82-35437 Filed 12-29-82; 8:45 am]

BILLING CODE 3510-25-M

Leather Wearing Apparel From Argentina; Preliminary Results of Administrative Review and Proposed Amendment To Suspension Agreement

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Preliminary Results of Administrative Review and Proposed Amendment to Suspension Agreement.

SUMMARY: The Department of Commerce has conducted an administrative review of the agreement suspending the countervailing duty investigation on leather wearing apparel from Argentina. The review covers the period March 13, 1981 through December 31, 1981. As a result of the review, the Department has reason to believe that the Government of Argentina possibly breached the agreement. The Department is proposing an amendment to the agreement to ensure compliance with its terms in the future. Interested parties are invited to comment on these preliminary results and proposed amendment to the suspension agreement.

EFFECTIVE DATE: December 30, 1982.

FOR FURTHER INFORMATION CONTACT: Susan Silver or Richard Moreland, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On March 13, 1981, the Department of Commerce ("the Department") published in the **Federal Register** (46 FR 16697) a notice of suspension of countervailing duty investigation regarding leather wearing apparel from Argentina. The Department noted that the suspension agreement between the Government of Agrentina and the Department met the criteria provided in sections 704(b) and (d) of the Tariff Act of 1930 ("the Tariff Act"). The Government of Argentina requested that the investigation be continued, and on April 23, 1981, the Department published in the **Federal Register** (46 FR 23090) a notice of final affirmative countervailing duty determination. In the notice suspending the investigation, the Department announced its intent to conduct an administrative review of the suspension agreement within twelve months, as provided in section 751 of the Tariff Act. The Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are currently classifiable under items 791.7620, 791.7640 and 791.7660 of the Tariff Schedules of the United States Annotated. These products include leather coats and jackets for men, boys, women, girls and infants, and other leather apparel products including leather vests, pants and shorts. Also included are outer leather and parts and pieces of leather wearing apparel. The review covers the period March 13, 1981 through December 31, 1981, and the two programs found to constitute subsidies in the final determination, preferential pre-export financing and the reembolso program.

Analysis of Programs

Preferential pre-export financing is a program that makes funds available to exporters, at an interest rate of one percent, in pesos indexed to U.S. dollars. The funds are provided by the Central Bank of Argentina and are lent by private commercial banks to individual corporate borrowers. In the final affirmative determination, the Department found the program countervailable. In the course of the review, we found that one such loan was provided to Commercio Internacional, one of several exporters of leather wearing apparel to the United States, during the review period; and two such loans were provided to the same exporter in February, 1982. Commercio Internacional received a benefit of 0.19 percent *ad valorem* from the loan received during the review period.

The reembolso is a rebate upon export of indirect and direct taxes paid on merchandise as a percentage of f.o.b. invoice price. In the final affirmative determination, the Department found a countervailable overrebate of indirect taxes of 3.02 percent *ad valorem*. The overrebate was determined to be the difference between a 20 percent level of payments to exporters and a 16.98 percent level of indirect taxes allowable under the U.S. countervailing duty law.

Adopting the results of the final affirmative determination, the Argentine government set the reembolso rate at 16.98 percent. This rate was made retroactively applicable to all exports of leather wearing apparel on or after January 28, 1981. Effective January 30, 1981, the government eliminated certain import and other indirect taxes. This reduced the level of allowable indirect taxes to 14.65 percent of the f.o.b. invoice price. Since the reembolso was now 16.98 percent, the Argentine government was overrebating the indirect taxes in the amount of 2.33 percent during most of the review period.

Effective December 24, 1981, the Government of Argentina lowered the reembolso rate to 10 percent thereby eliminating the overrebate.

For shipments of parts and pieces of leather wearing apparel the reembolso payments were set at 10 percent of the f.o.b. invoice price during the whole review period. Therefore, no subsidy was conferred.

Compliance with Agreement

The overrebate of indirect taxes through December 23, 1981 is a possible breach of subparagraph B(1) of the suspension agreement which prohibited reembolos payments constituting a subsidy on shipments of leather wearing apparel to the United States on or after January 28, 1981. We have received official notification from the Argentine government establishing a 5 percent rate of reembolso for al exports of leather wearing apparel and zero percent for parts and pieces thereof, effective July 6, 1982. The three loans provided to Comercio Internacional are possible breaches of subparagraph B(2) of the suspension agreement which provided that no preferential pre-export financing would be provided on shipments of leather wearing apparel to the United States on or after January 28, 1981. The Ministry of Economy of Argentina has provided Central Bank Communique "c" 504 prohibiting preferential pre-export financing on all shipments of leather wearing apparel to the United States, effective November 23, 1982.

The Argentine government has certified that no new or equivalent programs have been instituted with regard to these exports, in accordance with subparagraph B(3) of the agreement.

Preliminary Results of the Review

As a result of our review, we preliminarily determine that, from March 13, 1981 through December 23, 1981, the Government of Argentina, by overrebating indirect taxes, provided a net subsidy of 2.33 percent of the f.o.b. invoice price on shipments of leather wearing apparel to the United States. The Argentine government also provided a net subsidy of 0.19 percent *ad valore* through preferential pre-export financing. The aggregate net subsidy during the period was 2.52 percent *ad valorem*.

Although the agreement was possibly breached, such breaches do not constitute intentional violations. Therefore, in accordance with § 355.32(b) of the Commerce Regulations, the Department entered into discussions with the Argentine government and the petitioner to consider an amendment to the suspension agreement. The proposed amendment in Annex I of this notice is a result of those discussions. During the process of negotiating the amendment, we have informed the petitioner of all developments and provided opportunities to comment on the proposed amendment. The Ministry of Economy is prepared to provide immediate notification of any changes in the reembolso rate and in indirect tax rates to the department. In addition, the Ministry of Economy agrees to provide, and indeed has already provided, documentation that the Central Bank has prohibited preferential re-export loans on shipments of leather wearing apparel to the United States.

Finally, the Department is determined not to allow the review of suspended investigations to degenerate into a continual negotiating process. Therefore, we preliminarily determine that, if the proposed amendment is put into effect and if we subsequently discover a breach of the amended agreement, we will make no attempt to renegotiate the agreement and will issue a countervailing duty order on this merchandise.

Interested parties may submit written comments on these preliminary results and proposed amendment within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any request for an administrative protective order must be made not later than 5 days after the date of publication. The Department will publish the final results of this administrative review, and possible amendment to the agreement, including the results of its analysis of any issues raised in such written comments or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

December 21, 1982.

Annex I—Proposed Amendment to Suspension Agreement of January 28, 1981 Leather Wearing Apparel From Argentina

Paragraph B is amended by striking the word "Government" and inserting the words "Ministry of Economy" after the word "The" in subparagraph 2.

Paragraph B is amended by striking the word "Government" and inserting the words

"Ministry of Economy" after the word "The" in subparagraph 3.

Paragraph B is amended by inserting the following new subparagraph after the word "above." in subparagraph 3:

"4. The Department agrees to suspend the countervailing duty investigation with respect to leather wearing apparel from Argentina."

Paragraph C is amended by striking the word "Government" and inserting the words "Ministry of Economy" after the word "The".

Paragraph C is amended by inserting the following new subparagraphs after the word "and" in subparagraph 1:

"2. Immediately provide copies of any resolutions, decrees or legislation governing the changes in the level of reembolso payments or of the indirect taxes rebated by these payments on any shipments of leather wearing apparel to the United States, as soon as such changes occur; and

"3. Provide documentation that the Central Bank prohibits the preferential pre-export financing provided directly or indirectly on any shipments of leather wearing apparel to the United States; and

"4. Notify the Department within 15 days after the end of each quarter (March, June, September, December) that the government remains in compliance with the terms of this agreement as provided in paragraph B subparagraphs (1), (2) and (3) of the agreement; and"

Paragraph C is amended by striking the present subparagraph number 2 and inserting in lieu thereof the number 5.

Paragraph C is amended by inserting the following new subparagraph after the word "Act." in subparagraph 5.

"6. The suspension agreement for leather wearing apparel will remain in effect until the conditions of the section 751(c) of the Act are met, unless the Department determines that paragragh D of the agreement applies."

Paragraph D is amended by striking the word "Government" and inserting the words "Ministry of Economy" after the words "Department determines that the".

Paragraph D is amended by inserting the words "as provided for in section 704(i) of the Act" after the words "under the Agreement" and after the words "no longer practicable".

Paragraph E is amended by striking the word "Government" and inserting the words "Ministry of Economy" after the word "The".

Signed in Washington, D.C. on this — day of ———, 1982, for the Argentine Ministry of Economy.

Santiago Murray,

Minister Counselor, Economic and Commercial Embassy of the Argentine Republic.

I have determined that the amendment to the suspension agreement is necessary to safeguard against any future breaches of the agreement and ensures that the provisions of the agreement can be monitored effectively. Therefore, I have determined that the amendment to the suspension agreement meets the requirements of section 704(b) of the Act and is in the public interest as required in section 704(d) of the Act.

U.S. Department of Commerce.

By Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 82-35378 Filed 12-29-82; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

California Coastal Management Program; Appeal by Union Oil Company

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of appeal.

SUMMARY: On December 17, 1982, the Secretary of Commerce received an appeal by the Union Oil Company (Union) from an objection by the California Coastal Commission to Union's certification that its Exploration Plan to drill two wells within the boundaries of the Santa Barbara Channel Islands National Marine Sanctuary is consistent with the California Coastal Management Program. This appeal has been filed pursuant to section 307(c)(3) (A) and (B) of the Coastal Zone Management Act of 1972, as amended, 16 U.S.C. 1456(c)(3) (A) and (B), and implementing regulations at 15 CFR 930.120 *et seq.* Interested persons are advised that they may submit comments to the Secretary of Commerce on the issues raised by the parties to this appeal within 30 days from the date of this notice. Such comments should be sent to Peter Tweedt, Acting Director, Office of Ocean and Coastal Resource Management, National Oceanic and Atmospheric Administration, Department of Commerce, 3300 Whitehaven St. NW., Washington, D.C. 20235. Copies of comments should also be sent to the following persons:

1. Timothy R. Thomas, Union Oil Company of California, 461 South Boyston St., Los Angeles, CA 90017.
2. Linda Breeden, California Coastal Commission, 631 Howard St., 4th Floor, San Francisco, CA 94105.
3. Reid T. Stone, Regional Manager, Pacific OCS Region, Minerals Management Service, 1340 West Sixth Street, Los Angeles, CA 90017.

Access to Union's notice of appeal and accompanying public information, and to the public information contained in comments by Federal and state agencies, is available to the public at the following State and Federal offices:

1. California Coastal Commission, 631 Howard St., 4th Floor, San Francisco, CA 94105.
2. California Coastal Commission, South Central District, 735 State St., Suite 612, Santa Barbara, CA 93101.
3. California Coastal Commission, South Coast District, 240 W. Broadway, Suite 380, P.O. Box 1450, Long Beach, CA 90802.
4. Office of Ocean and Coastal Resource Management, National Oceanic and Atmospheric Administration, Department of Commerce, Room 270, 3300 Whitehaven St. NW., Washington, D.C. 20235.

(Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Administration)

Dated: December 27, 1982.

JoAnn Chandler,

Acting Director, Office of Ocean and Coastal Resource Management.

[FR Doc. 82-35462 Filed 12-29-82; 8:45 am]

BILLING CODE 3510-08-M

Issuance of Permit

On October 27, 1982, Notice was published in the Federal Register (47 FR 47626), that an application had been filed with the National Marine Fisheries Service by Mr. Gregory Dean Kaufman and Mr. Roger Kevin Wood, Pacific Whale Foundation, P.O. Box 1083, Makena, Maui, Hawaii 96753, for a permit to take humpback whales (*Megaptera novaeangliae*) by inadvertent harassment for the purpose of scientific research.

Notice is hereby given that on December 21, 1982, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407) and the Endangered Species Act of 1973 (16 U.S.C. 1531-1543), the National Marine Fisheries Service issued a Scientific Research Permit to Gregory D. Kaufman and Roger Kevin Wood for the above taking subject to certain conditions set forth therein.

Issuance of this Permit as required by the Endangered Species Act of 1973 is based on a finding that such permit: (1) Was applied for in good faith; (2) will not operate to the disadvantage of the endangered species which are the subject of the permit; and (3) will be consistent with the purposes and policies set forth in Section 2 of the Endangered Species Act of 1973.

The Permit and related documents are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southwest Region,

300 South Ferry Street, Terminal Island, California 90731.

Dated: December 21, 1982.

Richard B. Roe,

Acting Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 82-35461 Filed 12-29-82; 8:45 am]

BILLING CODE 3510-22-M

Virgin Islands Coastal Management Program, Washington Coastal Management and Coastal Energy Impact Programs, and Ohio Coastal Energy Impact Program and Estuarine Sanctuary (Old Woman Creek); Intent To Evaluate

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of intent to evaluate.

SUMMARY: The National Oceanic and Atmospheric Administration, National Ocean Service, Office of Ocean and Coastal Resource Management (OCRM), announces its intent to evaluate the performance of the Virgin Islands Coastal Management Program, and the Washington Coastal Management and Coastal Energy Impact (CEIP) Programs in February 1983; and the Ohio Coastal Energy Impact Program and Estuarine Sanctuary (Old Woman Creek) in March 1983. These reviews will be conducted pursuant to Section 312 of the Coastal Zone Management Act (CZMA) which requires a continuing review of the performance of the states with respect to coastal management, and their adherence to the terms of financial assistance awards funded under the CZMA. Coastal zone management is funded under Section 306, CEIP is funded under Section 308, and the Estuarine Sanctuary Program under Section 315 of the CZMA. The reviews involve consideration of written submissions, a site visit to the state, and consultations with interested Federal, state and local agencies and members of the public. Public meetings will be held as part of the site visits. Notice of these meetings will be issued by each state. Copies of each state's most recent performance report, as well as the OCRM's notification letter and supplemental information request to the state, are available upon request from the OCRM. A subsequent notice will be placed in the **Federal Register** announcing the availability of the Final Findings based on each evaluation once these are completed. For further information contact Darrell H. (Bill) Stearns, Acting Evaluation Officer, Office of Ocean and Coastal Resource Management, Page Building 1, 3300 Whitehaven Street, NW., Washington, D.C. 20235 (telephone: 202/634-4245).

Dated: December 27, 1982.

Peter Tweedt,

Acting Director, Office of Ocean and Coastal Resource Management.

[FR Doc. 82-35463 Filed 12-29-82; 8:45 am]

BILLING CODE 3510-08-M

National Technical Information Service; Intent To Grant Exclusive Patent License

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to EAN-TECH, INC. having a place of business at Daly City, California an exclusive right in the United States to manufacture, use and sell products embodied in the invention, "Multi Slab Gel Casting and Electrophoresis Apparatus," U.S. Patent Application 6-402,353 (dated July 27, 1982). Copies of the Patent Application may be obtained from the Office of Government Inventions and Patents, NTIS, Box 1423, Springfield, VA 22151. The patent rights in this invention have been assigned to the United States of America, as represented by the Secretary of Commerce.

The proposed exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 41 CFR 101-4.1. The proposed license may be granted unless, within sixty days from the date of this Notice, NTIS receives written evidence and argument which establishes that the grant of the proposed license would not serve the public interest.

Inquiries, comments and other materials relating to the proposed license must be sumitted to the Office of Government Inventions and Patents, NTIS, at the address above. NTIS will maintain and make available for public inspection a file containing all inquiries, comments and other written materials received in response to this Notice and a record of all decisions made in this matter.

Dated: December 21, 1982.

George Kudravetz,

Program Manager, Office of Government Inventions and Patents, National Technical Information Service, Department of Commerce.

[FR Doc. 82-35317 Filed 12-29-82; 8:45 am]

BILLING CODE 3510-04-M

Intent To Grant Exclusive Patent License

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to EAN-TECH, INC. having a place of business at Daly City, California an exclusive right in the United States to manufacture, use and sell products embodied in the invention, "Electrofocusing in Buffers," U.S. Patent 4,139,440 (dated February 13, 1979). Copies of the Patent may be obtained from the Office of Government Inventions and Patents, NTIS, Box 1423, Springfield, VA 22151. The patent rights in this invention have been assigned to the United States of America, as represented by the Secretary of Commerce.

The proposed exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 41 CFR 101-4.1. The proposed license may be granted unless, within sixty days from the date of this Notice, NTIS receives written evidence and argument which establishes that the grant of the proposed license would not serve the public interest.

Inquiries, comments and other materials relating to the proposed license must be submitted to the Office of Government Inventions and Patents, NTIS, at the address above. NTIS will maintain and make available for public inspection a file containing all inquiries, comments and other written materials received in response to this Notice and a record of all decisions made in this matter.

Dated: December 21, 1982.

George Kudravetz,

Program Manager, Office of Government Inventions and Patents, National Technical Information Service, Department of Commerce.

[FR Doc. 82-35319 Filed 12-29-82; 8:45 am]

BILLING CODE 3510-04-M

Intent To Grant Exclusive Patent License

The National Technical Information Service (NTIS), U.S. Department of commerce, intends to grant to EAN-TECH, INC. having a place of business at Daly City, California and exclusive right in the United States to manufacture, use and sell products embodied in the invention, "Isoelectric Focussing-Polynucleotide/Polyacrylamide Gel Ectrophoresis," U.S. Patent Application 6-402,352 (dated July 27, 1982). Copies of the Patent Application may be obtained from the Office of Government Inventions and

Patents, NTIS, Box 1423, Springfield, VA 22151. The patent rights in this invention have been assigned to the United States of America, as represented by the Secretary of Commerce.

The proposed exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 41 CFR 101–4.1. The proposed license may be granted unless, within sixty days from the date of this Notice, NTIS receives written evidence and argument which establishes that the grant of the proposed license would not serve the public interest.

Inquiries, comments and other materials relating to the proposed license must be submitted to the Office of Government Inventions and Patents, NTIS, at the address above. NTIS will maintain and make available for public inspection a file containing all inquiries, comments and other written materials received in response to this Notice and a record of all decisions made in this matter.

Dated: December 21, 1982.

George Kudravetz,

Manager, Office of Government Inventions and Patents National Technical Information Service, Department of Commerce.

[FR Doc. 82–35320 Filed 12–29–82; 8:45 am]

BILLING CODE 3510–04–M

Government-Owned Inventions; Availability for Licensing

The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally funded research and development. Foreign patents are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

Technical and licensing information on specific inventions may be obtained by writing to: Office of Government Inventions and Patents, U.S. Department of Commerce, P.O. Box 1423, Springfield, Virginia 22151.

Please cite the number and title of inventions of interest.

George Kudravetz,

Program Manager, Office of Government Inventions and Patents, National Technical Information Service, U.S. Department of Commerce.

Department of the Interior

- **6–293,027 Removal of Suspended Solids from Water**
- **6–316,259 Apparatus for Controlling the Level of Fluid in a Tank**
- **6–318,710 Removal of Heavy Metals from Water**
- **6–325,269 Removal of Heavy Metals from Water**
- **6–327,539 High Temperature Hydrolysis of Aluminum Sulfate Solution**
- **6–327,544 Recovery of Gallium from Acid Process Solutions**
- **6–259,349 Composite Membrane for Reverse Osmosis**
- **6–299,439 Recovery of Metals from Geothermal Brine**
- **6–310,583 Treatment of Superalloys for Recovery of Metal Values**
- **6–324,174 Method and Apparatus for Determining the Petroleum Content in a Rock Mass to Determine the Methane Gas Content of the Rock Mass**
- **6–324,759 Oxygen Injection in Reverse Osmosis Desalination**
- **6–340,925 Production of Metal Powder**
- **6–348,117 Recovery of Potassium from Ores**
- **6–376,851 Suspended Sediment Sensor**
- **6–383,060 Concentrating and Reclaiming Magnetic Fluids**

Department of Agriculture

- **6–352,662 Encapsulation by Entrapment Within Polyhydroxy Polymer Borates**

Department of the Interior

- **6–391,315 Liquid-Liquid Extraction of Cobalt**
- **6–391,316 Apparatus for the Efficient Mixing of Liquids and Gases**
- **6–396,924 Desulfurization of Carbonaceous Materials**
- **6–397,735 Recovery of Tungsten from Brines**
- **6–401,994 Apparatus for Supporting a Plurality of Seismometers**
- **6–411,155 Method for Separation of High-Copper and Low-Copper Aluminum-Silicon Alloys**
- **6–416,191 Removal of Arsenic from Aqueous Solutions**
- **6–416,192 Method of Enhancing the Removal of Methane Gas and Associated Fluids from Mine Boreholes**

Department of Agriculture

- **6–423,402 Microemulsions from Vegetable Oil and Aqueous Alcohol with 1-Butanol Surfactant as Alternative Fuel for Diesel Engines**
- **6–427,229 Microemulsions from Vegetable Oil and Aqueous Alcohol with Trialkylamine Surfactant as Alternative Fuel for Diesel Engines**
- **6–366,754 Method and Apparatus for Edgewise Compression Testing of Flat Sheets**
- **6–345,512 Salt-Tolerant Microbial Xanthanase and Method of Producing Same**
- **6–352,428 Process for the Decolorization of Pulp Mill Bleach Plant Effluent**

Department of Health & Human Services

- **6–375,553 Lysis of Trypanosoma Cruzi**

Department of Agriculture

- **6–407,232 Implantation Device for Use in Vivo Stimulation and Collection of Monocytes from Peritoneum of Vertebrate**
- **6–396,521 Apparatus to Regulate Dispensing of Agricultural Chemicals by Rope Wick Applicators**
- **6–314,323 Altered Brining Properties of Produce by a Method of Pre-Brining Exposure of the Fresh Produce to Oxygen or Carbon Dioxide**
- **6–356,870 Control of Sicklepod, Showy Crotalaria, and Coffee Senna with a Fungal Pathogen**
- **6–356,864 Control of Prickly Sida, Velvetleaf, and Spurred Anoda with Fungal Pathogens**
- **6–378,317 Rope Wick Chemical Recovery Apparatus**
- **6–385,204 A Process for Producing Durable Press Fabrics Through Phosphorylation**
- **6–385,163 A Method for Separating Closed Bolls of Cotton By Maturity**
- **6–377,509 Control of Mycotoxin Production by Chemically Affecting Fungal Growth**

Department of the Interior

- **6–251,404 {4,358,160} Air Diversion and Dust Control System for Longwall Shearers**

Department of Agriculture

- **6–258,483 {4,359,534} Conversion of D-Xylose to Ethanol by the Yeast Pachysolen Tannophilus**

[FR Doc. 82–35403 Filed 12–29–82; 8:45 am]

BILLING CODE 3510–04–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing Import Levels for Certain Cotton, Wool, and Man-Made Fiber Textile Products From India, Effective January 1, 1983, Under a New Bilateral Agreement

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Establishing import levels for certain cotton, wool, and man-made fiber textile products imported from India, effective on January 1, 1983.

SUMMARY: On December 21, 1982, the Governments of the United States and India signed a new four-year Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement beginning on January 1, 1983 and extending through December 31, 1986. The agreement establishes, among other things, levels of restraint for cotton, wool, and man-made fiber textile products in Group II (Categories 330–359, 431–459, and 630–659) and in individual Categories 335, 336, 338, 339, 340, 341, 342, 347, 348, and 363) during the agreement year which begins on January 1, 1983 and extends through December 31, 1983. In the letter published below, the Chairman, Committee for the Implementation of Textile Agreements, directs the Commissioner of Customs to prohibit entry into the United States for consumption or withdrawal from warehouse for consumption of textile products in the foregoing categories.

produced or manufactured in India and exported during the twelve-month period which begins on January 1, 1983, in excess of the designated levels.

A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709).

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

EFFECTIVE DATE: January 1, 1983.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–4212).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 27, 1982.

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of December 21, 1982, between the Governments of the United States and India; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on January 1, 1983 and for the twelve-month period extending through December 31, 1983, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool, and man-made fiber textile products in the following categories, produced of manufactured in India, and accompanied by a visa, in excess of the indicated twelve-month levels of restraint:

Category and Twelve-Month Level of Restraint

330–359, 431–459, and 630–659—100,000,000 square yards equivalent
335—130,000 dozen
336—235,895 dozen
338/339/340—1,065,780 dozen
341—2,332,595 dozen
342—310,866 dozen
347/348—200,000 dozen
363—15,000,000 numbers

Floor coverings in T.S.U.S.A. Numbers 360.08, 360.10, 360.15, 360.76, 360.78, 361.42, 361.45, and 361.54, exported on and after January 1, 1983, do not require an export visa or certification for exemption.

In carrying out this directive, cotton, wool, and man-made fiber textile products in all of the foregoing categories, and in Categories 360–362, 369, 464–469, 665–669, produced or manufactured in India and exported to the United States on and after January 1, 1982 and extending through December 31, 1982, shall, to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during that twelve-month period. In the event that the levels of restraint established for that period have been exhausted by previous entries, such goods shall be subject, as applicable, to the levels set forth in this directive.

Cotton textile products in Categories 336, 338/339/340, 341, and 347/348, produced or manufactured in India and exported during 1982, which are accompanied by the elephant certification and which are in excess of the special levels of restraint established for those categories during 1982, shall also be charged to the levels set forth in this directive.

The levels of restraint set forth above are subject to adjustment in the future, as applicable, according to the provisions of the bilateral agreement of December 21, 1982, between the Governments of the United States and India which provide, in part, that: (1) Group and specific limits may be exceeded by designated percentages for swing, carryover, and carryforward, and (2) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement. Any appropriate adjustments under the provisions of the bilateral agreement referred to above will be made to you by letter.

A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of India and with respect to imports of cotton, wool, and man-made fiber textile products from India have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 82–35474 Filed 12–29–82; 8:45 am]

BILLING CODE 3510–25–M

Establishing Import Restraint Levels for Certain Cotton, Wool, and Man-Made Fiber Textile Products From the Republic of Korea, Effective on January 1, 1983

December 23, 1982.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Establishing import restraint levels for certain cotton, wool, and man-made fiber textile and apparel products, produced or manufactured in Korea and exported during the twelve-month period beginning on January 1, 1983 and extending through December 31, 1983, under a new agreement.

SUMMARY: The Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of December 14, 1982 between the Governments of the United States and the Republic of Korea establishes levels of restraint, among other categories, for Categories 331, 333/334, 335, 338/339, 340, 341, 347/348, 353/354/653/654, 410, 433/434, 440, 443, 444, 445/446, 447, 604, 605 pt., 633/634/635, 638/639, 640, 641, 643, 645/646, 648, 659 pt., and 669 pt. for the agreement year beginning on January 1, 1983. Accordingly, there is published below a letter from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs directing that entry into the United States for consumption, or withdrawal from warehouse for consumption, of cotton, wool, and man-made fiber textile products in the foregoing categories be limited to the designated amounts during the agreement year beginning on January 1, 1983. The levels of restraint for Category 640 (other than dress shirts), and 645/646 have been reduced to account for overshipment charges.

A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709).

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

EFFECTIVE DATE: January 1, 1983.

FOR FURTHER INFORMATION CONTACT: William J. Boyd, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–4212).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

December 23, 1982.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of December 14, 1982, between the Governments of the United States and the Republic of Korea; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on January 1, 1983 and for the twelve-month period extending through December 31, 1983, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool, and man-made fiber textile products in Categories 331, 333/334, 335, 338/339, 340, 341, 347/348, 353/354/653/654, 410, 433/434, 440, 443, 444, 445/446, 447, 604, 605 pt., 633/634/635, 638/639, 640, 641, 643, 645/646, 648, 659 pt., and 669 pt., produced or manufactured in Korea, in excess of the indicated levels of restraint:

Category	Twelve-month level of Restraint
331	442,809 dozen pairs.
333/334	58,560 dozen.
335	59,796 dozen.
338/339	561,025 dozen.
340	181,659 dozen.
341	113,172 dozen.
347/348	270,807 dozen.
353/354/653/654	213,162 dozen.
410	4,433,199 square yards.
433/434	16,858 dozen of which not more than 12,871 dozen shall be in Category 433 and not more than 6,601 dozen shall be in Category 434.
440	208,124 dozen.
443	26,838 dozen.
444	3,945 dozen.
445/446	50,918 dozen.
447	81,395 dozen.
604	535,474 pounds.
605 pt.[1]	2,120,000 pounds.
633/634/635	1,391,219 dozen of which not more than 175,732 dozen shall be in Category 633; not more than 809,532 dozen shall be in Category 634; and not more than 614,636 dozen shall be in Category 635.
638/639	5,540,884 dozen.
640 pt.[2]	3,747,,933 dozen.
640 pt.[3]	2,375,498 dozen.
641	1,006,747 dozen.
643	59,612 dozen.
645/646	3,238,018 dozen.
648	317,152 dozen.
659 pt.[4]	2,331,463 pounds.
669 pt.[5]	1,590,000 pounds.

[1] In Category 605, only TSUSA numbers 316.5500 and 316.5800.
[2] In Category 640, only TSUSA numbers 379.3130, 379.3334, 379.9535, 379.9540, 379.9639.
[3] In Category 640, all TSUSA numbers in the category except those listed in footnote 2.
[4] In Category 659, only TSUSA numbers 703.0500, 703.1000, and 703.1515.
[5] In Category 669, only TSUSA numbers 348.0065, 348.0075, 348.0565, and 348.0575.

In carrying out this directive, entries of textile products in the foregoing categories, except Categories 331 and 410, which have been exported to the United States on and after January 1, 1982 and extending through December 31, 1982, shall, to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during that twelve-month period. In the event the levels of restraint established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter. Textile products in Categories 331 and 410 that have been exported prior to January 1, 1983, shall not be subject to this directive.

The levels set forth above are subject to adjustment according to the provisions of the Bilateral Cotton, Wool, and Man-Made Fiber Textiles Agreement of December 14, 1982 which provide, in part, that: (1) During any agreement year specific limits and sublimits may be exceeded by designated percentages, provided a corresponding reduction in square yards equivalent is made in one or more other specific levels; (2) under specified conditions specific limits and sublimits may be adjusted for carryover and carryforward not to exceed 10 percent; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement. Any adjustments under the foregoing provisions of the agreement will be made to you by letter.

A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (49 FR 55709).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the Republic of Korea and with respect to imports of cotton, wool, and man-made fiber textile products from Korea have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter willl be published in the **Federal Register.**

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 82-35224 Filed 12-29-82; 8:45 am]

BILLING CODE 3510-25-M

Amending the Export Visa and Exempt Certification Mechanisms for Certain Cotton, Wool, and Man-Made Fiber Textile Products From India Under a New Bilateral Agreement

December 28, 1982.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Effective on January 1, 1983, under the terms of a new bilateral textile and apparel agreement between the Governments of the United States and India, the visa and exempt certification mechanisms established for certain cotton, wool, and man-made fiber textile products, produced or manufactured in India, are being amended:

(1) To discontinue use of the elephant certification previously used to identify apparel products made from handloomed fabrics, but not wholly by hand. Such goods, exported on and after January 1, 1983, will be visaed using the circular visa in the same manner as other goods subject to the ceilings of the bilateral agreement are currently required to be visaed.

(2) To include a revised definition pertaining to "India Items" overall and more precise definitions of certain individual items. The new list is published as an enclosure to the letter to the Commissioner of Customs which follows this notice.

SUMMARY: On December 21, 1982, the Governments of the United States and India exchanged notes establishing a new Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement, which includes provision for visa and exempt certification mechanisms which differ in several respects from those established under the previous agreement.

EFFECTIVE DATE: January 1, 1983 for goods subject to the terms of the bilateral agreement which have been exported on and after that date.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-4212).

SUPPLEMENTARY INFORMATION: On October 22, 1982, a notice was published in the **Federal Register** (47 FR 47056) announcing termination on December 31, 1982, of the export visa and exempt certification mechanisms established for certain cotton, wool, and man-made fiber textile products, produced or manufactured in India. The date of termination of these requirements coincided with the expiration of the existing bilateral agreement between the Governments of the United States and India. Because the two governments have signed a new agreement in the meantime, it has not been necessary formally to terminate the existing visa and exempt certification mechanisms. Accordingly, in the letter published below, the Chairman of the Committee for the Implementation of Textile

Agreements directs the Commissioner of Customs to amend the directive of November 26, 1979, further to include the modifications agreed under the new agreement.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

December 28, 1982.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury,
Washington, D.C. 20229

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of November 26, 1979 from the Chairman of the Committee for the Implementation of Textile Agreements that directed you to prohibit, under certain specified conditions, entry into the United States for consumption and withdrawal from warehouse for consumption, of certain cotton, wool, and man-made fiber textile products, produced or manufactured in India, for which the Government of India had not issued an appropriate export visa or certain specified certifications.

Effective on January 1, 1983, the directive of November 26, 1979 is further amended to discontinue use of the elephant-shaped certification previously used to identify apparel products made from handloomed fabrics, but not wholly by hand. Such goods, exported on and after January 1, 1983, shall be visaed using the circular visa presently used for goods subject to the ceilings of the bilateral agreement in order to be entered into the United States for consumption, or withdrawn from warehouse for consumption. The list of "India Items" has been revised and is enclosed.

Floor coverings in T.S.U.S.A. Numbers 360.06, 360.10, 360.15, 360.76, 360.78, 361.42, 361.45, and 361.54, exported on and after January 1, 1983, do not require an export visa or certification for exemption.

The actions taken with respect to the Government of India and with respect to imports of cotton, wool, and man-made fiber textile products from India have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

Enclosure.

Agreed List of Traditional Folklore Handicraft Textile Products of India—"India Items"

Headnote

"India Items" are traditional folklore handicraft textiles products made in the cottage industry. They comprise clothes, clothing, accessories, and decorative furnishings whose shape and design are traditionally and historically India.

These products should not include zip fasteners and must be ornamented in the characteristic Indian folk styles using one of the following methods:

(a) Handpainting (including Kalamkari) or handprinting or handicraft tie and dye or handicraft Batik,

(b) Embroidered or crochetted ornamentation,

(c) Applique work of sequins, glass or wooden beads, shells, mirrors or ornamental motif of textile and other materials,

(d) Extra weft ornamentation of cotton, silk, zari (metal thread in gold/silver), wool or any other fibre yarn.

Exceptions: Churidar pyjama, salwar, and gararra need not be ornamented.

Definitions

1. Kurta: A loose, almost straight cut tunic of any length from the hips to the ankles with quarter, half or full length narrow or loose sleeves, with or without buttons at the neck or cuff but without out-turned shirt-style cuffs or out-turned shirt collar.

2. Churidar Pyjama or Churidar Set: A pair of trousers, loose at waist, with either draw string or hooks and tapering to a tight fit from mid-calf to ankle. It is traditionally a Moghul costume worn by Indian women since the 16th century along with a Kurta and Dupatta (an oblong scarf).

3. Jawahar Jacket: A loose-fitting coat or vest of waist or hip length with or without buttons traditionally worn over kurtas or kameez by men and women.

4. Pherron: A full-length loose dress with long loose sleeves. Intricate embroidery depicting floral designs is done around neck of this costume.

5. Angharkha: A traditional garment extending from the neck to knee length or below with long sleeves but no out-turned collar. It has a full frontal opening with decorative string or ribbon used as closures at the sides or center. This garment can be of quilted material also.

6. Bagal Bandini: A garment similar to Angharkha, hip length or longer, with a wrap-around effect and tied at the sides.

7. Ghagra/Lahnga: An ankle-length, very wide skirt with draw-string or hooks at the waist.

8. Pavadai: An ankle-length gathered skirt, often in two-piece ensemble, as an accessory worn with sari or Dupatta.

9. Choli: A short blouse ending at or above the waist, with or without sleeves, without an out-turned collar.

10. Lungi or Lungi Set: A long garment worn as a wrap around the lower half of the body, with or without a Kurta, or a loose fit blouse or a Choli.

11. Salwar: Loose-fitting trousers secured with drawstring or hooks, with legs that are straight or baggy with extra fullness at the thighs.

12. Gararra: A trouser, straight from waist to knee, and shaped like a gathered skirt below the knee.

13. Dupatta: A scarf usually about 4 ft. long, wrapped by women along with Kurta and Churidar. This also includes other types of scarves worn in varied sizes, the characteristics being the same as above.

14. Ohdhani: An oblong cloth about 6 to 7 ft. long and 3 to 4 ft. wide with overall embroidery or a woven jacquard weave with traditional designs like himroo shawl or made-up of a fabric decorated with cotton/silk/zari or any other fiber yarn used to cover the body.

15. Chola: An ankle-length, loose-fit, long Kurta traditional worn by religious priests.

16. Safa: Headwear made up of printed or embroidered fabrics.

17. Aba: An over-garment, close-fit at the upper part, with a Ghagra type skirt touching the ankles.

18. Burka: Loose-fitting over-garment worn by Muslim women which covers the head and extends to the ankles.

19. Jama: A coat, close-fitting above the waist, long-sleeved and with a full gathered skirt. The coat has a sloping cross—over neckline fastened near the armpit but no out-turned collar.

20. Patka: A long traditional stole with Indian designs ornamented with art work of various types.

21. Tamba/Tambi: Loose-fit trousers usually worn in North India.

22. Thailis: Totebags, purses, pouch bags, and similar accessories to traditional Indian dresses.

23. Toran: A long embroidered strip of cloth elegantly embroidered with plain or applique work embroidery, used for decorating the entrance doors of Indian residences. This represents a wide variety of fine embroidered pieces connected with folk art, particularly from Kathiawar in Gujarat (West Coast of India).

24. Phulkari: Decorative, embroidered, rough-spun cotton fabric with close darning stitch employed with strands of untwisted silk to make the flower-like embroidered.

25. Thombai: Cylindrical hanging with hand-made applique work of hand-printed-hand-painted/hand-embroidered fabrics. These are traditionally used in South Indian temples as decorative hangings from ceilings or in doorways for gala affairs.

26. Puri Chatta: Flat, highly decorative umbrella with applique work.

27. Gabba: embroidered floor covering using waste rags. Usually embroidered or made in applique work on old woolen blankets or jute base with cotton backing peculiar to Kashmir region.

28. Shamiana: Canopy or awning used as ceiling decoration.

29. Kalamkari: Hand painted/printed (wax resist) wall pieces depicting mythological characters.

30. Chakla: Wall hangings with folk embroidered, with or without mirror work, framed or unframed. The stitches are interspersed and interplaced.

31. Batik wall pieces: Wall hangings made of cotton fabrics hand painted with batik technique. The designs are usually mythological narrations.

32. Chahdani Posh: A protective covering used normally in rural areas to keep tea or coffee pots warm.

33. Takia Gilaf: A cushion cover in oblong, square, round or other shape using indigenous materials and motifs.

34. Ghandai/Gaddiposh: A decorative floor covering also used sometimes as a cover on wooden Takhat (sort of Divan).

35. Temple Hangings: Made of hand woven, hand-painted/printed traditional textiles with Indian motifs.

36. Gulubanhdk: Traditionally decorative piece of cloth worn around the neck, with Indian traditional art work.

37. Kamarbandh: Traditional decorative item worn round the waist.

38. Mathapatti: A decorative piece used to decorate the forehead in varying lengths and widths.

39. Bazuband: A decorative piece worn round the arm.

[FR Doc. 82-35496 Filed 12-29-82; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

December 22, 1982.

The USAF Scientific Advisory Board ad hoc committee on Software will meet at Los Angeles Air Force Station, Los Angeles, CA, on January 19–20, 1983. The purpose of the meeting will be to plan the Committee's activities and make assignments for the summer study report. The meeting will convene at 8:30 a.m. and adjourn at 5:30 p.m. on each day.

The meeting concerns matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at 697–4648.

Winnibel F. Holmes,

Air Force Federal Register, Liaison Officer.

[FR Doc. 82-35432 Filed 12-29-82; 8:45 am]

BILLING CODE 3910-01-M

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Environmental Impact Statement as Part of the Ste. Genevieve, Missouri Study

AGENCY: St. Louis District, US Army Corps of Engineers, DOD.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS) as part of the Ste. Genevieve, Missouri study.

SUMMARY: 1. *Proposed Action:* The study addresses the feasibility of providing flood protection for the nationally significant historic community of Ste. Genevieve, Missouri, from two sources: Mississippi River backwater flooding (primary source) and local Gabouri Creek flash flooding (secondary source). The architectural and historical significance of Ste. Genevieve is evidenced by the fact that the town is a Registered National Historic Landmark. This 18th Century community has the largest single concentration of original French Colonial structures in the Western Hemisphere and has been the subject of numerous scientific and popular investigations.

2. *Alternatives:* Alternatives being studied include combinations of levees and floodwalls that parallel the Mississippi River and flank the North and South Gabouri Creeks in the town, levees that parallel the Mississippi River but are located away from the town out on the Mississippi River floodplain, a nonstructural plan which would relocate historic structures and a no action plan.

3. *Scoping Process:*

a. *Public Involvement Program:* Numerous public and private agencies and individuals have been involved with the study including City of Ste. Genevieve officials, levee district officials, local industries and commercial interests, local historic preservation interests, Ste. Genevieve County officials, Southeast Missouri Regional Planning Commission, appropriate State of Missouri officials including the State Historic Preservation Officer. On the Federal level, a number of agencies have been contacted including the Department of Agriculture, National Park Service, US Fish and Wildlife Service, US Environmental Protection Agency, National Trust for Historic Preservation, and Advisory Council on Historic Preservation.

A public meeting was held on 7 June 1974 for problem identification and a public information meeting was held on 5 July 1979. A final public meeting is planned for January 1984 to obtain comments from the public on alternative plans that have been developed.

b. *Significant Issues:* Significant issues addressed in the DEIS will include analysis of the architectural-historic resources, fish and wildlife habitat, endangered species, flood protection, relocations, land use changes and the impacts that the proposed action will have on the environment.

c. *Lead Agency and Cooperative Agency Responsibilities:* The St. Louis District, US Army Corps of Engineers is the lead agency responsible for the preparation of the DEIS.

d. *Environmental Review and Consultation Requirements:* The completed DEIS will be distributed to the appropriate Federal, state, and local agenices, and representatives of interested groups and individuals. It will contain records of compliance with appropriate laws and regulations.

4. *Scoping Meeting:* Separate scoping meetings will not be scheduled because of the project's advanced planning stage. Federal, state, and local agencies and interested private groups and individuals have been consulted during the course of the study and will continue to be consulted.

5. *Draft Environmental Impact Statement Preparation:* The DEIS is scheduled to be completed in December 1983.

ADDRESS: Questions about the proposed action and the Draft Environmental Impact Statement can be answered by contacting: Mr. Jack F. Rasmussen, Chief, Planning Division, US Army Corps of Engineers, St. Louis District, 210 Tucker Blvd., North, St. Louis, MO 63101.

Dated: December 20, 1982.

Gary D. Beech,

Colonel, CE, Commanding.

[FR Doc. 82-35316 Filed 12-29-82; 8:45 am]

BILLING CODE 3710-03-M

Corps of Engineers; Department of the Army

Intent to Prepare a Draft Environmental Impact Statement (DEIS) for a Proposed Water Supply Impoundment Structure on Beaverdam Swamp in Gloucester County, Virginia

AGENCY: Army Corps of Engineers, DOD.

ACTION: Notice of intent to prepare a draft environmental impact statement (DEIS).

SUMMARY: 1. Proposed Action: Gloucester County proposes to build an earth fill impoundment structure across Beaverdam Swamp, a tributary of the Ware River, north of the Town of Gloucester, Virginia. The impounded lake would have a normal pool area of approximately 750 acres with a maximum depth of approximately 30 feet. As a water supply reservoir, the lake could supply a maximum safe yield of 2.5 million gallons per day with a minimum downstream release of one million gallons per day. A significant portion of the area to be flooded consists of wetlands.

2. Alternatives: Alternatives which will be investigated include, but will not be limited to site alternatives in and around Gloucester County, groundwater, conservation and no project.

3. Scoping Process: Informal pre-application scoping meetings were held with State and Federal agencies in the spring of 1982. Significant issues which have already been identified include wetland destruction and mitigation, impacts to anadromous fishes and watershed development. A public notice requesting written scoping comments will be published in the near future.

4. Public Meetings: The public notice mentioned above will also announce the date and location of a public scoping meeting.

5. DEIS Availability: It is estimated that the DEIS will be available to the public for review and comments in the summer of 1983.

ADDRESS: Questions about the proposed action and DEIS can be answered by: Bob Hume, U.S. Army Engineer District, Norfolk, 803 Front Street, Norfolk, Virginia 23510, (804) 441-3657-COM, 827-3657-FTS.

Dated: December 21, 1982.

Ronald E. Hudson,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 82-35342 Filed 12-29-82; 8:45 am]

BILLING CODE 3710-EN-M

Intent To Prepare Draft Environmental Impact Statement (DEIS) for Flood Control on Leaf and Bowie Rivers at Hattiesburg and Petal, Mississippi, as Part of the Pascagoula River Basin Study

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of intent to prepare a DEIS.

SUMMARY:

1. *Proposed Action:* The proposed action is to prepare a DEIS to evaluate the environmental impact of providing for flood control on the Leaf and Bowie Rivers at Hattiesburg and Petal, Mississippi, as part of the Pascagoula River Basin Study.

2. *Alternatives:* The following basic alternatives will be evaluated:

a. No action—This alternative will be the "without" project conditions against which impacts will be measured.

b. Selective clearing of overbank areas and channel snagging.

c. Improved flood forecasting methods.

d. Evacuation of some homes and businesses from the more frequently flooded low flood plain areas and subsequent resettlement of affected individuals.

3. *Scoping Process:*

a. The scoping process, as outlined by the Council on Environmental Quality in the November 29, 1978 **Federal Register**, National Environmental Policy Act—Regulations, will be utilized to involve Federal, State, and local agencies and other interested persons. Identification of significant issues to be addressed in the EIS will be determined through the scoping process. The agencies and individuals views and concerns will be obtained through personal, telephone, and mail contacts in lieu of a formal scoping meeting.

b. Coordination with the U.S. Fish and Wildlife Service, as required by the Fish and Wildlife Coordination Act and the Endangered Species Act, is being undertaken. Coordination required by other laws and regulations will also be conducted.

4. *DEIS Preparation:* It is estimated that the DEIS will be available to the public in March 1983.

ADDRESS: Questions about the proposed action and DEIS can be answered by: Dr. M. Susan Ivester, PD-ES, U.S. Army Engineer District, Mobile, PO Box 2288, Mobile, Alabama 36628.

Dated: December 17, 1982.

Ronald A. Trikrizman,

Colonel, CE, District Engineer.

[FR Doc. 82-35404 Filed 12-29-82; 8:45 am]

BILLING CODE 3710-CR-M

Intent To Prepare Environmental Impact Statement for Construction of Disposal Site, Placement of Dredged Material, and Installation of Outfall Pipeline; Grays Harbor

AGENCY: U.S. Army Corps of Engineers, Seattle District, DOD.

ACTION: Preparation of an environmental impact statement (EIS) for constructing a disposal site, placement of dredged material, and installation of an outfall pipeline.

SUMMARY: The Port of Grays Harbor has applied to the Corps of Engineers for a Section 10/404 permit to construct a disposal site for material dredged from public marine terminals in Grays Harbor. (Public Notice No. 071-0YB-2-006713.) In order to assess the potential impacts of the proposed disposal and alternatives to the disposal, the Corps of Engineers has determined that preparation of an EIS is necessary. The proposed plan calls for the dredging of 62,000 cubic yards (c.y.) from a 98-acre freshwater wetland area, which would then be used, along with 126,000 c.y. of upland fill, to construct a berm around the site. A 400-foot-long outfall line will be installed to provide drainage of the disposal area. Purpose of the project is to provide a reliable disposal area for dredged material and, when filled, provide an upland area for industrial development that will help offset the cost of disposal operations.

The Corps of Engineers has three alternative courses of action available:

1. The Section 10/404 permit could be denied. This option would prohibit all disposal and inwater construction activity, as well as avoid environmental impacts associated with the proposed action.

2. The permit could be issued as described in the public notice.

3. The permit could be issued with special conditions that would mitigate adverse impacts resulting from the proposed action.

Alternatives to the proposed action currently being considered by the Port of Grays Harbor include no action and use of alternative disposal sites.

a. *No Action.* This alternative would require no further involvement by the Corps of Engineers. The Port of Grays Harbor would either have to discontinue dredging in Grays Harbor or use a site or sites other than the one proposed.

b. *Use of Alternate Disposal Sites.* Alternative disposal sites already in use include Port of Grays Harbor Slip No. 2, Rennie Island, the existing South shore disposal site, upland sites, and Point Shehalis. Alternative disposal methods and sites not previously used include ocean disposal, ocean beach nourishment, estuary habitat development, unconfined inwater estuary disposal Port of Grays Harbor Slip No. 1, Industrial Development District No. 1, Jalo area, and the South Jetty near the entrance to Grays Harbor.

Criteria for site comparison include size, economic feasibility, distance from dredging project, consistency with comprehensive plans and zoning, environmental considerations, usability of the site for contaminated sediments, and disposla during adverse weather.

Significant issues to the addressed in the draft EIS include: the need for the proposed action, fisheries food-web impacts and ecosystem function due to removal of wetland habitats, water quality impacts due to disposal of dredged material, long-term water quality impacts due to removal of shallow water and wetland areas, and potential impacts to cultural resources of the area.

Other environmental review and consultation requirements include preparation of a Section 404(b)(1) analysis by the Corps of Engineers and

acquisition by the applicant of Washington State water quality certification.

PUBLIC INVOLVEMENT: A public scoping meeting will be scheduled to clarify issues of major concern and identify studies that might be needed in order to analyze and evaluate project impacts. Announcement of this scoping meeting will be mailed, along with an information package, to all persons identified as having interest in this action. Further meetings may be scheduled as needed.

DRAFT EIS AVAILABILITY: The draft EIS for this proposed action should be available by late 1983.

ADDRESS: Questions and/or comments on this proposed action or the draft EIS should be directed to: Mr. Fred Weinmann, Environmental Resources Section, U.S. Army Corps of Engineers, Seattle District, Post Office Box C–3755, Seattle, Washington 98124, Telephone (206) 764–3624.

Dated: December 21, 1982.

Norman C. Hintz,

Colonel, Corps of Engineers District Engineer.

[FR Doc. 82–35406 Filed 12–29–82; 8:45 am]

BILLING CODE 3710–EN–M

Intent To Prepare Draft Environmental Impact Statement for Construction of Coal and Grain Handling Facility Adjacent to Theodore Ship Channel, and off Mobile Bay West, Mobile County, Alabama

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY:

1. *Description of Proposed Action:* The proposed action is to prepare a DEIS relative to a permit application by North American Gulf Terminals, Inc., for proposed construction of a bulk coal and grain handling facility to be located adjacent to the north side of the Theodore Ship channel and the western shore of Mobile Bay, Mobile County, Alabama. This handling facility includes ship mooring area, barge fleeting and unloading area, docks, grain storage area, and railroad access.

2. *Alternatives to the Proposed Action:* In responding to this permit application, the U.S. Army Corps of Engineers has available three alternatives. These are: issue the permit, issue the permit with conditions, or deny the permit. Alternatives to the proposed action to be considered would be associated with the proposed design of the facility which includes different ship berth alignments, fewer or more ship berths, and location of deep draft facilities along the bay shoreline rather than along the canal.

3. *Description of the Scoping Process:* Public participation on this permit application has involved circulation of Public Notice No. AL81–00439–B on December 22, 1981, as well as a public hearing held on October 25, 1982. Numerous comments have been received from agencies, environmental groups, and other interests. Additionally, news media in the regional and local areas have published significant amounts of information on the program.

The DEIS will undergo the public review process as required by the National Environmental Policy Act. Significant issues to be addressed will be possible impacts of the proposed action and alternatives to air quality, drainage, water quality, general environment, and human safety of the project area and outlaying areas. A public hearing may be held upon completion of the DEIS, if interests indicate that a public hearing will improve the decision-making on this action. A notice informing the public as to time and location will be issued at least 30 days prior to such hearings.

4. *Scoping Meeting:* No additional scoping meetings are scheduled.

5. *DEIS Preparation:* It is estimated that the DEIS will be available to the public in July 1983.

ADDRESS: Questions about the proposed action and DEIS can be answered by: Mr. James B. Hildreth, PD–EE, U.S. Army Engineer District, Mobile, P.O. Box 2288, Mobile, Alabama 36628.

Dated: December 22, 1982.

Patrick J. Kelly,

Colonel, CE, District Engineer.

[FR Doc. 82–35405 Filed 12–29–82; 8:45 am]

BILLING CODE 3710–CR–M

Office of the Secretary

Public Information Collection Requirement Submitted to OMB for Review

The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reductions Act (44 U.S.C. Chapter 35): (1) Claim for Exemption from Submission of Certified Cost or Pricing Data, DD Form 633–7; (2) request for extension of form approval from February 28, 1983 to February 28, 1984; (3) the form is needed to provide the prospective contractor a basis for claiming exemption from Pub. L. 87–653 with the minimum amount of sales data necessary for the contracting officer to determine that the exemption requirements are satisfied; (4) respondents will be prime contractors and subcontractors; (5) total annual responses are expected to be about 4,000; and (6) the expected amount of time required to complete the form is .5 hours.

Forward comments to Edward Springer, OMB Desk Officer, Room 3235, NEOB, Washington, D.C. 20503; and John V. Wenderoth, DoD Clearance Officer, OASD(C), DIRMS, IRAD, Room 1A658, Pentagon, Washington, D.C. 20301, telephone (202) 697–1195.

A copy of the information collection proposal may be obtained from A. F. Williams, OPI, Room 2A340, Pentagon, Washington, D.C. 20301, telephone (202) 697–1481.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

December 27, 1982.

[FR Doc. 82–35468 Filed 12–29–82; 8:45 am]

BILLING CODE 3810–01–M

DEPARTMENT OF EDUCATION

Office of Educational Research and Improvement

Research Grants on Law and Government Studies in Education

AGENCY: Department of Education.

ACTION: Application Notice for the Program of Research Grants on Law and Government Studies in Education.

The Director of the National Institute of Education (NIE) invites major grant preapplications and small grant applications for new awards in Fiscal Years 1983 and 1984 under NIE's Program of Research Grants on Law and Government Studies in Education.

The purpose of this program is to support research projects on how legislative, administrative, and judicial policies and governmental organizations affect education. Authority for this program is contained in Section 405 of the General Education Provisions Act (20 U.S.C. 1221e).

Any institution of higher education, State, local, or intermediate educational agency, public or private nonprofit or for-profit agency, organization, group, individual, or any combination of these, is an eligible applicant. A grant to a for-profit organization is subject to any special conditions that the Secretary of Education may prescribe.

Closing Dates

The dates by which a preapplication or a small grant application must be received are listed below. These dates are grouped according to the type of grant to be applied for and the administrative stages for processing each type of grant application. Two types of grant awards are available under this program: major grants, i.e., applications for more than $10,000 for direct costs, and small grants, i.e., applications for $10,000 or less for direct costs.

MAJOR GRANTS

Preapplications due	Comments returned	Full applications due	Decisions announced
Mar. 15, 1983... Jan. 4, 1984	Apr. 4, 1983... Mar. 2, 1984..	May 9, 1983... Apr. 19, 1984.	August 1983 July 1984

SMALL GRANTS

Applications due	Decisions announced in
Apr. 4, 1983	August 1983
Jan. 4, 1984	July 1984

Preapplication and Small Grant Application Information

An application for a major grant is made in two stages. An applicant for a major grant is required to submit a preapplication and may submit an application only after receipt of NIE comments on the preapplication. Consideration of a preapplication is designed to strengthen a full application submitted later and to discourage the submission of a proposal having little chance of award. However, no applicant who has submitted a preapplication will be denied the opportunity to present an application regardless of the NIE comments made on the preapplication.

An application for a small grant is made in a single-stage. No preapplication is required.

The National Institute of Education will publish a Grant Announcement on the Program of Research Grants on Law and Government Studies in Education designed to provide more information to prospective applicants on the nature of the program, the availability of funds, expected number of awards, eligibility and review criteria, and preapplication and small grant application instructions. However, the information contained in the Grant Announcement is only intended to aid the applicant in applying for assistance. Nothing in the Announcement is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations governing the program. Persons who wish to receive a copy of the Grant Announcement may request one by sending a self-addressed mailing label to the Program on Educational Policy and Organization, Mail Stop 19, National Institute of Education, 1200 19th St., N.W., Washington, D.C. 20208. Telephone: 202–254–6070. (A stamped envelope is not usable.)

Instructions for Transmittal of Preapplications and Small Grant Applications

Applicants should note carefully the instructions for the transmittal of application included below:

Transmittal of preapplications and small grant applications: Preapplications and small grant applications for new awards must be mailed or hand-delivered on or before the closing dates given in this document for the two types of grants.

Preapplications and small grant applications delivered by mail: Preapplications and small grant applications sent by mail should be addressed to: Proposal Clearinghouse, National Institute of Education, 1200 19th St., N.W., Washington, D.C. 20208. Display in the lower left hand corner of the package the words, "Law and Government Studies in Education: 'Preapplication,' 'Full,' or 'Small'." Preapplications and small grant applications will be accepted only if they are mailed on or before the appropriate closing dates and proof of mailing is provided.

A preapplication or a small grant application must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other evidence of mailing acceptable to the U.S. Secretary of Education.

If a preapplication or small grant application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, applicants should check with their local post office.

An applicant is encouraged to use registered or at least first class mail.

Each applicant whose preapplication or small grant application does not meet the closing dates shown above will be notified that the late application will not be considered in the immediate review cycle, but will be held over for consideration in the next competition scheduled, or returned if the applicant prefers.

Preapplications and small grant applications delivered by hand: A hand-delivered preapplication or small grant application must be taken to the Proposal Clearinghouse, National Institute of Education, 1200 19th St., N.W., Washington, D.C. The Proposal Clearinghouse will accept a hand-delivered preapplication or small grant application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays and Federal holidays. A preapplication or small grant application that is hand-delivered will not be accepted after 4:30 p.m. on the closing dates shown above, but it will be held over and considered in the next scheduled cycle of the competition or returned upon request.

Available Funds

An estimated $800,000 is budgeted for fiscal year 1983 for funding both small and major grants. Approximately 6–10 major grants and 8–10 small grants will be awarded during Fiscal Year 1983.

The Director of NIE will award grants and small grants. A major grant will be awarded for a project in which direct costs exceed $10,000. While a project supported by a major grant under this program may take up to five years' duration, with multi-year work to be funded in 12-month increments, the Secretary of Education retains the authority to fund projects for a shorter period. In previous competitions under this program, the length of the usual funding period for a major grant has been up to three years. Nonetheless, initial funding in most cases will not exceed 12 months with subsequent funding contingent on satisfactory performance and the availability of funds.

A small grant will be awarded for a project in which direct costs do not exceed $10,000. A project supported by a small grant under this program may take up to 12 months to complete.

Grant awards are contingent on the availability of funds. the estimates in this notice do not bind the Department of Education to a specific number of grants or to the amount of any grant unless that amount is othewise specified by statute or regulations.

Applicable Regulations

Regulations applicable to this program include the following:

(a) Regulations governing the Research Grants Program on Law and Government Studies in Education (34 CFR Part 720).

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78); and

(c) The National Institute of Education General Provisions Regulations (34 CFR Parts 700 and 702).

Further Information

For further information contact: Dr. Jo Ann McGeorge, Law and Government Studies Team, Program on Educational Policy and Organization, National Institute of Education, Room 714K, Mail Stop 19, 1200 19th St., N.W. Washington, D.C. 20208. Telephone: 202–254–6070.

(Catalog of Federal Domestic Assistance Number 13.950, Educational Research and Development.)

Dated: December 27, 1982.

Donald J. Senese,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 35472 Filed 12–29–82 8:45 am]

BILLING CODE 4000–01–M

Office of Postsecondary Education

State Student Incentive Grant Program

AGENCY: Department of Education.

ACTION: Notice of Closing Date for Receipt of State Applications for Fiscal Year 1983.

SUMMARY: The Secretary gives notice of the closing date for receipt of State applications for Fiscal Year 1983 funds under the State Student Incentive Grant (SSIG) Program. This program, through matching formula grants to States for student awards, provides a nationwide delivery system of grants for students with substantial financial need.

A State that desires to receive SSIG funds for any fiscal year must have an agreement with the Secretary as provided for under the authorizing law, and must submit an application through the State agency that administers its program of student grants.

The Secretary is authorized to accept applications from the 50 States, the District of Columbia, Puerto Rico, American Samoa, Guam, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Virgin Islands, provided they have executed the required agreement.

Authority for this program is contained in Title IV, Part A, sections 415A to 415D of the Higher Education Act of 1965, as amended. (20 U.S.C. 1070c–1070–3)

Closing Date for Transmittal of Applications: Applications for Fiscal Year 1983 SSIG funds must be mailed or hand-delivered by January 31, 1983.

Applications Delivered by Mail: Applications sent by mail must be addressed to the U.S. Department of Education, Office of Student Financial Assistance, 400 Maryland Avenue, S.W., Washington, D.C. 20202 and marked for the attention of Ms. Lanora G. Smith, Acting Chief, State Student Incentive Grant Program, Room 4020, ROB #3. The Department of Education requires proof of mailing. Proof of mailing consists of one of the following: (1) a legible mail receipt with the date of mailing stamped by the U.S. Postal Service; (2) a legibly dated U.S. Postal Service postmark; or (3) any other proof of mailing acceptable to the Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) a private metered postmark; or (2) a mail receipt that is not dated by the U.S. Postal Service. State Agencies should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, State Agencies should check with their local post offices. The Department of Education encourages State Agencies to use registered or at least first-class mail.

Applications Delivered by hand: An application that is hand-delivered must be taken to the U.S. Department of Education, Office of Student Financial Assistance, 7th and D Streets, S.W., Room 4020, Regional Office Building #3, Washington, D.C. Hand-delivered applicationns will be accepted between 8:00 a.m. and 4:30 p.m. daily (Washington, D.C. time), except Saturdays, Sundays, and Federal holidays.

An application that is hand-delivered will not be accepted after 4:30 p.m. on the closing date.

Program Information: The Secretary requires an annual submission of an application for receipt of SSIG funds. In preparing an application, each State Agency should be guided by the table of allotments provided in the application package.

Basic State Allotments, to the extent needed by the States, are determined by formula and are not subject to negotiations. The States may also request a share of reallotments, in addition to their basic allotments, contingent upon the availability of such funds from allotments to any States unable to use all their basic allotments. In fiscal year 1982, all 50 States, the District of Columbia, Puerto Rico, and the Virgin and Pacific Islands participated in the SSIG student assistance delivery network.

Application Forms and Information: The required application form for receiving SSIG funds will be mailed to officials of appropriate State Agencies at least 30 days before the closing date. This form contains the basic allotment tables with the amount computed for individual States under the SSIG Program authorization, as well as instructions for requesting Federal funds. The amounts available to State Agencies are limited by the statutory allotment formula and the level of appropriations for the Program.

Applications must be prepared and submitted in accordance with the program regulations cited in this notice and the instructions provided in the application package.

However, the program information is only intended to aid applicants in applying for assistance under this competition. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those specifically imposed under the statute and regulations governing the competitions.

Applicable Regulations: The following regulations are applicable to the State Student Incentive Grant Program:

(a) The Education Department General Administrative Regulations (EDGAR) 34 CFR Parts 74, 76, 77, and 78.

(b) The State Student Incentive Grant Program regulations 34 CFR Part 692.

For Further Information: Inquiries can be made of Ms. Lanora G. Smith, Acting Chief, State Student Incentive Grant Program, Office of Student Financial Assistance, U.S. Department of Education, Washington, D.C. 20202; telephone (202) 472–4265.

(Catalog of Federal Domestic Assistance Number 84.069, State Student Incentive Grant Program)

Dated: December 27, 1982.

Edward M. Elmendorf,

Acting Assistant Secretary for Postsecondary Education.

[FR Doc. 82–35473 Filed 12–29–82; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Office of the Secretary

West Valley Demonstration Project, Trespassing on DOE Property

AGENCY: Department of Energy.

ACTION: Designation of West Valley Demonstration Project as Off-Limits Area.

SUMMARY: The Department of Energy hereby designates part of the West Valley Demonstration Project (WVDP) site near West Valley, New York an Off-Limits Area in accordance with 10 CFR Part 860, making it a Federal crime under 42 U.S.C. 2278a for unauthorized persons to enter into or upon that part of the WVDP site. If unauthorized entry into or upon the site is into an area enclosed by a fence, wall, roof, or other standard barrier, conviction for such unauthorized entry may result in a fine of not more than $5,000 or imprisonment for not more than one year or both. If unauthorized entry into or upon the site is into an area not enclosed by a fence, wall, roof, or other standard barrier, conviction for such unauthorized entry may result in a fine of not more than $1,000.

FOR FURTHER INFORMATION CONTACT: William Luck, (202) 252–6975.

SUPPLEMENTARY INFORMATION: Pursuant to Section 229 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2278a), Section 104 of the Energy Reorganization Act of 1974 (42 U.S.C. 5814), as implemented by 10 CFR Part 860 published in the **Federal Register** on July 9, 1975 (40 FR 28789, 28790), and Section 301 of the Department of Energy Organization Act (42 U.S.C. 7151), the Department of Energy hereby gives notice that part of the WVDP site is designated an Off-Limits Area and prohibits the unauthorized entry and the unauthorized introduction of weapons or dangerous materials, as provided in 10 CFR 860.3 and 860.4 into or upon that part of the WVDP site in Cattaraugus County, New York, which is reserved for the exclusive use and possession of the Department of Energy pursuant to the Department of Energy—New York State Energy Research and Development Authority Cooperative Agreement effective October 1, 1980, as amended on September 18, 1981, designated as the "Project Premises" and as more particularly described as follows:

Approximately 158.8 acres of land situated in the Town of Ashford, Cattaraugus County, State of New York, located north of Buttermilk Road, formerly part of the 3300 acre parcel known as the Western New York Nuclear Service Center. Said site consists of all land and improvements including the process plant and project facilities within the perimeter of an eight foot chain link fence, including the Nuclear Regulatory Commission Licensed Burial Area but excluding the 15.5± acre rectangular area situated in the southeastern portion of the site known as the State Licensed Low Level Burial Area.

Notices stating the pertinent prohibitions of 10 CFR 860.3 and 860.4 and penalties of 10 CFR 860.5 will be posted at all entrances of said tract and at intervals along its perimeter as provided in 10 CFR 860.6.

Dated at Washington, D.C. this 22d day of December, 1982.

Shelby T. Brewer,

Assistant Secretary for Nuclear Energy.

[FR Doc. 82–35297 Filed 12–29–82; 8:45 am]

BILLING CODE 6450–01–M

Office of Assistant Secretary for International Affairs

International Atomic Energy Agreements; Proposed Subsequent Arrangement; Austria

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation Between the Government of the United States of America and the Government of Austria Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreements involves approval of the following retransfer:

RTD/AT(EU)–60, two Triga fuel elements, containing a total of 390 grams of uranium, enriched to 20% in U-235, and one fission chamber, containing one gram of uranium, enriched to 93% in U-235, for use in the Triga reactor at Vienna University.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: December 23, 1982.

George Bradley,

Principal Deputy Assistant Secretary for International Affairs.

[FR Doc. 82–35335 Filed 12–29–82; 8:45 am]

BILLING CODE 6450–01–M

International Atomic Energy Agreements; Proposed Subsequent Arrangement; Canada

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Canada Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval of the following sale: Contract Number S–CA–332, to the Department of Fisheries and Oceans, Winnipeg, Canada, 20 micrograms of thorium-229, and 250 milligrams of uranium-236, for use as analytical tracers in research.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: December 23, 1982.

George Bradley,

Principal Deputy Assistant Secretary for International Affairs.

[FR Doc. 82–35334 Filed 12–29–82; 8:45 am]

BILLING CODE 6450–01–M

International Atomic Energy Agreements; Proposed Subsequent Arrangement; Switzerland

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation Between the Government of the United States of America and the Government of Switzerland Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreements involves approval of the following retransfer:

RTD/EU(SD)–44, from Switzerland to France, 220 kilograms of heavy water, for use as moderator material in the

high flux reactor ILL at the Institute Laue Langevin, Grenoble, France.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: December 23, 1982.

George Bradley,

Principal Deputy Assistant Secretary for International Affairs.

[FR Doc. 82-35333 Filed 12-29-82; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. RP83-33-000]

Algonquin Gas Transmission Co.; Decrease in Rate

December 23, 1982.

Take notice that, on December 16, 1982, Algonquin Gas Transmission Company ("Algonquin Gas") filed a decrease in its Rate Schedule STB Demand Handling Charge to reflect a lower investment in facilities than had been estimated in its application in Docket Nos. CP81-315-000, *et al.*, filed May 1, 1981. According to the filing, the original application, relating to storage service under Algonquin Gas' Rate Schedule STB, proposed an initial Monthly Demand Handling Charge of $16.59 based upon the $44.9 million cost of facilities estimated in the application, but actual facility costs were approximately $35.4 million or a $13.36 Monthly Demand Handling Charge requirement. The filing notes that the annual cost of service effect of the reduced facility cost is approximately $2.2 million which is also the annual amount of rate reduction. The Commission authorized the construction and operation of the proposed STB facilities, and the rendition of service as proposed, by its certificate order issued August 11, 1981 in Docket Nos. CP80-255-003 and CP81-315-000.

Algonquin Gas states that it proposes to make the reduced rate effective retroactively to November 16, 1982, when the new facilities were placed in service, by crediting appropriate amounts to the next billings for service following Commission acceptance of the filing.

Algonquin Gas has requested the Commission to approve its rate adjustment prior to January 7, 1983, when its bills for December 1982, service will be rendered.

Algonquin Gas states that it has served a copy of its filing on its Rate Schedule STB customers. In addition, copies of the filing are available for public inspection at Algonquin Gas' offices and at the Commission.

Any person desiring to be heard or to protest said filing should on or before January 5, 1983, file with the Federal Energy Regulatory Commission, Washington, DC 20426, an intervention, motion or notice or a protest in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-35410 Filed 12-29-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP72-122-016, et al.]

Colorado Interstate Gas Co., et al; Filing of Pipeline Refund Reports and Refund Plans

December 23, 1982.

Take notice that the pipelines listed in the Appendix hereto have submitted to the Commission for filing proposed refund reports or refund plans. The date of filing, docket number, and type of filing are also shown on the Appendix.

Any person wishing to do so may submit comments in writing concerning the subject refund reports and plans. All such comments should be filed with or mailed to the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before January 6, 1983. Copies of the respective filings are on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

APPENDIX

Filing date	Company	Docket number	Type filing
October 29, 1982	Colorado Interstate Gas Company	RP72-122-016	Report.
November 4, 1982	Columbia Gas Transmission Corporation	RP81-83-008	Report.
December 8, 1982	Michigan Wisconsin Pipe Line Company	RP81-123-004	LFUT Report.
December 13, 1983	Natural Gas Pipe Line Company of America	RP81-120-004	LFUT Report.
December 13, 1982	Consolidated Gas Supply Company	RP81-114-005	LFUT Report.
December 13, 1982	Valero Interstate Transmission Company	RP82-22-003	Report.

[FR Doc. 82-35411 Filed 12-29-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-32-000]

Eastern Shore Natural Gas Co.; Tariff Filing

December 23, 1982.

Take notice that on December 16, 1982, Eastern Shore Natural Gas Company (Eastern Shore) tendered for filing the following revised tariff sheets for inclusion in its FERC Gas Tariff.

First Revised Sheet No. 1
First Revised Sheet No. 2
Twenty-Third Revised Sheet No. 5
Twenty-Third Revised Sheet No. 6
Twenty-Third Revised Sheet No. 10
Twenty-Third Revised Sheet No. 11
Twenty-Third Revised Sheet No. 12
First Revised Sheet No. 103
First Revised Sheet No. 104
First Revised Sheet No. 105
First Revised Sheet No. 210
Second Revised Sheet No. 246
Second Revised Sheet No. 247
Third Revised Sheet No. 248
First Revised Sheet No. 305

The changes proposed in these tariff sheets, to be effective January 16, 1983, would increase revenues from jurisdictional sales, storage and transportation services by approximately $595,869 annually, based upon the twelve month period ending September 30, 1982, as adjusted for

certain changes allowed by Commission regulations.

The rate increases reflected in the proposed tariff sheets are required to provide additional revenues sufficient to enable Eastern Shore to recover its jurisdictional cost of service.

The proposed tariff sheets also include certain revisions to Eastern Shore's PGA clause. Such revisions will allow Eastern Shore to track in its demand component of its two-part rate schedules CD–1, CD–E and G–1 rate changes from its sole pipeline supplier, Transcontinental Gas Pipe Line Corporation.

Copies of this filing have been mailed to each of Eastern Shore's jurisdictional customers and interested State Commissions.

Any person desiring to be heard or protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before Jan. 5, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–35412 Filed 12–29–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP82–33–000 and RP83–6–000, et al.]

El Paso Natural Gas Co.; Informal Settlement Conference

December 23, 1982.

Take notice that an informal settlement conference in the above-captioned docket will be convened at 9:30 a.m. on January 4 and 5, 1983, at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in a Commission meeting room to be announced.

All interested parties and Staff will be permitted to attend.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–35413 Filed 12–29–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER82–576–000]

Energy Conversions of America, Inc.; Order Denying Motion To Reject, Conditionally Granting Certain Waivers But Deferring Action on Initial Rates, and Granting Interventions

Issued December 23, 1982.

On June 4, 1982, Energy Conversions of America, Inc. (ENCOA) tendered for filing an unexecuted agreement and associated initial rate schedule applicable to purchases of electricity by Cincinnati Gas and Electric Company (CG&E) from a solid waste resource recovery facility to be constructed in the City of Cincinnati, Ohio. Construction of the facility is expected to begin late in 1982 or early in 1983, and commercial operation is scheduled for 1985. When completed, ENCOA will be the operator of a qualifying small power production facility as defined in section 201 of the Public Utility Regulatory Policies Act of 1978 (PURPA) and § 292.204 of the Commission's regulations.[1] ENCOA also is subject to the provisions of the Federal Power Act (FPA).[2]

At the time of ENCOA's submittal, the Ohio Commission had not yet issued regulations implementing section 210 of PURPA. Thus, in the absence of a negotiated rate or a State determination of avoided cost, ENCOA proposed a formulary rate intended to reflect the full avoided cost of CG&E. The formula incorporates both capacity and energy components. ENCOA provided sample calculations for the avoided cost components using data from a ten year CG&E forecast and a 1981 report of the Ohio Commission's staff.

In order to facilitate financing, ENCOA requested waiver of the notice requirements and a June 4, 1982, effective date. Additionally, ENCOA sought waiver of the Commission's regulations regarding cost of service documentation, accounting practices, reporting requirements, and annual charges, as well as waiver of regulations which implement statutory requirements concerning property dispositions and consolidations, securities issuances or assumptions of liability, the holding of interlocking positions, and related matters.

Notice of the filing was published in the Federal Register with responses due on or before June 30, 1982. CG&E filed a timely intervention. CG&E requested that the Commission reject ENCOA's rate filing on the grounds that ENCOA had failed to file cost data required by § 35.12(b) of the Commission's regulations and that ENCOA's filing did not comport with the guidelines for establishing rates which are set forth in § 292.304(e) of the regulations. Alternatively, CG&E requested a five month suspension and hearing, raising various issues concerning the justness and reasonableness of the proposed rate schedule.[3] CG&E also objected to the waiver requests by ENCOA.

On July 1, 1982, the City of Cincinnati, Ohio filed an untimely motion to intervene stating its intention to demonstrate the public good and benefit to be derived from the operation of the facility to be constructed by ENCOA. The Ohio Commission also sought permission to intervene out of time in the interest of protecting electric customers of CG&E.

On November 22, 1982, ENCOA filed a letter requesting the Commission to place this matter on the agenda for December 15, 1982, and to expedite as much as possible the determination of a rate. ENCOA asserted that it would also take further action at the State level.

Discussion

Under Rule 214(c)(1) of the Commission's Rules of Practice and Procedure (18 CFR 385.214), CG&E's timely motion to intervene and the absence of opposition within 15 days serves to make CG&E a party to this proceeding. We shall grant the untimely motions to intervene by Cincinatti and the Ohio Commission given their interests in the outcome of this proceeding, the early stages of the case, and the fact that no delay or prejudice to other parties should result.

Although, as noted, the Ohio Commission had not issued regulations implementing section 210 of PURPA at the time of ENCOA's filing, that Commission recently issued such regulations.[4] The Ohio Commission's

---

[1] *See* Notice of Qualification, Docket No. QF82–139–000, filed May 10, 1982.

[2] ENCOA's facility will be a 72 megawatt qualifying small power production facility using biomass as its primary energy source. Section 210(e) of PURPA prohibits the Commission from exempting qualifying small power production facilities between 30 and 80 megawatts aggregate capacity from the provisions of the FPA.

[3] Among other things, CG&E contended: (1) That a rate based on full avoided cost is not warranted, (2) that specific components of the rate will not accurately reflect CG&E's avoided cost, (3) that the simultaneous purchase and sale provision allowing ENCOA to sell at CG&E's avoided marginal cost while purchasing at CG&E's embedded cost is not in the public interest, (4) that the rate schedule improperly refers to regulations of the Ohio Commission which, at the time of filing, had not yet been issued, (5) that the requirement for CG&E to continue service until ENCOA or the Commission consent to disconnection is unreasonable, and (6) that ENCOA has failed to request a hearing and interconnection order under sections 210 and 212 of the FPA.

[4] In the Matter of the Promulgation of Rules Pertaining to Cogeneration and Small Power

regulations concerning qualifying facilities require that:

> Each electric utility under the jurisdiction of this Commission shall negotiate the terms including cost terms, on which it will buy electricity from an owner of a QF with a capacity in excess of 100 kilowatts directly with the owner of the QF. *If* the parties reach an impasse in their negotiations either may request an informal conference with the Staff of this Commission. . . . If the impasse cannot be resolved at this level either party may file a formal application for the Commission to resolve the matter.[5]

Each utility under the jurisdiction of the Ohio Commission is also required to file a standard rate, regarding *all* qualifying facilities, regarding the "cost and terms under which the utility will provide supplementary power, backup power, interruptible power, and maintenance power. . . ." [6] However—

> To the extent that in negotiating with owners of QF's larger than a [*Sic*] 100 kilowatts a utility agrees to charge a different rate for the ancillary services from those rates set forth in its tariff, the party filing the application for approval of the contract shall supply reasons for the deviation.[7]

In its November 22, 1982 letter, ENCOA notes the Ohio Commission took a good deal of time to promulgate the regulations noted above; asserts that, prior to the Ohio regulations, CG&E repeatedly refused to recognize or negotiate any capacity charges as part of a rate for purchase of this facility's power; and takes the position that the Ohio Commission does not have jurisdiction over this rate. Finally, ENCOA stresses that further delay in consideration of its proposed rate can only result in further delay of the entire project.

As we stated in *Resources Recovery, Dade County, Inc.*, 18 FERC ¶ 61,243 (1982), and 19 FERC ¶ 61,188 (1982), "State Commission rates set in compliance with Section 210 of PURPA and this Commission's rules thereunder shall be considered to be just and reasonable rates under the Federal Power Act." For facilities the size of ENCOA's, the Ohio Commission has not set generic rates. Under the Ohio Commission's regulations, the parties must first attempt to negotiate a contract for sale of power from the qualifying facility. It appears that the State Commission itself will consider the matter in the absence of mutual agreement. Because this Commission has indicated that it will favorably view *either* a rate based upon negotiation alone or one based upon a proper State Commission determination of the purchasing utility's avoided cost, we believe it proper at this time to provide the opportunity for negotiation or State Commission intervention that is contemplated by the Ohio regulations.

We are not insensitive to ENCOA's desire to progress as rapidly as possible with this project. However, ENCOA has not yet pursued the procedure now available under the regulations of the Ohio Commission. In order to determine the appropriateness of the rates filed by ENCOA, it would be necessary for this Commission to initiate an evidentiary hearing. Such a proceeding, initiated prior to whatever action is taken at the State level, could result in duplicative or inconsistent efforts at the expense of a considerable delay in ultimate approval of a tariff by this Commission. Thus, pending the Ohio Commission's consideration of a negotiated rate or CG&E's avoided costs, we shall postpone consideration of ENCOA's proposed rate level.

However, in order to insure expeditious action by some regulatory body, we shall limit our deferral of action to ninety days from the date of issuance of this order. If the Ohio Commission has not acted [8] on a formal application for resolution of the rate dispute by that date, ENCOA may again request this Commission to proceed.

Despite our deferral of action as to the question of rate level, we are able at this time to make some general observations and conclusions. We may, thereby, deal with certain of ENCOA's requests and CG&E's objections.

CG&E has objected to ENCOA's submittal claiming that full avoided cost is an inappropriate standard. However, in *Resources Recovery, supra*, the Commission held that 30 to 80 megawatt small power production facilities would be governed by the same ratemaking standards as those required to be applied by the States to all other qualifying facilities (*i.e.*, a full avoided cost standard):

> Having undertaken a major rulemaking to arrive at the Section 210 rules, we do not believe that a further hearing is required in order to determine that this Commission shall accept as just and reasonable the ratemaking standards which it has required the State commissions to follow.

CG&E also challenges ENCOA's failure to request an interconnection order under sections 210 and 212 of the FPA. Again, CG&E's argument is misplaced inasmuch as our regulations implementing PURPA (§ 292.303(a) and (c)), in the interest of encouraging cogeneration and small power production, provide for the mandatory interconnection with and purchase from a qualifying facility by an electric utility.[9] As to CG&E's objections to the simultaneous purchase and sale provision, we note that the court of appeals has upheld the Commission's rules for rates for simultaneous purchase and sales from new capacity, 18 CFR 292.304(b)(4).[10] Insofar as CG&E's objections address generic principles established by prior rules, its contentions do not properly lie in this proceeding.[11]

In addition, CG&E opposes a provision in ENCOA's rate schedule which would require CG&E to continue service until this Commission or ENCOA consents to disconnection. We believe it appropriate to observe that this provision essentially mirrors § 35.15 of our regulations which, even in the absence of such language, would require timely notice and an opportunity for the Commission to act prior to any anticipated termination of service under a filed rate schedule. Thus, this provision does not appear to be improper.

While this order does not address the propriety of the rate level proposed by ENCOA, we nontheless disagree that any of the matters raised by CG&E justify rejection of the filing at this time. As we observed in *Resources Recovery, supra*, cost of service data applicable to a qualifying facility are largely irrelevant when considering the avoided costs of a purchasing utility. Because we consider it appropriate to waive the outstanding cost support requirements of § 35.12 of the regulations, we are able to conclude that ENCOA's filing substantially complies with our filing requirements.[12]

Production in Compliance with the Public Utility Regulatory Policies Act, Case No. 80-836-EL-ORD (Nov. 17, 1982).

[5] Supra, note 4, § II. Procedures, ¶ B.

[6] Id., ¶ A.

[7] Id., ¶ C. (Following Sub ¶ 2.).

[8] The Commission would anticipate that such action would be a final rate determination.

[9] We acknowledge that, as to both the full avoided cost standard and the requirement for interconnection in the absence of express findings under sections 210 and 212, the United States Court of Appeals for the District of Columbia Circuit has taken issue with our views and has remanded these questions for further consideration. However, that decision has been stayed pending further appellate review and the Commission's rules therefore remain in effect. *See American Electric Power Service Corp., et al.* v. *FERC*, 675 F.2d 1226 (D.C. Cir 1982), reh. denied, petition for certiorari granted (No. 82-226). In the event that circumstances change, the outcome of these judicial proceedings may have a bearing on our ultimate decision in this case.

[10] *Id.*

[11] We note that CG&E's objection to ENCOA's reference to regulations of the Ohio Commission has effectively been mooted. *See* note 4, *supra*.

[12] *See Municipal Light Boards of Reading and Wakefield, Massachusetts* v. *FPC*, 450 F.2d 1341 (D.C. Cir. 1971).

As discussed above, ENCOA seeks a variety of additional waivers in order to implement its proposal without becoming subject to inapplicable or unnecessary regulatory burdens. We need not address the requests for waiver of notice, given our decision to withhold action on the filed rate pending State Commission action. The requests may be renewed at a later date.

Concerning the request for waiver of the annual charge requirements and of various filing and reporting requirements requested by ENCOA, it is appropriate to address these matters, regardless of the underlying rate questions. Consistent with the Commission's treatment of identical waiver requests in *Resources Recovery, supra,* the Commission will grant waiver of the accounting and reporting requirements of Parts 41, 50, 101, and 141 of the regulations and of the annual charge requirement of Part 36 of the regulations. We shall deny waiver of Parts 33, 34, and 45 of the regulations which implement statutory requirements for prior approval as to property dispositions and consolidations, securities issuances and assumptions of liability, and the holding of interlocking positions. However, also in accordance with our decision in *Resources Recovery,* ENCOA will be required to file only such information as will satisfy the minimum requirements of sections 203, 204, and 305 of the FPA.[13]

The Commission orders:

(A) The motion to reject ENCOA's filing is hereby denied.

(B) ENCOA's requests for waiver of Parts 33, 34, and 45 of the Commission's regulations are hereby denied as noted in the body of this order.

(C) ENCOA's requests for waivers of the outstanding Part 35 cost of service requirements and the requirements of Parts 41, 50, 101 and 141 of the regulations are hereby granted.

(D) The Commission hereby defers action on the rates proposed by ENCOA for 90 days as discussed in the body of this order.

(E) The Secretary shall promptly publish this order in the **Federal Register.**

[13] In Docket No. ER82-225-000, the Commission stated: "Because this is an issue of first impression, we have not yet identified the specific information to be filed by RRD. We therefore encourage RRD to seek Staff suggestions or comments on its proposed filing. *See e.g.,* § 35.6 of our regulations."

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-35414 Filed 12-29-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-1-13-001]

Gas Gathering Corp.; Proposed Change in Rates Under Purchased Gas Adjustment Clause Provision

December 23, 1982.

Take notice that Gas Gathering Corporation (GGC), on December 9, 1982, tendered for filing proposed changes in its FERC Gas Tariff providing for increased charges to Transcontinental Gas Pipe Line Corporation (Transco), its sole jurisdictional customer, under GGC's PGA clause. The proposed changes would increase the rate charged Transco by 16.40207 cents per Mcf from those rates presently in effect. The proposed changes are proposed to be made effective January 1, 1983. GGC states that the filing is made to allow it to recover increased current costs of purchased gas, and to reduce the balance of its Unrecovered Purchased Gas Cost as of September 30, 1982, through a six-month surcharge.

A copy of the filing has been served upon Transco.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before January 5, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-35415 Filed 12-29-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP82-60-000 and RP81-61-000]

Michigan Wisconsin Pipe Line Co.; Informal Settlement Conference

December 23, 1982.

An informal settlement conference will be convened in the above-captioned dockets at 1:00 p.m., on January 10, 1983, in a room to be designated at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426.

All interested parties and Staff will be permitted to attend.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-35416 Filed 12-29-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP82-71-000]

Northern Natural Gas Co.; Informal Settlement Conference

December 23, 1982.

An informal settlement conference will be convened in the above-captioned docket at 10:00 a.m., on January 6, 1983, in a room to be designated at the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

All interested parties and Staff will be permitted to attend.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-35417 Filed 12-29-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP82-56-000]

Northwest Pipeline Corp.; Settlement Conference

December 23, 1982.

Take notice that a settlement conference will be convened in the above-captioned docket at 10:00 a.m. on January 12, 1983, and at 10:00 a.m. on January 13, 1983, in rooms to be designated at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426.

All interested parties and Staff will be permitted to attend.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-35418 Filed 12-29-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-86-000]

Panhandle Eastern Pipe Line Co.; Application

December 23, 1982.

Take notice that on November 15, 1982, Panhandle Eastern Pipe Line Company (Applicant), P.O. Box 1642, Houston, Texas, filed in Docket No. CP83-86-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and

necessity authorizing the transportation of shrinkage and fuel gas to a processing plant and the construction and operation of two taps on a 12-inch natural gas pipeline as well as approximately 80 feet of 12-inch pipeline which bypasses the processing plant, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Pursuant to a reserve dedication and processing agreement, dated August 31, 1981, and a plant agreement, dated October 22, 1982, Applicant proposes to construct and operate the facilities necessary to effect the delivery to and receipt of natural gas from an existing gas processing plant constructed by Blair Oil Company (Blair) which is adjacent to Applicant's pipeline in Carson County, Texas. The total estimated cost of the proposed facilities is $30,000 which would be financed with internally generated funds and short-term bank borrowing.

Applicant also seeks authorization to transport shrinkage and fuel gas that would be extracted and utilized in the Blair processing plant and the authority to transport liquefiables. It is asserted that the shrinkage volumes would be transported in accordance with contractual arrangements which require the payment to Applicant of 4.50 cents per Mcf per 100 miles with respect to gas from wells connected prior to January 1, 1982, and 3.10 cents per million Btu per 100 miles for gas from all other wells. In addition, Applicant would be reimbursed for the Btu content of gas consumed as shrinkage and fuel, it is explained.

As a result of the contractual arrangements, Applicant has obtained the right of first refusal to contract for any additional gas supplies, regardless of location, which may be produced by the producer/operator of the processing plant during the next 10 years, Applicant states. Upon the implementation of the authority sought hereby, Applicant proposes to credit its cost of service with the revenues received from the reimbursement for shrinkage and fuel gas.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 10, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10)). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-35419 Filed 12-29-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF82-27-000]

Rodeffer Investments; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

December 23, 1982.

On November 27, 1981, Rodeffer Investments-Nursery Division (Applicant) 25160 Ethanac Rd., Sun City, California 92370, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules. On December 3, 1982, Applicant filed additional information to complete the application.

The topping-cycle cogeneration facility will be located in Sun City, California. The facility will consist of a steam turbine generator from which steam will be extracted for use in a multistage evaporation unit to purify irrigation water, for use in soil heating and for other miscellaneous heating applications. The electric power production capacity of the facility will be 7,500 kilowatts in the first phase of development and will increase to 15,000 kilowatts and then 22,500 kilowatts as other units are added. The primary energy source to the facility will be biomass in the form of waste wood. Installation of the facility will begin in December 1983.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-35420 Filed 12-29-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EL82-19-000]

St. Joe Minerals Corp.; Order Denying Request for Disclaimer of Jurisdiction and Granting in Part and Denying in Part Requests for Waivers

Issued December 23, 1982.

On June 21, 1982, St. Joe Minerals Corporation (St. Joe) filed a petition for a declaratory order or, alternatively, for a waiver of regulations. St. Joe requests that the Commission declare that it will not assume jurisdiction over St. Joe as a public utility under Part II of the Federal Power Act (FPA).[1] In the alternative, St. Joe requests that the Commission explicitly waive, insofar as they might apply to St. Joe, all reporting, filing, accounting, notice, and approval regulations under the FPA. Notice of the petition was published in the **Federal Register** on July 14, 1982.[2] No protests or petitions to intervene have been received.

Background

In its petition, St. Joe indicates that it is primarily a diversified international developer of natural resources, including lead, gold, silver, zinc, iron ore, oil, gas, and coal; and that it operates through its St. Joe Resources Company division, a zinc smelter at Monaca, Pennsylvania.

---

[1] 16 U.S.C. 824, *et seq.*

[2] 47 FR 30581.

To provide electricity for its smelter, St. Joe has two coal-fired generating units, each with a capacity of 55 MW. Of the 110 MW available, the smelter now requires about 40 MW and, in late 1982, will require 45 MW as a result of St. Joe's anticipated expansion of its smelting operation. The excess capacity of the gnerating facility is sold to two utilities, Duquesne Light Company (Duquesne) and GPU Service Corporation (GPU). Sales to Duquesne and GPU are expected to produce about $12 million in annual revenues for St. Joe during 1982.[3]

St. Joe owns and operations 13.8/138 kV and 13.8/69 kV step up transformation facilities and associated 69 kV and 138 kV transmission lines through which it is interconnected with Duquesne's integrated transmission grid.

Discussion

Section 201(e) of the FPA defines a "public utility" as "any person who owns or operates facilities subject to the jurisdiction of the Commission . . ." [4] Section 201(b) states that the Commission shall have jurisdiction over all facilities for the transmission of electric energy in interstate commerce and the sale of electric energy at wholesale in interstate commerce.[5]

In its petition, St. Joe recognizes that it qualifies as a "public utility" under the Federal Power Act, as defined above. St. Joe requests, however, that the Commission decline to assert jurisdiction on the basis that it will only sell a relatively small amount of power in interstate commerce and that such sales are only incidental to its normal business and are in the public interest.

On the basis of the facts presented, we find that St. Joe's transmission and sale of electric power at wholesale in interstate commerce make it a "public utility" as defined in section 201(e) of the FPA. Without reaching the question of the limits of the Commission's authority to decline jurisdiction, we do not find annual sales for resale of 65 to 70 MW to be *de minimis*, and we shall deny St. Joe's petition for an order declaring that the Commission will not assume jurisdiction over St. Joe as a public utility under the FPA.

In the alternative, St. Joe requests waiver of the Commission's regulations. As a public utility, St. Joe is subject to the Commission's various reporting, filing, accounting, notice, and approval regulations under the FPA. In its petition, St. Joe argues that subjecting it to the Commission's regulations because of its sale of surplus electricity from its smelter would be inappropriate. St. Joe contends that the Commission's regulations were intended for public service monopolies and not for industrial companies such as itself. St. Joe therefore requests waiver of the Commission's Uniform System of Accounts, various reporting requirements, filing fees and annual charges, and the regulations respecting property dispositions and consolidations, securities issuances and assumptions of liability, and the holding of interlocking positions.[6]

St. Joe claims that its production of power for sale is incidental to its smelting operation, and that it expects to reduce and eventually eliminate sales from its plant as smelting operations expand. The revenues from these sales of excess power represent slightly more than one percent of St. Joe's total revenues. To subject St. Joe to the Commission's regulations on the basis of these sales would, in St. Joe's view, unacceptably complicate and impede the conduct of its natural resource business. In fact, St. Joe asserts that these sales are only practical if they do not subject it to regulation. For this reason, both the agreement with Duquesne, and the agreement with GPU, provide that St. Joe may terminate the agreement upon one month's written notice if the Commission asserts jurisdiction over the sales covered by the agreements.

The only transmission facilities which St. Joe owns are located on its property at the Monaca smelter site and they are used exclusively for its own smelting operations or for interconnection with Duquesne. St. Joe does not provide any transmission service to others on its transmission facilities.

Under the circumstances, we find St. Joe's sales of power to Duquesne and GPU under the aforementioned agreements to be in the public interest because: (1) they permit the use of two existing coal-fired generating units that otherwise would be underemployed and thereby promote continued and expanded zinc smelting operations at Monaca, benefiting the depressed economy of the area; and (2) they may well be replacing oil-fired generation and thus reducing both GPU's rates and national dependence on foreign oil sources. Therefore, on the basis of the combination of facts presented, particularly the temporary nature of the sales, we shall grant in part St. Joe's request for waiver of our regulations.

Section 205 of the FPA requires every public utility to file with the Commission schedules showing all rates and charges for any transmission or sale subject to the jurisdiction of the Commission. This statutory requirement cannot be waived. Inasmuch as St. Joe has not yet submitted an initial rate schedule, we shall defer consideration of a waiver of the full filing requirements of Part 35 until such time as a rate submittal is tendered for filing.

St. Joe also requests a waiver of the Commission's Uniform System of Accounts, and the statements and reports governed by Parts 41, 50, and 141 of the regulations. Inasmuch as these requirements may be unnecessarily burdensome and may complicate and impede the conduct of St. Joe's normal business, we shall waive these regulations given the temporary nature of the sales. However, this waiver assumes that St. Joe will be able to provide evidence to show that the rate is just and reasonable.

Section 203 of the FPA requires that the Commission issue notice and provide an opportunity for hearing before it may approve any sale, lease, or other disposition of the whole of a public utility's facilities subject to the jurisdiction of the Commission, or any part thereof of a value in excess of $50,000, or before it may merge or consolidate such facilities. These statutory requirements may not be waived. We do not believe, however, that it is necessary to impose the full filing requirements of Part 33 of our regulations on St. Joe. Rather, we shall only require St. Joe to file such information as will satisfy the minimum requirements of Section 203 of the FPA. Further, we note that this section would not apply to any of St. Joe's facilities which are not involved in the

[3] On July 21, 1981, St. Joe and Duquesne entered into an agreement for capacity and energy exchanges as well as service schedules for minimum operating power, deferred delivery power, transformer loss power, and non-displacement power. On January 21, 1982, St. Joe and Duquesne entered into an additional agreement for the sale of power and energy by St. Joe to Duquesne. This power and energy is expressly for resale to GPU. Sales to GPU commenced on January 25, 1982.

[4] 16 U.S.C. 824(e).

[5] 16 U.S.C. 824(b).

[6] Specifically, St. Joe seeks waiver of §§ 2.2 through 2.17 ("General Policy and Interpretations"), Part 32 ("Interconnection of Facilities; Emergencies; Transmission to a Foreign Country"), and Parts 33, 34, 45, and 46 which require prior Commission approval as to property dispositions and consolidations, securities issuances and assumptions of liability, and the holding of interlocking positions. In addition, St. Joe requests waiver of Parts 35 and 36 which require the filing of rate schedules and rate schedule changes and the payment of filing fees and annual charges. Finally, St. Joe requests to be relieved of the obligations (1) to maintain its financial records in accordance with the Commission's Uniform System of Accounts (Subchapter C of the regulations) and (2) to file various statements and reports with the Commission pursuant to sections 41, 50, 131, and 141 of the regulations.

transmission and sale for resale of electric energy in interstate commerce.

Section 204 of the FPA requires that a public utility may issue securities or assume a liability only if the Commission approves the issuance or assumption after making specific findings. Furthermore, Section 204 requires the Commission to provide an opportunity for hearing before granting an application and allows the Commission to condition or modify any such orders. Again, we do not believe that it is necessary to impose the full filing requirements of Part 34 of our regulations, but we shall require St. Joe to file notice of any proposed issuance or assumption, consistent with the provisions of Section 204 of the FPA. However, under the circumstances, we foresee no reason that the Commission would object to the issuance of securities or assumption of liability by St. Joe's.

Section 305(b) prohibits persons from holding the position of officer or director of a public utility and the position of officer or director of another public utility, of a bank, trust company, banking association, or firm that is authorized to underwrite or participate in the marketing of public utility securities, or of a supplier of electrical equipment to that public utility, unless the holding of such positions has been affimatively authorized by the Commission upon a showing by the applicant that neither public nor private interests will be adversely affected. The Commission cannot waive the statutory requirement that an appropriate showing be made under Section 305. However, the Commission believes, in this instance, that an abbreviated filing should protect both public and private interests and yet should also encourage St. Joe's sales to Duquesne and GPU. Accordingly, we shall waive the full requirements of Parts 45 and 46 of our regulations and shall instead require only the filing of an abbreviated statement identifying the interlock. We do not believe that authorizing the holding of these otherwise proscribed interlocks based upon the filing of an abbreviated application will adversely affect public or private interests. In order to protect against any potential harm, however, we shall reserve the right to require at any time a further showing that Commission authorization should continue and that neither public nor private interests will be adversely affected by the holding of such interlocks.

St. Joe also requests a waiver of §§ 2.2 through 2.17 of the Commission's General Policy and Interpretations and Part 131 of the regulations which lists the approved forms to be used in filing before the Commission. These parts of the regulations delineate the general administrative framework for submission of filings to the Commission and would only apply to St. Joe to the extent of the Commission's regulation of St. Joe. St. Joe has not indicated any particular burden that it anticipates would be imposed if it were to comply with these regulations. Therefore, since we believe these regulations are not burdensome and would not unnecessarily complicate or impede the conduct of St. Joe's natural resource business, we shall deny this request for waiver.

Next, St. Joe requests a waiver of Part 36 of our regulations which requires that the Commission assess public utilities a reasonable annual charge to reimburse the United States for the cost of administering Parts II and III of the FPA. Part 36 also requires the payment of filing fees. In light of the action we shall take with regard to waiver of our regulations, we believe that the imposition of any annual charge requirement is unnecessary. We shall, therefore, waive the applicability of section 36.1 of the regulations. However, we do not find our filing fees to be excessive or particularly burdensome. Therefore, we shall deny the request for a waiver of the filing fees.

Finally, St. Joe requests waiver of Part 32 of the regulations which establishes the filing requirements for requests for Commission orders (1) directing the interconnection of facilities; (2) establishing emergency connections; (3) authorizing the export of electric energy to a foreign country; and (4) approving construction of facilities at an international boundary. Waiver is unnecessary as to any outstanding regulations concerning emergency interconnections under section 202(c), export authorization, or construction at international borders since the Commission no longer retains jurisdiction with respect to these matters.[7] Furthermore, inasmuch as St. Joe is surrounded by the service area of Duquesne, to which it is already interconnected, and operates no integrated transmission system, the prospect of further interconnection is unforseeable. In the unlikely event that Part 32 were to apply to St. Joe, the requirements concerning interconnection contained therein do not appear to be burdensome. Therefore, the Commission will deny this request for waiver.

The Commission orders:

(A) St. Joe's request for a declaratory order stating that the Commission will not assume jurisdiction over St. Joe as a public utility under the FPA is hereby denied.

(B) St. Joe's request for waiver of the Commission's accounting regulations, specifically Parts 101, 41, 50, and 141, is hereby granted as conditioned above.

(C) St. Joe's request for waiver of Part 33 of our regulations regarding property dispositions and consolidations is hereby granted; *Provided that* St. Joe shall provide notice to and seek approval of the Commission prior to undertaking any such actions with respect to jurisdictional property.

(D) St. Joe's request for waiver of Part 34 of our regulations regarding the issuance of securities and assumptions of liability is hereby granted; *Provided that* St. Joe shall provide notice to and seek approval of the Commission prior to undertaking any such actions.

(E) Until further order of this Commission, any person now holding or who may hold an otherwise proscribed interlock involving St. Joe is authorized to hold such positions; *Provided that* such person files the application required in paragraph (F) below.

(F) Until further order of this Commission, the full requirements of Parts 45 and 46 of the Commission's regulations, except as noted below, are hereby waived with respect to those persons subject to paragraph (E) above, and those persons instead shall file a sworn application providing only the following information:

(1) Full name and business address: and

(2) All jurisdictional interlocks, identifying the affected companies and the positions held by that person.

(G) The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by the continued holding of the interlocks addressed above.

(H) St. Joe's request for waiver of the provision of section 36.1 of our regulations regarding annual charges is hereby granted.

(I) St. Joe's request for waiver of the provisions of section 36.2 of our regulations regarding filing fees is hereby denied.

(J) St. Joe's request for waiver of Part 2 of our regulations regarding General

[7] The authority under Section 202 of the FPA to establish emergency connections, authorize the export of electric energy to a foreign country, and approve construction of facilities at an international boundary is vested in the Secretary of Energy. *See* Department of Energy Organization Act, 42 U.S.C. 7101–7 (1978).

Policy and Interpretations is hereby denied.

(K) St. Joe's request for waiver of Part 32 of our regulations regarding interconnections is hereby denied.

(L) St. Joe's request for waiver of Part 131 of our regulations regarding forms is hereby denied.

(M) Within forty-five (45) days of the date of this order, St. Joe shall file an appropriate rate schedule(s) for the jurisdictional services being rendered. St. Joe's request for wavier of Part 35 of our regulations regarding rate schedule filings will be considered at that time as discussed above.

(N) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-35421 Filed 12-29-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-30-000]

Transcontinental Gas Pipe Line Corp.; Proposed Changes in FERC Gas Tariff

December 23, 1982.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) on December 15, 1982 tendered for filing certain revised tariff sheets to Original Volume No. 2 of its FERC Gas Tariff. The proposed changes would increase revenues from gathering area transportation service by approximately $9.0 million annually based upon the 12-month period ended June 30, 1982, as adjusted. The proposed effective date of this rate change is January 15, 1983.

Transco has requested that this filing be consolidated with its current rate filing in Docket No. RP83-11 and that the suspension period for this filing be shortened so that the gathering area transportation rates can become effective, after suspension, on April 22, 1983, the effective date of the rates in Docket No. RP83-11.

Transco states that the principal reasons for the rate changes are (1) to establish uniform formulas for determining off-shore and on-shore transportation rates in the gathering area of Transco's system and (2) to bring the rates for these transportation services in line with current costs.

Copies of the filing were served upon the Company's jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rule 2.14 and Rule 2.11 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such petitions or protests should be filed on or before January 5, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-35422 Filed 12-29-82; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-2277-1]

Availability of Environmental Impact Statements Filed Dec. 20 Through Dec. 23, 1982 Pursuant to 40 CFR Part 1506.9

RESPONSIBLE AGENCY: Office of Federal Activities, General Information, 382-5075 or 382-5076

Corps of Engineers:
- EIS No. 820808, Draft, COE, ID, Albeni Falls Dam, Continued Operation, Pend Oreille Lake/R. Bonner Co., Due: Feb. 18, 1983.
- EIS No. 820814, Final, COE, KY, Pineville Flood Damage Reduction Measures/US 35E Relocation, Bell Co., Due: Jan. 31, 1983.
- EIS No. 820809, DSuppl, COE, LA, Red R. Waterway Mississippi R. to Shreveport Navigation/Stabilization, Due: Feb. 17, 1983.

Department of Interior:
- EIS No. 820816, Draft, IBR, MT, Yellowstone River Diversion Project, Permits, Dawson County, Due: Mar. 1, 1983.

Department of Transportation:
- EIS No. 820806, Final, FHW, WV, US 22/ Weirton Bypass Construction, Brooke and Hancock Counties, Due: Jan. 31, 1983.
- EIS No. 820815, Final, FHW, AR, AR-29 Relocation, I-30 to AR-29, Hope, Hempstead County, Due: Jan. 31, 1983.
- EIS No. 820810, DSuppl, FHW, VI, St. Thomas Island Transportation Improvements, Charlotte Amalie, Due: Feb. 14, 1983.
- EIS No. 820819, Final, UMT, CA, Daly City Station Turnback Improvements, San Mateo & San Francisco Cos., Due: Jan. 31, 1983.

Department of Housing and Urban Development:
- EIS No. 820818, Draft, HUD, TX, Greenwood Valley Subdivision, Mortgage Insurance, Allen, Collin Co., Due: Feb. 14, 1983.

Nuclear Regulatory Commission:
- EIS No. 820813, Final, NRC, NH, Seabrook Station Units 1 and 2, Startup and Operation, License, Due: Jan. 31, 1983.

Department of Agriculture:
- EIS No. 820807, Draft, AFS, VT, Sugarbush Valley Winter Sports Area Expansion, Green Mountain NF, Due: Feb. 14, 1983.
- EIS No. 820811, Final, AFS, IL, Shawnee Hills National Recreation Area, Shawnee National Forest, Due: Jan. 31, 1983.
- EIS No. 820812, Final, SCS, PRO, Soil and Water Resources Conservation Act, 1982 Final Program Report, Due: Jan. 31, 1983.

Department of Defense, Navy:
- EIS No. 820804, Draft, USN, PRO, Decommissioned/Defueled Submarine Nuclear Reactor Plant, Disposal, Due: Mar. 31, 1983.

Amended Notices:
- EIS No. 810979, Draft, HUD, VA, Franklin Farms Community, Mortgage Insurance, Fairfax County. *Published FR 12/11/81—Officially withdrawn.
- EIS No. 820798, DSuppl, FHW, *NM, Juan Tabo Extension, Wagon Train Dr. to Central Ave., Bernalillo Co. *Published FR 12/23/82—Incorrect State, Due: Feb. 7, 1983.

Dated: December 28, 1982.

Michael L. Privitera,

Acting Director, Office of Federal Activities.

[FR Doc. 82-34011 Filed 12-29-82; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59108A TSH-FRL 2275-2]

S-Benzyl-N-Methyldithiocarbamate; Approval of Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of TM-83-9, an application for a test marketing exemption (TME) under section 5(h)(6) of the Toxic Substances Control Act (TSCA). The test marketing conditions are described below.

EFFECTIVE DATE: December 22, 1982.

FOR FURTHER INFORMATION CONTACT: Theodore Jones, Acting Chief, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-206, 401 M Street SW., Washington, D.C. 20460 (202-382-3725).

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and to permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use and disposal of the substances for test marketing purposes will not present any unreasonable risk of injury to health or

the environment. EPA may impose restrictions on test marketing activities.

EPA has determined that test marketing of the new chemical substances described below, under the conditions set out in the applications, and for the time period specified below, will not present any reasonable risk of injury to health or the environment. Production volume, number of workers exposed to the new chemical, and the levels and duration of exposure must not exceed that specified in the applications. All other conditions described in the applications must be met. The following additional restrictions apply:

1. The applicant must maintain records of the date(s) of shipment(s) to each customer and the quantities supplied in each shipment, and must make these records available to EPA upon request.

2. A bill of lading accompanying each shipment must state that use of the substance is restricted to that approved in the TME.

TME 83-9

Date of Receipt: November 8, 1982.

Notice of Receipt: November 19, 1982 (47 FR 52225).

Applicant: Phillips Petroleum Company.

Chemical: S-Benzyl-N-Methyldithiocarbamate (Specific).

Use: Component of an industrial product (Generic).

Production Volume: 1000 pounds.

Worker Exposure: During manufacture, a maximum of 2 workers for up to 4 hours, and duringt processing a maximum of 1 worker for 7 hours.

Test Marketing Period: 12 months.

Commencing on: (*signature date*).

Risk Assessment: The Agency investigated data concerning effects on human health and the environment of structural analogs to the test market substance and found that the substance is related to substances that are toxic to aquatic organisms at moderate levels. The Agency has concluded that the amount reaching a receiving stream from use of the TME substance will be well below these levels. The calculated level of TME substance in effluent is at least an order of magnitude below levels of potential concern. Additional water treatment and the volume of water in the receiving stream further dilutes these possible concentrations to very low levels. This is based on the Agency assessment of use information supplied by the submitter and the typical disposal methods for the use specified on the application. No significant release to water from manufacturing or processing is expected.

The Agency reserves the right to rescind approval of an exemption should any new information come to its attention which casts significant doubt on its finding that the test marketing activities will not present an unreasonable risk to health or the environment.

Dated: December 22, 1982.

Don R. Clay,

Director, Office of Toxic Substances.

[FR Doc. 82-35368 Filed 12-29-82; 8:45 am]

BILLING CODE 6560-50-M

[AAA-FRL 2276-1]

EPA Master List of Debarred, Suspended, or Voluntarily Excluded Persons

AGENCY: Environmental Protection Agency.

ACTION: EPA Master List of Debarred, Suspended, or Voluntarily Excluded Persons.

SUMMARY: 40 CFR 32.400 requires the Director, Grants Administration Division, to publish in the **Federal Register** each calendar quarter, the names of, and other information concerning, those individuals and firms debarred, suspended, or voluntarily excluded from participation in EPA assisted programs. Assistance recipients and contractors under an EPA award may not initiate new business with these firms or individuals on any EPA funded activity during the period of suspension, debarment, or voluntary exclusion.

This short list contains the names of those persons who have been listed as a result of EPA actions only. It is provided for informational purposes only and is not to be relied on in determining a person's current eligibility status. A comprehensive updated list is available in each Regional Office. Inquiries concerning the status of any individual, organization, or firm should be directed to EPA's Office of Regional Counsel in your Region.

DATE: This short list is current as of December 17, 1982.

FOR FURTHER INFORMATION CONTACT: A. Frank Dawkins of the EPA Compliance Staff, Grants Administration Division, at (202) 755-9140.

Dated: December 20, 1982.

Harvey G. Pippen, Jr.,

Director, Grants Administration Division.

EPA MASTER LIST OF DEBARRED, SUSPENDED, AND VOLUNTARILY EXCLUDED PERSONS

Name and jurisdiction	File No.	Status	From—	To—	Statute	Agency
Ashland-Warren, Inc. (McMinnville, TN)	82-0401	D	[illegible]-82	05-[illegible]-85	§ 32.200(a)(e)	FHwA
Carpenter, Frank (Monroe, NC)	82-0403	S	09-23-82	Open	§ 32.200(a)(b)	EPA
Crowell Constructors, Inc. (Fayetteville, NC)	82-0405	D	11-29-82	04-27-82	§ 32.200(a)(b)(e)(f)	FHwA
Crowell, William W. (Fayetteville, NC)	82-0405	D	11-29-82	04-27-82	§ 32.200(a)(b)(e)(f)	FHwA
Crowder Construction Company, Inc. (Charlotte, NC)	82-0402	S	09-23-82	Open	§ 32.200(a)(b)	EPA
Crowder, Otis (Charlotte, NC)	82-0402	S	09-23-82	Open	§ 32.200(a)(b)	EPA
Dees, Wilber E. (Fayetteville, NC)	82-0405	S	10-22-82	Open	§ 32.200(a)(b)(e)(f)	FHwA
Dickerson Group, Inc. (Monroe, NC)	82-0403	S	09-23-82	Open	§ 32.200(b)	EPA
Herbert G. Whyte, Assocaites, Inc. (Gary, IN)	82-0501	D	10-20-82	10-19-85	§ 32.200(b)(e)	EPA
Houston, Arnold E., Jr. (Fayetteville, NC)	82-0404	S	10-21-82	Open	§ 32.200(a)(b)(f)	FHwA
Johnson Bros. Utility & Paving Co., Inc. (Lillington, NC)	82-0406	S	10-22-82	Open	§ 32.200(a)(b)(e)(f)	EPA
Johnson, McDuffie (Lillington, NC)	82-0406	S	10-22-82	Open	§ 32.200(a)(b)(e)(f)	FHwA
Municipal & Industrial Pipe Services, Ltd. (Douglasville, GA)	82-0601, 82-0408	S	10-07-82	Open	§ 32.200(b)(c)(e)(i)	EPA
Whyte, Herbert G. (Gary, IN)	82-0501	D	10-20-82	10-19-85	§ 32.200(b)(e)	EPA
Wirt, David (Douglasville, GA)	82-0601, 82-0408	S	10-07-82	Open	§ 32.200(b)(c)(e)(i)	EPA
Wirt, Gordon D. (Douglasville, GA)	82-0408	S	12-07-82	Open	§ 32.200(c)(e)(i)	EPA
Wirt, Judith C. (Douglasville, GA)	82-0408	S	12-07-82	Open	§ 32.200(c)(e)(i)	EPA

[FR Doc. 82-35369 Filed 12-29-82; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. CC 81-351; Transmittal No. 13663]

American Telephone and Telegraph Co.; Revisions to Tariff F.C.C. Nos. 258 and 260, and the Establishment of Tariff F.C.C. No. 269, for Series 7000 Terrestrial Television Transmission Services; Order

Adopted December 10, 1982.

Released December 15, 1982.

By the Deputy Chief, Common Carrier Bureau:

1. On December 3, 1982, we adopted an *Order* in this proceeding, Mimeo 1196, released December 7, 1982, extending the date for filing comments from December 6 to December 20, 1982. That extension was to allow time for consideration of a settlement proposal filed on December 1, 1982, by certain user parties to determine whether to solicit comments from American Telephone and Telegraph Company and other parties. Our analysis of the settlement proposal is continuing, and therefore, we will further extend the date for filing comments to January 17, 1983.

2. Accordingly, it is ordered, That the date for filing comments is deferred to not later than January 17, 1983.

3. It is further ordered, That the Secretary will cause this Order to be published in the **Federal Register.**

4. It is further ordered, That this Order is effective upon adoption.

Federal Communications Commission.

Leon M. Kestenbaum,

Deputy Bureau Chief, Policy, Common Carrier Bureau.

[FR Doc. 82-35423 Filed 12-29-82; 8:45 am]

BILLING CODE 6712-01-M

Advisory Committee for the 1985 ITU World Administrative Radio Conference on the Use of the Geostationary Satellite Orbit and the Planning of the Space Services Utilizing It (Space WARC Advisory Committee); Meeting

December 16, 1982.

Working Group C: Available U.S. Options & Strategies.

Chairman: P. G. Ackerman, (213) 648-4134.

Date: Friday, January 14, 1983.

Time: 9:30 a.m.-4:00 p.m.

Location: Main Commerce (Herbert C. Hoover) Building, 14th and Constitution Avenue, NW., Room 1605, Washington, D.C. 20230.

Agenda: (1) Status Report—Working Group A (Schnicke).

(2) Review and Discussion.

(a) Orbit/Spectrum Resource Management (Weiss).

(b) Implementation Requirements (Tycz).

(c) Space Communication and ITU Negotiations (Frisbee).

(d) Brainstorming—All.

(3) Work Assignments—All.

(4) Next Meeting.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 82-35293 Filed 12-29-82; 8:45 am]

BILLING CODE 6712-01-M

Advisory Committee for the 1985 ITU World Administrative Radio Conference on the Use of the Geostationary Satellite Orbit and the Planning of the Space Services Utilizing It (Space WARC Advisory Committee); Meeting

December 16, 1982.

Task Group B-1 of WORKING GROUP B: Legal Implications.

Chairman: Martin Rothblatt, (202) 463-2962.

Date: Friday, January 21, 1983.

Time: 1:30-4:30 p.m.

Location: Schnader, Harrison, Segal and Lewis, 1111 19th Street, NW., Suite 1000, Washington, D.C.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 82-35294 Filed 12-29-82; 8:45 am]

BILLING CODE 6712-01-M

FCC Reports System Revised

October 8, 1982.

Beginning in November, 1982, FCC Reports *pamphlets* will be produced monthly instead of weekly.

Pamplets, averaging 150 pages, will contain decisons, alphabetized document titles and other descriptive data and include indexes accumulated from previous and current issues. This will enable researchers to utilize the latest issue to find documents printed in earlier pamphlets.

Subscription orders may be mailed to Superintendent of Documents, Government Printing Office (GPO), Washington, D.C. 20402. Single issues are also available. Prices are: Yearly domestic: $34.00; yearly foreign: $42.50; single copy domestic: $5.00; and single copy foreign: $6.25.

Included for your use is an order form. When ordering, please specify the file code and list I.D. of "2D-FCCR" for quick processing.

The FCC Reports *bound volume* and *cumulative index* are presently produced sporadically and sold as single publications. In the future, the bound volume will be published at the end of each fiscal year and will include textual matter and indexes from the previous 12 issues of the pamphlet. The cumulative index, a compilation of research aids from the bound volumes, will be published every three years. Both publications will continue to be sold as single copies. Price information for bound volumes and cumulative indexes may be obtained by contacting one of the GPO bookstores listed in this Notice.

Budgetary constraints necessitate that only essential documents be printed in the Reports. Rule making documents published in the Federal Register will not ordinarily be duplicated in the Reports. Only documents of precedential legal significance or historic value, those which clarify a policy or rule, or those documenting a significant deviation from past practices, will be published. The Reports contain final decisions of the Commission and the Review Board, initial decisions of Administrative Law Judges, and some staff decisions issued under delegated authority.

Questions and comments many be directed to Shirley Watson at 1919 M Street, N.W., Room 224, Washington, D.C., (202) 632-0426.

William J. Tricarico,

Secretary, Federal Communications Commission.

U.S. Government Printing Office Bookstores

To serve you better, the GPO operates 26 bookstores in 21 cities around the country. While the bookstores carry only a small percentage of the many thousands of titles in our active sales inventory, they do have the ones most in demand and can accept orders for any not carried in a store. Single issues of some of the more popular periodicals are available in the stores for over-the-counter sales.

The Retail Sales Outlet in Laurel, Maryland is a part of our Retail Distribution Division and has access to all titles currently in stock. Customers having an immediate need for one or more publications are encouraged to pick up their books at the Laurel Retail Sales Outlet where feasible. Before going to Laurel, please call our order desk at 202/783-3238 to check on the

price, stock number, and availability of the publication(s) desired.

All of our bookstores and the sales outlet accept MasterCard, VISA, or prepaid Superintendent of Documents deposit account charges. If one of our bookstores or the Laurel outlet is convenient to you, why not stop in and get acquainted. Our managers and their staffs will be happy to assist you and answer any questions you may have about our many publications and services. The addresses and phone numbers of the bookstores and the retail sales outlet are listed below.

Bookstores

Atlanta

Room 100, Federal Building, 275 Peachtree Street, NE., Atlanta, Georgia 30303, (404) 221–6947

Birmingham

9220–B Parkway East, Roebuck Shopping City, Birmingham Alabama 35206, (205) 254–1056

Boston

Room G25, John F. Kennedy Federal Building, Sudbury Street, Boston, Massachusetts 02203, (617) 223–6071

Chicago

Room 1463, 14th floor, Everett McKinley Dirksen Building, 219 South Dearborn Street, Chicago, Illinois 60604, (312) 353–5133

Cleveland

First Floor, Federal Office Building, 1240 East Ninth Street, Cleveland, Ohio 44199, (216) 522–4922

Columbus

Room 207, Federal Building, 200 North High Street, Columbus, Ohio 43215, (614) 469–6956

Dallas

Room 1C50, Federal Building, 1100 Commerce Street, Dallas, Texas 75242, (214) 767–0076

Denver

Room 117, Federal Building, 1961 Stout Street, Denver, Colorado 80294, (303) 837–3964

Detroit

Patrick V. McNamara Federal Building, Suite 160, 477 Michigan Avenue, Detroit, Michigan 48226, (313) 226–7816

Houston

45 College Center, 9319 Gulf Freeway, Houston, Texas 77017, (713) 226–5453

Jacksonville

Room 158, Federal Building, 400 West Bay Street, P.O. Box 35089 Jacksonville, Florida 32202, (904) 791–3801

Kansas City

Room 144, Federal Office Building, 601 East 12th Street, Kansas City, Missouri 64106, (816) 374–2160

Los Angeles

ARCO Plaza, C-Level, 505 S. Flower Street, Los Angeles, California 90071, (213) 688–5841

Milwaukee

Room 190, Federal Building, 517 E. Wisconsin Avenue, Milwaukee, Wisconsin 53202, (414) 291–1304

New York

Room 110 26 Federal Plaza, New York, New York 10278, (212) 264–3825

Philadelphia

Room 1214, Federal Office Building, 600 Arch Street, Philadelephia, Pennsylvania 19106, (215) 597–0677

Pittsburgh

Room 118, Federal Office Building, 1000 Liberty Avenue, Pittsburgh, Pennsylvania 15222, (412) 644–2721

Pueblo

Majestic Building, 720 North Main Street, Pueblo, Colorado 81003, (303) 544–3142

San Francisco

Room 1023, Federal Office Building, 450 Golden Gate Avenue, San Francisco, California 94102, (415) 556–0643

Seattle

Room 194, Federal Office Building, 915 Second Avenue, Seattle, Washington 98174, (206) 442–4270

Washington, D.C. and vicinity

Government Printing Office, 710 North Capitol Street, Washington, D.C. 20402, (202) 275–2091

Department of Commerce

14th and E Streets, NW., Room 1604, First Floor, Washington, D.C. 20230, (202) 377–3527

Department of Health and Human Services

Room 1528, H.H.S. North Building, 338 Independence Avenue, SW., Washington, D.C. 20201, (202) 472–7478

Department of State

2817, North Lobby, 21st and C Streets, NW., Washington, D.C. 20520, (202) 632–1437

International Communication Agency

1776 Pennsylvania Avenue, NW., Washington, D.C. 20547, (202) 724–9928

Pentagon

Main Concourse, South End, Washington, D.C. 20310, (703) 557–1821

Retail Sales Outlet

Laurel

8660 Cherry Lane, Laurel, Maryland 20810, (301) 953–7974

BILLING CODE 6712-01-M

SUBSCRIPTION ORDER FORM

Customer's Telephone No.'s

Area Code Home Area Code Office

Enclosed find $..... (check or money order), or charge to my Superintendent of Documents Deposit Account Number

Your Order Number.....

Please send the subscription(s) I have listed to the address shown at the bottom of this form.

MAIL ORDER FORM TO:
Superintendent of Documents
U.S. Government Printing Office
Washington, D.C. 20402

FOR OFFICE USE ONLY	
QUANTITY	CHARGES
____ Publications	____
____ Subscriptions	____
Special shipping charges	____
International handling	____
Special charges	____
OPNR	____
____ UPNS	
____ Balance Due	
____ Discount	
____ Refund	

MasterCard VISA

Credit Card Orders Only
Total charges $_____ Fill in the boxes below:

Credit Card No.

Expiration Date Month/Year

NOTE: Complete top address portion if different from that at the bottom.

Name.....

Street address.....

City and State..... ZIP Code.....

SYMBOL	TITLE	PRICE

COMPANY OR PERSONAL NAME

ADDITIONAL ADDRESS/ATTENTION LINE

STREET ADDRESS

CITY STATE ZIP CODE

(or) COUNTRY

PLEASE PRINT

[FR Doc. 82-35296 Filed 12-29-82; 8:45 am]
BILLING CODE 6712-01-C

Study Group A of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT); Meeting

December 22, 1982.

The Department of State announces that Study Group A of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on January 7 and 18, 1983 10:00 a.m. in Room 856 of the Federal Communications Commission, 1919 M Street, NW., Washington, D.C. This Study Group deals with U.S. Government aspects of international telegram and telephone operations and tariffs.

The Study Group will discuss international telecommunications questions relating to telegraph, telex, new record services, data transmission and leased channel services in order to develop U.S. positions to be taken at upcoming international Study Groups I and III meetings.

Members of the general public may attend the meeting subject to the instruction of the Chairman. Admittance of public members will be limited to the seating available. Requests for further information should be directed to Earl S. Barbely, Conference Staff, Federal Communications Commission, Washington, D.C. 20554, telephone (202) 632–3214.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 82–35298 Filed 12–29–82; 8:45 am]

BILLING CODE 6712–01–M

[FCC 82–557]

Reduction of the Information Required by Specified Application Forms

December 13, 1982.

As a part of its efforts to simplify the application process and to reduce paperwork, the Commission is in the process of reviewing all its broadcast application forms. Some forms have been revised (for example, FCC Forms 301, 303, 314, 315 and 346) and others will be revised in the near future. Still other forms must await revision until the completion of rulemaking proceedings considering the rules and policies underlying the questions asked in the present forms. Although a detailed review of all forms awaiting revision has not been completed, an initial review reveals questions seeking financial information that is not used or needed (for example, balance sheets and information on the cost of construction requested by license applications to cover construction permits) or that can be obtained more simply by certification. Finally, some forms still call for the filing of articles of incorporation or partnership agreements, although the Commission has eliminated this requirement in forms 301, 314 and 315.

The Commission is not revising the forms listed below at this time. As an interim measure, however, we are specifying questions to which the applicant need no longer respond. Moreover, we have specified those sections where certification of financial qualifications will suffice. Financial certification forms for commercial and noncommercial applicants are attached. The certification forms track the form adopted in the revised Forms 301, 314, 315 and 316.

1. *Form 302* "Application for New Broadcast Station License." Applicants need not respond to questions 4 and 5, Section I. If applicable, applicants should answer question 6 to the extent that it inquires as to contracts affecting ownership, but need not respond to the question to the extent that it seeks information on changes in capitalization.

2. *Form 308* "Application for Permit to Deliver Programs to Foreign Broadcast Stations." Applicants need not respond to question 3 to the extent that it requests copies of articles of incorporation or partnership agreements.

3. *Form 309* "Application for Authority to Construct or Make Changes in International, Experimental Television, Experimental Facsimile or Developmental Broadcast Station." Applicants need not submit Section III. Instead, they may submit an appropriate certification.

4. *Form 316* "Application for Consent to Assignment of Radio Broadcast Station Construction Permit or License or Transfer of Control of Corporation Holding Radio Broadcast Station Construction Permit or License." Applicants need not respond to questions 10(a)(2), 10(a)(3) and 12. Applicants need not respond to question 11 to the extent that it seeks information as to the source of funds, the terms and conditions of payment, and a balance sheet of the assignee or transferee. Instead, an appropriate certification may be sumbitted. Further, the applicant need not specify the termination date of the contract.

5. *Form 330–P* "Application for Authority to Construct or Make Changes in an Instructional Television Fixed and/or Response Station(s) and Low Power Relay Station(s)." Applicants need not respond to Section II, questions 3(a) and 3(b), to the extent that they seek copies of articles of incorporation and by-laws or partnership agreements, or respond to question 4. Further, applicants need not submit Section III. Instead, they may submit an appropriate certification.

6. *Form 330–L* "Application for Instructional Television Fixed Station License." Applicants need not respond to questions 2(a) and 2(b).

7. *Form 330–R* "Application for Renewal of an ITFS and/or Response Station(s) and Low Power Relay Station(s) License." Applicants need not respond to question 7.

8. *Form 340* "Application for Authority to Construct or Make Changes in a Noncommercial Educational Broadcast Station." Applicants need not respond to Section II, questions 3(c), 3(d) and 4. Further, applicants need not submit Section III. Instead, they may submit an appropriate certification.

9. *Form 341* "Application for a New Noncommercial Educational Broadcast Station License." Applicants need not respond to questions 5, 6(a) and 6(b), Section I.

10. *Form 345* "Application for Consent to Assignment of Broadcast Translator Station Construction Permit or License." Applicants need not respond to Section I, questions 8(b) and 8(c), and Section II, question 5.

11. *Form 347* "Application for TV or FM Broadcast Station Translator License." Applicants need not respond to questions 5(a), 5(b) and 5(c).

12. *Form 349–P* "Application for Authority to Construct or Make Changes in an FM Booster Station." Applicants need not respond to questions 6, 7(a), 7(b) and 8. Instead, they may submit an appropriate certification. No certification is required if the contemplated expenditures are $500 or less.

13. *Form 349–L* "Application for An FM Booster Station License." Applicants need not respond to questions 3(a), 3(b) and 3(c).

14. *Form 349–R* "Application for Renewal of FM Booster Station License." Applicants need not respond to questions 3 and 4.

Action by the Commission December 8, 1982. Commissioners Fowler (Chairman), Quello, Fogarty, Jones, Rivera and Sharp, with Commissioner Dawson concurring in the result.

William J. Tricarico,

Secretary, Federal Communications Commission.

To be used by commercial applicants.

Financial Qualifications

Note: If this application is for a change in an operating facility do not fill out this section.

1. The applicant certifies that sufficient net liquid assets are on hand or are available from committed sources to construct and operate the requested facilities for three months without revenue.

Yes ☐ No ☐

2. The applicant certifies that:

(a) It has a reasonable assurance of a present firm intention for each agreement to furnish capital or purchase capital stock by parties to the application, each loan by banks, financial institutions or others, and each purchase of equipment on credit;

(b) It can and will meet all contractual requirements as to collateral, guarantees, and capital investment.

(c) It has determined that a reasonable assurance exists that all such sources (excluding banks, financial institutions, and equipment manufacturers) have sufficient net liquid assets to meet these commitments.

Yes ☐ No ☐

To be used by applicants that qualify as noncommercial entities under Sections 73.503 and 73.621 of the Commission's Rules.

Financial Qualifications

Note: If this application is for a change in an operating facility, do not fill out this section.

1. Is this application contingent upon receipt of a grant from the National Telecommunications and Information Administration?

Yes ☐ No ☐

2. Is this application contingent upon the receipt of a grant from a charitable organization, the approval of the budget of a school or university, or an appropriation from a state, county, municipality or other political subdivision?

Yes ☐ No ☐

Note: If either 1 or 2 is answered "yes" your application cannot be granted until all of the necessary funds are committed or appropriated. In the case of grants from the National Telecommunications and Information Administration, no further action on your part is required. If you rely on funds from a source specified in question 2, you must advise the F.C.C. when the funds are committed or appropriated. This should be accomplished by letter amendment to your application, in triplicate, signed in the same manner as the original application, and clearly identifying the application to be amended.

3. Except as indicated in questions number 1 and 2, above, the applicant certifies that:

(a) It has a reasonable assurance of present commitments from each donor, from each party agreeing to furnish capital, from each bank, financial institution or others agreeing to lend funds, and from each equipment supplier agreeing to extend credit.

Yes ☐ No ☐

(b) It can and will meet all contractual requirements as to collateral, guarantees, and capital investment or donations:

Yes ☐ No ☐

(c) It has determined that a reasonable assurance exists that all such sources (excluding banks, financial institutions, and equipment manufacturers) have sufficient net liquid assets to meet these commitments:

Yes ☐ No ☐

4. The applicant certifies, except as noted above, that sufficient net liquid assets are on hand or are available from committed sources to construct and operate the requested facilities for three months without revenues.

Yes ☐ No ☐

[FR Doc. 82-35292 Filed 12-29-82; 8:45 am]
BILLING CODE 6712-01-M

[BC Docket No. 82-807, File No. BPCT-820615KH, etc.]

Miller Broadcasting Inc., et al.; Hearing Designation Order

Adopted: November 29, 1982.
Released: December 16, 1982.

In re Applications of: Miller Broadcasting, Inc. Lawence, Kansas, BC Docket No. 82-807, File No. BPCT-820615KH; V. Sturwold et al. d.b.a. Kansas Family TV, Ltd. Lawrence, Kansas, BC Docket No. 82-808, File No. BPCT-820819KE; Horizon Communications 38, Ltd. Lawrence, Kansas, BC Docket No. 82-809, File No. BPCT-820824KL; and Denning Santee Communications, Inc. Lawrence, Kansas, BC Docket No. 82-810, File No. BPCT-820824KM; For Construction Permit.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has before it: (a) the above-captioned mutually exclusive applications of Miller Broadcasting, Inc. (Miller), Kansas Family TV, LTD. (KFT), Horizon Communications 38, LTD. (Horizon) and Denning Santee Communications, Inc. (Denning Santee) for authority to construct a new commercial television station on Channel 38, Lawrence, Kansas; [1] (b) an informal objection filed by the Association of Maximum Service Telecasters (AMST); and (c) a "Petition to Return", filed October 20, 1982, by Miller against Denning Santee.[2]

2. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issue specified below.

3. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communication Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine, whether there is a reasonable possibility that the tower height and location proposed by each of the applicants would constitute a hazard to air navigation.

2. To determine which of the proposals would, on a comparative basis, best serve the public interest.

3. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

4. It is further ordered, That the Federal Aviation Administration is made a party respondent with respect to Issue 1.

5. It is further ordered, That the informal objection filed by the Association of Maximum Service Telecasters, Inc. and the Petition to Return filed by Miller against Denning Santee Communications, Inc. are dismissed as moot.

6. It is further ordered, That to avail themselves of the opportunity to be heard, the applicants and the party respondent herein shall, pursuant to Section 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of mailing of this Order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

---

[1] Denning Santee filed a "Request for Leave to Amend" on November 9, 1982 accompanied by an amendment updating information as to a new site and other broadcast interests. Inasmuch as the information is required by Section 1.65 of the Commission's Rules, the request is granted and the amendment is accepted for filing.

[2] AMST's objection and Miller's Petition to Return argue that Denning Santee has proposed a tower site that does not meet the Commission's mileage separation requirements; however, Denning Santee subsequently amended its application to specify a non-short-spaced site. Accordingly, AMST's objection and Miller's petition will be dismissed as moot.

7. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Larry D. Eads,

Chief, Broadcast Facilities Division.

[FR Doc. 82-35291 Filed 12-29-82; 8:45 am]

Billing Code 6712-01-M

FEDERAL MARITIME COMMISSION

[Agreement No. 9474-8]

Availability of Finding of No Significant Impact

Upon completion of an environmental assessment, the Federal Maritime Commission's Office of Energy and Environmental Impact has determined that the Commission's decision on Agreement No. 9474-8 will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, and that preparation of an environmental impact statement is not required.

This agreement involves the Thailand/Pacific Freight Conference. It includes American President Lines, Ltd., A.P. Moller Maersk Line, Barber Blue Sea Line, Sea-Land Service, Inc. and The East Asiatic Company, Ltd. The agreement covers the trade from ports in Thailand to ports in Hawaii and U.S. Pacific Coast ports by direct all-water service, and since 1977 the intermodal trade to U.S. Atlantic and Gulf ports via minilandbridge service from Pacific Coast ports. The conference now desires an extension of authority to set interior point intermodal rates.

This Finding of No Significant Impact (FONSI) will become final within 20 days of publication of this notice in the **Federal Register** unless a petition for review is filed pursuant to 46 CFR 547.6(b).

The FONSI and related environmental assessment are available for inspection on request from the Office of the Secretary, Room 11101, Federal Maritime Commission, Washington, D.C. 20573, telephone (202) 523-5725.

Francis C. Hurney,

Secretary.

AGENCY: Federal Maritime Commission (Commission).

PROPOSED ACTION: Agreement No. 9474-8.

RESPONSIBLE OFFICIAL: Edward R. Meyer, Director, Office of Energy and Environmental Impact, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573 (202) 523-5835.

Finding of No Significant Impact (FONSI)

Pursuant to the National Environmental Policy Act of 1969 (NEPA), the Federal Maritime Commission's Office of Energy and Environmental Impact (OEEI) has assessed the environmental impacts of Agreement No. 9474-8.

This agreement involves the Thailand/Pacific Freight Conference. It includes American President Lines, Ltd., A.P. Moller-Maersk Line, Barber Blue Sea Line, Sea-Land Service, Inc. and The East Asiatic Company, Ltd. The agreement covers the trade from ports in Thailand to ports in Hawaii and U.S. Pacific Coast ports by direct all-water service, and since 1977 the intermodal trade to U.S. Atlantic and Gulf ports via minilandbridge service from Pacific Coast ports. The conference now desires an extension of authority to set interior point intermodal rates.

The attached impact assessment for this agreement indicates that no significant adverse effects on the use of energy or the quality of the human environment will result from the Commission's approval, disapproval or modification of the agreement.

The OEEI therefore concludes that preparation of an environmental impact statement is not required under section 4332(2)(c) of NEPA.

The FONSI will become final within 20 days of publication of the Notice of Availability in the **Federal Register** unless a petition for review is filed pursuant to 46 CFR 547.6(b).

Office of Energy and Environmental Impact

Environmental Assessment on Agreement No. 9474-8

I. Need for Action

The Conference desires to establish U.S. intermodal authority.

II. Alternatives

The alternatives before the Commission are that it may approve, disapprove or modify the agreement.

III. Impacts

	Degree of environmental impact		
	Not applicable	Insignificant	Significant
A. Energy:			
1. Terminal operations, including:			
a. Vessels at dockside (auxiliary plant)		X	
(1) New calls at port	X		
(2) Shifting berths	X		
b. Stevedoring and cranes (loading/off-loading)		X	
c. Circulation of vehicles, including trucks, forklifts, packers, etc.		X	
d. Maintenance/repair shops, office spaces, and utilities (boilers, diesels)		X	
2. Vessels underway (piloting, berthing, etc.)		X	
B. Air quality:			
1. Vessels at dockside		X	
2. Stevedoring and cranes		X	
3. Circulation of vehicles		X	
4. Maintenance shops and utilities		X	
5. Storage tanks (other than diesel oil)		X	
6. Vessels underway (piloting and berthing)		X	
C. Noise pollution:			
1. Vessels at dockside (auxiliary machinery)		X	
2. Stevedoring and cranes (loading/off-loading)		X	
3. Circulation of vehicles		X	
4. Maintenance shops		X	
5. Vessels underway		X	
D. Hazardous cargoes (other than containerized)		X	
E. Water quality:			
1. Berth dredging (impacts on turbity)	X		
2. Vessels underway (piloting and berthing)		X	
3. Landfill	X		
F. Biological:			
1. Terrestrial habitat (birds, animals, plants)	X		
2. Marine habitat (fish, invertebrates, mammals)		X	
G. Socio-economic:			
1. Employment and income		X	
2. Population growth			
H. Recreation	X		
I. Cultural and archeological	X		
J. Land use	X		
K. Other comments			

Note.—The members will not alter their service or routing under Agreement No. 9474-8. In addition, the members do not anticipate significant immediate increases in cargo that would require altering the service now consisting collectively of some 200 sailings per year. The anticipated intermodal cargo is currently moving either via member's all-water conference or microbridge tariffs. Thus, the potential increases in traffic resulting from approval of the agreement should not cause increased fuel consumption, alteration of mode, type, or routing of cargo or any significant impact on the quality of the human environment.

Source(s): (a) FMC Agreement No. 9474–6 and associated letter of justification. (b) Personnel correspondence of December 10, 1982, between Mr. David Dunn, Attorney-Fact for the parties to Agreement No. 9474, and Paul Tello of the OEEI

[FR Doc. 82–35095 Filed 12–29–82; 8:45 am]
BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Bank Holding Companies; Proposed de Novo Nonbank Activities

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 115.4(b)(1)), for permission to engage de novo, directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Bankers Trust New York Corporation,* New York, New York (finance and factoring activities; southwestern United States): To engage, through its subsidiary, BT Commerical Corporation, in making or acquiring loans or other extensions of credit such as would be made by a commercial finance company, including commercial loans secured by a borrower's accounts receivable, inventory or other assets; purchasing or acquiring accounts receivable and making advances thereon as would be done by a factor; servicing such loans or accounts for others; and acquiring and selling participations in such obligations. These activities would be conducted from an office in Dallas, Texas, serving Texas, Louisiana, Mississippi, Arkansas, Oklahoma, Kansas, Missouri, Colorado, and New Mexico. Comments on this application must be received not later than January 19, 1983.

2. *Citicorp,* New York, New York (consumer finance and credit-related insurance activities; Maryland, Virginia, Delaware, Pennsylvania and the District of Columbia): To establish a *de novo* office of its subsidiary, Citicorp Homeowners, Inc., located in Towson, Maryland. The activities in which the *de novo* office proposes to engage are: the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required; the sale of consumer oriented financial management courses; the servicing, for any person, of loans and other extensions of credit; the making, acquiring, and servicing, for its own account and for the account of others, of extensions of credit to individuals secured by liens on residential or non-residential real estate; and the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans. The proposed service area for the office shall be the entire states of Maryland, Virginia, Delaware, Pennsylvania and the District of Columbia. Credit related life, accident and health insurance may be written by Family Guardian Life Insurance Company, an affiliate of Citicorp Homeowners, Inc. Comments on this application must be received not later than January 21, 1983.

3. *The Chase Manhattan Corporation,* New York, New York (mortgage banking and related lending and insurance activities; New Jersey): To engage, through its subsidiary, Chase Home Mortgage Corporation, in making or acquiring for its own account or for the account of others, loans and other extensions of credit secured by real estate, including but not limited to, first and second mortgage loans secured by mortgages on one-to-four family residential properties; to service loans and other extensions of credit for any person; to sell mortgage loans in the secondary market; and to offer mortgage term life insurance, accident and health insurance and disability insurance directly related to such lending and servicing activities. These activities will be conducted from an office located in Morristown, New Jersey, and will serve the State of New Jersey. Comments on this application must be received not later than January 21, 1983.

B. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *Security Pacific Corporation,* Los Angeles, California (mortgage banking and credit-related, accident and health insurance activities; Texas): To engage through its subsidiary, Security Pacific Mortgage Corporation, in the origination and acquisition of mortgage loans, including development and construction loans on multi-family and commercial properties for Security Pacific Mortgage Corporation's own account or for sale to others; the servicing of such loans for others; and acting as broker or agent for the sale of credit-related life, accident and health insurance. These activities would be conducted from an office of Securitiy Pacific Mortgage Corporation in Houston, Texas, serving the State of Texas. Comments on this application must be received not later than January 19, 1983.

Board of Governors of the Federal Reserve System, December 23, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82–35332 Filed 12–29–82; 8:45 am]
BILLING CODE 6210–01–M

Continental Bancorp, Inc.; Merger of Bank Holding Companies

Continental Bancorp, Inc., Philadelphia, Pennsylvania, has applied for the Board's approval under section 3(a)(5) of the Bank Holding Company Act (12 U.S.C. 1842(a)(5)) to acquire 100 percent of the shares of York Bancorp, Inc., York, Pennsylvania, and thereby to indirectly acquire 100 percent of the shares of The York Bank and Trust Company, York, Pennsylvania. The factors that are considered in acting on

the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

York Bancorp also engages through a subsidiary, Dickenson Life Insurance Company, York, Pennsylvania, in underwriting as reinsurer credit life, health and accident insurance sold in connection with extensions of credit by The York Bank and Trust Company. In addition to the factors considered under section 3 of the Act (banking factors), the Board will consider the proposal in the light of the comany's nonbanking activities and the provisions and prohibitions in section 4 of the Act (12 U.S.C. 1843).

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Philadelphia. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than January 21, 1983. Any comment on a application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifiying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 23, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-35330 Filed 12-29-82: 8:45 am]

BILLING CODE 6210-01-M

Le Center Financial Services, Inc.; Formation of Bank Holding Company

Le Center Financial Services, Inc., Le Center, Minnesota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842 (a)(1)) to become a bank holding company by acquiring 76.3 per cent or more of the voting shares of First State Bank of Le Center, Le Center, Minnesota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Le Center Financial Services, Inc., Le Center, Minnesota, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to continue to engage directly in general insurance activities in a community with a population not exceeding 5,000.

Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis.

Any views or requests for hearing should be submitted in writing and received by the Reserve Bank not later than January 21, 1983.

Board of Governors of the Federal Reserve System, December 23, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-35331 Filed 12-29-82: 8:45 am]

BILLING CODE 6210-01-M

[Docket No. R-0443]

Fee Schedules for Federal Reserve Bank Services

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Request for comment.

SUMMARY: The Board of Governors is requesting public comment on a proposal to revise the fee structure for the Federal Reserve's book-entry securities service. The fee structure would be revised by adding a maintenance fee based on the number of issues held in an account.

DATE: Comments must be received by February 13, 1983.

ADDRESS: Comments, which should refer to Docket No. R-0443, may be mailed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551, or delivered to Room B-2223 between 8:45 a.m. and 5:15 p.m. Comments received may be inspected at Room B-1122 between 8:45 a.m. and 5:15 p.m., except as provided in § 261.6(a) of the Board's Rules Regarding the Availability of Information, 12 CFR 261.6(a).

FOR FURTHER INFORMATION CONTACT: Charles W. Bennett, Assistant Director (202/452-2738) or Gerald D. Manypenny, Manager (202/452-3954), Division of Federal Reserve Bank Operations or Gilbert T. Schwartz, Associate General Counsel (202/542-3625) or Daniel L. Rhoads, Attorney (202/452-3711), Legal Division.

SUPPLEMENTARY INFORMATION: The Monetary Control Act of 1980 (Title I of Pub. L. 96-221) ("Act") requires that fees be developed for Federal Reserve Bank services according to a set of pricing priciples established by the Board. The Board, in accordance with the requirements of the Act, and after notice and comment, adopted revised pricing principles and fee schedules for certain Federal Reserve services. 46 FR 1338 (January 6, 1981). Subsequently, the Board adopted a fee schedule for the book-entry securities service and other securities services on July 17, 1981, to be effective October 1, 1981. 46 FR 17972 (July 23, 1981). As required by the Act, the fee schedule adopted by the Board was designed to recover the full costs of providing the service, plus a private sector adjustment factor of 16 percent. The book-entry securities service fee structure provided for transaction fees for transfers originated on-line, originated or received off-line, and a monthly account maintenance fee.

Since the implementation of the fee schedule in 1981, the System has incurred a shortfall in the recovery of costs plus the private sector adjustment factor. The shortfall occurred because of a greater than expected shift from the use of the relatively more expensive off-line transfers to on-line transfers. Further, experience under the fee schedule during 1982 has demonstrated that the costs of maintaining a book-entry account are directly related to the number of issues held in that account. Accounts with a large number of issues are more costly to maintain than are accounts with only several issues.

The Board has therefore determined to request public comment on a proposed revision of the fee structure for the book-entry service. The fee structure would be revised to add a monthly fee for each issue held in an account. This per issue component would more accurately reflect the costs of maintaining a multiple issue account as well as recognize the benefits that accrue to such accountholders.

The individual fees for the components of the book-entry service also would be revised to recover the

costs of providing the service, including the 16 percent private sector adjustment factor, based on estimated 1983 volume. The Transaction fee for on-line originations would be increased from $2 to $3. Fees for off-line originations and receipts would be established at $10. The Board believes this would more accurately reflect the cost of off-line transactions. The account maintenance fee would also be established at $15 per account per month, with a $.50 charge per month for each issue in an account.

The Federal Reserve Bank of New York would continue its "time of day" pricing for book-entry transfers. This procedure had been adopted to provide incentives to shift some transfers away from afternoon peak periods, thus avoiding difficulties related to operational capacity constraints. The fees for the New York Reserve Bank on-line transfer service will average about $3 per transaction.

The proposed revised fee schedule and structure for the book-entry securities service is:

Component	Current 1982	Proposed 1983
On-line transfers originated,[1] per transfer	$2.00	$3.00
Off-line transfers originated, per transfer	8.50	10.00
Off-line transfers received, per transfer	6.50	10.00
Account maintenance, per account/per month	6.00	15.00
Issues in accounts maintained, per issue/per month		.50

[1] For all Federal Reserve Districts except New York. The fee schedule for on-line transfers originated through the Federal Reserve Bank of New York would be:

	Current 1982	Proposed 1983
Per transfer:		
9:00 a.m.–12:00 noon	$0.50	$1.00
12:01 p.m.–2:00 p.m.	1.25	3.00
2:01 p.m.–closing	4.50	5.00

The Board recognizes that the percentage increases in fees may be significant. However, increased fees are necessary to recover the costs of providing the service, including the private sector adjustment factor, as required under the Act. Further, although the percentage increases may be large, the Board does not believe that in terms of absolute dollar value the revised fee schedules should have any substantial effect on depository institutions utilizing the Federal Reserve's book-entry service.

Comment on the revised fee schedule is requested by February 13, 1983.

By order of the Board of Governors of the Federal Reserve System, December 22, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-35327 Filed 12-29-82; 8:45 am]

BILLING CODE 6210-01-M

Fee Schedules for Federal Reserve Bank Services

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: 1983 fee schedule for coin and currency transportation.

SUMMARY: The Monetary Control Act of 1980 (Title I of Pub. L. 96-221) requires that schedules of fees be established for Federal Reserve Bank services. On October 30, 1981, the Board adopted a schedule of fees for the coin and currency transportation service, effective January 28, 1982. The Federal Reserve has now adopted a new fee schedule for this service.

EFFECTIVE DATE: January 27, 1983.

FOR FURTHER INFORMATION CONTACT: Lorin S. Meeder, Associate Director (202/452-2738), Steven O. App, Manager (202/452-2705), or Robert B. Kaiman, Senior Operations Analyst (202/452-2219), Division of Federal Reserve Bank Operations; or Gilbert T. Schwartz, Associate General Counsel (202/452-3625), or Daniel L. Rhoads, Attorney (202/452-3711), Legal Division.

SUPPLEMENTARY INFORMATION: The Monetary Control Act of 1980 requires that fee schedules be developed for Federal Reserve Bank services based on pricing principles established by the Board. On December 30, 1980, the Board, after notice and public comment, adopted revised pricing principles, implementation dates on which fee schedules for each service will become effective, and fee schedules for several services. 46 FR 1338 (January 6, 1981). Subsequently, the Board adopted a policy for access to cash processing services and a fee schedule for coin and currency transportation, effective January 28, 1982. 46 FR 55151 (November 6, 1981).

The fee structure adopted by the Board for the armored carrier service for 1982 generally contained two elements: A volume (per bag) charge and a per stop charge. The volume charge of $0.50 per bag of currency or coin was intended to simplify the fee schedule and provide for more appropriate allocation of costs between high volume and low volume endpoints. The per stop charge was based on zones serviced by each Federal Reserve office and varied between offices since armored carrier costs are not simply a function of distance but also reflect the frequency of stops along a route and the extent of competition in the areas serviced. In some instances, fees included charges based on mileage or value. Reserve Banks were also given the flexibility to establish other fees in some circumstances, such as negotiated fees for high volume customers.

In adopting the fee schedule for this service, the Board was concerned that immediate imposition of the full costs of cash transportation could have a significant impact on depository institutions, particularly those smaller institutions located in remote areas where transportation charges would be very high. The Board therefore determined that it was appropriate to adopt a temporary fee ceiling of $75 on the per-stop element of the charge as necessary to assure the provision of an adequate level of cash transportation nationwide.

With regard to coin and currency shipped by registered mail, Reserve Banks normally limited the use of registered mail shipments to those endpoints where armored carrier service is unavailable or where other special circumstances prevail. Where registered mail is used, the Board determined that it would be appropriate to impose a fee ceiling of $37.50 per shipment for one-way delivery either to or from a Reserve Bank, consistent with the ceiling on armored carrier per-stop charges.

The Board also determined to maintain the fee ceilings for no more than two years (1982 and 1983), and committed to review the appropriateness of the fee ceilings for armored carrier per stop charges and registered mail shipments in 1983 at which time the fee ceilings could be adjusted. By the end of the two year period, fees for cash transportation would be set to recover all costs of armored carrier service as required under the MCA, within the 48 contiguous states. For endpoints using registered mail, charges will be based on actual Reserve Bank expenses incurred for postage and full insurance, and would recover the full costs incurred.

The Board has now decided to continue a fee ceiling on cash transportation during 1983. However, the Board believes that the ceiling should be adjusted so that depository institutions bear a greater portion of the cost of transportation. The continuation of a ceiling will provide a smooth transition to full cost recovery pricing of the transportation service anticipated in 1984. The Board has also determined to extend the flexibility of Reserve Banks

to structure fees more responsive to prevailing armored carrier industry practice and geographical considerations.

Experience with priced cash transportation over the past year (the first year of pricing this service) has indicated that retaining the bag charge will create difficulty in achieving a cost/revenue match for this service since revenue is subject to shifts in the public's demand for coin and currency. Further, it is difficult to translate an armored carrier's fixed monthly billing into a formula that effectively permits revenue recovery on a transaction basis. The Board has therefore determined to permit Reserve Banks the option of utilizing a bag charge in conjunction with a stop charge. The bag charge may not, however, exceed $2 per bag if a Reserve Bank elects to continue use of this element in the fee structure.

The Board has also determined to adjust the fee ceilings adopted in 1982. Fee ceilings for 1983 may be as low as $100, provided a Reserve Bank's aggregate price support costs do not exceed projected levels for 1983. Cash transportation prices would be directly related to the full cost of transportation, including administrative costs and the private sector adjustment factor, and to market conditions and industry practices. Operationally, this means that prices would be established route by route, stop by stop, geographic zone by zone, or by frequency of service (e.g., daily, weekly, biweekly, or monthly) in order to reflect the distance and time expense necessary to equitably allocate actual cost of cash transportation to user depository institutions. Reserve Banks using common carriers would continue to pass through the published tariffs to customers.

The 1983 fee ceilings for registered mail shipments of currency and coin will be equal to the ceiling for armored carrier stop charges. When 1982 ceilings were established, they were set at one-half the ceiling for armored carrier stop charges in recognition of the fact that armored carriers provided both pick-up and delivery at each stop. Experience over the past year has indicated, however that most registered mail shipments have been one-way trips and not the round trips anticipated when the registered mail ceiling price was set at one-half of the armored carrier stop ceiling price. Cash is shipped out or is deposited, but seldom both on a turn-around basis. By setting the 1982 ceiling at one-half of the armored carrier ceiling to compensate for the round trip capability of each armored carrier run, the use of registered mail was made more attractive.

The Board recognizes, however, that full imposition of the registered mail ceiling on each shipment leg may increase costs for small, remote institutions that do in fact use registered mail to send and receive cash on an essentially turn around schedule. Therefore, the registered mail ceiling will be applied as follows. If a depository institution both deposits and receives cash within a Monday through Friday calendar week, this activity will be treated like an armored carrier round trip for pricing purposes. That is, the institution will not be required to pay the fee ceiling twice (once for the incoming and once for the outgoing leg). This circumstance would be analogous to instances where users of armored carrier transportation would pay only a single stop charge even if they choose to both receive and send cash on a single armored carrier round trip. If, however, a registered mail user either sends or receives cash more than once during the Monday to Friday period, or has more than one round trip during that period, the fee ceiling would apply only to the first round trip or to the first trip of multiple one way trips going in the same direction in that period. Neither the second round trip nor the second outgoing or incoming shipments would be subject to the fee ceiling.

The Board is aware that the reduction in the price supports for cash transportation may result in increased costs for small institutions remotedly located from a Federal Reserve office. However, such action is necessary at this time to provide for a transition to full cost pricing of the transportation service in 1984. To mitigate this burden, Reserve Banks are considering a uniform accounting procedure for the crediting and debiting of institutions for cash shipments, regardless of who provides the transportation. This procedure would decrease the inventory costs associated with cash transportation incurred by small institutions. Further, Reserve Banks have, where possible, renegotiated multi-year carrier contracts and taken other actions to reduce cash transportation costs and keep prices for the service as reasonable as possible. In addition, studies have been initiated to determine if cash depot and cash terminal arrangements should be utilized as a means to reduce transportation costs and provide an adequate level of services. Reserve Banks will also continue exploring a variety of other methods of reducing transportation costs to high-cost locations.

The 1983 fee schedules for cash transportation and detailed information will be made available by the Federal Reserve Banks.

By order of the Board of Governors of the Federal Reserve System, December 22, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-35328 Filed 12-29-82; 8:45 am]

BILLING CODE 6210-01-M

Southern National Corp. and Southern Bancorporation, Inc.; Proposed Acquisition of Southern International Corp.; Correction

This notice corrects a previous **Federal Register** document (FR Doc. 82-33701) published at page 55736 of the issue for Monday, December 13, 1982. The activity of assisting in foreign currency transactions has been determined by Board Order to be closely related to banking, but has not been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies.

Board of Governors of the Federal Reserve System, December 22, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-35329 Filed 12-29-82; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Normally, each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). However, since Friday, December 31, is a legal holiday, we are publishing this notice on December 30. The following are those packages submitted to OMB since the list was last published on December 23.

Public Health Service

Office of the Assistant Secretary for Health

Subject: Application for Appointment as a Commissioned Officer in the U.S. Public Health Service (0937-0023 and 0937-0025)—Revision

Respondents: Individuals
OMB Desk Officer: Richard Eisinger

Food and Drug Administration

Subject: Administrative Detention Recordkeeping Requirements (0910–0114)—Extension
Respondents: Medical device establishments
OMB Desk Officer: Fay S. Iudicello

Social Security Administration

Subject: Request for Hearing on Adverse Action Regarding Hospital Insurance Benefits Payable Under Part A of Title XVIII (HA–5011 (7–81))—New
Respondents: Individuals
OMB Desk Officer: Milo Sunderhauf

Office of Human Development Services

Subject: Assessment of Adoption Subsidy Program—New
Respondents: Local Child Welfare Agency workers, adoptive parents
Subject: Quarterly Estimate of Expenditures for Foster Care and Adoption Assistance (0980–0130)—Revision
Respondents: State agencies
Subject: Quarterly Estimate of Expenditures for Foster Care and Adoption Assistance (0980–0131)—Revision
Respondents: State agencies
Subject: Annual Summary of Child Welfare Services and Annual Budget Request Title IV–B Funds (0980–0047)—Revision
Respondents: State agencies
OMB Desk Officer: Milo Sunderhauf

Health Care Financing Administration

Subject: Preliminary Clearance of Home Health Agency Prospective Payment Demonstration Information Collections—New
Respondents: Participating Home Health Agencies
Subject: End Stage Renal Disease Facility Reporting Requirements: Request for Exception to Medicare Payment Screen (HCFA–9038)—Revision
Respondents: End stage renal disease facilities
Subject: Paperwork Requirements Associated with the Certification of Hospitals for Medicare and Medicaid (HCFA–1514 and R13)—Extension/No Changes
Respondents: Hospitals participating in Medicare and Medicaid programs
Subject: Paperwork Requirements Associated with the Certification of Portable X-Ray Suppliers for Medicare and Medicaid (HCFA–1880 and R14)—Extension/No Changes
Respondents: Portable X-Ray suppliers participating in Medicare and Medicaid programs
Subject: Paperwork Requirements Associated with the Certification of Home Health Agencies for Medicare and Medicaid (HCFA–1515 and R15)—Extension/No Changes
Respondents: Home Health Agencies participating in Medicare and Medicaid
OMB Desk Officer: Fay S. Iudicello

Copies of the above information collection clearance packages can be obtained by calling the HHS Reports Clearance Officer on 202–245–6511.

Written comments and recommendations for the proposed information collections should be sent directly to both the HHS Reports Clearance Officer and the appropriate OMB Desk Officer designated above at the following addresses:

J. J. Strnad, HHS Reports Clearance Officer, Hubert H. Humphrey Building, Room 524–F, Washington, D.C. 20201;
OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, D.C. 20503, ATTN: (name of OMB Desk Officer).

Dated: December 27, 1982.

Dale W. Sopper,

Assistant Secretary for Management and Budget.

[FR Doc. 82–35358 Filed 12–29–82; 8:45 am]

BILLING CODE 4150–04–M

Monthly Actuarial Rates and Monthly Premium Rate

AGENCY: Health and Human Services Department.

ACTION: General Notice.

SUMMARY: This notice announces the monthly actuarial rates for aged (age 65 or over) and disabled (under age 65) enrollees in the Medicare Supplementary Medical Insurance (SMI) program for the 12 months beginning July 1983. It also announces the monthly SMI premium rate to be paid by all enrollees during the 12 months beginning July 1983.

The premium rate in this notice is calculated under the provisions of section 1839(c)(3) of the Social Security Act as modified by section 124 of the Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. 97–248, which temporarily holds the SMI premium at a constant percentage of the monthly actuarial rate for aged beneficiaries.

EFFECTIVE DATE: July 1, 1983.

FOR FURTHER INFORMATION CONTACT: Joseph N. Romano, Supervisory Actuary, Division of Medicare Cost Estimates, 1–C–11 Oak Meadows Building, Baltimore, Maryland 21235, Telephone: (301) 594–1023.

SUPPLEMENTARY INFORMATION: Each December, the Secretary of Health and Human Services is required by law to issue two notices relating to the Medicare Supplementary Medical Insurance (SMI) program.

One notice announces two amounts that, according to actuarial estimates, will equal, respectively, one-half the expected average monthly cost of SMI for each aged enrollee (age 65 or over) and one-half the expected average monthly cost of SMI for each disabled enrollee (under age 65) during the 12 months beginning the following July. These amounts are called "monthly actuarial rates".

The second notice announces the monthly SMI premium rate to be paid by aged and disabled enrollees for the 12 months beginning the following July. (Although the costs to the program per disabled enrollee are higher than for the aged, the law provides that they pay the same premium amount.) Beginning with the passage of section 203 of Pub. L. 92–603 and until the passage of section 124 of the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97–248), the premium rate was calculated as the lesser of the actuarial rate for aged enrollees, or the current monthly premium rate increased by the same percentage as the most recent general increase in monthly title II social security benefits (effective the preceding June). The difference between the premiums paid by all enrollees and total incurred costs is met from the general revenues of the Federal Government.

On September 3, 1982, section 124 of Pub. L. 97–248 amended section 1839 of the Social Security Act by temporarily suspending the current limitation on annual increases in the SMI premium rate. Instead, section 124 sets the monthly premium beginning on July 1, 1983, and July 1, 1984, at a level equal to 50 percent of the monthly actuarial rates for aged beneficiaries. During this two-year period, premium increases will not be limited by the percentage by which monthly title II social security benefits most recently increased by the time of the notice. After June 1985, calculation of the premium rate will revert to the method used before the passage of section 124 of Pub. L. 97–248.

The notices of these amounts for the period July 1, 1983, through June 30, 1984, are as follows:

Notice of Monthly Actuarial Rates

As required by sections 1839(c)(1) and (4) of the Social Security Act (42 U.S.C. 1395r(c) (1) and (4)), as amended, I have determined that the monthly actuarial rates applicable for the 12-month period

beginning July 1, 1983, are $27.00 for enrollees age 65 and over, and $46.10 for disabled enrollees under age 65. The accompanying statement gives the actuarial assumptions and bases from which these rates are derived.

Notice of Monthly Premium Rate

As required by section 1839(g)(1) of the Social Security Act (42 U.S.C. 1395r(g)(1)), as amended, I have determined that the basic premium amount will be $13.50 monthly during the period July 1, 1983 to June 30, 1984. The accompanying statement shows how this amount was derived.

Statement of Actuarial Assumptions and Bases Employed in Determining the Monthly Actuarial Rates and the Standard monthly Premium Rate for the Supplementary Medical Insurance Program Beginning July 1983

1. *Actuarial Status of the Supplementary Medical Insurance Trust Fund.* The law requires that the SMI program be financed on an incurred basis. That is, program income during the 12-month period for which the actuarial rates are effective must be sufficient to pay for services furnished during that period (including associated administrative costs) even though payment for some of these services will not be made until after the close of the period. The portion of income required to cover benefits not paid until after the close of the 12-month period is added to the trust fund until needed. Thus, the assets in the trust fund at any time should be no less than benefit and administrative costs incurred but not yet paid.

Because the rates are established prospectively, they are subject to projection error. As a result, the income to the program may not equal incurred costs. Therefore, trust fund assets should be maintained at a level that is adequate to cover a moderate degree of projection error in addition to the amount of incurred but unpaid expenses. Table 1 summarizes the estimated actuarial status of the trust fund as of June 30 for each of the years 1981 through 1983.

TABLE 1.—ACTUARIAL STATUS OF THE SMI TRUST FUND, 12-MONTH PERIODS ENDING JUNE 30 OF 1981–83

[In millions of dollars]

1-Month period ending June 30	[illegible]	[illegible]	Assets less [illegible]
1981	$3,801	$3,470	$331
1982	5,535	3,887	1,648
1983	6,736	4,670	2,066

2. *Monthly Actuarial Rate for Enrollees Age 65 and Older.* The monthly actuarial rate is one-half the monthly projected cost of benefits and administrative expenses for each enrollee age 65 and older, adjusted to allow for interest earnings on assets in the trust fund and a contingency margin. The contingency margin is an amount appropriate to provide for a moderate degree of projection error and to amortize unfunded liabilities.

The monthly actuarial rate for enrollees age 65 and older for the 12-month period ending June 30, 1984, was determined by projecting per-enrollee cost for the 12-month period ending June 30, 1981, by type of service. The projected costs for the 12-month periods ending June 30 of 1981 through 1984 are shown in Table 2. The values for the 12-month period ending June 30, 1981, were established from program data. Subsequent periods were projected using a combination of program data and data from external sources. The projection factors used are shown in Table 3.

TABLE 2.—DERIVATION OF MONTHLY ACTUARIAL RATE FOR ENROLLEES AGE 65 AND OVER, 12-MONTH PERIODS ENDING JUNE 30 OF 1981–84

	1981	[illegible]	1983	1984
Covered services (at level recognized):				
Physicians' [illegible] charges	$17.22	$21.13	$24.86	28.37
Radiology and pathology	[illegible]	1.01	1.02	1.03
Outpatient hospital and other intitutions	3.25	3.74	4.30	4.90
[illegible] agencies	.39	.02	.01	.01
Group practice prepayment plans	.52	.65	.81	1.01
Independent lab	.31	.32	.37	.43
Total services	22.65	26.87	31.37	35.75
Cost sharing:				
Deductible	−1.88	−2.29	−2.48	−2.50
Comsurance	−3.89	−4.74	−5.73	−6.65
Total benefits	16.88	19.84	23.16	[illegible]
Administrative expenses	1.01	1.04	1.09	1.15
Incurred expenditures	17.89	20.88	24.25	27.75
Value of interest on fund	−.30	−.42	−.58	−.66
Contingency margin for projection error and to amortize unfunded liabilities	−1.29	2.14	[illegible]	−.09
Monthly actuarial rate	16.30	22.60	24.60	27.00

TABLE 3.—PROJECTION FACTORS [1]: 12-MONTH PERIODS ENDING JUNE 30 OF 1982–84

[In percent]

12-month period ending June 30	Physicians' services		Radiology [illegible] pathology	Outpatient hospital services	Home health agency services	Group practice prepayment plans	Independent lab [illegible]
	Fees [2]	Residual [3]					
Aged:							
1982	10.8	10.8	6.0	15.1	−94.4	25.0	5.0
1983	9.6	7.4	9	14.9	−62.3	25.0	15.0
1984	7.4	6.3	5	13.7	10.0	25.0	15.0
[illegible]							
1982	10.8	15.2	15.0	41.3	−100.0	25.0	5.0
1983	9.6	11.1	1.3	30.3	0.0	25.0	15.0
1984	7.4	9.4	5	24.9	0.0	25.0	15.0

[1] All values are per enrollee. Also, some values for 1982 and 1983 differ significantly from those contained in last year's notice due to an additional year's data which support the current values and due to the implementation of the provisions of the Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. 97-248.
[2] As recognized for payment under the program.
[3] Increase in the number of services received per enrollee and greater relative use of more expensive services.

The projected monthly rate required to pay for one-half of the total of benefits and administrative costs for enrollees age 65 and over for the 12-month period ending June 30, 1984, is $27.75. The monthly actuarial rate of $27.00 provides an adjustment for interest earnings and $−.09 for a contingency margin. This margin is negative since there is already a more than moderate excess of assets over liabilities for the program as a whole.

3. *Monthly Actuarial Rate for Disabled Enrollees.* Disabled enrollees are those persons enrolled in SMI because of entitlement to disability benefits for not less than 24 months or because of entitlement to Medicare under the end-stage renal disease program. Projected monthly costs for disabled enrollees (other than those suffering from end-stage renal disease) are prepared in a fashion exactly parallel to projections for the aged, using appropriate actuarial assumptions (see Table 3). Costs for the end-stage renal disease program are projected using a different computer model because of the complex demographic problems involved. The combined results for all disabled enrollees are shown in Table 4.

The projected monthly rate required to pay for one-half of the total of benefits and administrative costs for disabled enrollees for the 12-month

period ending June 30, 1984, is $53.60. The monthly actuarial rate of $46.10 provides an adjustment for interest earnings and $-4.47 for a contingency margin. This margin is negative since there is already a more than moderate excess of assets over liabilities for the disabled.

TABLE 4.—DERIVATION OF MONTHLY ACTUARIAL RATE FOR DISABLED ENROLLEES, 12-MONTH PERIODS ENDING JUNE 30 OF 1981-84

	1981	1982	1983	1984
Covered services (at level recognized:)				
Physicians' reasonable charges	$21.03	$26.58	$31.58	$36.39
Radiology and pathology	.96	1.11	1.12	1.13
Outpatient hospital and other institutions	18.02	22.01	25.42	27.92
Home health agencies	.34	.00	.00	.00
Group practice prepayment plans	.[illegible]	.37	.46	.[illegible]
Independent lab	.[illegible]	.42	.47	.[illegible]
Total services	41.03	50.29	59.05	66.56
Cost sharing:				
Deductible	-1.84	-2.09	-2.31	-2.34
Coinsurance	-7.62	-9.44	-11.29	-12.83
Total benefits	31.77	38.76	45.45	51.38

TABLE 4.—DERIVATION OF MONTHLY ACTUARIAL RATE FOR DISABLED ENROLLEES, 12-MONTH PERIODS ENDING JUNE 30 OF 1981-84—Continued

	1981	1982	1983	1984
Administrative expenses	1.90	2.03	2.13	2.22
Incurred expenditures	33.67	40.79	47.58	53.60
Value of interest and other income on fund	-2.95	-3.26	-3.09	-3.07
Contingency margin for projection error and to amortize unfunded liabilities	-5.22	-.93	-2.39	-4.47
Monthly actuarial rate	25.50	36.60	42.10	46.10

4. *Sensitivity Testing.* Several factors contribute to uncertainty about future trends in medical care costs. In view of this, it seems appropriate to test the adequacy of the rates announced here using alternative asssumptions. The most unpredicatable factors that contribute significantly to future costs are outpatient hospital costs, physician residual (measured indirectly and reflecting the use of more visits per enrollee, the use of more expensive services, and other factors not explained by simple price per service increases), and increases in physician fees as constrained by the program's reasonable charge screens and economic index. Two alternative sets of assumptions and the results of those assumptions are shown in Table 5. All assumptions not shown in Table 5 are the same as in Table 3.

Table 5 indicates that, under the assumptions used in preparing this report, the monthly actuarial rates will result in an excess of assets over liabilities of $1,723 million by the end of June 1984, This amounts to 7 percent of the estimated total incurred expenditures for the following year. Assumptions which are somewhat more pessimistic, and therefore which indicate the degree that assets can accommodate projection errors, produce a deficit of $1,057 million by the end of June 1984, which amounts to a deficit of 3.8 percent of the estimated total incurred expenditures for the following year. Under fairly optimistic assumptions, the monthly actuarial tates will result in an excess of $4,426 million, which amount to 20 percent of the estimated total incurred expenditures for the following year.

TABLE 5.—PROJECTION FACTORS AND THE ACTUARIAL STATUS OF THE SMI TRUST FUND UNDER ALTERNATIVE SETS OF ASSUMPTIONS

[12-month periods ending June 30 of 1982-1984]

	This projection			Low cost projection			High cost projection		
	1982	1983	1984	1982	1983	1984	1982	1983	1984
Projection factors (in percent):[1]									
Physician services-fees:[2]									
Aged	10.8	[illegible]	7.4	10.3	9.1	6.9	11.3	10.1	7.9
Disabled	10.8	9.6	7.4	10.3	9.1	6.9	11.3	10.1	7.9
Physician services-residual:[3]									
Aged	10.8	7.4	6.3	9.8	5.4	4.3	11.8	9.4	[illegible]
Disabled	15.2	11.1	9.4	13.2	6.1	4.4	17.2	16.1	14.4
Outpatient hosptial services:									
Aged	15.1	14.9	13.7	12.1	7.9	3.7	18.1	21.9	23.7
Disabled	41.3	30.3	24.9	33.3	20.3	14.9	49.3	40.3	34.9
Actuarial status (in millions):									
Assets	$5,535	$6,736	$7,042	$5,535	$7,430	$9,234	$5,535	$6,029	$4,800
Liabilities	3,887	4,670	5,319	3,657	4,321	4,808	4,117	5,027	5,857
Assets less liabilities	$1,648	$2,066	$1,723	$1,878	$3,109	$4,426	$1,418	$1,002	$-1,057
Ratio of assets less liabilities to expenditures (in percent)[4]	9.1	[illegible]	7.0	10.8	15.9	20.0	7.5	4.4	-3.8

[1] All values are per enrollee. Also, some values for 1982 and 1983 differ significantly from those contained in last year's notice due to an additional year's data which support the current values and due to the implementation of the provisions of the Tax Equity and Fiscal Responsibility Act of 1982, P.L. 97-248.
[2] As recognized for payment under the program.
[3] Increase in the number of services received per enrollee and greater relative use of more expensive services.
[4] Ratio of assets less liabilities at the end of the year to total incurred expenditures during the following year, expressed as a percent

5. *Standard Premium Rate.* For the 12-month periods ending June 1984 and June 1985, the law provides that the standard monthly pemium rate for both aged and disabled enrollees shall be 50 percent of the monthly actuarial rate for enrollees age 65 and older. Therefore, the standard monthly premium rate for both aged and disabled enrollees for the period July 1, 1983, through June 30, 1984, is $13.50, 50 percent of the monthly actuarial rate for this period ($27.00).

Impact Analyses

The monthly SMI premium rate of $13.50 for all enrollees during the 12-month period beginning July 1, 1983, is 10.7 percent higher than the $12.20 monthly premium amount for the previous 12-month period.

The estimated cost of this increase over the current premium to the approximately 29.1 million SMI enrollees will be about $455 million for the 12-month period beginning July 1, 1983.

Because this notice of the SMI premium rate announces an amount required by the formula specified in section 1839(g)(1) of the Social Security Act, as added by section 124 of Pub. L. 97-248, and does not alter any regulation or policy, no analyses under Executive

Order 12291 or the Regulatory Flexibility Act, Pub. L. 96–354, are required.

(Sections 1839(c)(1), (3), and (4); and (g)(1) and (2) of the Social Security Act; 42 U.S.C. 1395r(c)(1), (3), and (4); and (g)(1) and (2))

(Catalog of Federal Domestic Assistance Program No. 13.774, Medicare-Supplementary Medicaid Insurance)

Dated: December 23, 1982.

Richard S. Schweiker,

Secretary.

[FR Doc. 82–35356 Filed 12–29–82; 8:45 am]

BILLING CODE 4120–03–M

Centers for Disease Control

Work Group To Formulate Recommendations for the Prevention of Acquired Immune Deficiency Syndrome (AIDS); Open Meeting

On January 4, 1983, the Centers for Disease Control will convene an open meeting to formulate recommendations for the prevention of Acquired Immune Deficiency Syndrome (AIDS) with special emphasis on possible transmission through blood and blood products. The meeting is open to the public, limited only by space available.

The meeting is scheduled to begin at 8:30 a.m. in Auditorium A, Centers for Disease Control, 1600 Clifton Road, NE., Atlanta, Georgia 30333.

For further information, please contact: Jeffrey P. Koplan, M.D., Assistant Director for Public Health Practice, Centers for Disease Control (1–2035), 1600 Clifton Road, NE, Atlanta, Georgia 30333, Telephones: FTS: 236–3703, Commercial: 404/329–3703.

Dated: December 21, 1982.

William C. Watson, Jr.,

Acting Director, Centers for Disease Control.

[FR Doc. 82–35318 Filed 12–29–82; 8:45 am]

BILLING CODE 4160–18–M

Office of the Secretary

Advisory Council on Social Security; Meeting

AGENCY: Department of Health and Human Services.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Section 10(a)(2) of Pub. L. 92–463, the Federal Advisory Committee Act, notice is hereby given of a meeting of the Advisory Council on Social Security, as established by the Secretary of Health and Human Services in accordance with Section 706 of the Social Security Act, 42 U.S.C. Sec. 907.

DATE/ADDRESS: The meeting will be held on January 16–17, 1983 at the Capitol Holiday Inn, 550 C Street, SW., Washington, D.C. 20024, and may be continued on January 18, if deemed necessary. The meeting will be held from 2:00 p.m. to 7:30 p.m. on January 16 and from 8:00 a.m. to 4:00 p.m. on January 17.

FOR FURTHER INFORMATION CONTACT: Thomas R. Burke, Executive Director, 200 Independence Avenue, SW, Washington, D.C. 20201; telephone 202/755–8670 or 755–8671.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. Attendance will be limited to the space available. The meeting will be structured as follows: January 16 will be constituted as a meeting of the Advisory Council; on January 17, the period from 8:00 a.m. to 12:00 noon will be constituted as a public hearing; the period from 1:30 to 4:00 p.m. is designated as a Council meeting. If necessary, the public hearing will continue on January 18. For the hearing, interested parties are invited to present testimony on Medicare issues. Presenters should submit, three days in advance, 20 copies of their presentation and should bring an additional 50 copies to the hearing to be made available to the public. However, only those requesting in advance to appear will be permitted to present oral statements. Oral presentation should summarize the written statement, and will be limited to a maximum of five minutes. Submit written requests to the Advisory Council on Social Security, ATT: Public Hearing, 200 Independence Avenue, SW., Washington, D.C. 20201, or telephone 202/755–8670 or 755–8671. The Chairperson or Executive Director reserves the right to determine order of presentation, but will make every effort, within the time constraints, to hear all who wish to be heard. The Council will also hold one-day public hearings in Atlanta, Chicago, and San Francisco during February and March. These hearings are being announced separately in the Federal Register.

Sign language interpreting services will be provided if requested in advance.

Correspondence can be addressed to Advisory Council on Social Security, 200 Independence Avenue, SW., Washington, D.C. 20201.

The proposed meeting agenda includes further briefings and discussion on the Medicare program; and such other business as the Chairperson, the Executive Director, or the membership may put before the Council.

A previous meeting of the Advisory Council on Social Security was announced in 47 FR 52569, November 22, 1982.

Records are kept of all Council proceedings and are available for public inspection at the Office of the Administrative Officer, Advisory Council on Social Security, Room 317–H, HHH Building, 200 Independence Avenue, SW., Washington, D.C. 20201.

Thomas R. Burke,

Executive Director.

[FR Doc. 82–35370 Filed 12–29–82; 8:45 am]

BILLING CODE 4120–03–M

Alcohol, Drug Abuse, and Mental Health Administration

National Advisory Committees; Meetings

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following national advisory bodies scheduled to assemble during the month of January.

Mental Health Small Grant Review Committee, January 13–15; 1:30 p.m. The Canterbury Hotel, Suites 201, 208 and 209, 1733 N Street, NW., Washington, D.C. 20036
Open—January 13, 1:30–2:30 p.m.
Closed—Otherwise
Contact: Virginia Harter, Room 9–95, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4843.
Purpose: The Mental Health Small Grant Review Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health, the National Institute on Alcohol Abuse and Alcoholism, and the National Institute on Drug Abuse for support of research in all disciplines pertaining to alcohol, drug abuse, and mental health, including psychiatry, psychological sciences, biological sciences, and epidemiology, and makes recommendations to the National Advisory Councils of the respective Institutes for final review.
Agenda: From 1:30–2:30 p.m., January 13, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

* * * * * * *

National Advisory Council on Drug Abuse, January 25–26; 9:00 a.m. National Institutes of Health, Conference Room 7, Building 31C, 9000 Rockville Pike, Bethesda, Maryland 20205
Open—January 25, 9:00 a.m.–12 Noon; January 26, 9:00 a.m.–5:00 p.m.
Closed—Otherwise

Contact: Mrs. Mary Lousie Embrey, Parklawn Building, Room 10A–03, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–6460

Purpose: The National Advisory Council on Drug Abuse advises and makes recommendations to the Secretary, Department of Health and Human Services, the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, and the Director, National Institute on Drug Abuse on the development of new initiatives and priorities, and the efficient administration of drug abuse research, including prevention and treatment research, and research training. The Council also gives advice on policies and priorities for drug abuse grants and contracts, and reviews and makes final recommendations on grant applications.

Agenda: From 9:00 a.m.—12:00 noon, January 25, and from 9:00 a.m.–5:00 p.m., January 26, the meeting will be open for discussion of administrative announcements, program development and policy issues. Otherwise, the Council will be performing final review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

As time permits on January 26, from 3:30 p.m.–5:00 p.m., the Council will hear statements from interested organizations in the drug abuse field. Persons interested in appearing should contact the Executive Secretary to be scheduled. The oral presentation shall be no longer than 10 minutes, although written statements may be submitted in supplement.

* * * * * * *

Substantive information may be obtained from the contact persons listed above. Summaries of the meetings and rosters of Committee members may be obtained as follows: NIDA: Mrs. Mary Louise Embrey, Program Analyst, Room 10–A03, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–6460. NIMH: Ms. Helen W. Garrett, Committee Management Officer, Room 17C–26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4333.

Dated: December 23, 1982.

Sue Simoths,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 82–35351 Filed 12–29–82; 8:45 am]

BILLING CODE 4160–20–M

Health Care Financing Administration

Pharmaceutical Reimbursement Board; Suspension of Maximum Allowable Cost Limits on Specific Drug Products

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Suspension Notice of Maximum Allowable Cost Limit on Erythromycin Stearate, oral tablets, 500 mg.

SUMMARY: The Pharmaceutical Reimbursement Board announces the suspension of the maximum allowable cost (MAC) limit on erythromycin stearate, oral tablets, 500 mg, effective November 17, 1982. The limit for this drug product was published in the **Federal Register** on December 11, 1978 (43 FR 57972) and became effective on January 25, 1979.

This suspension of the MAC limit on erythromycin stearate, oral tablets, 500 mg, is based on general price increases by manufacturers that have occurred in the marketplace and the Board's concern that this drug product may no longer be widely and consistently available at the established MAC limit.

The Pharmaceutical Reimbursement Board may reinstitute procedures to establish a new MAC limit on this drug product in the future.

FOR FURTHER INFORMATION CONTACT: Charles Spalding, Executive Secretary, Pharmaceutical Reimbursement Board, 1–F–1 East Low Rise Building, 6325 Security Boulevard, Baltimore, Maryland 21207, (301) 594–5403.

Dated: November 29, 1982.

Peter J. Rodler,

Chairman, Pharmaceutical Reimbursement Board.

[FR Doc. 82–35458 Filed 12–29–82; 8:45 am]

BILLING CODE 4120–03–M

Pharmaceutical Reimbursement Board; Final Maximum Allowable Cost (MAC) Determinations for Certain Drug Products

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final Notice for Maximum Allowable Cost Determinations.

SUMMARY: In accordance with 45 CFR 19.5, the Pharmaceutical Reimbursement Board (PRB) announces the following maximum allowable costs (MAC) determinations.

Drug	MAC limit
Doxepin, HCl, oral capsule, 10mg	[illegible]
Doxepin, HCl, oral capsule, 25mg	0.1328
Doxepin, HCl, oral capsule, 50mg	[illegible]
Doxepin, HCl, oral capsule, 100mg	0.3382

These multiple source drugs are reimbursed under Medicaid, Medicare and other programs administered by the Department, and have been identified as drugs for which significant amounts of Federal funds are expended and for which there are significantly different prices. These limits represent the maximum product cost recognized by the Department for purposes of reimbursement or purchase. These MAC limits do not apply to unit dose packaging for institutional care.

EFFECTIVE DATE: January 1, 1983.

FOR FURTHER INFORMATION CONTACT: Charles Spaulding, Executive Secretary, Pharmaceutical Reimbursement Board, 1–F–1 East Low Rise Building, 6325 Security Boulevard, Baltimore, Maryland 21207.

SUPPLEMENTARY INFORMATION:

I. Background

The Pharmaceutical Reimbursement Board was established within the Health Care Financing Administration (HCFA) to set limits on payment or reimbursement for drug products under HCFA and other HHS programs (45 CFR 19.5). On November 3, 1982, the Board published a notice in the **Federal Register** (47 FR 49895) proposing revised MAC limits on four drug products. As a result of the notice, the Board received no written comments and no requests for a public hearing concerning revised MAC limits on these drugs. Accordingly, the Board announces final MAC determinations for the four drug products listed above. The following is a summary of the material on which the Board relied in determining each MAC limit, and the Board's reasons for those specific determinations.

In making the determination of the lowest unit price at which each of the drugs is widely and consistently available from any formulator or labeler, the Board considered both the record of economic data it has developed and data presented by interested parties. The Board relies on two sources: A HCFA survey and *Drug Topics Red Book*. The HCFA survey is a summary, updated monthly, of pharmacy invoice prices, and is based on the 70th percentile of invoice prices from a panel of 850 pharmacies nationwide. *Drug Topics Red Book*, published annually and updated monthly, is a listing of advertised prices of suppliers.

The Board has identified doxepin HCl as a multiple source drug for which significant amounts of Federal funds are expended and for which there are significantly different prices. Currently, Pfizer and Pennwalt Corporation are the only two manufacturers that produce the doxepin HCl products. On December 11, 1978, the Board published a final notice in the **Federal Register** (43 FR 57972) establishing doxepin HCl limits of $0.0950, $0.1161, and $0.1765 per capsule

for the 10, 25 and 50 mg capsules, respectively, based on the prices and availability of these products from wholesalers. In addition, on August 29, 1979, the Board published a final notice (44 FR 50651) establishing a MAC limit of $0.2900 per capsule for doxepin HCl, 100 mg.

On August 5, 1982, the Pennwalt Corporation petitioned the Board to establish new higher MAC limits for doxepin HCl 10, 25, 50 and 100 mg capsules as a result of the Pennwalt price increases due to take effect on January 1, 1983 for these products. Pennwalt indicated to the Board that despite substantial cost increases in manufacturing and marketing, prices for its doxepin products have not been increased since their entry into the market in 1974. Pennwalt also indicated that its price increases will still provide an across-the-board savings on doxepin of 17 percent when compared to the therapeutically equivalent product manufactured by Pfizer.

The Board reviewed the Pennwalt petition on September 15, 1982, and based on the understanding that small and medium size independent pharmacies have purchased these products in the past and that doxepin HCl will continue to be available to these pharmacies at the increased prices, voted to propose revised MAC limits based upon the new higher prices of doxepin HCl from the Pennwalt Corporation.

II. Final Determinations

Doxepin HCl, oral capsules, 10 mg.

The Board originally proposed a revised MAC limit of $0.1030 per capsule based on a selling price of $10.30 per 100 capsule package size. According to the Pennwalt petition, the price of this product will increase on January 1, 1983 from $0.0950 to $0.1030 per capsule based on a $10.30 price for a package size of 100 capsules. Pennwalt, the only alternative supplier of the product has accounted for 25 percent of the annual sales by dollar volume of this product. Pennwalt accounted for 32 percent of the sales by unit count for the 100 capsule package size of this product. The HCFA survey indicates that small and medium size pharmacies have purchased this Pennwalt doxepin HCl product nationwide. For these reasons, the Board believes this product will be widely and consistently available at the revised MAC limit indicated in the proposed notice. After reviewing the record, the Board voted on December 14, 1982 to set the final revised MAC limit on doxepin HCl, oral capsules. 10 mg at $0.1030 per capsule.

Doxepin HCl, oral capsule 25 mg.

The Board originally proposed a revised MAC limit of $0.1328 per capsule based on a selling price of $13.28 per 100 capsule size. According to the Pennwalt petition, the price of this product will increase on January 1, 1983 from $0.1161 to $0.1328 per capsule based on a $13.28 price for a package size of 100 capsules. Pennwalt, the only alternative supplier of this product has accounted for 35 percent of the sales by unit count for the 100 capsule package size of this product. The HCFA survey indicates that small and medium size pharmacies have purchased this Pennwalt doxepin HCl product nationwide. For these reasons, the Board believes this product will be widely and consistently available at the revised MAC limit indicated in the proposed notice. After reviewing the record, the board voted on December 14, 1982 to set the final revised MAC limit on doxepin HCl, oral capsules, 25 mg at $0.1328 per capsule.

Doxepin HCl, oral capsule 50 mg.

The Board originally proposed a revised MAC limit of $0.1869 per capsule based on a selling price of $18.69 per 100 capsule size. According to the Pennwalt petition, the price of this product will increase on January 1, 1983 from $0.1765 to $0.1869 per capsule based on a $18.69 price for a package size of 100 capsules. Pennwalt, the only alternative supplier of this product has accounted for 29 percent of the annual sales by unit count for the 100 capsule package size of this product. The HCFA survey indicates that small and medium size pharmacies have purchased this Pennwalt doxepin HCl product nationwide. For these reasons, the Board believes this product will be widely and consistently available at the revised MAC limit indicated in the proposed notice. After reviewing the record, the Board voted on December 14, 1982 to set the final revised MAC limit on doxepin HCl, oral capsules, 50 mg at $0.1869 per capsule.

Doxepin HCl, oral capsule 100 mg.

The Board originally proposed a revised MAC limit of $0.3382 per capsule based on a selling price of $18.69 per 100 capsule size. According to the Pennwalt petition, the price of this product will increase on January 1, 1983 from $0.2900 to $0.3382 per capsule based on a $33.82 price for a package size of 100 capsules. Pennwalt, the only alternative supplier of this product has accounted for 30 percent of the annual sales by unit count for the 100 capsule package size of this product. The HCFA survey indicates that small and medium size pharmacies have purchased this Pennwalt doxepin HCl product nationwide. For these reasons, the Board believes this product will be widely and consistently available at the revised MAC limit indicated in the proposed notice. After reviewing the record, the Board voted on December 14, 1982 to set the final revised MAC limit on doxepin HCl, oral capsules, 100 mg at $0.3382 per capsule.

III. Impact Analysis

A. Executive Order 12291

We have determined that this final notice does not meet the criteria for a major rule as defined by section 1(b) of Executive Order 12291. That is, this final notice will not change expenditures by over $100 million per year or cause a major increase in costs or prices for consumers, government agencies, industry, or a geographic region or cause significant adverse effects on business or employment. The determinations set forth in this notice provide a specific unit price at which each of these drugs is widely and consistently available. We estimate that the net effect of this notice will be to reduce program expenditures by approximately $.35 million for calendar year 1983. We further estimate that the price increases for these drugs will still provide an overall cost savings of 17 percent when compared to the Pfizer product. For these reasons, we believe no Regulatory Impact Analysis is required.

B. Regulatory Flexibility Act

We certify that this notice does not meet the criteria set forth in section 605(b) of Pub. L. 96–354 (the Regulatory Flexibility Act of 1980) for preparing a regulatory flexibility analysis since we do not believe that it will result in a significant economic impact on a substantial number of small pharmacies or other business entities. The MAC process is fundamentally designed to assure the wide and consistent availability of the drug products subject to MAC limits. In every case, the Board has reviewed data or other pertinent information which has enabled the Board to determine that all sizes of pharmacies are able to acquire these drug products at or below the final MAC limits.

IV. Waiver of Normal 45-Day Implementation Date

In issuing final MAC determinations, it has been our customary practice to allow a 45-day implementation period. However, because the prices for these products are scheduled to increase on January 1, 1983, and because reimbursement for these products should be sufficent to cover these

increases, we have determined that there exists good cause to waive the normal 45-day implementation date. If the implementation of these limits were delayed for 45 days, we believe that the doxepin products could not be purchased at a price that would be fully reimbursed by Department programs. When a product is not available at or below its MAC limit, pharmacists would not receive full reimbursement and patients may be unable to obtain specific medication. For these reasons, the Board has established the effective date of this notice to coincide with the price increases scheduled to occur on January 1, 1983.

(Secs. 1814(b), 1861(v)(1)(A), and 1902(a)(30) of the Social Security Act and Sec. 215 of the Public Health Service Act; 42 U.S.C. 1395f(b), 1395x(v)(1)(A), 1396a(a)(30), and 216.)

Dated: December 16, 1982.

Peter J. Rodler,

Chairman, Pharmaceutical Reimbursement Board.

Approved: December 23, 1982.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

[FR Doc. 82-35369 Filed 12-29-82; 8:45 am]
BILLING CODE 4120-03-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Amendment of Wilderness Inventory Decisions

AGENCY: Interior Department.

ACTION: Amendment of Wilderness Inventory Decisions.

SUMMARY: This notice amends previous wilderness inventory decisions by the Bureau of Land Management, eliminating 173 wilderness study areas containing approximately 667,587 acres.

EFFECTIVE DATE: December 30, 1982.

FOR FURTHER INFORMATION CONTACT: Questions about particular wilderness study areas should be directed to the appropriate Bureau of Land Management State Directors, whose addresses appear at the end of this notice (Appendix A). Questions about the nationwide aspects of the program should be directed to the Division of Recreation, Cultural, and Wilderness Resources (340), Bureau of Land Management 18th and C Streets, N.W., Washington, D.C. 20240.

Amendment of Wilderness Inventory Decisions

The Department of the Interior has decided to comply with recent decisions of the Interior Board of Land Appeals.

(1) *Areas Under 5,000 Acres.* The Interior Board of Land Appeals ruled that areas smaller than 5,000 acres do not qualify for wilderness study under Section 603 of the Federal Land Policy and Management Act (FLPMA). The wilderness review being conducted by the BLM is required by section 603 only with respect to roadless areas containing 5,000 or more acres of contiguous public lands, and roadless islands of any size, that have wilderness characteristics. Previous decisions by the BLM improperly identified as wilderness study areas other roadless areas containing less than 5,000 acres. These areas, listed in Table 1, are deleted from the status of wilderness study areas, effective upon publication of this decision in the **Federal Register.** These areas will thereupon cease to be subject to the BLM's Interim Management Policy for Lands Under Wilderness Review.

(2) *Split-Estate Lands.* The Interior Board of Land Appeals ruled that lands where the Federal Government owns the surface but where the subsurface mineral estate is nonfederally owned (referred to hereafter as split estate) do not qualify for wilderness study under Section 603 of FLPMA. Previous decisions by the BLM improperly identified split-estate lands for wilderness study. Such lands are deleted from wilderness study areas. With the deletion of split-estate lands from the wilderness study areas listed in Table 2, there are no roadless areas in these listed WSA's having 5,000 acres or more of contiguous public lands. Therefore, the areas listed in Table 2 are deleted in their entirety from the status of wilderness study areas, effective upon publication of this decision in the **Federal Register.** These areas will thereupon cease to be subject to the BLM's Interim Management Policy for Lands Under Wilderness Review.

There are other wilderness study areas containing split-estate lands which are not shown in Table 2—generally WSA's in which deletion of split-estate lands would leave intact a roadless area larger than 5,000 acres. These WSA's are being reviewed by BLM State Directors to determine whether the remaining portion has wilderness characteristics and therefore qualifies for wilderness study under Section 603 of FLPMA. A decision by the Department on these areas will be published in the **Federal Register** at a later date.

(3) *Contiguous Areas.* The Interior Board of Land Appeals ruled that, to qualify for wilderness study under Section 603 of FLPMA, a roadless area must, by itself, have wilderness characteristics. The Board held that it was improper to assess an area's wilderness characteristics in association with contiguous lands administered by agencies other than the BLM. Previous decision by the BLM improperly identified as wilderness study areas certain roadless areas larger than 5,000 acres which were found not to have wilderness characteristics by themselves, but were found to have those characteristics in association with, or in conjunction with, contiguous wilderness areas or wilderness candidate areas administered by the Forest Service, National Park Service, or Fish and Wildlife Service.

The BLM State Directors are reviewing all WSA's contiguous to other agencies' wilderness and wilderness candidate areas to determine which WSA's do not have wilderness characteristics by themselves. A decision by the Department on such areas will be published in the **Federal Register** at a later date.

Where authorized by the BLM Director, the areas listed in Tables 1 and 2 may be considered for other forms of protective management, such as: Area of Critical Environmental Concern, Outstanding Natural Area, Research Natural Area, National Scenic Area, Scenic Area, Recreation Lands, Wild Horse Range, National Recreation Trail, National Natural Landmark, National Historic Landmark, National Register Site, or wilderness consideration under Section 202 of FLPMA.

This is a final decision of the Department of the Interior and is not subject to appeal under 43 CFR Part 4.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

December 22, 1982.

TABLE 1.—ELIMINATED WILDERNESS STUDY AREAS—SMALLER THAN 5,000 ACRES

WSA name	Number	WSA acreage	County
Arizona:			
Darnail Canyon	AZ-010-096A	294	Mohave.
C&F	AZ-010-099	640	Mohave.
Tincanebitts	AZ-010-105C	2,715	Mohave.
Van Deeman	AZ-020-007	1,550	Mohave.
Grapevine Wash	AZ-020-014	2,390	Mohave.
Mount Davis	AZ-020-021	2,560	Mohave.
Peoples Canyon	AZ-020-068	1,480	Yavapai.
South Bradshaws	AZ-020-084A	640	Yavapai.
Ragged Top	AZ-020-197	4,460	Pima.
Baboquivari Peak	AZ-020-203B	2,065	Pima.
Galiuro Addition #3	AZ-040-081	640	Graham.
Apache Box	AZ-040-076	932	Grant, New Mexico.
Hoverrocker	AZ-040-077	2,791	Greenlee.
Needles East Addition	AZ-050-005B	465	Mohave.
Trigo Mountains	AZ-050-023A	4,500	Yuma.
Kofa Unit 3 South	AZ-050-031	3,400	Yuma.
Kofa Unit 4 North	AZ-050-033	1,900	Yuma.
State total (17 units)		35,232	
California:			
Tepusquet Peak	CA-010-007	1,024	Santa Barbara.
Garcia Mountain	CA-010-012	4,194	San Luis Obispo.
Black Mountain	CA-010-020	150	San Luis Obispo.
Sheep Ridge	CA-010-022	4,905	Tulare.
Milk Ranch/Case Mtn. [1]	CA-010-023	6,382	Tulare.
Moses	CA-010-025	2,560	Tulare.
Rockhouse [2]	CA-010-029	140	Tulare/Kern.
Scodie [1]	CA-010-030	5,847	Tulare.
Domeland	CA-010-032	2,209	Kern.
Spoor Canyon	CA-010-036	640	Santa Barbara.
Cuyama	CA-010-037	1,014	Santa Barbara.
Kelso Creek Valley	CA-010-045	2,244	Kern.
Independence Creek [2]	CA-010-057	3,510	Inyo.
Wonoga Peak	CA-010-058	3,530	Inyo.
Tinemaha	CA-010-059	3,280	Inyo.
Paiute [2]	CA-010-060	2,480	Inyo.
Coyote Southeast	CA-010-063	3,211	Inyo.
Black Canyon [1]	CA-010-065	6,518	Inyo.
Wheeler Ridge	CA-010-068	3,197	Inyo/Mono.
Rock Creek West	CA-010-070	414	Mono.
Laurel-McGee	CA-010-072	110	Mono.
White Mountain	CA-010-075	1,260	Inyo/Mono.
Benton Range	CA-010-077	4,052	Mono.
Excelsior (South 1/2)	CA-010-088	3,300	Mono.
Log Cabin-Saddlebag	CA-010-091A	320	Mono.
Sweetwater	CA-010-103	640	Mono.
Carson-Iceberg	CA-010-105B	1,590	Mono.
Machesna	CA-010-108	720	San Luis Obispo.
South Warner Contiguous	CA-020-708	4,330	Modoc.
Tunnel ridge	CA-030-402	4,623	Trinity.
Yolla Bolly	CA-030-501	604	Tehama.
Ishi	CA-030-503	200	Tehama.
North Fork American	CA-040-102	50	Placer.
Tuolumne River	CA-040-201	3,005	Tuolumne.
Pinnacles Wilderness Contiguous [1]	CA-040-303	5,838	Monterey/San Benito.
Black Butte	CA-040-305A	40	Monterey.
Bear Mountain	CA-040-305B	3,198	Monterey.
Bear Canyon	CA-040-305C	318	Monterey.
Ventana Wilderness Contiguous	CA-040-308	640	Monterey.
Agua Tibia	CA-060-002	640	Riverside.
San Ysidro Mountain	CA-060-022	2,131	San Diego.
Sawtooth Mountain A	CA-060-024A	3,892	San Diego.
Sawtooth Mountain C	CA-060-024C	2,509	San Diego.
Table Mountain	CA-060-026	2,560	San Diego.
McAffee Creek	CDCA-100	456	Mono.
North Tip	CDCA-100A	407	Mono.
Toler Creek	CDCA-101	897	Mono.
Cotton Wood Creek	CDCA-104	3,729	Inyo.
Antelope Spring	CDCA-107A	851	Inyo.
Ibex Spring	CDCA-149A	2,346	Inyo.
Horse Canyon	CDCA-160	4,067	Kern.
Skinner Peak	CDCA-160C	1,036	Kern.
Deer Spring	CDCA-237A	2,560	San Bernadino.
Valley View	CDCA-237B	3,200	San Bernadino.
Teutonia Peak	CDCA-238A	2,976	San Bernadino.
Pinto Basin	CDCA-334A	4,480	Riverside.
State total (56 units)		123,600	
Colorado:			
Adjacent to Dinosaur National Monument	CO-010-224	4,340	Moffat.
Adjacent to Dinosaur National Monument	CO-010-224A	1,320	Moffat.
Adjacent to Dinosaur National Monument	CO-010-226	4,880	Moffat.
Bill Hare Gulch	CO-030-065	870	Hinsdale.
Larson Creek	CO-030-066	640	Hinsdale.
American Flats	CO-030-217	4,710	Hinsdale/San Juan/Ouray.
Needle Creek	CO-030-229B	4,540	San Juan/LaPlata.
Weminuche Contiguous	CO-030-238B	1,980	San Juan.
Sparling Gulch/Friends Creek	CO-030-068/213	1,960	Hinsdale.
Slumgullion Slide	CO-030-211	1,640	Hinsdale.
Sand Castle	CO-050-135	1,644	Alamosa.
Black Canyon	CO-050-131	1,300	Saguache.

TABLE 1.—ELIMINATED WILDERNESS STUDY AREAS—SMALLER THAN 5,000 ACRES—Continued

WSA name	Number	WSA [illegible]	County
South Piney Creek	CO-050-132B	870	Saguache
Papa Keal	CO-050-137	1,020	Alamosa.
Zapata Creek	CO-050-139B	720	Alamosa.
Eagle Mountain	CO-070-392	330	Pitkin.
Hack Lake	CO-070-425	3,360	Garfield/Eagle
State total (17 units)		36,784	
[illegible]			
Lower Salmon Falls Creek	ID-17-10	3,500	Twin Falls.
Box Creek	ID-110-91A	[illegible]	Valley.
Henry's Lake	ID-35-77	[illegible]	Fremont.
Worm Creek	ID-37-77	[illegible]	Bear Lake
Goldburg	ID-45-1	3,290	Custer.
Boulder Creek	ID-46-13	1,930	Custer
Borah Peak	ID-47-4	3,100	[illegible]
Little Wood River	ID-53-4	4,385	[illegible]
Black Butte	ID-54-2	4,002	Lincoln/Blaine
Selkirk Crest	ID-61-1	720	Boundary
State total (10 units)		21,745	
Montana:			
Farlin Creek	MT-076-034	1,139	Beaverhead
Tobacco Root Tackons	MT-076-063	[illegible]	Madison.
Madison Tackons	MT-076-079	1,509	Madison.
Blind Horse Creek	MT-075-102	4,927	Teton
Chute Mountain	MT-075-105	3,205	Teton.
Deep Creek/Battle Creek	MT-075-106	3,086	Teton
North Fork Sun River	MT-075-107	190	Teton.
Beaver Meadows	MT-075-110	595	Lewis & Clark.
Elkhorn	MT-075-114	3,642	Jefferson.
Gallagher Creek	MT-074-151B	4,257	Powell.
Quigg West	MT-074-155	[illegible]	Granite.
Burnt Timber Canyon	MT-067-205	3,955	Carbon.
Big Horn Tackon	MT-067-207	4,550	Carbon.
Stafford	MT-068-250	4,800	Blaine.
Billy Creek	MT-024-633	3,450	Garfield
Tongue River Breaks Contiguity	MT-027-736	1,484	Rosebud
State total (16 units)		42,175	
Oregon:			
Strawberry Mountain	OR-2-98A	180	Grant
Strawberry Mountain	OR-2-98C	720	Grant.
Strawberry Mountain	OR-2-98D	[illegible]	Grant.
Upper Leslie Gulch	OR-3-74	3,000	Malheur.
Steelhead Falls	OR-5-14	3,114	Deschutes/Jefferson
McGraw Creek	OR-6-1	1,465	Wallowa.
Cache Creek Ranch	OR-6-10	2,935	Wallowa/Asotin
Mountain Lakes	OR-11-1	320	Klamath
State total (8 units)		11,942	
Nevada:			
Evergreen	NV-050-01R-16A, B, C	2,834	Lincoln
Jumbo Springs	NV-050-0236	3,811	Clark
Nellis [1]	NV-050-04R-15A, B, C	5,718	Clark
State total (3 units)		12,363	
New Mexico:			
Bisti	NM-010-57	3,520	San Juan.
Manzano	NM-010-92	[illegible]	Torrance.
Devils Reach	NM-020-478	[illegible]	Socorro.
Devils Den	NM-060-145	[illegible]	Eddy.
McKittrick Canyon	NM-060-146	200	Eddy
Lonesome Ridge	NM-060-801	2,443	Eddy
Mudgetts	NM-060-819	2,941	Eddy
State total (7 units)		11,129	
Utah:			
Big Hollow	UT-020-105	3,593	Tooele
Orderville Canyon	UT-040-145	1,750	Kane.
Deep Creek	UT-040-146	3,320	Washington.
Red Butte	UT-040-147	[illegible]	Washington.
Spring Canyon	UT-040-148	4,433	Iron.
The Watchman	UT-040-149	[illegible]	Washington.
North Fork Virgin River	UT-040-150	1,040	Kane.
LaVerkin Creek Canyon	UT-040-153	567	Washington.
Taylor Creek Canyon	UT-040-154	[illegible]	Washington.
Goose Creek Canyon	UT-040-176	89	Washington.
Beartrap Canyon	UT-040-177	40	Washington
Fremont Gorge	UT-050-221	2,540	Piute.
Lost Spring Canyon	UT-060-131B	3,880	Grand.
Daniels Canyon	UT-080-414	2,496	Uintah
State total (14 units)		25,187	
Wyoming:			
Owl Creek	WY-010-104A, B, C	710	Hot Springs.
South Pant Rock	WY-010-236	665	Big Horn.
Pant Rock	WY-010-239	2,770	Big Horn.
Dubois Badlands	WY-030-109	4,520	Fremont.
Whiskey Mountain	WY-030-110	[illegible]	Fremont.
Encampment	WY-030-301	3,380	Carbon.
Prospect Mountain	WY-030-303	1,099	Carbon.
East Fork	WY-040-106	1,415	Sublette.
Whitehorse Creek	WY-040-325	4,026	Fremont.

TABLE 1.—ELIMINATED WILDERNESS STUDY AREAS—SMALLER THAN 5,000 ACRES—Continued

WSA name	Number	WSA acreage	County
Mill Creek	WY-040-335	1,300	Sublette
State total (10 units)		20,369	
Grand total (158 units)		340,526	

[1] These wilderness study areas consist of more than one parcel, each being smaller than 5,000 acres.
[2] In these wilderness study areas, a parcel with the acreage indicated is being eliminated. The remainder of the WSA qualifies for study under section 603 and therefore remains a WSA.

TABLE 2.—ELIMINATED WILDERNESS STUDY AREAS—SMALLER THAN 5,000 ACRES AFTER DELETION OF SPLIT-ESTATE LANDS

WSA name	Number	Acreage	County
Arizona:			
Black Mountains North	AZ-020-009	20,398	Mohave
Mount Tipton	AZ-020-012/042	19,550	Mohave
Grand Wash Cliffs	AZ-020-015	12,176	Mohave
Wabayuma Peak	AZ-020-037/043	36,730	Mohave
Planet	AZ-020-053	12,765	Mohave
Aubrey Peak	AZ-020-054	15,240	Mohave
Black Mesa	AZ-020-056	17,010	Mohave
Mohave Wash	AZ-050-007C/5-48/2-52	104,605	Mohave
State total (8 units)		238,939	
New Mexico:			
Chamisa	NM-010-021	11,091	Sandoval
Petaca Pinta	NM-020-014	11,625	Cibola
Rimrock	NM-020-007	29,273	Cibola
Little Rimrock	NM-020-009	9,785	Cibola
Pinon	NM-020-010	12,788	Cibola
Sand Canyon	NM-020-008	8,320	Cibola.
Big Hatchet Mountains[1]	NM-030-035C	5,240	Hidalgo
State total (7 units)		88,122	
Grand total (15 units)		327,061	

[1] In this wilderness study area, a noncontiguous subunit with the acreage indicated is being eliminated. The remainder of the WSA remains in WSA status.

Appendix A

State Offices

U.S. Department of the Interior, Bureau of Land Management.

Arizona: (602) 261–3141, 2400 Valley Bank Center, Phoenix, AZ 85073.

California: (916) 484–4636, Federal Building, 2800 Cottage Way, Sacramento, CA 95825.

Colorado: (303) 837–3393, 1037 20th Street, Denver, CO 80202.

Idaho: (208) 334–1748, Federal Building, 550 West Fort Street, P.O. Box 042, Boise, ID 83724.

Montana: (406) 657–6461, 222 North 32nd Street, P.O. Box 30157, Billings, MT 59107.

Nevada: (702) 784–5748, Federal Building, 300 Booth Street, Reno, NV 89509.

New Mexico: (505) 988–6227, U.S. Post Office and Federal Building, P.O. Box 1449, Santa Fe, NM 87501.

Oregon and Washington: (503) 231–6981, 729 N.E. Oregon Street, P.O. Box 2965, Portland, OR 97208.

Utah: (801) 524–4257, University Club Building, 136 East South Temple, Salt Lake City, UT 84111.

Wyoming: (307) 778–2073, 2515 Warren Avenue, P.O. Box 1828, Cheyenne, WY 82001.

[FR Doc. 82-35194 Filed 12-27-82; 8:45 am]

BILLING CODE 4310-84-M

Bureau of Indian Affairs

Change in Field Organization; Metlakatla Field Station, Flathead Agency and Flathead Irrigation Project

December 17, 1982.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Secretarial Order number 3086, dated October 19, 1982, established the Metlakatla Field Station under the jurisdiction of the Portland Area Office and transferred the existing Flathead Agency and Flathead Irrigation Project from the Billings Area Office to the Portland Area Office.

The Metlakatla Field Station will conduct Bureau programs, activities and services provided on the Annette Island Reserve for the Metlakatla Indian Tribe.

Supervisory authority over the Flathead Agency and the Flathead Irrigation Project is transferred from the Billings Area Office to the Portland Area Office without any changes in the functions of either office.

Further information may be obtained by contacting Ronal D. Eden, Chief, Division of Management Research and Evaluation, Bureau of Indian Affairs, Washington, D.C., telephone number (202) 343–7684.

Kenneth Smith,

Assistant Secretary, Indian Affairs

[FR Doc. 82-35321 Filed 12-29-82; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

[AA-20297]

Alaska Native Claims Selection

On October 16, 1978, Cook Inlet Region, Inc., filed selection application AA–20297, as amended, under the provisions of Secs. 12(b)(6) of the act of January 2, 1976 (89 Stat. 1151), and I.C. (2) of the Terms and Conditions for Land Consolidation and Management in the Cook Inlet Area, as clarified August 31, 1976 (90 Stat. 1935), for the surface and subsurface estates of certain lands located near Kenai, Alaska.

Section 12(b)(6) of the act of January 2, 1976, authorizes conveyance of lands to Cook Inlet Region, Inc., from a selection pool established by the Secretary of the Interior and the General Services Administrator.

The lands are located inside the boundaries of Cook Inlet Region. The lands within selection AA–20297 were placed in the pool of properties available for selection by Cook Inlet

Region, Inc., subject to valid existing rights, by notice dated February 20, 1980.

The selection application of Cook Inlet Region, Inc., as to the lands described below, is properly filed and meets the requirements of the act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with Federal laws leading to aquisition of title.

In view of the foregoing, the surface and subsurface estates of the following described lands, containing 7.63 acres, are considered proper for aquisition by Cook Inlet Region, Inc., and are hereby approved for conveyance pursuant to Sec. 12(b)(6) of the act of January 2, 1976:

Seward Meridian, Alaska (Surveyed)

T. 8 N., R. 11 W.
Sec. 27, lots 4 and 5.
Containing 7.63 acres.

There are no easements to be reserved pursuant to Sec. 17(b) of ANCSA.

The grant of the above-described lands shall be subject to:

Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)) (ANCSA), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law.

Section 12(b)(6) of Public Law (Pub. L.) 94–204 provides that conveyances pursuant to this section shall be made in exchange for lands or rights to select lands outside the boundaries of Cook Inlet Region as described in Sec. 12(b)(5) of this act and on the basis of values determined by appraisal. The lands described above have been appraised at a value of $4,920. Under Sec. I.C.(2)(e) of the Terms and Conditions, this property constitutes 9.84 acre/ equivalents. Upon acceptance of title to these lands, Cook Inlet Region, Inc., will relinquish its selection rights to 9.84 acres of its out-of-region entitlement.

Conveyance of the remaining entitlement to Cook Inlet Region, Inc., shall be made at a later date.

There are no inland water bodies considered to be navigable within the lands described.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the ANCHORAGE TIMES.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the attached regulations in Title 43 Code of Federal Regulations (CFR), Part 4, Subpart E, as revised. However, pursuant to Pub. L. 96–487, this decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

If an appeal is taken the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances, (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of this decision by personal service or certified mail, return receipt requested, shall have thirty days from receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who failed or refused to sign the return receipt and parties who received a copy of this decision by regular mail which is not certified, return receipt requested, shall have until January 31, 1983, to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Cook Inlet Region, Inc., P.O. Drawer 4–N, Anchorage, Alaska 99509.

State of Alaska, Department of Natural Resources, Division of Research and Development, Pouch 7–005, Anchorage, Alaska 99510.

Ann Johnson,

Chief, Branch of ANCSA Adjudication.

[FR Doc. 82–35380 Filed 12–29–82; 8:45 am]

BILLING CODE 4310–84–M

[F–14892–A]

Alaska Native Claims Selection

On November 7, 1974, Maserculiq, Incorporated for the Native village of Marshall (Fortuna Ledge), filed selection application F–14892–A under the provisions of Sec. 12 of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611 (1976)) (ANCSA), as amended, for the surface estate of certain lands in the vicinity of Marshall, Alaska.

In application F–14892–A, Maserculiq, Incorporated excluded several bodies of water. Because certain of those water bodies have been determined to be nonnavigable, they are considered to be public lands withdrawn by Sec. 11(a) (1) of ANCSA and available for selection by the village pursuant to Sec. 12(a) of ANCSA. Section 12(a) and 43 CFR 2651.4 (b) and (c) provide that a village corporation must, to the extent necessary to obtain its entitlement, select all available lands within the township or townships within which the village is located, and that the selection shall be compact and in whole sections, except as provided for in Public Law 96–487. For these reasons, the water bodies which are improperly excluded in application F–14892–A are considered selected by Maserculiq, Incorporated.

As to the lands described below, selection application F–14892–A, as amended, is properly filed and meets the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12(a) of NACSA, aggregating approximately 102,748 acres, is considered proper for acquisition by Maserculiq, Incorporated and is hereby approved for conveyance pursuant to Sec. 14(a) of ANCSA:

U.S. Survey No. 4415, Alaska, Tracts B, C, D, E, and F, situated on the right banks of Poltes and Wilson Sloughs at Marshall,

Alaska, excluding Native allotments F-17199 Parcel B and f-18151 Parcel B.

Containing approximately 591 acres.

Seward Meridan, Alaska (Unsurveyed)

T. 21 N., R. 68 W.
Sec. 6;
Sec. 7, excluding Native allotment F-16988;
Secs. 19 and 30.

Containing approximately 2,454 acres.

T. 22 N., R. 68 W.
Secs. 31 to 34, inclusive.

Containing approximately 2,548 acres.

T. 19 N., R. 69 W.
Secs. 16, 17, 19, and 20.

Containing approximately 2,534 acres.

T. 20 N., R. 69 W.
Sec. 7.

Containing approximately 600 acres.

T. 21 N., R. 69 W.
Secs. 4, 5, and 6;
Sec. 7, excluding Native allotment F-18150 Parcel D;
Secs. 8, 9, 16, and 17;
Sec. 18, excluding Native allotment F-18150 Parçel D;
Secs. 19 to 26, inclusive;
Sec. 27, excluding Native allotment F-17234;
Sec. 28, excluding Native allotments F-17234 and F-17237;
Sec. 29, excluding Native allotment F-17237;
Secs. 30, 31, and 32.

Containing approximately 14,347 acres.

T. 22 N., R. 69 W.
Sec. 16;
Sec. 17, excluding Native allotments F-17243 Parcel A, F-17339 Parcel C, and F-17341 Parcel C;
Secs. 18, 19, and 20;
Sec. 21, excluding Native allotment F-17481 Parcel B;
Secs. 27 to 36, inclusive.

Containing approximately 9,942 acres.

T. 19 N., R. 70 W.
Secs. 2, 3, and 4;
Sec. 5, excluding Native allotments F-15609 Parcel C, F-17337 Parcel A, F-18253 Parcel D, and F-18282 Parcel D;
Secs. 6 and 7;
Sec. 8, excluding Native allotments F-17235 Parcel D, F-17338 Parcel D, and F-18253 Parcel D;
Sec. 9, excluding Native allotments F-17235 Parcel D, F-17238 Parcel C, F-17338 Parcel D, F-17420 Parcel D, F-18099 Parcel A, and F-18100 Parcel A;
Secs. 10, 11, 14, and 15;
Sec. 16, excluding Native allotments F-17243 Parcel B, F-17341 Parcel A, F-17481 Parcel A, and F-18099 Parcel A;
Secs. 17 and 18;
Secs. 19 and 20, excluding Native allotments F-17201 and F-17239 Parcel B;
Sec. 21, excluding Native allotments F-17340 Parcel A and F-19182 Parcel B;
Sec. 22, excluding Native allotments F-17203 Parcel D, F-17233 Parcel A, F-17239 Parcel A, F-17338 Parcel C, and F-17340 Parcel A;
Sec. 23, excluding Native allotment F-18151 Parcel D;
Sec. 24, excluding Native allotments F-17238 Parcel D and F-17339 Parcel D;
Sec. 26, excluding Native allotment F-17235 Parcel C;
Secs. 27 and 28;
Sec. 29, excluding Native allotment F-17239 Parcel B;
Secs. 32 to 35, inclusive.

Containing approximately 11,058 acres.

T. 20 N., R. 70 W.
Secs. 4, 5, and 6;
Sec. 7, excluding Native allotment F-17200;
Secs. 8 to 12, inclusive;
Secs. 13 and 14, excluding Native allotment F-17244;
Secs. 15, 16, and 17;
Sec. 18, excluding Native allotment F-17419 Parcel B;
Sec. 19, excluding Native allotments F-17198 Parcel A and F-18368 Parcel A;
Secs. 20, 21, and 26;
Secs. 27 and 28, excluding Native allotment F-19369 Parcel A;
Secs. 39, 30, and 31;
Sec. 32, excluding Native allotments F-15598 Parcel B and F-15608 Parcel A;
Secs. 33 and 34, excluding Native allotment F-18098 Parcel B;
Sec. 35.

Containing approximately 15,350 acres.

T. 21 N., R. 70 W.
Secs. 1, 2, and 3;
Sec. 4, excluding Native allotments F-17339 Parcels A and B, F-17418 Parcel B, F-18150 Parcel C, F-18253 Parcel A, and F-18282 Parcel B;
Sec. 5, excluding Native allotment F-17199 Parcel A;
Secs. 6 and 7;
Sec. 8, excluding Native allotment F-18097 Parcel A;
Sec. 9, excluding Native allotment F-17418 Parcel C;
Secs. 10 and 11;
Secs. 12 and 13, excluding Native allotment F-18150 Parcel D;
Sec. 14;
Secs. 15 and 16, excluding Native allotment F-18102 Parcel C;
Secs. 17 to 21 inclusive;
Secs. 22 and 23, excluding U.S. Survey No. 4415;
Sec. 24;
Sec. 25, excluding U.S. Survey No. 4415;
Sec. 26, excluding U.S. Survey No. 4415, and Native allotments F-17199 Parcel B and F-17341 Parcel D;
Sec. 27, excluding U.S. Survey No. 2264, U.S. Survey No. 3666, U.S. Survey No. 3668, and U.S. Survey No. 4415;
Secs. 28 and 29;
Sec. 30, excluding Native allotment F-18282 Parcel C;
Secs. 31 and 33;
Secs. 34, 35, and 36, excluding U.S. Survey No. 4415.

Containing approximately 16,395 acres.

T. 22 N., R. 70 W.
Sec. 24;
Sec. 25, excluding Native allotment F-18282 Parcel A;
Secs. 26 and 27, excluding Native allotment F-18151 Parcel C;
Sec. 28;
Sec. 29, excluding Native allotments F-17419 Parcel C, and F-18102 Parcel B;
Sec. 30, excluding Native allotment F-18102 Parcel B;
Sec. 31, excluding U.S. Survey No. 2235, and Native allotments F-17420 Parcel C and N-0906;
Sec. 32, excluding Native allotments F-18101 Parcel C, F-18368 Parcel B, and N-0906;
Sec. 33;
Sec. 34, excluding Native allotment F-18151 Parcel C;
Sec. 35, excluding Native allotments F-17198 Parcel C and F-18151 Parcel C;
Sec. 36.

Containing approximately 7,214 acres.

T. 19 N., R. 71 W.
Secs. 1, 2, 11, and 12.

Containing approximately 2,440 acres.

T. 20 N., R. 71 W.
Secs. 1, 2, 4, 5, 8, and 9;
Secs. 11 to 15, inclusive;
Sec. 16, excluding Native allotments F-17419 Parcel A and F-19196 Parcel C;
Secs. 17, 22, 23, 24, and 26;
Secs. 35 and 36.

Containing approximately 7,895 acres.

T. 21 N., R. 71 W.
Secs. 5 to 8 inclusive.

Containing approximately 1,605 acres.

T. 22 N., R. 71 W.
Secs. 25 to 35, inclusive;
Sec. 36, excluding U.S. Survey No. 2235.

Containing approximately 5,730 acres.

T. 21 N., R. 72 W.
Secs. 1 and 12.

Containing approximately 795 acres.

T. 22 N., R. 72 W.
Secs. 25 and 36.

Containing approximately 1,250 acres.

Aggregating approximately 102,748 acres

Excluded from the above-described lands herein approved for conveyance are the submerged lands, up to the ordinary high water mark, beneath all water bodies determined by the Bureau of Land Management to be navigable because they have been or could be used in connection with travel, trade and commerce. Those water bodies are identified on the attached navigability maps, the original of which will be found in easement case file F-14892-EE.

All other water bodies not depicted as navigable on the attached maps within the lands to be conveyed were reviewed. Based on existing evidence, they were determined to be nonnavigable.

The lands excluded in the above description are not being approved for conveyance at this time and have been excluded for one or more of the following reasons: Lands are no longer under Federal jurisdiction; or lands are under applications pending further adjudication. Lands within U.S. Surveys which are excluded are described separately in this decision if they are available for conveyance. These

exclusions *do not* constitute a rejection of the selection application, unless specifically so stated.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(f)), as amended; and

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)), as amended, the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file F-14892-EE, are reserved to the United States. All easements are subject to applicable Federal, State, or Municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, and small all-terrain vehicles (ATVs) (less than 3,000 lbs. Gross Vehicle Weight (GVW)).

50 Foot Trail—The uses allowed on a fifty (50) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, small and large all-terrain vehicles, track vehicles and four-wheel drive vehicles.

60 Foot Road—The uses allowed on a sixty (60) foot wide road easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, small and large all-terrain vehicles, track vehicles, four-wheel drive vehicles, automobiles, and trucks.

One Acre Site—The uses allowed on a one (1) acre site easement are: vehicle parking (e.g., aircraft, boats, ATVs, snowmobiles, cars, trucks), temporary camping, and loading or unloading. Temporary camping, loading, or unloading shall be limited to 24 hours.

a. (EIN 4a C3, D1) An easement sixty (60) feet in width for an existing road from site EIN 4b C3, D1 at The Landing in Secs. 20 and 29, T. 20 N., R. 70 W., Seward Meridian, easterly to the Willow Creek Mine and public lands. The uses allowed are those listed above for a sixty (60) foot wide road easement.

b. (EIN 4b C3, D1) A one (1) acre site easement upland of the ordinary high water mark in Secs. 20 and 29, T. 20 N., R. 70 W., Seward Meridian, on the right bank of an unnamed slough of the Yukon River. The uses allowed are those listed above for a one (1) acre site.

c. (EIN 5 C3, D1, D9) An easement fifty (50) feet in width for an existing access trail from Marshall in Sec. 27, T. 21 N., R. 70 W., Seward Meridian, easterly to the public lands. The uses allowed are those listed above for a fifty (50) foot wide trail easement.

d. (EIN 10 C5) An easement twenty-five (25) feet in width for a proposed access trail from trail EIN 5 C3, D1, D9 in Sec. 29, T. 21 N., R. 69 W., Seward Meridian, northeasterly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

e. (EIN 15 E) An easement fifty (50) feet in width for an existing access trail from the Willow Creek Mine in Secs. 23 and 24, T. 20 N., R. 70 W., Seward Meridian, northerly to the Disappointment Mine. The uses allowed are those listed above for a fifty (50) foot wide trail easement.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent after approval and filing by the Bureau of Land Management of the official plat or supplemental plat of survey confirming the boundary description and acreage of the lands hereinabove granted;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (inluding a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of ANCSA, any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law;

3. Airport lease, F-245, located in lot 1, Trace E, U.S. Survey No. 4415, Alaska, issued to the State of Alaska, Department of Public Works, under the provisions of the act of May 24, 1928 (49 U.S.C. 211-214), as amended;

4. Right-of-way F-19248, located in Sec. 7, T. 21 N., R. 69 W., Seward Meridian, for use as a communication site, granted to Alascom, Inc. under the provisions of the act of March 4, 1911 (43 U.S.C. 1961), as amended; and

5. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(c)), as amended, that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

Maserculiq, Incorporated is entitled to conveyance of 115,200 acres of lands selected pursuant to Sec. 12(a) of ANCSA. Together with the lands herein approved, the total acreage conveyed or approved for conveyance is approximately 102,748 acres. The remaining entitlement of approximately 12,452 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of ANCSA and Departmental regulation 43 CFR 2652.4, conveyance of the subsurface estate shall be issued to Calista Corporation when the surface estate is conveyed to Maserculiq, Incorporated, and shall be subject to the same conditions as the surface conveyance, except for those provisions under Sec. 14(c) of ANCSA; also the right to explore, develop or remove mineral materials from the subsurface estate in lands within the boundaries of the Native village shall be subject to the consent of Maserculiq, Incorporated.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the *Tundra Drums*.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the attached regulations in Title 43 Code of Federal Regulations (CFR), Part 4, Subpart E as revised. However, pursuant to Pub. L. 96-487, this decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

If an appeal is taken the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of this decision by personal service or certified mail, return receipt requested, shall have 30 days from receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have

been expended to locate, parties who failed or refused to sign their return receipt and parties who received a copy of this decision by regular mail which is not certified, return receipt requested, shall have until January 31, 1983, to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Maserculiq, Incorporated, Marshall, Alaska 99585.

Calista Corporation, 516 Denali Street, Anchorage, Alaska 99501.

Ann Johnson,

Chief, Branch of ANCSA Adjudication.

[FR Doc. 82-35381 Filed 12-29-82; 8:45 am]

BILLING CODE 4310-84-M

[F-14870-A]

Alaska Native Claims Selection

Section 1431(g) of the Alaska National Interest Lands Conservation Act of December 2, 1980, 94 Stat. 2538 (ANILCA), authorizes and directs, as part of a land exchange, conveyance of the surface estate of certain lands on Kaktovik Island, Barter Island Group, Alaska, to Kaktovik Inupiat Corporation. The lands involved are those lands which were withdrawn by Public Land Order (PLO) 715 (51 F.R. 4799) for national defense purposes, and made available for Native selection under the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611) (ANCSA) by PLO 5565 on December 17, 1975 (40 FR 59347).

Kaktovik Inupiat Corporation filed a selection application under Sec. 12 of ANCSA for the lands on January 27, 1976, after the December 18, 1974 statutory deadline for such selection.

On June 29, 1979, the Department of the Interior and Arctic Slope Regional Corporation, entered into an agreement (as ratified by Sec. 1431(a) of ANILCA) whereby Kaktovik Inupiat Corporation would obtain title to the lands it had not properly selected by reconveying other lands to the United States.

In view of the foregiong, the surface estate of the following described lands, aggregating approximately 2,854 acres, will be conveyed to Kaktovik Inupiat Corporation pursuant to Sec. 1431(g)(2) of ANILCA.

Lands Within Public Land Order 2214 (Arctic National Wildlife Range) Now Known as the Arctic National Wildlife Refuge

Umiat Meridian, Alaska (Surveyed)

T.9 N., R. 33 E.

Those portions of Tract A more particularly described as (protracted):
- Sec. 13 (fractional), that portion outside PLO 715;
- Sec. 14 (fractional), excluding native allotment F-16936;
- Sec. 21 (fractional), excluding Native allotment F-16636;
- Sec. 22 (fractional);
- Sec. 23;
- Sec. 24, that portion outside PLO 715;
- Sec. 25 (fractional);
- Sec. 26 (fractional), excluding Native allotment F-16282 Parcel C;
- Sec. 27 (fractional);
- Sec. 35 (fractional), excluding Native allotment F-16282 Parcel C;
- Sec. 36 (fractional).

Containing approximately 2,634 acres.

Tract B. Containing 5 acres.

Aggregating approximately 2,639 acres.

T. 9 N., R. 34 E.

Those portions of Tract A more particularly described as (protracted):
- Sec. 19 (fractional), that portion outside PLO 715, excluding Interim Cjomveyance No. 052 and U.S. Survey No. 4234;
- Sec. 30 (fractional).

Containing approximately 215 acres

Total Aggregated acreage approximately 2,854 acres.

There are no inland water bodies considered to be navigable within the above-described lands.

The lands excluded in the above description are not being approved for conveyance at this time and have been excluded for one or more of the following reasons: Lands are no longer under Federal jurisdiction; lands are within defense withdrawal PLO 715; or lands are under application pending further adjudication.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, provileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(f)); and

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)), the following public easement, referenced by easement identification number (EIN) on the easement map attached to this document, a copy of which will be found in case file F-14870-EE, is reserved to the United States. All easements are subject to applicable Federal, State, or Municipal corporation regulation. The following is a listing of uses allowed for the easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, and small all-terrain vehicles (ATV's) (less than 3,000 lbs. Gross Vehicle Weight (GVW)).

(EIN 1, C3, C5, D1) An easement for an existing access trail twenty-five (25) feet in width from the Military Withdrawal (PLO 715) at the north section line of Sec. 24, T. 9 N., R. 33 E., Umiat Meridian, southerly to public land. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent after approval and filing by the Bureau of Land Management of the official plat, or supplemental plat, of survey confirming the boundary description and acreage of the lands hereinabove granted;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way, or easement, and the right of the lesse, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)) (ANCSA), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law;

3. Requirements of Sec. 22(g) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1621(g)), that (a) the above described lands which were, on December 18, 1971, within the boundaries of the Arctic National Wildlife Range (PLO 2214), now known as the Arctic National Wildlife Refuge (Pub. L. 96-487), remain subject to the laws and regulations governing use and development of such refuge, and that (b) the right of first refusal, if said land or any part thereof is ever sold by the above-named corporation, is reserved to the United States; and

4. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(c)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

Pursuant to Sec. 1431(g)(3) of ANILCA, Kaktovik Inupiat Corporation, through a land exchange is entitled to conveyance of 23,040 acres of which 2,854 acres are herein approved for conveyance. The remaining entitlement of 20,186 acres will be conveyed at a later date.

Section 12(a)(1) of ANCSA provides that when a village corporation selects the surface estate of lands within the National Wildlife Refuge System, the regional corporation may make in-lieu selections of subsurface estate, in an equal acreage, from other lands withdrawn by Sec. 11(a) of the act; therefore, when this decision becomes final Arctic Slope Regional Corporation will be entitled to an additional 2,854 acres in-lieu subsurface estate.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the Tundra Times.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the attached regulations in Title 43, *Code of Federal Regulations* (CFR), Part 4, Subpart E, as revised. However, pursuant to Pub. L. 96-487, this decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

If an appeal is taken the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances,(960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of this decision by personal service or certified mail, return receipt requested, shall have thirty days from receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who failed or refused to sign their return receipt and parties who received a copy of this decision by regular mail which is not certified, return receipt requested, shall have until January 31, 1983, to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Kaktovik Inupiat Corporation, P.O. Box 73, Kaktovik, Alaska 99747;
Arctic Slope Regional Corporation, P.O. Box 129, Barrow, Alaska 99723.

Ann Johnson,

Chief, Branch of ANCSA Adjudication.

[FR Doc. 82-35382 Filed 12-29-82; 8:45 am]

BILLING CODE 4310-84-M

Amendment to Previous Notice of Availability of Planning Criteria for Resource Management Planning in the Caliente Resource Area, Bakersfield District, California

December 21, 1982.

This notice amends the Notice of Availability (NOA) dated November 8, 1982, (Planning Criteria for Coast/Valley Resource Management Plan in the Caliente Resource Area, Bakersfield, California, **Federal Register**/Vol. 47, No. 222/Wednesday, November 17, 1982, page 51803).

In accordance with 43 CFR 1601.3, notice is hereby given of the availability of the Planning Criteria to direct the Coast/Valley Resource Management Plan (RMP) in the Caliente Resource Area.

The Bakersfield District of the Bureau of Land Management has prepared the initial Planning Criteria to direct this planning effort in the Caliente Resource Area. The Plan will involve the public lands located in Kern, Kings, San Luis Obispo, Santa Barbara, Tulare, and Ventura Counties and will carry out the requirements of the Federal Land Policy and Management Act (FLPMA) of 1976.

As new information surfaces during the planning process, and/or from public input, additional planning criteria will be developed for future guidance of this planning effort.

The initial planning criteria are available for public review and comment at the following locations: Bureau of Land Management, Bakersfield District Office, 800 Truxtun Avenue, Room 302, Bakersfield, California, 93301, (805) 861-4191; and Caliente Resource Area Office, 520 Butte Street, Bakersfield, California, 93305, (805) 861-4236.

Persons wishing copies of the initial planning criteria are requested to contact either of the offices listed above.

Comments are being accepted from the public until 30 days from the date of this notice.

For further information contact Glenn A. Carpenter, Area Manager, at the Caliente Resource Area Office address listed above.

Timothy R. Salt,

Acting District Manager.

[FR Doc. 82-35390 Filed 12-29-82; 8:45 am]

BILLING CODE 4310-84-M

[A-17000]

Arizona; Application for Public Lands for State Indemnity Selection

1. Under the provisions of Sections 2275 and 2276 of the revised Statutes 43 U.S.C. 851, 852, the State of Arizona has filed application A-17000 to acquire public lands in lieu of certain school lands that were encumbered by other rights or reservations before the State's title could attach. Pursuant to the provisions of 43 CFR 2091.2-6 the lands described below are segregated from settlement, sale, locations or entry under the public land laws, including the mining laws, but not the mineral leasing laws or Geothermal Steam Act.

2. The following described lands were segregated in accordance with 43 CFR 2091.2-6 as of December 16, 1982.

Gila and Salt River Meridian, Arizona

T. 3 N., R. 21 W.
Sec. 19, N½SE¼NW¼, N½SW¼NE¼, N½SW¼SW¼NE¼, SE¼SW¼NE¼, NE¼NW¼SE¼, N½NE¼SE¼SE¼, SE¼NE¼SE¼SE¼.
T. 8 N., R. 18 W.
Sec. 32, S½NE¼SW¼, S½N½SE¼, SE¼SE¼.
T. 9 N., R. 19 W.
Sec. 1, E½NW¼SW¼, NE¼SW¼;
Sec. 2, W½SW¼SE¼.
T. 10 N., R. 19 W.
Sec. 34, Lot 7, S½NE¼SE¼, SE¼SE¼.
T. 15 N., R. 20 W.
Sec. 33, E½E½NW¼, SE¼NW¼SE¼NW¼, SW¼SE¼NW¼, E½NE¼NW¼SW¼, SE¼NW¼NW¼, W½SE¼SW¼.

T. 8 N., R. 2 E.
Sec. 9, SE¼, E½NE¼ less PMS 3743 and R&PP lease A 12311;
Sec. 10, NE¼NW¼NW¼ less R&PP lease A 10351, S½NW¼NW¼, SW¼NW¼, E½W½, W½E½, E½SE¼;
Sec. 11, S½SW¼;
Sec. 14, W½NW¼;
Sec. 15, NE¼ east of I–17 R/W, E½NW¼.
T. 19 S., R. 13 E.
Sec. 6, E½SW¼, SE¼;
Sec. 7, SE¼NW¼, SE¼SW¼.
T. 6 S., R. 14 W.
Sec. 1, All;
Sec. 12, All.
T. 4 N., R. 1 W.
Sec. 13, SW¼SE¼.
T. 3 N, R. 1 W.
Sec. 13, NE¼, NE¼SE¼;
Sec. 24, N½SE¼, SW¼SE¼;
Sec. 25, NW¼NE¼.
T. 14 N., R. 2 W.
Sec. 34, Tract C.
T. 15 N., R. 2 W.
Sec. 12, SW¼SW¼.
T. 2 N., R. 3 W.
Sec. 5, W½, W½E½;
Sec. 6, All;
Sec. 7, All;
Sec. 8, W½, W½E½;
Sec. 27, SW¼SW¼;
Sec. 28, SE¼S½;
Sec. 33, E½NE¼;
Sec. 34, NW¼NW¼, S½N½, E½NW¼ NW¼SW¼, NE¼SW¼NW¼SW¼, NE¼NW¼SW¼, N½SE¼NW¼SW¼, N½NE¼SW¼, NE¼SW¼N½SW¼, SE¼NE¼SW¼, E½SE¼SW¼;
Sec. 35, SW¼SW¼NW¼, E½NW¼, NE¼NW¼, NE¼NW¼, NW¼NE¼, N½SE¼NW¼, SE¼SE¼NW¼, NE¼NE¼ SW¼, W½SW¼NE¼, SE¼SW¼NE¼, E½SE1, 4NE¼, W½SE¼, SE¼SE¼, E½NE¼SE¼, SW¼NE¼SE¼, S½NW¼ NE¼SE¼.
T. 2 N., R. 4 W.
Sec. 1, All;
Sec. 3, All;
Sec. 10, NW¼;
Sec. 11, All;
Sec. 12, All.
T. 3 N., R. 4 W.
Sec. 2, E½E½;
Sec. 9, E½;
Sec. 10, All;
Sec. 11, W½, W½E½, W½E½E½;
Sec. 14, W½, W½E½, W½E½E½, E½E½SE¼, E½SE¼NE¼;
Sec. 15, All;
Sec. 16, E½;
Sec. 21, E½;
Sec. 22, All;
Sec. 23, All;
Sec. 24, S½NW¼, SW¼;
Sec. 25, NW¼, N1/SW¼, SW¼SW¼;
Sec. 26, All;
Sec. 27, All;
Sec. 28, E½;
Sec. 33, E½;
Sec. 34, All;
Sec. 35, All;
Sec. 36, W½NW¼, S½.
T. 4 N., R. 1 E.
Sec. 12, W½W½SW¼NW¼;
Sec. 23, W½NW¼NW¼SE¼, N½SW¼ NW¼SE¼.
T. 5 N., R. 2 E.
Sec. 35, S½SW¼NW¼NW¼.
T. 3 N., R. 6 E.
Sec. 1, Lots 9, 10, 11.
T. 11 N., R. 2 E.
Sec. 23, Lots 7, 8, 14–19 incl., 21, 22, 29, 30, and 31.
T. 4 N., R. 19 W.
Sec. 22, W½NW¼SE¼, W½E½NW¼SE¼;
Sec. 23, SW¼, S½SE¼ less patented parcels;
Sec. 26, NE¼NW¼, N½NE¼ less patented parcels;
Sec. 27, SE¼;
Sec. 34, W½.
T. 16 N., R. 20½ W.
Sec. 14, SW¼SW¼SW¼ south of I–40 R/W;
Sec. 15, S½S½S½ south of I–40 R/W;
Sec. 22, N½N½N½N½N½, S½N½NE¼NE¼ NE¼, S½NE¼NE¼NE¼;
Sec. 23, NW¼NW¼NW¼.
T. 16 N., R. 21 W.
Sec. 10, SE¼;
Sec. 14, NW¼NW¼.
T. 1 S., R. 2 W.
Sec. 4, SE¼SE¼;
Sec. 9, NE¼NE¼,S½NE¼, S½SW¼, SE¼;
Sec. 10, All;
Sec. 11, All;
Sec. 14, All;
Sec. 15, All;
Sec. 22, SW¼;
Sec. 27, W½NE¼, NW¼;
Sec. 28, All;
Sec. 29, All;
Sec. 30, N½NE¼, SW¼NE¼, E½NW¼, SE¼SE¼;
Sec. 32, N½N½;
Sec. 33, N½N½.

Total, 23,719.09 Acres, more or less

3. The segregation of the above described public lands shall terminate upon issuance of a document of conveyance to such lands, or upon publication in the **Federal Register** of a notice of termination of the segregation or the expiration of 2 years from the date of the filing of the selection application (December 16, 1982), whichever occurs first. However, where administrative appeal or review actions have been sought pursuant to Part 4 or Subparts 2450 of 43 CFR, the segregative period shall continue in effect until publication of notice of termination of the segregation in the **Federal Register**.

4. Inquiries concerning the segregation of the lands referenced above should be addressed to the District Manager, Bureau of Land Management, Phoenix District Office, 2929 West Clarendon Avenue, Phoenix, Arizona 85017.

Mario L. Lopez,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82–35389 Filed 12–29–82; 8:45 am]

BILLING CODE 4310-84-M

[CA 13314]

California; Proposed Withdrawal and Opportunity for Public Hearing

On December 21, 1982 a petition was approved allowing the Bureau of Land Management, U.S. Department of the Interior, to file an application to withdraw the following described public land from settlement, sale, location, or entry under the general land laws, including the mining and mineral leasing laws, subject to valid existing rights:

All of the islands, rocks, pinnacles, and reefs which were temporarily withdrawn by Executive Order 5326 dated April 14, 1930, excepting those lands otherwise reserved and appropriated, situated in the Pacific Ocean off the coast of California, lying above the mean high tide from Oregon to the Mexican border, for establishment of a Wildlife Sanctuary.

The purpose of the proposed withdrawal is to protest the islands for establishment of the California Islands Wildlife Sanctuary.

The islands are used by a variety of waterfowl during migration. Shorebirds and waterbirds nest, feed, rest and use the islands for shelter. Some of the islands, with connecting reefs, provide resting habitat for sea lions and seals. Other islands are used by endangered species such as the California Brown Pelican. By the filing of the proposed withdrawal application, the Bureau of Land Management proposes to provide protection of specialized island ecosystems capable of supporting animal life, thereby assuring the continued availability of an undisturbed environment necessary to maintain wildlife populations.

Executive Order 5326 dated April 14, 1930, which temporarily withdraw all of the unreserved islands, rocks, and pinnacles, situated in the Pacific Ocean off the coast of California from settlement, location, sale or entry for classification and in aid of legislation, subject to valid existing rights, will be superseded by the issuance of a public land order to establish the California Islands Wildlife Sanctuary. These lands have been and continue to be under the management of the California Department of Fish and Game pursuant to a cooperative agreement between that Agency and the Bureau of Land Management.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the undersigned officer within 90 days from the date of publication of this notice. Upon determination by the State Director, Bureau of Land Management, that a public meeting will be held, a notice of the time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set forth in Title 43 CFR Part 2300.

For a period of two years from the date of publication of this notice in the **Federal Register**, the land will be segregated as specified above unless the application is rejected or the withdrawal is approved prior to that date. The two-year segregative period does not alter the applicability of those public land laws governing the use of the land under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining and mineral leasing laws.

This action does not affect the Secretary's discretionary managerial authority under the Outer Continental Shelf Lands Act (43 U.S.C. 1331–1343), as amended (92 Stat. 629), or substantially restrict commercial access between primary coastal facilities and the Outer Continental Shelf.

All communications in connection with this proposed withdrawal should be addressed to the undersigned officer, Bureau of Land Management, California State Office, Room E–2841 Federal Office Building, 2800 Cottage Way, Sacramento, California 95825.

Ed Hastey,

State Director.

[FR Doc. 82–35391 Filed 12–29–82; 8:45 am]

BILLING CODE 4310–84–M

[CA–7125 WR, et al.]

California; Revocation of Small Tract Classifications

Pursuant to the authority delegated by Bureau Order No. 701 of July 23, 1964 (29 FR 10526), the small tract classifications and segregation of public lands described in **Federal Register** Notices summarized as follows are hereby terminated in their entirety:

1. FR Doc. 54–1300, appearing at page 1097 in the issue of February 26, 1954 (No. 405, CA–7125 WR).

2. FR Doc. 51–14178, appearing at page 12020 in the issue of November 29, 1951 (No. 322, CA–7127 WR).

3. FR Doc. 50–5327, appearing at page 3987 in the issue of June 21, 1950 (No. 224, CA–7131 WR).

4. FR Doc. 49–2191, appearing at page 1336 in the issue of March 24, 1949 (No. 128, CA–7132 WR).

5. FR Doc. 50–4924, appearing at page 3655 in the issue of June 9, 1950 (No. 216, CA–7134 WR).

6. FR Doc. 48–10579, appearing at page 7418 in the issue of December 4, 1948 (No. 091, CA–7135 WR).

7. FR Doc. 57–1949, appearing at page 1682 in the issue of March 15, 1957 (No. 525, CA–7136 WR).

8. FR Doc. 49–323, appearing at page 205 in the issue of January 14, 1949 (No. 114, CA–7142 WR).

9. FR Doc. 57–717, appearing at page 646 in the issue of January 31, 1957 (No. 517, CA–7143 WR).

10. FR Doc. 48–7381, appearing at page 4768 in the issue of August 18, 1948 (No. 155, CA–7155 WR).

11. FR Doc. 46–19923, appearing at page 13217 in the issue of November 6, 1942 (No. 109, CA–7156 WR).

12. FR Doc. 47–208, appearing at page 185 in the issue of January 10, 1947 (No. 110, CA–7157 WR).

13. FR Doc. 48–1631, appearing at page 877 in the issue of February 26, 1948 (No. 137, CA–7159 WR).

14. FR Doc. 48–7950, appearing at page 5190 in the issue of September 4, 1948 (No. 78, CA–7164 WR).

15. FR Doc. 48–7952, appearing at page 5189 in the issue of September 4, 1948 (No. 80, CA–7165 WR).

16. FR Doc. 41–9148, appearing at page 6290 in the issue of December 6, 1941 (No. 010, CA–7172 WR).

17. FR Doc. 50–4705, appearing at page 3468 in the issue of June 2, 1950 (No. 209, CA–7176 WR).

18. FR Doc. 49–3814, appearing at page 2556 in the issue of May 13, 1949 (No. 138, CA–7183 WR).

19. FR Doc. 50–5783, appearing at page 4247 in the issue of July 4, 1950 (No. 226, CA–7188 WR).

20. FR Doc. 50–9420, appearing at page 7150 in the issue of October 25, 1950 (No. 244, CA–7190 WR).

21. FR Doc. 51–10444, appearing at page 8800 in the issue of August 30, 1951 (No. 285, CA–7194 WR).

22. FR Doc. 41–8897, appearing at page 6156 in the issue of December 2, 1941 (No. 012, CA–7246 WR).

23. FR Doc. 43–19973, appearing at page 16869 in the issue of December 16, 1943 (No. 037, CA–7250 WR).

24. FR Doc. 48–7946, appearing at page 5188 in the issue of September 4, 1948 (No. 74, CA–7253 WR).

25. FR Doc. 48–7960, appearing at page 5185 in the issue of September 4, 1948 (No. 88, CA–7258 WR).

26. FR Doc. 48–7961, appearing at page 5190 in the issue of September 4, 1948 (No. 89, CA–7259 WR).

27. FR Doc. 48–10878, appearing at page 7750 in the issue of December 15, 1948 (No. 102, CA–7263 WR).

28. FR Doc. 48–10883, appearing at page 7752 in the issue of December 15, 1948 (No. 107, CA–7265 WR).

29. FR Doc. 49–319, appearing at page 204 in the issue of January 14, 1949 (No. 109, CA–7267 WR).

30. FR Doc. 49–6704, appearing at page 5161 in the issue of August 18, 1949 (No. 166, CA–7279 WR).

31. FR Doc. 49–5758, appearing at page 3902 in the issue of July 14, 1949 (No. 169, CA–7280 WR).

32. FR Doc. 49–10269, appearing at page 7673 in the issue of December 22, 1949 (No. 176, CA–7281 WR).

33. FR Doc. 50–6253, appearing at page 4661 in the issue of July 22, 1950 (No. 230, CA–7289 WR).

34. FR Doc. 51–1940, appearing at page 1202 in the issue of February 8, 1951 (No. 252, CA–7296 WR).

35. FR Doc. 51–2783, appearing at page 2006 in the issue of March 2, 1950 (No. 258, CA–7297 WR).

36. FR Doc. 51–11576, appearing at page 9783 in the issue of September 26, 1950 (No. 260, CA–7298 WR).

37. FR Doc. 51–3109, appearing at page 2194 in the issue of March 9, 1951 (No. 262, CA–7299 WR).

38. FR Doc. 51–4267, appearing at page 3196 in the issue of April 11, 1951 (No. 268, CA–7301 WR).

39. FR Doc. 51–4680, appearing at page 3491 in the issue of April 21, 1951 (No. 271, CA–7302 WR).

40. FR Doc. 51–12676, appearing at page 10790 in the issue of October 23, 1951 (No. 317, CA–7307 WR).

41. FR Doc. 52–9713, appearing at page 8053 in the issue of September 5, 1952 (No. 347, CA–7309 WR).

42. FR Doc. 52–13289, appearing at page 11453 in the issue of December 18, 1952 (No. 352, CA–7310 WR).

43. FR Doc. 56–1145, appearing at page 1374 in the issue of March 1, 1956 (No. 471, CA–7329 WR).

44. FR Doc. 56–9745, appearing at page 9334 in the issue of November 23, 1956 (No. 503, CA–7335 WR).

45. FR Doc. 57–2587, appearing at page 2251 in the issue of April 4, 1957 (No. 535, CA–7342 WR).

46. FR Doc. 57–3322, appearing at page 2921 in the issue of April 25, 1957 (No. 539, CA–7343 WR).

47. FR Doc. 57–4182, appearing at page 3642 in the issue of May 23, 1957 (No. 565, CA–7345 WR).

48. FR Doc. 41–8997, appearing at page 6156 in the issue of December 2, 1941 (No. 009, CA–7467 WR).

49. FR Doc. 52–3900, appearing at page 2591 in the issue of May 17, 1949 (No. 141, CA–7472 WR).

50. FR Doc. 50–4043, appearing at page 2854 in the issue of May 12, 1950 (No. 207, CA–7479 WR).

51. FR Doc. 51–3663, appearing at page 2665 in the issue of March 2, 1951 (No. 261, CA–7483 WR).

52. FR Doc. 52–6250, appearing at page 5400 in the issue of June 14, 1952 (No. 338, CA–7487 WR).

53. FR Doc. 56–9743, appearing at page 9333 in the issue of November 29, 1956 (No. 499, CA–7491 WR).

54. FR Doc. 57–1212, appearing at page 988 in the issue of February 15, 1957 (No. 523, CA–7492 WR).

55. FR Doc. 57–9628, appearing at page 9302 in the issue of November 21, 1957 (No. 577, CA–7496 WR).

56. FR Doc. 58–1601, appearing at page 1576 in the issue of March 5, 1958 (No. 583, CA–7497 WR).

57. FR Doc. 60–746, appearing at page 656 in the issue of January 25, 1966 (No. 621, CA–7499 WR).

58. FR Doc. 60–2188, appearing at page 2061 in the issue of March 10, 1960 (No. 623, CA–7500 WR).

59. FR Doc. 49–6704, appearing at page 5161 in the issue of August 18, 1949 (No. 166, CA–7506 WR).

60. FR Doc. 58–9572, appearing at page 9219 in the issue of November 11, 1959 (No. 615, CA–7509 WR).

61. FR Doc. 60–5712, appearing at page 5706 in the issue of June 22, 1960 (No. 627, CA–7510 WR).

62. FR Doc. 62–8218, appearing at page 8190 in the issue of August 16, 1962 (No. CLA, CA–7600 WR).

63. FR Doc. 52–1299, appearing at page 1097 in the issue of February 26, 1952 (No. 404, CA–7601 WR).

64. FR Doc. 63–8076, appearing at page 7866 in the issue of August 1, 1963 (No. C6–2, R–03580 WR).

65. FR Doc. 64–4989, appearing at page 6568 in the issue of May 20, 1964 (No. C17, R–05094 WR).

1. The above referenced classifications segregated approximately 32,660 acres of public land located in Inyo, Kern, Los Angeles, Riverside, and San Bernadino Counties from appropriation under all other public land laws, including location under the United States mining laws, but not leasing under the mineral leasing laws, pursuant to the Act of June 1, 1938 (52 Stat. 609; 43 U.S.C. 682a], as amended. The Small Tract Act of 1938 was repealed by Section 702 of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2789); the classifications, therefore, no longer serve a useful purpose.

2. Various tracts of land were patented pursuant to the Small Tract Act under which the mineral estates were reserved to the United States. Approximately 12,373 acres of land described in the above referenced Federal Register notices were not disposed of and remain in Federal ownership.

3. Accordingly, at 10 a.m. on January 31, 1983, the lands remaining in Federal ownership will be open to operation of the public land laws, generally, including location under the U.S. mining laws, subject to valid existing rights, the provisions of existing withdrawals and classifications, and the requirements of applicable laws. Until appropriate rules and regulations are issued by the Secretary, the reserved minerals on the nonpublic lands will not be subject to location under the United States mining laws.

Inquiries concerning the land should be addressed to the State Director, Bureau of Land Management, Room E–2841, Federal Office building, 2800 Cottage Way, Sacramento, California 92825.

Viola A. Andrade,

Acting Chief, Lands & Locatable Minerals Section, Branch of Lands and Minerals Operations.

[FR Doc. 35382 Filed 12–29–82 8:45 am]

BILLING CODE 4310–84–M

Utah; Public Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given in accordance with Pub. L. 92–463 that a meeting of the Vernal District Grazing Advisory Board will be held on February 23, 1983.

The meeting will begin at 9:00 a.m. in the Conference Room of the Bureau of Land Management Office, 170 South 500 East, Vernal, Utah. The agenda for the meeting will include: (1) Review of last year's minutes (2) Status of Ashley-Duchesne Range Program Summary and the Bookcliffs Resource Management Plan (3) The status of FY 83/84 range betterment work (4) BLM–SCS ranch management (5) Utah Division of Wildlife range-widlife related programs (6) Review of new Rangeland Improvement Policy (7) Upcoming Grazing Advisory Board elections (8) Predator and pest control.

The meeting is open to the public. Interested persons may make oral statements for the Board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 170 South 500 East, Vernal, Utah by February 22, 1983. Depending on the number of persons wishing to make statements, the District Manager may establish a per person time limit. Oral statements will be taken beginning 10:30 a.m., February 23, 1983.

Summary minutes of the Board meeting will be maintained at the District Office and will be available for public inspection and reproductions (during regular business hours) within 30 days following the meeting.

Lloyd H. Ferguson,

District Manager.

[FR Doc. 82–35388 Filed 12–29–82; 8:45 am]

BILLING CODE [illegible]

Initial Land Classifications; Corrections

In the Federal Register for Friday, December 10, 1982, Vol. 47, No. 238, make the following corrections:

On page 55523 under the heading Summary, the first sentence should read: The Bureau of Land Management is proposing the classification of 9,290.39 acres of public land as suitable and 4,732.18 acres of public land as unsuitable for agricultural development under provisions of the Desert Land Act or Carey Act.

On Page 5523, under the heading Addresses, the paragraph should read: Send comments, suggestions, or protests to: Secretary of the Interior, LLM 320, Washington, D.C. 20240.

On Page 55524, in the third column the acreage for I–8654, T. 6 S., R. 9 E., Section 32, is correctly 40 acres. The next line should read: Subtotal 3,090.39 acres.

On Page 55525, under Attachment III (Unsuitable), I–8654, T. 6 S., R. 9 E., Section 6, Lot 10, the last column should be: 35.69 acres. The subtotal below T. 6 S., R. 9 E., should be: 2,852.18 acres.

The purpose of these corrections is to show the correct address to mail protests or comments to the Initial Classification Decision and to correct acreage figures.

Martin J. Zimmer,

District Manager.

December 17, 1982.

[FR Doc. 82–35394 Filed 12–29–82; 8:45 am]

BILLING CODE 4310–84–M

[CA 13272]

Realty Action; Lease of Public Lands in Trinity County, California

The following described land has been identified as suitable for lease under Section 302(b) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1732, at no less than fair market value.

Legal Description: T. 32 N., R. 10 W., Section 1, M.D.M., California, as described by metes and bounds on Exhibit A.
Acreage: Approximatey 0.20 acres
Rental Value: $840 year (estimated)

The above-described land would be offered as a direct, non-competitive 25-year lease to Lawrence L. Lyons, owner of the improvements (Douglas City Store and Gas Station) on the lease tract. The subject lands are adjacent to Highway 299, in the unicorporated town of Douglas City. The lands were formerly rough and mountainous, but were somewhat leveled off by past hydraulic placer operations. The owner prior to Mr. Lyons did further work to make a suitable site for a store. The portion of the store, parking and drive area on public land measures about 60' x 100'. Mr. Lyons purchased the store from Earl Ford in August 1963. The applicant will be assessed for prior unauthorized use of the property. The subject land is within ¼ mile of the Trinity River which has recently been designated under the Wild and Scenic Rivers Act. A lease is being offered because the Wild and Scenic Rivers Act prohibits sale of the land. The lands are not required for any Federal purpose, and the public interest would be served by offering this land for lease.

For a period of 45 days from the date of this notice, interested parties may submit comments on the proposed lease or its environmental consequences to the Area Manager, 355 Hemsted Drive, Redding, California 96002. Any adverse comments will be evaluated by the State Director. In the absence of any action by the State Director, this realty action will become a final determination of the Bureau of Land Management.

Dated: December 17, 1982.

Robert C. Korfhage,

Area Manager.

[FR Doc. 82-35395 Filed 12-29-82; 8:45 am]

BILLING CODE 4310-84-M

Hot Springs Lease; Public Lands in Alaska

The following described lands have been determined to be suitable for hot springs lease under section 302 of the Federal Policy and Management Act of 1976, 43 U.S.C. 1732:

T. 7 S., R. 18 W., KRM Unsurveyed
Sec. 27: Special Survey (80 acres)

The purpose of the lease is to develop Clear Creek Hot Springs into a commercial facility to include a lodge and bath-house. An airstrip will be constructed to provide access. The lands presently adjoining the proposed lease are undeveloped. Two Native allotments are adjacent to the proposed lease area. The lease is consistent with the Bureau's Planning System.

The terms and conditions applicable to the lease are:

1. The lands would be leased to Carl and Alice Emmons.
2. The lease would be issued for twenty years with the right to renew.
3. The lands would be used for a commercial lodge and bath-house.
4. Rental will be determined by fair market value.

Detailed information concerning the lease, including the environmental assessment, is available for review at the Fairbanks District Office, Ft. Wainwright, Alaska.

On or before January 24, 1983, interested parties may submit comments to the Fairbanks District Manager, P.O. Box 1150, Fairbanks, Alaska 99707. Any adverse comments will be evaluated by the District Manager, who may vacate or modify this realty action and issue a final determination. In absence of any action by the District Manager, this realty action will become the final determination of the Bureau.

Carl P. Jeglum,

Acting District Manager.

[FR Doc. 82-35384 Filed 12-29-82; 8:45 am]

BILLING CODE 4310-84-M

[I-13343]

Public Lands in Ada County, Idaho; Realty Action—Exchange

The following described lands have been determined to be suitable for disposal by exchange under Section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

Boise Meridian, Idaho

T. 2 N., R. 3 E.,
Sec. 15, SW¼;
Sec. 17, SE¼NE¼, E½SE¼;
Sec. 20, NE¼NE¼;
Sec. 23, NE¼SE¼;
Sec. 25, N½SW¼;
Sec. 35, S½SW¼.
Total Acres—520.

In exchange for these lands, the Federal Government will acquire tracts of non-federal land in Ada County, Idaho, from National American Enterprises, Inc. described as follows:

Boise Meridian, Idaho

T. 2 N., R. 3 E.,
Sec. 10, NE¼NE¼SW¼, S½NW¼SE¼, E½SW¼SE¼;
Sec. 14, N½NW¼;
Sec. 15, N½NE¼NE¼, SE¼NE¼NE¼;
Sec. 23, N½NE¼NE¼;
Sec. 24, N½SW¼NW¼, NE¼NE¼SW¼, S½NE¼SE¼, N½NW¼SE¼, SW¼NW¼SE¼, SE¼SE¼.
T. 2 N., R. 4 E.,
Sec. 19, Lot 4, except for a 120-foot square;
Sec. 30, Lots 1 and 2, W½SE¼NW¼, NE¼SW¼.
Total Acres—480.40.

The purpose of the exchange is to acquire the non-federal lands on which portions of the historic Oregon Trail are situated. This will enable the Bureau of Land Management to protect remnants of this National Historic Trail. The exchange is consistent with the Bureau's planning for the lands involved. The management framework plan for this area recommends such acquisitions to provide protective management for the Oregon Trail. The public interest will be well served by making the exchange.

The value of the lands to be exchanged are approximately equal, and either the acreage will be adjusted or money will be used to equalize the values upon completion of the final appraisal of the lands.

The terms and conditions applicable to the exchange area: (1) Both parties will convey all mineral rights in the lands to be exchanged; (2) the public lands will be conveyed subject to all valid existing rights of records; (3) the non-federal lands will be conveyed subject to existing rights or interests of record which are administratively acceptable to the United States; (4) the existing oil and gas leases on the public lands in Sections 15, 17, 20, 25 and 35, T. 2 N., R. 3 E., Boise Meridian, Idaho, shall remain in effect until expiration or other termination; and (5) the public lands are subject to a reservation for ditches and canals.

Detailed information concerning the exchange including the environmental analysis and record of public discussions, is available for review at the Boise District Office, Boise, Idaho.

For a period of 45 days, interested parties may submit comments to the Boise District Manager, 3948 Development Avenue, Boise, Idaho 83705. Any adverse comments will be evaluated by the District Manager, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this realty action will become

the final determination of the Department.

Dated: December 21, 1982.

Martin J. Zimmer,

District Manager.

[FR Doc. 82-35380 Filed 12-29-82; 8:45 am]

BILLING CODE 4310-84-M

New Mexico; Albuquerque District, New Mexico; District Advisory Council Meeting

The first meeting of the re-chartered Albuquerque District Advisory Council will be held January 24, 1983 in the Conference Room of the Bureau of Land Management, Albuquerque District Office, 3550 Pan American Freeway NE, Albuquerque, New Mexico. The meeting, which begins at 10:00 a.m., will be organizational in nature.

The public is welcome to attend all portions of the Council meeting. Statements by the public may be made to the Council at 1:00 p.m.

The agenda includes: Discussion of the Advisory Council Charter; Statements by each Council Member giving their individual perspective on public land usage; Briefing on Albuquerque District programs and priorities; A report on the functioning of the previous Advisory Council; Election of Officers; and establishing the next meeting agenda.

Minutes of the meeting will be prepared and made available for review within 30 days following the meeting.

Mathew N. Millenbach,

Associate District Manager.

December 21, 1982.

[FR Doc. 82-35386 Filed 12-29-82; 8:45 am]

BILLING CODE 4310-84-M

[OR 18865]

Oregon; Order Providing for Opening of Public Lands

1. By order dated November 25, 1974, the Federal Energy Regulatory Commission vacated the land withdrawal in part for Power Project No. 853 of May 13, 1927, as amended May 12, 1930, as to the following described land:

Willamette Meridian

Revested Oregon and California Railroad Grant Lands

T. 40 S., R. 8 W.,
Sec. 5, Lot 6.

The area described contains 12.36 acres in Josephine County, Oregon.

2. The land described in paragraph 1 is included in Power Site Classification 123 and remains withdrawn from operation of the public land laws generally.

3. Under the authority delegated by Bureau of Land Management Order No. 701 dated July 23, 1964 (29 FR 10526), as amended, it is ordered that at 9:30 a.m. on February 5, 1983, the land described in paragraph 1, will be open to location under the United States mining laws subject to the provisions of the Act of August 11, 1955 (69 Stat. 682; 30 U.S.C. 621). The land has been and continues to be open to applications and offers under the mineral leasing laws.

Dated: December 21, 1982.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 35383 Filed 12-29-82 8:45 am]

BILLING CODE 4310-84-M

Amendment to Previous Notice of Availability of Planning Criteria for Resource Management Planning in the Hollister Resource Area, Bakersfield District, California

December 21, 1982.

This notice amends the Notice of Availability (NOA) dated June 17, 1982. (Planning Criteria for Coast Resource Management Plan in the Hollister Resource Area, Bakersfield District, California, **Federal Register**/Vol. 47, No. 122/Thursday, June 24, 1982, page 27410) and the Notice dated July 27, 1982, (Amendment to Previous Notices for Resource Management Planning in the Hollister Resource Area, Bakersfield District, California, **Federal Register** / Vol. 47, No. 150/Wednesday, August 4, 1982, page 33707).

In accordance with 43 CFR 1601.3, notice is hereby given of the availability of the Planning Criteria to direct the Hollister Resource Management Plan (RMP) in the Hollister Resource Area.

The Bakersfield District of the Bureau of Land Management has prepared the initial Planning Criteria to direct this planning effort in the Hollister Resource Area. The Plan will involve the public lands located in Fresno, San Benito, Monterey, Merced, Stanislaus and Santa Clara Counties and will carry out the requirements of the Federal Land Policy and Management Act (FLPMA) of 1976.

As new information surfaces during the planning process, and/or from public input, additional planning criteria will be developed for future guidance of this planning effort.

The initial planning criteria are available for public review and comment at the following locations: Bureau of Land Management, Bakersfield District Office, 800 Truxtun Avenue, Room 302, Bakersfield, California 93301, (805) 861-4191; and Bureau of Land Management, Hollister Resource Area Office, 402 Parkhill Road, P.O. Box 365, Hollister, California, 95023, (408) 637-8183.

Persons wishing copies of the initial planning criteria are requested to contact either of the offices listed above.

Comments are being accepted from the public until 30 days from the date of this notice.

For further information contact David E. Howell, Hollister Resource Area Manager, at the Hollister address listed above.

Timothy R. Salt,

Acting District Manager.

[FR Doc. 82-35385 Filed 12-29-82; 8:45 am]

BILLING CODE 4310-84-M

California Desert District; Big Morongo Canyon; Closure of Area of Critical Environmental Concern (ACEC)

AGENCY: Bureau of Land Management, Interior.

ACTION: Closure of ACEC to vehicle use.

SUMMARY: The closure is being implemented to protect significant and sensitive wildlife values from inadvertent damage caused by vehicle use. The authorities for the management plan's vehicle closure are 43 CFR 8000.0-6, 8340, 8341, 8342, 8364, the Federal Land Policy and Management Act of 1976, the National Environmental Policy Act of 1969, and the Sikes Act of 1974. The area affected by this designation is Big Morongo Canyon ACEC. The ACEC contains approximately 3700 acres of BLM managed public land in Riverside and San Bernardino Counties, California. The designation is a result of a management plan for the ACEC which included public involvement. The ACEC management plan was developed following the guidelines established for the area in the California Desert Conservation Area Plan.

DATE: Effective December 31, 1982

ADDRESS: Send inquiries to Area Manager, Indio Resource Area, 1695 Spruce Street, Riverside, California 92507.

The ACEC Management Plan and public comments received will be available for public review at the above address from 8:00 a.m. to 4:15 p.m. on regular working days.

FOR FURTHER INFORMATION CONTACT: Robin L. Kobaly at the above address or (714) 351-6663.

SUPPLEMENTARY INFORMATION: Under the authority provided in the Federal Land Policy and Management Act of 1976 (43 USC 1701 et seq.), EO 11644

(Use of Off-Road Vehicles on Public Lands), and the Sikes Act of 1974.

Vehicle Use

1. Vehicle access will not be allowed within the ACEC except for that access necessary for pipeline maintenance by the right-of-way grantee and for administrative tasks performed by BLM. A map of the closed area is available for review at the Indio Resource Area Office, 1695 Spruce Street, Riverside, California. Copies of the map are available upon request from the same address.

The purpose of these regulations is to minimize conflicts between vehicle use in the area and for protection and enhancement of wildlife values. The public lands within the ACEC will remain open to other resource uses not in conflict with the objectives of the ACEC management plan. Administrative access by vehicle into the area closed to vehicle access for BLM personnel, BLM contractors, licensees, permittees, lessees, and all other Federal, State, and County employees is allowed when on official duty and when cleared prior to entry by the authorized officer. Permission for other people to enter areas closed to vehicular use is subject to approval by the authorized officer.

Effective date: December 31, 1982.

Signed at Riverside, California, on December 17, 1982.

H. W. Riecken,

Associate District Manager, California Desert District, Bureau of Land Management.

[FR Doc. 82-35387 Filed 12-29-82; 8:45 am]

BILLING CODE 4310-84-M

[CA-13094]

California; Intent To Amend Scattered Blocks MFP and Realty Action

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent to amend scattered blocks MFP and notice of realty action.

SUMMARY: The Bureau of Land Management, pursuant to 43 CFR 1600, proposes to amend the Scattered Blocks Management Framework Plan to allow for the transfer of the below described land to the City of Trinidad, and pursuant to 43 CFR 2400, proposes to classify the below described land as suitable for patent for a recreation area under the Authority of the Recreation and Public Purpose Act of June 14, 1926, as amended (43 U.S.C. 869 et seq.):

Humboldt Meridian—Humboldt County, California

T. 8 N., R. 1 W.,

Section 26, Lot 4.

The land described contains 47.2117 acres.

The City of Trinidad has expressed an interest in these lands for development of a non-intensive recreation area (CA-13094) under the provisions of the Recreation and Public Purpose Act, as amended.

This decision/notice is being based upon the following rationale:

(1) The lands have been found to be suitable for recreation and public purposes.

(2) The land is not of national significance and not essential to any Bureau of Land Management program.

(3) The proposed use will have no known significant effect on the human and national environment.

(4) Patenting the above described lands will serve the public interest.

(5) The land use plan is proposed for amendment to allow for the proposed use.

Segregation: Classification of these lands under the provision of the Recreation and Public Purpose Act will segregate them from all appropriations, including locations under the mining laws, except as to application under the mineral leasing laws and applications under the Recreation and Public Purposes Act.

Dates: For a period of 45 days from the date of this notice, interested parties may submit comments to the District Manager, 555 Leslie Street, Ukiah, California, 95482. Any adverse comments will be evaluated by the State Director who may vacate or modify this action and issue a final determination. In the absence of any action by the State Director, the Notice of Intent and Notice of Realty Action will become a final determination of the Bureau of Land Management.

Reservation: There would be reserved to the United States in the applied for lands, a reservation for the existing roads, telephone line, electrical transmission line, water pipeline, and for visibility of the aid-to-navigation light, and for the operations of the antennas, wherein no structures or other improvements may be erected which would interfere with the operations of the antennas or which would obstruct the arc of light.

Dated: December 21, 1982.

Edwin G. Katlas,

Acting District Manager, Ukiah District.

[FR Doc. 82-35336 Filed 12-29-82; 8:45am]

BILLING CODE 4310-84-M

[Group 766]

California; Filing of Plat of Survey

December 22, 1982.

1. This plat of survey of the following described land will be officially filed in the California State Office, Sacramento, California, immediately:

Mount Diablo Meridian, California

T. 23 N., R. 9 W.

2. This plat, representing the dependent resurvey of a portion of the subdivisional lines, and the survey of the subdivision of section 16, Township 23 North, Range 9 West, Mount Diablo Meridian, under Group No. 766, California, was accepted November 24, 1982.

3. The plat will immediately become the basic record for describing the land for all authorized purposes. The plat has been placed in the open files and is available to the public for information only.

4. This survey was executed to meet certain administrative needs of this Bureau.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, California 95825.

Patricia L. Porter,

Acting Chief, Records and Information Section.

[FR Doc. 82-35337 Filed 12-29-82; 8:45 am]

BILLING CODE 4310-84-M

[CA 13139]

California; Filing of Plat of Survey

December 22, 1982.

1. This plat of survey of the following described land will be officially filed in the California State Office, Sacramento, California, immediately:

Mount Diablo Meridian, California

T. 2 N., R. 13 E.

2. This supplemental plat of the north half northeast quarter of section 10, Township 2 North, Range, 13 East, Mount Diablo Meridian, was accepted November 9, 1982.

3. The plat will immediately become the basic record for describing the land for all authorized purposes. The plat has been placed in the open files and is available to the public for information only.

4. This survey was executed to meet certain administrative needs of this Bureau.

5. All inquiries relating to this land should be sent to the California State

Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E–2841, Sacramento, California 95825.

Patricia L. Porter,

Acting Chief, Records and Information Section.

[FR Doc. 82–35338 Filed 12–29–82; 8:45 am]

BILLING CODE 4310–84–M

[Group 734]

California; Filing of Plat of Survey

December 22, 1982.

1. This plat of survey of the following described land will be officially filed in the California State Office, Sacramento, California, immediately:

San Bernardino Meridian, California

T. 8 S., R. 2 W.

2. This plat, representing the dependent resurvey of a portion of the subdivisional lines, and a portion of the Pechanga (Temecula) Indian Reservation allotments in section 34, Township 8 South, Range 2 West, San Bernardino Meridian, under Group No. 734, California, was accepted November 16, 1982.

3. The plat will immediately become the basic record for describing the land for all authorized purposes. The plat has been placed in the open files and is available to the public for information only.

4. This survey was executed to meet certain administrative needs of this Bureau and Bureau of Indian Affairs.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E–2841, Sacramento, California 95825.

Patricia L. Porter,

Acting Chief, Records and Information Section.

[FR Doc. 82–35339 Filed 12–29–82; 8:45 am]

BILLING CODE 4310–84–M

California; District Managers; Area Managers Redelegation of Authority

Section 1.1(a)(3) of Bureau Order No. 701, dated July 23, 1964, as amended by Notice published on December 9, 1980 (45 FR 81128) authorizes the Bureau of Land Management State Directors to redelegate that authority for "Land Use" to District Managers. This action is taken so Bureau of Land Management field personnel can be more responsive to the public demand for uses of public land by having the District offices as the main focal point for land and realty actions.

1. Pursuant to the authority contained in Sec. 1.1 of BLM Order No. 701 (20 FR 10526, July 29, 1964) as amended, the following authority is hereby delegated to the District Managers to take action for the State Director in matters listed under Section 1.9—Land Use. The District Manager may take all the listed action on:

(d) Exchanges. Take all actions subject to the title opinion of the Field Solicitor, in all matters relating to exchanges of lands and of timber for lands, except for appraisal reports on any proposed transaction, signing of realty actions involving lands in excess of 2,500 acres and issuance of patents.

(g) Material other than forest products. Take all actions relating to any sale or contract for sale of material other than forest products not exceeding $50,000, or for the free use of materials other than forest products, under 43 CFR Part 3600.

(i) Sites for recreational or any public purpose. Take all actions with respect to leases to Federal, State, Local government units and to nonprofit associations and corporations pursuant to 43 CFR Part 2740 and 2912 and to other applicable regulations.

(j) Sales of public lands. (1) Take all actions on sales pursuant to 43 CFR 2710 except signing of realty actions involving lands in excess of 2,500 acres. preparations of Final Certificates, issuance of patents and Notices of Conveyance. (2) Expressions of interest by and sales to aliens, assocations having an appreciable number of alien members, and corporations whose stock to an apppreciable extent is held by aliens, are subject to approval by the Secretary of Interior.

(m) Rights-of-way. Grant right-of-way permits and easements over public and acquired lands pursuant to 43 CFR Part 2800.

(o) Leases, permits, and easements. Take all actions in issuing: (1) leases or permits for public lands, pursuant to 43 CFR Part 2920; (2) leases, permits and easements for acquired lands under the administration of the Bureau of Land Management, under the principles embodied in 43 CFR Part 2920. (3) No land use authorization may be issued under this authority to Federal Departments or agencies.

2. The authority delegated in paragraph 1 above is hereby delegated to the Area Manager, Redding Resource Area, Ukiah District, and may not be redelegated but may be exercised by any person authorized as an "Acting Area Manager."

3. The authority delegated in paragraph 1 above may be redelegated to other Area Managers by the District Managers with written concurrence by the State Director.

4. The delegations made by notices published May 21, 1981 (46 FR 27771) and February 19, 1982 (47 FR 7505) are hereby cancelled.

December 22, 1982.

Ed Hastey,

State Director.

[FR Doc. 82–35340 Filed 12–29–82; 8:45 am]

BILLING CODE 4310–84–M

[N–32273]

Nevada; Realty Action—Exchange

December 30, 1982.

The following described Federal land in Lyon County, Nevada, has been determined to be suitable for disposal by exchange under Section 206 of the Federal Land Policy and Management Act of October 21, 1976, 43 U.S.C. 1716:

T. 12 N., R. 23 E., Mt. Diablo Mer., NV.
Sec. 28: SW¼NW¼,
Sec. 29: E½E½,
Sec. 32: NE¼NE¼.
Containing 240 Acres.

In exchange for this land, the Federal Government is offered the following described private land in Douglas and Lyon Counties, Nevada:

T. 12 N., R. 23 E., Mt. Diablo Mer., NV,
Sec. 4: SW¼SW¼, NE¼NE¼NE¼SE¼, W½E½NE¼SE¼, W½NE¼SE¼, SE¼SE¼N . E½SE¼;
Sec. 8: NE¼NE¼;
Sec. 9: NW¼NW¼.
T. 13 N., R. 23 E., Mt. Diablo Mer., NV,
Sec. 32: SE¼SE¼.
T. 12 N., R. 24 E., Mt. Diablo Mer., NV,
Sec. 8: SE¼SW¼.
Containing 235 Acres.

The purpose of the exchange is to acquire private land which would be beneficial to the Carson City District's wildlife program. The proposed exchange is consistent with BLM land use planning.

An appraisal has been completed and the lands being exchanged will be of equal value or otherwise will be equalized by the payment of money to the Federal Government not to exceed 25 per centum of the total value of the land transferred out of Federal ownership.

Land transferred from the United States will be subject to the following reservations, terms and conditions:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States; Act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945.

2. An easement, 60 feet in width, along the east-west quarter section line of Sections 28 and 29 for utility purposes

and to insure continued ingress and egress to adjacent lands.

3. A right-of-way (N–36603) for water pipeline purposes granted to Thomas J. Wipfli.

Upon publication of this Notice of Realty Action in the **Federal Register**, the public lands will be segregated from all appropriations under the public land laws, including the mining laws, except exchanges and mineral leasing for a period of two (2) years or upon issuance of patent or other documents of conveyance to such lands, whichever occurs first. After titles pass, the Federal land will be opened to the public land laws, including the mining laws.

Detailed information concerning the exchange including the Environmental Assessment Record/Land Report, Cultural Resources Report and Mineral Report are available for review at the Carson City District Office, 1050 E. William Street, Suite 335, Carson City, Nevada 89701.

For a period of 45 days from the date of this notice, interested parties may submit comments to the District Manager, Carson City District Office of the Bureau of Land Management, 1050 E. William St., Suite 335, Carson City, Nevada 89701. Any adverse comments will be evaluated by the District Manager, and forwarded to the Nevada State Director, Bureau of Land Management, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department of the Interior.

J. Matthiessen,

Acting District Manager, Carson City District.

December 30, 1982.

[FR Doc. 82-35341 Filed 12-29-82; 8:45 am]

BILLING CODE 4310-84-M

[W-79336]

Exchange of Public Lands in Sweetwater and Lincoln Counties for Private Lands in Teton County; Realty Action

December 17, 1982.

The surface state of the following described lands has been determined to be suitable for disposal by exchange under Section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716):

Sixth Principal Meridian, Wyoming

T. 19 N., R. 105 W.,
Sec. 28, lots 18 to 22, inclusive, lots 26 and 27.
T. 21 N., R. 116 W.,
Sec. 21, lot 1, SE¼NE¼, and NE¼SE¼;
Sec. 22, lot 1, NE¼NW¼, SW¼NW¼, SE¼NW¼, SW¼, NW¼SE¼, SW¼SE¼, and SE¼SE¼;
Sec. 23, lot 4;
Sec. 26, lots 1 to 4, inclusive;
Sec. 27, NE¼, NE¼NW¼, SE¼NW¼, and SE¼.

The areas described aggregate 1,156.89 acres.

In exchange for these lands the United States will acquire from Herbert H. Kohl a Conservation and Trail Easement on lands described as:

Sixth Principal Meridian, Wyoming

T. 40 N., R. 111 W.,
Sec. 4, lots 1 to 3, inclusive, SW¼NE¼, and SE¼NW¼.
T. 41 N., R. 111 W.,
Sec. 19, lots 1 and 2, lot 4, NW¼SW¼, and SE¼SW¼;
Sec. 29, SW¼SW¼;
Sec. 30, lot 1, NE¼SE¼, NW¼SE¼, and SE¼SE¼;
Sec. 32, NW¼NE¼, SW¼NE¼, SE¼NE¼, NE¼NW¼, NW¼NW¼, NE¼SE¼, and SE¼SE¼;
Sec. 33, SW¼, NW¼SE¼, SW¼SE¼, and SE¼SE¼.
T. 431 N., R. 112 W.,
Sec. 24, NE¼NE¼ and SE¼NE¼, excepting a portion of the southeast quarter described as follows:

Beginning at a point which is the southwest corner of said portion and the CE¼ corner of said section. From the initial point

North 0°08'E. along the west line of the southeast quarter of the northeast quarter of said section, a distance of 331.66 ft;

Thence N. 89°44'E., a distance of 1314.06 ft. to the east boundary of said section;

Thence S. 0°15'W. along the east boundary of said section a distance of 331.66 ft. to the east quarter corner of said section;

Thence S. 89°44'W. along the center section line of said section a distance of 1313.40 ft. to the point of beginning.

The tract as described contains approximately 10 acres.

The areas described aggregate 1,227.62 acres.

Interests acquired by this exchange will be transferred to the Secretary of Agriculture under Section 206(c) of the Federal Land Policy and Management Act of 1976, and will be subject to the laws, rules and regulations applicable to the National Forest System.

The acquired easement will provide for public access across private lands that border the Gros Ventre River, and will facilitate such control over use of the private lands as it considered necessary by the U.S. Forest Service to maintain and protect the natural, scenic, open-space character, and other environmental values of the Gros Venture Valley.

The exchange is consistent with Bureau of Land Management, U.S. Forest Service, and Teton County land use planning for the lands involved and has the support of several national and local natural resource planning and environmental protection groups. The public interest will be well served by making the exchange.

The value of the lands to be exchanged is approximately equal. If an imbalance in values is determined at the time of final land appraisal, the difference will be added or subtracted by using 40 acre increments of land and any remainder will be in the form of cash payment.

The terms and conditions applicable to the exchange are:

1. Exchange of these lands is subject to existing rights-of-way of record and any other valid existing rights. Rights-of-way for arterial and collector streets have been dedicated by the United States in order to provide access for the general public to the exchange lands in Sweetwater County and to adjacent public lands. Those rights-of-way are shown on the Plat of Section 28 Subdivision dated September 6, 1978.

2. Conveyance of these lands by the Secretary of the Interior shall not exempt the exchange proponent from compliance with applicable Federal or State law and compliance with State and local land use plans.

3. *All minerals* in the lands will be reserved to the United States in accordance with Section 209 (a) of the Federal Land Policy and Management Act of 1976.

4. *Rights-of-way for ditches and canals* will be reserved under 43 U.S.C. 945.

5. The United States will be reimbursed by the exchange proponent for the underpreciated value of the reservoir (BLM Project No. 754) located in lot 1 of Section 21, T. 21 N., R. 116 W. Such value is to be determined by an appraisal performed by a Federal appraiser using the principles contained in the *Uniform Appraisal Standards for Federal Land Acquisitions.*

6. This exchange action requires a partial cancellation of the grazing permits on the Cumberland-Uinta Grazing Allotment in Lincoln County, and the Rock Springs Grazing Allotment in Sweetwater County. After the exchange is finalized the grazing privileges within these allotments will be reduced by 77 AUM's in the Cumberland-Uinta Allotment and 12 AUM's in the Rock Springs Allotment.

Publication of this notice in the **Federal Register** segregates the public lands, described above, from appropriation under the public land laws, including the mining laws, but not from exchange pursuant to Section 206 of the Federal Land Policy and Management Act of

1976. The segregative effect of this notice will terminate upon issuance of a conveyance document, in two years, or when a cancellation notice is published, whichever occurs first.

Detailed information concerning the environmental assessment for the exchange is available for review at the Rock Springs District Office, Bureau of Land Management, P.O. Box 1869, Rock Springs, Wyoming 82901.

Planning information concerning the exchange is a available for review at the following offices:

1. Bureau planning documents concerning the Federal lands involved are available at the Big Sandy Resource Area Office, Bureau of Land Management, P.O. Box 1869, Rock Springs, Wyoming 82901; and, the Kemmerer Resource Area Office, Bureau of Land Management, P.O. Box 632, Kemmerer, Wyoming 83101.

2. Forest Service planning documents concerning the non-Federal lands involved are available at the Bridger-Teton National Forest Office, P.O. Box 1888, Jackson, Wyoming 83001.

On or before February 13, 1983 interested parties may submit comments to the Rock Springs District Manager at the above address. Any adverse comments will be evaluated by the Wyoming State Director, Bureau of Land Mangement, who may vacate or modify this realty action and issue a final determination. In absence of any action by the State Director, this realty action will become the final determination of the Department of the Interior.

Donald Sweep,

District Manager.

[FR Doc. 82-34680 Filed 12-29-82; 8:45 am]

BILLING CODE 4310-84-M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Conoco Inc. has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS 016, Block 31, West Delta Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837-4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: December 20, 1982.

John L. Rankin,

Acting Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 82-35400 Filed 12-29-82; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that ARCO Oil and Gas Company has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS-G 1608, Block 60, South Pass Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837-4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: December 20, 1982.

John L. Rankin,

Acting Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 82-35401 Filed 12-29-82; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Exxon Company, U.S.A. has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS 026, Block 30, West Delta Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1973, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837-4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: December 21, 1982.

John L. Rankin,

Acting Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 82-35402 Filed 12-29-82; 8:45 am]

BILLING CODE 4310-31-M

Central and Northern California Outer Continental Shelf; Intent to Prepare an Environmental Impact Statement for Proposed OCS Oil and Gas Lease Sale No. 73

Pursuant to § 1501.7 of the Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act of 1969, the Minerals Management Service's Pacific Outer Continental Shelf (OCS) Region is announcing its intent to prepare an environmental impact statement (EIS) for the offshore oil and gas leasing proposal known as OCS Sale No. 73. The EIS analysis will focus on the potential environmental effects of leasing the unleased tracts in that portion of the northern and central California planning area that lies south of the line between the rows of blocks numbered N 816 and N 817 of the Universal Transverse Mercator Grid System, and within the boundaries of the Call for Nominations and Comments for OCS Sale No. 73 issued on November 28, 1980. Alternatives to be considered in the EIS include options to modify, delay, or withdraw the proposed lease offering.

The draft EIS is tentatively scheduled for release in early 1983. The proposed sale is presently scheduled for late 1983. Federal, State, or local Governments, environmental groups, and interested individuals having questions concerning the proposed action or the EIS and those wishing to assist the Minerals Management Service in determining the scope of the EIS should contact John Lane, Chief, Environmental Assessment Division, Minerals Management Service, Pacific OCS Region, 1340 West 6th Street, Los Angeles, California 90017, telephone (213) 688–6741. Comments on the scope of the EIS should be received by January 31, 1983.

Harold Doley,

Director, Minerals Management Service.

December 27, 1982.

[FR Doc. 82–35469 Filed 12–29–82; 8:45 am]

BILLING CODE 4310–MR–M

National Park Service

Jackson Hole Airport, Grand Teton National Park, Teton County, Wyoming; Availability, Environmental Assessment for Proposed Renegotiation of Management Agreement with the Jackson Hole Airport Board

Pursuant to the National Environmental Policy Act of 1969, the Department of the Interior, National Park Service, has prepared an Environmental Assessment on a proposed new management agreement with the Jackson Hole Airport Board for the Jackson Hole Airport, Grand Teton National Park, Teton County, Wyoming.

The Environmental Assessment describes alternatives and environmental impacts for renegotiating the Jackson Hole Airport Management Agreement between the Department and the Jackson Hole Airport Board, and is accompanied by a proposed finding of no significant impact.

Copies of the Environmental Assessment will be mailed to known interested parties, and will be available on January 5, 1983, at the following locations:

- Office of Public Affairs, National Park Service, Room 3043, 18th & C Streets, NW., Washington, D.C. 20240 (Telephone 202–343–6843)
- Office of Public Affairs, Rocky Mountain Regional Office, National Park Service, 655 Parfet St., Denver, Colorado 80225 (Telephone 303–234–2500)
- Office of the Secretary, U.S. Department of the Interior, Building 67, Room 688, Denver Federal Center, Denver, Colorado 80255 (Telephone 303–234–3120)
- Office of the Superintendent, Grand Teton National Park, Moose, Wyoming 83012 (Telephone 307–733–2880)

Anyone wishing to provide comments on the Environmental Assessment should forward them to Mr. Al Baldwin, U.S. Department of the Interior, Building 67, Room 688, Denver Federal Center, Denver, Colorado 80225 (Telephone 303–234–3120) by February 4, 1982.

Dated: December 27, 1982.

Russell E. Dickenson,

Director, National Park Service.

[FR Doc. 82–35467 Filed 12–29–82; 8:45 am]

BILLING CODE 4310–70–M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 311 (Sub-No. 4)]

Modification of the Motor Carrier Fuel Surcharge Program

AGENCY: Interstate Commerce Commission.

ACTION: Change in owner-operator fuel reimbursement figure.

SUMMARY: Due to a change in the nationwide average cost of diesel fuel, owner-operator reimbursement has changed from 14 to 13.5 cents per mile.

EFFECTIVE DATE: This decision will be effective on January 14, 1983.

FOR FURTHER INFORMATION CONTACT:
Lee Alexander, (202) 275–7723
Ted Kalick, (202) 275–6440
Alan Rothenberg, (202) 275–7597
Boston, MA, (603) 223–2372
Philadelphia, PA, (215) 597–4460
Atlanta, GA, (404) 881–2167
Chicago, IL, (312) 353–6204
Ft. Worth, TX, (817) 334–2794
San Francisco, CA, (415) 974–7125

SUPPLEMENTARY INFORMATION: In a decision served November 1, 1982 (47 FR 49753, November 2, 1982), the Commission established owner-operator reimbursement at 14 cents per mile for all carrier-related business miles. This change became effective November 17, 1982. As noted in the October 8, 1981 decison (46 FR 50070, October 9, 1981), the mileage payment will change when the price of fuel in conjunction with the reimbursement formula causes the figure to rise or decline by .5 cents per mile.

As of December 20, 1982, the current price of diesel fuel was 126.6 cents per gallon. The reimbursement figure is 13.4. Ten working days after publication of the notice in the Federal Register (effective January 14, 1983), carriers shall reimburse owner-operators at a minimum of 13.5 cents per mile.

During this 10-day period or after, if they choose, carriers may adjust their rates to reflect the change in owner-operator reimbursement by using the 10-day notice provisions of Special Permission No. 81–2500 (see Part 2 of Appendix B and Appendix C to the October 8 decision). All other normal rate-making avenues are also available.

Notice shall be given to the general public by mailing a copy of this decision to the Governor of each State having jurisdiction over transportation by depositing a copy in the Office of the Secretary, Interstate Commerce Commission, Washington, D. C., for public inspection and by depositing a copy with the Director, Office of the Federal Register, for publication.

Decided: December 23, 1982.

By the Commission. Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison. Commissioner Andre was absent and did not participate.

James H. Bayne,

Acting Secretary.

[FR Doc. 82–35361 Filed 12–29–82; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Motor Common and Contract Carriers of Property (fitness-only); Motor Common Carriers of Passengers (fitness-only); Motor Contract Carriers of Passengers; Property Brokers (other than household goods).

The following applications for motor common or contract carriage of property and for a broker of property (other than household goods) are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** on December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common or contract carriage of passengers filed on or after November 19, 1982, are governed by Subpart D of the Commission's Rules of Practice. See 49 CFR Part 1160, Subpart D, published in the **Federal Register** on November 24, 1982, at 49 FR 53271. For compliance procedures, see 49 CFR 1160.86. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E.

These applications may be protested *only* on the grounds that applicant is not fit, willing and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations.

Applicants's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce, over irregular routes unless noted otherwise. Applications for motor contract carrier authority are those where service in for a named shipper "under contract."

Please direct status inquiries to Team Three at (202) 275–5223.

Volume No. OP3–62

Decided: December 22, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 47495 (Sub-13), filed December 10, 1982. Applicant: MOUNTAIN VIEW COACH LINES, INC., Route 9W, West Coxsackie, NY 12192. Representative: Samuel B. Zinder, 98 Cutter Mill Road, Great Neck, NY 11021, (516) 482–0881. Transporting *passengers,* in charter and special operations, between points in the U.S. (except HI).

Notes.—Applicant seeks to provide privately-funded charter and special transportation.

MC 146024 (Sub-8(b), filed December 9, 1982. Applicant: G & R PETROLEUM, INC., 253 S. W. 4th Ave., Ontario, OR 97914. Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701, (208) 343–3071. (1) As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI), and (2) transporting for or on behalf of the U.S. Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 162915 (Sub-2), filed December 10, 1982. Applicant: EASY RIDER LINES, INC., 21 Queen Anne Drive, Deal, NJ 07723. Representative: Michael R. Werner, 241 Cedar Lane, Teaneck, NJ 07666, (201) 836–1144. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165035, filed December 6, 1982. Applicant: HARRY R. KNABLE, R.R. 3, Wabash, IN 46992. Representative: Walter F. Jones, Jr., 1111 E. 54th St., Suite 155, Indianapolis, IN 46220, (317) 257–4066. Transporting *food and other edible products and byproducts intended for human consumption* (except alcholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 165075, filed December 7, 1982. Applicant: FAST MESSENGER SERVICE, INC., 1015 W. Grand Ave., Chicago, IL 60622. Representative: Allan C. Zuckerman, 221 N. LaSalle St., Suite 826, Chicago, IL 60601, (312) 641–5900. Transporting *shipments weighing 100 pounds or less*, if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 165104, filed December 9, 1982. Applicant: CREECH BROTHERS TRUCK BROKERAGE, INC., 100 Industrial Dr., Troy, MO 63379. Representative: William H. Creech, Jr. (same address as applicant), (314) 528–8903. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 165105, filed December 9, 1982. Applicant: FUN TRIP TOURS, INC., 9776 Katella Ave., Suite H, Anaheim, CA 92803. Representative: William C. Robinson, 16133 Ventura Blvd., Penthouse Suite B, Encino, CA 91436, (213) 784–9993. Transporting *passengers*, in charter and special operations, beginning and ending at points in CA, and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165115, filed December 6, 1982. Applicant: SEIBERT FARMS (J. E. SEIBERT), R. R. 1, Story City, IA 50248. Representative: J. E. Seibert (same address as applicant), (515) 733–4909. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic

beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 165124, filed December 10, 1982. Applicant: J. M. S. TRANSPORT, INC., 7808 E. Oakshore Dr., Scottsdale, AZ 85261. Representative: Joe E. Norwood (same address as applicant), (602) 264–7403. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners,* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 165125, filed December 10, 1982. Applicant: RICHARD J. HEIL, d.b.a. AMERICAN BROKERAGE CO., 8649 Freeway Dr., Macedonia, OH 44056. Representative: Richard J. Heil (same address as applicant), (216) 467–1111. As a *broker* of *general commodities* (except household goods), between points in the U.S.

MC 165134, filed December 10, 1982. Applicant: ROBERT E. CLAWSON, INC., Rt. 1, Box 386, Brookfield, MO 64628. Representative: Robert E. Clawson (same address as applicant), (816) 258–7239. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners,* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 165144, filed December 9, 1982. Applicant: THE AID COMPANY, INC., P.O. Box 41613, Indianapolis International Airport, Indianapolis, IN 46251. Representative: John F. Wickes, Jr., 1301 Merchants Plaza, East Tower, Indianapolis, IN 46204, (317) 638–1301. Transporting *passengers,* in special and charter operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded special and charter transportation.

MC 165145, filed December 9, 1982. Applicant: KENT BUS COMPANY, INC., 297 Snyder Ave., Berkeley Heights, NJ 07922. Representative: Arthur Wagner, 342 Madison Ave., New York, NY 10173, (212) 755–9500. Transporting *passengers,* in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

For the following, please direct status calls to Team 4 at (202) 275–7669.

Volume No. OP4–088

Decided: December 22, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing. (Member Ewing not participating.)

MC 107367 (Sub-5), filed December 16, 1982. Applicant: BOWMAN BUS SERVICE, INC., R.D. 2, Box 75, Milford, DE 19963. Representative: Steven L. Weiman, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877, (301) 840–8565. Transporting *passengers,* in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded special and charter transportation.

MC 114957 (Sub-2), filed December 6, 1982. Applicant: C & H BUS LINES, INC., R.F.D. No. 1, Harrison, GA 31035. Representative: Lawrence E. Lindeman, 4660 Kenmore Ave., Suite 1203, Alexandria, VA 22304, (703) 751–2441. Transporting *passengers,* in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 126986 (Sub-10), filed December 16, 1982. Applicant: DUFOUR BROTHERS, INC., Berkshire Commons, Pittsfield, MA 01201. Representative: Steven L. Weiman, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877, (301) 840–8565. Transporting *passengers,* in special and charter operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 133336 (Sub-7), filed December 16, 1982. Applicant: CAROLINA TRANSIT LINES OF CHARLOTTE, INC., 224 Iverson Way, Charlotte, NC 28203. Representative: Eric Meierhoefer, 915 Pennsylvania Bldg., 425 13th St. N.W., Washington, DC 20004, (202) 737–1030. Transporting *passengers,* in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 147917 (Sub-1), filed December 13, 1982. Applicant: MELNI BUS SERVICE, INC., 622 Anacapa St., Santa Barbara, CA 93101. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609, (213) 945–2745. Transporting *passengers,* in charter and special operations, between point in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 155377 (Sub-3), filed December 10, 1982. Applicant: PGT TRUCKING, INC., P.O. Box 197, Rt. 68, Industry, PA 15052. Representative: Jon F. Hollengreen, 1020 Pennsylvania Bldg., Pennsylvania Ave. & 13th St., NW, Washington, DC 20004, (202) 628–4600. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 164946, filed November 25, 1982. Applicant: ALEXANDER BUS COMPANY, 212 Fernwood Rd., Chesapeake, VA 23320. Representative: Nathaniel L. Alexander (same address as applicant), (804) 547–2435. Transporting *passengers,* in charter and special operations, beginning and ending at Chesapeake, Virginia Beach, Norfolk, Portsmouth, Newport News, Hampton, Poquoson, Suffolk, and Williamsburg, VA, points in Pasquotank, Camden, Currituck, and Dare Counties, NC, and Isle of Wright, Sussex, James City, York, Surry, Northampton, Accomack, and Southampton Counties, VA, and extending to points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165097, filed December 8, 1982. Applicant: THE BUS THAT GOES IN CIRCLES, INC., d.b.a. AMERICAN SIGHTSEEING TOURS, 1902 National Ave., San Diego, CA 92113. Representatives: Thomas W. Evans (same address as applicant), (619) 232–7579. Transporting *passengers,* in special and charter operations, between points in the U.S.

Note—Applicant seeks to provide privately-funded special and charter transportation.

MC 165137, filed December 10, 1982. Applicant: ROBERT P. LONGABAUGH, d.b.a. MISSISSIPPI TRANSPORATION SERVICES, 703 Hwy 80 West, P.O. Box 163, Clinton, MS 39056. Representative: Robert P. Longabaugh (same address as applicant), (601) 924–8555. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 165157, filed December 13, 1982. Applicant: NEW ULM BUS LINES, INC. 1400 S. Minnesota St., New Ulm, MN 56073. Representative: Val M. Higgins, 1600 TCF Tower, 121 S. 8th St., Minneapolis, MN 55402, (612) 333–1341. Transporting *passengers,* in charter and special operations, (1) between points in MN, IA, SD, ND, WI, MO, OK, TX, AR, LA, and IL, and (2) beginning and ending at points in MN, IA, SD, ND, WI, MO, OK, TX, AR, LA, and IL, and extending to points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165167, filed December 13, 1982. Applicant: ALL ABOUT TRAVEL INC., 250 Richards Rd., Suite 14, Kansas City, MO 64116. Representative: Alex M. Lewandowski, 1221 Baltimore Ave., Suite 600, Kansas City, MO 64105, (816) 221–1464. Transporting *passengers*, in special and charter operations, beginning and ending at points in MO, KS, IA, NE, and OK and extending to points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded special and charter transportation.

MC 165176, filed December 13, 1982. Applicant: LUNDELL'S BUS SERVICE, INC., 2716 Norwood Ave., Slayton, MN 5617. Representative: Val M. Higgins, 1600 TCF Tower, 121 S. 8th St., Minneapolis, MN 55402, (612) 333–1341. Transporting *passengers*, in charter and special operations, (1) between points in IL, WI, MN, IA, ND, SD, CO, WY, MO, and KS, and (2) beginning and ending at points in IL, WI, MN, IA, ND, SD, CO, WY, MO, and KS, and extending to points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165177, filed December 13, 1982. Applicant: BANDCO TRANSPORTATION SERVICE, INC., P.O. Box 31022, Birmingham, AL 35222. Representative: Howard L. Threadgill (same address as applicant), (205) 836–3120. As a broker of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 165187, filed December 13, 1982. Applicant: UNIVERSAL DISTRIBUTING SERVICES, INC., 101 State St., Springfield, MA 01103. Representative: David M. Marshall, 95 State St., Springfield, MA 01103, (413) 732–1136. As broker of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 165197, filed December 14, 1982. Applicant: SHORTWAY AIRPORT LIMOUSINES, INC., 21375 Telegraph Rd., Southfield, MI 48039. Representative: Arthur Wagner, 342 Madison Ave. New York, NY 10173, (212) 755–9500. Transporting *passengers*, in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165226, filed December 16, 1982. Applicant: WISCONSIN ILLINOIS STAGES, INC., Route 3, Box 349B, Theatre Rd., Delavan, WI 53115. Representative: Steven L. Weiman, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877, (301) 840–8565. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165227, filed December 16, 1982. Applicant: PAUL A. MAESTRI and ROBERT W. WEAVER, P.O. Box 188, Tontitown, AR 72770. Representative: Paul A. Maestri (same address as applicant), (501) 361–2545. As a broker of *general commodities* (except household goods), between points in the U.S.

MC 165236, filed December 16, 1982. Applicant: MICHAEL PETER KIZIMA, d.b.a. M P K TRUCKING, Box 249, Route 3, Minot, ND 58701. Representative: Michael Peter Kizima (same address as applicant), (701) 722–3391. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicles, between points in the U.S. (except HI).

For the following, please direct status inquiries to Team 5 at 202–275–7289.

Volume No. OP5–298.

Decided: December 20, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 41638 (Sub.8), filed December 13, 1982. Applicant: DELUXE TRAILWAYS, INC., 1718 S. Clark St., Chicago, IL 60616. Representative: Lawrence E. Lindeman, 4660 Kenmore Ave., Suite 1203, Alexandria, VA 22304, (703) 751–2441. Transporting *passengers*, in special and charter operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 133388 (Sub-1), filed December 10, 1982. Applicant: THEODORE KEMPEMA and RAYMOND KEMPEMA, d.b.a. KEMPEMA BROTHERS BUS SERVICE, 1303 Omaha Avenue, Worthington, MN 56187. Representative: Val M. Higgins, 1600 TCF Tower, 121 So. 8th St., Minneapolis, MN 55402, (612) 333–1341. Transporting *passengers*, in charter and special operations, (a) between points in MN, ND, SD, IA, and WI, and (b) beginning and ending at points in (1) above and extending to points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 144158 (Sub-2), filed December 9, 1982. Applicant: CALDWELL SCHOOL and CHARTER BUS CO., INC., P.O. Box 607, Caldwell, ID 83605. Representative: Kevin M. Clark, 2417 Bank Dr., Suite 8, Boise, ID 83705, (208) 344–7714. Transporting *passengers*, in charter and special operations, between points in WA, OR, ID, MT, WY, CA, NV, UT, CO, AZ, and NM.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165049 filed December 7, 1982. Applicant: ROSEMARY M. MILLER, 4114 Ridgeway Dr., SE, Turner, OR 97392. Representative: John A. Anderson, The 1515 Bldg., Suite 801, 1515 SW Fifth Ave., Portland, OR 97201, (503) 227–4586. To operate as a *broker* of *general commodities* (except household goods), between points in the U.S.

MC 165089, filed December 6, 1982. Applicant: RONNIE L. SOHM, d.b.a. SOHCON TRAFFIC CONSULTANTS, INC., 672 Salvador Dr., Westerville, OH 43081. Representative: Ronnie L. Sohn (same address as applicant), 614–890–7356. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except HI).

James H. Bayne,

Acting Secretary.

[FR Doc. 82–35363 Filed 12–29–82; 8:45 am]

BILLING CODE 7035–01–M

[Volume No. OP1–240]

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Decided: December 22, 1982.

90-Day Intrastate Motor Common Carriers of Passengers.

The following applications, filed on or after November 19, 1982, are governed by Part 1168 of the Commission's Rules of Practice. See 49 CFR Part 1168, published in the **Federal Register** on November 24, 1982, at 47 FR 53275. For compliance procedures, see 49 CFR 1168.6 and 49 U.S.C. 10922(c)(2)(E).

Persons wishing to oppose an application must follow the rules under 49 CFR Part 1168. In addition to fitness grounds, applications may be opposed on the grounds that the transportation to be authorized would directly compete with a commuter bus operation and would have a significant adverse effect on all commuter bus service in the area in which the competing service will be performed. Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request

and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 25 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 30 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board Number 1, Members Chandler, Parker, and Fortier. Member Parker not participating.

Note.—All applications are filed under 49 U.S.C. 10922(c)(2)(A) for authority to operate as a motor common carrier of passengers in intrastate commerce on a route over which applicant has interstate, regular-route authority on November 19, 1982.

Please direct status inquiries to Team 1 (202) 275–7992.

MC 109780 (Sub-79), filed December 7, 1982. Applicant: TRAILWAYS, INC., 1500 Jackson St., Dallas, TX 75201. Representative: George W. Hanthorn (same address as applicant), (214) 655–7937. Applicant seeks authority in intrastate commerce to conduct service at all intermediate points on routes in MC–109780 and Sub 69, as follows: (A) In MC–109780, in part, (1) Sheet Nos. 1 and 2, between Chicago, IL, and Cameron, MO, to provide intrastate service between Chicago, IL, and Pontiac, IL, and (2) Sheet No. 22, between San Diego, CA, and San Francisco, CA, to provide intrastate service between (a) Los Angeles, CA, and San Fernando, CA on U.S. Hwy 99, and (b) Hayward, CA and San Francisco, CA on U.S. Hwy 50, and (B) in MC–109780 (Sub-No. 69), in part, Sheet Nos. 1 and 2, between San Francisco, CA, and Seattle, WA, to provide intrastate service between Vancouver, WA and Seattle, WA on Interstate Hwy 5.

James H. Bayne,

Acting Secretary.

[FR Doc. 82–35364 Filed 12–29–82; 8:45 am]

BILLING CODE 7035–01–M

Permanent Authority Decisions; Decision-Notice

Motor Common and Contract Carriers of Property (except fitness-only); Motor Common Carriers of Passengers (public interest); Freight Forwarders; Water Carriers; Household Goods Brokers.

The following applications for motor common or contract carriers of property, water carriage, freight forwarders, and household goods brokers are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common carriage of passengers, filed on or after November 19, 1982, are governed by Subpart D of 49 CFR Part 1160, published in the **Federal Register** on November 24, 1982 at 47 FR 53271. For compliance procedures, see 49 CFR 1160.86. Carriers operating pursuant to an intrastate certificate also must comply with 49 U.S.C. 10922(c)(2)(E). Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E. In addition to fitness grounds, these applications may be opposed on the grounds that the transportation to be authorized is not consistent with the public interest.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations.

We make an additional preliminary finding with respect to each of the following types of applications as indicated: common carrier of property—that the service proposed will serve a useful public purpose, responsive to a public demand or need; water common carrier—that the transportation to be provided under the certificate is or will be required by the public convenience and necessity; water contract carrier, motor contract carrier of property, freight forwarder, and household goods broker—that the transportation will be consistent with the public interest and the transportation policy of section 10101 of chapter 101 of Title 49 of the United States Code.

These presumptions shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the

compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract." Applications filed under 49 U.S.C. 10922(c)(2)(B) to operate in intrastate commerce over regular routes as a motor common carrier of passengers are duly noted.

Please direct status inquiries to Team 3 at (202) 275–5223.

Volume No. OP3–63

Decided: December 22, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing. (Member Ewing not participating.)

MC 2934 (Sub-124), filed December 10, 1982. Applicant: AERO MAYFLOWER TRANSIT COMPANY, INC., 9998 North Michigan Road, Carmel, IN 46032. Representative: W. G. Lowry (same address as above), (317) 875–1142. Transporting *household goods,* between points in the U.S. (except AK and HI), under continuing contract(s) with Computer Sciences Corporation, of El Segundo, CA, and its subsidiaries, Associated Credit Services of Houston, TX, and Paid Subscriptions of Paramus, NJ.

Note.—The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. 11343 or submit an affidavit to the Secretary's office. In order to expedite issuance of the permit, please submit a copy of the affidavit or proof of filing the application for common control to Team 3, Room 2158.

MC 3104 (Sub-8), filed December 10, 1982. Applicant: Z & M MOTOR LINE, INC., P.O. Box 2345, Cumberland, MD 21502. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740, (301) 797–6060. Transporting *glass products, chemicals, coatings, ink and fiberglass products,* between Pittsburgh, PA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 67234 (Sub-68), filed December 6, 1982. Applicant: UNITED VAN LINES, INC., One United Drive, Fenton, MO 63026. Representative: B. W. LaTourette, Jr., 11 S. Meramec, Suite 1400, St. Louis, MO 63105, (314) 727–0777. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in the U.S., under continuing contract(s) with Western Airlines, Inc., of Los Angeles, CA.

MC 109265 (Sub-32), filed December 10, 1982. Applicant: W. L. MEAD, INC., P.O. Box 31, Norwalk, OH 44857. Representative: John P. McMahon, 100 E. Broad St., Columbus, OH 43215, (614) 228–1541. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Huron County, OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 110325 (Sub-188), filed November 23, 1982. Applicant: TRANSCON LINES, P. O. Box 92220, Los Angeles, CA 90009. Representative: Jerome Biniasz (same address as applicant), (213) 640–1800. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Arco Chemical Company of Philadelphia, PA and Arco and Arco Durethene, Inc. of Chicago, IL, Carson, CA, Richmond, CA, City of Industry, CA, Buffalo, NY, Berwick, PA, Dallas, TX and Tukwila, WA.

MC 114015 (Sub-38), filed December 9, 1982. Applicant: HUSS, INCORPORATED, Highway 47 West, P.O. Box 666, Chase City, VA 23924. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048, (212) 466–0220. Transporting (1) *metal products* and (2) *machinery,* between points in the U.S. (except AK and HI), under continuing contract(s) with Asplundh Manufacturing, a division of Asplundh Tree Expert Company, of Chalfont, PA.

MC 139045 (Sub-2), filed December 10, 1982. Applicant: CALIFORNIA PACIFIC SHIPPING CO., 1470 E. 4th St., Los Angeles, CA 90033. Representative: Patricia M. Schnegg, 707 Wilshire Blvd., Ste. 1800, Los Angeles, CA 90017, (213) 627–8471. Transporting *food and related products,* between points in CA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 139835 (Sub-4), filed December 6, 1982. Applicant: K & K TRANSPORTATION CORP., 4515 North 24 St., Omaha, NE 68110. Representative: Marshall D. Becker, Suite 610, 7171 Mercy Rd., Omaha, NE 68110. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with The Goodyear Tire and Rubber Company, of Akron, OH.

MC 146024 (Sub-8(a)), filed December 9, 1982. Applicant: G & R PETROLEUM, INC., 253 S. W. 4th Ave., Ontario, OR 97914. Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701, (208) 343–3071. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Stauffer Chemical Co., of San Francisco, CA.

MC 151725 (Sub-4), filed December 10, 1982. Applicant: LEAF TRANSPORTATION, INC., 1111 N. Cicero Ave., Chicago, IL 60651. Representative: Edward G. Bazelon, 135 S. LaSalle St., Chicago, IL 60603, (312) 236–9375. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Tootsie Roll Industries, Inc., of Chicago, IL.

MC 155535, filed December 10, 1982. Applicant: EARL DUNCAN TRANSPORT, INC., Rt. 3, Box 99, Carthage, IL 62321. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701, (217) 357–3724. Transporting *machinery,* between point in the U.S. (except AK and HI), under continuing contract(s) with Yetter Manufacturing Company, of Colchester, IL.

MC 158675 (Sub-3), filed December 10, 1982. Applicant: REMICK TRUCKING, LTD., 215 E. 37th, Boise, ID 83704. Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701, (208) 343–3071. Transporting *general commodities* (except household goods and classes A and B explosives), between points in the U.S. under continuing contract(s) with Victor's Iowa Pack, Inc., of Council Bluffs, IA.

MC 164474, filed December 7, 1982. Applicant: B & S TRUCKING CO., INC., Route 3, Box 459A, Bogalusa, LA 70427. Representative: Fred W. Johnson, Jr., P.O. Box 1291, Jackson, MS 39205, (601) 355–3543. Transporting *lumber and wood products,* and *paper and related products,* between points in the U.S., under continuing contract(s) with Crown-Zellerbach Corporation, of Bogalusa, LA.

MC 165074, filed December 7, 1982. Applicant: DAPHNE TEMBELIS & SONS TRUCKING CORP., 22–55 77th St., Jackson Heights, NY 11370. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934, (201) 234–0301. Transporting (1) *rubber and plastic*

products, between New York, NY, on the one hand, and, on the other, points in the U.S. (except AK and HI) and (2) *petroleum, natural gas, and their products*, and *chemicals and related products*, between New York, NY and New Orleans, LA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 165095, filed December 7, 1982. Applicant: BRUCE ESTES, d.b.a. ESTES ENTERPRISES, 1840 Aquila Ave., Reno, NV 89510. Representative: Robert G. Harrison, 4299 James Dr., Carson City, NV 89701, (702) 882–5649. Transporting *construction materials, metal products, pipe, hardware, petroleum products, agricultural materials, equipment and supplies and waste or scrap materials not identified by industry producing*, between points in CA, NV, AZ, NM, CO, WY, ID, UT, OR and WA.

For the following, please direct status calls to Team 4 (202) 275–7669.

Volume No. OP4–087

Decided: December 22, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing. (Member Ewing not participating.)

MC 52657 (Sub-762), filed December 9, 1982. Applicant: ARCO AUTO CARRIERS, INC., 16 W. 151 Shore Court, Burr Ridge, IL 60521. Representative: Anthony E. Young, 29 S. LaSalle St., Suite 350, Chicago, IL 60603, (312) 782–8880. Transporting *transportation equipment*, between points in the U.S. (except AK and HI), under continuing contract(s) with persons who are engaged in business as manufacturers, distributors, or dealers of transportation equipment.

MC 95336 (Sub-15), filed December 14, 1982. Applicant: J. B. WILLIAMS EXPRESS, INC., P.O. Box V, Williamsburgh Station, Brooklyn, NY 11211. Representative: Arthur Piken, Queens Office Tower, 95–25 Queens Blvd., Rego Park, NY 11374, (212) 275–1000. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in NY, NJ, DE, MD, PA, CT, MA, RI, ME, NH, VT, on the one hand, and, on the other, points in FL, GA, NC, SC, VA, AL, TN, PA, DE, and MD.

MC 109736 (Sub-55), filed December 7, 1982. Applicant: CAPITOL BUS COMPANY, 1061 S. Cameron St., Harrisburg, PA 17104. Representative: S. Berne Smith, P.O. Box 1166, Harrisburg, PA 17108–1166, (717) 232–8000. Transporting *passengers*, in special and charter operations, between points in the U.S.

Note.—The Board has determined that applicant is a privately funded carrier notwithstanding *de minimis* governmental financial assistance.

MC 119766 (Sub-1), filed December 10, 1982. Applicant: NATIONAL OIL & SUPPLY CO., INC., d.b.a. ELLIS TRANSPORT, 2345½ W. Kearney, Springfield, MO 65803. Representative: Bruce McCurry, 910 Plaza Towers, Springfield, MO 65804, (417) 883–7311. Transporting *petroleum, petroleum products, and liquid animal feed, and their ingredients, between points in AR, CO, IA, IL, KS, LA, MO, NE, TN, and TX.*

MC 134167 (Sub-3), filed December 14, 1982. Applicant: CARRIER SERVICE CO. OF WISCONSIN, INC., 2621 South 5th Place, Milwaukee, WI 53207. Representative: Michael J. Wyngaard, 150 East Gilman St., Madison, WI 53703, (608) 256–7444. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Broan Mfg. Co., Inc., of Hartford, WI.

MC 138026 (Sub-35), filed December 13, 1982. Applicant: LOGISTICS EXPRESS, INC. d.b.a. LOGEX, 1890 S. Chris Lane, Anaheim, CA 92805. Representative: William D. Taylor, 100 Pine St., #2550, San Francisco, CA 94111, (415) 986–1414. Transporting *cryogenic liquids and compressed gases*, between points in the U.S. under continuing contract(s) with Air Products and Chemicals, Inc., of Allentown, PA.

MC 144656 (Sub-1), filed December 14, 1982. Applicant: A.D.L. CARTAGE, INC., 1710 Olive St., Beaver Heights, MD 20027. Representative: William F. King, Suite 304, Overlook Bldg., 6121 Lincolnia Rd., Alexandria, VA 22312, (703) 750–1112. Transporting *business forms*, between points in the U.S. (except AK and HI), under continuing contract(s) with Moore Business Forms, Inc., of Glenview, IL.

MC 145566 (Sub-15), filed December 16, 1982. Applicant: B & K TRANSPORTATION, INC., 7950 S. 27th St., Oak Creek, WI 53154. Representative: Gerald K. Gimmel, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877, (301) 840–8565. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 151087 (Sub-11), filed December 13, 1982. Applicant: AREA INTERSTATE TRUCKING, INC., 15224 Dixie Hwy., Harvey, IL 60426. Representative: Leonard R. Kofkin, Suite 1515, 140 S. Dearborn St., Chicago, IL 60603, (312) 580–2210. Transporting *metal products*, (1) between points in CT, DE, ME, MA, NH, RI, VT, and DC, and (2) between points in CT, DE, ME, MA, NH, RI, VT, and DC, on the one hand, and, on the other, points in AZ, CA, CO, ID, IL, IN, IA, KY, LA, MD, MI, MN, MO, MT, NH, NJ, NM, NY, OH, OK, OR, PA, TN, TX, UT, WA, WV, WI, and WY.

MC 156336 (Sub-2), filed December 14, 1982. Applicant: OSCEOLA WASTE MATERIALS, INC., P.O. Box 752, Industrial Drive, Osceola, AR 72370. Representative: Thomas B. Staley, 1550 Tower Bldg., Little Rock, AR 72201, (501) 375–9151. Transporting (1) *paper and glass products, plastic products and aluminum containers*, between points in AR, OK, MO, and TN, and (2) *foodstuffs*, between points in MO and AR.

MC 157657 (Sub-2), filed December 14, 1982. Applicant: RIVERSIDE TRANSPORTATION, INC., Tredegar St., P.O. Box 2218, Richmond, VA 23217. Representative: J. Aiden Connors, 325 East 201 St., New York, NY 10458, (212) 733–6965. Transporting (1)*bakery goods*. between Tacoma, WA, Richmond, VA, points in Calhoun County, MI and Union County, SD, on the one hand, and, on the other, points in the U.S., under continuing contract(s) with Interbake Foods, Inc., of Richmond, VA; and (2) *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with American Can Company, of Greenwich, CT.

MC 161596, filed November 22, 1982. Applicant: EUGENE H. PIPER, d.b.a. E. H. PIPER TRUCKING, Town Farm Hill, Bradford, VT 05033. Representative: Eugene H. Piper (same address as applicant), (802) 222–4624. Transporting (1) *paper and paper products*, and (2) *wood and wood products*, between points in VT, NH, ME, MA, CT, NY, NJ, PA, and OH.

MC 161687, filed December 13, 1982. Applicant: JAMES B. DEGAN, P.O. Box 1799, Redding, CA 96099. Representative: Eugene Q. Carmody, 15523 Sedgeman St., San Leandro, CA 94579, (415) 357–6236. Transporting (1) *such commodities* as are dealt in by distributors, retailers and wholesalers of lumber and building materials, between points in AZ, CA, CO, ID, MT, NM, NV, OR, UT, TX, WA, and WY, under continuing contract(s) with Far West Fir Sales Co., of Huntington Beach, CA, Marquart Wolfen Lumber Co., of Tustin, CA, Noble Lumber Co., of Tustin, CA, Noble Lumber Co., of Eugene, OR,

Pacific Wood Products, Inc., of Salem, OR, Hampton Industrial Forest Products, of Woodburn, OR, Sundance Comerado, Inc., of Shingle Springs, CA, and Schaller Forest Products Co., of Redding, CA; and (2) *cement and lime,* between points in AZ, CA, NV, OR, UT, and WA, under continuing contract(s) with Genstar Cement & Lime Co., of San Francisco, CA.

MC 164017, filed December 13, 1982. Applicant: HOUSBY FREIGHT SYSTEMS CORP., INC., 4733 NE 14th St., Des Monies, IA 50313. Representative: Charles A. Coppola, 4900 University Ave., Suite 101, Des Moines, IA 50311, (515) 277–6191. Transporting *paper and plastic bags and containers,* between points in Des Monies, IA, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with Great Plains Bag Co., of Des Moines, IA.

MC 164196 (Sub-1), filed November 15, 1982. Applicant: SAM CRAIG TRANSPORT, INC., 1462 West 54th St., Los Angeles, CA 90062. Representative: Daniel C. Sullivan, 180 N. Michigan Ave., Suite 1700, Chicago, IL 60601, (312) 263–1600. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except HI).

MC 164476, filed December 14, 1982. Applicant: JAMES A. SEAL dba JIMMY SEAL TRUCKING, Route 1, Box 134, Poplarville, MS 39470. Representative: Fred W. Johnson, Jr., P.O. Box 1291, Jackson, MS 39205, (601) 355–3543. Transporting *lumber and wood products, paper and related products,* between points in the U.S., under continuing contract(s) with Crown-Zellerbach Corporation, of Bogalusa, LA.

MC 165007, filed December 14, 1982. Applicant: VIRGIL LaVAN WAY, Route 3, Bailey Rd., Box 571, East Jordan, MI 49727. Representative: William B. Elmer, P.O. Box 801, Traverse City, MI 49685–0801, (616) 941–5313. Transporting *metal and metal products,* between points in Charlevoix County, MI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 165056, filed December 7, 1982. Applicant: CONSER COACH SERVICES, 11310 Chicago Dr., Holland, MI 49423. Representative: John David Conser (same address as applicant), (616) 335–2117. Transporting *passengers,* in charter operations, beginning and ending at points in MI, and extending to points in the U.S.

Note.—Applicant seeks to provide privately-funded charter transportation.

MC 165186, filed December 13, 1982. Applicant: CHARLES EMERSON, R.R. 2, P.O. Box 54, Iowa Falls, IA 50126. Representative: Craig Hollander, P.O. Box 403, Denison, IA 51442, (712) 263–5002. Transporting *food and related products,* between points in Crawford and Hardin Counties, IA and Saline County, NE, on the one hand, and, on the other, points in WA, OR, ID, MT, WY, SD, ND, CA, NV, UT, CO, AZ, and NM.

MC 165196, filed December 14, 1982. Applicant: EAST COAST LEASING, INC., 5910 W. Market St., Greensboro, NC 27409. Representative: Jack L. Schiller, 111–56 76th Dr., Forest Hills, NY 11375, (212) 263–2078. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Henry Wurst, Inc., of Apex, NC. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. 11343(A) or submit an affidavit indicating why such approval is unnecessary to the Secretary's office. In order to expedite issuance of any authority please submit a copy of the affidavit or proof of filing the application(s) for common control to Team 4, Room 2410.

For the following, please direct status inquiries to Team 5 (202) 275–7289.

Volume No. OP5–297

Decided: December 20, 1982.

By the Commission, Review Board Number 3, Members Krock, Joyce, and Dowell.

FF–639, filed December 13, 1982. Applicant: ARIES FORWARDING INTERNATIONAL, INC., 2020 Auiki St., Honolulu, HI 96810. Representative: Patricia P. Murakawa, P.O. Box 114, Honolulu, HI 96810, (808) 845–9514. To operate as a *freight forwarder* of *used household goods, unaccompanied baggage, and used automobiles,* between points in the U.S.

MC 5428 (Sub-14), filed December 10, 1982. Applicant: LYON VAN LINES, INC., P.O. Box 5011, Carrollton, TX 75006. Representative: J. B. Stuart (same address as applicant), 214–446–1500. Transporting *household goods, furniture and fixtures,* between points in the U.S. (except AK and HI), on the one hand, and, on the other, points in AK.

MC 134328 (Sub-11), filed December 9, 1982. Applicant: D & G TRUCKING CO., INC., P.O. Box 1004, Wayne, AR 72396. Representative: James N. Clay III, P.O. Box 9508, Memphis, TN 38109, 901–774–9992. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with U.S. Gypsum Co. of Chicago, IL and its subsidiaries and affiliates A.P. Green Refractories Co. of Mexico, MO; The E. J. Bartells Company of Renton, WA; Bigelow-Liptak Corporation of Southfield, MI; Bigelow-Liptak Export Corporation of Houston, TX; A. Lynn Thomas Company Incorporated of Richmond, VA; Durabond Products Company and Permalastic Products Incorporated both of Rosemont, IL; Castlegate Industries, Inc. of Downers Grove, IL; L & W Supply Corporation, Columbia Building Materials Corporation, C–S–W Drywall Supply Company, Gypsum Services Corporation, Stocking Specialists, Inc, United States Gypsum Export Company, and USG Insulation Company, all of Chicago, IL. North Bay Building Materials Co., Inc. of Vallejo, CA; Sequoyah Carpet Corporation of Anadarko, OK; Holleytex Carpet Mills, Inc. of City of Industry, CA and Wiss, Janney, Elstner and Associates, Inc., of Northbrook, IL.

MC 134328 (Sub-12), filed December 13, 1982. Applicant: D & G TRUCKING COMPANY, INC., P.O. Box 1004, Wynne, AR 72396. Representative: Don Garrison, P.O. Box 1065, Fayetteville, AR 72702, (501) 521–8121. Transporting *general commodities* (except household goods and classes A and B explosives), between points in the U.S. (except AK and HI), under continuing contract(s) with Charles McAlpin Brokerage, Inc., of Decatur, AL.

MC 135068 (Sub-4), filed December 10, 1982. Applicant: PAULK's MOVING & STORAGE CO., INC., 724 North Kraft Avenue, Panama City, FL 32401. Representative: Robert J. Gallagher, 1000 Connecticut Ave. NW., Suite 1200, Washington, D.C. 20036, (202) 785–0024. Transporting *household goods,* between points in the U.S. (except VT).

MC 138219 (Sub-4), filed November 9, 1982. Appplicant: U.S. INDUSTRIES, INC., P.O. Box 760, Lenoir, NC 28645. Representative: J. W. BRADSHAW (same address as applicant), (704) 728–3231. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 141339 (Sub-3), filed December 7, 1982. Applicant: DAVIS EXPRESS, INC., Route 3, Box 651, Starke, FL 32091. Representative: Sol H. Proctor, 1101

Blackstone Bldg., Jacksonville, FL 32202, (904) 632–2300. Transporting *cleaning compounds and related articles,* between points in the U.S. (except AK and HI), under continuing contract(s) with Economic Laboratory, Inc., of Avenel, NJ.

MC 143239 (Sub-8), filed December 13, 1982. Applicant: JAMOUR, INC., d.b.a. QUICK COURIER SERVICE, 123 N. 23rd St., Philadelphia, PA 19103. Representative: Alan Kahn, 1430 Land Title Bldg., Philadelphia, PA 19110, (215) 561–1030. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in York, Lancaster, Lebanon, and Berks Counties, PA, on the one hand, and, on the other, New York, NY.

MC 154219 (Sub-2), filed December 9, 1982. Applicant: BARRY KING, P.O. Box 238, Castor, LA 71016. Representative: Harry F. Horak, Suite 115, 5001 Brentwood Stair Rd., Fort Worth, TX 76112, (817) 457–0804. Transporting (1) *Mercer commodities* and (2) *machinery other than oilfield,* between points in AR, LA, MS, OK, and TX.

MC 165009, filed December 3, 1982. Applicant: JAMES C. DOYLE, d.b.a. DOYLE ENTERPRISES, P.O. Box 4759, Kenai, AK 99611. Representative: Warren G. Kellicut, 437 "E" St., Suite 500, Anchorage, AK 99501, (907) 276–1726. Transporting *general commodities* (except household goods), between points in AK. Condition: Any certificate issued in this proceeding to the extent it authorizes transportation of classes A and B explosives shall be limited in point of time to a period expiring 5 years from the date of issuance of the certificate.

MC 165028, Filed December 6, 1982. Applicant: SURE TRANSIT, INC., 600 Fern St., Ferndale, MI 48220. Representative: William J. Boyd, 2021 Midwest Rd., Suite 205, Oak Brook, IL 60521, (312) 629–2900. Transporting *such commodities* as are dealt in or used by manufactures and distributors of food products, between points in the U.S., under continuing contract(s) with Welch Foods, Inc., of Westfield, NY.

MC 165128, filed December 10, 1982. Applicant: B–BEST TRUCKING, INC., 5742 State Rt. 36 East, Box 321, Delaware, OH 43015. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215, (614) 228–1541. Transporting *electrical equipment, materials and supplies* between points in the U.S. (except AK and HI), under continuing contract(s) with Gould, Inc., Foil Division, of Eastlake, OH.

James H. Bayne,

Acting Secretary.

[FR Doc. 82–35365 Filed 12–29–82; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Proposed Consent Decree in Action To Remedy Imminent and Substantial Endangerment to Health and the Environment Caused by the Disposal of Hazardous Waste by Solvents Recovery Service of New England, Inc.

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on December 20, 1982, a proposed consent decree in *United States of America, et al.* v. *Solvents Recovery Service of New England, Inc.,* Civil Action No. H–79–704(JAC), was lodged with the United States District Court for the District of Connecticut. The proposed consent decree commits Solvents Recovery Service of New England, Inc. to implementing pollution prevention measures at its facility in Southington, Connecticut and to constructing and operating a multi-point shallow well system to abate and contain groundwater contamination at and in the immediate vicinity of the facility. The proposed decree also requires Solvents Recovery Service of New England, Inc. to isolate and contain groundwater contamination beyond the influence of the multi-point shallow well system by constructing a groundwater intercept system which will preclude to the extent feasible the further southerly migration of contaminants from its facility beyond a point located at the northern end of property owned by the Town of Southington. The groundwater intercept system chosen by the defendant must be approved by the plaintiff.

The proposed consent decree may be examined at the office of the United States Attorney, District of Connecticut, 270 Orange Street, New Haven, Connecticut 06508; at the Region I Office of the United States Environmental Protection Agency, Office of Regional Counsel, 22d Floor, John F. Kennedy Federal Building, Boston, Massachusetts 02203; and at the Environmental Enforcement Section, Land and Natural Resources Division, United States Department of Justice, Room 1515, 10th and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. Please remit $3.10 ($.10 per page) by check made payable to the United States Treasury with any request for a copy of the proposed consent decree.

The Department of Justice will receive written comments relating to the proposed consent decree for a period of thirty (30) days from the date of this notice. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States of America, et al.* v. *Solvents Recovery Service of New England, Inc.,* D. Connecticut, Civil Action No. H–79–704(JAC), D.J. Ref. 90–7–1–23.

Mary L. Walker,

Deputy Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 82–35407 Filed 12–29–82; 8:45 am]

BILLING CODE 4410–01–M

Consent Decree Lodging Pursuant to Clean Air Act

In accordance with Departmental policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on December 3, 1982 a proposed Amended Consent Decree in *United States* v. *Kaiser Steel Corporation,* Civil Action No. CV 76–0675 MML was lodged with the United States District Court for the Central District of California. The proposed decree provides for the cessation of operation of Kaiser's coke batteries in Fontana, California on or before December 31, 1982.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States of America* v. *Kaiser Steel Corporation,* D.J. Ref. 90–5–2–1–171.

The proposed Amended Consent Decree may be examined at the office of the United States Attorney, Central District of California, 312 North Spring Street, Los Angeles, California, and at the Region 9 Office of the Environmental Protection Agency, 215 Fremont Street, San Francisco, California. Copies of the Amended Consent Decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the

proposed Amended Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $2.60 (10 cents per page reproduction charge) payable to the Treasurer of the United States.

Carol E. Dinkins,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 82-35348 Filed 12-29-82; 8:45 am]

BILLING CODE 4410-01-M

Consent Decree Lodging Pursuant to Clean Air Act

In accordance with Departmental policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on December 6, 1982 a proposed consent decree in *United States* v. *Standard Brake Shoe and Foundry Company,* Civil Action No. 80-2411-H was lodged with the United States District Court for the Western District of Tennessee. The proposed decree requires the payment of civil penalties and compliance with applicable rules at defendant's cupola furnace in Memphis, Tennessee.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States of America* v. *Standard Brake Shoe and Foundry Company,* D.J. Ref. 90-5-2-1-339.

The proposed consent decree may be examined at the office of the United States Attorney, Western District of Tennessee, 1026 Federal Building, Memphis, Tennessee and at the Region 4 Office of the Environmental Protection Agency, 345 Courtland Street, N.E., Atlanta, Georgia. Copies of the consent decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue NW., Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice.

Carol E. Dinkins,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 82-35349 Filed 12-29-82; 8:45 am]

BILLING CODE 4410-01-M

Federal Bureau of Investigation

National Crime Information Center (NCIC) Advisory Policy Board; Renewal

In accordance with the provisions of the Federal Advisory Committee Act (U.S.C. App. I (Supp. II, 1972)), the Office of Management and Budget (OMB) Circular A-C3, the Director, FBI, has determined that the renewal of the National Crime Information Center (NCIC) Advisory Policy Board is in the public interest in connection with the performance of duties imposed upon the FBI by law.

The Board recommends to the Director, FBI, general policy with respect to the philosophy, concept, and operational principles of the NCIC, particularly the system's relationship with local and State criminal justice systems.

The Board consists of twenty-six members of which twenty are elected from State and local criminal justice representatives and the remaining six appointed by the Director, FBI. The six appointed members consist of two members each from the judicial, prosecutorial, and correctional segments of the criminal justice community.

The Board functions solely as an advisory body in compliance with the provisions of the Federal Advisory Committee Act. Its charter will be filed under the Act fifteen days from the date of the publication of this notice.

Interested persons are invited to submit comments regarding the renewal of the NCIC Advisory Policy Board to the Committee Management Liaison Officer, Federal Bureau of Investigation, National Crime Information Center, Washington, D.C. 20535.

Dated: December 16, 1982.

William H. Webster,

Director.

[FR Doc. 82-35350 Filed 12-29-82; 8:45 am]

BILLING CODE 4410-02-M

MARINE MAMMAL COMMISSION

Marine Mammal Commission and Committee of Scientific Advisors on Marine Mammals; Meetings

Notice is hereby given that the Marine Mammal Commission and the Committee of Scientific Advisors on Marine Mammals will meet on February 24, 25, and 26, 1983, at The New Otani Kaimana Beach Hotel, 2863 Kalakaua Avenue, Honolulu, Hawaii 96815.

On February 24, from 11:00 a.m. to 5:00 p.m., the Commission and Committee will meet in public session to discuss and consider a broad range of issues bearing on the protection and recovery of the endangered Hawaiian monk seal.

On February 25, from 9:00 a.m. to 5:00 p.m., the Commission and Committee will meet together in public session to discuss and consider the status of activities and problems affecting marine mammals, including matters related to: humpback whales in Hawaii; marine mammal/fishery interactions; net entanglement of marine mammals; the California sea otter; bottlenosed dolphin populations; and preparations for forthcoming International Whaling Commission and North Pacific Fur Seal Commission meetings.

On February 26, from 9:00 a.m. to 12:00 noon, the Commission and Committee will met in public session to discuss and consider various aspects of the Minerals Management Service's activities affecting marine mammals and management issues surrounding marine mammals in Alaska.

The remainder of the meeting will consist of executive sessions of the Commission and Committee to be held on 24 February from 9:00 a.m. to 10:45 a.m. and on 26 February from 12:00 noon to 12:30 p.m. These sessions will be devoted to the exchange of opinions and deliberations concerning internal personnel rules and practices, budget, interagency liaison, proposed policies and actions relating to international negotiations, proposed agency policies and actions, and the evaluation of proposals to conduct research in which participants will be candidly discussing and appraising the professional qualifications and competence of the proposers, their potential contribution to the research program, and information given to the Commission and Committee in confidence. These sessions are concerned with matters listed in 5 U.S.C. 522b(c) (2), (3), (4), (6) and (9)(B), and therefore will not be open to the public.

John R. Twiss, Jr.,

Executive Director, Marine Mammal Commission.

December 27, 1982.

[FR Doc. 82-35478 Filed 12-29-82; 8:45 am]

BILLING CODE 3820-31-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-317 and 50-318]

Baltimore Gas and Electric Co.; Granting of Relief From ASME Section XI Inservice Inspection Requirements

The U.S. Nuclear Regulatory Commission (the Commission) has granted relief from certain requirements of the ASME Code, Section XI. "Rules

for Inservice Inspection of Nuclear Power Plant Components" to Baltimore Gas and Electric Company (the licensee), which revised the inservice inspection program for Calvert Cliffs Nuclear Power Plant, Units No. 1 and No. 2. The ASME Code requirements are incorporated by reference into the Commission's rules and regulations in 10 CFR Part 50. The relief is effective as of its data of issuance.

The NRC has provided a relief from the ASME Boiler and Pressure Vessel Code, Section XI, regarding the requirements for:

- Inspection of Seal Weld in Closure Head,
- Inspection of Primary Nozzle-to-Vessel Welds and Nozzle Inside Radiused Section,
- Inspection of Reactor Vessel Cladding,
- Repair of an Arc Strike, Class 2 Pipe,
- Pressure Test Hold Time,
- Class 3 System Pressure Tests,
- Inservice Leak Test (Hydrostatic Testing) for the Salt Water Cooling System and Service Water Main Headers,
- Ultrasonic Examination Techniques,
- Repair and Hydrostatic Testing for Small Steam and Feedwater Piping, Class 2.

The Commission has determined that the granting of this relief will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

For further details with respect to this action, see (1) the licensee's request for relief from code requirements dated December 5, 1978, March 29, 1980, November 19, 1980 and May 29, 1981 and additional information submitted by the licensee's letters dated July 22, 1982, August 30, 1982, October 29, 1982 and (2) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W. Washington, D.C. 20555, and at the Calvert County Library, Prince Frederick, Maryland. A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Marylant this 13th day of December, 1982.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Rectors Branch No. 3, Division of Licensing.

[FR Doc. 82-35303 Filed 12-29-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-358]

Cincinnati Gas and Electric Company, et al. (Wm. H. Zimmer Nuclear Power Station, Unit No. 1); Oral Argument

Notice is hereby given that, in accordance with the Appeal Board's order of December 13, 1982, oral argument on the applicants' appeal from the Licensing Board's June 21, 1982 initial decision and August 24, 1982 memorandum and order will be heard at 9:30 a.m. on Monday, January 10, 1983 in the NRC Public Hearing Room, Fifth Floor, East-West Towers Building, 4350 East-West Highway, Bethesda, Maryland.

Dated: December 21, 1982.

For the Appeal Board.

C. Jean Shoemaker,

Secretary to the Appeal Board.

[FR Doc. 82-35304 Filed 12-29-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-155]

Consumers Power Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 55 to Facility Operating License No. DPR-6, to Consumers Power Company (the licensee), which revised the Technical Specifications for operation of the Big Rock Point Plant (facility) located in Charlevoix County, Michigan. This amendment is effective as of its date of issuance.

The amendment approves Technical Specification changes which replace the Shift Technical Advisor with an On-call Technical Advisor. The licensee's commitment for a Shift Technical Advisor, was confirmed by the Commission Order dated August 4, 1981.

The application for amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and the pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated June 25, 1982, and the licensee's letter dated April 1, 1982, (2) Amendment No. 55 to License No. DPR-6, and (3) the Commission's related Safety Evaluation. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Charlevoix Public Library, 107 Clinton Street, Charlevoix, Michigan 49720. A single copy of items (2) and (3) may be obtained by request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 22nd day of December, 1982.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Chief, Operating Reactors Branch No. 5, Division of Licensing.

[FR Doc. 82-35305 Filed 12-29-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-255]

Consumers Power Co.; Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 72 to Provisional Operating License No. DPR-22, to Consumers Power Company (the licensee), which revised the Technical Specifications for operation of the Palisades Plant (the facility) located in Covert Township, Van Buren County, Michigan. The amendment is effective as of its date of issuance.

The amendment approves Technical Specification provisions pertaining to dome delamination (SEP Topic III-7.C); RHR system reliability (SEP Topic V-10.B); and requirements for isolation of high and low pressure systems (SEP Topic V-11.A).

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The

Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this action was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) three separate applications for amendment dated July 29, 1982, (2) Amendment No. 72 to License No. DPR–20, and (3) the Commission's Systematic Evaluation Program (SEP) Topic evaluations transmitted by letters to the licensee dated May 21 and October 19, 1981 (SEP Topic III–7.C); October 27 and December 23, 1981 (SEP Topic V–10.B); and November 9, 1981 (SEP Topic V–11.A). All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555, and at the Kalamazoo Public Library, 315 South Rose Street, Kalamazoo Michigan 49006. A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 21st day of December, 1982.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Chief, Operating Reactors Branch No. 5, Division of Licensing.

[FR Doc. 82–35306 Filed 12–29–82; 8:45 am]

BILLING CODE 7590–01–M

Draft Regulatory Guide; Issuance and Availability

The Nuclear Regulatory Commission has issued for public comment a draft of a new guide planned for its Regulatory Guide Series together with a draft of the associated value/impact statement. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

The draft guide, temporarily identified by its task number, IC 609–5 (which should be mentioned in all correspondence concerning this draft guide), is entitled "Criteria for Electric, Instrumentation, and Control Portions of Safety Systems" and is intended for Division 1, "Power Reactors." This guide is being developed to describe methods acceptable to the NRC staff for complying with the Commission's regulations with respect to the design, reliability, qualification, and testability of the electric, instrumentation, and control portions of safety systems of all types of nuclear power plants. In this guide, the term safety systems refers to the protection system, systems that perform protective actions, and other systems that are essential to the operation of these systems.

This draft guide and the associated value/impact statement are being issued to involve the public in the early stages of the development of a regulatory position in this area. They have not received complete staff review and do not represent an official NRC staff position.

Public comments are being solicited on both drafts, the guide (including any implementation schedule) and the draft value/impact statement. Comments on the draft value/impact statement should be accompanied by supporting data. Comments on both drafts should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington. D.C. 20555, Attention: Docketing and Service Branch, by February 28, 1983.

Although a time limit is given for comments on these drafts, comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of draft guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory Guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C.552(a))

Dated at Rockville, Maryland this 21st day of December 1982.

For the Nuclear Regulatory Commission

Karl R. Goller,

Director, Division of Facility Operations, Office of Nuclear Regulatory Research.

[FR Doc. 82–35307 Filed 12–29–82; 8:45 am]

BILLING CODE 7590–01–M

[ASLB Docket No. 79–417–06 OL; NRC Docket No. 50–382–OL]

Louisiana Power and Light Co., (Waterford Steam Electric Station, Unit 3); Order

Rescheduling Hearing

December 22, 1982.

Pursuant to the Memorandum and Order of October 18, 1982, and pursuant to the Order of December 1, 1982 (47 FR 55353), the Board originally had scheduled the hearing to commence on January 11 and continue through January 14, 1983. Said hearing schedule is herewith cancelled.

As stated previously in the Order of December 1, 1982, pursuant to the Memorandum and Order of August 17, and the Memorandum and Order of October 18, 1982, the record has been reopened solely to receive evidence upon the adequacy of Applicant's revised pre-emergency public information brochure.[1] The rescheduled evidentiary hearing, reopened to this limited extent, will commence at 9:00 a.m., local time, and recess at 6:00 p.m. on February 8–11, 1983, at the following location: U.S. Court of Appeals, 5th Circuit, West Courtroom, Room 265, 600 Camp Street, New Orleans, Louisiana 70130.

The public is invited to attend this evidentiary hearing.

Dated at Bethesda, Maryland this 22nd day of December, 1982.

It is so ordered.

For the Atomic Safety and Licensing Board.

Sheldon J. Wolfe,

Chairman Administrative Judge.

[FR Doc. 82–35308 Filed 12–29–82; 8:45 am]

BILLING CODE 7590–01–M

[1] On November 12, 1982, Applicant served copies of the printer's proof of the revised brochure and copies of a color sketch upon the Board, the parties, and the Federal Emergency Management Agency.

[Docket No. 50-416]

Mississippi Power and Light Company, Middle South Energy, Inc., and South Mississippi Electric Power Association; Issuance of Amendment of Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 5 to Facility Operating License No. NPF-13, issued to Mississippi Power and Light Company, Middle South Energy, Inc., and South Mississippi Electric Power Association (the licensees), for Grand Gulf Nuclear Station, Unit No. 1 (the facility) located in Claiborne County, Mississippi. This amendment grants changes to the Technical Specifications and to a license condition. The changes to the Technical Specifications relate to Specifications 3.4.9.1 and 3.4.9.2, Limiting Conditions for Operation of the Residual Heat Removal Systems. The change to the license condition relates to the schedule for completion of open items and corrective actions for the environmental qualification of safety-related electrical equipment. The amendment is effective as of the date of issuance.

The applications for the amendments comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the two applications for the amendments dated September 13, 1982; (2) Amendment No. 5 to License NPF-13 dated December 20, 1982; and (3) the Commission's evaluation dated December 20, 1982. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555, and at the Hinds Jr. College, George M. McLendon Library, Raymond, Mississippi 39154. A copy of items (1), (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C., 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 20th day of December 1982.

For the Nuclear Regulatory Commission.

A. Bournia,

Acting Chief, Licensing Branch No. 2, Division of Licensing.

[FR Doc. 82-35309 Filed 12-29-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. STN 50-437]

Offshore Power Systems Floating Nuclear Plants 1-8; Notice of Issuance of Manufacturing License

Notice is hereby given that, pursuant to the Initial Decision of the Atomic Safety and Licensing Board, dated June 30, 1982, the Nuclear Regulatory Commission (the Commission) has issued Manufacturing License No. ML-1 to the Offshore Power Systems for construction of a maximum of eight floating nuclear plants at the applicant's site on Blount Island of St. John's River in Jacksonville, Florida. Each reactor is designed to operate at a core power level of 3411 megawatts thermal.

The Initial Decision is subject to review by an Atomic Safety and Licensing Appeal Board prior to its becoming final. Any decision or action taken by an Atomic Safety and Licensing Appeal Board in connection with the Initial Decision may be reviewed by the Commission.

The Commission has made appropriate findings as required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations in 10 CFR Chapter I, which are set forth in the manufacturing license. The application for the manufacturing license complies with the standards and requirements of the Act and the Commission's regulations.

The manufacturing license is effective as of its date of issuance. Manufacture of the floating nuclear plants shall commence within ten years from the date of issuance of this license. The license shall expire at midnight, December 31, 1999.

A copy of: (1) The Initial Decision, dated June 30, 1982; (2) Manufacturing License No. ML-1 with attached Environmental Protection Plan; (3) the reports of the Advisory Committee on Reactor Safeguards, dated October 19, 1981, April 16, 1980, May 9, 1978, September 14, 1976, June 7, 1976, and December 10, 1975; (4) the Commission's staff Safety Evaluation Report, dated September 30, 1975, Supplement 1 dated March 16, 1976, Supplement 2 dated October 8, 1976, Supplement 3 dated February 1980, and Supplement 4 dated September 1981; (5) the Preliminary Safety Analysis Report and amendments thereto; (6) the applicant's Environmental Report, dated July 1973 and supplements thereto; (7) the Draft Environmental Statement, Part I dated July 1974, Part II dated December 1975, and Part III dated October 1976; and (8) the Final Environmental Statement, Part I dated October 1975, Part II dated September 1976, with Addendum dated June 1978, and Part III dated December 1978, are available for public inspection at the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C., at the Jacksonville Public Library, 122 North Ocean Street, Jacksonville, Florida. A copy of the manufacturing license may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Copies of the Safety Evaluation Report (Document Nos. NUREG 75/100, and NUREG-0054) and the Final Environmental Statement (Document Nos. NUREG 75/091, NUREG-0056, and NUREG-0502) may be purchased at current rates, from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161.

Dated at Bethesda, Maryland this 17th day of December 1982.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Chief, Licensing Branch No. 4, Division of Licensing.

[FR Doc. 82-35310 Filed 12-29-82; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Clinch River Breeder Reactor; Meeting

The ACRS Subcommittee on Clinch River Breeder Reactor (CRBR) will hold a meeting on January 20 and 21, 1983, Room 1046, 1717 H Street, NW, Washington, DC. The Subcommittee will continue the review of the CRBR plant design for a construction permit.

In accordance with the procedures outlined in the **Federal Register** on October 1, 1982 (47 FR 43474), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Cognizant Designated Federal

Employee as far in advance as practicable so that appropriate arrangments can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance except for those sessions during which the Subcommittee finds it necessary to discuss proprietary, industrial security and/or Unclassified Safeguards information. One or more closed sessions may be necessary to discuss such information. (SUNSHINE ACT EXEMPTIONS 3 and 4). To the extent practicable, these closed sessions will be held so as to minimize inconvenience to members of the public in attendance.

The agenda for subject meeting shall be as follows:

Thursday, January 20, 1983—8:30 a.m. until the conclusion of business.

Friday, January 21, 1983—8:30 a.m. until the conclusion of business.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the Department of Energy, NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Paul Boehnert (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m., EST.

I have determined, in accordance with Subsection 10(d) of the Federal Advisory Committee Act, that it may be necessary to close some portions of this meeting to protect proprietary, industrial security and/or Unclassified Safeguards information. The authority for such closure is Exemptions (3) and (4) to the Sunshine Act, 5 U.S.C. 552b(c)(3), (4).

Dated: December 23, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82-35428 Filed 12-29-82; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Skagit Nuclear Project; Meeting

The ACRS Subcommittee on Skagit Nuclear Project will hold a meeting on January 24 and 25, 1983, at the Hanford House Thunderbird, 802 George Washington Way, Richland, WA. The Subcommittee will review the application of the Puget Sound Power and Light Company for a construction permit.

In accordance with the procedures outlined in the **Federal Register** on October 1, 1982 (47 FR 43474), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Cognizant Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance except for those sessions during which the Subcommittee finds it necessary to discuss proprietary and industrial security and/or Unclassified Safeguards information. One or more closed sessions may be necessary to discuss such information. (SUNSHINE ACT EXEMPTIONS 3 and 4). To the extent practicable, these closed sessions will be held so as to minimize inconvenience to members of the public in attendance.

The agenda for subject meeting shall be as follows:

Monday, January 24, 1983—1:00 p.m. until the conclusion of business.

Tuesday, January 25, 1983—8:30 a.m. until the conclusion of business.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the Puget Sound Power and Light Company, NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Anthony Cappucci (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m., EST.

I have determined, in accordance with Subsection 10(d) of the Federal Advisory Committee Act, that it may be necessary to close some portions of this meeting to protect proprietary, industrial security and/or Unclassified Safeguards information. The authority for such closure is Exemptions (3) and (4) to the Sunshine Act, 5 U.S.C. 552b(c) (3), (4).

Dated: December 27, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82-35427 Filed 12-29-82; 8:45 am]

BILLING CODE 7590-01-M

Advisory Panel for the Decontamination of Three Mile Island, Unit 2; Meeting

Notice is hereby given pursuant to the Federal Advisory Committee Act that the Advisory Panel for the Decontamination of Three Mile Island, Unit 2 will be meeting on February 2, 1983, from 7:00 p.m. to 10:00 p.m. at the Holiday Inn, 23 South Second Street, Harrisburg, Pennsylvania 17101. The meeting will be open for public observation.

At this meeting, the Panel will discuss TMI–2 cleanup activities. Specifically addressed will be: (1) State of Pennsylvania's participation in a regional low level waste compact, (2) transportation of TMI–2 radioactive waste, (3) status of the Safety Advisory Board, and (4) funding and scheduling of the cleanup.

Further information on the meeting may be obtained from Dr. Michael T. Masnik, Three Mile Island Program Office, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone 301/492–7466.

Dated: December 27, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82-35429 Filed 12-29-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50–440/441–OL; ASLBP 83-480–01 CPA]

Cleveland Electric Illuminating Co. (Perry Nuclear Power Plants 1 & 2); Reconstitution of Board

Pursuant to the authority contained in 10 CFR 2.721 (1980), the Atomic Safety and Licensing Board for Cleveland Electric Illuminating Company, et al. (Perry Nuclear Power Plant, Units 1 & 2), Docket Nos. 50–440–OL and 50–441–OL,

is hereby reconstituted by appointing Mr. Glenn O. Bright to the Board in place of Mr. Frederick J. Shon, who because of a schedule conflict, is no longer able to serve.

As reconstituted, the Board is comprised of the following Administrative Judges:

Peter B. Bloch, Chairman;
Dr. Jerry R. Klein;
Mr. Glenn O. Bright.

All correspondence, documents and other material shall be filed with the Board in accordance with 10 CFR 2.701 (1980). The address of the new Board member is:

Administrative Judge Glenn O. Bright, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Issued at Bethesda, Maryland, this 23rd day of December, 1982.

B. Paul Cotter, Jr.,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 35424 Filed 12-29-82 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-312]

Sacramento Municipal Utility District; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory commission (the commission) has issued Amendment No. 42 to Facility Operating Licnese No. DPR-54, issued to Sacramento Municipal Utility district (SMUD), which revised Technical specifications (TSs) for operation of the Rancho Seco Nuclear Generating Station (the facility) located in Sacramento County, California. the amendment is effective as of its date of issuance.

In Amendment No. 38 to the facility's license, the refueling interval definition, TS Section 1.2.8, was temporarily changed from 18 months to 24 months for a select group of surveillance tests. Upon startup from the next refueling outage, the temporary definition will expire. This amendment adds the surveillance testing of the High Pressure Injection system to the select group whose surveillance testing is delayed, on a one-time-only basis from 18 months to 24 months. In addition, as discussed with and agreed to by the SMUD staff, a provision was added that the revised refueling interval is effective only if the 1983 refueling outage starts on or before February 28, 1982.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the licensee's application dated December 10, 1982, as supplemented by an additional letter of the same date, (2) Amendment No. 42 to License No. DPR-54, and (3) the commission's related Safety Evaluation. all of these items are available for public inspection at the commission's Public document room, 1717 H Street NW., Washington, D.C. and at the Business and Municipal Department, Sacramento City-County Library, 828 I Street, Sacramento, California. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 20th day of December 1982.

For the Nuclear Regulatory commission.

John F. Stolz,

Chief, Operating Reactors Branch #4, Division of Licensing.

[FR Doc. 82-35425 Filed 12-29-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-361]

Southern California Edison Company, et al; Issuance of Amendment Facility Operating License No. NPF-10

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 12 to facility Operating License No. NPF-10, issued to Southern California Edison Company, San Diego Gas and Electric Company, The City of Riverside, California and The City of Anaheim, California (licensees) for the San Onofre Nuclear Generating Station, Unit 2 (the facility) located in San Diego Country, California. This amendment is effective December 22, 1982.

Amendment No. 12 changes the technical specifications to allow the noncritical component cooling water (CCW) loop to circulate water to the reactor coolant pumps after safety injection initiation. The non-critical CCW loop will still be required to isolate on high containment pressure.

Issuance of this amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) Southern California Edison Company's letters dated December 20, 21 and 22, 1982, (2) Amendment No. 12 to Facilitate Operating License No. NPF-10, and (3) the Commission's related Safety Evaluation.

These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and the San Clemente Library, 242 Avenida Del Mar, San Clemente, California 92672. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 23d day of December, 1982.

For the Nuclear Regulatory Commission.

Victor Nerses,

Acting Chief, Licensing Branch No. 3, Division of Licensing.

[FR Doc. 82-35426 Filed 12-29-82; 8:45 am]

BILLING CODE 7590-01-M

PENSION BENEFIT GUARANTY CORPORATION

Privacy Act of 1974; System of Records, Annual Publication

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Annual Privacy Act Notice; notification of amended routine uses.

SUMMARY: This document sets forth the annual notice of the systems of records maintained by the Pension Benefit Guaranty Corporation, as required by the Privacy Act of 1974. This document also provides notice of two amended routine uses under established systems of records.

EFFECTIVE DATE: The annual notice is effective on December 30, 1982. The amended routine uses will become effective without further notice on January 31, 1983, unless comments are received on or before that date which would result in a contrary determination and a notice is published to that effect.

ADDRESSES: Send comments to the Office of the General Counsel, Code 210, Pension Benefit Guaranty Corporation, 2020 K Street NW., Washington, D.C. 20006. Written comments will be available for public inspection at the PBGC, Suite 7000, at the same address, on weekdays between 9 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Renae R. Hubbard, Special Counsel, Office of the General Counsel, Code 210, Pension Benefit Guaranty Corporation, 2020 K Street NW., Washington, D.C. 20006, (202) 254–4895. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: As required by the Privacy Act, 5 U.S.C. 552a(e)(4), this document sets forth the annual notice of the existence and character of the systems of records maintained by the Pension Benefit Guaranty Corporation ("PBGC"). There are technical changes in PBGC systems 1, 3, 4, 6, 8, and 9 as discussed below. In addition, notice is given of an amended General Routine Use 4, which applies to PBGC systems 1 through 8 and 10, and of an amended Routine Use under PBGC system 3.

Technical Changes

On December 31, 1981, the PBGC's Los Angeles Regional Office was closed. All records maintained in that office were transferred to the appropriate PBGC office in Washington, D.C. Therefore, all references to the Los Angeles Regional Office as a system location and to the Special Assistant for Field Liaison, Los Angeles Regional Office as System Manager for PBGC systems 1, 3, and 4 have been deleted.

On January 4, 1982, PBGC's Division of Benefits Administration was transferred to its Office of Financial Operations. The address for the System Manager for PBGC systems 6 and 9 has been revised to reflect that fact.

Finally, the address for the System Manager for PBGC system 8 has been revised to add the appropriate office.

Routine Uses

The PBGC proposes to amend General Routine Use 4, which applies to the PBGC systems 1 through 8 and 10 in order to clarify its scope, and to amend Routine Use 1 in system PBGC–3, Employee Payroll, Leave and Attendance Records in order to add an additional routine use.

General Routine Use 4 currently provides that disclosure of information in covered systems may be made during and in anticipation of litigation "to all counsel in the course of discovery or settlement negotiations and during the presentation of evidence to a court, magistrate or administrative tribunal". The purpose of General Routine Use 4 is to allow the PBGC, in the course of litigation or settlement proceedings with an individual or his or her employer and the companies in common control with the employer, to disclose records concerning that individual without his or her written consent.

PBGC experience has shown that General Routine Use 4, as now worded, can be read to allow the disclosure of records contained in any applicable Privacy Act system of records to any party who is in litigation with the PBGC. PBGC did not intend this interpretation of General Routine Use 4 when it was published. Moreover, this interpretation is not in conformity with the general purpose of the Privacy Act to prevent disclosure of such information to third parties.

Accordingly, because the language of General Routine Use 4 may be interpreted more broadly than intended, PBGC proposes to clarify this routine use. The language proposed in this notice would make clear that General Routine Use 4 applies only to the disclosure of an individual's otherwise protected file during the course of litigation with that specific individual or his or her employer/employer's control group. The revised General Routine Use 4 will read as follows:

"4. . . . A record from this system of records may be disclosed during litigation with the individual who is the subject of the record or his or her employer and the companies in common control with the employer. This includes disclosure to all counsel in the course of discovery or settlement negotiations and during the presentation of evidence to a court, magistrate or administrative tribunal, or during proceedings in reasonable anticipation thereof."

The PBGC proposes to revise Routine Use 1 in PBGC system 3, Employee Payroll, Leave and Attendance Records, to add an additional use. Routine Use 1 to PBGC system 3 currently provides for transmittal of data to the United States Department of Labor for several specified purposes. The PBGC proposes to add an additional purpose so that the Department of Labor can compile statistical information from these records for the use of PBGC's budget staff.

The amended Routine Use 1 in PBGC 3 will read as follows:

"1. Transmittal of data to United States Department of Labor to effect issuance of paychecks to employees and distribution of pay according to employee directions for savings bonds, allotments, financial institutions, and other authorized purposes, to effect tax withholdings and other authorized deductions, and for statistical purposes."

Section 552a(e)(11) of the Privacy Act requires that notice of an intended routine use of records be published at least 30 days prior to the implementation of the use and that the public be given an opportunity to comment. Interested persons are invited to submit written data, views or comments on the proposed amended routine uses, which may be changed in light of the comments received. If no changes are made, and unless PBGC publishes a notice to the contrary, the proposed amended routine uses will become final 30 days after publication of this notice.

(Sec. 3, Pub. L. 93–579, 88 Stat. 1896 (5 U.S.C. 552a).

Henry Rose,

Acting Executive Director, Pension Benefit Guaranty Corporation.

Table of Contents

1. Correspondence Between PBGC and Persons Outside PBGC—PBGC.
2. Disbursements—PBGC.
3. Employee Payroll. Leave and Attendance Records—PBGC.
4. Employee Travel Records—PBGC.
5. Personnel Records.PBGC.
6. Plan Participant and Beneficiary Data—PBGC.
7. Equal Employment Opportunity Discrimination Complaints—PBGC.
8. Employee Adverse Action Files—PBGC.
9. Plan Participant and Beneficiary Address Identification File—PBGC.
10. Administrative Appeals File—PBGC.

Prefatory Statement of General Routine Uses

The following routine uses, except for number 3, apply to and are incorporated by reference into each system of records set forth below except PBGC–9. Routine use number 3 applies to and is incorporated by reference into systems 1–5 and 7–8 set forth below. None of the routine uses apply to PBGC–9.

1. Routine Use—Law Enforcement: In the event that a system of records

maintained by the PBGC to carry out its functions indicates a violation or potential violation of law, whether criminal, civil or regulatory in nature, and whether arising by general statute or particular program pursuant thereto, the relevant records in the system of records may be referred to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statue, or rule, regulation or order issued pursuant thereto.

2. Routine Use—Disclosure When Requesting Information: A record from this system of records may be disclosed as a routine use to a federal, state or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, if necessary to obtain information relevant to a PBGC decision concerning the hiring or retention of an employee, the issuance of a security clearance, or the letting of a contract.

3. Routine Use—Disclosure of Requested Information: A record from this system of records may be disclosed to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

4. Routine Use—Disclosure During and in Anticipation of Litigation: A record from this system of records may be disclosed during litigation with the individual who is the subject of the record, including disclosure to all counsel in the course of discovery or settlement negotiations and during the presentation of evidence to a court, magistrate or administrative tribunal, or during proceedings in reasonable anticipation thereof.

5. Routine Use—Disclosure to OMB: A record contained in this system of records will be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A–19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

6. Routine Use—Congressional Inquiries: Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the Congressional Office made at the request of that individual.

PBGC–1

SYSTEM NAME:

Correspondence Between PBGC and Persons Outside PBGC—PBGC.

SYSTEM LOCATION:

Pension Benefit Guaranty Corporation, 2020 K Street, N.W., Washington, D.C. 20006.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have corresponded with PBGC and with divisions of the PBGC and individuals who have received replies irresponse to their correspondence with the PBGC.

CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondence containing the name and address of the correspondent and other information regarding various aspects of the PBGC and Title IV of the Employee Retirement Income Security Act of 1974. Correspondence is kept by the Office Director to whom the correspondence was addressed or the Office Director who replied to the correspondent.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

29 U.S.C. 1302.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used for regulatory purposes including use as evidence in proceedings before the PBGC and the courts.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained manually in file folders.

RETRIEVABILITY:

Indexed by name of correspondent or plan.

SAFEGUARDS:

Records are kept in file cabinets in areas of restricted access which are locked after office hours.

RETENTION AND DISPOSAL:

General requests for information involving no administrative action, policy decisions or special research are destroyed 3 months after reply.

Correspondence with regard to specific cases is transferred to the Federal Records Center one year after the end of the fiscal year in which the correspondence was received or sent, and destroyed when 15 years old. Correspondence with members of Congress is destroyed one year after the end of the fiscal year in which it is received or sent.

SYSTEMS MANAGER(S) AND ADDRESS:

Office of Executive Director, Director of the Office of Financial Operations, Director of the Office of Information Management, Director of the Office of Program Operations, and General Counsel, Pension Benefit Guaranty Corporation, 2020 K Street NW., Washington, D.C. 20006.

NOTIFICATION PROCEDURE:

Procedures are detailed in PBGC regulations: 29 CFR Part 2607.

RECORD ACCESS PROCEDURES:

Same as notification procedure.

CONTESTING RECORD PROCEDURES:

Same as notification procedure.

RECORD SOURCE CATEGORIES:

Individuals writing to the PBGC and the PBGC responses.

PBGC–2

SYSTEM NAME:

Disbursements—PBGC.

SYSTEM LOCATION:

Pension Benefit Guaranty Corporation, 2020 K Street NW., Washington, D.C. 20006.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Consultants and vendors to PBGC.

CATEGORIES OF RECORDS IN THE SYSTEM:

Payment vouchers, including SF 1081.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

29 U.S.C. 1302.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Transmittal of data to United States Department of the Treasury to effect payments to consultants and vendors.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained manually in file folders.

RETRIEVABILITY:

Indexed by name.

SAFEGUARDS:

Records are kept in lockable file cabinets in areas of restricted access which are locked after office hours.

RETENTION AND DISPOSAL:

Records created after June 30, 1975 are destroyed 6 years and 3 months after date of voucher.

SYSTEMS MANAGER(S) AND ADDRESS:

Controller, Office of Financial Operations, Pension Benefit Guaranty Corporation, 2020 K Street, N.W., Washington, D.C. 20006.

NOTIFICATION PROCEDURE:

Procedures are detailed in PBGC regulations: 29 CFR Part 2607.

RECORD ACCESS PROCEDURES:

Same as notification procedure.

CONTESTING RECORDS PROCEDURES:

Same as notification procedure.

RECORD SOURCE CATEGORIES:

Subject consultant or vendor.

PBGC–3

SYSTEM NAME:

Employee Payroll, Leave and Attendance Records—PBGC.

SYSTEM LOCATION:

Pension Benefit Guaranty Corporation, 2020 K Street, N.W., Washington, D.C. 20006.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Emplyees of PBGC.

CATEGORIES OF RECORDS IN THE SYSTEM:

Names; address; social security number and employee number, earnings records; leave status and data; jury duty data; military leave data; time and attendance records, including number of regular, overtime, holiday, Sunday and other hours worked, co-owner and/or beneficiary of bonds, marital status and number of dependents; and "Notification of Personnel Action". The individual records listed herein are included only as pertinent or applicable to the individual employee.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

29 U.S.C. 1302.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Trasnmittal of data to United States Department of Labor to effect issuance of paychecks to employees and distribution of pay according to employee directions for savings bonds, allotments, financial institutions, and other authorized purposes, to effect tax withholdings and other authorized deductions, and for statistical purposes.

2. Pursuant to Title VII of the Civil Service Reform Act, pertinent records from this system may be furnished to a labor organization upon its request when needed by that organization to perform its duties as the recognized collective bargaining representative of BPGC employees in the bargaining unit.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM

STORAGE:

Records are maintained manually in file folders and in machine readable form.

RETRIEVABILITY:

Indexed by name and/or employee or social security number.

SAFEGUARDS:

Records are kept in lockable file cabinets in areas of restricted access which are locked after office hours. Magnetic tapes and computer records are kept under restricted access.

RETENTION AND DISPOSAL:

Payroll Records are transferred to the National Personnel Records Center and destroyed 56 years after date of last entry.

Leave and Attendance Records are destroyed three years after the close of the leave year.

SYSTEM MANAGER(S) AND ADDRESS:

Controller, Office of Financial Operations, Pension Benefit Guaranty Corporation, 2020 K Street, N.W., Washington, D.C. 20006.

NOTIFICATION PROCEDURE:

Procedures are detailed in PBGC regulations: 29 CFR Part 2807.

RECORD ACCESS PROCEDURES:

Same as notification procedure.

CONTESTING RECORD PRECEDURES:

Same as notification procedure.

RECORD SOURCE CATEGORIES:

Subject individual and Office of Personnel Management.

PBGC–4

SYSTEM NAMES:

Employee Travel Records—PBGC.

SYSTEM LOCATION:

Pension Beneiit Guaranty Corporation, 2020 K Street, N.W., Washington D.C. 20006.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of PBGC who have filed travel vouchers and related documents.

CATEGORIES OF RECORDS IN THE SYSTEM:

Travel vouchers and related documents filed by employees of PBGC.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

29 U.S.C. 1302.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Transmittal of data to United States Department of Treasury to effect reimbursement to employees for travel expenses.

POLICIES AND PRACTICES FOR STRORING, RETRIEVING, ACCESSING, RETRAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained manually in file folders.

RETRIVABILITY:

Indexed by name.

SAFEGUARDS:

Records are kept in file cabinets in areas of restricted access which are locked after office hours.

RETENTION AND DISPOSAL:

Retained for 3 years and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Controller, Office of Financial Operations, Pension Benefit Guaranty Corporation, 2020 K Street, N.W., Washington, D.C. 20006.

NOTIFICATION PROCEDURE:

Procedures are detailed in PBGC regulations: 29 CFR Part 2607.

RECORD ACCESS PROCEDURES:

Same as notification procedure.

CONTESTING RECORD PROCEDURES:

Same as notification procedure.

RECORD SOURCE CATEGORIES:

PBGC employee executing vouchers.

PBGC–5

SYSTEM NAME:

Personnel Records—PBGC.

SYSTEM LOCATION:

Pension Benefit Guaranty Corporation, 2020 K Street, N.W., Washington, D.C. 20006.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees and applicants for employment with PBGC.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personnel records that the PBGC maintains, including applications and related information for attorneys maintained by the Office of the General Counsel. (Records included in the Permanent Official Personnel File are maintained as a system of records by the Office of Personnel Management and are not included in this system of records).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

29 U.S.C. 1302.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. These records are used to carry out authorized personnel programs.

2. Pursuant to Title VII of the Civil Service Reform Act records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of PBGC employees in the bargaining unit.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained manually in file folders and in machine readable form.

RETRIEVABILITY:

Indexed by name.

SAFEGUARDS:

Records are kept in areas of restricted access which are locked after office hours. Magnetic tapes and computer records are kept under restricted access.

RETENTION AND DISPOSAL:

Temporary Personnel File records are destroyed when the employee leaves PBGC or one year after the file was established, whichever is sooner. Applications for employment are destroyed after the receipt of Office of Personnel Management inspection report or 2 years after date of application, whichever is sooner. Applications for training are destroyed 5 years after date of application.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Division of Personnel Programs and Services, Office of Management Services, Pension Benefit Guaranty Corporation, 2020 K Street, N.W., Washington, D.C. 20006, and the Management Officer, Office of the General Counsel, Pension Benefit Guaranty Corporation, Suite 7200, 2020 K Street, N.W., Washington, D.C. 20006.

NOTIFICATION PROCEDURE:

Procedures are detailed in PBGC regulations: 29 CFR Part 2607.

RECORD ACCESS PROCEDURES:

Same as notification procedure.

CONTESTING RECORD PROCEDURES:

Same as notification procedure.

RECORD SOURCE CATEGORIES:

Subject individuals, present and past employers, references given by subject individuals and responses to security investigations.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt from access and contest and certain other provisions of the Privacy Act 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4) (G), (H) and (I), and (f), to the extent it includes material which would reveal the identity of a source who furnished information to the PBGC under an express promise that the identity of the source would be held in confidence or prior to September 27, 1975, was provided to the PBGC under an implied promise of confidentiality.

PBGC–6

SYSTEM NAME:

Plan Participant and Beneficiary Data—PBGC.

SYSTEM LOCATIONS:

Pension Benefit Guaranty Corporation, 2020 K Street, N.W., Washington, D.C. 20006.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Participants and beneficiaries in terminated pension plans covered by Title IV of the Employee Retirement Income Security Act of 1974.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records contain name, address, telephone number, sex, social security number and other social security data, date of birth, date of hire, salary, marital status, time of plan participation, participant status, pay status, benefit data, health data, and insurance information where plan benefits are guaranteed by private insurers. The individual records listed herein are included only as pertinent or applicable to the individual plan participant or beneficiary.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

29 U.S.C. 1302, 1322 and 1341.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosed to third parties, such as banks, insurance companies and trustees, for the purpose of paying benefits to plan participants and beneficiaries.

2. Disclosure, in furtherance of proceedings under Title IV of the Employee Retirement Income Security Act of 1974, of plan participant and beneficiary data to an employer who maintained the plan, including any predecessor or successor employers and to any member of a controlled group of which the employer is a part.

3. Disclosure may be made to an official of a labor organization which is the duly recognized collective bargaining representative of the individual about whom the request is made.

POLICIES AND PRACTICE FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained manually in file folders and in machine readable form.

RETRIEVABILITY:

Indexed by plan and particpant and/or beneficiary name.

SAFEGUARDS:

Manual records are maintained in lockable file cabinets which are locked after office hours, in areas of restricted access. Magnetic tapes and computer records are kept under restricted access.

RETENTION AND DISPOSAL:

Records for vested plan participants are destroyed one year after final payment to, or death of, the last participant and/or beneficiary in the plan. Records for nonvested plan participants are destroyed 7 years after written notification to the participant.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Division of Benefits Administration, Office of Financial Operations, Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006.

NOTIFICATION PROCEDURE:

Procedures are detailed in PBGC regulations: 29 CFR Part 2607.

RECORDS ACCESS PROCEDURES:

Same as notification procedure.

CONTESTING RECORD PROCEDURES:

Same as notification procedure.

RECORD SOURCE CATEGORIES:

Plan administrators and Social Security Administration.

PBGC–7

SYSTEM NAME:

Equal Employment Opportunity Discrimination Complaints—PBGC.

SYSTEM LOCATION:

Pension Benefit Guaranty Corporation, Equal Employment Opportunity Office, Room 4300–A, 2020 K Street, NW., Washington, D.C. 20006.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

PBGC employee and applicant complainants.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records contain names, work locations, dates, Social Security numbers, and other information as included on affidavits, interviews, informal and formal discrimination complaint reports and investigative files of complaints.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

29 CFR Part 1613.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—Used by EEO Officer, staff of Equal Employment Opportunity Commission, staff of the Merit System Protection Board, Complaints examiners, Contract EEO investigators. PBGC EEO investigators and PBGC EEO counselors to investigate complaints of alleged discrimination and to evaluate the effectiveness of the EEO program:

Use—

1. Disclosed to complainant's representative.

2. Portions may be disclosed to the alleged discriminating official and his/her representative.

3. Disclosed to Equal Employment Opportunity Commission and Merit System Protection Board to carry out authorized investigations, to adjudicate appeals and discrimination complaints, and make recommendations regarding discrimination complaints.

4. Disclosed to Contract EEO investigators.

5. Disclosed to the United States Attorney's Office for the purpose of preparing for or conducting litigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained manually in file folders, binders and marked exhibits.

RETRIEVABILITY:

Indexed by complainant's name.

SAFEGUARDS:

Records are kept in lockable file cabinets which are locked after office hours in rooms with restricted access.

RETENTION AND DISPOSAL:

An official Discrimination Complaint case file which is resolved in the agency by EEOC or by a United States Court is destroyed 4 years after the resolution of the case. The background record is destroyed 2 years after the resolution of the case.

SYSTEM MANAGER(S) AND ADDRESS:

Equal Employment Opportunity Officer, Division of Personnel Programs and Services, Office of Management Services, Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006.

NOTIFICATION PROCEDURE:

Procedures are detailed in PBGC regulations: 29 CFR Part 2607.

RECORDS ACCESS PROCEDURES:

Same as notification procedure.

CONTESTING RECORD PROCEDURES:

Same as notification procedure.

RECORD SOURCE CATEGORIES:

Information is received from the complainants, respondent and from investigations and interviews.

PBGC–8

SYSTEM NAME:

Employee Adverse Action files—PBGC.

SYSTEM LOCATION:

Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

PBGC employees against whom an adverse action covered by this system has been initiated, or a PBGC employee who has initiated a grievance.

CATEGORIES OF RECORDS IN THE SYSTEM:

Notice to employees of disciplinary actions, performance warning letters, adverse actions, reductions-in-force, employees' replies to notices, employees' notice of grievance, employees' notice of appeal, records of hearing proceedings, appeal decisions and rebuttals, notice of action, investigative reports and related information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—

Provide a record keeping system, 1) for grievances and related appeals filed by an employee who alleges his rights regarding compensation, benefits, or other terms and conditions of employment have been adversely affected and, 2) for adverse actions brought against a PBGC employee.

Use—

1. Disclosed to employee's representative.

2. Disclosed to the Office of Personnel Management and Merit Systems Protection Board to carry out their authorized functions.

3. Pursuant to Title VII of the Civil Service Reform Act, records from this system may be furnished to a labor organization upon its request when needed by the organization to perform properly its duties as the collective bargaining representative of PBGC employees in the bargaining unit.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information is retained manually in file folders.

RETRIEVABILITY:

Indexed by employee name.

SAFEGUARDS:

Records are kept in lockable file cabinets which are locked after office hours in areas of restricted access.

RETENTION AND DISPOSAL:

Grievance files are destroyed 3 years after the case is closed. Adverse action files are destroyed 4 years after the case is closed.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Division of Personnel Programs and Services, Office of Mangement Services, Pension Benefit Guaranty Corporation, 2202 K Street, N.W., Washington, D.C. 20006.

NOTIFICATION PROCEDURE:

Procedures are detailed in PBGC regulations: 29 CFR Part 2607.

RECORD ACCESS PROCEDURES:

Same as notification procedure.

CONTESTING RECORD PROCEDURES:

Same as notification procedure.

RECORD SOURCE CATEGORIES:

Information is received from an employee who initiates a grievance, or against whom an adverse action is initiated, employee's supervisors, and other PBGC employees and from investigations and interviews.

PBGC9

SYSTEM NAME:

Plan Participant and Beneficiary Address Identification File—PBGC.

SYSTEM LOCATION:

Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Certain plan participants and beneficiaries in terminated pension plans covered by Title IV of ERISA.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records contain name, social security number, name of pension plan, and address received from the Internal Revenue Service.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

29 U.S.C. 1302, 1322 and 1341, 26 U.S.C. 6103.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure may be made only to the extent permitted by 26 U.S.C. 6103 and 26 CFR 404.6103.

POLICIES AND PRACTICES FOR STORING RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained manually in file folders.

RETRIEVABILITY:

Indexed by participant or beneficiary name and social security number.

SAFEGUARDS:

Records are kept in locked file cabinets in areas of restricted access under procedures that meet Internal Revenue Service safeguarding standards.

RETENTION AND DISPOSAL:

Records for participants in PBGG trusteed plans for which the address is verified are transferred to PBGC–6 on verification. Records for which IRS has no address, for which the address was not verified, and records for participants in sufficient plans or plans with a third-party trustee will be retained for two years from the date the request was sent to the Internal Revenue Service and then will be sent to Internal Revenue Service for disposal or destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Division of Benefits Administration, Office of Financial Operations, Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006.

NOTIFICATION PROCEDURE:

Procedures are detailed in PBGC regulations: 29 CFR Part 2607.

RECORD ACCESS PROCEDURES:

Same as notification procedure.

CONTESTING RECORD PROCEDURES:

Same as notification procedure.

RECORD SOURCE CATEGORIES:

Information is received from the Internal Revenue Service.

PBGC–10

SYSTEM NAME:

Administrative Appeals File—PBGC

SYSTEM LOCATION:

Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Plan participants and beneficiaries in terminated pension plans covered by Title IV of ERISA who have filed appeals with PBGC pursuant to 29 CFR 2606.1(b) (5), (6), (7) or (8), Rules for Administrative Review of Agency Decisions.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records contain the name of pension plan, name of the participant or beneficiary and personal information such as address, social security number, sex, date of birth, date of hire, salary, marital status, medical records, date of commencement of plan participation or employment, statements regarding employment, date of termination of plan participation or retirement, benefit payment data, pay status, Social Security Administration determinations, insurance claims and awards, workman's compensation awards, correspondence relating to the Appeal, calculations of benefit amounts, calculations of amounts subject to recapture, and final determination of the Appeals Board. The individual records listed herein are included only as pertinent or applicable to the individual plan participant or beneficiary.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Secs. 4002, 4022, 4041 and 4045, Pub. L. 93–406, 88 Stat. 1004, 1016, 1020, 1027, (1974), as amended by secs. 403(1), 406(a), 403(c) and 403(d), Pub. L. 96–364, 94 Stat. 1302, 1303, 1301, (1980) (29 U.S.C. 1302, 1322, 1341 and 1345).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosed to third parties who will be aggrieved by the decision of the Appeals Board under 29 CFR 2606.58, including disclosure to the employer who maintained the plan, including any predecessor or successor employer and to any member of a controlled group of which the employer is a part.

2. Disclosed to a representative of a participant or beneficiary who has a power of attorney, if necessary under 29 CFR 2606.6, including an official of a labor organization which is the duly-recognized collective bargaining representative of the individual about whom the request is made.

3. Disclosed to third parties, such as banks, insurance companies and trustees, for the purpose of paying benefits to plan participants and beneficiaries.

4. Disclosed to third parties, such as contractors and expert witnesses, for the purpose of providing expert analysis of the appeal.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained manually in file folders and in machine readable form.

RETRIEVABILITY:

Indexed by participant or beneficiary name, plan name, and appeals number.

SAFEGUARDS:

Manual records are kept in areas of restricted access and in lockable file cabinets which are locked after office hours. Magnetic tapes and computer records are kept under restricted access.

RETENTION AND DISPOSAL:

Records are proposed to be retained for a closed file for two fiscal years after the Appeals Board's final opinion is

issued, transferred to a Federal Records Center and destroyed 6 years later.

SYSTEM MANAGER(S) AND ADDRESS:

Clerk of the Appeals Board, Pension Benefit Guaranty Corporation, 2020 K Street, N.W., Washington, D.C. 20006.

NOTIFICATION PROCEDURES:

Procedures are detailed in PBGC regulations: 29 CFR Part 2607.

RECORD ACCESS PROCEDURES:

Same as notification procedure.

CONTESTING RECORD PROCEDURES:

Same as notification procedure.

RECORD SOURCE CATEGORIES:

Information may be received from the Plan Administrator, the Plan Sponsor, the employer who maintained the plan, the labor organization which is the duly-recognized collective bargaining representative of the participant, the Social Security Adminstration and the participant and/or beneficiary.

[FR Doc. 82-35375 Filed 12-29-82; 8:45 am]

BILLING CODE 7708-01-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 19371; File No. 4-208]

American Stock Exchange, Inc., et al.; Order Deferring Expansion of an Automated Interface

December 23, 1982.

The Securities and Exchange Commission is extending the pilot phase of the interface between the Intermarket Trading System ("ITS") and the National Association of Securities Dealers' ("NASD") NASDAQ system until June 1, 1983.[1] The purpose of this extension is to allow the Commission to review the comments received in response to its release republishing an order exposure rule that might govern the ITS–NASDAQ linkage.[2] The Commission expects to take further action in the order exposure area shortly.

Accordingly, the Commission hereby issues an order, pursuant to its authority under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*, as amended by Pub. L. No. 94–29 (June 4, 1975)) and particularly Sections 2, 3, 6, 10, 11, 11A, 15, 15A, 17 and 23 thereof (15 U.S.C. 78b, 78c, 78f, 78j, 78k, 78k–1, 78*o*, 78*o*–1, 78q, 78w) as follows:

It is hereby ordered that the Commission's order dated April 21, 1981 (Securities Exchange Act Release No. 17744, 46 FR 23856) as amended by the Commission's orders dated March 4, 1982 (Securities Exchange Act Release No. 18537, 47 FR 10682) (the "April 1981 Order"), May 6, 1982 (Securities Exchange Act Release No. 18712) and November 9, 1982 (Securities Exchange Act Release No. 19229), requiring among other things, the American Stock Exchange, Inc.; Boston Stock Exchange, Inc.; Cincinnati Stock Exchange, Inc.; Midwest Stock Exchange, Inc.; New York Stock Exchange, Inc.; Pacific Stock Exchange, Inc.; Philadelphia Stock Exchange, Inc. and any other self-regulatory organization which hereafter becomes a participant in the ITS and the NASD to act jointly in planning, developing and operating an automated intermarket communications linkage ("Automated Interface") between the ITS and the NASDAQ electronic inter-dealer quotation system, as modified by the NASD to permit computer assisted execution, is amended to defer the date on which full operation of the Automated Interface, as described in the Section I, paragraph B of the April 1981 Order, must be implemented, from January 15, 1983, until June 1, 1983.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-35457 Filed 12-29-82; 8:45 am]

BILLING CODE 8010-01-M

[1] The ITS is governed by a plan ("ITS Plan") filed with, and approved by, the Commission pursuant to Section 11A(a)(3)(B) of the Securities Exchange Act of 1934 and Rule 11Aa3–2 thereunder. The ITS Plan contains a number of provisions that govern the pilot phase of the ITS–NASDAQ linkage. *See e.g.*, Section 10(d) of the ITS Plan. The Commission interprets the ITS Plan to provide that such provisions will continue to govern the linkage until the full implementation of the linkage becomes effective.

[2] Securities Exchange Act Release No. 19372 (December 23, 1982).

[File No. 1-7527]

Fay's Drug Company, Inc.; Application To Withdraw From Listing and Registration

December 21, 1982.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to Section 12 (d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2–2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

1. The common stock of Fay's Drug Company, Inc. ("Company") is listed and registered on the Amex. Pursuant to a Registration Statement on Form 8–A which became effective on November 22, 1982, the Company is also listed and registered on the New York Stock Exchange ("NYSE"). The Company has determined that the direct and indirect costs and expenses do not justify maintaining the dual listing of the common stock on the Amex and the NYSE.

2. This application relates solely to withdrawal of the common stock from listing and registration on the Amex and shall have not effect upon the continued listing of such stock on the NYSE. The Amex has posed no objection to this matter.

Any interested person may, on or before January 13, 1983, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-35441 Filed 12-29-82; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 19296; 812-5254]

Pacific Fidelity Life Insurance Co., et al.; Application

December 23, 1982.

Notice is hereby given that Pacific Fidelity Life Insurance Company ("PFL") Premier Variable Annuity Account ("PVAA"), a unit investment trust registered under the Investment Company Act of 1940 ("Act"), Life Investors Management Corporation ("LIMC"), the principal underwriter, and Premier Money Market Fund, Inc. ("PMMF"), 4333 Edgewood Road, N.E., Cedar Rapids, Iowa 52499, an open-end, diversified, management investment company, (hereinafter referred to as "Applicants"), filed an application on July 22, 1982 and amendments thereto on November 10, 1982 and December 22, 1982, pursuant to Section 6(c) of the Act for an order of the Commission exempting Applicants, to the extent requested, from the provisions of

Sections 2(a)(32), 2(a)(35), 26(a), 26(a)(2)(C), 26(a)(2)(D), 27(c)(1), 27(c)(2), and 27(d) of the Act and Rule 22c-1 thereunder. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and are referred to the Act for a statement of the relevant statutory provisions.

PFL is a stock life insurance company. On March 26, 1982, PFL created PVAA as a separate account for the purpose of investing the net purchase payments received by PFL under certain variable annuity contracts ("Contracts"). LIMC is an Iowa corporation which acts as an investment adviser and principal underwriter of investment companies. PMMF is a corporation organized under the laws of the State of Maryland. PVAA proposes to offer and sell variable annuity contracts and to invest the net purchase payments for each such contract in shares of PMMF. Investments in PMMF may be made only by PVAA. PVAA will reinvest any distributions and dividends in additional shares of PMMF. Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction, or any class or classes thereof, from any provision of the Act or its Rules and Regulations, if and to the extent necessary or appropriate in the public interest, and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants submit that the exemptions they request are appropriate in the public interest, fully consistent with the protection of investors and the policy and purposes of the Act and should be granted.

Applicants hereby request an exemption from Sections 26(a) and 27(c)(2) to permit them to sell Contracts without need of an independent trustee or custodian.

Applicants state that PFL is subject to extensive supervision and control by California's insurance authorities and the Insurance Commissioners of each state in which the Contracts will be sold. In addition, Applicants state that under California law and the terms of the Contracts, the assets of PVAA are not chargeable with liabilities arising out of any other business conducted by PFL. Obligations arising under the Contracts are general obligations of PFL and cannot be abrogated without violating California insurance law. Therefore, Applicants assert that such existing regulation of PFL affords substantially the same protection contemplated by the provisions of Sections 26(a) and 27(c)(2) of the Act.

Applicants request an exemption from Section 26(a)(2)(D) of the Act to the extent necessary to permit PVAA to hold the securities of PMMF in book-entry form.

Applicants state that PMMF will use an open account system, and PFL will hold shares of PMMF in book-entry form in trust for the owners of Contracts issued by PVAA. Applicants submit that Contractowners will be adequately protected by this arrangement, and would receive no significant benefit if PFL has in its possession certificates representing the shares of PMMF. Since the number of shares of PMMF that PVAA holds is likely to fluctuate on a daily basis, Applicants contend that a requirement that certificates be issued and redeemed every day will result in unnecessary expense and confusion.

Applicants request exemptions from Sections 26(a)(2)(C) and 27(c)(2) to the extent necessary or appropriate to permit PFL to deduct the annual maintenance charge, the withdrawal charge, premium taxes, mortality risk insurance premiums and expense risk charges and the contingent deferred sales charge from the assets of PVAA, as described in the application.

Applicants assert that the annual maintenance charge of $24 per year and the $15 withdrawal charge to be deducted from each Contractowner's account are reasonable. The annual maintenance fee and withdrawal fee are set at a level designed to cover the expenses which PFL reasonably expects to incur in administering the Contracts and in processing withdrawals from or surrenders of Contracts, respectively. Applicants do not expect to profit from such fees, and such fees are reasonable in relation to the services to be performed and costs to be incurred.

Applicants state that they have determined that, whenever a Contractowner withdraws part of his Contract, the cost to Applicants of processing the withdrawal will be approximately $15, that is, the "withdrawal" fee. If a Contractowner surrenders his Contract entirely, Applicants expect to incur additional costs of approximately $12 in connection with the cancellation of the underlying annuity contract. Whenever a Contractowner surrenders his entire Contract, Applicants will be compensated for this latter cost by reimbursing the Contractowner for his annual administrative charge at a rate of $1.00 per month (rather than $2.00) for each full month remaining in the calendar year. Deductions for premium taxes will be reasonable; they will be made only at the time and in the amount the taxes are incurred.

Applicants state that the 0.7% annual charge against the assets of PVAA is designed to compensate PFL for the mortality risks it assumes as the issuer of the Contracts. PFL will profit from the mortality risk premiums to the extent that actual mortality experience is more favorable to PFL than the assumptions contemplated by the annuity tables incorporated in the Contracts. Applicants further state that the expense risk charge, described below, is designed to compensate PFL for the risk that the annual maintenance charge may not be sufficient to cover actual administrative costs in future years. PFL will profit from the expense risk charge only to the extent that actual costs of administration are less than the amount charged.

PVAA assets	Percentage expense risk charge
$0 to $150 million	0.30
$150 to $300 million	.25
$3200 to $450 million	.20
$450 to $600 million	.15
$600 and above	.10

PFL states that it plans to fund distribution expenses, that is, insurance commissions payable to broker-dealers, out of the contingent deferred sales charge, to the extent available. Applicants acknowledge, however, that the deferred sales charges imposed may not be sufficient to pay all distribution expenses. If the contingent sales charge is not sufficient to pay the amounts due to the broker-dealers, then PFL will pay the excess out of its general funds. To the extent PFL realizes a profit from the mortality risk premium or the expense risk charge, those profits will go into the general funds of PFL and may thus be used indirectly to pay sales costs not covered by the deferred sales charge.

To the best of Applicants' knowledge and belief, the mortality risk premium and expense risk charges are within the range of charges currently exacted by similar separate accounts. In this connection, Applicants represent that they reviewed the prospectuses of several comparable products to determine whether the charges were reasonable in relation to industry practice. Applicants further represent that they will maintain, at their offices, the listing of the fifteen separate accounts reviewed by them and the description of the basis upon which Applicants determined those separate

accounts to be comparable to PVAA. Applicants also state that these charges are reasonable in relation to the risks assumed by PFL under the Contracts, and are consistent with the protection of investors insofar as they are designed to be competitive while not exosing PFL to undue risk of loss.

Applicants request an exemption from Sections 2(a)(32), 2(a)(35), 22(c), 26(a)(2)(C), 26(a)(2)(D), 27(c)(1), and 27(d) of the Act and Rule 22c–1 to the extent necessary to permit the contingent deferred sales charge pricing arrangement.

Applicants state that in any calendar year, a Contractowner may, in one transaction, redeem up to 10% of the accumulated value of the Contract without incurring a contingent deferred sales charge. Any amount redeemed in excess of that amount will be subject to a contingent deferred sales charge as follows: 5% during the first three Contract years, 3% during the fourth Contract year, 2% during the fifth Contract year, and 1% during the sixth Contract year. No charge will be imposed after the end of the sixth Contract year. The total contingent deferred sales charge on a Contract will not exceed 9% of the purchase payments for such Contract unless and until the Commission, by rule, regulation or otherwise, permits PVAA to impose a higher charge.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than January 17, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–35453 Filed 12–29–82; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 22799; 70–6767]

Southwestern Electric Power Co.; Proposed Amendment of Ownership Agreement To Reflect Creation of Tax Partnership With Electric Cooperative In Utility Plant And Lignite Reserves

December 23, 1982.

Southwestern Electric Power Company ("SWEPCO"), 428 Travis Street, Shreveport, Louisiana 71556, an electric utility subsidiary of Central and South West Corporation ("CSW"), a registered holding company, has filed with this Commission a post-effective amendment, to a declaration previously filed and amended, pursuant to Sections 9(a), 10 and 12(d) of the Public Utility Holding Company Act of 1935 ("Act") and Rule 44 promulgated thereunder.

By order dated November 23, 1982 (HCAR No. 22732), the Commission authorized SWEPCO to enter into an Ownership, Construction and Operating Agreement ("Ownership Agreement") for the sale of an 11.72% interest in its Pirkey Unit No. 1 ("Pirkey Plant") and 11.8372% of certain lignite reserves ("Lignite Reserves") to Northeast Texas Electric Cooperative, Inc. ("NTEC").

By post-effective amendment SWEPCO seeks authorization of amendments to the Ownership Agreement reflecting that, for the proposes of federal and state income taxes, the participation of SWEPCO and NTEC in the Pirkey Plant shall by considered and taxed as a general partnership ("Tax Partnership"). The Tax Partnership shall be governed by the provisions of the amendent to the Ownership Agreement proposed to be enetered into by SWEPCO and NTEC. The proposed amendment shall also provide for the filing in appropriate circumstances of an election under Section 761(a) of the Internal Revenue Code to be excluded from treatment as a partnership for federal income tax proposes.

Making provision for a Tax Partnership will not affect the property rights of NTEC or SWEPCO under the Ownership Agreement in the completed Pirkey Plant and the Lignite Reserves. Upon completion of the construction of the Pirkey Plan, SWEPCO shall own an undivided 88.28% interest in Perkey Plan as a tenant in common with NETC, which shall own an undivided 11.72% interest in Pirkey Plant, as originally contemplated by the Ownership Agreement. Similarly, SWEPCO and NTEC shall own in the same proportions as tenants in common the Lignite Reserves intended to be the principal fuel to be burned at the Pirkey Plant.

Creation of the Tax Partnership will change the manner in which NTEC acquires its 11.72% interest in such facilities. Under the Ownership Agreement as originally written, the parties intended that a "closing" would take place after all necessary regulatory approvals had been secured. At such closing, NTEC was to pay to SWEPCO an amount equal to 11.72% of all capitalized costs of the Pirkey Plant from inception to the date of closing, and an amount equal to 11.8372% (NTEC's 11.72% share plus one percent of NTEC's percentage share of the cost and expense of the Lignite Reserves) of the total cost and expense which SWEPCO had incurred to the date of closing in connection with such Lignite Reserves. Under the Ownership Agreement as it is proposed to be amended, NTEC shall acquire its 11.72% interest in the Pirkey Plant and the Lignite Reserves by assuming responsibility for and bearing all costs of constructing Pirkey Plant and developing the Lignite Reserves until such time as the amount of such costs borne by NTEC shall equal an amount determined by the following formula:

NPC = .1172 (PP) + .118372 (LR), where:
NPC = NTEC's partnership contribution;
PP = Pirkey Plant construction costs; and
LR = Lignite Reserve development costs,

and thereafter paying its 11.72% share of the cost of completing the construction of Pirkey Plant and its 11.8372% share of the billings and obligations relating to the Lignite Reserves as contemplated originally by the Ownership Agreement.

SWEPCO and NTEC anticipate that as a result of so amending the Ownership Agreement, no capital gains taxes will result from NTEC's acquisition of an interest in Pirkey Plant and the Lignite Reserves. SWEPCO and NTEC propose to share equally in the tax savings which they anticipate will result from amending the Ownership Agreement, such savings to be measured by the capital gains taxes which otherwise would have been payable had a closing taken place under the Ownership Agreement on December 31, 1982 in the manner originally contemplated.

SWEPCO has recently been advised that the Entitlement Assignment Contract ("Entitlement Contract") between SWEPCO and NTEC is regarded by counsel for NTEC and the Rural Electrification Administration as a sale of a property interest. So viewed, the Entitlement Contract is subject to Sections 9(a) and 10 of the Act, except to the extent that NTEC's assignment to SWEPCO of portions of its entitlements

to power and energy generated at the Pirkey Plant are exempt by virture of Rule 41(a) under the Act. Upon completion of construction, Pirkey Plant will be connected to other electric utility assets already owned and operated by SWEPCO. The assignments by NTEC to SWEPCO under the Entitlement contract of NTEC's entitlements to power and energy from Pirkey Plant shall be carried out in accordance with the terms and conditions of the Entitlement Contract.

The declaration as amended by the post-effective amendment and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by January 17, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarant at the address specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the declaration, as amended by the post-effective amendment or as it may be further amended, may be permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-35439 Filed 12-29-82; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 19375; SR-Amex-82-19]

American Stock Exchange, Inc.; Order Approving Proposed Rule Change

December 23, 1982.

The American Stock Exchange, Inc. ("Amex"), 86 Trinity Place, New York, New York 10006 submitted on November 1, 1982, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder, to amend Rule 347 to increase the exemptive level of reportable gratuities which may be given to any one employee of an Amex member or member organization during a calendar year from $50 to $100. Rule 347 presently requires a member or member organization which gives any compensation to an employee of another member or member organization or other financial concern to first obtain the written consent of the recipient's employer and to file written notice of such consent with exchange. Currently, gratuities valued at $50 or less in total given to any one person specified in Rule 347 during the calendar year are exempt from the rule's consent and notice requirement. The proposed rule change will not affect the dollar value of exempted gratuities given to other persons specified in Rule 347 (i.e., persons other than an employee of a member or member organization). In addition, the proposed rule change would add commodities brokers and dealers to the group of individuals encompassed by the rule.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission Release (Securities Exchange Act Release No. 19234, November 12, 1982). No comments were received with respect to the proposed rule filing.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6, and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-35456 Filed 12-29-82; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 19363; File No. 4-281]

Approval of an Amendment to the Consolidated Quotation Plan on a Permanent Basis

December 21, 1982.

On July 7, 1982, the participants in the Consolidated Quotation Plan ("CQ Plan") [1] submitted to the Commission, pursuant to Rule 11Aa3-2 ("Plan Rule") under the Securities Exchange Act of 1934 ("Act"), an amendment to the CQ Plan which proposed amending the CQ Plan to provide for the dissemination of an Intermarket Trading System ("ITS") [2] Computer Assisted Execution System ("CAES") [3] Best Bid and Offer ("BBO") display.[4] On August 19, 1982, the Commission, pursuant to paragraph (c)(4) of the Plan Rule, approved the amendment on a summary effective basis for a period of 90 days from the date notice of the amendment appeared in the **Federal Register.**[5]

The Commission has not received any comment on the amendment. Accordingly, to ensure the continued operational efficiency of the ITS/CAES interface, the Commission, pursuant to paragraph (c)(4) of the Plan Rule, has approved the amendment on a permanent basis. The Commission has determined that such action is in furtherance of the purposes of the Act and necessary to remove impediments to, and perfect mechanisms of, a national market system.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-35445 Filed 12-29-82; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 19376; File No. MCC-82-20]

Filing and Immediate Effectiveness of Proposed Rule Change by Midwest Clearing Corp. ("MCC")

December 23, 1982.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (The "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on December 6, 1982, Midwest Clearing Corporation ("MCC") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is

---

[1] *See* Securities Exchange Act Release No. 15009 (July 28, 1978), 45 FR 34851.

[2] *See* Securities Exchange Act Release No. 18713 (May 6, 1982), 47 FR 20413. The ITS is an intermarket communications system operated jointly by certain national securities exchanges and one national securities association, and authorized by the Commission, on a provisional basis, as a national market system facility pursuant to Section 11A(a)(3)(B) of the Act.

[3] CAES is a computerized order routing and execution facility operated by the NASD for NASD members. On May 17, 1982, CAES was interfaced with ITS, and is presently being operated on a pilot basis to facilitate concurrent over-the-counter ("OTC") and exchange trading in 30 securities which are not subject to exchange off-board trading restrictions ("ITS/CAES Securities"). *See* Securities Exchange Act Release No. 17744 (April 21, 1981), 46 FR 23858; Securities Exchange Act Release No. 18713 (May 6, 1982), 47 FR 20413.

[4] The "ITS/CAES BBO" is a display of the best bid and best offer price, together with the size accompanying those quotations, for each ITS/CAES security based on quotations submitted by exchange and OTC market makers which trade through the interface.

[5] *See* Securities Exchange Act Release No. 18982 (August 19, 1982), 47 FR 37728.

[6] 17 CFR 200.30-3(a)(29).

publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change advises participants that, in order for MCC to accept voluntary offers on behalf of its participants (i.e., to guarantee delivery of a participant's securities to the reorganization agent), they must submit the appropriate authorizations to MCC by the following cut-off dates: (1) For a reorganization with a Chicago agent and a protect period—10:00 a.m. on the expiration date; (2) for a reorganization with a Chicago agent and no protect period—4:30 p.m. on the business day prior to the expiration date; (3) for a reorganization with an agent outside of Chicago and a protect period—4:30 p.m. on the business day prior to the expiration date; and (4) for a reorganization with an agent outside of Chicago and no protect period—4:30 p.m. two business days prior to the expiration date. The proposed rule change further notifies MCC participants that the MSTC Capital Structures Department will communicate with the agent to guarantee delivery of securities twice each day: at 10:00 a.m. (for those authorizations received from participants between 3:00 p.m. the previous day and 10:00 a.m.) and 3:00 p.m. (for those authorizations received from participants after 10:00 a.m. the same day and before 3:00 p.m.). MCC believes that the proposed rule change is consistent with Section 17A(b)(3)(A) of the Act in that it provides for the prompt and accurate clearance and settlement of securities transactions.

The foregoing change has become effective, pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the **Federal Register**. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Reference should be made to File No. SR–MCC–82–20.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 522, will be available for inspection and copying at the Commission's Public Reference Room. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–35455 Filed 12–29–82; 8:45 am]

BILLING CODE 8010–01–M

[Rel No. 19377; File No. MSTC–82–27]

Filing and Immediate Effectiveness of Proposed Rule Change by Midwest Securities Trust Company ("MSTC")

December 23, 1982.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on December 6, 1982, Midwest Securities Trust Company ("MSTC") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change advises participants that, in order for MSTC to accept voluntary offers on behalf of its participants (i.e., to guarantee delivery of a participant's securities to the reorganization agent), they must submit the appropriate authorizations to MSTC by the following cut-off dates: (1) For a reorganization with a Chicago agent and a protect period—10:00 a.m. on the expiration date; (2) for a reorganization with a Chicago agent and no protect period—4:30 pm on the business day prior to the expiration date; (3) for a reorganization with an agent outside of Chicago and a protect period—4:30 pm on the business day prior to the expiration date; and (4) for a reorganization with an agent outside of Chicago and no protect period—4:30 pm two business days prior to the expiration date. The proposed rule change further notifies MSTC participants that the MSTC Capital Structures Department will communicate with the agent to guarantee delivery of securities twice each day: at 10:00 am (for those authorizations received from participants between 3:00 pm the previous day and 10:00 am) and 3:00 pm (for those authorizations received from participants after 10:00 am the same day and before 3:00 pm). MSTC believes that the proposed rule change is consistent with Section 17A(b)(3)(A) of the Act in that it provides for the prompt and accurate clearance and settlement of securities transactions.

The foregoing change has become effective, pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the **Federal Register**. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Reference should be made to File No. SR–MSTC–82–27.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–35454 Filed 12–29–82; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 19355; File No. Sr-MSTC-82-26]

Filing and Immediate Effectiveness of Proposed Rule Change by Midwest Securities Trust Company

December 21, 1982.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on November 26, 1982, the Midwest Securities Trust Company ("MSTC") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change revises MSTC's current fees for the deposit, storage, safekeeping and withdrawal of participant's municipal securities. The proposed rule change reduces the current monthly fee for the storage and safekeeping of participant's municipal securities and the transaction fees for deposits, withdrawals and deliveries to non-members. The proposed changes to the municipal securities fee schedule reflect decreased costs to MSTC in expanding its pilot program to provide depository services for municipal bonds, principally changes in custodian charges.

The proposed rule change also revises MSTC's National Institutional Delivery System ("NIDS") fee schedule to reflect higher charges in the pass-through charges from the Depository Trust Company ("DTC"). DTC charges MSTC for processing data collected through NIDS and MSTC passes those charges to its participants.

Midwest believes the proposed changes to the municipal securities fee schedule and the NIDS fee schedule are consistent with Section 17A of the Act in that they provide for the equitable allocation of reasonable dues, fees and other charges among MSTC participants.

The foregoing change has become effective, pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Securities Exchange Act Rule 19b-4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection or investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the **Federal Register**. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Reference should be made to File No. SR-MSTC-82-26.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-35440 Filed 12-29-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-19347; File No. SR-NASD-82-25]

Self-Regulatory Organizations; Proposed Rule Change By National Association of Securities Dealers, Inc.; Amendments to Article III, Section 28 of the Rules of Fair Practice and the Board of Governors Interpretation on Private Securities Transactions

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on November 12, 1982, the National Association of Securities Dealers, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

This rule filing involves amendments to Article III, Section 28 of the Rules of Fair Practice and the Board of Governors Interpretation on Private Securities Transactions under Article III, Section 27 of the Rules of Fair Practice. (New material is italicized and deleted material is bracketed.)

Article III, Section 28

Determine Adverse Interest

(*a*) A member [herein called an] ("executing member") who knowingly executes a transaction for the purchase or sale of a security for the account of a [partner, officer, registered representative or employee of] *person associated with* another member ([herein called an] "employer member"), *or for any account over which such associated person has discretionary authority,* shall use reasonable diligence to determine that the execution of such transaction will not adversely affect the interests of the employer member.

Obligations of Executing Member

[The obligations implicit in the preceding paragraph may be fulfilled by an executing member requesting instruction from an employer member at any time prior to the execution of such a transaction with respet to

(1) The giving of notice, or

(2) The mailing or delivery of duplicate confirmations or statements to such employer member relating to

(a) Such transaction individually, or

(b) To such transactions generally

which instructions shall be followed.

Notice to Employer Member

An executing member shall, prior to the execution of any such transactions, advise the person requesting such execution of the executing member's intent to give notice or information relating to such transaction to the employer member.]

(b) Where an executing member knows that a person associated with an employer member has or will have a financial interest in, or discretionary authority over, any existing or proposed account carried by the executing member, the executing member shall:

(1) notify the employer member in writing, prior to the execution of a transaction for such account, of the executing member's intention to open or maintain such an account;

(2) upon written request by the employer member, transmit duplicate copies of confirmations, statements, or other information with respect to such account; and

(3) notify the person associated with an employer member of the executing member's intention to transmit the information required by paragraphs (1) and (2) of this subsection (b).

Exemption for Transactions in Investment Company Shares

(c) The provisions of subsection (b) of this section shall not be applicable to

transactions in variable contracts or redeemable securities of companies registered under the Investment Company Act of 1940, as amended, or to accounts which are limited to transactions in such securities.

Obligations of Person Associated with a Member

(d) A person associated with a member who opens an account or places an order for the purchase or sale of securities with any other member, shall, where such associated person has a financial interest in such transaction and/or any discretionary authority over such account, notify the executing member of his or her association with an employer member, regardless of any other function, capacity employment of affiliation of such associated person. If the account is established prior to the association of such person with an employer member, the associated person shall notify the executing member promptly after becoming so associated.

[Interpretation the Board of Governors

Transactions Effected for Personnel of Other Members

The exercise of reasonable diligence by the executing member to determine that the execution of a transaction will not adversely affect the interest of the employer member is deemed to require that the executing member send notice promptly in writing to the employer member that the executing member proposes to open an account in the name of a partner, officer, registered representative or an employee of the employer member, or, where such an account is open on the date of this interpretation and notice has not been given to the employer member to this effect, the executing member shall send notice in writing, prior to executing a transaction, that it carries such an account for a partner, officer, registered representative, or employee of such employer member.

The above is not intended to limit in any way the obligation of the executing member under the rule to comply with the instructions of the employer member to send such member copies of confirmations of individual transactions, or of monthly statements, or of both or neither, depending on the instructions given.]

Interpretation of the Board of Governors on Private Securities Transactions

Purchases or redemptions of variable contracts or redeemable securities of companies registered under the Investment Company Act of 1940, for the personal account of the person associated with a member, are also not considered to be private securities transactions for purposes of this Interpretation.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purposes of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Article III, Section 28 of the Rules of Fair Practice addresses the responsibilities of members to avoid adversely affecting the interests of other members when executing transactions for persons associated with the other members (employer members). It requires written notice to "employer members" as well as the provision of duplicate confirmations and/or statements, if requested.

The proposed amendments are intended to accomplish several distinct results. First, the rule would be amended to apply to transactions or accounts over which associated persons exercise discretion, as well as accounts in which such associated persons have a financial interest. For example, an account for a relative of a registered representative of another member would be subject to the reporting requirements if the registered representative placed the orders for the account.

Secondly, the rule would specify an affirmative obligation on persons associated with another member to notify the "executing member" of such association. This would facilitate compliance by the executing members with the notification requirements of Section 28, the "Free-Riding and Withholding" Interpretation, and the requirement, in Article III, Section 21(b) of the Rules of Fair Practice, that such association or employment be recorded on customer accounts. The amended rule would specify that this notification requirement applies even if the associated person has another occupation or affiliation. The amended Rule would also make clear that the notification requirement applies to accounts which exist at the time the person becomes associated with a member, as well as to new accounts.

Third, the rule would be amended to provide an exemption from the notification requirements for transactions in variable contracts or redeemable securities of registered investment companies (e.g. mutual funds and unit investment trusts). It does not appear that such transactions present the same potential for adverse impact on an employer member as might exist with respect to other transactions and the notification requirement appears to be unnecessarily burdensome with respect to such transactions. For the same reasons, the Board believes that such transactions need not be reported by associated persons under the Private Securities Transactions Interpretation and therefore a similar exception is being added to that Interpretation.

Finally, in accordance with the Association's continuing project of updating rules and codifying interpretations, the proposed amendments would incorporate the basic provisions of the Board of Governors existing Interpretation of Section 28, which Interpretation would be repealed.

Statutory Basis.—The proposed change is consistent with the provisions of Section 15A(b)(6) and (b)(8) of the Act in that the notification provisions are intended to aid members in preventing securities transactions by their associated persons that may constitute violations of the Rules of Fair Practice.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD does not believe the amendments impose any burden on competition not necessary or appropriate. The portion exempting variable contracts and investment companies shares reduces the burden on competition and the portions expanding the duty of inquiry and duty to report are necessary to attain the objective of making an employer aware of his associated persons' securities activities.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Three comment letters were received from members on the proposed amendments to Article III, Section 28, one of which was subsequently withdrawn. One member suggested that

representatives of firms specializing in certain areas, such as mutual funds and direct participation programs, be exempted from the reporting requirements of Section 28. The Board had previously considered the possibility of such an exemption and had decided against it since all representatives are subject to prohibitions against "Free-Riding" and other practices.

Another member questioned whether the reporting requirements of the Board's Private Securities Transaction Interpretation need be applied to transactions in variable contracts and investment company securities. The Board believes this comment to have merit and has proposed to amend the Private Securities Transaction Interpretation to add a specific exemption for transactions in variable contracts and redeemable investment company securities. The adoption of such an exemption does not, of course, prohibit a member from having its own internal policy requiring its representatives to report any transaction executed outside the firm.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 5th Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450—Fifth Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication. For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: December 16, 1982.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-35443 Filed 12-29-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-19353; File No. SR-NASD-82-23]

Self-Regulatory Organizations; Proposed Rule Change by National Association of Securities Dealers, Inc.; Development and Implementation of Trade Acceptance and Reconciliation Service by NASD Market Services, Inc.

Comments requested within 21 days after the date of this publication.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on October 26, 1982, the National Association of Securities Dealers, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, and an amendment thereto on November 30, 1982, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The National Association of Securities Dealers, Inc. is filing herewith as a state policy, practice or interpretation, a description of a new facility which has been designed, developed and is being placed in operation by NASD Market Services, Inc., a subsidiary of the NASD.

The Trade Acceptance and Reconciliation Service ("TARS") will provide participating firms with a facility for on-line trade reconciliation of over-the-counter transactions cleared through a registered clearing corporation. TARS will commence operation on a pilot basis with six member firms participating. As quickly as technical and operational experience permits, TARS will be made available to all other qualifying NASD members who request to use the service. Any NASD member firm which executes and/or clears over-the-counter trades, has or orders the needed equipment for the purpose of using TARS and is or becomes a member of a clearing corporation which participates in the TARS service may subscribe to TARS upon payment of the applicable fees and charges.

II. Self-Regulatory Organization's Statement Regarding the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B) and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the development and implementation of TARS is to improve the efficiency of the over-the-counter trade comparison process by allowing on-line trade reconciliation. The Association believes that TARS will further the purposes of Section 15A(b)(6) of the Act by streamlining the clearing process for over-the-counter transactions. TARS is also consistent with Section 17A(a)(1)(B) and (C) of the Act in that it will increase the efficiency of the settlement process and will apply data processing and communications techniques to the trade comparison process.

(B) Self-Regulatory Organization's Statement on Burden on Competition

TARS is a service to which members subscribe on a voluntary basis and as such the Association believes that it imposes no burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments were neither solicited nor received in connection with the development and implementation of TARS.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective immediately pursuant to a request for accelerated effectiveness as provided for under Section 19(b)(2) of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450—5th Street, N.W., Washington, D.C. 20549.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submission should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication. For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: December 20, 1982.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-35444 Filed 12-29-82; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 19359; Filed No. SR-NSCC-82-27]

Filing of Proposed Rule Change by National Securities Clearing Corp.

December 21, 1982.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on November 24, 1982, the National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change would modify NSCC's rules regarding the terms of issuance of irrevocable letters of credit issued by banks to secure participants' clearing fund obligations. NSCC's current rules provide that NSCC will not accept a letter of credit that may be terminated prior to its expiration date. The proposal would allow NSCC to accept a letter of credit that (i) can be terminated upon written notice from the issuing bank; (ii) can be drawn down by NSCC at any time within five business days after NSCCC's receipt of the bank's termination notice; and (iii) in the event of such early termination, would not require NSCC to certify in writing to the issuing bank that the participant, upon whose behalf the letter of credit was issued, had defaulted in certain obligations to NSCC. The proposed rule also would require that the participant replace the terminated letter of credit with other suitable collateral within such time as NSCC specifies upon its receipt of the termination notice. In its filing, NSCC states that the purpose of the proposed rule change is to adjust NSCC's rules because many banks no longer will issue letters of credit or roll-over existing letters unless they may be terminated prior to their stated expiration date.

NSCC believes that the proposal will not subject NSCC to any additional financial exposure since NSCC will be able to draw down on letters of credit prior to their early expiration without regard to whether the participant, on whose behalf the letter was issued, has unsatisfied liabilities to NSCC. Accordingly, NSCC believes that the proposed rule change is consistent with Section 17A(b)(3) of the Act which provides that a registered clearing agency must be organized and have the capacity to safeguard securities and funds in its custody or control or for which it is responsible.

In order to assist the Commission in determining whether to approve the proposed rule change or to institute proceedings to determine whether the proposed rule change should be disapproved, interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the **Federal Register**. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Reference should be made to File No. SR-NSCC-82-27.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-35447 Filed 12-29-82; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 19361; File No. SR-NSCC-82-28]

Filing of Proposed Rule Change by National Securities Clearing Corp.

December 21, 1982.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on November 29, 1982, the National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change would permit NSCC to consolidate into a single processing stream the comparison, clearance and settlement of listed and over-the-counter ("OTC") securities transactions. NSCC currently processes listed and OTC securities transactions separately. By approving this proposal, the Commission would allow NSCC to enter "Phase II" of its operations pursuant to the Commission's order granting NSCC temporary registration.[1]

NSCC believes that, if approved, the proposal will simplify the processing of securities transactions and will reduce significantly direct and indirect processing costs of NSCC's participants. First, under the current scheme, if a participant has an open long position in a listed security issue and an open short position in the same issue that was sold

[1] National Securities Clearing Corporation, Order Granting Registeation and Statement of Reasons, File No. 600-15, January 13, 1977, 42 FR 3016 (January 21, 1977).

by the participant in the third market, the participant must (i) arrange for two separaate securities movements to satisfy these obligations, one for the listed transaction and another for the off-board trade; and (ii) pay two separate fees for those two movements. Under the proposed rule change, these positions would be netted, resulting in their complete elimination or in a single smaller net long or short position. Consequently, any net position could be satisfied by a smaller movement of securities for one fee, rather than two larger movements for two fees. Second, the proposal also may reduce the size of the participant's clearing fund contribution because that contribution is calculated on the basis of the participant's open long and short positions. Third, if the netting process eliminates the participant's short position, the participant would not be subject to any by-in liability. Notwithstanding those benefits, the proposal permits NSCC to continue separating listed and OTC processing streams for participants that so desire.

NSCC believes that the proposal will affect only NSCC's internal operating procedures and will not jeopardize its ability to safeguard securities or funds in its custody or control or for which it is responsible. Accordingly, NSCC believes that the proposal is consistent with Section 17A(b)(3)(F) of the Act.

In order to assist the Commission in determining whether to approve the proposed rule change or institute proceedings to determine whether the proposed rule change should be disapproved, interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the **Federal Register**. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington D.C. 20549. Reference should be made to File No. SR–NSCC–82–28.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-35448 Filed 12-29-82; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 19366; SR-NYSE-82-17]

New York Stock Exchange, Inc.; Order Approving Proposed Rule Change

December 22, 1982.

The New York Stock Exchange, Inc. ("NYSE"), 11 Wall Street, New York, N.Y. 10005 submitted on October 27, 1982, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b–4 thereunder, to amend NYSE Rules 123A.47 and 411, concerning error resolution in order executions reported through the exchange's Designated Order Turnaround System ("DOT"). Under the proposed amendments, specialists would be required to guarantee the execution prices reported via the DOT system so that when a reporting error occurred, the specialist would absorb the difference between the reported price and actual price, unless (i) the DOT subscribing organization requested a price change, or (ii) the erroneous price was more than one-half a point away from the actual price.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission Release (Securities Exchange Act Release No. 19224, November 8, 1982) and by publication in the **Federal Register** (47 FR 51978, November 18, 1982). No comments were received with respect to the proposed rule change.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6, and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-35452 Filed 12-29-82; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 19368; File No. SR-OCC-82-27]

Filing and Immediate Effectiveness of Proposed Rule Change by the Options Clearing Corporation

December 22, 1982.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on December 13, 1982, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission the proposed rule change described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change establishes new fees for OCC's Prospectus and for reorders of OCC's Risk Disclosure Documents. OCC has determined that it is necessary to establish new fees for distribution of its Prospectus and Risk Disclosure Documents as a result of the adoption of a new options disclosure scheme. Under this scheme, redistribution of the risk disclosure documents is required only as amendments become necessary, rather than annually. Therefore, once the initial distribution to all investors has been accomplished, OCC expects that the volume of risk disclosure documents to be printed will be reduced, thereby increasing OCC's costs of providing the documents. The proposed fee schedule is intended to meet these increased costs. In addition, because the new OCC Prospectus is a brief document which must be given to customers only upon request, relatively few copies have been printed. The proposed fee schedule reflects OCC's costs of printing this briefer document.

The proposed rule also establishes a fee for settlement of foreign currency options exercises. In its filing, OCC stated that its bank will charge OCC for each instruction executed by the bank to effect foreign currency options exercise settlement in the various countries of origin of the foreign currency underlying such options. Through this new fee, OCC will pass on those charges to exercising and assigned foreign currency clearing members.

The foregoing change has become effective, pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of

Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concering the submission within 21 days after the date of publication in the **Federal Register**. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Reference should be made to File No. SR–OCC–82–27.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–35451 Filed 12–29–82; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 19362; File No. SR–Philadep–82–9]

Filing of Proposed Rule Change by the Philadelphia Depository Trust Co.

December 21, 1982.

Pursuant to rule 19b-4 under the Securities Exchange Act of 1934, the Philadelphia Depository Trust Company ("Philadep") submitted to the Commission on November 17, 1982, a proposed rule change. The proposed rule change would implement a new service to participants on a pilot basis: Dividend Reinvestment. Philadep, acting pursuant to a participant's instruction, will arrange with issures' agents for the reinvestment of dividends on qualifying securities. The new service will permit participants to maintain the security on deposit at philadep without losing the benefits available under reinvestment plans. The pilot program will include no more than three (3) qualifying securities for not more than three (3) participants for a period of nine (9) months. No fee will be charged for the service during the pilot period.

Publication of the submission is expected to be made in the **Federal Register** during the week of December 20, 1982. Interested persons are invited to submit written data, views and arguments concerning the submission within twenty-one days from the date of publication in the **Federal Register**. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Reference should be made to File No. SR–Philadep–82–9.

Copies of the submission, with accompanying exhibits, and of all written comments will be available for public inspection at the Securities and Exchange Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. Copies of the filing will also be available at the principal office of the above-mentioned self-regulatory organization

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–35446 Filed 12–29–82; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–19329; File No. SR–PHLX–1982–16]

Self-Regulatory Organizations; Proposed Rule Change by Philadelphia Stock Exchange, Inc.; Amendment to the Exchange's Certificate of Incorporation

Comments requested within 21 days after the date of this publication.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on December 9, 1982, the Philadelphia Stock Exchange filed with the Securities and Exchange Commission the proposed rule changes as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons.

Item I. Self-Regulatory Organization's Statement of the Terms and Substance of the Proposed Rule Change

The Philadelphia Stock Exchange, Inc. (the "Exchange") has proposed to amend its Certificate of Incorporate to specify that its Foreign Currency Options Participants ("FCO Participants") shall be collectively entitled to receive, in the event of the complete or partial liquidation of the Exchange: (i) the unexpended amount, if any, of the contributions made to the Exchange in connection with the purchase of Foreign Currency Options Participations; and (ii) the amount of the Exchange's assets, if any, that are directly attributable to earnings from the Exchange's foreign currency options market. However, no FCO Participant shall be entitled to receive, on the basis of his status as an FCO Participant, an amount greater than the sum(s) contributed to the Exchange in connection with the Foreign Currency Options Participation(s) then-owned by such FCO Participant.

Item II

A Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The Certificate Amendment is designed to accurately reflect the equity interest FCO Participants have in the Exchange's foreign currency options operations. This Certificate Amendment is consistent with Section 6(b) of the Securities Exchange Act of 1934 because it would facilitate the fair and equitable administration of the Exchange and broaden access to the Exchange's foreign currency options market.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Formal comments on this Certificate Amendment have not been solicited or received.

Item III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such

longer period to be apropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change be disapproved.

Item IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552 will be available for inspection and copying in the Commission's Public Reference Section.

Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: December 13, 1982.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-35442 Filed 12-29-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12891A; (812-5368)]

Chicago Partners I, Chicago Partners II, Winthrop Financial Co., Inc. and Linnaeus-Hawthorne Associates; Errata

This is to correct an error made in Investment Company Release No. 12891, issued December 10, 1982, In the Matter of Chicago Partners I, Chicago Partners II, Winthrop Financial Co., Inc. and Linnaeus-Hawthorne Associates, 225 Franklin Street, Boston, Massachusetts 02110. In the above referenced notice of filing of application it was stated that interested persons may request a hearing until December 31, 1982. The expiration of the notice period should have read 12:30 p.m., December 30, 1982. In addition, the notice stated that the file number for the instant application was 812-8368. The correct file number is 812-5368.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-35450 Filed 12-29-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12892A; (812-5366)]

Merchants Bancorp.; Errata

This is to correct an error made in Investment Company Release No. 12892, issued December 10, 1982 (47 FR 56754; December 20, 1982), in the Matter of Merchants Bancorporation, 8th and Jackson Streets, Topeka, Kansas 66112. In the above referenced notice of filing of application it was stated that interested persons may request a hearing until 5:30 p.m., December 31, 1982. The expiration of the notice period should have read 12:30 p.m., December 30, 1982.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-35449 Filed 12-29-82; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF STATE

[Public Notice CM—8/589]

Advisory Committee on International Investment, Technology, and Development; Meeting

The Department of State will hold a meeting of the Working Group on Treatment of Investment and Special Investment Problems of the Advisory Committee on International Investment, Technology, and Development on Tuesday, January 18, 1983, from 9:30 a.m. to 12:00 noon in room 1207 at the Department of State, 2201 C Street, NW., Washington, D.C. 20502. The meeting will be open to the public.

The Working Group will review the current work underway in the OECD on national treatment and in the OECD, GATT and World Bank on the use of performance requirements. An initial U.S. Government redraft of the 1977 investment policy statement will be presented for discussion and comment. Other investment topics to be raised include: the U.S. bilateral investment treaty program and the status of the EC draft directives.

Requests for further information on the meeting should be directed to Philip T. Lincoln, Jr., Department of State; Office of Investment Affairs, Bureau of Economic and Business Affairs, Washington, D.C. 20520. He may be reached by telephone on (area code 202) 632-2728.

Members of the public wishing to attend the meeting must contact Mr. Lincoln's office in order to arrange entrance to the State Department building.

The Chairman of the Working Group will, as time permits, entertain oral comments from members of the public attending the meeting.

Dated: December 17, 1982.

John T. McCarthy,

Acting Executive Secretary.

[FR Doc. 82-35343 Filed 12-29-82; 8:45 am]

BILLING CODE 4710-07-M

[Public Notice CM-8/590]

Advisory Committee on International Investment, Technology, and Development; Meeting

The Department of State will hold a meeting of the Working Group on Energy and Development of the Advisory Committee on International Investment, Technology, and Development on Wednesday, January 19, 1983, from 9:30 a.m. to 12:00 noon, in room 1408, at the Department of State, 2201 C Street NW., Washington, D.C. 20502. The meeting will be open to the public.

The purpose of the meeting will be to discuss the following issues: problems encountered in and barriers to private energy investments in oil-importing developing countries; in particular the group will discuss: the National Petroleum Council's recently published study, entitled *Third World Petroleum Development: A Statement of Principles*, and USG involvement and planning for an International Energy Workshop, to be held in the Fall of 1983, on "Barriers to Private Energy Investments in Developing Countries."

Requests for further information on the meeting should be directed to Philip T. Lincoln, Jr., Department of State, Office of Investment Affairs, Bureau of Economic an Business Affairs, Washington, D.C. 20520. He may be reached by telephone on (area code 202) 632-2728.

Members of the public wishing to attend the meeting must contact Mr. Lincoln's office in order to arrange

entrance to the State Department building.

The Chairman of the Working Group will, as time permits, entertain oral comments from members of the public attending the meeting.

Dated: December 17, 1982.

John T. McCarthy,

Acting Executive Secretary.

[FR Doc. 82-35344 Filed 12-29-82; 8:45 am]

BILLING CODE 4710-07-M

[Public Notice CM-8/591]

Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea; Meeting

The Panel on Bulk Cargoes under the SOLAS Subcommittee Working Group on Containers and Cargoes will conduct an open meeting on February 3, 1983, at 10:00 a.m., in room 3201 of the Coast Guard Headquarters, 2100 Second Street SW., Washington, D.C. 20593.

The purpose of the meeting it to review the position papers that the U.S. Delegation has forwarded to IMO for presentation at the Twenty-fourth Session of the Subcommittee on Containers and Cargoes to be held at IMO Headquarters in London on February 21–25. The Working Group will also review all papers pertinent to Bulk Solids received from IMO that other delegates will present at the Twenty-fourth Session.

Members of the public may attend up to the seating capacity of the room.

For further information contact Mr. John F. McAnulty, U.S. Coast Guard (G-MTH-3), Washington, D.C. 20593. Telephone: (202) 426-1578. Or contact Captain S. Fraser Sammis, National Cargo Bureau, Inc., Suite 2757, One World Trade Center, New York, New York 10048. Telephone: (212) 432-1280.

Dated: December 13, 1982.

Gordon S. Brown,

Chairman, Shipping Coordinating Committee.

[FR Doc. 82-35345 Filed 12-29-82; 8:45 am]

BILLING CODE 4710-07-M

[Public Notice 839]

Fishery Conservation and Management Act of 1976; Applications for Permits to Fish Off the Coasts of the United States

The Fishery Conservation and Management Act of 1976 (Pub. L. 94-265) as amended (the "Act") provides that no fishing shall be conducted by foreign fishing vessels in the Fishery Conservation Zone of the United States after February 28, 1977, except in accordance with a valid and applicable permit issued pursuant to Section 204 of the Act.

The Act also requires that a notice of receipt of all applications for such permits, a summary of the contents of such applications, and the names of the Regional Fishery Management Councils that receive copies of these applications, be published in the **Federal Register.**

Individual vessel applications for fishing in 1983 have been received from the Governments of the Union of Soviet Socialist Republics, the Polish People's Republic, the German Democratic Republic, the Federal Republic of Germany, Japan, Korea, Italy, Spain, Norway and Taiwan.

If additional information regarding any applications is desired, it may be obtained from: Permits and Regulations Division (F/CM7), National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, (Telephone: (202) 634-7432).

Dated: December 17, 1982.

James A. Storer,

Director, Office of Fisheries Affairs.

Fishery codes and designation of regional councils which review applications for individual fisheries are as follows:

Code	Fishery	Regional Council
ABS	Atlantic Billfishes and Sharks.	New England, Mid-Atlantic, South Atlantic, Gulf of Mexico, Caribbean.
BSA	Bering Sea and Aleutian Islands Trawl, Longline and Herring Gillnet.	North Pacific.
CRB	Crab (Bering Sea)	[illegible]
GOA	Gulf of Alaska	[illegible]
NWA	Northwest Atlantic	New England, Mid-[illegible]
SMT	Seamount Groundfish (Pacific Ocean).	Western Pacific.
SNA	Snails (Bering Sea)	North Pacific.
WOC	Washington, Oregon, California Trawl.	Pacific.
PBS	Pacific Billfish and Sharks.	Western Pacific.

Activity codes specify categories of fishing operations applied for are as follows:

Activity [illegible]	Fishing operations
1	Catching, processing, and other support.
2	Processing and other support only.
3	Other support only.

Nation/vessel name/vessel type	Application No.	Fishery	Activity
Japan:			
Sunbird, pot fishing vessel	JA-83-0576	NWA, BSA, GOA, SMT	3
Shinsho Maru, cargo/transport vessel	JA-83-0640	BSA, GOA, SNA, NWA	3
Kunashiri Maru, cargo/transport vessel	JA-83-1151	BSA, CRB, SMT, GOA, NWA, SNA	3
Jin Po Maru No. 65, cargo/transport vessel	JA-83-1142	CRB, BSA, GOA, NWA, ABS, PBS, SMT, SNA	3
Kinrin Maru No. 16, cargo/transport vessel	JA-83-0628	BSA, GOA, SMT	3
Kyoshin Maru, cargo/transport vessel	JA-83-0629	BSA, GOA, SMT	3
Tanryo Maru, tanker fuel/water/fish oil	JA-83-2024	BSA, GOA, SMT	3
Suzukaze Maru, Tanker, cargo/transport vessel	JA-83-1058	BSA, GOA, SMT	[illegible]
Awashima Maru, cargo/transport vessel	JA-83-1060	BSA, GOA, SMT	3
Nagisa Maru, cargo/transport vessel	JA-83-1061	BSA, GOA, SMT	3
Sachikaze Maru, cargo/transport vessel	JA-83-1057	BSA, GOA, SMT	3
Tenkane Maru, tanker, fuel/water/fish oil	JA-83-0895	BSA, GOA, SMT	3
Kashimwahana Maru No. 1, cargo/transport vessel	JA-83-0884	BSA, GOA, SMT	[illegible]
Tokachi Maru, large stern trawler	JA-83-0360	NWA	1, 2
Zao Maru, large stern trawler	JA-83-0361	NWA	1, 2
Shirane Maru, large stern trawler	JA-83-0362	NWA	1, 2
Suzuka Maru, large stern trawler	JA-83-0363	NWA	1, 2
Koyo Maru, large stern trawler	JA-83-0364	NWA	1, 2
Teshio Maru, large stern trawler	JA-83-1169	NWA	1, 2
Banshu Maru No. 6, large stern trawler	JA-83-0373	NWA	1, 2
Banshu Maru No. 7, large stern trawler	JA-83-0374	NWA	1, 2
Taiyo Maru No. 83, meduim stern trawler	JA-83-0380	NWA	1, 2
Daishin Maru No. 16, large stern trawler	JA-83-0376	NWA	1, 2
Mikami Maru, large stern trawler	JA-83-0368	NWA	1, 2
Nihonkai Maru, medium stern trawler	JA-83-0369	NWA	1, 2
Eniwa Maru, large stern trawler	JA-83-0[illegible]	NWA	1, 2
Choyoh Maru, cargo/transport vessel	JA-83-0574	BSA, CRB, GOA, NWA, SMT, SNA	[illegible]
Suiyo Maru, cargo/transport vessel	JA-83-0575	BSA, CRB, GOA, NWA, SMT, SNA	[illegible]
Sekishu Maru, medium stern trawler	JA-83-0573	BSA, GOA	1, 2
Aso Maru, large stern trawler	JA-83-0288	BSA, GOA, SMT	1, 2

Nation/vessel name/vessel type	Application No.	Fishery	Activity
Nitaka Maru, large stern trawler	JA-83-0289	BSA, GOA, SMT	1, 2
Takachiho Maru, large stern trawler	JA-83-0291	BSA, GOA, SMT	1, 2
Kitakami Maru, medium stern trawler	JA-83-0321	BSA, GOA, SMT	1, 2
Daishin Maru No. 12, large stern trawler	JA-83-0285	BSA, GOA, SMT	1, 2, 3
Daishin Maru No. 22, large stern trawler	JA-83-0286	BSA, GOA, SMT	1, 2, 3
Daishin Maru No. 28, large stern trawler	JA-83-0569	BSA, GOA, SMT	1, 2, 3
Ryuyo Maru, large stern trawler	JA-83-0280	BSA, GOA, SMT	1, 2
Zuiyo Maru, large stern trawler	JA-83-0335	BSA, GOA, SMT	1, [illegible]
Shinmei Maru No. 18, longline fishing vessel	JA-83-1481	ABS	[illegible]
Ryusei Maru, cargo/transport vessel	JA-83-0626	BSA, GOA, SNA, SMT, NWA	[illegible]
Ryusho Maru, cargo/transport vessel	JA-83-0627	BSA, GOA, SNA, NWA, SMT	3
Miyajima Maru, cargo/transport vessel	JA-83-1101	BSA, GOA, NWA, SNA, SMT	3
Bering Maru, cargo/transport vessel	JA-83-1159	BSA, GOA, NWA, SNA, SMT	3
Nichiyo Maru, cargo/transport vessel	JA-83-1167	BSA, GOA, NWA, SNA, SMT	3
Sun Happiness, cargo/transport vessel	JA-83-0891	BSA, GOA, NWA, SNA, SMT	3
Suoh, cargo/transport vessel	JA-83-0893	BSA, GOA, NWA, SNA, SMT	3
Hakubesan Maru, cargo/transport vessel	JA-83-1027	BSA, GOA, NWA, SNA, SMT	3
Isokaze Maru, cargo/transport vessel	JA-83-1038	BSA, GOA, NWA, SNA, SMT	3
Soyokaze Maru, cargo/transport vessel	JA-83-1040	BSA, GOA, NWA, SNA, SMT	3
Matsukaze Maru, cargo/transport vessel	JA-83-1045	BSA, GOA, NWA, SNA, SMT	3
Harukaze Maru, cargo/transport vessel	JA-83-1049	BSA, GOA, NWA, SNA, SMT	[illegible]
Asakaze Maru, cargo/transport vessel	JA-83-1089	BSA, GOA, NWA, SNA, SMT	3
Hakuyo Maru, cargo/transport vessel	JA-83-0017	BSA, CRB, GOA, NWA, SMT, SNA	3
Tohfu Maru, cargo/transport vessel	JA-83-0916	BSA, CRB, GOA, NWA, SMT, SNA	[illegible]
Sanyo Maru, cargo/transport vessel	JA-83-0924	BSA, CRB, GOA, NWA, SMT, SNA	3
Fuyo Maru, cargo/transport vessel	JA-83-0925	BSA, CRB, GOA, NWA, SMT, SNA	3
Daiho Maru, cargo/transport vessel	JA-83-1000	BSA, CRB, GOA, NWA, SMT, SNA	3
Ryoyo Maru, cargo/transport vessel	JA-83-1024	BSA, CRB, GOA, NWA, SMT, SNA	[illegible]
Fukuyo Maru, cargo/transport vessel	JA-83-1025	BSA, CRB, GOA, NWA, SMT, SNA	3
Kiyo Maru, cargo/transport vessel	JA-83-1026	BSA, CRB, GOA, NWA, SMT, SNA	[illegible]
Shuyo Maru, cargo/transport vessel	JA-83-1028	BSA, CRB, GOA, NWA, SMT, SNA	3
Hoyo Maru, cargo/transport vessel	JA-83-1029	BSA, CRB, GOA, NWA, SMT, SNA	[illegible]
Tamagawa Maru, cargo/transport vessel	JA-83-1030	BSA, CRB, GOA, NWA, SMT, SNA	3
Kakogawa Maru, cargo/transport vessel	JA-83-1031	BSA, CRB, GOA, NWA, SMT, SNA	3
Uno Maru No. 8, cargo/transport vessel	JA-83-1032	BSA, CRB, GOA, NWA, SMT, SNA	3
Kotoku Maru, cargo/transport vessel	JA-83-1035	BSA, CRB, GOA, NWA, SMT, SNA	[illegible]
Reiyo Maru, cargo/transport vessel	JA-83-1087	BSA, CRB, GOA, NWA, SMT, SNA	[illegible]
Juyo Maru, cargo/transport vessel	JA-83-1068	BSA, CRB, GOA, NWA, SMT, SNA	3
Tosa Maru, cargo/transport vessel	JA-83-1071	BSA, CRB, GOA, NWA, SMT, SNA	3
Itoham Maru, cargo/transport vessel	JA-83-1072	BSA, CRB, GOA, NWA, SMT, SNA	3
Nipponham Maru No. 1, cargo/transport vessel	JA-83-1082	BSA, CRB, GOA, NWA, SMT, SNA	3
Hayashikane Maru No. 1, cargo/transport vessel	JA-83-1102	BSA, CRB, GOA, NWA, SMT, SNA	3
Hayashikane Maru No. 2, cargo/transport vessel	JA-83-1103	BSA, CRB, GOA, NWA, SMT, SNA	3
Taihaku Maru, cargo/transport vessel	JA-83-1106	BSA, CRB, GOA, NWA, SMT, SNA	3
Jinyo Maru, cargo/transport vessel	JA-83-1132	BSA, CRB, GOA, NWA, SMT, SNA	3
Meiyo-Maru, cargo/transport vessel	JA-83-1133	BSA, CRB, GOA, NWA, SMT, SNA	3
Kyokushin Maru, cargo/transport vessel	JA-83-1161	BSA, CRB, GOA, NWA, SMT, SNA	3
Hiyo Maru, cargo/transport vessel	JA-83-2025	BSA, CRB, GOA, NWA, SMT, SNA	[illegible]
Tsurusaki, cargo/transport vessel	JA-83-0630	BSA, GOA, NWA	3
Tokiwa Maru, cargo/transport vessel	JA-83-0631	BSA, GOA, SNA, NWA	3
Eitoku Maru, cargo/transport vessel	JA-83-1094	BSA, GOA, NWA, SNA	[illegible]
Hayatsuki Maru, cargo/transport vessel	JA-83-1037	BSA, GOA, SNA, NWA	[illegible]
Hokkai Maru, cargo/transport vessel	JA-83-0922	BSA, GOA, SNA, NWA	[illegible]
Hamanasu Maru, cargo/transport vessel	JA-83-0883	GOA, BSA, SNA, NWA	3
Yayoi Maru, cargo/transport vessel	JA-83-0018	BSA, GOA, SNA, NWA	3
Marine Fellow, cargo/transport vessel	JA-83-0003	GOA, BSA, SNA, NWA	3
Shiga Maru, cargo/transport vessel	JA-83-1012	GOA, BSA, NWA	3
Seta Maru, cargo/transport vessel	JA-83-1010	BSA, GOA, NWA	3
Suzuran Maru, cargo/transport vessel	JA-83-1152	GOA, BSA, SNA, NWA	3
Akashia Maru, cargo/transport vessel	JA-83-1156	GOA, BSA, SNA, NWA	[illegible]
Nojima Maru, cargo/transport vessel	JA-83-1096	BSA, GOA, NWA, SNA	3
Mizuho Reefer, cargo/transport vessel	JA-83-0016	GOA, BSA, SNA, NWA	3
Shikishima Reefer, cargo/transport vessel	JA-83-0889	GOA, BSA, SNA, NWA	3
Sunny Reefer, cargo/transport vessel	JA-83-0892	GOA, BSA, SNA, NWA	3
Sky Reefer, cargo/transport vessel	JA-83-0907	GOA, BSA, SNA, NWA	3
Fuji Reefer, cargo/transport vessel	JA-83-0908	GOA, BSA, SNA, NWA	3
Sakura Reefer, cargo/transport vessel	JA-83-0909	GOA, BSA, SNA, NWA	3
Ariake Reefer, cargo/transport vessel	JA-83-0910	GOA, BSA, SNA, NWA	3
Akebono Reefer, cargo/transport vessel	JA-83-0911	GOA, BSA, SNA, NWA	[illegible]
Yoho Maru, cargo/transport vessel	JA-83-1018	GOA, BSA, SNA, NWA	3
Kaiko Maru, cargo/transport vessel	JA-83-1019	GOA, BSA, SNA, NWA	[illegible]
Kentoku Maru, cargo/transport vessel	JA-83-1021	GOA, BSA, SNA, NWA	3
Mishima Maru, cargo/transport vessel	JA-83-1023	GOA, BSA, SNA, NWA	[illegible]
Oak Leaf, cargo/transport vessel	JA-83-1051	GOA, BSA, SNA, NWA	3
Mikko Maru, cargo/transport vessel	JA-83-1077	GOA, BSA, SNA, NWA	3
Shinprima Maru, cargo/transport vessel	JA-83-1081	GOA, BSA, SNA, NWA	3
Tokyo Reefer, cargo/transport vessel	JA-83-1135	GOA, BSA, SNA, NWA	3
Osaka Reefer, cargo/transport vessel	JA-83-2011	GOA, BSA, SNA, NWA	[illegible]
Yamato Reefer, cargo/transport vessel	JA-83-2019	GOA, BSA, SNA, NWA	[illegible]
Kashima Maru, factory ship	JA-83-0001	BSA, NWA, GOA, SNA	2, 3
Shinryu Maru No. 18, cargo/transport vessel	JA-83-0906	BSA, SNA, NWA	[illegible]
Karasaki Maru, cargo/transport vessel	JA-83-1011	BSA, GOA, SNA, NWA	3
Hoko Maru No. 31, cargo/transport vessel	JA-83-1083	BSA, GOA, SNA, NWA	[illegible]
Shinsei Maru, cargo/transport vessel	JA-83-0890	BSA, GOA, NWA	3
Kunseki, cargo/transport vessel	JA-83-0899	BSA, GOA, NWA	3
Shoken Maru, cargo/transport vessel	JA-83-0930	BSA, GOA, NWA	3
Tensei Maru, cargo/transport vessel	JA-83-0896	BSA, GOA, NWA	3
Hakko Arrow, cargo/transport vessel	JA-83-0880	NWA, BSA, GOA, SMT	[illegible]
Hakko Boomerang, cargo/transport vessel	JA-83-0881	NWA, BSA, GOA, SMT	3
Hakko Cardioid, cargo/transport vessel	JA-83-0882	NWA, BSA, GOA, SMT	[illegible]
Shinwa Maru, cargo/transport vessel	JA-83-0904	NWA, BSA, GOA, SMT	[illegible]
Kendric, cargo/transport vessel	JA-83-0912	NWA, BSA, GOA, SMT	3
Dawei Maru No. 52, cargo/transport vessel	JA-83-0913	NWA, BSA, GOA, SMT	3
Nissei Maru, cargo/transport vessel	JA-83-0914	NWA, BSA, GOA, SMT	3

Nation/vessel name/vessel type	Application No.	Fishery	Activity
Sanuki Maru, cargo/transport vessel	JA-83-0915	NWA, BSA, GOA, SMT	3
Phoenix, cargo/transport vessel	JA-83-0917	NWA, BSA, GOA, SMT	3
Falcon, cargo/transport vessel	JA-83-0918	NWA, BSA, GOA, SMT	3
Miyashima Maru, cargo/transport vessel	JA-83-0919	NWA, BSA, GOA, SMT	3
Matsushima Maru, cargo/transport vessel	JA-83-0920	NWA, BSA, GOA, SMT	3
Takeshima Maru, cargo/transport vessel	JA-83-0921	NWA, BSA, GOA, SMT	3
Kisaragi Maru, cargo/transport vessel	JA-83-0929	NWA, BSA, GOA, SMT	3
Sakura Maru, cargo/transport vessel	JA-83-1001	NWA, BSA, GOA, SMT	3
Dairyo Maru, cargo/transport vessel	JA-83-1002	NWA, BSA, GOA, SMT	3
Miho Maru, cargo/transport vessel	JA-83-1069	NWA, BSA, GOA, SMT	3
Daien Maru No. 18, cargo/transport vessel	JA-83-1074	NWA, BSA, GOA, SMT	3
Daitoku Maru No. 31, cargo/transport vessel	JA-83-1092	NWA, BSA, GOA, SMT	3
Hirotsuki Maru, cargo/transport vessel	JA-83-1146	NWA, BSA, GOA, SMT	3
Daigen Maru, cargo/transport vessel	JA-83-1147	NWA, BSA, GOA, SMT	3
Wakatsuki Maru, cargo/transport vessel	JA-83-1150	NWA, BSA, GOA, SMT	3
Komeshima Maru, cargo/transport vessel	JA-83-2021	NWA, BSA, GOA, SMT	3
Takatsuki Maru, cargo/transport vessel	JA-83-2022	NWA, BSA, GOA, SMT	3
Akizuki Maru, cargo/transport vessel	JA-83-2023	NWA, BSA, GOA, SMT	3
Eihei Maru, cargo/transport vessel	JA-83-1039	BSA, GOA, NWA, SMT, SNA	3
Eiho Maru, cargo/transport vessel	JA-83-1062	BSA, GOA, MWA, SMT, SNA	3
Seishu Maru No. 2, cargo/transport vessel	JA-83-0928	BSA, GOA, NWA, SNA, SMT	3
Taisei Maru No. 16, cargo/transport vessel	JA-83-1052	NWA, BSA, SNA, GOA, SMT	3
Taisei Maru No. 87, cargo/transport vessel	JA-83-1053	NWA, BSA, SNA, GOA, SMT	3
Taisei Maru No. 96, cargo/transport vessel	JA-83-1054	NWA, BSA, SNA, GOA, SMT	3
Taisei Maru No. 52, cargo/transport vessel	JA-83-1055	NWA, BSA, SNA, GOA, SMT	3
Taisei Maru No. 41, cargo/transport vessel/tanker	JA-83-1056	NWA, BSA, SNA, GOA, SMT	3
Taisei Maru No. 101, cargo/transport vessel/tanker	JA-83-1144	NWA, BSA, SNA, GOA, SMT	3
Marine Ace, cargo/transport vessel	JA-83-0002	BSA, GOA, NWA, SNA, SMT	3
Yahata Maru No. 58, medium stern trawler	JA-83-0632	BSA	1, 2
Soho Maru No. 52, medium stern trawler	JA-83-0633	BSA	1, 2
Ryoei Maru No. 38, medium stern trawler	JA-83-0634	BSA	1, 2
Kyoyo Maru No. 8, medium stern trawler	JA-83-0635	BSA	1, 2
Taisei Maru No. 35, medium stern trawler	JA-83-0636	BSA	1, 2
Tenyu Maru No. 57, medium stern trawler	JA-83-0637	BSA	1, 2
Yakushi Maru No. 51, medium stern trawler	JA-83-0638	BSA	1, 2
Shoei Maru No. 5, medium stern trawler	JA-83-0639	BSA	1, 2
Daiei Maru No. 5, tanker fuel/water	JA-83-0007	BSA, GOA, SNA	3
Tenyoshi Maru, tanker fuel/water	JA-83-0008	BSA, GOA, SNA	3
Rich Seagull, tanker fuel/water	JA-83-0888	BSA, GOA, SNA	3
Tenkai Maru, tanker fuel/water	JA-83-0894	BSA, GOA, SNA	3
Freezer Prince, cargo/transport vessel	JA-83-0571	BSA, GOA	3
Tsuru Maru, cargo/transport vessel	JA-83-1085	BSA, CRB, GOA	3
Nikka Maru, cargo/transport vessel	JA-83-0927	BSA, CRB, GOA	3
Sanei Maru, cargo/transport vessel	JA-83-0568	BSA, GRB, GOA	3
Yuwasu Maru, cargo/transport vessel	JA-83-0005	BSA, CRB, GOA	3
Yachiyo Maru No. 26, cargo/transport vessel	JA-83-1079	GOA, BSA, SNA	3
Wakashio Maru No. 32, cargo/transport vessel	JA-83-1121	GOA, BSA, SNA	3
Yachiyo Maru No. 15, cargo/transport vessel	JA-83-1123	GOA, BSA, SNA	3
Tsune Maru No. 31, longliner/gillnet	JA-83-0601	GOA, BSA	1,2
Kiyo Maru No. 55, longliner/gillnet	JA-83-0602	GOA, BSA	1,2
Fukuyoshi Maru No. 85, longliner/gillnet	JA-83-0603	GOA, BSA	1,2
Fukuyoshi Maru No. 8, longliner/gillnet	JA-83-0624	GOA, BSA	1,2
Hatsue Maru No. 38, longliner/gillnet	JA-83-0605	GOA, BSA	1,2
Hatsue Maru No. 68, longliner/gillnet	JA-83-0562	GOA, BSA	1,2
Eikyu Maru No. 82, longliner/gillnet	JA-83-0607	GOA, BSA	1,2
Sumiyoshi Maru No. 53, longliner/gillnet	JA-83-0608	GOA, BSA	1,2
Matsuei Maru No. 88, longliner/gillnet	JA-83-0609	GOA, BSA	1,2
Ebisu Maru No. 88, longliner/gillnet	JA-83-0610	GOA, BSA	1,2
Mito Maru No. 82, longliner/gillnet	JA-83-0611	GOA, BSA	1,2
Tomi Maru No. 88, longliner/gillnet	JA-83-0612	GOA, BSA	1,2
Shintoku Maru No. 25, longliner/gillnet	JA-83-0613	GOA, BSA	1,2
Shinko Maru No. 3, longliner/gillnet	JA-83-0614	GOA, BSA	1,2
Choyo Maru No. 81, longliner/gillnet	JA-83-0615	GOA, BSA	1,2
Tenyu Maru No. 37, longliner/gillnet	JA-83-0616	GOA, BSA	1,2
Ryuho Maru No. 38, longliner/gillnet	JA-83-0557	GOA, BSA	1,2
Tenyo Maru No. 25, longliner/gillnet	JA-83-0618	GOA, BSA	1,2
Ryusho Maru No. 15, longliner/gillnet	JA-83-0619	GOA, BSA	1,2
Ryusho Maru No. 18, longliner/gillnet	JA-83-0620	GOA, BSA	1,2
Anyo Maru No. 21, longliner/gillnet	JA-83-0621	GOA, BSA	1,2
Anyo Maru No. 22, longliner/gillnet	JA-83-0622	GOA, BSA	1,2
Yamato Maru, large stern trawler	JA-83-0339	GOA, BSA	1,2
Rikuzen Maru, large stern trawler	JA-83-0340	GOA, BSA	1,2
Kongo Maru, large stern trawler	JA-83-0341	GOA, BSA	1,2
Haruna Maru, large stern trawler	JA-83-0350	GOA, BSA	1,2
Tenyo Maru No. 2, large stern trawler	JA-83-0332	GOA, BSA	1,2
Tenyo Maru No. 3, large stern trawler	JA-83-0333	GOA, BSA	1,2
Tenyo Maru No. 5, large stern trawler	JA-83-0334	BSA, GOA	1, 2
Tenyo Maru, large stern trawler	JA-83-0352	BSA, GOA	1, 2
Akebono Maru No. 31, medium stern trawler	JA-83-0306	BSA, GOA	1, 2
Akebono Maru No. 32, medium stern trawler	JA-83-0307	BSA, GOA	1, 2
Akebono Maru No. 27, medium stern trawler	JA-83-0308	BSA, GOA	1, 2
Akebono Maru No. 11, medium stern trawler	JA-83-0310	BSA, GOA	1, 2
Akebono Maru No. 15, medium stern trawler	JA-83-0312	BSA,	1, 2
Akebono Maru No. 16, medium stern trawler	JA-83-0313	BSA, GOA	1, 2
Akebono Maru No. 17, medium stern trawler	JA-83-0314	BSA	1, 2
Akebono Maru No. 18, medium stern trawler	JA-83-0315	BSA	1, 2
Akebono Maru No. 21, medium stern trawler	JA-83-0316	BSA	1, 2
Akebono Maru No. 22, medium stern trawler	JA-83-0317	BSA, GOA	1, 2
Shizuoka Maru, medium stern trawler	JA-83-0318	BSA, GOA	1, 2
Akebono Maru No. 72, large stern trawler	JA-83-0338	BSA, GOA	1, 2
Daian Maru No. 188, medium stern trawler	JA-83-0553	BSA	1, 2
Shinnichi Maru No. 38, medium stern trawler	JA-83-0563	BSA	1, 2
Shunyoo Maru No. 118, medium stern trawler	JA-83-0564	BSA	1, 2
Zuihoo Maru No. 28, medium stern trawler	JA-83-0565	BSA	1, 2

Nation/vessel name/vessel type	Application No.	Fishery	Activity
Akebono Maru No. 1, medium stern trawler	JA-83-1153	BSA, GOA	1, 2
Akebono Maru No. 2, medium stern trawler	JA-83-1154	BSA, GOA	1, 2
Ohtori Maru, large stern trawler	JA-83-0342	BSA, GOA	1, 2, 3
Chikubu Maru, large stern trawler	JA-83-0336	BSA, GOA	1, 2
Tsuda Maru, large stern trawler	JA-83-0337	BSA, GOA	1, 2
Koyo Maru No. 21, medium stern trawler	JA-83-0292	BSA, GOA	1, 2
Koyo Maru No. 2, large stern trawler	JA-83-0297	BSA, GOA	1, 2
Koyo Maru No. 3, large stern trawler	JA-83-0343	BSA, GOA	1, 2
Zuiyo Maru No. 3, large stern trawler	JA-83-0331	BSA, GOA	1, 2
Zuiyo Maru No. 2, large stern trawler	JA-83-0351	BSA, GOA	1, 2
Anyo Maru No. 8, medium stern trawler	JA-83-0283	BSA	1, 2
Anyo Maru No. 12, medium stern trawler	JA-83-0500	BSA	1, 2
Anyo Maru No. 18, medium stern trawler	JA-83-1175	BSA, GOA	1, 2
Tomi Maru No. 85, medium stern trawler	JA-83-0282	BSA, GOA	1, 2
Tomi Maru No. 83, medium stern trawler	JA-83-1170	BSA, GOA	1, 2
Eikyu Maru No. 2, medium stern trawler	JA-83-0299	BSA	1, 2
Eikyu Maru No. 11, medium stern trawler	JA-83-0300	BSA	1, 2
Eikyu Maru No. 12, medium stern trawler	JA-83-0411	BSA	1, 2
Eikyu Maru No. 3, medium stern trawler	JA-83-1174	BSA	1, 2
Koshin Maru No. 11, medium stern trawler	JA-83-0303	BSA, GOA	1, 2
Fukuyoshi Maru No. 38, medium stern trawler	JA-83-0304	BSA, GOA	1, 2
Kyowa Maru No. 15, medium stern trawler	JA-83-0305	BSA, GOA	1, 2
Mineshima maru, factory ship	JA-83-0080	BSA	2, 3
Ebisu Maru No. 21, Danish seiner	JA-83-0091	BSA	1
Kaiun Maru No. 78, Danish seiner	JA-83-0092	BSA	1
Shuyo Maru, pair trawler	JA-83-0110	BSA	1
Eiyo Maru, pair trawler	JA-83-0111	BSA	1
Koyo Maru, pair trawler	JA-83-0112	BSA	1
Fukuyo Maru, pair trawler	JA-83-0113	BSA	1
Katori Maru, pair trawler	JA-83-0114	BSA	1
Katsuki Maru, pair trawler	JA-83-0115	BSA	1
Aora Maru, pair trawler	JA-83-0116	BSA	1
Wakara Maru, pair trawler	JA-83-0117	BSA	1
Washima Maru, pair trawler	JA-83-0122	BSA	1
Toyoshima Maru, pair trawler	JA-83-0123	BSA	1
Shosei Maru No. 30, Danish seiner	JA-83-0556	BSA	1
Heikyu Maru No. 35, Danish seiner (stern chute)	JA-83-0567	BSA	1
Katsuyama Maru, pair trawler	JA-83-0833	BSA	1
Tateyama Maru, pair trawler	JA-83-0835	BSA	1
Nishiyama Maru, pair trawler	JA-83-0836	BSA	1
Matsuyama Maru, pair trawler	JA-83-1157	BSA	1
Mitsu Maru No. 51, Danish seiner (stern chute)	JA-83-1559	BSA	1
Kaiko Maru No. 8, Danish seiner (stern chute)	JA-83-1560	BSA	1
Shikishima Maru, factory ship	JA-83-0030	BSA	2, 3
Ebisu Maru No. 11, Danish seiner	JA-83-0042	BSA	1
Seiho Maru No. 15, Danish seiner	JA-83-0043	BSA	1
Hokko Maru No. 17, Danish seiner	JA-83-0050	BSA	1
Mizuho Maru, pair trawler	JA-83-0060	BSA	1
Akiho Maru, pair trawler	JA-83-0061	BSA	1
Syunyo Maru, pair trawler	JA-83-0062	BSA	1
Rakuyo Maru, pair trawler	JA-83-0063	BSA	1
Wayo Maru, pair trawler	JA-83-0064	BSA	1
Junyo Maru, pair trawler	JA-83-0065	BSA	1
Yashima Maru, pair trawler	JA-83-0070	BSA	1
Tsushima Maru, pair trawler	JA-83-0071	BSA	1
Dejima Maru, pair trawler	JA-83-1179	BSA	1
Hirado Maru, pair trawler	JA-83-1180	BSA	1
Kaiun Maru No. 62, Danish seiner	JA-83-1482	BSA	1
Otoha Maru, pair trawler	JA-83-0010	BSA	1
Kureha Maru, pair trawler	JA-83-0011	BSA	1
Hokkai Maru, pair trawler	JA-83-0012	BSA	1
Hakurei Maru, pair trawler	JA-83-0013	BSA	1
Hokushin Maru, pair trawler	JA-83-0014	BSA	1
Hokoto Maru, pair trawler	JA-83-0015	BSA	1
Nitto Maru No. 75, medium stern trawleer	JA-83-0406	BSA	1
Hoyo Maru, factory ship	JA-83-0190	BSA	2, 3
Yuryo Maru No. 35, Danish seiner	JA-83-0201	BSA	1
Soho Maru No. 68, Danish seiner	JA-83-0204	BSA	1
Kakuyo Maru No. 1, pair trawler	JA-83-0210	BSA	1
Kakuyo Maru No. 2, pair trawler	JA-83-0211	BSA	1
Kakuyo Maru No. 3, pair trawler	JA-83-0212	BSA	1
Kakuyo Maru No. 5, pair trawler	JA-83-0213	BSA	1
Kakuyo Maru No. 7, pair trawler	JA-83-0214	BSA	1
Kakuyo Maru No. 8, pair trawler	JA-83-0215	BSA	1
Nitto Maru No. 35, pair trawler	JA-83-0220	BSA	1
Nitto Maru No. 36, pair trawler	JA-83-0221	BSA	1
Tenyu Maru No. 28, Danish seiner (stern chute)	JA-83-1483	BSA	1
Soho Maru No. 32, Danish seiner	JA-83-2007	BSA	1
Kakuyo Maru No. 11, pair trawler	JA-83-2008	BSA	1
Kakuyo Maru No. 12, pair trawler	JA-83-2009	BSA	1
Nisshin Maru No. 2, factory ship	JA-83-0140	BSA	2, 3
Akashi Maru No. 51, pair trawler	JA-83-0162	BSA	1
Akashi Maru No. 52, pair trawler	JA-83-0163	BSA	1
Akashi Maru No. 58, pair trawler	JA-83-0164	BSA	1
Akashi Maru No. 59, pair trawler	JA-83-0165	BSA	1
Akashi Maru No. 63, pair trawler	JA-83-0166	BSA	1
Akashi Maru No. 65, pair trawler	JA-83-0167	BSA	1
Akashi Maru No. 66, pair trawler	JA-83-0168	BSA	1
Akashi Maru No. 67, pair trawler	JA-83-0169	BSA	1
Akashi Maru No. 68, pair trawler	JA-83-0170	BSA	1
Akashi Maru No. 69, pair trawler	JA-83-0171	BSA	1
Akashi Maru No. 71, pair trawler	JA-83-0172	BSA	1
Akashi Maru No. 72, pair trawler	JA-83-0173	BSA	1
Akashi Maru No. 73, pair trawler	JA-83-0174	BSA	1

Nation/vessel name/vessel type	Application No.	Fishery	Activity
Akashi Maru No. 75, pair trawler	JA-83-0175	BSA	1
Akashi Maru No. 76, pair trawler	JA-83-0176	BSA	1
Akashi Maru No. 77, pair trawler	JA-83-0177	BSA	1
Akashi Maru No. 18, pair trawler	JA-83-0178	BSA	1
Akatsuki Maru No. 1, Danish seiner (stern chute)	JA-83-1129	BSA	1
Shoken Maru No. 8, Danish seiner	JA-83-1160	BSA	1
Soyo Maru, factory ship	JA-83-0240	BSA	2, 3
Taisei Maru No. 51, medium stern trawler	JA-83-0250	BSA	1
Mutsu Maru No. 52, medium stern trawler	JA-83-0251	BSA	1
Tora Maru No. 18, medium stern trawler	JA-83-0252	BSA	1
Zenpo Maru No. 21, medium stern trawler	JA-83-0253	BSA	1
Kakudai Maru No. 25, medium stern trawler	JA-83-0254	BSA	1
Fuji Maru No. 1, medium stern trawler	JA-83-0255	BSA	1
Kaiko Maru No. 3, medium stern trawler	JA-83-0258	BSA	1
Akashi Maru No. 19, pair trawler	JA-83-1136	BSA	1
Hoken Maru No. 38, medium stern trawler	JA-83-1164	BSA	1
Eikyu Maru No. 16, medium stern trawler	JA-83-0420	BSA	1, 2
Koryo Maru No. 108, medium stern trawler	JA-83-0421	BSA	1, 2
Taisei Maru No. 68, medium stern trawler	JA-83-0428	BSA	1, 2
Tomi Maru No. 53, medium stern trawler	JA-83-0433	BSA	1, 2
Tomi Maru No. 55, medium stern trawler	JA-83-0437	BSA	1, 2
No. 8 Mitomaru, medium stern trawler	JA-83-0435	BSA	1, 2
Yahata Maru No. 56, medium stern trawler	JA-83-0441	BSA	1, 2
Kohoku Maru No. 16, medium stern trawler	JA-83-0442	BSA	1, 2
Kohoku Maru No. 17, medium stern trawler	JA-83-0443	BSA	1, 2
Seitoku Maru No. 105, medium stern trawler	JA-83-0447	BSA	1, 2
Jukyu Maru No. 18, medium stern trawler	JA-83-0402	BSA	1, 2
Yuamasan Maru No. 81, medium stern trawler	JA-83-0409	BSA	1, 2
Yamasan Maru No. 85, medium stern trawler	JA-83-0410	BSA	1, 2
Daito Maru No. 38, medium stern trawler	JA-83-0413	BSA	1, 2
Shoyo Maru, medium stern trawler	JA-83-1394	BSA	1, 2
Kaiyo Maru No. 7, medium stern trawler	JA-83-0431	BSA	1, 2
Kaiyo Maru No. 8, medium stern trawler	JA-83-0432	BSA	1, 2
Kyoyo Maru No. 2, medium stern trawler	JA-83-0424	BSA	1, 2
Manyo Maru No. 31, medium stern trawler	JA-83-0445	BSA	1, 2
Manyo Maru No. 32, medium stern trawler	JA-83-0446	BSA	1, 2
Shotoku Maru No. 35, medium stern trawler	JA-83-0438	BSA	1, 2
Hokko Maru No. 57, medium stern trawler	JA-83-0407	BSA	1, 2
Hokko Maru No. 77, medium stern trawler	JA-83-0100	BSA	1, 2
Tora Maru No. 31, medium stern trawler	JA-83-0422	BSA	1, 2
Hatsue Maru No. 62, medium stern trawler	JA-83-0403	BSA	1, 2
Chuyo Maru No. 21, medium stern trawler	JA-83-0418	BSA	1, 2
Chuyo Maru No. 22, medium stern trawler	JA-83-0419	BSA	1, 2
Tomi Maru No. 82, medium stern trawler	JA-83-0434	BSA	1, 2
Hokuyu Maru No. 68, medium stern trawler	JA-83-1177	BSA	1, 2
Daito Maru No. 58, medium stern trawler	JA-83-1176	BSA	1, 2
Taisei Maru No. 3, medium stern trawler	JA-83-0449	BSA	1, 2
Taisei Maru No. 16, medium stern trawler	JA-83-0450	BSA	1, 2
Yashio Maru No. 11, medium stern trawler	JA-83-0452	BSA	1, 2
Shoshin Maru No. 18, medium stern trawler	JA-83-0454	BSA	1, 2
Shoshin Maru No. 21, medium stern trawler	JA-83-0453	BSA	1, 2
Narita Maru No. 35, medium stern trawler	JA-83-0456	BSA	1, 2
Hokuo Maru No. 25, medium stern trawler	JA-83-0457	BSA	1, 2
Hamazen Maru No. 35, medium stern trawler	JA-83-0461	BSA	1, 2
Yuryo Maru No. 31, medium stern trawler	JA-83-0466	BSA	1, 2
Kaiyo Maru No. 53, medium stern trawler	JA-83-0464	BSA	1, 2
Seiju Maru No. 26, medium stern trawler	JA-83-0465	BSA	1, 2
Fukuyoshi Maru No. 28, medium stern trawler	JA-83-0472	BSA	1, 2
Ryoan Maru No. 25, medium stern trawler	JA-83-0475	BSA	1, 2
Ryoan Maru No. 26, medium stern trawler	JA-83-0426	BSA	1, 2
Sachi Maru No. 22, medium stern trawler	JA-83-0477	BSA	1, 2
Ryuho Maru No. 37, medium stern trawler	JA-83-0480	BSA	1, 2
Ginryu Maru No. 5, medium stern trawler	JA-83-1171	BSA	1, 2
Daikichi Maru No. 32, medium stern trawler	JA-83-0554	BSA	1, 2
Shinun Maru No. 8, medium stern trawler	JA-83-0494	BSA	1, 2
Daikichi Maru No. 37, medium stern trawler	JA-83-0483	BSA	1, 2
Daikichi Maru No. 51, medium stern trawler	JA-83-0484	BSA	1, 2
Ryujin Maru No. 8, medium stern trawler	JA-83-0486	BSA	1, 2
Koei Maru No. 15, medium stern trawler	JA-83-1396	BSA	1, 2
Koei Maru No. 35, medium stern trawler	JA-83-0489	BSA	1, 2
Koei Maru No. 51, medium stern trawler	JA-83-0488	BSA	1, 2
Yakushi Maru No. 31, medium stern trawler	JA-83-0496	BSA	1, 2
Fukucho Maru No. 23, medium stern trawler	JA-83-0495	BSA	1, 2
Ryujin Maru No. 11, medium stern trawler	JA-83-1172	BSA	1, 2
Kotobuki Maru No. 25, medium stern trawler	JA-83-0502	BSA	1, 2
Ryuho Maru No. 31, medium stern trawler	JA-83-0506	BSA	1, 2
Kashima Maru No. 23, medium stern trawler	JA-83-0508	BSA	1, 2
Eikyu Maru No. 35, medium stern trawler	JA-83-0511	BSA	1, 2
Dainichi Maru No. 31, medium stern trawler	JA-83-0514	BSA	1, 2
Choun Maru No. 21, medium stern trawler	JA-83-0519	BSA	1, 2
Daitoku Maru No. 31, medium stern trawler	JA-83-0516	BSA	1, 2
Meisho Maru No. 35, medium stern trawler	JA-83-0522	BSA	1, 2
Dairin Maru No. 26, medium stern trawler	JA-83-0524	BSA	1, 2
Koshin Maru No. 21, medium stern trawler	JA-83-0525	BSA	1, 2
Ryoan Maru No. 31, medium stern trawler	JA-83-0459	BSA	1, 2
Hakuryu Maru No. 72, medium stern trawler	JA-83-1178	BSA	1, 2
Ryujin Maru No. 52, medium stern trawler	JA-83-0548	BSA	1, 2
Fukuho Maru No. 18, medium stern trawler	JA-83-0528	BSA	1, 2
Teisho Maru No. 18, medium stern trawler	JA-83-0535	BSA	1, 2
Kaiun Maru No. 38, medium stern trawler	JA-83-0533	BSA	1, 2
Kumano Maru No. 15, medium stern trawler	JA-83-0534	BSA	1, 2
Kyowa Maru No. 11, medium stern trawler	JA-83-0566	BSA	1, 2
Shinei Maru No. 21, medium stern trawler	JA-83-0537	BSA	1, 2
Yoshi Maru No. 81, medium stern trawler	JA-83-0555	BSA	1, 2

Nation/vessel name/vessel type	Application No.	Fishery	Activity
Fukushin Maru No. 5, medium stern trawler	JA-83-0531	BSA	1, 2
Shinei Maru No. 53, medium stern trawler	JA-83-0487	BSA	1, 2
Fukui Maru No. 8, medium stern trawler	JA-83-0542	BSA	1, 2
Anyo Maru No. 11, medium stern trawler	JA-83-0541	BSA	1, 2
Orient Maru No. 3, medium stern trawler	JA-83-0551	BSA	1, 2
Daisi Maru No. 2, medium stern trawler	JA-83-0544	BSA	1, 2
Fukui Maru No. 18, medium stern trawler	JA-83-1173	BSA	1, 2
Tomi Maru No. 58, medium stern trawler	JA-83-0467	BSA	1, 2
Tomi Maru No. 51, medium stern trawler	JA-83-0897	BSA	1, 2
Kaiun Maru No. 65, medium stern trawler	JA-83-2010	BSA	1, 2
Hoken Maru No. 8, medium stern trawler	JA-83-0425	BSA	1, 2
Zuiyo Maru No. 3, large stern trawler	JA-83-0331	BSA, GOA	1, 2, 3
Tenyi Maru, large stern trawler	JA-83-0352	BSA, GOA	1, 2, 3
Zuiyo Maru No. 2, large stern trawler	JA-83-0351	BSA, GOA	1, 2, 3
Rikuzen Maru, stern trawler/factory ship	JA-83-0340	BSA, GOA	1, 2, 3
Koyo Maru No. 3, stern trawler/factory ship	JA-83-0343	BSA, GOA	1, 2, 3
Haruna Maru, stern trawler/factory ship	JA-83-0350	BSA, GOA	1, 2, 3
Kongo Maru, stern trawler/factory ship	JA-83-0341	BSA, GOA	1, 2, 3
Chikubu-Maru, stern trawler/factory ship	JA-83-0336	BSA, GOA	1, 2, 3
Tsuda-Maru, stern trawler/factory ship	JA-83-0337	BSA, GOA	1, 2, 3
Daishin Maru No. 28, stern trawler/factory ship	JA-83-0569	BSA, GOA	1, 2, 3
Ohtori Maru, stern trawler/factory ship	JA-83-0342	BSA, GOA	1, 2, 3
Akebono Maru No. 72, stern trawler/factory ship	JA-83-0338	BSA, GOA	1, 2, 3
German Democratic Republic:			
F. C. Weiskopf, stern trawler/factory ship	CG-83-0030	NWA	1, 2
Peter Nell, stern trawler/factory ship	GC-83-0022	NWA	1, 2
Willi Bredel, stern trawler/factory ship	GC-83-0024	NWA	1, 2
Arnold Zweig, stern trawler/factory ship	GC-83-0046	NWA	1, 2
U.S.S.R.:			
Raduzhny, cargo/transport	UR-83-0302	GOA, BSA, WOC	3
Sulak, factory ship	UR-83-0238	BSA, GOA	2, 3
Kamchatskie Gory, cargo/transport vessel	UR-83-0260	GOA, BSA, WOC	3
Sajanskie gory, cargo/transport vessel	UR-83-0262	GOA, BSA, WOC	3
Altayskie Gory, cargo/transport vessel	UR-83-0259	GOA, BSA, WOC	3
Ostrov Shokalskogo, cargo/transport vessel	UR-83-0257	GOA, BSA, WOC	3
Ostrov Ushakova, cargo/transport vessel	UR-83-0258	GOA, BSA, WOC	3
Ostrov Shmidta, cargo/transport vessel	UR-83-0256	GOA, BSA, WOC	3
Ostrov Lilyanskogo, cargo/transport vessel	UR-83-0254	GOA, BSA, WOC	3
Khrustalnyi Bereg, cargo/transport vessel	UR-83-0732	GOA, BSA, WOC	3
Chukotskiy Bereg, cargo/transport vessel	UR-83-0749	GOA, BSA, WOC	3
Zvezdnyi Bereg, cargo/transport vessel	UR-83-0726	GOA, BSA, WOC	3
Turkul, large stern trawler	UR-83-0172	GOA, BSA	2, 3
Svetlaja, large stern trawler	UR-83-0090	BSA, GOA	2, 3
Taiwan:			
Chief Dragon 737, bottom trawler	TW-83-0055	GOA	2, 3
Chief Dragon 101, bottom trawler	TW-83-0001	GOA	2, 3
Highly No. 303, refrigeration carrier	TW-83-0054	GOA	2, 3
Highly No. 707, refrigeration carrier	TW-83-0061	GOA	2, 3
No. 1 Hui Ching, longline fishing vessel	TW-83-3036	PBS	1
Yih Hsing, longline fishing vessel	TW-83-3044	PBS	1
Sheng Peng No. 1, longline fishing vessel	TW-83-3049	PBS	1
Feng Yuan No. 51, longline fishing vessel	TW-83-3107	PBS	1
Tong Ann No. 31, longline fishing vessel	TW-83-3097	PBS	1
Horng Jia, longline fishing vessel	TW-83-3102	PBS	1
Fu Pang No. 1, longline fishing vessel	TW-83-3109	PBS	1
Chung Sha No. 1, longline fishing vessel	TW-83-3053	PBS	1
Ying Ruey Shiang No. 3, longline fishing vessel	TW-83-3013	PBS	1
Yung Chang Fu No. 1, longline fishing vessel	TW-83-3094	PBS	1
Peng Mao No. 8, longline fishing vessel	TW-83-3099	PBS	1
Shin Tai No. 7, longline fishing vessel	TW-83-3111	PBS	1
Tong Mong No. 61, longline fishing vessel	TW-83-3089	PBS	1
No. 3 Chien Jia, longline fishing vessel	TW-83-3075	PBS	1
Chin Min Man, longline fishing vessel	TW-83-3074	PBS	1
Chin Huey No. 21, longline fishing vessel	TW-83-3073	PBS	1
Chin Huey No. 22, longline fishing vessel	TW-83-3072	PBS	1
Min Hong No. 31, longline fishing vessel	TW-83-3071	PBS	1
Yung Chang Yu No. 11, longline fishing vessel	TW-83-3068	PBS	1
Shin Yuan Cheng No. 22, longline fishing vessel	TW-83-3067	PBS	1
Shin Yuan Seng No. 21, longline fishing vessel	TW-83-3066	PBS	1
Tong Hui No. 32, longline fishing vessel	TW-83-3065	PBS	1
Tong Chou No. 7, longline fishing vessel	TW-83-3064	PBS	1
Tong Sheng No. 11, longline fishing vessel	TW-83-3063	PBS	1
Tong Sheng, longline fishing vessel	TW-83-3062	PBS	1
Yung Chang Fu No. 31, longline fishing vessel	TW-83-3061	PBS	1
Kuo Yuon No. 72, longline fishing vessel	TW-83-3060	PBS	1
Kuo Zong No. 3, longline fishing vessel	TW-83-3059	PBS	1
Kuo Zong No. 12, longline fishing vessel	TW-83-3058	PBS	1
Hai I No. 1, longline fishing vessel	TW-83-3052	PBS	1
Yu Hsing, longline fishing vessel	TW-83-3046	PBS	1
Horng Hsing, longline fishing vessel	TW-83-3045	PBS	1
Hui Fish, longline fishing vessel	TW-83-3043	PBS	1
Yung Hsing, longline fishing vessel	TW-83-3042	PBS	1
Sur Ten No. 3, longline fishing vessel	TW-83-3020	PBS	1
Sur Ten No. 1, longline fishing vessel	TW-83-3019	PBS	1
Chiau Loong No. 11, longline fishing vessel	TW-83-3017	PBS	1
Ruey Fong No. 3, longline fishing vessel	TW-83-3016	PBS	1
Ying Yih Shiang, longline fishing vessel	TW-83-3015	PBS	1
Ying Kuo Shiang No. 7, longline fishing vessel	TW-83-3012	PBS	1
Yen Horng No. 1, longline fishing vessel	TW-83-3005	PBS	1
Yu Kuo No. 11, longline fishing vessel	TW-83-3004	PBS	1
Chief Dragon 101, medium stern trawler	TW-83-0001	BSA, GOA	1, 2
Chief Dragon 737, medium stern trawler	TW-83-0055	BSA, GOA	1, 2
Golden Dragon No. 1, large stern trawler	TW-83-0004	BSA, GOA	1, 2
Highly No. 301, large stern trawler	TW-83-0002	BSA, GOA	1, 2

Nation/vessel name/vessel type	Application No.	Fishery	Activity
Highly No. 302, medium stern trawler	TW-83-0003	BSA, GOA	1, 2
Highly No. 303, cargo/transport vessel	TW-83-0054	BSA, GOA	2, 3
Highly No. 707, cargo/transport vessel	TW-83-0061	BSA, GOA	2, 3
Korea:			
No. 7 Sang Won, stern trawler	KS-83-0041	BSA, GOA	1, 2, 3
Gaecheog-Ho, factory ship	KS-83-0112	BSA, GOA	2, 3
Kyungyang-Ho, stern trawler	KS-83-0085	BSA, GOA	1, 2, 3
Gaeyang-Ho, stern trawler	KS-83-0001	BSA, GOA	1, 2, 3
Cheogyang-Ho, stern trawler	KS-83-0003	BSA, GOA	1, 2, 3
Keumkangsan-Ho, stern trawler	KS-83-0084	BSA, GOA	1, 2, 3
Hwarang-Ho, stern trawler	KS-83-0127	BSA, GOA	1, 2, 3
Shin An Ho, large stern trawler	KS-83-0047	BSA, GOA	1, 2, 3
Nam Bug Ho, stern trawler	KS-83-0033	BSA, GOA	1, 2, 3
No. 52 Dae Jin, large stern trawler	KS-83-0037	BSA, GOA	1, 2, 3
Oyang Ho, factory type stern trawler	KS-83-0006	BSA, GOA	1, 2, 3
Dongsan Ho, large stern trawler	KS-83-0039	BSA, GOA	1, 2, 3
Tae Baek Ho, large stern trawler	KS-83-0042	BSA, GOA	1, 2, 3
Dae Sung Ho, large stern trawler	KS-83-0051	BSA, GOA	1, 2, 3
Han Kil Ho, medium stern trawler	KS-83-0044	BSA, GOA	1, 2, 3
Han Jin Ho, medium stern trawler	KS-83-0045	BSA, GOA	1, 2, 3
Han Il Ho, medium stern trawler	KS-83-0107	BSA, GOA	1, 2, 3
No. 70 Oyang Ho, stern trawler	KS-83-0048	BSA, GOA	1, 2, 3
Yuyang Ho, large stern trawler	KS-83-0104	BSA, GOA	1, 2, 3
Shinyang Ho, large stern trawler	KS-83-0122	BSA, GOA	1, 2, 3
No. 1 Hansung, large stern trawler	KS-83-0106	BSA, GOA	1, 2, 3
No. 215 Tae Baek, medium stern trawler	KS-83-0105	BSA, GOA	1, 2, 3
No. 315 Tae Baek, medium stern trawler	KS-83-0117	BSA, GOA	1, 2, 3
Gae Yang Ho, large stern trawler	KS-83-0001	BSA, GOA	1, 2
Sunflower No. 7, large stern trawler	KS-83-0002	BSA, GOA	1, 2
Cheog Yang Ho, large stern trawler	KS-83-0003	BSA, GOA	1, 2
Pung Yang Ho, large stern trawler	KS-83-0004	BSA, GOA	1, 2
Oyang Ho, large stern trawler	KS-83-0006	BSA, GOA	1, 2
Nambug, large stern trawler	KS-83-0033	BSA, GOA	1, 2
Crystal Dahlia, large stern trawler	KS-83-0034	BSA, GOA	1, 2
Daejin No. 52, large stern trawler	KS-83-0037	BSA, GOA	1, 2
Dongsan-Ho, large stern trawler	KS-83-0039	BSA, GOA	1, 2
No. 7 Sang Won, medium stern trawler	KS-83-0041	BSA, GOA	1, 2
Soo Gong No. 51, large stern trawler	KS-83-0042	BSA, GOA	1, 2
Han Kil Ho, medium stern trawler	KS-83-0044	BSA, GOA	1, 2
Han Jin Ho, medium stern trawler	KS-83-0045	BSA, GOA	1, 2
Shin An Ho, large stern trawler	KS-83-0047	BSA, GOA	1, 2
No. 70 Oyang Ho, medium stern trawler	KS-83-0048	BSA, GOA	1, 2
Dae Sung Ho, large stern trawler	KS-83-0051	BSA, GOA	1, 2
Kyung Yang Ho, large stern trawler	KS-83-0085	BSA, GOA	1, 2
No. 303 Dai Ho, medium stern trawler	KS-83-0095	BSA, GOA	1, 2
Salvia, medium stern trawler	KS-83-0103	BSA, GOA	1, 2
Yuyang Ho, large stern trawler	KS-83-0104	BSA, GOA	1, 2
No. 305 Jinam, medium stern trawler	KS-83-0105	BSA, GOA	1, 2
No. 1 Han Sung, large stern trawler	KS-83-0106	BSA, GOA	1, 2
Hanil Ho, medium stern trawler	KS-83-0107	BSA, GOA	1, 2
Soo Gong No. 91, medium stern trawler	KS-83-0115	BSA, GOA	1, 2
So Gong No. 92, medium stern trawler	KS-83-0116	BSA, GOA	1, 2
Jinam No. 308, medium stern trawler	KS-83-0117	BSA, GOA	1, 2
No. 71 Dong Bang, medium stern trawler	KS-83-0121	BSA, GOA	1, 2
Shin Yang Ho, medium stern trawler	KS-83-0122	BSA, GOA	1, 2
No. 707 Dai Ho, large stern trawler	KS-83-0123	BSA, GOA	1, 2
No. 201 O Dae Yang, longline fishing vessel	KS-83-0128	BSA, GOA	1, 2
No. 3 Chil Bo San Ho, cargo/transport vessel	KS-83-0074	BSA, GOA	3
No. 5 Chil Bo San Ho, cargo/transport vessel	KS-83-0075	BSA, GOA	3
No. 6 Chil Bo San Ho, cargo/transport vessel	KS-83-0076	BSA, GOA	3
Tae Yang No. 12, cargo/transport vessel	KS-83-0081	BSA, GOA	3
Gae Cheog Ho No. 2, cargo/transport vessel	KS-83-0090	BSA, GOA	3
Ill Woo No. 58, cargo/transport vessel	KS-83-0091	BSA, GOA	3
No. 77 Dong Bang, cargo/transport vessel	KS-83-0118	BSA, GOA	3
501 Dong Soo, cargo/transport vessel	KS-83-0119	BSA, GOA	3
No. 1 Chil Bo San, cargo/transport vessel	KS-83-0133	BSA, GOA	3
No. 2 Chil Bo San, cargo/transport vessel	KS-83-0134	BSA, GOA	3
Book Neung, factory ship	KS-83-0079	BSA, GOA	3
Kum Kang San Ho, medium stern trawler	KS-83-0084	BSA, GOA	3
Gae Cheog Ho, factory ship	KS-83-0112	BSA, GOA	3
Hwa Rang Ho, medium stern trawler	KS-83-0127	BSA, GOA	3
Federal Republic of Germany: *Friedrich Busse, large stern trawler	GE-83-0010	BSA, GOA	1, 2
Italy:			
Assunta Tontini Madre, large stern trawler	IT-83-0001	NWA	1
Tontini Pesca Terzo, medium stern trawler	IT-83-0002	NWA	1
Tontini Pesca Quarto, large stern trawler	IT-83-0003	NWA	1
De Giosa T., medium stern trawler	IT-83-0004	NWA	1
Antonietta Madre, medium stern trawler	IT-83-0013	NWA	1
De Giosa L., medium stern trawler	IT-83-0023	NWA	1
Maria Michela, medium stern trawler	IT-83-0024	NWA	1
De Giosa Giuseppe, medium stern trawler	IT-83-0016	NWA	1
Stanislava, large stern trawler	IT-83-0019	NWA	1
Maria C., medium stern trawler	IT-83-0021	NWA	1
Giovanni C., medium stern trawler	IT-83-0022	NWA	1
Sagitta, medium stern trawler	IT-83-0007	NWA	1
Arone, medium stern trawler	IT-83-0008	NWA	1
Gabriella C., medium stern trawler	IT-83-0010	NWA	1
Corrado Seconda, large stern trawler	IT-83-0012	NWA	1
Carlo Di Fazio, medium stern trawler	IT-83-0015	NWA	1
Belka, medium stern trawler	IT-83-0006	NWA	1
Tortorelli E., medium stern trawler	IT-83-0011	NWA	1
Spain:			
Pebre Do Mar, side trawler	IT-83-0005	NWA	1, 2
Anuska, side trawler	IT-83-0012	NWA	1, 2

Nation/vessel name/vessel type	Application No.	Fishery	Activity
Area Cova, side trawler	IT-83-0015	NWA	1, 2
Conbaroya II, medium stern trawler	IT-83-0015	NWA	1, 2
Toralla, medium stern trawler	SP-83-0016	NWA	1, 2
Pescapuerta Primero, side trawler	SP-83-0019	NWA	1, 2
Pescapuerta Tercero, medium stern trawler	SP-83-0020	NWA	1, 2
Playa de Mogor, medium stern trawler	SP-83-0021	NWA	1, 2
Xeitosino, medium stern trawler	SP-83-0022	NWA	1, 2
Puente Minor, medium stern trawler	SP-83-0023	NWA	1, 2
Madroa, small stern trawler	SP-83-0024	NWA	1, 2
Chicha Touza, medium stern trawler	SP-83-0025	NWA	1, 2
Puxeiros, side trawler	SP-83-0028	NWA	1, 2
Monte Furado, medium stern trawler	SP-83-0029	NWA	1, 2
Canton de Cora, medium stern trawler	SP-83-0030	NWA	1, 2
Corba, medium stern trawler	SP-83-0031	NWA	1, 2
Pescamaro Uno, medium stern trawler	SP-83-0034	NWA	1, 2
Lare Dos Picos, medium stern trawler	SP-83-0035	NWA	1, 2
Orballo, medium stern trawler	SP-83-0036	NWA	1, 2
Tito Marquez, medium stern trawler	SP-83-0038	NWA	1, 2
Vioador, medium stern trawler	SP-83-0039	NWA	1, 2
Mouta, medium stern trawler	SP-83-0040	NWA	1, 2
Altamar, side trawler	SP-83-0042	NWA	1, 2
Nuska, medium stern trawler	SP-83-0043	NWA	1, 2
Perca, medium stern trawler	SP-83-0045	NWA	1, 2
Fragana, medium stern trawler	SP-83-0046	NWA	1, 2
Conbaroya III, medium stern trawler	SP-83-0047	NWA	1, 2
Villa de Marin, medium stern trawler	SP-83-0051	NWA	1, 2
Puente Toralla, small stern trawler	SP-83-0052	NWA	1, 2
Zamanes, side trawler	SP-83-0053	NWA	1, 2
Marde Galilea, small stern trawler	SP-83-0055	NWA	1, 2
Kantxape, medium stern trawler	SP-83-0056	NWA	1, 2
Ana Maria Gandon, medium stern trawler	SP-83-0057	NWA	1, 2
Suemar Uno, medium stern trawler	SP-83-0059	NWA	1, 2
Egunsentia, medium stern trawler	SP-83-0062	NWA	1, 2
Izarra, medium stern trawler	SP-83-0064	NWA	1, 2
Rio Verdugo, medium stern trawler	SP-83-0065	NWA	1, 2
Pineiro Correa, medium stern trawler	SP-83-0066	NWA	1, 2
Altamar Uno, medium stern trawler	SP-83-0067	NWA	1, 2
Capitan Jorge Segundo, side trawler	SP-83-0069	NWA	1, 2
Pegago Tercero, medium stern trawler	SP-83-0070	NWA	1, 2
Maposa Quinto, medium stern trawler	SP-83-0072	NWA	1, 2
Mayi Cuatro, medium stern trawler	SP-83-0073	NWA	1, 2
Puente de Gondomar, medium stern trawler	SP-83-0077	NWA	1, 2
Villachan, medium stern trawler	SP-83-0078	NWA	1, 2
Pevegasa Segundo, medium stern trawler	SP-83-0083	NWA	1, 2
Maposa Sexto, side trawler	SP-83-0085	NWA	1, 2
Ancora D'Ouro, medium stern trawler	SP-83-0090	NWA	1, 2
Farpesca Cuarto, medium stern trawler	SP-83-0093	NWA	1, 2
Jose Puerta Prado, side trawler	SP-83-0094	NWA	1, 2
Pegago Segundo, side trawler	SP-83-0098	NWA	1, 2
Freire Lopez, medium stern trawler	SP-83-0106	NWA	1, 2
Manuel Nores, medium stern trawler	SP-83-0107	NWA	1, 2
Peoino, medium stern trawler	SP-83-0108	NWA	1, 2
Puente Lourido, medium stern trawler	SP-83-0109	NWA	1, 2
Ur Ertza, medium stern trawler	SP-83-0110	NWA	1, 2
Cudillero, medium stern trawler	SP-83-0111	NWA	1, 2
Pescapuerta Segundo, medium stern trawler	SP-83-0112	NWA	1, 2
Playa de Pesmar, medium stern trawler	SP-83-0113	NWA	1, 2
Tasarte, medium stern trawler	SP-83-0114	NWA	1, 2
Andes, medium stern trawler	SP-83-0117	NWA	1, 2
Anguiacho, medium stern trawler	SP-83-0118	NWA	1, 2
Capitan Emilio, side trawler	SP-83-0123	NWA	1, 2
Valle de Asua, side trawler	SP-83-0102	NWA	1, 2
Cruna, medium stern trawler	SP-83-0124	NWA	1, 2
Isla Alegranza, medium stern trawler	SP-83-0126	NWA	1, 2
Isla Graciosa, medium stern trawler	SP-83-0127	NWA	1, 2
Isla Montana Clara, medium stern trawler	SP-83-0128	NWA	1, 2
Playa de Cadiz, medium stern trawler	SP-83-0136	NWA	1, 2
Playa de Menduina, small stern trawler	SP-83-0137	NWA	1,2
Suemar Dos, medium stern trawler	SP-83-0143	NWA	1, 2
Villa Ana, side trawler	SP-83-0145	NWA	1, 2
Punta de Robaleira, small stern trawler	SP-83-0148	NWA	1, 2
Maposa Primero, side trawler	SP-83-0149	NWA	1, 2
Maposa Segundo, side trawler	SP-83-0150	NWA	1, 2
Pegago Cuarto, side trawler	SP-83-0151	NWA	1, 2
Navijosa Quinto, side trawler	SP-83-0152	NWA	1, 2
Navijosa Sexto, side trawler	SP-83-0153	NWA	1, 2
Navijosa VII, side trawler	SP-83-0154	NWA	1, 2
Costa Del Cabo, side trawler	SP-83-0159	NWA	1, 2
Navijosa Octavo, medium stern trawler	SP-83-0160	NWA	1, 2
Maposa Cuarto, medium stern trawler	SP-83-0161	NWA	1, 2
Maposa Octavo, medium stern trawler	SP-83-0163	NWA	1, 2
Maposa Septimo, medium stern trawler	SP-83-0164	NWA	1, 2
Codeside, medium stern trawler	SP-83-0165	NWA	1, 2
Maposa Tercero, medium stern trawler	SP-83-0166	NWA	1, 2
Maria Teresa Rodriguez, medium stern trawler	SP-83-0167	NWA	1, 2
Navijosa Noveno, medium stern trawler	SP-83-0168	NWA	1, 2
Mare Eugenia G, medium stern trawler	SP-83-0170	NWA	1, 2
Mirador Del Fito, medium stern trawler	SP-83-0171	NWA	1, 2
Pinzon Primero, medium stern trawler	SP-83-0172	NWA	1, 2
Congelamar Segundo, medium stern trawler	SP-83-0173	NWA	1, 2
Congelamar Primero, medium stern trawler	SP-83-0174	NWA	1, 2
Poland:			
Cassiopeia, large stern trawler	PL-83-0099	WOC, GOA, BSA	1, 2
Saturn, large stern trawler	PL-83-0056	WOC, GOA, BSA	1, 2

Nation/vessel name/vessel type	Application No.	Fishery	Activity
Regulus, large stern trawler	PL-83-0095	WOC, GOA, BSA	1, 2
Indus, large stern trawler	PL-83-0094	WOC, GOA, BSA	1, 2
Antares, large stern trawler	PL-83-0037	WOC, GOA, BSA	1, 2
Pollux, large stern trawler	PL-83-0006	WOC, GOA, BSA	1, 2
Gemini, large stern trawler	PL-83-0048	WOC, GOA, BSA	1, 2
Grinwal, large stern trawler	PL-83-0007	WOC, GOA, BSA	1, 2
Musiel, large stern trawler	PL-83-0012	WOC, GOA, BSA	1, 2
Kolias, large stern trawler	PL-83-0050	WOC, GOA, BSA	1, 2
Martin, large stern trawler	PL-83-0034	WOC, GOA, BSA	1, 2
Walen, large stern trawler	PL-83-0009	WOC, GOA, BSA	1, 2
Parma, large stern trawler	PL-83-0084	WOC, GOA, BSA	1, 2
Bogar, large stern trawler	PL-83-0085	WOC, GOA, BSA	1, 2
Delfin, large stern trawler	PL-83-0065	WOC, GOA, BSA	1, 2
Awior, large stern trawler	PL-83-0060	WOC, GOA, BSA	1, 2
Hajduk, large stern trawler	PL-83-0066	WOC, GOA, BSA	1, 2
Aquila, large stern trawler	PL-83-0097	WOC, GOA, BSA	1, 2
Amarel, large stern trawler	PL-83-0046	WOC, GOA, BSA	1, 2
Sagitta, large stern trawler	PL-83-0040	WOC, GOA, BSA	1, 2
Arcturus, large stern trawler	PL-83-0039	WOC, GOA, BSA	1, 2
Wineta, cargo/transport vessel	PL-83-0081	WOC, GOA, BSA, NWA	3
Buran, cargo/transport vessel	PL-83-0033	GOA, BSA, WOC, NWA	3
Zulawy, cargo/transport vessel	PL-83-0041	BSA, GOA, WOC, NWA	3
Halnak, cargo/transport vessel	PL-83-0029	GOA, BSA, WOC, NWA	3
Kaszuby, 2, cargo/transport vessel	PL-83-0027	GOA, BSA, WOC, NWA	3
Lewanter, cargo/transport vessel	PL-83-0030	GOA, BSA, WOC, NWA	3
Mazury, cargo/transport vessel	PL-83-0098	GOA, BSA, WOC, NWA	3
Norway: *Ole Sostremyr*	NO-83-0003	GOA, BSA	1, 2, 3
Japan:			
Zuiyo Maru No. 3, large stern trawler	JA-83-0031	BSA, GOA	1, 2, 3
Tenyo Maru, large stern trawler	JA-83-0352	BSA, GOA	1, 2, 3
Zuiyo Maru No. 2, large stern trawler	JA-83-0351	BSA, GOA	1, 2, 3
The Japanese and Western Alaska Fisheries Inc., Suite 1210, 111, 3rd Avenue Building, Seattle, Washington, 98101, USA, has applied to engage in a joint venture fishery aimed at producing 45,000 mt of pollock, pacific cod and bycatch during the early part of 1983.			
Rikuzen Maru, stern trawler/factory ship	JA-83-0340	BSA, GOA	1, 2, 3
Koyo Maru No. 3, stern trawler/factory ship	JA-83-0343	BSA, GOA	1, 2, 3
Haruna Maru, stern trawler/factory ship	JA-83-0350	BSA, GOA	1, 2, 3
Kongo Maru, stern trawler/factory ship	JA-83-0341	BSA, GOA	1, 2, 3
The Japanese and Universal Seafoods Ltd., P.O. Box 94 N.E., 90th Street, Erdmond, Washington 98052, have applied to engage in a joint venture fishery aimed at producing 60,000 mt of pollock, pacific cod and bycatch during 9 months of the first of the year in 1983.			
Chikubu Maru, stern trawler/factory ship	JA-83-0[illegible]	BSA, GOA	1, 2, 3
The Japanese and Clinton E. Atkinson, 8000 Crest Drive, N.E., Seattle, Washington, 98115, have applied to engage in a joint venture fishery aimed at producing 17,000 mt of pollock, pacific cod and bycatch during approximately 70 days from early May in 1983.			
Tsuda Maru, stern trawler/factory ship	JA-83-0337	BSA, GOA	1, 2, 3
The Japanese and Clinton E. Atkinson, 8000 Crest Drive, N.E., Seattle, Washington, 98115, have applied to engage in a joint venture fishery aimed at producing 17,000 mt of pollock, pacific cod and bycatch during approximately one month from early April, 1983.			
Daishin Maru No. 28, stern trawler/factory ship	JA-83-0569	BSA, GOA	1, 2, 3
The Japanese and Whitney-Fidalgo Seafoods, Inc., 2360 West Commodore Way, P.O. Box 99008, Seattle, Washington 98199, have applied to engage in a joint venture fishery aimed at producing 10,000 mt of pollock, Pacific cod and bycatch from the end of January 1983.			
Ohtori Maru, stern trawler/factory ship	JA-83-0342	BSA, GOA	1, 2, 3
The Japanese and Whitney-Fidalgo Seafoods, Inc., 2360 West Commodore Way, P.O. Box 99008, Seattle, Washington 98199, have applied to engage in a joint venture fishery aimed at producing 10,000 mt of pollock, Pacific cod and bycatch from the beginning of June 1983.			
Akebono Maru No. 72, stern trawler/factory ship	JA-83-0338	BSA, GOA	1, 2, 3
The Japanese and Peter Pan Seafoods, Inc., 1220 Dexter Horton Bldg., Seattle, Washington 98104, have applied to engage in a joint venture fishery aimed at producing 10,000 mt of pollock, Pacific cod and bycatch from January to April 1983.			
German Democratic Republic:			
F. C. Weiskopf, stern trawler/factory ship	GC-83-0030	NWA	1, 2
Peter Nell, stern trawler/factory ship	GC-83-0022	NWA	1, 2
Willi Bredel, stern trawler/factory ship	GC-83-0024	NWA	1, 2
Arnold Zweig, stern trawler/factory ship	GC-83-0046	NWA	1, 2
The German Democratic Republic and William Quinby, President, Joint Trawlers (North America) Ltd., P.O. Box 1209, Gloucester, Massachusetts 01930, have applied to engage in a joint venture fishery aimed at producing 10,000 mt of Atlantic Mackerel during the year 1983.			
U.S.S.R.:			
Sulak, factory ship	UR-83-0238	BSA, GOA	2, 3
The Union of the Soviet Socalist Republics and the Marine Resources Co. (MRC), 192 Nickerson, Suite 307, Seattle, Washington 98109, have applied to engage in a joint venture fishery aimed at producing Groundfish Species of 35,000 mt of yellow sole and other flounder, 20,000 mt Atka mackerel, 20,000 mt of pollock, 15,000 mt of cod and 1,000 mt of other species during the months of February to September 1983 in the Bering Sea and Aleutian Islands. Groundfish of the Gulf of Alaska species, pollock 5,000 mt, Atka mackerel 5,000 mt, cod 2,000 mt and 1,000 mt of other species during April to September 1983.			
Turkul, large stern trawler	UR-83-0172	BSA, GOA	2, 3
Svetlaja, large stern trawler	UR-83-00[illegible]	BSA, GOA	2, 3

Nation/vessel name/vessel type	Application No.	Fishery	Activity
The Union of the Soviet Socalist Republics and the Marine Resources Co. (MRC), 192 Nickerson, Suite 307, Seattle, Washington 98109, have applied to engage in a joint venture fishery aimed at producing 35,000 mt of yellowfin sole and other flounder, 20,000 mt Atka mackerel, 20,000 mt pollock, 15,000 mt of cod and 1,000 mt of other species in the Bering Sea and Aleutian Islands from February to September 1983. Groundfish of the Gulf of Alaska species, pollock 5,000 mt, Atka mackerel 5,000 mt, cod 2,000 mt and 1,000 mt of other species during the months of April to September 1983.			
Taiwan:			
Chief Dragon 737, bottom trawler	TW–83–0055	GOA	2, 3
Chief Dragon 101, bottom trawler	TW–83–0001	GOA	2, 3
Highly No. 303, refrigeration carrier	TW–83–0054	GOA	2, 3
Highly No. 707, refrigeration carrier	TW–83–0061	GOA	2, 3
Taiwan, Ms. Sara Hemphill, Alaska Contact Ltd., 750 West Second Ave., Suite 203, Anchorage, Alaska 99501, and Mr. Conan Huang, Dragon (North America) Inc., 2208—43rd Place, S.E., Bothell, Washington 98011, have applied to engage in a joint venture fishery aimed at producing 1,500 mt of flounder and turbots, 1,800 mt of Pacific cod and 200 mt of other species from January 1st to December 31st 1983.			
Korea:			
No. 7 Sang Won, stern trawler	KS–83–0041	BSA, GOA	1, 2, 3
The Republic of Korea and Mr. Richard Schwindt, North Pacific Corp., 4204, Meridian, Suite #108, Bellingham, Washington 98225, USA, have applied to engage in a joint venture fishery aimed at producing 2,100 mt of pollock, 400 mt of pacific cod and 6,100 mt of other species during the months of March 1983 to October 1983.			
Gaecheog Ho, factory ship	KS–83–0112	BSA, GOA	2, 3
Kyungyang Ho, stern trawler	KS–83–0085	BSA, GOA	2, 3
Gaeyang Ho, stern trawler	KS–83–0001	BSA, GOA	1, 2, 3
Cheogyang Ho, stern trawler	KS–83–0003	BSA, GOA	1, 2, 3
Keumkangsan Ho, stern trawler	KS–83–0084	BSA, GOA	1, 2, 3
Hwarang Ho, stern trawler	KS–83–0127	BSA, GOA	1, 2, 3
The Republic of Korea and Fish Producers Associates, Inc., (FPA), P.O. Box 273, Vancouver, Washington 98660, USA, have applied to engage in a joint venture fishery aimed at producing 31,900 mt of pollock, pacific cod and flounders and 100 mt bycatch species from January 25th to October 31st, 1983.			
Shin An Ho, large stern trawler	KS–83–0047	BSA, GOA	1, 2, 3
Nam Bug Ho, stern trawler	KS–83–0033	BSA, GOA	1, 2, 3
No. 52, Dae Jin, large stern trawler	KS–83–0037	BSA, GOA	1, 2, 3
Oyang Ho, factory type stern trawler	KS–83–0006	BSA, GOA	1, 2, 3
Dongsan Ho, large stern trawler	KS–83–0039	BSA, GOA	1, 2, 3
Tae Baek Ho, large stern trawler	KS–83–0042	BSA, GOA	1, 2, 3
Dae Sung Ho, large stern trawler	KS–83–0051	BSA, GOA	1, 2, 3
Han Kil Ho, medium stern trawler	KS–83–0044	BSA, GOA	1, 2, 3
Han Jin Ho, medium stern trawler	KS–83–0045	BSA, GOA	1, 2, 3
Han Il Ho, medium stern trawler	KS–83–0107	BSA, GOA	1, 2, 3
No. 70 Oyang Ho, stern trawler	KS–83–0048	BSA, GOA	1, 2, 3
Yuyang Ho, large stern trawler	KS–83–0104	BSA, GOA	1, 2, 3
Shinyang Ho, large stern trawler	KS–83–0122	BSA, GOA	1, 2, 3
No. 1 Hansung, large stern trawler	KS–83–0106	BSA, GOA	1, 2, 3
No. 215 Tae Baek, medium stern trawler	KS–83–0105	BSA, GOA	1, 2, 3
No. 315 Tae Baek, medium stern trawler	KS–83–0117	BSA, GOA	1, 2, 3
The Republic of Korea and J. V. Fisheries Ltd., Canal Place Office Park, 150 Nickerson, Suite 207, Seattle, Washington 98109, USA, have applied to engage in a joint venture fishery aimed at producing 16,500 mt of pollock, 1,500 mt of pacific cod, flounder and bycatch during the months of February 15th to April 31, 1983 and September 15th to October 15, 1983.			
Federal Republic of Germany: *Friedrich Busse*, large stern trawler	GE–83–0010	BSA, GOA	1, 2
The Federal Republic of Germany and Jeff Hendriks and Associates, Commercial Ocean Fisheries, P.O. Box 190, Anacortes, Washington 98221, have applied to engage in a joint venture fishery aimed at producing pacific cod BSA 5,000 mt, GOA 1,000 mt and Alaska pollock BSA 1,000 mt, GOA 1,000 mt, in approximately February to September 1983.			

*Joint ventures.

[FR Doc. 82-34914 Filed 12-28-82; 8:45 am]
BILLING CODE 4710-09-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Notice 82-13]

Independent Review of Proposed Advanced Automation Plan; Notice of Pending Review

AGENCY: Office of the Secretary, DOT.

ACTION: Notice.

SUMMARY: The Department of Transportation, as part of the Federal Aviation Administration's Advanced Automation Program, has contracted for an independent review of the feasibility of the first phase of the proposed program. The purpose of this Notice is to advise the public that the review is taking place and that all documents reviewed by the contractor will be available for public review upon request.

ADDRESS: All requests to review the documents should be sent to: Valerio R. Hunt, Federal Aviation Administration, Office of Advanced Automation Program (AAP–1), 800 Independence Avenue, S.W., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Carolyn C. Blum, Office of the Secretary, Department of Transportation, Office of Installations and Logistics (M–62), 400 Seventh Street, S.W., Washington, D.C. 20590, (202) 426–4237.

SUPPLEMENTARY INFORMATION:

Background

A long and thorough review of the air traffic control system and its automation support capability was undertaken in 1981. Many alternatives were considered. The FAA Administrator announced the results of this review in his National Airspace System Plan of December, 1981. This plan included the Advanced Automation Program which consists of two major acquisitions. The first is the acquisition and implementation of the Host Computer System. The "host" computers will replace the existing 9020 computers, but will continue to utilize the current enroute software and display subsystems.

The Department of Transportation has entered into a contract with Western Electric Company, Inc., to provide an independent, outside analysis based on analogous Bell System experiences, to review the rehost objectives, assess the FAA's estimates of software changes required for rehost, and recommend key

areas which must be accounted for to ensure a successful transition to the rehost environment. In the performance of this contract, Western Electric's affiliate, Bell Telephone Laboratories, will have access to certain information concerning the existing hardware and software systems, FAA's rehost objectives and previous options analyses. All documents that Bell Laboratories will receive from the Government in connection with its duties under the contract will be in the public domain.

The purpose of this Notice is to advise all interested parties of the existence of that contract.

Issued in Washington, D.C., on December 17, 1982.

Robert L. Fairman,

Assistant Secretary for Administration.

[FR Doc. 82-35087 Filed 12-29-82; 8:45 am]

BILLING CODE 4910-62-M

Federal Aviation Administration

Draft Advisory Circular on Emergency Exits in Small Airplanes; Availability and Request for Comments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Draft Advisory Circular availability and request for comments.

SUMMARY: The draft Advisory Circular (AC) sets forth an acceptable means, but not the only means, of showing compliance with the Federal Aviation Regulations applicable to the size and shape of the emergency exits in small airplanes.

DATE: Commenters must identify file AC 23.807-1, Subject: Emergency Exits in Small Airplanes, and comments must be received on or before February 14, 1983.

ADDRESS: Send all comments to the draft Advisory Circular to: Federal Aviation Administration, ATTN: Regulations and Policy Office (ACE-110), 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Ervin E. Dvorak, Aerospace Engineer, Regulations and Policy Office (ACE-110), Aircraft Certification Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106. Commercial telephone (816) 374-6941 or FTS 758-6941.

SUPPLEMENTARY INFORMATION: Any person may obtain a copy of this draft Advisory Circular by writing to: Federal Aviation Administration, Aircraft Certification Division, Regulations and Policy Office (ACE-110), 601 East 12th Street, Kansas City, Missouri 64106.

Background

Civil Air Regulation (CAR) 3.387 and FAR 23.807 have required that all emergency exits have sufficient size and shape to admit a 19-x-26-inch ellipse. Time to egress through an exit is normally proportional to the total open area and the width of the exit. Area of a 19-x-26-inch ellipse is 388 square inches. Comparison studies for evacuation demonstrations with the standard 19-x-26-inch ellipse have shown that the duration to egress was equal or less with exits having a total open area equal to or greater than 388 square inches and a width greater than 19 inches, but lacking the shape to admit a 19-x-26-inch ellipse. The AC provides guidance on conducting equivalent level of safety findings for other sizes and shapes of emergency exits provided that the exit has a total open area equal to or greater than 388 square inches and the width is not less than 19 inches.

Comments Invited

Interested parties are invited to submit comments on the draft AC. Comments received on the draft AC may be inspected at the offices of the Regulations and Policy Office (ACE-110), Room 1656, Federal Office Building, 601 East 12th Street, Kansas City, Missouri, between the hours of 7:30 a.m. and 4 p.m. on weekdays, except Federal holidays.

Issued in Kansas City, Missouri, December 8, 1982.

Murray E. Smith,

Director, Central Region.

[FR Doc. 82-35475 Filed 12-29-82; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

Environmental Impact Statement; Lewis & Clark County, Montana

AGENCY: Federal Highway Administration (FHWA), DOT.

SUMMARY: The FHWA is issuing this notice to advise that an environmental impact statement will be prepared for a proposed highway project in Lewis & Clark County, Montana.

FOR FURTHER INFORMATION CONTACT: Mr. Gerald L. Eller, Program Development Engineer, Federal Highway Administration, Federal Office Building, 301 S. Park, Drawer 10056, Helena, Montana 59626, Telephone (406) 449-5310; or Mr. Steve Kologi, Chief, Preconstruction Section, Montana Department of Highways, 2701 Prospect Street, Helena, Montana 59620, Telephone (406) 449-2495.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Montana Department of Highways will prepare an environmental impact statement (EIS) on a proposal to improve 6.0 miles of U.S. Highway 12 between the base of MacDonald Pass and Helena. A previous EIS Statement was developed for this project and approved 25 January 1975 but subsequent litigation found that document inadequate. Accordingly, to comply with the court ruling, we will commence studies to fully consider the environmental impact of this project.

The present highway is a substandard old two lane highway. Prior to the halt of work on the project, some of the right-of-way needed for the 4-lane construction had been acquired. No homes or businesses have been relocated.

The Department of Highways has retained a Consultant Engineering firm to expedite the studies. A scoping meeting will be held at or near the project location. This meeting will be advertised locally but anyone wishing to be invited is requested to notify the Department of Highways at the following address: Mr. Steve Kologi, Chief, Preconstruction Section, Montana Department of Highways, 2701 Prospect Street, Helena, Montana 59620.

Alternatives to be considered will include the taking of no action through a 4-lane project. New alignment outside the present corridor is not contemplated: however, minor realignment and encroachment outside the present right-of-way will be evaluated based on geometric and environmental considerations. Some significant issues to be addressed will be the impact on built up and landscaped front yards and the City of Helena Tenmile water transmission mains.

To ensure that the full range of issues related to this proposed action and the EIS are addressed, comments and suggestions should be directed to the FHWA at the address provided above.

Issued on December 22, 1982.

Volmer K. Jensen,

Division Administrator, Helena, Montana.

[FR Doc. 82-35315 Filed 12-29-82; 8:45 am]

BILLING CODE 4910-22-M

Maritime Administration

[Docket S-726 Sub 1]

Equity Carriers, Inc., et al.; Show Cause Notice

In the matter of Section 605(c) of the Merchant Marine Act, 1936, as amended.

Notice was given in the **Federal Register** on November 22, 1982, (47 FR 52592), Docket S-726, that Equity Carriers, Inc. (Carriers), and Equity Bulkship I-III Companies L.P. and Equity Maritime I-III Companies L.P. (collectively, Maritime) have filed an application dated November 9, 1982, for amendment of the Operating-Differential Subsidy Agreement (ODSA) held by Carriers, Contract No. MA/MSB-439.

The applicants have requested that Carriers be permitted to withdraw the dry bulk vessels STAR OF TEXAS and SPIRIT OF TEXAS from ODSA MA/MSB-439 and that the six 80,000 DWT OBOs to be constructed for the Maritime companies be substituted in lieu of those vessels. Subsidy payments for the operation of the OBOs are proposed to be fixed at a yearly lump sum of $1.8 million per vessel for a period of six and one-half years commencing at the date of delivery of each vessel, with a maximum aggregate payment of $54 million for all six vessels during such period. During the period of the ODS Contract, as amended pursuant to this application, the proposed OBO's will be used exclusively for the carriage of commercial dry bulk cargoes not subject to the cargo preference laws of the United States including, but not limited to 10 U.S.C. 2631, 46 U.S.C. 1241 and 15 U.S.C. 616a, unless the agencies administering such statutes determine that the cargoes involved would be otherwise waived to, or allocated for, foreign-flag carriage, and that the cargoes would be lifted at rates comparable to the rates offered by foreign-flag vessels and the tonnage lifted by the Applicants would not be computed by the agencies involved in a manner which would adversely affect the availability of cargo-preference cargoes which are usually carried by U.S.-flag vessels at premium rates. By letter dated December 8, 1982, Maritime has agreed to further limit its operations by refraining from engaging in the carriage of Strategic Petroleum Reserve cargoes during the period of the ODS Agreement, except under conditions similar to those in the caveat concerning the carriage of dry bulk preference cargoes contained in the applications discussed above.

The vessels operated by Carriers will be withdrawn in favor of the proposed OBO's as of the date of approval of this application by the Maritime Administration, and completion of all financing and contractual arrangements necessary to commence construction of the OBO vessels.

This application amends and restates the applications for Operating-Differential Subsidy filed by the Maritime companies on September 14, 1982, as amended September 23, 1982. Interested parties were invited to inspect this amended and restated application in the Office of the Secretary, Maritime Subsidy Board.

The notice stated that, "Any person, firm or corporation having an interest in such application who desires to offer views and comments thereon for consideration by the Maritime Subsidy Board should submit such views and comments in writing, in triplicate, to the Secretary, Maritime Subsidy Board, * * * by December 2, 1982." Timely petitions and comments were received from, or on behalf of Waterman Steamship Corporation (Waterman), Aries Marine Company (Aries) and American Maritime Association (AMA). Late filings were also received from Marine Transport Lines, Inc. (MTL), and American Trading Transportation Company, Inc. (ATT).

Each of the intervenors operate all water services as follows:

Waterman: Trade Route (TR) 17, TR 18, TR 12, TR 21 and TR 22, breakbulk and LASH services with privilege calls on TR 13 in Mediterranean Egypt. Waterman operates 10 vessels in these services, eight LASH and two breakbulk.

Aries: Worldwide bulk service with two OB8 OBO type vessels. Aries' ODSA is currently suspended pursuant to section 614 of the Merchant Marine Act, 1936, as amended.

AMA: AMA is an association of 36 companies operating 111 vessels of various types in the domestic and preference trades.

MTL: MTL has only been identified as an operator of U.S.-flag bulk vessels in domestic and preference trades. The extent and nature of that service was not defined.

ATT: ATT did not identify its operations or interest in the application. Maritime Administration information indicates that ATT is engaged primarily in coastwise and preference trades with four T2 tankers and one modern vessel of 50,000 DWT. ATT also has three more modern vessels under construction.

All of these operators except ATT have expressed the opinion that examination and a hearing pursuant to section 605(c) of the 1936 Act are required.

Under section 605(c) of the Act two aspects have to be considered, (1) whether or not the U.S.-flag service already provided is adequate and (2) if service is inadequate, whether or not in the accomplishment of the purposes and policy of the Act additional vessels should be operated on such service.

Data indicates that only 1.9 to 2.3 percent of all dry bulk cargoes in U.S. foreign commerce moved in U.S. bottoms between 1979 and the first half of 1982. The figures for liquid bulk cargoes for the same period are 3.7 to 4.0 percent.

As stated in section 101 of the 1936 Act, the purposes and policy of the Act are "to foster the development and encourage the maintenance" of a modern and effective merchant marine capable of meeting the nation's commercial and military needs. This was the policy established in 1936 and reaffirmed and extended to the bulk shipping sector by the 1970 amendments to the 1936 Act. The granting of the Maritime application would increase the bulk sector of the U.S. flag fleet by adding six modern, fuel efficient vessels, competitively manned by U.S. citizens, and which are required to meet foreign-flag competition. The new vessels would compete with foreign-flag carriers, would carry a substantial portion of the waterborne bulk export and import commerce of the United States and be capable of serving as naval auxiliaries. They would also certainly make a contribution towards relieving the current gross inadequacy of U.S. flag bulk service. Therefore, the Board is prepared to find that the award of the application would further the purposes and policy of the Act.

Interested parties are hereby given an opportunity to show cause why the Board should not find, under section 605(c) of the Act, that U.S.-flag worldwide bulk carriage is inadequate and that the effect of permitting the substitution of six proposed OBO vessel, for six and one half years each, for two existing dry bulk carriers, for 19 and 20 years each, would be in the accomplishment of the purposes and policy of the Act. Any person, firm or corporation having an interest in the application and who desires to submit such showing of cause, is invited to file a written statement in triplicate, by 5:00 P.M. on January 12, 1983.

Any party desiring an evidentiary hearing on the application should set forth his interest in the application and should, with particularity, articulate any or all of the facts upon which he desires to adduce evidence.

Allegations of factual issues which the party wishes the Board to consider in a hearing on the application shall include: (1) A clear and concise statement of the issues upon which a hearing is desired; and (2) the grounds upon which such

allegations rest, in such detail as to permit the Board to determine their exact nature.

(Catalog of Federal Domestic Assistance Program No. 20.804 Operating-Differential Subsidy (ODS))

By Order of the Maritime Subsidy Board

Dated: December 27, 1982.

Georgia P. Stamas,

Assistant Secretary.

[FR Doc. 82-35459 Filed 12-29-82; 8:45 am]

BILLING CODE 4910-81-M

National Highway Traffic Safety Administration

Denial of Petition to Commence Defect Proceeding

This notice sets forth the reasons for the denial of a petition to commence a proceeding to determine whether to issue an order pursuant to section 152(b) of the National Traffic and Motor Vehicle Safety Act, 15 U.S.C. 1412(b).

On June 3, 1982, John Jupin, Consumer Protection Investigator of the city of Virginia Beach, Virginia, on behalf of Lewis S. Tefft, petitioned for an investigation of a possibly safety-related defect in 1981 and 1982 Plymouth Reliant K vehicles, specifically that premature failure of air conditioning hoses could cause a "blinding white cloud" and possible loss of vehicle control by the operator.

NHTSA believes that the leak that apparently occurred in Mr. Tefft's hoses deposited some air conditioning system refrigerant oil on hot engine components, which entered the passenger compartment while the car was in motion. The agency learned that in May 1981 Chrysler had instituted a service campaign on early 1981 model "K" vehicles because of excessive wear of the air conditioning discharge and suction hoses, and that Mr. Tefft's car was eligible for correction. The manufacturer stated that it was not aware of any accidents, injuries, and instances of loss of vehicle control due to the condition. NHTSA itself found no similar complaints in its files. There being no reasonable possibility that an order of the nature requested would be issued at the conclusion of an investigation, the petition was denied on December 6, 1982.

(Secs. 124, 152, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1410a, 1412); delegations of authority of 49 CFR 1.50 and 501.8)

Issued on December 22, 1982.

Lynn L. Bradford,

Associate Administrator for Enforcement.

[FR Doc. 82-35171 Filed 12-29-82; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

Hazardous Substance Liability Insurance

AGENCY: Department of the Treasury.

ACTION: Determination on feasibility of private insurance as an alternative to the Post-Closure Liability Trust Fund (PCLF)

SUMMARY: Under Section 107(k)(4)(B) of the "Comprehensive Environmental Response, Compensation and Liability Act of 1980" (Pub. L. 96-510, December 11, 1980) and pursuant to the delegation of authoirity in Executive Order 12316 (August 14, 1981) the Secretary of the Treasury has determined that it is not feasible to establish or qualify an optional system of private insurance for post-closure financial responsibility for hazardous waste disposal facilities at this time.

DATE: Effective on the date the Secretary of the Treasury makes the determination.

FOR FURTHER INFORMATION CONTACT: Mark G. Bender, Room 3025, Department of the Treasury, 15th & Pennsylvania Avenue, NW., Washington, D.C. 20220.

SUPPLEMENTARY INFORMATION: Section 107(k)(4)(A) of the "Comprehensive Environmental Response, Compensation and Liability Act of 1980", or CERCLA, directed the Secretary of the Treasury to undertake a study and make a report on the "feasibility of establishing or qualifying an optional system of private insurance for post-closure financial responsibility for hazardous waste disposal facilities." That report was completed and submitted to Congress in March 1982 (see Part Three, Chapter 6, "Hazardous Substance Liability Insurance," Department of the Treasury, March 1982). It was concluded that at this time private insurance is not a feasible alternative to the Federally-administered Post-Closure Liability Trust Fund established by Subtitle C of Title II of CERCLA.

As required by Section 107(k)(4)(B), the reasons for the determination are reviewed below in a recapitulation of the Secretary's report.

I. The Post-Closure Liability Fund

The Post-Closure Liability Fund provided for by CERCLA was the end-product of major uncertainties faced by Congress in its efforts to provide for new and safe hazardous waste disposal facility capacity. Primary among these uncertainties were: (1) The ability and willingness of private industry to establish new hazardous waste facility capacity under RCRA; (2) the acceptability of new hazardous waste sites by local communities; (3) the distribution of responsibilities for the "perpetual" care and liability attendant to permitted sites; and (4) the availability and affordability of private insurance as a source of financial assurance for such sites.

The Post-Closure Liability Fund addresses many of these concerns by providing funds for the monitoring and maintenance and the assumption of liabilities of properly closed and permitted hazardous waste facilities in perpetuity. Specifically, the PCLF is designed to assume (1) all of the liability attendant to a "qualifying" hazardous waste facility at the end of the 5-year closure period (liability remaining with owners/operators during closure), and (2) the costs of monitoring and maintenance at the end of a 30-year period spanning both closure and post-closure.

II. Private Insurance for the Post-Closure Period

The question at hand is whether or not private insurance as an alternative to the PCLF will be available and affordable for the owners or operators of hazardous waste facilities in the post-closure period. Technically speaking, private insurance would have to extend a range of coverage comparable to the PCLF if it were to be considered as a feasible option or substitute for the PCLF. Given the current structure of the PCLF this means that private insurance would have to meet at least three major criteria.

First, private insurance would have to be available to the owners or operators of all hazardous waste facilities that met the eligibility standards of Section 107(k)—i.e., having been operated under RCRA permit, having been closed in accordance to "plan," and having been maintained for five years after closing without incident. Second, private insurance would have to accept all of the liability of facility owners or operators as imposed by CERCLA and "any other law" in perpetuity and without possibility of termination, this liability becoming effective the fifth year after facility closure. Finally, private insurance would have to provide the financial wherewithal for the monitoring and maintenance of facilities starting

thirty years after closing and continuing in perpetuity.

Impediments to Private Insurance

Some of the more significant impediments to the use of private insurance as a substitute for the PCLF are (1) the scope and nature of liability, (2) the difficulties of risk assessment, (3) the need for "perpetual" coverage, and (3) the potential for adverse risk selection.

Liability Considerations. For private insurance to substitute for the PCLF it would have to provide coverage for all claims actionable under "superfund" as well as all claims actionable under any other (common or statutory) law. Insurance coverage therefore would have to extend to all costs of removal or remedial action incurred by Federal or State authorities consistent with the National Contingency Plan, other necessary costs of response incurred by any other person consistent with the National Contingency Plan, damages for injury to, destruction of, or loss of natural resources, and, in addition, liabilities arising from all personal injury and property damage claims of third persons.

Accordingly, the problem of uncertain and potentially unlimited liability may be even greater under the PCLF standard than is the case under "superfund" *per se.* For one thing, a broader range of liabilities would be specifically open to action under Federal statute. For another, if private insurance were to substitute for the PCLF as now constituted, the owners or operators of "qualified" facilities could ultimately "walk away" from all liabilities. This means that the private insurance company must be prepared to "stand in the shoes" of the owner/operator, and in so doing render meaningless the normal limits, exclusions and defenses contained in standard insurance policies. If such a risk is assumed at all it would probably require significantly higher, perhaps prohibitive, premiums.

Risk Assessment. The problem of risk assessment as a barrier to the insurability of closed hazardous waste facilities can be expected to vary over time, being of minimal consequence at the time of closing but growing in importance throughout the post-closure period. The fact that owners or operators must monitor and maintain closed sites for a period of thirty years is an assuring factor in this respect. But once beyond this period there are no requirements that owners/operators undertake the expense of loss prevention measures, and the risks of facility deterioration will be increasing with time. Insurers have argued that the difficulties of such long-term risk assessment would be a significant barrier to private insurance as a substitute for the PCLF.

Perpetual Coverage. Pollution insurance coverage is currently extended on a "claims-made" basis only. But, significantly, the claims-made policy will honor only those claims presented during the effective term of the policy itself (unlike the occurrence-based policy, which will honor claims traceable to an incident which occurred while the policy was in effect whenever such claims are presented). Since this term is generally set for one year at a time, and since the policy may not be reissued for any number of reasons at the end of its term, the claims-made policy is uniquely unsuited to provide the type of perpetual coverage which is to be made available by the PCLF.

For one thing, the claims-made policy requires both an insurer willing and able to underwrite the risk of the closed facility year-after-year in perpetuity and an insured willing and able to pay premiums on a closed facility year-after-year in perpetuity. Practically speaking, these conditions may be difficult if not impossible to meet. Insurers as well as insureds may cease to exist over time, leading to temporary or even permanent interruptions of facility insurance coverage. Another likelihood is that as closed facilities deteriorate over time the underwriting risk will increase commensurately, forcing insurers to protect themselves in terms of ever-higher premiums. Such a cycle of events could lead rapidly to an affordability problem for insureds which effectively interrupts insurance coverage. Finally, the increasing burden over time of providing for the insurance coverage of a closed facility may lead some owners or operators to "abandon" that facility. In all of these cases the financial responsibility for the closed facility is likely to revert to the public sector.

Adverse Risk Selection. Another frequently-cited problem which may arise if a private insurance option to the PCLF is qualified is that of "adverse risk selection." The most common argument is that the higher-risk facilities will use the PCLF while lower-risk facilities will rely on private insurance. If this type of situation were to develop, it is argued that the financial integrity of the PCLF would be undermined, since fees collected from low-risk facilities would not be available to compensate for the disproportionate exposure of the high-risk facilities.

Variations on Private Insurance

The purchase of commercially-provided private insurance is not the only insurance option open to potential insureds. Other private-sector insurance arrangements may include self-insurance, captive insurance companies, pooling of risks, assigned risk pools, and so on. But attempting to use any of these options as an alternative to the PCLF encounters many of the same shortcomings apparent in the analysis of the commercial insurance market.

For example, self-insurance as an option to the PCLF may be attractive to certain larger and financially-strong companies. It can be argued that many such companies are as financially "secure" as well-known insurers and that the precedent of self-insurance for pollution risks already exists under Federal regulations. However, even the strongest of firms is unlikely to be able to guarantee coverage of potentially unlimited liability in perpetuity: potential liabilities may well exceed available assets and in changing economic circumstances any firm may cease to exist, effectively terminating insurance coverage.

Captive insurance companies are attractive to some corporations as a means of insuring the risk exposures of the parent on a more cost-effective basis. But for all intents and purposes the captive insurer must operate as would other insurers in the same jurisdiction. Therefore, while some advantages might be realized in terms of affordability and the capability of the insurer to ultimately accept all responsibility for the closed hazardous waste site, the captive is really no better positioned with respect to the major problems of unlimited liability or existence in perpetuity than are commercial insurers.

The pooling of risks as is done currently with the P & I Associations and the recently-formed Pollution Liability Insurance Association would undoubtedly ease the burden of a pollution incident for any given underwriter, but, here too, comparability with the PCLF would be difficult if not impossible to achieve. Again, post-closure liability is uncertain and potentially unlimited, an underwriting problem no more acceptable to mutual associations than to individual insurance companies. And an insurance pool is not much more likely to commit itself to the perpetual, noncancellable coverage of a closed facility than is an individual insurer. Nor can it be guaranteed that all qualified facilities would be accepted as an insurable risk by the pool.

The same insurability problems which pertain to commercially-purchased insurance, self-insurance, captive

insurance companies, and the pooling of risks would extend to one degree or another to most, if not all, purely private sector post-closure financial assurance options.

III. Measures to Foster Private Post-Closure Insurance

The analysis suggests that private insurance as a substitute in the entirety for the PCLF may not be feasible in the foreseeable future. The scope and nature of the coverage provided by the PCLF is simply too distinct from that of the traditional property-casualty insurers to be readily assumed by the latter. Therefore, the development of a significant role for private insurance means that either (1) the social goals in support of which the PCLF is designed be scaled back so as to allow substitution in the entirety by private insurance, or (2) the role of the PCLF be redefined so as to allow achievement of the same goals in concert with as much private insurance participation as is feasible at any given point in time.

Scaling Back Social Goals

Under CERCLA the owners or operators of permitted hazardous waste disposal facilities can be exempted from the payment of the PCLF tax if they enroll in any private insurance plan that is deemed to qualify as a substitute for the PCLF. But for all of the reasons discussed in detail previously, private insurance plans are unlikely to be able to substitute for the PCLF at this time. Thus the mutually exclusive insurance arrangements currently called for—i.e., either pay the tax and insure with the PCLF or arrange to purchase equivalent private insurance in lieu of the tax—most probably will leave potential insureds with no choice but the PCLF.

It would seem that as long as the "either/or" insurance arrangement implied by CERCLA remains extant, private insurance as an option may be feasible only if compromises are made, or expectations lowered, with respect to the scope and nature of the coverage required. In short, the insurance coverage requirements would have to correspond much more closely to what the private market reasonably can be expected to provide. As a minimum, therefore, the public policy compromises probably would involve the acceptance of the following: (1) limits on liability for private parties; (2) provisions for cancellable and nonperpetual insurance contracts such as the claims-made policy or the limited-term annuity; and (3) the retention by facility owners and operators of all responsibility for insuring, monitoring, and maintaining their facilities in perpetuity.

However, if measures such as these were to be taken in order to qualify private insurance for post-closure purposes a major complicating factor might be introduced. This complication would be in the form of an extraordinary asymmetry between the coverage available from private insurers and that of the Federally-administered PCLF. Presumably, potential insureds would still have to choose between either the PCLF or private insurance. But the asymmetrical coverages would undoubtedly add to problems of adverse risk selection, cyclical market capacity, uncertain PCLF funding, non-uniform coverage of insured facilities, and overall market instability as insurers and insureds sought out optimum responses to ever-changing tax/premium/coverage relationships.

The cost of bringing a reasonable amount of stability, predictability, and uniformity of coverage to the post-closure insurance situation depicted above would be the diminution of the coverage of the PCLF to something more consistent with private market capabilities, such that the alternative insurance programs would be truer substitutes one for the other. But while doing this may provide for a viable alternative to the financing system of the PCLF, it would also involve a scaling back of the social goals implicit in the PCLF and this would be a matter for serious Congressional consideration.

Redefining the Post-Closure Liability Fund

Private insurance participation in post-closure may well be encouraged and fostered without undue sacrifice of social goals if the functions of the PCLF were to be redefined in ways which served to supplement—rather than supplant—private coverage. For example, the tax-financed PCLF could be altered so as to serve as a "last resort" for claimants. In this case the owners or operators of facilities would continue to demonstrate financial responsibility for closed facilities by means of deductibles, private insurance, and so on. In the event that claims exceeded the limits of the financial responsibility requirements established (by statute or regulation) for owners/operators the additional compensation would be provided by the "fund". The Federally-administered fund might also assume all responsibility for closed facilities at that point in time when private insurance were no longer available (e.g., the termination of the 30-year monitoring and maintenance period).

Alternatively, the PCLF might be restructured to assume the role of a "reinsurer". In this case private insurers might be much more willing to underwrite insurance for closed facilities if they in turn can spread the risk to another party through reinsurance. As noted in earlier analysis, private reinsurance arrangements, such as the Pollution Liability Insurance Association, would encounter many of the same problems with post-closure as any individual insurer. But this would not be the case for a government-sponsored reinsurance program. Thus the PCLF might be designed to pick up any "excess of loss" of private insurers over and above stipulated limits; another variation might have the PCLF provide "stop loss" coverage in which event the primary insurer is protected against losses exceeding an agreed upon percentage.

Finally, the PCLF could be given the role of serving in perpetuity as the "trustee" or "administrator" of all post-closure sites, leveraging its own funds by purchasing private insurance coverage in the commercial market. In this case liability limits would be established and private insurers would be invited to bid on an annual basis for the coverage of closed sites. Loss exposures beyond the established limits, catastrophic losses, and "uninsurable" sites would remain the total responsibility of the government fund, in additon to the payment of premiums for private coverage purchased and the monitoring and maintenance of sites.

Unfortunately, as it turns out none of the combined public/private insurance programs which seem reasonable at this point in time provide a clear and separate alternative to the need to finance via taxes a PCLF-type fund. In the cases of the PCLF as a "last resort" or as a "reinsurer" there would be a need for industry to purchase private insurance as well as finance the government fund (presumably at a new rate of taxation). Whether or not such a combination of payments would be more cost effective than the current PCLF tax alone is not now determinable. And in the case of the PCLF acting as "administrator" industry still would be obliged at least to make a tax payment to finance the fund.

Standards for Private Insurance.

All of the foregoing measures to foster private insurance participation in post-closure could necessitate the establishment of "qualifying" standards or criteria. Until further experience is gained with respect to the nature of the risks and the losses incurred it seems reasonable to expect insurers to be able to respond at least within the limits of

the current requirements for operating facilities. At least initially, therefore, any standards which might be developed for private post-closure insurance could probably parallel closely existing RCRA requirements.

IV. Findings and Conclusions

For commercially-purchased private insurance to substitute for the coverage extended by the PCLF, at a minimum it would have to meet the following standards: First, private insurance would have to be available for each and every qualifying hazardous waste site (at the affordable premium). Second, the private insurers would have to be willing to accept an uncertain and potentially unlimited exposure to liability as defined under CERCLA and "any other law". Third, private insurance would have to provide financial assurance for liability and, after thirty years, monitoring and maintenance in perpetuity. Finally, in order to allow the owners or operators of qualified facilities to "walk away" from all future responsibilities for such sites, private insurers would have to "step into the shoes" of owners or operators and effectively assume all managerial responsibilities for insured sites.

Nothing in the materials submitted for this study suggested that this type of comprehensive private insurance option for the PCLF is feasible now or in the foreseeable future. This observation applies equally to commercially-purchased insurance and insurance variations such as self-insurance, captive insurance, and others.

Determination: Under Section 107(k)(4)(B) of CERCLA the determination of whether or not it is feasible to qualify a private insurance option for post-closure financial responsibility is to be made "after a public hearing." On May 5, 1982, a public notice was published (See 47 FR 19504) stating that a public hearing on this issue would be held on June 2, 1982 in the Main Treasury Building, Washington, D.C., if interested persons wished to make an oral presentation. The notice also stated that any written data that interested persons wished to submit in lieu of making a presentation at a hearing would be considererd, provided that such comments were received by June 9, 1982.

Since no person requested to make an oral presentation, a public notice of cancellation of the scheduled public hearing was published (See 47 FR 23842). Since no materials or additional information which have been presented since the publication of the Secretary's report would cause any significant alteration in the findings of that report, the Secretary of the Treasury determined that it is not feasible to establish or qualify an optional system of private insurance for post-closure financial responsibility for hazardous waste disposal facilities at this time.

Mark G. Bender,

Acting Deputy Assistant Secretary, Office of Financial Institutions Policy.

December 27, 1982.

[FR Doc. 82-35471 Filed 12-29-82; 8:45 am]

BILLING CODE 4810-25-M

Comptroller of the Currency

[Docket No. 82-27]

Termination of Closed Receivership Fund; Second Notice

Note.—This document originally appeared in the Federal Register of December 23, 1982. It is reprinted in this issue at the request of the agency.

AGENCY: Comptroller of the Currency, Treasury.

ACTION: Notice of termination.

SUMMARY: Notice is hereby given that all rights of depositors and other creditors of national banks which have been closed and for which the Comptroller has appointed a receiver other than the Federal Deposit Insurance Corporation to collect liquidating dividends from the "closed receivership fund" shall be barred after twelve months following the date of the fourth publication of this notice.

FOR FURTHER INFORMATION CONTACT: Howard J. Finkelstein, Attorney, Legal Advisory Services Division, Comptroller of the Currency, Washington, D.C. 20219, (202) 447-1880.

SUPPLEMENTARY INFORMATION: Pursuant to Section 409 of the Garn-St Germain Depository Institutions Act of 1982, Pub. L. 97-320 (October 15, 1982), notice is hereby given that all rights of depositors and other creditors of closed national banks to collect liquidating dividends from the "closed receivership fund" will be barred after twelve months following the date of the fourth publication of this notice.

Sections 721-723 of the Depository Institutions Deregulation and Monetary Control Act of 1980 clarified the status of the "closed receivership fund" by establishing a procedure for the satisfaction or cancellation of all outstanding claims for liquidating dividends and the termination of the fund. However, the 1980 law applied only to national banks closed on or before January 22, 1934. After the law was passed it came to the Office's attention that there had been at least one bank closed after the above date for which the Comptroller appointed a receiver other than the Federal Deposit Insurance Company. The office therefore sought clarification of the 1980 law from Congress. Congress provided such clarification in Section 409 of Pub. L. 97-320 by striking the date of January 22, 1934 from the statute and substituting therefor the phrase "which have been closed and for which the Comptroller has appointed a receiver other than the Federal Deposit Insurance Corporation."

Under the provisions of the amended law, the Office will publish notices in the Federal Register once each week for four consecutive weeks that all rights of depositors and creditors of the fund will be barred after twelve months following the last date of publication of such notice. This is the second such notice. During this twelve month period, the Office will accept claims for liquidating dividends from the fund. A claim should consist of a Proof of Claim form received from the receiver at the time of the bank's closing or other acceptable evidence of an unsatisfied claim. Claims should be sent to the attention of Mr. Robert L Teets, Manager, Accounting Programs, Office of the Comptroller of the Currency, 490 L'Enfant Plaza East, S.W., Washington, D.C. 20219.

Following the close of the twelve month period, all unclaimed dividends, together with income earned on liquidating dividends and other moneys remaining in the fund, will be covered into the general funds of the Office.

Dated: December 2, 1982.

C. T. Conover,

Comptroller of the Currency.

[FR Doc. 82-34793 Filed 12-22-82; 8:45 am]

BILLING CODE 4810-33-M

VETERANS ADMINISTRATION

Veterans Administration Wage Committee; Meetings

The Veterans Administration, in accordance with Pub. L. 92-463, gives notice that meetings of the Veterans Administration Wage Committee will be held on: Thursday, January 6, 1983; Thursday, January 20, 1983; Thursday, February 3, 1983; Thursday, February 17, 1983; Thursday, March 3, 1983; Thursday, March 17, 1983; and Thursday, March 31, 1983.

The meetings will begin at 2:30 p.m. and will be held in Room 304, Veterans Administration Central Office, 810 Vermont Avenue, NW., Washington, DC 20420.

The Committee's purpose is to advise the Chief Medical Director on the development and authorization of wage schedules for Federal Wage System (blue-collar) employees.

At these meetings the Committee will consider wage survey specifications, wage survey data, local committee reports and recommendations, statistical analyses, and proposed wage schedules.

All portions of the meetings will be closed to the public because the matters considered are related solely to the internal personnel rules and practices of the Veterans Administration and because the wage survey data considered by the Committee have been obtained from officials of private business establishments with a guarantee that the data will be held in confidence. Closure of the meetings is in accordance with subsection 10(d) of Pub. L. 92–463, as amended by Pub. L. 94–409, and as cited in 5 U.S.C. 552b(c)(2) and (4).

However, members of the public are invited to submit material in writing to the Chairman for the Committee's attention.

Additional information concerning these meetings may be obtained from the Chairman, Veterans Administration Wage Committee, Room 1175, 810 Vermont Avenue, NW., Washington, DC 20420.

Dated: December 15, 1982.

By Direction of the Administrator.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 82-35346 Filed 12-29-82; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 251
Thursday, December 30, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Federal Election Commission	1
Federal Reserve System	2

1

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, January 4, 1983 at 10 a.m.

PLACE: 1325 K Street, N.W., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Compliance. Litigation. Audits. Personnel.

* * * * *

DATE AND TIME: Thursday, January 6, 1983 at 10 a.m.

PLACE: 1325 K Street, N.W., Washington, D.C. (fifth floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of dates for future meetings
Correction and approval of minutes
Enforcement of 26 U.S.C. 9012(f) in light of *FEC v. AFC* 82–170 (continued from 12–16 meeting)
Classfication action: Administrative Clerk, Press Office, Information Division
Routine administrative matters

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Public Information Officer; Telephone 202–523–4065.

Marjorie W. Emmons,

Secretary of the Commission

[S–1869–82 Filed 12–28–82; 3:44 pm]

BILLING CODE 6715–01–M

2

FEDERAL RESERVE SYSTEM

Board of Governors

TIME AND DATE: 10 a.m., Wednesday, January 5, 1983.

PLACE: 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed renovation and expansion of the Federal Reserve Bank of Chicago.
2. Personnel actions (appointments, promotions, assignments reassignments, and salary actions) involving individual Federal Reserve System employees..

Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated: December 28, 1982.

James McAfee,

Associate Secretary of the Board.

[S–1868–82 Filed 12–28–82; 2:51 pm]

BILLING CODE 6210–01–M

federal register

Thursday
December 30, 1982

Part II

Department of the Interior

Fish and Wildlife Service

Endangered and Threatened Wildlife and Plants; Review of Vertebrate Wildlife for Listing as Endangered or Threatened Species

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Review of Vertebrate Wildlife for Listing as Endangered or Threatened Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of review.

SUMMARY: The Service identifies vertebrate animal taxa, native to the U.S., being considered for addition to the List of Endangered and Threatened Wildlife. The presence of such taxa should be taken into account in enivironmental planning. Also identified are those vertebrate taxa that were previously under consideration for listing, but that are currently presumed either to be extinct, to not be valid species or subspecies, or to be more abundant and widespread than previously thought and/or not subject to identifiable threats.

DATE: Comments may be submitted until further notice.

ADDRESSES: Interested persons or organizations are requested to submit comments to: Director (OES), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Comments and materials relating to this notice are available for public inspection by appointment during normal business hours at the Service's Office of Endangered Species, Suite 500, 1000 North Glebe Road, Arlington, Virginia.

Information relating to particular taxa may be obtained from appropriate Service Regional Offices listed below:

Region 1.—California, Hawaii, Idaho, Nevada, Oregon, Washington, and Pacific Trust Territories

Regional Director (ARD/FA), U.S. Fish and Wildlife Service, Suite 1692, Lloyd 500 Building, 500 NE. Multnomah Street, Portland, Oregon 97232, Telephone: 503/231–6131 (FTS:8/429–6131)

Region 2.—Arizona, New Mexico, Oklahoma, and Texas

Regional Director (ARD/FA), U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103, Telephone: 505/766–3972 (FTS: 8/474–3972)

Region 3.—Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, and Wisconsin

Regional Director (ARD/FA), U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111, Telephone: 612/725–3596 (FTS: 8/725–3596)

Region 4.—Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Puerto Rico, and the Virgin Islands

Regional Director (ARD/FA), U.S. Fish and Wildlife Service, The Richard B. Russell Federal Building, 75 Spring Street, S.W., Atlanta, Georgia 30303, Telephone: 404/221–3583 (FTS:8/242–3583)

Region 5.—Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia

Regional Director (ARD/FA), U.S. Fish and Wildlife Service, Suite 700, One Gateway Center, Newton Corner, Massachusetts 02158, Telephone: 617/965–5100 ext. 316 (FTS:8/829–9316, 7, 8)

Region 6.—Colorado, Kansas, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming (Iowa and Missouri under Region 3 after October 1, 1980)

Regional Director (ARD/FA), U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225, Telephone: 303/234–2496 (FTS: 8/234–2496)

Region 7.—Alaska

Regional Director (ARD/FA), U.S. Fish and Wildlife Service, 1101 East Tudor Road, Anchorage, Alaska 99503, Telephone: 907/263–3539 (FTS: 8/907/263–3539)

FOR FURTHER INFORMATION CONTACT: John L. Spinks, Jr., Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–2771), or the appropriate Regional Office.

SUPPLEMENTARY INFORMATION: The Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*) requires determination of whether species of wildlife and plants are Endangered or Threatened, based on the best available scientific and commercial data. For many years, the U.S. Fish and Wildlife Service has been gathering data on taxa of vertebrates (fishes, amphibians, reptiles, birds, and mammals), native to the United States, which have appeared, at least at times, to warrant consideration for addition to the List of Endangered and Threatened Wildlife. The accompanying table identified many of these taxa (including, by definition, biological subspecies) and assigns each to one of the following three categories.

Category 1 comprises taxa for which the Service currently has substantial information on hand to support the biological appropriateness of proposing to list the species as Endangered or Threatened. Currently, data is being gathered concerning the environmental impacts of listings and the economic effects of Critical Habitat designations. Development and publication of proposed rules on such species is anticipated.

Category 2 comprises taxa for which information now in possession of the Service indicates that proposing to list the species as Endangered or Threatened is possibly appropriate, but for which substantial data are not currently available to biologically support a proposed rule. Further biological research and field study will usually be necessary to ascertain the status of the taxa in this category, and it is likely that some of the taxa will not warrant listing.

Category 3 comprises taxa that are no longer being considered for listing as Endangered or Threatened. Such taxa are included in one of three categories, depending on the reasons for removal form consideration.

3A. Taxa for which the Service has persuasive evidence of extinction. If rediscovered, however, such species might acquire high priority for listing. At this time, the best available information indicates that the taxa included in this category, or the habitats from which they were known, are in fact extinct or destroyed, respectively.

3B. Names that on the basis of current taxonomic understanding, usually as represented in published revisions and monographs, do not represent taxa meeting the Act's definition of "species." Such supposed taxa could be reevaluated in the future on the basis of subsequent research.

3C. Taxa that have proven to be more abundant or widespread than was previously believed and/or those that are not subject to any identifiable threat. Should further research or changes in land use indicate significant decline in any of these taxa, they may be reevaluated for possible inclusion in Categories 1 or 2.

The Service hereby solicits data concerning the taxa in the accompanying table. Especially sought is information:

(1) Indicating that a taxon would more properly be assigned to a category other than the one in which it appears;

(2) Nominating a taxon not included in the table;

(3) Recommending an area as Critical Habitat for a candidate taxon, or indicating why it would not be prudent to propose Critical Habitat for a taxon,

or why Critical Habitat may not be determinable for a taxon.

(4) Documenting threats to any of the listed taxa;

(5) Pointing out taxonomic changes for any of the taxa;

(6) Suggesting new or more appropriate names; or

(7) Noting errors, such as in the indicated distributions.

The Service intends to consider all data received in response to this notice, to make appropriate amendments to the accompanying table, and to indicate intentions with regard to future listing actions. Substantive changes in status may be announced by periodic notices in the **Federal Register.**

The following table is arranged in a general systematic order, beginning with fishes and ending with mammals. For each taxon, the assigned category appears on the left. Then comes the common name, the scientific name, the family name, and the known distribution, usually indicated by abbreviations of State names. The species may no longer occur in some of the areas shown. Some taxa have been included that have not yet been formally described in the scientific literature. Such taxa are indicated by the abbreviation "sp." after the generic name, or "ssp." after the generic and specific names. In the section on birds, the abbreviation "N" indicates the nesting range of the species, and the abbreviation "V" indicates additional areas in which the species is a regular visitor.

The notice was prepared by the vertebrate zoologists in the Service's Office of Endangered Species in Washington, and the Endangered Species Program staff of the Service's Regional Offices and Field Stations.

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture), Wildlife.

Dated: December 17, 1982.

J. Craig Potter,

Deputy Assistant Secretary for Fish and Wildlife and Parks.

Category and common name	Scientific name	Family	Distribution
Fishes			
2—Lake sturgeon	*Acipenser fulvescens*	Acipenseridae	AL, AR, GA, IA, IL, IN, KS, KY, LA, MI, MN, MO, MS, NE, NY, OH, PA, SD, TN, VT, WI, WV, Canada
2—Gulf sturgeon	*Acipenser oxyrhyncus desotoi*	Acipensedae	AL, FL, GA, LA, MS
2—Pallid sturgeon	*Scaphirhynchus albus*	Acipensedae	AR, IA, IL, KS, KY, LA, MO, MS, MT, ND, NE, SD, TN.
2—Alabama shovelnose sturgeon	*Scaphirhynchus platorynchus ssp*	Acipensedae	AL, MS.
3C—Paddlefish	*Polyodon spathula*	Polyodontidae	AL, AR, IA, IL, IN, KS, KY, LA, MN, MO, MS, MT, ND, NE, OH, OK, PA, SD, TN, TX, WI.
3A—Deepwater cisco	*Coregonus johannae*	Salmonidae	IL, IN, MI, WI, Canada (Lakes Huron and Michigan)
3A—Blackfin Cisco	*Coregonus nigripinnis nigripinnis*	Salmonidae	IL, IN, MI, WI, Canada (Lakes Huron and Michigan).
1—Shortnose Cisco	*Coregonus reighardi*	Salmonidae	IL, IN, MI, NY, WI, Canada (Lakes Huron, Michigan, and Ontario).
2—Shortjaw cisco	*Coregonus zenithicus*	Salmonidae	IL, IN, MI, MN, WI, Canada (Lakes Huron, Michigan, and Superior).
2—Colorado cutthroat trout	*Salmo clarki pleuriticus*	Salmonidae	CO, UT, WY
2—Utah cutthroat trout	*Salmo clarki utah*	Siamonidae	UT, WY, NV.
3C—Rio Grande cutthroat trout	*Salmo clarki virginialis*	Salmonidae	CO, NM
2—Redband trout	*Salmo sp*	Salmonidae	CA, OR, ID, NV
2—Montana Arctic grayling	*Thymallus arcticus montanus*	Salmonidae	MT.
2—Olympic mudminnow	*Novumbra hubbsi*	Umbridae	WA.
2—Mexican stoneroller	*Campostoma ornatum*	Cyprinidae	AZ, TX, Mexico
2—Devil's River minnow	*Dionda diaboli*	Cyprinidae	TX.
1—Desert dace	*Eremichtys acros*	Cyprinidae	NV.
1—Fish Creek springs tui chub	*Gila bicolor euchila*	Cyprinidae	NV
2—Sheldon tui chub	*Gila bicolor eurysoma*	Cyprinidae	NV, OR
2—Independence Valley tui chub	*Gila bicolor isolata*	Cyprinidae	NV
2—Newark Valley tui chub	*Gila bicolor newarkensis*	Cyprinidae	NV
2—Oregon Lakes tui chub	*Gila bicolor oregonensis*	Cyprinidae	OR
1—Owens tui chub	*Gila bicolor snyderi*	Cyprinidae	CA.
2—Cowhead Lake tui chub	*Gila bicolor vaccaceps*	Cyprinidae	CA.
2—Big Smoky Valley tui chub	*Gila bicolor ssp*	Cyprinidae	NV
2—Catlow tui chub	*Gila bicolor ssp*	Cyprinidae	OR
2—Dixie Valley tui chub	*Gila bicolor ssp*	Cyprinidae	NV
2—Fish Lake Valley tui chub	*Gila bicolor ssp*	Cyprinidae	NV.
1—Hutton Spring tui chub	*Gila bicolor ssp*	Cyprinidae	OR.
2—Railroad Valley tui chub	*Gila bicolor ssp*	Cyprinidae	NV
2—Summer Basin tui chub	*Gila bicolor ssp*	Cyprinidae	OR
3A—Thicktail chub	*Gila crassicauda*	Cyprinidae	CA
1—Gila chub	*Gila intermedia*	Cyprinidae	AZ, NM.
2—Sonora chub	*Gila ditaenia*	Cyprinidae	AZ, Mexico
1—Yaqui chub	*Gila purpurea*	Cyprinidae	AZ, Mexico.
2—Gila roundtail chub	*Gila robusta grahami*	Cyprinidae	AZ, NM
1—Virgin River roundtail chub	*Gila robusta seminuda*	Cyprinidae	AZ, NV, UT.
2—Moapa roundtail chub	*Gila robusta ssp*	Cyprinidae	NV.
2—Oregon chub	*Hybopsis crameri*	Cyprinidae	OR.
2—Least chub	*Iotichthys phlegethontis*	Cyprinidae	UT.
1—White River spinedace	*Lepidomeda albivallis*	Cyprinidae	NV.
2—Virgin spinedace	*Lepidomeda mollispinis mollispinis*	Cyprinidae	AZ, NV, UT.
1—Big Spring spinedace	*Lepidomeda mollispinis praetensis*	Cyprinidae	NV
1—Little Colorado spinedace	*Lepidomeda vittata*	Cyprinidae	AZ.
1—Spikedace	*Meda fulgida*	Cyprinidae	AZ, NM.
2—Bluestripe shiner	*Notropis callitaenia*	Cyprinidae	AL, FL, GA.
2—Chihuahua shiner	*Notropis chihuahua*	Cyprinidae	TX.
1—Beautiful shiner	*Notropis formosus*	Cyprinidae	AZ, NM, Mexico.
2—Rio Grande shiner	*Notropis jemezanus*	Cyprinidae	NM.
2—Cape Fear shiner	*Notropis mekistocholas*	Cyprinidae	NC.
1—Phantom shiner	*Notropis orca*	Cyprinidae	TX, Mexico.
2—Sharpnose shiner	*Notropis oxyrhynchus*	Cyprinidae	TX.
1—Peppered shiner	*Notropis perpallidus*	Cyprinidae	AR, OK.
2—Proserpine shiner	*Notropis proserpinus*	Cyprinidae	TX.
1—Bluntnose shiner	*Notropis simus*	Cyprinidae	NM, TX.
2—Cahaba shiner	*Notropis sp*	Cyprinidae	AL.
2—Palezone shiner	*Notropis sp*	Cyprinidae	AL, KY, TN.

Category and common name	Scientific name	Family	Distribution
2—Kanawha minnow	*Phenacobius teretulus*	Cyprinidae	NC, VA, WV.
1—Mountain blackside dace	*Phoxinus cumberlandensis*	Cyprinidae	KY, TN.
2—Relicit dace	*Relictus solitarius*	Cyprinidae	NV.
2—Cheat minnow	*Rhinichthys bowersi*	Cyprinidae	WV.
2—Independence Valley speckled dace	*Rhinichthys osculus lethoporus*	Cyprinidae	NV.
2—Moapa speckled dace	*Rhinichthys osculus moapae*	Cyprinidae	NV.
1—Ash Meadows speckled dace	*Rhinichthys osculus nevadensis*	Cyprinidae	NV.
2—Clover Valley speckled dace	*Rhinichthys osculus oligoporus*	Cyprinidae	NV.
2—White River speckled dace	*Rhinichthys osculus velifer*	Cyprinidae	NV.
2—Amargosa Canyon speckled dace	*Rhinichthys osculus* ssp	Cyprinidae	CA.
2—Diamond Valley speckled dace	*Rhinichthys osculus* ssp	Cyprinidae	NV.
1—Foskett Spring speckled dace	*Rhinichthys osculus* ssp	Cyprinidae	OR.
2—Meadow Valley Wash speckled dace	*Rhinichthys osculus* ssp	Cyprinidae	NV.
2—Monitor Valley speckled dace	*Rhinichthys osculus* ssp	Cyprinidae	NV.
1—Loach minnow	*Tiaroga cobitis*	Cyprinidae	AZ, NM.
2—White River desert sucker	*Catostomus clarki intermedius*	Catostomidae	NV.
3B—Webug sucker	*Catostomus fecundus*	Catostomidae	UT.
2—Lost River sucker	*Catostomus luxatus*	Catostomidae	CA, OR.
1—Modoc sucker	*Catostomus microps*	Catostomidae	CA.
2—Goose Lake sucker	*Catostomus occidentalis* ssp	Catostomidae	CA, OR.
2—Jenny Creek sucker	*Catostomus rimiculus* ssp	Catostomidae	CA, OR.
2—Klamath largescale sucker	*Catostomus snyderi*	Catostomidae	CA, OR.
1—Warner sucker	*Catostomus warnernesis*	Catostomidae	OR.
2—Wall Canyon sucker	*Catostomus* sp	Catostomidae	NV.
2—Shortnose sucker	*Chasmistes brevirostris*	Catostomidae	CA, OR.
1—June sucker	*Chasmistes liorus*	Catostomidae	UT.
3C—Rustyside sucker	*Moxostma hamiltoni*	Catostomidae	VA.
2—Razorback sucker	*Xyrauchen texanus*	Catostomidae	AZ, CA, CO, NV, UT, WY.
2—Headwater catfish	*Ictalurus lupus*	Ictalurdae	NM, TX.
1—Yaqui catfish	*Ictalurus pricei*	Ictaluridae	AZ, Mexico.
2—Smoky madtom	*Norturus baileyi*	Ictaluridae	TN.
2—Caroline madtom	*Noturus funosus*	Ictalurdae	NC.
2—Orangefin madtom	*Noturus gilberti*	Ictalurdae	NC, VA.
1—Ouachita madtom	*Noturus lachneri*	Ictaluridae	AR.
2—Frecklebelly madtom	*Noturus munitus*	Ictaluridae	AL, GA, LA, MS, TN.
2—Neosho madtom	*Noturus placidus*	Ictalurdae	KS, MO, OK.
2—Pygmy madtom	*Noturus stanauli*	Ictaluridae	TN.
3C—Caddo madtom	*Noturus taylori*	Ictaluridae	AR.
2—Widemouth blindcat	*Satan eurystomus*	Ictaluridae	TX.
2—Toothless blindcat	*Troglogianis pattersoni*	Ictalurdae	TX.
2—Ozark cavefish	*Amblyopsis rosae*	Amblyopsidae	AR, MO, OK.
2—Northern cavefish	*Amblyopsis spelaea*	Amblyopsidae	IN, KY.
2—Preston White River springfish	*Crenichthys baileí albivallis*	Cyprinodontidae	NV.
1—White River springfish	*Crenichthys baileyi baileyi*	Cyprinodontidae	NV.
1—Hiko White River springfish	*Crenichthys baileyi grandis*	Cyprinodontidae	NV.
2—Moapa White River springfish	*Crenichthys baileyi moapa*	Cyprinodontidae	NV.
1—Railroad Valley springfish	*Crenichthys nevadae*	Cyprinodontidae	NV.
2—Conchos pupfish	*Cyrpinondon eximius*	Cyprinodontidae	TX, Mexico.
1—Desert pupfish	*Cyprinodon macularius*	Cyprinodontidae	AZ, CA, Mexico.
1—Ash Meadows pupfish	*Cyprinondon nevadensis mionectes*	Cyprinodontidae	NV.
2—Pexos pupfish	*Cyprinodon pecosensis*	Cyprinodontidae	NM, TX.
2—White Sands pupfish	*Cyprinodon tularosa*	Cyprinodontidae	NM.
3A—Monkey Springs pupfish	*Cyprinodon* sp	Cyprinodontidae	AZ.
2—Palomas pupfish	*Cyprinodon* sp	Cyprinodontidae	NM, Mexico.
3A—Whiteline topminnow	*Fundulus albolineatus*	Cyprinodontidae	AL.
2—Barrens topminnow	*Fundulus julisia*	Cyprinodontidae	TN.
2—Waccamaw killifish	*Fundulus waccamensis*	Cyprinodontidae	NC.
2—Blotched gambusia	*Gambusia senilis*	Poeciliidae	TX, Mexico.
2—Waccamaw silverside	*Mendidia extensa*	Atherinidae	NC.
2—Barred pygmy sunfish	*Elassoma* sp	Centrarchidae	NC, SC.
2—Spring pygmy sunfish	*Elassoma* sp	Centrarchidae	AL.
2—Guadalupe bass	*Micripterus treculi*	Centrarchidae	TX.
2—Crystal darter	*Ammocrypta asprella*	Percidae	AL, AR, FL, IA, IL, IN, KY, LA, MO, MS, OH, OK. TN, WI.
2—Eastern sand darter	*Ammocrypta pellucida*	Percidae	IL, IN, KY, MI, NY, OH, PA, WV.
2—Sharphead darter	*Etheostoma acuticeps*	Percidae	NC, TN, VA.
2—Coldwater darter	*Etheostoma ditrema*	Percidae	AL, GA, TN.
2—Rio Grande darter	*Etheostoma grahami*	Percidae	TX, Mexico.
2—Greenthroat darter	*Etheostoma lepidum*	Percidae	NM, TX.
3C—Yellowcheek darter	*Etheostoma moorei*	Percidae	AR.
2—Niangua darter	*Etheostoma nianguae*	Percidae	MO.
2—Finescale saddled darter	*Etheostoma osburni*	Percidae	VA, WV.
1—Paleback darter	*Etheostoma pallididorsum*	Percidae	AR.
2—Waccamaw darter	*Etheostoma perlongum*	Percidae	NC.
2—Trispot darter	*Etheostoma trisella*	Percidae	AL, GA, TN.
2—Tuscumbia darter	*Etheostoma tuscumbia*	Percidae	AL, TN.
2—Jewel darter	*Etheostoma (Doration)* sp	Percidae	TN.
2—Yazoo darter	*Etheostoma (Ulocentra)* sp	Percidae	MS.
2—Amber darter	*Percina antesella*	Percidae	GA, TN.
2—Goldline darter	*Percina aurolineata*	Percidae	AL, GA.
2—Bluestripe darter	*Percina cymatotaenia*	Percidae	MO.
2—Freckled darter	*Percina lenticula*	Percidae	AL, GA, LA, MS.
2—Longhead darter	*Percina macrocephala*	Percidae	KY, NC, NY, OH, PA, TN, VA, WV.
2—Longnose darter	*Percina nasuta*	Percidae	AR, MO, OK.
2—Roanoke logperch	*Percina rex*	Percidae	VA.
2—Tidewater goby	*Eucyclogobius newberryi*	Gobiidae	CA.
2—O'opu alamo'o	*Lentipes concolor*	Gobiidae	HI.
2—Rough sculpin	*Cottus asperrimus*	Cottidae	CA.
2—Malheur mottled sculpin	*Cottus bairdi* ssp	Cottidae	OR.
2—Shoshone sculpin	*Cottus greenei*	Cottidae	ID.
3c—Pygmy sculpin	*Cottus pygmaeus*	Cottidae	AL.
AMPHIBIANS			
2—Flatwoods salamander	*Ambystoma cingulatum*	Ambystomatidae	AL, FL, GA, MS, SC.

Category and common name	Scientific name	Family	Distribution
2—Sonoran tiger salamander	*Ambystoma tigrinum stebbinsi*	Ambystomatidae	AZ, Mexico.
2—Hellbender	*Cryptobranchus alleganiensis*	Cryptobranchidae	Eastern United States.
2—Green salamander	*Aneides aeneus*	Plethodontidae	Eastern United States.
2—Inyo Mountains salamander	*Batrachoseps campi*	Plethodontidae	CA.
2—Kern Canyon slender salamander	*Batrachoseps simatus*	Plethodontidae	CA.
2—Techachapi slender salamander	*Batrachoseps stebbinsi*	Plethodontidae	CA.
2—Barton Springs salamander	*Eurycea sp*	Plethodontidae	TX.
2—Junaluska salamander	*Eurycea junaluska*	Plethodontidae	NC
3B—Cascade Caverns salamander	*Eurycea latitans*	Plethodontidae	TX.
2—Texas salamander	*Eurycea neotenes*	Plethodontidae	TX
2—Comal blind salamander	*Eurycea tridentifera*	Plethodontidae	TX.
3B—Valdina Farms salamander	*Eurycea troglodytes*	Plethodontidae	TX.
2—Oklahoma salamander	*Eurycea tynerensis*	Plethodontidae	AR, OK, MO.
2—Tennessee cave salamander	*Gyrinophilus palleucus*	Plethodontidae	AL, GA, TN.
2—West Virginia spring salamander	*Gyrinophilus subterraneus*	Plethodontidae	WV.
2—Georgia blind salamander	*Haideotriton wallacei*	Plethodontidae	GA, FL.
2—Limestone salamander	*Hydromantes brunus*	Plethodontidae	CA.
2—Shasta salamander	*Hydromantes shastae*	Plethodontidae	CA.
2—Fourche Mountain salamander	*Plethodon fourchensis*	Plethodontidae	AR.
2—Peaks of Otter salamander	*Plethodon hubrichti*	Plethodontidae	VA.
2—Larch Mountain salamander	*Plethodon larselli*	Plethodontidae	OR, WA.
2—Jemez Mountain salamander	*Plethodon neomexicanus*	Plethodontidae	NM
2—Cheat Mountain salamander	*Plethodon nettingi*	Plethodontidae	WV.
2—Ouachita salamander	*Plethodon ouachitae*	Plethodontidae	AR, OK.
2—Shenandoah salamander	*Plethodon shenandoah*	Plethodontidae	VA.
2—Siskiyou Mountain salamander	*Plethodon stormi*	Plethodontidae	CA, OR.
2—Blanco blind salamander	*Typhlomolge robusta*	Plethodontidae	TX.
3C—Carolina waterdog	*Necturus lewisi*	Proteidae	NC.
2—Sipsey Fork waterdog	*Necturus maculosus ssp*	Proteidae	AL
2—Black-spotted newt	*Notophthalmus meridionalis*	Salamandridae	TX, Mexico.
2—Gulf Hammock dwarf siren	*Pseudobranchus striatus lustricolus*	Sirenidae	FL.
2—Rio Grande lesser siren	*Siren intermedia texana*	Sirenidae	TX, Mexico.
2—Black toad	*Bufo exsul*	Bufonidae	CA.
1—Wyoming toad	*Bufo hemniophrys baxteri*	Bufonidae	WY
2—Puerto Rican toad	*Bufo lemur*	Bufonidae	PR
1—Amargosa toad	*Bufo nelsoni*	Bufonidae	NV
2—Sonora green toad	*Bufo retiformis*	Bufonidae	AZ, Mexico
2—Pine Barrens treefrog (excluding AL and FL populations).	*Hyla andersonii*	Hylidae	NC, NJ, SC
2—Illinois chorus frog	*Pseudacris streckeri illinoensis*	Hylidae	AR, IL, MO
2—Guajon	*Eleutherodactylus cooki*	Leptodactylidae	PR.
2—Web-footed coqui	*Eleutherodactylus karischmidti*	Leptodactylidae	PR.
3B—Ramos bromeliad frog	*Eleutherodactylus ramosi*	Leptodactylidae	PR.
2—Duckwater frog	*Rana sp*	Ranidae	NV
3A—San Felipe leopard frog	*Rana sp*	Ranidae	CA.
2—Florida gopher frog	*Rana areolata aesopus*	Ranidae	FL, GA.
2—Carolina gopher frog	*Rana areolata capito*	Ranidae	GA, NC, SC
2—Dusky gopher frog	*Rana areolata sevosa*	Ranidae	AL, FL, LA, MS.
3A—Vegas Valley leopard frog	*Rana (pipiens) fisheri*	Ranidae	NV
2—Relict leopard frog	*Rana onca*	Ranidae	AZ, NV, UT
2—Tarahumara frog	*Rana tarahumare*	Ranidae	AZ, Mexico.
REPTILES			
2—Alligator snapping turtle	*Macroclemys temmincki*	Chelydridae	South-Central United States
2—Bog turtle	*Clemmys muhlenbergi*	Emydidae	Eastern United States.
2—Barbour's map turtle	*Graptemys barbouri*	Emydidae	AL, FL, GA
2—Cagle's map turtle	*Graptemys caglei*	Emydidae	TX.
1—Yellow-blotched sawback	*Graptemys flavimaculata*	Emydidae	MS
3C—Black-knobbed sawback	*Graptemys nigrinoda*	Emydidae	AL, MS
3C—Ringed sawback	*Graptemys oculifera*	Emydidae	LA, MS
3C—Sabine map turtle	*Graptemys ouachitensis sabinensis*	Emydidae	LA, TX.
2—Texas map turtle	*Graptemys versa*	Emydidae	TX
2—Alabama red-bellied turtle	*Pseudemys alabamensis*	Emydidae	AL.
3C—Suwanee cooter	*Pseudemys concinna suwanniensis*	Emydidae	FL, GA
2—Jicotea	*Pseudemys (decussata) stejnegeri*	Emydidae	[illegible]
2—Key mud turtle	*Kinosternon baurii bauri*	Kinosternidae	FL.
2—Arizona mud turtle	*Kinosternon flavescens arizonense*	Kinosternidae	AZ, Mexico
1—Illinois mud turtle	*Kinosternon flavescens spooneri*	Kinosternidae	IL, IA, MO
1—Flattened musk turtle	*Sternotherus depressus*	Kinosternidae	AL.
2—Desert tortoise	*Gopherus agassizii*	Testudinidae	AZ, CA, NV, UT, Mexico
2—Gopher tortoise	*Gopherus polyphemus*	Testudinidae	AL, FL, GA, LA, MS, SC.
3C—Baker's legless lizard	*Amphisbaena bakeri*	Amphisbaenidae	PR
2—Black legless lizard	*Anniella pulchra nigra*	Anniellidae	CA.
2—Magic gecko	*Anarbylus switaki*	Gekkonidae	CA, Mexico.
2—Big bend gecko	*Coleonyx reticulatus*	Gekkonidae	TX, Mexico.
2—Gila monster	*Heloderma suspectum*	Helodermatidae	AZ, CA, NM, NV, UT, Mexico.
2—Puerto Rican pygmy anole	*Anolis occultis*	Iguanidae	PR.
2—Reticulate collared lizard	*Crotaphytus reticulatus*	Iguanidae	TX, Mexico
3A—Navassa Island iguana	*Cyclura cornuta nigerrima*	Iguanidae	Navassa Island
3A—No common name	*Leiocephalus eremitus*	Iguanidae	Navassa Island.
2—San Diego horned lizard	*Phrynosoma coronatum blainvillei*	Iguanidae	CA, Mexico
2—Flat-tailed horned lizard	*Phrynosoma mcalli*	Iguanidae	AZ, CA, Mexico.
2—Sand dune lizard	*Sceloporus graciosus arenicolous*	Iguanidae	TX, Mexico
2—Cowles fringe-toed lizard	*Uma notata rufopunctata*	Iguanidae	AZ, Mexico
3C—Pandanus skink	*Autacoplax leptosoma*	Scincidae	TT
2—Florida Keys mole skink	*Eumeces egregius egregius*	Scincidae	FL.
2—Blue-tailed mole skink	*Eumeces egregius lividus*	Scincidae	FL.
2—Arizona skink	*Eumeces gilberti arizonensis*	Scincidae	AZ.
2—Sand skink	*Neoseps reynoldsi*	Scincidae	FL.
2—Blue-tailed ground lizard	*Ameiva wetmorei*	Teiidae	PR.
2—Gray-checkered whiptail	*Cnemidophorus dixoni*	Teiidae	NM, TX.
2—Orange-throated whiptail	*Cnemidophorus hyperythrus*	Teiidae	CA, Mexico.
2—Southern rubber boa	*Charina bottae umbratica*	Boidae	CA
3A—St. Croix ground snake	*Alsophis sanctricucis*	Colubridae	VI.

Category and common name	Scientific name	Family	Distribution
2—Culebra garden snake	*Arrhyton exiguum exiguum*	Colubridae	PR.
2—Kirtland's snake	*Clonophis kirtlandi*	Colubridae	IL, IN, KY, MI, OH, PA, WI.
2—Key ringneck snake	*Diadophis punctatus acricus*	Colubridae	FL.
3C—Desert kingsnake	*Lampropeltis getulus splendida*	Colubridae	AZ, NM, OK, TX.
3C—Gray-banded kingsnake	*Lampropeltis mexicana alterna*	Colubridae	TX.
2—Alameda striped racer	*Masticophis lateralis euryxanthus*	Colubridae	CA.
2—Copperbelly water snake	*Nerodia erythrogaster neglecta*	Colubridae	IL, IN, MI, OH, KY.
1—Harter's water snake	*Nerodia harteri*	Colubridae	TX.
2—Black pine snake	*Pituophis melanoleucus lodingi*	Colubridae	AL, LA, MS.
2—Florida pine snake	*Pituophis melanoleucus mugitus*	Colubridae	AL, FL, GA, SC.
2—Louisiana pine snake	*Pituophis melanoleucus ruthveni*	Colubriade	LA, TX.
2—Short-tailed snake	*Stilosoma extenuatum*	Colubridae	FL.
2—Rimrock crowned snake	*Tantilla oolitica*	Colubridae	FL.
2—Short-headed garter snake	*Thamnophis brachystoma*	Colubridae	NY, PA.
2—No common name	*Tropidophis melanurus bucculentus*	Colubridae	Navassa Island.
2—Arizona ridge-nosed rattlesnake	*Crotalus willardi willardi*	Viperidae	AZ, Mexico.
2—Eastern massasauga	*Sistrurus catenatus catenatus*	Viperidae	North-Central United States.
BIRDS			
2—Reddish egret	*Egretta rufescens*	Ardeidae	N=FL, TX, Mexico, West Indies; V=AL, CA, LA, MS.
2—White-faced ibis (Great Basin population)	*Plegadis chihi*	Threskiornithidae	N=AZ, CA, CO, NM, NV, OR, UT; V=ID, WY. Mexico.
1—Wood stork (southeastern United States population).	*Mycteria americana*	Ciconiidiidae	N=FL, GA, SC; V=AL, LA, MS, NC, TX.
2—Fulvous whistling duck, (southwestern United States population).	*Dendrocygna bicolor*	Anatidae	N=AZ, CA; V=Mexico.
2—West Indian whistling duck	*Dendrocygna arborea*	Anatidae	PR, VCI, West Indies.
3C—Tule white-fronted goose	*Anser albifrons elgasi*	Anatidae	N=AK; V=CA, OR.
2—Lesser white-cheeked pintail	*Anas bahamensis bahamensis*	Anatidae	PR, VI, West Indies, South America.
2—American swallow-tailed kite	*Elanoides forficatus forficatus*	Accipitridae	N=AL, AR, FL, GA, IA, IL, KS, LA, MN, MO, MS, NC, OK, SC, TN, TX, WI; V=Central America.
2—Puerto Rican sharp-shinned hawk	*Accipiter striatus venator*	Accipitridae	PR.
2—Puerto Rican broad-winged hawk	*Buteao platypterus brunnescens*	Accipitridae	PR.
2—Swainson's hawk	*Buteo swainsoni*	Accipitridae	N=AK, AZ, CA, CO, IA, ID, KS, MN, MO, MT, ND, NE, NM, NV, OK, OR, SD, TX, UT, WA, WY. Canada; V=FL, Mexico, Central and South America.
2—Ferruginous hawk	*Buteo regalis*	Accipitridae	N=CO, ID, MT, ND, NF, NM, NV, OK, OR, SD, TX. UT, WA, WY, Canada; V=AZ, CA, Mexico.
2—Crested caracara (Florida population)	*Polyborus plancus audubonii*	Falconidae	FL.
2—Southeastern American kestrel	*Falco sparverius paulus*	Falconidae	AL, FL, GA, LA, MS.
2—Northern aplomado falcon	*Falco femoralis septentrionalis*	Falconidae	AZ, NM, TX, Mexico.
2—Mangrove clapper rail	*Rallus longirostris insularum*	Rallidae	FL.
1—Guam rail	*Rallus owstoni*	Rallidae	GU.
2—California black rail	*Lateralilus jamaicensis coturniculus*	Rallidae	AZ, CA, Mexico.
1—Mananas gallinule	*Gallinula chloropus guami*	Rallidae	GU, TT, (Mariana Islands).
2—Western snowy plover	*Charadrius alexandrinus nivosus*	Charadriidae	N=CA, CO, KS, NM, NV, OK, OR, TX, UT, WA; V=AZ, Mexico.
2—Southeastern snowy plover	*Charadrius alexandrinus tenuirostris*	Charadriidae	AL, FL, LA, MS, PR, Greater Antilles.
2—Piping plover	*Charadrius melodus*	Charadriidae	N=CT, DE, IA, IL, IN, MA, MD, ME, MI, MN, NC, ND, NE, NH, NJ, NY, OH, PA, RI, SD, VA, WI, Canada; V=AL, AR, CA, FL, KY, LA, MO, MS. PR, SC, TN, TX, Greater Antilles.
2—Mountain plover	*Charadrius montanus*	Charadriidae	N=CO, KS, MT, ND, NE, NM, OK, SD, TX, WY. V=AZ, CA, NV, UT, Mexico.
2—Long-billed curlew	*Numenius americanus*	Scolopacidae	N=CA, CO, IA, ID, KS, MT, ND, NE, NM, NV, OK, OR, SD, TX, UT, WA, WI, WY, Canada; V=AZ, LA, MN, Mexico.
2—Roseate tern (North America population)	*Sterna dougallii dougallii*	Laridae	N=CT, FL, MA, ME, NJ, NY, PR, VA, VI, Canada, West Indies; V=Central and South America.
2—Interior least tern	*Sterna antillarum athalassos*	Laridae	N=AR, IA, IL, IN, KS, KY, LA, MO, NE, OK, SD, TN, TX; V=CO, WI, WY, Central and South America.
2—White-crowned pigeon	*Columba leucocephala*	Columbidae	FL, West Indies, Central America.
2—Radak Micronesian pigeon	*Ducula oceanica ratakensis*	Columbidae	TT (Marshall Islands).
2—Truk Micronesian pigeon	*Ducula oceanica teraoki*	Columbidae	TT (Caroline Islands).
1—Marianas fruit dove	*Ptilinopus roseicapillus*	Columbidae	GU, TT (Mariana Islands).
1—Guam white-throated ground dove	*Gallicolumba xanthonura xanthonura*	Columbidae	GU.
2—Palau Nicobar pigeon	*Caloenas nichobarensis pelewensis*	Columbidae	TT (Caroline Islands).
2—Western yellow-billed cuckoo	*Coccyzus americanus occidentalis*	Cuculidae	N=AZ, CA, CO, ID, NM, NV, OR, TX, UT, WA, Canada, Mexico; V=Central and South America.
1—Virgin Islands screech owl	*Otus nudipes newtoni*	Strigidae	PR, VI.
2—Southern spotted owl	*Strix occidentalis lucida*	Strigidae	AZ, CO, NM, TX, UT, Mexico.
2—Ponape short-eared owl	*Asio flammeus ponapensis*	Strigidae	TT (Caroline Islands).
1—Guam swiftlet	*Aerodramus vanikorensis bartschi*	Apodidae	GU.
1—Guam Micronesian kingfisher	*Halcyon cinnamomina cinnamomina*	Alcedinidae	GU.
2—Florida scrub jay	*Aphelocoma coerulescens coerulescens*	Corvidae	FL.
1—Marianas crow	*Corvus kubaryi*	Corvidae	TT (Mariana Islands).
2—Appalachian Bewick's wren	*Thryomanes bewickii altus*	Troglodytidae	AL, GA, KY, MD, NC, OH, PA, SC, TN, VA, WV. Canada.
3A—San Clemente Bewick's wren	*Thryomanes bewickii leucophrys*	Troglodytidae	CA.
2—Coastal black-tailed gnatcatcher	*Polioptial melanura californica*	Muscicapidae	CA, Mexico.
2—Truk monarch	*Metabolus rugensis*	Muscicapidae	TT (Caroline Islands).
1—Guam Micronesian flycatcher	*Myiagra oceanica freycineti*	Muscicapidae	GU.
2—Guam Rufous-fronted fantail	*Phipidura rufifrone uraniae*	Muscicapidae	GU.
2—Palau white-breasted wood-swallow	*Artamus leucorhynchus pelewensis*	Artamidae	TT (Caroline Islands).
2—Migrant loggerhead shrike	*Lanius ludovicianus migrans*	Laniidae	N=AR, CT, DE, DC, IA, IL, IN, KS, KY, MA, MD, ME, MI, MN, MO, MS, NC, NE, NH, NJ, NY, OH, OK, PA, RI, TN, TX, VA, VT, WI, WV, Canada; V=AL, FL, GA, LA, SC.
1—Cardinal honey-eater	*Myzomela cardinalis saffordi*	Melephagidae	GU.
2—Bishop's oo	*Moho bishopi*	Melephagidae	HI.
1—Guam bridled white-eye	*Zosterops conspicillata conspicillata*	Zosteropidae	GU.

Category and common name	Scientific name	Family	Distribution
2—Rota bridled white-eye	*Zosterops conspicillata rotensis*	Zosteropidae	TT (Mariana Islands.)
1—Truk greater white-eye	*Rukia ruki*	Zosteropidae	TT (Caroline Islands).
1—Least Bell's vireo	*Vireo bellii pusillus*	Vireonidae	N=CA, Mexico.
3C—Arizona Bell's vireo	*Vireo bellii arizonae*	Vireonidae	N=AZ, CA, NV, UT; V=Mexico
2—Black-capped vireo	*Vireo atricapillus*	Vireonidae	N=KS, OK, TX; V=Mexico.
2—Colima warbler	*Vermivora crissalis*	Emberizidae	N=TX, Mexico
2—Golden-cheeked warbler	*Dendroica chrysoparia*	Emberizidae	N=TX; V=Mexico, Central America
2—Stoddard's yellow-throated warbler	*Dendroica dominica stoddardi*	Emberizidae	AL, FL
2—Elfin woods warbler	*Dendroica angela*	Emberizidae	PR
2—Saltmarsh yellowthroat	*Geothlypis trichas sinuosa*	Emberizidae	CA
1—Inyo brown towhee	*Pipilo fuscus eremophilus*	Emberizidae	CA
1—Yuma brown towhee	*Pipilo fuscus relictus*	Emberizidae	AZ
2—Bachman's sparrow	*Aimophila aestivalis*	Emberizidae	AL, AR, FL, GA, IL, IN, KY, LA, MD, MO, MS, NC OH, OK, PA, SC, TN, TX, VA, WV
2—Texas Botteri's sparrow	*Aimophila botterii texana*	Emberizidae	TX, Mexico
2—Yuma rufous-crowned sparrow	*Aimophila ruficeps rupicola*	Emberizidae	AZ
2—Large-billed savannah sparrow	*Passerculus sandwichensis rostratus*	Emberizidae	N=Mexico, V=AZ, CA
2—Florida grasshopper sparrow	*Ammodramus savannarum floridanus*	Emberizidae	FL
2—Texas Henslow's sparrow	*Passerherbulus henslowii* ssp.	Emberizidae	TX
2—Wakulla seaside sparrow	*Ammospiza maritima juncicola*	Emberizidae	FL
2—Smyrna seaside sparrow	*Ammospiza maritima pelonota*	Emberizidae	FL
2—Amak song sparrow	*Melospiza melodia amaka*	Emberizidae	AK
2—Tricolored blackbird	*Agelaius tricolor*	Emberizidae	CA, OR, Mexico
2—Palau blue-faced parrotfinch	*Erythrura trichroa pelewensis*	Estrildidae	TT (Caroline Islands)
MAMMALS			
2—Homossassa shrew	*Sorex longirostris eionis*	Soricidae	FL
2—Dismal Swamp southeastern shrew	*Sorex longirostris fisheri*	Soricidae	NC, VA
2—San Bernardino dusky shrew	*Sorex monticolus parvidens*	Soricidae	CA
2—Catalina shrew	*Sorex ornatus willetti*	Soricidae	CA
2—Suisun shrew	*Sorex sinuosus*	Soricidae	CA
2—Arizona shrew	*Sorex arizonae*	Soricidae	AZ, NM
2—Water shrew	*Sorex palustris punctulatus*	Soricidae	MD, NC, PA, TN, VA, WV
2—Pygmy shrew	*Microsorex hoyi winnemana*	Soricidae	GA, MD, NC, VA
2—Sherman's short-tailed shrew	*Blarina brevicauda shermani*	Soricidae	FL
3C—Dismal Swamp short-tailed shrew	*Blarina brevicauda shermani*	Soricidae	NC, VA
1—Marianas fruit bat	*Pteropus mariannus mariannus*	Pteropodidae	GU
2—Little Marianas fruit bat	*Pteropus tokudae*	Pteropodidae	GU
2—Sheath-tailed bat	*Emballonura semicaudata*	Emballonuridae	GU
2—Big long-nosed bat	*Leptonycteris nivalis*	Phyllostomidae	TX, Mexico, Guatemala
2—Desmarest's fig-eating bat	*Stenoderma rufum*	Phyllostomidae	PR, VI.
2—Spotted bat	*Euderma maculatum*	Vespertilionidae	AZ, CA, CO, ID, MT, NM, NV, OR, UT, WY, TX. CANADA, Mexico
2—Underwood's mastiff bat	*Eumops underwoodi sononensis*	Molossidae	AZ, Mexico, Central America
2—Davis Mountain cottontail	*Sylvilagus floridanus robustus*	Leporidae	TX, Mexico
2—New England cottontail	*Sylvilagus transitionalis*	Leporidae	AL, GA, KY, MA, MD, ME, NC, NH, NJ, NY, PA TN, VA, VT, WV
2—White-sided jack rabbit	*Lepus callotis gaillardi*	Leporidae	MN, Mexico.
2—Mono Basin mountain beaver	*Aplodontia rufa californica*	Aplodontidae	CA
2—Penasco chipmunk	*Eutamias minimus atristriatus*	Sciuridae	NM
2—Nelson's antelope squirrel	*Ammospermophilus nelsoni*	Sciuridae	CA
2—Idaho ground squirrel	*Spermophilus brunneus*	Sciuridae	[illegible]
2—Mangrove fox squirrel	*Sciurus niger avicennia*	Sciuridae	FL
2—Sherman's fox squirrel	*Sciurus niger shermani*	Sciuridae	FL, GA
2—Mount Graham spruce squirrel	*Tamasciurus hudsonicus grahamensis*	Sciuridae	AZ
2—Northern flying squirrel	*Glaucomys sabrinus coloratus*	Sciuridae	NC, TN
2—Northern flying squirrel	*Glaucomys sabrinus fuscus*	Sciuridae	WV
2—Sherman's pocket gopher	*Geomys pinetis fontanelus*	Geomyidae	GA
2—Goff's pocket gopher	*Geomys pinetis goffi*	Geomyidae	FL
2—Colonial pocket gopher	*Geomys colonus*	Geomyidae	GA
2—Cumberland pocket gopher	*Geomys cumberlandius*	Geomyidae	GA
2—White-eared pocket mouse	*Perognathus alticola*	Heteromyidae	CA
2—Silky pocket mouse	*Perognathus flavus goodpasteri*	Heteromyidae	AZ
2—Arizona pocket mouse	*Perognathus amplus ammodytes*	Heteromyidae	AZ
2—Arizona pocket mouse	*Perognathus amplus amplus*	Heteromyidae	AZ
2—Stephens' kangaroo rat	*Dipodomys stephensi*	Heteromyidae	CA
2—Big-eared kangaroo rat	*Dipodomys elephantinus*	Heteromyidae	CA
1—Giant Kangaroo rat	*Dipodomys ingens*	Heteromyidae	CA
2—Texas kangaroo rat	*Dipodomys elator*	Heteromyidae	OK, TX
2—Merriam's kangaroo rat	*Dipodomys merriami frenatus*	Heteromyidae	UT
1—Fresno kangaroo rat	*Dipodomys nitratoides exilis*	Heteromyidae	CA.
2—Tipton kangaroo rat	*Dipodomys nitratoides nitratoides*	Heteromyidae	CA
2—Sanibel Island rice rat	*Oryzomys palustris sanibeli*	Muridae	FL
2—Silver rice rat	*Oryzomys argentatus*	Muridae	FL
1—Choctawhatchee beach mouse	*Peromyscus polionotus allophrys*	Muridae	FL
2—Alabama beach mouse	*Peromyscus polionotus ammobates*	Muridae	AL
3A—Pallid beach mouse	*Peromyscus polionotus decoloratus*	Muridae	FL
1—Perdido Bay beach mouse	*Peromyscus polionotus trissyllepsis*	Muridae	AL, FL
1—Key Largo cotton mouse	*Peromyscus gossypinus allapaticola*	Muridae	FL
2—Florida mouse	*Peromyscus floridanus*	Muridae	FL.
1—Key Largo wood rat	*Neotoma floridana smalli*	Muridae	FL.
2—Ash Meadows vole	*Microtus montanus nevadensis*	Muridae	NV.
1—Amargosa vole	*Microtus californicus scirpensis*	Muridae	CA
2—Owens Valley vole	*Microtus californicus vallicola*	Muridae	CA
2—Mount Graham long-tailed vole	*Microtus longicaudus leucophaeus*	Muridae	AZ
2—Mexican vole	*Microtus mexicanus hualpaiensis*	Muridae	AZ
2—Mexican vole	*Microtus mexicanus navaho*	Muridae	AZ, UT.
2—Louisiana vole	*Microtus ochrogaster ludovicianus*	Muridae	LA, TX
2—Southern bog lemming	*Synaptomys cooperi helaletes*	Muridae	NC, VA.
2—Swift fox	*Vulpes velox*	Canidae	CO, KS, MT, ND, NE, NM, OK, SD, TX, WY
2—Island fox	*Urocyon littoralis*	Canidae	CA.
2—Florida black bear	*Ursus americanus floridanus*	Ursidae	AL, FL, GA
2—Louisiana black bear	*Ursus americanus luteolus*	Ursidae	LA, MS, TX.
2—Key Vaca raccoon	*Procyon lotor auspicatus*	Procyonidae	FL
2—Everglades mink	*Mustela vison evergladensis*	Mustelidae	FL

Category and common name	Scientific name	Family	Distribution
2—Lynx	*Lynx lynx*	Felidae	Eurasia, Canada, Northern United States.
2—Yuma puma	*Felis concolor browni*	Felidae	AZ, CA, Mexico.
1—Woodland caribou (Selkirk herd)	*Rangifer tarandus caribou*	Cervidae	ID, WA, Canada.

[FR Doc. 82-34992 Filed 12-29-82; 8:45 am]
BILLING CODE 4310-55-M

federal register

Thursday
December 30, 1982

Part III

Environmental Protection Agency

Control of Air Pollution From Aircraft and Aircraft Engines; Emission Standards and Test Procedures

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 87

[AMS-FRL-2198-7]

Control of Air Pollution From Aircraft and Aircraft Engines; Emission Standards and Test Procedures

AGENCY: Environmental Protection Agency.

ACTION: Final Rule.

SUMMARY: This rule amends the existing regulations for exhaust emissions from new and in-use commercial aircraft gas turbine engines under the authority of Section 231 of the Clean Air Act. Limits of 26.7 kilonewtons (kN) thrust are established below which aircraft engines will not be subject to gaseous emission standards. An exemption for low-production models is adopted and other exemption provisions have been altered to deal more effectively with special problems in compliance. Most of the existing hydrocarbon (HC) standards are being amended, and all of the existing carbon monoxide (CO) and oxides of nitrogen (NOx) standards are being withdrawn. The compliance dates for all the HC standards have been delayed until January 1, 1984.

Recent analyses of CO emissions have indicated that earlier estimates of the impact of aircraft CO emissions were seriously overestimated. Aircraft emissions contribute a relatively small portion of the urban emission problem. Also, control techniques used for HC control will produce CO reductions as a byproduct. Since few regions are experiencing violations of the ambient air quality standard for NO_x and given that NO_x control technology is unproven and very expensive, a NO_x standard is not being promulgated. The HC standard adopted here is the same as that developed by the International Civil Aviation Organization.

EFFECTIVE DATE: January 31, 1983. Note: Under Section 307(b)(1) of the Clean Air Act, judicial review of this action is available *only* by the filing of a petition for review in the United States Court of Appeals for the District of Columbia circuit within 60 days of December 30, 1982. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not by challenged later in judicial proceedings brought by EPA to enforce these requirements.

The incorporation by reference of ICAO Annex 16, Volume II, Aircraft Engine Emissions, June 1981 is approved by the Director of the Federal Register as of September 3, 1982.

ADDRESSES: The information base on which this rulemaking is established is collected in Public Docket No. OMSAPC-78-1 at the Environmental Protection Agency, Central Docket Section, West Tower Lobby, Gallery I, 401 M Street, S.W., Washington, D.C. 20460. The docket includes background materials, hearing transcripts, written comments, environmental, economic, and technical analyses performed during the rulemaking, and the Summary and Analysis of Comments to the NPRM. The docket is open to the public and may be inspected between 8 a.m. and 4 p.m. on weekdays. A reasonable fee may be charged for copying services. In addition, single copies of the Summary and Analysis of Comments are available from the address below.

FOR FURTHER INFORMATION CONTACT: George D. Kittredge, U.S. Environmental Protection Agency, Office of Mobile Sources (ANR-455), 401 M Street, S.W., Washington, D.C. 20460, Telephone: (202) 382-4981.

SUPPLEMENTARY INFORMATION:

I. Background:

Section 231 of the Clean Air Act as amended directs the Administrator of the Environmental Protection Agency to "issue proposed emission standards applicable to the emission of any air pollutant from any class or classes of aircraft engines which in his judgment causes, or contributes to, air pollution which may reasonably be anticipated to endanger public health or welfare." In 1973, EPA promulgated emission regulations for several classes of aircraft and aircraft engines (38 FR 19090). The affected pollutants were fuel venting, smoke, and exhaust (hydrocarbon, carbon monoxide, and oxides of nitrogen) emissions. For the purpose of emission regulations, all aircraft engines were divided into eight classes, which are listed in Table 1 (these class designations have since been modified as shown in the same table). Three tiers of standards were promulgated: *retrofit* standards for in-use engines, standards for newly *manufactured* engines (those engines *built* after the effective date of the regulations) and for newly *certified* engines (those engines designed and certified after the effective date of the regulations). At the same time that these final rules were published in 1973, EPA also proposed additional *retrofit* standards (applying to engines already in-use). The relevant gaseous emission standards are shown in Tables 2A through 2C. Smoke and fuel venting standards which are unchanged for the most part are listed in Table 3.

TABLE 1—SUMMARY OF AIRCRAFT CLASSES

1973 EPA class designation	Engine type	Principal aircraft application	1982 EPA class designation
P2	Turboprop engines.	General aviation and commercial aircraft.	TP.
T1	Small subsonic turbojet/ turbofan engines (0 to 36 KN thrust).	General aviation and commercial aircraft.	
T2	Large subsonic turbojet/ turbofan engines (greater than 36 KN thrust) excluding JT3D and JT8D engines.	Subsonic commercial aircraft.	TF.
T3	Large subsonic turbojet/ turbofan engines of the JT3D model family.	Subsonic commercial aircraft.	T3.
T4	Large subsonic turbojet/ turbofan engines of the JT8D model family.	Subsonic commercial aircraft.	T8.
T5	Supersonic turbojet/ turbofan engines.	Supersonic commercial aircraft.	TSS.
P1	Piston engines (excluding radial).	General aviation and commercial aircraft.	P1 (no standards).
APU	Auxiliary propulsion units.	General aviation and commercial aircraft.	APU (no standards).

BILLING CODE 6560-50-M

Table 2A

Comparison of Old and New Gaseous Standards

Newly Manufactured Engine Standards

Class	Pollutant	1973 Standard (All Engines) Compliance Date	Level*	Size	1978 Proposed Standard (Commercial Only) Compliance Date	Level*	Size	Final Standard (Commercial Only) Compliance Date	Level*	Size
TF	HC	1979	13.4	below 36 kN	1981	No Standard	below 27 kN	1984	No Standard	below 26.7 kN
TF			6.7	over 36 kN		17.6-6.7	27-90 kN		19.6	over 26.7 kN
T3, T8			6.7	All		6.7	over 90 kN		19.6	over 26.7 kN
TF	CO	1979	78.4	below 36 kN	1981	No Standard	below 27 kN		DELETED	
TF			36.1	over 36 kN		106.6-36.1	27-90 kN			
T3, T8			36.1	All		36.1	over 90 kN			
TF	[illegible]	1979	30.5	below 36 kN	1984	No Standard	below 27 kN		DELETED	
TF			25.0	over 36 kN		33.9 w/ additional allowance for PR(1)	over 27 kN			
T3, T8			25.0	All						
TSS	HC	1980	30.7	All	1980	30.7	All	[illegible]	30.7	All
	CO	1980	237.0	All	1980	237.0	All		DELETED	
	[illegible]	1980	70.8	All	1980	70.8	All		DELETED	
P1						DELETED		DELETED	(45 FR 1419, Jan. 7, 1980)	
TP						DELETED			DELETED	
AP1						DELETED		DELETED	(45 FR 1419, Jan. 7, 1980)	

* Grams per kilonewton per cycle.

(1) Applies to current Concorde propulsion system only, general expression for limit is $140(0.92)^{PR}$ where PR is engine pressure ratio at rated thrust.

Table 2B

Comparison of Old and New Gaseous Standards

Newly Certified Engine Standards

Class	Pollutant	Old Standard (All Engines) Date	Level*	Size	Proposed Standard (Commercial Only) Date	Level*	Size	Final Standard (Commercial Only) Date	Level*	Size
TF, T3, T8,	HC	1981	3.3	All	1984	No Standard 3.3	below 27 KN over 27 KN		DELETED	
	CO	1981	25.0	All	1984	No Standard 25.0	below 27 KN over 27 KN		DELETED	
	NOx	1981	25.0	All	1984	No Standard 33.0	below 27 KN over 27 KN		DELETED	
TSS	[illegible]	1984	7.8	All	1984	7.8	All		DELETED	
	CO	1984	61.0	All	1984	61.0	All		DELETED	
	NOx	1984	39.0	All	1984	39.0	All		DELETED	
TP	HC		NONE		1984	0.045**	over 2000 KW		DELETED	
	CO		NONE		1984	0.34**	over 2000 KW		DELETED	
	[illegible]		NONE		1984	0.45**	over 2000 KW		DELETED	

* Grams per kilonewton per cycle.

** Grams per kilowatt per cycle.

Table 2C

Comparison of Old and New Gaseous Standards

Retrofit Engine Standards

Class	Pollutant	Old Standard (All Engines) Date	Level	Size	Proposed Standard (Commercial Only) Date	Level*	Size	Final Standard (Commercial Only) Date	Level	Size
TF, T8,	HC		NONE		1985	No Standard 11.8-6.7 6.7	below 53 KN 53-90 KN over 90 KN		DELETED	
	CO		NONE	-	1985	No Standard 68.2-36.1 36.1	below 53 KN 53-90 KN over 90 KN		DELETED	

* Grams per kilonewton per cycle.

BILLING CODE 6560-50-C

TABLE 3.—SMOKE AND FUEL VENTING EMISSION STANDARDS

Class	
T8	Max. smoke number of 30 [1] after Feb. 1, 1974.
TF, T3, TSS	Prohibition of fuel venting [1] after Jan. 1, 1974.
TF, TP	Prohibition of fuel venting [1] after Jan. 1, 1975.
TF (above 29,000 LB thrust).	Max. smoke number based on thrust [2] rating after Jan. 1, 1976.
T3	Max. smoke number of 25 [2] after Jan. 1, 1978.
TF, TP [4]	Max. smoke number based on thrust (Power) rating [2] after Jan. 1, 1983.
T3	Max. smoke number of 25 [3] after Jan. 1, 1985.

[1] New and in-use.
[2] New only.
[3] In-use only, based on progressive compliance schedule beginning in 1981.
[4] Mathematical relationship changed slightly to match Air Force smoke standards.

On March 24, 1978 EPA published a Notice of Proposed Rulemaking (NPRM) which proposed major changes to the existing aircraft rules (43 FR 12615). That proposal is the basis for this final action. It proposed withdrawing emission standards for piston engines, small turboprop engines and small turbojet/turbofan engines, and auxiliary power units. Thus, that proposal would have deleted the emission standards for all general aviation engines (as opposed to commercial or military engines) and would require emission compliance only from those engines used for commercial transport of 27 kN thrust or greater used or intended for use in commercial transport. Within these general changes, there were some modifications proposed for levels of control and implementation dates, which are also summarized in Tables 2A–2C.

For newly *manufactured* engines, it was proposed that the HC and CO standards be retained for engines of 90 kN and greater thrust, but for engines between 27 and 90 kN a continuous transition of the standards with thrust was proposed. The implementation dates for the HC and CO standards were proposed to be delayed until 1981. The NO_x standard was proposed to be raised somewhat for engines greater than 27 kN thrust. A rated compressor pressure ratio adjustment was proposed for engines with pressure ratios in excess of 25. The NO_x implementation date was proposed to be delayed until 1984 and EPA promised to reexamine the issue of aircraft NO_x control in the future. Finally, the proposal did not affect the smoke and fuel venting emission standards except for a proposed delay in the T3 compliance schedule for smoke emission involving a phased program with full compliance by 1985.

For newly *certified* engines, the proposal retained the same HC and CO standards for engines with 27 kN or greater thrust. The NO_x standard was proposed to be relaxed to the same level as for newly manufactured engines. All the standards for newly certified engines were proposed to be delayed until 1984.

With respect to engine *retrofit* standards for gaseous emissions, it was proposed to extend the applicability of retrofit standards to all turbojet/turbofan aircraft engines of 53 kN or greater thrust and to all JT8D engines, but to withdraw any requirement for NO_x retrofit. The proposed implementation date for the retrofit standards was delayed until 1985.

In addition, the NPRM proposed that the idle power set point for compliance testing be defined as the minimum idle set point for each particular engine with simulation permitted of minimum accessory influences experienced by the engine when operated in the idle mode. Finally, the proposal slightly modified the EPA parameter by recommending the use of the rated thrust, rather than the total impulse, as the normalizing useful work factor for the emission standards.

A public hearing was held on November 1 and 2, 1978 to consider comments on the NPRM. During EPA's initial review of these comments, it became clear that some of the issues were more complex than others and would require a longer period of time to analyze and to complete the Agency review process. To prevent any unnecessary delay in regulatory relief for the industry, and to make the review effort more efficient, two facets of the NPRM have already been finalized in earlier rulemaking actions as follows:

1. Modification of Compliance Schedule for Smoke Standard

On November 6, 1979 (44 FR 64266), EPA finalized the modification of the compliance schedule for smoke emission standards applicable to JT3D (T3) engines. Specifically, the T3 smoke standard compliance schedule was made the same as the Federal Aviation Administration (FAA) phased schedule for noise compliance by U.S. operators of JT3D-powered airplanes operated domestically under 14 CFR Parts 121 and 135. On December 31, 1980 (46 FR 2044), EPA issued an amendment which delayed the first interim date for compliance with the T3 smoke standard from January 1, 1981 to February 1, 1981.

2. Withdrawal of Gaseous Emissions Standards

On January 7, 1980 (45 FR 1419), EPA finalized the amendments which withdrew all gaseous emission requirements for piston engines (P1) and auxiliary power units (APU).

In addition, on December 31, 1980 (45 FR 86946), EPA delayed until January 1, 1983, the effective date for all gaseous emission standards which would otherwise have been effective on January 1, 1981. This delay was necessary because it was not possible to replace the original standards before they became effective.

Since publication of the 1973 standards, EPA has worked with the International Civil Aviation Organization (ICAO) on the development of international aircraft engine emission standards. On June 30, 1981, the ICAO issued engine emission standards which apply to many (but not all) of the same types of engines to which the U.S. standards apply. With the establishment of the international standards, the U.S. now has an obligation [1] to frame national standards to be as compatible as possible with the ICAO standards, consistent with U.S. environmental goals and with EPA's responsibilities under Section 231 of the Clean Air Act. This rulemaking action responds to that obligation. While the amended U.S. standards are not identical in every respect to the ICAO standards, they are in no case incompatible in their requirements.

II. Description of this Action: This final rulemaking action

1. Withdraws hydrocarbon, carbon monoxide and nitrogen oxide emission standards for all aircraft gas turbine engines used only for general aviation applications.

2. Withdraws hydrocarbon, carbon monoxide and nitrogen oxide emission standards for aircraft gas turbine engines of rated thrust less than 26.7 kilonewtons (kN). This figure is revised slightly from the figure of 27 which was proposed, to correspond with the ICAO standards.

3. Withdraws hydrocarbon, carbon monoxide and nitrogen oxides emission standards for newly certified aircraft gas turbine engines in all rated thrust categories.

4. Withdraws carbon monoxide and nitrogen oxide emission standards for newly manufactured aircraft gas turbine

[1] Based on the Chicago Convention on International Aviation December 7, 1944, to which the United States is one of the signatory nations.

engines of rated thrust equal to or greater than 26.7 kN.

5. Revises hydrocarbon emission standards for newly manufactured aircraft gas turbine engines of rated thrust equal to or greater than 26.7 kN.

6. Revises the smoke standards for turboprop engines to agree with existing Air Force smoke standards.

7. Revises the compliance date for all gaseous emission standards from January 1, 1983 to January 1, 1984.

8. Exempts engine models produced in quantities of 20 units per year or less or not more than 200 units total future production.

9. Redefines the idle power set point for engine compliance testing.

10. Revises the test fuel specification for engine compliance testing.

11. Transfers the responsibility and authority for evaluation of requests for exemption from emission standards to the Secretary of Transportation (DOT).

The revised standards apply to classes TF, T3, T8 and TSS as listed in Table 1. For newly *manufactured* engines, the HC standards are 19.6 grams per kN per cycle for TF, T3, and T8 engines over 26.7 kN thrust, while for TSS engines the limit is pressure ratio dependent. For the current Concorde propulsion system this comes out to 30.7 grams per kN per cycle, the same as the current standard. Both of these standards will take effect on January 1, 1984.

The remaining smoke standards and the fuel venting standards for newly manufactured and in-use engines are unchanged. The proposed retrofit standards for gaseous emissions have not been finalized. The amended gaseous compared with the previous standards and the 1978 proposed changes in Tables 2A through 2C. The intent is to limit the application of HC emission standards to engines rated at 26.7 kN or greater thrust which are used or intended for use in commercial transport by "air carriers" or "commercial operators."

This final action modifies the definition of the idle power set point proposed in the NPRM for compliance testing. Among related compliance issue, this action affirms EPA's position that the FAA has the final authority to determine the appropriate method of verifying compliance with these emissions standards and transfers authority for evaluation of requests for exemptions to the FAA.

III. Statutory Authority for this Action

As mentioned above, the basic authority for EPA regulation of aircraft engines is Section 231 of the Clean Air Act as amended, as well as Section 301 of that Act.

IV. Impacts and Issues

This has been a very lengthy and complicated rulemaking. Throughout its development various commenters have raised concerns about many different aspects of the regulations. For a comprehensive compilation of these comments and EPA's responses, see the Summary and Analysis of Comments, a supporting document to the regulations (Public Docket OMSAPC–78–1). The following sections highlight those issues identified by both EPA and the commenters as most critical.

A. *Air Quality:* The relationship of emissions from aircraft engines to airport air quality was the subject of a detailed joint investigation by EPA and FAA technical staff during the period following publication of the NPRM. This study responded to a commitment made by both agencies in the preamble to the NPRM, to reevaluate the impact of aircraft operations on air quality around large metropolitan airports, using the most up-to-date emissions factors and airport traffic data available. The results of this joint study were described in a report released by FAA in September, 1980 and announced by EPA in the **Federal Register** on December 31, 1980 (45 FR 86946).

Based on both air quality monitoring and mathematical modeling projections, the joint investigation found that short-term CO concentrations attributable to aircraft operations in areas in and around major airports to which the public has access do not exceed 5 ppm. This may be compared to the present short-term National Ambient Air Quality Standard (NAAQS) for CO of 35 ppm for one hour.

As for nitrogen oxides, the study projected that annual average NO_2 concentrations in areas of expected public exposure would likely not exceed 10–20% of the present NAAQS for NO_2 of 0.05 ppm averaged over one year. It was noted that short-term public exposures to NO_2 concentrations of roughly 0.2 ppm for periods up to one hour were possible, but in the absence of a short-term NAAQS for NO_2, the significance of this finding cannot be assessed.

For HC, the study conclusions were not based on air quality monitoring or modelling, because local exposures of the general public to HC concentrations in and around airports have no air quality significance. Rather, it was simply pointed out that HC emissions from aircraft contribute to violations of the NAAQS for ozone in many urban areas along with many other sources of HC emissions which are individually small. It was also observed that HC emissions probably contribute to odors in the terminal areas of large metropolitan airports. Therefore, the study concluded that control of HC emissions from aircraft engines can be justified.

Comments received on the FAA report will be discussed in the sections which follow, along with comments on the NPRM itself, organized by pollutant species.

1. Should Hydrocarbon Emissions from Aircraft Engines be Controlled?

The primary impetus for the control of hydrocarbon (HC) emissions into the atmosphere is their fundamental role as precursors in photochemical oxidant (smog) formation. The National Ambient Air Quality Standard (NAAQS) for ozone, one product of the photochemical process and the one measured to typify total photochemical oxidant levels, continues to be exceeded in many parts of the country.

Comment: Aircraft account for a relatively small fraction of total hydrocarbon emissions in large metropolitan areas.

Response: Once EPA has identified a pollutant whose levels must be reduced and the sources which emit that pollutant, the primary issues are usually: (1) Is a given source a "significant" contribution to atmospheric pollutant levels? and (2) is the control of that source cost-effective when compared to control of other sources? The nature of HC emissions is that there are few dominant, single HC sources nationwide. Rather, there is a multitude of smaller sources which, if considered individually, would not appear to pose serious air quality problems. However since the Nation continues to have severe ozone non-attainment difficulties, reductions must continue to be made in HC emissions, which is the basic control strategy for achievement of the ozone NAAQS. Thus, reductions from relatively small sources must be required wherever it is cost-effective to do so.

EPA has found that aircraft emit up to 6000 tons of HC per year at each of some of the busiest commercial airports in the country.[2] For purpose of comparison, this is well above the 100 ton per year level defined as "major" under Section 302(j) of the Clean Air Act for large stationary point sources of emissions.

---

[2] "Aircraft Emissions at Selected Airports 1972–1985," EPA, January, 1977.

A recent publication by investigators at the University of North Carolina [3] pointed out that aircraft emissions of hydrocarbons would rank as eleventh highest on a list of 27 stationary sources of hydrocarbon emissions being considered for regulation by EPA under the New Sources Performance Standards provisions of the Clean Air Act.

Comment: The Aerospace Industries Association (AIA) stated in a letter submitted to EPA on January 20, 1982 that there will be a continuing decrease in aircraft turbine engine HC emissions without control, because older design aircraft which have very high HC emissions are being replaced rapidly by new equipment which incorporates reduced emissions technology. Therefore, they believe that HC emission standards are unnecessary and will accomplish little more reduction than would occur anyway due to the expected equipment turnover.

Response: EPA believes that to eliminate HC standards based only on an industry opinion of market trends would be unfair to the many other even smaller sources of HC and volatile organic compound emissions which will be required to comply with State emission standards as a part of State implementation programs to achieve the NAAQS for ozone. The AIA comments did not commit the industry to actually achieve the standard (which has already been adopted by ICAO and is known to the commenters) and there is no actual assurance that emission rates as low as specified by the standard would in fact be achieved if there were no standard. Market conditions could change and shift the demand to lower-cost, higher-emitting, older-design engines.

Therefore, EPA has determined that the HC standard should be retained at the relaxed level specified by ICAO, so as to maintain the momentum towards adoption of the best emission control technology currently available to all members of the industry. Since the technology has been developed and the industry will be required to meet the ICAO standard in any case, it appears that the added costs to comply with domestic standards will be minimal.

Comment: Not all hydrocarbons emitted by aircraft are photochemically reactive.

Response: Although some of the hydrocarbon emissions from aircraft engines are certainly less reactive than others, as pointed out by some of the comments, it is not at this time possible to specify a method of measurement which is both suitable for use in routine emissions certification testing of aircraft engines and which also isolates and subtracts only those hydrocarbons which EPA has determined to be non-photochemically reactive (methane and ethane).

Such a change could be considered in future rulemaking action after more data are available describing the detailed composition of the hydrocarbon fraction emitted by modern aircraft gas turbine engines. In the meantime, it is appropriate to continue with the control of total hydrocarbon emissions.

2. *Should Carbon Monoxide Emissions from Aircraft Engines be Controlled?*

The joint EPA/FAA air quality reevaluation discussed earlier concluded that the impact of aircraft CO emissions on local air quality levels had been seriously overestimated in the past. Both the monitoring and modelling studies indicated that CO concentrations at major metropolitan airports are expected to comprise only a small fraction of the limiting levels specified in the one-hour and eight-hour NAAQS for CO. Since the health effects of CO are due to its direct toxicity, it is primarily of concern in terms of localized short-term exposure. Most commenters on the report agreed with the conclusions concerning lack of justification for control of CO emissions from aircraft engines. Therefore, EPA has concluded that aircraft CO emissions standards are not justified by airport air quality impact and should be withdrawn. The control technologies expected to be utilized for aircraft HC are expected to result in substantial parallel reductions of CO as well, even in the absence of standards.

3. *Should Nitrogen Oxide Emissions from Aircraft Engines be Controlled?*

Oxides of nitrogen (NO_x) [4] emissions from aircraft make up less than 1.0 percent of total urban NO_x emissions. In addition, the ambient air concentrations produced by aircraft operations are estimated to represent only a small fraction of the NAAQS for NO_2. Also, there are fewer areas which are in nonattainment status for NO_2. Thus, the need for aircraft NO_x control is much less strong from an air quality standpoint. Succeeding sections will also show that there are serious questions about the technical feasibility of controlling aircraft NO_x and that, in any case, the costs of doing so are much higher than for HC control. All of these factors have contributed to the decisions to forego aircraft NO_x regulations at this time. It may be appropriate to reconsider NO_x emissions standards at some future date, following final decisions as to a short-term ambient standard for NO_2.

There were numerous detailed comments on the FAA report concerning the assumptions made and the applicability of the specific models employed to predict NO_2 concentrations around airports. In the FAA report these models were run only for the short averaging times (1 hour) for an anticipated short-term NO_2 standard which was felt to be imminent at the time that the March 24, 1978 NPRM was released. Because the short-term standard has not materialized, all short-term data were removed from consideration and air quality was evaluated in accordance with the longer averaging times of the NO_2 NAAQS. This evaluation included no modeling analysis. Therefore, while responses to questions on modeling are included in the *Summary and Analysis of Comments,* the decision to withdraw NO_x standards was made independently of any modeling information.

B. *Technology:* For a complete discussion of the technological assessment of aircraft engine emission control see the Summary and Analysis of Comments for this rulemaking and the report referenced therein. In summary, the study of the control technology concluded that the technology for the reduction of HC and CO emissions (which are the products of poor combustion that occurs principally when an engine is idling during taxiing and queuing at the airport) will be readily available for production by 1984. This technology is relatively simple and does not require major alterations to the engine. Also, it is compatible with the techniques to control smoke emissions that are already established and in use.

However, one effective control method for HC must be avoided as the FAA has already judged that it could potentially compromise airworthiness. That method is "sector burning" in which the entire fuel flow during idle power on the ground is directed into a contiguous fraction of the available fuel nozzles. The HC standard is thus being set at a level such that this method of control can be avoided. While the existing and proposed CO emission standards have been withdrawn because of the minimal air quality impacts of aircraft CO emissions, it must be emphasized that the control technologies utilized to reduce HX

[3] Naugle, D. F. and Fox, D. L., "Aircraft and Air Pollution," Environmental Science and Technology, April, 1981 (page 391).

[4] Oxides of nitrogen include both nitric oxide (NO) and nitrogen dioxide (NO_2). The NAAQS for NO_2 is expressed as an annual average.

emissions will also tend to reduce CO emissions.

Two of the major engine manufacturers had counted on using sector burning to comply with the emissions standards with certain existing engine designs. This problem was discussed extensively during meetings of Working Groups of the International Civil Aviation Organization (ICAO) Committee on Aircraft Engine Emissions during 1979. EPA staff participated in these discussions along with representatives of the Federal Aviation Administration and the National Aeronautics and Space Administration. Summaries of these documents have been placed in Public Docket OMSAPC–78–1. For the purposes of the ICAO aircraft engine emissions standards, it was decided by the committee to select limiting emission levels for newly manufactured engines based on the best technology available, short of sector burning, for application to the highest emitting existing engine design. The same level has been selected for the revised U.S. standards, to provide a consistent world-wide target for the reduction of emissions from all currently certificated commercial aircraft engines.

For the ICAO standards, an implementation date of January 1, 1986, was selected, again based on the developmental time to introduce technology for compliance on the highest emitting current commercial engine. However, for the U.S. standards as amended, an implementation date of January 1, 1984 was selected. A new provision is being added to the "Exemptions" section of the U.S. standards to provide a means through which any affected organization can apply to the Secretary of Transportation for a change in the implementation date or any other requirements of the standards, based on specific problems in compliance for any given category of engine. At a meeting with EPA and FAA officials on June 9, 1982, representatives of the Aerospace Industries Association estimated that virtually all affected engines will achieve compliance well before January 1, 1984.

Control of NO_x emissions, which was proposed for 1984, requires the use of control methods which are still in their infancy and thus will not be available in the near future. In addition, their inherent complexity raises the question of their reliability in service and justifies an even more rigorous verification of their performance prior to use. These considerations were involved in EPA's decision to withdraw all NO_x emission standards. Technical investigations through various NASA programs are continuing, however, and may form the basis for improvements in this technology, if it is needed in the future.

C. *Economics:* The economic issues involved with aircraft emission regulation have been broken down into two general areas: (1) The overall economic impact on the industry and on the Nation in terms of total cost of compliance and price increases, and (2) the cost-effectiveness of these regulations, in terms of cost per ton of pollutant reduced, in comparison with other EPA control strategies. Analyses have been performed in each of these two subject areas and are available from the docket. Their conclusions will be summarized below.

1. *Overall Economic Impact of HC Emissions Control*

The principal economic impact of these final regulations results from the HC standards for newly manufactured TF, T3, and T8 engines.

EPA's analysis of the overall economic impact has two aspects which differ somewhat from most mobile source analyses. First, due to the long service life of aircraft engines, EPA has examined aggregate costs over a 20-year period rather than a more typical 5 years for motor vehicle regulations. Some analysis is included on a 5-year aggregate base to assist in comparison with other regulations. Second, manufacturers have already invested roughly half of the capital cost needed to meet these standards, so that while these sunk costs are attributable to the regulations, they could not be saved even if the regulations were totally eliminated. In the latter case, the improvements might not be implemented at all and the investment might be wasted.

EPA estimates the total manufacturing cost of NME standard for TF, T3, and T8 engines to be $224 million, over the 20-year period ending in the year 2000 (those sunk costs spent prior to that period are included in these and following figures). All costs presented here are 1981 dollars, discounted to January 1, 1984 (10 percent discount rate). Aggregate cost to the Nation is lower than the manufacturing cost, because of the substantial saving in fuel costs due to improved engine efficiency. EPA calculates the net cost to the Nation as $84.5 million. On a 5-year aggregate basis (still including all sunk costs), the total manufacturing cost is $131 million and the aggregate net cost to the Nation is $49.5 million.

The manufacturing costs, when amortized over an estimated 20-year life cycle for an engine design, represent an engine first price increase of 1.1–2.8 percent. In turn, this would add 0.2–0.5 percent to the total cost of the aircraft.

Since, as mentioned above, much of the investment required to meet these regulations has already been expended, it is useful to identify the amount of the total cost still to be spent. Our analysis indicates that of the $224 million aggregate manufacturing costs $104.6 million represent already sunk cost and $119.4 million represent cost yet to be incurred (over 20 years).

2. *Cost-Effectiveness of HC Emissions Control.* Turning to cost-effectiveness, EPA notes that, as has been discussed earlier, the CO and NO_x standards have been withdrawn, the former because of air quality reasons and the latter primarily because of control technology concerns (as well as a small air quality impact and high cost of compliance). Thus, the cost-effectiveness discussion need only consider HC emissions. EPA's updated analysis indicates that the cost-effectiveness of the HC NME standard of 19.6 grams per kN per cycle for TF, T3, and T8 engines is $125/ton. The cost-effectiveness of an HC retrofit standard to the same level of 19.6 grams per kN per cycle would be $1540/ton.

An examination of the HC cost-effectiveness of other recent EPA mobile source control strategies shows a range from $164 (for the 1984 light-duty truck standard) to $581 (for the light-duty vehicle inspection/maintenance program in non-attainment areas). Another basis for cost-effectiveness comparisons is available from an EPA report [5] summarizing control technique guidelines applicable to a variety of stationary sources of hydrocarbons and other volatile organic compounds, some of them comparable to aircraft in national emissions impact. These guidelines were prepared to assist states in the development of control strategies towards attainment of the NAAQS for ozone. Appropriate examples include $120–180/ton for control of tank truck gasoline loading terminals, $135–706 for surface coating of cans during manufacturing operations and $440-657/ton for surface coating of metal furniture. In comparison with these data, the HC NME standard for TF, T3, and T8 engines appears very cost-effective while the HC retrofit standard should not be considered until such time as other, less costly, strategies are exhausted.

D. *Withdrawal of Standards:*

[5] Peterson, P.R. and Sakaida, R.R., "Summary of Group 1 Control Technique Guideline Documents for Control of Volatile Organic Emissions From Existing Stationary Sources," EPA Report 450/3–78–120, December, 1978.

1. *New Manufactured Engines.* As discussed above, the revised emissions regulations will only apply to HC from newly manufactured aircraft engines rated at 26.7 kN or greater thrust and which are used for commercial transport by "air carriers" or "commercial operators." The affected engines include classes TF, T3, T8, TSS, and TP. The decision to withdraw requirements for smaller aircraft engines was based primarily on the minimal air quality impacts of such engines. Deletion of the CO standards for larger engines is due to the fact that the air quality justification is weak and control will still accomplish some CO control while reducing the direct regulatory burden of the industry. The withdrawing of the NO_x standards is primarily due to the costs and technical problems of aircraft engine NO_x control, plus the relatively small environmental impact of NO_x emissions from aircraft.

2. *Newly Certified Engines.* With respect to newly certified engines, strong consideration was given to continuing with more stringent HC standards for new engine types which could be designed from their inception to meet them. However, the ICAO Committee on Aircraft Engine Emissions considered this option and rejected it at the same meeting at which they did agree on standards for newly manufactured engines of current design. The Committee decided to include design goals for new engine designs in their report but not to establish formal standards or guidance material based on these design goals. Therefore EPA plans to delete standards applicable to newly certified engines for the present and to continue to work with ICAO towards the establishment of international standards based on the ICAO design goals. For turboprop engines, which have not yet been considered by ICAO, EPA also plans to work with the ICAO Committee towards the establishment of the most cost-effective international emissions standards possible.

Following ICAO action on both newly certified TF or TP engines, EPA can consider amending the U.S. standards again to incorporate the ICAO findings. In the event that agreement cannot be reached on international emissions standards for engines in the newly certified TF and TP categories, EPA can again consider whether to proceed independently with rulemaking.

3. *Retrofit of In-Use Engines.* Analysis has shown that, while retrofit standards would not reduce HC emissions in the long-term (after approximately 20 years when all aircraft now in-use would be replaced), they would provide short-term air quality benefits. EPA's technology assessment showed that HC retrofit was feasible but our cost-effectiveness review indicated that HC retrofit was one of the least effective controls for mobile source HC. In light of its low cost-effectiveness and the generally poor economic health of the aircraft industry, EPA has decided not to promulgate the proposed gaseous emissions retrofit standards. Existing retrofit provisions covering smoke and fuel venting will remain in effect.

E. *Implementation Dates:*

The December 31, 1980 final rule delayed these standards until January 1, 1983. The leadtime requirements of the aircraft industry and the delay experienced in the promulgation of the final rule have necessitated a further extension of the effective dates to January 1, 1984.

F. *Exemptions:*

The issue of exemptions for low production or older design engines was addressed in the Notice of Proposed Rulemaking and it was EPA's position at the time that the exclusion of general aviation aircraft would obviate the need for special provisions. However, commenters have suggested that there might still be isolated instances wherein an engine cannot comply with a certain standard because of economic constraints. In general, special consideration should not be given to individual models or classes of engines simply because they cannot comply; such an approach is inequitable and undermines the goal of regulatory compliance. However, there may be extraordinary situations wherein injury to a manufacturer, an operator, or to the industry at large may be out of all proportion to the benefit accrued by the removal of an engine model from the market because of its failure to comply. Such extraordinary situations are difficult to deal with in advance by special exclusion in the regulation itself, for without public review of the circumstances surrounding each case, the opportunities for misuse or such exceptions would be plentiful. In particular, a blanket exclusion for any given group of engines, however defined, could lead to an exclusion for some engines for which the need does not truly exist.

A blanket exemption can be acceptable if proper precautions are taken. EPA believes an exemption based upon the germane criterion of low production, *not* upon age or alleged inability to comply, is reasonably equitable, satisfactory to the intent behind exclusion and easy to administer, and will not seriously affect air quality. It is principally low production that may make it uneconomical to comply with these regulations. Thus, although certain engines may be exempted that need not be, their production numbers are so small that there will likely be only negligible effects on overall fleet emissions. Therefore, this final rulemaking includes a blanket exemption from the standards for all models of engines which satisfy a criterion for low production which is defined as 20 units or fewer per year, not to exceed a total of 200, from the effective date of these regulations. This type of exemption is equitable, since low production models do not compete significantly with higher production models.

Other changes have been made to the exemption provisions of the standards to place all responsibility for the evaluation of petitions for exemptions of any sort with the Federal Aviation Administration. This will clarify the responsibility and simplify the process for acting on such petitions, with the ultimate decision following FAA evaluation of each petition made only after consultation with EPA.

G. *Definition of the Idle Power Setting:*

In the proposal EPA defined the idle test mode as the minimum idle set point defined by the manufacturer for each particular engine. The proposal allowed the manufacturer to simulate the minimum influences of accessories such as cabin ventilation and air conditioning which are experienced by engines operated in the idle mode. Issues have been raised concerning the appropriateness of an engine-specific minimum idle and whether the idle mode should include a given amount of airbleed (power offtakes).

The intent behind the engine-specific minimum idle is to simulate the highest emissions produced by an aircraft operating at a busy metropolitan airport. Total HC emissions from aircraft throughout all ground operations are strongly dependent on the idle power setting use. Our analysis has concluded that no single general idle value would truly simulate the in-use idle operation of all aircraft. For example, the idle value of a fixed 7 percent of rated thrust selected for the ICAO standards could produce up to a 10 percent error in HC emissions for some engines. Moreover, one major manufacturer has submitted a letter to EPA asking that the ICAO 7 percent idle setting *not* be adopted for the U.S. standard, because this setting is about twice as high as the power setting at which their engines normally idle.

The effect of this would cause their engines to appear to emit much higher HC emissions than they actually do at the true idle setting, because of certain features peculiar to the fuel nozzles in their low emissions combustor.

Further, EPA's intent would best be met by continuing to require that the idle test point be set at the minimum idle set point permitted by the manufacturer, which could be specified in the regulations as a minimum fuel flow rate rather than a minimum percent of rated power, to respond to the comments concerning whether bleed air or other accessory power extraction should or should not be simulated.

However, compliance with the ICAO standard by one particular engine type is strongly influenced, if not dependent, on use of the 7 percent idle condition for compliance testing. That engine formed the basis for the HC limit selected for the ICAO standards, and adopted herein for the U.S. standards as well. To adopt an idle specification which would increase the stringency of the U.S. versus the ICAO standards two years after the latter were agreed to, would depart from one intent of this rulemaking—to achieve as much commonality with international standards as is feasible without compromising with U.S. environmental goals—and would stimulate needless international controversy.

Because of the above considerations as well as the possibility that future engine designs might introduce new complications, it has been determined that the Federal Aviation Administration (FAA) should assume the responsibility for selecting an idle power setting which is consistent with the ICAO standards while maintaining the flexibility to specify alternative test conditions when the unique characteristics of the engine undergoing certification testing justifies a more appropriate test condition.

H. *Compliance Verification:*

The NPRM would have required "total compliance" by each and every aircraft engine of the affected classes throughout its service life. It did not specify how "total compliance" would be defined and left that issue open for the FAA to decide. Many commenters fear that every single newly produced engine would have to be tested for emissions, which would involve very high testing costs. They preferred a certification process which relied upon limited testing of a very small number of engines. They were concerned that, while the FAA might well adopt a certification process that was acceptable to the manufacturers, EPA might later challenge and attempt to reject the FAA procedure. While EPA believes that the concept of "total compliance" for aircraft engine emissions should be maintained as a regulatory goal, it must be emphasized that FAA has the responsibility for defining the appropriate means of enforcement, including considerations of cost. EPA does not intend to supersede FAA authority in this regard. EPA recognizes that testing every engine would be excessively costly and accepts the need to substitute a preproduction certification program in place of extensive testing of all newly produced and in service engines. In the latter case, tests by the FAA and others have found very little deterioration in emissions of engines which were maintained in accordance with applicable FAA maintenance requirements of 14 CFR Chapter 1.

I. *Fuel Specification:*

Both the original 1973 rules and the NPRM preceding this final rulemaking specified the test fuel as ASTM D–1655–Latest Version–Jet A. Because of the increasing cost and scarcity of aviation fuel, airline procurement standards for jet fuel quality are being eased to increase availability. Concerns expressed by industry commenters were that because of the continuing compliance clause (herein deleted), hardware which was initially acceptable at the time of certification will later not be, as the quality of available fuel degrades. EPA does not perceive this as a problem. Hardware, once certified as discussed above, will be acceptable throughout the production of any given engine model. Any reevaluation of that hardware would be expected to use a test fuel equivalent to that used in the original certification, if still available. Nevertheless, to offset such concerns, EPA will specify that the fuel used be fixed in composition according to specifications developed for and included in the recently adopted ICAO standards. These specifications are basically similar to fuels presently available within the United States and other nations where past engine emissions testing has been done. The views of all parties involved in such testing world-wide were considered in their formulation. There are no serious inconsistencies between the specifications and the current ASTM D–1655 Jet A specification.

J. *Testing and Measurement Procedures:*

In order to eliminate unnecessary confusion over minor differences between testing and measurement procedures specified for the purpose of demonstrating compliance with the U.S. and ICAO standards respectively, those specified by ICAO have been adopted herein by reference. While the U.S. standard for gaseous emissions will now apply to HC only, it is recommended that CO and NOx measurements be made and reported to the certificating authority as well, for information only, on each engine undergoing certification testing.

V. Regulatory Impact Analysis

The President's recent Executive Order 12291, "Federal Regulation," requires the preparation of a Regulatory Impact Analysis for any major rule, as defined by that order. This current action does not fall within that definition because its economic impact is well below the $100 million per year threshold of the Order, nor does it involve any significant increased costs or adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S. enterprises to compete with those of other countries compared to the present regulations. Therefore, no formal Regulatory Impact Analysis has been prepared. However, several environmental, economic, and technical analyses have been performed during the decision process and are available from EPA (see "Addresses" above).

VI. Impact on Small Entities

This regulation, as being promulgated today, will not have a significant impact on a substantial number of small entities. Because of the limited classes of engines to which these regulations apply, no small entities (as defined by the Small Business Act) are affected. Therefore, no Regulatory Flexibility Analysis has been prepared.

VII. Evaluation Plan

EPA intends to review the effectiveness and need for continuation of the provisions contained in this action no later than five years after initial implementation of the final regulation. Since the aircraft emission standards take effect on January 1, 1984, this review will be completed by January 1989. In particular, EPA will solicit comments from affected parties concerning the cost and other burdens associated with compliance and will evaluate the environmental benefits of the regulation.

VIII. Reporting and Record Keeping Requirement

Any reporting and record keeping requirements associated with these standards will be defined by the Secretary of Transportation in enforcement regulations issued later

under the provisions of section 232 of the Clean Air Act. Since the ICAO standards will be in effect in any case, additional reporting and record keeping requirements associated with FAA enforcement of these regulations are likely to be very small.

IX. OMB Review

This action was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

X. List of Subjects in 40 CFR Part 87

Air pollution control, Aircraft engines.

Dated: December 21, 1982.

Anne M. Gorsuch,

Administrator.

Title 40 Part 87 of the Code of Federal Regulations is revised to read as follows:

PART 87—CONTROL OF AIR POLLUTION FROM AIRCRAFT AND AIRCRAFT ENGINES

Subpart A—General Provisions

Sec.

87.1 Definitions.
87.2 Abbreviations.
87.3 General requirements.
87.4 [Reserved]
87.5 Special test procedures.
87.6 Aircraft safety.
87.7 Exemptions.

Subpart B—Engine Fuel Venting Emissions (New and In-Use Aircraft Gas Turbine Engines)

87.10 Applicability.
87.11 Standard for fuel venting emissions.

Subpart C—Exhaust Emissions (New Aircraft Gas Turbine Engines)

87.20 Applicability.
87.21 Standards for exhaust emissions.

Subpart D—Exhaust Emissions (In-Use Aircraft Gas Turbine Engines)

87.30 Applicability.
87.31 Standards for exhaust emissions.

Subpart E [Reserved]

Subpart F [Reserved]

Subpart G—Test Procedures for Engine Exhaust Gaseous Emissions (Aircraft and Aircraft Gas Turbine Engines)

87.60 Introduction.
87.61 Turbine fuel specifications.
87.62 Test procedure (propulsion engines).
87.63 [Reserved]
87.64 Sampling and analytical procedures for measuring gaseous exhaust emissions.
87.65–87.70 [Reserved]
87.71 Compliance with gaseous emission standards.

Subpart H—Test Procedures for Engine Smoke Emission (Aircraft Gas Turbine Engines)

Sec.

87.80 Introduction.
87.81 Fuel specifications.
87.82 Sampling and analytical procedures for measuring smoke exhaust emissions.
87.83–87.88 [Reserved]
87.89 Compliance with smoke emission standards.

Subpart I [Reserved]

Appendix B [Reserved]

Authority: Secs. 231, 301, Clean Air Act, as amended (42 U.S.C. 7571, 7601, formerly 42 U.S.C. 1857f–9, 1857g).

Subpart A—General Provisions

§ 87.1 Definitions.

(a) As used in this part, all terms not defined herein shall have the meaning given them in the Act:

"Act" means the Clean Air Act, as amended (42 U.S.C. 7401 et seq.).

"Administrator" means the Administrator of the Environmental Protection Agency and any other officer or employee of the Environmental Protection Agency to whom authority involved may be delegated.

"Aircraft" means any airplane for which a U.S. standard airworthiness certificate or equivalent foreign airworthiness certificate is issued.

"Aircraft engine" means a propulsion engine which is installed in or which is manufactured for installation in an aircraft.

"Aircraft gas turbine engine" means a turboprop, turbofan, or turbojet aircraft engine.

"Class TP" means all aircraft turboprop engines.

"Class TF" means all turbofan or turbojet aircraft engines except engines of Class T3, T8, and TSS.

"Class T3" means all aircraft gas turbine engines of the JT3D model family.

"Class T8" means all aircraft gas turbine engines of the JT8D model family.

"Class TSS" means all aircraft gas turbine engines employed for propulsion of aircraft designed to operate at supersonic flight speeds.

"Commercial aircraft engine" means any aircraft engine used or intended for use by an "air carrier," (including those engaged in "intrastate air transportation") or a "commercial operator" (including those engaged in "intrastate air transportation") as these terms are defined in the Federal Aviation Act and the Federal Aviation Regulations.

"Commercial aircraft gas turbine engine" means a turboprop, turbofan, or turbojet commercial aircraft engine.

"Emission measurement system" means all of the equipment necessary to transport and measure the level of emissions. This includes the sample system and the instrumentation system.

"Engine Model" means all commercial aircraft turbine engines which are of the same general series, displacement, and design characteristics and are usually approved under the same type certificate.

"Exhaust emissions" means substances emitted to the atmosphere from the exhaust discharge nozzle of an aircraft or aircraft engine.

"Fuel venting emissions" means raw fuel; exclusive of hydrocarbons in the exhaust emissions, discharged from aircraft gas turbine engines during all normal ground and flight operations.

"Instrumentation system" means the system which consists of the analytical instruments necessary to measure the level of emissions plus any required support equipment.

"In-use aircraft gas turbine engine" means an aircraft gas turbine engine which is in service.

"New aircraft turbine engine" means an aircraft gas turbine engine which has never been in service.

"Power setting" means the power or thrust output of an engine in terms of kilonewtons thrust for turbojet and turbofan engines and shaft power in terms of kilowatts for turboprop engines.

"Rated compressor discharge temperature (rT_3)" means the combustor inlet total temperature achieved by an engine operating at rated output.

"Rated output (rO)" means the maximum power/thrust available for takeoff at standard day conditions as approved for the engine by the Federal Aviation Administration, including reheat contribution where applicable, but excluding any contribution due to water injection.

"Rated pressure ratio (rPR)" means the ratio between the combustor inlet pressure and the engine inlet pressure achieved by an engine operating at rated output.

"Reference day conditions" means the reference ambient conditions to which the gaseous emissions (HC, CO, CO_2 and smoke) are to be corrected. The reference day conditions are as follows: Temperature=15°C, specific humidity=0.00629 kg H_2O/kg of dry air, and pressure=101325 Pa.

"Sample system" means the system which provides for the transportation of the gaseous emission sample from the sample probe to the inlet of the instrumentation system.

"Secretary" means the Secretary of Transportation and any other officer or

employee of the Department of Transportation to whom the authority involved may be delegated.

"Shaft power" means only the measured shaft power output of a turboprop engine.

"Smoke" means the matter in exhaust emissions which obscures the transmission of light.

"Smoke number (SN)" means the dimensionless term quantifying smoke emissions.

"Standard day conditions" means standard ambient conditions as described in the United States Standard Atmosphere, 1976, (i.e., Temperature =15°C, specific humidity =0.00 kg/H_2O/kg dry air, and pressure =101325 Pa.)

"Taxi/idle (in)" means those aircraft operations involving taxi and idle between the time of landing roll-out and final shutdown of all propulsion engines.

"Taxi/idle (out)" means those aircraft operations involving taxi and idle between the time of initial starting of the propulsion engine(s) used for the taxi and turn on to duty runway.

§ 87.2 Abbreviations.

The abbreviations used in this part have the following meanings in both upper and lower case:

CO_2, Carbon dioxide.
CO Carbon monoxide.
FAA Federal Aviation Administration, Department of Transportation.
HC Hydrocarbon(s).
hr. Hour(s).
LTO Landing takeoff
min. Minute(s).
rO Rated output.
rPR Rated pressure ratio.
sec. Seconds.
SP Shaft power.
SN Smoke number.
T Temperature, degrees Kelvin.
TIM Time in mode.
W Watt(s).
° Degree.
% Percent.

§ 87.3 General requirements.

(a) This part provides for the approval or acceptance by the Administrator or the Secretary of testing and sampling methods, analytical, techniques, and related equipment not identical to those specified in this part. Before either approves or accepts any such alternate, equivalent, or otherwise nonidentical procedures or equipment, the Administrator or the Secretary shall consult with the other in determining whether or not the action requires rulemaking under sections 231 and 232 of the Clean Air Act, as amended, consistent with the Administrator's and the Secretary's responsibilities under sections 231 and 232 of the Act. (42 U.S.C. 7571, 7572).

(b) Under section 232 of the Act, the Secretary issues regulations to insure compliance with this part.

(c) With respect to aircraft of foreign registry, these regulations shall apply in a manner consistent with any obligation assumed by the United States in any treaty, convention or agreement between the United States and any foreign country or foreign countries.

§ 87.4 [Reserved]

§ 87.5 Special test procedures.

The Administrator or the Secretary may, upon written application by a manufacturer or operator of aircraft or aircraft engines, approve test procedures for any aircraft or aircraft engine that is not susceptible to satisfactory testing by the procedures set forth herein. Prior to taking action on any such application, the Administrator or the Secretary shall consult with the other.

§ 87.6 Aircraft safety.

The provisions of this part will be revised if at any time the Secretary determines that an emission standard cannot be met within the specified time without creating a safety hazard.

§ 87.7 Exemptions

(a) *Exemptions based on flights for short durations at infrequent intervals.* The emission standards of this part do not apply to engines which power aircraft operated in the United States for short durations at infrequent intervals. Such operations are limited to:

(1) Flights of an aircraft for the purpose of export to a foreign country, including any flights essential to demonstrate the integrity of an aircraft prior to its flight to a point outside the United States.

(2) Flights to a base where repairs, alterations or maintenance are to be performed, or to a point of storage, and flights for the purpose of returning an aircraft to service.

(3) Official visits by representatives of foreign governments.

(4) Other flights the Secretary determines, after consultation with the Administrator, to be for short durations at infrequent intervals. A request for such a determination shall be made before the flight takes place.

(b) *Exemptions for very low production engine models.* The emissions standards of this part do not apply to engines of very low production rate and total production. For the purpose of this part, "very low production" is limited to:

(1) A maximum annual production rate after January 1, 1984 of 20 units covered by the same type certificate; and

(2) A maximum total production after January 1, 1984 of 200 units covered by the same type certificate.

(c) *Exemptions for New Engines in Other Categories.* The emissions standards of this part do not apply to engines for which the Secretary determines, with the concurrence of the Administrator, that application of any standard under § 87.21 is not justified, based upon consideration of:

(1) Adverse economic impact on the manufacturer.

(2) Adverse economic impact on the aircraft and airline industries at large.

(3) Equity in administering the standards among all economically competing parties.

(4) Public health and welfare effects.

(5) Other factors which the Secretary, after consultation with the Administrator, may deem relevant to the case in question.

(d) *Time Limited Exemptions for In Use Engines.* The emissions standards of this part do not apply to aircraft or aircraft engines for time periods which the Secretary determines, with the concurrence of the Administrator, that any applicable standard under § 87.11(a), § 87.31(a), or § 87.31(c), should not be applied based upon consideration of the following:

(1) Documentation demonstrating that all good faith efforts to achieve compliance with such standard have been made.

(2) Documentation demonstrating that the inability to comply with such standard is due to circumstances beyond the control of the owner or operator of the aircraft.

(3) A plan in which the owner or operator of the aircraft shows that he will achieve compliance in the shortest time which is feasible.

(4) Applications for a determination that any requirements of § 87.11(a), § 87.31(a) or § 87.31(c) shall be submitted in duplicate to the Secretary in accordance with procedures established by the Secretary.

(e) The Secretary shall publish in the **Federal Register** the name of the organization to whom exemptions are granted and the period of such exemptions.

(f) No state or political subdivision thereof may attempt to enforce a standard respecting emissions from an aircraft or engine if such aircraft or engine has been exempted from such standard under this part.

Subpart B—Engine Fuel Venting Emissions (New and In-Use Aircraft Gas Turbine Engines)

§ 87.10 Applicability.

The provisions of this subpart are applicable to aircraft gas turbine engines of classes TF, T3, T8, TSS, and TP manufactured after February 1, 1974.

§ 87.11 Standard for fuel venting emissions.

(a) No fuel venting emissions shall be discharged into the atmosphere from any new or in-use aircraft gas turbine engine subject to the subpart. This paragraph is directed at the elimination of intentional discharge to the atmosphere of fuel drained from fuel nozzle manifolds after engines are shut down and does not apply to normal fuel seepage from shaft seals, joints, and fittings.

(b) Conformity with the standard set forth in paragraph (a) of this section shall be determined by inspection of the method designed to eliminate these emissions.

Subpart C—Exhaust Emissions (New Aircraft Gas Turbine Engines)

§ 87.20 Applicability.

The provisions of this subpart are applicable to all aircraft gas turbine engines of the classes specified beginning on the dates specified.

§ 87.21 Standards for exhaust emissions.

(a) Exhaust emissions of smoke from each new aircraft gas turbine engine of class T8 manufactured on or after February 1, 1974, shall not exceed: Smoke number of 30.

(b) Exhaust emissions of smoke from each new aircraft gas turbine engine of class TF and of rated output of 129 kilonewtons thrust or greater, manufactured on or after January 1, 1976, shall not exceed:

$SN = 83.6(r0)^{-0.274}$ (r0 is in kilonewtons).

(c) Exhaust emission of smoke from each new aircraft gas turbine engine of class T3 manufactured on or after January 1, 1978, shall not exceed: Smoke number of 25.

(d) Gaseous exhaust emissions from each new commercial aircraft gas turbine engine that is manufactured on or after January 1, 1984, shall not exceed:

(1) Classes TF, T3, T8 engines equal to or greater than 26.7 kilonewtons rated output:

Hydrocarbons: 19.6 grams/kilonewton r0.

(2) Class TSS:

$Hydrocarbons = 140(0.92)^{rPR}$ grams/kilonewton r0.

(e) Smoke exhaust emissions from each aircraft gas turbine engine of the classes specified below manufactured on or after January 1, 1984, shall not exceed:

(1) Classes TF, T3, T8 and TSS:

$SN = 83.6(r0)^{-0.274}$ (r0 is in kilonewtons), but not to exceed a maximum of SN = 50.

(2) Class TP:

$SN = 187\ (r0)^{-0.168}$ for r0>1000 Kilowatts.

(f) The standards set forth in paragraphs (a), (b), (c), (d), and (e) of this section refer to a composite gaseous emission sample representing the operating cycles set forth in the applicable sections of Subpart G of this part, and exhaust smoke emissions emitted during operations of the engine as specified in the applicable sections of Subpart H of this part, measured and calculated in accordance with the procedures set forth in those subparts.

Subpart D—Exhaust Emissions (In-use Aircraft Gas Turbine Engines)

§ 87.30 Applicability.

The provisions of this subpart are applicable to all in-use aircraft gas turbine engines certified for operation within the United States of the classes specified beginning on the dates specified.

§ 87.31 Standards for exhaust emissions.

(a) Exhaust emissions of smoke from each in-use aircraft gas turbine engine of Class T8, beginning February 1, 1974, shall not exceed: Smoke number of 30.

(b) Exhaust emissions of smoke from each in-use aircraft gas turbine engine of class TF and of rated output of 129 kilonewtons thrust or greater, beginning January 1, 1976, shall not exceed:

$SN = 83.6(r0)^{-0.274}$ (r0 is in kilonewtons).

(c) Exhaust emissions of smoke from each in-use aircraft gas turbine engine of Class T3 shall not exceed a smoke number of 25. Each operator shall achieve compliance in accordance with the following schedule:

(1) One quarter of its operational Class T3 engines by February 1, 1981.

(2) One half of its operational Class T3 engines by January 1, 1983.

(3) All of its operational Class T3 engines by January 1, 1985.

This compliance schedule notwithstanding, Class T3 engines which do not meet a smoke number of 25 may continue to be operated if, under an FAA approved plan, replacement engines or replacement airplanes have been ordered and are scheduled for delivery prior to January 1, 1985, but not after the dates specified in the plan. For the purpose of this paragraph, replacement engines are engines of a class different from Class T3 and have been shown to meet the smoke emission standards in this part appropriate to their class.

(d) The smoke standards set forth in paragraphs (a), (b), (c) and (d) of this section refer to exhaust smoke emissions emitted during operation of the engine as specified in the applicable sections of Subpart H of this part, and measured and calculated in accordance with the procedure set forth in those subparts.

Subpart E—[Reserved]

Subpart F—[Reserved]

Subpart G—Test Procedures for Engine Exhaust Gaseous Emissions (Aircraft and Aircraft Gas Turbine Engines)

§ 87.60 Introduction.

(a) Except as provided under § 87.5, the procedures described in this subpart shall be the test program to determine the conformity of new aircraft gas turbine engines with the applicable standards set forth in this part.

(b) The test consists of operating the engine at prescribed power settings on an engine dynamometer (for engines producing primarily shaft power) or thrust measuring test stand (for engines producing primarily thrust). The exhaust gases generated during engine operation are sampled continuously for specific component analysis through the analytical train.

(c) The exhaust emission test is designed to measure hydrocarbons, carbon monoxide and carbon dioxide concentrations, and to determine mass emissions through calculations during a simulated aircraft landing-takeoff cycle (LTO). The LTO cycle is based on time in mode data during high activity periods at major airports. The test for propulsion engines consists of a least the following four modes of engine operation: taxi/idle, takeoff, climbout, and approach. The mass emission for the modes are combined to yield the reported values.

(d) When an engine is tested for exhaust emissions on an engine dynamometer or test stand, the complete engine shall be used with all accessories which might reasonably be expected to influence emissions to the atmosphere installed and functioning, if not otherwise prohibited by § 87.62(a)(2). Use of service air bleed and shaft power extraction to power auxiliary gearbox-

mounted components required to drive aircraft systems is not permitted.

(e) Other gaseous emissions measurement systems may be used if shown to yield equivalent result and if approved in advance by the Administrator of the Secretary.

§ 87.61 Turbine fuel specifications.

For exhaust emission testing, fuel meeting the specifications listed in Appendix 4 of Volume 2 to ICAO Annex 16, shall be used. These specifications are listed below for convenience. Additives used for the purpose of smoke suppression (such as organometallic compounds) shall not be present.

Specification for Fuel To Be Used in Aircraft Turbine Engine Emission Testing

Property and Allowable Range of Values

Specific Gravity at 15°C: 0.78–0.82.
Distillation Temperature, °C: 10% Boiling Point—165–201; Final Boiling Point—272–283.
Net Heat of Combustion, kJ/kg: 42 880–43 500.
Aromatics, volume %: 15–20.
Naphthalenes, volume %: 1.0–2.0.
Smoke point, mm: 20–28.
Hydrogen, mass %: 13.6–14.0.
Sulphur, mass %: 0.3%.
Kinematic viscosity at −20°C, mm ²/s: 6.0–6.5.

§ 87.62 Test procedure (propulsion engines).

(a)(1) The engine shall be tested in each of the following engine operating modes which simulate aircraft operation to determine its mass emission rates. The actual power setting, when corrected to standard day conditions, should correspond to the following percentages of rated output. Analytical correction for variations from reference day conditions and minor variations in actual power setting should be specified and/or approved by the Secretary:

Mode	Class		
	TP	TF, T3, T8	TSS
Taxi/idle	(1)	(1)	(1)
Takeoff	100	100	100
Climbout	90	85	85
Descent	MA	MA	15
Approach	20	30	34

[1] See paragraph (a)(2) of this section.

(2) The taxi/idle operating modes shall be carried out at a power setting of 7% rated thrust unless the Secretary determines that the unique characteristics of an engine model undergoing certification testing at 7% would result in substantially different HC emissions than if the engine model were tested at the manufacturers recommended idle power setting. In such cases the Secretary shall specify an alternative test condition.

(3) The times in mode (TIM) shall be as specified below:

Mode	Class		
	TP	TF, T3 or T8	TSS
Taxi/idle (minutes)	26.0	26.0	[illegible]
Takeoff	0.5	0.7	1.2
Climbout	2.5	2.2	2.0
Descent	N/A	N/A	1.2
Approach	4.5	4.0	2.3

(b) Emissions testing shall be conducted on warmed-up engines which have achieved a steady operating temperature.

§ 87.63 [Reserved]

§ 87.64 Sampling and analytical procedures for measuring gaseous exhaust emissions.

The system and procedures for sampling and measurement of gaseous emissions shall be as specified by Appendices 3 and 5 to ICAO Annex 16, Volume II, Aircraft Engine Emissions, First Edition, June 1981, which are incorporated herein by reference. This document can be obtained from the International Civil Aviation Organization, P.O. Box 400, Succursale: Place de L'Aviation Internationale, 1000 Sherbrooke Street West, Montreal, Quebec, Canada H3A 2R2 at $3.00 per copy. It is also available for inspection at the Office of the Federal Register Information Center, Room 8301, 1100 L Street, N.W., Washington, D.C. 20408. This incorporation by reference was approved by the Director of the Federal Register on September 3, 1982. These materials are incorporated as they exist on the date of the approval and a notice of any change in these materials will be published in the **Federal Register.** Frequent changes are not anticipated.

§ 87.65–87.70 [Reserved]

§ 87.71 Compliance with gaseous emission standards.

Compliance with each gaseous emission standard by an aircraft engine shall be determined by comparing the pollutant level in grams/kilonewton/thrust/cycle or grams/kilowatt/cycle as calculated in § 87.64 with the applicable emission standard under this part.

Subpart H—Test Procedures for Engine Smoke Emissions (Aircraft Gas Turbine Engines)

§ 87.80 Introduction.

Except as provided under §87.5, the procedures described in this subpart shall be the test program to determine the conformity of new and in-use gas turbine engines with the applicable standards set forth in this part. The test is essentially the same as that described in §§ 87.60–87.62, except that the test is designed to determine the smoke emission level at various operating points representative of engine usage in aircraft. Other smoke measurement systems may be used if shown to yield equivalent results and if approved in advance by the Administrator or the Secretary.

§ 87.81 Fuel specifications.

Fuel having specifications as provided in § 87.61 shall be used in smoke emission testing.

§ 87.82 Sampling and analytical procedures for measuring smoke exhaust emissions.

The system and procedures for sampling and measurement of smoke emissions shall be as specified by Appendix 2, Volume II, Aircraft Engine Emissions to ICAO Annex 16, Aircraft Engine Emissions, First Edition, June, 1981. This document can be obtained from the International Civil Aviation Organization, P.O. Box 400, Succursale: Place de L'Aviation Internationale, 1000 Sherbrooke Street West, Montreal, Quebec, Canada H3A 2R2 at $3.00 per copy. It is also available for inspection at the Office of the Federal Register Information Center, Room 8301, 1100 L Street, N.W., Washington, D.C. 20408. This incorporation by reference was approved by the Director of the Federal Register on September 3, 1982. These materials are incorporated as they exist on the date of the approval and a notice of any change in these materials will be published in the **Federal Register.** Frequent changes are not anticipated.

§ 87.83–87.88 [Reserved]

§ 87.89 Compliance with smoke emission standards.

Compliance with each smoke emission standard shall be determined by comparing the plot of SN as a function of power setting with the

applicable emission standard under this part. The SN at every power setting must be such that there is a high degree of confidence that the standard will not be exceeded by any engine of the model being tested. The level of confidence required, a practical interpretation of the requirement for total compliance, and a testing program to assure compliance will be established by the Secretary prior to January 1, 1984, and shall be approved by the Administrator.

Subpart I [Reserved]

Appendix B [Reserved]

[FR Doc. 82-35254 Filed 12-29-82; 8:45 am]
BILLING CODE 6560-50-M

federal register

Thursday
December 30, 1982

Part IV

Environmental Protection Agency

National Oil and Hazardous Substance Contingency Plan; The National Priorities List; Amendment

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[SWH–FRL 2274–3]

Amendment to National Oil and Hazardous Substance Contingency Plan; The National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency ("EPA") is proposing to amend the National Oil and Hazardous Substances Contingency Plan ("NCP"), which was promulgated on July 16, 1982, (47 FR 31180), pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA") and Executive Order 12316. The proposed amendment supplements the NCP with the National Priorities List ("NPL"), which will become Appendix B of the NCP. CERCLA requires that the NCP include a list of national priorities among the known releases or threatened releases of hazardous substances, pollutants, and contaminants throughout the United States, and the list be revised at least annually. The NPL identifies priority releases, based on the assessments of State governments and EPA, for Fund-financed remedial action and enforcement under CERCLA.

DATES: Comments must be submitted on or before February 28, 1983.

ADDRESSES: Comments may be mailed to Russel H. Wyer, Director, Hazardous Site Control Division, Office of Emergency and Remedial Response (WH–548–E), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. The public docket for the NCP will contain Hazard Ranking System score sheets for all sites on the NPL, as well as a "Documentation Record" for each site, listing the sources of information used to compute the scores. The docket is located in Room S–398, Environmental Protection Agency, 401 M Street, SW., Washington, D.C., and is available for viewing from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays. Requests for copies of these documents should be directed to Headquarters, although the same documents will be available for viewing in the EPA Regional Offices. In addition, the sources of data used to compute the scores are retained in the Regional Offices and may be obtained upon request. Addresses for the Regional Office dockets are:

John Hackler, Region I (No library facility available), Waste Response and Compliance Branch, Superfund Program Office, Room 1903, Boston, MA 02205, 617/223–5709

John Frisco, Region II (No library facility available), Hazardous Waste Site Branch, Superfund Program Office, 26 Federal Plaza, Room 402, New York, NY 11278, 212/264–1573

Diane McCreary, Region III, U.S. EPA Library, Curtis Building, 6th & Walnut Streets, Philadelphia, PA 19106, 215/597–0580

Carolyn Mitchell, Region IV, U.S. EPA Library, 345 Countland Street, NE, Atlanta, GA 30365, 404/257–4716

Lou Tilly, Region V, U.S. EPA Library, 230 South Dearborn Street, Chicago, IL 60604, 512/253–2022

Martha Thompson, Region VI, U.S. EPA Library, First International Building, 1201 Elm Street, Dallas, TX 75270, 214/729–7341

Connie McKenzie, Region VII, U.S. EPA Library, 324 East 11th Street, Kansas City, MO 64106, 816/374–3497

Delores Eddy, Region VIII, U.S. EPA Library, 1860 Lincoln Street, Denver, CO 80295, 303/327–2560

Jean Circiello, Region IX, U.S. EPA Library, 215 Fremont Street, San Francisco, CA 94105

Julie Sears, Region X, U.S. EPA Library, 1200 6th Avenue, Seattle, WA 98101

FOR FURTHER INFORMATION CONTACT Stephen M. Caldwell, Hazardous Site Control Division, Office of Emergency and Remedial Response (WH–548–E), Environmental Protection Agency, 401 M Street SW, Washington, D.C. 20460, Phone (800) 424–9346 (or 382–3000 in the Washington, D.C., metropolitan area).

SUPPLEMENTARY INFORMATION:

Table of Contents:

I Introduction
II Contents of the NPL
III Development Process
IV Exclusions
V Current Status of Sites
VI Implementation
VII Deletion of Sites
VIII Changes from the Interim Lists
IX Request for Comments
X Promulgation and Revision
XI Regulatory Impact and Regulatory Flexibility Analyses

I. Introduction

Pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. 9601–9657 ("CERCLA" or "the Act"), and Executive Order 12316 (46 FR 42237, Aug. 20, 1981), the Environmental Protection Agency ("EPA" or "the Agency") promulgated the revised National Contingency Plan ("NCP"), 40 CFR Part 300, on July 16, 1982 (47 FR 31180). Those amendments to the NCP implement the new responsibilities and powers created by CERCLA to respond to releases and threatened releases of hazardous substances, pollutants, and contaminants.

Section 105(8)(A) of CERCLA requires that the NCP include criteria for determining priorities among releases or threatened releases throughout the United States for the purpose of taking remedial action and, to the extent practicable taking into account the potential urgency of such action, for the purpose of taking removal action. Removal action involves cleanup or other actions that are taken in response to emergency conditions or on a short-term or temporary basis (CERCLA section 101(23)). Remedial action tends to be long-term and involves response actions which are consistent with a permanent remedy for a release (CERCLA section 101(24)). Criteria for determining priorites are included in the Hazard Ranking System ("HRS"), which comprises Appendix A of the NCP (47 FR 31219, July 16, 1982).

Section 105(8)(B) requires that these criteria be used to prepare a list of national priorities among the known releases or threatened releases throughout the United States, and that to the extent practicable at least 400 sites be designated individually. EPA may include a release on the NPL if CERCLA authorizes Federal response to the release. Under Section 104(a) of CERCLA, this response authority is quite broad, extending to releases or threatened releases not only of designated hazardous substances, but of any "pollutant or contaminant." CERCLA requires that this National Priorities List ("NPL") be included as part of the NCP. Today, the Agency is proposing to amend the NCP by adding the NPL as Appendix B. The discussion below may refer to "releases or threatened releases" simply as "releases" or "sites" in referring to the NPL.

The primary purpose of the NPL is stated in the legislative history of CERCLA (Report of the Committee on Environment and Public Works, Senate Report No. 96–848, 96th Cong., 2d. Sess. 60 (1980)):

> The priority lists serve primarily informational purposes, identifying for the States and the public those facilities and sites or other releases which appear to warrant remedial actions. Inclusion of a facility or site on the list does not in itself reflect a judgment of the activities of its owner or operator, it does not require those persons to undertake any action, nor does it assign liability to any person. Subsequent government action in the form of remedial actions or enforcement actions will be necessary in order to do so,

and these actions will be attended by all appropriate procedural safeguards.

The entries on the proposed NPL are candidates for response action by the Agency under CERCLA, which can include remedial response, removal action, and enforcement. EPA also encourages voluntary cleanup by responsible parties. The information collected to develop HRS scores to choose sites for the NPL is not sufficient in itself to determine the appropriate remedy for a particular site. After a site is included on the NPL, more detailed studies will generally be necessary. Decisions on the type and extent of action to be taken at these sites will be made in accordance with the criteria contained in Subpart F of the NCP. EPA may conclude that no action is feasible for some sites on the NPL because of the need to efficiently use the limited resources of the Fund. EPA may also conclude that no action is needed because further investigation reveals that the site does not actually present a problem.

II. Contents of the NPL

As noted above, CERCLA requires that the NPL include, if practicable, at least 400 sites. EPA has determined that sites with a HRS score of 28.50 or higher will be included on the proposed NPL, resulting in a proposed NPL containing 418 individual entries. Each entry on the NPL contains the name of the facility, the State in which it is located, and the corresponding EPA Region. For purposes of information, each entry on the NPL is accompanied by a notation on the current status of response and enforcement activities at the site.

The entries on the proposed NPL are in groups of 50 sites. Within each group, the releases are presented in order of their HRS scores, except where EPA modified the order to reflect top priorities established by States. Section 105 (8) (B) of CERCLA requires that, to the extent practicable, the NPL include within the one hundred highest priorities at least one facility designated by each State as representing the greatest danger to public health, welfare, or the environment among known facilities in the State. Any site designated by a State as its top priority is therefore included within the one hundred highest priority sites. The States are not required to rely exclusively on the HRS in designating their top priority sites, and certain of the sites designated by States as their top priority were not among the one hundred highest sites according to HRS score. These lower scoring State priority sites are listed at the bottom of the group of one hundred highest priority sites. All top priority sites designated by States are indicated by asterisks.

III. Development Process

CERCLA requires each State to establish priorities for remedial action among known releases and potential releases in that State, based on the criteria developed pursuant to section 105 (8) (A), and to submit these priorities for consideration by EPA. EPA has worked with the States over the past year to identify candidate sites; investigate the sites through monitoring and sampling of groundwater, surface water, air, and soil; and apply the HRS criteria to the candidate sites.

After the sites were scored, the EPA Regional Offices conducted a quality control program to ensure that the sites were scored consistently and that scores were based upon adequate information. In some cases, the EPA Regional Offices added to the lists submitted by the States, taking into account State comments when available. The EPA Regional Offices then submitted the lists to EPA Headquarters.

After this Regional review, EPA conducted further quality assurance audits on a sample of the sites submitted for the NPL. Each site included in the sample was scored under the supervision of EPA Headquarters by a consultant trained in application of the HRS. The object of these audits was to ensure accuracy and consistency among the various EPA and State offices participating in the scoring. Based upon these results, several of the Regions reviewed their initial results and adjusted scores where necessary.

Sites were scored for inclusion in the NPL on the basis of the hazards that existed before any response actions were initiated. Public agencies might have been discouraged from taking early response if such actions could lower the HRS score and prevent a site from being included on the NPL. In addition, where response actions have already been initiated by private parties or another agency, listing such sites will enable EPA to evaluate the need for a more complete response. Inclusion on the NPL therefore does not reflect a judgment on any response action completed or underway. Some releases on the proposed NPL are currently being cleaned up by responsible parties or by the States and EPA.

Response actions already taken were considered in scoring the categories in the HRS involving direct human contact and fire and explosion. These categories are used only to evaluate the need for removal action in response to emergency conditions, and are not used to determine whether a site should be included on the NPL.

Section 104 (d) (4) of CERCLA authorizes the Federal government to treat two or more non-contiguous facilities as one for purposes of response, if such facilities are reasonably related on the basis of geography or on the basis of their potential threat to public health, welfare, or the environment. For purposes of the NPL, however, EPA has decided that where possible such sites should be scored and listed individually because the HRS scores more accurately reflect the hazards associated with a site if the site is scored individually. Listing facilities individually does not preclude EPA from consolidating response efforts at these sites or others where it is cost-effective to do so.

IV. Exclusions

CERCLA restricts EPA's authority to respond to certain categories of releases, and expressly excludes some substances from the definition of release. In addition, as a matter of policy, EPA may choose not to respond to certain types of releases because other Federal agencies have adequate authority to respond. This section discusses the inclusion of such releases on the NPL.

Releases of Radioactive Materials: Section 101(22) of CERCLA excludes several types of releases of radioactive materials from the statutory definition of "release." These releases are therefore not eligible for CERCLA response actions or inclusion on the NPL. The exclusions apply to: (1) Releases of source, by-product or special nuclear material from a nuclear incident, if these releases are subject to financial protection requirements under Section 170 of the Atomic Energy Act, and (2) any release of source, by-product or special nuclear material from any processing site designated under the Uranium Mill Tailings Radiation Control Act of 1978. In addition, other Federal or State authority may be adequate to remedy the threat to public health or the environment from other releases of radioactive materials. EPA therefore solicits comments on whether these releases should should be included on the NPL.

Releases from Federal Facilities: CERCLA section 111(e)(3) prohibits use of the Fund for remedial actions at Federally owned facilities. EPA will not list and does not intend to respond to any sites where the release come solely from the Federal facility, regardless of whether contamination remains on-site or has migrated off-site. The

responsibility for clelanup of these sites rests with the responsible Federal agency, pursuant to Executive Order 12316 (46 FR 42237, Aug. 20, 1981).

EPA may be authorized to respond where the source of off-site contamination is unclear or not verified, or where it is not exclusively the responsibility of the Federal Government. In these situations, the off-site contaminated area associated with this type or release is eligible for inclusion on the NPL. Sites that are not currently owned by the Federal Government are also eligible for the NPL, even if they were previously owned by the Federal Government. Finally, non-Federally owned sites where the Federal Government may have contributed to a release are also eligible for inclusion.

RCRA-Related Sites: Both CERCLA and RCRA (the Resource Conservation and Recovery Act) contain authorities applicable to hazardous waste facilities. These authorities overelap for certain sites. Accordingly, where a site is an active RCRA facility authorized by permit or interim status, it will not be included on the NPL, but will instead be addressed under RCRA. The NPL may include sites that are inactive units within the boundaries of a RCRA facility if the units themselves are not authorized by permit or interim status.

Releases of Mining Wastes: CERCLA clearly authorizes Federal response to releases of mining wastes. Accordingly, mining waste releases were included on the Interim Priority List and the Expanded Eligibility List, and are now proposed for inclusion on the NPL. However, a number of persons have expressed the view that such releases are more appropriately addressed under other statutory authority. EPA therefore solicits comments on its policy of including mining waste sites on the NPL.

V. Current Status of Sites

For informational purposess, the proposed sites are accompanied by notations concerning the status of response and enforcement actions based on the most current facts available. It should be noted, however, that a site's status will in most cases change periodically, and the notations given here may become outdated. The releases willl be included in the following categories: Voluntary or Negotiated Response; Federal and State Response; Federal or State Enforcement; and Actions to be Determined. Each category is explained below.

Voluntary or Negotiated Response. Release are included in this category if response actions are currently being taken by potentially responsible parties or private parties. This category includes response actions that are sanctioned under consent agreements, consent orders, or consent decrees to which the Federal Government is a party. Voluntary or negotiated cleanup may include actions taken pursuant to agreements reached after enforcement action had commenced. Currently, this category does not include sites undergoing response actions if the actions are not governed by such an arrangement with the Federal Government. The information currently available to EPA does not adequately reflect all private party cleanups. The Agency intends to identify ongoing corrective actions not defined by an agreement with the Federal Government in the final NPL, and solicits information from the public concerning these corrective actions.

This category does not include actions mandated under Federal and State regulatory programs to update operational pollution control systems or waste disposal operations (e.g., upgrading surface impoundments operated pursuant to an NPDES permit). This category of response may include remedial investigations, feasibility studies, and other preliminary work, as well as actual cleanup.

Federal and State Response. The Federal and State response category includes sites where EPA or State agencies have commenced or completed removal or remedial actions under CERCLA. If the State is primarily responsible for managing the response action, the site is included in this category when EPA has obligated funds for response. If EPA is managing the response action, the release is included when the State has signed a contract to meet its responsibilities and EPA has obligated funds for response. For removal actions, response has begun when EPA has obligated funds.

Federal or State Enforcement. This category includes sites where the United States Government or the State has filed a civil or criminal complaint or issued an administrative order. It also includes sites where a Federal or State court has mandated some form of non-consensual remedial action following a judicial proceeding. A number of sites on the NPL are the subject of enforcement investigation or have been formally referred to the Department of Justice for enforcement action. EPA policy precludes premature release of information concerning possible enforcement actions, and accordingly these sites have not been included in this category, even though preliminary enforcement activities may in fact be underway.

Actions To Be Determined. The category of actions to be determined includes all sites not otherwise listed. A wide range of activities may be in progress for sites in this category. Remedial projects may be under consideration, although funds have not been formally obligated. Enforcement investigations may be underway. Referrals may have been made to the Department of Justice, prior to formal commencement of enforcement action. Investigations may be underway or needed to determine the source of a release in areas adjacent to or near a Federal facility. Responsible parties may be undertaking cleanup operations that are unknown to the Federal or State government, or corrective action may not be occurring yet.

VI. Implementation

Sites on the proposed NPL are high priority candidates for Fund-financed remedial action, enforcement action, and private-party cleanup. The NPL itself does not determine priorities for removal action, although EPA may take removal actions against any site, whether listed or not, that meets the criteria of sections 300.65–.67 of the NCP. EPA will begin considering various response and enforcement actions for the sites on the proposed NPL published today, prior to final promulgation of the NPL. This approach is necessary to address potentially dangerous sites during the period before the final NPL is promulgated. Use of the proposed NPL will enable EPA to consider response action on the basis of the most current information available. This continues the policy articulated in the preamble to the proposed NCP (47 FR 10977, March 12, 1982).

Absence from the NPL does not preclude enforcement actions under CERCLA or other authorities, because enforcement action may be appropriate in some situations for sites not included on the NPL. The HRS was designed to meet specific statutory requirements for the propose of identifying priorities for response action, and was not designed to account for every type of public health or environmental effect that might merit enforcement action.

It remains Agency policy to pursue enforcement actions as an alternative or complement to Fund-financed response activities. This will help assure that the limited resources of the Fund are used as efficiently as possible. (See "Guidelines for Using the Imminent Hazard, Enforcement, and Emergency Response Authorities of Superfund and Other Statutes," 47 FR 20664, (May 13, 1982). Consistent with this policy,

wherever possible EPA has provided potentially responsible parties with notice and an opportunity to confer with the Agency before the Agency commences Fund-financed response action, including remedial investigations and feasibility studies to help determine the appropriate remedy. CERCLA does not, however, mandate such notice to potentially responsible parties, nor require notice as a condition precedent to full cost recovery.

In many situations, it has been difficult to conduct productive discussions with potentially responsible parties in the absence of preliminary studies indicating what type of response action is appropriate. The Agency therefore believes that negotiations may be more fruitful where such studies have been completed, or at least commenced. Accordingly, potentially responsible parties may be notified after the remedial investigations and feasibility studies have begun or are completed. (See the NCP, 40 CFR 300.68, and the accompanying preamble, 47 FR 31180, July 16, 1982, for a fuller discussion of remedial investigations and feasibility studies.)

Funding of response actions for sites on the NPL will not necessarily take place in order of the sites' ranking on the NPL. Sites will receive the highest priority for response funding if the State has provided cost-sharing and the other assurances necessary under CERCLA section 104(c)(3), and it appears that enforcement actions will not quickly lead to private party cleanup. Priorities among these sites will be based on impacts on public health and the environment, as measured by the HRS scores and other available information, and on a case-by-case evaluation of economic, engineering, and environmental considerations.

VII. Deletion of Sites

Sites may be deleted from the NPL where one of the following criteria has been met:

(1) EPA in consultation with the State has determined that responsible parties have completed cleanup so that no Fund-financed response actions will be required.

(2) All appropriate Fund-financed cleanup action under CERCLA has been completed, and EPA has determined that no further cleanup by responsible parties is appropriate.

(3) EPA, in considering the nature and severity of the problems, the potential costs of cleanup, and available funds, has determined that no remedial actions should be undertaken at the site.

EPA will delete sites from the NPL by publishing notice in the **Federal Register** at the time of the next periodic update, naming the site and providing the reasons for its deletion. The process of updating the NPL is discussed more fully in Part X of this notice.

VIII. Changes from the Interim Lists

On October 23, 1981, EPA announced the selection of 115 sites for the Interim Priorities List (IPL) as candidates for response action under CERCLA. The sites were selected by applying the version of the HRS referenced in § 300.65 of the proposed NCP (47 FR 10991, March 12, 1982) and incorporating the States' designations of their top priorities. On July 23, 1982, EPA announced the selection of 45 additional sites (the "Expanded Eligibility List" or EEL), under the same criteria used to establish the IPL. EPA treated all sites on these lists as candidates for response or enforcement actions under CERCLA. The IPL and the EEL were informal lists used for internal administrative purposes in choosing initial response efforts, and are not part of the NCP.

In compiling the NPL, EPA rescored each site on the IPL and EEL to determine whether it should be included on the NPL. Scores for the IPL and EEL sites have changed because additional data are available and the HRS has been modified. However, most sites on the IPL and EEL are included on the proposed NPL, and are indicated by the symbol #. The exceptions are discussed below.

Additional Information Received. EPA has determined that incorrect information was used to calculate the HRS score for Allen Transformer of Arkansas, which was included on the IPL. More accurate information became available and EPA recalculated the score using the promulgated version of the HRS. The resulting scores do not warrant placing Allen Transformer on the proposed NPL.

Ineligible for Inclusion. The Fort Lincoln site was designated by the District of Columbia as its top priority. EPA determined that the source of the release is a Federal facility. Therefore, EPA will not include Fort Lincoln on the NPL.

Criteria for Deletion. The criteria for deletion discussed in Part VII have already been met at some sites on the IPL. These sites and the reasons for deletion are:

Responsible parties have completed cleanup: Walcotte Chemical (Mississippi);

All appropriate Fund-financed cleanup has been completed: Butler Tunnel (Pennsylvania); Chemical Metals, Inc. (Maryland); Chemical Minerals Industries, Inc. (Ohio); Luminous Processors (Georgia).

Noncontiguous Facilities. When EPA developed the IPL, several States requested that certain noncontiguous facilities be grouped together to be considered as single facilities. As discussed in Part III, these sites are now being listed singly wherever possible. Therefore, certain areas described as single sites on the IPL will be listed as two or more sites on the proposed National Priorities List, as set forth below:

IPL	NPL
Florida—Biscayne Aquifer	NW 58th Street Landfill. Varsol Spill. Miami Drum.
Washington—Commencement Bay.	Commencement Bay-South Tacoma Channel. Commencement Bay-Near-shore Tideflats.
Delaware Sand and Gravel	Delaware Sand and Gravel.
Llangollen Army Creek Landfills.	Army Creek.

IX. Request for Comments

EPA requests comments providing information on the sites listed on the proposed NPL. Information on the factors used to score the sites would be particularly useful in determining whether site scores are accurate. Documents explaining how the sites on the NPL were scored are available for inspection in the public docket at EPA. (See ADDRESSES, in this notice.) EPA will also continue collecting data independently to support development of the NPL.

EPA will review and consider comments received on the proposed NPL. EPA also invites comments and solicits information concerning sites that are not currently included on the proposed NPL that may be appropriate for inclusion in a later update of the NPL. EPA is not soliciting comments on the HRS, which was promulgated as part of the final NCP.

Commenters are requested to bear in mind the purposes of the NPL described in the Introduction to this preamble. The NPL indicates the releases that are likely to pose the greatest danger to the public, based on preliminary investigation. Inclusion on the NPL is a point of departure for further investigation. It does not establish that a particular response is appropriate, nor does it constitute a judgment concerning the responsibilities of owners or operators. The HRS used to score sites is designed to consider only the minimum quantity of data commonly available that will yield a meaningful estimate of the level of hazard posed by each site. (See the preamble explaining

the HRS, 47 FR 31187–88, July 16, 1982). In developing the NPL, EPA cannot consider additional data not encompassed by the factors in the HRS. EPA will consider such information in determining the response action, if any, that is appropriate for a particular site.

X. Promulgation and Revision

Once the comments and the results of additional investigations have been considered, the NPL will be promulgated. Scores used to support promulgation of the NPL will be based on the best information available at the time, including public comment and State and EPA investigatory data.

Following promulgation, the NPL will be revised on a quarterly basis. New sites may be added on the basis of HRS scores, or deleted on the basis of the criteria outlined in Part VII of this notice. EPA will inform the States of the closing dates for each revision of the NPL.

Congressional statements made during consideration of CERCLA indicate that, once the NPL is established, revisions can be made in a routine manner without the necessity of full notice and comment rulemaking. In discussing the process for revising the NPL, Senator Randolph stated:

"Accordingly, although this list must be published as part of the National Contingency Plan, it is not intended that the entire plan be republished each time the priority list is revised. Public notice of the revised list is sufficient. [126 Cong. Rec. S 14695 (daily ed. Nov. 24, 1980)]"

EPA intends to revise the NPL by publication in the **Federal Register.** The notice will name the sites and provide reasons for their inclusion or deletion. The Agency will consider any public comments concerning revision of the NPL, and make appropriate changes in a future revision if warranted.

XI. Regulatory Impact and Regulatory Flexibility Analyses

EPA prepared a Regulatory Impact Analysis pursuant to Executive Order 12291 (46 FR 13193, Feb. 19, 1981) and a Regulatory Flexibility Analysis pursuant to the Regulatory Flexibility Act (5 U.S.C. 601–612) for the revised NCP at the time that it was promulgated. Those analyses considered the impacts of a National Priorities List; consequently, no further analyses are needed for this amendment to the NCP. The analyses of the NCP are available for inspection at Room S–398, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

This action was reviewed and approved by the Office of Management and Budget under the requirements of Executive Order 12291.

Signed: December 20, 1982.

Anne M. Gorsuch,

Administrator.

List of Subjects in 40 CFR Part 300

Air pollution control, Chemicals, Hazardous materials, Intergovernmental relations, Natural resources, Oil pollution, Reporting and recordkeeping requirements, Superfund, Waste treatment and disposal, Water pollution control, Water supply.

PART 300—[AMENDED]

It is proposed to amend 40 CFR Part 300 by adding a new Appendix B to the end to read as follows:

Appendix B—National Priorities List As Provided for in Section 105(8)(B) of CERCLA

BILLING CODE 6560-50-M

Group 1

EPA Region	State	City/County	Site Name	Response	Status †		
05	MN	FRIDLEY	FMC#				D
03	DE	NEW CASTLE COUNTY	TYBOUTS CORNER# *		R	E	
03	PA	BRUIN BORO	BRUIN LAGOON#		R		
01	MA	WOBURN	INDUSTRI-PLEX#	V	R	E	
02	NJ	PITTMAN	LIPARI LANDFILL#	V	R	E	
02	NY	WELLSVILLE	SINCLAIR REFINERY#				D
02	NJ	PLEASANTVILLE	PRICE LANDFILL# *		R	E	
02	NY	OSWEGO	POLLUTION ABATEMENT SERVICES# *		R	E	
07	IA	CHARLES CITY	LABOUNTY SITE	V			
02	NJ	MANTUA	HELEN KRAMER LANDFILL#				D
03	DE	NEW CASTLE	ARMY CREEK#				D
02	NJ	OLD BRIDGE TOWNSHIP	CPS/MADISON INDUSTRIES			E	
01	MA	ASHLAND	NYANZA CHEMICAL#			E	
02	NJ	GLOUCESTER TOWNSHIP	GEMS LANDFILL#			E	
01	RI	COVENTRY	PICILLO COVENTRY# *		R	E	
05	MI	SWARTZ CREEK	BERLIN & FARRO#		R	E	
07	KS	CHEROKEE COUNTY	TAR CREEK, CHER. CO.				D
01	MA	HOLBROOK	BAIRD & MCGUIRE			E	
02	NJ	FREEHOLD	LONE PINE LANDFILL#		R	E	
01	NH	SOMERSWORTH	SOMERSWORTH LANDFILL				D
03	PA	MCADOO	MCADOO# *				D
01	NH	EPPING	KES - EPPING#		E	E	
06	AR	JACKSONVILLE	VERTAC, INC.#	V		E	
08	MT	SILVER BOW/DEER LODGE	SILVER BOW CREEK				D
06	TX	CROSBY	FRENCH, LTD.#		R		
05	MI	UTICA	LIQUID DISPOSAL INC.#		R		
01	NH	NASHUA	SYLVESTER,NASHUA# *		R	E	
06	TX	LA MARQUE	MOTCO# *		R		
05	OH	ARCANUM	ARCANUM IRON & METAL			E	
06	TX	CROSBY	SIKES DISPOSAL PITS#		R		
04	AL	LIMESTONE & MORGAN	TRIANA, TENNESSEE RIVER#			E	
09	CA	GLEN AVON HEIGHTS	STRINGFELLOW# *		R		
01	ME	GRAY	MCKIN COMPANY		R	E	
06	TX	HOUSTON	CRYSTAL CHEMICAL#		R	E	
02	NJ	BRIDGEPORT	BRIDGEPORT RENT.& OIL#	V	R	E	
05	IN	GARY	MIDCO I		R	E	
08	SD	WHITEWOOD	WHITEWOOD CREEK# *	V			
01	MA	ACTON	W R GRACE			E	
01	MA	EAST WOBURN	WELLS G&H				D
02	NJ	MARLBORO TOWNSHIP	BURNT FLY BOG#		R	E	
04	FL	PLANT CITY	SCHUYLKILL METALS				D
05	MN	NEW BRIGHTON/ARDEN	NEW BRIGHTON#				D
05	MN	ST. LOUIS	REILLY TAR# *		R	E	
02	NY	OYSTER BAY	OLD BETHPAGE LANDFILL#			E	
04	FL	JACKSONVILLE	PICKETTVILLE RD LANDFILL#				D
08	MT	ANACONDA	ANACONDA - ANACONDA	V			
03	PA	GROVE CITY	OSBORNE#				D
05	MN	BRAINERD/BAXTER	BURLINGTON NORTHERN#				D
02	NJ	FAIRFIELD	CALDWELL TRUCKING				D
06	OK	OTTAWA COUNTY	TAR CREEK#		R		

†: V = Voluntary or Negotiated Response, R = Federal and State Response, E = Federal and State Enforcement, D = Actions to be Determined.
= IPL/EEL. * = States' Designated Top Priority Sites.

Group 2

EPA Region	State	City/County	Site Name	Response	Status †		
05	IN	SEYMOUR	SEYMOUR# *	V	R	E	
02	NJ	BRICK TOWNSHIP	BRICK TOWNSHIP LANDFILL			E	
05	MI	CADILLAC	NORTHERNAIRE PLATING#				D
10	WA	VANCOUVER	FRONTIER HARD CHROME			E	
04	FL	DAVIE	DAVIE LANDFILL#				D
04	FL	MIAMI	GOLD COAST OIL#				D
09	AZ	TUSCON	TUSCON INT'L AIRPORT#				D
02	NY	BRANT	WIDE BEACH DEVELOPMENT				D
09	CA	REDDING	IRON MOUNTAIN MINE#				D
02	NJ	CARLSTADT	SCIENTIFIC CHEMICAL PROCESSING				D
02	NJ	HAMILTON TOWNSHIP	D'IMPERIO PROPERTY#		R		
05	MN	OAKDALE	OAKDALE#				D
04	FL	GALLOWAY	ALPHA CHEMICAL#				D
05	IL	GREENUP	A & F MATERIALS#		R	E	
03	PA	DOUGLASVILLE	DOUGLASVILLE DISPOSAL				D
02	NJ	HILLSBOROUGH	KRYSOWATY FARM#				D
05	MN	ST. PAUL	KOPPER'S COKE#				D
01	MA	PLYMOUTH	PLYMOUTH HARBOR/CORDAGE			E	
10	ID	SMELTERVILLE	BUNKER HILL				D
10	WA	TACOMA	COM. BAY, S. TACOMA CHANNEL#		R	E	
02	NJ	EAST RUTHERFORD	UNIVERSAL OIL PRODUCTS			E	
09	CA	RANCHO CORDOVA	AEROJET#			E	
09	AZ	PHOENIX	19TH AVENUE LANDFILL			E	
05	MI	ST. LOUIS	GRATIOT COUNTY LANDFILL# *	V	R	E	
01	MA	NEW BEDFORD	NEW BEDFORD# *		R	E	
06	LA	DARROW	OLD INGER# *		R		
05	OH	HAMILTON	CHEM DYNE# *	V	R	E	
04	SC	COLUMBIA	SCRDI BLUFF ROAD# *	V	R	E	
01	CT	NAUGATUCK	LAUREL PARK INC.# *			E	
05	IL	WAUKEGAN	OUTBOARD MARINE CORP.# *		R	E	
08	CO	BOULDER	MARSHALL LANDFILL# *				D
01	ME	WINTHROP	WINTHROP LANDFILL# *		R		
01	VT	BURLINGTON	PINE STREET CANAL# *				D
03	WV	POINT PLEASANT	WEST VA ORDNANCE# *		R		
06	NM	ALBUQUERQUE	SOUTH VALLEY# *				D
07	MO	ELLISVILLE	ELLISVILLE SITE# *		R		
08	ND	SOUTHEASTERN	ARSENIC TRIOXIDE SITE # *		R		
09	TT	PACIFIC TRUST TERR.	PCB WASTE# *		R		
03	VA	ROANOKE COUNTY	MATTHEWS# *		R		
07	IA	COUNCIL BLUFFS	AIDEX CORP.# *		R	E	
09	AS	AMERICAN SAMOA	TAPUTIMU FARMS# *		R		
09	AZ	GLOBE	MT. VIEW MOBILE HOME# *				D
04	KY	BROOKS	A. L. TAYLOR# *		R		
04	TN	MEMPHIS	NORTH HOLLYWOOD DUMP# *		R		
04	NC	210 MILES OF ROADS	PCB SPILLS# *		R	E	
09	GU	GUAM	ORDOT LANDFILL# *		R		
04	MS	GULFPORT	PLASTIFAX# *		R		
08	UT	SALT LAKE CITY	ROSE PARK SLUDGE PIT# *	V			
07	KS	ARKANSAS CITY	ARKANSAS CITY DUMP# *		R		
09	CM	NORTH MARIANAS	PCB WAREHOUSE# *		R		

†: V = Voluntary or Negotiated Response, R = Federal and State Response, E = Federal and State Enforcement, D = Actions to be Determined.
= IPL/EEL. * = States' Designated Top Priority Sites.

Group 3

EPA Region	State	City/County	Site Name	Response Status †			
02	NY	OYSTER BAY	SYOSSET LANDFILL				D
04	AL	GREENVILLE	NOWBRAY ENGINEERING				D
05	MI	BRIGHTEN	SPIEGELBURG LANDFILL				D
04	FL	MIAMI	MIAMI DRUM#		R		
02	NJ	DOVER TOWNSHIP	REICH FARMS			E	
02	NJ	SOUTH BRUNSWICK	SOUTH BRUNSWICK LANDFILL	V			
04	FL	TAMPA	KASSAUF-KIMERLING#				D
05	IL	WAUCONDA	WAUCONDA SAND & GRAVEL#			E	
05	MI	MUSKEGON	OTT/STORY/CORDOVA#				D
01	NH	KINGSTON	OTTATI & GOSS#		R	E	
03	VA	SALTVILLE	SALTVILLE WASTE DISPOSAL				D
02	NJ	RINGWOOD	RINGWOOD MINES/LANDFILL				D
02	NY	NIAGARA FALLS	HOOKER - S AREA			E	
04	FL	WHITEHOUSE	WHITEHOUSE OIL PITS#		R		
05	OH	DEERFIELD	SUMMIT NATIONAL#	V		E	
02	NY	NIAGARA FALLS	LOVE CANAL#		R	E	
05	IN	KINGSBURY	FISHER CALO	V		E	
05	MI	PLEASANT PLAINS TWP	WASH KING LAUNDRY				D
04	FL	WARRINGTON	PIONEER SAND#			E	
04	FL	TAMPA	REEVES SE GALVANIZING#				D
05	MI	DAVISBURG	SPRINGFIELD TOWNSHIP DUMP				D
05	MI	FILER CITY	PACKAGING CORP. OF AMERICA				D
03	PA	BUFFALO	KRANICA#			E	
08	CO	LEADVILLE	CALIFORNIA GULCH				D
04	NC	CHARLOTTE	MARTIN MARIETTA,SODYECO				D
04	FL	ZELLWOOD	ZELLWOOD GROUNDWATER CONTAM#				D
05	OH	CIRCLEVILLE	BOWERS LANDFILL				D
05	OH	ASHTABULA	FIELDS BROOK#		R		
03	PA	HARRISON TOWNSHIP	LINDANE DUMP#			E	
04	FL	SEFFNER	TAYLOR ROAD LANDFILL#			E	
01	RI	BURRILLVILLE	WESTERN SAND & GRAVEL#		R	E	
02	NJ	MAYWOOD & ROCHELLE PK	MAYWOOD CHEMICAL SITES				D
06	OK	CRINER	CRINER/HARDAGE#			E	
05	MN	ST. LOUIS PARK	NATIONAL LEAD TARACORP#				D
05	MI	ROSE TOWNSHIP	ROSE TOWNSHIP DUMP#				D
05	MN	ANOKA COUNTY	WASTE DISPOSAL ENGINEERING#				D
02	NJ	EDISON	KIN-BUC LANDFILL#	V	R	E	
05	MN	LEHILLIER/MANKATO	LEHILLIER#				D
05	MI	GRAND RAPIDS	BUTTERWORTH #2 LANDFILL				D
02	NJ	BOUND BROOK	AMERICAN CYANAMID			E	
02	NY	SOUTH GLENS FALLS	GE MOREAU SITE			E	
02	NJ	PEDRICKTOWN	N.L. INDUSTRIES			E	
01	RI	NORTH SMITHFIELD	L & RR - W SMITHFIELD			E	
04	FL	HIALEAH	NW 58TH STREET#			E	
04	FL	TAMPA	62ND STREET DUMP				D
05	MI	UTICA	G&H LANDFILL#		R		
02	NJ	FRANKLIN TOWNSHIP	METALTEC/AEROSYSTEMS			E	
02	NJ	PEMBERTON TOWNSHIP	LANG PROPERTY				D
02	NJ	PARSIPPANY, TROY HLS	SHARKEY LANDFILL				D
06	LA	SORENTO	CLEVE REBER				D

†: V = Voluntary or Negotiated Response, R = Federal and State Response, E = Federal and State Enforcement, D = Actions to be Determined.
= IPL/EEL. * = States' Designated Top Priority Sites.

Group 4

EPA Region	State	City/County	Site Name	Response Status †			
05	IL	MARSHALL	VELSICOL ILLINOIS				D
05	MI	ST. LOUIS	VELSICOL MICHIGAN	V		E	
05	MI	MANCELONA	TAR LAKE				D
10	OR	ALBANY	TELEDYNE WAH CHANG				D
02	NY	SOUTH CAIRO	AMERICAN THERMOSTAT			E	
01	MA	DARTMOUTH	RE-SOLVE#		R	E	
02	NJ	PLUMSTEAD TOWNSHIP	GOOSE FARM#		R		
04	TN	TOONE	VELSICOL CHEMICAL CO.	V			
02	NY	MOIRA	YORK OIL COMPANY#		R		
04	FL	COTTONDALE	SAPP BATTERY#		R		
07	KS	HOLIDAY	DOEPKE DISPOSAL, HOLIDAY				D
01	RI	SMITHFIELD	DAVIS LIQUID#		R	E	
01	MA	TYNGSBORO	CHARLES-GEORGE#			E	
02	NJ	WINSLOW TOWNSHIP	KING OF PRUSSIA				D
03	VA	YORK COUNTY	CHISMAN#				D
05	OH	SALEM	NEASE CHEMICAL				D
02	NJ	ELIZABETH	CHEMICAL CONTROL#		R	E	
05	OH	IRONTON	ALLIED CHEMICAL				D
05	MI	FERNFIELD TOWNSHIP	VERONA WELL FIELD#				D
01	CT	BEACON FALLS	BEACON HEIGHTS			E	
03	PA	MALVERN	MALVERN TCE SITE				D
02	NY	ELMIRA HEIGHTS	FACET ENTERPRISES#				D
03	DE	NEW CASTLE	DELAWARE SAND & GRAVEL#				D
08	CO	IDAHO SPRINGS	CENTRAL CITY, CLEAR CREEK#				D
03	PA	PALMERTON	PALMERTON ZINC PILE				D
05	IN	BOONE COUNTY	ENVIROCHEM				D
04	TN	LAWRENCEBURG	MURRAY OHIO DUMP				D
04	FL	WHITEHOUSE	COLEMAN EVANS#			E	
04	FL	INDIANTOWN	FLORIDA STEEL				D
09	AZ	GOODYEAR	LITCHFIELD AIRPORT AREA				D
02	NJ	PLUMSTEAD	SPENCE FARM#		R		
02	NJ	DOVER TOWNSHIP	TOMS RIVER CHEMICAL				D
04	FL	LIVE OAK	BROWN WOOD				D
02	NY	PORT WASHINGTON	PORT WASHINGTON LANDFILL			E	
06	AR	MENA	MID-SOUTH#				D
02	NJ	CHESTER	COMBE FILL SOUTH LANDFILL				D
02	NJ	SOUTH BRUNSWICK TWP	JIS LANDFILL			E	
08	CO	COMMERCE CITY	WOODBURY CHEMICAL#				D
01	MA	WESTBOROUGH	HOCOMOCO POND				D
02	NY	RAMAPO	RAMAPO LANDFILL			E	
05	MI	ALBION	MCGRAW EDISON				D
02	NY	ALBANY	MERCURY REFINING				D
04	FL	FORT LAUDERDALE	HOLLINGSWORTH#				D
02	NJ	ROCKAWAY TOWNSHIP	ROCKAWAY TOWNSHIP WELLS				D
02	NY	OLEAN	OLEAN WELLFIELD#	R			
04	FL	MIAMI	VARSOL SPILL#				D
02	NY	BATAVIA	BATAVIA LANDFILL#				D
09	CA	UKIAH	COAST WOOD PRESERVING				D
08	CO	DENVER	DENVER RADIUM SITE#	R			
08	MT	MILLTOWN	MILLTOWN				D

†: V = Voluntary or Negotiated Response, R = Federal and State Response, E = Federal and State Enforcement, D = Actions to be Determined.
= IPL/EEL. * = States' Designated Top Priority Sites.

Group 5

EPA Region	State	City/County	Site Name	Response	Status †	
07	MO	VERONA	SYNTEX FACILITY	V	E	
02	NJ	PLUMSTEAD	PIJAK FARM#	R		
02	NJ	SOUTH KEARNY	SYNCON RESINS#		E	
09	CA	RICHMOND	LIQUID GOLD			D
09	CA	FRESNO	PURITY OIL SALES, INC.			D
02	NJ	HOWELL TOWNSHIP	BOG CREEK FARM			D
05	IN	BLOOMINGTON	NEAL'S LANDFILL#			D
01	MA	LOWELL	SILRESIM#	R	E	
01	NH	LONDONDERRY	TINKHAM SITE			D
02	NJ	PISCATAWAY	CHEMSOL		E	
02	NJ	MARLBORO TOWNSHIP	IMPERIAL OIL		E	
02	NJ	FAIR LAWN	FAIR LAWN WELLFIELD			D
05	IN	ELKHART	MAIN STREET WELL FIELD			D
02	NJ	MT. OLIVE TOWNSHIP	COMBE FILL NORTH LANDFILL			D
02	PR	JUANA DIAZ	GE WIRING DEVICES			D
02	NJ	MONROE TOWNSHIP	MONROE TOWNSHIP LANDFILL		E	
02	NJ	ROCKAWAY BORO	ROCKAWAY BORO WELLFIELD			D
05	IN	COLUMBIA CITY	WAYNE WASTE OIL			D
06	NM	MILAN	HOMESTAKE#			D
02	NJ	BERKLEY	BEACHWOOD/BERKLEY WELLS			D
02	NJ	DOVER	DOVER MUNICIPAL WELL 4			D
02	NY	VESTAL	VESTAL WATER SUPPLY		E	
10	WA	TACOMA	COM. BAY, NEAR SHORE TIDE FLAT#			D
05	IL	PEMBROKE	CROSS BROS/PEMBROKE			D
10	ID	CALDWELL	FLYNN LUMBER CO.			D
03	PA	WEST ORMROD	HELEVA LANDFILL		E	
10	WA	SEATTLE	HARBOR ISLAND LEAD			D
09	CA	FULLERTON	MCCOLL	V		
10	WA	MEAD	KAISER MEAD	V		
02	PR	RIO ABAJO	FRONTERA CREEK			D
09	CA	FRESNO	SELMA PRESSURE TREATING			D
02	PR	FLORIDA AFUERA	BARCELONETA LANDFILL			D
03	MD	ELKTON	SAND, GRAVEL AND STONE		E	
05	MI	WYOMING	SPARTAN CHEMICAL COMPANY			D
02	NJ	FLORENCE	ROEBLING STEEL CO			D
05	MI	GREILICKVILLE	GRAND TRAVERSE OVERALL SUPPLY CO			D
02	NJ	VINELAND	VINELAND STATE SCHOOL			D
03	PA	PHILADELPHIA	ENTERPRISE AVENUE			D
07	MO	SPRINGFIELD	FULBRIGHT LANDFILL#			D
04	SC	CAYCE	SCRDI DIXIANA#			D
02	NJ	SWAINTON	WILLIAMS PROPERTY	R		
02	NJ	EDISON	RENORA			D
04	FL	PENSACOLA	AMERICAN CREOSOTE#		E	
05	OH	IRONTON	E.H. SCHILLING LANDFILL			D
02	NJ	BAYVILLE	DENZER & SCHAFER X-RAY		E	
02	NJ	GIBBSTOWN	HERCULES			D
05	IN	GARY	NINTH AVE. DUMP	V	E	
05	MI	ST. LOUIS	GRATIOT CO GOLF COURSE	V	E	
01	RI	CUMBERLAND	PETERSON/PURITAN			D
01	MA	GROVELAND	GROVELAND WELLS			D

†: V = Voluntary or Negotiated Response, R = Federal and State Response,
E = Federal and State Enforcement, D = Actions to be Determined.
# = IPL/EEL. * = States' Designated Top Priority Sites.

Group 6

EPA Region	State	City/County	Site Name	Response	Status †	
10	WA	SPOKANE	COLBERT LANDFILL	R		
09	AZ	SCOTTSDALE	INDIAN BEND WASH AREA			D
09	AZ	KINGMAN	KINGMAN AIRPT INDUSTRIAL AREA			D
02	NY	WHEATFIELD	NIAGARA COUNTY REFUSE#			D
04	FL	DELAND	SHERWOOD MEDICAL			D
05	MI	PARK TOWNSHIP	SOUTHWEST OTTAWA LANDFILL			D
02	NY	HORSEHEADS	KENTUCKY AVE. WELLFIELD#			D
01	ME	WASHBURN	PINETTE'S SALVAGE YARD			D
02	NJ	MILLINGTON	ASBESTOS DUMP			D
04	KY	LOUISVILLE	LEE'S LANE LANDFILL#			D
03	PA	STATE COLLEGE	CENTRE COUNTY KEPONE		E	
05	OH	BYESVILLE	FULTZ LANDFILL			D
06	AR	WALNUT RIDGE	FRITT INDUSTRIES#			D
05	OH	COSHOCTON	COSHOCTON CITY LANDFILL			D
03	PA	GIRARD TOWNSHIP	LORD SHOPE#		E	
05	IL	WAUKEGAN	JOHNS-MANVILLE			D
01	MA	PALMER	PSC RESOURCES	R		
05	MI	OTISVILLE	FOREST WASTE PRODUCTS			D
04	FL	CLERMONT	TOWER CHEMICAL#		E	
03	PA	LOCK HAVEN	DRAKE CHEMICAL INC.#	R		
03	MD	ANNAPOLIS	MIDDLETOWN ROAD DUMP		E	
03	DE	NEW CASTLE	TRIS SPILL SITE			D
03	PA	HAVERFORD	HAVERTOWN PCP SITE		E	
05	IN	GARY	LAKE SANDY JO			D
05	MI	GRAND RAPIDS	CHEM CENTRAL			D
01	MA	BRIDGEWATER	CANNON ENGINEERING		E	
05	MI	TEMPERANCE	NOVACO INDUSTRIES			D
06	LA	BAYOU SORREL	BAYOU SORREL#			D
02	NJ	JACKSON TOWNSHIP	JACKSON TOWNSHIP LANDFILL		E	
05	MI	KALAMAZOO	K & L AVE LANDFILL			D
06	AR	EDMONDSEN	GURLEY PIT			D
05	MI	WHITEHALL	WHITEHALL WELLS			D
05	MI	IONIA	IONIA CITY LANDFILL			D
02	NJ	MONTGOMERY TOWNSHIP	MONTGOMERY HOUSING DEV			D
02	NJ	ROCKY HILL	ROCKY HILL MUNICIPAL WELL			D
02	NY	BREWSTER	BREWSTER WELL FIELD			D
02	NJ	ORANGE	US RADIUM			D
08	MT	LIBBY	LIBBY GROUND WATER			D
03	PA	JEFFERSON	RESIN DISPOSAL		E	
06	TX	HIGHLANDS	HIGHLANDS ACID PIT#	R		
04	KY	NEWPORT	NEWPORT DUMP			D
03	PA	LOWER PROVIDENCE TWP	MOYERS LANDFILL			D
04	KY	WEST POINT	DISTLER BRICKYARD	R		
01	CT	SOUTHINGTON	SOLVENTS RECOVERY SYSTEM		E	
03	PA	ERIE	PRESQUE ISLE			D
02	NJ	SAYREVILLE	SAYREVILLE LANDFILL			D
08	CO	COMMERCE CITY	SAND CREEK			D
08	WY	LARAMIE	BAXTER/UNION PACIFIC		E	
01	NH	DOVER	DOVER LANDFILL			D
06	AR	FT. SMITH	INDUSTRIAL WASTE CONTROL			D

†: V = Voluntary or Negotiated Response, R = Federal and State Response,
E = Federal and State Enforcement, D = Actions to be Determined.
# = IPL/EEL. * = States' Designated Top Priority Sites.

Group 7

EPA Region	State	City/County	Site Name	Response	Status †
02	NY	CLAYVILLE	LUDLOW SAND & GRAVEL		D
07	MO	IMPERIAL	ARENA 2: FILLS 1 & 2		D
06	LA	SLIDELL	BAYOU BONFOUCA		D
03	WV	LEETOWN	LEETOWN PESTICIDE PILE		D
01	CT	CANTERBURY	YAWORSKI	E	
05	OH	DODGEVILLE	NEW LYME LANDFILL		D
02	NJ	OLD BRIDGE	EVOR PHILLIPS		D
03	PA	CHESTER	WADE (ABM)#	R E	
03	PA	OLD FORGE	LACKAWANNA REFUSE		D
02	NJ	GALLOWAY TOWNSHIP	MANNHEIM AVENUE DUMP		D
02	NY	FULTON	FULTON TERMINALS		D
05	MI	MUSKEGON	SCA INDEPENDENT LANDFILL		D
01	NH	LONDONDERRY	AUBURN RD LANDFILL	E	
03	WV	NITRO	PIKE CHEMICAL	V	
10	WA	KENT	WESTERN PROCESSING#	E	
05	MI	PETOSKEY	PETOSKEY MUNICIPAL WELLS		D
05	OH	ROCK CREEK	ROCK CREEK/JACK WEBB	R	
05	OH	JEFFERSON	POPLAR OIL#	R E	
07	KS	WICHITA	JOHN'S SLUDGE POND		D
02	NJ	PENNSAUKEN	SWOPE OIL AND CHEMICAL#		D
05	MI	KENTWOOD	KENTWOOD LANDFILL		D
05	MN	ANDOVER	SOUTH ANDOVER SITE#		D
06	AR	NEWPORT	CECIL LINDSEY		D
05	IN	MARION	MARION (BRAGG) DUMP		D
05	OH	READING	PRISTINE		D
04	KY	CALVERT CITY	AIRCO		D
05	OH	ST. CLAIRSVILLE	BUCKEYE RECLAMATION		D
06	TX	GRAND PRAIRIE	BIO-ECOLOGY#	R	
04	FL	MOUNT PLEASANT	PARRAMORE SURPLUS		D
01	VT	SPRINGFIELD	OLD SPRINGFIELD LANDFILL		D
02	NY	LINCKLAEN	SOLVENT SAVERS		D
03	VA	PINEY RIVER	US TITANIUM	E	
05	IL	GALESBURG	GALESBURG/KOPPERS		D
05	OH	KINGSVILLE	BIG D CAMPGROUNDS		D
02	NY	NIAGARA FALLS	HOOKER - HYDE PARK	V E	
05	MI	MARQUETTE	CLIFF/DOW DUMP		D
05	MI	MUSKEGON	DUELL & GARDNER LANDFILL		D
02	NJ	EVESHAM	ELLIS PROPERTY		D
04	KY	JEFFERSON COUNTY	DISTLER FARM#		D
09	CA	CLOVERDALE	MGM BRAKES		D
05	MI	LUDINGTON	MASON COUNTY LANDFILL		D
05	MI	ROSE TOWNSHIP	CEMETARY DUMP SITE		D
01	RI	NORTH SMITHFIELD	FORESTDALE		D
06	TX	HOUSTON	HARRIS (FARLEY ST)#	R	
03	PA	SEVEN VALLEYS	OLD CITY OF YORK LANDFILL	E	
05	IL	OGLE COUNTY	BYRON SALVAGE YARD	E	
03	PA	KING OF PRUSSIA	STANLEY KESSLER	E	
02	NJ	FREEHOLD TOWNSHIP	FRIEDMAN PROPERTY#	R	
02	NJ	FRANKLIN TOWNSHIP	MYERS PROPERTY		D
02	NJ	BOONTON	PEPE FIELD		D

†: V = Voluntary or Negotiated Response, R = Federal and State Response, E = Federal and State Enforcement, D = Actions to be Determined.
= IPL/EEL. * = States' Designated Top Priority Sites.

Group 8

EPA Region	State	City/County	Site Name	Response	Status †
05	MI	SOUTH OSSINEKE	OSSINEKE		D
05	MI	NILES	U.S. AVIEX		D
06	NM	CLOVIS	ATSF/CLOVIS#	E	
10	WA	YAKIMA	PESTICIDE PIT, YAKIMA		D
04	TN	LEWISBURG	LEWISBURG DUMP		D
01	ME	SACO	SACO TANNING		D
03	PA	PHILADELPHIA	METAL BANKS	E	
06	AR	MARION	CRITTENDEN CO. LANDFILL		D
05	MI	GRANDVILLE	ORGANIC CHEMICALS		D
10	OR	PORTLAND	GOULD, INC.		D
02	PR	JUNCOS	JUNCOS LANDFILL		D
04	FL	NORTH FLORIDA	MUNISPORT		D
05	MI	CLARE	CLARE WATER SUPPLY		D
02	NJ	ASBURY PARK	M&T DELISA LANDFILL		D
10	WA	YAKIMA	FMC YAKIMA		D
05	MI	ODEN	LITTLEFIELD TOWNSHIP DUMP		D
05	MI	KALAMAZOO	AUTO ION		D
04	SC	FORT LAWN	CAROLAWN, INC.	R E	
05	MI	SPARTA	SPARTA LANDFILL		D
05	IL	WINNEBAGO	ACME SOLVENT/MORRISTOWN#		D
05	MI	CHARLEVOIX	CHARLEVOIX MUNICIPAL WELL		D
03	WV	FOLLANSBEE	FOLLANSBEE SLUDGE FILL		D
01	ME	AUGUSTA	O'CONNOR SITE		D
03	PA	WESTLINE	WESTLINE		D
05	MI	BRIGHTON	RASMUSSEN'S DUMP		D
05	MI	OSCODA	HEDBLUM INDUSTRIES		D
02	PR	BARCELONETA	RCA DEL CARIBE		D
05	IN	LEBANON	WEDZEB INC		D
04	KY	CALVERT CITY	B.F. GOODRICH		D
03	PA	STROUDSBURG	BRODHEAD CREEK	R E	
05	MI	ADRIAN	ANDERSON DEVELOPMENT		D
05	MI	LIVINGSTON COUNTY	SHIAWASSEE RIVER	E	
05	IL	LA SALLE	LASALLE ELECTRIC UTILITIES	E	
04	TN	GALLOWAY	GALLOWAY PONDS		D
03	DE	KIRKWOOD	HARVEY KNOTT DRUM SITE#	R	
03	DE	DOVER	WILDCAT LANDFILL		D
03	PA	WEST CHESTER TWP	BLOSENSKI LANDFILL	E	
03	DE	DELAWARE CITY	DE CITY PVC PLANT#		D
03	MD	CUMBERLAND	LIMESTONE ROAD SITE	E	
02	NY	NIAGARA FALLS	HOOKER - 102ND STREET	E	
03	DE	NEW CASTLE	NEW CASTLE STEEL SITE		D
06	NM	CHURCHROCK	UNITED NUCLEAR CORP.#		D
09	CA	HOOPA	CELTOR CHEMICAL		D
04	AL	PERDIDO	PERDIDO GRDWATER CONTAMINATION		D
02	NY	COLD SPRINGS	MARATHON BATTERY#		D
03	PA	OLD FORGE	LEHIGH ELECTRIC#	R E	
04	TN	CHATTANOOGA	AMNICOLA DUMP		D
05	OH	WEST CHESTER	SKINNER LANDFILL		D
07	MO	MOSCOW MILLS	ARENA 1 (DIOXIN)		D
04	NC	SWANNANOA	CHEMTRONICS, INC.		D

†: V = Voluntary or Negotiated Response, R = Federal and State Response, E = Federal and State Enforcement, D = Actions to be Determined.
= IPL/EEL. * = States' Designated Top Priority Sites.

Group 9

EPA Region	State	City/County	Site Name	Response Status †		
07	NE	BEATRICE	PHILLIPS CHEMICAL			D
05	MI	BUCHANAN	ELECTROVOICE			D
03	PA	KIMBERTON	KIMBERTON			D
05	IN	BLOOMINGTON	LEMON LANE LANDFILL			D
10	ID	RATHDRUM	ARRCOM (DREXLER ENTERPRISES)			D
03	PA	WARMINSTER	FISCHER & PORTER		E	
10	WA	LAKEWOOD	LAKEWOOD			D
05	OH	ZANESVILLE	ZANESVILLE WELL FIELD			D
09	CA	SACRAMENTO	JIBBOOM JUNKYARD			D
02	NJ	SPARTA	A. O. POLYMER	R		
07	IA	DES MOINES	DICO			D
06	TX	ORANGE COUNTY	TRIANGLE CHEMICAL	R	E	
02	NJ	JERSEY CITY	PJP LANDFILL			D
05	OH	MARIETTA	VAN DALE JUNKYARD			D
03	PA	PARKER	CRAIG FARM DRUM SITE			D
03	PA	UPPER SAUCON TWP	VOORTMAN			D
05	IL	BELVIDERE	BELVIDERE			D
05	IN	ALLEN COUNTY	PARROT ROAD			D

† V = Voluntary or Negotiated Response, R = Federal and State Response, E = Federal and State Enforcement, D = Actions to be Determined.
# = IPL/FFL. * = States' Designated Top Priority Sites.

[FR Doc. 82-35476 Filed 12-29-82 8:45 am]
BILLING CODE 6560-50-C

federal register

Thursday
December 30, 1982

Part V

Department of Transportation

Federal Aviation Administration

Transport Category Airplanes; Cabin Ozone Concentration

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 25 and 121

[Docket No. 22438; Amdt. Nos. 25-56 and 121-181]

Transport Category Airplanes; Cabin Ozone Concentration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: These amendments relieve operators of certain airplanes from having to purchase, install, and maintain ozone control equipment or establish ozone avoidance procedures. These amendments reduce the operating cost of the affected airplanes with no reduction in flight safety.

EFFECTIVE DATE: January 31, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Larry Bedore, Project Development Branch (AFO-240), Air Transportation Division, Office of Flight Operations, Associate Administrator for Aviation Standards, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-8096.

SUPPLEMENTARY INFORMATION:

Background

The Federal Aviation Administration (FAA) established specific airplane cabin ozone concentration standards for the issuance of type certificates for transport category airplanes. Cabin ozone standards were also adopted for the operation of large transport category airplanes by air carriers and commercial operators. The final rule was published in the **Federal Register** on January 21, 1980 (45 FR 3880), as Amendments 25-50 and 121-154.

Amendment 25-50 added a new § 25.832 which stated that the airplane cabin ozone concentration during flight above flight level (FL) 180 must be shown not to exceed 0.25 parts per million by volume, sea level equivalent, at any time and 0.1 parts per million by volume, sea level equivalent, time-weighted average during any 3-hour interval.

Amendment 121-154 added a new § 121.220 which was later changed to § 121.578 stating that after February 20, 1981, no certificate holder may operate a transport category airplane above FL 180 unless it has successfully demonstrated to the Administrator that the concentration of ozone inside the cabin will not exceed 0.25 parts per million by volume, sea level equivalent, at any time and for each flight segment that exceeds 4 hours, 0.1 parts per million by volume, sea level equivalent, time-weighted average over that flight segment.

In response to a petition for rulemaking from the Air Transport Association of America (ATA) dated April 30, 1980, which was published in the **Federal Register** on September 11, 1980 (45 FR 59905), and a petition from Rosenbalm Aviation, Inc., dated March 31, 1980, which was published in the **Federal Register** on October 9, 1980 (45 FR 67100), the FAA issued a Notice of Proposed Rulemaking (NPRM) No. 81-15 which was published in the **Federal Register** on November 23, 1981 (46 FR 57442). That notice proposed amendments to §§ 25.832 and 121.578 of the regulations to relieve operators of cargo-only airplanes and narrow-body four-engine airplanes to be retired or re-engined because of the FAA's noise regulations (14 CFR Part 91, Subpart E) from the necessity of meeting the ozone operating requirements and to simplify the compliance requirements for many other airplane operations.

Discussion of Comments

Sixteen public comments were received in response to NPRM 81-15. In summary, nine commenters agree with the NPRM; two disagree; and five comment on the overall cabin ozone concentration methodology.

The nine concurrences were from the ATA, Aerospace Industries Association of America, Inc. (AIA), Englehard Industries Division (a manufacturer of catalytic ozone destruction filters), the Human Factors Division, Wright-Patterson Air Force Base Ohio, and five air carriers. Of the air carriers, two operate four-engine narrow-body aircraft; two operate turboprop aircraft; and one is a cargo operator.

ATA also comments that a few B-727 aircraft flights exceed 4 hours, and penalties will be associated with complying with the time-weighted average (TWA) provisions of the rule. Because of these penalties and Report No. FAA-AM-80-16, Subject: "Effects of Long-Term Exposure to Low Levels of Ozone: A Review," by C. E. Melton of the FAA Civil Aeromedical Institute, dated September 1980, (which according to ATA finds the entire TWA concept to be one of questionable validity), ATA urges further relaxation of the rule to unburden narrow-body intercontinental operations from the 4-hour TWA provision AIA also comments that the TWA should be eliminated based on Report No. FAA-AM-80-16.

The FAA did not grant that portion of the ATA petition which requested relaxation of the rules for aircraft such as the B-727 because flight segments of these narrow-body turbojet airplanes which exceed 4 hours comply with the requirements of § 121.578 without installation of ozone filters provided the airplanes do not exceed FL 390 over the continental United States (excluding Alaska). (Higher altitudes may be used in many cases as shown in Table 2 of the NPRM.) On the other hand, flights over Western North America at latitudes higher than the continental United States, almost exclusively Alaskan operations, during the months of February, March, and April could not utilize the highest possible altitude and be in compliance with § 121.578. During that 3-month period, those Alaskan operations could incur a minimal economic burden in the form of reduced fuel efficiency of less than 1 percent. For those few flights which might encounter elevated ozone levels, the public benefit of ozone avoidance outweighs the burden imposed on the operator.

Report No. FAA-AM-80-16 does not indicate that the TWA standard should be discontinued, as suggested by the commenters. The report does state in part, that ozone concentration is more important than duration of exposure in determining the effectiveness of an ozone exposure (dose). This is interpreted to mean that peak concentrations are more important than the duration of exposure in assessing ozone-induced symptoms, and a time-weighted average may not give an accurate index of exposure without due consideration being given to peak exposures. The FAA has already taken this fact into account by having a higher standard for the maximum value than for the TWA.

In the NPRM, the FAA announced that it would allow the use of a value of 0.7 for aircraft without a measured ozone retention ratio, based on its review of recently established ratios for a number of aircraft. AIA comments that aircraft without a measured retention ratio should be allowed to use a value of 0.6 rather than 0.7 based on an average retention ratio in measured aircraft of 0.504, which it computes from Table 1 of the NPRM.

One carrier comments that Table 2 of the NPRM should be increased to show retention ratios and altitudes for all aircrafts operating above FL 250. Such an addition to the table, however, would be impractical and unnecessary.

Although the data was measured only on the aircraft types listed in Table 1 of the proposal, other aircraft types should use the data provided in Table 2 for a retention ratio of 0.7 which is an

acceptable value to use if the actual ratio has not been measured.

The FAA-accepted retention ratio of 0.7 is considered reasonable. One airplane listed in Table 1 has a retention ratio of 0.59, and the B–747SP had a retention ratio of 0.83 before the air conditioning system was reconfigured. Thus, lowering the accepted retention ratio to 0.6 for use in any airplane type without a measured value would not provide for an adequate margin of error. Moreover, using this retention ratio, all but a minimal number of flights can show compliance without restricting altitude or installing ozone filters.

The Independent Union of Flight Attendants (IUFA) states that the flight crewmembers of cargo aircraft should be protected from the health hazard of ozone. The FAA recognizes that high ozone levels are a health hazard. However, as stated in the proposal, flight crewmembers of cargo-only aircraft have protection. The availability of supplemental oxygen and the sedentary activity of cargo-only aircraft occupants reduce or eliminate the physiological impact of exposure to high ozone concentrations. The safety of the aircraft and its occupants can be assured.

IUFA, the Air Line Pilots Association (ALPA), and the Association of Flight Attendants (AFA) comment that cargo-only aircraft should be excluded only if ozone monitors are required equipment on the aircraft. With respect to requiring ozone monitors on cargo-only aircraft, such action is not justified based on costs associated with equipment purchase and maintainability. Because persons aboard cargo-only aircraft are normally sedentary and have supplemental oxygen available in the event symptoms of ozone discomfort are experienced, the benefit of monitoring would be minimal.

ALPA and AFA oppose the exemption of cargo-only airplanes based on their opinion that flight planning is not acceptable and that operational avoidance is not a dependable alternative. In addition, they request that the ozone concentration limits be changed to 0.05 ppmv as an action point, 0.1 ppmv for a threshold, and 0.3 ppmv as a never-to-be-exceeded level.

Proper flight planning and in-flight procedures are recommended practices to reduce exposure by aircraft occupants to high ozone concentration. Moreover, as indicated by Table 2 of the NPRM, ozone avoidance through flight planning is only necessary in a small number of cases and for few months each year.

A tightening of the ozone concentration limits is not justified. Those limits are based on studies conducted by the FAA Civil Aeromedical Institute and are comparable to standards adopted by the Environmental Protection Agency and the Occupational Safety and Health Administration.

British Aerospace (BA) comments that the permissible maximum ozone concentration is 0.25 ppmv "at any time" as stated in the proposal while the rule uses the phrase "at any point in time." Thus, taken literally, "at any point in time" would require infinitely rapid instrumentation response. BA recommends that the rule be changed to allow the ozone concentration to exceed 0.25 ppmv for 2 minutes. BA also comments that for "altitude restrictions for flights under 4 hours," the retention ratio does not take into account the dissociation within the cabin. Accordingly, BA requests that retention ratio be defined to take into consideration the ozone concentration existing within the occupied space and not be limited to ozone which enters the airplane cabin during flight.

The meaning of the rule is not changed by dropping the words "point in." Ozone monitoring equipment is not required. Thus, this provision should not raise the problem addressed by the commenter because no requirement exists for onboard ozone monitors. Compliance with these rules may be shown by statistical means. In addition, measured retention ratios accepted by the FAA use an airplane cabin average value, not the ozone as it enters the airplane. Thus, it is unnecessary to define retention ratio as the commenter suggests.

Economic Evaluation

These amendments clarify and modify Cabin Ozone Contamination Rules. These amendments specifically relieve two types of operators, those that operate cargo-only aircraft and those that operate certain narrow-body four-engine aircraft. Operators would not have to install ozone filters in these aircraft. So the rule will initially save up to $1.4 million for the cargo-only operators and $750,000 for the narrow-body four-engine aircraft, for a total saving of $2,150,000. Recurring costs saved are about one-third of that, or $700,000 annually. These benefits are savings for not having to comply with the regulations as they were before these amendments. There are no costs to society or air carriers for adopting these amendments.

List of Subjects

14 CFR Part 25

Air transportation, Aircraft, Aviation safety, Safety.

14 CFR Part 121

Aviation safety, Safety, Air carriers, Air transportation, Aircraft, Transportation, Common carriers.

Adoption of the Amendment

Accordingly, the regulations (14 CFR Parts 25 and 121) are amended, effective January 31, 1983 as follows:

PART 25—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES

1. By revising § 25.832(a), (1), and (2) to read as follows:

§ 25.832 Cabin ozone concentration.

(a) The airplane cabin ozone concentration during flight must be shown not to exceed—

(1) 0.25 parts per million by volume, sea level equivalent, at any time above flight level 320; and

(2) 0.1 parts per million by volume, sea level equivalent, time-weighted average during any 3-hour interval above flight level 270.

* * * * *

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

2. By amending § 121.578 by revising (b) and by adding a new paragraph (e) to read as follows:

§ 121.578 Cabin ozone concentration.

* * * * *

(b) Except as provided in paragraphs (d) and (e) of this section, no certificate holder may operate a transport category airplane above the following flight levels unless it is successfully demonstrated to the Administrator that the concentration of ozone inside the cabin will not exceed—

(1) For flight above flight level 320, 0.25 parts per million by volume, sea level equivalent, at any time above that flight level; and

(2) For flight above flight level 270, 0.1 parts per million by volume, sea level equivalent, time-weighted average for each flight segment that exceeds 4 hours and includes flight above that flight level. (For this purpose, the amount of ozone below flight level 180 is considered to be zero.)

* * * * *

(e) A certificate holder need not comply with the requirements of paragraph (b) of this section for an aircraft—

(1) When the only persons carried are flight crewmembers and persons listed in § 121.583;

(2) If the aircraft is scheduled for retirement before January 1, 1985; or

(3) If the aircraft is scheduled for re-engining under the provisions of Subpart E of Part 91, until it is re-engined.

(Secs. 313, 601, 603, and 604, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354, 1421, 1423, and 1424); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c))

Note.—These amendments relieve certain operators of large transport category aircraft of the economic burden of purchasing, installing, and maintaining ozone control equipment on some airplanes or establishing ozone avoidance procedures. Accordingly, the FAA has determined that this document involves a final rule which is not major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (14 CFR 11034; February 26, 1979). For this same reason and because the operating rule changed by this amendment does not, for the most part, apply to operations by small entities, and the change in the certification rule will have only a minimal effect on the price of certain transport category aircraft that might be purchased by small entities, it is certified that under the criteria of the Regulatory Flexibility Act, this final rule will not have a significant economic impact on a substantial number of small entities. A copy of the regulatory evaluation for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Washington, D.C., on December 3, 1982.

J. Lynn Helms,

Administrator.

[FR Doc. 82-35466 Filed 12-29-82; 8:45 am]

BILLING CODE 4910-13-M

federal register

Thursday
December 30, 1982

Part VI

Department of Labor

Employment and Training Administration

Establishment of State Job Training Coordinating Councils and Private Industry Councils; Designation of Service Delivery Areas Under the Job Training Partnership Act

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 626

Establishment of State Job Training Coordinating Councils and Private Industry Councils; Designation of Service Delivery Areas Under the Job Training Partnership Act

AGENCY: Employment and Training Administration, Labor.

ACTION: Final rule.

SUMMARY: This document contains final regulations to implement certain provisions of the Training Partnership Act (Pub. L. 97–300). The final rule provides guidance on the structure and implementation of the planning systems authorized under Title I of the Act.

EFFECTIVE DATE: January 31, 1983.

FOR FURTHER INFORMATION CONTACT: Patrick J. O'Keefe, Telephone (202) 376–8444.

SUPPLEMENTARY INFORMATION: Proposed rulemaking governing certain provisions of the Job Training Partnership Act was published in the **Federal Register** on November 19, 1982 (47 FR 52197), for the purpose of soliciting public comment. The Department received 32 written comments on the proposal. Following is a description of each affected section as it appears in these final regulations, a summary of the comments received, and the Department's response.

The proposed regulations at § 626.2 describe the appointment of the State job training coordinating council (SJTCC). Commentators suggested that the regulations set forth an order of events in establishing the SJTCC, and a process by which the Governor is selecting SJTCC members. The Department believes that it would be inappropriate not to compromise [illegible] by the Governor in selecting SJTCC members. The Department believes that it would be inappropriate not to compromise [illegible] provision of the Act. Therefore, the provision remains as proposed.

Commentators suggested clarification on whether the entire State is to be covered by an SDA. That clarification has been included.

In § 626.3, paragraph (a) was relettered as paragraph (b) and paragraph (b) was relettered as paragraph (a) to reorder the presentation of events which must occur in the SDA designation process.

In § 626.4, paragraph (a) governs the establishment and certification of the private industry council (PIC) and paragaph (b) covers PIC functions. Commentators requested additional rules and/or guidance concerning delineation of responsibilities in cases of a combined SJTCC/PIC, criteria for evaluating, appointing and certifying PIC members, delineation of monitoring and oversight functions of the PIC versus the local elected official(s), and public notice of PIC nominees prior to the Governor's certification. Consistent with the intent of the Act, the regulations were written to provide those at the State and local levels with the authority for making these determinations. Therefore, additional guidance is unnecessary.

Numerous commentators objected to the authority granted in § 626.4(b) for the PIC to exercise independent oversight over activities under the job training plan. Commentators pointed out that the law places oversight responsibility jointly with the PIC and the unit(s) of local government in the SDA. The regulation as proposed was not intended to diminish the oversight authority of others, including local elected officials. Instead, in addition to any [illegible] the PIC is authorized oversight functions within its [illegible] provisions. However, [illegible] that such additional oversight is [illegible] paragraph (b), stated that the PIC is to [illegible] There was opposition to the words [illegible]

[illegible] Act the term chief elected official can include an authorized representative. The comment suggested that the regulation be revised to add "or his designee" after chief elected official. The Department, however, believes this addition is unnecessary since the statute is clear on this point. Therefore, no further clarification by regulation is necessary.

Commentators objected to the language in § 626.4(c) concerning the development of the plans required under the Wagner-Peyser Act. The commentators felt that the language should repeat the statutory provision. Accordingly, the language in paragraph (c) has been revised.

A question was also raised with respect to Section 181(f)(7) of the statute concerning the Secretary's authority to provide up to $80,000 to each PIC for Fiscal Year 1983. Because this provision does not impose a Secretarial responsibility, it is not addressed as a regulation. However, this issue will be addressed through an internal Department of Labor administrative issuance at a later date.

Due to the statutory deadline of January 1, 1983 for publication of these regulations, these rules have not been submitted to OMB for review under Executive Order 12291. See Section 8(a)(2) of the Executive Order.

List of Subjects in 20 CFR Part 626

Grant programs—Labor, Manpower training programs.

Accordingly, Chapter V of Title 20 of the Code of Federal Regulations is amended by adding a new part, Part 626, to read as follows:

PART 626—JOB TRAINING PARTNERSHIP SYSTEM

Sec. 1 Scope and purpose.
Sec. 2 State job training coordinating council.
Sec. 3 Service delivery areas.
Sec. 4 Private industry councils.
Authority: Job Training Partnership Act, Pub. L. 97-300, 96 Stat. 1322 (29 U.S.C. 1501 et seq.).

§ 626.2 State job training coordinating council.

The Governor shall appoint a State job training coordinating council (SJTCC) pursuant to Section 122 of the Act. The SJTCC shall have specific functions and responsibilities outlined in Sections 122 and 501 of the Act.

§ 626.3 Service delivery areas.

(a) The SJTCC shall make recommendations to the Governor on proposed SDA designations in a form and by a date established by the Governor (Sec. 101(a)(1) and (2)).

(b) Pursuant to Section 101 of the Act, the Governors shall designate service delivery areas (SDAs) for the State. All areas within the State must be covered by designated SDAs. Requests for designation shall be submitted in a form and by a date established by the Governor.

(c) Pursuant to Section 101(a)(4)(C) of the Act, an entity described in Section 101(a)(4)(A) may appeal the Governor's denial of service delivery area designation to the Secretary of Labor.

(1) Appeals shall be submitted to the Secretary, U.S. Department of Labor, Washington, D.C. 20210, ATTENTION: ASET. A copy of the apeal shall simultaneously be provided to the Governor.

(2) The Secretary shall not accept an appeal dated later than 30 days after receipt of written notification of the denial from the Governor.

(3) The appealing party shall explain why it believes the denial is contrary to the provisions of Section 101 of the Act.

(4) The Secretary shall accept the appeal and make a decision only with regard to determining whether or not the denial is inconsistent with Section 101 of the Act. The Secretary may consider any comments submitted by the Governor. The Secretary shall make a final decision within 30 days after this appeal is received (Sec. 101(a)(4)(C)).

§ 626.4 Private industry council.

(a) The chief elected official(s) of the SDA shall establish and the Governor shall certify the private industry council (PIC) pursuant to Section 102 of the Act.

(b) Pursuant to Section 103 of the Act, the PIC shall provide policy and program guidance for all activities under the job training plan for the SDA. In accordance with agreements negotiated with the appropriate chief elected official(s), the PIC shall: determine the procedures for development of the job training plan and select the grant recipient and administrative entity for the SDA. The PIC may exercise independent oversight over activities under the job training plan, and oversight shall not be circumscribed by agreements with the appropriate chief elected official(s) of the SDA.

(c) The employment service shall develop jointly with each appropriate PIC and chief elected official(s) for the SDA those components of the plans required under the Wagner-Peyser Act of 1933, as amended, applicable to the SDA (Sec. 501(d)).

Signed at Washington, D.C., this 28th day of December, 1982.

Raymond J. Donovan,

Secretary of Labor.

[FR Doc. 82-35220 Filed 12-29-82; 8:45 am]

BILLING CODE 4510-30-M